The series of first formal NOSB Committee meetings began with a convening of International Issues and Accreditation Committee members in Washington, D.C., May 1 and 2. The meetings of the Crops, Livestock, Processing, and Materials List Committees in Minneapolis, May 4-6, were preceded by a general session, with all Board members present. During this general session, which lasted until close to 5 p.m. on Monday, administrative matters were discussed, presentations by the public heard, and the definition of organic deliberated.

The facilitation of communication among Board members and USDA staff was discussed and ideas for document distribution and interim conference calls presented. Regarding public input, Committee Chairs are to advise the USDA of the technical expertise required to meet their Committee workplans. Interested parties contacting the USDA seeking placement on Committee agendas will be referred to Committee Chairs.

Those outside parties seeking to provide public input in the form of formal presentations at full-Board or Committee meetings are required to submit written testimony. It would be of great assistance if sixteen (16) 3-holed punched copies made available to Board and USDA staff members prior to the presentation, given the limited amount of clerical support available. Documents submitted by the public to Board members will be considered "Working" documents.

Regarding individual Board member responses to unsolicited contact by public parties, it was decided that Board members should encourage these parties to submit their concerns in writing to the full-Board or appropriate Committee Chair.

Committees were notified of the option to hire technical advisors where needed. Interested Committee chairs are to provide a written proposal with purpose and estimated cost along with suggestions for individuals to conduct the work.

Advisory Board funds for Fiscal Year 1992 have been cut to $100,000; no change in the $780,000 in USDA appropriated funds now in the Administration's budget has yet been reported.

During the public input session, the following individuals addressed subjects of relevance to Board decisions:

- Paul Janssen, a natural and organic products distributor from Minneapolis, expressed his hope that the regulations concerning organic production would be workable for all farm sizes.
Bill Welsh, an organic livestock producer from Lansing, Iowa, described the maintenance of long term soil health and the packaging and labelling of organic meat products sold at the retail level as critical components of organic regulations. He also warned the Board that any exception, such as less than 100% feed for organic livestock, would eventually become the rule.

Mel Coleman, a natural and organic beef producer from Denver, Colorado, appealed to the Board for the inclusion of a definition for both transitional and natural livestock products. He commented that there is not enough organically-grown grain to feed all his naturally-grown cattle at the present time. He also explained the audit trail of his business, and stressed that the Organic Foods Production Act is not a food safety act but one that regulates the raising of animals.

Tom Ables, a farmer of 4,000 acres OCIA-certified cropland in Minnesota and South Dakota, expressed his concern that practitioners of the organic philosophy were being excluded in the industry's efforts to self-regulate itself for marketing purposes. He also advised the Board to build a mechanism for change into the recommended regulations, since practitioners are acquiring new knowledge daily.

Jim Glassmand of North County Coop in Minneapolis asserted that Coop consumers are concerned about genetically-engineered organisms derived from gene splicing that in his view would not fit the term "organic."

Ray Gengler, a grower/processor, portrayed his problem in obtaining untreated seeds of the varieties and characteristics to bring in adequate yields as one that may affect many organic growers.

Lyndon Torstenson, a member of the urban-rural Minnesota Food Association, communicated his association's concern about the safety, secrecy, and ethical issues pertaining to biotechnology research and described the consumer's expectation that nature is not fundamentally altered in organic food production.

Arnold Patsoldt, a maple syrup producer from Grand Rapids, Minnesota, claimed that syrup cannot be purely organic when the chemical properties typically added to clear the sap are used.

Robert Sharlou, of OCIA-Wisconsin and a beef producer, counseled the Board in saying that as long as decision-making criteria are established by the October 1993 deadline, the standards and other regulations developed can be reevaluated.

Terry Gips of the International Alliance for Sustainable Agriculture declared that the U.S. standards for organic production must be operative within the world market and also that non-food products presently labelled organic, such as cotton, lawn care products and cosmetics should be addressed in the standards recommended by the Board to circumvent fraud.

Four individuals were invited formally by the Board to make presentations on technical areas of their expertise. Three
addressed the Board on Monday:

- George Kalogridis, OFPANA Processing Committee Chair, described the 15 subcommittees that address the wide variety of processed products and the philosophical approach that is cornerstone to the development of organic standards. He also presented the process by which Earth's Best baby food company obtained the authority to include organic verbiage on its meat product labels, along with other labeling issues.

- Anne Schwartz, OFPANA Livestock Committee Co-Chair, presented results of a survey sent to 1000 organic livestock producers. She also made recommendations to the Board on priorities and criteria for use in the development of organic livestock standards and discussed the constraints that may hinder the process.

- Zea Sonnebend, California Certified Organic Farmers, presented the proposed OFPANA materials list and described the history of its formulation. She gave examples of materials and the broad issues consideration of each material brings forth.

Lynn Coody, USDA/FSMIP Grant Recipient, deferred her presentation to Tuesday morning, to immediately precede the Materials List Committee meeting. She presented the model through which materials for use in organic production can be evaluated, and described areas where further refinement is needed. She pointed out that no list of materials for use in organic livestock production nor processing has yet been drawn up by the industry.

Summaries of the individual Committee meetings are provided below.

INTERNATIONAL ISSUES COMMITTEE

Attendees
NOSB: William J. Friedman, Chair; Margaret Clark; Nancy Taylor; Michael Sligh (April 30-May 1); William J. Friedman; Robert Quinn (May 1-2).
USDA Staff: Harold Ricker; Julie Anton.
Technical Expert: Ron Brewington, Alternative Delegate; Codex Committee on Food Labelling

Meeting Summary
Sections of the Organic Food Production Act relevant to the work of the International Issues Committee were discussed in this first Committee meeting. In particular were the relationship of the Committee to the Secretary of Agriculture, the possible role of the Technical Advisory Panel, international issues relevant to livestock hearings, and accreditation of certifying agents.

In review of Section 2106(b) of the Act, the Committee agreed that the Secretary has discretion to approve or disapprove of NOSB
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foreign certification programs for importation purposes. The role of the Committee will be to give contour to his discretion. This will be primarily achieved through the Committee's examination of three components of foreign programs: (1) application procedures and substance; (2) record-keeping requirements of both the certified entity as well as the accrediting body or responsible public authority; and (3) inspection procedure and substance of both the certification body and the accrediting body or responsible authority.

The Committee determined that all questions relating to materials and practices arising out of consideration of non-domestic certification programs would be referred to the NOSB Materials List Committee. Consensus was also reached regarding the work of the NOSB Livestock Committee, particularly on materials and practices, in that it should guide the International Committee's recommendations to the Secretary on the importation of organically produced livestock and livestock products.

Ron Brewington responded to inquiries about the structure of CODEX Alimentarius and its progress in developing guidelines for organic food production.

A discussion of the European Economic Community's regulations pertaining the import of organic products ensued, and the following three European Council Regulations were examined: (1) Commission Regulation (CR) No. 2092/92, issued 24 June 1991; (2) CR No. 94/92, issued 14 January 1992; and (3) CR No. 92/C 74/05, submitted 5 March 1992.

The Committee met with Christine Sloop and Audrey Talley of the USDA Foreign Agriculture Service (FAS) to discuss response to EEC-imposed deadlines. A memorandum from Lyle Sebranek of FAS had been submitted to all States and known private certifying organizations on 17 April 1992 regarding an interim application process with FAS as the conduit. This precluded the International Committee's interest in an affidavit-based program for private and State certification groups.

The formal resolution adopted by the Board at their first full meeting in March 1992 called upon the Secretary to request U.S. inclusion on the EEC Approved List. The Committee awaits action by the Secretary.
ACCREDITATION COMMITTEE

Attendees
NOSB: Margaret Clark, Chair; Nancy Taylor; Michael Sligh (April 30-May 1); William J. Friedman; Robert Quinn (May 2).
USDA Staff: Harold Ricker; Julie Anton.
Technical Expert: Judith Gillan, OFPANA.

Meeting Summary
This was the first meeting of the Accreditation Committee since its formation. The purpose of the meeting was to establish the criteria for certifier accreditation and initiate the development of a process for accreditation that meets the requirements of the Organic Foods Production Act of 1990.

A statutory review of Section 2115 of the Act was conducted to define the requisite elements of the accreditation program. Sections 2116 and 2117 regarding requirements and peer review of certifying agents were also analyzed. Use of the USDA seal on products labeled organic was identified as an area that needs further definition as the accreditation program is developed.

Judith Gillan presented a history of the development of certification and how OFPANA came to its proposal for a private-public sector accreditation model. It was decided by the Committee that implementation of this model, presented at the first full-Board meeting last March, would require resolution of certain legal questions pertaining to provisions of the Act.

The Committee reviewed the structure that typifies the current private certification organization, of which there are three components: the "Sponsor," which owns the seal and retains the ultimate authority; the certification "Agent," which administers the program, and the "Inspector," which maintains a certain degree of autonomy.

In examination of a functional model for accreditation, three criteria were cited as elemental: (1) competency; (2) independence or freedom from vested interests; and (3) transparency.

Discussion of certification organization structure and criteria for evaluation prompted an analysis of conflict-of-interest issues. Legal opinions were requested from the USDA's Office of General Counsel with regard to this and several aforementioned areas of statute vagueness.

The Committee developed a timeline for action to coincide with the deadlines set forth in the Act. The Committee expects to have drafted for the next full-Board meeting in July a proposal for NOSB
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Phase I of accreditation, which will include a preliminary application structure. The Committee agreed to meet Jun 27-28, 1992, in Millbrae, California, to evaluate the work of industry representatives on program management standards, among other pending tasks.

CROPS COMMITTEE

Attendees
NOSB: Gene Kahn, Chair; Craig Weakley; Robert Quinn; Dean Eppley; E.K. Chandler; Michael Sligh, and William J. Friedman (statutory review).
USDA Staff: Harold Ricker.

Meeting Summary
The first formal meeting of the Crops Committee convened with a statutory review of relevant sections in the Organic Foods Production Act. In discussion of the crop standards embodied in the law, several issues were brought forth for consideration: planting stock sources, irrigation water, erosion, residue testing, emergency spray and drift, botanical pesticides, and the need to define the term "handling." Farms in transition to organic were described as having special documentation requirements.

Manure management was identified as an unregulated area under the farming practices section of the Act, and may be included in the farm plan elements listed by the Committee for discussion purposes. The Committee formally supported a motion to require the incorporation of staged improvements in farm plans.

Dean Eppley added that under the Act the farm plan must be agreed to by not only the producer and certifier but by the handler as well. In presenting the audit trail required for OCIA-certification of his Montana grain farm, Robert Quinn noted that off- and on-farm inputs must be reported under the Act.

In order to provide the NOSB Materials List Committee with recommendations for a preliminary list of inputs for use in crop production, the Crops Committee reviewed what are considered the non-controversial materials on the OFPANA "Inputs for Crop Production" list. The Committee identified the remaining materials on OFPANA's list as (1) requiring confirmation as natural versus synthetic; (2) needing updated annotations; and (3) not registered with the Environmental Protection Agency (EPA) and thus subject to elimination. Materials acceptable to some certifying organizations but not on OFPANA's list were identified, and a list of materials requiring further study before classification was drawn up.

A workplan was developed to assign Committee members to
specific tasks. The Committee expects to have a draft farm plan outlined by June 1 for review by its members prior to the July meeting.

LIVESTOCK COMMITTEE

Attendees
NOSB: Merrill Clark, Chair; Donald Kinsman; Gary Osweiler; Robert Quinn; and William J. Friedman (statutory review).
USDA Staff: Julie Anton.
Technical Experts: Anne Schwartz, OFPANA Livestock Committee.

Meeting Summary
The objectives set forth in this initial Livestock Standards Committee meeting were to review statutes of the Organic Foods Production Act relating to livestock production and processing, to identify issues relevant in the setting of livestock standards, and to develop a Committee workplan.

The meeting was preceded by a tour of two certified organic livestock operations on Sunday, May 3: Welsh Family Farms in Lansing, Iowa, and the Ellinghuysen farm in Winona, Minnesota. The tour was organized by Terry Gips of the International Alliance for Sustainable Agriculture.

References to emergency spray of pasture land, the small farmer exemption, mixed organic/conventional operations, breeder stock, synthetic trace elements, and the term "routine" were among the topics of discussion in statutory review. George Siemon, a Committee meeting guest, suggested the term dairy replacement be included in defining standards for organic breeder stock.

Documents pertaining to the presentation given by Technical Expert Anne Schwartz to the full Board on the development of draft OFPANA livestock standards were distributed, and unaddressed issues were identified and examined. The shortage of livestock inspectors and concerns about adequate producer record maintenance were brought forth as important issues for consideration. The suggestion of utilizing livestock producer Mel Coleman's record maintenance structure was accepted by the Livestock Committee as a suitable audit trail model for adoption.

Advances in the science of animal behavior were discussed, and the minimalization of livestock stress as a disease-preventative measure in production practices was accepted as important for consideration in the development of organic standards. The Committee agreed, however, that the less controversial term "animal well-being" was preferable to the terms "animal welfare" or "animal rights" in discussion of livestock treatment and living conditions.
The regional variation in views of livestock disease treatments and organic feed and species-specific production issues were discussed as issues for the Committee.

Environmental concerns such as manure management, sustainable soil health, and botanical pesticide use were brought forth by Committee Chair Merrill Clark. Consumer perceptions of organic were also considered. USDA staff economist, Julie Anton, presented an outline of a consumer survey on organic meat that should relay critical consumer input.

The Committee considered various means of obtaining input on materials and practices used in organic livestock production. Of concern is input from producers who have largely eliminated conventional materials.

In concluding the meeting, a workplan was established, and member Don Kinsman appointed as Technical Resource Contact for the Livestock Standards Committee. The Committee elected to hold an interim meeting between the next two full-Board meetings to focus on herd health issues.

PROCESSING COMMITTEE

Attendees
NOSB: Richard Theuer, Chair; Donald Kinsman; Eugene Kahn; Craig Weakley, Robert Quinn; and William J. Friedman (statutory review). USDA Staff: Harold Ricker. Technical Experts: George Kalogridis, OFPANA Processing and Labeling Committee.

Meeting Summary
The purpose of this first formal meeting of the Processing Committee was to address the statutory requirements pertaining to processing standards and to develop a workplan.

It was evident from the start that the term "handler" in the Organic Foods Production Act requires definition, considering that the term handler may encompass not only processors but packers, distributors, transporters, and retailers who process in-store. Labelling requirements will also need further definition, particularly when identifying mixed organic/conventional products.

The Committee discussed the Organic Handler Plan required by the Act, and concluded that the plan for processors should incorporate the following components: (1) processing and handling management system; (2) material inputs; (3) packaging; and (4) record-keeping and audit trail. It was agreed that plans approved
by certifying agents should ultimately demonstrate a processor's effort to adopt alternatives for the use of non-organic ingredients.

The processing ingredients criteria outlined in the Act were compared with the draft fruit and vegetable processing standards developed by OFPANA. A discussion of the fact that the Act generally disallows synthetic ingredients ensued, and the Committee concluded that it may be necessary to recommend certain exemptions to the Secretary of Agriculture.

Confidentiality concerns were raised in a Committee discussion of the disclosure of product recipes and/or formulas required from processors in order to determine the percentage organic ingredients.

The Committee decided to hold conference calls every Tuesday, with agendas distributed the Thursday prior. Assignments to the issues of labelling, enforcement, and materials for use in processing were made and a workplan established.

Prior to departure from Minneapolis, the Processing Committee and other interested Board members visited Mill City Bakery in St. Paul, co-owned by John Mattox and Mary Ann Mattox. Mill City Bakery uses organic wheats and flours grown on certified farms in the Upper Midwest.

MATERIALS LIST COMMITTEE

Attendees
NOSB: Nancy Taylor, Chair; Michael Sligh; K. Chandler; Gary Osweiler; Tom Stoneback; Dean Eppley; Rich Theuer; and William J. Friedman (statutory review).
USDA Staff: Harold Ricker; Julie Anton.
Technical Experts: Lynn Coody; Zea Sonnabend.

Meeting Summary
Issues of the first Materials List Committee meeting were introduced at the full-Board presentations given by Zea Sonnabend and Lynn Coody. The Materials List Committee commenced its formal meeting with a review of statutory responsibilities under the Organic Foods Production Act, and discussed factors for consideration in forming a Technical Advisory Panel.

The Materials List Committee proceeded to develop a process for categorizing materials for review, starting with the current draft of the proposed OFPANA materials list. Crops, livestock and processing are categories for materials for review under the Act, and these were subcategorized into six groupings: fertilizers,
pesticides, production aids, post-harvest methods, handling, and processing. Materials on the OFPANA list were identified as requiring EPA or FDA regulatory screening, as were substances requiring definition as synthetic or natural.

The Committee approved a motion to focus review efforts on generic substances rather than brand name formulations. The Committee decided that it will look to the industry to provide brand name review of materials, with NOSB input.

The Committee agreed to a proposal for hiring Lynn Coody and Zea Sonnebend to facilitate the NOSB, EPA, and FDA review process of materials by categorizing and annotating the materials on the draft OFPANA list.

A materials list review process was staged by the Committee in closing, with public notice set for late May. The Committee intends to initiate Federal regulatory review by the responsible agencies in August 1992 and to maximize public input. The Committee proposed the following as the first draft of the staging process for the review of materials. This timeline will be subject to the schedules of the reviewing parties.

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<tr>
<th>TARGET DATES</th>
<th>PROCESS &amp; DEVELOPMENT</th>
<th>REVIEWERS</th>
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<tbody>
<tr>
<td>May 1992</td>
<td>Initial Materials List</td>
<td>Organic Industry</td>
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<td>Working Document</td>
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<td>1) NOSB categorizes OFPANA's list.</td>
<td>NOSB</td>
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<td>2) Hire Zea Sonnebend &amp; Lynn Coody as Technical Experts to</td>
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<td>annotate list for further review.</td>
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<td>3) Public Notice of National List staged review process.</td>
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<td>TARGET DATES</td>
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<tr>
<td>June 20, 1992</td>
<td>Review of Updated Working Document</td>
<td>NOSB Committees</td>
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<td>1) Zea &amp; Lynn's annotated list sent to Livestock, Crop, Materials, &amp; Processing Committees.</td>
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<td>2) Public Notice for Technical Review Panel nominees.</td>
<td>Materials Committee</td>
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<td>July 1992</td>
<td>3) NOSB Committees' recommendations to Materials Committee.</td>
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<td>4) Materials committee prioritizes list for regulatory review.</td>
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<td>5) NOSB structure Technical Review Panel.</td>
<td>NOSB &amp; Organic Industry</td>
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<td>Aug. 1, 1992</td>
<td>6) National List sent out for regulatory review.</td>
<td>FDA &amp; EPA</td>
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<td>August 1992</td>
<td>7) National List sent out for public review &amp; comment.</td>
<td>Public</td>
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<td>1) NOSB Committees develop list of materials' research needs for technical data.</td>
<td>NOSB</td>
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<td>2) NOSB Committees refine National List criteria.</td>
<td>Materials Committee</td>
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<td>TARGET DATES</td>
<td>PROCESS &amp; DEVELOPMENT</td>
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<td>Feb. 1993</td>
<td>Tentative Informal Hearing by USDA/AMS &amp; FSIS</td>
<td>Public</td>
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<tr>
<td>May 1993</td>
<td>Amended National Materials List</td>
<td>Public</td>
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3) Review information from FDA, EPA, & National Institute of Environmental Health Studies.

4) Public notice of criteria changes.

5) Material Committee develops petition process.

1) Public notice of materials list published in Federal Register by Secretary of Agriculture.

1) NOSB & USDA will take public comments on National List.

2) NOSB considers revision to National List.

3) Technical review of proposed changes.

1) Public notice of materials list amendments published in Federal Register.
TARGET DATES | PROCESS & DEVELOPMENT | REVIEWERS
--- | --- | ---
Sept. 1993 | 1) by Secretary of Agriculture. | Secretary of Agriculture
2) Public comment period. | 
3) NOSB makes National List recommendations to Secretary of Agriculture. | Secretary of Agriculture
4) Secretary of Agriculture makes final ruling with possible deletions to National List. | Secretary of Agriculture

Final National Materials List

1) Public notice of final materials list published in Federal Register by Secretary of Agriculture. | Public


**JOINT-COMMITTEE SESSION**

At the wrap-session, the agenda for the next full Board meeting, set for July 7-10 in Fort Collins, Colorado, was discussed at length. The following were suggested as agenda topics: Committee reports; Office of General Counsel responses; budgetary review; approval of Board minutes and procedural guidelines; necessary full-Board actions.

It was determined that the Board needs to develop a process for assessing the following broad issues of concern: biotechnology; environmental impact; humane treatment of animals; social justice; and cost of certification. There may be other issues for inclusion as well.
NATIONAL ORGANIC STANDARDS BOARD
PROCESSING AND HANDLING COMMITTEE
Sheraton Inner Harbor Hotel, Baltimore, Maryland
September 10, 1992
MEETING SUMMARY

Prepared by: Ted Rogers

Attendees: Richard Theuer (Chair), Margaret Clark, Merrill Clark, Donald Kinsman, Craig Weakley, Eugene Kahn; Ted Rogers, Harold Ricker, Julie Anton, USDA staff.

This meeting generally concerned pertinent issues brought forward by the response to a mailing of Processing Committee (PC) position papers dated July 17, 1992. These papers had generated 42 written comments. The comments had stimulated discussion and reevaluation. A revised labeling draft dated September 8, 1992 was the first result of this process.

Because of the intense interest in the subject of wine made from organic grapes, presentations from two experts in the wine field had been requested. Mr. Jim Hunt, a wine specialist with the Bureau of Alcohol Firearms and Tobacco (BATF) discussed BATF's role in the wine industry and the sulfite issue, as related to wine quality and label requirements. Mr. Paul Chartrand, of Chartrand Imports, discussed a method for sulfiting of wine based on burning of sulfur (rather than adding synthetic sulfites) and addressed the quality issue. The Committee took these comments under advisement for future discussion and consideration.

The Committee reviewed the position papers with respect to the percentage organic declaration for foods with liquid ingredients and food containing "water of reconstitution." During this discussion the Committee moved to include "air" with "water" and "salt" as items to be excluded from the calculations of the percentage organic.

There was also a discussion of the percentage organic calculation for foods with inherently variable ingredient percentages. An example was pickles in brine, where size variation causes percentage differences.

A discussion of the certification requirements for foods with less than 50% organic ingredients resulted in a minority/majority position. The minority held that such foods required only the verification of an accredited certifier. The majority held that such product could be produced only by a certified processor.

At the prior invitation of the Committee, Mr. Dane Bernard, of the Food Processing Institute, did a presentation on HACCP
(Hazard Analysis/Critical Control Points). HACCP lends itself to protecting the organic integrity of foods and has applications to the Organic Handling Plan.

The Committee discussed the aspects of the PC position paper dealing with allowable ingredients in organic food. It was agreed that the use of the word "organic" must be consistent and that the use of confusing terms should be augmented with clear definitions or avoided all together.

The Committee received public input during this meeting and at a public input session following.
NATIONAL ORGANIC STANDARDS BOARD
LIVESTOCK COMMITTEE
Sheraton Harbor Inn, Baltimore, Maryland
September 11, 1992
MEETING SUMMARY

Prepared By: Merrill Clark/Julie Anton

Attendees: Merrill Clark (Chair), William J. Friedman, Don Kinsman; NOSB Livestock Committee; George Siemon, Technical Expert; Julie Anton, Ted Rogers, Harold Ricker, USDA.

Chair Merrill Clark described the previous work of the Committee and the various working drafts and position papers in progress for distribution to the public for comment.

Opening discussion centered on the issue of whether an organic livestock operation could be a "mixed" operation, involving both conventional and organic production, or whether organic livestock operations should be moving toward all-organic operations by a certain period of time. Views on both sides of the issue were voiced.

A five-year transition time was suggested, and concerns that conventional production was often necessary on organic farms in order to keep such farms economic were brought out. Others felt the possible cross-contamination of feed, equipment, buildings, etc. would jeopardize organic integrity and consumer confidence in organic production practices.

The Committee concluded that livestock production of the same species with the same product should be required to be entirely organic within five years. However, under other circumstances, the entire farm would not be required to be an 100% organic operation.

Discussion of the certified organic feed standard included the controversy over grazing land versus farm-raised feed crops and discussion of Section 2105(2) of the Organic Foods Production Act of 1990 (OFPA) that appears to exempt grazing land for livestock from the requirement for a three-year absence of prohibited substance use. USDA research on the legislative history of that section is to be furthered. Many were concerned that organic standards for livestock production would be compromised if cattle were allowed to graze pesticide-treated land.

The Livestock Committee noted that it will need to respond to emergency spray exemptions and other issues for which the NOSB Crops Committee has prepared a position.

Resulting from a discussion of the Livestock Committee draft
on materials that are "questionable" for use in organic livestock production, alcohol and hydrogen peroxide were moved to the "allowed" list with restriction to topical antiseptic use and wound cleanser use respectively. Oxytocin was added to the "questionable list." Criteria by which livestock materials are considered "allowed" or "prohibited" was briefly reviewed.

Dr. Edgar Schaefer of the Clark Veterinary Clinic in Mechanicsburg, Pennsylvania, gave a presentation on homeopathic veterinary medicine. He discussed how homeopathic are prepared and how they are used. He stressed the importance of providing individualized treatment to animals and observing closely all symptoms and responses to medications.

Homeopathic medicines involve the use of dilute forms of toxins from nature to build up, rather than repress, the animal's immune system. Dr. Schaefer mentioned that FDA approval for animal homeopathic remedies did not yet exist. Members of the audience questioned Dr. Schaefer about the efficacy of the procedures.

The Livestock Committee husbandry working draft was discussed; several in the audience expressed support for the objectives described in the document.

The meeting adjourned at 4 p.m. The next meeting of the Livestock Committee was set for September 29, 1992 in August, Maine.
Chair Nancy Taylor reported that due to the accelerated timeline proposed at the July meeting for Phase II of the materials review process, the Materials Committee, in conjunction with the NOSB Crops, Livestock and Processing Committees, focused their efforts on developing lists for "allowed synthetic" and "prohibited natural" materials that represented Committee consensus, the Committee had admitted that these would be partial lists. The Materials Committee (MC) had intended to circulate these lists as working drafts and submit a position paper on materials to the full Board meeting in Maine, late September 1992. However, in light of the time constraints, it was reported that the Committees were unable to arrive at consensus on materials and to allow for time to circulate lists and get adequate public input.

Mr. E. K. Chandler reported on his meeting with the American Association of Control Officials (AACO) conference in Indiana, in August 1992. He was sent by the Board at the request of the Materials Committee, to initiate contact and communications regarding MC concerns for the labeling and marketing of certified organic plant and soil amendments and fertilizers. Mr. Chandler was able to meet with the AACO board, who expressed interest in working with the NOSB to define "organic". The Materials Committee decided to continue to work with the AACO. It was decided that Mr. Chandler will chair an AACO task force that is to include Mr. Dean Eppley of MC, Ms. Yvonne Frost of Oregon Tilth, and Brian Baker of California Certified Organic Farmers (CCOF). As the first order of business, this task force will develop a report on the structure of the AACO.

Mr. Ted Rogers and Ms. Julie Anton of the USDA discussed the work they have been doing on National List materials petitions and classifications. A draft of the petition was submitted by Mr. Rogers and amended to include a short form for farmers requiring less information and a long form for manufacturers with more specific information. A second draft will be submitted at the Maine meeting. Ms. Anton described the structure of the database on materials for use in organic production being developed at the National Organic Productions Program office. This database will serve extension agents and interested organic community members, as well as the Board as it analyzes materials for the National List.

Mr. Tom Stoneback gave a review of the initial materials
comparison of the European Economic Community and MOA in organic materials lists, submitted to the NOSB by the Rodale Institute. It was decided that the MC, in conjunction with the NOSB International committee, needs to identify other international certifying agencies that may exist and find out what is on their materials list. Ms. Anton reported that she has already initiated this project and will provide a report to the Committee when it is complete. Mr. Stoneback volunteered to develop a draft proposal (for submission to the full Board in Maine) to accept materials lists of foreign certifying organizations as equivalent to that of the Materials Committee in an effort to facilitate trade.

The crop production materials drafts were not discussed as there had been adequate time given at the Crops Committee Meeting the previous day. Ms. Zea Sonnabend of CCOF did submit her final draft on allowed consensus crops production materials developed from the survey list of the Organic Foods Production Association of North America. The MC made the recommendation to submit this list as a position paper to the Board at the Maine meeting and to then be circulated for public comment.

Mr. Craig Weakley gave a review of the materials draft developed by the Processing Committee. The Processing Committee had not reached consensus on their working draft on processing materials.

In place of Mr. Gary Osweiler, absent Materials/Livestock Committee member, Ms. Julie Anton gave a review of the Livestock Committee's materials draft. The MC identified sections of the draft which need work.

The Committee agreed that a joint meeting with all NOSB Committees in Maine was necessary to discuss the difference in criteria applied to materials decisions that seems to be emerging. The use of the materials format developed at the July meeting could also be reviewed and agreed upon.

The Committee discussed options for developing the Technical Advisory Panel (TAP) in light of the fact that no appropriations exists to pay TAP members. It was decided that a call for volunteers to serve on the TAP would be made, requesting TAP member participation as the need arises for technical expertise. Ms. Taylor will submit a draft TAP participatory request to the Materials Committee in Maine.

Guests at the meeting requested that the committee develop a statement disclosing the intent of the Committee to: (1) conduct work on "generic" materials and allow organic certifying agencies to review brand name materials; (2) request full disclosure of inert ingredients; and (3) propose a phase-out time period for prohibited materials that currently remain on some certifiers materials list. Nancy will work on this statement and submit it to the Committee in Maine.
Chair Gene Kahn distributed packages of the responses to Crops Committee (CC) documents mailed to the public on August 19, 1992. The ensuing discussion was ordered by the topical CC documents.

PLANTING STOCK

Treated Seed: The CC's view that it is difficult to document whether or not an adequate effort was made to locate untreated seeds before sourcing treated seeds for organic crops. The CC will need to be specific about the phase-out period for treated seeds, if one is allowed. Sources of untreated seed were suggested.

Annual Transplants: Allowance of a one-year grace period was suggested to offer transplant growers with no experience in growing transplants organically a chance to learn. The grace period would only be extended in cases where growers can document that non-organic transplants are unavailable. The attendees were reminded that the Organic Foods Production Act of 1990 (OFPA) is being implemented at a time when growers are at different levels of development in terms of purely organic production.

Potatoes: The issue before the CC was whether or not post-harvest fungicide use is acceptable as opposed to seed treatment at the time of planting or when brought out of storage. Seed potatoes are treated as they are brought out of storage and loaded into vans; but they are also treated at the time of harvest and when loaded into storage bins. It was suggested that the wording of the standard be that no secondary seed treatment should be applied. The secondary treatment is usually performed to control bacterial soft rot. In Washington State it is illegal to plant untreated seed on any commercial farm over five acres. There are no "organic" and "State-certified" seed potato sources; hence, a restriction on organic sources may create undue hardship for potato farmers. It was agreed that a publicity campaign regarding the need for organic seed sources was necessary, including a public letter to seed companies encouraging them to source untreated seed.

Garlic: Commenters indicated that there are significant sources of organic garlic. White rot disease endemic to garlic in Oregon,
whereby once a field is infected the disease is impossible to eradicate without fungicide use, was described. However, in the case of garlic, unlike potatoes, the consumer is eating the matured set of the seed. Onions, asparagus crowns, rhubarb and horseradish are cases similar to garlic and are to be considered by the CC.

**Sweet Potatoes:** The primary concern is the parent tubers of sweet potato plants rather than the slips from the tubers. Because presently an industry for the raising of organic tubers does not exist, and because there is no priority to develop one, the CC agreed that treated tubers should be allowed, particularly given that the requirement that slips propagated is already difficult to meet. It was suggested that an allowance be made for Irish potatoes as well as sweet potatoes.

**Strawberries:** The question before the Committee was how to define commercially available at what cost and what level of availability. 95% of strawberry transplants are grown in the Northwest; all growers use methyl bromide.

**Perennial Transplants:** The issue was that mature blueberry stock can be transplanted, as can mature peach tree stock.

**Other comments:** Standards for specialty crops, such as those grown in greenhouses or nurseries, had not yet been addressed by the CC. The CC cited ornamentals, turf grass, cotton and other fibers as crops that may not be considered food but that the CC may be called upon to address.

**EMERGENCY SPRAY EXEMPTIONS**

It was reported that the majority of the Baltimore Livestock and Processing Committee meeting attendees were in disagreement with the CC's position on emergency spray, as opposed to the majority in attendance at the present meeting.

A discussion of the CC idea to set a percentage of EPA tolerance as the maximum level of residue allowed on a crop sold as organic ensued, with the CC finding its purview to set a percentage between 1-10% of EPA tolerance in the Senate Committee Report. It was pointed out that not setting a percentage would be de facto endorsement of 100% of EPA tolerance.

One commenter described the situation in California, where farmers have no recourse once the State or Federal government has mandated spraying, and where a California state of emergency would make the grower 100% responsible for the results of State-mandated spraying, and there would be no grower recourse. Whether or not a grower could negotiate with the State regarding the method of emergency treatment was discussed.

The CC will need to explore legal implications; there is a possibility of creating situations of recourse. Notification would
have to be in written form; organic farmers would have to file with the officials who issue permits for pesticide applications, indicate the boundaries of their farms, provide a statement that the fields are certified organic or in transition to organic, and provide a statement that drift could result in a loss of certification and financial losses greater than to a conventional farmer affected by drift. The orientation of the CC is that if recourse were likelier, the standard regarding emergency spray exemptions would be stricter.

As an industry in California, organic producers have not had the leverage to get "certification" to be legal property, whereby damage to property could be decided in the courts. One attendee suggested that farmers be indemnified for organic crop losses, so that the government would have the incentive to look for alternatives to spraying.

Ms. Nancy Taylor offered her idea of universal flagging to identify fields as under organic production.

PESTICIDE DRIFT POLICY

The CC position is to develop standards that are reasonable and not punitive. The consensus of public respondents was that growers affected by spray drift should lose certification for 36 months; yet the views expressed by the meeting attendees appeared to strongly endorse the CC majority position.

The question of how a grower would know when the farm has been drifted upon was raised. The criteria could be if a grower could identify the visible effects, such as curled leaves and dead bugs.

The CC agreed that there is a lot of work to be done in defining drift and at what point notification would be required. The certifying agent should work with local county agents to ensure proper notification. That a grower failing to provide notification should be decertified was deemed an impractical standard to apply as proof of failure to notify would be difficult. It was evident that the CC will need to use strong wording in the standards to allow growers to seek legal recourse.

Mr. Weakley remarked that although Mr. Miles McEvoy's argument that 20 States do allow compensation for drift, 16 States do not, and asked about the other 14 States. The CC decided that the entire CC position on spray drift needs to be reevaluated.

IRRIGATION WATER QUALITY

A question was raised as to who sets the standards for water quality, and whether or not this should be up to the certifying agent. The CC received one comment that it was vague about the testing requirement in terms of if, when, and how often. Furthermore, growers may have no options to upgrade their irrigation sources. It was argued that until there is an issue
with the crop grown utilizing the irrigation water, the water should not be considered a problem and should not be tested periodically, as the CC position paper on irrigation water quality currently requires.

The Committee was encouraged to address sewage water and chlorinated water (city water) as irrigation sources.

There was a comment that a certifier could not be expected to have the expertise to properly conduct water testing; how much saline or nitrate is too much could be considered a matter for those with practical knowledge in the field.

The CC decided it would reevaluate its position on water quality, with the acknowledgment that water quality issues are very regional. Mr. Bob Quinn pointed out that the Committee is trying to defend its principle of precluding the over-mining or degradation of the soil.

MATERIALS ALLOWED FOR AND PROHIBITED FROM USE IN ORGANIC CROP PRODUCTION

Ms. Zea Sonnebend, technical advisor to the Committee, gave an overview of the process of materials designation. She described the OFPANA survey of certifiers to identify areas of agreement with regard to materials for use in organic production. Some materials tended to be controversial, because the health effects are unknown or because of other concerns. About other materials much is known but there is flat out disagreement, she reported.

The following materials were reviewed by the CC at the meeting:

(1) **Ammonium Soaps**: No substantive comments.
(2) **Antibiotics**: Examples of use were given, such as by pear growers to control fire blight and ivermectin control for mites.
(3) **Basic Slag**: Basic slag is an industrial by-product, of which the impurities in it are unknown. This material is not produced in the United States any longer, though there are large amounts of waste product in the Southeast and in Mexico as well. Basic slag is a fairly soluble source of phosphorus.
(4) **Bleach/Chlorine**: The CC will need to define "disinfectant." The CC had decided that chlorine should not be allowed for post harvest use, including hydro-coolers. Chlorine can form toxic compounds. However, chlorinated municipal drinking water is allowed for irrigation.
(5) **Ethylene Gas**: Tropical fruits other than bananas may be considered for exemption to the prohibition on post-harvest use of ethylene. Natural sources of ethylene, such as other pome fruits, were discussed.
(6) **Gypsum By-Product**: The reason the CC has prohibited this material is because mined gypsum is an adequate replacement.
(7) **Leather By-Product**: This prohibited material received no comments.
(8) Petroleum Distillates: Because the term for these materials is very broad, they may be subject to a special review like botanicals.

(9) Sulfur Dioxide: The CC received a comment that it should be consistent in developing its policy concerning mineral materials. The difference between a sulfur by-product and a sulfite (which may be synthetic) was discussed. Mr. Kahn expressed his desire to rescind the CC decision to prohibit sulfur dioxide and leave it for further discussion. The importance of investigating residue levels on table grapes versus dried apples and post-harvest use versus as a fungicide or miticide was stated.

(10) Vitamin D3: Apparently, there are no health concerns with this synthetic and the natural alternatives are worse.

(11) Arsenic: The CC decided to add "or stake replacement" after "new plantings," in its current document on materials.

(12) Detergents: No comments were made.

(13) Raw Manure: As it is allowed with qualifications in the language of the OFPA, the CC had nothing further to add at this time.

(14) Muriate of Potash: Puerto Rico and Hawaii, as tropical States, may be the most concerned with its continued use.

(15) Piperonyl Butoxide: No substantive comments were made.

(16) Sodium Nitrate: The disagreement over this mined natural material was described as the oldest argument in the organic community. The CC was asked to consider a five-year phase out period. It was explained that although sodium nitrate is not the main fertilizer source for any grower, its use is important when soil temperatures are inadequate to grow certain crops at certain times of the year. The CC will not categorically prohibit water soluble fertilizers, but will likely set use restrictions.

ORGANIC FARM PLAN

The definition of organically grown food on page 292 of the Senate Committee Report was read to the attendees to reference the site-specific farm plans which set up all the procedures for producers to follow to have their products labeled organic. The provision for the farm plan is considered a key element to organic production along with the National List of materials.

It was agreed that the Farm Plan scheme set forth in the current CC working draft was not "user friendly" and in its present state is not simple enough to be applied nationally. The attendees were reminded that the standards are to be written to assure consumers and environmentalists about the conditions under which organic products are produced, and that the standards should not be merely based on the allowance and prohibition of materials.

The Farm Plan standards should serve as general principles to be interpreted through the certifying agency's questionnaire. The section of the CC current Farm Plan draft that is most objectionable pertains to growers' adherence to the Farm Plan. There were concerns expressed that a "big stick" was being placed
in the hands of the certifying agent and that the cultural practices would have to be identified for each variety grown on an organic farm.

The Farm Plan could provide a market opportunity by identifying positive aspects to the retailer, who is the gatekeeper to the consumer market.

Mr. E.K. Chandler presented his paper on soil testing, which he described as "the most valuable soil fertility management tool available when coupled with plant analysis."

RESIDUE TESTING

Mr. Weakley described the statutory requirements for residue testing of organic farms and organic products. The following topics were designated for CC work regarding residue testing: (1) maximum allowable pesticide residue; (2) guidelines for certification agents to fulfill periodic residue testing required in the OFPA; (3) how certifying agents and USDA officials work together when a residue is detected; (4) how to conduct an investigation; and (5) what does residual environmental contamination really mean.

There was time only to discuss the first topic: maximum allowable residue. Mr. Weakley suggested that the CC consider changing the percentage of EPA tolerance requirement to "undetectable" by a chosen testing method.

Ms. Julie Anton and Mr. Ted Rogers reported on a meeting of USDA staff with EPA and FDA officials, whereby FDA involvement in the residue testing of organic products was considered. It was pointed out that the OFPA specifically requires the reporting of positive residue test findings. Residue testing may also be useful for establishing baseline data for crops known to accumulate chlorinated hydrocarbons.

Questions were asked pertaining to who pays for residue testing, and what the testing procedure would be for rotated crops. The EPA has maps to show where "hot spots" (likely residue accumulations) are located. One attendee inquired as to how an inspector would know to require soil testing if the land in question had never been farmed before.

WORKPLAN

The CC wrapped up the meeting by planning the work to be completed over the course of the Fall. Ms. Sonnebend's contracted work was described, including her timeline for completion.

Mr. Quinn and Mr. Sligh suggested that the CC formally request that the International Committee review the CC position papers in light of the need to develop equivalency agreements with foreign countries.
MIXED OPERATIONS

The Committee discussed the Mixed Operation Working Draft #1. Mr. Quinn acknowledged that the intent of the standard is to provide an incentive for conventional growers to convert to organic production. This document was upgraded to a position paper by the CC.

CLOSING

The next meeting of the CC was planned for September 29, 1992, in Augusta, Maine.
Acting Chair Craig Weakley began the discussion by explaining that the Crops Committee (CC) was currently working on eight draft documents related to plating stock policies, emergency spray exemptions, pesticide drift, irrigation water quality, materials, organic farm plan, residue testing, and requirements for mixed conventional/organic operations. Six of the documents have been circulated for widespread public input, and the CC has received numerous written and verbal comments on the content of the documents.

The CC's pesticide drift policy document was discussed first. It was reported that written public input shows about 75 percent disagreement and about 25 percent agreement with the document. Those in disagreement do not want an organic crop that has been drifted upon to be sold as organic and want drifted-upon fields to be decertified for 36 months. It was pointed out that the CC does not think the organic grower should be so severely penalized for a drift incident that is out of the grower's control. In most States, it is difficult and expensive for an organic farmer to gain compensation if his/her organic crop is drifted upon.

Attendee Eric Sideman of the Maine Organic Farmers and Gardeners Association (MOFGA) described the State of Maine's provisions for dealing with fault claims. If the incidence of drift affects less than 10% of the crop land, it is not considered a drift incident. It was suggested that the CC consider defining a "drift incident." The primary difference between the CC position paper on spray drift and the MOFGA standards is that the MOFGA standards focus on residue on the land for production and the CC paper focuses on residue on the product harvested from the land.

With reference to the CC position paper on irrigation water quality, it was reported that 50% of the public respondents were in favor of the CC position. A prominent issue of the discussion related to the consensus view that a "polluter pays" policy should apply in all instances where an organic farmer is subjected to chemical trespass. Concern was expressed that it is unlikely that the NOSB can create a "polluter pays" policy that would be enforced in all 50 States.

It was agreed that one major difficulty with this irrigation water quality issue is that there is very little scientific
information related to the fate of trace amounts of pesticides in water used for irrigation. There is some information about herbicide residues.

It was reported that the CC planting stock position paper received fairly widespread support from public respondents; one third, however, stated that treated seed should be prohibited. The CC will address the issue of allowing treated seed for specific varieties of crops that are chosen for their high yields or other economic qualities and which have no untreated seed sources. It was pointed out that the CC has taken a stricter position than the Organic Foods Production Act of 1990.

90% of the public respondents had indicated their support for a requirement that annual transplants be from organic sources. About 80 percent of the public respondents indicated their support for the potato and garlic sections of the CC planting stock document. It was agreed that rhubarb, asparagus, onion sets, sprouts, and tissue cultured plants should be added to this document.

It was reported that most of the public respondents thought that the organic farm plan document was not realistic, too long, and would be burdensome for farmers.

Acting Chair Weakley summarized the content of the CC residue testing working draft and the CC document on requirements for a "mixed operation" conversion to 100% organic, and indicated that the residue testing document would be reworked.
NATIONAL ORGANIC STANDARDS BOARD
FULL-BOARD OPENING SESSION
Best Western Senator Inn, Augusta, Maine
September 29, 1992
MEETING SUMMARY

Prepared By: William J. Friedman

Attendees: All NOSB members, with the exception of Gary Osweiler, Eugene Kahn, and Thomas Stoneback; Harold Ricker, Julie Anton, Ted Rogers, USDA.

The morning session lasted four hours and encompassed the topics included on the distributed agenda. The morning session was entirely consumed with housekeeping measures.

Motions were passed relating to previous meeting minutes, the creation of an NOSB by-law working group, and the adoption of a NOSB document heading scheme to clarify the stages of our various working papers for the public.

A report from the AMS Administrator's Office by Ms. Chris Patchin was heard regarding the appropriation process for the National Organic Production Program and the NOSB. The requested appropriation was rejected by Congress and other available funds were cut as well. Funding reduction means a delay in the implementation of the National Program is expected. Dr. Harold Ricker discussed staffing issues and the expected decrease in work time available from staff as funding costs become effective. Also, discussed were phone costs for individual Board members and conference call costs.

All six Committees gave reports. All reports were received officially by the Board and those without written Committee reports were directed to submit them within 14 days.
Prepared By: Margaret Clark/Julie Anton

Attendees: Margaret Clark (Chair), Michael Sligh, Nancy Taylor, Bob Quinn, Rich Theuer, William J. Friedman, NOSB Accreditation Committee; Ted Rogers, Hal Ricker, USDA staff; Katherine diMatteo, OPPANA; Nancy Ross, MOFGA; Robert Beauchemin, OCIA; David Haehn, OSFVP; Victoria Smith, New Hampshire Department of Agriculture; Russell Libby, Maine Department of Agriculture.

The Accreditation Committee (AC) voted to approve its Mission and Goals Statement and to accept the draft "Procedures and Standards Governing the Accreditation of Organic Certification" as a Committee working draft. The deadline for comment on the draft was changed to December 1, 1992, to allow a full 60 days for comment.

Chair Margaret Clark reported the consultant hired by the AC in August, 1992, Dr. Charles Benbrook, had not been able to attend the meeting in progress, but would continue with another draft revision on the Accreditation Program after the AC completes its review of comments and makes its next revision.

With respect to Dr. Benbrook's draft, the AC discussed the following general topics, with input from guests and USDA staff:
(1) Criteria, performance, standards and indicators;
(2) Categories of accreditation;
(3) Application;
(4) Conflict of interest, and
(5) Qualifications of inspectors.
The Committee agreed to ask the NOSB Livestock, Processing and Crops Committees for recommendations on the qualifications of inspectors.

Committee work on Dr. Benbrook's draft was divided as follows, with each Committee member responsible for summarizing input on the topic of their own choosing and for preparing proposed draft revisions:
Application - Bob Quinn
Conflict of interest - Rich Theuer
Financial structures and fees - Nancy Taylor
Qualifications of inspectors - Margaret Clark
Criteria, indicators, and competence - Rich Theuer
Transparency - William J. Friedman
Independence - Rich Theuer
Status of accreditation/timing of implementation - Michael Sligh
Qualifications of evaluators - Margaret Clark
Glossary - Michael Sligh

Ms. Clark agreed to prepare a calendar for Committee work, based on weekly conference calls which would follow the circulation of each AC member's work on a given topic. Mr. Ted Rogers agreed to circulate public comment letters received to Committee members, as they accumulate. This procedure is intended to give Committee members the maximum time to review the public comments.
Prepared By: Merrill Clark/Julie Anton

Attendees: Merrill Clark (Chair), William J. Friedman, Donald Kinsman, NOSB Livestock Committee; Julie Anton, USDA; Eric Sideman, MOFGA; Russell Libby, Maine Department of Agriculture; Steve Ellis; Steven McFadden.

The Livestock Committee (LC) working draft on husbandry was elevated to a position paper and discussed at length. Issues related to confinement, animal surgical procedures, and housing of organic livestock were of primary significance. Several language changes were made throughout the document, in preparation for a second release to the general public.

Specific confinement discussion centered around crate-raised veal and caged poultry. No final decision was made on how these situations should be treated in organic livestock standards.

Discussion on parasiticide and other medication use involved an overview of Maine Organic Farmers and Gardeners Association (MOFGA) standards and parallel observations by the LC with respect to farms visited during the tour the day before.

The LC working draft entitled, Criteria for Material Input Selection, was elevated to a position paper and readied for distribution to the public.

Discussion followed on livestock feed and supplement issues. It was reported that MOFGA standards do not require 100% organic feed. The LC draft standards currently require "certified organic feed" for all organic livestock.

The meeting concluded with an agreement by Committee members to strive toward the development of position papers on organic livestock standard topics for distribution to the public as soon as possible. The Committee will be holding conference calls at least twice a month and plans to accomplish much work through written correspondence.
After several housekeeping measures were addressed, discussion ensued regarding a proposal for a de facto determination of equivalency between U.S. and European Economic Community (E.E.C.) organic materials lists. After an informal poll was taken amongst the Committee, the Chair determined that referral to the International Committee (IC) for consideration would be put off until the Materials Committee had prepared its response. In addition, Ms. Julie Anton is identifying other foreign sovereigns with existing organic certification standards, and as the standards are collected they will be analyzed.

In order to facilitate identification and discussion of issues and topics within the International Committee that relate to determinations of equivalency between the E.E.C. and the U.S. organic certification program standards, IC members were given standing Committee assignments that were approved by unanimous consent.

The Committee unanimously approved the preparation and distribution of a memorandum requesting information on potential areas of conflict between the work of the NOSB Committees and proposed or existing standards in other countries. Dr. Kenneth Clayton, Deputy Administrator of the A.M.S. is the designated representative to Codex for A.M.S. The Committee unanimously approved the preparation of a letter to Dr. Clayton requesting more information on the Codex process and its direct impact on the work of the International Committee.

Issues discussed but upon which no decision was reached include:

1. Verification of certification involving U.S. based certifiers operating in other countries that export certified product to the United States.

2. O.C.I.A. President Robert Beauchemin raised the issue of how the United States intends to address the situation where the country from which the product is imported has no U.S. based certifier and no "competent governmental authority" (as discussed in the E.E.C. regulations) or the governmental authority is "rubber stamping" certification entities for operation with its borders.
3. I.F.O.A.M. is attempting to schedule a meeting with the Mexican government, the U.S. government and the Canadian government in the first quarter of 1993. No further information is available at this time.

4. The impact of E.E.C. Regulation No. 2083/92 was briefly discussed.

5. The deletion from the Accreditation Committee draft accreditation program of a section relating to imports was noted.

6. U.S. Agency for International Development personnel are interested in organic agriculture and the work of the Board. Particular interest has been shown in the relationship between organic crops and the Caribbean Basin Initiative for alternative crop production. Ms. Anton will continue to track this interest.
The time scheduled for this meeting was very short; consequently, the Materials Committee (MC) was unable to adequately review and discuss the documents that were presented.

The first topic of discussion was the forms, discussed in Sacramento, for public petition to get materials for use in organic production on the National List. Drafts of these forms, which were long forms (to be used to obtain information from manufacturers) and short forms (for the use of farmers) for each category of material had been prepared and submitted by USDA staff member Ted Rogers. The MC felt the short form required too much information and that both a long and short form for each category of material, crops, livestock, and processing was not necessary. The MC stated its intents to discuss the petition drafts further.

-Mr. E.K. Chandler announced that the draft of the AACO structure was not yet complete and will be submitted to the MC soon.

Chair Taylor presented submitted a draft proposal to accept the European Economic Community materials list as equivalent to that of the United States as discussed at the Sacramento meeting, which had been submitted by absent MC member Mr. Tom Stoneback. However, the MC felt that the proposal was premature and perhaps unnecessary at this time due to the fact that the U.S. list is incomplete and that international organic trade has not yet been affected. The Committee will consult with the NOSB International Committee in further materials list equivalency discussions.

Chair Taylor submitted a working draft of the MC's mission statement, which described the MC's intent to: (1) work on reviewing "generic" materials and allow certifying groups to review "brand name" materials; (2) request full disclosure of inert ingredients; and (3) propose a phase-out period for prohibited materials currently on the allowed lists of some certifying agencies. Ms. Taylor planned to work on a second draft of the mission statement and circulate it to the MC at the upcoming Maine meeting.
At this joint meeting both the materials list format developed at the July NOSB meeting and the Materials Committee phase review process were discussed. The materials list format allows for the identification of data gaps and is intended to prompt the NOSB Committees to list technical questions regarding the use of a particular material that could then be referred to the Technical Advisory Panel. After much discussion and debate regarding the level of detail in the document, the Committees decided the format was useful and voted to adopt the following materials list format:

```
CROP/LIVESTOCK/PROCESSING

CATEGORY: [Crops/Livestock/Processing]
MATERIAL NAME:
Subcategories:
Crops: Pest Control
       Plant & Soil Inputs
       Production Aids
       Post-Harvest Aids
       Sanitation Aids
Processing: Pest Control
           Processing Aids
           Sanitation
Livestock: Pest Control
       Nutritional Feed Supplements
       Health Care
       Production Aids
       Sanitation Aids

Natural or Synthetic:
Use:
Allowed or Prohibited: [EPA, FDA, USDA]
Federal Review: [information or research needs]
Data Gaps: [information the NOSB used in making annotations or used decisions]
Reference Documents or Bibliographies: [information the NOSB used in making annotations or used decisions]
IFOAM or EEC Classification: [allowed or prohibited]
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The Committees also voted to accept the following phase process for completing the materials lists.

**PHASE I (Completion date Dec. 1992)**
- List materials that the NOSB feels has reasonable agreement on accepted use.
- Seek public input on "reasonable agreement" draft list.

**PHASE II (May 1993)**
- Draft list of prohibited natural substances the NOSB feels has reasonable agreement.
- Draft list of allowed synthetics to be included on the OFPA exempted list the NOSB feels has reasonable agreement.
- Initiate Botanical review process.
- Initiate petition process.
- Seek public input and technical expertise on proposed allowed & prohibited materials list.

**PHASE III (Sept. 1993)**
- List of controversial materials that the NOSB is not in agreement on.
- List of materials needing further discussion and annotations.
- Request for position papers on controversial materials from Technical Advisory Panel and the Public.
- Seek public input on controversial materials and annotations.

**PHASE IV (ASAP)**
- Complete evaluation of all materials to be included on National List based on OFPA Section 2119(m).
- Technical Advisory Panel reports evaluated by NOSB.
- NOSB final recommendations.
- Regulatory review by EPA, FDA, and USDA.
- Final recommendations go to the Secretary of Agriculture.
Prepared By: Ted Rogers

Attendees: Richard Theuer (Chair), Margaret Clark, Merrill Clark, Donald Kinsman, Craig Weakley, NOSB Processing & Handling Committee; Ted Rogers, USDA staff.

This was a brief meeting, carrying forward the review and revision work on drafts of position papers and other draft documents.

The Organic Handling Plan was the principal item of discussion. The two approaches addressed were: (1) to continue with a detailed handling plan as begun in draft Organic Handling Plan, dated September 1, 1992; and (2) to merge relevant elements of an "organic" plan with preexisting FDA regulations covering "CURRENT GOOD MANUFACTURING PRACTICE IN MANUFACTURING, PACKING, OR HOLDING HUMAN FOOD" (21 CFR Ch.1, PART 110). Approach number two would—essentially build upon what everybody already knows, rather than burden organic handlers and processors with an entirely new set of regulations to assimilate. It was agreed that Members would review Part 110 and the Organic Handling Plan before the next conference call in preparation for a discussion of these alternatives.

The processing materials list and criteria were discussed in preparation for the joint meeting with the Materials Committee. There was also a discussion of the wine issue and a new position on sulfites used in wine making.

The meeting closed with a discussion of Committee plans to prepare revised position papers for release for public comment.
NATIONAL ORGANIC STANDARDS BOARD
FULL-BOARD CLOSING SESSION
Best Western Senator Inn, Augusta, Maine
September 30, 1992
MEETING SUMMARY

Prepared By: William J. Friedman

Attendees: All NOSB members, with the exception of Gary Osweiler, Eugene Kahn, and Thomas Stoneback; Harold Ricker, Ted Rogers, Julie Anton, USDA.

The morning session lasted four hours and was entirely consumed with procedural and budgetary matters. Motions were passed setting limits on monthly phone and fax costs incurred by Board members, a 3-hour per-month limit on Committee conference calls, and setting the next full Board meeting for sometime between May 15-30, 1992.

Other procedural matters upon which motions were unanimously passed include:

1. All draft recommendations for consideration at the next meeting by the full Board must be submitted to the Board chair by a deadline to be set by chair, and the chair will also establish the criteria for waiving the deadline upon motion by the Committee chair.

2. The executive Committee will determine the manner of distribution of conference call notes and work product and will poll the Board members regarding the proposed procedure.

3. All Committee chairs must submit a written standing Committee to the Board secretary for inclusion in the minutes.

4. Committees may vote on adoption of publicly distributed position papers and drafts of final recommendations on conference calls.

5. A new Board meeting schedule will be distributed to the public.

6. The executive Committee was delegated authority to approve individual Board member requests to represent the Board at public meetings where Board representation has been requested and there is no expense to the Board.

7. All NOSB members approved for representing the Board at public meetings must provide the staff director and the chair the relevant information relating to their appearance.

The Board also approved the distribution to the full Board of all working drafts and position papers distributed to the
public.

A resolution for submission to the Secretary regarding statutory deadlines and budgetary constraints that has been tabled at the previous meeting was defeated. A resolution regarding staff appreciation was passed unanimously.
Meeting was called to order by Chairman Michael Sligh at 9:00 am.

Members Present: Michael Sligh - Chairman; Margaret Clark - Vice-Chair; Eugene Kahn - Treasurer; Merrill Clark; E. K. Chandler; L. Dean Eppley; Donald M. Kinsman; Gary D. Osweiler; Robert M. Quinn; Thomas A. Stoneback; Nancy A. Taylor; Richard C. Theuer; Craig V. Weakley. Absent: William J. Friedman

USDA Members Present: Harold S. Ricker - Staff Director; Martin F. Fitzpatrick, Jr.; Julie K. Anton; D. Ted Rogers.

There were 36 members of the public attending as observers.

Mr. Tom Stoneback welcomed the National Organic Standards Board (NOSB) to the Rodale Research Institute, and discussed the facility and plans for the week, indicating they were delighted to have the NOSB there.

Mr. Martin (Buzz) Fitzpatrick, Director, Transportation and Marketing Division, AMS, USDA brought greetings from the Department. He briefly addressed budget concerns indicating that the Office of Management and Budget made the decision that no new budgets be approved, and that it was now up to the Congress.

He also indicated that Michael Hankin was being brought back on a detail to help coordinate the organic work. He indicated that Mr. Hankin is strongly dedicated to the organic program.

Mr. Fitzpatrick indicated that the NOSB should take full advantage of the additional funds made available for two more meetings and make as much progress as possible on developing the standards. There is an effort underway within the Administration to eliminate advisory boards.

Chairman Michael Sligh thanked Mr. Fitzpatrick for his comments. The Board members were then asked for a Board member to serve as acting Secretary, given the absence of Mr. Friedman. Dr. Gary Osweiler volunteered and was approved.

The Chairman asked for any additions or revisions to the agenda. It was proposed to add discussion of the By-Laws, and discussion of a letter that he had sent to the Board on proposed criteria for evaluation.

Minutes
Draft minutes for the July meeting in Colorado and for the September meeting in Maine were handed out for review. It was agreed to act on them at the full Board meeting on Friday.

**Budget**

Dr. Harold Ricker provided a report on expenditures to date and projected expenses for the balance of the year given the uncertainty of the location for the September meeting. It was noted that the meeting at Rodale will make it possible to continue reimbursing members for phone and fax expenses in addition to the planned meetings.

Dr. Ricker also distributed a letter to assist the NOSB members in preparing for and dealing with Freedom of Information Act (FOIA) requests.

**Election of Officers and Committee Restructuring**

Chair Sligh asked that members keep in mind the election of officers for Thursday and that Committees consider any needs for restructuring in their meetings. There has been concern expressed about the Materials and International Committees. Mr. E. K. Chandler expressed concern about changing officers in a start up organization. Mr. Gene Kahn indicated that the election should be based on performance.

Crops Committee: Mr. Kahn indicated no changes planned.

Materials Committee: Ms. Nancy Taylor indicated she is resigning as Chair, and considering restructuring the Committee to reflect more of a coordination role. She asked Dr. Ricker to assign more responsibility for liaison with committees and EPA/FDA to staff and he concurred.

Accreditation Committee: Ms. Margaret Clark indicated it was working fine. She indicated she was not sure if an International Committee is needed. She sees import requirements as an accreditation issue.

Livestock Committee: Ms. Merrill Clark indicated she had not heard of any move to change the Chair.

Processing, Handling and Labeling Committee: Mr. Rich Theuer indicated the six people were working well together.

International Committee: Mr. Sligh indicated there is a role outside the U.S. Mr. Friedman had asked Mr. Stoneback to chair the meetings of this committee in his absence.

Mr. Bob Quinn proposed that the NOSB hold off re-evaluation of the committee structure until after the first round of program
development is done. Mr. Chandler supported this. There was
brief discussion of the need for working groups, but the
consensus was to keep the structure as is for now. Mr. Sligh
asked that if a need was seen for working groups to bring a list
of areas to the meeting on Thursday.

Ms. Taylor indicated she would like to use the time between 11:00
am and 12:00 noon for a joint meeting on materials.

**Definition of Organic**

Chairman Sligh noted that Dr. Ricker had distributed a number of
definitions for Board consideration, and that Ms. Margaret Clark
had made an attempt to synthesize them into one. However, there
was considerable differences of opinion among members on the
definition she developed. She has a file of member comments that
she would pass on to anyone willing to work on it. There was
some question about the need for a definition. Hal indicated a
need to develop a definition as part of the regulation, and that
there could be two versions. The first would be a working
technical definition, and the second a short marketing definition
that would have meaning for consumers. He also indicated that if
the Board did not do it, USDA would develop a definition as part
of the rulemaking process.

Mr. Theuer questioned Dr. Ricker as to the fact that the statute
does not call for a definition of organic. Dr. Ricker responded
that it will be needed in the definitions part of the regulation,
and that he is getting many inquiries about the status of a
definition.

Mr. Sligh suggested the need for a working group on the
definition and that anything developed should follow the position
paper format. While Mr. Theuer, Mr. Stoneback, Ms. Merrill
Clark, and Mr. Chandler volunteered, Mr. Sligh asked that it be
on the various committee agendas to come back with names on
Thursday.

**Future Meetings**

The location and general dates for the July meeting have been set
for July 8 to 11, 1993 at the Best Western Village Green Resort
Hotel in Cottage Grove, Oregon. The meeting will be focused on
individual committee meetings, with an agenda to be discussed
Thursday.

For September, the Board has three options for consideration:
Baltimore, Maryland; Arkansas; and Texas. We also have an
invitation to go to North Carolina in November, but no decision
will be made on that until later when we know more about the
funding situation. We will make a decision on Thursday of the
location for the meeting in September.
Ms. Merrill Clark discussed her continuing interest in having a survey of consumers conducted to determine their attitudes and perceptions of organic. This is a follow-up to her meeting with NCAMP. Arkansas representatives indicated they were working on this through their Farmer to Farmer mailing list. New Hope publications expressed interest in surveying their database. It was recognized as a good idea, but concern was expressed about the need to have the questions properly phrased so as not suggest answers and about the population to be surveyed. Mr. Quinn indicated that any questionnaire and procedure should come before the full Board for approval. Mr. Stoneback questioned the purpose and use of the survey. Dr. Ricker indicated that it was not a proper role for NOSB, and that the Board should be working on standards development.

Mr. Sligh briefly summarized a five page paper he had circulated to the board a couple days prior to the meeting. The paper identified 5 evaluation criteria for ongoing review and evaluation of the implementation of regulations: A. How much does it cost and who pays? B. Does it meet the mandate of the law and the intent of Congress? C. Is it accessible to the users? D. Does it pass socio/economic impact analysis? E. Does it facilitate full public participation? The rest of the paper addressed tools for adjusting regulations and recommendations for research needs. Board members indicated that they thought the criteria were excellent. Dr. Ricker indicated that parts two and three (tools for adjusting regulations and research needs) were really up to the Secretary and that the Board should focus on developing standards and the materials list.

Mr. Kahn moved the adoption of the first section lines 20 on page 1 to line 18 on page two. Ms. Taylor seconded. The vote was unanimous.

Ms. Taylor briefly discussed the format for petitions for materials and the need for joint committee action.
Prepared By: Harold Ricker and Julie Anton, USDA/AMS

BRUCE KRANTZ, Marketing Manager for Hynite Corporation, argued that Hynite leather by-product fertilizers are compatible with the organic farming philosophy. Hynite leather by-products are not bioaccumulative and do not oxidize, once in final form. He claimed that only chromium and sulfur remain upon completion of the tanning process. There are eight processing steps to the tanning procedure, some of which may considered synthetic. There is also a need to review the chemicals used in the tanning process.

MARK RETZLOFF, of Natural Horizons, expressed his preference for not listing percentage of organic ingredients on the principal display panel; he recommended that percentages of organic ingredients only be indicated on the information panel. There are vast differences in package sizes and available label space. He agreed with the Processing Committee's minority view on the listing of natural flavors. Regarding livestock issues, he made two points: (1) the use of synthetic antibiotics and parasitcides in organic dairy cattle should be prohibited; and (2) requiring that dairy cattle be pastured for some time during the year will impose a hardship on some producers.

LORNA MCMAHON, an organic grower from Tennessee, with 450 acres of certified organic corn, cotton and spelt and 900 acres in transition, argued for the creation of a certification program for transitional acreage. Without it, she claimed, there will not be conversions of large amounts of acreage from conventional farming. She noted that consumers would like to support transitional farmers, and that there is a need for an transitional label, identifiable in the marketplace. She encouraged the Board to include a recommendation that the transitional label be readdressed in the 1995 Farm Bill.

PAUL BYSTRAK, Commercial Development Associate, Mycogen Corporation, described his company as one that develops, manufactures and markets biopesticides as alternative to chemical pesticides. His presentation was devoted to explaining the CellCap process, what it is and its advantages, using the product MVP Bioinsecticide as a specific example. MVP is essentially a hybrid between two naturally occurring bacteria, Bacillus thuringiensis (B.t.) and Pseudomonas fluorescens (P.f.). As a result of the CellCap Process, MVP would have less environmental and human impact than conventional B.t. products for the following reasons: the hybrid is dead and cannot therefore would not perpetuate itself in the environment nor move
independently to unanticipated locations; P.f. produces no
spores; and the CellCap process sterilizes the fermenter. In
balance, the product has a more specific action, with fewer non-
target effects, and has better foliar persistence, efficacy, and
consistency.

FRED KIRSCHENMANN, of Kirschenmann Family Farms in North Dakota,
represented the Northern Plains Sustainable Agriculture Society
of 200 organic producers. He stressed that only a small group of
farmers really condemn the Organic Foods Production Act and the
work of the NOSB. He noted that the NOSB has not yet heard from
the many farmers who grow good organic grain. He recounted the
history of the Act. Food safety was not an issue when the
organic movement started. The heart of organics is farming in
concert with nature. He argued that the intent of the Act is not
to overly codify organic farming, particularly as the manner in
which the principles are applied varies with farm situations.
The organic farm plan is the key and forces farmers to evaluate
their individual farms. The paperwork is to give consumers a
guarantee. He asked the NOSB to remember that the legislation
has limited objectives and that every problem cannot be solved
with one program.

KATHERINE DIMATTEO, Executive Director of OFPANA, reminded the
NOSB to review the OFPANA standards presented to the Board the
following year. She described the actions of small OFPANA
committees that initiated positions and surveyed organic
community members. Revisions of these positions were circulated,
and larger forums were created to resolve controversial issues.
She commended both the Livestock and Processing Committees for
their hard work in charting new ground. She presented the will
of OFPANA as the following. The Board should create standards
that encourage the growth of organic agriculture and which are
manageable. OFPANA supports the Crop Standards Committee
recommendation to allow split operations. All inerts should be
disclosed, although the phasing in of this requirement should
take place over several years. Lab testing should remain a
verification tool; soil residue testing should be left to the
discretion of certifying agent and not mandated. There is no
infrastructure yet in place to ensure the availability of
untreated seed for all organic growers. There are substitutes
for potassium chloride, and therefore, it should be prohibited.
The percentage of organic ingredients should not appear on the
front panel of processed products. OFPANA does not support the
mandatory use of an USDA seal. Processors should not be required
to list the ingredients of natural flavors. Ms. DiMatteo also
expressed her feeling that the NOSB Livestock Committee's
proposal containing strict requirements for organic livestock
production has already caused damage to potential livestock
production. She stated that she believed the OFPANA National
Organic Livestock Committee's position paper to reflect the
results of its original survey of livestock producers.
PRESTON BOOP, President of the Pennsylvania Association for Sustainable Agriculture, described Pennsylvania organic farmers as the least supportive of Federal regulation. He stated that the final regulations should provide an opportunity for farmer-controlled organizations to participate in the certification system. Rules should not force farmers into "high input" approaches to organic farming. However, botanical insecticides are important tools for controlling unusual pest infestations. Finally, small scale farmers should not be exempt from certification requirements. Such an exemption would create two levels of "organic."

ERIC ARDAPPLE KINDBERG, Arkansas organic grower and editor of Farmer to Farmer, stated that it is important to know what the consumer thinks and to identify what they want to purchase. He described a survey that Farmer-to-Farmer is proposing to send out to organic and non-organic product consumers. He also extended an invitation to the NOSB to meet in Arkansas in September. He stressed that NOSB meetings should be scheduled during the winter months when farmers can participate.

ROGER BLOBAUM, of Blobaum Associates in Washington, D.C., noted the breakdown of goodwill among the many constituencies that had come together to see the Act passed by Congress. He described a primary purpose of the Act, as perceived by those involved in its creation, as being the following: to overcome the market barriers created by the existence of 20 different State organic programs. He said that the pursuit of authorization to file citizen suits, to prohibit the use of all toxic botanicals, to emphasize residue testing, and to ban synthetic inputs under all circumstances was abandoned in an attempt to balance the ability of growers to meet organic production standards with the integrity of the organic product. He remarked that as former director of Americans For Safe Food, he is interested in fraud and misrepresentation in the marketplace rather than the "fine points of organic farming."

JODI SNYDER, an OCIA-certified farmer in Pennsylvania who raises 200 ewes, argued that the certification exemption for small farmers should be revoked. She supported the concept of requiring 100% organic feed, but it is not always available. She believes that antibiotics should be prohibited and is totally against parasiticide use. She noted that herbal worming compounds and diatomaceous earth both work well in controlling parasites in sheep. She agreed with the current NOSB Livestock Committee decision to decertify farms that withhold treatment from sick animals. Slaughter processing standards need to be as equally strict as production standards, with a complete audit trail required. She expressed concerns about split operations, as toxins can leachate and move through 25 foot boundaries.
TONI BEDARD, an OCIA-certified vegetable grower in Pennsylvania, with 22 acres/60 acres rented of 40 mixed vegetables certified organic since 1986, stressed the importance of having regionally-based certifying agencies that can serve to pass on improved techniques to farmers. He suggested nationalizing the high OCIA standards that are now in existence. He argued that a "pure organic paradigm" cannot be "legislated," given the differences among growers of monitoring their farming practices. He noted that the sale of organic products alongside conventional products sparks the interest of conventional farmers in organic farming.

BOB ANDERSON, of Walnut Acres in Pennsylvania, described his operation has serving 100,000 consumers. He stated that although he is in basic agreement with the NOSB on many issues, he is opposed to listing the percentage of organic juice on the principal display panel. This would tend to drive processed products to the lowest level of organic ingredients allowed in a processed product that could still have the word "organic" on its label. Processors with 50% organic ingredients or less should still be required to have an audit trail in place. He did not support full disclosure on spices. He noted that with regard to the NOSB Crop Standards Committee decision on annual transplants, an emergency provision should be handled to support growers that face devastating frosts or poor germination of untreated seed. He expressed his support for allowing the careful use of cannery waste on fields, but the issue is whether product waste is generated within the plant or outside as to whether the waste is considered sewage or field waste.

JOHN CLARK, organic farmer in Michigan, stated that "in the long run, only strict high standards will build organic farming numbers and organic permanence." An input should not be exempted simply because growers have not yet acquired the knowledge to utilize alternatives. He stressed that the creation of a "transitional" label would cause confusion in the marketplace.

LAWRENCE PLUMLEE, physician to the chemically sensitive, expressed his concern that the EPA, in its current review of pesticides, is not considering immunotoxicity or neurological testing. He stated that we already have a food system that is meeting EPA standards, and that a stricter system is needed for organic foods. He was also concerned that there is not a way to determine whether or not food products have been fumigated.

STEVE MCFADDEN, chemically sensitive individual, informed the audience that emergency spray eradication programs were about to be initiated in nine Southern states. He linked aerial pesticide spraying with the instigation of the Los Angeles riots. He noted that chemicals different from those allowed on food can be used for cotton defoliation. He expressed concern for the contamination that can take place in the food distribution channels.
BILL WELSH, organic poultry producer in Iowa, argued that organic standards should not be compromised to allow for the expansion of production. He noted that he now works with three different Japanese companies that have clients who are chemically sensitive. He said that farmers are motivated to develop alternative methods when deprived of antibiotics, and gave the example of when he switched his pigs from milk to vegetable protein and no longer had a problem with scours. He also suggested that density limits be set for dry-lotted cattle that compact crop land and harm soil life.

BRIAN BAKER, Technical Coordinator for California Certified Organic Farmers, expressed his interest in having the national standards reflect current certifying agency standards. He supported the Crop Standards Committee positions, but had many reservations about the Livestock Committee's March 1993 document. He suggested that the NOSB start with the following requirements for organic livestock: 100% organic feed and no subtherapeutical doses antibiotics or hormones. He described standards phase-in periods as "arbitrary and capricious."

TIM SULLIVAN, attorney with Farmers Legal Action Fund, described his reading of the Act as pertains to the authority of State and private certifying agencies. He saw a tension between State and private agencies that are in competition with each other to provide paid services. He stated that the Act does not allow States to accredit private organic certifying agencies. He also argued that the Peer Review Panel is the private sector's role in the Federal accreditation scheme.

DREW NORMAN, owner of a 50-acre organic vegetable operation in Northern Maryland, described some of his needs as a grower. He said that although the need to source inputs from off the farm may decrease over time, off-farm compost is still needed as are row covers (costing $30K per year for 50 acres) and botanical insecticides. He stated that he must presently produce 30-40 different vegetables to be able to support himself as a grower in the organic food market.
CROP STANDARDS COMMITTEE
PRESENTATION TO FULL BOARD
MONDAY, MAY 17, 1993

Prepared by Julie Anton, USDA/AMS

Crop Standards Committee Chair Gene Kahn initiated the Committee presentation to the full Board with a discussion of Residue Testing, Crop Standards Committee Recommendation to the Full Board No. 1. The following sections of the Organic Foods Production Act of 1990 (OFPA) were reviewed: Section 2112(a), 2107(s)(6), 2112(b), 2112(c)(1), 2112(c)(2), and 2119(k)(5).

Chair Kahn explained the Committee's position as in compliance with the intent of the OFPA but not creating a financial burden for producers to carry.

Chair Kahn encouraged those present to consider the development of consumer materials that would help differentiate "organically-produced" from "residue-free" claims.

Residue testing should operate as a random check on the system of organic certification. Chair Kahn presented excerpts from the Senate Agriculture Committee Report [attached], and pointed out that the intent is to test for the presence of prohibited materials at levels greater than unavoidable residual environmental contamination. Chair Kahn noted that pre-harvest testing could be done, as a service to the grower and at the discretion of the certifying agent, if it was anticipated that the food harvested may not pass the required residue tolerance levels.

Mr. Craig Weakley was called upon to explain how the Committee came to set tolerance levels. There were three clear directions the Committee could go with its recommended policy: (1) set a zero tolerance level; (2) set a tolerance level that is equivalent to that adhered to by non-organic producers (100%); or (3) set a tolerance level somewhere between zero and 100%. Mr. Weakley pointed out that the Senate Agriculture Committee Report was the determining factor. Based on the Report, the Committee decided that the residue level should be set at between 1% and 10% of EPA tolerance; based on public response, the Committee recommends that the level be set at 5%. Mr. Weakley provided a copy of the new Committee recommendation to the Board.

National level implementation [lines 189 through 208] was discussed; State level implementation was then addressed. Mr. Weakley explained that the Committee was attempting to keep the cost to producers down. Committee members feel it is fair that the bulk of periodic residue testing is done by Federal and State programs already in place, within which non-organic farmers are not required to pay for the service. The Committee's State-level policy duplicates the Federal-level policy.
At the local level [see lines 232-279], the certifying agent shall develop and implement a system for evaluating the potential for products to contain residues of prohibited substances. Mr. Weakley noted that it is not the Committee's intent to create a local level bureaucracy, with all its expense.

Chair Kahn expressed an interest in taking a "straw" vote to assess current feelings of the Board toward the presented residue testing policy: eleven Board members voted their approval; two members (Mr. Rich Theuer and Mr. Michael Sligh) disapproved.

Mr. Theuer request that a provision be added, allowing a State to set a lower tolerance level. Mr. Weakley responded with concern that the Secretary would not approve a State program setting a lower tolerance level, because it would impede inter-state commerce. He said that no State could establish a tolerance level less than 1%, because of the provisions of the Senate Committee Report.

Mr. K. Chandler proposed that a range of more than 5% or less than 10% be allowed to accommodate the desires of different States.

Mr. Sligh expressed his feeling that to set a permanent tolerance level would be disregarding the development of new techniques in the future. Ms. Margaret Clark s suggested that the tolerance level be subject to a biannual review.

Dr. Gary Osweiler asked what happens when testing implements can only get to 40% of the tolerance level. Mr. Weakley noted that the majority of his inquiries into the subject revealed that it is possible to get to 5% of EPA tolerance levels on the majority of substances. Dr. Osweiler suggested that the phrase, "unless not technically feasible," be added after the tolerance level requirement.

Mr. Weakley explained that the Luke test can get down to 5% for most pesticides it screens for. If a State lab does not have capacity for conducting the Luke test, the sample would have to be sent to another lab. Most States have it but choose not to use it because of cost, Mr. Weakley revealed. He noted that California already has a 5% of EPA tolerance level requirement in State law.

Chair Kahn concluded the discussion by stating that the residue testing policy would be referred back to Committee for a refinement of the changes suggested. He noted in closing that among the 108 letters addressed to the Crop Standards Committee, there was widespread support for the Committee's residue testing policy (which, on the position paper distributed, was stated as between 5% and 10% of EPA tolerance). He read quotes from
91 farmers from New York, respondents McKay and Lawrence, and from
92 Brian Baker, who suggests developing an assessment program.

Emergency Spray Exception, Crop Standards Committee Proposal
to the Livestock Committee No. 1, was presented next, with Chair
95 Kahn reading from the Committee's commentary on the subject
96 [attached]. Chair Kahn noted public input that states that the
97 NOSB should prohibit emergency spray programs; he expressed
98 appreciation for the sentiment but stated that the NOSB must work
99 within the OFPA. The "polluter pays" policy could not be created
100 by NOSB. He explained that without full compensation to organic
101 producers for loss of certification status, such a policy would
102 be punitive.

Excerpts were read from the Senate Committee Report.
103 Residue testing requirements must still be met by producers
104 subject to emergency spray programs. Section 2105(2) of the OFPA
105 was reviewed, and the Committee's recommendation in light of
106 statutory requirements was stated as: agricultural products
107 affected by emergency spray programs cannot be sold as
108 organically produced.

A joint meeting between the Livestock and Crop Standards
110 Committee was announced, whereby the Committee's would develop a
112 joint position on the emergency spray exception.

Chair Kahn noted that certified producers would be required
115 to notify the relevant certifying agent of an emergency spray
116 incident. Requirements for certifying agents were then
117 deliberated. Ms. Margaret Clark remarked that there will be a
118 difference in the residue level detected depending on the timing
119 of the spray, i.e. at planting versus at harvest.

Ms. Merrill Clark asked how the Committee reconciled their
120 position with the OFPA requirement that no prohibited substances
121 can be applied during the three years prior to organic
122 certification. Giving advance notice emergency spray plans to
123 organic producers would help them find a way to substitute
124 treatment with permissible substances. Otherwise, Ms. Clark
125 feared, it would be possible for certain organic farms to be
126 subjected to emergency spray programs "every other year."

Ms. Margaret Clark agreed that without regulatory
128 requirement for notification, the certifying agent can ask but
129 not expect an organic producer to necessarily report an emergency
130 spray incident.

Mr. Bob Quinn said that the three-year statutory requirement
132 applies to the organic farm management system, rather than to
133 situations out of the control of the producer. The punishment
134 applied to an organic producer who deliberately applies
135 prohibited substances within the context of his/her farm system
should not be that applied to a producer who has no say in an emergency spray program. The loss of certification for one year is punishment enough.

It was pointed out that the setting of a one-year period for loss of certification is arbitrary, particularly given that more than one crop may be produced in a year. Mr. Theuer asked about a beginning and ending of the crop production cycle in the case of perennials. Mr. Quinn suggested defining the loss period as a crop season.

Mr. Sligh suggested that the emergency spray policy recommended by the Board include a requirement that it be reviewed annually, and asked how the USDA would handle the conflict between the objectives of a Federally-mandated spray program and a program overseeing the integrity of the "organic" level. Mr. Buzz Fitzpatrick suggested that the Board recommend to the Secretary that he advise policy-makers to be aware of cross-compliance issues.

Mr. Quinn commented that it almost all cases, the sprays used in emergency spray programs do not have a soil residual by nature.

Ms. Merrill Clark described her interpretation of the Senate Committee Report: the exception granted to organic producers affected by emergency spray programs should only be in extreme cases. She suggested that there be full disclosure to consumers.

Chair Kahn took a "straw" vote among Board members regarding the Committee's emergency spray exception as currently written: seven Board members voted their approval; four members voted their disapproval.

Pesticide Drift Policy, Crop Standards Committee Proposal to the NOSB Livestock Committee, was then presented. Chair Kahn read the relevant excerpt from the Senate Committee Report.

He pointed out that the Committee's position requires producers to notify the relevant certifying agent within 48 hours of a drift incident, and the crop drifted upon cannot be sold as organic until the certifying agent has made an assessment of the impact of the drift. The certifying agent must determine if the drift incident actually occurred, and then if so, must determine if the agricultural product can be sold as "organic." Ms. Margaret Clark expressed her concern about who decides when and where to test and about who bears the cost of these decisions.

Mr. Quinn presented his minority position, which states that the penalty for drift should equal that of the emergency spray policy. He said that he is not comfortable with residue testing as means of determining whether or not a product can be sold as
Drift, in many cases, is avoidable; unless there is a deterrent, "chemical trespass" will continue and growers will never be able to collect damages, Mr. Quinn stated. He reported that the majority of public input received by the Committee did not support selling a drifted-upon crop as "organic," even if residue-tested.

Mr. Chandler remarked that the argument is essentially philosophical; producers who are "innocent bystanders" in a drift incident may be forced to pay a penalty "because we refused to recognize scientific evidence that no harm was done to that crop." Mr. Weakley added that the Board should focus on the fact that, in the case of drift, the producer has not violated the OFPA.

Chair Kahn stated that he knew of no growers who had sought legal recourse in a drift incident, even when the applicator could be identified.

Ms. Zea Sonnabend of CCOF explained that her organization customizes its policy to the individual situation. The extent of drift is determined, and the affected crop is not marketed as "organic." However, the affected crop area may only be three rows, and this is assessed. Furthermore, CCOF does not call the punitive action "decertification," so as not to inadvertently harm the reputation of the producer. Three to five cases of drift are brought to the attention of CCOF each year on average.

Mr. Brent Wiseman countered that in Texas there is much recourse for the grower in cases of drift. The State inspector reviews the situation, and makes a determination on a case by case basis; however, it may take 6-7 months for a determination to be made. A private certifying agent would not have access to the records until after the case was settled. He stated that the incidence of drift is seldom, adding up to five cases per year on average. Furthermore, of those five cases, in only two have residues of spray drift be detected. Mr. Kahn remarked that only one case per year is brought up in the State of Washington.

Mr. Brian Baker stated that in California, the burden is on the grower to prove that applicator was negligent. County agricultural commissioners may not recognize the harm drift imposes upon organic producers. The rate of success recovering both time and money losses among growers has been poor. The price premium loss when a grower has to sell an organically produced product on the conventional market is difficult to recover.

Mr. Quinn described the strong chemical trespass laws established in Montana; 2-3 cases are brought to bear each year. Mr. Quinn described how he lost certification status for 3 years
Mr. Weakley expressed the majority Committee view: by making drift policy consistent with the residue testing policy only, there will be incentive for producers to report drift. Chair Kahn called a "straw" vote: 5 Board members voted for the current Committee position; 7 members voted against the position; and one member abstained.

Requirements for a Split Operation, Conversion to 100% Organic, Crop Standards Committee Recommendation to the Full Board No. 1, was presented with Committee commentary [see attached]. Chair Kahn reviewed arguments for and against the mandatory conversion of split operations to 100% organic. He described the Committee position as basing certification solely upon compliance with the OPFA, which allows for the maintenance of organic and non-organic fields within the same farming operation.

Chair Kahn reviewed public responses from the Carolina Farm Stewardship Association, Mark Corley, the Demeter Association, Chip Kraynyk, MOFGA, and two Maine farmers, Mr. Holmes and Mr. Gerritson.

Ms. Julie Anton noted that she had prepared an analysis of public responses on the topics of split operations, the Organic Farm Plan, inputs for organic crop production, and planting stock policies, of which copies were available.

Ms. Margaret Clark commented that the process of conversion is different for different crops. She gave an example of how an apple grower can experiment with different varieties, as long organic production can be subsidized by non-organic production.

Chair Kahn expressed his view that the Board cannot legislate grower intent. It is best, then, to build provisions that assure compliance and prevent a penetration of substances from non-organic fields. He stated that the organic food industry has been built upon on split operations, and that the market base has not been established yet to support a requirement for full conversion.

Ms. Nancy Taylor described her personal experience as an owner of a split operation. Her view is that a split operation should be allowed to remain as such throughout ownership.

Mr. Chandler asserted that the State could mandate full conversion, but a national conversion policy would be intrusive.

Chair Kahn stated that he would strongly support policy allowing private certifying agents to require full conversion.
Ms. Merrill Clark expressed serious reservations about allowing split operations, given the possibilities of prohibited substance leaching and beneficial insect loss. She guessed that there were split operations that make no improvements from year to year.

Dr. Don Kinsman described how pesticide "drift" in a livestock operation is different than in crop production.

Mr. Dean Eppley remarked that the integrity of split operations is based upon the ability of the grower to section off parts of an operation, and ensure that each section is properly managed; such sections may be managed by different employees.

Chair Kahn stated his appreciation for every acre converted to organic production. He gave the example of leased fields surrounded by non-organic fields. He commented that there will be increased scrutiny of split operations, and to question the intent or commitment of split operators is objectionable to him.

Finally, Chair Kahn called a "straw" vote on the Committee's current position: ten Board members voted for the position; one opposed the position; and two abstained.

Organic Farm Plan, Crop Standards Committee Recommendation to the Full Board No. 1 was presented in conjunction with Committee commentary. The basic premise of the commentary was that organic farming is not merely production by prescription to a list of materials. Chair Kahn expressed appreciation for the essay presented by Dr. Fred Kirschenmann, which stressed long-term improvement and a narrative farm plan.

Statutory requirements for the Organic Farm Plan were reviewed. The role of the Livestock Committee in developing their own plan on organic livestock management was clarified.

Ms. Taylor suggested that the Committee include the term, "evaluate," with regard to the progress to be described by the producer in the Organic Farm Plan Questionnaire.

Mr. Quinn stressed that a distinction needs to be drawn between soil building programs and organic by neglect at the farm level. He also noted that producers should address irrigation water quality when describing "trends" on their farms.

Ms. Margaret Clark requested that the Committee address certifying agency ability to review the Organic Farm Plan as an accreditation criteria. Chair Kahn noted this request in the Committee workplan. Ms. Clark asked the Committee to outline elements that must be present in the structure of the Organic Farm Plan document of each certifying agency.
Chair Kahn called a "straw" vote to assess the Board's approval of the Organic Farm Plan approach: approval was unanimous.

Crop Standards Committee Interim Botanicals Policy, Draft Position Paper No. 1, dated April 22, 1993, was presented in brief. Chair Kahn explained that the Committee chose to limit the list of botanicals included in this policy to those with documented and long-term historical use. Dr. Osweiler pointed out the high toxicity of strychnine.

The suggestion to change the word "recommend" to the word "allow" on line 23 was agreed to by the Committee.

It was noted that OCIA prohibits piperylul butoxide (PBO), whereas OFPANA allows it. Ms. Merrill Clark expressed her disapproval of PBO, and petroleum distillates in general. Chair Kahn remarked that PBO reduces the amount of botanical pesticide required for efficacy by 10 times. He noted that PBO originates from sassafras, and that there are differing opinions as to whether or not PBO is natural.

Chair Kahn called a straw vote and received eight votes in favor of the interim position, two votes opposed, and four abstentions.

The document entitled, Planting Stock Policies, Crop Standards Committee Recommendation to the Full Board No. 1, was referred to by Chair Kahn as the Committee's position as of May 5, 1993. Since May 5, public input had been reviewed and policies regarding garlic and onion starts changed to allow non-organic sources until commercially available.

A short discussion concerning seed potatoes ensued, with Chair Kahn describing the excessive transport cost which makes sourcing from remote areas prohibitive.

Lorsban, a pesticide, is commonly used to treat seeds. Such pesticides would not be allowed according to the current Committee position.

Chair Kahn read excerpts from letters from CFSA, MOFGA, OR Tilth, Ward Sinclair, and Jim Boatman of the Idaho Department of Agriculture regarding tissue culture.

The term "commercially available" was viewed as a complex term by the Committee; thus, the Committee concluded that the historic loophole could best be handled by certifying agencies, to whom discretion should be granted.

Mr. Weakley then brought forth the argument that the current Committee recommendation to allow a one-year grace period for
non-organic annual transplants was in direct violation of the OFPA. Chair Kahn reviewed the Committee concern for growers who would have to obtain transplants at great cost or for whom it would be impossible to obtain organic transplants. Mr. Sligh suggested language that would allow for an extended date of compliance and language that would encourage a market in organic transplants to develop.

Chair Kahn called a "straw" vote on the current Committee recommendation and received nine votes of support, 1 vote of opposition, and 2 abstentions.

Inputs for Organic Crop Production, Position Paper No. 2, was briefly discussed. Chair Kahn described the Committee's concern about getting the list of inputs out to growers to dispel some of the confusion across the country. Dr. Theuer asked the Committee how it determined what is natural and what is synthetic. Chair Kahn noted that there are some paradoxes to resolve, such as over wood ash. A Committee definition of "synthetic" is in draft form.

As a miscellaneous note of business, Ms. Margaret Clark relayed a question from Yvonne Buckley of OGBA regarding land released from a conservation program, where no prohibited materials would have been applied for three years.

In concluding the Crop Standards Committee presentation, the Committee workplan was distributed.
GEORGE KALOGRIDIS, of Ojai Organics, a consulting firm in California, reiterated concerns he had expressed earlier about focusing too greatly on the specific needs of chemically-sensitive people. He does not see food safety as the primary issue facing the organics community.

BILL WOLF, of Necessary Trading Company (an input supplier), and an organic farmer in Virginia, described his perspective in support of the Crop Standards Committee's current position on botanical pesticides. He described his Pest Control BioSelector, where botanicals are viewed as a tool of last resort. He sees a gradual move away from reliance on botanicals, giving the example of soaps replacing rotenone. He agreed to provide the Board with research results revealing that there is no real data supporting the report to Congress stating that botanicals are "dangerous."

BRENT WISEMAN, of the Texas Department of Agriculture, stated his support for the allowance of split operations. He noted that 60% of the harvested crop processed at Arrowhead Mills are from split operators. He gave an example of a family farm where the son, who prefers top produce organically, must work with his father, who is only interested in continuing the farming methods he has relied on for years. Mr. Wiseman also described the forthcoming Texas bollweevil eradication bill, within which there is protection for organic growers. He said that the legislation will require organic growers to control the insect, but that alternatives, such as botanical pesticides, are offered. He stressed that the State certification programs should determine the emergency spray exemption policy.

ZEA SONNABEND, of California Certified Organic Farmers (CCOF), announced that her organization awaits a decision on inspection requirements for nut shellers and facilities cold-storing dried fruit. She asserted that CCOF would prefer that the determination of restrictions on natural crop production inputs be made by USDA accredited certifying agents and not be included in the NOSB recommendations to the Secretary. Ms. Sonnabend also noted that CCOF provides an incentive for split operators to convert to 100% organic production by charging a surcharge to inspect split farming operations. She commented, however, that non-organic crops often subsidize upstart organic crops.

JERRY FEITELSON, of Mycogen Corporation, described the cellcap technology utilized to manufacture his company's product, MVP, as fitting certain organic principles. He noted that MVP is
incapable of survival or transgenation in nature, though produced through genetic engineering. MVP and the cellcap process have been registered with the EPA, and are accepted by Jeremy Rifkin's group.

STEVE WALSER, a farmer from the State of Washington, expressed his interest in seeing language in the emergency spray policy which encourages the establishment of buffer zones. He also commented that where Colorado potato beetles were originally controlled with botanicals, seven alternative methods are now employed, with botanicals used as a last resort. He said that an allowance for PBO is important, as it is necessary as a synergist in liquid botanicals, which are preferable to powdered botanicals which get on laborers.

BRUCE KRANTZ, of the Hynite Corporation, described his company's origin as a cooperative of tanners who found leather trimmings had valuable protein and nitrogen. In leather making process, eight synthetic chemicals are typically used but are all washed out, leaving only chromium and sulfur. Ms. Nancy Taylor asked about the vegetable oil tanning practice, which Mr. Krantz stated was limited because of a problem with odor and ventilation. He said that chrome keeps the protein from putrefying. Hynite Corporation is the only company that makes a hydrolyzed leather product.

DENNIS HOLBROOK, who owns in a citrus and mixed vegetable operation and who is president of the Texas Organic Growers Association and on the Texas State advisory board, spoke on the issue of drift. In one case, a grower was able to recover damages from a drift incidence involving a cotton defoliant. In another case where an aerial sprayer had been viewed, the investigation took 8 weeks and he could not sell his crop in the meantime; residue testing determined there had not been a drift incidence, and the grower could recover no damages. Regarding split operations, he asked about how his involvement in a holding management company with absentee landowners.

SUZANNE VAUPEL, a consultant from California, announced her support for the Committee's split operation position. She said a producer may be growing all crops organically, but cannot afford to have all land certified; whole farm certification requirements would be economically prohibitive. She commented that drift is more based on the unknown than emergency spraying: questions such as, was there really an incident, was it reported, arise. She asked about drift in fog that travels for miles. On a different subject, she noted that the definition of pesticide in the Federal Insecticide, Fungicide, and Rodenticide Act applies to botanicals.

JAY FELDMAN, the Director of NCAMP, concurred with the concern for not burdening growers with unrealistic requirements; however,
he stated that the OFPA does not provide for a transitional label
--- if it did, the OFPA would be institutionalizing illegal
actions.
He noted that FIFRA establishes a risk-benefit standard as a
means of distinguishing between residual and current pesticide
levels. Regarding the 620 substances approved by the EPA, only 2
dozens have full data sets, he said. By accepting EPA tolerances,
the Board was accepting "baggage" of inadequacy. He recommended
that the Board determine what is known under the tolerance-
setting procedures. Apparently, 70 carcinogens are accepted
under food policy currently.
STEPHEN MCFADDEN, a representative chemically-sensitive consumer,
made several miscellaneous comments. He described the extent of
mileage covered by medfly eradication. He explained the types of
chemicals utilized in aerial sprays.
JOHN CLARK, an organic farmer from Michigan, remarked on chemical
trespass: he said that the damage to farmer is the disruption of
his/her farming system, from which it may take years to recover.
Also, substance damage on crops may be determined visually,
without residue testing results to prove incident. He commented
on Repeated Toxicological Syndrome, where a lower threshold to
 toxicity is established among humans.
DR. LAWRENCE PLUMLEE, a Medical Science Advisor in the Research
and Development office of the EPA for many years and a physician
of chemically-sensitive people, stated that chemically sensitive
people will incur reactions to botanicals. He expressed hope
that the Committee will develop a more "rational" approach to
tolerance setting.
ERIC ARDAPPLE KINDBERG, an organic livestock and vegetable
producer in Arkansas, suggested the Committee look at organic
production standards in light of both community and grower
responsibilities.
He expressed concern about tailwater from pesticide treated
fields. He did not feel that drift is covered by the OFPA. He
stated that split organic/non-organic livestock production is not
possible since livestock are mobile. He commented that organic
farmers have not been using neem for a long time, and that neem
has not been reviewed by EPA. He recommended that the Committee
provide some direction to certifying agencies regarding nitrogen
source obtention, requiring legume-based rotations, for instance.
AL JOHNSON, representing the 120 members of the Independent
Organic Inspectors Association (IOIA), presented highlights from
highlights from Jim Riddle's letter to the Committee. He
questioned the practicality of mandating 100% conversion of
farming operations to organic production. He expressed concern
that there be some sort of legal protection established for
inspectors while on a farm, including liability insurance.

Regarding the farm plan, on-farm processing should be addressed; otherwise, he expressed support for the farm plan as written. He would like to see generic use of OCIA's easy-to-use farm application. Finally, he commented that documentation on all seed sources is needed.

EMILY BROWN-ROSEN, of NOFA-NJ, voiced her support for split operations, though would like to see an encouragement of full conversion. She pointed out the need for the Committee to look more closely at the biotechnology provision, and to be sure not to disregard such products as MVP that are compatible synthetics and which are valuable and sustainable. She argued that with regard to planting stock policy, there should be an transplant exemption for unforeseen natural disasters, such as killing frosts or sweeping diseases. She encouraged the Committee to develop a brand names list, as it is frustrating to try to get information from companies. In representing OFAC, Ms. Brown-Rosen referred the Committee to a handout, which describes OFAC's latest positions. She noted that OFAC has not come to a consensus on biotechnology issues. OFAC does have a proposal for new wording. She remarked that OFAC unanimously opposed Eric Ardapple's proposal for an Organic Check-off Program.

The Crop Standards Committee public input session closed at 12:30 p.m.
166 Prepared By: Harold Ricker, USDA/AMS

167 Accreditation Committee Chair Margaret Clark introduced the agenda for the meeting which was a presentation of the Committee draft recommendations: Criteria, Process, and Other Procedures.

Criteria for Accreditation

Mr. Richard Theuer then presented the criteria entitled, Competence.

Mr. Theuer indicated the Committee had identified 7 steps to accreditation.

1. Promulgation of the application for certification and certification standards.
2. Submission of the completed application, including the organic plan, by a producer or handler.
3. Initial review of the application by the Certifying Agent.
4. On-site inspection of the farm or handling operation by an inspector.
5. Administrative review and certification determination by the Certifying Agent.
6. Annual inspection and submission of an affidavit by the producer or handler.
7. An applicant appeal process to the Certifying Agent.

The question of a uniform certification form was raised. Chair Clark indicated that judgements are made at the application, (inspection), and approval (decision) phases of certification. Every certifying agency is not required to have the same forms.

Accreditation is the process of evaluating the Certifying Agent. Accreditation also involves: application, field evaluation, decision, and recommendation to the Secretary.

The second criteria is entitled, Transparency (or Record keeping, as the word "Transparency" does not appear in the Organic Foods Production Act of 1990 (OFPA). It involves the following:

. Clearly articulating policies and procedures
. Open accessibility and clear documentation
. Clear and explained roles of officers, staff, inspectors and decision-making bodies
. Open accessibility and responsible appeals
. Disclosure and timely resolution of appeals

The basis of transparency is documentation:
205 . Record-keeping of producers and handlers
206 . Records required to be kept by certifier and available to
207 public
208 . Records required to be kept by certifier and available
209 on request to the Secretary.
210 . Records required to be available about producer,
211 processor with the inspection report.
212 . Record-keeping requirements of the OFPA.

213 Mr. Craig Weakley indicated that the California law is very
214 detailed about the records to be made available or kept
215 confidential.

216 Chair Clark indicated she took the structure from the California
217 Act and abbreviated it.

218 Mr. Weakley indicated he was still concerned about the disclosure
219 of proprietary information.

220 The third criteria is entitled, Independence. Mr. Theuer
221 indicated he had looked at the Conflict of Interest issue using
222 the HACCP approach where conflict of interest is a hazard to the
223 integrity of the inspection process. He recommended that
224 certifying agents have written policies and procedures regarding
225 the application handling process; disclosure of inspectors'
226 interests; the appeal of inspection results; the certification
227 decision-making process; disclosure of interests and affiliations
228 of members of decision-making body including conditions for
229 disqualification; and appeal of certification decision.

230 **Process of Accreditation**

231 Chair Clark then asked Mr. Bob Quinn to present Phase I: the
232 Application Process.

233 Mr. Quinn described the purposes of Phase I:
234 . Groups currently certifying may continue certifying
235 while continuing through the process.
236 . New groups may not begin certifying until Phase I is
237 completed.

238 The Committee would like a list published every six months
239 naming those currently in the process and what phase they have
240 completed. Mr. Quinn presented a diagram to show the flow of
241 activity. With the call for applications, the certifiers would
242 have 90 days to submit applications; the applications would be
243 reviewed by AMS staff for completeness within 60 days; if the
244 application is incomplete it would go back to the certifier for
245 revision with 60 days for completion; if complete, it would go to
246 the peer review panel. If no response, or a certifier does not
247 submit an application within the proposed time period, the
248 certifier must cease certification activities. Peer Review Panel
reviews the application and makes a determination of
"accreditation applied for status" which is not an approved
labeling designation, but allows new certifiers to begin
certifying.

Judgement is called for in the evaluation process beyond the
completeness of the application. This could be done by either
USDA staff or by peer review panel.

Highlights of the Application form (page 28 of the Committee's
document) were described:

1. Basic information - size and scope of organization
   Estimated sales volume
   Areas of competence

2. Memorandum of Agreement

3. Questionnaire
   Question 5 gets into issues other committees are working on.
   State standards require separate forms.
   Policies and procedures should include confidentiality and
   access to records, and where they can be found (foot note in
   manual).

It was emphasized that the Committee is trying to demonstrate
 equivalency and not necessarily standardize all procedures.

It was recommended that the categories of certifiers be reduced
from six to three in the questionnaire on p-30.

Procedures for Phase II, Field Evaluation were presented per the
Draft. The Committee stressed the importance of field evaluation
despite the fact that the OFPA does not specifically require it.
There was some discussion of the content of a site visit and the
fact that an evaluator may have a scoring document. Parts i and
j as listed under content of site visit are optional depending
on the circumstances.

Phase III, Peer Review Panel, was discussed in the context of the
OFPA. Mr. Sligh cited the OFPA and noted the apparent confusion
about whether the Secretary shall or may establish a peer review
panel.

A question from the audience addressed the issue of whether or
not the Committee would recommend a Peer Review Panel. The
Committee stated its support but that it was still working on a
draft document that should not be elevated to a recommendation
until it is all together. The Peer Review Panel is one of the
few places where the public and private sector are actually
verbalized in the process.

Chair Clark stated that the Committee would recommend a Peer
Review Panel in a cost-effective manner that is fair and
representative.
The Organic Certifiers Caucus (OCC) indicated that the costs of preparing for evaluation according to their survey could be at least $3,000.

Without appropriations, administrative costs would also have to be covered.

One estimate predicts costs of:
- $325 for Phase I
- $680 - $3,250 for Phase II
- Uncertain for Phase III

Average costs could depend upon the size of the certifier.

The Committee needs feedback on cost estimates, and there is an effort to weigh cost-effectiveness against an ideal program.

Conference call costs = $10 for set-up, $.49/min x number of people.

A question from the audience involved the costs of Peer Review Panel under the option that establishes regional panels. The Committee considered this an extra layer of decision making.

Regarding the evaluation of handling plan, the Committee was asked why it separates competency in the handler plan from other aspects. The Committee responded that, unlike some aspects, it is not cut and dried - continually need improvement in the plan.

What goes in the plan goes in the standards. How they use it is an accreditation issue. For processing, might look for any training in HACCP.

Need to expand on qualifications of inspectors and general principles of organic food production.

What process do you use in evaluating plans for producers and certifiers. Similar principles?

ACCREDITATION COMMITTEE
PUBLIC INPUT SESSION
MAY 17, 1993

YVONNE BUCKLEY, Executive Director of the Organic Growers and Buyers Association: There are already accreditation models in operation in Canada, and EEC that may work. OGBA has gone through an evaluation.

Would like to see the audit trail expanded on with a clear understanding of the role of the certifier to the producer. OGBA is spending time and dollars tracking product. Does not know how many times certificate is being reused.
BRENT WISEMAN, Coordinator for the Texas Department of Agriculture's Organic Program, disagreed with the accreditation approach. USDA will be talking to Texas and no other. The approval process is designed different from the accreditation process. Not in the business of certifying private certifiers in Texas. Can't handle the liabilities. Private certifiers may be approved by the Department, and every private certifier will receive notice of fee hearing.

DAVID HAENN, Small Farm Viability Project in Arkansas, stated that the language in the document is confusing because it varies from the OFPA (e.g. transparency, competence, etc.). Every body will have the same standards.

Peer Review Panel makeup – certifiers should not be making checks on certifiers – producers and handlers more appropriate. Wants USDA to do certification.

Question: Universities have peer panel – who would be better? Answer: Field evaluation is not in Act as component of review – inherent conflict of interest.

ERIC ARDAPPLE KINDBERG, Small Farm Viability Project in Arkansas, presented a model for accreditation. Congress is not going to appropriate money for accreditation and so need cost effective system. Reviewers don't go to D.C. Knowledgeable people are in the states in the country. Have certified farmers and handlers elected to state panels, and use currently available inspectors.

GEORGE KALOGRIDIS, representing the Organic Food Production Association of North America, expressed support for a public/private format for accreditation – will have a program in the next few weeks – empower the private sector. There are legal questions to the NOSB becoming the peer review panel.

Question: Did you hear the Texas presentation? Answer: Yes, and there are public/private organizations that do space certification.

EMILY BROWN ROSEN, of the Natural Organic Farming Association of New Jersey, expressed concerned about the cost of accreditation. Farmers are in the low income range. $1,400 to a group like them and $500 indemnification adds costs and comes down to $30 per farm over a three year period. Questions the on sight inspection and prefers the IOIA proposal. OPAC supports the two tiered accreditation model and likes the regional models. Areas are richer in volunteers than cash.

Question: Are farmers opting out? Answer: Have strong feedback that people can't pay more than they are paying now.
TIM SULLIVAN, Farmers Legal Action Group, stated that there is confusion between certification of programs and accreditation of certifying agents. States can have additional standards. Who holds certifying agent accountable for additional standards? States should not be in business of accreditation. States should look at private organizations to see if they are performing under OFPA. Need an appeals program and states should not have final say on appeals. USDA will have an independent appeals agency when reorganization is done.

SUZANNE VAUPEL, Vaupel Associates, argued that the "shall" part of the language in the Act for the Peer Review Panel is the strongest part of the law. The "may" refers to how the panel is established. On states setting higher standards - is keeping private certifiers out a restraint of trade? Preemption issue may come into play here.

BRIAN BAKER, Technical Coordinator for California Certified Organic Farmers, asked the Committee to avoid duplication. Ask for a standard set of information and one place to send it to. Make it fair to all certifiers. Suggests a clearing house. Consolidation of multiple certifications under a single seal; information in one place for product exported; information in one place for product imported. Begin putting input in the clearing house at Phase I.
In the absence of International Committee Chair William J. Friedman, Mr. Tom Stoneback, as designated Acting Chair, coordinated the presentations of Dr. Harold Ricker and Ms. Julie Anton of the USDA on international issues of relevance to the work of the NOSB.

Ms. Julie Anton presented a condensed version of a written chronology of United States - European Economic Community negotiations on equivalency in organic product labeling legislation and trade in agricultural products labeled "organically produced." The written chronology is attached. Included in her summary, was a description of the trade disruption seriously impacting U.S. producers, certifiers, and exporters of organic products. Mr. Brent Wiseman commented that Texas has been exporting organic cotton without detainment.

Dr. Harold Ricker reported on the work of the CODEX Alimentarius Food Issues Committee, a committee with representation from 149 countries and sponsored by FAO and WHO. Dr. Ricker described the eight-step process for the development of international regulations, and pointed out that the recent meeting of the committee in Ottawa, Canada, constituted step three.

A meeting held specifically to address organic food product labeling was attended by delegates from twelve countries, the EEC, and IFOAM, and included Dr. Ricker. At this meeting, the delegates agreed to move the organic food product labeling draft ahead to step five in the regulation development process. The next meeting will be held in Geneva this July; by October 1994, the draft is expected to be at step seven. Dr. Ricker urged the Board members to participate in an analysis of the draft on organic food product labeling, providing comments to him by June 1, 1993, for inclusion in his response to the CODEX committee.

Dr. Ricker reported that there is recognition among those working on GATT for CODEX Alimentarius; he noted that if included in GATT, the CODEX guidelines on organic food product labeling would become international law.

From a solicitation of comments from the public in attendance, a Japanese importer, Donald Nordic, reported that the Japanese Ministry of Agriculture, Forestry, and Fisheries, developed draft guidelines for organic food product labeling in
LIVESTOCK COMMITTEE
PRESENTATION TO THE FULL BOARD
TUESDAY, MAY 18, 1993

Prepared By: Julie Anton, USDA/AMS

Livestock Committee Chair Merrill Clark initiated the Committee's presentation to the Board with a bit of background. Ms. Clark commented that livestock standards have historically received less attention than crop standards. She then described the rationale behind Committee decision-making to date, which consists of the following: (1) how can producers be encouraged to enter into organic production; (2) how can regional differences in climate and geography be accounted for, given that production of certain species may not be possible in certain areas without use of prohibited inputs; (3) how can livestock production standards be kept "tight" to lend integrity to the organic label; (4) how is the production of livestock, which are mobile, animate beings, different from the production of crops; and (5) what are the bioaccumulative aspects of inputs used in livestock feed production. [Attach Commentary...Merrill, I need a copy of your overhead]

Chair Clark then introduced the Committee members, describing the expertise of each.

The Livestock Committee Recommendation to the Full Board #1 was presented section by section, each section being introduced with a description of the changes made by the Committee based upon public responses. Ms. Julie Anton announced that she had prepared an analysis of responses to the Livestock Committee's position paper, which she then provided to the Board.

Ms. Clark summarized the primary changes to the position paper as follows:
1. In the National List section, duplicative criteria were eliminated.
2. The requirement for "segregation" of organic livestock from conventionally-treated livestock was removed in three places.
3. Isolation of new breeder replacement stock is no longer required.
4. The reference to semen from certified organic livestock when commercially available was removed.
5. The following new language denotes a change in the Committee's position on feed additives: "Feed additives utilized in livestock ration may be from any source unless prohibited by the National List." The requirement that feed supplements be from organically-produced sources was not changed.
6. The term, "opportunity for exercise," replaces the term, "exercise" in the health care standards section.
Ms. Clark then described the general livestock standard issues about which the Committee would be making a recommendation to the full Board [see attachment...Merrill, I need a copy of your overhead to attach here].

Discussion was then initiated on sources of livestock for certified organic production. The Committee's recommendation to the Board that all livestock of the same species that are part of the same farming operation be certified organic within three years was the first issue of contention. Mr. Theuer suggested replacing the term, "isolation," with the term, "non-contiguous," describing a distinct, physical location that can be identified. Mr. Weakley questioned the three-year period, and suggested that a "relevant" time period be sought from current organic livestock producers. Dr. Osweiler pointed out the rationale for this recommended standard outlined in the Commentary document [see attachment...Merrill, I need a copy of your overhead to attach here].

Dr. Osweiler went on to address contamination from a pharmacology standpoint. Antibiotics can be transferred through contact with the urine and feces of treated livestock; this can happen in pasture as well as at a drylot.

Dr. Theuer described a scenario where twin lambs are born and one gets scours. He asked what happens to the lamb in the period between weaning and separation from the mother? He noted that the certifying agent can take the language of the standard very literally.

Dr. Osweiler pointed out that the requirement was that the producer needs to show that organic and non-organic livestock should not be consuming feed from the same mill and not be kept in the same lot; the physical facilities should be separate. Dr. Stoneback suggested that the "farming operation" could be defined as a distinctly separate functional unit.

Mr. Kahn argued that it is better to create tough standards than to mandate total conversion of a farming operation. He described a scenario where a one out of five of a producer's chicken houses is organically managed; the property is contiguous, but adequate provisions are made for complete separation of livestock. Dr. Stoneback drew the analogy of a tomato processing facility, where cleaning of the equipment must take place prior to the processing of organic tomatoes. Mr. Kahn added that, for example, it takes eight hours to clean out a green pea steamer; this level of effort alone is a strict standard. He restated his belief that it is possible to create adequate conditions for segregation of livestock of different statuses. Ms. Margaret Clark voiced her opinion that a standard mandating total conversion would be hardest on the small
producer. Dr. Theuer noted that Beechnut Corporation maintains separate facilities for Kosher products.

Dr. Don Kinsman led the discussions on slaughter, poultry, dairy, and breeder stock. For each, the statutory requirement was quoted. Dr. Kinsman noted that the Committee had interpreted the Act to require that slaughter stock be from breeder stock managed organically from the last third of gestation.

The idea that sources of poultry and dairy livestock can be non-organic until "commercially available" was discussed at length. Ms. Anton linked the Crop Standards Committee concern regarding the definition of "commercially available" with that of the Livestock Committee. Dr. Stoneback pointed out that the definition of "commercially available" depends on the method of shipping. Ms. Margaret Clark commented that there may be areas of the country with no organic livestock production facilities from which calves for organic beef stock production could be sourced.

Ms. Merrill Clark asserted that the Committee's position on breeder stock was formulated through conversations with growers throughout the United States, with the exception of the South. Dr. Kinsman pointed out that the Committee is of the belief that its position is workable under all conditions. He stated that it is possible to raise lambs for slaughter under the proposed requirements, for example.

Dr. Theuer brought up the question of embryo transfers. Dr. Theuer also asked if organic dairy stock could be slaughtered and sold as organic, to which the Committee responded, only if born of organic breeder stock and raised organically from birth.

Mr. Weakley described the scenario of a non-organic dairy bull calf that has not yet been weaned, and asked if there could be an exception to the organic feed requirement for the first 14 days or so of the calf's life. Dr. Osweiler responded with the statement that treatment [with prohibited materials] would likely occur within the first two weeks of life. Mr. Weakley asked if it would be possible to work out an arrangement with the non-organic producer where the calf would not be treated. Mr. George Siemon pointed out that the Committee's current position that slaughter stock be from breeder stock managed organically from the last third of gestation renders the question moot.

Mr. K. Chandler inquired about the possibility of setting a "reasonable" period of time before slaughter during which the livestock would have to be managed organically; he said that weaned beef calves could be made available for incorporation into an organic operation at 90 days of age. Dr. Kinsman responded that
it is very appropriate to require that pigs and lambs be raised organically from birth and that the weaning periods for various livestock are different and would be difficult to regulate. Dr. Quinn inquired about a requirement that the nursing mother be fed organic feed until the offspring is weaned.

Apparent that the livestock sources issue required more intra-Committee discussion, Chair Clark shifted the discussion to the Committee workplan [see attachment....Merrill, I need a copy of your overhead to attach].

Feed, feed supplements, and feed additives were addressed next. Dr. Theuer argued that allowing synthetic amino acids would violate the criteria set forth by the Committee. Synthetic amino acids are not sustainable, in his view. They can be created by synthesis or through bioengineering. He believes that amino acid requirements can be met by the proper balance of proteins in the ration. Dr. Kinsman responded by pointing out the need to consider ruminant animals, which may risk deficiencies more than monogastricates.

Dr. Quinn inquired about an emergency exemption to the 100% certified organic feed requirement. Mr. Chandler offered the example of flooded fields, occurring often in Texas. Dr. Quinn described cases of drought in Montana where livestock have to be moved from the land.

Mr. Kahn pointed to Section 2105(2) of the OFPA. There is still confusion among Board members as to what the exception to the three-year land in organic production requirement is.

Chair Clark pointed out that there is not explicit statutory requirement pertaining to livestock drinking water. Dr. Theuer commented that almost all water has some traces of hazardous substances, so the "free from contamination" statement in the Committee's proposed standard is not realistic. Dr. Quinn remarked that a farm-level assessment should be made, as water sourced from a mountain spring would not be of the concern that water sourced downriver from an urban area would. Mr. Weakley argued that water quality assessment should be part of the Organic Farm Plan.

Dr. Osweiler presented the health care section of the Committee's recommendations. The change to the second standard in this section was noted. No other comments were made, with the exception of those made in a discussion of consumable livestock bedding and livestock medicines. It was apparent that Board members held differing views of the intent of the OFPA with regard to the use of antibiotics and parasiticides. Mr. Chandler pointed out that the term, "drylot," and the conditions of it, should be defined by the Committee.
With regard to the transportation section of the Committee's recommendations, Chair Clark noted that the reference to segregation of organic and non-organic livestock in transport was removed. Dr. Theuer asked about injury during transport, and noted that downer animals would be treated differently.
GEORGE KALOGRIDIS, representing OFPANA, stated that OFPANA supports the work of its subcommittee on livestock, although the subcommittee's report has not yet received the approval of the Quality Assurance Council. OFPANA is opposed to mandatory time limits on whole farm conversion to organic production. OFPANA is opposed to the barriers to entry indicated in NOSB Livestock Committee's split operations position. Livestock and crops production are not different in terms of a whole systems approach. The OFPA is not a "pure foods" Act. There is a Business and Professionals Act being implemented in the States, whereby false claims cannot be made.

ANNE SCHWARTZ, OFPANA subcommittee on livestock, described the history of industry consensus-building on livestock issues. The first meeting was in Fall 1991 in the Ozarks, which many could not attend due to a blizzard. The next meetings were at Asilomar in January 1992 and at the March CSPI meeting. There were attendees from many States. For a number of issues, consensus was not reached. These meetings constituted the first real discussion on livestock issues only since the Act was passed. Huge holes in technical expertise regarding how to implement The changing structure of the American farm has left many areas of the country without infrastructure. An ability to make slaughterhouses available for small producers is being lost. The changing infrastructure is affecting livestock production more than crop production. Three to five private corporations are producing 60% of the meat consumed in the U.S. It will be difficult to reintroduce livestock onto the American farm. The meetings in different regions come out with completely different standards. A survey was created to reach livestock producers who cannot leave the farm because year-round responsibilities. Physical attendance at meetings causes hardship on livestock producers in particular. Stuart Fishman contacted certifying agencies to determine all livestock producers. The Ozark Small Farm Viability Project and the Humane Society also did some contact work. New Farm published Ms. Schwartz's name and address: generated 250 letters. Materials issues were not addressed. It was decided in the Ozarks that there was no controversy regarding water quality, humane standards, and transportation. Ms. Schwartz expressed her feeling that the issues will blow apart the cooperation of producers. There are persons around U.S. who are waiting in the wings for this to fail. She suggested greater use of grandfather clauses and interim positions; then identify and target research for the most critical needs. Where there are the very fewest alternative veterinarians, there will be the most difficulty. Mr. Gene Kahn
asked for an overview of what Ms. Schwartz's views are on the
proposed standards, to which she offered the following:
. Inputs that are suggested to be prohibited should be on the
technical review list.
. Parasite problems create risks to dairy producers who must
make major investments.
. Allow parasiticide use in breeding stock; there is consensus
among survey respondents.
. There is a major restraint to FDA approval of alternative
vet care. There may be an organized campaign to prohibit
alternative vet care.
. Most of survey respondents could live with a ban on
antibiotics in slaughterstock. There is an issue about calves
with pneumonia not able to be treated when not going to slaughter
for 22 months.
. Feed is the biggest issue in dairy, particularly for small
grower. A reasonable exemption should be made.
. The survey did not address split operations.

MICHAEL FOX, of the Humane Society of the U.S., asked the Board
to embrace the principles of humane sustainable agriculture. He
proposed the notion of bioethics, respect for all life, and all
methods that cause the least harm. A "pro-agra" movement is
needed. Enhance natural and biodiversity. There must be no net
loss of biodiversity. Restore and regenerate existing lands.

STEPHEN MCFADDEN, a chemically-sensitive individual, discussed
emergency treatment of public lands; aerial spraying to kill the
sage in Taos, New Mexico. Many farmers cannot meet bacterial
criteria of EPA drinking water supply. The Committee should look
at sources of amino acids. Visible damage test for
drift/contamination could be conducted.

BRIAN BAKER, Technical Coordinator for California Certified
Organic Farmers, stated that the number of organic beef producers
has not increased. CCOF hopes for the least intrusive standards
for livestock allowed by law. CCOF is against mandated same
species conversion.

ANDREW PERRY, of Northeast Organic Farming Association of
Connecticut, stated that the slaughter facilities in the
Northeast are not at the same par as others around the U.S.
NOFA-CT is concerned about the Committee’s stance on bull calves,
source of livestock requirement. Time is needed to develop an
adequate supply of organic breeding stock. With regard to
organic feed, the Northeast has a lot to learn about grass and
grain production.

BOB EBBERLY, an organic chicken and turkey producer from Ebberly
Farm, operates an USDA-inspected poultry plant and is certified
by NOFA-NY. Regarding the single species issue on same site,
many producers utilizing his plant are contract growers. They
could be required to submit blueprint of site, which must be certifiable. The certifying agency can determine if sites suitable. From biosecurity standard, he is more concerned about commercial chickens getting sick from organic chickens. He is trying to line up grain for 1995; the supply is out there, but expensive. He supports slaughterstock raised on 100% organic feed. He stated that it is difficult to obtain organic chick sources. Mr. Ebberly suggested that processors be bonded based on value of sales to use term organic. The processor would forfeit the bond if he/she illegitimately uses terms. There must be some incentive to prohibit processor from adding non-organic producers to the stream of processed meat from a plant.

GEORGE ROCHE, of the Maryland Department of Agriculture, stated that as long as producers define the containment of organic production, split operations are allowed. Mr. Roche stated that there is No organic feed available in the East. He noted that organic fish producers are increasing in number and that they are dedicated, using recirculating systems of aquaculture.

STACY STRAUS BERKOWITZ, of OEFFA, expressed support for split operations. She strongly objected to $5,000 exemption. Producers should be flexible in developing management strategies to address standards.

ERIC ARDAPPLE KINDBERG, of the Ozark Small Farm Viability Project, stated that the term "organic" must mean something to the consumer and be reasonable. 25% of all farm receipts come from feed production; 50% from livestock. Breeder and replacement stock are essentially same thing, with exception of dairy. There must be separation to prevent fraud. Antibiotics and parasiticides are not exempted by law, but part of evaluation criteria. The Board should make clear that the mother cow is to be fed organic feed.

DAVID HAEHN, of the Ozark Small Farm Viability Project, stated that antibiotics and parasiticides should go through review process: the Act offers a mechanism to put materials into the context of organics. A high percentage of antibiotics in manure can contaminate crops. Colostrum keeps forever in the freezer. There is a lot of organic colostrum available.

MIRIAM STRAUS, representing Albert Straus of Blake's Landing Farm, a certified organic dairy farm in California. The farm is trying to expand to 220 cow dairy, on-farm milk bottling. Production must be made possible and should be humane. Animals treated with restricted substances should be withdrawn and allowed to reenter. Criteria should apply to farmers. The current Livestock Committee feed and medication requirements are too strict. Small calves need to be treated with antibiotics for pneumonia. The transition time for dairy animals should be one year.
JOHN CLARK, of Roseland Farms in Michigan, brought out synthetic amino acid considerations. Amino acids, vitamins, and minerals are feed substitutes and therefore feed. The organic community should be encouraging diversified feed: three small grains. Feeding meat by-products to certified organic livestock in midwest is wrong. Feed supplements should be limited to synthetic trace minerals. Tyson and Conagra ready to benefit from 2 cents savings; the benefit is not so great to the small operator.

ERIC RICE, of the Maryland Food and Farming Association, has been working on livestock standards for Maryland.

1. Can live with feed with two exceptions:
   a. emergency provision; ex. of farmer who loses his barn of feed.
   b. Noxious weeds on pasture: there are State laws that regulate.
2. Water quality: contaminant free is impossible.
3. Commend space and humane treatment of
4. Reviewing HSUS v. USDA research
5. Parasiticides: need allowance for sheep.
7. Split production should be allowed.
8. Aquaculture and crayfishing in Maryland: have been approached

GEORGE SIEMON, organic dairy farmer from Wisconsin, asked the Board to review the OFPA. The label must be protected. Only 2-5% of all livestock in U.S. get a shot of antibiotics. Husbandry provisions have support in the Act from the farm plan provision. Regional considerations about water are a real concern. Mandating pasture is a mistake; the issue is what is best ecologically for each farm. Address density instead. There should be no exception to feed requirement. Pasture is feed; there should be no exemption regarding treatments to the land. He sits on a certification review committee, and has determined that strict standards only way to maintain organic integrity.

PAUL SHAW, of Walnut Acres in Pennsylvania, has 16 holstein steers. Organic holstein steers are not sourceable. Raising such steers from birth is not an attainable goal. The sourcing restrictions should be along the same line of thinking as transplants: one year of organic management before slaughter.
Prepared By: Ted Rogers, USDA/AMS

Rich Theuer the Committee Chairperson opened the meeting at 1:40 p.m., then called upon Craig Weakley to present a review of the ORGANIC HANDLING PLAN - WORKING DRAFT #2 of which he was both author and editor. (Refer to above paper dated April 5, 1993.)

Tom posed a question about boiler additives and the efficacy and advisability of running an organic plant all year without the steam additives. Craig said that it would not be advisable, and that steam injection would be an option. Rich confirmed this saying that the combination of steam injection and charcoal filtration would be a very workable solution. Craig closed the discussion by posing the question: Are boiler chemicals a good thing to use in general?

Michael asked if there were any large scale processing plants that were currently dedicated to organic. Gene answered that Walnut Acres was the closest and it was not large scale. Merrill asked if existing plants were interested in taking on organic or if new plants would come on line. Craig said that there was a need to use existing plants. Gene added that this is driven by demand and that currently processing capacity far exceeds demand. He also indicated that the conventional food companies are dedicated to accommodating the organic food standards. Merrill asked what the usual percentage of organic handled in the conventional plant was. Gene indicated that it was somewhere less than 1%. Craig said that it was 7 days out of a 3.5 month season in California. Merrill wondered if it were possible to have plants dedicated to organics in the future? It was pointed out that while this was possible that demand would have to increase dramatically to employ economies of scale. Gene observed that Walnut Acres was working with a flex system which is not typical in the industry today. Craig closed the discussion by commenting that the standards for organic processing could influence the development of plants in the future.

There has been little comment to date on the current handling plan draft, the deadline for comment is July 1.

Rich then reviewed the committee Draft recommendations on labeling of organic foods. Comments on this paper have been sparse so far; the deadline for comment is July 1 also.
This paper has two elements: Calculation of the percentage of organically produced ingredients, and label statements for foods purporting to be organic foods or to contain organic ingredients.

This proposal should be viewed as supplemental to the FDA regulations.

Two critical points were presented: 1- according to the Labeling Draft Recommendation use of % of organic ingredient on the nutritional panel is mandatory. 2- Non-synthetic substances not available in organic form are the only ingredients allowed by the law in organic product.

Michael asked if the certifier were verifying the percentage of organic ingredient would they be liable for manufacturer's label?

There was a discussion of how the meaning of not available non-synthetic would be handled, Craig indicated that this had been discussed by the committee but that they had not yet taken a position.

"The 50% or more organic ingredient" category applies if you use any non-organic ingredients not on the National List, seal or shield would not be used on this product.

"The Less than 50% organic" category discussion centered around whether the processors would be required to be certified. Rich noted that the law indicated a clear exemption and that, since the label claim was so minor, any extra requirements would be a dis-incentive to use any organic ingredients at all. There were some opinions that this might open up an opportunity for fraud, and some opinions that any use of the word organic should require certification.

Ingredient declarations: The Committee is recommending a strict approach in that any substance that remains in the product must be listed in the ingredient declaration and used in the calculation of % organic.

Disclosure of ingredients: spices, flavors, colors.

The discussion on spices centered on the concern for proprietary information. The discussion closed with the clear alternative, if legal, to list spices in some order other than that of decreasing percentage [such as alphabetical].

The discussion on the listing of ingredients in so called natural flavors concerned the difficulty of getting the information and the dubious nature of the processes used in extracting the flavors.

A continuing discussion about what a synthetic ingredient is when
considering the category of processed foods was carried till the end of the meeting time. The Committee is endeavoring to develop criteria to define the categories of various substances essential for processing organic foods.

Public comment:

John Clark: Complemented the work of the Committee and admonished them to keep it simple. In this he suggested that they should deliver a short list within the categories they were working on.

David Haenn: Expressed some concern for the use of the $5,000 small farmer exemption to deliver organic ingredients to organic processors. He also felt that any processor handling organic ingredients by definition must be certified.

Larry Plumlee: Felt that spices definitely should be listed, as well as flavorings. He advised the board that heat extraction of natural fermentation products sometimes produces toxic substances. He also suggested that synthetic vitamin and mineral compounds could cause reactions in the chemically sensitive and suggested that the purest grade available or affordable should be used. His reasoning indicates that these reactions have more to do with impurities than with the compound itself.

Steve McFadden: expressed some concern about the criteria and category for processing aids and what might be approved in that realm. He also had doubts about nitrogen and the use of solvents in the manufacture of non-organic ingredients. He also suggested that a sophisticated certificate system could be employed and would involve a disk accompanying the product including all information about its production in detail.

Brent Wiseman: Was concerned that certain of his small processor producers might continue to use the TDA seal on their small batch processed products.

George Kalogridis: Speaking for OFPANA George noted that they did not support any % claims on the front panel. He also pointed out that a modified certification was already in use in the industry for those using lesser amounts of organic ingredients and that this would be adaptable for those using less than 50% organic ingredients. He personally advised against using even made from organic grapes in reference to wines containing any sulfiting agent.

John Clark / for Bill Welsh: Noted that USDA/FSIS acknowledges beef raised with out ----- and with certified organic feed now. It just can't be called organic beef.
Eric Ardapple-Kindberg: Stated the % organic in the information panel is not called for in the act. He was well pleased with the ingredient definition. He also insisted that the law meant that baked goods would be yeast raised and that other products would be made from organic ingredients. He also observed that some bio-technology has been in use for some time, sighting the use of colchicine, in plant breeding for doubling chromosome pairs, producing tetraploid used in plant breeding.

Paul Chartrand: again voiced concern for proscribing all sulfiting agents in the bottling of wine. He felt that the Senate report alluded to the use of various synthetic materials.

George Roche: Expressed some concern for guaranteeing the integrity of the audit trail. Concerned particularly with cost of surveillance or investigation of trail to other State. He was supportive of the 50% rules as presented.
Materials Committee Chair Nancy Taylor initiated her presentation at 5:40 p.m., and began by emphasizing the parameters of the national list. There is still some misconception in the community about how the list will be structured. She then reviewed the statement of purpose, formatting of materials being reviewed and the phases of materials tasks.

Dean presented a review of the crops committee's work and positions on materials.

Gary reviewed the Livestock Committee's work covering their categories and reviewed the current list as it is.

Nancy then reviewed the materials review and disclosure policy position and discussed the position on phasing out of possible prohibited materials currently approved by some certifiers.

Public comment:

Brent Wiseman: Urged the committee to consider permitting the new insect growth and reproduction inhibitors as pest management inputs.

John Clark: Questioned the use of pesticide categories. Any pesticide disrupts the ecosystem. Strongly opposes Potassium chloride. Chloride is a known disrupter of soil biota.

David Haenn: The law refers to permitted synthetics, use that language for consistency. On the disclosure issue advise any manufacturer that not using the sun shine tactic will result in delay of approval. Reminded that all substances to appear on the national list must be reviewed by TAP. Also that a special review of botanicals is required.

Bruce Krantz: Felt that Chromium resulting from Tanning process was insignificant in Hynite leather meal product. Gene asked how this process was different from production of super phosphate from rock phosphate. Bruce pointed out that his product was hydrolysed a heat process, and that no acid was used.

Walter Jeffery: Felt that his Potassium Chloride product should be permitted as it is needed in plant production and is more economically available than some of the alternatives.
Steve McFadden: Cautioned against sawdust from treated lumber being used in animal production and questioned the concern about sodium chloride in livestock list. He also wondered about the use of antibiotics from natural sources, and opposed to PBO.

Larry Plumlee: Advised of the concern for contaminants in synthetic vitamins and minerals and suggested a solution might be to use the highest grade available. He also proffered the idea of using sensitive people to indicate where a problem might be by screening the finished product. Suggested Dr. Randolf for the TAP if an expert on chemical sensitivity was required.

George Kalogridis: Confirmed the work of the OFPANA Livestock Committee and its continued viability. Advised that the industries consumer is well educated and could be depended upon to understand the issues. Also asked about the a Homeopathic Pharmacopeia in reference to livestock usage. Ted answered that there is a pharmacopeia for human usage but not for veterinary usage. This is the problem currently and the debate is being carried on between the Vets, the Homeopathic Vets, the Homeopathic Doctors, Homeopathic Pharmacists, and the FDA. That seems to be the proper forum for the debate.
Prepared By: Julie Anton, USDA/AMS

The Board convened with a review of the agenda. Mr. Gene Kahn advised that the Crop Standards Committee would present positions to be voted upon by the full Board, and the agenda was adjusted to reflect this.

Dr. Rich Theuer presented the Processing and Handling Committee report. Conference calls will be held on June 8, 17, and 22, 1993, prior to the July 1993 meeting in Oregon. In preparation for the July meeting, Mr. Weakley will be revising the Organic Handling Plan. The Committee will review the labeling document and work further on processing standards. Ms. Merrill Clark and Mr. Gene Kahn are the Committee appointees for the definition of organic working group. Chair Theuer will develop the Committee's response to the Codex draft by June 1, 1993.

A question was raised as to whether cotton should be assigned to the Processing Committee or to a specific working group. It was agreed that cotton production should be addressed in that cottonseed meal is a livestock feed supplement.

The Committee agreed to discuss the small processor exemption at a later date.

Mr. Sligh thanked Mr. Theuer for an extraordinary job as Chair of the Committee.

Ms. Nancy Taylor, Chair of the Materials Committee, informed the Board that Dr. Tom Stoneback was elected the new Chair of the Committee, and Dr. Gary Osweiler was elected Vice-Chair. Ms. Taylor also announced that Ms. Merrill Clark would be joining the Committee. Input for the July meeting has not yet been developed. A working group for the Technical Review Panel is needed. Mr. Sligh suggested that Mr. Stoneback and Dr. Osweiler work out the details of their respective responsibilities as soon as possible. Ms. Taylor called for a brief meeting of the Committee before the Board adjourned for the day.

The Accreditation Committee report was delivered by Chair Margaret Clark. Ms. Clark officially requested that Ms. Julie Anton be charged with creating a glossary for the Committee's work. Ms. Clark described the anticipated Crop Standards Committee role in devising certifying agency qualifications for reviewing Organic Farm Plans.
Acting Chair Stoneback presented a report of the
International Issues Committee meeting, announcing the following
Committee member assignments with regard to review of the Codex
Alimentarius guidelines: Dr. Bob Quinn, crops issues; Mr. Sligh,
accreditation issues; Ms. Taylor, materials issues; Dr. Theuer,
processing and labeling issues; Mr. Jay Friedman, livestock
issues; and Dr. Stoneback, definitions.

Dr. Stoneback described the Committee's attempt to draft a
definition of "organic" by adapting the Codex definition for use
by the Board. With reference to the ongoing discussions between
the USDA and the European Commission regarding equivalency in
organic food production laws, International Committee
participation in working groups on differences in the laws were
reported.

Finally, import requirements were addressed as situational:
sovereign to sovereign policy will reign if both the exporting
and importing countries have regulations in place; where the
exporting country have no sovereign government involvement in
regulating organic food labeling, special requirements shall be
proposed by the International Committee for adoption by the USDA.

Dr. Don Kinsman responded to the International Committee
report by making the point that there are FSIS requirements in
place for equivalency in quality of meat.

Mr. Kahn commented that as the different positions of the
Board are refined, the workload of the International Committee
will increase substantially in order to address the comparison of
these positions with foreign country standards. The need for a
Board committee on international issues was officially
reaffirmed.

Ms. Merrill Clark, Chair of the Livestock Committee,
presented copies of the Committee's revised version of Standards
for Organic Livestock Production to the Board, and a discussion
of its contents ensued. Mr. Quinn brought forth the issue of
whether or not slaughter stock cattle would be considered
certifiable if not obtained from organic breeder stock but fed
organic feed from birth. Ms. Margaret Clark expressed her
opposition to [lines 305-306.] The discussion centered around
possible points of entry into certifiable organic production. It
was decided that discussion of slaughter stock sources would be
reopened at the July 1993 meeting.

Mr. Kahn, Mr. K. Chandler, and Mr. Quinn requested to join
the Livestock Committee.

Mr. Don Kinsman offered to investigate the livestock density
issue, reviewing U.S. agency and foreign government laws and
guidelines.
The Crop Standards Committee report was given by Chair Kahn. He described the joint meeting held between the Crop Standards Committee and the Livestock Committee to discuss split operations and the emergency spray exception.

Mr. Kahn then reviewed Committee work in progress, announcing that he would provide a written work plan to the Board in the weeks ahead. The final Committee document on spray drift policy will be presented at the July 1993 meeting. The crop production inputs list will be given high priority, with eight or nine particularly questionable materials to be intensively reviewed.

Furthermore, the Committee plans to address cotton defoliation.

The Committee will work cooperatively with the Processing and Handling Committee to define the terms, "extraction" and "synthetic." Specialized standards on mushroom, maple syrup, and greenhouse production will be drafted.

The Committee has yet to decide whether or not to specifically address soil improvement as a proposed standard or as merely guidelines to certifying agents. The Committee plans to recommend policy to the Accreditation Committee regarding how certifying agencies should handle minor infractions.

The Committee plans to resolve all non-agreement materials and sought to initiate the botanicals special review process. Guidelines for brand-name products will be developed. Also, a preamble to the list of crop production inputs will be drafted for approval by the Board.

The organic farm plan will be revised slightly, with a reworking of the questionnaire. It is clear that the wildcrafting section is inadequate. Also, the Committee needs to address farming by neglect.

Finally, the Committee will aspire to consolidate all documents pertaining to crop production, providing a table of contents.

Mr. Kahn pointed out the need for the Board to discuss genetic manipulation.

Mr. Sligh inquired about the small farmer exemption, an issue that cuts across the areas of accreditation, crops, and livestock. It was agreed that Mr. Sligh and Mr. Dean Eppley will work together to formulate language to address the small farmer exemption within the context of the crop production standards.
The Board agreed to officially recommend to the Secretary of Agriculture that cotton production and processing be included in the products certifiable under the Organic Foods Production Act of 1990. The discussion preceding this decision included the following points: Mr. Theuer stated that cotton seed meal and cotton seed oil bring cotton defoliation into the Board’s purview, but questioned whether or not the processing of cotton fiber followed the same logic; Mr. Quinn pointed out that cotton is only defoliated for the purpose of fiber production; Mr. Kahn asserted that it would be irresponsible of the Board not to address cotton; and Mr. Chandler described fiber as a "by-product" of cotton production. The Board authorized the Crop Standards Committee to conduct a fact-finding mission about cotton production, and the request of its members.

Mr. Kahn announced that the Committee would not change chairs at the present time. The primary need for technical assistance would be in the area of biotechnology.

A joint Crop Standards/Livestock Committee document pertaining to split operations [attached] was presented to the Board. Prior to a vote, the following discussion and amendments took place.

Mr. Craig Weakley described how the Committees agreed that full farm conversion would not be mandated but would be encouraged in the farm plan document. It was agreed that USDA-accredited certifying agents should be allowed to make the use of their seal contingent upon full farm conversion. An official vote was taken to elevate the Committee recommendation to a Draft Full Board Recommendation: unanimous approval resulted.

Mr. Weakley presented a revised version of the Committee's recommendation to the Board regarding residue testing [see attached]. He announced that the Committee had been able to address the concerns expressed by Mr. Sligh and Mr. Theuer on Monday, when the previous version of the documents was presented, by making the following amendments: (1) on line 126 on page 5, a sentence was added; (2) on line 132 on page 5, a sentence was added; (3) on line 136 on page 5, a paragraph was added.

Mr. Stoneback questioned the specificity of the language on lines 126-127; there may be a laboratory somewhere that may be able to detect a residue, but it may be far from the site and impose an unrealistic cost on the producer. Addressing Mr. Stoneback's concern, it was agreed that after the word "pesticide" on line 129, a new sentence should be added: "In such situations the certifying agency shall survey the regionally available USDA-accredited laboratories and select the laboratories that are capable of detecting the lowest level for that pesticide." After Dr. Kinsman question the appropriateness of the bracketed
sentence in the same paragraph, the Board agreed that the
bracketed information should appear in the glossary.

Mr. Theuer suggested that the residue testing document be
preliminarily reviewed by FDA and FSIS officials. Dr. Hal Ricker
agreed to ask officials of the AMS pesticide residue testing
program to review the document as well. It was explained that
the USDA has program which involves laboratory testing
[accreditation of labs?]; the Board officially requested that the
USDA provide a list of those pesticides that can be tested by the
laboratories and a description of the capabilities of these
laboratories should be drawn up and provided to the Board.

An official vote was taken to approve the document,
including the revisions cited above; approval was unanimous.

A joint Crop Standards/Livestock Committee document
pertaining to the emergency spray exception [attached] was
presented to the Board. Mr. Kahn summarized Board members'
concerns expressed in the Monday session, and explained that two
sections had been added to the original Crop Standards Committee
document to address those concerns [see lines 8-16, and lines 19-
30]. Prior to a vote, the following discussion and amendments
took place.

Mr. Sligh requested that the document be distributed to
other agencies that might be involved in these programs.

It was agreed that the phrase, "by the government," on line
27 should be changed to "by the responsible government agency."

It was noted that lines 67-68 reflect added references to
pasturage which may not have a production season. Other
references to livestock had been added on lines 95-105, line 109,
line 115, and lines 122-123.

The suggestion by Mr. Stoneback that the parentheses be
removed was approved by the Board.

Ms. Merrill Clark commented that it is likely that consumer
groups will take issue with the fact that the Board's position on
the emergency spray exception does not require a three-year
organic status reinstatement period.

It was agreed that the phrase, "substances allowed under
this title," on line 15 replace the phrase, "National List
substances approved."

An official vote was taken to approve the document,
including the revisions cited above; approval by the Board was
unanimous.
Mr. Kahn then presented a revised version of the Committee's recommendation to the Board regarding planting stock [see attached]. He announced that the Committee had been able to address some of the concerns expressed public input presenters at the Monday session.

The first revision made was to delete lines 60-65. Mr. Kahn explained that the Crop Standards Committee views onions, garlic, potatoes, and strawberry crowns as seeds and therefore allowable under the OFPA. He also pointed out with reference to the strawberry crown proposal that State phytosanitary law requires fumigation with methyl bromide for interstate transport.

In reference to the added phrases regarding transplants destroyed by natural disaster, Mr. Theuer asked about man-made "disasters," such as fires.

Ms. Merrill Clark repeated her concern about the definition of "compatible synthetic."

The phrase, "look for," on line 213 was changed to the word "develop."

It was agreed that the term, "USDA-accredited," should be added in insert #3.

An official vote was taken to approve the document, including the revisions cited above; approval by the Board was unanimous, with the exception of Dr. Osweiler, who was absent.

Mr. Quinn reported the Committee's position on changes to the spray drift policy recommendation to the Board, presented on Monday, summarizing the position as entailing the following concepts:

1. Losses due to drift or emergency spray should be eligible for crop or disaster insurance.
2. The consequence of a drift incident should be the same as an emergency spray event.
   a. Visual evidence provides a determination.
   b. The next crop may be considered for an "organic" designation at discretion of the certifying agent or upon the basis of residue testing.
   c. Drift or misapplication by others of any prohibited material may follow similar procedures.
   d. Only crops harvested from the portions of the field hit by drift should be decertified.
   e. Buffer zones shall be established.

Ms. Taylor reminded the Board of the importance of making the producer responsible for notifying the drift applicator (the potential trespasser) and the relevant government authority(ies) of the organic status of the farm. Mr. Sligh pointed out that...
aerial pesticide applicators are of particularly concern. Mr. Theuer added that a description of how to proceed with a determination of the material sprayed would be needed.

Mr. Kahn noted that the Committee would utilize the same notification language used in the emergency spray document.

Mr. Sligh suggested that the Board request that the Secretary educate pesticide applicators of the liability in spraying around or on certified organic farms. Ms. Margaret Clark commented that such a procedure could work; pesticide applicators can have their licenses revoked if they spray pesticides during bee season.

Mr. Sligh pointed out the problem with absentee owners who hire pesticide applicators and do not inform them of the location of organic farms. Ms. Merrill Clark commented that in Michigan, a registry of organic producers was created, and applicators were required to be familiar with the farms in the registry.

A "straw" vote was called to approve the concepts put forth by the Committee; there was complete support from the Board, with one abstention (M. Sligh).

To conclude the Committee's presentation, Chair Kahn requested that the Board approve the Committee's plan to initiate the Special Review of Botanicals. Research would be conducted, with the result of a fact sheet on botanicals to be prepared by Ms. Anton for the NOSB. Ms. Anton also agreed to contact the National Agricultural Library to initiate a literature search. Dr. Ricker reported that the EPA is in the process of screening the botanical pesticides, utilizing the seven criteria appearing in the OFPA.
Board Members Present: Michael Sligh, Chair; Margaret Clark, Eugene Kahn, K. Chandler, Merrill Clark, Dean Eppley, Donald Kinsman, Gary Osweiler, Robert Quinn, Thomas Stoneback, Nancy Taylor, Richard Theuer, Craig Weakley

Missing: William J. Friedman

USDA Representatives: Harold Ricker, Staff Director; Julie Anton, AMS; D. Ted Rogers, AMS; Donald Derr, FSIS.

Chairman Sligh called the meeting to order at 8:00 am and asked Gary Osweiler to serve as Acting Secretary.

Approval of Minutes

Chairman Sligh called for comments errors or omissions on the July 1992 minutes. It was noted to strike 9 on line 34 of the last page of the minutes. No other changes were proffered. Chairman called for approval. Vote was 12 Yeas and 1 No.

Chairman Sligh called for errors and omissions for the September minutes. It was noted that Mr. Gene Kahn was not present at the meeting. Chairman Sligh called for approval as amended. Minutes were approved.

Chairman Sligh moved to accept the proforma budget statement with the proviso that it will be reviewed at the July meeting.

LIVESTOCK COMMITTEE PRESENTATION TO THE FULL BOARD
FRIDAY, MAY 21, 1993

Prepared By: Julie Anton, USDA/AMS

Livestock Committee Chair Merrill Clark circulated copies of a document entitled, "Comprehensive Livestock Production Standards Document, Recommendation to the Full Board #3" [attached], to the Board members present, explaining it as a truncated version of Recommendation to the Full Board #2. The Livestock Committee (NOSB-LC), having met briefly the evening before, sought to present the Board with sections of Recommendation #2 ready for full Board discussion and vote, particularly given the short time for presentation allowed on Friday.
An informal agenda was also circulated, outlining the NOSB-LC's plans: (1) to describe the definitions as for clarification purposes only; (2) to progress from the last lettered section of the document to the first and to call for a vote on each; and (3) to refer sections with more than ten minutes of discussion back to the NOSB-LC for further work. A "straw" (unofficial) vote would be taken on the sections described in (3) above.

Starting with section G of NOSB-LC Recommendation #3, the proposed livestock transportation standards were discussed. Ms. Clark noted that the NOSB-LC removed reference to sick or injured livestock in NOSB-LC Recommendation #2 because of Mr. Rich Theuer's previous observation that there are provisions regulating the transportation of sick or injured livestock in other Federal law. With little further discussion, the section was called to an official vote and approved unanimously.

Section F, "Recordkeeping for Organic Livestock Producers," was discussed next. Mr. Tom Stoneback questioned the purpose of requiring producers to document their rationale for using synthetic health inputs appearing on the National List. Dr. Gary Osweiler explained the purpose of this standard as to provide the certifying agent with a means of evaluating habitual use.

There was some discussion of whether or not this standard should be removed and designated an Organic Farm Plan guideline. Ms. Julie Anton noted that the issue is really whether or not a producer could be decertified if he/she did not document the use and rationale for use of permissible synthetic health inputs. Ms. Nancy Taylor pointed out that National List annotations will cover such producer requirements to some extent.

The Board agreed to the rephrasing of lines 123-124: "All organic livestock while under organic production shall be traceable through the life cycle."

Section F was called to an official vote and adopted unanimously.

Organic Livestock Healthcare Practices, Section E, was then addressed by the Board. The first issue was whether or not to prohibit the use of both systemic and topical antibiotics in or on slaughter stock. In response to a question by Mr. Gene Kahn about the viability of an antibiotic used in a livestock animal, Dr. Osweiler briefly explained that elaborate withdrawal times have been established based on various scientific studies and that most of the time the antibiotic administered to the animal will be nondetectable before the withdrawal time is up. However, he noted that if injections are administered in the wrong place in the wrong way, there may be more problems with residues.
Mr. Michael Sligh referred the issue to the certifying agencies present at the meeting. Mr. David Haehn of the Ozark Small Farm Viability project commented that in subtropical areas, a cut is potentially life threatening, and therefore, he has no objection to use of topical antibiotics. He stated that the NOSB had covered his concerns about antibiotic residues with the recordkeeping requirement that National List materials be cited along with a rationale for their use. Mr. Eric Ardapple Kindberg of the same agency, on the other hand, agreed with the NOSB-LC proposal to prohibit all antibiotic use in slaughter stock.

Mr. George Siemon, a representative of the OPPANA/OFAC livestock committee, reported that their survey indicated clear support for prohibition of systemic antibiotic use in slaughter stock (88%) and for the allowance of topical antibiotic use in slaughter stock (81%).

Mr. Brian Baker of California Certified Organic Farmers indicated that the producers he interviewed would like to be able to utilize topical antibiotics in slaughter stock but could "live without" systemic antibiotics.

There were concerns expressed by Board members about the definition of "systemic." The consensus was that no official vote could be taken until "systemic" was defined. A "straw" vote was taken on a revision of the NOSB-LC proposal: "The use of systemic antibiotics for the treatment of slaughter stock is prohibited." 8 Board members "straw" voted for the proposal, 4 members voted against the proposal, and one member abstained. It was decided that references to antibiotics would be moved to the National List section of the comprehensive document.

Regarding the second issue under section E pertaining to contamination by treated livestock and treatment of one animal not affecting the status of others, the Board expressed unanimous approval.

The third issue under section E regarding the withholding of treatment to maintain the organic status of a livestock animal evoked minor discussion of the term, "unavoidable suffering."

It was explained by the NOSB-LC that density considerations under part 4 of section E, the "production environment," had not yet been developed by the Committee but would be addressed. It was decided that references to density would be removed from section E until ready for full Board vote.

There was some discussion of the requirement that bedding be organic if edible, particularly given that newspaper, which is often used for livestock bedding, will be consumed by livestock to some extent. Mr. Stoneback argued that it is important that
organic standards do not preclude the interrelationship between
municipalities and farms by prohibiting the use of newspapers,
particularly given that agriculture creates a third of the U.S.
waste problem; Mr. Quinn commented that "recycling should not be
done through organic livestock."

Mr. K. Chandler noted that the term "crate," as utilized in
part 5 of section E, should be defined; Mr. Quinn noted that
"farrowing period" should also be defined.

Regarding part 6 of section E, it was agreed that the
parenthesis utilized in lines 114-115 be removed and that the
word "outdoors" would be followed with the phrase, "with the
following exception:"

An official vote on section E, lines 84-106 and 109-120 was
called and resulted in unanimous approval.

Section D, Sources of Drinking Water, was discussed next,
with no official votes on the language taken. The Board agreed
to drop the term, "by the National List," and discussed how
prohibited substances would be detected and procedures in case of
detection. It was pointed out that there is no EPA tolerance
level set for livestock drinking water. In conclusion, the Board
agreed that the Livestock and Crop Standards Committees should
work together to develop a joint recommendation to the full Board
on water quality.

Section C, Sources of Feed, Feed Supplements, and Feed
Additives, brought a few issues of contention among Board
members. Ms. Margaret Clark stated her preference for a phase-in
to the 100% certified organic feed requirement. Dr. Quinn
suggested a provision for cases of disaster, giving the example
of a livestock barn that burns down in the middle of a blizzard,
with alternative feed sources three days travel away. Dr.
Stoneback recommended that land not treated with prohibited
substances (i.e. fallow) for three years be acceptable as
pasturage for organic livestock.

"Straw" votes were taken to assess the will of the Board.
Section C, written as is, received only one vote of approval.
With a disaster clause written in, 10 Board members expressed
support. With an allowance for untreated pasture land written
in, 9 members expressed support, 2 abstained, and 2 were opposed.
It was agreed that the Board should spend time discussing feed
requirements further.

To conclude the discussion of livestock feed supplements and
feed additives, the Board expressed no objections to lines 70-71,
and no objections to lines 72-73.
Section B, Livestock Sources, evoked extensive discussion. A "straw" vote was taken regarding the language in lines 20-30, and unanimous approval was achieved. The term, "substances prohibited by the National List," was replaced by the term, "prohibited substances."

Discussion of (1) under Breeder Stock was referred to a later discussion of slaughter stock. There were no objections to (2), as rewritten from Committee Recommendation #2. Mr. Kahn, Dr. Kinsman, and Ms. Taylor likened (3) to the split operations language, and the concept was approved by the majority of the Board. Regarding (4), it was noted that the intent is to prevent the cycling of breeder stock in and out of organic status when kept on a certified organic farm; (4) received unanimous approval by the Board. (5) also received unanimous approval, with no discussion.

The issue at hand in the Board's discussion of slaughter stock sources is whether or not to allow day-old or week-old calves, which are not born from organic breeder stock. Three Board members, Ms. Merrill Clark, Dr. Osweiler, and Mr. Sligh, expressed support for the requirement as written; nine Board members disapproved of the requirement; Dr. Kinsman abstained from the "straw" vote.

A "straw" vote was taken on lines 51-61, the Poultry Stock section, and unanimous approval was achieved.

The Dairy Stock section was not discussed.

In conclusion, the Board agreed that a legal definition of "raised" and of the breeder stock requirements was needed prior to further discussion of livestock sources issues.
July Meeting Agenda: Three versions of a proposed agenda for the July meeting had been circulated for approval. Chairman Sligh asked for discussion and approval. Margaret's second agenda was approved unanimously.

September Meeting Dates and Location: Three locations were considered: Baltimore, Fargo, Arkansas, and Lubbock, Texas. It was noted that Baltimore would be too expensive, given the limited budget, and necessitate people being away from work too long if they had to participate in Expo East just prior to the meeting.

After brief discussion on the three locations, Chairman Sligh asked for a vote. The results were Baltimore (1), Arkansas (6), Texas (6). There was further discussion on Arkansas and Texas and it was noted that Arkansas would draw people from a number of as yet unheard from southern states and would offer a low cost facility and arrangements similar to Rodale. The Board approved the selection of Arkansas with dates of September 14-17, 1993 with an optional tour on September 13.

Timetable: A question was raised about the implementation of the program and the need for a timetable. It was also asked that USDA clarify the impact of missing the October 1, 1993 deadline with OGC, and whether an interim program is needed.

Mr. Weakley indicated he would work with OFPANA to get the processors together at Expo East in Baltimore to meet with Board members participating in the show.

By-Law Proposal: Mr. Chandler moved the Board consider modifying how Robert's Rules are used. He thinks they should be used as a guide so as not to tie up the process. Certain things mandated in the law should be kept, but keep the process as simple as possible. The motion was seconded and passed unanimously.

Crops Committee Papers: It was noted that the four papers presented by the Crops Committee yesterday had not been formally approved as draft recommendations. Stoneback moved adoption of them, and Quinn Seconded. The motion passed unanimously.

Committee Changes: Mr. Kahn and Mr. Chandler asked to be appointed to the Livestock Committee in addition to current assignments. Mr. Quinn also expressed interest, but was not sure he would be able to find the time. Mr. Kahn and Mr. Chandler were appointed to the Livestock Committee.

Election of Officers: Chairman Sligh called for the election of Officers and recommended that the office of Secretary be consider
first since Mr. William J. Friedman indicated his desire to no
longer serve in that capacity. Chairman called for nominations.
Ms. Margaret Clark nominated Mr. Craig Weakley. The nomination
was seconded and a motion was made to close nominations. Motion
passed unanimously and Craig Weakley was appointed Secretary.
Chairman called for nominations for Treasurer. It was noted that
the position does not have any requirements now since there is no
budget, but might have if money becomes available. Mr. Gene Kahn
was nominated by Mr. Chandler and seconded. Mr. Quinn was
nominated by Ms. Margaret Clark, but asked that his name be
withdrawn. Nominations were closed and Mr. Kahn was re-elected
as Treasurer unanimously.
Chairman called for nominations for Vice Chair. Ms. Taylor
nominated Ms. Margaret Clark. Mr. Eppley moved nominations be
closed, and Dr. Osweiler seconded. Unanimously approved, and Ms.
Clark was re-elected Vice Chair.
Nominations were called for Chair. Mr. Weakley nominated Michael
Sligh. Mr. Chandler moved that nominations be closed. This motion
was seconded, and approved unanimously. Mr. Michael Sligh was
re-elected Chair.
Other Business: Chairman Sligh asked all Committee Chairs to
limit their use of conference calls to one or two a month, and to
keep them focused.
The Chairman called for a standing ovation for the hospitality
shown by the people at Rodale.
The Vice Chair also called for recognition for those members of
the public that attended through all or most all of the week.
Meeting was adjourned at 11:30 am.
A. DEFINITIONS

These definitions are provided only for the purpose of clarification.

Breeder Stock. Female parent of organic livestock.

Manure Refeeding. The intentional addition of manure or livestock litter to the ration.

Organic Production Methods. Fed 100% organic feed and under organic methods as defined by the recommended standards.

Organically-Raised. Fed 100% organic feed and under organic production methods as defined by the recommended standards.

B. LIVESTOCK SOURCES

(1) Livestock which do not meet the standards for organic livestock shall not contaminate organic livestock remaining in the farming operation with substances prohibited by the National List.

(2) Livestock and/or the products of livestock which do not meet the standards for organic livestock shall be diverted to the conventional market when sold.

(3) The USDA-accredited certifying agency shall include a section in the Organic Farm Plan questionnaire which addresses the producer's progress toward full conversion of the farming operation to organic production.

1. BREEDER STOCK

(1) Only slaughter stock that are progeny of female breeder stock under organic production methods from the last third of gestation or longer shall be considered organic.
(2) Breeder stock purchased for the purpose of producing organic slaughter stock shall be organically raised, with the following exception: if the producer can document to the satisfaction of an USDA-accredited certifying agent that organically-raised breeder stock of acceptable quality and genetic potential are not commercially available, non-organic breeder stock shall be permitted.

(3) Purchased breeder stock shall be under organic production methods from such time such stock is brought onto a certified organic farm.

(4) On-farm breeder stock shall be under organic production methods from birth.

(5) Artificial insemination is allowed.

2. SLAUGHTER STOCK

Slaughter stock shall be born to organic breeder stock and be raised under organic production methods.

3. POULTRY STOCK

(1) All poultry from which meat or eggs will be sold as organically produced shall be raised under organic production methods from day old.

(2) Day-old poultry purchased for the purpose of producing organic poultry stock shall be organically raised, with the following exception: if the producer can document to the satisfaction of an USDA-accredited certifying agent that organically-raised chicks of acceptable quality and genetic potential are not commercially available, non-organic chicks shall be permitted.

4. DAIRY STOCK

[Position under consideration.]

C. SOURCES OF FEED, FEED SUPPLEMENTS, AND FEED ADDITIVES

(1) All certified organically produced livestock must be fed 100% certified organically produced feeds and feed supplements.

(2) Land upon which livestock feed is produced and upon which livestock are grazed or pastured shall be under organic production methods.
Feed supplements utilized in the livestock ration shall be 100% certified organic.

Feed additives utilized in the livestock ration may be from any source unless prohibited by the National List.

D. SOURCES OF DRINKING WATER

Water quality shall not compromise the organic integrity of livestock. Water for livestock shall not contain substances prohibited by the National List. The farm plan shall address remediation action to be taken by the farmer either to provide alternative drinking water sources or correct the water quality problem.

E. ORGANIC LIVESTOCK HEALTHCARE PRACTICES

(1) The use of systemic and topical antibiotics in or on slaughter stock is prohibited.

(2) Livestock which are treated with or fed prohibited materials for healthcare purposes shall not contaminate organic livestock remaining in the farming operation. Use of prohibited materials on individual livestock shall not result in a change of status for the remaining organic livestock.

(3) The action of a producer to withhold treatment to maintain the organic status of an individual livestock animal which results in the otherwise avoidable suffering or death of the animal shall be grounds for decertification.

(4) A production environment which minimizes livestock stress and maximizes livestock health shall be provided; it must include the following factors:

(a) access to shade, shelter, natural air, and daylight suitable to the species, the stage of production, the climate, and the environment;

(b) clean and dry bedding, which is of organic origin if consumable, suitable to the species and where applicable to the husbandry system;

(c) housing design which allows for the conduction of natural maintenance and comfort behaviors and for the opportunity to exercise; and

(d) housing design which provides a temperature level, ventilation, and air circulation suitable to the species.

(e) [Density considerations to be developed upon research of recommended allotments.]

(5) The following types of intensive confinement production systems shall be specifically prohibited:

(a) Poultry raised in battery cages;
(b) Veal raised in crates;
(c) Sows raised in crates, except during farrowing periods.

(6) Continuous confinement of livestock to an indoor housing facility without the opportunity for daily exercise and access to the outdoors (with the exception of extreme climatic conditions, including those which would incur or cause ecologically damage) shall be prohibited. Stanchion barns or tie stalls to which livestock are confined without daily outdoor access and the opportunity for exercise are prohibited.

F. RECORDKEEPING FOR ORGANIC LIVESTOCK PRODUCERS

1. ANIMAL SOURCE AND LIFE CYCLE RECORDS

(1) An identification system must ensure the identity of organic livestock.
(2) Each slaughter animal/poultry flock/fish lot must be traceable through the life-cycle.
(3) A producer shall document all livestock sales and purchases.

2. HEALTHCARE RECORDS

(1) Producers must document use and rationale for use of all synthetic health inputs appearing on the National List.

3. FEED AND FEED SUPPLEMENT RECORDS

4. FEED ADDITIVE RECORDS

G. TRANSPORTATION

(1) Audit trail must remain verifiable throughout transportation.
(2) Contamination by prohibited materials shall not occur during transport.
NATIONAL ORGANIC STANDARDS BOARD

Minutes of Meeting July 8, 1993


USDA Members: Harold Ricker, Michael Hankin, Julie Anton, D. Ted Rogers.

Chairman Michael Sligh opened the meeting at 8:05 am by asking for approval of the minutes from the May meeting. Richard Theuer noted that the Processing Committee minutes were in less detail than the others. Dean Eppley moved that the minutes be approved. Rich Theuer seconded. Motion passed unanimously.

Chairman Sligh called for any changes in the agenda for this meeting. Jay Friedman noted that it did not provide for public input to the International Committee meeting. It was noted and suggested that the Committee Chair provide time with the allocation at the Chair’s discretion.

September Meeting dates were discussed with agreement on September 26-30 and the note that members should fly into Memphis where the Arkansas Land Development Corporation will have transportation arranged to the meeting site. Dr. Ricker discussed the meeting facilities and preliminary arrangements. The facility has capability for 11 single rooms, and the rest would be put up in a nearby motel.

Budget: Dr. Ricker went over a rough budget estimate to indicate how money would be allocated for this meeting and next based on the $30,000 additional funds made available by the Secretary. The Rodale meeting in May allowed the Board to cover its estimated annual phone and fax expenses for Board members and still have enough left for two additional meetings. The budget figures were estimates because not all of the members expenses had been received from the May meeting.

USDA staffing roles: Hal Ricker briefly discussed some of the staffing changes with the addition of Michael Hankin to serve as operations manager and coordinate the work in support of the Board and as we move toward the development of regulations. Ricker indicated that Hankin would become the key person for the Accreditation Committee with Ted Rogers as backup, and Rogers would be key person for the Processing and Materials Committees and continue to improve the mailing list; Julie Anton will continue to be key person for the Crops, International, and Livestock Committees. Hankin will be working to provide some oversight of all activities. Ricker indicated that he was under continuing
pressure from Mr. Fitzpatrick to take on other assignments, but that he would remain as Staff Director for the near future.

There was discussion of the role of minutes, and whether they should reflect official actions only, or whether they need to be detailed to document the justification for the action. Ricker is going to reexamine the FACA requirement with regard to minutes. His view is that the Board meeting minutes have more critical importance than the Committee meeting minutes, as reflecting the views and positions of the Board. The Committee meetings minutes need not be as detailed, but he will double check.

Julie Anton presented a report on public input and the information and action flow process. Hankin indicated that due to the fact that the meeting was running late, that this issue should be brought up for discussion in more detail, at the closing full Board session.

Dr. Ricker then introduced Michael Hankin to make a few comments to the Board. Hankin indicated he was glad to be here, and wanted to acknowledge the work accomplished by the Board and Staff. He indicated a need for a meeting of the Materials Committee, and recommended that no vote be taken on botanicals until after the Technical Advisory Panel review. He suggested that the Board consider modifying its operating structure at future meetings to facilitate full Board discussions on the issues being considered by committees. He cited specific needs for a definition of organics, an audit trail for processing, and looking forward to helping the Livestock Committee move forward. He discussed the need for handling plans to be fairly general in nature to allow flexibility for certifiers.

Craig Weakley asked for clarification on the general nature of handling plans. Hankin responded that the regulatory language would include what is addressed, how it is used, and when it fits.

Bob Quinn asked about the timeline. Hankin responded that we will be better able to move on that after he has been able to review the current status and had discussions with OGC.

Jay Friedman expressed concern that they never see comments from OGC. The answer is that OGC does not want to rule on pieces of the program until they can see how they fit together.

Margaret Clark questioned OGC saying that they should start developing recommendations because they may not recommend what USDA thinks they should be. NOSB position is to recommend what they think is best. Hankin indicated he would work with the committee, and hopefully there would not be major differences.

Chairman Sligh then asked for brief committee reports on their planned activities at this meeting.
Processing Committee - Rich Theuer, Chair - Will be working on a labeling draft recommendation. Will also be working on the Organic Handling Plan including the comments from the May meeting. They will be meeting at 1:00 today and the first order of business will be the resolution of issues under the labeling draft, with the hope to have it ready for Board vote on Sunday. At 4:00 today they will be taking public input. At the Saturday meeting they will be working on a response for the National List - after meeting with the Materials Committee. At 3:00 Saturday they will work on essential substances and criteria for essential synthetics.

Accreditation - Margaret Clark, Chair - There is a revised draft of their accreditation document in a packet that is out for public comment with a deadline for comments of August 15, 1993. Topics to be considered in their meetings include: need for legal definitions, clarification of positions, work on the approval process, peer review panel, logo’s, and enforcement and appeals issues. There is also a question of the October 1st deadline and the need for an agenda revision.

Livestock Committee - Merrill Clark, Chair - Likes the Oregon Tilth proposal on animal and plant analogues. Supports Hankin's statements on the need for more full Board discussion of topics. Walter Graves gave a very good presentation on the interaction of animals and legumes. At the Friday meeting they will be addressing May meeting issues including livestock sourcing, and feed standards. Gary Osweiler and Don Kinsman are giving presentations on antibiotics and parasiticides tomorrow. Jay Friedman is working on Codex discussion, and Kinsman is looking at livestock density issues. Will also look at Hankin’s paper for livestock process, scheduling livestock hearings, emergency feed situations, and land in pasture.

There was a brief discussion of the issues in livestock sources. Friedman questioned whether the livestock standard should be different for different species. He likes the last third of gestation position. Question of differences between slaughter stock and dairy. If you treat all the same, it is easier to manage the program? Gary indicated that there is 9 1/2 month gestation, if you buy a cow in the 5th month and it starts producing milk could it be organic? Friedman’s response, calf yes, mother no. Hankin suggested that the topic needs more discussion before a decision is made. Need to provide an analysis of the topics including producer based organics and the relationship to consumer based consideration of organics.

Question arose among NOSB members on the need to have livestock hearings. Ricker reviewed the history of the hearings, the process, and the need for them.

Gene Kahn indicated strong support for the hearings. K. Chandler indicated the need to have strong viewpoints articulated in
addition to consensus.
Theuer indicated that he thought processing is excluded from the hearings. It was pointed out that the OFPA indicates hearings for livestock products.
Kahn indicated that it would be a fatal flaw to delay action of the hearings, because managers need to know what is planned.
Merrill Clark indicated that much has been distributed already.
Kahn indicated that if you can provide current thinking that is fine.
Hankin indicated the need to have analysis.
Anton expressed concern from the public about not hearing about the thinking of the committee.
Kahn indicated that the preliminary working drafts might solve that.
Friedman indicated he would like the NOSB to co-chair the hearings.
Hankin indicated that the input to be received is not to test the NOSB and Livestock Committee, but wants organic community involvement.
Merrill Clark would like to have positions on various issues for consideration.

Crops Committee - Gene Kahn, Chair - The Crops Committee will meet Saturday from 8:00 to 12:00. They will discuss the draft small farm exemption, time line for materials, mushroom and specialized crop standards, requirements for certifying agents for crops, organic farm plan and integration of it with livestock, wild crafting provisions of farm plan need strengthening, Codex crop standards, and organic definition.

The Crops Committee’s draft recommendation on spray drift was presented by Bob Quinn. When it was presented in May there were 5 members in support, 7 opposed and one abstention. Indications were that there was too much emphasis on residue testing.
Revisions suggested: Remove from I A. "droplets or granules."
Friedman questioned Section II calling for compensation for loss of organic crop. Kahn indicated they were not sure if it is legal, but wanted to be on record in favor of compensation, and thus make a strong statement.
Michael Sligh indicated his desire to include organic training in certified pesticide applicator training. Committee agreed to consider including in number II.
Nancy Taylor suggested a notification requirement by sprayers to organic farmers.
Margaret Clark indicated there is no direct force in the recommendations unless the Secretary chooses to implement policy recommendations.
Hankin said that this may dilute the language of the document, and besides, it may not all go to the Secretary. Craig Weakley indicated he would have to disagree, language might go, but the Secretary is going to do it or not.
Kahn preferred to adopt the language.
Friedman and Ricker agreed that you could develop separate
recommendations for addressing issues that are not authorized under current statute for consideration by the Department, which they might provide to the Congress.

Continuing with the document, Quinn noted that proposed changes suggested in May had been made in Section IV.

Friedman questioned line 124. Are you talking about sites rather than product? He also wanted to question who would handle decertification - should be at discretion of certifier.

Suggested that the committee pull out the wish list and put in a separate document. Review lines 179-187 to clarify.

Margaret Clark commended the committee for doing an excellent job in incorporating comments from NOSB and the public.

Friedman indicated the need to review pasteurage for the 3 year exemption, and also actions that trigger enforcement actions.

Weakley indicated that the intent of Friedman's concerns are addressed in other documents. Friedman may need a reference citation.

Merrill Clark indicated that the Livestock Committee had not seen this document prior to this meeting and feels uncomfortable with the Livestock Committee name on the document. Kahn agreed to remove the Livestock Committee name from the document.

Materials Committee - Tom Stoneback, Chair - This is a double transition with Hankin on staff, and Tom Stoneback and Gary Osweiler replacing Nancy Taylor as co-Chairs. They will spend some time on identifying issues and reviewing the process with a high priority for substances on the list. The Technical Advisory Panel needs to be formed and organized as soon as possible, as well as an understanding of the types of information they will be expected to provide. Need to work through the materials for crops, and the special review of botanicals. Will meet in caucuses.

Nancy Taylor asked where we were with the full disclosure document. Stoneback indicated it is necessary to complete some things this week.

Taylor also questioned the petition form priority, indicating Ted Rogers had another proposal.

Hankin indicated he wants to discuss this further, because the petition form may not be needed until a list is established, but wants to discuss this in committee.

Merrill Clark asked if we could get EPA here for discussion of registration of pesticides and botanicals.

Stoneback indicated procedures for involvement will be worked out.

International - Jay Friedman, Chair - Indicated that Michael Sligh and Bob Quinn have a draft on importation to be discussed, and that Accreditation and International Committees need to meet to discuss it.

Michael Sligh noted that it was 12:00 and that the meeting is adjourned for lunch in order to be on time with the public input session at 1:00 pm. Additional discussion can take place separately or at the full Board session Sunday.
The Committee meeting commenced at 1:00 PM.

Present: Margaret Clark, Merrill Clark, Gene Kahn, Don Kinsman, Rich Theuer and Craig Weakley; USDA representatives Michael Hankin and Ted Rogers.

Draft Recommendation on Labeling

The Committee reviewed its April "Draft Recommendation" in light of the public comment received on or before June 30, 1993, the deadline for receipt of public comments, and the comments received at the May NOSB meeting, when the draft recommendation was reviewed in detail before the full Board. The Committee revised its draft recommendation to prohibit principal display panel presentation of the percentage organic ingredients.

The Committee revised its draft recommendation to reflect a conclusion that the OFPA allowed certified organic handlers to handle only "organic foods."

[Note: On July 11, the full Board accepted the Committee’s proposals for calculating the percentage organic ingredients and the Committee’s definitions for "ingredients" and "processing aids" in foods labeled as "organic."]

The Committee debated once again the specific ingredient labeling, voting in favor of full disclosure of individual spices, flavor components and colors and advancing the draft to the full Board for consideration as a Board draft recommendation. [Note: On July 11, the full Board rejected the Committee’s recommendation on full disclosure of spices, flavor components and colors.]

Organic Handling Plan

The Committee reviewed the draft circulated to the public and reviewed before the full Board in May. No comments have been received. The Committee made minor typographical corrections and will seek full Board approval at the September meeting.

Public Input Session

The Committee received comments from Steve Harper, Rob Feldman, Eleanor Goodman, Bill Powers, David Haenn, Rod Crossley and Greg Pennyroyal.
The Committee adjourned at 6:00 PM.
GENERAL PUBLIC COMMENT TO THE NATIONAL ORGANIC STANDARDS BOARD
INCLUDING PUBLIC INPUT TO THE PROCESSING COMMITTEE AS LAST SEGMENT,
JULY 8, 1993, COTTAGE GROVE, OREGON

Norma Grier provided handouts with her comments, Judy Pegg’s comments and Barbara Kelly’s response to the Ozark survey. She doesn’t support having the NOSB linking up with EPA on tolerance levels.

Eric Ardapple Kindberg - Ozark Small Farm Viability Project - Indicated they were receiving responses to a questionnaire sent to producers and had another for retailers and consumers. Doesn’t like the split meeting format. NOSB has three things to accomplish: materials list; accreditation program; and get certifying agents accredited. On materials, synthetics are disallowed except under section 2118 of the Act, which is explicit. Concern about the relationships among Federal, state and private organizations about provisions for discrediting.

Dr. Joseph Morgan - provided a handout on the concerns of those with multiple chemical sensitivities. He requests that the NOSB set high standards for a reliably safe food supply. If not for all organics, he would like a special identification for foods with zero levels of residue. He was questioned as to whether a % level of residues would be workable, and indicated there had never been a study to determine actual levels that would be workable, and even those might vary with individuals tolerance levels.

Ken Nolley - a chemically sensitive individual - underscores Dr. Morgan’s comments. Needs a steady supply of pure food. One can’t imagine the time spent by the chemically sensitive in gathering food, when they have to rely on an anonymous system. Would favor any system that would help make the buying decision easier. Root crops are notorious for uptake of pesticides. A question was raised about balancing the processor/manufacturer needs versus the chemically sensitive. Ken indicated they only want information and consistent ingredients, and that they don’t want to put existing and small firms out of business.

Walter Jeffrey - provided a follow-up discussion to an earlier meeting at which he spoke on potassium chloride. A question was raised about whether a summary of the benefits is available, and he indicated he had a few copies and that the study is being published.

Ron Garcasz - OCIA and farmer - Addressed the issues of confinement for livestock; antibiotics; and percentage of feed that must be organic. On confinement you need to allow animals to use their natural behavior patterns. It is a husbandry and stewardship issue, and need to balance free range with environmental concern for pasture degradation. On antibiotics, the Committee should stay with the legislation and referenced sections 2105, 2118 (b), (c)
Robert Beauchemin - OCIA President - Expressed concern about the October first deadline, relationship of private certifiers with states, lack of certifying agent on the NOSB, requirements placed on certifiers by the EEC. Recognizes the right of states to register certifiers, but when it adds undue burden on certifiers, it may be against the intent of the law. Suggests adding a certifying agent in an advisory capacity to the Accreditation Committee if they can’t serve on the NOSB.

Brian Baker - CCOF - Expressed concern about the meaning of the term "synthetic" and indicated it was being used differently by the Crops, Processing, and Livestock Committees. When asked what he would do differently in the standards, he would add a liability standard, but nationally, that would have to be passed by Congress.

Zea Sonnabend - California Action Network, and CCOF - Supports having a certifier on the Board. Suggests that accreditation is not an in or out action, but certifiers should be given a chance to correct deficiencies. Also expressed concern about financial support for the Technical Advisory Panel. The questions will be requiring more than yes or no responses, and members should be compensated. The organic community is waiting to hear about inert and brand names and how they will be treated.

Dick Hartman - Recounted the problem of trying to get EPA approval for garlic and water. Took 4 years and should go to the organic community, but needs committee approval. How does the NOSB decide on important issues? If items have both environmental impact statement plus an economic impact statement, they ought to be considered for approval.

Pat Leonard - Oregon consultant - Make the law as tough as possible. Wants a good definition of organically grown food that is comparable to the Good Housekeeping Seal of approval. Farmers want to see the law and the list so they can start farming. NOSB should take the time to develop a good law.

Robbie Lee Evans - Farmer member of Organically Grown Cooperative in Eugene, OR - Concerned that there are no vegetable members on the Board. Wanted mandatory residue testing, but thinks there is no rational basis for the 5% of EPA tolerance (thinks it was pulled out of the air). Thinks there is too much emphasis on what is not on produce, rather than on what is in produce nutritionally.

Katherine DiMatteo - Recently submitted Susanne Vaupel’s materials list documentation. Hope it moves quickly. The law has to be implemented as quickly as possible. Support for the organic label and the question of organic as a guarantee could be detrimental. Fill in the gaps in the regulation and move it.
Steve Harper - Concern that a total prohibition on synthetic components will put a damper on processed foods. Should pay particular attention to boiler water additives. Consider processing aids as ingredients. Concern that different certifying agents will have different standards for synthetics.

Rob Feldman of the Organic Produce Handlers Association - Expressed general concern that the produce handlers had not been included in the process, felt that he/they should have been more involved in the drafting of positions. Particularly concerned that produce handling was taking a back seat to processing and labeling standards in the Processing committees work. He was critical of the representation on the Board of retailers and processors with an absence of handler representation.

He also expressed his constituencies questions about the need to regulate the Organic Sustainable Community. While acknowledging some need for certification, a common definition, and protection against fraud in the market place the recurrent question was what would this add in costs.

Rob read a laundry list of issues that he felt had not been adequately covered in the handling plan and other committee papers. This list included: Water and air quality in cooling; mixed storage; commingling on the same pallet; pallet break down; Trucks boats and airplanes; reconciliation of differences in audit trails; coding to track product. This brought him back to the question of the cost of the whole system.

The Board, and the processing Committee responded by urging him to write down specific recommendations as per his concerns and send them to the committee. Margaret Clark and Craig Weakley pointed out that he (Rob) had been repeatedly asked for his advice and input on the handling plan and a whole array of other issues. Clark and Rich Theuer also noted that the issues that he had greatest concern for simply had not been consulted yet, but were clearly on the work plan, were considered priority issues, and were to be worked on in the near future.

Elinor Goodman - Amy’s Kitchen - Has a small business concern that they would be visited by the government and nailed on small details. Concern whether someone who hauls organic produce from the market needs to be certified. Against percent organic labeling - wants to see justification for putting on the ingredient panel to determine if it is worth it. Cost/benefit of protection against fraud.

Bill Powers, of Badger Mountain Vineyards, served as a spokesperson for the Organic Wine Grape Growers Alliance. They again stressed the need for Sulfur Dioxide from a natural source as a sulfiteing agent. For quality wines to be bottled, kept and marketed up to
100 ppm sulfur compounds are needed. Wines both domestic and imported are currently labeled as made from organic grapes.

David Haenn - Ozark Small Farm Viability Project - addressed the need to move on the National list. Indicated there are provisions for non-synthetic ingredients organically produced; ingredients not technically organically produced (2118(a)2) such as yeasts, gums; Senate report was for items difficult to obtain organically; and that there are no exemptions for processing in the Act.

Randy Buresh of the Eclectic Institute - The institute manufactures botanical extracts using certified organic alcohol made from grapes. Questioned whether non organic Grain alcohol would be accepted as an extracting agent. Urged a definitive standard to support the industry and because organic agriculture was good for the earth.

Rod Crosley - Health Valley Foods - Dislikes the split forum for public input, because has to repeat comments for the Processing Committee. Basically critical of the Processing Committee for not addressing comments provided by organic processors, and making decisions without their input.

Greg Pennyroyal delivered a comment for Lon Johnson of Trout Lake Farms - Responding to the Processing Committee’s Draft Recommendation on Labeling and general comment. Suggested that principle of reconstitution should be fresh cut weight. feels that use of organic on the information panel should require certification of handler any use of the O word should require certification. Full agreement that organic should be a production claim. Wants to stress the need to prohibit the equating of wild with organic, this diminishes the value of organic. The use of the phrase organic or wild must be prohibited. Felt that full disclosure of spices colors and flavors was the best approach. Noted his experience in the flavor and perfume trade as he commented that so called natural flavors were in fact of synthetic origin.
Dean Eppley, K. Chandler, Rich Theuer, Merrill Clark, Michael Sligh, Gary Osweiler, Nancy Taylor, Hal Ricker, Michael Hanken, Ted Rogers and Tom Stoneback were in attendance.

I. It was agreed that the Materials Committee should organize itself to receive recommendations from the Crops, Livestock, and Processing Committees as to those substances which should go through the Technical Advisory Panel procedures and preparation for their appearance on the National List.

II. The second priority was that the Technical Advisory Panel(s) needs to be formed and organized as soon as possible. And, third...

III. The process for review of substances to appear on the proposed National List needs to receive a high priority and be organized.

Mr. Theuer pointed out that "essentially, this is common sense," with Mr. Sligh adding that "a uniform format is needed."

Mr. Chandler suggested "by category."

Mr. Theuer later pointed out that we need a "delisting procedure to take materials off the list as the Secretary is only limited by his inability to add allowed synthetics."

It was agreed that the Materials List construction would be performed by the USDA. Ted Rogers volunteered.

Ms. Taylor raised the question of confidentiality of active and inert ingredients. Discussion centered on full disclosure. Other discussion questioned the role of the certifier and whether proprietary information could be held by the USDA.

The flow of materials review requests to the Technical Advisory Panel from the Materials Committee, through the Technical Advisory Panel and appropriate EPA and FDA approvals, recognized the role of USDA. Subsequent to receiving information from the Technical Advisory Panel the NOSB would offer its work for public review and following comments make its recommendations to the Secretary.
Dr. Ricker stated that he would look into the possibility of available funds to reimburse Technical Advisory Panels for work done. We discussed the important facilitation role filled by the USDA in obtaining FDA and EPA approval. And, the importance of the Extension Service and industry leaders' contacts in developing technical panels.

Mr. Rogers accepted responsibility to structure the format and procedure of Technical Advisory Panels and their relationship to the USDA and National Organics Standards Board. It was noted that the Act empowering the NOSB has seven points which are the criteria for TAP.

Mr. Osweiler stated that we need to start dealing with the known world of synthetics that might be used, and for now deal only with the most controversial natural materials that might be prohibited. Based on this approach the most essential function to complete is preparation of criteria and procedures for evaluating materials for inclusion on the list. These are the benchmarks by which we decide whether a material enters the National List.

Because the Materials Committee receives input from Livestock, Crops, and Processing Committees, and the unique importance that materials play in the organic system, it was suggested that future meetings be held with the full board.
NATIONAL ORGANIC STANDARDS BOARD  
LIVESTOCK COMMITTEE  
July 9, 1993  
Cottage Grove, Oregon

Minutes

Taken by: Julie Anton

Transcribed by: Gary Osweiler

Introduction of Livestock Committee members.

Approval of May 1993 Committee minutes.

Public input on livestock sourcing issues:

A producer of organic beef testified that by Washington State standards, animals under organic production methods for 12 months become certified organic. If animals must be from an organic herd, such a standard would put them out of business. They do not have the acreage for a cow/calf operation where they could source calves from last third of gestation, and do not know of anyone in the State with an organic herd to draw from. They get half of their calves now from an Oregon producer; this producer does not use implants and other inputs, and is sustainable, but not certified organic. He is also careful about quality of calves.

The supplier commented that low-grade cattle, not suitable for market might be the only sources of organic stock. He questioned how reasonable the last third of gestation requirement is. Gary Osweiler responded that 12 months is a long enough "drying out" period to account for removal of drug residues. Merrill Clark commented that Harlan Richie (Michigan State University) says the last 80 days (of gestation) account for the major growth period of animals in the womb.

Eugene Kahn requested legislative review, which Jay Friedman conducted.

Ron Garris, an Oregon Tilth certified organic cow-calf producer in Oregon commented that the last 2/3 of gestation must be under organic methods for
their certification. He has 32 mother cows, 100 total, including feeders on just over 200 acres sells to Portland restaurants. He maintains strict standards and believes there should be a tough standard.

Ann Schwartz commented that Oregon Tilth standards say organic feed is required from birth of the calf. There is an exception for buying a day-old calf to put into program. The last third of gestation for slaughter stock is the standard generally.

David Haenn, Ozark Small Farm Viability Project and a goat and sheep producer gave his strict interpretation of the OFPA.

Albert Strauss, a dairy farmer in Marshall, California (Blake's Landing Farms) commented that in California replacement sources have been treated with antibiotics.

Eric Ardapple Kindberg, a producer experienced with hogs, sheep, and cattle, gave his interpretation of the dairy standard; explained how producers could use their own non-organic cattle as replacement stock. He noted the inconsistency in the law between dairy and slaughter stock requirements.

Brian Baker, Technical Coordinator for CCOF, said the requirement for organic when available will create a burden on certifiers. There is a need now to allow transitional animals.

Eugene Kahn (NOSB) commented that it seems clear that the last third of gestation requirement for slaughter stock is the intent of OFPA.

Brian Baker: There is a frustration of beef growers over the apparent discrimination against beef versus dairy producers.

Committee Discussion:

Don Kinsman suggested possible changes in language to reflect 2 sources, the organic-producing dam and a dam under organic production methods.

There was a review of lines 34-40 of the May 20, 1993 draft.
K. Chandler expressed his interest in a more lenient interpretation of the OFPA to allow expansion of production. There are 43 million cattle slaughtered in a year, 172,000 per day. Most organic operations are less than 50 head on average. The brood herd provides calves raised to 3-7 months (200-500 pounds). Stocker herds are on grass 3-7 months (600-700 pounds). The feedlot period, 120-160 days -- could be shortened to half that number of days. He expressed the need to have sufficient volume to be economically viable and enter the market. This is important especially for cattle, since chicken, hogs, and sheep have a short production cycle.

Eugene Kahn expressed that our concern should be whether or not our approach is reasonable.

Ann Schwartz explained how all programs urge livestock producers to develop an organic breeder stock program.

Julie Anton pointed out that most certifying agencies with livestock standards require from the last third of gestation as a source of slaughter stock which must then be raised organically from birth. She asked Ann Schwartz if certifying agencies are deliberately not making link, as the Livestock Committee has tried to do. Ann said yes, but the issue is still under discussion.

Ron Gargasz, organic beef producer, suggested that slower growth forces producers to be better stewards. OCIA supports organic requirements from the last third of gestation for slaughter stock.

Committee Vote on each Livestock Source Chart:

BEEF: Gary Osweiler, Jay Friedman, Merrill Clark and Don Kinsman voted for the beef sourcing diagram and approach developed by Merrill Clark. Eugene Kahn stated the requirement seemed unreasonable, but do not see alternate interpretations of OFPA. He voted for the proposal, with the reservations stated.

DAIRY: Ann Schwartz commented that the current position might preclude
dairy goats (kid at 5 months, therefore, producing dairy product before 12 months). Don Kinsman noted that the usual practice is to raise for goats for 8 months before kidding.

Voting for the dairy proposal: Merrill Clark, Eugene Kahn, Gary Osweiler, Don Kinsman, and K. Chandler. (Chandler thinks regulations should allow qualified dairy stock to be slaughtered as organic). Jay Friedman voted against the proposal, noting his belief that dairy animals should be born from cows that qualify from the last third of gestation - a standard more consistent with the beef regulations.

Break

POULTRY: The Committee voted unanimously to accept the poultry sourcing recommendations.

Don Kinsman commented that the Committee should include goats under sheep.

Merrill Clark reminded the Committee that at some time fish, bees, and rabbits need to be addressed.

ANTIBIOTICS

Gary Osweiler led a discussion of the characteristics of how foreign drugs, including antibiotics are handled in the body. Printed material supporting the discussion is attached.

Generally drugs go to the liver (where they may be metabolized to something else, and which may change the activity of antibiotic). Then drugs can be excreted by the bile or once in blood may be excreted by the urine. Each synthetic antibiotic will have to be approved individually. Lynn Coody suggested that perhaps groups of (similar) antibiotics may be approved.

Different species reactions can occur to antibiotics or other drugs? e.g. Brahman cattle are more susceptible to organophosphate chemicals.

Half-life is the time it takes for the body to get rid of half the substance presently in the body. Osweiler charts on plasma concentration are attached. Most antibiotics have relatively short half lives; metabolize so quickly that they have to be taken several times per day. Twenty half-lives will generally eliminate detectable traces of the antibiotic; unless retained by body system
in some way. One issue is whether the residue ever get to absolute zero residue. Example of a persistent residue was tetracycline injected into the hip; it is irritating, produces edema around injection site. Usually an improper injection technique or improper use of the antibiotic on other ways result in residue problems where quality control may be lax. Producers may sell treated animals to other producers who then treat again. Failure to observe withdrawal periods is the number one reason for violative antibiotic residues. Sulfonamides are not true antibiotics, but are antibacterial. They recycle easily through feces.

Wm. Hubbert commented that testing occurs at meat packing plants when observation of injection sites indicates that meat may be at increased risk of residue; therefore, meat more often tested than dairy products.

Gary Osweiler raised a question for NOSB to Consider: Is pesticide use on crops analogous to antibiotic use in livestock?

Options for Synthetic Systemic Antibiotics were discussed, and those options offered by Osweiler are attached.

Eugene Kahn requested a legislative overview. Jay Friedman commented that discretion to allow antibiotics is under 2110 (d)(1). Mr. Kahn pointed out sec 2118(c)(1)(B)(i), Synthetic additive ingredients, including livestock parasiticides and medicines. The Senate Report may help to enlighten the intent of the law.

Other Committee Activity:

Review of definition of synthetic.

Review of National List procedure.

Discussion of "Organic Management Practices."

Albert Straus asked when disease becomes life-threatening? He has not found a non-antibiotic solution for foot rot.
Gary Osweiler noted that withholding treatment is against the OFPA. With dairy, it is difficult to divert, so likely the producer would have to sell a treated dairy cow at auction, or to other conventional channels. Mr Straus culls 30-35% of his herd each year. Culling is commonly for mastitis and infertility. He currently is using probiotics, homeopathy, and aspirin as "organic" treatments for mastitis.

Brian Baker offered that CCOF has considered certain antibiotics to be natural. When to refute the presumption that antibiotics are natural is a difficult issue. All certifying agencies allow some use of antibiotics, all with caveats; none identify specific compounds.

Eugene Kahn sees antibiotics as compatible synthetics, because they are altered in manufacturing process.

Lynn Coody's view is that brand names should not appear and that grouping of antibiotics needs to be determined. Ms. Coody suggested language such as "Penicillins, except _____." would be regulatory language. She offered to figure out a way to make analogous to crops.

Gary Osweiler suggested that most antibiotic substances will have come into contact with an organic compound (e.g. hexane). This solvent extraction process would qualify the problem as synthetic.

**Motion on any use of antibiotics:**

"Can any of the products of an animal that has received an antibiotic under any condition ever be sold or labeled as organically produced?" Voting yes were Osweiler, Friedman, Kahn, Chandler, and Kinsman. Voting no was Merrill Clark.—

Jay Friedman sees a need to keep uniformity between breeder and slaughter stock.

**Review of current certifying agency standards.**

Ann Schwartz testified that the consumer-producer-client relationship is most
established in Europe, due to scale of farms. The British Soil Association has always allowed the restricted use of medicines. Oregon producer, Ron Garris always diverts beef cattle when they have been treated with drugs. He is a natural meat producer and has developed a market based on a "no antibiotics" claim. This is an issue with his restaurant buyers.

Pat Leonard, organic retailer, spent time in Alfalfa's, which sells Coleman's beef. Sales people are trained to present foods as "antibiotics and hormones not present and not used". Merrill Clark spoke as a consumer representative. Their shop's consumers ask a lot of questions about antibiotic use. NOSB will have to justify to USDA which withdrawal periods are more appropriate, preventing entry into food chains.

K. Chandler noted that withdrawal time should be 12 months, before product, milk or meat, can enter the food chain.

Motion reconsidered: Clark and Friedman vote no consideration of antibiotics.

Lunch Break

PARASITICIDES

Presentation was given by Don Kinsman. Attachments include Osweiler's synthetic antibiotic use options.

Flies are external parasites. Pink eye is an external condition, but may be caused only by dust.

Brian Baker: Commented on prohibition of use organophosphate for fly control around feed. Pyrethrum can be used on organic rangeland or as dust.

Osweiler described pyrethrin, an extract of pyrethrum, which may have inert ingredients that may be questionable. Brian Baker offered that Pyrethrum is extracted using butanol, commonly, which is then flashed off.

Ann Schwartz: Most programs prohibit nicotine.
Breaking down parasiticide use by species is important. Most all certification programs allow parasiticide use in breeding stock. Organic practices v. time not under organic practice are two different things to define.

Lynn Coody: toxic materials can include naturals products such as wormwoods.

Herbals used as medicines are not registered; how can they be used if not registered?

Julie Anton suggested identifying species and parasite problem and regions and current synthetic parasiticide utilized; then evaluate alternatives, for toxicity and efficacy.

Evaluation whether or not certain substances would be a first line of defense may be difficult. Mr. Kahn related parasiticide/antibiotic restrictions to botanicals. If there is not a farm plan to follow, then producers cannot use the restricted materials.

Ann Schwartz distributedIFOAM standards, referring to pp. 29-30.

Brian Baker described CCOF parasiticide standards, which state that cultural practices must be used by certifying agencies. Mr. Kahn asked about differences among inspectors. Baker replied that with some, there may be need for oversight re: criteria.

Lynn Coody: May be difficult to trace source of problem.

Eric Ardapple Kindberg suggested that loss of organic status from treatment should be a factor in the economic plan of every farm. He proposed that each parasiticide must go through the materials review process.

Jay Friedman: would not want to see every parasiticide go through the review process, as Mr. Kindberg suggests.

Ron Garris: If there is a parasite outbreak in herd, where all animals are infected with worms, losses would be much greater than 10%.
William Hubbert: There may be residues from parasiticide if withdrawal periods are not followed. Twelve programs allow parasiticide use in breeders; 8-9 allow for emergency use. OSFVP: permit emergency treatment for diagnosed medical treatments. Could be widespread abuse because standards lack specificity.

One current Recommendation is to allow National List parasiticides in breeder stock and for documented emergencies in slaughter stock or dairy stock.

Jay Friedman, regarding the emergency use permit, thinks consumers would see documented emergency use of synthetic medicines as reasonable and acceptable.

Julie Anton noted that the Committee will need to establish criteria that define an emergency.

Mr Kahn suggested that the farm plan provision would have some value for defining an emergency. He asked Ann Schwartz if this provision would have broad acceptance. She replied "Yes, except that acute emergency in parasites would need to be treated prior".

Mr. Kindberg does not worm when there is a medium parasite load; in his opinion, this can be determined by the appearance of the livestock.

Ron Gargasz noted that the most persistent parasite problems will occur in breeder stock, which are kept the longest. Treatment must be prior to the last third of gestation.

Brian Baker noted the great regional differences in agriculture and recommended that not just one farmer can speak to what happens on all organic farms.

Need to have some accurate consumer information.

Motion: Could product from livestock that has received restricted use of any synthetic parasiticide be sold or labeled as organically produced? Committee supported the motion, except for Merrill Clark.
FEED STANDARDS

Emergency non-certified organic feed use provision:
destroyed by frost, flood, or other natural disaster = emergency.

Emergency Procedure contingency plans could include going to small farmer
exempted feed source as a first choice, if organic feed is not available.

Some discussion followed on how to verify a feed "disaster". Mr. Chandler
noted that this was determined by the Commissioner's court in Texas.

Criteria to be used by certifying agency to define disaster could include the
terms "Unforeseen, unavoidable, not caused by producer, and not
immediately rectifiable".
A Class 1 emergency is an official government-declared disaster. This might
be grounds for seeking a waiver.

Poor management or poor planning are not sufficient cause for an exception.

Producers should be required to have a contingency plan.

Ron Gargasz read the OCIA emergency provision. They must be officially
documented and pre-approved. "In certain critical years where OCIA forage
crops are unavailable or in short supply due to extreme weather conditions,
the certification committee can allow a farmer to purchase (non-OCIA)
certified organic feed and forage. These inputs must be sufficiently
documented and pre-approved by the certification committee".

Mr. Kindberg commented that producers can plan ahead in cases of drought.

Other issues:

"Withdrawal time" Would depend on type of feed utilized in emergency phase.
Ron Garris suggested zero withdrawal time for non-certified organic feed.
Kindberg and Haenn expressed concerns about integrity of livestock.
Albert Straus suggested disclosure to the consumer.

Two additional issues were discussed:

1. the "certified" aspect of feed
2. the "pesticide-free" aspect of feed.

In emergency situations, the need is to guard against residues.

Mr. Kahn said some certifying agencies will determine that there are almost no emergencies.

Ann Schwartz reported that many States are not requiring 100% organic feed; and that for dairy, there are requirements for just 80% organic feed.

Mr. Friedman gave the opinion that there is no apparent statutory authority for emergency feed provision.

Michael Hankin (USDA) commented that the act could be interpreted as providing an emergency provision.

There was Discussion of a USDA proposal for new procedure on Committee/Board decision-making for livestock issues. The committee voted (4:2) to delay discussion to a later time.

Don Kinsman pointed out that no more than 10% non-organic replacements per year are allowed in some international requirements.

CODEX discussion was deferred to a later time.

MOTION: Gary Osweiler moved to remove amino acids from Committee's list of synthetics to be considered for the National List. Voting Yes were Osweiler, Kinsman, Friedman and Clark. Abstention by Kahn.
Additional Committee Issues:

1. Certain natural feed additives that should possibly be prohibited.
2. Farm Plan.
3. Feedlots/density.
4. Livestock considerations in definition of organic.
5. Labeling & processing
6. Procedure to address antibiotics & parasiticide
7. Untreated pasture.

Mr. Kahn asked the Livestock Committee to review the Crops Committee drift recommendation to the full Board. The recommendation includes provisions on forage which were discussed at the NOSB meeting in May.

Meeting Adjourned Approximately 5:30 PM
ACCREDITATION COMMITTEE MEETING
JULY 9, 1993

Committee Members Present:
RICH THEUER, MICHAEL SLIGH, BOB QUINN, NANCY TAYLOR, MARGARET CLARK, JAY FRIEDMAN
(Arrived late)
ALSO: TED ROGERS, MICHAEL HANKIN, HAL RICKER (USDA STAFF), TIM SULLIVAN

Introduction by Margaret Clark:
Clarity needed on several issues which the committee hopes to address in this meeting:
1. State programs and relationship to federal will be looked at. The committees' assumption is that the states and private certifiers have to go through the same accreditation program.
2. Peer Review Panel
3. Enforcement and Appeals

Tim Sullivan's analysis of Act:
Federal Program standards are guidelines for private & state certifiers.
State Program standards are approved by federal government
Accreditation program approves private & state certifiers
Role of NOSB is to recommend program standards for private certifiers & state organic programs.

Presentations by Miles McEvoy: WA State Dept of Ag.:
Certification may or may not be a role of the states; enforcement and monitoring of organic food trade is the role of the states; and to implement federal labeling laws and FDA regulations. In Washington, state has a certification role and does thorough enforcement and monitoring.

Comment from Nancy Taylor: In Idaho, state has a program and there is a private certifier operating there. State would like all to be under state program.
Question: What about the small growers, how does a state certification program effect them?

Miles McEvoy: States and a lot of non-profit organizations can serve all growers in an area, whether large or small. Washington state subsidizes smaller growers. There may be a differential fee structure for smaller growers under private programs. In a for-profit certification agency there is not the incentive to offer subsidies - goal of these agencies would be to make a profit. If another certification agency wanted to work in Washington, the state would also inspect the farm to check on the work of the certifier. There would not be additional fees from the state.

When products are sold as organic within the state, the product needs to be certified by a recognized certifier- Washington has three criteria: that they are not traders, that there is no conflict of interest and that the program has equivalent standards. Washington does not evaluate the programs in terms of how well they are doing their job. There is not a registration fee, but there may be fees in the future. The accreditation process of the federal government would do a better job and when implemented would replace what Washington state is doing. Washington has a vendor certification program and a “recognition” process to assist the vendors in complying with state requirement that out-of-state product be certified.

Question: Would states want to actively certify nationally?
McEvoy: We would be willing but would prefer not to. Legally might be outside of jurisdiction.
Question: If they acted as agents for the national program?
McEvoy: Then we could certify outside the state but would be able to take any regulatory action (enforcement) unless the product got into Washington state.

Comment from committee member: Certification agent has the authority to decertify (which is a type of enforcement action.)
Question: If a private certifier wanted to set up in the state of Washington,
McEvoy: Yes. We don't see it as threat to the state program, or divisive to the growers. Our office is not concerned about competition from other certifiers because we are doing a good job. The growers in the state wanted the state to set up the program in the first place; and seem satisfied with the program.

Question: Do the larger growers know that fees are different under your program based on size?

McEvoy: The larger growers know they are subsidizing the smaller growers. It generally is not resented. Fees range from $200 to $2500.

Presentation by Robert Beauchemin: President of OCIA - International:
I wish to state some concerns. OFPA mentions that the state has the ability to develop certification programs. But, do they have the ability to develop accreditation programs?

I have been involved with the industry for 15 years. Consistency has been the major point of concern for the industry - standards are about the same, the problems have been with different certifier's procedures. Accreditation is about how do you do business, not what are your standards. The U.S. Accreditation under OFPA should not make judgements on standards which exceed the national standard.

State programs are requiring that private certifiers comply with their certification procedures. What is the difference between registration and accreditation? Long registration forms and extensive informational requirements cross over the line from registration to accreditation (evaluation of the program.) Are they (the states) trying to keep us out?

The legislation in Texas asks for inspection at the time of harvest. If there are 6 harvest times, then that would require 6 inspections which would make the certification expensive. Fees required for registration in Texas are high which are prohibitive to the private certifier operating in the state.

There are 4 points in the purposes of the title: What will be the criteria to apply these four conditions.

Private certifiers need some guidance on what is going to happen on October 1 and what is going to happen in the interim, especially in relation to the requirements of the states.

Who will approve the state programs? The secretary, but who will recommend the criteria used for approval of state program?

Beauchemin read from Paul Branum's letter (director of California's Health and Safety Division) - major point: "If California does not think that the federal program (of accreditation) is adequate, then they will impose stricter requirements." Will states be able to act in this fashion after the OFPA is implemented?

Comment from Margaret Clark: Section 2108 is key - elaboration of criteria is important. What is a responsible amount of oversight by a state?

Beauchemin: Once the national program is in effect, there is mandatory accreditation of private certifiers. If states also require registration, is this a higher standard - what is the need?

Clark: for the state, the issue may be enforcement.

Beauchemin: private certifiers are willing to register who they have certified, where the acreage is, etc. If the registration goes further, there is a problem.

Presentation by Michael Hankin:
I would like to go back to DC with some decisions and consensus so that the staff can get going on the program.
I have some responses to offer to questions and concerns raised by Robert Beauchemin:

Can states develop their own accreditation: no, accreditation reserved for USDA - certifiers operating on a national level. How a certifier does business not the certifiers standards (beyond the national) will be the focus of accreditation.

States can do registration of certifiers but for purposes of doing business within the state not evaluating your capability.

If privates are certifying for national program, the states can not throw you out. If privates are working for the states, that is a different relationship.

Concerning Texas requirements: if the state expects private certifiers to prove equivalency to their standards, then this would be problematic - needs to be considered carefully and a position developed.

USDA has asked the NOSB to develop the criteria to evaluate the state programs. States additional standards have to be consistent with the title - does it meet the intent that the board has set up for the national program. If state programs did not change organic standards but had perhaps regional requirements which are stricter, this would not be considered restrictive.

Until there is a national program, the states may be free to do what they want with their requirements.

The states can not judge the national program, if they do the USDA may have to challenge them in court.

Comments:

Michael Sligh: one area that needs careful attention: when registration is being used as a barrier to trade by the amount of registration fees and registration forms and documents required.

Michael Hankin: registration by states would not have to be approved by USDA but if they received a complaint, the USDA could step in and look at the registration requirements.

Michael Sligh: Could the NOSB be proactive about this in developing criteria for state programs?

Nancy Taylor: How would you see the higher standards of states in relation to imposing trade barriers?

Michael Hankin: both state or private agents would have to certify to the national standard if product carried the federal seal (or language.) If the producer wanted to carry the State seal, they would have to fulfill higher state requirements.

Miles McEvoy: In my opinion, the commerce clause can not be used in regards to state registration of certifiers.

Presentation by Tim Sullivan of FLAG:

We have to continue to look at the big picture - we are going to get buried as we move into the day with the complexity of the issues. We need to keep referencing back to the whole.

Purpose of the law:

1. establish uniformity in the marketplace - it is a consumer law. The consumer needs to know if that the label organic is meaningful.

2. to provide for interstate commerce: also consumer issue and trade issue - federal going to move in for consistency.

A federal program is where it all starts - it is a whole. It is a pitfall to pull apart state and federal programs. There is delegation by the federal program to a state willing to take on responsibilities. Additional standards will be very problematic. Additional standards have to be consistent with federal program. First step for the state is to apply to the USDA. The additional standards issue has to be worked out in the initial approval process. It will be the Secretary who will decide this issue - will these additional standards be consistent with
federal program or will they impede the federal program.

Heart of organic process is the certification program: accreditation under the act guarantees the integrity of the process. There are only two kinds of entities that can be certifying agents: states with an approved program and privates. The organic program is built on this idea of a partnership between the federal government, the states, and private industry.

Additional standards should be a State resources issue not definition of organic; and monitoring and enforcing who does business in their state.

If states have additional standards, how does that fit into the accreditation scheme: additional standards have to be approved by the USDA. State programs will have a monitoring part of the program - can suspend certification. Ultimate authority has to be with the USDA because of basic structure and because of the tension of competition between state and private certifiers. If states accredited, they would be accrediting themselves. The states have to be accredited in addition to getting their program approved.

Question from Bob Quinn: what is the difference between a state program and a state certifier?
Tim Sullivan: two categories of certifying agents: governing state official (when they are a state program) and private individuals. OFPA imposes the structure. If a State wants to be a program, they apply and then if they want to certify, they need to get accredited.

Comments:
Michael Hankin: until a national program is in place, there can’t be approval of state programs. But, I had assumed that the states could apply to be certifiers under the national program.
Zea Sonnabend: California has a state program, but does not do certification. Certifiers have to apply to state to do certification, therefore the state program would have to be approved first before the certifiers could operate.

Question from Rich Theuer: Elaborate on your statement about states rights on resource issues.
Tim Sullivan: Water, for instance, is a resource which some states might have to protect for the benefit of their state. Requirements for one state may not even be necessary for another state. Additional standards will be most problematic especially in terms of consistency.

Question from Zea Sonnabend: would a state apply for accreditation if they don’t have a certification program?
Jay Friedman: no, the federal government standards would preempt the state standards if they don’t do certification.

Question from Robert Beauchemin: law mentions in section 2108 - States may submit a plan for a state organic certification program. What does this mean? Is California law a certification program?
Jay Friedman: no. State program and certification programs can be different. State governing official can chose not to have its own program, but to do certification within the state for the federal program. States can have agents who implement their own program but would not have to be accredited. States are treated different under other federal laws than private entities.

Question from Michael Sligh: I am confused about three ways to be agents under the federal program—could someone provide an explanation?
Jay Friedman: Under section 2108 - 2 implementors of federal program. But, state programs also have implementors. State programs have to be approved.
Tim Sullivan: Jay’s interpretation rests on the view "if applicable." I think if applicable means that if the state has an approved program. State program is
a delegation of the federal program.
Jay Friedman: rulemaking authority is delegated to the State - they have the same authority as the USDA.

Comments:
Rich Theuer: There are obvious legal issues relating to this - this has to generate into work - critical work: what the committee has to recommend the criteria for state program. We have to have standards to recommend to the Secretary. We have to develop a program for accreditation. What work do we have to do to provide decent input to the Secretary.

Jay Friedman: there are minimal differences in our recommendations for state and private, but additional rules for inconsistencies resulting from additional state standards will be needed.

Bob Quinn made a motion to develop committee recommendations to Secretary on criteria for approval of state programs compatible with criteria of 2108 and purposes of Act. Nancy Taylor seconded the motion and the Committee unanimously approved the motion.

Presentation by Hal Ricker:
The USDA is not clear about position on use of logo - looking for guidance and recommendations from committee.

Comments:
Rich Theuer: in processing, this issue had come up with suggestions that for exporting a USDA seal would be helpful, while others think that it will be crazy to do this. In labeling recommendation developed by the processing committee, it would be optional to use USDA logo.

Michael Sligh: do certifiers in the room want producers to use their individual logos? Show of hands in favor of question.

Comments:
Diane Bowen (Executive Director, CCOF): Our certification organization depends on the use of the label. What does the label mean: does it mean certified to federal standard, or to the certification organization’s standards.
Rich Theuer: use of private seal would be left to the discretion of the certification agency.
Margaret Clark: let's agree to use "shield" for USDA and "seal" for private certifiers.
Hal Ricker: to use USDA shields there is usually continuous monitoring by the government - I am not sure if once a year inspection would be adequate under the current practices at USDA.
Michael Hankin: in development of audit trail - identification through words or shield who did the certifying. In processing, it would be the last certifier of the processor.
Margaret Clark: as a retailer, I would like to see that.
Michael Hankin: USDA will keep a list of certifiers and what the products they certify.
Rich Theuer: a numbering code, like FSIS uses, may be used to identify the certifier. Public comment from Tom Harding in the past has recommended that the USDA shield and private certification seal be combined.
Hal Ricker: we need to know the criteria for allowing the additional seal.
Michael Sligh: our role is to say what are the responsibilities of the certifiers to identify the producers they certify.
Ted Rogers: protecting the integrity of the shield becomes one of the responsibilities of the certifier.
Margaret Clark: let's clarify the questions the committee has to address.
Bob Quinn: Use of a shield or a seal? Identification of who certified the producer? I recommend - Use of shield or seal is optional but identification of the certifier should be mandatory.
Michael Sligh: Might be useful for Hal to finish if he has additional points.

Is an organization required to put their name on the label if their grower had not meet higher standards?

Nancy Taylor: If they don’t use an identification like a shield or seal, then identification of certifier is critical.

Rich Theuer: In regard to aspect of requiring certifier’s name to be on the label - After implementation of the law when there is a national meaning to the law that is protected by USDA - is there the urgency to have an certifier identified on the product. If certifier gives names of those certified to USDA, then why the additional info on the package.

Nancy Taylor: For the consumers, it would provide information which has been requested by some of those in public testimony.

Bob Quinn: If you put your name on something, it puts you more on the ball.

Margaret Clark summarized discussion: Identification of certifier should be required. Use of shield or seal optionally allowed. We don’t have a definition of what the seal stands for.

Bob Quinn: Once the accreditation and certification is in place, and we get in the realm of enforcement, this would be a federal process.

Hal Ricker: Depends on the nature of the problem. Some problems could be handled by the certifying agent.

Michael Hankin: Different levels of enforcement - taking the product off the shelf and taking the farm out of certification.

Presentation by Katherine DiMatteo, Executive Director OFPANA:

I have been asked to present a short history of accreditation. Some of my comments may already be familiar to you.

The concept of accreditation and certification exists outside of the organic industry - we are not inventing new processes here. Other industries regulate themselves through quality assurance programs, registrations, and certification programs. The model used in the writing of the Act was based on the accreditation system used by universities and colleges.

The use of a certification program for the organic industry was introduced by farmers who were concerned about fraudulent products. Their concerns 10-15 years ago were based on their strong beliefs in the organic system being a superior system and one which would improve the health of the environment, particularly the soil. As competition and price grew in the organic market, then there was also concern about fraudulent products which would compete with true organic products for price. The certification organizations, as you know, all developed according to different styles and organizational structures.

In the mid-80’s, as the demand for organic products was increasing a number of people in the organic movement (or trade) came together out of a common concern that there needed to be a set of guidelines to keep consistency in the organic production standards and certification decisions. This group of people formed OFPANA. The primary purpose was to create these guidelines (the NOSB received a copy of this document last year.) The guidelines were written in 1986, revised in 1988 and are undergoing further additions/revisions now. The guidelines include a section on certification procedures.

The manufacturers who used multiple ingredients in their products urged OFPANA to develop a system for equivalency among the certifiers because sourcing was becoming a problem. OFPANA developed our logo then (the check in the circle) which was envisioned as a universal seal for organic products. But, getting agreement or buy-in to the program was difficult. At the same time, members of OFPANA, Judy Gillan and Joe Smillie, began to work with IFOAM on their idea for an approval of certifiers. Judy actually was the one to attach the name "Accreditation" to the process.

The rest is current history: the OFPANA Label Mark program never happened, IFOAM
has initiated their Accreditation program this year; and the Organic Foods Production Act of 1990 was passed (with support from the organic community and industry) to provide the enforcement that was not happening within the industry.

With the bumpy road that the Act has had in getting implemented, there have been a number of suggestions for the industry/community to take up regulation ourselves. OFPANA had earlier imagined that this would be a service we could provide as a trade association. Our objectivity would come from having a broad-based membership instead of just one sector of the trade. But as an organization we have put our support behind the implementation of the Act, and will not pursue creating an accreditation service unless the Act is never implemented.

Presentation by Diane Bowen: Here is my image of the relationship between the USDA and the state and private certification programs/standards. I’ve put it into a diagram to help myself see it more clearly.

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accreditation
state certifiers
private certifiers
private additional standards
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Private additional standards would automatically be examined through accreditation process. Could theoretically certify to OFPA, and certify (if engaged) to certify to state standards, and to their own additional standards (if approved)

Question from Michael Sligh: are private certifiers allowed to have additional standards? Can I have some comments.

Rich Theuer: I would not say standards but could have additional requirements. Private certifiers can not withhold certification to OFPA, if the producer complies, but could withhold use of private seal, if producer did not wish to meet additional requirements.

Bob Quinn: accreditation process is not going to approve additional requirements, just verification that it is in line (consistent) with the OFPA. It’s not an approval - they will only say if you have done it wrong.

Nancy Taylor: I see different relationships than in Diane’s chart. Private certifier if operating for the state, then accepted by the state.

Ted Rogers: In regards to additional standards, it is the perception of department (USDA-AMS) that they will have nothing to do with them until they come into conflict with the OFPA.

Michael Hankin: Please note some instances of standards and requirements.

Zea Sonnabend: OCIA requires full farm conversion - this is a standard. The CA state law requires certifiers to disclose names and addresses of all those certified - this is a requirement.

Maine could have an additional standard like no copper based materials because of regionally high copper in soil but would not keep out products grown in other states with copper materials.

Michael Sligh: states could have additional standards and private certifiers could have additional requirements.

Rich Theuer: if states would do it, it would not be allowed but private certifiers could do it for use of their seal.

Michael Hankin: We need to keep in mind the consumer point of view and intent of legislation. The more seals that we allow to define organic, the more we get away from the intent of the law and confuse the consumer.

Robert Beauchemin: one of the most consistent group coming to the hearings is the chemically sensistive group - if we don’t allow for higher standards, then how to reconcile to the requests of this group for instance. Where is the middle ground: this is so pure that you can’t afford to buy it or organic to a minimum standard. If we don’t permit this niche in the market to evolve, we will have conflict.
Michael Hankin: can't it be done through the label of the producer rather than at the level of the certifiers seal.

Robert Beauchemin: this is only one example, there is also the Biodynamic seal.

Margaret Clark: can someone on committee work on wording for a recommendation about private certifiers and the use of their seal?

Michael Sligh: why would we do this?

Margaret Clark: for purposes of clarity.

Tim Sullivan: do we have to move into this issue of additional requirements and use of the seal or just leave it as a private relationship between certifier and those who use their seal. Stop at: let them use the seal. Don't get into criteria for additional requirements.

Bob Quinn: as long as it is not in conflict with the law.

Michael Hankin: if we allow the private certifier to have additional requirements for use of seal, the private certifier could not refuse someone to the OFPA. we are requiring for audit that the name of certifier appear on the product -- would that be in conflict.

Bob Quinn: very different, not a conflict.

Rich Theuer: labeling issue - does this committee want to review processing committees recommendation and add/edit it to fit needs of this committee?

Nancy Taylor: add to labeling recommendation that indentification of final product certifying agent is required. Motion: Use of private certification seal is optional at the discretion of the certifying agent to identify product that meets the certifiers additional requirements.

Zea Sonnabend: could be misunderstood - may not have additional requirements, but may allow the use of the seal.

Michael Sligh: if it is at the discretion of the certifier - why do we need to go further.

Tim Sullivan: no legal problem with a relationship between a business and its client. This language will bring trouble.

No second on motion.

Presentation by Eric Ardapple-Kindberg:
On behalf of the Ozark Small Farm Viability Project and others, I propose that in the accreditation program there be localized peer review panel in six regions. Our original proposal suggested peer review panels in each state, but we would like to ensure that there is quality and consistency in the peer review process, so we have accepted this compromise.

Peer review would be composed of 6 regions with one representative per state and one from USDA. Nominating process: can nominate organic producers, handlers and certifying organization representatives. Election is by organic producers and handlers. Each state elects its representative. Accreditation application is sent to USDA who then sends it out to the regional peer review panel.

Diane Bowen: Who runs election?
Kindberg: USDA would run the elections.
Bob Quinn: everyone would have one vote?
Margaret Clark: at regional level, each state would have one vote?
Michael Hankin: why an election?
Kindberg: fulfills criteria established by the board for decision making. If the peer review was on a more local level: you have more information on the track record of the certifier but there is strong concern about clanism -the regional peer review adds a balance of opinions. There is a national peer review panel in this proposal = all 50 members.

Presentation by Katherine DiMatteo: Executive Director, OFFANA:
Within the models presented in draft 7.1 and the model presented this morning, there exists the components for a practical and effective peer review process that meets the mandate of the Act and the needs of the organic community.

There are several points that OFFANA feels are essential in creating the
accreditation program, particularly in regards to the peer review process.

1. There must be a national peer review panel to provide consistency, oversight- if there are regional peer review panels, to develop a professional group, and to give the U.S. organic program respectability and credibility in the international arena.

2. Peers are other certifiers and others who have a working knowledge of organic production and certification. The panel does not have to be a multiple constituency review group.

3. On-site evaluations of certifying agents needs to be mandatory. In the Codex guidelines for accreditation of organic certifiers, on-site evaluation is required. The U.S. program will want to be recognized as equivalent worldwide.

4. The application review is a rigorous examination of the applicant. Constant clarification of the application is done by phone and fax, which reduces cost. Through the review of the application, areas for on-site review will be determined. The evaluators will know what they want to examine before arriving at the certifiers office.

5. Evaluators should be trained individuals and should not just be USDA staff. Government takeover of a grassroots process is the concern of those opposed to the OFPA. The peer review and the on-site evaluation are the few areas where qualified private sector participation is possible.

6. The organic program should include training for the evaluators. There are not a lot of trained evaluators, the most experienced and professional are generally Europeans.

7. There is an important step missing from draft 7.1 and in any discussions I have heard so far: the posting of a public notice that X certifier has applied for accreditation. This gives everyone the opportunity to comment on the qualifications of the certifier. Complaints, personal experiences, compliments, etc. can all become part of the file developed on the certifier and used as part of the application review process. This is the best form of democratic public input - don’t leave it out of the process.

Robert Beauchemin: can the national peer review panel serve to review the certifiers who operate in more than one region?

Katherine: this seems an appropriate role for the national panel.

Presentation by Ted Rogers:
I would like to present some of the ideas we are working on as a department. We agree with a more regional or state by state approach for peer review. Negatives include the electoral nature, cumbersome nature of process, and cost.

We suggest using the six AMS regions, rather than the 4 in the SARE models. 2 representatives per region that would be 12 members on the panel, by some formula representative of producers, handlers and certifiers.

Function of the panel can be carried forward without face to face meetings. Roles to fulfill: to assist us in the review of the applications, writing of application report, assignment of observer per evaluation schedule. USDA staff would be the evaluators - either a member of the peer review panel or designees of the panel will accompany us on the evaluations. (pool proposed by peer review panel and approved by USDA) How Many? depend on how much the certifier is willing to pay. After the evaluation - evaluation report & application report distributed to peer review panel.

These ideas come out of our observations of the committee’s discussions and public comments.

Bob Quinn: how would you train them - the USDA evaluators?
Ted Rogers: being trained now - Julie, Ted and Michael Hankin.
Bob Quinn: how about financial/audit expertise?
Rogers: the role of the evaluators is to see if the certifiers can do what they say they can do.
Michael Sligh: I am concerned because all of our time is real valuable. Is our
advise relevant to the process that USDA will initiate? I get a sense that our work is not weighted equally with the work of the USDA staff.

Hal Ricker: we have a role as staff to propose ideas for you to react to. There is considerable concern about cost of program - the priority is for minimum cost to establish a program with integrity. We have people within USDA who can be drawn into this evaluation.

Robert Beuchemin: the way we design the accreditation process will determine the role of the peer review and the evaluation process. If we are designing it to be a box: here is who fits in and who does not. If we are designing a quality management system: we are deciding on shades of gray and then those involved would be more understanding of the process.

Rogers: evolutionary process - we want it to be an educational process which will be learned with the certification organizations.

Robert Beuchemin: this approach needs to be stated before we can talk about the models. Is the purpose of the accreditation to upgrade the quality of the certification system?

Rich Theuer: in the evaluation process, knowing how FSIS, FDA inspectors come to a plant, there are checklist of minor and major deficiencies but there are improvement factors which are brought out by that checklist and inspection. Do we get into a proposed evaluation form?

Rogers: we would tend more to evaluation criteria - which the committee has already written into their recommendation.

Bob Quinn: add fiscal estimate of cost of USDA working proposal.

Hal Ricker: we could come with an estimated cost.

Presentation by Hal Ricker on October 1 deadline:
Without a program in place or power to enforce, there is little they would/could do.

Question: Would Congress come back wanting to know why nothing in the program was done?

Ricker: nothing to enforce until there is a program.

Question: What happens to product labeled organic in the meantime?

Ricker: There could be a suit filed but otherwise nothing would happen.

Presentation by Tim Sullivan, FLAG:
I have dealt enough with USDA programs that are not implemented in time to know that it is standard procedure. This Act is distinguishable from any that I have seen before because this is a law that affects the citizenry at large. Creates legal liabilities. The law says that organic products sold/labeled after Oct. 1 must be certified by an accredited certification agency. How does the state laws fit into this picture? After Oct 1. - what happens to laws on the books for these states (since the federal law preempts that state law.) Any state law that exceeds the OFPA will be no good after Oct 1, 1993. When OGC gives this interpretation of the implementation date, they are thinking of the other programs which they have dealt with before, not the special characteristics of this Act.

Proposals: interim - no one likes it. We can't have a program on Oct 1, or even April 14, 1994. Options for interim: move something so accreditation can happen. Concern that a paper process only would get started. Danger that a skeletal program will take a life of its own. Suggests a strict short-term paper deadline. OR do all the work to get the program done as much as possible as a skeleton. First priority: allow certification organizations to do business.

Comments:
Nancy Taylor: guidelines in draft to start Phase 1. A timeline is put to that.

Rogers: what is going to drive the problems?

Tim Sullivan: there are a few states already causing problems.

Certifier X is very upset because State X is requiring all kind of things. Is it worth litigation? Or drop standards if they are higher?

Nancy Taylor: You could go with this phase 1 kick in. Accredit certifiers according to national law. Enhanced standards can not be enforced until.
date.
Tim Sullivan: enhanced standards is clear litigation problem.
Can states do anything in this arena after Oct. 1.
Margaret Clark: was it USDA's assumption that the publication process rather than Phase 1 accreditation would be enacted initially?
Michael Hankin: OGC felt whole accreditation program needs to be enacted.
Eric Ardapple-Kindberg: split out parts of the Act - get accreditation in the federal register. (many expressed agreement) The mandate from Congress concerning $500,000 appropriation for organic program is that the accreditation program get implemented. NOSB and USDA have to set a deadline to get this done. Another suggestion, Certifier X should be stalling to Oct 1 and then file a suit with a state for registration requirements.
Tim Sullivan: I don't want to see that happen.
Rich Theuer: what about getting date changed. NLEA had several delays. That might be a possibility.
Michael Sligh: drafted a resolution and sent it to the Secretary, stating that we would not meet our deadline - what happened to that? A press release came out saying that we are going to be delayed. Do we as an advisory board need to determine if something more formal can be done?
Michael Hankin: both the house and senate are aware that the deadline is not going to be reached. Extension of the deadline could be supported by Congress if asked.
Michael Sligh: is extending the deadline opening up the Act?
Michael Hankin: yes, could shut down the whole program.
Bob Quinn: important to set some dates. understood that final recommendations to board at meeting in September. Is that still feasible. Don't discuss interim programs - we will be splintering ourselves.
Robert Beauchemin: the certifiers in the private sector are being put in a very difficult situation - some businesses will get put out of business or will get out of organic. We might be seeing resolution just by seeing some momentum.
Nancy Taylor: put out a statement for when we will get done and ask the states to put their requirements on hold.
Rich Theuer: get list of requirements of the states and put them up against the law - find the sticking points and provide some direction to the criteria for section 2108.
Bob Quinn: some states going pell mell into an accreditation program. Can USDA ask the states to cool it - that their actions are counter-productive.
Hal: I don't know. but I can go back to OGC with the question. OGC would ask: how can we tell if the states are exceeding the law since its not fully developed. Until I know that the Senate is going to recommend appropriations, I can't say we will have a program.
Bob Quinn: concerned about how we best approach the states achieving the least amount of damage.
Michael Sligh: getting two opinions about the deadline & state programs - from Hal and Tim.
Ricker: needs time to think about it
Tim Sullivan: OGC does not fully understand what is going on here. When they do, they will help. State programs do not understand. When everyone understands, its best for everyone. Needs time to think about it. Get communication across and get a healthy dialogue.
Nancy Taylor: Would USDA feel it could get a memo out to the states - look at the law and hold off on requirements that will be preempted.
Ricker: it might be out of line for USDA to do it. Most states have locked at the law, have brought programs in line.
I am meeting with State Dept of Ag. delegates (marketing directors) week after next. Opportunity to talk about the program and what the effects will be in the states. 75 or 80 people will be there. I may also be talking to commissioners and secretaries of the State Dept. of Ags. also at their meeting at a later date.

Enforcement and appeals:
Miles McEvoy: the state will have the authority to enforce the federal law...
their jurisdiction. Who will do enforcement in other states where there is no state laws? Washington State has active organic program so they have staff round to investigate complaints that come in about organic labeling. Other states that don’t have adequate funding may not enforce the law for the federal government.

Michael Sligh: Is your $100,000 budget all from producers and handlers?

Miles McEvoy: yes

Michael Hankin: what is enforcement?

Miles McEvoy: label is enforced - products sold as WSDA certified organic is indeed in the program (protection of the seal.) Drift occurrence, fraudulent use of materials, sale in retail that is not grown under standards, out of state product that claims organic but not under a certification program, also internationally imported products. Doing a good job with produce enforcement, not as thorough with processed product.

Rich Theuer: a certifying agent from a private agency: do they report to the State if they find a producer that does not comply?

Miles McEvoy: It hasn’t been done but don’t know if any have been found in non-compliance.

Tim Sullivan: do you levy fines for violations, what are your administrative process and how do you see this working with OFPA.

Miles McEvoy: have not levied any fines, try to get volunteer compliance, get notice and can request a hearing, it found in non-compliance certification is revoked. Have not gone to a hearing yet.

Administrative appeals process is set in state law - send notice of intent, 20 days to respond, can have a hearing, administrative appeals judge, final review, could file a court claim and go through civil court with a judicial review. Federal appeals section is a little overwhelming. A lot of expense to send notice of intent to suspend certification, if it goes to federal court of appeals it could be even more expensive.

Presentation by Rod Crossley: member of CA organic advisory board. California is moving forward with their program because they feel the federal program will not be in place. Moving forward with 3 cases of fraudulent claims - up to $15,000 in fines.

Director (Paul Branum) may accept the national Act within the 30 days. If you have a complaint about the Act, the director must hold a hearing prior to the implementation of the law.

They think they will continue their organic program. Fully supported by fees to producers and handlers. Program is needed. No money comes with legislation from Washington, DC.

Clark: Could you talk more about this?

Crossley: Tens of thousands of organic acreage in California - too much at stake not to have a state law. Producers have been doing it for a long time and reluctant to switch over to federal law.

Diane Bowen: 23 complaints active in CA. 7 have been resolved. 3 will be announced publicly soon and have received notice. Can go to standard appeals process for state. Urge the NOSB or USDA to remember that the growers and processors are the backbone of the industry; and these state laws are protecting the growers now.

Rod Crossley: a lot of time has gone into making the California law effective.

Presentation by Tim Sullivan:

Enforcement: unusual aspect in this law - not unusual about state and federal government to be partners in enforcement - what is unusual is the role of private agencies in this partnership. Adverse determinations can be made about the state and private agencies, as well, as they are making decisions about producers and handlers. Process has to be very fast because prolonged appeals kill farmers. OFPA brings federal jurisdiction over the whole process. Has to include some kind of process which allows the decision-makers to review and determine final resolutions in the USDA. Appeals process in OFPA and standard federal appeals process needs to be looked at. There is authorization to take the appeals directly to the courts. That opens a wider door to review administrative
decisions. Lot of implications - a very broad thing.

Some fundamental points for appeal process: return to original decisionmaker - for reconsideration; if not resolved, how many more steps will there be. Will there be a state process or will we go directly to the federal process?

Comments:
Rich Theuer: FDA is waiting to get information from the Secretary about organic to apply to FDA regulations. Processors governed by FDA regulations will fall under organic regulations and appeals process.
Michael Hankin: Section 2120 c, 1 c: only time in the act it is not making a reference to state governing official. If there is an appeal to be held, it would go right to the federal.
Tim Sullivan: issues on independence of administrative review, fairness of the process is critical, fairness can not happen if the person who does the administrative review of the adverse determination is also responsible for making that determination.
Provision leaves procedures completely undefined but also gives parties express cause of action to use federal courts.
Michael Sligh: the more user friendly and independent this is, the fairer it will be. Where does it go in the USDS. (conflict of interest and independence) If AMS is the administrator and you go to the USDA for an appeal?
Ricker: There is an administrative appeals process in USDA - outside of AMS.
Rod Crossley: With a fresh fruit and vegetable violation: At what point are we going to stop him from selling fresh produce? during appeals process? Does the law/can the law put a stop order to sell organic?
Miles McEvoy: different process when taking action against producer or the process. revoking certificate: removing property right, (for example).
Ricker: we could provide you with more information. Perhaps, PACA process should be looked out. Department is year away from separate appeals division within USDA. Margaret summarized: important characteristics of an appeals process: expeditious, cost effective, fair.
Sullivan: look internally first at USDA - what is administratively available. then, look at phasing into the independent appeals process being proposed for USDA.
Nancy Taylor made a motion that the USDA come back with more information and then consider our options from that point. Existing internal procedures would be used as a model.
Clark: need an appeals section in our draft before it is released.

Rich Theuer made a motion that by the 15th of September we have the Department’s best effort to summarize existing appeals models. Analyze PACA first. Committee will prepare a draft by the time of the next meeting. Michael Sligh will pick a sub-committee. Seconded by Michael Sligh. Agreed by the committee.

Michael Sligh made a motion to adjourn the meeting. 4:45 PM.
The Committee meeting commenced at 1:20 PM.

Present: The Processing Handling and Labeling Committee met with the Materials Committee for the first hour. NOSB members present were Merrill Clark, Margaret Clark, Gene Kahn, Craig Weakley, Don Kinsman, Rich Theuer, Tom Stoneback, Gary Osweiler, Jay Friedman, Michael Sligh, K. Chandler, Dean Eppley, Nancy Taylor and Bob Quinn. All USDA representatives were present.

Michael Hankin of USDA presented an analysis of the provisions of the OFPA related to the National List of substances allowable in organic food handling. The contradiction between two subparagraphs of Section 2118(c), (A)(ii) and (B)(iii), provides justification to the NOSB to recommend to the Secretary that so-called "essential synthetic" substances required in processing food for human consumption be allowed in organic food. At the conclusion of the discussion of this point, the Materials Committee left to meet with the Livestock Standards and Crops Standards Committees.

General Processing Standard for Organic Foods Handling

The PHL Committee (Margaret Clark, Gene Kahn, Craig Weakley and Rich Theuer) reviewed the efforts of Craig Weakley and Rich Theuer, who identified those aspects of Good Manufacturing Practice (GMP's) used for conventional food processing which must be modified to be appropriate for organic food, as a simple means of communicating with food processors and to the Secretary the PHL Committee's recommendations for Organic Food Handling Standards. The proposals by Weakley and Theuer were slightly modified. Gene Kahn proposed the following definition of "organic integrity," which is critical to this approach:

For the purposes of this Act, the term "organic integrity" is defined as the unbroken chain of custody that guarantees that the identity of a 100% organic food or an individual organic ingredient remains out of contact with prohibited substances and non-organic foods or other non-organic ingredients of the same identity.

Craig Weakley will summarize the comments made in Committee session in a revised document. The Committee will review this document and discuss it by conference call to ensure that the comments of the Committee members are accurately reflected.

The next steps are to review the fresh food handling regulations (PACA) and the meat processing regulations by a similar process. Gene Kahn will spearheaded the fresh food handling regulation
review, with industry participations; the custody chain analysis has already begun. Don Kinsman and Merrill Clark will spearhead the meat processing regulations review; Kinsman already has prepared a brief summary which he will circulate to the Committee.

National List of Substances Allowable in Foods Purporting to Contain Organic Ingredients

The PHL Committee (all in attendance) discussed the mechanism and criteria for reviewing and evaluating "essential synthetic" substances. For criteria, Sections 2118(c) and 2119(m) of the OFPA apply. For mechanism, the criteria of Section 2118(c) will be applied first, giving effect to all provisions of the Act to the extent possible. This review would be accomplished first by the PHL Committee, for recommendation to the Full Board. The Committee will revert to applicants seeking approval of substances which do not meet these criteria, communicating this fact and indicating that the Committee does not intend to submit these substances for inclusion in the National List.

Merrill Clark expressed her beliefs that allowing synthetic substances in processed food labeled as organic goes beyond the letter of the law, that organic processed food should not be compromised with synthetic substances and that processing of organic foods should be restricted to simple processing procedures which do not require the use of synthetic substances.

The PHL Committee discussed with USDA representatives the information requirements of USDA for the National List of substances allowable in handling. The categories of foods and food uses in 21CFR170.3 meet USDA requirements for specifying which foods and which uses are appropriate for substances to be permitted on the National List. These categories also facilitate meeting the requirements established by the Materials Committee for submission of substances to the Technical Advisory Panel.

The PHL Committee briefly discussed the sulfur dioxide exemption that the Committee considers appropriate for "wine made with organic grapes." Sulfur dioxide is a sulfiting agent. Sulfites are prohibited ingredients in organic foods. Therefore, for this exemption to be possible, sulfur dioxide must pass through the National List review procedure mechanism. The Committee so moved and passed this motion.

The PHL Committee discussed the concept of "availability." "Availability" has many dimensions, including the number of suppliers of the substances, the relation between supply and demand, price and quality or grades. Craig Weakley commented that economics should not be a criteria for determining availability; Gene Kahn expressed the opposing point of view. To help eliminate informational impediments to the awareness of what
substances are available in organic form, USDA expressed its intent to create an information bank of available organic substances from feedback and surveys of certifying agents.

Other

Merrill Clark raised the issue of pest management in organic handling and processing operations. To supplement what is already in the Organic Handling Plan requirements, she will prepare a draft drawing on the documents circulated within the Committee by Merrill Clark and Rich Theuer earlier this year.

Rod Crossley of Health Valley Foods protested the Committee's labeling draft document due to procedural issues. The Committee noted that this document was presented to the full Board in Pennsylvania in May and that several individuals from industry provided extremely insightful and relevant comments which the Committee, in fact, responded to favorably during its meeting on July 8.

The Committee adjourned at 5:30 PM.

Richard C. Theuer, Chair
Processing, Handling and Labeling Committee
National Organic Standards Board
Minutes approved by Committee, October 26, 1993
NOSB ACCREDITATION COMMITTEE

JULY 10, 1993

Committee Members Present:
RICH THEUER, JAY FRIEDMAN, MARGARET CLARK, BOB QUINN, NANCY TAYLOR, MICHAEL SLIGL.

ALSO PRESENT: TIM SULLIVAN, TED ROGERS, MICHAEL HANKIN

Margaret Clark opened the meeting with a committee discussion concerning state laws in reference to higher standards. Purpose of the discussion - developing criteria for state standards and approval of state programs:

Suggestions:
Rich Theuer: state resource protection/use is one such criteria, are there others? Compare state programs to identify differences between states and feds and states & states.
Bob Quinn: poll the states - ask them what higher standards they might want to include.
Jay Friedman: look at the laws currently in place in the states.

Michael Sligh: would it be appropriate, if there could be potential problems between the states and the federal laws, for us to be very decisive in our recommendations to the Secretary?

Comments:
Tim Sullivan: Act was drafted to allow states to do state programs, but also discretion given to the Secretary, rather than look at it as states rights to have standards, it's delegation by the secretary.
Jay Friedman: Secretary's discretion has to be controlled by states rights. Rich Theuer: options: we (the NOSB) could do nothing - the Secretary will make his own determination. OR, we could do something but does it have any impact on what the Secretary does?

Comments:
Jay Friedman: if state approval process is different from accreditation, then the Secretary has a lot more discretion - he does not have to take a recommendation. Tim Sullivan: the NOSB has relatively little influence on the Secretary in this particular area.

Michael Sligh: in our priorities, where does this fall? Are we better for having made some criteria, then not at all? Do we send out for comments, do we poll?

Comments:
Jay Friedman: Write to NASCA, express concern about relationship, seek their advice about relationship of the state programs to the federal law.
Bob Quinn: I agree, ask for suggestions about how state approval program would look. how many are going to participate in a program that is different from federal.

Michael Sligh: can we craft some language to send with Hal Ricker next week?
Ted Rogers: Ricker will be meeting with the NASA marketing people in July and the full NASA meeting in September.
Margaret Clark: NASCA may tell us that the States have every right to accredit.
Nancy Taylor: do they have enough information to make a judgement?
Jay Friedman: there is a big political process that happens before these regs become implemented - knowing NASDA's point of view would be helpful - engage them in a dialogue.

This Question was posed to Miles McEvoy:
Miles' response: most states will wait to see what happens on the federal level. In Washington they will comply with federal and probably not add additional standards.

Margaret Clark: survey may be the best vehicle for information
Jay Friedman: what is the scope: preemption with a trickle of state entitlement or state can do what they want as long as they are in compliance with the Act?
Rich Theuer: accreditation committee has been given the responsibility of both state and private certifier issues.

Clark: priority of committee is recommending an accreditation program.

Ted Rogers: would it be helpful for staff to send a memo of guidance to the committee about recommendations for state criteria?

Michael Hankin: if Tim Sullivan would be working with Ted Rogers and Michael Sligh to work on something in writing - letter to NASDA, ready to accept the programs, developing the criteria for standards,

Jay Friedman: have a little difficulty with that - Tim has a view already about relationship between state and federal government. This will narrow the discussion.

Margaret Clark: committee has bought into this interpretation.

Jay Friedman: we have had no input from the states; without consulting them, a draft recommendation would be premature.

Bob Quinn: we don’t want to approve state programs ahead of the federal program. call for applications for the program is not what we want to do. Get input from those effected.

Michael Sligh: we would work on a draft recommendation for the committee to respond to - a beginning point.

Margaret Clark: also, something for the states to react to.

Miles McEvoy: states need to know in general where the standards are going and the general timeline; in addition to the work on accreditation.

Margaret Clark: we need keep perspective about what accreditation is.

Miles McEvoy: the letter (you are discussing) is trying to stop Texas and California from going their own way, ignore them and keep working on your program.

Michael Sligh: letter could come from USDA-we are getting ready to discuss the state programs- here are our ideas- how do you react.

Nancy Taylor: we don’t have to get involved in this criteria thing.

Clark: I would like to have Michael Hankin’s comments on paper -that would be helpful.

It was agreed that USDA would initiate comment on this particular project.

Michael Hankin: can I work with Tim Sullivan on this project?

Margaret Clark: ok with the chair – then USDA might decide to send letter to states.

Rich Theuer: a point of clarification - this committee would prefer that accreditation be a federal activity rather than a state activity - this is my position - not an opinion on Tim’s position.

Jay Friedman: the committee is taking a position that would ask the Secretary to take action which would go against Texas and California which are two of the largest delegations in Washington. We should be cautious about our actions and also the messages to the public.

Margaret Clark proposes: that since we have an application out for comment, USDA can take this application and turn it into a narrative form, and give it back to the committee for response.

Nancy Taylor: what is the purpose?

Margaret Clark: it serves the committee to get the information we need.

Michael Hankin: point of clarification- the USDA will take the application form, and publish it in federal register for comment.

Tim Sullivan: will we move on accreditation as a whole before everything else? is this discussion in context of that?

Margaret Clark: we did not resolve the questions of timing or moving parts ahead of the whole.

Tim Sullivan: I suggest that the committee come to consensus on developing an accreditation program which can be published in the federal register. Put out rules so process can start.

Margaret Clark: do proposed rules include request for information from all those who want to be involved?
Rich Theuer: Would this be a notice in the federal register for notice of accreditation?
Michael Hankin: it would spell out what accreditation will be - the proposed rulemaking.
Margaret Clark: is it also the application? would they then begin to respond to it by applying?
Michael Hankin: no, not fill out the applications but comment on the form of the applications and process.

Bob Quinn: I move that we make a recommendation to the board that accreditation process move forward separately from the entire program.
Jay Friedman: does this motion include state approval process, also? we still have questions about how states will be handled, we should not move forward until we have this resolved.
Bob Quinn: I would think we would move forward without resolving these issues.
Jay Friedman: I would not support favoring one sector over the other.
Bob Quinn: accreditation process and approving state programs are two different programs.

Michael Sligh: what are we suggesting: are we urging USDA to implement a component of the organic title - by putting the accreditation program in the federal register as a proposed rule, comments would come in (to whom) and then it would go out as a final rule.
Michael Hankin: comments come back to USDA, before it gets published in federal register again as a final rule, it goes to OGC.
Jay Friedman: accreditation committee is out of the loop once it goes to public notice.
Michael Hankin: point of clarification: once we finally develop the wording for the accreditation program, comes to the board and committee for final approval, before it goes to OGC for final review, from that point on the committee and board are not in the rule making, published as a proposed rule, comments come in to USDA, committee and board do not see comments, final rules then go out.
Margaret Clark: by September, we finish our draft, we give it to the department, USDA writes regulatory language - sections, subparts, regulatory references, introductions, etc., comes back to committee to develop final wording, and then after it goes to OGC as a final - the committee is no longer involved.
In September our work goes to full board, board approves - does it go out to public comment one more time?
Michael Hankin: because livestock would be having hearings soon, it would not be necessary to have public comment on recommendations from that committee. I would like to ask that the public comments on draft 7.1 suffice as the final round of public comment. The USDA asks for recommendation from committee and board but the USDA needs to be trusted to move it forward into regulations.

Proposed change to motion:
The accreditation committee concurs with the USDA intent to move forward with the accreditation program forward into the regulatory language.

Comments:
Miles McEvoy: the states will continue to develop their own programs in lieu of a federal program. Leave state program approval until there is a full program.
Move forward on accreditation.
Jay Friedman: please clarify - is it state approval and accreditation?
Bob Quinn: No, not state approval
Jay Friedman: then I disagree and would like to see them move forward together.
Michael Hankin: once we send proposed rules to OGC, the review may have an adverse or beneficial effect on a particular company. We can’t then talk about it because it would give unfair advantage.
Jay Friedman: is this board treated as a private party - I would like the board to be included in the review of public comment.
Rich Theuer: originally we were told that we were exparte once it went into rulemaking.
Question: what is exparte?
Answer: outside of the discussion.
Tim Sullivan: formal rulemaking process is the end of the committee’s role in recommendations. Assume all recommendations are taken into consideration before the rulemaking.

Bob Quinn: if this moved ahead, it would not be complete because it did not deal with the rest of the program. Are we saying now that accreditation does not have to wait for the rest of the program. Need a way to bring it along with the whole program – How?

Michael Hankin: when we go out with the final rules, it will go out with stars where incomplete.

Bob Quinn: it gives us an opportunity to see on a small scale how the big scale will work – build trust, see how it works, educate the full board.

Margaret Clark: agrees with motion but also agrees with Jay. Accreditation draft needs to define accreditation as a federal activity. If we define entire approval process – may not be necessary.

Tim Sullivan: also agrees with Jay, but understands the functional process that is making this necessary.

Nancy Taylor: explain approval and accreditation processes and how they are different – this would be valuable.

Jay Friedman: if you move ahead with the accreditation program without the states, you are creating an unfair condition for the states. If you put in something about pre-empting state law, you are opening up to litigation.

Rich Theuer: certifying agent, state or private, can put in their submission.

Michael Hankin: this is the department’s role not the committee’s role.

Rich Theuer: we can only do so much, there are things that the department does and things that lawyers can do.

Bob Quinn: private groups and states are on equal grounds because the rest of the program are not done. Everyone will continue as they are until the entire program is done.

Margaret Clark: Call the question: The committee recommends to the board that the accreditation process move forward in the rule making process separately from the total program.

favor: 2, opposed: 1, abstain: 3

Margaret Clark: I suggest we have private conversations, rework the language and come back for a vote.

Rich Theuer: wants to get from Jay why the state is not favored under this motion.

Jay Friedman: this motion does not move state approval forward (which is different from accreditation) once they are approved as a state program, they are a certifying agent. Can’t certify after Oct 1, 1993 unless you are accredited or approved – privates will be accredited, states will not be approved – unfair.

Michael Sligh: standards have not left station yet, accreditation program goes forward – how do they catch up?

Explained by the committee members as explained earlier by Michael Hankin. (Michael Sligh had been out of the room during that part of the discussion.)

Tim Sullivan: there are problems moving forward like this: identify where there are the greatest problems but then, need to take a stand based on assessment of risk/benefits.

Rich Theuer: don’t underestimate the capability of the department. there will be glitches, that’s why there are technical corrections. we will have our opportunity for comment before the final rulemaking.

Michael Sligh asked for reconsideration of the question. Rich moved, Bob seconded the motion. Jay objects to voting again. All others approved.

Michael Sligh apologizes for being out of the room. did you list out the pros and cons of this recommendation? is our rationale clear? here are our arguments for and against?

Margaret Clark: we will designate speakers for majority and minority positions.

Bob Quinn reread the motion: favor:5 opposed:1
Bob Quinn will prepare presentation to the full board.
Jay Friedman will prepare minority opinion.

Discussion of Peer Review Panels:
Margaret Clark: The peer review models in 7.1 are out for comment to the public now. No final recommendation can be made until comment period is over.
As a process, Margaret Clark suggested that each committee member go around and talk about their original proposals. Nancy Taylor has done some work on costs (see memo to the committee.)

Presentation by Nancy Taylor of her work on program costs. The number of calls and meetings will significantly effect the cost.

- Conference calls: 49 cents per minute
- Per diem $80.00 per day including room and board
- National $600.00 per person airfare
- Regional $350.00 per person airfare
- State $250.00 per person
- Postage $15 per person per panel
- USDA staff 22.50 per hour

Comments:
Margaret Clark: This cost estimate was done as a basis for comparison of options presented for peer review. Options come in very close to each other when cost basis is applied.
Rich Theuer: option A: no-starter based on public input
Margaret Clark: option B1: broad based constituent national panel. I like the elective model. I feel there is support for the regional panels but also feel that there needs to be national as well as regional.
Hal Ricker: option B2: national peer review - smaller group to meet for two weeks, willing to entertain some changes but keep numbers down and the cost down.
Michael Sligh: Option C: trying to balance cost with participation. key places in the law where the public has a hands on role to play. My model was the most extensive public participation and costly of the models. broader view of who are the peers. can be flexible about this. if you have a regional model, you have to have a national oversight.
Margaret Clark: model presented yesterday was similar to Michael Sligh's proposal. Cost needs to be looked into.
Michael Sligh: wants to empower the public to have a role to play. wants to debate whether consumers should be involved in the peer review.
Nancy Taylor: Option D: regional peer review with 4 members each. better understanding of regional environment and certifiers. one of each region will meet as the national peer panel - not necessarily in person.
Margaret Clark: is the entire accreditation process taking place within the peer review?
Bob Quinn: Option E: may be the cheapest but not maybe the best. like the idea of a national body for consistency. selected by the Secretary from a pool submitted by the regions/states/constituencies. waiving on consumer representatives - not peers, not involved in certification, don't have the expertise.
Option F: presented yesterday by Eric Ardapple-Kindberg in modified form.
Margaret Clark: I like to summarize the areas where there seems to be agreement in the models and take a straw vote:
- national coordination (all in favor),
- regional representation (all in favor),
- regional election (all in favor),
- constituency of the panels would be those effected [farmers, handlers (all in favor) certifiers (all in favor) state official of an approved state program (put aside for a following discussion)]

Rich Theuer: let's the use language in the law to describe the members of the
peer review panel: expertise in organic farming and handling wherever they are -
whoever they are. (21/17B) (all in favor) ****

Hal Ricker: peer review is an operating body - can't be too large that it becomes
an advisory board. public comment included all along the process - not necessary
in the peer review.

Nancy Taylor: peer review - we are not even considering the evaluators for the
second phase - this is additional expense.

Bob Quinn: could a peer review panel exclusively operate on conference calls?

Hal Ricker: it would depend on the panel - depends on paper that would have to
be provided for a call to work.

Margaret Clark: I suggest a change: use the language but specify producers,
handlers and certifiers. (all in favor)****

Discussion of the Committee's Workplan:

Rich Theuer: USDA will send us comments on the first and the fifteenth of the
month.

Margaret Clark: committee members please state what they see needs to be done.

Nancy Taylor: there is usually a 10 or 7 day turnaround - could it be 5 working
days for USDA to turn around documents?

Michael Hankin: would have to speak to Julie about that. would try to meet your
deadline.

Rich Theuer: This is a short timeline - to expedite the process, we should
circulate our sections to each other and USDA, don't rely on USDA or Margaret.
before the 15th of September it would be impossible for any documents to be done
- due to August vacation schedule.

Clark: The work that needs to be done: Peer reviews, appeals, state language in
accreditation document, glossary, question of approval of state programs and
language which defines difference between approval and accreditation, costing
peer review, statutory references.

Michael Hankin: don't base recommendations on any legal interpretations, base it
on opinion of the program as a whole, taken to OGC for legal review.

Margaret Clark: committee members will take up with the tasks they have already
agreed to.

Michael Sligh & Nancy Taylor: peer review

Michael Sligh: appeals

Rich Theuer: language, state approval

USDA: glossary

Margaret Clark: in accreditation application, there is still language which
confuses accreditation and approval. Is Jay willing to go through the
application to clarify the language?

Friedman: YES.

Clark will send 7.1 on disk to Friedman and USDA.

Nancy Taylor: 7.1 needs editing - for consistency.

Michael Sligh: one model from the public for peer review was presented yesterday
- have we heard from certifiers on 7.1?

Margaret Clark: there are several avenues for their input and the deadline for
comment has not passed yet. Can the OCC (Organic Certifiers Caucus) help put
together the certifiers thoughts?

Robert Beauchemin: OCC does not have the mechanism to come out with a consensual
position. Depend more on individual comments from certifiers. There may be some
common views held which can be presented. Certifiers are waiting to see it in
its final version before they respond. Those not following the complexities of
the issues, will feel threatened when the final draft is presented.

Pat Leonard: 3 decades of unregulated organic marketing - because of that, there
are cliches formed in the industry. When you (the committee) are looking out
there for comments, dig out the comments from those who are not vocal. Farmers
do not want to cross the certifier - because the certifier controls the farmers
destiny. Farmers go to the certifier who is the cheapest and the easiest.
Nancy Taylor: by the last week in July, there can be a draft on peer review - let's schedule a conference call that week. Draft will be sent to committee by the 12th. Conference call set for July 30th. 7:00 AM PST - 10:00 EST.

Jay Friedman: I would like to wait to redraft the language on the application as it applies to states until after discussion of state approval process.

Rich Theuer: State approval discussion - let's set a conference call August 6th and the drafts will be sent by Monday of that week.

Michael Sligh: Appeals - Let's do that on conference call August 6th.

Bob Quinn: If we can have a complete draft by September meeting, and if board approves next draft which is then sent out for public comment; then, a final recommendation could go to Secretary after next meeting (November?).

Rich Theuer: I thought there was not going to be another set of public comment.

Michael Sligh: do not agree - I would like to discuss this. Draft #7.1 was not a final draft - there were 5 options for peer review in that. Not fair to the public to circumvent their comments on the final draft.

Bob Quinn: I am going to propose that it does go out to the public.

Margaret: Let's put our motion to the full board as we had decided earlier. Could add an amendment when presenting to the full board concerning a final public comment period.

Bob Quinn: If USDA could put regulatory draft together by November, then both could be presented/voted at the same time.

Michael Hankin: this would be difficult

Michael Sligh: I would like to see a vote on having an additional public comment period (4, favor-2, opposed).

Margaret: I suggest we put "going forward" motion separately then discuss with full board the additional comment period. Committee agreed.

Meeting adjourned at 12:10PM.
WALTER JEFFREY

Kallium requested a soil biochemist, Washington State University (WSU), to complete a computer search on the effect of potassium chloride on soils. WSU's research found less than 25 publications [see attached handout] regarding this subject. KCl is not known to be toxic within reasonable osmotic ranges (i.e., -5 to -25 bars): Chloride acts as a nitrification inhibitor. WSU's conclusion is that KCl would have a beneficial effect on soils and soil life. Suggestions were put forth regarding replacements for langenite or naturally mined potassium sulfate, but it was determined that replacements are not suitable. Gene Kahn requested that Mr. Jeffrey document the steps of developing potassium sulfate. Craig Weakley asked Zea Sonnabend whether KCI has been reviewed by California Certified Organic Farmers. Ms. Sonnabend responded that a review has been initiated but she did not bring references to present to the Board.

TIM DEBUS (Registration Specialist, Mycogen Corporation) and DR. JERRY FEITelson (Manager, Department of Molecular Biology, Mycogen Corporation):

Mycogen's Bt product is the first and only genetically engineered product for crops to be approved by the EPA. [See attached handout.] The chemical fixation process destroys and fixes the P.f. cells encapsulating the delta endotoxin crystal within the walls of the dead cells. Mr. Weakley asked whether these are natural or synthetic substances and was informed that the gene is identical. This is a routine biochemical processes that occurs naturally. Bt genes could get into P.f. cells in nature, but this is extremely unlikely. The spore in the Bt cell is eliminated when the gene is transferred. The process to destroy the cell is to drop the Ph with vinegar (acetic acid). The "Cellcap" process was explained as a biochemical process using enzymes, rather than a chemical process. Processes that occur during recombination use the same enzymes that occur in all cells in nature. Whether or not phytotoxins from bacteria are a compatible synthetic under the OFPA is a question before the Crops Committee.

Benefits for organics industry:

Mycogen's Bt product has received an exemption from the establishment of a tolerance level by EPA, no residues are possible. The Bt toxin is highly pest-specific.
Brian Baker inquired as to what kind of precedent would be set if this product were allowed. Destroying cells turns the substance into a biochemical rather than a life form. Cellcap poisons the insects and stops the feeding, but it takes a day for the insects to die. Predators can feast on the larvae, since the insects are not dead but poisoned with a toxin that is not toxic to the predators. Mr. Weakley pointed out that the issue before the Board is really rDNA technology and asked whether any transgenic rDNA products are compatible.

DAVID HAENN (Ozark Small Farm Viability Project)

Only mushrooms grown on logs should be considered organic. (The conventional method of mushroom cultivation typically involves bins of sawdust.) Logs should not be treated for three years. Mushrooms have a high market value in Japan where they are perceived as producing health benefits. A $2 log can produce $15 worth of product. Mr. Haenn does not view shiitake mushroom production as wildcrafting. Spores for inoculation should come from a reputable source or be developed in a closet at the farm site. Mr. Haenn believes this is a good side industry for loggers: logs which would be junk could be sold to mushroom producers. Oystershell mushrooms can also be grown on logs. The real market is in dried or fresh shiitakes. The dried whole mushroom market is almost as big as the fresh market.

SMALL FARMER EXEMPTION FROM ORGANIC CERTIFICATION
Presented by Dean Eppley.

The Committee discussed the affidavit and declaration format. It was agreed that since a declaration does not need to be notarized, the declaration form would be used instead of an affidavit form. Julie Anton pointed out that as it has not been established that there will be a USDA seal; thus, the Committee agreed to change lines 27-29 to read: "A small farmer who sells or labels an agricultural product as 'certified organic' must be certified by a USDA-accredited certifying agency, as proclaimed in the OPFA." Ms. Anton also pointed out that the exemption is for farmers with $5000 or less in sales from organic and non-organic agricultural products, and suggested splitting lines 34-37 into two parts. Unanimous vote elevated this document to a Committee Recommendation to the Full Board #1.

PESTICIDE & FERTILIZER DRIFT AND MISAPPLICATION POLICY,
Recommendation to the Full Board #2

The Committee discussed revised version. Mr. Weakley described edits to the language made for clarity. Mr. Eppley pointed out that reference to "County official" does not apply in every instance as there are situations where a county or designation does not exist. Also, an abatement district is State-level. Ms. Anton inquired about the inclusion of Nancy Taylor's concern about notifying potential
drift applicators. Mr. Kahn and Mr. Weakley indicated that lines 71-74 are adequate to cover potential drift incidents as it would be too difficult to notify all potential applicators. The Committee decided to change "State or county agricultural official" to "public official." Mr. Kahn pointed out that the language referring to residue testing leaves discretion to the certifying agent. Mr. Weakley stated that the certifying agent must operate under the residue testing requirements of the OFPA. K. Chandler suggested adding "all appropriate expenses" to line 55. The issue of training of pesticide applicators will be addressed in a separate letter to the Secretary. Motion to approve was unanimous.

The Botanicals policy will be presented to the full Board.

MATERIALS TIMELINE

Ms. Zea Sonnabend summarized the discussion of Materials list that was presented at the May meeting and identified the following list of materials still in question:

- amino acids
- parahormones
- sunflower hull ash
- ash of all different sorts
- synthetic vitamins
- reclaimed water
- sewage sludge
- potassium permanganate
- insect growth and production inhibitors
- Mycogen Bt product
- leather by-product

Ms. Sonnabend suggested making the Allowed Naturals with Restrictions into an addendum. Tom Stoneback indicated that allowed naturals with restrictions would not have to go through the petition process but would have to be reviewed by the TAP. Uses beyond the restrictions cited would have to be petitioned. Mr. Kahn and Mr. Weakley expressed concern about a "Prohibited natural with exemptions" designation. Lynn Coody and Ms. Sonnabend suggested this would cause confusion in the grower community. Mr. Stoneback described current TAP process. Items that have universal agreement should be "fast-tracked." Mr. Kahn asked about the timeline for a response on the above-listed ten items. Ms. Sonnabend will work on synthetic and extraction definitions again. Mr. Kahn will work on other definitions and an interpretation document.

SPECIALIZED STANDARDS FOR GREENHOUSES
Presented by Zea Sonnabend
Ms. Sonnabend presented a draft from certifying agency standards that are present in effect [See attached]. Mr. Weakley suggested a "permanent" wall be utilized and Ms. Sonnabend noted that it is common in California to have a "split" greenhouse. Mr. Kahn noted strawberry transplants often start in greenhouses in Washington. Ms. Sonnabend discussed standards regarding potting soil mixes. Mr. Weakley inquired whether it was burdensome to require separate soil mixing machines wherein Ms. Sonnabend reply that it was burdensome. David Haenn stated there is a three-year requirement for site and that pasteurization occurs at 180 degrees. Venting of air from non-organic part of the greenhouse should be considered.

SPECIALIZED STANDARDS FOR MUSHROOM PRODUCTION
Presented by Zee Sonnabend

Ms. Sonnabend presented a draft from certifying agency standards that are present in effect [See attached]. Ms. Sonnabend stated that spawn is cultured in a laboratory environment and that organic spawn is not commercially available. Mushrooms are watered with chlorinated water during production/button stage. David Haenn stated that a closed environment requires so much sterilization that it could not be organic. Fungi take over a year to grow. The practices of harvesting logs should be sustainable. Mr. Kahn suggested that cryogenic storage of shiitake mycelium he allowed. Mr. Haenn suggested that a grower could make his/her own spawn; if the product is not sold, there is no need for government inspection. Brian Baker added that operations are certified, not sites. OFPA Section 2109(a) addresses seedlings. Mr. Kahn noted that Ms. Sonnabend's documents should be officially considered a literature search and not a working draft. Rod Crossley raised concern about a possible prohibition of cryogenic freezing. Mr. Kahn pointed out that the NOSB Processing Committee has endorsed cryogenic freezing.

Ms. Sonnabend briefly discussed maple syrup and tissue culture transplants. Mr. Haenn suggested that sorghum syrup, which is similar to maple syrup, be reviewed as well. Mr. Kahn asked Mycogen Corp. representatives for suggested technical advisors and was provided the following persons:
President of Invitro Society, Mike Horn; and
Plant Transformation Manager at Mycogen.

Mr. Kahn has received inquiries regarding early generation potato seed and requests input regarding this. Dr. Jerry Feitelson offered his services as a Committee contact. Mr. Stoneback suggested as an advisor for tissue culture research and asked to be kept in the loop on tissue culture discussion.

Mr. Kahn stated that tropical products shall be covered under generalized crop production standards. Ms. Anton suggested that the Committee look at coffee production standards as organic coffee is grown in Hawaii.
SPECIAL REQUIREMENTS FOR CERTIFYING AGENTS
The following suggestions for the NOSB Accreditation Committee were made by Committee members:

1. Restrictions on inputs compliance;
2. Minor infractions;
3. Whether inspectors can be growers and whether growers can sit on certification committees;
4. Thorough and comprehensive knowledge of organic farming.

Mr. Kahn stated that he did not see a reason for the Committee to pass judgment on a certifying agency that includes growers in its certification decision-making process. Miles McEvoy stated there may be many different models for certification programs; i.e., agricultural inspectors may be used. Mr. Weakley inquired whether or not there should be a general continuing education component. Mr. McEvoy explained how Washington State's Department of Agriculture sends inspectors to pest control seminars in order to keep informed. Mr. Weakley suggested some general recommendations for certifying agent qualifications: (1) knowledge of organic farming; (2) familiarity with organic laws; and (3) annual continuing education. Mr. Kahn will summarize this information in a letter to the Accreditation Committee.

ORGANIC FARM PLAN

Mr. Weakley suggested that the Farm Plan include required components only, following the Processing, Handling Committee's handling plan. The following language was inserted by the Committee at line 67: "Essential components of all farm plans." The Committee decided to integrate livestock concerns into preamble of the Farm Plan and add a livestock questionnaire to the end.

CODEX
Discussion of Codex was postponed as Bob Quinn, International Committee representative, was not available for a presentation.

DEFINITION OF ORGANIC
Mr. Weakley expressed opposition to participating in defining the term "organic." Mr. Kahn addressed the term "organic" in that it means grown or handled in accordance with the OFPA. Mr. Chandler pointed out that in the scientific community, there is a real need to define organic. Mr. Weakley prefers not to develop a definition of "organic" without the full participation of the organics community. A simplistic definition of "organic" was determined to be satisfactory among all Committee members.

REVIEW OF COMPREHENSIVE DOCUMENT
The Committee decided to reorder the components of the comprehensive document prepared by Joann Stewart.

Reorder:
1. Organic farm plan
2. Split operations
3. Inputs for organic crop production
4. Botanical pesticides policy
5. Planting Stock Policies
6. Residue testing
7. Emergency spray
8. Drift policy
9. Small farmer exemption

The definitions will be listed alphabetically, with the OFPA definitions separated from the Committee definitions. Interpretations of the OFPA definitions will be presented. The Committee determined that other definitions which should be included in the comprehensive document are:

synthetic
extraction
restricted
allowed natural
allowed synthetic
prohibited substance
split operation
prohibited substance
commercially available

WORKPLAN

1. Definitions - defined in conjunction with other NOSB Committees

2. Materials to be addressed by Committee before sending to the TAP

   Ash
   Mycogen-type product
   -- killed microbial pesticides
   leather by-product

   [Do not need to work on potassium sulfate.]

3. Work on wording for arsenic restrictions.

The Committee is waiting to receive summary position papers on cotton defoliation. CCOF will provide a description of the issues regarding cotton
defoliation. A representative from the National Cotton Council stated there are production practices that can help use less synthetic pesticides. Regions where there is no early frost do not experience defoliation problems. California and Texas typically do not experience early frosts. Names have been submitted by the National Cotton Council for technical advisors.

Soil improvement guidelines need to be addressed. Ms. Sonnabend has submitted suggestions which will be reviewed.

The Committee briefly discussed brand-name guidelines for certifying agents. Mr. Kahn requested that certifying agencies who handle brand-name requirements provide written input.

The following items are listed according to the priority in which they need to be addressed by the Committee:

1. Farm plan
2. Inputs
3. Definitions
4. Specialized standards
5. Consolidation
6. Soil improvements
7. Brandname guidelines
8. Cotton defoliation

August 16 was set as a deadline for developing the following documents for full vote at the Board meeting in September:

1. Integrated farm plan
2. Inputs resolution
3. Soil improvements
4. Definitions

Conference Call agenda:
Specialized standards issues [Julie will make list of issues]
Brandname guidelines
NATIONAL ORGANIC STANDARDS BOARD

Minutes of meeting July 11, 1993

Members present: Michael Sligh, Margaret Clark, Eugene Kahn, William Friedman, Craig Weakley, Merrill Clark, Nancy Taylor, Richard Theuer, Gary Osweiler, Donald Kinsman, L. Dean Eppley, E.K. Chandler, Robert Quinn.

USDA Members: Harold Ricker, Michael Hankin, Julie Anton, D. Ted Rogers.

Chairman Michael Sligh opened the meeting at 8:10 and presented an agenda for the meeting which was accepted.

A discussion was initiated concerning the recording of minutes during the Committee meetings. It was decided that the Chairperson would have the discretion to either seek volunteer help or request a Committee member to accept this responsibility. If neither option is available, then a USDA staff person would record notes using a laptop computer if possible, and provide the Committee chairperson with a disk of the draft notes. A motion was made to accept this proposal and the proposal was approved.

The next topic of discussion involved the possibility of USDA preparing an outline for the proposed rules. It was suggested that each Committee chairperson should supply USDA with a workplan before July 16, and that USDA would attempt to provide the Board with a regulatory outline for discussion before September 15. The proposed outline will be placed on the agenda for the September meeting. A motion was made to accept the proposal and the proposal was approved.

Discussion then moved to the dates of the September meeting. It was decided that Sunday, September 26, will be a travel or tour day, and the Board meeting would commence on September 27 and continue through noon on September 29. The full Board will meet each day and Committee meetings will be held, if necessary, at night. Public input will be on Monday afternoon. The Board meeting will tentatively adjourn at 3:00 on Wednesday. A motion was made to accept the proposal and the proposal was approved.

Establishing possible future meeting dates after the September meeting was then considered. The first week of November (1-4) in Texas or North Carolina was tentatively approved for the subsequent meeting, with the next meeting possibly held at Asilomar in January either before or after the Conference (January 19-22, 1994).

After a brief discussion and agreement by all persons involved,
it was decided that the Executive Committee would examine USDA’s request to modify the working draft and position paper protocol (in order to make more staff time available for program writing) on the next Executive Committee conference call.

Processing Committee Report
Rich reported that they received good input from industry on drafts and subsequently made revisions in the Committee. Many were opposed to having the percentage organic declaration on the principal display panel. The Committee presented its proposed Board draft recommendation for food labeling and percentage declaration. The need to redefine the scope of the recommendation to foods containing multi-ingredients, as compared to fresh produce, was stated. Also debated were the requirement that the certifying agency and its place of business be identified on the information panel, and the need for certification for organic processors producing foods with less than 95% organic ingredients. Some organic industry representatives have expressed their desire to have certification identification on foods containing 50-95% organic ingredients. Since the Accreditation committee is also discussing the use of certification statements and seals, this issue will be discussed at a later date by the joint Committees.

The following revisions to the labeling document were discussed:

For the calculation of the percentage of ingredients:
1. (b)3 add "if water of reconstitution is included in any part of the ingredients, it has to be considered for all."
   K. Chandler suggested that on page 1, to strike under l(c) "or a similar phrase,“ and the Committee and Board concurred. On b(3) after the comma, add a phrase after "concentrates" to read, "in that food."
   Page 2: 2(b)4 - No percentage on principal display panel.
   Point number 5 - No percentage declaration.
   Add a new Section G: Name and place of business of certifying agent, who certifies the handler shall be included in label information panel. Using words "certified by (FDA code)" in lieu of the address is permissible if the address can be found in the phone book.
   50% or more organic: deleted prior terms so now can "made with organic ___" can be stated on principal display panel.
   For d3, refers to organic certified by USDA certifying agent.
   Last page, point 5(a) defined ingredient and processing aids.
   All ingredients have to be identified.
   (b) Going for full disclosure label.
   K. Chandler responds that full disclosure stifles free enterprise, and Gene Kahn believes that full disclosure releases recipe.
   Vote on (b) by the full Board: 4 Yea; 6 No; 4 absent.
Vote on 5(a): 9 Yea; 1 Abstention; 4 absent.

Sections 1 and 5(a) of the labeling draft recommendation were approved. Sections 2, 3 and 4 will be reconsidered by the Committee to further develop the proposals regarding spice and flavor identification and the need for certification of producers of the various categories of foods containing organic ingredients.

Livestock Committee Report
The Committee presented its position paper on livestock sources. This paper briefly discusses the sources from which breeder, slaughter, dairy, and poultry stock should originate. It was agreed to substitute "organically managed" for "raised," throughout the document. The paper was accepted by the Board (13 Yeas with 1 No) as a draft recommendation, along with the inclusion of a minority statement regarding the possibility of producing organic beef from an animal fed organic feed for only a 12 month period (similar to the milk provision for dairy). At the request of USDA, the recommendation will be held from being mailed for public comment until the status of the livestock hearings is determined by USDA.

Materials Committee Report
The Materials Committee will be moving at a faster pace now to acquire the background information necessary to prepare the National List, including formation of the Technical Advisory Panel. The NOSB Committees will provide lists of substances with relevant usage information on each substance to the Materials Committee by September. USDA, in co-operation with the Board, will begin selection of the Advisory Panel members and develop guidelines under which the Panel will operate.

Kay Chandler will be working with the Association of Agricultural Control Officials to propose rules for using the word "organic" on the label of fertilizer packages.

USDA will supply some available information on botanicals to the Board for their initial review of botanical usage in organic production.

Crops Committee Report
Dean Eppley presented a draft of the Small Farmer Declaration which would be required for farmers selling less than $5,000 in agricultural products annually. The declaration indicates awareness of provisions in the OFPA of 1990 and would be filed with accredited certifying agencies. The draft was accepted with amendments that States could issue additional requirements and that the small farmer exemption did not allow these products to be sold for use in certified organic products. Vote: 9 Yea; 2 No; 1 Abstention; 2 Absent.

The draft recommendation on drift and misapplication of
fertilizer and pesticide was presented by Craig Weakley. The sections concerning required actions by producers and certifiers and the status of affected agricultural products were accepted. The section requesting Federal indemnity for losses was removed and will be submitted as part of a separate document. The vote to adopt as a draft recommendation was: 11 Yea; 2 No; 1 Absent.

Accreditation Committee Report

The Committee reported that it will be developing criteria to be used by USDA in evaluating State organic certification programs for consistency with the National Program.

The Committee also reported on a discussion during the week concerning the placement and meaning of certifiers' logos on foods containing organic ingredients. Questions were raised as to whether the placement meant that the foods were certified according to the Federal standards or to additional requirements that the certifying agencies may be permitted to represent. This topic will be the subject of future meetings.

Additional reports were received on the Peer Review Panel and the impact of the October 1, 1993 implementation date. It was agreed that there would be no interim regulations, but that there is a need to move forward with the recommendations. Brief reports were related concerning the need for USDA to initiate rule writing for the accreditation program, appeals and enforcement ideas, and peer review panel composition and function.

The Committee chairperson reported that the Accreditation Committee approved by vote the affirmation for USDA to proceed with writing and publishing the accreditation program separate from the other regulations. However, the Board was not being asked at this time to approve the Committee's action until the Committee could more clearly explain the new process to the Board. Staff was asked to look at the PACA appeals process and the general USDA appeals process.

On the Peer Review Panel, Margaret Clark indicated a preference for an elected panel, but recognized that there are no provisions for it in the Act. They expect to receive public input on their July 1 draft by August 15, 1993, and they have asked Michael Hankin to discuss with Julie Anton her availability to work on a Glossary.

USDA and the Committee want to move ahead on accreditation to show results and progress, to alleviate concern about the October deadline, and to develop trust for the USDA.

There was a motion to move the accreditation program forward without waiting for the full program development. Margaret Clark then urged defeat of the motion. The Committee withdrew the motion unanimously. There was some discussion about the need to
keep the accreditation process moving.

**International Committee Report**

Friedman reported that a working draft guiding the certification of imported products has been approved and will be sent out for public comment. Also, the need for the International Committee to continue operating separately from the Accreditation Committee was reinforced.
NOSB members present: Jay Friedman, Bob Quinn, Dean Eppley, Gene Kahn, Craig Weakley, Michael Sligh, Margaret Clark, Richard Theuer, K. Chandler, Don Kinsman, and Nancy Taylor

USDA staff present: Hal Ricker, Julie Anton, Ted Rogers, and Michael Hankin

The meeting of the National Organic Standards Board (NOSB), an Advisory Committee to the Secretary of Agriculture for the implementation of the National Organic Program, was called to order September 27, 1993, at 8:40 am by Chairperson Michael Sligh.

A welcoming address was presented to the NOSB, USDA staff and public in attendance (approximately 50 persons) by Mr. Marvin Schwartz, director of the Arkansas Land and Farm Development Center.

Chairperson Sligh presented his opening remarks, commenting on the need for openness and communication during the co-operative development of the organic program and observing that the NOSB serves as the formal voice for the public to the USDA on organic standards matters.

The USDA report was presented by Staff director, Dr. Harold Ricker.

USDA REPORT

The newly appointed administrator of AMS has been named - Mr. Lon Hatamiya from California. Mr. Hatamiya is familiar with organic production methods and will be involved with program development.

Ricker recently met with Deputy Secretary of Agriculture Rominger, Deputy Assistant Secretary Jensen, Administrator Hatamiya, and Deputy Administrator Clayton to discuss the organic program. During this meeting, the issue of using lower pesticide residue foods in the School Lunch Program was brought forth. The administration is already aware that the organic community supports the use of organically grown products rather than products which test below a minimal residue level, but which may not be grown organically.

The FY1994 Appropriations Bill has not yet been signed. Once it is, the Organic Program can establish a presence within USDA and operate under the appropriations. The administration supports continued funding for the program, although is anticipated that the program eventually will have to be self-supporting through user fees. The staff numbers will remain small. The actual operating budget will be less than the $500,000 appropriated due
Ricker next reported on a meeting with the Office of General Counsel regarding the anticipated livestock hearings. Ricker suggested using the Jefferson Auditorium site in the USDA Building in Washington, DC, in order to minimize costs. The DC hearing might occupy two days to accommodate the testimony. Any additional hearings would be held after the DC hearing, and could possibly be held within the subsequent three week period. USDA will publish a detailed notice of hearing in the Federal Register well ahead of the hearing date to allow for the preparation of testimony. Comments will also be accepted from the general public for a period of time following the hearing date(s). The hearings will be conducted by USDA; the preliminary opinion from OGC that NOSB members may help design the hearings and submit questions to USDA staff, but may not participate directly as examiners, will be reexamined. It is expected that the cost of the hearings will be $1,000 per day plus staff travel and per diem costs.

After extended discussion concerning NOSB involvement, locations, and procedures for establishing the hearings, Jay Friedman moved that: The NOSB recommends to the Secretary of Agriculture that the NOSB be represented to the maximum extent possible on the panel of examiners appointed for the Organic Livestock hearings. In addition, NOSB requests that USDA provide a written submission to the NOSB regarding the structure, substance, and procedure of the Organic Livestock hearings prior to formal adoption by USDA for the purpose of receiving NOSB comments. Motion seconded by Don Kinsman. The vote on the motion was: Passed unanimously. The NOSB expressed its desire to maximize the value of the hearings by allowing at least one NOSB member to serve as an official examiner at the hearing.

Ricker presented a brief report on the status of the EEC negotiations. A letter to the EC has been prepared and is expected to be delivered there on September 29. The letter addresses the following three areas of concern to the EC: (1) the format of and authority behind the certifier’s affidavit; (2) the oversight activities for the certifying agents which will be provided by USDA; and (3) import requirements for foreign products entering the United States. A meeting with EC representatives is tentatively scheduled for November.

The status of the NOSB budget was discussed. The FY 93 budget should conclude with a balance of approximately $1,300. (For details of the FY 93 budget, see Appendix #1.) The FY 94 funds available for NOSB operations are anticipated to be $45,071 which would be sufficient for two or three meetings.

During the next few months, it was reported, USDA National Organic Program Staff has a wide assortment of tasks to undertake toward the development of the organic standards and accreditation program. These anticipated assignments include:
*livestock hearings preparation
*accreditation program details
*writing a work plan for Departmental approval
*economic impact analysis statement
*database for determining user fee charges
*position descriptions for current staff
*vacancy announcements for staff to be hired
*continuing negotiations with the EEC on imports
*prepare for 1995 expiration of 4 NOSB terms
*improve mailing list efficiency
*convene the TAPs and conduct substance reviews
*prepare recommendations to CODEX standards
*support full NOSB and NOSB committee meetings

It was announced that Julie Anton will be concentrating more work
time on economic aspects, database creation and international
considerations. Michael Hankin will assume the key staff person
role with the NOSB Livestock Committee formerly held by Anton.

Ricker then explained that the FY94 budget of $500,000 had not
yet been officially appropriated, but that no problems were
anticipated with actually receiving the funds. Once the funding
is received, the Organic Program Staff will become officially
recognized within USDA. Three options were being considered for
the organizational structure. These options are: (1) remain as
part of the Marketing and Transportation Research Branch (MTRB);
(2) become a Section within MTRB; and (3) become a Staff assigned
to the Transportation and Marketing Division Director's office.
Hal recommended the third option for visibility and efficiency,
even though it would require assuming additional administrative
and secretarial responsibilities. Individual NOSB members
expressed support for whichever option provides visibility,
longevity, access to appropriations, and flexibility to utilize
private industry expertise. The ceiling for the number of staff
working on the Organic Program has been set at six persons.
Refer to Appendix 2 for staff estimated expense figures.

Ricker confirmed that the National Organic Program will not be
implemented as of the October 1, 1993 deadline presented in the
"Organic Foods Production Act of 1990 (OFPA)." Ricker again
requested the NOSB to develop a definition of "organic" and
principles of organic production as guidance in writing
recommendations and program language. He reiterated that the
Secretary of Agriculture will be developing a program that will
leave the program to be effectuated through the certifying agents
as long as safeguards are in place.

Michael Hankin presented a proposal developed by Bob Quinn and
himself for establishing a procedure by which the USDA would
utilize final Board Recommendations and communicate with the
Board during the writing of the proposed rules for the Organic
Program. The proposal suggested that USDA would write a draft of the proposed rules based on the Board recommendations. While preparing this draft, USDA would request input from affected government agencies and seek advice from Office of General Counsel. After completion of the draft, copies would be distributed to the NOSB and selected organizations for review and comment. Any changes from the Board recommendations would be noted and supported with commentary. The NOSB could then choose to accept the changes, or prepare an addendum to the recommendations in support of its original position. USDA would consider the addendum and the Board recommendations in developing the actual proposed rule. Both the addendum and the final Board recommendations would accompany the proposed rule document through the Departmental review process.

Considerable discussion on this proposal ensued. The Board expressed its concern that substantial changes may be made to its recommendations during the rule making process and it would be beneficial if the Board could have as much opportunity as possible to consider any modifications. The comments from individual members indicated a preference that USDA become more involved with the Committees during the preparation of final Board recommendations; that the comments from affected government agencies be obtained during this preparation time; and that USDA and the NOSB resolve differences in program language before the NOSB final recommendations are submitted to USDA. A decision on the procedure to be adopted by the Board was tabled until the Wednesday, September 29 session.

Hankin next presented a proposal to divide minute taking responsibilities between the NOSB and USDA. He proposed that the NOSB assume minute taking duties for Committee meetings and USDA assume minute taking duties for full Board sessions. Opinions ranged from acceptance of the proposal to requests that the proceedings of all meetings be recorded and transcribed. Because of the desire to finally resolve this problem and the need to prepare accurate minutes for those persons following Board activities, the proposal will be given further consideration and discussed again on Wednesday.

This concludes the USDA report.

AGENDA REVIEW FOR THE ARKANSAS MEETING

International Committee: The presentation to the Board is expected to consume less time than allocated. The Committee will request the Board to move a Committee Recommendation to the status of a draft Board Recommendation.

Livestock Committee: The presentation to the Board will include the feed, antibiotic and parasiticide issues. The Committee will caucus before its presentation to finalize the documents and
discuss status requests.

**Crops Committee:** The Crops Committee will present a revised Organic Farm Plan for adoption as a draft Board Recommendation and will discuss the formation of the National List.

**Accreditation Committee:** The Accreditation Committee will request that the Committee Recommendation on the Accreditation Program be accepted as a draft Board Recommendation. In addition, the Committee would like to discuss the ISO program, the IFOAM proposal, and the USDA request that the rule making process for the Accreditation Section of the National Organic Program be initiated before other sections of the Program.

**Processing Committee:** The discussion with the Board later in the week will include non-organic ingredients used in processing of organic products and handling standards for fresh produce. The Committee will request that the Organic Handling Plan be accepted as a draft Board Recommendation.

**Materials Committee:** The Committee will discuss the formation of the Technical Advisory Panels and the subsequent review of substances process.

This concludes the agenda review. The meeting was adjourned for lunch at 12:10 pm.
LORNA MCMAHON, an organic farmer from Kentucky, argued strenuously for the right to label agricultural products harvested during the three years prior to organic certification "transitional." The "transitional" label would provide recognition and due returns in the marketplace. She also asked the Board to consider allowing synthetic pheromone bait sticks that are used in the perimeter, or buffer zone, of cotton fields to track and kill the bollweevil. Ms. McMahon then presented a letter from the Louisiana Injured Workers Union. She requested that the Board respond to Bob Odom, Commissioner of Agriculture & Forestry, State of Louisiana, in order to provide him with a greater understanding of the term, "organic." Bob Quinn suggested that a list of issues to be addressed by the Board and the organic community in the future be established.

JACK MINTER, an organic cotton producer from Texas, expressed his concern about a possible crop rotation requirement that he could not meet given the "two inches of land" he has to grow on. He informed the Board that ordinarily in the high plains, it is not necessary to spray for the bollweevil, because freezing temperatures kill off the insect. Furthermore, the bollweevil can handled with bait sticks to keep them out of the cotton fields. He noted that bollweevil control has been particularly difficult during the last three years.

JIMMY WEDEL, an organic cotton producer from Texas, remarked that the imposition of a three-year transition period prevents him from meeting market demand. Margaret Clark suggested that Mr. Wedel develop an argument for a transitional label for cotton separate from other transitional label requirements. William J. Friedman commented that the Board could recommend that States are not precluded from developing transitional programs. Taylor added that Idaho has transitional labeling program. She noted that she and Michael Sligh, among others in the sustainable agriculture community, have been working on policy option papers for the 1995 Farm Bill.

VAN AYERS, an agricultural engineering specialist at the University of Missouri, also spoke on the need for a transitional label.
He stated that there are currently 65,000 acres of cotton in transition to organic, and that he expects that acreage to increase to 100,000 next year. He noted that the Texas State standards provide for the use of bait sticks that contain prohibited materials so long as they do not contaminate the soil or water.
He proceeded to describe flame cultivation as a weed control method that is effected by installing a flame of burning propane
(natural) gas at the base of weed plants; the flame cultivator can flame plants up to 4 inches tall. This method saves 20 man hours per acre (26 v. 6). Weed control is absolutely necessary for cotton production. Electrocuition was another method described: weed plants receive high voltages, which burst plant cells. There are also mechanical ways to sterilize the soil, such as the use of microwaves and hot water.

JOHN ARDREY, Manager, Purchasing Department, Eden Foods, for 15 years, commented that Eden’s standards of processing organic food have been built upon by the Organic Crop Improvement Association. Eden has long-term personal relationships with organic farmers and consumers. Eden has been concerned about processing techniques and aides that are detrimental to health and environment; Mr. Ardrey noted that many of those now accepted by the NOSB Processing Committee would not be acceptable for use in producing Eden foods. Eden has always required a three-year transition period for fields when one year was legitimized legislatively, and many growers were rotating fields in and out of organic production. With or because of a definition of processing ingredients and aides legitimized by governmental agencies, an unlevel playing field for exists for competing companies without the commitment to true organic production. Eden considers "organic" processed food not made from whole food ingredients to be adulterated. The organic food industry is one built by small companies and small producers. It is essential to maintain high standards. Eden is concerned that standards for producers will be stricter than those for processors.

Rich Theuer asked Mr. Ardrey for a list of those ingredients and aides that Eden would consider appropriate. He also asked where Eden acquires its minerals. Mr. Ardrey agreed that certified organic processing aides "cost a fortune"; yet, if there is a higher volume of supply due to increased demand by processors, the cost will eventually be less.

BARBARA ALTMEIR, a woman with multiple chemical sensitivities, called in by telephone to the Board during the public input session. She expressed concern about the emergency spray exemptions for crops. She asked where organochlorines are typically stored, and Gene Kahn responded that all such materials are banned at this time. Ms. Altmeir expressed concern about Demoline, which is used to spray for the gypsy moth. She said this chemical is stored in fat of animal or human that ingests cottonseed. She explained that organophosphates are neurotoxins; once exposed, certain people become sensitive. Parathion, microencapsulated, is commonly sprayed on cotton plants; is the crop then plowed under? Kahn explained that the current Board position is that the certifying agent is allowed the discretion to recommend residue testing; the soil would continue to be decertified if found to be contaminated. Kahn asked Ms. Altmeir to put her concerns in writing, given the difficulty conversing without the proper equipment; Friedman suggested that a
conference call be arranged with the Crop Standards Committee given Theuer's remark about complying with the Americans with Disabilities Act.

TIM SULLIVAN, a lawyer with the Farmers Legal Action Group, said that he has been practicing administrative law for 10 years and has litigated over issues of conflict with the USDA. He stated that, in his view, the NOSB and USDA have different interests and different roles. He said that there will be times when it is appropriate for the NOSB to make recommendations that the USDA will not implement. He noted that, in past cases, the private sector was able to make changes in an USDA Office of General Counsel determination, overturning half of the rules proposed. He suggested that the NOSB pull in all of the information needed to make its own judgements, and stated that the NOSB should not feel influenced to make decisions that it does not feel are right.

The OFPA implementation date should be that which the NOSB determines is best for the organic industry. He remarked in closing that he was representing Southern SAWG.

ROBERT BEAUCHEMIN, President, OCIA International, discussed the partnership between the public and private sector called for in the Senate Committee Report. OCIA's remarks on the concepts presented in Accreditation Committee Draft 8.0 will be submitted, line by line, in writing. Mr. Beauchemin then turned to the IFOAM proposal to the NOSB, which would, in his opinion, avoid redundancy in the accreditation process and save costs for the certifying agencies that certify exports wishing to receive IFOAM accreditation. The producers will ultimately benefit when governments recognize IFOAM. OCIA fully supports the IFOAM proposal, and requests that the NOSB include it in its recommendations to the Secretary. Regarding the Peer Review Panel and Evaluation Process, Mr. Beauchemin commented that the organic industry is much less divided on certification issues than it was before; certifying agencies will benefit from being involved in the review process. The Panel, to be functional, should consist of five members. The on-site evaluators should be chosen from the private sector, rather than the USDA, to separate the "inspection" function from the assessment function of the USDA. These evaluators should be independent and trained. On another topic, the NOSB should make an official statement regarding the registration fees several States have in mind to impose on private certifying agencies, as this creates a situation of unfair competition. Rich Theuer asked a question about how to prevent conflict of interest during the evaluation and Peer Review processes.

BILL WELSH, of Welsh Family Farms in Iowa, expressed his interest in establishing certification procedures for meat processing plants. He noted that if USDA/FSIS inspectors at meat plants were trained organic inspectors, there could be a savings in
paperwork. Certifying agencies could approve the inspectors' qualifications to inspect regarding organic standards. Mr. Welsh then argued: if vertically integrated operations are allowed to use antibiotics, small poultry operations will be put out of business. He analogized antibiotics to the herbicide, Roundup, which will be prohibited under the Act. He asked why the Board could not accept same philosophy for livestock. Theuer remarked that many processing plants have been closed down by FSIS over last several months.

ANNIE KIRSCHENMANN, of Farm Verified Organic in North Dakota, commented that FVO has always had a strong commitment to the oversight function; since 1984, FVO has been reviewed annually by an independent evaluation panel review. Also, FVO has been evaluated twice by IFOAM (in 1988 and 1990). FVO views the evaluator and peer review functions to be one and the same. Evaluators should have a comprehensive knowledge of the certification process, and on-site experience. A good accreditation system serves not only to police but also to educate. The Peer Review Panel should be comprised of certifying agencies, who are the most knowledgeable. Ms. Kirshenmann described FVO as an international certifying agency, one of many turning to IFOAM to meet its accreditation needs to serve the international needs of FVO's clients. FVO supports the IFOAM proposal; USDA should use the IFOAM evaluation as "raw material." USDA experience can be burgeoned by IFOAM experience. Otherwise, FVO expects to be forced out of business due to unwieldy costs. Certifying agencies can only expect to volunteer to evaluate. Decision-making and evaluation should be separate functions, with one carried out by the USDA and one carried out by members of the industry. The Peer Review Panel should rotate; a Panel should be assembled for each evaluation; USDA would provide consistency.

GEORGE SIEMON, an organic dairy Farmer from Wisconsin and member of the CROPP cooperative, commented that the groundwork to create organic livestock production standards has been laid, and that the NOSB should be allowed to be the vehicle to represent organic community; this would be better than there being conflicting positions throughout the industry. Mr. Siemon stressed the importance of private-public partnership, especially as organic regulations will cover a wide variety of commodities. NOSB has already satisfied the requirement for hearings for livestock. There has been public input in all regions of the country, and a large amount of photocopying. The hearings would only add costs and delays to the process of developing standards. Still a legal requirement, necessary. Mr. Siemon asked how organic products fit under marketing orders. Finally, he stated that the Board has already taken brave step toward the humane treatment of livestock (i.e. decertification if withhold treatment); therefore, the antibiotic provision does not need to be adjusted for humane reasons. What income argument is really relevant?
Natural beef marketers are not allowing antibiotics. The use of antibiotics in conventional dairy is shrinking. Tyson is now labeling chickens as no antibiotic use. In CROPP, 25 dairy farmers have stopped using antibiotics. At a time when the industry is moving away from antibiotic use, the organic standards should not allow it.

ROD CROSSLEY of Health Valley Inc. in California, remarked that it will likely take the FDA 18-36 months before it comes forward with rules/regulations. NOSB should go forward with labeling and GMP documents. Theuer responded by stating that the FDA is receptive to getting recommendations in before rulewriting process, so can work out any difficulties. Processing materials are already approved by FDA. The NOSB would be asking for special GMP under 110.

ERIC ARDAPPLE KINDBERG of the Ozark Organic Growers Association presented his view that the NOSB work remaining is minimal. Crops issues can be resolved at this meeting, including the farm plan. There is only one further issue for the Processing Committee: synthetics can be resolved by the National List procedure. The National Institute of Environmental Sciences should be consulted. According to the Senate Committee Report, antibiotics and parasiticides must be examined and placed on the National List, not excluded a priori. Mr. Kindberg advised the Board to get the Technical Advisory Panel in place. ISO 9000 standards, set up in 1968 by the United Nations, will be necessary for international trade and should be incorporated into the accreditation documents. The first round of accreditation should be paid for out of $500K. The maximum cost to farmers should not exceed $25 annually. USDA staff should not be evaluators. The Peer Review Panel should be a composite of farmers, handlers and certifying agencies.

Commenting on the role of biotechnology in organic farming, Mr. Kindberg commented that in nature, hickory does not grow on a pear, whereas pears and apples may cross. The differences in processes are those that are artificial, conducted through a mechanical process, and those which are natural processes. Finally, Mr. Kindberg agreed that the FSIS livestock hearings would not be necessary. He also argued that a portion of the funds received by USDA for the Organic Program be utilized to hire consultants to work on aspects of implementation.

KATHERINE DIMATTEO, Executive Director of OFPANA, remarked that she has been at every NOSB meeting and therefore has another record of NOSB meetings. Ms. DiMatteo supported the idea of ISO 9000 being incorporated into the Accreditation Committee Document. OFPANA’s view is that the accreditation program should be moved ahead, and implemented as soon as possible next year. OFPANA is concerned about disintegration of term, "organic." It would be a positive message to the consuming public to move forward part of the Organic Program, as many new labels are.
challenging the term, "organic." Regarding the NOSB's current position on split operations, OFPANA is in agreement, although would prefer the word "request" rather than "require" in the farm plan section on conversion. Regarding residue testing, OFPANA's Quality Assurance Council is of the position that Federal and State testing agencies should keep results confidential, so that only certifying agent and government agents have access, to prevent the rumor mill from doing damage to the reputations of operators. The Board should tag its 5% of EPA tolerance requirement to 1994 levels to reinforce the idea of an annual review. Regarding the emergency spray exception, OFPANA strongly supports the compensation statement. OFPANA would like to see added a statement such as the following: public agencies must have a published list of guidelines for each emergency spray program, to justify use of prohibited material in emergency spray situation, and give 30 days notice of intent to spray to USDA, certifying agencies, and State governments. She suggested adding "county" to the types of public authorities. Also, there should be notification within 48 hours of discovery. Regarding planting stock policy, OFPANA's view is that non-organic transplants should be allowed if not commercially available, but not if treated with prohibited insecticides; prohibited fertilizer treatment would be acceptable. Regarding drift and misapplication policy, producers should be required to give written, legal notification (by certified mail etc.) of financial responsibility, should any incident occur, to neighbors and county agents. Regarding the small farmer exception, does registration make certifying agency liable? A copy of farm plan and assurance of an audit trail should be provided along with the declaration.

DAVID HAENN, of the Ozark Small Farm Viability Project in Arkansas, noted his tremendous respect for the work of the NOSB Processing Committee. He had remarks regarding the proposed category of essential synthetics. He stated that there can be found no intent in the Senate report nor OFPA Section 2111 for the establishment of such a category. He asked, must processing aides be from a whole food source? He said that by establishing an essential synthetics category, the NOSB will "open pandora's box of exceptions...and sink the pioneering efforts of organic food processors," shutting doors on the incentive to develop wholly natural substitutes. He gave the example of producing natural pectin from apple peels. Although Mr. Haenn saw no place for the transition label, he suggested that growers submit a notarized statement of intention to USDA, which it would then publish, identifying producers with the intent to produce organically. Mr. Haenn stress that there should be enough money spent to keep the public informed.Craig Weakley queried Mr. Haenn about the analogy of essential synthetics for crop production. Mr. Haenn refuted this argument by saying that production inputs are a deviation in the philosophy (necessary for production and handling) that does not
Ms. Margaret Clark asked about Rumford baking powder and Red Star yeast (synthetic stabilizers and ingredients): would Mr. Haenn agree that economies of scale prevent small organic bread bakers from adopting alternatives to these essential ingredients? Mr. Haenn responded by saying that there are other leavening agents available. Mr. Rod Crossley stated that dry yeast and (mined) sodium bicarbonate can replace these ingredients.

ENID WONNACOTT, Director of NOFA-Vermont, stated her view that the Board should emphasize production methods rather than pure food. The Board should figure out what systems work for producers rather than developing a system of standards based on perceived consumer perception, and then put energy into educating consumers. She determined that only Texas does not allow for exception for antibiotic use with withdrawal times of all the active certifying agencies. She stated that it is important to be representative of certifying agencies in existence now. She cited the case of Peter Flint, a small producer with a dairy herd who does not use antibiotics for his cows but who, in an emergency situation (for example, pneumonia in calves), would be served better by an allowance of judicious treatment of a documented emergency, than feel tempted to create deception or treat the calves inhumanely. Also, Ms. Wonnacott argued that medicinal substances should be reviewed by Technical Advisory Panel; she has a has language proposal. The Board should also address the issue of extralabel use: important for minor breeds, and which includes the use of anesthesia for food animals. The NOSB should support an extralabel policy. Regarding certified organic feed, Vermont has always required organic feed, but allows a shorter lead-in time period. Organic grain is 25% more expensive. She stated that a six month lead-in time would be reasonable, arguing that most toxic accumulations in feed are mobilized within six months.

SUZANNE VAUPEL, of Vaupel Associates in California, noted that 15-17 States regulate organic livestock production. The majority of States allow antibiotics for specific diseases and in relation to when the stock will be slaughtered for sale as meat. Feed requirements also differ according to the weight of the animal. Marketing orders should at some point be addressed by the Board. For example, organic almonds should be exempted from the reserve requirement. Where organic food is a distinct product in a distinct market, and could not be substituted, the marketing order should not apply. She believes that where organic producers do pay into marketing order funds, 20% should go towards research into the organic market. She noted that the lemon marketing order has small exemption, whereas the orange marketing order does not. Rich Theuer noted that the FDA should rule on the basis of the common or usual name: i.e. "organic grape" versus "grape"; the NOSB could develop a proposal to FDA. Ms. Vaupel agreed.
MG has some design to look at marketing orders.

ZEA SONNABEND, of California Certified Organic Farmers, argued that a certifying agent member should be appointed to the NOSB; such a person could be a State agent with a non-controversial background. She also argued for funding for Technical Advisory Panel members; furthermore, coordination is crucial to get the right questions to the right people. She noted her concern about the Peer Review Panel election process, seeing it as cumbersome and slow. CCOF's position is that there should be no blanket prohibition on antibiotic use in organic livestock. Specific, targeted use of antibiotics is not a danger. She solicited Board member participation in workshops at the upcoming Asilomar conference in January.

STEVE PARKS, a transitional grower, from Tennessee, noted the high labor cost to control weeds. He argued that premiums are needed by farmers to get them from transitional production to full organic production. Bob Quinn asked: if premium were to disappear, would these would farmers revert to conventional production? Organic farming is a commitment, he stated. Mr. Parks noted that economics is still a driving factor.

A couple of statements made by persons with chemical sensitivities are inserted into the public record as follows:
(1) LYNN LAWSON, who handles a chemically-sensitive persons support group in Chicago, lives on an island in the summer to avoid pesticide drift, and remarked that organic foods should not contain pesticides, antibiotics, nor synthetic parasiticides.
(2) JULIE OCOLA, of Human Ecologist magazine, remarked, "Food makes or breaks our day." Simply, we must know exactly what is in foods, in her opinion.
(3) OTHER COMMENTS FROM CHEMICALLY-SENSITIVE INDIVIDUALS: A multi-tier label should inform consumers of the treatment to the ingredients in the product. The chemically-sensitive can be affected by very low levels of pesticides.
Crop Standards Committee Chair Gene Kahn opened the Committee presentation with a discussion of the Organic Farm Plan. Kahn emphasized that intent of legislators who supported the OFPA was not to micromanage farmers, but rather to improve farms and the growing environment, and to include strict production standards. Kahn presented an excerpt from the Senate Committee Report, which cites the Organic Farm Plan as the "key element in organic production," which is to be used in combination with a strict materials list. Statutory requirements for the Organic Farm Plan can be found in Sections 2103 and 2114 of the OFPA.

Kahn explained that the Committee's recommendation is that the components of the Organic Farm Plan questionnaire must be included in the certifying agencies' documentation. He noted that a sentence referring to trends appears in every question, to prompt the producer to think about progress or regression of his/her farm.

Kahn pointed out the new section of the document referring to "split operations" (lines 105-108): "Comment on any progress made, if any, or obstacles encountered in..." Lines 157-163 contain new language. He also noted that the water source section (lines 168-171) addresses the irrigation water quality issue.

Language was suggested to replace line 204 with the following: "exist near the borders of the organic fields on your farm". A new section referring to the management of wild crops was added (lines 178-182). The harvester of wild crops to be sold as organic would have to have documented a three year history of the land. Language changes were also made to lines 191-194.

Kahn announced that references to livestock production had not yet been integrated into the Organic Farm Plan document, but that the plan is to integrate into the sections where applicable. In response to an inquiry by Jay Friedman, Kahn commented that certifying agencies will have to conduct hazard analyses when confronted with farms with both organically- and non-organically-raised livestock, and ensure that organic integrity is maintained.

Raw manure application is historical. The definition of compost will be established in Committee discussions to come. Sewage sludge is currently prohibited, but should undergo further review.

Friedman noted that critical elements for inspection of split operations, such as water delivery and the storage and cleaning of sprayers, are being analyzed by the New Mexico Organic
Commodity Commission. Kahn added that the important measure is to identify potential sources of contamination where comingling of organic and conventional crops could occur. Certifying agencies are responsible for dealing with the issue in much more detail.

Quinn cautioned that certifying agencies need to be very specific in carrying out assessments of potential contamination.

Kahn noted that the current Organic Farm Plan document represents significant compromise, and that the least strong approach has been adopted.

Language changes were made to lines 65-67: add "parcels and three-year field or land..." Drop parentheses surrounding: "The grower will provide..."

The question on split operations (line 207) was revised to read, "If a split operation, describe your systems for avoiding potential contamination by prohibited substances used on the conventional portion of your farm."

The Board agreed that a critical issue regarding split operations involves the determination of fraud in reported yields. Currently, certifying agencies require maps as part of a tracking system. Ms. Annie Kirschenmann remarked that split operations would have to demonstrate the differentiation of production through the audit trail. Mr. Robert Beauchemin asked if certifying agencies could be liable in cases where split operator fraud was determined. Ms. Zea Sonnabend commented that CCOF does not require full documentation for non-organic portions of a split operation; however, in California, growers do have to file a pesticide use report for every field.

The language in Section IV., Maintaining Organic Integrity, was changed to the following: "The grower shall provide adequate maps of all parcels farmed under his/her control and three year field or land histories as part of his/her certification application..."

Friedman reported that New Mexico is requiring mandatory residue testing for split operations. He pointed out the necessity of developing preambular language to identify where discretion can be exercised by the certifying agency.

Kahn remarked that non-organic farmers typically keep excellent records.

OFFICIAL ACTION

Quinn motioned to raise to the Committee Recommendation to the Board to a Draft Full Board Recommendation; this motion was seconded by Dean Eppley. A discussion ensued.
It was agreed that the accreditation document should ultimately include provisions addressing where certifying agencies have the responsibility to exercise discretion; Friedman agreed to draft this language. A comment was made that the rejected applicant will be allowed to appeal.

Call to motion was approved by unanimous consent of all Board members present.

The remaining time allocated by the agenda to the Crop Standards Committee was ceded to the Processing and Accreditation Committees.
The Processing, Handling, and Labeling Committee (PHLC) began its report to the Board at 9:35 am. Rich Theuer began the presentation by explaining that the PHLC is deliberating on creating a list of non-organic substances that may be used in the three different categories of processed foods containing organic ingredients. These three classes are (1) greater than 95% organic ingredients; (2) greater than 50% organic ingredients; and (3) less than 50% organic ingredients. These non-organic substances contained in the food will either be ingredients, which are present in the final product, or processing aids, which are not contained in the final product.

A brief review of the OFPA was conducted by Theuer. Section 2111 which contains language that (1) synthetic ingredients are not permitted in organic processed foods, as well as language which states that (2) non-organic ingredients are permitted if they are on the National List, was referenced first. The second section reviewed was Section 2118, which reaffirms the non-organic ingredients language present in section 2111, but in which language is provided to allow for exempted synthetics in processing in those cases where the natural product is unavailable.

Theuer then discussed the PHLC attempts at defining "synthetic." He explained that an organic food that undergoes a chemical change or process during its manufacture should not be considered as a synthetic food simply because of the chemical change or process. The PHLC has already offered the consensus that the term synthetic should not be applied to an otherwise non-synthetic food that is formulated or manufactured by processing [as defined in Section 2103 (17)]. The Board concurred with this idea by a straw vote.

Theuer further explained that it appears that the National List will contain three categories of non-organic ingredients: (1) natural, non-organic materials that may be available in organic form (herbs, spices, etc.); (2) non-synthetic materials that cannot be produced organically (gases, yeast, cultures, etc.); and (3) essential synthetic materials which will be approved through the Technical Advisory Panel.

The Board then reviewed certain common non-organic ingredients to discuss in general terms whether foods containing one or more of these ingredients should be labeled "organic", "made with organic ingredients", or contain no mention of "organic." The ingredients discussed were baking powder, calcium chloride, dry baking yeast, sulfur dioxide, vitamins A and D in milk, and ascorbic acid. The various ideas brought forth during the discussion included: (1) the label "organic" is the goal and
should not be used unless production meets the "ideal" conditions of no synthetics and all organic ingredients; (2) "organic" practically should be permitted on the label as long as established requirements, even if less than ideal, are met; and (3) manufacturers will attempt on their own to produce ideal "organic" foods in order to make such statements as a marketing tool.

The members of the Board were polled on a straw vote to determine whether the PHLC should continue in developing a list of essential synthetic substances as part of the National List, for use in organic processed foods containing at least 95% organically produced ingredients. The vote was unanimous with the understanding that the list would be as short as possible and well detailed.

Craig Weakley presented the Organic Handling Plan which previously had been circulated by the PHLC to receive public comment. One revision was made as a result of the comments received in respect to the individuals and businesses that do not need to be certified. Gene Kahn discussed his research to develop recommendations for the extent of involvement of warehousemen and trucking firms in the certification process for organic handlers. The research identified the need to revise the Organic Handling Plan to require certified organic handlers to list all individuals or businesses that sell, transport, or store the products, but who do not take title of the product. Also, these individuals or businesses would be informed in writing of proper organic handling procedures and be expected to sign bills of lading to indicate that the integrity of the organic products was not compromised during possession.

Kahn also suggested that the word "known" be added after the word "all" on page 1, line 53 of the document.

Theuer moved that the Organic Handling Plan be approved as amended as a draft Board recommendation. Margaret Clark seconded. The vote to approve was unanimous.

This concludes the PHLC presentation to the full Board. The morning session was adjourned by Chairperson Sligh at 12:05 pm for lunch.
The meeting reconvened at 1:05 pm.

Margaret Clark presented the Accreditation Committee's Recommendation (draft 8) on "Standards and Procedures Governing the Accreditation of Organic Certification Organizations."

Clark detailed the minor revisions which were made after the public input responses were reviewed. An additional modification was proposed by Julie Anton and Bob Quinn. A brief discussion was initiated to explain the differences between the approval of State programs with organic standards and the accreditation of State agents as certifiers for the National Program. Theuer then moved and Quinn seconded that the modification be accepted. The vote by the Board to accept was unanimous. The modification will be inserted on page 4, line 41, and reads:

It is recognized that private certifying agents have established programs to address specific philosophies and/or regional considerations, and may wish to include requirements for the awarding of the certifying agent’s seal that are supplemental to the standards promulgated in the OFPA. Such requirements shall not preclude the certification to OFPA standards of producers and handlers who do not seek to utilize the private agent’s seal. Furthermore, such requirements shall further the purposes of the OFPA and shall not be inconsistent with the standards prescribed by the OFPA.

Clark then reviewed the Peer Review Panel (PRP) portion of the Committee Recommendation. Clark explained the previous diversity of opinions among the Committee members in designing the PRP system and said she expects that a wide range of comments will be received during the next public input period. The option presented in Draft 8 was a unanimous consensus opinion by the Committee after considering the original choices. In a straw vote, the Board voted unanimously to accept the PRP Section language and directed that the PRP section be included in the document sent out for public input, while acknowledging the need for revision of certain sections. The opinions expressed by the certifying agents present at the meeting mirrored those of the Board.

The wording on page 12 regarding the requirement that records must be available upon request to any person requesting them was questioned by Weakley. Friedman expressed the view that records should be available for review as needed for official purposes, and not available for anyone to view for any reason.

Kahn moved and Weakley seconded the motion that the words "which must be available upon request to any person requesting it" be
deleted from page 12 of the Draft 8. The motion was passed on a vote of 10 to 1 with 1 abstention.

After a brief exchange of comments about evaluating the reasonableness of fees set by certifiers, the actual preparation of a PRP report, and developing conflict of interest language in cooperation with legal counsel, the Board voted unanimously to accept Draft 8 as Draft Board Recommendation.

Three resolutions (Appendix #3) were then presented for a Board vote. The first resolution requested that USDA undertake a comprehensive review of the compatibility of the NOSB Draft Accreditation Program recommendations with ISO guidelines. Theuer recommended slight modifications in the language. Friedman moved to accept the resolution as amended. Motion seconded by Theuer. This resolution passed unanimously.

The second resolution expressed the NOSB resolve to consider the proposal from IFOAM regarding its participation in the USDA Accreditation Program. Quinn moved to accept this resolution and the motion was seconded by Friedman. Theuer offered a secondary motion to move the resolution to the Accreditation Committee. Sligh seconded Theuer’s motion. The resolution passed unanimously. Friedman requested that the International Committee also be involved in the review. The Board agreed and the resolution will be discussed by the Accreditation and International Committees and then presented at a future date to the Board for consideration.

The third resolution introduced by Clark requested that USDA utilize appropriated funds to pay for the costs of accrediting certifying agents applying during the first round of applications. Ricker supported this resolution provided that funds are actually available for this purpose. He also suggested that the reference to using volunteer evaluators for accreditation would probably be unacceptable within operating guidelines established by the USDA’s Office of Inspector General. Sligh offered an amended condensed resolution addressing concerns. This resolution then was passed by unanimous vote.
Jay Friedman assumed the role of acting Livestock Committee chairperson in the absence of Merrill Clark who could not attend the meeting because of illness.

Friedman read to the Board the Livestock Committee's Draft Recommendation on "Livestock Feed Standard." Friedman explained that the Committee is still developing its interpretation of the wording in the Act which excludes livestock from the requirement of being raised on land to which no prohibited substances had been applied for the previous 3 years. However, the Committee has decided that pasture land should be under the 3 year requirement and this decision is reflected in the draft. Friedman related that it is also the will of the Committee that a provision be included for use of non-organic feed in emergency situations.

The Board members were asked for their comments on the feed document. The requests were made to delete in Section B the phrase "...directly or as a supplement to feed rations.." and to delete in Section C the phrase "...in the event of a feed availability emergency." It was agreed to delete these phrases. The Committee also agreed to add the phrase "verifies that an emergency exists" in Section D to modify the wording to read "...provided that the certifying agent is immediately notified of the emergency, verifies that an emergency exists, and establishes a maximum time period during which the non-organic feed may be used."

The Board entered into a discussion concerning the utilization of Bureau of Land Management rangeland in the production of organic livestock. Margaret Clark presented her concerns that because BLM land was rented and not owned, the management of the land was beyond the control of the organic producer/renter and therefore could not be certifiable. Friedman stated that Colorado producers of organic livestock agree with Clark's statement but that the BLM does not spray the rangeland and therefore the lack of management control is not a problem. Nancy Taylor expressed the idea that more research should be done to determine whether certification is possible. Clark made a motion to exempt pasture from the mandatory certification requirement. The motion did not receive a second and was dropped.

The next topic debated was whether 100% organic feed should be required in all situations. Gary Osweiler and Don Kinsman reaffirmed their position that the Act should be interpreted as meaning 100% feed, especially for slaughter animals. Enid Wonnacott expressed the consensus opinion from the NOFA's that the 100% standard is too strict and would be a burden on the existence and growth of organic livestock production in the New
England area. Wonnacott and George Siemon, Technical Advisor to the Committee, both stated that some provision in the feed requirements should be permitted for dairy animals. Michael Hankin and Margaret Clark agreed with the suggestion of Friedman that they should develop a separate document addressing the feed standard for dairy animals, thus allowing the current draft document to proceed through the approval process. It was also requested by Friedman that the current draft document be considered without the inclusion of milk replacer in the category of feed supplement. Milk replacers may be essential in some livestock production systems and yet the replacers may not be available in organic form or may not be able to be labeled as organic if they contain more than 5% non-organic ingredients.

After some additional discussion as to the need to classify animal feed as a processed food, Friedman moved to adopt the Committee's draft livestock feed standard as amended as a draft Board recommendation. Osweiler seconded and the motion passed unanimously.

The second and last document brought to the Board by the Livestock Committee was the working paper "The Use of Synthetic Antibiotics in Organic Livestock Production." The Committee asked the Board members to comment and to conduct a straw vote on the working paper as a preliminary step in developing it as a draft Board recommendation.

The draft was split into 3 sections. The first section precluded the use of antibiotics in slaughter stock intended to be sold and labeled as organic. The second section restricted the use of antibiotics in breeder stock to emergency situations provided that the application did not occur during the last third of gestation or while nursing offspring. The third section allowed antibiotics to be used for any reason in dairy animals with the requirement that milk and milk products not be sold or labeled as organically produced for 12 months following the application.

Gene Kahn spoke in opposition to the intent of the draft, stating that it attempted to micromanage farm practices, exceeded the language in the Act which only prohibits subtherapeutic use and use to promote growth, and would be detrimental to the growth of the emerging organic livestock component of organic agriculture. He emphasized that he was not advocating the unrestricted allowance of antibiotics, but was requesting that it be permitted in very limited circumstances because not all producers are yet able or willing to raise livestock without the knowledge that antibiotics are available when absolutely necessary. He added that consumers are not demanding a ban on the use of antibiotics; rather, they are expecting realistic production methods with the assurance that the finished product will not contain antibiotic residues.
Kinsman agreed with Kahn, but also claimed that because the leading brand of natural beef advertises that no antibiotics are allowed in its production of natural beef, that the organic standards as a whole should be stricter than this brand of natural beef. Osweiler also agreed with Kahn that the ban on antibiotics would be a burden, but reiterated his support for requiring the treated animal to be diverted to the conventional market. Osweiler conceded that diversion, though easily executed for the slaughter category, would be difficult for the dairy category and therefore special considerations may be necessary for dairy. Kay Chandler said he hoped organic producers would be granted an entry level category to the market and then have a chance to improve their production system to one that does not use any antibiotics or parasiticides.

After receiving comments from the public and the other Board members, it was decided to conduct a separate straw on each of the three categories of the antibiotic draft document. The results of the vote were:

- Slaughter stock: 8 aye; 4 opposed
- Breeder stock: 7 aye; 5 opposed
- Dairy Stock: 7 aye; 2 opposed; 3 abstained

Based on the vote, the Committee decided to submit the document for public comment as a Committee recommendation.

The Board adjourned at 5:05 pm.
MATERIALS COMMITTEE REPORT TO THE NOSB

The meeting on September 29, 1993, was called to order by Chairperson Sligh at 8:30 am.

Gary Osweiler presented the Materials Committee report. Osweiler identified three goals of the Committee. These are: (1) the Livestock, Crops, and Processing Committees should submit lists of materials to be reviewed by mid-November; (2) the Technical Advisory Panels need to be organized as soon as possible; and (3) the process for reviewing the materials needs to be established. Osweiler also expressed the need to have a petition procedure in place for companies to submit the names of new materials for review and to provide information about materials already being considered by the various Committees. This petition procedure was differentiated from the referral process by which the various Committees would communicate the names of materials to the Materials Committee and subsequently to the Technical Advisory Panels for review.

Many members declared the necessity for urgency in this entire review process so that the National List would be prepared at the same time that the standards are published. Michael Hankin described his concern that the petition procedure needs to be a formal one that included publication of an official Notice in the Federal Register calling attention to the preparation of the National List and requesting the submission of information relevant to the process.

After identifying the different progress that the three Committees had made in developing the lists of materials for review, the importance of this Committee's work, and the advantages of employing a private sector contractor to coordinate the review, Jay Friedman moved that the Board direct the Materials Committee to formalize the petition procedure and develop the petition substantive elements. Osweiler seconded and the motion was approved by the vote of 8 aye; 3 opposed. The Materials Committee agreed following the vote to formalize a short petition format to be used by each Committee for each material intended for evaluation for the National List. Nancy Taylor and Osweiler clarified that this form would be a formatted document for internal Board and Technical Advisory Panel use and that it should not be confused with the petition process which will be utilized to formally obtain information for and notify the public about the National List. USDA staff persons will work with the Committee to revise and standardize the internal referral document. Rich Theuer noted that the Processing Committee must first determine with the full Board how to define what constitutes an essential synthetic ingredient for processed foods.
Ted Rogers presented a report from USDA about the progress in forming the Technical Advisory Panels. USDA plans to analyze the areas of expertise of persons previously indicating their willingness to serve on the Panels and then to expand the areas represented with persons from Extension Service, Science Division, research groups, and the organic community. He reported that the Panels should be functional by April 1994. Friedman moved that the USDA contract to hire a Technical Advisory Panel coordinator from the private sector. The motion was seconded by Margaret Clark and the motion was approved by a vote of 10 aye; 0 opposed; 2 abstained. Hal Ricker agreed that USDA would consider the resolution, but in the meantime would proceed with forming the Panels.
DISCUSSION

International Committee Chair Jay Friedman presented the current Committee Working Draft entitled, "Importation of Organic Agricultural Products."

Margaret Clark suggested that lines 88-89, "or approval as a State program by the Secretary," and line 112, "or a State program approved by the Secretary," be deleted. Friedman said that this language tracked the applicable sections of the OFPA. Clark noted that removing lines reflected the majority Accreditation Committee position. Weakley asked for clarification of the issues surrounding the debate. Quinn noted that the majority of the Accreditation Committee agreed to treat State and private certifying agencies alike throughout Board recommendations. Friedman stated that in the case of an international document, the approval of State programs should be referenced according to the OFPA.

OFFICIAL ACTION

A motion was called to vote on deleting the language as suggested by Clark: five members voted for the deletion; three members voted against the deletion; and four members abstained. The deletion did not carry, as there was not the two-thirds majority required by the OFPA.

Mr. Robert Beauchemin commented on lines 90-103, saying that the provisions were adequate and similar to OCIA standards.

Margaret Clark remarked that her store receives product from Latin America with seals of agencies that utilize lower standards; this situation needs to be addressed.

Gene Kahn inquired about lines 114-120, which refer to use of the USDA seal on imported products. Hal Ricker commented that he does not expect U.S. certifying agencies to be allowed to place a USDA seal on organic products for export to the United States. Kahn noted that there are bigger issues involved in this section in addition besides multi-ingredient processed products. There may be organic produce from foreign countries imported by packers to keep up a line of product during the U.S. off-season, where packaging has already been set for the year. Kahn asserted that it would be disruptive of commerce to place unnecessary restrictions on labels of imports. Ricker agreed to investigate whether or not a certifying agency will be allowed to place a USDA seal on a product destined for import into the United States. Theuer commented that country of origin labeling may become a problem for organic products in the future.
Weakley argued that if Muir Glen bought organic olive oil to use in its pasta sauce, it would be difficult to accept that Muir Glen could not use the USDA seal, if one is developed, on its final product.

K Chandler remarked that there are no precedents yet set, and that the Board should feel free to develop a unique program, and that this uniqueness should be emphasized to USDA/FDA decision-makers.

Friedman requested that Kahn, Weakley, Clark and he work together with Hal to frame issue for the Office of General Counsel.

Julie Anton stressed that Board members should provide written comments to the Committee’s Working Draft and the other document to be developed by the Committee. This allows the Committee to be better prepared for questions and concerns presented at Board meetings.

OFFICIAL ACTION

A straw vote was called by Committee Chair Friedman: seven members voted in favor of the document; three were opposed; the remaining members abstained from the vote.
FULL BOARD ADMINISTRATIVE MATTERS

After the conclusion of the International Committee discussion, the Board began a session at 10:40 am to address general administrative Board matters. Chairperson Sligh repeated the Board’s intention to complete the submission of final recommendations to USDA during Fiscal Year 1994. Sligh requested the Committee chairpersons to submit to himself and to USDA a time frame and a list of topics that the Committees are still developing into recommendations.

The dates of the next Board meeting were selected as being during the week of January 30 - February 4, 1994. Washington, DC was selected as the primary site for the meeting with the anticipation that the Livestock Hearings could be scheduled to coincide with the Board meeting date. The subsequent Board meeting dates were tentatively scheduled for the week of May 23, 1994, with the site to be selected at a future date. Executive Committee conference calls were approved for the first Monday of every month starting November 1, 1993.

Secretary Weakley reported that the minutes from the Board meeting in May 1993 at Kutztown, Pennsylvania which were tentatively approved at the July meeting were not yet completed. Additionally, he stated that the minutes from the July 1993 meeting in Cottage Grove, Oregon required editing and improvement before they were able to be voted on by the Board. Hankin agreed to submit the revised minutes from the May and July meetings to Weakley by October 29, 1993 along with the minutes from this meeting.

Weakley then introduced the following motion:

1. Full Board meetings, including public input sessions, will be recorded on cassette. USDA staff will be responsible for having the meetings recorded. The Board chairperson will be responsible for assuring that all recognized speakers are identified by name on tape. A private sector secretary will transcribe the tapes into a detailed record of the meetings at USDA expense. The Board Secretary will be responsible for assuring that the tapes are transcribed within two weeks after each Board meeting and that the tapes and a copy of the transcription are promptly delivered to USDA. The Board Secretary shall retain a copy of the transcription.

2. At all full Board meetings, including public input sessions, one USDA staff member and the Board Secretary will take back-up notes to document general discussion topics and all formal actions taken by the Board. The Board Secretary shall submit a copy of the back-up notes to USDA within two weeks after each full Board meeting.

3. USDA staff will complete and submit to the Board
Secretary for editing the first draft of full Board meeting minutes and public input sessions notes, prepared from the transcription, within four weeks after each full Board meeting.

4. The Board Secretary shall edit the draft minutes and public input session notes and return them to USDA within six weeks after each full Board meeting. USDA will mail the revised proceedings to all Board members for review at least two weeks prior to the next scheduled Board meeting.

The motion was seconded by Theuer and approved by unanimous vote.

Bob Quinn introduced a resolution to direct USDA to hire a new staff member with certification experience for the accreditation program. Friedman offered a friendly amendment. Quinn accepted and revised his motion to read:

Be it resolved that the Board recommends to the Director of the Transportation and Marketing Division that the new position to be created in AMS assigned to oversee the accreditation program be filled by or contracted out to a member of the organic community who has experience in certification activities.

The resolution was accepted unanimously.

Quinn then introduced a second resolution directing the Board to appoint a Board advisor on accreditation until the certifying agent position on the Board is officially filled. Kahn suggested that USDA should attempt once again to obtain a legal interpretation from Office of General Counsel (OGC) that would allow for the certifying agent position on the Board to be formally selected by the Secretary of Agriculture. Ricker and Hankin agreed to approach OGC again with the Board’s request. Sligh and Friedman offered an amendment which reissued the resolution on the Board certifier position that was issued at the 1992 Ft. Collins meeting; additionally, the amendment requested USDA to act on the Ft. Collins resolution within 60 days. It was asked that if USDA could not resolve the Ft. Collins’ resolution that the following resolution become effective:

Be it resolved that until an official member of the Board is appointed by the Secretary of Agriculture to represent the certifying agent, that an advisor be selected by the Board to fill that position.

1. That advisor shall be nominated by the Organic Certifiers Caucus (OCC). OCC’s membership is open to all certifying agents and is currently comprised of both state and private certifying agents.
2. That advisor shall be seated at the table of all Board meetings, with all rights of participation except voting.
3. That advisor shall be selected through written
confirmation in time for attendance at the first meeting of FY 1994.
4. That advisor shall become a member of the Accreditation Committee and fulfill any other Committee assignment given by the Chair of the Board.
5. That advisor shall be reimbursed for expenses to the same extent and in the same manner as Board members.

The resolution was accepted by a vote of 10 aye; 1 opposed.
Ricker noted that the allowances for technical advisors to the Board would allow only for certain aspects of the resolution to be fulfilled, if necessary.

Quinn then offered a third resolution requesting the Secretary of Agriculture not to hold public livestock hearings since public comments on the production of organic livestock and livestock products have already been received by the Board at meetings over the last 18 months. Hankin stated that the Act requires formal Notice of the livestock hearings and if the content of this resolution were to be accepted by the Secretary, then the Federal Register Notices for the next Board meetings would have to include language which notified the public that a portion of the Board meetings were being established as livestock hearing sessions. It was decided that the resolution would be amended to incorporate the comments presented during the discussion. The Board conducted a straw vote on the following resolution and directed the Executive Committee to formalize the vote during a subsequent conference call after discussion with Livestock Committee Chairperson Clark:

The Board resolves to inform the Secretary that the statutory regulation that the Secretary hold livestock hearings has been met for the following reasons,

1. The Board has established a Livestock Committee;
2. The Committee has met in 7 states and in every region of the country and held 8 public meetings and has received informal public input at each meeting;
3. The Board has also met and has taken formal public comments during each of its full Board meetings in 6 states;
4. The producing and consuming public have had significant opportunity to comment on the proposed standards;
5. The oral and written submissions of the producing and consuming public have been reviewed, analyzed and incorporated in the current Committee proposals;
6. The Board will distribute its draft recommendations to the same groups and persons that would be notified of the proposed hearings thereby ensuring adequate response (input written as well as oral presentations);
7. The Board will hold at least two additional public meetings with opportunity for the above mentioned public input prior to submitting formal recommendations to the
Secretary;
8. The Federal Register Notice announcing the remaining two Board meetings will contain notice that public input time will be dedicated to receiving comment on organic livestock and livestock product production.

Wherefore,
The expense and time consumed by additional public hearing held by the Secretary are unnecessary and should not be held.

The resolution was approved by a vote of 10 aye; and 1 opposed.

Sligh introduced a resolution delineating the future role of the Board after completion of the final recommendations to USDA for the creation of the National Organic Program. Friedman suggested the Board's role should be to address problems that arise rather than a complete review every two years of the entire program. The resolution was tabled for further consideration.

The meeting was adjourned at 11:30 am.
PUBLIC INPUT SESSION  
National Organic Standards Board Meeting  
January 31, 1994

Preparation Date: February 7, 1994

(1) Stephen Zoller, Vice President and General Manager,  
San-J International, Inc.

HANDOUT. Mr. Zoller focused his remarks on the unique concerns  
of soybean product manufacturers regarding the NOSB Processing,  
Handling and Labeling Committee's literal interpretation of the  
OPPA in calculating the percent organic ingredients in processed  
products to be labeled "organically produced." Mr. Zoller argued  
for water to be included in the calculation of percent organic,  
given that soybeans require a lot of water to make them  
consumable "without serious gastro-intestinal distress." In  
response to a question by Mr. Rich Theuer, Mr. Zoller describe  
the San-J soy sauce as 2% alcohol, 79% water and salt, and 21%  
soybean after fermentation, although the percentage of soybeans  
by weight is twice as high before processing. Mr. Theuer  
suggested that the before-processing weight of the ingredients be  
considered by the NOSB.

(2) John Ardrey (MH or TR)

(3) Annie Kirschenmann, Co-Chair, Organic Certifiers Caucus  
(OCC).

HANDOUT. The OCC, which represents 17 certifying agencies, met  
in Asilomar on January 20, 1994, and hammered out a position on  
the peer review process, which Ms. Kirschenmann presented to the  
Board. Essentially, the OCC views peer review and on-site  
evaluation as one in the same. [Please see the handout for a  
complete description of the peer review process proposed.] Ms.  
Kirschenmann argued that the OCC position is based on a reading  
of the Senate Committee Report, which states that the peer review  
process should utilize existing certifying agencies and base the  
procedure on the university system of peer review, with the  
intent to provide "integrity and consistency." The OCC believes  
in a separation of review and decision-making functions. Ms.  
Kirschenmann also commented that if certifiers cannot be  
adequately represented in Board deliberations, the issue will be  
"revisited at greater cost." Ms. Kirschenmann noted that  
revisions to the OCC position will be made, given that greater  
detail is needed. The OCC has committed to work together and  
negotiate on contentious issues. In response to a concern  
expressed by Mr. Bob Quinn, Ms. Kirschenmann noted that the OCC  
is open to all current certifiers, including State agencies.  
[New Hampshire is currently the only State in the Caucus.] Ms.  
Margaret Clark suggested involving States through NASDA.
Representing his company's product, wastewater treatment solids for use as fertilizer, Mr. Peer described the impending EPA regulations of February 19, 1994. Stricter quality standards will be placed on sludge; more composting with lime stabilization and controls for pathogens and heavy metals will be included. Mr. Peer expressed his feeling that the quality of the BioGro product has improved to the point that he could approach the NOSB. He stated his sense of moral obligation to try and use the wastewater solid products, as he has farmed organically essentially for ten years. Mr. Tom Stoneback suggested that Mr. Peer approach the Composting Council, which sets different grades for sludge products. Mr. Theuer commented that Beechnut prohibits the application of sludge to fields where baby food ingredients are produced for five years prior to harvest. Mr. Peer agreed to provide a copy of the ten heavy metal standards and pesticides allowed at nondetectable levels.

As stated in the IFOAM proposal to the NOSB and USDA of September 23, 1993, there are two possible areas where IFOAM-USDA cooperation may occur: in the domestic accreditation program and in the determination of equivalency for the purpose of verifying imports into the United States. Mr. Commins cited the advantage of utilizing IFOAM's experience: 28 evaluations have been conducted over the course of 7 years. Typically, a 58-page report would accompanying an IFOAM accreditation. IFOAM's services ensure that the three NOSB accreditation principles, competency, independence, and transparency, are adhered to. IFOAM's methodology is investigative. IFOAM could assist in the timely implementation of the OFPA, and is ready to begin to discuss the idea of joint evaluation with AMS. From IFOAM's experience, Mr. Commins suggested that the pre-evaluation phase involve an assessment of application completeness, with the evaluation visit including a second phase of application screening for compliance with the OPFA. Mr. Commins noted that the IFOAM criteria details how an agency is to be assessed; the NOSB proposed questionnaire does not currently provide specific questions which would render detailed responses. Mr. Commins stated his basic satisfaction with the NOSB International Committee's document on import equivalency, with the exception of a few points [brought up in later discussion]. In closing, Mr. Commins noted that the IFOAM Accreditation Programme will be moved to the United States within a year.
(10) Katherine DiMatteo, Executive Director, OFPANA (MH or TR)
(11) Rod Crossley, Health Valley Foods, Irwindale, California.  
Mr. Crossley focused on the fact that processors are governed by the FDA. He stated that the FDA supports organic food labeling because organic production reduces the use of pesticides. The FDA may declare a mislabeling violation if an organic product's label does not meet the letter of the law. Labeling specifications must be made clear. Blanket labeling would not be allowed. Incidental additives must be indicated. It is not currently clear who in FDA will write the FDA regulations governing the labeling of organic processed products; this issue is to be resolved by FDA's legal counsel. CFR 2408C of January 6, 1993, describes FDA's function following action by USDA, and indicates that FDA will determine if additional FDA regulations are needed after the USDA rulemaking procedure is concluded. Mr. Crossley emphasized that the Board needs to consider this factor in developing its timeline, "spinning off" labeling regulations to FDA as soon as possible. Dr. Hal Ricker commented that USDA is working with John Vanderveen and Cathy Carnaval of FDA, in an attempt to coordinate efforts. They have already received an early draft of the NOSB PHL Committee's labeling document.

(12) David Haenn (MH or TR)

(13) Zea Sonnabend, California Certified Organic Farmers (CCOF).  
Ms. Sonnabend asked the NOSB to consider the following concerns of CCOF as it develops its guidelines for accreditation: CCOF is a membership-based organization, with decision-making conducted by volunteers through a local peer review process. She asked if certification decisions must necessarily be made by a paid staff? Dr. Ricker noted for the record that conflict of interest would be assessed on a case by case basis. In response to an inquiry by Mr. Robert Beauchemin, Dr. Ricker stated that the criteria for this assessment would be spelled out. Regarding a document written by USDA staff members Ted Rogers and Michael Hankin on National List issues, Ms. Sonnabend questioned the premise that off-farm inputs must only be used in emergency situations and an inference that farmers bringing in off-farm inputs were suspect, or, "guilty till proven innocent." She noted that the "rank and file" growers do not understand the difference between NOSB and USDA.

(14) Ron Gargasz (MH or TR)

(15) Allen Rosenfeld, Public Voice for Food and Health Policy.  
Mr. Rosenfeld noted his involvement in the writing of the OFPA. He stated that given the recent passage of the nutrition labeling legislation, organic labeling should be consistent. His view is that processors should be required to state the percentage of organic ingredients on the principle display panel, in contrast to the NOSB PHL Committee's current position prohibiting such a statement. Mr. Rosenfeld stressed that the consumer should have as much information as possible. Regarding the allowance of
synthetics in organic processed products, Mr. Rosenfeld argued that only public health considerations be of importance; otherwise, a sunset provision for such ingredients should be developed, and the products containing such ingredients should be clearly labeled. He stated his opposition to the use of ethylene gas to ripen bananas, describing its use as a classic example of product manipulation for commerce purposes. He noted that his problem was not with the 5% non-organic ingredients allowed in processed products labeled organic but with the synthetic ingredients that might make up that 5 percent. In conclusion, he described the recent Public Voice national opinion survey entitled, "What Americans think about agrichemicals?"

(16) Joan Dine, Consumer (MH or TR)

(17) Eric Ardapple Kindberg (MH or TR)

(18) **Jay Feldman, National Coalition Against the Misuse of Chemicals (NCAMP).**

HANDOUT. Mr. Feldman emphasized that the Board needs to aggressively pursue consumer involvement as it develops its recommendations. He cited the results of a recent NCAMP survey, distributed to NCAMP newsletter subscribers. Mr. Feldman stressed his view that full disclosure be required on labels. The farm plan should indicate what inputs are in use and for what time period, and should assess whether inputs are basic or periodic and infrequent.

(19) Tom Harding, Agrisystems International, Inc. (MH or TR)

(20) John Clark, Roseland Farms, Cassopolis, Michigan (MH or TR)
Chairperson Michael Sligh called the National Organic Standards Board (NOSB) meeting to order at 1:00 p.m. and requested that the members of the Board introduce themselves.

Members in attendance were: Dean Eppley, Gary Osweiler, Robert Quinn, Jay Friedman, Don Kinsman, Gene Kahn, K. Chandler, Tom Stoneback, Merrill Clark, Margaret Clark, Rich Theuer, Michael Sligh, and Craig Weakley. Participating as the temporary certifying agent advisor to the NOSB was Robert Beauchemein.

Staff members present from USDA were: Julie Anton, Michael Hankin, Ted Rogers, and Hal Ricker.

The minutes from the July and September 1993 meetings were approved unanimously.

A written USDA update of activities was submitted by Ricker.

Ricker suggested that the Board make a resolution during this meeting to request additional Advisory Committee money from USDA to help cover the costs of the May 1994 meeting and possibly a meeting in September before the end of the 1994 fiscal year.

The Board held a discussion on the appointment of the permanent NOSB Certifier representative. Ricker explained that the OPFA prohibits a certifier representative appointment until after certifiers have been accredited. Robert Beauchemein, from OCIA, was appointed as "advisor" for this meeting and was invited to join Board members at the head table.

Chandler moved that we establish the certifier "advisor" position as a rotating position available to a different person for each meeting. Seconded by Margaret Clark. Passed by unanimous vote.

Margaret Clark moved to strike from the previously accepted resolution (from the Arkansas meeting) the provision that the Organic Certifiers Caucus (OCC) make the nomination for the certifier "advisor" position. Instead, the Accreditation committee would make a recommendation to the NOSB for filling this advisor position and the full board would discuss this and other nominations and make the final decision. Passed by unanimous vote.

Theuer moved to vote at this time on the May NOSB meeting location. Seconded. Motion failed.
A discussion of the process for moving from Draft Recommendations to Final Board Recommendations was initiated by Sligh. Sligh reviewed the current proposed recommendation development process and asked Quinn for clarification of Point 6 which involves receiving USDA comments prior to drafting of the Final Recommendations. Ricker reported that the "inter-agency task force" is scheduled to meet on 2/15/94 with comments back to USDA and the NOSB before 4/1/94. The recommendation process was amended to add step 8: NOSB reviews USDA proposed regulatory language and may submit comments and seek clarification on such language.

The discussion then shifted to the subject of whether minority views should be distributed to the public.

Friedman moved that minority views not be attached to NOSB Final Recommendations to USDA. Passed 9-y, 2-n, 1-a.

Chandler moved that minority views be allowed on all documents except Final Recommendations. Failed 5-y, 5-n, 2-a.

Weakley moved that minority positions be allowed on all documents except Full Board Draft Recommendations and Full Board Final Recommendations. Passed 11-y, 1-n.

Weakley moved that it be incumbent on the minority viewholders to submit minority positions in writing to the Committee chairperson. After the minority position is received by the chairperson, it will be included with the next mailing of the recommendation document to the public. Passed by unanimous vote.

Amendments to Board draft recommendations were discussed next. Friedman moved that written amendments from board members to board draft recommendations be considered at any time during full board meetings. Passed unanimously.

A clarification was sought of the format of the NOSB Final Recommendations to USDA. It was ascertained that USDA will not modify the actual Final NOSB Recommendation document in any way; also, USDA will attempt to provide the majority of its comments and concerns about any NOSB document prior to the vote by the NOSB on the Final Recommendation.

This segment of the meeting concluded with a discussion of the USDA projected timeline for implementation of the Organic Program. Ricker indicated that he thought the target dates as indicated on the handout were achievable.

Next on the agenda was the Genetic Engineering Discussion. Margaret Clark and Theuer discussed their document. Friedman moved that we recognize organisms and their products created by Recombinant DNA Technology as synthetic under the OFPA. Seconded. Passed by unanimous vote.
Friedman moved that no material or substance arising from rDNA Technology be allowed on the National List for 5 years. Seconded. Motion withdrawn by Friedman after several board members expressed concern that more debate and information was needed before a decision is adopted.

Sligh initiated a discussion on the NOSB By-Laws. Referencing page 6 of the 1/25/94 document faxed to all board members by Sligh, Sligh also distributed four new proposals for consideration: 1) A revised proposal for the continuing role of the NOSB; 2) Consideration of certain phase-in regulations with requirements for review and sunsets; 3) Procedures for handling mail Addressed to USDA; and 4) Evaluation Criteria for NOSB Recommendations.

The comments focused around the continuing role of the NOSB. Sligh outlined the various issues and actions that the NOSB must address after the Final Recommendations for program implementation are submitted to the Secretary. Several suggestions were made for modifications to the document and Sligh agreed to make such modifications via the task force.

Margaret Clark then talked about the Technical Advisory Panel (TAP) process and displayed a flow chart developed by the Executive Committee on how the TAP process should work and discussed how the Committees, the Full Board, the TAPs, and the USDA should be expected to work together.

Meeting adjourned at 5:35 p.m.

January 31, 1994

A recorder was not in attendance for the morning session which was the public input session.

The meeting was called to order at 9:00 a.m. by Sligh.
NOSB Members present: Eppley, Osweiler, Quinn, Taylor, Kinsman, Kahn, Stoneback, Merrill Clark, Margaret Clark, Theuer, Sligh, Weakley, Chandler;
Certifier Advisor present: Robert Beauchemein
USDA Staff present: Anton, Hankin, Ricker, Rogers

The public input session was held. (Notes on the presentations by the various speakers are available on file at USDA).

A recorder was present for the afternoon session which began with presentations by Assistant Secretary Pat Jensen and AMS Administrator Lon Hatamiya.

Mark Bradley then led an information seminar on the ISO 9000 program for the Board to consider in its recommendations on accreditation of certifying agencies.
Committee presentations

Friedman began the International Committee report with a discussion of the document "Proposed Rule Regarding Importation of Organic Agricultural Products."

Theuer moved that the International committee develop appropriate language for satisfying the equivalency requirement. Seconded. Motion was then withdrawn by Theuer after discussion.

Weakley then moved that the following language be substituted at Section IV, Importation B. and also at paragraphs A and C of this Section: "Products may enter the US if they bear the official shield, seal, or mark of a certification program or agent regulated by an ISO which is recognized by the Secretary, provided that, the ISO ensures observance of standards equivalent to those set forth in the US organic certification program. Seconded. Passed unanimously.

It was suggested that in the Section on "Exportation of Imported Products", paragraph A, line 28, the following words be deleted: "labeled as organically produced and handled." Accepted as an amendment by the Committee.

It was moved that in Section IV, Importation, paragraph C, that "or" be deleted and "and, if applicable" be inserted at both places where "or" appears. Seconded. Passed 10-y, 3-n.

Sligh moved to table further discussion of the document. Seconded. Failed.

Friedman moved to approve the document, as amended, as an NOSB Draft Recommendation. Seconded. Passed 10-y, 3-n.

Weakley moved that the Resolution entitled "USDA-IFOAM Accreditation Cooperation", submitted by the Accreditation Committee in a previous mailing for review by NOSB members, be adopted. Seconded. Passed by unanimous vote.

The meeting was adjourned.

February 1, 1994

NOSB Members present: Osweiler, Quinn, Taylor, Kahn, Chandler, Stoneback, Merrill Clark, Margaret Clark, Kinsman, Eppley, Theuer, Sligh, Weakley, Friedman;
Certifier Advisor Present: Robert Beauchemein
USDA Staff Present: Ricker, Hankin, Anton, Rogers

The meeting was called to order at 8:00 a.m.
Theuer began a discussion of the various Processing Committee issues. Topics intended to be discussed are: (1) Organic Food Labeling Standards; (2) National List for Processing and Handling; (3) Organic Good Manufacturing Practices; and (4) Organic Handling Plan.

Theuer began with an exploration of tailoring the definition of "synthetic," which will be critical to the discussion of National List issues, for processing, crops, and livestock standards. He discussed three examples of processing ingredients (citric acid, baking soda, and corn starch) which may or may not be synthetic based on how "synthetic" is defined. This topic will be discussed more extensively at the next NOSB meeting.

A straw vote on whether citric acid should be considered as synthetic based on the discussion at this meeting was held. Synthetic status: 11-y, 2-n, 1-a; still appropriate for foods labeled "organic" even though it may be synthetic: 12-y, 2-a.

Similar straw votes were held for baking soda [Synthetic status: 13-y, 1-a; appropriate for organic: unanimous] and for corn starch [Synthetic status: 11-y, 3-n; appropriate for organic: unanimous].

Theuer then switched to a discussion of the Committee labeling document "General Organic Food Labeling Standards."

Merrill Clark commented in regard to non-organic ingredients being allowed in organic foods, and described it as "counterproductive." This was followed by a motion to add at Section 2.B. paragraph 1.b.: 'the non-organic ingredients should be identified with the word "non-organic".' Seconded. Motion failed 1-y, 13-n.

The Processing Committee agreed to a suggested change at Section 2.B., paragraphs 2.a.(ii) and 2.b., to delete the phrase "non-synthetically processed."

The Committee also agreed to a suggested change on Page 0, paragraphs (b), (c), (d), and (e), to insert the word "total" in front of the word "percentage."

Kahn moved that the Board approve page 0 as amended and page 2 as amended. Seconded. Passed 13-y, 1-a.

Weakley moved that page 4 be approved as amended. Seconded. Passed 12-y, 1-a.

Eppley moved that lines 19 through 54 on page 5 be approved. Seconded. Failed 9-y, 5-n.

Quinn moved on a procedural matter that 9 votes out of 14 members 

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in attendance should constitute a 2/3 majority vote for this meeting and should be sufficient for a motion to pass. Seconded. Failed 5-y, 4-n, 1-a.

Theuer began a discussion of the composition sections of the labeling document. A lengthy discussion ensued on the issue of "availability of organic ingredients." Kinsman moved that the Processing Committee include in the OHP a provision for review between the certifier and the handler as to the availability of an organic source for any non-organic ingredient of agricultural origin used in organically labeled foods. Passed by unanimous vote.

Theuer moved that page 1 of labeling document be approved. Seconded. Passed 10-y, 3-n, 1-a.

A break from the Committee presentation was approved so that the Board could listen to remarks from Deputy Secretary Richard Rominger.

Deputy Secretary Rominger

USDA is committed to implementation of the organic program. Budgetary appropriations are tight. USDA will work closely with the NOSB to get appropriate recommendations in place because Secretary Espy will have to defend the program once it is established. USDA will consider any additional recommendations that NOSB wishes to submit relating to how organic production relates to program policy and work of other USDA divisions, such as crop insurance for organic farmers subjected to accidental spray drift.

Processing Committee (continued)

Theuer reopened the discussion with page 3 of the labeling document. Theuer moved that the board adopt page 3. Seconded. Passed 13-y, 0-n.

Theuer then discussed page 5 of the labeling document. It was moved that this page of the document be sent back to the Processing Committee for further development. Seconded. Passed 12-y, 2-n.

Procedural

At this time, the NOSB conducted a vote on the location and dates of the next NOSB meeting. The two choices were Santa Fe, New Mexico and Fresno, California. Eight members voted for Santa Fe and four members voted for Fresno. The next meeting will be held in Santa Fe, New Mexico during the first week of June. Exact location and dates will be determined later.
Livestock Committee

Merrill began discussion of the Livestock Committee documents.

Use of synthetic antibiotics in organic Livestock production:

Kahn and Chandler presented their minority view on synthetic antibiotic use. The minority opinion presents a less restrictive attitude toward the use of antibiotics.

Merrill Clark moved to adopt the original, majority-view Committee document on antibiotics as a Board Draft Recommendation. Seconded. Failed 7-y, 5-n, 2-a.

Use of synthetic parasiticides in organic Livestock production:

Friedman opened discussion of this document and reviewed the Committee position as written.

Kahn presented the minority view on synthetic parasiticide use which presented a less restrictive attitude toward the practice of administering parasiticides to organic livestock.

Merrill Clark moved that the original, majority-view Committee document on parasiticides be approved as a Board Draft Recommendation. Seconded. Failed 3-y, 6-n, 5-a.

Quinn moved that the livestock committee be instructed by the NOSB to consider the possibility of a phase-in time for implementation of antibiotic and parasiticide standards. Seconded. Passed unanimously.

Livestock Feed

Quinn began discussion of the livestock feed standard document. He indicated that the committee had amended the document as follows:

B. Feed additives fed to livestock shall meet the following requirements:

1. Natural feed additives shall be from any source, provided the additive is not classified as a Prohibited Natural on the National List;
2. Synthetic feed additives shall be materials which are classified as Allowed Synthetics on the National List.

D. Added as the last sentence to D. "Efforts to locate feed which have been produced without use of prohibited substances shall be documented."

Theuer moved that the definition of "feed" in the livestock
committee definitions document be amended to include the phrase "may include bedding." Seconded. Passed by unanimous vote.

Chandler moved to delete the phrase "before conventional sources are used." Seconded. Passed 9-y, 1-n, 2-a.

Weakley moved that we accept the feed standard document as amended. Seconded. Passed by unanimous vote.

**Organic Livestock Healthcare Practices**

Kinsman initiated a discussion of the proposed revisions to this document.

Theuer moved that in the first sentence of paragraph 3, "minimizes" should be replaced by "limits" and "maximizes" should be replaced by "promotes." Seconded. Passed 9-y, 1-a.

Kahn moved that "the conduction of" be deleted from (3)(c)(1). Seconded. Passed by unanimous vote.

Quinn moved that the document be accepted as a Board Draft Recommendation as amended. Seconded. Passed 10-y, 2-a.

**Crops Committee**

Kahn opened discussion of Committee proposed amendments to current crops Board Draft recommendation documents.

**Split Operations**

Eppley moved that at line 82 of the Split Operations document: "requires producers to" should be changed to "requests that producers." Seconded. Passed 10-y, 1-n.

**Residue Testing**

Sligh moved that in the Residue Testing document, line 294, the following phrase should be added after "Act": "Strict confidentiality will be maintained by all parties notified of a drift or misapplication incident during the investigation."

**Planting Stock**

Quinn moved that in the Planting Stock document, line 196, the following phrase should be inserted between "available." and "Plastic": "Pelletized seed is allowed unless it contains prohibited substances." Passed 11-y, 1-a.

Other editorial motions and revisions were discussed and accepted and incorporated into documents which are contained in the December 1993 "Crops Committee Comprehensive Document".

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Small Farmer Exemption

Kahn presented the Small Farmer Exemption document that had been greatly revised after public input. Quinn moved that the recordkeeping requirement of 5 years be changed to 3 years (line 85). Seconded. Passed unanimously.

Kahn moved that line 97 of Small Farmer Exemption document be changed by deleting "processors" and inserting "certified handlers." Seconded. Passed by unanimous vote.

Kahn moved that the following be added at line 80: "Declaration form must be completed annually." Seconded. Passed 11-y, 2-n.

Chandler moved that the word "ANNUAL" be inserted in front of the word "DECLARATION" at line 108. Passed 10-y, 2-a.

Quinn moved that the document be approved as amended. Seconded. Passed 9-y, 3-n, 1-a.

Materials Committee

The Materials Committee discussion began with Margaret Clark describing the flow chart for the TAP process.

Weakley moved that the flow chart of the TAP process be adopted. Seconded. Passed by unanimous vote.

Sligh recommended that some key categories for the TAP experts to be concerned with when providing information to the NOSB regarding reviewed materials are: 1) how the material is produced and manufactured and what inputs are used; 2) what is the historical use or prohibition of the material in organic production or handling; 3) is the material allowed or prohibited by domestic and international certification agents or programs; 4) information related to the evaluation criteria outlined in OFPA Sections 2118 and 2119; 5) government registration numbers and literature citations that support the information submitted. Weakley moved that Sligh's recommendation be adopted by the board. Seconded. Passed unanimously.

Taylor suggested that the NOSB create a task force to develop the petition process as stated in the OFPA Section 2119 (n) and to develop the process for satisfying the OFPA requirement in 2119 (1) (2). Sligh moved that we charge the Materials Committee with oversight of these tasks. Failed 7-y, 5-n.

Kahn moved to disband the Materials Committee and to charge the Livestock, Crops, Processing, and International Committees with oversight for satisfying the two tasks outlined above. Seconded. Passed by unanimous vote.
Kahn opened discussion of the Crops Committee List of Materials to be considered for inclusion on the National List and indicated that the intent of the Crops Committee is to get NOSB approval to send these materials to the TAP for information gathering as part of the formal review process and to send the document out for widespread public comment.

Taylor suggested that the Crops Committee submit documentation to the TAP that was used by the Committee in drawing conclusions on materials included on its List so that the TAP process could be expedited.

Merrill Clark moved that we send the entire Crops Materials List to the TAP. Seconded. Motion amended to specify that the list of Allowed Naturals be evaluated only for determination of natural vs. synthetic in order to limit the work of the TAP. Passed 10-y, 2-n.

After a brief discussion by Theuer of the Processing Committee's list of materials to be considered for the National List, Weakley moved that the List, excluding the category of non-synthetic, non-organic agricultural products, be submitted to the TAP as part of the formal review process. Seconded. Passed unanimously.

Because of the late hour and without discussion of the Livestock Committee's list of materials to be considered for the National List, Sligh moved that the list be submitted to the TAP as part of the formal review process. Second. Passed unanimously.

Meeting adjourned by Sligh at 10:15 p.m.

February 2, 1994

Sligh opened the meeting at 8:02 a.m.

NOSB Members present: Margaret Clark, Sligh, Theuer, Quinn, Taylor, Osweiler, Kahn, Chandler, Stoneback, Kinsman, Eppley, Merrill Clark, Craig Weakley;
Certifier Advisor present: Robert Beauchemein
USDA Staff present: Hankin, Rogers, Anton

Accreditation Committee

Margaret Clark led a discussion of the Accreditation Program issues.

Margaret explained the Committee recommended changes to Draft #9 as contained in the previously mailed Committee document, "Proposed Revisions to Accreditation Draft Recommendation Version 9.0." Sligh moved that all changes discussed and written in the proposed revisions document through the section on Transparency on page one be adopted. Seconded. Passed by unanimous vote.
Sligh moved that we adopt all changes on the proposed revisions document regarding Producer/Handler Records. Seconded. Passed by unanimous vote.

Sligh moved that we adopt Section 2.A. on the proposed revisions document as amended. Seconded. Passed by unanimous vote.

Quinn moved that section 2.B. of the proposed revisions document be adopted as amended. Second. Passed by unanimous vote.

Sligh moved that section 3 of the proposed revisions document be adopted. Seconded. Passed by unanimous vote.

Quinn moved that the change suggested for the "conflict of interest" section be adopted. Seconded. Passed 12-y, 1-n.

Sligh moved that we adopt sections #5, 6, 16, 17, and 18 of the proposed revisions document. Seconded. Passed by unanimous vote.

Sligh discussed the Draft Appeals Section Insert document dated 1/19/94. Quinn moved to adopt the Draft Appeals Section Insert as part of the Accreditation Draft Recommendation. Seconded. Passed by unanimous vote.

Julie Anton discussed the Fee Structure Model for Accreditation document dated 1/18/94. The NOSB provided some comments on the different alternatives and then requested that USDA develop and clarify the positions.

Margaret Clark discussed a flow chart of the Accreditation Program and focused on the composition of the Evaluation team and of the Peer Review Panel. She asked each Board member for comments on the current approach being taken by the committee.

Quinn began discussion of additions to Accreditation Draft Recommendation #9 contained in the International Committee Recommendation to Full Board, page 4. The first additions would be inserted at line 14 on page 5 of the Accreditation Draft Recommendation #9. The second additions would be inserted on page 30, lines 117-118, of the Accreditation Draft Recommendation #9.

Kinsman moved that the proposed additions be adopted, as amended, as part of the Accreditation Draft Recommendation. Seconded. Passed 11-y, 1-n.

Administrative

Quinn moved that the cycle for the certifier advisor appointment to the NOSB begin at the end of a full Board meeting and end after the following full Board meeting. Seconded. Passed by unanimous vote.

Sligh began discussion of his resolution regarding the receipt of
mail by USDA or NOSB members and actions designed to promote greater accountability. It was moved and seconded that this resolution be adopted with a paragraph 3 added. Passed by unanimous vote.

Sligh began discussion of his resolution regarding the continuing role of the NOSB. Sligh will revise this resolution and submit it for a vote at the June meeting.

Sligh began discussion about the length and format of the June meeting. Quinn suggested that we use the same format as used at Rodale where each Committee had 2 presentations on different dates in order to provide time to re-work critical parts of documents.

Kahn moved that all minority positions presented during discussion of Board Draft Recommendations contain complete alternate proposal language. Seconded. Passed 10-y, 1-n.

Weakley moved that as of March 1, 1994, all Committee chairpersons should submit a list of the current versions of all Committee documents to him for circulation to all NOSB members. Seconded. Passed by unanimous vote.

Processing Committee (continued)

Theuer reviewed the postponed amendments to the Food Labeling standards document section regarding the removal of the certification requirement for processors of the category "foods purporting to contain organic ingredients." Theuer then moved that they be adopted by the Board. Seconded. Passed by unanimous vote.

Weakley briefly introduced the Organic Good Manufacturing Practices Recommendation to the Full Board. He indicated that the document will be mailed out for widespread public input and will be brought to the Board for a vote at the June meeting.

Sligh asked Board members to randomly offer at this time suggestions on issues related to "organic" that should be included in the 1995 Farm Bill. A list was compiled.

Following this, the Washington, DC, NOSB meeting was adjourned at noon.
May 31, 1994

The initial session of the National Organic Standards Board (NOSB) meeting was called to order at 4:35 pm by Chairperson Michael Sligh.

Members in attendance were: Robert Quinn, Jay Friedman, Gene Kahn, Nancy Taylor, K. Chandler, Tom Stoneback, Merrill Clark, Margaret Clark, Rich Theuer, Michael Sligh, and Craig Weakley. Participating as the temporary certifying agent advisor to the NOSB was Victoria Smith from the New Hampshire Department of Agriculture.

Staff members present from USDA were: Harold Ricker, Julie Anton, Michael Hankin, Ted Rogers, and Michael Johnson.

Chairperson Sligh defined the objectives of this meeting as stated in the agenda for May 31 (attached).

Mr. Theuer proposed that the minutes of the last meeting, held in Washington, DC in February 1994, be approved. Mr. Kahn seconded the motion. The minutes were unanimously approved with the following corrections:

1. K. Chandler will be added to the list of attendees for all sessions;
2. Mr. Weakley will be added to the list of attendees for February 2;
3. Merrill Clark's comments during the processing session as regarding the use of non-organic ingredients in organic foods and about the determination of availability of organic ingredients are to be added;
4. On page 5, clarify that the unanimous vote was in favor of the appropriateness for the particular synthetics in organic production;
5. On page 8, a date will be provided for the Crops Comprehensive Document;
and
6. On page 10, fourth paragraph, add "non-organic" after "non-synthetic."

Theuer motioned and Kahn seconded to approve the minutes. Unanimously approved with 2 abstentions.

Eileen Stommes, Deputy Director of AMS Transportation and Marketing Division, formally greeted the Board and indicated the importance of this meeting as a culmination of 2 years work and stated that final NOSB recommendations should be made to USDA with the understanding that the program will continue to evolve after implementation. She emphasized the increased public demand for organic products,
increased international attention, and support from the present Administration as
contributing to the spotlight being shined on the Organic Program.

Margaret Clark introduced Victoria Smith as the attending temporary certifier
representative to the NOSB meeting. Ms. Smith said she will attempt to represent both
the State of New Hampshire program and the privately operating New England
certifiers.

Don Kinsman and Dean Eppley joined the meeting. Ricker reported that Gary Osweiler
regretfully will not be able to attend any of the sessions of the Santa Fe meeting.

Jay Friedman officially welcomed the NOSB, USDA representatives, and attendees to
New Mexico and reiterated his expectations that the Board would aggressively tackle the
agenda for the week and produce Board Final Recommendations.

Hal Ricker gave the USDA report and distributed three handouts (attached):
1. Budget calculations for the NOSB for FY 1994;
2. Estimated timeline for standards and regulatory program development; and
3. USDA staffing report.

The NOSB has an estimated balance of $1,500 for FY 1994; therefore, because a Board
meeting costs approximately $15,000, the next NOSB meeting will not be held until FY
1995.

Regarding staffing, Ricker explained that we do need a larger number of staff persons at
this time to develop and establish the Program. Margaret Clark announced that the
NOSB would be recommending that the Accreditation portion of the USDA program be
supported by user fees, but that all other staff and administrative expenses should be
covered by appropriated fees.

Ricker then explained the appointment procedure for NOSB positions that are due to
expire in 1995. He expects that the notice announcing the initiation of the process would
be published in the Federal Register during June or July 1994.

Ricker reported that Gary Osweiler has previously submitted a letter notifying USDA
that he will not apply for reappointment. Theuer stated that he will relinquish his
position and Taylor suggested that she is not opposed to serving another term, but has
decided instead that she would like another farmer to participate in her place. Margaret
Clark will be seeking reappointment. Bob Quinn, whose term does not expire, has
requested that his appointment be terminated at the same time as Osweiler, Theuer and
Taylor and he will submit this request in writing.

Following a general discussion on the potential locations of Texas, California, and North
Carolina for the next NOSB meeting, Kahn motioned that California be selected.
Weakley seconded. Quinn amended the motion to include the Southeast as the next
meeting site following California. VOTE: Yes - 6. Opposed - 4. Motion failed. Taylor

The members then clarified that portions of an entire draft recommendation document may be moved forward as Final recommendations provided that the meaning and intent was not compromised. Also agreed upon was that Comprehensive documents should be considered as separate documents. Quinn motioned and Friedman seconded that abstentions would not count as votes cast during the voting process and referred to the OFPA language that requires 2/3 of the votes cast to achieve approval of a motion. VOTE: Yes - 12. Abstain - 1. Motion passed.

Discussing the development of a definition of "organic," Ricker declared that USDA does need to have both a working definition and a short publishable definition of the term to facilitate public and government edification. The Board accepted that Chandler would coordinate the accumulation of NOSB documents on the organic definition and submit them to USDA for Staff members to use in developing a definition of organic to be reviewed by NOSB members.

Margaret Clark moved and Taylor seconded to adjourn at 7:00 pm. Unanimously agreed.

June 1, 1994

Members in attendance were: Don Kinsman, Dean Eppley, Nancy Taylor, Robert Quinn, Gene Kahn, K. Chandler, Tom Stoneback, Merrill Clark, Margaret Clark, Rich Theuer, Michael Sligh, Craig Weakley, and Victoria Smith from the New Hampshire Department of Agriculture. Jay Friedman joined the meeting late.

Staff members present from USDA were: Harold Ricker, Julie Anton, Michael Hankin, Ted Rogers, and Michael Johnson.

CROPS COMMITTEE

Chairperson Kahn presented the Crop Standards Committee comprehensive document to the full Board, stating the Committee's intention to have all but the section on botanical pesticides accepted by the Board as Final Recommendations at this meeting. He noted that certain of the issues pertaining to crop standards brought up by Board members at previous meetings had been incorporated into a draft list (attached) for incorporation into a letter to the Secretary requesting that certain existing USDA programs be modified to assist and protect organic producers. Also noted was the fact that the Crops Committee had developed draft greenhouse and mushroom production standards, which
would be brought forward, time permitting.

With reference to the organic farm plan in the comprehensive document, Kahn clarified that the Livestock Committee would be presenting a section pertaining to farm plan requirements for livestock producers during its presentation. This section would then be merged with the crops document to create a complete crops-livestock farm plan recommendation.

First addressing the draft letter to accompany Board recommendations to the Secretary, Kahn described the four considerations listed which were drawn from notes of conference calls and minutes of meetings. He suggested that the Livestock and Processing Committees add issues, if so inclined. Kahn described the lack of inclusion in the Final Recommendations of these four issues as "deficiencies in the Board document about to be voted upon" and affirmed that they should be addressed somewhere in the Board presentation to the Secretary. Sligh expressed support for the approach of a letter; Quinn stated his concern that these issues would "fall out" during the rule-writing process at USDA, and would not be sufficiently considered by the Secretary. At the conclusion of this discussion, Kahn asked that additional concerns be directed to the Crops Committee.

The Board then turned to a discussion of the Spray Drift and Misapplication Policy section of the comprehensive document, starting with the additional language recommended by the Committee on page 3, line 126: "It is recommended that this notification be in writing in order to facilitate any potential legal claims on behalf of the certified organic producer."

Margaret Clark motioned that this sentence be added, and with a second from Sligh, the language was adopted by a unanimous VOTE. Passed.

Taylor asked, with reference to line 63, the meaning of "excluding livestock" (OFPA Sec 2105). The Board agreed to note this lack of clarity for the record, and return to it at a later point.

Sligh moved that the Spray Drift and Misapplication Policy be adopted as a Board Final Recommendation, second from Dean Eppley. VOTE: Yes - unanimous. Passed.

The Small Farmer Exemption (Section 2B of the comprehensive document) yielded greater discussion. Kahn stated that the perspectives presented in this section reflect the Committee's concern that the Program not disproportionately burden the small producer. Quinn presented the additional language of lines 241-243: "There shall be no mandatory filing requirements for the above small farmer exemption provisions. All required information must be on file and available on the premises of the exempted farmer."
Clark pointed out that Texas has a mandatory registration form for small producers. Quinn responded that the intent of the language is not to exclude States from issuing additional requirements with respect to this area, and referred to lines 245-246 which clearly state this. Theuer asked for an explanation of the applicability of the small farmer provisions when a grower markets only within a State and stated his understanding that OFPA only applies to interstate commerce and that there is no Federal jurisdiction in intra-state matters. Ricker interjected that if this were found to be true, the Board could amend their recommendation accordingly at a later date.

Smith commented that without mandatory filing requirements, the producers would probably not bother to create files and she asked how producers would be informed of the small farmer requirements. Quinn noted the Committee's desire to eliminate unnecessary layers of bureaucracy. It was the opinion of Smith that the burden would fall on the private certifying agencies.

Kahn stated that it would not be practical to enforce mandatory filing requirements, and that the recommendations were the best compromise between organic integrity and small producer burden. Weakley moved that the language of lines 241-243 be adopted, and Clark seconded the motion. The language passed with a VOTE of: Yes - 8. Opposed - 2. Abstain - 3. Passed.

Merrill Clark turned the Board toward a discussion of lines 232-233, regarding the allowance for uncertified small farmers to sell at retail outlets citing her concern for consumer confusion. Kahn responded that the Committee had discussed this issue at length. He described the way his company, Cascadian Farm, got off the ground through direct sales to the Rockport Country Store, a place where tourists shopped for gifts. Preventing small producers from taking advantage of opportunities to get started would be unjust. Sligh expressed his agreement, and suggested in a motion that processors be included on line 214; Margaret Clark seconded the motion, and the Board voted to insert the term, "or handled" between "produced" and "are" on line 214. VOTE: Yes - unanimous. Passed.

With reference to the declaration form on page 7, Theuer suggested that the words "produce and" and "or label" be deleted, and that the words "or handled" be added after the first word "produced" appearing on that line. Kahn moved that this amendment be adopted and Theuer seconded. VOTE: Yes - unanimous. Passed.

Margaret Clark moved to adopt the entire section as amended; Kahn seconded the motion, and a discussion ensued. Taylor noted the double negative appearing in OFPA Section 2106(d), and expressed concern for the confusion it may cause those impacted by the small farmer exemption.

In a discussion of enforcement of the small farmer provisions, Weakley pointed out that enforcement would come from activities in the marketplace, not from USDA, which
would be inefficient. Merrill Clark stated that consumers will expect certification. Friedman argued that lines 223-227 are really certification requirements; Weakley retorted by saying that such requirements are standards by which small farmers must conduct themselves in order to market organic products. Anton described her discussions with retailers, most of whom indicated that uncertified produce would not be sold as organic, and she interpreted this as an indication that the marketplace would respond to consumer preferences.

It was motioned and seconded that the Small Farmer Exemption be adopted as amended. The section was adopted as a final Board recommendation by a VOTE of: Yes - 9. Opposed - 3. Abstain - 1. Passed.

Section 2C of the comprehensive document, entitled "Residue Testing" was brought forward by Kahn. In response to an inquiry by Hankin about the residue testing allowance of 5 percent of EPA tolerance in other sections of the comprehensive document, Weakley stated that the reference to 5 percent had appeared in the original drafts of the drift and emergency spray sections, but the Board had not accepted that allowance in this document.

Merrill Clark indicated her preference to change "may" to "shall" on line 474. Kahn responded by saying that the Committee had felt strongly that mandatory testing places too great a burden on growers. Theuer stated that because one may not find a drift residue after rainfall, line 470 should be placed below lines 474-475. Weakley explained that if a crop is directly hit by a drifted substance it could not be sold as organic, but the residue testing could be necessary because the next crop grown on that land could be sold as organic if stated procedural requirements were satisfied.

Friedman asked if private certifying agents would be involved in sampling, in reference to line 447. Weakley stated that State and Federal programs would be relied upon to incorporate organic growers in their sampling practices. Sligh noted that North Carolina had indicated a willingness to do this; Anton described the research conducted during the development of this document that confirmed that the Federal sampling procedures were possible. Friedman expressed concern for the cost burden such activities could place on States.

Kahn described residue testing as a tool by which certifying agencies could evaluate risk and provide information to growers. As an example, Oregon Tilth director Yvonne Frost stated that for certain crops, soil testing can be made mandatory by the certifying agent. In other words, the need for residue testing varies by region and is producer and crop specific.

Hankin commented that the response to the 5 percent of EPA tolerance provision had not yet been received from EPA. (These comments were received and distributed later in the meeting). Theuer stated his belief that testing to 5-10% of EPA tolerance was
entirely within the realm of possibility.

Friedman moved to delete lines 394-404, based on his opinion that "organic" is a product statement according to OFPA Section 2112(c)(1); Theuer seconded his motion. Weakley pointed out that references to 5-10% of EPA tolerance are made in numerous places in the Senate Agriculture Committee report. Margaret called the question. VOTE: Yes - 3. Opposed - 9. Abstain - 1. Failed.

Friedman introduced his next proposal for amendment, moving that the words, "and upon written complaint" be inserted at the end of line 472; Chandler seconded the motion. In discussion, Quinn argued that requiring written complaints is burdensome to certifying agents. Smith agreed with Friedman, stating that the inspection reporting requirements incorporate written complaints. Chandler expressed his interest in requiring that complaints be in writing, because "inspectors can run vendettas against producers, and run up fees." VOTE: Yes - 4. Opposed - 7. Failed.

Theuer offered a compromise, moving that the term "written" be inserted before "complaints" on line 484; Friedman seconded the motion. VOTE: Yes - unanimous. Passed.

Next, Margaret Clark moved that the entire section on residue testing be adopted as a final recommendation; Eppley seconded the motion, and discussion ensued. Theuer suggested that on line 474 the term "sold" should be changed to "produced" or "grown," since the issue is preharvest residue testing. Sligh referred to page 301 of the Senate Committee Report. Clark argued that the recommendations not become an attempt to design residue testing programs for certifying Agents.


Weakley noted that lines 460-465 are meant to serve as broad guidelines in the establishment of local-level residue testing programs.

Merrill Clark moved to strike lines 420-421, and Friedman seconded, with an interest in letting States set a less than 1 percent of EPA tolerance level; VOTE: Yes - 4. Opposed - 8. Abstain - 1. Failed.

Theuer motioned that the words "to be" be inserted before "sold" on lines 467 and 474; the motion was seconded and approved by a VOTE of: Yes - 12. Opposed - 1. Passed.

The previous motion to adopt the entire residue testing section as amended as a Final Board Recommendation was called to question and carried by a VOTE of: Yes - 12. Opposed - 1. Passed.
In conclusion of this session of the full Board, Kahn asked that Board members interested in amending other sections of the comprehensive document submit amendments in writing by the Friday afternoon meeting. The Board members were also requested to review the proposed greenhouse and mushroom standards.

PROCESSING COMMITTEE

The first document to be discussed by the Processing Committee was the Organic Handling Plan which was presented for adoption as a Board Final Recommendation. Weakley led the discussion and opened with a review of public response letters to the document. He identified the 3 major categories of responses as requests to:

1. Remove the waste management section;
2. Define more clearly the types of handlers; and
3. Create language that is more inclusive of livestock.

He pointed out that lines 41-50 of the 9/28/93 proposed final recommendation (Ted Rogers distribution) were new language that enumerated the various types of affected handlers on the basis of transfer of legal title. Margaret Clark explained that the entity holding the legal title is responsible for the inspection and certification of all other persons or businesses handling the product until such time as the product changes legal title again. She clarified that all handlers would either be certified themselves or have their co-handlers inspected as part of the original handler’s certification process.

Kinsman alerted the Board that Attachment 1 should be modified to include language for handlers of livestock products and he offered to develop language for this area before the next session. Sligh expressed the concerns that lighter-volume handlers might have with the language at line 60 that requires UPS and airlines to sign a document acknowledging that organic handling practices would be adhered to during transit to ensure that integrity is maintained.

Friedman offered the following amendment at line 59 after the word "product": Add "and exposure to possible federal civil penalties for violation thereof." Quinn seconded. VOTE: Yes - 10. Abstain - 3. Passed. Quinn offered to amend lines 413-414 and 419-420 as follows and Kinsman seconded: Delete "who does not take...certified" and replace with "who does take legal title to organic products does need to be certified". VOTE: Yes - 12. Abstain - 1. Passed.

Friedman made the motion that at lines 47-48, and elsewhere in the document, the reference to the word "HACCP" be deleted and replaced with "organic integrity assurance system." Taylor seconded. VOTE: Yes - unanimous. Passed.

Margaret Clark moved, seconded by Kahn, that at line 47 in the commentary, the word "do" be replaced with "may" and add: "The handler who holds legal title and is certified must include under the certification all facilities which receive, handle or store the product. All requirements for the protection of organic integrity must be observed and facilities inspected, where applicable." VOTE: Yes - 10. Opposed - 3. Passed.
Friedman commented that this was legally possible only if the persons are agents and proposed replacing at line 54 the phrase "all known individuals or businesses" with the word "agents." Merrill Clark seconded. VOTE: Yes - 4. Opposed - 6. Abstain - 2. Failed. Margaret Clark moved, seconded by Quinn, that at line 486 and at other places as applicable, that "co-processor" be changed to read "co-processor/co-packer." VOTE: Yes - 9. Abstain - 3. Passed.

Theuer motioned, seconded by Friedman, that the category of "waste management" be removed in entirety from the document. Many NOSB members stated a preference to maintain the section in the document because it is a goal of organic manufacturing, while understanding that it should not be a mandatory section of the handling plan. Merrill Clark emphasized that waste management is an environmental concern and is necessary to prevent accidental occurrences of habitat destruction and as such belongs within the context of the Organic Plan. VOTE: Yes - 2. Opposed - 9. Failed.

Kinsman moved and Quinn seconded that at lines 125 and 129 "processing" be changed to "packing." VOTE: Yes - 11. Abstain - 2. Passed.

Friedman moved, seconded by Chandler, that at line 69 of the plan, add after "and", "exposure to possible Federal civil penalties for violation thereof and...". VOTE: Yes - 10. Abstain - 2. Passed.

Friedman moved and Kinsman seconded that the document be tabled and sent back to Committee to make the technical corrections. VOTE: Yes - Unanimous.

The meeting adjourned for lunch. The public input session held after lunch took up the remainder of the day's planned agenda.

June 2, 1994

Members in attendance were: Robert Quinn, Gene Kahn, Nancy Taylor, Don Kinsman, Dean Eppley, K. Chandler, Tom Stoneback, Merrill Clark, Margaret Clark, Rich Theuer, Michael Sligh, Craig Weakley, Jay Friedman, and Victoria Smith from the New Hampshire Department of Agriculture.

Staff members present from USDA were: Harold Ricker, Julie Anton, Michael Hankin, Ted Rogers, and Michael Johnson.

The meeting began with an announcement of the various Committee caucus sessions planned during the week to resolve issues arising from discussion during the Full Board sessions. Ricker suggested again that the Board focus on the major concepts of the Draft Recommendations under consideration in order to actually pass most of the documents through as final recommendations.
Kinsman began the presentation with the Livestock Sources document. He brought to the Board a Committee recommendation that at the end of line 256, a new sentence be added that reads: "If such breeder stock is eventually sold for slaughter, it will not be considered organic." Taylor motioned, seconded by Sligh, that line 256 contain the reference to the restricted allowable use of antibiotics in breeder stock as stated in the Livestock Committee Recommendation on Antibiotics. This reference reads as follows:

"Organic breeder stock may receive application of synthetic antibiotic in the event of a healthcare emergency. In such instance, the progeny may be sold or labeled as organically produced provided that the application to the breeder stock does not occur in the last third of gestation or while nursing the progeny, and the application is prescribed by a licensed veterinarian. The organic breeder stock, having received an application of synthetic antibiotics, is not disqualified from having its future progeny sold or labeled as organic." VOTE: Yes - 8. Opposed - 4. Passed.

Quinn made a motion, second by Merrill Clark, to amend the phrase to be added at the end of line 256 to read, "If such breeder stock is eventually sold for slaughter, it will not be considered organic unless if meets the requirements for slaughter stock." VOTE: Yes - 11. Opposed - 1. Passed. VOTE to approve the breeder stock language as amended in the livestock source document: Yes - 9. Opposed - 1. Absent - 2. Passed.

Kahn moved and seconded by Stoneback that at line 242, the word "shall" be changed to "may." After discussion, Kahn withdrew his motion in favor of Weakley's motion, second by Kahn, that lines 242-244 be deleted and replaced with, "The USDA accredited certifying agents shall include a section in the Organic Farm Plan which requests that producers describe their current efforts and existing obstacles toward conversion." This would be consistent with the Crops Farm Plan recommendation. VOTE: Yes - 10. Opposed - 2. Abstain - 1. Passed.

Kahn moved that at lines 267-269 regarding certified feeds for replacement dairy stock, that the 12 month period be changed to 3 months. He cited WSU research that showed all feed is gone from the rumen within 24 hours and stated that 12 months is a barrier to growth for the organic dairy industry. VOTE: Yes - 4. Opposed - 7. Abstain - 2. Failed. Ricker stated that Kahn could include his concerns in a letter to Secretary Espy. Quinn moved and Theuer seconded that the Livestock Sources document be accepted as a Board Final Recommendation. VOTE: Yes - 8. Opposed - 4. Abstain - 1. Passed.

The next document discussed was the Livestock Feed Standard. Quinn moved, seconded by Chandler, to approve the entire document. During discussion, Friedman moved and Theuer seconded to delete 100% in lines 278 and 281 related to requiring 100% organically produced feed, because of the use of non-organic supplements in livestock feed. VOTE: Yes - unanimous. Passed. VOTE to accept Livestock Feed Standard as Board Final Recommendation: Yes - unanimous. Passed.
The next document discussed was the Feed Availability Emergency Provision which accompanies the Feed Document. Friedman moved to delete lines 555-557. No second. Vickie Smith received clarification that the intent of this document is that the herd animals remain marketable as organic in cases where any emergency feed use category is utilized by the producer." Weakley moved and seconded by Margaret Clark that at line 550, "possible" be deleted and "reasonable" be inserted before "effort." VOTE: Yes - unanimous. Passed. Sligh moved, seconded by Margaret Clark, to accept the Feed Availability Emergency Provision as a Board Final Recommendation. VOTE: Yes - Unanimous. Passed.

The Health care Practices document was next on the agenda. Theuer made a motion, seconded by Margaret Clark, that "With the exception of poultry," be added at the beginning of line 343. Sligh expressed concern about a blanket exemption for poultry. Several attendees stated that poultry could be raised without the exemption for confinement. Kinsman stated that confinement need not be inhumane and inefficient and actually may be helpful in certain situations when carefully managed and approved by the certifying agency. Friedman made a friendly amendment, second by Taylor, to delete lines 343-349 and substitute with species specific standards to be developed later. Theuer and Chandler expressed concerns that such specific standards could border on micro-managing of producers' operations. VOTE on Friedman's amendment: Yes - 4. Opposed - 8. Failed. VOTE on Theuer's original motion: Yes - 6. Opposed - 7. Failed. Weakley moved, Quinn seconded, to delete lines 343-349 and refer the confinement issue back to the Livestock Committee. VOTE: Yes - 7. Opposed - 5. Absent - 1. Failed. Kahn moved, Taylor second, to add at line 344 following "prohibited", "Furthermore, seasonal access to pasture for dairy animals is required."

Hankin queried whether certain regions of the country might then be excluded from dairy production and Sligh replied affirmatively. VOTE: Yes - 3. Opposed - 9. Failed. Theuer moved that lines 299-349 be approved without amendment. Merrill Clark seconded. VOTE: Yes - 3. Opposed - 7. Failed. Meeting adjourned for lunch. This document will be discussed later at this meeting.

MATERIALS DISCUSSION
Reconvening at 1:00 pm, Zea Sonnabend and John Brown, advisors to NOSB and USDA for the review of materials for placement on the National List, began a review of their work and the status of the materials review process. They first reviewed their job descriptions and division of duties. Next, they updated the Board on the recruiting efforts to obtain Technical Advisory Panel (TAP) experts and noted that about 17 persons have replied but that many more are needed. After discussion of whether persons with vested interests should be permitted to participate as TAP members, and after several NOSB members stated a desire to develop a balanced approach to TAP participation, Sligh motioned and Margaret Clark seconded to require a form for disclosure of conflict of interest from all TAP members. VOTE: Yes - 4. Opposed - 8. Failed.
Zea requested NOSB members to help solicit persons to assist with the materials review process. Her next monthly written progress report will address the TAP areas still needing volunteers; USDA will then initiate a recruiting effort to utilize members of government agencies to complete the TAP roster.

Next discussed by Sonnabend was the petition process draft that she had prepared. Theuer moved, seconded by Friedman, that the process be established as follows:

1. Petition to USDA;
2. USDA evaluates completeness;
3. Petition is sent from USDA to TAP coordinators;
4. Petition is forwarded to TAP experts;
5. Researched information is returned to Board for recommendation to USDA.

Weakley offered an amendment that the natural/synthetic determination should be made before it enters into the TAP review. After discussion, Theuer withdrew his motion and the petition process issue will be discussed at a later session during the week.

Zea then reviewed the petition form design. It was decided after a review of the present proposed form that Zea and USDA staff would jointly revise the form so that it is acceptable to the NOSB and reflects the concerns of the USDA. The form will not be split into separate forms for addition and removal of substances from the National List and it will include a request for information on the State registration of a substance.

A paper prepared by Zea related to the natural/synthetic dichotomy discussion was taken up next by the Board. Theuer explained his ideas regarding a progressive approach (from synthetic to natural to organic) for substances used for extraction. After agreeing with Zea that solvents would be included on the National List, Friedman moved and Stoneback seconded that: "Synthetic substances may be used to extract a substance from a natural source provided: (1) the chemical structure of the final extracted substance is not changed by the extraction; (2) none of the synthetic substances used to extract remains in the final extracted product; and (3) the substance used to extract the product is approved on the National List." VOTE: Yes - 11. Opposed - 0. Absent - 2. Passed.

John Brown then reviewed the database setup for materials under consideration for the National List that had been set up by Zea and himself. It was pointed out by Brown that USDA does not intend to review brand names and also that the database will not include inert ingredients. Existing label instructions and restrictions will be utilized in the development of the National List and the database information regarding usage is not intended to supersede label information. The criteria used for substance evaluation will also focus on detrimental interactions independent of effects on the environment and human health.

Some remaining unresolved issues identified during the discussions were:
1. USDA submission of materials that USDA wants to have reviewed for the National List. It was agreed that USDA staff members will complete petitions for these materials and submit them into the review process.

2. Disclosure of inert ingredients in formulations. Two options as stated by Ted Rogers are that (1) USDA obtain full disclosure details from the companies and EPA or that (2) EPA create a label for the product identifying it as acceptable for the National Organic Program. Sonnabend noted that producers may lose the use of some necessary products if full disclosure is required because not all companies are willing to provide this information. She recommended that this be taken into account when debating the full disclosure issues. Sligh proposed the creation of a task force to communicate with manufacturers in encouraging full disclosure of ingredients of substances approved for use in organic agriculture. The task force was formed and will consist of Nancy Taylor, Tom Stoneback, Eric Kindberg, Gary Osweiler, and USDA staff.

LIVESTOCK COMMITTEE

At the conclusion of the materials presentation, the Board resumed discussion of livestock topics. Sligh motioned, with a second by Friedman, that the Livestock Committee Farm Plan amendments to the Crops Committee Farm Plan be accepted. VOTE: Yes - unanimous. Passed. USDA staff will combine the two documents into one Farm Plan recommendation.

Turning to the livestock questionnaire accompanying the livestock farm plan document, Theuer moved, second by Quinn, to delete "or another label" on lines 638 and 641. VOTE: Yes - 8. Opposed - 1. Passed. Taylor moved and Chandler seconded to change "animal" on line 693 to "type"; delete "separate" on line 692; delete "and/or livestock product type" on lines 693-694; and delete lines 695-699 entirely beginning with "Please...". VOTE: Yes - unanimous. Passed. Kahn made a motion, second by Theuer, to add this questionnaire document to the Farm Plan Recommendation. VOTE: Yes - unanimous. Passed.

The Health Care Practices recommendation was revisited again starting with lines 343-349 concerning confinement of livestock indoors without access to the outdoors. Friedman moved, seconded by Quinn, to delete lines 343-349 from the recommendation and refer the confinement issue to the Livestock Committee to develop species specific confinement recommendations to be brought to the Board at the next meeting in October. VOTE: Yes - 11. Opposed - 1. Passed. Quinn moved and Sligh seconded that the phrase, "Livestock confinement standards to be developed later" be added at line 343 and that the Health Care Practices draft recommendation document be accepted as a Board final recommendation. VOTE: Yes - unanimous. Passed.

During the Livestock Committee presentation, the Crops Committee Farm Plan draft recommendation was referenced and briefly discussed. Friedman questioned whether
language should be added addressing penalties to producers who deviate from the Farm
Plan. Kahn replied that deviations, whether major or minor, should remain within the
discretion of the accredited certifying agency with guidance provided by USDA.
Friedman proposed that at line 782 of the Crops Committee Farm Plan, following "farm
management," a new sentence be added that reads, "Minor deviation from the Farm Plan
that does not constitute a pattern of inappropriate deviation shall not constitute grounds

Kinsman moved to delete the following phrase at lines 587-588 of the Livestock Farm
Plan: "in order to produce progressively stronger animals and eliminate a dependency on
and use of veterinary medications." Theuer seconded. Kinsman rejected a friendly
amendment to replace "in order to" with "in an effort to". VOTE to delete the phrase:

Sligh moved and Quinn seconded to approve the Organic Farm Plan document as
amended and to combine the Crops and Livestock language and questionnaires into one

The Board then took before them the Livestock Recordkeeping recommendation.
Friedman moved and Merrill Clark seconded to approve lines 350-361. VOTE: Yes -
unanimous. Passed. Friedman moved and Weakley seconded to approve lines 362-370
after first deleting on line 369 the words, "use and" and replacing with "the," and also
Passed.

Kahn moved, seconded by Weakley, to replace line 381 with: "Prohibited materials shall
not contact livestock and livestock products during transportation." VOTE: Yes - 5.
Opposed - 7. Failed.

Friedman moved and Theuer seconded to approve lines 371-381 of the Livestock
Recordkeeping document and to accept the entire document (lines 350-381) as a Board

Meeting adjourned at 5:35 pm.

JUNE 3, 1994

Members in attendance were: Robert Quinn, Gene Kahn, Nancy Taylor, Don Kinsman,
Dean Eppley, K. Chandler, Tom Stoneback, Merrill Clark, Margaret Clark, Rich Theuer,
Michael Sligh, Craig Weakley, Jay Friedman, and Victoria Smith from the New
Hampshire Department of Agriculture.

Staff members present from USDA were: Harold Ricker, Julie Anton, Michael Hankin,
Ted Rogers, and Michael Johnson.
Slight opened the meeting by announcing the following revised caucus schedule:

- **Crops Committee** - Friday 3-5 pm
- **Accreditation Committee** - Friday 3:15 - 5:30 pm
- **Livestock Committee** - Friday 3:15 - 5:30 pm
- **Petitions Working Group** - Friday 12:30 pm

Plenary sessions on Saturday will be conducted as follows:
- Livestock - 8-10 am
- Crops - 10-11 am
- Processing - 11 am-12 pm
- Committee presentations to the Board (as necessary) - 1-3 pm.

**Accreditation Committee**

Margaret Clark first explained the piecemeal approach that she would be taking in having **Accreditation Draft #10** and the proposed revisions approved by the Board as a final recommendation.

Michael Hankin expressed appreciation for the work of the Committee and asked the Board to focus on the Accreditation Program at this time and defer debate on the matter of differentiation between State Certification Program approval and State Accreditation.

Robert Beauchemein of OCIA, speaking for the attending members of the Organic Certifiers Caucus (OCC), stated that although OCC officially supports its original accreditation position as expressed in its submitted comments to Draft #10, the members present (CCOF, Oregon Tilth, FVO, OGBA, and OCIA) do not object to the Accreditation Committee’s concepts of Peer Review and Evaluation. He stressed that a stronger public/private partnership than envisioned in the USDA staff comments paper is essential. He believes that the Peer Review Committee should be kept small and that it should make recommendations to USDA on accreditation status of applicants. He affirmed that the organic community is not divided on this issue. Hankin thanked him for his concern and stated that, based on the OCC statement, USDA staff would reevaluate its ideas upon returning to Washington.

Theuer made a motion to delete on line 959 of Draft #10 the words "by election."
Second by Quinn. VOTE: Yes - unanimous. Passed.

Margaret Clark then led the session through the topic of Peer Review Panel consultation
(the new sentence for revision #12 of the revisions document) and through the shaded
areas of lines 754, 756, 762-772 and 777 of Draft #10. Board member comments ranged
from stating that there was too much Peer Review Panel involvement to stressing the
importance of public private partnership to desiring that IFOAM not be permitted to do
any USDA accreditation visits. Quinn motioned and Friedman seconded to approve the
Quinn motioned and Eppley seconded to approve the shaded areas on lines 762-764 of
to approve lines 765-768 of Draft #10 permitting the site visit to be contracted to an
approved organization. Smith added and then withdrew a motion to modify line 765
after "agent" with the phrase: "involved in international trade." A motion to add the
phrase: "for purposes of facilitating international trade" after "organization" on line 768
decided that new language should be brought back later this meeting by the Committee.
Sligh motioned and Eppley seconded to accept into Draft #10 the new language stated
in revision #12 of the revisions document that calls for USDA to consult with the Panel

Sligh then moved and Taylor seconded that the shaded areas of lines 809-811, 825-827,
and 838-849 be accepted along with the additional language of revision #14 of the
revisions document. After opening the discussion to comments from the Board and
guests, Margaret Clark heard a gamut of opinions on the subject of spot visits. Crossley
of Health Valley Foods said inspectors may be turned away by the manufacturer and this
facet of certification is too expensive. Friedman stated that notice could be given and
that the visits could be conducted during regular business hours. It was agreed that spot
visits should be included in evaluating an accreditation application, but that the visits
must not be a burden to producers and processors. Theuer said that only government
officials are allowed in by many businesses and Smith agreed that regulations established
by USDA would be necessary for such visits to effectively occur. Bowen of CCOF said
that spot checks should be necessary only when potential problems are noticed and that
advance notice should be given. Friedman moved and Theuer seconded that lines 809-
Passed. Weakley commented that USDA should still consider spot visits for the
Program, but that the current language was unacceptable and should be improved later
by the Board. Friedman then moved, seconded by Sligh, that the sentence, "Optional
field visits of certificants: NOSB shall develop further recommendations" be inserted at
line 809. VOTE: Yes - unanimous. Passed.

Taylor motioned and Quinn seconded to accept the shaded areas on lines 825-827.
Friedman made a friendly amendment that was accepted to change "confidentiality" on

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line 826 to "non-disclosure." VOTE: Yes - unanimous. Passed.

Switching to revision #15 of the revisions document, Margaret Clark noted that this merely involved format changes and retitling of sections. Sligh moved and Eppley seconded to accept this technical change along with the correction on line 854 of "30 days" instead of "14 days." VOTE: Yes - unanimous. This technical change did not include accepting the newly suggested word, "stakeholder."

Quinn moved and Eppley seconded to delete "non-profit" on lines 915-917 and accept the technical change of #16 of the revisions document. VOTE: Yes - 11. Opposed - 2. Passed.

Friedman moved and Theuer seconded that at line 913, "will have the option to" should be replaced with "shall have their evaluations include"; and at lines 915-918, replace the entire phrase from "as......certifier" with "as private certifiers shall have their evaluation team include another private certifier."

VOTE: Yes - unanimous. Passed.

The session then adjourned for lunch.

Following lunch, the accreditation discussion centered around the composition of the evaluation team. Quinn moved and Theuer seconded that the shaded areas of lines 896-905 be accepted with the minor revision that the word "peer" be deleted on line 902.

VOTE: Yes - unanimous. Passed.

Taylor moved and Sligh seconded to accept revisions #17 and #18 of the revisions document with the following amendments: change "four" to "three" on line 943; accept the shaded lines 948-949; and add "and livestock" after "cropping" on line 932. VOTE: Yes - 11. Abstain - 2. Passed.

Quinn moved and Sligh seconded to approve lines 906-909. VOTE: Yes - 1. Opposed - 12. Failed. Lines 906-909 referring to optional USDA presence on the evaluation team, and lines 922, are to be deleted.

Weakley moved and Quinn seconded that revision #19 (a title change and the new background commentary) of the revision document be approved. Theuer queried whether this means the Board is accepting the "stakeholder" idea (there was no response). VOTE: Yes - 10. Opposed - 3. Passed.

Revision #21 of the revisions document containing new language on the composition and size of the Peer Review Panel was discussed next. Sligh motioned and Weakley seconded to delete lines 950-973 and 985-986 of Draft #10 and replace them with revision #21. Taylor offered a friendly amendment to revision #21 that was accepted that changes the USDA status on the Peer Review Panel to an official member and
maintains the NOSB status as ex-officio. Theuer offered a friendly amendment that was accepted that adds the phrase, "as well as having expertise in organic farming and handling" after "inspector" on the last line of the first paragraph of revision #21. Friedman offered a friendly amendment that was not accepted to delete the entire first paragraph of revision #21 pertaining to key components of members. Taylor requested a vote on Theuer's friendly amendment - VOTE Yes - 10. Opposed - 3. Passed.


Turning to revision #25 of the revision document concerning the cost of accreditation, Weakley moved and Eppley seconded to accept the revision language with the last two lines about a 2/3 vote to be deleted. Also, the sentence, "The Board further recommends that the ongoing program administration costs above the cost of accreditation be paid for through direct appropriated funds" will be added at the conclusion of the recommendation. VOTE: Yes - 11. Opposed - 1. Abstain - 1. Passed.

INTERNATIONAL COMMITTEE

Committee Chairperson Friedman brought forth the Committee document entitled, 'Proposed Rule Regarding Importation of Organic Agricultural Products," for full Board discussion and vote. Friedman pointed out that the words, "proposed rule," should remain in the title of the recommendation, as it is the interest of the Committee that the exact language of the recommendation be published in the Federal Register.

A brief discussion of the effects of mandatory fumigation at U.S. borders on the integrity of organic imports was initiated by Rich Theuer. This resulted in a motion by Michael Sligh to adopt the following language as an additional section to the document:

"VI. Maintaining Organic Integrity During Importation

Recommendations related to maintaining organic integrity during importation of organic products will be developed later."

This motion was seconded by Bob Quinn. VOTE: Yes - unanimous. Passed.

Friedman noted that the definition of "imported" (lines 17-23) had been changed upon receiving the suggestion from a USDA agency that the definition used commonly in government documents be adopted. The Board accepted this change as stated in the document. Passed.

Mr. Friedman also explained that, with regard to lines 24-29, the Committee had opted to utilize the term, "International Organic Standards Organization (IOSO)" as opposed to "International Standards Organization (ISO)", to make the organization referenced in the recommendation separate and distinct from other uses of the term, "ISO". This change
was accepted by the Board. Passed. In a discussion of lines 27-29, it was agreed that it was not necessary to qualify the activities of an IOSO, since the IOSO would have to be approved by the Secretary.

The Board agreed to consider the term, "product", as used in lines 40-71 to be all-inclusive.

Quinn then presented the Committee minority view cited in lines 73-85. He explained that the intention of was to consider both State and private certifiers as "certifying agents". Taylor brought up the point that by using the terms "State programs" and "certifying agents accredited by the Secretary", States with programs that are not certifying agents would be covered.

Sligh stated that he could not approve certain of the minority view recommendations in isolation because the recommendations were tied together. This statement was made in response to Theuer's suggestion that parts 3 and 4 be adopted, but not parts 1 and 2. Margaret Clark expressed her concern that State approval not be considered a substitution for accreditation, and that the language of the import requirements recommendation not imply this. Ms. Clark motioned that lines 73-85 be adopted, with a second from Quinn. VOTE: Yes - 5. Opposed - 6. Abstain - 2. Failed.

Next, Theuer moved that lines 81-85 be approved. Discussion ensued. Stoneback reminded the Board that all language would be subject to legal review during the rule-writing process, and that any inconsistencies across recommendations would be handled then. Friedman noted that the New Mexico State program had been approached to conduct certification services in Mexico. Theuer withdrew his motion after consideration of State programs which may be accredited with additional certification requirements.

Quinn took the initiative of motioning again that lines 81-85 be approved; Sligh seconded the motion. VOTE: Yes - 5. Opposed - 6. Abstain - 2. Failed.

Ms. Clark again argued that the language regarding State programs implied that States did not have to be accredited; Taylor disagreed, stating that the language was not inconsistent with the Board draft recommendation on accreditation. Weakley inserted that any conflicts in language would be sorted out at USDA.

Stoneback motioned for the entire document, with amendments agreed upon, to be approved; this motion was seconded by Merrill Clark. The document was adopted as a Final Board Recommendation by a VOTE of: Yes - 10. Opposed - 3. Passed.

Following the vote, the session for the day was concluded and adjournment was agreed upon.

JUNE 4, 1994
Members in attendance were: Robert Quinn, Gene Kahn, Nancy Taylor, Don Kinsman,
Dean Eppley, K. Chandler, Tom Stoneback, Merrill Clark, Margaret Clark, Rich Theuer,
Michael Sligh, Craig Weakley, Jay Friedman, and Victoria Smith from the New
Hampshire Department of Agriculture.

Staff members present from USDA were: Harold Ricker, Julie Anton, Michael Hankin, 
Ted Rogers, and Michael Johnson.

Livestock Committee

Merrill Clark initiated Board discussion of the Committee's Antibiotic Recommendation

to the Full Board. After summarizing several written comments that had been received

from the general public in response to Committee recommendations, Merrill Clark asked

Jay Friedman to conduct the document review. Friedman began with lines 391-396 of

the document concerning antibiotic use in slaughter stock, and asked for unanimous

consent to remove the word "synthetic" throughout the recommendation. Theuer so

moved and Quinn seconded. After debate on the implications of prohibiting natural

antibiotics from allowable organic animal health care practices and questions as to

whether there really are natural antibiotics, Theuer explained that his intent was to

exclude all antibiotics and to prohibit any natural antibiotic from being used in the future


Theuer then moved and Kahn seconded that at line 392, the phrase "as medication or

growth promoters" be added after "antibiotics". This would allow antibiotics to be used

as preservatives in vaccines and AI semen as is the common practice. VOTE: Yes - 11.

Abstain - 2. Passed.

Quinn moved and Kahn seconded to accept lines 391-396 as amended as a Board Final

Recommendation. Before the vote, Theuer received clarification that the

recommendation wording as stated does not permit the use of synthetic topical

antibiotics in slaughter stock, but does allow natural antibiotics to be used. VOTE: Yes


Regarding lines 397-406 on the subject of antibiotic use in breeder stock, Kahn moved

and Chandler seconded to add on line 402 following "emergency" the wording: "after all

five conditions listed in the addendum to the recommendation on the use of antibiotics

have been satisfied"; also, delete lines 402-405 starting with "In" on line 402 and

continuing through the first word "veterinarian" on line 405. Merrill Clark stated that the

OFPA should be interpreted as meaning no antibiotics could be administered during the

last third of gestation, but Kahn replied that the five criteria in the addendum are the

"organic management system" referred to in the OFPA as being necessary for the twelve


Abstain - 1. Failed. Merrill Clark moved and Quinn seconded to accept lines 397-406

as a Board Final Recommendation. Kahn pointed out that the wording as stated would

not allow the use of antibiotics during Caesarean deliveries or other delivery

Friedman suggested that unanimous consent be given to begin the recommended language on antibiotic usage in dairy stock with similar wording as appears on lines 398-400. Agreed. After confirming that FDA has concerns about the implications of FDA established withdrawal times being referenced in the organic standards, Kahn moved, and seconded by Margaret Clark, to delete "12 months" on line 410 and replace with "twice FDA withdrawal time or 30 days, whichever is longer"; also, add on to the end of line 411, "and furthermore must satisfy all five conditions listed in the addendum to the recommendation on the use of synthetic antibiotics in organic livestock production."

Margaret Clark made a friendly amendment that Kahn accepted to add "This policy to be reevaluated in two years." After discussion on the merits of different withdrawal times and phase-in opportunities, the VOTE was: Yes - 3. Opposed - 9. Failed. Kahn then proposed a new amendment for line 410 to delete "12 months" and insert "90 days" (with no reference to FDA withdrawal times); and to add at the end of line 411 "and furthermore must satisfy all five conditions listed in the addendum to the recommendation on the use of synthetic antibiotics in organic livestock production." This policy to be reevaluated in two years." Margaret Clark seconded. VOTE: Yes - 11. Opposed - 2. Passed.

Friedman moved and Theuer seconded to replace the 2 year evaluation with a 2 year sunset clause and re-evaluation to determine an appropriate policy. VOTE: Yes - 1. Opposed - 12. Failed.


Weakley moved and Kahn seconded to adopt the May 5, 1994 addendum to the recommendation containing 5 conditions relating to the use of antibiotics. Friedman made a friendly amendment that was accepted to include the word "written" between "a" and "justification" on line 435. VOTE: Yes - unanimous. Passed. In a post-vote motion, Eppley moved and Kahn seconded that "intentional" be inserted in all instances in the addendum to precede "use or application". VOTE: Yes - 11. Opposed - 1. Passed.

Kahn moved and Merrill Clark seconded to accept the antibiotic document as amended as a Board Final Recommendation. VOTE: Yes - 9. Opposed - 1. Abstain - 1. Passed. Stoneback asked for and received clarification that as the recommendation now reads, topical natural antibiotics could not be used on slaughter stock, but they could be used on breeder stock in a health care emergency.
The next document brought forward was the Parasiticide Recommendation for organic livestock production. Taylor moved and Stoneback seconded to change "prohibited" on line 454 to "restricted." VOTE: Yes - 7. Opposed - 3. Abstain - 3. Passed.

Kahn moved and Weakley seconded that at the end of line 454, the following sentence be added: "In the case of young stock intended for slaughter, approved synthetic parasiticides shall be available during the first third of the animal's life and furthermore must satisfy all 5 conditions listed in the addendum to the recommendation on the use of synthetic parasiticides." VOTE: Yes - 10. Opposed - 3. Passed.


Kahn then moved that lines 462-469 of the section on the use of parasiticides in organic breeder stock be deleted and replaced with the OFPANA recommendation on breeder stock: "In the case of breeder stock, approved synthetic parasiticides shall be available to the animal according to the most appropriate time for treatment. If unapproved materials are used during the last third of gestation, that offspring would not be available, for slaughter stock. The breeder animal and her future offspring would qualify for reentry into the organic program as specified elsewhere in the statute"; also, the wording: "Furthermore, the producer must satisfy all 5 conditions listed in the addendum to the recommendation on the use of synthetic parasiticides" is to be added. Margaret Clark seconded. VOTE: Yes - 0. Opposed - 9. Abstain - 2. Failed. It was decided that the OFPANA language referring to unapproved materials in the last third of gestation was not clear. The Livestock Committee was instructed to develop additional parasiticide language and come back to the Board before adjournment on Sunday.

CROPS COMMITTEE

Kahn presented Section 2D of the comprehensive document, "Allowance for a Split Operation." Only one amendment was suggested by Friedman, who sought to grant States a specific right to prohibit split organic/non-organic farming operations. He noted that everyone involved in the formulation of organic standards for the State of New Mexico favored a prohibition on split operations. A motion was made to add the following language on line 575: "Nothing in this recommendation shall be construed as precluding a State program from adopting further limitations on split operations within that State." The motion was seconded. VOTE: Yes - 8. Opposed - 5. Failed.

Weakley moved that the "Allowance for a Split Operation" section of the comprehensive document become a final Board recommendation. The motion was seconded and approved on a VOTE of: Yes - 11. Opposed - 2. Passed.

In presenting section 2E of the comprehensive document, "Planting Stock Policies," Kahn noted that Merrill Clark and Sligh had requested that the term "commercially available" be defined. He explained that the Crops Committee had agreed to adopt the definition
suggested by Sligh: "Commercially available for the purposes of this set of
recommendations means that the producer shall document to the satisfaction of the
certifying agent that these herein specified seeds and transplants could not be obtained
as organic and/or untreated."

Theuer, with agreement from Friedman, argued that this definition was unsatisfactory,
and looked to be "circular reasoning." Quinn commented that the intention was to place
the discretion for defining "commercially available" at the level of the certifying agent.
Theuer presented on overheads the definition he intended to propose during the
Processing Committee presentation. The following motion was made by Kahn and
seconded to add at line 583 the following language: "The determination of commercial
availability shall be at the discretion of the certifying agent and entail the following good
faith efforts documented in writing by the producer: (a) the good faith efforts made to
locate or develop a source of organic transplants or untreated seed; and (b) the progress
made over the previous year to eliminate non-organic transplants or untreated seed.
VOTE: Yes - unanimous. Passed.

Merrill Clark submitted an amendment to line 603 for the purpose of clarity to replace
"and organically grown transplants are not available for replanting" with: "resulting in
non-availability of organically grown transplants for replanting." Sligh moved to accept
this amendment and the motion was seconded. VOTE: Yes - 11. Abstain - 2. Passed.

Clark suggested the following amendment which would require a review of planting stock
policy exceptions to the requirement that all planting stock used in organic production be
organically grown: "These exceptions shall be permitted for two years after
implementation of the OFPA, after which the use of organically grown seed potatoes,
strawberry crowns, onion sets, garlic, and other planting stock is required." Clark's
motion was seconded by Friedman, and discussion ensued. Kahn argued that the
phytosanitary conditions for seed potatoes were not likely to change; Taylor added that
Idaho requires by law that certain procedures be followed for potato producers.
Weakley commented that a review of exceptions to an organic planting stock
requirement would be undertaken every time the certifying agent applied the definition
of "commercial availability." Friedman countered these arguments by stating that a
mandated review in two years might drive the development of organically grown
transplants. The VOTE was called and the result was: Yes - 2. Opposed - 10. Abstain -
1. Failed.

Next, Theuer asked that the Board consider stressing its preference for the use of
organic seed in lines 721-745 of the planting stock section. He moved that the
Committee develop language to address this issue, and report back to the full Board in
October. This motion was seconded by Friedman. VOTE: Yes - 12. Opposed - 1.
Passed.

Hankin noted the apparent vagueness about the issue of non-organic perennial stock
produced on a non-organic section of an organic farm. This precipitated discussion of
the applicability of the allowance for split operations. The majority of the Board agreed
that a nursery where non-organic production methods were utilized could co-exist in a
farming operation with organic production of crops. Friedman argued that this would
allow for abuse. Kahn responded by stating that all contingencies of farming could not
be addressed in the standards. Sonnabend commented that there are places where it
may be preferable to have perennial seedlings produced on non-organic farms and
brought onto an organic farm where the production of seedlings would not be
sustainable.

Friedman moved that the following language be added to line 610: "provided that the
planting stock does not come from the same farm for more than three years". Me ll
Clark seconded the motion. VOTE: Yes - 2. Opposed - 10 Abstain - 1. Failed.

Hankin asked the Board to clarify the intention of the language on line 731 pertaining to
substances excluded by the OFPA. The following new wording was offered: "Seed
treated with substances prohibited by OFPA are prohibited, with the exception of seed
treated with synthetic fungicides appearing on the National List. The requirements
appearing in the section addressing commercial availability must be fully satisfied."

A motion was made by Friedman and seconded to adopt the Planting Stock Policies
Passed.

Kahn then directed the Board to a discussion of the amendments offered by Theuer to
section 2H of the comprehensive document, "Emergency Spray Exception." The
following were adopted by unanimous consent, following a seconded motion:

Lines 1122, 1131, 1141: Change "treated with" to "exposed to";
Lines 1124, 1149, 1159: Change "treatment with" to "exposure to";
Line 1162: Change "treatment" to "exposure"; and
Line 1118: Place a comma between "livestock" and "feed".

Kinsman raised a concern about the definition of "continuous season" on line 1153, and
moved that the term "continuously growing" be used instead. This motion was seconded

Next, Theuer moved that the entire Emergency Spray Exception section be approved as
a Final Board Recommendation; Taylor seconded the motion.
VOTE: Yes - unanimous. Passed.

Prior to closing the Board session on crops, Weakley made a statement commending
Kahn and USDA advisor Anton for their work in ensuring the success of the Committee.
With no time remaining to discuss the specialty crop standards, Kahn asked the Board to review this document (revised and approved by the Committee on June 3) prior to the October meeting and stated his intentions that it could be added to the Board final recommendations on crop production standards.

**Processing Committee**

Weakley renewed the previous discussion on the Organic Handling Plan draft recommendation document. He reported that following the comments received at the previous Board session, the Organic Handling Plan has now been split into two separate documents. These are entitled, Requirement for Handler Certification - Proposed Final NOSB Recommendation and Organic Handling Plan - Proposed Final NOSB Recommendation.

Weakley first reviewed the Requirement for Handler Certification. He explained that lines 665-688 were inserted to clarify the issue of which categories of handlers need to be certified and lines 690-701 were included to clarify legal relations between the different parties.

Addressing particulars within the recommendation, the Board decided unanimously to change "who'' to "which" in line 706. Sligh moved, seconded by Theuer, to include wording at line 708 which references the small farmer exemption clause of the OFPA. VOTE: Yes - 12. Abstain - 1. Passed. Kahn moved and Friedman seconded to accept the new language for the definition of packers (#6) as it pertains to meat packing plants. VOTE: Yes - 12. Abstain - 1. Passed. Sligh moved and Eppley seconded to accept the new language for processors (#10) as it pertains to meat processors. VOTE: Yes - 12. Abstain - 1. Passed.

Weakley motioned and Theuer seconded to delete "under the OFPA" at line 490-491 and add the wording at line 490: ", but its activities as agent, licensee, employee, contractor, or subcontractor for a certified organic handler must be covered under the certification of that handler." VOTE: Yes - unanimous. Passed. Weakley moved and Theuer seconded to accept the Handler Certification document as a Board Final Recommendation. VOTE: Yes - unanimous. Passed.

Weakley then turned to the Organic Handling Plan recommendation document. He explained that the recommendation was basically the same as previously submitted except that the segments pertaining to handler requirements had been separated and moved into the Requirement for Handler Certification document. In addition, he clarified that the waste management section is addressed in the second paragraph and that waste management was now being considered as a desirable practice rather than as a required practice that could affect a certification status. Additionally, Weakley reported a wording change to allow for a written description to suffice for displaying the movement of organic products through a facility, rather than requiring a schematic flow chart.
Weakley moved and Theuer seconded to amend line 110 by inserting after "operation" the phrase, "or its agents, licensees, employees, contractors, and subcontractors who handle its organic products." VOTE: Yes - unanimous. Passed.

Kinsman moved and Kahn seconded to accept the addition of the words, ",(HACCP) or similar system" after the word "Point" in line 127. VOTE: Yes - unanimous. Passed.

Friedman then moved and Weakley seconded to include the FDA or National Food Processors Association definition of HACCP into the recommendation. VOTE: Yes - unanimous. Passed. USDA staff will locate the definition and insert the additional language.

Theuer motioned and Stoneback seconded to replace lines 164-167 concerning the commercial availability of certified organic ingredients with the following language: "For each food labeled as an organic food that contains one or more non-organic agricultural products as ingredients, a written description of: (a) the good faith efforts made to locate or to develop a source of the certified organic form of the ingredient and (b) the progress made over the previous years to eliminate non-organic agricultural products as ingredients." Also, amend Line 169 to read: "For each non-organic agricultural product used as an ingredient. a description of the reasons why the certified organic form of the ingredient is not used." Technically, change (3) at line 169 to become (4) and (4) at line 171 to become (5). VOTE: Yes - 11. Opposed - 1. Abstain - 1. Passed. Also, the "G" at line 438 will become "A".

Friedman moved and Stoneback seconded that at line 318 the following wording be added: "Submission of this information shall constitute compliance that a HACCP or similar system is identified." VOTE: Yes - 11. Abstain - 2. Passed.

Stoneback moved and Theuer seconded that at line 211 "re.:e" should be changed to "manage." VOTE: Yes - 5. Opposed - 8. Failed.


The Processing Committee then requested the Board to consider accepting the Good Manufacturing Practices (GMP) as a Board Draft Recommendation. First, it was noted that a commentary had now been created in response to public input sent in to the
Committee. Weakley stressed that preventing loss of organic integrity was central as the basic principle of good organic manufacturing practices. Theuer made a motion, seconded by Weakley, to add at line 40 after "materials" the words, "or on the list of prohibited naturals." VOTE: Yes - 10. Abstain - 3. Passed.

Weakley discussed the Committee's previously mailed list of proposed changes to the GMP document. Friedman moved and Theuer seconded to approve #1 on the list as written and #2 on the list with the following revision: add after "materials" on the second line, the words "or appear on the National List of prohibited natural materials". VOTE: Yes - 10. Abstain - 2. Passed.

Stoneback moved and Theuer seconded to accept #3 regarding boiler water. The reason for the change was cited as being to specify preventive practices rather than testing for residues. VOTE: Yes - 10. Abstain - 2. Passed.

Kahn moved and Eppley seconded to accept #4 on the list about water used in handling. Sligh stated his concerns that organic integrity is compromised if the same water from a conventional product rinse is utilized on organic products. Crossley from Health Valley replied that a thorough final clean water rinse would eliminate the potential for residual chemicals. Kahn modified his motion to include "thorough" before "final clear water". VOTE: Yes - 9. Abstain - 2. Passed.

Weakley moved and Theuer seconded to accept #5 on the list about ionizing radiation. Weakley explained that a very low level of radiation for inspection of organic food could be allowed, whereas the much higher dose for killing insects and microorganisms should not be permitted if integrity is to be maintained. VOTE: yes - unanimous. Passed.

After mentioning that USDA should ascertain the correctness of the CFR citations, Friedman moved and Eppley seconded to accept the Good Manufacturing Practices document as a Board Draft Recommendation. VOTE: Yes - 11. Abstain - 1. Passed.

Accreditation Committee

The discussion on revisions to Accreditation Draft #10 were renewed after a short break. Margaret Clark clarified that "transparency" as referenced in the draft should be defined as "the public knows how decisions are reached." Weakley expressed concerns that the draft exceeds the intent of the OFPA.

On page 11 of Draft #10, Margaret Clark seconded a motion from Weakley that at line 409-410, the wording "the definition of organic foods includes the availability of" be deleted and the word "basic" be added at line 410 before "information" and the words "is available" be added following "etc." on line 411. Also, "related" on line 414 is to be deleted and "consumers" on line 415 should be changed to "consumer." VOTE: Yes - unanimous. Passed.

Margaret Clark explained other revisions that she was proposing at this time. On line
419, delete "records" and insert "information" and add "and to records by" before
"Secretary." On line 426, delete "in the organic plan prepared by". On lines 508-511,
change item #12 to item #11 and add a new subsection B at line 515 entitled Public
Access to Production and Handling Information. Lines 409-416 are to be moved to this
new subsection B as are lines 508-511 and lines 460-468. Weakley read the following list
of items to also be inserted under Subsection B: "operation name; address; phone; total
acreage farmed; organic acreage farmed; crops grown; growing practices; inspection date;
inspector's name; parcel identification; dates of last prohibited material use; certification
status; and conditions for certification." (Note: see Board decision on public access as
stated on page 29).

The existing subsection B would be changed to letter C and remain entitled, Records
required to be kept by certifier and available upon request to the Secretary or his
representative. VOTE: Unanimous consensus was given by the Board to accept all of
the above recommended changes.

Lines 452-459 concerning records of ingredients and inputs were deliberated next. First,
however, at line 449, Clark proposed: deleting "of all organic ingredients" and replacing it
with "all products handled and all organic ingredients used"; at line 450, delete "made
and"; at line 452, after "inputs", delete "and/or raw ingredients used...quantity" and
replace with "products handled, and date, source, lot number, and quantity"; and, at line
454, delete "date, quantity" and replace with "date, source lot number, quantity". Second

Weakley moved and Quinn seconded that at the end of line 459, the following language
be added: "On at least an annual basis, certifying agencies or their inspectors must
conduct at least one random product commodity tracking within the farmer entity
certified for each certified producer and handler." Kahn offered a friendly amendment
that was accepted. His amendment was to delete the Weakley motion wording after
"tracking" and substitute "that demonstrates the steps of production or manufacturing
prior to the shipment of that product from the premises of that farm or manufacturer."

Sligh made a motion and Stoneback seconded that at lines 475 and 478, "equal(s)" be
changed to "means" and "basic" be inserted before "information" on lines 476 and 478.
VOTE: Yes - unanimous.

Sligh then moved, again seconded by Stoneback, that at line 496 "covering both the
competence of inspectors and their assignment" be added after "criteria." VOTE: Yes -

Turning to page 8, Sligh moved and Eppley seconded to add on line 308, between
"especially" and "contamination", the phrase: "adherence to the Organic Handling Plan
and"... Also, on line 309, add "and water" after "soil." VOTE: Yes - 12. Abstain - 1.
Passed.

Regarding disclosure of certifying agencies fiscal activities on page 14 at line 529, Weakley moved and Theuer seconded to delete "full and clear" and start the sentence with "Disclosure to the Secretary of Agriculture". VOTE: Yes - unanimous. Passed.

In the Purposes of Accreditation section on page 4, line 156-158, Weakley moved and Sligh seconded to delete the phrase: "shall be determined by USDA to not be inconsistent with the standards prescribed by the OFPA." Additionally, at line 155-156, replace "shall further the purposes of" with "not be in conflict with the National Organic Standards". VOTE: Yes - 10. Opposed - 3. Passed.

The Board then reviewed again the public access section of the recommendation, especially the list of information that CCOF makes available to the public. Quinn stated his objection to the extent of information as listed and expressed his belief that much of this information actually should remain confidential. Theuer moved and Sligh seconded to defer this issue of the public access section to the Accreditation Committee and subsequently back to the Board for further development. VOTE: Yes - unanimous. Passed.

Attempting to increase the breadth of the Accreditation document by including areas contained in the American National Standards Institute (ANSI) document on accreditation of bodies, Friedman moved and Kinsman seconded to expand the Table of Contents with the following categories and requested the Accreditation Committee to develop language addressing the categories:

1. Control of the use of the certifier’s mark or symbol;
2. Control of the USDA shield by the certifying agency;
3. Cost of certification; and
4. Suspension or termination of accreditation.

VOTE: Yes - unanimous. Passed.

Kahn moved that a section also be developed and included in the Table of Contents regarding a "Minor Infractions Policy" that the Crops Committee believes should be handled at the discretion of the certifying agency and based on a system to be developed by the certifying agency. Sligh seconded the motion. Extensive debate centered on who would define "minor infraction" and the feasibility of requesting each certifying agency to define minor infraction. Acknowledging the comments of the Board, Kahn withdrew the motion.

Recognizing the importance of a national uniform policy on handling of minor infractions, Margaret Clark substituted a motion that called for the Accreditation Committee to develop appropriate language to advise the USDA and certifying agencies on evaluating minor certification infractions. Merrill Clark seconded. VOTE: Yes - 11. Abstain - 2. Passed.
Friedman made a motion attempting to expand the wording on the certificant appeal process. His proposed motion language, seconded by Kahn, was to replace the seventh step in the certification process as stated on line 240 on page 6 with: "Procedures relating to the handling of complaints and appeals of adverse determinations by the certifying agency. VOTE: Yes - 12. Abstain - 1. Passed.

Friedman also moved, seconded by Theuer, to delete lines 1006-1044 on pages 26 and 27 and replace them with: "Any person adversely affected by any final action or decision of the secretary's Accreditation Program or a governing State official, shall have access to an expedited appeals procedure. Any expedited appeals procedure shall not curtail the due process rights of the party bringing the appeal and shall account for the need of accredited entities to accommodate the needs of their certified producers and handlers." VOTE: Yes - 5. Opposed - 6. Abstain - 2. Failed.

Continuing on with proposed amendments, Friedman moved, second by Theuer, that lines 1008-1009 addressing the Secretary's authority within the review process be deleted. Sligh explained that his main objective was that AMS Organic Staff not handle the appeals decisions. VOTE: Yes - 1. Opposed - 9. Abstain - 3. Failed.

Friedman then moved that at line 1006, the "National Organic Production Program" be changed to "Secretary's Accreditation Program". Tim Sullivan stated that all USDA Organic Program actions, not just the Accreditation Program, should be subject to an expedited appeal process. Friedman said he would want only Accreditation Program decisions to come under this appeals process. VOTE: Yes - 4. Opposed - 5. Abstain - 4. Failed.

Taylor motioned and Friedman seconded to strike on line 1008: "in all cases" and change "must" to "may". VOTE: Yes - 3. Opposed - 10. Failed.

Returning to the discussion from a previous day of the particulars of evaluation site visits, Friedman moved and Quinn seconded to insert the following language on page 20 at line 765 and delete lines 765-772 as they are written: "An international organic standards organization that is recognized by the Secretary for purposes of accreditation of certifying agents may perform on-site evaluations in the United States. Any on-site evaluation performed by such entity may, at the discretion of the Secretary, constitute compliance with the on-site evaluation requirement appearing in the Secretary's domestic accreditation program provided that: (1) All written reports or documents produced or resulting from the on-site evaluation by such organization shall be provided to the Secretary; and (2) Such documents and reports become part of the permanent record of the certifying agent held by the Secretary. VOTE: Yes - unanimous. Passed.

At the conclusion of Friedman's amendments, Quinn moved to accept Accreditation Draft #10 as a Board Final Recommendation. Following a second by Eppley, the Board VOTE was: Yes - unanimous. Passed.
Livestock Committee

At the conclusion of the passage of Accreditation Draft #10, Board members tackled the Parasiticide section of the livestock comprehensive document before adjournment. After briefly discussing the slaughter stock subsection of the recommendation, Kinsman made a motion, seconded by Merrill Clark, to withdraw all previous motions pertaining to the parasiticide document, except for the motion incorporating the addendum into the recommendation. VOTE: Yes - 12. Abstain - 1. Passed.

Once the recommendation was returned to its original content except for the additional addendum wording, Friedman moved that at line 479 the following language be added:

"Any deviations from the above standards shall be species specific and be set forth in a separate document. Such review shall include, but not be limited to, sheep, goats and swine." He also requested that on line 473, the parasiticide withdrawal time for dairy stock be changed to 90 days to be consistent with the antibiotic withdrawal time for dairy stock. Kinsman seconded both parts of the motion. VOTE: Yes - 11. Opposed - 1. Abstain - 1. Passed. Friedman then made the motion that was seconded by Theuer to accept the amended parasiticide recommendation document as a Board Final Recommendation. VOTE: Yes - 9. Abstain - 1. Absent - 2. Passed.

The meeting adjourned at 3:30 pm to allow for an open forum on the approval of State Organic Programs and the relation of State Programs to private certifying agencies.

JUNE 5, 1994

Members in attendance were: Robert Quinn, Gene Kahn, Nancy Taylor, Don Kinsman, Dean Eppley, K. Chandler, Tom Stoneback, Merrill Clark, Margaret Clark, Rich Theuer, Michael Sligh, Craig Weakley, Jay Friedman, and Victoria Smith from the New Hampshire Department of Agriculture.

Staff members present from USDA were: Harold Ricker, Julie Anton, Michael Hankin, Ted Rogers, and Michael Johnson.

Administrative matters were at the top of the agenda on Sunday so that decisions could be made before Dean Eppley and Don Kinsman departed at 9am.

The first topic was to determine the site of the next Board meeting. Theuer moved and Quinn seconded that the meeting be held in California in October. Kahn agreed with the location and stated that California would be an excellent choice because of the size of the processed food industry in the State, because of the relevancy of the National List subject matter to the horticultural operations within the State, and because of the expertise on materials review located in the region. Contrastingly, Taylor supported Texas as the next location, but the Board approved California (during the week of October 11-14, 1994) by a VOTE of: Yes - 7. Opposed - 2. Abstain - 4. Passed.
Merrill Clark and Michael Sligh explained a proposal to host a public outreach seminar before the publication of the Proposed Rule. The seminar could be held in Washington, DC, and include many of the consumer advocacy organizations with the purpose of getting them involved during the development of the program rather than waiting for them to react to the USDA’s rule proposals. Weakley stressed the importance of a meeting agenda structure and the clear presentation of information in an impartial manner. Stoneback suggested instead that USDA and the NOSB inform the press through a formal information presentation day which would be more constructive than such a seminar.

Several persons offered the idea of having the seminar in conjunction with ExpoEast to be held in Baltimore in September. However, the Expo is accessible to industry participants only and is not accessible to the public. To further develop this idea, a NOSB task force was created consisting of Merrill Clark, Margaret Clark, Theuer, Kinsman and Sligh.

Elections of officers for the next twelve months was conducted by Ricker acting on behalf of the Board. Eppley nominated Sligh to continue as Chairperson and Quinn seconded. Friedman nominated Weakley who declined. Weakley nominated Friedman and this was seconded by Theuer. Nominations were closed. Michael Sligh was re-elected as Chairperson.

Chandler nominated Friedman as Vice-Chairperson and Kinsman seconded. Kahn nominated Margaret Clark and Sligh seconded. Nominations were closed. Jay Friedman was elected as Vice-Chairperson.

Kahn moved that the position of Treasurer be suspended until appropriate responsibilities and clear work assignments are developed. VOTE: Yes - unanimous. Passed.

Quinn moved and Weakley seconded that the responsibility for taking the minutes at NOSB meetings be assumed by the USDA and that the NOSB Secretary assist in the coordination efforts with USDA in preparing the official minutes for distribution and acceptance. VOTE: Yes - unanimous. Passed.

Taylor nominated Eppley as Secretary of the NOSB but Eppley declined. Kahn moved and Theuer seconded that Kinsman be nominated as Secretary. Nominations were closed. Don Kinsman was unanimously selected as Secretary.

**Processing Committee**
Theuer led the Board through the last Recommendation, the Labeling document, that was scheduled to be considered at this Board meeting. Starting at page 7 of the *General Organic Food Labeling Standards*, he described how the Committee’s definition of processing aid is different than FDA’s. The FDA provides three situations for a
processing aid that exempts that aid from having to be included in the ingredient listing. However, the Committee regards only the situation listed in the draft recommendation as permitting an exemption from the label listing, since the Committee believes that only when the processing aid is completely removed from the final product should it be exempt from being listed on the label. Theuer stated his support for the inclusion on the National List of all processing aids used even if the aid is removed from the food and would not be required to be listed on the label. Weakley moved and Kahn seconded to accept lines 147-157 as a Board Final Recommendation. VOTE: Yes - 10. Abstain - 1. Passed.

Theuer then reviewed the Chair’s previously mailed summary of changes suggested by the public, FDA and others that are primarily editorial in nature. The summary was identified as being split into two parts, technical corrections and technical amendments. Theuer moved and Weakley seconded that technical corrections 1, 2, and 3 be accepted. Also, on page 1, line 33 of the standards document, delete the period at the end of page 1 and add "or by State or Federal inspectors." VOTE: Yes - 8. Opposed - 1. Abstain - 1. Passed.

After deciding that technical amendment 2 should not be accepted, technical amendment 1 was proposed by Kahn and seconded by Taylor to be adopted. VOTE: Yes - 9. Opposed - 1. Abstain - 1. Passed. Kahn then moved and Margaret Clark seconded to accept page 1, lines 1-33 as amended, as a Board Final Recommendation. VOTE: Yes - 9. Abstain - 1. Passed.

Board members and attendees entered into a discussion as to how certifying agencies would verify the percentage of organic ingredients in a finished product. Eric Ardapple Kindberg suggested that the percentage would be included in the processor application to the certifying agency and would be verified during the initial inspection. Joe Smillie supported this approach and stressed that the certifying agency should have leeway in the verification method used. Smillie read a statement from OFPANA that supported the idea of categories of percentage organic ingredients defining labeling allowances of the use of "organic", but which was adamant against the notion of requiring exact percentage listing anywhere on the label because of costs involved and anticipated enforcement difficulties. Theuer asserted that consumers want the percentage labeling requirement. Rogers of USDA elaborated on the FDA position that percentage labeling would be an unenforceable provision of the Organic Program.

Friedman moved and Kahn seconded that at line 32 of page 1 of the recommendation, the words from "shall" to the end of the page be deleted and replaced with: "shall be calculated by the handler and verified by a certifying agency accredited by the Secretary through documentary submissions and spot checks. Each handler shall be subject to not less than one spot check for each year of certification." VOTE: Yes - unanimous. Passed.
Members of the OFPANA Board of Directors read a statement before having to leave the meeting for their own Board meeting. The following issues were covered in the statement:

1. Strict control should be exerted over the language and type size labeling standards for the greater than 50% organic ingredients category. In this category, "Organic" should be used as a modifier of the ingredients and not as a description of the finished product. There also was concern expressed that this category not allow preservatives, artificial flavors and colors, or other additives that are not permitted for the greater than 95% organic ingredients category.

2. A phase-in implementation for processors who are currently certified.

3. Industry supports the Technical Advisory Panel process and will assist in achieving an expedient review of substances.

4. A few synthetic substances in the greater than 95% category are necessary, yet the industry is sensitive to those consumers wanting organic processed foods made entirely without synthetic ingredients.

Returning to the amendments page, Theuer moved and Friedman seconded to accept technical amendments 3 and 4 into the document. VOTE: Yes - 7. Opposed - 2. Abstain - 1. After comments were made about the extension of the premise set forth in technical amendments 3 and 4 to vegetables, juice, and other products, Quinn moved and Margaret Clark seconded to reconsider the previous motion. VOTE to reconsider: Yes - 9. Opposed - 1. Technical amendments 3 and 4 are not accepted into the document.

Sligh moved and Theuer seconded to accept technical corrections 4, 5, 6, and 7. VOTE: Yes - unanimous. Passed.

On page 3 (2B) of the recommendation document, Theuer asked if there were any comments about 2B, labeling recommendations for "organic foods." Merrill Clark repeated her position that percentage organic ingredients be placed on the principal display panel. Vickie Smith stated that many State regulations do require the identity of the certifying agency on the label. Kahn moved and Margaret Clark seconded that lines 56-77 (2B) on page 3 be accepted as a Board Final Recommendation. VOTE: Yes - 9. Opposed - 2. Abstain - 2. Passed.

On page 5 (3B), lines 100-120, Kahn moved and Margaret Clark seconded to accept the language as Board Final Recommendation. Before conducting the vote, the Board first adopted that on line 119 after "ingredients", the period would be deleted and the phrase "and must not list both organic and non-organic ingredients in conjunction with the word "organic" would be added. VOTE on lines 100-120 as amended: Yes - 8. Opposed - 1. Abstain - 2. Passed.

Theuer explained that the Committee is not bringing forth pages 2, 4, and 6 regarding composition and processing requirements for the three categories as well as labeling standards for "foods that are labeled with an ingredient declaration as containing organic
ingredient(s)." Discussing these pages at this time, he continued, would be premature since information from the National List substance review process is essential to decisions about composition requirements. The Board did give unanimous consent to including lines 34-36 in the Board Final Recommendation document to indicate that language is to be developed later.

Materials Review

Theuer distributed a revised handout of the petition process that had been developed by a working group during the last two days. The steps listed are:

1. Petitioner submits petition to USDA.
2. USDA evaluates petition for documentary sufficiency.
3. USDA notifies NOSB monthly.
4. NOSB provides feedback, if any, to USDA and TAP coordinator.
5. USDA sends petition to TAP coordinators.
6. TAP coordinators compile 2118 criteria data (synthetic/natural) and send to NOSB for information monthly with progress report.
7. TAP coordinators send out petition for review by TAP and agencies against 2119(m) criteria.
8. TAP returns evaluations to TAP coordinators.
9. TAP coordinators review contents for completeness and if complete, they send package to NOSB, committee chairs and USDA.
10. NOSB votes on petition (substance/use).
11. NOSB makes recommendation to Secretary for amendments to the National List.
12. USDA gives written response to petitioner.

Theuer received Board consensus to provide by June 20 to the Board members for their review and approval a schema for Zea Sonnabend and John Brown to utilize in making the natural/synthetic determination at Step 6. If the members approve of the criteria in the schema, then Sonnabend and Brown could make the natural/synthetic evaluation without Board members voting on each substance before the substance enters the review process.

Friedman moved and Quinn seconded to accept the petition process as amended.

VOTE: Yes - unanimous. Passed.

Ricker then announced that USDA would prepare a Federal Register entry describing the petition process in order to formally solicit candidate substances for the National List. The Board gave formal unanimous approval to Ricker's announcement.

Concluding the meeting, Sligh discussed responsibilities during the period between the Santa Fe meeting and the next Board meeting. He noted that USDA will be compiling the Board Final Recommendations into one packet; preparing the minutes of the meeting for Board distribution; publishing the Federal Register petition process entry;
compiling information for the materials review coordinators; developing the Accreditation program; and writing the program standards. USDA assured the Board members that the process will remain open and that comments and drafts will continue to be circulated. Board members stated that they would like to discuss phase-in implementation guidelines recommendations at the next meeting. They will also decide on a procedure for allowing, if necessary, amendments to Board Final Recommendations that arise from Committee discussions. Chandler indicated that he will be bringing to the Livestock Committee language to equalize feed and medication withdrawal requirements for dairy and slaughter stock.

Finally, Sligh brought to the table the 5/27/94 paper entitled, "Ongoing Role of the NOSB" and led a discussion of the points contained in the document. Friedman requested that a comparison of the domestic standards with international standards should be added to the list. Quinn reiterated the need for recommendations for phase-in implementation for producers who currently are certified and for those who will be seeking certification after implementation. Ricker stated his objections to the oversight role that the Board was requesting, but fully supported the Board's objectives to provide recommendations on National List materials, broad program policies, and improvements in USDA programs that would further the Organic Program and benefit organic producers. The Executive Committee will reconsider the stated ongoing responsibilities of the NOSB and submit a revised proposed document for the next meeting.

The meeting was adjourned at 11:30am.
(1) Julie Anton, Research Coordinator, USDA National Organic Program:

A report on the status of private and State organic certification services was given, accompanied by a map noting the location of program headquarters across the United States. A presentation on the status of State legislation pertaining to the labeling of organic food and fiber products was also made. Both are to be finalized and provided in written form within the next couple of months.

Anton also presented her findings based on in-person interviews with 22 natural food retailers across the country; a written report is to be provided at a later date. Board members were advised of retailer views on standards issues as well as on retailer certification. A report of the market status of several categories of organic products was included.

(2) Scott Taylor, representing Lon Johnson of Trout Lake Farms:

A letter from Johnson to the Board dated June 1, 1994, was read, citing his opposition to "the categorical listing of all natural ingredients on the National List." Availability of natural ingredients is "not a valid problem," according to Johnson, who would consider a 2-3 year grace period for natural ingredient producers to come into compliance.

Also read were the views of Mary Mulry, Standards Committee Chair for the American Herbal Products Association, who recommended that herbs and spices appearing on the National List be identified by species. Mulry argues that National List petition procedures should be prescribed for ingredients that are difficult to source; procedures should also be prescribed for the removal of ingredients that become available. Concern is also expressed for the herbs and spices produced in developing countries where "toxic materials are not well-monitored or controlled." She suggests that ingredients sourced from such places be required to undergo testing for compliance with U.S. tolerances.

On a different subject, Mulry states that the term "wildcrafting" not be considered synonymous with "organic."
Craig Weakley countered Johnson's availability argument by stating that Trout Lake Farms Co. had not been able to supply an herb recently due to crop failure, and that there are many times that it is impossible to source a needed organic herb from any supplier at any price.

Theuer pointed out that the petition procedure would not result in instantaneous placement of herbs and spices on the National List, frustrating manufacturers in need of ingredients.

Gene Kahn stressed that the variety of the herb can be critical to a manufacturer, stating that "not all basil is basil."

(3) **Joan Sullivan Cowan, Executive Director for Education, REACH International:**

REACH International is comprised of persons who are chemically handicapped or disabled from "Multiple Chemical Sensitivity/Environmental Illness" (description enclosed in testimony). These people seek a guarantee that organic food has received no contact with synthetic pesticides from seed to consumer purchase. Cowan remarked on a personal history of exposure to agricultural chemicals and their effect on her as one "hereditarily predisposed to becoming chemically disabled." She expressed a greater level of comfort with purchases made from local organic growers, and questioned the integrity of growers with which she is not personally familiar. She recommended that certified organic food meet the standards of "Ecology Action" (located in Willets, California) and the Rodale Institute Research Center.

Stoneback asked if Cowan reacted differently to the same processed product purchased at different times of the year; she replied that she did not purchase processed products.

In response to a question from Eppley, Cowan revealed that 90% of her diet is organic food.

(4) **Rhoda K. Geselle, Executive Director, REACH International:**

A Ph.D. cereal chemist and biochemist, Geselle recommended that the Board consider various ways that organic products could be "contaminated" by chemicals, and suggested requiring: least toxic glues and inks in packaging; segregated transport of organic and non-organic products; regulation of cleaning materials,
particularly those used at the retail level; carbon-filtered water (with reverse osmosis used for purification) for processed products; and prohibition of shelf-life enhancing materials. She also asked that the Board consider what it will take for imported food labeled organic to meet the scrutiny received by U.S.-grown food.

Margaret Clark expressed concern about the cost of filtering water and the cost of having to provide separate transport vehicles; Geselle noted that the people most debilitated by chemical sensitivities were on budgets and could not afford substantial increases in organic food prices.

Chandler reported that the scrutiny of imports from Mexico is increasing; buyers as well as government agencies are testing loads. For example, Pace Company (makers of picante sauce) sample every carton imported.

Geselle noted that hydroponic production is favorably viewed by the chemically sensitive, as pesticide drift is not possible.

(5) **Allen Shainsky, Petaluma Poultry:**

Petaluma Poultry is a completely vertically-integrated, 150,000 per week meat bird operation, which produces and markets 80,000-90,000 antibiotic-free birds per week. Shainsky supports strict standards pertaining to antibiotic use. On the confinement issue, however, he resists any requirement that livestock have access to the outdoors. He claims that his birds are free-roaming within the 10,000-20,000 square foot barns, and that his birds naturally will not go more than 20-30 feet from where they were brooded. His operation allows 1-1/4 square feet per bird (compared with 3/4 square feet in conventional operations); he argued that this is reasonable, given that birds gain 40% of their weight in the last 14 days of life. The birds have an internal body temperature of 107 degrees; at 40 degrees, they would become chilled. Therefore, the birds could not go outdoors in the winter months; it would be misrepresentation to consumers to claim that organic poultry had access to the outdoors at all times.

Shainsky recommended that synthetic vitamins and amino acids be added to the National List; the natural vitamins sources are not stable nor consistent, and would affect the flavor of the meat. He claimed amino acid supplements would reduce ammonia pollution caused
by the overfeeding of protein.

Shainsky uses sodium bisulfate for cleansing the floor of the litter house; the change in the PH environment of the floor exterminates salmonella and clostridium. Weakley argued that soil sulfur would be equally effective for acidification.

Anton pointed out the consumer demand for free-range eggs in California -- an evidently bigger market there than that for organic eggs. Shainsky argued that the real concern for poultry living conditions has to do with cages for egg layers.

(6) Robert Beauchemin, representing Hirzel Canning Company, an OCIA-certified tomato processor:

Hirzel Canning Company recommends the listing of potassium hydroxide as an allowable processing aid. A description of the lye peeling process (provided) emphasizes the benign nature of the aid, which is typically used to "loosen skins from tomatoes, pears, peaches, apples, some vegetables, and many tropical fruits."

Over the last decade, tomato processors in California with large amounts of capital have been able to convert their peeling process to a non-chemical, mechanical means. However, the non-caustic peeler has proved "cost ineffective," and many operations are resuming use of sodium hydroxide for peeling.

Hirzel points out the difficulty small scale, family owned processing facilities across the country will have without the option of utilizing potassium hydroxide as a cost-effective peeling aid.

7. Dave Carter, President of the Rocky Mountain Farmer's Union, Secretary of the National Farmer's Union

Dave represents a large body of medium sized farmers and ranchers. His group is manifesting an increasing interest in the Organic Standards issues, and generally support an alternative and sustainable food system and urge the recognition of the need for expanded research and training in this area. Dave voiced the concerns of the producers in the Farmer's Union that the organic standards maintain some balance, protecting organic integrity without overburdening producers.

Five specific concerns have come to the fore recently:
1. That in making allowances for processors to use non-organic ingredients in foods labeled organic that there be some consistency or equality in restrictions on processors and producers under the National Standards;

2. That the Peer review panel be a balance panel representing diverse concerns and expertise;

3. That there be consistency between imported and domestic standards;

4. That the 1995 Farm Bill contain cost share provisions for conversion to organic methods;

5. In considering the acreage under the Conservation Reserve Program due to come back into production the Farmer’s Union asks:
   * might this be an opportunity for beginning farmers;
   * might this acreage be an opportunity for quick starting into organic production?

8. Robert Beauchemin, speaking for the Organic Certifier’s Caucus

Robert urged that the Peer Review Panel include a recommendation to the Secretary in its function. He also noted the suggestion from the OCC that a third arm of the Accreditation process be a review committee made up of certifiers and NOSB members to perform public oversight of the Accreditation Program.

On the fees issue, OCC thinks it appropriate that all those benefiting from the program cover part of the costs in fees. They confirm the need for public funds in the program, since the public as represented by the organic consumer is a beneficiary. They likewise feel that the relationship between the State and the private certifiers needs to be clarified in recommendations from the Board. The certifiers also think that parameters for reasonable State registration fees need to be recommended by the Board. These fees could be abused in such a way that private certifiers were excluded from certain States.

Robert also cautioned about the difficulties of using a large peer review panel and supported the notion of contracting out the evaluation phase.

9. Annie Kirschenmann, FVO

Annie made three points:

1. FVO supports the current NOSB position on Accreditation and Review;
2. On site evaluation of certifiers by certifiers is critical and will foster program improvement and should not be regionally based;

3. All beneficiaries should share in the cost of the program.

She also urged the finalization of the recommendations on accreditation at this meeting, suggesting that refinements could be an ongoing process.

10. Robert Donley

Robert is involved in the processing of wool and has been approached by a manufacturer to locate and process organic wool. In essence he was asking the Processing and Handling committee and the Livestock Committee how they would approach such standards. He was in turn asked to proffer suggestions for such standards.

11. Ron Gargasz, Chair of the United States Legislative Task Force (USLTF) for OCIA International.

What appears herein is a synopsis of the written transcript of the June 1, 1994 comments received from Mr. Gargasz on June 13, 1994. The USLTF noted the difficult but commendable goals of the NOSB process: attempting to unify organic standards, encouraging organic practices, and assuring consumer confidence in the market place. They warn however that:

- vested interests may be drawing the process beyond the intent of the OFPA;
- it may be difficult to legislate a prototypical formula for success in an implementation plan;
- education, crop improvement, and technical assistance are the critical functions of the Certifying Agent;
- dedicated growers and handlers have invested greatly to get organic production to where it is today and to burden them with a further and rising expense of the program would be unfair;
- although the industry was built on a shoelace, a burdensome federal bureaucracy may result.

They also find it disturbing that after three years they still do not know how the role of the private certifier will play out state to state. Nor are they sure that OCIA will be accredited as one certification organization or on a chapter by chapter basis.

Ron also noted a concern for the general malaise within agriculture as a whole due to operation at 56% of a par exchange rate.

Finally, Ron offered language to assure that a certifying agent’s
accreditation extended to licensed agents of that certifier.

12. **Ron Roller, of American Soy Products, Saline, Michigan**

Ron discussed the ongoing questions related to the calculation of the percentage of organic ingredients in a product, excluding water and salt as is required in the OPFA. His main presentation was on soy milk, and he emphasized that soy milk is not just a mixture of soybeans and water, but rather an inseparable product that should be considered as one ingredient. In the case of soy milk, he pointed out, water must be included in the calculation because of its interaction with the soybeans.

13. **Sharon Palmer, of Seed International, Inc., Rio Rancho, New Mexico**

Sharon presented an overview of the closed system greenhouse which she has designed and is perfecting. The system is designed to produce sprouts for human consumption and feed for livestock. It uses aeroponics growing system approved organic inputs and organic seed. She was also asking if the system is eligible to be certified organic.

14. **Yvonne Frost, Certification Director for Oregon Tilth, a nonprofit research and education organization dedicated to environmentally sound agriculture, testified on behalf of Tilth.** Most of the comments made during the testimony were directed towards Accreditation. Tilth supports the OCC and OPPANA positions on Accreditation. In addition, Tilth believes that the initial costs of Accreditation should be absorbed by the NOP. It was commented that at this point, the industry needs the funding jump-start from the NOP.

15. **Diane Bowen, Executive Director for the California Certified Organic Farmers (CCOF), testified on behalf of CCOF. CCOF supports the OCC position on Accreditation. This support for the OCC position is based upon the results of a consumer poll conducted by CCOF.** Ms. Bowen also commented on the transparency issue, stating that CCOF provides reasonable access to certifier and grower information, particularly for the chemically sensitive consumer. Also, CCOF feels that all consumers should have access to certifier and grower information, with the Secretary having ultimate authority on issues of access. CCOF will be submitting further comments to the Accreditation Committee in the future.

In addition, Ms. Bowen briefly addressed a project related to Materials in organiculture. Brian Baker will be helping the development of the National List through a project that received a $20,000 grant. He will be concentrating on these five areas: botanicals, sewer sludge, livestock inputs, inerts, and recombinant DNA.
16. John Phillips, a scientist in the area of "Natural Biotechnology", addressed several issues. These issues included (as they relate to organics) biotechnology, probiotics, and the creation of fermentation products. Mr. Phillips recommended the exclusion of synthetic biotechnology from organiculture. Also, Mr. Phillips has asked for provisions allowing the use of non-toxic bio-technology in organiculture.

17. Renee Robin, attorney and Director of the National Organic Cotton Association (NOCA), led her testimony with an overview of NOCA. NOCA is a non-profit, organic cotton trade association. Currently the acreage for organic cotton in the U.S. stands around 10-15,000 acres. For the most part, her testimony focused on development and formation issues of the NOCA. There was very little comment about the NOP in remarks.

18. Cissy Bowman, the Vice-President of the Organic Crop Improvement Association (OCIA), testified on behalf of the OCIA, Indiana Chapter. Cissy is the State Coordinator of Organics in Indiana. Indiana hopes that the industry can disregard personal and vested interests at this stage of standard development and move towards more consensus building. Indiana wishes desperately to get the National Program up and going soon, for their state is unwilling to move forward on Organics until the national standards are in place.

19. George Siemon, of the Coulee Region Organic Producers Pool (CROPP), spoke for strict, high standards and a strong, progressive Farm Plan. He expressed concerns about how the implementation of the National Program would occur - specifically, that currently certified farmers might be given an advantage over those seeking certification after implementation. He again stated a desire for a new herd clause for dairy animals.

20. Eric Ardapple Kindberg, of Farmer to Farmer magazine, also addressed the new dairy herd clause, and stated his non-support for the suggestion because of the precedence it might begin for other livestock products. He then asked that the national list process and content be better defined in the areas of synthetic categories, synthetic ingredients allowable in handling, and no synthetic ingredients allowed in organic processed foods. He distributed a letter from Allen Rosenfeld of Public Voice supporting percentage organic ingredient listing on labels.

21. Steven Badger, of Seeds of Change, talked about growing and selling organic seeds on a national level. He emphasized that usage of seeds subject to chemical production (including fungicides) for organic production should not be permitted and that work should start now to increase the availability of organically raised seeds for ecological reasons. He explained the difference between treated, untreated, and organic seeds. Treated is treated at harvest; untreated is not treated at
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harvest, but is produced from plants raised on soil to which substances not permitted in organiculture are applied; organic is untreated at harvest and raised on organically managed land.

22. **John Ellis, of Colorado Organic Growers**, spoke about the Small Farmer Exemption. He asked that the maximum amount allowable before certification becomes mandatory be raised to $10,000, citing the fact that many farmers gross more than $5,000 on less than 1 acre and certification costs would be a problem for them.

23. **David Haenn, of Ozark Small Farm Viability Project**, offered critiques of the Crops Comprehensive document. He reminded members that farms, fields, and sites are actually certified, not the food products produced on the land. He took exception with the greenhouse and mushroom proposals that allowed organic production without accounting for the requirement that no prohibited materials be applied for 3 years preceding harvest.

24. **Allan Shainsky, speaking for Steve Mahrt**, who raises egg laying chickens, pointed out that egg layers do not need access to the outdoors. In fact, producers have better control over maintaining uniform flock hen weight if chickens are kept inside. He further offered that uniform hen weight would be better achieved if amprolium and synthetic amino acids and vitamins were allowed up until 16 weeks before the start of laying, at which time organic feed would be initiated.

25. **Steve Wisbausm, of Kansas Organic Producers**, asked that the livestock standards remain strict and that medications not be permitted in organic production. He thought that enzymes could be allowed since charcoal is from a natural source and also that there should be no exceptions for small farmers from the total organic feed requirement. Speaking for himself, Steve referenced his recently submitted comments on accreditation and his concern about having a strong audit trail for organic goods.
The initial session of the National Organic Standards Board (NOSB) meeting was called to order at 8:00am by Board Chairperson Michael Sligh. He began by commenting on the anticipated lengthiness of the scheduled afternoon public input session and stated that he expected the session to run until 9pm. The Board members decided that the public input session would be handled in two hour intervals, with a ten minute break every two hours, until all persons have testified. The Board unanimously adopted the agenda as published and determined that copies of the agenda were available at the meeting for all attendees.

Board members in attendance at today's session were: Robert Quinn, Gene Kahn, K. Chandler, Merrill Clark, Margaret Clark, Rich Theuer, Michael Sligh, Craig Weakley, Gary Osweiler, Dean Eppley, Don Kinsman. Yvonne Frost from Oregon Tilth was recognized at the table as the Board selected certifying agent representative for this meeting. Jay Friedman and Tom Stoneback were absent.

Staff members present from USDA were: Harold Ricker, Michael Hankin, Ted Rogers, and Michael Johnson.

Hal Ricker, National Organic Program Staff Director, followed Sligh with the following update on USDA activities:
1. The impact on the Organic Program of Secretary Espy's leaving the Department will be minimal and should have no effect. However, his departure may impact the new Board nominations for the next meeting if a new Secretary is not appointed and approved before that time.
2. The USDA Reorganization Bill has passed Congress and is expected to be signed by the President this week. Pat Jensen is expected to continue as our Assistant Secretary.
3. Julie Anton (Dunn) has left the Organic Program to focus on Economic Research assignments within the Division. Michael
Hankin will be the principal contact for all Committee conference calls while Hal will continue to participate in the Executive Committee calls. This change should allow the Staff to focus on

4. The Department has added two new staff members: Grace Gershuny, who began on September 6th, and Mary Beth Hayden, who will begin on October 17, 1994.

5. The USDA Office of General Counsel (OGC) has been reorganized and the OGC contact with the NOP will be changing. This is not expected to affect the implementation of the Program, although it did delay responses to accreditation questions and comments on the National List petition that were anticipated before this meeting.

6. The European Union (EU) has declined to accept the United States on the provisional list of third countries, mainly due to lack of US Government oversight of certifying agencies.

7. Recently, the Food and Drug Administration (FDA) reported they are facing serious budget cuts in their random Pesticide Residue Testing Program and have informed us that they do not expect to be able to do any residue sampling for the Organic Program. They have placed organic food residue testing as a low priority because they consider it to be a quality assurance issue and not a food safety concern for the general public.

8. The current status of the Board nominations that have been submitted by category are: 15 farmers, 4 processor/handlers, 9 environmentalist, and 4 retailers. The official expiration date of the current 3 year appointments is January 24, 1995. All new appointments will be for a five year period, unless the member is reappointed and would thereby be subject to the limitation of a maximum consecutive term length of six years. Bob Quinn has submitted his resignation to be effective along with the expiration date of the other four Board members.

9. The Budget Report for FY 1994 was reported (See Attachment A). The Board has received $45,000 for FY 1995, although additional funding later in 1995 may be available as it has in previous years (See Attachment B).

At the conclusion of Hal's report, the Board gave a unanimous proclamation for Julie Anton Dunn's outstanding service to the Board and the Program over the last 3 years.

Turning again to the agenda, the approval of the minutes from the...
May 31 - June 5, 1994 meeting in Santa Fe, New Mexico, was tabled until Friday's full Board session.

The NOSB then entered into a discussion concerning the new appointments and the importance of continuity. The question of whether to return old files and materials to USDA was discussed and it was decided that Board members were welcome to keep them since USDA had a copy of all documents. Chandler moved and Weakley seconded to bring the retiring NOSB members to the next meeting. VOTE Yes - Unanimous. Passed. Weakley asked that the next meeting be held before January 24, 1995, so as not to disrupt the National List review process. Because assurance of this could be stated, Weakley moved and Kahn seconded that all retiring members be requested to attend the next Board meeting at Board expense. VOTE Yes - 10. Opposed - .2. Passed. Chandler moved and Theuer seconded a motion to pay for new appointees (if they are already appointed) to attend the next meeting if it is held before January 24. VOTE Yes - Unanimous. Passed. In addition, Zea Sonnabend, NOSB National List review coordinator, was requested to establish a method by which new Board members would review National List research materials and become informed as quickly as possible.

Kahn requested to have Ricker put in writing his response to Quinn's question stating that endorsements or recommendations for nominees from a Board member will not receive additional consideration and that the Board itself should not endorse any nominees. Members, as individuals independent of the NOSB, may endorse nominees.

Sligh submitted a revised draft of a document stating the NOSB's ongoing role and duties (See Attachment C). The document was previously discussed during the Santa Fe meeting. He asked the Board to review the new draft and be prepared to discuss it during the Friday full Board session. He also requested the various Committees to develop recommendations to the USDA on the phase-in implementation time requirements of the Program.

Merrill Clark resurfaced the notion of a consumer conference to be held in conjunction with the implementation of the program. Ricker explained that the Department could not participate in this activity if it were held after the Proposed Rule was published and before the Final Rule is published. He will
research whether the Board members could participate in the
public forum. In addition, he mentioned recent meetings the staff
has held with various consumer and public interest groups.

Ricker will be attending the Codex meeting in Ottawa later this
month as a delegate from the US and indicated he will discuss the
subject matter further on Friday. Sligh made a request that the
NOSB pay for his travel and expenses to this meeting and the
Board unanimously supported this request.

The transitional labeling topic was deleted from the agenda since
Friedman, who was not at the session, was to lead the discussion.
The Board asked for clarification on the definition and
principles document prepared by USDA staff and distributed at the
meeting. Sligh requested that the Board review the document and
discuss it on Friday and be prepared to recommend as to whether
it should be distributed for public comment.

Chandler identified a need to prepare a simple definition of
organics for the next meeting of the Feed Control Officials in
January or February in San Antonio, Texas. It was motioned and
approved unanimously that NOSB appropriations be allocated to pay
for his expenses associated with attendance at the meeting.

The Board then received presentations from three persons from
Washington, DC, who are involved with Federal programs that have
existing regulations that impact the development of the National
Organic Program. The purpose of the presentations was to inform
the Board of Federal procedures and review processes already in
place to evaluate the safety of medicines, food additives, and
crop production aids. First, Dr. Bill Price, Deputy Director of
the Division of Animal Feeds, Center for Veterinary Medicine,
Food and Drug Administration, discussed the established method
for FDA approval of veterinary medicines and animal feed
medication additives. Dr. Price noted that withdrawal times
required on labels of medications already include an extended
buffer period so as to protect the consumer. Residues, he noted,
come from careless practices or failure of the drug users to
observe stated directions.

He stated that it takes 5-10 years for a company to receive a
new drug approval. He confirmed that topical treatments can be
absorbed into the animal's body. In response to a question about
the use of unapproved medicines, such as diatomaceous earth and
homeopathic and herbal preparations, he answered that the use is
not as much a concern as is the liability of the producer if a
residue of the unapproved medication is detected in the finished
product.

Second, Lawrence Lin, Consumer Safety Officer, Office of Pre-
Market Approval, Division of Product Policy, Food and Drug
Administration, discussed Generally Recognized As Safe (GRAS)
ingredients, food additives and processing aids used in processed
foods. He noted that of the 1,000 substances added to food for
non-flavor purposes, 700 are listed as Generally Recognized as
Safe (GRAS) and the rest are regulated as additives. He informed
the Board that food additives are placed in two categories: (1)
added directly to food as ingredients or (2) facilitate
processing and not directly affecting the food product. He
listed the functional categories, such as emulsifiers, leaveners,
sweeteners, pH control and texturizers, or additives, and
clarified that additives are classified as processing aids when
they do not have a functional effect on the final product. He
reviewed the information required by FDA to determine whether an
ingredient should be classified as GRAS, including environmental
studies and detailed petitions. In his opinion, a particular
natural substance may be equal to or greater than a synthetic
substance in toxicity and, in fact, our bodies may not
distinguish between natural and synthetic substances.

Concluding the presentations, Susan Lewis, Chief, Insecticide and
Rodenticide Registration Branch, Environmental Protection Agency,
reviewed the EPA's registration process for pesticides. She
identified 20,000 registered products of which 675 are active
substances and 1,800 are inert ingredients. In registering
pesticides and establishing tolerance levels, EPA looks at human
health factors, residue analyses, and environmental fate and
effects (including toxicity factors and environmental
persistence). Regarding inerts, these ingredients are not
pesticidally active; when used in food products, inerts must have
an established residue tolerance or an exemption from a
tolerance. She explained the different EPA lists of inerts: List
1 (40) contains those inerts classified as being of toxic concern
and new products may not contain these inerts; List 2 (60) inerts
are potentially toxic; List 3 (800) inerts are unknown as to
toxicity; and List 4 ( ) inerts are (a) GRAS substances used in
crop production or (b) inerts of minimal concern that will not adversely affect public health. Ms. Lewis discussed the separate Reregistration Division within EPA. Specifically, she related that pyrethrins are being looked at closely for their effects on human health and may be reviewed by a Peer Review Panel; neem will not undergo reregistration because it was registered after 1984; rotenone, ryania, sabadilla, strychnine and tobacco dust will not be reviewed until after 1995 because of data gaps; and quassia is not registered yet for use in the US. Piperonyl butoxide is now in a Peer Review Panel review to answer significant toxicity questions that have surfaced. She noted that the reregistration process may take many years, and that the Board can stay current on the review process by reading the EPA quarterly reregistration reports.

At the conclusion of the presentations, the Board had a fifteen minute discussion on the NOSB National List review procedures for botanical pesticides. Margaret Clark asked the Board to consider qualifying its recommendations at this time as provisional. Theuer indicated that until the EPA reregistration process is complete that no decisions should be made. Merrill Clark stated her objections to voting at all because of the volume of material to be reviewed, the number of data gaps, and the need for organic production to move away altogether from the use of natural pesticides. Margaret Clark pointed out that the Board was actually voting whether to make recommendations on prohibiting (not approving) these natural substances that currently are used in organic production. Kahn stated his desire to vote now on the botanicals and to use each individual's best judgment. Zea Sonnabend supported Kahn's statement and noted the NOSB does not need to wait to develop its recommendations until the EPA has concluded its reregistration.

Following this discussion, the Board adjourned for lunch. Following lunch, the public input was held on Tuesday afternoon and Tuesday night until 10:00pm. The summaries of the speeches made by the public input participants is available from USDA upon request.
The meeting was called to order at 8am by Michael Sligh. Board members in attendance at today's session were: Robert Quinn, Merrill Clark, Margaret Clark, Nancy Taylor, Gene Kahn, Gary Osweiler, Dean Eppley, K. Chandler, Michael Sligh, Rich Theuer, Tom Stoneback, Craig Weakley, Don Kinsman and Yvonne Frost of Oregon Tilth.

USDA Staff members present were: Michael Hankin, Hal Ricker, Ted Rogers, Michael Johnson, and Grace Gershuny.

**Retailer Certification**

The morning session began with a presentation by Walter Robb of the Whole Foods retail chain about retailer certification. Robb stated that one of the missions of the entire retailer certification dialogue is to figure out how to meet the Act's intent to ensure organic integrity given that the Act exempts retailers from certification requirements. Robb brought forth the concept of Good Organic Retailing Practices (GORP) as a means of developing voluntary retailer standards. Some points he brought out relative to GORP include: a) no discrimination based upon retailer size; and b) the system developed should work within already existing systems and avoid red tape at all costs.

He identified Texas and Maryland as currently having retailer standards in place. Texas has a particularly good model as it involves the retailer making an application to the certifier. The burden of paperwork is maintained by the distributor, but the retailer keeps records to display proof of certification of the retailed goods. Robb then reviewed in detail the component sections of the GORP document and concluded by stating that it is now being submitted to retailers for comment.

Yvonne Frost of Oregon Tilth presented Tilth's recently developed retailer standards. She identified three main differences between the Tilth and the GORP standards: (1) Tilth requires that retailers who hire co-packers to produce private label products be certified because they are considered as processors in this situation; (2) Tilth includes the produce section of retail stores in its certification because it is misleading to consumers to certify the processing part of a store but not the entire store; and (3) most Tilth certified retail stores do not have
training programs.

Robb responded to Frost's report by stating that produce guidelines should not necessarily be mandatory like the processing guidelines and added that retailers want to allow for a third choice of a transitional organic label. Hankin brought forth the point that retailer certification will not fall under the National Program and questioned the legality of mandatory retailer certification under the Act except within State Programs that are approved by USDA. Margaret Clark and Hankin will pursue the development of a solution to ensuring integrity of organic goods to be maintained through sale at the retail level.

Merrill Clark discussed the pest control section of the Handling Plan and requested that this section be expanded to include a description of activities taken to eliminate the need to use chemical pesticides. She reiterated her concern that the same sprays used in conventional facilities should not be used in organic facilities. Theuer responded to Merrill's concern by stating that only botanicals (pyrethrins with PBO) are permitted by the regulatory agencies to be used now in conventional processing facilities and reminded everybody that pest control is not food handling because the products by law cannot come in contact with food products. Rod Crossley of Health Valley stated that water based pyrethrin sprays should be used in organic processing facilities to avoid the residues left by oil based sprays and noted that pest control practices are written in the Code of Federal Regulations. Theuer polled the Processing Committee and it was decided that the Committee would discuss Merrill's proposed changes to the Handling Plan and the Good Manufacturing Practices documents on conference calls and submit its recommendations at the next full Board meeting.

Following the mid-morning break, Weakley initiated a discussion on labeling of organic bulk products by claiming that bulk products not intended for retail sale should not have to contain the same extent of labeling requirements as are currently presented in the Board's labeling recommendation for consumer packaged goods. After a brief debate about the information retailers would like to have on bulk products and the labeling statements that are required by FDA, Theuer agreed to schedule Committee conference call discussions about revision of the labeling document to accommodate Weakley's concerns. Weakley
also requested that the Committee consider recommending that certification not be required for distributors of bulk products packaged for retail sale for which integrity of the package is assured by packaging methods. Theuer agreed to place this on the agenda for future conference calls.

Weakley then presented views on a policy on the use of non-agricultural ingredients in multi-ingredient organic processed foods. Weakley suggested that the Board finalize a resolution for a formal policy as notice to the industry and that the resolution include the ideas that: (1) the Act is not a carte-blanche approval to use non-organic ingredients; (2) processors should document to the certifiers that the organic form of the ingredient is not available; and (3) efforts to locate and develop organic sources of the ingredients are recorded for review by the certifier. It was noted that this issue is already addressed in the Organic Handling Plan recommendation.

The factors influencing determination of availability and the concept of USDA developing an ingredient database was then debated by the Board. Margaret Clark said that availability should be dealt with on a local level. Kahn agreed with Margaret and voiced his opposition to the USDA subjectively defining availability. He asserted that a more appropriate option would be to allow the market to handle this issue. Merrill Clark asked who would monitor availability if not the USDA. Kahn replied that taste and quality is equally as important as availability and that only the manufacturer and not USDA or the certifier should determine usage requirements. Weakley suggested again that the Board respond to the USDA ideas so that a policy isn't developed without some guidance from the NOSB. Joe Smillie reiterated that good faith efforts on the part of the manufacturers should be sufficient and that certifiers should make the judgment without involvement of the USDA. Theuer suggested that the Processing Committee would develop recommended resolution wording on availability for NOSB review at the next meeting.

After deciding to skip the agenda item dealing with a definition of synthetic, the next discussion item considered by the Board was the Accreditation Committee straw poll relative to additional language regarding the use of private certifier's seals and the USDA Shield. Hal preceded the discussion by expressing concerns
received from processors about the potential expense and clutter related to the required presence of certifier and government labels on organic products. Ricker would like the USDA organic shield to be distinct from the USDA inspected product shield and asserted that there needs to be some identification on the labels indicating that national standards are satisfied. Because the Processing Committee already has recommended wording that states private certifier seals should be optional, Theuer and Margaret agreed to approve joint language before the Friday session.

A final comment from the public asserted that the appearance of certifier labels on organic products will only serve to continue to confuse the consumer. Consumers would continue to make choices based upon certifiers and negate the intent of the OFPA to provide uniform buying standards. This was responded to by Frost who claims that Tilth standards and seal are of value to the consumer in deciding which organic products to purchase.

The ability of private certifiers to adopt enhanced standards was subsequently discussed: an initial presentation was made by Tim Sullivan, part-time technical advisor to the Accreditation Committee. His personal interpretation of the law gives discretionary authority to privates on the particular issue of seal use. He suggested, however, that enhanced standards be avoided by the Program because the OFPA is clear in its distinction between allowing the States to develop additional standards while denying this ability to private certifiers.

Quinn commented that the issue of private enhanced standards was supposedly resolved during the Ft. Collins meeting. He believes enhanced standards should be allowed through Program language that requires certifiers to certify to the National Program, but which permits them to require adherence to stricter certification requirements (two-tier) in order to utilize the private seal. Stoneback commented that the private seal is actually a national seal because all private certifiers are accredited agents of the USDA. Theuer questioned whether private certifiers could then require membership and reject certification applications. Diane Bowen of California Certified Organic Farmers, a private certification organization, expressed concerns about the consequences of requiring private certifiers to function uniformly, especially in the area of fee structure. Mark Squire,
a retailer, reminded the Board that the purpose of a seal is to provide the customer with assurance and that most customers would not care whether it was a private or USDA seal. Margaret will return at the Friday session with revised enhanced standards wording.

Lynn Coody's presentation on the materials review process was entered on the agenda because of personal time constraints with the Board's consent. Lynn emphasized that certain compatible synthetic materials belong in organic agriculture because of the community's agronomic responsibility. She expressed her understanding as to the difficulties faced by Board members in evaluating controversial materials and documenting the reasons for the decisions, especially since information is incomplete for most of the materials being considered. The Board was urged to follow the criteria and to review the categories of substances as stated in the OFPA.

Nancy Taylor then gave an overview of the inerts task force. She briefly discussed the outcome of the task force's October 4th conference call that reviewed both Sonnabend's and USDA's proposal for reviewing inerts. She reported that the consensus of the task force was that inerts should not appear on the National List. There was also general discussion on a phase in period for use of inerts on EPA's List 3 while a program of full disclosure of inerts is developed. It was recognized that any strategy other than the one recommended would serve to slow implementation of the program. The Task Force will report on Friday with additional recommendations on phase-in and the review of inerts for the National List.

Zea Sonnabend then proceeded with a progress report of the Technical Advisory Panel (TAP) process. She indicated that the TAP recruitment process is going extremely slow. The areas of insufficient TAP reviewers are livestock and the processing aids for processed foods. Crops material reviewers are also needed. The Board and USDA agreed to continue to assist Zea in the search for more reviewers.

Sonnabend identified certain areas of current confusion that need to be clarified before the review process continues: (1) resolve whether inerts will be reviewed individually according to the OFPA criteria and voted on by the NOSB for placement on the
National List; (2) resolve whether livestock substances must be registered with the FDA for a specific use in order for the substance to be reviewed for that use for the National List (accept use by organic producers of substances not registered for a particular use); (3) resolve whether processed food processing aids and ingredients will be classified according to the synthetic/natural dichotomy and thereby exclude synthetic substances from processed foods; and (4) resolve how to consider substances for entry into the Program that will be petitioned for review in the future but which are not under review at this time.

The meeting then adjourned for lunch.

Reconvening after lunch, the Board discussed the USDA paper, Resolution of Focus. Prior to the discussion, Hankin explained to Board members that they would need to recognize and understand that the Program lead was now switching away from the Board and to USDA. USDA Staff has the expertise and experience to initiate ideas and ask the Board to provide answers to specific questions raised by Staff. This transition is following the natural course of events as the Program moves away from the standards recommendation phase and into the rulemaking and program implementation phase. Following these introductory remarks, Ted Rogers and Michael Johnson read and explained various sections of the Resolution of Focus of the National List program development paper. The paper introduced USDA's program implementation ideas concerning the categories and types of substances to be reviewed under a Federal Organic Program, determination of availability on a national level, and a strategy to achieve full disclosure of inert ingredients and subsequent review by EPA.

After the presentation, Weakley suggested that the Board verbally comment on the paper section by section. The Board agreed, but first decided to make verbal remarks on the document as a whole. Rich Theuer stated that the paper discriminated against manufacturers that refuse to disclose inerts, questioned who would be subjectively determining availability of organic ingredients, and objected to the National List constraints being applied to the category of foods made with organic ingredients. Merrill Clark believes that the Board's role in the standards process would be negated and objects to the Board's views being considered as subservient to USDA's ideas. Michael Sligh made the statement that the Board should continue to have an ongoing role in the program development and denied the assertion that the
NOSB was just an advisory Board to USDA, but instead is assigned an additional non-traditional role of decision making. Margaret Clark voiced her immediate reaction as anger, frustration and sadness. She thought the wording of the paper is such that the National List process would be moving away from a criteria base to a subjective base, and she reiterated her concern over the language used in the paper, referencing phrases like "generally permitted" and "yet to be determined" as problematic.

Gene Kahn felt that the paper was improperly titled, for in fact there is virtually no focus resolution and his impression was that the Board members were over reacting. Gene suggested that the real source of the problem was tension between the Board and USDA over jurisdiction, responsibility, and the institutionalization of organics. Nancy Taylor expressed her uncertainty over the paper's apparent twist to circumvent the Board's power over the National List. She questioned the future of the Board's jurisdiction in the National List process after the rule making process begins. Don Kinsman viewed the paper as an effort to expedite the program development process. Don agreed and disagreed with different portions of the paper, but did not take offense at it.

Hal Ricker explained the dual role of USDA staff - that of assisting the Board in the development of recommendations and also that of evaluating the recommendations before developing the Program. He made clear that the Secretary will create a workable program and that some of the Board recommendations will not be accepted as part of the National Program. Sligh cautioned against allowing the word "organic" to lose its soul through its institutionalization. Kahn went on to elaborate on variances mentioned in the paper by USDA that were especially important to him, including the omission of setting 5% of EPA tolerance as a residue maximum for organic foods and USDA involvement in determining availability of organic ingredients.

Sligh suggested that written comments be submitted to the USDA staff within one month. November 15, 1994 was set as the date for all comments on the paper to be submitted.

The discussion then turned to specific comments on the document. Comments on the General Comments Section included:

* The Organic Plan could become a regulatory nightmare if all of the references to it materialize as the USDA stated in the paper.
The natural/synthetic determination device was assumed to be in place; more specifics are needed than those listed in the General Comments section.

The idea of accepting a synthetic substance that could "unequivocally" be incorporated into an organic management system is unacceptable.

Comments on the Tolerated Substances Section included:
* The position paper of the Crops Committee (May 19), relative to Botanical Pesticides, seems to better address this issue. The Department should give some contour to the phrase "judicious use". The Crops Committee recommends that the certifiers be able to use discretion in the allowable usage of botanicals. The Committee intends to bring that paper to the full Board.
* The staff should not have discussed fungicides or efficacy issues about fungicides. Some Board members stated their intent that seed treatments be placed on the National List to prevent substances such as Captan from being used in organic farming. An additional comment was made regarding the Department's diligence in creating a burdensome restriction on producers to show progress in securing organic seed. The opinion was expressed that if there is an allowance for synthetic substances to be used in organic farming and if each substance is not placed on the National List, then there is a perception of hiding facts from the consumers. A Board member noted that it was decided at a previous meeting that seed treatments were to be individually named on the National List. Another Board member noted that seed treatments are short-lived at best and agrees with the USDA process to handle them.

Comments on the Organic Processed Foods section included:
* The USDA position on "better choice" synthetic substances for processing gives the impression of trying to exercise sovereignty; this would only serve to bureaucratize the process.
* An opinion was given that the USDA recommendation to abandon distinguishing between natural and synthetic non-agricultural ingredients as a violation of the Act. It was expressed that from an operational point of view, the OFPA states that the Board has to take up the natural/synthetic issue.
* Ingredient disclosure, as proposed by the USDA, violates a principle of the Processing Committee that consumers must know everything contained in an organic product; therefore, any ingredient or processing aid used in producing the product must
appear on the label.

* It was also expressed that the USDA role of evaluating the 5% allowance for non-organic ingredients in an organic product is not proper unless a producer is suspect in questionable activities. Certifiers should be allowed to handle those types of decisions. The Department's role should be to verify that certifiers are policing this issue.

* The Act does not address availability or essentiality. Processors should not be told that they can't use a product that is not included on the National List. All products and materials able to be used should be on the National List.

* The USDA reiterated the notion that the Act was intended to be used as a foundation for the program and that all of the Program language is not contained in the Act as written. There are many gaps, and it is the USDA responsibility to fill in those gaps with the advice of the NOSB.

After the conclusion of the discussion, the Board entered a general discussion on the botanical review and voting process. Zea Sonnabend provided details of her responsibilities as Technical Advisory Panel (TAP) Coordinator. She described the process by which substances submitted to her by the Board Committees are transmitted to individual TAP reviewers who have previously indicated their intent to evaluate certain substances. John Brown, the USDA Materials Review Advisor, provides a literary search for technical background information that accompanies the forms sent to TAP members. These forms are designed to solicit the information needed by the Board in evaluating the substances according to the criteria categories set forth in the OFPA. She emphasized that the botanicals under review at this meeting were being considered for placement on the prohibited natural list because the National List does not have a category for approved natural substances. Sonnabend stated that quassia would not be voted on at this time because it is not approved by EPA for use in the US, and that the vote on strychnine should also be postponed because the TAP review is incomplete.

Rather than begin its formal evaluation of botanical pesticides at this late hour (4:45pm) and also to accommodate the schedules of two technical presenters, the Board elected to amend the agenda by postponing the votes on neem and ryania until Thursday and by allowing Brian Baker and Bill Wolf to make their presentations at this time.
Brian presented an excellent overview of botanical pesticide use in California according to region, crop and specific pesticide. He reported that ryania use had decreased because of an increase in popularity of pheromone confusion techniques. He told the Board that less than 10% of CCOF certified acreage is treated with botanical pesticides and that botanicals are used mostly in extreme or emergency situations because of their expense and the limited window of opportunity available to apply them. Most producers are relying on botanicals as an aid only during the transition from conventional to organic farming. Brian said that CCOF does allow producers to use botanicals in successive years while they search for alternatives, but he has found that establishing beneficial habitats decreases the necessity for botanicals.

Bill Wolf of Necessary Organics, Inc., founder of a catalog supply business for organic producers and President of the Organic Trade Association, spoke about botanical use nationwide. He reported that growers in the Southern US have less ideal conditions than growers in California because of the increased moisture and humidity in the South. He has noticed that growers can reduce the amount of botanicals applied per acre through proper management, that very few growers rely on botanicals as first choice treatments for pest control and that botanicals are usually applied specifically rather than broadcast. Botanicals are preferred over synthetics because they break down rapidly in the environment and because of the safety of their breakdown components. He explained that neem actually operates by disrupting the development of the insect larvae and not through toxic action. But because neem (and other botanicals) are unstable, inerts such as petroleum distillates are necessary to be combined in formulation to increase their viability.

The Board concluded the business of the day by reminding each other that the TAP material is information provided to Board members to assist them in evaluating the substances and that decisions can be made even if the TAP materials are not as complete or thorough as some members would prefer.

The meeting was adjourned at 5:20pm.
The meeting was called to order by Michael Sligh at 8am. Members in attendance were: Robert Quinn, Merrill Clark, Margaret Clark, Nancy Taylor, Gene Kahn, Gary Osweiler, Dean Eppley, K. Chandler, Michael Sligh, Rich Theuer, Tom Stoneback, Craig Weakley, Don Kinsman and Yvonne Frost of Oregon Tilth.

USDA Staff members present were: Hal Ricker, Michael Hankin, Ted Rogers, Michael Johnson, and Grace Gershuny.

**BOTANICALS SPECIAL REVIEW**

The review of botanicals was led by Dr. John Brown, USDA Materials Review Coordinator. Dr. Brown began by indicating that the clause in the Act relative to the special review of botanicals does not require a vote to accept specific botanicals for use in organic farming, but rather a vote to discontinue its use by placing it on the list of prohibited natural substances. He explained that the information contained in the botanicals review notebooks furnished to each member is based upon materials found in various toxicological studies and other sources. He informed the Board again that quassia and strychnine will not be reviewed because quassia is not registered by the EPA and no researchers have been identified yet to review strychnine.

Merrill Clark summarized her handouts from yesterday regarding articles by Elliott Coleman, an organic farmer. Merrill pointed out that the Board is voting on generic substances and not on formulated products. The concern of consumers who purchase organic food, she stated, is that they think they are buying food that has been grown without the use of pesticides when in actuality the food may have been raised with the use of botanical pesticides. She suggested that botanicals should be phased out of organic production, alternatives found to their use, and that the Board should adopt recommendations to wean producers away from using botanicals.

Sligh suggested that USDA press releases should contain the Crops Committee wording about the restricted use of botanicals in organic farming, a description of how the National List substances are incorporated into the organic farming methodology, and clarification that the Board will revisit its botanical reviews as new information is available from EPA.
Theuer noted that 9 votes will be needed to pass a motion to place a botanical on the prohibited natural list (excluding abstentions) in order to satisfy the 2/3 approval requirement of the OFPA.

Hankin reiterated that the Board's decisions on its recommended proposed national list will be further evaluated by the Secretary before the Proposed National List is published in the Federal Register. Taylor, Weakley and Margaret Clark expressed their interpretation of the OFPA that the NOSB has purview over the National List. The USDA responded that the Board's responsibility is to develop and provide recommendations, not the final standards or the final National List of substances.

NEEM

Dr. Brown began with an overview of neem. He noted that all of the information that will be presented by Zea or himself is contained in the notebooks provided to each Board member. John reviewed the Lethal Dose (LD50 - the dose necessary to kill 50% of the test animal population) of neem and reported that the two people who died in another country actually died from aflatoxin poisoning related to harvesting the neem seed. Neem was registered after 1984, so it is not under reregistration review by EPA. Brown reported that neem is gentle on beneficials.

Quinn requested in the future that the Codex and international organic organizations' status be included for each substance along with the private and State certifier status and this was agreed. Osweiler requested more information on long term chronic studies in addition to acute toxicity studies.

Joe Smillie reported that neem is used worldwide in controlling pests for grain storage but it is not yet registered in the US for this purpose. Dick Nielsen of W.R. Grace said neem is now registered in California and that Neemix, their trade name, was registered in all fifty states. Brent Wiseman said that Texas even allows growers to obtain a special permit to apply neem on crops for which it is not registered because of its safety.

Margaret Clark moved to place neem on the prohibited natural list. Kinsman seconded. VOTE Yes - 0. Opposed - 13. Failed.

Unanimous vote to keep neem off the prohibited natural list.
RYANIA
Dr. Brown expressed concern that there may not be sufficient information to conduct a vote on ryania, but the Board decided to continue with the review and decide on postponing the vote at the conclusion of the presentation. Margaret Clark read a letter from a Washington State apple grower, Bruce Spencer, about the benefits of using ryania to control codling moth and about the lack of alternatives available to organic orchard managers. Sligh moved to table the vote on ryania with a second by Merrill Clark. VOTE Yes - 6. Opposed - 7. Failed. Kahn and Weakley stated that they are familiar enough with ryania to proceed with a vote. It was clarified that the Board has more information than the TAP reviewer received and that there should be sufficient research materials available in the notebooks to make a Board decision on a recommendation. After individual members provided comments about the adequacy of information and the ability of the Board to reconsider any vote after new information is received, the Board decided to vote on ryania. Theuer moved to add ryania on the list of prohibited naturals and Kahn seconded. VOTE Yes - 0. Opposed - 11. Abstain - 2. Failed. Ryaania is kept off the list of prohibited natural substances. John Brown will continue to access information to complete the data gaps.

PYRETHRUM
Pyrethrum is usually combined with piperonyl butoxide (PBO) when used in organic production in order to increase its effectiveness. The TAP reviewer recommended that the use of pyrethrum be continued with restrictions. Pyrethrum does contribute to skin irritations and respiratory ailments in humans. Brown said these problems occur most often when the substance is misapplied or precautions are not observed.

Sligh read a letter from Lynn Coody, a TAP reviewer, who stated her desire to have more information, but who also stated her opinion that pyrethrum could be accepted. Brown and Sonnabend will attempt to provide TAP review persons with additional preparatory information in the future if it is requested by the person and if it is available from their resources. Sonnabend reported that no private certifying agency currently prohibits the use of pyrethrum and Osweiler reported that it is used widely in conventional production with very few problems known.
Rod Crossley of Health Valley Foods stated that pyrethrums are an essential component of pest control in processing plants and pose little danger when used according to directions and within a complete pest control program. Reese Moorman asked that its use be continued to allow for transition to organic methods and until alternatives are found by industry.

Theuer moved to place pyrethrum on the list of prohibited natural substances and Kahn seconded. VOTE Yes - 0. Opposed - 10. Abstain - 3. Failed. Pyrethrum is kept off the list of prohibited natural substances. The Board approved a 15 minute break and agreed to reconvene at 10:15.

QUASSIA

Sligh moved and Kahn seconded that quassia not be reviewed at this time because it is not registered with EPA for use in the US. Suzanne Vaupel stated that many products are actually used that are not registered and that quassia is one of them. The Board clarified that its decision not to review quassia would not prohibit its use by those producers who choose to use it despite the lack of proper registration. VOTE to table quassia. Yes - 10. Opposed - 3. Passed.

STRYCHNINE

Sligh moved and Merrill Clark seconded to table a vote on strychnine because of the lack of a TAP review. John Brown stated that he is searching for a TAP reviewer and expects to have the review completed for the next meeting. Theuer expressed that he would be able to vote with the information presented. Taylor and Margaret Clark spoke to the importance of strychnine use until a synthetic with no secondary kill effect is approved. VOTE to table yes - 8. Opposed - 3. Abstain - 2. Vote to table is passed.

Before the review of sabadilla was initiated, Joan Clayburgh of the National Coalition against Pesticides was allowed to make a presentation to the full Board about her group's opposition to the use of botanical pesticides. She declared that the Board should err on the side of safety in its attempt to balance consumer vs. producer needs when evaluating substances. Ms. Clayburgh was specific about the possibility of broad environmental damage occurring from botanical applications and...
asserted that the NOSB review should not be conducted until EPA
provided information to close all of the data gaps. Kahn made
the point that without the benefits afforded by botanicals,
organic farmers may switch to conventional methods. Theuer
claimed that allowing PBO decreases the amount of botanical used
by 10-20%. Merrill Clark questioned how the consumers should be
informed about botanical use on organic foods that they purchase
and called for further education and clear disclosure of
botanical use.

**SABADILLA**

John Brown explained that one TAP report completed for sabadilla
was confusing as to its recommendation for List placement and
that another TAP report (from Bill Wolf) was not returned.
However, Bill Wolf was present to inform the Board directly about
the information that would have been included in his report.
Bill described how sabadilla came back into popular use in 1984
when effective alternatives could not be found for application to
ture plant bugs. It is an irritant to mucous membranes and in
fact is found in sneezing powder. Its LD-50 shows that it is
many times less toxic than rotenone or pyrethrum. He testified
that he is somewhat concerned about the data gaps on sabadilla,
and he corrected the written information in the Board members'
notebooks by clarifying that only the ground seeds are used (no
extraction process) and that inerts associated with sabadilla's
formulation are readily available.

After Bill Wolf's testimony in which he also recommended that
sabadilla not be placed on the list of prohibited natural
substances, Margaret Clark moved and Dean Eppley seconded to
place sabadilla on the list of prohibited natural substances.
Merrill Clark stated her disturbance that the Board was using a
risk assessment approach rather than following the criteria as
stated in 2119m of the OPPA. Brown declared that the information
before the Board was prepared with the goal of providing enough
information to evaluate the substance according to the required
Sabadilla is kept off the list of prohibited natural substances.

**TOBACCO DUST** (actually nicotine and nicotine derivatives)
Sonabend began the review by explaining and apologizing for the
confusion involving tobacco dust, nicotine and nicotine
derivatives. Nicotine was the substance originally placed on the
Crop Committee's list intended for TAP review as a prohibited natural, but it was transcribed with tobacco dust, which is a natural fertilizer, on one of the revisions. She continued that tobacco dust is approved by some certifiers as a fertilizer, but this substance is not registered with EPA as a botanical pesticide and is not being reviewed now. Rather, nicotine and nicotine derivatives are the botanicals and should be considered for placement on the prohibited natural list.

Theuer stated and it was generally agreed that nicotine sulfate is a synthetic ingredient and not a natural botanical pesticide. Zea responded that nicotine by itself is extracted and still is considered a natural substance and appropriate to be considered for the prohibited natural list. The Board concurred that it should be voting on nicotine only and not on tobacco dust or nicotine sulfate.

Theuer motioned and Merrill Clark seconded to place nicotine on the prohibited natural list for all uses. Dave LaTourneau, a tobacco grower and organic inspector, spoke to prohibiting nicotine sulfate and allowing tobacco and tobacco dust. George Siemon, an organic farmer and dairyman, spoke to the potential uses of tobacco in livestock care and asked the Board not to automatically reject tobacco. David Haehn recommended separating nicotine from tobacco and pleaded that philosophical prejudice toward tobacco not become a factor. Brent Wiseman noted that tobacco can be useful in certain situations because it can be grown and used on the same farm and is readily available as a tool for organic farmers. Zea Sonnabend suggested that the Board prohibit only commercial preparations of nicotine. VOTE on Theuer's motion. Yes - 4. Opposed - 7. Abstain - 2. Failed.

Taylor moved and Sligh seconded to table the previous vote on nicotine until more information is available and John Brown can elucidate on the differences between nicotine, nicotine sulfate and tobacco derivatives. VOTE Yes - 12. Opposed - 1. Passed.

ROtenone
Brown reported on the low LD50 of rotenone when tested on rats, its toxicity to fish and birds and on no records of fatalities or poisonings in humans. Kinsman reported that it is used widely for lice, mange and mites in conventional production. John clarified that the Board is reviewing the natural ground root and not synthetic preparations or the synthetic extracted form of
rotenone. Theuer offered that the half life of rotenone is long and the required 24 hour withdrawal time may not be long enough and that there are many alternatives. Brian Baker stated that rotenone is restricted in its applications by private certifiers and that the California Senate repealed its registration because of incomplete information and not because of health reasons.

Merrill Clark requested that the Board take actions to move production away from the use of all botanicals by considering a phase out of all botanicals. David Haehn spoke to its usefulness in livestock and aquaculture. Brian Baker informed the members that rotenone has been debated within the organic community for years and despite its shortcomings and data gaps, there are no alternatives because of the natural/synthetic rule.

Quinn moved and Kinsman seconded to place rotenone on the prohibited natural list. VOTE Yes - 1. Opposed - 8. Abstain - 4. Failed. Rotenone is kept off the list of prohibited natural substances.

The Board then adjourned for lunch. After lunch, separate meetings of the Livestock and Accreditation Committees will be held before the Board participates in a tour of Fetzer Organic Vineyards and Winery at 3pm.

OCTOBER 14, 1994

FULL BOARD SESSION

Members in attendance were: Robert Quinn, Merrill Clark, Margaret Clark, Nancy Taylor, Gene Kahn, Gary Osweiler, Dean Eppley, Michael Sligh, Rich Theuer, Tom Stoneback, Craig Weakley, Don Kinsman and Yvonne Frost of Oregon Tilth.

Staff members present from USDA were: Hal Ricker, Michael Hankin, Ted Rogers, and Michael Johnson.

LIVESTOCK COMMITTEE

Merrill Clark opened with the discussion of the Livestock Committee additions on outdoor access language to the Healthcare Practices document and the new language on antibiotic and parasiticide use in laying hens. Theuer questioned whether species specific language on parasiticide usage had been developed as had been agreed upon at the meeting in Santa Fe.

Merrill replied that the Committee had decided not to take that
route because it decided that the general policy language provided sufficient guidelines and the Committee did not want to set precedent by allowing exceptions to the general policy in its recommendations. Osweiler stated that the National List petition process should provide the means by which persons request use of a substance for a specific purpose.

At this time, the livestock discussion before the Board was temporarily suspended to hear a presentation on PBO from Bill Wolf who would only be able to remain at the meeting for a short while.

**Piperonyl Butoxide**

Bill Wolf made comments relative to yesterday's presentation by Joan Clayburgh of NCAP. Bill asserted that the statement that the OFPA was a food safety Act is inaccurate because the OFPA is actually a means to provide a label for a production management system. Bill also disagreed that PBO is a carcinogen, citing that the concern over PBO's carcinogenic properties stems from a single study that showed liver cancer development in a laboratory rat. He recommended that PBO not be placed on the prohibited natural list. He also agreed that the use of botanicals as a group should eventually be eliminated from organic systems.

**Livestock Committee**

The Board resumed the livestock discussion with the issue of outdoor access for livestock, especially chickens. Quinn and Hankin exchanged comments about whether one flock of chickens that lives indoors its entire life because of weather conditions can be considered organic when another flock of chickens in a better climate is required to be outdoors to be certified as organic. Hankin noted that the issue is not the chickens themselves, but rather the type of housing system upon which the care is based. Kinsman noted the importance of developing a definition for "confinement" to clarify whether this means in a building or in battery cages.

Anne Schwartz interjected that confinement was addressed in the original Senate bill but the language was omitted from the OFPA as a political decision; this robbed the National Program of a fundamental principle. Steve Mahrt asked that broilers and layers be considered separately because their needs are different. Quinn reiterated that good indoor conditions should
be adequate and acceptable for certified production. Sligh discussed the current trend toward producing free range/antibiotic free broilers that are not organically labeled and wondered about the confusion that the consumer would experience if organic broilers could be raised in confinement housing. He cited the strong sentiments in Europe and internationally that the organic label represent an outdoor access requirement. Steve Mahrt stated that the question is truly whether the birds are in cages and not whether they are roaming indoors or outdoors.

Kahn asked that the outdoor access wording be returned to the Committee to clarify the confusion around confinement and the conditions that might comprise acceptable outdoor access. Osweiler concluded that this issue comes down more to philosophy than to healthful practices and acknowledged that most of the input received at the Livestock Hearings was against confinement. Merrill made a motion and Quinn seconded to accept the October 13, 1994 proposed additions to the Healthcare Practices Final Recommendation. VOTE Yes - 0. Opposed - 12 Unanimous. Failed.

Kahn expressed the need for the Board to set a clear precedent as to what direction the Committee should pursue relative to the confinement issue. Kinsman suggested developing guideline language for certifiers to follow, rather than including required production practices in the regulatory language. Taylor moved and Merrill seconded to accept the following language as amendment to the Final Recommendation: "Confinement of livestock with the exception of fish to an indoor housing facility without the opportunity for regular exercise and access to the outdoors is prohibited." VOTE Yes - 4. Opposed - 8. Failed. The will of the Board is that the definition of confinement be worked on further by the Livestock Committee.

Merrill then distributed new wording for line 565 of the Organic Farm Plan. The language reads: "Seasonal access to grazing pasture should be considered a fundamental principle for all livestock species. A producer's Farm Plan should demonstrate movement toward this goal, as well as document that sufficient land resources exist on the farm to provide adequate grazing while protecting soil and water resources". Kahn said that this wording is premature until the confinement issue is resolved and
that this amended language should be set aside until a later date. All agreed to this resolution.

The last Livestock Committee topics were the additions (dated October 13, 1994) to the Board Final Recommendations on antibiotic and parasiticide use to establish guidelines for antibiotic and parasiticide use in organic laying hens. Quinn stated his belief that the guidelines should be patterned more like the guidelines for organic milk production than for organic beef production given the similarity in relation between cows/milk and chickens/eggs. Merrill disagreed with this comparison. Theuer requested and the Board agreed to delete the word "synthetic" before "antibiotic" and "parasiticide."

Osweiler agreed with Quinn as to the inconsistencies. Steve Mahrt stated that his market would be lost if he had to sell his hens, but that it would be maintained if he simply had to observe a withholding time. Dick Krengel spoke to the rare use of antibiotics in layers and the even rarer need to use them on broilers raised indoors. Merrill moved to approve the wording to amend the Antibiotic Final Recommendation and Weakley seconded.

VOTE Yes - 3. Opposed - 7. Abstain - 2. Failed. The parasiticide wording was not voted on and will be reconsidered by the Committee along with the antibiotic amendment for the next meeting.

ACCREDITATION
Margaret Clark reported to the Board about the discussions during the Committee meeting yesterday concerning minor infractions and random spot inspections. Margaret related that certifiers seem to respond to minor infractions on a case by case basis and do not currently have policies in writing. The Committee will develop a list of ways that certifiers can help prevent minor infractions from occurring. Regarding spot inspections, the Committee will wait to receive responses to Theuer's draft of spot visit concepts from the Organic Certifiers Caucus before revisiting the item before the next Board meeting.

The Board then turned to the issue of costs of the first round of accreditation. Sligh introduced NOSB resolution #2 "Concerning the first round of accreditation costs", and explained the resolution as follows: The Board passed a first resolution at the October 1993 meeting in Arkansas which requested that USDA appropriated funds be used to fully cover the costs associated...
with accrediting certifiers during the first round. Sligh indicated that the resolution reflected the concerns of certifiers and the Board now that USDA is publicly presenting proposals putting forth projected expenses that may have to be paid by the certifiers during the first round. The resolution requests that the USDA specify in writing to the NOSB (1) why the USDA failed to act upon the first resolution after being given verbal assurances; (2) what specific costs of the first round will be carried by existing USDA appropriated funds; and (3) what costs are estimated for the certifiers to carry. Teuer said that the language of #1 was too strong, and Ricker stated that he could not respond to the resolution because of the tone with which statement #1 had been written. The Board unanimously willed that item #1 be deleted from the resolution and then VOTED Yes- 9 Abstain - 2 to accept the resolution as amended.

Robert Beauchemin, representing the Organic Crop Improvement Association (OCIA), a private certifying organization, then made a presentation about OCIA's experiences with accreditation costs. OCIA has analyzed the expenses related to licensing 17 of its 60 chapters and found the following: the evaluations required an average visit of two and a half days and the evaluation reports averaged 60 pages. The average per chapter cost was $2,500, excluding follow up monitoring. He also reported that he had received information from the International Federation of Organic Agricultural Movement (IFOAM) Accreditation Program that showed their accreditation time averaging 115 hours per certifier including monitoring of field visits. The four year cycle cost for this program was around $12,000 and was influenced more by the certifier's readiness for the accreditation process than by its size. Additionally, he asserted that the number of certified farmers is not currently increasing in the US and that the EU has also experienced a leveling of certified acreage.

Ricker replied that we expect organic livestock and livestock products to provide growth but that he is not projecting any costs on anticipated growth. Our research shows that 3,500 farmers are certified and 1,500 are non-certified organic; figures are not available for organic processors. The US cost model will probably be based on an annual assessment fee plus the actual costs of accreditation.

Margaret Clark reported that the Committee has not had the
opportunity to further develop its current brief list of areas in which States should be permitted to develop additional requirements, but they may take this up and submit recommendations to the full Board before the next meeting.

Margaret requested that discussion on additional language regarding the required or optional use of the USDA shield on labels be tabled so that the Committee could have more time to analyze the results of its straw vote on the subject. The Board agreed.

Finally, the Board discussed the Committee draft language on the use of the certifying agent's seal. After brief comments about the proposed language, minor changes were made and the following language was adopted as a Board resolution after a motion by Weakley and a second by Merrill Clark on a VOTE of Yes - 10. Abstain - 2. Passed:

"The Board recommends that all certifying agents, both State and private, who are accredited under the National Organic Program, will be allowed to continue full use of their seals, trademarks or logos."

The Board decided to postpone a vote on the provision for additional standards promulgated by private certifiers until the afternoon session.

INTERNATIONAL

Sligh initiated this Committee section of the full Board meeting by explaining that the Codex Alimentarius process involves an eight step process for approval by participating countries and that the organic standards were now at the seventh step. He specified some of the differences between the Codex proposals and the US recommendations:

* Codex requires manure from organic sources
* Codex has a 2 year transition period compared to 3 in the US
* Codex has more liberal livestock production standards
* Codex has an approved substance list whereas the US list will be of approved synthetics and prohibited natural

Ricker reported that additional issues had surfaced within the last two weeks: (1) 3 of 4 responding countries want to prohibit genetically modified seeds, products and organisms; (2) Australia is requesting three times the established withholding time when
livestock medications are used; and (3) Spain is requesting that certain materials (that would seem to be permissible under the National Program) be removed from the Codex annexes. After noting that IFOAM encourages whole farm conversion to organic production, Stoneback moved and Sligh seconded that "In light of the material list amendment and accreditation confusion, the US delegation should have the Codex Committee on Organic Standards follow a course of deliberate speed until the USDA has had a chance to implement its program based on the Board recommendations. VOTE - Yes - unanimous. Passed. USDA agreed to develop a list of imported products from specific countries requiring fumigation before being allowed entry into the US and to compare the Codex list of processed food ingredients and processing aids with the Committee's recommended list.

The Board adjourned for lunch at 11:55am.

PROCESSING
Reconvening at 1:15pm, the Board moved on to the Processing section of the full Board meeting. Theuer informed the members that the Committee is preparing a number of documents for the next board meeting. The subject matters being developed are: (1) pest control amendments to the Handling Plan and Good Manufacturing Practices; (2) allowances to the specified labeling recommendations for bulk products packaged to assure integrity; (3) exemption from certification of distributors who only handle packaged goods where there is no opportunity for compromise to the organic product; (4) determination of the criteria and oversight factors affecting availability of organic ingredients.

Theuer requested the Board to consider accepting Section 4 of the Board Draft Recommendation on Labeling of Processed Foods as a Board Final Recommendation. This section pertains to foods containing organic ingredients that comprise less than 50% of the finished product or to foods that contain any percentage of organic ingredients but have a prohibited substance, processing aid or food additive involved in its manufacture. The wording restricts the use of "organic" to the ingredient listing statement and provides for documentation to be provided by the processor to verify the authenticity of organic ingredients, when necessary, but does not require certification or routine verification. Theuer motioned and Stoneback seconded to accept Section 4 as a Board Final Recommendation. VOTE Yes - 9.
Opposed - 0. Abstain - 1. Passed.

CROPS

The Crops Committee announced that it had three main items on its agenda: improving the process for the review of materials, a Board vote on PBO for the approved synthetic list and language on the preferred use of botanical pesticides in organic production.

First, Kahn asked John Brown to discuss the changes that he will be making to improve the review packages for materials that are presented to members prior to a meeting. These improvements will include: (1) international status of each material; (2) acute and chronic toxicity information; (3) historical use data; and (4) a check-off list for each material according to the criteria stated in Section 2119m of the Act.

Sligh urged, in lieu of reestablishing the Materials Committee, that conference calls be initiated to handle materials issues, and he expressed the importance of the materials review procedures being separate from the regular recommendation process. Sonnabend agreed to coordinate the agenda for materials conference calls. The Board unanimously decided that there should be regularly scheduled materials review process conference calls between John Brown, Zea Sonnabend, the chairpersons of the Livestock, Processing, and Crops Committees, and USDA staff.

The Board reverted back to the discussion regarding the use of PBO that had been ongoing throughout the week. There was first a discussion on the history of PBO for clarification. John showed that PBO is extracted from natural sources, but explained that PBO is considered a synthetic substance because of the process by which it is extracted from the natural source; the Board concurred. Zea noted that its historical use is mixed because its classification as a natural or synthetic has been in doubt. PBO was considered natural, but was found to be synthetic after its manufacturer finally disclosed the necessary information; at that point, certifiers started prohibiting it because of philosophy, not necessarily because of environmental or health concerns. It was previously considered as an approved synthetic in California, but it is currently prohibited there because there are no exemptions for allowed synthetics in the revised California law. Yvonne Frost explained that, historically, PBO was found on various certifiers' materials lists, and so it was
allowed by Oregon Tilth for a while, but now it is prohibited. OCIA does not allow the use of PBO because OCIA could not determine how PBO acts, but Washington State does allow its use. Oregon prohibits PBO use because it is prohibited by Tilth and Tilth prohibits it because it is synthetic. It was indicated that Tilth, Oregon and California would change their regulations if the National Program permits PBO.

Brown explained that PBO acts as a synergist and reduces the amount of botanical pesticides that have to be used by 5-10%. It has a very high LD-50; a very low toxicity, and it has been concluded that environmental exposure is not a risk associated with the use of PBO. There are currently no synergistic alternatives for PBO.

Eric Kindberg reminded that the Board that any active synthetic substance placed on the approved synthetic list has to belong to one of the categories stated in the OPFA. (Board and USDA representatives had decided at a previous meeting that substances currently in use in organic production and processing would be evaluated without regard to category and that the interpretative requirement that the substance must belong to one of the categories would be discussed after the substance had been accepted for the National List.) Rod Crossley stated that processing plants require a PBO/pyrethrum combination because rotenone use is prohibited. David Haehn also made the point about approved synthetics first having to be classified in one of the categories before being evaluated.

Sligh informed the Board that he had called EPA and found out that PBO has been under the reregistration process since 1988; that it is currently in a Peer Review Study because of inconsistent lab research reports; and that the reregistration is anticipated to be completed in October 1995. Based on this information, Sligh moved and Quinn seconded to table a vote on PBO. VOTE Yes - 6. Opposed - 5. Abstain - 1. Failed. Kahn moved and Eppley seconded to place PBO on the list of synthetic active ingredients for the National List and restrict its use to a synergist with botanicals according to EPA regulations and subject to further use restrictions. VOTE Yes - 7. Opposed - 4. Abstain - 1. Failed. John will obtain further information on PBO for a possible reevaluation at a future meeting.
Finally, Kahn distributed a Crops Committee paper (10/14/94) about guidelines for a policy on the use of botanical pesticides in organic production. Merrill clarified that the paper pertained to generic active substances and not formulations. Weakley moved and Quinn seconded to accept this as a Board Final Recommendation. Amendments to language that were first discussed and approved are: (1) add PBO summary; (2) add "generic" in line 34; (3) delete lines 38-42; (4) add "livestock and crops" at line 64; (5) delete "USDA accredited" at line 74; (6) delete "be authorized to use at their discretion"; and (7) change line 76 to read "shall assure". Quinn asked USDA staff to continually update the dates of action for the statuses of the botanicals and PBO. VOTE Yes - 12. Unanimous. Passed. Ted Rogers urged the Board to adopt similar language governing the use of all substances approved for the National List.

The Board then returned to the issue of additional standards promulgated by private certifiers and considered the following refined wording developed by the Committee:

"The Board recommends that certifiers will continue the evolution of the certification process and production requirements that may be additional to those of the Federal Program. These certifiers may make the use of their trademarks, seals and logos contingent on the fulfillment of these requirements. Such requirements must be published and available to all applicants."

Theuer asked to insert wording that the requirements should conform to the National Program, but Weakley said that this is understood without being stated. Hankin asserted his preference that language be included to indicate that the additional requirements would be reviewed by USDA, but the Board rejected this idea claiming that this too was implicit in the accreditation process. Weakley moved and Sligh seconded to accept the language as part of the resolution. VOTE Yes - 10. Opposed - 2. Passed.

Following a 15 minute break, the Board reconvened at 3:25 to conclude the week long meeting. Quinn stated that the PBO vote to table the substance evaluation should only have required a simple majority vote and therefore the vote to approve PBO for the list of synthetics should not have occurred. Sligh stated that he will review the Board's operating policy on this and report back at the next meeting.
The Board voted unanimously to adopt the June 1994 Santa Fe meeting minutes as revised.

Sligh asked for the will of the Board to expand the mission of the inert task force to include the development of a recommendation to the NOSB on how a review of inerts should be handled under the OFPA requirements for the National List. Approved Unanimous.

Margaret Clark made a motion that was seconded by Kahn to accept the document previously submitted for review by Sligh about the "Continuing Role of the NOSB". Approved Unanimous.

The USDA Program Staff paper on the principles and definition of "organics" was briefly presented to the Board by Ricker who explained that it was written to satisfy a Board request from the Santa Fe meeting. Merrill said the paper wasn't specific enough to organics; Kahn said to delete overused words; and Kinsman expressed the need to develop a simpler consumer-oriented definition. It was decided that the Board would submit written comment to the USDA by November 15, 1994.

A discussion on a transitional label was the next topic for debate. Kahn expressed the industry need for some type of transitional labelling program. Sam Fahr of the Arizona Dept. of Agriculture noted that their transitional labeling program uses the terminology "certification pending". Ten members of the Board supported a transitional label in a straw vote, although they recognized the difficulty of the use of transitional organic products in multi-ingredient processed foods. The Board supported USDA Staff's intention to move ahead with exploring a transitional label that maintains all components of organic production standards except the three year rule for no prohibited substances having been applied to the land.

The discussion of implementation guidelines was initiated with a reminder that industry, Committees and certifiers were to have provided comments to USDA before this meeting. Theuer told the Board that specific phase-in recommendations were not needed for organic processed foods because of the time already permitted by FDA for label changes. Kahn said the Crops Committee will provide an update at the next meeting and Merrill said the Livestock Committee will examine the issue on conference calls.
Katherine DiMatteo said that the Organic Trade Association will submit comments after a workshop at Asilomar.

The week of March 20th was agree upon by members as being most convenient to hold the next meeting. North Carolina, Texas and Florida were discussed as potential sites. The Board voted to accept Florida as the next meeting location in hopes of touring organic and transitional organic citrus production.

An official thank you was made to Diane Bowen and CCOF and a round of gratitude was extended to any member of the Board who may not be attending future meetings. Michael Sligh made a motion to adjourn. The meeting was adjourned at 4:35pm.
LIVESTOCK COMMITTEE MEETING

October 13, 1994
Rohnert Park, California

Board members in attendance: Merrill Clark, Gene Kahn, Gary Osweiler, Bob Quinn, K. Chandler, Don Kinsman, and Tom Stoneback.

Staff members present: Ted Rogers and Michael Johnson.

Merrill Clark, Chairperson of the Livestock Committee, called the meeting to order at 1:25pm.

The purpose of the Livestock Committee meeting was to discuss the "access to outdoor" proposal (10/13/94) being developed as an amendment at line 278 to the Board Final Recommendation on Healthcare Practices.

Bob Quinn moved and it was seconded by Don Kinsman to delete "temporary" from line three and line six, and to add "and well being" in line eight after safety. The rationale for flexibility in the language is to give more discretion to the certifier in permitting exceptions to mandatory outdoor access. VOTE: Yes - 4. Opposed - 2. Passed.

The members then entered into discussion to change the wording in line 11 regarding a recommendation that pasture be provided, but K. Chandler subsequently moved and was seconded by Bob Quinn to not make changes to the wording as presented in the proposal. VOTE: Yes - unanimous. Passed.

Just before the close of the meeting, Anne Schwartz submitted some proposed amendments and additions for the document, but the committee did not agree to review them.

The meeting adjourned at 2:35pm.
ACCREDITATION COMMITTEE MEETING

October 13, 1994
Rohnert Park, California

Margaret Clark, Chairperson of the Accreditation Committee, called the meeting to order at 1:15pm. Other Board members present: Nancy Taylor, Michael Sligh, Dean Eppley, Rich Theuer, and (Yvonne Frost). USDA Staff: M. Hankin, H. Ricker, and G. Gershuny. Many members of certifying agencies were in attendance.

Sligh began the meeting by reporting that there was confusion as to whether USDA was going to be able to cover the first round of accreditation costs from appropriated funds. Sligh moved and Margaret seconded to have the Committee approve his developing a resolution before Friday that would be presented to the full Board for a vote. The resolution would require USDA to prepare in writing before the next meeting a more detailed analysis of accreditation costs that would address the division of costs and other Program expenses between USDA and certifiers. VOTE Yes - Unanimous. Passed.

Ricker responded to this vote by stating that although it was USDA's intent to cover all first round expenses, the Budget limitation initiative may restrict USDA's ability to carry out its intent. USDA will try to cover training, Peer Review Panel, and some related costs from appropriated funds. Ricker estimated that the certifiers may need to allow $2,500-$3,000 annually for accreditation related expenses, but emphatically asserted that these are only ballpark figures. Ricker also informed the members that preliminary talks with OGC indicate that certifiers will have to provide liability insurance, but not the much more expensive surety bond that was being rumored.

Turning to the issue of minor infractions, Diane Bowen of CCOF presented a summary of certifiers' policy on minor infractions. Minor infractions was defined as "Departure from any organic practice that will not corrupt the organic integrity of the product." Examples were given as inadequate buffer zones, using fish fertilizer with urea and using unapproved brand name formulations. Anne Mendenhall of Demeter Association said that they handle these on a case by case basis without trying to generalize and establish a formula for punitive measures.
Margaret thought that certifiers needed to develop a policy to ease the nervousness associated with acting as USDA agents. The Accreditation Committee will look at ways to prevent minor infractions, such as education by the certifier and diligent follow-up of specific corrective measures assigned by the certifier to the producer, and present these at the next meeting.

The next agenda item was public access to certification information. The public access policies of Oregon Tilth, Texas and CCOF were reviewed briefly. Tilth requires a written release by the grower before allowing access to records, while Texas has an Act mandating all file information to be available to the public. The critical points to be balanced were identified as the consumers' ability to find out all information about the production of the food versus the confidential nature of certain business related information. No action was taken at this time on adopting additional language for public access to certification information.

Annie Kirschenmann gave an update from the Organic Certifiers Caucus group. Annie reported that the Caucus is developing protocol guidelines for certifiers to follow in settling disputes. She also informed the Committee that Lloyds of London quotes have been obtained for indemnification of the Secretary under the National Program, in case this type of insurance should be needed.

Following a brief exchange of comments about the need for certifiers to comment on Rich Theuer's ideas concerning random spot inspection visits and the need for the Accreditation Committee to further develop criteria for approval of State programs, the meeting was adjourned by Margaret Clark.
(1) John Audrey -- Eden Foods; The primary topic of discussion by Mr. Audrey was organic soy products, and the labeling thereof. Specifically, Mr. Audrey expressed his concern over the method of calculating the exclusion of water from the percentage ingredients in organic soy milk. He also made the assertion that the NOSB labeling recommendation for calculation of % ingredients was in conflict with the FDA National Labeling and Education Act.

(2) Gary Mahrt -- Sheep Herdsman; The topic of discussion of Mr. Mahrt's presentation was the restricted use of synthetic parasiticides in the raising of organic sheep. He raised many concerns about the safety and humane treatment of sheep relative to the non-use of parasiticides. He also talked about the fact that the current NOSB recommendations would prevent any organic lamb from being produced. He urged for consideration of a withdrawal period for their use similar to that of organic dairy cattle. (WTOF)

(3) Gil Preston -- Rose Valley Farms, represented by Anne Schwartz; The topic of the presentation by Anne Schwartz on behalf of Gil Preston centered around the free range meat and egg poultry products. The thrust of the input was the importance of non-confinement for organic livestock. The conclusion was that if livestock is raised in confinement, then it is not truly organic. (WTOF)

(4) Liz Bourret -- Veritable Vegetable; The topic of discussion by Ms. Bourret was the use of ethylene as a ripening agent for bananas. She explained that ethanol is a naturally fermented product that goes through a conversion process to produce ethylene gas that is used to ripen bananas. This material would primarily be used on specialty bananas and plantains, as there is no replacement for ripening of the standard yellow banana. (WTOF)

In her second line of testimony, she discussed the requirements for handler certification. Her residual concerns were that packers, hydro-coolers, and co-packers should not have to be certified. Their facilities should however, be inspected as a part of a grower or handler certification. (WTOF)

Her final testimony was on behalf of Ocean Organic Produce, Inc., a commission merchant which operates a cooler, hydro-cooler and loading dock. This presentation was similar to her previous one and focused on not requiring certification for coolers. (WTOF)

(5) Bu Nugent -- Veritable Vegetable; Ms. Nugent's presentation raised several points regarding the small farm exemption. She
first noted that it is not worthwhile for farmers grossing in the area of $5K to $10K to pay for certification. She then went on to discuss the importance of wholesalers being an outlet for small growers. She suggested farmers with a gross below $5K limit be required to file farm plans and a list of outlets with a local certifier. (WTOF)

(6) Phil Foster -- CCOF; Mr. Foster made some general comments about maintaining the community, grass-roots spirit of the organic industry and not permitting the government to destroy this very important identity component. In addition, while discussing accreditation and the National List, he pointed out that the OFPA implementation should not disrupt regional difference in certification.

(7) Leonard Diggs -- President, CCOF North Coast Chapter; Mr. Diggs commented on the diversity of the organic production in Sonoma County. His focus then shifted to the small grower (less than 1/2 acre) and their insistence on no more rules, regulations, and cost burdens.

Following his discussion on regulation, he supported the use of botanical pesticides in organic farming. He made the statement that the use of botanical pesticides is found prevalent in both large and small grower operations.

(8) Dermot Wynne -- Mr. Wynne gave some commentary on consumer access to information about organic products and certification. He stressed the point that consumers must continue to have access after the National program is implemented. Documentation must be available for the concerned consumer to make informed purchases.

(9) John Wise -- Organic Grower; To the surprise of many, Mr. Wise's presentation was about a current emergency eradication spray event taking place in Ventura County, where his organic farm is located. Under the emergency eradication, there is mandatory spraying of quarantined areas. He brought forth comments about the economic consequences of spray programs to organic growers. He urged the NOSB to consider some alternatives for these situations, some of which were crop insurance and alternative spraying or treatments for these spray programs. Also, he pointed out that products from a quarantine program can be sold as organic, provided the products do not exceed 5% of EPA tolerance.

(10) Lon Johnson -- Trout Lake Farms; Mr. Johnson spoke primarily to the notions of animal care in organic livestock production. He began by stressing the philosophical approach to the issue, followed by the need for efficacious therapy. He stated that as for veterinary medicine, there is little to no history on animal standards. He also stressed to keep the focus on holistic systems. Mr. Johnson supports minimal use of botanical pesticides.

(11) Mark Lipson -- Mr. Lipson's testimony opened with some
general observations about organic programs. He commented that certification, as it currently exists, has increased consumer confidence in organic products. Some of his other points included: a) the National List, inherited from CCOF, should evolve and become more restrictive, b) botanicals are less prevalent than assumed and therefore should not be ruled out as a class of substances, c) animals must have access to treatment and medicines -- but observe strict extended withdrawal times, d) certification and accreditation are our enforcement tools; they must be rigorous and stringent and must provide for enforcement at the State and local level.

(12) Mr. Alan Bornt, Bornt Family Farms, Holtville, California: Mr. Bornt presented two areas of concern. The first addressed the concern that land currently under organic production under the California law might not be certifiable under Federal Regulations because of the "three year provision. He suggested that some sort of grand-fathering might be appropriate to prevent serious impact on the growers effected.

His second concern was that the National List include only the "pure" organic approach. In his opinion there should be no "synthetic-but-safe" compromises made. He also suggested that the Botanical Pesticides be restricted in their use.

(13) Mr. Steve P. Mahrt, Rock Island Egg Farm, Petaluma, California: Mr. Mahrt's primary concerns were indoor confinement of poultry under organic standards, referring to a poultry flock rather than an individual bird, allowances for a synthetic antiprotozoal agent (Amprol), and considering a laying hen flock as equivalent in standards to a dairy herd. In his presentation, Mr. Mahrt related his experiences and opinions on many short comings of a requirement for access to the outside for poultry. He also noted that it might be more practical and was certainly traditional among poultry producers to refer to a flock of domesticated poultry rather than tracking an individual bird. Within the Rock Island Egg Farm, there has been a history of 75% success in managing the coccidiosis problem with vaccination; however, there continues to be a need for the coccidiostat Amprol which is labeled for use in laying hens. Mr. Mahrt urged the consideration of Amprol as an approved [synthetic] material in the National Organic Program. He also drew comparisons between the dairy farmer and the egg farmer and suggested that it would be appropriate to extend the same transitional opportunities to the egg farmer that have been proposed for the dairy farmer.

(WTOF)

(14) Mr. Dick Krengel, California: First, Mr. Krengel delivered the written testimony of Allen Shainsky, of Petaluma Poultry Processors, Petaluma, California. Mr. Shainsky's primary concern is that indoor confinement of poultry not be prohibited under the National Organic Program. He noted a variety of problems regarding outside production of poultry from his experience as a
producer processor. Mr. Krengel then shared his concerns and experiences as a poultry feed supplier to organic and conventional growers. He particularly stressed the market demand for fresh poultry (and eggs) 52 weeks out of the year and his opinion that smaller non-concentrated growers would not and could not answer that demand. He also stressed that the most damaging microorganisms are endemic in any exposed ground system and are best managed in an indoor confinement system. In his experience, predator pressure keeps poultry inside or very near the shelter in many situations. He also noted that land costs influence the way poultry is managed in any given area. (WTOF)

(15) Dr. Randy Kidd, DVM, PhD, 911 West 33rd St., Kansas City, MO: Dr Kidd presented some information on efficacy and safety of alternative forms of livestock health care encouraging the board to consider the alternatives as viable methods. He also offered his services as an expert in alternative forms of health care for livestock. (WTOF)

(16) Ms. Nell Newman, Newman's Own Organics-The Second Generation, Aptos, California: After describing her background and the vision of Newman's Own Organic, Ms. Newman discussed her concerns about the essential nature of sodium hydroxide as a processing aid in the manufacture of pretzels. She emphasized that essentiality by distributing samples of pretzels made with and without the sodium hydroxide bath before baking.

(17) Mr. Rick Miller, Manager, product Development/Technical Services, BIOSYS, Palo Alto, California: Mr. Miller described his company's commercial production and marketing of beneficial insect-killing nematodes (steinernematids). The production and formulation of the BIOSYS products requires the introduction of small quantities of a synthetic bacteriostat to prevent unchecked growth of opportunistic bacteria. The ingredient usually Hyamine (Diisobutylphenoxyethoxy ethyl dimethyl benzethonium chloride monohydrate) appears in the most common nematode product at 5ppm and is completely biodegradable in soil. Mr. Miller urged the board not to recommend prohibition of nematode products based on these minute quantities of bacteriostat. (WTOF)

(18) Mr. David Bunn, Crown Packing Company, Inc., Salinas, California: (Presented by Janning Kennedy) As a mixed conventional/organic grower, Mr. Bunn expressed concern about the barriers to conversion to organic by some standards. In this, he urged the board to recommend the creation of a "transition" label to make the three year requirement more workable. He also urged the board toward moderation in creating a workable National List. Mr. Bunn also stressed the need for botanical pesticides as tools, noting that even the best organic farms have occasional unusual pest infestations and the Botanicals are a viable and necessary solution. (WTOF)
Ms. Janning Kennedy, Salinas, California: Ms. Kennedy expressed a concern for transition into the Federal Program for land now considered organic under the California Law as it is possible that some of it might not meet the three year requirement. She suggested that this land might in effect be "grandfathered" in. This concern for transition extended to "new" land which farmers might wish to bring into organic production, but the three year requirement might cause more economic stress than a willing producer could reasonably withstand. Her suggestion for alleviation of this situation was a federal "Transitional Organic" label. (WTOF)

Mr. Michael Gorman, TKO, California: Mr. Gorman, who runs a large specialty salad production and packing operation much of which is certified organic brought concerns about transitioning land currently under organic production under the California Law which might not qualify in the first year or two of the Federal Program. He suggested that this land might be grandfathered into the National Program as a way to smooth out the transition. He also strongly advocated the creation of a Federal Transitional Organic label to encourage the U.S. organic producers. Finally Mr. Borman urged the Board to take a moderate stand on the botanical pesticides as they continue to be critical tools in management of pest outbreaks.

Mr. George Nororian, Fruitful Valley, Dinuba, California: Mr. Nororian is a producer and canner of organic peaches. He expressed two concerns one was the use of sodium and potassium hydroxide for peeling of fruit. He pointed out that the hydroxyl radical is a major problem in fruit quality for canned products as it causes glutens to convert to glutamates which has a negative effect on flavor. He suggested therefore that this "chemical peeling" not be used in the preparation of Organic fruit for further processing. Mr. Nororian also expressed a deep concern for the use of packing house rejects in commercial production of purees. He noted that these are of low quality, are low in sugars, lack food value and are a general bane on the fruit industry in general and that this practice should not be tolerated in organic processing.

Brian Fitzpatrick -- Farmer/winemaker and member of CCOF and OGWA (Organic Grapes into Wine Alliance); OGWA was organized in 1989, based on French organic wine standards which allow use of sulfur dioxide (SO2). Their mission statement includes "committed to producing a most civilized beverage in a most responsible way." SO2 is not the same as a sulfite, so its use is non inconsistent with OFPA. Use of SO2 goes back to the Romans, and 99% of winemakers use it. The French tried to prohibit it for organic wine, but had to retract the prohibition. Consequences of failure to use SO2 are inferior products with a very high (>20%) rate of returns. The issue is one of sulfite sensitivity in a small percent of the population, not general health risk. No ill effects from sulfites have ever been recorded at concentrations < 100 ppm, which is well over maximum amount
occurring in organic wines. All bottles are currently labelled as "containing sulfites."

(23) Rees Moerman -- Spectrum Oils & member of MPPL Task Force; Advises to "rise above the minute and see the big picture" of the organic industry. We are part of the "Third Wave" as described by Toffler. The word is "CREDIBILITY." Once you lose it, you can't get it back. Consumers have four mental issues: 

**purity, nutrition, care, and value.** These must be balanced so that the quest for the first three doesn't eliminate the fourth. Consumer decisions are based on their belief in the company (in the case of processed products) combined with their belief in the integrity of "organic."

(24) Anne Schwartz -- Ms. Schwartz's remarks specifically addressed living conditions and access to outdoors. It is important to place the discussion within the context of organic principles, not seeking justification in relation to conventional management systems. (Reiteration of principles). Lists health problems which are known to be reduced by access to outdoors and freedom of movement. Notes that respiratory problems are common among workers who manage confined hogs and poultry. Specific replies to concerns raised by Alan Shainsky: Coccidiosis is hard to control in poultry. Rodents are still a problem for indoor management. There are various ways to control predators without confinement. Wild birds haven't been shown to pose problems. Today's "industrial" breeds of birds may not be appropriate in organic systems. States unequivocal opposition to allowing exemptions for confinement livestock production. Re: need to maintain year-round supply of fresh poultry to assure distribution, balance must be struck between marketplace demands for consistency and organic principles. Consumers are aware of seasonal considerations in fresh produce, so can understand similar constraints for poultry. (WTOF)

(25) Kate Burroughs -- Harmony Farm Supply, apple producer; It is unrealistic to require organic garlic and onion sets--they are clearly unavailable on a commercial scale as yet. The Farm Plan requirement as revised is still too much paperwork for farmers. Essential needs should be reconsidered. Supports allowing continued use of botanicals, even though she has stopped using them. "It's not true that if you do things right you'll never have any problems." Advises NOSB to avoid getting involved with brand-name evaluation of materials.

(26) Bill Reichle -- OCIA Central California chapter; Criticism of NOP focus paper on National List: Doesn't like implication of USDA telling NOSB what should be put on the list. This approach gives the government too much power to add or delete materials without adequate public scrutiny. Opposes allowing a certifier's name to go on a label because it will confuse consumers as to whether all accredited agents are in fact equivalent. The criteria for who needs to be certified as a handler should hinge on the possibility for contamination or commingling. Not every
conventional distributor who handles some organic products should have to be certified. Re: accreditation: No "foreign bodies" should be accredited.

(27) Tana Daha -- Hawaii Organic Growers; Biological control is problematic in Hawaii because of restriction on importing predators due to ecological sensitivity of the island system. Argues for consideration of tissue culture propagation as a disease preventive technology. Tropical crops such as banana, ginger and tarot should be permitted to use tissue culture for transplant production. This also provides an avenue for introducing more genetic diversity in these crops since they are brought in sterile media. Botanicals are needed when biocontrols are not available. Evaluation of botanicals should focus on mode of action to determine permissibility. Describes farmer-based experimental approach used by small growers in tropics to evaluate potential pest controlling plants.

(28) Ed Davis -- California cotton producer; Advocates "industry type" label for "organic" such as the generic "wool" or "cotton" mark. He is a state licensed pesticide applicator, and supports the necessity for continued use of botanicals. Main subject is cotton defoliants: Since freezes come late to California, unlike Texas, some means of inducing defoliation prior to harvest is needed. Suggest allowing Sodium or Potassium Chlorate. This doesn't actually kill leaves, but mimics frost damage to trigger plant hormones to initiate defoliation. Amount of material applied is negligible compared with amount of salt contained in a moderate application of compost. (Information sheet provided)

(29) Fred Rohe -- Omega Nutrition; Argues that high temperature bleaching and deodorizing should not be permitted for organic oils and flours.

(30) Lynn Coody -- Organic Agsystems Consulting; Lynn spoke about the Board's role as materials evaluators. She expressed her understanding that the data is incomplete and asked the members to do the best possible based on the information that is available. She thought the botanicals should be restricted in their use and that a phase-out should be used in case any were not permitted. (WTOF)

(31) Hazel Flett -- sheep producer; Hazel related her unsuccessful experiences with raising sheep without the use of wormers. She cautioned about the harmful effects on market development of not incorporating reality with principle. She encouraged allowing parasiticide use in raising organic sheep.

(32) Bob Durst -- Oregon State University Food Science Senior Research Assistant; Bob spoke about processing aids in organic processed foods, proposing that some, like Potassium Hydroxide be prohibited, but others, like Sodium Hydroxide, be permitted, depending on necessity. He thought that if residues were
minimal and the substances were recognized as GRAS, then they should be approved. Bob offered to assist the Board in completing a list of processing aids currently used in organic products.

(33) Cindy Hoops -- Cindy heads up a CCOF Chapter in California. Cindy spoke to 5 separate points: (a) place Magnesium sulfate on the approved synthetic list; (b) don't allow producers to lose certification if a material (later found to be unacceptable) is used in good faith, provided that the material has a negligent effect in soil life; (c) promote healthy soils, not pure food - allow growers to market drifted-on crops; (d) use a residue test to continue the 5% maximum residue allowance in lieu of prohibiting drifted-on crops; and (e) encourage farmers to switch to organics by providing for botanical and emergency antibiotic use.

(34) Craig Weakley -- Muir Glen Tomatoes, Inc., representative and NOSB member; Craig presented a petition signed by ten members requesting that the National Program set a maximum allowable pesticide residue level at the FDA action level or 5% of EPA tolerance or the minimum level of detection (when testing methods cannot measure 5% of EPA tolerance). The Board petition asks the USDA to discuss this issue further with the Board and EPA because allowing a residue level of 100% EPA tolerance would harm the organic industry and is unnecessary because organic farmers don't use the pesticides in the first place. (WTOF)

(35) Bill Wolf -- Past president of the Organic Trade Association, processor of botanicals, and presenting for Vivian Purdy of Necessary Trading Co.; Bill said that AMS should be allowed to develop the marketing Program and that we all should realize that it won't be perfect the first time around. Botanicals are necessary for unexpected problems and they are compatible with provisions of the OFPA. Botanicals are safe and their use should be controlled through the Farm Plan. (WTOF)

(36) Steve Pavich -- organic grape grower for 28 years; Steve urged that the Program get put in place and then allowed to evolve so that conventional growers could begin their conversion to organic methods. He stressed that the Farm Plan design should place minimal burden of farmers and that it should be a mission statement and not a record of practices.

(37) Eric Sunswheat -- compost expert; Eric asked that full disclosure of materials used in finished compost products should be required because of his concern that large processors could get by with using contaminated sewage sludge in compost sold to organic producers.

(38) Charles Hench -- organic farmer; Charles thought that synthetics should be prohibited in organics. He told us that regionalized planting and resourceful natural methods should be sufficient; and, if they don't work on a particular site, then
that particular crop or livestock should not be raised there until a suitable breed or variety is found that does not require synthetics.

(39) Mark Cassidy -- organic grower in the San Joaquin Valley; Mark stated his preference that Magnesium Sulfate (epsom salt) be placed on the National List now that it has been determined to be a synthetic. It is needed for meaty tomatoes and works well as a spray.

(40) George Siemon -- organic dairy farmer; George made several distinct points in his presentation: (a) the timing of certification is important when implementing the Program; (b) the Farm Plan should not be used subjectively to enforce; (c) a new herd clause should be allowed for first time dairy herds that allowed for less than 12 months organic feed; (d) access to outdoors is an important organic principle; (e) ensure that some medications are available to producers by not prohibiting alternative medications; and (f) prevent mislabeling by prohibiting labeling that leads the consumer into assuming that more ingredients are organic than actually are included, such as "organic milk" if the dry milk and cream are not organic.

(41) Eric Kindberg -- organic farmer; Eric wants the petition process sped up and emphasized that the National List must be done by the Board, not USDA. He stressed the List can only contain three components, active synthetics, non-synthetic non-organic ingredients, and synthetic inerts in addition to prohibited naturals. He expanded on his inerts opinion, proposing that inerts on EPA's List 3 are unacceptable for organic production.

(42) Suzanne Vaupel -- attorney at law; Suzanne addressed the Board on the issue of approval of organic fertilizers and pest controls. She noted that EPA and State regulations make it difficult for an organic production aid to be allowed for use in organic agriculture because of the test and financial requirements. She urged the Board to work with the EPA in approval of allowed materials and asked the Board not to reject materials just because they are not yet approved by EPA. (WTOF)

Conclusion of Public Input.
April 24, 1995

The initial session of the National Organic Standards Board (NOSB) meeting was called to order at 8:00 a.m. by Chairperson Michael J. Sligh.

Members in attendance were: Jay Friedman, Dean Eppley, Gene Kahn, Craig Weakley, Michael Sligh, Merrill Clark, Tom Stoneback, K. Chandler, and Don Kinsman. Attending their first meeting as newly appointed members were: Bob Anderson, Fred Kirschenmann, Kathleen Merrigan, Rod Crossley, and Margaret Wittenberg. Participating at this meeting as the certifying agency advisor to the NOSB was Brian Baker of California Certified Organic Farmers (CCOF).

National Organic Program staff members present from USDA were: Hal Ricker, Michael Hankin, Karen Thomas, Ted Rogers, Grace Gershuny, Beth Hayden, and Michael Johnson.

Also in attendance from USDA were: Lon Hatamiya, Administrator of the Agricultural Marketing Service (AMS), and Eileen Stommes, Deputy Director of the Transportation and Marketing Division, AMS.

The Technical Advisory Panel Coordinator present at the start of the meeting was Zea Sonnabend. John Brown was expected to arrive later.
Sligh defined the first order of business as recognizing the retiring board members present. These included: Bob Quinn, Margaret Clark, and Rich Theuer. Gary Osweiler and Nancy Taylor were not present, although Nancy Taylor did arrive on Tuesday and was recognized then for her efforts. Following the presentation of plaques to the retiring Board members, the new members of the NOSB were welcomed and seated. Sligh then introduced Lon Hatamiya to address the NOSB on behalf of Secretary Dan Glickman and the USDA. Mr. Hatamiya made comments relative to the NOSB's roles and responsibilities as implementation of the National Program approaches. Mr. Hatamiya implored the organic industry to set their apprehension aside, be cohesive, and support the National Program. He informed the Board members that expediting the program rulemaking process is a priority and that implementation would be delayed if the Board were to review all aspects of the Program before it was published in the Federal Register. He noted that each member would have full opportunity to comment during the public comment period.

Kathleen Merrigan remarked that a lot of the apprehension comes from the notion that USDA would have final responsibility for constructing the National list of synthetic materials, specifically the idea that the USDA might take the liberty of adding synthetic materials onto the List that were not proposed initially by the NOSB. She asserted that while the NOSB is meant to serve as an Advisory Panel in all other aspects of the Program, the legislation in the 1990 Farm Bill established that only the NOSB could propose and add synthetic materials onto the List.

Other NOSB remarks to Lon included:
Sligh - criticized the Federal Register process and emphasized the need for the NOSB to review the Proposed Rule drafts;

Clark - asked that the NOSB have access to the comments after publication of the Proposed Rule, but before the Final Rule is prepared. (The response was that these are available through FOIA after the Final Rule is published);

Kirschenmann - stated the concern of perception that USDA will succumb to political considerations and write a Program that is not true to organic principles;

Kahn - implored that the National program not contain serious departures from the current status quo in the organic industry and related his personal objections to the Resolution of Focus document as well as NOP staff positions on residue levels as a standard for organic food and percentage organic ingredient declarations on processed food labels.

Baker - stated the community's concern that if authority over the National list is given up now, that it will never be given back by the government.

BREAK.

Following the break, the Board resumed business at 9:15 a.m. to discuss proposed changes to the agenda. Sligh asked that the Board approve the agenda for the week, discuss meeting goals and make nominations for the elections. Chandler moved and Crossley seconded that (1) the full Board administrative session be moved from 4/28 to 4/27 so as to be certain that those board members leaving on Thursday have an opportunity to participate in the important votes before their departures and (2) a materials review session be correspondingly moved from 4/27 to 4/28.
The motion passed unanimously and Sligh suggested that the agenda be continually negotiated throughout the week to accommodate for additional time needed by committees or issues.

The issue of finding agenda time to consider phase-in was discussed, and Anderson suggested that the chairs of the committees meet during the week and then give the Board a general presentation about the implementation issue on Thursday or Friday. Kirschenmann moved and Eppley seconded to so change the agenda. The motion passed unanimously.

The Board decided to set a different time to approve the minutes and review the assignments from the meeting in Rohnert Park. Kahn moved and Chandler seconded that a vote on approval of minutes be postponed until Friday. The motion passed unanimously.

Sligh then reminded the Board that all three NOSB officer positions were up for re-election, including Chairperson, Vice-chairperson, and Secretary. Nominations for these posts proceeded at this time at the request of the members. For Chairperson, Friedman nominated Weakley who declined. Crossley nominated Anderson and Kahn seconded. Chandler moved to close the nominations and Kahn seconded. Anderson was elected by acclamation. For Vice-chairperson, Kahn nominated Sligh and Crossley seconded. Crossley moved to close the nominations and Chandler seconded. Sligh was elected by acclamation. For Secretary, Sligh nominated Kinsman and Crossley seconded. Chandler moved to close the nomination and Stoneback seconded. Kinsman was elected by acclamation.
Following the election of the new officers, discussion ensued on whether committees should continue to elect their own chairs, or whether it should be a full Board decision. Hankin expressed the notion that there should be realignment of committee missions and that the committee structure should be dissolved in favor of ad-hoc committees and taskforces to be more responsive to important issues as they arise during the writing of the Proposed Rule. Sligh and Kahn expressed dissent with Hankin's idea.

Kahn moved and Crossley seconded a motion to allow the full Board to vote on approval of committee chairs after they are selected by the individual Committees. The motion passed unanimously.

USDA Staff Report - Program Leader Hal Ricker proceeded with an update on the National Program activities and program direction. He first introduced new Staff members Karen Thomas and Beth Hayden and announced that he would now be working full time on the Organic Program. He then reviewed recent meetings at USDA about organics, including his involvement with the Integrated Pest Management Committee, an address to the USDA Biotechnology Advisory Committee, attendance at the Minor Use Pesticide Working Group meetings, meetings with FDA on labeling, discussions with APHIS on their Proposed Rule on non-indigenous organisms, and Bob Anderson's slide presentations on Walnut Acres Farm to USDA.

He next briefly discussed the Petition Process and the March Federal Register National List notice. He noted that the Department will establish an ongoing petition process which will be published along with the Final Rule. As for the rulemaking process, the USDA expects to publish...
a portion of the accreditation program in mid to late Summer. The standards are currently being
developed by the program staff and we expect to publish those in Fall. He also reviewed the
various analyses that need to be done for the Federal Register publication and noted that we are
still developing the user fee structure.

He reported that the Department absorbed a $6,000 - $7000 shortfall in the Board’s funding for
the Orlando meeting. Marketing and Inspection Services has lost a portion of its advisory
committee funding as a result of losing the food safety agencies. Kathleen followed with a
suggestion that Hal research the legality of seeking philanthropic donations for the next Board
meeting if funding does not become available. Hal closed with the comment that Board phone
and fax expenses will no longer be covered by the USDA and that the President’s FY 1996
Budget includes an additional $500,000 for the first round of Accreditation.

Merrill Clark initiated a discussion stemming from a letter to Public Voice from the USDA. She
continued by expressing concern about the need for openness regarding major meetings between
USDA and other organizations which have direct interest and formal involvement in NOSB
activities. Ricker followed with comments relative to the day to day responsibilities of the USDA
and its historical precedent for working with other organizations and Federal agencies. Merrigan
reiterated her earlier remark that it is incumbent upon Board members to do outreach activities
and that they must be a conduit of information to the USDA.

BREAK.
Sligh called the meeting back to order at 11:15 a.m. and led a discussion on the definition of organic. He expressed the industry's concern over the lack of a definition for organic.

Kirschenmann requested the Board to adopt a statement of principle that enhances the Codex definition. Stoneback acknowledged the difference between the Codex document and the US legislation in that synthetics that are not harmful are permitted in the US legislation. Friedman moved and seconded by Chandler to accept the Codex definition of organic production as the NOSB's recommendation. Rogers and Weakley pointed out that Codex language may not be applicable since it refers to the "non-use of artificial fertilizers and pesticides." Crossley pointed out that the definition does not include processing and livestock language. After general discussion, it was decided that a definition working group would be organized, consisting of Grace Gershuny, Fred Kirschenmann, Michael Sligh, Tom Stoneback, Brian Baker, and Kathleen Merrigan. This working group agreed to prepare a draft definition for distribution on Tuesday with final approval scheduled for Thursday.

The motion to accept the Codex definition failed with all votes cast as nays.

Material Oversight Working Group:

(The Material Oversight Working Group {MOWG} was established at Rohnert Park to establish the procedure for materials review and voting.

Zea Sonnabend led a discussion of the MOWG's activities since the Rohnert Park meeting. Given the MOWG's mission, the following items (in summary) represent the group's recommendations on the materials review process: (1) A material must have two TAP reviewers; (2) If a substance
is Generally Recognized as Safe (GRAS) under FDA regulations, one TAP reviewer is sufficient; (3) All criteria set forth in the OFPA must be considered; (4) A checklist for completeness will accompany each material; and (5) Each material will be allotted a fifteen to twenty minute discussion period. Rich Theuer will facilitate the processing materials discussion and Hal Ricker will facilitate the crops & livestock materials discussion.

The MOWG recommends that materials voting for processing materials would proceed as follows: The first vote would be to decide whether the material is non-synthetic or synthetic. If a crops or livestock material is determined to be non-synthetic, then there would be no further votes unless a member proposed to place the material on the Prohibited Naturals list. If a processing material is determined to be non-synthetic, the NOSB would vote on approving its use in organic foods. If the non-synthetic processing material is not approved for use in organic foods, then the Board would vote to approve its use in foods made with organic ingredients. If a crops, livestock or processing material is determined to be synthetic, then the NOSB would vote as to whether is should be placed on the National List. If a synthetic processing material is not approved for placement on the List for use in organic foods, then the Board would vote to approve its use in foods made with organic ingredients. All use and application restrictions (annotations) will be proposed during the discussion and a vote will be conducted for the annotation. If no annotation is included with the approved material, then all uses allowed under its registration are permitted in organic production and processing.

Merrigan suggested that, only when voting on materials, the NOSB consider abstentions as a vote
cast when determining the total votes of which a two-thirds majority is necessary for a motion to be approved. Crossley made a motion and it was seconded by Eppley to reaffirm the Rohnert Park voting procedure that abstentions and absences will not count as votes cast. Following the ensuing discussion, Crossley withdrew his motion. Friedman moved and Merrigan seconded the motion that for voting purposes for the National List only, abstentions from voting count as votes cast, but absences and recusals will not count as votes cast and that a two-thirds majority of all votes cast is necessary for a motion to pass. Vote: Yes - 12. Opposed - 2. Passed.

Sonnabend continued, recommending that the MOWG's work continue. Hankin suggested that the task of the MOWG be re-evaluated before the end of the week. The Board agreed to vote on this before the end of the week.

Sligh then requested that 5 minutes be spent on discussing the inerts issues and Sonnabend explained the inerts letter that she had prepared in conjunction with Sligh as follows:

Inerts Task Force Report Discussion

Sonnabend began with a brief explanation of the inerts scenario to the new members. She then brought up a number of questions that needed to be answered: Will there be a phase-in or time line for any new policies on appropriate inerts? Will inert ingredients appear on the National List? How will the NOSB work with manufacturers to find out what inerts are in formulations? How will the inerts be classified by the NOSB after they are disclosed in contrast to the codified EPA scheme of categorizing inerts? Crossley suggested that the task force make
recommendations on active substances and postpone the review of inerts, noting that there will be time after implementation to review inerts. Kirschenmann noted that full transparency is necessary by whatever method is necessary to obtain it. Sonnabend clarified that any vote about the process of reviewing inerts did pertain to actions to be taken after those actives are reviewed that are necessary for implementation of the National Program.

LUNCH BREAK.

The Public Input Session followed lunch and took up the rest of Monday's session. The summary of the Public Input Session is on file at the USDA National Organic Program office.
April 25, 1995

Members in attendance were: Jay Friedman, Dean Eppley, Gene Kahn, Craig Weakley, Michael Sligh, Merrill Clark, Tom Stoneback, K. Chandler, Don Kinsman, Bob Anderson, Fred Kirschenmann, Kathleen Merrigan, Rod Crossley, and Margaret Wittenberg. Also attending was Brian Baker from CCOF.

Staff members present from USDA were: Hal Ricker, Mike Hankin, Mike Johnson, Grace Gershuny, Karen Thomas, Ted Rogers, and Beth Hayden.

PROCESSING, HANDLING, AND LABELING COMMITTEE REPORT:
(Refer to 12/29/94 letter to NOSB from Rich Theuer containing Committee status report)

Amendments for Pest Control:
Weakley reviewed the lengthy discussions regarding pest control measures that have occurred at previous meetings and within Committee conference calls. Kahn moved and Stoneback seconded to accept language modifications, to the Board Final Recommendation on the Organic Handling Plan and the Board Draft Recommendation on Organic Good Manufacturing Practices, that emphasized prevention over control. These modifications would be at Lines 142-143, 144-145, 256-257, 262-263, and 269-270 of the Handling Plan document and Line 62 of the Good Manufacturing Practices document. The VOTE was unanimous to accept the changes.

Organic Good Manufacturing Practices:
Weakley then asked the Board to consider changing the status of the Organic Good Manufacturing Practices Draft Recommendation to a Board Final Recommendation. Friedman queried how processing of non-food products was being addressed. Theuer responded that the OFPA relates to food, not fiber, and requested that this discussion be postponed.

Kirschenmann voiced the concern that food should be altered and processed as little as possible and then asked whether nutritional aspects should be considered in defining "organic foods."

Weakley suggested that the Processing Committee would discuss the subject of "organic Twinkies" on future conference calls. Rogers discussed the importance of defining minimally processed and to have principles to support the definition and create a filter for the inclusion of substances onto the National List. Weakley agreed to consider the subjects of minimal processing and prohibited levels and practices of processing within "organic" foods on future conference calls. Kahn moved and Crossley seconded to accept the OGMP document as a Final Recommendation. VOTE - unanimous aye. Hankin asked whether the Committee intended to put pest control products through the National List review process and include them on the National List. Committee members expressed their intent to place substances used in cracks and crevices on the List with the requirements that all organic food be removed to avoid contamination.

Commercial Non-Availability of Suitable Ingredients in Organic Form

Weakley asked for comments on whether the document should be considered as a draft or final recommendation, noting that it has been discussed for over a year and very few comments were received during public distribution of the document. Kahn moved and Eppley seconded to
consider the document as a Final Recommendation. Clark expressed concern about relying only on paperwork to show good faith efforts to source organic ingredients and suggested that the language be strengthened to force processors to locate organic ingredients. Kahn stated that the use of organic ingredients will be driven by market conditions, and that is where the need for percentage labeling is most critical. Rogers stated that percentage labeling may not be necessary, citing the market relation between producer, processor and certifier. Kahn responded that certifiers should not be asked to determine availability and that additional guarantees are needed to ensure that processors use more organic ingredients. Vote: Yes - 13. Opposed - 1. Motion carried.

Labeling Draft Recommendation amendment:

Motion was made by Weakley and seconded by Friedman to amend the still-draft sections of the Board Final Recommendation on Labeling (February 2, 1994), specifically Section 2.A.2, to add the words, "if they are not commercially available to the handler in organically produced form," at the 4th and 5th lines of the section. Vote: Yes - 13. Opposed: 1. Motion carried.

Labeling Bulk Organic Product

Crossley moved and Kahn seconded the following addition to the Board Final Recommendation on Labeling document, page 4, Line 85:

Information on non-retail containers of an organic product should be given either on the container or in accompanying documents, except that the name of the product, lot identification, organic
identification and the name and address of the handler should appear on the container. Lot identification, and the name and address of the handler may be replaced by an identification mark provided that such a mark is clearly identifiable with the accompanying documents.

The motion was approved unanimously.

*Distributor Exemption*

The next revisions discussed by the NOSB concerned exemptions from certification requirements for those distributors handling sealed processed organic foods. Weakley explained that these proposed revisions are the result of many written comments received by the Committee and that the purpose of the exemption would be to reduce unnecessary burden and cost from industry.

Baker questioned whether exemptions could actually be granted to distributors handling boxes of fruit and expressed confusion as to what types of container handling were exempt from certification. Theuer said the key is whether it becomes opened or not and whether the product inside is protected. Sligh raised questions about which types of containers qualify for being considered as "tamper-evident... or adequate... to maintain organic integrity during normal transportation and storage." Kirschenmann said the concern is to not burden the system with unneeded certification, but yet assure organic integrity and audit trail controls. He also raised the question of treatment of storage spaces with prohibited materials by distributors who are not certified and who are unfamiliar with organic handling practices. Kahn said the person who holds the title should be responsible for following the product through the distribution chain until it is...
sold. The NOSB decided that the Processing Committee should review its recommendation on exemption from certification for handlers handling tamper-evident containers, and report back at the next Board meeting.

Phase-In Recommendation (Processing & Handling)

Weakley then introduced the PHLC recommendation on the phase-in of handler certification. The Committee recommends that handlers selling existing products labeled as organic or made with organic ingredients submit an application within 2 months after implementation of the National Program and that certification be completed within 12 months after implementation.

Kirschenmann suggested including wording changing "existing" to "previously third-party certified," and the Board agreed. Concern was expressed by Baker and Quinn about certifier overload, rushing certification applications, and duplication of certification expenses. The Committee agreed to discuss these concerns and return a revised proposal later in the week.

Weakley then read the PHLC phase-in labeling recommendation that states that all products and ingredients should meet the National Program requirements within 18 months after implementation. Kirschenmann moved and Crossley seconded to accept the labeling recommendation as a Board Final Recommendation. A friendly amendment to add "previously third party certified" in the first line between "all" and "products" was introduced and accepted. The motion was approved unanimously.

CROPS COMMITTEE:
Kahn began the discussion with the *Specialized Standards for Greenhouses and Mushroom Production*. The Board Draft recommendation was read by Kahn and discussion ensued. There was general agreement that the Farm Plan provisions should apply to greenhouse production and language addressing this issue was included at Line 6. Anderson moved and Eppley seconded that the greenhouse standard be accepted as a Board Final Recommendation with the aforementioned revisions. The motion passed unanimously.

Kahn then read the wording from the mushroom production recommendation. Anderson requested, and Kahn agreed, that Subsection (e) be replaced with the following: “Sanitizers and disinfectants not on the national list may not be applied to crops or growing substrates.” There was a friendly amendment accepted to change in section C, line 79 the word “mediums” to ‘media’. Kahn clarified that producers would have to ascertain that the sawdust wasn’t treated and that the certifier would verify this fact. Kirschenmann moved and it was seconded by Friedman to elevate the mushroom document to a Board Final Recommendation. Vote: Unanimous aye.

*Kydroponics*

Kahn concluded his report by reading the hydroponics recommendation that would allow organic labeling for products from soilless media if all other National Program requirements are satisfied. Baker expressed his concerns about the philosophical problems associated with soilless production. Kahn noted that the recommendation only allows for the possibility of an organic hydroponics industry developing. Kahn recognized that hydroponics is a practice that is
dependent on synthetic inputs and wants to open up dialogue with its proponents. Crossley moved and Weakley seconded a motion to accept lines 101-105 as a Board Final Recommendation. Friedman first offered a friendly amendment that was accepted to strike “other applicable” from the document. Vote: Unanimous aye.

In the interest of staying on schedule, Kahn postponed discussion of the Committee definitions document until the next Board meeting.

LIVESTOCK COMMITTEE:
Chairperson Clark presented the following as a proposed addition to the Board Final Recommendation on Healthcare for organic livestock; it is to be added at line 278 (4): “Certified organic livestock farms shall be based on a system that incorporates access to the outdoors and direct sunlight. It is understood that proper livestock health management may include periods of time when livestock are housed indoors. Temporary indoor housing may be justified for: (1) inclement weather conditions; (2) health, care, safety and well being of the livestock; and (3) protection of soil and water quality.” Friedman moved and Kinsman seconded the motion to accept this addition to the Healthcare document. Vote: Unanimous aye. Passed.

Antibiotics in Laying Hens: Friedman moved and Kinsman seconded to accept the Committee proposed language on the Use of Antibiotics in Laying Hens for insertion at line 358 of the Final Recommendation on Antibiotics in organic livestock production. Questions were raised about
whether chickens represented enough of an investment to warrant allowing any medication use. Hankin noted that the livestock hearings indicated that chickens are treated as a flock and not as individual animals. Kirschenmann recounted problems of neglect for animals in systems that don’t allow for re-entry of animals after application of medication and discussed the internal tension created within a producer when forced to decide between using medications or diverting. Vote: Yes - 7. Opposed - 4. Abstain - 1. Absent - 2. Motion failed.

Chandler moved and Friedman seconded to accept the first paragraph only. Vote: Yes - 8. Opposed - 1. Abstain - 2. Absent - 2. Motion carries to include only the following: "The use of antibiotics as a growth promoter in poultry is prohibited. The use of antibiotics in poultry whose eggs or egg products are intended to be labeled or sold as organically produced is restricted."

Kinsman moved and Friedman seconded to accept the second paragraph. Chandler, Eppley and Anderson claimed that the standards should be consistent and allow for reentry after a withdrawal period. Vote: Yes - 5. Opposed - 6. Abstain - 2. Absent - 1. Motion failed.

Kirschenmann talked about principles and consistency, comparing animals and soil. Just as organic principles allow for emergency and restrictive use of synthetics for field production of crops, shouldn’t, he questioned, the same allowances be made for livestock production? He acknowledged, in closing, that hypersensitive perceptions by consumers about antibiotics may be inconsistent with organic principles and recognized the perception that once the medication is used that a residue remains in the animal. Chandler moved and Eppley seconded to add at the
phrase "synthetic parasiticide" in the first paragraph along with antibiotic. Vote: Yes - 7.

Opposed - 6. Abstain - 1. Motion failed.

LUNCH BREAK

After Nancy Taylor was recognized for her outstanding efforts and accomplishments during her 3 year service to the NOSB, the livestock committee discussion resumed. Kirschenmann continued that antibiotics were an unacceptable material for use in the food of an animal, comparing it to anhydrous ammonia use in soil. He concluded that antibiotics should not be used in slaughter animals, but could be allowed in animals whose products were sold as organic provided that time was allowed for the animal's health to recover before marketing the products. Chandler responded that we should also be able to eat the animal after its health has recovered. Baker asked that the Board reexamine the recommended withdrawal times for dairy. Kahn then asked whether science should be used to reevaluate the OFPA requirement that prohibited substances not be used on land within 3 years of harvesting products to be labeled organic. Friedman reminded the Board that consumer perception cannot be factored into an attempt to develop livestock standards solely on the basis of scientific evidence and that in the absence of conclusive scientific data, the highest standard possible should be written. Friedman also stated that he believes the organic label will be devalued in the market place if other labels are used to identify products produced or processed without the use of synthetic medications. Baker proposed that appropriate marketing claims could be used to differentiate the organic label from the no antibiotic label. Kirschenmann then informed the Board that the Livestock Committee would revisit the entire issue of antibiotics in livestock, recognizing that its use is restricted, that the health concerns of livestock and appropriate withdrawal times would be considered, and that principles
of organics would be the foundation of the new recommendations. Friedman reminded the Board that there had been previous agreement not to withdraw Final Recommendations once they were approved. Merrigan spoke to the value of participating in the discussion of livestock standards in their entirety. A unanimous straw vote gave Kirschenmann approval to develop a "white paper" for the Board only on the issue of antibiotic use in eggs. This concluded the Livestock Committee presentation.

**ACCREDITATION COMMITTEE**

Sligh announced that the new Accreditation Committee membership consisted of Kirschenmann, Merrigan, Crossley, Friedman and himself. He enumerated several issues for which the Committee will be developing recommendations, including: State program approval, public disclosure, site evaluation and seal use on labels. Gershuny gave a brief presentation describing the development of the USDA proposals on accreditation and articulated on Staff and OGC participation. She explained the Staff decision not to circulate drafts of proposals because of the confusion engendered by distribution without explanation and supporting documents. Merrigan asked whether USDA envisions a process whereby NOSB would review future drafts so as to prepare Board members for explaining and defending the USDA rule. Gershuny replied that an explanatory paper for accreditation will be distributed before the Proposed Rule. In response to a question from Margaret Clark, Gershuny said that the current Program draft provides for private certifiers to limit certification to members according to membership requirements rather than standards. Other miscellaneous points that Gershuny raised about the current Program draft were: a financial reserve to ensure that producers get certified in case of certifying agent

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difficulties and affirmation that a Peer Review Panel will be provided for. The presentation concluded with a general discussion about what types of production units (sizes and structures) will need to be certified.

INTERNATIONAL COMMITTEE:

Friedman reported on the International Committee’s current work. He raised a question concerning fumigation and was replied to by Michael Johnson who noted that the staff was in the process of developing a fumigation table which outlines various treatments required by APHIS’s Plant Protection & Quarantine Division. No other business was discussed by the International committee. Friedman did conclude with offering suggestions for a smoother functioning Board process, including: bylaws; explicit agenda details; written Committee presentations distributed to the Board before the meetings; clearly labeled and dated documents; and a briefer summary of materials review information.

BREAK AT 3:00PM.

MATERIALS REVIEW PROCESS

Reconvening at 3:15, Sonnabend led a discussion about how to handle the less well-defined areas of the materials review process, namely inerts and the definition of synthetic. She proceeded to discuss a document entitled “Handling of Inerts Policy at the NOSB April Meeting,” dated April 11, 1995.

Vote 1. Inerts on the National List
This motion is intended to help the Board to move forward in the materials review process by
leaving inerts to be dealt with in the future after publication of the initial National List.
Eppley proposed and Sligh seconded to discuss the following Proposed Motion 1: "Synthetic inert
ingredients shall be reviewed by the NOSB according to the criteria in the OFPA for inclusion on
the National List. This shall be handled as an amendment to the National List after the publication
of the initial List and after the inerts are identified and evaluated."
Hankin noted the Staff's position on inerts and the problems inherent with the NOSB trying to
attain confidential information necessary for reviewing inerts, and observed that the Board's
continuing at this time to develop a policy on inerts review does not contribute to the working
relationship between the Staff and the NOSB. Sligh noted that the Board cannot shrink from its
perceived responsibility to let the industry know where they stand on this issue. Merrigan went
on to discuss some of the historical concerns that the industry has with inerts.

Chandler offered the following amendment: The inert priority shall be after the initial national

Merrigan made a motion seconded by Kirschenmann: The NOSB will make every effort to review
synthetic inert ingredients for their appropriateness in organic production systems. The NOSB
will work with manufacturers of inert substances to obtain full disclosure. This process will take
place after the proposed national list and its subsequent Federal Register publication. Clark
commented that if the NOSB doesn't review an inert, then that inert shouldn't be allowed in
production. Crossley pointed out the difference between full disclosure (for instance,
confidentially to the USDA) and public disclosure (to the general public). Others thought the 
NOSB could be granted an approved status to review confidential information. Rogers noted that 
the NOSB does not have statutory authority to be granted this status or review inerts for the 

Sligh proposed the following motion: Inerts on the EPA List 4 are considered to be minimum risk 
and will be accepted for organic production, with a TAP review and NOSB evaluation according 
to the criteria in the OFPA for those that are synthetic. Inerts proposed for organic production 
on EPA’s List 2 which are potentially toxic and List 3 which are unknown will be compiled by 
the NOSB and forwarded to the EPA as materials for fast-track review and possible 
reclassification by them.

Craig offered an amendment, seconded by Crossley to strike “with a TAP review and NOSB 
evaluation according to the criteria on the OFPA for those that are synthetic.” Sligh remarked 
that he opposed this amendment because he wanted to review each inert rather than accept an 
entire category. Vote: Yes - 8. Opposed - 6. The amendment fails. Weakley then followed with 
a motion and it was seconded by Kahn to table the discussion. Vote: Yes - 10.

Abstain - 2. Motion carried.
Clarification of Synthetic Definitions

Rich Theuer, leader of the Processing materials voting, began this session by outlining the process by which the ensuing materials voting will be handled.

Prior to voting, each Board member will be asked to give their opinion on three questions, which will serve to clarify the material’s status. These questions are: (1) In your judgment, is this substance synthetic, non-synthetic, or abstain / no opinion?; (2) Should this substance be allowed in an “organic food” (95% or higher organic ingredients) (2/3 of those voting is required for approval); and, if question 2 should not receive a 2/3 approval vote, (3) Should this substance be allowed in a “food made with organic ingredients” (50% or higher organic ingredients)?

Theuer continued with a thorough discussion on the various interpretations of the word “synthetic,” first noting that the correct terminology should be "non-synthetic vs. synthetic" and not "natural vs. synthetic." Theuer carefully went through reflections on terminology within the OFPA as it pertains to "synthetic." The Board agreed that the criteria listed in the OFPA Section 2119(m) did apply and were sufficient to evaluate substances for processing. Clark, however, disagreed, affirming that the OFPA did not intend these criteria to apply to processing synthetic substances. Theuer noted that the NOSB may not be the final arbiter of the non-synthetic/synthetic definition, since the USDA, EPA and FDA have to decide and publish an interpretative definition in the Federal Register along with the Rules. Sligh requested a preamble explaining the Board's position on synthetics. Kahn stated that the realities of food manufacturing requires many of these synthetic materials in order to produce food expected by consumers. Kirschenmann offered the two principles of: using only materials that enhance the natural system, and of altering the food as little as possible, as guidance to the NOSB for decision making.
The meeting was adjourned for the day.
April 26, 1995

Members in attendance were: Jay Friedman, Dean Eppley, Gene Kahn, Craig Weakley, Michael Sligh, Merrill Clark, Tom Stoneback, K. Chandler, Don Kinsman, Bob Anderson, Fred Kirschenmann, Kathleen Merrigan, Rod Crossley, and Margaret Wittenberg. Participating as the certifying agent advisor to the NOSB was Brian Baker of California Certified Organic Farmers (CCOF).

Staff members present from USDA were: Hal Ricker, Michael Hankin, Ted Rogers, Grace Gershuny, Beth Hayden, and Michael Johnson.

Technical Advisory Panel Coordinators present were: Zea Sonnabend, John Brown, and Rich Theuer as facilitator

Theuer began by reading from the Conference report section suggesting that it may be necessary for the Secretary to go to Congress for delineation of processed-food synthetic substance categories. Theuer noted that the Board will be reviewing processing aids even though they are not listed on the labels. Weakley noted the Processing Committee's General Annotation for all processing materials, and encouraged the Board to adopt it. Kahn moved and Crossley seconded the following General Annotation as a Board Final Recommendation on Processing: *Allowed synthetic processing materials may only be used for processing applications where a wholly natural substitute material is commercially unavailable. Processors must document in the* 

*Organic Handling Plan efforts to source and utilize wholly natural substitute materials for all*
Vote: Yes - 14. Opposed - 0. Motion carried.

Clark moved and Friedman seconded to "set aside all votes on synthetic processing materials designated for use in certified organic products. Votes on their use in products 'made with organic ingredients' can and should proceed." Clark prefaced her motion by stating "since the OFPA prohibits the use of synthetic additives in processing food labeled ‘organic’ and since the public has come to believe organic foods are processed without synthetic additives or chemicals,” such a motion was in order. Organic processors already manufacture organic foods without synthetic additives, therefore allowing synthetic additives went against the “use natural materials when available” principle.” Wittenberg stated that customers are primarily concerned about pesticide use in foods, and not synthetic materials used to process them; concerns of chemically sensitive persons need to be respected and addressed, but should not be the guiding force behind the organic standards. Weakley asserted that voting is important at this time because there is so much time invested and the NOSB needs to determine what is synthetic so that General Counsel can decide what is permitted under the OFPA. Anderson said that the percentage of organic ingredients is most important, not really the minor ingredients and processing aids. Vote: Yes - 2. Opposed - 11. Abstain - 1. Motion failed.

Materials Discussion

The initial round of the NOSB materials review began with the review of processing materials, led
by former NOSB Processing committee chairperson Rich Theuer, Ph.D. Dr. Theuer was also a leading TAP reviewer for a number of the processing materials. The following notes represent the NOSB voting process that occurred during the remainder of the week. The notes detail the actual votes on each material and some general comments and discussion notes.

**Processing Materials**

**Nitrogen Gas** - Reviewed by Steven Harper, Bob Durst.

Determined to be non-synthetic; Vote - Unanimous.

The NOSB’s decision is to allow this material for use in organic food processing; Vote - Unanimous. Annotation: Oil-free grades; from non-oil source.


Determined to be non-synthetic; Vote - Unanimous.

The NOSB’s decision is to allow this material for use in organic food processing; Vote - Unanimous. Annotation: Oil-free grades; from non-oil source.

Discussion: Michael Sligh made a motion and it was seconded by Merrill to include the listed annotation for nitrogen and oxygen. Vote: Unanimous.

**Diatomaceous Earth** - Reviewed by Steve Taylor, Bob Durst, and Richard Theuer.

Determined to be non-synthetic; Vote - Unanimous.

The NOSB’s decision is to allow this material for use in organic food processing; Vote - Unanimous. Annotation: For food filtering aid only.
Discussion - The NOSB decided that all processing substances must be food grade and meet Food Codex requirements.

Kaolin & Bentonite - Reviewed by Richard Theuer.
Determined to be non-synthetic; Vote - Unanimous.
The NOSB’s decision is to allow this material for use in organic food processing;
Vote - Unanimous.

Kelp - Reviewed by Steve Taylor and Richard Theuer.
Determined to be non-synthetic; Vote - Unanimous.
The NOSB’s decision is to allow this material for use in organic food processing;
Vote: 13 aye / 1 opposed.
Annotation: Allowed for use as a thickener and dietary supplement (as defined in the CFR).
Discussion: Merrill noted the possibility of offering consumers supplements as an attachment to products rather than using fortification techniques. She also expressed the notion of restricting its use to only a thickening agent.

Determined to be non-synthetic; Vote: 9 aye / 5 opposed.
The NOSB’s decision is to allow this material for use in organic food processing;
Vote: 13 aye / 0 opposed, 1 abstention.
Discussion: Should a 2/3 vote or simple majority be sufficient to approve a substance as synthetic? Kirschenmann moved and it was seconded by Weakley that only a majority is needed to make synthetic/non-synthetic determinations, but that a 2/3 vote is necessary to place or prohibit a substance on the recommended proposed National list. Vote: Yes - 12. Opposed - 2. Motion carried. It was also agreed here that if a substance is available in both synthetic and non-synthetic forms, and if the synthetic form is approved for the National List, then users must make the non-synthetic form their first choice.

**Agar - Agar** - Reviewed by Steve Taylor and Richard Theuer.

Determined to be non-synthetic; Vote: 12 aye / 0 opposed, 2 absent.

The NOSB’s decision is to allow this material for use in organic food processing; Vote: 12 aye / 0 opposed; 1 abstention / 1 absent.

**Alginites (As a class)** - Reviewed by Steve Taylor and Richard Theuer.

Determined to be synthetic; Vote: 14 aye / 0 opposed.

The NOSB’s decision is to allow this material for use in organic food processing; Vote: 10 aye / 4 opposed.

**Alginic Acid** - Reviewed by Steven Harper, Richard Theuer, and Bob Durst.

Determined to be non-synthetic; Vote: 12 aye / 1 opposed, 1 absent.

The NOSB’s decision is to allow this material for use in organic food processing;
Vote: 13 aye / 1 opposed.


Determined to be synthetic; Vote: 14 aye / 0 opposed.

The NOSB’s decision is to allow this material for use in organic food processing;

Vote: 12 aye / 2 opposed.

Discussion: Sonnabend noted that there may be genetically engineered versions of xanthan gum.

Sligh moved and Weakley seconded to prohibit genetically modified organisms or their products.

Stoneback expressed concern with attempting to cover this broad category with such a blanket statement. Weakley agreed to rework the language of his proposed enzyme annotation, which read: "enzymes that are produced by microorganisms that are products of recombinant DNA technology are synthetic and are prohibited unless specifically allowed."

Lactic Acid - Reviewed by Rich Theuer and Steve Taylor.

Determined to be non-synthetic; Vote: 13 aye / 0 opposed, 1 absent.

The NOSB’s decision is to allow this material for use in organic food processing;

Vote: 13 aye / 1 opposed, 1 absent.

Discussion: Theuer discussed the genetic engineering problems with lactic acid. Weakley read his lactic acid proposed annotation, which read, "prohibited if derived from microorganisms that are products of recombinant DNA technology." It was noted that as a guiding principle, materials produced by microorganisms that are products of recombinant DNA technology are synthetic and are prohibited unless specifically allowed. (This particular language was not adopted formally by
the Board as an annotation.)

**Citric Acid** - Reviewed by Steve Taylor, Steven Harper, and Bob Durst.

Determined to be non-synthetic; Vote: 8 aye / 5 opposed, 1 absent.

The NOSB’s decision is to allow this material for use in organic food processing;

Vote: 13 aye / 1 absent.

Annotation: Must be produced by microbial fermentation of carbohydrate substrates.

**Lecithin (Unbleached)** - Reviewed by Steve Harper and Richard Theuer.

Determined to be non-synthetic; Vote: 12 aye / 1 opposed, 1 absent.

The NOSB’s decision is to allow this material for use in organic food processing;

Vote: 11 aye / 2 opposed, 1 absent.

Discussion: Kahn noted that the non-hexane extracted form is not workable in his product;

Wittenberg noted that this form is also used in dietary supplements. The Board is also unclear about the availability and performance characteristics of the unbleached lecithin.

**Lecithin (Bleached)** - Reviewed by Steve Harper and Richard Theuer.

Determined to be synthetic; Vote: 13 aye / 0 opposed, 1 absent.

The NOSB’s decision is to allow this material for use in organic food processing;

Vote: 9 aye / 4 opposed, 1 absent.

**Sulfur Dioxide** - Reviewed by Bob Durst, Steve Taylor, and Richard Theuer.
Determined to be synthetic; Vote: 8 aye / 6 opposed.

The NOSB’s decision is to allow this material for use in organic wine processing only;

Vote: 11 aye / 3 opposed. Annotation: Sulfur dioxide may not be added to wine at levels greater than 100 ppm; the level of free sulfites may not exceed 35 ppm in the final product.

Discussion: Crossley discussed the use of sulfur dioxide on grapes and in wine; also the use of it on dried fruit. Sligh expressed the notion that it is not needed for use on dried fruit. Wittenberg supported Sligh’s position on prohibiting its use on fruits, but does recognize the need for this material in wines. Merrigan noted that the language in the listing of sulfites in the OFPA could very well have been a mistake or unintentional.

Mono & Diglycerides - Reviewed by Richard Theuer and Steve Taylor.

Determined to be synthetic; Vote: Unanimous.

The NOSB’s decision is to allow this material for use in organic food processing;

Vote: Unanimous. Discussion / Annotation: Kahn noted that the food industry is trying to get away from the use of these materials, but that it was still necessary for potato flake products.

Sligh moved and it was seconded by Friedman to restrict its use to drum roll drying of food products; Vote: 9 aye / 4 opposed, 1 absent. Motion carries.

Pectin (High Methoxy) - Reviewed by Mark Schwartz, Richard Theuer, and Steve Harper.

Determined to be non-synthetic; Vote: 10 aye / 2 opposed, 2 abstentions.

The NOSB’s decision is to allow this material for use in organic food processing;

Vote: Unanimous.
Pectin (Low Methoxy) - Reviewed by Mark Schwartz, Richard Theuer, and Steve Harper.

Determined to be synthetic; Vote: 14 aye / 0 opposed.

The NOSB’s decision is to allow this material for use in organic food processing;

Vote: 13 aye / 1 opposed. Discussion: Kahn supports the use of this because his company uses low sugar for consumer concerns and preferences.

Sodium Citrate - Reviewed by Bob Durst, Richard Theuer, and Steven Harper.

Determined to be synthetic; Vote: 14 aye / 0 opposed.

The NOSB’s decision is to allow this material for use in organic food processing.

Vote: 13 aye / 1 opposed. Discussion: Oregon Tilth allows the use of this material but the California Certified Organic Farmers does not. Its most common use is in dairy systems.

Potassium Chloride - Reviewed by Bob Durst, Steven Taylor, and Richard Theuer.

Determined to be non-synthetic; Vote: 14 aye / 0 opposed.

The NOSB’s decision is to allow this material for use in organic food processing.

Vote: 11 aye / 3 opposed.

Synthetic Potassium Iodide - Reviewed by Bob Durst, Steve Taylor, and Rich Theuer.

Determined to be synthetic; Vote 14 aye / 0 opposed.

This material is prohibited for use in organic food processing (95% and above).

Vote: 7 aye / 7 opposed. However, the NOSB does allow for the use of this material in foods "made with organic ingredients" (50%-95%). Vote 13 aye / 0 opposed, 1 abstention.
Non-Synthetic Potassium Iodide - Reviewed by Bob Durst, Steve Taylor, and Rich Theuer.

Determined to be non-synthetic; Vote 14 aye / 0 opposed.

The NOSB’s decision is to allow the use of this material in organic food processing;

Vote: 13 aye / 0 opposed, 1 abstention.

Ammonium Carbonates & Bicarbonates - Steve Taylor, Rich Theuer, and Bob Durst.

Determined to be synthetic; Vote: 14 aye / 0 opposed.

The NOSB’s decision is to allow this material for use in organic food processing.

Vote: 14 aye / 0 opposed.

Discussion / Annotation: Sligh moved and Weakley seconded a motion for the following
annotation: “Limited to use as a leavening agent”. This motion passed unanimously.

Ascorbic Acid - Reviewed by Steve Harper, Mark Schwartz, and Rich Theuer.

Determined to be synthetic, Vote: 14 aye / 0 opposed.

The NOSB’s decision is to allow this material for use in organic food processing;

Vote: 13 aye / 1 opposed.

Discussion: There was considerable discussion over an annotation for ascorbic acid, including its
use as a preservative on meats and produce, and its use as a pH adjuster. In conclusion, it was
declared that it could not be verified as to how it is used in all cases; there are no restrictions on its
use.

Determined to be non-synthetic; Vote: 14 aye / 0 opposed.

The NOSB’s decision is to allow this material for use in organic food processing;

Vote: 14 aye / 0 opposed. Only the natural form of this material is allowed.

Discussion: Sligh offered a friendly amendment to integrate the NOSB's recommendation on non-availability with Weakley's prologue statement on the use of synthetic substances only when the natural alternative is unavailable. This passed unanimously.

**Calcium Hydroxide** - Reviewed by Steve Taylor, Rich Theuer, and Bob Durst.

Determined to be synthetic; Vote: 12 aye / 1 opposed, 1 absent.

The NOSB’s decision is to allow this material for use in organic food processing;

Vote: 10 aye / 3 opposed, 1 absent.

**Ferrous Sulfate** - Reviewed by Steve Taylor, Bob Durst, and Rich Theuer.

Determined to be synthetic; Vote: 12 aye / 0 opposed, 1 absent.

The NOSB’s decision is to allow this material for use in organic food processing;

Vote: 10 aye / 2 opposed, 2 absent.

Annotation: This material is allowed for iron fortification of foods that is required by regulation or for iron enrichment by professional recommendation.

**Magnesium Carbonate** - Reviewed by Bob Durst, Steve Taylor, and Rich Theuer.

Determined to be synthetic; Vote: 8 aye / 6 opposed.

There was discussion and concern over the fact that no one was aware of what this material is
currently used for. Subsequently, Weakley made a motion and Kahn seconded to table this
material and refer it back to the processing committee. Vote: 13 aye / 0 opposed, 1 abstention.

Magnesium Silicate - Reviewed by Bob Durst and Steve Taylor.
Determined to be synthetic; Vote: 12 aye / 0 opposed, 2 abstentions.
This material is prohibited for use in organic food processing (95% and above).
Vote: 0 aye / 14 opposed. This material is also prohibited for foods labeled as “made with
organic ingredients” (50% - 95%). Discussion: Crossley noted that this material raises concerns
because of asbestos.

Magnesium Sulfate - Reviewed by Bob Durst, Steve Taylor, and Rich Theuer.
Determined to be non-synthetic; Vote: 14 aye / 0 opposed.
The NOSB’s decision is to allow the use of this material in organic food processing;
Vote: 12 aye / 1 opposed, 1 abstention.

Potassium Carbonate - Reviewed by Brian Baker and Walter Jeffery.
Determined to be synthetic; Vote: 12 aye / 0 opposed, 2 absent.
The NOSB’s decision is to allow the use of this material in organic food processing;
Vote: 11 aye / 1 opposed, 2 absent. Discussion: Craig moved and it was seconded by Jay to
accept the following annotation: Potassium carbonate is allowed only for FDA-approved
applications where natural sodium carbonate is not an acceptable substitute. The motion was
withdrawn and resubmitted by Tom Stoneback. Vote: 12 yes / 0 opposed, 2 abstentions. Motion

Determined to be non-synthetic; Vote: 14 aye / 0 opposed.

The NOSB’s decision is to allow natural bacterial enzymes for use in organic food processing;

Vote: 12 aye / 2 opposed. Discussion: There was some concern raised about the categorical lumping of all enzymes together - it was noted that there should be no universal acceptance of all enzymes. With that in mind, the following annotation was passed by a vote of 10 - 4: “Enzymes that are produced by microorganisms that are products of recombinant DNA technology are synthetic and are prohibited unless specifically allowed. Synthetic bacterial enzymes must be petitioned by a manufacturer or processor.”

Yeast, Smoked - Reviewed by Mark Schwartz.

There were no decisions made on smoked yeast. This material was tabled and sent back to the TAP. More data is needed.

Sodium Hydroxide - Reviewed by Bob Durst, Steve Taylor, and Rich Theuer.

Determined to be synthetic; Vote: 14 aye / 0 opposed.

The NOSB’s decision is to allow this material for use in organic food processing;

Vote: 10 aye / 4 opposed. Discussion / Annotation: The disposal problems with sodium hydroxide were mentioned. It was noted that this substance would be beneficial in processing organic peaches; Anderson stated that he could not support this use. Weakley moved and
Merrigan seconded a motion to accept the following annotation: “Prohibited for use in lye peeling of fruits and vegetables and where the natural sodium bicarbonate is an acceptable substitute.

**Sodium Carbonates & Bicarbonates** - Reviewed by Bob Durst, Rich Theuer, and Steve Harper.

Determined to be non-synthetic; Vote: 14 aye / 0 opposed. The NOSB’s decision is to allow this material for use in organic food processing;

Vote: 14 aye / 0 opposed.

**Silicon Dioxide** - Reviewed by Steve Taylor and Bob Durst.

Baker noted that Steve Taylor’s review is inadequate and Durst’s is confusing and incomplete. Crossley moved and Sligh seconded a motion to table this material. Unanimous.

**Potassium Phosphate** - Reviewed by Bob Durst, Steve Taylor, and Rich Theuer.

Determined to be synthetic; Vote: 14 aye / 0 opposed. The NOSB’s decision is to not allow the use of this material in “organic foods” processing. However, the NOSB does allow for the use of this material in foods “made with organic ingredients.” Vote: 10 aye / 3 opposed, 1 abstention.

**Potassium Citrate** - Reviewed by Steve Taylor, Rich Theuer, and Bob Durst.

Determined to be synthetic; Vote: 13 aye / 0 opposed, 1 abstention. The NOSB’s decision is to allow this material for use in organic food processing. Vote: 10 aye / 3 opposed, 1 abstention. Discussion: This material is essential to the production of...
evaporated milk and other dairy products.

**Crops Materials:**

**Lime Sulfur** - Reviewed by Donald Blackeney.

Determined to be synthetic; Vote: 14 aye / 0 opposed.

The NOSB's decision is to allow this material for use in organic crop production;

Vote: 14 aye / 0 opposed. Discussion: This substance is essential for tree fruit / orchards in the Northwest. Annotation: Restricted to application as a fungicide or an insecticide if no feasible alternative exists.

**Soaps** - Reviewed by Donald Blackeney, Paul Sachs, James Johnson, Joe Kovach, Philip Van Buskirk, Samuel Cotner.

Determined to be synthetic; Vote: 14 aye / 0 opposed.

The NOSB's decision is to allow this material for use in organic crop production;

Vote: 14 aye / 0 opposed. Discussion / Annotation: Prohibited for use as an herbicide. Vote: 9 aye / 3 opposed, 2 abstentions. None of the members on the Board considered this material as natural, as it is sometimes referred to.

**Boric Acid** - Reviewed by Jerald Feitelson, James Johnson, and Brian Baker.

Determined to be synthetic; Vote: 13 aye / 0 opposed.

The NOSB's decision is to allow this material for use in organic crop production;

Vote: 13 aye / 0 opposed. Discussion: This material is used to keep ants away; and can be used
in processing facilities. Sligh moved and Merrigan seconded a motion for the following

annotation: May be used for structural pest control. No direct contact with food or crops being certified. Vote: 13 aye / 0 opposed, 1 absent. Rogers also mentioned that boric acid could be used as fungicide and herbicide.

Ash (from the combustion of biologically derived materials) - Reviewed by Samuel Cotner. Determined to be non-synthetic; Vote: 13 aye / 1 opposed. Discussion / Annotation: Ash is prohibited unless it is from a naturally occurring source.

Ash (from manure burning)

Determined to be non-synthetic. Merrigan moved and Sligh seconded a motion to prohibit manure ash for use in organic crop production. Passed unanimously

Ash (from coal burning)

This material was tabled and sent back to the TAP and the Crops Committee will discuss whether the burning of mineral substances results in a synthetic substance.

Oils- Reviewed by Bill Wolf and Vivian Purdy.

Determined to be synthetic; Vote: 14 aye / 0 opposed.

The NOSB's decision is to allow this material for use in organic crop production;

Vote: 13 aye / 1 opposed. Discussion / Annotation: Crossley moved and Clark seconded a motion to send this material back to the TAP; the motion failed 1 aye - 13 opposed. Merrigan moved and Anderson seconded to accept the following annotation: Allowed on woody plants for dormant and summer pest control. Prohibited for weed control use. Clark asked whether
alternatives were available and shouldn't the Board be more concerned with the environmental
impacts of petroleum based oils. She also noted that these materials were reviewed only by
manufacturers/suppliers of such materials and therefore, did not constitute a proper, unbiased
review. Vegetable oils were identified as having only limited application and effectiveness. Kahn
and Weakley spoke about the long history of the oils in organic production and how essential they
were to California organic agriculture. Vote: 14 aye / 0 opposed.

Sodium Nitrate- Reviewed by James Johnson, Bruce Spencer, Paul Sachs, and Walter Jeffery.
Determined to be non-synthetic; Vote: 14 aye / 0 opposed.
The NOSB's decision is that this material should not be placed on the Prohibited Natural(s) List.
Vote: 4 aye / 10 opposed. Discussion: Merrigan placed and Sligh seconded a motion that would
prohibit all uses of this material. John Brown made the comment that the material is essential for
the growth of seedlings in the northeastern portion of the country. Kahn recognized the strong
opposition to Chilean nitrate and asked that recommendations guiding its use be prepared for the
USDA and the organic community. Friedman moved to have the Crops Committee develop a
position paper for appropriate use restrictions and possible phase out for this material. for
additional reviewing. The motion was seconded by Kahn. Vote: 14 aye / 0 opposed.

Strychnine- Reviewed by Paul Sachs, Gary Osweiler, and John Clark.
Determined to be non-synthetic; Vote: 4 aye / 8 opposed, 1 absent.
The NOSB's decision is to prohibit this material for use in organic production;
Vote: 11 aye / 2 opposed, 1 absent. Discussion: It was noted that strychnine may be available as
both a synthetic and non-synthetic. Chandler moved to allow this material as an allowed synthetic onto the National list, explaining its usefulness on pocket gophers. The motion was seconded by Crossley. The motion was defeated 11-1.

Hydrolyzed Aquatic Plant Extracts - Reviewed by Donald Blackeney, Bruce Spencer, and James Johnson. Determined to be non-synthetic; Vote: 13 aye / 0 opposed, 1 abstention. By the nature of the National List, no further action was necessary on this material. An informative discussion ensued before the vote on hydrolyzed aquatic plant extracts. Baker noted that stability is a problem in some solutions, especially plant and fish extracts, and that otherwise non-synthetic formulations contain preservatives and/or stabilizers to allow marketability. Sligh and Merrigan stated that the NOSB should just vote on active ingredients at this time and postpone the review of inerts and confidential information. Sonnabend introduced the question of whether the solvent used in extraction should affect the determination of whether the active ingredient is classified as synthetic or non-synthetic, noting that the solvents used for plant extraction may be water potassium hydroxide. Sonnabend also asked whether inerts and stabilizers should affect the synthetic/non-synthetic status. Baker noted that the NOSB has not yet decided that extraction with a substance such as potassium hydroxide or ammonia hydroxide makes the end substance synthetic. Clark expressed her view that relying on sea plants for fertilization can lead to depletion of these materials that supply a large amount of oxygen to the atmosphere. She also stated that there are several other environmental concerns surrounding this material.

Pheromones - Reviewed by Joe Kovach and Bruce Spencer.
Determined to be synthetic; Vote: 14 aye / 0 opposed.

The NOSB's decision is to allow this material for use in organic crop production;

Vote: 14 aye / 0 opposed.

Sulfur- Reviewed by Joe Kovach, Paul Sachs, and Walter Jeffery.

Determined to be synthetic; Vote: 9 aye / 5 opposed.

The NOSB's decision is to allow this material for use in organic crop production.

Vote: 13 aye / 1 opposed.

Bordeaux Mixes (copper sulfate and hydrated lime) - Reviewed by Philip Van Buskirk.

Determined to be synthetic; Vote: 13 aye / 0 opposed.

The NOSB's decision is to allow this material for use in organic crop production;

Vote: 13 aye / 0 opposed. This material must be used in a manner that minimizes accumulation of copper in the soil.

Micronutrients- Reviewed by Phillip Van Buskirk, Vivian Purdy, Bill Wolf, and Brian Baker.

Determined to be synthetic; Vote: 14 aye / 0 opposed.

The NOSB's Decision is to allow this material for use in organic crop production;

Vote: 13 aye / 0 opposed. Discussion / Annotation: Micronutrients will be restricted to cases where soil/ plant nutrient deficiency is documented by soil or tissue testing. Micronutrients made from nitrates, or chlorides are not allowed. They are not to be used as a defoliant, desiccant, or herbicide.
Potassium Bicarbonate - Reviewed by Brian Baker and Walter Jeffery.

This material was tabled and sent back to the Crops committee. The Board will wait until there is a registered use for this material before making a decision on its suitability.

Fish Products - Reviewed by James Johnson, Bruce Spencer, and Paul Sachs.

Determined to be synthetic; Vote: 11 aye / 0 opposed / 1 absent / 1 abstain.

The NOSB’s decision is to allow this material in organic crop production;

Vote: 13 aye / 0 opposed / 1 absent. Discussion / Annotation: Liquid fish products can be pH adjusted using sulfuric, citric, or phosphoric acids. The amount of acid used cannot exceed the minimum amount needed to lower the pH to 3.5. Gershuny noted that fortification with nitrogen is prohibited.

Boron Products, Soluble

The discussion of this substance was interrupted by the need to switch to administrative matters.

After the administration section, boron products was inadvertently dropped from any further voting. It will be voted on at the next Board meeting. The initial discussion began with Sonnabend suggesting that the annotation contain language that the product not contain prohibited substances, since there is both naturally mined boron and formulations. It was agreed that the previously adopted protocol for choosing the non-synthetic form for use, if it is available, before the synthetic form, would apply here. Baker noted that Lynn Coody omitted a couple of boron salts from her TAP review. Gershuny and Baker agreed that there were no synthetic boron
salts that were of particular concern to the organic community. (The BREAK occurred at this point).

**Potassium Permanganate** - Reviewed by Brian Baker and Walter Jeffery.

This material was first determined to be synthetic by a unanimous aye vote. It was then tabled and sent back to the Crops committee. During the discussion, Weakley identified this substance as an essential ethylene scrubber for fruit storage used to prevent ripening. Rogers asked if this is a mechanical operation, then why is it being considered for the National List? Baker commented that certifiers are being asked to vote on potassium permanganate's compatibility.

**Nicotine Products** - Reviewed by John Clark.

Determined to be synthetic; Vote: 12 aye / 0 opposed.

The NOSB's decision is to not allow nicotine products in organic crop production. Vote: 12 aye / 0 opposed.

**Tobacco Dust** - Presentation by John Clark.

Determined to be natural; Vote: 12 aye / 0 opposed. The NOSB's decision is to place tobacco dust on the Prohibited Natural(s) list. Vote: 12 aye / 0 opposed.

**Livestock Materials:**

**Aspirin** - Reviewed by William Zimmer and Marta Engel.

Determined to be synthetic; Vote: 12 aye / 0 opposed.
The NOSB's decision is to allow this material for use in organic livestock production;

Vote: 12 aye / 0 opposed. Discussion: Material can be used for crisis management and hard udders. Sonnabend noted that although Dr. Price of FDA/CVM stated in Rohnert Park that aspirin is not an approved medication for livestock and would require a new drug application, Dr. Engel, a TAP reviewer, states that it is registered and so the review is continuing. Annotation: for health care to reduce inflammation.


This material was tabled and the Livestock committee will develop a policy on vitamin and mineral use and a review on general feed additives and then direct the TAP coordinators on how to continue with the reviews. Discussion centered on emphasizing the need for complete nutritional feeds originating from healthy soils as the centerpiece of organic livestock health care practices, although Wittenberg noted that sometimes a diverse diet may be insufficient because each animal's needs are different and varying weather conditions may induce unanticipated stress.

Iodine - Reviewed by Richard Krengel and William Zimmer.

Determined to be synthetic; Vote: 12 aye / 0 opposed

The NOSB's decision is to allow this material for use in organic livestock production;

Vote: 12 aye / 0 opposed. Annotation: feed salt supplement or topical disinfectant.
April 27, 1995

(The following represents the minutes from the Administrative session on Thursday that occurred during the discussion on boron products and for a short time after lunch):

Merrigan moved and Friedman seconded to adopt the following resolution: The Board requests sufficient Departmental resources to convene a NOSB meeting prior to October 1, 1995 to further consider materials and other issues. To reduce meeting costs, the NOSB recommends that the meeting be held in Washington, DC, preferably at a site such as the National 4-H Center where facility costs would be minimal. In devising a meeting budget, the NOP should be aware that nine of the 14 NOSB members will request funds from their home organization budgets in order to forego USDA travel reimbursement. In this way, the NOSB hopes that limited resources can be stretched to cover the travel costs of the remaining NOSB members and NOSB technical advisors. Crossley moved and Eppley seconded that the first meeting of the next fiscal year be held in Texas. The latter motion was approved unanimously.

Committee update reports:

CROPS: Gene Kahn will remain as Chair. The workplan will be developed during the next conference call. Stoneback, with assistance from Chandler and Eppley, will do an in-depth report on sludge for the NOSB. The Crops Committee will remain in existence and will work with USDA to address short term issues as they arise. Calls will be scheduled as needed.
INTERNATIONAL: Jay Friedman will remain as Chair and the Committee will remain functioning as it has been. A conference call is scheduled for May 16. Issues to be discussed include fumigation.

ACCREDITATION: Kathleen Merrigan will serve as Chair. Issues for this Committee currently are state enforcement, site visits, and trademarks.

LIVESTOCK: Fred Kirschenmann will serve as Chair. Issues include aquaculture, honey, wild game, and materials review.

PROCESSING, HANDLING AND LABELING COMMITTEE: Craig Weakley will serve as Chair. The work plan will be developed on the next conference calls. Issues are new materials for the TAP review, distributor exemption, and certification phase-in. The Committee will remain functioning.

Anderson announced that Kirschenmann will take the lead in preparing a NOSB Code of Ethics and Chandler will begin finalizing the By-laws. Sligh, Friedman, Kinsman and Kirschenmann will assist Chandler. Eppley moved and Crossley seconded to accept the proposed Committee Chairs for the next year. Motion passed unanimously.

Merrigan moved and Anderson seconded to delegate a task force to write a preamble for the National List similar to the Processing Committee's preamble, but also describing the purpose and
protocols of the National List and explaining the review and voting process. The vote was
unanimous for Merrigan to coordinate with Sligh and Weakley who will contribute language on
synthetic/non-synthetic substance availability.

The Board then turned to the ongoing task of trying to agree on a definition of "organic." Relying
on the task force report prepared during this meeting week, and incorporating language from the
Codex interpretation of organic, the Board approved the following definition unanimously:

Organic agriculture is an ecological production management system that promotes and
enhances biodiversity, biological cycles and soil biological activity. It is based on minimal use
of off-farm inputs and on management practices that restore, maintain and enhance ecological
harmony. "Organic" is a labeling term that denotes products produced under the authority of
the Organic Foods Production Act. The principal guidelines for organic production are to use
materials and practices that enhance the ecological balance of natural systems and that
integrate the parts of the farming system into an ecological whole. Organic agriculture
practices cannot ensure that products are completely free of residues' however, methods are used
to minimize pollution from air, soil and water. Organic food handlers, processors and retailers
adhere to standards that maintain the integrity of organic agriculture products. The primary
goal of organic agriculture is to optimize the health and productivity of interdependent
communities of soil life, plants, animals and people.

The Board then passed a resolution on inerts which read: Inerts on the EPA List 4 are
considered to be minimum risk and will be accepted for organic production, unless an NOSB
evaluation finds a specific List 4 inert to be unacceptable. Inerts proposed for organic production on EPA's List 2 which are potentially toxic and List 3 which are unknown will be compiled by the NOSB and forwarded to the EPA as materials for fast-track review and possible reclassification. List 1 inerts are prohibited by the OFPA. Clark opposed the resolution and commented that synthetic materials on List 4 and even inappropriate or toxic natural materials cannot be automatically "acceptable" for organic production, without any in-depth knowledge and/or review of such materials by NOSB.

The Board next debated the resolution on the NOSB statutory authority. Anderson spoke first, referring to a railroad analogy with the need for the crew to work together and act responsibly in consideration of its many passengers. He identified the responsibilities that each member of the NOSB and USDA Staff has in acting together as conductor of the train and hoped that differences will be put aside as we work side by side to deliver our payload. Courtesy, honesty, and fresh starts are the concepts to keep in mind as we continue on down the track.

Merrigan read the resolution and the Senate report and affirmed that the resolution is necessary because groups are concerned about the USDA authority over the National List. Weakley, Chandler and Anderson agreed with the interpretation of the OFPA that only the NOSB can propose synthetics for the National List. Ricker replied that it is not AMS' intention to add synthetics to the proposed National List or to act contrary to the Board's wishes, but the Secretary of Agriculture does have final authority over all aspects of the National Program and the real issue is whether the NOSB, an advisory Board to the Secretary appointed by the
Secretary, should be passing a resolution that insists that his advisory Board has more authority than he does for certain aspects of the program. Ricker expressed futility rather than objections to the resolution. All persons commenting agreed that the Board needs to review the materials for the List after they have been reviewed by a TAP member(s) and that USDA's decision about a synthetic proposed for the List by the Board may differ. Kirschenmann then moved and Crossley seconded that the following resolution be adopted, which it was by a vote of 8 - aye, 4 - opposed, and 1 abstention: The NOSB is more than an advisory board in one very important aspect. The Organic Foods Production Act (OFPA) requires the NOSB to recommend to the Secretary the universe of synthetic materials acceptable for organic production (USC 6517 (c) and (d); see also 6518 (k). In turn, the Secretary can, both before and after public comment, delete synthetic materials from the proposed and final National Lists. The Secretary cannot, at any time, add synthetic materials to the List that are not first recommended by the NOSB (USC 6517 (d)(2). This statutory responsibility makes the NOSB unique among USDA advisory boards. The "Resolution of Focus" document should be amended to reflect this special role of the NOSB in establishing the National List. In doing so, the "Resolution of Focus" document would reflect the common understanding of those involved in the construction of the Act, including the organic, environmental, consumer, and humane care organizations who came together in support of the OFPA and now support the NOP. The NOSB understands and respects the role and responsibilities of the secretary in the rulemaking process. With the exception of the placement of synthetic materials on the National List, the role of the NOSB is advisory. Nevertheless, this advisory function is critical to the development of a sound national program. Prior to publication of proposed rules, the NOSB expects to engage in active two-way
communication with the NOP staff to maximize information exchange. Such exchanges will enhance the expertise of the NOP and aid their rulemaking efforts. Further, such exchanges will enhance NOSB understanding of USDA decisionmaking, aid NOSB in providing counsel to the NOP, and prepare NOSB members to educate the public about NOP efforts.

Prior to returning to the discussion of materials, Baker reported to the Board that the impromptu task force had agreed on the following principles:

1. Non-synthetic and allowed synthetic materials may not be combined in formulations with prohibited materials.
2. Carriers, diluents, fillers, emulsifiers, preservatives, excipients, stabilizers, surfactants, wetting agents and other ingredients of formulated products must be consistent with the inerts policy.
3. The use of all materials approved for production must be consistent with their corresponding annotations under the NOP Farm Plan guidelines and with the individual Farm Plan.
4. Procedures to address brand name products will be established at a later time.

The Board agreed in principle without taking a vote.

April 28, 1995

The meeting was called to order at 8:15 a.m. by Chairperson Sligh. Members in attendance were:

Jay Friedman, Dean Eppley, Gene Kahn, Craig Weakley, Michael Sligh, Merrill Clark, Tom Stoneback, K. Chandler, Don Kinsman, Bob Anderson, Fred Kirschenmann, Rod Crossley, Margaret Wittenberg, and Brian Baker from CCOF as the certifier representative.
Staff members present from USDA were: Mike Hankin, Ted Rogers, and Hal Ricker.

The first order of business was a report on piperonyl butoxide (pbo). John Brown reviewed the voting on pbo that had occurred at Rohnert Park in October 1994 and provided additional information that had been requested of him at the Rohnert Park meeting. His professional opinion based on reviewing studies was that there should not be significant concern about approving this substance for the National List. Its benefits include decreasing the use of the active ingredients by as much as 90% and providing effective pest control measures in processing plants.

Crossley would like to see pbo allowed for use in processing facilities for structural pest control and used only with pyrethrin. Kirschenmann urged caution in approving this substance to protect the US organic industry, even if more botanicals have to be used. Kahn said the Crops Committee supports pbo but with heavy restrictions. Sligh brought up the environmentalist concerns about pbo's effects on the immune system and informed the Board that a new EPA report on pbo is due out on May 22. Clark supported the need to avoid risk to the environment and urged rejection of pbo for the National List. Baker said that the ban on pbo has been a hardship for growers and that a pyrethrin/rotenone combination is harder on the environment than pyrethrin/pbo. Friedman moved and Clark seconded to postpone a decision on pbo. The motion passed 11 aye/2 opposed.

After a break, the Livestock Committee presented newly prepared language on the use of antibiotics and parasiticides in laying hens. The Committee language recommended that eggs
from poultry treated with antibiotics or parasiticides not be sold for 90 days following the date of use and that the criteria for use as listed in the Board Final Recommendations be satisfied. This recommendation was based on the principle that animal health must be restored after use of medications, just as soil health must be restored after the use of restricted materials. Friedman opposed the language becoming a Final Recommendation because public comment has not been received on the issue and there may be additional information that was received at the USDA hearings that the new Board members may first wish to review. He also questioned whether evidence was before the board that demonstrated a need for the use of synthetic medications in egg production. Having reviewed the materials derived from the USDA hearings, Friedman concluded that producers were already producing without the chemicals that the board was considering permitting in organic production. The consumer is already getting organic egg products where the organic label means no synthetic drugs have been used. Approval of a label that says “organic” and means synthetic drugs have been used devalues the organic label. After varied comments about customer expectations, consistency with other animal species standards recommendations, longer withdrawal times and the process of developing the language, the Board turned down Friedman's motion, seconded by Clark, to adopt the wording as a Board Draft Recommendation for additional limited comment. The vote was 5 aye and 8 opposed. Motion failed. However, the Board did approve Weakley's motion, seconded by Friedman, to send the language out for public comment as a Committee recommendation. The vote was unanimous aye.

Turning to the issue of genetic engineering, Sligh questioned whether the NOSB should adopt a resolution formally stating that the process of genetic engineering is considered by the NOSB to
be a synthetic process and that appropriate substances be annotated properly regarding the use of
genetically engineered forms. Stoneback cautioned that genetically engineered forms of
substances are already in use to a greater extent than the Board and the organic community is
aware of. Sligh asked for a small task force to develop language to address concerns of consumer
groups. Ricker offered that the USDA Biotech Council would help with defining the various
types of genetic engineering and supported the idea of a small task force writing a position
hopefully before the Codex meeting in May 1996. The task force will be headed by Sligh with
assistance from Kirschenmann, Wittenberg, Baker, Ricker, and Stoneback.

The next topic was evaluation of the materials review process and future priorities. Clark asked
for more and better information from the reviewers and that a copy of Theuer's review sheet be
mailed as an example. Some other miscellaneous comments were: 30 days is sufficient for review
time; improve the selection of the reviewers; eliminate MSDS and FAPS sheets; provide historic
organic use and current status information; send the 2119m criteria out to the reviewers and
provide their responses directly in the notebooks; and watch out for conflicts of interest.
Sonnabend will incorporate many of the above evaluations into the next round of reviews and will
be assisted by Baker in writing the commercial interest disclosure statement for reviewers.

Sonnabend reported on preparations for the next meeting, noting that sludge and chlorine bleach
could be hotly debated materials. She summarized her survey that attempted to confirm the non-
synthetic status of the materials on the Crops Committee allowed naturals list. Several materials
were identified as also occurring in synthetic form and these will be added to the synthetic
materials to be reviewed by the TAP. Ricker informed everyone that Sonnabend and Brown will remain as TAP coordinators at least through the next meeting. He responded to a question from Baker by stating that he expected the proposed National List to be published after the next meeting, so it was essential that all necessary materials be included for review at the next meeting.

BREAK.

Friedman moved and Chandler seconed to have the next NOSB meeting in Austin Texas. This motion passed by 12 aye, 0 opposed and 1 abstention. The dates most convenient for members were October 30 - November 3, 1995.

Approval of the minutes from Rohnert Park was quickly taken up. Clark asked Sligh, Kinsman, Baker and Wittenberg to assist her in increasing consumer involvement in the recommendation and comment process. This was agreed on. Anderson and Crossley agreed to work with Hankin in furthering the completion of the Good Organic Retailer Practices document with Walter Robb of Whole Foods. Positive vocal support was expressed for transitional labeling provisions within the National Program. USDA will provide leadership and will communicate language and status reports to the NOSB as the issue is developed as the National Program moves along. Hankin was requested to prepare a "projects to be completed" list from the Orlando meeting and distribute it to the Board. Revisions will be made on page 20, lines 463 - 464, at the request of Sligh, to correct the sentence to read, "...was just an advisory Board to USDA, but instead is assigned an additional non-traditional role of decision making." Sonnabend noted that the Materials Oversight
Working Group has more members than are identified in the Rohnert Park minutes. Weakley moved and Crossley seconded to accept the minutes as amended. Vote for approval was unanimous except for a recusal by Friedman.

The final agenda item was phase-in recommendations. Kahn read the joint Crops and Livestock Committees recommended wording and, after making minor additions, Friedman moved and Kirschenmann seconded to approve the Committees' recommendation. The motion was passed 11 aye, 0 opposed and 1 abstention.

Weakley read the Processing Committee's recommendation on phase-in (implementation). Clark obtained confirmation that meat products are covered within the body of the recommendation. Friedman explained his concept that the accredited certifying agent's bond to USDA not be subject to forfeiture for actions occurring prior to accreditation. Kahn moved and Crossley seconded the motion to adopt the Processing Committee's phase-in recommendation as amended. The vote was 12 aye and 0 opposed. (Note: All phase-in recommendations comprise Addendum #9 to the Final Recommendations. The addendum language will be incorporated into the Final version of these minutes).

Sligh passed the gavel to Anderson. Appreciation for Michael's accomplishments was shown by all in attendance. The meeting adjourned.
October 31, 1995

The initial session of the National Organic Standards Board (NOSB) meeting was called to order at 8:09 a.m. by Chairperson Bob Anderson.

Members in attendance were: Tom Stoneback, Craig Weakley, Dean Eppley, Don Kinsman, Merrill Clark, Michael Sligh, Bob Anderson, Gene Kahn, K. Chandler, Rod Crossley, Fred Kirschenmann, Kathleen Merrigan, and Margaret Wittenberg. Participating at this meeting as the certifying agency advisor to the NOSB was Tom Tomas of Farm Verified Organic, Inc.

National Organic Program staff members present from USDA were: Michael Hankin, D. Ted Rogers, Michael Johnson, Toni Strother, and Grace Gershuny. Also in attendance from the USDA was Eileen Stommes, Director of the Transportation and Marketing Division, Agricultural Marketing Service (AMS).

The Technical Advisory Panel Coordinator present at the start of the meeting was Zea Sonnabend. John Brown was expected to arrive later, along with advisors Rich Theuer, Lynn Coody, Brian Baker, and Bill Wolf.

Eileen Stommes opened the initial session by commenting on the aggressive agenda set forth by the NOSB. She thanked the Board for its work and noted that the recommendation process is winding down simultaneously with a decline in Federal Advisory Committee funding. She also pointed out that there is still much work to do, and the USDA is committed to a timely proposed rule in 1996. She closed by again thanking the NOSB for its commitment and dedication to bringing together everyone in the organic industry.

On behalf of the NOSB and the USDA, Bob Anderson recognized the retiring Board members and presented them with mementos. Those Board members included: Merrill Clark, Don Kinsman, Tom Stoneback, and Craig Weakley. Michael Sligh was recognized for his service (1992-1995) as the first Chairperson of the NOSB.

Eileen Stommes followed with a presentation to Bob Anderson for his dedication and leadership as the previous year’s chairperson.

Brent Wiseman, Organic Programs Director for the Texas Department of Agriculture (TDA), thanked the USDA and NOSB for selecting Austin, Texas, as the host site for this meeting. The Texas Department of Agriculture Deputy Commissioner, Larry Soward, followed with some
Mr. Soward discussed the history and current status of the TDA Certification Program and noted the lack of organic livestock standards both in Texas and nationally.

USDA Staff Report - Operations Manager Michael Hankin proceeded with an update on the National Program activities and program direction, explaining that Program Leader Harold Ricker was in Costa Rica at the Bio Fair and wished very much that he could be present at this meeting. Hankin first reviewed the funding status for FY '95 and briefly discussed the projected program funding for FY '96. It is expected that the NOP will retain the same level of funding as FY '95 ($500,000), along with a cost of living adjustment ($100,000).

He also reported that there will be a five thousand-dollar reduction in funding for the Board, from forty-five thousand to forty thousand dollars. It is expected that next June would be the first possible meeting date in calendar year 1996. As a note, the nominations for new Board members are officially closed. The Department received seventeen nominations for the five positions.

Hankin followed with information about a number of staffing changes in both the Department and in the Transportation and Marketing Division (TMD). Former Acting Assistant Secretary for Marketing and Regulatory Programs, Patricia Jensen, was replaced by Michael Dunn; TMD has a new director Eileen Stommes, and deputy director, Paul Kepler. TMD also has completed an internal reorganization, and the NOP has acquired an additional staff member, Toni Strother. Toni will be assisting the staff in many areas, including database management.

Next, Hankin reported on the status of the proposed rule. The second draft of the Accreditation portion of the program was recently delivered to the Office of General Counsel (OGC). He then went on to announce that the accreditation program will be published along with the other sections of the program. In closing, Hankin urged the Board to make recommendations on the materials that are up for review, and to avoid tabling materials. He went on to encourage the Board to utilize the materials experts at the meeting (i.e., Zea Sonnabend, Lynn Coody, Brian Baker, Tom Tomas, John Brown, and Rich Theuer) to supplement data gaps in the review notebooks.

LIVESTOCK COMMITTEE REPORT:

Fred Kirschenmann began the livestock committee’s session by calling attention to Paul Thompson’s deliberations on the “Spirit of the Soil” and reminded everyone of the overall objectives of the Board’s mission. He also noted that the following committee documents were up for Board approval: 1) The Use of Antibiotics in Organic Livestock Production; 2) The Use of Parasiticides in Organic Livestock Production; 3) TAP Review of Antibiotics and Parasiticides in Organic Livestock Production; 4) TAP Review of Vitamins and Minerals in Organic Livestock Production; 5) TAP Review of Innoculants and Vaccines in Organic Livestock Production; 6) The Use of Innoculants and Vaccines in Organic Livestock Production; and 7) Revisions to the NOSB Livestock Addendums for Organic Livestock Production.
The Use of Antibiotics in Organic Livestock Production & The Use of Parasiticides in Organic Livestock Production.

(One combined vote was taken for both documents.) Merrill Clark noted that many persons had expressed the opinion to the committee that parasiticides and antibiotics were not needed. Fred followed by stating that the purpose of this recommendation is to present a laying hen recommendation that is consistent with the NOSB’s dairy recommendation. Gene Kahn moved and it was seconded by Rod Crossley to accept the document as a Board Final Recommendation (BFR). Vote: Yes - 10, Opposed - 3. Motion carried.

TAP Review of Antibiotics and Parasiticides in Livestock Production.

Prior to a motion to accept this document as a BFR, Merrill presented the idea that antibiotics and parasiticides should be individually reviewed within the Technical Advisory Panel process. Bob Anderson followed with two recommended changes to the document prior to the motion for approval - a) delete at line 39 “most likely to be” and b) add a two-year review clause to the document. There were no objections to the changes and Rod Crossley moved to accept the document as amended as a BFR. It was seconded by Gene Kahn. Vote: Yes - 11, Opposed - 1, Absent -1. Motion carried.

TAP Review of Synthetic Vitamins and Minerals in Livestock Production.

Merrill pointed out that the statement of principle that was used as a preface in the two previous documents was missing. Gene spoke to her concern, noting that lines 30-36 did in fact provide the principle for the committee’s thinking. Prior to the motion for approval, Bob once again offered the addition of a “two year review clause” and also recommended amending lines 28-29 to read “Producers often may not be able to control the quantity of vitamins and minerals naturally occurring in feedstuffs.” There were no objections. Mike Hankin noted that a list of those supplements (which are to be used in the program) are published in the Federal Register and are all Generally Recognized as Safe (GRAS) by the FDA. Gene moved and it was seconded by Tom Stoneback to accept the document as amended as a BFR. Vote: Yes - 11, Opposed - 1, Absent -1. Motion carried.

TAP Review of Innoculants and Vaccines in Livestock Production.

Bob Anderson recommended the following changes: a) delete “unrestricted” in line 12; b) substitute "deferring initial TAP review of innoculants and vaccines" for “forgoing TAP review of innoculants and vaccines”; and c) add a two-year review clause. There was unanimous agreement on the changes. Gene moved and Dean Eppley seconded a motion to accept the document as amended as a BFR. Vote: Yes - 12, Opposed - 0, Absent 1.

The Use of Innoculants and Vaccines.

The following changes were accepted as amendments to the document prior to the motion for
approval: a) Line 10 - delete the word “unrestricted” and b) Line 16 - Change the word “is” to “may be.” Rod then followed with a motion to accept the document as amended. K. Chandler seconded the motion. Vote: Motion carried unanimously to accept the document as a BFR.

Organic Livestock Production. (This recommendation is a compilation of changes to be made in the Organic Livestock Production Standards section of the NOSB Final Recommendations adopted June 1-4, 1994 in Santa Fe, New Mexico.) The changes reflect new language for the a) veterinarian-client relationship and b) the removal of “growth promoters” from the document.

Craig Weakley moved and it was seconded by Gene to accept the recommendation as amendments to the BFR approved in June 1994. Vote: Motion carried unanimously.

BREAK.

PROCESSING, HANDLING, AND LABELING COMMITTEE:

Following the break, the Board resumed business at 10:20 a.m. to discuss the PHL committee’s new recommendations to the full Board. The following documents up for approval included:


General Organic Food Labeling Standards.

It was noted that approximately 90% of the General Organic Food Labeling Standards have already been passed as NOSB Final Recommendations. The additions represent reiterations and clarification; all information listed in the document has been reviewed for consistency with the OFPA. Gene moved and it was seconded by Bob to accept the document as and addition to the existing Board final recommendations. Vote: Yes - 10, Opposed - 1, Absent - 2. Motion carried.

Allowable Methods of Oil Extraction.

Michael Sligh moved and it was seconded by Dean to accept the document as a Board final recommendation. Discussion followed, and Mike Hankin commented on the language in lines 34-37 regarding hexane. He went on to ask if it was the intent of the committee to prohibit hexane use in the non-organic ingredient components of organic foods and foods “made with organic ingredients,” as the language seemed to imply. Craig followed by saying that this is the committee’s intent. Vote: Motion carried unanimously.

Requirements for Handler Certification.

There were a number of proposed changes to the handler certification document. They represent
both additions and deletions to an NOSB final recommendation, adopted on June 4, 1994, in Santa Fe, New Mexico. The proposed changes are as follows: a) Line 27 - delete the word “should”; b) Line 27 - add after the word ‘integrity’ -- “and the audit trail”; c) Line 29 - delete the word “distributors”; d) Line 30 - add after the word ‘retailers’ -- “and distributors who process’ [OFPA Section 2103 - see below] and substantially transform, repack or relabel”; e) Line 56 - add footnote number 1 - “OFPA Section 2103 Definitions (17) Processing. The term ‘processing’ means cooking, baking, heating, drying, mixing, grinding, churning, separating, extracting, cutting, fermenting, eviscerating, preserving, dehydrating, freezing, or otherwise manufacturing, and includes the packaging, canning, jarring, or otherwise enclosing food in a container.”; and f) Line 80 - add after ‘under the’ -- “OFPA only if they both take title to the organic products and substantially transform, or process, or repackage or relabel these products.”

During the document discussion, Michael Sligh commented that there should be some language in the definitions to deal with the effect of this recommendation on co-ops. Craig and Margaret responded by noting that the committee will address the issue of co-ops and retailing for the next meeting. Rod moved and Gene seconded a motion to accept the additions and deletions as noted in the document. Vote: Motion carried unanimously.

Addition of Synthetic Magnesium Chloride to National List.

Rod began the discussion by commenting on the industry’s mislabeling of magnesium chloride as “nigari”. Margaret Wittenberg went on to reiterate that most of the industry is using synthetic magnesium chloride. Just prior to a motion for Board approval, Ted Rogers noted that the FDA does not recognize “nigari” as an ingredient; therefore, the use of the word is prohibited. Kahn noted that lines 44-48 should not have been included. Rod moved and Gene seconded the motion to accept the document and he also recommended the addition of the word “be” after the word ‘should’. Vote: Yes - 12, Opposed - 0, Abstain - 1. Motion carried.

Use of Nutrient Supplementation in Organic Foods.

Michael Sligh began the discussion by asking for clarification on what “independent professional organizations” are. Rod noted they have no commercial interest in the matter of which vitamins or minerals are used in foods. Merrill then expressed her concern over the addition of accessory nutrients, as well as the categorical acceptance of a large group of vitamins and minerals. Craig clarified that the PHLC was not recommending that vitamins and minerals for human consumption be exempted from the National List process. Gene moved and it was seconded by Tom to accept the document as a BFR with two small changes which included a) Line 16 - delete the word ‘must’ and replace it with “may”; and b) Line 32 - add “and fortification” after the word ‘enrichment’. Vote: Yes - 12, Opposed - 1. Motion carried.
Use of Natural Flavors in Organic Foods (Proposal #2).

It was noted that the original draft of this document went out for public comment and has been responded to. It was also stated that the intent of this document is to prohibit propylene glycol and artificial preservatives. This document differs from the previously submitted Committee recommendation in that this recommendation clearly delineates separate guidelines for “organic foods” and “foods made with organic ingredients”. Gene went on to describe his research on flavor houses, and his findings show that there are no flavor houses currently producing organic natural flavors, but one is starting to carry some with no synthetic carriers, solvents, or preservatives. He cited competitive market forces in the industry as future incentive for the production of organic natural flavors. Rod moved and it was seconded by Gene to accept the revised recommendation as a BFR. Vote: Motion carried unanimously.

Incidental Food Additives in Organic Foods.

Tom Stoneback inquired as to whether or not there were trade secret issues at hand when discussing processing aids. Rod responded by stating that the substances in question can be disclosed to a certifier and that label declaration is not the answer. Merrill followed with comments acknowledging the applicability of this recommendation to “foods made with organic ingredients,” but contested applying it to “organic foods” as well. Craig went on to review the committee’s longstanding debates over this issue and the need to bring it to resolution. Tom moved and it was seconded by K. Chandler to accept the recommendation as a BFR. Vote: Yes - 9, Opposed - 3, Abstain - 1. Motion carried.

LUNCH BREAK.

The Public Input session followed the lunch break. The meeting was adjourned for the day at 5:30 p.m. after the public input session.
November 1, 1995

CROPS COMMITTEE REPORT:

The meeting was called to order at 8:00 a.m. by chairperson Bob Anderson.

Members in attendance were: Tom Stoneback, Gene Kahn, Jay Friedman, Rod Crossley, Craig Weakley, Dean Eppler, Don Kinsman, Merrill Clark, Michael Sligh, Bob Anderson, Margaret Wittenberg, K. Chandler, Fred Kirschenmann, and Kathleen Merrigan. Participating as the certifying agent advisor to the NOSB was Tom Tomas of Farm Verified Organic.

Staff members present from USDA were: Michael Hankin, D. Ted Rogers, Toni Strother, Grace Gershuny, and Michael Johnson.

Technical Advisory Panel Coordinators present were: Zea Sonnabend, John Brown, and Rich Theuer as facilitator.

The following Crops Committee documents were up for discussion and approval at this session:

1) Phase-Out of Chilean Nitrate; 2) Banana Planting Stock; 3) Emergency Spray Exception; 4) Ban on Petitioned Materials; 5) Definitions and Interpretations; and 6) NOSB Materials Review Criteria.

Phase-Out of Chilean Nitrate.

Grace Gershuny briefly discussed the use of chilean nitrate in an organically managed system, noting that its use would still be within the context of the NOP standards. She also made reference to chilean nitrate and international standards -- it is not the intent of the NOP to make our standards identical to other country’s standards. In fact, the USDA will work towards harmonization and agreements where organic principles are the foundation and we will need to acknowledge minor differences. Michael Sligh added that a phase-out will increase the use of chilean nitrate and not decrease it. K. Chandler followed with his support for the allowance of chilean nitrate, mindful of its minor use importance to some organic farmers. Jay expressed his non-support, citing the possible increase in use as Sligh mentioned earlier in his comments.

Gene then cited that the USDA’s Organic Farm Plan scrutiny will deal with its overuse and abuse. K. Chandler moved and it was seconded by Bob Anderson, who after agreement from the Board, added a two-year review clause. The annotation would limit use to 20% of the total nitrogen supplied to a crop. Vote: Yes - 8, Opposed - 6. Motion fails.

In a separate discussion, the Board again discussed Chilean Nitrate use and subsequently passed the following proposal regarding chilean nitrate; Vote: Yes - 13, Opposed - 1.
Chilean Nitrate Special Use Guidelines

The use of Chilean Nitrate (16-0-0) in organic crop production is limited to not more than 20 percent of total nitrogen supplied to a crop. The producer's Farm Plan shall contain specific provisions and strategies designed to substantially reduce the use of Chilean Nitrate over time. The amount and timing of these reductions will be consistent with documented site specific constraints. The Farm Plan will seek to explore each and every alternative to the routine use of Chilean Nitrate in the farming system. These alternatives include, but are not limited to, composting, improvement of compost, leguminous cover crops, interplanting, rotations, microbial enhancements, animal manures, varietal selections, planting date alterations, and reducing amounts of applied supplemental nitrogen. The timing and efficiency of Chilean Nitrate application shall be optimized and documented in the Farm Plan. Certifiers will monitor progress in the reduction of Chilean Nitrate use and will decertify farmers that develop long term dependence on this material. Strong farmer commitment, aggressive action, and measurable results are all necessary elements of this special use of Chilean Nitrate.

This policy shall be reviewed within two years.

Banana Planting Stock.

Michael Sligh commented on the implication of large scale tissue culture use, and its relationship to a lack of genetic diversity (pressures of identical crops on the ecosystem). Bob moved and it was seconded by Rod to accept the banana document as a BFR after making a minor correction to line 12: change 'seed' to "sucker". Vote: Yes - 13, Opposed - 1. Motion carried.

Emergency Spray Exception.

Michael Sligh moved and it was seconded by Dean to accept this document as written. No discussion ensued. Vote: Motion carried unanimously.

Ban on Petitioned Materials.

Rod Crossley moved and it was seconded by Craig Weakley to accept this document. It was noted that the document had not previously been distributed to the NOSB or USDA staff. The substances listed on the document were: glyphosate, thiram, benomyl, captan, and methoxychlor. During the discussion, Ted Rogers explained that these petitioned materials were standards issues, rather than a national list issue, in that their use is prohibited on the farm, but that seed purchased may have been treated with one of these substances. Jay Friedman also expressed concern over the legality of the recommendation, but supports its underlying principle. Kahn explained that by approving this document, the NOSB is deciding without a TAP review, but its knowledge of a material, that it does not meet the seventh criteria in Section 2119(m) of the OFPA (compatibility) and therefore does not need to undergo a TAP review to evaluate its
environmental impact. Vote: Yes - 13, Opposed - 0, Absent - 1. Motion carried unanimously.

Definitions and Interpretations.

This document includes a new section which defines a synthetic analogue, and refines several definitions that were on the previous version of this document.) Fred K. moved and it was seconded by Rod to accept this document as a BFR. Prior to a vote, there were several amendments added to the document. Michael Sligh proposed two technical amendments, both regarding rRNA and rDNA: a) Line 71-72 should read as follows: "Recombinant RNA & DNA Techniques. Techniques that artificially break apart and recombine DNA and RNA molecules with the intent of altering genetic instructions," and b) Line 37 - add after ‘recombinant DNA’ -- "and RNA techniques". Kathleen then recommended the addition of "and must contain only dead organisms." after the word ‘organism’ in line 48. Vote: Motion carried unanimously.

Needing clarification of lines 90-95, Jay received the response from Grace that this new definition will serve as an additional reference and decision making tool. The discussion concluded as Craig moved and it was seconded by Rod to add at the end of the sentence on line 92: “provided that the synthetic material is on the National List.” Vote: Motion carried unanimously.

NOSB Materials Review Criteria.

Grace led the discussion for this document, and noted that it was established to expand the intent of the OFPA criteria listed in section 2119(m)(7), “compatibility with a system of sustainable agriculture”. She noted that this document would be helpful to the staff in providing guidance for classifying petitioned materials that were questionable as to whether they fit within the context of the national program. Grace went on to explain that the document was late in its evolution, but should nonetheless assist the Board in its materials review and evaluation. Fred moved and it was seconded by Kathleen to accept the document, deleting the following in lines 48-49: “Example: pBO. Also, rDNA produced biofungicides might get serious consideration here if they are a good alternative for copper and don’t violate criterion #1 above.” Vote: Yes - 10, Opposed - 3, Absent 1. Motion carried. Following acceptance of the document, Jay moved and it was seconded by Merrill to add the following amendment at line 10: “However, no material may be consistent with organic agriculture and appear on the National List in the absence of a strong factual showing in scientific criteria.” Vote: Yes - 11, Opposed - 0, Abstain - 2, Absent - 1. Motion carried.

Following the document discussions, Tom Stoneback briefed the Board on sewage sludge and bio-solids. Fred urged that the material be moved forward to the TAP and that information collection should continue. The Board was in agreement with Fred’s suggestion.

Discussion Paper: Organic Principles, Standards Development, and Farm Plan Requirements. This paper was prepared by the National Organic Program staff at the request of the Crops Committee, to help clarify how they are looking at the criterion of progressive
improvement as it relates to anticipated NOP Standards and Organic Farm Plan provisions. During the discussion, Craig noted that the use of the word "Tolerated" seems to have a negative connotation and use of the word "Restricted" appears to be a better choice and add more clarity to its meaning. Michael Sligh recommended that the NOP take a look at the Texas ten-point evaluation system. Fred agreed to bring forth a proposal to develop a taskforce to add to the discussion paper's high points.

ACCREDITATION COMMITTEE DISCUSSION:

Use of Private Seals.

Fred Kirschenmann led the discussion on the use of private seals. He explained why the private certifiers want this particular option; Michael Sligh expressed his support for the document. Jay dissented, and spoke to the additional confusion that this will cause in a national program. He also noted that there were a number of unresolved questions in the document and pointed out that there had been no public input on the document. Gene rejected the idea of "seal use" to promote producer achievements and production abilities, and the massive consumer confusion that this would cause. There was additional comment on the paper, and then it was brought to a vote - 5 aye / 6 opposed / 3 abstentions. The motion failed.

In a separate discussion, the issue of private seal usage was revisited on Thursday, November 2. Kathleen began by reading a new proposal, and Fred continued to assert the need for certifier seal usage, because much time and energy have been spent on their development and market recognition. He cited the ability of seals to be indicative of other claims related to practices and standards, e.g., safe for the chemically sensitive. Bob concurred on the right to continue seal usage, but noted that they should not serve as barriers to trade nor should they create further market confusion. Rod agreed as well, but rejected the notion of making superior claims with seals. Fred insisted the issue was differentiation, and that certifiers should secede if this provision was denied. Gene also agreed with allowing private seal usage, but objected to superior claim implications associated with their use. Kathleen defended the "chemically sensitive" example as being above and beyond the organic claim; Tom Stoneback questioned its place or applicability to a national organic program. As the discussion came to a close, Rod moved and it was seconded by Craig to accept the new seals proposal as amended. Vote: Yes - 12, Opposed - 1. Motion carried unanimously. Listed below is the proposal as amended and approved.

SEALS

A certifying agent may permit the use of its seal, logo, or trademark on product labels to:

(a) denote affiliation with or membership in the applicable private certification program or organization;

(b) indicate the state or region of origin of the product; and/or (c) designate claims on the
part of the producer, processor, or product not covered under Sections XXX (organic production standards and National List).

(B) A seal, logo, or trademark shall not be used:

1. to restrict trade or prevent procedures or processors from being certified in accordance with the Act;
2. to imply that products so labeled are superior to other products produced in accordance with Sections XXX (organic production standards and National List);
3. to imply USDA accreditation of certifying activities for claims not covered under Sections XXX (organic production standards and National List); and shall not be
4. required to be displayed on any product offered for sale as “organic” or “organically produced” as a condition of certification.

Next, a document, developed by the Organic Certifiers Caucus organization, was circulated which suggested a new approach for selecting future NOSB meeting certifier representatives. The document will be considered by the Accreditation Committee before recommending future temporary certifier positions to the Executive Committee.

Code of Ethics.

Fred then moved on to the Code of Ethics document, but noted that he did not expect a vote at this time on it. He subsequently led a paragraph by paragraph discussion and met significant opposition to the concept of such a document. Jay moved and it was seconded by Merrill to table the document and to review it again later in the week. The NOSB consented in the majority.

INTERNATIONAL COMMITTEE:

Fumigation Tables

In response to inquiries regarding the fumigation and subsequent status of organically grown fresh fruit and vegetables that are imported into the United States, the NOP, in consultation with the Plant Protection and Quarantine (PPQ) division of the Animal and Plant Health Inspection Service (APHIS), developed a set of “fumigation” tables. Michael Johnson briefly discussed the tables and answered several questions posed by the NOSB and other meeting attendees. There is a copy of the cover letter and tables included in the minutes.1

1See Attachment 2, entitled Fumigation Tables.
As an introduction to the materials review session, Kathleen commented on the recent request to change an NOSB member’s vote registered during the NOSB meeting in Orlando in April 1995. Craig suggested that at the close of each vote, a final tally should be announced so as to ensure accuracy. All Board members were in agreement with this suggestion and further determined that the burden was on the NOSB member to ensure the accuracy of votes; vote tallies would be official as recorded at the end of the voting day. Bob went on to review the Materials Oversight Working Group conclusions and the NOSB voting procedures and noted that the synthetic/non-synthetic decision will be a simple majority and abstentions are counted as a “no” vote, absences don’t count toward the majority, and 2/3 of the NOSB must be present to conduct a vote.

The second round of the NOSB materials review began with the review of processing materials. The round was coordinated by former NOSB Processing committee chairperson, Rich Theuer, Ph.D. Dr. Theuer was also a leading reviewer for a number of the processing materials.

The following notes represent the NOSB materials voting process that occurred during the remainder of the week. The notes detail the actual votes on each material and some general comments and discussion notes. They are listed in the order in which they appear in the document “Summary of NOSB Recommendations for Materials Considered at Austin, Texas, November 1995” that was distributed to the persons on the public mailing list in January 1996.

**Processing Materials**

**Calcium Carbonate** - Reviewed by Rich Theuer, Bob Durst, and Joe Montecalvo. Determined to be non-synthetic; Vote - Unanimous. The NOSB’s decision is to allow this material for use in organic food processing; Vote - Unanimous.

**Cornstarch (Native)** - Reviewed by Joe Montecalvo and Rich Theuer. Determined to be non-synthetic; Vote - Unanimous. The NOSB’s decision is to allow this material for use in organic food processing; Vote - Unanimous. Discussion: Bob Anderson noted and it was agreed upon by the Board that they were only voting on native and unmodified starches.

**Cultures, Dairy** - Reviewed by Rich Theuer. Determined to be non-synthetic; Vote - Unanimous. The NOSB’s decision is to allow this material for use in organic food processing; Vote - Unanimous. Annotation: Bacteria may not be a product of rDNA technology.

**Gums (Water Extracted Only - Arabic, guar, locust bean, and carob bean)** - Reviewed by Joe Montecalvo and Rich Theuer. Determined to be non-synthetic; Vote - Unanimous. The NOSB’s decision is to allow this material for use in organic food processing;
396 Vote - Unanimous. Annotation: Water extracted only.
397 Discussion: Bob Anderson made a motion and it was seconded by Rod Crossley to include the
above listed annotation for gums. Vote: 12 aye / 2 opposed. Motion carried.

398 Yeast, Autolysate - Reviewed by Joe Montecalvo and Rich Theuer.
399 Determined to be non-synthetic; Vote: 13 aye / 0 opposed / 1 abstention.
400 The NOSB’s decision is to allow this material for use in organic food processing;
401 Vote: 13 aye / 1 opposed. Annotation: Yeast (used for source) that is a product of rDNA
technology is prohibited. Discussion: Merrill expressed her belief that this material is a form of
402 MSG in disguise. Rich followed by indicating that this material is a natural hydrolysate, and not
403 a concentrated synthetic, as are MSG’s.

405 Yeast, Bakers - Reviewed by Joe Montecalvo and Rich Theuer.
406 Determined to be non-synthetic; Vote: 13 aye / 0 opposed / 1 abstention.
407 The NOSB’s decision is to allow this material for use in organic food processing;
408 Vote: 12 aye / 1 opposed / 1 abstention.
409 Annotation: Yeast (used for source) that is a product of rDNA technology is prohibited.

410 Yeast, Brewers - Reviewed by Joe Montecalvo and Rich Theuer.
411 Determined to be non-synthetic; Vote: 12 aye / 0 opposed / 2 abstentions.
412 The NOSB’s decision is to allow this material for use in organic food processing;
413 Vote - Unanimous. Annotation: Yeast (used for source) that is a product of rDNA technology is
414 prohibited.

415 Yeast, Nutritional - Reviewed by Joe Montecalvo and Rich Theuer.
416 Determined to be non-synthetic; Vote - Unanimous.
417 The NOSB’s decision is to allow this material for use in organic food processing;
418 Vote: 13 aye / 1 opposed. Annotation: Yeast (used for source) that is a product of rDNA
technology is prohibited. Growth on petrochemical substrates and sulfite waste liquor is also
419 prohibited.

421 Yeast, Smoked - Reviewed by Rich Theuer and Joe Montecalvo.
422 Determined to be non-synthetic; Vote: 13 aye / 0 opposed / 1 abstention.
423 The NOSB’s decision is to allow this material for use in organic food processing;
424 Vote: 11 aye / 3 opposed. Annotation: Yeast (used for source) that is a product of rDNA
425 technology is prohibited. Growth on petrochemical substrates and sulfite waste liquor is also
426 prohibited. The handler must document in the Organic Handling Plan that the smoke flavoring
427 used is produced using a non-synthetic process that does not use synthetic processing aids or
428 additives.

429 Calcium Citrate - Reviewed by Mark Schwartz and Joe Montecalvo.
430 Determined to be synthetic; Vote: 13 aye / 0 opposed, 1 absent.
431 The NOSB’s decision is to allow this material for use in organic food processing;
Vote: 11 aye / 1 opposed / 1 absent / 1 abstention.

**Calcium Phosphates (Di, Tri, Mono)** - Reviewed by Mary Mulry, Rich Theuer, and Joe Montecalvo. Determined to be synthetic; Vote - Unanimous.
The NOSB’s decision is to allow this material for use in organic food processing;
Vote: 13 aye / 1 opposed. Discussion: This material is used in baking powder, fortification, for yeast growth, and a firming agent for yogurt. Craig noted that the Handling Plan will discover other uses for the material that are not currently known.

**Carbon Dioxide (Non-synthetic)** - Reviewed by Joe Montecalvo, Rich Theuer, Mary Mulry, and Bob Durst. Determined to be non-synthetic; Vote - Unanimous.
The NOSB's decision is to allow this material for use in organic food processing;
Vote - Unanimous.

**Carbon Dioxide (Synthetic)** - Reviewed by Joe Montecalvo, Rich Theuer, Mary Mulry, and Bob Durst. Determined to be synthetic; Vote - Unanimous.
The NOSB's decision is to allow this material for use in organic food processing;
Vote: 13 aye / 1 opposed. (The non-synthetic form is preferable to the synthetic.)

**Chlorine Bleach (Calcium hypochlorite, sodium hypochlorite, chlorine dioxide)** -
Reviewed by Joe Montecalvo, Marta Engel, Rich Theuer, Walter Jeffery, and Chris Milne.
Determined to be synthetic; Vote - Unanimous.
Annotation: Allowed for disinfecting and sanitizing food contact surfaces. Residual chlorine levels for washwater in direct crop or food contact and in flush water from cleaning irrigation systems that is applied to crops or fields cannot exceed the maximum residual disinfectant limit under the Safe Drinking Water Act (currently 4mg/L expressed as Cl₂). This substance is to be reviewed again in two years.

**Ethylene** - Reviewed by Joe Montecalvo, Rich Theuer, and Chris Milne.
Determined to be synthetic; Vote - Unanimous.
The NOSB's decision is to allow this material for use in organic food processing;
Vote: 13 aye / 1 opposed. Annotation: for use as a ripening agent for bananas only.
Discussion: Craig moved and it was seconded by Michael Sligh to restrict its use as a ripening agent for bananas only. Fred noted that FVO does allow its use to prevent other problems and is actively seeking an alternative, but that there is no alternative currently. Merrill questioned the nutritional properties of foods that are ripened by a blast of ethylene gas. Gene noted that it is essential for controlled ripening over long distances. Michael Sligh moved and it was seconded by Kathleen to phase ethylene out over a five-year period. Vote: 3 aye / 9 opposed / 2 abstentions. Motion failed.

**Glycerin** - Reviewed by Joe Montecalvo, Rich Theuer, and Mary Mulry.
Determined to be synthetic; Vote - Unanimous.
The NOSB’s decision is to allow this material for use in organic food processing;
Vote - Unanimous. Annotation: Must be produced by hydrolysis of fats and oils.

**Hydrogen Peroxide** - Reviewed by Vivian Purdy and Amigo Cantisano.

determined to be synthetic; vote - unanimous (1 absent).

The NOSB’s decision is to allow this material for use in **organic food processing and organic crop production**. Vote - Unanimous (1 absent).

**Magnesium Chloride (non-synthetic)** - Reviewed by Joe Montecalvo and Rich Theuer.

determined to be non-synthetic; vote - unanimous.

The NOSB’s decision is to prohibit the use of non-synthetic magnesium chloride (from sea water) in organic foods (95% and above); vote: 12 aye / 2 opposed. The NOSB’s decision is also to prohibit the use of non-synthetic magnesium chloride (from sea water) in foods made with organic ingredients (50%-95%); vote: 12 aye / 2 opposed.

**Magnesium Chloride (Synthetic)** - Reviewed by Joe Montecalvo and Rich Theuer.

determined to be synthetic; vote - unanimous.

The NOSB’s decision is to allow synthetic magnesium chloride for use in organic food processing; vote: 13 aye / 1 opposed.

Annotation: Allowable only in the synthetic form if extracted from sea water. Magnesium chloride produced by synthetic processes (e.g., hydrochloric acid reaction) is not allowable.

Unrefined non-synthetic magnesium chloride (nigari) is not recognized by FDA as an allowed food ingredient.

**Nutrient Vitamins and Minerals** - Reviewed by Rich Theuer, Mary Mulry, Joe Montecalvo.

determined to be synthetic; vote - unanimous.

The NOSB’s decision is to allow this material for use in organic food processing;

vote: 10 aye / 4 opposed. Annotation: Accepted for use in organic foods for enrichment or fortification when required by regulation or recommended by an independent professional organization.

**Ozone** - Reviewed by Rich Theuer and Joe Montecalvo.

determined to be synthetic; vote - unanimous.

The NOSB’s decision is to allow this material for use in organic food processing;

vote - Unanimous.

**Potassium Hydroxide** - Reviewed by Rich Theuer and Joe Montecalvo.

determined to be synthetic; vote: 10 aye / 0 opposed / 4 absent.

The NOSB’s decision is to allow this material for use in organic food processing;

vote: 9 aye / 2 opposed / 1 abstention / 2 absent.

Annotation: Prohibited for use in lye peeling of fruits and vegetables and **where** non-synthetic sodium carbonate is an acceptable substitute.
Tartaric Acid (Made from grape wine)
Determined to be non-synthetic; Vote - Unanimous (1 absent).
The NOSB’s decision is to allow this material for use in organic food processing;
Vote - Unanimous (1 absent).

Tartaric Acid (Made from malic acid)
Determined to be synthetic; Vote - Unanimous (1 absent).
The NOSB’s decision is to allow this material for use in organic food processing;
Vote: 10 aye / 4 opposed.

Potassium Acid Tartrate (or Potassium Tartrate made from tartaric acid) - Reviewed by Rich Theuer and Joe Montecalvo. Determined to be synthetic; Vote - Unanimous. The NOSB’s decision is to allow this material for use in organic food processing; Vote: 12 aye / 1 opposed / 1 absent. Discussion: Sligh questioned the essentialness of this material. Craig moved and it was seconded by Merrill to accept the following Annotation: Shall be derived from tartaric acid derived from grapes. Vote: 6 aye / 6 opposed / 1 abstention / 1 absent. The motion failed, and there is no annotation for this material.

Sodium Phosphates - Reviewed by Bob Durst, Rich Theuer, and Joe Montecalvo. Determined to be synthetic; Vote - Unanimous. The NOSB’s decision is to allow this material for use in organic food processing; Vote: 12 aye / 2 opposed. Discussion: Jay and Merrill both expressed the opinion that sodium phosphates should be annotated. Fred moved to annotate, limiting its use as a boiler water additive. Before there was a vote, Jay withdrew his motion and moved to table -- Vote: 4 aye / 9 opposed / 1 absent. Motion failed. Michael Sligh then followed with a motion for the annotation: "Use restricted to dairy foods". Vote: 12 aye / 2 opposed. Motion carried.

Tocopherols - Reviewed by Joe Montecalvo, Rich Theuer, and Mary Mulry. Determined to be synthetic; Vote: 13 aye / 1 opposed. The NOSB’s decision is to allow this material for use in organic food processing; Vote: 12 aye / 2 opposed. Annotation: Must be derived from vegetable oil when rosemary extracts are not a suitable alternative.

Magnesium Stearate - Reviewed by Joe Montecalvo and Rich Theuer. Determined to be synthetic; Vote - Unanimous. This material is prohibited for use in organic food processing (95% and above); Vote: 4 aye / 9 opposed / 1 abstention. However, the NOSB does allow for the use of this material in foods "made with organic ingredients". Vote: 12 aye / 2 opposed.

Ammonium Phosphate - Reviewed by Joe Montecalvo, Rich Theuer, Bob Durst. Determined to be synthetic; Vote - Unanimous. This material is prohibited for use in organic food processing (95% and above). Vote: 0 aye / 13 opposed / 1 absent. This material is also prohibited for foods labeled as "made
with organic ingredients” (50% - 95%). Vote: 6 aye / 3 opposed / 5 abstentions.

Discussion: There was also a motion to reconsider this material, allowing it for use as a yeast food in wine making. Vote: 7 aye / 4 opposed / 3 abstentions. Motion failed.

Colloidal Silica - Reviewed by Joe Montecalvo, Rich Theuer, and Bob Durst.

Determined to be synthetic; Vote: 12 aye / 0 opposed / 2 absent.

This material is prohibited for use in organic food processing (95% and above).

Vote: 1 aye / 11 opposed / 2 absent. This material is also prohibited for foods labeled as “made with organic ingredients” (50% - 95%). Vote: 3 aye / 9 opposed / 2 absent.

Nisin - Reviewed by Joe Montecalvo and Rich Theuer.

Determined to be synthetic; Vote: 10 aye / 3 opposed. This material is prohibited for use in organic food processing (95% and above). Vote - Unanimous. This material is also prohibited for use in foods labeled as “made with organic ingredients” (50% - 95%). Vote - Unanimous.

Sodium Tartrate - Reviewed by Joe Montecalvo and Rich Theuer.

Determined to be synthetic; Vote: 13 aye / 0 opposed / 1 absent. This material is prohibited for use in organic food processing (95% and above). Vote: 8 aye / 2 opposed / 3 abstention / 1 absent. This material is also prohibited for use in foods labeled as “made with organic ingredients” (50% - 95%). Vote - Unanimous. Discussion: Rich noted that citric acid is a suitable non-synthetic alternative for this material. It was also pointed out that this material is used extensively in wine production.

Sorbic Acid - Reviewed by Joe Montecalvo and Rich Theuer.

Determined to be synthetic; Vote - Unanimous. This material is prohibited for use in organic food processing (95% and above). Vote - Unanimous. This material is also prohibited for use in foods labeled as “made with organic ingredients” (50% - 95%). Vote - Unanimous.

Discussion: Margaret Wittenberg mentioned that this material is used in cheese making and is also used in dried fruit.

Baking Powder (Aluminum-Free) - Reviewed by Joe Montecalvo and Rich Theuer.

There was no determination made on this material. Craig moved and it was seconded by Jay to send this material back to the processing committee. Vote: 10 aye / 2 opposed / 2 absent. Craig also moved to add non-modified starches to the TAP review process and it was seconded by Bob. Vote - Motion carried unanimously.

(Crops Materials’ component parts were all reviewed and approved for use in organic foods.)

Alcohol (Ethanol) - Reviewed by Vivian Purdy and John Clark.

Determined to be synthetic; Vote: Unanimous.

The NOSB’s decision is to allow this material for use in organic crop production;

Vote: Unanimous. Annotation: Permitted for use as a disinfectant.
Alcohol (Isopropyl) - Reviewed by Vivian Purdy, John Clark and Marta Engel.  
Determined to be synthetic; Vote: 12 aye / 0 opposed / 2 absent. 
The NOSB’s decision is to allow this material for use in organic crop production;  
Vote: 13 aye / 1 opposed. Annotation: Permitted for use as a disinfectant.  
Discussion: Michael Sligh moved and it was seconded by Jay to return brewery wastes back for  
further review to the TAP. Motion carried unanimously. Also, Rod moved and it was seconded  
by Tom Stoneback to send alcohol (made from methane) for further review to the TAP. Motion  
carried unanimously. 

Ammonium Carbonate - Reviewed by John Clark and Helmut Reidl.  
Determined to be synthetic; Vote: 12 aye / 0 opposed / 2 absent.  
The NOSB’s decision is to allow this material for use in organic crop production;  
Vote - Unanimous. Annotation: For use as bait in insect traps only. Cannot be in direct contact  
with crop or soil. 

Antibiotics (Avermectin) - Reviewed by Jerry Feitelson, Philip VanBuskirk, and Gregg Young.  
Determined to be synthetic; Vote - Unanimous.  
The NOSB has determined that this material is unacceptable for use in organic crop production;  
Vote: 3 aye / 6 opposed / 4 abstentions. 

Antibiotics (Streptomycin sulfate) - Reviewed by Phillip VanBuskirk, Greg Young, and Jerry  
Feitelson. Determined to be synthetic; Vote - Unanimous.  
The NOSB’s decision is to allow this material for use in organic crop production;  
Vote: 10 aye / 3 opposed. Annotation: Permitted for use as a fireblight control in apples and  
pears only. To be reviewed again in two years. 

Antibiotics (Terramycin-Oxytetracycline calcium complex) - Reviewed by Phillip  
VanBuskirk, Gregg Young, and Jerry Feitelson. Determined to be synthetic; Vote - Unanimous.  
The NOSB’s decision is to allow this material for use in organic crop production;  
Vote: 10 aye / 1 opposed / 2 abstentions. Annotation: To be reviewed again in two years.  
Discussion: Gene Kahn will organize a taskforce to further explore antibiotic use in crop  
production. 

Aquatic Plant Extracts (Other than hydrolyzed) - Reviewed by Donald Blakeney, Bruce  
Spencer. Determined to be synthetic; Vote: 11 aye / 2 absent.  
The NOSB’s decision is to allow this material for use in organic crop production;  
Vote: 10 aye / 1 abstention / 2 absent. Annotation: Extraction process is limited to the use of  
potassium hydroxide and sodium hydroxide. The amount of the solvent used is not to exceed the  
amount necessary for extraction. 

Chlorine Bleach (Calcium hypochlorite, sodium hypochlorite, chlorine dioxide) -  
Determined to be synthetic; Vote - Unanimous (2 absent).
The NOSB’s decision is to allow this material for use for organic crop production, organic food processing, and organic livestock production. Vote: 9 aye / 2 opposed / 2 absent.

Annotation: Allowed for disinfecting and sanitizing food contact surfaces. Residual chlorine levels for washwater in direct crop or food contact and in flush water from cleaning irrigation systems that is applied to crops or fields cannot exceed the maximum residual disinfectant limit under the Safe Drinking Water Act (currently 4mg/L expressed as Cl₂). This substance is to be reviewed again in two years.

Coppers, Fixed - Reviewed by Brian Baker and Eric Sideman.

Determined to be synthetic; Vote - Unanimous.

The NOSB’s decision is to allow this material for use in organic crop production;

Vote - Unanimous. Annotation: May be used for disease control. May not be used as an herbicide. Shall be used in a manner that prevents excessive copper accumulation in the soil.

Lignin Sulfonate - Reviewed by Brian Baker, Philip VanBuskirk, and Diana Tracy.

Determined to be synthetic; Vote - Unanimous (2 absent).

The NOSB’s decision is to allow this material for use in organic crop production;

Vote: 11 aye / 1 opposed / 1 absent. Annotation: Allowed for use with micronutrients and macronutrients and as a chelating agent. Also allowed for use as a dust suppressant and a flotation agent.

Magnesium Sulfate - Reviewed by John Clark and Bart Hall.

Determined to be synthetic; Vote - Unanimous (2 absent).

The NOSB’s decision is to allow this material for use in organic crop production;

Vote - Unanimous (2 absent). Discussion / Annotation: Gene noted that this material is usually applied to the soil at a rate of 20 lbs per acre. Merrill moved and it was seconded by Gene to add the following Annotation: “Allowed for use as a soil amendment with a documented magnesium deficiency”. Vote - Motion carried unanimously (1 absent).

Newspaper Mulch - Reviewed by Sam Cotner, Eric Sideman, and Joseph Heckman.

Determined to be synthetic; Vote - Unanimous (1 absent).

The NOSB’s decision is to allow this material for use in organic crop production;

Vote: 12 aye / 1 opposed / 1 absent. Discussion / Annotation: Tom Stoneback noted that the printing industry is now using state of the art equipment and supplies. Most of the inks tend to be soy-based. Gene moved and it was seconded by Bob to accept the annotation -- “Glossy paper and colored ink paper is prohibited.” Vote: 10 aye / 3 opposed / 1 absent. Motion carried.


Determined to be synthetic; Vote - Unanimous.

The NOSB’s decision is to allow this material for use in organic crop production;

Vote: 11 aye / 2 opposed. Annotation: Restricted to petroleum derivatives with a 50% boiling point at 10mm mercury pressure between 415 degrees F⁰ and 440 degrees F⁰ ± 8 degrees F⁰.

Aromatic petroleum solvents including, but not limited to, benzene, naphthalene, toluene and
xylene are prohibited. Allowed for use in organic production as suffocating or stylet oils on foliage and as inert ingredients. May be applied to dormant perennials. Direct application to harvested crop is prohibited. Petroleum distillates may not be used as either weed or carrot oils in organic production. Land covered with petroleum derived pavement and road oils cannot be certified organic for 3 years following application.

Discussion: Zea Sonnabend noted that petroleum distillates are used as carriers and fillers and are necessary ingredients. Merrill commented on the need to move away from a reliance on chemicals, and suggested the addition of "woody perennials" to the annotation. Bill Wolf then followed by stating that the vegetable-based dormant oils aren't yet registered, and that all of the dormant oils currently on the market are petroleum based. He also noted that they are most commonly used in pest control, and pose the least ecological impact.

**Plastic Mulch and Covers [Petroleum based; other than poly-vinyl chloride (PVC)] -**

Reviewed by Sam Cotner and Richard Harwood. Determined to be synthetic; Vote - Unanimous. The NOSB's decision is to allow this material for use in organic crop production; Vote - Unanimous. Annotation: PVC is prohibited. Petroleum-based plastics other than PVC are acceptable. Restricted by OFPA as having to be removed at the end of each growing or harvest season; also, shall not be incorporated into the soil or left in the field to decompose.

**Sticky Traps and Barriers -** Reviewed by Helmut Riedl, John Clark, and Vivian Purdy.

Determined to be synthetic; Vote - Unanimous (2 absent). The NOSB's decision is to allow this material for use in organic crop production;

**Vitamin D1, C, and E -** Reviewed by David Knauft, Donald Blakeney, and Amigo Cantisano.

Determined to be synthetic; Vote: 10 aye / 3 absent. The NOSB's decision is to allow this material for use in organic crop production;

**Vitamin D3 -** Reviewed by Gregg Young and Donald Blakeney.

Determined to be synthetic; Vote - Unanimous. The NOSB's decision is to allow this material for use in organic crop production;

**Arsenate Treated Lumber -** Reviewed by Chris Milne, Eric Sideman, and Sam Cotner.

Determined to be synthetic; Vote - Unanimous. The NOSB has determined that this material is unacceptable for use in organic crop production; Vote - Unanimous. Commentary: Effective on the publication date of the final rule, the use of arsenate (and other prohibited materials) treated lumber is prohibited for new construction and replacement purposes. Certification applicants shall provide records to the certifying agent that arsenate (and other prohibited materials) treated lumber was not installed within 36 months immediately preceding the initial harvest date of any organic agricultural products. In no case
shall arsenate (and other prohibited materials) treated lumber be allowed in installations in contact with the soil and used to grow vegetables (soil beds).

Gypsum By-Product (From flue trappings and fertilizer manufacture, and from drywall manufacture) - Reviewed by Diana Tracy, John Clark, and David Knauft. Determined to be synthetic; Vote - Unanimous.

The NOSB has determined that this material is unacceptable for use in organic crop production; Vote: 4 aye / 9 opposed. Discussion: It was noted (in terms of tonnage) that organic farmers buy a significantly large amount of gypsum each year. There are two primary sources-mined and mixed. Unfortunately, one is not distinguishable from the other.

Killed Microbial Pesticide (Pseudomonas florescens with Bt gene) - Reviewed by Margaret Mellon, Brian Baker, Jerry Feitelson, Daniel Pimentel, and Philip VanBuskirk.

Determined to be synthetic; Vote - Unanimous.

The NOSB has determined that this material is unacceptable for use in organic crop production; Vote: 3 aye / 10 opposed.

Discussion: Bill Wolf spoke against the allowance of killed microbials, as the political climate is not right at this time for their approval. He also noted that the technology definitely needs to be looked at -- it’s not all bad. He suggested that the Board take time to sort out all the relevant issues, and vote on it at a later time. Michael Sligh concurred, and suggested a taskforce take another look at the material. Rod continued, and mentioned the possibility of States requiring the use of genetically engineered forms of materials in the future. Gene commented on the fact that there is much information available on this material and the Board should not base a discussion on fear and superstition. He also noted that the rejection of this material would be a major setback to the organic industry. Brent Wiseman spoke of tests already conducted on these materials, and that many have already been reviewed and determined to be safe. He also noted that they should be reviewed again, prior to approval for use in organic production. Tom Tomas noted that organic certifiers already reject this technology. Jay also concurred with the majority, and that it is okay for organics to reject biotechnology, as organics built on caution. Eric Kindberg noted that this is currently allowed only because it is determined to be dead, and it is not the same as live microbials; it is used for gypsy moth control currently. Brian Baker expressed the view that it is okay to consider its use, but at this time he is not prepared to make a judgement on the material. Craig concurred with Gene and Brian, but noted that the industry is not prepared for the consumer backlash that is certain to follow its approval. K. Chandler rounded out the discussion by noting that IFOAM’s prohibition of this material takes away tools from farmers by categorically rejecting this technology which has the potential to overcome the current chemical approach that is taken by conventional agriculture. Kathleen’s concerns for the material centered around its compatibility with sustainability and the political backlash that was mentioned by Bill and Craig.

Leather By-Product - Reviewed by Brian Baker, Paul Sachs, Walter Glinsmann, and Bart Hall.

Determined to be synthetic; Vote - Unanimous (1 absent).

The NOSB has determined that this material is unacceptable for use in organic production;
Vote: 5 aye / 8 opposed. Discussion: Bob began the discussion by noting that he doesn’t use the product, but would like to consider its appropriateness for organic production. His concern centers around the 3% chromium in the finished product. K. Chandler followed with the observation that people take chromium tablets and he personally wants more information on its effects in the soil. Bruce Krantz of the Hynite corporation explained that EPA has removed chromium from it “concerned” list, and that chromium is not a problem, as it had been considered in the past. Brian spoke against the material, specifically the application of biocides and other synthetic materials that are used in the processing of the hides. Bob moved and it was seconded by Gene to exclude dyed and finished leather by-products - Vote: 11 aye / 1 opposed / 1 abstention. Motion carried. Following the prohibition of this material, Jay moved and it was seconded by Gene for the NOSB to develop a policy on alternative use of waste products (from organic systems). Motion carried unanimously.

Potassium Nitrate (Niter) - Reviewed by Walter Jeffery, Brian Baker, and Bart Hall.
Determined to be synthetic; Vote: 10 aye / 3 absent.
The NOSB has determined that this material is unacceptable for use in organic crop production.
Vote: 12 aye / 0 opposed / 1 absent.

Gypsum By-Product (Mined Source) - Reviewed by Diana Tracy, John Clark, and David Knauf. Determined to be non-synthetic; Vote - Unanimous (2 absent).
The NOSB’s decision is that this material should not be placed on the Prohibited Natural(s) List.
Vote - Unanimous (2 absent).

Potassium Chloride (Muriate of Potash) - Reviewed by Walter Jeffery and Joseph Heckman.
Determined to be non-synthetic; Vote - Unanimous (1 absent).
The NOSB’s decision is that this material should not be placed on the Prohibited Natural(s) List.
Vote: 0 aye / 11 opposed / 2 abstentions / 1 absent.
Commentary: Only the mined source is considered non-synthetic. Any use shall be in a manner that prevents excessive chloride accumulation in soils. Soil testing may be required in both treated and untreated adjacent soils to verify absence of chloride build-up.

Sodium Bicarbonate - Reviewed by Eric Sideman and Walter Jeffery.
Determined to be non-synthetic; Vote - Unanimous (2 absent).
The NOSB’s decision is that this material should not be placed on the Prohibited Natural(s) List.
Vote: 1 aye / 12 opposed / 2 absent.

Sulfur Dioxide - Reviewed by Walter Jeffery and Brian Baker.
This material was tabled by the NOSB and will be sent back to the TAP for further review.

The following petitioned materials are deemed by the NOSB to be synthetic, incompatible with organic farming systems, prohibited by the Organic Foods Production Act of 1990 and should not be reviewed by the Technical Advisory Panel:

Benomyl  Captan  Glyphosate  Methoxychlor  Thiram.
Livestock Materials

Alcohol (Ethanol) - Reviewed by John Clark, Vivian Purdy, and Marta Engel.
Determined to be synthetic; Vote - Unanimous (1 absent).
The NOSB’s decision is to allow this material for use in organic livestock production;
Vote: 13 aye / 0 opposed / 1 abstention.
Annotation: Allowed for use in medical treatments and as a disinfectant. Prohibited for use as a feed additive.

Alcohol (Isopropyl) - Reviewed by Vivian Purdy, John Clark, and Marta Engel.
Determined to be synthetic; Vote: 11 aye / 0 opposed / 2 abstentions.
The NOSB’s decision is to allow this material for use in organic livestock production;
Vote: 13 aye / 1 opposed. Annotation: Approved for use only as a disinfectant.

Alcohol (Methanol) - Rod moved and it was seconded by Tom Stoneback to send this material back to the TAP for more review. Motion passed unanimously.

Brewery Wastes - Michael Sligh moved and it was seconded by Jay to send this material back to the livestock committee for review as a feed ingredient. Motion passed unanimously.

Chlorine Bleach (Calcium hypochlorite, sodium hypochlorite, chlorine dioxide) - Reviewed by Joe Montecalvo, Marta Engel, Rich Theuer, Walter S. Jeffery, and Chris Milne.
Determined to be synthetic; Vote - Unanimous.
Annotation: Allowed for disinfecting and sanitizing food contact surfaces. Residual chlorine levels for washwater in direct crop or food contact and in flush water from cleaning irrigation systems that is applied to crops or fields cannot exceed the maximum residual disinfectant limit under the Safe Drinking Water Act (currently 4mg/L expressed as Cl₂). This substance is to be reviewed again in two years.

Copper Sulfate - Reviewed by Lynn Brown and William Zimmer.
Determined to be synthetic; Vote: 11 aye / 1 abstention / 1 absent.
The NOSB’s decision is to allow this material for use in organic livestock production;
Vote: 12 aye / 1 abstention.
Annotation: For topical use or as an essential nutrient.

Determined to be synthetic; Vote - Unanimous.
The NOSB’s decision is to allow this material for use in organic livestock production;
Vote - Unanimous. Annotation: May not contain antibiotics.

Glucose - Reviewed by Marta Engel and Lynn Brown.
Determined to be synthetic; Vote - Unanimous.
The NOSB’s decision is to allow this material for use in organic livestock production; Vote - Unanimous.

**Hydrated Lime (Calcium Hydroxide)** - Reviewed by Brian Baker. Determined to be synthetic; Vote - 11 aye / 1 opposed / 1 absent.

The NOSB’s decision is to allow this material for use in organic livestock production; Vote: 11 aye / 1 abstention / 1 absent. Annotation: Not permitted for soil application or to cauterize mutilations or deodorize animal wastes.

**Local Anesthetics (Lidocaine and Procaine only)** - Reviewed by Marta Engel and William Zimmer. Determined to be synthetic; Vote - Unanimous.

The NOSB’s decision is to allow these materials (lidocaine and procaine) for use in organic livestock production. Vote - Unanimous.

Discussion / Annotation: Lynn Coody noted that producers usually administer local anesthetics, and that additional anesthetics should be used only under the general supervision of a licensed veterinarian. Merrill moved and it was seconded by Jay to add the following annotation to the approved local anesthetics: *Use requires a withdrawal period of 90 days in livestock intended for slaughter and 7 days in dairy animals.* Vote: 11 aye / 3 opposed. Motion carried.

**Magnesium Sulfate (Mined Epsom Salt)** - Reviewed by Marta Engel, Lynn Brown, and William Zimmer. Determined to be non-synthetic; Vote: 9 aye / 4 abstentions / 1 absent.

The NOSB’s decision is that this material should not be placed on the Prohibited Natural(s) List. Vote - Unanimous (2 absent).

**Magnesium Sulfate (synthetic)** - Reviewed by Marta Engel, Lynn Brown, and William Zimmer. Determined to be synthetic; Vote: 12 aye / 1 absent / 1 abstentions.

The NOSB’s decision is to allow this material for use in organic livestock production; Vote: 12 aye / 2 opposed. Discussion: Brian Baker noted that the non-synthetic form of this material is currently allowed and is in use. Merrill moved and it was seconded by Jay to add the Annotation: “*External use only on non-ruminants only.*” Vote: 2 aye / 12 opposed. Motion fails.

**Milk Replacers** - Reviewed by Lynn Brown and Marta Engel. Determined to be synthetic; Vote: 12 aye / 0 opposed / 2 abstentions.

The NOSB’s decision is to allow this material for use in organic livestock production; Vote - Unanimous (1 absent). Annotation: Emergency use only when fresh milk is not available. Milk replacers based on non-milk products or from BST treated animals are not permitted. No antibiotics may be added. Milk from certified organic animals is preferred.

**Mineral Oil** - Reviewed by William Zimmer, John Clark, Brian Baker, and Marta Engel. Determined to be synthetic; Vote - Unanimous (1 absent).

The NOSB’s decision is to allow this material for use in organic livestock production; Vote - Unanimous. Annotation: For topical use and as a lubricant.
Determined to be synthetic; Vote - Unanimous.  
The NOSB’s decision is to allow synthetic vitamins for use in organic livestock production;  
Vote: 10 aye / 2 opposed / 1 abstention / 1 absent. Annotation: Limited to those approved by 
the Food and Drug Administration for livestock use.  
Discussion: This discussion initially began as the discussion on Folic Acid and was redirected to 
the evaluation of synthetic vitamins as a group. Fred moved and it was seconded by Rod to 
evaluate vitamins as a category, rather than to review each individual vitamin.  
Vote: 10 aye / 2 opposed / 2 absent. Motion carried. Merrill expressed strong objections to 
acceptance of materials in a category format and asked that each substance be individually 
reviewed.  

Determined to be synthetic; Vote - Unanimous (1 absent).  
The NOSB’s decision is to allow synthetic mineral for use in organic livestock production;  
Vote: 10 aye / 2 opposed / 1 abstention / 1 absent.  
Annotation: Limited to those approved by the Food and Drug Administration for livestock use.  

Determined to be synthetic; Vote - Unanimous (1 absent).  
The NOSB’s decision is to allow this material for use in organic livestock production;  
Vote - Unanimous (1 absent). Annotation: No routine or long term use. May be used only when 
necessary to allow an animal to let down milk during the first few days of lactation and also for 
other approved veterinarian uses.  

Alcohol (Derived from fermentation) - Reviewed by John Clark and Marta Engel.  
The NOSB has determined that this material is non-synthetic and not within the scope of the 
National List.  

Probiotics - Reviewed by Lynn Brown, William Zimmer, and Marta Engel.  
Determined to be non-synthetic; Vote: 9 aye / 0 opposed / 3 abstention.  
The NOSB has determined that this material is non-synthetic and not within the scope of the 
National List.  

Colostrum Whey Antibodies - Reviewed by Lynn Brown and Richard Krengel.  
Determined to be synthetic; Vote: 7 aye / 6 opposed / 1 absent.  
Discussion: After considerable discussion and debate over the synthetic / non-synthetic status of 
colostrum, the following votes were taken:  
1) Is colostrum from livestock not treated with BST synthetic?  
Vote: 0 aye / 11 no / 3 absent.  
2) Should non-synthetic colostrum be placed on the National List as a prohibited natural?  
0 aye / 11 no / 3 absent.
3) Is colostrum from livestock treated with BST synthetic?
   9 aye / 0 no / 3 abstentions / 2 absent.

4) Should synthetic colostrum be prohibited for use in organic livestock production?
   12 aye / 0 no / 2 absent.

Following the aforementioned votes, the NOSB moved to table this material. Motion passed unanimously.

November 3, 1995

The final session of the NOSB meeting was called to order at 8:00 a.m. by chairperson Bob Anderson.

Members in attendance were: Tom Stoneback, Craig Weakley, Dean Eppley, Don Kinsman, Merrill Clark, Michael Sligh, Bob Anderson, Gene Kahn, K. Chandler, Rod Crossley, Kathleen Merrigan, Margaret Wittenberg, and Jay Friedman. Tom Tomas was present as the certifying agency advisor to the NOSB.

National Organic Program staff members present from USDA were: Michael Hankin and Toni Strother.

The TAP coordinators and materials advisors present were: Zea Sonnabend, John Brown, Brian Baker, Lynn Coody, and Bill Wolf.

Kathleen Merrigan moved and it was seconded by Don Kinsman to adopt the arsenate treated lumber resolution. There was one friendly amendment - add “and lumber treated with other prohibited materials” to the title and throughout the document. Motion passed unanimously.

Lynn Coody followed with a continuation of the antibiotics presentation. It was noted that two antibiotics have been historically approved for disease control, while Avermectin is a miticide for which other options exist.

Following the antibiotics presentation, an expanded discussion on killed microbial pesticide ensued.

Michael Sligh and Jay Friedman left the meeting at 9:25 a.m. For voting purposes, there were

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See Arsenate Treated lumber under crops materials, page 37.

See Antibiotics (Avermectin, Streptomycin sulfate, and Terramycin-oxytetracycline calcium complex) under crops materials, page 32-33. Also, see attachment 1.

See Killed Microbial pesticide under crops materials, page 38-39.
now 11 voting Board members.

Immediately following the conclusion of the materials review and voting, Bob Anderson moved and it was seconded by Dean to accept the Orlando minutes. Craig suggested the word “seconded” be added at line 1074 after the word ‘Chandler’ (No objections).

The minutes were subsequently approved by a vote of 9-1, and the NOSB instructed USDA staff to incorporate all previous written revisions submitted by NOSB members, except for the requested vote changes by Merrill.

Margaret Wittenberg was selected as the new chairperson of the Processing, Handling, and Labeling Committee (11-0).

K. Chandler moved and it was seconded by Merrill to have the USDA mail out the NOSB definition of “organic” to the public mailing list. Motion carried unanimously.

Subsequently, the NOSB passed the following resolutions:

**Fiber Processing Standards** - USDA is requested to incorporate processing standards for fibers into the National Organic Program as soon as possible. Because a specific NOSB recommendation on such standards cannot be made before the next meeting of the Board, USDA is requested to use the organic fiber processing standards established by the Texas Department of Agriculture as well as consultations with members of the NOSB Processing, Handling and Labeling Committee as resources for the development of such standards. Craig then moved and it was seconded by Don Kinsman to approve the resolution. Tom Stoneback expressed his support of the fiber resolution. Motion carried unanimously.

**Comment Period for the Proposed Rule** - The public is extremely interested in the development of the national organic program. In order to ensure adequate opportunity for public input on what will be a lengthy and complex proposed rule, we request and urge the USDA to provide a minimum 90 day comment period. Motion carried unanimously.

Bob Anderson then inquired as to how the Board would move ahead on the materials review, and whether or not Zea will continue to serve as the NOSB TAP Coordinator. Kathleen expressed her support for Zea’s continuation. However, Zea said that she was not interested in another contract to continue work. She went on to question what will be done with the monies remaining on John Brown’s contract and what his future role will be. She also expressed her uncertainty as to the USDA’s ability to coordinate the TAP process, and the need for oversight of the USDA. Kathleen then moved forward the Technical Advisory Panel Review Coordinator Resolution: We urge the Secretary to find adequate resources to retain an independent consultant recognized as an expert in organic production, to coordinate the technical advisory panel review process. Her resolution was unanimously approved.

Also at the request of Kathleen, the Executive Committee agreed to develop a policy on what
should be mailed to the USDA/NOSB mailing list. The Executive committee will also decide how to get a sense of the NOSB activities between meetings, in view of the reduced funding. Ms. Merrigan will also lead efforts to coordinate current and past NOSB members in preparing responses to the USDA proposed rule for the National Organic Program.

The ethics document prepared by Fred Kirschenmann was unanimously tabled. The Board also unanimously consented on a Central Midwest location for the next NOSB meeting.

The meeting was adjourned at 10:35 a.m.
The initial session of the National Organic Standards Board (NOSB) meeting was called to order at 11:45 a.m. by Chairperson Bob Anderson.

Members in attendance were: Betsy Lydon, Margaret Wittenberg, K. Chandler, Jean Afterman, Bob Anderson, Fred Kirschenmann, Kathleen Merrigan, Steve Pavich, Dean Eppley, and Michael Sligh. Joan Gussow, Rod Crossley and Jay Friedman joined in later that afternoon. Participating at this meeting as the certifying agency advisor to the NOSB was Brent Wiseman of the Texas Department of Agriculture. Gene Kahn was unable to participate in this meeting.

National Organic Program staff members present from USDA were: Harold Ricker, Michael Johnson, Toni Strother, and Karen Thomas. Also in attendance from the USDA was Eileen Stommes, Director of the Transportation and Marketing Division, Agricultural Marketing Service (AMS).

On the behalf of Lon Hatamiya, Eileen Stommes opened by welcoming everyone to the meeting. She thanked everyone for their patience, hard work and dedication. She also commended the Board’s on its ability to find common ground on many of the more contentious issues that they have been faced with. Eileen then made a presentation to all the new Board members who were present at that time. Those members included Jean Afterman, Betsy Lydon, Steve Pavich, and Bob Anderson (reappointment). She closed by stating that the proposed rule is in its final drafting stages and is moving forward rapidly.

USDA Staff Report - Dr. Harold Ricker, Program Manager of the National Organic Program, was introduced by Bob Anderson. Dr. Ricker went on to introduce the rest of the USDA staff and he also announced that Grace Gershuny has moved to Vermont, but will continue to work for the USDA on a part-time basis. Regarding her position in Washington, there was a vacancy announcement open for it.

Next, Dr. Ricker reviewed the funding status for Fiscal Year 1996. In the next fiscal year (FY 97), Congress has not appropriated any funding for advisory committees. The funding for advisory committees will come from each individual agency’s own funding.

The nomination period has been extended for the following positions on the board: farmer/grower (1), handler/processor (1), consumer/public interest (1), environmentalist (1), and...
scientist (1). Hal urged everyone to help seek out additional applicants. He did not specify when
the proposed rule will be out, but he did note that the USDA is working to make the proposed
rule accessible on the Internet. It will also be available in hard copy.

On the previous executive committee conference call, there was a discussion on what the Board
can do during exparte. Dr. Ricker briefly reviewed some those issues again and Fred followed by
asking if Board members should decline to speak on issues regarding the proposed rule. Dr.
Ricker responded by saying be cautious, and Bob reiterated that Board members could comment
as individuals, but not as a representative of the entire NOSB. Bob closed by noting that this
meeting’s agenda is very aggressive.

The session was adjourned at 12:10 p.m.

The meeting reconvened at 12:50 p.m. and Eileen briefly recognized and presented new Board
member Joan Gussow with a certificate, who had just joined the meeting.

Joe Pierson, Indiana Assistant Commissioner of Agriculture, spoke briefly about the Commission
and commended the Board on its direction and vision. He also went on to welcome everyone to
Indianapolis, IN and to thank the Board for choosing Indianapolis as their meeting place.

The public input session followed Mr. Pierson and subsequently adjourned at 5:36 p.m. The
public input testimony is on file with the USDA.

New Board member orientation followed the public input session at 6:10 p.m. NOSB members
in attendance were: Dean Eppley, Steve Pavich, Rod Crossley, Kathleen Merrigan, Fred
Kirschenmann, Michael Sligh, Bob Anderson, Jean Afterman, K. Chandler, Margaret
Wittenberg, Joan Gussow, and Betsy Lydon. Brent Wiseman was also present. All of the USDA
staff was present.

ACCREDITATION COMMITTEE REPORT:

Kathleen Merrigan stated that the “seal issue” was still a burning issue for the accreditation
committee, especially whether or not private certifiers will be allowed to use their seals to
represent different standards in the national program. The industry is divided on this issue, as
well as the NOSB. Kathleen Merrigan noted that another committee issue is user fees.

CROPS COMMITTEE REPORT:

Steve Pavich did not come prepared to give a report, but did note that bio solids (sewage sludge)
and planting stock for pineapples will be discussed at this meeting.
INTERNATIONAL COMMITTEE REPORT:

Michael Sligh noted that the criteria for determining international equivalency needed to be discussed and he also spoke briefly about the U.S. position on Codex.

LIVESTOCK COMMITTEE REPORT:

Fred Kirschenmann noted that the honey standards for livestock will need to be discussed on Friday.

PROCESSING COMMITTEE REPORT:

Margaret Wittenberg reviewed the processing committee issues: organic fiber, use of dyes in processing, and the use of incidental food additives.

After the committee updates, Bob proposed that the materials committee be reestablished. He reemphasized the legislative responsibility of the Board for materials. He also questioned why certain materials were included in the review books again, and Michael Johnson explained why they were included. These materials included: Sulphur Dioxide, pBO, Leather By-Products, and Killed Microbials.

Bob then looked for a sense from the Board of how they felt about the material reviews. Joan noted some concerns about the materials and reviewers, and Rod noted his inability to make decisions on some of the materials. Overall, the Board expressed discontent with some of the reviews and lumping of materials into categories. Michael Sligh then moved to reestablish the materials committee, and K. Chandler seconded the motion. The motion carried unanimously.

Hal reminded all Board members to submit their expenses in a timely manner.
The meeting was adjourned at 7:00 p.m.

September 19, 1996

The meeting was called to order at 8:10 a.m. by chairperson Bob Anderson.

NOSB Members in attendance were: Jean Afterman, Bob Anderson, K. Chandler, Rod Crossley, Dean Eppley, Joan Gussow, Fred Kirschenmann, Betsy Lydon, Kathleen Merrigan, Steve Pavich, and Michael Sligh. Participating as the certifying agency advisor was Brent Wiseman. Jay Friedman was not present.

Staff members present from USDA were: Harold Ricker, Michael Johnson, Toni Strother, Karen Thomas, and Eileen Stommes.

Technical Advisory Panel Coordinators present were: Zea Sonnabend, Lynn Coody, John
Brown, and Brian Baker.

**Materials Discussion**

Bob Anderson and Mike Johnson reviewed the Materials Oversight Working Group conclusions and the NOSB voting procedures. Mr. Johnson also noted that the synthetic/non-synthetic decision will be a simple majority and abstentions are counted as a "no" vote; absences don’t count toward the majority and 2/3 of the NOSB must be present conduct a vote.

The following votes represent the NOSB materials review and voting that occurred during the remainder of the week. The notes detail the actual votes on each material and some included general comments and other discussion notes.

**Processing Materials**

**Calcium Sulfate** - Reviewed by Joe Montecalvo, Rich Theuer, Steve Taylor, William Zimmer, and Walter Jeffery. Determined to be synthetic; Vote: 12 aye / 1 absent. The NOSB’s decision is to prohibit this material for use in organic food processing; Vote: 11 aye / 1 opposed / 1 absent. The NOSB’s decision is to also prohibit this material for use in foods "made with organic ingredients"; Vote: 12 aye / 0 opposed / 1 absent.

**Chymosin (microbial rennet bio-engineered form)** - Reviewed by Brian Baker, Joe Montecalvo, and Steve Taylor. Determined to be synthetic; Vote: 12 aye / 1 absent. The NOSB’s decision is to prohibit this material for use in organic food processing; Vote: 11 aye / 1 opposed / 1 absent. The NOSB’s decision is to also prohibit this material for use in foods "made with organic ingredients"; Vote: 12 aye / 0 opposed / 1 absent.

**Chymosin (Enzyme Form)** - This material was tabled and sent back to the TAP.

**Clay, various (Fuller’s Earth Attapulgite)** - Reviewed by Joe Montecalvo, Steve Taylor, James Johnson, David Pimental, and John Clark. There was no determination made on this material. Michael Sligh moved and it was seconded by K. Chandler to send the material back to the materials committee for further clarifications; Vote: Motion carried unanimously. The Board was unsure of its current use in organic food processing, and after clarification will send back to the TAP for further review.

**Enzymes: malted/barley** - Reviewed by Joe Montecalvo, Rich Theuer, and Steve Taylor. Determined to be non-synthetic; Vote: Unanimous. This material is prohibited for use in organic food processing; Vote: 5 aye / 8 opposed. [Permitted from an organic source only.]

**Enzymes: mold/fungal, yeast** - Reviewed by Joe Montecalvo, Rich Theuer, William Zimmer, and Steve Taylor. Rod Crossley moved and it was second by K. Chandler to send this material back to the materials committee for further classification; Vote: Motion carried unanimously.
Enzymes: plant, animal - Reviewed by Joe Montecalvo, Rich Theuer, and Steve Taylor. Rod Crossley moved and it was seconded by K. Chandler to send this material back to the materials committee for further classification; Vote: Motion carried unanimously.

Magnesium Carbonate (synthetic) - Reviewed by Joe Montecalvo, Rich Theuer, Steve Taylor, and Walter Jeffery. Determined to be synthetic; Vote: Unanimous. This material is prohibited for use in organic food processing (95% and above); Vote: 4 aye / 9 opposed. However, the NOSB does allow for the use of this material in foods "made with organic ingredients" (95% and below); Vote: 9 aye / 4 opposed.

Magnesium Carbonate (non-synthetic) - Determined to be non-synthetic; Vote: Unanimous.

Bob moved and it was seconded by Rod to send this material back to the TAP for more information on the impurities and contaminants in the natural product. Vote: Motion carried unanimously.

Perlite - Reviewed by Joe Montecalvo and James Johnson. Determined to be non-synthetic; Vote: 9 aye / 2 opposed / 1 abstention / 1 absent. The NOSB’s decision is to allow this material for use in organic food processing; Vote: 12 aye / 1 opposed. Annotation: Filter aid in food processing.

Silicon Dioxide - Reviewed by Rich Theuer, Joe Montecalvo, James Johnson, William Zimmer, and Walter Jeffery. Determined to be synthetic; Vote: Unanimous. The NOSB’s decision is to allow this material for use in organic food processing; Vote: 10 aye / 3 opposed.

Sulfuric Acid - Reviewed by Joe Montecalvo, Rich Theuer, Steve Taylor, and Walter Jeffery. Determined to be synthetic; Vote: Unanimous. This material is prohibited for use in organic food processing; Vote: Unanimous. This material is also prohibited for use in foods labeled as made with organic ingredients; Vote: Unanimous.

Unmodified starches - Reviewed by Joe Montecalvo, Rich Theuer, David Pimentel, and Steve Taylor. Rod Crossley moved and it was seconded by Joan Gussow to send this material back to the materials committee to further define; Vote: 9 aye / 2 opposed / 1 absent. Motion carried.

Whey Protein (Non-Organically Produced) - Reviewed by Joe Montecalvo, Rich Theuer, David Pimentel, William Zimmer, and Steve Taylor. Determined to be non-synthetic; Vote: 12 aye / 1 absent. This material is prohibited for use in organic food processing; Vote: 5 aye / 8 opposed. [Permitted from an organic source only.]

Crops Materials

Amino Acids - Reviewed by Brian Baker and Paul Sachs. Rod Crossley moved and it was seconded by Fred Kirschenmann to send this material back to the materials committee for further classification; Vote: 9 aye / 4 opposed. Motion carried.
Ammonium Soaps - Reviewed by Paul Sachs, Brian Baker, and Bill Wolf. Determined to be synthetic; Vote: Unanimous. The NOSB’s decision is to allow this material for use in organic crop production; Vote: 12 aye / 1 opposed. Annotation: Cannot come in contact with soil or edible portion of crop; to be used as an animal repellant only.

Calcium Chloride (Extracted from brine) - Reviewed by Brian Baker, Walter Jeffery, and Diana Tracy. Determined to be non-synthetic; Vote: 12 aye / 1 opposed. The NOSB’s decision is that this material should not be placed on the Prohibited Natural(s) List; Vote: 1 aye / 12 opposed. Annotation: Allowed for use to correct bitter pit problems in apples allowed for use only in organic cotton production to comply with emergency spray programs or to prevent immediate loss of crop.

Detergents - Reviewed by David Pimentel, Phillip VanBuskirk, and John Clark. Zea Sonnabend recommended that this material fall under the inerts policy. Fred Kirschenmann moved and it was seconded by Steve Pavich to declare that detergents are inert ingredients for the purposes of crop usage; Vote: 8 aye / 2 opposed / 2 abstention / 1 absent. Motion carried.

Fruit Waxes (Plant-Derived) - Reviewed by Paul Sachs, Diana Tracy, Joe Montecalvo, and John Clark. Determined to be non-synthetic; Vote: 10 opposed / 2 abstention / 1 absent. The NOSB’s decision is that this material should not be placed on the Prohibited Natural(s) List; Vote: 7 aye / 4 opposed / 1 abstention / 1 absent. Annotation: Restricted to carnauba and wood-resin.

Fruit Waxes (Animal Waxes) - Reviewed by Paul Sachs, Diana Tracy, Joe Montecalvo, and John Clark. Rod Crossley moved and it was seconded by Bob Anderson to send this material back to the materials committee because of a lack of specific information; Vote: 12 aye / 1 absent. Motion carried.

Gibberellic Acid - Reviewed by Diana Tracy, Brian Baker, Paul Sachs, and William Zimmer. Determined to be non-synthetic; Vote: Unanimous. The NOSB’s decision is that this material should not be placed on the Prohibited Natural(s) List; Vote: Unanimous. Annotation: Must be produced from fermentation of non-genetically engineered organisms.

Humic Acids (from naturally occurring deposits and alkali extracted) - Reviewed by William Zimmer, James Johnson, and Paul Sachs. Determined to be synthetic; Vote: 12 aye / 1 absent. The NOSB’s decision is to allow this material for use in organic crop production; Vote: 10 aye / 2 opposed / 1 absent.

Lime, Controlled Atmosphere - Reviewed by William Zimmer. This material was sent back to the TAP for additional reviews; Vote: 12 aye / 1 opposed.

Magnesium Chloride (Extracted from brine, seawater, and salt deposits) - Reviewed by Brian Baker and Walter Jeffery. Determined to be non-synthetic; Vote: 12 aye / 1 absent. The
NOSB's decision is that this material should not be placed on the Prohibited Natural(s) List; Vote: 4 aye / 9 opposed.

Sewage Sludge - Reviewed by William Zimmer, Brian Baker, James Johnson, Paul Sachs, David Pimentel, Eric Sideman, John Clark, Chris Milne, and Diana Tracy. Determined to be synthetic; Vote: 10 aye / 1 opposed / 2 abstentions. The NOSB has determined that this material is unacceptable for use in organic crop production; Vote: 12 aye / 1 opposed.

Soap-based herbicides - Reviewed by Diana Tracy. Determined to be synthetic; Vote: 11 aye / 2 absent. The NOSB's decision is to allow this material for use in organic crop production; Vote: 11 aye / 2 absent. Annotation: Allowed for use on roadways, ditches, right-of-ways, and around buildings and ornamental crops. Also, Rod moved and it was seconded by Steve to send Pelarganic acid to the TAP. Vote: Motion carried unanimously.

Soap-based algicide/demossers - Reviewed by David Pimentel, James Johnson, John Clark, Chris Milne, and Diana Tracy. Determined to be synthetic; Vote: Unanimous. The NOSB's decision is to allow this material for use in organic crop production; Vote: Unanimous.

Sodium Chlorate - Reviewed by Walter Jeffery and Brian Baker. Determined to be synthetic; Vote: Unanimous. The NOSB has determined that this material is unacceptable for use in organic crop production; Vote: Unanimous.

Sodium Chloride - Reviewed by Brian Baker, Joe Montecalvo, Walter Jeffery, and Diana Tracy. Determined to be non-synthetic; Vote: 12 aye / 1 absent. The NOSB's decision is that this material should not be placed on the Prohibited Natural(s) List; Vote: 3 aye / 9 opposed / 1 absent. Annotation: Allowed for use only in organic cotton production to comply with emergency spray programs or to prevent immediate loss of crop.

Sodium Fluoaluminate (Mined) - Reviewed by Bart Hall and Bill Wolf. Determined to be non-synthetic; Vote: Unanimous. The NOSB has determined that this material is unacceptable for use in organic crop production; Vote: Unanimous.

Sodium Fluoaluminate (Non-mined) - Reviewed by Bart Hall and Bill Wolf. Determined to be synthetic; Vote: Unanimous. The NOSB has determined that this material is unacceptable for use in organic crop production; Vote: Unanimous.

Sodium Silicate - Reviewed by Walter Jeffery. Determined to be synthetic; Vote: Unanimous. The NOSB's decision is to allow this material for use in organic crop production; Vote: Unanimous. Annotation: Allowed for floating tree fruits and fiber processing.

Sulfur Dioxide - Reviewed by Joe Montecalvo, William Zimmer, and Walter Jeffery. Determined to be synthetic; Vote: Unanimous. The NOSB's decision is to allow this material for use in organic crop production; Vote: 10 aye / 1 opposed. Annotation: Allowed for use in
sulfur smoke bombs for control of underground rodents.

**Livestock materials**

**Alcohol (methanol)** - Reviewed by David Pimentel. Material was sent back to TAP for more specific information on: 1) method of manufacture, 2) specific uses, 3) concerns about toxicity, and 4) alternatives. Vote: Unanimous.

**Colostrum Whey** - Reviewed by Lynn Brown and William Zimmer. Determined to be non-synthetic; Vote: 9 aye / 3 absent / 1 abstentions. The NOSB’s decision is to allow this material for use in organic livestock production; Vote: 10 aye / 3 absent. Annotation: No colostrum from rBST treated animals allowed.

After a brief discussion, the NOSB declined to re-open discussion on Killed Microbials, pBO, and Leather By-Product; Vote: 11 aye / 2 opposed / 1 absent.

**Biotechnology Discussion**

Before the discussion began, Michael Sligh distributed handouts with draft language for an NOSB biotechnology policy. Fred read the recommendation, and began the discussion by elaborating on the draft Codex position not to allow genetically engineered products or organisms to be used in organic food production and processing. He followed with more general discussion about the issue and then moved and it was seconded by Jay that the class of genetically engineered organisms and their derivatives be prohibited in organic production and handling systems. Jay then expressed that opinions can be brought forward on this issue without closing off discussions and still retain the position that they are all synthetic. Rod then followed by saying that it was not fair to processors to be forced to determine what’s genetically engineered and what’s not, as the problem of verification still exists. He also reiterated the NOSB’s previous position that allows petitions to come forward on products and then permits the NOSB to vote the material up or down. Zea then noted that she supports Rod’s statements about verification and the motion conceptually, but sides with certifiers, processors and handlers. She went on to discuss yeast streams and whether or not a recommendation like this prevents the possibility of organic bread, organic cheese, etc. She also noted that this recommendation would close many doors where processors do not have any alternatives. Kathleen followed Zea and further expressed the thought that the NOSB can not make up all of the gray areas in the program--but that they could definitely send clear signals of their principles and rationale. Fred again expressed concern over the issue, particularly with the NOSB’s position of looking at materials on a case by case basis. After a few more general comments, the question was called on the motion. Vote: 11 aye / 2 opposed. Motion carried. Please see Attachments for the full NOSB Resolution on Biotechnology.

**Seal Usage Discussion:**
Bob prefaced this discussion by reading the NOSB's resolution on seal usage that was passed at the Austin, TX meeting. Kathleen then recounted the Board's last exchange on the topic, and recognized the varying opinions on the issue. Fred then made several remarks regarding seal usage and also summarized Commissioner Sara Vogel's letter to the Secretary of Agriculture about the issue. He acknowledged that there will be one national standard, but also noted that companies should have the right to distinguish themselves in the marketplace. Margaret then talked about certifier responsibilities for upholding the standards, and that as proposed, individuals would not be prevented from making claims otherwise. She cautioned against certifiers setting themselves up as "The Best" or some other category of being superior to other certifiers. Jay concurred with Fred's notion of certifiers distinguishing themselves in the marketplace, but dissented on the use of seals to indicate that products meet a "higher organic standard". Brent also indicated that a seal was not appropriate for such, and Rod followed with comments regarding potential trade restraint in multi-ingredient products under this type of scenario. After some further discussion, Jay moved and it was seconded by Joan to rescind the resolution. K. moved to table the motion to rescind and it was seconded by Dean. Vote: 7 aye / 4 opposed / 2 abstentions. K.'s motion failed and therefore, no action was taken on the resolution and the meeting adjourned at 6:10 p.m.

September 20, 1996

The meeting was called to order at 8:20 a.m. by Chairperson Bob Anderson.

NOSB Members in attendance were: Bob Anderson, K. Chandler, Rod Crossley, Dean Eppley, Joan Gussow, Fred Kirschenmann, Betsy Lydon, Kathleen Merrigan, Steve Pavich, Michael Sligh, and Margaret Wittenberg. Participating as the certifying agent advisor was Brent Wiseman. Jean Afterman and Jay Friedman were no longer in attendance. It was also noted that 8 members present now constituted a quorum.

Staff members present from USDA were: Harold Ricker, Michael Johnson, Toni Strother, and Karen Thomas.

Technical Advisory Panel Coordinators present were: Zea Sonnabend, John Brown, Lynn Coody, and Brian Baker.

Before beginning, Bob noted that during the public input session, Bruce Krantz had pointed out that the Board had in fact revisited recommendations and that it should, if it be the will of the Board, revisit materials. Dean stated that the Board should be consistent — if issues can be re-opened, then the same should apply to materials. It was noted that the Board should refine its policies regarding revisiting issues and recommendations for clarity and consistency. Bob called for a motion to revisit leather-by-product, and if there was no motion, then the board's original vote stands. There was no new motion.

LIVESTOCK COMMITTEE DISCUSSION
Honey Standards:

Fred Kirschenmann led the discussion on honey standards. Bob agreed to make the changes that were agreed upon and to send a new draft honey recommendation to Fred for distribution to the Board.

The following committee selections and appointments were made:

**Accreditation Committee:**
- Betsy Lydon (Chair)
- Jean Afterman
- Rod Crossley
- Fred Kirschenmann
- Michael Sligh
- Jay Friedman

**International Committee:**
- Kathleen Merrigan (Chair)
- Jay Friedman
- Jean Afterman
- Michael Sligh

**Crops Committee:**
- Steve Pavich (Chair)
- K. Chandler
- Dean Eppler
- Fred Kirschenmann
- Betsy Lydon
- Gene Kahn
- Joan Gussow

**Livestock Committee:**
- Fred Kirschenmann (Chair)
- Bob Anderson
- Kathleen Merrigan
- K. Chandler
- Jay Friedman

**Processing Committee:**
- Margaret Wittenberg (Chair)
- Gene Kahn
- Rod Crossley
- Steve Pavich
- Bob Anderson
- Joan Gussow

**Materials Committee:**
- Jean Afterman (Chair)
- Rod Crossley
- Joan Gussow
- Betsy Lydon
- Margaret Wittenberg
- Steve Pavich
- K. Chandler

**Officers:**
- Bob Anderson (Chair)
- Kathleen Merrigan (Vice-Chair)
- Rod Crossley (Secretary)

**FIBER DISCUSSION**

Margaret Wittenberg led the organic fiber discussion. She also recounted the resolution passed in Austin that the USDA adopt the Texas fiber processing standards. Further, she pointed out the committee’s concerns with the heavy metals used in the dyeing process. Lastly, she reviewed the minor changes to the organic cotton final recommendation, which passed unanimously.
PINEAPPLE PLANTING STOCK

K. Chandler led the discussion on pineapple planting stock. Unfortunately, the Board quickly realized that it was not prepared to move forward on this recommendation and that some additional committee work needed to be done on this issue. Joan moved and it was seconded by K. Chandler to table the discussion and refer it to committee for further elaboration. The motion passed unanimously.

The next executive committee call is set for the first Monday in November at 11:30 EST.

AUSTIN, TX MINUTES

Before moving to approve the Austin minutes, K. Chandler suggested that the USDA use more precise language in the materials voting section of the minutes in the future. Additionally, K. suggested that the biotechnology task force review macro and micro encapsulation and that the crops committee should revisit bio-solids.

Next, the Board formally approved the Biotechnology Policy. (See attached)

Just prior to adjournment, Bob re-acknowledged Brent Wiseman and suggested that if funding permits, to bring the remaining 5 charter members of the board back to one more meeting.

The meeting was adjourned at 1:27 p.m. on Friday.
March 16, 1998

The National Organic Standards Board (NOSB or Board) meeting was called to order at 1:05 p.m. by Chairperson Bob Anderson. Bob began reviewing the four U.S. Department of Agriculture (USDA) Listening Sessions on the National Organic Program Proposal Rule. He noted that the sessions were very positive from the standpoint that everyone supports the USDA developing high standards for organic production.

Bob went on to acknowledge the new Board members attending their first NOSB meeting. Those members included: Carolyn Brickey, Consumer/Public Interest Representative; Marvin Hollen, Farmer/Grower; Bill Welsh, Environmentalist; and Eric Sideman, Scientist.

Next, Bob introduced Keith Jones, the new Program Manager for the National Organic Program (NOP). He also acknowledged Don Kinsman, a charter member of the NOSB. Don passed away in early March.

The public input session followed and the meeting was adjourned at 5:15 p.m. The public input received will be included as a part of the public record on the proposed rule.

March 17, 1998

The NOSB meeting was called to order at 8:08 a.m. by Chairperson Bob Anderson. NOSB Members in attendance were: Betsy Lydon, Margaret Wittenberg, Jean Afterman, Fred Kirschenmann, Steve Harper, Kathleen Merrigan, Bob Anderson, Carolyn Brickey, Eric Sideman, Steve Pavich, Joan Gussow, Rod Crossley, Marvin Hollen and Bill Welsh. Participating at this meeting as the certifying agency advisor to the NOSB was Patricia Kane of the NOFA - NY.

NOP staff members present from USDA were: Keith Jones, Michael Johnson, and Grace Gershuny. Also in attendance from USDA was Eileen Stommes, Deputy Administrator, Transportation and Marketing Program, Agricultural Marketing Service (AMS).

Kathleen Merrigan began the morning session by outlining the NOSB priorities for the upcoming days. These items included:
* Finalize letter to Secretary.
* Develop NOSB reaffirmation statements.
* Determine NOSB position on material “annotations” and manuals.
* Develop augmentation and clarification to prior NOSB positions.
* Write specific statements on top issues of public concern on NOP proposed rule.
* Write letter to Secretary on NOSB role during proposed rule development.
* Discuss NOSB meeting schedule and budget.
* Other – committee structure, role, issues.
* Liaison with other agencies - Environmental Protection Agency, Food and Drug Administration, and the Office of Science & Technology Policy.

Kathleen followed with a discussion of the topics to be covered in the NOSB role(s) letter. The highlights of the letter should include:

* Organic industry is considering and will likely support lawsuits in response to proposed rule. The lawsuits will likely focus on: (1) Language of the Organic Foods Production Act of 1990 (OFPA) is clear and the proposed rule is in violation; (2) Arguments for USDA position on National List is not well supported; and (3) USDA did not appropriately deal with the biotechnology issue.
* The rule does not address or resolve: (1) Synthetics in handling and other OFPA problems (i.e., use of sulfur dioxide SO\_2 in wine, small farmer exemption, etc.) and (2) Secretary’s declaration of what may appear on the National List. It was further suggested that the Board legislatively fix these problems, rather than spend its time debating.

Kathleen went on to discuss the possibility of correcting the National List capitalization in the statute. Grace Gershuny briefly explained the USDA interpretation of the National List section of the OFPA, and USDA’s rationale for adding synthetics to the National List. Bob replied by noting that the OFPA allots the national list process to the NOSB.

Kathleen then requested a vote to provide leeway to refine the brief; Fred Kirschenmann moved and it was seconded by Rod Crossley to allow Kathleen Merrigan to move forward on the brief (13 aye and 1 opposed). Motion carried.

The Board then discussed development of the NOSB reaffirmation statements. In these statements, the Board agreed: (1) Endorses past Board recommendations; (2) Endorses the Board dialogue process; (3) Endorse the USDA-NOSB partnership; and (4) Ask that the USDA recognize the ongoing role of the Board.

A follow-up discussion ensued about additional statements that the Board hoped to develop on ‘annotations’ and ‘program manuals’. Kathleen went on to discuss that Office of Management and Budget (OMB) is opposed to very detailed regulations. This raised the question of how much should be in the rule and how much should be left to program manuals – Kathleen noted the delicate balance, the concerns of flexibility and discretion, the role of the farm plan, and the role of the certifying agent.

Tom O’Brien, Associate Administrator, AMS, briefly discussed the use of program manuals and/or policy manuals in current AMS programs. He noted that National List annotations could be one use for a program manual.
Pat Kane followed by expressing the need for a clear and concise document regarding materials. Joan concurred, and supports the use of a very definitive national list.

The following were identified as needing either augmentation or further clarification:

* Handling principles and materials listing procedure
* Antibiotics and paraciticides
* BSE and animal refeeding
* Manure management
* Fumigation of imports
* Equivalency procedures
* Whole dairy herd conversion
* TAP process standardization
* Genetically modified organisms

**MATERIALS COMMITTEE**

Jean Afterman then led the National List discussion. The items of concern included:

* Annotations should go into rule; materials as recommended should go into rule with change.
* Reservations about operating manuals.
* Concerns about consistency among certifiers.
* Materials as recommended should go into rule without change.
* No consensus on law prohibiting synthetics in processing.

Another topic of concern raised in this discussion centered around the statute’s clear prohibition of synthetics in processing. Joan Gussow reiterated the OFPA’s strict stand that there are no principles in the OFPA for processing activities.

Joan Gussow then led a discussion about USDA removing annotations from the National List portion of the rule. The NOSB agreed unanimously that the materials reviewed and recommended by the NOSB should be made part of the rule precisely as recommended by the NOSB, including the classifications and annotations. Kathleen noted that there should be some allowance for a universe of materials for processing and handling.

Discussion ensued, and Lynn Coody noted that the seven crops criteria do not apply to processing; Fred Kirschenmann suggested the Board develop an interdisciplinary taskforce to develop criteria for determining the appropriateness of materials for processing and livestock, comparable to the criteria used to judge crop materials. Fred Kirschenmann moved and it was seconded by Eric Sideman to establish this task force (Vote: 7 aye, 6 opposed, and 1 absent).

**March 18, 1998**
The meeting was called to order at 8:16 a.m. by Chairperson Bob Anderson. Board members present: Jean Afterman, Steve Pavich, Fred Kirschenmann, Rod Crossley, Steve Harper, Kathleen Merrigan, Carolyn Brickey, Eric Sideman, Joan Gussow, Marvin Hollen, Bill Welsh, Betsy Lydon, Margaret Wittenberg, and Pat Kane as the certifier representative.

He began by thanking the committees and industry representatives on the previous night’s hard work. He also thanked Keith, Tom, Grace, and USDA for all of their work. He then introduced Dr. Isi Siddiqui and thanked him for his leadership in this process.

Dr. Siddiqui, Deputy Assistant Secretary, presented Certificates of Appointment to the new Board members as follows: Carolyn Brickey, Steve Harper, Marvin Hollen, Eric Sideman and Bill Welsh. Dr. Siddiqui then thanked the Board for all its hard work, and acknowledged all those who attended the public input session. He went on to say that the USDA is committed to developing a rule that consumers and the industry can support.

**LIVESTOCK COMMITTEE**

Fred led the discussion of the livestock portion of the rule. As the discussion ensued, Fred moved and it was seconded by Joan to officially endorse the Organic Trade Association (OTA) position relative to the Food Safety Inspection Service prohibition on labeling meat products. **Motion carried unanimously.** (See final Livestock documents as posted to the web for NOSB livestock positions).

**PROCESSING COMMITTEE**

Margaret Wittenberg led the discussion of the procession, handling, and labeling portion of the rule. The following votes were made during the discussion: Rod moved and it was seconded by Bob for USDA to return to the use of “made with organic ingredients,” instead of “made with certain organic ingredients,” as proposed by USDA. **(Vote: 7 aye, 4 opposed, and 3 absent.)** **Motion carried.** Fred moved and it was seconded by Joan to allow the use of private seals on the principal display panel of 95 percent and above organic products, as well as the USDA and State seals. **(Vote: Unanimous - 1 absent.)**

The following resolution was also submitted:

> The National Organic Standards Board (NOSB) endorses and supports the Organic Materials Review Institute’s (OMRI) effort in providing technical information to the NOSB and its committees. Additionally, the NOSB requests that OMRI continue to provide this support during the rulemaking period and also (a) Assist in further identifying materials that need to be reviewed and (b) provide technical support for these reviews. The NOSB further recommends that the USDA and other Non-Governmental Organizations provide subscriptions and other funding vehicles to support OMRI’s ongoing work.

Rod moved and it was seconded by Steve Harper to adopt the OMRI resolution. **Motion**
The meeting reconvened at 2:05 p.m.  

OMRI letter proposal resolution, Rod moved and Steve second, Fred’s friendly amendment.  
**Motion carried unanimously (3 absent).** (See final processing, handling, and labeling documents as posted to the web for NOSB processing, handling, and labeling positions.)

The Board then discussed the legal brief to the Secretary. Resultantly, Fred moved and it was seconded by Rod to continue forward and accept the brief as amended.  
*(Vote: 11 aye, 1 opposed, and 2 abstentions.) Motion carried.*

**CERTIFICATION**

The private seal usage discussion was revisited as well as the use of higher standards. Bob suggested the Board go back to its original position. Rod moved and it was seconded by Carolyn to reaffirm the NOSB’s original recommendations.  
*(Vote: 6 aye, 5 opposed, and 1 absent.) Motion carried.* (See final certification documents as posted to the web for NOSB certification positions).

The session was adjourned at 6:12 p.m.

**March 19, 1998**

The meeting was called to order at 8:20 a.m. by Bob Anderson, chairperson. NOSB members in attendance were: Kathleen Merrigan, Bob Anderson, Carolyn Brickey, Eric Sideman, Betsy Lydon, Joan Gussow, Marvin Hollen, Bill Welsh, Margaret Wittenberg, Fred Kirschenmann, Steve Pavich, Jean Afterman, Steve Harper, and Pat Kane as the certifier representative.

There were additional discussions about certification issues. The following motion was proposed on section 205.219 by Kathleen:

The Secretary shall vest the accredited certification agent with the authority to initially terminate certification (based on known abuse), provided the terminated party retains the ability to appeal that decision to the Secretary. Fred seconded. **Motion carried unanimously.**

**INTERNATIONAL COMMITTEE**

Kathleen moved and it was seconded by Betsy to accept the NOSB International Committee comments. **Motion carried unanimously.** (See final International documents as posted to the web.) Michael Johnson went on to discuss the USDA position on fumigation. Kathleen noted that the proposed rule remained silent on the issue.

Reports from the Livestock and Processing Committees were also discussed and the material can be viewed on Internet at [www.ams.usda.gov/nop](http://www.ams.usda.gov/nop).
The meeting was adjourned at 5:15 p.m.
Official Minutes -- February 1999

NATIONAL ORGANIC STANDARDS BOARD
DRAFT MINUTES OF MEETING

February 9-11, 1999

United States Department of Agriculture
1400 Independence Avenue, SW
Room 3501-South Building
Washington, D.C.

Attendance Record:

Members Present: 13

Jean Afterman
Betsy Lydon
Robert Anderson
Stephen Pavich
Carolyn Brickey
Eric Sideman
Rod Crossley
William Welsh
Joan Gussow
Margaret Wittenberg
Steven Harper
Marc Swartz, Certifying Agent Representative
Marvin Hollen
Fred Kirschenmann

Members Absent: 1

Kathleen Merrigan

Other Attendees:

Dr. Enrique Figueroa, Administrator, Agricultural Marketing Service (AMS);
Keith Jones, Program Manager, National Organic Program (NOP), USDA;
Beth Hayden, NOP, USDA;
Michael Johnson, NOP, USDA;
Tom O’Brien, Associate Administrator, AMS, USDA;
Eileen Stommes, Deputy Administrator, Transportation and Marketing Programs (TMP), AMS, USDA;
Audrey Talley, International Marketing Specialist, Foreign Agricultural Service;
Gary Scavongelli, Associate Deputy Administrator, TMP;
Richard Mathews, NOP, USDA;
Toni Stother, NOP, USDA;
Grace Gershuny, NOP, USDA;
Karen Thomas, NOP, USDA; and
Interested persons from the public
CALL TO ORDER

The meeting was called to order by Mr. Robert (Bob) Anderson, Chairperson of the Board, at 9:10 a.m. on Tuesday, February 9, 1999. Bob gave a brief welcome, thanked everyone for coming, and introduced Marc Schuartz as the certifying agent representative attending this Board meeting. Bob went over the aggressive agenda format, which was different for this meeting. The Committees would begin with updates/progress reports and hold working sessions after the public input session.

COMMITTEE UPDATES/PROGRESS REPORTS

Livestock Committee Update: Mr. Fred Kirschenmann, Chair

Mr. Kirschenmann reported that the Livestock Committee would discuss during its working session public comment on Issue Papers, NRCS practice Standards, NOSB Livestock Recommendations as they relate to manure handling, honey and aquaculture recommendations, and language on hay for temporarily confined ruminants.

Accreditation Committee Update: Betsy Lydon, Chair

Ms. Lydon reported that the Accreditation Committee would discuss during its working session current State and private certifier enforcement policies, what penalty would be leveled for violations, and the previous NOSB recommendations on fee structure.

Crops/Materials Committee Update: Eric Sidman and Carolyn Brickey, Chairs

The committee chairpersons reported that their committees would be discussing manure handling work with the Livestock Committee and National List authority.

Board Procedures Taskforce Update: Carolyn Brickey, Chair

Ms. Brickey announced that the Taskforce Committee would be looking at Board authority, procedures for materials review, and other Board procedures.

International Committee Update: Rod Crossley, Vice-Chair

Mr. Crossley reported that the committee would discuss quarantine practices and Codex.

Interdisciplinary Committee: Joan Gussow, Chair

Ms. Gussow discussed the comments received regarding the survey on Criteria for the Acceptance of Materials Used in Processing and the comments on the Processing Principles Proposal.

Processing Committee Update: Margaret Wittenberg, Chair

Ms. Wittenberg discussed the comments on the retailer questionnaire concerning Maintaining Organic Integrity in Retail Operations.

USDA/ NATIONAL ORGANIC PROGRAM UPDATE

Keith Jones, Program Manager, NOP, USDA
Mr. Jones gave a slide presentation that updated the Board on NOP activities since the last NOSB meeting. Issues discussed were: the NOP budget, USDA’s Food Safety and Inspection Service allowing an interim organic label for meat and poultry, the European Union’s (EU) action on EN 45011/ISO 65, and other issues raised by the 275,603 public comments. Mr. Jones updated the Board on the status of the proposed rule rewrite, stating that internal review would begin as soon as all the sections cleared OGC. He further stated that the plan was to have a joint review with the Department and OMB and that he did not anticipate any problems with the internal review. Additionally, he recommended that the Board’s priority should be on materials, inerts, and recommendations on any new issues.

LIVESTOCK COMMITTEE WORKING SESSION – Fred Kirschenmann, Chair

The Livestock Committee Working Session began with a brief summary of the Committee’s Proposed Recommendations on Wild Animals. Public comment overwhelmingly supported the NOSB’s position on nonconfinement for livestock. He noted situations that would allow for temporary confinement; e.g., inclement weather, protection from predators, etc. Comments on animal medications were again supportive of the NOSB’s positions on antibiotic use, which is to ban all antibiotic use for slaughter stock. There are, however, a number of producers who have expressed concern about a ban on the use of parasiticides.

Zea Sonnabend from the Organic Materials Review Institute (OMRI) presented two charts on materials that are open for Technical Advisory Panel (TAP) review. The charts identified materials that were either referred by NOP from petitioned materials, tabled by the NOSB at a previous meeting, or referred for TAP review by the NOSB but were never completed. (See attachment 1.)

PUBLIC COMMENT PERIOD

The Chair opened the meeting for public comment.

Richard Mandelbaum, CATA/the Farmworker Support Committee

Mr. Mandelbaum was before the NOSB as a spokesperson for the community that makes up its membership. The issue he discussed was “just and humane working conditions.” They have historically been a fundamental component of organic agriculture, both in the management policies of growers and in the minds of consumers. (See attachment 2 for complete testimony.)

Jim Riddle, Independent Organic Inspectors Association

Mr. Riddle presented a press release, "Standardized Certification Forms Published," dated January 31, 1999. Jim informed the Board that the second edition of the IOIA Organic Inspection Manual is now available. He said he felt accreditation was not being addressed in sufficient detail, specifically asking how the reproposed rule will address international compliance, peer review, and synthetics. (See attachment 3.)

Mark Retzloff, Horizon Organic Dairy

Mr. Retzloff gave comments on the NOSB Livestock Committee’s recommendation concerning livestock confinement, in particular the requirement of managed pasture for ruminant animals. Mr. Retzloff said, "We strongly suggest that the NOSB amend the requirement for managed pasture to read 'recommend' or 'encourage' or 'should' instead of 'shall' or 'require.'" (See attachment 4.)

Lynn Coody, for Linda Bullard, President, International Federation of Organic Agriculture Movement (IFOAM)
Ms. Coody read a prepared statement by Ms. Bullard. IFOAM, representing the worldwide organic community, stands with the U.S. organic community in its demand that USDA establish a true public-private partnership in its new version of the proposed rule, as called for in the OFPA itself. IFOAM urged the NOSB to take the international trade aspects of accreditation into account in its deliberations and to recommend that USDA look to this private-sector system for its accreditation needs, rather than creating a costly and redundant accreditation structure within the U.S. Government. (See attachment 5.)

**Jim Riddle, for Emily Brown-Rosen, Northeast Organic Farming Association**

Mr. Riddle read a prepared statement by Ms. Brown-Rosen. The issues addressed were certification, decision-making authority, and options for enforcement. (See attachment 6.)

**Marty Mesh, Florida Organic Grower**

Mr. Mesh thanked everyone for the opportunity to work with them. Marty talked about new Board members’ qualifications, materials requests going out to the public, right of appeal, and enforcement.

**Lynn Coody, Oregon Tilth**

Ms. Coody expressed a concern with constitutional issues, certification, and enforcement. USDA should take a look at other public/private partnerships that are already in place. Certifiers shipping internationally are confused.

**Brian Baker, OMRI**

Mr. Baker expressed his approval of the progress being made by the new management. The NOSB should rely heavily on the expertise that is available. He stated that he looks forward to working with the NOSB on TAP review, particularly moving inerts from the Environmental Protection Agency’s (EPA) list 3 to list 4 and prohibiting inerts from appearing on EPA’s list 1 and 2. Mr. Baker cautioned that the NOSB needs to set aside time for groups to come up with alternatives before completely banning list 1 and 2 inerts. He further recommended that the NOSB use the TAP to determine, based on the seven criteria, materials that are compatible with OFPA. He distributed a list of registered formulations for inert ingredients review which was first presented at the Austin, TX, NOSB meeting. (See attachment 7)

**Michael Sligh**

Mr. Sligh stated that the organic community intends to maintain strong leadership of the future course of organic. The overall proposed regulations must embrace, support, and strengthen the current organic farmers. Mr. Sligh cited 13 issues that need to be considered by the Board or USDA. (See attachment 8)

**Cissy Bowman, Organic Farmers Marketing Association (OFMA)**

Ms. Bowman distributed copies of the OFMA comments on the NOSB Livestock Committee Draft Recommendations for Wild Livestock, the NOSB International Committee Draft Recommendations for Fumigation, the NOSB Livestock Committee Draft Recommendations for Aquatic Livestock Standards, the NOSB Processing Committee survey on Maintaining Organic Integrity in Retail Operations, and the NOSB Interdisciplinary Task Force on Processing and Materials Criteria request for comment on Criteria for the Acceptance of Materials Used in Processing. (See attachment 9.)
Mark King, Certified Retailer

Mr. King has a small 100-percent organic retail produce stand. He would like to keep the product pure and healthful for the consumer. Consumers do not want synthetics in their produce (i.e., genetically modified organisms (GMO), pesticides, etc.).

Phillip LaRaccoa, CCOF LaRaccoa Vineyard

Mr. LaRaccoa spoke to the Board regarding decertification and synthetics. Farmers/wineries don’t want sulfites in their product, whereas the State of California supports this.

Beth Fiteni, National Coalition Against the Misuse of Pesticides

Ms. Fiteni spoke to the Board regarding its position that no synthetics be allowed for use in organic production. She urged the Board to keep in mind people suffering from multiple chemical sensitivity, who rely heavily on the organic industry to provide pure food and clothing that is safe and will not aggravate their symptoms. (See attachment 10.)

Pauline and William Crawford, Los Gatos, CA

Mr. and Mrs. Crawford sent a written statement that addressed: 1) Proposed Rules for Implementing the Organic Foods Production Act, 2) The Organic Foods Production Act of 1990, and 3) The National Organic Standards Board. (See attachment 11.)

Zea Sonnabend, OMRI

Ms. Sonnabend talked about materials and showed a video.

---END OF PUBLIC COMMENT PERIOD---

LIVESTOCK COMMITTEE WORKING SESSION (CONTINUED) - Fred Kirschenmann, Chair

At the conclusion of the public comment session, the Livestock Committee continued its working session with a presentation by Keith Jones, Program Manager, NOP, on draft production language based on the Natural Resource Conservation Service’s (NRCS) practice standards for crop rotation. The NRCS practice standard concept was further discussed with the Board by Beth Hayden of the NOP staff. (For further information on practice standards see www.ncg.nrcs.usda.gov/index.html.) Fred then discussed Organic Watch’s breakdown of comments on the National Organic Program Issue Papers. (See attachment 12.)

WEDNESDAY, FEBRUARY 10, 1999

LIVESTOCK COMMITTEE WORKING SESSION (CONTINUED) - Fred Kirschenmann, Chair

Bob Anderson reconvened the meeting at 9:15 a.m. in USDA's Room 3501-So. Bldg. Bob thanked everyone for staying late last night. The Livestock Committee Chair continued the working session with a discussion on confinement of animals. The issue was raised that OTA’s confinement comments left out: 1) stage of production and 2) stage of transition to organic. Mark Retzloff stated that pasture is not/should not be required.

Fred Kirschenmann discussed two papers sent to the committee by Beth on manure management. (See attachment 13.) The Board showed support for OPTION #2. Brian Baker
noted the need for a composting definition. Eric Sideman expressed concern regarding the 120 days between application of raw manure and harvest of crops proposed by NOP and will get more input to guide NOP on the proper interval. Beth Hayden of the NOP Staff led a presentation on nutrient management. (See attachment 14.)

**JOINT CROPS/MATERIALS COMMITTEE WORKING SESSION - Eric Sideman, Crops Chair, and Carolyn Brickey, Materials Chair**

Eric Sidman started the joint session with a discussion on inert. Inerts have been the single most important topic for both the crops and materials committee. Working with EPA has lent support to a Committee recommendation for the immediate banning of list 1 and 2 inerts, with list 3 to be banned at a future date. Eric further recommended that List 3 be reviewed on a case-by-case basis as some a phase-out will be necessary so as not to disrupt current production. He further stated he expected most of list 4 to be permitted unless specifically prohibited.

It was recommended that the NOSB work directly with the manufacturers to get the information on registered formulations. Carolyn spoke with OGC and EPA in getting this information to develop TAP information. NOP should draft a memo to the manufacturer based on Brian Baker's old list of registered formulations to gather information for a new list. Carolyn indicated that NOP could have a designated officer for signing confidentiality agreements if necessary. The NOSB indicated its timeline for the letter should be about 1 month.

**Crops Committee, Eric Sideman, Chair**

Eric conducted a discussion on practice standards language. The language should specify that manure applications should control the nitrate accumulations in a product. It was noted that California tests and does not have a set limit. Fred indicated the need to address the whole nutrient system. Questions regarding Secretary Glickman’s decision to ban genetically modified organisms (GMO) were raised. Consensus emerged that the materials committee would draft discussion questions on GMO’s for a future meeting. Carolyn stated that she perceives the issue to be how a farmer will know that what he or she is using is GMO free. Rod asked a similar question.

**Material Committee, Carolyn Brickey, Chair**

Carolyn led a discussion on the priority of the National List of material criteria, that the Board should go back and maybe add additional uses. She will review the original Federal Register Notice (See attachment 15) on the criteria for the petition process so new language can be developed for new requests. Annotations should be put back on materials that go through the TAP process at the staff level even though they may not stay in as they go through the OGC/OMB review process.

**ACCREDITATION COMMITTEE WORKING SESSION - Betsy Lydon, Chair**

Betsy chaired the working session discussions on the role of State and private certifiers, enforcement policies, and violation triggers/penalty levels. Discussion centered on a conceptual proposal drafted by Jean Afterman that would allow private certifiers to prevent the use of their service mark (seal) upon: 1) written notification that certification by the private certifier has been terminated; 2) written notification of 30 days to appeal to the Secretary of Agriculture; and 3) written notification of denial to use the private certifier’s seal. Carolyn reminded the Board that OGC has stated that the USDA seal couldn’t be removed until full due process (appeal) has occurred. Lynn Coody of Oregon Tilth presented Oregon Tilth’s Appeal Process. Oregon Tilth has a lengthy process; however, to date there has not been a challenge to their decisions in court.
Jim Riddle of IOIA gave an overview on the IOIA standardized Organic Certification Form Templates. He advocated their use to standardize certification and inspection forms. (See attachment 3.)

Audrey Talley of USDA's Foreign Agriculture Service (FAS) gave a slide presentation entitled "International Organic Food Markets - Opportunities and Regulatory Challenges" (See the FAS Web Site at: www.fas.usda.gov).

INTERNATIONAL COMMITTEE WORKING SESSION - Rod Crossley, Vice-Chair

Rod introduced H. Michael Wehr, Ph.D., Office of Constituent Operations, U.S. Food and Drug Administration. Dr. Wehr presented "Summary Information on the Codex Committee on Food Hygiene (CCFH)," which provided information on the three terms of reference for CCFH. (See attachment 16.)

During this session, Dr. Enrique E. Figueroa, Administrator of USDA's Agricultural Marketing Service, addressed the NOSB. He thanked them for their efforts and expressed the hope that they will continue to move the process forward. Dr. Figueroa discussed the fact that the organic industry was showing tremendous growth by noting that he had given a radio interview with 2,000,000 listeners and that he would be going to Nuremberg and the EU next week. Dr. Figueroa talked about the presentation given during a visit by the farm manager of Prince Charles of the U.K.

Mark Keating presented a paper on alternative quarantine treatment for organic certification. Alternative treatments might be combined temperature treatment, lower oxygen levels, etc. ARS and APHIS have the responsibility for development and enforcement of quarantine treatments. (See attachment 17.)

BOARD PROCEDURES TASK FORCE WORKING SESSION - Carolyn Brickey, Chair

Carolyn began the working session with a discussion on the National List petition process. She stated that the Task Force asked for changes but felt the document used earlier was acceptable except for some outdated language. (See attachment 15.) Carolyn urged the Board to adopt a similar document for processing and livestock materials. The Board encouraged the development of these documents by the next meeting. Additionally, the Task Force will develop criteria for qualifications for new NOSB members by the next meeting. Carolyn posed questions to the Board, such as whether the Board should recommend alternates be named by the Secretary when a member will be away for several months. The consensus was for the task force to make recommendations regarding substitute Board members and the level of their participation in Board activities by the next meeting.

THURSDAY, FEBRUARY 11, 1999

BOARD PROCEDURES TASK FORCE WORKING SESSION (CONTINUED) - Carolyn Brickey, Chair

Bob Anderson reconvened the meeting at 9:15 a.m. in USDA's Room 3501-So. Bldg. A review of the items from Wednesday evening's session was given. Topics covered included: 1) new petition process language; 2) appointment/qualifications of new Board members; 3) Board alternates; and 4) Board substitutes. The Task Force agreed to present its recommendations on these issues at the June meeting.
Re: General Board Procedures. 1) For general actions, the NOSB must take a quorum as a majority. 2) The NOSB will use statutory procedures. 3) Decisive votes of the Board require a two-thirds majority. 4) A material vote requires two-thirds of the Board present at the meeting. Reaction to the conflict of interest language was that the Board needs to get a better understanding. The paper (See attachment 18) will be reviewed internally by USDA and something will be prepared by the Committee for the next meeting.

INTERDISCIPLINARY COMMITTEE ON PROCESSING PRINCIPLES WORKING SESSION - Joan Gussow, Chair

Joan began the working session with a discussion of the changes suggested by commenters to the language in "Criteria for Acceptance of Materials Used in Processing." Joan recognized that many commenters were against the NOSB’s position of allowing synthetic ingredients in processed foods. These commenters assert that the NOSB broke the law by allowing synthetics. Fred expressed concern over the Board’s need to encourage quality products with marketplace integrity. It is the Board's responsibility to determine what can be in organic. The Committee agreed to redraft language in the form of a motion and present it later in the day. (See Board Vote, p. 11.)

PROCESSING COMMITTEE WORKING SESSION - Margaret Wittenberg, Chair

Margaret presented the committee's work on the retailer questionnaire on protection of organic integrity. The committee received about eight or nine comments on allowing voluntary guidelines, confusion over commingling, and the need for education. Margaret indicated this was a work in progress and said that she would report any new information at the next meeting.

NOSB COMMITTEE REPORTS AND ACTION VOTES

DATE: February 11, 1999

Board Vote

Motion: Livestock Committee. Motion by Fred Kirschenmann. Add to the Board recommendation on Confinement of Livestock in an Organic System "stage of production" and "stage of transition of the farm to organic" on the list of exceptions to the requirement that livestock have access to the outdoors. The management practices must make clear that these additional exemptions in no way change the intent that ruminant organic livestock systems be pasture based.

Second: Bill Welsh

Discussion:

Call for the vote

Vote:

Those In Favor: Unanimous

Those Opposed:

Those Abstaining:
DATE: February 10, 1999

Board Vote

Motion: Joint Crops and Materials Committee. Motion by Eric Sideman. Inert ingredients on EPA Lists 1 and 2 shall be prohibited for use in organic production and handling effective on the date of implementation of the final rule of NOP. Synthetic inerts on EPA List 3 shall be prohibited if not specifically approved by the NOSB. This approval process will be completed and published by January 1, 2002. Any inert currently in use in organic production that is not approved by the NOSB will be banned within 18 months after the review is completed and published. To that goal, inerts on EPA List 3 used in products that have active ingredients approved for organic production shall be reviewed by the NOSB on a case-by-case basis for possible inclusion on the National List. The NOSB recommends that inerts on List 4 generally be allowed unless explicitly recommended for prohibition.

Second: Joan Gussow

Discussion:

Call for the vote

Vote:

Those In Favor: Unanimous

Those Opposed:

Those Abstaining:

DATE: February 11, 1999

Board Vote

Motion: Joint Crops and Materials Committees– Eric Sideman moves that the NOSB/NOP send a letter to be modified as needed by NOP to manufacturers of pesticides formulations used in organic production requesting lists of ingredients, including inert ingredients.

Second: Rod Cossley

Discussion: USDA will create/finesse a new draft, and clear it through the NOSB.

Call for the vote

Vote:

Those In Favor: Unanimous

Those Opposed:

Those Abstaining:
Board Vote

Motion: Materials Committee. Motion by Joan Gussow. The NOSB wants to express thanks to the Secretary for acknowledging the Board’s authority over the National List. It is the Board’s expectation that this will continue to be the policy of the Department in the future.

Second: Betsy Lydon

Discussion:

Call for the vote

Vote:

Those In Favor: Unanimous

Those Opposed:

Those Abstaining:

DATE: February 11, 1999

Board Vote

Motion: The Processing Committee. Motion by Joan Gussow. After reconsideration of its former position, the Board wishes to prohibit synthetics in the processing of foods labeled certified organic.

Second: Fred Kirschenmann

Discussion: A yes vote means you want to prohibit synthetics in processing, and a no vote means you want to allow them.

Call for the vote

Vote:

Those In Favor: 5 yes

Those Opposed: 6 no

Those Abstaining: 1

Motion does not pass

DATE: February 10, 1999

Board Vote

Motion: Interdisciplinary Committee on Processing Principles. Motion by Joan Gussow. A synthetic may be used if:
1. That processing aid or adjuvant cannot be produced from a natural source and has no organic ingredients as substitutes;
2. Its manufacture, use, and disposal do not have adverse effects on the environment and are done in a manner compatible with organic handling as described in section 6513 of the OFPA;
3. The nutritional quality of the food is maintained, and the material itself or its breakdown products do not have adverse effects on human health as defined by applicable Federal regulations;
4. Its primary purpose is not as a preservative or used only to recreate/improve flavors, colors, textures, or nutritive value lost during processing, except in the latter case as required by law;
5. It is Generally Recognized as Safe (GRAS) by FDA when used in accordance with Good Manufacturing Practices (GMP) and contains no residues of heavy metals or other contaminants in excess of FDA tolerances;
6. Its use is compatible with the principles of organic handling; and
7. There is no other way to produce a similar product without its use, and it is used in the minimum quantity required to achieve the process.

Second: Carolyn Brickey

Discussion:

Call for the vote

Vote:

Those In Favor: Unanimous

Those Opposed:

Those Abstaining:

DATE: February 10, 1999

BOARD VOTE

Motion: Motion by Rod Crossley. Be it resolved that the National Organic Standards Board recommends that:

A certifying agent retains the authority to terminate its certification of a certified operation where the certifying agent has made a determination that a certified operation has violated the provisions of the Act and the certifying agent shall advise the certified operation of its action by written notice of the termination of certification.

This Termination Notice shall, in addition to terminating certification of all or any part of the certified operation, advise the certified operation of the following:

1. That a copy of this Notice has been forwarded to the Secretary [Administrator];

2. That the certified operation has 15/20/30 days [length of expedited appeals process] from the effective date of the Notice to appeal the action of the certifying agent to the Secretary [Administrator];
3. That if the certified operation fails to file an appeal within the prescribed time, the Secretary shall without further process and in addition to reaffirming the termination of the certification, terminate the Federal license of the certified operation, effective immediately, and shall enforce and prosecute to the fullest extent of the law;

Failure by the certifying agent to advise the certified operation of the consequences of the Notice of termination shall act as a bar to enforcement by the Secretary until such time as the certified operation has been so advised.

Second: Joan Gussow

Call for the vote

Vote:

Those in Favor: Unanimous

Those Opposed:

Those Abstaining:

**PLANS FOR NEXT MEETING**

The next meeting is expected to be held June 8-10, 1999.

Suggested agenda items for the next NOSB meeting:

- Aquaculture and honey standards
- Standards for wild animals
- Livestock materials review
- Inerts list to TAP
- Language on Board policy
- Fumigation
- EU/ISO 65
- Processing materials review

The NOSB meeting was adjourned at 4:00 p.m.
Attendance Record:

Members Present: 12

Robert B. Anderson
Fred Kirschenmann
Carolyn Brickey
Kathleen Merrigan
E. Rod Crossley
Stephen Pavich
Joan Gussow
Eric Sideman
Steven Harper
William Welsh
Marvin Hollen
Margaret Wittenberg
Leslie McKinnon, State Rep.
Lee Barber, Certifier Rep.

Members Absent: 2

Jean Afterman
Betsy Lydon

Other Attendees: Eileen Stommes, Deputy Administrator, Transportation and Marketing Programs (TMP), USDA;
Gary Scavongelli, Associate Deputy Administrator, TMP, USDA
Keith Jones, Program Manager, National Organic Program (NOP), USDA;
Grace Gershuny, NOP, USDA;
Beth Hayden, NOP, USDA;
Toni Strother, NOP, USDA;
Karen Thomas, NOP, USDA;
Robert (Bob) Anderson, Chairperson of the NOSB, called the meeting to order at 8:15 a.m., Tuesday, June 8, 1999, in Room 3109-South Building. Mr. Anderson and Mr. Keith Jones, NOP Program Manager, opened the meeting by thanking each member of the Board and the public for the interest exhibited by them in the NOSB meetings. Mr. Anderson then moved to the next order of business, the NOSB Committee Updates/Progress Reports, which were conducted by the respective NOSB Committee Chairpersons.

NOSB COMMITTEE UPDATES/PROGRESS REPORTS

Livestock Committee Report: Mr. Fred Kirschenmann, Chair

Mr. Kirschenmann reported the committee’s activity on aquaculture standards, wild animal production and certification, parasiticides, and honey standards. With respect to aquaculture standards, the committee reported that it is still in the process of receiving responses from the public regarding the recommendations for aquaculture standards. As a result, the committee announced that updates would be made regarding the aquaculture standards. The committee stated that finalization of the aquaculture standards would be tentatively set for the next NOSB meeting in October.

Mr. Kirschenmann also reported that it has not been able to reach a general consensus regarding the regulations of wild animal production and certification. Further, he informed the Board of some technical difficulties with specific issues surrounding the recommendation on the use of parasiticides. Despite these difficulties, he assured the Board that the Committee will soon finalize the parasiticides recommendations and will send the recommendations out to respective NOSB members and related officials as soon as a draft is available. Finally, he discussed that the honey standard recommendations had been reviewed. The committee has recognized some common issues between honey standards and wild animal production. As a result, the honey standards recommendations would need additional refinement.

Crops Committee Report: Mr. Eric Sideman, Chair

Mr. Sideman reported that efforts to develop recommendations for raw manure use are still in progress. He said the Committee is fully aware of the importance regarding the finalization of the manure standards. He also updated the Board on the status of the letters to manufacturers and formulators of pesticides used in organic production. These letters request lists of ingredients, including inert ingredient for various brand-name products. (See attachment 18.) Information received from manufacturers will be reviewed by the NOP to determine whether inert materials used in these formulations are consistent with the Board’s inert policy guidelines.

Materials Committee Report: Ms. Carolyn Brickey, Chair

Ms. Brickey discussed issues that had been established by the Board Procedures Task Force. The Committee is recommending that procedures be established for: 1) Conflict of Interest; 2) Board Alternates and Substitutes; 3) New Members of the NOSB; 4) Procedure for Voting on Materials; and 5) General Board Procedure. After a brief discussion of these issues, Brian Baker
of the Organic Materials Review Institute presented a mock materials Technical Advisory Panel review discussion.

**International Committee Report: Mr. Robert (Bob) Anderson, Acting Chair**

Mr. Anderson, substituting for Ms. Lydon, updated the Board on enforcement-related issues and draft guidelines for quarantine control standards.

**Processing Committee Report: Ms. Margaret Wittenberg, Chair**

Ms. Whittenberg updated the Board on the status of discussions with other organizations on voluntary retailer standards.

**Accreditation Committee Report: Mr. Robert (Bob) Anderson, Acting Chair**

Mr. Anderson, substituting for Ms. Lydon, led the Board through a summary of enforcement issues from certifiers who are concerned about the misuse of organic labeling. One of the questions that arose in the issue papers questioned who would be the authoritative body that enforces regulations to ensure conformity to fair organic labeling practices.

Discussion then centered on USDA’s efforts to comply with the European Union (EU) directive regarding the International Organization for Standardization/International Electrotechnical Commission Guide 65 (ISO 65). The Committee stressed the importance of organic certifying agencies being in compliance with EU requirements that became effective on June 30, 1999. Agencies that comply with these requirements would be capable of providing organic producers the opportunity to export organic products to EU markets. In assessing fees for the ISO 65 assessment program, the Committee urged USDA to take into account the financial condition of many small certifiers and avoid a burdensome fee structure.

**USDA/NATIONAL ORGANIC PROGRAM UPDATE**

Keith Jones, Program Manager

Keith Jones began his report by stating that the NOP staff was still in the process of rewriting the Proposed Rule and discussed the lengthy process of addressing the approximately 290,000 public comments (approximately 280,000 for the first proposal and 10,000 for the Oct. ’98 issue papers) in the preamble of the revised proposal. Following the discussion regarding the revised proposal, Mr. Jones reviewed the recently published ISO 65 assessment program. (http://www.ams.usda.gov/lsg/mgc/iso65.htm). It was noted that comments regarding the ISO Guide 65 rule must be received by August 9, 1999 (60-day comment period). Further, Mr. Jones mentioned that USDA was specifically engaged in concurrent discussions with the U.K, Netherlands, Denmark, Germany, and France, seeking acceptance of the USDA ISO Guide 65 program.

Further, he announced that four board member positions would be expiring in January 2000. USDA would be requesting, in a Federal Register notice, nominations for a farmer/grower, environmentalist, retailer, and handler/processor. Finally, he updated the Board on vacancy announcements for NOP staff and noted that NOP would be hiring at least three new staff members.

**BOARD PROCEDURES TASK FORCE WORKING SESSION – Carolyn Brickey, Chair**

New Members and Criteria
Ms. Brickey led the discussion regarding the need to ensure strong candidates for the four Board vacancies. She stressed the need for the Board to be actively involved in seeking good candidates. Discussion then moved to how best to get information out on these open slots. Margaret suggested working through Organic Trade Association (OTA) and the Campaign for Sustainable Agriculture (CSA). Diane Goodman, a Task Force member, suggested the NOP website as an obvious information distribution mechanism. Joan suggested that Carolyn appoint a current Board member as point person to whom names can be directed for each open slot. Carolyn asked Margaret, Rod, and Fred to bring to the Board tomorrow a plan on information dissemination. Michael Sligh from Rural Advancement Foundation International suggested the Board needed to "provide a contour description of criteria,"--no minutia, just major concepts. Representatives from the CSA and OTA assured the Board they would be active in soliciting good candidates. Finally, Keith stressed the need for a gender and ethnically diverse group of candidates as diversity is a top USDA priority.

Conflict of Interest

The Committee then moved into discussion of policy and procedures on conflict of interest, Board alternates and substitutes, procedures for voting on materials, and general Board procedures. (See attachment 2.)

Public Comment Session

Julie Anton Dunn, AgriSystems International

Ms. Dunn commented on two main issues concerning the development of organic standards: 1) Certified Organic Wild Catch Fish, Seafood, and Sea Products and 2) Genetically Modified Organisms (GMO’s) as Organic Food Processing Ingredients and Aids. Ms. Dunn expressed the opinion that an effort to bring the issue of wasteful by-catch practices to the forefront and to instill principles of biodiversity and ecosystem integrity are ground-setting. However, organic wild catch standards and certification can challenge fisheries to go a step further – to identify contaminant sources, to consider the feeding practices of the target species, and to more resolutely prohibit practices damaging or non-restorative of the marine ecosystem. She further stated that the organic industry should not allow GMO’s to be included in the list of allowed substances in organic food production. If allowed, the window of opportunity would close for the organic industry. (See attachment 3.)

Suzanne Vaupel, International Federation of Organic Agriculture Movements (IFOAM) World Board

Ms. Vaupel encouraged the Board to adopt a 1993 Committee Resolution as an NOSB recommendation to USDA. She believes such a recommendation would: 1) enhance the public/private partnership called for by the OFPA, 2) reduce redundancy in the accreditation process, 3) potentially reduce costs to those certifiers who choose to be accredited by multiple accreditors as well as costs to USDA, 4) and facilitate international acceptance by providing a common accreditation process. She also requested that USDA review the IFOAM Accreditation Program to determine how IFOAM and USDA might work together in the accreditation process. (See attachment 4.)

Katherine DiMatteo, Organic Trade Association (OTA)

Ms. DiMatteo spoke on behalf of the livestock committee of the OTA. She requested that the NOSB implement specific criteria for review of materials to be used in organic livestock production. She also recommended a set of criteria for parasiticide use in livestock production. After making her recommendations, she posed two questions that required the advice of the
NOSB. The two questions posed were: 1) "Are retail companies that own a private label required to be certified, or is the certification of the copacker sufficient" and 2) "Can the private label product carry the seal or identification of the copacker as an indication of certification of the product?" (See attachment 5.)

James Riddle, Minnesota Department of Agriculture, Organic Task Force

Mr. Riddle proposed three structural options for a public/private accreditation partnership: 1) USDA supervision of International Organic Accreditation Service (IOAS) accreditation, 2) USDA accreditation based on IOAS evaluation and recommendations, and 3) USDA accreditation based on IOAS evaluation. Mr. Riddle explained each of the options mentioned and gave brief cost implications of each. (See attachment 6.)

Emily Brown-Rosen, American Organic Standards

Ms. Rosen commented on the various ways the NOSB could use American Organic Standards to enhance the quality of the Proposed National Organic Standards. She summarized the differences between NOSB recommendations and the American Organic Standards. Also, Ms. Rosen suggested that the NOSB should engage in further Technical Advisory Panel (TAP) reviews and provide assistance to the Food and Drug Administration regarding food-safety in organic food production. (See attachment 7.)

Jim Coakley, Beef Producer

Parasiticides were the main focus of Mr. Coakley's comments. He noted the narrow margins in the livestock industry and the small margin of error that could affect the success or failure of the organic subsector of the livestock industry. He addressed beef producers' problems with parasites and referenced scientific research that supports parasiticide use in the production of organic beef as safe and economically beneficial. (See attachment 8.)

Cissy Bowman, Indiana Farmer

Ms. Bowman expressed concern about the NOSB recommendation that producer applicants must be certified organic producers. She believes the producer applicants should not be limited to certified producers. Ms. Bowman also expressed concern over the potential certification of wild harvested animals. She said that wild caught fish and animals cannot be quality assured. However, Ms. Bowman wants to keep the discussions regarding this issue open.

Audrey McShane, Intern and Consumer

Ms. McShane stated that synthetic and processed foods present a problem in organic food production and sales and expressed a concern over organic food labeling and how poor labeling criteria could mislead consumers.

Mark King, Food Retail Outlet Manager

Mr. King noted that about 15 percent of his total sales are organic sales. He stressed the importance of educating employees about organic product handling and its importance to consumers seeking organic products. Mr. King expressed gratitude to the NOSB for restricting the use of GMO's in organic food production. He mentioned that he requires certification of all organic products that are sold in his store to minimize or eliminate commingling and contamination. Also, Mr. King said that the Organic Trade Association guidelines had been helpful to him in establishing good organic retail practices. (See attachment 13.)
Philip LaRocca, C.C.O.F

Mr. LaRocca stated that he was pleased with the training seminar on ISO 65 and is anxious to see documentation that represents a final agreement that legalizes organic trade between the United States and the EU. He also wants USDA to provide some protection for the small organic farmers so that they will not be eliminated as the market matures.

Diane Bowman, C.C.O.F.

Ms. Bowman responded to the American Standards Project. She explained that she was happy to see that they had been established and encouraged participating members of the organic industry to use them accordingly.

Diane Goodman, Enforcement Delegation

Ms. Goodman suggested that accreditation and organic policies be enforced and delegated hierarchically. She proposed that the authoritative structure of the hierarchy flow as follows: 1) USDA, 2) State Programs, and 3) Certifiers. She commented that USDA would delegate enforcement to the States, and organic should be included with other USDA programs that States implement and enforce. In addition, she stated that an instruction manual should be created for State programs, a Memorandum Of Understanding (MOU) should be established between USDA and State programs, and enforcement issues should be brought to and addressed by NASDA.

Marty Mesh, Florida Organic Growers, Organic Certifier

Mr. Mesh asserted that the NOSB should have an organic certifying agent participate as an official Board member instead of just a representative. He noted that materials to be reviewed by the Board were always issued to him in an untimely fashion. He suggested that materials for review be issued ahead of time so that they could be reviewed properly. In addition, Mr. Mesh expressed his acceptance of the ISO 65 training program. Further, he identified the difficulty that small certifiers experience with organic agricultural exports. As a result, he encouraged USDA to support small certifiers. Finally, Mr. Mesh expressed concern over the difficulty of certifying wild caught fish and animals as organic because of the high probability of commingling and other practices that could destroy the organic quality of the animal.

Michael Sligh, Rural Advancement Foundation, International, and Cochair of the Organic Community of the National Campaign for Sustainable Agriculture

Mr. Sligh explained that he would like to see a hard copy of the NOSB procedures made available to interested parties. He stated that the procedures should contain a clear description of the process involving the revision of final rules and making NOSB recommendations. Also, he expressed the importance of disseminating relevant information to the public in a timely fashion for public comment. He reiterated that the NOSB is the eyes and ears of the public and that the distribution of information regarding vacancies of the NOP staff or the NOSB should be made to the public accordingly. Mr. Sligh informed the NOSB that there should be special guidelines to help small entities and farmers cope with the costs associated with accreditation and certification issues. Finally, Mr. Sligh recommended that the NOSB be placed on record as endorsing the American Organic Standards.

Beth Fiteni, Beyond Pesticides/National Coalition Against the Misuse of Pesticides (NCAMP)

Ms. Fiteni referenced the tremendous growth in the organic sector over the past few decades. She raised the issue of expanding organic production by assisting food producers to make the
conversion to organic farming. Further, she suggested that labeling laws should provide consumers and producers the options necessary to respond to marketplace pressures and help the organic sector grow. Thus, she supported labeling practices that allow products that have been "made with organic ingredients" to be labeled as such. She argued that this would not dilute the meaning of organic and would give consumers the option of supporting the production of organic ingredients, which would help expand the organic sector. (See attachment 9.)

Deborah Brister, University of Minnesota, Organic Aquaculture Standards

Ms. Brister recommended three guiding principles on NOSB aquaculture standards:

1) aquaculture standards should be consistent with the goals and objectives of organic agriculture standards so that aquatic producers have the same types of obligations as terrestrial farmers; 2) standards must accommodate the biology and ecology of farmed aquatic organisms, which differ greatly from those of terrestrial livestock and plants; and 3) the Board should actively seek comments from a broad cross-section of aquaculture producers, academics, and consumers of aquaculture products. Ms. Brister made specific recommendations to the NOSB on the following aquaculture topics: 1) Feed; 2) Environment; 3) Origin and Breeding of Stock; 4) Health; and 5) Harvesting. (See attachment 10.)

Lee Arst, Coleman Natural Products

Mr. Arst expressed his support of the recommendation by the NOSB to prohibit the use of hormones and antibiotics and only allow organic animals to eat 100 percent organic feed. However, he opposed the potential prohibition of parasiticide use in slaughter stock. He advocated that parasiticides be allowed in the treatment of slaughter stock, at least until a thoroughly tested natural alternative is developed. He commented that:

1) parasiticides improve the health of the animal when properly used; 2) humane animal treatment demands the use of parasiticides; and 3) if parasiticides are not used, organic livestock producers will have lower profits, hampering their ability to compete in the marketplace. (See attachment 11.)

Rebecca Goldberg, Environmental Defense Fund (EDF)

Ms. Goldberg commented on two main issues. She recommended that the NOSB restrict or ban the use of fish meal in feeds for farmed fish and other animals, and she suggested that it only allow net-cages for fish farming if net-cage operators institute nutrient management plans that recycle nutrients. Expanding on her comments, Ms. Goldberg pointed out that fish meal and fish oils are inefficient feeds because they result in a net loss of fish protein. Also, she expressed opinion that organic certification for net-cage farms should be limited to those farmers with credible plans for recycling and removing the nutrients that they introduce into the habitat. (See attachment 12.)

George Lockwood, Former Aquaculturalist

Mr. Lockwood voiced a concern for the welfare of the small fish farmers. He wanted to make sure that the NOSB would not exclude the small fish farmers when developing regulations and standards. He said that the development of good aquaculture standards is a must.

Dan Herman, Natural Fisheries Institute
Mr. Herman advised the NOSB to be cautious in the evaluation of fish meal and fish oil. He mentioned that Menhaden is an excellent feed source that provides a high level of Omega 3 oils, which result in health benefits.

---End of Public Comment Period---

LIVESTOCK COMMITTEE WORKING SESSION – Fred Kirschenmann, Chair

The working session focused primarily on parasiticide use. Discussion centered on:

1) allowing antibiotic parasiticides to be used in livestock production; 2) restricting the use of parasiticides to last resort measures; and 3) providing deviation standards for species on a special-case basis. Further questions and comments emerged. Questions on how deviations should be evaluated, the probability of parasiticides affecting one species and not another, and the frequency of parasiticide use were raised in the subsequent discussion. It was generally agreed that if deviations were to be allowed, all species must be subject to the same criteria. The question of how to make allowances for standard deviations dominated the subsequent discussions.

Other topics discussed in the working session included the evaluation of management plans to prevent ecological damage, enforcing an extended withdrawal period for materials under Food and Drug Administration jurisdiction, and the potential 5-year phase-out period of parasiticides. In conclusion, the Committee decided that, should the Board allow parasiticide use, it should provide written guidelines governing the deviations from standards. Further, it was agreed that the Board should encourage USDA to give greater attention to researching alternatives to parasiticides and evaluate different forms of parasite control.

Wednesday, June 9, 1999

LIVESTOCK COMMITTEE WORKING SESSION, (CONTINUED) – Fred Kirschenmann, Chair

Presentation by Merideth Sandler, Associate Director for International Affairs, Commerce and Transportation, to Alaska Governor Tony Knowles - Wild Caught Salmon

Ms. Sandler’s presentation focused on why the State of Alaska believes ocean-harvested seafood, particularly Alaskan salmon, is compatible with organic production standards. She explained that ocean-harvested seafood uses sustainable production methods that rely primarily on natural materials and that Alaskan salmon are raised in pristine waters. Her presentation demonstrated that ocean-harvested seafood is an essential element of the Alaskan economy and vital to the economies of its rural and isolated communities. She requested, on behalf of the State of Alaska, an NOSB recommendation allowing ocean-harvested seafood to be certified as organically produced. (See attachment 14.)

Some Board member expressed reservations about wild-caught seafood being labeled as certified organic. The control over feed sources was a central concern. Other Board members stated that, if the feeding grounds of salmon can be controlled, then it should be able to be certified. Still others expressed concern that fish cannot be monitored like other animals. Lacking consensus, the Board tabled the topic for further review and discussion.

Mark Keating announced that there might be a National Aquaculture Convention in the fall. He stated that the conference would let people know what is going on in the Livestock Committee by bringing producers together. He recommended that the NOSB address the issues of fish feed, its variety, and possible certification of feeds originating from wild-caught fish. He also
recommended that efforts be directed toward solving the issue of animal confinement and water quality. Fred Kirschenmann stated that a motion would be crafted regarding those issues. The Livestock committee wanted to make it clear that it must keep separate definitions of feed and supplements. Feed must be 100 percent organic; supplements don't have to be organic but their materials must be approved on the national list (5-percent supplement).

At this juncture, Dr. Enrique Figueroa, Administrator, Agricultural Marketing Service, addressed the Board briefly. Dr. Figueroa thanked Keith Jones and the Livestock and Seed Division for the excellent job it had done with regard to ISO 65 assessment training. Dr. Figueroa stated that the rewritten proposed rule would be precleared in the Department and that he did not expect any major problems or delays once OMB started its review. Dr. Figueroa congratulated Eileen Stommes and her staff on being a finalist in the Kennedy School of Government (Harvard University) Innovations in American Government awards program for the NOP’s Internet rulemaking project. The NOP was one of 25 finalist selected from 1,200 applicants nationwide.

CROPS COMMITTEE WORKING SESSION – Eric Sideman, Chair

Eric Sideman gave an update on the manufacturer letters that were mailed by the NOP. The letter was modified to request the lists of ingredients, including inert ingredients. General committee discussion on practice standards ensued, with the Board offering corrections and changes to the NOP staff.

BOARD PROCEDURES TASK FORCE WORKING SESSION – Carolyn Brickey, Chair

The Committee Chair gave a presentation of criteria for new NOSB members. Edits were included and are to be approved by resolution on Thursday. The Committee went on to discuss conflict of interest; Board alternates and substitutes; procedures for voting on materials; and general Board procedures (See attachment 2.) Carolyn stated that by Mid-August a TAP review process would be initiated with TAP-related information posted on the Internet.

MATERIALS COMMITTEE WORKING SESSION – Carolyn Brickey, Chair

The Committee Chair introduced Mr. Brian Baker, Organic Materials Review Institute (OMRI), who gave an overview and walk-through of a hypothetical TAP review. Mr. Baker used the materials, aspirin and sodium bicarbonate, for the walk-through, these materials having been previously reviewed by the Board.

Thursday, June 10, 1999

Mr. Mark Bradley, AMS Livestock and Seed (LS) Division gave a presentation on the LS ISO Guide 65 program. Mr. Bradley stated that LS was ready to receive quality manuals and will review them on a first-come, first-served basis. The ISO Guide 65 guidelines will be the assessment tool, and the first field reviews will be performed by three auditors. The program will be user-fee funded at $42.20 per hour. Fee increases are being contemplated, but no dollar amounts have been set. Mr. Bradley stated USDA could use documentation prepared in conjunction with other accreditation assessments. He further stated that much of the review work would be in Washington, D.C. but private certifiers would need to have a brief site visit. Costs associated with the site visit would be paid for by the private certifier. Information regarding accreditation status would be posted on the AMS website.

State programs will be required to submit quality manuals for review but will not have to undergo a site visit. Documentation requirements for State programs will include written ISO 65 manuals and an operating manual or policy manual. In response to a question, Mr. Bradley stated that
compliance reports will not be routinely released although they would be subject to release under the Freedom of Information Act.

INTERNATIONAL COMMITTEE WORKING SESSION - Bob Anderson, Acting Chair

A presentation on draft guidelines for quarantine control standard was given by Mark Keating. (See attachment 17.)

PROCESSING COMMITTEE WORKING SESSION – Margaret Wittenberg, Chair

Ms. Wittenberg discussed retailer standards. She made the point that OFPA does not mandate retailer certification and perhaps this issue should be addressed after implementation. She recognized the vital role consumers could play in holding a retailer accountable for certification. Due to the lack of authority under OFPA, any retailer certification would be voluntary. She commented that one critical question is whether the industry should address this issue through general education or regulation. Keith Jones commented that this issue and attendant concerns could be fully discussed during the roll-out of the rule Keith further suggested that discussion of an organic promotion effort within USDA be tabled until after the release of the proposed rule.

ACCREDITATION COMMITTEE WORKING SESSION – Eric Sideman, Vice-Chair

Leslie McKinnon, Program Manager of the Texas Department of Agriculture’s organic certification program, presented its penalty matrix. She noted that each type of violation has a written enforcement procedure outlining steps to follow, notification requirements, appeals process, etc.

The Accreditation Committee suggested the need to establish MOU’s with State programs. It was further suggested that the National Association of State Departments of Agriculture needs to draft legislation for State programs. Keith Jones noted that USDA does not intend to force a State to put a program in place; that is the prerogative of its citizens and legislators. A question regarding traceability was voiced, and the committee had a brief discussion on permitting certifiers to set up an effective and efficient recordkeeping/traceability system. It was the consensus of the Committee to set up an Enforcement Task Force to review enforcement models and make recommendations as to how USDA might work with State and private certifiers. Keith was asked if the NOP had addressed how the small farm exemption would be monitored. He said that the program had not addressed those details.

At this time the Committee heard a presentation by Susan Vopal, representing the International Federation of Organic Agriculture Movements (IFOAM) regarding a previous committee resolution for IFOAM Accreditation by USDA and supporting cooperation between IFOAM and USDA.

NOSB COMMITTEE REPORTS AND ACTION VOTES – Bob Anderson, Chair

DATE: June 10, 1999

Board Vote

Motion: Motion by Fred Kirschenmann. The Livestock Committee moves to prohibit, above levels needed for adequate nutrition, the use of injected, implanted, or ingested animal drugs, synthetic trace elements, feed supplements, and additives for the purpose of promoting or stimulating growth.

Second: Bill Welsh
Discussion:

Call for the vote

Vote:

Those In Favor: 10
Those Opposed: 0
Those Abstaining: 1

DATE: June 10, 1999

Board Vote

Motion: Motion by Fred Kirschenmann. The Livestock Committee moves that feed additives (as defined by the NOSB) must meet the requirements of the June 2, 1994, Livestock Feed Standard and cannot exceed 5 percent of the total feed ration. Multiingredient processed products for animals that are labeled "organic" must comply with the labeling requirement of not more than 5 percent of dry weight, nonagricultural products.

Second: Rod Crossley

Discussion:

Margaret Whittenberg moved to table this motion; this issue needs input and information from the public.

Seconded by: Steven Harper

Call for the vote

Vote:

Those In Favor: 9
Those Opposed: 2
Those Abstaining: 0

Motion Tabled

DATE: June 10, 1999

Board Vote

Motion: Motion by Fred Kirschenmann. The Livestock Committee moves that the NOSB approve the Committee’s recommendation for a deviation from the standard regarding the use of parasiticides in livestock which will then be submitted for public comment.
Second: Joan Gussow

Discussion:

Pass as is with Wallace Institute to craft language to explain the Board’s intent.

Agree in principle, circulate Wallace Institute draft for Board vote.

Call for the vote

Vote:

Those In Favor: 5
Those Opposed: 5
Those Abstaining: 1

MOTION DOES NOT PASS

DATE: June 10, 1999

Board Vote

Motion: Motion by Fred Kirschenmann. The Livestock Committee moves that the NOSB support the Committee’s recommendation urging USDA to convene a National Conference on organic aquaculture as soon as possible.

Second: Joan Gussow

Discussion:

Call for the vote

Vote:

Those In Favor: 11
Those Opposed: 0
Those Abstaining: 0

DATE: June 10, 1999

Board Vote

Motion: Motion by Fred Kirschenmann. The Livestock Committee moves that the NOSB request that the Committee continue their effort to gather information concerning the certification of wild animal production as organic and present a formal recommendation to the NOSB at the next meeting.
Second: Marvin Hollen

Discussion:

Call for the vote

Vote:

Those In Favor: 9
Those Opposed: 2
Those Abstaining: 0

MOTION PASSED

DATE: June 10, 1999

Board Vote

Motion: The Livestock Committee moves that the NOSB recommend to the USDA/National Organic Program that language be incorporated into the regulation and practice standards that organic practices (farming, wild-crop, or handling) must foster biodiversity and protect and optimize the habitats and ecosystem of endangered and threatened biological species, including plants and animals.

Second:

Discussion:

Rod Crossley moves to table this motion.

Steven Harper seconds Rod’s motion.

Call for the vote

Vote:

Those In Favor: 11
Those Opposed: 0
Those Abstaining: 0

Motion is tabled

DATE: June 10, 1999

Board Vote
Motion: Motion by Eric Sidman. The NOSB recognizes that the OFPA exempts retailers and handlers that do not process from mandatory certification. The NOP and the NOSB should continue to review this situation providing such assurance of organic integrity to the consumer.

In the meantime, we request that AMS with assistance from the organic trade develop point of purchase materials that provide consistent information about organic certification to the consumer that is sufficiently comprehensive to enable the consumer to determine that the organic integrity has been maintained.

Second: Kathleen Merrigan

Discussion:

Call for the vote

Vote:

Those In Favor: 11
Those Opposed: 0
Those Abstaining: 0

DRAFT DRAFT DRAFT DRAFT DRAFT

National Organic Standards Board

June 10, 1999

Recommendation for Criteria for National Organic Standards Board Membership

1. A general understanding of organic principles and practical experience in the organic community, particularly in the sector for which the person is making application.
2. Demonstrated experience in the development of public policy, such as participation on public or private advisory boards, boards of directors, or other comparable organizations.
3. Participation in standards development and/or involvement in educational outreach activities.
4. A commitment to the integrity and growth of the organic food and fiber industry.
5. The ability to evaluate technical information and to fully participate in Board deliberation and recommendations.
6. The willingness to commit the time and energy necessary to assume Board duties.

Carolyn Brickey moved.

Kathleen Merrigan seconded.

Call for the vote

Vote:
Board Procedures Task Force Report to the Board

June 10, 1999

Board Alternates and Substitutes

Discussion

The Task Force has researched the issue of appointments of alternate NOSB members and the question of allowing members to provide a substitute in their absence. In our investigation, we have found that some other advisory committees under USDA do, in fact, have alternates. Alternates are reimbursed for expenses to attend Board meetings only in the absence of a member whom they are representing. Because the appointment of NOSB members by the Secretary of Agriculture is specifically set out in the Organic Foods Production Act, the statute would have to be amended in order for the Secretary to appoint alternates. The Task Force would not recommend the pursuit of any legislative changes to OFPA until after its complete implementation. At some time in the future, the Board may recommend legislative changes based upon the evolution of the industry and the need to update procedural language. As of this writing, we are waiting to see statutory language that allows the appointment of alternates to other Boards and will reference this information in developing a future resolution to the Board.

Other boards, such as the Agriculture Research and Extension Advisory Board, do not have a provision for alternates but allow members to appoint a substitute in their absence. The substitute may take notes on behalf of the absent member at public Board meetings and on teleconferences in which the member should be present. The substitute may not vote on Board actions, participate in Board discussion unless requested to do so by the Board, sit at the Board table, or in any manner participate with the Board other than as a member of the attending public.

In consideration of the existing precedents, the Task Force presents the following proposal.

Recommendation

Be it resolved by the National Organic Standards Board:

That members of the Board shall be permitted to designate a substitute in their absence to take notes and collect information on their behalf at public Board meetings and to listen in on teleconferences to which the member is expected to participate. The substitute may present documents, proposals, and recommendations on behalf of the absent member and may be called upon by Board members to offer explanation of the submitted material. The substitute may not vote on Board actions, sit at the Board table, or participate in Board discussion except when requested to do so by Board members. Substitutes may participate as a member of the public at open meetings and may offer public testimony on their own behalf. The substitute will not be reimbursed for expenses incurred in attendance at NOSB meetings. In all cases, the designated substitute is a representative of the Board member, not the member's affiliation or business.

Carolyn Brickey moved.
Call for the vote

Vote:

Those In Favor: 10
Those Opposed: 0
Those Abstaining: 1

DRAFT DRAFT DRAFT DRAFT DRAFT

Board Procedures Task Force Report to the Board

June 10, 1999

Conflict of Interest

Discussion

The purpose of a provision defining "conflict of interest" is to ensure that business conducted by the NOSB be above reproach in all aspects of Board activity. This provision includes, but is not limited to, any Board member or party who owns, manufacturers, or distributes a material for which the party has petitioned the NOSB for inclusion of that material on the National List.

The Board recognizes that Members have been specifically appointed to the Board to provide advice and counsel to the Secretary of Agriculture about policies related to the development of organic standards, the acceptance of materials on the National List, and other related policies. The Members have been appointed because they have professional expertise which enables them to advise the Secretary and may, at times, present inherent conflict of interest which has, as a matter of law, been waived. Therefore, the Board does not intend to restrict its Members from taking positions in favor of or in opposition to petitions or proposals from which their businesses may generally benefit. Given this context, any NOSB member who may derive a direct financial gain from action taken, including, but not limited to, influencing the Board or its decisionmaking process, on behalf of herself or himself or another party, shall disclose his or her interest to the Board and the public, when he/she or his/her affiliated business stands to gain from a vote which he/she casts in the course of Board business. It is, rather, the Board's intention to prevent overt advocacy for direct financial gain.

Recommendation

Be it resolved by the National Organic Standards Board:

That members of the Board shall refrain from taking any official Board action from which that Board member is or would derive direct financial gain. Board members shall disclose their interest to the Board and the public when they or their affiliated business stand to gain from a vote which they cast in the course of Board business. Under certain circumstances, the Board may determine whether it is appropriate for the member to vote.
That members of the Board shall refrain promoting for consideration any material, process, or practice for which the member is or would derive direct financial gain arising out of such Board action. The act of promoting such material, process, or practice shall include private discussion with members of the Board advocating the value of the material, public discussion, and/or written advocacy.

A "direct financial gain" is defined as monetary consideration, contractual benefit, or the expectation of future monetary gain to a Board member, including, but not limited to, financial gain from a party who manufacturers, distributes, or holds exclusive title to a formula for a material or product, process, or practice.

Carolyn Brickey moved.

Rod Crossley seconded.

Call for the vote

Vote:

Those In Favor: 11

Those Opposed: 0

Those Abstaining: 0

Vote for new NOSB Vice-Chair due to the resignation of Kathleen A. Merrigan.

The Board voted unanimously for Carolyn Brickey as the new NOSB Vice-Chair.

The Next NOSB Meeting was tentatively set for October 25-28, 1999.

The meeting was adjourned at 4:25 p.m. (ET).

ROBERT ANDERSON, Chair
National Organic Standards Board

KEITH JONES, Program Manager
National Organic Program
Attendance Record:

Members Present: 12

Robert B. Anderson
Fred Kirschenmann
E. Rod Crossley
Stephen Pavich
Carolyn Brickey
Eric Sideman
Steven Harper
William Welsh
Marvin Hollen
Margaret Wittenberg
Betsy Lydon
Miles McEvoy*
Marian Casazza*

*Certifier Representatives—Mr. McEvoy and Ms. Casazza are employed by the Washington Department of Agriculture (WDA) and Quality Assurance International (QAI), respectively.

Members Absent: 1

Joan Gussow

Other Attendees:

Kathleen A. Merrigan, Administrator, Agricultural Marketing Service (AMS), USDA;
Michael Fernandez, Special Assistant to the Administrator, AMS, USDA;
Eileen Stommes, Deputy Administrator, Transportation and Marketing Programs (TMP), USDA;
Gary Scavoneelli, Associate Deputy Administrator, TMP, USDA;
Keith Jones, Program Manager, National Organic Program (NOP), USDA;
Grace Gershuny, NOP, USDA;
Beth Hayden, NOP, USDA;
Toni Strother, NOP, USDA;
Ramona Fernandez, NOP, USDA;
and other interested persons from the public (See attachment A.).
CALL TO ORDER

Robert (Bob) Anderson, Chairperson of the NOSB, called the meeting to order at 1:00 p.m., Monday, October 25, 1999, in Room 3501-South Building. Bob introduced Marion Casazza, QAI, and Miles McEvoy. WDA as the certifier representatives for this meeting. Miles discussed the newly formed National Association of State Organic Programs (NASOP). Mr. McEvoy also encouraged USDA to rethink the handler exemption contained in the Organic Food Production Act in so as to prevent a loss of the audit trail.

Kathleen A. Merrigan, Administrator, AMS, also welcomed the NOSB and the interested persons in the audience. She thanked everyone for coming and gave an update on the status of the National Organic Program's proposed rule. Kathleen said the proposed rule would be going over to the Office of Management and Budget (OMB) about the second week in November. OMB has, by law, 90 days to review the document. This rule is longer than the last proposal due to the approximately 290,000 comments (including the issue papers). She explained the new preamble format which references changes made and not made due to comments and changes made due to information gained outside of the comment process. She said the rule would not be perfect and should not be expected to satisfy everyone but that she believed the rule to be "in the ballpark" for industry and consumer expectations. She further reminded everyone that this is still a proposed rule and there will be another opportunity for public comment.

Kathleen also recapped a meeting she had with the staff of Senator Ted Stephens, R-Alaska. Senator Stephens has requested, through an appropriations rider, AMS to hold two national meetings to begin development of organic standards with respect to seafood. One meeting is to be held in Alaska and one on the Gulf Coast. The information gathered at these meetings will be used to develop draft regulations establishing national organic standards for seafood. These regulations will be published separately from the revised rule and are expected to be published in FY 2000. In closing, Kathleen introduced Dr. Michael Fernandez, as the new Associate Administrator of AMS. Dr Fernandez comes to AMS from the Environmental Protection Agency (EPA).

Bob Anderson updated the Board on adjustments to the posted agenda and alerted the board and guests to a possible room change. He closed, noting that the "amino acids" would be tabled for further information and possibly addressed again at the June 2000 meeting.

Public Comment Session

Allan Shaninsky, Petalumna Poultry Processors, Inc.

Mr. Shaninsky addressed the Board asking them to include the supplemental amino acids (methionine, lysine, and threonine) in their recommendations for inclusion on the National List of permitted materials for use in production of organic livestock. (See attachment 1.)

Mark Retzloff, Horizon Organic Dairy

Mr. Retzloff spoke to the Board on behalf of Horizon Organic Dairy regarding a possible ban on the use of amino acids in organic production. Mr. Retzloff shared with the Board the opinions of the veterinarians, herders, farmers, and the others on the possible ramification of a ban on amino acids. (See attachment 2.)

Bruce Krantz, Hynite Corporation
Mr. Krantz addressed the Board regarding hydrolyzed leather meal. Mr. Krantz advocated for leather meal to be included on the National List. (See attachment 3.)

**Katherine DiMatteo, Organic Trade Association (OTA)**

Ms. DiMatteo discussed the AOS and noted which issues are not included in this third draft. An electronic copy will be available on the OTA web site. She said she believes the draft provides a good industry reference and what it will be looking for in the next proposed rule. She also gave the NOP a document giving NOSB background and key dates. (See attachment 4.)

**Kathleen Downey, Organic Materials Review Institute (OMRI)**

Ms. Downey thanked the NOSB for the opportunity to conduct the Technical Advisory Panel (TAP) review. She explained how the process worked and the prohibitions for disseminating TAP information to the public prior to the Board’s review. She further explained that all materials reviewed for this meeting had been tabled in previous NOSB meetings. She closed saying that OMRI looks forward to a new openness of the process. (See attachment 12.)

**William Jackson, Enviro Consultant Service, LLC**

Dr. Jackson spoke to the Board on enzymes (digestive aids) and that small quantities only are safe and are available form other than animal sources. Dr. Jackson suggested a use of a tailored selection of enzymes that follow certain criteria. (See attachment 15.)

**David Letourneau, California Certified Organic Farmer**

Mr. Letourneau spoke to the Board regarding materials and genetic engineering. He requested that meeting materials be sent out as soon as possible so that the organic community is well informed and able to provide the Board with needed information. He is concerned that materials decisions may negatively impact small producers. Mr. Letourneau also stated that small producers are concerned about the use of synthetics in minor ingredients and processing aids, the use of genetic engineering outside of organic production, and the danger of genetic pollution of organic seed and crops. The burden of responsibility should be placed on the producers of the pollution and not by the organic producers. He talked about the need for the NOSB to address the guiding principles and philosophy of the organic industry.

**Cissy Bowman, Organic Farmers Marketing Association, Indiana Farmer**

Ms. Bowman stated that she was pleased regarding the Board's continuing effort to make information more accessible to the public but regrets that information on tabling the amino acids discussion was not available earlier as some people traveled here today specifically to discuss this material. Cissy also requested that the NOSB ensure that States are informed about decisions in a timely manner. Further, she asked the NOSB to be sure that synthetic ingredients are not included in the National List for processed products.

**Mark King, Food Retail Outlet Manager**

Mark discussed handling of organic food in retail stores and encouraged an organic program of certification of handlers. He explained the experience of implementing a certification program in his store and the positive aspect of working with his certifier. He also noted that genetically modified organism (GMO)-free product is beginning to appear at the retail level.
Marty Mesh, *Florida Organic Growers, Organic Certifier*

Marty discussed the organic impact of GMO's in the environment and responsibility. He commented on the need for a certifier on the NOSB as a regular seat. He said he is representing Florida growers who want to use ethylene for fruit ripening on fruits other than bananas, although he has personal concerns over its use. He doesn't want to encourage picking green fruit. His growers need to have a fruit wax for shipping. He saw organic wild fish at EXPO East and was very concerned about a move to label these products as organic. Organic feed supplements should be separated from organic feed so we can have 100 percent organic feed and also have needed feed supplements. He closed by saying he wants the industry to be more involved in the material review process.

**James Riddle, American Organic Standards (AOS) and Minnesota Department of Agriculture**

Jim addressed three items: 1) organic principles as described in the AOS, 2) potential for a "certified wild" label; and 3) the Minnesota Department of Agriculture Organic Cost-Share program. He stated that he believes AOS will be a de facto national standard until a final rule is adopted. He stressed the need for a principles statement for the national program and urged the NOSB to adopt and recommend to the NOP inclusion of principles in the revised proposal. He referenced sections of OFPA that he believes cannot be fulfilled by wild animal production. He has written a paper that responds and takes an opposing view to Fred Kirschenmann's paper on wild harvest certification. Jim believes there are other opportunities for certification of wild products but not under the organic label. He closed by distributing copies of the application for the Minnesota Department of Agriculture's recently enacted organic certification cost-share program. (See attachment 5.)

**Joseph Mendelson, Center for Food Safety**

Joe restated some previous concerns about the Board procedure issues. He asked the Board to consider an emergency feed criterion that bans conventionally produced GMO feeds. He asserted that only conventional, non-GMO feeds should be used as emergency replacements. He left a document with the Board outlining his suggestion on this subject.

He also voiced concern about buffer zones and GMO's. He urged the Board to adopt a resolution asking AMS to issue a statement regarding protecting organic farmers from genetic drift. He further voiced concern about conversion to organic of fields that previously grew GMO crops and asserted a 3-year withdrawal period may not be sufficient. He closed by reminding the Board of its prohibition of GMO's as it considers enzymes and amino acids.

**Marideth Sandler, State of Alaska**

Ms. Sandler provided additional information on the Alaska certification project as requested by the Board in June 1999. She distributed a document about the Farm Verified Organic (FVO) certification of Capilano Seafood in Bristol Bay, AK. (See attachment 6.) FVO has certified-as-organic, wild-caught red salmon. Ms. Sandler reported on the inspection and certification process.

The Board raised questions about the hearings that will be held to obtain input on standards for organic aquaculture. Keith Jones clarified that AMS has been charged with developing standards for wild-caught fish and aquaculture, not the NOSB. However, AMS will want NOSB involvement and guidance during the process. Essentially, the NOP is charged with gathering information so that the Board can make a recommendation on this issue.
Michael Sligh, Rural Advancement Foundation, International, and Co-chair of the Organic Community of the National Campaign for Sustainable Agriculture

Mr. Sligh voiced appreciation of Bob's comments about fostering public involvement in the materials review process. He advocated the importance of a clear conflict of interest provision for material reviewers. (Note: The statement of work used by the Organic Materials Review Institute and USDA contains such a provision.) He further argued for a clear information policy about Board activities including committee reports, conference calls, etc. He specifically backed distributing minutes of the Executive Committee conference calls. He requested the NOSB carefully review the AOS draft so that there are not two divergent processes in addressing industry/consumer issues of concern. He urged the Board to develop a procedure to alert the public if a given issue will or will not be addressed by the Board. Further, he urged the NOSB to develop a formal recommendation on biodiversity. He closed by urging Board action in the following areas: genetic drift, debeaking, organic cost share, GMO production tracking by USDA or AMS, and a USDA earmark of research dollars for organic and non-GMO seeds. (See attachment 13.)

Emily Brown-Rosen, Organic Certifiers Council (OCC)

Ms. Brown reported on the Organic Certifiers Council of OTA: Pat Kane is now OCC Chair for a 1-year term. Ms. Brown reported that no OCC member certifies wild animals or wild-caught fish. She also said that 18 of 25 certifiers, including two States, have agreed to adhere to the AOS, which does not contain wild-caught fish standards. Ms. Brown noted that the State of Alaska was the only commenter during the development of AOS advocating wild-caught fish certification. She closed by saying there will be no standards for wild certification without consensus among the certifiers and industry.

Jack Samuels, President, Truth in Labeling

Mr. Samuels read from a prepared statement regarding amino acids, specifically glutamic acid and its toxicity, its inclusion in MSG, amino acids produced by genetic engineering, and known carcinogens. (See attachment 7.)

---End of Public Comment Period---

TUESDAY, OCTOBER 26, 1999

NOSB COMMITTEE UPDATES/PROGRESS REPORTS

Accreditation Committee: Betsy Lydon, Chair

Betsy noted the committee will present its strategy and work plan for the next year during its working session.

Crops Committee Report: Eric Sideman, Chair

Eric updated the Board on the responses to the manufacturer's letters on inert ingredients. Letters were sent to manufacturers or formulators on approximately 98 materials. Thirty responses have been received. Eric explained the subsequent process. EPA will be asked to review the identified inerts to determine what list they are on, e.g., EPA list 1, 2, 3, or 4. (Note: The NOSB recommended in the February 1999 meeting that only EPA list 4 inerts will be automatically approved for use in organic production and handling. List 3 inerts will be reviewed on a case-by-case basis.)
Keith noted that manufacturers are very sensitive about releasing information on proprietary formulations, given that USDA does not customarily review these materials. Several Board members noted that manufacturers should see the NOSB as allies in making their products available to organic producers, rather than seeing an adversary.

Carolyn noted that the Board should extend an invitation to the manufacturers to be a part of the review process. Keith reminded the Board that the National List of allowed synthetics is a positive list. At the time of NOP implementation, if a material has not been affirmatively reviewed and added to the list, it is automatically prohibited.

There was also discussion on GMO's. Steve Harper suggested that the committee work with OTA's GMO Task Force on the difficult questions facing the industry.

**Livestock Committee Report:** *Fred Kirschenmann, Chair*

Fred reported the Livestock Committee had seven materials to review, and it would also follow up on recommendations from subsequent Board meetings. Those issues are biodiversity (from February 1999 meeting) and a committee report on wild animal harvesting (from June 1999 meeting).

**Processing Committee Report:** *Margaret Wittenberg, Chair*

Margaret reported that the processing committee is also concerned about the GMO issue. As a result, Margaret and Steve Harper have been active in discussions held by the OTA GMO Task Force.

**USDA/NATIONAL ORGANIC PROGRAM UPDATE**

*Keith Jones, Program Manager*

Keith updated the Board about new staff and introduced Bob Pooler, formerly with the Maryland Department of Agriculture. Bob will be working on livestock issues at NOP and be the primary NOP contact for the NOSB Livestock Committee.

Keith noted that a compilation of the nominees for vacant Board seats should go to Kathleen between mid-November and the first of December. A total of 34 applications were received with only a few received for the retailer slot. It is planned to have new members named before the February 2000 Board meeting. Keith plans to have an orientation/strategic planning session the day before the meeting. He also reported the resignation of Jean Afterman and discussed the process for filling her unexpired term.

Keith also reported on a list of vaccines containing GMO's. The list was provided by USDA's Animal and Plant Health Inspection Service (APHIS) as vaccines has been a difficult question to deal with during the rewrite of the rule.

Bob asked about NOP web support and who on the NOP staff provides web support. Keith said Arthur Neal, who is now permanently assigned to NOP, will be providing web support. Keith noted the difference in the format of the minutes as an example of NOP's continuing effort to make information as easy to use as possible. A number of Board members made positive comments about the new format. Suggestions were made that Executive Committee conference call minutes should be posted to the web. Keith agreed to provide a one page synopsis of all executive committee conference calls.
Keith used this opportunity to discuss upgrades to the NOP web page including the addition of a search engine. Bob asked about a list-serve mechanism and urged a hard mailing to all people on the mailing list asking them to specifically request hard-copy mailings. Keith noted that the purged mailing list is now at about 1,500 names. He stated NOP will be asking certifiers to provide NOP with their mailing lists so that NOP will have a comprehensive data base of the industry.

In closing, Keith reported on the revised rule clearance process and the next steps in implementation of the NOP. He noted the good working relationship will OMB but also noted that by law OMB has 90 days to review the rule. After the next round of public comment, the final rule will again go back to OMB and is subject to a 60-day period for Congressional comment.

Keith noted that program manuals will be drafted until late 2000. Program manuals will be written by NOP staff and presented to the NOSB and the public for comment. Keith said the process will be identical to that used by the National Resource Conservation Service in preparing their field office technical guides.

Additional questions were posed about aquaculture standards. Specific questions were raised about a legal opinion on OPFA language being interpreted to allow certification of wild-caught seafood. Additional questions were asked about the format of the listening sessions to be held in 2000. Keith said plans were sketchy but that the meeting would most likely be a hybrid of a conference and hearing.

BOARD PROCEDURES TASK FORCE WORKING SESSION - Carolyn Brickey, Chair

Ms. Brickey reviewed the recommendations from the June 1999 meeting on Conflict of Interest and Board Substitutes and Alternates. These recommendations have been up on the web and, to date, no public comment has been received. Carolyn stressed the importance of a clear, concise conflict of interest statement. There were no additional comments from the Board. Given the lack of comments, no changes to these recommendations were made.

Carolyn discussed draft procedures for public input on material recommendations. Discussion then centered on public access to TAP reviews before a final NOSB recommendation.

Margaret suggested that the TAP reviews, without the reviewer's name, be put up on the web, e.g., "Cliff Notes" type summaries can be cross-referenced for background data yet they will provide needed transparency. Additional discussion occurred on the need to keep the TAP process free from influence and lobbying. Keith reminded the Board the Department does not influence the selection of the reviewers. A consensus emerged on ensuring the anonymity of TAP reviewers. It was agreed that a condensed version of the TAP review would be put on the web along with a thumbnail sketch of the TAP reviewers, (i.e., a veterinarian with 20 years experience), excluding their names.

Keith explained the procedure for sole-source contracts, explaining that an advisory and assistance contract contains a statement of work and a series of questions that must be answered to prevent any conflict of interest. Keith expressed concern about the possibility of significant public comment on a certain material. Carolyn raised an additional concern about having a legal obligation to respond to these comments. Bob suggested that the web information should be seen as information only. Public comment would be directed to the Board, and these comments would be forwarded to the contractor.

To provide an opportunity for public comment, discussion centered on having a 120-150-day process, essentially creating material reviews every other meeting. Consensus on procedure emerged as follows:
A list of materials to be reviewed will be published in the Federal Register 150 days prior to a Board meeting. This serves as public notification that a TAP review for these materials has been initiated.

Upon publication of this list, the public has the opportunity to provide substantive information (Substantive information will be defined in the new petition.) to the contractor.

Sixty days prior to the Board meeting, the contractor will provide truncated versions of TAP reviews for publication on the web. Upon publication of the TAP synopses, the public will have another 15 days to provide additional substantive information to the contractor.

**MATERIALS REVIEW**

The National Organic Standards Board took the following actions on materials.

<table>
<thead>
<tr>
<th>Crop Materials</th>
<th>Synthetic</th>
<th>Allowed</th>
<th>Notes</th>
<th>Annotations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Potassium Bicarbonate</td>
<td>10-0-0</td>
<td>10-0-0</td>
<td>Allowed</td>
<td>For disease control [deleted foliar]</td>
</tr>
<tr>
<td>Amino Acids</td>
<td></td>
<td></td>
<td>Tabled</td>
<td></td>
</tr>
<tr>
<td>Calcium carbide</td>
<td>10-0-0</td>
<td>0-10-0</td>
<td>Fails</td>
<td></td>
</tr>
<tr>
<td>Ethephon</td>
<td>10-0-0</td>
<td>6-2-2</td>
<td>Fails to get 2/3</td>
<td></td>
</tr>
<tr>
<td>Ethylene from Ethanol for bean</td>
<td>8-0-2</td>
<td>3-7-0</td>
<td>Fails</td>
<td></td>
</tr>
<tr>
<td>prod.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Livestock Materials</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Glycerin</td>
<td>9-0-1</td>
<td>9-0-1</td>
<td></td>
<td>For use as a teat dip, must be produced through hydrolysis of fats and oils [deleted 'must be USP grade']</td>
</tr>
<tr>
<td>Lanolin</td>
<td>1-8-1</td>
<td></td>
<td>Allowed. Non-synthetic: no vote</td>
<td></td>
</tr>
<tr>
<td>Phosphoric Acid</td>
<td>10-0-0</td>
<td>10-0-0</td>
<td>Allowed</td>
<td>For use only as an equipment and facility cleaner. Direct contact with organic livestock or land is prohibited. Farm plan must demonstrate management of</td>
</tr>
</tbody>
</table>
Wash water discharge to minimize pollution of surface water. [deleted reference to USP grade]

<table>
<thead>
<tr>
<th>Amino Acids</th>
<th>Tabled</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chlorhexidine</td>
<td>11-0-0 9-1-1</td>
</tr>
<tr>
<td>For medical procedures conducted under the supervision of a licensed veterinarian. [vote to delete extra withdrawal period requirement 6-4-1]</td>
<td></td>
</tr>
<tr>
<td>Enzymes</td>
<td>0-11-0</td>
</tr>
<tr>
<td>Allowed as non-synthetic, no vote [Annotations failed to get 2/3 majority: 6-5-0]</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Livestock Materials</th>
<th>Synthetic</th>
<th>Allowed</th>
<th>Notes</th>
<th>Annotations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parasiticides:</td>
<td>11-0-0</td>
<td>TAP Annotations passed. Case-by-Case policy passed: add to NOSB 6/94 addendum #23 on parasiticides (i.e keep existing prohibition on use in slaughter stock, not after last third of gestation for breeder stock, and 90 day withdrawal for dairy)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>[Existing recommendation includes requirements for inclusion in the approved Farm Plan and use only under the direction of a veterinarian.]</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Add following to definition of routine use:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>(1) Fecal examinations must document infestations beyond independently set thresholds approved by the certifier prior to any treatment.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>(2) Regular periodic treatment of the majority of the animals of a given species and production type, even if those are not infested, may be avoided. Failure to adequately treat parasite infested animals is grounds to deny or revoke organic certification [11-0-0]</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>11-0-0</td>
<td>8-3-0</td>
<td>Failure to adequately treat parasite infested animals is grounds to deny or revoke organic certification [11-0-0]</td>
<td></td>
</tr>
<tr>
<td>----------------</td>
<td>--------</td>
<td>-------</td>
<td>----------------------------------------------------------------------------------------------------------</td>
<td></td>
</tr>
<tr>
<td>Ivermectin</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fenbendazole</td>
<td>11-0-0</td>
<td>5-6-0</td>
<td>Fails.</td>
<td></td>
</tr>
<tr>
<td>Levamisole</td>
<td>11-0-0</td>
<td>0-11-0</td>
<td>Fails.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Processing Materials</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Amino Acids</td>
<td></td>
<td>Tabled</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Plant and Fungal Enzymes</th>
<th>0-11-0</th>
<th>Re-voted as allowed as a non-organic ingredient in 95%+ organic food products. 9-0-2 [adds to previous approval of non-synthetic enzymes derived from bacteria - Orlando, 95]</th>
<th>From plant and fungal sources</th>
</tr>
</thead>
</table>
| Ethylene                 |        | No. Annotation changed to allow for tropical fruits and citrus.                                         | For post harvest ripening of tropical fruit and degreening of citrus. "We also strongly urge exploration of methods to develop natural forms of ethylene, i.e. using the natural ethylene from ripe fruit on a large commercial scale to ripen other fruits."

<table>
<thead>
<tr>
<th>Waxes:</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Shellac</td>
<td>11-0-0</td>
<td>Fails for 95% (0-11-0) and 50% (0-11-0)</td>
</tr>
<tr>
<td>Ammonium Soap</td>
<td>11-0-0</td>
<td>Fails for 95% (0-10-1 MH) and 50% (0-11-0)</td>
</tr>
<tr>
<td>Beeswax</td>
<td>0-11-0</td>
<td>Natural allowed, does not need to be listed as organic ingredient. Non-organic beeswax may be used only if organic is commercially non-available.</td>
</tr>
<tr>
<td>Magnesium Chloride</td>
<td>11-0-0</td>
<td>Vote to change annotation only.</td>
</tr>
<tr>
<td>Phosphoric Acid</td>
<td></td>
<td>Adopted votes on livestock</td>
</tr>
</tbody>
</table>

animals are diverted to non-organic channels.
ACCREDITATION COMMITTEE WORKING SESSION - Betsy Lydon, Chair

Enforcement Task Force

The Enforcement Task Force presented its work to date. Discussion ensued about fees for States to do enforcement. No consensus emerged other than a general perspective that effective localized enforcement activities require funding.

Emily Brown-Rosen, a task-force member, clarified the evolution of a tandem document of guidelines for certifiers that will be taken from the list of violations. Miles McEvoy discussed the WDA program, which is hybrid. WDA is approximately 80 percent user-fee funded, with the WDA organic program 100 percent user-fee funded. He once again encouraged the NOP to reexamine the handler exemption as most of organic's added value gets capitalized on at the handler/retailer level. Miles maintained that a user-fee program provides freedom from the legislative influence associated with general revenue-funded programs.

Questions arose on the Memorandum of Understanding (MOU) document distributed to the Board. Keith explained that the AMS/Texas Department of Agriculture model covers Federal/State inspection under the peanut program and should not be considered a direct substitute for meeting NOP’s needs. The MOU document was circulated simply to generate ideas. Keith stated that delegating enforcement down to the States is consistent with the industry’s desire for localized enforcement.

Steve Harper asked about the Organic Farming Research Foundation survey on licensing of a USDA seal. Keith reported that the survey addressed a hypothetical situation and arose from a brainstorming session on alternative fee strategies. He further reported that it is unclear whether NOP has a legal basis on which to charge for a license fee for the use of a seal. Keith concluded by saying that the most interesting, but not surprising, aspect of the survey was the value of the USDA seal is directly related to end user’s perception of program quality.

Other Board members suggested a check-off program as an alternative funding mechanism. The discussion concluded with the Task Force agreeing to provide another enforcement matrix and MOU draft to the Board by the February 2000 meeting.

End of Day General Discussion on Role of the NOSB

Michael Sligh, former NOSB chairperson, provided a Board procedures document adopted at the January 1994, Roslyn, VA, meeting. Michael gave a brief overview of the document. The Board agreed to review the document overnight and discuss it tomorrow.

THURSDAY, OCTOBER 28, 1999

NOSB COMMITTEE REPORTS AND ACTION VOTES - Bob Anderson, Chair

Materials Committee:

Discussion began on changes to the 1995 Federal Register notice on material petitions, and Diane Goodman presented a draft document. The Board will return comments to the Materials Committee, which will schedule a conference call in 2 weeks and get a final draft to Keith by December 1. A fee will be considered to pay for the administration of the application. Carolyn will check for precedent for application fees at EPA. Official application will have to go through OMB clearance. Perhaps there should be an initial application, and then NOP sends the complete petition application package. Keith will look at fee requirements.
Motion: Motion by Fred Kirshchenmann. The Materials Committee will work with the NOP Staff to refine and develop criteria for the petition process by December 1, 1999.

Second: Eric Sideman

Discussion:

Call for the vote

Vote:

Those In Favor: Unanimous

Accreditation Committee:

Betsy Lydon presented a cost-share resolution to create a cost-share program for small farmers. Processors should be included. The Board will develop a cost-share proposal.

Livestock Committee:

Fred announced that parasiticides would be reviewed in the afternoon. Carolyn stressed the need for clear rationale in addressing parasiticides.

Fred reintroduced the tabled motions from the June meeting. The first motion addressed a livestock feed requirement to include certified organic livestock feed and feed supplements.

The other motion was to recommend incorporation of language to ensure biodiversity and ecosystem protection. Some want social concerns included too. The Executive Committee recommended that these motions be addressed at the February meeting.

Fred wanted both motions to be addressed in February. Keith noted that organic systems do not fit into existing models for evaluations. Keith suggested adhering to existing regulatory precedents and definitions as closely as possible without compromising organic core values.

Fred wanted to invite public comment on these issues. Keith suggested looking at the issue from a labeling perspective and work backward. Specifically, how are we going to label feed going to or coming from overseas?

Fred's final proposal grew out of Board action last time regarding the certification of wild animal production. Fred suggested that this issue come as a motion to the next Board. Fred explained his position with FVO and is no longer President. Fred explained the principles of his position on wild systems and his vision for the future. He asked the Board to consider how wild systems and organic systems fit together. He encouraged dialogue on the relationship between the two systems. David Gould at FVO is the point person in developing the certification for Capilano Seafood. (See attachment 16.)

Off-Agenda Activity --Presentation of Plaques to NOSB Members

Assistant Secretary for Marketing and Regulatory Programs, Michael V. Dunn, presented service plaques to the NOSB members whose terms expire in January 2000: Rod Crossley, Fred Kirshchenmann, Margaret Whittenberg, and Kathleen Merrigan. He praised the Board for its hard work and thanked Kathleen Merrigan for her tireless work in advancing the organic program since
she arrived as Administrator of AMS. Kathleen took the opportunity to publicly recognize and thank the AMS staff who have worked on the revised rule over the past few months.

**Those recognized included:**

Paula Collins; Lee Corcoran; Michelle Cottom; Billy Cox; Betsy Crosby; Paula Crosby; Michael Fernandez; Catherine R. Greene; Beth Hayden; Keith Jones; Mark Keating; Richard Mathews; Kathleen Merrigan; Ted Morikak; Craig Morris; Arthur Neal; Bob Pooler; Alan Post; Jim Schaub; Eileen Stommes; Tom Tichenor; Debra Troop; Ken Vail; John Valencia; Tom Walsh.

**Role of the Board-Materials Review:**

Carolyn voiced her perception of a lack of clear strategy in the materials review process.

Discussion then primarily centered on how to concretely address the seven criteria in OFPA in the decision-making process. It was suggested that these criteria may need to be weighted differently or expanded upon to account for the changing needs of the industry.

There was also discussion on the vague and general nature of the 1995 petition document (Feb. attachment #15). There was also discussion on the need for the Board to be more involved in USDA activities.

Richard Matthews reminded the Board that a procedure for removing a material from the National List is needed as well as revamping the original review process. Bob asked that a new petition document be prepared and brought to the February 2000 meeting.

**Action Votes:**

NOSB Resolution

October 28, 1999

Submitted by Betsy Lydon

Accreditation Committee

The National Organic Standards Board strongly recommends that the United States Department of Agriculture develop a certification/inspection cost-share program to ensure that program participants are not unduly burdened by program costs.

**The resolutions passed by a simple majority hand vote (9 yes, 1 no, 1 abstention).**

Crops Committee, Eric Sideman

Board vote to add questions to the TAP for the approval of ethylene from Ethephon. Carolyn is not opposed to considering new information but doesn't want to see votes rescinded. She agrees with Fred that the best thing to do is to rescind the original vote and table it until the next meeting.

DATE: October 27, 1999
Board Vote

Motion: The NOSB recommends that ethylene from Ethephon be reconsidered to be put on the National List of permitted synthetic materials for regulation of flowering in pineapple production after a review of the following questions by the TAP:

1) Determine the methods of manufacturing Ethephon

2) Address the Criteria in OFPA 2119(m) for the material Ethephon

Second: Rod Crossley

Discussion:

Call for the vote

Vote:

Those In Favor: Unanimous

Those Opposed: 0

Those Abstaining: 0

DATE: October 28, 1999

Board Vote

Motion: Rod Crossley moved to rescind and table until the next meeting the previous vote on Ethephon.

Second: Steve Pavich

Call for the vote

Vote:

Those in favor: 11

Those opposed: 0

Those abstaining: 0

Livestock Committee:

DATE: October 27, 1999

Board Vote

Motion: Motion by Fred Kirschenmann. On behalf of the Livestock Committee, I move that the NOSB work closely with the OMRI staff, NOP staff, Appropriate Technology Transfer for Rural
Areas and other USDA Agencies to explore alternative to parasiticide use in organic livestock production. This project would include an effective means of communicating and demonstrating the alternatives to producers.

A proposed work plan would be developed by the Livestock Committee and reported back to the NOSB by June 2000.

Second: Marvin Holland

Discussion: Amendments made by Eric Sideman.

Call for the vote

Vote:

Those in favor: 9

Those opposed: 0

Those abstaining: 2 (out of room)

Off-Agenda Activity

Eileen Stommes presented Grace Gershuny with a plaque thanking her for her efforts and her contribution to the NOP.

Approval of Previous Minutes:

Motion by Robert Anderson. The NOSB moves that the February 9-11, 1999, minutes be approved as amended.

Second: Steve Pavich

Call for the Vote

Vote:

Those in favor: Unanimous

Those opposed: 0

Those abstaining: 0

Motion by Carolyn Brickey. The NOSB moves that the June 8-10, 1999, minutes be approved.

Second: Steve Harper

Call for the Vote

Vote:
Those in favor: Unanimous

Those opposed: 0

Those abstaining: 0

Next NOSB Meeting:

The next meeting is tentatively set for February 1-3, 2000. The next Executive Committee conference call will be December 6. Discussion of June dates ensued, with Eric stating he cannot make a meeting after mid-June and Betsy saying she may not be able to make an early June meeting.

GMO Issue, Wild Issue:

Carolyn will work with OMRI to coordinate a task force. Bob will head up a wild harvest task force.

Board Procedures:

Carolyn will prepare a principles document based on AOS principles.

Question of Orientation for New Board Members:

Keith reminded that Board of his plans to bring the entire Board in at least 1 day early for orientation and a goal setting/strategic planning session.

The meeting was adjourned at 2:25 p.m. (ET).

ROBERT ANDERSON, Chair
National Organic Standards Board

KEITH JONES, Program Manager
National Organic Program
Official Minutes -- March 2000

National Organic Standards Board
Meeting Minutes
March 21 – 22, 2000
Embassy Suites Buena Park
7762 Beach Boulevard
Buena Park, California

Attendance Record:

Members Present: 8
E. Rod Crossley
Stephen Pavich
Steven Harper
Eric Sideman
Marvin Hollen
William Welsh
Fred Kirschenmann
Margaret Wittenberg
Margaret Misner, State Rep

Members Absent: 4
Robert Anderson
Carolyn Brickey
Joan Gussow
Betsy Lydon

Other Attendees:
Keith Jones, Program Manager, National Organic Program (NOP), USDA;
Kathleen A. Merrigan, Administrator, Agricultural Marketing Service (AMS), USDA
Beth Hayden, NOP, USDA;
Mark Keating, NOP, USDA;
Richard Mathews, NOP, USDA;
Arthur Neal, NOP, USDA;
Robert Pooler, NOP, USDA;
Toni Strother, NOP, USDA;
Tom Tischner, AMS, USDA; and
Interested persons from the public (See attachment B).

CALL TO ORDER

Robert (Bob) Anderson, Chairperson of the NOSB, was unable, at the last minute to attend the meeting. Margaret Wittenberg was asked and graciously chaired the meeting. Ms. Wittenberg called the meeting to order at 9:15 a.m., Tuesday, March 21, 2000. Keith Jones, Program Manager, thanked Margaret for filling in at the last minute, and thanked every one for coming.
Margaret Wittenberg introduced the State representative for the meeting, Margaret Misner from Idaho and the Certifier representative, Karen Anderson from NOFA-NJ and thanked them for participating. Keith introduced his staff talked about the fact that they were in an ex parte status because of the proposed rule comment period. Keith asked the audience to write down any questions they had for the Board, and give them to Beth Hayden. Ms. Wittenberg asked that they go around the room to find out who the people in attendance were.

NOSB COMMITTEE UPDATES/PROGRESS REPORTS

Accreditation Committee Report: Ms. Margaret Wittenberg, Acting Chair

Ms. Diane Goodman reported on the activity of the Enforcement Task Force. The task force will attempt to meet at the Natural Products Expo in Anaheim later this week. The task force waited for the release of the proposed rule to move ahead.

International Committee Report: Mr. Steve Harper, Acting Chair

Steve had nothing to report. The committee had been waiting for the proposed rule to be published.

Processing Committee Report: Ms. Margaret Wittenberg, Chair

The Processing Committee also had nothing to report. They had been waiting for the proposed rule to be published.

Livestock Committee Report: Mr. Fred Kirschenmann, Chair

The Livestock Committee had an issue with the proposed rule regarding whole herd conversions and the inconsistency with international norm of requiring 100% organic feed. The 12 month 100% feed would be a burden on small farmers unlike large farmer/produces.

Mark Keating, NOP Staff, gave an update regarding the aquaculture meetings scheduled for Anchorage, Mobile, and Providence. Mark reported the he and Beth Hayden have been working on the seafood meetings. A Federal Register notice will be published, any day, to announce when and where the meetings will be held. A series of questions are included in the notice that describes what we are looking for. Public comment will be open until May 17, 2000, regarding the series of questions. The NOP will be participating in aquaculture workshops in Seattle and at the University of Minnesota. Eric Sideman is concerned that the workshops are being held to develop standards before all the hearings are completed. Eric also thinks the workshops seem to be a staked deck for the people who want wild fish certified as organic. Keith Jones explained that is not the intent of the workshops. They are designed to get all the issues on the table and put some context around them, not to direct the public process. The NOSB will be represented at the aquaculture meetings: Steve Harper will be in Anchorage, Margaret Whittenberg in Mobile, and Eric Sideman in Providence. Steve Harper will also represent the NOSB at the Seattle workshop.

MOTION by Fred Kirschenmann: To commend NOP for conducting the 3 Aquaculture meeting; and get as much information concerning the meetings as possible out. Seconded by Marvin Hollen. Motion passed - 7 in favor, 1 abstaining.

Discussion continued regarding the perception of NOP involvement and the role of the Board in the process of developing aquatic standards. The Board questioned who will decide on the creation of these standards. Keith suggests that after the staff presents information back to the
Board about the workshops and AMS public meetings (these are the only ones AMS is sponsoring), the Board form a recommendation to the Secretary.

Fred continued the Livestock Committee report with a reminder that there are two motions that were tabled from the October 1999 meeting regarding feed supplements and biodiversity in ecosystems that need to be revisited at the June 2000 meeting.

**Crops Committee Report:** *Mr. Eric Sideman, Chair*

In 1998 ethylene was petitioned to be included on the National List for flowering in pineapples. The industry asked OMRI to review ethylene. A NOSB Crop Committee recommendations is on the web ([www.ams.usda.gov/nop](http://www.ams.usda.gov/nop)). One committee member felt that it should be used, the rest of the committee felt that it did not fit in organic production. The committee is willing to table the vote until there is more public comment on the use of ethylene. Some concern has been raised it might open the door for growth regulators. Further discussion about the committee’s recommendation for phase out period in which Keith Jones noted the phase out period would not make it into the final rule because it is not going through the public comment process. Materials can always be petitioned.

**Motion by Eric Sideman:** Table the Ethylene vote until the June 2000 NOSB meeting, pending further public comment. Seconded by Steve Harper. Motion passed - unanimous.

**Materials Committee Report:**

Keith Jones passed out a draft of the materials petition Federal Register notice for the Board to review and make suggested changes. The petition process is meant to be an open process, and petitions can be made at any time. Petitioners can bring back to the Board additional information during the process. Questions have come up regarding an appeals process for anyone who feels they have been unfairly treated, AMS is checking on this.

Diane Goodman reported to the Board on the petition’s drafting process since the October meeting when the Board received a list of items to be contained in the revised petition and added their comments. She noted point not yet included in the current version. Keith Jones responded to issues as follows:

- Regarding the number of times the Board can be petitioned? The number is open within reason, this is meant to be an open process.
- Regarding information necessary for inclusion with the petition, the word "must" will be reconsidered as it implies "imperative" and the intent is to infer "if available".
- Regarding fees, there will be no fees charged for the petition application at this time.

The NOP staff will rewrite the petition document based on Board comment and submit it to the Board tomorrow for review.

**USDA/NATIONAL ORGANIC PROGRAM UPDATE**

**Keith Jones, Program Manager**

Keith gave a brief introduction as to what has been happening with the proposed rule in the past week, with the roll out and several teleconference briefings. Keith Jones discussed the layout of the proposed rule and how the NOP Staff will give a review of each subpart. NOP staff members presented a review of each subpart.
Remarks by Kathleen A. Merrigan, Administrator, Agricultural Marketing Service

For Ms. Merrigan’s written statement see attachment 1, for transcript of her verbal presentation see attachment 8.

Public Comment Session

The following people presented comment to the NOSB. For the verbal transcript of their presentation see attachment 8.

Mr. Jack Samuels (attachment 2)
Mr. Jim Riddle (attachment 3)
Mr. Marty Mesh (attachment 4)
Mr. Michael Sligh (attachment 6)
Mrs. Adrian Samuels
Mr. Bill Wolf
Ms. Emily Brown-Rosen
Ms. Shirley Harvey (attachment 7)
Cissy Bowman

End of Public Comment

The Board returned to the Proposed Rule Review with questions for Kathleen A. Merrigan, Administrator, AMS:

Michael Sligh – What is to be expected in the process of making changes after this public comment period? AMS will be looking to the NOSB for advice on an on going basis for the National List and on the changing nature of the program. Ms. Merrigan notes that the only provision to prevent materials from coming up again and again is a Board Policy.

Marty Mesh – What about a cost share program with any appropriate government program? Depends on budget request. Keith adds that we got this rule through OMB on a promise from the NOP that they will get this money.

Emily Brown-Rosen – Is the comment against GMOs strong enough to hold the prohibition or would it be stronger if it came from OFPA? The comments carry the weight. This goes back to the argument that this is a marketing standard not a food safety standard. Kathleen imagines that we face some challenges in the 50-95 percent and below category and the category of products other than excluded methods. Ms. Merrigan encouraged everybody to think creatively about areas that can support small farmers.

There were no further comments on the Proposed Rule.

ADMINISTRATION – Margaret Wittenberg, Acting Chairperson

The Petition Process was revisited. There was discussion regarding the fact that there are no fees for petitioning. There was concern expressed that the lack of a petition fee opens the door to endless petitions. The OFPA does not provide for petition fees.

MOTION by Eric Sideman to accept the petition document with an offer to keep the name of the petitioner confidential. Fred Kirschenmann seconded the motion. Motion passed - 7 in favor, 1 opposed.
MOTION by Fred Kirschenmann to approve the October 1999 minutes as written. Rod Crossley seconded the motion. Motion passed - unanimously.

The next NOSB Meeting will be held June 6-7, 2000, in Washington, DC.

The Tentative Agenda June 2000:

New Member Orientation and Board Procedure Review

Board Procedure, On-Going Role of the Board

Petition Selection Priorities

Revisit Policy on Timing for Petition Protocol and Public Comment

Role of the Board in Developing Program Manuals

Livestock

Revisit votes on feed supplements, biodiversity in ecosystems

Aquaculture meetings report

Honey standards

Crops

Ethylene vote

Materials

Amino Acids

Finalize Board Comments to the Proposed Rule

Elections

Committee Assignments

The meeting was adjourned at 4:25 p.m.

ROBERT ANDERSON, Chair
National Organic Standards Board

KEITH JONES, Program Manager
National Organic Program
Official Minutes -- June 2000

National Organic Standards Board
Meeting Minutes
June 6 –7, 2000
Hilton Crystal City
2399 Jefferson Davis Highway
Arlington, Virginia

Attendance Record:

Members Present: 8

Robert Anderson
Carolyn Brickey
Owusu Bandele
Kim Burton
Rebecca Goldberg
Joan Gussow
Steven Harper

Mark King
William Lockeretz
Betsy Lydon
Stephen Pavich
Eric Sideman
William Welsh

E. Rod Crossley, Former NOSB
Fred Kirschenmann, Former NOSB
Margaret Wittenberg, Former NOSB
Hope Crain, State Rep.
Enid Wannacot, Certifier Rep.

Members Absent: 1
Marvin Hollen

Other Attendees:

• Keith Jones, Program Manager, National Organic Program (NOP), USDA;
• Kathleen A. Merrigan, Administrator, Agricultural Marketing Service (AMS), USDA
• Sharon Bomer Lauritsen, Acting Deputy Administrator, Transportation and Marketing
• Beth Hayden, NOP, USDA;
• Mark Keating, NOP, USDA;
• Richard Mathews, NOP, USDA;
• Arthur Neal, NOP, USDA;
• Robert Pooler, NOP, USDA;
• Toni Strother, NOP, USDA;
• Tom Tischner, AMS, USDA;
• Darcie Priester, NOP, AMS; and

Interested persons from the public (See attachment B).

Meeting Purpose:
Welcome new members, receive an update regarding certification of aquatic animals, receive committee reports, approve the NOSB’s comments to the reproposed National Organic Program regulations, elect new officers, make committee assignments, and set meeting dates and agenda for the next 3 meetings.

CALL TO ORDER

Robert (Bob) Anderson, Chairperson of the NOSB called the meeting to order at 9:20 a.m. Mr. Anderson thanked every one for coming to the meeting. He introduced the five newly appointed members; Mr. Owusu A. Bandele from Baton Rouge, LA (Farmer); Ms. Kim M. Burton from Chico, CA (Handler); Ms. Rebecca J. Goldberg from Montclair, NJ (Environmentalist); Mr. T. Mark King from Indianapolis, IN (Retailer); and Mr. William P. Lockeretz from Brookline, MA (Environmentalist). Bob stated that he looked forward to working the each of them. Mr. Anderson acknowledged Ms. Hope Crain, (KY) State representative and Ms. Enid Wonnacott, (NOFA-VT) Certifier representative that were present to assist the NOSB. Mr. Anderson gave a quick overview of the Agenda for the days activities.

Motion: Steven Harper moved that the minutes from the March 21-22, 2000, be approved as written. William Welsh seconded the motion. The motion passed unanimously.

USDA/NATIONAL ORGANIC PROGRAM UPDATE

Aquaculture Update: Keith Jones, Program Manager, NOP

Mr. Jones recommended that the NOSB assign a taskforce to address the issues surrounding aquaculture. There will be a workshop on aquatic species on June 23-24, in St. Paul, Minnesota, Becky Goldberg will be speaking and Bill Welch will attend.

NOSB COMMITTEE UPDATES/PROGRESS REPORTS

Mr. Anderson noted the primary focus of this meeting is to develop Board comments to the National Organic Program proposed rule. The following are committee comments on the appropriate sections of the proposed rule.

Accreditation Committee Report: Ms. Betsy Lydon, Chair

Ms. Lydon received comments that section 205.501 General requirements for accreditation (a)(1)’s language is too restrictive. NOP attempted to look at conflict of interest in the context of the committee. The Accreditation Committee was asked to work with NOP on new language for tomorrow.

Section 205.620 Requirements of State organic certification programs. The language needs to be clarified, a clear distinction needs to be made between State certification and State Program. Will the State certify even if they don’t have a state program? (See NOSB Comment)

Crops Committee Report: Mr. Eric Sideman, Chair

Mr. Sideman discussed the crop sections in the "NOSB Draft Comments to Revised Proposed Rule." Section 205.2 Terms defined wanted to add to this section "composted manure and animal parts."

Remarks by Kathleen A. Merrigan, Administrator, Agricultural Marketing Service
Ms. Merrigan thanked the current, new, and old members of the Board for coming together to develop comments on the Proposed Rule.

Ms. Merrigan anticipates that the issue of raw manure and compost will stimulate significant feedback during the comment period. The Organic Food Production Act (OFPA) was drafted as a marketing standard. Manure has the food safety "tag" that is not found in any other standards defined by OFPA. Ms. Merrigan requested that commenters with scientific backup submit it with their comments.

Regarding the National List, the petition will be available tomorrow and this will be an on going process. The National List will be the biggest role of this Board in the future. Ms. Merrigan is working on getting funding for materials review and supports the authority of the Board to approve the National List. She wants scientist in the government to do some of the materials review work; EPA, FDA. There is increasing interest and excitement about organics at the federal level so they may actually want to get involved.

Ms. Merrigan presented certificates of appointment to five new members appointed to the NOSB by Secretary Glickman. New members: Owusu Bandele; Kim Burton; Becky Goldburg; T. Mark King; and William Lockeretz. A notice has already gone out to solicit nominations for five new appointments to the NOSB, two farmer/growers; two consumer/public interest; and a certifier.

BREAK

Crops Committee Report (Continued): Mr. Eric Sideman, Chair

Mr. Sideman continued the Crops Committee comments with Section 205.202 Land requirements. He suggested prohibiting use of the 3-year waiting period as a tool for intentionally rotating in and out of organic status. The intent being to prevent the applications of a persistent prohibited material then not using the land for organic production 3-years.

Section 205.203 Soil fertility and crop nutrient management practice standard. The committee supports this section strongly, but may present other language at tomorrow's session. Should there be a definition for manure? Kim Burton stated that scientific evidence on manure use is sparse and mixed. Becky Goldburg suggested that the Board should err on the side of safety. The restrictions should not be any stricter for manure that for compost. A new waiting period should be made on manure/compost tea. Steve Harper suggests a 60 day time limit on restrictions. (See NOSB Comment)

Processing Committee Report: Ms. Margaret Wittenberg, Former Chair

Ms. Wittenberg reported that the committee believes: (1) the "commercially available" definition needs to be more detailed, especially in practice manuals (See pg. 1 & 7 of comment); (2) the NOSB needs to give priority to the development of organic standards for honey production; and (3) the NOSB made recommendations for standards for mushroom and greenhouse production that should be included in the final rule. The committee also recommended language regarding the issues of transition and whole-herd conversion. (See NOSB Comment)

BREAK FOR LUNCH - 12:50 P.M.

PUBLIC COMMENT SESSION
Jim Riddle – Three documents were presented to the NOSB for the Organic Trade Association (OTA)  
(See attachment 1)

Rod Crossley – Discussed his concern over the materials review process. (See attachment 2)

Paul Chartrand – Mr. Chartrand made comment in support of the NOSB’s 1998 recommendation to allow sulfur dioxide on the National List for use in the processing of wine from organic grapes, which the Secretary rejected in this proposed rule. The 1997 proposed rule allowed use of sulfur dioxide in processing of organic wine, following a 1995 NOSB recommendation. (See attachment 3)

Mr. Martijn VanEs, Dole Fresh Fruit Int. – Mr. VanEs discussed the use of ethylene for flowering induction in organic pineapple. A petition was filed back in April 1998 by organic pineapple growers, researchers and distributors world wide, with the NOP for approval of the use of Ethylene for organic pineapple flower induction. (See attachment 4)

Mr. George Sieman, CROOP Cooperative – Mr. Sieman spoke on behalf of Coulee Region Organic Produce Pool (CROOP) one of the oldest and the largest cooperative of certified organic farmers in the U.S. Mr. Sieman discussed the need for an entry herd clause for organic dairy. This clause is a “deal breaker” for the organic dairy industry. The CROOP applauds the NOSB Livestock Committee’s support for this standard. (See attachment 5)

Mr. Joseph Mendelson, The Center for Food Safety – Mr. Mendelson recommended language to strengthen “excluded methods” prohibition and to ensure NOSB authority over prohibition. (See attachment 6)

Ms. Enid Wonnacott, NOFA-VT – Ms. Wonnacott mentioned issues of concern:

- States should not be given more rights than privates
- conflict of interest
- privates are now allowed to deny certification
- American Organic Standard (AOS) language on new herd transition; she approves
- AOS parasite policy; she also approves

Mr. Phil LaRocca, Certified wine producer – Mr. LaRocca does not think sulfur dioxide should be in organic wine. He thinks the NOSB should go along with the comments on no synthetics. On the issue of conflict of interest there is no reason why certifiers can not check each other.

Mr. Brian Leahy, Director of CCOF

- National List needs to come up quickly
- Should not micro-manage on conflict of interest
- Manure issue is very complicated, you should not regulate by hysteria, there are no current safety studies
- Seeds are another important issue to CA growers

Ms. Emily Brown Rosen, Organic Materials Review Institute (OMRI) – Ms. Brown Rosen presented the NOSB with OMRI’s extensive comments on the proposed organic rule. The documents can also be viewed on the OMRI website (http://www.omri.com). (See attachment 7)

Ms. Cissy Bowman, Indiana Organic Farmer
• Conflict of interest
• Peer review panel should be funded by USDA
• Honey and hydroponics need to be included

End of Public Comment

BREAK

NOSB COMMITTEE UPDATES/PROGRESS REPORTS – CONTINUED 3:30 p.m.

Livestock Committee Report: Mr. Fred Kirschenmann, Chair

Mr. Kirschenmann reviewed the sections of the comment to the proposed rule that the Livestock Committee addressed. Section 205.236 Origin of livestock, the committee recommended language to address the transition and whole-herd conversion issues. Section 205.237 (a) Livestock feed, suggested that the word "pasture" be defined as part of the feed requirement. (See NOSB Comment)

Recessed for the day.

WEDNESDAY, JUNE 7, 2000

MEETING RESUMED 9:20 a.m. - Robert Anderson, Chairperson

It was agreed that a cover letter be attached to the comment that described the goal of the NOSB’s comments and a general statement before Subpart A. Discussion on what needed to be changed on the NOSB comments on the Proposed Rule, started at the beginning with Section 205.2 Definitions.

Crops Committee Report: Mr. Eric Sideman, Chair

The additional changes from yesterdays reports were:

Definitions - "Composted manure and animal parts" change language of the second sentence to, "At a minimum, all materials must reach thermophilic conditions, …. Steve Harper suggested tabling the topic of vermiculture until more information can be provided.

"Excluded Methods", add to sentence, "…are achieved by recombinant techniques."

"Transition," and "Transition Period" – remove "Inclusion of these terms, will clarify the practice and". The paragraph would now begin, "The practice required…"

Subpart B - Applicability:

Section 205.102. Use of the term "organic" is deleted.

Subpart C – Organic Production and Handling Requirements:

Section 205.200 General is deleted.

Section 205.201(a) is deleted.
Section 205.201(5) delete the last sentence.

BREAK FOR LUNCH – 1 p.m.

**Accreditation Committee Report: Ms. Betsy Lydon, Chair**

Subpart E - Certification
Section 205.406 no change from yesterday.
Subpart F – Accreditation of Certifying Agents
Section 205.500 no change from yesterday.
Section 205.501 same language change.
Section 205.509 no change from yesterday.
Subpart G - Administrative
National List
Section 205.640 no change from yesterday.

Motion: Eric Sideman moved that the whole-herd conversion language in Section 205.236 Origin of Livestock be changed as indicated. Second by Joan Gussow. Motion passed unanimously.

**ADMINISTRATION – Robert Anderson, Chairperson**

The Chair open the floor up for nominations for Chair, Vice-Chair and Secretary.

Motion: Kim Burton moved to nominate Carolyn Brickey as Chair of the NOSB. Second by Steve Harper. Motion passed unanimously. Carolyn Brickey was elected Chair.

Motion: Becky Goldburg moved to nominate Eric Sideman as Vice-Chair of the NOSB. Second by Willie Lockeretz. Motion passed unanimously. Eric Sideman was elected Vice-Chair.

Bob Anderson stated he would like to have a professional Secretary work with the NOSB.

Bob Anderson addressed priorities of the Board going forward:

- Petitions
- Materials Review
- Program Manuals
- Board Process

The meeting was adjourned at 4:37 p.m.

**ROBERT ANDERSON, Chair**
National Organic Standards Board

**KEITH JONES, Program Manager**
National Organic Program
Meeting Purpose:

The principal purposes of this meeting are to provide an opportunity for the NOSB to receive committee reports; receive update from the Aquatic Task Force Working Group; to receive an update from the USDA/NOP, and review materials for possible inclusion on or removal from the National List of Approved and Prohibited Substances. Materials to be reviewed at the meeting are: periacetic acid, calcium borogluconate, animal enzymes, leather meal and sodium chlorate.
CALL TO ORDER – MR. ROBERT ANDERSON, CHAIRPERSON

Mr. Robert Anderson called the meeting to order at 2:20 p.m., he welcomed everyone and thanked them for coming. Mr. Anderson had the National Organic Standards Board (NOSB) members introduce themselves as well as the guests assisting them.

Public Comment Session - Mr. Robert Anderson, Chairperson

Tom Harding, AgriSystems International

He testified in favor of organic certification of sustainably harvested wild caught fish. He told the Board that it must look at the system to determine how these fish are managed. He supported labeling all product in a legal and defined way. He encouraged eco-labeling. He also said that "access to pasture" must have a clear definition and that the Board must recognize that all operations under all conditions are not appropriate for pasture all the time. He supported a standards ceiling and recommended that USDA not place a ceiling on standards.

Dennis Blank – He discussed his inability to get free flowing information from USDA or the NOSB. (See attachment 1)

Bob Anderson replied that "not one committee on this Board makes a decision away from this table". Mr. Anderson went on to say that never in his six years on the Board, five as Chairperson, did he ever know of any Board member withholding information from the media. Mr. Anderson finally asserted that it is the responsibility of the media is to engage in accurate reporting.

Bruce Krantz, Vice President/General Manager Hynite Corporation – Mr. Krantz presented comment on the Board's review of Leather Meal. (See attachment 2)

Joe Mendelson – Speaking on behalf of the Campaign for Sustainable Agriculture, he referenced a letter attached to a recent survey results. Mr. Mendelson reviewed the content of the letter with the Board, and discussed issues of transparency and development of program manuals. (See attachment 3)

Brian Leahy, Executive Director of CCOF – Mr. Leahy requested that the Board reject the petition to approve leather meal and sodium chlorate, and spoke in support of the label for "made with organic ingredients".

Cissy Bowman - She expressed concern for keeping small farmers on farms and the need for the stakeholders to include these interests. Ms. Bowman encouraged NASOP to be more involved as many new states developing organic programs are not familiar with the stakes involved.

Tom Hutcheson, Organic Trade Association – On behalf of OTA, he welcomed the new NOSB members. Mr. Hutchenson made reference to OTA's historic role in the development of industry and national standards and the offer of the association to continue that role. (See attachment 4)

The following people were not present but sent public comment to the Board:

Philip LaRacca, President California Certified Organic Farmers (See attachment 5)
Richard C. Nelson, President Nelson & Sons Inc. (See attachment 6)
Peter Granger, Washington Fish Growers Association (See attachment 7)
JANUARY 8, 2001

Dr. Paul Supancic, Chair, NOSB

The meeting reconvened at 9:15 a.m. Mr. Anderson encouraged the Board to stay engaged; stay open and to continue to build on the environment of good working relationships, to strive for more diversity on the Board and in the marketplace. Mr. Anderson passing the gavel to NOSB Chairperson elect Carolyn Brickey. The agenda was reviewed with no changes.

NOSB COMMITTEE ACTION ITEMS – MS. CAROLYN BRICKEY, CHAIRPERSON

Livestock Committee: Mr. Eric Sideman, Chair

Mr. Sideman reported that the use of parasiticides in organic livestock production should be the last resort in organic livestock health care, when animals are severely infected. In conventional production, parasiticides are used routinely. He reviewed the history of how the Board approved Ivermectin as one of the three parasiticides submitted for review. The Board chose Ivermectin because it has the widest number of applications. On the other hand, Mr. Sideman pointed out, Ivermectin does pose an important risk that needs to be addressed. Since Ivermectin is also an insecticide it kills dung beetles and other organisms involved in the decomposition of manure. This is a particular concern with slow release formulations of the parasiticide because such products are designed to be active over an extended period and thus a large portion of the manure deposited over the grazing season is resistant to decomposition. Hence the Livestock committee will recommend an annotation to the approval of Ivermectin that will prohibit the slow release formulations.

Emily Brown-Rosen explained the issue of approvals of ingredients for livestock feed. She introduced a proposal from the committee: if materials have been specifically approved for use in organic processing and also are approved either as listed in 21CFR or the American Association of Feed Control Officials (AAFCO) annual publication for use as livestock feed, the material should be allowed for use in organic livestock feed. Betsy Lydon asked if this is a roll back, to review all the approved ingredients in processing and allow them for use as livestock feed ingredients. Mr. Anderson asked if this policy should work in reverse: to approve if not prohibited, by the AAFCO list and CFR 21. Willie Lockeretz asked if there is a realistic difference in environmental concerns in livestock use that would not be present in food processing. Mr. Sideman will prepare a proposed resolution for the Board.

Materials Committee: Ms. Joan Gussow, Chair

Ms. Gussow presented the Materials Database prepared by Organic Materials Review Institute (OMRI). Ms. Brown-Rosen further explained the database. One purpose of the document is to provide a history of materials review for new Board members. Ms. Brown-Rosen asked for suggestions about format or request for additional information. Board members were asked to respond to Joan Gussow or Kim Burton, NOSB Materials Committee, not to Ms. Brown-Rosen or OMRI. Once corrections to format or accuracy are made. The database will come back to the Board for acceptance. Carolyn Brickey noted that the Board would develop a document for historical Board decisions not dealing with materials. This project will begin shortly.
The Materials Committee report was halted for an Environmental Protection Agency (EPA) presentation.

**PRESENTATION BY MR. JIM JONES, DIRECTOR, EPA PESTICIDE REGISTRATION DIVISION**

Jim Jones explained the status of the inerts review program at EPA. List 3 inerts already in approved organic materials seems like a logical place to begin a review. Owusu Bandele asked if EPA could also review materials for use as fertilizers as well, but EPA does not regulate fertilizers. Keith Jones thought the American Association of Plant Food Control Officials (AAPFCO) might facilitate that. Mr. Jones also discussed a new program that EPA will propose to offer manufacturers who petition EPA the opportunity to obtain a seal that indicates that the product meets OFPA standards for organic use. Manufacturers will need to submit a petition to EPA. This will be a voluntary program at the request of individual pesticide manufacturers. Mr. Sideman raised the question about annotations for organic approval and Jim Jones responded this issue would have to be addressed in the process. Keith Jones asked the Board to think about language for such a label.

Becky Goldberg asked about the public comment period in relation to the March meeting. Jim Jones suggested 90-120 days.

Keith Jones stressed the importance of language on the label. What EPA is doing is allowing additional information to the marketplace, not engaging in oversight of the Board action. The issue is how to communicate annotations. Willie Lockeretz is concerned about use by home gardeners who may misinterpret the EPA label. Keith Jones reminded everyone that NOP does not regulate consumers and home gardeners.

Steve Harper asked how the EPA will deal with materials that the NOSB recommends delisting.

Bob Anderson noted that this is an additional seal that manufacturers would see as a tool, an incentive for organic practice. The EPA organic label would state that organic approval will be allowed according to annotations, according to Jim Jones. Kyle Moppert noted that a violation of label restriction would now be not only an organic violation but also a pesticide violation. Steve Pavich asked how long it would take EPA to come up with this label. Jim Jones indicated that the program could be up and running in about 90 days.

Carolyn Brickey asked for advice about the NOSB petition review process. The Board discussed the opportunities for public comment and whether it would be available for all material applications. Ms. Brickey mentioned there might be some applications that would definitely not receive NOSB approval and some may not have TAP reviews at all. Kim Burton mentioned the October 1999 time line recommended by the Board and wants to consult with EPA.

**Materials Committee - Continued: Ms. Joan Gussow, Chair**

The proposal for materials decisions for Crops, Processing, and Livestock was reviewed. Mr. Anderson suggested that this document go out to the Board with the advanced Board packet.

**USDA/NATIONAL ORGANIC PROGRAM UPDATE – KEITH JONES, PROGRAM MANAGER**

Keith Jones acknowledge the presence of Mr. Michael D. Fernandez, Assistant to the Administrator, Agricultural Marketing Service (AMS), USDA. Mr. Fernandez briefly addressed the Board on behalf of Kathleen Merrigan, Administrator, AMS. Keith Jones discussed the Freedom Of Information Act (FOIA) process.
Keith Jones then reviewed the authorization levels for contracts for service. The Program Manager has authority to execute contracts up to $5,000. Mr. Jones indicated that a contract over $25,000 may not require bidding. Within certain guidelines, contracts can be sole sourced. Mr. Jones addressed in detail the $100,000 contract awarded to OMRI for material technical advisory panel reviews which was originally offered to both OMRI and the Organic Farming Research Foundation (OFRF) at $50,000 respectively. He stated there have been some questions why NOP did not put the materials review contract out for bid. He stated because of the time needed to do a request for proposal it was decided to do a sole source contract under an "urgent and compelling" authorization. Finally, the OMRI contract was submitted to both organizations and OFRF, after review, chose not to execute its purchase order. To continue to obligate the funds, an additional $50,000 was then requested to be awarded to OMRI.

Steve Pavich asked about competition. Mr. Jones said the Department tries to encourage competition for requests for proposals, but indicated that there is little point in requesting proposals if only one person or organization applies. Mr. Jones added that due to the unique and esoteric nature of organic material review, vigorous competition among organizations may not occur.

The discussion returned to FOIA information. Steve Harper asked if some of the information being requested by FOIA could be available on the web. Mr. Jones agreed that some information could be made available, but not unapproved committee minutes and contract details. Until the minutes are approved, they are considered pre-decisional and unavailable to the general public. Willie Lockeretz asked if he should assume that any correspondence between the NOSB and the NOP are subject to FOIA. Mr. Jones answered yes. Any Board business is subject to FOIA.

Keith Jones also explained that NOP is issuing a proposal for a staff person to do administrative assistance for the NOSB. It will be a two-year contract for $20+K and will hopefully be on the street within the week.

Mr. Jones explained that the final rule was undergoing clearance at the Office of Management and Budget and is on target for publication by the year’s end. Ms. Brickey asked about advance notice to the Board regarding the release, and Mr. Jones stated the Board would be briefed by a process similar to that used with the March 2000 proposal. Specifically, the rule will be sent to Board members the day before the press conference and will be on the web for public viewing the morning of the press conference. Mr. Jones said that Secretary Glickman sees this rule as one of his crowning achievements. Media interest is increasing.

The Final Rule becomes effective 60 days after publication if Congress does not object. Eighteen (18) months after the 60 days, the rule will be fully implemented. Betsy Lydon asked if Congressional comments, if any, go directly to Keith. Mr. Jones said he would find out about the protocol under The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). Mr. Jones said that no rule of any kind has been rejected under SBREFA.

The top two issues for NOP after final rule roll-out are program manual development and materials (substance) review. NOP will want input from certifying agents about how the rule will work on the ground and will use feedback from certifying agents and the NOSB as a way to prioritize the program manual development.

Bob Anderson asked Mr. Jones about the status of nominations for new Board members. Mr. Jones replied that the nominations are a priority for the Secretary and Administrator Merrigan but that he is not privy to the status of the selection process. Ms. Brickey stressed the need to have new members in place by the next Board meeting which will focus on implementation of the final rule.
Accreditation Committee: Ms. Betsy Lydon, Chair

Betsy Lydon asked the Board for confirmation that the Enforcement Task Force is heading in the right direction. She distributed the list of considerations for the memorandum of understanding (MOU) between NOP and the States, the same document as previously seen by the Board. Betsy is asking for any new comments. Two matrices, one for Crops and Handling, one for Livestock were also distributed and she asked to come back with comments by December 1. For the benefit of new members, Diane Goodman explained the relationship of the matrices to the MOU with the States.

MATERIALS PROCESS AND REVIEW - Ms. Joan Gussow, Materials Committee Chair

Periacetic Acid for Crops

Discussion: Steve Pavich explained the committee position on the TAP review and recommended approval with annotations. Discussion revolved around the source of acetic acid and the production availability of fermented acetic acid, rather than synthetic acetic acid. The crops committee recommended to allow use for disinfecting equipment, seed and planting stock, and for foliar use for fireblight control. They recommended it be prohibited for soil application, due to concerns that such use is not compatible with a sustainable agricultural system and that alternatives, such as solarization do exist. Foliar use on crops was discussed, and the crops committee found that although the material is broad spectrum in effect, it is of short persistence and breaks down in the environment to water and oxygen. Its potential use as an alternative to antibiotics for control of fireblight was seen as a positive factor.

Several intermediary votes were taken on components of the annotation (vote to allow to disinfect seeds and bulbs; 8-2-4; vote to allow for fireblight control; 10-3-1.) As written, the annotation would not permit soil use.

The TAP review recommended limiting the material to sources derived from naturally fermented acetic acid sources only, however after discussion of the difficulties of identifying and finding sources produced this way, the crops committee agreed to drop this restriction. Steve Harper, processing chairperson, pointed out that the listing should be consistent for all uses (crops, processing, and livestock) and described his research into limited availability of fermented acetic acid sources. When used in processing applications, purity considerations may also limit the source. He also questioned a requirement for a natural source of one component when the material is considered a synthetic anyway. The board considered the overall benefits for use as a disinfectant to warrant dropping the restriction on natural sources.

A question was raised about the uses actually requested in the initial petition. The original petition was from the 1995 petition period, and was only a general request for disinfectant purposes in livestock production and handling, although the TAP review covered other uses. The board agreed with NOP staff person Richard Matthews, that as general policy, the NOSB should only be reviewing uses requested by petitioners.

VOTE: Periacetic Acid for Crops

1. Synthetic or Non-Synthetic – The Board voted unanimously that periacetic acid is synthetic.
   14 - yes, 0 – no.
2. Vote to list without annotation: 0 – yes, 14- no
3. Vote to list with the following annotation: 13 – yes – 0 no, 1 – abstain
"Allowed to disinfect equipment. Allowed to disinfect seed and asexually propagated planting material (i.e., bulb, corm, tuber) used for planting crops. Allowed for fireblight control only with Experimental Use permit with documentation that alternatives including biocontrols have been tried."

Periacetic Acid for Livestock

Discussion: The board discussed a possible additional allowance for veterinary use, but declined to include that in the annotation, due to lack of established need or direct request from a petitioner.

VOTE: Periacetic Acid for Livestock

1. It was approved as a synthetic: 14-0-0
2. Approved with the following annotation: 13-0-1

"For facility and processing equipment sanitation (barns, milking parlors, processing areas)."

Periacetic Acid for Processing

Discussion: There was discussion about approving materials with an annotation and the implication that certain uses may be prohibited if not specified, which is not entirely correct. Becky Goldberg recommended that prohibitions should be clearly communicated. The TAP review mentioned other uses for peeling and bleaching, these were not recommended by the committee. Also the Board discussed how to communicate changes in annotations that may arise with new petitions for a material already approved. A question was raised as to how to provide information about considered and rejected uses, to discourage people from re-petitioning for uses that have already been rejected.

VOTE: Periacetic Acid for Processing

1. It was approved as a synthetic: 14-0-0
2. Vote to list without annotation: 0 – yes, 14- no
3. Approved with annotation of "Allowed for direct food contact only in wash and/or rinse water. Allowed as a sanitizer on surfaces in contact with organic food." 14-0-0

Calcium Borogluconate for Livestock

Discussion: The livestock committee recommended allowing and stressed that it is an emergency use treatment that should be needed only on rare occasions. The TAP review suggested language about preventive measures in the annotation, but this was deemed vague and also covered in the proposed rule language that requires preventive practices before medications are used. Dietary adjustment can be made over time to prevent milk fever. The TAP review mentioned use for grass tetany also, but the board declined to allow for that use without more information or a specific request. A suggestion to require a 48-hour withdrawal requirement, as is required by Codex rules for all medications was not supported. Milk is typically not sold for at least 24 hours after parturition, and will contain mostly colostrum for the first 48 hours.

VOTE: Calcium Borogluconate

1. Approved as a synthetic: 14/0/0
2. Vote to list without annotation: 0 – yes, 14- no
3. Approved with annotation of "For treatment of milk fever only." 14-0-0

**Sodium Chlorate for Crops - Steve Pavich**

**Discussion:** This material was petitioned for use as a cotton defoliant. Kyle Moppert pointed out that currently most organic cotton is coming from dryland production areas due to reduced insect pressure. Eventually more cotton will be grown in lowland areas or areas on the margin of adaptability and defoliants will be more of an issue in those regions. The board discussed the fact that alternatives seem to be available, and that the existing organic cotton industry is managing without this material.

**VOTE: Sodium Chlorate for Crops**

1. Vote to consider the material synthetic: 14 – yes, 0 – no
2. Prohibited Synthetic. 14-0-0

**Leather Meal for Crops – Steve Pavich**

**Discussion:** The crops committee recommended the material be considered synthetic and prohibited. The synthetic determination was made based on the numerous additives introduced through the leather making process. The Board agreed that there are many natural alternatives for fertilizer use that are readily available, and asked what uses the material currently has. The petitioner indicated that leather meal is currently applied to conventional tobacco, citrus, and orchard crops. Willie Lockeretz noted that the record should be clear, that the NOSB rejected the material based on the facts that it is synthetic and it has no specific exemption in OFPA.

**VOTE: Leather Meal for Crops**

1. Vote to consider the material synthetic: 13 – yes; 0 – no. (1 absent)
2. Vote to add to National List: 0 – yes, 13 – no

**Animal Enzymes for Processing – Steve Harper**

There was discussion about which enzymes are currently in use by the industry. The TAP review was presented as a group review of animal enzymes, using animal-derived rennet as the model, and included additional information on six other enzymes. The processing committee considered proposed annotations from the TAP review that restrict incidental additives and preservatives used in enzyme preparations. They noted that powdered forms are preferable, though not always available. Liquid formulations may have sodium benzoate added. The processing committee did not support a requirement for GRAS status. The representative present from the enzyme association explained GRAS as frequently self-imposed, not always FDA- approved with published regulation. FDA has never taken action against enzymes used in the market that claim GRAS and are not regulated by the FDA. It is difficult to determine whether a material is synthetic or natural, depending on the presence of synthetic additives. A request for GRAS status for lysozyme was filed in 1973. The FDA published a Federal Register notice in 1998 proposing to affirm it as GRAS. Given the change in policy, the determination is not expected to be granted any time soon. Joan Gussow questioned whether determination of freedom from BSE can readily be determined.

The board decided to list 6 specific animal enzymes as allowed, without annotation. They did not include a listing for lysozyme, which does not have a final GRAS status from FDA. Discussion ended with the fact that the NOSB is voting on the enzymes, not on the additives.
VOTE: Animal Enzymes

1. Vote to consider the material synthetic: 0 – yes; 12 – no. (2 absent)
2. Vote to list the following materials without annotations and without Lysosyme. 10-yes; 2 – no, 1- abstain (1 absent)

Rennet (animal derived); catalase--bovine liver; animal lipase; pancreatin; pepsin; trypsin.

Recessed for the day.

FRIDAY, NOVEMBER 17, 2000

MEETING RESUMED 9:00 a.m. – Carolyn Brickey, Chairperson

Aquatic Task Force Working Group Reports: Mr. Robert Anderson, Task Force Chair

Mr. Anderson presented an overview of the intention and structure of the Aquatic Task Force and Working Group. The Task Force is made up of an Aquaculture Working Group and a Wild Aquatic Species Working Group. The chair of each group gave a working report to the NOSB.

Aquaculture Working Group – Ms. Margaret Wittenberg, Chair

Ms. Wittenberg explained that the premise for the working group is to determine the feasibility of establishing organic standards. Margaret addressed the issue of fish meal and fish oils as feedstocks for fish as necessarily organically produced. This led to the question of fish as free-ranging and its comparison to poultry on "free range" which is actually "free range" within a confined area. (See attachment 10)

In summary, the majority position of the Working Group is that possibilities exist for organic certification of some aquaculture systems.

Wild Aquatic Species Group – Mr. Miles McEvoy, Chair

Mr. McEvoy summarized the opinion positions of the members of the Working Group regarding the certification of wild fish. (See attachment 11)

Summary points:

Wild organic is neither a "no-brainer" nor is it an impossibility. The working group supports labeling to distinguish good stewardship of aquatic species, organic may not be the appropriate label.

Keith Jones made the statement, to provide guidance to the Board, in his own opinion, that there is probably more knowledge about where wild fish go than there is about where cattle graze on rangeland. He praised the progress Miles and Margaret have made in this effort and how they have provided the Board with information they will need to move forward.

Carolyn Brickey and Bob Anderson explained that today’s goal was to lay out the parallels and comparisons to help the Board approach this issue, not reach any conclusions.

COMMITTEE ACTION ITEMS – Carolyn Brickey, Chairperson
MOTION: Motion by Eric Sideman. The NOSB recommended that the annotation for Ivermectin be amended to prohibit the slow release formulation known as the SR bolus. In addition we request that information continue to be gathered in order to determine if other formulations are a significant risk to decomposition of manure. Marvin Hollen seconded.

REVISED MOTION: The NOSB recommended that the annotation for Ivermectin be amended to prohibit the slow release formulations such as the SR bolus.

The Board discussed whether the annotation would prohibit slow release formulations or to prohibit other formulations. Keith suggests that more data be obtained before the Board makes this decision. Mr. Sideman asked Mr. Jones if this recommendation could make it into the rule. Mr. Jones said that it was not possible now. This raised the question about how changes will be made after the rule is final. Keith responded that the Board will be acting on materials during implementation, so that when the rule is fully implemented, the changes will be reflected. Keith says that any change to the final rule has to go out for public comment, so it is better to raise these issues early in the process. He wants to go through the correction process only once. Kim Burton asked when the National List will be reprinted. Keith Jones wants to talk about this issue in March. The Board needs to act on materials as quickly as possible to get it incorporated into the rule within 18 months.

The Ivermectin motion passed unanimously (12/0/0). (Mark King and Joan Gussow absent)

MOTION: Motion by Eric Sideman. The NOSB recommends that unless otherwise specified in the annotation any substance on the National List of non-agricultural substances allowed as ingredients in an organic processed food product also be allowed for use in organic animal feed, provided it is regulated in 21 CFR for livestock feed or allowed by FDA with discretion to AAFCO. Betsy Lydon seconded.

Discussion: A number of items on the processing list are used in ingredients for feed additives and have been permitted by the board for human food use, such as citric acid, kelp, kaolin, ascorbic acid, tocopherols, glycerin, lecithin, and potassium carbonate. Their status is not clear under the current livestock regulations, which requires that all synthetics appear on the National list. This motion will save the need to re-petition and re-consider these items individually.

REVISED MOTION: The NOSB recommends that unless otherwise specified in the annotation, any substance on the National List of non-agricultural substances allowed as ingredients in an organic processed food product also be allowed for use in organic animal feed, provided it is approved by FDA in 21 CFR for livestock feed or allowed by FDA discretion as stated by AAFCO. Passed unanimously (11/0/0).

MOTION: Motion by Eric Sideman. Mr. Sideman moved that the minutes from the June 6-7, 2000 be approved as amended. Kim Burton seconded. The motion passed unanimously. (11/0/0).

BREAK FOR LUNCH

Materials Committee Work Plan – Ms. Kim Burton, Chair

Kim Burton reviewed the Petition Review Process timeline based on recommendations of the Board that would take 120-150 days from receipt of petition to approval. The Chair suggested that we work backwards, from March approvals back to petition to OMRI. OMRI staff said OMRI needs three months for TAP reviews. If petitions are received by December 1 by NOP they can go to OMRI by December 15. TAP reviews will be open for public comments for 15 days prior to NOSB meetings.
Keith Jones reminded everybody that these contract funds need to be spent which would require the review of 50 materials by October, the end of fiscal year. Keith Jones and Katherine DiMatteo met about three weeks prior to the Board meeting, and he urged OTA to ask the industry to send him a list of material petitions he should be expecting. He has received an indication that about 40 petitions would be sent to NOP. Ms. Brickey asked about a date for OMRI to receive petitions for review in June. Emily Brown Rosen responded with a deadline of February 1, 2001.

Ms. Burton asked about the flow of petitions and requests for comments. Keith wants comments sent to NOP. Dates for petition process and public comment are noted on the chart handed out to the Board.

**Livestock Committee Work Plan – Mr. Eric Sideman, Chair**

Issues identified by Livestock Committee to be addressed in the coming year included:

- Young animal care
- Nutrient management
- Living conditions and stocking rates
- GMO incidentals including compost ingredients, manure from GMO livestock
- Feed additives regarding 100% organic feed, needs to be clarified to determine 5% rule
- Pasture-based living conditions for ruminant animals is still the firm position of the committee but due to the controversial nature of the issue, what pasture-based means needs to be defined.

Emily Brown-Rosen noted the need to address the issue of allowing vitamins as feed additives for livestock, depending on FDA approval by regulation or allowance with discretion for materials listed by AAFCO.

Keith Jones noted that when the final rule comes out, this question may not be an issue, based on any new issues that will be need to be addressed. Many questions and issues may be answered in the Final Rule.

Carolyn Brickey wants to have the work plan for the year posted to the web for industry comment and to provide material for the Board retreat.

**Processing Committee Work Plan – Mr. Steve Harper, Incoming Chair**

The processing committee is waiting for the final rule to determine which parts of the rule will be compatible with processing practices. The committee is also going to be focusing on retailer education and on transitional standards. Steve Harper is waiting for the final rule to formalize the committee work plan.

**Accreditation Committee Work Plan – Mr. Willie Lockeretz, Incoming Chair**

Willie Lockeretz outlined the following issues for attention by the committee this year:

- Continued development on the Enforcement Task Force matrices.
- MOUs with States need to be developed for enforcement
- Peer Review participation with the Department.
- Development of an equitable fee structure especially for small operations.
- Certifier concerns about their role in the politics in accreditation and certification -- more about how they feel rather than about how it will be done.
Tom Hutcheson announced that OCC is hosting an Accreditation Training program for certifiers in February 2, 3, Friday and Saturday. Mark Bradley from the FSIS collaborated with OTA and IOIA in developing the program.

During the final public comment Bob Shine spoke as a small certifier about the issue of the shakeout of small certifiers when the program is implemented and the reaction to the unknown.

**Crops Committee Work Plan – Mr. Owusu Bandele, Incoming Chair**

Steve Pavich stated the Crops Committee should discuss:

- Compost
- Manure
- GMO
- Transitional Certification

**WRAP-UP/NEXT MEETING PLANS – Ms. Carolyn Brickey, Chairperson**

Ms. Brickey wants this work plan consolidated in a couple of weeks and up on the web.

Travel days for the next NOSB Meeting will be Sunday, March 4, 2001, with a NOSB Retreat on Monday, March 5th, and the NOSB Meeting on Tuesday and Wednesday March 6 and 7. The first day of Expo West is Thursday, March 8th.

Ms. Brickey would like to brief Board members on Conflict of Interest at the retreat.

The June NOSB meeting dates are June 5–7, 2001. Suggested locations for the next meeting included La Cross or Madison, WI or the Minnesota area.

The meeting was adjourned at 2:40 p.m.

**CAROLYN BRICKEY, Chair**
National Organic Standards Board

**KEITH JONES, Program Manager**
National Organic Program
Welcome new members, receive an update regarding certification of aquatic animals, receive committee reports, approve the NOSB’s comments to the reproposed National Organic Program regulations, elect new officers, make committee assignments, and set meeting dates and agenda for the next 3 meeting.

CALL TO ORDER

Robert (Bob) Anderson, Chairperson of the NOSB called the meeting to order at 9:20 a.m. Mr. Anderson thanked everyone for coming to the meeting. He introduced the five newly appointed members; Mr. Owusu A. Bandele from Baton Rouge, LA (Farmer); Ms. Kim M. Burton from Chico, CA (Handler); Ms. Rebecca J. Goldburg from Montclair, NJ (Environmentalist); Mr. T. Mark King from Indianapolis, IN (Retailer); and Mr. William P. Lockeretz from Brookline, MA (Environmentalist). Bob stated that he looked forward to working with each of them. Mr. Anderson acknowledged Ms. Hope Crain, (KY) State representative and Ms. Enid Wonnacott, (NOFA-VT) Certifier representative that were present to assist the NOSB. Mr. Anderson gave a quick overview of the Agenda for the day’s activities.

Motion: Steven Harper moved that the minutes from the March 21-22, 2000, be approved as written. William Welsh seconded the motion. The motion passed unanimously.

USDA/NATIONAL ORGANIC PROGRAM UPDATE

Aquaculture Update: Keith Jones, Program Manager, NOP

Mr. Jones recommended that the NOSB assign a taskforce to address the issues surrounding aquaculture. There will be a workshop on aquatic species on June 23-24, in St. Paul, Minnesota, Becky Goldberg will be speaking and Bill Welch will attend.

NOSB COMMITTEE UPDATES/PROGRESS REPORTS

Mr. Anderson noted the primary focus of this meeting is to develop Board comments to the National Organic Program proposed rule. The following are committee comments on the appropriate sections of the proposed rule.

Accreditation Committee Report: Ms. Betsy Lydon, Chair

Ms. Lydon received comments that section 205.501 General requirements for accreditation (a)(1)’s language is too restrictive. NOP attempted to look at conflict of interest in the context of the committee. The Accreditation Committee was asked to work with NOP on new language for tomorrow.

Section 205.620 Requirements of State organic certification programs. The language needs to be clarified, a clear distinction needs to be made between State certification and State Program. Will the State certify even if they don’t have a state program? (See NOSB Comment)

Crops Committee Report: Mr. Eric Sideman, Chair

Mr. Sideman discussed the crop sections in the "NOSB Draft Comments to Revised Proposed Rule." Section 205.2 Terms defined wanted to add to this section "composted manure and animal parts."

Remarks by Kathleen A. Merrigan, Administrator, Agricultural Marketing Service
Ms. Merrigan thanked the current, new, and old members of the Board for coming together to develop comments on the Proposed Rule.

Ms. Merrigan anticipates that the issue of raw manure and compost will stimulate significant feedback during the comment period. The Organic Food Production Act (OFPA) was drafted as a marketing standard. Manure has the food safety "tag" that is not found in any other standards defined by OFPA. Ms. Merrigan requested that commenters with scientific backup submit it with their comments.

Regarding the National List, the petition will be available tomorrow and this will be an ongoing process. The National List will be the biggest role of this Board in the future. Ms. Merrigan is working on getting funding for materials review and supports the authority of the Board to approve the National List. She wants scientists in the government to do some of the materials review work; EPA, FDA. There is increasing interest and excitement about organics at the federal level so they may actually want to get involved.

Ms. Merrigan presented certificates of appointment to five new members appointed to the NOSB by Secretary Glickman. New members: Owusu Bandele; Kim Burton; Becky Goldburg; T. Mark King; and William Lockeretz. A notice has already gone out to solicit nominations for five new appointments to the NOSB, two farmer/growers; two consumer/public interest; and a certifier.

BREAK

Crops Committee Report (Continued): Mr. Eric Sideman, Chair

Mr. Sideman continued the Crops Committee comments with Section 205.202 Land requirements. He suggested prohibiting use of the 3-year waiting period as a tool for intentionally rotating in and out of organic status. The intent being to prevent the applications of a persistent prohibited material then not using the land for organic production 3-years.

Section 205.203 Soil fertility and crop nutrient management practice standard. The committee supports this section strongly, but may present other language at tomorrow's session. Should there be a definition for manure? Kim Burton stated that scientific evidence on manure use is sparse and mixed. Becky Goldburg suggested that the Board should err on the side of safety. The restrictions should not be any stricter for manure that for compost. A new waiting period should be made on manure/compost tea. Steve Harper suggests a 60 day time limit on restrictions. (See NOSB Comment)

Processing Committee Report: Ms. Margaret Wittenberg, Former Chair

Ms. Wittenberg reported that the committee believes: (1) the "commercially available" definition needs to be more detailed, especially in practice manuals (See pg. 1 & 7 of comment); (2) the NOSB needs to give priority to the development of organic standards for honey production; and (3) the NOSB made recommendations for standards for mushroom and greenhouse production that should be included in the final rule. The committee also recommended language regarding the issues of transition and whole-herd conversion. (See NOSB Comment)

BREAK FOR LUNCH - 12:50 P.M.

PUBLIC COMMENT SESSION
Jim Riddle – Three documents were presented to the NOSB for the Organic Trade Association (OTA) (See attachment 1)

Rod Crossley – Discussed his concern over the materials review process. (See attachment 2)

Paul Chartrand – Mr. Chartrand made comment in support of the NOSB’s 1998 recommendation to allow sulfur dioxide on the National List for use in the processing of wine from organic grapes, which the Secretary rejected in this proposed rule. The 1997 proposed rule allowed use of sulfur dioxide in processing of organic wine, following a 1995 NOSB recommendation. (See attachment 3)

Mr. Martijn VanEs, Dole Fresh Fruit Int. – Mr. VanEs discussed the use of ethylene for flowering induction in organic pineapple. A petition was filed back in April 1998 by organic pineapple growers, researchers and distributors world wide, with the NOP for approval of the use of Ethylene for organic pineapple flower induction. (See attachment 4)

Mr. George Sieman, CROOP Cooperative – Mr. Sieman spoke on behalf of Coulee Region Organic Produce Pool (CROOP) one of the oldest and the largest cooperative of certified organic farmers in the U.S. Mr. Sieman discussed the need for an entry herd clause for organic dairy. This clause is a “deal breaker” for the organic dairy industry. The CROOP applauds the NOSB Livestock Committee’s support for this standard. (See attachment 5)

Mr. Joseph Mendelson, The Center for Food Safety – Mr. Mendelson recommended language to strengthen “excluded methods” prohibition and to ensure NOSB authority over prohibition. (See attachment 6)

Ms. Enid Wonnacott, NOFA-VT – Ms. Wonnacott mentioned issues of concern:

- States should not be given more rights than privates
- conflict of interest
- privates are now allowed to deny certification
- American Organic Standard (AOS) language on new herd transition; she approves
- AOS parasite policy; she also approves

Mr. Phil LaRocca, Certified wine producer – Mr. LaRocca does not think sulfur dioxide should be in organic wine. He thinks the NOSB should go along with the comments on no synthetics. On the issue of conflict of interest there is no reason why certifiers can not check each other.

Mr. Brian Leahy, Director of CCOF

- National List needs to come up quickly
- Should not micro-manage on conflict of interest
- Manure issue is very complicated, you should not regulate by hysteria, there are no current safety studies
- Seeds are another important issue to CA growers

Ms. Emily Brown Rosen, Organic Materials Review Institute (OMRI) – Ms. Brown Rosen presented the NOSB with OMRI’s extensive comments on the proposed organic rule. The documents can also be viewed on the OMRI website (http://www.omri.com). (See attachment 7)

Ms. Cissy Bowman, Indiana Organic Farmer
Conflict of interest
Peer review panel should be funded by USDA
Honey and hydroponics need to be included

End of Public Comment

BREAK

NOSB COMMITTEE UPDATES/PROGRESS REPORTS – CONTINUED 3:30 p.m.

Livestock Committee Report: Mr. Fred Kirschenmann, Chair

Mr. Kirschenmann reviewed the sections of the comment to the proposed rule that the Livestock Committee addressed. Section 205.236 Origin of livestock, the committee recommended language to address the transition and whole-herd conversion issues. Section 205.237 (a) Livestock feed, suggested that the word “pasture” be defined as part of the feed requirement. (See NOSB Comment)

Recessed for the day.

WEDNESDAY, JUNE 7, 2000

MEETING RESUMED 9:20 a.m. - Robert Anderson, Chairperson

It was agreed that a cover letter be attached to the comment that described the goal of the NOSB’s comments and a general statement before Subpart A. Discussion on what needed to be changed on the NOSB comments on the Proposed Rule, started at the beginning with Section 205.2 Definitions.

Crops Committee Report: Mr. Eric Sideman, Chair

The additional changes from yesterdays reports were:

Definitions - "Composted manure and animal parts" change language of the second sentence to, "At a minimum, all materials must reach thermophilic conditions, .... Steve Harper suggested tabling the topic of vermiculture until more information can be provided.

"Excluded Methods", add to sentence, "...are achieved by recombinant techniques."

"Transition," and "Transition Period" – remove "Inclusion of these terms, will clarify the practice and". The paragraph would now begin, "The practice required…"

Subpart B - Applicability:

Section 205.102. Use of the term "organic" is deleted.

Subpart C – Organic Production and Handling Requirements:

Section 205.200 General is deleted.

Section 205.201(a) is deleted.
Section 205.201(5) delete the last sentence.

BREAK FOR LUNCH – 1 p.m.

Accreditation Committee Report: Ms. Betsy Lydon, Chair

Subpart E - Certification
Section 205.406 no change from yesterday.
Subpart F – Accreditation of Certifying Agents
Section 205.500 no change from yesterday.
Section 205.501 same language change.
Section 205.509 no change from yesterday.
Subpart G - Administrative
National List
Section 205.640 no change from yesterday.

Motion: Eric Sideman moved that the whole-herd conversion language in Section 205.236 Origin of Livestock be changed as indicated. Second by Joan Gussow. Motion passed unanimously.

ADMINISTRATION – Robert Anderson, Chairperson

The Chair open the floor up for nominations for Chair, Vice-Chair and Secretary.

Motion: Kim Burton moved to nominate Carolyn Brickey as Chair of the NOSB. Second by Steve Harper. Motion passed unanimously. Carolyn Brickey was elected Chair.

Motion: Becky Goldburg moved to nominate Eric Sideman as Vice-Chair of the NOSB. Second by Willie Lockeretz. Motion passed unanimously. Eric Sideman was elected Vice-Chair.

Bob Anderson stated he would like to have a professional Secretary work with the NOSB.

Bob Anderson addressed priorities of the Board going forward:

Petitions
Materials Review
Program Manuals
Board Process

The meeting was adjourned at 4:37 p.m.

ROBERT ANDERSON, Chair
National Organic Standards Board

KEITH JONES, Program Manager
National Organic Program
NATIONAL ORGANIC STANDARDS BOARD
Meeting Minutes
March 6 - 7, 2001

Embassy Suites Buena Park
7762 Beach Boulevard
Buena Park, California

Attendance Record:

Members Present: 15

Owusu Bandele
Carolyn Brickey
Kim Burton
David Carter
Goldie Caughlan
Rebecca Goldburg
Steven Harper
Marvin Hollen

Mark King
Rosalie Koenig
William Lockeretz
James Riddle
Eric Sideman
George Siemon
William Welsh

Members Absent: 0

Other Attendees:

Keith Jones, Program Manager, National Organic Program (NOP), U.S. Department of Agriculture (USDA);
Richard Mathews, NOP, USDA;
Beth Hayden, NOP, USDA;
Toni Strother, NOP, USDA; and

Interested persons from the public (See attachment B).

PUBLIC COMMENT SESSION – TUESDAY, MARCH 6, 2001

The following people presented remarks before the National Organic Standards Board (NOSB).

Mr. Don Bell, Representing United Egg Producers (UEP) – Mr. Bell made comment in regard to the use of the term "organic" interchangeably or in combination as part of a single system. These comments are intended to provide scientific reasons for keeping chickens inside a confinement facility and in providing chickens a cage environment. Suggests "Cage-free Organic" and "Caged Organic" poultry labels. (See attachment 1)

Mr. Jack Samuels, Citizens for Truth in Labeling - Comment against approval of L-Cystine. Points out that there are serious errors in the TAP review of L-Cystine. Mr. Samuels asked that the NOSB not approve L-Cystine for inclusion on the National List of approved materials. (See attachment 2)
Mr. Steven Mahrt, Petaluma Farms – Offered a quick overview of why Methionine is essential to a well-run organic poultry farm to prevent stress by providing a balanced diet, promote feed efficiency and conserve resources. (See attachment 3)

Ms. Robin Downey, Pacific Coast Shellfish Growers Association – Presented a White Paper Developing Organics Standards for Molluscan Shellfish. (See attachment 4)

Mr. Todd Lorenz, Cyanotech – Spoke on certified Organic Spirulina production, and the fact that the Final Rule does not accommodate microalgae Aquaculture. Current production system cannot comply with 20% limit on nitrogen from sodium nitrate. Suggests establishing separate standards for microalgae. (See attachment 5)

Dr. Amha Belay, Earthrise Nutritionalis Inc. – Presented information on the Unique Features of Microalgae Culture Systems: Organic Spirulina production. Supports position of Mr. Lorenz. (See attachment 6)


Mr. Merrill Paxman, Sales and Marketing Manager, Millers’ Honey Company - Representing Clint Walker, President, National Beekeeping Federation and Buddy Ashurst, President, National Honey Packers and Dealers Association. Encouraging organic standards for honey and beekeeping with request for a task force for beekeeping and honey handling under organic methods. Described areas of production standards including post harvest actions. Offers to be involved in honey task force. (See attachment 7)

Ms. Emily Brown-Rosen, Organic Materials Review Institute (OMRI) – 38 certifiers, including 8 states, subscribe to OMRI. OMRI to re-publish their list by June to comply with final rule. The compost requirements of the final rule will require the reclassification of many OMRI approved heated pathogen-free compost products as raw manure. Also requesting removal of natural colors from National List. She believes there was no petition to put natural colors on the National List, and no recommendation by the NOSB. She stated that Environmental Protection Agency (EPA) plans for development of a label to identify products with ingredients approved for use in organic agriculture prompts concerns and specific needs regarding the definitions of synthetic and natural. She expressed the belief that the definitions should not be limited to origin and should address process. OMRI has a concern about volatile oils, permitted methods of extraction for "natural" products, guidance about GMO’s, and regular updates on changes to EPA List 4. Of eighty (80) approved materials on OMRI’s list, half include inerts on List 3 which will no longer be available in April 2002.

Ms. Deborah Brister, University of Minnesota, Aquaculture Working Group Member – Reported on recent workshop issues appropriate to organic certification of aquaculture. Submitted report on organic standards proposed by the workshop. Specifically mentioned feed sources, use of terrestrial livestock by-products for feed, antibiotics, triploidy induction does not involve genetic engineering, and concerns about effluent management. (See attachment 8)

Ms. Katherine DiMatteo, Organic Trade Association (OTA) – Complements to the NOSB and NOP on improvements of transparency and information availability. OTA will support NOSB agendas, but encourages more information about what is being worked on by the NOSB, that doesn’t appear on NOSB agendas. Requests clarification about who is responsible for making decisions on issues not on agendas. What happens to requests for changes and new issues for the NOSB to address when they are not on meeting agendas. Ms. DiMatteo also brought to the Board’s attention the AOS standards for honey, mushrooms, and greenhouses. OTA’s list of 41 questions about the rule will hopefully be addressed. Issues of importance include compost standards, conflict of interest, private label exclusion, and commercial availability.

Mr. Miles McEvoy, Washington State Department of Agriculture, and NASOP – Requested that the NOSB take another look at exemptions and exclusions, especially how the final rule compares to the NOSB’s recommendations from 1994 and 1995. He stated
that the regulations should require certifications of all products that make organic claims, including wholesale distributors and processors that only make an organic claim on the information panel or ingredient statement, especially when the ingredient statement is on the principle display panel. Also concerned about unlevel playing field caused by excluding in-store retail processing. NASOP adds similar comment requesting that NOSB reconsider Applicability section specific to exemptions and exclusions as they impact enforcement and enforcement costs that will be the burden of state organic programs. Also had comments on new compost language, specifically regarding chicken litter, which does not meet the required C:N ratio.

**Mr. Garnett Pirtt**, Capitan Cook Honey in HI – Spoke in favor of honey standards. He is complying with all the requirements and would like to see honey standards in place. Offers to be involved in honey task force.

**Ms. Suzanne Vaupel**, International Federation of Organic Agriculture Movements (IFOAM), CCOF Government Affairs, OTA International Committee - Ms. Vaupel spoke on behalf of IFOAM on four issues. The first issue she addressed was the right of private certifiers to use their seal or logo to represent their standards, which may include additional standards to those in the USDA Regulation. States that certifiers need regulatory certainty regarding NOP interpretations. The second issue was conflict of interest. She believes the regulation excludes certified farmers from serving on the certifier’s board or in positions that are "responsibly connected." This prohibits "stakeholder involvement", which is an ISO 65 requirement. IFOAM is very concerned that conflicts of interest are avoided in all certification decisions. The third was accreditation of foreign certification bodies. The regulation does not include one of the options that the NOSB recommended to USDA. The NOSB recommended that USDA accept accreditation by an international accreditation body. The NOP could: (1) use reports written by the International Organic Accreditation Service; (2) contract IOAS to perform evaluations; or (3) review and recognize IOAS. And the fourth was what IFOAM refers to as small holder certification. Specifically, in Third World countries, groups of very small farmers are commonly organized under a single system that has an internal inspection body. IFOAM encourages USDA to allow for the selection of a statistically representative sample of farmers in such organizations for on-site inspections. (See attachment 9)

**Mr. Joe Smillie**, Senior Vice President, Quality Assurance International (QAI), and Secretary, OTA – Commented that commercial availability and private labeling are issues the NOSB could address. He believes that commercial availability is doable since QAI has successfully enforced commercial availability, and that private labeling could be an enforcement nightmare. He believes that consumers expect companies that commission the manufacturing of organic processed products to be certified. Without certification, there is no oversight of the audit trail. This issue requires a huge technical correction. Also requests that the Board look at what claims can be made that are beyond the purview of the rule. Can this be included in the "made with" category? Urges the Board to address and make it a priority. Also please keep transition to organic on your list. Lastly, there is a need for equivalency and flexibility in the accreditation or approval of indigenous certifiers for imported products. (See attachment 9)

**Ms. Diane Bowen**, OCIA International – Expressed concern that the conflict of interest provision will prevent producers and handlers from serving on certifier boards. This requires a short term fix and should be a high priority for the NOSB Accreditation Committee.

**Mr. Marty Mesh**, Florida Organic Growers, chair of the OTA’s Organic Certifier’s Council – Also spoke about conflict of interest. OCC will submit specific amendatory language in advance of the June meeting. Requests a current update on the situation in Japan from NOP. Also request that the NOSB give its attention to a natural supply of calcium sulfate for tofu processing.

**Mr. Marty Mesh**, presented on behalf of Mr. Michael Sligh, The National Campaign for Sustainable Agriculture. Campaign to meet in conjunction with NOSB’s June meeting. (See attachment 10)

**Mr. Rod Crossley**, Consultant, chair of the CA Organic Advisory Board – Spoke on the National List with respect to what can be added and deleted. Natural colors and flavors should be removed from the National List, since there was no TAP review. Asks about short term approval process for imported ingredients. (See attachment 11)

End of Public Comment
Welcome and Introduction of New Members – Carolyn Brickey, Chairperson

Carolyn Brickey thanked every one for coming and participating in the meeting. She stated that the Board has a grueling schedule that they intended to cover over the next two days. Ms. Brickey recognized the work of past members, welcomed the new members, and encouraged all to stay involved, and to work with Secretary Veneman and the new Administration.

Ms. Brickey mentioned some of the top priorities of the Board: adequate funding; pressing for transitional opportunities and funding for transition; new standards for honey, mushrooms, greenhouses; advice on access to pasture; commercial availability; promoting EPA’s efforts on labeling; and compiling and maintaining an accurate and comprehensive record of NOSB actions and material approvals.

Introduction of New Members filling five vacant positions on the NOSB, the new positions expire in 2006, the new members are:

Certifier: Jim Riddle, Winona, MN
Farmer/Grower: Rose Koenig, Gainesville, FL
Consumer: Goldie Caughlan, Seattle, WA
Consumer: Dave Carter, Aurora, CO
Farmer/Grower: George Siemon, LaFarge, WI

An Agenda review was conducted with no changes.

USDA/NATIONAL ORGANIC PROGRAM UPDATE – KEITH JONES, PROGRAM MANAGER

The Final Rule’s effective date is now April 21, 2001, due to a housekeeping error now rectified. Because of the tremendous amount of work that has to go into developing a proposed rule for honey, mushrooms, and greenhouse standards, much work has to go on in the Department. The NOP will make every effort possible to be open about this activity, but under the current time constraint, it may not always be possible to provide the NOSB with drafts of these documents.

Two issues seem to be most important. Conflict of interest and additional standards. It is not USDA’s attempt to remove farmers from the process of certification, but to keep the certification process free of conflict of interest. Certifiers are allowed to provide for the voluntary use of additional truthful label claims, such as "pasture based organic."

Other areas of concern include "lack of capture" of processing facilities. This may not require a major fix, if any at all. We are mostly concerned with a legal audit trail. Commenters have raised legitimate questions that justify a look.

Another is the issue of commercial availability. What does a certifier have to do to be sure efforts have been made to source organic ingredients? The NOP asks the Board for a specific recommendation; comments to the rule did not provide it.

Another is the subject of technical corrections. Technical corrections cannot change the nature or intent of the rule. They can correct errors in drafting. They are usually done six months to one year after publication of a final rule.

The NOP is also getting interest in labeling for health and beauty aids. We will have consultation with the Food and Drug Administration (FDA) about this labeling category. Also received interest in labeling of organic pet food.

Regarding negotiations with Japan, another equivalency proposal was made to Japan last week to basically accept USDA oversight of ISO 65 and that was rejected. They said no, we have to meet their standards. Their standards are insufficient when measured against our standards. Trade with Japan was a huge area of concern at BioFach. Keith Jones recommends that the NOSB get an update from the Foreign Agricultural Service (FAS) at each meeting regarding negotiations with other countries. FAS negotiates these discussions, not the NOP. The Board cannot make recommendations to FAS, but should be informed about these trade discussions.
Carolyn Brickey asked for reaction to the final rule at BioFach. Reaction depends on who you ask. Keith Jones is pleased with interest from the EU, trying to think through the trade implications of their rule. They appear to be very interested in developing equivalency with us. Documents are being traded again. The EU seems to be interested in moving quickly. Although their livestock standards are basically "do the best you can" and are handled at the regional level.

Rose Koenig asked about comments regarding compost standards and on List 3 inerts. Keith Jones has gotten no comments regarding List 3 inerts. The Department has gone the limit to find funding for materials review and the Board has done what they can to expedite reviews and approvals, but there is no evidence of "all those materials out there that will not be allowed" because so few petitions have come in. The $100,000 for materials reviews this year and $100,000 for next will probably not get used, making it almost impossible to get future funding.

Keith Jones cannot stress to this Board how contentious the issue of compost standards was in terms of regulatory impact, and they will probably not be changed. It was the most difficult and last section of the final rule to get cleared, so there may not be an opportunity to go back and change anything. The NOP is always open to listen, but this particular issue will be very, very difficult to move at all.

Jim Riddle asked about the situation of raw products finished in Japan, what about an additional seal that makes multiple claims, such as "pasture based" or "grass fed" in addition to "EU compliant" or "Biodynamic." This would be fine as long as they are truthful claims. Jim Riddle asked about capture of processors and "private label" companies, and if comments or recommendations from the Board carry more weight on the issue than comments that come from outside the Board. Keith replied, "If the Board wants to use its time to make a formal recommendation, fine, but NOP is looking at this issue, a policy directive can take care of it."

Carolyn Brickey asked about the problem of intermediate ingredients in compost. According to Keith, the question became one of composted manure vs. raw manure. The NOP is hearing, "we just can't comply with this" because it's just too hard. That won't fly. If its an issue of use of language, that might be possible. Office of Management and Budget (OMB) will be the hardest hurdle because of cost. Keith Jones wouldn't be surprised if OMB wouldn't require some study about how it really impacts somebody on the ground. What would be the financial burden of existing language?

Owusu Bandele asked about transitional language. Keith Jones notes that you can still call it "transitional" not "transitional Organic". The Organic Food Production Act (OFPA) is silent on transition and their needs to be additional research on what "transitional" really means to the consumer. The NOP has not precluded existence of a transitional label.

Jim Riddle asked for an explanation of "policy directive". Keith Jones said he always imagined non-regulatory guidance as used by NRCS for additional information. At one time NOP thought they'd just write a manual. After comments started coming in January, he thought of dealing with it one discreet question by one discreet question. Answers would become "policy directives" eventually compiled into a single manual.

Dave Carter asked about small certifier accreditation. Keith Jones explained that accreditation for five years is available except for travel and per diem for evaluators. Keith Jones suggests that there may be some foundation funding available. The NOP wants to engender competition between certifiers. He also would like to see the organic certification cost share program continued and expanded. If adjustments to accreditation requirements are made for domestic certifiers, they must also be made for foreign certifiers.

Willie Lockeretz asked about the possibility of sharing accreditation documents already created by certifiers. The NOP will not use documents from private accreditation bodies. They want to get a handle on certifiers themselves without having to rely on the work of others.
Jim Riddle asked about the time lag for accredited certifiers to do document review of product coming from other countries. Keith Jones answered that if the certifier wants to take the risk, it is a business decision on your part. Jim Riddle understands the certifier is assuming responsibility for that.

Steve Harper asked about the questions and answers promised for the web site by the end of January. The NOP was overwhelmed by questions. The NOP found that many questions were duplicative. Arthur Neal has been tasked with answering questions. He should have a first draft for Keith to review when he gets back next Monday. Keith Jones hopes to have something on the web by the end of March.

Eric Sideman asked about a training session on standards that Keith Jones mentioned in Atlanta, similar to the certification workshop. Keith Jones thinks that might happen in the fall.

Jim Riddle asked if there is a difference between these questions and answers and policy directives. Keith Jones thinks yes. It’s possible to take some of the Q&A’s and turn them into guidance documents, into policy directives, official word.

Willie Lockertz asked about other dates specified in the rule getting bumped up by two months and Keith Jones confirmed that.

**NOSB COMMITTEE UPDATES/PROGRESS REPORTS**

**Livestock Committee – Eric Sideman, Chair:**

The Livestock committee prepared a statement, a guidance document *(See attachment 18)* with the hope that NOP will include more specific guidance in a policy directive. It is important to the Livestock Committee that these issues are included:

- Ruminants must have access to grazing pasture during months when pasture can be grown and provide a significant amount of nutrition from pasture.
- A minimum of 50 percent of the total feed ration should come from edible forage.
- Exceptions will include health and safety of the animal and inclement weather.
- Another exception will be for animals under 6 months old and, animals in final stage of finishing, not to exceed 120 days.

Livestock committee requests public comment on this statement. George Siemon wants to know how the public will get the word out to give comment. Keith Jones will put this up on the web as an NOSB recommendation. Keith Jones clarifies that NOP will not write a directive without an NOSB recommendation. Comments included use of the word forage, as defined by the final rule, and that health and safety should include health of the pasture. Keith Jones reminded everybody that policy directives still do not have the force of law. Keeping that legal framework in mind, is there any more specificity that the NOSB wants in the final rule? For instance, if you say 50 percent of total feed, you should do that, but you don’t have to. You can’t force a producer to hold to that. It’s not a part of the regulation.

Carolyn Brickey asks if there are any requests from certifiers about more specificity in carrying out the terms of certification? Eric Sideman wants to know if a certifier can withhold certification from a producer for not following policy directives. Keith Jones says you can but then you’re going down that path which is much larger. Keith suggests that the committee compile a list of questions and ask where they want more specificity. Keith says that if this is a buzz word for scale, you better get this out on the table. What’s your intent? If your intent is to differentiate about scale, it’s your responsibility to put your biases on the table. If your objectives are that someone is in and someone is out, it has to be on the table. Eric Sideman states that pasture is necessary to the health of the animal. Jim Riddle adds consumer perception as another consideration. Bill Welch wants to know if scientific evidence is necessary. Keith Jones said it’s not necessary to go to that level. Keith Jones reiterated if you want a standard for someone to adhere to you
have to change the regulatory language. Eric Sideman wants to move forward with this recommendation with the intent of incorporating it into the rule. Eric Sideman and George Siemon want this recommendation to include stocking rates that will prevent an operation from keeping, for instance, 150 cows on 15 acres. Dave Carter adds the need to clarify temporary confinement as well. The Livestock Committee will rework their recommendation.

**Materials Committee – Kim Burton, Chair:**

The Materials Committee will continue to manage the materials review process, what needs to be petitioned, what doesn’t need to be petitioned, what can go through certifiers, and how OMRI lists will be used to identify substances not on the National List.

The committee will be pursuing one on one communication with industry for answers to questions regarding material reviews. Inform them that there is $100,000 for TAP review of materials and the lack of material petitions.

Another priority is to develop a policy on updates to the National List, depending on approvals produced at each NOSB meeting. Also, give NOP guidance on removal of items on the list.

The Committee will also update the list of materials reviewed, presented at the last meeting.

**Processing Committee – Steven Harper, Chair:**

Priority for the Processing Committee is the review of materials and suggestions for processors on clarification of need for petitions of materials.

Presentation of a proposal on commercial availability, developed by OTA’s Manufacturing, Processing, Packaging, and Labeling Subcommittee of the Quality Assurance Committee. It can also work for seed as well as ingredients.

Steve Harper reviewed the proposal and asked if it is too technical. Keith Jones thinks this is great. He wants to know the criteria that have to happen in order for a product to be deemed commercially available. Steve Harper asked if he wants an expansion on the definition. Keith Jones responded that the committee will have to get something in there that addresses economic value. Cost has to be clarified. There have to be triggers and one will be cost. NOP did not want to touch commercial availability, but comment has now required that they do.

Some of the information in the proposal is not important to NOP. They will not arbitrate how this will apply. If a material is allowed in the final rule, they will not go further with it. They will not establish a clearinghouse of commercially available materials. That can be done by the industry.

Owusu Bandele pointed out the issue of scale, as a larger producer may not be able to access necessary quantities, where a smaller operation may be able to. Another concern is the paperwork burden. Another is that this may not be appropriate for seeds. Eric Sideman suggests that the Crops committee do the same for seeds. Keith Jones says get this pinned down with a minimum of regulatory requirements. You will not be able to do anything if one producer can find organic seed and another cannot.

Carolyn Brickey can see how this presents incentive to the industry not as Keith Jones does, as a loophole. Jim Riddle echoed Carolyn’s point that this drives the industry to provide organic inputs and seeds. Jim Riddle added that documentation is already happening and certifiers are used to requiring documentation. George Siemon thinks a criterion is needed now. This proposal outlines procedure. Keith Jones said the criteria should include quantity, enough for you to do what you need to do, and the other is the cost factor.

George Siemon asked why OMB is concerned about money. Keith Jones states that’s why people make phone calls, do paperwork, create a regulatory impact for this situation.
Break for Lunch.

**Accreditation Committee – William Lockeretz, Chair:**

Willie reported to the Board that the Accreditation committee does not have any current agenda items for this meeting, but has been asked by the NOP to address two primary issues:

1. For the June meeting, establish criteria for selection of the peer review panel
2. Review with NOP staff the questions and answers to be published on the web

Enforcement is premature and NOP is not ready at this time to address enforcement procedures.

**PRESENTATION BY THE ENVIRONMENTAL PROTECTION AGENCY (EPA)**

Mr. Jim Jones made a quick statement of introduction and also said the OMRI Pesticide labeling proposal they discussed at this morning’s public comment, is shared by EPA and that they are willing to work with the Board and other interested parties. Mr. Jones then introduced Mr. Robert Torla of the Biopesticides and Pollution Prevention Division.

Bob Torla, EPA Organic Label Proposal (See [attachment 12](#))

Mr. Torla stated that the issues Organic Materials Review Institute discussion about EPA organic label included issues of reformulation and label use. Annotations are presenting a problem for EPA in that one product with different uses may require two labels, one that allows it according to the annotation, another that is differently specific. EPA is worried that a manufacturer may not want to apply for more than one label, one approved for organic and one for conventional.

Biologics and GMOs are part of the applicant’s registration process. EPA is not setting policy on what manufacturers put on their labels. EPA will kick back any policy questions to the Board and NOP.

EPA seal cannot be used on exempted products unless registered by EPA, such as garlic or cayenne.

GMO derived ingredients are not allowed by NOP. The question is how does EPA ensure that GMOs are not in the organic labeled product? EPA is unsure how they will deal with this because of the difficulty in detecting GMO’s. For example, you can’t identify GMO in corn oil. If you can’t detect a GMO, it would seem you would have to accept its presence. When EPA does technical reviews they are not making judgements on compliance.

Question came up about EPA allowance of use of the OMRI label. EPA would only allow the OMRI label if it’s truthful.

**INERTS PRESENTATION BY JIM JONES, DIRECTOR OF THE REGISTRATION DIVISION, EPA**

NOP only allows for inerts on List 4. It has come to EPA’s attention that there are 35 or so materials approved by OMRI that include inerts on List 3. This will be allowed only until April 2002. His shop will triage these materials into four categories:

1. Mistakes – Inert actually belongs on List 4
2. Easy to assess (e.g. large polymers)
3. Compounds that need full evaluation and EPA has the data needed
4. Not enough data available to make a determination – not likely to be assessed by October 21, 2002.
By April 2002, substances fitting into categories 1 through 3 can be determined to be list 4 or not. Substances in category 4 most likely cannot be done in time. They will not cancel their use, but will notify that there is not enough information.

Carolyn Brickey asked about new products that have List 3 inerts. Jim Jones said they might not want to register them at all. New products may be reviewed but not a top priority. The next steps will be working with the new Administration getting it through the que, then put it in a Federal Register notice going out for comment.

AQUATIC TASK FORCE WORKING GROUP REPORT AND DISCUSSION - ROBERT ANDERSON, CHAIR

Mr. Anderson gave a brief overview of the structure of the working groups and presentation of reports. Bob Anderson’s intention is for these reports to go up on the web by May 1st allowing enough advanced notice before the June meeting to allow full public information and comment. The public could then make public comment at the June NOSB meeting, allowing the Board to make a determination at the October NOSB meeting.

AQUACULTURE WORKING GROUP - MARGARET WITTENBERG, CHAIR

Margaret recognized the effort put forth by the working group and presented the group’s report. There are two phases of the work of the working group

Phase One – September – November

Feed
Nutrient Management
Siting recommendation
Breeding

Phase Two – November – February

Recirculating System
Healthcare
Living Conditions
Bivalve shellfish

Two opinions were put forward:

1. Wild, sustainably caught fish and fishmeal should be allowed in organic aquaculture. Suggested for inclusion in Section 205.606 on National List as non-organically produced agricultural product allowed as an ingredient in organic products.

2. Organic feed is a component of organic livestock rules. Feed should be organic but would find it acceptable to allow wild fish as nutritional supplement up to 5% of feed for natural amino acids and omega 3 fatty acids.

The Committee also had consensus that organic aquaculture is feasible. Margaret reviewed the report submitted to the Board. (See attachment 13)

WILD AQUATIC SPECIES WORKING GROUP - MILES MCEVOY, WA STATE DEPARTMENT OF AGRICULTURE

The group had consensus on one issue; that there should be some sort of label for wild caught fish, but not necessarily the organic label.
The committee could not come to agreement on whether or not an organic label would be appropriate for wild fish. Miles reviewed the issues addressed by the group and reiterated the lack of ability to come to a decision. (See attachment 14)

MATERIALS PROCESS REVIEW - KIM BURTON, CHAIR

Kim Burton reviewed the NOSB Materials Committee Matrix of activity for review of a petition and process for NOSB approval of a TAP review (See attachment 19). Overall dates are not included due to the need for flexibility. For example, right now the OMRI deadline is March 5th for the June meeting but only 4 petitions have been received, so there is strong likelihood that the deadline will be extended. OMRI is requesting 90 days to do a TAP review. Kim Burton also noted that there are two documents that explain the requirements of the petition process; one prepared by OMRI (See attachment 20), another jointly prepared by OMRI and the California Organic Foods Advisory Board (See attachment 21).

Concern was expressed that sometimes the Board is not provided with enough information to make a decision on whether to approve or deny approval of a substance for addition to the National List. The Materials Committee posed the question of whether the materials review process should be amended to allow amending the TAP based on comments received. Concern was expressed that there are no comments from producers in support of the petitions; the only comments received were negative. Bill Welsh asked if this is because commenters only make negative comments. Eric Sideman asked if this is a problem with the system or a problem with the review that this information is sketchy? It was suggested by a member of the public that a major effort should be made to obtain input from the industry to add to the TAP review recommendations. George Siemon noted that the NOSB is far too dependent on TAP reviews to make materials decisions and that the NOSB needs to have comments from the industry to make these decisions.

The Materials Committee suggested and the NOSB concurred that the TAP summaries should be posted on the NOP web site. The NOP agreed to post the TAP summaries on its web site and to identify who public comments should be sent to.

MATERIALS VOTES:

**Hydroxyquinoline Sulfate (Livestock) Eric Sideman, Chair**

Annotation recommended by the Livestock Committee:

Primary health care must be based on preventative health care (OFPA language is "not in the absence of illness") and may only be used to treat an ailment. According to OMRI this is an over-the-counter drug not approved by FDA for use on animals. OMRI also stated that this is a list 3 EPA substance.

The TAP review provided the following information on Hydroxyquinoline Sulfate. Hydroxyquinoline sulfate is considered to be a poison when ingested. There is insufficient evidence to indicate whether this substance is a carcinogenic. Although one study (Peterson, 1978) observed tumors in rats from hydroxyquinoline. The FDA in 1994 disallowed the use of derivatives of this substance in antifungal treatments as there was not sufficient data to consider the substances to be safe. Quinoline is a poison, when ingested orally or through subcutaneous injection. Contact with the skin produces a moderate toxic reaction and can result in severe irritation. One report (Aiello, 1998) indicated that this substance is potentially neurotoxic when used topically for prolonged periods.

Jim Riddle stated that this is not tested for residue in milk, there is no data on this.

Marvin Hollen noted that this is not water soluble, you have to be diligent in wiping it off.

Rose Koenig asked if there were any comments from growers? None.

Steve Harper asked why this was petitioned? Is it widely used or a tool being used today?
Any Conflict of Interest? None.

TAP Annotation:

For use in a topical salve for dairy cattle in concentrations no higher than 0.3%.

**15-0-0 Synthetic 4 Approved - 11 Prohibited - 0 Abstained. The Material does not pass.**

**Poloxalene (Livestock) Eric Sideman, Chair**

Annotation recommended by the Livestock Committee

Only to be used in the treatment of bloat.

Owusu Bandele asked if mild bloat was considered an emergency?

Mark King asked if there would be residue in the meat?

Rose Koenig asked if this would be recorded in the farm plan?

Jim Riddle asked if this would be allowed for all livestock species?

Goldie Caughlan said oils and detergents are alternatives.

Annotation:

For emergency treatment of bloat.

**15-0-0 Synthetic 15-0-0 Approved. The material is approved with annotation.**

**L-cystiene (Processing) Steve Harper, Chair**

A dough conditioner, antioxidant, flavorant, widely used in processed products. Committee unanimously recommended against approval because other alternatives are available.

Any Conflicts of Interest? Steve Harper works for General Mills. He has no financial gain.

**15-0-0 Synthetic 0-15-0 Prohibited. The material does not pass.**

Recessed for the day.

**Wednesday, March 7, 2001**

Discussion of voting on ingredients in 100% organic, organic and made with organic ingredients by Rick Mathews:

A "made with organic (specified ingredients or food group(s))" product must, in accordance with section 205.105(c) of the Final Rule, be produced and handled without the use of nonagricultural substances used in or on processed products, except when the nonagricultural substances are included in section 205.605 of the National List of Allowed and Prohibited Substances. Accordingly, the reference to nonorganic ingredients in section 205.301(c) refers to agricultural ingredients only and should not be construed to include nonagricultural ingredients.

To further clarify the Department’s intent, a "made with organic (specified ingredients or food group(s))" product must contain at least 70 percent organic agricultural ingredients that have been produced without the use of:
1. Synthetic substances unless the substances and their use are allowed under section 205.601 or section 205.603 of the National List of Allowed and Prohibited Substances.

2. Non-synthetic substances prohibited under section 205.602 or section 205.604 of the National List of Allowed and Prohibited Substances.

3. Non-agricultural substances unless the substances are allowed under section 205.605 of the National List of Allowed and Prohibited Substances.

Additionally, the remainder of the ingredients in a "made with organic (specified ingredients or food group(s))" product (up to 30 percent) may include:

1. Non-agricultural products listed in section 205.605 of the National List.

2. Non-organically produced agricultural products, raw or processed, that have been produced using synthetic, non-synthetic, and non-agricultural substances without regard to sections 205.601 through 205.605 of the National List of Allowed and Prohibited Substances, except that the use of excluded methods, sewage sludge, and ionizing radiation are prohibited. Non-organically produced agricultural products listed in section 205.606 of the National List of Allowed and Prohibited Substances must comply with the restrictions placed on that product by section 205.606.

MATERIALS REVIEW CONTINUATION – KIM BURTON, CHAIR

Calcium Sulfate (Processing) Steve Harper, Chair

Annotation: From mined non-synthetic sources

Changed to Calcium Sulfate – Mined
No Annotation

0-15-0 Natural 15-0-0 Approved The material is approved with no annotation.

Boiler Chemicals (Processing)

Ammonium Hydroxide
Cyclohexlamine
Diethylaminoethanol
Morpholine
Octadecylamine

Steve Harper reviewed a description of the use of steam chemicals. This category is volatile amines that cannot be taken out of the steam. Steve indicated that OTA believes it is imperative to petition the volatile amines that directly come into contact with food. There is a group of chemicals that are designed to stay in the boiler and do not come into contact with food. The group of substances being petitioned do come into contact with food.

The Processing committee looked at these reviews and recognized that there is a lot of information that is not included in the TAP reviews and recommended tabling the vote on these substances until additional information can be submitted.

Dave Carter questioned the agenda calling for review, not a vote, on these chemicals as well as the process of "tabling." Tabling requires a vote to table and another vote to take off the table. Deferring action is much simpler. It was agreed to defer action on Boiler chemicals until the June meeting.
Steve Harper has arranged for an outside expert, not connected to the petition, to explain the circumstances about steam chemicals to the Board. The Board finds difficulty with the process of calling in an outside expert. Rose Koenig expressed concern about setting a precedent and echoed that Carolyn Brickey should have been consulted regarding expert testimony. Carolyn was indeed consulted and approved the guest speaker prior to the meeting. Rose Koenig wants the procedure for calling in outside experts to be clear to the public. George Siemen asked who paid for the expert. According to Steve Harper, OTA will be billed for the expert. Goldie Caughlan feels that it is the responsibility of the NOSB to have this information. Eric Sideman wants to hear this expert now as he (the expert) has to catch a plane. He suggested that the NOSB develop a policy on the use of outside experts.

Carolyn asked if there were any objections to hearing from the consultant. Owusu Bandele abstained. There were no objections.


**Presentation to NOSB on boilers and boiler chemicals**

Steam only must exit boiler – steam has "latent heat" – heat associated with phase change – water does not have latent heat. Want "dry" steam to exit boiler.

Steam produced in a plant is generally used in a variety of ways. Some may be used for direct injection, steam cleaning, steam jackets, heat exchangers, or condensed for hot water needs.

Impurities in boiler water consist of undissolved solids, dissolved solids, and dissolved gases. Undissolved solids are generally not the issue. Dissolved gases lead to corrosion. Most common dissolved gases – O2, CO3, HCO3. CO3 and HCO3 break down to form CO2 gas. O2 and CO2 are "non-condensable gases" with no "latent heat". When steam condenses a condensate is formed. This water then absorbs CO2 and O2. As condensate continues to cool below its condensation temperature, it is more able to absorb corrosive dissolved gases. The O2 can act as a catalyst to form rust and oxygen pitting. CO2 in condensate creates carbonic acid, which is corrosive. Stainless steel and other alloys can be used to avoid corrosion, but they may not be rated for the pressures needed, and may not be able to expand and contract as needed.

Volatile amines – include:

1. Neutralizing amines
2. Filming amines

Neutralizing amines are introduced directly into steam or boiler water to retard corrosion. Some of the neutralizing amines will absorb into the condensate neutralizing the pH of the condensate to prevent corrosion.

Filming amines are introduced directly into steam to coat and prevent pitting.

Neutralizing and filming amines can both end up in or on the product. Filming amines are more likely to remain on the product. Neutralizing amines tend to volatilize.

Facilities that use culinary steam can avoid use of volatile amines by:

De-aeration to drive off O2 prior to boiler - not typically very efficient. Remainder can be scavenged in boiler by adding a de-alkalizer.

De-alkalization – add salts (sulfite/sulfate) to remove bicarbonate and carbonate in boiler. Methods to remove bicarbonate and carbonate tend to be costly one-time investments.
Plants which use amines typically shut off the feed lines during organic production. This can result in substantial corrosion issues and contamination of products with corrosion products i.e. FeO2, etc.

With soft water, amines may not be needed.

In the Northwest, at 50 percent or more of plants east of the Cascades, use of amines is common. West of the Cascades, less than 50 percent of plants uses amines.

Speaker has no knowledge on residue levels in products where amines are used.

What is the least toxic amine? DEAE is seen as least toxic, but this is anecdotal.

Future trends – pre-treatment alternatives are effective, but they are costly. They are being included in new installations.

Can volatile amines be removed by ion exchange before they are released in the steam? This is not a valid concept. It may be possible with an activated carbon bed.

Amines as causes of corrosion – ammonia hydroxide can drive up pH casing corrosion.

The Board decided to defer action on Ammonium Hydroxide, Cyclohexlamine, Diethylaminoethanol, Morpholine, and Octadecylamine until the June 2001 meeting. In the interim, the Board will seek information on levels of the substances in the product, health effects of the substances, existing certifier policies, and economic data.

Break for Lunch at 12:00.

The meeting reconvened at 1:00 p.m.

Zea Sonnabend – Presented a draft document re-constructing past NOSB recommendations (1993-2000). She is also working on a summary of recommendations since the Green Book. She still needs to review the March, 2000, minutes and the Proposed Rule comments.

It was requested that Zea organize the chart in the same order as the Green Book.

The Board would like Zea to prepare a computer file with all recommendations and decisions. Decision wording from Green Book should be typed into a new file with post Green Book decisions added to create a comprehensive record. Zea could do this, but not under the current contract. The document should be made available to the NOP, NOSB, and the public by posting it on web.

Zea will finish locating minutes and records, think about an index, and identify policies. She will also excerpt decisions from meeting minutes, and develop estimate/work plan for full compilation as discussed above.

Carolyn Brickey asked that the Minutes from 11/15-17/01 be reviewed. Eric Sideman raised questions on materials that are not reflected accurately. Approval of minutes was delayed by one week pending e-mail comment and approval. Toni will e-mail current version to 10 members who were at the November Board meeting. Comments should be submitted in revision mode.

Jim Riddle was nominated by Eric Sideman for NOSB Secretary. Jim’s nomination was seconded by Becky Goldburg. Discussion of role of Board secretary; assist and oversee staff minutes, review minutes and distribute to Board members at least 10 days following each Board meeting. Discussion of new staff position. Not likely in foreseeable future. **Role call vote on Jim’s nomination as Secretary. Passed 15 – 0.**

**Items for votes:**
Livestock Committee - none.

Crops Committee – Owusu Bandele presented commercial availability draft (See attachment 15). Corrections: 2nd para 3rd sentence – change "to related" to "relative", 6th para 1st sentence – insert "be" after "should not." Discussion on "or" vs. "and" in definition. NOP will check with the Office of the General Council.

Processing Committee – New commercially available policy draft presented (See attachment 15). Change Criteria, item 3, "3x the cost of the alternative conventional ingredient." Change "input" to "ingredient" throughout. Insert in B2 1st sentence to read "Keep an ongoing publicly available list". Change B4 1st sentence "provide" to "provided." Change B4 2nd sentence to read "If the investigation of the complaint provides significant new information, then the certifier must revisit the exemption." Strike last sentence. Moved by Steve Harper, seconded by Goldie Caughlan to approve as NOSB comment to NOP. Passed 14 – 0 – 1.

Motion to combine and approve the two comments above with the definition being different for ingredients and crops. Moved by David Carter, second by Kim Burton. Becky Goldburg will draft a preamble to combine the two comments above. Passed 15 - 0 - 0.

A new task force was formed to draft a policy for calling expert witnesses. The members included Mark King (Chair), Rose Koenig, Owusu Bandele, Kim Burton, and Steve Harper.

Carolyn briefed the public on the Board’s public comment procedures and requested that people who want to testify, please sign in.

Accreditation Committee: Jim Riddle presented draft “Principles of Organic Production and Handling” (See attachment 16) for discussion purposes. He will e-mail it to all NOSB members. Comments should be submitted to Jim Riddle in revision mode or cited by section number. Accreditation Committee to have revised draft posted by May 5. Steve Harper was asked to make sure the principles do not contradict the final rule. This is an attempt to define "consistent with organic agriculture."

William Lockeretz stated that the committee would like to see the Peer Review Panel (PRP) seated by the end of the year (2001). The Accreditation Committee will draft procedures for selecting PRP members and present them to the Board for approval at its June meeting. The Committee will also suggest a PRP definition which is compatible with 205.509. A draft of the procedures and definition will be presented to the Board by May 5. The Accreditation Committee will also track certifier comments and reactions to the accreditation process. The questions circulated by Willie Lockeretz to 16 certifiers will go out to OCC members. No one objected to this happening.

Crops Committee: Intends to do some additional work on mushrooms, greenhouse production, vermiculture, and compost tea. Monocalcium Phosphate was petitioned and the committee has requested a TAP review.

Livestock Committee: Continue work on pasture. Solicit input on pasture and livestock nutrition from industry experts. Eric Sideman will submit a more detailed plan. Intend to post their work on pasture on the Web by May 5. TAP review for amino acids (DL-Methionine, DL-Methionine Hydroxy analog, and DL-Methionine Hydroxy analog Calcium) for livestock use under consideration at June meeting.

Planning species specific guidelines for "stage of production" by the October 2001 meeting. To be submitted to NOP as suggested policy directives.

Livestock Committee to be involved with NOP draft of honey standards.

Processing Committee: Continue seeking further information on boiler chemicals. To consider Dimethylpolpsiloxane, an anti-foaming agent, and reconsider the uses of Potassium Hydroxide. Steve Harper intends to submit draft language to clarify which materials need to be petitioned for inclusion on National List. Will also look at how novel processes such as ion exchange or UV treatments are evaluated. No timetable presented.
**Materials Committee**: Kim Burton handed out updated work plan ([See attachment 17](#)). Materials Committee will seek further materials for consideration by potential petitioners. Kim Burton will clarify TAP flow chart. Kim Burton and Emily Brown-Rosen will update materials database. The committee will also develop a policy on update of the National List.

Suggestions for OMRI on TAP reviews. Chairs are getting copies of petitions, but these are not going out to all NOSB members. Richard Mathews stated that NOP will send the basic petition to all members. The members can request the supporting information as needed.

One review had 4 reviewers, all others had 3. Emily Brown-Rosen explained that they must have at least 3 reviewers. In one instance, she was not satisfied with the quality of one review, so an additional review was conducted.

George Siemon seeks additional input from the public on materials being considered. Kim Burton will try to organize all information received.

Carolyn Brickey reminded all present to solicit petitions for materials to be reviewed.

Carolyn Brickey summarized work plan. She will notify everyone of their assignments once she gets the draft minutes from Jim Riddle.

Next meeting to be held June 6, 7, and 8 in LaCrosse, WI. George Siemon, Jim Riddle and Bill Welsh will help to organize.

The fall meeting will be held October 15 - 16, 2001, in Washington, DC after Expo East.

Business meeting closes.

Richard Mathews announced that NOSB members are invited to sit in on the certifier training after the comment period concludes. Additionally, Mark Bradley will put on a slide presentation on conflict of interest for Board members later today.

Ten minute break prior to public comment.

**PUBLIC COMMENT SESSION – WEDNESDAY, MARCH 7, 2001**

The following people presented remarks before the National Organic Standards Board (NOSB).

**Jack Samuels**, Citizens for Truth in Labeling - Thanks board for rejecting L-cystine. Informs Board of trend concerning MSG and free glutamic acid sensitivity. Reports incidences of reactions to organic produce, including his own experience after eating an organic potato. Organic farms seem to be using hydrolyzed fish emulsion and enzyme hydrolyzed feather meal. Read from a letter from a physician that stated acid hydrolysis can form carcinogens.

**Garnet Pirtt**, Organic honey producer, Capitan Cook Honey– QAI certified. Reports that conventional honey is contaminated. Asks when proposed honey standard will be posted. Offers to be involved in writing or reviewing draft comments.

**Marty Mesh**, Florida Organic Growers – Thanked the board for the good work done at this meeting. Asks how and when draft organic sprout standards will be released. Supports the development of statement of principles. Calls into question restrictions on gifts that non-profit certifying agents can receive. Asks for NOSB intervention. Read a letter from FOG certified farmer Frank Oakes, Organic Farmer ([See attachment 22](#)) – "Organic farmers are the reason for the NOP. Objects to conflict of interest provisions."

**Ms. Zea Sonnabend** - CCOF comments. Suggestions for work plan items. Moving forward with EPA labeling program clarifications. Genetic engineering policies related to farm inputs needs to be on work plan. Further definition of extraction. Narrow range oils. How far back in production chain to go with synthetics and GMOs?
Mr. Ray Green, CDFA – Explained the comments he is about to make are his own. Impact of NOP on State programs. Policy directives will not be enforceable in CA, unless they are in the regulation. Cannot issue a notice of violation unless there is a regulation section to cite. Can only enforce "must" and "shall" items. When you interpret the law, you are creating a regulation.

Lynn Coody, Organic Ag Systems Consulting - Concerned that USDA is saying that ISO 65 is embedded in the Rule. NOP intends to cover all ISO 65 requirements during accreditation. There are a number of items where the Rule differs from ISO. Certifiers need to know which requirements to meet. Certifiers cannot be held to invisible requirements. There is also an overlap of the current ISO accreditation and NOP accreditation. Technical corrections should be made as soon as possible. Training manuals and programs must be firmly rooted in the Rule. Accreditation Committee should review gap analysis comparison of the Rule and ISO 65, available from the Organic Trade Association.

Richard Mathews responded that the Rule covers all ISO 65 requirements, and the NOP will be issuing a detailed comparison for the June meeting. NOP will be doing more training in April and May and post answers to questions on the website.

Mr. Steve Sprinkel, Organic farmer. Trying to discern how some changes can be made to the Rule. Understands that the NOSB is the vehicle for change. Questions if he must make compost only according to the Rule. Feels that the requirements are overly prescriptive and unreasonable. Feels that there are many others who share his concerns.

Motion to adjourn by Dave Carter, seconded by Bill Welsh. Passed 15-0-0.

Adjourned at 4:50 p.m.

CAROLYN BRICKEY, Chair
National Organic Standards Board

KEITH JONES, Program Manager
National Organic Program
Wednesday, June 6, 2001

8:00 a.m.: Public Comment

10:00 a.m.: Remarks of the Chair, Carolyn Brickey --Overview of the Agenda

10:30 a.m.: Approve minutes from March meeting, Jim Riddle

10:45 a.m.: Break

11:00 a.m.: NOP update and discussion

12:00 p.m.: Lunch

1:00 p.m.: Presentation of Committee Discussion & Action Items

Livestock

- Recommendation “access to pasture” – Eric Sideman

Materials

- Adopt final Materials decision matrix
- Review of materials
- Adopt final policy for updating National List
- Review committee communication with organic industry
Processing

- Adopt recommendation clarifying materials which must be petitioned
- Begin discussion regarding which novel processes will be allowed in organic handling
- Recommend clarification to address potential mislabeling by uncertified processors

Crops

- Draft guidance on compost tea & vermiculture
- Draft recommendations to NOP for greenhouse standards
- Draft recommendation to NOP for mushroom standards
- Begin discussion of transitional labeling & operations

Accreditation

- Adopt plan for peer review panel
- Provide analysis of NOP website question and answer documents to give advice for subject for policy guidance
- Present new certifier outreach report
- Discuss committee draft principles of organic production & handling

2:15 p.m.: Break

2:30 p.m.: EPA Presentation, Janet Anderson, Director of the Biopesticides and Pollution Prevention Division

- Discussion of organic product label proposal
3:30 p.m.: FAS Update on Trade Issues

4:15 p.m.: Begin Materials Process Review

- Explain materials petition process and timelines, decision process for reviewing/approving a material
- Brief review of list of materials
- Review each material
- Board action

5:30 p.m.: Recess

Thursday, June 7, 2001

8:30 a.m.: Materials review process

10:30 a.m.: Break

10:45 a.m.: Complete Materials review process

12:00 p.m.: Lunch

1:00 p.m.: Task Force Report on Board Policy Expert Presentation, Mark King, Chair

1:30 p.m.: Task Force Report on Outreach to Producers, Rosie Koenig, Chair

2:00 p.m.: Aquatic Task Force Working Group Report, Bob Anderson, Chair

2:30 p.m.: Committee Action Items

- Discussion and Board Action
4:00 p.m.: Wrap Up/New Meeting Plans

4:30 p.m.: Public Comment

5:30 p.m.: Adjourn
The NOSB meeting of October 15-17, 2001, was attended by 14 of its 15 members. Absent member was Marvin Hollen.

The NOSB acted on the following items at the October 2001 meeting:

- June 6-7 Meeting Minutes: Approved as amended. Jim Riddle moved to approve and Willie Lockeretz seconded the motion. (14 in favor, 0 opposed, 0 abstaining)

**Livestock Committee Items**

- Access to Pasture Recommendation - Approved as amended. Jim Riddle moved to approve and Goldie Caughlan seconded the motion. (14 in favor, 0 opposed, 0 abstaining)

- Antibiotics in Vaccines and Semen Recommendation - Approved. Dave Carter moved to approve and Kim Burton seconded the motion. (14 in favor, 0 opposed, 0 abstaining)

- Apiculture Task Force Recommendations - Approved. George Siemon moved to approve and Owusu Bandele seconded the motion. (13 in favor, 1 opposed, 0 abstaining)

**Materials Committee Items**

**Crops Materials**

The following materials were determined to be synthetic and prohibited for use in organic crop production.

- Monocalcium Phosphate – For the purpose of conserving nitrogen in the compost pile. (14 synthetic, 0 natural, 0 abstaining; 1 approve, 13 prohibit, 0 abstaining)

- Calcium Chloride – Non Brine Process is synthetic and prohibited. (14 synthetic, 0 natural, 0 abstaining; 0 approve, 14 prohibit, 0 abstaining)

The following material was determined to be non-synthetic and prohibited, with annotation, for use in organic crop production.

- Calcium Chloride - Brine Process is natural and prohibited for use except as a foliar spray to treat a physiological disorder associated with calcium uptake. (1 synthetic, 13 natural, 0 abstaining; 2 approve, 12 prohibit, 0 abstaining)
The following material has been determined to be synthetic and approved for use in organic crop production.

- Copper Sulfate – NOSB approved amending the existing National List usage to add “…; only with documented need as an algicide and tadpole shrimp control in aquatic rice systems; not to exceed one application per field per two year interval; used in a manner to minimize accumulation of copper in the soil and water systems.” This material was previously determined to be synthetic. (10 approve, 3 prohibit, 1 abstaining)

The NOSB reaffirmed its October 26, 1999, vote to allow the use of ethylene for the post harvest ripening of tropical fruit and degreening. Rosie Koenig moved to reaffirm the vote and Eric Sideman seconded the motion. (10 in favor, 0 opposed, 4 abstaining). The current annotation does not allow for degreening. The recommended amendment to the annotation will be included in the proposed rule to amend the National List.

Livestock Materials
The following Livestock materials have been determined to be synthetic and approved, with annotation, for use in organic livestock production:

- DL-Methionine, DL-Methionine Hydroxy Analog, and DL-Methionine Hydroxy Analog Calcium – The NOSB determined that these materials are not consistent with organic agriculture but approved them for interim use, until October 21, 2005, by the organic poultry industry to allow the phasing out of their use. (14 synthetic, 0 natural, 3 abstaining; 14 approve, 0 prohibit, 0 abstaining) The NOSB also voted that if the Office of General Counsel says no to the shorter sunset date, the material remains prohibited and the NOSB will reconsider the material at a future meeting. (8 in favor, 3 opposed, 3 abstaining)

Processing Materials
The following materials were determined to be synthetic and approved for use in organic processing:

- Ammonium Hydroxide – For use as boiler water additive only with removal from the National List October 21, 2005. If the Office of General Counsel says no to the shorter sunset date, the material remains prohibited. (11 synthetic, 0 natural, 3 abstaining; 10 approve, 1 prohibit, 3 abstaining)

- Cyclohexlamine – For use as a boiler water additive for packaging sterilization only. (11 synthetic, 0 natural, 3 abstaining; 8 approve, 3 prohibit, 3 abstaining)

- Octadecylamine – For use as a boiler water additive for packaging sterilization only. (11 synthetic, 0 natural, 3 abstaining; 8 approve, 3 prohibit, 3 abstaining)
- Postassium Hydroxide – Approved amending the annotation to read: prohibited for use in lye peeling of fruits and vegetables except when used for peeling peaches during the Individually Quick Frozen (IQF) production process. This material was previously determined to be synthetic. (14 approve, 0 prohibit, 0 abstaining)

- Cellulose – For use in regenerative casings, as an anti-caking agent (non-chlorine bleached) and filtering aid. (12 synthetic, 0 natural, 2 abstaining; 10 approve, 0 prohibit, 4 abstaining)

The following materials were determined to be synthetic and prohibited for use in organic processing:

- Morpholine – The motion, to allow this material for use as a boiler water additive for packaging sterilization only, failed. (10 synthetic, 0 natural, 4 abstaining; 6 approve, 4 prohibit, 4 abstaining)

- Sodium Phosphates – The motion, to amend the current annotation by adding formulated with soymilk or dry soymilk products, failed. The current annotation remains as published in section 205.605(b)(33). This material was previously determined to be synthetic. (3 approve, 10 prohibit, 1 abstaining)

The following Processing materials have been deferred until the May 2002 NOSB meeting:

- Diethylaminoethanol
- Glycerol Monooleate

**Processing Committee Items**

- No action items.

**Crops Committee Items**

- Composting - The NOSB approved creation of a Compost Task Force to address unresolved compost issues. The task force is expected to recommended additional compose regulations at the NOSB’s May 2002 meeting.

- Greenhouse Production Systems Recommendation - Approved as amended. Jim Riddle moved to approve and Steven Harper seconded the motion. (13 in favor, 0 opposed, 0 abstaining, 1 absent)
• Mushroom Production Recommendation - Approved as amended. Eric Sideman moved to approve and George Siemon seconded the motion. (11 in favor, 1 opposed, 1 abstaining, 1 absent)

Accreditation Committee Items

• Principles of Organic Production and Handling Recommendation - Approved. Dave Carter moved to approve and Jim Riddle seconded the motion. (13 in favor, 0 opposed, 0 abstaining, 1 absent)

• Small Farmer Exemption Recommendation - Approved. Jim Riddle moved to approve and Becky Goldburg seconded the motion. (13 in favor, 0 opposed, 0 abstaining, 1 absent)

• Enclosed in a Container requirement for Exclusion of Handler - No vote due to withdrawal of the item by the Accreditation Committee.

• Certification of Private Label Products Recommendation - Approved as amended. Jim Riddle moved to approve and Kim Burton seconded the motion. (12 in favor, 1 opposed, 0 abstaining, 1 absent)

Aquatic Working Group Items

Aquatic Animal Task Force Recommendations - The NOSB accepted the report of the aquatic animal task force and approved the following recommend:

• No standards be developed for wild caught aquatic animals;

• Standards be developed for the production of farmed aquatic animals that reflect an innovative approach to organic certification while remaining fully consistent with the statutory requirements of the Organic Foods Production Act; and

• If standards are developed for farmed aquatic animals, we recommend that the National Organic Program and the National Organic Standards Board use the aquatic animal task force report as guidance.

Eric Sideman moved to approve and Willie Lockeretz seconded the motion. (14 in favor, 0 opposed, 0 abstaining)

Election of Chair and Vice-Chair
• Dave Carter was elected Chairperson.

• Jim Riddle was elected Vice-Chairperson.

• The position of Secretary will be filled at a later date.

Next NOSB Meeting

• The next NOSB meeting is tentatively scheduled for May 7-9, 2002, in Austin, Texas.
The National Organic Standards Board meeting of May 6–8, 2002, was attended by 15 members, and three former members.

**Members Present:**

Owusu Bandele   Rosalie Koenig  
Kim Burton       Michael Lacy    
Dave Carter      Willie Lockeretz  
Goldie Caughlan  Kevin R. O’Reill  
Ann Cooper       Nancy Ostiguy    
Rebecca Goldburg George Siemon    
Dennis Holbrook  Willie Lockeretz  
Mark King

**Members Absent:**

Marvin Hollen    Carolyn Brickey  
William Welsh    Steven Harper    

**Past Board Members:**

Eric Sideman

**National Organic Program (NOP) Staff:**

Barbara C. Robinson, Agricultural Marketing Service Deputy Administrator for Transportation and Marketing; Richard Mathews, NOP Program Manager; Katherine Benham; Arthur Neal; Toni Strother; Robert Pooler; and Keith Jones.

**CALL TO ORDER:** May 6, 2002 - 8:00 a.m. – David C. Carter, Chair (p. 4)

Dave Carter welcomed everyone to the meeting, and had each member introduce him/herself. He announced a change in the materials process review as relates to an item coming forward for action. The chair of the relevant committee will make a recommendation on the material, then move that the committee vote on the recommendation with a show of hands. However, a Board member can still request a roll call vote, or make amendments, or move it forward for a vote.

**APPROVAL OF AGENDA** (p. 9)

Mr. Carter asked if there were any corrections, additions, or deletions to the agenda. Mark King asked for three corrections.

**ELECTION OF BOARD SECRETARY** (p.10)

Goldie Caughlan was nominated by Mr. Siemon, Mr. Lockeretz seconded, and Ms. Caughlan was elected unanimously.
APPROVAL OF MINUTES (p.11)

The minutes of the October NOSB meeting were approved unanimously with no changes.

Kim Burton stated that the NOSB Meeting Book is posted on the web; and Jim Riddle stated that the Board holds monthly Executive Committee meetings and the minutes are posted on the web 2-4 weeks after each meeting.

The following individuals presented public comment. Each person’s comments were recorded and transcribed for the record. Some individuals also presented written comments. Transcribed comments, and where applicable written comments, can be found at the designated Attachments.

PUBLIC COMMENTS – May 6, 2002 (pp. 13-229)

Jeff Huckaby and Gerald Davis, Cow–Organic Vegetables Company & Grimway Enterprises, (Page 13)
Leslie Zoick, Pennsylvania Certified Organic, (Page 30)
Liana Hoodes, National Campaign for Sustainable Ag, (Attach. 3, Page 54)
George Bass, The Country Hen, (Page 60)
Chris Pierce, LeValle Egg Farms, (Attach. 4, Page 66)
Steven Gray, Springer Mountain Farms, (Page 72)
Steven Collier and John Smith, Fieldale Farms Corp, (Page 82)
Wendy Elliot – APPA, Coalition Leader, Wholesome Harvest, (Attach. 5, Page 85)
Rand Duranceau, Petaluma Poultry, (Attach. 6, Page 92)
Steven Masahrt, Petaluma Poultry (Diane Goodman), (Attach. 7, Page 98)
Robert Hadad, Farm Animals & Sustainable, (Attach. 8, Page 103)
Ms. Urvashi Rangan, Consumer’s Union, (Attach. 9, Page 108)
Sam Welsch, OCIA International, (Page 112)
Emily Brown–Rosen, OMRI, (Attach. 10, Page 115)
David Engel for Jim Pierce, Organic Valley, (Page 126)
Zia Sonnabend, representing California Certifiers, (Page 129)
David Wicker, Fieldale Farms, (Page 141)
Leslie McKenna, Texas Organic Certified Program, (Attach. 11, Page 152)
Gale Ferris, Texas Organic Cotton Co–Op, (Page 156)
Kelly Morehead, Cyanotech Corporation, Hawaii, (Page 160)
Amha Belay, Enterprise Nutritional, (Page 167)
Lynn Coody, Organic AgSystems Consulting, Quality Specialist, (Page 172)
Diane Goodman, c/o Valeria Brown, CA Ag Food Advisory Board, (Page 179)
Brian Leahy, CA Organic Farmer, (Page 181)
Phil LaRocca, (Page 186)
Marty Mesh, (Page 191)
Steven Harper, Small Planets, Former Board Member, (Attach. 12, Page 198)
Oscar Morales, (Page 206)
Tom Jones, Tazo TCA Co., (Page 211)
Sharon Crumbley, Chino Valley Ranchers, (Page 215)
Cissy Bowman, (Page 221)
Eric Sideman, (Page 227)
Kevin Russell, Organic Grain Farmer, (Page 229)
MEETING MINUTES NOSB MEETING, MAY 6–8, 2002, AUSTIN, TEXAS
Page 3 of 24

PUBLIC COMMENTS – May 8, 2002 (pp. 744-836)

Carolyn Brickey, former Chair member, (Page 744)
Randy Durancean, Petaluma, (Page 749)
Tina Ellor Phillips, Mushroom Farms, (Page 755)
Harriet Behar, Independent Organic Inspectors Assoc., (Page 763)
Diane Goodman, (Page 769)
Arthur Harvey, (Attach. 13, Page 773)
Susan Ulery, The Synergy Co. of Utah, (Attach. 14, Page 777)
Emily Rosen, (Page 784)
Mary Mulry, (Page 791)
Mary Casazza, (Page 795)
Leslie Zuck, Pennsylvania Certifier Organic, (Page 798)
Marty Mesh, (Page 802)
Linda Hoodes, NCSA, (Page 808)
Brian McElroy, (Attach. 15, Page 810)
Amelia Adams, (Page 815)
Doug Crabtree, Montana Dept. of AG, (Page 820)
George Bass, The Country Hen, (Page 824)
Brian Leah, California Organic Food, (Page 826)
Phil LaRocca, (Page 831)
Pete Gonzales, (Page 836)

PUBLIC COMMENTS CLOSED AT 1:55 p.m.

MEETING RECONVENES: May 6, 2002, 2:20 p.m.

Dave Carter introduced Jim Riddle, who will present the Board’s draft policy manual, which has been under development for 6 months.

BOARD POLICY MANUAL PRESENTATION (p.233)

Jim Riddle stated the need to compile the Board’s policies into one manual to facilitate the understanding of the Board’s workings, especially for new members. Therefore, he, Dave, Kim and Mark formed the Board Policy Task Force and worked on the draft. The draft manual is posted on the web. Mr. Riddle summarized the contents and proposed voting later to adopt 95 percent of the manual (the remainder is being reworked).

NOP UPDATE AND DISCUSSION – Barbara C. Robinson & Richard H. Mathews (p.239)

NOP Website

Richard Mathews said that the NOP website will undergo a major redesign and will be available probably in another 60 days. The NOSB will have a designated place within the NOP website. A lot of new information has been posted over the last couple of weeks, so he encouraged everyone to review the many new documents.

He also stated that although the NOSB Meeting Book has been posted on the website, it may be outdated because of the public comments that were received at the NOP office during our absence.
However, there is a section to review for the public comments, and those that the NOP have received in the interim will be provided to the Board and posted to the website.

Barbara Robinson stated that NOP staff members will no longer answer clients’ (producers and handlers) questions without getting information on the issue from the certifying agent, as well. Then an answer will be given to both the client and the certifying agent.

Appeals Concerns

Jim Riddle expressed the opinion that by getting involved in issues between certifying agents and clients, NOP might be jeopardizing their impartiality if one of these issues results in an appeals proceeding somewhere down the line.

Mr. Mathews stated that all appeals go to the AMS Administrator, not the NOP. He also said NOP would try to make sure the issues were posted in the Q&A section of the website.

Organic Trade Conference

Mr. Mathews encouraged everyone staying for the OTA Conference to come to NOP’s booth. The booth is a joint effort with the Natural Resources Conservation Service, Foreign Agricultural Service, Risk Management Agency, and AMS Direct Marketing. Visitors will be able to view the NOP website and staff members will be there to answer questions.

What Has the Board Accomplished?

Willie Lockeretz said that he has been on the Board for 2 years and would like to know what the NOP/Board has done that has had a tangible specific effect on the organic situation in the U.S. Mr. Mathews stated the Board has reviewed a lot of materials, weighed-in on the revised proposed rule, gave additional comments to finalize the rule, and will continue to raise issues and make recommendations. In addition, NOP could not have gotten this far without the valuable contribution of the Board. He stated that NOP is a group of 8 staff members who set priorities, and are determined to have the program up and running on Oct. 21, 2002; nothing will prohibit NOP from achieving that goal.

Mr. Mathews further stated that the first thing is getting people accredited so they can go out and get people certified so that farmers who are working hard in this industry can continue to sell their product as organic on Oct. 21, 2002. Therefore, the small staff is working extremely hard with this dedicated Board to get everything done, and NOP is sure that the organic industry will be more than satisfied.

Dave Carter added that Barbara Robinson has been asked to compile a list of NOSB recommendations over the last couple of years, stating each recommendation, and whether the NOP agreed, rejected, or modified the recommendation. The Board will use this information as a tool to analyze how the decision-making process works.

PRESENTATION OF COMMITTEE DISCUSSION ITEMS

LIVESTOCK – George Siemon, Chair (p.247)

Feed Ingredients

The Board discussed by-products, preservatives, carriers, incidentals, vitamins and minerals, and enzymes in livestock feed.
Dairy Replacement Animals

After recognizing that the recommendation is not in the proper format and does not address all the issues, the Livestock Committee agreed to revisit the recommendation for submission later.

Access to Outdoors for Poultry

It was decided that the committee would meet this evening for further discussions, since very little could be agreed upon.

Miscellaneous

NOP will provide the NOSB with a document that addresses how to physically structure a recommendation to Secretary and what needs to be included.

**MATERIALS** – Kim Burton, Chair (p. 296)

Explanation of Materials Review Process

Kim Burton displayed and discussed a flow chart of the materials review process.

Report On Current Petitions

Ms. Burton listed the materials to be reviewed at this meeting: calcium oxide, calcium hydroxide, potassium sorbate, sodium propionate, sodium nitrate, Spinosad, diethylaminoethanol, glycerol monoleate, gelatin, dewaxed flake shellac, calcium stearate, and Konjac flour. She also briefly talked about materials to be discussed at the September meeting -- livestock-priority materials and crops and processing.

Revised Petition Process

Ms. Burton and Mr. Mathews discussed the streamlined petition process which changes some of the required information to optional.

Proposed Change to Section 205.606

In keeping with the spirit of the OFPA, the Materials Committee said that they will recommend that the 5 materials listed in Section 205.606 be deleted from the National List. Ms. Burton further stated that it is the finding of the NOSB Materials and Processing Committees that these materials are non-organic agricultural products and should be recognized as such. (Further language changes are noted in the Recommendation Attachment E and could not be discerned from transcript.)

Mr. Mathews explained that an interim final rule will be done on materials sometime before Oct. 21, 2002. Deleting these 5 items should be included in that rule.
PROCESSING – Mark King, Chair (p. 312)

Guidance for Handlers in Documenting Ingredients, Ingredient Affidavit Template (Attach. A)

Mr. King said the Committee will recommend that the NOP put on their website a “handling operation ingredient affidavit template” that the Committee developed to serve as guidance for handlers in documenting that finished products are produced and handled in accordance with the regulations.

Guidelines/Comments for Determining Processing Technologies that Require Review by NOSB (Attach. B)

Mr. King said the document under discussion is being developed to clarify the distinction between process issues and materials issues. The aim is to make it understood that synthetic materials used in processing must be petitioned.

Due to the importance and complexity of this document, the Committee will recommend that action on this document be deferred until the September meeting. The document will be posted on the NOP website for another round of comments.

Organic Handling Plan (Attach. C)

The Committee will vote tomorrow to forward the “organic handling plan template” developed by the Committee to NOP for posting on their website. It will serve as guidance for handlers and certifiers in the certification process.

Mr. Mathews stressed that handlers may use any documents or aid that they wish, as long as they comply with the standards—use of this document is not mandatory.

CROPS – Owusu Bandele, Chair (p. 321)

Compost Task Force Report– Eric Sideman, Chair

Mr. Sideman named all the members of the task force, citing their areas of expertise and credentials. Although a recommendation to change the regulations on compost is included in the report, Mr. Sideman said the Task Force focused their attention on an interpretation of the current standards which would allow other, less restrictive methods and materials, not specified in the regulations, to make compost. He presented these other methods. Mr. Sideman also pointed out that the certifying agent would be ultimately responsible for determining if his/her client’s compost was made in accordance with the regulations.

Members of the Task Force agreed to develop a practice standard that would be available to certifiers outlining the high points of this report. He also named the subcommittee members of the Task Force.

Planting Stock – Rose Koenig

Ms Koenig read the Committee’s clarification statement on planting stock from perennial crops grown as annual crops. This clarification was written mainly to address questions from strawberry growers.
In response to a question from Ms. Koenig, Mr. Mathews stated that if organic seedlings or planting stock is not commercially available, the conventionally grown seedlings or planting stock used in their stead must NOT be treated with any substances not allowed by National List. The only exception to this would be substances required by States. However, after some discussion, Mr. Mathews said he would review the issue and give a final interpretation later.

Hydroponics

Mr. Bandele read the Committee’s recommendation on hydroponic organic agriculture. However, after some discussion, and acknowledgement that according to the “scope” statement recently published on the NOP website, hydroponics are already covered in the existing regulations, it was decided that instead of issuing a recommendation on hydroponics, the Committee would put it on their work plan to develop a more elaborate guidance document.

Transitional Products

Mr. Bandele said that the committee is putting forth what they now term a guidance document on “transitional” products. There was a discussion of the value of the term “transitional” if it cannot be used in conjunction with the term “organic.” Although the Committee seemed to agree that “transitional” labeling is beyond the scope of the OFPA and the NOP regulations, they felt that their guidance document would help to bring consistency to the use of the term “transitional.” Mr. Mathews clarified that this will not be an NOP-sanctioned document, but advice from the NOSB to transitioning farmers.

Organic Farm Plan Form (for submitting changes) (Attach. D & E)

Mr. Riddle said that the Farm Plan form he handed out to everyone was designed to be used as a template that would allow producers a format in which to submit annually any changes in their standing Farm Plan. If the NOSB votes to do so, it will be posted to the web for comments.

ACCREDITATION – Jim Riddle, Chair (p.376)

Grower Group Certification

Jim Riddle briefly described and answered questions on a first-draft guidance document the Committee is submitting to be posted on the web for comments relating to the certification of grower groups and the accreditation of the certifying agents certifying these groups. Grower groups (associations/cooperatives) would be certified as a group, with the certifying agent looking at the group’s internal control system instead of each individual grower.

Accreditation Complaint Procedures

Mr. Riddle stated that NOP is required, under ISO 61 guidelines, develop complaint procedures and make them available to the public. The Committee has submitted some language to NOP to be posted on the accredited certifying agents page of the NOP web site about how to go about submitting complaints about certifying agents. The next step is to draft the actual procedures. Barbara Robinson informed Mr. Riddle that NOP has developed appeals procedures and they will be available at the NOP booth at the OTA conference.
Certifying Agent Issues

Jim Riddle related complaints about the NOP from certifying agents. They include: slow or vague interpretation of the regulations; delay in program manual for certifying agents; all ISO requirements are not contained in the regulations; lack of conflict of interest guidance; lack of enforcement plan; and the need for dissemination of information on the agreement with Japan.

INTERNATIONAL – Willie Lockeretz, Chair (p.388)

US/EU Equivalency

The new International Committee has developed a document outlining criteria that should govern how NOP thinks about equivalency as it enters negotiations with the EU. The document also contains a table—a side-by-side—showing the differences between US and EU regulations. Mr. Lockeretz emphasized that it is not a recommendation, but a think piece to be posted on the web site for comments. Ms. Robinson added that although equivalency is desirable, it is not the only course that will allow trade in organic products between the US and EU.

Adjourned 6:30 p.m.

CALL TO ORDER: Tuesday, May 7, 2002 at 8:00 a.m.

Mr. Carter opened the meeting and announced that the access to outdoors for poultry and dairy replacement animals issues will be reviewed this afternoon and acted upon tomorrow.

ADOPTION OF BOARD POLICY MANUAL (p. 405)

Motion: Mr. Riddle moved that the Board Policy Manual be adopted with the understanding that items will be added and changed as needed.

Second: Nancy Ostiguy seconded.

Discussion: Mr. Riddle went through items that need to be changed or added to the manual. Responding to a question from Mr. Lockeretz, Mr. Riddle explained that changes would generate from the Board Policy Task Force and be presented to the full Board for approval. Until the full Board meets, interim approval may be bestowed by the Executive Committee.

Vote: Unanimously approved.

MATERIALS REVIEW AND NOSB ACTION ITEMS (p. 415)

Ms. Burton set the order for materials consideration.

CROPS COMMITTEE – Owusu Bandele, Chair – (See Attach. F for vote explanations)

Calcium oxide

Motion: Mr. Bandele moved that calcium oxide, a synthetic, should be added to the National List with the following annotations: (a) must be sourced from lime kilns; (b) must be used only when documented
soil tests indicate sufficient or excess magnesium; and (c) must be applied in a form that yields less than a 1-degree Fahrenheit temperature increase when equal volumes of the product and water are mixed.

**Second:** Nancy Ostiguy seconded.

**Discussion:** Questions about cost, annotations, sourcing problems, harmony with Codex, and historical use of calcium oxide in organic production were raised and discussed.

**Amendment:** Mr. Carter proposed that each annotation be voted on separately. Mr. Holbrook seconded. The amendment passes on a voice vote. No nays noted.

**Annotation A:** Mr. Carter asks for a vote on accepting Annotation A. Annotation A is accepted by a vote of 13 to 1.

**Annotation B:** Mr. Carter proposes amending the language, striking “to be used only when documented,” to read “Soil tests must indicate excess magnesium.” The proposal to change the language of Annotation B passes by a vote of 11 to 3.

**Vote 1:** Mr. Carter asks for a vote on accepting Annotation B. Annotation B is rejected by a vote of 9 for, 3 against, 2 abstaining.

**Vote 2:** Mr. Siemon (who voted against) moves for a reconsideration. Mr. Bandele seconded the motion. The motion to reconsider the vote passes 13 to 1.

**Vote 3:** Mr. Carter asks for a vote on accepting Annotation B. Annotation B is accepted by a vote of 10 to 4.

**Annotation C:** Mr. Carter calls for a vote to accept Annotation C. Annotation C is rejected. (No vote count given in transcript.)

**Motion as Amended:** Mr. Carter calls for a vote on the following: Calcium oxide is a synthetic material which should be added to the National List with the following annotations: A, Must be sourced from lime kilns; and B, Soil tests must indicate excess magnesium.

**Vote:** In a show of hands, the motion fails 6 to 7, with 1 abstention.

**Calcium hydroxide– change from oxide**

**Motion:** Mr. Bandele moved that calcium hydroxide is a synthetic material which should be added to the national list with the following annotations: (a) Must be sourced from lime kilns; (b) Soil tests indicate sufficient or excess magnesium; and (c) To be applied in a form that yields less than a one degree Fahrenheit temperature increase when equal volumes of the product and water are mixed.

**Second:** Nancy Ostiguy seconded.

**Amendment:** Ms. Burton moved to amend the language and number of the annotations on calcium hydroxide to correspond with the language and number of annotations in calcium oxide. Ms. Ostiguy seconded. The amendment passes unanimously.
Motion as Amended: Mr. Carter call for a vote on the following: Calcium hydroxide is a synthetic material which should be added to the National List with the following annotations: A, Must be sourced from lime kilns; and B, Soil tests must indicate excess magnesium.

Vote: In a show of hands, the motion fails 2 to 10, with 1 abstention.

Potassium sorbate

Motion: Mr. Bandele moved that potassium sorbate is a synthetic material that should not be added to the National List.

Second: Nancy Ostiguy seconded.

Discussion: Mr. Siemon pointed out that the Livestock Committee considering the same substance for a different purpose.

Vote: Potassium sorbate will not be added to the National List, by a unanimous vote.

Sodium propionate

Motion: Mr. Bandele moved that sodium propionate is a synthetic material that should not be added to the National List.

Second: Nancy Ostiguy seconded.

Vote: Sodium propionate will not be added to the National List, by a unanimous vote.

Sodium nitrate

Motion: Mr. Bandele moved to postpone consideration of the two petitions involving sodium nitrate until the September NOSB meeting.

Second: Ms. Caughlan seconded.

Discussion: In response to a question from Mr. Lockeretz, Mr. Mathews said he couldn't promise that the recommendation on sodium nitrate would make it into a Federal Register docket before October 21.

Vote: Consideration of two petitions involving sodium nitrate is postponed until the September NOSB meeting, by a unanimous vote.

Spinosad

Motion: Mr. Burton moved that Spinosad is a nonsynthetic material that should not be added to the National List under 205.602.

Second: Dennis Holbrook seconded.

Discussion: Mr. Bandele clarified that by recommending that Spinosad not be added to the National List [of prohibited nonsynthetics], the NOSB is saying that it is a naturally occurring substance and can be used in organic production.
Amendment: Ms Burton moves to amend the motion to add the words “of prohibited substances” after National List. Mr. Siemon seconded. The amendment passes 13 to 0 with 1 abstention.

Discussion: Mr. Riddle discussed his objections to the material by pointing out passages in the TAP review on toxicity and persistence. He favors annotations. Ms Ostiguy said this had been discussed in Committee, but the Committee concluded annotations would be difficult to enforce. Mr. Baker (OMRI) said their review was mainly crop-focused, but included effects on livestock of Spinosad residue on feedstuffs.

Amendment and Withdrawal of Same: Mr. Riddle (seconded by Ms. Caughlan) proposed an amendment to add the words “for crop use only,” but withdrew the amendment when the phrase “under 205.602” was added instead.

Friendly Amendment: Mr. Lockeretz adds “under 205.602.” after the words prohibited substances.

Motion as Amended: The motion reads: Spinosad is a nonsynthetic material that should not be added to the National List of prohibited substances under 205.602.

Vote: The motion passes 11 to 3.

PROCESSING COMMITTEE – Mark King, Chair

Gelatin – (Attach. G)

Motion: Mr. King moved that “Gelatin to be listed in 205.606, nonorganically produced agricultural products allowed as ingredients in or on processed products labeled as ‘organic’ or ‘made with organic’ [(specified ingredients or food group(s))].

Second: Kevin O’Rell seconded.

Discussion: In response to a question from Ms. Koenig, Mr. King said that although the committee shared some of the concerns commenters had about possible allergens, the committee viewed the substance as a natural and had to view it in that light. Ms. Burton added that in regards to food safety, processors are required to follow good manufacturing practices which would address this issue.

Vote: The motion passes unanimously.

Dewaxed Flake Shellac – (Attach. H)

Motion: Mr. King moved that the following language be approved: Orange shellac, unbleached, to be listed in 205.606, nonorganically produced agricultural products allowed as ingredients in or on processed products labeled as “organic” or “made with organic” [(specified ingredients or food group(s))].

Second: Ms. Burton seconded.

Discussion: Ms. Koenig wondered why this material was reviewed by Processing Committee instead of the Crops Committee if it is primarily applied to fruit. Mr. Riddle pointed out that although references
have been made to 205.606, the NOSB will be voting at some point to remove the list from 205.606. Mr. Bandele initiated discussion on previous Board recommendations on other forms of this substance.

**Vote:** The motion is unanimously approved, with Mr. Holbrook recusing himself.

### Calcium Stearate

**Motion:** Mr. King moved that the TAP review for calcium stearate be sent back to the contractor for more information and be deferred for consideration at the September 2002 NOSB meeting.

**Second:** Ms. Caughlan seconded.

**Discussion:** Mr. King cited an example of deficiency and in response to a question from Mr. Riddle, Ms. Burton agreed that Board comments on this TAP review should be sent to her.

**Vote:** Motion is passed unanimously.

### Diethylaminoethanol (DEAE)

Mr. King stated that Diethylaminoethanol (DEAE) was petitioned for use in boiler chemical systems, and introduced Steve Harper (former Processing Committee chair) to give background. Mr. Harper stated that DEAE was originally petitioned as part of a group of volatile amines. The rest of the group have all been previously voted on individually. The once-deferred DEAE can now be considered because requested FOIA information from FDA has been received.

Mr. King then gave information on the use of DEAE, citing that the TAP review recommended that the use of DEAE be prohibited. He also cited information provided by industry that the prohibition of DEAE would cause hardship to some of the industry.

**Motion 1:** Mr. King moved that DEAE be listed under section 205.605(b) Synthetics allowed, in the following way: Diethylaminoethanol for use as a boiler water additive for packaging sterilization only. For use as a boiler water additive in agricultural products labeled “made with organic” until October 21, 2005. For use as a boiler water additive in livestock feed until October 21, 2005.

**Second:** Ms. Caughlan seconded.

**Discussion:** Ms. Burton signed the petition to consider this substance so she said she recused herself from voting, citing conflict of interest. Mr. Siemon and Mr. O’Reall also signed the petition. Ms. Burton put forward an amendment to the motion and a discussion ensued on whether someone who had recused herself from voting on the motion could offer an amendment. To resolve this issue, Mr. Carter suggested that a procedural vote be taken.

**Procedural vote:** Mr. Bandele moved, and Ms. Ostiguy seconded, that a vote be taken on the following, as phrased by Mr. Carter: “If you feel that folks that have declared a conflict of interest should recuse themselves from voting, you would vote aye on this motion. If you feel that they ought to be allowed to vote on this material, you would vote no on this motion.” Seven aye votes and 5 no votes (by a show of hands) were counted. Mr. Carter stated, “The motion fails. Those folks that have declared a conflict of interest are not required to recuse themselves.”
Amendment: Ms. Burton moved to amend the motion by changing the annotation to read: DEAE for use as a boiler water additive for packaging sterilization. For use as a boiler water additive until October 21, 2005. Nancy Ostiguy seconded.

Discussion on amendment: Mr. Lockeretz suggested rewording the amendment. Mr. Riddle explained why he opposed the amendment. Ms Koenig concurred with Mr. Riddle.

Vote on amendment: The move to amend the language in the annotation failed by a vote of 2 to 10, with 2 abstentions.

Discussion on Motion 1 (contd): More discussion involving Mr. Riddle, Ms Koenig, Mr. Siemon, Ms. Burton, Mr. King, Mr. Lockeretz, Ms. Caughlan, and Mr. Caughlan ensued relating to the suitability of using this product in all the ways listed in the original motion. Mr. Mathews confirmed that the Board could set a sunset date for substances.

Vote on Motion 1: The motion failed by a vote of 8 to 6.

Motion 2: Ms. Koenig moved to label DEAE a synthetic and prohibit its use in organic production. An unidentified voice points out that since it’s not on the National List, it’s already prohibited.

Motion 3: Ms. Ostiguy moved that language be approved that says DEAE be approved for use as a boiler water additive for packaging sterilization only. Motion dies for lack of a second. Ms Burton pleads for this language, saying not to allow DEAE will hurt the industry on package sterilization.

Motion 3, redux: Ms. Ostiguy moved that DEAE is a synthetic allowed for use as a boiler water additive for packaging sterilization only.

Second: Mr. O’Rell seconded.

Discussion: Ms. Koenig stated there are 2 alternatives to DEAE already on the National List.

Vote on Motion 3, redux: The motion passed, 10 to 4.

Motion 4: Mr. Siemon moved to allow DEAE for use as a boiler water additive in livestock feed until October 21, 2005.

Second: Mr. Lockeretz seconded.

Discussion: At Mr. Lockeretz’s request, Mr. Siemon explained the use of DEAE for making pelletized feed. Mr. King agreed. Mr. Riddle cited lack of comment from livestock industry as his reason for not supporting the motion. Ms. Koenig says she has insufficient information. Mr. Harper spoke to level of DEAE in pelletized feed. Mr. Harper elaborated on how pelletized feed is made.

Vote on Motion 4: The motion failed 8 to 3, with 3 abstentions.

Motion 5: Ms. Koenig moved to send the issue back to OMRI for more review on livestock aspect.

Second: Mr. King seconded.

Discussion: Mr. Baker of OMRI said that sufficient attention has already been given this substance and OMRI would probably have nothing to add.
Withdrawal of Motion 5: Ms. Koenig withdrew her motion.

Glycerol monooleate

Motion: Mr. King moved that pending the results of the effectiveness of organic anti-foaming agents due before the September NOSB meeting, the consideration of glycerol monooleate for inclusion on the National List be deferred until that meeting.

Second: Ms. Ostiguy seconded.

Discussion: Mr. King told Mr. Baker of OMRI that OMRI would not need to review glycerol monooleate further.

Vote: The motion passes 12 to 2, with Ms. Burton and Mr. O’Rell recusing themselves.

Meeting was adjourned for lunch, to reconvene at 2 p.m.

LIVESTOCK – George Siemon, Chair – (pp. 556 – 640)

Feed Ingredients

Vitamins and Minerals

Motion: Mr. Siemon moved to recommend that the allowance for synthetic vitamins and minerals contained in 205.603(d) (1) and (2) be broadened to include materials either listed in the CFR or in Sections 57 or 90 on the AAFCO official publication with the following exceptions: mammalian and poultry slaughter byproducts, bone ash, bone charcoal, bone phosphate, bone charcoal–spent, bone meal-steamed, bone meal-cooked, hydrolyzed fats (sections 33.3, 33.4, 33.5, 33.15). NOSB recognizes the need to review the materials on the list OMRI gave the Board and recommends a review by a TAP process to determine if the materials should be prohibited.

Second: Ms. Ostiguy seconded.

Discussion: Mr. Siemon clarified that the materials on the OMRI list will be allowed until they are reviewed. Mr. Riddle said he thought they should be prohibited until they are reviewed. Emily Brown was brought forward to talk about items on the list and their current usage status. Mr. Riddle requested that the vote be put off until the next day. After more discussion, Mr. Riddle withdrew his request.

Vote: The language as read by Mr. Siemon was adopted by a vote of 13 to 0, with 1 abstention.

Incidentals in Feed Additives

Motion: Mr. Siemon moved to recommend the allowance of incidental additives—as defined by CFR —used in livestock feed ingredients.

Second: Nancy Ostiguy seconds.

Friendly Amendment: Ms. Burton proposes to add the CFR citation to the language of the motion.
Discussion: Ms. Brown of OMRI was asked to give some examples of incidentals. She clarified that it was not so much based on the amount of the incidental ingredient, but the chain of use. The example she gave was that of canned tomatoes contain citric acid: If the tomatoes are used in making tomato sauce, the citric acid becomes an incidental secondary ingredient and is not listed on the label. This can be extrapolated to preservatives in vitamins as opposed to preservatives added directly to livestock feed. Mr. King summarized further discussion of the purpose of the motion by stating that the language in the motion will used as clarification, not rulemaking and not guidance. In response to a request from Mr. Lockeretz, NOP staff defined “guidance document."

Restatement of motion: As read by Mr. Siemon, NOSB recommends to add to the National List the allowance of incidental additives as defined by CFR 21, Part 570.100(a)(3) and used in livestock feed ingredients.

Vote: The motion passes 13 to 0, with 1 abstention.

Vitamins and Minerals redux

Motion: Ms. Robinson moved to reconsider the vote on vitamins and minerals.

Second: Mr. King seconded.

Vote: The motion passed by a voice vote [no voting numbers listed in transcript].

Motion 2: Mr. Carter moved to vote on the following: “The NOSB recommends a change in the National List as follows: The allowance for synthetic vitamins and minerals contained in Section 205.603(d)(1) and (2) be broadened to include materials either listed in the CFR or in Sections 57 or 90 on the AAFCO official publication with the following exceptions: mammalian and poultry slaughter byproducts, bone ash, bone charcoal, bone phosphate, bone charcoal—spent, bone meal-steamed, bone meal-cooked, hydrolyzed fats (sections 33.3, 33.4, 33.5, 33.15). “

Second: Ms. Koenig seconded.

Vote: Motion 2 passes unanimously.

Motion 3: Mr. Siemon moved that the NOSB recommends addition of a new 205.603(g). All materials as annotated in 205.605 can be used in organic feeds subject to FDA or AAFCO regulations.

Second: Ms Ostiguy seconded.

Vote: The motion passed by a voice vote [no voting numbers listed in transcript].

Carriers

Motion: Mr. Siemon moved that the NOSB recommends that agricultural carriers used in feed additives shall satisfy all requirements in Section 205.237.

Second: Ms. Koenig seconded.
Discussion: Mr. Riddle’s request to change “shall” to “must” is rejected based on semantic clarification.

Vote: The motion passed unanimously.

Preservatives

Motion: Mr. Siemon moved to vote on the following clarification: The NOSB recommends that all synthetic nonincidental preservatives used in livestock feed must be approved and listed in 205.603.

Second: Nancy Ostiguy seconded.

Vote: The motion is passed unanimously.

Enzymes

Motion: Mr. Siemon moved to vote on the following clarification: The NOSB recommends enzymes as allowed nosynthetic feed additives, provided they are not derived from excluded methods.

Second: Nancy Ostiguy seconded.

Withdrawal of Motion and Second: After Ms Burton stated that enzymes are currently under 205.605(a) (8), the motion and second were withdrawn.

Probiotics

Motion: Mr. Siemon moved to vote on the following clarification: The NOSB has previously determined that probiotics are synthetics, thus allowed, but the NOSB recognizes that the approved feed ingredient label is direct-fed microorganisms.

Second: Ms. Ostiguy seconded.

Vote: The motion passed unanimously.

DISCUSSION ITEMS DEFERRED FROM MAY 6

Access to Outdoors for Poultry (p. 606)

Recommendation: Mr. Siemon said that the NOSB will recommend clarification of the final rule requirement that poultry should have access to outdoors. Clarification included language to the effect that organic poultry must have access to the outdoors in the months where feasible; the producer may provide temporary confinement because of inclement weather, stage of production, risks to the health, safety and well-being of the poultry, and risks to the soil or water quality; and poultry must be able to choose to go outside.

Discussion: Mr. Riddle said the first point of clarification, “….access to the outdoors in the months where feasible…” is redundant, considering that the exceptions are spelled out. Mr. Mathews stated that State imposed quarantines or such, override the NOP regulations.
Mr. Lacy commented on the issues of disease, welfare, food safety, and customs/expectations. Ms Koenig weighed in that disease prevention/control does not have to be hampered by access to the outdoors. Mr. Lockeretz expressed bemusement at poultry’s ability to choose.

**Motion:** Ms. Koenig moved to fix the language of the recommendation and vote on it today, since 2 members would not be there for the vote on May 7.

**Second:** Mr. Lockeretz seconded.

**Discussion:** Mr. Mathews pointed out that in essence this Board recommendation says that poultry don’t have to have access to pasture. Mr. Siemon and Mr. Carter agreed that what they’re presenting is the minimum standard. Mr. Lockeretz expressed concern about no mention of population density or floor material. Ms. Caughlan talked about the disconnect between consumer perception and reality. Mr. Siemon explained why the recommendation language left out specifics on square feet/bird, etc.

**Motion withdrawn:** Ms. Koenig withdrew the motion with the understanding that the recommendation would be rewritten and voted on May 8.

**Dairy Animal Replacement (p.626)**

**Recommendation:** Mr. Siemon read the recommendation as follows: 1) Organic dairy replacement animals must be raised organically from the last third of gestation unless (i) organic replacement animals are not commercially available, in which case the producer may add replacement animals from nonorganic sources, but those animals shall be under continuous organic management upon entry to the organic operation but no less than 1 year prior to the sale of organic milk.

**Motion:** Mr. Siemon moved to put this recommendation on the web for comments.

**Second:** Mr. Riddle seconded.

**Discussion:** Mr. Riddle asked if breed and quality of animals was what they were thinking when they talk about commercial availability.

**Friendly amendment:** Mr. Riddle added the term “equivalent breed” to the language.

**Discussion (cont):** Mr. Mathews asked for the Board’s thoughts on “entry” versus “replacement.” Mr. Siemon responded that the language covers replacement or expansion. Mr. Siemon said the rule should have contained two ways to enter an organic dairy, and then replacement addressed separately. However, since it doesn’t, the Board is trying to clarify the language that’s there. It was agreed to rewrite the recommendation and take it up again on May 8.

No vote taken.

**MATERIALS— Kim Burton, Chair (pp. 640-648)**

**Clarification of 205.606**

Ms. Burton distributed Draft 5 of the clarification of 205.606 discussed on May 6, stating that she added some language back in. Addition 1: In addition, once the material is placed on the list as not being
commercially available in an organic form the industry no longer has an incentive to develop organic versions of the material. Addition 2: A guidance document on commercial availability still needs to be completed and posted. She also said the Committee recommends that two materials slated for deletion (water-extracted gums and kelp used as a thickener) should be moved to 205.605(a) instead.

Motion: Ms. Burton moved to vote on Draft 5, Clarification of 205.606.

Second: Mr. Riddle seconded.

Vote: the motion passed, 12 to 0, with 2 abstentions.

Konjac flour

Ms. Burton described why and where she put information on Konjac flour into the “book” as an example of a nonorganic agricultural item. In response to a question from Mr. Riddle, Ms. Burton explained there will be no recommendation or vote on this material—it’s just a reference.

PROCESSING COMMITTEE – Mr. Mark King, Chair (pp. 648-654)

As a point of clarification, Mr. King recommended that the ingredient affidavit be posted on the web as a guidance document. He also explained how abstentions are properly tallied in a vote. They will be counted with the prevailing side. It was then determined that incorrect tallying of abstentions affected one of the votes on DEAE.

DEAE

Motion: Ms. Koenig moved to reconsider the motion that would approve DEAE for use as a boiler water additive in livestock feed until October 21, 2005. The motion was previously reported as failed, due to incorrect tallying of abstentions.

Second: Mr. Lockeretz seconded.

Vote: Motion appears to pass by voice vote.

Motion: Mr. Siemon moved to vote on the following: DEAE for use as a boiler water additive in livestock feed until October 21, 2005, shall be allowed.

Second: Ms. Koenig seconded.

Vote: Motion fails, 8 to 5, with one abstention.

CROPS COMMITTEE – Mr. Owusu Bandele, Chair (pp. 654-683)

Annuals or Perennials?

Motion: Ms. Koenig moved to vote on the recommendation discussed on May 6, stating that strawberries or other perennials grown as annuals should be interpreted as annuals and fall in sections 205.204(1) and (2), rather than looking at them as perennial planting stock.

Second: Nancy Ostiguy seconded.
Vote: The motion is passed unanimously.

Treatment of Planting Stock

After some confusion among the Board members was expressed, Mr. Mathews clarified prohibited substances on planting stock this way:

“Under 204, you must use organically grown seeds and planting stock ... which means no prohibited substances, except that nonorganically produced untreated seeds and planting stock may be used to produce an organic crop [when organic seeds and planting stock are not available]. What this means is that the crop may be grown using prohibited substances, because it’s a conventional product or conventional plant. You can do that. What you cannot do under that one is to pluck it out of the ground and dip it into something to treat it or to spray something on it to treat it.

“So basically if it’s preharvest, the addition of the substance is okay. If it’s post-harvest, it is not.”

Confusion still ensued, so Mr. Sideman restated Mr. Mathews’ explanation with a bit more detail. Ms. Burton stressed the importance of trying to find organic seeds and planting stock.

Compost Task Force

Mr. Bandele stated that the recommendation discussed on May 6 is the same as the one being presented for a vote today except for some changes regarding manure processing. He is also including a set of definitions with the recommendation.

Motion: Mr. Bandele moved that the NOSB adopt the Compost Task Force recommendation.

Second: Mr. Holbrook seconded.

Vote: The motion passed by a voice vote. No voting numbers noted.

Post-vote discussion: Mr. Bandele asked Mr. Mathews how this recommendation affected the interpretation of the regulation. Mr. Mathews, Ms Koenig and Mr. Bandele discussed this for awhile. Mr. Sideman said that Ms Robinson agreed to let Mr. Sideman and others to develop a practice standard from the recommendation, which in effect would make it possible to meet the requirements in the regulations without meeting the present requirement for carbon-to-nitrogen ratios. Mr. Mathews said he would need more time to study the issue.

Motion: Ms. Koenig moved to put a compost update, re: NOP’s position, on the agenda for the next NOSB meeting.

Second: Mr. Bandele seconded.

Vote: The motion passed unanimously.

Transitional Products Recommendation

Mr. Riddle read the recommendation on transitional products, which recognized that they are beyond the scope of the OFPA. He said that the recommendation is offered for guidance and clarification, and
to bring consistency to existing state and private requirements. Inasmuch as USDA’s NRCS provides incentive payments to transitional operations, this will provide guidance to NRCS.

**Motion:** Mr. Riddle moved that the Board approve the transitional products recommendation.

**Second:** Mr. Bandele seconded.

**Discussion:** Mr. Lockeretz questioned the act of proposing a recommendation on something over which the Board, NOP, and USDA have no authority. Mr. Mathews agreed. Ms Caughlan agreed. Mr. King supported the recommendation as guidance. Mr. Riddle agreed to posting recommendation on NOSB website with disclaimer.

**Friendly amendment:** Mr. King suggested adding retailers to target audience named in recommendation.

**Vote:** The motion passed 13 to 1.

**Organic Farm Plan Template**

Mr. Riddle explained Organic Farm Plan Template discussed earlier will be posted to the web site for comment.

**Hydroponics**

In response to a question from the audience, Mr. Bandele explained that the Crops Committee accepts that hydroponics is covered under the regulations, but that the Committee will come up with a guidance document at a later date.

**LIVESTOCK COMMITTEE – George Siemon, Chair (pp. 683-690)**

**Access—to—outdoors for poultry**

**Motion:** Mr. Siemon moved that the Board approve the Committee’s recommendation on access to the outside for poultry as originally presented.

**Second:** Mr. Lockeretz seconded.

**Amendment:** Mr. Siemon moved to add the following to the recommendation: The area provided outdoors shall be a minimum of 2 square feet per bird, and that area shall be managed in compliance with all the requirements of this rule.

**Second:** Mr. Carter said Mr. Lockeretz seconded.

**Discussion:** The Board called on the audience for information on pasture for poultry. Ms Brickey responded by advising the Board not to vote on this issue before getting all the information they want. Mr. Mathews reminded that the 2 feet per bird would not be enforceable. Mr. Carter recommended that the amendment be withdrawn.

**Withdrawal of amendment:** Mr. Siemon withdrew the amendment.
Mr. Carter announced that the motion would be taken up again tomorrow (May 8). The Board then discussed the possibility of extending the September meeting to 3 full days. Mr. Carter reviewed tomorrow’s agenda.

ADJOURNED AT 5:00 P.M.

CALL TO ORDER WEDNESDAY, MAY 8 – 8:00 a.m.

LIVESTOCK COMMITTEE – George Siemon, Chair (p.690)

Access to outdoors for poultry (Attach. P)

Mr. Siemon read the committee’s revised recommendation on access to the outside for poultry.

Motion: Mr. Siemon moved that the Board approve this recommendation.

Second: Ms. Ostiguy seconded.

Discussion: Mr. Lacy explained his dissenting vote in committee by saying that science does not support that access to the outdoors is in the best interest of the birds from a health and welfare standpoint, nor in the best interest of consumers from a food safety standpoint. Ms. Caughlan expressed surprise that material underneath the feet of the birds was not addressed. Mr. Mathews said he viewed this recommendation as a clarification, reinforcing that birds must be able to go outside of the building, and this was enforceable as it is already in the regulations. Mr. Lockeretz agreed with Ms Caughlan. Ms Ostiguy and Ms Caughlan agreed that this recommendation might act as a starting point for more detailed guidance. Mr. Mathews said he viewed this recommendation as a clarification, reinforcing that birds must be able to go outside of the building, and this was enforceable as it is already in the regulations. Mr. Lockeretz agreed with Ms Caughlan. Ms Ostiguy and Ms Caughlan agreed that this recommendation might act as a starting point for more detailed guidance. Mr. Riddle suggested that at least scratching material should be provided in accordance with the regulation’s livestock heal care practice standard. He further noted that as an inspector, he would view lack of scratching material as a potential minor noncompliance. Mr. Mathews brought some clarity to the discussion by pointing out that if because of the surface the bird is living on, it isn’t able to do the natural things that are required by the standards, then to say [in a guidance or clarification document] that you can’t have those surfaces is correct—and would not require rulemaking.

Ms Caughlan and Mr. Siemon contemplate an amendment about surfaces. Mr. Mathews suggested striking the sentence regarding a phase-in period.

Amendment: Ms. Ostiguy moved to strike the sentence regarding a phase-in period: A producer shall demonstrate reasonable progress in efforts to comply with this provision; full compliance shall be completed no later than 18 months from October 21, 2002.

Second: Mr. Riddle seconded.

Discussion: Mr. Lockeretz argued for leaving the sentence in. Mr. Riddle supported striking the sentence.

Vote on amendment: The amendment is approved 12 to 1.
Amendment 2: Ms Caughlan moved to add a number 3 to the recommendation to read: Bare surfaces; e.g., metal cement, wood, do not meet the intent of the rule.

Second: Ms. Ostiguy seconded.

Discussion: Mr. Lacy pointed out that if chickens are on a bare surface for a couple of days, the surface is no longer bare, so the amendment is not needed. Ms. Caughlan reiterated her assertion that chicken manure is not waste, but valuable material. Mr. Riddle supports the amendment.

Restatement of Amendment 2: Ms Caughlan changes the amendment to be in the number 2 position instead of number 3 and changes the amendment to read: Bare surfaces other than soil do not meet the intent of the rule.

Vote on original motion as amended: The motion is passed, 12 to 1.

Dairy replacement animals (p.721)

The Board agreed to post on the web for public comment the recommendation for dairy replacement animals.

“CERTIFIED ORGANIC” VS. “ORGANIC” ON LABELS (p. 722)

Mr. Marty Mesh of Florida Certified Organic Growers and Consumers, Inc., and chair of OTA’s Certifier Council was invited to come forward to talk about consumer perceptions and why it is important to allow “certified organic” on labels, not just “organic.” He originally brought up this issue during the public comment period on May 6. Mr. Mathews said he would work to address this issue.

COMMITTEE WORK PLANS (p. 730)

LIVESTOCK--George Siemon, Chair

Mr. Siemon stated that the Committee will:
- Post dairy replacement animal recommendation on the web for comment, with a vote anticipated for the September meeting.
- Develop a checklist for poultry inspections related to issues discussed at this meeting.
- Prepare to discuss excipients in medications.
- Prioritize list of materials for review.

MATERIALS–Kim Burton, Chair

Ms. Burton stated the number of materials for review at the September meeting stands at 31. The Materials Committee will also:
- Manage Materials Review Process
- Work on a draft document identifying ways to improve the communications when a petition is submitted to remove a material from the National List.
- Work on a recommendation to review materials already on the National List.
PROCESSING—Mark King, Chair

Mr. King said the Processing Committee has several materials to review for the next meeting, and will also:

- Continue working on a technologies recommendation
- Forward cultures for a petition.

CROPS—Owusu Bandele, Chair

Mr. Bandele said the Crops Committee will:

- Develop a compost practice standard from the recommendation passed at this meeting.
- Develop guidance on hydroponics.
- Develop guidance on planting stock.
- Review materials.

In response to a question from Mr. Bandele, Mr. Mathews said that the NOP would continue keep the Board informed of issues the NOP has identified from feedback from the organic community. The NOP is also developing lists that would go on the web that would show what materials have been ruled on, and what the rulings were.

INTERNATIONAL—Willie Lockeretz, Chair

Mr. Lockeretz said the International Committee would:

- Continue to develop “that document” [unidentified] which was distributed in a very preliminary form.
- Informally survey groups involved in international organic trade, such as IFO, OTA and USDA-accredited foreign certifiers to get their perspectives.

ACCREDITATION—Jim Riddle, Chair

Mr. Riddle said the Accreditation Committee would:

- Act as interim peer review panel to review the NOP’s accreditation program.
- Review comments on grower group certification criteria and redraft for September meeting.
- Assist NOP in developing enforcement procedures, especially as they relate to States and State Organic Programs.
- Look at the need to merge ISO-65 and NOP accreditation requirements.
- Assist NOP in complaint procedures, as they relate to accredited certifiers.
- Monitor certifier issues.
- Monitor NOP and NOSB websites and provide feedback.

BOARD POLICY TASK FORCE
Mr. Riddle said the Board Policy Task Force will send the adopted Board Policy Manual to the NOP for feedback, then back to the task force, with a report to be made in September. Any changes would be voted on in October.

**PUBLIC COMMENTS – 10:45 a.m.** (p. 747)

**OTHER BUSINESS**

*Best wishes to former Board member* (p.752)

**Motion:** As suggested by Ms. Brickey, Mr. Siemon moved that the Board pass a resolution of best wishes to former Board member Betsy Lydon.

**Second:** Mr. Lockeretz seconded.

**Vote:** the motion passed unanimously, with a formal letter to come.

*Clarifying the regulations* (p.844)

Mr. Mathews wanted to make sure that everyone understood the access to the outdoors for poultry will be treated as a clarification of the regulations. Ms. Burton asked for definitions of clarification document; guidance document; and policy document.

**NEXT MEETING DATES AND PLACE:** (p.847)

September 17, 18, 19 – 16 as a travel date and October 21 and 22, Washington, DC

**MEETING ADJOURNED AT 12:00 P.M.**

**Second:** Mr. Lacy seconded.

**Vote:** The Board voted unanimously to adjourn.
UNITED STATES DEPARTMENT OF AGRICULTURE

NATIONAL ORGANIC STANDARDS BOARD

Walnut Room
Clarion Inn & Suites
2200 IH-35 South
Austin, Texas

Monday,
May 6, 2002

8:00 a.m.

MEMBERS PRESENT:

DAVID CARTER, Chairman
OWUSU A. BANDELE
KIM M. BURTON
GOLDIE CAUGHLAN
ANN L. COOPER
DENNIS L. HOLBROOK
T. MARK KING
MICHAEL P. LACY
WILLIAM LOCKERETZ
KEVIN R. O'RELL
NANCY M. OSTIGUY
JAMES RIDDLE
GEORGE L. SIEMON

STAFF PRESENT:

KATHERINE BENHAM
KEITH JONES
RICHARD MATHEWS
ARTHUR NEAL
BARBARA ROBINSON
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NOP Update and Discussion
Barbara C. Robinson, Deputy Administrator
Richard H. Mathews, Program Manager

Presentation of Committee Discussion Items:

   Livestock - George Siemon
   Feed Ingredient Recommendations
   Dairy Replacement Animals
   Access to Outdoors for Poultry
   Materials to Recommend for Review
   Excipients in Medications

   Materials - Kim Burton
   Explanation of Materials Review Process
   Report on Petition Materials
   Konjac Flour (205.606) Recommendation

   Processing - Mark King
   Ingredient Affidavit Template
   Review of Guidelines/Comments for
   Determining Processing Technologies
   That Require Review by NOSB -
   Steve Harper
   Organic Handling Plan

   Crops - Owusu Bandele
   Composting Task Force Report and
   Recommendations - Eric Sideman
   Organic Planting Stock Recommendations -
   Rosalie Koenig
   Recommendations Concerning Hydroponics
   Transitional Products Recommendations
   Organic Farm Plan Template

   Accreditation - Jim Riddle
   Grower Group Certification Criteria
   (First Reading)
   Accreditation Complaint Procedures
   Certifying Agent Issues

   International Committee -
   Willie Lockeretz
   Discussion of Proposed Recommendation
   On US/ES Equivalency

ADJOURNMENT
PROCEDINGS

MR. CARTER: Okay. I want to call to order the meeting of the National Organic Standards Board and, first of all, welcome all of our guests that are here today. I'm Dave Carter. I'm the Chair of the NOSB.

Just a couple of comments to open up the meeting. First of all, I want to welcome, we've got five new members on the Board.

We just finished a orientation training session yesterday afternoon that was very helpful. And I think even though we've got folks that are coming on with very short notice when some critical issues are on the plate to be made, we've got five folks here that have delved in and are ready to get right with it. So we appreciate them being with us.

But also appreciate the fact that we've got here at the meeting today some of our former Board members that are staying around to help move us along.

Steve Harper is here, Carolyn Brickey, and Eric Sideman are all here -- there he is, back there.

Marvin Hollen had wanted to be with us. Marvin has had a heart attack and has gone through some surgery. I got an email from him last night wishing us all well with our meeting.

But I particularly want to thank the former Board Heritage Reporting Corporation
(202) 628-4888
members. Carolyn Brickey, our former chairperson, has done a tremendous job. And I know all the outgoing Board members received a plaque in October, but I think we all owe them a debt of gratitude here and appreciation for the work that they have done. So if we could express that right now.

(Applause.)

MR. CARTER: The other former member that's not with us here at this meeting, of course, is Bill Welsh from Iowa.

I also want to say to the Department that we appreciate the congratulations on getting out the first round of accreditation. So I know that that's been a lot of work, but it does help move us toward that October 21 implementation.

So with that, what I'd like to do, because we do have some new folks and I know some folks in the audience here that are not familiar with the members of the Board, if we could just go down the line here and do some quick introductions of the Board. And we'll start with Dennis. Say who you are and what you do and who you represent on the Board.

MR. HOLBROOK: My name is Dennis Holbrook. I am a citrus grower and vegetable grower, organic grower, in South Texas. And I represent the growers here on the Board.

MR. LOCKERETZ: I'm Willie Lockeretz. I've been
on the Board for two years. I'm at the School of Nutrition at Tufts University. On the Board, I am Chair of the International Committee, and I allegedly know something about the environmental impacts of agriculture.

MR. GOLDBURG: I'm Becky Goldburg. I'm a biologist with Environmental Defense, which is a national nonprofit organization. I work out of New York, and I'm here in an environmental slot.

MR. O'RELL: My name is Kevin O'Rell. I'm with Horizon Organic, am vice president of research and development and quality assurance, and I represent the organic handlers on the Board.

MR. SIEMON: I'm George Siemon. I'm here as a farmer rep. I'm from Wisconsin. I have organic hens, but I'm also part of Organic Valley.

MS. KOENIG: I'm Rose Koenig. I'm an organic producer of vegetables, about 17 acres in Gainesville, Florida, and I also have a background in plant pathology.

MR. RIDDLE: Good morning. I'm Jim Riddle from Winona, Minnesota. I'm a certifier rep on the Board and was an inspector for 15 years. Currently work as a policy specialist, consultant, and general organic activist in that industry.

MR. CARTER: Dave Carter, Westminster, Colorado. At the last meeting I was serving as the president of the
Rocky Mountain Farmers Union. Since then I decided to have a mid-life crisis and switch employment.

So now I serve part-time as Executive Director of the National Bison Association and also do consulting work in Cooperative Development. I'm on the Board as a consumer rep.

MR. MATHEWS: And I'm Richard Mathews, Program Manager of the National Organics Program.

MS. BURTON: Kim Burton, Smucker Quality Beverages. I'm the handler rep for the Board. My background, materials.

MR. OSTIGUY: Nancy Ostiguy, Department of Entomology at Penn State. I'm a toxicologist in one of the environment slots.

CHEF COOPER: Ann Cooper. I'm the Executive Chef of the Ross School in East Hampton, New York, and I have a consumer slot.

MR. KING: Mark King. I am the retail representative on the National Organic Standards Board, a consultant and inspector in the industry. My background is sales and marketing and organic produce.

MR. LACY: I'm Mike Lacy from Athens, Georgia. I'm on the faculty of the College of Agricultural and Environmental Sciences at UGA; spent 17 years as a poultry extension specialist; and a year-and-a-half ago became
Department Chair of my department. And I am a science rep.


But I'm not here as a retail rep, but rather as one of the consumer reps. A long history in organic legislative development.

MR. CARTER: Okay. Thank you. Just one other announcement. When we get into the materials review or approval process in the meeting, we're going to be using a slightly different process. We talked about this yesterday at the Board meeting.

But the Chairs have been discussing these materials -- excuse me -- the committees have been discussing these materials. So when the items come forward at the meeting for action, they will actually come forward from those committees. We will look to those committee chairs to make the recommendation of the committee.

And then, rather than going through and doing the roll call votes on each individual item, the committee chair will just make a motion regarding the recommendation of that committee. We will vote on it by a show of hands.

Any Board member at that time can request a roll call vote, or we can make amendments or move it forward.
But we just think that this is a little more of a systematic way of bringing forward some of the recommendations from the committees.

With that, the agenda is on the table. There is one addition to the agenda I think we need to make. Following our last meeting, Goldie Caughlan has been serving as our interim secretary, but we are required to elect a secretary at this point. So I would put that on the agenda as our next item of business.

But are there any other corrections, additions, or deletions from the agenda?

MR. KING: Yes, Dave. Actually, there are a couple of corrections. Under processing, if you look at the very first item, it says, Natural Flavors, then, Clarification of 205.606. If you just strike Natural Flavors, it should simply say, Clarification of 205.606.

MR. CARTER: Okay.

MR. KING: And then, the third item, which states that we'll be having a recommendation on GRAS materials as inerts is also incorrect. We will not have a recommendation on that at this time.

MR. CARTER: Okay. Is there discussion, or just take that off the agenda?

MR. KING: There will be a very brief discussion as to what's happening.
MR. CARTER: Okay. Any other changes for the agenda?

(No response.)

MR. CARTER: Okay. Hearing none, we'll leave the agenda open as we move forward.

At this time, then, we'll move into the election of the secretary. And is there a nomination for secretary to serve the NOSB?

MR. SIEMON: Yes. I nominate Goldie.

MR. CARTER: Okay. The name of Goldie Caughlan has been nominated. Is there a second?

MR. LOCKERETZ: Second.

MR. CARTER: It has been seconded. Are there any other nominations?

(No response.)

MR. CARTER: Are there any other nominations?

(No response.)

MR. CARTER: Are there any other nominations?

(No response.)

MR. CARTER: Is there a motion to close nominations?

MR. GOLDBURG: I move to close nominations.

MR. CARTER: Is there a second?

MR. SIEMON: Second.

MR. CARTER: All in favor say, Aye.
(A chorus of ayes.)

MR. CARTER: Opposed, same sign.

(No response.)

MR. CARTER: Nominations closed. All in favor of Goldie Caughlan say, Aye.

(A chorus of ayes.)

MR. CARTER: Opposed, same sign.

(No response.)

MR. CARTER: Goldie, you got it despite your campaign to get somebody else. Right?

(General laughter.)

MR. CARTER: Okay. And also, just a note for members of the board, we've been told that we can only have three mics on at a time, so when you say something, make sure you turn off your mic. They said that the room will blow up if more than three mics are on at a time.

If we could turn everybody's attention to the minutes of the October meeting, which minutes are in the book and have also been posted.

Is there a motion to approve the minutes of the October meeting?

MR. LOCKERETZ: So moved.

MR. CARTER: And second?

VOICE: I second.

MR. CARTER: It has been moved and seconded. Is
there any discussion or corrections?

(No response.)

MR. CARTER: Seeing none, all in favor of

approving the minutes, say, Aye.

(A chorus of ayes.)

MR. CARTER: Opposed, same sign.

(No audible response.)

MR. CARTER: Motion carries.

I would also just direct your review in the book,

there is the minutes of the Executive Committee meetings

held since October. They are all final minutes except for

the minutes except for the minutes of the April 12 meeting,

which are draft minutes at this point. Are there any

comments from the Board? Yes.

MS. BURTON: Dave, just a comment that this book

is entirely on the NOP Web Site, for those of you who are

interested in looking at it at anytime.

MR. RIDDLE: I'd like to add that the minutes of

the Executive Committee meeting are being posted on an

ongoing basis, approximately two weeks to a month after each

Executive Committee meeting. And we hold Executive

Committee meetings on a monthly basis.

So if you want to stay up to date on the actions

of the Executive Committee meeting, you can find those on

the Web site.
MR. CARTER: Okay. Then, with that, I believe we're moving well ahead of schedule here. So we can go on to public comment.

Katherine, have you been keeping the -- have you got the sign-up list of the --

MS. BENHAM: [Inaudible].

MR. CARTER: Oh, in front of me. I only have a list with one name on it, Katherine. Is that -- I don't want to let somebody talk for 2-1/2 hours here.

VOICE: It's the printed list.

MR. CARTER: Oh. The printed list. Okay. I was going to say --

Okay. We will call folks forward. You will have five minutes to give a public comment. Jim Riddle will be the official timekeeper, so we will gather you off at the end of five minutes.

We ask that, when you begin your statement, please identify yourself very clearly. We do have a court reporter here taking a transcript of the meeting. So we need to know who is giving the comments. And please come up to the front and use the podium.

We'll start off, then, we've got Gerald Davis Jeff Huckaby.

MR. HUCKABY: Okay. Good morning. My name is Jeff Huckaby. I'm the General Manager for Grimmway Farms in
Bakersfield, California.

We are a family owned business that is owned by the Rod and Bob Grimm families in Bakersfield. We've had organic ties back to 1985, and presently we have over 18,000 certified vegetable acres throughout California.

We use CCOF as our certifier. And although primarily our business is carrots, we have recently expanded to where we grow over 40 different vegetables.

This morning I wanted to comment on three certain issues that have relation to the new organic standards. The first is compost, the second is the process manure, and the third is the Chilean.

I'm a farmer, I'm not a scientist or public speaker, so please bear with me. But I can tell you what we have found that works out in the field and what doesn't.

Our first concern, quickly, on the compost is, of course, the carbon/nitrogen ratio that's coming forward.

Now, I know there have been some committee meetings since that are working on the carbon/nitrogen ratio. But my company buys over 200,000 tons a year of particular composts. We use various composts for different activities.

This is our main source of N, and we use the compost -- most of our compost has a lower C/N ration than proposed. We make certain mixes and blends, depending on
our agronomists' recommendations.

What we're asking is that you possibly look at the carbon/nitrogen ratio and expand that a little bit so that we don't have such a narrow window that we have to meet in order for our program to work.

The second, real quick, is the process manure. There is no mention really in the rule talking about that. I'm mostly talking about chicken pellets. We use over 6 million pounds of chicken pellets a year. This is the key to our fertility program. This is very vital to us as a farmer out in the field with all the crops that we grow.

Some of the suggestions that we're hearing on some of the reviews allow that this may be a different area, that we continue to adapt to the new rule.

But some of the recommendations were 150 degree temperature for one hour, 12 percent moisture. We have a few concerns in that on how the product reacts in the field.

Like I said, I'm not a scientist, but I can tell you what we've had trouble with and what hasn't. When we get much below 12 percent moisture, it's almost impossible for my guys to side-dress the plants with the side dresses. The product has a tendency to crumble, and we can't get a variable rate throughout the field.

Twelve percent works, but when you get into the 9 or 10 percent, we have trouble maintaining a consistent
product. We're not asking for much different, except for
that it look for 12, 13, 14 percent as what we're used to
using, and it seems to work well.

The products that we buy out of California are
not at 150 degree temp for an hour. They're more like 200
degrees, steam injected for a very short period of time.

But I can tell you that over the years that we've
been farming organically and using, you know, this product
on hundreds of thousands of acres throughout the last
several years, we have yet to have a single problem with E
Coli and salmonella, and we ship throughout the world and
throughout the United States. We just need to address this
process manure category.

The third is the Chilean. We support the 20
percent rule but need to continue to have this rule at our
side.

Under certain adverse conditions, we have found
through experimenting and growing on a large scale that
sometimes Chilean is the only thing that can pull us free,
it's the only thing that allows us to get that quick kick.

We're competing with conventional growers out
there right now, trying to make a better organic product so
that we can reduce the number of pesticides in everything
that's being grown out there right now. We need this tool.
We support the 20 percent rule.
Like I said, we have over 18,000 acres of certified ground. Less than half of our ground has ever had any Chilean on it. So we don't use it just out there throwing it at everything. We just use it when we have to. We don't use it on all our crops, just the few that need it under certain conditions.

Basically that's it. I just wanted to just thank you for this opportunity.

We've only got a few tools out there. These are three that are primary to me as a grower. I need these three to keep my program going forward.

We're constantly experimenting and trying other products, but as of right now, these are the three most important we have growing on a large scale.

Thank you.

MR. CARTER: Okay. Thank you. There is a question here.

MR. RIDDLE: Yes. I'm just wondering if you could describe quickly your typical crop rotation on the fields where you do use the Chilean Nitrate and specifically what legumes are in that system.

MR. HUCKABY: Almost every single field that we have, whether we use the Chilean or not, we will grow during our off season some type of a cow pea or bean product that we rotate with --
MR. RIDDLE: For plow down?

MR. HUCKABY: -- for plow down. Yes. That's basically our cycle on all of our crops, you know, on the season before whether or not we grow with Chilean or only with compost or chicken. So it is one of the products that we use consistently.

MR. RIDDLE: Thanks.

MR. CARTER: Okay. Willie.

MR. LOCKERETZ: You mentioned buying in a variety of composts or other organic materials. With that do you get enough information or does your certifier get enough information to be confident that the materials you use are compatible with the rule?

MR. HUCKABY: Yes. We feel very confident that the sources that we are using -- we go out and we spec out exactly what we need. We have -- on our level, we have actually three agronomists on staff that go, they evaluate, they check the records.

Like I said, we buy about 200,000 tons a year, so that we actually have a person that goes around and continually monitors and checks the sources that we're buying from.

MR. CARTER: Rosalie?

MS. KOENIG: I had a question on the manure.

What typically is the, I guess average number of days before
you harvest each side dress of process manure?

MR. HUCKABY: I guess it depends on the crop. Like I said, primarily it's carrots. When we're in carrots, it's probably more in the range of 60 days. On some of the other crops where maybe -- you know, our average carrot crop throughout California ends up being about 110-, 120-day crop, some of them as long as 150.

We try to get it up front and then let it carry through. We might finish out the crop with a little bit of fish or something. We don't use Chilean very regularly on the carrots.

Some of our lettuces, it's a little bit closer. We're talking more like 30 days prior to harvest, 45, depending on the time of the year. We're growing throughout California. Some our seasons are very quick. Some of them, depending on the winter, are longer.

MR. BANDELE: Several of the TAP reviewers mentioned that [inaudible] blood meal and [inaudible]. Could you comment on that?

MR. HUCKABY: Well, our research staff is trying other options out there.

I think one of the problems -- we have used blood meal. We get into another problem that, depending on where the source of blood meal comes from, we get consumers that absolutely won't buy our product if it's beef blood just
because of Mad Cow Disease and other problems we've had.

So a lot of it is availability and getting it in the quantities that we need.

MR. BANDELE: But you mentioned the kick. Would you get a similar kind of kick with blood meal?

MR. HUCKABY: We have gotten -- we can get a pretty good kick through using blood meal, some of the bat guano, some of the others, but not as consistent maybe as we do with the Chilean.

I would have to defer to some of our agronomists to specifically tell you that. But I mean, from what I have seen, we haven't been able to do it on the large scale that we have with the Chilean.

MR. CARTER: Okay. Thank you very much.

MR. HUCKABY: Thank you.

MR. DAVIS: I'm Gerald Davis. You mentioned both our names together, but --

MR. CARTER: That's okay. Come forward. And then, next up will be Cliff Bingham. Go ahead.

MR. DAVIS: Good morning. I'm Gerald Davis with Cow-Organic Vegetable Company. I have worked for this farm for the past ten years as their agronomist and pest control advisor.

At Cow-Organic Veg, we grow carrots, potatoes, onions, cool crops, lettuce, and most any leafy green crop
one could name. We farm in various parts of California, producing a year-round supply of most items we grow.

The quality and appearance of our produce is second to none, organic or non, and is a vital part of several major nationwide retailers' efforts to bring consistent quality organic produce to the expanding marketplace.

I have come here today to inform this Board of the good success we have had using Chilean Nitrate under the current rule's guidelines and ask that you reject the current petition to remove the material from the national list.

The petition before you is substantially flawed in its portrayal of the risks of using Chilean Nitrate and is inaccurate to the point of ignorance concerning alternative materials.

Using Chilean Nitrate according to the current rule, combined with the proper field conditions and management, virtually eliminates or substantially minimizes all of the environmental and health concerns listed in Criteria 1 through 5 of the reviews in this petition.

In our growing process, there is no stream or ground water contamination by excess nitrates. If there is no contamination, then there is no potential human health risks because the risks listed are all predicated on
consuming contaminated water.

The 20 percent of nitrate guideline in the current rule is a very modest amount of nitrate, which eliminates the detrimental effects of excess nitrate levels in the soil or in the vegetables themselves at harvest.

This relatively small amount of Chilean Nitrate that is allowed per crop also helps minimize the amount of sodium buildup in the soil.

Now, a quick agronomy lesson. In all this talk about nitrates in ground water or excess nitrates in soil, let's not forget that most plants must have nitrate form nitrogen in order to grow properly. They can't utilize the other forms directly.

As organic farmers, to make inputs of nitrogen to our crop, we can add nitrate directly, with Chilean Nitrate, for example, or we can add other forms of nitrogen, counting on certain microbes in our soil to convert them to the plant available nitrate.

The amount and rate that this takes place depends on several factors, one of which, the most important, is soil temperature.

The conversion time is most rapid in warm soil, slowing to a crawl at about 55 degrees, and a complete standstill at 40 degrees.

Vegetables like lettuce or broccoli can make slow
but steady growth at 50 degree soil temperatures, but they will outrun the supply of nitrate being converted by our microbial friends in the soil.

This is precisely the situation in the mild winter areas of California where much of the nation's produce comes from November through March each year.

There are a few pockets of land in slightly warmer areas along the Central and Southern California Coasts that do a little better, as alluded to by one of the reviewers in the petition. But housing tracts like to grow there, too, and most of that agricultural land either is or soon will be under concrete.

Anyway, without supplemental nitrate added to these vegetable crops, they stop growing, turn funny color, and begin to succumb to various mildew diseases. This is the biggest reason Chilean Nitrate is so important to organic vegetable production.

Contrary to the opinions of the reviewers in the petition, there are no other viable nitrate supplements. All of the alternate materials listed or alluded to in that review have profound limitations in supply especially, especially if the demand goes up as more acres convert to organic production.

The only material listed that has good supply potential is Phytamin 800, which is a soybean product, but
it has no nitrate content.

None of the materials but one has any significant amount of nitrate in it. The one that does, seabird guano, from the islands off of Peru, is undoubtedly the best manure and guano-based fertilizer going. We used it heavily one year about five years ago, but couldn't buy any the next year.

The Peruvian Government began putting the entire year's production up for bid, and the first year after that it went to a German fertilizer company, obviously because no Chilean Nitrate is allowed in European organic production, so you've got to find a nitrate source somewhere.

Starting a couple years ago, the Peruvians began splitting their 40,000-ton yearly production into eight lots. We considered buying one lot, but decided that if we as one grower could consume one-eighth of the world's supply of seabird guano, that it is not a sustainable material for the long term.

Let's bring this home in the seconds that I have left to speak.

The 20 percent nitrate budget in the current rule is a good rule. It has helped our farm identify precisely when and where the material is essential and eliminated unnecessary use.

It has helped me as an agronomist finally make
the case on the farm for a concerted cover cropping program on our farm.

Now, five years later, we grow and plow down thousands of acres of legume cover crops every year. Our yields and quality are increasing, and we are standing toe to toe in the marketplace with a conventional produce industry that is baffled by us. While they are --

Thank you.


MR. LOCKERETZ: Quick question. I think you said you grow lettuces?

MR. DAVIS: Yes, we do.

MR. LOCKERETZ: Do you test either lettuce or other crops for nitrate concentration?

MR. DAVIS: Yes, we do.

MR. LOCKERETZ: And what kind of results do you get?

MR. DAVIS: I can speak of one study I did with carrots specifically, where I compared three fields under our organic production with three neighboring fields of neighbors growing conventionally, for example.

The nitrate content of the carrots in those situations, there were three fields. The parts per million was 4, 5, and 9 parts per million in the carrots in the
organic fields, and varied from 280 to over 500 parts per million in the conventional carrots.

So we are using Chilean in a narrow window on some carrots and all our other vegetables, usually in the mid-growth stage of the crop, and by harvest, there is no excess nitrate loading in those leaves or below-ground parts.

MR. LOCKERETZ: Thank you.

MR. CARTER: George?

MR. SIEMON: Are you using this on -- what percentage of your crops are you using this, like, both ways? Like of all the carrots you grow, are you using it 100 percent, and of all the crops you grow, are you using it 20 percent?

MR. DAVIS: On carrots, for example, probably maybe 25 percent of the acreage. And it really depends on the time of year. We are a year-round producer, and our crops at some portion of the year encounter substandard soil temperatures, and that's when we would tend to use it.

The other crops, lettuces and -- we use a little higher percentage of the overall acreage. But again, it's contingent on -- during the summertime we can not use Chilean Nitrate at all and produce perfectly good lettuce and broccoli and so forth.

MR. CARTER: Owusu?
MR. BANDELE: Even in those adverse conditions, when you're talking about the temperatures with broccoli, are you still keeping the Chilean Nitrate within the 20 percent range of the crop?

MR. DAVIS: Yes, sir. This is all within the 20 percent range for each crop.

MR. BANDELE: Even with the lettuce, which is quickly growing? How do you do that? I mean, how do you keep that within 20 percent?

MR. DAVIS: If you think about it, most of our crops, when we harvest during that winter period, will spend part of their life cycle in warmer periods, either at the beginning or at the end.

So we are identifying exactly when they need it. And we go right up to the 20 percent limit and stop. That's the best we can do. And it usually works pretty well. Sometimes it's not quite enough, but we just put up with it.

MR. CARTER: Rose?

MS. KOENIG: I just have a question. I mean, we're probably maybe a little bit warmer in Gainesville, Florida, where we grow throughout the winter, too, those similar crops. But we don't use Chilean Nitrate.

MR. DAVIS: Right.

MS. KOENIG: And I'm trying to figure out the
differences. Is it because you have to go -- you have a market demand. I mean, obviously you're a lot larger grower than myself. So if I have a crop delay of maybe ten days in terms of growth, that's fine for my marketplace.

Is it because of your system, that you're trying to meet a consistent demand in the marketplace, and that you -- I mean, I know that it does take longer in our area with lettuces --

MR. DAVIS: Right.

MS. KOENIG: -- compared to the summer.

MR. DAVIS: What is your soil temperature --

MS. KOENIG: It just depends on whether there's cold fronts or warm fronts.

MR. DAVIS: Right. Right.

MS. KOENIG: But probably 55, something like that, 60.

MR. DAVIS: Right. Well, at 55 to 60, you're in better shape than we are. We --

MS. KOENIG: But is it -- that's what -- but what I'm really asking is, is the nitrogen to just keep those crops growing quickly so that you can turn around and put something else in the ground, or is it really that you're suffering from disease pressure? Because --

MR. DAVIS: No. It's --

MS. KOENIG: -- a lot of diseases come on when
you have excess nitrogen. So I was surprised that you had a lot of disease.

MR. DAVIS: Most of the diseases that I mentioned, for example, lettuce, when it's not harvested at proper maturity and it has to wait and go over-mature to get the proper size to meet the commitments that the produce industry expects from us for size, the growth slows down, it gets more mature, and the host plant resistance of that plant is less, and we begin to see mildew.

It's also when it's the most crowded stand conditions, you know, the plants are holding a lot of humidity around themselves because they're all grown up and pushing together. And that's just what we've noticed.

We use the material to keep the supply going. I mean, this is a large farm. We have retailers waiting for product. And when it slows down too far, we can't tell them, Well, wait, we'll get back to you in three weeks, because then their shelves are empty, because their demand goes on, it doesn't stop.

MS. KOENIG: Do you use it other than the wintertime? I mean, are there instances when conditions, soil temperatures are favorable, where you are using it to just, again, rapidly get to the marketplace or improve the quality or --

MR. DAVIS: An example of that might be on
potatoes. Potatoes are such a rapidly bulking item that require a tremendous amount of nitrogen in a very narrow space of time. Yes. We've used that on that even when the soil conditions are favorable because the yield decrease is tremendous without the use of supplied nitrate.

MS. KOENIG: Thank you.

MR. CARTER: Okay. Thank you. I'm going to -- just to remind the committee, now, we've taken 20 minutes on our first two, but we do have about 28 folks scheduled. So please keep that --

Is Cliff Bingham --

VOICE: Cliff is not here today.

MR. CARTER: Okay. Leslie --

VOICE: We're getting more efficient.

MR. CARTER: Yes. We're getting more efficient.

We just caught up some time.

(General laughter.)

MR. CARTER: Leslie Zoick. Okay. And then, after that will be Bob -- oh, boy -- Schmidpknecht,

something like that.

MS. ZOICK: Good morning. I'm Leslie Zoick, Executive Director of Pennsylvania Certified Organic, also known as PCO, a newly accredited certifying agent, and we're very pleased to announce that. And we are proud to be part of the organic program.
I want to commend the Board for the very hard and productive work that you have been doing in the last year-and-a-half.

But as October 21 approaches, we are all as certifiers becoming more concerned about uniform interpretation of the standards. I think that's going to be the biggest challenge coming before us now.

I'm going to talk about chickens. PCO certifies about a million-and-a-half broilers annually and 75,000 turkeys. All of these birds have outdoor access. All of these birds go out year-round in Pennsylvania, and it gets cold there, believe me.

And not only do they have access to the outdoors year-round, they actually go outside. In fact, most are given free access, meaning that the houses are open all the time, and they can roam in or out as they please. And most actually do have rotational paddocks with vegetation, as well.

Meat bird flocks that are kept in their entire lives are not certified.

On the other hand, we certify over 100,000 egg laying chickens, only a fraction of which currently have outdoor access.

The operators that do not have outdoor access at this time are in the process of submitting plans to PCO for

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approval. And you'll be hearing from at least one of those certified operators today, as well, so I won't go into the details of that operation.

Most of those layer operations will not have a problem complying with an outdoor access requirement.

But they do have concerns about the wild fowl coming through our Eastern flyways spreading disease, as well as rodent control. And we have allowed them to express those concerns by permitting a roofed area in their outside yard and wire to prevent the rodent access.

Nutrient management is also more of a problem for the layer houses. They are permitted to have non-natural surfaces, and the roofing does help considerably with the runoff concerns.

PCO does support the NOSB draft recommendation on poultry outdoor access. However, we would like the NOP to consider separate standards for layers and broilers. We would like to have roofed areas allowed.

We are very concerned about the sentence in the draft recommendation that says, Short-lived poultry such as broilers may spend their entire lives inside due to inclement weather and concern for livestock well-being.

We see this as a huge loophole for operators to avoid outdoor access for poultry all together. Inclement weather may be somewhat able to be documented.
Livestock well-being means considerably different things to different people. And that's where the rule interpretation comes in. And we see that as a major, major loophole.

We would like it to say that, you know, poultry which spends its entire lives inside may not be certified, even if it's just that flock or that portion of their production.

We believe that outdoor access for poultry is imperative for preserving the integrity of the organic label.

And if I have a few minutes left, I'd like to speak on dairy replacement animals.

PCO certifies approximately 95 dairy farms, all within the State of Pennsylvania. We represent 7,000 or so cows. I'm here on behalf of those farmers and their cows -- they're busy --

(General laughter.)

MS. ZOICK: -- to support the Board's draft recommendation for dairy replacement stock.

The Pennsylvania organic dairy farms ship to three different milk producers -- processors -- excuse me. About ten farms are certified and currently do not have organic milk contracts as we speak. So if additional organic milk is considerably in demand, there are cows ready
and waiting to produce it for you.

PCO standards have always required that, once a herd is fully converted, all dairy replacement animals must be managed organically from the last third of gestation.

In some cases, if organic replacements are not available, farmers are permitted to purchase nonorganic heifers or transition them over one year, but only if they have demonstrated and documented efforts to find organic replacements, and only up to 10 percent of the herd annually. This exception has been used twice in five years.

PCO does not want to see a blanket allowance for transitioning commercially produced heifers, because it would result in continually in-transition herd, it would unfairly discriminate against farmers who raise their own heifers.

It would put organic heifer operations out of business and therefore result in actually fewer replacement dairy animals being available overall, which in turn would degrade the integrity of organic dairy products in the marketplace.

Thanks for listening. Keep up the good work, everyone. Questions?

MR. SIEMON: Yes. Just so I'm clear, you were saying that the laying hens would be allowed to be outside and still have a roof over them and not an open space?
MS. ZOICK: It's open on all four sides.
MR. SIEMON: I mean, not a direct roofless?
MS. ZOICK: Right.
MR. SIEMON: Okay. I just wanted to make sure.
MR. CARTER: Thank you.
Bob -- is it Schmidpknecht?
MR. MEEKER: Schmidpknecht.
MR. CARTER: Schmidpknecht. There we go. Thank you.
MR. MEEKER: I'm going to speak for him.
MR. CARTER: Okay.
MR. MEEKER: I am Floyd Meeker, Jr., President of Meeker Farms, Incorporated. I have petitioned the NOSB to approve calcium oxide/calcium hydroxide.

I have a product that I have produced for about 20 years called Bio-Cal, has calcium oxide in it, calcium oxide that has been piled in large piles, covers the size of a football field.

The piles have been there for 20 to 30 years. The rain water has hydrated these piles, making calcium hydroxide. These piles are now very good chemically. The fineness of grind is 5 to 10 microns, much better than gypsum or high-cal lime.

But the problem with these piles, they are like toothpaste, impossible to spread with regular bulk.
spreaders.

I mix other organically approved calcium sources with this toothpaste, dry it by mixing with it very small amounts of calcium oxide that has been discarded daily by the lime kiln company that I work with, then it goes through more hydration steps. This makes a very soluble, stable, nontoxic calcium.

And when you go through this process, there is some problems with dust. And we control our dust by just dumping water all the time on this.

We have to keep a certain percent of water in the product at all times during shipping, handling, spreading, and all that process is overseen by the DNR. They give us a permit to operate. If there was any dust created in the process, then we wouldn't be able to operate. We have a permit from the DNR in order to process this product.

What I would like the NOSB to do is to approve calcium oxide when it is fully hydrated, causing the formulation of calcium hydroxide, and when both are buffered and blended to the point where they are less than 10 percent of the total calcium oxide/calcium hydroxide in a product.

A simple test can be done to see how much oxide and how well it's hydrated. You can take a styrofoam cup, mix equal parts of water and product in it, stick a thermometer in it.
If the temperature of the product goes up more than one degree when you add the water, it's not fully hydrated, and you can't use the product.

The TAP reviews mentioned there was lots of problems with cement kiln dust and fly ashes. We're not looking for approval of any of those products. If you can put limitations on it to say, We don't want those products, we don't advocate anybody using those products because there's too many impurities in them.

Our product comes directly from a lime kiln, and that's used to purify drinking water, so it's a good, pure calcium oxide. Many of the other products aren't that.

That's pretty much the end of my comments. Are there any questions?

MR. CARTER: George?

MR. SIEMON: There seems to be this confusion, like you were just saying, about this and the other burn products. Is there some way to isolate this from the other ones? You were just saying if we could annotate it. Any ideas?

MR. MEEKER: Restrict it to only lime kilns only, calcium oxide that comes from lime kilns. That would take out all the impure like cement kilns. Nothing that has been generated electric generation, that would take the flyatias out.
And also, you know, the one degree temperature rise thing to make sure that the product is fully hydrated. That way you're not burning any green crops.

We spread our stuff on alfalfa while it's growing, don't have any trouble with it at all, it's fully hydrated.

MR. CARTER: Yes. Kim?

MS. BURTON: You're currently supplying this material to organic farmers. Correct?

MR. MEEKER: We have in the past, but in recent years, we have not been able to. That was about a third of our business, and we market about 30,000 tons a year.

But, yes. They have all been worried about it not being approved, so they have quit using it. But we have two organic farmers here that are going to talk about when they used to use it, the results they've seen.

MS. BURTON: Okay. Thank you.

MR. CARTER: Okay. Other questions?

MS. KOENIG: How would a farmer be able to identify where that source is coming from, the label? I mean, you're not required to label where the source of that product is, other than if you went through OMRI, of course.

But if a product didn't go through that system --

MR. MEEKER: A test would tell you --

MS. KOENIG: What type of --
MR. MEEKER: You can get a full metals test, and you can get a calcium oxide test. And you know, a regular chemical test would tell you pretty much where it came from.

MS. KOENIG: But it's not labeled, I mean, other than a grower testing a product if they went to the marketplace?

MR. MEEKER: Right. I guess that's true, unless you guys come up with a label that would say, you know, certain products are -- but then you're endorsing products. And that's the whole reason why we came to you with the Bio-Cal name, and you guys wanted to break it apart into certain ingredients and then to certify the ingredients.

But the problem is, when you certify the ingredients, you're opening them up to a bunch of other products that have those ingredients in them that aren't pure.

MR. CARTER: Okay. Let me suggest, too, there are four other folks to testify --

MR. MEEKER: Right.

MR. CARTER: -- with you on this issue, or to give public comment. So why don't we go ahead and take all of those? And if you would just stay up close here.

MR. MEEKER: Okay.

MR. CARTER: And then, when we get done with all of those, we'll take some questions.
So next, Jerry Wolf, and then we have Gary Zimmer.

MR. PRESTON: Okay. We're doing it in a little different order. They asked me to speak next.

My name is Morris Preston with Preston Engineering in Davenport, Iowa. And I drafted the petition materials that were submitted for this.

And I'm going to go right to my main points here. We're pressed for time a little bit.

The main reason that we requested the calcium oxide and calcium hydroxide is, that was the process that the rules required. We originally requested a complex calcium compound which is a generic form of the product that Butch produces.

The rules -- that petition was returned to us, and the rules are that we had to petition for the specific chemical compounds, so that's what we did.

Lime kilns and cement plants are different. The TAP review kind of talked a lot about cement plants. And you can't get lime out of a cement plant. You get Portland cement out of a cement plant, which is considerably different than lime.

Cement plants produce other compounds of calcium. They have silicates, they have irons, they have aluminum compounds. And lime plants produce lime. They take high
quality calcium carbonate, limestone, calcine it to release the CO2, and produce calcium oxide, which one of its primary uses is for water treatment. And it's a considerably different product than Portland cement.

Basically the product that we're talking about is less polluting, less energy intensive, and has no increase in worker safety risks.

And the reason for that is that a lime kiln is not 100 percent efficient. You're not able to get 100 percent yield out of the process, because some of the ground limestone and some of the very fine calcium oxide goes on through the kiln and is recovered as a fine dust.

That particular dust is under-utilized, is a cheaper product, and it's available for Mr. Meeker's product. And it replaces alternative materials. It's also more effective.

It replaces gypsum and limestone. So if you use a ton of this material, that's at least a ton of the limestone that doesn't have to be mined someplace and the associated energy with mining and crushing limestone and the environmental issues associated with that.

So it's actually a little less polluting, a little less energy is used, and the worker safety is already regulated under the lime production through MSHA and OSHA.

And the material is thoroughly wetted, which
controls the dust. The respiration of dry particles is certainly an issue with any dust, and that's very well controlled.

We think the heat test is a very practical way to evaluate the quality of this material. If you buy a load of this material, you can go out there and test it on the farm. Every farm's got a thermometer, I'm pretty sure, or they can get one. And you can tell if that product is up to specification and has been properly hydrated or not by just simply testing it when it comes off the truck.

That's a quality control measure that's used in the production of it which tests that before it goes out. And I guess the biggest question maybe is, why is Bio-Cal more effective? And some of the farmers here are going to speak to that.

But basically it's been their experience that this results in higher levels of calcium content in the forages. That calcium and other mineral content is more easily taken up by animals that consume it, and so they have a better forage, they have a healthier animal, and they don't have to supplement the animal's ration with mineral supplements.

And with that, I think I'll conclude my comments. Thank you very much.

MR. CARTER: We have on the list Jerry Wolf, Gary
Zimmer, and Floyd Meeker. Who is -- okay.

MR. MESSA: Hi. I'm Matt Messa. My wife, Suzanne, and I farm up in West Central Wisconsin. I'm just going to read this to keep my thoughts together.

We've been certified organic since 1994, and we farm about 300 acres. We raise broilers, and we have a cow-calf beef herd.

One of our main sources of income is our cropping. We raise and sell 2- to 400 tons of hay a year, along with corn, barley, soybeans, and oats.

Our farms were purchased in the past 15 years, and all of them were very depleted. Soil tests all called for lime.

We were of the belief back then even that high calcium lime was our best addition, even though it was a lot more expensive. We live in a region where magnesium is real high in our soils, and we don't need to add any.

We felt that the high cal lime would be our best addition without adding to the magnesium overload we already had. The lime did improve our pH, and soil structure did begin to change.

Over time we've learned more about soil and plant function, and were searching for a form of calcium that was more available for our crops. We weren't seeing much change in the forage test results. And although we added calcium
to our land, we seemed to be banking it. The pHs were going up, but we weren't getting any uptake.

We've used gypsum even as a roll fertilizer, but we have to be careful because of the high sulfur content and the potential leaching of other nutrients.

We found out about Bio-Cal probably in the mid-'90s. And as us farmers are known to be, I was skeptical. We did try some. And I'd have to say that of all the soil amendments in my farming career that we've ever used, this Bio-Cal had the most profound effect on our soils and our crop health.

And as we moved our crops into the food system, we were hearing back from people that bought them from us that their animals were healthier, their vet bills were going down, problems with cattle feet and all that was changing.

We have a fair sized list of hay customers, and they like our hay. Some of the effects have been better palatability, over time, increased herd health, and one of their side benefits was increased production.

The forage tests have indicated more than just an increase in calcium content in our forages. There's also increases in phosphorous, magnesium, potassium, and sulfur, which are desirable, too, in hay especially.

We believe calcium is a crucial link in the
function of our soils. It's the vehicle that moves
nutrients into our crops.

Our soils are the basis for our livelihood. We
really believe that Bio-Cal is the one soil amendment that
provides the most available form of calcium for our crops
and the animals they feed.

We have experienced a change in our soils from
hard, packed clay to loose, crumbly ground that has a
noticeable increase in earthworm activity, and for us that's
a good indicator.

One little incident that I wanted to close with
showed me that something is improving for us. Our
conventional farmer neighbor to the north was wandering
around in our woods, and he went down in our fields and was
nosing around. And he collared me in town one day and told
us that he couldn't believe how our farm had changed in the
time we owned it, the soils.

And I guess from an outsider's point of view,
that told us something was going right.

So I want to close that we firmly believe that,
just through our own experience, the Bio-Cal product
undoubtedly fulfills our requirement for calcium needs
beyond our expectations in our system, from our soil
structure and performance right through the health of our
animals that consume it, and it would be really nice to be

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able to use it again.

MR. CARTER: Thank you.

MR. WOLF: Good morning. And finally, yes, I am Jerry Wolf. I finally get up here.

(General laughter.)

MR. WOLF: And I am addressing the same issue, the calcium oxide/calcium hydroxide issue for food production for organic.

I farm with my brother, Chuck, in Elmwood, Wisconsin, about 70 miles east of St. Paul/Minneapolis. We raise -- we have about a 220-acre certified organic dairy farm, with 65 cows. We raise all our own feed. We buy very little off-the-farm inputs.

We try to be as self-sustaining as possible, because we know in the long run that, if we can do it for ourselves, we can do it for ourselves a long time. We raise all our own replacement heifers and sell bull calves off the farm.

In 1993, we started using this Bio-Cal product. And before that, we were liming for pH with dolomitic lime.

And much that I talk about is going to be the same that Matt talked about just because farmers do see the same things a lot, so you'll get some repetition here.

But with the dolomitic lime having the high magnesium in it, we found it was being tied up in the soil,
and even though the soils were high in magnesium, it wasn't coming through in our forage tests, and we were still having to supplement our cattle with magnesium and other nutrients that were lacking in our feeds.

We got involved with a company that had this Bio-Cal product. And you know, the man told us that it would increase our mineral uptake from the soils, things that we banked into our soils for years by fertilization and liming, and we'd be able to get some of that back out of our soils.

Our own soil that we pay taxes on when we purchase these farms, we can do it more efficiently than buying it off the farm. And so that's why we kind of went into this.

And one thing that we found with the Bio-Cal, that not only using this high soluble calcium on our crops, not only did the calcium increase, but it brought the other nutrients out of the soil, too. The magnesiuums, all of a sudden, in our forage tests are coming up.

And at the time that we were in transition between going with a biological company that was helping us out, we were still working with our local coop that does our nutrition work. And so we've got this guy coming on our farm doing computer printouts on our forage tests, making a recommendation on what to feed our cattle.

And the Bio-Ag consultant told us that, There's
no reason why you shouldn't be throttling back on your
minerals and your protein. There's plenty in that feed, and
the tests are showing it. And he says, You should be
throttling back.

And the coop nutritionist says, No. The computer
says that you should still feed so many pounds of this and
so much of that.

So we kind of almost told him that, We want to
cut back. So over a three-month period we rationed back on
the minerals that we were feeding and the protein supplement
that we were buying off the farm.

And we noticed a few things. And I'm going to
state them here. And the first thing was, as a farmer, you
get the dipstick mentality, is you gauge your profit quickly
by running to the bull tank, seeing how what you did the
last couple days affected the dipstick in the bull tank and
how much pounds of milk your cows produced.

And I've learned over the years that it is a
dipstick mentality that probably isn't the best one that
tells the story, because the overall production doesn't
necessarily mean profitability. And I'm a big student on
looking at the big picture.

But we did notice that the production held. It
wasn't -- we weren't losing things by cutting these things
out of our ration.
The animal health increased over that period of time. Our feed bills declined 12- to $1,500 a month, our vet bill declined 4- to $500 a month. The culling rate went down. Our cattle were just healthier.

We notice things in the soil. When you go out and pull weeds by hand because you don't spray anymore, you get close to the soil. And we noticed more earthworms. The soil was looser, the weed pressure reduced, because we weren't relying on the chemicals to do the killing. And we really noticed that it was doing a better job.

The soils became more -- and the crops became more tolerant to changes in the temperature, whether it was hot and cold or wet or dry. They were more able to withstand those extremes.

And we feel that by having this Bio-Cal product in our soil, it just got the biological activity going better, and it just made everything a lot healthier.

And being in the organic world, we can't rely on all the antibiotics and the hormones, which we've come to find that are -- they weren't doing us any good anyway, they were just a crutch, that by keeping the --

Okay. Thank you.

MR. CARTER: Okay. Now, are there any questions for -- oh. There's one more. Okay. Sorry. We've got the cleanup batter coming in.
MR. ZIMMER: I guess that is my role. We're kind of bombarding you a lot about calcium and calcium oxide.

I'm Gary Zimmer, and I'm a dairy farmer in Wisconsin with my children, and we have a dairy and crop farm, and also we have a company that distributes and markets and consults for biological and organic farmers. And we are the distributors of Bio-Cal, and have been for 20 years.

And I guess I have to summarize. And I guess I took the last spot to kind of fill in with some of the things that I thought they missed and some of the things that we've seen out here in agriculture.

First of all, I don't think there's much of a question. One of the TAP reviewers said, Well, there's plenty of calcium in the soil, and we don't really need any more. And I think that research was done with conventional agriculture.

And I think of a lot of organic people really believe that calcium is the key element and the trucker of all minerals, and calcium is quite beneficial.

We have to depend upon getting healthy soils and healthy mineralized crops and healthy livestock. We can't depend upon all of the tools that conventional agriculture has used. And so calcium is really the king of all those different supplements or the different things we want to get.
accomplished on our farms.

A lot of people hit on the fact that calcium does affect soil structure, it does affect plant health. The recent research, and there's a lot of research done in Wisconsin on calcium in potatoes right now, increasing the storability and the quality of potatoes, cut down disease and insect problems.

Calcium hooks to pectin in the plants and forms calcium pectates, which give a thicker skin on the coat of the leave and reduces the insect damage. And the other thing it does, these guys talking about the cows liking the product better with more calcium, is that we get -- this calcium affects this pectin, and pectin are digestible fibers for dairy cows.

I'm a dairy nutritionist by training and got involved in looking at a calcium source. See, the state of Wisconsin has all high dolomitic soils, high magnesium soils, well, dolomitic lime soils. There is no high calcium in Wisconsin.

So when we started looking at a calcium source, we have to truck it from surrounding states, and that's why I was looking for something quite concentrated.

And this calcium source was extremely fine, and in the processing it seemed very safe, and that's what we've been working on for years.
And so we saw the benefits of getting the calcium and the quality of the feed, and the higher levels of fiber. We have a lot of grazers on our dairy farm. We don't buy a lot of grain supplements were. We needed more energy in our feeds. And so we saw all of those benefits.

You say, Well, then, why, if we're short of calcium and calcium is trucker, why another calcium source? Can you get enough calcium out of high calcium lime? And the answer is, you can dump a lot of lime on the soil, and you still don't get the response out of putting more lime.

If you just drive your pHs up and you get a soil that's over-limed, and you're going to interfere with phosphorous and trace metal uptakes.

If you add gypsum, you say, Well, here we've got two natural products, high calcium lime and gypsum, why don't we use gypsum?

And the other answer for gypsum is that you're limited to how much you can put on. If you start looking at your excesses, if you put 150 pounds of gypsum on an acre, then you've already met your sulfur requirements.

So now if you want to put on more calcium, you can't put on more gypsum, because you're going to overload your ground with sulphur, which leaches out your magnesium and some of the other things that in some soils you don't want to see happen.
So really we have some natural sources, and here's a source that we have that eliminates the fact of driving that pH up, you don't have the carbonate in it, and it also eliminates the fact of having that sulfur part in it.

So I see the product out here. It has been used and it has been safe, and it has its place in agriculture. I see the difficulty as how you put it in the slot to eliminate some of the toxic problems that some of the kilns have out here.

Obviously ash has been acceptable and used in organic agriculture. We've got ash from plant materials and animal materials we can use. So why not -- we can also select ash from lime materials.

I've spent years in agriculture for years, long before we had crushers, and so essentially what we're looking at is ash from lime, isn't it? We're burning out the carbon

And so if we limit it to a lime kiln, then we take away the toxic material and put the safety into it. And so that's what we're requesting.

And I appreciate your time and effort. And we've written up that little report on some of the things we wanted to have addressed. Thank you.

MR. CARTER: Okay. Thank you very much.
Now we'll open it to questions. And to those folks at the end of the table, raise your hands high, because I'm having a hard time seeing down the table. So any questions for any of these commenters?

(No response.)

MR. CARTER: All right. Thank you all very much. Let's move on, then, to Liana Hoodes, and then George Bass.

MS. HOODES: Hi. I'm Liana Hoodes. I am making comments today on behalf of the Organic Committee of the National Campaign for Sustainable Agriculture and Rural Advancement Foundation International.

Poultry access to the outdoors, it's been an ongoing concern that the temporary exemptions to outdoor access not become loopholes. The public does not want factory-style confinement operations in organic.

In order to remain true to this very clear public message, organic livestock exemptions must be narrowly defined and well justified. Exemptions must be documented, and every operation must be completely able to meet the requirement for outdoor access before they opt for a temporary exemption from outdoor access.

Exemptions must not be a loophole for factory-style confinement operations, nor can they be permanent allowances due to limitations of the land available to meet
requirements for outdoor access.

Your copies have our full language changes.

Feedlots: The concept of feedlots was introduced in earlier NOSB clarifications without making it clear to the public that the recommendations would indeed allow for organic feedlots.

Despite specific public opposition to dry lots as an allowable outdoor environment and standard feedlots generally being unacceptable in organic production for a number of reasons, the topic has been broached with the public peripherally at best.

We have been, and continue to be, ardent supporters of the NOSB's role in public/private partnership. It is disturbing to us to have such a key issue as organic feedlots raised indirectly and not be given the benefit of full and informed public comment.

We urge the NOSB to be very clear about the process that is being followed for full consideration of the comments received and how legitimate concerns are to be further addressed by NOSB in a direct and public manner.

What is the actual role of NOSB clarifications? Several questions have recently emerged as to the role of the NOSB and of public comments made to the Board in the clarification of the rule.

We're looking for answers to several questions:

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Does the NOP have an operating manual based on the final rule?

If so, what role did NOSB play in its development?

How do NOSB and the public know if their comments were taken into consideration, and if so, in what manner?

Is the Operating Manual publicly available?

It's been our understanding that NOSB was to play a formal role in the NOP final rule manual development so as to ensure public transparency and accountability in the development of the manual.

Yet, following the last NOSB meeting, there has been increasing confusion as to the role of NOSB final rule manual clarifications.

Recent NOSB meeting notes state that certifiers can choose to enforce or not enforce the clarifications. In addition, NOP inspectors have been giving conflicting information to different programs and have been inconsistent with one another.

It is essential that the role of the NOSB and public input in the final rule clarifications be recognized, and that all clarifications be consistent.

NOSB Authority: NOSB is a non-Governmental board with two distinct roles, to provide the Secretary with recommendations regarding implementation of OFPA and to
develop the National List or proposed amendments to the National List.

With regards to the national list, the NOSB must ensure that guidelines concerning the review of processing technologies do not subvert the Board's legal authority to ensure that unapproved synthetic ingredients are not allowed in end products labeled "organic" or "made with organic."

OFPA specifically requires that NOSB will have a role in addressing whether the makeup of processed products is allowable under the Act.

In exempting any food processing technologies from NOSB review, the Board must ensure it is not reducing or eliminating its legal authority over the content of the processed agricultural products.

Thus, all synthetics present in an agricultural product must have undergone TAP review and been approved by the NOSB for inclusion on the National List.

NOP and Accreditation As the accreditation process has proceeded, several questions have been surfacing regarding exactly what process NOP has employed to offer clear evaluation and guidance. Both an Accreditation Manual and a functioning peer review process are lacking. These both must be put in place immediately.

In addition, we continue to be extremely concerned that USDA not discriminate against farmer-based
certifiers where farmers are appropriately involved in their certification organizations.

I defer to others' comments, specifically Marty Mesh, to detail the importance of farmers' involvement in certification organizations.

Grower Groups: We strongly urge NOSB to make a recommendation to USDA to recognize internationally accepted protocols associated with grower groups.

NOSB Director: It is time for NOSB to hire an executive director, a full-time, dedicated staff person to facilitate public transparency, respond to public requests, and generally communicate with the public. And this would relieve NOP of these duties so that they could continue their regulatory function.

Nearly last, but certainly not least, we would like to commend the work of Mark Keating. We were extremely saddened to learn of his reassignment, and would like to go on record as supporting and thanking him for his dedication and excellence in all his work on behalf of organic and the organic community.

Finally, I would just like to tell a quick cautionary tale.

During negotiations over a farm bill that was recently passed, we saw an unsuccessful attempt at pressuring Congress to legislate an exemption to the 100
percent organic feed requirement for poultry. During that same time period, you as a Board had been grappling with outdoor access exemptions and the Department has been looking at outdoor access requirements for poultry.

Through these three unrelated paths, we might envision an organic chicken that never sees the outdoors and doesn't eat organic feed.

Will the consumer continue to pay 3.50 a pound for a bird that's no different than one they can get conventionally for $1.50 a pound? Will organic continue to be defined by high standards which warrant a price premium and exceptional market growth, at over 20 percent a year?

MR. CARTER: Time.

MS. HOODES: Now that the Federal Government regulates the word, organic, it is the job of USDA, AMS, and NOP to assure that integrity and high standards which have been protected by family farmers and farmer-based certifiers continue to be the hallmark of this marketing and production system.

MR. CARTER: I was going to let you get done with your last sentence, and you managed to get through there without a single period.

MS. HOODES: Thank you.

(General laughter.)

MR. CARTER: Any questions for Liana?
MR. CARTER: Okay. Thank you.

Okay. George Bass. And then, after that will be Barat Bisabri.

MR. BASS: Thank you for the opportunity of being with you.

MR. CARTER: You need to go to the mic since we are doing this for a public record here.

MR. BASS: I'd like to thank you for the opportunity. I am George Bass. I've been in the egg business for 30 years. This is my second farm. My first farm was in Bogata, Colombia.

This farm is in Massachusetts. It's called The Country Hen. And we've got about 40,000 layers on this farm; our total is about 67,000.

We're surrounded by neighbors, north, south, and in this direction we've got the Government owning the land. So we can't expand. We've got about 13 acres on this piece of land.

I'd like to present three arguments. First is I think that outside is a danger to the people of Massachusetts, and especially Boston; number two, I'd like to say that there is a danger to our farm; and number three, there's a danger to our employees, which are our animals. Most of our employees are animals.
And this is my first argument here. I think there is a great danger of pollution to the Boston water supply. And this is not a jest, but I think a real fact.

And if we were to let these birds out for three, four months, we would produce about 290 tons of wet manure.

This is -- we're on the watershed of the water that goes into Boston. And the Quaban [phonetic] Reserve is about ten miles to our west. So we're about 1,200 feet from the first brook, which is Natick Pine Brook. And there's no doubt that some of this material would be washed into the Quaban or some of the bacteria would reach the Quaban Reserve.

We've called the people in charge of the Boston water supply -- they call them the MDC -- and we asked them what their opinion was. We explained what our situation was.

And this is a letter from the Quaban Reserve superintendent. And he says, As such the MDC would discourage the activity.

So I think we've got a water problem here with Boston. And I don't want to see the people of Boston riding out and trying to close our farm.

I think we have got a great danger to our company, because if we have to go outside and do it properly, I think it's going to take a lot of land. Now,
some people would contest that. They just want to open the door and have them go outside and run around.

We only have 13 acres. The real -- when they were doing it back in the '20s and '30s, when actually all agriculture was basically organic, the ratio recommended by two professors, one with Cornell and one with Oregon, their recommendations were 100 bird per acre.

And the reason for that was that you could rotate your land with the birds and it wouldn't pollute your land that much. So you needed 100 birds.

Now, if we do that, we're going to need 670 acres to achieve that. In Boston and Massachusetts, you're going to pay about $5,000 an acre. So we've got a land cost of about $3,350,000. The cost of new buildings, that's probably 1.8 million. And I put down cost of moving the whole farm. We're talking about $5 million to move our farm.

We can't possibly do that. I mean, we could, but actually we would become a public charity, and producing a profit would not be a part of the game.

The greatest danger I think is to the birds. There's something going around called Avian Influenza, and I'm sure the poultry people know what that's all about. In Pennsylvania in '83 and '84, it killed about 17 million birds, according to the figure I have.
And today there is an outbreak in Virginia, and there's 2.2 million birds that have been killed already.

Now, where does it come from? According to this veterinary pathology journal -- I'll read it -- "Low pathogenic AI is common in large-scale turkey-producing areas, particularly where semi-confinement or range rearing is still widely practiced."

In other words, chickens are very close to turkeys, and most of the diseases are shared. Waterfowl are the major natural influence. So outside you've got the Canada geese and wild fowl.

I think that the Board should focus inside the barn rather than outside, because I think that's where there's going to be more fenagling.

And I've gone with these standards for many, many years, and I think they're very practical and very fair. We're giving windows to all our barns.

MR. CARTER: Time.

MR. BASS: And we give feeder space and floor space. I think all those things should be emphasized rather than going outside, giving the birds a good home.

MR. CARTER: Thank you.

Questions?

MR. MATHEWS: Mr. Bass, what kind of accommodations are you suggesting for inside the barn?
MR. BASS: Well, I have a picture here, Mr. Mathews, of the inside of our barns. And we've got big, big windows on the top that go around the barn on both sides. I think we've got 170 windows per barn.

And then, we've got soft litter scratch areas where they can spend the afternoon fluffing themselves, dusting themselves, and things like that.

The benches are where they eat and drink, and they can also drop their manure. That's where most of the manure is dropped.

So I suggest that you have adequate floor space and put numbers to it, and adequate windows and put numbers to it, and ventilation and put numbers to that, because I think that's where people are going to be doing all the crowding, trying to escape some of the regimen. And I think it's a big gray area.

And I think everybody would appreciate some hard, fast numbers on how you're going to do that.

MR. CARTER: Okay. Follow-up?

MR. MATHEWS: Yes. Mr. Bass, what -- how long -- you said you've been growing -- or producing eggs for 30 years --

MR. BASS: Thirty years.

MR. MATHEWS: -- starting out in Colombia? What is your history organically?
MR. BASS: This is the oldest organic farm that I know of. We started the organic egg business here in Massachusetts. And this is my experience. And we're certified by QAI right now.

So I feel the organic is the way to go. I think outside -- the feed is the most important thing, I think the feed and the space and the comfort of the birds. Putting them outside I think you're running into AI and all sorts of other problems. So that's my --

MR. CARTER: Okay. Jim?

MR. RIDDLE: Yes. Mr. Bass, you say you're certified by QAI. And as an accredited certifier, QAI has to certify to the rule, and the rule says outdoor access is required presently. So do you have a noncompliance that you have to be addressing right now in your certification? And how are you addressing that, if you do?

MR. BASS: We filled out all their questions, and they asked us how we're doing on the access to the outdoors, and we said, Well, we're making a petition to the Board to have a variance or have them change their position on it.

MR. RIDDLE: So you're not changing your operation at this time?

MR. BASS: We haven't changed our operations yet, because we're just -- they're waiting for us, and we're waiting for them.
MR. CARTER: Okay. Other questions?

(No response.)

MR. CARTER: Okay. Thank you.

Okay. Next we have, and I believe it's Barat Bisabri or Sterrett Robertson.

(No response.)

MR. CARTER: Okay. We're making up more time.

Chris Pierce, and then Steven Gray.

MR. PIERCE: Good morning. A little bit nervous, but I'll roll with it.

I'd like to thank the ladies and gentlemen of the National Organic Standards Board for allowing me to share my comments on behalf of the topic of access to the outdoors for poultry.

I'm with LeValle Egg Farms, and we've been producing certified organic eggs in the state of Pennsylvania since January of 1997.

Our management process begins with day-old chicks. Currently we have five organic laying houses that average around 10,000 birds per barn and three organic pullet houses that we're using to grow those layers.

They're located in various points in the state of Pennsylvania, and we're certified currently with Pennsylvania Certified Organic and NOFA New York.

Each of our farms that we work with is owned and
operated by individual families that on a daily basis take
care of the needs of the laying hens and the pullets.

I'd like to share the concerns that I have in
regards to making it mandatory for us to put our organic
laying hens outside.

Going back, I had an opportunity to participate
in the North Atlantic Poultry and Health Management
Conference in the end of March at Portsmouth, New Hampshire,
in which Mr. Eric Sideman spoke on the topic of organic
standards for poultry.

And as part of Mr. Sideman's presentation, he
mentioned that one of the primary requirements for the
organic consumer that they receive a safe food product for
themselves and for their families to consume.

And as a producer in organic eggs in the
Commonwealth of Pennsylvania, we, too, have set this as our
primary objective.

Based around this concept is our unanimous
participation for all of our flocks in the PEQAP program.
That acronym is for the Pennsylvania Egg Quality Assurance
Program. And it is considered to be a national leader in
the food safety programs for egg production within the
United States.

We have very stringent criteria for rodent
control in the layer houses. As a primary tool for the
reduction of SE, which is Salmonella Enteritis, in the chicken houses and to increase the safety of our eggs, a high level of management expense to maintain the integrity of the house and to keep the rodents out is the heart of our food safety program.

The PEQAP program focuses on the specific needs that were identified by the President's Council on Food Safety during the Clinton Administration to eliminate SE in eggs.

Based upon this conflict in goals, I would make a recommendation to the NOSB to have written into the final ruling that the FDA's official response to meeting this requirement for poultry outdoor access and the relationship in complying with the President's Council on Food Safety for the reduction of SE in eggs.

One of the key components for complying in the PEQAP program is eliminating rodents from accessing your pullet or layer house, and we have worked very hard at eliminating any entry points for rodents that are the size of a pencil's diameter or larger.

There is a wealth of scientific data supporting the fact that both mice and rats are vectors for transmission of SE.

If we're required to modify our houses to comply with the current draft recommendation by creating

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unrestricted access points to the outdoors for our hens, this will diminish all of the accomplishments that we have worked so hard to obtain.

The draft recommendation also identifies that the organic consumer is expecting the production of organic eggs to come from hens that have the ability to go outside.

Following up with my discussion with Mr. Sideman, he identified that he was not aware of any specific data or surveys that the consumer is actually having this expectation.

Mr. Sideman responded to me and said if anyone would know of such data, it would be Dr. Willie Lockeretz from Tufts University.

I had contacted Dr. Lockeretz on the end of March to discuss this subject, and he shared with me that he wasn't aware of any such surveys or information that would identify the organic consumer had those expectations of requiring the organic hens to access the outdoors.

The colder weather patterns in the Northeast mandate farmers provide adequate shelter during a significant part of the year. So producing organic certified eggs in Pennsylvania and the rest of the Northern states would be virtually impossible during the winter months under the draft proposal.

The proposal -- there's my one minute. We're
going to skip down a little bit.

As we talk about the Avian Influenza that's going on right now in the state of Virginia, as of last Thursday, over 3 million birds had been depopulated because of AI.

I do support that there is an opportunity for the production of organic eggs that are raised on pasture, because I believe there is a specialty market looking for this commodity.

I would request that the NOSB try not to meet the needs of two markets by combining the requirements into one set of standards.

I would make a recommendation that there be one set of standards that would be a certified organic pastured eggs, and that the other standards would be those flocks that would be cage-free or roaming organic eggs, and they would meet the standards without accessing the outdoors.

I really do appreciate the hard work that you guys have put into setting these standards.

And the disease factor is really a concern for us. We do want to produce a safe egg that meets the needs that our consumers are looking for, and we also want our birds to live.

And there's two methods that AI -- and please do some research on AI. It's either transmitted from the live bird market, which USDA is really trying to get a hold on,
which is really a challenge, and migratory waterfowl. In Pennsylvania, we have a lot of flocks going through.

So thank you for your time. And any questions, I would be willing to answer.

MR. CARTER: Okay. Any questions for Mr. Pierce?

(No response.)

MR. PIERCE: Thank you for your time.

MR. LOCKERETZ: Dave, a factual update --

MR. CARTER: I was waiting for Willie to --

MR. LOCKERETZ: Point of personal privilege, I think they call it. But for two reasons I'm happy to report that I am not the program director at --

MR. PIERCE: Okay.

MR. LOCKERETZ: But the other reason is because of who is. I think you know her. Her name is Kathleen Merrigan [phonetic].

MR. PIERCE: Okay. I think I got it off the Web site, so I must have --

MR. LOCKERETZ: Well, Web sites aren't always up to date.

MR. PIERCE: That's right. Is that right, Arthur?

MR. CARTER: And you aren't the first person to get Willie and Kathleen confused.

MR. PIERCE: Okay.
(General laughter.)

MR. CARTER: Okay. Thank you very much.

MR. PIERCE: Thank you very much. Any other questions, Dr. Lockeretz?

MR. LOCKERETZ: (No audible response.)

MR. PIERCE: Okay. Thank you.

MR. CARTER: Okay. Steven Gray, and then, next up will be Steven Collier.

MR. GRAY: My name is Steven Gray, Springer Mountain Farms out of Baldwin, Georgia.

An important mandate of the FSIS is to determine whether or not any label is misleading, misbranded, or provides information that is not accurate and truthful to the consumer.

We submit that provisions be made to allow FSIS to approve additional labels for organic meat production practices.

This would mean that labels would reflect growing practices for organic production that does not necessarily require organic feed.

Organic production not only involves feed as currently required, but also involves specific animal husbandry and production practices.

During our last meeting in October, we recommended the Board that alternative labeling be
considered for organic meat production.

The NOP's current regulations allow for 100 percent organic, organic, made with organic ingredients, and then, specified organic ingredients on the labels. We don't have this alternative in meat.

Organic meat production has faltered in comparison to crop production due to lack of label options approved by the USDA FSIS.

The approval for meat amendment allowing for certified organic was not adopted until January of 1999, whereas terminology for the organic crop production has continued to develop over the past decade.

In comparison to crop production, new organic meat production is in its infancy stages. The consumer's response to organically produced meat has been extremely positive, and the market continues to expand into specialty stores and into supermarkets and restaurants across the country.

It is imperative that we not lose this market that we have worked so hard to obtain.

The availability of feed, which is only a small part of the entire organic program, we feel it is clearly evident the commercial availability of feed or changes in the labeling is essential for the organic meat industry to remain viable.

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The absence of commercial availability of feeding grains further substantiates the need for immediate changes and labeling approvals by the FSIS.

Amendments or approved variations to the FSIS labeling policy can accomplish or provide the needed flexibility to allow meat producers to continue the production of organic products until such time as inputs can be readily made available.

We submit the absence of commercial availability clause of feed ingredients further justifies the need for labeling changes. We further submit that all ingredients conventional or organic, should be tested to verify quality and the absence of pesticides or other contaminants.

We further recommend that the additional labeling that is herein requested require testing that the ingredients used contain less than 10 percent of any pesticide residue currently approved by the FDA.

The organic meat producers would still be required to meet all the current standards established within the National Organic Program.

In the absence of additional labeling approval, the organic producer would not be allowed to use the current FSIS USDA organic seal.

The approval of the labeling and associated labeling criteria would allow the producer to use the term,
Organic, or, Raised with organic practices, in the absence of adequate feedstocks, provided the producer has met the requirements of the standards.

I just ask that we have developed a strong market, and we need to continue to develop that market. And to get more and more farmers involved in raising more organic corn, we need some flexibility as the market continues.

Thank you all very much for your time.

MR. CARTER: Okay. Thank you.

Any questions? Yes. George?

MR. SIEMON: So was I understanding that what you would like to see us do is to advocate to FSIS to allow some use of organic -- like you said -- organic conditions, but not necessarily anything on our side of the -- change anything here?

MR. GRAY: Well, no. Because right now the way the standards are written, we don't have flexibility from the Board at all. You do have that flexibility if you're in cereals or grains. You do have that type flexibility.

MR. SIEMON: So you are asking us to change what we're doing to allow various stages of organics?

MR. GRAY: Yes, sir. You would have to have that in the meat production, just like we have that flexibility in the other production.
MR. SIEMON: I didn't know if you were just talking strictly FSIS, or for us, too.

MR. GRAY: Well, because FSIS regulates the meat side, and FDA regulates the other side. So if we don't have this in place, then the FSIS does not have the flexibility, because this is in black and white.

So unless you all recommend to them some flexibility in this labeling, then we don't have any alternatives.

MR. CARTER: Other questions? Kim?

MS. BURTON: How are you currently labeling your product? Are you labeling it as organic?

MR. GRAY: Certified -- the only way we can label it, Certified organic by Georgia Crop Improvement Association.

MS. BURTON: With conventional feed?

MR. GRAY: Well, it's a mixture of conventional and organic feed.

And we will lose that labeling if we don't have some kind of alternative. So that's where our certifiers came to us and said either this changes or basically we will not be able to have that label on that packaging.

MS. BURTON: Okay.

MR. CARTER: Okay. Other questions? Yes, sir.

MR. KING: Yes. Do you have a proposed
alternative in mind?

MR. GRAY: And that's what I was trying to -- the
point I was trying to get at there is --

MR. KING: I mean, specifically?

MR. GRAY: -- right -- that if the feed is not
available, and you can meet the criteria for humane animal
husbandry practices, raising practices, and your production,
those are two phases -- and feed is just such a small part
of raising an organic bird. When you go into how you
raise --

MR. CARTER: Yes. We're not here to debate.

Goldie, Jim is next in line.

MR. GRAY: Go ahead, Mark.

MR. KING: So primarily you're concerned with the
availability of organic feed?

MR. GRAY: Until we can get the transitional to
catch up with the organic feed, what we're saying is, until
we have enough commercial availability of feed out there,
have a transitional phase to --

You want to strive for something, and we want to
strive to get that USDA FSIS seal that says, Organic.
That's where we need to get to. Until we can get to 100
percent organic feed, we can't have that label.

We're not asking for that right at the moment.

We're asking that, until we can get to that point, that we
have some type of alternative label that has been granted to
crop or to vegetable and to different ingredient statements,
so a transitional type labeling, if you would.

I do not think that we should not take 100
percent organic feed. I think we should have 100 percent
organic feed to be able to use the Organic label.

MR. CARTER:  Jim?

MR. RIDDLE:  Yes. Your whole position seems
predicated on the lack of availability of sufficient
quantities.

And I'd like you to describe your attempts, your
company's attempts to develop those supplies, because the
feed is essential. You can't do the birds without the feed, 
so you've got to have the feed.

And before you do, I just want to point out that
in Minnesota the NRCS has EQIP funds to convert to organic
agriculture. 150 farms have signed up. That's about 30,000
new acres coming on of corn and beans.

And I'm wondering what's happening in Georgia and
other states to grow your supply, because, you know, that's
the thing you need to be focusing on.

MR. GRAY:  I'm going to let Dr. Wicker, who is
coming up in about two or three, that's our expert in that
field, answer that question if that's all right with you.
He knows more than I do on that subject.
MR. CARTER: Okay. Goldie was next.

MS. CAUGHLAN: I just wanted to inquire what percentages you are working with now in terms of your feed, organic.

MR. GRAY: Dr. Wicker can give you those percentages that we're working with currently.

MS. CAUGHLAN: Thank you.

MR. MATHEWS: Mr. Gray, you indicated that you would like, I mean, from my understanding, a transitional label for your product. Is that correct?

MR. GRAY: Yes, sir.

MR. MATHEWS: Do you understand that under the National Organic Program traditional -- or transitional product cannot carry the word, Organic? And how does that affect you?

MR. GRAY: Well, what we're -- when you -- at the last meeting, we put in Sunset for commercial availability of, what is it, methylthymine, Jim? I can't remember if that's exactly right. So that set it aside to give people some flexibility.

If we can't have that same type flexibility to get commercial availability of feed into the marketplace to catch us up, we're not going to be caught up by October. We have a few that we can maintain at this point, but we can't grow the market. There's too many -- there's not enough
feed out there to maintain the market.

What I was looking for is -- and that's why I'm coming to you all -- is there an alternative that we can take a look at for labeling until we can get to that production?

MR. CARTER: Okay. Follow-up?

MR. MATHEWS: But it sounds to me like you're still saying that whatever the transitional labeling is, you still want to be able to use the word, Organic?

MR. GRAY: Yes.

MR. MATHEWS: Is that correct?

MR. GRAY: Yes. We want to take -- and whether that's -- that brings other people in to start to produce organically and gets them into that phase where they can, just like we have, Made with organic ingredients, or, Organic, in the other industries, we don't have that flexibility currently in the meat. We need that same type of flexibility.

MR. CARTER: Okay. Owusu?

MR. BANDELE: Yes. I think it's a little different interpretation, as I appreciate it, in terms of the use of the term, transitional.

Because in most of my experiences, transitional folks are folks who maybe, like let's say in the crop situation. Their land may not have been under organic
management for that three-year period. But once they receive the transitional label, then they do all organic practices. So to me it's different.

MR. GRAY: Yes. I stand corrected on your interpretations, because you all are thinking of transitional as in three to five years on a crop to come into production.

And I'm thinking of having a label that brings us from, if you are in the market now, how do we continue to be in that market? And what pushes somebody to go into the next level? How do we get them to be 100 percent organic?

You're not going to be able to keep jumping into organic production without having the availability of feedstuff. It's just not going to happen.

MR. CARTER: Okay. Thank you.

MR. GRAY: Thank you all very much.

MR. CARTER: Now, you made reference to someone else scheduled to testify, and I don't see their name on the list. So unless they're replacing someone, they need to sign in.

MR. GRAY: He has already signed in, so he should be on the list.

MR. CARTER: Okay. Next up is Steven Collier.

Yes. If there are people that have come in that want to give some comment, you need to sign up, because the
only one that has signed up this morning is Jim Pierce.

Okay.

Mr. COLLIER: My name is Steve Collier. I would like to also address access to the outdoors for poultry.

Raising birds outside will most likely result in increased exposure to parasites, insects, and diseases, as well as predation and other vectors that could be injurious to the birds' health as well as create potential food safety hazards.

Birds that are grown in commercial environments today simply are not exposed to parasites and disease agents that will most likely occur should the NOSB require access to the outside.

Birds grown or allowed to have access to the outside will be exposed to additional coccidiosis, ascarids, heticaritus [phonetic], capillaria, and many other parasites.

Birds maintained in a more controlled environment are significantly less likely to contact these agents which could impact bird health.

Food safety should be the primary concern of all of us in the food production industry. FSIS has made food safety a top priority.

Birds raised under conditions requiring access to the outside will have increased risk of exposure to

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salmonella, E. coli, fowl cholera, mycoplasma,
staphylococcus, Clostridium, bronchitis, laryngotracheitis,
and as mentioned earlier today, Avian Influenza.

A draft recommendation dated December 21 of 2001,
recommended access to the outside. The recommendation cited
access to the outside will provide for preventative health,
will become an integral role in health care, and would allow
poultry to reproduce under normal conditions, and that could
reduce stress, strengthen immunity, and deter illness.

I submit that this is not simply true in all
cases. Health and care of poultry as well as well-being to
meet food safety initiatives are mandated by FSIS and can be
far better served when poultry are grown under conditions
that may restrict access to the outside.

The growing cycle of broiler chickens is
relatively short compared to other species. Geographic
locations within this country, which quite often are
extremely cold or extremely hot, do not facilitate free
access year-round. The requirement of free access to the
outside in many cases could be less than humane.

Current production technologies and practices can
provide can provide for adequate space to allow the birds to
grow normally and express normal behavior patterns.
Furthermore, food, water, and proper environment can be
provided under controlled situations.
Lastly, Avian Influenza has been found in numerous flocks in geographic locations in this country. This highly contagious disease can easily spread from wild birds to chickens to turkeys.

Requiring access to the outside can and most likely will jeopardize the ability of farmers, growers, and producers to market their products both domestically and internationally.

Requiring free access does not always provide a platform for improved health of the birds being produced, nor does it provide a platform to facilitate food safety initiatives currently mandated by FSIS.

Questions?

MR. CARTER: Questions?

(No response.)

MR. CARTER: Okay. Thank you.

Next up is Congressman Nathan Deal. Is he here?

(No audible response.)

MR. CARTER: Okay. Dr. John Smith.

Mr. COLLIER: My comments will serve for John Smith.

MR. CARTER: Okay. Wende Elliott, and then after that, Randy --

MR. DURANCEAU: Duranceau.

MR. CARTER: -- Duranceau. There we go. Thank
you.

MS. ELLIOTT: This testimony is presented on behalf of Wholesome Harvest. We are a coalition of organic certified --

MR. CARTER: Please identify yourself for the record.

MS. ELLIOTT: Okay. I am Wende Elliott. I am an organic certified farmer. I raise organic pastured poultry. I am also the coordinator for the coalition, Wholesome Harvest.

Wholesome Harvest sees the current and the proposed organic standards for poultry insufficient because they promote heavily concentrated feedlot and confinement production.

We see pasturing of poultry to be the only production standard that will stop factory style production of organic poultry.

Pasturing poultry meets the consumer expectations, and it improves environmental stewardship, humane treatment of animals, and provides the ecological foundation that organic certification was based on.

Remember that consumers drive the organic food movement. In the 286,000 recent comments from consumers, the Number 4 comment was, No factory farming practices.

The current and proposed standards allow for high
density feedlot or confinement of organic poultry, and that will negatively degrade the validity of the organic label for all other organic products, from organic milk to organic strawberries.

Consumers aren't stupid. When they find out that chickens and eggs are being raised without access to outdoor air, that chickens are being fed GMO feed because it's cheaper than organic feed, they are going to be very cynical about the organic labeling in general. It's going to affect everybody.

If the USDA allows this to continue, they're going to kill the goose that laid the golden egg, to use a poultry metaphor.

The consumer who purchases the organic free range poultry is not visualizing tens of thousands of birds being produced in a corporate feedlot. The consumer wants to buy poultry that's being raised by family farmers, and they imagine it happening on a pasture behind a farmhouse.

The organic movement is successful because of differentiation. The less organic poultry is differentiated from corporate confinement poultry, the more likely consumers are going to abandon the label and all other organic food products.

A member of the NOSB has suggested to us that we drop our request for pasturing of poultry as being too
radical and that we should instead just invent our own little label.

We'll gladly and successfully nationally promote family farm organic birds that are raised on poultry. But just realize that our differentiation is what the consumer is asking for, and it will be the death of consumer interest in organic certified birds.

The current wording and loopholes will without a doubt result in factory farming of all organic poultry by vertically integrated food corporations. They are going to produce the meat cheaper than the family farmer. They will commodify and monopolize the market.

Petaluma Poultry exemplifies the current state of organic poultry products now available to consumers in grocery stores.

In a press release dated February 1, 2002, American Capital proudly announced investing 8.5 million in Petaluma, which they describe as the dominant player, with several hundred employees, operating a hatchery, multiple chicken ranches, a processing plant, and a feed mill.

We recommend that the standard language be modified as follows:

Number 1: Organically managed poultry must have access to outdoor pasture.

We agree with the language in Section 2,
providing the language is changed in Section 1.

The testimony you hear today is not about animals getting sick. It's about how food companies can most quickly capitalize on the exponential growth in consumer demand for organic meat.

It's about how easy it will be for a few corporate players to keep their corner on the organic poultry market if the standards stay lax.

It's about the fact that 96 percent of organic food sales occur in the grocery store. Only 4 percent are farmer direct at farmers markets.

It is wrong to assign organic family farmers to the 4 percent ghetto and to just hand over the label of organic certification to companies who already control the 96 percent of poultry sales and want to keep it that way.

You all know of the environmental benefits of pasturing versus feedlots. The chickens deposit nutrients on the pasture while they range and then work them into the soil.

No environmental problems associated with concentrated feedlot and confinement manure run-off exist if you pasture poultry. Neither are there mechanical problems associated with mechanical over-application of manure in an effort to dump manure from landless animal facilities.

Additionally, there is less dependency on fossil
fuels for hauling manure away, as the pastured chicken applies it for the farmer.

Please know I am a Northern producer. I am aware of hundreds of other Northern pasture poultry producers. We produce organic poultry as a seasonal enterprise on our farms, and we are happy about this. That's why we're farmers. If we wanted to be seasonless, and we wanted to work in a factory, we'd be factory workers.

There are two members of the Livestock Committee that represent four farmers, and those are the only four farmers I know that want to raise organic poultry in confinement in the Northern Midwest.

I'd be glad to answer comments if anyone wants to ask me about influenza.

MR. CARTER: Questions?

MR. SIEMON: I've been trying to study this AI situation, which I don't think is the whole decision basis to make it. But what I've noticed is all the confined birds are getting the sickness.

MS. ELLIOTT: Yes. The Leopold Center did a thorough literature search in April of 2002 in preparation for this hearing. And there wasn't a single organic certified flock or a pastured flock that came down with the disease. All instances were in large confinement facilities.
Certainly this is irrelevant to organic certification, because the disease existed before the label and will continue.

And also, they have found that when they have quarantined an area and checked wild animals, there was no sign of the disease from migratory wild birds that were captured, that it looks like the cause is actually human handlers.

MR. CARTER: Other questions or -- yes. Mike?

MR. LACY: I'm sorry. Are you saying that -- I'm confused about what you're saying about Avian Influenza, that pastured poultry are not susceptible to Avian Influenza?

MS. ELLIOTT: That there is no scientific research that shows that there is an increased risk for the birds to be on pasture, since it's probably transmitted by human handlers, contaminated vehicles that transport livestock, contaminated breeding livestock.

Like all other diseases, when you have a high density of animals or even humans, that's when pathogens spread most easily.

MR. LACY: But most of the veterinarians/epidemiologists do think that the source of Avian Influenza is wild bird populations.

MS. ELLIOTT: From the academics that have...
advised me that whenever they have quarantined an area and checked the wild migratory birds that they are able to catch that they haven't been able to prove that.

MR. LACY: I'd have to check those sources, because I think there is a great deal of literature, scientific literature, that would indicate that wild bird populations do carry --

MS. ELLIOTT: Are carriers?

MR. LACY: Right.

MS. ELLIOTT: Yes.

MR. LACY: And there is a great deal of epidemiological information that shows that birds from live markets which essentially would equate pastured poultry, bird that have been raised outdoors and carried to live markets, are a significant source and probably the initiator of Avian Influenza in commercial poultry.

MS. ELLIOTT: I don't think that the current outbreaks have been linked to wild birds getting into the confinement buildings.

MR. LACY: Actually, I think the current outbreaks have been traced back to live markets in the Northeast.

MS. ELLIOTT: Which would suggest human handlers.

MR. CARTER: Okay. Other questions?

(No response.)
MR. CARTER: Okay. Thank you, Wende.

MS. ELLIOTT: Yes.

MR. CARTER: Next up is Randy. I won't even try the last name again.

MR. DURANCEAU: Duranceau.

MR. CARTER: There we go. And then, after that is Steve Masahrt.

MR. DURANCEAU: Good morning. My name is Randy Duranceau, and you should have heard it chastised or said incorrectly when I was a little kid in Little League. It was really embarrassing.

(General laughter.)

MR. DURANCEAU: I am with Petaluma Poultry, and I am here today to talk about outside access.

But first I would like to make a comment about organic feed with raising organic broilers. And the cost of raising an organic broiler, more than 50 percent of the cost of raising that broiler is due to feed. So I just want to end my comment there.

I'm going to read a statement. Then I'll be glad to answer any questions you have about outside access.

Petaluma Poultry has been raising and processing free range birds, broiler chickens, without the use of antibiotics or animal byproducts, for over 15 years.

Our company was one of the first to offer the...
consumer a free range chicken and was the first to introduce
a 100 percent certified organic chicken in 1999.

For the last year, you all have been wrestling
with the issue of outside access for poultry. In your draft
you state, "Public comment for the two proposed rules on
National Organic Standards shows a clear expectation that
consumers have for access to outdoors as part of humane
management for organically raised livestock."

As I read that quote and reread the draft, there
seems to be a disconnection between the consumer's clear
expectation of outdoor access and what in fact the draft
recommendation is saying.

Organic chickens will only be allowed to move
freely out of and into their houses when it is convenient
and economically feasible for the farmer. The health and
welfare of the chicken is always of utmost importance, but
it seems that economics are playing a larger role.

Words and statements such as, when feasible, when
justified, and temporary confinement will allow farmers to
confine their chickens indoors when outside conditions will
not benefit the well-being of the animals.

We have to take care that, When feasible, and
other exceptions are not interpreted as, Whenever it serves
the economics of my farm. We cannot allow animal health and
well-being to be determined by business health and well-
The future of organic agriculture is based on the trust and confidence the consumer has in the farmers, processors, manufacturers, and retailers within the organic community. If that trust is broken or diluted, what all of us have worked for over the past 30 years will be gone.

We must remember what the organic farming community is doing to preserve that trust and what the consumer is expecting from organic agriculture. The confidence the consumer has in our community must remain strong for our industry to thrive. The trust between the consumer and our community must remain strong, again, for us to survive.

I urge you to review your recommendation to ensure that outdoor access for poultry will be a reality and not overridden by loopholes in the rule.

Now, I've spent a lot of time on the road talking to consumers. I've spent a lot of time talking with people at food shows. I've read a lot of comments people have sent in to the USDA.

Outdoor access and humane raising of all livestock is of very high importance to our consumers. We must remain steadfast in our practices to allow those birds to go outside, to roam outside, to forage outside, to be able to go outside.
Two or three weeks ago, we had an opportunity to show some of our farms to some folks in industry. And when we walked out there to see these birds foraging out in those pastures, outside in the sun and warm, it brought a lot of happiness to the people that were there to see that operation.

A lot of people in the industry or trying to get in the industry are talking about on their labels or on their packaging, Environmentally controlled conditions.

When you allow those birds to go outside, you're breaking the control of the environmental conditions which really ensures those growers the ability to control the costs of production. Outside access breaks those controls. It takes more effort, more management to raise those birds in those conditions.

People trying to get into the business now are used to controlled environments, are used to controlled conditions. Outdoor access breaks those controls.

I urge you to continue and to make sure that those loopholes are not overridden for economic conditions. And remember what the consumer is saying, what the consumer wants, and what the consumer does for our industry.

Thank you.

MR. CARTER: Thank you. Questions? Yes. Rose?

MS. KOENIG: Yes. How large is your operation?
I'm not sure if you stated that.

MR. DURANCEAU: Our operation, we grow annually about -- we produce about 40,000 organic chickens a week.

MS. KOENIG: A week?

MR. DURANCEAU: Uh-huh.

MS. KOENIG: And how is the access to organic feed? Is that a problem for you?

MR. DURANCEAU: That's not a problem at all. Actually, at certain points of the year there's less demand for organic than we can grow. And we're continually trying to develop that market. It's the market that we must continue to grow. In our conditions, in our situation, there's plenty of organic grain, soybean meal, and organic corn. It is costly, though. It is very costly.

MS. KOENIG: And in terms of disease management or disease problems, have you seen or experienced any of the types of diseases that we've been hearing about today?

MR. DURANCEAU: In our area, on the West Coast, we have not seen those issues. And we've been raising free range chickens for 15 years. We know how to do it, we're experienced at it. And it is difficult, and it is costly, and you have to be on top of it. But we can do it. And you can do it.

But when you're used to growing broilers in large, large quantities, 40 million per week, outside access
breaks those controls, and it becomes much more difficult to
manage your flocks and manage what you're doing.

  MS. KOENIG: Thank you.

  MR. CARTER: Okay. Other questions?

  (No response.)

  MR. CARTER: Okay. Thank you.

Next we have Steve Masahrt. Okay. Hi, Steve.

  MS. GOODMAN: Hi. Nice to see you.

  MR. CARTER: And after that will be Robert Hadad.

I've got a revolt up here going on, so we are
going to take a five-minute break, if you'll be patient,
Diane.

  VOICE: [Inaudible].

  MR. CARTER: Well, you know, you mentioned it, and then Rosie left. So --

  (General laughter.)

  MR. CARTER: And I think it's a heck of a good idea, myself. So we will take just five minutes and be back.

  (Whereupon, a short recess was taken.)

  MR. CARTER: Okay. We need to get back. If everyone in the room would please sit down and -- either sit down or take your conversation down the hall.

  (Pause.)

  MR. CARTER: Okay. Just in terms of procedure
here, because we've got a ton of folks that have signed up, and I know a lot of folks have come in specifically to provide some comments. So it is our intention to give everyone a chance to testify.

Do not feel that the five-minute time frame is a minimum time that you have to testify. If you can give us brevity, it's greatly appreciated.

But Diane, you're up.

Also, if you did intend to give public comment and it's something that is not something that we are acting on specifically at this meeting, and you're going to be here for the duration of the meeting, we're also doing public comment on Wednesday. So if you could hold over, that would also be appreciated.

Go ahead.

MS. GOODMAN: Thank you. I am reading this letter to you on behalf of Steve Mart, who is an organic egg producer, Judy's Farm in Petaluma, California.

"Dear NOSB, I am a dedicated certified organic egg producer since 1996. I have also been raising free roaming laying hens since 1983.

"As a caretaker of these hens, I am concerned by the recent NOSB Livestock Committee recommendation that requires outdoor access.

"The first publication of the rules seemed to

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allow for organic egg production to occur in cages. Included in the 250,000-plus responses to the first release of the organic rules was that livestock, including organic laying hens, not be kept in cages. The simplest way to achieve this was require access to the outdoors.

"My personal communications with our organic consumers through our web site or in person has validated that finding.

"However, when I explained to our organic consumers that while we let the laying hens run and exhibit normal chicken behavior, we don't want them to go outside because it is not humane, environmentally sound, nor does it provide for adequate food safety.

"Once provided the explanation, our consumers appreciated the thoughtfulness of our systematic approach to all aspects of organic egg production. Our sales have continued to increase.

"The intent of the regulation for outdoor access is to ensure that poultry is not raised in cages. Freedom of movement and the ability to exhibit natural behavior is an important part of the organic system.

"A properly designed poultry barn should allow for natural ventilation, access to direct sunlight, and room to exercise.

"Many years of studying chicken behavior and
health does not support the notion that outdoor access improves the hen's welfare, otherwise chicken farmers wouldn't have abandoned the practice in the 1940s.

"I will elaborate in the following pages about the concerns the USDA NOP should have about outdoor access to organic laying hens.

"Humane Treatment: One of the keys to raising organic laying hens is the reduction of stress and limiting the exposure to unknown disease vectors and predators.

"During the '70s, the West Coast lost millions of chickens due to Exotic Newcastle disease. This was traced back to exotic birds brought in from South America.

"In the '80s, the USDA had to slaughter millions of chickens because they were exposed to Avian Influenza from migratory waterfowl.

"With both of these cases, the USDA indemnified the producers, paid for their costs of disposing of infected flocks, paid to the producers because of a mandatory eradication program.

"Is the USDA willing to risk increasing the opportunities of these diseases or others reappearing because of the increased exposure to wild fowl in an open system?

"During the '90s, Salmonella exposure from rodents changed the way consumers looked at the once safe
egg.

"In every instance, these diseases were brought on by contamination of a domestic hen by wild or natural vectors.

"Vaccines have helped control some of the diseases, but they are most effective when combined with a rigorous biosecurity program with an emphasis on exclusion.

"Outdoor access creates a parasite load that will compromise the immune system of the laying hen. Mites, a blood sucking parasite, coccidiosis, a protozoan parasite that destroys the intestinal wall, and worms, which deprive the birds of nutrients, create much suffering and leave the bird vulnerable to a host of other debilitating diseases.

"These threats are transferred to the hens by rodents and wild birds which contaminate the feed and environment with droppings and feathers. The chickens then eat this and become exposed to whatever disease they were harboring.

"Once the hens on the ranch have these diseases, there is little or no tools for the farmer to use to break the cycle, because these diseases can remain viable in the soil for years.

"One must not forget that the laying hen has a productive life of over two years, as compared to the broiler, of just seven to eight weeks.
"Most laying hen farms have a separate facility to raise their young laying stock. Typically these houses are isolated from their laying operations in order to limit the disease exposure until the young bird has been properly vaccinated and their immune system has developed.

"A proper vaccination program is the organic farm's number one tool to maintain a healthy flock. On our farm, the pullet, young chicken, receives her last vaccination at 14 weeks.

"This proposed rule would compromise my entire vaccination program by exposing the pullet to unknown vectors before her immune system can mature."

Okay. And he talks about HACCP farms -- I'm going to have to go through this really quickly -- holes in the walls that would keep out rodents; about the environment.

And I'll finish with the last paragraph. This is a suggestion for a solution.

"Organically managed poultry must have access to outdoors during the months of the year when feasible or provide for natural ventilation and direct access to sunlight when present.

"Poultry should have the ability to access a substantial portion of the house freely, while providing dusting and scratching areas.

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"If these requirements cannot be fulfilled because they are using a closed type house, then an area outside of the confines of the building must be provided which provides access to direct sunlight and natural ventilation.

"This recommendation has the bird's welfare as its focal point while not endangering the environment.

"Consumers desire the birds to exhibit natural behaviors in all areas of the country.

"I am only commenting on the egg laying chickens and their needs. The broiler type chicken has entirely different requirements, and this paper does not address their needs."

Thank you.

MR. CARTER: Questions?

(No response.)

MR. CARTER: Okay. Thank you.

MS. GOODMAN: Thank you.

MR. CARTER: Robert Hadad, and then, after that will be Steve Santos.

And if you have materials, make sure that you give one copy to the court reporter so we can have them as part of the official record.

MR. HADAD: Thank you. My name is Robert Hadad.

I am Director of Programs for Farm Animals and Sustainable Heritage Reporting Corporation

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Agriculture for the Humane Society of the United States.

And I would greatly appreciate it if you would be able to refer to the paper that I've handed out, because it goes into much more detail than what I can present here at this time.

On behalf of the Humane Society of the United States, the nation's largest animal protection organization, with 7 million constituents who also happen to be consumers, we wish to support strongly the recommendation of the NOSB Livestock Committee that organic poultry should be allowed access to the outdoors.

We agree that access to the outdoors fulfills the integral role in health care and living condition requirements in organic poultry production. Our support for your recommendation is based on all four of the principles you list as its intent:

Number 1: To satisfy the natural behavior patterns. In addition to the natural behavior patterns, as you mentioned, these include foraging, which is a pervasive aspect of behavior in birds fed on concentrated diets, dust bathing, and exploration.

All these behaviors are much more readily carried out in the varied, extensive conditions provided outdoors than in the limited conditions of high-density housing.

Furthermore, varied, complex environments have
other benefits: birds reared in such conditions show more adaptability, less susceptibility to stress, and less fear of humans than those kept in barren conditions.

Number 2: To provide adequate exercise area. This improves foot, leg, and wing bone strength conditions.

Number 3: To provide preventative health care benefits. We concur with the statement that outdoor access has health benefits.

Disease exposure can be avoided by (a) fencing outdoor areas to reduce ingress of wildlife; (b) feeding poultry indoors, which largely prevents the potential of wild birds to spread disease; and (c) using different outdoor areas for successive flocks to prevent buildup of disease organisms.

Health benefits include reduction of stress and strengthened immunity. They also include varied nutrition when this is available.

Number 4: To answer consumer expectations of organic livestock management.

Your comment that consumers expect organic livestock to have outdoor access is consistent with our understanding and with the general NOSB principle, paragraph 1.3, that, "The basis for organic livestock production is the development of a harmonious relationship between land, plants, and livestock."
Denying this principle would devalue the whole standing of organic standards in the perception of the public.

Organic certification is a set of regulations based on the principles of sustainable organic agriculture, and a farmer wishing to be certified must meld with these principles.

I'll jump to what we feel are recommendations. The key points we have made in our written statement would be clarified by alterations to the recommended standard as follows. The word "temporary" is highlighted in the second clause to emphasize the importance of its retention.

Number 1: Organically managed poultry must have daytime access to an outdoor area at least as large as the area of their house during the months of the year when feasible.

The producer's organic system plan must illustrate how the producer will maximize and encourage access to the outdoors by provision of ample doorways and other measures such as cover, for example, bushes, fences, nets, et cetera.

Number 2: The producer's organic system plan should explain how both the birds and their outdoor environment will be protected, including, for example, justification for choice of site.
In exceptional circumstances explained in the plan, the producer may provide temporary confinement because of the items listed below.

Number 3: If the producer of poultry wishes to obtain organic certification, then clear adherence to the rules must be followed.

If the health of a flock, particularly during a period of time, could be jeopardized from an epidemic such as AI, then all appropriate measures must be taken to ensure the well-being of the birds. If this means that total restriction of access to the outdoors is necessary, then this must be followed.

But if this confinement is deemed necessary, then the animal products derived from the birds cannot be sold as organic.

In conclusion, we wish to lend our support for the provision of allowing outside access for all poultry. We hope this will set a precedent for future provisions that ensure greater welfare for livestock.

Livestock can be the cornerstone of a true sustainable agricultural approach.

We won't support certified organic confined animal feeding operations.

Any strengthening of the regulations will go far to build the support and trust of the farmers and for

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consumers.

Thank you.

MR. CARTER: Comments, questions?

(No response.)

MR. CARTER: Okay. Thank you very much.

I lost my list.

(Pause.)

MR. CARTER: Okay. Steve Santos. Is he here?

(No response.)

MR. CARTER: Urvashi Rangan?

MR. RANGAN: Yes.

MR. CARTER: Okay. And then, after that, Stan Welsch. So go ahead.

MR. RANGAN: Hi. My name is Urvashi Rangan. I represent Consumers Union. We're the non-profit publisher of Consumer Reports magazine, with over 5 million subscribers to date.

We also, and I am also the director of our eco-labels project, which is a web site that is a free resource for consumers intended to help them to decipher all of the environmental labels that they are seeing in the marketplace, including food, and of course the organic label sits well within that.

We have been doing this for over two years. We have been a long-time supporter of sustainable agriculture
practices and in educating the consumer about that.

This eco-labels web site project goes even further to set the standards for what consumers should expect from eco-labels in the marketplace.

And we are here today to reiterate our issues from comments submitted to the NOSB on livestock feed, poultry access, and processing recommendations that are not in keeping with consumer expectations of organic.

Before I get to the poultry access comments which I do have, I am going to go over some other comments that are related to some of the processing and livestock feed recommendations, especially with regard to the use of genetic engineering and some of the potential loopholes that have been created with these recommendations.

The first one, as far as processing, we disagree with the NOSB that biologic processes not be reviewed by the NOSB since most if not all, according to the NOSB, are acceptable processes and since most biologic processes, according to that recommendation, do not break covalent bonds.

Biological processes can indeed break covalent bonds. And enzymes, acids, and additives are examples of substances that can be derived from or made with non-pathogenic bacteria and that can be used in organic production and processing.
Therefore, Consumers Union recommends that biologic processes should be required to be reviewed by the NOSB and that the use of substances derived from genetically engineered bacteria should be explicitly prohibited in the processing recommendations.

As far as livestock feed goes, there is a similar loophole created for genetic engineering, and that's related to the issue of carriers.

The current NOSB recommendation states that requirements are not -- there are no requirements established for agricultural products used as carriers in livestock feed ingredients.

While carriers may not meaningfully affect the nutritional quality of the feed ration, the source of the carrier can affect the organic integrity of the feed. Without any requirements, there is a high risk that these carriers could be derived from genetically engineered or pesticide treated crops like corn or soy.

Consumers Union strongly urges the NOSB to regulate the source of livestock feed carriers to be from only organic sources.

Similarly, we urge the NOSB to regulate the source of gelatin that is used in carriers for feed ingredients and to require that that also be from organic sources, especially since most consumers who do purchase...
organic are also concerned about any potential transfer
issues with mad cow disease.

And now on to the poultry access comments. You
may find it interesting, if you go to our web site, which is
www.eco-labels.org, the feature story this month is on egg
production in the United States.

What we realize in educating consumers about eco-
labeling is that most consumers don't understand what
conventional production is all about.

This is a 14-page research paper that outlines
what's going on in conventional production and also
evaluates the 17 eco-labels that we have identified on eggs
and how they match up against conventional production.

Consumers Union disagrees with the NOSB
assessment that nutritional needs of poultry with regard to
access are outside the realm of consumer perception, humane
consideration, or preventative health care management.

Just as ruminant animals receive nutritional
value from access to pasture, consumers expect that poultry
will also be subject to similar requirements. In fact,
access to a vegetative outdoors is critical to the
consistency of the organic label on all certified meat
products.

However, the NOSB recommendations would accept a
concrete driveway with two inches of topsoil to satisfy the
requirement for poultry access to the outdoors. This is not what consumers expect when they are buying organic poultry.

Access to a vegetative outdoors allows poultry to better exert natural behavior patterns such as foraging for insects -- and it sounds like you've heard a lot about that before -- and eating grass, which also happens to aid in digestion, which is part of preventative health care management.

These --

MR. CARTER: Time.

MR. RANGAN: This is what consumers expect from organic poultry production. Thank you.

MR. CARTER: Okay. Thank you.

Questions?

(No response.)

MR. CARTER: Okay. Thanks.

Sam Welsch, and then Emily Brown Rosen.

MR. WELSCH: I'm Sam Welsch, and I am Executive Director of OCIA. We are proud to be a newly accredited certifier, and we're the largest in the U.S. and Canada. And with the numbers of farmers, we probably certify as many farmers throughout the world as any other certifier.

I have many comments. Of course we are interested in all these standards. I'll keep those brief and hope to conclude on Wednesday with some things that
aren't related directly to the standards.

MR. CARTER: Thank you.

MR. WELSCH: I'll essentially just go through the list and express our support for the dairy animal replacement recommendation that replacement animals, whenever possible, should be raised as organic from the last third of gestation.

That the access to outdoors for poultry is an important standard. It should be genuine access, and any exemptions should be clearly temporary exemptions. The language proposed by the national campaign is consistent with the views of our Standards Committee.

The items regarding compost, we support recognition of the broader range of approaches to composting that are actually very in practice among the fields. We oppose any recommendation that hydroponics be certified as organic. We support the recommendations concerning the planting stock.

Strongly oppose labeling transitional products. We feel that those do not -- we've always said if it's organic, it's organic; if it's transitional, it's not organic.

We have worked with grower groups. We feel the current rule does allow us to continue to certify grower groups according to the international criteria that we are
in support of and continue to work for the development of.

The materials that you will be looking at, I think it's clear in most of the recommendations that there are things that are currently prohibited. I would speak specifically -- or prohibited traditionally by OCIA. We would like to see that continue.

Sodium nitrate I would speak to specifically. We do have growers who grow the same types of crops in cold climates, including Canada, without the use of sodium nitrate. And they have spoken to us about supporting removing sodium nitrate from the list. They feel it does give an advantage to others, or, you know, it's blurring the line between organic and non-organic at that point.

I guess just to conclude, you know, what I would like to speak more about on Wednesday relates to accreditation issues. And I know we've all been asking for clarification on what the standards mean.

I think a recent letter that suggests that NOP could get involved in disagreements between interpretations of standards that certifiers might have with our clients might be going -- or I think is clearly going a step too far, blurring the distinction between certification and accreditation.

And those types of issues we -- well, I'll just note that I'll be speaking more about that on Wednesday so
you can move on today.

MR. CARTER: Okay. Thank you.

Any questions?

(No response.)

MR. CARTER: Emily, and then we have Brian McElroy.

MS. ROSEN: You can sign me up for Wednesday as well as today.

MR. CARTER: Okay. That's fine. Works for me.

MS. ROSEN: Okay. Good morning. My name is Emily Brown Rosen, and I am the Policy Director of the Organic Materials Review Institute.

I know most of you, but I would like to welcome the new members to the Board. It's great to see you willing to volunteer for a tough job like this, and we really appreciate your energy and willingness.

We do look forward to working further with NOSB collaboratively in the future, especially on materials issues.

And if you're not familiar with our organization, I'd also like to mention OMRI is a non-profit. It was originally set up by several certification agencies to provide technical services to review generic and brand-name materials used in organic production and handling.

I'm going to talk about a couple of issues here.
I'll hand in my comments later. They're a little bit longer than I can probably say.

But I want to touch on inert ingredients in pesticides, compost task force recommendation, the livestock recommendation.

Inert ingredients. We've been hearing some concerns from the community and from NOSB members about the pace and the progress being made with compliance with the NOP final rule regarding inert ingredients in pesticides.

The rule requires, as you know, that all inert ingredients must fall under EPA's classification of List 4, or otherwise called Inerts of Minimal Concern. And this was directly based from NOSB recommendation in 1999, in February.

We are pleased to report that we are seeing a number of products reformulate, and we are seeing an increase in the number of pesticide products on our review list that do not have List 3 inerts in them.

It's been a gradual process, but we've been notifying manufacturers for the last two years. And it's taken a little while. But two years ago, about half of our pesticide products on our list, which was 32 out 65, still contained List 3 inert ingredients.

And last year, we started working with EPA directly and forwarded them a list of some of these problem
List 3 inert ingredients, and these at that time were in 55 products.

And right now we have just gone through and revised our brand-name product list, and right now we've got 82 products on it that do not have any List 3 inert ingredients. We also have another 25 that we have had to pull aside and put on a segregated list as no longer compliant with NOP rule.

So that's still a significant number, considering that organic farmers don't have a lot of tools for pesticide control. But we do feel like we're making progress, and we are continuing to have a dialogue with EPA.

Based on our continuing discussion, we believe that a significant number of the remaining products on our list, those inert ingredients will be reclassified by August 2002 as List 4. So it won't be all 25, but it will be most of them.

At least those are the ones that we know about. There are certainly other products on the market that farmers have used that, you know, have never registered with us, and so we cannot, you know, vouch for the state of those.

But we do believe that, of the products that are on our list now and will hopefully come back by August, there will be access to farmers of NOP compliant

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formulations in all the allowed active pest control ingredients. This includes copper, sulfur, biological, and botanical ingredients like your neems [phonetic] and your rotunons [phonetic].

The NOSB and the NOP should do all they can to encourage EPA in this action to reclassify the List 3 inerts and also to encourage manufacturers to reformulate their products to meet the NOP rule.

Another option, also, is for manufacturers to petition their specific inert ingredient to be considered for the national list.

OMRI urges NOSB to consider any such petitions fairly and equitably in the regular TAP review process, and that they can be considered after they are subject to disclosure, TAP review according to the criteria, recommendations by the NOSB, and public input. That is another viable way to do it for some problem inert ingredients.

Compost task force, we are generally very supportive of the new task force recommendation. We think it needs to be specified more clearly so certifiers and farmers can understand exactly what is or is not going to be allowed.

If these are additional guidelines for certifiers to follow, they need to know exactly where the bottom line
is on those, and it's not quite clear from the way that the wording is now.

We also are pleased to see that the task force recognizes process manure. We've always reviewed products on that basis, and we think the definition is good, except that the term "freezing" could come out.

We also need that the compost task force recommendation and the livestock recommendation get official sanction as an official NOP policy once this Board approves whatever form it takes so that there is direct guidance to certifiers to know how to implement these new policies.

As far as feed additives, we are really grateful to see this new proposal. It's very detailed, and it's extremely necessary for certifiers to review.

We also would like to thank Mark Keating for his work on this, because it gave a lot of good detail that's needed right now.

There is one question I have, though, in the allowance for incidental --

MR. CARTER: We ask you questions.

MS. ROSEN: Okay. I think there needs to be a better distinction between incidental and carrier, because it's not clear if preservatives are allowed or not in vitamins. Okay.

MR. CARTER: Okay. Questions? Yes.
MR. RIDDLE: What was that question, again? No.
You mentioned in the process manure language about
freezing. And I had similar reaction to that. Why would
you suggest that that be removed? What's your concern
there?

MS. ROSEN: Well, I think the language originally
came from the OMRI generic list, and we had recently
convened a meeting and talked about it.

Really, the 150 degrees temperature plus the time
requirement plus the moisture requirement, all three of
those should be required, but freezing is -- we've never
seen a freezing, and it's theoretically possible, but we
don't have any evidence to support that it's a reasonable
way to reduce pathogens.

MR. CARTER: Okay. Rick?

MR. MATHEWS: The inerts that are on List 3, you
mentioned that you've been working with the EPA on those.
How many of the inerts from List 3 that are commonly used in
products commonly used by organic operations will not have
been moved to List 4 by October 21?

MS. ROSEN: I look at it more in terms of the
products on our list. You know, and we don't have the whole
universe of products, obviously, that farmers can use.

We have redone our generic list, and I will be
handing you all a copy, including the list of pulled items.
So of those 25 products that are pulled, I think at least 18, those particular inert ingredients will be reclassified. But we still do need -- you know, this is still -- EPA has been promising this for a while, and they don't always make their deadlines. But this deadline that they have, August 3, for FUPA. They have to reclassify a lot of different products and establish new tolerances, et cetera.

So they're not doing it just for organic, they're doing it for the industry in general. So I think we'll see good progress there. Does that answer your question?

MR. MATHEWS: Well, not really.

MS. ROSEN: I could give you --

MR. MATHEWS: Not really. I --

MS. ROSEN: I could give you more detailed numbers later, when I go through it from a different angle.

MR. MATHEWS: But you would agree that there's going to be a clear problem for farmers who have been using materials that could put them in jeopardy of losing their certification after October 21 by using what has become a prohibited substance?

MS. ROSEN: Correct. Yes. Especially because the numbers don't always tell you the answers. Some products are very widely used. There's one very widely -- or a couple of formulations of a very widely used copper...
product that doesn't look like it's going to reformulate or
get reclassified. So that could be a problem.

MR. MATHEWS: And I have another follow-up. What
is the status of the List 3 inerts that are commonly used in
pheromones?

MS. ROSEN: The ones that we have looked at in
our process have been considered candidates for
reclassification by EPA. We don't have all the pheromones
on our list.

I think the pheromone annotation might deserve
reconsideration on its own, because a lot of these materials
are affiliated with the dispenser or the plastic twist ties
or, you know, how the pheromone is delivered. And some of
those are not likely -- they're just not very high on EPA's
list.

But if NOSB wanted to do a review to look at the
active ingredients and the various -- you know, write the
annotation to cover certain types of delivery systems --

MR. MATHEWS: Okay. Then, if I understand you
right, the List 3 substances that are used in pheromones
will not be addressed by EPA in that August deadline?

MS. ROSEN: No. No. The ones on our product
list will. But we don't -- I mean, I've heard reports that
there's other products out there that are concerned, and I
really don't know which inerts are in those products.
But I do think that it might be -- if it remains a big issue, then it might be worth looking at the pheromone annotation or those particular materials, whatever they are, that need review.

MR. CARTER: Kim?

MS. BURTON: Emily, when you're sending letters to your customers about potential noncompliance of, say these five materials, these five List 3 inerts that will not be moved, do you put in your letters that the option is to petition --

MR. CARTER: Just a second, Kim.

The cell phone, if you could take it out in the hall.

VOICE: Yes, sir.

MR. CARTER: Also, please turn all cell phones to vibrate.

MS. BURTON: Do you put in your letter to petition --

MS. ROSEN: Yes.

MS. BURTON: -- that substance to the Board?

MS. ROSEN: Yes. We sent out notice to all our manufacturers. We sent several notices, but the latest one in January was, Tell us, because we're taking names off the list in April, if you're going to reformulate, if you're working with the EPA and you're hoping to get a change, or
if you plan to petition. And I think a few petitions may have come in.

MS. BURTON: Yes. We received one for an inert ingredient. Okay. Thanks.

MR. CARTER: George?

MR. SIEMON: You know, you supported the work we're trying to do on the feed, and then you got into pesticides and got way over my head.

MS. ROSEN: Okay.

MR. SIEMON: Excipients in medication, isn't that like where we have to deal with a ton of these excipient issues?

MS. ROSEN: Uh-huh.

MR. SIEMON: And do you feel that a broad base like we trying to do with the feed is the same approach, or --

MS. ROSEN: I really haven't studied the issues yet on excipients. I know there is a large range of materials, and I know some people have concerns with some excipients that are found routinely in medications. So I'd like to see, you know, some research done on it first.

But, yes. It definitely needs to be addressed if we're going to make any progress on medications. So --

MR. SIEMON: By October 21?

MS. ROSEN: Yes.
MR. CARTER: Okay. Rose?

MS. KOENIG: I just wanted to comment I guess to Rick's question and Emily's response.

And you probably are aware that OMRI is going through certain brand names, but they're certainly, as Emily expressed, I mean, they can't make manufacturers apply to them, and they can't make -- you know, growers either know about the products or they don't. So there's probably a slue.

And if you really look at the materials on that list, many of them are very geographically located companies, tending heavily to the West Coast.

So it's likely in certain regions there are going to be growers that are using products that they won't have that information. And I'm not sure what can be done about those situations.

But most of the pesticide products are pretty national --

MS. ROSEN: Right.

MS. KOENIG: -- in use, though. And those are the hardest ones, I think, for certifiers to review generally.

MS. ROSEN: Anybody else?

MR. CARTER: Okay. Rick?

MR. MATHEWS: I guess where I was going with the
questioning is that we do have a lot of products that are commonly used out there, but the regulations as they are written will put certain products out of the reach of organic producers. And I think it's important that we all recognize that.

And both the NOP and the NOSB, working in cooperation with the industry, has got to find a way that farmers can know what it is they can and cannot use, because there is going to be a point at which they are going to be using prohibited materials which will then be certified on that particular acreage. And it's a real concern.

MR. CARTER: All right. Thanks, Emily.

Okay. Jim Pierce. Is Jim here?

(No audible response.)

MR. CARTER: Okay. Yes. The other Jim Pierce. Lots of people with identity crises this morning.

MR. ENGEL: Jim Pierce is my buddy. My name is David Engel. I was asked by Jim to present some testimony on commenting on Organic Valley. I'm an Organic Valley producer. I was one of the original dairy farmers that started Organic Valley, the dairy pool, at least. And I've been a farmer, and I'm presently a dairy farmer. The family is doing the cows back home right now.

There is a couple of concerns that we have at Organic Valley Crop, and one of them is the outdoor access.
It's been very, very interesting to hear the testimony here today. And it reminds me of that picture on the wall right behind us there.

I'm not sure of the historical or archeological significance of it, but there is a line there that her arms tend to indicate. And we're at some point on that line with this big versus small, outdoor versus indoor. And you know, it gets at some point to seem to be an impasse.

And my own example, I'm a smaller dairy farmer, and I'm going to have trouble meeting, as I testified in D.C. in October, meeting the pasture requirement.

However, through my farm plan and the certification agency that I am certified with, I will be addressing that.

I think that's a, you know, it's a simple point, but it's something that we have to keep in mind when we hear the kinds of testimony that's been heard today and, you know, the real strong positions, categorical positions, that are being taken on outdoor access.

The other aspect that I think that has been brought out, and that has to be, you know, you have the organic farm plan and you have the consumer. And I think that this is a point that needs to be taken into consideration.

There was a couple of testimonies here that
represented, through the HSUS, the Humane Society, and Consumers Union, that are representing over 10 million people in the United States. The campaign represents a significant number of people.

And they are -- you know, you may say that they are putting their eggs in one basket over here, you've got to have outdoor access, you cannot have indoor access.

But again, there is a continuum here, that we're at a certain point, each one of us, and we have to move to something better. And that's on the outdoor access.

And then, the dairy replacement issue is again something that I personally would tend to allow one year away from -- having a one-year allowance so you could raise conventional heifers and then bring them in.

However, the organization that I am a part of, I go to the dairy group meetings when I can, and they have all wanted to have last third of gestation.

And I think that the preamble that came with the rule went into that really, really well and explained how that position came about.

And you know, on the one hand, I personally don't buy cattle, I don't have to, but there is going to be some that are going to need it. And then you have the dynamic of being able to grow that industry, which is what the preamble was positing.
I think overall that we need to head for the higher ground for the better good of a larger community. And I was struck by the way Ms. Elliott presented, you know, that these testimonies about the disease problems and the Salmonella and so on, really, you know, that is their experience.

But there is also the truth that they represent a very concentrated approach, and whereas the larger, down the road ten, 15, 20 years, it's going to be much better for us to have many smaller farmers or larger farmers. Petaluma is doing it successfully.

And just in the larger picture I think we need to look at having outdoor access and making the whole industry grow within itself.

So, thank you.

MR. CARTER: Okay. Thank you.

Questions?

(No response.)

MR. CARTER: Okay. Thank you.

Let's see, Zea.

MS. SONNABEND: Hello, everybody. My name is Zea Sonnabend, otherwise known as Materials Girl. I am glad that Emily went for me to give you a little of the background of what I am going to talk about, about inert ingredients and the materials subjects on your agenda.
I am talking today representing California Certified Organic Farmers, one of several hats that I wear. We have 138,000 organic certified acres and pretty much all crops that can be grown in the Continental U.S.

And as such, we are very concerned about the impact of the rule that's coming as it comes in on our growers with regards to materials getting used.

As Emily mentioned -- and this is a copy of one of the pages of the materials that are being removed from the list because they contain List 3 inert ingredients. You will all be getting a copy of this.

While the numbers of materials that Emily gave you are optimistic, and in fact, in years now of working on this, we have made progress in getting reformulation and getting more tools for growers, the impact of the materials going off the list is very large for a number of our growers.

Just Cosite [phonetic] alone here, which is a copper product, going off the list will affect thousands of acres of currently certified organic fruit, celery, and other crops. They are not intending to reformulate.

And while there is another copper that is still on the list, this is an unknown material to most growers. And they are starting to do some trials with it, but having it come in in October is just going to be incredibly
stressful for them.

Also, while it's great that we started working with the EPA 14 months ago now, just about, last March at the meeting, the molasses factor on their part is becoming apparent. And 14 months later, and they said they're going to announce it in August.

Well, here this list is. It came out last week. Our growers are going to see it and go, Oh, my God, I have to stop using this. And then, August a few of them are going to go back on. And they're going to be really confused about, Okay, now we can start using some of these things again and not others.

And this list coming out last week means word is just starting to filter out now. Growers have already bought their materials for the year, they have set up their programs. Trying to switch gears by October is going to be extremely stressful.

We usually like to give people a definitive one-year notice minimum about what they have to do because of ordering supplies.

And then, as Emily mentioned, this is by no means all the materials that are in use.

Rick is perceptive enough to realize that, besides copper, the really problem big problem for us as it all shakes down is going to be pheromones. These pheromones
that may or may not get reclassified are only a few of the pheromones that are in use.

The pheromones that are not on the list at all do contain List 3 inert ingredients. We know that. It affects probably all the cobbling moth twist ties.

You guys are not going to have organic apples, at least not from the West Coast. I don't know what people do in the East. But it's going to affect almost all the organic apple acreage.

The copper products affect almost all the organic stone fruit acreage. You add that on with the oil products, which OMRI finally got one oil on the list, but almost all the dormant oils are not on the list and probably contain List 3s, you're talking about almost all the fruit crops in the U.S. on the West Coast anyway.

So Rick, we would like a statement from the Department about some sort of phase-out program or a leniency step that goes past the October 21 deadline.

Okay. And I'm not going to finish in my five minutes. If anyone wants to ask me a question about what my last comment is so I can have 30 more seconds, I'd appreciate it. Okay.

(General laughter.)

MS. SONNABEND: As far as the current materials, we would also like a statement from the Department

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concerning the materials that you've already taken votes on but didn't end up in the rules.

For instance, what are our rice growers going to do when you approved copper sulfate last fall, it's not in the rule. Okay. This year they can use it. What do they do next year if the rule is not out by next year?

Could we please have a statement saying, Okay, if it's in the interim thing, you can use it in good faith until we do come out with the rule.

Our growers want to follow the rules. They want to be legitimate organic. They want the reassurance of knowing that in process they can still do whatever they were doing.

And last, we support the compost recommendation, and our organization has historically supported sodium nitrate use and feels like we can do an adequate job of monitoring 20 percent and are comfortable with that.

MR. CARTER: Okay. Thank you, Zea.

Okay. Questions for Zea? You need to comment, too.

MR. MATHEWS: This would have probably been saved for the USDA report, but I can give you a little information.

We have a draft document that has already been into the Office of General Counsel. Arthur has met with

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them. We're working to get it into the Federal Register format.

This kind of a rule is rather unique. We are going to put it out as an interim final rule. And our goal was to have it out before October 21.

The document will also include the materials that are approved at this meeting, if there are any.

MS. SONNABEND: Up through this meeting?

MR. MATHEWS: Up through this meeting. So anything from back with the proposed rule through this meeting will be in an interim final rule that will be published prior to --

Hoping all goes well and that we don't run into problems with OMB, because that's really the largest time frame, is in the Office of Management and Budget. They get a minimum of 90 days for the document, and they have the right to ask for an additional 60 days. And we have to go through that process. But our goal is to have everything before October 21.

This Board will also be meeting again in September for the sole purpose of addressing materials. And we've already got a long list of materials. Kim will --

MS. SONNABEND: Just petitioned, or other materials issues?

MR. MATHEWS: These are materials that have been
petitioned and already farmed out. And there's a number of them.

MS. SONNABEND: Okay.

MR. MATHEWS: And we'll be addressing those in September.

Granted, that does not solve all of our problems, but we are, you know, we're a little better off than maybe you were perceiving when you stepped to the lectern.

MS. SONNABEND: Okay.

MR. CARTER: Other questions? Yes. Kim?

MS. BURTON: Comment. As materials chair of this committee, I do find it frustrating at this level that at this point in the game we come up with all these materials that are essential for the industry, and we have been advocating for two years to get materials petitioned, and it has not happened. So a little frustration on my part. And I'll let you comment in just a minute.

I know some of these are, you know, inerts and that type of stuff that we have been working on. But I urge you to petition these materials or form groups to petition these materials so that we can try to get them in for the September meeting.

MS. SONNABEND: Can I ask you a question back, then? Okay. I have growers calling me up every week. And they say, We want to petition the cobbling moth pheromones.
Okay.

How can they petition the cobbling moth pheromones?  A:  It's an inert ingredient, they don't know what it is.  B:  It's a brand-name product.  C:  Even if they did know what it is and it's a List 3 inert, the EPA hasn't reviewed it.  So how can we find enough information to get a petition together?

So if you want us to, we'll turn in the product name and let the TAP reviewers try to find the information from the company.  I just didn't think you wanted a petition like that.  I'd be happy to do that, though, if you would like.

And I've had to tell the growers -- I mean, I have growers who will spend money on it.  But I haven't been able to tell them that I could go ahead and support it, because I can't do a sufficient petition on it.

MR. CARTER:  Kim?

MS. BURTON:  Well, specifically for the pheromones, I know we have, at least my level, and with the Processing Committee and Crops, been talking about redoing the annotation or trying to make a new suggestion.

So that's one avenue that we do need to get assistance with very quickly so that we can get it on for our next meeting.

MS. SONNABEND:  It's a problem with all the List
3 inerts, though.

    MS. BURTON: Right.
    MS. SONNABEND: There isn't enough information to even make --
    MS. BURTON: And there has been talk about
blanketing List 3 inerts. That's not the avenue we want to
go down, either. So I don't really know the answer. And
Rick can comment on it.

    MR. CARTER: Rick?
    MR. MATHEWS: I can shed a little more light on this problem.
    I think it was back in February -- maybe Arthur -- is that correct, February -- we met with a
major -- a representative of a major distributor of pheromones, in particular the twist ties.

Those products, the inerts are actually coming from a company in Japan. The company on this side of the
big water is having trouble getting the information from the company on the other side of the big water. And so even in
this case the manufacturer can't give us the information.

    We asked them, not once, but twice. I sent them a letter last December giving them the procedures for
petitioning. They came back in in February and said they weren't able to do it. I sent them away saying, Petition
the material. I mean, that's all we can do.
And to date we have not received a petition. So it's a really bad problem.

MS. SONNABEND: Yes, it is.

MR. CARTER: Okay. Thank you, Zea -- oh. Sorry. George?

MR. SIEMON: I thought you said that you have an interim solution? I didn't quite -- I think you proposed an interim solution?

MS. SONNABEND: Right.

MR. SIEMON: Would you restate that, please?

MS. SONNABEND: Well, the interim solution is something like an extra year while we work on these problems for, you know, the things going off the list --

MR. SIEMON: So would that be --

MS. SONNABEND: -- or something like, the USDA will enforce all the other rules before they get around to that one.

(General laughter.)

MS. SONNABEND: You know, just something so it's like not immediate decertification on October 22 if you're still using those.

MR. SIEMON: That's very close to allowing Class 3 inerts until further --

MS. SONNABEND: No. It's allowing products that have historically been used already in organic production.
systems.

MR. SIEMON: Until further review?

MS. SONNABEND: Until further -- we wouldn't open it up to all the other things. But if it's already been in use.

MR. SIEMON: I don't know that a wink and a nod is acceptable policy.

MS. SONNABEND: I understand.

MR. CARTER: Rose has a question.

MS. KOENIG: Zea, I had a question. What is your take on -- is it that the market isn't perceived big enough by some of these companies to motivate them to change their formulations? Are they waiting for the EPA to kind of look over those?

I mean, where is the -- and there may be a couple of stumbling blocks.

MS. SONNABEND: Yes. With --

MS. KOENIG: But where do you perceive the problem?

MS. SONNABEND: With Cosite it's the former. A lot of conventional growers use that, and it's just not -- organic is not big enough.

I don't know. Did the pheromone people tell you what their -- what? Did they say?

MR. MATHEWS: In the February meeting we also
discussed the issue of reformulating their product. And by
the time we got done, the conclusion was that if we went
through the normal proposed rule/final rule process, which
would take approximately 18 months, it would be faster than
for them to reformulate their product.

Because it's not simply a matter of reformulating
their product, which they could probably do in a relatively
decent period of time. That product then has to go through
that entire EPA registration program, which --

MS. SONNABEND: We, for instance -- just to give
you an example -- and you probably know this.

But the oil company that OMRI recently approved
came and testified here to the NOSB in Orlando in 1995, and
they started the reformulation process immediately after.
And it took them until the end of last year. They submitted
their product in December, finally reformulated. So it took
seven years -- six years to reformulate, to go through the
whole steps.

They have to find something that works, they have
to make it into their product, and they have to get it
through the EPA. So it takes --

MR. MATHEWS: Right. And 18 months with us is a
lot shorter.

MR. CARTER: Okay. Thank you, Zea.

MS. SONNABEND: Thank you.
VOICE: Dave, [inaudible].

MR. CARTER: Oh.

VOICE: Just one point. I've seen a couple of formulators reformulate, and EPA [inaudible] if you would like a list of resources for inerts.

Many products on our list did not have to go through the whole testing process. And I think EPA is willing to take that into consideration. [Inaudible].

MR. CARTER: All right. Next -- and I'm trying to see if this is somebody who has -- Nathan -- it was somebody else with Cal Oxide. Did we -- Matthew -- okay. Then, David Wicker.

MR. WICKER: Good morning. Thank you. I am David Wicker. I'm with Fieldale Farms. And my colleagues addressed earlier on commercial availability and other topics.

My topic this morning is commercial availability of organic grain and soybean meal.

VOICE: Could you speak up, please?

MR. WICKER: Yes. I will.

The National Organic Standards Board has addressed the lack of organic inputs for several areas of organic farming, one of these being organic seeds.

And they have allowed non-organic seeds to be used within the production of crops, recognizing that
certifying agents do have systems in experiencing monitoring the commercial availability of claims for non-organic seeds.

Last fall at the NOSB meeting they also addressed the use of non-organic strawberry plants, and I believe there was an interim measure to allow non-organic plants to be used to produce organic strawberries.

A similar need is evident for the commercial availability of corn and soybean meal, and I want to address that this morning.

Data on corn and soybean meal availability was presented by Cameron Smoke [phonetic] at the fall meeting. And what I'd like to go into today is our attempts to access commercial quantities of corn and soybean meal.

I am the nutritionist, and I'm also responsible for growing out all the birds, so I do formulate the feeds.

Last fall we contacted a major supplier, one recommended by the Board, on supplying organic corn, and they did not have any available. The statement we got, they had contracted their entire supply to a competitor of ours, and they were under a confidentiality agreement and couldn't tell us who.

We also continued discussions with the supplier. And about two months ago, calling back, and, yes, he does have some available. He has one to three cars a week. That's not enough for our needs.
He also had some -- and prices are quoted in this. If we would outbid other people already contracted, we could gain some more. Now, that's not very well the way you'd want to get into the buying corn and soy.

The other one is, price is a factor. As was stated here earlier, that it's over three times commercial price. All of them that I've quoted, we can buy commercial corn at about $2 a bushel, a little over $2 a bushel, in the Midwest. All these guys were up around 5.80, 5.90, one quote at $6 a bushel.

All right. And the one that really irritated me a bit is, I went back and called individual farmers, 500 bushels or so. These guys were getting paid in the range of $3 a bushel. Quite a spread in the price.

Now, we have also contracted for high-oil corn, non-GMO corn. We use quite a bit of high-oil corn. I can contract that for 18 to 20 cents a bushel over, identity preserved, non-GMO, delivered into our operations. So there's quite a bit of price spread on some of these things that you're getting quoted about.

Most of the individual farmers either sold out or had 500 to 1,000 bushels. It's very difficult to sell large quantities of corn when you're only talking about a tractor-trailer load, very difficult to get.

We contacted several elevators. A feed mill in
the Pennsylvania area. You had some testimony this morning from the Pennsylvania area.

Yes. They can supply me one to three cars a week on a different railroad. Even at the prices they were quoting, which were approaching three times the commercial rate, you add in the differences in the railroad in getting it back to Georgia, quite a bit higher price. Again only a fraction of what I would need.

I had one quote as finished feed, in excess of three times what I can produce the feed for on regular commercial corn, et cetera.

What we're looking at is tremendous developing demand for organic chicken. And ion nutrition is very important in what we're feeding. We'd like to supply some of this.

There is a demand for people producing the corn, a lot more people would like to produce the corn.

Now, I used the example of high-oil corn, and I mentioned nutri-dense corn. And we have gotten nutri-dense corn in here recently, because you asked, what are we doing? High-oil corn will take at least three to four years to develop the market, only get 2 million bushels a year. We're working with the Extension Service in Georgia.

Pearl millet, a lot of people can't grow irrigated corn because we're getting a water shortage.
because of Atlanta, et cetera. Pearl millet gives an
option. We have already told the farmers we would buy all
the pearl millet that they had the seed to produce,
something around 40 to 50 million bushels this year. So
we're out looking for it.

What we're asking for is a transition. It's a
win-win. The corn farmers get a chance to bring in more
grain, more area to produce it. We'd get a chance to buy it
to produce the organic chicken, and we'd produce what the
consumer would like to buy.

Thank you.

MR. CARTER: Okay. Questions? Rick?

MR. MATHEWS: Mr. Wicker, I heard earlier from
Steven Gray that you are using both organic and
conventional. Can you tell us some specifics on that,
please?

MR. WICKER: We are buying some organic --

MR. CARTER: You've got to turn your mic back on.

MR. WICKER: We are buying some organic corn and
organic soy. At times, when you asked the quantity, we
could buy up to about 10 percent at times.

And you get into the production cycle of
broilers. I could buy up to a third of what I needed, but
broilers unfortunately eat all the time and for seven weeks
before I can market them. Some weeks I only may get less
than 10, other weeks I may get up to a third of what I need.

I need to buy out in advance several weeks
tremendous quantities, and I can't get it all the time.
Part of the time I can get portions of it.

MR. MATHEWS: How many birds are we talking about
per week?

MR. WICKER: We're looking at about 300,000. And
I think your other speaker was talking about getting it for
40,000. That's quite a bit of difference in the feed
requirements.

MR. MATHEWS: It was mentioned that you are a
certified operation. Can you tell us what you are certified
for?

MR. WICKER: For organic production by the Crop
Improvement Association of Georgia.

MR. MATHEWS: So your facility itself is
producing 300,000 birds?

MR. WICKER: Yes, sir.

MR. MATHEWS: You don't have any other farmers
that you're contracting with?

MR. WICKER: Yes, sir, we do.

MR. MATHEWS: And are they producing organic
birds?

MR. WICKER: No, sir.

MR. MATHEWS: Okay. So Fieldale Farms has

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farmers that are producing for them for conventional, but
Fieldale does all of the organic production themselves?

MR. WICKER: We have farmers that are producing
both conventional birds, and we have a dedicated group of
farmers that are producing organic birds.

MR. MATHEWS: Are they certified?

MR. WICKER: Yes, sir.

MR. MATHEWS: By whom?

MR. WICKER: By the Georgia Crop Improvement
Association.

MR. MATHEWS: But Georgia Crop Improvement
Association only has one client.

MR. WICKER: The only thing I can tell you is
that the auditors have come in and certified those
production facilities for organic production.

MR. MATHEWS: The Georgia Crop Improvement
Association has inspected your facility and all of these
other farmers and certified those farmers under your
certification?

MR. WICKER: They have inspected our facilities
and also the people who are dedicated to producing organic
certifieds and have certified those.

MR. MATHEWS: So, then, the answer is that the
Georgia Crop Improvement Association has issued one
certification for you and all of your producers?
MR. WICKER: I'd have to defer to Steven on that, but I --

MR. GRAY: That's correct.

MR. WICKER: Yes. I think you're correct.

MR. CARTER: Okay. Jim?

MR. RIDDLE: Yes. I just wanted to make sure that I heard it correctly, that you're certified organic but feeding only 10 to 30 percent organic feed. Is that correct?

MR. WICKER: That is correct. And I believe that's allowed under the current rules until October, if I am correct.

MR. GRAY: Under the other regulations, your feed can be until we can transient in. And we're getting food that we're using now, food that has to be brought in is being certified organic through a process of SA. That will no longer justify it in October.

That's why we're trying to get commercial availability. We're going to lose our --

MR. RIDDLE: Yes. Well, this certainly points out the need for the Federal standard to be enforceable, because --

MR. GRAY: And that is a regulation that was adopted [inaudible].

MR. CARTER: Okay. And also, we need -- if there
is somebody that is called on in the audience, we need to get to come to the mic so we can get this as part of the record.

First of all, I had Owusu, then Kim, then Rick.

MR. BANDELE: Yes. I just wanted to ask, have you made any efforts to contract with farmers for upcoming crops?

MR. WICKER: We are talking with some of the suppliers about doing so, but of course most people have already made those decisions back in about February. Most grain farmers, if you're contracting, buy their inputs over the winter and make a decision about what they're doing with the grain and how much they are raising.

So, no. We haven't contracted individually with any. We've dealt with some people out of Pennsylvania and also the Midwest and asked them about contracting, but we have not yet contracted.

MR. CARTER: Okay. Kim?

MS. BURTON: My question was along the same avenue. When you said you were out seeking alternate feed and seeking sources, whether it's three loads or what have you, did you actually purchase those loads of organic feed?

MR. WICKER: We are -- in fact, I've got three of them with organic soy as a byproduct off the human organic trade. And what we're interested in is, if I cannot get a
phase-in, then we've got to decide about how many birds to
produce, et cetera.

And like some of the other people, we need a
direction from the Board what you guys will allow, because
if you're going to be 100 percent organic, then I've got to
go another route, if you are going to allow phase-in, I can
produce more birds.

So how much I contract, when I go out and say,
I'll contract, I'm putting money on the line, they're
putting facilities on there. And we need some guidance from
you guys about what will be allowed.

MR. CARTER: Rick?

MS. BURTON: I wasn't quite finished. Well, I
guess the direct question was, you know, the law clearly
states you have to have 100 percent organic feed, and you
were out there trying to spot purchase. And did you really
spot purchase to try to comply with the rule?

MR. WICKER: We have bought some loads. There is
more available, not up to 100 percent of our requirements,
but within certain percentages of them, and how many I don't
know, because we still get conflicting numbers.

A guy says, I can sell you all you want. When
you ask him, Well, how many car loads can you send me a
week? Well, one or two this week. Maybe next month I'll
have three. That's not a hard number for me to go out and
base production estimates on.

MR. MATHEWS: The farmers who are producing organic chickens for you, how many of them are there?

MR. WICKER: 132.

MR. MATHEWS: Have any of them tried to secure organic grain?

MR. WICKER: No, sir. Because under our system, we're supplying the feed. And this comes back to a food safety standpoint. I'm the nutritionist. Anything and everything that goes into that feed, I need to know from a food safety standpoint.

MR. CARTER: Mark?

MR. KING: Yes. I'm just curious if you could be more specific as to the feed sources or grain sources that you've contacted. Have you contacted cooperatives, marketing groups? Can you be more specific on that, please?

MR. WICKER: Given some of our earlier comments, I'll give it to you later. I'd prefer not in public.

MR. CARTER: Okay. Other questions, comments?

(No response.)

MR. CARTER: Okay. Thank you.

MR. WICKER: Thank you.

MR. CARTER: Okay. Leslie McKinnon, and then we'll have Gail Faries.

MS. McKINNON: Howdy, you all.
VOICE: Hi.

MS. McKINNON: Is any further introduction necessary?

I'm Leslie McKinnon. I'm coordinator of the organic certification program at Texas Department of Agriculture.

And first and foremost, I'd like to welcome all of the members of the NOSB, the NOP staff, and all of the attendees here at the meeting to the Capitol of Texas, Austin. It's a great town. There's lots to do here. And if you can't find something fun, entertaining, or exciting to do in Austin, you're just not trying.

(General laughter.)

MS. McKINNON: You've got to make some time for that outdoor access. It really is important around here.

(General laughter.)

MS. McKINNON: Okay. Let me get started on my comment. I know we have a tight schedule here.

At the request of our certified organic producers, the Texas Department of Agriculture would like to take this opportunity to make the following comments regarding the petition to include Spinosad, a fermentation product derived from actinomycete, as a material allowed for use in organic production.

In August or September of 2000, organic cotton
producers in the Texas High Plains experienced a severe
outbreak of B Army Worms over a wide geographic area.

The population densities were very, very high and
would have caused substantial economic loss if left
unchecked.

Certified producers requested that the Department
consider allowing the use of a product containing Spinosad
as the active ingredient for emergency control of B Army
Worm.

The TDA Organic Standards Advisory Committee
discussed the issue and was presented with technical
information about the product. Their recommendation was to
allow the product to be used as an emergency measure in
organic cotton.

The Department concurred and informed producers
that the product would be allowed for the 2000 and 2001
production seasons.

In the Lower Rio Grande Valley, where the
majority of Texas citrus and vegetable production is
located, TDA has worked cooperatively with USDA for many
years to control Mexican fruit fly and to monitor for
Mediterranean fruit fly.

Baits containing malathion are normally used to
treat areas surrounding traps where fruit flies are
detected.
Recognizing that this treatment protocol would be detrimental to organic producers, USDA has developed a fruit fly bait formulation containing Spinosad to be used as an alternative to the malathion bait on organic farms.

Having this tool available to eliminate a local outbreak of these devastating pests is essential to preserving the viability of organic farms in the region.

For these and similar emergency uses and where preventative measures have proved inadequate, the allowance of Spinosad as an active ingredient in a pesticide product formulated in accordance with the National Organic Standards appears to be warranted.

Any questions?

MR. CARTER: Rose?

MS. KOENIG: So you in Texas allowed it with restrictions?

MS. McKINNON: Yes.

MS. KOENIG: And was it emergencies? How did you annotate that in your program?

MS. McKINNON: It was for use -- at that time, the committee was just considering the use on a fiber crop. It was when other control measures had failed, had been tried and failed. It was where it was a severe outbreak situation, not just preventative or, you know, a routine type application. It would be a last resort.
I'm trying to remember what other -- we did restrict the time period just through December of 2001, recognizing that at that point we would need to reconsider the issue after the national standards had come out. We were making this decision prior to the publication of the final rule.

And when December of 2001 came around, it was clear that there really wasn't too much to debate at that point, that the specific brand-name product that we had approved would not qualify under the national standards, so we did not reconsider that question at that time.

MS. KOENIG: Have you ever considered Spinosad for any other products, any other crops or in any other context in Texas, or --

MS. McKINNON: It has not come up. There hasn't been a need similar to what happened in the cotton production area, so we haven't had that issue raised.

MR. CARTER: Okay. Jim?

MR. RIDDLE: Yes. I just wonder if you could get your annotation language to the Board?

MS. McKINNON: Sure.

MR. RIDDLE: If you can provide that in writing to us, I'd appreciate it.

MS. McKINNON: Sure. Be glad to.

MR. RIDDLE: Thanks.
MR. CARTER: Okay. Thank you.

MS. McKINNON: Thank you.

MR. CARTER: Okay. Gail Faries, and then Kelly Moorhead.

MR. FARIES: My name is Gail Faries. I'm CEO of the Texas Organic Cotton Marketing Coop.

We currently have 23 active farmers in our coop. We're going to have probably in the neighborhood of 8,000 acres planted to organic cotton this year.

I'm here this morning to recommend that transitional labels be used. We have these farmers that are constantly coming in to our coop.

I want to make my recommendation based on two points, first from a farmer standpoint and second from a consumer standpoint.

First off, our farmers, of our 23 farmers that we currently have right now, only two have jobs off the farm. The rest of them are fully engaged in the farming practice. They're depending on that for their livelihood. They're dedicated to what they're doing.

We'll have 20 to 30 percent of our crop every year that is currently transitional cotton. We have this turnover because of the fact that there are a number of farmers that will go out of business for financial reasons, we have some that retire. So there's going to be a

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consistent every year of new people coming in.

The commitment to come in to organic farming is tremendous. And to have a farmer having to come in and farm organically for three years before he can sell any of his crop, to have to sell the first two crops of that on the conventional market would make it extremely difficult for these new farmers to come in.

And also, from a consumer standpoint, we sell much of our cotton to international companies, worldwide companies. Some of these companies have made commitments to have blending programs to start having a certain percentage of organic cotton in all of their products.

They are not able to have 100 percent organic cotton. There's not that much organic cotton being grown in the United States or even in the world for all of their needs.

What we have been doing is using transitional cotton to fill these markets, for blending programs. And we would like for this to be able to continue under the new national standards.

We have committed farmers, and we would recommend that this be made. This may not apply to any other area other than fiber.

Thank you.

MR. CARTER: All right. Jim?
MR. RIDDLE: Yes. The recommendation coming from the Crops Committee at this meeting on transitional does not use the word, organic.

MR. FARIES: Right.

MR. RIDDLE: It's transitional that stands on its own. And it's my understanding from Rick that that's beyond the scope of the NOP, because it regulates the word, organic, but not the word, transitional.

And so we're looking at a recommendation of this being guidance to the certifiers that do have that in the states that do have transitional.

My question for you is, Is that sufficient? The word, transitional, in and of itself, with uniform consistent guidance from this Board on its meaning? Will that get you where you feel you need to go?

MR. FARIES: I believe it would. I can't speak 100 percent without giving it some thought, but my initial thought is, yes, it probably would.

MR. RIDDLE: Okay. So it doesn't need to have the word, organic?

MR. FARIES: It would be preferable to have, organic, but if we can use some other alternate labeling, that would help.

MR. RIDDLE: Okay.

MR. CARTER: Okay. Rick?
MR. MATHEWS: And just to clarify one point from what Jim is talking about, that would not be a requirement from the Department of Agriculture.

It would be just the Board making a recommendation to certifying agents that they -- recommending that they use this standard, but no one would be compelled, it would not be a part of the National Organic Standards.

MR. CARTER: Thank you.

MR. FARIES: Thank you.

MR. BANDELE: I had a question.

MR. CARTER: Oh. I'm sorry, Owusu.

MR. BANDELE: In terms of marketing, what kind of prices did your transitional cotton bring as opposed to your fully organic?

MR. FARIES: Well, in the past years our transitional probably only bring about 10 to 15 percent less than what our fully organic brings.

MR. BANDELE: Right. But more than the conventional?

MR. FARIES: Currently right now, our fully organic is selling probably in the neighborhood of three to four times what conventional cotton is at this point.

MR. CARTER: Okay. Oh. Mark? We're just not going to let you go here.
MR. FARIES: Okay.

MR. KING: Did you find that your transitional customers were one and the same or similar to your organic clients that you were selling to?

MR. FARIES: As far as -- are you speaking of the qualities of the fiber or the pricing itself?

MR. KING: Well, the qualities, and specifically was it the same entity that was interested in that particular product?

MR. FARIES: We have some companies that only want organic; we have some companies that only use transitional; there's very few that are interested in both.

MR. KING: Okay.

MR. CARTER: Okay. There's going to be a time limit here on, you know, when you can raise your hand.

Okay. Kelly Moorhead, and then Ahma Belay.

MR. MOORHEAD: Aloha. I'm Kelly Moorhead from Cyanotech. We're the Hawaiian spirulina producer and also an organic farmer certified for producing papayas and vegetables in Hawaii.

And I don't use sodium nitrate on my farm because I can use cover crops and composts and manures. But I am asking for your consideration of the sodium nitrate issue. Because it's not going to be heard at this meeting, I'll make it short, I'll give you the truncated version.
There's only two producers in the United States, so I think this is -- we're the only group at your meeting where you get all the producers showing up to comment. Fortunately, there's only two.

(General laughter.)

MR. MOORHEAD: The TAP review, they did not contact us because they went to the California farm. And there's a little bit of differences between the farms, but there is a common thread.

The main one seems to be that this is a mined substance, and mined substances not being considered organic. And we just look at rock phosphate, lime, gypsum, et cetera, et cetera, et cetera, and say these are continually used.

There are environmental consequences, obviously, of mining rock phosphate. Go to Florida and look where it's mined, or Idaho.

And we recognize that there are issues with sodium nitrate. But we don't think this is exclusionary to organic to use a mined substance.

The other issue is leaching the ground water, which is very important and one of the things which we addressed in our petition, which we filed jointly.

We have a monitoring system at our farm for ground water. We're adjacent to the ocean, we're on Hawaii
owned property.

There are three wells right on our property, looking at ground water, that are monitored every month and analyzed by the State of Hawaii. We're not self-policing this. And there's 24 other wells between us and the ocean to make sure that we're not polluting the ground water. So it is examined. And there is a response mechanism in case there's any problem. We're not ignoring that.

The other issue addressed in the TAP review was that sodium will eventually build up in your ponds. Where is it going if you're not producing a high sodium product? That's exactly right. There are exits to this system.

In our case, we have -- when you grow spirulina, you can actually let the nutrients run way down right at harvest, if you're about to clean out a pond.

We take the -- oh. I thought I was running out of time.

VOICE: I'm sorry.

(General laughter.)

MR. MOORHEAD: Okay. I'm buying time. No.

So we let the nitrate and the phosphate run way down before we're going to harvest the pond and clean it out. Otherwise it's all recycled.

In that point we lose media, we lose it to a marsh wetland that we've created which doubles as a

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sanctuary that we have monitored Ducks Unlimited. And we
last year fledged 65 critically endangered Hawaiian stilts
at that facility. And when we started this, there was only
150 of those birds in existence.

So we're using this as part of a system where it
feeds this marshing system. And once again, if we had
significant inputs of nitrate, it would be picked up in the
ground water monitoring.

There are losses of nitrate in that system to
denitrification. The TAP reviewers are worried about
producing air pollution from volatilization, but
denitrification produces nitrogen gas.

So that's just kind of an overview, and I'll
submit the rest by written.

MR. CARTER: Okay. Thank you.

Questions?

(No audible response.)

MR. CARTER: All right. Thank you very much.

MR. BANDELE: I had one. I'm sorry.

MR. CARTER: Oh. I'm sorry, Owusu.

MR. BANDELE: In terms of this marsh situation,
over time you don't think that could possibly create some
environmental hazards?

MR. MOORHEAD: Well, over time -- it's got an
anaerobic sediment layer. There's a lot of aquatic plants
that, over time what we've done is taken those sediments and actually used them to pile up on these islands.

What we have to do in Hawaii is protect the birds from access of predators like mongoose and cats.

It would be possible to use those sediments and sell them for the production of organic products. We have done that with some of the precipitants that show up in the ponds. Some of the calcium and magnesium carbonates have been used by a local producer of fertilizers.

MR. CARTER: Okay. Rick?

MR. MATHEWS: How long have you been working with this marsh system?

MR. MOORHEAD: About four years.

MR. MATHEWS: And what kind of studies are being done on that system?

MR. MOORHEAD: The studies that have been done on it have primarily been for the production of the birds. As far as the nutrient inputs, the main studies are continuing since 1990, I think was the first year they started ground water monitoring. And they haven't detected anything.

The other thing to understand is, underneath our facility it is about 20 parts per thousand, or two-thirds out of sea water salinity. So if there's significant salt inputs, it's not going to affect it.

MR. MATHEWS: Okay. In raising the birds, are
you studying the ecology of the swamp, as well -- or, I mean, the marsh, as well?

MR. MOORHEAD: Well, yes. Actually, with the program our main thing is to make sure that the islands stay clear of bridges, land bridges. And we've gone in and taken earth movers in there and moved the material around.

As far as the birds, it doesn't seem to be affecting the birds at all, because the population has sharply increased since we started the program.

And I don't know if I mentioned, we got the Audubon Society Corporate Business of the year in Hawaii last year for this program.

MR. MATHEWS: Okay. So have the studies that you have done over the last four years shown any kind of problems with the ecology of the marsh at all?

MR. MOORHEAD: No.

MR. MATHEWS: Any improvements?

MR. MOORHEAD: Nothing except, like I mentioned, keeping access. That's been the only problem.

There's a lot of invasive plants that grow in Hawaii that have been somewhat of a problem all over the site outside, and we have to take care of those, too, but we do that with mechanical means.

MR. CARTER: Nancy?

MS. OSTIGUY: Just a comment. One of the things
that -- it's the question about the marsh.

With the Hawaiian stilt being endangered, you are under the Endangered Species Act.

So if anything happened in that pond that then, let's say the salt increased such that you got the similar kind of situation that occurred in the Kesterson National Wildlife Refuge a number of years ago with selenium, if anything of that sort occurred, the Endangered Species Act would kick in, and you'd have to do something to protect the birds.

So in some ways, you can't do anything that would harm the environment.

MR. MOORHEAD: You're correct. And we are working with -- what's the agency -- U.S. Fish and Wildlife. They've gotten copies of our program and decided we're trying to do a good thing. And we got pretty involved with that. We've spent about $200,000 on this program since we started.

MR. CARTER: Okay. Kim, then Jim.

MS. BURTON: Are you 100 percent organic, or do you also do conventional spirulina?

MR. MOORHEAD: We do produce conventional spirulina.

And one thing I want to mention, too, is not all the nitrogen in our system is coming from sodium nitrate.
But the sources that we have such as when we make compost and manure to use, that sort of thing, we tend to get too much phosphorous.

So we'll get -- the balance -- spirulina is about 60 percent protein, so we need a lot of nitrogen. It's about 12 percent nitrogen.

MS. BURTON: And what percentage of your business is organic and what percentage conventional?

MR. MOORHEAD: That's proprietary information.

MS. BURTON: Oh.

MR. MOORHEAD: But it's about half of our production. Yes.

MR. CARTER: Okay. All right. Thank you.

MR. MOORHEAD: Thank you.

MR. CARTER: Okay. Amha Belay, is that how you pronounce it?

MR. BELAY: Yes.

MR. CARTER: Okay. And then, Lynn Coody will be next.

MR. BELAY: My name is Amha Belay, and I am Scientific Director at Earthrise Nutritionals, one of the two companies that produces spirulina in the United States. My colleague has presented his case on several of these issues. I will not repeat them except to perhaps put some points that he may not have done so.
The review has some fundamental questions raised, and we want to address all of those.

The issue of environmental degradation at the source of mining is something that we acknowledge. However, these global environmental problems need time to solve and resolve, and, as my colleague presented it, that such mined sources are also applicable in the conventional organic agriculture.

On the issue of continuous inputs from non-pond sources, again we acknowledge that the input of substances from non-pond sources is incompatible with principles of organic agriculture.

It's our intention to substitute these non-pond and mined sources that are compatible with sustainable agriculture.

However, the challenge is formidable. And all the reviewers have pointed that, and that is currently there is no available form of soluble organic nitrogen in the quantities that we need to produce spirulina.

Indeed, we invite all the reviewers as well as all members of the organic community to lead us to a source of usable completely soluble organic form of nitrogen.

The reason that it has to be soluble is that the algae are -- these are microscopic algae of less than .3 millimeters in size, and they are grown continuously.
recycled by potted wills [phonetic]. So any solids that may be remaining in the ponds will be harvested with the algae. Therefore, the nutrient source has to be completely soluble.

We have researched on various fish emulsions, guano, and the like, and these are not soluble. There is a lot of solids remaining in the ponds.

On the issue of crop rotation, which is another approach, it's an interesting approach conceptually, but in reality it is very difficult.

The reason is Anabaena, for example, can be used. But the growth conditions that Anabaena grows in also invites contamination. And then the Anabaena has to be decomposed into soluble forms before it is utilized for spirulina culture.

The other issue is that Anabaena species and other blue-green algae are also toxic. Even if we chose a non-toxic strain, the potential for contamination by a toxic strain exists, therefore, it will defy the other principle of organic production, which is food safety if we use that. However, we are looking into that, as well.

And some concluding remarks which make this production unique from conventional production is that, for example, the National Organic program allows the use of Chilean Nitrate at 20 percent of input. This level is a
blanket value irrespective of the efficiency of utilization of nutrients.

We know that micro-algae use nutrients at a much faster rate than land plants, and in this case, all the nitrogen is incorporated, almost all the nitrogen is incorporated in the protein; 60 to 70 percent of this product is protein.

And therefore, it's conceivable that conventional organic production at 20 percent input will pose a greater risk of environmental contamination than the same input in spirulina micro-algae production.

Another thing to note is that, in contrast to conventional agriculture, that the whole spirulina is edible. In conventional organic production, we produce crops, but only part of it is edible. Therefore, the conversion of material input to usable organic matter is low in conventional agriculture.

So one has to look at this efficiency of utilization and conversion of matter into boumus.

The efficiency of utilization of land and water is much higher in the spirulina production compared to conventional organic agriculture.

Therefore, we request that these additional considerations, which are very much in line with the principles of sustainable agriculture practices, be looked
at in deciding our petition to annotate the rules to include
use of Chilean Nitrate at 100 percent input.

    Thank you.

    MR. CARTER: Okay. Thank you.

    Rose?

    MS. KOENIG: I just had a question. Do you also
have conventionally produced spirulina?

    MR. BELAY: Yes.

    MS. KOENIG: What's the difference between your
conventional system and your organic system?

    MR. BELAY: At the moment, the main difference is
we have an organic form of phosphorous and potassium as
opposed to in the conventional production we have a
synthetic form of phosphorous.

    MS. KOENIG: So solely nutrient management?

    MR. BELAY: Yes. The rest is completely the
recycling of nutrients. And all the other management, we
have always practiced in the conventional system.

        It's a lined pond, so there is no --

    MS. KOENIG: Right. I understand that. You
don't have to go into that.

    MR. BELAY: But the only difference basically so
far has -- and also, of course, in the handling side, in the
processing side, that the harvesting system is, we have
to --
MS. KOENIG: And what do you use nitrogen-wise in your conventional system?

MR. BELAY: It's the same, Chilean Nitrate.

MS. KOENIG: Thanks.

MR. CARTER: Okay. Owusu?

MR. BELAY: And some ammonium nitrate.

MR. BANDELE: So your organic operation is currently certified, and if so, by whom?

MR. BELAY: We are currently certified under Quality Assurance International.

VOICE: Under who?

MR. BELAY: QAI.

MR. BANDELE: QAI.

VOICE: Oh. QAI?

MR. BELAY: Yes.

MR. CARTER: Okay. Thank you.

MR. BELAY: Thank you.

MR. CARTER: Lynn Coody, and then Valerie Brown.

We have about four more after that, so we're going to continue on here until we --

MS. COODY: Hello, everyone. I'm Lynn Coody, a policy specialist with Organic Ag Systems Consulting in Eugene, Oregon.

And I wanted to come and speak to you because for the last approximately year-and-a-half I've been working

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with certifiers to help them prepare their accreditation applications and to meet the USDA's stringent accreditation requirements.

First, I wanted to congratulate the NOP on the recent announcement of the first round of accredited certifiers and for the detailed information provided about the accreditations on the Web site. I think the whole community has really appreciated that.

And also to let you know that, having reviewed very many accreditation documents on my own, I can really understand the amount of energy that this took to get this together.

So thanks a lot, Rick, and to all your staff for their diligent work.

However --

(General laughter.)

MS. COODY:  -- that said, today I'd like to bring to your attention a few examples of some glitches that occurred in the accreditation process as illustrations of the need for oversight over the USDA's accreditation program, as required by the final rule.

When I first got the list of accredited certifiers, I immediately compared it to the list of applicants to see if, first of all, if all of my clients got accredited, which I hoped that they did, and also to see if
there were any that I was concerned about that weren't accredited.

I did notice one long-time certifier had not been accredited and contacted them immediately to find out if I could help or what the problems were.

They mentioned to me that they had only recently received the results of their desk audit and didn't have adequate time to prepare a response to the USDA, as many other certifiers did. Most of the certifiers that I was aware of had been receiving this similar information even months before, because their accreditation applications had been processed higher, you know, sooner.

So this was a problem because they did not receive accreditation in the first round, even though they felt that if they had been given adequate time they could have addressed all of the problems.

The second case is of a certifier who, not having received any word from the NOP, just a few days before the announcement contacted the NOP and found out that their application had been basically not addressed. They had not been reviewed at all.

To their credit, the Audit and Compliance Division worked through the weekend to do this application, but the problem is, if the certifier hadn't been checking up and calling the NOP, that they would not have been in the

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first round of accredited certifiers, either.

And then, the third case I wanted to mention is that although -- well, there's been huge discussion of the conflict of interest issue throughout the whole process since the rule has come out.

There still were nine certifiers accredited with conditions that they have to fix a conflict of interest problem.

And there has been a lot of consternation on the part of certifiers in general and particularly from some of these ones that weren't approved because of conflict of interest that the USDA has not provided the models that they promised repeatedly to provide about what is acceptable as far as conflict of interest. So it's been kind of a hit and miss proposition for these certifiers.

Okay. So those are my three examples. And in light of these and other certifier concerns, I'd like to remind you, the NOSB, of two responsibilities of the NOP's accreditation program as specified in the rule.

The first is that the operating manual, although that's not mentioned directly in the rule, it is a part of ISO-61, which is directly mentioned in Section 205.509 of the rule.

The operating manual is a manual that tells how the accreditation program is actually administered by the
USDA.

And although there's many -- there's a lot of guidance in the rule about the application process, the accreditation process, and renewal of accreditation, there isn't a lot about -- there's nothing about appeals or complaints or things like that. That's normally covered in this procedural manual.

Secondly, I'd like to point out that in the rule, the same Section, it says that the Administrator shall establish a peer review panel to review the NOP's adherence to ISO 61 and their own accreditation provisions in the rule.

As you know, this has not been -- this panel has not been appointed yet. But I believe that the peer review panel is essential for fair and even-handed application of the accreditation requirements to all certifiers and continual improvement of the system itself.

Just as we've experienced in the certification realm, accreditation and oversight helps everyone to improve in a positive, constructive way.

So in closing, I urge the NOP to support the establishment of the peer review panel as soon as possible as the method for providing this oversight and constructive feedback.

Thank you very much.

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MR. CARTER: Thank you, Lynn. And Rick will --

MS. COODY: Now, remember I said good things in the beginning.

MR. MATHEWS: Oh. Yes. Yes.

(General laughter.)

MR. MATHEWS: Yes, you did. And I appreciate those kind words, and I'm sure the staff does, as well as the auditors who were involved in this. And I will pass that along to them.

MS. COODY: Okay. Thanks.

MR. MATHEWS: I just want to clarify one of the points. Your second point was about the certifying agent. And the language that you used in my mind created the impression that the application came in and just sat there.

And I wanted to clarify that that application was well along the way. The problem came in when it went to the auditor --

MS. COODY: To the auditors. Correct.

MR. MATHEWS: -- for another phase of it.

MS. COODY: That's correct.

MR. MATHEWS: So it wasn't that suddenly we were able to accredit somebody in two days.


MR. MATHEWS: Okay. And this really doesn't
directly address the issues that you were bringing up, but
it's another opportunity to give the USDA report
incrementally.

What I want everybody to understand is that those
first 42 certifying agents are not the only certifying
agents who are going to be accredited. This is still an
ongoing process, and we have not denied accreditation to
anyone.

And all of those, which is now 56 instead of 55,
because now we're up to 98 applicants, those applications
are still in the works. And some of them are at the auditor
level, some of them are pre-auditor level. And in all
cases, the problem is that we need additional information
from the accredited certifying agents to continue the
process.

Our plan is to announce additional accredited
certifying agents weekly. We are not announcing any today,
and that's because we did such a push for the first
announcement, nobody else has qualified yet. We are hoping,
however, to have some more by Monday of next week.

MS. COODY: Great.

MR. CARTER: Okay. Valerie Brown.

MS. ROSEN: Hi. It's nice to be flexible. At
the request of a member of the California Organic Food --

MR. MATHEWS: How many personalities do you have?
MS. ROSEN: Oh, many.

MR. CARTER: Let's not go into that. Let's continue on with your comments.

(General laughter.)

MS. ROSEN: At the request of a member of the California Organic Food Advisory Board, and as past Chair of the California Organic Food Advisory Board, I am presenting a statement from Valerie Brown, who is Deputy Secretary of California Department of Food and Agriculture.

This letter is a request to Dave Carter. This letter is to request the review of Chilean Nitrate, sodium nitrate, that the review of Chilean Nitrate be postponed until the September meeting of the National Organic Standards Board.

Sodium nitrate has been approved for restricted use by organic farmers in California for over 20 years. If this product is totally prohibited in organic production, it could have a negative impact on parts of the organic industry within our state.

The California Organic Food Advisory Board, which met on April 30, 2000, has voiced concern over the extremely limited time line between the release of the technical review and the action by the NOSB.

We feel the organic industry in California needs the opportunity to inform its organic growers of the

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possible prohibition of the use of sodium nitrate.

Postponing the review and recommendation until
the September NOSB meeting will allow the California organic
industry time to prepare position papers and forward those
to your office for consideration.

We thank you for your consideration and look
forward to a positive response to our request.

MR. CARTER: Okay. Thank you.

MS. ROSEN: Thank you.

MR. CARTER: There's Fred Rapdill [phonetic] that signed in, but he didn't say whether he wanted to testify
today or on Wednesday. So --

VOICE: I don't need to speak today.

MR. CARTER: What's that?

VOICE: I don't need to speak today.

MR. CARTER: Okay.

VOICE: Thank you.

MR. CARTER: That takes us down to Brian Leahy, and then Phil La Rocca. I'm having a hard time seeing
whether that's the 6th or the 8th. You're listed as the 8th.

[Inaudible].

MR. CARTER: Okay. Well, it said you wanted to comment on the 8th, so I skipped over you. We'll --

[Inaudible].
VOICE: He wants to comment. He can share it with me.

MR. LAROCCA: I want to comment today, too.

MR. CARTER: Okay. We may need to order in lunch here. Okay.

MR. LEAHY: I think there's more people on this panel than there were organic farmers when I started.

I'm Brian Leahy. I'm the President of California Certified Organic Farmers. I have a couple of things to say, so I'll be brief.

If you could all replay what Zea said in your head, that would be really good, because that is a major concern.

I'll start with sodium nitrate. Sodium nitrate has been an important tool in organic production from the beginning. About 8 percent of our members use it. We keep pretty close tabs on it.

We see that there tends to be some specific regions in California that use it more. Some certain crops seem to get benefits from it.

And we find that the people that are transitioning to organic, during that three years, the fact that it's a fairly reliable and inexpensive source of nitrogen helps a lot with that transition, because those transition years are very hard financially.
And we're finding that some of the growers that have enough resources to really approach organic as a scientific based method of growing are very interested and continue to use it. So we encourage you all to continue sodium nitrate on the national list.

I have to say that I have some real problems with the TAP reviews.

First off, it was just timing. They came out way too late for an adequate response.

As someone who was trained in philosophy and started farming organically a long time ago and learned from some of the people that helped start the industry and the philosophy of it, I have some real problems with the philosophical statements in the TAP reviews, and I think there are some real scientific arguments that can be made against them, too.

So anyways, I just, I would like to reiterate that we encourage you to reject the petition and at the very least push this decision off until September so that the farmers who have relied on this tool for many decades have time to respond.

One of the other issues I'd like to talk about is simply we need to relook at the fact that we have to run two accreditation programs, ISO 65 and USDA's. It's a bureaucratic mess. It's also a little embarrassing for us

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that Europeans can look and see that people that made USDA's accreditation did not make ISO 65 accreditation.

And if we are going to become the world standard, we really need to get back in line with those two.

The third thing I want to talk about very briefly is access to pasture. And you know, we had two consumer groups that I really think we need to listen to.

I can tell you the first time I went into a chicken house to buy manure, about 1980, I quit buying eggs, quit eating chicken. It actually made me embarrassed to be a human being, the way we treated livestock.

And I think that we need to remember that livestock are animals, that -- I know some in the chicken industry consider chickens no more than soybeans with wings, but they are truly an animal.

(General laughter.)

MR. LEAHY: And that's part of the philosophy of organic that we cannot avoid, which is that we need some sort of humane treatment.

You know, there are many carnivores with a conscience, and we want to develop that market. And we simply need, you know, some adequate standards to protect livestock.

So, thank you. Are there any questions?

MR. RIDDLE: Willie.
MR. LOCKERETZ: Concerning these certifiers who did get USDA accreditation but not ISO, what areas or what problems or what was it that led to getting one of them but not the other?

MR. LEAHY: Well, you know, ISO 65 has had the luxury of doing on-site evaluations, and USDA has not. So when they certify, you know, some certifiers, they haven't actually had a chance to go look at them. And it will be interesting to see what happens after that.

But for one thing, you know, I don't quite understand, other than the conflict of interest thing, why USDA did not hook up with ISO 65.

ISO 65, as you know, is really the attempt for the world to have one standard that works, or at least one accreditation program.

So I don't know. I don't know why. I'm not really sure where the different problems are. I just know it's a real problem for us.

I mean, imagine having the cost, bureaucratic nightmare of having two USDA accreditation agents coming into your office. So it is a problem.

MR. CARTER: Okay. Other questions for -- I know we have somebody from the audience who wants to ask a question, but I'm going to pass that over right now.

MR. RANGAN: I just want to help clarify the
answer to that question.

MR. LEAHY: To which -- oh. Yes.

MR. RANGAN: The ISO 65. And we've spent a lot of time reviewing all of the organic certifiers.

One of the problems with the certifiers who are not ISO 65 certified could be a problem of transparency. We have not received organizational information like Board of Directors or funding information for a lot of the certifiers, and that would be a reason for them not to receive ISO 65 certification.

MR. CARTER: Okay.

MR. LEAHY: And Willie, Brian McElroy is in charge of certification for CCOF. I'm not supposed to do that.

He'll actually, on Wednesday, he'll talk about it, because he's the one that screens the most.

VOICE: [Inaudible].

(General laughter.)

MR. CARTER: Okay.

MR. LEAHY: Good.

MR. CARTER: Thank you.

MR. LEAHY: Is that it?

MR. CARTER: Yes.

MR. LEAHY: Thank you.

MR. CARTER: Okay. Marty --
VOICE: You said Phil La Rocca was next.

MR. CARTER: Oh. Yes. Okay. Phil, come on up.

Okay. I felt so guilty about skipping over Marty that I was getting consumed.

MR. LAROCCA: I can let him go first. That's okay.

MR. CARTER: No. Go ahead, Phil. You're in.

MR. LAROCCA: I actually need both days, I have so many comments here. Thank you for this time.

My name is Phil La Rocca. I farm 200 acres of certified organic wine grapes. I have a certified organic winery and 450 head of certified organic sheep for both meat and fiber production. And I say that because on Wednesday we're going to deal with the fiber issue.

Today I would like to start with the sodium nitrate issue, because I'm also Chairman of the Board of Directors for the California Certified Organic Farmers.

We were the ones that set the pattern of the 20 percent use of sodium nitrate. And several years ago, having to deal with an international accreditation board, that issue came up, and I spent about two years of my life dealing with this sodium nitrate issue at CCOF.

And the conclusion came to the fact that, first of all, the information that we got, mostly from the Europeans, was that they were concerned about high saline
187

counts. The information was rather shoddy, and the

conclusion was that they basically used it as 100 percent

fertilizer and overused it, and that was the problem.

The documentation that we got from most of our

California growers actually showed a pattern of one of the

best systems of organic production seen, especially

introduced at that time by Pavadge [phonetic] Farms and Cal

Organic.

So we concluded at that time that 20 percent

sodium nitrate was absolutely not a problem when used in a

proper organic system. And all the growers that we had

under certification used a system that actually was

meticulous.

Point 2: Conflict of interest. I am drawn to

bring this subject up today, after sitting in the audience

and having other speakers before me, but also some of the

comments of some of the speakers, I was ready to jump up and

yell, actually.

The fact of the matter is, in February of this

year CCOF will celebrate our 30th year as a certifier.

We have small growers, large growers. Our seal

is internationally recognized as one with a lot of

integrity. And when you see that, that seal tells you

that's organic.
We have a Board of Directors made up of farmers, certified organic farmers and processors, and there never has been a problem. We've always felt there's been enough firewalls in there to guarantee that the certification outfit was doing its own thing and doing it correctly.

What a body of farmers in a certifying organization does is it adds integrity and clout. It's totally the opposite of a conflict of interest. You have people that actually know what they're doing, in our case, people that actually help found the modern industry of organic agriculture and certification.

So to look around in terms of integrity of certification, I don't think we've really ever had a problem with somebody challenging us that we had some conflict.

Another issue I have to deal with in California, we have -- California State wants to write some new regulations.

And we had some issues that we brought up with them, not that we were against it, but we definitely had some issues.

And one of the arguments that was thrown to us that we needed the State program was that the State was going to give us enforcement.

I come to this Board to put pressure on the NOP. If we're going to have a Federal rule, we should have
Federal enforcement, and we shouldn't have to be dependent on a State to give us that enforcement level.

In that same realm -- and I'll touch on this now -- we have different, for example, fiber standards, cosmetic standards, et cetera, that are just floating around out there.

And the concept seems to be that if you don't have an organic standard from the NOP, then somebody can come up with their own standard. And we're seeing that in the industry.

Right now, even with our wool, we're getting different companies saying, Well, we have different standards that we're following in the processing of this wool.

This totally defeats the purpose of why we have this Board and the NOP. We did this so that we would have a reciprocity of standards.

Now, it's great that we have it for food production. But I do honestly feel that if we don't have these for other standards, and you just have organic floating around for whatever it be, pet food or what have you, what you would have is a lack of integrity in the organic word, plus I also think that it would affect us financially, as well.

So I think if you get a shakiness of what organic
means all the way around, it's going to affect the entire system.

And the last point I think I'm going to be able to get in is on labeling.

Before I left for here, I was contacted by two other wineries, and then, if you count my daughter, three wineries, that we still are a little bit concerned of the issue on labeling, because right now most of the wineries are bottling and labeling product that will not be released till after the rule comes out.

So there is just a little bit of concern, though since I've been here, I was told that some of these things have been ironed out, that if we come out with an improper label that doesn't meet the NOP requirements right now, that some of these products may have to be relabeled, which would be an extreme financial burden.

And since they have been certified under present standards now, I think that that needs to be looked at. But that could be in the commerce trade, so I'm going off a little bit.

Anyway, thank you.

MR. CARTER: Any questions of Phil? Go ahead.

MR. MATHEWS: When it comes to the labeling that is occurring now, we have already provided that the handlers can continue to label their product using their existing
labels up to October 21.

That is the time, the October 21 is when they have to start using the new labels, or at least they have to start following the labeling rules.

Anything that you've already got in the works will still be able to be sold after October 21, so there will be no relabeling of product unless you label it improperly after October 21.

MR. LAROCCA: Right. Then, the other question would be, if you follow all the NOP requirements, and you've labeled, like right now, for example, you can't put the USDA label on your label. So if we meet those requirements, the question is, we can add a USDA sticker, which would be accessed --

MR. MATHEWS: After October 21.

MR. LAROCCA: -- after October 21?

MR. MATHEWS: Right.

MR. LAROCCA: Thank you.

MR. CARTER: Okay. Marty, then Steve Harper.

MR. MESH: And to answer Jim's question, it appears as though Mr. Basson [phonetic] is a certifier involved in a given chicken.

Good morning. My name is Marty Mesh. I'm the Executive Director of a non-profit, Florida Certified Organic Growers and Consumers, Inc., a grower and consumer
based operation also known as FOG, Florida Organic Growers, whose certification programs -- see the link here, for those that have asked me -- the Quality Certification Services, QCS, is ISO compliant and USDA accredited.

I currently chair the OTA Certifier Council and was part of an organic farm for 26 years. I serve on the Board of the OTA, the OMRI, and with the National Campaign for Standards Organic Steering Committee.

I want to thank the old members of the Board for their years of work and welcome the new members. We look forward to working with each of you.

And I hope and trust that your recommendations will be truly based on what is best and true for organic farmers and consumers who trust that standard certification and accreditation maintain what it is they think they are growing and buying as opposed to what may benefit your own or some individual farm, livestock, or processing operation. The public trust depends on it.

I also want to thank Mark Keating for all of his work, and am saddened by his transfer and feel the USDA has lost one of its most experienced, committed, and knowledgeable NOP staff members on organic agriculture. I would encourage you to get him back working on organic agriculture.

A recommendation is needed for a formal link

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between 205.671 and 205.672. USDA has stated that a recommendation from the NOSB could link the two sections together. Otherwise, growers affected by a Government mandated spray program whose product has no residue, or certainly less than 5 percent of EPA tolerance, would not be able to market their produce as organic.

Government mandated spray programs are in place in numerous states at various times for such things as Lyme Disease, Citrus Cankor, medfly, mosquito abatement, and encephalitis, to name a few.

This could affect many, many growers in many different states and is different than the industry standards have been when 5 percent of EPA tolerance was the threshold for the loss of the organic label, as it is in 205.671.

A grower in Florida and California with two years worth of Valencia oranges on their trees at one time who is subject to a single Government mandated spray at a very low concentration should have the produce tested in the same way as the drift case would cause. Efforts should be made to see what levels of any residues are there.

Without a provision for compensation from the Government, the loss of market access for organic farmers could put an organic farmer out of business, since in the case of Valencia oranges there are two seasons worth of

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fruit on the tree at one time.

A simple action by the NOSB and policy directive could alleviate this injustice.

I'd like to know on the record -- on the record -- if the labeling phrase "Certified organic" will be permitted on labels.

In an unwritten communication from USDA, we were told that the phrase "Certified organic" would not be permitted on a label since it is not one of the labeling possibilities in 205.301.

The labeling term "Certified organic" is in widespread use, and if it is the Department's intent not to allow such a widespread truthful labeling claim, all certifiers and processors need to know quickly. I figure this is a good place for that to happen.

I am also concerned about the tendency of USDA not to inform all certifiers in writing of something, but to deal on a case by case basis between certifier and producer. It clouds the line of accreditor and certifier.

Standards interpretations are critical for this not to be a race to the bottom or how low can the standard go mindset.

Because of time -- you did a good job. But because of time, I'm just moving on to the howevers.

Although it's a big job, I need to vocalize my
frustration with USDA in the accreditation process concerning conflict of interest.

While federally regulated banks have board members who receive bank loans, farmer-based organizations have been treated with seemingly little to no respect.

Do we have to decide between being ISO compliant, which calls for a balance of interests, and NOP compliant, which, contrary to expressed written opinion to Congressional members -- stop that clock, I have a really long last sentence -- to work with certifiers on proposed organizational structure to ensure the management of COI, not one farmer-based organization has had their proposal accepted or publicized.

We were never communicated with for over a year. We submitted our proposal over a year ago and never heard from you.

In summary, I link the drift in the Government mandated spray program's fix COI certification review board -- hang on. We'll skip all that.

Okay. If I had lots of extra time, I could go into a few things.

Maybe there should be a recommendation that if feed is being sold for three times the price, farmers receive three times the price for the feed.

The testimony here today that a USDA accredited

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certifier is allowing anywhere from 5 to 10 to 30 percent
organic feed in certified organic poultry operations and has
132 farms certified when USDA thinks there is one certified
organic entity does not instill a great deal of confidence
in the accreditation which we have worked so hard to get.

MR. CARTER: Okay. Thank you, Marty. And the
court reporter would like to have a word with you out in the
hall, I think.

(General laughter.)

MR. CARTER: Okay. Owusu?

MR. BANDELE: Yes. Marty, I just want to be
clear on your recommendation in terms of the mandatory
spray. So what are you recommending?

MR. MESH: That a recommendation comes from the
Board to link Sections 205.671 and 205.672, which we were
told by USDA that, if a formal recommendation, they could do
a policy interpretation that would cause them to treat
Government mandated spray programs as drift, potential
drift. Right now, without a recommendation from the Board,
you lose market access.

MR. MATHEWS: Who told you that?

MR. MESH: The former Director of the National
Organic Program, Mr. Keith Jones.

MR. MATHEWS: He told you that the emergency
spraying would be treated as drift?
MR. MESH: He said that, if a recommendation came from the Board to link Sections 671 and 672 together, that USDA policy could link them together. You guys are the ones that do this creative policy stuff, not me.

(General laughter.)

MR. MESH: But that came from him. But he said it has to come from the Board.

And I really need -- we need an answer on certified organic labeling, if somebody wants to ask me that question.

MR. RIDDLE: And that was exactly my question. Yes. Could you clarify that situation? Because it's certainly been my understanding that the words "Certified organic" is an allowed label claim.

Where did you get this information, what's it based on, and can we get this clarified?

MR. MESH: We were told by an NOP staff member who looked at a processing label and said, Well, one of the things that would have to come off is "Certified organic." It's not allowed.

The only three labeling options are, 100 percent organic, Organic, or, Made with organic, you know, that it's USDA's position that obviously it's certified, if it's organic after October 21 it's certified.

But again, it's in widespread use, it's on most
every processed product in the marketplace, certified organic yogurt, milk, cheese, vegetable soup, juice, and nobody seems to know about it.

And we asked for clarification in writing and didn't receive it.

MR. CARTER: Rick?

MR. MATHEWS: I've made note of this, and we will get back to you, Marty.

MR. MESH: Thank you, sir.

MR. CARTER: Okay. Thank you, Marty.

MR. MESH: And then, I still have comments for Wednesday.

MR. CARTER: Okay. You're on the list.

Steve, welcome to the podium.

MR. HARPER: Well, thank you very much. It's a little odd to be here after five years sitting on your side. And I just wanted to thank you all for the incredible amount of work that you've done and you will continue to do.

And I'd like to continue working with you representing processors and getting some feedback on processor issues, as well as some other issues.

So today I want to address, as a former representative of processors on the NOSB, the issue of DEAE, a volatile mean in processed food.
MR. CARTER: Could you speak up just a bit, Steve?

MR. HARPER: Okay. So I'm asking that you please consider allowing the use of DEAE with a sunset phase-out for use as a treatment for boiler water steam in organic processing.

The allowance or prohibition of volatile means in steam used for organic processing has had a murky history in regards to certifier standards.

The NOSB in 1995 recommended that no boiler water additives should come in contact with organic food during production as part of the organic GNP recommendations.

This prohibition was based partly on mistaken information that all boiler water additives could be removed using in-line steam traps and filters.

Based on this recommendation, almost all certifiers have adopted standards that have prohibited volatile means.

However, the survey of certifiers conducted by the NOSB Processing Committee in 2001 revealed that the two certifiers that certify the bulk of processors routinely provide variances to production facilities that have difficulty complying with the prohibition of volatile means.

A separate survey also conducted by the NOSB processing survey in 2001 revealed that approximately 20 to
25 percent of the 56 processors surveyed were given variances to use volatiles means during the processing of organic food.

The same survey revealed that another 40 percent of the processors routinely use volatile mean as a normal operational condition, but, because of the short duration of the organic production runs, were willing to turn them off for the organic production.

Only one processor out of those 56 had actually installed equipment to alleviate the need for boiler water chemicals or volatile means in their system.

So in fact, there has been historical allowance for volatile means when production facilities felt that shutting them off would jeopardize the integrity of their equipment.

I personally feel very strongly that volatile means are not consistent with long-term organic standards, just as many of the inert materials used in the crops and livestock sectors are inconsistent with our view of the ideal organic standards.

However, the processing industry needs time to phase out the use of volatile means.

Processors with severe water quality issues such as high levels of carbonates that process only a small amount of organic food as part of their overall percentage

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of production will not be willing to spend the additional
50,000 to $200,000 for equipment to allow production without
use of volatile means.

The vast majority of organic food companies
contract with plants to produce organic food; they do not
own their own manufacturing facilities.

They need to be able to source processors that
are close to the production fields and that are able to
produce a wide array of products in order to continue the
growth of the organic industry.

The immediate prohibition of volatile means in
processing will severely hinder an organic food company's
ability to find a processor to process organic food.

The TAP reviewers, in evaluating volatile means,
called for a prohibition of volatile means without regard to
viable alternatives.

A subsequent independent review of the TAP
reviews requested by the NOSB in the summer of 2001 noted
also that one of the shortcomings of the TAP reviews was the
incomplete identification of alternatives. So even though
the TAP reviewers recommended against it, there was
incomplete identification of alternatives.

Viable alternatives is one of the criteria that
need to be considered when evaluating materials, and
especially needs to be considered when the impact affects 20
DEAE is the volatile mean that is most universally applicable to a wide variety of processing plants. It is the only alternative remaining that is being considered.

I hope that all of the NOSB members have had a chance to review the comments from the six or seven processors that have submitted comments regarding the need for short-term allowance for DEAE.

So again I ask that you please consider the effect of immediate prohibition having on the ability to process organic food and to continue the current growth of the industry.

Short-term allowance with a sunset clause would send a strong message to the industry that alternatives must be put in place.

Thank you.

MR. CARTER: Thank you, Steve.

MR. HARPER: Any questions?

MR. CARTER: Questions? Rose?

MS. KOENIG: I just had a question in terms of time frame in terms of a sunset. And what are you envisioning -- it seems to me from what your statement was is that you would seek out manufacturers that would -- I mean, how would this --
What do you envision that's going to happen in the industry if there is a sunset? Do you see this as building of new facilities --

MR. HARPER: No.

MS. KOENIG: -- or are you going to have the same problem, that people are not willing to invest in that equipment?

I mean, it makes sense to do a sunset if there is a solution. But if there's no solution --

MR. HARPER: Well, what I see is that, because of the historical allowance of variances for this industry that, you know, they're sort of being notified now, right now, that this is not going to be continued. And so October 21 is like five months away.

By putting the sunset clause in there, just like you did on ammonium hydroxide, saying, you know, 2005, that's it, or three years, that's it, they're on notice basically that this is going to disappear and they need to do something about it.

There are -- as the food processing industry develops, more and more plants are using reverse osmosis and other alternatives because of the cost of chemicals, so that is occurring. But the industry is not at that point yet.

MR. CARTER: Okay. Owusu, and then Mark.

MR. BANDELE: Yes. Steve, I was just wondering,
the allowance of variance, was that primarily done by one certifying agent or a host of certifying agents?

MR. HARPER: It was done by primarily two certifiers. There may have been others. But these certifiers were the certifiers that were processing the bulk of -- were certifying the bulk of processors in the United States.

MR. CARTER: Mark?

MR. KING: Yes. Steve, you mentioned --

MR. HARPER: Or at least the vast majority of them. Yes.

MR. KING: You had mentioned viable alternatives and reverse osmosis and some of the other technologies. Could you elaborate on that, what might happen, in other words, if there were a sunset, and how many might invest in that alternative technology?

MR. HARPER: Well, I'm assuming that, as the organic industry continues to grow and becomes much larger, that there will be more incentives for the processors that are only processing like, say less than 5 percent or less than 10 percent of their total output as organic to invest in these alternative systems.

And that's one of the things that -- does that answer your question?

MR. KING: I guess, in addition to that question,
do you see that as the primary alternative at this point, 
reverse osmosis, or are there others that you see as viable 
in, say a 36-month, really a 3-1/2-year time span?

MR. HARPER: Well, in the industry that is the 
sort of the state of the art as far as water treatment 
programs. That and stainless steel piping are the two 
alternatives that are most viable.

MR. CARTER: Okay. Jim?

MR. RIDDLE: Yes. And one other option that's 
currently commonly used is shutting off the injectors --

MR. HARPER: Yes.

MR. RIDDLE: -- at the time of organic 
processing. And I don't want to get into an in-depth 
discussion of DEAE right now, but I did want to respond to 
Owusu on the certifier survey, because I'm the one that --

MR. HARPER: Right.

MR. RIDDLE: -- sent that out. And I had 14 
respondents, and 12 of those prohibit it totally. And, yes. 
Like you mentioned, two that allow limited use, certain 
exceptions, do the bulk of the processors.

But you can see it either way, that because they 
allow it, that's why the certifiers have gone -- I mean, the 
processors have chosen that.

So it once again points out the need for one 
uniform interpretation and application of this.
MR. CARTER: Kim?

MS. BURTON: I just wanted to comment on Mark's question there.

As a processor, there is typically a budget period for large processors at anytime you want to do capital improvements. And I'm sure that the other producers on the Board or anyone out there could comment on that.

I know from Smucker's standpoint, we're currently budgeting right now for two years out for capital improvements. So anything that does have a large dollar impact we're not going to do immediately unless we have it budgeted for.

MR. HARPER: That's a good point. Yes.

MR. CARTER: Okay. Thank you, Steve.

MR. HARPER: Thank you very much for letting me speak.

MR. CARTER: Okay. Oscar Morales.

MR. MORALES: I think it's, Good afternoon, right now.

(General laughter.)

MR. MORALES: Okay. My name is Oscar Morales. I'm from Guatemala, Central America. I have come quite a long ways to make this testament.

The Guatemalan Medfly Eradication Program, I'm the field operation coordinator.
At the present time, possibly the largest fruit fly eradication program in the world, applying integrated pest management techniques such as SIT, stroll [phonetic] insect techniques, biological control with parasitoids, mechanical control, cultural control, ground bait sprays application, area-wide aerial bait spray applications, regulatory measures such as quarantines.

On the 10th of October, 1981, a cooperative agreement between the Governments of the United States and Guatemala -- excuse me, I'm kind of nervous -- was signed with the objective to eradicate the Mediterranean fruit fly, safeguarding the United States and Mexico's agricultural fruit industry from medfly infestations.

In the mid-1980s, area-wide malathion bait sprays were banned from Guatemalan territory. At that time, there was no substitute for malathion bait to be used for eradicating the medfly.

Because there was no insecticide that could open the path to advance in the eradication process in Guatemala, the eradication program turned into a continuous barrier at the Mexican-Guatemalan border.

After continuous efforts to try to find a substitute for malathion baits, in 1999 experimental trials were carried out in Guatemala with -- and I'm not sure if I can say the brand of a product that we were using -- yes?
The experimental trials were carried out in Guatemala with Success 0.02 CB, known as GF-120 here in the United States. This insecticide of natural origin, active ingredient is Spinosad -- I finally got it, okay -- was proved to be effective against the medfly and four other species of Anastepha fruit flies.

It was also proved that it was environmentally friendly, not having a negative impact on pollinators such as honey bees during or after application.

Now, I'm going to get into this a little bit deeper in a couple of seconds.

Another study -- this was a study done -- I've got them over here, and I'll give you a copy -- another study carried out by the Ministry of Agriculture, Food, and Livestock of Guatemala, which is called Efecto de Insecida Success [inaudible], which is -- I'm sorry, but that's the name --

(General laughter.)

MR. MORALES: -- concludes that Success 0.02 CB does not cause death to bees, and there is not a negative impact effect on bee activity in the colonies.

The same study also concludes that Success 0.02 CB does not cause death to parasitoid belaya [phonetic], which is a tekeenied [phonetic] fly used in biological control for the sugar cane barrier -- borer, I think.
Another study, the author is Vargas, taking place in a coffee growing area of Hawaii, which compared the effects of the Mediterranean fruit fly bait sprays containing malathion, another Spinosad, and Floxine. [phonetic] B also carried out a current nontarget study which examined the effects of these bait sprays on fallopius arasanus.

MR. CARTER: Time.

MR. MORALES: Time? Oh. Okay.

There's various studies that conclude that Spinosad, used in the method that we apply it, does not have a negative impact on honey bees and other nontarget insects such as parasitoids, honey bees.

And the main problem that we have is that we have a lot of organic coffee growers and organic fruit growers that are getting into this business.

So this is an emergency project. It's used to safeguard the fruit producers in California, Texas, Florida, Mexico, and hopefully in Guatemala within a few years.

Okay. Thank you.

MR. CARTER: Thank you.

MR. BANDELE: I have one question.

MR. CARTER: Owusu?

MR. BANDELE: Since Spinosad is part of a
naturally occurring organism, people who are using that now still would be in compliance. Is that right? Unless it's modified and annotated to restrict it? Is that correct or incorrect, Rick?

MR. MATHEWS: What they're trying to determine is whether or not it is a natural or a synthetic. That's the first question, because of its process.

MR. MORALES: Right now it's considered natural or organic. Right?

MR. MATHEWS: That's the question that the TAP is trying to answer.

MR. MORALES: Well, Rick, our request is that you do consider it. We do not have another alternative right now. This impact -- the decision that you make right now is not going to only impact the United States, it's going to impact socially and economically Third World countries, and it's also going to have an impact on safeguarding the fruit industry here in the United States.

MR. CARTER: Okay. Jim?

MR. RIDDLE: Yes. You indicated that there are certain restrictions or methods on timing of application that help protect the pollinators and other beneficial insects in your program or from your experience.

I'm just wondering if you would be available to the Crops Committee and if you're still going to be here as
we're developing language around the use of this material to safeguard on some of these very valid concerns.

MR. MORALES: Okay. I came specifically just for this meeting. I'll be here --

MR. RIDDLE: Just today?

MR. MORALES: Just to be here from Guatemala.

MR. RIDDLE: Just today?

MR. MORALES: No.

MR. RIDDLE: Okay. You'll be here through all three days of the NOSB?

MR. MORALES: Yes.

MR. RIDDLE: Okay. Thank you.

MR. MORALES: So any questions you need --

MR. CARTER: Okay. Thank you.

Tom Jones.

MR. JONES: As you can see, I'm not the Tom Jones.

(General laughter.)

MR. JONES: Unfortunately, the person who wrote the petition eloped last week, so I'm the pitch hitter here, so bear with me. I'll keep it very short.

Basically I'm Tom Jones with Taza Tea Company in Portland, Oregon. And we're petitioning the use of fish gelatin for the use as a fining agent in the stabilization of fresh brewed organic tea for use in our ready-to-drink
products.

As a fining agent, gelatin is added to the brewed
tea liquor to create a coagulum with compounds that cause
haze, sediment, off-flavor shortly after brewing. The
coaugulum is subsequently filtered out through various
methods.

Gelatin has been used for this purpose in wine,
beer, and juice for many decades.

An interesting thing about the tea industry,
there's currently no standards for utilization of the term,
Real brewed, or, Fresh brewed, so some tea companies are
adding instant tea to hot water and claiming to be real
brewed. I'll talk to you in a little bit why that is
important.

Taza is committed to producing an authentic tea
product and experience to consumers by actually brewing our
tea.

As mentioned, authentically brewed tea will
develop a very unappealing haze, sediment, and off-flavor
over a very short time period. The use of gelatin as a
fining agent allows for stabilization of the tea.

Some tea products get around this by diluting the
tea and then supplementing with a coloring such as caramel
coloring or what have you and a tea flavoring.

Although our process is much more costly, we
believe that we are providing a more authentic product and experience.

Any questions?

(No response.)

MR. JONES: You like that short?

MR. CARTER: Yes. Appreciate it.

VOICE: Fish gelatin?

MR. JONES: Fish gelatin. Yes.

VOICE: That's new to me.

MR. JONES: It was new to me, too.

VOICE: Yes. That's interesting. Is that part of the TAP review?

VOICE: Yes. The Processing Committee.

VOICE: I know, but the fish gelatin.

MR. JONES: Well, I think it's under gelatin as a whole. I mean, we specifically are interested in fish gelatin.

MR. CARTER: Okay. Thank you.

MR. JONES: Any questions? Is that it?

MS. KOENIG: I have just one question.

MR. CARTER: Oh. Rose?

MS. KOENIG: Have you ever had problems in terms of, you know, consumers having allergic reactions to the use of that gelatin?

MR. JONES: No, we haven't. And that is a
concern. I think one of the reviewers did some really good
work in bringing that up.

We have analyzed our product, and we don't find
any measurable residual, but there is obviously a risk
there.

MR. CARTER: Okay. Kim?

MS. BURTON: Thanks, Rosie, because that reminded
me of a question.

As a beverage producer, you are required to be
HACCP certified. Right?

MR. JONES: Yes.

MS. BURTON: You're HACCP?

MR. JONES: Yes.

MS. BURTON: Okay. So in that HACCP plan, hazard
analysis, critical control point, the beverage industry is
mandated by law now to do that.

MR. JONES: Yes.

MS. BURTON: So part of your plan would identify
this fish as a potential toxin, and you have to --

MR. JONES: Potential allergin. Yes.

MS. BURTON: An allergin. And you have to have
your critical control points documented and make sure that
you flush. It's a very similar plan to organic, where
you're having to ensure that there's no contamination.

MR. JONES: Yes. That's true.
MS. BURTON: Okay. I just wanted to comment on that.

MR. JONES: Good point.

MR. RIDDLE: But you're not required to label, may contain potential allergin, or anything like that?

MR. JONES: Currently not. No.

MR. CARTER: Okay. Thank you.

MR. JONES: Thank you.

MR. CARTER: Okay. We have Sharon --

MS. CAUGHLAN: Excuse me.

MR. CARTER: Oh. I'm sorry. I didn't see your hand up over there.

MS. CAUGHLAN: Follow-up. Not required is different than choosing to label.

MR. JONES: Yes.

MS. CAUGHLAN: Would you choose to label this as a potential allergin?

MR. JONES: I need to look at that. We haven't discussed that within our company yet.

MS. CAUGHLAN: Thank you.

MR. CARTER: Okay. Sharon Krumwedl. Okay. And then we'll have Sissy Bowman, and then Eric Sideman, and the list is done. Oh. Oops. No, it's not. Okay.

MS. KRUMWEDL: My name is Sharon Krumwedl. I am the general manager for Chino Valley Ranchers. And I didn't
initially sign up to speak, so I'm going off my notes.

I sat back there very antsy after hearing all the comments about outside access.

Chino Valley Ranchers has been a member of CCOF since 1996. We are certified organic. We went to CCOF, we were inspected, we did not have outside access. We went to organic, the customer demanded it. To comply with CCOF, we made outside access. That was our first flock, of 3,000 birds.

We now have 80,000 organic certified birds producing eggs. Our eggs are distributed in 26 states. Last year we saw a 40 percent increase in just our organic production. And I believe the reasons why we saw those increases was our customers know we have outside access. They know that we believe in organic.

We have fed organic grain since 1996. We have never had problems sourcing organic grain.

We had some quality problems purchasing the feed from an outside source, so we built our own feedmill. We contract grain, deliver it on a rail car. I've had a couple times where I've had to call the rail company and say, My birds are going to starve and die if you don't get that corn to me. But they've come through.

And we've gotten to the point where we've set up tanks for the corn and for the soybean so we don't put
ourselves in that situation where we're running short. And there has never been a lack of supply.

With good management, you can accomplish that. You pay a little bit more, but your customers are paying a little bit more to get a good product, also.

As far as the outside access and Avian Influenza, it's my knowledge that in the United States Avian Influenza has hit cage production. It hasn't excluded free range productions, but it's hit cage productions. It hit it back in the '80s, and it's here again.

I feel one of the biggest problems these farmers have is they have poor farm management. The equipment sits outside, travels into houses from house to house, there is no biosecurity.

This equipment, from many different ranches, these eggs come on racks or pallets, they come on plastic trays that sometimes get washed by running through some water, and they're mingled between other ranches' material and sent back out to the farms. There is no control.

In February of this past year, I visited a company called Danegg in Denmark, Aftabielfock [phonetic]. It was always my goal.

Since I've been in this business I've heard how the European countries do everything better than we do, and I wanted to see what they do.
Well, these people have an incredible biosecurity procedure. Every rack that comes on to a processing facility from a farm, first the organic eggs are marked, each egg is marked from that farm to that processing facility. So you don't have any commingling or a farmer trying to play games pushing non-organic eggs into organic production.

Material, eggs are unloaded, the material is sterilized and sent back out to the farms. The employees have to change their clothes before going into the processing facility. It's like a medical facility there.

But you know what? This is your life they're playing with. When you have a meat product, a live animal product, you're talking the same thing.

And we have no system like this in the United States to prevent illness that can be carried through the process of what an egg facility has. And it's kind of embarrassing to see. But our farmers need to change the way they handle the biosecurity.

These farms don't have HACCP plans. Some states have come up with the quality assurance plan. We have that in California, but it's minimal.

Thank you.

MR. CARTER: Okay. Ma'am, Rick is going to -- you need to go back to the --
MR. MATHEWS: You indicated that your customers know that you provide access to the outdoors.

MS. KRUMWEDL: Uh-huh.

MR. MATHEWS: So my first question is, how do they know that?

MS. KRUMWEDL: Through our advertisement, and our certification entity has always required outside access.

MR. MATHEWS: So what does your advertisement say?

MS. KRUMWEDL: It shows the birds outside, and it talks about our outside access program.

MR. MATHEWS: Okay. What kind of access to the outside do you use?

MS. KRUMWEDL: It really varies from ranch to ranch. We have one facility that the birds actually roam in an orange grove. There's four houses on that facility where the outside access is orange groves.

We have one facility, which was our first one that we built, like a shed cover outside, that they roam. They probably have about 2-1/2 feet total square foot per bird.

We have three other houses where they have just like a patio area, also, extended from the house.

MR. MATHEWS: The --

MS. KRUMWEDL: And we started that facility with
no cover on the outside, and we found that the birds were afraid to go outside because of the prey. So we did put a cover on those facilities.

MR. MATHEWS: Okay. And the birds that are actually in the orchard, they're not on a pasture. They're out there to do weed control?

MS. KRUMWEDL: Well, those oranges right now haven't been sold at all. The process is possibly getting those oranges certified organic.

They do rotate where they will move the fence around and replant weed on the ground.

MR. CARTER: Goldie?

MS. CAUGHLAN: Do you actually -- on your labels, on your cartons, what does it say currently?

MS. KRUMWEDL: It says that our birds are able to roam freely inside and out, as they choose.

MS. CAUGHLAN: It says outside?

MS. KRUMWEDL: Yes, it does.

MS. CAUGHLAN: Okay. I've seen the label, and I didn't recall that.

MS. KRUMWEDL: Well, we have a couple different labels. The certified organic label does say that.

MS. CAUGHLAN: I am speaking of the certified organic. We sell them. I just wanted to clarify that. I didn't recall -- don't recall that it says outside. Thank
you.

MR. CARTER: Rick?

MR. MATHEWS: One thing puzzles me. You're saying that your advertisement says that they get to roam free.

MS. KRUMWEDL: Uh-huh.

MR. MATHEWS: But it sounds to me like what you're doing is you're basically creating a patio with a roof over it. What kind of roaming free does that provide?

MS. KRUMWEDL: Well, it provides them to move around, to have access to the outside, to the sunshine and to go dust. And we set up branches and have foliage that will be out there from time to time, because they'll eat it. I will say that. If they go outside, they'll eat everything. And you have to move them to a different area and replant.

MR. CARTER: Okay. Thank you.

MS. KRUMWEDL: Thanks.

MR. CARTER: Okay. Sissy Bowman.

MS. BOWMAN: Hello, everybody. Welcome to all the new NOSB members. And to all of you old-timers, it's great to see you again. Nice to be in Texas.

I wanted to address accreditation. And --

MR. CARTER: You need to identify yourself.

MS. BOWMAN: Oh. I'm sorry. My name is Sissy
Bowman. I am an organic farmer.

I am the communications director of Indiana Certified Organic, which is the largest certifier in Indiana, and I'm the director of Hoosier Organic Marketing Education, which is a not-for-profit organization, and I'm the chairman of the Indiana program. But I'm just going to talk for me today. Okay.

We really enjoyed -- I felt everybody was really helpful through the accreditation process. So I'm going to be like Lynn. I'm going to start out with the good stuff. Okay.

We found the people really helpful. And the only real stress that I had I think I laid on myself, because I asked a lot of questions, and every time I did, I got a lot of help. So kudos on that and getting it done in time.

However, with regard to the National Organic Program and to the NOSB, every time that an inappropriate synthetic material or practices such as denying poultry or other animals access to the outdoors happens with this program, you hurt the real organic farmers, the small organic farmers, and you betray the confidence of consumers who drive the organic market.

Remember the national list process, Section 2118. I know that all you ones that have been here a while are tired of hearing me talk about this. But here are some
questions.

Is there a natural alternative? If there is, it's not supposed to go on here.

Is the petition for specific use and application? That's what it says in there.

Are the categories in the Section 2118? Is it appropriate to the categories and to the criteria in Section 2118?

Keep that page open when you review these things and ask these questions. That needs to be done first.

Organic has not historically achieved market growth and consumer trust by just slapping the organic label on a conventional product, yet it seems today that there's a lot of people here that would like that to happen.

Getting certified is hard. I know. I've done it for years. Okay? I've been on the certifier end and on the farmer end. It costs money. Complying with it is hard. Nobody ever promised it was going to be easy.

Of the thousands of certified organic farmers in the U.S. today, most have historically strived to meet the standards.

To lower them now would effectively put many of us in the situation that we're unable to compete with larger operations who are coming in and meeting lower standards and who have justified to themselves, and hopefully not to you,
that money and increasing the marketing of a product is
what's really important.

Yes. The bottom line of a business is growth of
finances and markets, but the bottom line of organics should
be to provide a real choice in the marketplace for
consumers. It is consumer driven. That's what it's about.

And I'm really amazed to see large operations and
processors complain about investments. Has anybody got any
idea what a farmer has to invest before they even raise the
first crop? $200,000, that's a bargain just to set up a
small farm.

There are too many shades of gray that have been
suggested today. Levels of organics such as organic free
range chicken, an organic chicken, or an FSIS label that
indicates that meat has been raised partially organic will
neither build consumer confidence nor provide what consumers
in their 285,000-plus comments requested.

Don't underestimate the consumer. If they don't
trust this program, they won't buy it, and we will all be
out of jobs, USDA, NOP, certifiers, farmers, all of us, and
millions of dollars of taxpayers' money is going to have
been wasted.

As an organic farmer, certifier, and consumer and
one who has fully supported the concept of this regulation,
I will feel I have betrayed the thousands of folks to whom I
have promoted organics to and organic regulations over the last 20 years.

If I see the term lowered in such a way just to increase profits, I'm going to have to contact those people myself and tell them I'm really sorry, I sold them a false bill of goods, and I really don't want to do that.

I have a mailing list of over 15,000 people. Okay? And I have no problem, if I see things go too low, with telling those people and getting a whole lot more comments in.

I have practiced organics on my farm for over 20 years, and I've worked with certification agencies since 1989. And I urge you to uphold the intent of the Organic Foods Production Act and the input from consumers.

You, the National Organic Standards Board and the NOP, hold the future of our business, our farms, our families, in your hands.

All producers have limits, organic or otherwise, land, water, feed. But just because there's not enough room outside for thousands of chickens on a small farm or not enough feed or it costs too much doesn't present a reason sufficient to call non-organic food organic.

I urge you to shape our futures responsibly. You have the power to change the face of agriculture.

And I have just a couple more comments that I
made notes from.

We still need that peer review panel. I totally agree with Lynn on that.

And also I want to address, with regard to things that aren't currently in NOP like cosmetics and things like that, when you allow the use of an unregulated organic label -- okay.

(General laughter.)

MS. BOWMAN: All right.

MR. CARTER: Finish your sentence.

MS. BOWMAN: When you allow the use of an unregulated organic label for products not currently in the rule, you create an industry that's likely to be out of compliance.

Just as we've seen with the meat label, this may put on the market products which in no way resemble the organic standards.

Thank you.

MR. CARTER: Thank you.

Rose?

MS. KOENIG: I just had one quick question. What is your perception in terms of many of the variances that we've been asked to consider today? Do you see them as viable -- I mean, obviously you have a strong opinion on kind of a dilution factor in some of the suggestions.
But you know, how do you come to terms with some of the variance or sunset clauses that are proposed?

MS. BOWMAN: Again I think you have to read OFPA, and I think you need to go back to Section 2118. I think in a lot of the cases where you're talking about variances, some of those materials should never have even been petitioned to begin with, because they're just inappropriate to 2118. OFPA is the Bible for this, you know.

MR. CARTER: All right. Thank you.

MS. BOWMAN: Thank you.

MR. CARTER: Eric.

MR. SIDEMAN: Good afternoon, everyone.

VOICE: Who are you?

MR. SIDEMAN: Who am I?

(General laughter.)

MR. SIDEMAN: My name is Eric Sideman. I no longer am on the NOSB. I am Director of Technical Services --

MR. CARTER: Don't smile so broadly when you say that.

(General laughter.)

MR. SIDEMAN: -- Director of Technical Services for the Maine Organic Farmers and Gardeners.

And I come before you today with a quick response or a quick request for you to work on something before you
leave Austin, Texas this week. And that has to do with
Emily's comments and Zea's comments on List 3 inerts.

I've made the request before, and I'd like to
make it again now to put it on the public record.

And that is, I think one solution to this may be
for the NOSB to make a recommendation to the NOP that they
instruct certifiers or honor certifiers who will issue a
minor noncompliance for the use of pesticides that have List
3 inerts in them that were previously allowed by accredited
certifiers before the NOP program went into effect in
October.

And that's instead of beginning the due process
of removal of certification.

So I suppose that will go either to the Crop
Committee or to materials, Kim.

Thank you.

MR. SIEMON: I have a question.

MR. SIDEMAN: Yes. George?

MR. SIEMON: On medications in livestock, do you
think something like that could be done for some of those
same issues?

MR. SIDEMAN: Yes. And I said that yesterday,
too.

MR. CARTER: Okay. Thank you, Eric.

Now, there was one other gentleman. You wanted
to give comment?

VOICE: A brief comment on the --

MR. CARTER: You need to come forward.

(Pause.)

MR. BRUSSYLL: Thank you. I'm Kevin Brussyll. I have an organic grain farm in Illinois. And I market for over 70 organic grain farmers in the Midwest, Organic Farmers Coop.

In addition, I also network with over 600 organic grain farmers that belong to other marketing associations and coops.

We currently have plenty of corn, small grains, and soybeans available for livestock feed. Furthermore, organic grain farmers are bringing thousands of acres of new production on line each year in anticipation of new demand.

Availability is not the question. Price is the question. In the late '90s, the price of organic grain and soybeans dropped below the costs of production. Grain farmers are still trying to recover from that loss of revenue.

If we allow conventional grain to be fed, the price of organic grain will again drop below the costs of production and in turn force organic grain farmers out of business. This will result in loss of organic grain acres instead of an increase, which we're all looking for.
The established trend in organics is for organic grain to sell for two to three times the price of conventional grain. The current price of conventional grain doesn't cover the costs of production.

Organic farmers want to farm for a living, not for an expensive hobby.

Furthermore, if we don't feed organic feed, then we are not producing truly organic food.

We are not going to grow the organic industry if we dilute the meaning of organic and lose consumer confidence.

Thank you.

MR. CARTER: Okay. Thank you.

Okay. Questions?

Would you be sure to sign in?

Okay. Rick has got one general comment here as we --

MR. MATHEWS: I would like to ask Marty to go to a pad and a pen and respond to two questions for me and this Board before I respond to his question about certified organic being on the primary display panel.

The questions that I have for you, Marty --

VOICE: He is delegating [inaudible].

MR. MATHEWS: Yes. It's called delegation, Marty.
Why is there a need to say, Certified, on the primary display panel when everything is certified? That's the first question. I'm not looking for an answer now.

And then, the second question is, what is the potential economic impact on those who do not use the word, Certified, on their label because their labels are small and they're trying to conserve space? That's --

MR. MESH: You don't want me to answer now?

MR. MATHEWS: No. I want you to submit them to me in writing.

MR. CARTER: Okay. With that, we will close the public comment period.

Just a point of order because we are so -- and I felt it was very important that everybody who did sign up had an opportunity to give comments. So despite the fact that now we're an hour-and-a-half behind our schedule, we will take a 45-minute dinner break here.

And we will come back, and we will go on until six o'clock or so if we need to this afternoon to get through the work.

(Whereupon, at 1:10 p.m., the meeting was adjourned, to reconvene this same day, Monday, May 6, 2002, at 1:55 p.m.)
AFTERNOON SESSION

2:20 p.m.

MR. CARTER: Carolyn used to just wave her magic wand and things would quiet down, but I don't command that much respect. So --

The agenda called for the next item of business to be the update from the NOP, and they're still over -- the service was extremely slow across the street, so they're on their way.

So what I'd like to do is move to the discussion -- the presentation of the Board policy manual.

This is a document that has been under development for about the last six months. Jim Riddle has taken the lead on drafting that document, and we discussed it quite extensively yesterday at the orientation and training session. So I'll just turn it over to Jim to present the draft policy manual.

MR. RIDDLE: Thanks, Dave. Yes. I had the much coveted task of chairing a policy manual.

VOICE: You volunteered.

MR. RIDDLE: Well, when I came on the Board, I was handed my original book, and I turned to the tab for policies, and it was blank. So I thought there was a need for consolidating the policies.

It wasn't the policies didn't exist. They just
weren't compiled into one manual. And to bring continuity to the workings of the Board, and especially for new members as they come on to understand the complex workings of this advisory board.

So Dave and Kim -- I forget who else was -- Mark, but I'm not sure if you were involved in the Board policy task force, but at least Kim and Dave worked with me on these drafts.

And it is posted on the Web site, if any of you are interested in taking a look at the manual as we've brought it forth to this meeting.

And like Dave said yesterday, we spent several hours going through the manual itself. And we identified a little bit of the text that needs some reworking, and we also identified some policies that are lacking. So it is a living document, and we'll continually be amending it and adding to it as needed.

But in presenting it today, I'm not going to walk through it like we did yesterday by any means. I'm just going to summarize the contents of it. And then tomorrow we will propose voting on the manual with the exception of the sections that are still being reworked. But the bulk of it, probably 95 percent of it, we should be able to adopt.

And it did incorporate a number of policies that already had been passed by the Board, so those are
incorporated. But then we developed new policies to
describe what some of our current thinking and current
procedures are.

So the Section 1 of the manual describes the
duties of the Board and officers of the Board in terms of
professional conduct, ethical standards, and conflict of
interest policies. And so it's really just the meaning of
being on the Board is set in writing there in Section 1.

And Section 2 goes into more detail in terms of
the job descriptions. It takes some of the language
directly out of OFPA and lists the various seats for all the
Board members and what the purpose of the Board is according
to the law. So that is just repeated in here, but then you
don't have to turn to the law to find that.

In Section 3 we describe what the officers are,
the chair, vice chair, secretary, and what their
responsibilities are, and also how they're elected.

And that was another thing that hadn't been put
down in writing before, and now it's very clear that
officers are elected for one-year terms annually at the fall
meeting of the Board so that it's very predictable; just
some simple things like that that we needed to get down in
writing.

And then, also, it describes the Executive
Committee, which is composed of the three officers plus the

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chairs of each of the committees.

And Section 4 describes those committees. And the committees of the Board are accreditation, crops, international, livestock, materials, and processing. Those are the committees of the Board. And the chairs of each of those committees are appointed by the chair, the elected chair of the Board, and then that group comprises the Executive Committee.

And the Executive Committee is empowered to act on behalf of the Board during the interim. And like I mentioned earlier today, Executive meets monthly or as needed. But the Executive cannot take any final action on regulatory recommendations, including the status of materials.

But otherwise, in terms of policies and guidance to the NOP, the Executive is empowered to act under our policy.

The Section 5 describes the duties of the committee chairs -- oh. I didn't mention, also, at the bottom of Section 4 it includes a description of the peer review panel. You heard several of the speakers mention the need for that to be appointed.

And the Board already has passed a peer review panel appointment plan, and then, the terms of reference, the work orders, for the peer review panel.
So we have done our work and handed that in to the NOP. But we have since that time learned that the peer review panel must exist as a new FACA committee. And what that means, there's --

FACA is the Federal Advisory Committees Act. And it sets down specific protocols that must be followed in order for the Secretary to appoint a committee. And the NOSB is one FACA committee. And it took two years to get that appointed originally. OFPA was passed in 1990, and the NOSB first met at the end of '92, beginning of '93.

So now that we understand that the peer review panel is a new FACA committee, that does slow down the process.

But in the interim, we look to the Accreditation Committee to serve some of the functions of the peer review panel on an informal basis. But that's not described in the policy manual itself, because that's an interim arrangement. And we certainly are shooting towards the appointment of a real peer review panel following the FACA process. So anyway, that's described in here.

And then, there is also a description of the very useful task forces. We've had task forces on aquatic species, on composts, and on apiculture that bring in experts from outside the Board.

But it must have at least one NOSB member on a
task force, and they have to keep minutes and report to the Board and then cease to function after their particular charge has been concluded. And so that's described in writing for the first time, the composition and functioning of task forces.

And then, Section 5, like I said, describes the duties of committee chairs.

Section 6 is quite a lengthy section. And that is because it lays out the materials review process. One of our biggest jobs under the statute is the materials review process, and so we have already had very detailed policies and procedures for that material review, so those were pasted into the Board policy manual.

And that is a major section of the manual. And I'm not going to go through what all it includes.

But people who are interested in petitioning or inputting on the materials review process would be wise to go on the Web site, especially after this meeting and we post the final version that we will adopt at this meeting just to really understand the NOSB materials review process.

And then, Section 7 is kind of a catch-all. It's miscellaneous policies that don't fit under one of those others. And right now there's only one policy there, and that is we already have a policy for presenters invited by committees.
So when we have a need for technical information, we do have policies on how a committee can invite one or more presenters to give us some technical information at a Board meeting.

And then, we have a few addendums. And the first one is our statement of principles, the organic principles for production and handling that we adopted in October of last year.

And then, we also have a Federal Advisory Committee Act fact sheet that describes how a FACA committee is appointed and what the duties of the Federal officer, because there always has to be a designated Federal officer, and in this case it's the NOP program manager for the NOSB.

So that concludes my presentation of the Board policy manual unless there are any other questions.

MR. CARTER:  Okay. Are there any other questions or discussion? Like I said, we reviewed this in-depth yesterday, so at this point this is just for presentation only.

And if any of you that have gone on to the Web site and looked this over, I mean, this is mostly inside baseball here as far as policies and procedures. But if you have some comments, want to visit with some folks after the meeting later on this evening, we will bring this up, then, for some action tomorrow.
Let's backtrack, then. And I would like to have Rick Mathews and/or Barbara Robinson provide a brief update on the NOP.

MR. MATHEWS: Actually, quite a bit of what we would have presented has already been presented through the comment period in comments that I've made.

I think the two things that I would like to really point out at this time is that our Web site is being redesigned. And I think that you can all look forward to a much easier site to surf in probably another 60 days or so, Barbara? And it's a major redesign of it. And the Board will have its own designated place within the Web site.

The other thing is that there is a lot of new information that has been posted over the last couple of weeks, and I encourage you to go to that site and look at the many documents that have been going up there recently.

For those of you who may not know, the meeting book that the Board has for this meeting is also on the Web. It is actually out of date as fast as we put it up, though, because of the public comment that was coming in. And there is a section within that book that has all the public comments.

Please be assured that those that we received before we left the office on Friday have been provided or will be provided to the Board during the course of this
meeting.

The -- I'm trying to think what else I had in my mind. Barbara has something.

MS. ROBINSON: One thing we wanted to address --

MR. CARTER: You have to come to the mic, as well. Yes. Please designate yourself for the record here and identify yourself.

MS. ROBINSON: I'm Jim Riddle's pen pal.

(General laughter.)

MS. ROBINSON: One thing we wanted to tell you, and we've heard this here today, too, is a concern about the program staff when a client has a question and they call up the NOP.

And there is some concern, whether we mean to it or not, it appears as though we're kind of undermining the certifying agents, which we certainly don't intend to do. We've done that a couple of times, and we ourselves have gotten burned. So we've decided to halt doing that.

What we will do is, when a client calls up because they disagree with what a certifying agent has said, we'll listen to their side of it, and then the very first thing we're going to do is ask them who is their certifying agent.

And we're going to talk to the certifying agent before we give out any answers and find out what the Heritage Reporting Corporation (202) 628-4888
certifying agent said, because there's two sides to every story. And whatever response we give will be given to the certifying agent and then simultaneously to the client. So that should take care of that issue for folks.

It's -- we don't expect -- it's been suggested to us, well, why don't we just tell clients to appeal? The appeal process is really not meant for something I think that people can feel that they can just call up and ask a question about.

But we do recognize that there could be a different side to the story, so we will talk to both parties.

MR. RIDDLE: I have a question about that.

MS. ROBINSON: You can't ask any questions.

MR. RIDDLE: Do I have to send you an email to ask you a question?

MS. ROBINSON: That's right.

MR. RIDDLE: No. Just imagine this scenario: You know, someone, a certifier's client or a certified operation has a difference of interpretation, calls you just like you described, and you draw in the certifier and give an interpretation to both.

But then something happens further down the line, and they have to appeal to the program, but now you are no longer an impartial body. You took a position. Have you
lost your right to be the appeal body by intervening earlier in the process?

And what I am suggesting is that, isn't it better to give guidance to the certifiers as needed, but then just step back and let them do their job?

But give that guidance to all certifiers, because others probably have that question, but don't get kind of hands-on in the direct certification of any one individual operation. It keeps you more neutral in the eventuality of an appeal.

MS. ROBINSON: I think Rick is probably going to answer this. And you know, you're right. We certainly do want to stay neutral.

But Rick, what were you going to say?

MR. MATHEWS: Well, for one thing, we would try and make sure that the issue got posted to the Web site --

MS. ROBINSON: Right.

MR. MATHEWS: -- under the Q&A's. The other thing is that appeals do not come to Barbara or to me. Appeals all go to the Administrator. That's above us. So whatever decisions are made there --

When we make an interpretation of the regulation and then provide that information to the applicant or certified operation or the applicant --

MS. ROBINSON: Certifying agent.
MR. MATHEWS: -- and certifying agent, then their appeal in all the process gets up to the Administrator's level. No appeals ever come to me, only requests for interpretation.

MR. RIDDLE: I did have a question for Rick just on the Web site. It's still going to be the same address, even though it's redesigned?

MR. MATHEWS: Oh, yes. Yes.

MR. RIDDLE: Okay. I just wanted to make that clear, that it's not changing addresses. Okay.

MR. MATHEWS: No. It will be the same address.

The one thing that I was trying to remember a moment ago, I want to encourage all of you who will be staying in this area for the OTA program to come by the USDA booth.

We will have a double booth which includes the Natural Resources Conservation Service, the Foreign Agriculture Service, the crop insurance people, our people within Agricultural Marketing Services Transportation Offices that deal with farmers markets and direct marketing, as well as organics.

We will also be computerized within that booth. We plan to have three laptop computers operating there. And all of those people from the five different groups within the Department of Agriculture will be able to take you to
their Web sites and try to help you out with answering any of your questions. So I encourage you to stop by and see what we've got to offer.

MR. CARTER: Okay. Any other discussion or questions at this point?

(No response.)

MR. CARTER: Okay. Thank you.

Then, let's move on into the presentation of committee discussion items.

MR. LOCKERETZ: Excuse me, Dave. I thought you were asking were there further comments on the specific topics we just discussed, because I have a bigger question.

MR. CARTER: Just with the NOP update?

MR. LOCKERETZ: Yes. Were you moving off that now?

MR. CARTER: We're moving off of that. Yes.

MR. LOCKERETZ: Okay. I had a question, then.


MR. LOCKERETZ: It's been two years to the month that I've been on this Board, and I was thinking about, what has this Board achieved in those two years? And I came up with an extremely short list.

In fact, it didn't have anything on it except for putting items on the national lists, which is a special statutory responsibility given to the Board. The rest of
the Board's actions are all advisory.

And I would like the two of you to take the longer view, very long view, two years, and help me by telling me what the Board has done that has had a tangible specific effect on the organic situation in the United States.

MR. CARTER: You are still a teacher, aren't you?

MR. LOCKERETZ: And you can take as much time as you would like.

(General laughter.)

MR. MATHEWS: Well, Willie, I'm delighted to answer that question.

I think that Bob Anderson could give you an answer to that, Carolyn Brickey could give you an answer to that, and your Board peers could give you an answer to that, those that are still here and those that have gone off over the last two years.

And I, trying to speak on their behalf, would say that this Board has accomplished a lot. The Board has reviewed a lot of materials, it has weighed in on the proposed rule that was issued to -- which was the second proposal, and gave us additional comments which were very helpful in finalizing the rule.

You continue to raise issues and to make recommendations. And this office could not have gotten as
far as we have without the invaluable contribution of the National Organic Standards Board.

I understand your frustration. That doesn't mean that we're not also frustrated.

But if you look around this room, there are more than ten times the number of people in this room, probably even 20 times, what is on the NOP staff.

We're a group of eight people. We have to set priorities. And I can tell you that the number one priority of the National Organics Program is to have this program up and running on October 21, come Hell or high water.

There is absolutely going to be nothing that is going to stop me from achieving that goal.

And the first thing that we have to do to get there, Willie, is to get people accredited so that they can go out and get people certified so that those farmers who are working so hard in this industry, the people that you represent, can continue to sell their products as organic come October 21.

So that very small staff which is extremely dedicated to this extremely dedicated Board is working a lot of hours, and we have set our priorities.

And when we get everything done, I can assure you the organic industry is going to be more than satisfied.

MR. CARTER: Okay. Just to that issue, I mean,
discussion has been held over the last few weeks or several
weeks.

And one of the things that particularly Barbara
has been asked to do and is in the process of doing is
compiling sort of a list of the various NOSB recommendations
over the last couple of years and what was, then, the action
that grew out of that? Was there agreement by the NOP or
rejection or modification or whatever? So that we can use
that as a tool to sort of analyze how the decision-making
process is working here.

So this is going to be an ongoing discussion and
an ongoing process.

So with that, then, I am going to move into the
committee discussion items. And George, you're up first,
with the livestock.

MR. SIEMON: Okay. We're supposed to present
this for a vote here, as well as other discussions?

MR. CARTER: We're not going to put anything to a
vote today. We're just discussing. Yes.

MR. SIEMON: I know. [Inaudible].

MR. CARTER: You need to turn on your mic.

MR. SIEMON: Tab 5 in the book, the first
document is this document that has seven points that relate
to feed ingredients. This has been posted.

And I don't know the exact number of how many
comments we got, but we got a healthy amount of comments. Basically we've tried to take care of some of the loose ends involved in feed ingredients, and the first ones to do with synthetic vitamins and minerals.

We are recommending that we adopt the AAFCO list of minerals with few exceptions. And this again is just what I heard we did with the inerts, trying to speed up our process so that we get this all done by the October 21.

So the only ingredients that we took out were those that were identified as could be byproducts of livestock, feed byproducts. A million in poultry slaughtered byproducts were the only byproducts that were removed.

Some of the comments we got might point out some other ones that we need to remove. But at the very end of this, we recommended that there be an advisory panel developed to look through the lists to see if we had missed any. And we have also added that any natural forms are preferable to synthetic.

Are we just going to go through this, Dave?

MR. CARTER: Yes.

MR. SIEMON: Is that like enough for that one?

MR. CARTER: That's enough. Are there any questions?

MR. SIEMON: Does everybody see where that is?
MS. BURTON: I can't find it.

MR. SIEMON: Tab 5, your Tab 5. Okay. Well, this is --

MS. BURTON: I don't have a Tab 5.

MR. SIEMON: You don't have a Tab 5? I've got an extra one, if you want it.

MS. BURTON: Sure.


Eric, if you want to help me out through this, you helped develop all of this, you're sure welcome to.

MR. RIDDLE: Well, I just want to be clear that we're not going to be discussing the content of these recommendations now. We'll do that after they've been moved tomorrow. Is that true?

MR. SIEMON: This is the discussion time.

MR. CARTER: This is the time to discuss.

MR. SIEMON: As far as I know. So --

MR. RIDDLE: Give me a minute.

MR. CARTER: Okay. I'm wondering if somebody can turn off that mic there, because we're limited.

MR. SIEMON: I've looked through the comments, and I think there's definitely some more materials that need to be added to our exception lists. And we got -- you know, we're not technical enough to do that.

And I kind of like our recommendation because
that's putting it to NOP to look through and see the 
comments and maybe get some review to see if there's any 
other ones that need to be thrown out.

One of the ones we missed was this EDDI, which 
historically has not been allowed in organic production. So 
that's -- and OMRI's got a good list of things, nitrogen 
elements.

So I think we definitely need to go further with 
these exceptions. We as a committee didn't do that. We 
didn't have the technical basis to do that. We just took 
what the rule already said about the byproducts and 
identified what was a byproduct. And one of the comments 
even pointed a few me missed out.

So somewhere we need to get a technical thing to 
see where we're at on these exceptions that we're 
recommending.

MR. CARTER: Okay. Jim?

MR. RIDDLE: Yes. So we're on Number 1 of the 
recommendation of livestock feed ingredients. Is that 
right?

MR. SIEMON: That's right. But I would point out 
that the one in the book is a little different than the one 
that was posted. And I have to admit, Rick, I'm not sure 
when that change happened. But I'm reading it, and I like 
the changes.

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So I don't know if that was something you all have done or, Eric, if that's something we did. I --

MR. SIDEMAN: I thought you did it on the call that I missed.

MR. SIEMON: No. I did not. This final recommendation is not one that I -- unless I just am forgetting that we modified our original one to this. I'm liking what I see.

MR. RIDDLE: Well, I haven't seen it.

MR. SIEMON: Yes. Well, it's in your book.

MR. RIDDLE: I read and reviewed the one that was posted.

MR. SIEMON: I know. Same here. I've got them all here.

MR. RIDDLE: And then I had some questions. I couldn't tell what the recommendation actually was in the one that was posted. So that was my main question, what --

MR. SIEMON: Well, the mission is to allow the AAFCO synthetic vitamins and minerals as a category with the exceptions of the byproducts, to allow those to be used. And I could go into AAFCO, what it is, but that's the basis of what we're doing here.

MR. CARTER: Okay. Rick?

MR. MATHEWS: We did not change in our office any of the recommendations.
So if there is a difference between what is on
the Web and what is in the book, I can't explain where that
comes from.

MR. SIEMON:  Jim, have you got the book?  You can
see it.

MR. RIDDLE:  I haven't looked in the book.

MR. SIEMON:  Yes.

MR. CARTER:  Okay.  Rose?

MS. KOENIG:  I just had a question I guess of
clarification.  So I don't understand what we're going to be
voting on.  I know we're not voting today.  But what you're
saying -- are you saying you just want to request to develop
a technical committee to --

MR. SIEMON:  No.  No.  This is allowing synthetic
vitamins and minerals to be used without going through the
technical process, just like we did with the Inert 4,
without the total list -- the total petition process.  This
is a group allowance of materials.

Right, Kim?  Isn't that what you call it?  Like
the inerts?  Yes.  Definitely.

We don't have time to go through this big, long
list between now and fall.  We're going to train wreck if we
don't allow this.  It's just simply going to happen.

So this is the process that we set out, and this
has been going on, this was done a year ago now almost, or
nine months ago that we've been starting this, because we
don't have time to look through all these materials.

And these are materials that the FDA did not
think that they -- if I understand this right -- had to go
through themselves until they fell down to this AAFCO
process, AAFCO.

MR. SIDEMAN: George.

MR. SIEMON: Eric?

MR. CARTER: Eric, can you come forward?

MR. SIDEMAN: Get a chair.

MR. CARTER: Yes. Because we need to get this in
the --

And while he's coming forward, George, I think
what would be helpful, though, is if you would give us a
preview of the motion that would probably be coming onto the
table tomorrow so we know exactly what part of this we would
be looking at.

MR. SIEMON: Well, I think that's going to be the
recommendation paragraph. It's pretty long, but what is in
your book as recommendation is what I think we're voting on.

MR. SIDEMAN: I just wanted to make a simple
addition to this. I think that in the OMRI comment, their
section where they say some of the AAFCO references that are
allowing synthetic nitrogen sources, I think those are
important enough to include in the motion you make tomorrow.
Those should have been added as examples of items that are on the AAFCO list that wouldn't be permitted, specifically prohibited.

MR. SIEMON: But this final one denotes that there is more work to be done and almost gives that --

MR. SIDEMAN: That's right. Yes. I recognize it denotes that. But I think those synthetic sources of nitrogen are important enough to include.

MS. KOENIG: Yes. I'm not again, you know, approving such a list. It's just -- can you get a copy? I mean, is it a short list? I would just like to see what I'm actually approving rather than just saying a list. I mean, you know --

MS. CAUGHLAN: Well, it's in the back of --

MS. KOENIG: Is it in the --

MS. CAUGHLAN: It's in your book.

MR. SIEMON: No.

MS. KOENIG: No, it isn't.

MR. SIEMON: No. It's not --

MS. CAUGHLAN: Are you not speaking about the AAFCO list? It's in mine.

MR. SIEMON: Your AAFCO list is in yours? I've got -- oh. Yes. There it is. Goldie is right. The very back --

MS. CAUGHLAN: It's in the back of your book, and
it's listed backwards. It goes from here backwards, but it's there.

MR. SIEMON: Yes. The very back of the book, about three pages --

MS. CAUGHLAN: In the back of that section --

MR. SIEMON: Yes.

MS. CAUGHLAN: -- the back of that tab.

MR. SIEMON: Yes.

MS. CAUGHLAN: Somehow it got copied upside down, but it's there.

MR. SIEMON: I mean, this is dealing with our whole issue of how our material process goes. If we were to look at all these materials --

MS. KOENIG: No. I just wanted clarification on what I was voting on.

MR. SIEMON: Okay.

MS. KOENIG: I am not arguing --

MR. SIEMON: No. It declares how big a point it is to go through these.

MS. CAUGHLAN: Did you find it, Rose?

MS. KOENIG: No. But I'll --

MR. SIEMON: Here it is.

MS. KOENIG: As long as I know it's in there.

MR. SIEMON: It's right there. It's at the very back, right before whatever the handwritten Number 17 is.
MR. CARTER: Okay, Jim?

MR. RIDDLE: Yes. I'd just like to follow up on Eric's comment.

And this was the thing that I had trouble with, also, is, clearly you're pulling out certain items from that list, the bone charcoal, bone phosphate, et cetera that you have listed in the draft recommendation, but then you have that statement, NOSB anticipates that additional synthetic and possibly natural sources of vitamins and minerals from the CFR and AAFCO publications may not meet OFPA's criteria for suitability in organic livestock production.

For example, Section Such-and-such of OFPA specifically prohibits urea in livestock feed and other sources of synthetic nitrogen.

I think there does need to be more work done to clearly identify the additional materials that are on those lists which are not compatible besides those bone ash, bone charcoal, et cetera.

MR. SIEMON: Wouldn't we need technical advice for that? I would need technical advice --

MR. RIDDLE: Yes. But otherwise --

MR. SIEMON: -- to make that recommendation.

MR. RIDDLE: Otherwise, the way I read the recommendation, we would be giving blanket approval --

MR. SIEMON: That's right.
MR. RIDDLE: -- to all these things, and then they could be used, when we know full well that some of them are inappropriate.

MR. SIEMON: Well, if we full well know that, then, let's except them. How do I full well know that without a TAP review?

The whole point is here we're going to let in 100 materials and possibly endanger letting five in that we don't want rather than not let in the 100. We've got a tricky situation here timewise. We can't do the 100 reviews by next July.

MR. CARTER: Okay. Kim?

MS. BURTON: George, what I'm hearing you say is something similar to what's in the processing, 205.605, under vitamins and minerals. There is a category for vitamins and minerals, and it references a CFR.

So I would suggest that, if that's what you're proposing, that you look at that. Let me see if I can find it in here.

MR. SIEMON: But this is in addition to CFR.

MS. BURTON: Well, or do something like that model.

MR. SIEMON: Well, I think it does. And of course, there's restrictions in the rule about the abuse of these substances for other purposes besides nutritional
balancing, you know, like growth promoters and that kind of thing. It does refer to that abuse.

        Jim, maybe what we should do, Jim and Eric, is, you know, maybe by September we can except some more out of here after more research.

        But I hate to not be sending the message forward to the public, industry what's going on with these materials.

        MR. CARTER: Well, I agree, George. And --

        MR. SIEMON: Kelly wants to be recognized.

        MR. CARTER: Well, just a second. I agree. I think that what we need to have, though, for tomorrow is that whatever motion comes out clearly delineates what's being adopted and what's being deferred until September.

        So, okay. A comment from the audience. Kelly, you need to come to the mic.

        MS. SHEA: Hi. I'm Kelly Shea. I thought it might be helpful for the Board if I could articulate how this recommendation came into being.

        One of the things we identified on the OTA Livestock Committee as a potential problem was that the fact that the national list under vitamins and minerals for livestock has an annotation that says, As FDA approved.

        And we contacted Dr. Price, who had worked on that portion of the rule, and he said that meant AAFCO and
FDA approved vitamins and minerals.

And we said, Well, the way the annotation is written, it just says FDA. And AAFCO does a lot of the work of approving vitamins and minerals for livestock. And in a lot states, those vitamins and minerals don't need to then go through FDA. The state has requirements in place to automatically adopt AAFCO rulings and language.

So what happens when you limit it to FDA approved is you leave out lots of vitamins and minerals that are completely safe and compatible with an organic system, but they're AAFCO approved under the radar of FDA, and they don't bother to add them all to a CFR. Does that make sense?

MR. SIEMON: Yes. In order for it to be on AAFCO, the FDA has to elect to not put it on the CFR, and they don't raise any objections to it?

MS. SHEA: Yes. They really don't --

MR. SIEMON: So it's going through a certain screen --

MS. SHEA: Right.

MR. SIEMON: -- before it goes to AAFCO?

MS. SHEA: AAFCO is regarded as the guardians of the gate when it comes to livestock vitamins and minerals. So though there are a few things like the mammalian slaughter byproducts and some urea products that
wouldn't be allowed, in general the AAFCO list of vitamins and minerals is fairly innocuous. Emily Brown Rosen is also quite familiar with it.

And you know, maybe you could continue with the language that says, As things are further identified --

MR. SIEMON: Well, that's what it says.

MS. SHEA: -- that are problems, they can be added. But to hold this up while you identify all those I think would be a problem for the organic livestock industry.

Thank you.

MR. CARTER: Okay. Thank you, Kelly.

MS. ROSEN: I just wanted to point something out.

MR. CARTER: Yes. Emily, okay. Yes.

MS. ROSEN: I didn't quite finish handing these all out to everybody, but --

MR. CARTER: But any comment, if you can make it from the mic there, so we can --

MS. ROSEN: I was just going to say, I did a comparison of all the minerals and vitamins that are allowed under 21 CFR or are allowed under AAFCO. It's in a table in the back of the new generic list. Now you can see side by side all the materials that you're talking about. I don't think it is in your meeting book.

So it's a very large list. And our opinion was that 21 CFR provides materials in all the major nutrient
categories. Why go beyond that when you haven't done a thorough TAP review yet on it? So I'll finish handing these out.

MR. CARTER: Okay. Thank you, Emily.

So just to move on beyond this, then, just to know tomorrow what we're going to be voting on and what's going to be moved until September.

MR. SIEMON: Just so I understand, though, it's all right, though, if you have this two-paragraph-long paragraph thing we're voting on?

MR. CARTER: You can do that.

MR. SIEMON: Okay. Fine.

MR. CARTER: You can --

MR. SIEMON: Well, it's what's in the book, so --

MR. CARTER: -- make a motion to adopt the Constitution of the United States.

MR. SIEMON: All right. Okay. We've got --

MR. CARTER: Katherine has a point.

MS. BENHAM: I'm just asking, what are we going to vote on?

MR. SIEMON: Right now we're voting on what the recommendation is under this I of this document.

MR. CARTER: Yes. We're not voting on anything right now.

MR. SIEMON: Right now we're just discussing it.
MR. CARTER: Yes. We're just discussing what will be brought forward for a vote tomorrow. So, Rose, you had comment?

MS. KOENIG: I just wanted -- I think it would be helpful, George, tomorrow if you can specifically -- you know, if it's the list plus your exceptions, then, put that in the form of the motion.

MR. SIEMON: Well, the exceptions right now aren't here.

MS. KOENIG: But you said you had some comments that you wanted to go through.

MR. SIEMON: Well, I think the comments that we got in recommended some other ones to take away, and I agree with that.

Now, do I just do that by my opinion, or this calls for a TAP review of those ones? That's the question. I'd be glad to throw EDDI in here and a few nitrogens. I just didn't know how technical a process we were going through here.

MS. KOENIG: Well, I just think that it's better -- if there's questions on ones that we should exclude, we should not be voting for them within a group and then have to later prohibit them out.

MR. CARTER: Kim?

MS. BURTON: It appears to me that the way we
should do this is -- you're actually making a recommendation
to change the annotation under vitamins and livestock. And
that should be consistent with how the other committees have
been doing it, and that is to either submit a petition or
submit a recommendation to this Board.

Now, if you're going to make a motion tomorrow, I
would suggest you look at the annotation that's currently
under the livestock national list and try to suggest a
change to that annotation.

MR. CARTER: Okay.

MR. SIEMON: All right. Well, these are all
thorny issues here. The rest of them are just as --

MR. CARTER: Jim?

MR. RIDDLE: Yes. I just wanted to echo what Kim
said and to add, it also is the listing for trace minerals.

MR. CARTER: Okay. George?

MR. SIEMON: Okay. Well, the next one is harder
yet probably. So they're all the same, trying to deal with
all these livestock issues that are out there. And that's
about incidental additives in livestock, feed additives and
supplements.

And again, there's -- we're finding that there's
what are called incidentals which have no technical or
functional effect on the feed and are exempted from being
included in the feed ingredients list.
And I mean, this is unfortunate, but there's a whole host of things here. And we just don't have the infrastructure to go through every ingredient in every substrate between now and October 21, was the concern. These are things that are being used in the industry right now and the carriers.

So again we're saying within the restrictions of the Section 237 about feed that -- I'll just read the punchline here -- that we not establish requirements for substances used as incidental additives in feedstock feed ingredients.

So this is a barrier in a lot of ways when it comes to the GMO process, and that's a lot of the comments that we got back, is, where does that fit into here? That's one of the bigger concerns.

But these are very trace amounts of like a yeast or a probiotic product or something where it's a very small amount of agricultural carriers in there.

So it's definitely a problematic area that we're trying to find a solution to so we can keep going as an industry here.

MR. HOLBROOK: Okay. So the recommendation that will be coming forward tomorrow from livestock --

MR. SIEMON: Is to not establish --

MR. HOLBROOK: -- is that the NOSB recommends
that the NOP not establish requirements for substances used
as incidental additives in livestock feed ingredients?

MR. SIEMON: Uh-huh.

MR. CARTER: Okay.

MR. SIEMON: And if we don't do that, then we
won't have -- we'll be saying none of them are allowed
October 21. That's the alternative.

MR. CARTER: Okay.

MS. ROBINSON: George, are you saying that --

MR. CARTER: Go ahead, Barbara.

MS. ROBINSON: Are you saying that not only no
recommendations --

MR. CARTER: To the mic.

MS. ROBINSON: Are you saying no
recommendations --

MR. CARTER: And turn it on.

(General laughter.)

MS. ROBINSON: Okay. Let's try this again. Are
you saying that the Board should not put any limits either
on the amount of those materials in a feed or on whether or
not they themselves have to be sourced to some organic
origin?

MR. SIEMON: Well, yes is the answer, but it's
all within the constrict of this 205.237 which is very
restrictive for what it's used for, and these are feed
additives, no functional, they're incidental additives in livestock feed ingredients. So if you read through there, they're not going to be able to feed it to get around the organic feed thing. That's not the purpose of this.

MS. ROBINSON: Well, I understand that. Let me just play Devil's advocate. I mean, where do you draw the line, then, on what is going to be called organic feed?

MR. SIEMON: Well, organic feed is organic feed. These are additives. Feed is feed, these are additives.

MS. ROBINSON: But they could comprise 5 percent?

MR. SIEMON: Not the incidentals that we're talking about. Oyster shells can be 5 percent. Yes. But incidentals are not, that's not what -- carriers are not what we're referring to.

By the way, you know, in this kind of thing, where there are people starting to carry organic carriers in their feed, you know, for the mineral bases. There's a lot of mineral packs now. But this is kind of a --

And Eric, you're welcome to help me out again, because Mark, Pete, and Eric did a lot of this. But this is a real issue, how we're going to void the many things. I don't know if anybody else has anything.

You want to read 205.237. It limits the amount of use for their product.

Eric, give me other examples besides for the
mineral based carriers. I thought we --

MR. SIDEMAN: I was going to make a comment on the incidentals. That one was also changed from the last time I saw it. And the way it's written now, carriers are going to have to meet the standards for feed if they're on the label. And we've been instructed by FDA that the carriers will be on the label.

But there's some incidental that are added to these feed additives and supplements that would not have to, and those are the ones we're not going to be setting standards for. And there is a problem that you see in the OMRI comments on those, too, that's not addressed.

I'm not sure what my opinion is about it. But there may be some oils or corn starch that are incidentals, not on the label, and with this recommendation, they would be allowed.

MR. SIEMON: Okay. I see what Eric says here. They have split up incidentals and carriers at this time. Originally it was together.

MR. SIDEMAN: Right.

MR. SIEMON: So there are two different standards. Incidentals is what we're not establishing recommendations for. And carriers would have to be identified on the ingredient list so they must be reviewed.

MR. SIDEMAN: That's right. Because when we
first started writing this, we didn't think the carriers were on the ingredient list, but we have been instructed that the carriers would be if they were agricultural products.

MR. SIEMON: So really it's not incidentals, it's incidentals and carriers, and there's two different recommendations here.

MR. SIDEMAN: Right.

MR. CARTER: Okay. Jim?

MR. RIDDLE: Yes. That helps answer the big question I had, because it seemed that these contradicted one another, that the first part saying NOP would not establish requirements --

MR. SIDEMAN: Right. I hear you.

MR. RIDDLE: -- for the substances, and then, in the middle of the paragraph, NOSB recommends that carriers added to a feed ration and therefore identified in the green list must be reviewed under the requirements of 205.237. And that part I supported.

The other part of opening up this totally unregulated allowance for products of excluded methods to be added to livestock feed with no set restrictions on either their composition, quantity, or source, I have real problems with not being reviewed in the process.

MR. SIEMON: Well, as long as you know what the

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alternative is.

MR. RIDDLE: Well, the alternative is to set some limits.

MR. SIEMON: That's what 237 does.

MR. RIDDLE: Okay. So put both incidentals and carriers under 237, that would do it?

MS. GOLDBURG: The language in the recommendation just refers to carriers.

MR. SIEMON: No. There's two -- I didn't catch it at first, because they did change it. The first sentence is about incidentals, the second sentence is about carriers.

MS. GOLDBURG: Yes. But --

MR. SIEMON: And carriers relates to 237. And what Jim just said is you've got to have 237 for incidentals, as well.

MS. GOLDBURG: Yes. Exactly.

MR. SIEMON: I agree with that wholeheartedly. This is all within the additives section, you know, not a growth promoter, not -- you know, this is all --

MR. CARTER: Okay.

MR. SIEMON: Those are the two hardest ones.

MR. CARTER: Do you have follow-up, Becky? You look --

MS. GOLDBURG: Yes. I also wanted to make sure that the language you have here is the definition of
incidentals in 21 CFR. Does FDA actually have an explicit
definition? I guess they must in order to exempt them
from --

MR. CARTER: Emily, can you answer that? Up to
the mic. We'll get everybody trained here before too long.

MS. ROSEN: Yes. I believe it's incidental.
It's the same as in FDA for food, incidental additives, no
technical function or effect. That's where that came from.
I believe they filed a comment on the first draft, as well.

But I think this is improved that it makes a
distinction between carriers and incidentals, but it's not
totally clear here, the GMO issue on the incidentals, and
also, further down we're talking about preservatives not
being allowed unless they're reviewed.

Quite commonly we see that vitamins have
preservatives in them. So where does that fall? That would
be considered incidental by FDA. So does this mean, you
know, vitamins with preservatives or othoxyquin [phonetic]
are allowed now in livestock feed? We need to absolutely
know or else we can't review these materials.

MR. CARTER: Carolyn, did you have --

MS. BRICKEY: I would just suggest, Mr. Chairman,
that this whole topic is enormously complicated, and we are
going more and more bogged down as we move on here.

So might it be a good idea to pass on this and
come back to it at a later point when you feel like you really know what you want to do with it?

You may want to pass on it till September. I hate to be pessimistic here, but this is really difficult, and you want to make sure you get it right.


MR. SIEMON: Okay. The next one is about preservatives. And again, part of what --

MR. CARTER: Wait a second.

MR. SIEMON: Okay. Willie.

MR. CARTER: With that being said, Willie has a question.

MR. LOCKERETZ: Yes. If this is essentially adopted, whether in the September or this meeting, would it go into the interim final rule process or would it be a classical final rule process?

MR. SIEMON: Classical what?

MR. LOCKERETZ: Final rule process. In other words, if we want to go ahead with this, which process governs it? This is a question for Barbara or Rick.

Could this be included in that proposed interim final, or is it different from that?

MR. MATHEWS: Willie, the rule that we're planning to put out in the summer will be interim final, and we will also pursue interim final for the materials that are
approved by the Board at its September meeting.

MR. CARTER: Go ahead.

MR. SIDEMAN: I'd just like to make a comment in support of why the Livestock Committee brought this forward, because it may not be clear.

These materials we're talking about are not on the label, and so it's very hard for certifiers to know which products are permitted and which are not. They can look at the label and see that there may be corn or soy, and definitely those have to be organic.

But the preservatives and the carriers and the vitamins and the minerals may not be listed, and that's why we've come forth with these recommendations.

So there are problems with these recommendations, but I think they're important to stick with and work out the problems and get them passed as soon as we can.

MR. CARTER: Okay. Thank you.

Okay. George.

MR. SIEMON: All right. Again, part of what we've done on the Livestock Committee is just trying to clarify some of the gray areas.

And so the next one we dealt with was preservatives in formulated feed and fee ingredients. And our recommendation is that basically they have to be looked at on a case by case basis, which would be a regular TAP
review. So I'm not sure we need to have a vote on that except for just have it for the public record.

MR. SIDEMAN: But it could pass.

MR. SIEMON: But it could pass. Yes. I could get one through, maybe.

So the next one is we just -- and this is very related to the first one -- is we just pulled out of the AAFCO the definition of mammalian and poultry slaughter byproducts, and we just tried to list those out of the AAFCO. And we did actually get some more comments, and some we possibly missed.

So I think there's not even a recommendation there. That was more just us doing some leg work, as far as I can tell, for NOP. So I don't see -- see, I did all my notes on the other copy I had, and then I get this book and it had different ones in it.

So the enzymes is the next one. And these are just all the many things that are in livestock production that haven't been dealt with.

Basically it's declaring that enzymes are a natural feed additive provided they are not derived from excluded materials, that they're an allowed natural additive and did not consider the substrate material used to produce the enzymes as part of the feed ingredient. So this is a declaration of it being a natural, basically, for our
committee.

Any questions on that, enzymes?

(No response.)

MR. SIEMON: The next is, in '95 we recommended
the addition of probiotics to livestock feed as non-
synthetic. Actually, the word probiotic is not the
commercial or legal word that's used.

And so we're just recognizing that direct fed
microorganisms is the word that's used and that it is a
natural and again not from excluded methods, so that we're
just clarifying a previous decision, because probiotics are
not actually the legal term that's used.

Number 7 is a much different one. And we're
trying -- basically here this is about materials that have
already gone through the process with the process for human
products, for finished retail products, that those same
ingredients should be allowed to be used in livestock
products, livestock feed. This is a crossover, things are
already done.

Now, this is specifically for processed foods.
They can be used in livestock fee.

The same question comes up with some of the crop
fertilizers. This is very different. This has only dealt
with that.

But there are going to be some crossover
questions that come up about livestock, minerals for livestock feed. But that's not what this is about. This is strictly ingredients for processed food are automatically allowed for livestock feed.

And that's the end of that complicated document, seven different points.

I don't know. I don't have the facts in front of me on how many comments we got on that, but that's been out on the Web for quite a while, and we got pretty good comments, I think, on it, pretty good support.

MR. CARTER: Kim?

MR. SIEMON: Kim has got a question.

MS. BURTON: A comment on Number 7. We have discussed in past meetings of allowing anything used in -- under 205.605, allow for processing to be allowed for feed in livestock.

And it appears to me if that recommendation does go forward that you're looking at your enzyme recommendation would be under that list. So enzymes are allowed in processing under some certain restrictions.

So I support the allowance of anything that's been approved for processing to be allowed for feed because if you're going to allow it for humans, you should be allowing it for livestock.

But you might want to just do your homework on
enzymes, and there might be some other things also applicable.

MR. CARTER: Okay.

MR. SIEMON: Okay. Moving on, the next thing on the list was to talk about the dairy replacement animals.

I don't know procedural, Rick, what we're going to do. That was never posted. I'm eager to send a message to the community so they know what the standard is.

But are we going to vote on this this week, or is the fact that it never got posted restricting us from going forward?

MR. MATHEWS: Well, the thing that disturbs me is that back on March 27 I sent out an email to you with a CC to the chair indicating that the recommendation was not in a suitable form and failed to address some issues. And I note that those issues still are not addressed. I think that the committee needs to go back to the drawing board and address the issues that are raised.

MR. SIEMON: Okay. So that's --

MR. RIDDLE: What were some of those issues? Rick, what were the main issues?

MR. SIEMON: I guess that slipped by me. I don't know.

MR. MATHEWS: The issues involve the fact that the document that was submitted never clearly states what is
the problem, who is it a problem for, what are you trying to resolve?

And the recommendation itself, it doesn't address how the proposal would change Section 205.236(a)(2). The new proposed section is in direct conflict with that section.

So we can't have one regulation that says one thing, and then you go down into the body and have the regulation say something else. So that was the primary concern to me.

Your recommendation, also, there's already a 236(b)(1) and (2). It's not clear whether you are doing away with existing 236(b)(1) and (2) through this recommendation. You don't ever mention what is going to happen to that section.

And I've got lots of comments on it. So we can go through those if you would like.

MR. SIEMON: Well, first off, the NOP staff wrote all these numbers. I didn't go through that. So I'd have to go through to see what the complication is.

But certainly we all know there's a lot of questions about what is the intent, because there is a conflict some say between the law and the preamble and how this all works together.

We tried to take all those issues and come up

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with what we thought covered all those. So I don't know what -- we're trying to clarify it.

Arthur?

MR. CARTER: Let me call on Arthur. And again, you've got to come to the mic.

MR. NEAL: I've just got a question. You keep saying NOP staff, and I know that there's only a handful of people on our staff who are, you know, assisting the Board with recommendations and reviewing the work.

MR. SIEMON: Right.

MR. NEAL: And I know that I haven't looked at it, and I don't think that Keith or Bob has looked at it, either.

One of the problems that I continue to see in the recommendations, that the work -- say, for instance, if the recommendation is moved forward, the work that really would have to be done would have to be done by the staff.

Because what Richard was saying, the problem is not stated; it's not saying how the changes recommended would affect other sections in the rule; then, it's not saying who the changes would affect, you know, what's the economic impact, things like that.

And the question keeps being raised, What happens to the recommendations?

And one of the questions I have is, one, who is

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the NOP staff that wrote the recommendation?

MR. SIEMON: Mark Keating wrote this whole thing.

MR. MATHEWS: Let me interject at this point, George, in La Crosse, I specifically told this Board that Mark King was not -- I mean, Mark Keating was not to be writing your work. I repeated that in October, he was not to be doing your work.

It is quite inappropriate for this Board to have a staff member write its recommendation and then turn around and send it back to the Secretary of Agriculture for implementation. We are not going to do that.

MR. SIEMON: But Arthur just said that the staff needs to be the one to finalize the writing.

MR. MATHEWS: We have to finalize the writing, but the recommendation has to be your recommendation, not our recommendation.

MR. SIEMON: Well, this is our recommendation, clearly.

MR. MATHEWS: But you said that we wrote it.

MR. SIEMON: He wrote the front part. Yes. Explaining what the problem was.

MR. CARTER: Okay. Let's --

MS. BRICKEY: I think, Rick, I assume it's the same process that we went through on some of the writings in the Crop Committee, and Mark Keating had also worked with
our committee.

The process had gone I thought fairly well with Mark. We discussed the issues. He would give us points of clarification in terms of the rule. A lot of times we just did not know I think some of the functionings of how those things would be implemented on a programmatic level versus us as NOSB Board members.

But typically we would send something, you know, like I sent the transplant writing that I had compiled after a committee conference call, I would send a copy to usually Owusu or perhaps the whole committee plus to Mark Keating.

Mark then would take it and put it within sometimes the rule language, which personally I'm just ignorant to in terms of how to write at times.

So it's not that he altered the ideas or the forms of what the committee suggested. Instead he put it in a workable form I think that you as a Government program can then adapt into your language of your rule.

MR. MATHEWS: Can I --

MR. SIEMON: Okay. Well, then, I guess I need to be clear. You want to know how -- why the need for this. Is that what I heard, why the need?

MR. MATHEWS: What we want to know is, what is the problem, specific what is the problem? Who is it a problem for? How does this recommendation resolve the
problem? What's the economic impact? I mean, who does it impact besides the person you're trying to help, and what is the impact on those people?

And you really have to -- what you're doing is, you're writing a section that contradicts a previous section. And you have to tell us what you want to do with that previous section.

Right now you're not telling us what to do with the other section. You're not telling us what to do with the sections that you have identified as new sections when there are already existing sections.

MR. SIEMON: Okay. Well, I guess we're not going to be voting on it this week, so we'll just have to go back to the drawing board.

MR. CARTER: Okay. Kim?

MR. SIEMON: No. I'm not --

MS. BURTON: I just had one comment.


MS. BURTON: George, you were asking about the process for posting stuff on the Web and getting public comments. I'm surprised Jim didn't chime up here.

I think it's very important that we be consistent again with our -- if we have a recommendation and it is voted on by this Board to go forward, it has to be posted on that Web site for public comment so that everybody has a
fair share.

And we're going to go through this round and round, whether it's materials or policy or procedures or any kind of recommendation. I think we have to have the public comment.

MR. SIEMON: We -- but let's get real, though, since I'm not doing real well here. What do we have to legally do?

Because I've got a whole world of farmers out there who want answers, and if we're not dealing with anything in September and we're not going to deal with this issue, you're telling the organic dairy community you are answerless besides for what the rule presently says, and everybody is confused by that. And that's the way it is.

MR. MATHEWS: There's nothing to stop you from meeting tonight as a committee and working on it so that you can bring something back to the Board tomorrow that addresses the concerns.

MR. SIEMON: But I was talking about the public -- going on the Web. I was responding to Kim there. Because we've got to get answers out there, you all. The time has come.

MR. CARTER: Okay. Rose?

MR. SIEMON: I'm ready to go on.

MS. KOENIG: I just had a question in terms of
both Crops and Livestock in terms of NOP staff, because this issue may come up, you know, in further committee reports and suggestions and motions and such.

Who will now be the NOP staff person for those committees that we will be using as a contact? Because it's really going to affect how this stuff is going to flow since Mark Keating is not available.

MR. CARTER: Which I think is something that can be determined off line. But that's an issue that needs to be addressed.

Willie? And then let's move on.

MR. LOCKERETZ: Going back to Rick's point about the process by which recommendations get accepted and passed up, did I hear you say that when we submit a recommendation we should include an economic analysis of who gets hurt and who benefits?

MR. MATHEWS: We've been saying for at least a year now that the problem with writing rule-making dockets is that when we just get a short recommendation that doesn't tell us who it's a problem for, who it helps, who it disadvantages, what it is that we're really trying to do, if we don't have those pieces of information, we have to go out and get that information.

For example, your recommendation for sawdust to be organic for mushrooms, it just said you've got to have

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organic sawdust.

In order to have a rule published in the Federal Register, we have to address the economic impact of such a narrow interpretation on sawdust.

So we, NOP, has had to go out to the mushroom industry and gather information that in my opinion this Board should have already been looking into.

MR. CARTER: Okay. Let's not talk about mushrooms here with livestock -- and Willie, hang on -- I mean, because part of this and part of the issue is, and one of the reasons you like to have it posted on the Web, is that's the way that we get feedback as far as the impact.

Because we cannot make unilateral assessments as a volunteer board here knowing full well what the impacts. And that's one of the reasons you get it on the Web, because it gives you that.

Kim? And then --

MS. BURTON: Just one final comment. It seems like our train wreck is coming. A comment: As handlers, we have until October 21 to come in compliance with this rule. And we do have a meeting coming up in September.

And George, I think like to Rick, if we can have a draft that we can work with and it's posted on the Web, if I were a livestock handler, I would say, Look, this is what the NOSB has recommended. We have 17 livestock materials
that are no different than this recommendation.

You have to challenge and go forth to your certifiers and say, These issues are coming up. So --

MR. SIEMON: We did put this forward for posting I think in January or February, so, you know, we've been trying. So we'll have to go back and see if we can do better.

Let's do the access to outdoors for poultry, since we're on such a winning streak here.

(General laughter.)

MR. SIEMON: All the easy ones. Some of these things, you know, whether right or wrong, we were asked to try to clarify what the rule said. And I'm a little confused where these clarifications fit into the actual rule process.

So here it says in the rule access to outdoors, but there's a lot of people who are starting to interpret that that didn't mean that the birds actually had to step outside of the building and be outdoors.

So we were asked to try to clarify that, and I don't know that we did a very good job or not. But we've written up a document that has just a farm plan basis for access to outdoors.

We tried to take what I would call the middle road, still requiring -- and we wrote it strictly for
poultry, since that seemed to be where the controversy was, to try to clarify that.

But we wrote a farm plan approach, like we did with pasture, where the birds have to be outdoors except for temporary exceptions.

Now, we did not require a pasture. And so today you have heard in our presentations so far one side doesn't want any access to the outdoors, the other side wants pasture. Well, we probably did the middle road. Right or wrong, that's what we tried to do.

So we've got a fairly -- some say it's too loose, some say it's wrong. But if you look at what we did here, it's basically a farm plan system.

And there's no -- the way I read this, that means if you're in the poultry business, you have to have an outdoor plan. You may have temporary reasons to pull back inside, but you have to have an outdoor plan, and you have to have the capability to be outdoors.

So this has been posted. And we have got quite a few comments. And recently there's been some efforts and there's a lot of comments coming in now from consumers.

Okay. That's all I have on vote.

MR. CARTER: Just as clarification, the item that will be coming up, then, for action tomorrow is those items that are 1 and 2 under Recommended Standards?
MR. SIEMON:  Exactly.

MR. CARTER:  Okay.

MR. SIEMON:  Everything else is just trying to discuss the issue.

MR. BANDELE:  I have a question, George. On the second point, where you're saying, you've got, one area for justification would be the stage a production up to five weeks of age.

And I'm not a poultry person, but it's my understanding that a lot of times they are up for sale after, what, six weeks or seven weeks. So --

MR. SIEMON:  Yes.

MR. BANDELE:  -- just give me your take on that.

MR. SIEMON:  Well, I like what the OGA has recommended, and they related it to the physiology of the bird, you know -- I'm just trying to find it -- just about the bird feathering. So --

VOICE:  Sufficient feathering.

MR. SIEMON:  Sufficient feathering. I think that five weeks is too long, personally. But there was concern about turkeys, and we were trying to write one phrase for all. So it was -- that was kind of the happy compromise we hit.

I like the physiological way to go at it, though. I think it's much better, because it deals with that.
Because you're already on a farm plan basis.

MR. CARTER: Okay. Rose?

MS. KOENIG: I just have a question of clarification for the vote tomorrow.

MR. CARTER: Yes.

MS. KOENIG: On these recommended standards, am I correct to assume that we're not voting for a change in the rule? These are statements of clarification that are not rule changes? That the rule stays as it exists, but these --

MR. CARTER: The rule is the rule. These are the interpretations.

MS. KOENIG: And so these are just statements of clarification?

MR. CARTER: Yes. And Rick has some issues that he wants to bring up either now, or we can discuss it afterwards. So --

MR. MATHEWS: That's up to you and George.

But --

MR. SIEMON: It sounds like we need to have a little meeting to --

MR. CARTER: Yes.

MR. MATHEWS: Yes.

MR. SIEMON: -- get my marching orders.

MR. CARTER: I think that would be helpful.
Okay. Jim, and then Willie.

MR. RIDDLE: Yes. When you have that meeting, I don't know if you're going to open up the language in the benefits section.

But I found the last sentence of that second paragraph, "There are concerns with increased disease exposure for poultry, but many organic poultry producers feel that this is not the case and in fact feel that there are health benefits."

And I find that to be a bit weak language. And we received some testimony today from the Humane Society that I felt really has some more science-based benefits that I'd like to be injected or considered by the committee to strengthen that benefits section of the rationale.

MR. SIEMON: Well, we didn't have any science, so I hated to put any, you know, like facts in there without true science behind it. So I was honest, you know.

MR. RIDDLE: But we've received some, and I just wanted to point that out.

MR. SIEMON: Okay.

MR. CARTER: Okay. Rose?

MS. KOENIG: Again I would just like to state that -- well, I would like to recommend I guess that, George, you get us to vote on what your recommended clarification is.
We're not going to be -- you know, I think that the intent in that verbiage is --

MR. SIEMON: Yes.

MS. KOENIG: -- fine in terms of our own personal use. But it's going to be hard to get votes on some of those opinionated type things, so --

MR. SIEMON: Just the recommended standards is all the vote is on all these.

We were asked to clarify it and produce this extra wording. But the recommended standards is all we're voting on.

MR. CARTER: Okay.

MR. SIEMON: Okay.

MR. CARTER: Willie?

MR. SIEMON: Willie?

MR. LOCKERETZ: This is the second recommendation in a class that may include more members where the animals have to be.

The first member recommendation in this class was access to pasture for ruminants, which was passed, if I remember correctly, in October of last year, about seven months ago. So my question is, what has happened to that recommendation?

MR. SIEMON: How are these going to be used?

MR. LOCKERETZ: Just what has happened? There
was a recommendation seven months ago by the Board on pasture which is analogous to this one. What has happened to it?

MR. CARTER: Okay. Before we get to that, let's just relate to the poultry, and then we'll close with that discussion on this.

Okay. Any other questions on this particular one?

MR. LOCKERETZ: Yes. So Rick, does this look like the type of recommendation in form and in what it covers, leaving aside whether you approve the content or not, in form and coverage, is this the kind of recommendation that you want to get from us so that you can act on it or not act on it as you choose?

MR. MATTHEWS: Even this document -- to an extent.

Yes, Willie.

But this document does not answer the real problem of, what is a suitable area for meeting the access to outdoors requirements?

MR. SIEMON: [Inaudible] did discuss the whole square foot outside thing. And originally the instructions was to stay away from specifics, and that's really not -- I shouldn't say instructions, that's not correct.

That was the whole leaning for the last ten years, is not get down to square feet. And at the end of
this we kind of started going back to that. Otherwise, you have all the other guidelines in the rule about the environmental care of the land. And when you tie it all together, there is a fairly clear picture of what you're after.

MR. MATHEWS: I think that what we ought to do is to take this into a committee meeting, because, quite frankly, the very beginning of my problem with this proposed language is that it does only two things: One, it adds the word, poultry; second, it says up to five weeks. Otherwise, everything in that recommendation is already in the standards. In fact, the preamble is real clear that poultry are included in the livestock issue.

And we need to get, you know, together and discuss this later.

MR. CARTER: Okay. So we will sit down after the meeting tonight with the Livestock and talk about procedure on that.

The question is still on the table. Willie had asked the question on the status of the recommendation on outdoors for ruminants --

VOICES: Pasture.

MR. CARTER: -- pasture -- excuse me -- pasture for ruminants.

MR. LOCKERETZ: We'll vote on more specification...
and more interpretation and more details to interpret what's
already in the rule. It wasn't challenging what the rule
was putting out, just some of the details.

VOICE: They're clarifications.

MR. MATHEWS: Willie, we'll post that onto the
Web as a clarifying document for you. Okay?

MR. LOCKERETZ: What is the status of a
clarifying document as far as certifiers?

MR. MATHEWS: It's a recommendation.

MR. LOCKERETZ: Not a requirement?

MR. MATHEWS: What you -- you did not recommend
that we change the regulations. You recommended how the
regulation is interpreted. We can provide that to the
certifying agents as guidance.

MR. LOCKERETZ: Does that mean that --

MR. CARTER: Okay. Willie, just --

MR. LOCKERETZ: Does that mean the NOP accepts
this pasture recommendation, if they call it a clarifying
whatever it was?

MR. MATHEWS: I'd have to go back and reread it.

MR. SIEMON: And this does go back to when -- at
one time the goal was to develop a manual, and this is the
kind of work that we were going towards. And that seems to
be not the process we're in now.

So some of this is, we were just trying to help
get a clarification of what -- like the pasture is real
clear. It just says very little in there, and we were
trying to bring more to it.

MR. LOCKERETZ: I still haven't heard the answer
to my question, which is, what happened to that
recommendation?

MR. CARTER: The answer is that it will be
posted. It's still being considered.

MR. LOCKERETZ: Being considered or posted as
a --

MR. SIEMON: He just said he posted it, but he
wants to read it, I think is what I heard.

MR. LOCKERETZ: Posted for informational purposes
or posted for comment, which we've got plenty of already, or
posted --

MR. SIEMON: We've already got comment.

MR. CARTER: Okay. Posted for information and
guidance, Willie. I mean, you can interpret in the answer
here --

MR. LOCKERETZ: Well, the recommendation was a
requirement for pasture. It wasn't a suggestion, it
wasn't --

MR. CARTER: That's in the rule, Willie.

We're going to move on to --

MR. SIEMON: Okay. That's all that we have for
vote. We do have a whole material process we're going through now identifying prioritization for materials to be reviewed, livestock materials reviewed, by the September meeting.

And we are working on something to do with the same issue with medications like we have in the feed additives about the excipients and the incidentals and trying to see if there's a way to deal with that as a category, as well.

So that's all we have on livestock.

MR. CARTER: Okay. Discussion on the report. Jim?

MR. RIDDLE: Yes. Just a suggestion, Mr. Chair. I'd like to get this in the minutes, to add to our work order for the Policy Task Force, is to have some guidance or guidelines on how to draft a recommendation to submit a recommendation in the form/format that is useful to the program, to include an introduction, the rationale, some projected impacts, and the actual draft language itself.

So maybe Goldie, if you can add that to the list you were keeping yesterday that we're going to come back to. And then we can work with the staff on some guidance for drafting recommendations.

MR. MATHEWS: Jim --

MR. CARTER: Okay.
MR. MATHEWS: Jim, this is exactly what we were talking about in our meeting yesterday on the policy manual, that Barbara and I both said that following this meeting we will provide you with a document for inclusion into the policy manual that addresses how to put forth and what should be in the recommendation to the Secretary.

MR. CARTER: Okay.

MR. RIDDLE: So it's in the minutes now.

MR. CARTER: Right.

MR. RIDDLE: Okay.

MR. CARTER: All right. Anything else on the Livestock Committee?

(No response.)

MR. CARTER: Okay. We're going to take a brief break here while Kim sets up for the materials. So this is ten minutes.

(Whereupon, a short recess was taken.)

MS. BURTON: For those of you who are new, who have never seen this, it should be very informative, for those people who have been to the NOSB meetings in the past. This flow chart represents the materials review process that we go through with petitions all the way through completion of a TAP review.

It's a document that we put together to help keep us kind of on time and in line with what responsibilities
each person or each committee has along the review process line.

    Petitions are received by the NOP office. They are reviewed to make sure that they are complete and that all of the criteria and questions are answered that are required according to the petition review process.

    The NOP office then FedEx's a copy to me, the Chair of the Materials Committee, where I take a look at it and somewhat put it through the same process that the NOP staff has done. Does it meet all the criteria? Does it meet the petition requirements?

    From there I take that copy and run to Kinko's very fast and get a couple of additional copies made. Then I FedEx a copy of that to the chair of each committee.

    So within three weeks of a petition being received, the committee chair, along with the Materials chair and the NOP office, has a copy of the petition that has been submitted by the petitioners.

    If for some reason your petition is not complete, the NOP office will send it back to you with a letter of incomplete and tell you the areas that you have to address to resubmit it.

    As soon as the petition is also received, within 30 days they should -- they have a site on their Web site that it actually gives the current status of all the
petitions, when it was received, who it was received by, what it was petitioned for, that sort of thing.

The committee chair, along with myself, the committee chair will take the petition to his committee, his or her committee. They will determine whether or not that petition should be forwarded for a TAP review.

So again you've got another entity, the third entity, actually going through the petition to make sure that it should be forwarded for a TAP review.

They get back to me and say, Okay, let's go for it. And then we designate a contractor to review the material.

So then I take that other copy that I had done at Kinko's and FedEx it to our contractors, requesting a formal TAP be completed.

They have up to 30 days prior to a NOSB meeting to complete a TAP review. That was a two-week time frame, and we just did not have enough time, obviously, to review materials two weeks prior to meetings. So we did ask that 30 days prior to a meeting we receive a completed TAP review from our petitioners.

Also at that 30-day time period, the NOSB has to publish the agenda of what materials are going to be reviewed at that upcoming NOSB meeting. If all goes well, also that lucky 30 day the TAP review should be posted on
the NOP Web site.

   Obviously it's not a perfect system. It's vastly improved, I would say, even over the last couple meetings. But there's times when we just don't get them on time, they don't get posted on time, and they don't get onto the Web site on time. But that's the petition process.

   Comments or questions on that from anyone? I'll open it up to -- okay. Zea?

   MR. CARTER: Zea?

   MS. SONNABEND: A few things --

   MR. CARTER: You have to go to the mic.

   MS. SONNABEND: Oh. A few things have made it to TAP reviews that I wouldn't have passed on if I was the NOSB, like natural products that don't need to be added to the national list and things that the petition was really incomplete about justification.

   So is it just because you don't have enough petitions that you're sending everything along, or are you still working on your screening process?

   MS. BURTON: I would say we're still working on our screening process. And part of it is, you know, you've got new Board members, and this is a new process. So there's been a handful that have gone through, not a lot. And that is greatly improving.

   And I'm actually going to be making a
recommendation here in a few minutes on the processing area for non-organic agricultural. So we're not wasting a lot of our time and effort on TAP reviews or petitions.

Okay. What I'm going to show you next is the list of materials that we're going to review at this meeting. It shouldn't be new to anybody, or at least these materials will be -- recommendations will come forth from the designated committee for review.

Calcium oxide; calcium hydroxide; potassium sorbate; sodium propionate; sodium nitrate; Spinosad; diethylaminoethanol; glycerol monoleate; gelatin; dewaxed flake shellak; calcium stearate; and then, Konjac flour was a petition that we're going to discuss through the Materials Committee.

Okay. Upcoming materials. These materials have been petitioned. Some of them have been pushed through the TAP review process, some of them haven't.

This is the livestock priority materials. The Livestock Committee submitted a list of materials that had a high priority, that were essential to get reviewed in the next meeting.

I've been working with a couple of people on this Livestock Committee to prioritize them, and this is the order of priority that we have set forth.

In other words, the contractor is going to start
working on propylene glycol first. Mineral oil, that's one
that we have to look at; I have not submitted that for a TAP
review.

VOICE: But these have been petitioned?

MS. BURTON: These have all been petitioned.

VOICE: By the Livestock Committee or --

MS. BURTON: Yes. By the Livestock Committee.

Yes. So they are a work in progress.

All right. That was just livestock materials.

Crops and processing materials --

MS. ROSEN: That list is different than the one
that was on the Web. Correct?

MS. BURTON: Yes. There's a couple of additions.

Yes.

So we've got eight materials for Crops and
Livestock -- I mean, Crops and Processing.

MS. SONNABEND: And how were these developed?

MS. BURTON: Petitions were submitted.

MS. SONNABEND: But not by the committee, by --

MS. BURTON: No.

MS. SONNABEND: -- outside --

MS. BURTON: By outside.

Right now we're looking at 29 materials for our
September meeting. If we're alive after that, it will be
amazing. So we're looking at potentially 29 or a few more.
We've got just probably three to four reserves left for TAP reviews in our contracts with our current contractors. So we're going to run out of money here really quick on TAP reviews.

So if you have not submitted petitions, I suggest you do it within the next week. Otherwise, we cannot guarantee that your petition will be reviewed.

MS. SONNABEND: And so are you letting the other committees submit petitions on their own, like Crops Committee can file a petition?

MS. BURTON: Yes.

MS. SONNABEND: And they don't have to fill out [inaudible]?

MS. BURTON: Do you want to talk about that?

MR. CARTER: Yes. Let's talk about the abbreviated --

MS. BURTON: Okay. There is a -- I'll talk to you about it as much as I know. There is a revised petition process, though I'm not sure it's posted on the Web site yet.

What we've found is the petition process was very tedious and cumbersome, especially for some of the farmers who were trying to actually do research for some of the requirements to submit a petition.

What we did was, we went through the statement of
work that we submitted to the contractors and deleted some of the information that was repetitive. In other words, CASS [phonetic] numbers or the chemical makeup, some of the more technical information that we require from the TAP contractors but that we were also requiring from the petitioner.

So we did that so that hopefully we could make it a little bit easier and speed up the process so that we didn't have this train wreck coming, so to speak.

MR. MATHEWS: Just a minor correction to that, Kim, is that --

MS. BURTON: Okay.

MR. MATHEWS: It's just the language.

MS. BURTON: That's fine.

MR. MATHEWS: I'm real picky on language lately. It's not that we've dropped any requirements. What we are doing is, we are changing the requirements to recommended additional information.

All of the things that were listed as needed to be in a petition are still listed. It's just that we've changed the nature of whether it has to come in or it can come in or not.

MS. BURTON: Optional.

MR. MATHEWS: It becomes optional additional information that would still be looked at by the TAP
reviewers, and they have agreed to this process.

MS. SONNABEND: Where --

MS. BURTON: Zea was asking where they can get a copy of the abbreviated petition process.

MR. MATHEWS: We're going to make that available.

MS. SONNABEND: If we have a week --

MR. CARTER: Zea, you need to go to the mic here, because you're --

MS. BURTON: She said if it's a week -- hopefully it's very soon.

MR. CARTER: Okay.

MS. BURTON: All right. We have one recommendation from -- actually, it's a recommendation in conjunction from the Materials and the Processing Committees. We worked together somewhat on this.

If you have a copy of the national list or the NOP final rule, I suggest you turn to Section 205.606.

Okay. There's been quite a bit of confusion amongst the handlers and processing groups with relation to Section 205.606.

As it currently stands -- I'm going to read this verbatim for the Board, because a lot of them haven't seen this document yet.

As it currently stands, Section 205.606 serves as a list of non-organically produced agricultural products.
that may be used when a product is not commercially available in organic form.

When OFPA was written, the Act never intended to require a list of non-organic produced agricultural products, let alone of non-commercially available materials.

The only two categories required for the list were synthetic substances permitted and natural non-synthetic substances prohibited.

The format for Crops and Livestock followed this outline, but somewhere handling went astray.

Additionally, OFPA clearly allows for an exemption of materials used in handling that are non-synthetic but not organically produced.

Below is the exact OFPA language, and I'm not going to read that, the Board can do it.

What is the confusion? The organic handling industry is starting to rely on Section 205.606 as a list of non-commercially available non-organic agricultural materials.

Specifically the NOP has already had one petition requesting the removal of a material under 205.606 because it may or may not be commercially available and several petitions requesting an addition to 205.606.

Unless this is fixed, we are going to create an ongoing problem in material review for the NOSB, not to
mention a waste of our money reserves from our TAP review contracts.

The NOSB Materials and Processing Committees recommend that there be a rewording of 205.606 as described below.

And what I have provided for the Board is, you'll see where we striked out the language that we're recommending be removed, and then underlined some of the language that we're recommending be added.

205.606, Non-organically produced agricultural products allowed in or on processed products labeled as organic or made with organic, any non-organic produced agricultural products may be used in or on processed products labeled as organic or made with organic, specific ingredients or food groups only in accordance with any restrictions specified in this Section and when the product is not commercially available in organic form.

And then, what we are recommending is that there's five materials on this list currently, that we just delete those from the list.

The materials that are currently under 205.606 should be deleted off the national list. It is the NOSB Processing Committee -- and that should be -- and Materials Committee's finding that they are non-organic agricultural products and should be recognized as such.
A guidance document for materials identified under the non-organic agricultural category should be developed out of the scope of the national list.

Conclusion: Clarification of 205.606 will follow the OFPA intent to allow for the exemption of non-organically produced agricultural products on the national list unless this material is reviewed and determined to fall under 205.605.

MR. CARTER: Okay.

MS. BURTON: Okay.

MR. CARTER: For some reason we're down to only one mic working at a time here.

Is there discussion on this document?

Yes. Jim?

MR. RIDDLE: Yes. I agree with and support the document. And one reason is not mentioned here, and I did think it had gotten into the draft.

MS. BURTON: I'm kind of editing it this morning -- or this afternoon.

MR. RIDDLE: Okay. And then, that is that, by maintaining a list of materials that are not commercially available in an organic form, it suppresses the development of those materials from organic sources. And I'd like to get that language back in here as part of the justification or rationale.
And then, also, I thought in the last paragraph right above the conclusion that we had a statement in there about the need of a guidance document on commercial availability to help provide clarification, as well.

And I understand that is something that the NOP has, you know, received public comment on, it was in the Federal Register notice, and has done some work on. And I think that would go along way to help with the situation, as well.

So I'd just like to add both of those things.

MS. BURTON: Okay. I'll get those corrected for tomorrow morning.

MR. CARTER: Rose?

MS. KOENIG: I guess I'm getting to be like Willie and trying to figure out what I'm voting on.

Is this a clarification statement, or is it a rule change, or is it just -- how is this going to be handled, Rick? Because I'd like to get just clarity on some of these issues so that they don't reappear.

MR. MATHEWS: We would take this if it's approved and recommended by the Board and implement rule making to fix 606.

We are the first to acknowledge that 606 doesn't work very well and wasn't very well written.

MS. KOENIG: So as in any rule making, 18 months,

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you're saying, before that would occur?

    MR. MATHEWS: No. We would include this piece or
     at least to include this piece. It all depends on what the
     lawyers tell us. But the intent would be to include it in
     that rule that I've talked having out before October 21.

    MS. KOENIG: So that's that interim rule that you
     were talking about?

    MR. MATHEWS: Yes. It's the interim rule for
     amending the national list. And this would be an amendment
     to the national list.

    MS. KOENIG: All right. Again just a
     clarification for myself in terms of the process, because I
     seem to always have some kind of ignorance to that.

     There were other things that we have mentioned or
     even stuff in Livestock's, I know probably not in the right
     form that you would like it, that look like they're also
     potential rule changes or modifications. Could those also
     go into that interim report?

     And then, what time period are we talking about?
     Because it seems like there's different levels of how
     things are quickly or not quickly going to be pushed
     through.

    MR. MATHEWS: The short answer is no. The reason
     for that is that what we're talking about with the docket
     that I've said is an interim final rule is only for
materials, and this involves materials.

The attorneys have told us that, because when it comes to materials the Board makes the recommendation and we just kind of serve as a pass-through to the public, then, we can go ahead and in the short term, because of the October 21 deadline, go ahead and do materials on an interim rule basis.

The other items would have to go through the full proposed rule/final rule process. Even the interim final rule has a comment period.

MS. KOENIG: Okay. So any rule changing that might have to deal with materials or materials issues. Thanks for the clarification.

MR. CARTER: Okay. Any other discussion on this particular document?

(No audible response.)

MR. CARTER: Okay.

MR. BANDELE: I had a question.

MR. CARTER: Yes. Owusu?

MR. BANDELE: In this context, I know, for example, we're talking about crop material, even though it says non-organically produced, there are some restrictions in terms of prohibited substances, Kim.

So how does that play with this recommendation in terms of processing?
MS. BURTON: I would assume that how this would work was that if there was a non-organic agricultural item out there that somebody wanted to petition to have restrictions or restricted use that they would petition it as such, and then we would put it under 605. Does that make sense to you?

So any non-organic agricultural product that's not commercially available would be allowed unless somebody has petitioned it or unless it is specifically on 605 for restricted use.

MR. BANDELE: Still I see a difference there in terms of, you know, like as far as the crop is concerned, even though it's non-organic, prohibited substances cannot be used to produce that crop. So that would probably mean maybe synthetic fertilizers could but prohibited substances could not.

Whereas this implies to me that in this particular situation those prohibited substances could be used and the product could still be called organic. Am I misinterpreting?

MS. BURTON: If you read, there would be an opening to it, and it would have to be in accordance with any restrictions specified in this section, and that would be the prohibited substances, no GMOs, ion exchange, or whatever the third one is -- my brain is dead -- sewage.
sludge.

That still doesn't answer your question?

MR. BANDELE: No.

MS. KOENIG: Well, I think Owusu is alluding to an issue that we're going to bring up in Crops, just as a point of clarification. Correct?

MR. BANDELE: Yes.

MS. KOENIG: I think we can just deal with it then.

MR. CARTER: Okay. Anything else on materials?

(No audible response.)

MR. CARTER: Okay. Then, let's move on to processing. Mark?

MR. KING: Yes. We have three items. First I'll hand out some copies here. This is a two-page document, so take one of each.

Essentially what this is from the Processing Committee is a handling operation ingredient affidavit. If you think about Section 601 through 606 in the rule as being allowed and prohibited substances, what we've heard and seen really is that members of the organic community have expressed a need for guidance concerning the documentation of ingredients.

So with that in mind, specifically what we're talking about would be documentation that ensures
ingredients have been produced and handled according to annotation.

So the design of this particular affidavit really is to assist handlers in documenting that finished materials are produced and handled only in accordance with any restrictions specified in this section, and this section referring to the appropriate section, 601 through 606, depending on where that ingredient would fall.

So it will be the Processing Committee's recommendation that the following ingredient affidavit template just simply be submitted to the National Organic Program as a guidance document for handling operations.

Therefore, it would be posted on the Web site and offered as a guidance document. And certainly people could comment at that time for, you know, certain improvements, so on and so forth, so just to forward it as a guidance document.

Kim?

MS. BURTON: The inception of this document actually came into play with members of the community in the organic industry, where there was a group of about five or six people that actually drafted this document and submitted it to the Processing Committee and Materials Committee.

MR. KING: Questions, discussion?

(No audible response.)
MR. KING: Seeing none, next item. The next up is something that's been on the Web and certainly in development for quite some time, and that's concerning guidelines for determining what processing technologies require a petition that would be reviewed by the National Organic Standards Board.

And we've had many comments on this. And I will state to you at this time that we have worked very diligently, I think, as a committee in the last few months and certainly in the last few weeks to move this document along.

However, we feel as a committee, and certainly we've heard this strongly from the industry, that this is a very important document. So we will be recommending that this be deferred for further comment until the September meeting.

And what I'd like to do at this time, Steve, if you don't mind, since you've done the bulk of the work on this particular document, to provide us with some history and a little bit of clarity as to what we'll be doing.

MR. HARPER: I'll just give you a little bit of history for new members on the Board.

The NOSB Processing Committee felt that there was a need for clarification of 205.270, which basically talks about allowing mechanical and biological processes to expand...
on that section as far as clarification for the organic community, certifiers, processors, and others in regards to whether there are processes that clearly are not allowable in organic beyond irradiation.

    I think irradiation is the only thing that's prohibited at the present time.

    And also trying to address any novel, new processes that come down in the future, and trying to maintain the intent with the OFPA.

    And so what we did is, this was put out. Input was requested about a year ago. And based on that input, we put together an initial set of guidelines, and that was posted on the Web since last fall, and then, since last -- let's see -- not since last fall -- yes -- since last fall.

    And since that time, then, we've received quite a bit of other comment from OMRI, OTA, and others regarding those guidelines.

    And so the current guidelines that you see in front of you are the culmination of all those comments put together by the Processing Committee.

    Basically what this is is trying to clarify the distinction between what is clearly sort of a process issue versus a material issue.

    And so the guidelines, if you go down through here, will be trying to clarify that, for example, there has
been discussion about ion exchange. Is that --

    MS. KOENIG: I don't have a copy of the
guidelines. The copies you made?

    MR. HARPER: Oh. I didn't make -- okay. I
thought you had copies of this.

    MS. KOENIG: No.

    MR. HARPER: I'm sorry. You don't have that?

Okay. I'm sorry.

    VOICE: Which are you referring to, Steve?

    MR. HARPER: Okay. I'll have to make copies of
all this.

    MR. CARTER: If we can take just a brief break.

    MR. HARPER: I'm sorry.

    MR. CARTER: If you'll turn your microphone off,
apparently we've got to reboot the system.

    (Pause.)

    MR. HARPER: I'll go make copies of these, then.

    I didn't realize that you needed copies. I thought --

    MR. CARTER: Okay.

    MR. HARPER: Okay. Miscommunication.

    MS. KOENIG: If you want to summarize, that's
fine. But you were kind of talking and having us --

    MR. HARPER: Right. I thought that you had
copies in front of you, and I apologize.

    But just to finish up, because I think I can
finish and then make the copies and pass that out to you.

As a summary, it's trying to clarify a process from a material issue so that it's strictly understood that materials need to be petitioned even though they're part of a process.

Such as, for example, just quickly, ion exchange, there has been some discussion of that indicating that maybe the process is acceptable, but clearly the materials -- synthetic materials that are used in there that come in contact with organic materials need to be petitioned for review. And it's a clarification on that.

So I will make copies and pass it out to everybody.

MR. CARTER: Okay. Jim?

MR. RIDDLE: Yes. And I don't know if it's clear to everyone, but the committee's intent is to post this for another round of comment.

MR. HARPER: Correct.

MR. RIDDLE: Yes.

MS. KOENIG: So again, is it a document of clarification, or are you seeking a rule change?

MR. HARPER: This is not a rule change. This is a interpretation -- clarification document being given to the NOP as suggested guidance.

MS. CAUGHLAN: This would also become part of the

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policy handbook as a guidance under materials and under processing.

MR. CARTER: All right. Anything else, Mark?

MR. KING: Yes. One more item. The last item is another document, which we will get you copies of, which is an organic handling plan.

And how this document really came about is that a lot of the certifying agents and handling operations in the industry expressed a need for guidance concerning just production and handling requirements in general.

So in an effort to meet those needs, the guidance documents have really been developed in this case to assist the certification and/or handling operations in this case.

So the recommendation would be --

VOICE: Do you have copies?

MR. KING: -- I will hand out copies later, yes -- an organic handling plan, which is a template here.

The recommendation would be, the Processing Committee recommends this organic handling plan be forwarded to the National Organic Program for posting on the National Organic Standards Board page of the National Organic Program Web Site as a guidance document for the certification of organic handling operations.

And we will vote to forward that tomorrow. We'll provide you with copies so you can look at it prior to that.
Willie?

MR. CARTER: Willie?

MR. LOCKERETZ: Yes. Could you explain that guidance document? Does that mean a recommendation to certifiers or a mandate on certifiers or what? Because I mean, we've heard a lot today.

MR. KING: Well, it's my understanding a guidance document is just that, to provide further guidance to that particular segment of the industry that you would be addressing.

And in this case, you know, if you want to use this example -- and Richard, if you want to chime in here as well, that's great -- it's simply to provide additional guidance in this case to handlers. It's a template so that they can fill it out and have a better understanding of the language that's in the rule.

MR. CARTER: Okay. Owusu?

MR. BANDELE: Yes. I had the same concern that Willie in terms of that. Does that mean, as far as the guidance document is concerned, that, in other words, we make a recommendation to NOP? Does NOP --

I understand that the guidance document would not have the same effect as the rule, so to speak. But does that mean that the NOP will endorse and encourage adoption of the guidance documents that are put forth on the NOSB Web
MR. CARTER: Okay. Rick?

MR. MATHEWS: The guidance document is just that, guidance.

Now, what Mark was holding up a few moments ago is essentially a form that this Board would say, In order to comply with the National Organics standard for this particular situation, we suggest that you use this document as a means of complying with that requirement.

If that handler wanted to use something else, they are free to use something else. The bottom line is, they still have to be able to demonstrate that they are complying with the standard.

MR. CARTER: Okay. Rose?

MS. KOENIG: I just have a question, and it's related to this, but it's a little far reaching.

There was also the check sheet tools that I think were already submitted by ATTRA that both NOP supported and the National SARE Program supported.

This seems -- you know, that project and these types of guidance tools all seem to fit into the same kind of package.

So my question is (a) what's the status of the ATTRA Project that has these similar tools? And then, (b) what is your strategy as far as, how do you see these tools
being, you know, used and provided, not only via the Web site, but, you know, as outreach tools to farmers? Because not every farmer is using the Web.

MR. MATHEWS: We have reviewed both portions of the contract document for guidance to producers, the Crops and Livestock. And we will be completing our initial round of work on that shortly after this meeting.

We've already put that in writing to the people at ATTRA telling them that we would give them our reaction to the documents and ask them to make the changes that we are suggesting.

Once this entire process is complete, it will be documents that are provided to certifying agents. It will also be published on the Web site for everyone to see.

And again, it's all guidance. And the guidance is provided for the purpose of helping people understand how they can comply with the requirements.

Sometimes that guidance, in the example of Mark's, just to reiterate what I said before, if they can create their own form to solve the same problem, they're more than welcome to do so.

MR. CARTER: Okay. Other comments, questions?

(No response.)

MR. CARTER: Okay. Thanks, Mark.

Okay. Crops.
MR. BANDELE: We have several items on the floor for this afternoon. I'm going to start off with the one that actually took the most time, and in some ways, although not in all, was most controversial, and that is with the Composting Task Force that Eric Sideman shared. And I'm going to ask him to come and present that.

MR. SIDEMAN: So once again, I'm Eric Sideman, and I was an NOSB member till a couple of weeks ago. And at the last NOSB meeting, I was appointed by the Crop Committee to chair the Compost Task Force.

So a little bit about the Compost Task Force. I think almost everybody in this room is aware that one of the big problems in the rule that farmers noted right away when the final rule came out was composting, because the parameters that are mandated in the rule for making compost were quite narrow, and they actually made it so on-farm composting would almost impossible for most farms as we know them.

And the points in that were essentially pointed out, or carefully pointed out in many comments, that the carbon to nitrogen ratio was too narrow and that the turning requirements of the pile, at five times in the first 15 days, was much too prescriptive.

So essentially the task force was created to come up with a alternative approach to handling compost, on-farm
especially.

I want to start by introducing the members of the Compost Task Force. And I was chair of the task force, appointed by the Crop Committee.

Dr. Clive Edwards from Ohio State University was appointed to the task force as the vermicompost expert.

We tried to cover all the different areas that we needed to cover through the work of the task force.

Rosie was on the task force as an NOSB member and a farmer.

Kim Kroll, who is in the USDA SARE office, was put on the task force as the sustainable agriculture expert.

Zea Sonnabend was put on the task force as the materials expert.

Dr. Fred Magdoff was put on the Compost Task Force. He's a soil scientist at the University of Vermont, and his specialty is management of organic matter in soils, and he was put on the task force for that expertise.

Dr. Will Brinton, who owns and operates Woods End Laboratory in Mount Vernon, Maine, is a world-renowned compost expert, and obviously we needed a compost expert on the task force.

Dr. Michael Doyle was put on the task force from Georgia. He is a food scientist, microbiologist, and we wanted that kind of expertise in our work.
Dr. Patricia Millner, who works at the USDA agricultural research station in Beltsville, Maryland, is an expert on microbiology and composting and the reduction of pathogenic microbes by the composting process, and she was put on the task force for that expertise.

And Owusu, who is Chair of the Crop Committee, was put on the task force as an NOSB member and a farmer.

The second thing I want to do is acknowledge the support we got from the National Organic Program. Rick Mathews and Barbara Robinson and Mark Keating offered great support to the task force and were part of all of our emails and our initial conversations and got the task force rolling in what ended up to be what I consider to be the correct direction.

The starting point we made was that there are two approaches to take. And one of them was the long-term approach, which would be to change the rule. And we felt that that was going to be much too cumbersome and take much too much time.

And although we recommend that in the task force report, the second approach, which is the short-term approach, is what we spent most of our time on, I would say all of our time.

Next I want to point out that one member of the task force did not sign off on the report. Michael Doyle
from Georgia, the microbiologist, felt, and stated it a number of times, that he thought the goal of composting would be to eliminate pathogens.

And the rest of the task force was happy to accept reducing pathogens to a safe level as the goal of composting.

And based on that particular goal and the outcome of the task force report, Michael Doyle declined to sign off.

The other nine members of the task force all did sign off on the final report and recommend that to the NOSB, which would make it a recommendation to the NOP.

The starting point that we made was looking at the Section of the rule 205.203(c), which is the fertility and crop nutrient section of the rule.

And in this section -- I'll paraphrase -- it essentially says that producers must manage plant and animal materials in a manner that will improve the soil organic matter and in a manner that does not contribute to the contamination of crops, soil, or water with plants, nutrients, pathogenic organisms, heavy metals, or residues of prohibited substances.

And then it goes on to say that animal and plant materials include -- and it has three categories -- raw manure; composted plant and animal materials produced
through a process that, and that's the section that we had to work with; and the third category of materials was uncomposted plant material.

And the starting point for the task force was that, when you read this section, it says that the plant and animal materials that are going to be used for soil amendments may include, but it doesn't say are limited to.

And that was our starting point, that we took that point that it doesn't limit it to those materials mentioned in the rules. And the task force went on to characterize some other materials that may fit the heading of 205.203.

And so the task force went ahead and came up with a number of other materials that could fit under that section.

We're going to make that recommendation to the NOP. Hopefully it gets voted on and approved at this meeting.

And then we are going to develop guidelines to certifiers, that it's going to be the certifier who is actually responsible for evaluating the practices on the farm and determining whether they meet the criteria of 205.203.

And so the certifier would use the farm plan and the records, field histories and the records of the kind of
compost practices occurring on the farm, and working with that farm plan and those records, evaluate whether the practices and materials on the farm meet the standard.

The Compost Task Force then went ahead and identified four other materials that we felt met the criteria in that paragraph. And the first one was compost. And we felt that there are other ways of making compost that could fit that paragraph. And we came up with these short guidelines:

Number 1: That it's made from permitted materials, plant and/or animal, except for incidental residues that will not lead to soil contamination.

And then, 2: That the compost much achieve a minimum temperature of 131 degrees, 55 Centigrade, and remain for three days.

And then, that within the farm plan and on the composting records, demonstration that all of the feed stock in the compost pile heats up to that temperature.

Certifiers, using their expertise, can demonstrate that the compost made in such a fashion meets the paragraph 205.203 by looking at the source of the material, the feed stock used to create the compost pile; the records of the date the compost pile was started and when it was determined to be finished; the dates and the temperature records, the rise and fall of temperature.
And then, also the certifiers may look at other records such as carbon to nitrogen ratio, volume reduction in the pile, carbon dioxide emission from the pile, O2 consumption from the pile, and nutrient stability of the pile as deemed necessary by the certifier.

The second material that the Compost Task Force puts forth as acceptable under 205.203 is compost teas. And we wrote guidelines in there that essentially say that, if used on crops that are going to be harvested in less than 120 days from the application of the compost tea has to be prepared from a high quality compost that was made as described above and that no supplemental nutrients such as sugars and molasses are added to the compost tea preparation during approving stage.

The third material that the Compost Task Force looked that we thought could be acceptable under 205.203 was vermicompost.

Clive Edwards reported to the Compost Task Force that vermicomposting practices do reduce the pathogens in the compost pile, and he gave us guidelines for vermicomposting that would achieve that pathogen reduction. And we outlined those in the Compost Task Force report.

They include regular addition of organic matter to the vermicompost pile, avoiding temperatures higher than 95 degrees Centigrade, and moisture maintained between 70
and 90 percent. And he also gave time periods required for the vermicomposting to take place.

And the fourth material that the Compost Task Force recommends that could fit under the guidelines of 205.203(c) is processed manures. These are manures processed in another fashion other than composting. And these processes that we outline are going to accomplish the same killing of the pathogens.

And we came up with a very simple guideline of heating the manure to 150 degrees, maintaining that temperature for at least one hour, and then drying it down to 12 percent or lower.

We have some recommendations for changes in that processed manure section. One of them is that we take out the word, frozen.

If you look at your copy of that compost recommendation in that processed manure section right at the back where it gives the temperature guideline and the moisture guideline, it also says, Or frozen. That should come out.

And we'd like to add, Or test for pathogens, because as we heard in testimony this morning, there are some processed manures that are heated up to a higher temperature for a shorter duration that may achieve the same pathogen reduction, and so we would like to slip that in.
One other change that we would like to make to the Compost Task Force report that the Crop Committee has already accepted is a list of definitions, and those were circulated to the NOP office and to the Crop Committee.

So what is the next step? The next step would be the development of a practice standard.

A number of the members of the Compost Task Force have agreed to work on developing a simple and concise practice standard that would be made available to certifiers that would outline the high points of this Task Force report.

And that subcommittee of the task force would be me, Zea, Pat Millner from the ARS Lab, and Will Brinton from the Woods End Laboratory in Maine.

And are there any questions?

MR. CARTER: Who is in charge?

MR. RIDDLE: Owusu, you're in charge, I think, so you should do the calling.

MR. BANDELE: Okay. Before so, I have a few of my own, Eric.

A couple of the points that were really contentious would be, number one, the number of turns required, and also you mentioned the rather restrictive C to N ratio. So where in the document is that addressed?

In other words, under the recommendations here,
would farmers still have to deal with those practices?

MR. SIDEMAN: No, they wouldn't. Actually, we felt on the Compost Task Force that those practices essentially were put into the rule to assure that the pile would heat up.

And we felt that the temperature records are going to do the same thing as balancing the carbon to nitrogen ratio or the number of turnings to make sure it's aerated and well mixed.

And so we felt if the composter had records of the temperature and the certifier responsible for evaluating those records in the farm plan how pathogens would be reduced, then those parameters would not be necessary to even mention.

MR. BANDELE: But if the rule is not changed, though, then how --

MR. SIDEMAN: But the way we come about that is what I said in the beginning, is that that kind of composting that is described in the rule is one way of making compost that's accepted. What we've done in our Compost Task Force report is another way that would be accepted to make compost.

MR. BANDELE: All right. Willie?

MR. LOCKERETZ: I have a question. This standard for compost seems to be a performance standard or results
standard, where the compost has to have achieved a certain state before it could be used, or is it something where at the beginning of the season the certifier could look at the intended plan for managing compost and say, That's plausibly acceptable?

MR. SIDEMAN: I think you're both right. I think what would happen is the certifier would look at the farm plan and determine from the farm plan how the farmer or compost maker plans to make their compost. But during site visits they would be evaluating whether that really occurred and looking at temperature records.

MR. LOCKERETZ: And who would be doing these measurements about ammonia/nitrate ratio and --

MR. SIDEMAN: Those are not required. Those are in the report as details of what certifiers could look at if they suspected some kind of a problem, but that wouldn't be required on every facility.

If the certifier was satisfied that the compost was making the temperature and they felt that the pathogens were being reduced because of the ability of the compost to be well mixed and heated evenly, then they wouldn't need to look at those other parameters.

MR. LOCKERETZ: So the temperature is the main thing to go on?

MR. SIDEMAN: The temperature is the main
thing --

MR. LOCKERETZ: And taking a look?

MR. SIDEMAN: That's right. And then, the other parameters that are mentioned in our Compost Task Force report are items that the certifier may want to use for evaluation of the material.

MR. CARTER: Jim, then Rose.

MR. RIDDLE: Yes. I have a couple questions. In both the processed manure section, and then, also, the first, the compost section, it really addresses pathogens very well, but it doesn't address residues of prohibited materials and heavy metals.

MR. SIDEMAN: That's a good point. In the processed manure section, it's not addressed at all. That's an interesting point. And I guess it goes back to the fact that manure is allowed by the rule from any source, and residues in manures have been ignored. The problem in compost is that there are other feed stock that may be carrying residues.

There is a sentence in the compost section that does address it that's one sentence, and I can see how you missed it. But it essentially says that the sources of the feed stock would be evaluated for contamination. I could find it -- I don't have it in front of me.

MR. RIDDLE: Well, and the general requirement in
the rule that the fertility management system must not
contaminate crops, soil, or water with prohibited materials,
heavy metals, pathogens, et cetera still takes precedence.

MR. SIDEMAN: That's right. 205.203 is the
section that you're going to be looking at, and that takes
precedence.

So no matter how the compost is made, if it is
carrying something that's carrying a residue that would
contaminate the soil, it would be prohibited because of the
introductory paragraph.

MR. RIDDLE: Yes. There is evidence of processed
manure leading to accumulation of copper and zinc on organic
farms.

MR. SIDEMAN: Right. But that would come if it
were unprocessed manure, too --

MR. RIDDLE: Right.

MS. SONNABEND: -- because the processing
doesn't add anything to the manure. That would be an
issue -- that would be a different task force.

(General laughter.)

VOICE: The heavy metal group.

MS. KOENIG: Just a couple clarifications. You
said that a smaller group would write a standard. Are you
saying rule change when you say standard?

MR. SIDEMAN: No. This would be a practice
standard. It would be a memorandum or a policy scope paper
distributed to certifiers as how they would be interpreting
the rule as written.

We determined at the end that there doesn't need
to be a rule change. The way 205.203(c) is written, it
says, Includes, it doesn't say, And limited to, that we
could add these other materials and make it clear to
certifiers that these are four other materials that would be
considered acceptable under that introductory paragraph.

MS. KOENIG: The other I guess recommendation,
then, if you're -- you may want to talk to the ATTRA
group -- I mean, they're doing check sheets for growers --
just maybe in this initial process to see if some of that
information could be combined in that paperwork, so not only
are you providing information for the certifiers, but also
making sure that their information going to farmers, any of
it that might deal with that compost issue, would be
covered.

MR. SIDEMAN: Okay. That's a good suggestion.

MR. BANDELE: Jim -- oh. Rick -- I'm sorry --
and then Jim.

MR. MATHEWS: Eric, in the sentence where you
wanted to remove, Or frozen, I heard that you then wanted to
insert, Or test for pathogens?

MR. SIDEMAN: That's right.
MR. MATHEWS: I have a problem with that. I don't have a problem with the testing for the pathogens, but I do have a problem that would arise from the sentence structure at that time.

MR. SIDEMAN: Oh. Okay. So let's just slip it into a different sentence. I only quickly thought it would go there because there was an or before it, so it seemed so natural.

MR. MATHEWS: Yes. The sentence, the way it seems to read as originally written, said that you can do it through the high temperature, you can do it through the drying, or you can do it through the freezing.

MR. SIDEMAN: Oh. But it has to be and the drying, high temperature and the drying. Am I right, SARE?

Yes. It's the high temperature and the drying.

MR. MATHEWS: Okay.

MR. SIDEMAN: And so, then, the pathogen testing would be a separate sentence.

MS. KOENIG: I would agree with that. Yes.

MR. MATHEWS: Okay. Then, the sentence just basically needs some rework, and the addition of the testing for pathogens should probably be a separate statement.

MR. SIDEMAN: Zea, are you willing to rework that sentence so they can vote on that tomorrow?

MS. SONNABEND: (No audible response.)
MR. SIDEMAN: Okay. This was actually a -- I
never pointed that out, but this was really a group effort.
Each of us in the task force wrote different sections of
this, and we did a cut and paste job of putting it all
together. I won't identify each section, although I just
did one, didn't I?

(General laughter.)

MR. MATHEWS: I had a couple of other questions,
and that's on the third page, where it has the definition at
the top, in the middle paragraph, where it says about the
approved feed stocks. And it says, Manure and other
residues from animal bodies, including soil invertebrates.
When you reference animal bodies, does that
include carcasses, composted carcasses, or slaughter house
waste?

MR. SIDEMAN: We meant for it to.

MR. MATHEWS: Okay. I just wanted to be clear
that it did.

Then, on the other part, at the top of that same
page, there is the definition of compost. Well, that's not
the definition from the rule.

MR. SIDEMAN: No. That's --

MR. MATHEWS: It's a nice, sensible definition,
though. And it would seem like that could be a
recommendation for a rule change.
MR. SIDEMAN: And I think it could be. But we were not suggesting a rule change. We were just putting it in here as another definition of compost that would be accepted. Just like many words in the English language, they have more than one definition.

(General laughter.)

MR. SIDEMAN: We thought of using the term, the item in your back of the barn that was formerly known as compost, but thought it was too long.

(General laughter.)

MR. MATHEWS: The other compost. Right. Okay. Well, I am a little confused, but I do like this definition.

MR. SIDEMAN: This, by the way, was very close to the original definition that Bryan Baker and I put together in Ontario, California when I first came on the Board.

MR. LOCKERETZ: Eric, this is mostly about on-farm composting. In the case of more brought-in composts, commercial or otherwise, who is responsible, the producer, the supplier of the compost, or the certifier, for knowing that it's okay to use on organic?

MR. SIDEMAN: Well, ultimately it's the producer. But it's going to be the certifier who makes the judgement call and would say whether it's a permitted material or not.

MR. LOCKERETZ: Because the certifier would not have been there with a thermometer or anything.
MR. SIDEMAN: No. And that's an interesting point. We in Maine have agreed that we're not actually going to be reviewing any materials except for locally made composts, because locally made composts are not likely to apply to OMRI for review as a brand.

But the large scale composters who may be selling their composts across state boundaries I would suggest apply to OMRI for review.

MR. BANDELE: Eric, I had a question in terms of the wording with the vermiculture. And it said like processing must be maintained at 70 to 90 percent moisture content with temperature maintained in the range of 18 to 30 degrees Centigrade for good productivity.

And to me that last phrase, good productivity, kind of means that's really not a requirement.

MR. SIDEMAN: That's right.

MR. BANDELE: I may be aiming at fair productivity.

MR. SIDEMAN: Yes. We've discussed that for years as a certifier.

No. You're right. And I think there are a number of things in the task force report that are not requirements. And that's why we felt that this would not be the document that is going to go to certifiers, that we're going to take essentially the high points of this document
that are requirements and submit those as a practice standard to certifiers.

But I actually would not object to that being pulled out, because some people may want to make poor compost.

The problem with making poor compost is then you don't meet another requirement of 205.203(c) automatically in that you're supposed to be adding materials to maintain or improve the fertility and soil organic matter.

You may still use poorly made compost, but then you would have to demonstrate someplace else in your farm plan that you're maintaining the soil fertility and organic matter by another fashion to meet the other requirements in that paragraph.

MR. BANDELE: We've got other issues. We need to move on. I had one further clarification, maybe from Rick.

As far as the compost tea is concerned, it prohibits the use of sweeteners in that process. And I know that --

MR. SIDEMAN: That's right.

MR. BANDELE: -- there is mixed emotion about that situation. But be that as it may, nothing really prevents a grower from tank mixing or applying the molasses simultaneously with the compost tea.

MR. SIDEMAN: But overriding that, it says
molasses is a naturally occurring compound. Wouldn't that have to be placed on the national list in order for that provision to be effective?

MR. SIDEMAN: Not in my understanding. This was beyond the scope of the Compost Task Force. If somebody wanted to spray sugar or molasses on their plants, that's fine. This was only addressing how they are making their compost.

MR. BANDELE: No. I meant if, for example -- will this prevent --

MR. SIDEMAN: No.

MR. BANDELE: -- compost tea people from using the molasses in the process?

MR. SIDEMAN: Only in -- yes. This will prevent them from using it in the process of brewing the compost tea.

MR. BANDELE: Right. But I'm saying would it take adding molasses to the national list to have that effect, Rick?

MR. MATHEWS: You mean the national list of prohibited materials?

MR. BANDELE: Right. Since it is a naturally occurring substance.

MR. SIDEMAN: I see what you're saying. I don't think so, but --
MR. MATHEWS: But that's an interesting question. I don't have an answer.

MR. SIDEMAN: We would put it on the national list it's only prohibited for adding to compost brewing of compost teas? That's up to you guys.

(General laughter.)

MR. MATHEWS: I mean, it's within the realm of possibility if that's what you want to recommend.

MR. SIDEMAN: We didn't recommend it.

MR. BANDELE: Okay. Thanks a lot, Eric.

MR. SIDEMAN: Thank you.

MR. BANDELE: Appreciate the hard work of the Compost Task Force.

Next we're moving on to planting stock. And Rose drafted that. Can you give us a synopsis?

MS. KOENIG: I want to discuss two things separately. But in your book, the Crops Committee has a statement on planting stock from perennial crops grown as annual crops.

And this effort was really done based on public comment, because there are a number of strawberry growers that didn't know where they fit within the definition of planting stock, whether they were to consider themselves annual or perennial crops.

So we drafted this statement of clarification.
It's not a rule change. It's meant to be a statement of clarification as to what the Crops Committee feels the interpretation should be.

And I will just read it. It's not that long.

And then, this will be the motion, to accept this interpretation, for tomorrow. And then I'm going to bring up another point.

So the motion tomorrow will be to accept this statement of clarification for submission to the NOP.

And it reads: "There are a number of plants such as raspberries and strawberries that are perennial crops grown from planting stock rather than true seed.

"In some farming operations, these crops may be grown as annuals rather than perennials, where new planting stock is used each year to produce one harvest season of an organic crop.

"The Crops Committee recommends that in these systems the planting stock would be considered an annual planting stock and comply with the requirements of the rules as it pertains to seeds and planting stock in Sections 205.204, Sections 1 and 2, rather than those for perennial planting stock that is addressed in Section 205.204, Section 4.

"For annual production, Section 205.204(1) and 205.204(2), addressing annual production, states that non-
organically produced planting stock, whether untreated or treated with a substance on the national list, must be used to produce an organic crop when an equivalent organically produced variety is not commercially available.

"Organic seed or planting stock is required for these crops unless an equivalent organically produced variety is not commercially available." Did I just repeat myself?

"Growers who do not grow these crops as annual planting stock as defined in the rule as a plant grown from seed that will complete its life cycle or produce a harvestable yield within the same crop year or season in which it was planted will be required to comply with the planting stock requirements for perennial crops presented in Section 205.204(4)."

So therefore, for the raspberry growers out there, I know there was a comment out from California where they were actually producing raspberries, harvesting at, I guess it was within a year, but they were keeping those crops as perennials, they still would fall within the perennial rules.

It's really for crops such as strawberries. And perhaps there are growers of raspberries out there somewhere that are just growing them as annuals.

But mostly, the rule is really -- this
clarification is just for perennials that are grown truly as annuals. I hope that's not too confusing.

So again, it's no real change. It's just a statement of clarification. So that is what we're asking, and that's what we're going to put forth as the motion.

The second question is really a question of clarification for Rick. And I'm sorry to ask you this on the spot. But through our conference call with Bob Pooler, who came into the process later, I guess he really couldn't provide us clarification on that.

Our question was that -- and it's a rule interpretation that we went around and around with -- that in Section 205.204(1) it says that non-organically produced planting stock may be used when there is not commercial availability of -- when there's no organic crop available.

Our question was, when you say commercial availability, in terms of that, does that mean you can use whatever is out there commercially conventionally grown?

Because we were having problems interpreting whether that meant that you could purchase non-organic transplants, but they could not be treated with the prohibited substances, and mostly all commercial strawberry production that's done on a conventional farm is being produced with prohibited substances.

So even though we're defining these crops as

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annuals, we're still not solving the problem if that is the right interpretation of the rule.

Do you understand what I'm asking?

MR. MATHEWS: I think so. In 204, it basically provides that the producer must use organically grown annual seedlings and planting stock except, and then it gives the exceptions. You would still have to follow the exceptions that occur here in the regulations.

Does that answer the question?

MS. KOENIG: No, it doesn't. Because what we didn't understand -- well, yes. I guess I'll just ask you the question, and then you can -- because I can't interpret it.

The question is that if I, Rose Koenig, bought a conventionally produced strawberry plant from a strawberry house because there was no organic strawberry plants available, knowing fully well that in those commercial operations they're using fungicides and prohibited materials, mostly pesticides, and probably synthetic fertilizers, are they allowed?

MR. MATHEWS: Okay. If you look at paragraph 2, non-organically produced seeds and planting stocks that have been treated with a substance included on the national list of synthetic substances allowed for use in organic crop production may be used to produce an organic crop when an
equivalent organically produced or untreated variety is not commercially available.

So I think the answer to your question is that if they were treated with a substance that is not on the national list, the answer is they cannot use it.

If they want to use conventional that has been treated, the treatment must be a substance that's on the national list.

MS. ROBINSON: Except for paragraph 5, Rick.

MS. KOENIG: If it's quarantined within your state.

MS. ROBINSON: Right. If it's a requirement of the Federal or State Sanitaries.

MR. MATHEWS: Right.

MS. KOENIG: But perhaps in California, I understand it may be. But in every other state, I'm not aware of any quarantine practices.

MR. MATHEWS: Well, then --

MS. KOENIG: Yes. So basically -- and that is just what I wanted growers to be aware of, because we went around with this on our committee, and we're back at the same problem, basically, for strawberries.

MR. BANDELE: Yes. I noticed, for example, that one of the older NOSB Boards made specific recommendations for several crops, such as strawberry, such as sweet potato,
and few of the other vegetatively produced crops in which
they were making an allowance even when there was a use for
prohibited substances.

So are you saying, then, that the only way to
resolve the strawberry issue would be to take such an
approach, based on what you just said?

MR. MATHEWS: Are you speaking to me?

MR. BANDELE: Yes, sir.

MR. MATHEWS: I see the strawberry issue as
really being, at this point now, two issues. The first one
is, is the strawberry plant an annual or a perennial when
the farmer may only get one crop from it, or in the case of
some people who do it, for two crops? But it would still be
within like a year's time or something like that. That is
one of the problems.

The other problem is the sourcing of that annual
plant. And as the rule says, other than as Barbara pointed
out, unless it is something that is mandated by the State,
you have to use plants that are grown organically. In the
absence of that, you can work on down the list.

But when you get to the part about using one that
is treated, you have to use one that is treated with an
allowed substance.

MR. BANDELE: Yes. Eric, and then Jim.

MR. SIDEMAN: Okay. I disagree, Richard. I
think -- and I'm not a really good rule reader. But I think
the strawberry plants would fit under paragraph 1, not under
2.

And paragraph 1 just says, Non-organically
produced untreated seeds and planting stock may be used to
produce an organic crop when an equivalent organic produced
variety is not commercially available.

And when I asked this question five years ago in
Ontario -- and I can't remember who gave me the answer, that
probably matters, but it may be in my notes -- that the
untreated in that section is referring to treatments that
would be active after the plants were planted.

MR. MATHEWS: No. I --

MR. SIDEMAN: Emily, do you remember that, by any
chance?

MS. ROSEN: [Inaudible]

MR. SIDEMAN: Yes. And it was referring to, for
example, seed treatments. You can use conventionally grown
seeds. You don't have to use organic seeds. And those
seeds were clearly treated with prohibited materials when
they were grown. That's what makes them conventional.

You can't use a treated seed, because it's
treated with a material that's going to be active after you
plant it. That's what's prohibited. And that's how it was
answered to me. And maybe Jim has a clarification on that.
MR. MATHEWS: But this is a progression. It's except that. You could use the non-organically produced untreated seed and planting stock, meaning it's untreated.

The first thing you do is you try to source it organically. If you can't get an organic one, then you move down to the next step. This is that progression that was so --

MR. SIDEMAN: But that still doesn't answer the question of the treatment. The treatment is a treatment that's going to be active after you plant the seed or the planting stock.

MR. RIDDLE: Well, yes. When I read it, the Number 2, when it says non-organically produced, that right there means it was conventional in how it was grown, in and of itself.

And then you take that seed or planting stock and treat it after harvest, after the seed has been harvested or after the planting stock has been removed from the ground. That's when the treatment kicks in. That's when it becomes applicable in this system.

And so there the treatment itself that's applied directly to the seed or planting stock has to be on the list, but it could have been grown non-organically.

MR. SIDEMAN: And treated with prohibited materials, and treated with the materials not on the list.
MR. RIDDLE: While it's growing. That's what non-organic means.

MR. SIDEMAN: That's right. If it were not treated with prohibited materials, it would be organic. This is not only referring to the three-year waiting period. I mean, it could be relating to that, but not necessarily only to that. Also, this is probably talking about the fact that it's conventional because it was treated with prohibited materials, and obviously they're allowed.

MS. KOENIG: But, okay. So I guess what I -- what we need from I think NOP at this point is -- we don't want this issue to come up again two years down the line or for a certifier. It has to be resolved, because it's clearly something that's not 100 percent clear to the average person reading the rule.

And I want Rick to understand that in most strawberry plug production operations, not to which Jim was referring to, most of them take daughter plants and are producing them in plug form in greenhouses. That's the planting stock, and it's treated in the greenhouse in plug form. It's not just coming out of the ground. And those we're also expecting to be covered.

MR. SIDEMAN: Yes. That would be covered, because that's being treated during its growth for its own...
 growing --

MS. KOENIG: So as long as I, Rose Koenig, do not take that plug -- once I pick it up from that conventional farm that's producing it --

MR. SIDEMAN: Or they don't treat it, either. It doesn't matter who treats it. As long as it's not treated after it becomes a plug that's being used for propagation.

MS. KOENIG: Yes. Once I put it in the ground or once I take property of that, I can't treat it with any prohibited substances.

MR. SIDEMAN: Well, it's similar to a seed, too. You couldn't take a seed and treat it with Captan, because that Captan is to be active after the planting.

MS. KOENIG: It's a gray area.

MR. BANDELE: So Rick, what's your final interpretation on that at this point? Because --

(General laughter.)

MR. MATHEWS: My final interpretation? I tell you, I understand where you're going. But before I give a definitive answer, I would like to be able to go back to the preamble, look to see what the preamble is saying, might even have to go back to the previous proposed rule.

And I've got both proposed rules and the final here. I will review the issue. We can take it up again.

One thing that you might consider is, in this
recommendation that you're making, you may want to make a recommendation on that interpretation, as well.

MS. KOENIG: Well, we kind of came to the conclusion that you did, that they were really -- we wanted to make sure we didn't tie the two issues together, because they are separate issues.

One is whether a strawberry that's grown as an annual is treated as an annual, even though it's a perennial as most people think of it. That's very separate from that rule interpretation, because that would apply to many other planting stocks.

The other thing I want to just mention is that, while you're going through those old revised rules, what Owusu was referring to was the Green Book, and I have a copy of that NOSB recommendation out of the Green Book.

MR. MATHEWS: I would appreciate getting that tonight if we can.

The other thing is that I do have a question on the recommendation as you're presenting it.

Would this allow someone to take two crops before they pull them out and replant?

MS. KOENIG: Two crops within the same year?

Yes. Within the same annual cycle of when they -- I mean, a true annual is a year.

MR. MATHEWS: Yes. And that does make sense,
because there are strawberries that are ever-bearers, and you could take continuous crops during the summer.

MR. BANDELE: Okay. Thank you, Eric.

The third item was on hydroponics. And this was a difficult issue, because, as you know, hydroponics is very, very unique. We also have a TAP review petition pending in terms of using of materials with hydroponics. But there seem to be some differences of opinion as to whether or not any hydroponic system would fit into an organic program.

So we did make a recommendation. It's short; I'll read it, and then we'll be open for discussion.

"Hydroponic production in soilless media shall be allowed if all other provisions of the Organic Food Production Act and NOP final rule have been met.

"However, the Crop Committee recommends that the principles of organic production as presented by the NOSB Board be met by any certified organic hydroponic system.

"We recognize it will be a challenge for many hydroponic operations to meet some of the principles, that is, promoting biological cycles, recycling materials, minimizing use of non-reusable resources, et cetera. And we recommend that hydroponic operations that do not meet such principles be denied organic certification."

This is somewhat similar to the recommendations
that the Board made in reference to greenhouse management, in which we did waiver away the requirements for crop rotation for some tomato growers who did not have a crop rotation system. But those growers did have alternative strategies as it applied to soil and plant health.

So in essence, I guess a lot of that determination would still be made by the certifying agent. We are not aware of all the possible applications, so I don't think one blanket answer would solve all. But this is the best that we could come up with.

Now, another point to keep in mind, in recent times it has been said that a lot of the things are already covered. But we don't know whether this is in fact the case with hydroponics or not.

There were different discussions about greenhouse operations. We went forward, and now it's already covered. So this may be a situation in which NOP feels that it's already covered.

But be that as it may, the recommendation of the Crop Committee stands as I just presented.

Yes. Willie?

MR. LOCKERETZ: With all due respect, Owusu --

MS. CAUGHLAN: Microphone.

MR. LOCKERETZ: Got it. With all due respect, I don't see that there is any content in this recommendation.
It says hydroponic crops, if they're going to be called organic, they have to meet all the organic requirements, except this other. You're just saying they have to do what they have to do.

Am I missing something here or is there some real content in this recommendation in the sense that it changes what people may do or says they -- yes.

MR. SIDEMAN: I've got to come up there again, because this is the first time I've ever disagreed with Willie. We want that on the record.

(General laughter.)

MR. SIDEMAN: This standard that we are presenting not only creates the situation where hydroponics has to meet the organic standards that are presented in the rule, but we're also asking them to meet the principles of organic production presented by the National Organic Standards Board, and why this recommendation has meat.

MR. BANDELE: Yes. Jim?

MR. RIDDLE: Yes. Just something that's probably understood by this recommendation, but I just want to point out that all inputs would have to be on the national list and all annotations followed, as well. Right?

MR. BANDELE: That's correct.

MR. RIDDLE: I mean, that's stated when it says it has to follow the rule, but I just wanted to point that
out.

MR. LOCKERETZ: In the very first line in the recommendation, what does "other" refer to? Shall be allowed if all other provisions of the OFPA have been met. Other than what?

MR. BANDELE: Other than the soil requirements.

MR. LOCKERETZ: Oh. Okay. Well, I think this was a candidate for "Not compatible with organic principles" right off the bat because of feeding the plants through the water rather than feeding the soil which then buffers and releases nutrients to be picked up by the plant.

That is about as fundamental a principle of organic crop production as any, and it's waived in this recommendation, as I understand it.

I think that you could have said, Plants grown in water are not compatible with organic principles.

MR. SIDEMAN: That's what I wanted to say.

MR. LOCKERETZ: Oh. So we're friends again?

(General laughter.)

MR. SIDEMAN: I just didn't think Richard would accept that.

MR. LOCKERETZ: Well, you know, let me suggest, if you rule it out as not compatible with organic principles, it would be like the fish, and you'd have a lot more fun.
MR. BANDELE: Yes. And again, I knew that this would be somewhat controversial, but I think it is something that we really need to make a decision on in fairness to petitioners. So I mean, it would be a moot point to go through the whole procedure about Chilean Nitrate and spirulina if in fact the whole system is found to not fit under the organic standards.

So that's really for the Board to determine. But that's the recommendation that we're making at this point.

Rose?

MS. KOENIG: I think that the committee acknowledged that only -- there's only a very, very limited number of hydroponic systems that probably could meet the requirements of the rule.

But we wanted to be open-minded enough to recognize that there may be some very innovative farmer out there that has come up with a very kind of holistic system where they're recycling those nutrients, that were hatched in an integrated operation with a fish.

You know, we were trying to make our minds very open to perhaps some kind of integrated system that may be out there that would be inclusive within the rule.

But, Willie, back to your point, it's my opinion and only my opinion that probably the typical hydroponic
operation that you're thinking about would not cut it in
terms of examination of the rule.

So it's not to say that we're broadly saying that
every hydroponic operation is going to be certified. It's
not that in the least. It's saying that it's a very
actually stringent allowance of an operation.

MR. LOCKERETZ: And who would determine whether
these exceptional systems would meet all these requirements?
Is that up to the certifier or --

MS. KOENIG: Yes.

MR. LOCKERETZ: That strikes me as a big task to
impose on a certifier.

MS. BURTON: I just have --

MR. BANDELE: I can't --

MS. BURTON: Oh. I'm sorry. I just have a --
I'm confused a little bit. But the principles of organic
that this Board adopted, I don't believe they're in the
standard anywhere. And I know that they are a document that
we approved as a Board that we would follow as guidance.

So to me, to put something in here as standards
for hydroponic production when it's really not part of the
NOP rule or standards --

Either you list those out as recommendations and
don't reference it to this document -- I mean, that would be
my suggestion, because a lot of people don't know what those
principles are that we adopted, just to make it clearer so that we can have discussion on each item, perhaps.

MR. BANDELE: Yes. Jim?

MR. RIDDLE: Yes. That's a comment that I was kind of in my mind formulating, too, because where it says, you know, e.g., you know, for example, promoting biological cycles, recycling materials, and then ends with, et cetera, I am a bit uncomfortable with that format.

And I would like to be more precise in exactly which of the principles we feel should be recommended as requirements for these systems.

MR. BANDELE: I think we can maybe reference the final rule as opposed to the principles and pull out some of those same points.

MR. LOCKERETZ: But along the same lines, I'm disturbed by, To meet some of the principles. That word, some, seems to be a very wide open door. That means if you meet a couple of these, you're okay. I think it's stated much better in the first sentence, you have to meet all of the provisions, except you don't have to grow in soil.

MS. KOENIG: I can accept that word change, Willie.

MR. BANDELE: Is that Kim?

MS. BURTON: Yes. One more question. If the NOP has acknowledged that hydroponics are in the scope of

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organic, then, aren't we creating higher standards with something like this, or would this just be a recommendation again for certifiers to follow?

MR. BANDELE: Is that to me or to Rick?

MS. BURTON: I don't know. I'm just confused.

MR. BANDELE: Rick, maybe it would be helpful to get a clarification on, is hydroponics already covered?

MR. MATHEWS: The policy statement that is on the Web with regard to the scope of the National Organic Standards includes hydroponics.

So I guess, in follow-up to that, you're probably making guidance.

MR. BANDELE: Okay. Any more questions on hydroponics? Is that Mark?

MR. KING: Yes. So if I'm hearing you correctly, in the policy statement, Richard, that it's actually covered currently. And so what we need, then, if the Crops Committee deems it to be so, is a guidance document to perhaps further clarify that?

MR. MATHEWS: Yes. For those who haven't read the policy statement on scope, it basically says that any agricultural product or any product made out of agricultural ingredients are within the scope of the National Organic Standards for the purpose of labeling and for the way they're produced and handled.
MS. ROBINSON: I think based on the scope paper and then what Mark is asking and Rick is saying and what Rose started out with, you would want to elaborate your guidance.

If in fact you want hydroponics to embrace very specific parts of the rule to demonstrate that, you know, hydroponics can be done, but only under very strict sort of sets of conditions, then you would elaborate in your guidance material, understanding, of course, that guidance, you know, it could always be challenged.

But that's how you would get those sorts of recommendations out there to the certifying agents so that that would help them apply them.

MR. BANDELE: Okay. I think in the interest of time we will move on.

MR. CARTER: Rose has got one final comment, Owusu.

MS. KOENIG: What I recommend, Owusu, is that I don't think that we need to put forth that motion tomorrow in our recommendation. I mean, our recommendation basically is within the rule. I think we'll just put that on our plan of work for developing the guidance.

MR. BANDELE: Yes. I think that would be a good way to go with this. In other words, we saw it -- before we knew it was already covered, we saw it as a pressing issue.
But since it's already covered, that will give us a little more time to further refine that.

Kim?

MS. BURTON: Would it be appropriate to ask someone in the hydroponic industry to be a task force if you are going to be doing guidance documents for their industry?

MR. BANDELE: In all honesty, we've only had very few comments as far as from hydroponic producers, so I don't know how -- I don't know whether we really need to take a whole task force to deal with that.

MS. CAUGHLAN: Why don't you put something together and put it on the Web --

MR. CARTER: Owusu, to that --

MS. CAUGHLAN: -- as a guidance document?

MR. CARTER: -- I think that some of the input on this particular sector may come from not folks that are already involved in hydroponic production, but folks that are involved in some other things such as fish production that want to take a look at incorporating perhaps a hydroponic as a part of that. So --

MR. BANDELE: Yes. Willie?

MR. LOCKERETZ: I think to make this just a guidance document is a very risky strategy. The content of what you have to say is, most hydroponic systems will not make it. But the language is awfully positive and
encouraging.

The, Shall be allowed, is put positively. But the scope including the policy statement of the scope of the law that says it includes hydroponics sounds as though it could put the burden of proof on those who want to say, No, this system doesn't make it, rather than on those who say, See, it says here hydroponics is within the scope, it says here, Shall be allowed.

I think the language is entirely too positive for what is basically a negative recommendation here. And I'm also a little afraid that you're just opening the door to everybody. You have to prove why they can't come in rather than they have to prove why they can come in.

MR. CARTER: Okay. Owusu, I would recommend if there is no motion that's going to come forward tomorrow, then, let's move on with this and continue the discussion of Crops.

MR. BANDELE: Okay. The transitional product recommendations, Jim drafted most of the document, and the Crops Committee really made very few minor changes on it. And we are putting this forth.

I would like to note, though, that after discussion with the Crops Committee over lunch today, it will still be put forth tomorrow for a vote, but it will be in the form of a guidance document as opposed to a
recommendation to change the rule.

I think the consensus of the committee members is that there is a place for transitional organic even in the rule. But recognizing that this probably is not going to be a reality in the near future, we will put this forth as a guidance document.

Transitional labeling is to me very critical, particularly in areas where the organic movement is not as strong or does not have the historical base as in others.

We are recommending not a watering down of anything, because under this proposal, a producer who would be labeling transitional would follow all the other requirements as any organic producer, the only difference being that their land would not have been under organic management for the three-year period. So we don't see that as a watering down.

A lot of small scale farmers who are moving toward organics need to have some -- I think need to have some kind of economic incentives to help them along in the first few years.

And it may be that health food stores and some of the other folks who require certified organic products would not buy transitional products, but folks in farmers markets could. So we think it's a good justification.

The committee was unanimous in this, and we will
be recommending this, but not as a change in rule, but as a
guidance document.

Willie?

MR. LOCKERETZ: Again this is putting a major change under the not-very-major heading of guidance
document.

This is a big deal, because it addresses something that is not at all in the law or the rule, and it's quite fundamentally new. And I don't see it as coming in as a guidance document.

Also, if a person in the store looks at something and the label says, Transition, and he says or she says, What does that mean? We know what it means. It's the word you can't say, the O word.

Transitional by itself has no meaning. It could be transitioning from being a man, from being a woman, or who knows what. You know, it means in transition.

(General laughter.)

MR. LOCKERETZ: Also, OFPA doesn't say anything about the word, transitional, so why is it not freely available? OFPA only talks about organic.

But since they're not talking about a label, Transitional Organic, but just, Transitional, why does fall under this Board or NOP's scope at all unless it's because you say, Well, transitional means transition to organic.
MR. BANDELE: Yes. Jim?

MR. RIDDLE: Yes. Willie, that's why the recommendation includes a definitions section, and it starts off with that. Transition: The act of establishing organic management practices in accordance with the Act and the regulations.

MR. LOCKERETZ: So will the label say, Transition, Go see this document?

MR. RIDDLE: No.

(General laughter.)

MR. RIDDLE: It's not a matter of will. There are numerous products out there right now labeled, Transitional. There is a market for those products, and there is a need to bring consistency to them.

Right now, yes. It's beyond the scope of OFPA, it's beyond the scope of the regulation. But that doesn't mean that we can't have some guidance, provide some leadership to bring consistency.

There's at least several states and private certifiers that have standards, that are certifying transitional products. But there is no uniformity, no consistency.

And by posting this, I think it would help bring consistency to that and help provide some market recognition and a uniform definition to promote products on.
And also, we do have the NRCS offering transitional support by the word, Transitional, in at least three states now. And what do they look to to define what transitional is? They're looking to us for some guidance here. We've got an opportunity, and I think we should take it.

And this is consistent with practices. And like Owusu said, this isn't loosening anything up, this is tightening. These operators that would use that claim would be certified, they would be inspected, they would be on an organic program, they just wouldn't have the three-year history.

MR. BANDELE: I saw another hand.

MR. MATHEWS: The way I understand this is that what Jim is really recommending is that, rather than asking us to do rule making, which we've already said we would not do, that we're not going to cover transition, they are suggesting, from my understanding, that this would be a Board-only issue.

This would not be sanctioned by the National Organic Program. It would not be part of the National Organic Standards.

What we have with regard to a farm becoming organic is merely a requirement that no prohibited substances be used for a three-year period.
What Jim is trying to do, from my understanding, is to bring some standardization to the industry for converting conventional farms to organic farms.

And this would merely be a document that the Board is telling people, This is what we think you ought to be doing. You're not required to do it, but we think you ought to be doing it as you try to become an organic farm.

MR. BANDELE: A question about -- so, Rick, under this scenario, those states that at the present time have transitional programs could still maintain those transitional programs after October 21 because they are not making the organic claim. Is that correct?

MR. MATHEWS: We're not dealing with transition at all. So whatever the states want to do, whatever private certifying agents want to do is really up to them.

MR. BANDELE: Mark, I think I saw your hand, and then Willie.

MR. KING: Yes. I just -- and it may be in here. But I had a question. If I'm reading this correctly -- and I understand the establishment of organic management practices -- but under -- let's see, where are we at -- a product from an operation completed one or more years of transition period.

Okay. So what you're saying is that you technically through this guidance couldn't label it until
after that, say like the 13th month, in other words. And if so, we're not requiring an inspection here. Right? Is that correct?

   MR. BANDELE: No, no. The other inspection --

   MR. KING: Okay.

   MR. BANDELE: -- under 205(c), inspection in at least one of these to be called a transitional product.

   MR. KING: Okay. So it would have to really occur in the first year at some point?

   MR. BANDELE: Yes.

   MR. LOCKERETZ: Question, Rick. Does the USDA now have the authority to restrict or limit or control the use of the word, transitional, either under OFPA or anything else?

   MR. MATHEWS: Would you repeat the question, please?

   MR. LOCKERETZ: Does the USDA have the right to restrict or limit the use of the word, transition, on a food label?

   MR. MATHEWS: We have already stated that transition is not covered under the National Organic Standards. What we will be regulating is use of the word, Organic.

   MR. BANDELE: Okay. The final item was not on the agenda, but was the organic farm plan template that Jim
Just as is true with the handlers, we would propose that that would be included.

In all actuality, the committee has not voted on this. But we would like to -- I think everybody has had a copy of it, and we would like to put it on tomorrow as a possible action item after review by everyone.

MS. CAUGHLAN: What happened with the transition document?

MR. BANDELE: It's going to be put forth as a recommendation tomorrow.

MS. CAUGHLAN: Thank you.

MR. BANDELE: Jim, did you want to briefly address the template?

MR. RIDDLE: Sure. And also, Goldie, on the transition document, I intend to do a little redrafting and remove those numbers that are rule-based numbers and to put a little introduction section in there to make it clear that this is beyond the scope of the regulation and is just a recommendation of the Board, too. So there will be a new version of it. But none of the actual content will change.

MR. LOCKERETZ: Jim, I suggest you drop the phrase, Certified Transitional, because that stands a snowball's chance in Austin to get accepted by the NOP. We've heard that you can't use, Certified Organic.

VOICE: This isn't going to be accepted by the NOP.
MR. BANDELE: Yes. This is outside the scope.

MR. RIDDLE: It's beyond the scope.

MR. LOCKERETZ: Then, who is it to?

MR. RIDDLE: That's a whole other --

MR. LOCKERETZ: Who is this to? Who is --

MR. CARTER: Okay. Let Jim continue.

MR. RIDDLE: The farm plan template and the farm plan update forms you all got copies of. And those are based on work that was done under a USDA FSMP grant back in 1998, before there was a rule, to bring consistency. And then they have been updated to be compliant with the rule.

And they include the citation numbers from the rule and little summaries of what the rule contents are.

And they have been widely circulated, and numerous certifiers have already used them as templates for their own basic farm plan forms, put their own logos, names on them, et cetera.

By posting them on the NOSB page of the Web site, they would be available to both certifiers and any producers who are just wanting more information and more guidance, someplace they can go to a public site and download these and kind of do some homework as needed to prepare themselves for the real thing, for the real certification.

So they're just tools, just like the affidavit
that Kim had put together that the Processing Committee put forth, tools to help in the compliance process. So that's how they're being offered.

MS. CAUGHLAN: I'm confused, because the farm plan that we've been looking at and discussing is not what I'm seeing here.

MR. RIDDLE: There's two forms. One is the full farm plan form, and this would be filed on an annual basis. A farmer has to file some kind --

MS. CAUGHLAN: So this is the continuation document?

MR. RIDDLE: Right. So they don't have to refile.

MS. CAUGHLAN: Got you.

MR. RIDDLE: They've got a standing farm plan, and then they just have to register any changes, which is a requirement of the rule.

And this actually goes way back. I think it was '95 the NOSB -- that's in the Green Book -- did create an organic farm plan form way back then, but it was heavily narrative and very cumbersome. But the spirit of that plan is carried forth in this.

But we tried to give a whole bunch of check boxes where there's options of various compliant practices that can serve an educational purpose, but also save on
handwriting.

MS. CAUGHLAN: Okay. Jim, this --

MR. RIDDLE: Yes.

MS. CAUGHLAN: The organic farm plan itself is not the document we've been looking at.

VOICE: There's a handling plan.

MS. CAUGHLAN: Handling plan?

VOICE: There's three there.

MS. CAUGHLAN: I read both.

VOICE: You've never seen that one.

MS. CAUGHLAN: I don't have enough to read.

MR. RIDDLE: Okay.

(General laughter.)

MR. BANDELE: Yes. Kim?

MS. BURTON: Jim, I just was curious if this has gone out to the OTA's Quality Assurance Council and whether OCC has -- has any of the trades --

MR. RIDDLE: Yes

MS. BURTON: -- seen this and signed off on it?

MR. RIDDLE: It's been widely circulated to all members of both OCC and ASOP, all the certifiers, and it has also been submitted to OTA.

And whether they have turned it around to QAC members, I don't know. That's up to them.

But we have gone through three rounds of comments
and revisions in this process.

MS. BURTON: Then, again, this would be, if this Board adopts this, then it would be posted on the NOP Web site for comment?

MR. RIDDLE: Yes. Just like the handling plan. Yes. This is not, you know, the end of the process, the end of the road. Right.

MS. BURTON: Okay. Thank you.

MR. MATHEWS: Can I get a clarification, then, Jim? Are you saying that you would be voting to put this on the Web to get feedback and then would later be voting on it a second time in a final version for submission to the NOP to post as guidance, or are you intending to approve it now and give it to the NOP as guidance?

MR. RIDDLE: Well, in following our procedures, I would say it would be more appropriate to post it for more comments before it would go to the NOP in a final form. It may not change. I don't know. Because it's already been subjected to a lot of comments, but not through our procedures.

MR. MATHEWS: Okay. I'm glad to hear that.

MR. RIDDLE: Yes.

MR. MATHEWS: And the reason why I say that is that this recommendation is not on the agenda prior to the meeting.
MR. RIDDLE: Right.

MR. MATHEWS: This recommendation was not posted on the Web site as something that would be discussed here, and this recommendation is not included in the Federal Register document.

MR. RIDDLE: Right.

MR. MATHEWS: So if it had been anything else, I'd have had to get a legal opinion as to whether or not we could have even acted on it.

MR. RIDDLE: Yes. No. It would just be coming from the committee for posting for comment, same as the handling one and the affidavit.

MR. BANDELE: Yes. That concludes, except for one quick comment, if I may, Dave, and that is the urgency of us getting a quick response from Rick in terms of the planting stock, because there are a lot of folks in terms of sweet potatoes, strawberries, and a lot of the other crops that are affected. So the Crops Committee would like to move on that as quickly as possible.

MR. CARTER: Okay. All right. We are now at a quarter of 6:00, but I think we can get through these.

We will go into Accreditation. Jim, you always have non-controversial items.

MR. RIDDLE: Yes. Okay. All right. From the Accreditation Committee, the only draft that we have in the
book is a draft which is a first round draft once again to be submitted for public comment. It hasn't been posted previously. And it's not to lead to a rule change. And this is criteria for the certification of grower groups.

And by grower groups, I'm talking about groups of producers in a close proximity to one another that use uniform production methods and inputs and are organized under one management and marketing system. And this is commonly used for production of coffee, cocoa, tea, spices, things like that.

And currently there is extensive certification of these types of operations that's already occurring, but there's not necessarily uniformity in those certification procedures.

And this does need to be done in concert with the international community, because a lot of this work is done outside of the United States, these types of certifications.

So it's an attempt to bring some consistency, especially to provide some guidance to the accreditation process, because when a certifier that conducts these types of certifications is reviewed, right now there is nothing for the evaluators and the Accreditation Program to look towards for a little more clarity in how they assess this type of certification work.

Because there are several unique things about
grower groups, and that is that when they are inspected by
the certifier's inspector, it's really the quality system of
the grower group that is certified.

It's not every one of the 500 or 1,000 small
farms that's part of the grower group that's inspected on an
annual basis. It's the quality system, what's called the
internal control system. And they have their own inspectors
internally that visit every site and file reports and put
together the organic plans.

So that -- I'm not going to read through it.
It's a fairly long draft, and it does include some addendums
on how these operations are inspected and how the internal
control systems are organized.

And it does not set specific criteria for what
percentage of the farms must be visited on an annual basis
by the certifier's inspector. That's something we are
seeking guidance from the community on.

And it doesn't have any definition or guidance on
a small holder, because typically these producers are very
small, both in terms of the land that they manage and their
annual income. So it doesn't approach any recommendation on
defining small holder, and that's something else we are
seeking guidance.

So hopefully this is ready for posting, meeting
the criteria of the NOP. But it would not be leading to a
rule change.

Any questions or comments about this?

MR. SIEMON: The intent is for this to be used as well in the United States. Correct?

MR. RIDDLE: Yes. It's not limited geographically so long as all the criteria are met.

MR. SIEMON: And then, once you start down that road, then, you said social, geographical. You know, what does that have to do with it? It seems to me it's the system is what has to with it, the management system, the quality control system.

MR. RIDDLE: Yes.

MR. SIEMON: What does -- do the producers all have to be in one group, they all have to be poor, they all have to be this? I mean, it's the umbrella that counts.

MR. RIDDLE: Right. Their internal control system is what's getting certified.

MR. SIEMON: And then is there nothing in the rule that requires annual inspections?

MR. RIDDLE: Annual inspection of the operation.

MR. SIEMON: The operation. Now you're defining the operation possibly as the umbrella organization.

MR. RIDDLE: When you look at the definition of operation -- well --

MR. SIEMON: Yes. You've got the cooperative.
Yes.

MR. RIDDLE: Right. It links to a person. And the definition of person clearly includes --

MR. SIEMON: Association.

MR. RIDDLE: -- cooperative or association.

MR. SIEMON: Okay.

MR. RIDDLE: Any other questions or comments?

MS. KOENIG: I've just have one question on this.

MR. RIDDLE: Yes. Rose.

MS. KOENIG: Just a question of clarification.

So in those groups where you're getting certified as one group, if there is a noncompliance or something within one of those members, then the whole group can get decertified?

MR. RIDDLE: That's certainly a possibility.

Yes. Not necessarily so, but it would be part of the evidence that could lead to the decertification of the -- because it shows a failure of their internal control system.

MR. MATHEWS: Even worse, it could lead to removal of the accreditation of the certifying agent.

MR. RIDDLE: Well, just as any fraudulent certification would or noncompliant certification.

VOICE: Okay. You're good to go.

MR. RIDDLE: Okay. So the next item on the agenda for the Accreditation report is the accreditation complaint procedures.
And I'm just basically briefing the Board here on conversations that I have been having with the NOP as a Accreditation Chair.

And one of the requirements under the ISO 61 guidelines that the NOP has committed themselves to follow as an accreditation body is to have complaint procedures and to post those procedures to the public so that if they have any concerns about the accreditation program itself or the bodies that you have accredited that they have a door open to them, and they know what that door is and actually how to turn the handle.

And so I've submitted some language to post to the Web site on the list of accredited certifiers. If you have concerns about any of the accredited certifying agents, here is how to submit a complaint, and then a little bit of instructions, that it must be submitted in writing and state the evidence upon which your complaint is based.

And that has been accepted, it is my understanding, by the NOP.

But the next step is to actually draft just the outline of the procedures, because as an ISO accreditation body, you have to meet the same requirements that an ISO certifier, and that is have a complaint log, have complaint procedures, get back to the person who submitted the complaint, let them know what the resolution was, whether
the complaint was found to be frivolous and without merit or if it's then been referred to the Compliance Division, those kinds of things. So that step clearly needs more work.

MS. ROBINSON: We do have drafted brochures, which I think we may even have in handout form, at the booth at OTA for what to do if you have a disagreement either as a certifying agent, if you've been questioned and you want to appeal the decision, or as a grower or a processor, if you have a problem with the certifying agent.

So we have two different brochures. They're written in very user friendly, What do you do? I mean, first of all, if someone takes action against you, why are they taking action, you know, what form is it, what do you do if you disagree? And then we go through the entire process.

And so we'll be handing those out. And to the extent that we get comments back, you know, from people saying, We don't get it, or, You forgot this or that, it's not too late for us to make revisions to those. So we do have something in the works for that.

MR. RIDDEL: Any questions about that?

(No response.)

MR. RIDDLE: Okay. Then, I'll move right on to the last item, and that is certifying agent issues.

And I did a survey a while back or circulated
some questions to all the state and private certifiers, and this was before the accreditation list was announced.

But one thing you'll be glad to hear is that I think -- yes -- all certifiers who responded were pleased at that point with the service that they had gotten from the Audit Review Branch and their desk audits and felt that the communication was clear.

However, in my --

(General laughter.)

MR. CARTER:  It seems to be a mandatory word in all of these.

MR. RIDDLE:  Right.  In my never-ending attempts to be popular with the NOP, I'll list a few of the issues that certifiers have.  You've heard a few of them in the comments earlier today.

But I heard numerous times that there are concerns with the varying interpretations or directives, both to certifiers and to producers.

And just a few of the quotes, this one from a state program: "USDA response to our request for rule interpretation has been slow and noncommittal."  I'm sure that's changed.

"Questions relating to administrative matters and clarification of certification requirements have not been addressed."
So there's been an ongoing frustration, I would say, with some of the interpretations, and I think that's no surprise to hear that.

There also still is a need for a program manual from the NOP that does incorporate this various guidance to the rule, that the NOP itself, or the NOS as it's being called, is a very rudimentary or it's not the level of detail that a certification standard typically has been.

And to bring consistency in those interpretations, ultimately some kind of a program manual should be put together to consolidate these guidance.

There's -- you heard it mentioned I think by one or two commenters this morning that it is a real problem that not all the requirements of ISO 65 are incorporated in the rule.

And so maintaining that two lists, that if a certifier wants to get into Europe, they have to get accredited by the NOP to operate in this country, but also then the fee for service of paying for the ISO 65 accreditation that the USDA also offers, with the same people doing the evaluations. So it's like dual accreditation from the same agency.

I think that calls to mind the need for some the Accreditation Committee to work with both the NOP and the ARC to marry those two, to merge those. And that may take
some hard work and some rule change.

But fortunately a lot of those differences already have been identified so that the background work has been done, but now we need to take it forward and get it so that one accreditation does the trick instead of two accreditations. That's a problem.

Another problem for some of the certifiers on the list of accredited certifiers, nine of them, to be exact, is with their organizational structure does not meet the conflict of interest requirements under the rule.

Well, the Web site probably still has some language saying that NOP will be posting examples of organizational structures that meet the rule.

Well, clearly 33 out of 42 applicants submitted acceptable structures, and there were no examples posted to help provide guidance to those certifiers. They're still looking for that.

And I'm also hearing now, just since I have arrived, that 120 days, which is the time requirement being given to certifiers to make all these changes, is unreasonable, especially on the organizational changes.

Because whether you're a membership-based certifier or a state program, you can't just make this change because the Executive Director says so. You have to change your bylaws, you have to go to the membership at an
annual meeting, or you have to go to the legislature and change statutes. So some of this may take more flexibility than the 120 days that's been given.

And then, you heard the concern about the NOP serving as an accreditor, as a writer of standards, an interpreter of standards on a one-to-one basis, and then as an appeals body.

As much as possible the NOP needs to, you know, be the writer of standards and the interpreter in a very general way, but not to get hands-on involved in that one-to-one decision-making process of the accredited certifier.

Let them do their job and then be ready to stand back as an appeals body.

There is also -- I'm almost done -- a need for an enforcement plan. What happens when there is fraud? Who is going to be out there from the AMS?

We haven't ever had a presentation from the Compliance Division. I think we need -- it's time now, with October 21 looming, to really have a good, solid enforcement plan in place and know who is going to do it.

The states that are becoming SOPs already have that, they have doing it for a while. But the USDA hasn't yet been enforcing, and I think we need to address that.

The other issue is just some of the implications of this JAZ [phonetic] arrangement with Japan where three

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materials, lignin sulfonate, humic acid, and potassium bicarbonate, are not allowed for products going to Japan. Well, that verification of that has to start at the farm level. The farmer has to know it in advance. They don't often know where their products are going to be sold. So that has to be verified. The inspector has to know it, the certifier has to know it.

And so there's just a need for some more guidance on how to get products certified under our rule that also meet these three JAZ requirements at the same time.

That's it.

MR. CARTER: All right. Questions?

(No response.)

MR. CARTER: Okay. The last item, our International Committee, our equivalency standards. Willie?

MR. LOCKERETZ: Well, I see I'm in the slightly awkward position of having talked past my deadline before even opening my mouth.

(General laughter.)

VOICE: Thank you, Willie. Does that mean you're not going to say anything? No?

VOICE: Yes. What does that mean?

(General laughter.)

MR. CARTER: I don't think that means he's not going to say anything.
Go ahead.

MR. LOCKERETZ: We're the new kids on the block, the International Committee. We've only been working since early spring, and this is the first item to come out from our effort.

It was actually written mainly by Jim, so I'll say a little by way of introduction, and Jim will add whatever he feels is necessary, as well as both take your questions.

The International Committee got off to a late start because too much else was happening. It originally was Mark King, Jim and me, but now fortunately we're at full strength with Becky and Dennis newly added to the committee, so we're ready to take on the world, so to speak.

This document came out of a discussion that the committee and Keith Jones had a few weeks back in which we asked him, What are the major areas of action in the international scene that we should be concerned with? And we talked about that for quite a while, and out of that came this little document.

But in retrospect, I realize I was kind of negligent, because although when we talked in the conference call this sort of thing was the kind of thing we talked about, when we narrowed it down to this to be the one and only thing we would work on for now, I really should have
checked back with him and asked him whether this is, you
know, timely and appropriate.

Maybe Rick and Barbara can make up for my not
having talked further with Keith. Is this basically is
equivalency between U.S. and European Union on the table?

MS. ROBINSON: Yes, it is, Willie. FAS was
meeting with USTR, the Office of the Special Trade
Representative, last week. And USTR is always kind of vague
until they finally come to some decision. But the word that
we got back was it was a positive meeting. So, yes. It's
still on the table. And we'll see where it goes.

MR. LOCKERETZ: Fine. Good to hear that.

This subject of equivalency is explained in the
document.

It's a relationship between government to
government, or government to 15 governments in the case of
the EU, to say, We regard your standards, although they are
not exactly the same as ours, we regard them as being close
enough to fulfill the same purposes as ours. And so an
agreement is made that it will go even though there are a
few little differences in the standards.

But this turns out to be a very complicated
business, because if we are very lenient concerning European
exports to the U.S., that could put our farmers at a
competitive disadvantage through no fault of their own,
because they are working towards a higher standard.

On the other hand, if we're very tough on it, these are usually reciprocal arrangements, and, you be tough to us, we will be tough to you.

So some delicate balance has to be found as far as what we can regard as waivable, and, even though it's not strictly the same as our standards, first is what we regard as absolutes that we will insist on no matter what.

So Jim puts forth not the details of a possible equivalency agreement, but rather the criteria that should govern how you think about equivalency when you go into negotiations.

At the bottom of page 3, that's really the new content in this document. The other pages are mostly taken out of other things -- oh -- well, with one great exception that I should certainly not skip.

Jim and others, Lynn -- is Lynn still here -- there you are -- had gone through the EU regulations and the U.S. regulations in great detail and wrote up a table of where we're more stringent than Europe and, conversely, where Europe is more stringent than us. This is a factual background to this whole discussion, that five pages.

The original part is III, Recommended Criteria for Establishing Equivalency. And we have put forth basically questions the negotiators should have in their

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mind when they look at various standards and decide whether to insist on our way or to be lenient and accept something else. These are the questions they should be asking themselves.

This is not a recommendation. It's too early for that. We've just really worked on this in the past several weeks. It's more for the purpose of getting the Board to start to think about the international aspects of the rule and OFPA and all that.

So it's to give you some material to familiarize yourself with the issue and an area of judgement which we've put forth as, you know, what should govern equivalency negotiations?

So there is no vote or anything to be taken here. It's simply to, as I said, to get you started to think about the international implications.

And so comments on any of this back to us would be very welcome, freeform comments, whatever your reaction to it is, to help us move it to a document that basically takes us further along in the process.

So, Jim, if you would like to add anything to that.

MR. RIDDLE: I thought I was getting cut off there.

Yes. It is my understanding, though, that we do
want it posted to the Web site for public comment. Correct?

After this meeting.

MR. LOCKERETZ: Yes. But not even labeled as an

International Committee recommendation, because that's a

think piece.

MR. RIDDLE: But seeking --

MR. LOCKERETZ: Seeking discussion. Absolutely.

MR. RIDDLE: Yes. Seeking discussion. Okay.

MR. LOCKERETZ: But they need to say that,
because this is at a very preliminary stage.

MR. RIDDLE: Right.

MR. LOCKERETZ: It's not even a formal committee

recommendation yet.

MR. RIDDLE: Okay. Right. Well, I just wanted
to summarize what I think is the heart of the matter.

You mentioned the criteria, and I actually want
to read through those, because this would be the guidance

that, if it's supported by the Board and by the public in

the comments, that we actually would ultimately recommend.

And that is when the negotiators are evaluating

another set of regulations to look at whether the regulation

is consistent with U.S. objectives. And whenever you're
talking equivalency, you're really talking objectives, not

compliance, not verbatim, but, does it meet the fundamental

objectives?
And typically objectives are stated in a statement of principles, principles and objectives. And our rule and OFPA didn't have such. There is a purpose of OFPA, but it's very narrow. It doesn't lay out kind of the fundamental principles. And so we reference here, Is it consistent with U.S. objectives as stated in the NOSB principles?

Now, Europe, in the EU regulation, has a lengthy statement of principles. The Codex document has a statement of principles. And so this is the most similar thing that we have.

Would recognition of the regulation as equivalent have any negative impacts on domestic producers, and would it have any negative impacts on domestic handlers?

Does the foreign regulation meet the expectations of domestic consumers?

Does the foreign regulation adequately address food safety issues?

And does the foreign regulation contain equivalent management requirements unique to the exporting country which are not relevant in the United States?

So those would just be some of the criteria. There certainly could be others added to this. But this is the initial stab at setting some criteria or some guidance for that.
MR. LOCKERETZ: I must say, though, when I look at these questions, which I think are excellent questions, I think they're the right ones that we should be asking, but I found it very difficult to apply them to most of the items on this table of equivalency of the EU and U.S.

It's a tough business. And that's why we're getting it out for comment this early, because the earlier the better.

We'd like you to not comment on the recommended criteria, but maybe give it a try to apply those criteria to some of the differences listed on the next four or five pages, and see what you come up with. We can learn by example, I think.

MR. RIDDLE: And also, if you're aware of other differences that you don't feel that we adequately address, we'd like to hear about that, as well, specifically on some of the materials, because this is not all of the differences. This is like the top list.

So if you feel there are some other deal-breaker type issues out there, give us some comments on that, as well.

MR. LOCKERETZ: Is it Kim down there who has her hand up?

MS. BURTON: Yes, I did. Then I closed my page.

Sorry. Some of the handling materials or the non-organic
agricultural items that we've been discussing, how does the EU address those? Because I've circled about six of them on that list that would be allowed with the change of 606. Do you know?

MR. RIDDLE: Yes. The EU has positive lists for one thing, so everything has to be on their lists. And in addition -- and that's just in general for processing ingredients, materials of nonagricultural. But if they are agricultural, they also are maintaining a commercially unavailable list in the EU.

So, yes. They are maintaining that, and that's one thing we're wanting to move away from and just base it on the criteria of commercial availability.

I don't know if that answers your question.

MS. BURTON: Yes.

MR. RIDDLE: Okay.

MS. BURTON: Yes.

MS. ROBINSON: I just want to add what -- one thing to add to what Willie and Jim are saying is that as you read through this, I mean, Willie is absolutely right, it's extremely difficult to go through all these criteria and then try to apply them.

But even if you did, if you do this just sort of pretend you are the negotiator and that sort of thing and try to decide what you're willing to give up, what you're
willing to hold fast to --

VOICE: That's fantasy land for us.

MS. ROBINSON: But the mere fact that there would be something on there that's a deal breaker, as you put it, or that you come to the end and you say, Gee, I don't think we could grant equivalency to the EU, we couldn't live with that, it does not mean trade cannot occur between the U.S. and the EU.

That is something to keep in mind, because there are other avenues that are step-downs from equivalency. Equivalency is the best of all possible worlds, so there's other things --

I mean, I don't want you to look at it like, Oh, God, if we can't find something here, then we'll never get any product into the EU because we'll never let them in here.

MR. LOCKERETZ: Yes. Remember it is a two-way process. And there are other ways for exporters of Europe, say, to send product to us, which is for them to be accredited by the U.S., probably the main mechanism that's going to govern most trade.

MR. CARTER: Okay. If that is it, before we recess here this afternoon, just three quick things.

Number one, I forgot to mention this at the beginning, but for everyone in the audience, we've talked a
couple of times today about the September meeting. That meeting is scheduled for the 17th and 18th of September in D.C. And that will be the meeting where we deal specifically with the 47,000 materials that will be coming in by then.

As well as, then we are looking at having a meeting in conjunction with the roll-out, the implementation of the program in October.

Secondly, for tomorrow morning if there is a way that we could arrange these tables a little bit so it's a little bit more of a V. I think everybody's neck is pretty sore today because of this straight line thing. And if we could have it so it's a little easier to make some eye contact.

Third, I'd just like to meet with Rick and George and Willie after the meeting here for a few minutes.

And finally, we're back at eight o'clock.

Yes?

MS. KOENIG: Something I was going to suggest is that if maybe people could type up their motions so that the motions are put forth typed, in front of us, so we can read them rather than --

MR. CARTER: Yes. Committee chairs, please, tonight, you know, prepare the motions that you are going to be bringing forward so that we're all very clear on what we
will be looking at.

    VOICE:  Who has a printer?

    MR. CARTER:  Jim does.  Jim has everything.  He even has a Power Point projector that you can use.

    Okay.  We're recessed.

    (Whereupon, the meeting was recessed, to reconvene on Tuesday, May 7, 2002, at 8:00 a.m.)
CERTIFICATE

IN RE: National Organic Standards Board

LOCATION: Austin, Texas

DATE: May 6, 2002

I do hereby certify that the foregoing pages, numbers 1 through 399, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Penny Bynum before the U.S. Department of Agriculture National Organic Standards Board.

6/08/2002
(Transcriber) (Date)

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UNITED STATES DEPARTMENT OF AGRICULTURE

NATIONAL ORGANIC STANDARDS BOARD

Walnut Room
Clarion Inn & Suites
2200 IH-35 South
Austin, Texas

Tuesday,
May 7, 2002

8:00 a.m.

MEMBERS PRESENT

DAVID CARTER, Chairman
OWUSU A. BANDELE
KIM M. BURTON
GOLDIE CAUGHLAN
ANN L. COOPER
DENNIS L. HOLBROOK
T. MARK KING
MICHAEL P. LACY
WILLIAM LOCKERETZ
KEVIN R. O'RELL
NANCY M. OSTIGUY
JAMES RIDDLE
GEORGE L. SIEMON

STAFF PRESENT:

KATHERINE BENHAM
KEITH JONES
RICHARD MATHEWS
ARTHUR NEAL
ROBERT POOLER
BARBARA ROBINSON
TONI STROETHER
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MR. CARTER: We're ready to resume our meeting.
I would like to begin with just a couple of
announcements. Number one -- let's see where we're at on
the -- okay. First of all, number one, I'm just going to
turn it over to Willie to --

MR. LOCKERETZ: To make a cravenly self-serving
promotional announcement. Now that I got your interest,
the word ecolabels came up a lot yesterday, and I'm the
chairperson for a conference on ecolabels to take place at
Tufts University, which is where I work on my time off
from NOSB -- November 7 through 9, on all aspects of
ecolabels, which includes but is not limited to organic
and other ecolabels intending to show that a product was
raised with particular attention to resource conservation,
environmental benefits, and so forth.

There still is a little time for you to submit
an abstract for presentation at this conference, but even
if you don't want to do that, you may be interested in
attending it. I have this little notice. I'll put a pile
of them up on that front table explaining what the
conference is all about and explaining what to do if you
want to submit an abstract.

There's also a Web address which you can check
from time to time for the latest information. I also
wanted to give you a sign-up sheet except I can't find --
a sign-up sheet if you want to be kept informed
electronically.

Ah, this is it. If you want to be kept
informed electronically about information about the
conference, you can just sign up and I'll put you on our
list.

Organic is sort of the granddaddy of all
ecolabels, but this conference will be covering the
concept of ecolabels in its full generality.

MR. CARTER: Okay. Thank you, Willie.

Then on just a procedural thing, if -- the
Livestock Committee met this morning and they have looked
at some wording changes and some recommendations. So
there will be a couple of items brought up under the
Livestock Committee this afternoon that will be presented.

The agenda does not call -- Monday does note
that there's any vote on -- or not Monday; on Wednesday --
any voting, but the recommendation is to bring the items
up for discussion this afternoon and then we will bring
them back up for a vote -- yes, we can vote on the one
item that will be brought up, but the accessed outdoors
for poultry and the dairy replacement issues will be
brought up, reviewed this afternoon, and then will be brought up tomorrow morning for action. So that is a change. Please note that on the agenda.

Okay. Rick has got an announcement.

MR. MATHEWS: Yesterday during the Livestock Committee report, I was a little -- well, I was harsh in my comments about the product that was presented forward on a couple of the items.

And, George, I want to apologize for being so harsh.

MR. SIEMON: Oh, you already did that privately. And I apologize for not being more prepared. [indiscernible] said that but if we could vote today and people are satisfied it might help tomorrow's schedule. I don't know if we have to be bound by that. I'd rather be flexible, but that's up to you.

MR. CARTER: Well, I think 24 hours does not make that much difference, and I think just procedurally what we've talked about is that on these major items, we like to bring them up one day, have a chance to ruminate on it -- excuse my bovine analogies here in a poultry issue, but -- and then bring it up for action.

So any other before we launch right into this morning?
And I appreciate that. I think that -- you know, the whole idea that the -- and let me just make a statement. I mean, the whole idea of the NOSB and NOP is that there's always going to be kind of a healthy tension between the two as we go forward and because of the passions that are involved in this work.

But, you know, everybody around this table and in this room, whether they're part of NOP or the NOSB or whether they're just a participant in the discussions, has a very strong concern about organic agriculture and a very strong desire to make sure that it moves forward successfully. So we all have to keep that in mind.

Okay. Let's go on in then. We'll turn it over -- we talked about the policy manual yesterday for discussion. We wanted to bring that back up for action today.

So, Jim.

MR. Riddle: Yes, Mr. Chair. I'd like to begin by following Robert's Rules of Order and move the policy manual for adoption.

MS. OSTIGUY: Second.

MR. CARTER: Okay. Jim made the motion. I will announce the seconds. Okay. Nancy has seconded -- just to avoid some confusion here. Okay. Now, is the
motion on the whole manual or just those items that were not changed. Did you make the changes?

MR. RIDDLE: Well, I'm making the motion --

MR. CARTER: Go ahead -- okay. Explain --

MR. RIDDLE: -- to open it up for consideration.

MR. CARTER: Okay.

MR. RIDDLE: So yes, when we met on Sunday informally just to go through a review of the draft, there were a few items that we highlighted for setting aside. And so the manual that we'll be voting on is everything except those items.

And I do have them up on the screen, and I'm going to see if I can move it from here.

(Pause.)

MR. RIDDLE: Okay. Will you be able to hear me from here? Am I projected enough? So if I can do it from here -- I know I can do it.

So I would just like to run through it very quickly. We aren't going to need near the amount of time that's allotted on the agenda. As I pointed out to the board the other day that the electronic version of this is linked so that when you hit on a section in the table of contents, it opens up that section, so it's easy to move
around.

So, as I described yesterday, it has the duties of the board, which you got to read quick, but here's -- and yes. I'm really just going to focus the items that we're setting aside, because we walked through it otherwise.

So two of the items we're setting aside for now is the issue of keeping confidential predecision information not made available to the public through open meetings or the NOP Website. That certainly is an important consideration as a board member, but we just felt that there is need to rework that language. It's not that it's being deleted as such.

The same thing with the consideration about the board members speaking with one voice and our ability to -- if we did not support a recommendation of the board and we voted against it, we still can state that but to support the process, the decision-making process, so that we're speaking with one voice in terms of the integrity of the process. So we just need a little reworking of that section.

The conflict of interest -- there were no changes there, but there is a need for further development of one issue and that is if a board member was a
petitioner on a material -- right now our policy has been
or is that if a board member was a petitioner, they
automatically must recuse themselves.

However, we now have board committees
petitioning materials for the sake of a larger industry,
the need to get a material reviewed. And so that is a
different situation than if you're a petitioner on behalf
of your company to get a material reviewed, and we haven't
really developed the language to sort that out; what the
ramifications of board members petitioning as a board
member on behalf of the larger organic industry. So we'll
be adding some language there in the coming months.

We also had a -- under the votes we really talk
only about the decisive votes, the two-thirds majority of
the quorum needed to pass a final recommendation or to
including the status of materials. But there also are
times when we just follow a majority vote and that's not
addressed, so that's another issue we earmarked for
further development, so that I'm really talking about the
text that's not there.

Okay. Now here, a little rewording on the
responsibilities of the secretary that -- to make it clear
that the secretary doesn't physically do all these things
but is responsible for them getting done. So just a fine-
tuning of the wording there.

And here, I think we've already agreed to add
the highlighted words there, but the executive committee,
being's we operate on behalf of the board under FACA
responsibilities, there must be participation of the NOP
staff any time there's an executive call. And, We shall
meet monthly or as needed. We're adding some language
there.

And, Executives shall not take action on any
recommendation to the secretary, including status of
materials. So that -- we've already done the development
work, but I earmarked it just because it's new.

And we went through all the responsibilities of
the different committees. We made a couple changes to the
peer review appointment plan and we informally agreed to
those. But to make sure that the -- at least one member
in the alternate shall be NOSB members, and I had some
very awkward wording about the lowest vote-getter, and I
changed that to the person receiving the fewest votes.

Otherwise, let's see. Oh, I think we needed to
add some language on the committee chairs, that the
committee chairs are appointed by the chair of the board,
too. And we have notes -- I'm not going to go through
those, I guess, but -- because I've already hit on most of
them as we've gone along.

But we have made notes of the things we need to add -- Goldie did. And then a lot of the content is the materials review process, and that follows along with what Kim presented yesterday in great detail, and there's an example of a statement of work that a contractor, a TAP review contractor would have, and that's what this is.

And the only other change being proposed is to move away from using these voting forms that we have been using to some procedures following Robert's Rules of Order. Every time that a material is being considered, there'll be a motion from the committee chair to open the discussion. It will need to be seconded by any member.

The committee chair will summarize the recommendation from the committee, and then we will proceed with discussion. And that's the process we'll be following today, and it's all laid out there in writing and it's highlighted, but I guess -- we can leave it highlighted, but we are going to be following it, correct?

Is there no problem with that? And so that -- I think that --

MS. CAUGHLAN: Jim, it was also noted that we will be adding, for the benefit of those of us who are not Robert's Rules of Order-aware, those of us who are
challenged, there's going to be a --

MR. CARTER: A primer, or a Cliff Notes version of this.

MS. CAUGHLAN: -- Cliff Notes version.

MR. RIDDLE: Right. An abridged version of Robert's Rules of Order will be added as an addendum to the manual. Right. Thank you.

MR. CARTER: One thing, Jim, and this is just a -- I don't think it's a major action, but under the section where we talked about the executive committee and the like, do you use -- we use the word secretary in the same page both to refer to the Secretary of Agriculture as well as the board secretary, and I think when we're talking about the board secretary, we probably ought to put in the word board and when you talk about the Secretary of Agriculture, we ought to so designate.

So I think most of us understand that, but it could lead -- yes. So --

MR. CARTER: Good point.

MS. BURTON: We'd also talked about adding the flow chart into this, the material review flow chart.

MS. CAUGHLAN: That's a nice thing.

MR. RIDDLE: Well -- yes, I don't think I did that. Sorry. Forgot about that. So I just wanted to
back up a second. There's the policy on presenters invited by committees, and that has already been adopted but it is a policy so it's in this manual. And as we have -- as we develop a policy for guidelines for how to write a recommendation, that will go under this miscellaneous policy section as well.

MS. BURTON: And question. I see this as a working document. In other words, like the material review process or the petition process. As things change, we can automatically update this without getting the whole board to vote on it. Is that correct?

MR. CARTER: Well, that's why I was wondering if the motion that came forward was a motion to adopt the policy with the understanding that additional items will be added.

MR. RIDDLE: Yes, certainly. It's my understanding --

MR. CARTER: I think that's what I heard you say --

MR. RIDDLE: -- this is a living document --

MR. CARTER: -- when you made your motion.

MR. RIDDLE: Yes. Pardon?

MR. CARTER: I think that's what I heard you say when you made the motion.
MR. RIDDLE: Yes. Well, if not, I accept as friendly meant.

MR. CARTER: Okay.

MR. RIDDLE: Okay. And then there's the addendum of the NOSB principles of organic production and handling, and then the abridged notes version of the FACA facts, explaining just what a federal advisory committee is and how it's appointed and what the duties of the FACA, designated FACA officer are as relates to the committee.

So any other --

MS. CAUGHLAN: Question. Are these actually excerpted directly or are these your --

MR. RIDDLE: Did I make them up or did they --

MS. CAUGHLAN: No. I'm asking whether or not these are rephrased or are they --

MR. RIDDLE: Well, they were provided to me by NOP. I don't know -- I think Catherine e-mailed them to me. I pretty much pasted them in to you.

MR. MATHEWS: And they're prepared by the faculty.

MS. CAUGHLAN: Thank you.

MR. RIDDLE: Yes. It's not creative writing on my part. Okay.

MR. CARTER: Okay. Is there any other
questions or discussion?

    Yes. Willie.

    MR. LOCKERETZ: Procedural question. The sections that we're not dealing with now -- how do they get dealt with? Are they voted separately by the board or are we voting to say, We give you the authority to implement these changes; that we agree with them in principle, but go ahead and write them?

    MR. RIDDLE: Well, what I would prefer is they're being referred back to the board policy task force, and we will do a little work on them between ourselves and then re-present them back to the board for formal approval.

    I would just like to follow that for any changes to the policy manual. But in the interim if there's a need for a policy and the executive committee has met and gives interim approval, this is going to be what we follow until it's formally adopted by the full board. I'd like to have that understanding.

    MR. CARTER: Okay. That sounds good to me.

Okay. So if approved, then we will start following this document. The task force will rework the language. The executive committee will review that in the interim and we will make note that at the next board meeting we will
bring those items back up for final approval.

Okay. So we'll have that noted for next meeting's agenda.

Does everybody understand then what's on the table? Is there any other discussion?

If you're ready to vote, all in favor say aye.

(A chorus of ayes.)

MR. CARTER: Opposed, same sign.

(No audible response.)

MR. CARTER: Motion carries.

Which then gives us a 15-minute jump start on our next, which I think we will need for our materials review and action.

So Kim.

MS. BURTON: Okay. How we work this is we go again in order of crops, livestock, processing. The crop materials that we will be discussing, reviewing today, calcium oxide, calcium hydroxide, potassium sorbate, sodium propionate, and sodium nitrate.

So I will now turn it over to the crops chair.

MR. BANDELE: I'm passing out the motion to -- material that we can deal with.

The first is calcium oxide. I'm making a motion that calcium oxide is a synthetic material which
should be added to the National List with the following annotations. Must be source from lime kilns. To be used only when documented soil tests indicate sufficient or excess magnesium. To be applied in a form that yields less than a one degree Fahrenheit temperature increase when equal volumes of the product and water are mixed.

Do I hear a second?

MS. OSTIGUY: Second.

MR. CARTER: Okay. Then it's been moved by Owusu and seconded by Nancy. It's on the table for discussion.

MS. BURTON: Question. The documented soil tests -- what kind of impact is that going to have on the farmers to actually conduct the soil tests as far as cost and feasibility?

MR. BANDELE: Well, in most instances, like regular soil tests already include magnesium levels. In Louisiana, for example, I'm only aware of the cost there. It's a $4 test, Kim, which would include calcium, magnesium, potassium, phosphorus, et cetera.

MS. KOENIG: Owusu, can you indicate the votes of the committee?

MR. BANDELE: Oh, yes. The vote on that item was four in favor of the motion and one opposed. In other
words, the opposed person did not feel that this should be added to the National List.

MR. SIEMON: Are we -- this annotation, I mean, is this -- I hate to have this much of an annotation on it. I agree wholeheartedly with a, but I just don't know about the b and c.

MR. BANDELE: Well, let me elaborate on b and c. As far as b is concerned, there are oftentimes when magnesium is already at a sufficient or excess level. In a lot of those cases, the only readily available source to many farmers would be dolomitic lime, which includes magnesium.

So if we're talking about maintaining soil health, et cetera, it doesn't really make a lot of sense to add additional magnesium when you only really need the calcium. And as was indicated yesterday by some of the presenters, a lot of times the magnesium would have detrimental effects on uptake of other nutrients.

I should also point out that this was a very, very difficult decision for us. We kind of went back and forth on it. But there are some -- we feel, some unique features about this product and we certainly don't want to open up to a lot of synthetics.

But in this case, number one, the reason why it
is seen as being synthetic is the burning process, and that's unlike some of the other synthetics. For example, if you're talking about triple superphosphate, that ingredient is treated with phosphoric acid, so there's a difference there.

Secondly, it is our understanding that the source of the calcium oxide is like a byproduct of the process of retaining lime. So this byproduct then is utilized, and we kind of felt that that was also a sustainable practice in that we're using materials that otherwise may not be used.

MR. CARTER: Rose.

MS. KOENIG: I was on the committee and I guess I was the dissenting vote. And it's not that I don't feel that the product is safe or that it has value in agriculture production.

The thing that I want to caution, or my voting for the dissension is, A, in 1995 the NOSB defined synthetic as -- you know, and it's in the TAP -- as combustion of minerals, any combustion of minerals to be synthetic.

And then the product, at least calcium hydroxide -- I'm not sure about calcium oxide -- yes, both I guess, were -- well, calcium hydroxide, which you have
to have from calcium oxide, was a component of Bordeaux mixture and lime sulphur for fungicide use, but it did not approve the use of the soil amendment.

So this thing has come forth before the board before, and certainly, we've got five new members that might not know the history of some of these issues in terms of mine minerals and, you know, synthetic processes. But I think we -- you know, I'd like to caution those new members and those members that have been here only a year or two that it's important to look at that history and understand why these products were not allowed.

And again, not to say that upon reading the TAP, again, I thoroughly view it as a safe agriculture input. But really, the distinction is does it belong in organic systems? And what I see as the big problem is that there's a slough of other mine minerals that you could make the exact same argument for.

We looked at triple superphosphate before and we did not approve that product. The petitioner who was here was not -- I mean, we're looking at calcium oxide, and I'll also speak about calcium hydroxide at the same time because they're both products within the petitioner's brand name product.

And we heard testimony on the benefits of that
brand name product, but we don't know the benefits --
we're not looking at that brand name products. We're
looking at the individual component, mine minerals, of
that product, so we have no proof to say that those
benefits came from those individual mine minerals.

We only have testimony that they say good
effects from that brand name product, which these are only
components of.

What else do I want to say. I'd just again
would just -- the other most important criteria in my mind
as far as when we're making these decision is are there
alternatives available and are they viable. And in the
TAP report, we saw limestone, gypsum, rock phosphate.

We approved calcium chloride in terms of foliar
application for calcium deficiency in plants during the
last TAP review process. Wood ash and poultry manure, all
sources of calcium. They're not as readily available --
I'll certainly admit that -- and perhaps don't provide
that quick fix that the growers are seeking, but there are
products available and I would caution the board, adding
synthetic products to our list where we do have natural
alternatives available.

MR. CARTER: Go ahead.

MR. BANDELE: Yes. On the third item, George,
that was -- I failed to address that issue, and that was a kind of added lastly based on the testimony that was held yesterday and the fact that the petitioners felt that that would be a good -- both the petitioners and one of the TAP reviewers suggested that.

I appreciate and fully understand Rose's concerns. However, as pointed out, even though there are some alternatives, to me, as far as when we're talking about sustainability, we do have to take into account regional situations as well as the overall picture.

Now, if you say that limestone is -- for example, if you say that dolomitic lime is a readily available source, my contention would be that in those cases where there's high magnesium that it's not really a readily available source. I understand that the others are available as well.

MS. KOENIG: I would just like to speak to that. When we're approving -- number one, and I must agree with George on this -- is that when we have a list of annotations, it becomes burdensome not only for a group like OMRI who does materials review of these products, but just individual farmers.

They cannot access that information to make sure that it's from kiln sources only, and we know that
probably the largest source of it doesn't come from that area, so certainly, farmers in the area where Biocal [phonetic] or whatever brand name is produced, it's very easy for them to source that material.

But for you perhaps down in Louisiana, you may not have full knowledge about the source of your product, and you could easily be using a prohibited substance. So I don't think -- based on the fact that we can't enforce labelling of many of these products, we could be leading farmers down the wrong road by approving something that would never be clearly labeled and we have no enforcement of that.

And again, it's a very burdensome task to put on certifiers when you have three or four annotations. My question is if you need so many annotations, is it really a product that we want to list?

Additionally, as far as your, I guess, magnesium situation, again, there are alternatives. Again, not quick-fix alternatives as this product, but again, we are adding is a clearly synthetic product that we're putting onto a list, and one of those criteria is are there organic equivalent alternatives.

Additionally I'd like to note that no other certifier has allowed calcium oxide or calcium hydroxide
historically.

    MR. BANDELE: No other --
    MS. KOENIG: No other --
    VOICE: That's not true.
    MR. CARTER: Okay. First of all Willie and then George.
    MR. LOCKERETZ: No other than which one?
    MS. KOENIG: Well, I -- maybe all the ones that were listed in the tab. Perhaps there is an organization in that local area that might have added it.
    MR. CARTER: Okay. George, did you have --
    MR. SIEMON: Well, Jim, do you know -- I heard yesterday --
    MR. CARTER: Jim.
    MR. RIDDLE: Yes. Well, the TAP has a list which shows that currently, certifiers do not allow it because they have shifted to the National List, as they rightly should. But historically, it has been allowed by certifiers, but they took it off of their list to comply with the National List.

So it has been used on certified organic farms in the past. At least in the Midwest it certainly has.

    MR. CARTER: Okay. Other discussion? I fail to look down at this end of the table from time to time.
MS. KOENIG: Is there a possibility to get clarification from the TAP reviewers, because according to my TAP review, and I was only speaking to the TAP, in that section, the status among U.S. certifiers, is that just current status or was there historical -- I mean, I'd like to get clarification on that.

MR. CARTER: Yes, I suppose -- I mean, we can get clarification from the TAP reviewers. It's hard to -- because that delays --

VOICE: Well, there's people in this room that know.

MS. KOENIG: Or the manufacturer. I mean, I just want to know what --

VOICE: Who reviews this one.

MR. CARTER: Okay. So -- yes.

Emily, can you speak to this?

Okay. And then while she's coming forward, did you have something or do you want to wait till we finish with this?

MR. MATHEWS: Well, I'd need to say something on annotations. We've got -- from our perspective, we have two problems with the annotations, and I'm not attacking this particular one. I'm just stating the fact that when we take a material to the rulemaking process,
the attorneys are looking for any annotation to be very short, and they have given -- historically have given us problems over annotations.

We have another problem with annotations, and that's through CODX. CODX, from my understanding, would prefer that you either say it is approved or that it isn't approved and forget the annotations. And Keith can say more to that, if he's still around.

You got anything to add to that, Keith?

MR. CARTER: You need to come to the mic.

We're disciplining everybody here.

MR. SIEMON: About annotations, from kiln -- lime kilns, though, that's a source. That's a method of production. I mean, to me, saying calcium oxide from lime kilns is one continuous source. I mean, to me, that's not like b and c or a different level of annotation.

MR. MATHEWS: Yes, and I have --

MR. SIEMON: B and c are conditions, kind of like.

MR. MATHEWS: Yes, and there's -- that was part of what I also wanted to say about this. You raised the same concern that I'm raising -- that the annotation is too long. And for one thing, I have a question on c is why?
I mean, isn't that important? And so if we're going to go with annotations, we need them to be as minimal as possible, but I also want Keith to talk about the aspect of the international side of this with annotations.

MR. CARTER: Okay. So we have two -- Keith, if you'd come forward, and then we'll have OMRI.

VOICE: OMRI?

MR. CARTER: OMRI. Hey, I've only had four cups of coffee this morning. Actually, that's --

MR. JONES: I've only got two comments about annotations. One, I think annotations are a problem from an audit standpoint. You have essentially allowed the material, okay. But then you've got this contingent on here that, from an oversight and audit standpoint, makes it very difficult.

In fact, one of the discussion points that came up at CODX this time is do certifiers worldwide really audit the annotations or just exactly what is the process, and it's unclear that anybody is really auditing at the annotation level. So that's just a practical matter of an audit standpoint.

The second thing, though, is that as we begin to kind of look to CODX to provide some harmonization in
lists, it's going to be really important to make sure that if there is an annotation, it is succinct, it is clear, because these things have to be translated through languages worldwide.

And if you get an annotation that's six or seven, you know, sentences long, particularly with the French, it loses something in the translation. And so it's just a pure fact question that you need to make them succinct and from my bias working with CODX, I'd like to see no annotations at all.

MR. SIEMON: But in this case, there seems to be quite a bit of difference between the lime kiln production and other production, so source from lime kiln production -- is that too much of annotation?

MR. JONES: Well, that's -- I can't tell you, George, what to do on a material, okay. That's a decision of the board. I can tell you that a shorter annotation is easier to work with than a longer annotation, and no annotation is easier to work with than a shorter annotation.

So that's my -- thanks.

MR. CARTER: Okay.

MS. KOENIG: The question was before the national rule, what was the historical status of the
product?

MR. ZIMMER: Historically, we -- I think in 1985 or so, for organic farms we started using the product called Biocal, which was --

MS. KOENIG: I'm talking about -- I don't want to know testimonial about individual farms.

MR. ZIMMER: No, I mean --

MS. KOENIG: The specific question is what certify -- if you have knowledge of the certifiers that allowed it. If not --

MR. ZIMMER: Yes.

MS. KOENIG: -- maybe somebody else can speak to it.

MR. ZIMMER: Yes. No, obviously, I was on OCA board for awhile, and it was accepted by OCA, although certifying agencies were accepting hydrated or kiln dust or whatever we called it at that time. I think that really a red flag came up when they started using kiln, cement kilns, to burn toxic materials.

Then all of a sudden people started throwing up red flags, and that's why lime kilns became so valuable.

MS. KOENIG: Right. I'm not -- I don't want testimony --

MR. CARTER: Yes. Okay. All we need --
MS. KOENIG: CCOF --

MR. CARTER: The question is -- and this is not a point for public testimony --

MS. KOENIG: CCOF, Oregon Tilth: What were the status in those agencies?

MR. ZIMMER: All were acceptable. It was used by --

MR. CARTER: Okay. Could I have -- okay. Let me have -- I'd like to have Emily --

MR. ZIMMER: It was taken off. About three years ago it was taken away.

MR. CARTER: Okay. I'd like to have Emily just -- okay.

MS. BROWN: I did put the current status in here because I assume that's what the board wants, but if you want us to continue to dig into old past, we could do that, too. But as far as I could find out, basically, and as far as my knowledge was, a number of chapters of OCA had always approved Biocal basically in the Midwest, and it was not a national OCA decision either.

And then when OCA got more organized on materials, it changed there. So as far as I know, the California-Oregon till East Coast there was -- has never been allowed.
I want to make one other point on this proposed annotation about the heat of solution. If you look at the TAP reviewer 3's comments -- can I do that?

MS. KOENIG: No. It's not fair.

MS. BROWN: Okay. Because -- all right. Well, I'll just tell you --

MS. KOENIG: Okay. We know that we've read the TAP review. It's not fair.

MR. CARTER: All right. Owusu.

MR. BANDELE: Yes. One other point on the annotations. The problem with it, and I appreciate what Keith has said, the problem, though, is that oftentimes without the annotations, the material would not be allowed. Without annotations, I would not vote for calcium oxide. So that's the dilemma that we're in.

However, Dave, I'm not sure in terms of parliamentary procedure, but as far as striking c, I would -- if someone wanted to make that --

MR. CARTER: Okay. If someone -- the table is open for any amendments at this point, so if anybody wants to make an amendment.

Kim.

VOICE: He can make the amendment.

MR. CARTER: Yes. That's fine. Kim has got
her hand up.

    MS. BURTON: I was going to make an amendment
to strike b and c and have the annotation, Must be source
from lime kilns only.

    MR. CARTER: Okay. So there is an amendment
made by Kim, seconded by George, to strike the language in
b and c, leaving then only the annotation in a.

    Discussion on the amendment? Okay. Jim.

    MR. RIDDLE: Well, I'm looking at the
annotation for micronutrients in the rule.
Micronutrients -- not to be used as a defoliant,
herbicide, or desiccant. Those made from nitrates or
chlorides are not allowed. Soil deficiency must be
documented by testing.

    There's an example of a standing annotation. I
think it is important to document deficiency, and that is
something that's clearly auditable. The inspectors do
look at that whenever micronutrients are being used
currently, and it would be a reasonable thing to audit for
any use of this material.

    So I guess I oppose the amendment specifically
striking b. I'd like to retain the requirement for soil
testing in this annotation.

    MR. CARTER: You can add an amendment to the
amendment.

MR. RIDDLE: Well, it would be contrary to --
yes. Well --

MS. KOENIG: The only reason for soil testing,
as far as I can understand, is I guess to really address
specific farmers' problems, and I'm not saying that
they're, again, I'm not saying anything against addressing
specific farmers' problems.

But it's because they don't want to use
dolomitic forms -- there's other forms such as poultry
manure, wood ash, that you wouldn't have that -- gypsum,
that you wouldn't have that magnesium requirement. It's
just that they're slower released forms of calcium.

MR. CARTER: Jim.

MR. RIDDLE: Well, I do question if wood ash is
available in any commercial quantities. Certainly for a
home gardener that has a wood stove, yes.

MS. KOENIG: Well, I'm not saying -- but their
poultry manure and crushed limestone and gypsum is
definitely available.

MR. RIDDLE: Yes. To me, the two sources are
gypsum and calcium carbonate that are commercially
available from natural sources, and that's the thing that
I'm really still weighing here, because those are fully
compatible with the rule and with the principles and they are available, but they don't serve exactly the same function.

But I look at this material, and I don't -- I see that it is also compatible with the very fundamental principle of soil ecology. It doesn't have negative impacts on the soil micro-organisms.

MS. KOENIG: That's not necessarily the case. You may feel a case from maybe the brand name product, but if you read the TAP review you're adding the -- you're altering pH, which can affect soil microbes. I mean, it's a liming product, and if you allow it and you don't specify -- again, depending on the annotation, people can use it as a liming product also.

I mean, the problem is is when you have testimony in a brand name use, but you're not listing that brand name product. You're listing the components of that product. So once you open that up, it can be used for whatever purpose by any organic grower in any region.

MR. BANDELE: I would suggest that we address the amendments.

MR. CARTER: Yes. This is strictly discussion on the amendment. Strictly on the amendment. I'm sorry -- I was -- Owusu, go ahead.
MR. BANDELE: I would like to maybe offer -- I would like to see that the annotation is voted on separately, so I suppose a friendly amendment would do that in terms of just --

MR. CARTER: The chair will accept that as a friendly amendment that we vote separately on each annotation and then on the motion as a whole. Okay. Is that acceptable to the board?

MS. KOENIG: It's not acceptable to me. I mean, I like to know what I'm voting for, because it's the package we're voting on. So I suggest a motion be in the form of what the committee chair feels is the -- I mean, it's very basic.

He can make an opinion on his own, because it's not a committee decision at this point. But --

MR. CARTER: Okay. What the procedure would be, though, Rose, is we vote on each amendment. Then we bring the whole motion up as a whole with whatever annotations then are left in or taken out. Okay?

Okay. Is that acceptable?

MS. KOENIG: I guess.

MR. CARTER: Okay. It's like a new car -- we're taking it for a test drive here.

Okay. Now, Rick has also had some thoughts
about where this might fit, too, just before we vote on that.

MR. MATHEWS: I would think that the annotation b that deals with the magnesium is probably already adequately addressed in 205.203(d), and the board may want to take a look at that and make their own decision as to whether or not that section already covers the annotation.

MS. KOENIG: Can you just read it?

MR. MATHEWS: Sure. D says, A producer may manage crop nutrients and soil fertility to maintain or improve soil organic matter content in a manner that does not contribute to contamination of crops, soil, or water by plant nutrients, pathogenic organisms, heavy metals, or residues of prohibited substances by applying: one, crop nutrient or soil amendment included on the National List of synthetic substances allowed for use in organic crop production.

Number two, a mine substance of low solubility.

Three, a mine substance of high solubility, provided that the substance is used in compliance with the conditions established in the National List of nonsynthetic materials prohibited for crop production.

Do you want me to keep going, because there's a number four and a number five and -- I mean, that's the
point.

MS. CAUGHLAN: This is a synthetic or would be a synthetic --

MR. CARTER: Turn on your microphone, Goldie.

MS. CAUGHLAN: It doesn't apply, as I read it, because this -- if we, as we vote on this as a synthetic, what you just -- what we're looking at here is -- applies to nonsynthetics.

MS. BURTON: Is that on the National List?

MS. CAUGHLAN: No, it says here --

MR. MATHEWS: Read number one. It says, A crop nutrient or soil amendment included on the National List of synthetic substances allowed for use in organic crop production.

MS. CAUGHLAN: But as you read, as we read, that the substance is used in compliance with the condition -- oh, okay. Established on the National List of nonsynthetics, so -- okay.

MR. SIEMON: Are we on the annotations now?

MR. CARTER: Yes. We're on the annotations.

Okay. The amendment was made -- yes.

VOICE: Turn on the microphone.

MR. CARTER: Okay. Just to keep this procedurally -- so that we know, okay. The amendment that
is made is -- first of all, let's just do the amendment
that we vote on each of these individually, okay.

Is there a second to that amendment? This is
just a procedural thing. Is there a second that we vote
on each of these --

MR. HOLBROOK: I second it.

MR. CARTER: Okay. Who did that?

MR. HOLBROOK: I did.

MR. CARTER: Dennis seconded that. Okay. So
the amendment that is on the table is that we vote on each
of these individually. All in favor of that process, say
aye.

(A chorus of ayes.)

MR. CARTER: Opposed? Okay. That process
carries. So we then take amendment -- or we take
Annotation A, Must be source from lime kilns.

Discussion on that? Are you ready to vote?

All in --

MS. KOENIG: The only discussion I have on that
is who will figure that out? Who -- you know, other than
if it doesn't get -- if it goes to an OMRI process, you
know, that could -- the brand could be or could not be,
and how are growers going to figure out that information
from a manufacturer?
MR. CARTER: Okay. Owusu.

MR. BANDELE: You could say the same for Chilean nitrate, which is already allowed. They are both synthetic and naturally occurring. So the same argument could be said for things that already exist.

MR. CARTER: Okay. Kim.

MS. BURTON: We looked at a document yesterday that was an affidavit that farmers, suppliers, anybody could use that would validate that a material has been used according to annotation, so it's an affidavit they could sign and say -- put this annotation on it and send it to the supplier and they'd have the documentation,

MR. CARTER: Okay. Other discussion? If you're ready to vote, all in favor of Annotation A, leaving that in, signify by saying aye.

(A chorus of ayes.)

MS. KOENIG: Aye.

MR. CARTER: Opposed, same sign. Okay. It carries on a vote of -- let's see, we're 14. I guess we're one short -- 14 to one -- or 13 to one, excuse me, with Rose voting nay.

Okay. Second, the annotation to be used only when documented soil test indicates sufficient or excess magnesium. Discussion on that?
Yes. Kim and then Owusu.

MS. BURTON: I would just suggest that you change that to say, Soil tests must indicate insufficient or excess magnesium.

MR. CARTER: Okay.

MS. BURTON: An amendment.

MR. RIDDLE: I second.

MR. CARTER: Okay. So read your language again.

MS. BURTON: Strike, To be used only when documented, and so it would read, Soil tests must indicate sufficient or excess magnesium.

MR. CARTER: Okay. So what's on the table is to change that language, Soil tests must indicate sufficient or excess -- yes. Rose.

MS. KOENIG: I guess again, I would caution the board of writing or even approving a product that's based on a soil test for a totally different mineral than what you're adding. I mean, you're really -- again, what are we doing here? We're basically writing a rule to meet a very specific application. Is that what we want to do?

MR. CARTER: Okay. Other discussion?

MR. SIEMON: Just to make the point that -- just to follow that up, I think we're -- there's a lot of
different theories of the relationship of calcium to magnesium, and we're trying to say, Whose theory are we saying is the correct theory in this kind of annotation, and I don't think that's our role.

I think the guidelines that Rick read give us enough guidance as to the use of minerals.

MR. CARTER: Okay. Owusu.

MR. BANDELE: I don't agree with Rick that that -- first of all, it says the producer may do these things, what you just said, so they're not really bound by that. And secondly, I think irregardless of theory, if, for example, most agencies that are in the soil testing arena find that there's excess magnesium, to me, it makes to sense to add additional magnesium. So to me, that's not as theoretic as it may appear.


MR. RIDDLE: I guess I am uncomfortable with inclusion of the word sufficient in this. In my mind it should read, Soil tests must indicate excess magnesium as a condition for years.

MR. CARTER: Well, the only way -- we're so far down the line, the only way that that can be accepted right now is if that's agreeable to the maker of the amendment. So that change is made.
Rose.

MS. KOENIG: Again, I'd like to remind the --

the product you're approving is not adding magnesium to

the soil. You know, what you're saying is that because

they don't want to add dolomitic limestone, then you can

add -- you have to use this product.

MR. RIDDLE: No.

MS. KOENIG: Yes, you are, because the product

has no magnesium in it. There's no reason why you

shouldn't be able to use a product whether there's

magnesium or not.

MR. CARTER: Jim.

MR. RIDDLE: You're saying what we'd be saying

is you may use this product; not that you have to use this

product. You still could use calcium carbonate. You

still could use gypsum, but you also have this option.

That's what it would be saying.

MS. KOENIG: Yes, but Jim, think about -- just

sit down and think about what that -- you are sitting, but

I could see if you are adding a product that had magnesium

in it, right, and you didn't want to overload your soil

with magnesium, so you said, Okay, you got to check to

make sure there's not a high amount of magnesium in your

soil, because you don't want to apply this product that's
going to override your magnesium.

But what you're saying is you have to check to
see if magnesium is in your soil, and if it's high, then
you're allowed to use this, even though you're not adding
any more magnesium to it, because we think that this is
better than a natural product, one of the natural
alternatives.

Again, you're customizing a rule for a very
specific soil type and purpose, and I would caution you
against it.

MR. CARTER: Okay. Owusu.

MR. BANDELE: Yes. That's really not the
intent of that annotation. The annotation is really
saying that, you know, in the sense that if your magnesium
is low that you want to use a natural product. You want
to -- you know, I mean, that's implying that you can use
dolomitic lime.

But in cases where it's -- I would say
sufficient or excess, because if you have a case where you
have sufficient magnesium, adding dolomitic lime will
probably push that into the excess earlier.

MS. KOENIG: Then use gypsum. Use crushed
limestone. Use the other alternatives. There's not one
alternative here that's natural. Why don't we say on it
then -- yes, again, if there's no natural alternatives, I buy your argument.

But we're not -- you know, there's a list of other sources that don't include that magnesium. So justify it in your annotation. Don't write an annotation that makes absolutely no sense.

MR. CARTER: The question has been called that we vote. What we are voting on at this point is simply to change the language in Annotation B from the original language there to new language that would say, Soil tests must indicate excess magnesium.

There will be a separate vote if this passes on whether or not to include that language. So this is only a motion to change the language. Whether or not you like the annotation, this is a motion on whether you like the new language better than you like the old language, okay? Everybody understand? Okay.

MS. CAUGHLAN: Restate the language then.

MR. CARTER: So the new language being proposed under the amendment is, Soil tests must indicate excess magnesium, period. Okay. All in favor of that wording change, indicate by saying aye.

(A chorus of ayes.)

MR. CARTER: Opposed, same sign.
(A chorus of nays.)

MR. CARTER: Okay. So would the nays hold up their hands. Okay. It passed, with nays being Dennis, Owusu, and Rose.

MR. RIDDLE: Mr. Chair --

MR. CARTER: Okay. We're back now to the motion -- to the amendment to pass. Okay.

MR. RIDDLE: No. Yes, just a point of order. Just to ask for abstentions on whatever you vote.

MR. CARTER: Oh, that's true. Yes. Not only ask for abstentions, but I should have before we began this starting asking if anybody needs to state a conflict of interest on this particular issue. The chair apologizes. How's that? Okay.

MR. SIDEMAN: David, may I ask you one thing?

MR. CARTER: Okay. Just if it's a point of order.

MR. SIDEMAN: Well, it's sort of a point of order. It's a point of personal --

MR. CARTER: Okay. Yes.

MR. SIDEMAN: OFPA makes provisions for allowing synthetic materials, and that list of provisions I don't think allows for synthetic sources of macronutrients. So I don't think this could actually be
permitted under OFPA. Calcium is one of the six macronutrients.

VOICE: That's testimony.

MR. CARTER: That's testimony. Yes. So everybody's instructed to forget what Eric just said.

MS. KOENIG: I would like to point out, though, due to the fact that we had committee member -- excuse me -- we had committee members coming onto our committee that didn't even vote that are present at this table. Eric was still officially on the NOSB.

Now, I'm not saying that he can vote today, but I'm saying he was voting in the committee reports before the committee members attended.

MR. CARTER: Okay. I'll accept that. Okay. The language, though, now what is -- yes?

MR. BANDELE: See, I always wanted a clarification on this point, because to me, I understand OFPA saying that, but it's my understanding that if a petitioner petitions for a synthetic, then if it's added to the National List it's allowed.

But if the point that Eric made is true, then this whole discussion is moot.

MR. RIDDLE: Yes, I'd like that citation.

MS. BROWN: [indiscernible]
MR. CARTER: Slow down.

(Pause.)

MR. CARTER: Okay. Please take your seat.

Okay. It's covered by the TAP review, okay. So we will proceed here, okay. So the discussion that is acceptable at this point is we are only voting now on whether or not to include Annotation B, which now reads, Soil tests must indicate excess magnesium. Okay?

VOICE: No.

MR. CARTER: No? We only voted to change the language. We didn't vote to accept. So this is what we're voting to accept this annotation. All in favor, say aye.

(A chorus of ayes.)

MR. CARTER: Opposed, same sign. Raise your hand so we can note. Okay. So we have Kim, Rose, George.


That fails, because there was -- if we got 13 -- okay, so we got 14. We got five -- yes, we needed nine. Yes, we still needed ten.

Okay. The vote for. All those that were for it, raise your hand. Let me just -- it's easier for me to -- okay. Raise them high. Okay. Nine voted aye, being less than the -- was it two-thirds?
MR. LOCKERETZ: Well, it's a two-thirds voting.

No, there were two abstentions.

MR. CARTER: There were two abstentions.

You're right. Okay. So that does carry.

Procedural. Yes, it's only -- you're right.

Okay. It's only if you're recused, so an abstention is in effect a vote. Yes. Okay? So that fails. This annotation is not included.

MR. LOCKERETZ: Mr. Chairman, I wasn't aware that an abstention would count as a no vote, so I would like to be able to change my vote from abstention.

VOICE: I move to reconsider.

MR. CARTER: Yes, you have to -- somebody that voted on the prevailing side of this, which is the no side, the abstentions have to vote for a motion to reconsider.

MR. LOCKERETZ: I move a motion to reconsider.

MR. CARTER: Is there a second?

MR. KING: Second.

MR. CARTER: Okay. It's nondebatable. All those in favor of --

VOICE: Wait. Willie was the one who abstained. Correct?

MR. CARTER: Yes.
VOICE: Then how can he -- he can't make the motion.

MS. BRICKERY: No, he cannot. An abstention counts for purposes of people present voting but not for this purpose.

MR. CARTER: Okay. Carolyn will be the official parliamentarian here. Okay. So that is -- okay. Is there anybody that voted no that is willing to make a motion for reconsideration?

MR. LOCKERETZ: Well, since abstentions are counted as no, is there a difference here?

VOICE: They're not counted as a yes or no.

MR. SIEMON: Yes. I'll make that motion.

MR. CARTER: Okay. George voting -- and you voted no. Right? Okay. So George, having voted on the prevailing side, making the motion. Is there a second?

MR. BANDELE: From anybody?

MR. CARTER: Yes.

MR. BANDELE: I'll second.

MR. CARTER: Okay. The motion to reconsider is back on the table. All in favor of reconsidering this motion, say aye.

(A chorus of ayes.)

MR. CARTER: Opposed, same sign.
(No audible response.)

MR. CARTER: Okay. There was one no. Okay.

So the motion that is back on the table to be voted on is including Annotation B, Soil tests must indicate excess magnesium. All in favor, say aye.

(A chorus of ayes.)

MR. CARTER: Opposed, same sign. Okay. Just four -- okay. High -- no's, hold them high. Be proud of -- okay. Three no's. Abstentions? No abstentions. Okay. So the motion then carries. This is included.

Okay. We are now down to the third one. To e applied in a form that yields less than one degree Fahrenheit temperature increase when equal volumes of the product and water are mixed.

All of those in favor of including this annotation, say ayes.

(A chorus of ayes.)

MR. CARTER: Okay. All those opposed, nay. Hold them high.

(A chorus of nays.)


Okay. So this annotation is removed.

We are now voting on the motion as amended
which, at this point, says, Calcium oxide is a synthetic material which should be added to the National List with the following annotations: (a) must be source from lime kilns, and (b) soil tests must indicate excess magnesium.

Are you ready to vote on the motion as amended?

Owusu.

MR. BANDELE: Yes. I don't understand -- the point that I raised earlier. The answer was it's already in the TAP. But to me, I didn't get an answer. So my question is: Can a synthetic fertilizer be added to the National List and still be in the spirit of the Act? Because if that's not true, you know, it's moot.

MR. CARTER: Jim.

MR. RIDDLE: Well, they certainly can be petitioned and considered, in my mind. But I may seem schizophrenic on this one, but I was supporting the annotations because I think if it is going to be approved, there do need to be some tight restrictions on the source and the justification documentation.

But in looking back at OFPA, I think the section above the one that was referenced is really the relevant one, and that is, Is necessary to the production or handling of the agricultural product because of unavailability of wholly-natural substitute products.
And I'm -- and clearly, this material does have wholly-natural substitute products which provide the same nutrient.

MR. SIEMON: I disagree.

MR. RIDDLE: You disagree. Well, you --

MR. SIEMON: On the availability --

MR. CARTER: Turn on your mic, George.

MR. SIEMON: Not on the same availability basis.

MS. KOENIG: George, triple superphosphate also, which we did not vote for, it also has more availability. There's a lot of things that are a hell of a lot easier to use and a lot quicker sources, but they're not organic. Remember why we're here.

MR. CARTER: Okay. Kim.

MS. BURTON: Just a comment. When OFPA was written, there was quite a few -- even as far as processing goes, there was some synthetics that weren't allowed in processing, so we are allowing other materials on the National List in the processing arena that aren't provided for by OFPA.

So OFPA, even though it's the bible, it was written quite awhile ago. I just want to put that point of order in.
MR. CARTER: Okay. George and then we'll --

MR. SIEMON: Yes. My whole concern about this is first of all it's a definition of synthetic. This is a burn product. You know, a natural product that's burned -- that makes a synthetic. But you know, our goal is to raise nutritious feed.

This afternoon we got a proposal to allow the same item as a feed additive. Okay. So what we're saying is if this afternoon works, we're going to allow it as a feed additive but we're not going to allow -- and yes, it is a quick fix because of the one year to get the calcium level up in that feed to avoid that final feed additive.

It's a balanced thing. I think the synthetic is debatable, and I'm not sure why we don't want to raise nutritious feed.

MR. CARTER: Okay. Rose.

MS. KOENIG: I think that you don't have to look at it. They're not one and the same. We're looking at this as a soil amendment. We've approved it in crops, in Bordeaux mixture, and other components for fungicide use.

You get into the soil and soil amendments and fertilizers in soil use, it's a whole different animal, and I think you can separate those issues. You should
separate those issues. We're looking at each specific
product for their intended use.

MR. SIEMON: Yes, but the goal is to get as
close to the soil as possible. This is getting close to
the soil rather than adding it in the feed later on.
That's the purpose of this.

MR. CARTER: Okay. The question has been
called. So the motion that is on the table at this point
is voting strictly on, Calcium oxide is a synthetic
material which should be added to the National List with
the following annotations: A, must be sourced from lime
kilns, and B, soil tests must indicate excess magnesium.

All those in favor of including this signify by
saying aye.

VOICE: Let's do a hand vote here.

MR. CARTER: Okay. Hand vote. All those in
favor, say aye. Okay. Hold them high. Yes. One, two,
three, four, five, six.

Okay. All those opposed? Seven.

Abstentions? One.

Okay. So the motion fails.

MS. BRICKERY: Dave.

MR. CARTER: Yes? Parliamentary privilege.

You have to push on your mic.
MS. BRICKERY: I thought the level of debate on this was great. I loved it. We never had debates like this when I was chair. There must be a reason for that.

MR. CARTER: Do you want to get back on?

MS. BRICKERY: I want to get back on. Rose, you were great. However, I have a very serious point to make, which is I really think you've got to look at each of these materials on its own merits and not get hung up on these annotations.

There are legal problems with doing these annotations. We were told that the day I came on the board. The Office of General Counsel has a lot of trouble with these annotations. And picture yourself defending the material you just voted on with these annotations if you're Rick. It's going to be tough.

I mean, you know, it's convoluted. The reviewers are going to say, Well, how do we even know how you can find out what these sources are. It gets the group confused because you end up focusing on the tail rather than the dog. I don't mean anything pejorative about this material in saying that, but, I mean, that's the fact.

So I really urge you to look at these materials as a material and decide whether or not you think it ought
to be approved. Then and only then look at whether there's any kind of very specific limited restriction that you want to put on it.

You want to use it only for, you know, carrots. You want to use it only under conditions that won't allow some toxic thing to happen. I mean, really be selective about the criteria that you're looking at, and make sure they can be enforced.

MR. CARTER: Well, and I agree with that, Carolyn, but the whole idea is if a recommendation comes forward with this number of annotations, someone may or may not support the whole thing as a whole. But it still gives them an opportunity to go through there and weed out the ones and get it down to the number of annotations and then look at that package as a whole.

MS. BRICKERY: But Mr. Chairman, I respectfully point out that you have hundreds of these things to do. You are not going to be able to spend the time you just spent on each one of them --

MR. CARTER: Absolutely.

MS. BRICKERY: -- plus all the time that the committee spent in its very respectful and thorough deliberations and all the time the TAP reviewers spent. So don't rely on these annotations to determine whether or
not you're going to approve a material or not.

Look at the material, then take a position on whether there should be a very, very tightly limited annotation.

MR. CARTER: We'll take that under advisement.

MS. BRICKERY: Thank you.

MR. MATHEWS: She did miss one thing -- all the time we're going to have to take justifying it.

MR. CARTER: Okay.

MR. BANDELE: On the second motion, change calcium oxide to calcium hydroxide.

MR. CARTER: Okay. Proceed.

MR. BANDELE: I'm making the motion that calcium hydroxide synthetic be used -- should be added to the National List with the following annotations: Must be sourced from lime kilns, to be used only when documented soil test indicates reasonable or excessive magnesium; to be applied in a form that yields less than a one-degree Fahrenheit temperature increase when equal volumes of the product and water are mixed.

MR. CARTER: Okay. There's been a motion on the table. Is there a second?

MS. OSTIGUY: Second.

MR. CARTER: Okay. It's been seconded. Okay,
the seconder was Nancy.

Okay. Discussion on this motion?

MS. CAUGHLAN: What was the vote within the committee on this? I'd like to know that.

MR. BANDELE: The vote was the same. Four in favor, one opposing.

MR. CARTER: Okay. Rose.

MS. KOENIG: I'm not sure how much we have to discuss it. I think the arguments are exactly the same as the previous product.


MR. SIEMON: The same with d and e and f?

MR. CARTER: This is all just the same. This has been the proposed language. I think procedurally, everybody here understands that we're going through -- essentially, we don't want to go through all of the same debate we did on the previous one.

MR. SIEMON: So the same annotations as for oxide?

MR. CARTER: No. This is just this language -- this here. Okay?

MS. CAUGHLAN: Point. I'm assuming -- just a
correction here -- that you're meaning a, b, and c.
You're not meaning d, e and f?

    MR. CARTER: Kim.

    MS. BURTON: Instead of just going through a
lot of time and effort here, can I just make a motion that
we vote on calcium hydroxide with the same annotations as
the previous material, calcium oxide?

    MS. OSTIGUY: Second.

    MR. CARTER: Okay. It's been moved and
seconded by Nancy that we just change all of this to the
same language as the previous only before we dispense with
this one. Okay? Understand that. Just changing the
language.

    Okay. All those in favor, signify by saying
aye.

    (A chorus of ayes.)

    MR. CARTER: Opposed, same sign.

    (No audible response.)

    MR. CARTER: Okay. That carries. So we're
esentially voting on the substitute language, which is
the same language that we defeated in the previous one.

    All of those -- we're ready to vote, as I
understand -- all of those in favor of calcium hydroxide
reworded to the previous language, signify by saying aye.
(A chorus of ayes.)

MR. CARTER: Okay. Hold your hands up. Okay.

Two.

All of those opposed? Hold them up high.

Nine.

Abstentions? One abstention.

The motion fails.

MR. BANDELE: Sir, the potassium sorbate is a synthetic material that should not be added to the National List. That's a motion.

MS. OSTIGUY: Second.

MR. CARTER: Okay. I'm sorry. Motion was made to potassium sorbate synthetic material should not be added to the National List. It was seconded by Nancy. Okay. Discussion on the motion.

George.

MR. SIEMON: Just to point out the livestock committee has put the same material forward for use in herd health items, medications. So I just don't know what the relationship. I guess that's going to be whole other TAP review is what that will boil down to? I just want to make the point because it's just coming forward right now.

MR. CARTER: It's for a separate purpose, so yes. If you're ready to vote --
MR. BANDELE: I just want to add that in this particular petition, as you are probably aware, it was recommended as a seed treatment in an organic seed treatment compound which was not actually spelled out, so no one really knew what the substance was that they were adding this to.

So the reviewers felt that there was not even enough information to make an intelligent decision on that basically and the committee felt the same.

MR. CARTER: Okay. Kim.

MS. BURTON: Owusu, can you tell me how the committee voted on this?

MR. BANDELE: Oh. Sorry, Kim. That was unanimous -- five to zero.

MR. CARTER: All right. Ready to vote? Okay. Does anybody have a conflict of interest on this? Okay. I see none.

All those in favor of the motion that this material not be added to the National List, signify by saying aye.

(A chorus of ayes.)

MR. CARTER: Opposed, same sign.

(No audible response.)

MR. CARTER: That carries unanimously.
Next item. Oh, I'm sorry. Abstentions.

(No audible response.)

MR. CARTER: Okay. We'll all get it right eventually.

MR. BANDELE: Motion that sodium propionate is a synthetic material that should not be added to the National List.

MS. OSTIGUY: Second.

MR. CARTER: Okay. It's been moved by Owusu, seconded by Nancy, that it not be added to the National List. Discussion?

MR. BANDELE: The vote on that, Kim, was five to zero.

MS. BURTON: Thank you.

MR. CARTER: By God, we'll get this down. Okay. Seeing no hands up for discussion, you're ready to vote.

All those in favor of the motion that this should not be added to the National List, signify by saying aye.

(A chorus of ayes.)

MR. CARTER: Opposed, same sign.

(No audible response.)

MR. CARTER: Abstentions.
(No audible response.)

MR. CARTER: Okay. The motion carries. And we even did our procedure right.

MR. BANDELE: Next motion is to postpone consideration --

MR. CARTER: Turn on your mic, Owusu.

MR. BANDELE: Next motion, by five to zero vote, is to postpone consideration of the two petitions involving sodium nitrate until the September NOSB meeting.

MS. CAUGHLAN: Second.

MR. CARTER: Okay. It's been moved, this time Goldie seconded, that it be postponed until the September meeting on sodium nitrate. Okay. Discussion on the motion.

Owusu.

MR. BANDELE: Just clarification. I think many people are aware that there were some folks who supported the use of sodium nitrate, felt that there was not enough forewarning in terms of this petition to give them adequate time to respond.

On the other hand, we did have a petition pending involving the use of sodium nitrate in spirulina. That petition involved exceeding the 20 percent restriction. We felt that the petition had been in place
for so long that it really would not be fair to the petitioner if we delayed that decision, but at the same time, it was best to consider both at the same time.

So Kim, as chair of the materials committee, contacted the petitioners and they in fact -- that is the spirulina petitioners -- and they in fact stated that they had no problem with the September delay. In fact, they would favor that.

So with that in mind, the committee voted five to zero to postpone.

MR. CARTER: Okay. Discussion on the motion? Willie.

MR. LOCKERETZ: Question for Rick. If we acted in September on this, it would still be included in that interim final rule that's being developed?

MR. MATHEWS: The September meeting will go into a separate rulemaking docket. We are intending to put it forward as a second interim final rule. The timing on it, I'm not really sure, and of course we also have to get cooperation from OGC as a interim final rule.

So I can't tell you that it will happen before October 21.

MR. LOCKERETZ: Okay. Thank you.

MR. CARTER: Okay. Rose.
MS. KOENIG: Question. Clarification for Rick. We voted during the last meeting that things that we made decisionwise -- I mean, it was a recommendation that certifiers be able to use that as a working kind of document, and I'm not sure where that went, and it'd probably be informative to let us and everyone else know.

MR. MATHEWS: That's still an issue to be resolved with the attorneys, but the approach that we are taking is similar to what we have taken for the interim final rule, which is that the secretary really doesn't have a say in putting something onto the list, so we would argue that the board has already indicated its pleasure and that we would just be carrying out the process.

So we will be asking the attorneys for permission to say that it's okay, go ahead. But no guarantees.

MR. CARTER: Okay. Seeing no one else ready to speak, we'll proceed to vote.

All of those in favor of the motion, Postpone consideration of two petitions involving sodium nitrate until the September NOSB meeting, signify by saying aye.

(A chorus of ayes.)

MR. CARTER: Opposed, same sign.

(No audible response.)
MR. CARTER: Abstentions.

(No audible response.)

MR. CARTER: Okay.

MS. BURTON: Mr. Chair, the final motion from crops is that spinosad is a nonsynthetic material that should not be added to the National List.

MR. CARTER: Okay. Motion. Is there a second?

MR. HOLBROOK: I second the motion.

MR. CARTER: Okay. Seconded by Dennis. Okay.

Discussion. Okay. Let's start off with Owusu to explain the motion. Then going to Rose.

MR. BANDELE: Yes. Point of clarification.

When we say that it should not be added to the National List, that in effect says that it's a naturally-occurring substance and it can be used. It is a byproduct of a living organism.

The committee was concerned about certain detrimental environmental potential conditions, namely, damage to nontarget species like bees and other pollinators and also to some aquatic life. However, we did not add the annotation -- I'm sure some people were glad that we did not -- because we felt that that's already implied.

And in fact, the pesticides are to be used only
as a last resort already, and products such as rotenone, which I know is another whole ballgame, has serious concerns and people have to take those precautions.

So we felt that the precautions were already spelled out, so we recommended this use without annotation.

MR. CARTER: Willie next.

MR. LOCKERETZ: Just to clarify something. If it's been called nonsynthetic, then to say it won't be added to the list, National List, means it won't be added to the list of prohibited nonsynthetics? The sense of the -- I want to make sure we get the sense of the motion. So a vote would -- their recommendation is not to explicitly exclude it?

VOICES: Yes. Right.

MR. LOCKERETZ: Okay.

MR. CARTER: Wait a second. Wait a second. Kim is next and then George. No, wait a second -- Rose is next. I'm sorry.

MS. KOENIG: No, I just had wanted to point that out.

MR. CARTER: Okay. Kim.

MS. BURTON: One question. This was petitioned also for livestock, so I just want to clarify that this
would also be the vote for both crops and livestock. Just for clarification.

MR. RIDDLE: So there won't be a separate vote?

MS. BURTON: I don't -- I suppose -- I don't know -- George, did you work on this through livestock?

MR. SIEMON: No. We did not.

MS. BURTON: I just want to make sure that we get it under both categories, and I'm not quite finished yet. Rick is asking, just so that we make sure that we do have this right, that the recommendation should read, Spinosad is a nonsynthetic material that should be not added to the National List of prohibited materials.

MR. CARTER: Okay. Is that an amendment?

MS. BURTON: Yes.

MR. CARTER: Okay. Kim has made the amendment, George has seconded, to add the words, of prohibited substances, after the word List. Just discussion on this amendment now.

Okay. All in favor of the amendment, signify by saying aye.

(A chorus of ayes.)

MR. CARTER: Opposed, same sign.

(No audible response.)

MR. CARTER: Okay. So we're back to the
original -- on abstention, Jim abstains. Okay. So we're back to the motion as amended, and I had next on my list George.

MR. SIEMON: That's what I want to do.

MR. CARTER: Okay. Other discussion? Jim.

MR. RIDDLE: Yes. I have some problems with this material, and I'd like to just quote some of the things from the TAP review that I highlighted, which at the very best I think should lead to some annotation, some restrictions on the use of the material.

A repeated application could lead to some buildup of spinosans. The soil microbes degrade spinosad into other spinosans which are more persistent and biologically active, so its breakdown products remain toxic in the soil.

When it's applied to water, very little hydrolysis occurs. The substance can be persistent. In the absence of sunlight, the half-life appears to be at least 200 days. There are many insects, including ants and springtails, that could be impacted by the insecticidal activity of spinosad.

It's broad spectrum. It's not selective. Has a tendency to accumulate in fat and milk, if we're considering it for livestock use. There are other
alternatives to the product that currently exist, and a number of those are listed in the TAP review.

It can have negative impact on parasitoid populations, negative impact on pollinators. I think these are very serious ramifications as documented toxicity to fish and aquatic invertebrates.

I just have -- highly toxic, highly toxic, to marine mollusks. Just because we've allowed Rodenon as another natural doesn't mean we should make the mistake again. There are problems with Rodenon and were held up by organic industry is criticized because of the use of Rodenon which has some of these exact same toxicity, especially the aquatic toxicity, and that -- you know, making one mistake once doesn't mean we should repeat that mistake.

At the very best, I'd like to see some language, and I mentioned that yesterday, some annotation developed so that it would be actually placed on the list of prohibited natural materials with some very tight restrictions on its use.

MR. CARTER: Okay. Nancy.

MS. OSTIGUY: The committee discussed the possibility of annotations, and we basically came to the conclusion that they would be incredibly difficult to
enforce. And in addition, as pesticides of any sort are supposed to be items of last resort and to the organic farmer, the specific problems with the hymenoptera and the lepidoptera and the parasitories are -- the point -- if you are going to be farming organically, to adversely impact your hymenopteras, your pollinators -- whether we're talking honeybees or the native pollinators -- you would be shooting yourself in the foot if you used this material inappropriately.

The same thing with the parasitories. The last thing you want to do is decrease your parasitory population. And the committee did discuss this quite extensively. I was initially in favor of putting restrictions on.

It became clear very quickly that it would be incredibly difficult to enforce.

MR. CARTER: Okay. Kevin.

MR. O'RELL: What was the committee vote on this?

MR. BANDELE: Committee vote was five-zero.

MR. CARTER: Okay. Other discussion? Rose.

MS. KOENIG: I just want to reiterate what Nancy said and acknowledge to Jim, everything you pointed
out was -- it's definitely of concern and it's not something we're saying, This is a great tool. Go spray it every day.

We're feeling that through the certification process that those checks and balances should be there. Now, you're more of a person that might be able to enlighten us if we -- if you feel that there needs to be in law those prohibitions so that you make sure.

But we felt like a good inspection and a good farm plan, it would become very obvious if somebody was just using it as a preventative method each week as they were spraying. So that's -- I mean, I would defer that opinion to you because you seem to have more experience and you weren't there when we were discussing this.

MR. CARTER: Jim.

MR. RIDDLE: Well, yes, it's true that the rule does require that in the organic plan that any pesticide materials be used as the last resort; that they have to implement all of the preventative measures in terms of selection of varieties, cultural practices, encouraging beneficials and all those sorts of things.

And, you know, I hear what Nancy's saying on that, too. A person would be shooting themselves in the foot. But on the other hand, we got to think about all of
the conventional farmers that are converting to organic
production, and they want to know, What can I use? What
is allowed, because of the recipe mentality, the input
mentality.

And so now, this is a broad spectrum tool, and
as an inspector, there's no guidance being given except
what's in the rule to get down to using Rodenon or now
spinosad. There's nothing to have any additional
considerations because of the toxicity and the persistence
of this material.

And especially, I mean, if this is going to be
wide open to livestock use, I don't think we've considered
those impacts at all, especially the fact that it can
accumulate in fats and milk.

MR. CARTER: Okay. Rose, then George, then I
have a question, then Mark.

MS. KOENIG: Well, again, the crops committee
did just look at it for crop application. We did have an
indication that livestock was going to listen to our
recommendation and then make perhaps a recommendation
following that, but we specifically looked at it in terms
of crop issues.

And there may be separate issues in livestocks
where you might want to prohibit it for livestock use. Or
what I'm suggesting to you, Jim, is we're open to listen to an annotation. When we started thinking of the annotations again, it became this cumbersome list of things and we thought, Hey, you know, those things any qualified inspector should know -- should be checking when somebody's spraying.

And so come up with a suggested annotation and we would welcome that.

MS. BURTON: It seems to me that sometimes when --

MR. CARTER: Just a second. Just a second. George.

MR. SIEMON: Well, I just wanted to ask Jim. You're referring to 316.317 when it was fed to the cattle that there was absorption rate in fat and not that -- this isn't for that purpose, so was that just an experiment they did to see what the result was, because we're talking about a surface application of this, as far as I know, from what I can read in here.

MR. RIDDLE: There's no annotation that it would be restricted to surface. If it's a natural material, it could be found.

MR. SIEMON: Yes. I agree. I'm just -- but it says they applied for the use as an external parasiticide,
it says, the petitioner did. I know we're not putting a restriction on it.

MR. RIDDLE: Right.

MR. SIEMON: What was the feeding about. Do you know? Just an experiment or another way to use it or --

VOICE: Probably did it for EPA.

MR. SIEMON: EPA? Yes. I don't understand the -- because it says external parasiticide.

MR. CARTER: Okay. I'll hold off on my question till we get done with this discussion. Mark.

MR. KING: Yes. Two quick things. One, to speak to Jim's concern about new people coming into the industry, I think that is a concern in terms of people migrating to organic, because they're ramping up very quickly.

And while I personally don't have any major issues with this particular material, I guess the question is how can we best communicate, you know, the philosophy and really the principles in terms of how a material like this would be used.

So -- and I don't know, I'm not -- you know, don't have an answer for the annotation part of it, but it
seems that maybe that's the direction for us to go.

MR. CARTER: Goldie.

MS. CAUGHLAN: Pass.

MR. CARTER: Kim.

MS. BURTON: Just to comment. Looking at the status among certifiers, it doesn't appear that many certifiers have had annotations with this material. So I agree with the committee that there should be no annotations.

MR. CARTER: Nancy.

MS. OSTIGUY: I actually do agree with Jim's concern about animal application. We did not consider that, and since it is a fat-soluble substance, it can absorb through the skin. So the fact that it is a topical application, the intent does not prevent accumulation in the fat.

MS. KOENIG: I was just going to address Mark's question. I think there's two approaches as far as, you know, how do you train or what do you provide for transitional growers. I mean, one way is to place it within the rule if we feel like it's a very -- you know, if that's necessary.

The other thing is if ATRA is developing these checksheet tools for growers that those kinds of policies
or informational guidance could be provided in that form also, or you may want to do both.

MR. CARTER: Owusu.

MR. BANDELE: Yes. Nancy, I appreciate your comments, but I don't think that would be a consideration as we're considering it today, because we only looking at it for crop use right here. Is that not right?

MR. CARTER: Okay. Kim.

MS. BURTON: Although it was petitioned for crops and livestock, this review does focus on crops, so we'll either have to review it at a separate time for livestock, and I have go back and look at the actual petition because this specifically says it was for crop, unless OMRI has a comment about that.

MR. SIEMON: But just a point. No action is an action, because it is at this time allowed on livestock, because it's a natural. Right? We'd have to -- best something that put annotations on it to do it.

MR. CARTER: Okay. Point of information from OMRI.

MR. BAKER: Brian Baker, Organic Materials Review Institute, for those of you I have not met. The petitioner was requesting for evaluation to both crops and livestock. However, it was determined that we should find
out whether or not the material is synthetic or
nonsynthetic and conduct the evaluation and act
appropriately from there.

To make most efficient use of limited
resources, we focused on crop production where most of the
use is concentrated. And the -- so again, that's the
reason we chose to review it. We did look at livestock,
as you can see from the TAP review.

And to respond to George's question, the
residue studies were based upon application to crops and
the contamination levels found in crops that were treated.
I don't have a copy of the Rutherford study with me, but
the methodology used was not direct feeding of the active
ingredient. It was crop residue and how crop residues
translated into residues in these food products.

MR. RIDDLE: I need clarification on that.
I've got several --

MR. CARTER: Go ahead.

MR. RIDDLE: Yes. A followup question, Brian.
Want to make sure I heard you correct that the ingestion
of the livestock was from consuming crop residues that had
been treated with spinosad --

MR. BAKER: Feed treated with spinosad.

MR. RIDDLE: Feed treated --
MR. BAKER: Foodstuffs, yes.

MR. RIDDLE: Right. And then it was showing up in the fat and milk?

MR. BAKER: Correct.

MR. RIDDLE: I have problems.

MR. BANDELE: Brian, question on that.

MR. CARTER: Just one -- okay. Go ahead, Owusu.

MR. BANDELE: Yes. In that study where the recommended rates use are a much higher rate?

MR. BAKER: Again, I don't have the methodology of the study with me. I can see if I can dig it up or if one of you has a copy of the study with you. Again, forgive my memory.

MR. CARTER: Let me -- before we go on with it, let me interject my question here. In, I think it was '98, OMRI looked at this and suggested to the manufacturer that they reformulate. Is this -- was this petition a different formulation of the substance than was done recently?

MR. BAKER: Those are two separate issues. The manufacturer applied to OMRI to have a brand name product reviewed. OMRI made the determination at that time, that the material was nonsynthetic and in OMRI's opinion, it
was the active itself was allowed under the Organic Foods Production Act.

And it was the inert ingredients that were found to be prohibited under the Organic Foods Production Act so that -- and in order to have our work cross-checked and to avoid conflicts, no OMRI employee was the investigator.

We contracted with the Biointegral Resource Center of Berkeley, California, to be the investigator on this TAP review, and the review was done by Dr. William Quarles.

MR. CARTER: Okay. George, you had a question?

MR. SIEMON: No. I was just going to make a comment that just -- it's in 317.320 is what we're talking about -- this livestock use, and it says, Feed fed continue up to 10 parts per million, and I have no idea what that relates to in -- from crop residue.

MR. CARTER: Okay. We have a petitioner here -- yes. You can come forward with --

MR. ROBERTSON: My name is Sterrett Robertson. I'm with Diver [phonetic] Sciences. I thought I at least would identify myself. Some of these questions that we can, I think, answer. There was just a second ago I think was simple, and I think the question about the
formulations. Pardon?

    MR. CARTER: Get a little closer to the mic.

    MR. ROBERTSON: Oh. Sorry. And --

    MR. CARTER: The mic was made for short folks like me.

    MR. ROBERTSON: Yes. Right. The formulation -- there was a component that was of concern in the '98 review is my understanding. I'm fairly new to this action myself. That has been removed and is in the confidential statement of formula is in the process of being reviewed right now.

    The formulations that are intended for use in this particular business is an 80 percent wettable powder and the GF-120, which is a fruit fly bait, and both of those would meet all the organic guidelines. So --


    MR. LOCKERETZ: There was a change in the wording about adding to the National List to make it clear. I think also it should be added which piece of the National List we're adding it to so that the sense of motion be absolutely clear.

    We're adding it to -- the question is whether to add it to the list of nonsynthetic substances
prohibited for use in organic crop production.

MS. BURTON: [inaudible].

MR. LOCKERETZ: Okay. But the list is question is that list, so I think that --

MR. CARTER: Yes. The motion that is on the table at this point is, Spinosad is a nonsynthetic material that should not be added to the National List of prohibited substances.

MR. LOCKERETZ: And if you want to put a Number 205.602 to make it --

MR. CARTER: Okay. Is that -- I mean, can we do that?

MR. LOCKERETZ: That's a friendly amendment.

MR. CARTER: That's just -- I mean, yes, that's where -- is there any -- yes. Okay.

MR. KING: Well, I think that's --

MR. CARTER: Okay. So we will just add that above. Yes.

Okay. Jim. And let's start to prepare to vote.

MR. RIDDLE: Yes. Well, I'm going to offer an unfriendly amendment, and that is to change the recommendation to add it to that very list for -- with the exception for crop use only. So to add spinosad to the
list of prohibited nonsynthetic substances with the number that Willie just had, except for crop use only, because I don't think we should be adding it for broad livestock use when we really haven't fully considered it.

    MR. CARTER: Okay. First, do I hear a second?
    Okay. It's dying for a lack of second. Okay. Now --
    MS. CAUGHLAN: Second.
    MR. CARTER: Okay. Go ahead.
    MR. RIDDLE: Yes. Rick just pointed out that that actually was the net effect of Willie's motion. Yes. Right. Right. So I would withdraw the amendment, but then I think we should look at adding it then to List 604 as a prohibited natural under 604, because we haven't considered it for livestock, unless we're going -- well. But anyway, I withdraw that motion and let's just look at it for 602.
    MR. CARTER: Okay. Kim.
    MS. BURTON: Just a comment regarding the livestock. Unless the livestock committee has done a thorough job of evaluating this material, I suggest we just not even discuss the livestock at this point. If somebody wants to bring it back to the livestock committee.
    If they have a recommendation the September
meeting, then they bring it forth then.

    MR. SIEMON: Well, I just need to understand.
If we just add this to -- that it's not going to be added
    to 602, are we taking for granted that means it's not
added for the other ones also? Isn't that leaving a vague
hole?

    MR. CARTER: Yes.

    MR. SIEMON: I mean, I don't quite understand.
This product was petitioned for both uses. And I just
heard that we didn't do it for the one, and now we're
trying to make a decision based on just a teeny bit of
information towards livestock.

    MR. CARTER: Right. And my understanding of
this that with the wording change is we are addressing
this only in the crops. Livestock is a decision that has
to be for another day.

    Kim and then Owusu.

    MS. BURTON: It was my understanding that this
was petitioned for crops and livestock. It's been on all
of our documentation to be reviewed by livestock. It's
even on the agenda to review for livestock. If the
livestock committee is not ready to review it and have not
put work into it, then we have to review it at the next
meeting.
MR. BANDELE: Yes. I was going to say --

MR. CARTER: Owusu.

MR. BANDELE: -- I agreed with what you said, Dave. It seems to me that the way we traditionally do things, we're dealing with the crops here so we should not confuse that because the crops committee did not take into consideration the uses for livestock.

So I think that should just be bored up during the livestock segment if that in fact is what's going to be done.

MR. CARTER: Okay. Are we ready to vote?

Okay. The motion that is on the table is, Spinosad is a nonsynthetic material that should not be added to the National List of prohibited substances under 205.02.

MS. CAUGHLAN: Ask for a conflict of interest.

MR. CARTER: Oh. Thank you, Goldie. Yes. Is there anyone here who has a conflict of interest on this issue?

(No audible response.)

MR. CARTER: Okay. All those in favor of the motion, say aye.

(A chorus of ayes.)

MR. CARTER: Opposed?

VOICE: Voice.
MR. CARTER: Okay. One, two, three. Okay.

Three opposed.

Abstentions?

(No audible response.)

MR. CARTER: Okay. So on a vote of eleven to three, the motion carries.

Okay. Does that conclude our crops?

Thank you, Owusu, for bringing this. I think this was helpful.

Let's go to a break then, and ten minutes and we will be back.

(Whereupon, a short recess was taken.)

MR. CARTER: Okay. Let's get in here and get started. If you haven't finished your conversation, take it in the hall. If it's a really juicy conversation, fill me in on it later.

Okay. Let's move on now with the processing committee.

MS. BURTON: Well, we actually -- the livestock is next, but as we discussed earlier with the one material, we're going to bring that back up in September.

So we'll move on to processing. We have five materials under processing: gelatin, dewaxed flake shellac, calcium stearates, diethylaminoethanol, DEAE, and glycerol
I wanted to make one comment as materials chair on the gelatin material. We were reviewing this actually for two separate petitions. One, for gelatin and then one for capsules, and the petition for capsules came in and in reality, it was a brand name review.

So we are just looking for -- we're looking at gelatin, specifically as an ingredient or as a material, so if there's any of the gelatin folks in the audience, that's how we work this process -- or the capsule folks.

We work this process is that we do single materials only, and I know that there was some concern and some comments to the board as to why we're not actually be approving the caps, but it's just the components of that.

So -- Mark.

MR. KING: Thanks, Kim.

Yes. As Kim said, the first one up is gelatin, and it was petitioned primarily in this case as a processing aid used to clarify teas and different beverages. It's also used as a fining agent in wine. It's a stabilizer, thickener, and a texturizer in a range of products within the industry.

So it can also be used as a processing aid or an ingredient. Background on this, gelatin, essentially
as the committee explored it, we found that it can be made from different sources of collagen. It can be prepared in ways that are more like cooking or in ways that could render it as synthetic.

The TAP reviewers recommended that gelatin be added to the National List. One recommended that it be prohibited for use in organic processing and handling, in this particular case.

After a lot of discussion, the committee came up with the following recommendation, and I move that the board accept this recommendation. And as you're reading, as members of the board, I'd like to make one point of clarification in the recommendation.

I have -- we, as a committee, have typed gelatin to be listed in 205.606. And really what we're saying is gelatin is applicable in this case to 205.606, so I want to make that point of clarity for everyone.

So the recommendation reads, Gelatin -- and we'll put in this case reads -- to be listed in 205.606, nonorganically produced agricultural products allowed as ingredients in or on processed products labeled as organic or made with organic.

At the committee level this was approved five to zero in this particular case, so it was unanimous. And
concluding this, I think --

MR. CARTER: Just saying if you made that as a motion, is there a second?

MR. KING: Oh. Sorry.

MR. O'RELL: Second.

MR. CARTER: Okay. It's been seconded by Kevin.

Okay. Go ahead.

MR. KING: Okay. Sorry. And so in concluding this, this recommendation really determines gelatin to be a nonorganically produced agricultural product that would be included in 205.606 for products labeled as organic and nonorganic.

MS. BURTON: [indiscernible]

MR. KING: Oh. Sorry. Yes. Thank you.

MR. CARTER: Okay. Is there discussion on the motion then?

Okay. Rose.

MS. KOENIG: We're discussing the issue.

Right? How did the committee feel about some of the allergic comments, I guess, on fish and -- I mean, there was some -- you know, and then the potential for mad cow contamination of -- from -- I know these are, you know, risk factors that weren't -- that are unknown that right
now we -- but what were your discussions?

I'd just like to hear what your rationale was on those.

MR. KING: Okay. I'll give a quick answer and then Kim has a point to make, too. In looking at this, we really looked at what the material is, and we do share those concerns and then some of those were pointed out with different risk factors.

But we looked at the material as well as what the process of making the material was and found that as did, you know, many of the -- much of the information in the TAP as well as the reviewers that it was a natural, in this case.

So that's how we came to that conclusion. But we do share those concerns.

Kim.

MS. BURTON: We discussed that fully, because especially in processing, you know, we're going to come up against this quite often that food safety and organic, and our conclusion and our strong conclusion, at least, the processor reps is that food safety is handled by different means and from allergens to all kinds of different areas.

So in this case, we are confident that the processors are required to follow good manufacturing
practices and that these would be handled under that arena.

MR. CARTER: Okay. Further discussion on the motion? Okay. If we're ready to vote, the motion on the table then is, Gelatin to be listed in 205.606 nonorganically --

MS. CAUGHLAN: Call for conflict of interest --

MR. CARTER: Just a second. I'm reading the motion here. Produced agricultural products allowed as ingredients in or on processed products labeled as organic or made with organic. Okay.

Does anybody have a conflict of interest?

MS. BURTON: I have a comment.

MR. CARTER: Okay.

MS. BURTON: Although it is for beverages, to the best of my knowledge we do not use gelatin in any of our products.

MR. CARTER: Any others? Okay. You ready to vote?

All of those in favor, say aye.

(A chorus of ayes.)

MR. CARTER: Opposed, same sign.

(No audible response.)

MR. CARTER: Motion carries unanimously.
MR. KING: Okay. Next up is orange shellac, unbleached. Essentially in this particular case, it's primarily petitioned as a coating agent. It's also used in a number of other ways, as a color diluent, in this case, a surface finishing agent, perhaps glazing and polishing agents for use in confectionery and also in food supplement tablets and as well as chewing gum.

What we found in this is that essentially, shellac, as you may know, is derived from the hardened secretion of the lac insect. The TAP reviewers were split on this in the information that we reviewed, two categorizing it as nonsynthetic, one as synthetic.

However, the reviewer determining orange shellac, unbleached, as synthetic did state that impure shellac appeared to be a natural product and that a strong argument could be made for its compatibility with organic handling principles.

So the committee looked at that and felt that that was, you know, quote, unquote, almost unanimous. And after reviewing the information determined that in this case, shellac -- orange shellac, unbleached, is a nonsynthetic agricultural material.

And I move that the board consider the following recommendation. And again, I'll point out that
I have said to be listed in 205.606, and I just want to clarify that what we're really saying here is that it's applicable to 205.606.

So the recommendation -- move that the recommendation be considered by the board is, Orange shellac, unbleached, to be listed in 205.606 nonorganically produced agricultural products allowed as ingredients in or on processed products labeled as organic or made with organic.

MR. CARTER: Okay. The motion is -- actually, that the board approved the following language is -- well, his is that we consider this language. But what you're saying is you want us to approve this language?

MR. KING: Yes. Yes. Okay.

MR. O'DELL: Second.

VOICE: Would you clarify what this new motion is, please?

MR. CARTER: No, all it is is his motion that we consider the language. To consider something doesn't say that to approve it or not approve it. What the motion actually was, I mean --

MR. KING: Okay. I'm sorry. I'm sorry.

MR. CARTER: -- I was just clarifying his is that we approve this language.
VOICE: So we approve the motion?

MR. CARTER: Yes, we approve that.

MR. KING: Approve the motion, yes.

MR. CARTER: Yes. Then it's seconded by Kim.

Okay. Discussion.

Okay. Rose.

MS. KOENIG: I just had a question of -- I guess, number one, the TAP review put it under processing where to me, it looked almost like a crops type issue because it was for oranges. So the recommendations were kind of based on 95 percent made with organic products and -- or, you know 70 percent -- or made with organic or 95 percent organic.

So I just didn't understand why the product first came under processing if it really was for fruit application, which I understand is a post-harvest application, but it's not necessarily in my opinion a processing issue.

MS. BURTON: Well, it's very similar to waxes on apples or what-have-you, and that does fall under the processing category of 605.

MR. CARTER: Okay. Further discussion?

MR. RIDDLE: Yes.

MR. CARTER: Jim.
MR. RIDDLE: Yes. Mark, twice now you've mentioned the phrase, is applicable to 606. And maybe you should explain -- or maybe I can try and then you and Kim can correct me. But we'll be voting on another recommendation later on a policy or a rule change essentially to remove the list itself from 606, so the 606 language just pertains to nonorganic agricultural products must be -- well, in an organic form if they're commercially available.

So I think that's why you pointed out that right now, we're recommending that they be listed, but later we're going to be recommending that the list be deleted itself as a list. So that's probably why you're saying it's applicable to that.

It would fall under the requirements of commercial availability. Correct?

MR. KING: Yes. That's absolutely correct. And thank you for clarifying that, Jim.

MR. CARTER: Okay. Further discussion? Seeing none, we'll proceed to vote.

MR. BANDELE: I have a question. I notice that it said that the former NOSB board voted not to allow it but at that time it was not determined to be bleached or unbleached. So was that -- historically, was that the
major point by the former board found it to be not compatible?

MS. BURTON: Yes. The former board voted against this material in the bleached form. There was also an inert ingredient that was on List 3 that they reformulated to List 4. So it's a different product.

MR. CARTER: You look dazed and confused.

MS. KOENIG: Well, I just don't understand what you're saying. Is that list -- aren't we just looking at the product, unbleached shellac?

MR. KING: Yes. Yes.

MS. KOENIG: We're not looking at a brand name?

MR. KING: No.

MS. BURTON: No.

MR. CARTER: Okay. As we proceed to vote, is there anybody that has -- oh. Dennis.

MR. HOLBROOK: I just want to mention that I may have a conflict of interest here since I'm currently using a wax on my citrus that contains shellac.

MR. CARTER: Okay.

MR. KING: Thanks, Dennis.

MR. CARTER: Thanks, Dennis. It's up to the individual to decide.

Yes. Owusu.
MR. BANDELE: So one further clarification.

All right. So if this -- this will be approved for both processed as well as the applications that Dennis is speaking of in terms of fruit as well when we're approving it. We're approving it for both or just for the processed? Or is post-harvest considered processed?

MR. KING: That is -- yes. That is what it was petitioned for. Yes.

MR. CARTER: Okay. Are we ready to vote?

Okay. The language on the table, Orange shellac, unbleached, to be listed in 205.206, nonorganically produced agricultural products allowed as ingredients in or on processed products labeled as "organic" or "made with organic."

All those in favor, say aye.

(A chorus of ayes.)

MR. CARTER: Opposed, same sign.

(No audible response.)

MR. CARTER: Abstentions. One abstention. The motion carries.

MR. SIEMON: Just -- I'm sorry. I just missed what just happened with Dennis. Is -- did we -- is this allowed for using on fruit -- what we just passed -- or is it just processed food?
MS. BURTON: Going under 605. Or I mean 606.

MR. SIEMON: But it says in or on processed food. Is orange a processed food? I just want to make sure.

MR. KING: Well, there's been -- I mean, it's a post-harvest handling issue, but it has fallen under that historically. Okay? All right.

MR. CARTER: Okay. Kim.

MS. BURTON: One comment. He recused himself, and that should not be an abstention. It should be recused so that it does not count in the vote.

MR. CARTER: Okay. Good point.

MR. BANDELE: Dave, I just -- I'm just really unclear about that, even though I understand what you're saying about the fruit. But the TAP reviews came in like 95 percent organic and 70 percent organic. So to me, they're implying a further processed food rather than just the fruit use.

MR. CARTER: Okay. These are questions that should have been clarified before the vote. So we will only have limited discussion on this.

Kim.

MS. BURTON: We deem this as a nonorganic agricultural item, so it would fall under crops as that
category or under livestock -- or under processing in the
under 5 percent.

MR. CARTER: Okay. All right. Proceed.

MR. KING: Thank you. Next up, calcium
stearate is petitioned for use in the production of
organic food. So the background here is brief. The
processing committee voted unanimously to send the TAP
review back to the contractor for additional information.

So I move that the board vote on the language
or recommendation, TAP review for calcium stearate be sent
back to the contractor for additional information and be
deferred for consideration at the September 2002 National
Organic Standards Board meeting.

MR. CARTER: Okay. Who seconded?

MS. CAUGHLAN: Second.

MR. CARTER: Goldie seconded. Okay. It's on
the table for discussion.

MR. KING: And quickly, I'll just add the
committee vote in this case was four approved, zero
disapproved, and one absent. And what we found, to give
you a little bit more detail in this particular TAP
review, is that it simply was really inadequate in a lot
of areas.

An example would be that reviewers were citing
the actual petitioners provided information instead of
like industry documents, things of that nature. So
anyway, the committee felt unanimously that this should be
defered until September.

MR. CARTER: Okay. Further discussion.

Jim.

MR. RIDDLE: Yes. It's my understanding that
if we support sending it back to the reviewer that Kim
would be communicating with them. And I would just
suggest that any board members who have any observations
about deficiencies of this TAP review, could they get
those to you, Kim, to help direct that communication?

MS. BURTON: Yes.

MR. CARTER: Okay. Other discussion? Seeing
no hands raised, we'll proceed to vote.

Okay. Conflict of interest on this issue?
Seeing none, the motion on the table is to approve the
language, TAP review for calcium stearate be sent back to
the contractor for additional information and be deferred
for consideration at the September 2002 National Organic
Standards Board meeting.

All those in favor of the motion, signify by
saying aye.

(A chorus of ayes.)
MR. CARTER: Opposed, same sign.

(No audible response.)

MR. CARTER: Abstentions?

(No audible response.)

MR. CARTER: Motion carries unanimously. Okay.

MR. KING: Okay. Next is diethylaminoethanol, or DEAE. And this is a petition for use in boiler chemical systems, and there's a lot of history here. This was presented to the board initially in Buena Park, California, in 2001.

There's been a lot of work done on volatile amines in general, DEAE being one of those. Steve Parker has been involved in this a lot from the beginning as former chair of the processing committee, and so I'd like to recognize Steve at this time and have him come forward and give the new board members as well as those who are not familiar with this process some history and background on what we're talking about.

MR. HARPER: Thanks, Mark. Okay. Actually, this started before the 2001 Buena Park meeting, but because of the historical confusion, I'll start way back. The historical confusion regarding volatile amines among certifiers -- there's a need to get these volatile amines petitioned and reviewed by the NOSB to get some
clarification on it.

The OTA MPPL committee basically agreed to help out getting these in there. A number of industry members stepped forward, and all of the four volatile amines were petitioned, along with ammonium hydroxide, which is used in a similar method to volatile amines in dairy plant operations.

So they were all petitioned as a group, because that's sort of the universe of volatile amines that are used in processing plant applications.

I will tell -- let's see. Following that, there was a TAP review done by OMRI, and this was in 2000, and I can't remember all the exact dates back in 2000. But TAP reviews were done on all of the materials at the same time, as well as an excellent steam paper that was done by OMRI, put together by OMRI.

Then at the 2001 meeting, the Buena Park 2001 meeting, I requested that a technical expert be brought -- or I brought in a technical expert and gave a presentation to the board at that point on the use of volatile means in food processing environment, because most of the board members did not have a good understanding of what we were even discussing and be able to understand that.

So subsequent to that, we also requested more
information -- so they were deferred at that point. FOIA information was requested -- Freedom of Information was requested from the FDA on all these materials, and all that information did come through from the FDA except on diethylaminoethanol.

So with those -- and at the same time, two other things were done. Jim did a survey of -- or requested information from certifiers on their historical standards on these volatile amines. And then we also went out and did a survey of processors to gather information on use of these volatile amines to give us more information on what was going on in the industry.

So all of that information was all collected, and then finally at the -- at last -- the meeting last fall, we voted on ammonium hydroxide, octadecylamine, cyclohexylamine, and morpholine. Ammonium hydroxide was allowed as a volatile amine to be used.

Cyclohexylamine was used for sanitizing -- or sterilization, packaging sterilization purposes only. I should say the ammonium hydroxide had a sunset clause of three years from the time of the implementation of the rule.

Octadecylamine also had the same annotation for use in packaging sterilization purposes only. And then
morphyline was outright rejected by the board. And DEAE, or diethylaminoethanol, was deferred because we had not received back the FOIA information from the FDA. And so then today we have received that back, and so that's where we are at today.

Any questions about that? Or anybody have a different recollection of sort of the history? Okay. Thanks.

MR. KING: Thank you, Steve.

As an introduction concerning committee discussion in this, essentially what we found is that DEAE is petitioned for use in boiler chemical systems, specifically to prevent carbonic acid corrosion in return lines.

It can inhibit the corrosion by neutralizing carbonic acid and steam condensates and by scavenging free oxygen. So as Steve just explained to you, DEAE is a volatile amine that's designed to travel, okay, with boiler steam, all right.

In this case, boiler steam that can be used to sterilize product packaging, to steam food, and to also steam, for example, livestock feed products. While very few processors, as we found in reviewing the information, have migrated to modern technologies such as reverse
osmosis, stainless steel systems -- all these are things or examples that would eliminate the need for volatile amines.

Some of the processors continue to use volatile amines such as DEAE essentially to maintain the integrity of their boiler systems; something that would be a large capital expense in this case.

Some background. In order for a substance to be in or on, we're talking about essentially -- I won't go over it verbatim -- 205.605 here, so that's what we're talking about. So with that in mind, several companies within the industry saw a need essentially to petition for volatile amines, such as DEAE, in this case.

And we'll go into a little bit of that later.

As a couple members of the committee, because of that we're, you know, recused from voting. So general information here concerning boiler systems is that we've talked about the integrity and that, as Steve has indicated, this has really been on the table for awhile and we've accumulated a lot of data.

So we've learned that some of the more recent information in this case that some currently certified processors have chosen to invest, as we've talked about, in modern technologies such as reverse osmosis and
stainless steel systems, which essentially alleviates the use, all right, of volatile amines such as DEAE.

Some of the information provided, without going into a great deal of detail here, is that there was a survey done and Steve was part of this survey. There were many processors who responded to this, as I understand it. That as many as 25 to 30 percent still use DEAE on a regular basis, so to give you some indication of kind of where we're at with that.

Further, some of these processors indicated they did not use volatile amines through turning them off during organic product runs. So that was indicated by some, not all, some processors as an option for them in processing organic products.

The TAP reviewers unanimously in this case found DEAE to be synthetic and also unanimously recommended the material be prohibited for use in products labeled as organic. The FOIA information provided as part of the TAP review was really unclear as to the GRAS status of DEAE, so I think that's probably the more accurate way of us depicting that.

So further, in reviewing both the TAP and the FOIA information, the processing committee agreed with the TAP review findings that DEAE does not meet the criteria
established by OFPA in the final rule.

One note or point of clarity I would make here is that one of the criteria, Is there a natural alternative? And the reviewers found that there was not. You need to know that, okay. But as far as the rest of the criteria, they felt that it didn't meet the criteria established by OFPA in the final rule.

So the committee also received substantial industry input depicting the need for DEAE. Specifically, the entities providing input expressing concern that prohibition in this case will present challenges for certain processors in the organic industry, okay, and requested the processing committee and the NOSB consider the current need for the use of DEAE as a processing aid.

And there was a lot of this information that came in through, you know, from several companies within the organic industry. So after a lot of consideration and looking at the industry information submitted, the current need for DEAE by some processors operating within the industry, the processing community in this case concluded, as did the TAP review, that DEAE is not compatible with the criteria set forth in OFPA in the final rule.

Having said that, there's the however. The committee also diligently considered some of the input,
all right, from industry experts, companies with products in the industry, and looked at, considered, the immediate impact of this substance essentially going away.

So with all this in mind, I move that the board consider or vote on the following recommendation. DEAE, and you'll see above that is the section listed 205.605(b), Synthetics allowed. Diethylaminoethanol for use as a boiler water additive for packaging sterilization only. For use as a boiler water additive in agricultural products labeled made with organic until October 21, 2005. For use as a boiler water additive in livestock feed until October 21, 2005.

MS. CAUGHLAN: Second.

MR. CARTER: Okay. The motion has been made and is seconded by Goldie. Okay. Discussion.

Kim.

MS. BURTON: Okay. Call me Rosie for this one. Couple of things. We've heard pleas of concern from the livestock industry and materials, medicines, incipients, all that sort of thing. We've heard pleas from certifiers as far as giving us another 120 days on restructuring our organizations.

This is one of those materials for processing. We've put a lot of time and effort into it. We recognize
that there's a problem out there. We have a lot of very small processors who are doing contract packing who manufacture maybe 1 percent of their manufacturing for organics, and they use this material.

We have made the recommendation -- a few of us -- to allow this for use until 2005 so that the industry can be prepared to eliminate this material from organic processing.

I should also note that the few of us who have to recuse ourselves were the ones, because we did submit the petition, and do not solely agree with this recommendation for this reason. Of course, we want it for packaging sterilization. That's not a problem.

The uses of boiler water additive for made with organic products only has a problem and it has a big problem. If this committee and this board -- I take it back to like a single ingredient. For example, look at frozen peas that are going to be packaged as a finished good, as a product, and you're going to have a single item ingredient out there that's going to have a made with label on it. It's going to be very confusing to the consumer.

How do you have a made with peas with peas, if that makes any sense to you. It does not make sense to
me. However, at the same time, I see this as a
compromise. It's not a good compromise and I don't agree
with it.

I would much rather see that we have a sunset
period for the time period until 2005 to allow this as a
boiler water additive so that the industry can correct the
problem and put our capital investments into it and try to
seek out some of the alternatives for this material.

So with that, I would like to make a
recommendation for a change in the annotation.

MR. CARTER: Is this an amendment?

MS. BURTON: Amendment.

MR. CARTER: Okay.

MR. RIDDLE: Point of order. If a person is
recusing themselves, can they make motions? I think not.
Isn't that true? If they can't vote, they can't make
motions. They can offer information.

MS. BURTON: Well, then I don't feel I should
recuse myself as the petitioner of this and somebody who
feels very strongly of making the recommendation of a
change of the sanitation.

MR. CARTER: Okay. First of all, let me ask --
is there anyone else that would make that amendment?

Okay.
Now, are you not recusing yourself?

MS. BURTON: No.

MR. CARTER: You're not? Not recusing yourself?

MS. BURTON: Well, let me make a statement. A group of people got together to petition this material. Smucker's is one of them. We do not use boiler water additives in our processing. All of our facilities are geographically located to where either we do not need this material or we shut it off because we have a very small volume.

But again, it's confusing. And primarily I would want to change this because I really think that made with label is going to confuse the organic industry out there. So --

MS. CAUGHLAN: Kim, do you have any co-packers who would be affected by this?

MS. BURTON: No.

MS. CAUGHLAN: At this time?

MS. BURTON: Not at this time.

MR. CARTER: Okay.

MR. SIEMON: Are we going to deal with this conflict of interest, because I'm right in with Kim. Same story. So I think we need to settle this issue.
MR. CARTER: Okay. Let me make a comment here, too. But I can't -- okay. I do -- you know, personally I believe -- and this is where we get into gray areas in this conflict of interest. I do believe personally -- this is my assessment of this -- that there is a difference when somebody brings a company that is part of one of the members of this board.

If one of its members of this board works for a company that directly brings a petition, to me that's a no-brainer. That's a conflict of interest. If, however, a petition comes in from a trade association or industry group of which a member of this board also serves as a part of this, and it's my understanding that this petition came in from the OTA processing.

MS. BURTON: There was a group of people that were all MPPO representatives that got together to submit this petition.

MR. CARTER: A task force.

MS. BURTON: A task force.

MS. KOENIG: You're the materials chair. How was it actually written as a petitioner's because I would think if it was actually OTA committee that would, in my mind, be who would petition or -- I mean, so let's look at the facts. That's the paperwork.
MS. BURTON: When we submitted this petition, I tried to figure out what was the most proper way to submit this petition. And at the time, we put the company names of those of us, because if you look under the criteria for submitting a petition on how you prioritize reviewing a material, the more industry input you have the higher weight that petition is going to get.

So we made the choice to put our names on there -- Smucker's, Horizon, and George's Organic Valley -- hoping that that would push weight and show that this industry that it's a serious material that we needed to consider.

In hindsight, now that we've gone through this process, you know, I have recused myself because of that. But again, I do not agree with this annotation, and as far -- if we go back to Dave's comments about why I should recuse myself, I don't use this.

I was a petitioner, but this is not a material that I'm going to have financial gain over.

MR. CARTER: Okay. Mark and then Kevin.

MR. KING: I was just recognizing.

MR. CARTER: Okay. Mark recognizing Kevin.

MR. O'RELL: Thank you, Mark. Well, again, I'm in the situation of the same -- the same situation that
Kim is in. Our company participated in the petition process only because there was a need in the industry, as it originated out of the MPPL. We do not use this ingredient in our company.

None of our co-packers use this ingredient, so I don't feel that under what we're saying now that what's been disclosed, I don't feel I have a conflict of interest.

MR. CARTER: Okay. The chair will rule that there is a difference, though, in declaring a conflicting interest and having that impair your right to vote, and that's -- it's very clear that in many organizations, you can declare a conflict of interest. It can be up to the board to determine whether that conflict of interest is sufficient enough to impair your ability to cast a reasonable vote on this.

So this may be one of those cases where we will leave it up to the board to -- I would entertain a motion then, just to put it in the form of a formal thing, that those folks that have declared themselves having a conflict of interest should recuse themselves from voting on this particular material. We'll take this procedural, okay?

MR. BANDELE: So move.
MR. CARTER: Okay. Owusu moves. Is there a second to that?

MS. OSTIGUY: Second.

MR. CARTER: Okay. Nancy seconds. Okay. Now, this is just a procedural vote. If you feel that the folks that have declared a conflict of interest should recuse themselves of voting, you would vote aye on this motion.

If you feel that they ought to be allowed to vote on this material, you would vote no on this motion.

George.

MR. SIEMON: Yes. Jim said earlier the difficult position that we're getting in now where committees are now recommending materials.

MR. CARTER: Right.

MR. SIEMON: And I'm putting forth 17 materials as the livestock chair.

MR. CARTER: Yes. That's a --

MR. SIEMON: Well, I don't see that that's different personally.

MR. CARTER: That is a committee of this board rather than an external committee, so that is -- okay.

MR. SIEMON: Okay.

MR. CARTER: So we will vote, and this is a
procedural vote requiring only a simple majority; not a
two-thirds, okay. All of those in favor of the motion to
require those folks with a conflict of interest to recuse
themselves, signify by saying aye.

(A chorus of ayes.)

MR. CARTER: Okay. Raise your hand. Okay.

One, two, three, four.

All of those opposed, same sign. Two, three,
four, five.

MS. BURTON: I'm a little confused.

VOICE: I don't think you can vote, Kim.

MR. CARTER: Yes. I would say on this one, you
would not. You know, just don't vote. This is -- yes.
Okay. So raise them high again -- those -- okay. One,
two, three, four, five, six, seven.

Okay. The motion fails. Those folks that have
declared a conflict of interest are not required to recuse
themselves.

Proceed.

MS. BURTON: Okay. Therefore, I make a
recommendation --

MR. CARTER: An amendment.

MS. BURTON: -- an amendment to change the
annotation to read: DEAE for use as a boiler water
additive for packaging sterilization only, for use as a boiler water additive until October 21, 2005, for use as a boiler water additive in livestock feed until October 21, 2005.

MS. OSTIGUY: Second.

MR. CARTER: Okay. Who seconded? Okay. Nancy seconded. Okay. So the amendment on the table then is that -- excuse me. I was diverted here. So you're just striking --

MS. BURTON: Striking, For agricultural products labeled made with organic specific ingredients or food groups.

VOICE: Are we striking --

VOICE: So it could be used in any product for anything.

MR. CARTER: Yes. Could be used -- the upshot of the amendment is that it could be used in products labeled as organic until October 21, 2005. Okay.

Mark.

MR. KING: I'm a little confused, because I think you said, and just point of clarity if this is what you're trying to do. Did you still say packaging sterilization only in that? So it's not clear to me what we're --
MS. BURTON: Okay. I'm sorry.

MR. CARTER: Okay. The maker of the amendment would clarify.

MS. BURTON: For use as a boiler water additive for packaging sterilization or -- period. For use as a boiler water additive till October 21, 2005, for use as a boiler water additive in livestock feed until October 21, 2005.

MR. CARTER: Okay. Is that agreeable with the seconder?

MR. KING: Again, point of clarity. If --

MS. BURTON: Strike only.

MR. KING: -- if it's on that, okay. If the way it reads, then for uses of boiler water additive for packaged sterilization would be indefinite.

MS. BURTON: Correct. That's how we have the other boiler volatile amines that we've approved. It's the exact language.

MR. CARTER: Okay. I'm still looking to the seconder if that's --

MS. OSTIGUY: Actually, the wording still is not clear, because we're talking boiler water additive in both of the second sentences. One has the caveat of in livestock. The second one -- the first one does not have
a caveat. We took out the in agricultural products, so do we want to put back in, in agricultural products, or we delete the second sentence, which I don't know what you prefer.

MS. BURTON: Delete the second sentence. You are correct. Shall I read it again?

MR. CARTER: Okay. The amendment is emerging.

MS. BURTON: Sorry.

MR. CARTER: That's okay.

MS. BURTON: The amendment is, For use as a boiler water additive for packaging sterilization. For use as a boiler water additive until October 21, 2005.

MR. CARTER: Okay. Is there a second to that?

MS. OSTIGUY: Yes.


Okay. Discussion on the amendment itself. Again, procedurally, there'll be two votes now. We will just have a vote on amending this language as a substitute the original. If this amendment would fail, we would be back to the original language, okay?

Willie.

MR. LOCKERETZ: I still don't get the relationship between the first and the second sentence. The first sentence doesn't restrict it. The second
sentence -- I mean, the first sentence restricts it to sterilization. The second sentence does not, and I don't under the relation between these two.

MS. CAUGHLAN: Contact with the food product. The sterilization is noncontact. The other would permit it.

MR. CARTER: Okay. Kim.

MS. BURTON: Willie, when we looked at the other boiler water additives, we approved two others that were allowed for packaging sterilization only, and we approved those indefinitely. When we approved the ammonium hydroxide at the last meeting, we did set a sunset period because we wanted to stress to the industry that this material would no longer be allowed after that date for contact with food.

MR. LOCKERETZ: To follow up, would it be compatible with your intent to say -- to strike the first sentence and to rework the second sentence to be, For use as a boiler water additive for packagings sterilization, and then the rest of the sentence as it reads?

MS. BURTON: I would suggest we just leave it as is.

MR. CARTER: Okay. Jim and then George.

MR. RIDDLE: Well, first I have a question.
Then I'll have some comments. I just want to be clear that Kim, George, and Kevin's companies don't use this material for packaging sterilization. Is that true?

   MS. BURTON: That's not true. We use it for packaging sterilization. We do not use it for direct food contact.

   MR. O'RELL: We do not use it for packaging sterilization or direct food contact.

   MR. CARTER: All right.

   MR. RIDDLE: Okay. I'd like to make some comments now. I didn't --

   MR. CARTER: Is it to the amendment?

   MR. RIDDLE: Yes, exactly. Finally.

   MR. CARTER: Okay. As long as they're to the amendment.

   MR. RIDDLE: Yes. It's exactly to the amendment. I oppose the amendment. I sit on the processing committee and supported the -- painfully supported the language that we did approve and felt that that was a stretch, and certainly a compromise language based on all of the information we'd received.

   I'd like to point out that the TAP reviewers unanimously recommended that the material be prohibited.

   The TAP reviews were re-reviewed by another party who
confirmed the validity of the original TAP reviews. This is a toxic material. That's undeniable.

And it is directly injected into food products. But under the FDA, it's not required that it be labeled as such, so consumers are not informed if they may be consuming the material. But it clearly is being directly injected into the products.

And it's currently prohibited -- it's not on the list, so processors should already be moving away from it with the October 21 deadline, and the accredited certifiers should be enforcing this already. But there has been a chemical dependency situation develop where a couple of certifiers have been allowing use of the material, and so there's situations where processors are using the material.

So there is some grounds for a phase-out, similar to the methionine situation [phonetic] and the ammonium hydroxide. That was a stretch to come to that position, believe me. And on the issue of the organic peas that Kim brought up, the single ingredient type package, there are options.

Those peas would have to be produced without use of the material. That can be done either by going through a processing facility that does not use the
material or by shutting DEAE off when those peas are processed.

So you wouldn't have to have organic -- or peas made with organic peas. As a label claim, that's totally avoidable. I don't see that as a problem. What this does is allow the major company that we heard from that submitted compelling information about their dependency on use of the material was a multi-ingredient manufacturer who does made-with type labeling products.

The rest of it was a lot of conjecture, but we received some compelling information. So I urge the board to oppose this amendment and go back to the original language.

Thanks.

MR. CARTER: Okay. Rose.

MS. KOENIG: Are we just speaking to that amendment now?

MR. CARTER: Just to the amendment.

MS. KOENIG: Okay. I concur with Jim, but -- I concur. I agree with him.

MR. CARTER: Okay. Further discussion on the amendment? Okay. The amendment that is on the table right now is simply to add the substitute language, and please read that again because I've --
MS. BURTON: For use as a boiler water additive for packaging sterilization. For use as a boiler water additive till October 21, 2005.

MR. CARTER: Okay.

MR. SIEMON: The second part is for all other uses. That's right. Just -- I don't know if we shouldn't add that to make sure we are clear, but that's fine. As long as that's -- we're all understanding the intent.

MR. CARTER: Okay. Rick is saying that it would help if that is clarified, so it's --

MS. BURTON: Okay. For use as a boiler water additive for packaging sterilization. For all other uses as a boiler water additive until October 21, 2005.


Now, just -- if you support the original language, you vote against this amendment to vote for the original language. If you think this is better but you still oppose the whole concept, you can vote for this amendment and if it passes you vote -- okay.

Okay. All in favor of the amendment then signify by saying aye. Okay. Hold your hands up.

Okay. All of those opposed.


So the motion carries.
VOICE: It fails.

MR. CARTER: Oh, I mean, excuse me. It fails.

(Pause.)

MR. CARTER: Two, ten and two. Okay. So the recommendation then under the original language is on the table. DEAE for use as a boiler water additive for packaging and sterilization. Only for use as a boiler water additive in agricultural products labeled made with organic until October 21 and for use as a boiler water additive in livestock feed until October 21, 2005. Both cases. Sorry. I'm rushing through here and -- okay.

Discussion on the motion now. Owusu.

MR. BANDELE: Yes. I had a concern that all the reviewers found this to be incompatible. And I think Mark mentioned that there were no alternatives, but I thought the TAP said that many organic -- I don't think; I see it here -- many organic food processors have already adopted viable and practical ways to address corrosion without the use of the DEAE.

And that being said, I would have to vote -- I would have to not vote for this motion.

MR. CARTER: Okay. Rose.

MR. KING: Could I -- if I could just address that very quickly. In fact, what we found is not many,
okay. I think is the term you used processors, but a few.

In fact, some have said very few. Okay. A, because of the capital investment. B, because of the time that it would take to actually build a new system, so on and so forth.

So while your statement is true, okay, it is not by any means a large percent of the processing community, as we found through the surveys and the information presented to us.

Having said that, there are examples of the new technology, and as Jim had stated, there are examples where plants, you know, have turned them off while processing organic products. So anyway, but we still found that in much of the industry, there would be a very large impact for processors.

Much as Kim pointed out with crops, livestock, all of the other people within the organic community who are really trying to come up to speed as quickly as possible without absolutely destroying the marketplace, so to speak.

So anyway, I hope maybe that helps provide some clarity.

Rose.

MS. KOENIG: I don't think though that we can
look at this product in a vacuum. In fact, last meeting we approved ammonium hydroxide as an alternative, so I think we can add that to the list of alternatives that are out there.

I know you're going to say, Well, that doesn't do at all or, you know. But yes. And I know that there are, but if you then give the alternative of that, perhaps to that 25 percent, you may be narrowing down the number even more.

But more importantly, again, it's the same issue as calcium oxide. Once you put that on the list, whether a small number of people use it now, you're opening it up to that 70 percent. There's nothing now preventing the other people who have changed or there was an incentive to change to go back for the next three years to that product, because it's now listed.

So although I understand the intentions of the committee, and I applaud them to try to come up with some kind of reasonable compromise, again, look at the greater impact of the statements and what you're voting for, because what you do with your good intentions is put something on a list that then can be used in the industry, even for a sunset period, by the other 75 percent who say that they don't use it.
MR. CARTER: I just -- chairman's prerogative to make a comment on this one, that I really think that the committee has done a successful job on splitting the baby on this one in that it still makes a differentiation. Those folks that are going with reverse osmosis and the like at this point can use -- can label their products as organic.

Those folks that are still using this -- you know, it's this cumbersome thing of having peas made with organic peas type of thing. So it's not quite as -- it's sending a message that this needs to be phased out.

You know, from the standpoint of small growers and coops that are trying to get into processing products, most times that's going to be done under a co-packing arrangement, and it's difficult enough to find companies willing to process your products without requiring them to make this big change in their boiler water system.

And so I think as much as we can to encourage the industry to start making some changes, but let's not just close the spigot off now. I think that this moves in that direction.

Okay. With that, I will call on Mark and then Kim.

MR. KING: Just a quick comment and then we'll
let Kim, and if I could just add to Dave's comment. We're not talking about just in this case impacting processors. We're talking about processors who buy from growers and impacting their ability to operate perhaps on a daily basis, which can then affect other areas of the industry if they're purchasing from growers.

So I just wanted to make -- just make that clear.

Kim.

MS. BURTON: Just some clarification. Out of the survey, there was really only one or two people that are using the reverse osmosis, and I believe that was only one out of the 56 plants that were surveyed.

The ammonium hydroxide -- Rosie, the nature of that chemical is that it's very short-lived. In other words, it won't travel very far through the processing lines, and sometimes you're looking at, you know, thousands and thousands of feet of stainless -- or of tubing in a production facility where you'd have to actually inject the ammonium hydroxide in very, very different levels and different products.

So it really isn't applicable to some -- all processors. Although it is an alternative, I would say that it's not even being used at all in any processing
facilities, with the exception of dairy, because that's the only approved material allowed in dairy.

And we as processors are required to have handling plans and to show why or why not -- why we are or why we are not using a material on the National List. And I would think that people aren't just going to all of a sudden start using it because it's allowed.

Those of us who have not used it for that direct application I doubt will start using it again. I mean, there is that possibility. There's always a possibility of cheating the system or changing.

MR. CARTER: Okay. Further discussion? We'd like to start moving towards a vote here soon.

Rose.

MS. KOENIG: I just persist, in terms of further discussion, simply because we're dealing with a product that is -- I mean, I'm on record from the last meeting on these products, too, these volatile amines. I, you know, philosophically have a great deal of problems with these types of substances because I think they are totally not in the spirit of the organic movement.

And I understand and I am totally sympathetic, again, to individual processors and problems. I'm sympathetic to growers to have the same problems. They
may not be large, but it does affect their living. But it really is in the spirit of the rule and the spirit of the movement for people to come to the plate and do what they have to do in the industry to make it.

These products were not allowed by a lot of certifiers before, so it's not like we're drastically changing things for the majority of individuals. I think we need to look at the facts. I mean, we can ask in terms of the TAP again how many of these were approved prior to the rule.

But I have a problem. I'm very proud of Dennis who used the shellac wax that did the abstaining for his product. He has -- you know, he's a farmer, and I think that's the way that board members need to conduct themselves.

And I just feel that if each individual board members really looks at that product, it is not consistent with organic practices.

MR. CARTER: Okay. Let's continue -- okay.

George has got a question.

MR. SIEMON: Just to ask Jim.

Jim, earlier you said about that one manufacturer, the made with. These products will not be allowed to be called organic if they're used on direct
contact, and so they still wouldn't be able to call made
with organic, because they're not organic because they use
this material to process the organic component. Is that
correct?

You had said earlier they would be able to
still use that. I don't think that's correct.

MR. RIDDLE: Well, we have a number of
materials already on the National List that have that as
an annotation -- that only for use in made with organics.

MR. SIEMON: So --

MR. RIDDLE: So this is not precedent-setting.
That already exists as an annotation.

MR. SIEMON: Well, I don't see that added here
is what I'm getting at. Right?

MR. RIDDLE: Huh? That is what the annotation
is.

MR. CARTER: Willie.

MR. LOCKERETZ: Question for Richard. This
time limitation issue came up with synthetic methionine,
and at the time you said there was some uncertainty or you
had some doubts as to whether such a time limitation would
be legally binding.

Same issue here. What has happened on that
question?
MR. MATHEWS: The methionine will have the expiration date that you had set in the interim final rule. So the answer is you can set an expiration date.

MR. LOCKERETZ: Thank you.

MR. CARTER: Okay.

MS. CAUGHLAN: Excuse me. Richard, is that in particular because we're dealing with materials, and materials fall more to our Don't touch it when we say it?

MR. MATHEWS: I don't know that we looked at it quite that way. We only asked the question of the attorneys, Can the board have a sunset date on the National List for any or all materials, and the answer was yes.

MS. CAUGHLAN: Well, that doesn't answer it then. We are speaking about it specifically when it comes to materials that we allow or disallow. Thank you.

MR. MATHEWS: That's all we ask for.

MR. RIDDLE: I hate to prolong it. I just want to also be clear that the ammonium hydroxide recommendation with that same sunset will be in the interim final rule with that language as well?

MR. MATHEWS: All recommendations with a sunset date will be in the final rule.

MR. RIDDLE: And I just want to come back to
one final point that came to mind when Rose was making her
comments, and that is looking at the situation with the
calcium oxide and calcium hydroxide that had been allowed
by certifiers, but they and the farmers saw that it was
not on the list and made the change to remove it.

The same thing has not been done here by two
certifiers. All other certifiers prohibit this material
right now.

MR. CARTER: Okay. Are you ready to vote?

Okay. Let me get the language here. We are back then --
an aye vote is a vote for the language, For use as a
boiler additive for packaging sterilization only. For use
as a boiler water additive in agricultural products
labeled as made with organic until October 21, 2005. For
use as boiler water additive in livestock feed until
October 21, 2005.

Okay. All those in favor, signify by saying
aye.

(A chorus of ayes.)

MR. CARTER: Opposed, same sign. Let's do it
by a show of hands. Okay. First of all, all of those in
favor, raise your hand. One, two, three, four, five, six,
seven, eight. Eight ayes.

Opposed? One, two, three, four, five, six --
six opposed.

Abstentions? Okay. The motion fails.

Okay. Rose.

MS. KOENIG: I make a motion to label it synthetic and prohibit its use in organic production.

MR. CARTER: You need to turn on your mic.

MS. KOENIG: Oh. Sorry. I make a motion to, as a synthetic, prohibit it for use in organic use production.

MR. CARTER: Okay. The motion has been made to -- as a synthetic, to prohibit its use in organic production. Is there a second? It's been --

VOICE: Wait a minute. It's already prohibited. It's not on the list.

MR. CARTER: It's not on the list. Yes. Okay.

MS. KOENIG: Okay. That's fine. Well, it didn't pass, so there's no motion on the table at this point. So we're back to Mark now to continue.

MS. OSTIGUY: I'd like to make a motion.

MR. CARTER: Okay.

MS. OSTIGUY: I'd like to make a motion to -- basically, for the first sentence, produce as boiler water additive for packaging sterilization only.

MR. CARTER: Okay. A motion has been made to
approve the language, DEAE for use as boiler water additive for packaging sterilization only, period.

Second? Is there a second? Is there a second?

(No audible response.)

MR. CARTER: Motion dies for lack of second.

MS. BURTON: Can I just comment on that?

MR. CARTER: Yes.

MS. BURTON: We deferred this material because it was one of the safest among the other two that we allowed for packaging sterilization only. This material is quite often used in conjunction with the other two that we did allow on the National List.

They come together in a brand name material. They come together oftentimes from the supplier as a package product. In other words, you're adding a combination of the three materials to overall do the best job that is possible.

So by voting this material down, you are really hindering the industry on packaging sterilization, and you also have already approved two materials that really were -- they function in a whole different capacity than this material.

So I just want you to be aware of the motion that was just passed. You are hindering this industry
tremendously by not allowing it for packaging sterilization at the minimum.

MR. CARTER: And just a point of clarification, Kim, that's -- the motion that was just made died for lack of second. Okay. As a prerogative, I will allow the maker of the motion to make that again if there was confusion. Okay. So Nancy.

MS. OSTIGUY: I'd like to move that DEAE is a synthetic allowed for use as a boiler water additive for packaging sterilization only.

MR. O'RELL: Second.


(No audible response.)

MR. CARTER: Okay. Are you ready to vote then just on this -- okay, Rose.

MS. KOENIG: No. I'm not ready to vote. Back in the meeting in Washington when we voted on the other two materials, it really was the prerogative of the committee to take this material back rather than going forward with the vote at that time.

That was your recommendation. However, having said that, there are two alternatives on there, and I
understand that it may be packaged in a way that has three of them. But I felt that the board was more than lenient in allowance of those two materials.

What we're doing here is we're not even putting a sunset clause on that use as it exists right now in the National Rule. So you are in fact allowing yet another boiler water volatile amine on the list with no sunset clause for packaging and sterilization, and I feel that we've got two there; that that is the alternative.

MR. CARTER: Okay. You can certainly make an amendment, too, for a sunset clause. That's appropriate.

Okay. Jim.

MR. RIDDLE: Yes. I view this packaging sterilization only as truly incidental contact. This is not being directly injected into the product, and I can support this limitation. So I do just want to express, though, in all due respect and admiration, Kim, I am uncomfortable with the fact that not only were you the petitioner but also your company is using it for this purpose, and you're choosing not to recuse yourself.

But that is your choice here, but I do -- just felt a need to say that to clear my own conscience. But I do support and will vote for this allowance of the material.
MR. CARTER: Okay. Yes.

MS. BURTON: Steam -- this comes down to steam is used in every processing plant, and if I can't vote -- I understand I was the petitioner in this, and I had recused myself all along on these materials. When it came to making an amendment to the annotation, I chose not to do that, so --

MR. CARTER: Okay. There will be no more discussion on that issue because the board voted formally to allow these folks to participate. This was a board action, so that is a settled issue.

Let's vote now on the motion. Proceed to vote.

The motion is, DEAE for use as boiler water additive packaging sterilization only, period. All of those in favor, signify by saying aye.

(A chorus of ayes.)

MR. CARTER: Opposed, same sign.

Okay. Let's do the count. Okay. Lower your hands. All of those in favor, raise your hand. One, two, three, four, five, six, seven, eight, nine.

Okay. Opposed? One, two, three, four.

Okay. Abstain? Okay. What was the -- yes. We're short -- ten, four. Okay. So it carries.

Okay. Mark.
MR. SIEMON: I'm not done yet.

MR. KING: We're done with that material.

MR. SIEMON: Yes. I want to make the motion to allow it in feed -- livestock feed but to sunset.

MR. CARTER: Okay. A motion has been made -- I put my paper away here -- okay -- to allow DEAE for use as a boiler water additive in livestock feed until October 21, 2005. Is there a second?

MR. LOCKERETZ: I second.

MR. CARTER: It's been seconded. Okay.

Willie, out of curiosity, seconds the amendment -- or the motion, excuse me. Okay.

Okay. Explain your --

MR. SIEMON: I think Kim's got a more information context we had, but we're now going to be requiring that young baby calves are treated organically from day of birth, and pelletization of feed is a big part of that and it's a real immature part of the industry, and I have no idea honestly of the availability to have any of it made without this material.

I have to admit I'm a little on the gray area, but that's what sunset clauses are for. This isn't a mature part that's been going on ten years. This is something that's just beginning, and I don't see any
reason for livestock feed to restrict it at this time.

MR. CARTER: Okay. Further discussion?

MR. LOCKERETZ: Would you explain how it --

what kinds of feeds and how it [inaudible]?

MR. SIEMON: Just in pelletization. When they
pelletize feed is when it's used. And it's used more than
calves, but I know calves specifically is an issue that's
coming up right now.

Kim, I would ask what information in --

MR. CARTER: Okay. Mark and then Kim.

MR. KING: Yes. I'd like to comment on it from
two points. One, having grown up on a farm and raising
ruminant animals as well as swine and purchasing quite a
lot of pelletized feed, so there will be dependence upon
that, and I think George is correct in stating that there
are, and we've heard from many people in the industry,
that there can be some supply issues in terms of livestock
feed.

So having said that, Kim.

MS. BURTON: George, there was one petition
that came in after the original petition for this material
and it was from a livestock feed company for the use, and
that's why it actually got brought up. So there was
another additional petition.
MR. SIEMON: I've never seen that petition.

MS. BURTON: It should be -- it was part of the processing committee's review.


MR. RIDDLE: Yes. The processing committee sought input from the livestock sector on the need for the material and received none. We received extensive information from the food processing sector, and we've, you know, had to weigh all that but we sought more information from the livestock feed sector and really didn't receive, so we don't have a justification in my mind for the compelling need for continued use of the material.

So I have a real problem supporting it. I'm sorry.


MS. KOENIG: I mean, is there a possibility -- again, the TAP review wasn't -- didn't cover livestock use, so we don't know what the implication is, you know, in animals or what-have-you. But basically, it wasn't written to that use, and I don't feel comfortable making a decision where I have no information provided to me. Just
sort of we think that industry may need it.

MR. CARTER: Further discussion? Willie.

MR. LOCKERETZ: Question for those who know.

Is the --

VOICE: Turn your mic on, Willie.

MR. LOCKERETZ: Sorry. The kinds of processes for which steam would be used in livestock feed manufacture -- how do they compare to the kinds of processes used in manufacture of foods? Are we talking about basically similar sets of equipment, similar processes; just the one is ending up with the animal, the other ending up with humans, or are there bigger differences between the two?

MR. SIEMON: Far as I know, it's much the same because it's all about the steam and the protection of the line, so I don't know there'd be any difference, and this is all of course, human food approved. And now we're down to livestock approved.

MR. CARTER: Further discussion?

MR. LACY: I was going to say I'm not an expert in the pelleting process. I do know that it does provide some sterilization of the feed, antibacterial killing of microbes that could be of importance in a food safety kind of issue.
I guess that's where George is coming from. Is
that right, George, with the dairy calves?

MR. SIEMON: Well, more so for whatever reason,
the pelletized food is more used in calves, and I don't
quite know the major reason for that. The other thing
that's part of this is some hauling -- there's a lot of
transportation of organic feed, and pelletizing can save a
lot on the space requirement for it, too. That's another
issue, but that's not the main one.

MR. CARTER: Okay. Further discussion?

MR. HARPER: I just wanted a clarification at
the -- the steam is used to help -- to take the different
feed ingredients to -- that are put under pressure and
heat from the steam to condition and to form the pellets,
and then the -- or the DEAE or other volatile means comes
along with the steam.

So even -- I mean, the product is already
sterilized or cooked, whether it has the volatile amine in
it or not. But that's what the steam is used for. I
mean, that's the primary use of that product.

MR. CARTER: Okay. Rose.

MS. KOENIG: So Steve, can you come back there?

So are you -- again, I still don't feel like we have
enough information on this to make a decision. But are
you saying that so the DEAE is actually going into that pellet?

    I mean, there's going to be -- do you feel that there's going to be a larger concentration, say, in that type of application versus a food-type system where you're just putting it through the lines and there may be some incidental dropping?

    MR. HARPER: The estimation of the amount of the volatile amine that ends up in the final, like, a final pellet, I have not seen any data from the livestock industry in -- I know in the cereal industry, the estimation is that it's in there at about .14 to .5 ppm as a finished product -- in the finished product. That's the approximate level that it's there at.

    MR. CARTER: Steve, while you're there, just a question of are you aware of alternatives to this --

    MR. HARPER: I mean --

    MR. CARTER: I mean, what are the alternatives?

    MR. HARPER: -- it is exactly the same -- it's exactly the same equipment that's used in food processing systems. You don't have all the blanch, you know, the heating of water with blanch -- the blanch water with steam and those kind of applications that you do have in the other food industry.
This is a strictly -- this is a stripped application of steam, direct injection of the steam into the pelletization. It serves exactly the same purpose of protecting the steam lines, and you have the same type of strategies to prevent deterioration of piping that you'd have in the human food conditions.

MR. CARTER: Okay. Rose and then --

MS. KOENIG: So, but when you're pelletizing something, you're trying to create a structure. Correct?

MR. HARPER: That's correct.

MS. KOENIG: I mean, you're taking a product and forming a pellet. So is that steam more integral to actually creating that pellet? I mean, is the steam helping form that pellet, because if it is, that's a very different application again than some kind of, you know, incidental background DEAE that falls -- may fall into the food.

MR. HARPER: Steam is -- yes, steam is integral to that because you can't inject water -- steam brings a lot of energy with it, at the same time not adding a lot of moisture to the pellet because they don't want to be hauling around moisture and having to -- you know, having to add the moisture and then dry the pellets back out.

So it cooks it with the maximum amount of
energy versus using hot water, where you have much less energy. Then you've got to dry all that material out.

MS. KOENIG: I just have one more point then for the board. I just feel like this is a very different process than what we've had the TAP review on, and I am definitely not comfortable in making a --

MR. HARPER: It's identical. It's --

MS. KOENIG: I know the process is identical in terms of what it's used for in those lines, but you are saying that that steam is helping in changing the physical properties or creating the physical properties of that pellet, which to me has got to have some different implications, and I don't think we have that information in terms of voting on it.

MR. CARTER: Okay. Mark.

MR. KING: Yes, and Steve, if you want to come back up that's fine, but I just want to make a point. What I heard Steve say is the systems are, in terms of the integrity, okay, of the boiler system, are pretty much the same in livestock and food.

And so how -- I guess my question to you, Steve, is how or are there any differences between direct food contact, okay, of steam and the pelletization of livestock feed? Is that -- I may be asking the same
question in a different way, but just that simple
comparison might help provide clarity.

    MR. HARPER: This is one -- the pelletization
of feed is similar to one application in human food when
you're making pellets that are then made into, say, flake
cereal. You form pellets first and then the flakes are
formed, and then you've got drying that's going on.

    There are many other -- there are other kinds
of steam applications in human food production. Does that
clarify? So -- but it's exactly the same. It's exactly
the same process that's used in, say, forming any kind of
cereal type products in human food.

    MR. LOCKERETZ: Are the same facilities likely
to be used for human food or not?

    MR. HARPER: No. Absolutely not. Absolutely
not. Completely separate.

    MR. LOCKERETZ: So the impact of accepting or
not accepting this position, there would be no crossover
impact?

    MR. HARPER: No.

    MR. BANDELE: Steve, so in that situation where
you have pellets and then the cereal, the flakes, would
there be more or less of the DEAE in the pellet or the
flake?
MR. LOCKERETZ: You're speaking of the human scene?

MR. BANDELE: Yes.

MR. HARPER: Most of the DEAE volatizes off before it even goes into the pellet or as it's cooked, so it's not even actually in the final product. Like I said, you know, .2, .3 ppm level.

MR. CARTER: Okay. Further discussion? George.

MR. SIEMON: Just one comment -- that the livestock industry is the last place you'll see the use of these physical alternative methods, because they're such crude, old -- compared to the modern food ones that are investing in the stainless steel and all, this is a different level of production capacity or facilities.

MR. CARTER: Okay. Further discussion? Seeing none, we're going to proceed to vote.

Okay. The motion that's on the table is simply to approve the word, DEAE for use as boiler water additive in livestock feed until October 21, 2005.

All of those in favor, signify by raising their hand.

Okay. Opposed?

Arthur, I'll leave it to you to announce the --

MR. NEAL: Got eight in favor, three opposed, three abstained.

MR. CARTER: Okay. So the motion fails.

And Ann, I need to have you raise your hand real high. You're down so low it's hard to -- no, it's two-thirds. Yes. Okay. All right.

MR. KING: Are we officially done with DEAE?

Okay. Off we go. Yes.

The next and -- yes?

MR. LOCKERETZ: Are we sure that an abstention counts as a no? I don't want my abstention to change the result. I want a true --

MR. CARTER: I'm deferring to the parliamentarian, Carolyn Brickery.

MS. BRICKERY: It's like you're present and voting. An abstention means you're present and voting.

MR. LOCKERETZ: So therefore [inaudible]

MR. MATHEWS: I think basically an abstention says that you're willing to go with whatever the vote comes out to be. I will go get some Robert's Rules of Order.

MR. CARTER: Okay. Rose.

MS. KOENIG: Well, I was going to make --
entertain another motion. My motion would be to review --
send the TAP back to OMRI solely for looking at livestock
systems. I'm willing to consider that motion, but not
without some information.

MR. CARTER: Okay. So I think where you
stopped making your motion was at the point where the
motion is to send this back to OMRI for consideration
as -- strictly as livestock. Okay. Is there a second to
that motion?

MR. KING: Second.

MR. CARTER: Okay. Discussion on the motion?

Seeing none, all --

VOICE: Wait, wait.

MR. CARTER: Okay. Kim.

MS. BURTON: As Jim alluded to, we heard from
one person in the livestock industry and they knew that
this material was up for a vote and they chose not to
comment on it. So to waste our dollars and reserves on
doing a TAP review on a material that really, we've had
one person in the industry come forth with, I think is
kind of a --

MS. KOENIG: I would say --

MS. BURTON: I would suggest that perhaps OMRI,
in the interest of the industry, might be willing to just
add a small section, free of charge, to our group.

MR. CARTER: Okay. Brian, did you have a point of order just from OMRI to -- I'll call on the OMRI representative to make that offer.

MR. BAKER: I'm sorry. I greatly appreciate everybody's patience with this material and appreciate, above all, Rose's concerns. But this has been -- this discussion has been going on since 1995. We did receive the McGreary [phonetic] Grain petition.

We did incorporate it into the materials that were passed on; that I did discuss it with the individual reviewers. The reviewers saw nothing in the review that would change the recommendation that it is synthetic and that it be prohibited for use, all use, in organic processing.

I don't think that you would get any different result from another review.

MR. CARTER: Okay. So the motion --

MS. KOENIG: I will rescind my motion.

MR. CARTER: Okay. The motion has been withdrawn. Okay.

Mark.

MR. KING: Does this mean we're officially moving on? That is, do we need to vote on that? Okay.
MR. CARTER: It means that my thoughts of crowing about how far ahead of schedule we were just disappeared.

MR. KING: Yes, well, no surprise there.

Okay. Next and last for the processing committee materials today is glycerol monooleate. And glycerol monooleate has been petitioned for use as an antifoam agent used in processing. It's our understanding in reviewing the information that it's a commonly used antifoam agent in processing.

Anyway, therefore, the petition has been received for inclusion on the National List. However, in this case, it's been brought to the attention of the processing committee that studies are currently under way testing the effectiveness of organic antifoams. In other words, alternatives, if you will.

Further, the committee has been informed that the results of these studies are expected prior to the September 2002 National Organic Standards Board meeting. Therefore, I move that the board vote on the following recommendation, which is that glycerol monooleate be deferred for consideration at the September 2002 National Organic Standards Board meeting.

MS. OSTIGUY: Second.
MR. CARTER: Okay. It's been moved, Nancy seconded. Discussion on this. As you can see on this one that this was approved in committee three to nothing, with one recused, one absent. Okay. Discussion on the motion to defer it?

(No audible response.)

MR. CARTER: Seeing none, assuming that we're ready to vote -- point of information?

MR. BAKER: Point of information. Would there be any instructions to the TAP reviewers that would go with this motion? Is there any additional work or any further review needed?

MR. KING: I do have the letter. We can -- have to find it.

MR. CARTER: Okay. While he is looking for the letter, let me just ask the question if there's anyone who has a conflict of interest on this issue?

MR. O'RELL: I do. I would declare a conflict.

MS. BURTON: I do, too.

MR. CARTER: Okay. Kevin and Kim both declare a conflict.

MR. KING: Here's a copy of the letter which I'll just read. Hopefully this will help, Brian.

Dear NOP/NOSB, Please accept this letter of
formal request from the petitioners duly named as, as you know in this case, Markers, Horizon, and Cyanotech to defer the vote on glycerol monooleate. As you know, the vote on this material was deferred from the previous NOSB meeting, could be conducted on alternative materials that were recommended in the TAP review.

Such alternatives included organic vegetable oil, lecithin, beeswax, and other materials on the National List. So there are three there, if that helps. Vegetable oil, lecithin, and beeswax -- right. So the petitioners have identified two and possibly three separate vendors who have developed organic antifoam agents using some of those materials identified in the TAP review.

In this case, both Smucker's and Cyanotech have had very successful test runs using one of the organic antifoam alternatives. Horizon is scheduled for a test run the end of May. Until the alternatives prove viable for all petitioners, we must request it for the following reasons: complete testing of the alternative material at the Horizon processing facility, work with vendors to apply for organic certification of antifoam agents, and then third, identify/petition vegetable fatty acids for inclusion into 205.606.
So that's -- does that help or provide some clarity? Okay.

MR. CARTER: Okay.

VOICE: No. We won't -- I don't think we'll be needing any further assistance.

MR. CARTER: Okay. So the motion to defer is on the table for action. Okay. All those -- oh, let's see. I already asked for a conflict of interest. All of those in favor of the motion to defer this material for consideration at the September 2002 NOSB meeting, signify by saying aye.

(A chorus of ayes.)

MR. CARTER: Opposed, same sign.

(No audible response.)

MR. CARTER: The motion carries 12 to zero. Twelve to zero, two recusals. Okay.

MR. KING: That's our last material, Sir Chair.

MR. CARTER: Okay. Thank you.

With that, we will take a break for lunch. I understand the livestock committee is meeting during lunch. And we will resume again at one o'clock.

(Whereupon, the hearing was adjourned, to reconvene this same day, Tuesday, May 7, 2002, at 1:00 p.m.)
MR. CARTER: I apologize that we're running behind on our lunch schedule, although I have to say that Eric Sideman told us that there was a good Mexican restaurant that was only a ten-minute walk away, and I forgot that ten minutes is a lot longer in Maine, so --

VOICE: Or with Eric's legs.

MR. CARTER: Or with Eric's legs. So we're still ahead of schedule here. Okay. So we've got items being distributed here, but I would like to call on George, then, for the livestock committee.

MR. SIEMON: Okay. Just we're handing out what we're going to vote on today on the issues we have. We're definitely going to vote on the feed ingredient issue, which is the first two-page document. This is in your Tab 5 that has more detail about all these issues.

So I'm going to move to the first one, which is about the vitamins and minerals. The purpose of this clause is to clarify what is meant in the rule when it says FDA-approved vitamins and minerals. As it works out, that is not an adequate terminology because of the dependency on AAFCO for the acceptance of vitamins and minerals.
So -- and AAFCO is a semi-private organization that works with states to approve vitamins and minerals, so FDA-approved is not enough. We have to go further. So the whole purpose is to broaden that FDA-approved to include AAFCO materials.

So does everybody understand the basic problem here? Okay. And that's under -- if you want to look in the law, that's under 603(d)(1) and (2) is where you'll find the basic problem. So we've handed out here the acceptance of those AAFCO materials with the following exceptions.

The only exceptions that we've included here at this time are those that are already prohibited in the rule, and those are the mammalian and poultry slaughter byproducts. And we did add hydrolyzed fat, the ones with those numbers there, and -- because one of our commentors pointed out that we'd missed that.

So that's the only addition there in that section from the original -- what we sent out for public comment. In addition to that, we did receive public comment about concerns about other materials, and we're recognizing the need to review those filing materials and that we recommend a review by the TAP process to determine if these materials should be prohibited.
Now, to clarify -- the last part's the confusing part, so maybe I should ask before we get to the last part if there's any --

MR. CARTER: Well, why don't you read this. Then go ahead and make a motion.

MR. SIEMON: Read the whole out loud?

MR. CARTER: Yes. Read the language of it.

MR. SIEMON: Okay. The NOSB recommends that the allowance for synthetic vitamins and minerals contained in Section 603(d)(1) and (2) be broadened to include materials either listed in CFR or in Section 57 or 90 on the AAFCO official publication with the following exceptions.

Mammalian and poultry slaughter byproducts -- bone ash, bone charcoal, bone phosphate, bone charcoal-spent, bone meal steamed, and bone meal-cooked, and hydrolyzed fats, Section 33.3, 33.4, 33.5, and 33.15.

NOSB recognizes the need to review the following materials and recommends a review by a TAP process to determine if these materials should be prohibited. And I couldn't pronounce all these words, so if I had to read them I would, but basically, it's the list that OMRI gave us, and that's a consolidation of the list of AAFCO that seemed that we should review.
If you want me to, I can try to pronounce them.

MR. CARTER: Okay. I'll spare you the agony here. That's a motion?

MR. SIEMON: Yes.

MS. OSTIGUY: Second.

MR. CARTER: It's been seconded. Okay. So this is on the table for discussion.

MR. SIEMON: Okay. I just want to clarify that the second list of materials will be allowed until they are reviewed. We just didn't feel we had the technical knowledge to just reject them right out, but we are defining that they are the appointed ones in our public comment our research needed to be reviewed.

We just didn't feel we had the technical knowledge to back that up right now.

MR. CARTER: Okay. Kim.

MS. BURTON: Just a comment, George. We're out of TAP money, so I don't know when this will happen. We'll have to address that with NOP. At least at this point, it doesn't look like we'll get these for September.

MR. SIEMON: Thus they'll be allowed.

MS. BURTON: Thus they'll be allowed.

MR. SIEMON: And that we understood that risk, but we still want to identify them as a point for future
MR. CARTER: Okay. Other discussion? More discussion?

Jim.

MR. RIDDLE: Wasn't urea on that list, too?

That was mentioned in the report yesterday, but these are under --

MR. SIEMON: These are nitrogen-based organisms -- I mean, materials, and urea is in the actual OFPA.

MR. RIDDLE: Yes, as prohibited. Yes. Would there be any -- I guess just first time seeing this, my initial reaction would be more comfortable if they were being prohibited where -- you know, on the list up above until they've been petitioned and reviewed.

Do you know the status? I mean, are these being used or are they, you know, commonly used in organic feeds now or feed supplements now or are we just opening up a bunch of things that really may not be appropriate that, just because of a lack of a review having been done.

Wouldn't it be better to keep them in kind of a holding pattern as being prohibited until they've been reviewed? Just my reaction.

MR. SIEMON: Well, we were there before, too,
make them prohibited. But then we just didn't know how
long that would be and felt like we were doing it based on
just one input from one group rather than -- and that's a
little unfair to anybody else that might have put in a
whole list of things, and where would it stop and start.
So we just did the things that we knew were
prohibited by the law. Yes, it's a vulnerability.

MR. CARTER: Okay. Nancy, then Rose.

MS. OSTIGUY: Some of the things on the list,
and I don't recall off the top of my head which they were,
Emily was mentioning at least one of them is currently
used in feed. I don't know if Emily is around. She
could --

MR. SIEMON: Emily, just come up here and help us out.

MS. BROWN: There's quite a few different
chelated by using amino acids, and they're called chelates
or proteinates, and they could be various different forms.
There's other forms available of all these minerals, but
if the question is are they in feed now? Yes, because
certifiers have not distinguished the different forms of
the minerals, like copper manganese, zinc, particularly.
So they're readily used in those forms. There
are alternatives, though.
MR. RIDDLE: Which ones? Not all of these materials?

MS. BROWN: The metal amino acid complex, metal (specific amino acid) complex, metal amino acid chelate, metal proteinate -- those ones, I would say, are in.

MR. SIEMON: We need to clarify that each of those might have ten or 15 materials underneath them.

MS. BROWN: Right. Right. They could be copper, they could be zinc, they could be manganese. You know, instead of metal substitute, a mineral. So those are groups.

Your question about urea -- they're in a different section of AAFCO. It's non -- what are they called -- it's called nonprotein nitrogen, so that wouldn't be included.

MR. CARTER: Okay. Rose.

MS. KOENIG: I guess for Emily. So within that list of materials that would be reviewed, they were picked out because of potential toxicological --

MS. BROWN: The reason we requested -- in our comments, the reason we pulled these out is because they're all synthetic forms of nitrogen. We feel like there's salt and mine natural sources available in all these cases and that it's not -- and there also is not a
good standard of identity, even with AAFCO for some of these chelated protein compounds, so they could be abused and they might be -- we just felt like they needed a more thorough review rather than being lumped in and allowed from the beginning.

MR. CARTER: Okay. Further discussion?

And George, you didn't explain what the vote was --

MR. SIEMON: Yes, I did, and I just want to say all the issues relating to feed ingredients were 5-0 in our committee. So just all the way through these two pages here are 5-0 votes.

MR. CARTER: Okay.

MR. LOCKERETZ: He gave us a lot of rules.

MR. SIEMON: And the other thing about, just to make sure, there is -- one of the other concerns about chelateds was the use of those in -- for medical purposes, and there's a fine line between feeding it for health purposes and feeding it as feed additives, and that was another reason why we were concerned about automatically limiting these without going through the whole herd health part of it yet.

MR. CARTER: That's right.

MR. SIEMON: Because this is strictly in the
feed.


MR. RIDDLE: Yes. I just want to be clear on what we're doing here. I thought I had heard you say, Dave, this morning that this would be presented and we'd have overnight to think about it and then we'd actually vote on it tomorrow?

MR. CARTER: No. We actually said that this one would be brought up for action today. The intent was to have the access to outdoors for poultry and the dairy herd replacement brought up today and then voted on tomorrow.

MR. SIEMON: And effectively, this is what went out for public comment except for that we went further now and identified some that we think need review.


MS. BURTON: The ones that need review -- would we be putting that out for public comment so that we don't just automatically do TAP reviews on those? I mean, that's what I would recommend to see if there's anybody really actually using them out there or if there is any prior recommendations or what-have-you.

MR. SIEMON: I agree with that.

MR. RIDDLE: Yes. Would there be any problem with holding our vote tomorrow on these and just giving us a little more time to think about it? I guess I would propose that. I would prefer that myself. Does that need to be a motion?

MR. CARTER: A request has been made to defer the vote until tomorrow. Let me just ask if there is any objection to that.

MR. SIEMON: Well, you're going to put all the work off tomorrow. It's not even on the agenda. You're the boss about the agenda tomorrow, so we're going to put three big votes on tomorrow. We're offloading a lot of our work till tomorrow. So you tell me about your agenda.

This has been out. There's been no change in the intent here at all from what we went to public comment. We put more caution in, if anything, by identifying the things we're concerned about.

MR. CARTER: That's correct. And I mean, we do have time on the agenda in the morning. My intent is that on these particular items, if those items for action tomorrow would be to take those up first thing. If we have to delay the review of committee work plans until the end of the meeting, we will.

We obviously have to leave ample time for
public comment, but we've got two hours of time allocated there for the review of the work plans. So I would like to begin by taking up these action items first thing. I know Nancy has to leave by nine o'clock, and so just to make sure we have as many folks here as possible.

Okay. So it sounds as -- yes. So I guess there's not unanimous consent, so if you want to delay this until tomorrow, that would have to be in the form of a motion.

MR. RIDDLE: Never mind.

MR. CARTER: Okay.

MR. SIEMON: Is there any other discussion?

MR. CARTER: Any other questions, comments?

Okay. The motion before you then is to recommend adoption of the language that was read by George. I won't go over all of this.

Anybody have a conflict of interest on this issue? None being stated, we'll proceed to vote.

All in favor, raise your right hand.

Opposed, same sign.

Abstention? One abstention.

So it is 13 to one -- 13 to zero to one.

MR. SIEMON: Okay. The next issue is the incidentals in feed additives, and the recommendation is
NOSB recommends the allowance of incidental additives as defined by CFR -- incidental additives used in livestock feed ingredients.

The CFR incidental definition, somewhat condensed, Incidental are present at insignificant levels and do not have any technical or functional effect in the feed. Incidents are exempt from the feed ingredient labeling requirement. And this is 5-0 also.

MR. CARTER: That is a motion. Is there a second?

MR. SIEMON: I move.

MS. OSTIGUY: Second.

MR. CARTER: Okay. It's been moved. Nancy seconded. Discussion?

Okay. Kim.

MS. BURTON: Can we list which CFR for clarification that this would fall under? Does anybody know?

MR. SIEMON: Someone from OMRI or anybody know what the CFR -- that's what went out. That's the original. Let's see -- it's right here.

VOICE: 21, Part 57, .100(a)(3).

MR. SIEMON: So that's a friendly amendment. That's fine.
MR. CARTER: Okay. That being added, okay.

Any further discussion?

Jim.

MR. RIDDLE: Yes. Can you just give some examples of these incidentals just to help us understand?

MR. SIEMON: Boy, I might just rather OMRI help us out. You know, I'm not technical, but this is a supportive material to keep a vitamin so that it can be -- go all the way to the feed mill and still be viable and then be put into the feed.

It's a supportive for the main functional nutrient that there is. And again, it's not required to be in the final feed. And that's part of the -- part of this recommendation is the fact that farmers and other people are not going to be able to even know that there's incidentals.

Emily, you got it -- that was my crude attempt.

Did you have --

MR. CARTER: Yes. Been asked to have Emily Rosen Brown come forward again and give an example of --

MR. SIEMON: An example of an incidental, and I said a supportive material in a vitamin pack.

MS. BROWN: Okay. What we're talking about is two levels of additives in carriers, so an incidental
would be -- see, what happened was an original version
that was put out in January, it said, you know, there's a
problem with some carriers and ingredient that are in feed
that are not on the label.

FDA sent a comment back to NOB saying, Not
true. Everything has to be on the label except, of
course, if we call it an incidental additive. And an
incidental additive is something that has no technical --
what it says here -- functional effect.

It's the same as for in processing, the same
definition they use in processing. But in this case, an
incidental additive would be something that's in a
secondary ingredient. So say you have a vitamin. You
have a vitamin D. You get it -- what the farmer would buy
is a mixture of, you know, D, whole bunch of A's, C's,
plus minerals, all in a package and it's like called a
vitamin and mineral mix. And --

MR. RIDDLE: Yes. With a carrier that would be
on it.

MS. BROWN: -- and it will say on it, like,
wheat middlings or rice or something like that. So the
point is that the carrier has to be organic, but the tiny
incidental stuff that's in with those vitamins, such as --
it could be a preservative. It could be starch or sucrose
that you may or may not ever know if there was some kind of genetically-engineered crop and whether it would be -- it's one of those -- so they're saying, Don't count those incidentals, but do count them when they're directly added into the mixture and identified on the label.

MR. CARTER: Okay. Kim and then Mark.

MS. BURTON: Emily, could these be, like, synthetic solvents for extracting or anything like that, like in processing? Are we looking at -- I mean, I know there's probably preservatives, but what would you say?

VOICE: Yes. Yes.

MS. BURTON: Cindy, come up here. Yes. The answer is yes.

Cindy reviews these products for OMRI and has looked at a lot of these MSCS's and stuff.

Well, then just a comment that we, you know, were pretty specific in the processing arena with how these can be manufactured and in some of our materials. So if we don't know, then I suggested that we find out or make a motion to carte blanche it, but I'm a little uncomfortable with that.

MS. BROWN: That is a good point that some of these same vitamin, hyperformulations would be, you know, a question for processed food, too, as far as
preservatives and vitamins.

MR. CARTER: Okay.

MR. SIEMON: I just want to make sure about the clarification that we have separated carriers out. So everybody's clear -- this is not at all about any articles or products.

MR. CARTER: Okay. Mark.

MR. KING: Just a simple question. Could you elaborate just a little bit on insignificant levels? I mean, just in your experience?

MS. BROWN: Yes. It's a hard thing to say, but basically, it's -- they call it incidental when it's an ingredient in one product and a noningredient is used in another product. So while it's required to be on the label of the first product, if it comes along and it has a technical functional effect, it will still be small.

It's not just -- it's not necessarily an amount threshold level. But it's like the old example from canned tomatoes. You had citric acid in it. Then you used the canned tomatoes in another tomato sauce, but they don't have to list that original citric acid in the secondary product.

At that point, it's an incidental secondary ingredient. So that that's -- it's not necessarily a
measurement. It's kind of the chain of use. Make sense?

MR. CARTER: Okay. Rose.

MS. KOENIG: But I guess by approving the recommendation, that doesn't stop someone from petitioning a product that could be used as an incidental if somebody decided or found out that there was something they felt should be prohibited, even as an incidental.

That could come before the board, I assume, and be looked at as a material. So this again --

MS. BROWN: Yes. Yes. This is still --

MS. KOENIG: -- as I understand --

MS. BROWN: -- a guidance document, right, basically. So yes, if somebody wanted to come forward and prohibit a specific preservative in vitamin formulations or whatever.

MS. KOENIG: And when I -- as I understand from yesterday, George, was that these are lots of things that we're not going to be able to accomplish. They're in such small quantities that you're feeling that we need this policy?

MR. SIEMON: Right now, timing-wise, the TAP review money, the time, October 21 is an insignificant part of it.

MR. CARTER: Oh. Yes. Okay. Sorry.
MR. RIDDLE: Mr. Chair.

MR. CARTER: I was --

MR. RIDDLE: I was looking for recognition by Emily.

MS. BROWN: I'll do that. Sure.

MR. RIDDLE: Always, I guess. I'm just thinking about ethoxyquin, and reading on the next sheet that we'll get to, I think that would be covered there as a nonincidental preservative, if it's being added directly to the livestock feed or the feed supplement as a preservative directly.

But if it were used as a preservative in the vitamin concentrate that then is used in the feed supplement, that would be incidental in that instance. Correct?

MS. BROWN: Correct.

MR. RIDDLE: Am I on the right track now?

MS. BROWN: Yes.

MR. RIDDLE: Okay. Thank you.

MS. BROWN: It's in vitamin formulations.

MR. CARTER: Jim was referring to the next page where we have nonincidental preservatives, so we broke these issues out to get them as clear. Carriers was debatable -- we took that out. We took anything out that
wasn't kind of the unknown world of incidentals here.

MS. BURTON: So just for clarification, this is just going to be a guidance document? It's not actually going to be something you're requesting to amend the National List with. Just incidentals as a blanket.

MR. SIEMON: I don't know about the final rule, but this is more than guidance. That's the intent here is to clarify what the role of these are in livestock feeds.

So our --

MS. BURTON: I just heard Emily say a guidance document earlier.

MR. CARTER: Okay. Other discussion? Okay. If not, we'll proceed to vote -- oh, yes.

MS. BURTON: I'm sorry to be like this.

MR. CARTER: That's okay.

MS. BURTON: Under OFPA, if we're recommending to add something to the National List, we are supposed to have a technical scientific evaluation, and that's according to OFPA. So I'm a little uncomfortable just adding this to the National List without that kind of review; or at least a more formal recommendation by what's actually in this.

And not to stall the process, but just so we're consistent.
MR. SIEMON: Just tell me. What's the relationship to this to inerts? We didn't --

MR. CARTER: Okay. Technical advice here.

MS. BROWN: Now, I would say this -- what the idea, the intent here was to clarify the rule where it says, Approved by FDA. So that's just all this is, is these things are, except where we had to exclude the slaughter byproducts, and with these other ones we're saying are okay for now, but we would like to review eventually because we're not sure.

MR. CARTER: Okay. Are you ready to vote?

MR. O'RELL: Dave.

MR. CARTER: Yes.

MR. O'RELL: Just again for clarification, then we're saying this is a guidance document?

MS. CAUGHLAN: Clarification.

MR. O'RELL: For clarification. It's not for rulemaking?

MS. CAUGHLAN: Couldn't be.

MR. CARTER: Okay. Mark.

MR. KING: Just a quick question. Did you just say, And this would just further clarify at the statement, As ruled by FDA, essentially?

MR. SIEMON: Yes.

MR. LOCKERETZ: Could someone explain exactly what a guidance document is for me? What can we put under it and what the significance is of putting out one. Is it mandatory, is it suggesting, or what is it?

MR. CARTER: I'll take that as a point of order for a quick response.

MR. MATHEWS: A guidance document -- the guidance document will tell people what they need to do in order to comply with the regulations.

MR. LOCKERETZ: What they need to do; that's the key word?

MR. MATHEWS: Yes. What they have to do in order to comply with the regulations.

MR. CARTER: Okay.

MR. MATHEWS: Well, could be may, not, shall

MR. SIEMON: Just so we're clear.

MR. MATHEWS: It is a document that is not regulation, but it could have two different purposes. It could be one that tells people exactly what they have to do to comply with the regulation. Another one might give them just some guidance on it.

But it depends on the nature of the lab -- of the document that comes out. The bottom line is the whole
-purpose is to give people the direction that they need to
follow in order to comply with the rule. It does not
create new rules. It only tells them how to comply with
existing rules.

      MR. LOCKERETZ: Well, how does one decide
whether a particular change appropriately can be done by a
guidance document or appropriately could be done by a
rules change.

      MR. CARTER: Okay. Well, we have two hands up
there for clarification from -- okay, Barbara, Arthur.

      MS. ROBINSON: Rick, I think you need to
explain whether or not a guidance document, whatever it's
explaining, whether or not it's enforceable.

      MR. MATHEWS: Okay. Well, the guidance
document itself is not enforceable. The regulations are
what are enforceable. The idea of the guidance document
is to tell people how to comply. If they can comply
without using the guidance document, if they end up at the
same point, then that's okay.

      But the whole purpose of the guidance document
is to give people guidance on how to comply. I guess my
abilities in the English language are too limited to say
anything else. I mean, we've got regulations, and
regulations are what people have to comply with.
What you're trying to do is provide guidance on how to comply with the regulation. The bottom line is the guidance is not regulation. It's an interpretation of the regulations and how to comply with it. So if you can find a way to comply with the regulation without complying with the guidance document, you're okay.

Bottom line is you got to comply with the regulation. And I'm sure that confuses it even worse.

MR. CARTER: Okay. Stop. The gallery over there is saying stop, but Arthur has got his -- okay.

MR. MATHEWS: Art.

MR. CARTER: Okay. Arthur wants to point at Keith. Okay.

MR. MATHEWS: Keith, want to try to explain it?

MR. CARTER: Please identify yourself for the Reporter.

MR. JONES: Okay. I'm Keith Jones, and I'm here to help, so -- guidance documents can be put out by the program to assist people in interpreting the rule, okay. When you do that, though, it is indeed guidance. We do not enforce against guidance. We enforce against the regulation.

So if you adopt this as guidance, which is certainly your prerogative to do so, if you adopt it as
guidance, it would simply go into an explanatory document.

But when it came down to certification, we could not bind this language on anybody, and it appears to me though that that's what you do want to do.

You would want to bind this as a permissive part of the regulation as it exists. So it's my belief that in order to go where you want to go with this language, you would actually need to make this as a recommendation to modify the rule.

MR. CARTER: Okay. Thank you. Just to move this along, the chair would accept that the motion included that this is a formal recommendation to the rule.

Is that --

MR. SIEMON: And the one before as well, then.

Now, I thought that would be NOP's choice -- which route they channels this. But that's fine.

MR. CARTER: Okay. So this is -- okay.

MS. BURTON: Can I have one --

MR. CARTER: Okay. Kim is --

MS. BURTON: I don't know.

MR. CARTER: We've got someone looking for --

Yes. Go ahead, Rose.

MS. KOENIG: I found that comment very helpful, and that's the kind of input I think as a board member we
need to know, and I think that goes back to some of maybe
Willie's frustrations.

I guess you're frustrated at times.

But I think -- but I know sitting up and not
necessarily understanding all the functionings of the
federal government, it really is helpful when we get to
these points and we're doing our work that we know where
we're going with the information that we're presenting,
because that's where some of this communication is
breaking down in terms of Willie's question, what are
we -- you know, what have we done for the past two years.

So if you guys could continue that kind of
input, it would be really helpful.

MR. CARTER: Okay. Let's get back to the
motion. Here, I'll accept the -- okay.

MR. SIEMON: I just wanted to say that that's
why we had called the second group of things guidelines
and the first one, so we -- this whole front page is
things that are rule changes. Just so we're all clear.

MR. CARTER: Okay. I just -- I'm delaying
here, because I have two people flipping through,
determining whether or not we can make this as a
recommendation, so -- yes.

MR. BANDELE: And that's part of my question,
that if in fact we're changing this from a guidance
document to a rulemaking, would not in fact some
modification be in order before it's put forth?

MR. CARTER: Yes.

MS. BURTON: Okay. Shall I read this section?

MR. CARTER: Yes. Go ahead.

MS. BURTON: Okay. Section 2119, National
Organic Standards Board, page 33 of -- actually, it's page
35 of the OFPA, 2119(k)(3), technical advisory panels.
The board shall convene technical advisory panels to
provide scientific evaluation of the materials considered
for inclusion in the National List.

Such panels may include experts in agronomy,
entomology, health science, and other relevant
disciplines.

MR. CARTER: Yes, I don't know that -- okay.

Go ahead, because I --

MS. BURTON: Well, I guess what I'm asking is
can this board make a recommendation to add a material to
the National List without having a scientific evaluation
of a material, and I did not believe that we could just
make a recommendation to add something without some kind
of an evaluation.

MR. CARTER: Yes. Mark.
MR. KING: I think this is a question for someone in the program, and I brought this up on a call the other day, and the answer wasn't clear to any of us. And the question is this: If we consider something prior to sending it to a full TAP, is that acceptable?


MS. ROBINSON: I was going to answer her question first.

MR. KING: I'm asking you a question, but.

MR. CARTER: Let's get an answer to this question first.

MR. KING: Okay. The question is, in this case, if like what we -- the document we have in front of us which includes these specific materials that are listed, and then Kim has read language from OFPA, okay, concerning the technical advisory panel.

So my question is this: Does everything have to go for a full TAP, because it was my understanding you must consider first if indeed it requires a full TAP. Is that correct, and if so, how can we deal with this particular situation?

MS. ROBINSON: This particular situation --

MR. CARTER: Come to the mic, please. Any mic.
MS. ROBINSON: Any mic. In this particular situation, since AAFCO and FDA are reasonably considered to be expert bodies, you could consider AAFCO and FDA to have been the technical reviewers of these materials.

MR. CARTER: Okay. That's helpful. So we are authorized then to go ahead and move forward with this.

Okay. Are you ready to vote?

MS. BURTON: Yes.

MR. CARTER: Okay. Is there a conflict of interest? Seeing none, all in favor of the motion as presented, the language as presented, indicate by raising your right hand.

MR. LOCKERETZ: What words are in front of it -- a recommendation that the rule be modified or record of what status are we [inaudible].

MR. CARTER: Okay. This is an amendment to the National List.

VOICE: Prohibited or -- [inaudible] prohibited slaughter byproducts?

MS. BROWN: We're on incidentals.

MR. CARTER: No. No. We're on incidentals.

Okay. Okay. Everybody understand?

MR. SIEMON: Is there wording needed to clarify that this is a change? That's Emily's question.
MR. CARTER: Well, in your motion, as you make it as the motion, please restate the motion that your motion is to add to the National List -- bingo. Okay?
And that is the motion.

MR. SIEMON: NOSB recommends to add to the National List the allowance of incidental additives as defined by CFR 21, Part 570.100(a)(3) and used in livestock feed ingredients.

MR. CARTER: Okay. Everybody understand now?
If you support it, raise your right hand.

Opposed, same sign.

Abstentions? Okay. One abstention.

Okay. So it's 13 to zero to one. Okay.

George?

MR. SIEMON: Do we need to go back now on our first vote to make sure that we -- that that is an addition or a change?

MR. CARTER: Yes. Let's go back and clarify and make sure that everybody understands the first vote.

MS. ROBINSON: I move to reconsider the vote on vitamins and minerals.

MR. CARTER: Okay. Motion to reconsider. Is there a second?

MR. KING: Second.
MR. CARTER: The maker of the motion having voted on the prevailing side, it's in order. All in favor, say aye.

(A chorus of ayes.)


MR. SIEMON: We just want to add the same words that we just did, which -- I'd just rather we had it read back if we could, but the NOSB --

MR. CARTER: Okay. We recommend --

MR. SIEMON: -- recommends the following additions --

MR. CARTER: -- to the National List.

MR. SIEMON: -- following addition to the National List that the -- then.

MR. CARTER: Okay. So everybody understand the motion at this point?

MS. BURTON: Yes. It's the same motion but --

MR. CARTER: Okay. Read exactly what it's going to say. Make your motion and read the language so everybody understands.

MR. SIEMON: The NOSB recommends the following additions to the National List -- well --

MS. BURTON: That doesn't -- you can't
recommend that. That's not a -- just that stuff.

MR. SIEMON: Well, I'm trying to get the -- the following allowance or to the National List or -- I'm not -- I lost --

MS. BURTON: Recommendation to change the annotation.

MR. SIEMON: All right. Recommends the change to -- well, that's what it says later on there. Contained in -- it's really kind of in there in Section 205, isn't it?

MS. BURTON: He asked you to read --

MR. SIEMON: Read the whole thing? All right.

The way it sits right now, The NOSB recommends that the allowance for synthetic vitamins and minerals contained in Section 603(d)(1) and (2) be broadened to include material. So do we need to revisit this? It says already the number and it says to be broadened to visit it.

MR. LOCKERETZ: The revisiting was what -- the nature of what we're putting forth here, and it's been made explicit -- this is basically a change in the list. But that was not clear the first go-around.

MR. CARTER: So just -- your language needs to say that we're officially recommending this for a change in the National List for an allowance for synthetic
vitamins and minerals contained, and continue on with the
rest of the language.

MR. SIEMON: The NOSB recommends a change in
the National List for the allowance --

MR. LOCKERETZ: As follows.

MR. CARTER: Yes. As follows.

MR. SIEMON: -- for the allowance.

MR. CARTER: Okay. Colon, capital T, The
allowance for synthetic vitamins and minerals -- okay.

MR. SIEMON: Okay. Read what you have so I'm
with you. The NOSB recommends a change to the National
List --

MR. CARTER: As follows, colon.

MR. SIEMON: As follows, colon.

MR. CARTER: The allowance for synthetic
vitamins and minerals contained in Section 205.603(d)(1)
and (2), and continue on with the rest of the language to
the end. Okay?

MS. KOENIG: Except you won't be able to say
NOSB recognizes. You have to stop at hydrolyzed fat.

MR. SIEMON: And then we'll have another motion
about requesting a review on those.

MR. CARTER: Yes.

MR. SIEMON: Okay.
MS. BURTON: May I try it?

MR. CARTER: Yes.

MR. SIEMON: We're going to end at --

MR. CARTER: Okay. Kim is going to jump in here and --

MR. SIEMON: -- hydrolyzed fat.

MR. CARTER: -- help us out.

MS. BURTON: Okay. We're looking at recommending a change to the annotation on vitamins under Section 205.603(d)(2), this is the current wording: Vitamins used for enrichment or fortification when FDA-approved, comma, or CFR -- we'll need the CFR -- okay. Or in Sections 57 and 90 on the AAFCO -- or Sections 57 and 90, according to AAFCO.

MR. CARTER: Okay.

MS. BURTON: For livestock.

MS. KOENIG: I would vote on the spirit of what's in the rule. Let the program develop the legalized documentation to fit our spirit, as long as it's in the spirit of what we're writing, and I think it's pretty clear in the content.

MR. CARTER: Okay.

MR. SIEMON: Okay. So the motion we have right now is that to just add the words, A change to the
National List as follows, colon, and then to not attach this last paragraph of NOSB recognizes to that motion. Those are the two changes we have, and I make that motion.

MR. CARTER: Okay. Is there a second to that?

MS. OSTIGUY: Second.

MR. CARTER: Okay. The official motion that is on the table now is that the NOSB recommends the -- well, you have the language.

MR. SIEMON: A change to the National List as follows, colon -- or semi -- or colon, the allowance for, and then go right into the wording, The allowance for.

MR. CARTER: Okay. And finish. What's the last --

MR. SIEMON: The last part is to not include the paragraph starting with, NOSB recognizes in this motion.

MR. CARTER: Okay. So the last word in this particular motion would be --

MR. SIEMON: Hydrolyzed fat.

MR. CARTER: -- hydrolyzed fat. Okay. So this motion continues on, okay. There is a period after the end of the parentheses on 15. Okay. Does everybody understand that?

Okay. Do the minute -- notekeepers understand
that?

Okay. Are you ready to vote? Okay. We're ready to vote. All those in favor, signify by raising your hand.

Opposed, same sign.

Abstentions. One abstention, so it's 13 to zero to one.

Okay. Continue.

MR. RIDDLE: I'd like to make a motion -- the paragraph after this is a standalone motion. NOSB recognizes the need to review the following materials and recommends a review by TAP process to determine if these materials should be prohibited.

MR. CARTER: And then continue with that list of materials.

MR. RIDDLE: That's right.

MR. CARTER: Okay. As written.

MR. RIDDLE: As written.

MR. CARTER: Okay. Is there a second to that?

MS. KOENIG: Second.

MR. CARTER: Okay. It's been moved and seconded. So the motion is that this is, Recognizing the need to review the remaining materials and going through that list, okay, Tony and Catherine, you with us down
there?

MR. RIDDLE: The only thing the committee had asked me to do was put all the numbers besides these unreadables. And so we do -- that is in the OMRI, you know, so we do want to add that in the reference number that OMRI has according to all these.

MR. CARTER: Okay.

VOICE: So you'll provide that to --

MR. RIDDLE: I'll provide that.

MR. CARTER: Okay. You ready to vote?

MS. BURTON: Just one question. I hate to commit to TAP reviews, should comments come back that for some reason we don't want to -- don't support it. So just wanted to make that clarified, please.

MR. CARTER: I believe that was the intent of this whole thing is just to get it out there for people to look at.

Okay. Jim.

MR. RIDDLE: On the almost the third to the -- fourth to the last word, is that complex instead of comples?

MR. SIEMON: That's what the spelling was in the comments. I looked at it several times, so it's either --
VOICE: It should be an X.

MR. RIDDLE: Okay. All right.

MR. CARTER: Yes. Okay. Let's proceed to vote. All those in favor, raise your hand.

Opposed, same sign.


Okay. Let's move on to materials approved as ingredients.

MR. SIEMON: Yes. The issue came up that is it materials that are approved to be used in processed foods, shouldn't they also be allowed in livestock feed is the issue, and NOSB recommends the addition -- I just put this in the context of a new 205.603(g). I think NOP can decide if that's the right approach.

And then that says, All materials in 205.605 can be used in organic feed, subject to FDA or AAFCO regulations.

MR. CARTER: Okay. Is there a second?

MS. OSTIGUY: Second.

MR. CARTER: Okay. Nancy seconded.

Discussion?

MR. RIDDLE: Well, I guess we need to add --

MS. BURTON: I was going to -- we should add, according to the annotations, also somewhere in this
language, because you don't just want to blanket the allowance for food without -- feed without the annotations also.

MR. SIEMON: What annotation? The annotations that are in 605, right?

MS. BURTON: 205.605.

MR. SIEMON: Okay.

MR. CARTER: Okay. Acceptable to the maker of the motion?

MR. RIDDLE: Sure.

MR. CARTER: Okay. All right. Rose.

MS. KOENIG: I just -- I mean, this is new, so I just kind of wanted to get the thinking that was behind this. Not -- I don't know if I agree or disagree with it. Just why did you come about with this? Is there any potential problems with that blanket allowance?

MR. SIEMON: Well, you first have the obvious. If it's acceptable for human food, wouldn't it be acceptable for livestock. But then we've thrown in the whole restriction that it has to be subject to FDA or AAFCO, because some of these materials are not allowed to be fed to animals.

After that, calcium carbonate -- things that we're dealing with them almost in a second, are in here.
So I mean the first thing we passed, so I guess it's just a broader picture.

MR. CARTER: Okay. Kim.

MS. BURTON: And just from a materials standpoint to support that, there certainly are current petitions in right now that we would be able to defer because of this motion.

MR. CARTER: Jeff.

MR. RIDDLE: Yes. The original recommendation on this mentioned that NOSB reiterates its recommendation. Was there a previous recommendation to this effect and do you know when?

MR. MATHEWS: No, I don't.

MR. LOCKERETZ: Question for someone who knows about it.

MR. CARTER: Yes. Willie.

MR. LOCKERETZ: These things are generally approved qualitatively, but substances used in a minor amount in processed food for humans, is it that same substance might be used in a much higher amount for livestock feed and at an amount that FDA would not have approved in human food?

So there's something about the -- the quantities have to be comparable. Otherwise, I'd be
reluctant to take over the FDA guidelines and apply them just qualitatively to feeds.

MR. SIEMON: Well, again, you have the FDA and AAFCO regulations, and then we have 237 in the rule that has clear guidelines about the use of feed and how they can be used. So you have the whole qualifier of 237 of how feed can be used.

Whether it does the job you want or not, Willie, but there's two qualifiers here. The FDA, AAFCO, and then 237. Whether they answer all the questions -- I think they do.

MR. CARTER: Discussion?

MR. LOCKERETZ: A tiny point of language. I believe it should be, Subject to FDA and AAFCO regulations. That is to say, if either one -- it's a no-no for either one, it's a no-no for livestock feed.

MR. CARTER: Okay.

MR. LOCKERETZ: That's offered as a friendly amendment.

MS. BROWN: [indiscernible]

MR. CARTER: Okay. Is there a technical reason? I mean --

MS. BROWN: Yes.

MR. CARTER: Okay.
MS. BROWN: The reason for that is that a lot of these items on the list, if they're -- I think that pulled them out -- there's several calcium sources and stuff that are already on the processing list. They're AAFCO approved.

FDA has given discretion to AAFCO, but it's not on 21 CFR, but it's clearly recognized for livestock feed. So the idea was if either is on the official 21 CFR list or it's approved for livestock feed in the AAFCO book and it's on the processing list, it's FDA or AAFCO, and you've already approved it for food. That's the idea.

MR. LOCKERETZ: FDA or AAFCO -- is that prohibition or allowance?

MS. BROWN: Allowance.

MR. LOCKERETZ: So if either one allows it --

MS. BROWN: Right.

MR. LOCKERETZ: But I'm suggesting that we want both of them to allow it or --

MS. BROWN: They won't.

MR. LOCKERETZ: -- not to prohibit it.

MS. BROWN: One, FDA will not allow it and then -- or it will not prohibit it if AAFCO allows it. FDA always sanctions AAFCO to allow things, so they won't disagree. I mean, it's just that there's more scrutiny if
it's on the 21 CFR list. It's a different procedure to get it approved there.

MR. CARTER: Okay. So no change in the -- okay. George.

MR. SIEMON: Well, two points. First off, I don't think we need to do about changing the list, because it refers directly to the numbers, or do we need to also say change in list? I think we're okay -- yes.

So the second one is just about the as-annotated. I'm looking through the annotated list here, and it says, For use only in made-with products. We're talking about annotations that -- we're not talking about that kind of annotation, so I'm a little worried now about the addition of as-annotated, because it's -- it has a lot related to --

MS. BURTON: As annotated as appropriate.

MR. CARTER: Okay. Kim.

MS. BURTON: A specific example would be like glycerin produced by hydrolysis of fats and oils. That's a specific manufacturing method of this material that would be applicable to a livestock feed.

MR. CARTER: Okay. Further discussion? We'll proceed to vote.

MR. SIEMON: The motion is that NOSB recommends
addition of a new 205.603(g). All materials as annotated in 205.605 can be used in organic feeds subject to FDA or AAFCO regulations.

MR. CARTER: Okay. Is there anybody that wants to state a conflict of interest on this?

Seeing none, all of those in favor, say aye or raise your right hand. Sorry.

MR. SIEMON: We can do either one?

MR. CARTER: Yes. Opposed, same sign.

Abstentions? Motion carries.

MR. SIEMON: Okay. The next series are just ones that really are -- we feel are cared for already, but just points of clarification since issues have come up. The first is carriers. Carriers are defined as edible material, agricultural material, that -- I'm sorry, I just thought of it -- to which ingredients are added to facilitate uniform incorporation of the latter into the feeds.

They are an edible and agricultural product, and so we're recommending that they must be -- satisfy all the requirements in Section 205.237, which means in planning lists, they've got to be organic.

So Committee, you had asked me to put some wording in here I think I failed to do. You had asked me
to put in, Carriers that are agricultural products.

   MR. SIDEMAN: Carriers used in food additives.

   VOICE: Agricultural carriers.

   MR. SIEMON: I don't know why I missed that, but I just realized it when I was reading that. What was it, Eric, we had said?

   MR. SIDEMAN: Agricultural carriers used in feed additives. [indiscernible]

   MR. SIEMON: Boy, am I looking at the right one? I haven't been looking at the wrong one.

   MS. KOENIG: No. Right here. Agricultural carriers. Right here. And then shall instead of must.

   MR. SIEMON: Okay. Agricultural needs to be added in front of carriers. I'm sorry, I missed this. And then must -- shall. Well, we had shall. Okay. Must -- shall.

   MR. CARTER: Okay. So please state the motion.

   MR. SIEMON: Okay. NOSB recommends that agricultural carriers used in feed additives shall satisfy all requirements in Section 205.237.

   MR. CARTER: Okay. Is there a second?

   MS. KOENIG: I'll second it.

   MR. CARTER: Okay. Rose seconded it. Okay.

Discussion?
MR. SIEMON: As the top says, these are just clarifications. Did not really change this.


MR. RIDDLE: I just prefer the word must there, if that's not a problem. Sorry.

MR. SIEMON: Whatever the -- actually, I think we're just going from shall to must back to shall, so --

MR. CARTER: Just as a technical, there's -- shall is --

MR. RIDDLE: Is the strongest?

MR. CARTER: Yes.

MR. RIDDLE: Okay.

MR. CARTER: And legally, shall is you got to do it.

MR. RIDDLE: Okay. I didn't learn that from my mother.

MR. CARTER: Okay. Well --

VOICE: Let's move through this.


All in favor, raise your right hand.

Opposed, same sign.


MR. SIEMON: The next issue is again another
clarification that preservatives that are not incidental, that they must go through the whole TAP review process. So NOSB recommends that all synthetic nonincidental preservatives used in livestock feed must be approved and listed in 205.603. Again, a clarification.

MS. OSTIGUY: Second.

MR. CARTER: Okay. It's been seconded by Nancy. Okay. Discussion.

(No audible response.)

MR. CARTER: I see no one move forward to discuss this. We'll proceed to vote.

Any conflicts? Seeing none, all in favor of the motion, indicate by raising their hand, whichever one you want to raise.

Opposed, same sign.

Abstentions. Okay. The motion carries, 14-0.

MR. SIEMON: And again, on the next one is enzymes. The motion reads, NOSB recommends enzymes as allowed nonsynthetic feed additive, provided they are not derived from excluded methods. That's a little awkward English, I feel, but it gets the message across because again, it's just an obvious clarification.

MR. CARTER: Okay. Is there a second?

MS. OSTIGUY: Second.
MR. CARTER: Nancy seconded. Discussion?

Kim.

MS. BURTON: Enzymes are currently under 205.605(a)(8), with an annotation, and so I think this is unnecessary if you just recommended that anything be used for feed under 605.

MR. SIEMON: Just took care of that. All right?

MR. CARTER: Okay. So you withdraw the motion?

MR. SIEMON: I do.

MR. CARTER: Okay. Seconder withdraws?

MS. OSTIGUY: Yes.

MR. CARTER: Okay. Proceed.

MR. SIEMON: Okay. The last one, again, is just another clarification about the word probiotics, which was originally what was passed in NO. Okay. This was passed, I believe, in '95 about the allowance of probiotics, but it's not the right term.

So the motion says, NOSB has previously determined that probiotics are nonsynthetics, thus allowed, but NOSB recognizes that the approved feed ingredient label is direct fed microorganisms. So just a clarification.

The issue's come up. I don't even know if we
need a motion on it, honestly, but these are issues that have come up we were asked to clarify. So I make the motion.

MR. CARTER: Is there a second?

MS. OSTIGUY: Second.

MR. CARTER: Okay. Discussion?

MS. CAUGHLAN: Yes. Would this not be a technical correction rather?

MR. SIEMON: Sure. But that's -- it's not on the list.

MS. CAUGHLAN: Oh.

MR. SIEMON: But the question came up. You know, we were asked to address it, so this is what we have.

MR. CARTER: Okay. Any other discussion? Mark.

MR. KING: Sorry, I'm really confused. This is or is not currently on the list? Is that what you're saying?

MR. SIEMON: The natural is not on the list.

MR. KING: Oh. So it's not prohibited. Okay, okay, okay. All right.

MR. SIEMON: It's just a point of clarification.
MR. KING: Thank you.

MS. CAUGHLAN: Before the record, the language that --

MR. CARTER: Your mic, please.

MS. CAUGHLAN: It would seem that for the record to go back, you know, that we might want -- since what we're doing is attempting to correct the language of a previous NOSB determination that we would want to treat it. Just correct the record.

Pardon?

MS. BURTON: It's not on the National List.

MS. CAUGHLAN: I understand that. But the language is there, and it's incorrect.

MR. CARTER: Okay. George.

MR. SIEMON: I don't think we need to add anything about the excluded methods. It's the only thing I realize that's not clearly -- the law takes care of that overall. I don't think we need to address that, so I think is just a simple clarification, so I made the motion. Do we want to --

MR. CARTER: Is there a second?

MR. SIEMON: -- is there a second?

MS. OSTIGUY: I seconded.

MR. CARTER: Oh, there was a second? Okay.
MR. SIEMON: Let's call the vote then.

MR. CARTER: Yes. It's on the table. So -- okay. Proceed to vote.


MR. NEAL: I've got a question.


MR. NEAL: What are we moving? I mean, this is a statement.

MR. SIEMON: Yes. It's just a statement.

MR. CARTER: This is just a statement on behalf of the board.

MR. SIEMON: It can be from the livestock committee or it can be from the whole board, whatever's needed. This is one of the things we were asked to clarify.

MR. CARTER: Okay. Just clarification. Yes. Okay. This is painless, because -- yes.

MR. SIEMON: Let's practice. Yes.

MR. CARTER: Okay. All in favor, raise your hand.

Opposed, same sign.

Okay. Abstentions? Motion carries unanimously.
MR. SIEMON: Okay. There's two other issues that are quite big issues that we wanted to address, but we're going to put off the vote till tomorrow. One is the access to the outdoors for poultry, which we do hope to vote on tomorrow, and the other is the replacement for dairy, which we hope to vote just to place for public comment.

So that's the process we're at now. I've passed the two documents out. Again, both these were in the -- we'll go through access to outdoors first for poultry. That was in your book also, and we have made some additions. So I'll read it as it stands for the public. Is that all right? Okay.

NOSB recommends the following clarification of the final rules requirement that poultry should have access to outdoors. Access to outdoors for poultry. It says, Organically-managed poultry must have access to outdoors during the month when feasible.

This is a new line, the next one that we added. Organic livestock facilities must give poultry the ability to choose to be in the house or outside in the open air and direct sunshine. The producers of organic system plan must illustrate how the producer will maximize and encourage access to the outdoors.
Number 2, the producer of organic-managed poultry may, when justified in the organic system plan, provide temporary confinement because of inclement weather, A. B, the stage of production -- and we did change this from the original five weeks to sufficient feather and to prevent health problems caused by outside exposure.

C, conditions under which the health, safety, or well-being of the poultry could be jeopardized. And D, risks of soil or water quality. So we have changed two things here. We were asked to be more specific and the five weeks had some issues, so we went to the physiological side that OTA had recommended, sufficient feathering.

And then the addition that, no matter what the conditions are, the livestock plan and the livestock facility must give the poultry the ability to choose. So there's no confusion, no matter what, they'd have to have a system that shows and is able to do that.

MR. CARTER: Okay. This is the recommended. We are not voting on this today. We want to just present this and have some discussion?

MR. SIEMON: Yes. So the only -- to take up Rick's question the other day, what are we giving? I
think we're identifying that the farm plan of the
facilities must have the ability to choose, and then we're
doing the physiological things.

We actually aren't that unhappy with the
present wording, but some have been trying to determine.
That present wording in the rule says they can bring the
outdoors inside, which still baffles me, but that's still
some of the question marks that have been had, so we're
trying to make clear the point is the bird actually has to have the choice to step outside.

MR. CARTER: Okay. All right.

MR. RIDDLE: So are we going to discuss this?

MR. SIEMON: Yes. We're going to discuss it now.

MR. CARTER: It's on the table for discussion.

MS. CAUGHLAN: No --

MR. CARTER: Okay. Jim first and then Goldie.

MR. RIDDLE: Yes. Just one change that I'll likely propose when we actually discuss it for real, and that is --

VOICE: Do it now.

MR. RIDDLE: Yes. That the first sentence, that during the months when feasible, I just think's redundant when you've already got the temporary exceptions
down below -- inclement weather, risk to soil and water quality. So I think it's unnecessary language myself.

MR. CARTER: Okay. We'll consider that. And this is discussion for real. We're aren't just pretending to have a discussion.

Okay. Goldie was next. Oh --

MR. SIEMON: Well, can I respond to Jim?

MR. CARTER: Yes.

MR. SIEMON: So you're saying the whole inclement weather would take care of all the winter things and that kind of thing. Right? That's pretty obvious, but that's what you're saying -- the temporary confinement is what takes care of that?

MR. RIDDLE: Yes.

MR. SIEMON: During the -- I agree.

MR. RIDDLE: That's my understanding. You can have inclement weather for several months on end, as we know.


MS. CAUGHLAN: So you're leaving up to the organic system plan the broader issue of quantification of space per bird, as it applies to each individual form of poultry that would be covered, and you're leaving to the
organic plan whether or not it would be bare or cement or pasture?

    MR. SIEMON: Yes. Like I said yesterday, we've kind of picked the middle of the road here, compared to requiring pasturing or not requiring outside. We feel the rule clearly says outside, so we've not gone as far as we could have to require a pasture system.

    MR. CARTER: Okay. Kim.

    MS. BURTON: We just heard before that the word shall has more strength in recommendations than must, so I would suggest we change all the musts to shall.

    MR. CARTER: Okay. So we don't want a musty recommendation here. I'm sorry, that's -- okay.

    MR. SIEMON: Or moldy?

    MR. CARTER: Okay. So change every must to shall. Okay. In the language, the recommendation is that, you know, must shall be shall. Okay. Okay.

    VOICE: The rule says shall.

    MR. CARTER: Okay. Rose.

    MS. KOENIG: I just wanted, I guess, a clarification from Rick as the way I interpret the rule. I was sympathetic to some of the disease problems that could occur, frankly, in any kind of operation. Most of the cases were in conventional operations.
All of the cases, I guess, that we were looking at were more conventional operations. But in the event that there was some kind of a quarantine -- state-enforced quarantine, that would override our rule. So we are protecting -- you know, putting ourselves in a protective and conservative fashion, I guess, because that rule does allow for state quarantines to override the programs rules during that time. Correct?

MR. MATHEWS: Actually, if, for example, the state of Virginia, because of the outbreaks they've got now, said that you couldn't have free-range chickens, then we wouldn't be able to have free-range chickens.

MS. KOENIG: In that state.

MR. MATHEWS: In that state.

MR. CARTER: Okay. Other discussion?

Mike.

MR. LACY: Thank you. Listening to some of the input yesterday and also some of the input that the board received, I can't disagree that the rule does state that a producer of organic livestock must establish and maintain livestock living conditions, including access to outdoors, shade, shelter, et cetera, et cetera, suitable to the species.

And I'd just like to comment on the four things
that seem to be at issue here: the disease issue, the welfare issue, what I think may be the most important -- a food safety issue, and also the custom or expectation issue.

I think that organic producers are going to be between a rock and a hard place when you look at 205.238 that states that a producer must establish and maintain preventative livestock health care practices, including establishment of proper housing, pasture conditions and sanitation practices to minimize the occurrence and spread of disease and parasites.

And certainly, the expert avian veterinary opinions that were provided to NOSB indicates that outdoor access will in fact increase the exposure and likelihood of occurrence and spread of serious poultry diseases. And that would be an impact to both organic and commercial producers.

One serious concern I have is that most often, and this is certainly the case with the avian influenza situation in Virginia and North Carolina right now, the disease was actually spread before the clinical symptoms of the disease appeared.

So you could have birds that looked perfectly healthy and have farmers that are doing their normal,
everyday chores and associating at church or whatever, and that disease could be spread before you realize that avian influenza has infected flocks. And that's really how the problem got out of control so quickly in Virginia.

There's been some input about factory farms, and I just want to say that in Georgia, there are about 4,000 small poultry farmers that make their living from contract poultry production. And although they have never had an avian influenza outbreak, they are going to great expense and great effort to try to protect their flocks as well as their neighbors' flocks.

So I think there's more at stake here than just factory farming. There are small farmers, both organic and commercial farmers, that -- whose livelihoods are at stake.

Let me talk about the animal welfare thing. That's something that is near and dear to my heart. The scientific input provided on this issue indicates that all natural behaviors known to be critical to poultry welfare can be and are routinely exhibited in poultry housed in barns, houses, sheds, et cetera.

And since shelter is a requirement in 205.239, it's pretty much a given that appropriate housing systems are not inherently a detriment to poultry welfare.
The food safety issue, I said, is to me very compelling. There's no question that rodents are a source, if not the source, of Salmonella enteritidis in egg-laying flocks. Poultry producers, organic and otherwise, have been encouraged to eliminate exposure to rodents, and I believe that organic customers have an expectation that organic producers will do everything in their power to enhance food safety.

And while we're talking about customer expectation issue, the only data to come to the board from -- in this regard was from Mr. Bass yesterday, and his survey certainly wasn't, quote, unquote, scientific, but was focused at actual organic egg consumers, and his finding that 80 percent of his respondents believed that his housing system, with no direct access for his birds, was okay or preferable, seems to refute the notion that well-informed organic customers are adamant about outdoor access.

I will -- as I said, I cannot disagree that the law says that the rule says that outdoor access is a necessity, but I hope that we would take into consideration the welfare of the birds and also the livelihood of poultry producers.

MR. CARTER: Okay. Goldie.
MS. CAUGHLAN: Yes. What, Mike, when you're referring to the small poultry producers that are in George, can you talk about what is meant by small or --

MR. LACY: I'm talking about small farms where poultry producers may have anywhere from two to six poultry houses and would contract with an integrated -- vertically-integrated poultry company.

MS. CAUGHLAN: And a poultry house is -- what; about 10,000?

MR. LACY: Usually somewhere in the 15- to 25,000 bird range.

MS. CAUGHLAN: So a small producer, by that description, would be four times 20- to 25,000?

MR. LACY: Correct. Two to six times that. That's correct.

MR. CARTER: Okay. Rose.

MS. KOENIG: I just have a comment in terms of -- I'm not an animal pathologist but I'm a plant pathologist, and again, I certainly have sympathy and -- and you know, I understand the implications of any type of disease outbreak.

But I think there is an analogy to the avian influenza, and it's -- there's analogies in plant diseases, such as citrus canker, and we have a citrus
grower right here on the -- sitting on the board.

So -- but we don't compromise the organic principles in the plant arena for citrus canker. We deal with it on a state-by-state basis, so if Dennis Holbrook has citrus canker on his farm, the state of Texas is going to probably implement some kind of a program such as what might happen in Virginia, and our rule allows that.

So I do think that there are precautionary, and there are things in the rule -- there are parts of the rule that do cover outbreaks, and I don't think that we're being negligent by allowing access to outdoors because of diseases.

I think that, again, we're adhering to the principles of the rule, and we have those -- we have safeguards in the rule to account for disease outbreaks, whether it is in animal production or plant production.

MR. CARTER: Okay. Just as a point of clarification, too. As far as the terms of access to outdoors, that's a nondebatable one under the rule, because that's in the rule. So, you know, what we're doing here is trying to put in the guidance.

So -- okay. Mike.

MR. LACY: Sorry. Just to respond to that. It's really the preventative. I'm coming from a
preventative standpoint. Once you've got the disease outbreak, it's too late. The horse is out of the barn.

MR. CARTER: Okay. Thanks.

Okay. Jim.

MR. RIDDLE: Yes. Before we move on, George, I just want to get back to the language of the text that you've proposed here. Number two, I would like to delete the word an, so it doesn't read, The producer of an organically-managed poultry. We want producers to be able to have more than one poultry.

So I would just -- so just, The producer of organically-managed poultry.

MR. SIEMON: Good.

MR. CARTER: Okay. All right. Okay. Other discussion on this before we move on?

Okay. Willie and then Rose.

MR. LOCKERETZ: I'm bemused by the language about ability to choose to be in the housing or outside. On a real cold day, the farmer says, Sorry, guys, got to close the door. And they say, Cluck, cluck, cluck, we want to go outside.

MS. CAUGHLAN: I think we're all -- I'm pro-choice. I don't know --

MR. CARTER: Okay. Rose.
MS. KOENIG: So is there -- do you have a -- is there a grammatical change there?

MR. LOCKERETZ: No, it's the content. Not the language.

MR. SIEMON: Actually, it brings up an issue, and that's the last line is, The producer will maximize and encourage access to outdoors, because chickens are creatures of habit, and there are things you can do to encourage them to get outside.

So they're actually -- we hope the last line is the one that carries it further to maximizing.

MR. CARTER: And I hope they're more effective than they are in my 14-year-old son. He likes to sit in front of the TV, so -- okay. Rose.

MS. KOENIG: I would like to ask George to put together the grammatical corrections that have been presented, and I make a motion to approve the recommendation of the committee today, because a couple of us will not be here to vote tomorrow.

MR. CARTER: Okay. Just a second. There's a motion that's been made. Is there a second to the motion, and it is to make the changes right now and to vote on the language.

Is there a second to that?
MR. LOCKERETZ: I second it.

MR. CARTER: Okay. It's been seconded.

Okay. Rick would like to make a comment.

MR. MATHEWS: Well, I guess this is perfect, because you're asking for discussion on the motion. The way I would read this is that you could have a dirt area of no specified size on the outside of the barn. You could have a concrete area of no specified size outside the barn.

You could have a roof. You may not have a roof. You -- on days when it's too cold they don't have to go out. On days when it's too hot they don't have to go out. If it just rained they don't have to go out. The chickens that lay eggs, if the farmer wants to keep them inside to lay the eggs inside, he can wait until All My Children comes on.

And if he has to go home at five o'clock to have dinner and he doesn't want the predators to get at his chickens or his eggs, he closes the doors at five o'clock. So in reality, what you're allowing is maybe from one o'clock to five o'clock on those days when it's not too hot, not too cold, not too wet.

Is that really what you want? Just asking.

MR. CARTER: Okay. Owusu.
MR. BANDELE: Yes. I was concerned about chickens being between a rock and a cement place, too. But I think, though, if you go to the rule, the rule says that it has to be establishment of an appropriate housing, pasture conditions, and sanitary practices --

Wait a minute. Is that the one?

VOICE: Yes.

MR. BANDELE: Yes. So to me, this does not supersede the rule. So they would still have to follow those other requirements in the rule itself.

MR. MATHEWS: In essence, what this has done is that it's said, You don't have to have pasture. You definitely can't have outdoors indoors, but you satisfy the requirement by allowing them to have that little sun porch to do their natural thing. And that's the way I would interpret it.

MR. SIEMON: Well, both your examples are the minimum, which is in fact -- but we're hoping that the farm plan, as it says, maximize and encourage -- we're hoping. The farm plan is always the tool in organics that pushes people further and further into complying with organic principles. We're not -- you know --

MR. CARTER: But I think the analysis is correct. This is the minimum standard. Yes. Okay.
Okay. Willie.

MR. LOCKERETZ: Of all the things Rick said which, remarkably, I agree, completely agree with, one of the --

MR. CARTER: Let the minutes reflect --

MR. LOCKERETZ: -- the one about what the floor is made of is pretty serious, and I think we -- I hadn't thought of this when we were drafting these things, but I think some statement to the effect of the acceptable type floor, acceptable type area, is very important. Otherwise, it could be as bad as Rick projects.

MR. CARTER: Do you want to make that in the form of a motion?

MR. LOCKERETZ: Well, I don't know exactly how to phrase it. I mean, something more positive than concrete doesn't count.

MR. SIEMON: But isn't this what -- the comment was earlier about appropriate housing in the other parts of the rule covers some of those things. I agree there's --

MR. LOCKERETZ: I looked for that but could not find it.

MR. SIEMON: Well, under 238, you have all the different things about appropriate housing and establish
appropriate housing, sanitation, pasture conditions, environmental-effective manure. There's a lot of other things that add up to this. I agree -- this is vague.

MR. LOCKERETZ: But density -- that is, number of chickens per area. That's pretty important. And what the floor is made out of. So I don't have a suggestion, but I do think it's something worth specifying instead of leaving it in this generic language.

MR. CARTER: Okay.

MS. CAUGHLAN: I think we need to also again talk about it from the point of view of -- we talked about the first day that we were here prior to the public, when we were talking about public consumer misunderstanding of what is and is not organic, and I think nowhere is there more controversy perhaps.

And when it comes to -- just take the term, the ecolabel of free-range. The concept of free-range already has the consumer envisioning trotting across a field of pasture and that there is a much higher, be it appropriate or not, there is a much higher expectation on the part of the consumer.

When it comes to ramping it up and paying more for their organic chicken that is -- that has access to outdoors, I think we're really opening ourselves up,
unless we give some much more explicit language.

MR. CARTER: Okay. The chair is going to declare -- there are a couple of folks in the process of drafting some amending language here, so I'm going to declare, for personal reasons, a five-minute recess. And we will come back and entertain any amendment.

(Whereupon, a short recess was taken.)

MR. CARTER: Okay. Mr. Riddle. Waiting for, I think, someone who was involved in some preparatory language to come back in the room, otherwise known as Jim Riddle. Okay.

MR. RIDDLE: What -- did you say my name?

MR. CARTER: Yes, I did. Okay. Was there language being prepared?

MR. RIDDLE: Yes, but Mike Lacy came up with it and he was going to talk to you.

MR. SIEMON: The amendment is about just adding a minimum square feet for outside. And there's two issues that we could add for specification, and that is about the square feet outside, and the discussion about dirt or not dirt.

Those are the two issues. And when we discussed this, we left it up to the farm plan, and depending on the rest of the rule that the farm plan would
be where you would apply the pressure to make sure there was not manure contamination and all the different things.

So we had purposely left it a little bit flexible so the farm plan would be the vehicle that you would use. But the suggestion's been the minimum of two square feet. As far as the square footage thing, that's pretty small, but that's one of the suggestions that was put forth here.

I don't -- we have to decide if we want to go to that specificity. So we -- the committee had elected not to.

MR. CARTER: Yes. But I think given this, if there's some language being prepared, we will take this now back to the committee this evening and bring up then the final language for action --

MR. SIEMON: Okay. I suggest we move on then.

MR. CARTER: Okay.

MR. SIEMON: Except for -- no, no. Wait a minute, wait, wait --

MR. CARTER: Wait a second. Wait a second. There is a motion on the table --

MR. SIEMON: There was a motion to vote.

MR. CARTER: -- to vote on this.

MR. LOCKERETZ: Not as amended?
MR. CARTER: There was -- either the motion can be withdrawn or an amendment can be added or we can vote on the language as it's been presented. Okay. The motion that's on the table right now is to vote on the language as presented.

If we move forward with a vote, we vote this up or down, okay.

MR. LOCKERETZ: Without amending --

MR. CARTER: Unless there's an amendment that's offered --

MS. KOENIG: I made the motion. I'm willing to rescind the motion, and I would ask that -- no, we can move on to other committees' reports and perhaps before the end of the day, if you have time, come back with something. If not, tomorrow.

MR. SIEMON: But then we would need instructions that we want, for example, to be more specific. Is that the will of the board? Otherwise -- I mean, the committee's recommended the farm plan approach.

MR. CARTER: Yes. I'm sensing that there's a desire by the board to have some additional guidance in this document, and I think we can take that. We don't need a formal motion on that.

The motion to vote on this has been withdrawn,
okay, with the understanding that this will be brought up later. It's not a motion to table. And we will bring forward some additional clarifying language in this.

Okay. Owusu.

MR. BANDELE: Yes. Before we move on, just want to make one point. I know, for example, under certain scenarios, like in the pastured poultry, some of those pens would be like eight by eight, which would be 64 square feet, and they would have, like, over 40 birds in there.

So that's just -- I mean, just for consideration, and that would come out to less than two square feet. Now, how that's dealt with I don't know, but I'm just saying that's the reality of it.

MR. CARTER: That's correct. Okay. So we're going to move on then at this point.

Mike, you were out of the room. What we've done is the maker of the motion to vote on this right now has withdrawn that with the understanding that we're going to add some additional language here and bring it back for a vote if not later today, first thing in the morning.

Okay? Okay.

MR. SIEMON: Well, okay. Let's move on to the dairy replacements. Just to try to bring some
understanding about why this is an issue, first off, dairy is very confusing, but we have two forms of entering into the organic dairy business in the present rule.

One is the whole herd conversion where a dairy herd has been part of a farm converting to organics, and they have a specific clause in the rule about how they enter organic dairy.

The second method is for a herd of cattle that are not part of a farm converting that they're able to feed 100 percent organic feed for one year and all the other aspects and enter into organic dairy. There's two ways to enter into organic dairy.

The confusion over the replacement dairy is that the rule in number two and two -- three, whatever, three i's -- what is it -- I guess it's -- yes, two -- or three i's -- there's a conflict between where you would read that the herds that came with entry clause would have to have all the replacements be the last third of gestation forward, and some could say the herds that came in through the one year would be able to bring replacement animals with the one year.

So there's a basic conflict, and then if you read the preamble it adds more confusion. So we're trying to clarify strictly the replacement herd clause and try to
equalize it between these two different methods of entering. That's the basic problem that we're trying to wrestle with.

So all we've written is about replacement dairy animals. So you all have got this in front of you. What we're hoping to do is to put this up on the Web. Even though the community would love for us to make a vote, it did not get on the Web, and we'd like to put it up for public comment and vote on it in September.

So that's the due process part. The community really wants to know, so I think it would be good rather than the livestock committee put it on the Web. Then if we all discuss it enough for the board to put it on the Web so that it shows a little bit more maturity than just a committee moving forward. Just to give a message to the industry.

Is that okay? Everybody --

MR. CARTER: Read the language. And I know -- I see some furrowed brows here, because there's -- and we talked about this over lunch with the committee -- that you really don't want to have as precedent that we have to have board action to put things on the Web.

But George's feeling is that we, because of the importance of this issue, we want to have the sense of the
board of where we're headed with this. So --

    MR. SIEMON: Well, we got it settled by

September is the main thing, so -- okay.

    NOSB recommends the following clarification for

organic dairy replacement standards. Number one, organic
dairy replacement dairy animals must be raised organically
from the last third of gestation unless -- and then i. I
don't know where i came from, but -- i. Organic
replacement animals are not commercially available, in
which case the producer may add replacement animals from
nonorganic sources, but those animals shall be under
continuous organic management upon entry to the organic
operations but no less than one year prior to the sale of
organic milk.

    This is more or less what was set out as our

earlier proposal, but we removed the part on the
medications for the first six months for one major reason,
and that is that that's truly a rule change. And we were
trying to stay in the world of clarification, and that if
the antibiotics issue is an issue, it needs to be applied
in a different petition process.

    And number two, there was debate whether that

was the right thing to do in the first place. So this
basically is going to the last third and then a
commercially available basis for organic replacements,
with the one year as a minimum.

The one year, just so everybody remembers, is
what is said in OFPA, and it is the foundation of this
whole discussion.

MR. CARTER:  Okay.  Discussion?  So you have a
motion to recommend this language on the Web.

MR. SIEMON:  I wouldn't mind -- I'd like to
vote for it, but I'm trying to respect the process.

MR. CARTER:  [inaudible], yes.

MR. SIEMON:  Yes.  Okay.

MR. CARTER:  So let's -- yes.  Is there a
second?

MR. RIDDLE:  Second.

MR. CARTER:  Okay.  It's been seconded.  So
this language has been moved and seconded for
recommendation to go on the Web for public comment.

Jim Riddle.  I'm sorry, ma'am.

Okay.  Discussion?  Yes.

MR. RIDDLE:  Yes.  Just one question, George.

When it says commercially available, under seeds when it
talks about commercial availability, it talks about
equivalent variety.  And so I'm assuming that for
livestock, that would be equivalent breed could be if a
producer wants to switch breeds and there aren't any breeds available in organic form, that that would be one justification for commercial availability to kick in.

Is that correct? It's not just numbers. It's not any dairy cow, but it could be a specified breed similar to a specified variety.

MR. SIEMON: Yes. And of course the quality, too, so it's not very far from the commercially available. We would maybe need to look over what we passed earlier to see if there's any modification, but I think that's something NOP can do for the -- but we could look at that, too.

MR. RIDDLE: Yes. The definition of commercial availability says form, quality, and quantity already, so that's covered. But then it has this specific qualifier for seeds of equivalent variety, and I'm assuming that that's --

VOICE: Equivalent species --

MR. RIDDLE: -- equivalent breed -- yes.

VOICE: -- breed. Breed, excuse me.

MR. RIDDLE: So yes. Maybe that should be added -- in an equivalent entity, equivalent breed or something.

MR. CARTER: Is that an amendment?
MR. SIEMON: It's in the definition --
commercially available and --

MR. RIDDLE: No.

MR. SIEMON: -- equivalent breed. Yes, that's fine.

MR. CARTER: Can we accept that as a friendly amendment, okay, without having to vote on it? Any objection?

Okay. Willie.

MR. LOCKERETZ: Question. What's typical for the age of replacement heifers when they're bought from another farm?

MR. CARTER: George.

MR. SIEMON: It varies all over the map, and honestly, it's usually right close to their first calving and not earlier, but it can go all over. But six month -- well, it can be any time from two weeks of age to right before they calve.

MR. CARTER: Okay. Kevin, also, if you have some information also --

MR. SIEMON: But in the dairy world, the one year has been in place for a long time. So in the organic dairy world, people have been buying the replacements prior, if they didn't have enough farm raised. We'd never
had a commercially available position, so now we have a stricter.

The calves have to be -- this is very stricter than what we've been so far, and most of the standards, the calves have to be raised organically now all the way through, and then you have to buy organic if they're available.

So we've added two strict new things that weren't in the previous -- most of the standards, at least.

MR. CARTER: Okay.

MR. O'RELL: I know you're looking to me, but I'm really waiting to see when we get this published and get some public comment on the issue.

MR. CARTER: And I would just -- to Willie's question about the specifics, the timing. So -- okay.

Comment from Rick.

MR. MATHEWS: George, it's not just replacement animals that we're concerned with. We're also concerned with animals that are brought onto a farm to increase the size, whether they're born on the farm or brought from another source.

And the regulatory language doesn't address it as replacement versus entry. It just addresses it as
animals. So what are your thoughts on the entry issue?

MR. SIEMON: Well, first I'd like -- you're

talking about expansion, for example. Replacement is once

you're in production, how do you bring new animals in.

Expansion or replacement is the way I'm trying to read

that.

So I think it's -- this carries over and covers
what you are calling expansion. But going back to my
initial response, the initial entry -- you can bring
animals in to enter dairy with the one year, you know, but
this is more about once you're shipping organic milk, how
can you expand or replace.

I don't know. To me, it's the one year is your
backup always in new positions, and this is still a backup
here; behind the commercially available is still the one
year as a backup. So I don't know how to clarify it more
than that, Rick.

MR. CARTER: Rick, you still look puzzled.

MR. SIEMON: What's the puzzlement? Jim might
help me out here.

MR. MATHEWS: Well, I guess my problem is still
with the word replacement, because replacement implies to
me that you've got 100 animals, five of them are coming
off, so you put five more in so you still have 100
animals.

It doesn't answer the question for the farm where they take, say, five off and bring ten on and go to 105.

MR. SIEMON: Okay. So you'd like to have replacement and expansion --


MR. RIDDLE: Yes. I would suggest just a leading replacement. It's organic dairy animals. Does that cover? And how does it read without the word replacement? Let's just try that before I make a motion.

MR. SIEMON: Well, I think if you have to have a title that once a farm -- once you're a producer of organic milk. Then you can go there. You have to have that qualifier at the top, I would think, since they don't interfere with the other entry clauses.

MR. RIDDLE: Yes.

MR. SIEMON: But I think --

MR. RIDDLE: But if you -- yes. If you add to the introduction --

MR. SIEMON: That's right. Then it would work.

MR. RIDDLE: Okay, because I think that would certainly read a lot better than saying replacement and/or expansion animals or something.
MR. SIEMON: I was just starting to read once an organic -- you know, I was starting to go there but I didn't quite -- so I agree with you. Let's remove the word replacement and put a qualifier --

MR. CARTER: Turn on your mic, please.

MR. SIEMON: Let's remove the word replacement and put a qualifier statement over it that this is about once you're in and shipping organic milk. I think that would help clarify what Rick's bringing up.

MR. CARTER: Okay. Rick, let me just ask here.

MR. MATHEWS: Let me ask this. The current language says in a -- you know, of 236 that the livestock have to be under continuous organic management from last third of gestation except in the case of dairy animals, milk or milk products must be from animals that have been under continuous organic management, beginning no later than one year prior to the production of the milk.

I'm a little confused, because it almost sounds like you don't want to change that statement; that you want this other statement to be something in addition to that.

MR. SIEMON: Yes. That's correct. And -- well, I don't see it here in this final rule. That dates back to NOSB had previously -- and I admit it's not in
here -- had always had the foundation that once an animal enters a farm, it had to be treated organically from that point forward.

That was always part of some of the earlier recommendations, and I really -- I looked through it last night. I really don't see that in the rule now, but that was one of the premises that we were working on; that once you were on the farm, you had to be treated organically rather than having animals being treated conventional and then switch to organic so they can enter an organic dairy.

Once they're on the farm, they had to be organic dairy. So that is the foundation to why that number two becomes the minimum that these other things are building on. So you are correct.

MR. CARTER: Follow-up?

MR. MATHEWS: Then George, let me ask you this.

The dairy is organic, and it's been organic for, say, five years. The dairy farmer suddenly decides they want to add 20 cows that they're going to then use one year later to produce.

Does the language that currently exists in the regulation still apply -- that any cow, any age, any source, can come on in any number and go through the one-year period?
MR. CARTER: George.

MR. SIEMON: It does stand, but we've added the first step that they have to look for organic heifers on a commercially available basis, and that's the marriage between three i and two that we're trying to do. We are trying to make a level playing field between those that came in the entry herd clause to those that came in this other way. So we're trying to bridge between the two.

MR. MATHEWS: So --

MR. SIEMON: It's going above the present number two is what it is. But so does three i go way above it.

MR. MATHEWS: So it's supposed to go -- you would have the single i, then this new entry, and then the double i and then the triple i?

MR. SIEMON: Well, I --

MS. BURTON: Please call the question, please.

MR. CARTER: Well, there's confusion here, so we --

MR. SIEMON: See, I was trying to avoid rewriting this because that's -- I was trying to clarify the rule. But the right way for this rule to be written is there's two ways to enter and then replacement, and separate the two issues.
You know, that's the correct way to deal with it to avoid the confusion. Right now we're mixing up subjects, so clarify how you can enter organic dairy, then clarify once you're in organic dairy how you would expand or replace animals that you needed to.

Those are the two clarification points. So I -- the i, how to work the i's in here, I guess I would make the entry herd, you know, like a number A, and then B the replacements. Something like that, I guess, if I had to just work with this wording right here, and then eliminate number three i, because three i is the one that's making all the confusion.

We'll work on it, bring it back tomorrow, and otherwise, the livestock committee will send it forward as it --

MR. RIDDLE: But this is just what's going to be posted.

MR. SIEMON: Yes. This is just the posting. Yes.

MR. CARTER: So you want to withdraw your motion at this point to pass this, and then we'll --

MR. SIEMON: Sure. We'll get the qualifier and we'll take out the word replacement is what I've heard here and add commercially available and equivalent breed.
Those are the changes we've had here so far.

MR. CARTER: Okay. Good. That's -- which I thought would be a helpful process in the beginning.

MR. SIEMON: That's all that we --

MR. CARTER: Talk about it one day and come back the next, so --

MR. SIEMON: That's all that the livestock committee has.

MR. CARTER: I just want the record to note that we're back to the process that I recommended in the beginning, so --

MR. SIEMON: Except for we may still try to do the outdoors if we could. Okay. Besides further working on the access to outdoors, that's all we have for today. Maybe we'll get back to that.

MR. CARTER: Okay. Yes. Back to the agenda, whatever it is. Okay. Are you done?

MR. SIEMON: Yes.

MR. CARTER: Okay. Then let's move on to materials. Kim.

MS. BURTON: Okay. What I'm passing out is Draft 5 of the clarification of Section 205.606. When I presented the draft yesterday, there was some language that I left out per request of Jim Riddle, so I've added
that back in.

I will go ahead and tell you the areas of the language. On the first page, last sentence, In addition, once the material is placed on the list as not being commercially available in an organic form, the industry no longer has an incentive to develop organics versus of the material. So that's an addition.

MR. SIEMON: Would you define this issue, please?

MS. BURTON: We discussed it yesterday.

MR. SIEMON: Okay. Fine. All right.

MS. BURTON: On page 2, I guess the second paragraph from the bottom, just for reference, last sentence, A guidance document on commercially availability still needs to be completed and posted. So those were the two recommendations that I accidentally deleted or left off yesterday's recommendation.

There's another area that was brought to my attention by Steve Harper. In the original recommendation, we were recommending that all the materials on that 205.606 just be deleted because they were nonorganic agricultural products, when in fact I was in error.

There are strict annotations to two of those
materials, one being gums, water-extracted only, and kelp for use as a thickener. So we really don't want to delete those. We're going to suggest that they be moved over to 205.605(a).

Again, if someone has a problem, they can petition to remove, but that's -- this is the correct document right now.

MR. CARTER: So is there a motion?

MS. BURTON: I make the motion to approve this document as is version Draft 5, clarification of 205.606.

MR. CARTER: The motion is on the table to approve Draft 5, clarification of 205.206. Who was the second and who was the --

MR. RIDDLE: I will.

MR. CARTER: Okay. You can take your choice. Jim or Goldie, so -- okay. Discussion.

MS. BURTON: Kevin.

MR. O'RELL: In moving the gums with the annotation, water-extracted only, and having those gums listed, does that then exclude any other water-extracted gums that aren't on that list, because I know when we were talking in committee, we had deleted that because we didn't want to create lists.

Now we're moving lists, and the annotation,
water-extracted only, is fine, but do we need it by those specific examples or does that exclude all the other water-extracted?

MS. BURTON: Well, I guess we would have to go back to the original TAP and were these just references or were these specific gums we were -- I can't answer that question. Looks like I can't answer the question so --

MR. CARTER: Is there somebody that --

MS. BURTON: I would suggest that we leave it as is, and if somebody -- either we come back and make a suggested annotation change or we actually have people to petition to verify the water-extraction method.

MR. CARTER: Technical information only.

MS. FRANCES: Greetings to the committee. I'm with the Maryland Department of Agriculture, the organic certification director, Valerie Frances.

Just wanted to mention that we do have a company in our state that is in -- they're certified for gums, acacia gum, and they're working on locust bean gum. I understand usually the gums are sold as a blend. I think they're missing one of the gums, but that's -- working towards it, sure.

MR. CARTER: Okay. Thank you.

MS. BURTON: We can take gums back as the
processing committee and come back with the recommendation. But for now, this is going to clarify 606.

MR. CARTER: Okay. Further discussion?

MS. BURTON: Oh. Steve has a problem.

MR. HARPER: I'm not sure what the original NOSB recommendation was in regards to -- whether these are just examples or not, because I just can't remember. But if you take it off of here, then you've sort of nullified the intent of the previous NOSB, even -- no matter what the intent was, whether it was an example or a -- I mean, if you just delete it, just strictly it, and that's why I'm suggesting leaving it on there.

MS. BURTON: He was saying just to leave Arabic [inaudible] like as --

MR. HARPER: No. No, I'm just saying if you had deleted the whole thing off of 606, you would have in effect been nullifying the previous decision by NOSB -- the previous recommendation by NOSB on a specific annotation.


MR. RIDDLE: Yes, but if this is -- if the gums, for instance, are moved to 605, then does a processor still have to try to source for organic? Does
commercial availability still apply once it's put on the
605 list?

MS. BURTON: It's my understanding anything on
the 605 list, if it's --

MR. RIDDLE: Any ingredient in a product
labeled organic. Correct, if it's an agricultural
ingredient, because it still has to try to source
commercially available organic?

MR. HARPER: Not if it's not 606.

MR. RIDDLE: Yes. So that's the problem with
moving it to 605 if there indeed are organic sources being
developed.

MR. HARPER: So you've got sort of a conflict
of --

MS. BURTON: Yes. Well, we have work to do on
605 also. At least for this time being, I think this is
the correct move to make. If somebody wants to petition
to remove it because there is an organic source available,
they can certainly do that.

That's the way it is right now with the
cornstarch, for example.

MR. CARTER: Okay. Any further discussion?

Yes. Kevin.

MR. O'RELL: Yes. Just for point of
clarification, we're saying to move the gums, water-
extracted, only in examples to 605?

MS. BURTON: Correct.

MR. O'RELL: But yet, we're leaving them in the
wording now of 205.606. We didn't strike those.

MS. BURTON: We didn't want to strike the --
that's just -- this is just for your reference. We
actually requested that they be moved, if you look at the
paragraph below.

MR. O'RELL: So is it requested they're moved
out of 606?

MS. BURTON: Correct.

MR. SIEMON: There won't be any materials left.

MR. CARTER: Okay. Further discussion?

(No audible response.)

MR. CARTER: Okay. We'll proceed to vote.

Is there any conflicts?

Okay. All of those in favor of the motion as
presented signify by raising your right hand.

Opposed, same sign.

Abstentions? Two abstentions. Okay. Which
would make us a 12 to 2 and the motion carries.

MR. SIEMON: 12-0-2.

MR. CARTER: Twelve-0-2, excuse me. Thank you.
MS. BURTON: There was one other topic under materials, and that's the Konjac flour, and I mainly put this into the book as a reference for us to look at as a material that would actually fall under a nonorganic agricultural item.

And it's on Tab 6. I believe it's the second tab under 6. And I included just the basic manufacturing methods, so you see that it's just -- it's the third page of manufacturing. It just describes the Konjac tubers, slicing, drying, milling, washing, drying. So that would be an example of the material that would now fall under 205.606.

Okay. And there's no action needed; just a reference.

MR. RIDDLE: Was there a petition? I'm sorry, I missed -- I was spacing out there for a minute or something -- was there a petition submitted for Konjac flour. Shouldn't there be a recommendation? I mean, we did on a couple of other things that we determined were agricultural and commercial availability applied, but --

MS. BURTON: We did on materials that were currently on the list. I would think that if we passed the recommendation, although it's not part of the Act, this would now be an example of the filing of 606.
We did not have a technical review of this material or anything, so --

MR. RIDDLE: Oh, okay. Yes.

MS. BURTON: -- I think until that really becomes final, we can't review that material.

MR. RIDDLE: Okay. I just forgot where it fell in the process. It was weeded out earlier on. Then going through the TAPs --

MS. BURTON: It never went through a TAP.

MR. RIDDLE: -- to a committee and all that.

Okay. Thanks.

MR. CARTER: Okay. Anything else?

Kim.

MS. BURTON: That's it.

MR. CARTER: Okay. Thank you very much.

Okay. Let's move on to processing. Couple of items and then we'll have a point of clarification over some action that was taken this morning, so --

MR. KING: Yes, and as I understand, where this -- this whole session will be points of clarification. Yesterday -- and I'll just read this quickly to let you know, and this, as I understand it, doesn't need a vote but I want you to know that it's just moving forward as an example of something that can be used
in the industry and will be posted on the NOP Website, and that is an ingredient affidavit.

So members of the organic community have just expressed a need for guidance concerning the documentation of ingredients. So the processing committee recommends that the following ingredient affidavit just simply be submitted the national organic program for -- as guidance, essentially.

MR. LOCKERETZ: Is that in our book?

MR. KING: No, but you will get copies of it.

Sorry, Willie. Thanks.

MR. LOCKERETZ: That's all right.

MR. KING: And thus, did you want to bring up the earlier point as --

MR. CARTER: Yes. Okay. There was confusion over how Robert's Rules of Order handles abstentions and went and got a copy of language from Robert's Rules of Order and just parliamentary procedures.

Abstentions. When a vote is needed and a member does not feel that he/she has enough information to vote on the matter in an appropriate fashion, he/she can abstain. This indicates neither or no vote. All abstentions will be recorded as such. However, they will be tallied with the majority vote.
Okay. So in this issue, the language then regarding, under DEAE, the motion that was on the table, For use as boiler water additive in livestock -- oh, I'm sorry.

Okay. The motion that was voted on, DEAE for use as a boiler water additive in livestock feed until October 21, 2005, was voted on. The margin was eight in favor, three opposed, and three abstention. That -- according to the rules, then, that motion does carry because the three abstentions go with the prevailing side, effectively making that an eight to three vote. Okay.

MS. KOENIG: Can that be reconsidered, though, based on the fact that --

MR. CARTER: Eleven to three vote. Excuse me. So if there is a desire from someone voting on the prevailing side, which has to be one of the eight or one of the abstainers, a motion to reconsider.

MS. KOENIG: I'll move that motion to reconsider.

MR. CARTER: Okay. There's a motion to reconsider. Is there a second? Is there a second to the motion to reconsider?

VOICE: Who is eligible to second?

MR. CARTER: Anybody's eligible to second.
MR. LOCKERETZ: I second.

MR. CARTER: Okay. All of those in favor of reconsideration, signify by saying aye.

(A chorus of ayes.)

MR. CARTER: Opposed, same sign.

(No audible response.)

MR. CARTER: Okay. So -- now, the motion has to be made again. Somebody make the motion, and the motion that was on the table was that, DEAE for use as a boiler water additive in livestock feed until October 21, 2005. Does somebody want to make that motion?

MR. SIEMON: I make that motion.

MR. CARTER: Is there a second?

MS. KOENIG: I'll second it.

MR. CARTER: Okay. George made the motion, Rose seconded it. Okay.

MR. HOLBROOK: Point of order.

MR. CARTER: Yes.

MR. HOLBROOK: If we've already voted on it and now we have a ruling of what it is, then why are we voting on it again, because it already passed?

VOICE: It changed the status.

MR. HOLBROOK: It changed the status?

MR. CARTER: Yes. It changed the outcome of
the vote. Okay. Previously, the chair had ruled that the motion failed. This being the case, that meant the motion carried. So I really want to bring this back up so that everyone who's voting on it, we know exactly --

MR. HOLBROOK: Okay. All right.

MR. CARTER: Okay. So -- okay. The motion to reconsider was made by Rose.

MS. KOENIG: No.

MR. CARTER: Oh, excuse me.

MS. KOENIG: Oh, the motion to reconsider?

MR. CARTER: Yes. The motion to reconsider was made by Rose and seconded by Willie. Okay. That's a nondebatable motion and it was just put to a vote and carried. Okay -- unanimously. Okay. The motion then to adopt the language that DEAE for use as boiler water additive in livestock feed until October 21, 2005, was made by George and seconded by Rose.

MS. KOENIG: There were [indiscernible] of boiler water additive added to the packaging sterilization.

MR. MATHEWS: That one's not it.

MR. CARTER: Okay. Discussion on this motion, then?

MS. KOENIG: I'm sorry; I'm confused. Read it
again. What will --

MR. CARTER: Okay. The wording that we were
voting on is that DEAE for use as boiler water additive in
livestock feed until October 21, 2005.

MR. SIEMON: Shall be allowed.

MR. CARTER: Shall be allowed, yes. Okay. All
in favor, say aye.

(A chorus of ayes.)

MR. CARTER: Opposed, same sign.

(A chorus of ayes.)

MR. CARTER: Okay. Let's -- okay. Show of
hands. All in favor, say aye -- raise your hand.

VOICE: In favor?

MR. CARTER: Yes. All in favor. Okay. One,
two, three, four, five, six, seven, eight in favor again.

Okay. Opposed? One, two, three, four, five.
Okay.

And abstentions? One abstention. So it
effectively makes the vote nine to five. Eight-five-one
is nine to five, effectively, for purposes of counting the
vote, and someone who knows math is -- it's got to be ten.

So it still fails. Okay.

Okay. I apologize for the confusion on that.

The language explaining how abstentions will be handled
will be included in the board policy manual. Okay.

MS. CAUGHLAN: Point.

MR. CARTER: Yes.

MS. CAUGHLAN: The abstainer was Willie?

MR. LOCKERETZ: Yes.

MR. CARTER: Yes.

MR. BANDELE: Mr. Chair, that was the only case in which the abstentions --

MR. CARTER: That's the only one in which the abstentions would have changed the outcome of the vote. Okay.

Then let's move on to crops.

Yes, Owusu.

MR. BANDELE: Yes. I'm passing out the material, Dave.

MR. CARTER: Okay.

MS. KOENIG: Do you want me to do the transplant?

MR. BANDELE: Yes, go ahead. Yes, that would be good.

MR. CARTER: Okay. Rosie.

MS. KOENIG: I'll just go ahead and do the transplant, because as far as I recall, there were no changes in that statement of clarification. So it's
under -- it's 8 and sandwiched under -- between some of 
those orange sheets.

It reads, Crops committee statement on planting 
stock for perennial crops grown as annuals. You all saw 
it yesterday. No changes. Basically, defining 
strawberries or other perennials that are grown as annuals 
should be interpreted as annuals and fall in Sections 
205.204(1) and (2) rather than those -- rather than 
looking at them as perennial planting stock.

After we vote on this, then I'll provide that 
clarification on the question we had yesterday.

MR. CARTER: Okay. So is this a motion to 
adopt this language?

MS. KOENIG: It's a motion to adopt the 
language.

MR. CARTER: Okay. The motion is on the table 
to adopt the language. It's included under Tab 8.

MS. OSTIGUY: Second.

MR. CARTER: It's been seconded by Nancy.

Okay. Discussion.

(No audible response.)

MR. CARTER: Okay. Seeing no discussion, 
assuming that we're ready to vote, all of those in favor 
of this language, signify by saying aye.
(A chorus of ayes.)

MR. CARTER: Opposed, same sign. The motion carries.

Abstentions? The motion carries unanimously.

MS. KOENIG: The only other comment that I just want to make sure got into the minutes was that Rick reviewed the question that I had yesterday, which I had posed regarding clarification on annual transplants, just to really clarify whether planting stock and also seeds, if they're treated prior to --

Eric, please help me on this. You're better at it. It's so confusing.

But basically, we were discussing whether if you pick up a transplant from a commercial grower that has done it conventionally and has sprayed with prohibited materials, would that be allowed under 205.204(1).

And Rick said as long as it was preharvest in terms of seed and pre-obtaining in your arms -- it was a pretreatment rather than a post-treatment -- so if you pick up a transplant and before you leave the greenhouse they say, Let me dip this in a little bit of Captan here for your drive, that would not be allowed.

So I just want to state for the record for certifiers that that is how it is interpreted; that people
can purchase commercial transplants if they are not commercially available in organic form.

MR. SIDEMAN: Rosie, what are transplants?


I'm sorry.

VOICE: [inaudible] prohibited?

MS. KOENIG: No, they -- go ahead, Rick. Yes, please.

MR. CARTER: Okay. Microphone on, please, if you're going to talk.

MR. MATHEWS: Okay. Here's the way it works. Under 204, you must use organically-grown seeds and planting stock. That's the number one requirement, which means no prohibited substances, except that nonorganically produced untreated seeds and planting stock may be used to produce an organic crop.

What this means is that the crop may be grown using prohibited substances, because it's a conventional product or conventional plant. You can do that. What you cannot do under that one is to pluck it out of the ground and dip it into something to treat it or to spray something on it to treat it.

So basically, if it's preharvest, the addition of the substance is okay. If it's post-harvest, it is
not. The item two addresses that post-harvest treatment of the plant or the seed. There, if you do that, you have to have a substance that is on the National List.

MR. CARTER: Yes. Owusu, though, has --

MR. BANDELE: Yes. So there's still some concerns, as I appreciate, with strawberry folks who post-harvest. It could be treated, but I suppose that if that's required by law that that would take care of that if it's a -- am I right, Rick?

MR. MATHEWS: Yes. If it's a final sanitary issue that's under some state or federal law, you would still have to comply with that law and it would not necessarily knock you -- it would not knock you out of organic status.

MR. BANDELE: Okay. Then my second question has to deal with, okay, this is dealing with planting stock and not transplants. Okay. So I'm interpreting Irish potatoes, the tubers, the sweet potatoes, and all those other vegetatively propagated vegetables. Is that correct?

MR. MATHEWS: You're talking about treating the tuber?

MR. BANDELE: No. In other words, once it's harvested. Once the tuber is harvested or, like, for
example, in sweet potatoes, a lot of times the bed is treated and then they get the slips from that -- from those mother plants, so to speak.

But your interpretation is stating that even though that bed is treated, as long as those -- and they do call them transplants, but let's call them slips. That's the other word and to avoid that confusion -- that as long as they're not treated after they're taken from that treated bed, then that's okay because they're planting stock and not transplants?

MR. MATHEWS: So you're talking about the treatment was already in the soil at the time that they were growing?

MR. BANDELE: Yes.

MR. MATHEWS: But you're going to grow them in that soil. Correct?

MR. BANDELE: Oh, no, no. In other words, this would be like an organic grower who did not have access to sweet potatoes, who bought them from a farm that did this, but he's planting that -- or she is planting that on their organically-certified operation.

MR. MATHEWS: But the soil that he's planting it into is a treated soil?

MR. BANDELE: No. It's going from a treated
soil where the slips -- where the planting stock was
produced to an organic farm that has not been treated.

MR. MATHEWS: All right. So there's a stop in
between the time that it was plucked from the ground and
the time that it made to the organic farm. If it goes
from the conventional farm and then is plucked -- is put
back into the ground, I would interpret that as a
treatment.

MR. BANDELE: No, no. I think you're missing
something here.

MR. CARTER: Barbara, to a mic.

MR. MATHEWS: Yes. I guess I'm not following
Owusu.

MS. ROBINSON: Owusu's the organic grower.
He's getting the yams, the tubers, from another supplier
and then he's taking them back some place else.

MR. BANDELE: Not the tubers.

MS. ROBINSON: It's the slip is the plant that
comes from the tuber, just like -- and you can use it,
it's analogous to the strawberry situation because that's
why I was asking. Typically, it's plug production now.
It's not just grabbing that plant.

You go to a commercial plug operation. They're
taking the daughter plants and then growing them -- or the
tips -- and they're growing them as plugs in a greenhouse in a commercial soil mix on those commercial conventional farms and being treated.

MR. CARTER: Okay. Barbara, continue, though.

MS. ROBINSON: Why wouldn't you treat that then analogous to seeds? You're talking about something that actually comes from the root -- from the plant.

MR. CARTER: Okay. Jim and then Eric, if you have some --

MR. MATHEWS: It seems to me that what you're really saying is that it's still coming from a conventional source, and I've already said that if it's on a conventional source and then it is removed from the soil and then taken to the organic, as long as from the time that it was removed from the soil to put it onto the organic, as long as the treatment was only with an allowed substance, you're okay. Did --

MS. KOENIG: We're going to have to go back on this, Rick. There's

MR. CARTER: Okay. Eric, explanation, and then Jim.

MR. SIDEMAN: Okay. What that first section is referring to is allowing planting stock and seeds, because there are some annual crops that are raised from planting
stock instead of seeds, and these include things like garlic, regular white potatoes, sweet potatoes. And what we've tried to do with this, we've also added strawberry plugs.

MS. KOENIG: And they are planting stock.

MR. SIDEMAN: That's right. They are planting stock. What we're trying to do is get them to -- we've been trying to get them, even though sometimes they're raised as perennials, if they're raised as annuals, we're trying to get them to be considered under that section. I think the number's one there.

Okay. So what this is allowing is that you have to use organic production until organic planting stock or seeds are not available. Then you can turn to conventional production. And essentially what you're talking about is however those particular planting stocks are produced, conventionally, we're going to allow them, if you can demonstrate to your certifier that you can't find organic ones.

And in potatoes, it's just harvesting the tuber. In sweet potatoes, it's harvesting the slip. In strawberries, the conventional production is actually the raising of the strawberry plug from a daughter plant. And so that makes it a little bit confusing, but it's still --
the conventional production is raising it in a tray under
a misting system.

As long -- and I think I'm getting to where
you're saying -- as long as after you harvest it from that
tray, then you can no longer treat it with a prohibited
substance. But they can treat it any way that is
permitted under conventional production systems before you
take it from the tray or harvest the potato or --

And it's the exact same thing with seeds. If
you're buying a bean seed or a pea seed or whatever those
are, it doesn't matter how they raise them. If you've
demonstrated commercial unavailability, then you can buy
conventionally-raised pea seed.

What you can't do is buy that conventionally-
raised pea seed and then treat it with Captan.

MR. MATHEWS: And I would say you just said the
exact same thing I meant, only you said it better. Thank
you.

MR. CARTER: Jim.

MR. RIDDLE: Yes, and you said what I was going
to say, only you said it better. But -- no. The only
thing I wanted to add was just -- and I think it helps
answer the question -- is just to read the definition of
planting stock.
Any plant or plant tissue other than annual seedlings but including rhizomes, shoots, leaf or stem cuttings, roots, or tubers used in plant production or propagation. So that definitely covers your sweet potato slips.

MR. CARTER: Okay. Kim first and then Owusu.

MS. BURTON: Just an observation regarding commercial availability. We have a mechanism, or at least the industry is trying to develop through OMRI, this bank of commercial availability seeds. We also, in the processing arena, are trying to develop some way to have this commercial availability processing ingredients.

And one, I'm curious how this is going to be handled in the crops area. I see this as, you know, if it could be mismanaged, you know, somebody's just going to say these strawberry plants aren't commercially available, so I'm going to go and plug in these to my soil with prohibited substances.

So that's an observation to try to look at the big picture of this. I believe in commercial availability, but I also believe that a farmer should have to try just as hard as a processor or anybody else to seek alternative methods.

MR. BANDELE: Yes, and I agree, Kim, and I
think earlier on the crops committee submitted the recommendations in terms of commercial availability and documentation for those types of shortages.

I just had a couple other clarifying points. This still states, though, that -- it doesn't state, but you're still bound by the GMO issue when dealing with these materials, number one. Secondly, this would take care of the tissue culture thing, because all that's preharvest.

So tissue culture in which some additives would be added to the stock solution would be allowable, because that's preharvest. My only other concern -- and this is kind of a technicality -- but let's say someone may be trying to get around that.

You can in fact produce tomatoes from cuttings. So in that case, would that be allowed, even though traditionally, everybody's going to do planting stock -- but I mean as a transplant. But if you're trying to get around the system, you could in fact take cuttings from tomatoes and treat that as planting stock.

Rick.

MS. KOENIG: Owusu, I would say on the tomato issue is that -- I mean, that would really be looked upon, I guess, by a certifier. If those seeds were available
and they felt it -- well, I mean, if those seeds were available organically, then they would be obliged to purchase them organically versus getting cuttings from maybe a neighborhood farm.

So I think it's solved through the commercial availability issue.

MR. BANDELE: Yes. The other thing, I think the confusion, as I've went back and read that section, is that 205 -- 204, I believe that the untreated word went just with the seeds. Untreated seeds. In other words, seeds not -- in which a fungicide was not applied so -- because in that case, Rick, you couldn't get those -- you still can't get treated seed from that conventional farm, as I appreciate.

But I don't think that that untreated word went with the planting stock. Now, I could be wrong on that, but that to me is my interpretation, Jim, regardless of that frown on your brow.

MR. MATHEWS: I disagree with that interpretation.

MR. CARTER: Okay. So unless there's action here, then we will move on.

MS. KOENIG: We [inaudible] the action. We just have clarification.
MR. KING: Could I just make a simple point.

MR. CARTER: Yes.

MR. KING: I think you're calling this annual planting stock, and do you mean annual seedling?

MS. KOENIG: No.

MR. KING: But I don't see annual planting stock listed in the rule.

MS. KOENIG: It's defined under planting stock, and then planting stock is referred in that section.

MR. KING: Okay.

MS. KOENIG: And then there's an annual seedling.

MR. CARTER: Okay. We're ready to move on, now that Rose's clarification has left everybody dazed and confused.

MR. BANDELE: No, but that -- this action really took care of a lot of stuff.

MR. CARTER: Yes. Okay. Owusu.

MR. BANDELE: Composting. The document that Eric presented yesterday is basically the same as presented today with the exception of under the process manure materials. There was a recommendation for a change.

We took out the frozen and we also was added,
Process manure products should be negative with salmonella and less than 1,000 mpn of fecal coliform for 4 grams dry weight material. Other than that, it's the same as was presented yesterday with the exception of Eric also -- and I apologize; they don't quite match up, but we had different sources.

So the only thing that you need to look at on the page with the conclusion is the process manure materials. Everything else would be the same as is found in the document.

And then secondly, I also included the -- a copy of the definitions that Eric submitted, which were not a part of the package yesterday. So those are the only changes to the composting recommendations. So I make a motion that the NOSB adopt the task force recommendations.

MR. HOLBROOK: I second it.

MR. CARTER: Okay. The motion has been made by Owusu and seconded by Dennis to adopt the language as presented.

Discussion? Seeing none, are you ready to vote?

All of those in favor, say aye.

(A chorus of ayes.)
MR. CARTER: Opposed, same sign.

(No audible response.)

MR. CARTER: The motion carries.

MR. BANDELE: One further question. In the tradition of the strawberries, Rick, where does this sit in terms of -- in other words, as Eric interpreted, it would be -- the CN that be prescriptive, C and N ratio nor the three turnings would be mandatory if their recommendations are adopted.

Now, come October 21, what will the situation be in light of the recommendations that were just passed?

MR. MATHEWS: You're asking does this document change the regulatory text?

MR. BANDELE: In other words, the interpretation of the regulatory text.

MR. MATHEWS: You're going to have to give me some more time to look at it.

MR. CARTER: Okay. Rose.

MS. KOENIG: Just to follow up. What Owusu is -- I mean, we know we didn't go for a rule change. We assumed that your stance as stated before on these -- what do you call them; clarifications or non-rule change but explanations -- that they would be guidance documents as to other ways that you could meet the standard to
certifiers.

So in fact, as I understood these guidances, if sanctioned by the NOP would be these alternative ways of performing the functions that are written in the rule.

MR. BANDELE: Eric, point of clarification. To follow up on Rose's point --

MR. SIDEMAN: I missed that entirely, Owusu.

MR. BANDELE: Okay. We're talking about the implications of the compost being recommendations. And I'm sorry Barbara left without -- I thought I recalled an earlier discussion in which Barbara pointed out that the points raised here were one way of dealing with it but not necessarily the only way, and that in fact, if these recommendations are adopted as a guidance, then the producers would not be bound to the five turns and the C and N ratio.

MR. MATHEWS: Let me ask you this, Owusu. You were -- are you talking about the method that is specified in the regulations as they exist today, or are you talking about how we would deal with the carbon nitrogen and the turning for other types of soil amendments?

MR. BANDELE: Okay. Trying to avoid the C word, the compost word, but the thing is, as defined in the document, those other amendments would in fact be
compost, as I appreciate it. You may want to comment as chair.

MR. SIDEMAN: Formerly known as compost. I hate to say this without Barbara here, but she and I have been e-mailing back and forth, and my understanding -- and I have e-mails of this -- is that she has agreed for me and Zea and Will Brinton and Pat Millner to put together a document that is essentially going to take the high points out of this compost task force report and put it into the forum of essentially a practice standard.

And that would be turned over to NOP to review, and then we would work together. And at that point, I don't think that -- what I do think is that other materials besides those in 205.203(c) would be allowed. And so yes, you could make compost without meeting those carbon to nitrogen ratios, once that's accepted by NOP.

MR. MATHEWS: So I think the original remarks is you're going to give me more time to study it was right.

MR. CARTER: Okay. And just a point of clarification, because there's two actions in a row in which we've adopted a motion, passed a motion adopting a report, and then had the discussion on that particular issue after the motion was adopted. That is not the way
we're going to do things.

   We need to have the discussion, because
sometimes this type of discussion will affect the way
people vote on it. It's a closed issue now. It's been
adopted, so please -- let's have the discussion before the
vote.

   VOICE: I have to say something.

   MR. MATHEWS: Wait, wait. Let me go first
here.

   David, point well taken, but we had that same
exact discussion yesterday, actually.

   MS. KOENIG: So I'd like to make another
motion. And my motion would be I do realize that in
September, we have a materials meeting. But I would like
to be able to motion to bring this special issue up in
terms of an update either from Eric or some representative
from NOP so that growers know by September what that
situation's going to be, because I think it is a very
important issue.

   MR. BANDELE: I second that.

   MR. SIDEMAN: And my hope is to have it done
before September and give a report on how well we
succeeded by September.

   MR. CARTER: Okay. So the motion is
essentially that the report of the compost -- give me --
that was a rather lengthy motion.

MS. KOENIG: The motion is, is that we would
place an agenda item on the next meeting that we have been
told is exclusively for materials that would be the
accepted update what NOP's position is going to be on
this.

Regardless of what your report says, we want
NOP's position on this issue by the September meeting.

MR. CARTER: Okay. So the motion is to put on
the agenda the report on NOP's position on the compost
ing thing. Is that -- the seconder. Who seconded? Okay.
Owusu seconded it.

Okay. Made by Rose, seconded by Owusu.

Discussion on the motion?

Kim.

MS. BURTON: Just one comment. We just now
have two days that I imagine at the conclusion of this
meeting we're going to discuss our meeting for September.
We might have to increase that to three days. We're now
to 31 materials.

MR. CARTER: The chair has already thought
about that, and we've had some discussions. So -- okay.

Discussion on the motion?
All in favor, say aye.

(A chorus of ayes.)

MR. CARTER: Opposed, same sign.

(No audible response.)

MR. CARTER: The motion carries unanimously.

Abstentions? Motion carries unanimously.

Jim.

MR. RIDDLE: Just a request, Eric. As this smaller group gets close to submitting that recommendation to the NOP, would it be possible to circulate it to other members of the NOSB just for any final feedback?

MR. SIDEMAN: I'm going to leave that up to Owusu. I still feel the task force is operating under the crops committee, so it would definitely go to crops committee.

MR. RIDDLE: Okay. Thanks. No need for a motion.

MR. CARTER: Emotion or a motion?

MR. RIDDLE: A motion, yes.

MR. CARTER: Okay.

MR. BANDELE: Moving on to the transitional --

MR. CARTER: Okay. I'm sorry. Continue. Yes.

That was spacing out.

MR. RIDDLE: All right. Yes. As we discussed
this yesterday, the transitional product recommendation --
I made the changes that were suggested by incorporating
some introductory language rationale and then reshaping
the recommendation.

So for members, you haven't read this yet, and
for members of the public here, let me just read through
how it currently is drafted.

The NOSB provides the following guidance to
producers, certifying agents, and state and federal
governments on the labeling of transitional products. The
NOSB recognizes that the Organic Foods Production Act
regulates organic products but that products labeled as
transitional are beyond the scope of OFPA and the final
rule. The recommendation is offered for guidance and
clarification purposes.

Rationale. Numerous products are currently
labeled and sold as transitional. Several states set
regulations defining transitional labeling, and several
accredited certifying agents conduct transitional
certification.

There are differences between existing
transitional certification requirements. The
recommendation is offered to bring consistency to these
requirements. In addition, in at least three states, the
USDA's Natural Resource Conservation Service is offering incentive payments to transitional operations.

This recommendation will provide guidance to the NRCS for requirements governing those transitional incentive programs. It is anticipated that producers who enter transitional certification and/or incentive programs will have a more complete understanding of the requirements of the final rule when they qualify for full organic certification.

This will lead to a higher degree of compliance for such producers. It will also -- no, that's wrong. Allow such producers to receive market-driven consumer recognition for their production practices rather than having to sell their crops for conventional prices.

And then the recommendation itself remains presented in the book and on the Web, only the section numbers from the rule have been deleted. And so I changed the word in that final paragraph I read to -- it will also -- no, it's right. I just read it wrong. Never mind.

MR. CARTER: Okay. So a motion?

MR. RIDDLE: Yes. So I move that the board pass this recommendation.

MR. CARTER: Okay. Motion to approve the
transitional product recommendation. Is there a second?
Owusu seconds. Jim made the motion. Owusu seconds.

Discussion? Willie.

MR. LOCKERETZ: I'm going to propose something that I think will make life easier for our good friends at NOP and the higher-ups above them, which is that USDA has no authority over the word transition. It doesn't want authority over the word transition.

We don't have authority over it. NOP doesn't have authority over it. The Secretary of Agriculture does not, and I don't understand proposing a recommendation in an area that we simply have nothing to do with.

Who is this addressed to and -- or why is it being considered by the NOSB which has no jurisdiction over the word transition? I oppose this because it doesn't seem to fit into what we do. And I don't know -- we don't put out recommendations in areas that we're not dealing with under legislative authority.

MR. CARTER: Okay. I hope everybody's sitting down. I'm going to call on Rick first.

MR. MATHEWS: I'm sorry, I have to agree with Willie. This is twice today. Willie and I are doing good on our relationship today. The bottom line is this. We are not going to regulate transition, and we will not
enforce transition.

And I have seen e-mails that have already been traveling around on the Internet that are saying, USDA rules for transition. I have to say the USDA has only one rule for transition. We don't regulate it. We won't regulate it, and you can't use the word organic on it.

So basically, I agree with Willie. I know what Jim's trying to accomplish. If we did anything with it, it would be to post it on the board's portion of the Web with a disclaimer.

MR. CARTER: Okay. Goldie.

MS. CAUGHLAN: Just -- Willie, you're the one that's very much involved in ecolabeling, and to me, the concept of transitional really is getting very close to being another form of ecolabel. I wish personally to say that I believe that it's unfortunate that we don't have jurisdiction to regulate transitional coming from the state of Washington, where we have long recognized and regulated transitional and where we feel it's been very important.

But it simply is not -- I agree. It's not covered by OFPA, but it does seem to me you have a conference coming up on ecolabeling, and it seems to me that one aspect of this is that transitional might be
something that comes under your ecolabeling.

MR. CARTER: Just a second, because I thought Mark had his -- okay.

MR. KING: Yes. Just a quick suggestion, Jim, small, and then a small example. In the first sentence, we're talking about, Provide the following guidance producers, certifying agency, federal governments. Consider please retailers in that because they are labeling it, and I think it's important to be consistent to the consumer.

And then secondly, we used to actually label retail products -- or excuse me; transitional products in a retail environment and found that it did help in a lot of senses in terms of not just the producer but also to provide additional clarity to the consumer. So I do support this.

And I side with Willie as well. There is some question in terms of what will happen, if anything at all ever, from a regulatory standpoint. But I think it stands on its own merit as guidance, and I support it.


MR. MATHEWS: I guess my only question is why
wouldn't the industry actually turn to OTA for this kind of guidance? And the other comment that I would make is that the Act in no way prevents accredited certified agents from having this additional certification ability.

MR. CARTER: Okay. Owusu.

MR. BANDELE: Yes. I just want to reiterate the point that we're not really watering -- I think I made this point before -- we're not really watering down organic standards. In fact, we're attempting to suggest guidance in making those transitional programs having similarity.

Secondly, I think that in some instances where the board can step forth it should, and I know that, for example, we really have no real bound in terms of philosophy of organics, but we did address that issue. So I don't think we're really stepping beyond our bounds to do this.

Again, it's just offering guidance. My preference was to have it as a part of the rule, so this is kind of like a compromise position, as far as I'm concerned, on my account.

MR. CARTER: Okay. Somebody's -- the question's been called. If there's no objection --

MR. RIDDLE: I have.
MR. CARTER: Okay.

MR. RIDDLE: You had said I would be recognized next --


MR. RIDDLE: -- for closing comments. I wanted to respond to Mark that I accept as a friendly amendment inserting after the word certifying agent in the first sentence, retailers, comma, consumers, comma -- to insert those words in the draft as presented.

And I would like to point out that the USDA, in the form of the NRCS, does have practice standards for the incentive payments to transitional producers. And these are consistent with those, and I have been working with NRCS on the development of those.

And as far as looking to guidance from the OTA, this language is taken directly from the OTA's American Organic Standards, so it is -- we've certainly looked to guidance from OTA for that.

So it -- the goal is to bring consistency. Products are out there. They are -- it's a commitment to organic production methods. It just doesn't have the three-year pedigree, so it does have a direct linkage.

We're not entering into other ecolabels here at all. This is an important role, and I'm glad to hear Rick
say that it could posted to the NOSB's page of the Website. Thanks -- with a disclaimer.

MR. CARTER: Okay. If you're ready to vote, then we will proceed to vote.

All of those in favor -- let's raise our hands on this -- all those in favor, raise your hand.

Okay. All of those opposed?

Okay. So 13 to one, it carries. Understanding that this will probably be something that will be posted on the NOSB's section of the new Website with an appropriate disclaimer.

Moving on here, okay. Rose.

MS. KOENIG: I'd like to make a motion just to come back to the poultry issue.

MR. BANDELE: I think we had one more issue, and that was the farm -- the organic farm plan template.

Jim, do you want to address that again?

MR. RIDDLE: Oh, I didn't know we needed to.

It doesn't take a vote of the board. That's coming from the committee to post to the Website --

MR. BANDELE: Okay. Good enough.

MR. RIDDLE: -- and for comment.

MR. BANDELE: Then in that case, that concludes crops.
VOICE: Hydroponics?

MR. BANDELE: Hydroponic -- based on a discussion yesterday, the crops committee will reconsider that it was pointed out by Rick that hydroponics is already covered as far as the existing rule is concerned. So what the crops committee will do is try to provide some -- a guidance document, whatever that means, to the hydroponic situation at a later date.

MR. LOCKERETZ: So no vote on the standards for hydroponic production? We're postponing that?

MR. BANDELE: Right.

MR. CARTER: Okay. Any other business then under the crop? Okay. All right.

Rose.

MS. KOENIG: I would just like to make a motion -- well, just ask to go back to the livestock issue.

MR. CARTER: Okay. Doesn't take a formal motion to go back to the livestock and bring that up. Want to just check first, because we do have a couple other things titled here, but there was no business. They are accreditation [inaudible.]

VOICE: I believe under reservation is where the agenda [inaudible].
MR. CARTER: For national and I believe under international [inaudible].

Okay. Then it would be appropriate at this point if we're ready to go back to the access to out-of-doors for poultry. And is there a motion that would come forward now on the adoption of this provision, the recommendation?

We will come to the chair of the livestock committee.

MR. SIEMON: Well, we have the motion that we improved earlier, but I was asked -- or I was told somebody else was, but I ended up with the task of maybe putting some more specifics to it. So my motion is to the original recommendation earlier. That would be my first motion. But then we could have the amendment with this new wording. I don't know how you want to go about that.

MR. CARTER: Okay. If you want to make the motion of the language that was forwarded by the livestock committee, will you send us --

MR. SIEMON: As -- and improved by the group earlier. I'd make that motion.

MR. CARTER: Okay. Is there a second?

MR. LOCKERETZ: Second.

MR. CARTER: Okay. It's been moved and
seconded to have the language up to the point of our final modification. Okay.

MR. SIEMON: So now we're going to consider an amendment. And again, I didn't get a lot of help from this.

MR. CARTER: I'm sorry. George moved and Willie seconded. Okay.

MR. SIEMON: I didn't get a lot of help, but I just wrote that there was a requirement that we get specifics, so I wrote down, The area provided outdoors should be a minimum of two square feet per bird, and then just to clarify, I wrote, And that area shall be managed in compliance of all requirements of this rule.

To deal with the manure, the organic land qualification, the living condition aspects, just to make sure that it's clear that that has to satisfy all the other requirements. I don't know if you need that last part, but I put it in there to make sure.

So again, all I did was, The area provided outdoors shall be a minimum of two square feet per bird, and that area shall be managed in compliance with all requirements of this rule.

MR. CARTER: Okay.

MR. SIEMON: And you're out of ink almost.
You're almost out of ink.

MR. CARTER: Okay. So the motion is -- repeat.

MR. SIEMON: The amendment to be added to our previous work is, The area provided outdoors should be a minimum of two square feet per bird, and that area shall be managed in compliance of all requirements of this rule.

MR. BANDELE: I didn't hear the last part.

After the two square feet.

MR. SIEMON: And that area shall be managed in compliance of all the requirements of this rule. And I don't know if that's necessary or not, but I was trying to deal with the whole manure management aspect of it.

MR. CARTER: Okay. So it's been moved and seconded. Discussion just on the --

MR. SIEMON: I know that we had a second. Did we on the amendment?

MR. CARTER: Yes. Willie seconded it.

MR. BANDELE: I still have some concerns about the point I raised, George, before you considered, and that is in those pasturate poultry situations, I think it's less than two square feet. I would like to get further clarification from folks from the pastured poultry industry after the interpretation on that.

MR. CARTER: Okay.
MR. SIEMON: But that would turn on this motion would help. That amendment is how you do that.

VOICE: Someone on the audience.

MR. SIEMON: Is there someone that can give feedback on pasture poultry?

MR. CARTER: Okay. Somebody responding to pasture --

MR. SIEMON: No. Pasture poultry only.

MR. CARTER: -- pasture poultry only.

MR. SIEMON: This is the movable hutches that have the animals quite tight so they can move from area to area.

MR. CARTER: Okay. Anybody that's engaged in pasture poultry?

MR. SIEMON: There were people yesterday --

MS. BRICKERY: Whether or not, let me answer this question.

MR. CARTER: Okay.

MS. BRICKERY: If the board feels that it needs more clarification on the implications, please do not -- sorry. If the board feels you need more clarification on the implications of what you're doing, please do not vote on this today at five o'clock. This is not good process.

And I obviously have no opinion one way or the
other about whether two feet is the right number or any number is the right number. I'm just giving you some friendly political advice. I just don't think that's what you want to do.

MR. SIEMON: Okay. We're on the amendment only right now.

MR. CARTER: Okay. Rick has got a comment.

MR. MATHEWS: The two square feet per bird would be a recommendation, as I understand it, or as guidance. But because it is, it would be unenforceable.

MR. SIEMON: I'd be glad to take away my amendment and go back to the original proposal.

MR. CARTER: Okay. Kim. Then Mark.

MS. BURTON: I had -- actually had my hand raised before Carolyn. I feel like we're just pushing some of this stuff so fast, I don't even have the copy in front of me any more. I just can't support moving this forward right now. Thank you.

MR. KING: Second, basically.

MR. CARTER: Okay. And the chair -- and I can appreciate that some folks have to leave. But this meeting was announced. We're scheduled to be here for two and a half days, and this is an issue that requires some time.
And I would have to agree that, you know, in order to make bad policy just to have as many people here making that bad policy is not a good thing. So it would be the recommendation of the chair that we withdraw the amendment; that we again -- it appears increasingly that we're not ready to act on this.

MR. SIEMON: Okay. But then I need direction, Kim, what else we need. You have in your hand what's in front of us right.

MS. BURTON: Don't have anything more.

MR. SIEMON: Yes, you do. That was what we passed out earlier.

MS. BURTON: Bring it up tomorrow. I think -- sorry.

MR. SIEMON: Okay. All right.

VOICE: You packed up too early.

MS. BURTON: It may be here somewhere, but I can't vote on something --

MR. CARTER: We're shuffling too much paper.

MS. BURTON: -- it's just too frantic. Sorry.

MR. CARTER: Okay. So amendment withdrawn?

MR. SIEMON: Okay.

MR. CARTER: Okay. Motion is still is still the motion --
MR. SIEMON: No. The amendment was withdrawn.

MR. CARTER: Yes, the amendment was withdrawn, but there's still then the original motion that was made at this point with the language.

MR. SIEMON: No. That was what was being told to not make any decision. That's amendment plus drop the subject right now.

MR. CARTER: Okay. So we're just delaying everything, okay, until time uncertain at this point. Okay?

MR. RIDDLE: Till tomorrow morning.

MR. CARTER: Well, okay, but it will -- okay. Again, I would go back to it was the intent of the chair originally to discuss this today and vote on it tomorrow. Okay? I'm not right very often, okay, so I'd like to -- I got to flaunt it, you know.

VOICE: You're like the Cleo of organic.

MR. CARTER: Okay. So -- yes. And we will have this in writing tomorrow. Okay.

Okay. Now there are just a couple of announcements then. And doggone it, I wish I could remember what they were. Okay. Tomorrow we will come back then and discuss this issue, but the other thing, tomorrow morning before we get to the public comment, we
are scheduled to spend time reviewing committee work plans.

I do want the committees, release the committee chairs to sit down and to really have preferably a written report summarizing what your work plan is between now and September, okay, so that we can have this -- so we can all know what we're working on between now and then.

I think that -- and Kim's comment is exactly right. I think tonight informally we ought to discuss a little bit some of the logistics for September, because I think it's increasingly obvious that we may need a three-day meeting.

Nancy has requested that if we do have a three-day meeting that it be the Tuesday, Wednesday, Thursday; not the Monday, Tuesday, Wednesday, simply because she has teaching obligations on Monday, Wednesday and Friday. We won't act on that, but I just want us to decide then tomorrow some things on the meeting.

I think it's important, with the number of materials that we have to look at in September, that we give ourselves adequate time to do that. And I understand budget implications and the like, so we have to balance all of that, but -- okay. Okay. We got the money. All right. Show me the money.
Okay. Willie.

MR. LOCKERETZ: Concerning tomorrow's schedule, this record is only one hour for public comment?

MR. CARTER: We will continue the public comment as long as people want to weigh in with public comment. Okay.

MR. LOCKERETZ: But that means other business could be pushed to after the adjournment --

MR. CARTER: Okay.

MR. LOCKERETZ: Not okay, because we have planes to catch.

MR. CARTER: Okay. Are there other items then that need to come onto the agenda tomorrow?

MR. LOCKERETZ: Some votes.

MR. CARTER: Yes. Some votes. Well, we will bring up the poultry first. That will come on -- if we're ready to go with the recommendation, that will come up for a vote first thing tomorrow. Okay.

MR. SIEMON: Could I request the livestock committee sit for a minute after --

MR. CARTER: If the livestock committee would sit for a minute, okay, after we recess.

Okay. By golly, it's five o'clock.

Okay. Carolyn.
MS. BRICKERY: Could you just review the agenda for tomorrow so we know what's --

MR. CARTER: Okay. The agenda for tomorrow is that we will come in, we will -- if there is a written report from the livestock committee, come back with the poultry access to pasture. Okay.

Then we will move into a review of committee work plans. Then promptly at ten o'clock, we will begin public comment, which public comment will continue on as long as we have public commentors. And then other business.

Now, if there's other business that needs to be taken care of before people leave to catch a plane, I would request or entertain any requests that we do that before the public comment.

Okay. Everybody understand?

MS. CAUGHLAN: What if we kicked everything at least a half-hour earlier? What if we started at 7:30?

Oh, stop it. Don't wimp. Like we don't anyway.

MR. CARTER: Okay. We were -- you know, we were encouraged to be here or authorized to be here until Thursday so, you know, we need to factor that in on the meetings. And again, my admonishment is September, pack
an extra pair of underwear. Okay?

Okay. We are recessed, except for the livestock committee.

(Whereupon, at 5:00 p.m., the hearing was recessed.)
CERTIFICATE

IN RE:          National Organic Standards Board

LOCATION:      Austin, Texas

DATE:      May 7, 2002

I do hereby certify that the foregoing pages, numbers 1 through 695, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Penny Bynum before the U.S. Department of Agriculture National Organic Standards Board.

6/12/2002
(Transcriber) (Date)
UNITED STATES DEPARTMENT OF AGRICULTURE

NATIONAL ORGANIC STANDARDS BOARD

Walnut Room
Clarion Inn & Suites
2200 IH-35 South
Austin, Texas

Wednesday,
May 8, 2002
8:00 a.m.

MEMBERS PRESENT
DAVID CARTER, Chairman
OWUSU A. BANDELE
KIM M. BURTON
GOLDIE CAUGHLAN
ANN L. COOPER
DENNIS L. HOLBROOK
T. MARK KING
MICHAEL P. LACY
WILLIAM LOCKERETZ
KEVIN R. O'RELL
NANCY M. OSTIGUY
JAMES RIDDLE
GEORGE L. SIEMON

STAFF PRESENT:
KATHERINE BENHAM
KEITH JONES
RICHARD MATHEWS
ARTHUR NEAL
ROBERT POOLER
BARBARA ROBINSON
TONI STROTHER
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MR. CARTER: Okay. We'll reconvene the meeting, just starting off with some announcements. It was brought to my attention yesterday that there were some conversations going on out here that were somewhat distracting, and so if you do have some conversations, I know that NOSB business, as a spectator sport, can be boring sometimes, but if you do need to say something, please go out in the hall.

We'll also, this morning -- during the public comment on Monday, Marty Mesh asked some questions to Rick, and Rick asked Marty to find some answers, and apparently Marty has found some answers, so we'll ask him to come up and give a brief report on the certified organic labeling issue.

MR. MATHEWS: I think you can do it during your five minutes, Marty.

MR. CARTER: See, I feel so guilty that I skipped over him on Monday, I'm trying to make amends here.

I'm sort of stalling around because we're waiting for some copies to get back to George. So that being the case, Marty, why don't come up and give us -- (Pause.)
MR. CARTER: So as we said, yesterday, now we are delaying -- or we have held over the action, again, on the issues of poultry access to the outdoors and the dairy herd replacement issue, so I'll call on George, chair of the Livestock Committee.

MR. SIEMON: Okay. Well, we're handing out the latest draft of the access to outdoors that we did last night. I did not italicize the changes, which I should have, but really all we did was add a consideration of time to come in compliance with access to outdoors, just to clarify, since there's been such a debate here, to give people a reasonable amount of time to come in full compliance.

And that's -- I'll read what we added; then I'll read the whole thing, but, "A producer shall demonstrate reasonable progress in efforts to comply with this provision; full compliance shall be completed no later than 18 months from October 21, 2002," which is April 21, 2004.

Okay. And then I can read the whole thing.

Nancy, we did just a few modifications to your language afterwards.

Unfortunately, they don't have any overhead things here; otherwise I would have done it for the crowd.
You want me to read the whole thing now?

MR. CARTER: Please.

MR. SIEMON: Okay. The motion is "NOSB recommends the following clarification to the final rule's requirement that poultry shall have access to outdoors:

"1. Organically managed poultry must have access to outdoors. Organic livestock facilities shall give poultry the ability to choose to be in the housing or outside in the open air and direct sunshine. The producer's organic system plan shall illustrate how the producer will maximize and encourage access to the outdoors. A producer shall demonstrate reasonable progress in efforts to comply with this provision; full compliance shall be completed no later than 18 months from October 21, 2002 (April 21, 2004).

"2. The producer of organically managed poultry may, when justified in the organic system plan, provide temporary confinement because of:

"a. Inclement weather;

"b. The stage of production, sufficient feathering to prevent health problems caused by outside exposure;

"c. Conditions under which the health safety or well being of the poultry could be jeopardized;
"d. Risk to soil or water quality."

MR. CARTER: Okay. That is the motion. Is there a second?

MS. OSTIGUY: Second.

MR. CARTER: Okay. Nancy seconded.

Okay. It's on the table for discussion.

MR. SIEMON: Just no matter how we try to discuss this, it's really clear that the rule says access to outdoors, so we're just trying to put some clarification to it. There's not much debate in the committee, at least, about that. This is a 4-1 vote by the committee, but we do acknowledge that we really feel it's clear in the rule, and we're just trying to see how many times we can say the word "outdoors."

Well, is there any discussion?

MR. BANDELE: Yes. What was the nature of the dissenting vote? What was the reason for that?

MR. SIEMON: Just the basic premise that being outdoors is not necessarily the best for the welfare of the bird, and that's just basically arguing, again, with the basic fact whether it's in the rule or not, but still that was the question.

Mike might want to make one comment.

MR. LACY: I was the dissenting vote, and I
think I explained it as best I could yesterday, that in my opinion, the science does not back up that access to outdoors is in the best interest of the bird from a health and welfare standpoint or in the interest of the consumer from a food safety standpoint.

MR. CARTER: Okay. Goldie?

MS. CAUGHLAN: I'm, I guess, surprised that there's still no language in here concerning material on the -- underneath the feet of the birds. In other words, it's totally left blank, and I had thought that there would at least be some indication.

What is the thinking of the majority in that regard?

MR. SIEMON: This is just one aspect of the whole rule, so the rest of the rule has to think about manure management, living conditions, since we're trying to depend on the rest of that, but the reason that we didn't go to the whole issue of pasture or dirt and that kind of thing, which is really the question -- do you do square feet, is one question, which we fairly don't feel is the way to go because of variations between different types of poultry, of laying hens, broilers, turkeys, ducks, all the different things.

And the other one is about dirt, grass, or
concrete. The reality is out there there's lots of houses
that are going to be very difficult to have access to what
would be called an ideal pasture situation. That's just
the reality out there.

So it was just our feelings that even if people
had a concrete area outdoors, there's ways they can even
make that so it has value, and that is by having a manure
compost pile out there and letting the chickens scratch
and deal with that and still have complete containment for
manure runoff, because the issue is complete containment
for manure runoff; it's one of the things we've heard from
the people here.

And so doing the dirt would require -- you
know, for a 10,000-bird house, it would require at least
six acres of pasture land around to have a decent dirt
system, and not every facility can do that.

So we were really trying to deal with the
outdoors, not the nutrition and not the earth; it's a very
debatable part.

MS. CAUGHLAN: I understand that, but I'm
asking, no kind of litter, no kind of -- nothing under
feet? I'm not expecting necessarily pasture. I think
that that at this stage of development is highly unlikely
and not in the interest of the growth of the organic
poultry industry.

But I think that consumers, in particular, are expecting some form of wording that does give indication that the intent -- I understand this is not, as Rick has reminded us, regulatory language, but that the intent, the guidance given to these certifiers, to these producers -- I'm not comfortable that there's not at least any kind of indication.

MR. CARTER: Okay. Rick has got a comment, and then Willie's got a comment then.

Go ahead.

MR. MATHEWS: This provision, at least in part, would clarify that accesses to the outdoors means the bird has to go outdoors, and that is what we would enforce, and it would be enforceable.

So from that standpoint, it is not just guidance; it is a clarification of the regulation, which states they have to go outside the building.

MS. CAUGHLAN: Right. I understand that. I never needed it clarified. I knew from the reading of the rule that it said "outdoors," and outdoors means outdoors.

But outdoors, in some kind of guidance that tells us what outdoors -- the minimum of what outdoors means is what I would at least expect.
MR. CARTER: Okay. Willie?

MR. LOCKERETZ: I have to say that I quite agree with Goldie. I voted "yes" on this proposal when the choice was yes or no; I voted "yes." But I argued for but didn't get some minimum standards as far as the material and the area per bird and so forth. I thought it left too much to the certifiers, and there was no meaningful floor below which people couldn't go, not in the literal sense.

So I agree with Goldie, despite -- but I ended up, when the choice was this or nothing, I went with this.

MR. CARTER: Okay. Nancy.

MS. OSTIGUY: I also voted for the recommendation as it stands; was very uncomfortable with putting numbers to any of this, because, while a new board member, this was the first that I'd really dealt with this, and if we're going to put numbers to something, in my opinion, I need to know what I'm talking about.

And I was the one that brought up that we'd have to have different area requirements for different species, potentially different breeds. I don't know enough about poultry to have done that from when I arrived here till today.

If the board wishes to direct the Livestock
Committee to go back and find out that information to come back with a recommendation that would then be more specific on area scratch, et cetera, we could do that.

MS. CAUGHLAN: Viewing this as a starting point and building from that.

MS. OSTIGUY: Yes.

MS. CAUGHLAN: I could support something of that nature.

MR. CARTER: Okay. Other discussion?

MR. SIEMON: Well, just that was kind of the job given to us yesterday afternoon, about coming up with some more specificity, and we just weren't able to weave our way through.

We tried the square foot; that seemed to not be the way to go, so -- if we were to go -- let's use this as a foundation, and then I'd like some more clarity as to what we're after.

MR. CARTER: Jim.

MR. RIDDLE: Yes. I would like to move forward with a vote on this as well, and I just want to point out one thing in the rule that we haven't really mentioned on this, and that is under the Livestock Health Care Practice Standard, that the item number 4, under (a)(4), Provision of conditions which allow for exercise, freedom of
movement, and reduction of stress appropriate to the species -- and for poultry, that reduction of stress would include the ability to scratch.

And birds on concrete would have to have some kind of a natural material, whether it's sawdust or compost or something to be able to perform their natural behavior; they get pretty stressed trying to just scratch concrete, I would think.

So that, as an inspector, is one thing I would look at in a poultry operation: Is there some scratching material provided for the birds, even if there's concrete under it to contain any runoff or leaching.

So that's one thing, and I also wanted to come back to the language itself and just reiterate that the "temporary" means temporary, and that already is in the rule that the system itself must be structured to provide access. And temporary cannot be six months out of the year, or the entire year is not temporary. The system has to provide access.

And I just wanted to emphasize that point as well.

MS. CAUGHLAN: Yes. I went back and looked at that, also, and what I was seeing was that the intent is very clear that you, as an inspector -- whoever comes
through as an inspector must be able to see that the producer can demonstrate that in fact they have the full access in place when they're asking for the temporary -- it can't be used as a dodge.

So if you're in there, if you're inspecting, Jim, if you come to a facility and you're inspecting it and there's bare concrete -- let's say there appears to be plenty of room for the bird to move around; there's some degree of access to sunshine, but one of these indicators -- the fact that it's on a completely bare situation, giving the bird no ability to scratch, pick, whatever, how would you, as a certifier, work with that?

MR. CARTER: Jim?

MR. RIDDLE: Yes. Well, as an inspector, that would be one of the concerns I would identify during the inspection, mention it at the time that I observe the situation, then mention it in the exit interview at the conclusion of the inspection.

It would go in the report, identified as a potential noncompliance, and as the certifier makes the decision, they would have to way that in relation to other issues for the operation in whether the operation can be certified.

If that was the only minor noncompliance, it
could be something that they're given a certain length of time -- three months or whatever -- to correct. So they could be certified but with the requirement that that be corrected for the certain reasons cited in the rule, but then related to that site-specific situation.

MS. CAUGHLAN: Follow-up.

MR. RIDDLE: But it couldn't -- they couldn't be just continually certified without addressing that noncompliance.

MS. CAUGHLAN: Right. Follow-up.

MR. CARTER: Okay. Goldie.

MS. CAUGHLAN: As we continue to watch this -- as we continue, then, let's just say, as the -- as we see more and more operations bringing online larger and ever larger facilities with more and more concrete, would it not be safe to assume that that kind of diligent observation on the part of inspectors might fall farther and farther behind, because it becomes more of the norm that, after all, all of the other operations have the bare concrete as well.

And I believe that that is exactly the direction that this kind of timidity that we're showing, in terms of placing a little bit more structure, is going to lead us.
MR. CARTER: Go ahead, Jim.

MR. RIDDLE: Well, I see several checks in that. I mean, that's one reason for inspector training being a requirement under the rule, so that inspectors know what to be looking for, and they're consistently understanding and applying the standard in their work, the same the certifiers -- that's the reason for this kind of a guidance document, is to help certifiers make those final decisions.

And if the certifiers are ignoring the requirements, then that -- the final check would be their accreditation. When their files are reviewed and it becomes apparent to the evaluators that they're certifying bare-concrete operations where the chickens are stressed and are not able to exercise their natural behavior, then they would be endangering their accreditation.

Those are the checks that I see --

MS. CAUGHLAN: I'm just suggesting we're setting up a norm, and once we set up a norm, it's going to be very difficult to see them being judged against that as being out of any kind of compliance.

MR. CARTER: Owusu.

MR. BANDELE: Yes. I wouldn't have any problem at all with Jim, as the certifier, making those kinds of
observations and recommendations.

   My problem is with maybe certifiers without
that historical background and also without that
commitment to outdoors, and that's why I think that even
though this draft is a good starting point, it really
needs further clarification on that point, or the
situations that Goldie is pointing out I think will in
fact become the norm.

     MR. CARTER: Okay. Willie.

     MR. LOCKERETZ: To come back to Jim's answer
about telling the operator that it's noncompliance; it's
not noncompliant. There's nothing here that says a bare
cement floor is not allowed.

     And to say that the mechanism for enforcing an
unwritten requirement is first the inspector and, if that
doesn't work, the certifying agent and, if that doesn't
work, the accreditation comes into doubt, that's a very
indirect and three stages removed from the original
problem.

     If bare concrete is automatically considered
noncompliant, then why don't you say so in this language
so that the operator can make a good-faith effort to come
into compliance?

     Somehow implicit in this is bare concrete is
not acceptable, but if that's the view, then it should be
written into the language itself, instead of keep people
guessing as to what is or is not compliant.

MR. CARTER: An amendment regarding prohibition
against bare concrete would certainly be germane at this
point, so if someone cares to --

MS. CAUGHLAN: I'll make such an amendment.
I'll offer such an amendment.

MR. CARTER: And remember, just as important,
it will also require some rulemaking on something like
that.

MS. CAUGHLAN: Explain why at this point.
There's other broadening or widening of the language, as
we've just indicated. Why bother with a guidance thing?
As I said, I have no problem reading the language which
tells me that outdoors is outdoors, and yet we're offering
here something that we're calling a guidance document.

If it is indeed a guidance document that it's
necessary to talk about outdoors is outdoors, then why is
it not appropriate, in this language, not requiring
rulemaking at this juncture, to go ahead and specify that
the intent of this is not bare --

MR. CARTER: Okay. Mike?

MR. LACY: If you are going to encourage birds
to go outside, the concrete is not going to stay there for any significant length of time, and I think this whole discussion is moot.

MR. SIEMON: Historically the farm plan has elevated the standard, leaving it up to the certification farm plan. I know that doesn't mean it will happen in the future, but historically it has been an effective tool to push farmers into better and better organic practices.

It has been effective, and we never want to underestimate the power of competition and peer pressure, you know, because that's part of what will be here also, this sensitive subject.

MR. CARTER: Okay. Jim, and then I'm going to ask Rick to weigh in on --

MR. RIDDLE: Yes. I would just like to add one more thing from the rule itself, which tells me this is clarification of the existing rule, and that is that the -- under the livestock living conditions: "Must provide living conditions which accommodate the natural behavior of animals."

So it's not just reduction of stress in one section, but also natural behavior, and the behavior of a chicken is to scratch, so there's got to be something for them to scratch; it's not just going to be bare concrete.
And, you know, Mike is saying that, well, if they're out there, yes, there's going to be chicken manure after a very short time for them to scratch in, but, you know, I would like to see some sawdust or something in addition to that, some bedding to help capture those nutrients in the manure and be a little more sanitary conditions, or disease suppression, possibly; not just scratching the manure itself.

MS. CAUGHLAN: That manure is not waste, and it needs to be captured.

MR. CARTER: I'd asked Rick to --

MR. MATHEWS: Yes. Actually Jim is right. If it was any kind of a wood surface, a metal surface, a concrete surface, if the bird isn't able to do the natural things that are required within the standards, then to come out and say you can't have those surfaces is correct, and that would not be rulemaking.

MS. CAUGHLAN: Thank you.

MR. CARTER: Okay. Mike.

MR. LACY: It's interesting that our discussion has gotten to health of birds. And I'll go back -- I'm sorry to repeat myself, but I'll go back one last time, that if you're interested in the health of birds, then I'm not sure that we're headed in the right direction.
MR. CARTER: Okay. I'm looking up and down the table --

MS. CAUGHLAN: We're back to the business of the amendment -- I mean, of adding wording to the language of this document that would specify that bare surfaces of concrete, metal, and such are not meeting the intent; something to that effect.

MR. CARTER: Okay. Is that an amendment?

MS. CAUGHLAN: Yes, if that's what we want --

MR. CARTER: Can you phrase it how you want it to read?

MR. SIEMON: Goldie, I just wonder. You just said you want us to do further work. Is this the place to do it, versus coming up with some checklist of things to look for when inspectors go through? -- because we just -- if you --

MS. CAUGHLAN: If you want a meaningful vote today, George, that sends any kind of a meaningful message, I think what we have just discussed needs to be incorporated.

MR. SIEMON: All right.

MS. CAUGHLAN: Sure; it's awkward for me to sit here and try to come up with something right now. It's been awkward all along.
MR. SIEMON: The second line is where they have about facilities. I was just trying to see how to fit something in there, but I can't quite --

VOICE: Is there an amendment on the floor?

MR. CARTER: She's contemplating; there's an amendment being contemplated at this point. Contemplate does not -- okay; I'm not seeing an amendment being offered at this point, so I will move on. There's a separate item of discussion.

Rick?

MR. MATHEWS: I was there for part of this discussion last night, and upon further reflection, I need to point out something.

The last sentence in number 1 I would find unacceptable, and I'll tell you why. Certified operations must commence compliance by their anniversary date, as we have said all along, and so the way it works is that the certifying agent would be expected to tell their clients where they're in noncompliance; they would have to -- according to the grandfather clause that we've been discussing for quite some time, would have up to and not beyond their anniversary date.

That is going to put a tougher restriction on some people than others, but I would hold that this rule
has been out since December of 2000, and people have had adequate time to start to come into compliance.

They've also -- you know, the proposed rule was out in March of 2000; there was another proposed rule in December of '97. This is not new news. So those who are not currently in compliance should be held to the grandfather clause of coming into compliance by their anniversary date.

Now, having said that, I understand that there are still problems with the fact that somebody who may have their anniversary date a week from now, a month from now, two months from now, may have problems with their local jurisdiction in the area of permits.

I think it's reasonable for certifying agents in those cases to work with those producers as far as their coming into compliance. They have to show due diligence. I would accept their going beyond the anniversary date, but only under the condition that they have to meet the state and local laws regarding permits for any construction that would have to be done.

MR. CARTER: Okay. So a suggestion has been made that we strike that sentence regarding a phase-in period. Is there anyone who wants to formally offer that as an amendment?
MS. OSTIGUY: I'd so move.

MR. CARTER: Nancy has moved. Is there a second?

MR. RIDDLE: Second.

MR. CARTER: Jim has seconded. Is there discussion on the amendment?

MS. CAUGHLAN: A question: Is this -- this is to strike the last line of paragraph 1?

MR. CARTER: First paragraph, so --

MS. CAUGHLAN: Yes. I --

MR. CARTER: The sentence reads, beginning, "A producer shall demonstrate reasonable progress" -- and continuing on through "2004)."

Okay. Willie?

MR. LOCKERETZ: To get back to Rick's comment, besides the possibility of delay because of having to meet various zoning and other local and environmental requirements, there's also the problem that here we're talking about capital investment, not changes in daily operations, and it takes time to build the building, not only -- maybe not as much time as to get permission to build it, but that's a factor that will -- I think that the producers are entitled to a reasonable amount of time to get all these things done.
Now, it's true that something wording like this was out there since December of 2000, but this kind of slightly more specific version or what I hope will become a more specific version has only been at the level of proposals and drafts and so forth, and I couldn't blame a producer who didn't act on the basis of draft recommendations, and when it becomes the real thing, then the clock should start to tick.

MR. CARTER: Okay. Jim, then George, then Goldie.

MR. RIDDLE: I would just like to point out -- I mean, I understand what you're saying, Willie -- that organic is really -- no one forces you to go organic; you're making a choice, a voluntary choice to enter the organic market.

And in doing so, then you're agreeing to comply with all the rules, but this isn't a regulation that applies to every agricultural operator; these are only to those who choose to use the organic claim, and then they agree to follow the rules that are set out.

So, yes, they need to plan ahead. If they're planning to go organic, they should be getting those registrations that are needed, acquiring the capital, doing the construction to fit the rule, and whatever time
it takes, they need to do that before they apply for certification.

If they're already certified and are needing to make some of those changes to remain in compliance, then that is an issue of their organic plan and the certifier, but no one is forcing anyone to go organic.

MR. LOCKERETZ: Let me just answer. You used the phrase, to meet the rule, but it isn't rule. It's language, drafts, recommendations, proposals. It's not the rule until we make it the rule.

MR. MATHEWS: Willie, I have to disagree. The rule they have was published on December 21, 2000. The preamble clearly says they have to go outside. There were discussions as to whether or not people could meet those requirements by bringing the outside in.

The preamble I think has always been pretty clear that the intent was that the birds go outside. People were looking for another interpretation, and you -- this body has attempted to clarify that even further, and therefore it is no different, really, than what's already been there for about two and a half years.

MR. LOCKERETZ: Then there's no need to vote on it.

MR. CARTER: Okay. Then George and Goldie.
MR. SIEMON: Well, I just wanted to support what Rick -- this motion to drop this last line, because our concern was, first off, to make sure there was an end to it, and also to acknowledge there's complications.

What I just heard Rick said shows to me the farm plan system will and his accreditation anniversary will answer the concerns we had here, so I support this motion. I'd like to see us move on.

MR. CARTER: Okay. Then Goldie, and then let's start to move toward a vote on this.

MS. CAUGHLAN: All right. So back to the issue of surface --

MR. CARTER: No. That's not germane to this discussion. We're discussing the amendment that's on the table, which is to delete the timing.

MS. CAUGHLAN: Okay. I waive.

MR. SIEMON: Can we call the question?

MR. CARTER: Okay. The question, if you're ready to vote -- okay; first of all, on any of these votes does anybody have a conflict of interest in this issue? Having commercial chicken operations.

MR. SIEMON: I have chickens.

MR. CARTER: Okay. You have chickens. Okay.

(General laughter.)
MR. KING: But are they chickens in the closet?

(General laughter.)

MR. CARTER: And I have to confess I've got some in the freezer.

(General laughter.)

MR. CARTER: Okay. All of those in favor of the amendment, which is to strike the language -- the last sentence of item number 1, "A producer shall demonstrate reasonable progress in efforts to comply with this provision; full compliance shall be completed no later than 18 months from October 21, 2002" -- all those in favor signify by raising your hand.

(A show of hands.)

MR. CARTER: Opposed, same sign.

(Mr. Lockeretz raised his hand.)

MR. CARTER: Abstentions.

(No response.)

MR. CARTER: Okay. Let's see. We're now at 13, so it's 12 to one.

The amendment carries.

Now we're back open for the other discussion, Goldie.

MS. CAUGHLAN: Thank you. All right. So we'll try this one; add it as a number 3 to the current access
to outdoors for poultry recommendation; number 3 to read,
Bare surfaces -- e.g., metal, cement, wood -- do not meet
the intent of the rule.

Mr. Carter: Can you repeat that one more time.

Ms. Cauglan: Bare surfaces -- e.g., metal,
cement, wood -- do not meet the intent of the rule.

Mr. Carter: Okay. Is there a second to the
amendment?

Ms. Ostiguy: Second.

Mr. Carter: Okay. It's been seconded by
Nancy. Okay. Discussion? Mike?

Well, first of all, Goldie is presenting the
amendment. Do you want to explain it at all? You still
have your mike on; that's why I'm --

Okay. Then, Mike, go ahead.

Mr. Lacy: So are you saying that concrete is
not an acceptable surface?

Ms. Cauglan: It's bare.

Mr. Lacy: So do you need to define what's not
bare?

Ms. Cauglan: Bare is bare.

Mr. Lacy: So once the chickens are out on the
concrete for a day or two, the concrete is no longer bare,
and if that's the case, why do we need this?
MR. CARTER: Okay. Goldie?

MS. CAUGHLAN: If these are natural chickens, as I'm assuming they are, I sure as hell hope that that cement or whatever that they'd be put on wouldn't be bare after a few hours, because that material is good material; it's not waste material.

I think the intent is pretty obvious in what I'm putting forth, which is that a system be in place that if in fact the underpinning is cement or metal or whatever, that there be a means of catching the droppings of the chicken, which are not waste but which are good and which need to be respected as material.

MR. CARTER: Okay. Jim and then George.

MR. RIDDLE: Yes. Back to the rule.

205.239(a)(3): Producer must provide appropriate clean, dry bedding. That's another requirement, so in a way, what Mike is saying, yes, that bedding is already a requirement under the rule, so bare surfaces in and of themselves wouldn't be allowed, but we're offering clarifications here.

MS. CAUGHLAN: But my chickens didn't ever sleep out in those areas; they had their bedding in their nests.

MR. RIDDLE: We're offering clarification that
adds to -- that complements the language that's already in
the rule, and I see no harm in stating this as an
amendment to the motion, so I'll support it. But it's
fully consistent with rule language already.

MR. CARTER: Mike?

MS. CAUGHLAN: See, it's this other information
that's --

MR. CARTER: Mike first.

MR. LACY: Jim, I'm not as familiar with the
rule yet as you are, but I would assume that that clean,
dry bedding would have to apply to inside bedding, because
the first time it rains, that bedding is not going to be
dry, and does that mean that you're going to require that
that bedding be replaced outdoors?

MR. CARTER: Okay. Question directed to Jim.

MS. CAUGHLAN: The word "outdoors" -- the
scratch outdoors is not bedding.

MR. CARTER: Okay. The question has been
called. And for members of the audience, when somebody
calls the question, that's an informal -- that's not a
direct motion; it's just indicating that some members want
to vote.

So the question has been called on this. If
there is no further discussion, we'll proceed to vote.
All of those --

MR. LOCKERETZ: Could you read the amendment again.

MR. CARTER: Okay. The amendment is -- please read the amendment, Goldie.

MS. CAUGHLAN: Three --

MR. CARTER: With your mike on.

MS. CAUGHLAN: Three: Bare surfaces -- e.g., metal, cement, wood -- do not meet the intent of the rule.

MR. CARTER: Okay.

MR. BANDELE: A question, though, Goldie -- like you could have a bare soil type situation, so what are you -- so would bare soil also be not allowed?

MS. CAUGHLAN: Shall we say bare nonagricultural --

(General laughter.)

MS. CAUGHLAN: I mean --

MR. CARTER: How about just removing the "e.g."?

MS. CAUGHLAN: All right. I'll accept that as a friendly --

MR. LOCKERETZ: Then think for a minute about all the ones that you want to add to the --

MS. CAUGHLAN: I also don't want plastic. How
about that? I mean, let's get serious?

VOICE: What about fiberglass?

MS. CAUGHLAN: Fiberglass.

VOICE: We could be here all day.

MR. BANDELE: Would man-made surfaces -- would that help?

MR. SIEMON: No. The issue is not about concrete or not; the issue is we don't want bare concrete. That's what you're trying to fix here. Right? So I'm --

MR. CARTER: Okay. Just as a clarification to this, or a suggestion from the chair: bare, man-made surfaces?

MS. CAUGHLAN: Well, what about wood?

MR. CARTER: It's still man-made if it's processed.

MS. CAUGHLAN: All right. Bare, man-made surfaces -- how about woman-made?

MR. CARTER: This is a chance in the amendment, so it needs to be --

MS. CAUGHLAN: Bare, human-made, to satisfy the libbers of us.

MR. CARTER: Okay.

MS. CAUGHLAN: Bare, human-made surfaces; e.g., metal, cement, wood, plastic --
VOICE: Wood's not human-made, but it's processed.

MS. CAUGHLAN: -- do not meet the intent of the rule.

MR. CARTER: Okay. We're having a little discussion here on just formulating this amendment. I apologize. But what we're really trying to get at is surfaces other than soil, so why don't we say --

MS. CAUGHLAN: Surfaces other than bare soil -- bare surfaces other than bare soil do not meet the intent of the rule.

MR. CARTER: Yes. Bare surfaces other than soil do not meet the intent of this rule.

Is that what I heard you say, Goldie?

MS. CAUGHLAN: Yes, it is.

MR. CARTER: Okay. Is that an amendment?

MR. BANDELE: Only problem there is bare surfaces -- even bare soil is not really sustainable in terms of erosion and that type of thing, so -- I mean, that's just point.

VOICE: That's covered under --

MS. CAUGHLAN: That is covered under the other parts --

MR. CARTER: Yes. That's covered under other
parts of the rule. Okay. So that is -- now, the maker of the original amendment has changed her amendment. Is that okay with the seconder?

Nancy continues to second that. Okay.

Now, are we ready to vote on the language that says --

MR. BANDELE: One final point: It seems to me that the amendment would be better placed as 2 as opposed to 3, because it's still in conjunction with point 1.


MR. CARTER: Okay. Friendly amendment. So you're still prepared -- are we prepared to vote?

Everybody understand what we're voting on?

Mike?

MR. LACY: I do not.

MR. CARTER: Okay.

MR. LACY: A bare surface with sawdust is not a bare surface? Is that correct? Is that the intent?

MR. CARTER: That's correct.

MR. RIDDLE: It's no longer bare.

MR. CARTER: It's no longer bare.

MR. LACY: Thank you.

MR. CARTER: All right. We will proceed to
vote. All of those in favor of the amendment, signify by 
raising your hand.

(A show of hands.)

MR. CARTER: Opposed, same sign.

(Mr. Lacy raised his hand.)

MR. CARTER: The motion carries with -- oh, 
abstentions?

(No response.)

MR. CARTER: Okay. The motion carries 12 to 
one to zero.

VOICE: Can you repeat the amendment?

MR. CARTER: Okay. Goldie, please repeat the 
amendment.

MS. CAUGHLAN: Well, at this point it would 
take position number 2 if you have --

MR. CARTER: With your microphone on.

MS. CAUGHLAN: And it would read, Bare 
surfaces -- I'm sorry. I've lost it.

MR. SIEMON: Bare surfaces other than soil do 
not meet the intent of this rule.

MS. CAUGHLAN: Right. Thank you. I'm glad 
somebody was awake.

MR. CARTER: Okay. Now, we are back to the 
original motion as amended.
Is there further discussion on the motion as amended, which is to adopt the access to outdoors for poultry provision.

(No response.)

MR. CARTER: All of those in favor of the motion as amended indicate by raising your hand.

(A show of hands.)

MR. CARTER: Opposed, same sign.

(Mr. Lacy raised his hand.)

MR. CARTER: Okay. Abstentions?

(No response.)

MR. CARTER: Okay. It carries 12 to one to zero.

Thank you, George.

MR. SIEMON: Then I think the dairy replacement we should just put forward from the committee and not take the NOSB at this time.

MR. CARTER: Okay. So we will move forward language on dairy herd replacement to be posted on the web for comment and action at the September meeting.

MR. SIEMON: And just before we go on that, Rick, maybe we should sit down and talk and see if you want to write a comprehensive one or just this replacement; you know, what we want to do to clarify it.
So something we can do in private or maybe on a phone conference.

MR. MATHEWS: Yes. I think that you and I -- and we'll pull Bob Pooler into it -- really need to start to communicating on this. And we'll also pull Arthur into it.

I see Arthur's hand up.

MR. NEAL: We've got a question for the record on the last vote.

MR. CARTER: Yes.

MR. NEAL: Was this intended for mandatory language [inaudible], or is this for guidance [inaudible]?

MR. MATHEWS: It's just guidance, Arthur.

MR. NEAL: Okay.

MR. CARTER: All right. Then we will -- okay.

I was promised that, if Marty Mesh came forward and gave his response to the questions that he was asked to clarify on Monday, that he would not take long; that being -- the issue was raised about the prohibition of wording regarding "certified organic" on a label.

MR. MESH: Our homework assignment: Why is there a need to say "certified" on a label when everything is certified?

Not everyone is certified who can use the term
"organic." Less than 5000 --

MR. RIDDLE: Slow down. We're not in a hurry.

Just let us listen.

MR. MESH: For a change.

(General laughter.)

MR. MESH: Sorry. Off the record.

(General laughter.)

MR. MESH: The question that Rick posed: Why is there a need to say "certified" on a label when everything is certified. And with the help of Consumers Union representing millions of consumers, not everyone is certified who can use the term organic, especially less than $5000 retail preparation: organic lasagne versus certified organic lasagne.

Consumers don't know the difference between certified and not certified unless it's on the label.

There is some confusion in the marketplace with other labels that certify some users but not other users of the term; i.e., dolphin-safe.

Conventional agriculture uses obvious label claims: No hormones administered in poultry would be an example, when federal clearly prohibits the use of hormones in poultry.

In Section 205.310(a)(2), the rule states that
product from an exempt or excluded operation must not "be represented as a certified organic product or a certified organic ingredient to any buyer."

This implies that a product from a nonexempt operation could be represented as certified organic.

In 205.303(b)(2), the use of the phrase "certified organic by" is mandated. If the same words are both mandated and prohibited on the same label, then there seems to be some confusion.

And then the last one: Under OFPA, the word "organic" is regulated; the word "certified," like the word "transitional," is outside the scope of the National Organic Program if it is used in a truthful labeling claim.

Your second question that you posed -- are there any questions about the first one?

(No response.)

MR. MESH: The second one: What is the potential economic impact on those who don't use "certified" because they don't have room on the label?

That one was a tricky one. The loss -- and you all have economic researchers to do this type of data, but the loss of current market recognition of the phrase "certified organic" could cause economic impact on many
operations currently certified. The changing of labels alone could be prohibitively expensive.

And our rhetorical question: What is the potential negative economic impact for those who are certified versus those who aren't but still can use the term "organic"?

MR. MATHEWS: Thank you very much, Marty, because -- and I'm serious on this -- because what Marty has done is more fully explain his question, his ideas on the question, and it will make our job a lot easier when we go to answer his question.

Many times the problem with answering questions is that we really don't know what the person asking the question is really thinking. Sometimes the questions that come in and the answers we give are not complete.

So this helps us better understand what the issue is for Marty, which means that we can do a better job of giving an answer. We have found that sometimes people aren't totally up front with what their real objective is with their question, whether that's knowingly or unknowingly, and then we end up giving out answers that turn out to be maybe not the best answer we could have given.

So kind of take this as a lesson that the more
you can give us, the better.

    Thank you, Marty.

    MR. CARTER: Okay, Kim?

    MS. BURTON: I just want to support Marty in this. I think that it is important that if producers want to put "certified" on their label that they be able to do that.

    MR. MESH: And we were going to put it on the Frequently Asked Questions.

    MS. CAUGHLAN: I can tell you that it's what we've been telling consumers for a long time: "certified organic." We've been hammering that at consumers in writing, in talking. Certification is what it's about. And to then not be able to go back to those consumers and tell them that they can indeed expect to see certified organic as distinct from sorta organic, which has been out there, in some respects, for a long time, would be a disservice to consumers, an extreme disservice.

    MR. MATHEWS: The only issue -- and I don't have an answer for you right this moment, but the initial reaction was that every product produced on a certified operation already had to carry the identification of the certifying agent.

    So the information was available or is
available to all consumers, and only certified operations
can carry that information, and only certified operations
that are producing organic products could carry the USDA
seal.

MS. CAUGHLAN: Point: follow-up.

MR. CARTER: Very quick point; then we're going
to move on.

MS. CAUGHLAN: All right. At retail we now
will be able to sell the small less-than-5000-gross
producers' goods, and we hope to do that, as many
retailers do, in terms of encouraging the bringing along
of the small producers.

However, those will not be listed as certified
organic, but rather they'll be in our produce sections or
whatever labeled "organic." And it would be disingenuous
not to have the other product certified organic if that is
chosen to be listed that way.

MR. MATHEWS: We understood the question more
to be packaged goods, not the individual items in the
retail section. So that in itself gives us an idea how
information provided by Marty can be more valuable.

MS. CAUGHLAN: Right. But an additional factor
is what I'm pointing out.

MR. CARTER: Mark?
MR. KING: Just a quick point. I think it's obvious to everyone in this room we understand that if you are indeed using the term "organic" that you're certified, but that many consumers will not clearly understand that, and they do look to that term as an added sort of clarification that indeed this operation maybe has been inspected, certified, obviously, so on.

So I do think it's important.

MS. CAUGHLAN: But, Mark, remember; you go to the farmer's market and there's organic product there that is not certified organic product.

MR. CARTER: Less than 5000. Okay. Let's move on.

MR. LOCKERETZ: What's the current status of the phrase -- Rick, this is for you: What is the current status of the phrase "certified organic" as of October 21? Is that phrase not allowed? Is it --

MR. MATHEWS: That's the one we're going to answer, Willie. That's the one we're going to answer.

MR. LOCKERETZ: Sorry. I didn't hear the answer.

MR. MATHEWS: That's the question that Marty has asked us to answer.

MR. CARTER: They will be answering that,
Willie. Marty has given them some guidance as to how it should be answered. Okay?

And, Marty, if you'd please turn off your cell phone.

MR. MESH: I don't know how.

(General laughter.)

MR. RIDDLE: And we accredited him.

(General laughter.)

MR. CARTER: We will now move into committee reports of their work plans.

And so George will start off with livestock.

MR. SIEMON: Okay. Well, we -- first we were dealing with this replacement clause, as we've just said here today, and we hope to get that posted on the web as soon as possible and have a final vote by September on that.

Nancy just left, and she is going to take on the job of developing some sort of a checklist for poultry inspections on these issues, some suggestions. So whether that's in this committee or outside, she -- it's suddenly related to what we just did now.

One of the bigger issues we want to deal with is about excipients in medication, which is just a lot like incipients in feed additives or inerts in pesticides.
and that kind of thing; it's an issue that we really have
to address, and I hoped to get it before this meeting.

I do have an early draft I've handed out, I
think, to all the Livestock Committee. If not -- if
anybody else -- I've got plenty of copies here -- would
like to see about excipients.

And then the big task, of course, is materials.
The Livestock Committee has taken some -- I guess the
first time this ever happened, Kim; I don't know, but we
were given the privilege to put forth priority livestock
materials that we thought needed to be dealt with before
October 21, so we've put forth a list -- initially 14 and
now it's 17.

And, Kim, I guess we were supposed to get
together and talk about the prioritization of that, but
it's a big task, and what we did was then just do a single
page backup behind the petition for each one of these.

So we've gone through and done a lot of work to
get what the materials are we're concerned about and just
a single page, because we just weren't getting the
petitions in for materials that we felt had to be dealt
with.

So that's a big job yet in the TAP, and
hopefully by September meeting. So those are the big four
we're dealing with right now -- or these three.

MR. CARTER: Okay. Kim?

MS. BURTON: Just a comment on the 17 materials. Those have been prioritized, and I worked with Jim Pierce and Kelly Shea. There was actually some industry surveys that went out, and they had them prioritize them, number them one, two, three, four, five, so those have been submitted to the contractors, and they are starting to work on those, and in that order, so that we make sure that we have those TAPs provided by September.

MR. CARTER: Okay. Questions on -- extra stuff you want to add to that?

(No response.)

MR. CARTER: Okay. Then, Kim, while you have the floor, let's talk about materials.

MS. BURTON: And then, George, just -- my only other comment: We passed a recommendation yesterday on perhaps limiting some materials according to the CAR AAFCO, and if we could just make sure we follow up with those in the comment, make sure those are posted, and if we need to get TAPs done, we get that moving along, too.

MR. SIEMON: I didn't catch that. I'm sorry.

MS. BURTON: We'll talk off line.
Okay. Materials: The list is short and sweet, although it is a lot of work. Managing the material review process will be our primary focus from now and ongoing.

We do have the largest quantity -- we've got 31 so far right now -- scheduled for September, and I would imagine there will be a few more trickling in here, so managing that.

We also, as a committee, would like to present for the September meeting a draft document identifying ways to improve the communications when a petition is submitted for removal of a material from the National List.

So we're actually going to come up with some recommendations, not only from the board, but also hopefully help in the industry so we can get the word out that a material is being considered for removal.

Third, a draft recommendation will be presented in September for a proposal to review materials currently on the National List. In October, when we have that final date, we've got five years to review all the materials that are on the National List, so our tasks are never-ending here.

So we will come up with a proposal how to
prioritize those materials, and get that moving along.

MR. CARTER: Okay. Questions or comments for Kim?

(No response.)

MR. CARTER: Okay. Let's go on with the Processing Committee.

MR. KING: Yes. We have, as every other committee here does, several materials to review for the next meeting, and then a couple other things.

One, we're going to make continued development of the document technologies in which the NOSB would actually review a lot of work that's been done on this document by Steve Harper. Historically we've had some good comments from individuals as well as organizations like OMRI, so we'll continue development of that document between now and September, and hope to put a recommendation forward at that time.

Secondly, the Processing Committee will be forwarding cultures for a petition, so we'll be looking at those, and so that will comprise a lot of our work as well, and that's it.

MR. CARTER: Okay. Thank you.

Questions, comments for Mark?

(No response.)
MR. CARTER: Owusu? Crops Committee.

MR. BANDELE: Yes. The Composting Practicing Standard will be one of our projects in the upcoming months. I think Eric mentioned that yesterday. The Compost Task Force recommendations were accepted and endorsed by the board yesterday, as you know, and from that point the document will be a little more specific in terms of actual practices.

Guidance on the hydroponics, recognizing now that it's already covered -- we will be coming forth with a refined document in that area.

Based on yesterday's discussion, we will have also a guidance document on planting stock, because there's still a lot of confusion among farmers, particularly those using the vegetatively propagated planting materials, so we'll try to clarify that through a document; and then, of course, the materials review.

Two questions: In the past Mark Keating had recommended the committee coming forth with a list of materials that are allowable, as opposed to the National List, which is materials that are not allowable.

But my question would be, in light of OMRI's list, is that something that we really need to continue to pursue? I guess I'll direct that to Rick.
And then, secondly, a lot of our work in the past historically has come from recommendations from NOP based on feedback that they have gotten from the farming community, such as the greenhouse questions, the planting stock, et cetera.

So I'm assuming that Bob Pooler will act in that regard now and feed us, and so some of our working plan is really an ongoing type of operation, based on the farmers' needs.

MR. CARTER: Okay. Rick?

MR. MATHEWS: Yes. I continue to see this as a partnership where we will identify issues that we think that the board should be addressing, based on the feedback that we're getting, just as we would expect this board to continue to surface issues amongst themselves as well as bringing to the Department, because of the feedback that they are also receiving. So that will continue.

MR. BANDELE: What about that list question? Do you see a need for that?

MR. MATHEWS: I don't know what that list question really involves. That didn't get surfaced to me before it went to you.

MR. CARTER: George?

MR. SIEMON: Well, I just wanted to make the
comment there is a little bit of a gap. When we've determined something is natural, it's not necessarily in the record that we've gone through that process, for people to know about this material. There's a bit of a hole there -- and that's the allowed list -- that people need to know, because once you decide it's only natural, it never shows up on the list.

MR. MATHEWS: I can tell you that we are working to develop a series of lists; that's something that Bob has been working on. And we haven't decided which kinds of list will necessarily go up, but we are looking at everything the board has previously ruled on and creating a document that shows all the positions that have been taken.

For example, what doesn't show up in the Federal Register document is all of the synthetics the board has already ruled on. We will definitely have a list of all of those things that you've already ruled on on our web, so that people can see, yes, this has already been petitioned, and the board has already said no, so now I don't have to worry about it.

As it stands right now, I guess about the only place they might find that is through the document that Emily developed, or maybe it was Zea.
MR. RIDDLE: Yes. We'll get to that.

MR. CARTER: Okay. All right. Other --

Yes, Willie?

MR. LOCKERETZ: Question for both of you: Is there any way of separating the question synthetic or nonsynthetic from the question should approve or should not approve, because if you simplify the process of just answering the first question, then a lot of substances are taken care of, but producers won't know that unless it's been made explicit: We considered the synthetic versus nonsynthetic, and we decided it was nonsynthetic.

MR. MATHEWS: Yes. We're going to be addressing all the materials that you have addressed. The disadvantage that the people out in the public have is that they can go to a document that says, These are what have been approved. What they don't really have is a separate document up on our web that says, These are the things that were not approved.

But I do know that work has already been done on that, and we're just going to formalize it and get it up on the web.

MR. CARTER: Okay.

MS. BURTON: I think what Willie was asking was a separate question. What he was asking was --
especially, I mean, just like related to 205.606, there's materials that we are going to deem nonorganic agricultural items that are nonsynthetic, and will there be a list available to the public so that they know something has already been reviewed.

And we are hoping to -- there will be list; we're just not sure right now who's going to be working on that list. We're hoping OMRI will take advantage of that.

They're also -- as the board will review a material, there will be something on the website. So there will be lists; we're just really not quite sure where it's going to be right now.

MR. CARTER: Okay. Anything else for Owusu?

(No response.)

MR. CARTER: Thank you, Owusu.

Willie, International.

MR. LOCKERETZ: Well, the first thing we know we're doing is to continue to develop and elaborate that document, which we distributed a very preliminary form the other day, and we'll do that elaboration mainly, I hope, with comments that all of you, as well as the public, give to us by way of how they see various questions we raise in that document, so -- because that's as far as we could go up to this point, but we're hoping for good response to
that document, and then we'll put out a more elaborated
version.

Another thing we're talking about doing is also
kind of informal, nonbinding. By way of background, the
Accreditation Committee has from time to time surveyed
certifying organizations about how the accreditation
process was going and what difficulties they were having
and so forth.

And first me and then later on Jim, who became
chair of the Accreditation, after I moved over to
International, has reported to the board about what the
issues are, what the problems are, and so forth.

So we're going to start doing a similar thing
in the international domain, informally surveying the
players in international organic trades, such as IFO, such
as OTA, such as foreign certifiers that have been
accredited by USDA already, and so forth, and get a kind
of picture of how they see the situation regarding
international trade in organics and, again, informally
report back, not as an action item, but to enlighten the
board and the NOP about the sorts of things we've been
hearing.

Beyond that, we have no specific plans,
although we -- I talked to Keith the other day, and we
agreed that another one of our conference calls with the International Committee and Keith would be valuable to help us figure out what we should be doing, because with International the needs are not so clear as they are with Crops and Livestock and Processes, where they're already in business, knowing that they have to do more of what they've been doing all along; we're a new operation, and so our task is not so clearly defined, but I hope that will change in the very short future.

So we'll talk to you, Keith, about scheduling another conference call the way we had a couple of weeks ago.

MR. CARTER: Okay. Discussion, questions for International?

(No response.)

MR. CARTER: Okay. Before I call on Jim, when we move into the public comment period, you do need to sign up to be on the list to give any public comment, so those of you that do want to give some public comments, please go over and sign in on the list here.

Okay. Let's move on, then, to Accreditation.

MR. RIDDLE: Yes. Thanks. The first item on our work plan will probably make the NOP very happy, and that is to take a little break --
MR. MATHEWS: Thank you, Mr. Riddle.

MR. RIDDLE: -- in recognition just of the incredible amount of work that's gone into the Accreditation and this meeting and then the follow-through from this meeting, too.

But then when we really get down to being engaged, the big item for the Accreditation Committee in the short term is to act as the interim peer review panel and review the NOP's accreditation program and begin by screening all the documents that have been used in that.

So we certainly will have something to report on that in September.

We also have the grower group certification criteria that we've submitted. At this meeting it will be posted for public comment, so we'll be receiving and reviewing those comments and then making redrafts to that as needed.

Also as needed we stand available to assist the NOP in the development, refinement of the enforcement plans and procedures, and especially as that relates to the states and state organic programs.

And item that we brought up and was mentioned by several certifiers is the need to merge the ISO-65 and
NOP accreditation requirements, and the Accreditation Committee will be addressing that. I don't know; we may have some first draft to present in September, but that's certainly on our work plan to look into that.

We will be assisting the NOP in the complaint procedures as they relate to accredited certifiers to follow through with the notice being posted on the website as needed.

And we'll continue to monitor certifier issues, just like was mentioned for crop issues, as various issues come up, especially from accredited but also applicant certifiers, and in particular a couple of those that we heard quite a bit about, 120 days of sufficient time to make organizational changes, and also the examples of workable organizational structures.

And the last item is to continue to monitor the NOP and now also the NOSB page of the website and provide feedback to the program.

MR. CARTER: Rick.

MR. MATHEWS: Define break.

(General laughter.)

MR. MATHEWS: I just want everybody to know that I've already cut the travel papers for Jim to come to Washington to work in the NOP for a 30-day period as
acting program manager while I go to Maine.

MR. CARTER: All right. Other comments or questions.

All right. Willie?

MR. LOCKERETZ: Could you give us some sense as to your guess as to the time scale under which these various things will be happening?

MR. RIDDLE: Well, I tried to as I want along, but if you want me to go back, the interim peer review, that will be happening -- that's going to kick in in the next couple of weeks after this break. That's item number 1, and that will be -- we will have something to report in September.

A number of these are just ongoing. We'll also have something to report on the grower group criteria in September.

MR. CARTER: Just one thing: A lot of the committee reports we've talked about September. Let's keep in mind that we're also planning on an October meeting in which a lot of this will be done, because September, other than the item that was specifically, by board action yesterday, directed to be addressed in September, we're going to have our hands full of materials issues, although I would encourage all of the committees
coming into September to at least have some written reports for distribution, and then we will have some time for discussion on that in October.

   MR. RIDDLE: I just had a question. It wasn't clear to me -- I want to make sure that each of the committee chairs submit their work plans in writing and that those will be posted, similar to coming out of last October's meeting, so that the public who didn't take notes real quick will know what each of the committees is working on.

   MR. CARTER: Okay. Any other discussion for Accreditation?

   Okay. We got another issue?

   MR. RIDDLE: Yes. The board policy task force also has a work plan, and that is to send the adopted board policy manual, as we amended it, into the program, and then to make corrections, circulate to the task force, and we'll make a report in September, but also that would be more appropriate as then an action item to vote on any proposed changes at the October meeting.

   MR. CARTER: Okay. Then if there's no other discussion on committee actions, number one, I just want to compliment the committee chairs. I think that you got a lot of stuff on the plate here, so we appreciate and
reiterate what Jim said: If you can get him your written work plans, so we can get that on the --

MR. RIDDLE: Not me.

MR. CARTER: Get the work plans -- sorry about that; I'm just giving you more work. Get the work plans in so that they can get on the web.

Let's now take a short break. We will try and be back here by 9:30.

MR. RIDDLE: Could I make a couple of announcements before the break quickly, or you want to make them after?

MR. CARTER: Go ahead and make them now, and then we will take a 15-minute break.

MR. RIDDLE: Yes. Just while everybody's still here, I wanted to let people know -- it's not been clear -- that Zea Sonnabend has been working on updating the green book, so essentially the NOSB recommendations, and she'll be making a progress report at our next meeting and have something to present.

I don't think it's quite done yet, but some people haven't known, I think, that those are all being consolidated. The green book wasn't available electronically; this is all going to be electronic file, and so we can clearly reference what all the past NOSB
recommendations have been, so I just wanted to announce that.

And then I also wanted to announce -- there's a couple of times I've mentioned just in passing about the NRCS having a transitional support payment in Minnesota, and this is follow-through from the memorandum of understanding at the national level between NRCS and the Organic Trade Association.

And in the very brief sign-up period that wasn't well publicized, it still netted 145 applicants that each could be bringing 250 acres and receiving a payment of $50 per acre for cropland and $25 per acre for pasture land to convert it, so they'd receive that payment for three years, and they'd have to complete an organic plan and be inspected by an accredited certifier in order to qualify for that payment.

And there will be a presentation I'll be making about the conservation benefits of organic practices on Friday morning at 10:15, as part of the OTA show, but also the state conservationist, the head of NRCS for the state of Texas, will be on there as well.

So if you're interested in kind of this interplay between organics and the NRCS, I just wanted people to know that there's some positive things happening
there.

Thanks.

MR. CARTER: Okay. Then let's take a 15-minute break. According to my watch it's 25 after, so we will come back at 20 till.

(Whereupon, a recess was taken.)

MR. CARTER: Okay. Jim again will serve as the official timekeeper. Please prepare your comments for five minutes. When we gavel, you'll be able to continue whatever sentence you're on, but if you continue on ad infinitum without putting a period into a long sentence, I will call you on it.

MR. LOCKERETZ: David, how many commenters do we have?

MR. CARTER: We have got about 20 signed up. And the chairman's prerogative is the first person I would like to call on is our former chair, Carolyn Brickey.

MS. BRICKEY: I love compliments, as you know. I want to tell you, first of all, that we've been enormously entertained in the audience by all our chicken analogies, and if you want to hear some of them, you can talk to people in the audience after the meeting.

I want to raise a serious topic first, Mr. Chairman, which is one of our former members is very ill,
Betsy Lyden [phonetic], who some of you know, and I would suggest it would be very nice for the board to pass a resolution wishing her well and commending her for all her public service and sending that off to her.

I can get information for you about her address, but I think NOP has it also.

MR. CARTER: Okay.

MS. BRICKEY: Well, just a few words of advice this morning, which I'm sure you're dying to get: First of all, I think -- the one thing I would really stress with you folks is to find the issues that unite you and work on those issues.

Why? Because that's where you're going to find your strength; that's where you're going to have the greatest impact; that's where you're going to do your best work.

So if you work and work and work on a document that is voted, you know, nine to six, even though the board vote carries and the document becomes the board position, that's not going to be as strong for you as a document you all work on and have ownership and feel strongly about together.

So look across the room for those ideas that bring you together and try to work on those ideas the
most.

And I'll go back to some comments that some of you have made recently about whether you're relevant. You know, Bill Clinton went through a phase about wondering whether he was relevant or not. And Bill Clinton is still relevant, I think we would all argue, at some level.

So pick those issues that matter the most to you and also to the National Organic Program. Be true to those things that you can deliver.

Your number-one priority is to give your best advice, and your way of doing that is work together as strongly as you can on issues that matter the most and try to deliver on those issues.

You got to be practical; you know, you can work and work and work on something, but if it doesn't work or it's never going to be implemented, where are you?

I think in a number of these issues -- and I would say that the pasture issue falls into this same category -- the most important thing is what happens on the ground and whether it's enforceable and verifiable, and that's where I would put my focus and my emphasis.

You know, can you verify it? How are you going to do it, and can you get it enforced? Those are the issues that matter the most. And I hope that the board
will be able to move more into that issue as you move along.

I want to disagree with some of the unhappiness that the board has felt about our seafood task force that we completed I guess about six months ago. Although it seems like now the position that the Department takes may be somewhat different than we would have wished or that we voted for in our document, I still think there's very good content in that document about the criteria that make a system organic, and I think that all the cards in that deck have not been played yet, and I think that's going to become important.

And I think that was good work; it was deliberative work, and that's the kind of work that I urge you to undertake on this board.

Don't be precipitous; be patient. I think Barbara gave a very excellent description of how things work at USDA; you know, it's a very slow-moving, thoughtful, considerate -- some people feel too cautious -- place. But they're not going to act precipitously for the most part, and it's not going to benefit you to act precipitously.

You know, when I was on the board, I always used to say, Let's not sit here and wordsmith this,
because we're probably not going to get it right. So I
would urge you to avoid that as often and as much as
possible.

And I want to comment for a minute about
materials, Kim. This project that you're going to start
with looking at previously approved materials -- I'm going
to throw a new acronym out for you: PAM.

EPA has an enormous amount of parallels that
you can draw from in their experience in approving
pesticide products. Of course, there are differences, but
a major difference is our lack of experiences and
resources with this whole idea of re-reviewing materials,
and I think you can learn a lot and benefit from the
experience they've had in doing that.

And I think the most important thing is not to
duplicate work that was done but to really look toward
figuring out what you could do that hasn't been looked at,
where you don't have data, et cetera, et cetera.

And I think they could give you some good
advice about that, and I'd be happy to put you in touch
with people that can be helpful.

I think that the most important thing in the
materials process, besides efficiency, is going to be
consistency. If you can't feel that you're using the same
criteria to evaluate a material you looked at yesterday and you're going to use that same criteria in September, then you've got a problem.

And it sort of rebounds, in that you get in kind of a circle of saying, okay, they're alternatives, but they're alternatives because we reviewed that material first, and it becomes an alternative, and now we're reviewing another material.

You've got to try to use the same criteria, and that's going to be more and more important as the involvement of the petitioners increases. And, believe it or not, it will increase, especially after October. So I just throw that out as an important thing to remember.

And I just want to thank all of you for all your hard work. I know sometimes you feel like you're operating in a vacuum. Sometimes you wish you were operating in a vacuum, but you're not.

So I want to thank all of you and welcome the new members and offer to be helpful in any way that I can.

MR. CARTER: Thank you, Carolyn.

The suggestion was made that this board pass a resolution of best wishes to Betsy Lyden, and the chair would certainly entertain that at this time.

MR. SIEMON: I make that motion.
MR. LOCKERETZ: Second.

MR. CARTER: Okay. It's been moved and seconded.

Discussion?

All in favor say aye.

(A chorus of ayes.)

MR. CARTER: Opposed, same sign.

(No response.)

MR. CARTER: And I will work with Katherine to develop an appropriate letter from the board.

Thank you, Carolyn.

Now, our next commenter is Randy Duranceau.

MR. DURANCEAU: I want to thank the board for the last two days. This has been very enlightening for me. This is the third meeting I've been to, and I'm starting to figure this out now, and it's been very, very good. And I appreciate all your hard work and all the information you all have to digest.

And for us here it's pretty -- we're pretty specific in what our wants and desires are, and you all have to understand everything.

A couple of things I want to talk about, and I hate to beat the dead horse into the ground, but on this poultry access issue, as well as some of the other
comments we've heard about using conventional grains to raise organic broilers -- and I'm going to focus mainly on the broiler issue. That's what we do, and that's what I want you to understand I'm talking about.

As far as we're concerned --

MR. LOCKERETZ: Would you state your affiliation.

MR. DURANCEAU: I'm sorry. I'm Randy Duranceau with Petaluma Poultry out of Petaluma, California. We've been raising free-range chickens for over 15 years, and organic since 1999.

To me, both issues, whether it's outside access or asking you to make an exception to feed conventional grains for organic birds, are both economic issues.

Organic grains are expensive. Basically they're three to four times the cost of conventional grains. Outside access is a real issue of control of the conditions for the birds inside their housing.

Feeding conversions are extremely important in the broiler business. Once those conditions in the houses are broken and heat changes, sunlight changes, so forth and so on, conversions can get out of whack, and that costs that grower lots of money.

And so as you progress down and other people
get into the business that have not been used to raising
free-range birds or organic, conversions are extremely
important to them.

And when those conditions change, the cost of
that raising that bird changes. As I stated the other
day, over 50 percent and close to 70 percent of cost of
raising that bird is feed cost. And so, again, it's
extremely important to watch those.

And so to me, that is why, as we go down this
road, as more people get involved in the business, outside
access becomes a real issue.

And I agree with Carolyn, enforceability and
verification is extremely important. That's the concern I
have in the rule that you all approved here, the
recommendation, was that a lot of this is not enforceable
or verifiable.

Words like "when feasible," "temporary
confinement" -- those are all issues that we as a
legitimate organic grower of broilers have. And just a
concern.

And so I just urge you again -- you know, I
urge you to think about what we're doing here and think
about verification and enforceability here and what we're
doing for these birds.
I encourage any of you to come out and visit our operations, if that's appropriate. One of the concerns I have also is that the recommendation was a little bit quick yesterday, and I had this gut feeling that there were some things -- some statements made and some issues brought up that were incorrect.

And, again, I encourage the board, if you need information from any of the growers out here, whether it's conventional growers, organic growers, free-range growers of broiler or layers, you know, access us; we're more than willing to help talk and educate you on really what's going on out there.

So I don't know if there's any questions that you have for me at this point?

MR. CARTER: Okay. Willie?

MR. LOCKERETZ: A question: As you know, the motion we just passed requires that there exist an outdoor space for the birds to go out in if they choose. So you can't have temporary -- "temporary" can't be forever; there has to be -- at least in theory they have to go out. Now, my question to you is, if a suitable outside area exists and it's up to the birds or the grower to choose where the bird is to be, will they preferentially take -- will the producer encourage them to
go out, and will they preferentially go out?

So, in other words, I'm asking, how much of a difference does it make that we're specifying there must be a place?

MR. DURANCEAU: There must be a place outside?

MR. LOCKERETZ: Outside. Yes.

MR. DURANCEAU: In our operation, on average we have anywhere from 50 to 80 feet in between our houses, and they're anywhere from 200 to 300 feet long, so that means up to 16,000 to 24,000 square feet outside for those birds to go.

Those doors are open. I have my little example here with a picture that shows exactly what those houses typically look like. And so those birds will go outside.

I mean, if it's raining and cold and windy, they'll stay inside, but on beautiful sunny days, in the morning, they'll go outside; they'll go outside all afternoon, and they'll come in and out at will. And that's really how we, as raisers of organic and free-range poultry, view this. These birds must be able to have the choice to go in and out at will.

And our outside access is basically dirt, natural grasses, and gravel around the houses.

MR. CARTER: Okay. Kim?
MS. BURTON: Just so that -- just the statement, I suppose, is that all of the documents that we did approve here at the board will be posted on the website for public comment. So I would encourage everybody -- you know, if you did hear something or see something that you don't agree with, then please comment.

MR. DURANCEAU: Okay. Thank you.

MR. CARTER: Thank you very much for your time.

Oh, I'm sorry. Goldie?

MS. CAUGHLAN: Could I just ask, as a point of information, when you decided to go from your regular operation, where I know you had a free-range program in existence for quite a while -- and I assume that the free-range birds had -- those who were properly feathered, at that age, at least, had the outdoor access. Was that any different than the type of outdoor access that you're giving Rosey [phonetic]?

MR. DURANCEAU: No. Exact same outside access.

MS. CAUGHLAN: And for further reference, did you try other systems of outdoor access before you came to this method? Did you try platforms or other --

MR. DURANCEAU: No. As far as I know -- and I was not with the company 15 years ago, but as far as I understand, this is how we've always raised our free-range
birds, and then obviously our certifier required outdoor access, and so we used the same outside access as we had been using for 15 years, but obviously we had to have those ranges and those homes -- houses certified organic.

    MS. CAUGHLAN: Thank you.

    MR. CARTER: Okay. Thank you very much.

Next up we Tina Ellor -- or Tina Ellor Phillips.

    As you come forward, everybody, if you would, please, identify yourself for the record, who you represent. And if you have written statements that you want to present, please give a copy to the court reporter as well as Katherine.

Next in the queue is Harriett Behar.

    MS. ELLOR: Hi. My name is Tina Ellor; I'm from Phillips Mushroom Farms, also with the Organic Working Committee of the American Mushroom Institute, and I just have a very short comment today.

    First of all, I want to thank you for the opportunity to comment, and thanks for all the hard work that the board and the USDA have put into these standards, and in particular the mushroom standards.

    And I'd like to particularly thank Richard and Mark Keating for all the work they put into learning about
how to grow mushrooms; more than they ever wanted to know.

But I really feel like they did consider that mushrooms are a really unique crop compared to a lot of other crops, and they put a lot of effort into learning how it was done.

A little background here: We're certified by Pennsylvania Certified Organic, and agriculture is still the number-one crop in Pennsylvania, and mushrooms are the number-one agricultural crop, followed by hay to supply the mushroom industry.

Ten percent of the mushroom growers in the US are certified organic, and in an industry that had sales of $863 million for the year 2000-2001, sales of organic mushrooms totaled 8.5 million in the same time period.

So we're very interested in the mushroom standard and the process that we're going through to get a mushroom standard.

What I wanted to comment about today is that when you consider issues of composting, we would really like you to take into consideration that mushroom growers are composters.

We put 40 to 50 tons of raw materials -- composted raw materials into a mushroom house, and those mushroom houses are turned over four to six times a year.
My concern is that the goal of mushroom composting is to make selective media to grow mushrooms, not necessarily as a soil amendment, so we're not really falling under specifically the definition of composting.

It also concerned us a little bit -- and I was relieved when I heard on Monday or that I learned on Monday that the compost task force recommendation is not a rule change, so we can certainly still grow mushrooms under the original composting standard, with the exceptions that are in the mushroom standard.

We were concerned that that was a moving target, so I want to ask that when you consider composting issues, you consider also mushroom growers, because we specifically refer to the composting standard.

The only other small consideration I have is in that recommendation it says that you shouldn't sort of be able to recognize what went into the compost by the time you apply it on the soil, and mushroom compost, even at the time it's applied to the soil, you can still recognize that it has hay and straw, and I think that's a small point and probably not all that important.

So just to finish up with two things: Don't forget about mushroom growers when you're thinking about compost, and also, if I can ask this question, where does
the mushroom standard stand? When will we have a final standard? And what can we do to help? We're here -- you know, Richard has all the contact information you'll ever need to learn all you ever want to know or don't want to know about growing mushrooms. So don't be afraid to ask us if you have questions.

Thank you very much.

MR. CARTER: Okay. Thank you, Tina.

Rick?

MR. MATHEWS: Yes. The -- go ahead and stay there, Tina.

The mushrooms are covered. We have a policy statement out that talks about the scope of the rule, and mushroom production is included there. Most all of what the board was stating would go into a mushroom practice standard is already included in the regulations.

I would note that one particular point of issue to you is the composting and the fact that you want to use a higher number.

We would consider that covered by the provisions under pest management. As I've learned, the reason for the higher number is to control the other kinds of fungi that are growing in the compost.

So you could comply by having a higher number
that is used for the purpose of controlling what, for your
industry, is a pest. But otherwise, the things such as
treated lumber are already in there.

MS. ELLOR: Right.

MR. MATHEWS: The provisions about not
providing for separate areas, so that you don't get the
commingling, those kinds of things are already provided.
So I think if you read the regulations closely, under the
Crop Production Standards, you will find that all of those
issues have already been addressed.

The only issue that is not addressed in the
case of mushrooms is the issue that the trees have to come
forested area that has not had a pesticide in three years,
and so that would not be a requirement for mushroom
growers under the existing standards.

MS. ELLOR: Okay. Thank you very much.

MR. CARTER: Okay. Oh, I'm sorry.

Willie?

MR. LOCKERETZ: You were concerned about the
compost standard, but it wasn't clear to me whether the
compost standards apply to mushrooms at all. It's under a
section about soil fertility and crop nutrient management,
but you're saying that's not what it's used for in
mushroom growing. Am I correct?
MS. ELLOR: Right. We make compost specifically to grow mushrooms, not as a soil amendment.

MR. LOCKERETZ: So what is your interpretation as to whether either the current or the newly to be developed compost standards apply to mushroom growers at all?

MR. MATHEWS: I'll have to take some more time to think about that one, but I would look at it in reference to what is already in the regulations with regard to compost and to what's been proposed through the task force with regard to compost or soil amendments.

But my reading of the regulations, as they are today, would not prohibit mushroom growers from growing mushrooms in that material.

MR. LOCKERETZ: The question was whether they have to comply with the compost standards as now written, which are under the heading of soil fertility or something like that.

MR. CARTER: We got to things moving along, but, Zea, a quick comment on this compost task force, and then Dennis.

MS. SONNABEND: I think I might be the only person for the compost task force still here. While we didn't specifically address mushroom growing in the
compost document, the only really absolute requirement in the compost document right now is that you justify your composting program in your organic plan.

And so if it's being used for a specialized purpose such as mushrooms, I see that it can be covered by your whole rationale for your composting program being addressed in your organic plan.

And that would include why you use the carbon-nitrogen ratio you use; why you use the time frame you use; what you do to monitor it, all the things that any compost requires, but how it applies to your mushroom system.

MR. CARTER: Okay.

Dennis?

MR. HOLBROOK: My question is basically what you're utilizing is really not traditionally classified as compost for your mushrooms. Is it not a growing medium that you're using the grow your mushrooms in?

MS. ELLOR: Our growing media happens to be compost, definitely compost.

MR. HOLBROOK: Okay. But it's not a completely cured compost. Right?

MS. ELLOR: It depends on what you mean by completely cured. It certainly goes through adequate
temperature and turning profiles from the original standard, but it goes higher -- the temperature goes higher, which is one problem we had originally.

But there's an exception for that in the rule as it's written now -- or it's not a rule yet. The mushroom standard is not a rule yet, but it would fall under the crops. Right?

MR. MATHEWS: It falls under the existing standards as they are now. And what I'm saying is that with regard to the higher temperature, the purpose of the higher temperature is pest control. And so it would fall as a pest control for fungi.

MS. ELLOR: Right. I certainly see your point. It just happens that our growing substrate is compost.

MR. CARTER: Okay. Owusu, and then we're going to move on.

MR. BANDELE: I would agree with Dennis. If you're not using that material -- regardless of what the material is, if you're not using the material for soil-building, then to me it's really not a compost. And that would be the same like copper sulfate being applied as a soil amendment versus disease -- I think they're two distinct issues.

MR. CARTER: Okay. Tina, if you want to
respond, and then we're going to move on.

MS. ELLOR: You know, I would have to think
that over, because honestly I've never considered that
we're not using compost, because we've been using compost
for over a hundred years, so I'd really have to think that
over.

(General laughter.)

MS. ELLOR: Okay. Thanks.

MR. CARTER: Thank you, Tina.

Okay. We have Harriett Behar and then after
that will be Diane Joy Goodman.

MS. BEHAR: Good morning. I just want to say
I've sat here with you for the past two and a half days,
and it's been very interesting. I really appreciate all
the work and pre-preparation that you do before you get
here, and there's a lot of different stakeholders in this
industry, and you have a lot of different people coming at
you with different opinions, and I really appreciate the
deliberations that you do in listening to everyone.

I am Harriett Behar; I'm from the Independent
Organic Inspectors Association. For those of you that are
new members to the board, I just want to tell you a little
bit about IOIA. We're an internationally recognized
organization of independent organic inspectors.
We're recognized for our quality organic inspector trainings. We train inspectors around the world. We use experienced and active inspectors to lead these trainings, as well as experts in the various fields that the trainings are based upon.

We are continually upgrading our trainings, and we have started a training module based on the NOP rule, so both the new inspectors and the experienced inspectors will be brought up to speed, and of course as things keep evolving with NOSB recommendations and interim rules, we will keep bringing those into the inspector training.

So I just wanted to let the NOSB know that the inspectors are paying attention to what you're doing, and we're going to try to get that out to our membership.

In addition to our trainings, we also have an inspector forum on the internet, and a lot of things go back and forth there, so our inspectors are constantly talking about, How do you deal with this issue?, and back and forth.

And Jim is on that forum, and he, as well as Emily Brown Rosen, help us with understanding. So just to let you know that the IOIA members are paying attention. So when you do talk about inspectors, we're doing the best we can to get your information out there and on the
ground, being able to verify the NOP rule.

And with NOP implementation we need qualified inspectors more and more. And I know that that's a statement within the rule that the inspectors need to be qualified and directed to the NOP. I would just encourage you to review the inspectors that are being used by the accredited certifiers.

Okay. I would like some clarification from the NOP: if the interim final rule that's going to come out in September will include the technical corrections as well as materials, or is it only going to be a materials item? I know there were some technical corrections approved in the past two meetings.

MR. MATHEWS: We're still working on the technical corrections document. It is a separate document. The rule -- the interim final rule that comes out is just for materials.

MS. BEHAR: Okay. But there was a concern, especially amongst the -- yes?

MR. CARTER: Go to a microphone so we can get this on the record.

MR. NEAL: In addition to what Richard stated, there were some changes that -- some recommendations that were made by the board with respect to the National List
that some people did consider as technical corrections, but they're not. They're actual direct changes to the National List, such as a the change in the section headings in Section 205.605 and .606. Those would be included in the interim final rule.

MS. BEHAR: Okay. Well, one of our major issues was the calculations of -- in order to determine whether the label will carry the word "organic" or "made with organic," and it states in the rule that it's based on the total weight of the finished product instead of the total ingredients; that was one of the technical corrections.

We really feel that one especially needs to come through, because as an inspector it's very difficult to inspect to a problematic rule.

I want to talk about the guidance documents that the certifiers give to their clients and also for the inspectors. My understanding is the NOP has been reviewing those, and I want to encourage the NOP to allow the certifiers to keep giving out these guidance documents.

The regulatory language is very difficult for operators to understand in many ways, as you know, and these clarification guidance documents are very, very
important.

We understand they are not to deny certification based on those guidance documents, but I would encourage the NOP in their accreditation review to look those over for compliance to the rule but to let them continue using those.

MR. CARTER: Willie has a question for you.

MR. LOCKERETZ: We've heard a lot today and in earlier days about verifiability and so forth. In your opinion, just dealing with the inspection part of the certification, are there any problems in the final rule about the things that would be difficult to verify, and if so, do you have any suggestions about what areas we might concentrate on, because we all want verifiable standards. So you have a lot of experience in this line. What can you suggest?

MS. BEHAR: Well, the IOIA, as well as certifiers, have given numerous questions to the NOP to that effect. I can't right now go through all of them. The one specifically on the calculation of ingredients is one we really would like to see changed as soon as possible and clarified.

But it goes back to these guidance documents; the regulatory language is vague in many areas, and the
certifiers are providing clarification, in many cases, to their operators, and I just don't want the NOP to narrow the focus of those guidance documents; they're very important for both the inspectors and the operators to use.

MR. CARTER: Okay. Rick?

MR. MATHEWS: We fully intend that the certifying agents would use guidance documents to help their operations or clients come into compliance with the national standards.

Where we will scrutinize them is in the case of someone who is using a guidance document to actually create rulemaking. I guess the only thing I could think of right off the top of my head right now is in the case of pasture.

Let's say that their guidance for what is suitable pasture was to say, You can never have more than six cows per acre. I would argue with that, because if we've got a little bare patch of ground with a few sprigs of grass, that's not going to carry as many cows as something that has gone through an NRCS program for the development of adequate pasture, and so that kind of thing we would have a problem with.

The idea is that the cows would be on pasture,
that the quality of that pasture would be continuously improved, and that that pasture would provide a significant portion of that animal's nutrient needs.

MS. BEHAR: Yes. And NOSB recommendation on pasture for ruminants is something that we can inspect and verify.

MR. MATHEWS: Yes. And that's what we would be looking for from the guidance. And then, just to reiterate, we don't want a blanket statement that it absolutely has to be this, because then that takes away the opportunity for improvement.

MR. CARTER: Okay. Thank you.

Okay. Diane Joy Goodman and then Arthur Harvey.

MS. GOODMAN: Hi. I don't have anything written. This is just something that I wanted to bring up because it's very important to me, and I think that it's just a reality check for all of you.

First, I want to thank you for an excellent meeting, for Dave doing a fabulous job as chair, for all the committee chairs, for all the good work that you did, and especially to Rick and the NOP staff for accrediting everybody on time when you said you would and for all the work that went into it.
I want to about annotations, and the reason that I want to bring this up is the more detailed the annotations become and the more lengthy or wordy they become, the more difficult they're going to become to be adhered to on the ground.

And in the five years that I spent on the farms and the experience I had in reading labels on pesticides and on soil amendments, working with my partner, who had been farming all his life as a third-generation farmer, the attitude on the ground when it comes to regulation on a label about how you use something is taken with a grain of salt, at best.

The oversight for the use of the farmer picking up a bag of material or soil amendment and actually following the directions is going to be mixed with their own good judgment.

The ability of an inspector to actually verify that our annotations is going to be followed is going to be iffy, at best, if not overburdensome.

So my encouragement to you is to keep annotations to -- as close to nonexistent as possible; either decide to make a recommendation to approve a material or to not approve a material, one or the other, and come down on one side of it or not, so that it's
really clear to the operators what they can use, what they
cannot use.

The more complicated it becomes, the less
attention is going to be paid to the instructions that
you're trying to give.

I think that's really critical, especially
since what we're going to be dealing with, come October, I
think is going to be quite a surprise to most of our
organic community. I know from Ray Green in California
and from conversations with NOP staff here the number of
phone calls that are being received from conventional
farmers and food processors about what's it going to take
for them to get involved in organic production once we
have an implemented rule, are astounding numbers of calls.

OTA and the organic community and certifiers
are not getting these calls, because a lot of these people
don't know who to call, so they go to who is familiar to
call, and that's the Department and the agencies they're
used to dealing with.

So we're going to be in for a real surprise
with the numbers of people coming in. I'm real pleased
about that myself, and I hope everybody else is, because
it really reaches our goals of what we started to do here
20 years ago.
But those folks are not going to be in tune with our little annotations. They're going to want to know what can they use, what can they not use. Just tell them what to do.

So on that note I just hope you'll take it with a grain of salt as well, and thank you very much again for your time.

Oh, one other thing: At the All Things Organic conference you know that there's an NOP session, where Barbara and Rick are going to be presenting what went on at this meeting. Any of you as members of the NOSB that can attend that session and contribute from the audience in the Q&A session, it will be very valuable to have you there.

We also have another session -- and this is for the folks in the public as well -- on farm bill and what the implications are. Elizabeth Nardi is coming from Senator Leahy's office to discuss the provisions that the organic community received, which is more than we've ever received in legislation before.

We have a lot of really great and interesting sessions coming up, so please do try to attend.

Thanks.

MR. BANDELE: Diane.
MS. GOODMAN: Yes?

MR. BANDELE: I appreciate your comments in terms of the annotations, and I understand that sometimes they are difficult to enforce, as are other parts of the rule itself, such as how many times you turn the compost, C-to-N ratios, et cetera.

But the fact of the matter is that sometimes these decisions are very, very difficult, and without the annotations -- it's hard enough getting things through, but without those annotations, some of the material would not even stand that chance.

So that's the thing, is trying to balance what you're saying with the needs of the farming community. It can be difficult, but I appreciate it.

MS. GOODMAN: Thank you. I'm aware -- thank you.

Other questions?

MR. CARTER: Other comments, questions, for Diane?

(No response.)

MR. CARTER: Thank you, Diane.

Okay. Arthur Harvey is up next, and then after that will be Susan Ulery.

MR. HARVEY: My name is Arthur Harvey, of
Canton, Maine. I am a chair of the inspectors subcommittee of OTA's quality assurance committee, which deals with standards.

Also I am the chair of the bylaws committee of the Independent Organic Inspectors Association. I'm a certified blueberry grower/processor, and beekeeper, and obviously these organizations and the bees are not responsible for my views.

(General laughter.)

MR. HARVEY: In the past I have directed many comments to the NOP, my congressman, and senators, Secretaries Glickman and Veneman, et cetera. A copy of my final blast is in front of you.

Since my efforts have not brought satisfactory results, I venture to place them before you. It may be asked why I do not submit formal petitions to amend the National List.

Well, the change I request is much deeper than that. In a nutshell, I want you to repropose the final rule within the framework of the Organic Foods Production Act of 1990.

Let me briefly describe six urgent matters which present significant legal issues as well as transgressions against consumers' and farmers' interests.
Number one: .606 contains language in the second paragraph which in effect repeals OFPA 6517(c)(1)(C). The law requires a listing of specific materials that have been through a TAP process and been reviewed by this board.

But the board has shied away from this responsibility. The result is a blanket approval, in advance, for every agricultural product, including those with unknown effects on health.

It is an outrage that a certified organic product may contain 5 percent of conventional ingredients, none of which have been reviewed. It may also be that precise names of these ingredients may not be disclosed to the NOSB, the NOP, or the consumer if food groups are labeled.

For certified "made with organic" the situation is even worse.

Number two: .501(b)(2) reverses a long traditional of federal minimum standards which have the beneficial effect of promoting competition among manufacturers. Examples include the Consumer Product Safety Commission, Interstate Milk Shipment, Coast Guard equipment standards, to name a few.

Now the USDA, without a statutory basis, is
attempting to eliminate competition among certifiers.

This is contrary to the pattern in Europe. It has already lowered the organic standard in my sector by allowing blueberry growers to manage their fields with long-lasting herbicide applied once every seven or eight years and marketing two thirds of their crops as organic.

Number three: .605(b) is category of synthetics which should be forbidden in processed food, according to OFPA 6510(a)(1) and 6517(c)(1)(B)(iii). The NOSB has struggled with this and made some ambiguous decisions.

The result is .600(b) and .605(b), which are likely to be invalidated by a court if this board and the NOP do not come to their senses.

Number four: The exclusion of wholesales, distributors, and most retailers flies in the face of OFPA 6502(10). The NOP explains this exclusion in the preamble, page 80555: "Certifying these handlers would be an unnecessary burden on the industry."

I believe that it's well known that two-thirds of all violations of organic integrity occur in these excluded operations, so the question I pose is, why should farmers assume the burden when the primary violators do not?
Number five: .304(b) and .100(a) require that 70 percent organic products be certified, but OFPA 6510(a)(4) says all certified products must contain at least 95 percent organic ingredients. Also, 6505(c) exempts these products, so any enforcement action under .304(b) will probably be thrown out by a judge.

Number six: .504(b)(4) and (5) do not protect the consumer interest. Transparency requires public access to certification documents more meaningful than the name and address of the producer's business office plus the category of products.

For starters, why not disclose the farm plan, leaving out financial and marketing data. That would be a long step toward implementing OFPA 6506(a)(9) and 6515(g).

MR. CARTER: Time.

MR. HARVEY: Thank you.

MR. CARTER: Thank you, Arthur.

Questions for Arthur?

(No response.)

MR. CARTER: Thank you, Arthur.

MR. SIEMON: You want us to start all over again. Right?

MR. HARVEY: I'm afraid you'll have to do quite a bit of that. Yes.
MR. CARTER: Okay. Susan Ulery and then Emily Brown Rosen.

MS. ULERY: Susan Ulery. I'm here for the Synergy Company, which is kind of minority interest in the organic goods, because we produce dietary supplements.

And we're a minority because dietary supplements traditionally haven't been interested in the organics business. Our company was founded with that as the base, and we're running into a problem with spirulina, which is -- we produce a 70 percent "made with" product, and spirulina's a big deal in that product.

And we understand that the Chilean nitrate issue has been postponed several times and, unbeknownst to me, got postponed again, because I came here yesterday, expecting to get in on the agenda.

So I'm a little bit at a disadvantage, because I haven't heard your questions or viewpoints, and I would really like to know what they are so that I can be prepared for September.

At any rate, you've thrown us a curve ball, because the NOP increased its scope, and now we apparently are not going to proceeding as a dietary supplement under the AOS; we're going to be under the NOP, and we have to make labels and brochures, and our website's getting
posted and updated.

And as a small business, this curve ball is going to be really expensive and really painful if we lose the Chilean nitrate issue and we can't claim organic spirulina in this product.

And so I just wanted to bring that perspective to you, that -- I mean, I'm in some ways glad that the NOP is stepping up to increase its scope, because it will make it maybe easier for people like us to know where we're at, because when you have different standards applying to different aspects of the organic industry, it's really hard to know, as a user -- and I plague our certifier with questions all the time.

But we don't have very much time. You know, these labels that I've got going to the printer when I get back to work next week -- well, I don't know if they're going to be any good in October or after October. So that's an expensive thing for us.

MR. CARTER: Susan, just to -- and the reason that that is being postponed was at the request of some of the folks within the industry that they didn't think that there was enough notification --

MS. ULERY: Because of the soil-based petition that paralleled this but was going in the opposite
direction. Right?

MR. CARTER: Well, I'll just -- Kim, if you want to add --

MS. BURTON: Yes. I was surprised when Susan came up to me yesterday and said what her purpose was for to be here.

The petitioners -- as we discussed yesterday, the petitioners for the spirulina were in agreement that we could postpone this vote, and to my knowledge, they said, Oh, yes, everything's fine and dandy with it.

So I apologize for that. I also encourage you to do written comments about that TAP review, because in reality --

MS. ULERY: And I have submitted to Katherine.

MS. BURTON: In reality, we didn't have any other comments on that from the industry, other than the two petitioners, so we really weren't even aware of your needs.

So I do apologize for that. And see you in September.

MS. ULERY: Hopefully.

MR. CARTER: Sounds like a song.

Go ahead, Jim.

MR. RIDDLE: Well, I'd like to respond to your
issue about the scope being extended now to include dietary supplements and several other large product categories, because the preamble clearly stated that they were outside of the scope when the final rule was published, and now there's been a change in that interpretation fairly late in the game for a company to have to change formulations, have to change labels, and get certified.

MS. ULERY: Yes. It feels like somebody's, in an old Western, shooting at your feet, and you're hopping from foot to foot, and you just don't know which foot you're going to land on.

MR. RIDDLE: Well, yes. This wasn't --

MS. ULERY: I gather this is not my own experience only.

MR. RIDDLE: You aren't alone. But I think you bring up a very valid point that does need to be considered thoughtfully both by the board and the NOP, is the full implications of this change in scope.

MS. ULERY: And we're all dying to hear what those are, but -- and that brings me to my next point, which is the October deadline. I don't know how that's going to play out for us and our certifier, and I don't know what your intentions are since you've thrown this
curve at us at this point.

It might be prudent to -- you know, if the whole point of going through this exercise of having the NOP is to encourage standardized organic products, maybe this is one of those cases where you want to give dietary supplements and the other categories more time to come into compliance and more time for the board and the NOP to understand the issues as you bring these products in, because there are portions of the NOP that don't really apply very well to, for instance, dietary supplements. I'm going to restrict my remarks to those, because that's what I know.

The three food groups designation on a "made with" label -- Pure Synergy, which is our main product, has 62 ingredients, and we've got like six categories of ingredients. Only two of those categories are 100 percent organic, so we could choose two of those to list.

If you're talking about marketing and telling the consumer what's in the product, it kind of undercuts us for all those other ingredients that are organic that we've managed to pull together and put in the product.

Do you understand what I'm saying? So to limit us on the "made with" panel declaration to, one, require us to list three food groups, which the OAS didn't, and
then to limit them to three -- we don't like that.

So just so you know, it doesn't fit very well
with what we do. And I understand that it fits pretty
well with most food categories, but supplements are a
little different.

On the spirulina issue, just in case I can't
make it in September and just to highlight the main import
of what I was trying to say in my letter, which hopefully
you will have, is I believe there's a strong need to
distinguish between soil-based agricultural needs and
restrictions and then here you've got a category of
growing that's in a pond or a tank and it's closed and
contained.

And it may be that it deserves a totally
different rule or consideration. And I understand when
you're crafting rules, to make exceptions is horrible for
the enforcers, for the regulators; you don't want them.
But it's a sorry fact that you get to have them, and I
would really urge you to make room for a product like
this, because these two companies, Cyanotech and
Earthrise, have had a really strong commitment to
organics, and certainly our company has, and we're going
to have the rug pulled out from under us, and all those
years of promoting organics and trying to get people to
understand why they're important -- we lose.

One last point --

MR. CARTER: Okay. You need to wrap up, because we lost track of your time; we thought you were done with your comments, and so we quit the time here, so just very quickly, if you could summarize.

MS. ULERY: Yes. Public perception that Marty was talking about, the use of the term "certified organic" versus "organic" -- I think those of us who work in this world very closely tend to forget about the consumers and what they know and don't know; they don't know anything.

I can't tell you how many times I have people say, Why organic? Why should I pay that much for that? Certified organic -- I think it's really important that you let people make that claim.

MR. CARTER: Okay.

MS. ULERY: Thank you. Oh, and communicate more on your website, please.

MR. CARTER: Okay. Rick.

MR. MATHEWS: With regard to your labels, when were you planning to start using the labels that you were ordering this week?

MS. ULERY: August.

MR. MATHEWS: August?
MS. ULERY: Yes. See, the lead times are often very long, and then of course you've got issues of expense. If you run a really small print job, they kill you with price. The labels can go from being eight to nine cents a piece for the ones I'm thinking of to being more like closer to 20 cents.

MR. MATHEWS: Okay. Are you aware that the labeling requirements actually kick in October 21, and that any label that is applied to any product prior to October 21 can still be found on the shelves after October 21?

MS. ULERY: Yes.

MR. MATHEWS: Okay.

MR. CARTER: Okay. Thank you.

MS. ULERY: Thank you.

MR. CARTER: Emily, and then after that we have Mary Mulray. Is she here?

VOICE: Yes, she's here.


I just have a few problems I wanted to address on the whole proposal about rearranging 205.606 and also a couple of comments on incidental additives in livestock feed. And I believe Mary's going to talk more about 606,
I really appreciate the effort that the board has made to try and fix this wording. It is very confusing and needs clarification. People don't know what that list is supposed to represent: Is it the total universe of commercially nonavailable ingredients? Is anything allowed and these ones must be organic? So it needs to be cleared up.

However, I think that the solution isn't well thought out yet at this point; I think it's premature to make a change based -- I know you voted this -- I believe you voted this as a final recommendation on a change.

However, it conflicts elsewhere with the definition of nonagricultural ingredient in the rule, so there's obviously a few glitches here that the definition says that, for instance, of a nonagricultural ingredient, that such things as -- for the purpose of this part, a nonagricultural ingredient also includes any substance such as gum, citric acid, or pectin extracted from, isolated from, or a fraction of agricultural products so that the identity is unrecognizable.

Now, this has always been a problematic definition, but you can't take pectin off the list when the definition says pectin is nonagricultural.
So I think that you need to look at the impact also on the rest of the nonsynthetics on the list, because some of them are clearly agricultural, too.

So my suggestion for the time being is that we get a general policy clarification from NOP to say that nonorganic ingredients are allowed -- anyone is allowed under the commercial availability; just clarify the general intent of that and then open up for more comment and fixing up of how to restructure those items on the list.

There has been really no public notification of this big change. Right?

MS. BURTON: Yes. It will go [inaudible].

MS. ROSEN: Oh, okay. Good. All right.

So I have more ideas; I can talk to you more about that later. And it's a tricky thing, but we're not quite there yet.

MS. BURTON: Just a comment: Why it came up so quickly was we are receiving petitions now to add materials, and, quite frankly, we're out of money, so we just wanted to at least get that out there, and I encourage comment. So anything would help.

MS. ROSEN: Right. And along that line further, we need -- if you're going to rank something as
agricultural and outside the scope of the list, we need a clear line drawn and criteria. Also, we want to make sure you're not just passing the buck on the decision here, because some of these materials that we're suddenly calling agricultural have a lot of sort of caveats about how they're produced, if they're a synthetic or natural form; the gelatin, like two out of those four forms were produced not using -- you could not make them organically.

So does that mean they're, by de facto, not commercially allowed and therefore anyone can use them? In that case, you should just put it on the list so it's clear that it's allowed, rather than have certifiers running around trying to investigate bone factories in Iowa and find out how they're making this stuff. You know, it's not clear that way.

But we can talk more about that later. I just think there are some problems and it needs to be further addressed.

Incidental additives in livestock feed: You know, I was very comfortable with that, going in, as a guidance document; I'm really uncomfortable with that going into the National List as a whole big, huge category that could be totally misinterpreted.

I dug out from my files, which I didn't have
yesterday -- I think you should go back and look at FDA's comments on the feed additive issues; they had some language suggestions, and they discuss their authority with AAFCO, and I think it's well within the bounds of clarifying FDA's rule to put that information out as a guidance document, and I think that would be -- I just think it would be more advisable.

If you wanted to put positively in that carriers are required from organic sources, you know, as are required by FDA to be on the label, that would be a positive thing you could add in, but I wouldn't want to put in this large category of incidental additives without -- you know, I just think it could be misused.

It also sets the precedent that FDA is an acceptable TAP reviewer, as far as organic is concerned, and I don't know if you want to make that step.

All right. Thanks.

MR. CARTER: Comments, questions for Emily? Willie?

MR. LOCKERETZ: A question for Emily and I guess Rick as well. I understand your concern about blanket approval of a large category of ingredients, but am I correct in thinking that since this would be only interim final rule, that if an objectionable one was
discovered, it would be easier to remove that than it
would be if it were the full rulemaking process?

And is that good enough for you, to assuage
your concerns about blanket acceptance?

MS. ROSEN: Well, this is not just blanket
incidental; it could be anything in 21 CAR, practically.
The question is of where they're allowed, and it has to be
really clear to producers that they're allowed only as
secondary ingredients, say, so it's down the list and it
is minor and exempt.

But I don't think that will be clear on just a
straight listing on the National List, and I think it
would be better to explain it in a position paper that's
really clarifying how FDA regulates these things.

So it's already in law; it's not like
reinventing the wheel.

MR. CARTER: Okay. Rick?

MR. MATHEWS: The regular rulemaking process
will take at least 18 months. What we have tried to do is
come up with a solution to provide these materials -- the
availability of these materials to people before October
21.

So we have, as I've stated previously,
consulted with the attorneys and then granted permission
to go with an interim final rule.

The interim final rule will have a comment period provided for within it. People can weigh in as much as they want. If problems come up, this thing could go back to proposed rule and then go from there to a final rule.

So something that we would be saying is, Okay; it will automatically be okay until we had to then go back and do the full rulemaking process on it.

So I don't know if that helps Willie any more or not.

MR. LOCKERETZ: Well, how does it compare between going to full rule after there's been an interim final versus going to full rule just from the beginning as far as how long it would take? In other words, to answer Emily's objection --

MR. MATHEWS: What I just said, Willie, is that the provision is effective upon the date specified in the interim rule, which would, in all likelihood, be -- it's either going to be -- I'm hoping it will be upon publication. That's our goal, that it would be effective upon publication.

If you went out with a proposed rule, there would be a minimum of probably nine months before it
became effective.

Well, now, it would be more than that; I mean, it would take us nine months to just publish the interim final rule, and then there'd be another nine months after that.

So you're talking a minimum of 18 months before it would become effective under the normal rulemaking process. This other way it's going to take whatever time it takes us to get the interim final rule out.

Does that help?

MS. ROSEN: Can I ask one question about that timing?

MR. CARTER: Yes.

MS. ROSEN: So if you have to go -- if you have an interim rule and then there's too much comment and you have to go back to a full proposed rule, what happens in between? Like does the stuff that was proposed in interim stay until the rewriting, or do you revert to the original?

MR. MATHEWS: It depends on the scope of the problem, and it's also something I'll have to refer to the attorneys.

MS. ROSEN: Thanks.

MR. CARTER: Thank you, Emily.
MS. ROSEN: Okay. Sure.

MR. CARTER: Okay. Mary Mulray and then Marian Casazza.

MS. MULRAY: Hello. My name's Mary Mulray. I'm speaking today as an OMRI board executive committee member, TAP reviewer, MPPL committee member of the OTA, and interested industry member.

I too want to commend the board on their hard work preparing for this meeting and their diligent deliberations of the issues during this meeting, and the NOP for their hard work regarding accreditation, preparation for this meeting, and responding to the endless questions that come up about organics.

My comments are directed to processing materials and the removal of the list from 205.606 for those materials that are nonorganic agricultural materials, which I agree to in principle, and some of these comments will be duplicates of some of Emily's comments.

205.606 states that any nonorganically produced agricultural commodity may be used in accordance with the restrictions specified in this section and when the product is not commercially available in organic form.

I'm specifically not addressing the issue of
commercial availability in this section, except peripherally in one of my examples.

I want to support Kim's recommendation that third-party review of this materials is critical; I also believe there needs to be a clarification and/or guidance document on these issues, and I understand that the Organic Trade Association has requested this in the past via the MPPL committee.

There's still a fair amount of confusion as to what's an agricultural material, a nonagricultural material, and what is synthetic or nonsynthetic, or what's really defined as natural.

An agricultural product is defined as any agricultural commodity or product, whether raw or process, including any commodity or product derived from livestock that's marketed in the United States for human or livestock production.

The key issue here is "raw or processed." In the nonagricultural definition, it says a substance that's not a product of agricultural, such as a mineral or bacterial culture that is used as an ingredient in an agricultural product.

For the purposes of this part it also includes any substance such as gum, citric acid, or pectin that is
extracted from, isolated from, or a fraction of an agricultural product so that the identity of the product is unrecognizable in the extract, isolate, or fraction.

And as Emily stated, we have created some confusion, because those things are listed. Pectin, gums, for example, are listed as agricultural materials in 205.606, yet they're in the definition of nonagricultural materials.

And I know the Materials Committee is working on this; I just want to support that work.

In addition, is corn starch or rice flour, for example, recognizable or unrecognizable as corn or rice, the agricultural commodity? The question is how much processing is allowed for a product to be considered agricultural.

And then in the definitions of synthetic and nonsynthetic, which I won't go into, essentially there needs to be lines drawn and further guidance there as well.

Examples of processing materials considered at this meeting give good examples: gelatin was considered an agricultural material, but depending on the process, it may be synthetic or nonsynthetic.

Two of the nonsynthetic forms could not be made
organically because of the processing input. So does that mean they are de facto allowed, since they could never be commercially available as organic?

Shellac bleach was not added to 205.606 in the past, since it was synthetic, but unbleached shellac was considered to be consistent with .606. How will certifiers and inspectors know the difference when reviewing formulations?

The larger nonorganic food processing industry does not understand these concepts at all, and there's much confusion within the organic industry, so I believe more clarification is needed.

A clear positive list of allowed materials listed somewhere would be helpful.

I want to recommend that certifiers look to third-party review systems such as OMRI to evaluate these materials and make a determination. OMRI and the reviewers would need guidance from the NOSB before carrying out this process, however.

Once there's clarity on these issues, processors and handlers should encourage their suppliers of these materials to become listed as brand-name listings to ensure that they would meet the requirements of 205.606.
Thank you.

MR. CARTER: Thank you, Mary.

Any questions for Mary?

MS. CAUGHLAN: You're giving us your written input, Mary?

MS. MULRAY: Yes. I haven't printed it, but I can.

MR. CARTER: Okay. And also be sure to give a copy to the reporter over there if you have time.

Thank you, Mary.

Okay. Marian Casazza, and then we have Leslie Zuck.

MS. CASAZZA: I'm Marian Casazza. I'm the vice president of quality systems for Quality Assurance International, QAI.

First of all, QAI would like to welcome the new NOSB members, and we appreciate all the hard work and dedication that all the NOSB members have put into all of the work that you've been doing. We empathize with the difficulty of dealing with all of the issues that are involved.

We would like to remind the NOSB that the annotations will add to the time and cost of certification and that they may increase the difficulty in forming
equivalency agreements with foreign governments.

We'd like to request some clarification on the materials list as it relates to postharvest. Some materials on the crop list like floating agents represent processing on the farm, while waxes are found on the processing list.

At what point does postharvest transfer from crops to processing? Certifiers need to be clear on which list is applicable.

Based on this meeting and the public comment, QAI is preparing for a complete public testimony for the next NOSB meeting, dealing with these issues and others as they pertain to the impact on certification agents.

Finally, on Monday, Mr. Bass from Country Hen presented some testimony in which he represented his organization as QAI-certified. Although they were certified with QAI in the past, they do not currently hold a QAI valid certificate, and I've asked Mr. Bass to contact QAI office to clear up this situation.

MR. CARTER: Okay. Thank you, Marian.

Comments or questions for Marian?

Okay. Thank you.

MS. CAUGHLAN: Just one comment: You indicated that you were planning on doing public testimony. We
always welcome your written comments timely as they go along; those are what help us in our job mostly. Certainly we welcome public comment, but you indicated waiting. I would just say put your thoughts to us ASAP.

MS. CASAZZA: [inaudible].

MR. CARTER: Okay. Why don't you speak into the microphone, please.

MS. CASAZZA: I'd just like to put more thought into the comments that we have from this meeting --

MS. CAUGHLAN: Certainly.

MS. CASAZZA: -- and put it into written form --

MS. CAUGHLAN: But again --

MS. CASAZZA: -- or public comment for the next time.

MS. CAUGHLAN: Thank you.

MR. CARTER: Okay. Leslie Zuck and then, looking at this next name here, the way it's signed in, it says Mary Mesh; I wonder if that's Marty's sister.

VOICE: I think it's his chicken scratch.

MR. CARTER: Yes, it's his chicken scratch. Okay. Leslie, go ahead.

MS. ZUCK: Hello. I'm Leslie Zuck, executive director of Pennsylvania Certified Organic. On Monday I
came here to support the board's draft recommendations for poultry outdoor access and dairy replacement animals.

I still support your poultry outdoor access recommendation as amended, and I still support your amended draft recommendation on dairy replacement animals.

Surprise, surprise.

So, having said all that -- that's just the however -- I just really want to emphasize that the clarification the board is working on on the dairy replacement animals that they -- once -- if they're brought onto the farm after the herd is converted, must be organic from the last third of gestation, unless commercially unavailable, is very, very important and very, very necessary.

On Monday Mr. Mathews asked the Livestock Committee to justify, one, why their clarification was necessary; two, who it was a problem for and, three, what the economic justification or impact was for that clarification or guidance that they were submitting.

I'd like to suggest some of those answers. One, why is it needed? Nearly all the certification agencies I have spoken to that certified dairy operations interpret the rule as requiring organic replacement heifers; however, one certification agency that does not
require organic replacement heifers certifies a lot if not most of the dairy cows in the US.

So who is it a problem for? Well, it's a problem for the 7000 cows and their farmers in Pennsylvania, because the rules are different, depending on who certifies them. And clearly this is not where we want to be.

The language, I will admit, of the rule is contradictory; it is confusing, and it unintentionally allows for different interpretations, so we need a solution.

And I guess here's where I kind of have to fess up, admit that I am also an attorney, because one of the first things they will teach you in law school is, you know, in a situation where you have a contradiction or a question of interpretation or an ambiguity is to look to the reason behind the rule. Why is it there? What is it meant to do?

And that's not always easy. Sometimes you have to go and research legislative intent, check out the congressional records, all that. But we're pretty lucky in this case, because we have the preamble to this very rule, which spells out that the intent of the rule is to require organic replacement animals, whether raised on the
farm or purchased from off farm.

So I'll read from page 80570: "The conversion provision rewards producers for raising their own replacement animals, while still allowing for introduction of animals from off the farm that were organically raised from the last third of gestation."

This should protect existing markets for organically raised heifers while not discriminating against closed-herd operations.

Finally, the conversion provision cannot be used routinely to bring nonorganically raised animals onto an organic operation. It is a one-time opportunity for producers working with a certifying agent to implement a conversion strategy for an established, discrete dairy herd in conjunction with the land resources that sustain it.

I think that's pretty clear. A blanket allowance for transitioning commercially produced heifers would discriminate against farmers who raise their own, which is something we certainly should want to encourage, and the preamble states that this is not the intent.

It's also a problem, however, for those operations who specialize in raising certified organic heifers for other organic dairy farmers. Allowing
nonorganic replacements would be a huge -- make a huge
economic impact on those heifer operations, many of which
are young farmers just starting out; they hope to have
their own organic dairy herd someday, but right now they
can't afford the equipment or the land to get into it, and
it is in the best interest of the entire organic dairy
community to encourage these new farmers, and it would be
a great detriment to lose them.

It would have an impact as well on the organic
dairy farmers who rely on purchase replacement heifers,
because they want to buy organic heifers, so they don't
want to buy conventional or commercially produced heifers
when they need to get a few of their own if they can't
raise enough for themselves.

So we need to have the requirement to be in
there in order to ensure the integrity of the organic
dairy products, and still if you do have that commercial
availability clause in there, it still makes it fair to
regions of the US where there aren't an available supply
of the organic heifers.

Thank you. Questions?

MR. CARTER: Questions?

(No response.)

MR. CARTER: Okay. Thank you, Leslie.
Okay. Marty Mesh and then Liana Hoodes.

MR. MESH: Marty Mesh, with Quality Certification Services, Florida Organic Growers.

If there's any hesitation about getting ready for enforcement, I think we all recognize that it should be a highest priority for USDA, and certifiers need to know exactly how it will work and when.

I said years ago that USDA should not release the first proposed rule, then the next one, without including an enforcement section. The response was always, Don't worry; we're the USDA. We'll take care of enforcement.

I urge you to get prepared and use egregious examples to achieve widespread compliance quickly. The industry came to USDA partially for that reason. It's been a very long time, and the lure of easy money may tempt some folks to misbehave.

It should be made clear the mislabeling and outright fraud of consumers will not be accepted by the United States government and that enforcement time lines will be swift.

I applaud the members of the board who recognize and take appropriate actions when a conflict of interest exists and encourage careful consideration in
this area as you deliberate on materials.

We will await the NOP's response concerning the use of "certified organic" on the label; appreciate the dialog, and hope the decision will be made, then communicated to the industry and certifiers quickly.

I was thankful that the past members of the NOSB were here to aid the current board. I appreciate the vast amount of work and preparation on the part of a very overtaxed USDA staff to prepare for the meeting and appreciate the transition that the older members helped the new members make.

I'd like the tables to be arranged in the future so that us in the peanut gallery can pass notes, if we're not going to be called on by the chair, because there's a lot of expertise in the room that I think you guys could take advantage of, and I appreciate the chair's ability to facilitate a difficult meeting.

I want to Eric Sideman and the rest of the members of the compost task force for the excellent work of the problem that organic farmers have expressed the utmost concern about: the conflict of interest -- I mean the compost issue that needed attention.

Thank you. However, the language is a bit cloudy when you have compost and high-quality compost with
the same time, temperature requirement but only a pathogen
reduction to differentiate them.

This may cause mandated pathogen testing of
compost for use in a compost tea or at least a question of
whether or not high-quality compost is safe, in the mind
of a consumer.

Overall I feel there's a lack of sensitivity to
the challenge of verification of the standard and
especially annotations, as you put more and more on
certifiers and inspectors to verify.

We need guidance on what is sufficient
documentation to verify exceptions to the standards: too
hot, too wet, too dry, in whose opinion? Is letters from
two vets, three vets, one vet sufficient to be the
exception to the rule.

If certifiers are to verify that folks are
compliant, some clear direction on what we are to verify
is helpful. As Carol and many other people have said
articulately: What is verifiable and what is enforceable?

We want to thank USDA for agreeing to look at
fixing the government-mandated spray issues that I've been
trying to bring up. Hopefully you could fix it in the
interim final rule that's being published before October
21. For USDA to say they couldn't fix it because of
existing rule language, your policy interpretation ability was evident with the nonallowance of organic meat labeling and then through magical nonUSDA rulemaking but with policy interpretation, organic meat appeared.

And then finally I encourage the peer review panel to get implemented, set up, and start work as soon as possible.

Thank you.

MR. CARTER: Okay. Thank you, Marty.

Rick has a comment.

MR. MATHEWS: I want to comment on the enforcement program. And as you well know, Marty, and as all of the other certifying agents in this room know, you have already started that process through your application.

The certifying agents are the first line of enforcement of this program. You will be the ones who are the eyes and ears of the organic industry. You will be telling us when someone who is not certified by you is alleged to be in violation or when you think that one of your competitors as a certifying agent is not doing something that is allowed for under the standards.

So I remind the certifying agents they have a huge role in enforcement of this program.
MR. CARTER: Okay. Oh, I'm sorry, Willie.

MR. LOCKERETZ: More a question for Rick, I guess, but Marty referred to what he hoped would be put into the interim final rule by September and had to do with mandated spray programs, I believe.

MR. MATHEWS: And conflict of interest.

MR. LOCKERETZ: Conflict of interest, yes, of course. The word processor is set to put that phrase in every second page.

But, Rick, am I -- I believe there will be two interim final rules -- is that correct? -- one dealing just with materials for the National List, which that's the one you're trying for by September? Am I correct in this?

The interim final rule that deals with other issues such as the ones he raised, is that a second interim final rule? And if so, will it be by September 21 as well?

MR. MATHEWS: The only interim final rules that we are doing are for materials. All other rules have to go through the proposed rule -- final rule process.

The technical corrections docket is just that, a technical corrections docket and will not be seeking public comment, and therefore will not go through that
type of rulemaking process.

Marty's issue is that Marty doesn't like the fact that the rule provides that if there is a mandatory spray program and your crop is sprayed, the rules provide that, because you were subject to a mandatory spray program that applied a prohibited substance to your farm, the rules provide you do not use the organic status for that parcel that was treated with that prohibited substance; you do, however, lose the organic status of that crop.

What Marty is trying to do is to get us to tie it to the 5-percent rule. I'm not making any obligations on that.

MR. MESH: Thank you for your consideration.

MR. MATHEWS: Yes. I am considering it, but I'm not committing anything.

MR. MESH: Or compensating farmers would be --

MR. MATHEWS: We won't be compensating.

MR. RIDDLE: Well, this seems like a very important issue, and should it be something that the Crops Committee should consider and possibly add to the work plan drafting some language, working with Rick on this consideration of the issue?

MR. MATHEWS: This is not a new issue. This is
an issue that's been going on for as long as they've been
trying to put this rule out and get it fully implemented.

    This is an issue that's been vetted many times
in many ways, and the sad truth may be that if you want to
grow a certain crop in an area where they're going to
treat, maybe you shouldn't be growing there.
    I mean, it's just like with all the other
prohibited substances out there.

    MR. MESH: Or maybe the government shouldn't be
spraying.

    (Laughter and applause.)

    MR. CARTER: Okay. Thank you, Marty.
    Liana Hoodes and then Brian McElroy.

    MS. HOODES: Liana Hoodes, National Campaign
for Sustainable Agriculture. I just have a few quick
comments. I'm not going to read at high speed today.
    Unfortunately, I want to reiterate something
that I spoke about earlier about the role of NOSB
clarifications, and I want to commend the work of this
board. It's always -- I know how much work you do, and
then I'm always amazed at what comes out of these meetings
and the huge amount of work that it takes to draft
recommendations and clarifications.
    Our concern is that, other than the area of
materials, what does really happen to these recommendations once you've had the vote and they leave NOSB? The waters were muddied even more during this meeting about whether a recommendation is an enforceable clarification to the rule or an unenforceable guidance document.

What are the criteria for making these characterizations, and who makes these decisions? What is the status of all those recommendations that you have made over the years? And where do we find this? I urge you as a board to follow through on what this process is.

Secondly, we heard about -- we heard a lot of comments this week, and we now all understand that there clearly is certified organic product on the market that is certified by a USDA -- recently USDA-accredited certifier that violates both the letter and the spirit of the law regarding accreditation, certification, and production.

And absolutely the certifier in many cases is the place where enforcement starts, but in other cases it involves the certifier. We hope the Department moves very swiftly to protect the market and the farmers who must compete against fraudulent product. It's very important; it can't wait for a year.

It's got to happen soon, or the market's in big
And finally, this whole example highlights the fact that conflict of interest is a many-splendored thing, and it can take many forms, and I propose that you seriously -- the program and NOSB consider that farmer-based certifiers may actually safeguard against many forms of conflict of interest. Keep on looking at this.

I know it's clearly a hard piece to work on, but there are many times when it is those farmer-based certifiers who do protect us.

That's it.

MR. CARTER: Thank you, Liana. And I would just say, as a follow-up to your first comment, that is a big issue and one that the board and the NOP have had a number of discussions on, particularly the last couple of months, about the implementation of recommendations from the NOSB.

Barbara Robinson has particularly agreed to go through and help us compile a list of NOSB recommendations and what has happened, and we want to use that as the basis, then, to start analyzing, you know, what's getting implemented, what's not, and how can we make the process more effective.

MS. HOODES: Excellent. Thank you.
MR. CARTER: Okay. After Brian we've got Amelia Adams.


And as others have said, again, congratulations to the NOP staff. All of you and the USDA quality systems staff have all been under a lot of pressure. Don't go into the bunker. There's going to be a lot of complaints and a lot of discussion, but don't go into the bunker. Stay out here; we're all on the same side.

Quickly, I have submitted written comments on a specific topic, but a couple of things that have come up that I want to comment on quickly and then get to my written comments is there was this handling operation ingredient affidavit which I'm sorry I haven't participated in, and I apologize for that, but I want a change to maybe perhaps off-line discuss the relationship of this affidavit to Section 205.500 and the obligations of the certified operation. And maybe I can do that off-line with the two of you.

MR. RIDDLE: It's just being posted for comment.

MR. McELROY: Okay. I misunderstood that it
was adopted as a guidance document. Okay.

MR. RIDDLE: It was posted from committee for comment.

MR. McELROY: Good. Thank you. Okay.

Next topic: I want to support Marty Mesh's comments about the use of the terminology "certified" and emphasize that, though terminology "certified" is in most of the certification programs, name is part of our trademark name, so whatever decision comes down on that, could we be very cautious to retain the opportunity for us to keep our names.

Then now to the comments that I've written, and I won't read them; I'll try to maybe discuss it in plain language so that there's another opportunity to explain it.

This is back to accreditation according to the NOP program versus accreditation to the ISO-65 program. And the CCOF has now become accredited to two different programs and have two different accreditations, and we fully expect that we will end up with two accreditation site visits.

I have been assured by USDA staff that we will have one site visit and that those two will be combined; however, we've been assured in the past that the gap
between ISO-65 and the NOP program was to be resolved in
the past, and it wasn't.

And now here we are faced with these two
different accreditation programs, and I believe that when
the auditors walk out that they will do their job by the
book, because that's what they're paid to do, and the book
will be that they've got two different sets of standards
to verify, which is going to mean two different
accreditation visits.

Now, this whole NOP program has been very
focused on making sure that certification happens to one
standard, and in the process we have suddenly created two
different accreditation programs.

You know, we've had two giant steps forward,
and this is one step back. So I really encourage this to
be resolved at the highest level possible in the USDA,
because it cannot be resolved at Mr. Mathews' level,
because the quality assurance program is separate from the
NOP program.

We're dealing with two different program
managers, from my understanding, and I may be wrong on
that, but we need to go up to the level where finally the
two program managers are supervised by the same person so
that there can be some sort of resolution to this issue.
Let me tell you why I think the issue's extremely important. One, as I said, organic certification programs are subject to two accreditations in order to qualify product for export to the European Union, and 90 percent of us have to do that.

This is an added expense and administration on organic certification programs that will surely be passed on to organic producers.

The second part of this: European Union regulators now have evidence of the ways that the NOP program do not comply with ISO-65. This will surely be a point of discussion on any trade agreement.

An NOP-accredited program that applied to the ISO-65 program was denied ISO-65 accreditation and has been awarded NOP accreditation. When you go to the website and you look at the ISO-65 accredited programs, you see a list. That list is not the same as the list of the NOP-accredited programs.

There are ISO-65 accredited programs that have "under review" marked next to their name. You go to the NOP list, the lists don't match.

The gap is not that wide. I think it can be resolved, and the Accreditation Committee chairman has brought this issue up in the past, and I think you have
some documentation to help look at the differences.

However, the more these lists go on and the more we have differences in these lists, I'm afraid the wider the gap is going to go.

So that pretty much sums it up; it's a bit of an arcane issue, and I'm really hoping -- I'm sorry you're taking a little break. It's well deserved, but this issue really is key. We're headed for nine months here, until October -- well, probably down to six months now; I'm not counting, but we're going to have some problems with the European Union over this issue, I have no doubt.

Thank you.

MR. CARTER: Thank you, Brian.

Questions or comments for Brian?

Willie?

MR. LOCKERETZ: Can you tell us a little bit about this particular case of, I think it was, ISO-65 denial and USDA accreditation awarded, if I got it correctly? Give us a sense of what and how the differences were.

MR. McELROY: I don't know, because the differences were not revealed to me. It wasn't our program; it was another program that those issues are confidential. But I'm sure the NOP staff and the USDA
quality assurance staff could go through those items with you.

MR. CARTER: Okay.

MR. McELROY: Thank you.

MR. CARTER: Thank you, Brian.

Amelia Adams and then it looks like Doug Cathert [phonetic]?

MS. ADAMS: Hi, everyone. I am Amelia Adams, and I'm represent Quality Certification Services and Florida Organic Growers. I am certification coordinator for Quality Certification Services.

I, like everyone else, would just simply like to thank you for all of your hard work. I think that that pretty much covers that. And I would like to speak for a moment from the standpoint of organic certification.

There's been a lot of terms thrown around regarding guidance documents and the intent of the final rule and so forth and so on. And I can tell you that I spent countless hours reviewing the final rule, and I believe I have a pretty good idea of the intent of it.

However, what I think doesn't matter. I can't certify to intent. I have to certify to what's in black and white. I can't even certify to a guidance document, and this becomes more and more important as the industry
is moving away from the core of farmers and processors who fully believe and live their lives according to organic integrity and division of their organics and are emotionally and physically involved in the organic movement.

This industry is bigger than that now. There's people in it simply just for the money, whether we like it or not; it's a mushrooming industry.

And these people don't really care about guidance documents. They're going to do the minimum that is required to achieve organic certification. And you got to take the devil's advocate on a couple of things, unfortunately, and realize that when you create an ambiguous standard, the minimum is what is going to be accepted many times.

And I'd like to just go through the -- since it's -- not to beat a dead horse, but since it's fresh on everyone's mind, I'd like to go through the access to outdoors for poultry for a moment and tell you a little of what I can guarantee you I am going to hear from producers wishing to get around this recommendation, this standard.

"Organically managed poultry must have access to outdoors. Organic livestock facilities shall give poultry the ability to choose to be in the housing or
outside in the open air and direct sunshine."

I can guarantee you I'll have a producer come
to me and say, Well, my house has a door on it; the
chickens can choose to open it if they want to.

Next line: "The producer's organic system plan
shall illustrate how the producer will maximize and
courage access to the outdoors."

Well, I showed them how to use the door. They
see me go in and out three or four times a day; I showed
them the movie Chicken Run. And, you know, while I'm not
going to sign my name to that as certified organic,
there's someone out there who will.

Same thing with organic certification agencies.
They're not all in it for the organic integrity and the
mission. A lot of them are in it for the money; a lot of
them are created by the interest of these people who are
in it for the money.

Same with organic inspectors. You can't count
on guidance documents being the method to encourage the
farm plan to be a better and better organic system.
That's simply unfortunately not the way it is, and I would
just like to express that view as an organic certifier,
that those are some concerns that we have with guidance
documents and intents of the standards.
Any questions?

MR. CARTER: Thank you, Amelia.

Any questions for --

Yes, Willie?

MR. LOCKERETZ: A generic version of a point that you raised concerning how much discretion the certifier has: There are arguments for giving the certifiers considerable discretion because of ecological and environmental differences around this big country of ours, but also -- well, in your -- would you like to see more or less specified in explicit instructions concerning the standards: the trade-off between the problem you described versus the fact that there really are differences from around the country that need individual interpretation?

Do you want us to be more or less explicit concerning how much you put into the black-and-white standards?

MS. ADAMS: I believe that there are ways -- like you said, the environmental differences, area-appropriate, temperature-appropriate and so forth issues are very important.

As from Florida, that becomes very important. You can't do a lot of things in Florida that you can do
other places. But I believe that there are ways to still be specific while allowing for geographically appropriate methods.

I believe that there are ways to get around that. The same example would be the access to outdoors for poultry and the amendment that -- number two, bare surfaces other than soil do not meet the intent of the rule.

I believe that that, for example, can be fleshed out. I can guarantee you someone's going to come to me and say, Well, it doesn't meet the intent of the rule. I don't care about meeting the intent of the rule; I just want to make money. Is it allowed or not?

And that's -- you know, I believe that that can be fleshed out, regardless of geographical location and appropriateness.

MR. CARTER: Thank you.

Other questions or comments?

(No response.)

MR. CARTER: Okay. Thank you, Amelia.

Doug and then George Bass.

MR. CRABTREE: First I'll apologize for my penmanship. It's Doug Crabtree from the Montana Department of Agriculture. We're proud to be a newly
minted certifying agent under NOP.

Just a few quick comments, possibly questions, from Big Sky Country. One of the primary concerns of our soon-to-be certified clients deals with the seed rule, and more specifically the definition of "commercially available" and how we will require that to be documented.

And I would certainly like to have more clarification on that issue from NOP, and my hope is that it can be consistent among certifiers, because I don't think it is, from what I hear. I'm hearing that there are vastly different interpretations of commercial availability and the documentation thereof at this time.

One thing else, a related issue: I would like to see NOP come up with a list of seed suppliers that certifiers could use in verifying lack of commercial availability. I think that would go a long way to clarifying this confusing issue.

Another matter that is bringing a lot of concern from growers in our state: the definition of compost. We are hearing -- and I would second this, that it's an overly prescriptive definition, and it's going to be very difficult, if not impossible, for many growers to meet the definition of compost using the methods and products they have been using, especially in northern
climates with regard to the temperature requirement and
also especially for smaller growers that may not have the
equipment or the resources to follow this intensive method
of preparation.

A third issue are treated fence posts. I'm
getting a lot of questions up there: Can I use treated
fence posts? If I already have them, will I be allowed to
have livestock within fences using treated fence posts?
Are there any allowed treatments currently for fence
posts? How is this use regarded under the material lists
and standards?

And can we grandfather in existing fences if
they are treated with materials that may be judged as
prohibited?

I guess those are my primary questions, so if
anyone wants to respond, I'd welcome that. If not, I'll
just enter them as official comments.

MR. CARTER: Okay. Anybody have specific
comments?

Owusu?

MR. BANDELE: On the commercial availability
issue, we -- the board has submitted a document to NOSB in
terms of that issue. That is on the website, is it?

MR. RIDDLE: Our recommendation?
MR. BANDELE: Yes.

MR. RIDDLE: Yes. The board's recommendation would only be on the website in the minutes from that meeting where we passed it, but that gets back to the need to really consolidate those recommendations and have those available.

But we're still waiting on the NOP to respond to their request for public comments in the Federal Register notice, because commercial availability was clearly sought, and they're -- my understanding from what Rick's previous comments, that it's still being put together, so that hasn't been issued yet.

But I did want to respond to the fence post question, because it's clear to me in that language of the rule that existing installations are allowed. So this is for new installations and replacement purposes that treated wood is prohibited.

But on your question of are there any allowed treatments and what are the real practical alternatives for farmers, that's -- I don't have any clear answer. I mean, there's nothing on the list as a wood treatment right now that works.

MR. CARTER: Other comments or questions?

(No response.)
MR. CARTER: Okay. Doug, thank you very much.

MR. CRABTREE: Thank you.

MR. CARTER: Just to let you know, we in Colorado have been following what's been happening in Montana very closely as they try and move toward certification establishment.

MR. RIDDLE: Just one more point, Doug: The Crops Committee did submit and we endorsed a compost task force report -- you weren't here yet -- so you should take a look at that.

There's going to be further work done by kind of a subcommittee of that task force to develop some proposed rule change language.

MR. CRABTREE: Thank you.

MR. CARTER: Okay. Next we have George Bass; then we'll have Brian Leahy, and there are two others after that.

MR. BASS: I only have three comments, really. one is to --

MR. CARTER: Please identify yourself.

MR. BASS: George Bass, from the Country Hen. I started the organic egg business in this country, and I was pleased to do so before the legislation came out on organic stuff.
I want to thank the board. I've just been very, very impressed with what I've seen and heard, and I've enjoyed meeting everybody here. And I was not very happy about this access to the outdoors. I think the public doesn't really know much about poultry, and I think I do know something about poultry after 30 years in it, but I'll live with what you -- I think it's fair. I think you came with something that's nice, and it's good.

I don't think it really meets my standard. My standards would be a hundred birds per acre, but that's all right.

I'm an outlaw. I guess I'm not a member of -- I'm not certified, and I learned that 15 minutes ago. And the only reason I can think that I didn't hear it before is one of our guy gals is getting married, in the office, and she's very, very excited about her future with this man, and evidently this letter never got to me.

And it's nothing that -- I feel very sorry about it, and I apologize for it, but we are going to try to make amends.

One of the reasons that I am an outlaw is that I've been waiting for a decision as to what to do with the access to the outdoors. I didn't know what to do, whether to move the farm or close the farm.
So -- but I'd like to talk on size of the -- of operations. I think if -- people kind of throw rocks at me because I am 67,000 hens and about 20,000 pullets, but I think the law of the supermarkets is dictating, and if you don't go along with the supermarket -- as they increase in size, you have to increase in size or you lose your business.

And I'm not going to increase any more; I'm going to increase about 10 percent, one barn, and that's it. I'm calling and end and I'm going to diversify. But I just thought I'd make that statement, because a lot of people do throw rocks at people that are bigger, and I think the opportunity is to get bigger. I think this thing is growing marvelously, and it's really up to all the things that you are doing, and I think you're cutting a lot of ground, and you're leading, I guess, the world in this kind of a movement, and I support it.

Third point is I think that Rick's group ought to be expanded by double or triple. I think the complexity, the amount of work that you're doing, the excitement of the movement, et cetera, et cetera -- and I will write a letter, and I think perhaps other people in the audience could write letters to their representatives, suggesting that the size should be increased.
That's all I've got to say.

MR. CARTER: Okay. Thank you, George.

Comments or questions?

(No response.)

MR. CARTER: Okay. Thank you very much.

Okay. Brian Leahy and then Phil LaRocca.

MR. LEAHY: I'm here to talk about

accreditation and conflict of interest.

MR. CARTER: Please identify yourself.

MR. LEAHY: I'm sorry. I'm Brian Leahy. I'm

the president of California Certified Organic Farmers.

When I started growing organic I was a rice

farmer in 1980, which is a program crop, which means you

deal with the government, USDA, every day. I think I was

the first modern organic farmer to get elected to a county

board.

So I'm used to what USDA wants, and I'm used to

their method, which is they tell you what they want, and

they tell you how to get there. And I recognize that this

is a very unique program that we're running here, because

USDA -- the government is actually giving a private entity

the power to issue a federal license, so we're on new

territory, which probably means we need to concentrate

more on where we really stand, but we've been running just
trying to get accreditation going.

And so what we found was our conflict-of-interest issues are board members still involved in certification or at least still in the same legal entity as certification taking place.

So I had our attorney, who works for the largest nonprofit ag firm in the world -- and her specialty is bylaws -- write out the questions we had and sent them to USDA.

Those questions, we never did receive a written answer. We received a bench audit that said that we were not -- that they had questions on our structure. So we sent them some written materials, and then we never heard until the other day that we had problems with our structure.

And when I got here, I found that there were other organizations similar to ourselves who did set up a fairly similar proposal to ours that still have some certified members in the board, a mixed board, did get accredited and did not have the conflict-of-interest problem.

And what I'm talking about is communications and our need to be able to sit down and work things out, because we now have less 120 days to change legal
structures or to do something, and we're not exactly sure what we can do.

I know I have two models out there, but, you know, really what we have created is a partnership between the government and private industry, and we really need clear communications and mechanisms, and especially in circumstances we have here, where the same organization that writes the rules does the interpretation and then is also accrediting us and where there's conflicts, and then there's built-in conflicts where there should be give and take, and then we turn around, and the same organization is going to come and say, Okay; now we're going to look and see if you did a good job or not.

So we have, I think, a real major flaw in the whole system, but we also need -- we have about 110 days now, Richard, to really figure this out. I have a board meeting in a week and a half so that we can go through our legal requirements to get changes made.

So I don't how we can -- I'd love to sit down this week, in the next few days, and talk and see if there's things we can agree on.

MR. CARTER: Okay. Are you done?

MR. LEAHY: I am done.

MR. CARTER: Okay.
Rick?

MR. MATHEWS: I believe the question has been posed to Barbara Robinson and that she has suggested that, because CCOF has many chapters, that you could be working amongst your chapters to certify the board members of each of those chapters.

MR. LEAHY: Part of the problem is we've had oral communications, which are always helpful, but it has to -- we need writing; we really need writing.

MR. MATHEWS: We'll provide that in writing to you.

MR. LEAHY: Okay. But -- all right. I guess what we were asking and what you said you'd provide -- I don't mean -- Richard, I'm not talking to you; I'm talking to USDA, federal government, on and on -- was we also need working models or, if we propose working models, that they are accepted, so that we can go ahead and make the structure changes, because we made structure changes based on what we thought was a good-faith effort.

MR. CARTER: Willie?

MR. LOCKERETZ: I can guess that after the initial list of accredited certifiers was put out, there must have been a lot of buzz, buzz, buzz among certifiers.

Do you have postmortem, as it were -- do you
have any indication of how widespread among certifiers the problems you encountered were?

MR. LEAHY: I believe there's eight organizations similar to ourselves, which are the -- have certified parties on the board that did not -- that had the same problem, which was they -- and what we received a little box that says we have 120 days to get this problem solved.

There's eight of us. I know -- I don't know -- well, it's all on the web, so, yes, I know Florida's in that circumstance; I believe OCIA is, so it is fairly widespread.

MR. CARTER: Okay. Jim?

MR. RIDDLE: Yes, just to respond to Willie's question: We put together -- I just remembered this -- a table of all of the 42 accredited certifiers with the type of operations they're accredited for and then the five different categories of conditions that they are having to address in the next 120 days.

And there are nine certifiers with the organizational structure conflict-of-interest issue, including one state program. There's 21, so exactly half of the accredited certifiers are being told that they have to change their standards to be solely the NOP standard.
So, anyway, I can make copies of this for the board members here before we leave.

MR. LOCKERETZ: I have to leave. I want to apologize to any members of the public who are waiting to comment, but I just have to go because of catching a plane, so --

MR. RIDDLE: Okay. Could you get those copies; you grab yours and then have somebody bring them back, if you'd like that, on your way out?

MR. LOCKERETZ: [inaudible]

MR. RIDDLE: Well, I was just thinking you could have it now if you just stopped at the desk, put it on the USDA tab, if that's okay.

MR. LOCKERETZ: Okay.

MR. CARTER: All right.

Phil, and then our last commenter is Pete Gonzalues.

MR. LAROCCA: Seems like I'm always last. I want to thank you for your patience. I'm sure you want to get on to something else, as do I.

My original comment was to pick up where I left off on Monday, and I do want to appreciate this time, and that is to basically deal with --

MS. CAUGHLAN: Could you identify your --
MR. LAROCCA: I'm sorry. I'm Phil LaRocca. I am a certified organic grape grower, organic processor, and livestock producer as well, and also chairman of the board of the California Certified Organic Farmers.

Again, my original intention and my main point of the comments today is to address the NOP regarding federal programs. However, you all, since I'm in Texas, I do want to make a quick comment.

I just want to reiterate that at CCOF with its conflict of interest, we did not sit on our hands in this thing. We have hundreds of hours of staff and volunteer time, thousands of dollars' worth of attorney fees -- if you dealt with a law firm that big, you know they are not cheap -- to really try to resolve this, so, again, I just would -- I thank the NOP for giving us our accreditation, and I think if we keep up this dialog, we will resolve this problem.

The second comment I want to make -- and, again, this is not from my certifier hat but from my producer hat, regarding certified organic. I know our company -- and I can tell from a lot of people that I know in the industry -- we have spent a lot of time in promoting, through our business, certified organic: This bottle of wine is certified organic. This wool is
certified organic.

so I think you really need to take that into account, because I think by taking that off the label, you can lose some economic impact, because we have spent a lot of marketing dollars to educate the public that "certified organic" means that, that this product has been inspected to the best and the highest quality level of organic standards.

And we're a small company compared to larger companies, which also have used the same marketing tack. So I really think that needs to be considered when you look at the certified organic.

Okay. Throughout the course of two days, Jim -- or three days, Jim has mentioned NRCS programs. And I know several years Keith, through the NOP, has tried to make some impact in natural resource conversation documents.

This is extremely important that the NOP get involved with another government agency and let them know that we have organic producers out there.

Jim has stated very positive results from the State of Nebraska -- excuse me -- Minnesota. In California we are getting mixed opinions, and I say it is important -- I know the OTA is beginning to work on this,
but the government agencies in California are telling me they would like to hear something from the federal level. I say this because right now there is an EQIP program through NRCS which is willing to cost-share anywhere from 20 to 70 percent to the producer to eliminate or knock down the use of pesticides or herbicides. I have been told that, as an organic producer, we won't qualify for this program. And most of the people on this board realize that as an organic producer, we are constantly in the battle of eliminating pesticides and herbicides in our program. It is not like a, snap, wake up in the morning and you got this thing figured out every day; you always are facing something new out there. So we should not be penalized for the fact that we are already achieving what this program is out to set its goal at. This is what I keep trying to tell these people: If you are putting in a program to eliminate the uses of pesticides and herbicides, then your goal is to take this off the market. Well, if you have farms that are doing this already, they should be somewhat also involved in this compensation goal rather than just be said, You can't do it because you're already doing it.
So I think the NOP really needs to get involved in this, because as a government agency, NRCS looks at the book, and that's what I think Keith was trying to do: actually get it in their manual so that they had references to organic agriculture and they can see that there is a place for us.

Thank you.

MR. CARTER: Okay. Thank you.

Rick?

MR. MATHEWS: I'd like to restate something that I said earlier in the meeting, and I encourage everyone here that if you're going to the organic trades association show at the convention center, that you stop by our booth.

USDA will have a double booth there. It will be manned by people from not only the organic program but from risk assessment, who takes care of the crop insurance; from the foreign agriculture service; the NRCS people will be there. And we'll also have people from Agricultural Marketing Services direct marketing, which also deals with our farmers' markets.

So at least at this we are pulling together people for the purposes of, you know, having you learn what is available in those different programs. And, of
course, I'm sure that the people manning those booths would be more than happy to take any suggestions you might have back to the people that they work for to talk about what more could they be doing for organic than what they might already be providing.

MR. LAROCCEA: I appreciate that, Rick; that's exactly what we need. That's what I was asking for.

MR. CARTER: Okay. Thank you, Phil.

And our grand finale, Pete Gonzalues.

MR. GONZALUES: Thank you. As executive director of Oregon Tilth, I'm representing our nearly 700 gardeners, consumers, and also agricultural producers that form the membership of Oregon Tilth. My comment is very focused, related to the compost tea, which I believe was passed in the last couple of days.

I'm sorry I was unable to provide written comment with a fully authorized signature in the short window between the release of this proposal and your decision; however, I would hope that you revisit one particular aspect.

There's an assumption stated in the task force recommendation stating that the critical determinant regarding pathogen growth in compost teas and extracts is the addition of carbon sources during the brewing process.
If that word "the" could be replaced with the word "a," I would agree that that is a critical element, but as biology teaches us, there are numerous -- there are other environmental factors which affect the growth of any population; in this case, oxygen is a critical factor, and so I hope that you would consider that oxygenation has a major bearing on this issue.

And in conclusion, I hope you will retract your prohibition of this progressive area of biological pest control. Simply because it can be done wrong does not mean this whole area of research should be prohibited.

Thank you.

MR. CARTER: Okay. Thanks, Pete.

Comments, questions?

(No response.)

MR. CARTER: Okay. Let me just close the public comment period here and then Rick has got an issue here on some clarification.

MR. MATHEWS: Yes. I was asked earlier -- I think it was by Arthur; they were trying for the notes to determine whether or not the access to the outdoors for poultry was regulation or for guidance.

In reality, its clarification. It's neither the -- it's not guidance document, but it's a
clarification of what the regulation means.

MS. CAUGHLAN: Point. Rick --

MR. CARTER: Okay. Goldie.

MS. CAUGHLAN: Could you expand a little more as to the impact of the -- of what you just said?

MR. MATHEWS: Well, the clarification helps people understand what it is they have to do to comply. I mean, there was so much debate about whether or not the bird physically had to go out the door. And now you have spoken with the voice of this board, saying, Yes, it has to go out the door.

So I see that as clarifying the regulation; we'll put that on the web to make sure that everybody fully understands the bird has to take a hike.

MS. CAUGHLAN: And this, as a clarification that you're saying, then, is it true, Rick, that we could further clarify as we get the input from more areas of the public and scientific impact -- that we could clarify it even further? Is that correct? It is a living document.

MR. MATHEWS: I would have to see what you're talking about. I mean, if you're going to start putting specifics as to what has to be out --

MS. CAUGHLAN: As long as we hold true --

MR. MATHEWS: -- in that --
MS. CAUGHLAN: -- to the rule --

MR. MATHEWS: As long as you hold true to the rule, that's okay. But if you start defining how much space, how many birds to the acre, et cetera, like George said that he would prefer to see a hundred birds to the acre -- if you come out and tell me that you want me to put into the rule that you have to have one acre for every hundred birds you're putting outside, I'm going to tell you you can't do that, because that is changing the rule, and so therefore we would have to go through the full rulemaking process to do that.

MS. CAUGHLAN: Thank you.

MR. CARTER: Okay. Kim?

MS. BURTON: If I could suggest, before the next meeting, or hopefully in the next couple of months, that we actually have a definition of the following: clarification document, a guidance document, and a policy document, so that when we present stuff to the NOP office, that we can actually head them as such, so that we know exactly what their intent is and where they should be going.

Thank you.

MR. CARTER: Very good suggestion.

Okay. Let me -- there's a couple of things; we
got a couple of things very quickly here.

Number one, our next meeting in September: I would ask that we schedule that -- we're already scheduled the 17th and 18th; I would say that we will probably need to meet the 17th, 18th, and 19th, using the 16th as a travel day. Okay? So please put that on your calendar.

MR. SIEMON: Just so I'm clear -- and work all the way till five o'clock on the 19th or half day for travel?

MR. CARTER: Well, I tell you what; when you're in DC, you're in the East, so you can leave at 6:00 and still get home by --

MR. SIEMON: Three full days?

MR. CARTER: Let's count on three full days. I think we're going to need it.

Okay. October: I would like to suggest that our meeting be around the 21st and 22nd; I hear that there's something going on then. But I think that it would be very helpful -- very good for us to be there during that, so if you would put that on your calendar.

Barbara said we're busy then.

MR. MATHEWS: And part of that busy-ness is just trying to get your charter renewed.

MR. CARTER: Yes, that's true. We'll work on
that.

Then a number of comments have come up on annotations. It just --

MR. SIEMON: [inaudible]. That's the first I've heard about that meeting.

MR. CARTER: Well, the 21st and 22nd has worked for us on the board. I just want the -- if we're going to have a board meeting and talk about these other issues, I think we need to have the board in town when the implementation date is, because I think we want to give as much publicity to the fact of this as we can.

Committee chairs: You know, a number of comments came up about the issue of let's not overannotate, and I think that that is a valid concern, but as the chair, I would just say -- would really direct that the committees -- it's very important that you go through and talk about what annotations need to be on there or not on there, and do that heavy lifting at the committee level, because if it comes to the board with a list of annotations, I intend to go through there as annotation by annotation and do the selection process there.

So really that detail work needs to be done at the committee level.
I really have nothing else. Is there anything else for the good of the order?

Again, I want to thank the new members that have come on; you've gotten up to speed very quickly.

Yes, George?

MR. SIEMON: I just wanted to make sure that Kim's request is a request from the whole board.

MR. CARTER: Yes.

MS. BURTON: Yes.

MR. CARTER: Just final comments here is, number one, I also want to express my appreciation to the board and the staff, as my first meeting as chair, of being patient with me as I go through a few things here.

I appreciate the work of the board that you've done here in the last few days, and particularly the staff. I know Katherine has been glued behind the laptop there, but, you know, this -- for all of the burps and the bumps that we hit as we go forward, I think that we're all headed in the right direction, and we need to recognize that from time to time.

So thank you all very much. Is there anything else to come before the board?

Jim?

MS. CAUGHLAN: I'd really like to thank the
chair very, very much.

(Applause.)

MR. SIEMON: [inaudible] motion to double the NOP staff.

MR. CARTER: Yes. That's right. One of the days the USDA will have as big an NOP staff as they have FSA.

MR. RIDDLE: Move to adjourn.

MR. CARTER: Okay. Motion to adjourn. Second?

MR. LACY: Second.

MR. CARTER: Any discussion?

(No response.)

MR. CARTER: Hearing none, all in favor say aye.

(Chorus of ayes.)

MR. CARTER: Opposed, same sign.

(No response.)

MR. CARTER: The meeting's adjourned.

(Whereupon, at 12:00 noon, the meeting was adjourned.)
CERTIFICATE

IN RE: National Organic Standards Board

LOCATION: Austin, Texas

DATE: May 8, 2002

I do hereby certify that the foregoing pages, numbers xxx through 851, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Penny Bynum before the U.S. Department of Agriculture National Organic Standards Board.

6/09/2002

(Transcriber) (Date)
The National Organic Standards Board meeting of September 17–19, 2002, was attended by 13 members:

Members Present:

- Owusu Bandele
- Kim Burton
- Dave Carter
- Goldie Caughlan
- Ann Cooper
- Dennis Holbrook
- Mark King
- Rosalie Koenig
- Michael Lacy
- Kevin R. O’Rell
- Nancy Ostiguy
- Jim Riddle
- George Siemon

Absent: Rebecca Goldburg

National Organic Program (NOP) Staff:

- Barbara C. Robinson, Agricultural Marketing Service Deputy Administrator for Transportation and Marketing
- Richard Mathews, NOP Program Manager
- Katherine Benham
- Arthur Neal
- Demaris Wilson
- Keith Jones

CALL TO ORDER: September 17, 2002 – David C. Carter, Chair - 8:15 a.m. (p.4)

Dave Carter welcomed everyone to the meeting, and had each member to introduce him/herself. He announced the October 21 implementation deadline, and the upcoming October 19–20 NOSB meeting. He talked about the materials review and voting process, and stated that there was difficulty doing the minutes from the Austin meeting. Therefore, to assist Katherine with recording the committee votes, he will bring forth from the committee the materials votes and motions and will do a roll call voice vote from each person.

APPROVAL OF AGENDA (See Discussion Document)

The agenda was approved. Kim Burton added that some of the crops materials listed will be deferred until the next meeting.

APPROVAL OF MINUTES

May 6–8, 2002 – Meeting Minutes (See Discussion Document)

The minutes were approved unanimously with no discussion.

Mr. Carter stated that the Executive Committee minutes, June 5, July 9, and August 13, 2002 (See Discussion Documents), are in the book, and Mr. Riddle added that they are also posted on the NOSB website.
The following individuals presented public comments. Each person’s comments were recorded and transcribed for the record. Some individuals also presented written comments. Transcribed comments, and where applicable written comments, can be found at the DESIGNATED ATTACHMENTS.

SIGN–IN SHEETS, (Attach. A)
Gerald Davis, CalOrganic, (Attach. 1, Page 9)
Jeff Huckaby, General Manager, Grimway Farms, (Page 17)
Jim Pierce, Organic Valley Crop Cooperative, (Attachs. 4 & 4a, Page 27)
Andrea Caroe, Quality Assurance International, (Attach. 5, Page, 31)
Eric Kindberg, Organic Grower, (Page 35)
Kelly Shea, Horizon Organic, (Attach. 6, Page 57)
Dr. Suki Bassi, Kansas City Ingredient Technology, Inc., (Attach. 7, Page 82)
Tom Harding, Kansas City Ingredient Technology, Inc., (Attachs. 8 & 9, Page 87)
Leslie Zuck, Pennsylvania Certified Organic, PCCO), (Page 97)
Hubert Karreman, Penn Dutch Cow Care, (Attach. 10, Page 104)
Lynn Coody, Organic Ag Systems Consulting, (Page 120)
Joe Smiley, Organic Trade Association, (Page 124)
Liana Hoodes – National Campaign for Sustainable Agriculture, (Page 129)
Dan Leiterman, Crystal Creek, Inc., (Attach. 11, Page 133)
David Engel, Midwest Organic Services Association, (Page 138)
Emily B. Rosen, OMRI, (Page 143)
Zia Sonneband, California Certified Organic Farmers, (Page 144)
Mohammad Belay, Earthrise Nutritionists, (Page 148)
Kelly Morehead, Cyanotech Corporation, (Page 150)
Marty Mesh, Florida Growers and Quality Certification Services, (Page 157)

RECESSED at 12:45 p.m.

AFTERNOON SESSION – September 17, 2002 at 1:00 p.m.

NOP UPDATE AND DISCUSSION: Barbara C. Robinson & Richard H. Mathews (p.165)

ISO 65 Guide and Accreditation – Keith Jones (Discussion Document)

Keith Jones from NOP was asked to address 3 issues regarding ISO Guide 65 and NOP. (1) Mr. Jones said that the NOP meets every objective laid out in ISO Guide 65. (2) A country has every right to require that a product be certified by an ISO 65-accredited certifying agent in order to be imported into that country. (3) An NOP-accredited certifying agent can also be an ISO-accredited certifying agent. He also discussed the structure of EU-U.S. equivalency negotiations.

Barbara Robinson added that all accreditation costs have been minimal so far, since only per diem and travel may be charged by USDA until October 21, 2002.
October 21 NOP Implementation

Ms. Robinson stated that the program will be going into implementation and Secretary Veneman informed us that she will attend the roll–out event that will take place at Whole Foods Store.

Cost Share Program

Ms. Robinson stated that yesterday she signed the press release which will advertise the latest certification cost-share program. It is available in all 50 states and covers producers and handlers. The first certification cost-share program was available in 15 states and covered producers only.

Other Issues

Communications. Ms. Robinson stated that when NOP answers producers’ questions, they are not trying to get in the way of certifying agent/client business. She pointed out that as federal agency, we can’t refuse to talk to people. She agreed that NOP would work to get both sides of a story so that we don’t give out mixed signals.

Website Message Board. Ms. Robinson said that message board we had talked about setting up was proving to be more complicated than expected.

Labels Outside NOP Jurisdiction. Mr. Jones stated that NOP cannot “bless” labels for organic beer and wine. ATF has the regulatory and the statutory authority and the mandate to approve labels that go on alcoholic beverages. Because we allow organic alcoholic beverages to be produced, ATF has come to us and said, we don’t really want to become organic experts, we need your expertise. That’s why we’re involved in this process. The same is true for meat. FSIS has jurisdiction over meat and poultry products.

Compost Tea/Compost. (pp. 167-173, 178-180, and 182-185)

Certificates. (pp. 174-178)

TAP Reviews. Discussion on funding and quality (pp. 187-195)

Recommended Materials and Technical Corrections. (pp. 195-200)
DAIRY HERD CONVERSION – George Sieman, Livestock Committee Chair

Presentation and discussion, (pp. 201-232) (Discussion Document)

COMMITTEE MATERIALS REVIEW/RECOMMENDATIONS

CROP MATERIALS (Discussion Document) – OWUSU BANDELE, Chairperson

CHILEAN NITRATE (pp. 241-256)

Spirulina Aquaculture Production: According to Mr. Bandele, the committee voted 5 to 0 for nonsynthetic classification (at another point, he stated it was unanimous) not to change the current annotation which allows for Chilean nitrate use not to exceed 20 percent of the total nitrogen supplied to crop.

Prohibition in Crop Production (removing the current annotation): The committee also voted 4 to 1 not to remove the annotation. One committee member voted to establish a three year sunset provision after which the use of Chilean nitrate would be prohibited in crop production. Includes discussion on how to fill data gaps in TAP reviews with USDA research.

OZONE (pp. 256-269)

According to Mr. Bandele, the committee vote was 3-2 in favor of use for cleaning irrigation lines, and 5-0 for synthetic against using it to control weeds and soil borne pathogens. Discussion ensued regarding variances for research on certified organic operations vs. dedicated research facilities.

LIVESTOCK MATERIALS – GEORGE SIEMON, Chairperson

BUTORPHANOL (pp. 269-274) – (Discussion Document)

The committee recommends that it be considered a synthetic for use only in a medical emergency (surgery) by a licensed practitioner in accordance with FDA guidelines. They also added the stipulation of “twice withdrawal,” which Mr. Siemon explained as “… if it’s a milk cow, for example, you can’t sell milk [from a cow given the substance in question] for 3 days. We’re just saying it has to be 6 days.”

FLUNIXIN (pp. 274-284) – (Discussion Document)

The committee considers it a synthetic pain reliever and recommends it be used in only in a medical emergency, when prescribed by a licensed practitioner in accordance with FDA guidelines with double withdrawal.

XYLAZINE/TALAZOLINE (pp. 284-286) – (Discussion Document)

XYLAZINE: The committee recommended to be added to 205.603, as synthetic; TALAZOLINE: The committee recommended to be added to 205.603 synthetic.
EPINEPHRINE – a.k.a. Adrenaline (pp. 286-29)- (Discussion Document)

The committee recommended it prohibited natural (to combat allergic reactions), with a specific allowance for emergency use, once in a lifetime.

Change to Processing Materials. A decision was made to stop discussing livestock materials and move on to discuss processing materials.

PROCESSING MATERIALS – MARK KING, Chairperson

TETRASODIUM PYROPHOSPHATE (TSPP) (pp. 291-294) – (Discussion Document)

The committee recommends (by a vote of 6-1) that it (PH buffer and dough conditioner) be considered an allowed synthetic for use only in dairy foods labeled as organic or for use in agricultural products labeled as made with organic, specified ingredients or food groups.

CALCIUM STEARATE (pp. 294-297) – (Discussion Document)

The committee recommends (by a vote of 6-1) that it (anti-dusting agent) be considered prohibited synthetic, “and first to prohibit in the organic category, and then, second, to prohibit in made-with category as well.”

GLUCONODELTALACTONE (GDL) (pp. 297-301) – (Discussion Document)

The committee recommends (by a vote of 7-0) that it (tofu coagulant) be considered an allowed nonsynthetic which would be produced by microbial fermentation of carbohydrate substances.

HYDROXYPROPYLEMETHYLCELLULOSE (HPMC) (pp. 302-305) – (Discussion Document)

The committee recommends (by a vote of 6-1) that it (gelatin capsule hardener) be considered an allowed synthetic, “made with organic only” only for hard capsule application.

COMMITTEE WORK PLANS – (Discussion Document)

ACCREDITATION COMMITTEE, Jim Riddle, Chairperson, (pp. 305-316)

MATERIALS COMMITTEE, Kim Burton, Chairperson, Discussion, (pp. 316-320)

PROCESSING COMMITTEE, Mark King, Chairperson, Discussion, (pp. 320-323)

CROPS COMMITTEE, Owusu Bandele, Chairperson, Discussion, (pp. 323-334)

LIVESTOCK COMMITTEE. George Siemon, Chairperson, Discussion, (pp. 335-336)
BOARD POLICY MANUAL, Jim Riddle, (pp. 337-339) – (Discussion Document)

Mr. Riddle reported on changes already made to draft and 3 items that should be added.

MEETING ADJOURNED 6:10 P.M.

CALL TO ORDER : Wednesday, September 18, 8:13 a.m., Dave Carter, Chair

Mr. Carter announced that Mr. Lacy would be leaving in the afternoon due to a family emergency.

MATERIALS REVIEW

LIVESTOCK MATERIALS – GEORGE SIEMON, Chairperson

HEPARIN (p. 370) – (Discussion Document)

The committee voted against adding it (a synthetic anticoagulant) to the National List by a vote of 3-0.

ATROPINE (pp. 370-373) – (Discussion Document)

The committee voted against adding it (a synthetic antidote to treat poisoning) to the National List by a vote of 4-1.

FUROSEMIDE (pp. 373-374) – (Discussion Document)

The committee voted to return the TAP for more information by a vote of 5-0.

ACTIVATED CHARCOAL (pp. 374-376) – (Discussion Document)

The committee voted to consider it a synthetic and add it to the National List as a medical treatment, by a vote of 6-0. It must also be from a vegetative source.

MINERAL OIL (pp. 376-379) – (Discussion Document)

The committee considers it a synthetic and recommends that it be allowed for bloat control by a vote of 4-0 (with 1 abstention). It is already allowed for topical use. A second petition was put forward for dust control, but the committee is deferring their decision because the TAP did not adequately address this usage.

KAOLIN PECTIN (pp. 379-385) – (Discussion Document)

The committee voted to allow the synthetic version.
BISMUTH SUBSALICYLATE  (p.385) – (Discussion Document)

The committee declared it a synthetic, said it should be allowed and described it as pepto bismol for calves.

MAGNESIUM HYDROXIDE  (p. 385) – (Discussion Document)

Mr. Siemon said it is a laxative antacid. The committee voted 5-0, but outcome not explicitly stated.  (Addendum Attached – “FDA Publishes Final Rule on Extralabel Drug Use in Animals – from pages 6–7 of the Magnesium Hydroxide TAP)

PROPYLENE GLYCOL  (pp. 385-389) – (Discussion Document)

Mr. Siemon described it as a synthetic used to treat acute ketosis in ruminants. The vote was 3-0 with 3 absent. Outcome was not explicitly stated, but since they talked about an annotation, it is assumed that the vote was to allow the material.

CALCIUM PROPIONATE  (pp. 389-390) – (Discussion Document)

Committee recommended adding it to the National List as a synthetic for use in treating milk fever. The vote was 5-0 with 1 absent. It was also considered for use as a mold inhibitor feed additive and rejected.

CELL WALL CARBOHYDRATES  (pp. 391-415) – (Discussion Document)

Mr. Siemon says, “We call this a natural, and therefore we want this to be allowed. 3, none against, and 3 absent.”

POTASSIUM SORBATE  (pp. 415-419) – (Discussion Document)

The committee considers it a synthetic and recommends it be allowed in livestock production as a preservative in aloe vera.

YEAST DERIVATIVES – (Discussion Document)

The committee recommended that Yeast Derivatives should be considered NATURAL.

PROTEINATED CHELATES – (Discussion Document)

The committee recommended that Chelated Trace minerals should be added to 205.603 synthetic substances allowed for use in organic livestock production with the following restriction: Proteinated and Polysaccharide Chelates only. Amino Acid Chelates are prohibited.
PROCESSING MATERIALS – Mark King

ACTIVATED CARBON (pp. 420-430) – (Discussion Document)

The committee considers it a synthetic, and voted unanimously to add it to the National List. It must be from vegetative sources only.

NOSB ACTIONS ON MATERIALS

CROP MATERIALS – Owusu Bandele

CHILEAN NITRATE (pp. 432-503)

According to the discussion document, Mr. Bandele read the motion.

MOTION: Owusu Bandele
SECOND: Nancy Ostiguy

MOTION TO AMEND:

To amend the annotation for sodium nitrate to read: unless use is restricted to no more than 20 percent of the crop’s total nitrogen management or for unrestricted use in spirulina production until the year 2006.

MOTION: Kim Burton
SECOND: George Siemon

MOTION: Kim Burton
SECOND: George Siemon

To correct the annotation: Unless restricted to 20 percent of the crops in nitrogen management, or until October 21, 2005, for unrestricted use in spirulina production. Motion Fails: Vote: 5 Favored, 8 Opposed, 1 Absent

Mr. Carter stated it was back to the original recommendation from the Committee which is not to change the annotation.

Mr. Bandele repeated the motion: Not to change the current annotation which allows for Chilean nitrate use, not to exceed 20 percent of the total nitrogen supplied to the crop. Vote: Passes 12 Favored, 1 Opposed, 1 Absent

Mr. Bandele asked if this was the same motion for the second petition, and do we need to do it that way?

Mr. Riddle asked to reconsider that one because we were discussing it in that context.
Mr. Bandele stated that in the context of the petition to prohibit the use of Chilean nitrate in crop production, again the committee voted 4 to 1 not to change the current annotation which allows for Chilean nitrate use not to exceed 20 percent of the total nitrogen supplied to the crop.

**MOTION:** Owusu Bandele  
**SECOND:** Rose Koenig

Mr. Riddle stated that he was opposed to the motion because in his understanding of organic agriculture, nitrogen doesn’t come in a bag; it should come from the natural system and the nitrogen cycle, and there are some problems revealed in the TAP with the material. He further stated his concerns with the material, and favored removing the material from the list for international harmonization purposes and clearly alternatives do exist. It’s used to short circuit the natural farming systems, natural nitrogen cycles.

There was additional discussion regarding chilean nitrate, and Mr. Riddle stated that what was passed in ’95 was with the condition that it be reviewed in two years and that has finally happened now, seven years later. And in light of that, he offered an amendment to the current listing which is under 205.602(h), sodium nitrate, unless use is restricted to no more than 20 percent of the crop’s total nitrogen requirement, until October 21, 2005, which gives three years for anticipated directive which will give time for research. Also, it’s consistent with the original Board’s recommendation that this is going to be an expedited review.

**MOTION:** Jim Riddle  
**SECOND:** Michael Lacy

**VOTE ON THE AMENDMENT:** Sunset clause to add to the current annotation until October 21, 2005; **Vote: 2 Favored, 11 Opposed, 1 Absent.** The amendment fails with a discussion on the original motion.

Mr. King asked how can we ensure in some efficient fashion that this could be followed through within the next five years and is this something that we should consider? Mr. Carter responded that it’s not germane to this motion, but it’s certainly a definite issue and will need to be addressed.

Mr. Bandele repeated his original motion, “not to change the current annotation which allows for Chilean Nitrate use not to exceed 20 percent of the total nitrogen supplied to the crop.” Mr. Mathews stated that that motion has already been voted on, and the issue now is whether or not to remove the material from the list.

**MOTION:** Not to remove Chilean Nitrate from the National List. **Vote: 12 Favored, 1 Opposed, 1 Absent.**

Ms. Koenig introduced a report that will assist in dealing with material issues that we consider to have problems. She also stated that it’s a way to identify if there are issues that were not clear that we voted in favor of something, to somehow record those so the public can have access to the information. Perhaps could be posted to the website for researchers to access.
The Crops Committee asks for the adoption of the following policy directive to USDA listed below: (Discussion Document)

**MOTION**: Rose Koenig  
**SECOND**: Nancy Ostiguy

The NOSB requests the following information and data in regards to sodium nitrate. This information should be addressed for the upcoming mandated review of the product in approximately 2007.

Economic impacts and assessment: (a) Approximate number of farms utilizing the materials, (b) the geographical distribution of the farms utilizing the material, (c) the size of the farm operations utilizing the material, (d) list of crops to which the material's applied, and (e) methods and timing of material application.

Environmental impacts and assessment: (a) Sodium and nitrogen accumulation in soils, (b) the impact of sodium nitrate on water quality, (c) the impact of sodium nitrate on soil microorganisms, (d) the impact of sodium nitrate on soil quality, (e) comparison of approved alternatives, naturals and listed synthetics, in various cropping systems, and (f) development of best management practices for materials.

**MOTION**: Nancy Ostiguy  
**SECOND**: George Siemon

Specific to Sodium Nitrate: Amendment to the original motion to take the language in Section E of Roman Numeral II and duplicate that as Section F in Roman Numeral I.

Mr. Holbrook stated that one of the reasons why this whole process came about out of the Crops Committee is because we didn't feel that the TAP reviews were giving us this type of information, and when we revisit this in five years, the TAP reviews are going to be the same. The additional information needs to be put there so that we can determine whether these things need to be changed or not.

Mr. Bandele stated that it says comparison of approved alternatives, and it should be stated because it could be interpreted as just a comparison of the alternatives, not necessarily including the sodium nitrate. Mr. Carter asked Mr. Bandele if he was offering a friendly amendment and Mr. Bandele concurred. Ms. Ostiguy took it as a friendly amendment, and Mr. Siemon agreed.

**FRIENDLY AMENDMENT**: Mr. Carter read the friendly amendment, To duplicate the language under 2–E as new 1–F with the addition of the words comparison to, “Comparison of approved alternatives, natural and listed synthetics, in various cropping systems using Chilean nitrates. In both cases. Vote: 13 Favored, 1 Absent.

Mr. Carter stated back to the original motion as amended.
MOTION: Jim Riddle  
SECOND: Rose Koenig

Mr. Riddle stated that one concern of the committee is the lack of information about the impact of the mining and manufacturing process, and would like to request that it be studied in this interim period. He offered a friendly amendment to the second section, Environmental Impact and Assessment, to add a new Item G, impact of Chilean nitrate mining and manufacturing process. **Vote: 13 Favored, 1 Absent.**

FRIENDLY AMENDMENT: The main paragraph would say the NOSB requests the following information and data in regard to sodium nitrate — Chilean nitrate – this information should be addressed for the upcoming mandated review of the material. Mr. Riddle asked that the words, “in approximately 2007” be deleted.

Mr. Mathews stated that because of time do we need to do a voice vote, and Mr. Carter stated, “yes” for the record.

MOTION: Jim Riddle  
SECOND: Goldie Caughlan

Mr. Riddle also added to the amendment that would be on the list, that is the impact of this material on international trade. It’s not ever going to be addressed by a TAP review, and it’s not logical to add in here and would like to move to add to Number 1 a new Item G, “impact on international trade.” **Vote: 10 Favored, 3 Opposed, 1 Absent**

Mr. Carter – back to the motion as repeatedly amended, which is on the full thing as was largely rewritten. **Vote: 13 Favored, 1 Absent**

**OZONE GAS – Synthetic** (pp.503-509)

Use 1: the committee voted 3 to 2 to add ozone to the list with the following annotation, “to be used for cleaning irrigation lines only.”

Use 2: the committee voted 5 to 0 prohibit ozone for use in weed control.

Use 3: the committee voted 5 to 0 to prohibit ozone for use in soil borne pathogen control.

MOTION: Dennis Holbrook  
SECOND: Rose Koenig

To add to the list to be for “used as cleaning agent for irrigation lines only.” **Vote: 9 Favored, 4 Opposed, 1 Absent**

RECESSED: 9/18/02 – 11:30 a.m.
AFTERNOON SESSION: 1:00 P.M.

LIVESTOCK MATERIALS – George Siemon

PROPYLENE GLYCOL (pp. 514-525)

MOTION: George Siemon  SECOND: Michael Lacy

To be added to 205.603(a), list of synthetic substances, allowed for use in organic livestock production with the following restriction: “only for treatment of acute Ketosis in ruminants.”

Vote: 13 Favored, 1 absent

MAGNESIUM HYDROXIDE (pp. 525-529)

MOTION: George Siemon  SECOND: Michael Lacy

Added to 205.603(a) as a synthetic substance, allowed for use in organic livestock production with the following statement: “allowed when formulated from either natural or synthetic materials.”

Vote: 13 Favored, 1 absent

EPINEPHRINE (pp. 529-540)

Epinephrine is made from the adrenal gland of hogs, and the committee declared it a natural, as a prohibited natural. Because this is a hormone, the committee was concerned about allowing this, so they tried to make it narrow, but there are other uses to be concerned about. It can be used to stimulate heartbeat, to treat bronchitis, allergic reactions, emphysema, as well as the treatment of eye disease, glaucoma, hair transplants, entropic bleeding, which is a reason to narrow the field.

MOTION: George Siemon  SECOND: Michael Lacy

Epinephrine should be added to 205.604, non–synthetic substances, prohibited for use in organic livestock production, except for emergency treatment of anaphylactic shock, to be used only once in an animal’s lifetime.

DISCUSSION: Ms. Caughlan questioned the rationale for the “once in an animal’s lifetime” tag. Mr. Carter stated that the rationale for “for once in a lifetime,” was to have tools available for emergency treatment, without allowing repeated treatment. Mr. Siemon stated that it was an extra annotation. Ms. Burton stated that she also had a problem with the annotation. Mr. Carter stated that the motion will have to be amended.

MOTION: Kim Burton  SECOND: Goldie Caughlan

Motion to remove the once in a lifetime prohibition. Mr. Siemon accepted

Vote: 11 Favored, 1 Abstention, 1 Absent

MOTION: The motion stands is epinephrine should be added to 205.604, non–synthetic
substances, prohibited for use in organic livestock production with the following recommendation: prohibited, except for emergency treatment of anaphylactic shock. **Vote: 13 Favored, 1 Absent**

KAOLIN PECTIN (pp. 540-544)

**MOTION:** George Siemon  
**SECOND:** Nancy Ostiguy

Kaolin Pectin should be added to 205.603(a) as a synthetic substances allowed for use in organic livestock production with the following statement: Allowed when formulated from either natural or synthetic pectin. **Vote: 12 Favored, 1 Abstained, 1 Absent**

BISMUTH SUBSALICYLATE (pp. 544-546)

**MOTION:** George Siemon  
**SECOND:** Nancy Ostiguy

Bismuth Subsalicylate should be added to 205.603(a), allowed for use in organic livestock as a disinfectant, sanitizer and medical treatment as applicable. **Vote: 13 Favored, 1 Abstained, 1 Absent**

FLUNIXIN (pp. 546-559)

**MOTION:** George Siemon  
**SECOND:** Nancy Ostiguy

Flunixin should be added to 205.603(a), as a synthetic allowed for use in organic livestock production with the following restrictions: For emergency medical use only, when prescribed by a licensed practitioner. Withhold time shall be double the FDA requirement.

**DISCUSSION:** Ms. Koenig stated that the TAP was not adequate in the case of this product in terms of how it’s made and some of the logical impacts of the process. It appears that we’re actually trying to approve a brand name which is the active plus the incipient, and that the TAP should be sent back for review before approving. She also felt that banimine trademark should be stricken. Mr. Siemon agreed and Mr. Carter confirmed that it was stricken.

Mr. O’Rell stated that we’re not considering Banimine in the TAP. Banimine is the only patented form of flunixin, and so we are dealing with Banimine. There was further discussion on the motion to defer.

**MOTION:** Rose Koenig  
**SECOND:** Owusu Bandele

**Motion to defer** petition until October pending more information from the TAP review. Historical use by organic farmers as well as the seventh criteria for reexamination. **Vote: 9 Favored, 3 Opposed, 1 Abstention, 1 Absent**
Ms. Burton stated that the minutes will not be the guide in submitting more information regarding the TAP. The Board will be responsible for submitting comments to her prior to the October meeting.

The board will review the complete TAP and Kim Burton will put together and forward to the contractor by next Wednesday, 9/27/02. Patricia Smith, Center for Food and Nutrition Policy (the TAP contractor for Flunixin) will be able to review TAP by next meeting.

**XYLAZINE/TALAZOLINE** (pp. 559-578)

*MOTION*: George Siemon  
*SECOND*: Mark King

Xylazine should be added to 205.603 (a) synthetic substances allowed for use in organic livestock production with the following restrictions: For emergency medical use. To be administered by a licensed practitioner. Once in an animal’s lifetime. Withhold time shall be double the FDA requirement.

Talazoline should be added to 205.603(a) synthetic substances allowed for use in organic livestock production with the following restrictions: To counteract the effects of Xylazine. To be administered by a licensed practitioner. Once in an animal’s lifetime. Withhold time shall be double the FDA requirement.

*MOTION*: Goldie Caughlan  
*SECOND*: Nancy Ostiguy

To strike, “Once in an animal’s lifetime.” Motion to strike for both with the same vote. **Vote: 10 Favored, 3 Opposed, 1 Absent**

Kim Burton asked if you have in this annotation to be administered by a licensed practitioner, is that part of the requirements of this drug, and is it required that we put it in the annotation that it’s only to be administered?

George Siemon stated that it’s not required because it’s covered somewhere else in the rule. Audience: It’s a veterinarian–only drug. Therefore, Ms. Burton moved to strike the words, “to be administered by a licensed practitioner.”

*MOTION*: Kim Burton  
*SECOND*: Goldie Caughlan

Amend to strike, “To be administered by a licensed practitioner” for Xylazine and Talzoline. **Vote: 13 Favored, 1 Absent**

Original Motion as double amended.
MOTION: George Siemon  SECOND: N/A

MOTION: Synthetic substances: Xylazine shall be added to 205.603 (a), allowed for use in organic livestock production with the following restrictions: “for emergency use and withhold time shall be double the FDA requirement,” and Talazoline to be added to 205.603 (a), allowed for use in organic livestock production with the following restrictions, “to counteract the effects of xylazine and withhold time shall be double the FDA requirements.” Vote: 10 Favored, 1 Opposed, 2 Abstained, 1 Absent

BUTORPHANOL (pp. 578-597)

MOTION: George Siemon  SECOND: Nancy Ostiguy

Butorphanol should be added to 205.603(a) synthetic substances, allowed for use in organic livestock production with the following restrictions: For emergency medical use by a licensed practitioner, and withhold time shall be double the FDA requirement.

MOTION: Kim Burton  SECOND: Nancy Ostiguy

To strike “used by a licensed practitioner.” Vote: 12 Favored, 1 Absent, 1 Abstained

Phone Statement from Hugh Karreman, via Ms. Zuck: Substance is synthetic morphine commonly used for abdominal surgeries, twisted stomach. Caesarean section – emergency surgery. There are no other alternatives to this material unless you would use inhalation-type things that you would use in the hospital, anesthesia. The advantages of this product over regular morphine is that it is commercially more available, there’s only been one study in 30 years with morphine in cows, and if people knew you kept morphine in your veterinary clinic, it would be subject to theft.

Mr. Mathews stated that in the annotation, it said, “for emergency medical use,” and should that really say, “for use in conjunction with surgery rather than an emergency medical use?”

Nancy Ostiguy stated that she agreed and move to delete “emergency medical use” and substitute “for use during major surgery.”

MOTION: Nancy Ostiguy  SECOND: Dennis Holbrook

Mr. Carter clarified the motion, “to delete for emergency medical used and substitute the words, “for surgery.”

Ms. Burton commented that if we’re going to allow it and we’re going to allow a licensed veterinarian to administer it, why are we dictating how and when if it’s not just for emergency treatment? Therefore, it should not have any annotation if we’re going to say it’s only for surgery because we’re not veterinarians, and we don’t know if that’s the only time this would be administered. Kevin O’Reell seconds, and stated that setting a broken leg that wouldn’t technically be surgery, that you’d want to knock the animal out, and felt that we do need to leave it general. Therefore, Ms. Ostiguy withdrew the motion, and Mr. Holbrook agreed.

Delete for “emergency medical use” and substitute “for use in major medical surgery.” Motion to
Ms. Ostiguy stated that she would like to amend the motion to just delete, “for emergency medical use” since it only can be used by a veterinarian.

**MOTION**: Nancy Ostiguy  
**SECOND**: Michael Lacy

Mr. Carter stated that Livestock production with the following restrictions, “withhold time shall be double the FDA requirement.” There was discussion on that motion to strike the language and have substitute or just strike the language.

To strike the language “for emergency medical use” and changing “restrictions” to “restriction.”  
**Vote**: 11 Favored, 1 Absent, 2 Abstained

Vote on George Siemon’s Original Motion:

To add to 205.603(a) synthetic substances allowed “for use in organic livestock production with the following restriction: withhold time shall be double the FDA requirements.”  
**Vote**: 11 Favored, 1 Absent, 2 Abstained

**POTASSIUM SORBATE** (pp. 597-634)

**MOTION**: George Siemon  
**SECOND**: Nancy Ostiguy

Potassium Sorbate should be added to 205.603(a), synthetic substances, allowed for use in organic livestock production with the following restriction: Allowed only in livestock therapeutic products formulated using organic Aloe Vera (which is labeled “made with organic (specified ingredients or food group(s)).”

**MOTION**: Nancy Ostiguy  
**SECOND**: Kim Burton

To removed the restrictions, “allowed only in livestock therapeutic products formulated using organic aloe vera which is labeled made with organic, which is labeled made with organic (specific ingredients or food group(s))

**AMEND MOTION**: Ms. Ostiguy restated her motion to read as to eliminate the, “which is labeled made with organic (specified ingredients or food groups).”
Mr. Riddle offered a friendly amendment to remove the word “organic” in front of aloe vera,” so that it’s allowed only in livestock therapeutic products formulated using aloe vera. Ms. Ostiguy and Ms. Burton agreed.

**FRIENDLY MOTION**: Jim Riddle  
Second: Kim Burton

To remove the word “organic” in front of the words “aloe vera,” and strike all text following “aloe vera.”  
**Vote: 13 Favored, 1 Absent**

**MOTION**: Kim Burton  
Second: Rose Koenig

To strike the word “therapeutic.”

**MOTION TO AMEND THE LANGUAGE**: Potassium sorbate should be added to 205.603 (a), (b), and (d), synthetic substances, allowed “only for use in Aloe Vera products.”  
**Vote: 13 Favored, 1 Absent**

Jim Riddle moved that this be placed in a new Section (g), and Ms. Ostiguy suggested it be called preservatives. Mr. Riddle concurred, to read potassium sorbate, and then we could change the annotation as a preservative only for use in aloe vera products.

Ms. Ostiguy motioned to do a general category, and Mr. Holbrook second, “to strike and create a new category, Section (g), that would be entitled, Preservative and then list Potassium Sorbate.

**MOTION**: Jim Riddle  
Second: Kim Burton

To strike 205.603 (a), (b), and (d), and add a new section 205.603(g) Preservatives, under which potassium sorbate would be listed.  
**Vote: 7 Favored, 1 Absent, 5 Opposed, 1 Abstained. Motion fails.**

**MOTION ON THE TABLE**: To add to 205.603(a), (b), and (d), “only for use in aloe vera products.”

**MOTION**: Rose Koenig  
Second: Goldie Caughlan

Substitute motion to defer until October meeting – livestock to come forth with a policy on preservative and excipients as a total policy.  
**Motion has been rescinded**

Mr. Riddle opposed the motion to defer, and stated that the Livestock Committee has worked long and hard on this and there’s no reason. We’re not sending it back for further TAP information or anything, because we’ve done our work, and should be ready to vote on it.

After discussion, Ms. Koenig agreed to rescind the motion.  
Ms. Caughlan agreed.

**ORGINIAL MOTION**: Potassium Sorbate to be added to 205.603 (a), (b), and (d), synthetic
substances, allowed for use in organic livestock production, only for use in Aloe Vera products.  

*Vote: 13 Favored, 1 Absent*

**CELL WALL CARBOHYDRATES** (pp. 634-641)

Mr. Bandele stated that one of the TAP reviewers pointed out that it was not clear in terms of the extraction method, thereby causing problems in calling it a natural.

Ms. Burton stated that her justification for considering it a natural, even though we don’t have the manufacturing process, is that it’s derived from baker’s yeast and that is an allowed natural. Mr. Riddle stated that there was follow-up research and the information gathered from the producer indicated extraction is aqueous. There was further discussion on the extraction methods.

**MOTION:** George Siemon  
**SECOND:** Nancy Ostiguy

Cell wall carbohydrates are considered naturals.  

*Vote: 13 Favored, 1 Absent*

**YEAST DERIVATIVES** (pp. 641-643)

**MOTION:** George Siemon  
**SECOND:** Nancy Ostiguy

Yeast derivatives are considered naturals.  

*Vote: 13 Favored, 1 Absent*

**PROTEINATED CHELATES** (pp. 643-646)

**MOTION:** George Siemon  
**SECOND:** Nancy Ostiguy

Chelated trace minerals should be added to 205.603 synthetic substances, allowed for use in organic livestock production with the following restriction: Proteinated and Polysaccharide Chelates only. Amino Acid Chelates are prohibited.

**MOTION:** Nancy Ostiguy  
**SECOND:** Mark King

*DEFERRED* and send back to TAP reviewers, Center for Food and Nutrition for further clarification.  

*Vote: 12 Favored, 1 Absent, 1 Opposed*
**TASK FORCE EPA/NOP ISSUES** (pp. 646–650)

Ms. Koenig discussed the development of a very small task force to deal with EPA/NOP issues which include the List 3 inerts discrepancies, and moving the labeling program forward. They would like to get the NOP sanction to do that.

She also stated that the EPA and NOP will have to talk to make sure that between those agencies, that that will be a formal mechanism, but what she wanted to do is see if they could seek Board approval pending the agency's approval, but this way, it would allow them to get that small task force started with perhaps a minor report in October and maybe some policy stuff at the meeting in October. Rose and Nancy will volunteered to represent the NOSB and will probably ask Eric as a past NOSB member, probably an individual from OMRI, and then maybe one or two other individuals that have some expertise in these types of issues.

**MOTION**: Rose Koenig  
**SECOND**: Nancy Ostiguy

The Chair will appoint a task force to work with EPA on issues identified by Rose Koenig, and will include up to five individuals from the Board.  
**Vote**: 13 Favored, 1 Absent

**RECESS**ED AT 4:00 P.M.

**RECONVENED ON SEPTEMBER 19, 2002 AT 8:15 a.m.** (pp. 642-699)

Barbara Robinson asked that all certifying agents be aware that according to section 205.501(a)(13), any entity that we (USDA) accredit as a certifying agent must accept the certification decisions made by another certifying agent accredited or accepted by USDA.

Further, certifying agents do not have the authority and cannot require other certifying agents to prove that their certificates are good.

Discussion ensued between Ms. Robinson, Ms. Koenig, Mr. Mathews, and Mr. Riddle on rule interpretation vs. rule changes regarding accreditation and compost.

**ATROPINE** (pp. 653-660)

**MOTION**: George Siemon  
**SECOND**: Owusu Bandele

Atropine, a synthetic, should not be added to 205.603.

**MOTION**: Jim Riddle  
**SECOND**: Rose Koenig

Deferred to October meeting; Kim Burton needs requests for more information from the TAP reviewers by 9/25.  
**Vote**: 12 Favored, 2 Absent
HEPARIN (pp. 660-663)

**MOTION:** George Siemon  
**SECOND:** Jim Riddle

Heparin, a synthetic that’s used to prevent blood from clotting, should not be added to 205.603, based on the fact that sodium citrate is available as an alternative.

**MOTION:** Rose Koenig  
**SECOND:** George Siemon

On the table until later in the day, to give the Board time to find the information needed on sodium citrate. **Vote: 12 Favored, 2 Absent**

FUROSEMIDE (pp.663-664)

Does not require Board action. Livestock Committee decided to return the TAP for more information. Will be taken up at October meeting.

CALCIUM PROPIONATE (pp.664-699)

**MOTION:** George Siemon  
**SECOND:** Nancy Ostiguy

Calcium Propionate, a synthetic, should be added to 205.603(a) to be used in organic livestock production.

Discussion ensued regarding use of calcium propionate for use only as a treatment for milk fever vs. its use as a preservative for aloe pellets. Information on practical application was given by Dr. Leiterman.

**MOTION:** Jim Riddle  
**SECOND:** Nancy Ostiguy

After discussion, Mr. Riddle stated that the intent of the motion to amend was to make it clear that use should be restricted to treatment of milk fever. After more discussion, Mr. Riddle WITHDREW the motion to amend.

Mr. Carter stated that back to the original motion which is calcium propionate should be added to 205.603(a), allowed for use in organic livestock production.

**AMENDMENT FOR MILK FEVER ONLY:** Two motions: To be allowed for use in 205.603(a) with an annotation for treatment of milk fever. And the second motion would be to send the TAP back to get further information on the use as a preservative in animal supplements and medical treatments.

**MOTION:** Rose Koenig  
**SECOND:** Owusu Bandele

Calcium propionate should be added to 205.603(a), with the restriction for milk fever only. **Vote: 10 Favored, 2 Absent**

**SECOND MOTION:** Rose Koenig  
**SECOND:** Goldie Caughlan
Motion to send the TAP back for review further information on other uses of the substance in the organic industry.  **Vote: 12 Favored, 2 Absent**

**ACTIVATED CHARCOAL (pp. 699-705)**

**MOTION:** George Siemon  
**SECOND:** Nancy Ostiguy

Activated charcoal, a synthetic, should be added to 205.603(a), for use in organic livestock production with the annotation that it must be from vegetative sources.  **Vote: 12 Favored, 2 Absent**

Ms. Burton is recusing herself from a Processing Committee vote on this material asked if she the Board thinks she should recuse herself from the Livestock vote, too.

**MOTION:** Kim Burton asks for Board to vote on whether or not she should recuse herself on the Livestock vote.  **Vote: 11 Opposed, 2 Absent, 1 Abstention**

**MINERAL OIL (pp. 705-716)**

**MOTION:** George Siemon  
**SECOND:** Nancy Ostiguy

Listed under 205. 603 synthetic substances, allowed for use in organic livestock production for topical and as a lubricant.  Should have the annotation changed to add the following: “allowed for internal emergency medical use for only one instance in an animal's lifetime.”

**MOTION:** Nancy Ostiguy  
**SECOND:** Mark King

Amend to strike “allowed for internal emergency for medical use for only one instance in an animals' lifetime.”

Mr. Siemon stated that we need to make sure that it gets into the (a), and if you eliminate that whole sentence, you’re not going to get it into (a).  Ms. Ostiguy stated that it just to clean it up, not to delete, but only to delete the annotation.  Therefore, she modified her motion, to include that it goes under (a), deletes the annotation.

Modified motion to include under Section (a) and delete the annotation and add mineral oil to 205.603(a).  Mineral oil would be listed under 205.603(a), allowed in synthetic substance, allowed for use in organic livestock production.  Mr. King stated that this does not in any way remove it from (b), it simply adds it to (a).
AMEND THE MOTION: To change and insert (a) after .603, and eliminate internal emergency use only in one instance in the animal’s lifetime. **Vote: 11 Favored, 1 Opposed, 2 Absent**

Mr. Carter stated that to go back to the motion as amended, and pass with the new language.

**MOTION:** Mineral oil is a synthetic substances approved for use under 205. 603 (a), synthetic substances, allowed for use in organic livestock production. **Vote: 12 Favored, 2 Absent**

Ms. Burton concluded that we now have six materials that we deferred to the October meeting, and we will still have to get the priority from the Livestock committee and if it’s acceptable by this Board, we’ll have them reviewed in that order: Mineral oil to be deferred, calcium propionate, furosemide, atropine, flunixin, and the proteinated chelate mineral complex with the question still on the heparin.

**PROCESSING MATERIALS – Mark King**

**CALCIUM STEARATE (pp.716-721)**

Mr. King stated the mineral was petitioned for use as an anti–dusting agent for baking products that are enriched with vitamins, enzymes. It was found to be synthetic by both the reviewers and the committee. The petitioner’s stated use to reduce the dust in the work environment, related to enriched or fortified baked goods.

Reviewers noted that this would be presumptuous in some ways in thinking that organic consumers want fortified products, but also found that there wasn’t any real empirical evidence that it actually was effective as an anti–dusting agent. Therefore the committee looked at the application of criteria and found the environmental information was also inconclusive, and offered the following recommendation.

**MOTION:** Mark King **SECOND:** Goldie Caughlan

Calcium Stearate 205.605(b), synthetics allowed, to be prohibited for products labeled as “organic” and “made with organic.” **Vote: 11 Favored, 3 Absent**

**TETRASODIUM PYROPHOSPHATE – TSPP (pp. 721-767)**

Mr. King stated that the petitioned use in this case was as a pH buffer and dough conditioner for use in organic meat alternative products. This is actually used in an ingredient in texturized wheat protein for organic meat alternative products, such as veggie burgers. The reviewers found it to be synthetic, and also found that TSPP is a pyrophosphate that belongs in the generic classification of sodium phosphates
Sodium Phosphates, 205.605(b), synthetics allowed, for use in diary foods labeled as “organic” or for use only in agricultural products labeled as “made with organic-specified ingredients or food groups.”

**MOTION:** Kevin O’Rell  
**SECOND:** Goldie Caughlan

Mr. O’Rell motioned to change the present annotation of sodium phosphates, “for use only in dairy foods labeled as organic or for use only in textured meat analog products.”

A discussion involving Mr. O’Rell, Ms. Brown-Rosen and Mr. Mathews ensued relating to the broad category of sodium phosphates, and does it include more materials than was intended.

Mr. O’Rell stated that there is a need for clarification with the current listing because sodium phosphates is a generic term and does cover a variety of orthophosphates, pyro and poly. There was more discussion on the motion and Mr. O’Rell withdrew his motion.

**MOTION:** Kevin O’Rell  
**SECOND:** Kim Burton

To amend the motion that tetrasodium pyrophosphate (TSPP) be added to 205.605 (b) (allowed as a synthetic) with the annotation, “for use in textured meat analog products.”

Mr. Riddle referred to the original recommendation of the committee that it be used in products labeled “made with organic …” and that’s how he agreed to support the material.

**MOTION:** Jim Riddle  
**SECOND:** Ann Cooper

To amend the motion to state, “for use only in agricultural products labeled made with organic-specified ingredients or food groups.”  
**MOTION WITHDRAWN**

Mr. Carter clarified the voting level process on the motions, and indicated that there are series of layers, and stated that he wanted to make sure that he had the right one. Ms. Burton stated that there was an amendment, a new motion, to add TSPP as a separate material under 205.605(b), “for use only in textured meat analog product.” He also stated that if you vote for this amendment, and if it is defeated, it goes back to Mr. O’Rell’s amendment. If Mr. O’Rell’s passes, then we go through and do the motion as amended. If Mr. O’Rell’s is defeated, it goes back to the original motion. If Mr. Riddle’s amendment passes, his language is added to Kevin’s amendment. If it is defeated, we simply go back to Kevin’s language and then we will vote again on whether that language should be used to change the original motion.

**MOTION 1:** Jim Riddle  
**SECOND:** George Siemon

TSPP to allow only for use in texture meat analog products labeled “made with organic ….”  
**Vote:** 4 Favored, 7 Opposed, 2 Absent, 1 Abstained.  
**JIM RIDDLE’S MOTION FAILED.**

**BACK TO KEVIN O’RELL’S MOTION 2**
MOTION 2: Kevin O'Rell
SECOND: George Siemon

To amend the original language; TSSP be approved under 205.605(b), allowed as a synthetic with the annotation “for use in textured meat analog products.” If failed, then moved back
*Mark King's original first motion. Vote: 8 Favored, 3 Opposed, 1 Abstained, 2 Absent

Mr. Siemon asked if this is to allowed this substance for dairy foods, should the motion be “for use only in dairy foods labeled as organic?” Mr. O'Rell stated that we agreed we would take up at the next meeting in October the issue for clarification on sodium phosphate for use in dairy foods, and they were to be specific for orthophosphates. This is separate only as a listing of TSPP, under the motion, it would not be allowed in dairy products.

Mr. King clarified that we voted on the amendment which was approved, and voting on it to take action. Mr. Carter stated because the previous vote was only whether you prefer Mr. O'Rell’s language over the original. This is why it’s as two votes.

MOTION: TSPP is a synthetic allowed under 205.605(b) for use only in textured meat analog products. Vote: 8 Favored, 3 Opposed, 2 Absent, 1 Abstained

HYDROXYPropyl METHYLCelLULOSE (HPMC) pp. 767-778

It's petitioned as an ingredient of hard capsules used for encapsulating powdered herbs. It's considered to be part of the group of compounds known as cellulose ethers or ethers. It's included on EPA’s List 4-B inert, on which EPA says have sufficient data to substantiate they can be safely used in pesticides.

Methylchloride used in the manufacturing process is considered hazardous and flammable. It is approved as a food additive and it is currently used to make hard capsules used in the herb and supplement industry as an alternative to gelatin.

So the following recommendation, Mark King moved that we consider 205.605(b), synthetics allowed, which would be HPMC made with organic only, only for hard capsule application.

MOTION: Mark King
SECOND: Goldie Caughlan

To add HPMC to section 205.605(b), synthetics allowed, with the annotation that it be used in the category “Made with organic … “ only, and only for hard capsule application. Vote: 6 Favored, 2 Absent, 5 Opposed, 1 Abstained – FAILED

GLUCONO DELTA LACTONE – GDL pp.779-782

It's petitioned to be added to the national list as a tofu coagulant. It's produced both naturally through fermentation and synthetically. We found out in this case the petitioner has stated that the material they use is produced through fermentation. The committee considered really in this case only GDL produced from fermentation as petitioned. It's used at a level of approximately .4 percent, and it's considered to be really the coagulant of choice for silken tofu, because it produces kind of this gradual acidification and it initiates the curdling of the protein and then
provides that silken texture. For those of you who use it, you know it can be used in sauces and different things like that.

**MOTION:** Mark King  
**SECOND:** Anne Cooper

GDL to be added to 205.605(a), non-synthetics allowed. GDL produced by microbial fermentation of carbohydrate substances.  
**Vote:** 12 Favored, 2 Absent

**ACTIVATED CARBON** pp. 783-793

It was petitioned to remove brown color from white grape juice concentrate. It's used for mechanical filtration, physically separating the suspended solids as the liquid passes through the carbon.

It has been used in the U.S. since 1929 for municipal water supplies. It's used to remove the brown color caused by oxidation, improving flavors and colors.

The committee, and TAP reviewers, unanimously found this to be synthetic, and also unanimously voted to add it to the national list as did the reviewers.

**MOTION:** Mark King  
**SECOND:** Kevin O'Rell

Activated Carbon to be added to 205.605(b) Synthetics allowed: from only vegetative sources, for use as a filtering aid while recognizing the vast array of agricultural by-products (natural sources) commercially available.  
**Vote:** 11 Favored, 1 Recused, 2 Absent

**GLYCEROL MONOOLEATE** pp. 794-796 (Discussion Document)

**MOTION:** Kim Burton  
**SECOND:** Jim Riddle

**MOTION TO WITHDRAW:** Petitioner withdrew the petition. Board will withdraw the petition, as requested by the petitioner.  
**Vote:** 10 Favored, 2 Recused, 2 Absent

RECESS AT 11:30 A.M.

RECONVENED ON SEPTEMBER 19, 2002, AT 1:30 P.M.  p.801
**LIVESTOCK MATERIALS** – George Siemon

Broaden 205.603 pp. 801-813

**MOTION**: George Siemon  
**SECOND**: Nancy Ostiguy

Revising the Feed Additive Motion 3 decision at the May meeting. *See May Meeting Minutes, pg. 15 of 24 for discussion document.*

**MOTION**: NOSB recommends an addition of a new 205.603(g), all materials as annotated in 205.605 can be used in organic livestock production subject to FDA or AAFCO regulations.

*Vote: 11 Favored, 1 Abstained, 2 Absent*

**HEPARIN** pp. 813-817

**MOTION**: George Siemon  
**SECOND**: Kevin O’Reell

Heparin should not to be added to 205.603, based on the fact that it is a synthetic and that there’s already an alternative (sodium citrate) on the list. *Vote: 11 Favored, 1 Opposed, 2 Absent*

**CROPS MATERIAL – VOTE RECONSIDERATION**

**CHILEAN NITRATE – SPIRULINA PRODUCTION** pp. 817-858

**MOTION**: Nancy Ostiguy  
**SECOND**: Dennis Holbrook

To reconsider the TAP decision on chilean nitrate in the use of Spirulina production. *Vote: 12 Favored, 2 Absent*

Ms. Ostiguy stated that part of the confusion was to figure out exactly what was the motion that was passed because of a bunch of amendments. The motion that was passed was to maintain the current restriction on sodium nitrate use to no more than 20 percent of the nitrogen input for the spirulina. Therefore, she moved to add, “unless restricted to 20 percent of the crop’s total nitrogen use, chilean nitrate can be used in an unrestricted manner in spirulina production until October 21, 2005.

**MOTION**: Nancy Ostiguy  
**SECOND**: Ann Cooper

A discussion initiated by Ms. Ostiguy ensued highlighting why spirulina production was 1) different for other crop production in its need for nitrogen and 2) why it isn’t hydroponic production. A member of the audience, Mr. Belay, explained a naturally occurring spirulina production system in Chad involving flamingos and his own split spirulina operation.
Not to change the current annotation which allows for “Chilean nitrate use not to exceed 20 percent of the total nitrogen supplied to the crop, or until 10/21/05, for unrestricted use in Spirulina production.  **Vote: 9 Favored, 2 Absent, 3 Opposed**

Rick Mathews pointed out that there is some confusion among producers regarding the annotation as it now stands. Mr. Mesh gave an explanation of that. Dave Carter asked the Crops Committee to look at the language and come back with a recommendation at the October meeting.

**DISCUSSION LED BY FMI’S DEBRA WHITE ON RETAILING AND PROCESSING** pp. 859-875

**LIVESTOCK PRESENTATION** – (Discussion Document)

**DAIRY ANIMAL REPLACEMENT RECOMMENDATION** – George Siemon pp. 877-888

George Siemon presented the committee’s revised recommendation, and asked that it be posted on the NOSB website for a 30-day comment period.

**OTHER BUSINESS** pp. 889-904

Mr. Carter motioned and informed everyone that Secretary Veneman disclosed that she has been diagnosed with breast cancer and requested that the Board draft a letter expressing our concern for her health and best wishes. Goldie Caughlan seconded. Vote: Unanimous

**NEXT MEETINGS:**

Mr. Mathews stated that the next NOSB meeting scheduled for October 19 and 20 and the rollout on Monday, October 21, in Washington, DC.

NOSB – Austin, Texas – May 13–15, 2003, with a travel day on the 12th

Executive Committee Conference Call – September 24th – 4:00 p.m.

**RECOMMENDATION:**

Materials Review Task Force to review the whole process for materials adoption, what we like to recommend for Livestock and Processing to work through those two committee structures and come forward with some things to talk about at the October meeting.
PUBLIC COMMENTS – September 19, 2002 at 5:00 p.m. pp. 904-

The following individuals presented public comments. Each person’s comments were recorded and transcribed for the record. Some individuals also presented written comments. Transcribed comments can be found at the designated page numbers.

Tom Harding, Agrisystems International (p. 905)
Dr. Dan Leiterman, Crystal Creek, (p. 918)
Marty Mesh, by proxy for Jim Pierce (p.920)
Leslie Zuck, Pennsylvania Certified Organic (p. 937)
Cissy Bowman, Indiana Certified Organic (p.943)

MEETING ADJOURNED, September 19, 2002, at 5:55 p.m.
The National Organic Standards Board meeting of October 19–20, 2002, was attended by 14 members:

Members Present:

- Owusu Bandele
- Rosalie Koenig
- Kim Burton
- Michael Lacy
- Dave Carter
- Goldie Caughlan
- Kevin R. O’Rell
- Nancy Ostiguy
- Ann Cooper
- Jim Riddle
- Rebecca Goldburg
- George Siemon
- Dennis Holbrook
- Mark King

National Organic Program (NOP) Staff:

Barbara C. Robinson, AMS/Deputy Administrator, Richard Mathews, Program Manager, Katherine Benham, and Robert Pooler.

CALL TO ORDER: October 19, 2002, 8:05 a.m., Presiding: David C. Carter, Chair, (pp. 5-13)

Mr. Carter opened with the introduction of the NOSB members and asked that public commenters sign up in advance.

AGENDA APPROVAL – (Discussion Document)

The chair asked for any comments, corrections or additions to the agenda, and the following changes were noted:

Materials Committee: Ms. Burton stated the following materials will not be reviewed: Crops: Potassium silicate; Livestock: Calcium propionate, Furosemide, and Proteinated chelates.

Processing Committee: Mr. King said there will be no ion exchange speaker.

International Committee: Ms. Goldburg said the committee will defer its recommendation regarding US/EU Equivalency.

PUBLIC COMMENTS – October 19, 2002, (pp. 12-114)

The following individuals presented public comment. Each person’s comments were recorded and transcribed for the record. Some individuals also presented written comments. Transcribed comments and, where applicable, written comments can be found at the designated ATTACHMENTS.

SIGN–IN SHEETS (Attach. A)
- Tom Harding, AgriSystems – (p. 13)
- Ken Chambers, Colorado Sweet Gold (p. 17) – (Attach. 1 & Attach. 2)
- Richard Siegel, Attorney representing Colorado Sweet Gold, (p. 24) – (Attach. 3)
- Grace Marroquin, Marroquin International, (p. 35)
NOP UPDATE – Barbara Robinson and Richard Mathews (pp. 110-116)

Ms. Robinson discussed the following:

Website Overhaul (p. 114)

Everyone was invited to visit the revamped NOP website.

Petition to File Legal Action (p. 115)

The Center for Food Safety filed a petition for legal action with the Secretary, alleging that NOP consistently refused to establish a peer review panel. It is now with the USDA lawyers.

Implementation Event (p. 115)

NOP Implementation event will take place at the Whole Foods Market on P Street. It is on the Secretary’s calendar.

Budget (p. 115)

NOP budget for FY03 is no bigger than for FY02.

Mr. Mathews discussed the following:

Accreditation (p. 116)

Six new certifying agents are in the process of being accredited. That will put us in the neighborhood of 66 accredited certifying agents at the start of the next phase.

Stream of Commerce (pp. 116-120)

The issue for a lot of people is what do you do about product that was not produced to the NOP? The answer is that all product produced to NOP standards must be labeled according to NOP standards. All product not produced to the NOP may continue to use the designation of organic until that product is used up, but cannot indicate it was produced to NOP standards. Mr. Siemon and Ms. Burton expressed confusion and dismay at this seeming recent change of policy.
The following arose from questions or comments by Board members:

**Minor vs. Major Noncompliances** (pp.120-124)

A discussion on the need for guidance on the definition of minor noncompliances was prompted by a comment from George Siemon.

**Status of Materials Approved by the NOSB Since March 2000** (pp. 124-143)

In response to a question from Mr. Riddle, Mr. Mathews said that a list of materials recommended for inclusion on the NL would be posted to the website. However, he added that they are not sanctioned until they go through the rulemaking process. Certifying agents could treat use of these materials as a minor noncompliance until rulemaking is completed. Ms. Koenig said that producers distrust NOP and want something in writing. The NOP’s struggle to handle the volume of work, questions, meetings, etc., was discussed by Mr. Mathews. Ms. Caughlan initiated another discussion on materials which brought up the point that USDA attorneys have not yet approved the idea of allowing prohibited substances, even if their use has been recommended by the Board. More discussion ensued on how to shorten the period from recommendation to entry on the National List.

**Clarification of Status of Board Recommendations** (pp. 144-154)

Mr. Mathews said that Board recommendations, for example, access to the outdoors, are not enforceable. They can be used as guidance—only the rule is enforceable. Ms. Koenig suggested that the NOSB policy manual contain administrative information on recommendations to help the Board and future Boards to understand the role recommendations play in the running of the NOP.

**Legal Petition from Center for Food Safety (revisited)** (pp. 154-158)

In response to Mr. Carter’s question, Mr. Mathews and Ms. Robinson talked briefly about the legal petition filed to establish a peer review panel (on accreditation) and the efforts taken to that end already and the obstacles that are making that difficult.

**Mutual Respect** (p. 158-160)

Ms. Robinson stressed the need for mutual respect and courtesy between the Board and NOP staff.

MEETING RECESSED FOR LUNCH AT 11:56 a.m.

MEETING RECONVENED AT 1:30 P.M.

**ADOPTION OF BOARD POLICY MANUAL** (pp. 162-180) – (Discussion Document)

Mr. Riddle proposed adoption of board policy manual and Ms. Caughlan seconded. Mr. Riddle pointed out changes and these were discussed by the Board. An amendment to add the following language, “Individuals providing public comment to the NOSB may respond to questions from the Board beyond the allocated time limit.” was carried.
The Board then voted to adopt the policy manual.

Ms. Koenig proposed that a glossary of terms and an explanation of procedures be developed for use by the Board, and Ms. Caughlan seconded. The Board voted to adopt this proposal.

**MATERIALS COMMITTEE DISCUSSION ITEMS** (pp. 180-187)

**Materials Task Forces** (pp.180-181)

Ms. Burton reported that the Committee formed two task forces to look at materials review.

**Task Force on EPA Lists 3 and 4 Inerts** (pp. 181-184)

Ms Koenig reported that the task force had asked selected people from government and private industry to submit names of formulated products to EPA so that EPA could determine if they contained List 3 inerts. This information would ultimately be used to determine if these products should be used in organic production.

**Presentation on Materials Review Process** (pp. 185-187) – *(Discussion Documents 1 & 2)*

Ms. Burton gave a presentation on the materials review process.

**PROCESSING COMMITTEE DISCUSSION ITEMS** (pp.191-196)

**Scope of the Review Process as It Relates to Materials Used in Processed Products**

Mr. King said the Committee will recommend that all direct and secondary direct food additives are subject to NOSB review; indirect food additives are not subject to NOSB review.

**When Does Handling Become Processing?**

Rough drafts are finished on “post-harvest handling vs. processing” and on “on-farm processing.”

**Guest Speaker** (pp. 198-230)

Mark Itzkoff, attorney with Olsen, Frank and Weaver, Washington, DC, gave background information regarding FDA regulation of food packaging, food ingredients, food additives, and food contact substances and answered questions from Board members. A discussion followed on the nature of ion exchange.
CROPS COMMITTEE DISCUSSION ITEMS (pp. 231-265)

Materials Reviewed (pp. 231-247)

BHT

Mr. Bandele said the Committee reviewed three materials. For the first, BHT, the Committee agreed, 4-0, that it is a synthetic. The 3 TAP reviews recommended approval of BHT to be used as a pheromone for mating disruption. It appears that Committee agrees, with an annotation. Exact wording not clear from transcript.

POTASSIUM SULFATE
For the second, potassium sulfate, the Committee agreed 4-0 that it is a synthetic, and voted, 4-0, not to add it to the National List.

DIMETHYLNAPHTHALENE 1,4 (DMN)
For the third, dimethylnaphthalene 1,4 (DMN), 2 TAP reviewers cited potential environmental concerns, while 1 TAP reviewer recommended adding it to the National List. The Committee agreed 4-0 that it is a synthetic, and voted not to add it to the National List.

Compost Tea (pp. 248-254)

Mr. Bandele will propose to reactivate the Compost Task Force, with the specific charge to look at the compost tea issue. Discussion ensued between NOP and Board.

Clarification of Regulations as Applied to Planting Stock (pp. 254-259)

Ms. Koenig will present guidance in the form of a Q&A.

20 Percent Rule re: Sodium Nitrate (pp. 259-265)

Document being drafted on what “20 percent” actually means.

ACCREDITATION COMMITTEE DISCUSSION ITEMS (pp.265-293)

Criteria for Certification of Grower Groups (pp.265-289) – (Discussion Document)

Mr. Riddle said a recommendation will be brought forward for a vote tomorrow which incorporates public comment. He proceeded to read from the recommendation. The Board discussed and took questions from the audience.
Accreditation Committee as NOP Peer Review Panel (pp. 289-293) – (Discussion Document)

Mr. Riddle highlighted various points of the still-internal working document.

LIVESTOCK COMMITTEE DISCUSSION ITEMS (pp. 293-302)

Materials Reviewed (pp. 294-295)

Mr. Siemon said the Committee will be reviewing and making recommendations on flunixin, atropine, and mineral oil.

Dairy Replacement Animals (pp. 295-296)

Mr. Siemon said the Committee will take recent feedback into consideration when developing a recommendation for presentation tomorrow.

Excipients (pp. 296-302)

Mr. Siemon said the Committee will make a recommendation to allow “excipients in medications which are non-active.” Ms. Ostiguy went into more detail and took questions from the Board. Ms. Koenig solicited input from Ms. Brown-Rosen (Discussion Document).

INTERNATIONAL COMMITTEE DISCUSSION ITEMS (pp. 302-303)

Ms. Goldburg said the Committee is working on a recommendation on EU/US equivalency.

MEETING ADJOURNED AT 5 P.M.

CALL TO ORDER: October 20, 8:10 a.m., Presiding: Dave Carter, Chair

PUBLIC COMMENTS (pp. 300-415)

The following individuals presented public comment. Each person’s comments were recorded and transcribed for the record. Some individuals also presented written comments. Transcribed comments and, where applicable, written comments can be found at the designated ATTACHMENTS.

- Grace Marroquin - (p. 300)
- Mark Itzkoff - (p. 308)
- Diane Joy Goodman - (p. 311) – (Attach. 9)
- Janning Kennedy, California Certified Organic Farmers - (p. 316)
- Jack Jenkins, Pacific Biocontrol - (p. 329) – (Attach. 10)
- Dan Leiterman, Crystal Creek Company - (p. 331)
- Urvashi Rangan, Consumers Union - (p. 334) – (Attach. 11 – Attach. 11a)

(From this point forward in the transcript, the speaker identified as Mr. Williams should have been identified as Mr. [Rick] Mathews.)
Tina Ellor, proxy for Leslie Zook, Pennsylvania Certified Organic - (p.348) – (Attach. 12)
Tom Harding, AgriSystems International - (p. 354)
Kelly Shea, Horizon Organic - (p. 358) – (Attach. 13)
Emily Brown Rosen, Organic Materials Review Institute - (p. 367) – (Attach. 14)
Emily Brown Rosen, proxy for Russell Libby, Maine Organic Farmers and Gardeners Assoc. - (p. 373) – (Attach. 15)
Bill Denevan - (p. 375)
Jim Pierce - (p. 390)
David Engle - (p. 396)
Chris Tompkins, attorney for Mr. Schmidts of Organic Growers and Consumers - (p. 401)
Marty Mesh, Florida Organic Growers Quality Certification Services - (p. 406)
NOSB Chair Dave Carter read statement from Hubert Karreman into the record - (p. 409) – (Attach. 16)

CROPS COMMITTEE ACTION ITEMS (pp. 415-491)

MATERIALS

PHEROMONES (pp. 415-437) – (Discussion Document)

Motion: Mr. Bandele proposed that the following changes and annotations be made regarding 205.601(f), “Pheromones—includes only EPA-exempt pheromone products, EPA registered pheromone products with no additional synthetic toxicants unless listed in this section and any inert ingredients used in such pheromone formulations that are not on EPA List 1, that is inerts of toxicological concern or EPA List 2, that is potentially toxic inerts, provided the pheromone products are limited to passive polymer dispensers, pheromone products containing only pheromone active ingredients listed in this section and List 4 inerts may be applied without restriction.”

Second: Ms. Koenig seconded.

Amendment 1: Ms. Goldburg motions to strike the word "polymer." Ms. Ostiguy seconds. The Board votes unanimously to pass the amendment.

Amendment 2: Mr. Siemon motions that original motion also be included in the National List for Livestock as well as Crops. Ms. Ostiguy seconds. The Board votes 10-0 with 4 abstentions to pass the amendment.

Motion as amended: “Pheromones—includes only EPA-exempt pheromone products, EPA registered pheromone products with no additional synthetic toxicants unless listed in this section and any inert ingredients used in such pheromone formulations that are not on EPA List 1, that is inerts of toxicological concern or EPA List 2, that is potentially toxic inerts, provided the pheromone products are limited to passive dispensers, pheromone products containing only pheromone active ingredients listed in this section and List 4 inerts may be applied without restriction.”

Vote: The motion passes unanimously.
POTASSIUM SULFATE (pp. 437-439) – (Discussion Document)

Motion: Mr. Bandele motions that potassium sulfate be considered a prohibited synthetic.

Second: Mr. Holbrook seconds.

Vote: The motion passes 13-0, with one absent.

1,4 DIMETHYLNAPHTHALENE (pp. 439-444) – (Discussion Document)

Motion: Mr. Bandele motions that 1,4 dimethylnaphthalene be considered a prohibited synthetic.

Second: Ms. Koenig seconds.

Vote: The motion passes 12-0, with one abstention and one absent.

LIST 3 INERTS (pp. 444-476)

Motion 1: Mr. Siemon motions “to allow Class 3 inerts that have tolerance in food products to be used in crop pesticides if pesticides are not commercially available using materials on the National List.”

Second: Mr. Bandele seconds.

A long discussion involving Board members, NOP staff, an EPA staff member and audience members ensued. Mr. Carter said he was going to ask for a reading of the motion unless there was a motion made to continue the discussion.

Motion 2: Mr. King motioned to continue the discussion.

Second: Mr. Riddle seconds.

Vote: Motion passes unanimously with a simultaneous voice vote.

Motion 3: Ms. Koenig motions to table discussion until after lunch.

Second: Mr. King seconds.

Vote: Motion passes 13-0 with one absent.

BREAK FOR LUNCH – 12:15 p.m.

RECONVENED, 1:30 P.M. on October 20, 2002

LIST 3 INERTS (cont’d) (pp. 477-491)

Substitute Motion (for Motion 1): Ms. Burton proposes a substitute motion, “The NOSB recommends that any list 3 inert material forwarded for a technical review be allowed for use until that material is approved or prohibited by the Secretary of Agriculture.”
Second: Mr. King seconds.

Chair to assign task force to work with EPA.

Vote: Motion passes 12-1, with one absent.

**LIVESTOCK COMMITTEE ACTION ITEMS** (pp. 491-511)

**MATERIALS**

**MINERAL OIL** – (Discussion Document)

Due to dissatisfaction with supplementary information, Mr. Siemon says the Committee defers the vote on mineral oil.

**CALCIUM PROPIONATE**

Due to lack of supplementary information, Mr. Siemon says the Committee defers the vote on calcium propionate.

**FUROSEMIDE**

Mr. Siemon stated “we don’t have ready the next one, which is furosemide.”

**ATROPINE** – (Discussion Document)

The Committee will send back [to TAP reviewer].

**FLUNIXIN** (pp. 495-508) – (Discussion Document)

**Motion 1:** Mr. Siemon motions that Flunixin be added to 205.603, synthetic substances allowed for use in organic livestock production, with the following restrictions: withhold time shall be double the FDA requirement.

Second: Ms. Ostiguy seconds.

**Motion 2:** Ms. Koenig motions to defer flunixin until a telephone meeting can take place.

Second: Mr. Bandele seconds.

Vote, **Motion 2:** The motion fails 3-10, with one absent.

Vote, **Motion 1:** The motion passes, 11-2, with one absent.
ACCREDITATION COMMITTEE ACTION ITEMS (pp. 512-517)

GROWER GROUP CERTIFICATION CRITERIA (pp. 512-517) – (Discussion Document)

**Motion:** Mr. Riddle motions that the Grower Group Certification Criteria Recommendation as reviewed and changed be adopted. (Final document is posted on NOSB web site under Accreditation Committee recommendations.)

**Second:** Mr. Siemon seconds.

**Vote:** The motion passes, 13-0, with 1 abstention.

LIVESTOCK COMMITTEE ACTION ITEMS (pp. 517-551)

DAIRY ANIMAL REPLACEMENT (pp. 517-535) – (Discussion Document)

**Motion:** Mr. Siemon motions: On existing organic dairy farms all replacement or expansion dairy animals shall be under continuous organic management from the last third of gestation. It is recommend that until 10/21/05, animals shall be under continuous organic management beginning no later than 1 year prior to production of the milk or milk products that are to be sold, labeled, or represented as organic.

**Second:** Ms. Ostiguy seconds.

**Discussion:** Board members questioned whether this recommendation would be considered guidance or clarification (policy statement) of the rule. Mr. Mathews said that implementation of this recommendation may require rulemaking. After considering the NOSB recommendation together with OTA input, NOP will analyze them in the context of the existing regulations and present the analysis to the Office of General Counsel. NOP will then report the findings to the NOSB.

**Substitute motion:** Mr. Siemon makes a substitute motion that reads: On existing organic dairy farms, all replacement or expansion dairy animals shall be under continuous organic management from the last third of gestation.

**Second:** Mr. King seconds.

**Vote:** The motions passes, 10-2, with 2 abstentions.

EXCIPIENTS (pp. 535-550) – (Discussion Document)

**Motion:** Ms Ostiguy motions that the following recommendation be adopted: The NOSB recommends the addition of a new 205.603(h) to read as follows: Excipients used in the manufacturing or found in the finished product of drugs used in livestock treatments are allowed unless specifically prohibited.

**Second:** Mr. Siemon seconds.
Substitute motion: Mr. Riddle makes a substitute motion, but Ms. Ostiguy speaks the actual motion. In the interest of clarity, the transcript of this part of the meeting has been excerpted as follows:

“205.603(e) would begin with—this would be in addition, ‘as non-active substances for use with disinfectants, medications, and pesticides,’ so this is the non-active material.

Now we move to a portion that’s already in the law, so 205.603(e) actually starts with ‘As synthetic inert ingredient is classified by the Environmental Protection Agency for use with non-synthetic substances or a synthetic substance listed in this section and used as an active pesticide ingredient in accordance with any limitations on the use of such substances. EPA List 4 inerts are of minimal concern.’

All that is already in there. Going back then to the addition. This again applies to non-active substances for use with disinfectants, medications and pesticides. The first item, ‘synthetic excipients, as classified by the Food and Drug Administration for use with non-synthetic substances or synthetic substances listed in this section and used as an active animal drug in accordance with the limitations on the use of any such substance that one, has been determined by FDA that the substance is generally recognized as safe, grass, pursuant to Title 21 US Code of Federal Regulations, Part 182, 184, or 186.’

Second part, ‘is approved as a food additive by a petition set forth in 21 CFR 171 or is reviewed and included with the list of active ingredients in this part.’

Second: Ms. Caughlan seconds.

Substitute motion withdrawn: Mr. Riddle and Ms. Caughlan withdraw substitute motion.

Vote: Original motion passes, 12-2, with 2 abstentions.

CROPS COMMITTEE ACTION ITEMS (pp. 551-567)

HYDROPONICS (not action item) (pp. 551-557) – (Discussion Document)

Mr. Bandele handed out background information on hydroponics.

PLANTING STOCK (pp. 557-565) – (Discussion Document)

Motion: Mr. Riddle motions that 3 Q’s and A’s (Discussion Document) developed by Crops Committee be forwarded to NOP for approval and subsequent posting on NOP website as planting stock clarification for producers.

Second: Ms. Koenig seconds.

Vote: Motion passes 11-0, with 3 abstentions.
COMPOST TASK FORCE (pp. 565-567)

**Motion**: Mr. Bandele motions to re-establish the Compost Task Force, to be co-chaired by Dennis Holbrook and Eric Sideman.

**Second**: Ms. Koenig seconds.

**Vote**: Motion passes 14-0.

PROCESSING COMMITTEE ACTION ITEMS (pp. 567-597)

PROCESSING TASK FORCE (pp. 567-592) – (Discussion Document)

**Motion**: Mr. King motioned that the Processing Task Force Recommendation be accepted by the Board with the addendum as proposed. The recommendation will then be posted on the NOP website for comment. The recommendation reads: Direct and secondary direct food additives are subject to NOSB review. Indirect food additives are not subject to NOSB review.

**Second**: Mr. O'Rell seconds.

**Vote**: Motion passes 14-0.

WHEN HANDLING BECOMES PROCESSING FOR PRODUCERS & RETAILERS (Discussion Document) (pp. 593-597)

Mr. King discussed sources and very rough draft he is working on to clarify handling vs. processing for producers and retailers. (Not an action item)

COMMITTEE WORK PLANS (pp. 598-602)

PROCESSING COMMITTEE (p. 598)

Mr. King reported that the Processing Committee will: develop final Processing Task Force recommendation; continue work on handling vs. processing for retailers and producers; work on cultures; and work on materials review.

ACCREDITATION COMMITTEE (pp. 598-599)

Mr. Riddle reported that the Accreditation Committee will: continue review of NOP Accreditation Program; monitor certifying agent issues; monitor website; and solicit glossary items and complete Board Policy Manual Glossary.

MATERIALS COMMITTEE (pp. 599-600)

Ms. Burton reported that the Material Committee will: develop prioritization criteria for re-review of materials; manage EPA List 3 inerts task force; look at new petitions and forward for review; and monitor contractors.
NOSB OCTOBER MEETING MINUTES
Page 13

CROPS COMMITTEE (p. 600)

Mr. Bandele reported that the Crops Committee will: re-establish compost task force; develop sodium nitrate clarification; develop hydroponics guidance; work on List 3 inerts issue; review TAP reviews; and develop a Q and A on potassium sulfate.

LIVESTOCK COMMITTEE (pp. 600-601)

Mr. Siemon reported that the Livestock Committee will: discuss breeder stock issue; investigate need for differentiation between livestock and crops when it comes to materials review; identify calf-hood drugs to see if any need to go through TAP reviews; and revisit standards on production stock (e.g., wool).

INTERNATIONAL COMMITTEE (pp. 601-602)

Ms. Goldburg reported that the International Committee will: look at recommendations on equivalency; and discuss relevancy and work plan of International Committee.

ELECTION OF BOARD OFFICERS (pp. 603-609)

CHAIR

Dave Carter was nominated by Ms. Burton; seconded by Ms. Koenig. Mr. Carter elected unanimously by voice vote.

VICE CHAIR

Jim Riddle was nominated by Ms. Ostiguy; seconded by Ms. Goldburg. Mark King was nominated by Ms. Burton; seconded by Ms. Koenig. Mr. King elected by paper ballot. 9-5.

SECRETARY

Jim Riddle was nominated by Ms. Caughlan; seconded by Mr. Siemon. Mr. Riddle elected unanimously by voice vote

STATUS OF FILLING BOARD VACANCY (pp. 610-611)

Mr. Mathews reported that there were 6 inquiries, 3 of whom were qualified. NOP is making initial screening.

ADJOURNED – Sunday, October 20, 2002 – 5:00 p.m.
The National Organic Standards Board meeting of May 13-14, 2003, was attended by 15 members:

**NOSB Members Present:**

- Owusu Bandele
- Kim Burton
- Dave Carter
- Kevin O'Rell
- Ann Cooper
- Rebecca Goldburg
- Andrea Caroe
- Mark King
- Rosalie Koenig
- Michael Lacy
- Goldie Caughlan
- Nancy Ostiguy
- Jim Riddle
- George Siemon
- Dennis Holbrook

**National Organic Program (NOP) Staff:**

Barbara C. Robinson, AMS/Deputy Administrator, Richard Mathews, Program Manager, Katherine Benham, Arthur Neal, Keith Jones, Toni Strother, Bill Ashley and Bob Pooler

**CALL TO ORDER:** May 13, 2003, 8:15 a.m. *Presiding: David C. Carter, Chair*

Mr. Carter opened with the introduction of the NOSB members and asked that public commenters sign up in advance.

**ANNOUNCEMENT:** Dave Carter announced Jim Riddle’s appointment as University of Minnesota Endowed Chair of Agricultural Systems. Jim requested input on organic livestock research items.

Dave Carter reported on NOSB planning sessions in February 2003, and in May 2003. *(See Discussion Document)*

Mr. Carter also reported that the NOSB had issued two letters to Secretary Veneman following congressional passage of the organic feed waiver provision. The first letter expressed concern about the issue, and the second thanked the Secretary for taking a stand on the issue.

Mr. Carter met with the Secretary following the second letter.

**AGENDA APPROVAL** *(See Discussion Document), (Pg. 10)*

By motion made, seconded and carried the agenda was approved, with the addition of determining the next meeting date and location.

**MINUTES APPROVAL** *(Pgs. 10–11)*

**SEPTEMBER AND OCTOBER MEETING MINUTES APPROVAL** *(See Discussion Document)*

**EXECUTIVE COMMITTEE CONFERENCE CALL MINUTES** *(See Discussion Document)*
VOTE: The minutes were approved unanimously with no discussion
REVIEW OF BOARD POLICY MANUAL – (See Discussion Document), (Pg. 12)

Jim Riddle moved to add to the NOSB Board Policy manual provisions developed during the planning session concerning a vision statement and mission statement. The motion passed, along with an amendment by Kim Burton to note that the board’s responsibility is to maintain a National List of “allowed and prohibited” materials.

PRESENTATION – (Pg. 16)

Jim Riva, Branch Chief, USDA AMS Audit Review and Compliance Branch, gave a presentation on the AMS ARC services on NOP Accreditation. The text of this presentation can be found within the meeting transcripts.

PUBLIC COMMENTS – May 13, 2003 at 10:30 a.m.

The following individuals presented public comments. Each person’s comments were recorded and transcribed for the record. Some individuals also presented written comments. Transcribed comments can be found on the NOSB portion of the web. Written comments where applicable, can be found at the DESIGNATED ATTACHMENTS.

- Public Comment Registration Sign–In Sheet
- Audience Sign–In Sheet
- Spangler Klopp, Townsends, Inc., (Attach. 1, comment read by Chair), (Pg. 47)
- Ronnie Cummins, National Director Organic Consumers Association, (Attach. 2) (Pg. 49)
- George Kuepper, NCAT Program Specialist, (Attach. 3), (Pg. 54)
- Dr. Laura Morrison, Acting Executive Director, OMRI, (Pg. 57)
- Brian Baker, OMRI, (Attach. 4), (Pg. 61)
- Robert Hadad, Director, The Humane Society of U.S., (Attach. 5, comment ready by Chair), (Pg. 69)
- Emily Brown Rosen – Proxy for Doug Crabtree, (Attach. 6), (Pg. 71)
- Tom Harding, AgriSystems International, (Attach. 7), (Pg. 82)
- John Immaraja, Project Manager, Chemical Corporation, AMVAC, (Pg. 84)
- Zea Sonnabend, CCOF, (Pg. 91)
- Candace Boheme, Organic Consumer, (Attach. 8), (Pg. 99)
- Urvashi Rangan, Director, Consumer Union, (Pg. 104)
- Liana Hoodes, National Campaign for Sustainable Agriculture (NCSA), (Attach. 8), (Pg. 109)
- Beth Sears, Product Manager Cerexagri, Inc., (Attach. 10), (Pg. 113)
- Tom Hutchinson, OTA, (Pg. 118)
- T.M. “Mac” Devin, Technical Services Veterinarian, Ft. Dodge Animal Health, (Attachs. 11 & 12), (Pg. 121)
- David Hiltz, Scientist, Acadian Seaplants, Ltd., (Pg. 125)
- Leslie Zuck, Executive Director, PCO, (Attach.13), (Pg. 132)
- Penny Sandoval, Northeast Organic Dairy Producers Alliance, (Pg. 136)
- David Engel, MOSA, (Pg. 140)
- Marty Mesh – (Pg. 143) – Urvashi Rangan, (Pg. 144)
- Lisa Englebert and Carol King, NOFA New York – read by Chair, (Pg. 150)

BREAK FOR LUNCH RECESS - 12:15 p.m.

RECONVENE MEETING on May 13, 2003, at 1:15 P.M.
**NOP PROGRAM UPDATE, (Pg. 152)**

*Barbara Robinson reported the following:*

- Feed grain survey mandated under the 2002 Farm Bill has been completed, and has been submitted for review before public release. The survey does contain price data.
- An amendment was added to the supplemental appropriations bill to direct USDA to develop standards on wild-caught seafood. Because of resource constraints and workload, this issue has not been taken up. Any development will go on the web for public consideration. Her intent is to start with the history of previous actions on this matter.

*Richard Mathews reported the following: (Pg. 158)*

- NOP has developed a Peer Review concept that includes assessment by the American National Standards Institute (ANSI). Assessment will be to NOP requirements, ISO Guide 61, ISO 19011, and IAF guidelines. The Review Panel will consist of a team of three people; Lead assessor schooled in ISO 61, a second assessor schooled in ISO 61, and a technical resource person with organic expertise appointed by USDA from nominations submitted by the public.
- The docket recently published in the Federal Register does not cover all materials recommended by the NOSB. It is primarily a crops document, with some technical corrections on processing materials. A docket is being prepared for release next week for section 205.605. Another docket is on his desk for review that relates to livestock materials. NOP is having FDA review processing and livestock dockets before going out to the public.
- The NOP has developed a Decision Tree; and that document has been given to the Board and will be made available to the public.
- NOP is developing an Interim Final Rule for Good Guidance Practices. Intent is to make the role of guidance documents clear to the public. The rule will create a new section 205.603, entitled, “Good Guidance Practices.” There will be a 30-day comment period. Food Contact Substances will be the first issue put through the new process.

**National Organic Program report concluded**

**PRESENTATION OF COMMITTEE DISCUSSION ITEMS:**

**MATERIALS –KIM BURTON**

- **MATERIALS PROCESS REVIEW (See Discussion Document), (Pg. 165)**

  The Committee is working with NOP in ongoing process of clarifying current material review process *(See Discussion Document)*:

  - NOP review process of a petition prior to the forwarding to materials committee *(See Discussion Document)*
  - Cut-off date (30/60 day) for TAP reviews prior to an NOSB meeting
  - Confidential Business Information; and clarification on process
When recommending material review using existing TAP reviews then the committee MUST review the supplied information and expedite a supplemental TAP if necessary.

Guidance Document/OFPA criteria for contactors on reviewing materials (i.e., Livestock)

PLEASE NOTE: Transcript Error: Page 174 – Mr. Bob Moore should be Mr. Bob Pooler

ACCREDITATION - JIM RIDDLE

- MINOR NON-COMPLIANCES (See Discussion Document), (Pg. 176)

Mr. Riddle reviewed with the board a Draft 4 of the document regarding Minor Non-Compliance which received a committee vote of 4 to 0 1 absent to remain as a committee draft with no action taken. Draft 3 received substantive comments, which are incorporated in the new draft. Draft 4 will be posted for public comment (See Discussion Document).

Mr. Riddle reported on his attendance at National Institute of Standards and Technology (NIST) meeting on assessment of organic accreditation bodies.

PROCESSING – MARK KING

- FOOD CONTACT SUBSTANCE POLICY (See Discussion Document), (Pg. 183)

The committee is deferring official action on the proposed policy document for further research.

- CHLORINE IN DIRECT CONTACT WITH ORGANIC FOOD (See Discussion Document), (Pg. 187)

Recommendation divided into 5 motions. Jim moves each, Kevin seconds. The board voted unanimously to recommend a rule change to correct annotations for chlorine in the National List as follows:

A. Change the annotation of §205.601(a)(2) to read: Chlorine materials - Except, That, residual chlorine levels in the water in direct crop or food contact and in flush water from cleaning irrigation systems that is applied to crops or fields shall not exceed the maximum residual disinfectant limit under the Safe Drinking Water Act.

B. Change the annotation of § 205.603(a)(3) to read: Chlorine materials - disinfecting and sanitizing facilities and equipment. Residual chlorine levels in the water in direct crop or food contact shall not exceed the maximum residual disinfectant limit under the Safe Drinking Water Act.

C. Change the annotation of § 205.605(b)(9) to read: Chlorine materials - disinfecting and sanitizing food contact surfaces. Except, That, residual chlorine levels in the water in direct crop or food contact shall not exceed the maximum residual disinfectant limit under the Safe Drinking Water Act.

The board also unanimously recommended specific changes to the NOP Questions and Answers to clarify that chlorine monitoring should not be done at point of discharge, stating “Certified operators must monitor the chlorine level up stream of the wash operation or rinse operation, where the water last contacts the organic product.”
The board also recommended a prioritized re-review of chlorine (14-1-0) “in light of new information about the relationship of chlorine and trihalomethanes, available alternatives, food safety, health effects, and application procedures.”
• POST HARVEST HANDLING vs. ACTUAL HANDLING OR PROCESSING (See Discussion Document), (Pg. 195)

Mr. King has resubmitted a clarification document for handling vs. processing primarily for crop production. He also talked about a guidance document that NOP had released on how retail food establishments can comply with the NOP. The document does differentiate between exempt and excluded retail operations. The document is posted on the website.

CROPS – OWUSU BANDELE

• HYDROPONICS (See Discussion Document), (Pg. 196)

Draft guidance document regarding certification of hydroponics and other soil-less production systems. The draft will be forwarded to the strategic planning committee and NOP for feedback and to determine if further work on the document is a priority.

LIVESTOCK – GEORGE SIEMON, (Pg. 201)

• BREEDER STOCK REPLACEMENT – (See Discussion Document)

The Board unanimously passed to adopt the proposed recommendation regarding Breeder Stock Replacement and to be posted on the NOP website.

• FIBER BEARING ANIMAL STANDARDS

Discussed under the committee work plan and no action was taken.

• DAIRY ANIMALS REPLACEMENT STANDARD – (See Discussion Document)

Approved the Livestock Committee’s recommendation for a rule change. VOTE: 13 approved, 2 abstained, 0 No.

• CLARIFICATION OF REQUIREMENTS FOR REVIEWING LIVESTOCK MATERIALS (See Discussion Document)

Nancy Ostiguy presented recommendation for clarification of information for TAP contractors; the document will now go to the Materials Committee for consideration, and then be posted for public comment.

• REVIEW IVERMECTIN FOR REMOVAL

Mr. Siemon reported on the Parasiticide Task Force. No action taken.

• ALTERNATIVE FEED SUPPLEMENTS TO DL-METHIONINE

Becky Goldburg reported on research now being conducted in the industry on fish meal and other alternative methionine sources. No action taken.
INTERNATIONAL – BECKY GOLDBURG, (Pg. 219)

- NO REPORT. To be part of the strategic planning committee.

PRESENTATION OF COMMITTEE DISCUSSION ITEMS – (Page 220)

Presentation and discussion of material recommendations from Crops, Livestock, and Handling Committees. Materials recommendations from the committees were discussed during the balance of the afternoon. Per the agenda, no action was taken on those materials.

MEETING RECESSED AT MAY 13, 2003, AT 5:45 P.M.

WEDNESDAY – MAY 14, 2003, at 8:15 a.m.

MEETING OPENED WITH PUBLIC COMMENT SESSION:

Jim Pierce, Organic Valley, (Pg. 4)
Liana Hoodles, National Campaign for Sustainable Agriculture (NCSA), (Pg. 8)
Toni Feder, Northwest Coalition for Alternatives to Pesticides, (Attach. 14), (Pg. 10) (Transcript Error: Ms. Better should be Ms. Feder)
Karen Balthrop, Northwest Coalition for Alternatives to Pesticides, (Pg. 12)
John Wallingford, Wyeth Nutrition, (Pg. 15)
John Immaraju, (Attach. 15), (Pg. 20)
Tina Ellor, Phillips Mushroom Farms, (Pg. 23)
Lucina Lampila, IFAC/Prayon, (Pg. 27)
Urvashi Rangan, Consumer Union, (Pg. 36)
Marva Holt, Holts Organic Land and Livestock, (Pg. 43)
Harriet Behar, (Pg. 46)
Margaret Scoles, Organic Inspector, Independent Organic Inspectors Association, (Pg. 49)
Cissy Bowman, Chairman, Indiana Certified Organic, (Pg. 50)
Leslie Zuck, PCO proxy for Ned MacArthur (Pg. 57)
Marty Mesh, Executive Director, Florida Certified Organic Growers and Consumers (Pg. 67)
Joe Hall, California Natural Products, (Pg. 75)
Bob Buresh, Director of Nutrition and Research for Tyson Foods, (Pg. 80)
Dex Conaway, Communications Director for Indiana Certified Organic, (Pg. 88)
Marty Mesh, proxy for Laura Kennedy, Quality Cert. Services, (Pg. 93)
Juli Brussell, Member, Organic Farming Research Foundation Board, (Pg. 97)
Tom Hutcheson, Organic Trade Association, (Pg. 100)
Grace Marroquin, Marroquin International, (Pg. 103)
Jim Pierce, Organic Valley proxy for Tom Harding, AgriSystems International, (Pg. 111)
T.M. “Mac” Devin, Ft. Dodge Animal Health, (Pg. 117)
Cindy Salter, Executive Director, Compost Tea Industry Association (Read by Dave Carter), (Pg. 119)
Barbara C. Robinson, Deputy Administrator, TM/AMS, (Pg. 121)

PUBLIC COMMENT CLOSED AT 11:00 a.m.

INERTS TASK FORCE REPORT – Nancy Ostiguy and Rose Koenig – (See Discussion Document), (Pg. 123)
Nancy Ostiguy reports that the task force has been reviewing List 3 Inerts. The task force was created to address the conflict regarding List 3 Inerts.

The task force is recommending a temporary guidance policy that would allow that products made with disclosed Inerts that were allowed in 2001 by a now-accredited certification agency to be continued for use until December 2004, with some restrictions. The task force approved the report on a vote of 6-3. Kim Burton and Mark King provided reasons for not supporting the recommendation.

Ms. Ostiguy recommended that the task force document be posted for public comment.

Nancy/Rose will take board comments under advisement, and then will send a revised proposal to NOP for public comments.

COMPOST TEA TASK FORCE REPORT – OWUSU BANDELE (See Discussion Document), (Pg. 158)

Dennis Holbrook reported on the status of the Compost Teas Task Force. Compost Tea Task Force met by conference call in early May. A list of task force members was distributed.

The Task Force has created a series of subcommittees to examine the various factors in making, storing and applying compost tea. Those subcommittees will meet between now and the October 2003 Board meeting.

PRESENTATION OF WRITTEN MATERIAL RECOMMENDATIONS

CROPS MATERIALS – Owusu Bandele

TETRAHYDROFUFURYL ALCOHOL (See Discussion Document), (Pg. 162)

THFA was petitioned to be added to section 205.601, “synthetic substances allowed for use in organic crop production.” More specifically, the committee examined the substance in relation to 205.601(m)(2), “as a synthetic inert ingredients as classified by the EPA for used with nonsynthetic substances listed in this section and used as an active pesticide ingredient in accordance with any limitations on the use of such substances.

The Committee concurs with the TAP review in that evaluation against OFPA Criteria 1 and 6 in particular require specific information to determine the substance’s potential for agroecosystem interactions. The Committee found the material to be synthetic. **Committee Vote: 5 Approved**

**MOTION:** Owusu Bandele  **SECOND:** Nancy Ostiguy
**MATERIAL STATUS:** Synthetic – Allowed
**FINAL VOTE:** None
**Why Synthetic:** Deemed so by TAP Review determined that manufacturing process products were not natural.

**ANNOTATION:** Add to 205.601(m) with the annotation “only until December 31, 2006.” The annotation was designed to be consistent with the EPA deadline for review of all inerts exempt from food tolerance requirements.

**Why Annotation:** EPA review process to move to either List 4 or List 2; If goes to List 2 then off National List.
POTASSIUM SILICATE  (See Discussion Document), (Pg. 171)

The Committee received a petition to consider as a synthetic substance allowed for use in organic crop production as plant disease control” and as a “synthetic allowed for use in organic crop production as plant for soil amendments.”

The Committee voted to allow the material but for disease control only under 205.601(i). However, after discovering that the material had not received the EPA label required for pesticide use, the committee reconsidered that recommendation. **Committee Vote: 4 Approved; 1 Absent**

- **MOTION:** Owusu Bandele  
- **SECOND:** Dennis Holbrook  
- **DEFERRED:** Until Next meeting

**Why Deferred:** Potassium silicate was deferred pending additional information regarding its manufacturing process and pending the acquisition of an EPA registration for use as a pesticide. Currently, the material does not have an EPA registration.

PHOSPHORIC ACID – (See Discussion Document), (Pg. 173)

The Committee received a petition to consider as a synthetic substance allowed in crops to be used to adjust the pH for aquatic plant extracts. **Committee Vote: 4 Approved; 1 Absent**

- **MOTION:** Owusu Bandele  
- **SECOND:** Dennis Holbrook  
- **DEFERRED:** Until Next Meeting

**Why Deferred:** The decision involving phosphoric acid deferred pending a Full TAP review for crop usage. That review should also reassess its use in liquid fish products.

GLYCERIN OLEATE/GLYCERINE MONOOLEATE – (See Discussion Document), (Pg. 176)

The Committee received a petition to consider as a synthetic substance allowed in crops. **Committee Vote: 4 Approved; 1 Absent**

- **MOTION:** Owusu Bandele  
- **SECOND:** Dennis Holbrook

**MATERIAL STATUS:** Synthetic – Allowed

**FINAL VOTE:** 15 YES, 0 NO, 0 ABSTAINED, 0 RECUSED

**Why Synthetic:** The manufacturing process involves synthetic materials.

**RECOMMENDATION:** To be added to 205.601(m)

- **MOTION:** Owusu Bandele  
- **SECOND:** Nancy Ostiguy

**ANNOTATION:** Only until December 31, 2006. The annotation was designed to be consistent with the EPA deadline for review of all inerts exempt from food tolerance requirements.

**Why Annotation:** EPA will clarify status as List 3 inert by end of 2006.

**FINAL VOTE:** 15 YES, 0 NO, 0 ABSTAINED, 0 RECUSED – The material was approved for addition to the National list until December 31, 2006.
LIVESTOCK MATERIALS – George Siemon

PROTEINATED CHELATES – (See Discussion Document), (Pg. 187)

Deferred: Until Next Meeting October 2003
Why Deferred: Committee has not received TAP Supplemental Report by contractor.
CALCIUM PROPIONATE – (See Discussion Document), (Pg. 187)

The material was petitioned for use as a livestock treatment for Milk Fever and mold inhibitor. Use for Milk Fever was recommended by Board in September, 2002. The committee recommended to be added to 603(a) as a mold inhibitor in dry formulated herbal remedies. **Committee Vote: 4 Approved, 1 No, 1 Abstained**

**MOTION:** George Siemon  
**SECOND:** Owusu Bandele  
**MATERIAL STATUS:** Synthetic – Allowed  
**FINAL VOTE:** NONE – The material was previously established as a synthetic.

**RECOMMENDATION:** To be added to 205.603(a)  
**MOTION:** George Siemon  
**SECOND:** Mike Lacy  
**ANNOTATION:** As a mold inhibitor in dry formulated herbal remedies  
**Why Annotation:** The committee was concern that if they didn’t annotate it, it would be used for feed purposes – it’s a general feed preservative. The committee wanted to make sure that it’s only used as a therapeutic tool.

**FINAL VOTE:** 11 APPROVED, 2 NOS, 2 ABSTAINED, 0 RECUSED

FUROSEMIDE – (See Discussion Document), (Pg. 193)

The Committee received a petition to consider for medicinal livestock treatment as a diuretic used for the treatment of udder edema and pulmonary edema which is associated with conjunctive heart failure. **Committee Vote: 5 Approved; 1 Abstained**

**MOTION:** George Siemon  
**SECOND:** Nancy Ostiguy  
**MATERIAL STATUS:** Synthetic  
**FINAL VOTE:** 15 APPROVED, 0 NO, 0 ABSTAINED, 0 RECUSED  
**Why Synthetic:** Manufacturing process – molecular change of parent material. Petitioned by manufacturer as synthetic.  
**APPROVED:** Effective treatment udder edema and pulmonary edema. Suitable alternative treatments not on list.

**RECOMMENDATION:** To be added to 205.603(a)  
**ANNOTATION:** Double FDA withhold time – (96 hours totaled)  
**Why Annotation:** TAP indicated that 10% residual of material remains active after 48 hours. Committee recommended longer withhold for organic use.  
**MOTION:** George Siemon  
**SECOND:** Mike Lacy

**FINAL VOTE:** 15 YES, 0 No, 0 Abstained, and 0 Recused. The Board supported the double FDA withhold due to data showing that after 48 hours there is still 10% residual in tissue. NOP staff clarified that NOSB can recommend extended withdrawal, but they must have a compelling claim related to the OFPA criteria to establish that requirement.

MINERAL OIL – (See Discussion Document), (Pg. 197)
The Committee received a petition to consider as an internal treatment for compaction and for use as a dust suppressant ingredient in organic livestock feed production. **Committee Vote: 1 Approved; 4 Disapproved; 1 Absent**

**MOTION**: George Siemon  
**SECOND**: Becky Goldburg  
**MATERIAL STATUS**: Synthetic – **NO VOTE** – Established at previous meeting.  
The Committee recommended, not be allowed to be used as a dust suppressant in the formulation of livestock vitamin/mineral supplements.

**MOTION**: Jim Riddle  
**SECOND**: Mike Lacy  
To be added to 205.603(d); and allowed for dust control and disbursed until 10/21/2006, with three year phase out, and development of other alternative.  
**MOTION VOTE**: 8 YES; 7 NOS: MOTION FAILED

**FINAL VOTE ON ORIGINAL MOTION TO PROHIBIT**: 8 YES TO PROHIBIT, 8 NO NOT ADDED, 0 ABSTAIN, AND 0 RECUSED – By prior action, this material is classified as a synthetic. A motion to include the material on the National List as an approved substance for use as a dust suppressant failed.

**ATROPINE** – *(See Discussion Document), (Pg. 209)*

The Committee received a petition to consider as an antidote for poisoning in organic livestock production. **Committee Vote: 5 Approved, 1 Absent**

**MOTION**: George Siemon  
**SECOND**: Nancy Ostiguy  
**MATERIAL STATUS**: Synthetic  
**FINAL VOTE**: 15 YES, 0 NO, 0 ABSTAINED, 0 RECUSED  
**WHY SYNTHETIC**: Manufacturing process – synthesized chemical heat and pressure used to break molecular bounds.  
**WHY APPROVED**: Effective antidote for poisoning of livestock. No other alternatives on National List. Also, effective for treatment of pink eye.

**RECOMMENDATION**: Add to 205.603(a) as a livestock medication without an annotation

**FINAL VOTE**: 13 YES, 0 NO, 2 ABSTAINED, 0 RECUSED – The material was approved for addition to Section 205.603(a) of the National List.

**MOXIDECTIN** – *(See Discussion Document), (Pg. 223)*

The Committee received a petition to consider for medicinal livestock treatment, as a topically applied broad spectrum parasiticide effective against both internal and external parasites.

**DEFERRED**: Until Next Meeting  
**WHY DEFERRED**: Upon the recommendation of the committee, the material was deferred pending the gathering of additional information from Petitioner; need additional information from TAP contractor. The Board had concerns about its possible antibiotic properties, its 6 month half life effect on the environment, and residues in milk, fats and lipids.
PROCESSING MATERIALS – Mark King

EGG WHITE LYSOZYME – (See Discussion Document), (Pg. 228)

The Committee received a petition to consider for additional to the National List of Substances Allowed and Prohibited in Organic Production and Handling as a nonagricultural substance allowed in processed products labeled as “organic” and “made with organic” ingredients. **Committee Vote: Unanimous**

**MOTION**: Mark King

**SECOND**: Jim Riddle

**MATERIAL STATUS**: Non–Synthetic

**FINAL VOTE**: 15 YES, 0 NO, 0 ABSTAINED, 0 RECUSED

**Why Natural**: Derived from a natural (chicken egg whites) source and the MFG process. No solvents used in the MFG process of the enzyme. Consistent with other enzymes.

**Why Approved**: Additional information received by the petitioner on the GRAS status.

**MOTION**: Mark King

**SECOND**: Kim Burton

**RECOMMENDATION**: Add to 205.605(a)

**FINAL VOTE**: 15 YES, 0 NO, 0 ABSTAINED, 0 RECUSED – Egg White Lysozyme was approved for addition to 205.605(a) of the National List

NITROUS OXIDE – (See Discussion Document), (Pg. 234)

The Committee received a petition for use as a whipping propellant in products labeled as “organic” and “made with organic.” **Committee Vote: Unanimous**

**DEFERRED**: Until Next Meeting

**Why Deferred**: Due to late arrival of the TAP Report – Not adequate time to review TAP report.

L-MALIC ACID (See Discussion Document), (Pg. 235)

The Committee received a petition for use as a PH adjuster in processing operations. **Committee Vote: Unanimous**

**MOTION**: Mark King

**SECOND**: Kevin O’Reell

**MATERIAL STATUS**: Non–Synthetic

**FINAL VOTE**: 14 YES, 1 NO, 0 ABSTAINED, 0 RECUSED

**Why Non–Synthetic**: Fermentation of carbohydrate substance.

**APPROVED**: The natural alternative detailed in the TAP report is commercially available. Verified with petitioner.

**MOTION**: Mark King

**SECOND**: Kevin O’Reell

**RECOMMENDATION**: Add L–Malic Acid to 205.605(a) of the National List

**AMENDMENT TO MOTION**: To add an annotation that from the microbial fermentation of carbohydrate substances.” **Vote**: 14 Yes, 1 No, 0 Abstentions, 0 Recusals
FINAL VOTE: 15 Yes, 0 No, 0 Abstained, 0 Recused – L Malic Acid was approved for addition to 205.605(a) of the National List with the annotation. Action on DL-Malic acid was deferred.

SODIUM ACID PYROPHOSPHATE – (See Discussion Document), (Pg. 245)

The Committee received a petition for use as a leavening agent in baked goods. Committee Vote: 5 Approved, 1 No, 1 Abstained

MOTION: Mark King SECOND: Kim Burton
MATERIAL STATUS: Synthetic
FINAL VOTE: 15 YES, 0 NO, 0 ABSTAINED, 0 RECUSED
Why Synthetic: Using synthetic ingredients in the MFG process.
APPROVED: No alternatives available; unique function and similar to other phosphates on the National List.

MOTION: Mark King SECOND: Kim Burton
RECOMMENDATION: Add to 205.605(b)
ANNOTATION: “For use only as a leavening agent”
Why Annotation: Specific use in application; not enough information on other uses.

FINAL VOTE: 10 YES, 2 NO, 3 ABSTAINED, 0 RECUSED; The material was approved for addition to 205.605(b) of the National List for use as a leavening agent

MICRO-ORGANISMS – (See Discussion Document), (Pg. 251)

The Committee received a petition including spore powder for inclusion on the National List. Committee Vote: Unanimous

MOTION: Mark King SECOND: Kevin O’Reell
MATERIAL STATUS: Non–Synthetic
FINAL VOTE: 12 YES, 3 NO, 0 ABSTAINED, 0 RECUSED
Why Natural: Mfg. Process is natural; Previous TAP reviews deemed natural such as enzymes and dairy cultures.

MOTION: Mark King SECOND: Kim Burton
RECOMMENDATION: Add to 205.605(a), “Any food grade bacteria – fungi, and other micro–organisms

FINAL VOTE: 11 YES, 1 NO, 3 ABSTAINED AND 0 RECUSED; The material was approved for addition to 205.605(a) of the National list as “any food grade bacteria, fungi, and other micro-organisms.”

COMMITTEE WORK PLANS – (Pg. 265)
Accreditation – Jim Riddle
- The committee will continue to work on the minor non-compliance document. The document will be posted for discussion. Action is planned for the October meeting;
- The committee will begin to look at information on certificates, and ideas for creating uniform information on those certificates; and
- The committee will be analyzing the future role of the committee.

Board Policy Manual Task Force – Jim Riddle
- Task force will include the timeline for submitting committee recommendations and TAP reports;
- The task force will include any new committees’ names and descriptions – and any changes in board structure – as a part of the policy manual;
- Update our voting forms will be prepared for inclusion in the manual;
- Language on the Peer Review Panel will be removed; and
- Other amendments will be handled as needed.

Processing/Handling – Mark King
- Will continue to work on Food Contact Substance and Guidance;
- Will work on materials: (1) Nitrous oxide, and (2) Sunset review of materials on the national List; and
- Post-harvest handling vs. processing.

Livestock – George Siemon
- Will work on clarifying non-edible livestock standards;
- Will work on clarifying new dairy herd entry clause and post list of scenarios for public comment;
- Stimulate task force within industry: (1) Alternatives to methionine, and (2) Identify calf-hood drugs to petition; and
- Livestock materials to be addressed include:
  - Moxidectin
  - Chelated minerals
  - Flunixin
  - Fish meal

Crops Committee – Owusu Bandele
- Compost Tea Task Force will continue its work;
- Materials: (1) Work will continue on deferred materials, and Sodium nitrate use;
- Rose and Nancy will continue to work on List 3 inerts;
- Committee will coordinate with NOP on status of greenhouse and mushrooms recommendations;
- The committee will seek clarification on sodium nitrate use; and
- The committee will consider possible continuation of hydroponics work based on NOP/Strategic Committee Feedback.

Materials Committee – Kim Burton
Update Material Review Process
  - NOP review process of a petition prior to forwarding to materials committee.
  - Cut-off date for TAP reviews prior to an NOSB meeting.
• CBI information. Clarification on process?
  ▪ Draft Policy on the National List Sunset Revision Process – post for public comment;
  ▪ When recommending material review using existing TAP reviews then the committee MUST review the supplied information and expedite a supplemental TAP if necessary;
  ▪ Status on list 3 inerts and EPA – Rose Koenig & Nancy Ostiguy;
  ▪ National List Update – status on NOSB materials recommendations and Federal Register Dockets; and
Discussion with NOP on restructuring the National List: *(See Discussion Document)*
- Specifically Handling 205.605 and 205.606
- Ongoing issues with TAP reports; contractors, deferred TAPs for inadequate information.
- Guidance Document/ OFPA criteria (?) for contractors on reviewing materials (i.e., Livestock)
- National List Sunset Provision – Ms. Burton distributed a document concerning the recommended process to begin the re-review of materials included on the National List. After Board review the document, it will be posted for public comment.

*International Committee – Becky Goldberg*
- No Work plan pending restructuring of board committees.

**OTHER BUSINESS**

**NEXT BOARD MEETING:**
- October 22-24, 2003 in Washington, DC; 10/22/03 – ½ day of committee work (afternoon)
- 10/23-24/03 NOSB Meeting
- OTA 5/2-4/04 in Chicago, Illinois
- **2004 MEETING:** October 12-14, 2004 – To Be Determined

**MISCELLEANEOUS INFORMATION:**
- Kim Burton suggested that co-chairs be assigned as soon as possible regarding recommendation for the materials.
- Federal Register for Processing and livestock and good guidance practices and new section. The board should have a plan to respond; w/a 30 day public comment.
- Dave Carter to work with Kim, Mark, Andrea, and Rose on the policy task force committee. To work with committee chairs – to bring the recommendation on how to proceed with policy strategic plan for policy control.

**MEETING ADJOURNED AT 4:45 P.M.**
The National Organic Standards Board meeting of October 22–24, 2003, was attended by 15 members:

Members Present:

- Owusu Bandele
- Kim Burton
- Dave Carter
- Goldie Caughlan
- Ann Cooper
- Dennis Holbrook
- Mark King
- Rebecca Goldburg
- Rosalie Koenig
- Michael Lacy
- Kevin O’Rell
- Nancy Ostiguy
- Andrea Caroe
- Jim Riddle
- George Siemon

National Organic Program (NOP) Staff:

Barbara C. Robinson, AMS/Deputy Administrator; Richard Mathews, Program Manager; Katherine Benham, Arthur Neal, Keith Jones, Francine Torres, Darcie Priester and Bob Pooler

NOSB WORKING SESSION (Closed to the public): October 22, 2003 – 8:00 a.m.

See Discussion Document

Call to Order: October 22, 2003 – David C. Carter – 1:30 p.m.

Dave Carter welcomed everyone to the meeting and had each member introduce him/herself. Mr. Carter talked about the meeting format, and using the agenda, what the Board will focus on during this meeting. Specifically, the Board will develop a statement of what constitutes compatibility/consistency with a system of sustainable agriculture/organic production and handling relative to substance review and evaluation. The Board will also clarify and document its recommendations from the May 2003 meeting.

Mr. Carter announced that FDA representatives will give a presentation on FDA approval for livestock materials. He also stated that public comment will focus on the issue of compatibility, and finally on Friday the board will go through the May 2003 material recommendations that were made and will use the standardized template to rework the process.

Announcement: (See Discussion Document) (Pg. 7)

Jim Riddle announced that during a meeting a few weeks ago the National Association of State Departments of Agriculture (NASDA) adopted a policy statement in support of organic agriculture.

Approval of Agenda: (See Discussion Document)

Mr. Carter stated that the materials chair will provide a review of the materials process and that the board will bring forth the formal process for the adoption of the form for materials consideration. He also stated that this is an ongoing process that will be incorporated into the board’s policy book. The agenda was unanimously approved.
Mr. Richard Mathews, NOP Program Manager reported on the following:

**Rule Making Docket:**

The rule making process was in final clearance, and he was very optimistic that they will be cleared for publication in the Federal Register by the first week in November. Once the documents are published and effective the day after publication, people will be able to start using those materials that occur in those two documents. The two documents address all of the crop materials, a few issues relating to livestock, some processing issues, and a number of technical corrections that were made. There is one material (TSSP) that will come back to the Board for reconsideration based upon public comment. TSSP cannot be used. Those materials included in the two final rules will be added to the list and can be used starting on the effective date of the respective final rule.

**Livestock Materials Docket:**

NOP is still working on issues on the livestock materials; the docket is not final yet, and will have to go through proposed rule. There will be a 30 day comment period on the proposed rule and those materials will go through the same process of our analyzing the comments. NOP will report to the Office of Management and Budget (OMB) what the commenters are saying about the materials and what can be done about it. NOP will provide OMB with justification for adding or not adding a material to the National List.

**Materials Review Process:**

The NOP is looking at the materials process as a system. Internally working on how NOP can do a better job. Also looking at the petition procedures to determine what can be done to improve the quality of petitions. Working with the vendor to clarify expectations. For the next few days the Board will be looking at ways to make their decision process more transparent. All of these steps will help us to do a more effective job communicating to the public what we do as the Board, the reviewers and the NOP.

**Peer Review Panel Selection:**

The Peer Review Panel is underway, and ANSI is responsible for the peer review. The expert has been selected (Ken Cummings) and the review process has begun. However, it will probably take another two to three months before anything is completed.

**Paperwork Reduction Act:**

Every two years NOP has to get OMB approval for the recordkeeping burdens that are placed on the public. The record keeping approval that is in place expires in January 2004. NOP published its intent to continue this process of gathering information and the public is welcome to comment on the record keeping burden.
Approval of the Minutes – *(Pg. 14)* – *(See Discussion Document)*

Jim Riddle moved that the Board approve the May meeting minutes; Dennis Holbrook seconded with no discussion. Minutes approved unanimously.

Approval of the Executive Committee Conference Call Minutes *(See Discussion Document)*

Jim Riddle pointed out that in the meeting book at Tab 3, the July minutes is not the final version; and that there was an amendment to reflect that Kim Dietz had left the call at a certain time after the materials committee report. Mr. Riddle wanted to make sure that the official record reflects the corrected version. Mr. Mathews stated that the updated version of the minutes was adopted and accepted by the Board and posted on the website. No action – just for informational purposes only.

PRESENTATIONS:

The text of these presentations can be found within the meeting transcripts. *(Pgs. 100–150)*

*Drs. Steven Vaughn, FDA, Director of the Office of New Animal Drug Evaluation, Center for Veterinary Medicine; and Vito E. Vengriss, FDA, Office of Surveillance and Compliance* provided an overview on Animal Drug Approval Process. The text of this presentation can be found within the meeting transcripts. *(See Discussion Document)*

*Dr. Richard Forshee, Associate Director of Research for the Center for Food and Nutrition Policy, Virginia Tech* provided a presentation on TAP Reviews and how to improve the process. He also talked about providing factual and scientific answers in an objective manner so that NOSB and NOP can make informed judgments on the petitions that are receive for inclusion on the National List. *The text of this presentation can be found within the meeting transcripts. (See Discussion Document)*

The NOSB received presentations from OMRI, *Ms. Emily Brown–Rosen, Policy Director, Mr. Richard Theuer, Former Board member and serves on the OMRI Board of Directors, Mr. David Decou, Organic Farmer and Managing Director of OMRI:* *(See Discussion Document)*

*Mr. Decou* talked about coming up with ways to have a thorough and transparent process, having objective standards that can be understood, how they should apply to both prohibit as well as added materials, and finally the TAP review process. *The text of this presentation can be found within the meeting transcripts.*

*Ms. Brown–Rosen* provided an overview of enhancing the petition process overall, including the petition; the screening process; the statement of work and the guidance for contractors, and the TAP decision process. *The text of this presentation can be found within the meeting transcripts. (See Discussion Document)*

*Mr. Theuer* talked about obtaining quality TAP reviews and limited competence in the selection of TAP contractors stating that it may be worthwhile considering having them specialize in the different areas, because everybody is not equally good in crops, livestock and processing. *The text of this presentation can be found within the meeting transcripts.*

*Recessed at 5:30 p.m.*
Reconvene: October 23, 2003 – 8:00 a.m.

PUBLIC COMMENTS

The following individuals presented public comments. Each person’s comments were recorded and transcribed for the record; and some individuals also presented written comments. Transcribed comments, and where applicable written comments, can be found at DESIGNATED ATTACHMENTS.

REGISTRATION SHEET (Attachment A.)
SIGN–IN SHEET (Attachment B.)

Jim Pierce, Organic Valley, (Pg. 5 and Attach. 1)
Mac Devin, Fort Dodge Animal Health, (Pg. 10)
Tom Hutchinson, Organic Trade Association, (Pg. 12 and Attach. 2)
Mark Condon, American Seed Trade Association, (Pg. 13 and Attach. 3)
Liana Hoodes, National Campaign for Sustainable Agriculture, (Pg. 23 and Attach. 4)
Emily Brown Rosen, OMRI, (Pg. 25)
David De Cou, OMRI, (Pg. 31)
Hubert Karreman, Cowcare, (Pg. 33)
Urvashi Rangan, Consumer Policy Institute Consumers Union, (Pg. 42)
Dan Leiterman, Crystal Creek, Inc., (Pg. 47)
Brian Leahy, California Certified Organic Farmers, (Pg. 50)
Marty Mesh, Florida Organic Growers Qualify Certification Services, (Pg. 59)
Michael Sligh, Rural Advancement Foundation International, (Pg. 63)
Rachel Jamison, Washington State Department of Agriculture Organic Food Program, (Pg. 69)
David Engle, Midwest Organic Services Association, (Pg. 82 and Attach. 5)
Kelly Shea, Horizon Organic, (Hubert Karreman Proxy), (Pg. 86)
Robert Haddad, Farming Systems for the Humane Society, (Pg. 92)
Christopher Ely, Applegate Farms, (Pg. 95)
Lynn Cody, Ag Systems Consulting, (Pg. 107)
John Immaraju, AMIAC–International Product Development, (Pg. 121 and Attach. 6)

Recessed at 11:30 a.m.

Policy Development Committee – Mark King (See Discussion Document)

Mark King stated that the committee developed a 22-page draft statement that defined compatibility with the system of sustainable agriculture and consistency with organic handling. Jim Riddle who is the primary author of the draft statement provided an overview. Initially he put together a draft option one document with supporting language. Jim stated that the committee has since identified two distinct types of substances, those used in production, (and there’s criteria for production materials) and handling materials. As option two, the committee recommended two separate statements; one to be used for evaluation of compatibility of production materials and the other, handling materials. The committee had a second call, and Keith Jones stated that what would be helpful to the program are measurable criteria or factors in order to understand what is compatible and consistent. This lead to the drafting of a third option.

Mr. Riddle talked about how the Policy Development Committee made some more revisions to the option three document and adopted that as the recommendation with a vote of 3 to 0 with 2 absent. He also stated that the working draft will be posted for public comment and would be adopted at the next meeting and will be used by NOP as any material is moved forward in the regulatory process.

For further discussion on the Board’s deliberations in developing the compatibility guidance document, please see the meeting transcripts. (Pgs. 126 – 284)
Chair’s Discussion (Pgs. 284 – 291)

Mr. Carter talked about the procedures that are in the Board’s policy manual for election of officers who served a one year term, and explained that candidates may be self nominated or nominated by another member of the Board, and provided additional details regarding the election procedures. He also made a request to the Board to remove his name from nomination for reelection as Chair.

Mr. Carter talked about a meeting with Ken Clayton and A.J. Yates, and shared three things that he wanted to accomplish as Chair: (1) the importance of making the transition from the steering committee or organizing board to a board that is an operational board for a federal regulation; (2) he wanted to make sure that he provided an opportunity for all of the voices of the organic community to be heard at the table so that there was open and transparent discussion; and finally (3) to accomplish building a really collaborative, cooperative relationship with the Program.

Mr. Carter closed by stating that it’s best for him to step aside and for someone to come and fill the Chair’s position; to continue to work in developing the communication, and the relationship with the Program and make sure that the integrity of this Board is never compromised. He also thanked everyone for the opportunity to serve as Chair when the Rule was implemented one year ago, and praised the organic community for standing up to protect the integrity of the organic rule.

Nomination/Election Proceedings:

Ms. Dietz nominated Mark King as Chair; and Ms. Caughlan seconded. Mr. Lacy moved that the nomination be closed and Mr. Siemon seconded. *Mark King nominated as Chair*

Ms. Caughlan nominated Jim Riddle as Vice Chair, and Mr. Lacy seconded. Ms. Caughlan moved that the nomination be closed and Ms. Caroe seconded. *Jim Riddle nominated as vice Chair*

Mr. Siemon nominated Kim Dietz as Secretary, and Mr. Lacy seconded. Ms. Caughlan moved that the nominated be closed and seconded. *Kim Dietz nominated as Secretary*

Other Business:

There was further discussion from the Board regarding the schedule for the following day and how each committee will work and handle the review of the May materials that the Board made recommendations on to NOP. Mr. Mathews also reiterated that the Board will break up into three groups dealing with crops, livestock and processing, and then come back as a full board, and work through the documents to create one master document.

Recessed at 5:30 p.m.

**NOSB WORKING SESSION (Opened to the public):** October 24, 2003 – 8:15 a.m.

See Discussion Document

**Next Meeting:**

April 28–30, 2004 – Chicago, Illinois
UNITED STATES DEPARTMENT OF AGRICULTURE

IN RE:

National Organic Standards Board Meeting

Hearing held on the 22nd day of October, 2003
at 1:30 p.m.
The Radisson Barcelo Hotel Washington
Washington, D.C.

TRANSCRIPT OF PROCEEDINGS

BEFORE: DAVE CARTER, CHAIRPERSON

MEMBERS OF THE BOARD:

ROSALIE KOENING, COMMITTEE MEMBER
REBECCA J. GOLDBERG, COMMITTEE MEMBER
MICHAEL P. LACE, COMMITTEE MEMBER
ANN L. COOPER, COMMITTEE MEMBER
KIM DIETZ, COMMITTEE MEMBER
KEVIN O’RELL, COMMITTEE MEMBER
JAMES RIDDLE, COMMITTEE MEMBER
MARK KING, COMMITTEE MEMBER
GEORGE SIEMON, COMMITTEE MEMBER
GOLDIE COUGHLAN, COMMITTEE MEMBER
OWUSU A. BANDELE, COMMITTEE MEMBER
ANDREA CAROE, COMMITTEE MEMBER
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MR. CARTER: Okay. In total -- you know, probably violation of federal law, but out of respect for the folks that are here today, we will go ahead and convene the meeting of the National Organic Standards Board, because we do have a lot of work to do. But just to let the record reflect that the time certain called for the meeting was at 1:00 p.m. We’re waiting for the folks from USDA to get back from lunch. Legally, we’re not supposed to have an advisory committee meeting unless there’s USDA folks present, but I think that they will be here shortly, so we will just go ahead and begin. So the first thing I’d like to do is to just go around the table here and have the Board members introduce themselves. And let the minutes reflect that Nancy Ostiguy will not be here until tomorrow. She’s a professor and she’s finishing up some finals today, and will be not here. Other than that, we have everybody on board. And so we’ll start off with Rose.

MS. KOENING: Just say who we are?

MR. CARTER: Who you are and what do you do.

MS. KOENING: My name is Rose Koening. I’m a producer in Gainesville, Florida.

MS. GOLDBERG: I’m Becky Goldberg. I work for York Stenographic Services, Inc.

34 North George St., York, PA 17401 - (717) 854-0077
an environmental organization in environmental defense.
And my office is in New York.

    MR. LACY: I’m Mike Lacy. I’m a faculty
member from the University of Georgia.

    MS. COOPER: Ann Cooper. I run a shop New
York.

    MS. DIETZ: Kim Burton, a handler
representative from Chico, California. For the official
records, my name was changing. I got married last week
and it’s not Kim Dietz, so I’ll have to start using that
name.

    MR. O’RELL: Kevin O’Reell, a handler
representative from Longmont, Colorado.

    MR. RIDDLE: Jim Riddle, a homesteader
representative from Minnesota. A certifier rep and I’m
endowed chair at the University of Minnesota.

    MR. CARTER: Dave Carter, a consumer rep. But
I actually spend half of my time working with buffalo
ranchers and half of my time doing ag consulting.

    MR. KING: Mark King. I’m the retail
representative on the Board and I reside in
Indianapolis, Indiana, and independent consultant.

    MR. SIEMON: George Siemon, the farmer rep
from Wisconsin.

    MS. CAUGHLAN: Goldie Caughlan, consumer rep.
I work with food cooperatives in Settle, Washington.

MR. BANDELE: Owusu Bandele, professor at Southern University in Louisiana.

MS. CAROE: Andrea Caroe, environmental rep.

MR. CARTER: In terms of the meeting process, this is kind of a unique -- a different type of meeting format that we’ve got the next few days, in that because of some of the issues surrounding the materials review process, the department has asked us to focus this meeting specifically on two areas. Number one is a standardized process for the materials review and particularly going through some of our decisions that we’ve made in the past and putting them into a standardized process that they can use then for the implementation. The second area is the trying to surround and get some consistency around the process that we use as a board on the criteria for the compatibility with organic systems and how do we define that. And so that’s going to primarily be the focus of the next couple of days. Today we have a presentation from FDA. Because of some of the issues that have surrounded, let the record reflect we are now legal. Katherine is here, so we have a USDA representative. And let’s see. I saw Dennis. Where’d he go?

MR. SIEMON: Can we do the minutes now?
MR. CARTER: Well, let me -- no. I just...

MR. SIEMON: Okay.

MR. CARTER: I want to make some announcements here. Anyway, we do have a representative or some representatives from the FDA to speak to us because of some of the issues that have come about with the livestock materials. Tomorrow we’re going to really be looking for public comment and input from the public on this issue of compatibility. Obviously, during the public comment, people are free to use that time for whatever they desire, but we’ll particularly be looking for input on the compatibility. If you do want to get public comment file, you need to sign out. There’s a sheet at the back, as well as just a general attendance sign-out. And then Friday will be day when the Board is simply going to be going through, and particularly the recommendations that we made -- that were made, going through this sort of standardized template and trying to rework them through that process. The public is welcome to sit in on that meeting. We won’t be having any public input at that time, but it is an open meeting. So that is sort of the drill for the next couple of days. Now, as far as other announcements, Jim Riddle has got an announcement that he’d like to share with the Board.
MR. RIDDLE: Thanks Dave. I’ll pass these around. There’s some copies for the Board and there’s some extra copies, as well. And what this is -- I’m very excited to announce is the National Association of State Departments of Agriculture -- these are all of the commissioners and secretaries from all 50 states. NASDA has adopted a policy statement in support of organic agriculture at their meeting a few weeks ago. This is a very significant development, and I just want to highlight a few of the items in the policy statement. NASDA’s calling for a full and consistent implementation and enforcement of the final rule. Aren’t we all. We all support that cooperation between NOP and experienced private and public certifying agents in addressing the practical aspects of organic production and certification issues, increase federal funding to support adequate NOP staffing levels and activities to accomplish legislative intent, cooperative relationships between NOP and the state departments of agriculture. Federal funding to states to allow them to implement their responsibilities under the Act, inclusion of organic as a defined commodity, and USDA market promotion programs. Increased funding for the organic transition program and other grant programs from the federal government, creation of a national program.
leader for organic agriculture, collection and
dissemination of organic price data for sale of
commodity crops, specialty crops and retail organic
sales. There are other points here. That’s just a
summary of this. The incoming president of NASDA is the
Minnesota commissioner of agriculture, Jean Huguson [ph].

MR. CARTER: Other announcements from the
Board? Okay. With that, then, we’ll call on Barbara
Robinson. She just stepped out? Okay. The -- then, we
have the agenda that is in the meeting book. I would
note that Friday morning when we get into the
discussion, we will have the materials to chair as is
accustomed to give the review of the process and a
presentation on that. And at that time we will also be
bringing forward the formal process for the adoption of
the form that we’re using now for our materials
consideration. This is an ongoing process that we want
to incorporate into our board policy book and so we will
take that step at that time. Any other changes or
additions to the agenda? I see none. Do I have a
motion to adopt this agenda as our working agenda?

MR. KING: So moved.

MR. CARTER: Second?

MS. DIETZ: I’ll second.
MR. CARTER: Any discussion? Seeing none, all in favor, say I. Opposed, same sign. Motion carries. Can someone locate Barbara for us? Okay. Richard, would you like to make the remarks on behalf of the program?

MR. MATTHEWS: Seems like we’re always talking about the exact same things. I’m Richard Matthews, program manager. The issues that are probably of greatest concern to people right now is where are we on the rule making process. And as you’ll recall, those rules were issued in both April and May. Both of those have cleared almost every single hurdle for publication in the federal register. I’m optimistic that if not by the end of the first week in November, very soon thereafter, both of those proposals will be published in the Federal Register. Where we are right now is that they’re in the final clearance. By that I mean they have already gone through the attorneys, they’ve gone through the Office of Management and Budget. Everything is right down to the last stages. The reason why I’m still allowing another two weeks before we get it done is because it takes approximately five days once the document gets to the Federal Register. What will happen is that the documents will be published in the Federal Register, and effective the day after publication.
People will be able to start using those materials that occur in those two documents. Those two documents address, essentially, all of the crop materials, a few issues related to livestock, some issues related to processing and a number of technical corrections that we had made. There is one material that will be coming back to the Board for reconsideration based on public comment and that material cannot be used. Those that are published as final will be added to the list and will be able to be used starting that date. We’re still working the issues on livestock materials. The docket is not yet final. That docket will have to go through proposed rule. At this time, there will be a 30 day comment period for all of those who are concerned about how long the comments periods will be. From now on, they will all be 30 days to comment on the proposed rules. And then those materials would then go through the same process of our analyzing the comments. Part of that analysis is that what we do is we report to the Office of Management and Budget, and what is that commenters are saying about the materials and what it is that we could about it. We have to give our justification as to why we’re either adding or not adding it to the Federal Register. So it’ll still have to go through that process. We’re still quite a ways
down the road from the livestock issues. And that’s really the big thing that we’ve got going now that we’ve got the Board meeting and working on. As the Board knows, we’re taking and looking at the materials process as a system. We internally are working on how we, the NOP, can do our job better. But we’re also looking at what it is that we’re requiring of those who file a petition. So we’re looking to see what can be done better in that area to enhance the quality of the petitions that are submitted. So we’re looking at petitions, we’re looking at what it is we do. We’re going to be working closely with the reviewers to address what it is that is expected of them and then what it is that they end up generating for this board. And the Board, as you know, but the public may not, the Board is looking at how do they make their decision process more transparent and that’s what we’re going to be working on today, tomorrow and the next day. And then once all of that is done, then those different steps all figure into helping us do a more affective job communicating to the public what it is that we do as the Board, the reviewers and the NOP. I kind of look at this as if it’s a three-legged stool. Reviewers, the NOP and the NOSB are all equal partners in this. If one leg is shorter than the other, then the stool doesn’t
work very well. Or if one of those legs is cracked or broken, you know, the stool doesn’t work very well. So what we’ve got to do is all get onto the same page and be all working to help each other do each of our own respective responsible areas, to do it more affectively. And that’s what we’re working on right now. The issue of peer review, that program is underway. Nancy is doing the peer review. The expert has been selected, the review process has begun. Nancy has been in looking at our program, initially. It’ll take probably another two to three months before everything is all finished, but I can assure you, it’s well on its way and it’s working. Any questions?

MR. CARTER: Yeah.

MR. MATTHEWS: Jim.

MR. CARTER: Jim.

MR. KING: Yeah, if you could just comment on the Federal Register notice that’s open right now through December 8, on the Paperwork Reduction Act compliance.

MR. MATTHEWS: That’s a requirement that every two years we have to go back through the Office of Management and Budget and get approval for the recordkeeping burdens that are placed on the public. The recordkeeping approval that we have in place right now...
now expires in January of 2004, so what we’re doing is
we’ve gone out and published our intent to continue this
process of gathering the information. The public is
welcome to comment on the recordkeeping burden. But
this is really a formality of putting the public on
notice, giving them an opportunity to comment, but it’s
also necessary for us to continue to gather the
information that is required under the national
standards.

MR. CARTER: Okay. Other questions?

MR. BANDELE: Yeah.

MR. CARTER: Owusu.

MR. BANDELE: Any more information on that one
material that is coming back to the Board?

MR. MATTHEWS: It’s the one that’s the meat
analog, tetrasodium...

MR. BANDELE: Tetrasodiumpyrophosphate [ph].

MR. MATTHEWS: ...pyrophosphate or something
like that.

MR. BANDELE: TSPP.

MR. MATTHEWS: TSPP.

MR. CARTER: Okay. Other questions or
comments? Okay. Oh, I’m sorry, Andrea.

MS. CAROE: Did you -- have you publicly named
the expert that's going to be on the panel, yet?
MR. MATTHEWS: The expert has been selected, yes. Ken Cummings [ph].

MR. CARTER: Okay. Other questions? Okay. Thanks, Richard. A couple of other announcements that I failed to make at the beginning is anyone that speaks either from the Board or the audience that’s invited to speak, whatever, you do need to go to the microphone, you do need to identify yourself. This is being transcribed and we need to have an accurate record. Also, would admonish folks to turn the cell phones either to off or vibrate and to keep any conversation out in the hallway, so that we can focus on the discussion here. With that, let me, then, direct the Board’s attention to the minutes of the May, 2003, meeting, which minutes have been posted. What is your pleasure? Jim?

MR. RIDDLE: I move that we approve the minutes of the May meeting as presented to the Board.

MR. CARTER: Okay. There’s a motion. Is there a second?

MR. HOLBROOK: I’ll second it.

MR. CARTER: Dennis Holbrook seconds. Discussion? Seeing none, all in favor say I. Opposed, same sign. Motion carries. We also have in the book the review of executive committee minutes from the

York Stenographic Services, Inc.
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meetings that have been held since May. And Jim?

MR. RIDDLE: Yeah. Just in looking through those, there at tab three of the meeting book, and just wanted to point out for the record that the July minutes are actually not the final version. What’s in your meeting book, that’s still the draft minutes, and there was an amendment during our last call to reflect that Kim had left to call at a certain time after her materials committee report. And I did get those final minutes path read, so I just want to make sure that the official record reflects the correct version of the July minutes.

MR. CARTER: Okay.

MR. MATTHEWS: The website does have the correct minutes.

MR. CARTER: The correct minutes are on the website. So, okay. The minutes are always adopted by -- accepted by the Board and generated.

MR. RIDDLE: Right. So, again, on the executive...

MR. CARTER: You don’t...

MR. RIDDLE: Yeah.

MR. CARTER: I was going to say, you were giving me that look like we...

MR. RIDDLE: No.
MR. CARTER: So we don’t have to act. That’s just for informational purposes only. All right. Then, this afternoon we have a couple of individuals who are sitting in, a couple of individuals from the Food and Drug Administration to visit with the Board, and the folks that are here are both from the surveillance and compliance division of the FDA. We have with us Dr. Steven Vahn. And I’m going to butcher this one, I know if for sure. Dr. Vengris? Yeah? What’s that?

MR. VAHN: No butchering.

MR. CARTER: No butchering. Okay. This came about because of the discussion that we had on -- we referring to livestock medication and the actions that were taken. The FDA had responded to the program that there were some of these materials that were not in compliance with FDA provisions. We think -- and particularly in August, during the meeting of the American Association of Feed Control Officers in Denver, I had an opportunity to be there. Jim was there, as well, as was Emily Brown-Rozen from OMRI. We had a chance to have a very informal discussion with some of the FDA folks who were there about some ways that we can bring these materials into compliance with the FDA. So we thought it would be helpful to have the folks from FDA come and visit with the Board and see how we can
start to address this issue. So at this point, I just like to turn it over to our guests from FDA.

UNKNOWN: You’re asking for an awful lot.

MR. CARTER: I’ll tell you what, we’ll trade you one laptop for approval of ten materials. Okay. Let me -- while they’re -- while they’re setting up, Owusu has brought to the chair’s attention an issue about -- go ahead.

MR. BANDELE: Yeah. In the -- in the minutes, and also the section dealing with the materials, the tetrahydraperfluidalcohol [ph], this thing is incorrect, because we considered that. It should read tetrahydraperfluidalcohol will be added to 205601M2, with the annotations of until December 31, 2006.

MR. CARTER: Okay.

MR. MATTHEWS: Which minutes are those?

MR. BANDELE: Yeah. It’s in the May summary, as well as the summary that was provided...

MR. CARTER: Yeah. Owusu, if you go to page eight of section...

UNKNOWN: It’s in a different section.

MR. CARTER: There at the bottom of the page. That reflects that it was brought. That was the Board entry.

MR. BANDELE: Oh, okay. I got it.
MR. CARTER: Okay? So we’re okay. I did go to a meeting once that they handed out squirt guns to people as they came in and then anybody whose cell phone went off during the meeting was fair game.

UNKNOWN: Well, since yours has been going off...

UNKNOWN: That’s why you’re all wet.

MR. CARTER: That’s why I’m all wet. Okay. Welcome.

MR. VAHN: We’re all set. Thank you for letting me travel light.

MR. CARTER: Yeah.

MR. VAHN: My name is Steve Vahn, I’m the director of the Office of New Animal Drug Evaluation at the FDA Center for Veterinary Medicine. The reason that Dr. Vengris and I are here today, we were invited to come down because there has been some confusion about how FDA regulates new animal drug products and food additives. And our intent here today is to be informational, not necessarily to influence the Board in anyway. So what we thought we do is I would first talk about my area, which is the pre-approval area, and talk about the drug evaluation we go through to give you a sense of what an approved drug means. And Dr. Vengris is going to talk about medicines from the Division of
Surveillance and the Office of Surveillance Compliance, and Dr. Vengris will be talking about how we regulate products once they are approved or otherwise on the market. And there’s a number of areas there and some fine distinctions that I think would be very useful and probably clear up a lot of confusion that has occurred.

MR. CARTER: You might pull the mike just a little bit closer so everybody can hear you.

MR. VAHN: Sure. Okay. Do you want to go to the next slide? First of all, where our statutory authority comes from, a number of different acts. Primarily, it’s the Federal Food, Drug and Cosmetic Act. We’re also subject to the National Environmental Policy Act and Water Act and Air Act and National Aquaculture Act and so on. From that law, we further interpret the statutes through the Federal Code of Regulations. Most of our regulations are in 21CFR, part 500, and I’ll show you that in a minute. And we further interpret the regulations, then, through our policies in the guidelines. The statute and the regulations have the force of law. The policies and guidance are more advisory in nature and they’re not considered enforceable. In the Federal Food, Drug and Cosmetic Act there’s a few things that I think are important to point out. First is, what is the definition of a new animal
drug. A lot of folks think a drug is defined by the chemical that it is. Actually, the statute defines an animal drug by its intended use, so literally, anything can become a new animal drug if it’s intended for the diagnosis, treatment, cure, mitigation or prevention of disease, or it’s affected -- or it’s intended to affect the structure of function of the animal, other than as a food. So we have a very broad umbrella type of definition. Dr. Vengris is going to go into some of the distinctions and limitations of where our act stops and other acts pick up and other agencies regulate similar products. Specifically, within the food, drug and cosmetic act, section 512 deals with the new animal drug applications that I’m going to speak to today. We have three types of applications, for the most part, that we deal with, the original applications, the first time a new entity comes to us for approval. The subsequent changes after approval are dealt with through the supplemental new animal drug applications. And then there are generic new animal drug applications. We call them abbreviated new animal drug applications, and they are close to identical copies of pioneers that have already been appraised and approved. We do allow -- under the Federal Food, Drug and Cosmetic Act it’s illegal to market a product if it’s not the subject of
an approved application. There’s one exemption for that
and that is for the investigations that are necessary to
prove that a product is safe and affective to get to
market. And as I said, as mandated by the Act, a new
animal drug cannot be sold in interstate commerce,
unless it’s the subject of a new animal drug
application. And Dr. Vengris is going to speak to the
levels of enforcement within that division. So what is
a new animal drug, an approved new animal drug
application? It means the product is subject to -- is
safe and effective for it’s intended use. The methods,
the facilities and controls that are used for
manufacturing and processing and packaging the drug are
adequate to preserve it’s identity, strength, quality
and purity. Anyone can sponsor a new animal drug
application. It can be a US resident or if it is a
foreign firm, they have to have a US agent in the United
States that we would deal with, primarily. Usually, it
is pharmaceutical firms, because it does cost quite a
bit to get a drug approved and on the market. Generally
what’ll happen is a pharmaceutical sponsor will do a lot
of pre-investigation on a new animal drug discovery
research. For example, the discovery of new molecules,
the purchase of other patented entities. They’ll do a
new number of pilot studies to identify the
pharmacologic value of the product. They’ll do work in both laboratory species and the target species. That is a species that they intend to develop the product for. They will work on dose and toxicity, doing pharmacokinetic studies, and really trying to triangulate the safety -- the level of safety with the level of effectiveness for a particular biological affect, and the concentration in which they can manufacture the product, subsequent to be put into a reasonable dose. Okay. We don’t take the initiative in our center to propose products or label indications. The sponsors do that. And the sponsors conduct the necessary research that supports the drug’s safety and effectiveness. We do not do that research at the center. We’re responsible for evaluating the results of those studies, and we help companies in designing the studies so that we get the data that we need to make a safety and effectiveness decision. The research is conducted under a 980 [ph] investigation. The legal parts of the requirements for that are in the code of federal regulations. The cite is there. Allows for the shipment of an investigational drug to investigators and it also allows for the authorization for the use of edible tissue -- meat, milk and eggs -- from animals that have been treated with an investigational drug. It
allows for the conduct of studies to collect the data and document it’s safety and effectiveness. And there are certain requirements that go along with that, including labeling requirements of the investigational drug, the collection of data, the maintenance of records, accountability of the drug for shipment, receipt and use, accountability of the treated animals and their disposition and the qualifications of the investigators that are allowed to do the studies. Generally, we start off the process with a pre-submission conference. That’s a formal process that -- it was informal until the 1996 Animal Drug Availability Act was passed, and now it results in an agreement between the sponsor -- the pharmaceutical sponsor and CBM, which is contractually binding on both for what will be done to prove safety and effectiveness. Generally, we discuss -- voluntarily agree on a product development plan and protocol for each studier, or use of a standard protocol for those products in which the claims have proven. We have statutory definitions of safety and effectiveness. For effectiveness it’s based on substantial evidence consisting of one or more adequate and well controlled investigations. And it can be done in a number of different types of combinations of studies, studies in lab animals or the target.
species, field investigations, biocolon [ph] studies, invetro studies, quite a bit of latitude there to be able to mix and match the right kind of data that we need to be able to conclude that the product is effective. And it also has to be conducted by experts that are qualified by scientific training and experience to evaluate the effectiveness of the drug, and it has to be -- and based on that, then the data that’s generated, other experts similarly qualified would be able to conclude the drug has the effective -- purports to have or is represented to have under the conditions of use at a prescribed, recommended or suggested way. The sponsor conducts the studies to generate the data following that particular protocol that we work with them to develop. The data is then evaluated both by the sponsor and CBM for data integrity, make sure it’s truthful, it’s accurate, there’s not errors and mistakes. Then we scientifically review the data to determine if it does allow us to conclude that the product is safe and effective. The definition of safety is a very broad definition, and it’s adequate tests by all methods reasonably applicable to show the drug is safe under the conditions prescribed, recommended or suggested. Safety means really four areas. We deal with human food safety, target animal safety, environmental safety and
user safety. The way we try to -- the process by which we develop the products, we work under a system called phase review. So during the investigational phase, there’s a high level of interaction with the sponsor, who break down the areas that they have to complete in the technical sections. And those are listed there, human food safety, the target animal safety, environmental safety factors -- chemistry, FOI, summaries and labeling. And I’m going to go into each one of those in a minute. The idea is that they can get decisions at each step in the process from us as to whether they’re moving in the right direction or if they need to complete another part of that application before they move forward. And when they’re all completely finished, then they’ll file their new animal drug application. For human food safety, obviously, we’re concerned with meat, milk, eggs. Honey is another product. We look at drug residues from a couple of standpoints. First of all, we’re concerned about the direct toxic response, and essentially an overdose kind of response. We’re also concerned about chronic exposure. It’s in our food every day, three meals a day for some many years. We’re also concerned about indirect exposures, such as antimicrobial resistance. We do a battery of studies, toxicological studies. And
a few examples are listed there. We’ll do genesity [ph] studies, the two 90-day feeding studies in two different non-target species, reproductive studies, teratology [ph]. We do some -- we’ll do other gene-tox studies and special studies as we -- depending on the nature of the compound. We ask for user safety information. And we would do a -- for antimicrobials, we’ll do a microbial safety risk assessment for determination of the risk associated with the development of antimicrobial resistance in the animals that are being treated. And then we also look at the impact of the drug residues themselves on microbes or flora in the human gut from people consuming residues from those drugs that are used in treating animals. Based on all of that, we will develop an OL [ph], do some calculations and some safety factors. We develop a safe concentration, look at the average dietary intake for each of those and then establish -- excuse me -- establish a safe concentration. That then is the concentration of the total residue that would be allowed for a person to consume in a day. We do -- then we do comparative metabolism studies to make sure we have similar metabolic profiles in the target species to the lab animals that the tox studies were done in. We do a total map, metabolism study, terradialable [ph] study in York Stenographic Services, Inc.

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the target species, whether it’s cows, pigs or turkeys
or so on. We develop an analytical method to be able to
detect the residues. We generally assign a marker
residue, which is either the parent or the most
prevalent metabolite that persists for the longest
duration of time, and we develop the method to that
marker. Then based on that marker and using that
method, we will determine through tissue residue
depletion studies how long it takes for the total
residue to deplete to the safe concentration by using a
marker that will in parallel deplete down to a level
that we assign as a tolerance. And when that -- the
residue depletes and reaches the tolerance, that tells
-- then when we know that the total residue has depleted
from the animal to a safe concentration. We publish
that tolerance in the code of federal regulations and in
21CFR, part 556. We also run our methods through
validation. There has to be an analytical method that
is developed that we can also use for residue monitoring
by our agency and by the inspection service in the
United States. Target animal safety has a little bit
different standard. It’s a the cumulative affect of the
drug on the animal, such that it does not adversely
affect the treated animal. This has a little bit more
judgment associated with it. For example, if it was a
drug intended to treat a skin rash, you certainly would want no adverse affects whatsoever. On the other hand, if it was a drug that was an anticancer drug, you would be able to live with a few side affects, because the nature of the drug -- the intended effect of the drug. So we have veterinarians on staff, about 50 of them, that make the target animal safety evaluations and to make sure that the animal is not adversely affected by the treatment. We do a number of studies to get at the target animal safety. We do a tolerance study at 10x, the proposed dose for three times the duration, to characterize the toxic syndrome associated with the drug. And then we’ll do a chronic toxicity study, which is at 0, 1, 3 and 5x of the proposed dose. The 3x duration to determine the marginal safety associated with the drug. If it’s to be used in reproductive actively animals, we do reproductive safety studies, and in some cases we will go down to breeds, specific age groups or other animals that we feel there’s a particular sensitivity associated with the drug. The environmental safety, we want to make sure that use and manufacture and disposal does not pose a significant environmental impact. We’re required to do that assessment as part of our approving the new animal drug application under the National Environmental Policy Act.
We also have to make sure that they would be in compliance with the clean water and the clean air act, otherwise if we approve the drug, then the producers will not be able to use the drug, because if they did, they’d be in violation of those acts. What we have to do is include either a categorical exclusion, which essentially says that there’s no circumstances under which the use of this drug would cause an environmental affect, or if we think there may be some, we have to do an environmental impact -- an environmental assessment. Excuse me. And then based on that assessment, we will publish either a finding of no significant impact or an environmental impact study. The number of studies that we do, if we have to do an environmental assessment or a number of affect studies, a number of both aquatic and terrestrial species that allow us to determine the impact on the environment. User safety, we’re concerned with the hazards associated with manufacturing the product, occupational exposure at the site of manufacturing, manufacturing emissions. We’re concerned about hazards associated with administration to the animals. We’re also concerned with hazards associated with the use of air, water, solid waste, contaminated via the use of disposal of the drug after the fact. And we deal with everything from what would be the impact of...
someone accidentally injecting themselves on up to in
feed mills where a lot of the drugs are in powder form
and there’s dust and inhalation and potential response
to that. So I’ve hit the highlights of that. I didn’t
go into manufacturing to any great extent, but basically
there’s a slot earlier. We document the manufacturing
process. They have to validate it, develop stability
data. All of that ensures that there’s adequate
protection to make sure that the product is maintained
to it’s purity in the strength and the quality. And we
establish an expiration date. And basically what he
expiration date is, is the date of which the product has
in test fallen outside of it’s specifications and has
lost either the quality or the strength. So basically,
the NADA is a systematic approach to document the
evidence that drug products are safe and effective. The
approved drug products consist of not only the drug in
the container, but all of it’s packaging and it’s
labeling. And then we describe the documented evidence
in a freedom of information summary, an environmental
assessment and then the drug labeling. Basically, three
different audiences. The FOI summary tells the public
the basis upon which we made our decisions. The
environmental assessment speaks to any environmental
impacts that we anticipate. And the drug labeling is
the information to the user of how to safely and
effectively use the product and its conditions of use.
And we have to file all of our approvals in the code of
federal regulations, and all of these documents are
freely accessible. That’s it. I think what I’d like to
do, if you don’t mind, is let Dr. Vengris go ahead and
give his presentation. But I think we’re going to have
to shut, because he has a CD. And what we will do,
then, is both of will answer questions for you after
you’ve heard his presentation.

MR. CARTER: Okay. While you’re changing that
and seeing as how some of us sitting here drank a couple
of glasses of water while were waiting for me to show
up, we’ll take a five minute break here.

[Off the Record]

[On the Record]

MR. CARTER: Dr. Vengris?

MR. VENGRIS: Good afternoon. My presentation
will be different than Dr. Vahn’s.

MR. CARTER: Please introduce yourself for the
record.

MR. VENGRIS: Yes. My name is Vitolis
Vengris. I’m with the Center of Veterinary Medicine in
the division of surveillance.

MR. CARTER: Thank you.
MR. VENGRIS: I’m pleased to attend this meeting. And will attempt to introduce you to major functions of the Office of Surveillance of Compliance, especially those functions which could be related to the areas of your interest. It was not easy for me to prepare for this presentation, because I have limited knowledge about the National Organic Standards Board and your mandate, and also on federal standards on the line of the marketing of claim of organic food. And my intent today will be to describe how the FDA determines the regulatory status of animal drugs. And I will not imply whether those products should or should not be used in animals which -- from which organic products of food are derived. It is our position that food and drug -- the administration of approved drugs is used according to label directions are safe. The FDA has a broad mandate to assure safety and effectiveness of drugs, including animal drugs. Also, devices and safety of the food supply. This is responsibility is derived from the Federal Food, Drug and Cosmetic Act that Dr. Vahn mentioned. The Act was amended in 1968 to include sections, which specifically addresses animal drugs. And the Center for Veterinary Medicine within the FDA helps to ensure the safety of the food supply, and assist in providing for the healthcare needs of
animals through the approval and post-approval monitoring of animal drugs. And also, we have jurisdiction over medical devices -- animal medical devices, and also oversight of animal feed and food additives. The animal counterpart of cosmetic, which is within Drug and Cosmetic Act jurisdiction, is commonly referred as a grooming aid. And I refer to class of products for cleansing and promoting attractiveness of animals. They’re not subject of FDA control, grooming aids are not, unless such product has specific drug ingredients or therapeutical structure or function claim, then they become drugs and they are labeled as such. The next slide, please. Our functions at the office -- I apologize for very rich -- yeah, very poor. Right. A lot of information, but I won’t go through the slide. I’ll try to use, in the text, the major functions. Our functions at the Office of Surveillance and Compliance are multiple, such as monitor marketing animal products. This includes drugs, devices, food additives, animal feed. We evaluate a drug's direct -- withdraw approvals when conditions warrant. Office of Surveillance and Compliance is also responsible for development and implementation of policies that affect marketed products. We render opinions under regulatory jurisdiction, evaluate and grant or deny permission to
market an approved product under regulatory discretion. Also, pursuit and enforcement actions, and assure safety of animal derived foods through a couple of programs, the tissue residue program, which is in cooperation with USDA Food Safety and Inspection Service and the National Drug Residue Monitoring program, which is FDA and state program of the Office of Surveillance and Compliance. Also, in the office we have drug listing program. Also, very important, the national antimicrobial resistance monitoring system called NARMS, and this program is a corroborated effort with FDA, USDA/APHIS and CBC. Also, a significant part of our resources is outreach -- various educational outreach, mostly to the field people programs. The structure of the CBM and functions of its office are listed on our CBM page. And I won’t go through this, but in short summary, Office of Surveillance and Compliance is comprised of four divisions. There’s a Division of Surveillance, Division of Animal Feeds, Division of Compliance and Division of Epidemiology. And functions among the Office of Surveillance and Compliance divisions are varied, yet closely related with a mandate to assure safe and efficacious animal health products, protect public health, including animal-derived human food supply. Next slide, please. Let me stress that while the FDA is...
responsible of regulating animal drugs, feeds, foods, devices and most other animal health products, there are some classes of animal products that fall under the jurisdiction of other federal agencies, specifically, USDA/APHIS, which controls veterinary biologics under the authority provided by the Virus and Toxin Act [ph], and Environmental Protection Agency, which regulates pesticides under the Federal Environmental Pesticide Act and Federal Insecticide, Fungicide and Rodenticide Act. However, in all those situations where residues of pesticides are detected in animal derived human food products, FDA has the responsibility for regulatory enforcement. FDA is responsible for programs and the regulatory actions aimed at preventing illegal drug residues in human food derived from treated animals. This is a corroborative effort with USDA Food Safety Inspection Service, and which they are responsible for the inspection part. Also, I should point out that jurisdiction of authority of some of the products is not always clear. And the memorandums of understanding or the memorandums of agreement between the agencies, delineate procedures and responsibility, including criteria in the specific classes of products for regulatory control. For example, some products used to control external pests that intended to act
systematically, are regulated as drugs, such as oral
control of anti-flea products. Where it’s topically
applied, flea control products generally fall under EPA
jurisdiction. Currently, center for vet medicine and
APHIS, which is USDA, have established working groups
mandated to update the memorandum on the health
understanding between CBM and APHIS. And also at the
present time, representatives from the CBM and EPA are
discussing the update of their memorandum of agreement
on jurisdiction of the issues between CBM and EPA. Next
slide, please. And now let me introduce you to basic
statute definitions of animal drug, animal biologic
product and pest control, which will better illustrate
why we sometimes hate these jurisdiction of issues. You
saw that definition in previous presentation. Next
slide, please. And definition of animal biologic
product -- some people maybe cannot see well, because of
the -- this animal biologic -- anyway, drugs -- articles
intended -- I repeat what was said before -- articles
intended for use in the diagnosis, cure, mitigation,
treatment or prevention of disease in men or other
animals and articles other than food intended to affect
the structure and the function of the body of men or
other animals. That would be the next slide. Animal
biological products, all viruses, serums, toxins or
analogous products which act primarily through the
direct stimulation, supplementation and enhancement or
modulation of the human system or the human response to
diagnose, cure, mitigate, treat or prevent disease in
animals. The term, "biological products," includes, but
is not limited to vaccines -- allergens, antibodies,
toxoids, immunostimulants, certain -- like cytograms
[ph], like -- humanizing components of -- microorganisms
and diagnostic components of natural or synthetic
origin. And the next slide, pesticide definition. The
term pesticide means any substance or mixture of
substance intended for preventing, destroying, the
deterring or mitigating any pest, and second part, which
is any substance or mixture of substances intended for
use as a plant defoliants or -- it does not apply to the
CBM. And continuation of the definition, provided that
the term "pesticides" shall not include any article that
is a new animal drug, and B, that has been determined by
the Secretary of Health and Human Services known to be a
new animal drug by a situation establishing conditions
of use for that article. And the second part, works as
an animal -- or containing this article of -- as you may
see, there is an adverse overlap, and it is not all this
easy to resolve this problem. Because mechanism of

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mechanism of action, and that’s the reason memorandums of understanding and agreement between agencies are very, very important. And with changing science and changing our legislature, processes, it has to be modified. There are two other reasons that expanded the veterinarian’s authority in the area of drug use. Specifically, the Animal Medicinal Drug Use Qualification Act of 1994, also known as AMDUQA, and the Animal Drug Availability Act of 1996, ADAA. AMDUQA allows the use of approved animal drugs in an extra -- manner, including human drugs for use in animals under certain specified conditions. And ADAA helps streamline the animal drug approval process and also authorizes a new category [ph] of veterinary feed directive drugs, which may be used in animal feeds. Next slide, please. This is also repetition. Dr. Vahn gave that definition of new animal drug. But once a product is determined to be a drug, as I mentioned, it’s not always easy, because some products could fall under EPA jurisdiction, ours or the USDA determines it to be a drug. The next step is to establish whether or not it is a new animal drug. And the directive defines a new animal drug -- this is in part -- as any drug intended for use for animals other than men, the composition of which is not generally recognized among experts qualified by
scientific training and experience as safe and effective for use under the conditions prescribed, commanded or suggested in its labeling. Labeling -- label claims are the key factor in the product's status. By virtue of "interpretations," there are, for all practical purposes, no animal drugs which are not out of new animal drugs. Of course, there are exceptions. The approval process, grandfathered, but I won't discuss these issues. Most of us are well aware of the fact that today there are many unapproved new animal drugs on the market. According to our CBM drug listing database, there are about 1,260 unapproved versus 3,160 -- 1,260 approved and 3,160 unapproved active products. Drug listing meaning new drug list or active products, which are in the market. The listed requirement, if the company doesn’t register manufacture site or drug list -- the number of unlisted unapproved active animal drugs is unknown. We recognize the need for some of unapproved products to be available for veterinary profession, animal growers and animal owners. Center for Veterinary Medicine permits some unapproved new animal drugs to be marketed under so called regulatory discretion. Sometimes CBM does not take regulatory action protocol at this time, because of rather low regulatory priority of a valid product. This is mainly
due to our agency’s limited resources. And some misbranded and/or adulterated, unapproved products are subject -- and we take enforcement action. Our priority scale for enforcement of actions is based on following conditions that we have. The highest priority with full products which have potential for a drug’s effect on humans, either through unsafe residues occurring in food or from direct exposure of the product. Then a hazard to the target animals, and lastly, the products, which are relatively safe, but of questionable effectiveness in non-life threatening disease conditions. Of course, exceptions always exist. And even in very lean budgetary times, the agency’s trying to protect public from any fraud. As I have already mentioned, Office of Surveillance and Compliance is responsible for rendering regulatory discretion and allows some unapproved products to be marketed. It is usually done on a case by case basis for classes of products. And the main criteria for this determination is, of course, safety and ethical -- of a product. I should emphasis that there are a number of factors, such as the nature of -- ingredients claims. I always like to use little example that drinking water obtained from some nice spring and labeled to treat brain tumor is a drug -- a new animal drug and action. It means claims, again, meet -- active
ingredients claims meet of the product and availability of approved similar products, published scientific information available, conditions of use also allow regulatory discretion if a product has prescription legend versus OBC [ph]. It’s case by case on specific warnings. And that definition of process. At this point, it is important to emphasize the difference between FDA approved and allowed or permitted animal products. I think we have miscommunication with some of the people. As Dr. Vahn illustrated in his presentation, the first approved product goes through very thorough, rigid approval process. And in the latter case, products which were allowed under regulatory discretion, agency grants regulatory discretion, which we always may withdraw. And it could be based on new needs or new information or if a similar product is being approved and appears on the market. That’s what -- and also, the organizers of this meeting asked me -- us to come on serious position on the use of homeopathic treatments. And that, I guess -- I have a few sentences on this. We consider them to be unapproved new animal drugs and evaluate them also on case by case basis. The compliance policy regs on human homeopathic drugs do not apply to animal homeopathics. They’re also not subject to the provisions of any FDA
policy involving the regulation of human homeopathic
drugs. It is -- excuse me. It is our opinion that
veterinary homeopathic drugs should be regulated and
held to the same scientific status of safety and
efficacy as any veterinary drugs. One of the risks in
the reliance on homeopathic veterinary products is that
there may be a delay in obtaining proper veterinary
treatment in some life threatening disease conditions.
Moreover, in the ADMA guidelines for a product
alternative and complimentary veterinary medicine,
recommendation is for product research to be conducted
in veterinary homeopathy to evaluate efficacy
indications and limitations, because research in
veterinary homeopathy is limited. The -- also recommend
that veterinary homeopathy be practiced only by licensed
veterinarian who have been educated in veterinary
homeopathy. For example, over-the-counter veterinary
homeopathic products labeled as for -- conditions would
be the sufficient priority for our regulatory action.
Thank you. That’s all I have, as far as presentation is
concerned.

MR. CARTER: Thank you, Dr. Vengris. Let’s
open it up for questions. Apparently, we’re getting
some feedback, because all of us have got laptops
running at the same time here and it’s causing some
feedback with the microphones, so we’ll try to move them
away from the microphones or shut them down here. So
anyway, let’s open it up to questions. Yeah. Rebecca?

MS. GOLDBERG: I was wondering if the FDA has
a list of unapproved products that the agency is
allowing on a basis of regulatory discretion?

MR. VENGRIS: No.

MS. GOLDBERG: Was it 1,260 unapproved?

MR. VENGRIS: No, no. That’s 1,200 -- our --
we have drug listing database that companies have to
list products. 1,260 -- we have about 1,260 approved
products in our drug listing, and we have more than
3,000 unapproved. But the number of unlisted and
unapproved, I don’t know. No one...

MR. VAHN: What I might add, when we say that
a product is marketed without being approved, it’s under
a certain set of conditions. The FDA and Dr. Vitolis --
Dr. Vengris is -- the division that evaluates the
labeling to make sure that the reasonable claims and
appropriate cautions are on the labels, products have to
be drug listed and the establishments where they’re
manufactured have to be in our official inventory so
they can be -- they are still subject to the
manufacturing practice regulations for how the products
are manufactured. They have to be done in a way that --
similar to approved drugs, where there -- you maintain
the quality, purity and strength of the products. The
-- when they market them, then they have to drug list,
but they’re not required to then state the safety and
effectiveness prior to approval. But the things on the
label may include that they may be limited only to be
marketed for certain claims or they may be limited to
prescription status.

MR. SIEMON: So one more thing.

MR. VENGRIS: Um-hum.

MR. SIEMON: Then numbers that you just
quoted, and you said 1,260 approved...

MR. VENGRIS: Yes.

MR. SIEMON: ...and what was the other?

MR. VENGRIS: I think 3,000...

MS. GOLDBERG: 160.

MR. VENGRIS: No, no, no.

MR. VAHN: Somewhere over 3,000.

MR. VENGRIS: We have more than 3,000
unapproved, but drug listed products in our database.

MS. GOLDBERG: Can you state which -- I’m

sorry.

MR. VAHN: Go ahead.

MR. VENGRIS: Approved product goes to Office
of New Animal Drug Evaluation and goes through the

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approval process as established new animal drug
application. All conditions which you -- which Dr. Vahn
named, safety and efficacy studies, they -- these
approved product go through that rigid process.
Unapproved products which are allowed to be marketed
under regulatory discretion, you know, just meaning what
you said, will base that regulatory discretion on label
claims on nature of the product, warnings, conditions
for use and also manufacture and other requirements, is
to ensure that good manufacturing.

MR. CARTER: All right. Are there -- oh,
let's see. Rose?

MS. KOENING: Well, I have a clarification on
that and then I have something -- so you’re saying that
those unapproved...

UNKNOWN: Microphone.

MS. KOENING: Oh, sorry. So you’re saying --

oh, I forget. You’re saying the unapproved is lawful?

MR. VENGRIS: No. We’ll allow -- some of them

we’ll allow under regulatory discretion we have

authority to allow.

MS. KOENING: Right. As long...

MR. VENGRIS: But we can change our mind.

MS. KOENING: Right, right.

MR. VENGRIS: It’s much easier for us to start
marketing of unapproved drug than approved. Approved, you have to go through the process and so on and so forth. It is sort of -- rather a complicated process.

MS. KOENING: But it’s -- but what...

MR. VAHN: Or it’s semantics, a little bit. If you say is it lawful, we have to say, no, it’s not lawful, because it’s in violation of the statute. But the executive branch -- all agency’s executive branch can set their own limits on regulatory discretion, below which, we’re not concerned, above which, we are. So for example, we’ll take a product that was on the list of concerns, calcium fluoroglucamate [ph]. It’s used for the treatment of milk fever [ph]. It’s prescription, it’s manufactured under the good manufacturing practices, it’s a sterile product -- injection, that is not approved, but we allow it to be marketed under those conditions by regulatory discretion. We have better things to do than to go out and enforce the manufacturer of the calcium fluoroglucamate to go through the approval process.

MS. KOENING: Okay. So -- but...

MR. CARTER: Okay.

MS. KOENING: Yeah. I think...

MR. CARTER: Let Rose...

MS. KOENING: Well, that’s what I’m trying to
understand, you know, digest what you’ve presented to us and then the work that we do and how it relates to your agency. So what I’m understanding is that number one, we can’t -- we certainly can’t approve anything that’s not -- that’s a new claim, because then it would be considered a new drug and it would have to go through this process.

MR. VENGRIS: No, you can approve -- you can get approval going through approval process.

MS. KOENING: Yeah. But I’m saying if somebody comes to us with a petition that’s not in our jurisdiction to make a new label claim, that is considered a new drug, it’s got to go through you, and then we can see if that -- once you’ve said it’s -- but what we -- if something is labeled for a specific use, you determined it to be -- you know, you’ve approved it and it could be on either of these types of products, then we do have the ability then to determine if it is or is not appropriate under organic systems?

MR. VENGRIS: I don’t know your mandate, but, yes, the products approved -- allowed under regulatory discretion, and the third group which would take them forward to action.

MS. KOENING: Okay. And then the last question I have, on those agencies -- APHIS and...
MR. VENGRIS: EPA?

MS. KOENING: ...EPA. Many of the things that I think fall within what we’re looking at are those that are not systemic. A lot of them are -- and I understand that -- so that sounds like it would EPA.

MR. VAHN: Right.

MS. KOENING: Now, how is that memorandum of understanding set up in terms of what we do? Then do we go then -- if we’re going to allow something that is under the jurisdiction of EPA, then who do we -- where do we get our information or who do we have to check with, the EPA or FDA?

MR. VENGRIS: I think that if it is a EPA regulated product, you would -- we’re talking about pesticides, right? We’re not talking about animal biologics.

MS. KOENING: Or biologics.

MR. VENGRIS: Well, then permission and -- what you have to get from them. But if you have a product which you don’t know whether it’s EPA or FDA regulated, then I would suggest you contact FDA, because we have working groups, we have standing committees, and we try to determine -- and even we have to spend time and discuss the sheet where the specific product belongs to.
MR. CARTER: Becky and Jim and Barbara.

MS. GOLDBERG: I’d like to get my arms around it a little better about unapproved products. If I as a member of the livestock committee of the NOSB want to find out an approved product, I can go to CFR, I can go to your website and get a fair amount of information. But if I look at a product and to me it makes sense that it’s an animal drug, that it’s not approved, how do I find out whether it’s an unapproved product that you’re allowing to be marketed under regulatory discretion? Is there anyway the public can get that information?

MR. VENGRIS: You could -- and Dr. Vahn made -- approved products are qualified in 21CFR and green book on our website. It’s not difficult to find out. There is now list of products which are allowed under regulatory discretion. And also, I would just like...

MS. GOLDBERG: Do you know this? No, no, no. Wait.

MR. VENGRIS: No specific list, because also it depends on a claim, because maybe ingredient is same ingredient, but indications -- we would never allow a product to be marketed under regulatory discretion.

MR. CARTER: Jim? Or do you need to follow up...

MS. GOLDBERG: Can I just follow up a little.
bit on that? So what you’re telling me is there is no
way to find out, basically, about these unapproved...

    MR. VAHN: You can ask.

    MS. GOLDBERG: We can ask. Right.

    MR. VAHN: You can ask us.

    MS. GOLDBERG: Right.

    MR. VAHN: We’ll be glad to help you out...

    MS. GOLDBERG: Yeah.

    MR. VAHN: ...because chances are you’ll
probably trip across a few we weren’t aware of...

    MS. GOLDBERG: Okay.

    MR. VAHN: ...and probably shouldn’t be out
there as well.

    MS. GOLDBERG: Okay. One of the challenges
always as a member of the public who’s interested in
animal drug issues...

    MR. VAHN: Um-hum.

    MS. GOLDBERG: ...is to get information
because of the -- part of the Food, Drug and Cosmetic
act, which basically makes drug approval confidential,
does that same secrecy apply to the unapproved products
which you’re allowing on the market?

    MR. VAHN: No. There really isn’t any
confidential proprietary information. The
confidentiality is provided only when they are working
under an investigational new animal drug exemption or
they have a new animal drug application.

MS. GOLDBERG: And once it’s approved I still
can’t get all the information.

MR. VAHN: That information is still in those
files and it is protected, but it’s summarized in the
documents that...

MS. GOLDBERG: Right, summarized.

MR. VAHN: Now, that data doesn’t exist if we
don’t ask for it in those products that are unapproved
and we allow to be marketed.

MS. GOLDBERG: Right. If you’re in a process
of decision making about an unapproved product, can I as
a member of the public call you and get that information
or is that still...

MR. VAHN: Generally, not...

MS. GOLDBERG: Right.

MR. VAHN: ...because it’s under development.

MS. GOLDBERG: I’m going to yield to Barbara
in the follow up, because she...

MR. CARTER: Okay. Barbara? And you have to
come up to the microphone.

MS. BROWN-ROZEN: I just -- do I have to
identify me?

MR. CARTER: Yeah.

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MS. BROWN-ROZEN: Yes.

MR. CARTER: We have a short attention span.

MS. BROWN-ROZEN: Barbara Robinson, NOP, USDA.

So what I think you might be able to do -- and I’m going
let Steven tell me if I’m wrong -- is that you would in
a case of Pepto-Bismol for example, or something like
that -- an unapproved, but allowed substance or drug, if
you wrote your annotation as in accordance with FDA’s
permitted use, that would probably cover whether FDA
approves it or doesn’t approve it, but allows it? Is
that -- or have I gotten too specific for FDA? In
accordance with FDA’s permitted use.

MR. VAHN: Yeah, you would need to do that.

We could probably help you with a little bit of language
-- we may have a little trouble with drug permitted...

MS. ROBINSON: Right.

MR. VAHN: ...but we can work on that.

MS. ROBINSON: Yeah. See, we’re not the only
agency that has those semantic things.

MR. VENGRIS: And also, I would like that --
who would -- you offer claim and who could say -- it is
very difficult question. We may allow those claims to a
product.

MR. VAHN: Yeah. I think you’re looking for
more of an umbrella...
MS. ROBINSON: Yeah.

MR. VAHN: ...the caveat of what the...

MS. ROBINSON: And you're saying the --

through FDA is the label claim. Because the minute you
make that label claim, you've set in motion some -- you
know, you've said, okay, this Pepto-Bismol is for
control of or treatment of, and then you've made a label
claim and now you've set in motion FDA as saying, well,
we don't know if that label claim holds up or whether
it's been approved for that. And that sets in motion
your whole process.

MR. VAHN: It triggers the definition of the
drug and not -- that has to be proven, so...

MS. ROBINSON: So that's the thing you don't
want to do, is you don't want to trip FDA's process
they'll go in, because we're likely to be way out in
left field forever.

MR. VAHN: But...

MR. CARTER: Okay. Okay. Because the next
couple of questions I think will...

MS. ROBINSON: Yeah. We actually were
thinking very well alike. Because what I was hearing
was that for the materials that are on -- these
unapproved materials that obviously are being used by
the industry...
MR. VAHN: Um-hum.

MS. ROBINSON: ...that it’s -- the best thing for us to do is to have an annotation to those materials versus being too specific for their use and let that fall under the FDA and the veterinarians use. You know, withholding -- were specific and that’s what I’m hearing. So I just want to clarify that.

MR. VAHN: And we can -- we’d be happy to help you with some of those examples.

MS. ROBINSON: Okay.

MR. VAHN: For example...

MS. ROBINSON: It doesn’t mean that we can’t review the material for what it’s being petitioned for.

MR. VAHN: Right. Let me give you a couple examples. For example, on the list that you sent to us, you were concerned about acculated charcoal, calciumfloraglucamate...

MS. ROBINSON: Yeah.

MR. VAHN: ...and those are products that -- and the business -- and those -- well, let me deal with -- those products are products that under those certain label conditions and whatnot, we’ve allowed to be marketed by regulatory discretion. There were a couple of other products on there like chloral phenol [ph] and xylazine [ph]. Those products we would require an
animal drug application to be approved before those products could be marketed for use. Now, having said that, unless they’re on this prohibited list, which is...

MS. ROBINSON: And it’s not yours.

MR. VAHN: ...our prohibited list, from extra label [ph] use. That’s 21CFR-530. We do allow those products to be used in an extra label manner by veterinarians with a whole lot of caveats, that there’s a valid veterinarian/client/patient relationship, there’s not another drug available that is effective for that particular clinical need and there -- the veterinarian has taken adequate steps to ensure the human food safety -- public health safety from the use of those products and that extra labeling.

MS. ROBINSON: So from a materials review standpoint, we need to do a little more work up front, which we all know...

MR. VAHN: Right.

MS. ROBINSON: ...we need to do that, and before it gets to this process, we have exactly what -- whether it’s an approved and it’s use or unapproved or this other -- it allows...

MR. MATTHEWS: We’re bringing it to you under regulatory discretion.
MS. ROBINSON: Right. But the third one, unlisted, unapproved, you’re saying there’s some that are -- that’s a real bad group.

MR. VENGRIS: No, not necessarily. Some of them -- there maybe some manufactures don’t know that they have to. It’s not an excused ignorance, but that they have to drug list. But there is another group which are really violative [ph] products which we take enforcement action. I’m not implying that any unapproved, unlisted is granted because it’s not listed.

MS. ROBINSON: It hasn’t gone through the process.

MR. CARTER: Okay. I’ve got George.

MR. SIEMON: Yeah. Barbara, the thing I’m concerned about is the letter that we have from Sharon Bentz [ph], trigger list. It says purely, we cannot have any FDA approved materials.

MS. ROBINSON: It may have been...

MR. SIEMON: Maybe the FDA...

MS. ROBINSON: The word approved there may have a different meaning.

MR. CARTER: This is goes back to what like Rosalie was saying. Well, okay. And then that’s what we’re trying to clear up. It goes back to a point Rose was making. Are they lawful?
MR. MATTHEWS: Well, by a strict reading of the Federal Food, Drug and Cosmetic Act, the unapproved drugs we allow to be marketed by regulatory discretion are not lawful. May they be marketed, yes. But just because that’s within our purview to say whether they can be or can’t be...

MR. SIEMON: I know, but -- okay. First of all, so you’re disagreeing with the letter from the FDA, is that what I’m hearing?

MR. MATTHEWS: Yes, I am.

MR. SIEMON: But our list is also a CFR list. And so I thought the conflict is we’re going to have one CFR list that has the material that isn’t in your CFR list.

MS. ROBINSON: No, you won’t. You won’t.

MR. SIEMON: Okay. All right.

MS. ROBINSON: In the first place...

MR. SIEMON: So...

MS. ROBINSON: ...they come first. They say -- they define the universe and we will live with that universe, because you don’t supercede their authority. What you need to know is where they are boundaries and where they are permitted uses and stay within that language. And truthfully, except for the drugs that are out there that haven’t -- somebody hasn’t petitioned for
their use and they haven’t gone through your process, whether good, bad or indifferent, you’re probably not going to confront -- you’re not going to be asked to approve something that FDA wouldn’t have already...

MR. MATTHEWS: Yeah.

MS. ROBINSON: ...I doubt it.

MR. MATTHEWS: Well, we do. There’s a lot of things that fall under their feed world or grass -- feed that are being used for preventative measures, and that’s where you got into that unlisted, unapproved world. If you understand unlisted and unapproved drugs...

MR. VAHN: Well, that’s the drugs. When we go into the feed world, there’s a couple of other provisions that you need to be aware of. Later in the 500 parts of the CFR, we do have all of the generally recognized as safe products listed and they are listed not only as a chemical entity, but as the use under which they are considered grass. So they’re all -- they are also unlisted.

MR. MATTHEWS: As a feed additive.

MS. ROBINSON: Right.

MR. SIEMON: But now I’m talking about the feed additives that are used rightfully or wrongfully as a preventative measure in livestock health...
MR. MATTHEWS: Okay.

MR. SIEMON: ...which is very close to what your statement on what you use the ketosis treatment for. That’s your discretion where you call it an aid and prevention treatment of ketosis [ph].

MR. MATTHEWS: Right. I wouldn’t say discretion.

MR. SIEMON: Now, these are the same uses that we have...

MR. MATTHEWS: Okay.

MR. SIEMON: ...for feed or...

MR. MATTHEWS: And that’s -- some of those products are at least misbranded foods -- have not -- unapproved, adulterated new animal drugs by virtue of the claims they make. If you have, let’s say, a mineral mix. A mineral mix is for in the supplemental nutrition of the animal. That’s fine. If it’s intended to allow the animal to live up to it’s genetic potential, that’s wonderful. But as soon as they cross the line and they say it’s intended to -- for the mitigation of disease or cure or treatment, prevention, all those things we put in the definition, then it becomes a drug, and at that point it becomes either a misbranded food or adulterated, unapproved new animal drug.

MR. SIEMON: I see.
MR. MATTHEWS: And that’s where it crosses the line. So you can change the product merely by changing what’s on its label.

MR. CARTER: Okay. Are you...

MR. SIEMON: This is the...

MR. CARTER: Go ahead.

MR. SIEMON: ...product that have to do with them...

MR. MATTHEWS: Um-hum.

MR. SIEMON: ...because that’s been our authority. Well, now that we’ve said that the previous letter didn’t -- the approved only, now we can go to this allow according to FDA permission. That now gives us permission AMDUQA drugs.

MR. MATTHEWS: Okay. Depending under this...

MR. SIEMON: They’re still approved drugs, I know that. But...

MR. MATTHEWS: Okay.

MR. SIEMON: But with the approved drug -- and where you state according to permitted use, but we’re never going to say for the non-label use in our docket, no. Because we have -- I don’t think we use -- there we are -- not approved for dairy. And we know they’re used in dairy. We wrote our standard for dairy, you came back and said, no, you can’t do that. So now we’re just
going to take the for dairy out and it will then still
be okay under the veterinarian -- I understand all the
conditions there. What was used under AMDUQA will now
be okay as long we take the word dairy out of our
recommendations.

MR. MATTHEWS: Let me make a final
distinction. You guys can set the standards wherever
you want. We’re not trying to tell you where to set
your standards.

MR. SIEMON: Well...

MR. MATTHEWS: If you have an approved -- we
have the two classes of drugs, essentially. The
approved drugs and the unapproved drugs. And you’re
allowed -- and you’re likely to encounter both. The
unapproved drugs that we allow to marketed by regulatory
discretion. In other words, we got better things to do
than to go after them. Under AMDUQA, the off-label,
only approved drugs can be used in an alterable manner.
Unapproved drugs marketed by regulatory discretion may
not be used. They are not part of AMDUQA. So we’ll
make that distinction.

MR. SIEMON: I understand. That was my
question. If we approve an approved drug...

MR. MATTHEWS: Um-hum.

MR. SIEMON: ...and but our approvals were
AMDUQA used, we just can’t list that use in the – our
standard?

MR. MATTHEWS: That’s not our purview.

MR. SIEMON: Okay.

MR. MATTHEWS: That’s your decision as to what
you list as...

MR. SIEMON: That’s not what I’ve heard. I’m
trying to deal with the letter I have from you all here.
I’m...

MR. MATTHEWS: We would consider that use
illegal because of our statute that says it’s
unapproved. But if the use by a veterinarian under the
conditions of AMDUQA is legal. And I was just confusing
you.

MR. SIEMON: Okay. One more thing. What
about unapproved materials? Can we put an unapproved
material under our health section?

MR. MATTHEWS: That’s not our jurisdiction.

MS. ROBINSON: There is -- unapproved or
allowed with FD -- under FDA discretion.

MR. CARTER: Okay. Now, let’s go down the
order here, because I have Jim and I have Andrea and I
have Rose and Mark.

MR. RIDDLE: Yeah. Well, we were getting
exactly to where I wanted to ask a question. And that
is, it’s not just an issue of annotation, but where we place it on our list. It’s under the federal -- the organic regulation. There’s just five categories for these livestock materials, and that’s as a disinfectant and sanitizer, medical treatment as applicable. That’s one category. Then that’s where we’ve been placing these kind of products. But otherwise, our only other choices are as a topical treatment, external parasiticide and local anesthetic, as a feed supplement, a feed additive or a synthetic inert ingredient in a pesticide. Should we -- yeah. So you can see that if we place a product -- an unlisted, unapproved, but regulatory discretion under that first list, then we are saying it -- you know, can make a medical claim. And I’m just wondering if we need to be looking at another category there in our list that matches up better with yours?

MR. MATTHEWS: Well, I think your list is -- totally overlaps...

MR. RIDDLE: Okay.

MR. MATTHEWS: ...with a lot of different agencies' jurisdiction. And I would say your topical -- you know, let’s take a product that was invented to treat lice in cattle. That can be -- depending on how it works, if it’s topically applied and it works
locally, that’s regulated by EPA.

MR. RIDDLE: Yeah.

MR. MATTHEWS: If it is like viromecta [ph]...

MR. RIDDLE: Right.

MR. MATTHEWS: ...or, you know, amoxidectrin [ph], some of the other products that are systemically absorbed, that’s a drug, the way we divvy that up. And that’s regulated by us. And they would -- we would require approval for those products. On the other hand, there are dusts and powders and stuff that are out there that are probably marketed by regulatory discretion as well. So your categories in no way line up with our categories.

MS. ROBINSON: I don’t think you need to worry about the words in your -- the categories in your list. It’s the -- you could put it in box X. The important thing is that you’re not prescribing a use or a set of conditions, you’re not superceding FDA’s authority and you’re not saying, well, we know that, you know, sugar is really a sweetener, but we’re going to say sugar is used for -- we’re going to allow sugar for the treatment of...

UNKNOWN: Lice.

MS. ROBINSON: ...lice. I mean, because...

MR. MATTHEWS: There’s people.
MS. ROBINSON: These aren’t real examples.

MR. MATTHEWS: No.

MS. ROBINSON: Well, I can’t think of any.

UNKNOWN: Aloe vera.

MS. ROBINSON: Okay. But if you’re going to put aloe vera in the category. But then if you say aloe vera is allowed for the treatment of or the prevention of some disease, you’ve overstepped your bounds. Why don’t you just simply say aloe vera -- put in the category you want.

MR. RIDDLE: Okay. But if we put in A...

MS. ROBINSON: No.

MR. CARTER: Let Jim finish and then...

MR. RIDDLE: Yeah. That’s my question. If we put something like aloe or magnesium, you know, in a digestive -- under A, isn’t that making a medical use claim by placement on that -- under that category?

MS. ROBINSON: I don’t think so. I don’t think that...

MR. MATTHEWS: So long as we, you know, link it to allowed under regulatory discretion.

MS. ROBINSON: Yeah. I think that’s the -- now, I do think we might have to ask our lawyers that, but I don’t think the fact that you put it under that category is making a claim that contradicts FDA. I
think it’s you annotations that are causing the
problems.

MR. CARTER: All right.

MS. ROBINSON: I don’t think...

MR. CARTER: Andrea? Andrea’s up next. Okay.

Oh, okay.

MR. RIDDLE: To respond to this one.

MR. CARTER: Okay. Sorry. I didn’t realize
there was...

MR. VAHN: It probably does. It’s going to
take your general counsel’s opinion on this, but -- and
I’m not sure of the context in which you’re listing
these products. If you’re listing them merely whether
they are allowable for use to meet an organic standard
or not an organic standard, I’m not so clear that you
would be making an assertion that these are, therefore,
by definition a drug or a biologic or a pesticide. And
I think merely listing them as whether they’re allowable
for use as an organic would necessarily be saying that
-- you’re saying they’re a new animal drug, or they’re
approved for use.

MR. RIDDLE: Or even if they’re approved.

MR. VAHN: Yeah.

MR. RIDDLE: But they’re under the...

MR. VAHN: I think what Barbara was trying to
get is maybe what you want to do is put some broad
statements and that they are approved in accordance with
FDA’s regulations or something like that.

MR. RIDDLE: Okay. Can I just follow up your
one example that’s on that list A, aspirin.

MR. VAHN: Okay.

MR. RIDDLE: That’s not an approved drug,
correct? That’s a low priority...

MR. VAHN: Yes.

MR. RIDDLE: ...and allowed under regulatory
discretion.

MR. VAHN: Yes.

MR. RIDDLE: And it’s in our list A as a
disinfectant, sanitizer and medical treatment, as
applicable, with the annotation, approved for healthcare
use to reduce inflammation.

MR. VAHN: Well, when you say approved...

MR. VENGRIS: Approved by whom?

MR. VAHN: ...you’re saying approved for...

MR. RIDDLE: Approved for...

MR. VAHN: ...organic use.

MR. RIDDLE: For organic use.

MR. RIDDLE: Yeah.

MR. VAHN: You’re not making an assertion that
it’s an approved drug.
MR. RIDDLE: So that example, you don’t have a problem with...

MR. VAHN: I’m not...

MR. RIDDLE: Yeah. I think if we were to do it over again, we might shorten or eliminate that annotation.

MS. ROBINSON: Right.

MR. VAHN: You’re not approving the marketing of the product...

MS. ROBINSON: Exactly.

MR. VAHN: ...you’re only approving...

MS. ROBINSON: The use.

MR. VAHN: ...the use under and still meet the qualifications of an organic product.

MR. RIDDLE: Uh-huh.

MR. VAHN: Correct?

MR. RIDDLE: Yeah.

MR. VAHN: Then I think there’s a distinction here that we can make.

MR. RIDDLE: Okay. And that’s not a problem.

MR. VAHN: I don’t see one.

MR. RIDDLE: Yeah. You don’t see one.

That’s...

MR. VAHN: But I think Barbara has a good idea of what -- if we need to get a legal interpretation.
MS. ROBINSON: Well, you know, also, Rick is suggesting that perhaps that part of the problem lies with the fact that you do have all these sub-categorical uses. It’s either suitable for organic livestock production or it’s not. And then it has to be -- because you always have to be in accordance with existing regulatory schemes of the EPA, FDA and APHIS and FSIS. You could -- no matter what you wrote, you can’t -- you can’t supercede those existing regulatory forms.

MR. CARTER: Okay. Yeah. I’ve forgotten. Andrea?

MS. CAROE: Okay. So based on the facts that you’re material would be listed under the A category that specifically states uses at the top of the category, we’re not making a structural function claim on the material that has not been approved by FDA for those functions -- for that function. So it says for medical treatment, on the top of the category -- when we put a material in there, we’re not saying that you can use that medical -- for medical treatment, if the FDA has not said that that material can be used for medical treatment. Do you see what I’m saying? The category itself seems to make the distinction on the claim that we can’t -- I mean, I understand that the -- but -- are
very specific, but also the categories in themselves.

MR. VAHN: This is more of a legal issue and you’re not allowed to make decisions beyond your statutory authority. And I think that’s what Barbara is trying to say, is you’re ruling on whether or not it’s accepted for use as an organic or in product -- or in animals that will become an organic product. We’re not -- and that’s a different statutory authority that we have. We can’t tell you what’s organic or not organic and you can’t tell us what can be legally marketed as a drug or what can’t be marketed as a drug. So I think we have a nice bright line that language could be, you know, clarified.

MS. ROBINSON: Whenever you try and take a non -- you take a non-drug, something that’s -- if you decide that you can use it as a drug, that’s where you’re going to get into trouble, because you’ve just stepped over the line, and it’s these folks that say what’s a drug.

MR. MATTHEWS: Okay. We’ve been here.

MS. COLE: Well, I just wanted to clarify, because, you know, we understand that what FDA established, such as we can’t do opposite of. We understand that. But what I’m saying is that the way we’re kind of formatted here, is that we may have --
yeah, we may be in trouble just based on the way we’re -- the format of this document and the category, because it’s almost impossible for us not to make a strong type of claim on the use of materials. And as soon as we do that, if it’s unapproved...

MR. MATTHEWS: Let me take a stab at this.

MR. CARTER: Go ahead for the record, Richard Matthews.

MR. MATTHEWS: It seems to me that there are several issues that are coming to the forefront. One is the categories within the list, and the other major point is the annotation that is used for the material. What we really need, generally, is early on in the process, taking the petitioned use, consult with FDA. But when the Board acts -- maybe what the list needs to do is just be one list. You got a section for synthetics allowed in livestock. No subcategories, none whatsoever. Substances allowed in livestock, synthetics. And then you just list them without putting on annotations, without having subcategories. If you did that, it helps to ensure that you don’t run afoul with FDA. But with our implementing these enhanced procedures, we could also address the petition using any time to make sure that we’re also not running afoul with FDA.
MR. CARTER: Go ahead. Continue, Andrea.

MS. CAROE: My concern with it, Richard, is that the materials that are used now in organic production -- and it’s taken us a -- it’ll take us a like, I would imagine, a very long time to make that amendment to this rule. What do producers do in the meantime?

MR. MATTHEWS: Well, what I would look at is why not change the structure of the section at the same time that we’re addressing materials. In other words, we come out with a proposed rule that adds certain materials, but at the same time, propose the elimination of the subcategories. If you’ll note in the rules that we’ve already done, we have started to change the structure a little bit because of feedback from the Federal Register about how we list the materials. If you -- when these final rules come out, you’ll notice that we did away with some of the numbering system. It’s just a whole list now without numbers in front of them, that way it facilitates the alphabetical listing of the items without saying, okay, we’re going to change A-5, A-7 and then add a new A-5 and A-6 and, of course, everything else gets changed. So we are already making some enhancements to the sections as we go along. So in my mind, we could take and put out a proposed rule to
add materials and also to change the way they’re laid out at the same time.

MS. CAROE: And what would your estimate be on to when that list will be available? If we move quickly, how quickly could it be, six months, a year, two years...

MR. MATTHEWS: I...

MS. CAROE: ...two weeks?

MR. MATTHEWS: Well, let me run through the regulatory process a little bit. In a case of where you want to change a section of the regulations that does not deal with the national list, you’re looking at a minimum of 18 months, okay, because of the various regulatory hurdles we have to go over. In the case of materials, we have been told that they won’t be considered the materials to be non-major. Therefore, we don’t have to go through as long a review with OMB. Okay? We do have to go back to them with what is called a -- plan, where we describe for them what it is we’re going to do and then they make a ruling as to whether or not they agree with us as to whether the action is, indeed, major or non-major. But we’re in the fortunate position that materials changes are considered non-major. So that actually shortens the process, because you don’t have that 90 day OMB review, plus the
additional 60 if they decide they want it, not once, but
twice -- so it would really go through the same kind of
process that we’ve been going through since about last
April, where the rule -- it’s out as a proposed rule, it
would have a 30 day comment, we would have to analyze
the comments, we would send our report to OMB on that.
Then we could start our work to write the docket,
because then it would get published as a final rule and
it would become usable one day after it’s published as a
final rule. Now, I can’t say that we can get it done in
three months or five months or nine months, because it’s
going to vary with every single rule and it’s also going
to vary with, you know, what else going on. But it’s
going to be a much shorter process than if we were doing
a change, say, to section 105. It’s like we were adding
a new thou shalt not sin. Then that process would take
a good year and a half.

MR. CARTER: Okay. Okay. I have -- here’s
what I want to do is -- yeah, I want to go, because
there’s Rose, first, then Mark and Kevin and Owusu, and
then I know we’ve got some veterinarians in the
audience, too, and I’d like to get some feedback from
the veterinarians as well. So first of all, let’s --
Rose?

MS. KOENING: I just want to make a comment
about this and then I’ll change the direction of the
questioning. Okay. I just want to say is if we look
under the crop section, the crops are set up very
differently. And if we use the crops model, like --
because it’s very general categories. It just says
pesticides. It doesn’t say how those pesticides are
applied, it doesn’t make recommendations for use. So I
think the crop section was -- you know, again, it’s how
things were written. But I think -- anyway, livestock
is just more defined than crops, and if we use crops as
kind of a model for that...

UNKNOWN: ...FDA.

MS. KOENING: Well, but they’re generally
pesticides. And we list the types of pesticides, but we
don’t -- and if we do have an annotation, we usually --
it’s a specific use that’s easily checked by the
labelings of those products. Anyway, the question I had
-- and it was just more of a -- maybe it doesn’t belong
here, but it’s of interest. Did I understand what you
were saying, right, on the homeopathic -- so you’re
saying that animal laws are more strict than human laws?

MR. VENGRIS: I’m not saying that, I’m saying
human laws do not apply.

MS. KOENING: But you’re saying that there’s
no such thing like -- because I know there’s
controversy, like, you know, Ginko or whatever. You know, you can go to a health food store and buy a medicinal...

MR. VENGRIS: Oh, you are talking about food supplements?

MS. KOENING: ...like a homeopathic thing, but it’s not the same in animals that...

MR. VAHN: That’s correct.

MS. KOENING: ...also the homeopathic thing, but it would have to be specific -- those are not allowed, like is that...

MR. VENGRIS: No. It’s also case by case we might allow under regulatory discretion. We might not take enforcement action. But human homeopathic policies and guides do not apply who consider them drugs and new animal drugs.

MR. CARTER: All right. Mark?

MR. KING: Yeah. This is a big difference. I have two questions that are general. One is a feed question or a feed additive question. And in general terms, can you describe the difference between something being used to optimize health and/or to prevent something?

MR. MATTHEWS: Sir, you’re getting into an area where we spend a lot of time. In determining...
whether a product is a food versus a drug is the degree to which it affects the structure of the function. For example on the one hand, treating ketosis or one of the terms of art these days that you’re hearing about is the subclaviliti [ph] ketosis, where we have an altered physiological condition changing that function would put it more on the drug side. Whereas if we’re merely helping animals reach they’re already established genetic potential by having a complete full diet, you know, it’s intended for high performance, that falls into the food side. So there is a gray area, but we do spend a lot of time determining, you know, what are the limits of discussion.

MR. KING: And then secondly, the drug category, can you describe the difference between an approved indication and a label claim?

MR. MATTHEWS: Okay. A label claim -- actually, none of those -- those are all terms of art that we throw around probably recklessly. The statute describes the intended use that’s prescribed, suggested or recommended in the labeling, so it’s very broad. In fact, when we get into some of the products that we end up regulating, there may not be anything adverse in the indication or the claim for a section of the label. But you may go down farther in the label and there’s

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something buried in there where they’re making an
intended use -- establishing an intended use. It is
egregious. So anywhere on the label, if there’s
something that suggests an intended use for the product,
that would determine its regulatory status. And I will
go beyond that, too. Thank you, Dr. Vengris. There’s
also -- there’s different categories of promotion
materials. We have advertising. And where we regulate
the advertising, prescription products, over-the-counter
products are regulated by the Federal Trade Commission.
The -- there is also promotional labeling, and there’s a
number of criteria that’s been set up court decisions as
to when, essentially, advertising becomes promotional
labeling and is subject is to the same provisions as the
label would be. So it’s fairly complex and a convoluted
way of -- the process that we have to go through to
establish the intended use of products.

MR. KING: And just if I could add to that one
thing. When you were discussing in general terms
unapproved or natural or homeopathic and those kinds of
various -- where do you see that when you, for example,
referenced earlier, we believe that at some point in the
future these should be regulated?

MR. MATTHEWS: At this point in time and
probably for your purposes, we don’t even go home saying
that we don’t recognize natural or homeopathic or any of
the other classifications of products. If they have an
intended use that meets a definition on the drug, we
regulate them as a drug.

MR. CARTER: Okay. I got Kevin and then
Owusu.

MR. O’RELL: Well, just to be clear on this,
because I think I heard this flip flop on Jim’s
explanation -- example, the terms of aspirin and the
category that we have it is for medical treatment. And
then we an annotation, which -- I can’t read it --
approved for healthcare, used to reduce inflammation.
And I saw you gentlemen shaking your heads at one point
after at least conferring. The way we have that
structured with our categories, is that allowed by the
FDA or would you think we’re implying that that’s a
medical usage? But not for marketing, I guess. You’re
saying we’re okay, because it’s under organic?

MR. MATTHEWS: I don’t think we’re in a
situation where we can tell you what you consider to be
organic or not organic.

MR. O’RELL: Right.

MR. MATTHEWS: I think -- you know, I think
you kind of do a little -- cut a square where you’re
going to have things that are acceptable by you as
organic, but would be unacceptable by us to be marketed, and things that are organic that you can market, things that are not organic by your standards and we would allow or not allow. I think there are two different -- and they could fall into any one of those four quadrants. And whether or not -- I doubt that we would be concerned about what you would consider organic or not organic, because they are still in those two quadrants that were unacceptable to us, we would still take whatever enforcement action we needed to to correct those products or to remove them from the market.

MR. O’RELL: So we don’t necessarily need to change our categories?

MR. MATTHEWS: That would depend on what you and, I guess, USDA decides.

MR. O’RELL: If I can just follow up on that, what would really trigger it is the intended use on the label claim of the product itself...

MR. MATTHEWS: Yes.

MR. O’RELL: ...is that correct?

MR. MATTHEWS: Yes. Yes. Let me just add one piece to this, because I think we’re going down a path here that you might fall into a potential trap that we’ve run into. Products have to be truthfully labeled as well. They can’t be false and misleading on any
particular, so if the product’s truly being marketed for a particular intended use and the label doesn’t declare that, it’s then misbranded and it’s still in violation of our laws. So there is an assumption that it’s truthfully labeled and we do -- we have a number of core precedences, particular with bulk drugs, where we have established that the product will be marketed, there was established intended use. If the product’s not properly labeled, they were misbranded. And had they been properly labeled, they would’ve been unapproved adulterated drugs. So they have to be truthfully labeled and then the intended uses established.

MR. CARTER: Okay. Owusu?

MR. BANDELE: Yeah. I just have a concern in terms of understanding the problems that the annotations create. But to me they are still a mystery. Where I think we run to problems, if we just had the one list without the annotations, because that would -- for people to use these synthetics in a lot broader way than we intended.

MR. CARTER: Okay. All right. Now, wait. Before I call -- you don’t have -- we’ve got a couple -- at least two vets in the office -- in the audience. We may have more. But I’d like to get some -- you know, any comments that you have as far as -- you know, we can
put on those, and then Goldie and then I see Kim’s got her hand up, so -- you?

MR. CARRIMAN: Okay. Thank you. Hubert Carriman, veterinarian from Pennsylvania. I want to...

MR. CARTER: Stay close.

MR. CARRIMAN: ...thank these two gentlemen for coming in, because I think they’ve really elucidated the situation perfectly. I can follow them since I’m a dairy vet. And I think Jim’s question regarding the categorization under the medicine is -- still I think could cause problems down the road, unless -- and the annotations that you’re worried about, that we could just have, perhaps, under veterinary direction and leave it at that, instead of like 90 days withholding or whatever. I know it’s really sensitive to you all to have extra withholding time. I think you need to uncouple that from whatever the FDA is saying. If you want to say 60 day withholding, just say that, don’t say FDA, because then we got to get them in. And that’s fine. I mean, that’s their job. So I say possibly if you want to do some of these healthcare drugs -- I’m not saying feed additives or anything, I’m speaking as a veterinarian -- you put under veterinarian directions. And as far as the homeopathic drugs go or human drugs that are not approved drugs for animals, if there is a

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valid client/patient relationship of ECPR [ph], can a veterinarian label a homeopathic drug or a colostrum whey [ph] derivative or an aloe product that are not even on your radar screen, because they're human or they're nutritionals, if I label that, is that okay, by the inspectors from the public health service and whoever comes to the farm, which I don’t know if they’re under FDA, but am I allowed to do that, the extra label drug use? Yes, please.

MR. MATTHEWS: Okay. It doesn’t matter who would label the product. Once the product is labeled and establishes intended use, then it’s subject to our jurisdiction. What I think you’re speaking to are the labeling provisions under the Grade A Pasteurized Milk Ordinance.

MR. CARRIMAN: Yeah.

MR. MATTHEWS: Correct?

MR. CARRIMAN: Yes.

MR. MATTHEWS: Okay. And those are also regulated by FDA and then through our Center for Food Safety and Applied Nutrition [ph], there is a federal safe operative program to which the model for Grade A Pasteurized Milk Ordinance is developed and it’s through the national conference of interstate milk shipments, and then subsequently each state then adopts that.
pasteurized milk ordinance. And so it’s actually as state code, but it has federal oversight, because ultimately, FDA has oversight over the safety of milk. In those kind of situations -- let’s say the cost of the product, if it establishes it’s intended use and it meets the definition of a drug, it would be considered a drug. Those products would be subject to our regulation, and particularly if they were commercialized or marketed. And we would set our onus of discretion of where and to what extent we would enforce that. They wouldn’t be exempt just because they had a veterinarians label. The pasteurized milk ordinance labeling provisions were intended to address products that were allowed to be marketed by FDA, both the approved and those allowed and regulated by regulatory discretion. There’s further labeling directions that needed to be put on those labels.

MR. SIEMON: I got a little confused there.

MR. MATTHEWS: Okay.

MR. SIEMON: I thought we were just referring to the veterinary authority to use AMDUQA, to use human drugs.

MR. MATTHEWS: Only approved.

MR. SIEMON: I know. Only...

MR. MATTHEWS: Only approved.
MR. CARRIMAN: But human homeopathics are.

MR. SIEMON: Human approved. The human approved as well.

MR. MATTHEWS: They would have -- right.

MR. SIEMON: It’s a human approved drug and he has the -- the veterinarian has the privilege to use those on livestock animals under the conditions of AMDUQA.

MR. MATTHEWS: Under the conditions of AMDUQA, correct.

MR. SIEMON: Even if it’s a human approved, but not FDA livestock?

MR. MATTHEWS: Yes.

MR. SIEMON: And so for example, I don’t know if homeopathic...

MR. MATTHEWS: And there is -- and there are label requirements under the DMO that they have to meet.

MS. COUGHLAN: Homeopathics are a drug. There is such a category.

MR. MATTHEWS: There is such a category.

MS. COUGHLAN: And that’s the problem.

MR. MATTHEWS: Yeah. They’re not approved, but there is such a category, though.

MR. SIEMON: Okay. Then you...

MR. CARRIMAN: Well, actually, I thought I...
heard -- I thought I heard you say earlier that homeopathic are allowed under human drugs -- but not a human drug, but they are allowed for human use subject to conditions. But then if I label it, is that okay or not? Because it’s not a human drug.

MR. MATTHEWS: It would have to be an approved human drug subject to an NDA [ph].

MR. CARTER: Stand up close to the mike when you’re talking.

MR. MATTHEWS: Sorry. It would have to be a human drug subject to an NDA, an approved human drug.

MS. CAUGHLAN: Even if it is a -- will allow an animal to reach it’s full potential?

MR. MATTHEWS: If it’s -- the intended use as a drug. For example, let’s make it simple. It’s for the treatment of ketosis, that way we know -- okay? And that product would be -- there would have to be no other approved drug available -- animal drug, or the veterinarian has determined that those approved animal drugs did not work in this particular situation. And then I could go to an animal drug or a human approved drug. Only approved drugs.

MR. SIEMON: But the other option is, of course, to flip over to the micro-nutrient world, which had been used for homeopathic remedies inside FDA, to my
understanding.

MR. MATTHEWS: But AMDUQA does not apply. There’s no provision for use under those conditions.

MR. SIEMON: But then they can use it as a micro-nutrient if they had a new group for that under FDA? I understand that’s the term being used, micro-nutrients, too, for...

MR. MATTHEWS: We don’t recognize micro-nutrients. They’re -- the intended use establishes for -- as a drug, they’re drug. Otherwise, they would have to be -- you know, as a nutrient, they may fall under the food or feed additive...

MR. SIEMON: That’s what I’m saying.

MR. MATTHEWS: ...provisions. Yes.

MR. SIEMON: That’s what...

MR. MATTHEWS: In which case, they wouldn’t be a drug and need to have labeling under PMO.

MR. CARTER: All right. You -- okay. And what I’d like to do now, because we’re running to the time considerations here, but I want to gets some inputs from veterinarians. I know Goldie had her hand up. And I would like Kim, who is materials chair, and George is the livestock chair, they’re kind of trying to bring us to what the action -- how we proceed from here, so...

MR. CARRIMAN: Just one last thing on the
labeling, because hopefully all organic farmers have veterinarians and hopefully they have valid client/patient relationships for the safety and all for the animals. In Pennsylvania, I don’t know if you know, but back in 1997, when the PMO came out regarding aloe vera, homeopathics and tetracycline powder for topical use, and there was one other thing, some veterinarians in Pennsylvania got together with the head sanitary inspector there. And in Pennsylvania, we’re allowed to label those specific things. And when the federal public health inspectors have come around, it’s been totally fine. Is that -- that concurs with what you’re saying? Through the PMO, we’re allowed to label it and the public health inspectors have been saying that’s okay for six years. They say if you got this label on here, it’s going to be okay.

MR. MATTHEWS: And what has happened is that they check back with FDA...

MR. CARRIMAN: I would hope so.

MR. MATTHEWS: They check back with our FDA Center for Food Safety and Applied Nutrition and the states work very closely with our safety group. And we have a working group between CBM and them to go over those kinds of products and those conditions. And we actually publish a memorandum of information, MIs, that
establish those limits under the pasteurized milk ordinance. So those are available on the SYSTAN [ph] website at FDA.

MR. CARRIMAN: Okay. Thanks.

MR. MATTHEWS: Yeah.

MR. CARTER: And Alice Waters [ph] and -- I’m sorry. Okay. Then let me -- Goldie, do you...

MS. COUGHLAN: No, I pass.

MR. CARTER: Okay.

MS. COUGHLAN: I just had one extra and it’s been followed up.

MS. DIETZ: I had my hand up.

MR. CARTER: You did have your hand up? Okay.

MS. DIETZ: And it was a question. So if a category was as broad as animal health, okay, so that didn’t get into drugs or -- I mean, where drugs could clearly -- but it was broad thing, animal health, that wouldn’t -- FDA? If we had a category that was animal health and we didn’t -- and then we put just the annotation on some of them that we -- that appears to be FDA jurisdiction and we just put under -- what the veterinarian said, under veterinary discretion or something, would that alleviate any of these problems that we’re having in terms of categorization? I don’t think it’s -- maybe that’ll come...
MR. CARTER: Yeah, I think that can have that in our discussion. I’m sorry.

MR. MATTHEWS: I thought that was you. I’m sorry.

MS. DIETZ: The question was, is it -- instead of -- we definitely have very specific use categories and haven’t been able to resolve -- it’s definitely going into a legal ground, which again could chew up a lot of time in terms of us trying to get with the process. But do you see anything wrong with just an animal health category? Because we’re not being addressed by all of -- both EPA, APHIS and FDA jurisdictions would fall under our general animal health category. And then just put under veterinary discretion on those things, which would then allow the -- you know, it would allow things to be put within a general category and then it would be up to the practitioners who know the law to then go through and make sure they’re abiding by all the other agencies that regulate those?

MR. MATTHEWS: I wouldn’t have a problem with the animal health provision.

MS. DIETZ: Category.

MR. MATTHEWS: That’s up to you as to where you want to set any limits under that. I think that’s general enough. It’s going to catch the whole umbrella.
and probably save you a lot of heartburn from what I’m hearing.

MR. CARTER: Okay. We’ve got one -- another vet, then I want to -- let the minutes reflect that Nancy Ostiguy -- I’m sorry -- Nancy Ostiguy joined the meeting at 3:40. Welcome.

MR. LAVER: Thank you for having me. I’m Dan Lave [ph]. I’m not a veterinarian. I’m with Crystal Creek, Incorporated for Scotts [ph] and I’m a nutritionist. I’ve been a nutritionist for 30 years. I have two vets on staff. One issue that I want to ask -- and I want to thank you very much for the enlightenment that I’ve had here today. I think I’ve got a grip on some these topics. In the example that he told us, if I understand right and tell me if I’m wrong, I’ve heard stated that dietary application for the prevention of a disease, condition or ill health of an animal would classify an item as drug. To me, as a nutritionist, that would securely put all nutrients in to the category of a drug. So I need the clarification since my whole realm of activity and purview with our activities for prevention to benign use of nutrition, how do you approach that with not a -- just using plant nutrients?

MR. MATTHEWS: That’s our definition when we get into structure of -- is it affects the structure or

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function of the animal other than as a food. So if it’s doing what that nutrient does, you could argue it. If you were providing a vitamin, for example, you are preventing a deficiency of that vitamin. But we would say that’s what that nutrient does. And so that would be still considered a food. But if you went on beyond that and were making, for example, production claims that it was for increased rate of gain, it was for improving feed efficiency beyond the genetic potential of the animal much as you’d expert from the birth point, then that would be considered a drug and that’s where we draw the line in the structure and function world. When you go over into the disease area, we don’t think of -- we’re assuming the animal’s already being fed a proper diet. And then any abnormalities that occur are considered, then, diseases. But otherwise healthy animals receiving nutrients, those nutrients would be considered food.

MR. LAVER: Okay.

MR. CARTER: Okay.

MR. LAVER: I have just one rebuttal or refinement to that. Respectfully, metabolic diseases are not pathogenic diseases. And when you get involved with metabolism or diet such as ketosis, that can be rectified at a preventative level and/or a treatment
level with nutrition. I have a hard time understanding how a nutritional application would be required to be handled as a drug.

MR. MATTHEWS: Okay. We don’t define diseases as just those things caused by pathogenic agents, diseases -- any abnormal condition in the animal. So things like ketosis and milk fever, even though there are preventative steps that you can take to maintain the animal from getting into an altered disease state, that’s not the same as what we would consider for preventing a disease where we’re -- when we know the animals are likely to develop a diseased condition and we’re putting in place ingredients other than nutrients to keep them from acquiring that diseased condition.

MR. CARTER: Okay, Dan, I’ve got to cut it off, because I wanted -- we need to kind of see where we head from here. So, Kim?

MS. DIETZ: I’m first?

MR. CARTER: Yeah.

MS. DIETZ: Okay. What I’ve been hearing and just jotting notes down, first of all, we all understand that other regulatory agencies supercede the NOP rule, so that’s a given. And similar to food, where FDA regulations take charge, whether it’s a food or vitamin or anything, we still have to comply with FDA
regulations. So I think that’s kind of an area that we haven’t really grasped prior to this point for the livestock. I can see this going two ways, but we have definitely have to restructure the livestock category. We can go the crossway where we generalize specific uses and whether that’d be livestock health, or similar to processing, where we just say synthetics allowed and it’s a given that FDA supercedes our materials. And that’s probably the area that I would recommend. There’s -- if you look at the list -- the national list, it just says synthetics allowed and there’s no category to what food group or products that you allow this to go into, so -- or annotations. And I’ll just sum that up better. It looks like it’s very doable and we can fix it very easily with the materials that make it back and make those recommendations.

MR. CARTER: Okay. George?

MR. SIEMON: Well, my concern is just the timing about all that. So my question is our we going -- what is NOSB’s role in this process? And I think you left out any potential cleanup of annotations.

MS. DIETZ: Yeah.

MR. SIEMON: And so I think, you know, my question is this is really time critical issue. What is it we can do in the next few days -- what is necessary
for us to do in the next few days? And this issue is getting quite old, so if we can resolve this -- is an action needed by NOSB in the next few days to go through the annotations and to revisit these titles and make recommendations? And so I would really like to look at our agenda and see what we can do to address these.

MR. CARTER: Well, again, the question, what can we legally do if it’s not on the agenda. So, Richard, let...

MR. SIEMON: I mean, this is an issue -- this letter is June 23. And the issue is solvable and it’s a top priority.

MR. CARTER: We’re current. And Richard Matthews.

MR. MATTHEWS: We’re currently working on a livestock -- if it’s the will of this board, we will take out the categories and what we’ll do is we’ll go back to the draft document, take the categories out and write in what we’re doing and why we’re doing it and then move on. So, I mean, that docket we’re working on. Whatever the Board wants to do, if you want to change the categories, you want to remove the categories, tell us what you want to do and we’ll put it into the docket we’re currently working on.

MR. SIEMON: But the annotations are also part

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of this, correct?

MR. MATTHEWS: The annotations are a part of it, but it may be something that has to wait. But at least on a category issue, we can fix that right away.

MR. SIEMON: But the point is...

MR. MATTHEWS: And that’s something we could do right now with the docket we’re working on.

MR. CARTER: The question I have from a procedural point is what are we allowed to do at this meeting when this isn’t part of the agenda?

MR. MATTHEWS: That’s a good question. We may have an answer for you tomorrow.

MR. SIEMON: And what about if we need a general disclaimer stating that’s what I’m hearing? I don’t think you need to put it up for each material, we just need a general disclaimer within FDA permitted rules. I think that -- well, covered the department rules, on it’s law, on it’s...

MR. MATTHEWS: When it comes down to that, we’ve already -- we’ve already fought that battle with the attorneys when we were doing the rule making process the first time. There is a concern that if you put in in compliance with FDA or in compliance with the EPA, maybe we missed APHIS or we missed FDA in a spot where we should’ve included FDA. So in reality, I would say...
you got to do it in compliance with all the laws. Now, we’ll get -- and go back talk to the attorneys about is whether or not we want to -- not in the national list part, but maybe in the very beginning of the regulations, a new section or a section -- or a subsection within the sections -- talk to the attorneys to see if they would go along with the idea of breaking up the sizing of what’s in the Act within the regs. What is already understood -- I mean, the Act -- with the regulations what you do is implement the Act, and the Act already says you have to do it in compliance with everything else. The problem we run into is some people don’t quite fully understand that and we’ll just have to keep reemphasizing that.

MR. SIEMON: But I’m agreeing with you, but I’m going to react to Barbara’s saying what we got to do is say as the law applied by FDA. I think it is coming already. and the foundations of the rules and the law -- that is already a given. So, Barbara, earlier you were saying this is what we needed is to go over our itinerary -- specific statements.

MS. DIETZ: We’re getting into old habits and we’re taking the cart before the horse again. We have -- you have a docket of approved materials that you’re going to publish anyway. We have materials that are not
on that docket and we need to fix this. And we need to, as a board, come up with the recommendation that we all agree on to make those changes on those next written materials, so...

MR. MATTHEWS: I don’t understand what you’re saying. I’m sorry.

MS. DIETZ: You have materials on the docket that’s going to come out that I would assume are -- do not include some of the materials that we’ve had problems with the annotations on...

MS. ROBINSON: Correct.

MS. DIETZ:...correct?

MR. MATTHEWS: Okay.

MS. DIETZ: So as board and a committee, the materials committee, especially, we can come up with a recommendation of what we recommend to do to the national list and the we have re-review those materials and come up with corrected annotations based on our recommendation. Does that make sense to you? I don’t think we can fix the materials that we have problems with today.

MR. CARTER: No.

MR. MATTHEWS: No.

MR. CARTER: We’re at this meeting because of the public comment and everything else. I mean, again,
we got to follow...

MS. ROBINSON: The USDA can fix the docket in respect to the categories. We do not -- this is a proposed rule, it’s going to go out, you know, comment can be received on it. It does not require the Board to tell us please take the categories out of the program -- the rules. We can go ahead and do that. We have the authority to do that, and then take comment on it. If it makes you nervous, the Board is free to pass a resolution -- here’s the sense of the Board. You can do that even at this meeting -- sometime at this meeting. But you also -- one point I’d like to say is we don’t want to really get into public comment and debate. We had an agenda to hear from the TAP reviewers and kind of keep this thing going along.

MR. CARTER: We’re trying to get there.

MS. ROBINSON: So I’ll sit down...

MR. CARTER: Okay.

MS. ROBINSON: ...and shut up.

MR. SIEMON: We were supposed to have to give you the summary of our passport visa [ph].

MS. ROBINSON: Of your what?

MR. SIEMON: Of the passport -- where we -- then I’m not clear yet. I’m sorry.

MR. CARTER: Well, I think we need to have
probably a livestock committee meeting here during the
day, then come back with something before adjourn, and
then the recommendations on how we move this forward,
so...

MR. SIEMON: To deal with specifically with
the subtitles, but not the annotations?

MR. CARTER: Well -- yeah. This is committee
work. Okay? We need to take this to the committee and
figure out -- given the process that we have to follow
and the train wreck that we’re in now, how do we get of
that. Okay? So -- okay. All right. I am going to
declare a seven minute recess and we will get back to
our...

MR. CARTER: Okay. Rose, Jim, it’s coming up.
Kevin, Dennis, Mike. Okay. Go ahead.

MR. FORSHEE: Thank you. This mike? Yeah.

MR. CARTER: Yeah.

MR. FORSHEE: First of all, thank you very
much for the invitation to speak here today. My name is
Richard Forshee. I am the associate director and the
director of research for the Center for Food and
Nutrition Policy at Virginia Tech. We’ve been doing TAP
reviews for I believe it’s about a year and a half now.
And we’ve been asked to come here today and talk a
little bit about our experience and our thoughts on what
can be done to improve the process. I’d like to begin
by just briefly telling you a little more about the
broader mission of the center and what we do, because I
think it will help put some context on how we view this
particular process and how we come to some of our views
on how to the process can be improved. CFNP is an
independent, non-partisan academic research center in
the College of Agriculture and Life Sciences at Virginia
Tech. The mission of the center is to advance rational
science based food and nutrition policy. We are
recognized as a center of excellence in food and
nutrition policy by the Food and Agriculture
Organization of the United Nations. And our areas of
focus are in food safety and nutrition. We conduct
research, outreach, communication and education on a
variety of issues within our areas of expertise. This
includes doing statistical analyses of national surveys,
look at consumption patterns, it includes international
education programs for dignitaries from foreign
countries, risk analysis programs that we’re doing with
the FDA, a variety of things in these areas. All of the
Activities that we do at the center eventually come back
to policy. We believe that better analysis is going to
lead to better policy, eventually. It’s not always a
straight line, but if you get better work out there,
better data, you’re going to lead to a better policy outcome. We conduct original research to address questions that are relevant to current food and nutrition policy. We communicate our research through peer review publications, scientific conferences and comments to national and international policy makers. This includes the Food and Drug Administration, the US Department of Agriculture and the World Health Organization, as well as state governments. We also host conferences, roundtables and lectures to bring together scientists, policy makers and stakeholders to foster better communication on this issues. We provide policy analysis through comments, essays and presentations. However, it’s important to point out that we are not policy makers. What our role is is to help stakeholders understand what the issues are and what the consequences are for the various policy alternatives that they face. Providing TAP reports for the National Organic Program and the National Organic Standards Board, fits very well with the overall mission of the Center for Food and Nutrition Policy, because we see that this project is that implementing an important food law in a manner that is faithful to the legislation in order to produce useful information to consumers and an objective and transparent process for stakeholders.

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In our view, the role of CFNP as a TAP reviewer is to provide factual and scientific answers in an objective manner so that NOSB and NOP can make informed judgments on the petitions they receive for the national list. We do not believe that it is appropriate for CFNP or any TAP reviewer to make value judgments on either specific substances or the philosophy of organic farming. That is a role that congress took on when they established the guidelines for it and that is the role that the National Organic Standards Board has in representing stakeholders to try and see that the law is properly implemented. The role of TAP reviewers, in our opinion, is to facilitate the implementation of OFPA based on the legislation and the regulatory guidance provided by the USDA. I also want to talk briefly about some of our activities in other areas of regulatory policy. In addition to working as TAP reviewers, where it’s our job to take petitions and provide the necessary background information for a regulatory decision to be made, we have also worked in situations where our work is used as part of a petition to another agency. In particular, some of you may be aware FDA has recently released interim guidance on qualified health claims for foods. We are currently preparing an evidence a summary of scientific literature that’s going to be used for a
qualified health claim that will be submitted by a
collection to the FDA. As part of the qualified health
claim project, we developed a rigorous method for
conducting an evidence based summary of the scientific
literature that conformed to the interim guidance of the
FDA, and we also presented this approach to a panel of
external experts for validation, and we include
extensive internal and external quality control in the
process. One of the reasons that this is important to
mention today is it shows how the process of regulatory
guidance can be used to develop a systematic approach
that can then be applied by a wide range of groups. The
process that we’ve developed for implementing a
qualified health claims reviews is going to be submitted
as a manuscript to be published so that other people can
see the systematic approach that we put in place that we
believe allows other people to easily replicate this
work and come to the same answer based on the available
scientific evidence. It’s also important that doing
this project has helped provide us with firsthand
experience in how petitions are put together in other
regulatory contexts. It also provided an example of how
regulatory guidance, even interim guidance, can put
flesh on the bones of legislation in order to improve
the consistency, objectivity and transparency of the
regulatory review process. What we have learned in our experience with qualified health claims is that the petitions for qualified health claims are expected to be much more detailed than those that have been used to date in the TAP review process. The petitions for a qualified health claim essentially represent the petitioner’s best attempt to address all of the standards that have been set forth in the interim guidance. This includes among other things a summary of the scientific evidence, evidence summary tables to say what the body of evidence suggests about the claim that they wish to make, it also includes copies of all of the scientific articles that are referenced in the petition. So the petition says these are all of the articles that we have found. Here are the copies for FDA to then go and do further review. The petitions also address some of the legal questions that were discussed at the meeting earlier today. The people who are submitting the petitions to FDA do go through a section where they identify, for example, that the food that they want to use the label on meets grass standards. And there are a number of other legal questions that the petitioner addresses when they are submitting the document to the FDA. And finally, the FDA has an initial screening process that they use to ensure that the petitions are
complete, and that they also define explicit criteria that will be used to prioritize the review of the petitions. For example, qualified health claims that would affect a broader segment of the US population receive greater priority in terms of where in the queue they will go for review. Petitions that include consumer research to demonstrate that the claim that is proposed will be understood by consumers and will not be misleading as it’s presented also are going to get higher priority when the FDA is considering how to use its scarce resources in evaluating petitions that come to it. The FDA’s interim guidance for qualified health claims is also quite extensive. And this is most of it. This is to implement -- this is the extra guidance that FDA has given to people who want to submit petitions, to give clear guidance as to what all the standards are that need to be met and what objective criteria are going to be used in order to evaluate them. We’re not here to suggest that you adopt something like the FDA’s qualified health claim criteria. However, based on our experience with the TAP review process with the qualified health claim’s regulatory guidelines that we’ve had experience with as well, and with other regulatory policies used that we as a policy center have been involved with, we will respectfully offer some
suggestions for petitions, the statement of work and regulatory guidance as you asked me to today. Let me begin with some general comments on the regulatory process as we’ve experienced it. First of all, CFNP would appreciate additional regulatory guidance to make the process more consistent and transparent. I’ll go through some of the specific criteria later to talk about some of the issues that we view as particularly troublesome. But in general, we would like more guidance in terms of definitions and objective standards that we can use in order to determine and help you to determine whether the criteria in OFPA have been successfully met. We believe that the TAP reports that we submit should provide concrete objective information and avoid value judgments. We believe that on each of the criteria that we need regulatory guidance that establishes clear objective standards. As TAP reviewers, we would appreciate additional guidance on the expectations for reports and a way to clearly establish what constitutes a complete and satisfactory report. We need a better understanding of what are the minimum requirements that we need to meet. We will always try to exceed that, but we need to know what the minimum standard is in order to reach it and we also need to know when we’ve reached the finish line, when we
have done enough on the report to provide NOSB and NOP with the information that they need to make an informed regulatory decision on the substance that has been petitioned. Guidance to simply focus on the criteria of OFPA has, in our opinion, not been sufficient to -- sufficient guidance for us to successfully address all of these criteria. Because some of the questions in the criteria have not been clearly defined, we need better definitions, and as mentioned, we need more objective standards against which we can measure a substance. CFNP would also find it useful to have lines of communication between NOSB, NOP and the Center for Food and Nutrition Policy more clearly defined and consistently maintained. Communication is always difficult when you have large organizations with diverse memberships, but there has been some confusion in the past over whether communication to CFNP should come from the National Organic Program or the National Organic Standards Board, whether there should be a single point of contact on each, and there have been occasions where the communication has not been as timely as would be helpful for us to complete the project on the timelines that we’ve dealt with. Furthermore, the communications have sometimes consisted of forwarded e-mail that contains a complicated mix of messages. It can be

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difficult for us to sort through the whole set of messages and find out just which point it is. So to the extent that we can get a single point of communication and clear messages as to what needs to be done on the particular substances, that would be very helpful for us at the Center for Food and Nutrition Policy and we believe it would be helpful for other TAP reviewers as well. Another issue that begins to touch on trying to manage the process of doing TAP reports is that it would be useful if we could have more consistency in the timing and quantity of reports in order to maintain proper staffing levels and appropriate quality control at the center. As an organization, we could plan to do about 10 TAP reports a year or we could plan to do about 20 TAP reports a year. We could plan to do just about whatever number you choose, but what becomes difficult for us as an organization is if we plan for, let’s say, 20 TAP reports and we only get five in a given year. Because of the way the payment for the TAP report are structured, we need to have a rough idea how many we’re going to be receiving so that we can keep the appropriate specialist on staff to help with doing the reports. Let me be very clear that we recognize that some of the issues regarding the timing and quantity of TAP reports are outside of the control of either NOP or...
NOSB. And we are happy to work to manage the situation as efficiently as possible and we have already taken steps in order to try and do that. All the faculty staff that work on TAPs reports at the Center for Food and Nutrition Policy have multiple projects that they’re engaged in, so we’re able to shift people to other projects when there isn’t a crunch of TAP reports and bring them back on to focusing on TAP reports during times when we do need more focus. And we do utilize some temporary staffing when we receive high volumes of TAP reports. However, we think it’s essential to maintain some expertise and continuity on the faculty and staff so we have people who have had experience on this and that we have people who have the necessary set of professional qualifications in order to do this. So again, we are very happy to work with NOSB and NOP to see if we can find ways to better understand what the volume of work is going to be so that we can keep the right people in place. I also want to mention that TAP reviewers need to be given as much lead time is as possible to prepare the reports. In the statement of work for this particular project, 262 days is specified from the time that a TAP report is given to the TAP reviewer until the report has to be presented. I can say that the CFNP has never had anything close to 262
days in order to complete an assigned TAP report. We also recognize that that’s probably not a feasible number for any TAP reviewer to expect. We understand with the nature of your work that you’re going to need quicker turnaround than 262 days. And we’re very willing to work to meet the needs of you, our partners. But again, we need as much time as possible in order to produce a high-quality report, so if there are ways that we can work together in order to make sure that we’re given as much lead time as possible to prepare the kind of report that you need to make a decision, that would help with our project. I have used specific comments on the petitions themselves. We believe that it would be useful if the petitions could be more detailed and consistent. We have had petitions range from a half a page to several pages in length that provided lots of detailed guidance. The more detailed and consistent the reports can be, the better we’re going to be able to respond to the questions with regard to that substance. We also think that it would be useful if the petitions began by addressing the criteria themselves and providing some guidance to us as to what the evidence might be supporting whether that criteria is met or not. Instead of having the TAP reviewers begin and do the search trying to get into the mind of the petitioner as

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to why they think this is consistent with the OFPA, if we could actually have guidance from the petitioner saying we believe this substance is consistent with OFPA, because it meets each of the criteria in these ways and here is some of the evidence that we believe supports that, that then allow us as an independent third-party reviewer of the information to verify that information, compare it to the objective standards that hopefully we’re able to work together to set and determine whether or not this petition is meeting the criteria and objectives of OFPA and the entire organic project. We also think it’s important that there be different petition formats for crops, livestock and processing. Some of the issues in each of those areas do differ. We understand that some work is already ongoing on that and we look forward to seeing the result, but we do want to emphasize that from our perspective it would be quite useful to have different petition formats for the different areas. One consistent and serious problem that we’ve run into at the Center for Food and Nutrition -- pardon me -- one problem that we’ve consistently run into at the Center for Food and Nutrition Policy is that acquiring confidential information can be quite difficult. In particular, some of the information on how the

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substances are manufactured, those can be confidential procedures and oftentimes it is difficult for us to get manufactures to share with us or to develop some sort of blinded process through NOP, NOSB or some other agency that would allow us to get the information that we need to answer some of the criteria. If we could work with NOSB, NOP and petitioners to develop some sort of systematic way of handling confidential manufacturing information, it would make it easier to provide the kind of information on environmental impact and other issues with the criteria. Alternatively, if we’re unable to develop a good system for getting that sort of confidential information available to the TAP reviewers, it should be recognized that TAP reviewers should attempt to get this information on manufacturing processes, but there should come a time when the TAP reviewer can document that they have made all valid attempts that they could to achieve the information, where they’ve contacted, when they made contacts, who they tried to contact in order to get the information. And then it should -- we believe it would be useful for the TAP reviewers to then be able to flag that report as incomplete and say we simply were unable to get the confidential information that we needed to completely address the issues on this substance. And then once
it’s flagged as incomplete, to have help from NOSB, NOP
or the petitioners to try and address that lack of
information. It would also be useful to have more
information on the uses of the substance, including
information on the specific uses that are envisioned by
the petition, other uses of the substance and as well as
specific examples of how this substance has been used,
specifically in organic agriculture or how it’s intended
to be used in organic agriculture. I was very
interested in the discussion that we saw earlier today
with the FDA and the issues of making sure that the
substances that are petitioned for use under OPFA are
consistent with all existing laws and regulations. As I
mentioned, in some of the other activities we’ve been
involved with, qualified health claims, a screening
process has been set up, in that case at FDA, in order
to evaluate petitions before they go on for further,
more detailed review. We do believe that it would be
useful to have a screening process established by NOSB
and the National Organic Program to determine that
petitions are complete and that the proposed substance
and use do not violate federal law. We do understand
that some of this is already being implemented. And as
I said, I found the discussion earlier today to be very
interesting and useful. We encourage you to continue to

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work to help make sure that a screening process is put in place that will help to guarantee that the petitions that go out are ready for review by the TAP reviewers and that we don’t have a waste of resources with doing TAP reviews on substances that would not be allowed to be used because of other federal laws. We also have a few specific comments on the statement of work as you requested us to address. The terms used in the criteria need to be clearly defined and objective standards need to be established on which to judge whether each criteria is met. Again, we believe that these standards need to be established through regulatory guidance, so that value judgments and personal opinions are irrelevant to the evaluation of a substance. In our opinion, the evaluation of a substance should be the same regardless of which TAP reviewer it would be assigned to. In our view, we believe that it’s important that when a substance is evaluated any reviewer can point to it and say this meets the standards, because it meets these specific objective criteria and here’s the evidence, or it does not. We believe it’s also important that the standards be clear to all stakeholders, whether someone is an organic consumer, whether someone is an organic producer, whether is a policy maker in this area. The standards
should be clear enough that people can have a reasonable expectation of what is likely when they submit their petition, and furthermore, they should have some assurance that because there are objective and transparent standards, that the decisions that are reached on these substances would be more defensible in the event of legal challenges. We believe that separate and distinct regulatory guidance needs to be issued for crops, livestock and processing. The issues in the three areas are very different and the TAP reviewers need guidance on each one. So as regulatory -- as you can develop regulatory guidance, if you can think about how the regulatory guidance needs to be different for each one of the areas, that would be very useful to TAP reviewers. We also recommend that a system should be established to provide more consistent and constructive feedback to improve future reports. We understand that NOP and NOSB are developing some forms at this moment that may help with some of the feedback process, but we are very interested in finding out what parts of our reports are successful and useful for the regulatory decisions that need to be made, as well as the parts of the reports where there have been problems, and a consistent means of providing feedback on the reports would be useful for us, both as -- I mean, quality
control, as well as a means of improving our work going forward. As I mentioned at the start of the discussion, the lines of communication need to be clearly established and maintained, in particular, we believe the TAP reviewers need to know whether the assignment or petitions will come through NOP or NOSB and who’s direction to follow about whether to proceed, put on hold, additional information that’s required, again, some way of making sure that TAP reviewers know whom to turn to with questions and who to listen to as they get additional direction about how to conduct a particular report, it would be useful. As I mentioned, additional regulatory guidance helps to establish more objective criteria are really the heart of what we think could help to improve the consistency and transparency of this process. I’m not going to go through at this point all of the criteria and talk about exactly what we think the regulatory guidance should be. Frankly, I don’t think it’s the place of the TAP reviewers to say exactly what that guidance should be. I think that’s a project that needs to be addressed by all the stakeholders that are involved. However, I will suggest a few examples to show you where we have had difficulty implementing some of the criteria and coming to a recommendation about whether a particular substance does meet particular...
criteria. For example, in criteria one, from crop and livestock. The potential substance for detrimental chemical interactions with other materials used in organic farming systems. There are a couple of issues in there where guidance could be useful. To start with, it can be very -- it can be impossible to address every possible interaction between a substance and all of the materials that could possibly be used that have been identified as used in organic farming systems. So some regulatory guidance on how to focus or limit the search for which interactions are important, which are the ones that are of the most concern to either the petitioner or the Board or the National Organic Program, would be useful. Also, the statement as it’s written, in our view, doesn’t provide an objective standard by which we can determine when the line has been crossed in terms of detrimental chemical interactions. We can define what the chemical interactions are going to be between a proposed substance and substances and materials that are used in organic farming systems. But determining whether something is so detrimental that it fails the criteria is not as clear to us from that statement, whether this means none is allowed, that no detrimental chemical interaction could be allowed, a little and what a little would mean or it depends on other pieces of the
criteria. So regulatory guidance that helps us better understand what the threshold is for a particular criteria would be useful in helping to make sure that we provide objective TAP reports that others could look at and come to the same conclusions. Again, briefly on point two, the toxicity and mode of action of the substance and of it’s breakdown products or any contaminants and their persistence in the environment. We can provide objective reports on the chemical and environmental properties of a substance and how it breaks down while it’s in the environment. That’s something that can be provided objectively that everyone could come to the same conclusion about. But as we read the criteria currently, it does not provide guidance about what level, if any, is allowable. And again, it goes back to the question, is this criteria going to fail to be met if we demonstrate that there is any amount of toxicity as this substance breaks down in the environment, is a that the criteria? Or where should the line to be drawn on in guidance on that, we believe would be useful. On point three, one of the -- point three is the probability of environmental contamination during manufacture, use, misuse or disposal of a substance. One of the issues that we’ve had with that criteria is the term misuse. It is difficult to
determine all of the possible ways that someone would misuse a product. Guidance on whether we’re to look at what would be a likely misuse or how we can limit that, how that term of misuse should be applied in this particular case, we believe that more guidance would be useful. And finally, the most difficult -- the most difficult criteria that we have faced in terms of trying to come up objective standards that we think could be defensible based on the evidence that we could provide, has been the question of compatibility of the substance with a system of sustainable agriculture. There are a number of terms in there that could stand additional definition from our perspective, and guidance on how to determine what that capability is without having to rely on a value judgment of the particular TAP reviewer, we think would be useful and would improve the transparency of the process, as well as the defensibility of regulatory decisions that are made should any legal challenges come along. I also want to give an example of a criteria that we think is quite well laid out in the current system. Under the criteria for processing, point five establishes the criteria that a substance should be graphed, considered generally recognized as safe by the FDA when used in accordance with good manufacturing processes and contains no residues of
heavy metals or other contaminants in excess of FDA tolerances. So this clearly defines what standards are being used to evaluate this question and it gives reference to an objective standard that can be used in order to determine how much is too much. And that objective standard in this case is in excess of FDA tolerances. So now on this question, any TAP reviewer can go through, determine whether the substance is on the FDA grass list, when it’s used according to the good manufacturing processes. And good manufacturing processes have been clearly defined in other areas. And then it says what the threshold is that would move a substance in violation of this criteria. So we believe that is an example of a criteria that can be implemented consistently by a TAP reviewer based on evidence about the substance. In conclusion, I want to say that CFNP is committed to making the TAP review process successful. We’ve gained valuable experience from our previous reports and we have also just brought on an additional project manager to assist with TAP reports. Ms. Gail Heim, who is in the audience today, has several years of experience with environmental chemistry and EPA regulations, as well as an undergraduate degree in human nutrition. Combined with the rest of the experience that we have at CFNP, we believe that our experience and

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knowledge base in food safety, nutrition and animal health can provide an excellent breadth of knowledge for continuing to work with you on the TAP reports. Thank you once again for this opportunity to share our thoughts with you. And I would be happy to take any brief questions, or if we need to move on to the next person, Dave, we might as well.

MR. CARTER: Okay. Dr. Forshee, how -- what's your timeframe here? Because I understand you may be under kind of a time crunch to...

MR. FORSHEE: Yeah. We've actually been able to squeeze out a little additional time, so I have some time that I can stay. How late are you...

MR. CARTER: Okay. Well, what I want -- you know, in an ideal world, I think it'd be good to go through the other -- to have OMRI come up and give their presentation, and then we could ask some general questions, so if...

MR. FORSHEE: We can stay until after that presentation.

MR. CARTER: Okay. We'll be...

MR. FORSHEE: Okay. Thank you very much.

MR. CARTER: Then I would like to have OMRI. Emily Brown-Rozen or Dave Decou or...

MR. DECOU: Hello, this is Dave Decou.

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MR. CARTER: Okay.

MR. DECOU: I’m introducing the OMRI presentation.

UNKNOWN: Hold the mike up, Dave.

MR. DECOU: I thought you wanted me to lean over.

UNKNOWN: No, we got a PowerPoint and we just go to get...

MR. CARTER: Okay.

MR. DECOU: Yes, there will be a PowerPoint in a minute. While that’s beginning, I’d just like to introduce OMRI, who many of you probably think you know what it is and I’m not sure you all do know what it is. First of all, the three of us who are presenting today, many of you met Emily Brown-Rozen. She’s the policy director of OMRI. She’s previously worked for -- New Jersey. She’s worked for the OTA, involved with the American Organic Standards creation. She’s been a materials advisor to the Quality Assurance Counsel of the OTA, and many, many other projects involved in the organic industry. Richard Theuer is a previous member of the NOSB. He’s been involved -- heavily involved in your processing industry -- food processing industry and he currently has a consulting firm of his own and he’s recently joined the Board of directors of the Organic

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Materials Review Institute. He’s also a long time member of the advisory council at OMRI, as to give a deeper scientific background on various issues. I happen to be an organic farmer. I have also spent the first six months of this year as the managing director of OMRI in the process of mentoring a new executive director who came -- started working in January and has now taken over as executive director as of July 1. And I’m no longer employed there, but I am on the Board of directors. And point of fact, I’m on the Board of directors of the organic -- the Grohn [ph] Company in Eugene, Oregon. I’m on the Board of directors of the Organic Trade Association and the Board of directors of OMRI. And as you probably figured out, I’m thoroughly bored. What -- as a farmer, I’ve watched this industry for 20 years and I really do want this industry to continue in the vein that it started with, which -- well, not all the veins. There’s been too much discussion about too many things and it’s all been redundant, but let’s find a way to move ahead and be consistent with our history.

MR. CARTER: Could you repeat that, please?

MR. DECOU: I can’t remember what I said.

MR. CARTER: That’s all right.

MR. DECOU: Thank you, Dave. I do want us to
come up with a thorough and a transparent process, and
to get truly objective standards that we can all
understand and agree with is difficult, if not beyond
that. But I do want to be able to have those standards
also to apply to when we prohibit a material, as well as
add a material. Obviously, the TAP review process is
crucial. We need to do it well to maintain the
integrity for our customers. How do we get there?
That’s slide three. I’d like to be at slide two. OMRI
as an institution is a non-profit 501C-3 -- okay. Maybe
my order’s different than theirs, but we’ll go on.
501C-3, research and education organization. We have a
board of directors that is intentionally made up of a
diverse portion -- wow, that was pretty -- of the
industry. We have a certain number -- we have a minimum
number of certifiers, a minimum number of farmers, we
have a minimum number of processors, a minimum number of
input suppliers and a minimum number of public interest
people on the Board. So as we move through we try to
make contact with as many aspects of the industry as we
can so we don’t over-shift ourselves. We also guarantee
that we have more certifiers than anybody else, so
they’re considered to be more objective than the rest of
us, and I won’t take discussion on that point. The
primary focus of OMRI at this point is objective

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material review. Our mission, as put up there,
professional independent transparent review of materials
compatible processes allow to produce, process and
handle organic food and fiber. That’s really our focus.
It shows up in our main activity, which is brand-name
review of products appropriate to be used in organic
processes, whether it’s farming processing or livestock
production. We are a former TAP review contractor. We
no longer do TAP reviews. We finished our last one in
October a year ago and we have no intention of doing TAP
reviews in the future. Point of fact, it makes our life
much too complicated because of the brand-name review
work that we do. We have to be extremely knowledgeable
in the materials world, but we cannot be on both sides
of the fence in advising ourselves. It becomes much too
much of a conflict of interest, which, you know, most of
us know how hard that gets to be. So we have
consciously as an organization decided to no longer do
TAP reviews. OMRI historically is very appropriate --
from our history is very appropriate to advise on this
because of all the TAP reviews we’ve done. Many of them
we did very well. I think there are probably a few
arguments about a few, but in general, we’ve done a
fairly good job. We still are heavily involved in the
materials issues of the brand-name -- brand-name review

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projects that we do and is the main source of funding for our organization. Our brand-name review work requires us to maintain -- the next slide, please -- a generic materials list, which is considered to be consistent with the National Organic Program’s national list, but isn’t always identical in the fact that we will probably have some naturals in there, whereas the national list only contains those things that are synthetic and/or prohibited naturals. But we have a larger list that we consider to be more user-friendly, and that’s the intent of them. And if you have advise on how to make it more user-friendly, we’re always willing to listen. We review inputs and ingredients to see if they’re consistent with the rule as the NOP has presented it. That means it’s not that we are certifying anything. It’s quite hard to not use that word. People still throw it at us, but we’ve tried -- it’s consistent with the national rule. When we have a brand-name product and say this is OMRI listed, we’re saying that it is consistent with the national rule. We also make no claims to say that we have all the brand-name products listed. We’re only doing it for those that passed to do it. We maintain a third-party distance from everything and we are able to work beyond some of those confidential business material issues.
because of the standards that we maintain in the
organization. Everybody’s got a very strict contract
that they sign around that issue. We also do a lot of
work consulting with certification bodies, government
agencies and international organizations. Our people
travel all over the world to help set up -- and we work
with IFON [ph] and so on. At this point, I want to turn
the mike over to Emily, who’s going to talk about
enhancements to the program -- to the TAP review
program, guides, petitioner, and then Richard Theuer
will take over and talk about how there’s quality
improvements that might be done.

MS. BROWN-ROZEN: Hi, I’m Emily Brown-Rozen,
the policy director for OMRI, which you all know, I’m
sure, by now. Thank you for inviting us to speak. This
is a great opportunity for us and we really appreciate
it. I just want you to realize that I brought my two
big-guys with me, so if you have any problems with
anything I say, you can talk to them, okay? Okay.
Well, let me give a little brief overview of what I’m
going to cover here and that is -- there’s just these
little points here that -- enhancing the petition
process overall, including the petition itself. The
next big step we see that needs some work is the
screening process that Dr. Forshee talked about quite a
bit. I think we actually have a lot in common with some
of the points that he made, so I will be reinforcing
that. The statement of work and the guidance for the
contractors and then a little bit about the decision
process itself as -- once it goes out of the TAP
contractor’s hands into NOSB’s hands. Okay. Next,
Dave. Okay. First of all, with the petition
guidelines, the notice that’s in the federal register
from July of 2000, is the official notice to the public
as to what constitutes a good petition. And this is --
you know, I think it was actually a pretty good document
at the time. It’s now -- the rule has been finalized
since that was published. So this came out before the
rule was final. So we need some updating in terms of
reference to the existing regulation. It doesn’t
mention, you know, the section numbers or, you know,
that they’re actually in the rules, so it would be
helpful to update it and mention that. It also -- it
would also really help to include the Actual
prohibitions as are spelled out OFPA, because it’s not
fair to petitions what’s just definitely off the table.
You would hope they would take initiative to go look up
OFPA, but that doesn’t seem to have prevented a lot of
petitions from coming in the door. They’re just, you
know, categorically, you know, not allowed. So that
would be helpful to have that in there. Also, it should reference the permitted categories, because there’s a specific pretty narrow list of permitted categories for production, crops and livestock, particularly. And so if it doesn’t fit at all into any of those categories, it’s a tough call -- you know, it’s another, you know, sort of pointless petition. Okay. The other things that need updating there is the processing criteria are not included in that petition notice. There’s just a reference that says call the NOP office if you want to find out what they are, so it would be easier if they were right there. The livestock criteria, it just -- it mentions the general of the criteria, but now that the Board has done work on elaborating what -- how to apply the livestock criteria to livestock materials, so it would be good to fill that information into the document, too. Then, again, on your point 12, which is the justification statements in the petition, Dr. Forshee made his point. The petition should address the specific criteria that applies to them. Right now, there’s just some general language that says -- talk about, you know, it’s affect on the environment, you know, there’s sort of a summary of the criteria, but if they really -- the petition statement, the justification, should really be trying to justify
according to the exact criteria, it would make the case
stronger in the petitions and it would make it easier
for the reviewers to evaluate the data that they
submitted. There also needs to be a notice in there
that petitioning is not just for adding or prohibiting
materials, it’s also for amending materials. It’s not
clear right now when you read that. There needs to be
an amendment on the language in I think it’s point 12,
again, on handling substances. It talks about -- you
have to provide a justification statement for synthetics
used in handling. But -- so I actually saw a petition
come in with no justification statement and it said,
well, it’s -- you know, it’s not synthetic, you know, so
we don’t have to do that. But the point at issue, that
terminology should really be nonagricultural, because
synthetic and non-synthetic materials used in handling
all have to be on the list and they all should be
justified in the petition. So I think that was a case
where that was before the final rule on that and, you
know, the terminology wasn’t quite with it on the rules
terminology. Okay. Did I hit everything on that list?
I guess so. You moved me on. Okay. So that’s the
petition notice. Now, I think in addition, guidance for
the petitioners would be good and -- so that we get the
best quality petition we can up front and they
understand more than maybe what’s in the dry language of the notice or -- you know, you need a little more explanation. It always helps. So here are these terms. And these, of course, are tough questions and they’re going to take a little policy work. I mean, the Board always is struggling between what is synthetic and what is non-synthetic and -- but, you know, clear examples -- you know, summarize the policy making that has come to point, get it on paper, provide that to the petition and also give examples of things that have been determined to be synthetic and non-synthetic, so they would know how to -- you know, or even if they don’t even need to petition. We see a lot of unneeded petitions coming in that are for natural materials that -- I mean, it actually -- it doesn’t hurt to have them come in and have an official confirmation that it is natural. That’s nice to know. I mean, that can be part of this preliminary screening process. But it’s a really important step. The other really tough one is agricultural versus nonagricultural. I think everybody in the industry is wrestling over where to draw that line and what does it actually mean. So it’s just time to sit down and figure it out and put down some guidelines and draw the line and then, you know, modify it if you have to, but put it on paper. Listing, again,
the categories of permitted substances, you know, go into more detail about prohibited materials and also referencing all the previous NOSB decisions and -- you know, so that people can easily look up what was already petition, was it prohibited. I know there’s some great improvements coming on in the website, which is really good. Hopefully eventually we’ll have it all tied in there or maybe update the spreadsheet database so that you can see what came in when, when it was prohibited, for what reason and it’ll be real transparent to all the petitioners. Okay. Okay. Another thing I think needs clarification is the CBI situation on the petitions. The way the notice is now, it just says, you know, you can do it. You know, if you feel you need to keep this material proprietary, that’s your -- you know, and you’re entitled to do that. And so petitioners assume that -- fine, I’ll do that. But they need to know what happens when they do that. I mean, just clearly spell out who gets access to it. Does it go to the TAP reviewers, does it go to the NOSB, are they supposed to hold it confidential or do they not get to see it at all, just so that everyone knows that, you know, it might cause a delay in their petition, it might cause some difficulties for NOSB to review it, so that they’re aware up front when they make that decision, if they
want to hold a CBI or not, so that we don’t have to argue about it later and they can just be advised, you know, how they’re making their choice to reveal information. Also, that guidance would be helpful to the petitioners on the requirements to document the regulatory status, either on their EPA, FDA -- I should add APHIS to this -- so that they can do the best job of identifying that and save time later when they -- you know, have to consult on that. Okay. The next big topic is what we think is to be a more formalized screening period. Between the time the petition comes in and goes to the contractor, it needs to -- I think just elaborate a little bit more carefully what this screening procedure is. I understand you’re all working on it and that’s always been a little tricky to monitor, because it’s going between committees and NOP and it’s just hard to try track all that. But if we have a more formalized process, I think -- and really dedicate a certain amount of time to that, that’ll, you know, eliminate a lot of unnecessary work later and just make it real clear and transparent to the public, too, what is the status of this material. So in this period an assessment should be made that whether the petitions meet all the of the criteria -- not all of the criteria, but the basic criteria for the prohibited categories and
that sort of thing. And then it does provide for a
better TAP review. Okay, Dave. Okay. Step one of
screening. NOP receives the petition, evaluates it for
completes. Are all 12 points answered, is it -- you
know, seem reasonably complete, and if not, send it back
to the petitioner, you know, set a timeframe for that.
You know, within 30 days we’re going to send it back or
we’re going to say it passes step one. And then give
the petitioner a finite amount to get it back or else
it’s -- you know, it’s got to start over in the queue.
So if you put -- and we do this at OMRI all the time.
We just give them deadlines, you know, and keep things
moving. And if they choose not to do it, then they’re
going to have to wait. So it just help manage the time
there. Step two would be -- I would suggest a joint NOP
and NOSB review of the screening of the criteria and the
prohibited categories. Maybe NOP does it first and then
the materials committee or whoever signs off on it, just
to make sure -- or NOP might not be sure and they might
ask you for your advice, but you should both sign off on
it, I think, because that’s kind of a big step. Is it a
prohibited substance, is it in a permitted category.
And then this goes on the next one, Dave. Is it natural
or synthetic, is it, you know, being applied in the
right slot, is it agricultural or not. And sometimes
these you can’t answer right of the bat, and you might
need to say, okay, we’re going to go to the TAP
contractor, we’re going to get an initial assessment of
this screening and then we’re going to make, you know, a
stage-two decision before we go for a full TAP review,
so we have an informed decision before we spend a whole
lot of money and maybe waste time. So I just think that
would be really -- later on. Okay. Next. Okay. I was
just going briefly run through the so-called prohibited
categories. But this would be the kind of guidance that
could also go out to the petitioner. So if they’ve --
you know, if they’ve got that kind of information, then
this would -- you know, this makes this job easier, too,
for the screening process. But there’s some specific
prohibitions in OFPA in the different categories under
crops -- you know, synthetic fertilizers are basically
all prohibited. Synthetic nitrogen, phosphorus, lime
and potash. Under livestock healthcare practices
there’s a couple of tricky areas in that -- well, no
antibiotics, except therapeutic. And then there’s this
general statement about medication in the absence of
illness, which is always hard when we’re talking about
preventive healthcare practices.

MR. CARTER: You have us a little looking
dazed and confused...

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MS. BROWN-ROZEN: Oh.

MR. CARTER: ...because that slide is missing from...

MS. BROWN-ROZEN: This slide -- you know, it got slipped out of that, too.

MR. CARTER: Okay.

MS. BROWN-ROZEN: Yeah.

MR. CARTER: I thought maybe...

MS. BROWN-ROZEN: So we can...

MR. CARTER: ...you were just making sure we’re awake here.

MS. BROWN-ROZEN: Okay. I saw you all were shuffling. Okay. Good, you’re reading along.

MR. CARTER: That’s right.

MS. BROWN-ROZEN: That’s fine. Okay. Next one, Dave. And so -- and then this is a similar issue with specific prohibition on handling materials, the sulfates and nitrates -- nitrates. Except for sulfates allowance in wine, we know we have that new amendment to the OFPA. The one about packaging materials that might have synthetic preservatives or fumigants or ingredients known to have levels of nitrates, heavy metals or toxic residues. Now, this -- you know, some of these you may not be able to grasp out of the petition, but we should look at those basic ones for the obvious ones that would
fall out at that point. And then the permitted
categories that I’ve been talking about are the -- that
long specific list that they wrote in to the OPFA. You
know, everything that’s going in the crops and livestock
list is supposed to fit in one of those categories. So
if it doesn’t, there’s kind of question whether it can
be added to the national list. So that’s where we have
a pretty narrow group of categories there. Although,
you might want to spend some time talking about what is
a production aid, because I think that’s been sort of
expanded from time to time to cover things like
potassium bicarbonate for disease control. There’s no
other good category for it that I can think, so -- okay,
next. Okay. And then this is really important to do
this screening on the regulatory status. We thought --
you know, obviously, we run into problems with that. So
developing either a process to get, you know, a point-
person at the other agencies to respond to questions at
this point or, you know, hopefully get good information
from the petition on it, and then if you have to verify
that before you go on to a full-fledged review. That
seems like it would be worthwhile. Oh. And then this
is the last most important thing I think about screening
is that it needs to go in the public record. You know,
you have to point -- make a spot to announce what you’ve
found. You know, if it didn’t go to full TAP review, but you decided it was rejected, then either, you know, NOP notifies them and it gets published somewhere or maybe at your next meeting you say, okay. This is the list of petitions that have been rejected for this reason, so that it’s just real clear, you know, and it got -- and people know why and what happened to it and -- you know, because we’ve had suppliers come to OMRI and say, well, we send in petitions and we never heard about them back and, you know, they could’ve been terrible petitions. I don’t know. But, I mean, it’s nice to have that very public so everyone does know. Okay. Moving on to the statement of work and the contractors. Rich is going to talk in more detail about this, but I have a few points I wanted to hit here. The way the contract’s written now, it requires bimonthly reporting, which I think is actually a good idea, but it takes some supervision. So you need a back and forth -- somebody looking at those monthly reports, and good communication. I think there was a good point made earlier that where are we with the problems, you know, is there a hang-up or does this one need, you know, one question answered and some feedback from the Board before we go further, that kind of thing. So regular reporting and communication I think is good. There’s
nothing in the report that require -- in that statement
of work that really requires qualifications of your
staff people and your -- or your updated -- you know, if
you’re changing personnel, you know, that should be
regularly updated and supplied to the department. The
timeline has always been an issue. As was mentioned in
the contract, it says 262 days. We feel like you need
at least 120 days to prepare a good initial report and
then send it on to reviewers, really. So we tried to do
work in 120 days totally, but it was really tough to get
a really good quality report and have some time for re-
review -- you know, have the reviewers really work on it
further. And maybe sometimes they need a second -- you
know, more questions answered after the reviewers. So I
think, you know, a longer time period is definitely
warranted. How that’s handled, it is difficult. If you
don’t know how many TAP reviews you’re going to be doing
in a certain time period, to hire the number of staff
and be geared up to do the work is difficult.

MS. DIETZ: How long is your normal process
for TAP reviewers to have a document, 30 days?

MS. BROWN-ROZEN: Oh, we gave them three
weeks, actually.

MS. DIETZ: Three weeks. Thank you.

MS. BROWN-ROZEN: And it was tough. Okay,
next. Scope of the review. I think -- oops -- the -- one other thing that needs to be clarified a little bit is, you know, we would always get into to new issues about alternatives. One of the criteria is what are the alternatives for use. I think that and compatibility are the two hardest criteria to answer and they’re not totally objective. I mean, you do have to evaluate sort of the scene, but -- and try and do the best you can with the information you have. But alternatives, you know, we feel they should be done based on -- and this is what we tried to do, is base them on the literature -- solid reports, so we could find how they’re being -- what alternatives were -- not could be used now and what historically have been allowed from, say, older references possibly before this, you know, new product or ingredient was invented. So it’s always good to go back into the historical record of how did people used to make the stuff or how did you used to grow this crop without this. And that would give an indication -- so alternatives also need -- I think there needs to be guidance about it’s not just alternative substances, it’s alternative practices, methods, cultural practice, biological methods, other -- you know, the whole scope there. Availability of the alternatives is difficult to assess. And that -- sometimes you can’t tell. You
know, you an search the literature and there’s, you
know, new stuff out there or it’s being used differently
and it’s very hard to get a very current industry
status. So I think that’s where, you know, there needs
to be additional public comment or maybe other -- if you
want to look at economics of an available alternative,
you might need to commission a specific means for
collecting that information that’s different than the
TAP review, because that’s just really a whole different
area. And also that -- I think -- yeah. So economic
impact should come from the public, it should be a
different source. Economic considerations are really
not mentioned in the criteria in the OFPA, so I think
that’s an additional one. If you’re going to consider
it, that’s a difficult one to tackle. Next. Okay. On
to the decision process. Again, I think we’ve said
these things in general before, but, you know, the whole
-- you know a good process goes a long way, you know,
with having a defensible process and having people
accept the decision. So as much as possible, we can
move towards complete transparency. I think a great
step -- now the petitions are starting to be posted and
I think that’s very helpful and that’s a good step. And
then getting all the TAP reviews posted in a timely way
before the reading so that people can make comments, is
really important. If possible, the committee recommendations -- and then there’s this period after the TAP review is done where the petitioner might be giving more information to the Board, you know, to address some of the issues that were raised in the TAP. It’d be good for that information to be public, too, so it’s all aboveboard and, you know, a good balance of all the information that can be made. Standardizing procedures at the meetings. I think we’ve been working at this on every meeting since I’ve been attending them and it’s come a long way. But I think, you know, it’s time to really narrow it down and kind of follow the same way every time. I know -- and you have proposed some forms to record your decisions in terms of the criteria that are required and that’s fine. It seems very complete, and then it covers every possible criteria you could think of. I think that you might need a different model for arriving at the answers to those questions. I mean, you might want to -- we’ve proposed a decision tree in the past and it’s attached in the back here. To sort of step by step go through the questions and answer them all, and then I think that would be -- you know, you could fill in the blanks on your checklist, hopefully. And you do have to go through it a little differently. Crops and livestock
and processing are all different, so, you know, you have
-- you might want to address that. I think those could
be modified for the livestock criteria now. But if you
go through them all in an orderly way, then I think
whatever forms you need to fill out for NOP will be
easier and you’re flow will be easier, too. I guess
that was what I was talking about, the forms there. If
-- yeah. If you get to a point where there’s not
sufficient information to make a decision, I think there
should be no hesitancy in calling for more information
and tabling a decision and reconsidering it when you
have, you know, good data on hand, and again, adequate
time for comment. Okay, Dave. Okay. Always more work
needed to be done, so I gave you a little to do list
here. But as we mentioned, these guidance’s documents
could really be helpful, so those -- these are the big
ticket issues, agricultural, nonag, synthetic, non-
synthetic. What is an antibiotic? We seem to be
wrestling with that on some of the drug reviews, because
an antibiotic is not like a clearly defined at FDA. You
know, they talk about antimicrobials, the talk about
antimicrobial properties, and I think it might be
helpful to have a little better understanding of when do
we say no on those. Commercial availability is a big
issue of non-organic ag commodities, because, you know,
then you need to know if you’re going to categorize it as agricultural and put it under 60 -- recommend it to go under section 606. How does that -- you know, how does that apply, of if you think it’s totally not suitable. So I think that whole policy development is a big area that would be relative to the list of germinations. Next one. We’re there. Okay. Well, now I’m going to it over to Rich and then I’ll be here to answer questions. Yeah.

MR. RIDDLE: You mentioned the decision tree being attached to the back.

MS. BROWN-ROZEN: Uh-huh. It should be...

MR. DECOU: It’ll be...

MR. RIDDLE: Okay.

MS. BROWN-ROZEN: We have a big hand in that.

MR. RIDDLE: Okay.

MS. BROWN-ROZEN: He’s just giving it to you. He did. Okay.

MR. RIDDLE: Keep us attentive.

MS. BROWN-ROZEN: All right.

MR. THEUER: Well, I’d like to just pass along some remarks that I’m -- how we see a better chance of getting quality TAP reviews. Could I have the first one, please? One thing that we all know is that there’s a limit to our competence in the -- in selecting TAP
review contractors. It may be worthwhile considering having them specialize in the different areas, because not everybody is equally good in crops, livestock and processing. Sometimes I’m approached to be TAP reviewer for crops and I, you know, decline very quickly, because I don’t know very much about soil. Since that is rare to have organizational competence in all three areas, it might be useful to have specialization. The other element that has, you know, in review and actually creating TAP reviews and doing the boiler chemical review of the -- two years ago, now. Some operational and real life experience with the category is very useful in improving the quality of a review. For example, ammonia. It was thought in a statement that ammonia got into food and ammonia’s a boiler chemical. And it turned out it was related to a refrigeration leak in a plant. It was not related to the use as a boiler chemical. But, you know, one has to know about plants and what happens to get that. Could I have the next?

TAP reviews are created by investigators. Investigators who are new to the business, in a sense, need to be trained, they need -- and either take time to develop competence -- and time when something’s not a good commodity and you need them too quickly. The other option is to have a training program. And so it might
be useful to consider having a requirement for a training program. And the problem is, the current contracts do not fund training. But if you have competent investigators -- and this is a point that’s been made before -- they need sufficient time to do quality work. I’ve tried my hand at doing a TAP review or two and I figure it’s 15 to 20 hours of grinding it out, digging into the literature, going and doing it. Well, that means two, maybe three a week if you really push it. And if something comes out of the sky with 5 or 10 or 15, it’s difficult. You can’t keep a timetable when you don’t have a steady rate of work. Could I have the next? Providing a complete petition. This has been dwelt on before. The one area you assume is that the processor -- the petitioner knows his system better than anybody else does, so he should know what alternatives might work, he should know what alternatives have been tried. And we all know of TAP reviews where the petition was so complete, it was a joy, and others where, as someone said, it’s a two-page document and there’s almost nothing in it. Another aspect of completeness is one you might get a chuckle out of. I’ve seen a document come in as a TAP reviewer where at some point in the system someone tried to save money by printing it on both sides of the page. Well, they faxed
it. And it’s very difficult when you only have the odd-number pages to find out what was going on. Could I have the next one? Now, we’ve talked about TAP reviews, knowing what is expected. The TAP review template is an absolute requirement if you want a good TAP review. They need to be specific, and OMRI will be handing out some of the templates they used historically to give instruction and hopefully solicit good comments to give good TAP reviews. Could I have the next one? Here’s where you have to do some work. Many TAP reviews will come back or have comments that doesn’t address the question, what about this. It would be lovely to have a blueprint success in the examples of great TAP reviews. It would also be useful to know why you think they’re great, so that, you know, beating -- they say teach a man to fish and he can -- you know, you feed him for life. Beating him with the fishing pole doesn’t help. And so, you know, it’s useful to give a detailed comment on why it’s good, instead of always saying this terrible. Because then you’ll get more of the good stuff and maybe less of the ones that require massive redoing. Now, the next one. This is another thing that you can do something about. When I was on the Board back in the ’92 to ’95 area, we actually put out a notice asking people if they would be TAP reviewers, and
quite a few people came back with the answers. As the situation progressed, it’s almost like the TAP reviewer people became a proprietary property and you couldn’t find out. They were anonymous in the reports. If you were doing a new and you’re saying who do I got to, especially if you’re trying to find ones who have done it before so you can get -- you know, that’s your point of experience. I think it would be useful when we find competent TAP reviewers with operational experience that everybody says are good TAP reviewers, the NOP and NOSB should consider maintaining a roster and maybe petitioning to have people volunteer. What’s your specialty, what can you do. Well, if we find them, how do we retain them? The best way of retaining a TAP reviewer is to give him a good TAP review. I’ve had ones where, you know, the petition was terrible, so the TAP review was incomplete. So you go to the library and you start digging through tons and tons of stuff trying to fit the pieces that aren’t there and trying to find out what the alternatives are, are there any other ways of making this material. And so I thing the going rate is about $150. Well, after about six or eight hours, you know, you could go to McDonald’s and do hamburgers for a better rate of pay when, you know, that’s what your business is. So what also is needed, if you allow
incomplete petitions to go through the process so the work is cascading down on the TAP reviewer -- the TAP creator and then the TAP reviewer, you need to find a way of paying people for the work they do when it expands beyond what they really committed to do.

MR. CARTER: Thanks. Let’s -- and I’m wondering if Dr. Forshee, if you can come up and the other folks from Virginia Tech, because I think what we’d like to do is just open it up to some general questions and follow-up. Kim?

MS. DIETZ: First of all, I want to finally celebrate the fact that I’ve met Richard Theuer. I had no idea what he looked like, and Richard’s obviously been a big contributor to the TAP review process, a past NOSB member, and getting us to the point where we’re at today. So thank you for your...

MR. THEUER: Thank you.

MS. DIETZ: ...commitment to this process, because you have been around since the beginning when there was one-page TAP reviews...

MR. THEUER: Right.

MS. DIETZ: ...pretty much, where you guys made decisions. We have come a long way, I think, and I gave this spiel this morning, that we approve the process every day, every meeting, every board, every
year, and it’s going to continue to get better. So what we’re doing here at this meeting, I’m very thankful that we have the commitment by the NOP and by the Board and by the contractors and every to maybe finally get this right. I don’t know. We’ll see. Again, Richard -- excuse me, I’m fighting a cold -- Forshee, you know, you guys have come into this process with, you know, a lot of handicaps and we’ve acknowledged those and it’s been a tough process, but I think that you will see a huge improvement from this point forward, and we’ll certainly try to address all of your issues, some of which we won’t, because they, quite frankly, have never been within the purview of the NOSB to do. I hear guidance documents, guidance documents, guidance documents. And although I think that’s needed, I just don’t know who’s going to do that. So we need to talk about it as a board and as the NOP.

MR. FORSHEE: If I might just say...

MS. DIETZ: Sure.

MR. CARTER: Go to the mike.

MR. FORSHEE: I did just want to emphasize that we stand ready to work with...

MS. DIETZ: Yeah.

MR. FORSHEE: ...NOSB on these issues. We are committed to making this process work well and to
improve the overall process and our piece in it.

MS. DIETZ: And our commitment has to been to improve that process thus far. So I really -- I didn’t really have a lot of comments for you other than we’ve documented and we’re certainly going -- we have a commitment, we have a lot of money invested in you to get these -- the best as possible. Emily...

MS. BROWN-ROZEN: Yeah.

MS. DIETZ: ...could you sit down?

MS. BROWN-ROZEN: Yeah.

MS. DIETZ: And I agree with everything you said, too. And the process always gets better. You had one comment in here on the decision process and transparent petitions posted, TAP reviews posted, all of those things we’ve been trying to work on. You had the committee recommendations posted before meetings. That is something we’ve never done before and I don’t know whether -- legally whether we can post the committee’s recommendation before a meeting. So I don’t know if we can do a little discussion on that.

MS. BROWN-ROZEN: I thought -- haven’t you posted this on before? I thought some have been, but I don’t know.

MS. DIETZ: I don’t think they’ve been publicly posted.
MR. CARTER: Okay.

MR. MATTHEWS: Richard Matthews. Again, that is part of what the grand scheme of this systems approach to the entire rule making process with regard to material. And what it encompasses is that the idea is that the review would be done 60 days before the meeting. The Board’s committees would work on the materials during the first 30 days of that 60 days leading up to the meeting. We would then publish for everyone to see what the committee is going to be recommending to the Board, so that the public would have approximately 30 days to react to what the committee is saying they’re going to recommend to the Board. And the full board would have approximately 30 days to react to the committee’s recommendation, so that when you get here to the meeting, the Board, itself, has already taken into consideration what the committee is recommending, the public has had a chance to see what the committee is recommending. They then come and make better informed comments to the full board. Then the full board takes what they’ve already analyzed from the committee, plus what they’ve just heard from the public and then they try to come up with what is a good, sound recommendation on the material. Now, when we get comments in from the public during the period leading up
to the meeting, we’ll also be publishing those so that
the Board can even in advance start to see what the
public is saying on the materials even before the public
comes in and makes a public testimony.

MS. DIETZ: Thanks.

MR. CARTER: Right. Other -- we’re you done, Kim?

MS. DIETZ: Yes. Thank you.

MR. CARTER: Okay. Other comments or
questions? Okay. Rose and then Jim.

MS. KOENING: I’d just thank both of you guys
for coming in and giving presentations. You know, and I
understand -- I mean, a lot of your theme was the value
judgment, you know, position. I guess the question is,
is that, you know, the criteria -- a lot of the, I
guess, documentation from your organization -- now that
you say that, now I understand kind of the methodology
that you go about it. You do a lot of literature and
you even kind of present just that data with not much
analysis for us. And I guess the -- I think we have to
be somewhere in between not putting in, necessarily,
value judgment, but just by getting data, a lot of the
people on the Board may not have technical expertise in
those areas, even though you’re assigning somebody who
may have technical expertise to do that literature.
search. Somewhere in between there doesn’t necessarily have to be a value judgment statement, but there does have to be an analytical kind of pros, cons lane of the decision so that we can at least be presented more than just raw data or files downloaded from the Internet. So where do you draw that line is the question I have for both reviewers. Because there’s been a lot of criticism, I guess, with too much value judgment versus presenting something in a format that allows us to critique data, especially those who don’t have that expertise to then be able to make a decision based on data and some critique by somebody who has expertise. So if you could comment on that.

MR. FORSHEE: I have a comment on that. For the record, Richard Forshee. We have heard that concern and that’s one that we’re definitely going to work to address so that there is more synthesis of the material, as well as one of the things that we’re planning for future reports is essentially an executive summary for the points before going into the Actual data. And so, yes, in terms of summarizing, weighing the quality of the evidence, those are all things that -- things that we are comfortable as an organization doing. And we have heard that concern and in the next round of reports, we’re going to work to address that.
MR. CARTER: Okay. Jim?

MR. RIDDLE: Yeah.

MR. DECOU: Can I...

MR. CARTER: Well, I’m sorry. Yeah.

MR. RIDDLE: Well, I could...

MR. CARTER: I’m sorry.

MR. DECOU: I think that’s a very good point.

And having been a member of the NOSB at an early stage, each NOSB board probably has it’s own slightly different sort of Zeitgeist of, you know, why is it -- we each get a philosophical orientation working with each other.

And so you do have the dilemma of a great deal of value input as to what’s “compatible” and what, you know, interferes with organic integrity and what does not.

And I think that’s where...

UNKNOWN: He’s buying drinks tonight.

UNKNOWN: Yeah.

MR. DECOU: I think that is where if you could take some clarity TAP reviews that provide the information without a ton of bias and without no value judgment and say, you know, I’d like the facts, but I’d like them explained in this particular way, that might be very helpful to tone down the ones who tell you what to do, so to speak, and help those who really don’t know what your -- your drug result.

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MS. KOENING: So in other words, I mean, we need more of a literature -- like if somebody does a literature review for a dissertation, I mean, you’re bringing up all points and you’re giving those -- you know, those references and you’re really showing different points of view with that documentation. So there is value judgment in the points of view, although you may not state your values until the discussion, but in the literature review, you’re bringing out all points and backing them up. But -- you know, and that’s where the summarization comes in, it’s not necessarily...

MR. DECOU: Yes. As an organization, we are comfortable moving more in that direction and that’s something that we will be working on. Just to quickly refer to the value judgment issues. I want to be clear that one of the reasons that I made that so important is that as the TAP reviewer, we don’t think that it’s appropriate for us to be making the decisions about is this particular substance consistent with organic agriculture of not. We are quite happy to try and provide with all of the information that you need, including by doing some of the organization of that information, which we have not done enough of. We’re happy to do that piece of it. But again, we feel that as a third-party reviewer, we have to take the
legislation as it has been given to us and the
regulatory guidance as it has been given to us and apply
to the substances that we’re asked to review.

MS. KOENING: I have one more question and
then...

MR. CARTER: Okay. Go ahead, Rose.

MS. KOENING: As far as in the current way
that things have been done, once you’ve done that TAP
review, then you get your outside reviewers to kind of
review that, and then historically, they’ve actually
voted -- you know, there’s a value judgment, if there is
any value judgment. So then, are you recommending --
and this is a question to both OMRI and yourself -- is
it better that they just really review the technical
merit of what you’re saying, rather than giving their
opinion? I mean, is that right format?

MS. BROWN-ROZEN: All right. I’ll go first.

No. That was a good point, Rose. And that is
historically -- what we would do is say, you know,
you’ve selected these experts to be reviewers. They
have good expertise in this area and you’ve given them
guidance. We do give a little guidance about what about
capability means. If we can work on -- you guys work on
this more, then that could be given to them. In your
opinion, given all this other database information here,
do you think it’s compatible for system organic agriculture? Now, you don’t -- you know, it’s three different opinions and you can, you know, judge them for what they’re worth. But I think that’s useful to have that value, you know, from someone very knowledgeable in the field and knows the area. So I think that these are not totally objective, but that’s how they are written in the OFPA, for that reason.

MR. DECOU: As a TAP reviewer, the first two questions that you get are in the case of is it synthetic or non-synthetic, and then should it be permitted or not. And the synthetic, non-synthetic is a big factor weighing on the rest. So the critical thing that I would come back to you and say -- let me digress. In 1995, after I got off the Board, they invited me back to facilitate meeting on materials and I gave an exposition on synthetic. And then people went about and said -- 8 out of 13 said citric acid was synthetic. But if you give guidance as to what’s synthetic and what’s non-synthetic and what’s agricultural or nonagricultural so that you give it to the TAP reviewer, it won’t come back this crazy way, now, where you got three people and one says it’s synthetic and two say it’s not. It’s the same material. And so it’s almost like you need the examples and it has to -- it’s almost like the TAP
review for the contractor, it’s -- the definitions the
clarification and the guidance on this is what synthetic
means and this is what agricultural means, and if it’s
not that, it’s not. And so you -- I think that’s
something that you can create, and that would be
permanent and the Zeitgeist of the Board, you know. The
1994 board was like this and, you know, it was like
boring. It can’t be that way.

MR. FORSHEE: I would just say that our TAP
reviewers ask for that same sort of guidance. That’s --
the feedback that we get from our TAP reviewers is tell
me how to make this decision.

MR. CARTER: Okay. Jim?

MR. RIDDLE: Yeah. I hadn’t wanted to also
thank you, both groups, for your presentation. And I
think there were incredibly valuable insights here. And
that’s exactly what we were looking for. I agree -- you
know, in the short-term here, I think we’re going to
have guidance on the capability issue, and I think we
need to get down on paper the synthetic, non-synthetic
and the ag, nonag guidance. Those are doable. And we
have some guidance we’ve already worked on on the
livestock materials, because -- or the livestock
criteria, because those really weren’t written for
livestock materials. And so we need to keep those
alive. Those may have fallen off the table a bit, so I’m glad you brought those back up. I was quite intrigued by Emily’s reference to this decision tree. We were -- have a materials review form that the NOP needs at the end of the day, but how we fill that out is a challenge. We heard about Barbara spending over 12 hours, I think, doing an example of one that’s already been done. And I -- you know, I guess it doesn’t matter when I clock in, because my rate doesn’t go up or down when I’m working for free, anyway. But, you know, anything that we can use as a tool to help us complete that form I think is valuable. But I turn to that at that back of your handout and see it’s date November 13, 2000, which is before the final rule was posted. And so it looks like, well, here’s another task, you know, that we can do for free to update this. I mean, how far off is this from...

MS. BROWN-ROZEN: I don’t think it would be that late.

MR. RIDDLE: No?

MS. BROWN-ROZEN: I just -- you know, I got an example...

MR. RIDDLE: Could you speak to the mike?

MS. BROWN-ROZEN: ...and, you know, offered it -- I’ll get up. Yeah. No. You know, we had thought --

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I had thought about this in the past and I dug it out of
the archives here. And it seems to me now as if --
yeah, we have to revisit it. I think the criteria --
but I don’t know if it’s that far off. You might --
based on the new criteria for livestock, I’m not sure
what else. There might be a couple of other things.

MR. RIDDLE: Well, the handling criteria now
is in the rule...

MS. BROWN-ROZEN: Okay. Right.

MR. RIDDLE: ...and before it was just an NOSB
kind of guidance.

MS. BROWN-ROZEN: No. Well, it was voted and
it was...

MS. DIETZ: This has gone to the Board before.

MS. BROWN-ROZEN: Yeah

MS. DIETZ: : It’s come to us.

MS. BROWN-ROZEN: Yeah. I was -- yeah.

MR. RIDDLE: Yeah.

MS. DIETZ: Several times.

MR. RIDDLE: But I’m just saying, it’s a
historical document...

MS. BROWN-ROZEN: Right.

MR. RIDDLE: ...according to where we are.

MS. BROWN-ROZEN: No. It just was a model. I
mean, there may not be enough steps in there now.
Actually, the screening steps are kind of built in there, so maybe, you know, you could divide it out into phase one screening and then you have this is what the committees do. You know, you could break it out further, because -- you know, the synthetic, non-synthetic, all those things. I was going to tell you I was going to handle it. But, yeah, I’d be happy to work on it some more if you want.

MR. CARTER: Okay. Kim?

MS. DIETZ: I keep making notes. Richard and Richard, we have talked about a pool of qualified reviewers and this has come up many, many, many times. And then OMRI brought it up in their presentation. And I think that we -- even as a board we’ve talked about how can we get this done and, you know, have the confidentiality that’s needed, yet seek as a board -- seek those people to help us. So I just want -- for the record, I think this is something that we do need to enact for the success of TAP reviews and for the success of this program, because we need qualified people to do it and we need to pay them to do it. So I do agree with and I just wanted to bring that out for both of you.

MR. CARTER: Richard?

MR. FORSHEE: I had not mentioned that in my presentation, but I just want to say I wholeheartedly
agree with your comments and those of Richard.

Developing a pool of qualified responsive TAP reviewers
is a huge task and anything that can be done to make
that more public and more permanent would be...

MS. DIETZ: And then I had a comment and a
question for you. It was mentioned about specialized
contractors and obviously opening up, which we’ve all
agreed for years to do. But do you feel that the Center
for Food and Nutrition Policy has the capability to
review all three areas for us? Right now you have the
sole contract. And do you have the capability to do
crops, livestock and processing, the chief fields?

MR. DECOU: Or where are you strongest?

MS. DIETZ: Or, yeah. Well...

MR. FORSHEE: Well, we -- I will say that that
is a very wide range of petitions to try to deal with.
And frankly, I agree that from a regulatory perspective,
it probably is better to have more than one set of TAP
reviewers. In terms of our -- one advantage that we do
have being part of a major land-grant university is that
we do have colleagues within our College of Agriculture
and Life Sciences that can provide a tremendous amount
of support to us as we are trying to analyze a variety
of petitions. And so within the department of food
science and technology within the College of Agriculture
and Life Sciences and within the Center for Veterinary Medicine at Virginia Tech, we do have many resources that we can draw on. Within our own organization, we have -- we just recently had a veterinarian who began to work with us, actually within our organization as opposed to on any sort of consulting basis. We have expertise in environmental chemistry and regulations with EPA. We have a human nutrition and we have a lot of background in food safety issues. So we do have a good breadth of knowledge. But again, I would have to agree that from a regulatory perspective, it’s almost certainly better to have multiple groups doing TAP reviewers. We’re happy to do them, but I think that that probably would be a good move in the long run.

MR. CARTER: All right. Rose?

MR. k: I guess a final question I had for both TAP reviewers is that on some of this information when we get materials in, it’s easy to do a literature review on a compound. The hard thing -- and we talked a little bit about this earlier -- is then taking that information and then applying it to an organic system, because there’s not much research on organic systems and the use of those within an organic system and all the alternatives. So any suggestion on how you, I guess, wrestle with those things within an institution such as
your institution, or how has OMRI tried to get those
real-world examples without having an extensive bank of
literature in organic farming systems? I mean, do you
use anecdotal kind of evidence? Ss farmers, have you
been able to get that information?

MS. BROWN-ROZEN: Are you talking mostly about
the alternatives question or...

MS. KOENING: Yeah, alternatives and
compatibilities, you know, some of those adverse --
where you were saying misuse or adverse reactions, that
you don’t know -- if you do just a literature review on
a compound and it’s not within an organic context, and
then the people at your institution may not have
expertise in organic farming systems, they may not know
that this thing is used in conjunction with, you know,
hydrogen peroxide, because that’s not commonly a
function of a normal, conventional farming system. So
I’m saying how do you come up with that information and
how did you come up with that information? How do you
guys grasp that kind of information?

MS. BROWN-ROZEN: I think -- well, you know,
going by what, you know, you can find in the literature
and then relying on your reviewers and trying to get
people with expertise in an -- actually, an organic
application, is familiar with what we -- or if you don’t
have the specific reviewers, then making sure you ask
some experts that might’ve, you know, done organic food
processing, not just conventional, you know, in a
similar kind of product and find out how they’re doing
it, so that you can sort of fit it into the landscape.
There may be nothing. I mean, that’s difficult and it’s
time consuming. But you can try to make an effort to do
that.

MS. KOENING: So in other words, when you do
those TAP reviews, you require them to go through all
the criteria and then add in the wholes...

MS. BROWN-ROZEN: Well...

MS. KOENING: ...of the...

MS. BROWN-ROZEN: Well, if you look in that
packet we’ll be giving this template that, you know,
goes through the whole -- all the little categories, and
we have a little bit of narrative under each one. This
section is supposed to cover, you know, fade and
toxicity. And generally, we look at human studies, not
-- you know, not just animal studies. You know, we give
them a little stealth out of them -- how we look at it.
And then -- but then we have a little questionnaire at
the end, you know, and do you know of any other way --
you know, do you know of any other alternatives? Do you
have any other literature? What do you run across,
basically.

MS. KOENING: And that...

MS. BROWN-ROZEN: So we get feedback from them, from each reviewer.

MS. KOENING: So are you saying that that’s been more of an OMRI internal document? Do you think that that...

MS. BROWN-ROZEN: Oh, yeah, that’s -- yes.

MS. KOENING: Do you think that that there is a -- do you think we need to be thinking about that as a board, how -- because that’s critical a lot of times. That’s where a lot of times we, I guess, public comment, or when somebody’s looking at a TAP, that’s one area that seems like there’s always a deficiency or many people say there’s a deficiency, so...

MS. BROWN-ROZEN: Well, I think that would help if you -- you know, if you have the timeline a little better and more public, you know, availability of the information and maybe a little better outreach on -- you know, this is coming up. Everybody’s that’s interested can write in, because typically -- well, another big problem was there would be one very specific use petition for the substance, but there’s -- you know, when you look up in the literature, there’s like hundreds and hundreds of uses for this material and how
many of these do we investigate and what are the most likely ones. And that’s what to -- usually we had a little period -- or we narrowed down the scope of the investigation to -- you know, look, it’s used for, you know, toppings and floor polish and this and that. Which ones do you want us to concentrate on? You know, and so we would, you know, try and make it a little bit more doable. But -- so -- yeah. No. But I think that kind of guidance that we did was -- you know, that was useful for us. We needed to work -- have a standardized way to work and give the information, because we would have, you know, occasionally, new TAP reviewers, so we wanted to give them all the same information. And that kind of a document could be really modified to go to the contractor as whole. You know, this what we would like you to cover under each of these. And you might want to change the template to maybe -- based on, you know, the new outcomes that you’re looking for. The template of the TAP review has to be structured a little bit differently to make it easier to answer those questions. You know, we just did it based on, you know, the OFPA criteria, the -- you know, what was in our contract and getting clear information. But it might be time to re-
look at that, too.

MR. CARTER: Okay. Richard, do you want to
comment?

MR. FORSHEE: Yes. I’ll just comment briefly on that. That is one of the challenges -- is viewing it in the context of organic production, because as you mentioned, the literature is just beginning to develop on what that means and having the literature on how things get used in that system. So that is a challenge. We did do some of the same things that OMRI has described in terms of directing questions to our TAP reviewers to try and address some of these issues. I’ll also mention just very briefly that there is some academic work that’s -- I’m sure you all are more aware than I am -- that’s beginning to be developed on organics, and some of that is going on at Virginia Tech, as well as, I believe, they’ll be getting an office and, of course, working some of the professors who just published a new book on the subject. So within our family at Virginia Tech, some expertise is developing, but it has been scant.

MR. CARTER: Okay. If there aren’t any other burning questions, what I’d like to do is ask Mark, as the chair of the policy development committee and Kim as the chair of the materials committee, to kind of give us a sense of how we proceed from here, so...

MR. KING: Okay. Well, first I’ll start by...
thanking -- yeah, I know. You’re diverting everyone to someone else. Thanks, Dave. But, no. Thank you for participating. I did want to pay particular attention to Emily’s slide and it’s the policy issues and need of guidance. So we certainly, as a committee, will look at that very strongly and see where we’re at and how we can move forward. In a more general sense, I liked the references from everyone concerning the relationship between NOP, the contractors and the NOSB. So I think that that’s certainly is more of an elevated view, if you will, that we need to look at and find out specifically what needs to be in the Board policy manual, what role is NOP going to play in this process and how can we help better define those lines of communication, as Richard said earlier. So those are just some things in the general sense off the top of my head that we’ll be considering at our next meeting, so from a committee perspective.

MS. DIETZ: Well, this morning we spent about four hours just going over the material review process, so you will see a lot of what you have brought up that’s already being addressed by the NOP and by the Board. We’ve got templates that we are going to start using and that -- well, I could say what we could do is take all of the concerns and take these slides and actually go
through in the areas that we have not discussed, kind of
go through and address them and say whether -- what we
can do and what can’t do about it, and kind of a little
action plan, so to speak, so that we can at least give
you feedback on what some of your concerns are.

MR. CARTER:  All right.

MS. DIETZ:  Hopefully that’s sufficient.

MR. CARTER:  Yeah.

MS. DIETZ:  Sir, Chair.

MR. CARTER:  Very good. Okay. And I again
want to reiterate -- it’s been said a couple of times --
but thank both Virginia Tech and OMRI for coming in,
because I think this is very helpful this afternoon. So
is there anything else we need to address this
afternoon? Everybody looks pretty road weary here,
so...

MR. SIEMON:  Just whether we’re going to have
any livestock meeting or not. Maybe we can just get
together afterwards...

MR. CARTER:  Okay.

MR. SIEMON:  ...over here in this corner...

MR. CARTER:  Yeah.

MR. SIEMON:  ...and see if we can decide that?

MR. CARTER:  Okay. So livestock committee
will get corralled in the corner here. Yeah, Kim?
MS. DIETZ: Prior to our last break, we were going through the national for livestock and whether or not we’re going to restructure and everybody got all excited. I think we need to step back and not do anything hasty, so to speak, and that the materials committee should really look at -- and it’s always been our charge to make recommendations as to how the national list is structured. And so that materials take that and come forth with the recommendation.

MR. CARTER: I would concur, because...

MS. DIETZ: Okay.

MR. CARTER: ...what I heard before the last break was most people weighing in very heavily...

MS. DIETZ: Yeah.

MR. CARTER: ...that if we could do that by...

MS. DIETZ: We had some politicians.

MR. CARTER: ...reducing it and/or by extending the list.

MS. DIETZ: Yes.

MR. CARTER: And so I think that’s...

MS. DIETZ: Okay.

MR. CARTER: ...an indication that we need to take a breath here and then look...

MS. DIETZ: Yes.

MR. CARTER: ...and see how it’s done, so...
MS. DIETZ: And the materials committee is meeting at 6:15 in the lobby.

MR. CARTER: Okay?

MS. DIETZ: Okay. Yeah.

MR. CARTER: All right. With that, I will declare a recess. We will reconvene at 8:00 a.m. tomorrow morning.

***

[End of proceeding]
CERTIFICATE OF REPORTER, TRANSCRIBER AND PROOFREADER

IN RE: National Organic Standards Board Meeting

HELD AT: Washington, D.C.

DATE: October 22, 2003

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UNITED STATES DEPARTMENT OF AGRICULTURE

IN RE:      X HELD APRIL 28, 2004
           X 8:00 A.M.
NATIONAL ORGANIC STANDARDS X BEST WESTERN INN OF CHICAGO
BOARD MEETING X BUCKINGHAM ROOM
           X 162 E. OHIO STREET
           X CHICAGO, ILLINOIS  60611

VOLUME I OF III

APPEARANCES:

COMMITTEE CHAIRMAN:    MR. MARK KING
BOARD MEMBERS:     
                      MS. REBECCA J. GOLDBURG
                      MR. MICHAEL P. LACY
                      MS. GOLDIE CAUGHLAN
                      MR. KEVIN O'RELL
                      MS. NANCY M. OSTIGUY
                      MS. KIM M. DIETZ
                      MR. JAMES RIDDLE
                      MR. DAVID CARTER
                      MR. GEORGE SIEMON
                      MS. ANDREA CAROE
                      MS. ROSALIE KOENIG
                      MS. ANN L. COOPER

ALSO PRESENT:    
                      MS. KATHERINE BENHAM
                      MS. BARBARA ROBINSON
                      MS. KATHERINE BENHAM
                      MR. ARTHUR NEAL
                      MR. JAMES RIDDLE

REPORTER:    
                      MS. LEAH JOHNSON

CONTRACTOR (NOT PRESENT): R & S TYPING SERVICE
                           (903) 725-3343
CHAIRMAN KING: Good morning. I'd like to officially call to order the meeting of the National Organic Standards Board.

Welcome to Chicago. Thanks for being here. Thanks for your interest. I look around the room and I see a lot of familiar faces, I see a lot of years of dedication and experience to the industry.

As usual, we have some interesting topics to discuss and deliberate over the next few days, and we'll appreciate your input and your positive focus on that.

Would like to essentially start the meeting with board introductions, so Ann, if you'd like to start.

MS. COOPER: Ann Cooper, I'm a chef from New York, and I'm a consumer.

MS. KOENIG: I'm Rose Koenig, producer, from Gainesville, Florida.

MS. CAROE: Andrea Caroe. I'm the certification director for Protected Harvest and an environmental representative.

MR. SIEMON: George Siemon, from Wisconsin, and I'm the producer rep.

MR. CARTER: Dave Carter, from Colorado, a
consumer rep, but in real life an itinerate farm organizer.

       MR. RIDDLE: Jim Riddle, certifier rep,
       University of Minnesota.

       CHAIRMAN KING: Mark King, a retail rep,
       Indianapolis, Indiana.

       MS. DIETZ: Kim (Burton) Dietz, and I'm from
       California, and I'm a handler representative.

       MS. OSTIGUY: Nancy Ostiguy, environmental
       representative.

       MR. O'RELL: Kevin O'Rell, Boulder, Colorado, and
       I'm a handler representative.

       MS. CAUGHLAN: Goldie Caughlan, Seattle,
       Washington, consumer rep.

       MR. LACY: Mike Lacy, Atkins, Georgia, science
       rep.

       MS. GOLDBURG: I'm Becky Goldburg, from New York.
       I'm an environmental representative.

       CHAIRMAN KING: Okay, thank you. At this time
       has everyone had a chance to approve the agenda? -- I hope.
       I'd like to officially approve the agenda.

       MR. CARTER: You need a motion for the -- second.

       CHAIRMAN KING: It's been moved and seconded.

       All those in favor say aye.

       BOARD MEMBERS: Aye.
CHAIRMAN KING: Opposed, same sign.

(No response.)

CHAIRMAN KING: Motion carries.

At this time, in the first tab of your book, you'll see the minutes from the October meeting, 2003. Are there any proposed changes or amendments or edits at this time?

(No response.)

CHAIRMAN KING: I would entertain a motion.

MR. RIDDLE: Yeah, I'd move that we approve the --

MR. SIEMON: I'd second that.

MR. RIDDLE: -- October minutes.

CHAIRMAN KING: Moved by Jim Riddle that we approve the October 2003 minutes, seconded by George Siemon. All those in favor say aye.

BOARD MEMBERS: Aye.

CHAIRMAN KING: Opposed, same sign.

(No response.)

CHAIRMAN KING: Motion carries.

Quick note here, the executive committee meetings are actually listed here, those are on the website for your review, so those who are interested in what the executive committee has talked about over the past few months,
they're there for information purposes.

And one quick announcement I forgot to make:

Please, if you would, those of you who have cell phones, turn them off, turn them to vibrate. If you do get a call or something of that nature, we'd greatly appreciate your stepping in the hall to take the call, that sort of thing.

So thank you for that.

Are there -- and I do have one quick announcement. Owusu Bandele was not able to make the meeting for medical reasons, so our thoughts are with him and hope that he gets well soon, so we regret that he can't be here.

Are there other announcements? Jim?

MR. RIDDLE: Yeah, Mark, I have a couple of announcements. One went out to the Board -- I believe it was last week, a letter informing the Board of the formation of an accredited certifiers association, and I have a copy of that, if you haven't seen it or didn't make note of it, and I just wanted to mention that for the record.

I see this as a very positive development. There is a need for a network, a professional association, of the accredited certifiers. So I just wanted to call that to everyone's attention.
This is not an inspectors association, we've had that for years, but now there's a similar organization for the certifiers themselves, that are USDA-accredited. And it's currently at an interim address, it's housed at the Vermont Organic Farmers, Nova [phonetic], Vermont, office.

And then also I wanted to bring to people's attention a scientific study that has just been published in Renewable Agriculture & Food Systems, entitled "Profitability of Organic Cropping Systems in Southwestern Minnesota," and that was a 10-year comparative study of organic four-year crop rotation versus 2-year conventional systems, and just to quote one thing from the abstract: with premiums, the 4-year organic strategy had net returns significantly higher than conventional systems. Without premiums, the net returns were statistically equal. So they were looking at yields and profitability in this study and finding that even without organic price premiums it was equivalent profitability.

So that's in Renewable Agriculture & Food Systems, Volume 119, 135 through -46, page numbers. That's it.

CHAIRMAN KING: Are there other announcements?

(No response.)

CHAIRMAN KING: Okay, I have one other
announcement concerning a board member. Many of you are aware that Dennis Holbrook has resigned from the Board. Dennis called me several months ago, and he's had some challenging situations in the family; consequently, he's not only managing his own farm but some of his father's businesses, and so he regretfully resigned, but it appeared to be a wise choice based on the work demands, professional demands before him. So he will be sorely missed, and fortunately we have people, like Nancy, who have stepped up and taken over some of where Dennis left off with crops and that sort of thing, so we're very grateful for that. I did want that to be reflected in the record.

If there are no additional announcements at this time, we're actually a bit ahead of schedule, we're ready for public comment.

And just a quick reminder, and I think Katherine had indicated there are two sheets for the sign-up of public comment, one for today, and of course one for the second session, which is on Friday. So it's important, I think, to sign up in advance, especially for Friday, it appears there may be some additional people coming in for the conferences and the like, so it would be, I think, a good idea to reserve a spot early, if you will.

And I think we're ready for the first -- I don't
know if we have a sheet up here. Oh, an official announcement. Jim Riddle, who has so graciously served as our timekeeper for the last many years --

MR. RIDDLE: I've lost track of time.

(Laughter.)

CHAIRMAN KING: -- has officially handed over his -- well, his sign --

MR. RIDDLE: Yeah, the one-minute sign.

CHAIRMAN KING: -- the one-minute sign, as well as the official timekeeping duties, to Kim Burton today. So you have five minutes to make comment, and you'll get a one-minute warning.

We have two names on the first -- we have John and Merrill Clark.

MS. CLARK: Well, we're not joined at the hip, so we would -- we're two different people.

CHAIRMAN KING: Yes, I'm aware --

MS. DIETZ: So you each want five minutes?

CHAIRMAN KING: So do you each want five minutes, or you're doing this together --

DR. CLARK: Yes.

CHAIRMAN KING: All right. Thank you.

MS. DIETZ: I have my baking timer here, so when you're baked, then it's going to go off.
(Laughter.)

DR. CLARK: Okay, good morning. My name is Dr. John Clark. I am a biochemist who turned organic farmer in 1968, after a long career as a biologist, research chemist, and professor.

My wife, Merrill, was a charter member of the NOSB from '92 to '96. I became a student of the OFPA statute during this period and wrote a number of published analyses of the OFPA, including a complete analysis of the Act in the University of Toledo Law Review in 1995.

This document was based on this statute and was heavily reviewed by student editors, faculty editorial staff, as well as editors at the University of Law Review -- University of Toledo Law Review and University of Toledo Law School itself.

Unfortunately, this review has been roundly ignored by USDA's National Organic Program personnel, the NOSB and the USDA Office of General Counsel, who were all provided with multiple reprints of that review in 1995.

I have furnished copies of that review for everyone, including a copy of my statement.

I'm here to tell you that the Final Rule is rife with multiple violations of the statute. Furthermore, elicitations of those violations can be found in 26 pages
of single-spaced line-by-line, word-by-word comments
submitted by me in April 1998 in response to the first
proposed Organic Rule.

I spent the entire month of March 1998 grinding
out these comments, with recommended deletions, additions,
and extensive references to the OFPA. If these comments
had been taken seriously, they might have enabled the NOP
to quickly publish a final rule and regulation consistent
with the OFPA statute. Instead we got a Final Rule 5 years
later, ignoring comments by me and others, which persisted
in previous inconsistencies and further violations of the
OFPA statute.

I ask now that NOSB request a reproduction of
these comments for each present NOSB member, as well as
obtaining copies of the Law Review. I have done the second
thing for you.

I find it shocking that 14 years after OFPA's
passage NOSB and NOP persist in the pretense that Congress
did not make clear the legislative letter and intent of
this law and that members are still trying to substitute
their own agenda, their own agendas, on many aspects of the
statute, particularly when it comes to the List of
synthetic ingredients in processed foods labeled "organic."

The National List procedures for technical
advisory panel reviews have been mishandled, misdirected, and illegitimately done, in many instances, for many substances. They have now ended up with an unbelievable array of questionable materials allowed for organic use, with more being jockeyed up for approval today.

On the second page, Line 3, it's 6518(m), not 6519(m), if you could correct that. TAP reviewers are generally misinformed about three criteria -- about the three criteria, 6517(c)(1)(a) for review qualifications, and the category qualifications, 6517(c)(1)(b), and the applications of the seven criteria under 6518(m).

If, and only if, the criteria in 6517(a) and (b), (c)(1), (a) and (b), are met, NOSB should reject any review not demonstrating this procedure to qualify a material for review under 6518(m). That's what Congress intended, very clearly and concisely, in the law.

Furthermore, all materials must include specific use and application annotations. They rarely do. The Organic Materials Review Institute and Virginia Tech are not necessarily legitimate TAP reviewers because of incompetence, conflicts of interest, or lack of transparency.

USDA must find qualified reviewers, compensate them fairly, and keep permanent files on each petitioned

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material, in addition to using a proper tolling period for renewed reviews under the required 5-year Sunset Provision referred to in the statute. This Sunset period does not run from October '02, it runs from the date of the NOSB review to each substance.

Then I call on the National Organic Program director and staff to conduct NOSB information assessments on the content of -- I'll start skipping these things, conduct NOSB information sessions on what is commonly called a precautionary principle as it applies to organic standards. The staff as well as NOSB should avoid the pursuit of risk assessment and take up the more important task of risk avoidance.

MS. DIETZ: Time.

DR. CLARK: The rest of it is fairly clear, I won't insult you by going over my time and reading the rest of it, but the last paragraph, "Violations of the OFPA in USDA's rule are unconstitutional because the administrative branch of the federal government has only the authority to enforce the law and not to make it. Even if there is a precedent for this, nothing can justify making rules which mislead organic food consumers. OFPA is a law which is about making claims to consumers, a generally foreign concept at USDA, where producer and processor groups have
been the focus for decades.

CHAIRMAN KING: Thank you.

DR. CLARK: Thank you.

CHAIRMAN KING: Merrill Clark. Hold on, we have a question. Dr. Clark, Rose has a question for you, if we can get you back up here, that'd be great.

MS. KOENIG: Is this working now?

THE WITNESS: Since you last heard from me, I'm deaf in one year --

CHAIRMAN KING: It's just that the speaker's pointed toward the audience, you can't hear it.

MS. KOENIG: Oh.

Did you have a chance -- we have a Sunset Provision that the materials committee has proposed as far as the process that we're trying to come up with to go through this 5-year Sunset. Did you have the opportunity to take a look at that?

DR. CLARK: I looked at something briefly yesterday and I was kind of surprised that everything dates from '02, and there are materials on the List that have been reviewed 11 years ago.

MS. KOENIG: Yeah, part of that's because the (inaudible) start with when the rules -- it starts on the day of implementation, that's why that '02 date is there.
DR. CLARK: That's not the way I read the statute.

MS. KOENIG: Well, my -- I guess my -- my question was -- I guess my comment now, if you looked at it, would be: it would be helpful -- you seem to be concerned and interested about materials process, if you could perhaps submit, after you take a look at that Sunset Provision, comments on that, that would be very helpful for the materials committee.

DR. CLARK: Okay. I've offered to do -- not only review -- I did some in '94 and '95, and I've never been asked since to do anymore, but I've been, I thought, visibly available to do more and comment on the process as well.

CHAIRMAN KING: Are there other questions?

MR. RIDDLE: I just have a comment.

CHAIRMAN KING: Jim has a quick comment.

MR. RIDDLE: John, I appreciate your concerns. I just want also you and other people in the audience to be aware that, you know, one of the criteria in OFPA, as I'm sure you know, is consistent with a system of sustainable agricultural, and then in the Rule it mentions compatibility with organic farming and handling, and at the Board meeting last October we spent a lot of time working...
on a draft to further define and explain what that means, and that has been posted for several -- for two rounds of public comment, and we'll be considering the final draft on that, and I just want to point out that it does embed the spirit of precaution. So I appreciate you bringing that up in your comments, and the Board is trying to address that with the compatibility draft.

DR. CLARK: And I would appreciate having the latest draft of that. I'm not sure I have that.

MR. RIDDLE: Yeah. It's posted on the website leading up to this meeting. There's slight amendment of deleting one line from it, that we'll be considering as we vote, but it's not substantially different than what's been posted for 60 days.

CHAIRMAN KING: Thank you, Dr. Clark. Merrill, now we're really ready for you this time, so --

MS. CLARK: Well, thank you. Merrill Clark, growth on organic farms, and one of the charter members for NOSB back in '92 to '96 and chaired the livestock committee.

I'm here today to embellish about a portion of a letter that I wrote to Jim Riddle back in March, 18, of this year, which I am told he copied you all. One of the issues of that paper -- which I'll talk about the most, but
I have a couple of things to add to that -- is the organic inspection and certification of already USDA FSIS-inspected livestock processing facilities. We feel the addition of another inspector, another work beyond the work of competent FSIS inspectors already at the site at smaller processing plants normally used by most of the small- or medium-size organic livestock producers is redundant, unnecessarily expensive, and actually a major stumbling block to getting any significant quantity of certified organic meat products into the marketplace.

An example of the problem: within the Dallas, Texas, State Burger website, which I looked at recently, is the question: "Is State Burger beef organic?" This is the name of a product. His answer was: "Well, from our research, it appears the federal government now regulates it, so it can be called certified organic, so we have to be careful how we use the term." Then he says, "First of all, I don't believe there is any such thing as a certified organic processing plant, livestock processing plant."

We at Roseland Farms are beginning to agree with them. After having gone through the hassle of searching out now three USDA-inspected processing plants over the course of 20 years, the new rule is forcing additional certification of the same plants, not because the ones we
have been working with through the USDA FSIS inspection are inadequate, with inspectors incapable of ensuring all organic processing standards are met, but because animal slaughter and meat cutting and wrapping seem to be falling into the same handling/processing category as complicated multi-ingredient processed-food products and other categories.

These products do probably require extra oversight because of their additive uses, cooking, mixing, and all the other things that go on with making a processed product, but cutting up a side of beef into T-bone and other cuts and wrapping them is not -- it's not that complicated.

I'm here to say that the continual inspection that is presently at work in these smaller processing plants across the country can easily be expanded to cover the extras required by organic meat slaughter and handling.

Denny Proctor of Great Lakes Processing, the only finally certified organic meat processor in all of Michigan and maybe in a three-, four-, five-state area, in the Great Lakes, told us last February that he was required to make no changes at all in his processing protocol in order to comply with the protocol organic standards that were already in place. In other words, he was doing everything
required already that was being asked by USDA inspection protocols.

I believe that is undoubtedly the case in the plant we are using, that is, USDA FSIS-compliant, in Shipshewana, Indiana, and 400 miles closer to us than the Great Lakes plant that's certified in Sheboygan, Michigan, and our concern is about continuing to ship animals, which we haven't had to do in the past, 400 miles one way.

USDA inspectors are at both of these plants regularly when animals are slaughtered. FSIS inspectors can and do become quickly versed in the other things to look for with respect to organic processing requirements. We have set up a protocol with this processing plant that reflects what we require, animals first in line before any slaughter takes place, preceded by complete segregation of our animals from any others, no conventional feed fed while they're there, Roseland beef sides tagged and hung in separate quarters, all equipment first used for the cutting of our halves, 180-degree water for sterilizing and washing down facilities, et cetera.

FSIS inspectors can and have been carrying out these checks. FSIS and AMS are a part of the same agency. Certainly they can work together on bringing this about.

What are the other options? Well, we could build
our own 500,000 -- or I mean a million-dollar inspected processing plant and then pay the cost for certification we are already using or try to find another processor who wants to be -- who might want to do our work but not terribly concerned about being certified and having another inspector on top of the first inspector come in again.

Organic Valley is probably, I suspect, the biggest operation that can afford to have their own processing plants. I was told, actually, by Pam Saunders that Organic Valley had a phone call not too long ago that this point is well-taken, that I'm bringing up, and should be brought up for a possible rule change.

When I contacted OTA, for instance, for information about certified organic processing facilities, they were able to lead me to no one, period.

Certainly the Rule with respect to requiring additional organic certification and inspection at USDA FSIS-complaint processing plants needs to be reviewed, looked at, or something.

I wanted to add a couple other related issues.

MS. DIETZ: Time.

MS. CLARK: Do we have large animal, otherwise called kayfall [phonetic] processing facilities or livestock facilities in the organic tradition, there seems
to be a concern that there are large dairy operations and
the continued need for other antibiotics and parasiticides
maybe to accommodate larger dairy, factory, farm, whatever
you want to call them, and as far as we can get away from
anything relating to a K-fall, the sooner we better do
that, because it is not anyplace at all in the Rule on
organic animal production.

CHAIRMAN KING: Are there questions for Merrill?
Yeah, Dave.

MR. CARTER: Merrill, so you're recommending that
we would allow slaughter to be handled in a non-certified
facility, organic certified --

MS. CLARK: Well, in an FSIS-inspected and
therefore certified -- if there were some way where the
certification could take place through FSIS -- I don't
understand the reason for having this inspection and then
another inspection, because there isn't that much more --

MR. CARTER: Okay. How would you handle it,
because even some of the smaller plants now, as a part of
their slaughter process, are doing things like rinse and
chill, when they run a super-chilled saline solution
through the carcass after they stiff the animal or -- or
those type of things. I mean, there are some processes, in
actually slaughtering the animal and cutting the carcass,
in which some chemicals and some things are utilized. How
would we -- how would we --

MS. CLARK: Well, we're -- we're just talking
about sterilization of hot-water rinse, first of all, or
our particular animals or some other's organic animals
would just have a different process, which they would put
into their protocol and set it up. It wouldn't have to be:
well, here's what we do with all the conventional animals,
we have to do it with yours as well. If there's something
that's allowed through organic, that FSIS can certify to --
it's -- it's terribly -- I mean, how many people know where
these certified livestock processing plants are, and --
otherwise, you know, if we keep it that way, we're -- we're
stuck with no certified organic livestock.

CHAIRMAN KING: Jim.

MR. RIDDLE: Yeah, just a quick comment. I
promise not to comment on everything that everyone says.
(Laughter.)

CHAIRMAN KING: We're going to hold you to do
that.

MS. CLARK: Too (inaudible) so far.

CHAIRMAN KING: Yeah.

MR. RIDDLE: On the record (inaudible). Yeah, in
the past few months I did a survey of organic livestock
research needs, and one theme that kept coming up was
exactly what you're saying: the lack of local, regional
processing capabilities for organic livestock.

So it certainly is a need, I think it's a need
just in general, not for organic livestock, but we've lost
a lot of the --

MS. CLARK: Yeah.

MR. RIDDLE: -- infrastructure out there for
slaughtering. But also, I worked for years as an inspector
and inspected a number of USDA facilities, slaughter
facilities, and found, you know, numerous things happening
which didn't meet organic standards, you know, use of
pesticides in the kill room, lack of audit control, lack of
cleanup procedures that would be necessary. So there's --
you know, I -- I wouldn't support anything to weaken the
organic certification of those facilities, but, you know,
possibly training FSIS inspectors to understand the organic
regulations I think would be a major step forward.

But I did just want to point out that there is at
the present time the organic certification cost share, that
will reimburse handling facilities as well as farmers up to
75 percent of the certification inspection costs, up to
$500 a year. So that would be an incentive for some
smaller regional processors, you know, to go that route,
but I think it -- you know, the studies I've done certainly show that this is a valid concern that you bring up.

MS. CLARK: Well, yeah, because the processor we're using now has an inspector coming, FSIS inspector there, and they're there all the time. A certifier inspector, what does he come, once a year? He, she, whoever. I mean, they're always there, and if they know the protocol for organic, why -- that's far better than saying, "Here comes my once-a-year certifier inspector."

It's sort of crazy.

And talking about diminishing, I'm very worried that I see antibiotics and parasiticides coming up on all this for animal production. I don't get it.

CHAIRMAN KING: Are there other questions?

(No response.)

CHAIRMAN KING: Thank you, Jim. Thank you, Merrill.

Next we have Mark Kastel.

UNIDENTIFIED MALE VOICE: (Inaudible) Friday.

CHAIRMAN KING: Okay. I think I'm probably going to butcher this next name. Kathy Seus.

MR. RIDDLE: Mr. Chairman, could you say who's on deck, please.

CHAIRMAN KING: Yes. Thank you, Jim. Dr. Bossy
[phonetic] is on deck.

MS. SEUS: Last name is spelled S as in Sam, -e-u-s, as in Sam, like Dr. Seuss, less one S.

UNIDENTIFIED FEMALE VOICE: I'm having real difficulty hearing, whether it's a combination of this -- and the microphone does not seem to be fully functional.

CHAIRMAN KING: Yeah. I don't see our technical soundperson. When he gets in -- okay, sorry for the interruption.

MS. SEUS: That's okay. You all know my name now, right?

CHAIRMAN KING: Yes.

MS. SEUS: Good morning. My name is Kathleen Seus, as you all know. I'm from -- I'm the farm program manager from Food Animal Concerns Trust, which is a non-profit organization founded in 1982 that advocates humane and sustainable farming practices, and I'm pleased to have this opportunity to provide comments on behalf of FACT to the NOSB.

FACT welcomes the animal husbandry standards included in the National Organic Program, specifically Sections 205.236 through 205.239. These standards provide a basis for which elevation by which eligibility for organic certification can be established.
However, while we acknowledge NOSB's effort to create minimum standards for humane animal husbandry, we are concerned that the current standards are very vague and lack clear definition. This lack of clearly-defined standards has left the issue of organic animal husbandry open to interpretation by NOP and producers that undermines the integrity of the organic program and erodes consumer confidence in the USDA Organic label.

FACT is concerned about this lack of clarity for several reasons. First seems to be the inclination of NOP to overstep its authority to override or reinterpret established animal husbandry standards. To illustrate this concern I reference two examples.

The first is the court case Massachusetts Independent Certification v. Ann Veneman, Secretary, U.S. Department of Agriculture, and A.J. Yates, Administrator, Agricultural Marketing Service, regarding country hen.

The second example is the April 13th, 2004, guidance document regarding the origin of livestock and dairy animals.

The relevance of the examples are more completely detailed in my written comments, I don't have time to go through everything. However, the fact is that NOP does not have the authority to override or reinterpret or rewrite
standards as established by the NOSB.

Secondly, FACT is concerned about the impact NOP interpretations may have on animal health and well-being. Here I refer specifically to the guidance document beforementioned. FACT is concerned that the need for any organic dairy operation who's already been 100-percent certified to go outside the organic system for replacement heifers may be indicative of possible animal health problem on the farm, resulting in higher-than-normal mortality.

I quote: "The primary goal of organic agricultural is to optimize the health and productivity of interdependent communities of soil life, plants, animals, and people. Compromised animal health has no place within an organic production system."

FACT is also concerned about the survival of smaller family farms. Organic food production is one of the few remaining niche markets available to smaller farmers. Smaller farmers need these niche markets in order to survive the mass consolidation of the agricultural industry as a whole.

Every time NOP overrides or reinterprets the established standards, particularly in favor of larger factory-style organic farming operations, they un-level the playing field. This places the smaller independent family
farms at a competitive disadvantage and threatens their economic sustainability, which violates the very principle on which organic agriculture is founded.

Finally, FACT believes that clearly-defined standards are crucial to consumer confidence in the Organic label. FACT managed Nest Eggs, a brand of Kaytree [phonetic] eggs, for 18 years. I personally managed that for 2 years. FACT established clearly-defined standards for the production of nest eggs, such as stocking density and the prohibition of force molting. Consumers who purchased nest eggs knew exactly what the production standards were and can count on the enforcement of those standards.

However, because concise animal production standards had not been established by the NOSB, consumers cannot be certain which production practices were used to produce the organic food they see in the stores.

All organic eggs, beef, poultry, pork, or dairy, for that matter, are not the same when it comes to animal production practices. FACT believes this lack of consistent production practice erodes consumer confidence.

Without clearly-defined animal husbandry standards, the current standards will continue to be abused. FACT believes that NOP will continue to interpret
standards as they see fit. This undermines the integrity of the organic program, erodes consumer confidence in the Organic label, and contributes to the disappearance of family farms in rural communities.

FACT would like to call on the NOSB to clarify animal husbandry standards. We'd like to see this done for every animal species covered under the National Organic Program. For example, we'd like to see minimum stocking densities, we'd like to see concise definition of "outdoor access." We welcome the opportunity to work with NOSB to help establish --

MS. DIETZ: Time.

MS. SEUS: -- these standards. Thank you for your time.


MR. SIEMON: So just to your last part there, you would actually like to see us get very specific about stocking densities, the whole nine yards, and do you see issues of doing that nationally? That's one of the authority things we've had.

MS. SEUS: You know, I understand it's -- it is thorny, because, for example, we just completed an investigation of about 70 different egg brands that advocate -- or that indicate they're humane, including
organic brands, and what we found is, stocking densities and whether or not they allow force molting and whether or not they beak trim, et cetera, they really vary from production -- from producer to producer.

The issue is, is that the USDA Organic label is like an eco-label and there needs to be some substantial definition behind it, and I don't think we see that. I mentioned the case of the country hen, you know, outdoor access is not defined.

Some -- we -- I know there are some producers, I've met them at organic trade shows, that let their hens out on pasture, and then there are other ones I talked to on the phone, when I was doing my investigation, that admit the hens rarely, if ever, go outside.

I think that's a problem, and when consumers are looking at different organic eggs, they have no idea what the standards are, they don't know whether those hens got outside or not. To some consumers, that's an issue.

And so it would be nice if there were some -- you know, even if the stocking densities were low, lower than you would normally consider, it would be nice to have some standardized production practices out there so consumers know at a minimum what they're getting when they see the Organic label.
MR. SIEMON: Does your organization have quantitative standards?

MS. SEUS: We don't have quantitative standards. We are working on basically what I would consider guidance documents for standards for different animals. We obviously do for laying hens because we have the nest egg program. Our standards were probably a little higher as far as stocking density, we had two square feet per bird, it was a cage-free operation, it was not organic, so they did not go outside, although they did have access to natural sunlight, they're Amish farms, so there was no -- it was impossible to do lighting systems, so they have to use sunlight.

But I know there are also other organizations out there, Free-Farmed is one example, Humane Farm Animal Care, where they do have, you know, quantitative standards in place, and I know other organizations are doing that as well.

So I think it's something that's very possible. I'm not saying it's not time-consuming, and I'm not saying it's not going to take a lot of effort, but I certainly think it's something that's possible and might -- might -- you know. And I also think that as the organic industry gets bigger and bigger and more big business, and I'm
talking M & M, Mars, and Con-Agra, and they're already in
the organic industry, I think -- I think as the industry
gets bigger and it's more dominated by these large
industries, I think we're going to see animal husbandry
standards decrease and decrease unless we do something to
establish standards now. It may not happen for 10 years,
but the organic industry is not going to grow at 20 percent
forever and at some point people are going to start looking
to do some cost-cutting to -- you know, to keep their
margins, and it's certainly not going to be to give the
animals more pasture.

So it'd be nice to have standards in place so
those kind of things don't happen in the future.

CHAIRMAN KING: Other comments or questions?
(No response.)

CHAIRMAN KING: Thank you very much for your
input.

MS. SEUS: Thank you.

CHAIRMAN KING: Dr. Bossy is next. Thomas
Harding is on deck.

MR. HAM: Dr. Bossy was not able to attend, so I
am Steve Ham, and Dr. Girish [phonetic] Ganjyal from MGP
Ingredients.

We wanted to thank you for -- I think the
CHAIRMAN KING: Steve, just for the record, how do you spell your name?

MR. HAM: Oh, I'm sorry. Steve Ham, H-a-m.

CHAIRMAN KING: Okay. Thank you.

DR. GANJYAL: And I'm Dr. Girish Ganjyal, G-i-r-

CHAIRMAN KING: We may need a spelling on that.

MR. HAM: It's on the sheet.

DR. GANJYAL: It's on the sheet.

CHAIRMAN KING: Oh, you are on here?

DR. GANJYAL: Yes.

CHAIRMAN KING: Okay, great. Thank you.

MR. HAM: It's much faster.

UNIDENTIFIED MALE VOICE: And please speak into the microphone.

MR. HAM: Okay. We want to thank the National Organic Standards Board for allowing us to present this testimony on behalf of MGP Ingredients, hereinafter MGPI, to support the petition for inclusion of tetra sodium pyrophosphate, hereinafter TSPP, to the National List.

TSPP is an analog of sodium phosphate and is used for buffering and conditioning during the extrusion of wheat gluten. This textured wheat protein is then used as
an ingredient for making organic meat-alternative products. TSPP is listed on the FDA's Generally Regarded as Safe List and is an ideal processing material for organic products. It is presently being used in dairy-substitute products, cheeses, spreads, meats, poultry, and cereals. TSPP is used in small quantities at levels of .5 percent to 3.5 percent in MGPI's proprietary process to produce this textured wheat protein, which in turn is typically used at about 10 to 12 percent in finished consumable products. Thus the level of TSPP in finished consumer products is even smaller.

Currently no alternatives exist for the functional properties displayed by TSPP when used in small amounts in this proprietary process. Extrusion processing is used in this process and involves high temperature and high-pressure cooking for a short duration. TSPP is unique because it has a high melting temperature and thus withstands the extrusion processing conditions while maintaining its functionality.

Saytan [phonetic] is a product made by mixing gluten with water and spices. It does not generate any fibers, like a textured wheat protein, and has poor sensory characteristics. Other materials have been used at three to four times the amounts of TSPP, which gives distortions
to color and taste.

Furthermore, commonly-used and accepted alternative materials have been tried and offer no serious processing advantages, and none are approved for organic processing.

The following ingredients were tested and their processing effects were as follows. I'm just going to list these, since you have copies. Sodium hydroxide, sodium bicarbonate, sulfur bisulfate, sulfite, metabisulfite, sodium phosphate, disodium phosphate, tetra sodium polyphosphate, sodium polyphosphate, and the last one listing the TSPP.

As mentioned earlier, excluding the TSPP, these materials reduce product quality, functionality, affordability, and cause unwanted product discoloration and undesirable odor and taste to these organic products so cannot be produced from a natural source and has no organic ingredients as substitutes.

TSPP not only aids in the processing of this product, it also retains the digestibility characteristics. Textured wheat protein has an excellent digestibility of 96 percent.

To obtain good textured wheat protein product, the wheat gluten needs to be conditioned to the correct pH
and should flow uniformly and easily in the extruder. TSPP helps to condition and helps the full ability of the wheat gluten in the extruder and thus does not directly texturize the wheat gluten but, rather, creates ideal conditions for the wheat gluten to be textured in the extruder.

Textured wheat proteins provide organic food processors diversity to their product line in the vegetarian, meat analog, and health foods categories.

Finally, in light of the above unique functional properties of tetra sodium pyrophosphate, MGPI is requesting in this petition to expand the sodium phosphate category, which is already approved on the NOSB list for dairy use only, to include milled and processed grains, especially wheat gluten, and TSPP to be added to the sodium phosphate (inaudible) that is already approved. Thank you.

CHAIRMAN KING: Now, does he have an additional--
MR. HAM: No.
CHAIRMAN KING: You're just along, okay.
MR. HAM: To help with questions.
MS. KOENIG: The sentence you wrote -- I guess I need some -- I need some clarity. You say it doesn't directly texturize the wheat gluten but, rather, creates ideal conditions for wheat gluten to be textured in the
extruder, and what does that mean?

DR. GANJYAL: What that means is -- like -- like extrusion is basically a high-temperature, high-pressure cooking system in which basically you know, (indiscernible) which will, you know, knead the dough and everything, like cook it nicely, and by the time it comes to us, then the texture -- it forms texture, like when the fibers are formed.

But actually what happens is the cooking system -- the cooking time is very, very short, and that's why we need some agent to actually make it flow easily, otherwise it will -- you know, the wheat gluten is a dough, it sticks to the system, and so that's why we want something which will make it flow easily in the extruder, and that's the main reason why we want to use TSPP. I mean, that basically helps it, to texture it.

CHAIRMAN KING: Sir, just for the record, could you please read your name into the microphone again for the court recorder.

DR. GANJYAL: Yes. My name is Girish Ganjyal.

CHAIRMAN KING: Thank you.

MS. KOENIG: How do you discern between -- I guess that wording -- again, I'm reading your words, I'm just trying to understand what the difference between --

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you're saying functionally it's textured so that it can be
processed, but does that -- but that texturizing does
result in a texturized wheat gluten, doesn't it? I mean,
you say it doesn't, but -- so you're saying -- I mean, it
doesn't get removed once it's gone through that process, I
mean it's still there and it still functions, correct, or
no?

DR. GANJYAL: Basically, that's the reason -- it
actually processes, and also like -- probably like some of
it is gone because -- I mean, at the high temperature, and
there's a lot of water in there, okay, so it solidifies
[phonetic], and when it comes out of the extruder, as the
pressure is released, the steam evaporates. So probably
some of the TSPP is operated, along with the moisture in
there. That maybe -- does that answer your --

MS. KOENIG: Not really, sorry.

CHAIRMAN KING: Okay, Kim and then Kevin.

MS. DIETZ: Are you generally going to be here
when we actually review this material, are you here for the
few days, if we have questions about the process?

MR. HAM: We were going to leave this evening.

CHAIRMAN KING: Kevin.

MR. O'RELL: I would like to try to bring some --

MR. HAM: I'm sorry, can I add a comment.

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Dr. Tom -- or Thomas Harding -- Thomas Harding is our consultants. I believe he will be attending the full --

CHAIRMAN KING: Okay. Go ahead.

MR. O'RELL: It might help to have the technical people here at that time as well, though.

Rosie, just to try to bring some clarification to this and maybe simplify some of the conversation that was going back to satisfy Rosie's question: it's my understanding, and maybe it's incorrect, that TSPP is functioning more as a flow agent through the system but the texture's being created by the pressure in the extrusion process, and the heat.

DR. GANJYAL: Exactly.

MR. O'RELL: Is that --

DR. GANJYAL: Yeah. The --

MR. O'RELL: Can you elaborate, just -- I mean, I wanted -- that's my understanding of how the texture is formed.

MR. HAM: The TSPP is added to help the wheat gluten flow through the -- through the extruder. It's helping with pH and flow. The texturization is actually occurring because of the pressures and temperatures of the extruder, it's a cooking --

MR. O'RELL: The texturization is a mechanical
process.

MR. HAM: Right, through -- through pressure and temperature.

CHAIRMAN KING: Andrea and then Jim.

MS. CAROE: On the first page of the document you provided, you go through the alternatives, and for the sodium phosphate, disodium phosphate, tetra sodium phosphate, and sodium polyphosphate, you have a comment in the process effect that the higher levels of use, 9 to 10 percent or more. Could you explain what that means.

MR. HAM: Sure. We were going through an evaluation of different potential alternatives, and in the evaluation of these -- the ones you mentioned, we were finding that we were needing to use significantly higher amounts to achieve similar effects.

MS. CAROE: Higher amounts of the tetra sodium phosphate?

UNIDENTIFIED MALE VOICE: No.

MR. HAM: No, higher amounts of the sodium phosphate, disodium phosphate, tetra sodium polyphosphate, and sodium polyphosphate.

MS. CAROE: Right.

UNIDENTIFIED MALE VOICE: So 10 percent --

MS. CAROE: (Inaudible) 10 percent higher than
what you would have used for the (inaudible) --

MR. HAM: My understanding -- I'm sorry. My understanding -- go ahead, Girish.

DR. GANJYAL: Yes. If you -- what does that mean is, like when we tried using these different materials, actually we had to use a lot more than -- I mean like 10 percent more than what you would use -- the tetra sodium pyrophosphate.

MS. CAROE: Okay. That's what I just wanted to clarify.

MR. HAM: Thank you.

CHAIRMAN KING: Jim.

MR. RIDDLE: Yeah, I had a question about that too. With these other materials, some of which are allowed, were you getting the same texture response, that you find desirable for your product?

DR. GANJYAL: No [phonetic]. The reason -- I mean, especially tetra sodium pyrophosphate, it helps -- I mean, with that you get the desired product more easily, and also the texture is more better when we use that.

MR. RIDDLE: Okay. So it's not -- it's a combination of using this material with the pressure and temperature that creates the texture or improves the texture; correct?
MR. HAM: Correct. The textured wheat protein that we are producing is different than like a saytan-type product, where it's a solid mass, it's more of extruding to have meat-like appearance, although this is not a meat alternative on its own, it's used as an ingredient in those types of products. So to achieve that type of texture, using the higher levels, we -- we're not getting identical texture, but more importantly, we're getting off color, odor, sensory properties by using these higher levels.

MR. RIDDLE: Okay. And those higher levels, 9 to 10 percent, that's in the wheat gluten itself, not in the finished consumer product; correct?

MR. HAM: Correct. We are using -- this finished product would then be hydrated in water and used as a percentage in a finished product formula, probably 10 to 12 percent, in a finished product.

MR. RIDDLE: Okay. Thanks.

CHAIRMAN KING: I have Nancy, then Kevin.

MS. OSTIGUY: Am I correct that any changes in the flow properties will change the texture?

DR. GANJYAL: Do -- say that very briefly -- what again, say -- like when we texturize (inaudible), like you work the dough, you knead the dough very nicely, and you've put a lot of mechanical energy into the dough, and this
extruder -- I mean, say, for example, in a broad sense, what I can say is (indiscernible) then we may have to extend the extruder far, far bigger, okay, because the time which is available to cook in the system is very, very less, so you want to make sure that it flows very nicely and mixes very nicely when the dough is going into the screws [phonetic]. So that's -- I mean, we found that TSPP is basically helping us in that flow, so that it gets a good amount of time to cook properly and uniformly.

CHAIRMAN KING: Kevin.

MR. O'ReLLI: Yes. The use of orthophosphates was discussed before, and I'm just a little confused, I'd like to get some clarity from you. The use of orthophosphates, we were told before, didn't provide the same functionality in terms of a finished product, but now you're saying here that the orthophosphates require just a higher usage level of 10 percent more. If -- if something that's already approved works at a 10-percent higher level, does it give you the same texture --

DR. GANJYAL: Well, in that case what happens is we don't get like enough of the wheat actually in the final product, like say for example you have like 100%, you add like 12 percent or -- the other products, then the actual level of the wheat in the final product is very, very less
when you compare it with using TSPP. And also it gives
like off flavors and, you know, odor and all that sort of
stuff.

MR. O'RELL: Well, I guess what I'm asking is:
if you can use an already-approved product at 10-percent
higher level, do you get the same results or are you saying
you get different results that are unacceptable?

DR. GANJYAL: Well, I mean, it gets -- I mean, it
gets like other off flavors and, you know, like different
other stuff along with that.

MR. HAM: I think, on the sensory properties, it
doesn't make as acceptable a finished product, or an
acceptable ingredient in our -- to our customers to use in
organic products.

CHAIRMAN KING: Rose had a quick question.

MS. KOENIG: I understand it's your -- so you're
looking for the substance for your proprietary process,
which involves a certain mechanical setup, with pressure
and temperature. Is there other wheat proteins available
on the market that is commercially being used in products
that are currently being labeled as organic or that are
doing just different processes and not using the TSPP?

MR. HAM: I think, as far as functionality, I am
aware -- well, I've got -- no, I'm not aware that there are
any organic products out there. We do offer a diverse product range. What we are seeking with this is for a few specific products within -- within our diverse product line. To achieve the fibrous texture, it is important to do this. To just simply run product through the extruder and grind it to a powder, for example, may be not necessary.

MS. KOENIG: But -- I mean, I'm a producer too, I mean I pretty much know what my competitors are doing, you know, I'm -- I'm relying on you guys, I guess, you know, as far as -- because my -- I guess my concern, when -- you were talking about specific parameters of a proprietary process, so is it -- what I'm -- my question: is it just unique to your process and because of the parameters, temperature and pressure and mechanical --

MR. SIEMON: You're really asking about the extrusion, aren't you?

MS. KOENIG: Yeah. Well, that's what --

MR. SIEMON: Extrusion --

MS. KOENIG: So I'm just saying: is it specific to your particular proprietary process or is this an industry-wide --

DR. GANJYAL: Well, yeah, I mean, the extrusion process is used industry-wide, sure, but they produce like
different -- like probably some of -- I don't know whether they use that in the organic products, but they use like soy texture and soy products, but the -- the -- you know, they use like rancidity and like different other -- off -- I mean side effects when you actually process soy. So that's -- I mean, this -- I mean, our customers like this product more, better than.

CHAIRMAN KING: Okay. Are there additional questions, comments?

(No response.)

CHAIRMAN KING: If not, I think we'll move on now. Thank you very much for your input.

DR. GANJYAL: Thank you.

CHAIRMAN KING: Next up Thomas Harding; on deck, Jim Pierce.

MR. HARDING: Good morning. It's a pleasure to be here. To be quite honest, I didn't think I was going to be back here talking about tetra sodium pyrophosphate.

As you know, the reason we're here is because of the reconsideration which was handed down through the rulemaking process, where there was a 3-to-3 split and there was some question about the annotations, so I'm told, and that it needed some more review.

But in any case, I'm not going to repeat most of
what's already been said and just jump into some of the
critical areas that are important. So with that history,
we had to first of all find out what reconsideration was,
and we eventually found out, and what I've done is I just
prepared a couple notes, and I also have a letter
circulating that is from one of the end users who is in
support of the use of this material in their made-with-
organic product.

So I'm going to pay attention only to the
additional page comments [phonetic] so that we can shut
this pretty short.

TSPP needs to be permitted in organic ingredients
and products, not only in made-with-organic, because
there's been a lot of discussion about that at the previous
meeting. There is no advantage to the consumer and it
causes the manufacturer and end user unnecessary
formulation difficulties and unnecessary added cost, and we
get to the additional materials that are used, and the
other types of materials, it raises the cost and of course
it reduces the organic ability. In other words, instead of
95/5, we're now 75/25. And so that's a very important
factor.

Plus, allowing TSPP in organic product
ingredients raises the bar for manufacturers to use more
organic raw materials and ingredients. The "made with
safe" has the opposite effect. In other words, we lower
the amount of organic product, as was said before, and we
increase the amount of chemical going into it.

The prepared value-added organic food products,
including meat analogs, are experiencing significant
growth, representing major consumer interest in
consumption. TSPP adds to the quantitative values -- the
qualitative values of these new products. We must provide
the consumer with safe product choice, not decide for them
what organic products they can eat. End users support the
use of TSPP -- please reference the letter that I'm
circulating -- and recognize they have been -- and they
have been at other NOSB meetings, supporting this process,
and I want to be very clear that our intent was not to have
TSPP singled out as a new ingredient but to make it part of
the sodium phosphate analog, which is now restricted under
annotation to dairy.

So we're not trying to restrict it for, quote,
our proprietary, because there's nothing proprietary about
this very important question you raise. Our formulation is
very simple, it's .5 percent for one product, and 3.5
percent for another, and the rest is wheat gluten and
organic flour. In both cases those organic ingredients are
the principal products.

In the end use of this product, we're talking about, in one case, seven percent, in another case somewhere between 10 and 12 percent, in -- as an ingredient in the actual finished organic product. So we're talking about rather low levels of use.

The other thing was that in this process, in all the research I did -- and I'm certainly not the technical person that these gentlemen are, but: This a thermal mechanical process. That's actually what ends up forming the texture, the flow legency [phonetic], which is so important, where TSPP, because of its high melting point, it's very essential to be able to do that. Otherwise you'd have an extruder about a quarter of a mile long. So it's really important to get that through the system, to cook it only for a period of time, without destroying the overall qualitative values of it, and then at the same time get it through the system and into the finished product.

So those are very important points there. MGP ingredients, the organic ingredient manufacturers here, and you've heard from them and gave compelling testimony about TSPP and its functionality, quality values, safeness-in-low-use rate, and clearly stated their research has found no alterative to TSPP.

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There was some concern that TSPP does not show up in the final product ingredient panel. That is true. However, it is not required by FDA. I must point out that TSPP is listed on the ingredients we manufacture at MGP, it simply says, "organic wheat flour, organic gluten, and TSPP." It's not our fault that the labeling system does not require it on the labeling of the finished product, somewhere between seven and ten percent.

Thank you very much. Any questions?


MR. RIDDLE: Yeah, Tom. The statement you handed out to the Board from Kevin Scott, President, (inaudible) Foods Company, has a line that I find curious. It says, "Our current line of certified made-with-organic meatless burgers and breakfast products currently contain certified-organic ingredients with TSPP."

MR. HARDING: That's correct.

MR. RIDDLE: Well, TSPP is not on the National List.

MR. HARDING: TSPP was being used prior to the implementation of the National List, we petitioned that, and, as was said at this board two previous times, it was approved for our use pending the final rulemaking and being placed in the National List, and that's the way it was
handled.

MR. RIDDLE: Well, I understand what you're saying, but everything that didn't make it on the National List is prohibited, and recommendation of the Board doesn't allow the use of a substance until it's gone through the rulemaking process. So I guess I'd like a little more background on this, who's certifying this, how many companies, certifiers, are allowing this.

MR. HARDING: Well, I think you'll have to go back into your own history a little bit. The way the material was handled, as I understand, anyway, that, first of all, it was being certified as a product before the final implementation. When the petition was place forward, that's one of the issues we raised. That same document was submitted before, and we addressed that, that the certifier had given us a continuance pending the final review of the petition and at such time would then make a decision whether we would continue to use it or not if in fact it was approved by the NOSB and was then placed on the List eventually. That's the history.

MS. DIETZ: I have a comment.

CHAIRMAN KING: Kim has a quick concern.

MS. DIETZ: That was brought up, and I don't think that's a place for this board -- that's a compliance
issue with USDA, and we -- that -- we can go back to our
minutes, and we discussed this in detail --

UNIDENTIFIED MALE VOICE: Exactly. I agree with
you.

MS. DIETZ: -- so I don't think we need to bring
it up.

MR. RIDDLE: It's very clear that a substance is
not allowed for use --

MS. DIETZ: Right.

MR. RIDDLE: -- until it's on the National List,
and that was made clear previously when this was discussed,
and it hasn't changed.

MS. DIETZ: Well, we don't need to know who
certified it.

MR. RIDDLE: Well, I think it is public knowledge
and public information who certified it.

MR. HARDING: What we've done, this -- being very
open and honest about what's happened, over the period of
the implementation of the Rule, what transacted and what
you think or what somebody else thinks, so I'm not going to
get into an argument here about that, Jim.

MR. SIEMON: And that's an industry-wide issue
about a whole --

MR. HARDING: Exactly.
MR. SIEMON: -- host of materials and not just this one alone.

MR. HARDING: And I would bet there are a whole host of them. But anyway, thank you all very much, I appreciate it.

CHAIRMAN KING: Other comments or questions for Tom?

MS. DIETZ: And I just have one -- in fact this board did recommend that materials could be used until on the National List, and that was a formal recommendation, even though it's not being -- taken place, so --

MR. HARDING: Right. And the vote was clear that it was an approved material to go on the List, and I have to be honest with you, I was totally shocked that we had it sent back to reconsideration, because we advised them that the annotation could be problematic.

MS. DIETZ: That's the process, and that's okay.

MR. HARDING: Exactly. Thank you very much.

CHAIRMAN KING: Thank you, Tom. Next up is Jim Pierce, on deck is Haim Gunner, with Eco Organics.

MR. PIERCE: Good morning, Mr. Chairman, NOSB, NOP staff, ladies and gentlemen of the gallery. I'm Jim Pierce, self-appointed certification czar at Organic Valley.
In the interests of total transparency, I would like to point out and state for the record that I work with and for NOSB member George Siemon at Organic Valley. George, like the rest of you, struggles to put aside professional affiliations in this forum in order to stay true to your appointed constituency, in George's case farmer producer.

I will do no such thing. I stand before you, devoted on behalf of my constituency, the 650 family farmers who together, with over 250 employees and 65 processing plants, make up the largest and most successful organic dairy farming co-op on the planet, and we're upset. (Laughter.)

MR. PIERCE: Since we're in the Windy City in the midst of baseball and Billy Goat fever, let me summarize our concern in baseball paraphrase by saying: there is no joy in organic mudville.

I would respectfully direct your attention now to the diagram on the back of this testament. Some of you might be familiar with the heighth curve. The heighth curve is a visual tool to track -- used to track progress of many things, including business start-ups, technology, and personal relationships.

Today I would like to use it to describe the
National Organic Program and your role in its future. The classic height curve is comprised of five distinct parts: the trigger event, the peak of inflated expectations, the trough of despair, the slope of enlightenment, and the plateau of success.

The trigger event in this height curve starts on October 21, 2001, at a whole foods store in Washington, D.C. When Deputy Secretary of Agriculture A.J. Yates announced the implementation of the National Organic Program, we all had a big collective hug. The ensuing peak of inflated expectations contained enough momentum to establish the USDA Organic seal as the single most successful eco-label in the food industry.

Now cue the piano into minor key as we slip into the evitable but always disturbing trough of despair. Bake [phonetic], the bottom of the trough, April 14, 2004, the date that three so-called guidance documents were issued by NOP, representing what the organic dairy farmers in my co-op feel is the most serious threat to organic integrity to date, a greater threat even than any previous assault by far, in fact, because in contrast to previous assaults by unscrupulous operators and corrupt politicians, these maladies are from the inside, from the National Organic Program staff, from the very guardians and managers
responsible for the ultimate oversight of our livelihood.

The scope document which guides fraudulent
salesmen of organic sewage sludge and organic kitty litter
to go ahead and use the word "organic" and leave the USDA
out of it and let the buyer beware is short-sighted and
shallow.

The livestock feed document, which guides immoral
feed manufacturers to use fishmeal regardless of
sustainability, contamination, and prohibited materials, in
direct contract to the hardworking good advice that you,
the NOSB, provided them, is an insult.

But the document titled Dairy Replacement, that
erroneously guides organic dairy producers to use
antibiotics anytime, on any organic farm, on any calf or
cow, is a travesty, setting the organic standards back by a
decade and threatening to destroy the reputation of organic
much faster than wild-caught salmon or imprisoned poultry.

So we're pissed, but we're far from giving up,
and despite rumblings that we hear from you all of burnout
and brick wall head-banging, we're not going to let you
give up either. We're counting on every member of the
National Organic Standards board, present and future, to
lead our national organic program out of the trough of
despair and up the slope of enlightenment. That's your

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job, clean, pure, and simple.

In the coming hours and days you'll hear a myriad of suggested solutions, many of which you're already familiar with. Weigh the proposals, make the wise decisions we know you're capable of, and get organic back in the limelight.

Thank you, as usual, but no less sincerely, for your attention, for this opportunity to address the Board directly. I look forward to watching you work through the material decisions that are before you. By posting committee recommendations on your website, your transparency has improved tremendously. After reading all the petitions, TAPs, and committee recommendations, I would so much like to assure you that you are faultless in your decisions, but alas, you are not.

Particularly, the crop committee has, in my opinion, arrived at the wrong decision in two cases. Hopefully there's people here today from the cotton industry to address the hydrogen chloride issues and from the apple growers to address the 6-benzyladenine -- I knew I'd do that wrong.

If my comments have moved anybody beyond motivation to enragement, I apologize. God bless you, and thank you.

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CHAIRMAN KING: Jim, as always, thank you for your animated comments, it's very encouraging to get your input, and I think that we're all aware there's some ongoing challenges and you, you know, have the support, certainly, of the Board to work together with the program. I know later today that the program has a few minutes and perhaps they can address some of the issues at that time in their presentation.

Do people have questions or comments for Jim?

(No response.)

CHAIRMAN KING: Thank you, Jim.

MR. PIERCE: Thank you.

CHAIRMAN KING: Mr. Gunner is up next, and Lori Johnson is on deck.

DR. GUNNER: As the Board knows, the reason I'm here is because the TAP committee recommendations were directed to the use of soy protein isolate as a food, and in fact our submission is for soy protein isolate as a soil amendment, and in the hope of avoiding a deferral of a decision for soy protein isolate, I asked to come here to supplement the recommendations and the questions which the NOSB asked, in the hope that this would fulfill what you want to know and so that we could get a decision early, rather than late, particularly in view of the fact that
we've been hunting for a decision for some 4 years.

    I should start by saying that I'm a microbial
ecologist by training, and my interest in soy protein
isolate was sparked by the fact that -- applied an
experiment having to do with microbial treatments, the soy
protein isolate stimulated an extraordinary explosion of
microbial growth. Then considering the isolate, because of
its very high nitrogen content, anywhere up to 15.5
percent, and a very, very low C/N ratio, at the level of
about 2, it turns out that this could be an extraordinarily
effective fertilizer as well as overall stimulus to the
soil ecosystem.

    Very briefly, since I've already submitted the
responses to the questions that you felt the TAP group had
not provided you with, let me simply review the questions
that you asked and our responses to them.

    One, use of the material as a soy -- soil
amendment. Well, I've already indicated that we get an
explosion, sometimes a 6- to 800-percent increase in
microbial populations. This has both the effect of
stimulating further organic matter decomposition so that in
addition to the nutritional value provided directly by the
soy protein isolate, you get a second (indiscernible) of
fertilizer.
The explosion of microbial communities is -- also turns out to be effective in suppressing microbial pathogenic attack on crops simply by competitive exclusion. We've submitted data to show the effects on turf grass growth, on clippings, on root expansion, and I won't take up the committee's time by reviewing this.

In short, what we have is not only an extraordinarily effective fertilizer effect but a very large ecosystem series of beneficial effects.

The question for the committee, of course: is the material synthetic or non-synthetic? Well, it's very difficult to synthesize protein. This, of course, is synthesized in the -- in the soybean and the issue is really the manner in which the protein is released from the bean.

Our contention is that this is compatible with Regulation 205.605(j)(1), in which the plant extracts which use sodium hydroxide as a neutralizing agent, as well as humates, are available for registration and we feel that under this regulation, that soy protein isolate also qualifies.

Other questions which the committee asked is in terms of genetic modification. The high rate of microbial decomposition and the virtual disappearance of the soy
fertilizer makes this a moot point. In addition, whatever nucleic acids carry the genetic information is simply not part of the protein isolates.

The basic manufacturing process leaves a very, very trivial amount of sodium hydroxide. Essentially the sodium is what we're concerned with, and at the rate of application, it is truly a meaningless residue.

Are there adverse effects in the environment from manufacture, use, and disposal? None that we have been able to determine, and none has ever been described.

No toxic or adverse effects. Undesirable persistence, no, I've already indicated that the material is very, very rapidly decomposed by microbial communities.

And finally the question "Are there other natural organic fertilizers?", and indeed there are. Natural manures with a nitrogen content of about 4 percent, municipal waste, 6.5 percent, crop residues, about 7.5, fishmeal, higher, 12 percent, fish emulsions, 5 percent, kelp or seaweed.

The problem with these, of course, is that fishmeal, fish emulsions, and others are highly undesirable because of their odor, and most undesirable, of course, is their extraordinarily carbon-to-nitrogen ratio, which means that they are very long-term residues in the soil.
In short, I feel we have an exceptional soil amendment, certainly natural in its derivation and certainly equivalent to other treatments which are registered, such as the humates and the kelp extracts. Thank you.

CHAIRMAN KING: Thank you, sir. We have questions. I have Nancy first, Kim second.

MS. OSTIGUY: Did I understand you correctly when you said that the question of GMOs was irrelevant because the protein doesn't contain the product in GMOs and it's your source --

DR. GUNNER: No. I said it's irrelevant because the amount of residue is negligible, and we get such a high rate of decomposition, the cell [phonetic] is -- virtual total disappearance because of microbial activity.

MS. OSTIGUY: But the source of the soy could be soy that --

DR. GUNNER: Oh, yes, it could be, yes.

MS. OSTIGUY: -- has been genetically modified.

DR. GUNNER: Yes.

MS. OSTIGUY: Okay. That's what I wanted to know.

CHAIRMAN KING: Okay, I have Kim, and then Becky.

MS. DIETZ: Hello, Haim.
DR. GUNNER: Kim.

MS. DIETZ: I have to just go on record that this gentleman has probably the long-lasting record of the materials review process, he started with this in 2001, so I just need to officially say that. Whether it's a positive thing or a negative thing, I think you've certainly (inaudible) --

DR. GUNNER: It's a tribute to my endurance and commitment to this product.
(Laughter.)

MS. DIETZ: Yeah. I think that, you know, it is a very difficult product, and I'm going to have a long lengthy discussion when we actually review this material, so, one, are you going to be staying through the meeting, that's my question for you, when we actually review the material?

DR. GUNNER: To my great regret, I have a plane to catch --

MS. DIETZ: Okay.

DR. GUNNER: -- but I -- I would like -- perhaps during the break we could meet. I have to leave at 12:10.

MS. DIETZ: Okay. That's really all my comment. But he has been in this process for 5 years, between OMRI and the petition process and having confusion, so I hope we
can at least get something done --

DR. GUNNER: Did you all get copies of the material I submitted?

MS. DIETZ: Yes. There are public comments in the book, I believe.

UNIDENTIFIED MALE VOICE: Yeah, and a flow chart.

CHAIRMAN KING: Becky, then Rose.

MS. GOLDBURG: I want to thank you for supplying us with so much information. I wanted to follow up on the question that Nancy asked about the residues, and you argue that they're trivial. Are you speaking of the nucleic acid residues or of the --

DR. GUNNER: Well, there's total decomposition

MS. GOLDBURG: Total --

DR. GUNNER: Yeah. We've done this -- you know, my basic training is in microbiology, and we find that you have virtually -- not virtually, you have total decomposition and you get microbial cessation of growth until you add another dose of material, then you get a typical dose response.

So that -- because it is so available, you have, you know, short-chain amino acids, peptides there, there's virtually no residue in the soil, that we've been able to detect.
MS. GOLDBURG: So -- I'm still not sure. Are you arguing there's no residue of the GM protein itself or the --

DR. GUNNER: There's just no residue on the material, it is --

MS. GOLDBURG: On the material itself.

DR. GUNNER: Yeah.

MS. GOLDBURG: Okay.

DR. GUNNER: It is either -- because the carbon-to-nitrogen ratio is so narrow, it's so immediately available, and, as I said, the turnover in native organic matter, just a -- really an extraordinary array of beneficial effects, and to include this material I think is -- from organic registration, and we've had a lot of people who are very interested in using it in organic growth, I feel is doing an injustice to potential growers. It's simply extraordinary, very high -- the highest nitrogen level of -- unless you're going to bridge [phonetic] products, with urea and the like, of an organic material eminently available, and certainly comparable, in its manufacture, to kelps or humates.

CHAIRMAN KING: Okay, Rose, and then George.

MS. KOENIG: A couple questions. What was the nitrogen level of the protein, what are you saying the
percentage was?

   DR. GUNNER: It goes anywhere -- the ultimate product has anywhere from 13.5 to 15.5 percent.

   MS. KOENIG: Okay. If there is feather meal, which is a protein, which is pretty readily available, that's about 12 percent nitrogen --

   DR. GUNNER: Right.

   MS. KOENIG: -- other than the ones you listed which would be comparable. Additionally, did you see the committee's recommendation? I mean, there is -- on the website the committee has proposed a recommendation --

   DR. GUNNER: Yes. But the recommendations were based on a misapprehension, they treated it as a food ingredient.

   MS. KOENIG: No, what I was going to say was that the process that went through is -- you know, it did go and -- was technically reviewed as a crop and a soil amendment. What the -- and you can access the web to see that report. And if you have web access and you haven't viewed that --

   DR. GUNNER: Of course I haven't, but the reports we --

   MS. KOENIG: -- it might make sense --

   DR. GUNNER: -- got demonstrated that the ultimate response was to turn it down, they simply were not
was not adequate presentation by the TAP recommendations. Is there anything beyond that?

MS. KOENIG: I think that the TAP kind of went through some of those --

DR. GUNNER: I saw that it did [phonetic] --

MS. KOENIG: -- the issues that you had, and maybe -- through -- because it was a long process, that in 2001 it may have been, I wasn't aware of that, but I can assure you that the TAP that we looked at did look at it based on the OFPA criteria and as a crop soil amendment, so just to clarify that.

DR. GUNNER: Certainly the latest staff recommendations which were turned down by NOSB --

UNIDENTIFIED FEMALE VOICE: It was deferred.

DR. GUNNER: -- seemed to be inadequate.

UNIDENTIFIED FEMALE VOICE: The recommendation was deferred, and he has read that, and his response is in the public comments, I think he's (inaudible) asking.

MS. KOENIG: Okay. And then I guess, finally, back to Becky's question on the GMO issue, because it was something that was discussed by the crops committee, do you have any sign [phonetic] -- the question is not whether the protein -- the soy protein gets degraded, it's the fact that I guess the source of soy -- there's so much GMO soy
now, the -- it's really the BT toxin, what the effects
would be not on the microbial population within the soil
but other, you know, insect populations that might exist in
the soil that would be affected by that toxin, and do you
know of any -- because we did not have that information
provided in the TAP, and I think that's what --

DR. GUNNER: I have not seen any data on use --
since this is a novel application of soy protein, as a
fertilizer, virtually no data exists. But again, the rapid
uptake and decomposition suggests that the danger to any
insect population is minimal. We're talking about the
disappearance of this material applied to soil and
fertilizer amounts within -- you get activity within the
first 24 hours. So the notion that this would be a danger
to any incidental population is -- is very remote, in our
-- and by the way, as an ecologist, I'm not unconcerned
with this.

And also, as one of the (indiscernible)
environmentalists here, of the -- one of the first
departments of environmental science, I can claim some
credibility in my concern for the environment.

CHAIRMAN KING: I have George, then Jim.

MR. SIEMON: I just needed to understand the
commercial use here. You said it's 13 to 15 and a half
percent nitrogen, and what is the recommended use per acre, like pounds --

DR. GUNNER: We use it -- you have to appreciate that this is not inexpensive, it about .5 pounds per thousand square feet, we speak in terms of applications of turf and the like, on golf courses, so it's not designed for broad agronomic use, it's --

MR. SIEMON: So you said 25 pounds per thousand --

DR. GUNNER: .5 pounds.

MR. SIEMON: Point --

DR. GUNNER: .5. It's a very minimal amount.

MR. SIEMON: And what's the cost, does any --

what would a farmer --

DR. GUNNER: Oh --

MR. SIEMON: Just so I understand.

DR. GUNNER: It costs about -- you have to say -- it would be at the level of about --

(Pause.)

MR. SIEMON: That's okay, if you can't answer it.

DR. GUNNER: It would be -- it depends on volumes, of course, but it's roughly about a buck and a half a pound, not inexpensive.

MR. RIDDLE: Yeah. Well, I agree with your comment that the TAP review addressed who would use this soy protein isolate and I found it wholly inadequate and I think that was part of the basis of the crops committee recommending deferral, but you provided much more detailed information, and I thank you for that, and one of the questions I had, that the TAP didn't address, it discussed various manufacturing processes but said that the petitioner had not supplied the information. Well, now I see that you have, and it's clear in your flow chart that this is a hexane-extracted --

DR. GUNNER: No hexane residue.

MR. RIDDLE: Yeah. We're not talking residues, we're talking processing methods and inputs. But it's hexane-extracted, made from non-segregated soybeans; correct?

DR. GUNNER: Right.

MR. RIDDLE: Okay. And then in -- your information you provided and the TAP provided looked at the, you know, nitrogen on an input substitution type of basis rather than looking at the whole-systems approach, which --

DR. GUNNER: Right.

MR. RIDDLE: -- under the regulation, soil-
building crop rotations are mandatory. So your nitrogen needs to be coming from the natural nitrogen cycle to begin with, and that aspect is not addressed in either your information or in the TAP.

The question I have is, can your company or another company produce this material from segregated non-GMO soybeans? -- because we're not talking about or debating the effects of the residues, it's a fact that the regulation prohibits the use of excluded methods, so can you produce this substance from --

DR. GUNNER: Yes. I mean, the question is not the nature of the soy, the question is the process itself, and whether or not it's genetically modified does not determine ultimately the protein concentration in which we are interested.

MR. RIDDLE: Yeah.

DR. GUNNER: Now, the --

MR. RIDDLE: So that's a possibility.

DR. GUNNER: Yes. But non-GMO, of course --

MR. RIDDLE: Because --

DR. GUNNER: -- would add to the expense enormously and (inaudible) --

MR. RIDDLE: Yeah, but that's not our worry.

And then the other is just whether -- you know,
the committee's recommended to defer, and would you rather that we take action one way or another?

DR. GUNNER: Yes, we would, because I'm assuming there is an appeals process and after all of these years, the committee has been as steeped in this problem as we are, so that I would -- yes, we would prefer a decision, hopefully on the basis of adequate information available to you.

MR. RIDDLE: Thank you.

CHAIRMAN KING: Okay. Other questions? Kim?

DIETZ: Just -- I was going to save this comment, but I'm going to -- while you're here I'm just going to state this. In 2001 Mr. Gunner petitioned to OMRI for the material because it truly is a brand-name material, so I'm going to go on the record and say that it's a brand-name material.

The reason that it was in the system so long was because it's a brand-name material, and now it's before the Board as a material to be placed on the National List. So we have a lot of confusion on this board because we shouldn't be reviewing the soy protein isolate, in my opinion, we should be reviewing the two materials, the -- I think it's the hydroxide, the sodium hydroxide, the two materials, and I have my notes, when we actually review...
this material I'll go through it.

So I'm not sure what we're going to do with this, in my opinion, as a board. I would like to sit down and talk to the crops chair and the NOP because I'm confused over it, and I've been just as involved in it as you have for the last 4 years, intimately.

So I'd like to get it settled, and yes, I would like to come to some resolution for this meeting [phonetic] Mr. Gunner and figure out what exactly it is and where's the problem. But again, I believe it's a brand name and it should be handled differently.

DR. GUNNER: Well, thanks to the Board and its patience.

UNIDENTIFIED MALE VOICE: And your patience.

CHAIRMAN KING: And yours as well. Thank you.

DR. GUNNER: Thank you.

CHAIRMAN KING: Let's see who we have next.

Maury Johnson, and Ray Boughton is on deck.

MR. JOHNSON: Good morning. My name is Maury Johnson. I'm with NC Plus Organic Seed, in Lincoln, Nebraska. I'm also a member of the American Seed Trade Association committee on organic seed, and I just wanted to share with you this morning a little bit of our view of organic seed.
I think one of the things that has been a little bit frustrating to us and perhaps to some other people is that the concept of organic seed and why it is a good concept has in many cases been lost to the organic grower. In many cases he sees this as just another rule or just another burden for him to carry, and what we're trying to do at NC Plus and what I've encouraged the American Seed Trade Association to do is to focus, instead of on the negative side, what are the positive aspects of organic seed and how can organic seed contribute to the organic effort.

And in the little brochure that I passed out to you, I would like to talk a little bit about some of the benefits as we see them and we think should be emphasized, as well as some of the specific issues relating to not just organic seed but seed in general.

At NC Plus and, I believe, other seed companies attempting to do organic seed we're trying to provide seed products that meet the unique demands agronomically of organic farmers, as well as the markets that they're trying to serve.

One of our main crops, of course, is corn, and raising corn organically, in the organic environment, is quite different than on conventional. The products, the
hybrids, need to be different. But the organic farmer's
also looking to market his products to a different set of
consumers, and in the case of soybeans, for instance,
there is much greater interest among organic farmers for
food-type soybeans as opposed in the conventional, where
the emphasis is on a commodity.

So organic seed producers and organic seed
companies and public entities can concentrate on the kinds
of products that the organic consumers are asking for.

A second advantage of organic seed that is
sometimes lost is that purchase of organic seed by organic
farmers helps to support other organic farmers rather than
a multi-national corporation that doesn't really care one
way or the other about the organic farmer.

At NC Plus, we have organic seed production on
about 3500 acres involving corn, soybeans, red clover,
alalfa, two or three grass species, and organic -- and
sorghum, Sudan grass, we have production from Michigan to
Texas to Wyoming to Minnesota, and we are working with
farmers in all of those states, who now have another
opportunity, if they want to pursue it, for a crop to
raise.

The third advantage, I think, is that organic
seed has the potential to be less in GMO content than
conventional seed, non-GMO content will be a very high priority, and I'm not here to debate, you know, whether --
the GMO levels and all that, but if the organic seed grower tests his seed stock, if he's very thorough and
dedicated to cleaning the equipment, if you have a facility where the seed is being conditioned and bagged,
that is non-GMO, and if you have the final testing of the organic seed product before it goes out to a customer,
those are all things which we have found in our experience have greatly limited GMO content.

But those are all things that the conventional seed producer is not likely to pay as much attention to as an organic seed producer.

CHAIRMAN KING: One minute.

MR. JOHNSON: Just briefly on some other issues:
Will organic seed be as good as conventional seed? It certainly can be, but seed quality is often determined by the environment and by experience, and those are things that organic seed producers are going to have to gain very quickly.

How about cost, and I know cost is not supposed to be part of the equation, but cost is merely a --

CHAIRMAN KING: Time.

MR. JOHNSON: Okay.

MR. SIEMON: Are you satisfied with the present rule on organic seed?

MR. JOHNSON: We would like to see greater consistency of the implementation of the Rule. As a for instance, we estimate on field corn that probably no more than 40 percent of the organic corn acres in the United States are being planted to -- with organic seed. The problem is not the shortage, the problem is implementation.

MR. SIEMON: Do you think there's adequate organic seed corn available and that it's not -- you said it's not shortage. You feel it's available?

MR. JOHNSON: It's kind of hard to say for sure how many acres are out there, but using USDA statistics, NC Plus by itself, just knowing what we can supply, we could -- by ourselves we could probably supply 80 percent of the market, and there's five or six other organic seed providers for corn. So in the case of corn, I think the supply is there. I think in the case of soybeans the supply is there.

In the case of alfalfa and some other crops, it's going to take a little time to build those supplies, but a lot of seed producers are kind of sitting on the
sidelines, wondering what kind of a market is there going to be. We have taken kind of an aggressive approach, but many other folks are kind of waiting to see.

The supply will come pretty quickly, because it's -- again, it's a relatively small market, but in the field crops that I'm familiar with, I'm convinced the supply can be filled pretty quickly.

MR. SIEMON: Of course, some of the problem is the availability, you've got to order months ahead of time and often you run out of corn right that moment, so it's that infrastructure development too, is another other part of it.

MR. JOHNSON: Well -- and again, I'll just speak for our company, but we have maturities that can go from Texas to North Dakota, you can call us now and get -- maybe not every one of our hybrids in any particular seed size, but you can get any hybrid maturity we have available.

And one of the discouraging things to us is that last year, and even this year, we will be obsolescing a fair amount of seed, organic seed, because we couldn't get it sold, and that's kind of discouraging.

CHAIRMAN KING: Jim, and then Andrea and Dave.

MR. RIDDLE: Yeah. Maury, thanks for your
comments. Besides the need for better consistency in how it's being implemented and enforced, a question -- if you see any deficiencies or problems with the Rule itself as it applies to organic seed, that's one question; and then also, the Board has a recommendation, that we'll be discussing tomorrow morning, on the whole commercial availability issue, to help clarify and bring consistency to that. But that recommendation was written in the context of minor ingredients for processed foods, but it would also impact the organic seed, and so I will appreciate -- will you still be here tomorrow?

MR. JOHNSON: No. I have seed stock to deliver (chuckles).

MR. RIDDLE: Okay. Well, if you have any comments on that, it would be very helpful, but also just -- as the Rule is written, are there some things that you would like to see changed, that maybe the Board should, you know, form a task force or cost committee, do some work on?

MR. JOHNSON: Well, in the Rule there is reference to equivalent varieties, is a variety from company A equivalent to a variety of company B, and that's a pretty tricky question, because, you know, we're dealing with a living entity here, a seed, and the crop that it

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produces, and what is equivalent, so that the whole notion of equivalency is a little bit hard to get a grasp on.

We have always felt, at NC Plus, and I think other companies as well, that our goal is to make our seed good enough that you, as an organic grower, would buy it even if the Rule wasn't in place. We don't want the coercion there.

But by the same token, farmers and growers are creatures of habit, and if they're used to going to a particular seed provider and now all of a sudden you're asking them to change, there's some resistance, but all we're saying is: give organic seed a chance, recognizing that there are some long-term benefits out there, and so give it a chance, and I guess again concentrating on the long-term payoff and potential for use of organic seed.

I guess the other thing -- the other comment that I would make is -- and I have suggested this to our ASTA group as well, I think this has to go on a crop-by-crop basis. I mentioned corn. There's adequate supplies of field corn out there. Grain sorghum acres are very small and rain sorghum production requirements are such that you have to have fairly large fields to grow the crop. It is unlikely that in the near future there would be sufficient demand to produce organically grain sorghum
seed. I mention ed alfalfa. Alfalfa takes some time to get going. So I think you have to kind of look at it on a crop-by-crop basis.

But I guess what I would like to see is that the use of organic seed be kind of like using treated seed on certain crops. In other words, people who use treated seed can lose certification, but if there is supplies of organic seed of a given crop, then maybe we need to get to the point where they lose certification on that. I hate to be suggesting something that strong, but maybe that's what it's going to take.

CHAIRMAN KING: So if I'm hearing you correctly, and then I have several people that want to speak, you're saying if we could get more specific and look at it literally on a crop-by-crop basis, that may help define --

MR. JOHNSON: Right.

CHAIRMAN KING: -- commercial availability.

MR. JOHNSON: Because there's some crops where the number of acres are so small and the production requirements are so -- are such a nature, it's going to be difficult, from a business point of view, to justify producing that seed organically.

CHAIRMAN KING: Andrea, then Dave.

MS. CAROE: Well, as Jim mentioned, we will be
discussing a recommendation on commercial availability for minor ingredients. One of the controllers [phonetic] that we looked at and had included in that is a requirement that both the user of that ingredient and the certifier that is certifying use of a non-organic ingredient maintain a certain effort to look for the particular ingredient in organic, and by doing that, they need to use tools which are clearinghouses of availability.

To your knowledge, and you mentioned that you're involved in a C group, is there a list of availability of organic seed, is there a list of different vendors that are selling different types of seeds?

MR. JOHNSON: On, I believe it was, March 25th, our American Seed Trade committee group -- and we've met three or four times over the last year, and we have been working on a proposal for a database of organic seed suppliers, that first of all you'd have to be certified organic to be on the List, and it would be on kind of a crop-by-crop-type basis, and that was brought up and it was discussed in a meeting between our American Seed Trade committee group and some folks from the USDA, Kevin and Rick Matthews, for their -- it was just something that was discussed, it's something that our American Seed Trade group has to look more carefully at. We're meeting in
Philadelphia at the end of June and I think we're going to try to finalize a recommendation as far as a national database that would list organic seed suppliers.

MS. KOENIG: I have a question.

CHAIRMAN KING: Rose.

MS. KOENIG: Two things. There are databases out there, because I did a presentation on organic seed. I mean, it doesn't give you the quantities and varieties, but there's certainly sources, if you type in -- so there's -- there's some efforts out there by various organizations that at least list the manufacturers.

I wanted to go in a different direction, because we're -- the cost committee was looking at a material that was used for de-linting cotton, hydrochloric acid, and I just wanted to know, as I started looking -- you know, part of the issue was treatment versus a process, and I didn't -- I still haven't, I guess, got the answer, as far as how much chemical processing goes on, in terms of, you know, taking the raw seed and making it a marketable product for either -- precision planting, is there other crops, other than cotton, where the physical structure -- you know, the properties of the seed have to be removed for planting, and do you view that kind of removal as a process or a treatment, or association?
MR. JOHNSON: First of all I have to tell you that the crops that we work with, there is no treatment or processing going on of those -- of those particular crops.

MS. KOENIG: But you still have to clean it, correctly [sic.] -- or --

MR. JOHNSON: Right. We clean it with mechanical means. Our group, though, has discussed other seed crops, primarily in the area of vegetables, and certain coating materials that are -- have been used there on the seed itself, and at NC Plus we are looking at some of these materials to use on the seed, because one of the things about untreated seed is that it -- in some ways it does kind of add to the cost to the farmer at some point because, you know, he may have stem loss [phonetic] or -- or whatever. As a seed producer, the fact that we never use seed treatment or coatings of any kind puts us at greater risk as well.

But this issue that you talked about is primarily with the smaller seeds, especially the vegetable seeds, where they're made -- need to be some sort of coating just to be able to plant those, and I'll have to tell you, I'm not very knowledgeable on those kinds of crops.

I guess one other comment, if I could make it
here: at NC Plus, we have done a lot of testing for GMOs in the seed stock and in the seed that we sell, and we think that that has been an important service to the customers that we sell to and the customers -- and the people they're trying to sell to, and we've invested a lot of money in that over the years, and I guess one of the things that we would like to see is maybe some identification by the seed seller of what he has done, in terms of GMO content, not that there maybe necessarily needs to be a standard, but just identify if the seed has been tested or not tested or whatever.

CHAIRMAN KING: Thank you very much.

MR. JOHNSON: Thank you.

CHAIRMAN KING: At this time I think we'll take a quick break, 15-minute break, and have -- who do we have next here. Ray. Ray, you're up when we come back, and what's the official time, 9:58, so we'll reconvene at about 10:12, 10:15.

(Off the record at 9:58 a.m. and reconvened at 10:20 a.m.)

(Tape change.)

CHAIRMAN KING: All right, let's officially get started here. The next member for public comment is Ray Boughton.

MR. BOUGHTON: Thank you, board. I'm Ray

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Boughton, I'm from Colfax, Wisconsin, up about 60 miles straight east of St. Paul, Minneapolis, and up northwest of Eau Claire.

I'm here today because I'm concerned, like Maury is, on production of organic hybrids. Lake Organics is located in Colfax, Wisconsin, which is 25 miles northwest of Eau Claire or 60 miles east of St. Paul, Minnesota. Lakeland Farm was established in 1929 by my grandfather, and it's a third-generation farming operation. We are farmers.

We currently farm 900 acres of organic certified corn, soybeans, food-grade soybeans, and hybrid seed corn. Our organic hybrid seed corn is marketed in five states by another family-owned business, Bruner [phonetic] Seed Farm in Durand, Wisconsin. I believe in Wisconsin there's only about three or four family-owned seed companies left; everything else has been bought up.

I am president of the Wisconsin Organic Crop Improvement Association Number 1 and a member of the International Standards Committee for OCIA International in Lincoln, Nebraska.

A problem has developed where untreated foundation seed cannot be purchased. Nearly all the seed purchased for seed production has been treated with
Capitan [phonetic] or Apron, which is a prohibited material by the NOP. This material is used to protect the seed from seed diseases, including seed rot, which Maury just mentioned just a few minutes ago.

The hybrid being produced from these foundation seeds are not only specific to the Wisconsin area but are the product of decades of seed breeding. In the past Bruner's has bought the foundation seed variety, only licensed seed company that can purchase this seed, that we cross-breed to produce various hybrids, which are harvested and processed for resale the following year. We've got a full one year in between. This process is one full generation from the actual sale to the organic farmer who plants a seed which is untreated.

Monsanto is buying up many of the foundation seed stock companies. Last year the seed company where we purchased the majority of our seed stock from, Holden Seed (indiscernible) was purchased by Monsanto, which will most likely limit the availability of untreated seed. It was -- just as a little after-thing: it was purchased at an enormous price, I don't know how many millions more than the actual company was worth, if that kind of relates what they're looking at.

Our concern is that as long as organic seed

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producers can only use untreated seed and foundation seed continues to be treated, organic seed developers and seed producers will be very limited in their hybrid selections. Large corporate seed stock companies, like Pioneer International, Northrup King, and Garst will continue to sell untreated seed to the organic farmers, that had been grown from treated seed stock, using chemicals, commercial fertilizer, and all conventional farming methods, while the organic producer, on the other hand, using all organic farming practices, is prohibited from producing the seed stock from the treated foundation stock. Because of this disadvantage, organic seed producers will probably meet their demise in the future. Thank you very much. I'll take questions. CHAIRMAN KING: Questions. George. MR. SIEMON: I'm a little confused. You say that the problems that developed were untreated -- I guess I -- I just answered my own question; no wonder I was confused. (No response.) MR. BOUGHTON: (Chuckles.) As I put, two -- there's two other letters, and one shows our attempt last year to buy untreated seed foundation stock, you'll see
Holden Seed, at the bottom you'll see a little clip there called a -- Monsanto Company.

MR. SIEMON: So basically your certifier is telling you -- you're saying there's no commercially-available alternative and they're still telling you no because it's treated.

MR. BOUGHTON: It's treated, yes. And where we have to compete, as he mentioned before, you can call up your local Pioneer dealer, he will have untreated seed if you order it far enough ahead for him, but that same seed that you're allowing Pioneer's person to sell, we can't sell, and they have treated theirs with chemicals and everything else, but us, using all organic -- and the only thing different that we use is the foundation stock, which is one whole generation away from the actual end user, probably two, actually, two generations.

MR. SIEMON: And this is -- your certifiers determine that.

MR. BOUGHTON: Yes. It's NOP's standard.

CHAIRMAN KING: Just a point of clarity.

MR. BOUGHTON: Yes.

CHAIRMAN KING: It sounds like, in the foundation seed production, you're talking about two different --
MR. BOUGHTON: Right.

CHAIRMAN KING: -- production systems, one clearly conventional, but in your example, it's your intent to use this foundation seed on land that's managed organically?

MR. BOUGHTON: All organic, completely organic.

MR. SIEMON: And then the land will qualify.

CHAIRMAN KING: Yeah.

MR. BOUGHTON: It's all qualified, certified.

CHAIRMAN KING: So it would be a prohibited -- use of a prohibited (inaudible) --

MR. BOUGHTON: Jim, you could probably clarify that a little bit, what happened when the standards were written.

MR. RIDDLE: Well -- right.

(Laughter.)

UNIDENTIFIED MALE VOICE: Thanks, Jim.

(Laughter.)

MR. RIDDLE: You know, historically, the requirement was for organic farmers to use untreated seed, and if you couldn't get untreated, then you could use treated; and then it went up a notch, you know, to the organic; and then total prohibition on the treatment; and then, simultaneous, having the organic seed requirement
has implications for the production of organic seed, so you can't use a treated foundation stock to produce an organic hybrid that would then be planted by an organic farmer, and, you know, I just want to be clear on what you're requesting, and that is, as I understand it, and you correct me if I'm wrong --

MR. BOUGHTON: Yes.

MR. RIDDLE: -- that there would be a change in the Rule or a clarification of the Rule as it applies to organic seed production, that there be an allowance for treated seeds or certain treatments to be used for production of organic seed, not the production of an organic crop.

MR. BOUGHTON: Right. Strictly for foundation seed stock only.

MR. RIDDLE: Right now, the way, instead of a rule change, that that could be accomplished would be: to petition the use of the treatments for that specific use, for the preservation of foundation seed, or however the use would be annotated.

MR. BOUGHTON: Yes.

MR. RIDDLE: So that the door is open for that approach without a rule change right now.

MR. BOUGHTON: Right. That's what we are
requesting, to go -- go that route.

CHAIRMAN KING: Okay, Rose.

MS. KOENIG: I guess the -- so the foundation stock is controlled by you? The foundation seed.

MR. BOUGHTON: Very few companies. One of them here is, as you have in front of you, Holden Seed out of Iowa. What is happening now is Monsanto is buying up the seed stock companies. You can see where that's going to be heading down the road.

MS. KOENIG: But -- so -- I mean, have you requested just non-treated --

MR. BOUGHTON: Yes. Yes, we have.

MS. KOENIG: -- and they --

MR. BOUGHTON: We have requested seed stock. There are certain numbers, when you're plant breeding --

MS. KOENIG: Right, I know.

MR. BOUGHTON: -- when you start breeding different numbers, we have to have like a certain male or a certain --

MS. KOENIG: Right, I know.

MR. BOUGHTON: -- female to create a hybrid, and that's where -- we're running into our major, major problem on that.

MS. KOENIG: But there's no -- I mean, the
treatment for your parental lines -- just like an organic
grower has to purchase a hybrid, I mean we have to go
through, say, the same commercial -- you know, like Opito
[phonetic] Seed or some of the -- the larger companies.
Again, like George said, it may take six months in advance
to request non-treatment, but that's something that, when
asked, they have been able to accommodate, but it does
take a lot of planning. There's -- why won't they do that
with the parental stock?

MR. BOUGHTON: We raise 168 acres of seed corn.
When I go to Holden's, which is a multi-million-dollar
company, and walk in the door and ask for five bags of
seed, you can see where I'm coming from.

MS. KOENIG: But it's a post -- the thing is, is
same thing, I mean, I'm buying a pound of onion seed,
so it's even less than 150 pounds, from Opito. The thing
is, is that is a post -- I mean they have the untreated
seed, and then at a certain point it's treated --

MR. BOUGHTON: Much of it --
MS. KOENIG: -- because it doesn't come off of.
So -- so I guess --

MR. BOUGHTON: No, all of it -- no.
MS. KOENIG: I guess what I would say is that we
need to make sure there's due diligence that that in fact

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is the case, because I know as a producer requesting a pound of seed, it is obtainable. It does take extra effort. And what the seed companies have told me is that "that's no problem, we just need to know because we don't" -- you know, again, it comes -- it doesn't come off the plant treated, there's a process where they do take those lots and do it at a certain time, but you can perhaps request those before that time.

MR. BOUGHTON: We do not have the ability, as a small company, to go a year in advance and ask for five bags of seed. It would be -- you'd -- when you're talking about Monsanto, you're not talking like -- I don't know where you buy -- where you purchase your seed, what type of seed you're planting, but corn seed is a completely different -- we're -- we're talking corn, that's all I'm talking is corn, and that's a completely different product. As you mentioned, it's specific to this one --

CHAIRMAN KING: First of all, thank you for attaching these letters, and I think Rose is on the right track here. We understand, I think, your challenge, as you've communicated it. As with everything we do these days, documentation is key --

MR. BOUGHTON: Right.
CHAIRMAN KING: -- and being able to forward that to perhaps further define the issues so we can somehow resolve it.

Are there other questions or comments?

(No response.)

CHAIRMAN KING: Just a quick housekeeping note.

Please --

MR. BOUGHTON: Thank you.

CHAIRMAN KING: -- try to refrain from talking while we're doing public input, we'd like to concentrate on the conversation at hand.

I simply have a company name for the next, it's Valent BioSciences, so if there's a representative from Valent BioSciences, please give your name for the record, for the court reporter, please.

MR. FILAJDIC: Hello, my name is Nenad Filajdic. I'm a product development manager of Valent BioSciences. First of all I'd like to thank you for an opportunity to be here and say a few words about 6-benzyladenine, which is used in apple thinning.

What was available before were commercial products such as Promalin and Accel, and they also, in addition to 6-benzyladenine, contain giberellic acid. This new product that we have, Accel, is only based on
6BA, so basically what it's used for is thinning and sizing, also fruit quality, mostly used in apples.

What is important about this product is that it's basically naturally-occurring in plants, it's cytokinin, and we synthesize it basically just because it's a big savings. It would be fairly impossible to produce it straight from the plants because of the quantities, but we do synthesize it, and it's naturally-occurring cytokinin. It's non-toxic, it doesn't harm any beneficials, it's very low toxicity and very low persistence in the environment.

In addition to that, there's no other chemical thinners or any -- I should say effective thinners available in organic production, even though some are tried, with limited success. What non-apple growers have as an alternative is NAA, basically, and 7-carbaryl, which are not very environmentally-friendly compounds, so this is basically the only -- the only other alternative that organic growers could use, in case that this is approved.

Right now we don't have a formulation that is organic because our commercial products have other ingredients that are -- two ingredients that are actually category 3, but if this -- if 6BA is included in the List, we would be ready to produce organic formulation, because
the research has been performed on it. This would enable organic growers to save -- to save on its production, because the (inaudible) thinning would be pretty much avoided, and as most of you know, that is the single most -- single biggest cost for apple producer, is thinning.

So I need to apologize because I don't know if my document got to you in time, I e-mailed it, but if not, we also submitted this document before, it was just not updated for 6BA alone product, it was mostly based on 6BA plus gibberellic, so I updated that and I sent it. It has a lot of information in addition to what I just said, but if you have any other questions, I would be glad to answer those. Thank you very much, again, for your time.

CHAIRMAN KING: People have questions? Rose, did I see your hand go up?

MS. KOENIG: I did. If anybody has one, I just want to check before I answer the question -- ask the question, but I guess one of the questions I had, and I'm not sure if we have it, was public comment from apple growers as far as the need for the product.

I mean, one of the things that the committee discussed was the -- you know, the optional -- the labor-intensive -- I mean not -- again, I'm a producer, and, you
know, weeding and hoeing is -- is labor-intensive, but that's what we do.

So can you just speak to -- to those -- to the hand-thinning option.

MR. FILAJDIC: Sure. There are some numbers also in the report that came out and it basically states on average the cost for hand-thinning to be $1680 for a 20-acre farm, and that's four or five times higher than what non-organic producers can spend, because basically these other compounds, like NAA and 7, are fairly cheap.

So that is basically, in a nutshell, what -- where it would come out economically. As I mentioned, I'm fairly certain that's the biggest single cost in apple production.

If we talk about sustainability, I see this product as being sustainable because one of the -- one of the important objectives in production is to stay in business, and this will allow a lot more flexibility. So that's how we see this, we see this as a help to organic growers.

There is a lot of interest for this product in Europe also, we're working -- that's basically why we started working on this formulation that is going to be organic.
CHAIRMAN KING: Jim.

MR. RIDDLE: Yeah. You mentioned Europe. Is this substance allowed in Europe at the present time?

MR. FILAJDIC: We submitted for registration in key countries a couple of months ago, so what we're looking at is sales in a few major countries in 2005, most of the countries 2006. This is not organic. So --

MR. RIDDLE: Oh, that's just for conventional use.

MR. FILAJDIC: Yes.

MR. RIDDLE: Okay. So it's not approved for organic use --

MR. FILAJDIC: Not yet --

MR. RIDDLE: -- in Europe yet.

MR. FILAJDIC: -- no. No.

CHAIRMAN KING: Dave.

MR. CARTER: Yeah. Just a question on the handling of it during application, because the TAP noted that, you know, it's not harmful as long as you have the proper protection, which you can say about just about anything, so, you know, as far as in your intent or something like that, but --

MR. FILAJDIC: Nothing unusual. I'm not sure of the numbers, but there's (indiscernible) four hours, which
I believe is pretty much the minimum. I'm not aware of any additional requirements that we have other than

MR. CARTER: What are the main problems with exposure to it, I mean what would you run into?

MR. FILAJDIC: I'm not really aware of anything. Our toxicity is fairly low. There is a little bit of an eye irritation, but other than that, toxicity -- I have numbers in a document that I submitted. It's very low. And persistency in the environment is also very short.

MR. SIEMON: Did we get the document he's referring to?

CHAIRMAN KING: I don't know, I can't seem to find it, unless someone else --

UNIDENTIFIED MALE VOICE: No, I didn't either (inaudible) --

CHAIRMAN KING: -- so I don't know if that's something that Katherine had received --

UNIDENTIFIED MALE VOICE: Can we make copies?

CHAIRMAN KING: Do you have copies with you?

UNIDENTIFIED FEMALE VOICE: I have some copies. I downloaded one, it was on the website, so I'll get copies.

CHAIRMAN KING: All right. Rose had another
quick comment.

MS. KOENIG: I have just one more question. Are you familiar -- I know the Organic Materials Review Institute has a brand name of a natural source of cytokinin on there. Are you familiar with that product, and do you --

MR. FILAJDIC: No, I'm not. As far as I know, this is -- as far as I know, Valent BioSciences is the only company actually doing extensive research on this. There are other companies that use generic products. There is actually a 6BA that is already registered in the United States for non-organic production by Fine Agrichemicals [phonetic] but only at a -- at a low rate, so --

MS. KOENIG: This would be a naturally-derived form. I think it's from --

MR. FILAJDIC: No, I'm not.

MS. KOENIG: -- fish or --

MR. FILAJDIC: Oh. No, I'm not.

CHAIRMAN KING: Additional questions?

(No response.)

CHAIRMAN KING: Thank you.

MR. FILAJDIC: Thank you very much.

CHAIRMAN KING: Next is Zea Sonnabend, CCOF; on
deck, David Engel.

MS. SONNABEND: Hello. I'm Zea Sonnabend, from California Certified Organic Farmers. Most of you have seen me up here many times. Of course I would like to comment on pretty much every subject brought up today, but I'm going to confine myself to a few subjects that have been brought up yet, that I think are important.

First of all, the petition that you'll be dealing with concerning urea in pheromone traps for olive fruit fly. I understand that the urea was petitioned as an active ingredient, which in use in the field, at least in California for olives, it is not, it is the -- and the TAP review is really inadequate to explain the situation in which it is used, and so I feel like I need to fill this in, because we have a lot of olive growers that would probably like to use the material as an inert in a pheromone trap.

These traps are for a fly, not a moth, and the traps need to have urea in liquid form to be able to work effectively, and therefore it's like a little bottle that is hung in the trees, and the sticky part with the pheromone is at the top of the bottle and then a solution of ammonium carbonate and perhaps urea is used in the bottom of the bottle to provide the smell like rotting
meat that attracts the flies to the traps.

So far my personal interpretation of the exemption that you gave to list three inerts for pheromones would apply to urea for this use because it is on List 3, it's registered for -- as an active pesticide not for this use, but it is also on EPA List 3 as an inert, and it is serving the function of the -- the equivalent function of the other List 3 inerts in the other types of twist-tie traps.

Anyway, I understand that you don't want to allow it as an active, perhaps, but I do urge you to word your -- whatever vote you take on it so it does not prevent its use, perhaps, as -- under the pheromone exemption for List 3 inerts in traps.

So far as actually haven't let our growers use it because it was under petition and I didn't understand exactly the finer points of the petition, but the ammonium carbonate by itself is not working that well, we have a really bad olive fruit fly problem that's evolved in the last couple of years. And I will be here when you discuss it, if you need more background information.

Secondly, as sort of the historical voice of the past materials reviews for the NOSB, I was quite concerned that the letter that the department issued concerning
phosphoric acid in aquatic plant products.

The original NOSB, when they put things on the National List, had no intention for other synthetic things that were not mentioned in the annotation to be allowed in those products. Not -- and I don't want to say that I'm opposed to the phosphoric acid, possibly, in aquatic plant products, I think it might be a very appropriate thing, because they do need something to preserve and stabilize it, but it should be reviewed by a TAP review, because there are other alternatives calcium propionate and -- or sodium propionate and sorbates and things like that, that could also serve the same functions, and not just blanketly allowed without a TAP review for that purpose.

It, you know, leaves the door open potentially to elemental sulfur with emulsifiers, fish products with urea in them, all kinds of additives that could be used with things on the National List.

I urge you to put a statement at the beginning of 205.601 which says that things on the National List may only be used in the -- with the restrictions in the section to say that they should only be used with the annotations as presented, not with additional products in them.

Okay, I also wanted to comment on the Sunset
document for the National List. I read this very quickly. I think it is really important to set up a procedure for -- you know, to review the -- re-review the materials.

I do really hope that you don't base it entirely just on technical information, because the technical information from the original reviews is not equivalent to the technical information you get today and you'll be creating a lot of work.

I do think it's a good -- the part about going for public comment to suggest priorities for review is a good idea. Review the controversial ones and -- but make a streamlined procedure for the ones that aren't going to have a lot of controversy or else you're going to really be in for an amount of work you're not going to be able to complete.

And last of all, I was on the Compost Tea Task Force, we made a very thoughtful document and recommendation, and I will be here to help with background information on that and to provide anything you might need from that task force. Thank you.


MS. DIETZ: Zea, on the phosphoric acid, I'm a -- as a historian, I'm going to ask your opinion, and also Steve Harper here is a past NOSB member so I might ask
Steve --

MS. SONNABEND: And Merrill. Actually, Merrill was on the NOSB at that time.

MS. DIETZ: Since we've been reviewing materials at this board, we asked to see the whole manufacturing process, and it's been part of our discussions that if we approve a material, then we're approving everything that it takes to make that material function on the National List, so that would be anything that's used in that manufacturing process of that material, unless we specifically annotate against or restrict.

So what you said is contradictory to what I believe we've (inaudible) --

MS. SONNABEND: No, they did--well, they did look at the things that were used in aquatic plant products--

MS. DIETZ: Okay--

MS. SONNABEND: --and decided to only allow--

MS. DIETZ: Okay. Right.

MS. SONNABEND: --hydroxide stabilization, potassium hydroxide stabilization. Or extraction, excuse me.

MS. DIETZ: Okay.

MS. SONNABEND: However, not as much information
was available at the time they did that review about other additives, about the need for preservatives in the products.

MS. DIETZ: Right. But from a board standpoint, we can't go back until the re-review of the material and look at an entire process, but our function of this board and the material on the National List is it's allowed unless it has a specific annotation that --

MS. SONNABEND: This does have a specific annotation and --

MS. DIETZ: Right. I'm talking in general, I'm not --

MS. SONNABEND: Right.

MS. DIETZ: -- specifically talking about the phosphoric acid issue --

MS. SONNABEND: Okay. But --

MS. DIETZ: -- but just as a blanket so that --

MS. SONNABEND: Yeah. It's just that that annotation was expanded upon by the NOP, and I don't believe that was the intention when it was voted into the --

MS. DIETZ: Okay, and I'm not commenting on that, other than as a historian and as how we have to look at a material on a National List --

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MS. SONNABEND: Uh-huh.

MS. DIETZ: -- and there's many, many, many that are on there. I mean, natural flavors is a typical example that --

MS. SONNABEND: Uh-huh.

MS. DIETZ: -- and there's many, that if it's on there, then we have to assume that the process to make it is allowed unless it's restricted by the annotation.

MS. SONNABEND: Right.

MS. DIETZ: Okay. Okay.

CHAIRMAN KING: Jim, then Rose.

MR. RIDDLE: No, Rose was first.

CHAIRMAN KING: Okay, Rose, then Jim.

MS. KOENIG: Which gets me back, I guess, to sort of Kim's point and what you brought up in terms of the Sunset Provision. The Sunset Provision that was proposed by the committee allows for that -- the calling of more technical information on issues that have kind of surfaced, such as perhaps the fish in aquatic plants, and also allows, I guess, the NOSB to re-look at some of those earlier materials that were put on in the early years, that as I understand it -- and again, I wasn't on the board -- were in page formats and very abridged versions, not really a technical review at all but sort of just a
compilation of information that people could gather.

Could you comment --

MS. SONNABEND: Okay --

MS. KOENIG: -- to those reviews, because --

MS. SONNABEND: Uh-huh.

MS. KOENIG: -- you know, there is a suggestion that those -- that technical information was adequate, and that's what --

MS. SONNABEND: Right.

MS. KOENIG: -- I'm trying to understand, is the adequacy of that technical --

MS. SONNABEND: They varied a lot. There were 160 -- or -54 products reviewed in three NOSB meetings, or four. I mean, we had days where 40 were done in a day. But the background information varied from some that I have huge volumes in my files on just one material, to the one-page format.

They did receive technical review in the sense that each material got sent to three experts in the field, who did offer their opinions, just like today, but the source documentation that those three experts had to deal with was skimpier than it is today, and what they -- some of those three experts did actually write papers about it, and others just checked the box, "okay, synthetic," or
"not okay, synthetic." So it varies.

That source document does exist still. You can go back over it. But, you know, my concern with your -- the version that you showed me, that -- the way it's written, is that -- and I apologize for saying this, but some of the clarity of it is mired in proposing future guidance documents (chuckles), and it doesn't make clear that there could be things that won't need supplemental review to just be able to go through. So it would be good if it could just elaborate a little bit more on that, maybe.

CHAIRMAN KING: Okay. I have Jim, then Nancy, then Ann.

MR. RIDDLE: One comment, not a question. I appreciate your historical perspective on the aquatic plant extracts and that the only substances which can't be used are those which are allowed under the annotation, and I'd just like to read something from the preamble, that Rose had brought to my attention, Page 80612, where the NOP said that synthetic ingredients in any formulated products used as organic production inputs, including pesticides, fertilizers, animal drugs and feeds, must be included on the National List. As sanctioned by OFPA, synthetic substances can be used in organic production and...
handling as long as they appear on the National List.

So, you know, that really is the precedent that we're working under.

MS. SONNABEND: And that's why aquatic plant products is on there in the first place, because most people think: oh, that's a natural, but the extraction process renders it to be a synthetic, and that was decided by the original NOSB.

MR. RIDDLE: And my question is about the urea in the traps, and I -- I heard this interpretation, that it could fall under the EPA List 3 allowance that's already become part of the amended rule, and the question I have is about the removal of those traps as standard practice.

Are these something which actually can be recovered and removed or are we looking at --

MS. SONNABEND: Yes.

MR. RIDDLE: -- soil application here?

MS. SONNABEND: No, no. It's a little bottle.

MR. RIDDLE: Yeah.

MS. SONNABEND: It does not leave the bottle. The bottles are pulled down at the end of the year. The material gradually evaporates over time.

MR. RIDDLE: But the bottles themselves and any
residues or remaining materials are removed.

MS. SONNABEND: (Nods head.)

MR. RIDDLE: Okay.

MS. SONNABEND: I do want to make it clear that, you know, so far, that is my interpretation, but I have not advised these UF growers that they could use this yet --

MR. RIDDLE: Yeah.

MS. SONNABEND: -- until the petition got clarified.

MR. RIDDLE: Right.

CHAIRMAN KING: Okay, Nancy, and then Rose has an additional comment.

MS. OSTIGUY: Zea, my question is on urea still. Explain to me your reasoning for looking at urea as a pheromone rather than an attractant. It is not a standard pheromone for an insect.

MS. SONNABEND: Okay. A pheromone twist-tie, for instance, or a pheromone wing trap contains the pheromone, and then it contains additional substances that help the pheromone disperse, that keep it from breaking down too fast, that maybe -- you know, additional attractant-type things. We don't know what all the List 3s are. We looked at a couple of them, but we don't know
what they all are, in all the different pheromone traps, and the problem with reviewing them all is what led to there being an overall exemption. This -- it all comes in one package that you buy from the company.

In the olive fruit fly traps, mostly the growers put them together themselves. There is -- University of California has been providing pre-made traps to some -- in some counties, but mostly the grower has to get the pheromone, get the bottle, get the ammonium carbonate, and put it together themselves.

I see it as being an equivalent thing, although the grower made it themselves, but they do have to get the urea and the ammonium carbonate component from -- you know, it's a different thing, when they buy it, and they put it together themselves.

MS. OSTIGUY: Well, the logic --

MS. SONNABEND: So maybe you do -- I mean, it is your prerogative, but I'm just saying if you're going to reject the petition as it stands, word it carefully with whether you want to allow that, its use as an inert, or not, because otherwise it's still in limbo, the way it's actually used.

MS. OSTIGUY: But what I would -- what I'm trying to understand from what you're describing is the
difference between inert and active when the material is
an attraction. That is an active ingredient, in my
understanding of the definition, of active versus inert.

MS. SONNABEND: I think the pheromone companies
don't see it that way necessarily. You know, I -- it's
your determination to make.

MS. KOENIG: I think the problems you get with
this, what you're describing -- and again, I have to think
a little bit more about it, but my gut is, is that if
there's a commercial product, okay, that contains urea, it
would be under the inerts, it wouldn't be listed on that
product, then based on what we voted on as far as the
List 3s for those types of traps, it would be okay.

But what you're saying to me: with these
homemade jobs it's a totally different story because it's
not a commercial product, so in fact we can't -- you know,
our hands are tied on this one, we can't approve it as an
-- you know, an item, we can't approve it if it's not
registered with the EPA. I mean, for the first step is --
if it is -- so I'm saying if you can find a commercially
available product that has it as an inert --

MS. SONNABEND: How -- I mean, I just have
trouble understanding how farm advisors are recommending
it if it's not approved by the EPA.
MS. KOENIG: But farm advisors are not recommending it to the NOP --

MS. SONNABEND: Right, I understand that.

MS. KOENIG: -- you know, that's not our -- you know. So anyway, that's -- that's I think --

MS. SONNABEND: You know, it's another example of: the commercial companies get to sell the product but the farmer doesn't get to make it themselves.

CHAIRMAN KING: Other questions for Zea?

(No response.)

CHAIRMAN KING: Zea, thank you. David Engel is next, and Leslie Zuck is on deck.

MR. ENGEL: Good morning. My name is David Engel. I'm a dairy farmer from Wisconsin, still.

(Laughter.)

MR. ENGEL: I'm also the executive director of the Midwest Organic Services Association, and recently I am what would be called an interim board member, interim steering committee member, of the recently-formed Accredited Certifiers Association.

So my comments today, as they have been in the past, I tend to like to kind of step back and look at the larger picture and get a sense of what we're doing with the pieces that we have.
You know, like when we were growing up, our mother said, "Well, you pick them up and put them away." Well, as mature adults now, we have a lot of pieces out there that we're working with, and sometimes they get kind of messy, they're not really where they should be, they're not working properly, and, as several people have expressed today, when we come to a meeting like this, it's a mess, it seems like, to some of us, but I -- I don't take that view.

I think the pieces are very positive. Obviously they are what we have to work with. They are pieces like the NOSB, the national rule, the federal rule, the National Organic Program and their staff, the different certifiers, companies that are petitioning products, the petition process itself, all of these pieces go together, and we are working with them now.

So to repeat, then: process is everything to me, and we need to make sure that these pieces are working together. For example, one thing that has been mentioned before that we think would be very, very positive would be an executive director for the National Organic Standards Board, because that would help you people coordinate within yourselves and provide a go-between between the NOSB and the NOP. We think that would be very positive.
Another issue that has come up in the past, that I'm not sure where it's at, at a certain point -- I believe it was last year, I can't remember, the peer review panel was brought to the table by the National Organic Program and a certain kind of process was put in place. It didn't appear to me that it was what the Organic Food Production Act required in terms of a peer-review panel, but neverthe-less, there was something started, and I'd be interested to see where that comes from -- or how it ends up.

Another issue that has come up in terms of process has been timely publication of the ingredients that the Board recommends in the federal docket so that they can be brought into production, into use, by producers. Generally speaking, the community has felt -- and this was brought up today earlier -- that a recommendation and an approval by the National Organic Standards Board then would result in a timely publication in a federal docket and it could be used in a reasonable manner. That has not happened, and it's caused a lot of problems.

Another issue that has been brought up today and that I feel that some of these, you know, issues could be addressed by looking at the process we have, is: whose

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authority is it to provide guidelines, and what kind of
relationship are there in answering these questions, that
we all have, to what they mean on the ground, and an
example of that has to do with the treated seed, for
example.

The dairy interpretations that have been made by
the National Organic Program, that seem to fly in the face
of what everybody's been doing, and yet now there's an
interpretation, so -- it's a guideline, it's an
interpretation.

What does this mean to a certifier and how they
apply it? One good example of process that has occurred,
I think -- and I've talked with several of you about this,
and that's the feedback that I've gotten -- is last -- the
last NOSB meeting, you all went through a -- you stepped
back, you went within and you addressed the compatibility
issue, and this was based on a need, perceived by
everybody, to put together better --


CHAIRMAN KING: Finish that sentence and then
we'll have some questions.

MR. ENGEL: To provide better review of
materials. Thank you.

CHAIRMAN KING: Questions for David about any of

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the items he brought up?

(No response.)

MR. ENGEL: Thank you.

CHAIRMAN KING: Thank you. Leslie Zuck, and Urvashi is on deck.

MS. ZUCK: My name is Leslie Zuck. I'm the Director of Pennsylvania Certified Organic. We certify about 300 operations in Pennsylvania, a lot of chickens and cows. I'm also on the interim steering committee with Dave Engel for the Accredited -- the newly-formed Accredited Certifiers Association, and I would like to make a couple quick comments, at the beginning of my comment, about two of your draft recommendations, since you're going to be talking about those in the next couple days.

On the accredited certifying agents' procedure for determining minor non-compliances, I would really -- I know that you originally were asked to take out the term "major" as it applied to non-compliances, but I really would like to have you reconsider using the designations "major" and "minor" non-compliances because -- we've even just tried to discuss this document, and the issue -- it just becomes a semantic nightmare, and it could become a legal nightmare as well when we're dealing with clients,
because having the word "non-compliance" refer only to major non-compliances makes things unnecessarily difficult, because when you say "non-compliance," the word usually would refer to both of those types of compliance - non-compliances.

So it should -- the plain "non-compliance" should refer to either and we need to bring back the "major" and "minor" so that we can be clear what we're talking about. I mean, it's hard enough for certifiers to really understand, we're having a discussion in the staff -- you know, with the staff, and we have to convey that information to our -- our clients and our farmers.

On the commercial availability draft recommendation, Number 2-B, 3 and 6, these -- actually, these two first comments were also on behalf of the Northeast Certifiers Association, or group. B-3 is asking -- or requiring certifiers to verify the non-availability of a material by checking current lists of some sort, and we believe this burden should be placed on the producer to produce to us the Lists that were checked and, you know, bring that as part of their Organic System Plan. The burden is on the producer to verify that.

And Number 6, submitting a list to the NOP of all materials that we approve, and we would just like to
know why -- what would that information be used for and why would that additional burden be placed on certifiers.

Okay, my main comment is about the guidance statements -- the guidance statement on the use of fishmeal as a protein supplement in the feeding of organic livestock.

After reading the document, it occurred to me that it would be extremely important to have a definition, a better definition, of what a protein supplement is. Since it doesn't have to be organic and it can be fed in any amount, I fear that without more specific information defining it, that it would open the door to a lot of things. What one producer or certifying agent would call a supplement another producer or certifying agent could just as easily call a feed ingredient, which would then have to be organic.

So we need a little help here. In fact, the current definition does -- it says -- it defines a feed supplement as a combination of feed nutrients, some even saying fishmeal as a stretch, to get under that definition, if it's not a combination of feed nutrients. So I think we just need some help with that there.

I would also like to ask for clarification from either the NOSB or NOP regarding Section 205.237 and as to
whether the non-synthetics referred to there cover both agricultural and non-agricultural materials. The fishmeal guidance statement doesn't clarify whether the fishmeal is allowed because it's non-synthetic or because it's non-agricultural, or doesn't it matter.

As an accredited certifying agent, it's important for us to have this clarification. It affects things like the use of maybe molasses, kelp, alfalfa meal, or, depending on the definition, even soybean meal as a protein supplement. So we need a little help with that too.

It's important for us to know whether we must prohibit these non-synthetic materials and supplements that are allowed under .237 if they also contain a synthetic ingredient that is not on the National List. PCO has allowed the use of fishmeal as a non-synthetic under .237 as long as it did not contain a synthetic ingredient not on the National List, such as a synthetic preservative, ethoxyquin, but fishmeal preserved with the natural preservative Nature would be allowed. Did I say we did allow -- we did not allow the use of fishmeal with ethoxyquin but we do allow the use of fishmeal with the natural preservative Naturox.

So since the statement -- as long as it does not
contain synthetic ingredients is missing from that
guidance statement, I'm just wondering why that issue
wasn't mentioned and whether, as a certifying agent, I
should be allowing or prohibiting these materials.

CHAIRMAN KING: Thank you. Questions? Andrea,
Ann.

MS. CAROE: Do you have your comments written,
Leslie?

MS. ZUCK: I do not. I could write them.

MS. CAROE: I mean, you've got a lot of good
comments in there about a lot of recommendations.

MS. ZUCK: Yeah.

MS. CAROE: We're going to be discussing that,
and I tried to take as good notes as possible, but --

MS. ZUCK: Well, I'll tell you what, my next
sentence was going to be a recap of those three things,
the three basic -- the three basic questions I have, which
are: a need for a better definition of supplement,
especially protein supplement, which there is no
definition for; and can the non-synthetics allowed under
205.237 be agricultural or non-agricultural; and three, is
fishmeal allowed even if it contains a prohibited
material, and if so, are other non-synthetic supplements
also allowed if they contain prohibited materials.
So that's kind of a summary of my questions.

CHAIRMAN KING: Well, and I think it would be important if we could get copies of those questions somehow, even if --

MS. ZUCK: I'll do that. I have it on my computer, but I couldn't print out.

CHAIRMAN KING: Oh, yeah. But they're very well thought out, so I think it's important to go ahead --

MS. CAROE: And also your comments on the minor non-compliance and commercial availability.

MS. ZUCK: Okay.

MS. CAROE: Well, I guess this was under the commercial --

MS. ZUCK: Yeah, that was --

MS. CAROE: Yeah, the commercial availability as well.

MS. ZUCK: The commercial --

MS. CAROE: Those comments that you made as well, I'd like to see those written down, if I could.

MS. ZUCK: Sure, I'd be happy to.

CHAIRMAN KING: You're passing --

MS. ZUCK: I wrote these on the train, so you don't want a copy of this.

CHAIRMAN: We're going to get to you eventually,
okay?

         MS. ZUCK: I can hardly read it.

         CHAIRMAN KING: Third time's a charm, right?

         Jim, you --

         MR. RIDDLE: Yeah. On the commercial availability, we did receive some other comments that were posted on the website, similar to yours, and I don't have the draft open in front of me right now, but I do believe that we've made some changes --

         MS. ZUCK: Good.

         MR. RIDDLE: -- but we will -- I'll be presenting that tomorrow morning. So you'll be here?

         MS. ZUCK: I will be.

         MR. RIDDLE: Great. Yeah. So if they're not being addressed, then speak up, you know, at that time, if they haven't, but it would sure be helpful to get them in writing.

         MS. ZUCK: Will do.

         MR. RIDDLE: As far as answering those other questions about the implication of the feed -- fishmeal, I think we have the same, similar questions.

         CHAIRMAN KING: Other questions for Leslie?

         (No response.)

         CHAIRMAN KING: Okay. Thank you.

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MS. ZUCK: Thank you.

CHAIRMAN KING: Urvashi, you're up, and James Wettle is on deck.

MS. RANGAN: Good morning. My name is Urvashi Rangan. I'm an environmental health scientist for Consumers Union. We're the publisher of Consumer Reports magazine. I also direct the eco-labels project at Consumers Union, where we rate environmental labels on lots of products, and organic is definitely one of them. So one of the main missions of that is to educate consumers as to what organic means, which is why I come here to every National Organic Standards Board meeting.

We want to thank you again for your tireless efforts to guard the standard and guard this label for consumers. Without you, without these open public forums, it would be very difficult for us to express our concerns on a regular basis about these things. It also gives us an opportunity to regroup, to learn what new things have been issued.

We also want to commend the NOP for prohibiting the use of the USDA label or any NOP approval implications on personal-care products, on dietary supplements, and on aquaculture. We think that consumers are better served by that, and for those -- for all of those for a variety of...
different reasons, but we commend them for their actions on that.

However, these guidance statements that have been issued in the last week, of which I think there were four new ones, I'm not sure what this is. Some of these come with significant changes to the regulations and to the law. This is a public program. That process that needs to be in place is that these things need to be proposed in regulations for public comment. It's really difficult when we have clarification statements that are also subject to change at any time without public comment. This is not what guidance needs to be, this isn't how this program needs to be run.

There's one of these directives that's of particular concern to Consumers Union, and I think I'm going to probably spend most of my time today talking about that, but there are other issues that I'm going to be bringing up on Friday concerning labeling inconsistencies, concerning the fishmeal, concerning the antibiotics in livestock.

But this one I'm going to talk about today is of most concern to Consumers Union. I don't think there's been an issue as important to maintaining consumer confidence in the label, and that has to do with this
compliance and enforcement directive for pesticide use in
organic production.

We don't see this as a compliance and
enforcement strengthening; we see it as a loosening of
compliance and enforcement. Consumers expect -- and this
is what the regs and the law say -- that there are no
synthetic pesticides reviewed unless otherwise reviewed by
the National Organic Standards Board and approved for use
on the National List.

We get this question all the time from
consumers: what is on organic produce, are there
pesticides being used, are there synthetic pesticides
being used. To be honest with you, I get it internally at
Consumers Union. People don't quite understand. And it's
already convoluted enough to explain that well, it's not
that there aren't any synthetic pesticides, but those that
are used are approved by this board. That is the very
essence of the law and the regulations, and it is before
they are used they are reviewed and approved.

This entire document disregards that fact, that
these compounds and these agents need to be reviewed
before they are used. Many of you may recall the
Consumers Union has tested organic produce for pesticide
residue, we did that before the National Organic Program.
Because there have been assurances now that there is a process in place for reviewing these materials, the question has not been opened again, as to whether or not these things need to be tested. This document opens that question. These prohibited pesticide residues could be found now on organic products that include ingredients on EPA's List 2 and 3 that are prohibited for use in organic production.

Consumers rely on this board to make sure that that doesn't happen. It cannot happen. It is serious erosion of what the organic label means to consumers. And this guidance document makes significant changes to that and makes a serious shift of the standards.

It's based in secrecy, these ingredients are not required to be listed, it is under confidential business information. Based on a conversation I had with EPA yesterday: only the manufacturer really has access to what ingredients are in those formulations. EPA is the only one that can crack that code. That's why EPA proposed a pesticide registration guidance for manufacturers of pesticides who want to get extra labeling that their pesticide is okay for the National Organic Program. We would like to see this board mandate that pesticide manufacturers have to go get that NOP label from
NOP -- from EPA. EPA has offered to do it. We need to
  take them up on that opportunity.

  CHAIRMAN KING: Questions or comments for
  Urvashi?

  (No response.)

  CHAIRMAN KING: Thank you very much.
  MS. RANGAN: Okay. You're welcome.
  CHAIRMAN KING: I have James Wettle up next, and
  then Marty Mesh is on deck.

  (Pause.)

  CHAIRMAN KING: This is your official proxy, I see. So we'll have the opportunity to see Marty for ten
  minutes.

  UNIDENTIFIED MALE VOICE: I think he needs a
  handicap for doing this to me.

  (Laughter.)

  MR. MESH: They asked me to. As the primary --
  my name's Marty Mesh, reading comments on behalf of the
  Texas Organic Cotton Marketing Cooperative.

  As the primary marketer of organic cotton grown
  in Texas, the Texas Organic Cotton Marketing Cooperative
  is against the NOSB's crops committee's proposal that
  hydrogen chloride not be added to the List of allowed or
  regulated substances. Our reasons and comments on
recommendations and the TAP reviews are detailed below.

As stated in the co-op petition, we are requesting that the NOSB allow the restricted use of hydrogen chloride in the process of de-linting organic cotton seed because we have no alternatives.

First of all, there is no commercially-available organic cotton seed; second, there is not any commercially-available non-organic cotton seed that is not acid-delimited; third, planting un-de-linted or fuzzy seed is not an option with mechanized planting; and fourth, there are no commercially-available alternative processes for de-linting the seed or otherwise making the fuzzy seed suitable for planting.

The crops committee and TAP reviewers suggest the use of lactic or acetic acid as alternatives but acknowledge that these may not be effective. All of the de-linters and others with expertise in dealing -- in the de-linting process, that we have talked to, agree that these acids would not work satisfactorily.

One of the persons we discussed this with was Dr. Gay Jevedin [phonetic], retired senior director of research for Cotton, Inc., who is the co-developer of the dilute acid-de-linting process using sulfuric acid. Dr. Jevedin stated in a phone conversation April 14th,
'04, quote, "Acetic acid and lactic acid would not be suitable alternatives for commercial de-linting of cotton seed. These acids are too weak to remove the lint in a short enough time to prevent damage to the seed," unquote.

As far as alternative processes of de-linting, we have pursued and are continuing to pursue any possibilities that we find. We're working with Tom Wiedengardner [phonetic], director of cotton seed research and marketing for Cotton, Inc., on starch coating the fuzzy cotton seed to make it usable in mechanical planters. Wiedengardner, who has been involved with Cotton, Inc., in the development of easy-flow cotton seed for the feed industry is now trying to improve the process for planting seed. We have sent him 250 pounds of fuzzy cotton seed for trial in his pilot plant, if he is able to get it going.

However, Wiedengardner indicates that at best commercial availability of planting seed using this process is several years away.

Also another company, LT Kinzer Company, is working on an enzyme de-linting process, but here again, it is in developmental stage and is a few years away from commercial availability.

We've also looked into the mechanical de-linting
options but because of the various problems have not found anything that's a viable solution. One of the best hindrances to finding an alternative to de-linting with hydrogen chloride, whether it would be trying organic acids or special mechanical de-linting, is that no commercial de-linting company is willing to do anything out of the ordinary for the small quantity of planting seed needed by organic producers. We have difficulty even obtaining acid-de-linted seed that is not treated with various chemical seed treatments.

The large seed companies will not provide untreated seed at all. We are fortunate that one small seed company has been very good to provide us with untreated planting seed, and a few local de-linters will de-lint producer cotton seed and leave it black, with no chemical seed treatments. However, even these who have provided us black seed are not at all interested when approached about alternatives to hydrogen chloride because our volume is so small.

The TAP review mentions that, quote, "organic cotton production is more than a hundred-million-dollar-a-year business," unquote. However, the current annual farm value of cotton sold in the organic market is approximately 2 million -- that's a 98-percent error --
for production in the United States and 15 million worldwide.

The TAP review also touches on the issue of whether the use of hydrogen chloride as a de-linter means HCI is being used as a processing aid or a seed treatment. It is our position that it is a processing aid, not a seed treatment, because of, among other reasons, the fact that EPA does not require that it be registered as a seed treatment.

The criticalness of the issue of organic cotton producers' ability to plant seed that has been de-linted using hydrogen chloride cannot be overemphasized. The members of our cooperative produce a large majority of the organic cotton grown in the U.S. --

MS. DIETZ: Time.

CHAIRMAN KING: Finish your summary, please.

MS. DIETZ: Your time on your first five minutes up, so you can finish it up --

MR. MESH: Well, let me finish the sentence.

MS. DIETZ: That's fine.

MR. MESH: All of our numbers you see that has been de-linted with HCI, as far as we know, all other producers in the country do also, and I'll give part of my five minutes to the Texas Organic Cotton Cooperative, to

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finish their letter.

MR. RIDDLE: Okay. Go ahead and then finish and then we'll see if there are any questions on this.

MR. MESH: As has been previously stated, we have no alternatives at this time. If organic producers were to be decertified for the use of this seed, it would eliminate organic cotton production in the U.S. If that happens, 4,000 or more acres would return to conventional cotton production because there are no other economically viable crops in this arid region, west Texas.

It would be especially regrettable for this to happen at this time because the demand for organic cotton appears to be finally taking off, our cooperative and others have worked very hard for many years to develop the organic cotton industry. It would be a tragedy if just at the point that there's potential for converting significant acres of cotton to organic with the accompanying reduction in pesticide use. I don't know if you're aware of how much pesticides are used in conventional cotton. It's substantial. In fact, there's none -- no other crop more.

The seed issue is allowed to eliminate domestic organic cotton production. We urge you to recommend that hydrogen chloride used for de-linting cotton seed be
considered a processing aid and to allow hydrogen chloride for use in organic production for de-linting cotton seed.

The Texas Organic Cotton Marketing Cooperative will continue to pursue both mechanical and organic solutions for the process and will inform you as soon as we have found one.

MR. RIDDLE: And Marty, my clock shows you used just a little over a minute of your own time, so why don't you start --

MR. MESH: I think Kim was the timekeeper, I thought we were going to make improvements in the ability for timekeeping.

(Laughter.)

MR. RIDDLE: It's hard to let go of that (inaudible). But you'll have about four minutes on your own is what --

MR. MESH: "About" is the critical --

UNIDENTIFIED MALE VOICE: Your reputation precedes you.

MR. MESH: You know, if there's questions on the de-linting -- I mean, I would also add that your TAP review is suspect, you have a Ph.D. of -- associate professor of chemistry in the middle of the U.S., you have

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a masters with biochemistry in forensic drug testing in
the eastern U.S., and you have the U.S. --

CHAIRMAN KING: Marty, let me just interrupt.
Are there questions for Marty concerning the de-linting
process?

MR. MESH: Or the TAP reviews, I would take
either one.

MS. KOENIG: No, and -- you know, Marty and I
had talked as I know he had -- we had concerns with the
TAP report, I mean, and that's what I wanted to make clear
to individuals sitting in the room, is that when we vote
and when we submit a recommendation for either crops or --
you know, any of the committees, I mean, it's based on the
information at hand, and that's why it's really important,
now that we're following that process and having it on the
website in advance, that hopefully we'll get more of this
public input and -- which means, you know, back to Jim's
comment, that: yeah, there's some decisions in there that
the committees made, but again, those decisions were made
based on the information at hand, and we worked to try to
let people know about that so that if there was other
information that we didn't have within the TAP, that we
could consider that. So I thank you and I thank the Texas
cotton growers for coming forth with that information,
because one of the big things was the -- that gray area of alternatives, and the fact that they have brought forth an expert really helps the process, as far as being able to reconsider and think about this thing before the final vote.

The question I had was -- and what wasn't clear was whether the co-op -- and I think you made it clear. When you say organic seed production, were they -- are they in fact producing organic seed that they're trying to use themselves or is this an issue in both the non-commercial-ly-available -- you know, that organic seed is noncommer-cially-available and therefore it's just a process similar to the foundation seed that's occurring and therefore cotton is not even being able to be grown?

I mean, I assume that they're using seed that is already being processed, or de-linted. I don't know. What's the current situation?

MR. MESH: Right. The petition is so that organic cotton producers can use organic cotton seed in planting. It has to be processed as a processing aid with hydrogen chloride, so that they can continue to do that. If you deny the petition, then the only thing they have left to do is find -- there is no alternative. You know, I was going to say find treated -- I mean find
conventional seed, but that's going to be treated with HCI as well. There is no alternative.

MS. KOENIG: Thank you, because that wasn't clear.

MR. MESH: So their goal is to use organic cotton seed.

CHAIRMAN KING: Nancy has a question, then Dave.

MS. OSTIGUY: One of the points that you read in the letter, that I have a question about: since cost is not an issue that we can consider, one of the items is that planting of the linted version of the seed is impossible with the mechanical planting process.

MR. MESH: It's not possible. I mean, you plant cotton on thousands of acres --

MS. OSTIGUY: Right. Well, that's what I said, is it's not possible, right. But is mechanical processing -- is that a cost issue? What's the reason for mechanical planting?

MR. SIEMON: Compared to doing it by hand?

UNIDENTIFIED FEMALE VOICE: You mean mechanical -- any mechanical de-linting?

MS. OSTIGUY: Well, yeah, I'm supposing.

MR. SIEMON: Mechanical de-linting?

MS. OSTIGUY: No, I'm talking about planting,
because it says that you can't plant linted cotton. One of the ideas is -- linted cotton seed because it messes up the planter. I'm not a farmer, okay, I --

MR. SIEMON: So you mean as compared to planting by hand?

MS. OSTIGUY: I know honey bees really well, you ask anything about honey bees, I can do that, but farming I don't know. And so the question is: is there any other way to plant?

MR. MESH: No, there's not any other way to plant --

UNIDENTIFIED FEMALE VOICE: Not commercially.

MR. MESH: -- cotton on -- I mean, you know, you can't grow cotton planting by hand. And, you know, Keith was a cotton farmer, or your dad was a cotton farmer, and maybe he could add some expertise, you know. I mean, I can tell you all about watermelons but not --

UNIDENTIFIED MALE VOICE: We don't hold that against the cotton industry.

(Laughter.)

MR. MESH: But as far as I know, there is no other way to plant cotton except mechanically planted.

MS. OSTIGUY: Which is what the question was: is there another alternative to planting.
UNIDENTIFIED FEMALE VOICE: To the best of his knowledge.

CHAIRMAN KING: Okay. All right, Dave, you had a question.

MR. CARTER: Well, mine was almost along the same line of Nancy in that I need, you know, cotton 101. Coming from Colorado, it's not a big crop up there.

MS. OSTIGUY: Yeah.

MR. CARTER: But in planting it, I mean, is the de-linting -- the planting is the only issue that the de-linting is relevant? I mean, are there other -- other reasons that you need to de-lint the cotton seed before planting it or is it just because of the -- the mechanically planting?

MR. MESH: Mechanically planting.

MR. CARTER: Okay. There -- I mean, is there any other ways of -- is it drilled, like you drill wheat, is it --

CHAIRMAN KING: Keith, please, come forward. You'll have to come to the mic, otherwise I'll be in trouble with the court recorder.

MR. MESH: Just for the record state your name.

(Laughter.)

MR. JONES: I'm Keith Jones, with the National R & S TYPING SERVICE - (903) 725-3343

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Organic Program, and unfortunately, I have been a cotton farmer, so --

The last fuzzy cotton that was planted in the cotton belt was probably in the 1950s. My dad switched over from fuzzy planting to acid-de-linting planting in the mid to early '50s. You can't even find planters today that will plant fuzzy seed. If you look at planting systems today, it's primarily vacuum planters, and even when you were using plate-type planters, that technology was really not available even up until the mid '50s, was really the last fuzzy plate-type planters that were -- that were available.

So you're -- so because you're using vacuum planters today, de-linting is even a -- more of an issue than it was, say, even, you know, 30 years ago, because what you're trying to do is move that seed through essentially a tube, a plastic tube, about three-quarters of an inch, and you're trying to move that seed through vacuum from the seed hopper into the ground. So it's a planting issue, pure and simple. And when these folks say the technology is not available to plant fuzzy seed, that's a hundred percent correct, it's not available.

CHAIRMAN KING: Quick question, someone who spends a fair amount of time among collectors of antique...
and old equipment and that sort of thing. What you begin to see over time is sort of the "what comes around goes around" adage and that, you know, technology does sort of reappear, and in your opinion, with this experience, Keith, would there ever be a point in the future where a planter would be remanufactured to plant fuzzy seed; if so, why; if not, why?

MR. JONES: Now, in my opinion, Mark, that's not going to happen, for two reasons. One, all the fuzzy planters of that era essentially went to Mexico and got junk, that's where all our planters went, okay. You might find a 4-O planter somewhere, stuck in a tree row, that could still plant fuzzy seed, but farmers out on the high plains of Texas use 12-, 16-, 24-row equipment, okay, it's very sophisticated. And so to go back -- to go back to that 4-O operation is just out of the question.

There's actually no demand even to do so, for an equipment manufacturer to do that, because nobody plants fuzzy seed anymore. The chosen path beginning in the 1950s for seed production was acid de-linting, and the reason for that is it's primarily a fungal issue. You take -- I mean, you get a better distribution in the stand [phonetic] because it's easier to plant, but it's also a fungus issue, because what you've got in fuzzy seed is
you've got the ability to create disease and fungus problems. If you eliminate that seed, particularly in areas that's got high ambient temperatures, if you eliminate that fuzz around the seed, you eliminate any place for that fungus to grow, okay.

And so we were able to move from -- and this is off the top of my head, but we were able to move from planting about 20 to 24 pounds per acre fuzzy to, at the time of our latest technology, which was in the early '80s, anywhere from 6 to 10 pounds per acre de-linted, okay.

CHAIRMAN KING: Nancy.

MS. OSTIGUY: Keith, the -- so -- but did the de-linting decrease application of fungicides or any of that sort of -- or did it just increase your ability to -- increase the density?

MR. JONES: Yeah, the issue, Nancy, is that -- one of the things that these guys are wrestling with is that when you -- when you de-lint seed, you routinely apply some sort of fungicide too. Okay, that's just -- that's just the process. If you go to the de-linter, they're applying -- they're not only de-linting but they're applying a fungicide.

MS. OSTIGUY: With conventional seed.
MR. JONES: With conventional seed. So the challenge for the folks in Texas is to -- is to essentially get the seed de-linted, pull that seed out of the line so that the fungicide doesn't get attached to it, and it's my understanding that the -- the cotton industry, because these guys are not using GMO materials, it's still a save-your-seed kind of industry.

I mean, we saved all our seed when I was growing up, you would catch your planting seed from the gin, you would take it to the de-linter, have it de-linted, and that was -- that was what you would use. We used foundation seed that we saved for about 4 years and then we bought foundation seed about every 4th year.

And it's my understanding that JIMI [phonetic] is adopting a similar practice, and that is, they are harvesting organic cotton grown in -- according with the regulations, they are catching the seed at the gin, they're then taking that seed to the de-linter, and because they have to have it de-linted in order to plant the next crop, they have to have the HCI applied to it, and then the HCI essentially kicks it out from being organic again.

So they're caught in this kind of catch-22 that they're never going to be able to get out of the cycle,
so --

MS. OSTIGUY: Okay.

CHAIRMAN KING: Are there additional questions or comments for Keith?

(No response.)

CHAIRMAN KING: Thank you very much, Keith.

MR. MESH: So moving into my four and a half minutes or so, the --

(Laughter.)

UNIDENTIFIED FEMALE VOICE: We'll see

(Laughable) --

CHAIRMAN KING: Yeah. It may be less at this point.

(Laughter.)

MR. MESH: You know, again, my question is about the TAP reviewers having no -- no history with cotton production and relying on them for expertise. I view this petition similar to methionine, I mean here's an industry trying and looking at doing -- you know, creating alternatives, trying to be in search of alternatives, thinking that there is an alternative in the future, doing some research, but clearly it's a few years away, and this board approved methionine, you know, for a limited amount of time, saying, "Let's do the research and try to find
something that's more compatible with organic."

I will also bring up the issue that organic cotton seed is a huge feed source not treated with HCI, that seed is captured before the de-linting process and then it goes into being a component of livestock feed, and if you -- you're going to do away with a huge potential source of livestock feed, and Jim Pierce could probably give you some figures on how many producers are using organic cotton seed as a livestock feed source.

So, now moving on to Quality Certification Services, that's who I'm here to represent, a USDA-accredited certifier. We sent a letter to the USDA and the past secretary of the NOSB by mistake, but I hope that he forwarded to the rest of the members of the Board our letter, requesting a revision -- you know, re-looking at the scope document.

We're specifically concerned about aquaculture, which has been certified to the national rule prior. It was an excellently-written letter, and I'll make sure you get a copy eventually from Jim.

(Laughter.)

MR. MESH: And fabric, we think -- we're a little confused on that. It's not the worst thing to make a mistake or issue a guidance document or a direction that
should be reexamined; it is much worse to not be willing to admit a mistake and remain adamant that driving down the wrong way -- driving down the wrong way of a one-way road is okay because it's only going one way.

We request the NOSB to pass a resolution requesting the USDA to take the steps we outlined in our letter, which your past secretary has, to protect the organic farmer and confidence of the organic consumer, and I could go into it, but because the clock is ticking, I wouldn't get very far, I reckon, but, you know --

MS. DIETZ: Now you've got a minute.

MR. MESH: But basically, you know, there was a May '02 policy statement, and there's been public statements made by the program, saying if you can certify something to the Rule, it can be by an accredited certifier, you can label it as organic and put a USDA seal on it. People have invested hundreds of thousands of dollars in organic production practices, meeting that, based upon information -- in legal terms they call it detrimental reliance, when you clarify something with an authority and then act upon that, and those people are being put out of business immediately based upon that scope document, or scope change, without any public process.
So just know that I've finished early, I think
this is a first.

(Laughter.)

CHAIRMAN KING: Okay. Kim has a question.

MS. DIETZ: While you were commenting on people
-- reviewers of the TAPs, I just had one comment I was
going to make, but since it's kind of brought out --.

One of the reviewers for a number of TAPs on the
crops committees was an accredited certifier, and I --

MR. MESH: Can they certify cotton?

MS. DIETZ: -- I had a problem with that. There
was a number of materials. So I just questioned having
accredited certifiers actually conduct TAP reviews, I see
somewhat of a conflict of interest there, and so we just
probably need to address that.

MR. MESH: And did that certifier have
experience in cotton?

MS. DIETZ: It was on three or four materials
that we're going to be reviewing (inaudible) --

MR. MESH: Right, but my guess is they've never
certified a cotton farm.

MS. DIETZ: Probably not, but it was -- it was
an accredited certifier that -- I think it's a potential
conflict.
MR. MESH: I think that's a comment to a process, you know, but --.

CHAIRMAN KING: Additional questions for Marty? Jim?

MR. RIDDLE: Yeah. Not a question, but I did receive your letter, and it was excellent and very well-written.

MR. MESH: I couldn't hear you, what? It was what?

(Laughter.)

MR. RIDDLE: And I will forward it to the rest of the Board. I thought you'd sent it to all the Board members, so I'm sorry for that. But, you know, the concern you raise is major and a change in the rules of the game after companies have made investments when the previous scope document said: if you can certify, if you can produce to the Rule as written, you're eligible for certification, and companies in a number of sectors have done that, and I -- you know, I think it's something that we probably need to hear a response from the NOP on how they came to that conclusion and also what their response is to the companies that are suffering economic harm because of this reversal in scope.

CHAIRMAN KING: Other questions?
(No response.)

CHAIRMAN KING: Thank you, Marty.

MR. MESH: Finished early.

CHAIRMAN KING: Indeed, nice. I don't know if Steve Harper's in the room, I have him down for public comment.

UNIDENTIFIED MALE VOICE: He is.

CHAIRMAN KING: He is?

UNIDENTIFIED FEMALE VOICE: We at least can acknowledge that he's here.

CHAIRMAN KING: He's saying no -- okay.

MR. HARPER: I'm Steven Harper, from Small Planet Foods. I guess I just want to acknowledge all the hard work that the NOSB continues to put forth. I'm sorry. I just wanted to acknowledge the incredible work that the NOSB continues to put forth. And I have a lot of concerns, but I did not have time to put some comments together, but I do want to make some positive comments on the 606 Task Force and the direction of the commercial availability and the clarification of the national -- the National List as it regards processing, and I think that is a very good direction for the Board as far as a recommendation, and I guess I'm going to leave my comments there. So I think that's a really good direction to help
clarify that whole situation.

CHAIRMAN KING: Well, it's very good to see you and very nice to have you here, and we appreciate any comments you have.

I think now -- it's 11:45. What we'll do is break for lunch and come back, unless there are additional -- anyone who has not signed up, that wishes to give public comment, okay, and after lunch we'll begin with the NOP comments. We're scheduled to start at 1:15. I would literally like to start at 1:15, so please be back before that. Thank you.

(Off the record at 11:45 a.m. and reconvened at 1:17 p.m.)

CHAIRMAN KING: I'll reconvene the meeting of the National Organic Standards Board. First up is our comments form the National Organic Program, Rick Matthews.

Rick has indicated that he has a number of slides, and I would entertain questions from the Board as he goes through his presentation; however, he may at some point say, for example, "the next slide may answer this question." So we'd like to get this through this efficiently, knowing that we have limited time. So if you do have a question, please feel free to make note and we'll recognize it. It's all yours, Rick.

MR. MATTHEWS: Okay. I would stand up, but we
do need to be able to work the microphones. Katherine, take it to full screen.

Okay, I'm Richard Matthews, I'm program manager of the National Organics Program, and I've got about 40 slides here that we're going to try and answer a lot of the questions that have been coming up, and the first one is we're going to talk about the cost-share program.

There currently are two different cost-share programs, there's what we refer to as the AMA, which stands for Agricultural Marketing Assistance program, and then there's the National Organics Program.

The purpose of these two cost-share programs is to assist with costs of the NOP certification. Under this program, the -- under both programs, actually, the AMA and the National,

Certified operations are entitled up to 75 percent reimbursement of their cost of being certified. The maximum amount that they can receive is $500. This is actually per year, so somebody who is renewing their certification is also entitled to receive cost-share funding.

Both programs are administered cooperatively between the USDA and the participating states. USDA allocates the funds to the states and the states process
the applications and distribute the funds to the people
who apply for cost-share.

The AMA cost-share program is a $1 million
program. It's currently funded yearly. It's for
producers only. There are 15 states that are eligible to
participate in this program. 13 of them are found in the
Northeast. The two exceptions to that are Utah and
Wyoming.

We currently have 14 states participating. The
state that is not participating is Rhode Island. Rhode
Island has historically not participated because Rhode
Island has historically not charged for certification.
They are going to, however, begin participating in this
program with the next fiscal year.

For our purposes, a fiscal year runs from
October 1st through September 30th, so beginning fiscal
year 2005, which begins October 1 of this year, Rhode
Island will join the group.

The national cost-share program is a $5 million
program. It's a one-time funding. To date we have
allocated -- or obligated 3.6 million of that $5 million,
which means that there is 1.4 million that remains, that
can be obligated to the states that are participating in
the program.
The national program is for both producers and handlers, but because of the AMA program, those 15 states that are under the AMA program, it's only handlers that apply under the national program in those 15 states.

We currently have --

CHAIRMAN KING: Rick, you've got a quick question, I think, about cost-share.

MR. RIDDLE: Yeah. You say there's 1.4 million left that hasn't been allocated, so at the current rate of allocation, by the end of this year or next year, would you anticipate --

MR. MATTHEWS: We have no idea when it'll run out. As states need additional funding, we provide that additional funding based on the history of the use of the funds within the state.

MR. RIDDLE: Would it be safe to say by the end of 2005 it could be short of funds?

(Laughter.)

MR. MATTHEWS: I --

MR. RIDDLE: Well, I'll say that. You don't need to. Okay, thanks.

MR. MATTHEWS: All right. We have 45 states participating in the national program. The two that would be eligible for both producers and handlers that are not
participating are Arizona and Louisiana. Delaware, Nevada, and Rhode Island are those states that are in the AMA program, their handlers are not being served under the national program.

The next one is a category that we seem to have had a lot of interest in lately, and that's the NOP budget. The total budget of the National Organics Program is $1,443,000. The Department, meaning USDA, and the Agricultural Marketing Service take overhead from that. The overhead that is expended is $180,756. That leaves, for salaries and benefits, $741,846, which is actually an increase over previous years. The NOSB is budgeted this year at $90,000. Now, what comes out of that budget is the cost of travel for board members, the printing of all of the documents for the board members' meetings, renting this room, paying for the airline tickets, things like that.

Then also included in there, for example, this year is the nominations process for new board members. Other non-paid category is $430,400. This includes travel, staff travel, parcel post, rent, communications, utilities, contracts, printing, supplies, equipment. Under contracts you will find TAP reviews, you will find our contract for doing compliance work, contract on copier
maintenance. So that's where the contracts come in, mainly copier, compliance, TAP reviews, and some other miscellaneous things that we've done in the past, you know, 40,000 here for -- for example, I believe it was with ATRA we did a $40,000 contract. So that's the kind of thing that goes into that.

UNIDENTIFIED FEMALE VOICE: (Inaudible.)

MR. MATTHEWS: Yeah. And in the non-pay area, contracts takes up the lion's share of that, there's very little that goes into these other areas.

Okay, now moving on to compliance cases, for fiscal year 2003 we had 114 cases that were opened by the compliance staff. 16 of those 2003 compliance cases remain open, seven of them are still in NOP compliance, nine of them have been referred to the NOP staff for follow-up work, and out of the nine that have been referred back to us, we have gone to the attorneys and requested the filing of a complaint for revocation of certification, so we have one now that has gone to the hearing clerks, to be assigned to a judicial officer. Three cases have been combined into one of the seven open cases in the NOP compliance.

That means that 96 of the cases that were open - three cases have been combined into one of the seven

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open cases in the NOP compliance. That means that 96 of
the cases that were opened in 2003 have been closed. 32
of those were closed because there was no NOP violation.
Six of them were also closed because there was a lack of
evidence in order to pursue the case. 58 of the cases
resulted in corrective action.

You'll note that from the Listing below, most of
these deal with labeling issues. The second most common
violation is: not being certified. So out of the 58
corrective actions taken, 26 have corrected the labeling,
12 have removed organic labeling from their products,
seven chose to become certified, and that was basically
the violation, they weren't certified, and 13 other
corrective actions.

Now, I can't sit right here and tell you what
each one was, but they're single occurrences of a
violation that were not of a labeling or a certification
nature.

In fiscal year 2004, so far we've opened 18 new
cases. Seven have --

UNIDENTIFIED FEMALE VOICE: (Inaudible.)

MR. MATTHEWS: I'm reading from the wrong slide.

43 cases were opened. 25 remain open. Of the 25 that
remain open, 21 are still with NOP compliance, they're all
under investigation. Four of them have been referred back to the NOP, and we'll be taking additional action.

Now we go to the closed cases. 18 of those cases that were open so far this year have been closed. Seven of them, again, no NOP violation. In fact, one of those seven involved an exempt operation. Eleven others have taken corrective action: three corrected labeling, three removed organic labeling, and then five other corrective actions.

Again, you can see that the primary reason for the cases that we're receiving have to do with either the person is not certified, which is the second most common, and then the most common is the labeling issue.

Okay, new members for the --

CHAIRMAN KING: We've got a quick question from Andrea.

MR. MATTHEWS: Andrea.

MS. CAROE: These cases where there is a representation of organic that is not certified, what surveillance is picking these folks up, is it complaints that you're receiving from the public or is this some other type of surveillance that's --

MR. MATTHEWS: Well, the compliance staff also does surveillance by going into supermarkets and buying...
product.

MS. CAROE: Is that primarily where you're seeing -- because I mean there was always a question, we knew that --

MR. MATTHEWS: Some of them are a result of an NOC compliance staff buying products and then following up with the sellers of those products. The other way is through people who are filing complaints, and I don't have a breakout of how many of them were the result of complaints versus how many of them were the result of the compliance staff going into supermarkets and buying product.

For the Board, as I'm sure that many of you are aware, there is going to be five openings effective January 24th of 2005. Two of those are producers, one is a handler position, one is an environmentalist position, and one is the retailer position. These are 5-year terms of office. We have gone out with an announcement, and the resumes -- for those people who are interested in being board members, the resumes are due June 14th of 2004.

To date, we have published the news release that was published on March 8th of 2004. We've also issued a Federal Register notice, which was published on March 16th of 2004. That is what we have done in the past, a news
release and a Federal Register notice. This year, for the first time, we are able to do something entirely different, and what that is, is that using the client lists that are supplied by certifying agents, we have been able to compile a list of 8,646 producers and handlers operating within the United States. Every one of them has been mailed a postcard with the information that was found in the news release and the Federal Register notice. So every certified operation has been mailed a postcard, inviting them to submit their own names for nomination to this board.

We've also e-mailed postcards to 41 land-grant universities and three USDA outreach programs. We have not finished. We are still trying to do more. We are trying to contact environmental organizations as well as retailers. So we're doing quite a bit of outreach, trying to get a good slate of nominees for this board.

So far, as of April 23rd, we've received ten resumes; two producers, one handler, two retailers, and five environmentalists have submitted the resume needed for us to process their nomination. We've also got four nominations where we think these are really people who are serious and we're just waiting for the resumes; three of those are producers, one of those producers also qualifies
as a handler, and the other one is a retailer. We've also received 25 inquiries, these are people that we really don't know, in some cases, who they are, but we do know that we have 11 producers who have inquired, we have one retailer who has inquired, and then 13, we don't have enough information, but they have contacted us about board membership. Jim?

MR. RIDDLE: Yeah. Does a person need to state which seat they're seeking or you make that determination?

MR. MATTHEWS: We would prefer they tell us what they're seeking.

MR. RIDDLE: Okay.

MR. MATTHEWS: It helps in screening them. And you can apply for more than one position. A producer who is also a handler could say that "I want to run for a producer or a handler position."

Okay, we're going to move on now to accreditation. To date we've received 137 applications for accreditation. For those of you who looked at the preamble to the Final Rule, we were estimating that we might get about 50 of these, so we kind of underestimated the interest in the program from certifying agents.

53 of those 137 are private domestic certifying bodies. Now, four of them have withdrawn since they
submitted their application. 20 of these applicants are states. One of those states has withdrawn its application; the state that withdrew is Connecticut. 64 foreign certifying agents have applied, and two of them have subsequently withdrawn their application.

Out of the 137, we have to date accredited 92. 38 of them are private organizations operating in the United States, 15 of them are states, and 39 of them are certifying agents operating in foreign countries. George?

MR. SIEMON: Are there physical visits for the foreign people yet, or what's the status of that?

MR. MATTHEWS: The auditors are performing site visits for the foreign, yeah. We've got one team in South America right now, don't we?

UNIDENTIFIED MALE VOICE: They'll start in June.

MR. MATTHEWS: In June.

UNIDENTIFIED MALE VOICE: Starting in June.

MR. SIEMON: Okay.

MR. MATTHEWS: Okay. For those that have not been yet accredited, and we don't -- we don't turn anybody down, we just don't approve them, okay, we just -- so for those that have not been neither -- they have neither been turned down nor approved, 12 of those are with the auditors, five of those are private domestic, three are
states, and four are foreign. 26 are still waiting for information. Now, what that means is they haven't made it to an auditor, they have sent in information, the information is woefully deficient, and the auditors can't do anything with it, so what they do is they go back to the applicant and request additional information. So right now you have six privates, domestic, that are in that boat, you have one state in that boat, and you have 19 foreign.

Okay, now we'll move on to the arrangements for export. We still only have one export agreement, and that is with Japan. We have five recognitions; those are with British Columbia, Denmark, New Zealand, Quebec, and the United Kingdom.

The difference between arrangement and recognition: An arrangement, in the case of Japan, is where Japan has agreed that our standards are equivalent to theirs and they recognize product produced to the National Organics Program for export to Japan.

A recognition is where we have recognized that foreign government's accrediting process as equivalent to ours, and it allows the governments in those five countries to accredit certified operations to certify to the National Organic Program. Okay.
The final of the three categories for how people get in is that of equivalency. As of today, we still do not have an equivalency agreement with any foreign country. The closest we are is with the negotiations with the EU, and we're not there yet, but we're still working on it.

MR. O'RELL: A question.

MR. MATTHEWS: Yes.

MR. O'RELL: Is there any foreseeable time frame for the EU equivalency agreement?

MR. MATTHEWS: You want to answer that one, Keith? Keith's our chief negotiator. You know I couldn't let that one go by, Keith, after all the discussions we've had.

MR. JONES: No, I understand. I'm --

CHAIRMAN KING: The question was: is there a time line for the EU negotiations?

MR. JONES: The question is, is there a time line for the EU negotiations. There is a joint E.U.-U.S. summit that will be held in Dublin, Ireland, in June, late June, that is providing some impetus on both sides for the conclusion of an agreement. There is significant kind of process questions that we still have to address, both externally through the EU process and internally within
the U.S. government, as to how best to conclude the
recognition agreement.

We have made significant steady progress towards
the -- essentially the dilution, if you would, of any
technical issues that are outstanding. There are some,
obviously, but we have, over the last 18 months, really
whittled those down just to the absolute essence.

You know, Kevin, you're asking me to gaze into a
crystal ball, and I think my best guess is: There is
certainly a strong desire on both sides to conclude an
agreement. There's strong trade interests on both sides
that would like to see the agreement concluded. If it's
going to happen, it will happen this summer, I'm convinced
of that, okay, because I think the timing and the momentum
and everything is coming together, that if this is really
going to happen, it will happen this summer.

MR. O'RELL: Keith, would this be a blanket
equivalency for the full regulations, or will there be
sections carved out where differences do occur --?

MR. JONES: Well, when we speak in terms of
equivalence, at least from the perspective of AMS, we
never assume that there will be 100-percent equivalency.
When we talk and use the phrase "equivalence," we are
assuming a combination of equivalence and compliance on
both sides, okay. So that's the way we -- that's the way we view it.

At the current time we have carved off no sector, we have carved off -- there's not been any products carved off, with the exception of honey. It appears that the Europeans are not going to accept any U.S. honey at this point. Okay. And keep in mind those -- those -- the issues that I'm talking about are still in negotiation, so that might, again, work itself out, but at this time, that'd be the only product area that's not under consideration.

MS. CAROE: Keith, one more question. Just educate me a little bit on government process. When this gets signed by both countries of origin if an agreement is reached, is that effective immediately or is there some other government process that happens? I mean, if this were to happen this summer, would it be effective this summer or --

MR. JONES: No, that's -- that's a good question. Usually, Andrea, the way the process works is that when it's -- when it's signed off by the representatives of the respective government, U.S. government, the European Commission, it would be effective at a date certain.
There might be a lag time between the signing of the documents and the effective date just because there may need to be some things, you know, put in place to make certain things happen, but it would be a very short time frame that we've been looking at, after -- after signature.

So I think you can take some comfort in the fact that if we're going to do this, it can happen relatively quickly.

MS. CAROE: Thank you.

MR. MATTHEWS: Any other questions?

(No response.)

MR. MATTHEWS: Okay, the next area is the area of the directives, and let me explain something about directives first. We probably use some words that are a little bit foreign to the organic community as a whole, we use terms like "guidance" and "directive," and when we issued the program scope, the antibiotics, and the fishmeal guidance statement, when we sent that to the Board and to OTA the day before it was published, what we should have done was to say that that was a directive and not a guidance, and the reason for that is that directives basically tell you what you have to do to comply with the Act and the regulations; guidance, on the other hand,
would tell you: here is our best thinking of one way for you to be within compliance of the Act and the regulations; you might find a better way yourself and still be within compliance. So the guidance is -- you don't necessarily have to follow the guidance as long as you still maintain compliance; a directive, however, tells you: this is the only way to do it.

So we will be changing the title on the first three from "guidance" to "directive." If there's a better term that is less inflammatory, please let us know, but we are rather limited by government-speak as to what we can call these, so we hope that we're not inflaming situations simply because of a word that we have to use to describe what it is that we have to do.

MR. MESH: What about "proposed" (inaudible)?

UNIDENTIFIED FEMALE VOICE: Yeah.

MR. MATTHEWS: But they're not proposed, they're not proposed, Marty. Okay, let's move on to the next --

CHAIRMAN KING: Hold on, Rick, Dave just had a quick question.

MR. CARTER: I do want to extend on that, I mean as far as directives, and I think one of the things that at least some of the Board is a little bit concerned about is, on these things -- and we recognize that it's NOP's
job to issue the directives, but in our role, statutory
role, to advise the Secretary on implementation of the
Rule, you know, I continually ask about works in progress,
and when directives are developed, what is the opportunity
for the Board to have some participation in some
discussion as a work in progress, rather than -- and
particularly when directives come down on very short
notice before the Board meeting, and so then the public,
you know, feels like they've been shortchanged, as well as
being prepared to even come in and give public comment
after the fact.

MR. MATTHEWS: Well, those really aren't out for
public comment. Those are actually documents that are
vetted with the USDA attorneys, that are vetted with
management, and they're based on the regulations and the
statute. You'll notice that what we've done with these
documents is we excerpt portions of the Act and the
regulations, and that's where we're basing the directive.

CHAIRMAN KING: Barbara had a quick comment.

MS. ROBINSON: Barbara Robinson, Deputy
Administrator, Transportation Marketing Programs.

The reason we don't ask you for public comment -
- a better way to think of these directives is: they are
the law and the regulations. All we did was try to figure
out a way to make it easier to understand, they're written, and that's why you see in every directive, before you get to what NOP is saying, first you see all the citations from the preamble, from the regulations, and the statements from the law, and so -- and we do that because we strongly believe that if we are about to issue anything, if it can't be anchored directly to the law or the regulations, we shouldn't be saying it.

But you should think of it, certifying agents should think of it, as just: this is the law and these are the regs; we're simply saying it in a different way.

CHAIRMAN KING: Rose.

MS. KOENIG: I had a question. I guess I saw the three -- well, I guess they came last week. The pesticide use lists three inerts. Somebody just notified me, I guess on Monday, at a meeting, that there was some directive there. But, you know, in terms of the reg, I don't understand how that would fit. And, again, I -- you know, I apologize for not having time to process that, but according to my knowledge -- and again, I'm not a lawyer, but it's pretty specific in terms of the National List, that only List 4s are allowed, and we've been systematically putting on List 3 as they've been petitioned, and I -- as I read it: it allows for a use if
somebody is not knowledgeable. But I don't see where that can be justified except in the sense of a regulatory -- I guess that's your regulatory discretion.

MR. MATTHEWS: We -- and the next few slides are going to tell you what these documents do and that they do not do. We have always taken the position: if we tell you that you can do something at a certain point, the flip of that is that you can't do something at a different point; or if we say it's okay to use this, then it's the opposite, you know?

For example, speaking ahead of what we've got here, somebody said, "Well, what if we give the antibiotic to the breeder stock in the last third of gestation?"

Well, if we said you can apply it to -- administer it to the animal before the last third of gestation and the calf is still organic, if we say that, then it really means that if you do it in the last third of gestation, it's not organic.

And I guess -- it seems to me that it's almost like we're going to have to say both sides of the coin every time we go out with something, but I'm going to try and explain these things as we go along.

MS. KOENIG: Okay. I'll wait till then.

MR. SIEMON: I just want to clarify, because
there's a lot of -- a lot of questions about these documents. Are we going to go through a discussion now about these documents?

MR. MATTHEWS: I'm going to give you the dos and the --

MR. SIEMON: We are going to?

UNIDENTIFIED FEMALE VOICE: We are.

MR. MATTHEWS: -- what they do and what they don't do. Okay?

MR. SIEMON: I'm glad for that.

CHAIRMAN KING: Okay, and Jim, just one quick comment --

MR. RIDDLE: Yeah, before you get to the specifics of the documents. Barbara addressed the public comment limitations or non-existence but didn't -- you didn't really respond to Dave's question about the role of the Board, where we're charged under OFPA to provide advice to the Secretary on implementation, and I look back --

UNIDENTIFIED FEMALE VOICE: And this is already being implemented [phonetic] --

MR. MATTHEWS: This is already implemented.

MR. RIDDLE: Well, it's implemented continuously. That's why you have to --

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MR. MATTHEWS: Well, it's --

MR. RIDDLE: -- give guidances on an ongoing implementation.

MR. MATTHEWS: These sections of the regs have already been implemented. What we are finding is inconsistent application across certifying agents.

MR. RIDDLE: Right.

MR. MATTHEWS: And so what we have done is taken what we know to be inconsistent practices by certifying agents and tried to bring uniformity to these issues.

MR. RIDDLE: But, if I could continue, I look back at a policy, what probably would be considered now a directive, that was developed a while back in collaboration with the Board, and that was how to calculate percent organic ingredients and the role of added water, and I see that as a model example where the Board was consulted, drawn into the process, and came up with a directive which has not been open to criticism, it's really stood. People understand it, and it's the best example that I can think of where the Board was drawn in, we were able to exercise our responsibility, and the end product then has the support of the Board and the public.

So, you know, I just hope we can use that as an
example and move in that direction more than, you know, 
this blindsiding or catching us by surprise, where -- it's 
just not a healthy situation.

CHAIRMAN KING: And simply put, just to follow 
up on Dave and Jim's comments, I think it's safe to say 
that the Board really would like to be involved in the 
process, we feel we're here to assist and advise, and if 
there's something that we can do to help that process 
 improve, then we're certainly open to that. So --

MR. MATTHEWS: Okay, we hear that. The next 
slide, please. Okay, we're going to start with program 
scope. What does the program scope do? It identifies 
product categories not covered by OFPA. Those include 
personal-care products, body-care products, cosmetics, 
dietary supplements, over-the-counter medications, health 
aids, fertilizers, soil amendments, manure.

It also identifies product categories covered by 
OFPA for which we have not engaged in rulemaking. Those 
two areas are: aquatic animals and pet food. We just 
have not done rulemaking, and we can't require, we can't 
enforce, our standards on industries that have not been 
afforded the opportunities of the Administrative 
Procedures Act, which requires formal rulemaking in order 
to bring them into the fold.
Again, what the directive does, it states that the products not covered by OFPA cannot be certified to the National Organics Program. It states that aquatic animals and pet foods, in the absence of standards, cannot be certified to the NOP. It does not mean that they will never be covered by the NOP; it's just that there are no standards, and in the absence of standards, you cannot be certified to the NOP.

It states that products that cannot be certified to the NOP cannot carry the USDA seal. That's both for those that are not covered by OFPA as well as those that are covered by OFPA, that have not yet had rulemaking performed.

Now, what the directive does not do, it does not prohibit certification of such products to other standards. You'll recall in the preamble to the Final Rule we say that certifying agents who want to certify products that are not -- that are not covered by the NOP standards may do so, so this means that Dave Engel's group can go ahead and create standards for cosmetics, if that's what they want to do.

MR. RIDDLE: For organic cosmetics.

MR. MATTHEWS: For organic cosmetics. They can do that if they want. We have not said that certifying
agents cannot create their own standards for the products not covered by OFPA.

This directive does not allow the identification of non-organic agricultural ingredients as organic. As the directive clearly states, all agricultural products produced and handled in the United States must be certified to the National Organics Program to carry the word "organic." Okay, so we're not saying that you can use conventional products in these products as an ingredient and call it organic unless it is an organic ingredient.

MS. CAROE: Excuse me.

MR. MATTHEWS: Yes.

MS. CAROE: So that's the enforcement of the ingredient deck of these products that are outside of OFPA?

MR. MATTHEWS: The entire labeling of those products is outside of OFPA, but if they're going to say that an agricultural ingredient within that product is organic, then it has to be organic, it has to be a truthful label claim.

MS. CAROE: So does that --

UNIDENTIFIED MALE VOICE: That --

MS. CAROE: Let me finish that. So does that
mean that NOP compliance could actually enforce that if --

MR. MATTHEWS: No. We would probably turn that
over to Commerce.

MS. CAROE: Okay.

UNIDENTIFIED FEMALE VOICE: Justice.

CHAIRMAN KING: Okay, I think George had --

okay, Kim.

MS. DIETZ: One of the questions we're hearing
out there is the use of the word "certified." We'll have
USDA-certified agricultural products and we will have
QAI-certified or, you know, Joe Smith-certified. Will
they be able to use the word "Certified Organic"?

MR. MATTHEWS: Yeah. Yes.

MS. DIETZ: Thank you.

MR. MATTHEWS: They can --

MS. DIETZ: As long as it's truthful labeling.

MR. MATTHEWS: -- make any truthful claim. What
they cannot do is represent it to be USDA/NOP-certified.

MS. DIETZ: That's a question out there, that
people are asking.

MR. MATTHEWS: That's right. It does not
prohibit identifying organic agricultural ingredients as
organic, as I said, it does not prohibit labeling such
products as organic.
UNIDENTIFIED MALE VOICE: And it doesn't matter what standard.

MR. MATTHEWS: It doesn't matter what standard. Because cosmetics are not covered, for example, by the Organic Foods Production Act. We cover agricultural products, and a cosmetic's not an agricultural product.

CHAIRMAN KING: Barbara.

MS. ROBINSON: Just to add to what Rick is explaining there, just to make it perfectly clear to people, in case you don't realize:

USDA is given its authority by the Congress. USDA cannot unilaterally wake up one day and decide that it now has jurisdiction over another agency’s regulated entities. Those products that are not covered by OFPA because of Congress are covered by the FDA, and we have no authority to change that, we cannot enforce against products over which we have no jurisdiction.

If you have issues with that, you must take it up with the Congress. You cannot ask USDA to do it differently; they have no authority to. It's just a simple fact of government.

CHAIRMAN KING: Dave, then Becky.

MR. CARTER: What, if any, discussions have been held with other agencies, such as FDA, that if entities
under their jurisdiction are going to use the term "organic," that there is some sort of consistency with the USDA Organic Rules, has there been formal discussions or informal discussions with those agencies on that issue?

MS. ROBINSON: I think we've probably had a few informal discussions, but nothing of any seriousness, and frankly, given that we do not have the enforcement authority for those areas, we expect those industries to do just as this industry did. USDA is not going to propose standards and we're not going to propose regulatory behavior to the FDA. We expect the industry to come forward and -- Keith -- Keith can add to this.

MR. JONES: Dave, that's actually an excellent question, because we're required to consult, we actually have consulted with FDA, we've consulted with FDA extensively on this. I just had a conversation with FDA last week.

FDA is not certain -- and I can't speak for FDA and wouldn't speak for FDA. They're not certainly exactly what they're -- what they're going to do. FDA has been quite clear in all of the discussions that it has had with USDA and with industry that our rendering is correct. You know, laws have limits, the Organic Foods Production Act has limits, and these areas that we're talking about are

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squarely within FDA's purview for their labeling, okay? So we've been very diligent in making sure that FDA has been involved in the process and that FDA concurs with where we're at in this.


MS. GOLDBURG: Barbara or Keith. I'd like to better understand the limits of this directive when you're dealing with agricultural products. I understand what you're saying about cosmetics and so on not being covered by the law, but let's take fish or pet foods. I'm not --

MR. MATTHEWS: That's the next slide, I'm going to address fish and pet food on the next slide.

MS. GOLDBURG: Okay.

MR. SIEMON: Same question here.

MS. GOLDBURG: Well, can I ask my question --

MR. MATTHEWS: Sure.

MS. GOLDBURG: -- and then you can tell me it's on the next slide. I want to understand what the limits of the certification of those types of products outside the USDA program are. For example, how does part of the statute and the regs that deal with prohibited methods apply to, say, salmon? Could we have organic transgenic salmon? I guess I'm trying to jive in my mind how --
UNIDENTIFIED FEMALE VOICE: That's a (inaudible), that's a totally different issue, Becky.

MS. GOLDBURG: Well, I --

UNIDENTIFIED FEMALE VOICE: We don't have standards, so they can't be certified.

MS. GOLDBURG: I know. So basically --

UNIDENTIFIED FEMALE VOICE: There is no certified organic salmon to the USDA standard.

MS. GOLDBURG: I know. I know. But that's my question. I understand that. So in other words, outside -- certifiers can certify to their own standards --

UNIDENTIFIED FEMALE VOICE: Right.

MS. GOLDBURG: -- that they create.

UNIDENTIFIED FEMALE VOICE: Right.

MS. GOLDBURG: And I'm not -- I don't (inaudible) any certifiers about to do this, but I want to understand how open the scope of potential organic certification for agricultural products is.

UNIDENTIFIED MALE VOICE: It's open.

MS. GOLDBURG: Is it entirely open, is it partially constrained by --

UNIDENTIFIED FEMALE VOICE: What do you mean by open, what do you mean is it open?

MS. DIETZ: I think what the question is, and
this is where the industry was 20 years ago, whether it's
OTA developing standards or whether a private entity
develops standards, they're going to be allowed to do
that, as long as they certify to a standard. There's no --
- USDA is not going to step in and say "those are
approved" or "not approved." It's going to be --

MS. ROBINSON: Industry can bring us standards
for those -- what you're going to see from Rick on the
next slide, pet food can come forward, fish can come
forward, they -- as you saw in the previous slide, they
are covered by OFPA, but we have no standards. Ergo, if
the industry brings us standards, we go into our
rulemaking mode, we publish them, we ask for comment, we
take the comment, we work with it, we publish a Final
Rule, boom, they're covered. From that point on, any
private standards go away.

MS. DIETZ: But until that point --

MS. GOLDBURG: But until that point, when there
are only private standards, they can be highly variable --

MS. ROBINSON: That is true.

MS. GOLDBURG: -- and my question is: are there
constraints on what those private standards can say?

MS. ROBINSON: No.

UNIDENTIFIED FEMALE VOICE: No.
UNIDENTIFIED MALE VOICE: No.

MS. ROBINSON: No.

MS. GOLDBURG: So, for example, prohibited methods are not prohibited from the private standards --

MS. ROBINSON: It is pre-October 21, 2002, for those commodities. That's what you have to go back to.

MS. GOLDBURG: Okay. Thank you.

MR. SIEMON: I'd rather see the slide, but -- it just fits in so well. So we couldn't have just said:
since we don't have standards, we're going to use livestock feed for pet food, or something like that, you couldn't have had that discretion is what you're saying, until we developed standards?

MR. MATTHEWS: We -- in order to fully comply with the Administrative Procedures Act, we have to go through rulemaking that involves the pet food industry. Okay? Let's move on to the next slide, Katherine.

CHAIRMAN KING: Andrea, did you have -- Keith, then Andrea, then Rick.

MR. JONES: Let me walk you guys through this, because I think there's -- I think there's a disconnect, there's a serious disconnect between what certain parties believe that USDA can do under its authority and what we've actually done.
Through the Organic Foods Production Act, essentially what you had, through the promulgation of the Final Rule, was a federalization of standards for certain products, okay, so this -- the point that I'm trying to make here, folks, is that this is not anything new. What we are finally setting out in writing is in fact 100-percent consistent with what USDA has done since day one under the authority that is vested in it by the Organic Foods Production Act. We have in no way, okay, changed the process.

As we go through notice and comment rulemaking, which is the only way we can promulgate standards, we cannot assent to voluntary standards and then somehow say that they're under the Rule and you can carry the seal. The only way that we can have standards which carry the USDA seal is to go through notice and comment rulemaking.

There are areas, which we spell out in this directive, where that has not happened.

There's also, in the case of pet food, a cross-jurisdictional issue, pet food is regulated by the Food & Drug Administration, so not only have we not only gone through no notice and comment rulemaking for the sake of pet food, there will be additional consultation that will have to occur with FDA to ensure that they want us to
essentially reach into their labeling protocols and regulate the labeling of pet food when the modifier "organic" is attached to it. Okay.

Now, in certain cases -- and again, this is quite consistent with what we have set out from day one, is that we regulate up to farm gate, okay? We do this with cotton. Cotton has always been regulated under the regulations as they're written, up to and including the farm gate. We have no textile standards; we have said that. We have no processing standards for textiles; we've said that.

Therefore, the ability for cotton, once it is spun and woven into fabric, that is essentially unregulated by OFPA, okay? And so what we've said, in an analogous way, is that there are certain products that -- if you want to use this to get your head around -- that are like cotton, that we simply either, one, do not have the authority to regulate, nor have we gone through the process that we are required to go through to promulgate standards.

So what I want to leave you with is this single notion, and if there's a lack of clarity, I want to stay up here until we get this, okay, because this is no different, we have done nothing different in this
directive that is inconsistent with anything that we have said in terms of the concept and how we regulate things, this kind of march of federalization, if you want to call it that, and the notion that our limit -- that our authority sometimes is limited to farm gate certification.

So those are the two things that you really need to take away from this presentation, is that there's an authority question and there's a process question. Okay.

CHAIRMAN KING: Okay, I have Andrea, Jim, then Rose.

MS. CAROE: Okay, I just want to clarify something in my own mind. The relationship and the arrangement that the program has with BATF and alcoholic beverages, is that possible only because alcoholic beverages fall within OFPA but outside the labeling authority of the program?

MR. JONES: Well, that relationship is actually codified through a memorandum of understanding, okay, so there has been consultation, BATF's -- which is now -- what is it -- TTB, their attorneys sat down with our attorneys and said, "Okay, we think we can play in the same sandbox with you, okay?" That's how that piece of the puzzle got put together, is because there was a meting of the legal minds in terms of the respective authorities.
that are contained in various statutes, and then there was an MOU that was put together that linked those various authorities. Okay.

MR. NEAL: Also, there are legal responsibilities -- Arthur Neal. There are legal responsibilities that USDA/NOP has that TTB cannot perform on behalf of USDA regarding their products, so TTB does not have the legal authority to say whether or not -- if an organic claim on a wine product is legal, because USDA has not granted them that authority, and it would be the same instance if USDA tried to say that an organic claim on an FDA-regulated product was compliant, because FDA has not granted us that authority.

MS. CAROE: My question is really geared at why this relationship couldn't be duplicated with other products.

MR. MATTHEWS: Let me answer that. Let me answer that. The issue of alcohol beverage was always contemplated to be covered, for example the sulfites issue, and as -- you'll recall that originally all the sulfites were prohibited from any wine product, and the industry went to Congress and was able to get Congress to agree to saying that sulfites can be used as long as that wine product is only labeled as a "made with." So in that
case, the alcohol beverages were always included in the original rulemaking. The pet food has not. That's the difference. Okay?

CHAIRMAN KING: Okay, I have Jim, then Rose, then George.

MR. RIDDLE: Yeah. You know, Keith, when you were talking about the march of federalization and this is a part of a continuum, I guess some of the confusion that's happening out there is, you know, people read the May 2002 Scope policy, which said these sectors are eligible, and they proceeded to set up systems which followed the regulations, certifiers certified to that, they made major investments, and now that's been turned on its head for certain sectors. And I understand what you're saying in that -- you know, like pet food, I've talked about this, you can make pet food to the human food standards, label it to the human food standards, but it's just packaged for pets. Why can't you continue to do that, and what I'm hearing, and correct me if I'm wrong, is that there is a need for an MOU with FDA, something like that, because they have code jurisdiction or they have jurisdiction over --

UNIDENTIFIED FEMALE VOICE: They have jurisdiction --

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MR. RIDDLE: -- pet food labeling, that NOP doesn't have.

MR. JONES: Right.

MR. RIDDLE: So that's standing in the way, even though it can be produced and --

UNIDENTIFIED FEMALE VOICE: Yes.

MR. JONES: Yes.

MR. RIDDLE: -- and certified --

MR. JONES: Yes.

UNIDENTIFIED FEMALE VOICE: That is a labeling issue (inaudible).

MR. JONES: Yeah. And Jim, let me respond to the last point first, and then I'll get into the March policy statement.

This is a labeling authority issue, okay, and FDA has the labeling authority, full stop, for the products that we have delineated in that scope direction. Full stop, okay, they have the authority.

Now, this in -- the knitting together of NOP and FDA authority I think is much more -- personally, this is a personal opinion, don't take it as gospel from USDA, but it is my personal opinion, in looking at the authorities, that the knitting together of those authorities is much more complex than sitting putting an MOU, okay?
Now, it may not be so, we are in continuing consultation with FDA and will be in consultation with FDA on these issues for the foreseeable future, okay? Because one of the things that you've got to understand is that we desire the same thing that you desire, okay, and that is, we want clarity in labeling, we want consumers protected, okay, we want consumers to understand what they're buying, but we also want people to understand that our authority is limited.

I know this is hard to believe, but we are not the all-knowing, all-seeing individuals that you think we are, okay? We're limited, okay? We're limited as to where we can go, and that's something you're just going to have to get your arms around, okay?

Now, in terms of the March policy statement, okay: in hindsight, it is unfortunate that that document was written the way that it was, okay, but let me say this, Jim: It wouldn't matter if we had published that statement 40 times or one time, we cannot give authority we don't have, okay?

So that's what you need to keep in mind, is that we cannot give authority where we have not been delegated that authority by Congress. So it is unfortunate, again, that that statement was written the way it was, you know,
we recognize that people made some decisions on that,
that's why we think we've been kind of recognizing that,
you know, in this -- in this -- but we can't give
authority -- no matter how much you would force us to do
something, short of notice and comment rulemaking and
short of FDA saying, "Yes, we're going to allow you to
regulate the labeling of this product when 'organic' is
attached to it," we just don't have the authority to give,
okay, and that's straight up.

CHAIRMAN KING: Okay. We'll have Rose, George,
then Dave.

MS. KOENIG: So -- and that's, I think, the
sense of confusion, because I know I've (chuckles) -- I've
been to so many presentations where they say, "The only
difference now is that the USDA owns the word 'organic."

So what you are saying is, is that if you -- if
it's an agricultural product within your authority, yes,
you do own that word in the sense, but you don't own the
word in things that are not -- beyond the -- your
authority.

MR. JONES: Right, and --

MS. KOENIG: So -- and that's where this -- and
that's why on these body-care products, if it's an
agricul-tural product, you still -- you may not -- you
know, you may send it to a different office, but you -- it
is still under -- within our regs if it's agricultural
organic --

MR. JONES: Well, but --

MS. KOENIG: -- but anything else, body-care
products, things outside of that, you don't own the word,
anybody can own the word.

MR. JONES: Yeah, and let me -- let me pick up
on that. I think that's -- if I understand you right,
Rose --

MS. KOENIG: I know what you're saying.

MR. JONES: -- that's a correct rendering of
where we're at. Now, when -- and I was guilty early on of
saying we own the word "organic" --

MS. KOENIG: Yes, you did, and that's why -- and
that's why I'm saying that the communication has been
always "we own the word" and that's what --

MR. JONES: We own the word organic, for the
products we own the word --

MS. KOENIG: Organic on.

MR. JONES: -- organic on --

MS. KOENIG: Exactly.

MR. JONES: -- okay, and --

MS. KOENIG: But we've taken that all the way,
as: you own the word and that, you know, the word is --
you know, and there's going to be regs, so --

UNIDENTIFIED MALE VOICE: First there was the
word --.
(Laughter.)

MR. JONES: Yeah. And I guess in response,
there should -- there should have been some sort of
understanding that the term "organic" when it's applied to
chemistry is not regulated by the Organic Foods Production
Act.

Okay, so there are certain -- there are certain
uses of the modifier "organic" that we don't regulate. So
despite my inarticulate nature, you should have picked up
on the fact that: well, okay, well, I think I kind of
know what he's talking about here, even though -- if he's
not exactly using the right words. Fair enough?

MS. KOENIG: That's fair. But I think that
sense of confusion -- I mean, I take things literally, and
I think most people that are not accustomed to this
regulatory arena and the way the federal government works
in terms of departments -- I mean, half of the confusion
among the Board is -- you know, and I was telling
somebody, you know, the learning curve in this, you know,
as far as people being on the Board, is incredible. I
mean, we don't -- we don't function on a day-to-day level, so it just seems, you know, in some ways incredibly inefficient, but I understand what you're saying. I think it's just going to be a process of us trying to --

MR. JONES: Well, and one of the things that we're --

MS. KOENIG: So give us time.

MR. JONES: One of the things that we're trying to do, we're trying to do exactly what you're asking us to do, and that is: speak with clarity, you know, don't use shorthand, and we're guilty of that, we're guilty in assuming that you just know what we're talking about, okay, and I -- I own that, okay.

So what we're doing, I think, now for -- for -- perhaps better than we've ever done before is we're saying in our writing and in our speech: okay, this is really where it's at, this is where you draw the lines, okay?

MS. KOENIG: Just one thing, and I'm just going to make this assumption, it's a statement. I think -- and maybe -- this is my observation, and I don't know if it's true, but it seems like there's a learning curve even within your agency, as far as how you're extending to these other agencies, and I think the alcohol was a good example, that there are some groups that are easier to
kind of mesh your programs with but there are others that
are also bogged down in bureaucratic and regulatory
language that is not such an easy fit, and those are the
ones where you're not -- where we're seeing this kind of --
-- there may never be an agreement. So I'm reading into
that that --

MS. ROBINSON: You're right, Rose, but let me
just say, this is not in defense of the Department at all,
but there probably has not been a new program created in
USDA for probably 35 years, so -- and this is -- this is
brand-new, it's

MS. KOENIG: And what --

MS. ROBINSON: -- it's from the ground up --

MS. KOENIG: So I think that the way that the
industry sees these directives is: aha, they knew this
all the time, and now they're finally -- you know, it's --
I am understanding that it's a learning process for you,
it's not something that you've decided to just change the
playing field midstream or anything like that, and so --
okay, I understand.

MS. ROBINSON: Okay.

CHAIRMAN KING: Okay, all right.

MS. ROBINSON: I think we should try and get
back on track here.
CHAIRMAN KING: So how's that next slide coming, Rick?

MR. MATTHEWS: Yeah, it's -- yeah, we really do need to get back on track because --

CHAIRMAN KING: Hold on, hold on, I do have a couple other people with comments, but Rose, you're done on this one.

MR. MATTHEWS: Okay, but let me just say this one thing. There's still 43 percent of the presentation yet to go.

CHAIRMAN KING: And it is near 2:30, so -- we appreciate the math on that. I have George, then Dave, then Jim.

MR. SIEMON: Just a point of clarification, then, because I'm concerned for the pet food industry. They can now go to a certifier, get them to adopt standards that are -- they can't say they're equal or -- to NOP standards, but they could do them equal to NOP standards and use the word "organic" on the front of -- the labels, so they can go forward without the USDA seal and we can avoid most of the disruption, but they can't imply that it equals NOP standards, even though they do.

MS. ROBINSON: The products that we don't cover, George, are still bound, as all products in the
United States are, by truth-in-labeling clauses.

MR. SIEMON: I know, but it's truthful if they meet the human standards for NOP, it's truthful.

MS. ROBINSON: If it's truthful, they can say it.

MR. SIEMON: But it says right in your document they may not imply --

MR. MATTHEWS: Okay, hold on a second, hold on a second. What we have said is that pet food, like fish, can be certified to any standard that is out there, with the exception of the NOP.

MS. ROBINSON: Right. Right.

MR. SIEMON: I don't understand that [phonetic], but okay --

MR. MATTHEWS: Okay. Now, the ingredients in that pet food, the corn, the beef, the rice, whatever, if it's produced here in the United States, it has to be produced to the NOP. We're regulating the labeling. The only reason why we're not covering labeling at this time is that we have not gone through the rulemaking for that process, when it comes to pet food, that --

MR. SIEMON: But there's no reason why all those agricultural ingredients, they can't have an asterisk down below that it's USDA certified ingredients --

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MR. MATTHEWS: That's -- they --

MR. SIEMON: -- and complies with all USDA things.

MR. MATTHEWS: -- they can make all truthful --

MR. SIEMON: I mean, we've got to help these people here.

MR. MATTHEWS: They can make all truthful label claims, they can say the rice was produced to the National Organic Standards. They can say the beef was produced to the National Organic Standards. They cannot say that this dog food --

MR. SIEMON: I understand.

MR. MATTHEWS: -- was produced to the National Organic Standards.

MS. ROBINSON: And just for sake -- you know, the pet food folks, they -- one of the reasons we haven't brought them under is they have their own labeling guidelines, they have -- you know, AFCO has its own labeling. They did come to USDA before implementation and they asked us to change our labeling regs to accommodate them, and we said no, we were not going to change the labeling regulations in this program to accommodate the pet food industry, we thought that there had to be another way to work this out and that we wanted to see some
activity on their part, so --

MR. MATTHEWS: Okay, let's kind of slide on to
the next slide.

CHAIRMAN KING: Well, hold on, I've got Dave,
Jim, and then we're moving on, and it is approaching 2:30,
I'll remind the Board of that.

MS. DIETZ: Five minutes each?

CHAIRMAN KING: Yeah.

MR. CARTER: I recognize there's 43 percent, but
that's not 43 percent by weight. This is really one of
the heaviest issues in this presentation.
(Laughter and applause.)

MR. MATTHEWS: I don't know that that is true.
You haven't seen the rest yet.
(Laughter.)

UNIDENTIFIED MALE VOICE: I think we're just
warming up.

MR. CARTER: And also, just let me put into the
record, I'm going to try and avoid entering into
discussions pertaining specifically with pet food, because
I am involved in a pet food project that is not organic
but is at least familiar enough to know that there's a lot
of folks out there playing fast and loose with definitions
on pet food.

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The question, though -- I guess the comment that I would make is to encourage -- and I recognize, Keith, that it's more difficult than just doing a memorandum of understanding with FDA on some things, but that would sure be a great place to start, is to enter into a memorandum of understanding as a first step.

MR. RIDDLE: And my question --

CHAIRMAN KING: Yes, go ahead, Jim. Next and last.

MR. RIDDLE: I just want to make clear that an accredited certifier can have this other certification to any standard and still have their name, you know, similar, same basic claim, "certified by," you know, who they are, X-Y-Z certifier, that would appear on an NOP product, they don't have to set up a separate entity or something. You know, as far as what the consumer would read would be the same name of the same certifier that's certifying an NOP/USDA organic product. Correct?

MR. MATTHEWS: That's what we've said.

MR. RIDDLE: Okay, yeah. All right. Then I just -- I also have a suggestion that I think might bring some comfort, and that is: if there was information posted about how to file a complaint with the Justice Department, if you have concerns about truth in labeling
or untruthful labeling, you file a complaint to us when
it's something we regulate, you've already got that, but
here's where you go and how you do it --

UNIDENTIFIED FEMALE VOICE: We can put the link
over to FTC's Truth in Labeling, and they have that right
on their website, how to file a complaint.

MR. RIDDLE: Uh-huh, yeah.

UNIDENTIFIED FEMALE VOICE: And they will also
tell you how to go to your state attorney generals.

MR. RIDDLE: Right.

UNIDENTIFIED FEMALE VOICE: We can put the link
on, that's not a problem.

CHAIRMAN KING: Rick, next slide.

MR. MATTHEWS: All right. What do we need for
aquatic animals and pet food to be certified to the
National Organic Program? We need industry submission of
proposed standards. In reality, we need three things: we
need a proposed standard; we need them to tell us why this
particular standard; and they need to provide us with
information about the industry to be regulated. Okay.

You know, we recognize that pet food is
something that probably doesn't take an awful lot of
changes to the regulations to make pet food possible under
the NOP. The problem is, we haven't done the rulemaking.
Okay.

I can tell you that there's three areas of concern. Labeling is number one. Number two, are they using any kind of synthetics that the rest of the food industry doesn't do. I don't know the answer to that. The other thing is that in .237, livestock feed, we talk about by-products. How many of these by-products are being fed to mammals. Dogs and cats are mammals. So you'll have to take a look at that section as well.

But other than that, it looks like it's pretty -- pretty easy for this Board or the pet food industry, or this Board and the pet food industry, or even a consultant for the pet food industry, and I know there's a couple of you on this Board, that if you want to throw together some standards and submit them, we'll start the rulemaking process.

MR. SIEMON: Is that a livestock committee process?

MR. MATTHEWS: The livestock committee can work on it.

MR. SIEMON: I don't know, I'm just asking.

UNIDENTIFIED MALE VOICE: Or a pet food task force.

(Laughter.)
MR. MATTHEWS: The bottom line is, you guys can work on that, and will we take that from you? Of course we will.

CHAIRMAN KING: Okay, and we can talk about that later.

MR. MATTHEWS: Now let's move on to the next slide, Katherine.

CHAIRMAN KING: All right, next slide.

MR. MATTHEWS: There's also been some questions about whether or not we'll extend the October 21st, 2005, deadline for using up existing supplies. When it comes to those products that are not covered by OFPA -- again, those being cosmetics, body-care products, fertilizers, things like that -- the answer is: no, because we're -- we're not regulating those areas, so no, we won't extend that deadline.

But when it comes to fish -- aquatic animals actually, because there's more to it than just fish, but -- aquatic animals or pet food, the answer is: possibly. It really depends on what's happening within the industry as far as creating standards that we can then put through the rulemaking process.

MS. CAROE: Rick?

MR. MATTHEWS: Yes.
MS. CAROE: So the only thing that's non-compliant about those labels is if they actually have the USDA seal or represented as USDA organic certified?

MR. MATTHEWS: That's correct.

MS. CAROE: So if they say organic and they have a certifier's name, that label's still complying as long as the certifier has something they're certifying to --

MR. MATTHEWS: That's correct.

MS. CAROE: -- and it does meet it.

MR. MATTHEWS: The ones that have to be changed are those that are using the USDA seal or say "certified to the NOP" or something to that effect.

Does that affect a lot of people? It'll affect some. Some people will run out of the labels before the deadline, and what they'll have to do is get new plates printed up, or made up, so that they can get new packaging printed without those claims. Otherwise they'll still in business for making organic cat and dog food.

MS. CAROE: Now, some of these things have really long shelf lives, that are on the shelves. They're not going to -- they're not going to have to do recall or anything, those --

MR. MATTHEWS: It's going to be --

MS. CAROE: It's in commerce --
MR. MATTHEWS: It's going to be another one of these old product deals.

MS. CAROE: Okay.

MR. RIDDLE: And the thing about animal by-product use, that would really be applicable if you were going to certify the pets.

(Laughter.)

MR. RIDDLE: I mean, that's prohibited, if you wanted to certify the pets -- I'm not trying to be cute, I --

MR. MATTHEWS: What I'm saying is that some people have raised that issue and I'm saying take a look at it to see if it's a problem.

MR. RIDDLE: Right.

MR. MATTHEWS: I've heard people from both sides of it saying, "Well, that's not a problem," other people say it is a problem, so I'm saying that's one area to look at for determining whether or not it's a problem. Okay? Other than that, the only things I've heard about is: well, is that particular paragraph a problem, yes or no; what about materials; and what about the proper labeling scheme for pet food. So that's -- that seems to be the challenge for the pet food industry. Okay.

Let's move on to the List 3 inerts. See, Dave,
this one's going to be probably more than 43 percent.

(Laughter.)

MR. MATTHEWS: It reminds producers and ACAs that pesticides can only be used when pest-management practices fail, and that's something that everyone has to keep in mind. You have pest-management practices within the standards. Those come first. Just because something

is on the National List doesn't give you carte blanche to just use it, it has to be a part of the organic systems plan.

Use of List 3 inerts is prohibited. You cannot knowingly use a List 3 inert. The producers and the accredited certifying agents must try to determine what List 3s are in the pesticide product that the producer is proposing to use. Okay. They have to try.

The pesticide use must be listed in the organic systems plan, and the organic systems plan must be negotiated, enacted, and amended through dialogue between the certifying agent and the producer. None of those requirements have changed. Okay.

This directive acknowledges that List 3 inerts are not listed on the pesticide label. The farmer has no way -- when he goes into the farm supply store and picks up a container of a pesticide that has an approved
ingredient listed, the approved active is listed on the product, he has no way of knowing what's in there, with the exception of the List 3, which EPA requires to be listed. Okay. So he's got to be able to -- he has to then try to find out what is the inert in that product, unless it's listed someplace else, for example an OMRI listing, or maybe the certifying agents have been able to find out what it is and maybe this new certifying agents organization can help us pull together a listing of all products that may not be on OMRI'S list but certifying agents know whether or not they contain List 3s. So that's work to be done.

Now, the producers and the ACAs may not be able to find out what is in that product. We're looking for them to contact the manufacturer, we're looking to them to contact the EPA, we're looking to them to contact other ACAs in order to try to find that out, but it's very likely they're not going to be able to get that information.

What this directive does is it says that after due diligence the ACA will approve the use of pesticides with unidentified inerts. Okay. Due diligence means contacting the manufacturer, contacting EPA, and contacting other ACAs.
This directive also requires that the producer be informed of the requirement to immediately stop the use of this product should it come to the attention of the certifying agent that that product does indeed contain a List 3 inert. They have -- the certifying agent should be telling the producer that up front. Once that is identified as a problem, then they have to tell them again, okay, "We have since found out that it has a List 3, you have to stop." Okay.

They also need to document this notification, both times, document it when they first tell them, "Okay, we're going to approve the plan with this material," and also when they tell them to stop using it. They would take no adverse action on the producer that used one of those products that was later found to have a List 3 inert.

Now, if the producer used something that was later found out to have been prohibited, they would have to stop immediately. If they chose to use it again after having received written notification to stop, then the certifying agent must initiate procedures to revoke certification. There's only one way of correcting a non-compliance for use of a prohibited substance on your acreage, and that is to go through a whole new period,
which is a minimum of three years.

So in the case of somebody who willingly used it, knowingly, willfully used it, they're going to get revoked for 3 -- for 5 years. Now, that's -- that's just the way it's going to be. Yes, Rose.

MS. KOENIG: Now, this, to me, is an example of sort of what -- I guess Jim's example of the -- what was the process -- the water, going back to the percent water. I under-- you know, I'm not -- so the question is not to the -- to what you're saying there, it's more of an alternative that I think is a more responsible approach.

MR. MATTHEWS: What is?

MS. KOENIG: My approach.

(Laughter.)

MR. MATTHEWS: All right. What's your approach?

MS. KOENIG: I mean, EPA -- I mean, everything that is a pesticide has to be registered with EPA, okay.

MR. MATTHEWS: Right.

MS. KOENIG: You can take the active and you could probably -- I'm assuming it has a database, you could get a list of every active that we've approved, natural and things on the List, and EPA could pretty easily -- maybe not tell us what the List is, but they could probably go through all of those and tell us which
are List -- which have List 4 inerts and which have List 3 or List 1 or List 2 --

MR. MATTHEWS: If that was --

MS. KOENIG: -- and we could provide that information so that you could avoid even having that loop-- I don't want to call it necessarily a loophole, because it isn't a loophole if in fact the procedures are followed that way, but I think that the information is there, there's two federal agencies involved. We had Bob Tourlet [phonetic] come, they made that proposal as far as the alternative voluntary labeling scheme, that I know that that's not required, but it seems like there should be some interagency communication that you guys could facilitate and provide that information to your certifiers, that would provide that information, and we wouldn't need this directive.

MR. MATTHEWS: There's no requirement for the manufacturer to give up that information, and in many cases EPA doesn't have that information. So it's not an easy matter for the certifying agent just to call them up and say, "Does it have a List 3?" Now, that is the key way to do it, is you don't say, "Tell me what's in the product," but you can ask them, "Your inerts, are they on a List 3 or a List 4 or a List 2 or a List 1?"
MS. KOENIG: That's what I'm saying, I'm not saying -- no, I'm not saying to disclose a particular inert, but doesn't the -- can the EPA just inform the ones that are compliant and the ones that aren't compliant by brand name? You know --

MR. MATTHEWS: I don't know that they can.

MS. KOENIG: Well, that, to me, is the question. I mean, that seems like --

MR. MATTHEWS: Well, right now we can't get that information.

MS. KOENIG: Well, then I -- you know -- okay.

MR. MATTHEWS: That's what this problem with the List 3 is all about.

MS. KOENIG: But we --

MR. MATTHEWS: What you have done is you have prohibited the use of a product that farmers in many cases have no way of knowing whether or not they're in compliance.

MS. KOENIG: But I'll go back -- again -- you know, because -- I was on the List, the inerts task force, and I will argue that this example, whether it's inerts or formulated -- formulations of natural fertilizers, it's the same issue. Things that are not -- there's things that don't require -- again, it's a labeling issue, that
growers may, you know, purchase, that they then find, even though it says, you know, organic manure or organic stuff, that -- and they don't really realize that there's other --

UNIDENTIFIED MALE VOICE: Correct.

MS. KOENIG: -- other examples. Like for example, a good example of it is soil mixes, okay, a lot of -- metromix. It says metromix, you're buying metromix, it doesn't tell you necessarily that there's 10-10-10 pitters [phonetic] in those things. Growers have to find that information out through using Organic Materials Review Institute or working through their certifiers.

So this issue is not unique, necessarily, to List 3 inerts. I think the solution is easier with List 3 inerts because we actually have a federal agency that regulates it and that does somehow have that information, that perhaps could be, you know, conveyed to us in a format that would be acceptable to them as an agency. So I'm just putting that out.

CHAIRMAN KING: I think what Rose is asking is: could we explore that, in your opinion, and you don't have to answer that now; please take it into consideration.

MR. MATTHEWS: Okay.
CHAIRMAN KING: Goldie, then Jim.

MS. CAUGHLAN: Help me understand, Richard, how we can come to this position of saying we -- we can't find out whether it's in there or not. I mean, I was reading that thing and I thought, you know, it was leading to say therefore not being able to find a disclosure, therefore not being able to find out would lead us to assume: okay, you can't use it, which is precautionary principle. How in the hell can we come to this opposite -- how do I go and talk to consumers? I don't -- it's -- I'm sorry: it's nuts. That is so backasswards.

(Laughter.)

MR. RIDDLE: Yeah. Well, I'll say that in a different way.

(Laughter.)

MR. RIDDLE: It's my understanding that, you know, the burden of proof is on an applicant to demonstrate compliance and the use of approved materials when they enter the process, but now it -- as I understand this, it's rewarding producers and manufacturers for withholding information, and this applies not just to List 3 but also List 2 inerts.

UNIDENTIFIED FEMALE VOICE: And List 1.

MR. RIDDLE: Well, List 1s are required to be
labeled by EPA, is my understanding. So that information is revealed. But List 2s and 3s are not, and 4s. So it could fall anywhere there, so it's not just List 3s.

I guess, you know, I'm assuming that you develop this in consultation with EPA, and I'm just wondering what their opinion has been, because I know they do have a lot of this information and have that pesticide, you know, labeling program that this impacts, cross-jurisdictional, like we were talking about before. I'm just wondering what they've said about this to you, to help move this forward.

MR. MATTHEWS: When it comes to this program, they defer to us.

MR. RIDDLE: But have you talked -- I mean did they review this, did they review this --

MR. MATTHEWS: No, they did not review this.

MR. RIDDLE: Okay.

CHAIRMAN KING: Other comments? We have just one, Zea, quick comment.

MS. SONNABEND: Can I just make a really quick comment?

CHAIRMAN KING: Yes; very quick, please.

MS. SONNABEND: You said at the beginning that these directives were things about the way the Rule always
was, and this is not what you've been saying to us up until this point. In fact, you know, I know on several phone calls you said, "You can't use it if you don't know what's in it." So now we've been going along and -- you know, California, the materials capital of the world, practically, right? So we've got our growers all trained now, we're issuing these -- I forget what you call them, we call them cease-and-desist orders: you stop using it if you can't find out what's in it, we get them 30 days. Now we have them all trained. This is a step backwards now, we have to retrain them.

The directive gives no phase-in, it says it's effective instantaneously. We don't have internal process developed for this new thing. You know, it's not guidance, it's -- it throws us into a tizzy about it.

CHAIRMAN KING: Thank you. Go ahead.

MR. MATTHEWS: Okay, let's move on. What the directive does not do, we do not see it as allowing List 3 inerts. It's recognized -- what we are doing is -- and why we have taken this position is that we recognize that the farmer doesn't know, and in many cases the certifying agent doesn't know. Okay? They can't identify this stuff. Without this ruling, it's: when in doubt, go without. In other words, anyone who uses that substance
is going to be out of organic for 5 years.

UNIDENTIFIED MALE VOICE: When in doubt?

MR. MATTHEWS: When -- well, if you don't know what it is and you're -- part of the problem is that certifying agents are all over the map on this one. What you have to remember is that when a prohibited substance is applied to your land, you're out of organic production for 5 years. You're revoked.

CHAIRMAN KING: Knowingly.

MR. MATTHEWS: That's your revocation.

CHAIRMAN KING: Knowingly.

MR. MATTHEWS: That's when you knowingly do it.

Okay. So the only option is, the only other option that we see, is to go out there and tell people: yes, the active is allowed, but no, you can't use the product, and not through any fault of your own, but because manufacturers won't give you the information.

CHAIRMAN KING: Kevin.

MR. O'RELL: Rick, the directives, as I understand it, are based off of legal substance, so what -- in this case of this interpretation, this is based off of legal advice, legal counsel, with the USDA, or is this --

MR. MATTHEWS: It becomes an enforcement issue,
how do we enforce this thing.

    MS. CAUGHLAN: You have to know.

    UNIDENTIFIED FEMALE VOICE: You have to know

where you don't use it.

    UNIDENTIFIED FEMALE VOICE: "When in doubt, do

without."

    CHAIRMAN KING: Rose?

    MR. MATTHEWS: How about some certifying agents,

any certifying agents want to weigh in on this?

    MS. DIETZ: I think we need to --a

    (Rapping.)

    MS. DIETZ: It's 3 o'clock, and we haven't

started even our agenda yet.

    MR. MATTHEWS: That's right.

    CHAIRMAN KING: Yes, that's right. Very quick

question, not a statement, I have Rose, then you, Kim.

    MS. KOENIG: I just want to reiterate, I guess,

what Jim said, that your policy directive talks about

List 3, but List 2 falls into the same category --

    UNIDENTIFIED FEMALE VOICE: Same thing.

    MS. KOENIG: -- which is an area -- okay, 3 is

of unknown toxicology, and again, we feel that that issue,

once EPA goes through those, is going to be resolved, but

we still have the same issue that none of the -- you know,
the List 2s aren't also. So the directive, Number 1, what about List 2s? So if we find out that it's a List 2, then they've lost it for 5 years? So the directive, if you're going to go for this, needs to cover -- you know, and I don't recommend it, because I don't agree with it, but it probably needs to entail also List 2 inerts because they're subject to the same concern, if that's the way you're thinking.

Again, I am not proposing that, because I don't agree with the directive, but again, I would just -- you know, "when in doubt, go without." I feel, as a producer, okay, and I'm a user, okay, forget the certifiers, you know, I live -- this is my living, you know, this -- the program -- and that's what I always says, "You are my servants" (chuckles), "I am your stakeholder, the program is to serve me, and I am just one producer," but that is my job, just like it's your job to manage a program. My job -- if I want to get certification, I have to come to the plate, I have to find the information out, I have a serviced called the Organic Materials Review Institute that I utilize, I utilize my certifier, I do that due diligence, and if I can't find the information, I do without, I don't risk it.

MS. DIETZ: It's 3:00. They should do public
comments on Friday.

CHAIRMAN KING: Yeah. Sorry, we have to keep moving forward. So Kim, did you have a quick comment, or no?

MR. MATTHEWS: Do you want to keep going or do you want to --

CHAIRMAN KING: I do want to keep going. I just want to say one quick thing, and I understand that this is a heavy issue, if you will, but let's focus on one thing that Rick just commented on, and I think you may have caught it, and that is: this is an enforcement issue. So if we have suggestions, ideas, so on and so forth, in the future, not at this particular moment, perhaps you would want to focus on that. Rick.

MR. MATTHEWS: Okay, let's move on to the antibiotic hot button. Again, what the directive does, this one reminds producers and ACAs that sub-therapeutic antibiotic doses are strictly prohibited under the Organic Foods Production Act.

The use of antibiotics is allowed to treat illness when preventive practices and veterinary biologics fail. Okay. They are -- it is allowed, to use. The problem is that there are effects from doing that.

So the next slide provides that this directive
identifies the effects of using antibiotics. An animal that has been treated with an antibiotic can never be sold, labeled, represented as organic. Products from slaughter animals cannot be sold, labeled, or represented as organic. Dairy animals must be managed organically for 12 months before milk can be sold, labeled, or represented as organic. Breeder stock treated prior to the last third of gestation can give birth to an organic animal. Okay.

Again, what the directive does, it clarifies that OFPA and the regulations do not prohibit dairy farmers from treating sick dairy animals with antibiotics, and I repeat from what we had said just at the last slide, treated dairy animals must be managed organically for 12 months following treatment before milk can be sold, labeled, or represented as organic.

Now, when we say "managed organically," that means 100-percent managed organically. Okay. George?

MR. SIEMON: You know, my biggest question about -- I don't know what's my biggest question, but this of course brings up the whole issue of all prohibited medications, not limited to antibiotics.

UNIDENTIFIED FEMALE VOICE: Correct.

MR. SIEMON: If I read this correctly, any medication can be used now as long as you have the 12-
month window prior.

MR. MATTHEWS: We're only talking antibiotics here. We're only talking antibiotics. That was the issue that was of contention between certifying agents and what is the issue that we have addressed.

MR. SIEMON: But this is a clarification of the law, as you've said.

MR. MATTHEWS: For antibiotics.

MR. SIEMON: So I can't take this logic and not see that this applies itself equally to all medication, this whole document as well.

MR. MATTHEWS: We've only addressed the issue of antibiotics --

MR. SIEMON: Okay.

MR. MATTHEWS: -- with this directive.

MR. SIEMON: So then for right now the -- since you've only addressed that, the understanding of the community should be: this is only for antibiotics and not for any other forms of prohibited medication.

MR. MATTHEWS: Yes.

MR. SIEMON: Should that be the understanding of the community?

MR. MATTHEWS: Until we review it for other things. We've only reviewed it for antibiotics.
MR. SIEMON: Okay.

MR. MATTHEWS: That was the issue that was put to us. Okay.

What this directive does not do: it does not allow sub-therapeutic doses; it does not permit milk from treated animals to be fed to organic animals; it does not permit milk from treated animals to be sold, labeled, or represented as organic; it does not allow treated animals to be sold, labeled, represented as organic slaughter stock; it does not allow the feeding of non-organic feed, in any quantity, to treated animals.

And that's where I said on the last slide: managed organically. You can give this animal that is ill a dose of an antibiotic; if that animal was an organic animal, it loses organic status for meat. That animal then has to go through organic management for 12 months from the date of the last administering of that antibiotic, for the purpose of saving that animal's life, before it can produce organic milk.

MR. SIEMON: I'm so glad you brought that up too, because that was my next question, about the feed, because it really brings open the whole feed issue. But just so I'm clear about the 12 months: is that managed organically for 12 months? If you give that calf an
antibiotic 16 months prior to milking, what -- I just need clarification on the whole organic feed on the certain class of dairy animals, we have two classes of dairy herds --

MR. MATTHEWS: We have changed nothing. We have only clarified that a dairy animal can receive an antibiotic and go through a 12-month management organically and still be able to produce organic milk. We have changed nothing related to origin of livestock.

MR. SIEMON: So if it's 16 months -- I have two questions. If it's at 16 months, they've still got to be fed organically all the way through --

MR. MATTHEWS: Oh, yes.

MR. SIEMON: -- and the 12 months not relevant.

MR. MATTHEWS: Yes. You cannot -- you cannot manage that animal organic- -- as a conventional animal after giving that dose and still have it become organic again, you have to continue to manage that animal organically, with this one exception, that you could give it a shot or a suppository, whatever, you know, to correct the animal's illness at that point. It's really a humane issue, in my mind, you're taking a very sick animal, you have a choice, you can take it off your farm or you can treat the animal. Now, where -- in real terms, where is
this going to be important? It's going to be important for young stock, because the farmer already is faced with a 24-month period before that animal is going to be productive, okay. So if you're treating it within the first three months, it's still got to go through the same organic management that it would have, but that animal has lost its meat status as organic. You still have to manage him organically all the way through.

Now, is it practical to think that a farmer is going to treat a mature animal and then keep it on its farm for a year? I doubt it. They're going to get rid of that animal. Okay?

MR. SIEMON: And by your chart, this is -- we have two streams of dairy animals, in the dairy world, and this chart shows that this is for all streams, and so I have another question that's kind of a broader question. Are we real clear that those in the dairy stream that come in with the 12-month have to feed their calves organically from day of birth, last third of gestation forward? I'm not clear on that. But this -- if I'm to follow this conversation and read this chart, we're all clear that no matter what stream you come in, you must raise your calves organically, feed and everything else, besides for this antibiotic exception now, from the day of birth. That is
not the case in the field right now. We need to address that.

MR. MATTHEWS: George, go ahead and run that by me again. I missed it. I was getting corrected on a point that I made before.

MR. SIEMON: No matter how you come into the dairy program, this is a little off-subject, but it's very relevant. How you come into the dairy program, we know there's two streams, no matter what stream you come through, you must raise your calves, that are born on your farm, organically.

MR. MATTHEWS: Right.

MR. SIEMON: And you can't take them off the farm in any way or bring them back, and I'm just referring to your chart here.

MR. MATTHEWS: Yeah. And --

MR. SIEMON: And then I'm informing you that is not the present enforcement out there in the field right now, our understanding. That's maybe another clarification we --

MR. MATTHEWS: And there may be -- the document itself may have created a bit of misunderstanding, because you're -- we're not really contemplating that you take the thing off the farm and then bring it back a day later, or
a year later, or anything like that, you treat the animal, you mark it, and then you manage it organically without using any of that milk, to either be sold to consumers or even used as feed for other -- for young stock, for example.

And George, a technical correction a previous statement.

MR. SIEMON: Okay.

MR. MATTHEWS: Yes, the only question posed to us was antibiotics, but by extension it would apply to other medications.

MR. SIEMON: I think so too.

MR. MATTHEWS: Okay. Becky.

CHAIRMAN KING: Becky.

MS. GOLDBURG: I'm curious whether the NOP has a definition of sub-therapeutic antibiotic use pertinent to this directive. As I understand it, there is no widely-accepted definition of sub-therapeutic, there are a variety of definitions. I know that FDA has no definition. So I'm curious whether -- how you're making the distinction between sub-therapeutic and therapeutic antibiotic use.

MR. MATTHEWS: To me, and the way we mean it --

UNIDENTIFIED MALE VOICE: That's in the Act.
MS. GOLDBURG: It is actually in the Act?

UNIDENTIFIED MALE VOICE: Yes. That's

(inaudible) statutory --

MR. MATTHEWS: Sub-therapeutic is a requirement within the Act.

MS. GOLDBURG: Yeah, but I don't think it's defined.

UNIDENTIFIED MALE VOICE: And I think that's covered in FDA as well.

MS. GOLDBURG: No, there is no FDA definition.

UNIDENTIFIED MALE VOICE: Sub-therapeutic?

MS. GOLDBURG: There is not.

MR. MATTHEWS: Okay. But basically what we're saying is that in the presence of illness that would dictate that you have to bring -- that you have to use an antibiotic in order to save that animal's life, or -- if you're a veterinarian -- basically it's an issue call by a veterinarian. If your animal is so sick that it has to have an antibiotic, or I suppose even if it had gone through a surgery and you needed to have an antibiotic to prevent an infection, this is where the humane part of it comes in, you can go ahead and do it, but there are costs for having treated your animal in a humane way. One of those is that you lose the organic status of that animal
for meat purposes.

    MS. GOLDBURG: Yeah, I understand that, but

just --

    MR. MATTHEWS: And this only applies, really, to
dairy animals, okay?

    MS. GOLDBURG: Yeah.

    MR. MATTHEWS: Any other animal, it loses its
meat status, it's out of the organic anyway.

    CHAIRMAN KING: Jim, then Andrea.

    MR. RIDDLE: Yeah. You've said -- and you have
it stated up there -- that this does not permit milk from
treated animals to be sold/labeled as organic --

    MR. MATTHEWS: Right.

    MR. RIDDLE: -- but yet I've heard you say
verbally that yes, an animal can be treated with an
antibiotic and 12 months later its milk sold/labeled as
organic. So it does allow --

    MR. MATTHEWS: Well, but it doesn't allow it
during the 12-month period.

    MR. RIDDLE: Yeah, but it was a treated animal.

So it does allow the milk from a treated animal to be --

    MR. MATTHEWS: After 12 --

    MR. RIDDLE: Yeah, with conditions.

    MR. MATTHEWS: -- months of organic management.

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MR. RIDDLE: Okay. So I just want to address that. And then what I -- this correction you've made about: it applies to other medications --

MR. MATTHEWS: Uh-huh.

MR. RIDDLE: -- so that would include hormones as well. So there --

MR. MATTHEWS: No. Hormones are specific --

MR. RIDDLE: If they're used for therapeutic purposes --

MR. MATTHEWS: This is for illness.

MR. RIDDLE: -- treatment -- yes.

UNIDENTIFIED FEMALE VOICE: Illness.

MR. RIDDLE: Yes. I mean, I don't see the line. It applies to other medications of any category --

UNIDENTIFIED FEMALE VOICE: I'm not a livestock expert, but do you give hormones for illnesses?

UNIDENTIFIED MALE VOICE: Yeah.

UNIDENTIFIED FEMALE VOICE: Yeah.

UNIDENTIFIED MALE VOICE: Sure you do.

MR. SIEMON: Just breeding problems.

MR. RIDDLE: Breeding problems.

CHAIRMAN KING: Next example, Barbara.

UNIDENTIFIED MALE VOICE: Viagra?

UNIDENTIFIED MALE VOICE: Menopause.
(Laughter.)

UNIDENTIFIED MALE VOICE: Just to support -- we have to remember, in the dairy, which is so complex, in the new herd clauses, those animals coming into the program could have previously had antibiotics, could have previously had hormones.

UNIDENTIFIED MALE VOICE: Right.

UNIDENTIFIED MALE VOICE: So we have to be somewhat even here about this because some understand. Not that I agree with the document, don't anybody misunderstand me, but still, I can agree (inaudible) --

MR. MATTHEWS: But it does -- but it does address in some respect the concerns of dairy farmers of the unlevel playing field with regard to health care for the young stock that they have on their farm, that are organic.

MR. RIDDLE: Okay, so that's the --

MR. MATTHEWS: But we're not -- but we're really not --

MR. RIDDLE: The origin of stock allows prior treatment in an animal's life, before it comes into the organic program; then the livestock health care practice must be followed, and it says a producer must not sell, label, or represent as organic any animal or edible
product derived from any animal treated with antibiotics. It doesn't say within a year; it says "must not." So I just -- I --

MS. CAUGHLAN: So where does this come from?

MR. RIDDLE: Yeah, where does this come from? I think -- you know, what's driving this?

UNIDENTIFIED FEMALE VOICE: What about the level playing field for the consumer?

MR. RIDDLE: Edible product --

MR. NEAL: In Section 236 -- Arthur Neal is my name.

CHAIRMAN KING: Arthur.

MR. NEAL: In Section 236 there is no -- what happens, it says that organic animals must be managed continuously for 12 months. Those animals can be considered to -- the milk from those animals can be sold as organic. It says that --


MR. NEAL: It doesn't say "unless treated with a prohibited substance." It can't -- that's under "Origin."

MR. RIDDLE: Right.

MR. SIEMON: Then how come you're requiring the feed -- a 100% organic feed on the second stream, then?

UNIDENTIFIED MALE VOICE: What was that?
MR. SIEMON: Then why would you require a 100-percent organic feed on that one stream of dairy that you're requiring --

MR. NEAL: Because it must continuously be managed organically.

MR. MATTHEWS: The exception to the 100-percent organic feed is only found for whole herd conversion, it is not found for any other situation.

MR. SIEMON: But it -- so you're differentiating between feed and medication at that time.

MR. MATTHEWS: Yeah, we're differentiating between feed and medication.

MR. SIEMON: Except for replacements.

MR. MATTHEWS: One heals, the other one keeps them nourished.

MR. SIEMON: Except for replacements on the one stream. That's another subject.

CHAIRMAN KING: Andrea.

MS. CAROE: Okay, I just wanted -- I really don't have a question but I just -- I want to make a comment on two things that are kind of a by-product of this directive, and one is that an unenforceable section of this rule has been: we have never been able to identify a farmer that's withholding treatment of a sick...
animal, and this will hopefully prevent some of that from happening, because that's -- that's in the regulation, you can't withhold treatment from an animal that's sick, but if a certifier goes a year later, after the animal's died, they have no idea that that happened that way. So that -- I just want to put that in the mind, because I really think that's an important thing, that we've never been able to address.

And then the other thing is, there is a discrepancy between buying a replacement animal at a sale barn and transitioning them and somebody that's growing their own.

UNIDENTIFIED MALE VOICE: Speak up, Andrea.
UNIDENTIFIED MALE VOICE: We can't hear you.
MS. CAROE: I don't think which mic works.
MS. ROBINSON: I don't think it is working.
MS. CAROE: I'll speak loudly. Now, the other issue was the discrepancy between somebody that's raising their young on their farm and buying from a sales barn and transitioning, because those animals could have been treated and fed, and anything could have happened to them. It almost -- it's almost counter-productive to promoting growing the young animals on the farm, if it's easier to buy them from the sale barn and transition them, than to
deal with a young animal that is more susceptible to
disease.

MR. SIEMON: They just clearly said that all
those people that qualify for that have to raise their
calves and keep their heifers rather than go out and buy
other heifers as a shortcome, they just clarified that --
I hope all the ACAs hear that so they can do it.

UNIDENTIFIED MALE VOICE: What was that?
UNIDENTIFIED FEMALE VOICE: I didn't hear that.
CHAIRMAN KING: I think we all missed that one,
George.

MR. SIEMON: They just said about the two
streams of dairy, the ones that qualify for the 12 month,
they must raise their heifers organically and cannot be
selling them and buying back heifers elsewhere as some way
to get around and cheapen the cost of replacements, which
you were just referring to.

MR. MATTHEWS: That's always been in there, we
haven't changed that regulation.

MS. CAROE: I'm missing something.

MR. MATTHEWS: We have not changed any standards
related to the origin of livestock. We have simply
addressed whether or not a dairy animal can receive
treatment for illness and still remain on the organic
farm, and the answer is: yes, you can treat it, you can stay on the organic farm, it can never be used as organic meat, it cannot be used for the production of organic milk for 12 full months, and during that full 12 months it must be managed organically.

UNIDENTIFIED MALE VOICE: And longer.

MS. CAROE: Well, let me just say this, I mean -

MR. MATTHEWS: And it could be longer if you treated a two-day-old calf.

MS. CAROE: Okay. But if -- I understand that origin of livestock has not changed by this directive, but if a farmer had an animal born on their farm, two-day-old baby, that gets pneumonia, okay --

MR. MATTHEWS: Right. And it was born as an organic animal.

MS. CAROE: It was born as an organic cow.

MR. MATTHEWS: All right.

MS. CAROE: They treat that animal, they sell the animal, they cull it out. Another organic farm --

MR. MATTHEWS: That is sold as a conventional animal.

MS. CAROE: Sold as a conventional animal.

MR. MATTHEWS: Right.
MS. CAROE: Another --

MR. MATTHEWS: Cannot come back.

MS. CAROE: -- organic farmer is looking for a replacement animal, buys one at a sale barn, which is not required to have any lineage on that animal, buys that animal, unknowing that it was an organic animal that's gone conventional, bring it in, transition it for 12 months, in effect they're doing exactly what the directive is saying.

MR. MATTHEWS: Well, yes, that -- there is always the risk that an animal that was born organic was treated and then culled from the herd, went into the conventional market. There is the possibility that if the -- if the buyer of that animal, who is organic, did not do due diligence of trying to find out the history of that animal, you might possibly have that animal come back onto the farm.

MS. CAROE: So --

MR. MATTHEWS: Under the regulations, it's not allowed to come, but it is possible that one would.

MS. CAROE: Right, and that was my point. My point is that it allows it to stay on the farm and it doesn't weaken it in any way.

MR. MATTHEWS: Right. That's right. This
option actually would create an opportunity where that is less likely to happen, hopefully. You're more confused?

MR. RIDDLE: Just --

MR. MATTHEWS: Then we should have just left it the way it was, Jim (chuckles).

MR. SIEMON: But again, I made an assumption earlier, but after listening to this, I've got to go back -- assumptions, always gotta worry about them. If you bring in through the one-time exception, you're still qualified for this same use of antibiotics.

MR. MATTHEWS: Yes.

MR. SIEMON: Okay.

MR. MATTHEWS: You're -- the animal that you're bringing in is converted. Now, again, the likelihood of treating a mature animal --

MR. SIEMON: I'm talking about calves, I'm talking about a calf.

MR. MATTHEWS: -- and keeping it on the farm is pretty slim.

MR. SIEMON: I'm talking about calves.

MR. MATTHEWS: Okay.

MR. SIEMON: Because we have two different replacement clauses for dairy, and it doesn't matter which one you're in, all of them qualify for this antibiotic
UNIDENTIFIED FEMALE VOICE: Yeah, that's right.

CHAIRMAN KING: That's a true statement.

MR. MATTHEWS: Yes. Remember --

MR. SIEMON: It's not totally logical, but --

MR. MATTHEWS: Remember that the 80/20 rule for feed is only available to a whole herd conversion.

MR. RIDDLE: During the conversion process.

UNIDENTIFIED FEMALE VOICE: Right.

MR. RIDDLE: Once they've converted --

MR. MATTHEWS: During the conversion process.

MR. RIDDLE: -- all animals must be organic from the last third of gestation. If someone comes in through the 1-year clause -- I'm really confused, coming out of this -- what about those calves? They're fed organic? It's required that they have to be fed organic?

MR. MATTHEWS: Yes.

MR. RIDDLE: But that's contrary to your --

MR. MATTHEWS: Managed 100-percent.

MR. RIDDLE: And that's contrary to your prior policy statement on the two herds, where you had that chart?
MR. MATTHEWS: No, it isn't. No, it isn't. We are not addressing the origin of livestock at all.

MR. SIEMON: Jim, that previous one was replacements, bought replacements. But I hope NOP is hearing: there's a lot of confusion about raising those on those farms that qualify for the 12-month. You need to hear that. There's a lot of confusion.

UNIDENTIFIED MALE VOICE: They're being fed conventional.

MR. SIEMON: Because that's the shadow here -- it's not even the subject we're on, but that's the shadow that's still confusing us.

UNIDENTIFIED MALE VOICE: Yeah.

MR. SIEMON: That document on replacement says brought in replacements, bought, they're saying no matter which way you come in, you have to raise your calves organically, organic feed and all, until we come up with this new exception here, and you can't sell your calves off and buy heifers back for the one year, which is going on right now.

UNIDENTIFIED MALE VOICE: Totally.

MR. SIEMON: So we need to deal with this, it's going on, it's --

UNIDENTIFIED MALE VOICE: That's what the chart
UNIDENTIFIED MALE VOICE: Yeah, that's what your prior chart says.

MR. SIEMON: You need to deal with this, so you all need to hear it. There's a lot of -- we need a directive on this one.

CHAIRMAN KING: But this is -- but, yeah, that's -- so that's another issue that we need to clarify --

MR. MATTHEWS: That's a different issue.

CHAIRMAN KING: -- clearly. I think I need to be heavily medicated right now, I don't know about you.

(Laughter.)

UNIDENTIFIED FEMALE VOICE: Don't ask for directives (chuckles).

MR. SIEMON: Let's move on. Let's move on.

UNIDENTIFIED FEMALE VOICE: Life's like a breakout issue.

CHAIRMAN KING: Yeah, there you go. All right. So Rick, how close are we to --

MR. MATTHEWS: Oh, we're getting a lot closer.

CHAIRMAN KING: Well --

UNIDENTIFIED FEMALE VOICE: We'll move on.

MR. MATTHEWS: I'm not sure that it's going to be any quicker. Now, we can cut it off --
CHAIRMAN KING: I'm just wondering if at some point people would need to go to the bathroom and take a break, so let's --

MR. MATTHEWS: The only thing left is fishmeal and the materials review process.

CHAIRMAN KING: Let's get through antibiotics, at least. Are we done?

MR. SIEMON: We're done. Let's move on.

MR. MATTHEWS: Antibiotics, we're done.

CHAIRMAN KING: What's the will of the Board, do you want to take a quick break now or do you want to finish --

UNIDENTIFIED MALE VOICE: I think we're so off schedule we ought to keep moving, myself.

UNIDENTIFIED MALE VOICE: Let's just finish NOP.

CHAIRMAN KING: I'm hearing "Let's finish NOP."

Rick, if you have to go to the bathroom, tough luck.

(Laughter.)

MS. ROBINSON: We've got seven more slides.

UNIDENTIFIED MALE VOICE: Do you want to try to define "sub-therapeutic"?

UNIDENTIFIED FEMALE VOICE: No, not now.

UNIDENTIFIED FEMALE VOICE: Not right now.

UNIDENTIFIED MALE VOICE: Not right now.
(Laughter.)

UNIDENTIFIED FEMALE VOICE: And whether it's --

(Pause.)

CHAIRMAN KING: Okay, Rick, I guess you're off
and running on the next subject.

MR. MATTHEWS: All right, now we're on to
fishmeal. Go ahead and click again, right button.

What the directive does: reminds producers and
ACAs that Section 205.237(a) allows the use of non-
synthetic feed additives and supplements in organic
production. Fishmeal is an allowed protein supplement.

It's neither organic -- it's natural.

What if the fishmeal contains a synthetic
substance? Fishmeal is a natural. All naturals are
allowed unless prohibited. Fishmeal is not organic. How
much fishmeal constitutes a supplement?

MR. SIEMON: No, no, no, no, go back.

UNIDENTIFIED FEMALE VOICE: Go back.

UNIDENTIFIED FEMALE VOICE: Go back.

UNIDENTIFIED FEMALE VOICE: Put it back on.

UNIDENTIFIED MALE VOICE: Back up.

MR. SIEMON: You had a good question but there
wasn't the answer. Synthetic is defined in our rule that
if a substance is formulated or manufactured by a
MR. MATTHEWS: Fishmeal has never been determined by this Board to be a synthetic product.

MR. SIEMON: But it has synthetic ingredients.

MR. MATTHEWS: It doesn't have synthetic ingredients.

UNIDENTIFIED FEMALE VOICE: Yes, it does.

MR. MATTHEWS: It may have a synthetic ingredient.

UNIDENTIFIED MALE VOICE: Fish emulsion is listed --

MR. SIEMON: The question is: what if it contains synthetic --

MR. MATTHEWS: But fishmeal it --

MR. SIEMON: What if it contains a synthetic substance? That's your question up there.

MR. MATTHEWS: It has never been ruled to be a synthetic substance by this Board.

UNIDENTIFIED MALE VOICE: What if it contains a synthetic substance?

UNIDENTIFIED FEMALE VOICE: Yeah.

UNIDENTIFIED FEMALE VOICE: Yeah.

MR. MATTHEWS: It doesn't matter.

UNIDENTIFIED FEMALE VOICE: Why?
MR. MATTHEWS: It doesn't matter. It's a natural product.

(Cross-talk.)

MR. SIEMON: So if they would --

MR. MATTHEWS: Okay, we're not going to meet --
or meeting of the mind on this, and it's -- under --

MR. SIEMON: Okay, so the answer should be --

MR. MATTHEWS: -- under the rulemaking that has already been done, if you go to the preamble, it says that fishmeal is allowed, and all we're doing is reiterating the fact that a determination has already been made that fishmeal is allowed, and there's no criteria put on that fishmeal.

MR. SIEMON: So as long as it's an FDA product, it doesn't matter what's involved in the fishmeal, if they want to put amino acids in there or something like that and it still be called fishmeal, fortified fishmeal --

MR. MATTHEWS: As long as it meets the definition of what a fishmeal is.

MR. SIEMON: By the FDA.

MR. MATTHEWS: Right.

MR. SIEMON: This is based on the determination of synthetic, and you said it's never been determined to be synthetic, so in order to be determined synthetic,
someone would have to go through the TAP review process, to have it declared as a prohibited material, right, prohibited natural?

MR. NEAL: That's right. That's right, because fishmeal -- fishmeal has not been prohibited, because all naturals are allowed unless prohibited.

MR. SIEMON: But all of us thought that if a natural had a synthetic in it --

MR. MATTHEWS: But you have to remember that all naturals, including naturals that are used in an organic food, the natural, if it was created using synthetics, it doesn't matter, it's allowed, in the last 5 percent of human food.

UNIDENTIFIED MALE VOICE: It's got to be on the List.

UNIDENTIFIED MALE VOICE: Only if it's on the List and we've reviewed it.

MR. MATTHEWS: The same thing doesn't -- no.

MR. SIEMON: Okay, next --

MR. MATTHEWS: No, naturals are allowed unless prohibited under crops and livestock.

MR. SIEMON: So if an FDA-approved additive has a prohibited material in it, that's on our list, then clearly it's not allowed? If an FDA-approved additive has
in it a synthetic -- prohibited synthetic that's on the NOP list, then clearly wouldn't that mean it wouldn't be allowed?

MR. MATTHEWS: I'm still not following the question.

MS. KOENIG: I have an explanation, I think I have clarity.

CHAIRMAN KING: Rose, go ahead.

MS. KOENIG: I think fish -- it's like aquatic -- it's like fish emulsion or aquatic plants, that in reality, if it's a processed product that involves a synthetic substance, that it -- I -- this is my personal opinion, so -- I mean, this is not -- I'm not speaking from a regulatory view, but I view fishmeal as -- what people are saying, if it's -- if there's anything -- if it's, you know, processed in some way, it may in fact have to be petitioned, because similar to aquatic plants or similar to fish emulsion, there may be a procedure, to get to the finished product, that would require it to be petitioned and then perhaps annotated.

MR. MATTHEWS: Yeah. Now, to confuse it even more: If there were fish standards in place, the fish would have to be organic and then it would have to have gone through the process, but it's -- right now fish are
outside our scope, and it's a natural, and so it's
allowed.

UNIDENTIFIED MALE VOICE: Even if adulterated?
UNIDENTIFIED FEMALE VOICE: Yeah, but fish --
that's --

CHAIRMAN KING: Jim, then George, then Becky.
MR. RIDDLE: I'm going to come back to that
preamble that I read earlier today and ask you how it
squares with that when it says "Synthetic ingredients in
any formulated products used as organic production inputs,
including pesticides, fertilizers, animal drug and feeds,
must be included on the National List," and feed
supplement is defined as "feeds." So to me, when it says
"feeds," that's a broad category. And so here, you're
saying that it doesn't matter if it has synthetic
ingredients, where you said earlier that they must be on
the National List.

MR. MATTHEWS: .237 allows non-synthetic
substances to be used as a supplement in organic feed.

MR. RIDDLE: Well, yeah, I have no problem with
that. Fishmeal without synthetics. But once you've added
a synthetic --

UNIDENTIFIED FEMALE VOICE: Right.
UNIDENTIFIED FEMALE VOICE: -- then you've got a
MR. RIDDLE: It's a different issue.

MS. DIETZ: It sounds like a certifier issue to validate that there are no synthetics in that --

UNIDENTIFIED FEMALE VOICE: But not if they're given a directive that doesn't call for that.

CHAIRMAN KING: Hold on, let's stay on track.

MS. KOENIG: But fishmeal becomes fish emulsion, it's a natural that is changed once it's -- unless the fish -- if the fishmeal is purely fishmeal, then I agree with that, but what that question begs is: if it contains a synthetic substance, it then -- that's what I'm saying, then it becomes fish emulsion and it has to go through the process of going -- it's a natural that now has been altered and it gets reviewed.

MR. MATTHEWS: Well, fish emulsion would. We're not talking about fish emulsion, we're talking about fishmeal.

MS. KOENIG: No, but --

MR. NEAL: Just a second, guys, just a second.

CHAIRMAN KING: Point of clarity?

MR. NEAL: Yeah.

CHAIRMAN KING: We're looking for that.

MR. NEAL: There are a lot of issues, that are
trying to be hashed out right now, that are a point of contention, and it all revolves around what can and cannot be reviewed by the Board. What does the Act allow to be included on the National List. If you turn to 6517 of the Act, this is the issue that we face. But it's in there. You go -- it's on the right-hand column of the page, 21-18.

CHAIRMAN KING: 21-18 or 6517, same thing.

MR. NEAL: Okay, (c)(1)(b).

CHAIRMAN KING: Okay.

MR. NEAL: It says -- and let's read --

CHAIRMAN KING: Where are we starting?

MR. NEAL: This says that -- (c)(1) says "The National List may provide for the use of substances in an organic farming or handling operation that are otherwise prohibited under this title only if: (b) the substance is used in production and contains an active synthetic ingredient in the following categories: copper and sulfur compounds, toxins derived from bacteria, pheromones, soaps, horticultural oils, fish emulsions, treated seed, vitamin and minerals, livestock parasiticides and medicines, and production aids."

Now, this is -- what was that, Nancy?

CHAIRMAN KING: Never mind, move on.
MR. NEAL: This talks about active synthetic ingredients.

Now, it sounds like we're back at a phosphoric acid issue, where there may be a preservative used that's not an active ingredient. Well, how do you petition the Board to include a non-active ingredient in a feed formulation for inclusion on the National List if there's no entry point for it by the Act? Because the Act says "active synthetic ingredients."

CHAIRMAN KING: Nancy, then Rose.

MS. OSTIGUY: Am I understanding you correctly that your reading of this says that we can -- and there's part of this I wouldn't have a problem with. The only things that go on the List are things that are in the category that you just read, and it must be inactive, otherwise it's prohibited?

MR. NEAL: No.

MS. OSTIGUY: So you are saying that if it's not an active, then it's okay even if it otherwise would be prohibited if it was active?

MR. NEAL: Correct.

MR. SIEMON: Then why did we go through all that about the aloe preservatives?

MR. NEAL: I don't know.
MR. SIEMON: You don't know. Good, I'm glad you said that.

(Laughter.)

MR. SIEMON: No, I'm agreeing with you, I don't know either.

MR. NEAL: Now, listen, listen, and if you think I'm wrong --

MS. OSTIGUY: Why did we do anything with inerts, then? They're not actives.

MR. NEAL: Inerts is specifically identified in Paragraph 2. Now, if you'll take a look at vitamins that are allowed, on the National List, there are I'm sure some carriers invited that are not on the National List. The Act did not envision for every inert -- well, I won't say inert -- inactive ingredient that's used in a feed formulation or any other product to be considered by the Board because it's too expansive. That means that there are products that are on the market right now that could potentially be in violation under the standards.

UNIDENTIFIED MALE VOICE: You're missing something in the law right now, I'll tell you what it is --

CHAIRMAN KING: Hold on.

MR. SIEMON: You've got to be recognized.

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CHAIRMAN KING: Friday, please, public comment can go forth --

UNIDENTIFIED MALE VOICE: I can help you --

CHAIRMAN KING: Hold on.

UNIDENTIFIED MALE VOICE: -- out immensely on this right now.

CHAIRMAN KING: Not right now.

MR. SIEMON: I've got a new question, just -- because I can see we're really going to be (inaudible) about this. This -- just like my question about antibiotics -- then covers crabmeal and any non-synthetic, non-agricultural material, whether it's got synthetics or not, as long as it's FDA-approved, anything, any and all?

MR. MATTHEWS: Yes. And all of those marine products would change if there were standards for aquatic animals.

CHAIRMAN KING: Rose.

MS. KOENIG: Can you clarify that, Richard. I assume most -- it would change if there were standards for wild aquatic animals, since all fishmeal at the moment is made from -- or virtually all, I should say -- from wild fish.

MR. MATTHEWS: Well, yeah, it's -- I guess -- I say that if we had standards, I'm a little -- I don't know
the correct word. Let's say that I fail to see at this point -- and I could be convinced differently, but I fail to see how you're going to be able to open this up to all aquaculture without a source of organic fishmeal, okay, because there are -- you're going to have to be feeding carnivores fish, and so --

MS. GOLDBURG: Right. But that's assuming that you need -- want to or need to open it up to all aquaculture.

MR. MATTHEWS: Well, that's assuming that it was all opened up.

MS. GOLDBURG: Right.

MR. MATTHEWS: Now, I guess, to use Keith's phrase, I should be a little more precise in the wording, that if there were standards in place, then the -- and it included wild-caught or even aquaculture-raised fish that was available for the production of fishmeal, then that fishmeal would have to be organic, okay.

The real problem is, right now, in the organic system, you wouldn't be able to turn a carnivore into an herbivore, so they're going to have to have a source of food for your aquatic animals that are carnivores, if -- if you went to --

MS. GOLDBURG: If you decided that you need
 organic carnivores.

MR. MATTHEWS: That's right, if you went to the stage of having carnivores covered by the standards. But right now there are no standards for any aquatic animals. I'm just saying that the position that we take now is subject to change should there be rulemaking done in the future that would affect this position, okay?

CHAIRMAN KING: Okay, I have Rose, Kevin, George.

MS. KOENIG: I've had -- this is back to Arthur's statement, and I've had time to kind of think about this and rethink about it, and then the other day I was looking through the preamble of the Rule on Page 8612, and it's Subpart (g), administrative, where it talks about -- and the interpretation or the -- you know, how the National List of Allowed and Prohibited Substances -- descriptions of regulations, okay?

You go into the second column, looks like the second paragraph, where it starts "In this Final Rule," talks about only -- the EPA lists four inerts in that section, but if you go down midway, and I'll read it, "Synthetic ingredients in any formulated products used as organic production inputs, including pesticides, fertilizer, animal drugs and feeds, must be included on
the National List. As sanctioned by OFPA, synthetic
substances can be used in organic production and handling
as long as they appear on the National List."

But again, synthetic ingredients is not the same
as active, it's all, and they talk about formulations of.

MR. NEAL: And I truly do understand the
confusion of that text, of that language, but when you go
back to the Act, this is the authority, this is what we
can and cannot look at. The window that's opened are for
active synthetic ingredients.

UNIDENTIFIED FEMALE VOICE: Where?
MR. NEAL: (c)(1)(b)(i).
MR. RIDDLE: And everything else is prohibited -

UNIDENTIFIED FEMALE VOICE: No. He's saying --
MR. RIDDLE: -- every other synthetic --
MR. MATTHEWS: No.
MR. RIDDLE: I know. You're turning it on his
head from what we've understood before: synthetics are
prohibited unless they're on the List, but what I'm
hearing you say is synthetics are allowed, but only this
category needs to be reviewed.

MR. NEAL: Watch [phonetic] the acknowledgement
of the Act, it says, "the substance" --
MS. OSTIGUY: Where are you reading?

MR. NEAL: This is (c)(1)(b)(i). "The substance is used in production" and does what? -- "and contains an active synthetic ingredient." It does not say "the substance is used in production and it contains itself," there's something else in with this active synthetic ingredient that's being considered, "it contains," "the substance contains an active synthetic ingredient."

MR. MATTHEWS: Mark, you've still got a full afternoon of material to go.

CHAIRMAN KING: Yeah, I know. I know. It just seems -- okay.

UNIDENTIFIED MALE VOICE: You've already wasted a half an hour I could have saved you.

CHAIRMAN KING: Okay. Friday you can do public comment. We need to come back, but thank you.

MR. SIEMON: Can I ask one more question that's a new subject on this one? Just so I understand, of course we all know there's limitations of fish, and I hope there's no other fishmeals out there, but there's no limit on the percent that can be fed here --

MR. MATTHEWS: That's the next slide.

CHAIRMAN KING: Next slide.

MR. SIEMON: I just (inaudible), Rick, trying to
help you out the best I can.

MR. MATTHEWS: Next slide.

(Laughter.)

MR. MATTHEWS: The regulation defines what a supplement is. I've included in brackets there as a supplement to help clarify what that statement is. Clearly it's really intended as something to supplement the feed, it's not meant to be a wholesale replacement of, say, a grain, it's not meant to be fed at an 80-percent level. 80 percent of a protein is no longer a supplement, it's feed. So it's -- it's what is there as a supplement, and you really need to be going back to AFCO and what they regulate for putting together a feed.

And you also have to remember too that fishmeal is going to have an impact on the quality of the meat or the ags or whatever, so your farmer is not going to be -- is not going to be feeding levels that are going to destroy his market.

MS. GOLDBURG: Can I ask you a question, Richard?

MR. MATTHEWS: Yes.

MS. GOLDBURG: Earlier you made a statement about the need for fishmeal if you're going to farm carnivores, particularly aquatic carnivores, but here
you're allowing fishmeal as a supplement, and I'm arguing that there should be a limit on how much of a -- what percentage of the feed it could be in order to be considered a supplement. Is there an implication there for farming of aquatic carnivores?

MR. MATTHEWS: There I don't see -- for example, feeding fishmeal to salmon, I don't see that as a supplement.

MS. GOLDBURG: Okay. If it's 45 percent of the feed.

MR. MATTHEWS: That is their main -- that's one of their main ingredients for their feed.

MS. GOLDBURG: Okay.

MR. MATTHEWS: Okay? You know, when it comes to feeding fish fish, that's -- that's what they eat, that's not a dietary supplement. But again, they're outside the current scope.

MS. GOLDBURG: Right, I understand that.

MR. MATTHEWS: Okay, let's go on to materials review. This one will probably be no less a debate.

There are currently the following stages to a materials review: a petition is received, the NOP reviews the petition, there's a scientific review and reporting on that, there's a requirement for a technical advisory panel
to be involved in the process, the NOSB committee will review and make a recommendation to the full board, and the full board will review and then make a recommendation to the Secretary, and then the NOSB -- I mean the NOP -- goes through the rulemaking process. So those are the things that are happening under a materials review.

Let's go to the next slide, please.

UNIDENTIFIED FEMALE VOICE: Wait a minute, wait a minute.

MR. MATTHEWS: Go back.

UNIDENTIFIED FEMALE VOICE: Go back. Are these going to be available --

CHAIRMAN KING: Could we just get copies of this, these slides printed out, posted, something?

MS. DIETZ: Are the slides going to be posted on the website?

CHAIRMAN KING: Knowing that we're sort of moving along --?

MR. MATTHEWS: Well, the -- yeah, we could probably make -- yeah, we could make the slides available. I'm not sure that out of context they'll always be clear.

MS. DIETZ: But at least so we can --

CHAIRMAN KING: Well, we can put a disclaimer on the top.
MR. MATTHEWS: But this just says the different things that a material goes through in order to be added to the National List.

CHAIRMAN KING: Yeah.

MR. MATTHEWS: Okay.

CHAIRMAN KING: The identified stages.

MR. MATTHEWS: Right.

CHAIRMAN KING: Okay.

MR. MATTHEWS: You had a question, Goldie?

MS. CAUGHLAN: (No audible response.)

MR. MATTHEWS: Okay. NOP is working diligently to redesign the materials review process. We recognize, just as the Board recognizes, that there are a lot of problems with the way the materials review process is working. All too often petitions have been deficient or the report has been deficient, there's been questions about whether or not there's enough in the report to satisfy the needs of the Board in making a determination as to whether something should be recommended or not.

So we're seeing all kinds of problems with this, we're seeing problems with things getting sent forward for review that probably should have never been sent forward. So we're -- we're really doing an evaluation of the entire review process and we're trying to work through
some changes.

We're taking a global approach to this, and the ultimate product is going to be a materials review manual that'll be published up on the website.

The first step in this was the checksheets that we created for the Board's use in the review of materials. We are currently working on NOP procedures, a standard operating procedure for how the NOP reviews a material from the time it's reviewed -- or from the time it's received as a petition until the time that it moves on to the scientists for analysis.

So we're really developing a standard operating procedure for us. We had hoped to have this for the Board before the meeting, but putting it in print has made it a whole lot bigger than we ever thought it was, and it hasn't been fine-tuned to our satisfaction yet, so we're not quite ready to share it with the Board.

We are also at the same time working on developing procedures for scientific review and reporting. We will be sharing this with the Board and seeking their input, because this is essentially the document that is going to be -- these procedures will help the reviewers create the document that you're going to be receiving and then using, in company with your checksheets, to create
your recommendation. So we see that as a critical part of this process. We're getting that started; we will share it with you.

Okay. Next one is that we're taking a look at the way the technical panel has been working, we think that there are rooms -- or that there is room for improvement on that as well, and we are proposing a new technical advisory panel approach which would increase the NOSB's involvement in the review process.

We're looking at this as probably being a five-member panel. The materials committee chair would definitely be a member of that, and then two of the following, which would be the livestock crop or handling, would also serve on that panel.

So you would have at all times three board members a part of the TAP review panel, and instead of the TAP review being done in conjunction with the report from the scientists, it would actually occur after the scientists have put together their report.

This panel would also include somebody from the Environmental Protection Agency and somebody from the Food & Drug Administration, the idea being that this new stage in the review process would enable representatives of the Board to review the report at an early stage, to give

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feedback to the scientific organization, to say, "This just doesn't cut it and we need you to go back and work on this," or you might find that what they did was fine and the panel may vote to move it forward -- with a recommendation, maybe -- to the committee that the material appropriately belongs with. So then the next stage is to go to a committee of the Board.

Now, we're also looking for that committee --

CHAIRMAN KING: Wait, I think back up a second. Could we back up real quick, Barbara. Thank you.

MR. MATTHEWS: Okay, so you've got -- that's your committee, okay?

MS. DIETZ: So that the petition has been forwarded for a TAP review, the TAP review's in process, there's a time period --

MR. MATTHEWS: We would change the title of that from TAP review to -- it's been sent --

MS. DIETZ: -- scientific --

MR. MATTHEWS: -- forward for scientific analysis, so they would take and where the petition leaves off create the scientific background that is needed now for this new panel to then review it and then to make recommendation over to the Board.

MS. DIETZ: So we are in a sense --
MR. MATTHEWS: Or to send it back to the scientists to gather more information.

CHAIRMAN KING: Did you mean to say "to the committee"?

MR. MATTHEWS: To the committee, yes.

CHAIRMAN KING: Thank you.

UNIDENTIFIED FEMALE VOICE: Well, this panel will get it sooner, but it really might stretch out the review process longer --

MR. MATTHEWS: It might, or it might shorten it. The idea is to do away with the problem of deficient reports --

UNIDENTIFIED FEMALE VOICE: Deferred TAPS.

MR. MATTHEWS: -- and deferred TAPS, and what we're thinking is that if we change -- if we create essentially a new statement of work for the scientists and they follow that procedure and then it comes to this body of five and that body of five then analyzes that report for its sufficiency, then it can go on to the committee of the Board, whether it be the crops committee, the livestock committee, or the handling committee, and then that committee would do essentially what it already does. It may want to do something else, I don't know, but it would then go to that committee.
But if it wasn't ready to go to that committee, then this panel would tell these people "this isn't ready to come to the Board, and therefore this is what you need to do to make this report ready to come to the Board."

MR. RIDDLE: So, yeah, just to be clear, so this five-member panel would replace the three-member TAP reviewers right now --

MR. MATTHEWS: Probably so.

MR. RIDDLE: -- in the stages, is that --

MR. MATTHEWS: Probably so.

MR. RIDDLE: -- what you're thinking, you're proposing?

MR. MATTHEWS: Yeah, that's what we're thinking, that it would actually be the Board that would take over that function, they would do it after the scientific information was gathered. This technical advisory panel would then advise the scientists on whether or not they did an adequate job. If they didn't, it would go back to the scientists, they would fill in the gaps, then it would come back to this panel, and then the panel would then make its determination and send it on to the committee of the Board, for them to do their review, okay, and then that committee of the Board has already got a member from the technical advisory panel on it, that would also be
able to speak intelligently as to what transpired at the technical advisory panel.

CHAIRMAN KING: Well, and clearly there are a lot of things that can be worked on in terms of the format of the report as it comes to the panel --

MR. MATTHEWS: Oh, yeah.

CHAIRMAN KING: -- those are not things we're going to deal with at this moment --

MR. MATTHEWS: Right.

CHAIRMAN KING: -- but we understand that that's kind of work in progress. I have Rose and Andrea next.

MS. KOENIG: And this is from experience, it's just my gut reaction, because it's -- again: in my opinion, the problem has never been with the outside reviewers. You're saying doing away -- as I understand, and maybe I'm not correct. I'm understanding you're saying that you do away with those three external reviewers and you replace them with this five-member panel.

MR. MATTHEWS: That's what we're saying, yeah.

MS. KOENIG: And what I am --

MR. MATTHEWS: In other words, it would go through a true technical advisory panel.

MS. KOENIG: Well -- but what I am -- what I
would argue is that if you have three competent industry-focused and true experts looking at that scientific evaluation, they are much -- and I'm not trying to insult anyone on this Board, but they --

UNIDENTIFIED MALE VOICE: Just everyone.

(Laughter.)

MS. KOENIG: Yeah, just everyone, including myself.

(Laughter.)

MS. KOENIG: -- but I think that they theoretically have much more expertise than -- than any single board member. Because we -- we face this when we're looking at it, that we -- I really personally rely sometimes more heavily on those three outside reviewers than I do on the technical report, depending on the -- you know, the competency of the person who has filled out that review.

So I don't think -- and again, this is my personal opinion: this just makes our process more internal, there's no doubt in that, but I don't -- the problem is not: we need more involvement at that level. What we're doing is internalizing things and not -- we're bypassing getting even more information, which that three-panel discussion really allows.
I think the best part of the whole process now is that external evaluation by those three individuals, other than the board members. So I would argue that -- that this does not increase the breadth of the program.

CHAIRMAN KING: Okay, Andrea, and then Jim.

MS. CAROE: Well, just -- I've got two things now, because I'm going to talk a little bit about what Rose just said and --

I agree that there are technical expertise that we get from those outside reviewers, but I also think that there are times that we read what the technical reviewers have written and realize that they don't have a full grasp of organic, and so it flips both ways sometimes. So that was something we would replace. I don't know if -- you know, it's just something we weigh out.

But my question to you, Rick, is: The two positions that you have, the environmental -- the EPA person and the FDA person, do you see these as a couple of people that are identified for working on this or randomly people that would be interchanging? I'm just worried about the efficiency of -- you know, if we get a different EPA person every time, it might be difficult.

MR. MATTHEWS: Well, we haven't worked out all the details, obviously, because I'm trying to tell you, in
advance, of what we're thinking as possible ways to solve the problems that have cropped up over the last several years from doing materials review, and so the idea is that these would be experts in the areas of the materials that are under review. Okay?

So that when the three Board members are sitting there and they -- the scientists would also be there to answer the questions -- the people that put together the report would be there to answer the questions of the Board, but also you could have EPA and FDA people there to help answer questions of the three panel members from the Board, so that in essence you're getting --

MS. CAROE: I guess my question was more --

MR. MATTHEWS: -- you're getting the Board involved in the scientific information at an earlier stage and at a stage where they've got access to the people who have done the report, as well as people who regulate the products.

MS. CAROE: I guess my question was more in matter of reporting that information that the committee is going to see and the procedures that eventually we'll have, you know, that -- the check -- the check form that we have, the first time we used it, we weren't very efficient at it --
MR. MATTHEWS: Right.

MS. CAROE: -- and we got better at it --

MR. MATTHEWS: Right.

MS. CAROE: -- you know, and I don't know if
you're kind of thinking we're going to be going through
the learning curve constantly or if there's some way that
we can kind of alleviate that a little bit.

MR. MATTHEWS: We're two -- this is the danger
with putting out any proposal while it's -- while it's
still very -- very young, you know. I mean, the egg has
just been inseminated on this one.

MS. CAROE: Well, just take it, then, as
something to consider in going forward.

CHAIRMAN KING: Jim, then Dave.

MR. RIDDLE: Yeah. Well, I appreciate being
part of a discussion that's predecisional.

(Laughter.)

MR. RIDDLE: I mean, it's what we've been
wanting, so here we are.

(Laughter.)

CHAIRMAN KING: So be nice.

MR. RIDDLE: Yeah. For better or for worse.

(Laughter.)

MR. RIDDLE: I guess, you know, I would like to
just propose that this composition -- which I really like
this composition, having somebody from EPA and FDA -- that
that --

MR. MATTHEWS: It's good to hear you like that, Jim.

MR. RIDDLE: Yeah. -- be applied at the review
of the petition, because, you know, OFPA says that someone
shall petition the Board and the Board shall convene a
TAP. You know, so the Board has authority at that stage,
and if we have expertise from FDA and EPA helping screen
those petitions, they can give the expert advice on
legality, as they regulate a lot of these substances, and
then also the NOSB members on there can help direct the
TAP on -- specific to that material, help customize it:
"Okay, from our experience, organic experts, here are some
things to look at."

So, you know, it could really lead to a higher-
quality TAP, which has been a big problem, that scientific
review. So I would just like to suggest that we apply
this concept at that first step and maybe come back to the
people to rescreen the scientific work --

MR. MATTHEWS: So you would like this step to be
used in two different places.

MR. RIDDLE: Yeah. I'm just -- just thinking --
this is a lot to think about, but --

MR. MATTHEWS: Yeah.

CHAIRMAN KING: But just a quick proposal --

UNIDENTIFIED FEMALE VOICE: It gives continuity to the flow (inaudible).

CHAIRMAN KING: Yeah. Dave, and then Kim.

MR. CARTER: I just want to build on that, because I think -- you're right, Rick, you talk about the danger of announcing this, but this is what -- I think if we really think this through and what we're trying to accomplish, you know, this -- this has got a lot of merit to it. I don't want to see completely doing away with the external reviewers, I think they have some value too, so if we can -- if we can keep them as a part of the process but continue this, I think this makes this a really good process.

MR. MATTHEWS: Right. Well, and the reason why we're bringing it up now is because we know that the Board has been kind of antsy as to: what is it that the Department is doing with regard to materials review, and what we're trying to tell you is that we're not doing anything secret, what we're really doing is sitting back and saying, "Where are the problems, and what are the different things that we think we need to do in order to
address these problems?", and there is a role in here for
the Board in helping us to address the problems.

Now if we could -- if there's no other
questions --

CHAIRMAN KING: Kim had one quick question, and
then we'll move on.

MS. DIETZ: Jim, when you had talked about
having EPA and FDA involved at a step when we review the
petition: actually, that's the way it's currently --

UNIDENTIFIED FEMALE VOICE: It's supposed to be
going that way.

MS. DIETZ: -- supposed to be, is that --

UNIDENTIFIED MALE VOICE: Well --

MS. DIETZ: Let me finish. -- that before a
petition gets forwarded to the chair of the committee,
that it has already passed that screen; in other words,
whatever they're recommending has been already passed by
EPA or FDA or allowed for its petitioned use. So now
you're actually really saying three places in the petition
process, but that's just minutiae.

MR. MATTHEWS: Yeah. Well --

MS. DIETZ: And then my other comment is: This
is the first time that I've seen this, and earlier I had
mentioned about a potential conflict of a certifier
reviewing the materials, I see this kind of opening up a little bit for conflict of interest for Board members in that, you know, they have -- they'll be the first ones to see a petition. So I'm just -- I'm a little leery there, that if you have Board members reviewing materials and making recommendations versus outside reviewers, that it could be perceived as a conflict. So that's a first gut instinct that I think we need to just develop.

MR. MATTHEWS: Right. Well, conflict of interest is definitely something that we would have to take into consideration when --

MS. DIETZ: (Inaudible) perception --

MR. MATTHEWS: -- appointing people to that TAP review committee.

MS. ROBINSON: For example, it might be the case that it's not necessarily the chair of the committee that sits on that panel.

UNIDENTIFIED MALE VOICE: Right.

UNIDENTIFIED FEMALE VOICE: (Inaudible.)

CHAIRMAN KING: Okay. So --

MR. MATTHEWS: No. But it's true, especially let's say that it was a material that -- let's say Ann's organization wanted to have a material reviewed and Ann was involved in it and she happened to be the chair of the
committee that would have responsibility for it, so
obviously procedures would have to be in place that Ann
would not be the one participating; even though she's the
chair of the committee, somebody else on the committee
would have to be involved in it.

So -- I mean -- but you're bringing up things
that we haven't reached yet.

CHAIRMAN KING: Yeah.

MR. MATTHEWS: I mean, this is just, really,
bare bones of an idea that we have and just an
acknowledgment of the fact that we're looking at every
single stage of the review process, to bring a much better
product to the Board so that they have the tools that they
need in order to make the recommendation that they're
charged with making, okay, and that's all we're trying to
do right now.

CHAIRMAN KING: And in general terms, I think
you're aware, Rick, that the comments we're making are
simply -- this is the first time we've seen the
document --

MR. MATTHEWS: Right. Right.

CHAIRMAN KING: -- in general terms, we like it;
however, what about this, let's think out loud, let's try
to improve the process.
MR. MATTHEWS: Yeah. But I guess I'm not -- I'm not trying to shut off the debate, I'm just saying that --

CHAIRMAN KING: No, I understand.

MR. MATTHEWS: -- this probably isn't the time --

CHAIRMAN KING: It's 4 o'clock.

MR. MATTHEWS: -- to be doing the debate.

CHAIRMAN KING: It's 4 o'clock, and you were supposed to be done before lunch, pal.

MR. MATTHEWS: Yeah.

(Laughter.)

MR. RIDDLE: Yeah. 15 minutes, I think, I remember.

UNIDENTIFIED FEMALE VOICE: You asked for the whole thing.

MR. MATTHEWS: I was prepared to give you 30 minutes. You asked for it. I guess NASOP's [phonetic] in trouble for theirs on Saturday, because they get the same presentation.

Okay, last slide, I believe. No, second-to-last slide. We're also going to be asking the Board, as a part of this global approach, to develop a standard operating procedure for what it is that the committee does when it does its review and recommendation.
Now, I know you've already got some stuff written up, but the idea is to put it into a standard operating procedure format, and we would be asking the full Board to do the same thing, take what it is you do, put it into a standard operating procedure.

Then those two pieces would then come in to us, okay, and it would become a part of this manual that we're planning to publish on the web.

We're also planning, under this process, to do a standard operating procedure within the NOP on how we go about the rulemaking process. Now, keep in mind that if the scientific -- if the analysis of the scientific work that creates the work product creates an impact on the petition, we would then also have to go back and amend the petition procedures themselves.

So in essence, what we have done so far is we have said: okay, these are the -- here -- these are the checksheets that the Board needs to use to document the decisions that it is making. We're looking to go back a step and say: this is what the scientific community needs to put together for the Board to complete those checksheets. Then we're going to go back to the petitioner and say: this is what you need to supply to the scientific community, for them to do the job that they
Need to do, so that the Board can do the job that it needs
to do, so that it can provide a recommendation to the
Secretary for publication in the Federal Register. Okay?

CHAIRMAN KING: Jim.

MR. RIDDLE: Yeah, and I just -- I really
appreciate this and see it as collaborative process, and I
just want to come back to OFPA, where it says: The Board
shall establish procedures under which persons may
petition the Board for the purpose of evaluating
substances." So I --

MR. MATTHEWS: The petition procedures are out
there, and what we're going to do is we're going to be
working together --

MR. RIDDLE: Right.

MR. MATTHEWS: -- to figure out: is there a
need for the change in the petition procedures?

MR. RIDDLE: Agree [phonetic].

MR. MATTHEWS: Okay. And the end result on all
of these standard operating procedures and statements of
work for each of the different stages will come together
in the end as a manual for materials review, which would
be published on the web, which then says, to the entire
world: petitioner, this is what you have to do, this is
what your material is going to go through, this is what
you can expect.

So now the petitioner is no longer in the dark as to what really happens once they submit a petition, and right now, they're in the dark more than anybody else.

CHAIRMAN KING: Rose.

MS. KOENIG: I would -- I just want -- as the materials chair, I want to, you know, I guess put in the public record that I feel that as you're going through this process, that the materials committee should be fully engaged from this day on in this process as a cooperative approach to this. I mean, you know, we've been asking for this for a few months, and I -- you know, I hope this move is -- this directive is -- not directive, I better not use that word -- that this is, you know, going towards that, you know, and I'd love to put it on our work plan as -- as something that we can do, but we need to work together, because things can be done a lot more efficiently if we're working together.

CHAIRMAN KING: Yeah, and I think we -- we recognize we're going to do that.

MR. MATTHEWS: Well, but, you know, all we were saying is that, you know, just be calm, let us work through what it is that we think we're going to need to do and where we're going to need the assistance of the Board,
and, you know, really we were trying to identify things, and so now we're telling you exactly what we're thinking, and now you can tell us what you think.

CHAIRMAN KING: Well, okay.

MR. SIEMON: Good work.

CHAIRMAN KING: Yes. That's it.

MR. MATTHEWS: That's it. That is the longest 30 minutes of my life.

CHAIRMAN KING: We do need a break. It's 3 -- essentially 4 o'clock. Be back by 4:15, please.

(Off the record and reconvened.)

CHAIRMAN KING: I'm going to reconvene the meeting. We're going to start with Rose, who's going to do a presentation on the materials review process. This is a presentation on where we currently are.

MS. KOENIG: And I'm going to do it -- I was requested to do it really quickly, so I'm -- instead of bypassing it, I'm going to go through it quickly and just -- just highlight -- okay, so this is the materials process update.

UNIDENTIFIED FEMALE VOICE: Today.

MS. KOENIG: Today. Go ahead, Ann, next. And that's basically what I'm going to talk about next. Go ahead. Okay, so as many people said, that a lot -- and I
wanted to put it in perspective, because I know many of you have sat through these procedures, but a lot have not, and I think it's really important to set the foundation of why we're here and what we're doing and how these decisions are made.

So basically, again, the Organic Food Production Act provided the National List of Approved and Prohibited Substances, it established the guideline for the substances on the List, and it outlined the role of the NOSB in the procedure of publishing and amending the National List. Go ahead, next.

And then just for people -- the -- Section 205.600 of the Organic Rule describes the criteria that shall be used in the evaluation of substances or ingredients in the organic production and handling sections of the National List, and basically it's the -- we deal with the synthetic and non-synthetic substances that are either allowed or prohibited. Go ahead, next.

If you go back to OFPA, the 6517, that's come up a number of times, there's guidelines for prohibitions or exemptions, and basically that is what we're doing. The National List is an exemption. It's not a given. The National List may provide the use of substances in an organic farming or handling operation that are otherwise
prohibited under this title, okay, if the Secretary
determines basically that it's safe, with other agencies,
it's necessarily to the production or handling of the
agricultural product because of an unavailability of a
wholly-natural substitute product and is consistent with
organic farming and handling. Next.

(B), again, "The substance" -- this is what
Arthur was saying -- "contains an active synthetic
ingredient in the following categories," and it lists
them. These categories are found in the National List
section of the Rule.

Again, I look at these as the categories upon
which we base our things. The NOP has taken a strict
definition of "active" in this case. Next.

It is used in the production and contains
synthetic inert ingredients that are not classified by the
administrator of the EPA as inerts of toxilogical concern
or is used in the handling and is non-synthetic but is not
organically produced and a specific exemption is developed
using procedures described in Subsection (d). Next.

And then there's things -- again, the National
List can prohibit natural substances, and we discussed
that earlier. Next.

And then the Secretary basically has to consult,
again, in that section, to determine if it's harmful to the health of the environment, is inconsistent with organic farming or handling and the purposes of this title. And then the specific prohibition is developed using the procedures again defined in Subsection (b). Next.

Subsection (d) is now what they refer to. These are the procedures for establishing the List. Next.

There can be no additions except for those that are proposed by the NOSB or amendments. Prohibited substances in no instances can be included, which are prohibited by the FDA or other federal regulatory bodies. Next.

And then notice and comment, this -- again, as the Department says, there is a procedure which they need to follow in terms of publishing the proposed National List and getting public comment and then doing the final. Next, Ann.

And then this just talks about how a publication has to be proceeded through by the NOP. Next.

And then this section outlines what we'll be discussing in a moment about the Sunset Provision, it tells what our authority is, and we'll be talking about a proposal that the materials committee has come up with to
satisfy the Sunset Provision. Next.

And now these are the requirements, and the
requirements are kind of embodied in that petition process
that we were talking about earlier in that -- what the NOP
is looking at.

Basically, if you look at the petition process,
we already are supposed to be reviewing the available
information from -- I've got some tables -- the EPA, the --
you know, the departments of health and such, and
looking for, you know, other agencies for these types of
information. Next.

We have to work with manufacturers to find out
how they're made and if they contain inert materials that
are synthetically produced. Next.

And then it has to be submitted to the
Secretary, along with the proposed National List, or any
amendments such, after we convene a technical advisory
panel as what to be considered for the National List.
Next.

And then evaluation, and the evaluation
procedure is basically the procedure that we're going to
be following through the meeting.

When we look at these materials, we're not
pulling things out of the air. Within OFPA, there are
specific questions that have to be satisfied in order for us to place this on the National List, and one -- you can go, next -- basically -- go ahead, skip.

But these are -- again, if you go in reference to this, for the sake of time, these are the things that we will be discussing. Compatibility with the system of sustainable ag, this is a documentation that we're going to be discussing again. Next.

And then in addition to the criteria set forth in the Act, there's sections of the Rule that look at processing aids or adjuvants and processing criteria that wasn't necessarily spelled out in the Act, and these are the criteria that we look at in terms of processed products.

Go ahead, next. So you can find that again in Section 205. I'm not going to go through it, but I just want to highlight again: there are parts of the Rule that you need to look at, and these are what we're going to be looking at in terms of some of the petitions, like the tetra sodium pyrophosphate and such.

Next. Next. Next. Next. Sorry, guys. So crops, just want to call the attention, the categories of the Rule that we'll be adding, may, or may amend during this meeting would be either 205.601, which are synthetic

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substances allowed for the use in organic production, and
there's a number of items that we're going to consider for
this category. None of the materials during this meeting
will be considered for the category 205.602. Next.

Similar, livestock has a category 205.603, one
of the -- the two that we're looking at in livestock are
petitioned for that section of the Rule. Next.

Same with the processing, the 205.605 and .606.

Next.

So the National List update, this is -- Rick
would probably be better at explaining this, but when I
spoke with him before I made the slide, basically, the
Federal Register of May 22nd, 2003, contained the handling
materials; the Federal Register as of April 16th, 2003,
included the crops materials and technical corrections;
and the Final Rule, everyone knows, of 2000 contained the
recommendations. As of when I made the slides in
February, that was the last update, the livestock
materials had not gone to the docket. Next.

So the stuff that -- oh, actually, excuse me.
Materials finalized May 22nd, 2003. As of March 10th,
2003, there were two draft dockets containing the
materials of everything the NOSB approved prior to April
of 2004 meeting of the NOP. Next.
Then so as far as the petition status -- okay, next. These are the materials that we're going to be looking for in the handling committee during this meeting. Next.

Two from the livestock, the moxidectin and the proteinated tea chelates. Next. And then these four substances for the crops committee will be reviewed during this meeting. Next.

These four have been sent for technical review by the NOP, and I just wanted to make people aware that those four did not follow the materials procedure that is outlined following this (indiscernible). They have been sent by the NOP directly to the TAP contractor. Next.

These two substances are under NOP review, they've come, and there is one additional petition, I don't think Arthur's here, but he had told me there was only one other one, and he can update us on that, because he left a message on my phone machine last week. Next.

And then petitions and other status, the potassium silicate was a petition that we looked at, the crops committee wanted to consider it as a pest control, fungal control, for crops, but it's not currently registered under EPA for that, so we're waiting on the manufacturer, as far as the fate of that.
And then the cryolite has been determined from the committee not to be forwarded for a TAP because there was no new additional information, the product had -- substance had been reviewed, it had been repetitioned, but there was no new information to indicate that it needed further technical review. Next.

This is the materials process. I know Rick talked about this new procedure, but this is the materials process that currently the Board has been following, although there has been some deviations from that.

Basically, the minimum time frame for the National Material Review List is 145 days. In reality, if you look at -- you know, there's some that have been -- like soy protein isolate, as Kim said, that's been on the record since 2001. So there is some problems in terms of the timing on some of the materials for -- for various reasons. Next.

Day one through fourteen. Really the NOP staff has evolved at this point, they're supposed to take the petition for completeness, they are supposed to liaison at this point with the FDA or the EPA or any other federal agency that might be involved in a specific material, and make sure that that material is consistent with that other agency, federal agency. So that is the procedure. Next.
After that -- this is -- the materials chairperson should be sending a copy of that -- the materials chairperson should receive a copy of that petition, that petition should then go to the vice chair of the materials committee and the vice chair of the designated NOSB committee, such as the crops, livestock, or handling.

And then really the vice chair of those committees convenes that committee, and they vote, basically, if that petition should go on for a technical review and -- at that point or if they feel right at that point that they can make a determination that it does not need to go, and make a recommendation at that point.

Again, this step has not been followed with some of the current materials, so I just wanted to make, I guess, the public aware that the NOP has -- on those four materials that I indicated previously, has gone ahead and set those for a TAP, bypassing that process. Next.

60 days prior to the NOSB meeting we should receive copies of the review from the NOP, and then our committees come together and we start reviewing that report and -- to get to a decision. Next.

30 days, by that time we've made a decision, we've now filled out these evaluation forms, and you
should be able to access that through the website. Next.

   And then, again, if you need to petition for
documents, you can go to the NOP website. Next.

   The work that we have pending as far as our
committee is: we've submitted -- which I'll review next --
the draft for the Sunset Provision, and within our
Sunset Provision we have guidance documents to come up
with how we're going to prioritize substances for Sunset
Review, and also that we need to produce some guidance
documents for defining what constitutes a review process
for the Sunset Provision.

   So, basically, those two -- somebody had asked:
   well, why don't you have those guidance documents? Well,
partly because we need to buy into our process before we
go through the painful agony of kind of developing these
guidance documents, so the first step is really to buy
into our concept of the process, and at that point, if
there is agreements, the committee would then go forth and
do that work. And then as you can see, through the
conversation we had earlier, we'll probably be more
engaged in redefining the materials process. Next.

   Okay. Hopefully that was -- I'm sorry it was
rush, but -- I did intend to do the full Kim Burton-style
presentation, but I didn't get the opportunity at this
meeting.

CHAIRMAN KING: Well, and just a quick point. I want to thank Rose for all of her hard work, and Rose, I apologize for the fact that you did have to rush, because I know you put a lot of time in this.

MS. KOENIG: It's okay.

CHAIRMAN KING: It's important work, and it's ongoing work.

MS. KOENIG: Right.

CHAIRMAN KING: So thank you for your commitment to that.

MS. KOENIG: So did you want me to go through the Sunset Proposal?

CHAIRMAN KING: Yeah, I think we're now on to Sunset Provision.

MS. KOENIG: Okay. So as set forth, as I explained, in OPFA Section -- and I ask the Board I guess to refer to the section, your tab will say "Sunset Provision Report." For those who -- it was on the web almost a month before this meeting, so hopefully people have had the opportunity to look at it.

I will review it in as much detail as time permits. But basically, in our background information, we just said that this is the reason why we're going through
this: because OFPA has told us that we need to come up
with a policy for the provision.

And first the committee said to date -- this is
the work -- you know, this is what we have in front of us.

Basically, if you look at all the sections within the
National List, going from 205.601 to 205.606, there -- my
count was approximately 154 substances currently on the
National List.

This number is not the same that NOP comes up
with, because I went through, and if one material was in
multiple categories, I counted it as one rather than
three. Assuming that if a review was to be done, say, on
chlorine materials that are listed, that that review would
cover all uses. So anyway, that's where my 154 come from.

And then basically we have, according to the
OFPA, 5 years of -- when the National List has become
fully implemented, to do some kind of review of these
materials.

So what our committee came up with, and this was
proposed as an internal policy and procedure for the
review of substances in accordance with 7 USC 6517(e),
that basically the National Organic Standards Board and
the NOP shall compile and manage a materials database for
exemptions and prohibitions, including an official Sunset
date for each substance on the National List.

According to the NOP, they are in the process of developing and have already a working database. We have kind of our own working database. So this is something that we feel could be easily achieved.

All materials appearing on the National List as published in the Federal Register Final Rule dated October 21st, 2002, must be reviewed by October 21st, 2007. There are materials, as my slides show, that were amended after that date in other dockets, and those would have to be reviewed 5 years from their final Federal Register notice.

So based on the number of materials in any given 5-year period, the NOSB would select approximately one-fifth of the National List for review, you know, each meeting, under -- to comply with that section of Sunset Provision.

Upon the National Organic Standards' approval of the Sunset Provision -- and we're not going to be able to vote on approval this meeting because this document was not into the NOP 30 days prior to the meeting, so this is just for discussion -- the NOP will publish the entire list of materials, 605.601 to .606 inclusive, which shall be reviewed by October 21st, 2007, in the Federal Register and request public comments on the prioritization of

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materials for review.

So basically the committee decided that in terms of public transparency, that, you know, upon approval we would say okay, all 156 of these are going to be reviewed in the next 5 years, you, public, give us some input in terms of how you think priorities should occur. Okay.

Then the -- after that public comment period would end, then the livestock, crop, and handling committees would choose approximately one-fifth of the substances from each applicable section of the National List each year for review. Committees will consider public comments regarding prioritization of materials for review.

In addition, the materials committee shall provide guidance documents to the committees on how to prioritize materials for review. The materials representative for each committee will be responsible for providing the list of substances that are proposed for review during the calendar year to the materials chairs persons, who will maintain the database. Each committee will work with their representative to the materials committee to determine which of the substances will require supplemental technical information, as set forth in 7 USC 6518(k)(3).
Substances that have adequate technical information provided by prior reviews, petitions, or other documentation may be reviewed based on that information. So this is -- again, the committees would determine if on-hand we have enough technical information to do our review.

The materials committee will provide guidance documents on what is adequate technical information, so upon, again, agreement that this is the procedure, we as the materials committee would come up with a guidance document, a working document, basically, for the committee, to give guidance as to, you know, "Do you have a TAP that was adequate?", for example.

Requests for supplemental technical review will be provided in writing by the committee's representative to the materials committee -- to the materials chairperson. Then the materials chairperson is responsible for communicating the status and supplemental review needs, if applicable, of materials to the NOP representative to the materials committee.

Now, that's a little wordy, but basically, this allows -- if the committee determines that there's not enough technical information, it allows the NOSB to again go to an outside review process to gain more technical
information on some substances. And as Zea commented earlier, there were many substances earlier on in the process that may have only had one sheet of information, in terms of their technical review, whereas substances today that are being reviewed, we're getting a lot more information and they're following the OFPA criteria, we have good form.

So certainly the workload is going to be heavier on materials that just don't have adequate information, and it was the materials committee's opinion that we wanted to reserve the right, based on review, to ought to have a TAP performed on materials that we felt were insufficient, in terms of providing scientific evaluation of materials.

So the NOP is responsible for requesting technical reviews and communicating the needs of the NOSB to their contractor, and, when necessary, the materials chairperson may interact directly with the contractor regarding the status of a substance review. However -- I should say however, but the NOP representative is responsible for making contact arrangements and communicating in the communication.

In other words, in this provision we wanted the materials chairperson to have the ability to talk to the
TAP contractor but we also respect the right of the NOP and actually require them to be engaged in the process and participate in those phone calls so that, you know, there's consistency with what the NOSB is doing and what the NOP requires in terms of their contract with the contractor.

Okay, 60 days prior to the NOSB meeting the list of substances that will be reviewed for the Sunset Provision will be published in the Federal Register for public comment. Committee recommendations for the substances to be reviewed for the Sunset Provision will be posted on the NOP website 30 days prior to the NOSB meeting, and substances that have been -- have specific expiration dates will not be included in the selection process.

So in other words, there are materials, I guess such as methionine, on the List that have a Sunset, within the National List, that stops their use, and those would not be subject to Sunset Provision Review. They're basically off the List.

Recommendation --

MS. CAUGHLAN: Rose, did you count how many of those, actually?

MS. KOENIG: I didn't. There are not many, but
I haven't sat down and counted them, but we just wanted to acknowledge --

MS. CAUGHLAN: Was the Sunsetting commonly done prior to this last few years?

CHAIRMAN KING: Accelerated you mean?

MS. KOENIG: There's just a few, I think --

CHAIRMAN KING: I think there are five or so.

MS. KOENIG: Yeah. Like spirulina --

MS. CAUGHLAN: Right.

MS. KOENIG: -- there was a provision for the use of chilean nitrate, I think --

MS. CAUGHLAN: Boiler chemicals.

MS. KOENIG: So there's a few -- boiler chemicals. So there's a few, not many. But I guess what we wanted to acknowledge, it was that the intent of the Board was to Sunset and end those but -- the meaning of their provision on the List.

Okay, so the third recommendation was on public communication. The NOSB recommends that the NOP post a Federal Register notice on an annual basis, beginning in 2005, amending those materials that have passed through the Sunset process. This is intended to result in requiring future boards to have to review fewer substances in a given year and to facilitate the work of future
boards.

In other words, we wanted to acknowledge that this workload for the next 5 years, it's going to be tremendous, because everything -- all 156 or so materials are on -- became official, I guess, October 21st, 2002, but what we're saying in this recommendation is that as we go through the first one-fifth of the List, once we proceed, we want the NOP to engage in rulemaking on those so that the workload then gets spread out over time and future boards would then not have to deal with such a large amount of materials at one time. So it's an effort, again, to just look towards the future and look at workloads and make things a little bit more doable. And it can be achieved through the rulemaking process. We just have more dockets over time.

Committee recommendations. So basically we recommend the adoption of procedures set forth in this document to meet the requires of the 7 USC 6517(e) of the Organic Foods Production Act, which requires us, again, to review each substance on the National List within three years of its publication, and then materials committee shall write guidance documents to provide a framework for committees on how to effectively and efficiently manage the process. The procedures outlined above may be
modified by future boards to more efficiently manage the
process, just acknowledging that you can write a lot of
things down and have a great plan, but as people go
through the process, there may have to be changes in the
provision to really -- to meet obstacles that may come
forth, that we just can't perceive at this point in time.

That's it.

CHAIRMAN KING: Thank you very much, Rose. I'll
remind everyone tomorrow we'll actually be voting on
recommendations in the afternoon. Does anyone have
questions or comments?

MS. DIETZ: This one we can't vote on because it
wasn't --

MR. RIDDLE: We're not voting on this one.

MS. KOENIG: We can't -- we're not -- this is --

MR. RIDDLE: Yeah, I would like to address that,
because, you know, we set up the 60-day window as a goal,
and this, what, came in about 57 days out. So it
certainly has been posted for a good long time. We also
have a 30-day window for the materials committee
recommendations, and the ones from the crops committee did
not meet that. Those are goals. Those are targets. But
the intent is to have it posted for public comment and for
the Board to be able to have plenty of time to consider
So I think this is a very important and timely topic and we need to have a sense of the Board, so I would like to have us vote on accepting -- not at this moment, right now, but tomorrow, vote on accepting the committee's report so that we officially go on record as accepting the committee's report.

MS. KOENIG: Starting with those deadlines of time, Richard Matthews, on the phone, you know, as I spoke with him, indicated that he didn't have a problem with us kind of voting on it as a working document and then officially voting on it during the next meeting, so there is that provision and we should consider that.

However, on -- I was out of town, so it was sometime last week, when I got home I had received an e-mail from Arthur Neal, indicating their position on the Sunset Provision, which is -- it's pretty different from our position. So we need to come to terms with where we're at on this policy, we need to communicate kind of that -- where that -- and my question to Arthur -- I'm not sure if he's here, oh, there he is -- was I -- and I didn't get a chance to correspond with you because I was out of town, and then -- I still haven't, again, you know, digested all of what you had corresponded to me, but my
question, I guess, to you was: I assume that your correspondence to me was your recommendation on a policy, kind of your alternative. I just don't know where we are. I understand from OFPA that it is pretty clear that we establish our procedures, so I'm not sure how you wanted us to process the information that was in your correspondence to me.

MR. NEAL: The e-mail that we sent to you all was a very well-vetted document with senior management at USDA. We took you guys' recommendation that you sent and we built upon it, to take into consideration the federal process that has to take place to reestablish these materials that have exemptions under the National Organic Program. We did reject your recommendation, we actually accepted the majority of it, but we had to tailor it to fit the federal process, because, as noted, it takes about, what, three years to finish it?

CHAIRMAN KING: A little over, yeah.

MR. NEAL: Yeah, over three years to finish the process. Because there's going to be a Federal Register notice that states what's about to take place, then there's going to be public comment, then there's going to be the development of a proposed rule, then there's going to be more public comment, that helps the NOSB to
prioritize the materials that need to be reviewed, that
the public is saying: okay, there's no longer a need for
this exemption, for the use of this particular synthetic
substance, under the National Organic Program, and it
gives the NOSB time to also make the recommendations to
the Department in regards to which materials should be
considered for inclusion on the National Organic -- I mean
the National List.

But it also takes into consideration, you know,
legal review by the Office of General Counsel, Office of
Management & Budget, the departmental and administrative
review, it -- there's a lot of time that is integrated
into the particular proposal that we sent to you.

MS. DIETZ: I think the question was what do we
do with our document, because we had prepared a document,
just as a working draft for the Sunset --

MR. NEAL: Uh-huh.

MS. DIETZ: -- and I didn't think we could vote
on it, with the timeline, but -- I mean, we could take it
as a committee recommendation and give it formally to the
NOP. And then this week we received your Sunset Review.

So I think from a materials standpoint we're not
really prepared to move forward on the recommendation that
you brought to us.
MR. NEAL: Well --

MS. DIETZ: We could acknowledge both of them, Rosie, I think we formally acknowledge --

MS. KOENIG: Yeah. No, I --

MS. DIETZ: -- them and take it back to the group, but to vote on our docket, I don't feel comfortable doing that.

MS. KOENIG: No, I'm not recommending kind of a vote -- I feel that --

MS. DIETZ: We need to look at them, we haven't had time --

MS. KOENIG: Yeah, we need to really sit down and meet as a committee, and maybe we'll have an opportunity at that time --

MR. NEAL: Well, the issue with that document is that that's the Department's position on Sunset --

UNIDENTIFIED FEMALE VOICE: Sure, we understand that, that's understood.

MS. DIETZ: But the question is -- and I guess maybe Barbara or you -- how do you define your position versus what the policy -- I mean, your position I do think incorporated a lot of our -- you know, the spirit of, I guess, our proposal. There were some, I think, substantial differences in -- and again, I mean, I haven't
thoroughly processed what you had written, but what I
gleaned from that was that things would automatically be
just allowed unless there was substantial documentation
from the public or, you know, some entity came forth with
new information regarding the OFPA criteria.

So -- and what I didn't understand in your
document -- I mean, our -- our document allows for public
comment but it gives the Board the power to convene TAPs
based on the fact that there's some -- let me go back.

Your document assumes that all TAPs were
adequate, it pretty strongly stated that, and as I state
my position again, and this is my opinion, I'm not
speaking for the Board, my position, and what we heard
from some of the public today, was that in fact many of
the substances that came on very early did not have
adequate technical information, and that is the largest
concern, I think, certainly of myself personally and of
the materials committee, is that we feel there are many
substances that were added on early, some of them that
probably will remain on the List, but we want to, you
know, for the future of the industry, the future of the
process, be able to have adequate technical information
for everything that's on that list so that we can kind of
defend --
MS. DIETZ: I think they address that in the document, because there is a section that says -- and again, I didn't think we would be reviewing this today --

UNIDENTIFIED FEMALE VOICE: Right.

MS. DIETZ: -- but it does say, "Based on public comments received, the NOSB may decide that certain substances warrant a more in-depth review, requiring additional information or research that considers new scientific data and technological and market advances," so I think they've left that open, and I don't know if we want to waste all our discussion time on a document that we've had two days to review, so --

CHAIRMAN KING: In fact, I think we should acknowledge it's a work in progress, it's not perfect, that there will be ongoing dialogue with the Department --

MS. DIETZ: But there's urgency.

CHAIRMAN KING: There is urgency, and this does need to happen. And so I guess what we're -- the last thing here is just to see -- that we can work with you on this document, knowing that there is a sense of urgency to get this process started, and move forward with our agenda today and (inaudible).

MR. NEAL: I don't know about the document portion, because the process has to begin.
MS. DIETZ: It does have to begin.

MR. NEAL: It has to begin.

CHAIRMAN KING: Uh-huh.

MR. NEAL: I don't foresee any changes to that document. I don't. I don't foresee any changes to that document, because it acknowledges the fact that the Board may want additional information on materials. I don't know what else there would be --

MS. KOENIG: Well, what I'll suggest, I will convene a meeting of the materials committee, we will discuss the document, and hopefully before the end of the meeting we'll provide at least a position on it, and maybe we can resolve -- we'll make a recommendation on how we can proceed, after we discuss it, by the materials committee. So let's just leave it at that, because, again, we can work with you guys and try to work this out.

CHAIRMAN KING: Okay.

MR. NEAL: One of the things I want to leave you with is that the process should be driven by the comments, because you want to take into consideration that that particular process helps the process to be unarbitrary and uncapricious, non-capricious, and it's fully transparent to the entire public, and it has to fit within a federal process.
MR. RIDDLE: Yeah. And as I read both of these drafts, that's something I see in common.

MR. NEAL: Uh-huh.

CHAIRMAN KING: All right. Next, Andrea, accreditation.

MS. CAROE: Okay. Jim, do you have the copies?

MR. RIDDLE: Yes.

MS. CAROE: In the meeting books is version 7, or draft 7, of the accreditation certification agent compliance procedure for a minor non-compliance. We actually have version 8, or draft 8, and there are minor changes, they've been left in track mode so you can see the changes. They are based on comments, and the back section of this document does discuss each of the comments that we received.

We received comments from one commenter only, but I did address every portion of those comments, so you can see -- and this was sent to the committee, and Jim made some additional changes to it, and there was none further.

But this has been voted on by the committee. It's been sitting around for a long time. I hope to vote on this tomorrow. I think we've all seen this document quite a bit. I mean, it actually was authored before I
was even on the Board, let alone the committee. So, you know, I'm going to defer to Jim a lot on some of the history questions here because I just -- you know. I commented on this outside the Board, so that's, you know, where I started with it.

I don't know that we need to waste a lot of time on this, based on our schedule, other than, you know, take a look at it and -- unless any of these -- there's very few changes, there's some definitions and title changes, and we did hear one commenter this morning ask for the word "major" to be used, and I talked to Jim a little bit about this, I have not had a chance to talk to Michael and Rebecca about this, but there is an opportunity, I think, for a hybrid, where we can put "major" in parens so that we keep the integrity of the language that's used in the Rule but perhaps more clarifying to the users of this document.

CHAIRMAN KING: Okay, Jim.

MR. RIDDLE: Yeah. And in the draft that I just passed around, where you'll really see the most changes is on Page 7, which is the addendum section, and that's where what Andrea was saying about the definitions and the use of the word "major" non-compliance in parentheses there, to clarify the difference between minor non-compliances
and major non-compliances. And then there are also some changes to the headings of the tables that have been recommended by the commenter. But that's basically the substantive changes.

CHAIRMAN KING: Questions, comments?

(No response.)

CHAIRMAN KING: Thank you. Crops committee, Nancy.

MS. OSTIGUY: We don't have anything at this point. The only thing the crops committee will be bringing up actually comes up later, on the compost tea. That's on Friday, I guess.

CHAIRMAN KING: All right. Thank you. Kevin, handling committee.

MR. O'RELL: Handling committee, we have an update on materials used as food contact substances. This was submitted on April 15th, so, again, it wasn't published for 30 days. I think it's our intent to acknowledge food contact substances and give a quick update and then move on in our work plan, essentially, without going in -- I know we're pressed for time, without going into a lot of details on the background information on food contact substances, other than to state that the NOP did acknowledge that food contact substances were
outside of the scope of the NOP, or the NOSB, for material review.

The NOSB has recommended the materials from past meetings to be added to the National List, and there were six materials: activated carbon and periacetic acid and four boiler water additives: ammonium hydroxide, cyclohexlamine, diethylaminoethanol, and octadecylamine. These materials may be considered as food contact substances.

It's the handling committee's recommendation that since these materials were previously petitioned and approved, that the NOSB would place them on the National List. We understand there's still a lot of confusion in the industry regarding food contact substances, and as part of our action of the handling committee, we will be prioritizing our work plan to clarify the qualification of materials for the food contact substance list. This is the quick version.

CHAIRMAN KING: Yes, I understand, and thank all of your patience. I know it's difficult to do some of these justice in the limited amount of time. Did you have a comment?

MR. RIDDLE: A question. I mean, once again, what are we going to do with this?
MS. DIETZ: I think the -- the intent of it was that there's -- the confusion out there is twofold: one, there's confusions on the materials that we did make a recommendation for, and those were the only materials that never appeared on a docket.

So, as a handler rep, I kept receiving calls from people, saying, "Well, I know you have periacetic acid, but my certifier's saying I can't use it," and I'm saying, "Well, it's a food contact substance," and people don't know how to read that list. So until we understand how to read the List, and the public understands, this recommendation was at least put forth so we acknowledge those materials were recommended at one point and that they be placed back on the -- or that they be placed on the National List.

So, again, it's mainly just an acknowledgment, and then the committee is going to go forward and try to hash out exactly how to interpret food contact substance list for handlers, because there's great confusion about that. Does that satisfy you?

MR. RIDDLE: Well, kind of, I mean it gives me more basis for the rationale, but it still doesn't tell me what we're going to do, if we're going to vote to accept this as a committee report or, you know --
MS. DIETZ: It was not sent to the committee in time for that.

MR. RIDDLE: To the NOP?

MS. DIETZ: To the NOP.

MR. O'RELL: To the NOP. I mean, that's -- otherwise, it was our intent to vote on it as a committee recommendation, so then the Board would vote for the --

MR. RIDDLE: You know, I really appreciate the confusion that this attempts to clarify as far as the status of those six substances, because that whole food contact substance list, it's like a square peg in a round hole, it really doesn't fit our needs, and we've reviewed these, on the food contact substance list they have different names or they're combined with other ingredients, they're more a formulated product for a specific use, whereas here, this is generic substance that fits the rest of our format for the National List.

So I support moving that part of it forward.

MR. O'RELL: If it's possible for us to do a vote on that, maybe we can discuss that with the NOP. We certainly would be in favor, on the handling committee, to put this up for a vote with the NOSB full committee.

MR. RIDDLE: It's not a change, exactly, we're not --
MR. O'RELL: No, it's not a change, it's a clarification --

MS. DIETZ: It's an acknowledgement.

MR. O'RELL: -- and continuing to say that our recommendation for these materials, which we all voted on and approved at previous meetings, that we still have that position: that these should be placed on the National List.

CHAIRMAN KING: And it's connecting it to the food contact substance aspect of it.

MR. O'RELL: And it's recognizing the fact that these could also be considered as food contact substances, but there needs to be a lot of clarification on food contact substances as far as the pre-market notification with the FDA on food contact substances, the definition of it.

CHAIRMAN KING: I think it would be difficult to argue with clarity at this point, Kevin, so --

(Laughter.)

CHAIRMAN KING: Questions or concerns?

(No response.)

CHAIRMAN KING: Okay. Livestock.

MR. SIEMON: We have no non-materials standards, so really -- so livestock's so clear we didn't need to
clarify anything.

(Laughter.)

CHAIRMAN KING: Policy development committee, Mr. Carter.

MR. CARTER: Okay. We have two items. Number one is our Board policy manual, which is a living document, that gets addressed as new policies come down the pike. We have two things that have come forward for that in our changes being incorporated, proposed incorporated, in our Board policy manual.

One of them has specifically to do with confidentiality procedures, and particularly with non-public information, confidential business information, and how the Board handles that.

The second is the incorporation or the substitution now of the new materials review forms based upon the forms that NOP developed, that we utilized at our last meeting, so we'll be bringing those forward for your consideration.

Then you're getting circulated around the draft of the statement on compatibility with organic production and handling. The process on that is that NOP had requested a recommendation on the following question, which is:

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What are the factors (reasons, issues, parameters, strictures, limitations) and constraints that the National Organic Standards Board should use to determine a substance's compatibility with a system of sustainable agriculture and its consistency with organic farming and handling?

As of the last meeting, we had developed 13 criteria, which is listed in the book. That was posted for public comment. There were six public comments that were received. All of those public comments suggested that we drop the 13th item, which was Item M, which is: does the substance facilitate the development of new organic products? There was a lot of discussion saying that that really was not a good criteria, you could use that as justification to approve a lot of items just because they would spur the development of other organic things. So that was dropped, and that is the only change that is in, then, the draft that was just distributed around. Seeing as how there were 13 and one was dropped, we now have a 12-step program for organic compatibility, I guess.

UNIDENTIFIED FEMALE VOICE: Is that in our book or did you pass it around?

MR. CARTER: I circulated -- it must have gone
this way and not -- I'm sorry, I thought you split them in half.

MR. RIDDLE: No, I gave it all to you.

MR. CARTER: All to me, okay.

MR. RIDDLE: Yeah. I didn't want (inaudible).

(Pause.)

MR. RIDDLE: I just want to add that it also, in the draft that is getting passed around now, explains there on Page 2 and 3 how the comments were dealt with, so it summarizes what comments were received and then how they were addressed. It's less than 22 pages in length.

(Laughter.)

CHAIRMAN KING: And we thank you for that.

Okay, additional comments, questions?

(No response.)

CHAIRMAN KING: Okay, great. Now we're on to presentation -- we're on to the 2 o'clock slot, "Presentation of Materials Recommendations," crops committee, and --

MS. DIETZ: Since it's after 5, can you inform the public of what you're going to do, because we're past the agenda time. Are we going to keep going?

CHAIRMAN KING: I think we should present the agenda items, and certainly if there are suggestions from
the Board I'm willing to entertain those, but I see no reason not to present the materials recommendations. We may not have as extensive a discussion as we would have had we started at 2 o'clock. So we'll go through that.

Tomorrow we do have a time slot allotted in the breakout session for additional work, if that comes up, for any recommendations in the morning, and then of course we'll be voting on recommendations in the afternoon.

So at this time, I mean, if you have a specific question, a concern, a point about the recommendation at hand, then certainly make it, recognizing that we're asking everyone here who may have family, friends, plans, things of that nature, to stay over. So let's do it justice but do it effectively and efficiently.

UNIDENTIFIED FEMALE VOICE: A life?


MR. RIDDLE: Yeah, before we go to those materials recommendations, I would just like to hand out the current draft on the 606 Task Force, the commercial availability, and I'll be making that presentation tomorrow morning.

CHAIRMAN KING: Okay.

MR. RIDDLE: But that way people will have it in
hand, and it's highlighted with nice hot pink, that shows the changes.

CHAIRMAN KING: Okay.

MR. RIDDLE: Okay.

CHAIRMAN KING: I think you need to talk about the recommendation and if there are questions or concerns and --

UNIDENTIFIED MALE VOICE: Do you want any quick background information?

CHAIRMAN KING: I think that in the past -- and I'm just -- in the past -- and please bear with us, this is the first time we've used the checksheets, so Nancy's question is: how are we going to do a quick overview.

In the past we had an introduction, a background, what the issue was, what the committee recommendation was, and we would present it in that format, and I see no reason why we can't have a similar format based on the information in front of you, with some chair discretion, Nancy, so --

MS. OSTIGUY: There's going to need to be (chuckles).

MS. DIETZ: Let me, for a minute -- the checklist forms, if you have not seen them, I think they vastly have improved our process, and I think every one of
us have agreed on that. The back sheet really is the one that has the recommendation on it, so if that's what they're going to be going to, if you have copies --

MR. RIDDLE: Yeah, that's the problem. I understood they'd be in the meeting book, and they aren't, so --

MS. DIETZ: So the committee does not have them?

MR. RIDDLE: I didn't print them out, I don't have them.

MS. CAROE: Because they were on the website (inaudible) --

MR. RIDDLE: Right, they were on the website, in the meeting book, so I assumed they'd be in the physical meeting book once we got here.

UNIDENTIFIED FEMALE VOICE: And they're not.

CHAIRMAN KING: Katherine, do you have any copies available that we could share, at least, from a board standpoint? I have a copy here, so I can certainly --

MS. DIETZ: I have a copy.

CHAIRMAN KING: -- and Kim has a copy, so --

UNIDENTIFIED MALE VOICE: I have a copy.

CHAIRMAN KING: Okay. So I think we can get through this. Those who don't have copies or need a copy,
raise your hand and --

UNIDENTIFIED FEMALE VOICE: We'll share.

CHAIRMAN KING: We can have a shared experience.

MR. RIDDLE: I do have another question about the process, and -- as I understand it, you know, the draft we have -- or don't have -- is from the committee, but really what we submit to NOP is from the Board, not just the voting form but the actual evaluation form.

So the whole thing is open for consideration.

If we feel that, you know, the committee is recommending that something be a yes but we think it should be a no and there's additional comments, that should be amended, or open for amendment, per se, so that we come up with a composite from the Board.

MS. OSTIGUY: Right, that is my view also.

MS. DIETZ: And then a point of clarification:

Who's making those amendments, is it the committee chairs, is it the Secretary who's doing that, or would it be --

MS. OSTIGUY: Well, I would hope it's the committee chairs.

MS. DIETZ: Okay.

CHAIRMAN KING: Committee chairs, yeah.

MS. DIETZ: Okay.

UNIDENTIFIED MALE VOICE: Anyone can make them,
but then they record them.

    MS. DIETZ: They would record them and turn them in, okay.

    UNIDENTIFIED MALE VOICE: That'd be good.

    MS. OSTIGUY: I don't know if the rest of the Board -- I have no idea how much my comments, my mumblings here, have been out, but what I indicated is I thought the committee chair should do it, partly because we know what's going on, and it's too much work for the Secretary to try and put it all together.

    MS. DIETZ: Thank you.

    CHAIRMAN KING: I think, yes, that's what we'll be doing. Jim's point is just that people can make a motion to amend, so --

    MS. OSTIGUY: Correct. Yeah, that would make sense.

    CHAIRMAN KING: But the recording part will be the responsibility of the committee chair.

    MS. BENHAM: Mark, I have an extra copy here that somebody from (inaudible) printed themself, their own self.

    MS. CAROE: I think the vice chair is the materials person, so they're really the one, it wouldn't be the chair of the committee but the vice chair.
MS. OSTIGUY: Yeah, that's fine.

CHAIRMAN KING: It's the chair's discretion at the committee level on how it gets recorded. We do know it must be recorded. Nancy.

MS. OSTIGUY: We'll try again?

CHAIRMAN KING: Yes.

MS. OSTIGUY: Okay. So we're going to start with -- as the agenda has -- with the order for the agenda, even though I love alphabetical and it's not.

Soy protein isolate is the one we're starting with, petitioned for use as a fertilizer. The committee's recommendation was to reject the TAP because it did not address the use of the material as a soil amendment, it was focused on food, so we were recommending a deferral.

Do you want any more detail than that or --

CHAIRMAN KING: Do you give a vote --

MS. OSTIGUY: Oh, I'm sorry, you can give the vote, yes. I can do that. The vote was 3 yes, zero no, zero abstained, on that one.

MR. SIEMON: And is that genuinely because we needed this information to make a decision obviously or was it just kind of an irritation that TAP couldn't get it straight?

MS. OSTIGUY: No, it was not an irritation.
Yes, there was irritation, but no, we weren't making a point (chuckles).

MR. SIEMON: Okay.

MS. OSTIGUY: The part of it -- some of the questions we had did get answered this morning, so there was supplemental information, so in our breakout section tomorrow morning the committee will talk about it again and we may change our recommendation at that time. I don't know. It depends on what everybody says. But I'm presenting what we decided, and we didn't have any of the information that was presented this morning, and we felt we needed that, to give it a fair hearing, because the response was: if we were going to do it based upon the TAP as it stood, the recommendation was going to be No, and that didn't seem right.

CHAIRMAN KING: Kim.

MS. DIETZ: Again, I commented this morning on this material, being somewhat involved with it as past chair, I'd like -- I'd like to see if perhaps Arthur and Bob and I could join your committee, because I want to just make sure we have some resolution to -- to this material and what the direction is we need to go with it, whether we vote on it this week or defer it on specific reasons.
And then I also had a problem with this TAP, that, again, that third reviewer was a certified entity. So if we're going to defer it, then I think we need to ask for a third reviewer to re-review it.

CHAIRMAN KING: Jim.

MR. RIDDLE: I just -- I don't understand what your concern is, Kim. I mean --

MS. DIETZ: My concern with -- if I look at -- and this is a blanket concern on the TAP reports, but if I -- reviewer number 3, I think, on most of these materials is a USDA-accredited certifier from the Midwest, and I don't know whether NOP has a comment on that, but to me, I don't know if that's the place for an accredited certifier to be, a reviewer, because they could be -- they could have a biased opinion innately because their material isn't from that region or --

UNIDENTIFIED MALE VOICE: Certifying the person (inaudible) --

MS. DIETZ: -- or they could certify it -- I -- it just -- it strikes me as very awkward, so I question it. I don't know if it's right or wrong, but I would question an accredited certifier being a reviewer of a TAP report.

MS. KOENIG: I would just -- I think that it --
as long as it's fully disclosed, which, you know, we know
that they're an accredited certifier -- I mean, I think
it's analogous -- I mean, there's an accredited certifier
on the -- well, I guess nobody is right now an accredited
certifier, on the Board, but we all -- we all vote on
things and we represent sections of the industry too, so
we actually have, probably, more impact, but we do do
conflict of interest, and I think as long as it's
disclosed and -- so the answer, to me, lies in the
contractor -- how the contractor screens those and makes
sure that if they do have a conflict of --

MS. DIETZ: But the same one reviewed like six
TAPs, so -- I just question it.

MS. CAROE: Yeah, it just --
CHAIRMAN KING: Andrea.

MS. CAROE: They should have --
CHAIRMAN KING: Rose --
MS. CAROE: -- a conflict-of-interest policy
(inaudible) --
CHAIRMAN KING: Okay. Thank you. Andrea.

UNIDENTIFIED FEMALE VOICE: (Inaudible) the
contractor.

MS. CAROE: I just -- I think there's a big
difference between being a stakeholder and being a
reviewer of petitions. You know, innately this group of
stakeholders all have a conflict, at one time or another
we all have a conflict, that's why we're here, we
represent that facet, that's why we're one vote of 15, or
14 at the present time. But providing information in this
way, in order to make decisions, can -- if the person
truly does have a conflict, can sway the entire vote of
the Board because of the information that is selected to
be included on this report.

I don't know for sure if I -- if I agree, but I
-- as -- in my past life as an accredited certifier, I
could see that certain materials being put on the List
were advantageous to me, as a certifier, and promoted
business. So there very well may be that conflict, I
don't know --

CHAIRMAN KING: Guys, I don't really want to cut
this off, but I'm going to in the sense that I see this as
a policy or procedure issue in terms of how the review
process happens, unless -- does one individual or one
individual from a specific sector of the industry have any
more of a conflict than anyone else, so let's move on.

MS. OSTIGUY: Okay, the second item on the List
was 6-benzyladenine.

And I think I know why I'm doing so many of the
materials: is because I can pronounce chemical names.

(Laughter.)

UNIDENTIFIED MALE VOICE: Amen.

MR. RIDDLE: I wasn't -- I had a few points I wanted the committee -- you're going to be meeting again on soy protein isolate, right?

MS. OSTIGUY: Yes.

MR. RIDDLE: In the morning.

CHAIRMAN KING: Yeah, breakout session.

MR. RIDDLE: Yeah, I was -- I mean, we got distracted on the whole discussion of conflict of interest of a reviewer, but I had a few points I just wanted to bring to -- I'm not on the committee, so now is my chance, unless I come to that breakout.

MS. OSTIGUY: Some points on --?

MR. RIDDLE: Yes, on the --

CHAIRMAN KING: Soy protein isolate.

MR. RIDDLE: -- soy protein isolate itself. Now that we've learned that it is hexane-extracted, you know, I'd like to add -- if it is deferred and questions about the environmental impact of that -- the only thing that the TAP says is that it's done in full compliance with environmental regulations. Well, of course it is. But I want some science on how the effluent or -- whatever, what
the environmental impacts of that, now that we know what the extraction process is, and if we are deferring it, also like to have more of a whole-systems approach reflected; this is not just input substitution, we're talking about a source of nitrogen, and nitrogen should come from legumes in a mandatory crop rotation, and I'd like to see that addressed in the TAP.

So I just wanted to make those points for the committee to take.

MS. OSTIGUY: Any others?

(No audible response.)

MS. OSTIGUY: Okay. On to 6-benzyladenine, the -- this material is petitioned for use as an apple fruit thinner. What it does is cause you to lose a certain portion of the fruit on the apple trees, eventually enhancing production.

The committee's conclusions on this material was that it was agricultural, synthetic, and voted to reject the material because hand pruning is an alternative practice that is available and currently used. One of the quotes from the TAP that we used was: "Switching to chemical solutions as an alternative to farmers working in the field is not an example of sustainability, regardless of economic profitability."
The vote on this was 4 yes, zero no, zero abstained. To reject, yes. Failed on Criterias 2 and 3.

CHAIRMAN KING: Comments, questions?

MR. SIEMON: You said that hand thinning is presently commercially being --

MS. OSTIGUY: Oh, yes. It is the only thing that is used.

UNIDENTIFIED FEMALE VOICE: Organic, yes.

MS. CAROE: Nancy, we had a commenter this morning from Valent BioScience that had apparently sent in a comment on this, and have you considered that comment, that came in late? Have you even seen it?

MS. OSTIGUY: That one I am not sure, but again, you know, the crops committee will be meeting in the morning and we will take into account all comments that have been made.

MS. CAROE: Okay. Because it sounded like there was quite a bit of substance in that document that should be considered.

MS. CAUGHLAN: And Rose indicated that there was an OMRI-approved source -- formulation, with a natural source of this substance.

MR. RIDDLE: I did have a question about how the committee came up with the answers yes and no to the
question about it being consistent with organic farming, "No," and I understand the rationale, and then --

MS. OSTIGUY: Okay, where are you?
MR. RIDDLE: Yeah, I'm sorry. Category 3, on the table there.

MS. OSTIGUY: 2 and 3?
MR. RIDDLE: Yeah.
MS. OSTIGUY: Uh-huh.
MR. RIDDLE: Yeah, 2 and 3. -- that it's not consistent, but yes, it is compatible. That doesn't quite seem consistent to me (chuckles).

(Laughter.)

UNIDENTIFIED MALE VOICE: No, but it is compatible.
MR. RIDDLE: But it is compatible (chuckles).
MS. OSTIGUY: Yes, but it is compatible. I think some of the logic here was that it does reduce production costs so it might increase [sic.] the economic liability of the farm, so that would increase sustainability. So there were -- the difficulty on this one was that there were aspects that made it sustainable and aspects that made it non-sustainable.

MR. RIDDLE: Okay. Yeah. And I can --
MS. OSTIGUY: And we're forced to do a yes or
no.

MR. RIDDLE: Yeah, I understand it better, where you came up --

MS. OSTIGUY: So that's --

MR. RIDDLE: Okay.

(Pause.)

MS. OSTIGUY: Anything else?

(No response.)

MS. OSTIGUY: Okay, the next one was urea. Urea was petitioned for use as an insect fruit fly attractant. Contrary to what it says on the agenda, the committee actually had finished its work. What we had been told after the TAP was completed was that the material is not approved for the petitioned use, so we can't approve or not approve it because it doesn't meet EPA's criteria.

So as far as I can tell, we don't do anything on this one. Anybody have an alternative view, that we're supposed to do something?

CHAIRMAN KING: It was my understanding that it didn't meet -- it wasn't a legal label claim --

MS. OSTIGUY: Right.

CHAIRMAN KING: -- the petitioned use and therefore --

MS. OSTIGUY: -- we couldn't --
CHAIRMAN KING: -- we couldn't move it forward.

Rick?

MS. OSTIGUY: So I don't know if we officially reject or what we do with it, but --

CHAIRMAN KING: Do you need us to officially reject a material that does -- the petitioned use does not have a legal label claim?

MS. DIETZ: Can I comment?

CHAIRMAN KING: (Nods head.)

MS. DIETZ: In the past, something similar to this has happened and they've withdrawn the petition versus reject the material, so if you could -- if there's no EPA allowance for it, it's up to petitioner to do that, I suppose, but from a committee standpoint --

MR. MATTHEWS: If there's no EPA allowance, we don't take action.

MS. OSTIGUY: That was my assumption.

CHAIRMAN KING: So we'll just move on with that.

MS. OSTIGUY: Yes.

CHAIRMAN KING: Okay.

MS. OSTIGUY: So --

CHAIRMAN KING: Quick comment?

MS. DIETZ: Again, this is not -- this is, I guess, intended for the public to understand the process:
you know, we're all human, we all make mistakes, and I think --

UNIDENTIFIED MALE VOICE: Speak up.

MS. DIETZ: I said we're all human and we all make mistakes. Unfortunately, this -- in our procedure, as we follow it -- and I explained, between zero -- days one and fourteen the NOP is supposed to review the -- you review the petition for the intended use. In this case, it was urea as the active ingredient in a pheromone, and the petitioner was from a different country, it wasn't a US country, and we assumed when the committee got it the first time that that -- that they had looked at -- that NOP had actually done that research.

Somewhere in the process, it wasn't done. This should never have -- we shouldn't be here even looking at this. So this normally should not have occurred. I don't want people to think that this is how procedures occur, because it shouldn't have gone to this process, but it has, it's unfortunate, and that's where the committee stands on it.


MS. OSTIGUY: It actually sounds like a reasonably good idea, so maybe somebody should talk to EPA.
Anyway: Hydrogen chloride, this was petitioned for use in cotton seed de-linting process. The committee voted that the material was agricultural, synthetic, and to reject it, indicated that the criteria -- both -- well, Criteria 1, 2, and 3 caused the failure of this chemical because of its extreme corrosivity, very reactive; if released, very damaging to soil and plant life; and, as we heard this morning, this is not true, that alternative organic acids may be used.

The vote was 4 yes to reject, zero no, zero abstained. And, again, we will be talking about this one in the morning.

CHAIRMAN KING: Rose, go ahead.

MS. KOENIG: I just want to say: I think it was the spirit of this vote -- again, I think you need to go into that a little bit -- was that we acknowledged the -- you know, the two criteria. Our biggest question as a committee, when we voted on it, was whether there was alternative substitutes.

Based on that TAP report, the TAP report indicated that. We voted based on that information. So this will be one that -- I think that we will definitely reconsider, because we did get the public comment that we thought we would get, so -- that's just -- all I wanted to
MS. DIETZ: I would like to request that crops committee reviews this material that -- take into these things [sic.] for the following consideration.

Number 2, on category 1, where "Is there environmental contamination during manufacture?", you have very good justification that there is, but at the same time, this is a grass material and that -- GMPs should be followed, and that's why we have GMPs, so that potentially things don't happen.

So I think this is one where there is, but you also need to acknowledge that in the TAP it does say that as long as Good Manufacturing Practices are followed, as every material has those, that -- that are considered potentially dangerous. So that was number 2.

On number 3, "Is the substance harmful to the environment?" On the TAP, Page 6, it's specifically stated that there was no residue left on the seed, and so I would like to see that added, even though it is -- the substance is harmful, that they do acknowledge that there's -- it's a pH neutral by the time they receive a seed.

MS. OSTIGUY: Uh-huh.

MS. DIETZ: Same thing on number 5, "Is there
potential for detrimental chemical interaction?", as long
as Good Manufacturing Practices are followed, you know,
that -- that's your deterrent there. And that also this
material is considered a food sanitizer, so I would have
also included it in that section.

MS. OSTIGUY: In number 5.

MS. DIETZ: In number 5. Next page, under
category 2, "Is there a wholly-natural substitute
product?", yes, there are products that identify --

MS. OSTIGUY: Oh, this isn't applicable.

MS. DIETZ: Pardon me?

MS. OSTIGUY: It's not applicable.

MS. DIETZ: Right. Number 4 says yes --

MS. OSTIGUY: Oh, number 2, okay. Number 2.

MS. DIETZ: Number 4 --

MS. OSTIGUY: Okay.

MS. DIETZ: -- you say, "Yes, there are
substitutes" --

MS. OSTIGUY: Uh-huh.

MS. DIETZ: -- whereas the --

MS. OSTIGUY: Yeah.

MS. DIETZ: -- TAPs said they might not be
applicable; and also in your comments that you received
from the petitioner, they said they were not.
MR. SIEMON: And lactic and acetic acid is considered wholly-natural? Am I wrong?

MS. OSTIGUY: It's an organic acid.

MS. DIETZ: And then the only -- the only other comments I had, in the handling committee, if there's alternatives mentioned, then we would have gone forth and asked the -- before we checked new material, we would have gone and asked to have a response from the petitioner, whether or not they've tested those alternatives, so I don't see anywhere in here where we've tried to see whether they've really tested the alternatives. Those are my only comments.

(Pause.)

MR. RIDDLE: This is a tough one for me, I mean as -- if people haven't figured out by now, I'm kind of a conservative when it comes to synthetic substances and didn't think I supported this, but hearing what I heard today has certainly opened my mind to change, and I think as the committee revisits it, it's really going to hinge on annotation; if you do move it forward, there's got to be a very limited use, you know, for --

UNIDENTIFIED FEMALE VOICE: De-linting.

MR. RIDDLE: Yeah. -- for de-linting cotton seed for use in planting. We're not talking about for
livestock feed or something like this. This is to be planted. So that's basically it, for me.

CHAIRMAN KING: Other comments?

(No response.)

CHAIRMAN KING: Anything else, Nancy?

MS. OSTIGUY: No. I think that's all four of them.

CHAIRMAN KING: Okay, great. Now we're supposed to have a break.

(Laughter.)

CHAIRMAN KING: Kevin.

MR. O'RELL: Nitrous oxide was petitioned for use as a whipping propellant for food-grade aerosols, and I know that you want the condensed version of all this, so I'll try to make it condense.

Most of the concern was around the environmental aspects of nitrous oxide and the fact that it is a potent greenhouse gas and has a half-life of 120 years. Also considered -- we answered Question Number 1, adverse effects, yes, but we also considered a magazine article which said that it was an infinitesimal amount, 2 parts per million for total production, but we still felt -- that was answered yes on most of the environmental questions.
It is a grass item, and harmful effects on human health, mostly resulting from the misuse of the product, so we answered yes, but -- from inhalation of laughing gas --

UNIDENTIFIED FEMALE VOICE: Which we all thought we needed at the time we got finished with this.

(Laughter.)

MR. O'RELL: I think we're there now.

VOICES: Yeah.

(Laughter.)

MR. O'RELL: "Is there a natural source?" Not that's practical for commercial availability. It naturally occurs -- nitrous oxide naturally occurs due to the action of soil bacteria. Jim, this is one I'm going to answer before you get to, but on question number 3, we put yes and no, so I know you'll probably ask us that. And that is the substance essential for organic -- for handling of organically-produced agricultural products.

In the petition there were stated uses -- alternatives using already-approved materials but there was some dispute from the petitioner on the effectiveness of these substances to yield a product that's acceptable for the consumer, so we tried to recognize both aspects of it since there was conflicting information.
However, the petitioner did say he was unaware of any tests that have been done on a gas mixture of nitrogen and CO2.

On alternative substances, again we answered yes/no, and under the same conflict: that the TAP had indicated there were but the petitioner said that they were not acceptable to produce a product for consumer quality.

I'm trying to see any other questions that people might have, but maybe we'll just go right to the committee recommendation.

That was first -- we had voted on synthetic non-agricultural, and that was yes 5 votes, with zero nos, zero abstentions, and 1 absent. And then there was a motion to allow nitrous oxide for addition to 205.6, and there were zero yeses, 5 nos, no abstentions, and 1 absence, so the material was voted not to be allowed.

I don't know if there's any questions on that.

MR. RIDDLE: I just had one, and that is, on Criteria -- in category 3, number 6, the whole thing about "Is primary purpose to recreate or improve flavors, colors, textures," et cetera, you explained why you said no as far as recreating texture, because it creates the texture --
MR. O'RELL: That's correct.

MR. RIDDLE: -- but I would say that it should be answered yes on improving the texture, that it does -- its purpose is to --

MR. O'RELL: Do you want us to go yes/no on this one?

MR. RIDDLE: Well, you can do that, yeah, sure, we can be schizophrenic and --

(Laughter.)

MR. O'RELL: We discussed that aspect, Jim --

MR. RIDDLE: Uh-huh.

MR. O'RELL: -- but -- you know, I guess it's how you -- you know, I'm not going to say is, is, but the -- we actually felt that it creates the texture and that's not improving it because there is no texture without it.

MR. RIDDLE: Well, it's -- it's a liquid --

MR. O'RELL: It's a liquid.

MR. RIDDLE: -- so it has texture, but now you pump in the gas, and now it's a whipped liquid.

MR. O'RELL: And that's creating a whipped texture, from a liquid.

MR. RIDDLE: But it's improving it compared to if you just kind of squeeze the can and this liquid came out --
MR. O'RELL: Okay.
MR. RIDDLE: -- people wouldn't be very impressed.

UNIDENTIFIED VOICE: (Inaudible.)

(Laughter.)

MR. RIDDLE: It makes it much more sale-able.
MR. O'RELL: Duly noted.

MS. DIETZ: Well, I think our -- our dilemma was, is that does it create or recreate, and it does neither --

MR. RIDDLE: Yeah, I understand.

MS. DIETZ: -- and so that was -- that was one of the sticklers that we (inaudible), but you could note that, that could be noted on the comments (inaudible).

UNIDENTIFIED MALE VOICE: Thank you.

MR. O'RELL: We could note that on the comments.

MS. DIETZ: It's a tough one. I had one comment, that this committee also -- we had a lot of -- we put a lot of time and effort into this petition, we reviewed it the first time, we did not take any vote on it, we decided at that time we needed further contact with the petitioner, we graciously -- with Arthur Neal and Kevin we set up a series of questions ahead of time, we
sent those to the petitioner, we got a conference call, we got our questions answered, and -- so I think that we can really say that we did a very thorough review of this material.

The one area -- that I do want to go on record -- that we struggled with was setting precedents for this material, because a lot of the discussion was around the ozone gas and the environmental aspects of it. There are materials on the National List currently that do the same thing, and CO2 is one of those. So when we go to re-review materials, we need to look at that, and I will tell you that one of the primary reasons this was rejected was because it was for such a specific use, it was really for one use, and we didn't want to open up the world to having everything as a propellant for one specific use. So I just want to put that on the record, it is -- the greenhouse effect is a detrimental aspect, but there are other materials on the National List that are currently doing that.

MR. O'ReLL: And we did recognize that in the comments on the TAP, particularly when we were doing the "substance consistent with organic farming and handling," noting that other greenhouse gases, such as CO2, are on the National List.
Next, tetra sodium pyrophosphate, TSPP, tetra sodium phosphate was petitioned a specific use as a pH buffer and dough conditioner for use in organic meat-alternative products.

This is a substance that we had reviewed and voted on at our last meeting and had voted to approve as a committee, the NOSB Board voted to approve TSPP, and it came back from the NOP with the request that we re-review this not only with the new forms that were given to us but addressing a specific issue, which is the reason why I'm not going to go into the full explanation of all of the other factors, because we spent a lot of time on TSPP, so I'll focus it around the specific issues which were alternative substances, which we have gotten additional information and determined that there may be alternative substances but we had indicated that these would produce, from information we got from the petitioner, an undesirable product in terms of quality, functionality, unwanted discoloration, undesirable odor, and foul taste.

The other issue primarily centered around this - the product used to recreate texture, and after consulting with the petitioner and understanding, as we heard today in public comments, the intended use of this as a pH buffer and dough conditioner, that it actually is
working too as a processing aid to condition the dough through the extrusion process. The actual texture is being formed by a thermomechanical process, as opposed to the sole use of tetra sodium phosphate.

So we put this through its review again, and the committee recommendation to a motion to allow under 205.605(b), the committee vote was 4 yes, zero no, no abstentions, and 2 absent, and it's synthetic, non-agricultural.

MR. SIEMON: I just need to understand once again: why was this brought back to us? I mean, I had it clear [phonetic] the first time, but -- (Laughter.)

MR. SIEMON: I'm serious, I don't understand.

MR. O'RELL: It's my understanding -- and if NOP would -- wants to -- maybe Rick would be the best to -- let's not take my understanding. Rick is going to come up and address specifically why.

CHAIRMAN KING: Ladies and gentlemen, Rick Matthews.

MR. MATTHEWS: For the record, Richard Matthews.

This material, the first time that you approved it, we included it in a rulemaking action, to add it to the National List. Commenters came back, and about half
of the commenters were opposed to adding it to the National List and basically they said that it violated one of the criteria, and it's the criteria that Kevin has been going over, about creating the texture.

So we, in reviewing the record, were unable to support the Board's position, so we did not submit it to the Final Rule, okay, so it has been referred back to the Board to address the issues that the commenters had raised during the rulemaking process the first time around.

So you're being asked at this time: Is this what you want to do? -- and if so, you need to justify why you're doing it to a greater extent than was done the first time. Okay?

And this is not only affecting this material, but it's also affecting the rulemaking that we're doing now on other materials, we're being challenged more and more to put in better justification for the actions of the Board, and that's why we went to these sheets.

Any other questions on this?

MR. SIEMON: So the bulk of what we're gaining, really, is this form, the category 1, 2, 3, with the explanations there, that's the bulk of --

MR. MATTHEWS: Yeah. Well, what'll happen is that in the future, when somebody comes forward and
challenges one of your decisions, we'll have these forms to go back to in order to try and respond to the commenter in the Final Rule, explaining why you went ahead and did something that the commenter thinks is contrary to the Act.

CHAIRMAN KING: Kim, then Rose.

MS. DIETZ: The specific comment, like Richard said, was that the -- they felt that the primary use of the material was as a texture -- to alter the texture, and so we went back through and revised these materials.

I also just need to put another thing on the record, because this -- this section of criteria was originally drafted by Joan Gasau [phonetic] in Nineteen Ninety -- actually, 1998. I was asked to help her draft this language for this criteria.

And I want to read to this group the exact language that we wrote, because it's a little bit different than what's in the Rule, a little it's almost -- similar, and we -- Joan had been asked to work with the MPPL committee, which is OTA's manufacturing committee, on this criteria, and we had said that the material has to be reviewed and it may be used if -- and you would have to go through these principles, but its primary use or its primary purpose is not as a preservative or used only to
recreate improved flavors, colors, textures, or nutritive value lost during processing, so there's key words in there, except that the latter case is required by law.

So our intent was that, one, the material's primary purpose is not: to recreate any of those categories or recreate something that's lost during processing.

So we really focused on this language when we reviewed because, one, we -- the comments that we have -- and we have a lot of public comments and comments from the petitioner, that its primary use is a pH adjuster, okay, so we focused on that, and yes, it is a dough conditioner and yes, it does alter the texture, but its primary use is: a pH adjuster, and that that is something that wasn't lost during processing, it was actually -- the purpose of the material was to aid in that flow.

So we felt that we covered this criteria very well, if that makes sense to everybody. But you're going to come up against this as you re-review a lot of processing materials, so I really urge -- you know, I'm going to be off the Board, but I urge the handling committee and this Board to really look at how that reads, because it says "primary purpose," and another criteria is "lost during processing." So you have to have both of
those to reject a material based on this criteria, in my opinion, as one of the original authors.

UNIDENTIFIED MALE VOICE: Thank you.

CHAIRMAN KING: Rose, then Jim.

MS. KOENIG: I had -- I have a question on the process the committee went through in terms of exploring the alternatives and the additional information that you received. And, again, it's really to question the process, not necessarily the information that you obtained, just to kind of think about how we go about those things.

So you went to the petitioner to get -- collect the data, or how was that -- refresh me again, you know, because --

MS. DIETZ: We actually pulled all of the public minutes from the last meeting, where we interrogated them, and they provided public testimony, and they provided us with documentation, so we really went back and said -- and re-reviewed it at that point. So that's what we did to -- to validate things had been tested, and you can see where the comments are.

MS. KOENIG: The question I have, again, and -- you know, and it's -- again, you know, I'm not picking on this particular product, but I think we need to be careful
in terms of kind of the data or the information sources that we use. I mean, the petitioners, you know, have a vested interest, in many ways, if it's on the List, so we --

MS. DIETZ: But we'd already voted on this, so we felt we didn't need to focus on that, our focus was: --

MR. O'RELL: Right.

MS. DIETZ: -- was its primary purpose a textured product, and so we -- we just went back as justification, we didn't go back and re-review the material, because we'd already voted on it once; we just put the justification to it.

MR. O'RELL: And we went back and reviewed the Board's comments at the time during this discussion for approval of this -- this substance. So that was just a re-review of everything, with new information where -- in dealing with the one point, that threw it back from the NOP to us.

CHAIRMAN KING: Jim.

MR. RIDDLE: Yeah, I will. I guess I'm uncomfortable with the Board's document, if we are to just accept the committee's form here, stating, as it does in several places, all of these organic products have high consumer acceptance and are certified by responsible
accreted certifiers, when the substance is being used and is not on the National List. I mean, that -- that's a bit awkward, to me, for the Board to be putting in a document, which becomes permanent record, that we acknowledge that a violation is occurring by responsible accredited certifiers, you know, the use of a non-listed substance.

I really don't want the Board to go on record with that --

MS. OSTIGUY: But do we know that? Because what -- because being certified doesn't meant that --

MR. RIDDLE: Well, I assume if we put it in our document, that we've verified that it's true.

MR. O'RELL: What page are you looking at?

MR. RIDDLE: Well, it's category 3, three one, three three. I mean, I have to accept that that is a true statement.

MR. O'RELL: Well, it was statements taken from public comment.

MR. RIDDLE: Yeah.

MS. DIETZ: Do you have a suggestion, should we just remove it, is that --

MR. SIEMON: It's a compliance --

MR. RIDDLE: I don't --

MS. DIETZ: I mean, I don't -- it's not really
relevant to what we're doing.

MS. CAROE: But --

UNIDENTIFIED MALE VOICE: We're --

MS. CAROE: Hold on one second. Sodium phosphates -- sodium phosphates is on the List, and some can interpret that to say all sodium phosphates. Tetra sodium phosphate is a sodium phosphate. I don't agree with the argument, I'm just saying that I've heard it.

CHAIRMAN KING: -- it could be made. All right.

MR. O'RELL: It has been brought up that there is confusion as to whether -- if you go back to the actual approval of sodium phosphate, it specifically indicates it was for the orthophosphates and not for classes of pyro- or polyphosphates; however, that --

MS. CAROE: The way it's in the List, in the regulation --

MR. O'RELL: -- there is confusion -- there is confusion in the industry, but --

MS. CAROE: -- you could justify it.

MR. RIDDLE: Your Honor, I would be much more comfortable --

MR. O'RELL: -- if we strike --

MR. RIDDLE: -- if those boxes contain the findings of the committee rather than the opinion of a
public commenter, who also is the petitioner.

MS. DIETZ: Well, I --

CHAIRMAN KING: Is this work that can be accomplished tomorrow during the breakout session?

MS. DIETZ: I think public --

MR. O'RELL: Yeah, we can do this at the breakout session. We'll review that --

MR. RIDDLE: Yeah. It's just -- I would just be --

MR. O'RELL: It's just for cleaning up --

MS. DIETZ: Public comment is important.

MR. RIDDLE: Well, I understand, but it should be -- I think you get my point.

MS. DIETZ: I do.

MR. RIDDLE: And then it does --

MR. O'RELL: We can -- we will review those references on our breakout session.

MR. RIDDLE: Yeah. And then I have the same comment about improving texture. I mean, we heard this morning in the testimony that it's a combination of the substance and temperature and pressure but temperature and pressure alone do not get the resultant texture that they want, and these other materials they tried don't get the texture. This substance get the texture, it improves the
texture. Those meat analogs would not have the consumer appeal, they would not be improved without this substance, so --

MS. CAROE: I disagree --

MR. RIDDLE: I do think that -- there should be an answer of maybe yes and no in explaining it, but I do think it improves the texture of this substance, just in all honesty.

MS. CAROE: No, I --

CHAIRMAN KING: Andrea.

MS. CAROE: I actually disagree with that, because I do believe that the temperature and pressure does create the texture. The material is facilitating that process, but it doesn't create the texture.

MR. RIDDLE: I'm not talking about creating; I'm talking about improving. It says --

MS. CAROE: Improve --

MR. RIDDLE: -- recreate or improve, and I think on improve, the honest answer is yes.

MS. CAROE: I don't believe so, because it's heat and pressure that's improving the texture. It's not doing anything to the texture other than allowing it to use the equipment.

MS. DIETZ: In number 6 it is addressed, and
you'll see it there, that yes, the TAPs indicate that it is used for texture, but it is not stated to recreate the texture, and as I went -- and as I tried to explain, that this category says the primary use, and everywhere in the TAP and everywhere in public comment, and the fact that we already approved this based on this material's primary use as a pH adjuster we felt was very relevant, and I think it is put in there.

If you would like us to put something else, I think we certainly can put it in there, but its primary use is not to recreate or create texture. So the committee -- at least -- I can't speak for everybody, but we went round and round on this and made sure we had the right answer, so I'm -- I'm not willing to redo this form, so --

MR. O'RELL: I think --

MR. RIDDLE: I just think acknowledgment that a function is to improve texture and then explanation that maybe primary purpose, these others, as you've said.

MR. O'RELL: I think we can add some language in that, recognizing that, Jim, that --

MS. CAUGHLAN: It facilitates extrusion --

UNIDENTIFIED FEMALE VOICE: Yeah.

MS. CAUGHLAN: -- and by facilitating extrusion
it does --

UNIDENTIFIED FEMALE VOICE: Yes.

UNIDENTIFIED MALE VOICE: -- improve the -- creating it.

MS. CAUGHLAN: But it seems like a secondary --

(Pause.)

CHAIRMAN KING: Rose.

MS. KOENIG: I just I guess had a question on the voting. Is there any way -- and again, I didn't look at the minutes to -- to find out. The original vote was what on this, during the --

MS. DIETZ: Actually, I have the original vote.

MS. KOENIG: And can you give us who -- the individuals, what we voted (chuckles), how we stood, because --

UNIDENTIFIED MALE VOICE: What? Tell us how we voted last time?

MS. KOENIG: -- I mean, I'm saying there's --

MR. SIEMON: (Inaudible) tell me how we voted last time.

(Laughter.)

MS. KOENIG: There may be a reason why there's a few people that are not comfortable with it, because there was some -- I'm just trying to recall.
MS. DIETZ: We actually had a lot of different votes on this one, different amendments.

UNIDENTIFIED MALE VOICE: Yeah.

MS. DIETZ: But -- and some withdrawns, this was a very painful material, as everybody remembers, but the -- it was -- a motion was made to allow TSPP as a synthetic under 205.605(b) for use only in textured meat-analog products. The vote was 8 favored, 3 opposed, 2 absent, 1 abstained.

MS. KOENIG: Do you know the recording of those individuals' --

UNIDENTIFIED MALE VOICE: I'm sure (audible) voted against it.

MS. KOENIG: No, I mean, I'm just -- do you know how the -- do you know the individual votes, just -- I'll just try to get that later.

MS. DIETZ: But if you want to look at all the minutes, I have them, you're more than welcome to take them.

CHAIRMAN KING: George.

MR. SIEMON: Andrea brought up the issue about broadening the present phosphate sodium policy. I'd just like to know, did the committee even discuss that, or -- you know, whether to go back and look at that, the
annotation that we have, did you all look at that?

MR. O'RELL: Well, it was discussed in the committee, but, again, you know, the specific petition was for a specific use, and although we acknowledged that the orthophosphates are approved for dairy applications only, at one point they were asked -- petitioned for expansion for soy products. That was voted down.

That's before I was on the Board. I don't know the exact discussion that went into that, but we were trying to address the specific use of tetra sodium pyrophosphate for its specific application it was petitioned for. Because we felt that that was following up from the vote that we had had as a committee, or as a board, at the last meeting. I didn't think we wanted to muddy up the issue.

MR. RIDDLE: But the committee's recommendation doesn't have any annotation; correct?

UNIDENTIFIED FEMALE VOICE: No.

UNIDENTIFIED MALE VOICE: No.

MR. RIDDLE: So even though you only considered it for this one use, it's not being --

MR. SIEMON: -- limited.

MR. RIDDLE: -- limited, yeah, there's no annotation. Did you talk about that?
MR. O'RELL: Unfortunately, in the final vote, I was one of the absent, so I will defer to Kim.

UNIDENTIFIED FEMALE VOICE: I know we didn't.

MS. CAROE: Well, actually, I think we did. I think, in discussion, the -- the annotation was one of the things that flagged this as a texturizer, because of the ways that that was written, and we -- as I remember, and Kim, refresh my memory, but I believe we talked about what other possible uses and would any of those be -- we looked at all the uses that were in the TAP and would any of those be a problem for us, and it didn't appear to be, so we just took the annotation out, for clarity, to simplify, simplification.

MS. DIETZ: Yeah, and, again, the original annotation was for use only in textured meat-analog products, and the comments were specifically against the word "textured meat," and since it -- again, since the primary use of the material is a pH adjuster, we did not want to turn this back around and say -- and confuse it even more, so we just made the recommendation that you have in front of you.

MS. KOENIG: So the implications of that is that if we put it on without annotation, it can be used in processing of any product, for any use, even though what
you just said, as far as your research --

    MS. DIETZ: Yeah.

    MS. KOENIG: -- in terms of pH, you know,

    that --

    MS. DIETZ: The other reason that we didn't put
an annotation is that we have gone through phosphates four
or five times and put four or five different phosphates on
the National List, and every one has been for a specific
use, and if we're -- either we're going to allow
phosphates or we're not going to allow them, and we said,
look, you know, if this keeps coming back because we're
being very restrictive with annotations and then somebody
comes back and says, "Well, it's for dairy" or "it's for
this," either we want them or we don't, and this committee
said: we're going to put it forth without an annotation.

    So the Board has -- you know, they can make a
recommendation, but this committee's was: no annotation.

    MR. RIDDLE: Yeah. I think the more we learn,
the more we know how important annotations are, the more
we learn about how broadly the List is being interpreted.
And so, to me, the lesson is: just like OFPA says,
petition for a specific use, and that -- I would support
an annotation, and maybe you can talk about that, see if
the committee wants to bring anything forward, but
somebody else probably will.

MR. O'RELL: We'll revisit it as a committee.

MS. DIETZ: We could bring the original annotation back, but we've done the justification that we were asked to do.

UNIDENTIFIED MALE VOICE: All right. Thanks.

CHAIRMAN KING: Kevin, is that --

MR. O'RELL: (Nods head.)

CHAIRMAN KING: Okay. I don't know if George or Nancy is doing livestock.

MS. OSTIGUY: I am.

MR. SIEMON: Since I can't pronounce any of the words, Nancy's going to.

(Laughter.)

MS. OSTIGUY: The first one on the livestock list is moxidectin, which is used as a -- it's a topically-applied broad-spectrum parasiticide effective against both internal and external parasites.

We actually considered this one a couple of marketings [phonetic], at least it feels like it. The committee recommended that it was agricultural, synthetic, and that it be allowed -- is that correct? Yes. -- with an annotation for control of internal parasites only.

This was despite the fact that it, in our
opinion, failed on Criteria 1, and that was the reason for
the proposed annotation: because of concern about the
half-life of the material and impact on soil organisms.
We recognized that it is also less problematic
than a material that's currently on the list, ivermectin,
but the annotation was to respond to the issue of its
half-life and soil-organism impact. Much less chance of
any kind of contamination if it was for internal parasites
versus external.

Go ahead, Jim.

MR. RIDDLE: Yeah, I missed the call, I'm on the
livestock committee, so I apologize, but I just had a
question. As I recall, this substance is applied as a
pour-on, a (indiscernible) external application.

MS. OSTIGUY: Correct.

MR. RIDDLE: And so -- and it does provide
external parasite control as well.

MS. OSTIGUY: Correct.

MR. RIDDLE: So as an inspector, you know, and
you have this annotation: it's only for control of
internals --

MS. OSTIGUY: Uh-huh.

MR. RIDDLE: -- but it's applied to the
external, and it controls externals --
MS. OSTIGUY: Uh-huh.

MR. RIDDLE: -- how can that be --

MS. OSTIGUY: Well, the reason for the -- that
very instruction to use the material is because of
internal parasites only.

MR. RIDDLE: Okay. So someone would have -- the
inspector -- I mean the farmer would have to keep records
showing that that is the reason, and still not routine
use, it has to be --

MS. OSTIGUY: Oh, yeah.

MR. RIDDLE: Yeah, all these other conditions
that are already in the Rule.

MS. OSTIGUY: Right.

MR. RIDDLE: So they'd have to have --

MS. OSTIGUY: There should --

MR. RIDDLE: -- documentation --

MS. OSTIGUY: One would hope that there would be
records for the animal, of why they were treated, and so
the records would indicate that it was for internal
parasites.

MR. RIDDLE: Uh-huh.

MS. OSTIGUY: Because then you avoid also dip
operations and that sort of thing.

MS. KOENIG: A question. Isn't -- I know it was
petitioned for an anti-parasitic, it's a parasiticide (chuckles), but, you know, when I went back and looked at it again, the executive summary, I notice that it's a by-product of, actually, an antibiotic. I just wanted to clarify that -- is it in fact an antibiotic or is it a parasiticide?

UNIDENTIFIED MALE VOICE: Can I address that?

MR. RIDDLE: We went through all that.

MS. OSTIGUY: It's an antibi-- it's a parasiticide.

UNIDENTIFIED FEMALE VOICE: Yeah.

MS. OSTIGUY: It's not an antibiotic. I know that we talked about that before. And the petitioner is here also, if you want to ask him --

UNIDENTIFIED MALE VOICE: That was not responsive to the TAP committee (inaudible).

MR. SIEMON: That's why we delayed it (inaudible).

MS. OSTIGUY: Well, and I remember we asked that and you gave --

MS. KOENIG: Right.

MS. OSTIGUY: -- you got us that information about it too, so that was last time around that we'd asked that question and then checked up on it.
But it is not an antibiotic, it is actually a parasiticide, and I just don't have that piece of paper with me that indicates that.

MS. KOENIG: You know, it's just one of those that has been around and --

MS. OSTIGUY: Yes.

MS. KOENIG: -- I just was trying to clarify that, because I'm not --

MS. OSTIGUY: Around and around.

Any other --?

(No response.)

MS. OSTIGUY: Okay, the last one was the proteinated and chelated mineral complexes, used as a supplement in livestock. The committee voted that it was synthetic, allowed, non-agricultural. The vote was 4 yes, zero no, zero abstained.

There was some concern about copper and zinc, on the effect in soil and on soil organisms, but we didn't feel that an annotation was reasonable, so -- so the -- voted for approval.

MS. KOENIG: Is there an annotation? I didn't get that thing that you said --

MS. OSTIGUY: No, no annotation.

MR. RIDDLE: Once again, that was the same call
I missed, and I do have a concern about the source of the protein, and I do have documentation here, Dr. Alfred Walker, who's looked at some of the background on this, and it is a possibility that the protein source could be an animal -- of animal origin, and, you know, I don't know if the committee's going to meet in the morning on breakout or not; if so, I'd just hold this discussion for the livestock committee; but if not, I will like to suggest an annotation that protein source must be -- must not be of animal origin.

And then there is the issue of excluded methods as well. If it's a soy source, it's possible that it would be a product of excluded methods.

MS. OSTIGUY: Right, but those aren't allowed.

MR. RIDDLE: Yeah. The animal by-products, though, I do think needs to be specified.

UNIDENTIFIED FEMALE VOICE: Is that available, commercially available?

MR. RIDDLE: Yes. It's commercially available from non-animal, non-GMO protein sources, so, yeah, it shouldn't be a problem.

MR. SIEMON: We are meeting tomorrow.

MR. RIDDLE: Yeah, okay.

MS. KOENIG: I have a question on -- getting
back to Jim's point, it's a question for Rick.

Is that your interpretation of the excluded method as far as GMO when we place that on there, that that's something that the NOP regulates, on these materials?

UNIDENTIFIED MALE VOICE: (Inaudible) the use of (inaudible).

MS. KOENIG: Well, GMO-derived, for --

MR. NEAL: What's the particular issue, though?

MS. OSTIGUY: The issue is: whether or not, as a -- if you have a non-animal protein, your primary source is probably going to be soybeans. Soybeans are going to most typically be Roundup-ready, which is GMO. Could they use a GMO material for the proteinated chelates, and would that meet the Rule, or does the Rule exclude it because GMOs are prohibited.

MR. NEAL: I won't answer that right off the top of my head. There's a question that I've got for you, though. When you think about this type of annotation, how do you enforce it, how does a certifying agent enforce it, and where do they get their information from?

MS. OSTIGUY: The sourcing from the person manufacturing it.

MR. NEAL: So everybody will provide all of this
information for --

MS. OSTIGUY: Well, you'd know your source.

MR. NEAL: I'm just asking, because that's going to be -- that's going to be an issue, is enforcement.

MR. SIEMON: The average farmer won't have a clue.

MS. OSTIGUY: Well, the farmer won't --

UNIDENTIFIED FEMALE VOICE: But the agent.

MR. NEAL: I'm just asking a question.

MS. OSTIGUY: -- but the manufacturing source would know.

MR. NEAL: Okay. Because what could end up happening is that you eventually have an issue where some farmers may not know, some will, and so you've got another enforcement and compliance issue that you've got to address. That's all I'm -- that's all I'm -- I mean, that's the only question that I've really got.

MS. KOENIG: I guess that that -- I mean -- and it's been on my radar screen for a while, and that's why I'm asking it, and you don't have to answer it now, but the question is, is: again, when NOP looks at those excluded methods, do they just simply look at "no GMO seed," or do they take it to the step of materials, both natural and things that are on the List, such as even
soybean meal, are you checking to see -- or like the soybean isolate, are they from non-GMO sources, when it comes to that -- that --

MR. NEAL: There -- we say that manure from non-organic operations may be used as a soil amendment. We say the crop residues from non-organic operations can be used as a soil amendment. These could be -- I mean, these are soil amendments.


MR. NEAL: Those are naturals. Those are crop -- those are agricultural products we're talking about, those are not synthetics.

MR. SIEMON: Even if they're GMO, is what you're saying.

MR. NEAL: I'm applying it to my soil as a soil amendment, and we acknowledge that.

MS. CAROE: There is nowhere in the Rule that it specifies that a crop input has to be non-GMO, it's not in there. In fact, the cover crop can be GMO. It's not in there.

MR. NEAL: Well, the seeds --

MS. CAROE: The rotation can include a GMO crop that's not sold as organic.
MR. NEAL: Seeds could not be GMO.

MS. KOENIG: Well, that -- that's -- I really --
you know, as we especially look at these protein issues,
and soy, you know, and we're getting into the National
List of these products, I think there's a lack of -- you
know, I don't know if it needs to be in a directive, but
there certainly is a lack of clarity in terms of what --
how you view your GMO policy, because contrary to what
Andrea's saying -- I mean, I would assume the cover crop
in an organic-production practice could not be GMO seed.

MS. CAROE: It's not in the Rule.

MS. KOENIG: So I don't -- and that does have
some implications, because, again, I think, personally,
when I'm putting something on the List, I'm assuming that
if it is a soy protein isolate, or if it's a protein
chelate, in this case, I assume that the GMO policy is
covering the materials list, and if it isn't, I think we
need clarity on that.

CHAIRMAN KING: Goldie has a comment, then
Andrea, then Jim.

MS. CAUGHLAN: I mean, that's the whole point,
is that if in fact this is a learning experience, just as
the whole program is revealing itself as we go, it seems
like moment by moment, and the fact of the matter is: we
all know that GMOs are becoming a far bigger problem in terms of every aspect of the conventional manure and the conventional crop more and more and more. I mean, it flags everything.

So to me it's an issue of: how do we fix it, how do we make bloody sure that those aspects do get incorporated, whether it means additional call for rulemaking, in the interim directives, advisories to the -- but we have to fix it, we cannot just accept it.

MR. NEAL: I'd note that there may be a need for clarification on: how far do you go back, in the process, in terms of this "excluded methods" definition.

CHAIRMAN KING: Andrea.

MS. CAROE: To answer the question you asked first, about enforcing annotations: I can't speak from the crop inputs as much as I can speak from non-organic ingredients in processed products, in which case you do run into a situation where a vendor of an ingredient has no idea what that original carrier corn was grown and whether it was GMO or not, so it is being enforced in -- the best possible, but incomplete, at best, because the information's not there.

Now, I don't know, every time you buy a feed supplement, if you're not buying it from a distributor
that may not have that information because he's, you know,
several points away from the growing of that.

CHAIRMAN KING: Jim.

MR. RIDDLE: Yeah. Well, the burden of proof is
always on the person who wants to use the substance, to
make sure they use approved materials, and I look at the
List currently, under feed supplements, and I see it as
very similar to the milk replacer, where there's
annotation there: without antibiotics, emergency use
only, no non-milk products or products from BST-treated
animals. So there the GMO issue has been singled out, and
so I think it would be appropriate for that to be part of
the annotation.

And then the animal-origin issue would be
another one that I think we would be very wise to include,
and they are commercially available, the source is
available, according to the petitioner -- I don't have it
in writing, but verbally -- and so I think it makes sense,
verifiable.

MS. CAUGHLAN: I remember we had a discussion
two or three meetings ago specifically on pulling back
from so many annotations, and Keith spoke to this issue,
saying that we were creating, by these extra annotations,
more problems, but I think if -- you know, in -- that that
is not necessarily it, and I think I would rather have it 
be redundant to the state that we state it every single 
time, 
"non-GMO" or "non-excluded methods," rather than to assume 
that it's somehow going to magically (inaudible). 

UNIDENTIFIED FEMALE VOICE: Yeah. 

MR. JONES: Let me just address this. As you 
know, annotations are one of my passions, okay -- 
(Laughter.) 

MR. JONES: -- and the reason they're one of my 
passions is because -- I think, in many cases, they make 
you feel good, but they mean nothing in the field, okay? 
In other words, you walk away thinking you've done the 
right thing, but unless there's a data set out there you 
can capture, unless you have a verifiable annotation, you 
have created a lot of nice language without any regulatory 
impact, okay? 

So you need to be very careful that when you use 
an annotation to prohibit a practice, that the data set 
that you're going to rest on exists, okay, and: it's 
readily available, in other words you can pick up the 
phone and call your supplier and they will know whether or 
not X, Y, or Z exists. 

That's my only caveat: just be very careful.
MS. CAUGHLAN: Well, we should be much closer to that now, given our greater development of databases having to do with --

MR. JONES: You would think so, Goldie. Maybe, or maybe not. I mean, one of the things I think -- it's still amazing: out there, when you pick up the phone to some of these folks, they don't have a clue and don't have any way actually to even know --

MS. CAUGHLAN: Well, if we're not punching it home all the time, they're not even going to create that or look for it.

MR. JONES: Fair enough. But all I'm saying is that: don't just add language for the sake of adding language; make sure that you know, and that you've consulted with certifiers who are certain that they can verify the point that you want verified, because if you can't do that, then you have just created a lot of nice language.

CHAIRMAN KING: Another quick question, then Becky, then Andrea.

But please stay here for a moment, Keith. I understand what you're saying, and I think this message has been clear for a while. From your perspective -- and I -- as it pertains to this specific issue, "excluded

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methods":

Do you feel, in your opinion, there is another path, to ensure that what we're trying to accomplish in this particular case is realistic?

MR. JONES: Well, let me give you my best professional judgment on where you're wanting to go. You have the ability to add annotation and say: we don't want this product being derived from excluded methods; but when you do that, you have created a dichotomy within your own regulation, okay, because now you're saying: well, in some areas we don't want this to happen, but in other areas --

In other words, if I go -- let's say I want to soybean meal as a nitrogen source for organic production, and I go down to Southern states, or wherever, and get ten 50-pound bags of soybean meal: I have no idea of knowing where that soybean has come from; and, further, there is nothing in the regulation that prevents me from using that soybean meal as a nitrogen source for fertility.

So just be careful, just be care- -- because soybean meal is a natural, naturals are unregulated, okay, we can't get at 'em, okay?

So be careful, as you're thinking through this, that you're not creating this huge dichotomy in your own
regulation, where you're being quite schizophrenic as to what you want to -- what you want to do.

CHAIRMAN KING: Becky, Andrea, Dave, then Rose.

MS. GOLDBURG: I just wanted to make a point, which Keith partially made. I worry about singling out products for no GMO and implying that others -- therefore GMO is okay? and I think we really need consistent policy on it. I don't know, do we need a task force, do we need some directive from the NOP, do we need the policy development committee, or whatever, to consider the issue, but this is not something to deal with scattershot.

CHAIRMAN KING: Andrea.

MS. CAROE: Yes. I just want to remind this Board that these materials on the list are not organic, they're conventional materials, they were manufactured in conventional facilities, for conventional production, and, you know, going back and asking for this: yes, you'll get a supplier that says, "Yeah, it's non-GMO, we never use GMO," they'll say that, they may not -- the information that you're getting is questionable, and I think that kind of talks to Keith's data set: there is not hard -- we're relying on affidavits and comfort language instead of hard facts on it, and taking that back too far into the conventional world, where there is no regulation and the
distributor of that product doesn't have to have that information, it makes it very difficult.

I do understand what you're saying, Jim, the onus is on the user of that material to justify it, but, you know, that -- that is a bit of an issue, and this industry is still, you know, 2 percent, 2 percent, and more likely, if you're going to be a pain in the butt to a vendor to try to get them to track it back all the way to the farm, they're going to say, you know, "forget it, take your business elsewhere," because that five pounds of soybean meal doesn't really mean anything to them.

CHAIRMAN KING: Dave.

MR. CARTER: Yeah. I'm a little more concerned on the -- and I agree with Rebecca on the GMO issue, but on the other one, that Jim brought up, about the animal source, I think that's something where we need to be very specific, because I think, you know, if FDA is moving forward and saying that they're prohibiting animal by-products in feed, you know, there are some things -- and I've been concerned for some time -- that there are some things, such as Vitamin E12 and some other things, that ranchers and farmers routinely use, that they don't know are -- come from animal base, and so I think we need to flag that on this, that there has to be a distinction,
that we're putting the stake in the ground on that, to make sure that we're not going to cross that line.

CHAIRMAN KING: Rose.

MS. KOENIG: And, you know, just to Keith, I guess, although he sat down: You know, I only beg the question because I think it's an area that -- I know, again, OMRI is not NOP, I'm not implying that, but when they look through their technical review of brand names, that is one of the questions that they -- they're posing for -- for inputs, so that it can be in compliance, you know, with the NOP.

So I think there is either a misunderstanding or non-clarity out there in the industry as far as: how far do you take those excluded methods, is it just simply seed source at the farm, you know, does it go to medications that might be derived from GMOs? I mean, there's so many processes now that involve it, and -- and if the NOP's position is it just ends at seeds, that's -- that's your position, but I think it just needs to be clear, so that -- again, you know, this "equal playing field" concept, that everybody has a clear understanding towards that policy.

CHAIRMAN KING: George.

MR. SIEMON: No (laughs).
CHAIRMAN KING: I just wanted to wake you up. Kim.

MS. DIETZ: Maybe just a recommendation. Becky's already suggested maybe a task force be formed, and I know there's GMO decision trees out there, and there's lots of data and worksheets that we could certainly bring together (inaudible) --

MS. KOENIG: But, Kim, I would like -- I mean, I think the directive is much more clear, to the point, because if there is -- it sounds like there -- there is already a thought process and a way that NOP is viewing it. So I don't want to go through a whole task force to come up with a recommendation --

MS. DIETZ: My point was, there's information out there, that you need to look at it, before we have a lengthy discussion like this.

CHAIRMAN KING: Yeah. Okay, so where were we?

MS. OSTIGUY: We're done.

CHAIRMAN KING: You're done.

UNIDENTIFIED MALE VOICE: Yeah.

CHAIRMAN KING: Okay. Well, let's officially recess, and we will reconvene tomorrow at 8 a.m. Please be here promptly as we have lots of work to do again tomorrow. Thank you all very much for your patience.

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(Whereupon, at 6:30 p.m., the meeting was recessed, to reconvene at 8:00 a.m. on Thursday, April 29, 2004, in the same place.)

* * * * *

CERTIFICATE

In Re: NATIONAL ORGANIC STANDARDS BOARD MEETING
Place: CHICAGO, ILLINOIS
Date Held: APRIL 28, 2004
Time Held: 8:00 A.M.

We, the undersigneds, do hereby certify that the foregoing pages, number 1 through 360, inclusive, is the true, accurate and complete transcript prepared from the reporting by LEAH JOHNSON in attendance at the above-identified hearings, in accordance with applicable provisions of the current USDA contract, and the below-signed persons have verified the accuracy of the transcript by (1) comparing the typewritten transcript against the reporting or recording accomplished at the hearings and (2) comparing the final proofed typewritten transcript against the reporting or recording accomplished at the hearing.

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UNITED STATES DEPARTMENT OF AGRICULTURE

IN RE:       X HELD APRIL 29, 2004
           X 8:00 A.M.
NATIONAL ORGANIC STANDARDS    X BEST WESTERN INN OF
BOARD MEETING      X BUCKINGHAM ROOM
           X 162 E. OHIO STREET
           X CHICAGO, ILLINOIS  60611

VOLUME II OF III

APPEARANCES:

COMMITTEE CHAIRMAN:        MR. MARK KING

BOARD MEMBERS:            MS. REBECCA J. GOLDBURG
                         MR. MICHAEL P. LACY
                         MS. GOLDIE CAUGHLAN
                         MR. KEVIN O'RELL
                         MS. NANCY M. OSTIGUY
                         MS. KIM M. DIETZ
                         MR. JAMES RIDDLE
                         MR. DAVID CARTER
                         MR. GEORGE SIEMON
                         MS. ANDREA CAROE
                         MS. ROSALIE KOENIG
                         MS. ANN L. COOPER

ALSO PRESENT:            MR. RICHARD MATTHEWS
                          MS. KATHERINE BENHAM
                          MS. BARBARA ROBINSON
                          MR. ARTHUR NEAL
                          MS. ZEA SONNABEND
                          MS. LESLIE ZUCK
                          MS. MERRILL CLARK
                          MR. MARTY MESH
                          MR. DAVE ENGEL
                          MS. KELLI SHEA

REPORTER:       MS. LEAH JOHNSON

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CHAIRMAN KING: I'd like to call to order the Meeting of the National Organic Standards Board. First off I'd like to thank everyone for their patience and persistence in your input yesterday; I think it was really valuable.

This morning the first thing we're going to start with is the .606 Task Force report, or the Jim & Kim Show, if you will.

A quick reminder for everyone: please put your cell phones to vibrate; if you have a comment, conversation, so on and so forth, take it out in the hallway, please; and then also, there's a sign-up sheet for Friday public input. I would remind everyone that we have two hours allotted for public input, so please sign up early, if you have comments, because we certainly want you to be a part of that.

So without further ado, I'll turn it over to Mr. Jim Riddle.

MR. RIDDLE: Okay. Good morning, and we're still getting the technology set up, but --

Yesterday afternoon I passed out the current draft from the task force, and this task force is for commercial availability, recommended rule changes, and just...
a little background, while you're digging out that report:

It came to the Executive Committee attention
early this year, I guess in January, that, you know, there
remain issues on commercial availability and the need for
consistency and how it's being interpreted in the field,
and this was actually -- when the Final Rule was published
in 2000, there was a request for comments at that time and
recognition of the need for further rulemaking on
commercial availability, and so it's -- it's remained an
open issue.

There were comments originally submitted,
including comments from the Board, and then further
recommendations on the -- from the Board as it relates to
the agricultural ingredients on the list, 205.606.

And so that was really the basis of the work, the
starting point, of this task force, and the objective was:
to establish acceptable practices to be followed by
certification applicants, certified operators, and
certifiers, for consistent, transparent, and predictable
determinations of commercial availability that provide
regulatory certainty, and commercial availability, really,
applies to two different sections of the Rule, the one
being seeds, where a producer can use non-organic seeds if
it's documented that organic seeds are not commercially
available in the equivalent variety and form, quality, and

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quantity needed by the operation; and then it also applies to minor agricultural ingredients used in processed products, where a handler must attempt to source organic ingredients if the product is to be labeled as organic, they must attempt to source organic ingredients for everything agricultural in that product, and if it's documented that an ingredient is not available in an organic form, is not commercially available, then the certifier can allow a non-organic form of the ingredient, but there's been no further guidance to provide consistency in how those determinations are being made or to spell out the requirements for the operators to meet in order to state their case.

So that was the background for our discussion, and in the recommendation from the task force, you see a fairly length introduction section, and then background section, which has the definition of "commercial availability," some citations from the regulation and from the preamble, and I'm not going to read through that at all, that's all been posted on the web, and -- yes, George.

MR. SIEMON: Jim, is there an extra one of the handouts? I can't seem to find mine from yesterday.

(Document handed Mr. Siemon.)

MR. SIEMON: Thank you.

MR. RIDDLE: In case it's not commercially
available, we will get you another one.

(Laughter.)

MR. RIDDLE: Okay. So skipping down now to Recommendation 1a, which is found on Page 3. So, Ann, if you can scroll down a ways. All the Board members have this in front of you; I wanted to put it up on the screen so that members of the public could follow along.

I'm not seeing how that -- okay, so the first part of our recommendation was simply reaffirmation of a recommendation the Board made in May 2002 concerning the -- really the title and heading, the paragraph, in 205.606, and part of that is to remove the words "as ingredients," which don't appear in this recommendation, they do appear in the Rule currently, as written, and it's redundant, because when it says "allowed in or on agricultural processed products," "in or on" includes ingredients. So it's not to remove ingredients from consideration.

And then also this section only applies to organic products. "Made with organic" products can include conventional ingredients.

MS. DIETZ: And the other reason that we had originally recommended that we take "as ingredients" off is that materials on 205.606, in processing and ingredients, is defined as something that's put on the label, and processing aids are not ingredients, so there was some
confusion on whether or not people needed to have
processing aids, and it's our everything that everything
needs to be on the list, so we wanted to take away that
confusion and basically state processing aids or anything
used in or on must appear on the National List.

MR. RIDDLE: Right. So that really, 1a, was an
affirmation of the prior standing recommendation of the
Board, and then there's some new rationale which has been
added to this version, and all of the new language is
underlined in the Board's text and the language to be
deleted has strikethrough.

Okay, moving to Recommendation 1b, and this is
where this new draft is recommending some changes to the
previous draft from the task force, and this is in response
to comments submitted to the web posting, and here we are
-- would be -- you know, if the Board supports this
recommendation, we would be calling for replacement of the
current Section 205.606 with a new Section 205.606, which
would be entitled:

Non-organically-produced agricultural substances
prohibited or restricted for use in or on processed
products labeled as "organic" or "made with organic."

And, I'm not sure, maybe that "made with" should
be deleted. Yeah. That's an oversight there. So --

MS. CAROE: Well, wait a second, do you want to
delete it, because you're talking about processing aids as well, and you would want it -- processing aids --

MR. RIDDLE: Okay, no -- yeah. I'm sorry. Yeah, that's -- Andrea. We would leave this in this section. I'm confused. I was -- because the intent --

UNIDENTIFIED FEMALE VOICE: (Inaudible.)

MR. RIDDLE: Yeah. Just to explain first, the intent of this new section would be similar to crop inputs and livestock inputs, where there's a category for prohibited naturals.

There may be certain agricultural ingredients which, after a petition, rulemaking, recommendation, that the Board may recommend are inappropriate for use in organic or should have some restrictions. There's no place on the current 205.605 List for such substances to be addressed. This -- especially the prohibition of agricultural materials.

So this would create a placeholder -- we don't have any specific substances in mind right now, but it would create a placeholder in order to address either prohibited naturals or agricultural substances that need very specific restrictions on their use, and that would apply to a product that's labeled "organic" or "made with."

Okay. And then, you know, it just follows with the language of the text for that section, which basically

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repeats the title.

Any other questions or comments on that?

MS. DIETZ: Just a comment. The further rationale for doing this is that the current materials listed under 205.606 were confusing the industry there. There were materials on there that people were considering okay to use even though organic substances were out there in the area, so they were using them as a commercial availability list, and that was not the intent of 205.606. Again, the intent was to put materials on there that the Board wanted to restrict in some way.

MR. SIEMON: Jim?

MR. RIDDLE: Yeah.

MR. SIEMON: I'm sorry, I'm confused. 1a and -- 1b is building on 1a? These aren't alternatives, are they?

MR. RIDDLE: Well, yeah --

MR. SIEMON: Because you're talking about the same .606 in both of them.

MR. RIDDLE: Right.

MR. SIEMON: I'm confused, as usual, so --

MR. RIDDLE: Good (chuckles), and I was reading back through it this morning, and I felt the same way: they are contradictory to one another.

In the first instance we were reaffirming an existing recommendation, but now that we have altered 1b --
originally 1b, as you can see, was written to call for a
new Subsection .607, but that's really unnecessary. It
really should just replace .606 and --

MR. SIEMON: So if we've got 1b, we don't do 1a?
MR. RIDDLE: Right.
MR. SIEMON: I wasn't clear.
MR. RIDDLE: Yeah. And I think the task force
should meet briefly during the break outside session to
address that, and maybe we'll just scrap the whole
discussion of 1a and focus on 1b, so --

MR. SIEMON: Well, and we get to 1c, I'll ask
about that one too.

MR. RIDDLE: Well, yeah, I'm ready to go there,
if you are. But yeah, thanks for -- thanks for pointing
that out, George. I did want to mention that.

MS. DIETZ: Yeah. It could just be wordsmithing,
where we say "prior recommendation NOSB May 2002" and just
take away that Recommendation 1a.

MR. RIDDLE: Yeah, just as part of the
background.

MR. SIEMON: Yeah.

MS. DIETZ: Because it's not really a
recommendation.

MR. RIDDLE: Okay. 1c. Now, this one is an
try to deal with the substances that are currently on
.606 and two substances that the Board has reviewed and recommended be added to .606, gelatin and shellac, and our recommendation is that the Board look at those substances again, we use the words "review," but we're not talking about another TAP review or anything to that extent, we're talking about -- the Board has already completed the work on these substances, but now to run them through the choices of A, B, C, or D to determine where they should fall on the National List.

Since there will no longer be that list of commercially-unavailable agricultural ingredients under our recommendation, something needs to be done with each of those substances, they either need to be removed totally from the National List and just fall under the ACA authority of determining commercial availability for that material; or we might choose to recommend some kind of restriction or prohibition on any one of those substances, I'm not prejudging where they should go. Kim, then Rose.

MS. DIETZ: Yeah. I mean, an example is, you know, on the gums, there's an annotation: using water extraction only, and that might -- that would certainly be one that would -- could stay under .606, because it has a restricted annotation.

MR. RIDDLE: Okay. Rose --

MR. SIEMON: But you're recommending --
MR. RIDDLE: Rose.

MR. SIEMON: Sorry.

MS. KOENIG: So the handling committee would then -- I'm just looking at the process. So the handling committee would then make that recommendation based on, you know, some just small process, or -- I mean, how would we get that form of recommendation?

MS. DIETZ: Well, we know that -- I mean, this board, this existing board, has reviewed gelatin and shellac, so those -- I think those are ones that we could easily say, "This is how we recommended originally, this is where they should go," and then bring the others back forward and give some type of background and review as to why we feel that they should be moved, in what place, bring it back to the Board as a formal recommendation and have the Board vote on it.

MR. RIDDLE: But, yeah, it would be the handling committee --

MS. DIETZ: Yes.

MR. RIDDLE: This is kind of a work order for the handling committee.

UNIDENTIFIED MALE VOICE: (Inaudible.)

(Laughter.)

MR. RIDDLE: George, did you have --

MR. SIEMON: So the basis of this one is to have

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three sections under .606 and divide it up into three
different categories of what the real recommendation is
here?

MR. RIDDLE: I'm sorry --

UNIDENTIFIED FEMALE VOICE: Just one --

MR. SIEMON: You have 3a, b, c, and d --

MS. DIETZ: You'll have 205.605(a), .605(b), and .606.

MR. SIEMON: All right, I'm looking (inaudible).

MR. RIDDLE: Well, yeah, if you're just looking
at a through d in this document, that's not where we're
recommending changing to the Rule, that's just the way that
the task force divided this up as the choices.

MR. SIEMON: Okay. I --

MR. RIDDLE: Yeah. You see a is actually
205.605(a), and then b is to place it on .605(b), c would
be the new .606, and d would be removal from the list.

MR. SIEMON: I didn't catch the five [phonetic].

I see.

MR. RIDDLE: Yeah. Okay. Any other questions or
comments on that part?

(No audible response.)

MR. RIDDLE: Okay, so that's really the substance
of the recommendation from the Board on how to address some
changes to the National List.
The next, Recommendation Number 2, is how to bring consistency and predictability to the commercial availability process, procedures to be followed by producers, handlers, and certifiers, so we just repeat the definition of "commercial availability" from the Rule and then go through determination procedures, and a change in this draft is that those procedures would fall under Subpart (e), Certification section of the Rule. We're not saying what number or creating a new number; we're just saying that it belongs in Certification Subpart (e). So that's a change here based on comments received.

Okay, at the top of the next page: A) "The applicant or certified operator must submit a written report to the certifying agent as part of the Organic System Plan or Organic System Plan Update that provides," and I am going to read through these:

Number 1) "A description of the ingredient and the required technical specifications of the ingredient, including form and quality";

"Estimate of the quantity of the ingredient needed within the specified time period if this is a factor in the requested allowance of a non-organic ingredient," and then in parens: "Quantity, quality, form, and function may be considered for individual product requirements and not for total business requirements for all potential
product lines."

And, Number 3) "Explanation of how the ingredient is used to fulfill an essential function."

So that's the information that the operator must include in the Organic System Plan.

And then, 4) "During the inspection, the application or certified operator must provide information concerning known sources of the ingredient and organic status thereof and provide written evidence of efforts to locate sources of organic ingredients, including the dates when potential supplies of applicable organic ingredient suppliers were contacted."

"Written evidence may include letters, faxes, e-mail correspondence, or phone logs of discussions with potential suppliers. A minimum of three potential suppliers shall have been contacted during the previous 12 months."

Rose.

MS. KOENIG: My question is in terms of kind of the way the Rule is presented, I mean --

MR. RIDDLE: If you can speak up, please, or closer.

MS. KOENIG: I'm sorry. I just don't see any section of the Rule that has this kind of descriptive requirements, so --
MS. CAUGHLAN: Proscriptive is really -- quite proscriptive.

MS. KOENIG: -- so I don't know if this is really -- you want them in the Rule or do you want a directive or -- I mean, this seems more like -- I mean, I appreciate the spirit of what you're trying to achieve, I have no qualms with, kind of, what's written; it's just placement in the Rule just seems a little inconsistent, I guess, to me, that there --

UNIDENTIFIED MALE VOICE: Well, I don't --

MS. KOENIG: It seems like there should be a format where you explain those things, whether it's a definition or a directive or --

MR. SIEMON: Should be a guidance (inaudible) --

MR. RIDDLE: Yeah, and I -- I didn't read through all of the background and citations from the Rule, to save some time, but some of that's explained there, and the language at the top, "Applicant must submit a written report to the certifying agent as part of the Organic System Plan on commercial availability," that fits with the Rule.

And we aren't saying what specific number or how it would fit, we leave that to the NOP, but we just recognize or acknowledge that it is the certification section, it's not the materials list section that needs
changed here, and maybe it can be addressed with a
directive or policy guidance, but it's a certification
issue and not a materials list issue.

Andrea, then Kim.

MS. CAROE: Well, I have somewhat the similar
concern as Rose on this, is that the Rule doesn't state
that you have to call three suppliers, and I think once you
say three suppliers, that's all you'll ever get, and a lot
of folks out there are doing a lot more to find those
organic ingredients, and I think it might be
counterproductive.

And also, telling the certifiers that the
inspector has to look at this, instead of them looking at
it through the application process, I think is getting into
their business; I think it should be broader and say that
"this should be evaluated by the certifier during their
certification process," but telling them to do it at the
inspection with the inspector I think is -- is: getting
into their business.

So some of this, I -- I agree that this is
founded in the Rule and that the Rule specifically states
that you have to -- as a user of a non-organic ingredient,
you have to justify the use of that ingredient with a
search for the organic ingredient, but this has gone a
little bit past that, and although it's great -- guidance
are a great -- a set expectation, perhaps, but I don't think that we can say three suppliers and evaluate at inspection and -- some of that is -- the detail may be too much.

MR. RIDDLE: Kim.

MS. DIETZ: Just a bit of background on this. These recommendations, really, have been in the industry for probably the last three or four years and -- as a kind of -- not written that you have follow this, but people somewhat have been following it.

So the -- let me try to -- there were so many things that you said, that I wanted to comment on.

So that I don't necessarily agree that this isn't going to work, because as -- first of all, as a handler, you're required to have in your handling plan a commercial availability process, okay, so right now, if people don't have what they do, they could, really, be in violation of the Act. So that's the first thing. So this, I think, is very fair for the handling/ processing groups out there to follow, and we have been following it, in some sense.

The other thing is that you have to understand that when you're out there sourcing ingredients, you don't know you're going to be doing that when you submit your application, this is something that's going to happen in the field, so to speak, so you have to document what you've
got, you've got to have a system, and then you've got to follow the system. And so to me, having the inspector actually validate that you've done it is the right place to do that.

So those are my comments.

MR. RIDDLE: Mark, then Rose, then Andrea.

MR. KING: Yeah, I've been somewhat a part of this task force, and first of all, thanks for all the work, because I know a lot of time has gone into this, but one of the things you mentioned, Jim, that sort of caught my attention is Subpart (e), "We're not sure where this should go but we know it should go in the Certification section," and it seems to me that what we're attempting to do, in small part at least, is verify information through the inspection process.

So I don't know if at some point in the future we would want to consider that section verification of information, integrate commercial availability into that, I don't think that section totally does this document justice, but perhaps, as we talk about the inspection process, it could be inserted in there.

MR. RIDDLE: And the inspection process is part of Subpart (e) as --

MR. KING: Yes, in Section 403.

MR. RIDDLE: Right. So we're -- yeah.

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Basically, we're wanting to hand something to the NOP
and --

UNIDENTIFIED FEMALE VOICE: Let them determine
where it fits.

MR. RIDDLÉ: Yeah, from the Board. Let's see,
Rose.

MS. KOENIG: So I guess just clarify on this
Section (a), so is this for all ingredients, would a
potential person have to --

MR. RIDDLÉ: All agricultural ingredients.

MS. KOENIG: All agricultural -- whether they're
using organic or non-organic ingredients or all
ingredients?

MR. RIDDLÉ: All ingredients used in a product
labeled "organic."

MS. CAROE: The non-organic, this is for the
non-organic, this is supporting the non-organic --

MR. RIDDLÉ: It's all agricultural ingredients
used in a product labeled "organic."

MS. KOENIG: So even if it's -- even if you're
finding organic sources, you would have to document --

MS. CAROE: No. No, not for the organic
ingredients, not for ingredients that you find organic --

MR. RIDDLÉ: Oh. Well, no, you've got a
certificate, you've got organic, you've bypassed this, it's not applicable then, because you've already exceeded it. It's only -- yeah, it kicks in when you want to use a non-organic, but applies to all agricultural ingredients used in a product labeled "organic," not in a product labeled "made with," and of course not in one "100%" either, it's irrelevant there, so --

Andrea, did you have something else?

MS. CAROE: Yes, I do. I just want to point out that ingredients are -- can be very specific. Say you were making a product that included spirolina as an ingredient, right now there's two manufacturers that I know of that do organic spirolina, just two. If you called both those manufacturers and they didn't have it available, would you not be in compliance because you didn't call three?

I mean, I think by setting a number, you're not understanding the scope of searching for ingredients. Sometimes the ingredients are quite available, other times they're very narrow, you know, you may be looking for a chocolate that freezes, for an ice cream bar, that's very specific, you know, I mean it's -- it's not necessarily -- I just -- I think the three -- I think once you use that on a certification level, that's -- it's just -- it's not always applicable.
And the other thing I want to say is that the Rule specifically states that a certifier must have enough evidence, before they send an inspector in, that says this operation can possibly be certified, and the certification agency has the right to say, "We want to see that document for the sourcing of that ingredient" before they go in.

Now, if you -- you know, yes, it is the obligation of the on-site inspection to verify the information that was received in the claims that that operation is making, but you're specifically stating here that this is how the certification operation -- certification agent is going to operate, and I -- I just don't believe that we have the right to tell them how they're going to operate. You can tell them what needs to be done and what -- through the process, what you need to get out of it, but where it needs to be done, I think it's inappropriate.

MR. RIDDLE: Well, yeah, and I'd like to respond to that. The first point, on the minimum of three potential suppliers being contacted: that's not being changed in this draft; that was already something that the task force had agreed to in the prior draft. So we're not looking to change that, you know, right now.

And the intent is to bring predictability, so that you know if you have contacted at least three, it
doesn't limit it to three, but at least three, then you have fulfilled a standard, that the certifier can't, you know, change the rules on you at that point. It's to provide consistency and predictability.

And yeah, maybe it's not appropriate/adequate in all instances, but as a rule of thumb, that's what we're trying to establish.

And on the -- yeah, on the other one, which is a change being proposed in this draft, Number 4 there, that was in response to comments, that the -- that this really happens during the inspection, and I hear what you're saying, that the applicant should submit the information on the known sources of the ingredient and organic status thereof in their organic system plan, and that should be reviewed in advance of the inspection.

That's what we originally had recommended. And then the commenter was saying no, that that really should occur during the inspection, and on further thought, you know, I'm thinking that maybe -- that during -- the inspection, you know, part, should only apply to Number 5, that that's when the inspector reviews the written evidence, that -- that's something that happens on a daily basis and can't be submitted as part of the organic system plan, that's, you know, an ongoing process, the attempts to source. It's not something that you do one day out of

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the year, send in your plan, and you're done.

So I think that is appropriate that that be directed to the inspection process, but Number 4, submitting information on the known sources of the ingredient and organic status, I think is appropriate to keep in the organic system plan.

So when the task force meets, I think we can talk about a change there. Mark, then --

CHAIRMAN KING: I was just going to say, I think this is really good dialogue and this is a good piece in front of us. It sounds like what we're really talking about here, if I may, is the difference between review of application and verification of information throughout the inspection process, and there are -- there are some ways to accomplish the same end through that.

So I appreciate the comments, and in about five minutes I'd like to wrap this up to stay on schedule, so --

MR. RIDDLE: Okay. Okay, so I think we'll continue that discussion in the breakout session.

B, which is really the steps that the certifier would need to follow in making these determinations, and, once again, to bring predictability and consistency to the process, so:

Evaluate the applicant or certified operator's
claim that no organic substitutes are commercially
available in form/quality/quantity needed by the operation
to fill the required function;

2) Verify that the applicant or certified
operator has made a good-faith effort to source organic
ingredients;

3) Verify that the ingredient is not
commercially available in organic form by reviewing the
best-available information, listing known sources of
organic ingredients;

4) Notify the certification applicant or
certified operator of sources information which lists
available organic ingredients if the certifying agent
finds that such ingredients exist;

   And then we're recommending in this draft to
   delete Number 5;

   And then, moving on: Maintain and annually
submit to the NOP an up-to-date list of ingredients that
have been granted allowances in non-organic form, and then
in parentheses: The list shall maintain the
confidentiality of ingredients, suppliers, and parties
granted allowances.

   "The reporting requirement shall be implemented
through the accreditation process by providing ACAs ample
notification and time to adopt data-management systems,"

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and that's a recognition that not all certifiers have the
data-management systems currently in place. This is --
would be a new reporting requirement that will take some
time to implement.

And then the rest of this remains as it came out
of the task force: Require certified operators to update
commercial availability information in each organic system
plan update;

Acknowledge all complaints concerning allowances
granted and provide rationale for determinations. If the
investigation of a complaint provides significant new
information, then the certifying agent must revisit the
allowance; and

Require that products without sufficient
documentation not be labeled "organic." Such products may
be labeled "made with organic ingredients" if they meet
all applicable labeling and product-content requirements
for that category.

Any comments, questions on that part? -- and
this is the last part. Andrea.

MS. CAROE: I -- as I voiced previously with
this task force, I think Number 3 changes the intent of
what the certification agent's role is. The certification
agent isn't to take on the liability of the product. They
are to verify that the justification provided by the
applicant is appropriate. I don't feel that the
certification agent's job is to verify that that
ingredient is not available. They're verifying that the
effort was due diligent but not that it's not available.

So -- I mean, I've said that before, and I
really can't see that certification agents should take on
that role.

MS. DIETZ: I think the same intent, she --
well, I think you're --

MR. RIDDLE: Kim?

MS. DIETZ: I think you're meaning the same
intent that we are. We're not --

CHAIRMAN KING: Yeah.

MS. DIETZ: We're not saying you need to go out
and verify that those are commercially available, saying
verify the documentation --

MS. CAROE: But that's not --

MS. DIETZ: -- that's provided to you.

MS. CAROE: I mean, that's -- the one before
that, Number 2, says "verify the good-faith effort."

I believe that is accurate.

MS. DIETZ: Right.

MS. CAROE: The next one says "verify that it's
not commercially available." I don't agree with that. So
I would suggest, once again, to strike Number 3.
MR. RIDDLE: Well -- yeah, and you're on the
task force, and --

MS. CAROE: I know. I've said it before,
though.

MR. RIDDLE: -- we have considered striking
that, and it's in the draft now, and in -- my sense is
that in order to determine if an operation is in
compliance, the certifier needs to assess not only the
effort but also the facts of whether those substances are
at all available in an organic form.

MS. CAROE: I disagree. I don't think that's
(inaudible).

MR. RIDDLE: This is an attempt to bring
consistency, and yes, there is a need for more information
on commercially-available organic minor ingredients to
give certifiers better tools to make those assessments,
but they need to actually perform some due diligence to
determine if the operation complies or not, besides just:
whether they made a good effort. Rose.

MS. KOENIG: Yeah, I hear Andrea's point. You
know, I look at this -- you know, there -- I guess it's
sort of like -- you know, not to go back to the List 3
inerts, but I will go back to them.

There's probably some ways in the future -- some
ways that the industry can develop these databases for
either -- you know, in this case it's manufacturers, another case might be pesticides.

So I don't know if you want to -- you know, I think maybe our efforts might be better placed: rather than requiring this, is: working on and trying to establish those kinds of lists and sources for certifiers and acknowledge that people who are accredited certifiers should be doing those kinds of things.

You know, I -- I think what Andrea's saying is not that she opposes necessarily that -- you know, the intent, I guess; it's just she thinks -- and I guess I tend to agree -- that the format that it's in -- I think probably does cover it.

MS. DIETZ: And we acknowledge that there is really no place out there right now that has commercial availability lists, so --

MS. KOENIG: Yeah. So, I don't know, I'm just putting forth that it seems like in many cases that we're showing that there has to be some kind of databases, I mean similar to like what OMRI does in brand names, I mean there should be databases used for reference. It's not a requirement, again, but references so that people can get those sources of information via -- I don't know -- NOP website or what have you, so that there is tracking, and I think that the USDA -- I mean, it's not their mandate to
do this kind of stuff, but they do have data-collection kinds of things all the time, that maybe there could be some kind of tracking --

MR. RIDDLE: Right.

MS. KOENIG: -- of the marketplace and what's available.

MR. RIDDLE: Yeah. And I think --

MS. KOENIG: Not only, you know -- as a source not only to help, you know, conventional, but also, if there is organic, that really would be a great service.

MR. RIDDLE: I'd like to wrap this up, and the task force will be meeting during breakout for just fine-tuning this recommendation.

I did just want to point out that the rest of the document explains -- summarizes some of the comments that were submitted and how they have been addressed in this draft.

And I also want to just point out: one of the commenters said something in quite detail, that I encourage you to read, and essentially advocating the removal of commercial availability considerations altogether from the Rule for minor ingredients, and if someone cannot find organic ingredients in significant quantity and they can't meet that 95-percent threshold, then the products be labeled "made with organic," but just...
to take it totally out, but that was contrary to the
recommendation of the task force, but I did feel obligated
to mention that that is another option and something which
should be considered and is addressed in these comments.

  MS. DIETZ: And in closing, remember that we --
we have to have truth in labeling, so most of this is
going to happen in those minor ingredients, where if you
have something that's under 5 percent that you just can't
source -- take organic vanilla, for example, that's just
right now not available, or something like that, you're
not -- and you're going to label properly, whether it's a
"made with" label or an "organic" label (inaudible).

  MS. COOPER: It's not like we're trying to cheat
the system, but --

  MR. RIDDLE: Thanks, Ann.

  CHAIRMAN KING: We thank all of you for helping
us stay on schedule, I appreciate that.

  The next item on the agenda is new for this
Board in that it's a breakout session. The intent for the
first hour is to have three committees in a breakout,
which would be crops, livestock, and handling, those
committees dealing with materials.

  It is at the chairs' -- the committee chairs'
discretion in terms of how they want to involve the
public. The ongoing goal here is to increase the level of
transparency and when we're reviewing it also confirm for you that we do consider public input and that we do take your comments when we deliberate and make decisions on materials.

So I think at this point --

MS. DIETZ: I --

CHAIRMAN KING: Let me finish, one second. So it's at the chairs' discretion. In other words, the public perhaps may just simply observe and then at the end we could have a quick question-and-answer. We'll do this for one hour, then -- if the chair so desires, and then we'll do a quick break. Kim?

MS. DIETZ: A point of clarification with NOP. A number of the committees have to go back and actually make recommendations on materials. Is that something that we can have the public involved in, in deliberating and making recommendations --

CHAIRMAN KING: Observing.

MS. DIETZ: -- and observing? I mean, you know, we've got some materials that we have to take back, soy protein isolates and TSPP.

MR. MATTHEWS: Richard Matthews, National Organics Program. That's really up to the committee.

MS. DIETZ: Okay.

MR. MATTHEWS: The idea is that the committee
would get together, go over the written public comment that was submitted prior to this meeting, plus what you heard yesterday during the public session, and that you would then rework your current position if you believe that there is a need for reworking, or you may come back and say, "We're not making any changes."

Whether or not you take additional feedback from the public is really up to you.

MS. DIETZ: I just wanted to make sure we weren't violating anything.

MR. RIDDLE: Yeah. No, that's an important thing.

MS. KOENIG: I would suggest, though, in terms of process, that -- that the committee would formally recognize or ask somebody if that information is needed, that it's not the arena -- because it's really not fair, this is not -- this is not a section for public comment.

If there's clarification, I think that, you know, it has to be a real specific issue, but certainly people can observe and listen.

CHAIRMAN KING: No, I think that's a really good point, and actually, I think primarily it is for you to observe. Occasionally if the chair wants to recognize someone or you have a pertinent point that deals specifically with that topic, you can make that point.
specifically, then that's fine, and it's at the chair's discretion.

MS. KOENIG: And then the only thing -- also, if the public is involved and the actual petitioner is there, I think that it -- well --

CHAIRMAN KING: This is at the chair's discretion, Rose, we'll let them decide that.

MS. KOENIG: Yeah, but I think there needs to be disclosure of anyone who is presenting -- who is -- if they are called upon, who they represent, because I think it's really important that we have some kind of process so that the committee understands who those individuals are.

CHAIRMAN KING: Okay, duly noted. Well, I want to see what Katherine -- then we'll go to Jim. Katherine, is that the sign-up sheet or the --

MS. BENHAM: The sign-in book -- that's for public comment, this is the sign-up book, so everybody needs to make sure that they sign in.

CHAIRMAN KING: This is sign in for today, as --

UNIDENTIFIED MALE VOICE: Attendance.

CHAIRMAN KING: -- as in "I've attended."

MS. BENHAM: Yes.

CHAIRMAN KING: Yeah. And you don't want to be on her bad list, so sign in now.

(Laughter.)

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UNIDENTIFIED MALE VOICE: Is the sign-up sheet for public comments --
MS. BENHAM: Public comments out there too.
UNIDENTIFIED MALE VOICE: Out there too, okay, for tomorrow morning.
CHAIRMAN KING: Okay, and Jim, you had a comment.
MR. RIDDLE: Yeah. As I understand it, we're going to -- the crops, livestock, and handling committees are going to break out now, during this first session, before the break, and then after the break I'd like to meet with the 606 Task Force --
MR. CARTER: I'd like to meet with the policy development committee.
MS. COOPER: And I would like to meet with materials.
CHAIRMAN KING: Okay. So essentially -- it's almost 9 o'clock. This first session will go approximately 60 minutes, and then we'll take a break and come back and do the other stuff.
MR. MATTHEWS: For the record, Richard Matthews. I just want to clarify one thing. What I meant by: it was up to the committee chair is not that -- this is not a new opportunity for public comment; it would be strictly for maybe a clarification, somebody who had made
a public comment, if you're wanting clarification you could ask for clarification, if the petitioner's there you could ask for clarification on something. This is not an opportunity for more public input.

MR. CARTER: So when Marty hands a yellow sheet of paper, is that public comment or clarification?
(Laughter.)

MR. MATTHEWS: That's probably public comment.
(Laughter.)

CHAIRMAN KING: Yeah, and I think Rick brings up a really good point. There is work to do during this session, so please keep that in mind and respect the interests of the committee.

So at this time let's go ahead and break out.
(Off the record and reconvened.)

CHAIRMAN KING: Welcome, hope you had a nice break, and thanks for your help during the breakout session.

We're going to start this off with Keith Jones, who's going to do a presentation, or an update, if you will, on the ECERT Program. ECERT, not Easter, Katherine.
(Laughter.)

CHAIRMAN KING: So if you could take your seats and get prepared, we'll get started here.
(Long pause.)
CHAIRMAN KING: Keith, it's all yours.

MR. JONES: Imagine, if you will --

UNIDENTIFIED FEMALE VOICE: You need to get near a microphone.

(Pause.)

MR. JONES: Folks, I apologize that our system's not going to let me be on the record. There's nothing that I'm going to say that's going to be of any sort of regulatory consequence, it's totally educational, you can take good notes, you can talk to me afterwards, you know, we'll make sure that you have the information you need, so --

UNIDENTIFIED FEMALE VOICE: Can you please get near a microphone? It's pretty hard to hear.

CHAIRMAN KING: Yeah, we couldn't --

MR. JONES: I can talk louder, how about that?

CHAIRMAN KING: Thank you, yes.

MR. JONES: All right. From the diaphragm, okay. Okay, let's start over.

Imagine, if you will, a product supplier in Belgium wanting to source NOP product, an accredited certifying agent in California entering data real-time on producers and processors, and Item-S compliance, tracking also in real-time, compliance data related to non-compliances and trim lines in those non-compliances that are
going on around the world. That's the vision of what I'm about to share with you this morning.

Multiple users entering data into a common database that would capture both regulatory information and compliance information for use on a real-time basis.

Okay.

That is the NOP ECERT project, and I'm hoping that I can run this thing. Katherine? Okay, tell you what, let me go back to the tried and true.

Our vision is simply this: to supplement a secure, integrated web-based system for electronic collection, use, and dissemination of information that is required to be submitted under the National Organic Program regulations. Okay.

Real-time submission, access worldwide through a web-based interface, and utilizing data that we're required to collect anyway. Okay.

Now, we have designed this system with our first-line interface in mind, and our first-line interface, folks, is the accredited certifying agents, so we've designed this system with their needs in mind, and also AMS compliance. So that is the two primary user interfaces that the system's designed for.

Now, flowing out of that, because we're capturing this data, will be trade uses as well, which
means that that purchaser in Belgium can eventually go
online, source through our web-based source, and have
access to every NOP product that is certified around the
world. No other system will be able to combine both
trade, product, and regulatory information.

Now, part of this will be proprietary, only USDA
and accredited certifying agents will, obviously, have
access to certain information related in the primary
interface. Okay.

The public side will be the trade side, where
you, as an individual, can go in, type in a keyword,
"potatoes," "corn," "soybeans," whatever, and outflow from
that database will be a list of products that are
certified with the NOP standards around the world.

One of the features that we are considering
building into the system will be a distance measurer,
because we know that people are very concerned about
sourcing product as close as the location of their
processing facilities, so one of the things that we're
considering is doing, at least on the US side, a ZIP code
search, where I, as a processor, could put in a ZIP code
that says -- and my ZIP code in Virginia is 20121, I type
that in, I click on "give me 150-mile radius," and then it
spits out, based on ZIP code searches, products within
150-mile radius of my personal ZIP code. Okay.
Now, what I'm about to show you today represents the first build of this system, and let me tell you how we're putting this together. This system is designed to be modular in approach, we have contracted with a software developer, and what we are building is functionality over time. So what I'm about to show you today will not have all the features in it that I have just described, but I can walk you through what we can do today once we have the system fully operational and then what our future builds will be.

Now, one of the things that you need to understand too is that one of the things that's going on in the federal government right now is a complete integration in US Customs departments' international trade data systems, and for some of you I had talked to about this project before, we actually expected to have it fully up and running this summer. That's probably not going to happen, because what has happened at AMS is that we have been tasked with ensuring that everything we do relating to software, data collection, and things like that, can integrate and interface with Customs ITDS project, okay.

ITDS, International Trade Data Systems, was kicked off back in 1995. It's designed to integrate all of the trade flow data and make more efficient clearing products through Customs. It has taken on an enormous

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urgency for Homeland Security, and so I, along with other AMS staff, are involved in looking at our systems to make sure that they integrate with ITDS, and that perhaps will slow down the full implementation of the project, so you just need to be aware of that. But regardless, what I'm about to demonstrate and show to you will be where we will be going, okay.

Now, as I said, the primary user -- the primary interface that we've designed is for ACA. ACAs are our eyes and ears on the ground. And I know you guys don't like to hear this, you are our agents on the ground, okay. You're the first line of defense.

So what we've done is designed this system for you, we've designed it to help you submit your data to us in an electronic common format, where you're not going to have to send paper to us anymore. We've also designed it and will design it to assist you in reporting non-compliances to us on a real-time basis so that we can begin to track trim lines related to various sectors of the Rule. Okay. So for the ACAs in the audience: this is really designed for you in mind. Okay.

Now, you will come to a site entry screen like this, and unfortunately, as I copied it off the website, we've got a number of marvelously gorgeous graphics that just didn't show up, okay, so there's some graphics up

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there, it's got AMS's logo, a little bar that says
"National Organic Program Online Services," which is kind
of what we're calling this.

So you're going to have a username and password.
Marty, what do you want your username to be?

MR. MESH: I forgot my password.

(Laughter.)

(Cross-talk.)

MR. JONES: I'll tell you what I'm going to do,
we're going to use Marty as a guinea pig and I'm going to
-- for his username consider this: "I Cause Trouble
Every Day," okay? That's his username, all right?

(Laughter.)

MR. JONES: And Marty, you'll have to pick out
your own password.

UNIDENTIFIED FEMALE VOICE: (Inaudible.)

MR. JONES: Backing away from the facetiousness:
An ACA will have a unique username that they'll set up,
they actually go into the system and set that up. They
also set the password up, and then that password can be
shared by any person on staff that they feel like needs to
have access to the system. We're not going to be dogmatic
about security at that level, we feel like you need to
make decisions on your staff as to who needs access to the
system, okay? But you'll come to the system, you'll
identify a username, and you'll be into the system. Okay.

You'll come -- as you come into the system, then, you will enter your data, okay? Now, we're going to have much of this data, address and phone numbers, so you will be able to say if it's a corrected address, a corrected phone number, in other words you'll be able to enter to us the latest information, because one of the things that we're noticing is that addresses and phone numbers obviously change over time, the address and phone number that you gave us at the time of your accreditation may not be necessarily the address and phone numbers that you're using today. In most cases -- in fact, I can't think of a case where you didn't update it, but you'll be able to provide the latest information to us.

Now, I don't know how many of you can see the bottom of the screen, but down in this area, this will be information for USDA, so once -- and this actually, unfortunately, says "certified" instead of "accredited," so instead of "accredited," that's actually an error that the contractor is going to have to go back and correct.

But we will verify this data, make sure it is accurate, and then we will go into the system and make sure that -- and in this case, this hypothetical case, this individual's authorized for TM11 issuance [phonetic], shipping to Japan [phonetic], they've been accredited for R & S TYPING SERVICE - (903) 725-3343

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crops, livestock, wild crops, and processed products.
Okay. So that sets the database parameters. Okay.
And then also it's got the creation of the file
date, any modifications in the date of accreditation.
Okay. That way we can keep track and determine
(inaudible).
Okay, now let's go to the certifying [phonetic]
client screen, and this is probably the most -- I think
the most interesting screen, and also it's going to be
long-term the most useful. This will be the screen that
the ACAs will use to update -- and I say update -- their
client list.
Marty, let's assume you certified Tom, you
signed off yesterday, you come to this system and you
enter in X-Y-Z Organic, Tom Hutchison, address,
information, and then one of the things too that the
system will do is assign a unique identifier number to
this client, okay? That way we'll be able to track the
client throughout the system.
Now, I can't tell you what that unique
identifier number is going to be yet, we're still going
back and forth the contractor as to what makes sense in
terms of using the identifier screen, whether it needs to
be an alphanumeric screen, whether it needs to be
something related to the certifier's name so that we can

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immediately identify it, we're still going back and forth as to what it's going to look like, but it will assign a unique identifier number.

Then you will click on -- and unfortunately, folks, we don't have web access today, so I can't show you a lot of the functionality, but you'll click on the status of Tom's operations, which at this point will be certified, you'll click on the operation type -- crops, livestock, whatever, there's a drop-down box there, that you can click on what is being certified for, any -- or, I'm sorry, this is processor and handler here, so this would be certified producer and processor here, and then what the operation is certified for, we just click boxes down in here.

UNIDENTIFIED MALE VOICE: I have a question.

MR. JONES: I'd like to hold -- the way I talk is I'd like to hold questions till the end. I can go back and --

UNIDENTIFIED MALE VOICE: I retract that last question.

MR. JONES: I understand.

(Laughter.)

MR. JONES: I can go back and run through any of these slides, and, you know, I'm here as long as I need to be, I know you guys are on a schedule you need to stay to,
I've got this loaded on my system, if we want to gather up afterwards and walk through it in more detail, I'm happy to do that. So I'm here at your disposal, within reason. (Laughter.)

MR. JONES: And then there's, of course, a date creation, a modified date, and certification date, and status change date. This status drop-down box here is where you will go in and identify -- let's say you've identified a non-compliance. There will be a drop-down box, and this will be in the next build, it'll probably be over here somewhere, there'll be a drop-down box that says "non-compliance," and then there'll be a drop-down box on every section of the Rule, 205.404 (inaudible), whatever, okay, and you can click on that, as the non-compliance, and that will, when you click on that, autopopulate a common non-compliance letter, that you will have the choice -- and one of the things I do want some feedback on is whether or not you would like to have this e-mailed automatically to your client, if your client has e-mail access.

So essentially what you would do is you would go to this screen, populate this on a real-time basis with whatever data needs to be populated in the case that we're just talking about, it's a non-compliance 205, let's say .406, for whatever reason we want to use that. That will
autopopulate and bring you to another screen that will be a common non-compliance letter, it'll have boilerplate language in it that we have passed muster at OGC, and then you will insert any applicable information that you feel necessary, and then that letter can be sent either through e-mail or you can print off and send it through regular mail.

But we are considering the e-mail option. We're trying to make this as electronic-focused as possible, as paperless as possible, okay. Now, that doesn't mean you couldn't get into the system and print off the letter for a hard copy or something like that, but you would have the ability to send a non-compliance letter by e-mail.

Another thing that the second build will do is that once this screen is finished and completed, it will autopopulate a common format certificate with standardized language on it, okay. You can print that off at your desk. So you fill this out, it will collect the information out of the various fields, autopopulate into the common certificate format, and you can print that out right at your desk. Okay.

And really, as I summarize, what we're trying to do, folks, is develop, as I said, an electronic system that is the window to the NOP world, for regulators, for traders, for ACAs. Okay. And we believe that within
relatively a short period of time, with -- hopefully within the next six or eight months, we will have this system live and operational, with the functionality that I just described. Okay.

Now, software development within the federal government is always a long and kind of laborious process and it has taken on -- I want to share with you that it's taken on a different kind of flavor now that we have an emphasis on Homeland Security, because we have to integrate with so many systems now, so you just need to be aware of that.

But I hope what you can do, in walking away from this presentation today, is really two things: one, recognizing that we are -- and I know you guys don't believe this -- we are trying to make your life easier, okay, and we're trying to make it more efficient, the process more succinct, and the results more consistent.

And think, if you would, what this means for us in terms of enforcement, where we can look in a database that has non-compliances that's being inputted on a real-time basis, think what that does to us for our enforcement capabilities. We can begin to identify trim lines -- I go back to the 205.406 example. Let's say that over time we're seeing an enormous amount of non-compliances on this section. Well, that gives us some tips, either, one,
nobody understands the section; two, it's poorly written, I mean there's reasons that nobody understands it; three, we haven't done an effective enough job in training on that particular section; or, four, maybe it's just not working on the ground, I mean maybe it's just -- there's just a disconnect with what's going on on the ground and the regulation, okay.

But can you see how having that data will help us make better management decisions and better enforcement compliances, and that's really where we want to be, is that we want to operate, folks, not on supposition, we want to operate on data.

And with that, I conclude my presentation. Katherine, I don't know if I've got another slide in there or not. Yeah, just my contact information.

I'm happy to take questions, walk you through anything you don't understand. Thank you very much.

UNIDENTIFIED FEMALE VOICE: A question.

MR. JONES: Yeah.

UNIDENTIFIED FEMALE VOICE: Okay. Before that one where the non-compliance letter goes out --?

MR. JONES: Uh-huh.

UNIDENTIFIED FEMALE VOICE: -- directly, if it's a non-compliance letter that somebody's supposed to get information in within 30 days, if somebody in real-time,

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you know, sees this person is noncompliant but the real --
or certification process really isn't completed, it kind
of almost puts like a black mark on this person. I'm not
sure exactly what non-compliances you're talking about,
minor ones as well as major --

MR. JONES: Well, you have to report non-
compliances, okay --

UNIDENTIFIED FEMALE VOICE: And this is only
major ones that --

MR. JONES: Yeah.

UNIDENTIFIED FEMALE VOICE: -- (inaudible)
suspension or (inaudible)?

MR. JONES: Yeah, ones that haven't been
resolved, ones that you've tried resolving, hasn't been
resolved. Now, keep in mind, folks, this is ACA data
only. The world's not going to see this. That particular
-- that particular screen -- that's why I said it's
password-protected.

Now, what I didn't show you is that -- if we go
back to -- if we go back to the trade side, what you will
do on the trade side -- and this is not at all what it's
going to look like, but you will just go in and say, "I'm
looking for corn," and that would be a publicly-accessible
data site [phonetic], okay (inaudible).

The ACA information that I've just described to

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you in the other screen, the only way that you get to that
is through a password, which you will have, so the
public's not going to see that. That's going to be ACA
data, that's going to be USDA data.

I've got a lots of questions (inaudible).

UNIDENTIFIED FEMALE VOICE: I've got a question.

How would someone know if the client is currently
certified, would it be that it creates a modified date? I
mean, this is a continuation, they're certified in October
2003, then they get recertified again in November 2004.
As an inspector, I have seen numerous times where someone
has been waiting six, eight months past when their annual
inspection date is supposed to be, and still selling
current product, switching certifiers. This also doesn't,

you know, have anything to do with that either. There's -
- the problem now with certificates is not really what's
currently certified.

MR. JONES: Okay. Folks, certificates are good
until suspended or revoked, okay? That's the way the
regulation reads. They are good until suspended or
revoked.

Now, the way you're going to keep track will be
with the certification date, okay? This will change over
time. The screen will also have a modification date, and
every time you go and make a change to this screen, the
database records the date that it is modified, okay? So we'll know, we'll know, we'll know every time an ACA makes a change (inaudible).

MS. SONNABEND: Is that modified date on the certificate that's automatically printing out?

MR. JONES: No. It'd be the certificate date.

MS. SONNABEND: Only that. So we wouldn't know if it's current, if they had had their annual inspection -

MR. JONES: A certificate is good until suspended or revoked, okay?

MS. SONNABEND: Are you going to be able to accept imported data from (inaudible)?

MR. JONES: Yes. Great question, I'm glad somebody asked me. I'm ready for it. Okay.

The question is: are we going to be able to accept imported data? -- and the answer is yes. That was one of the first questions I asked the contractor, is: are we going to make certifying agents go back and recreate their lists? No. Okay.

And let me tell you what we're doing on that. You submitted to us 2003 data. You were required to do so. We have that. We've got it in lots of different formats. Okay, so what we're doing is we're going back and we are -- the program is taking that information that
you sent to us and putting it into a Microsoft Access
database.

In the not-too-distant future, probably sometime
this summer, you will be receiving a letter from the
program, that says: you will submit all data to us
related to 205.400, .404, in this format, which will be a
Microsoft Access database format, it will have the fields
laid out, how we want the fields, because what we're
going to do then is just take and capture that data when
you send it to us and import it into the system.

So what you're going to be doing, Zea, is
essentially you're going to be using this screen to update
at the margins, okay?

MS. SONNABEND: If you're going to already take
our list and give us our list back --

MR. JONES: Yeah. We're going to take the 2003
data that you've sent us, okay, and, like I said, this
summer we're going to send you -- it'll be an Access file,
we'll actually send you the file, and say -- and say to
you: we want the data imported into this system, okay, so
you will -- if everything works the way I hope it does, we
will already have 2003 data in place, you will then send
us the difference at the margins between the 2003 data and
the 2004 data. Everybody understand what I'm saying? The
marginal difference between the baseline database and then

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the database that exists at the end of calendar year 2004.

UNIDENTIFIED FEMALE VOICE: I see a field up here that says "Notes," but I don't see a field that's specifically designated for the crops or the products that are being certified.

MR. JONES: Excellent question. Excellent question. The next build that we will do is these will have drop-down boxes, okay? The reason that build number one didn't have drop-down boxes is that we -- I confess to you, folks on the crops and livestock side, it's pretty easy to come up with the nomenclature for certain products, okay, you can use census data nomenclature and things like that.

The difficulty, and the reason -- (inaudible), that's an excellent question. The reason we -- at the time that we made build one, it just didn't have any drop-down boxes, is that that actually forms the basis of the searchable database. So whatever you use as a search screen -- or a word here, okay, impacts how you'll be able to search, and it's particularly -- one of the things that we're still wrestling with, and I will tell you that both our software developers and myself don't have good answers for, is what we do on processed products [phonetic], because we've got accredited certifying agents that are certifying clients that have got 3,000 SKUs for processed
products, 3,000 SKUs for processed product, okay, and I don't -- neither the software developer nor I have been able to come up with what would be the appropriate drop-down box there for somebody that might have 3,000 (inaudible), okay.

So there's a data question there that we're still wrestling with. I think we've got -- we've got the crops, livestock, and wild crops nailed, because I think we (inaudible), okay, but the process -- nobody's -- nobody's ever really tried to track products at this kind of level [phonetic], so (inaudible). (Inaudible)?

UNIDENTIFIED MALE VOICE: You said that the USDA and the federal certifiers [phonetic] will be the only people that have access (inaudible) because of your relationship (inaudible), if the National Security Agency or IRS comes to you and says, "I'm investigating Marty Mesh" (inaudible), you'll have to make that data available?

MR. JONES: Sure. I mean, this data -- when I say this is between the USDA and the ACAs, obviously any other federal agency would have access to it too, so that if there was a criminal investigation or something like that, we would share that. My point, then, is that this screen, these screens, are not available to the general public.
UNIDENTIFIED MALE VOICE: How much did you pay for the software?

MR. JONES: Well, the first bill was 25,000.

UNIDENTIFIED FEMALE VOICE: (Inaudible)?

MR. JONES: I actually don't know. Folks, now -- I mean, keep in mind, folks, software is a (inaudible), it's based on functionality, okay, and -- and one of the things too is that we were able to build it as cheap as we were, as they were, build it, is because we took a lot of the source code -- (inaudible) you can understand this -- we took a lot of the source code that existed for a program that AMS Fruit & Vegetable had and modified the existing source codes. So the fact that we only spent 25,000 on this first bill is solely related to the fact that we're using multiple -- or we're using a common source code for multiple functionality, and so we're trying to build it as cheap as possible.

But when you look at software, each additional function has a cost, and some (inaudible) as you go up in functionality, you know, and of course I'd love to have all the bells and whistles you can possibly put on it, with software development, the marginal cost actually increases with functionality. In other words, I can build the first module for 25,000; the next module, because I want to add additional functionality, it may take me
$45,000 to build the next module -- and that's just hypothetical, I mean that's not -- I don't know what we're going to spend, but what I want you to understand is that as you build functionality, costs increase.

So we're still figuring out what's the best bang for the buck so that we don't go overboard in functionality but that we deliver the kind of services that you -- that you expect and need.

UNIDENTIFIED MALE VOICE: (Inaudible) things we've discussed in other contexts, been discussed here at the Board, is that when a certifier -- when a certifier permits a client to use a non-organic ingredient because an organic ingredient is apparently not commercially available, or if a certifier lets a grower use a non-organic seed because that equivalent variety is apparently not commercially available, we've been talking about the benefit of having this data come in, and a certifier records this, "on such and such a day I allowed a grower to use X-Y-Z seed because organic was not commercially available," same thing with an ingredient. Is this the kind of thing that you envision coming into this system? It seems to me this would be an excellent conduit to (inaudible).

MR. JONES: It actually is, Dick, and I'm glad you brought that point up, because we actually think that
over time, if the ACAs are doing their job and are
updating this on a real-time basis, then you can go onto
the public side, and let's say you want to see if, I don't
know, a spice is available, or an ingredient, or something
like that; if the ACAs are doing their job on a real-time
basis, you ought to be able to find whether or not that
particular ingredient is indeed available, you know, NOP
(inaudible), okay.

So the seed side, Dick, is a little bit more
difficult, because I think when we have -- and I'm not
saying we wouldn't do this, but I think we might have to
build another screen in for commercial availability issue
related to seed, but on the ingredient side, maybe not,
because the ACAs would actually -- if it's a seed
producer, they could put that information in, and so if I
was looking for a variety of a seed -- I'm thinking off
the top of my head here -- I'll think about it, but it's a
good point.

UNIDENTIFIED MALE VOICE: And what you said was
that if the ACAs are keeping track of all the things
they've certified --

MR. JONES: Yeah.

UNIDENTIFIED MALE VOICE: -- then there would be
a list of what's available --

MR. JONES: That's my bottom-line point, is that
if the ACAs are doing their part and updating this on a
timely basis, then this database that outflows from this
data collection should be the most accurate information
available about the universe of NOP-certified products
anytime, in the world.

UNIDENTIFIED MALE VOICE: What about if a
supplier thinks that people are using a non-organic
version -- an inorganic ingredient, then what's to know
who is allowing the non-organic version to be used, or is
it being allowed (inaudible)?

MR. JONES: That's a level of complexity -- I'd
have to think about that. I mean, that gets in -- as you
can see, you can sit for the next 20 minutes and think out
all kinds of functionality you'd like to see in this
thing, and, okay, I can, you know, do this and I can make
this data go this way and things like that, because
functionality and -- sometimes the cost of functionality
increases, we're going to have to decide how best to
handle some of those issues, but your point's well-taken.
We've identified the system as a way to get to some of
those issues.

Let me get to Leslie, she's had her hand up for
hours [phonetic].

MS. ZUCK: Thank you. You (inaudible)
categories, and a lot of us have our (inaudible) PRS

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[phonetic] categories, is that what you were talking
about, PRS, is that organic (inaudible)?

MR. JONES: Yeah, Kathy and I have actually --

Kathy and I talked about this. To put everybody's mind at
rest: I actually do talk to a lot of people within the
government.

(Laughter.)

MR. JONES: And Kathy and I have consulted
closely on this --

MS. ZUCK: (Inaudible.)

MR. JONES: Yeah. And one of the things that --
in fact, Kathy and I had a meeting just the other day, and
let me tell you what the problem is, Leslie, in terms --

MS. ZUCK: Because you're dropping a drop-down
box. A drop-down box, you can only (inaudible) --

MR. JONES: That's right. And if those
categories are too broad -- I mean, Kathy and I have
talked about this: if the categories are too broad, then
Kathy doesn't get the stratification that she needs to
sort out --

MS. ZUCK: (Inaudible.)

MR. JONES: -- and I don't think a trader would

either.

MS. ZUCK: (Inaudible.)

MR. JONES: Okay. I mean, a trader needs very
precise stratification, okay, and that's -- that's the big dilemma with process side, is: what is this -- what is this dividing line between the right amount of stratification -- you know, giving enough data to traders where they can make a trade decision based on a product (inaudible) see if it's really available -- as opposed to just having, you know, a list of products a mile long and somebody's got to scroll through (inaudible).

MS. ZUCK: Well, my most important question is --

(Laughter.)

MS. ZUCK: Has it come up at all that -- where -- I -- the Rule doesn't require us to report individual process (inaudible), it requires us to report whether we certify (inaudible), products, but I guess handling, I'd like (inaudible) --

MR. JONES: Here's what we think's going to happen on that. I mean, if we --

MS. ZUCK: I mean, I'll do it, I just --

MR. JONES: Well, and here's what we -- here's what we think's going to happen. I personally believe: why (inaudible).

MS. ZUCK: Well, some people might not, and that's what I'm saying.

MR. JONES: Okay.
MS. ZUCK: And you're saying it's a required field, we have to fill it out, but it's an ACA -- and some ACAs are saying, "I don't want to fill this out."

MR. JONES: But here's what we're going to do, okay? We want this system to work, and if we need to make a reg -- we don't want to have a heavy-handed approach to this, but if we need to make a reg change to get the quality of data that we believe is needed, we would look at that, okay.

MS. ZUCK: (Inaudible) not required.

MR. JONES: No, it's a fair -- it's a fair (inaudible).

UNIDENTIFIED MALE VOICE: This is less of a question, more of a request or a comment, from a certifying agent's perspective, where I think we can -- as certifying agents, we all have our own current data systems, and what you're trying to do is standardize the way we, as certifying agents, track document data (inaudible) certify, which I think is a great role [phonetic], but (inaudible) common nomenclature and what fields are being defined.

That's really important for us in terms of being able to easily import our data from our existing systems into yours. So I request that as you guys, working with your software developer, pin down, "these are the fields
we know we are going to request of you guys, and this is
the nomenclature we are going to want you to use," let us
know so we can kind of develop our system to --

MR. JONES: I have got -- if it would be useful, I have actually got -- it would have to go out as draft, because it's still a discussion document between myself and the software developer, but I could give you a draft of what we believe the database fields will look like at the current time, and that would be useful. If I could get that to you -- it'll be the middle of May by the time I get back to the office, but I can get that to you, if that'd be (inaudible).

UNIDENTIFIED MALE VOICE: What would be most useful is once you've made a decision: this is what it's going to be, so that then we've (inaudible).

MR. JONES: Well, I can tell -- I mean, when I send that draft out, I can tell you that that is the result of the best professional judgment of both myself and the software developer on (inaudible). Now, we have not gone back to the software developer and said, "Okay, build this into the system," we haven't made that decision yet.

UNIDENTIFIED MALE VOICE: You're selling this program very much to us as a service-oriented approach for traders and not only to identify certified products but
also availability, which is another feature in the program, and what I not hear about [phonetic]: will that be mandatory, for ACAs to use that program? -- because what you said, this is a service offered for you to work with and lend the service of (inaudible), but on the other hand, I understand that the Custom authorities will have the possibility to check, you want to get the data out of it, you want to check. So will it be mandatory, then, at the end?

MR. JONES: Well, this system is what we will be requiring ACAs to use. This will be (inaudible) --

UNIDENTIFIED FEMALE VOICE: (Inaudible.)

MR. JONES: Yeah. I mean, if you're a USDA -- if you're a USDA-accredited certifier -- and the reason for that is exactly the issue that was brought up, okay. We are required -- I mean -- and let me -- let me tell you what we went through -- I know you guys have got your hand up, and I'll get to you in just a second.

We went through a very sophisticated process, kind of wrestling with the service side of what we were going to do, and as I sat down with the -- with the software developer, it became very apparent that we could never write software programs to input un-data [phonetic] for uncommon systems [phonetic], that what we had to do is to build a system, essentially build it around a Microsoft
Access database -- and assuming everybody's used Microsoft
Access -- build it around a Microsoft Access database and
then say: this is indeed the system, okay, this is what
we're [phonetic] going to have to use.

Now, we believe that there's so many benefits
around it, in terms of real-time data submission, trade
availability, not only for that but also just for our
ability to track -- track compliance issues related to it,
that at the end of the day, everybody is going to be using
the system without a lot of grumbling and complaining and
that kind of thing.

I mean, I have -- I have not demonstrated --
those of you who might have been in the (inaudible) in
February, I actually demonstrated the program to folks
there. I haven't been in a setting where people didn't
walk away saying, you know, "this thing's really slick,"
"this is really going to make our life easier," okay, "you
guys are doing good work," you know.

So I hope that that's the sentiment that we
continue to find, because, like I said, the presentation
that I made before, that was (inaudible).  Merrill?

MS. CLARK:  (Inaudible) and certifiers
(inaudible).  Are producers going to be (inaudible)?

MR. JONES:  Producers won't even need to get
into this system.
MS. CLARK: They don't need to get in.
MR. JONES: They don't even need to get in it.
UNIDENTIFIED MALE VOICE: I don't know why they would even want to get in it.
MS. CLARK: (Inaudible) for certifiers' information (inaudible) --
MR. JONES: Well, but keep in mind, Merrill, this is going to -- this is going to be used -- this is going to be used for enforcement functions, okay? In other words, we couldn't let certifiers have access to the system because they could go in and click and -- you know, a certifier could write up a non-compliance, a producer could go in and click and say: no, non-compliance doesn't exist, you know.
(Laughter.)
MR. JONES: Okay? I mean, that's not going to work. Okay. So I cannot envision any scenario where you would want a producer in the system.
UNIDENTIFIED MALE VOICE: (Inaudible.)
MR. JONES: Maybe.
CHAIRMAN KING: Well, Keith, and what about if a producer is trying to select a certifier?
MR. JONES: Can I --
UNIDENTIFIED FEMALE VOICE: Keith, I -- and maybe you haven't thought about this, but we have a number
of producers who would not want their -- they wouldn't mind their name and address being listed in the (inaudible), but they're growing crops under contract, they're doing all direct marketing, they don't want to have their crop mix and stuff like that go into a trade source --

MR. JONES: Public release of that information will be optional. As an ACA, you will need to require, okay, or you will need to ascertain from your clients: do they want their name, address, and phone number showing up (inaudible). If they don't, that's their choice, okay, because they've made it. They may say, "My trade" (inaudible) "are just fine, I'm happy" (inaudible), and so (inaudible). So that would be your interface with the ACA.

Marty.

MR. MESH: The -- multiple users can log on. Will there be a record -- (inaudible) logged on (inaudible) the data on our system, who that was? I'm concerned that --

MR. JONES: So you would want to track it at the staff level?

MR. MESH: Well, I'm asking if that's an option (inaudible) --

MR. JONES: Yeah, we can --
MR. MESH:  (Inaudible) our staff entered in --

MR. JONES:  Yeah, we could build -- we could
build a build -- I mean, if that -- if you thought that
was useful, that wouldn't [phonetic] be hard to do, is to
build a field for staffing issues as we modify the data
set [phonetic], okay, and that might be useful -- I don't
know that that's useful for us, because the only thing
that we want to know is:  you came into the system on
April 29th, 2004, and you modified it.  Okay.  Now, at
your management level --

MR. MESH:  We want to know who wrote that
(inaudible).

MR. JONES:  -- you might want to know who
(inaudible).

MR. MESH:  And then my other follow-up question
-- boy, is this slick.

(Laughter.)

MR. MESH:  -- is:  on the drop-down field for
certification, you said you can choose one, but many times
(inaudible) crops, livestock (inaudible), handling all on
the same operation?

MR. JONES:  You can choose multiple [phonetic],
the way that's going to work.  In other words, if they're
both producers and processors, yeah (inaudible).  We've
actually thought about some of this stuff.

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MR. MESH: Boy, are you good in making our life easy.

(Laughter.)

MR. MESH: If we could only [phonetic] read this and some of your directives (inaudible).

(Laughter.)

MR. MESH: We could even keep it organic.

(Laughter.)

MR. JONES: Okay, I know we probably need to wrap up, so --

UNIDENTIFIED FEMALE VOICE: Thanks, Marty.

MR. JONES: -- Mark, you had a question?

CHAIRMAN KING: No, I was just going to follow up, I was saying if a producer was going to actually choose a certifier -- I understand why they wouldn't have total access to the system, but could they go in and find out: oh, by the way, there are now 72 accredited certifiers in North America -- I'm just using an arbitrary number -- and then, you know, similar to what you were talking about in terms of close proximity geographically in terms of sourcing something, could they look at that?

I mean --

MR. JONES: Yeah, I suppose. I mean, once we -- it's a database question, Mark, but we could create a list of accredited certifying agents and do a ZIP code distance...
comparison, at least with domestic producers. So I could put in my ZIP code, 20121, and come up with a list of certifying agents 150 miles from my location, okay. We -- that's doable, you know, and I -- if people have got ideas, I'm -- I want to hear ideas, if you've got ideas that.

Again, I also want to make sure people understand that, you know, software development is not inexpensive, we did this very cheaply, very cost-effective, but the reason we did it is because we're sharing source code. When you have to go out and write new source code, it becomes fairly expensive, okay?

But I don't want to lose good ideas, that's why I'm making this presentation this morning, is that if you guys have got ideas, I want to be able to record those and then kind of sift through those, as to what might make sense in terms of the next build.

Okay, folks, I appreciate it. I'll be around later on, if you've got other questions, I'm happy to sit down and talk to you. Thank you.

CHAIRMAN KING: Thank you, Keith. Thank you very much. In light of the fact we're a little bit behind schedule, I think what we'll do in order to give sufficient time for the compost tea task force report, we'll move that till after lunch, we'll go ahead and
recess for lunch, starting promptly at 1:30, so please be back here accordingly.

(Off the record at 11:45 a.m. and reconvened at 1:11 p.m.)

CHAIRMAN KING: I'd like to officially reconvene the meeting of the National Organic Standards Board.

We'll deal with the morning agenda item of presentation of the compost tea task force. Rose Koenig will have it up on the screen, and we'll discuss that.

And if you'll note in your agenda, there is not a specific order in terms of the committee recommendations noted, so I'd just like to read into the record:

We'll be taking the following committee order this afternoon, for those of you who are interested:

We'll begin with the materials committee, which will just include discussions of the reports there.

Then Andrea's committee, accreditation and compliance will follow.

Then we'll go into crops committee, handling committee, followed by the livestock committee, and then we'll finish up with the policy development committee. So that's sort of --

UNIDENTIFIED MALE VOICE: 606 Task Force, where would that fit? (Inaudible)?

CHAIRMAN KING: Yeah. It was policy, handling, compost. So the 606 Task Force report will be presented
under the policy development committee.

Rose, it's your baby.

MS. KOENIG: Okay. This time I don't have to do
40 slides in five minutes, so I get to shine. Actually,
I'm going to -- why I'm standing up here --

The task force went through many changes of
authority over time. Eric Sideman, who was a past NOSB
member, co-chaired the committee with Dennis Holbrook, and
myself and Owusu were the individuals that -- from the
Board that were actually on the committee, Owusu taking --
Dennis Holbrook being the other co-chair, and then Owusu
being the crops chair, both kind of played major roles;
and then Dennis resigned from the Board, so I became, at
the last moment, able to get some credit, becoming new
chair. I guess that's the best chair you want to be, is
at the last moment, after all the work is done, you get to
gain a new title (chuckles). So now I'm co-chair.

And then Owusu was supposed to do this first
half of the presentation today, and he could not make the
meeting, so I've asked Zea to kind of be my sidekick,
because she was a member of the compost tea task force,
and I've indicated to her that, you know, if there --
comes to a point, especially in the sections that Owusu
was going to cover, if she can help me, if there's any
questions or things that I'm missing, she may come up to
the podium and kind of add some additional information, so just to get you understanding kind of the process and why we're doing it in that order.

So, Ann, the -- it's actually tea 2, t-e-a 2. I can kind of go into the general information too, as we're getting started. You can go to the next slide. Okay.

Now, the Board all has a copy of the documentation, and I'm going to summarize kind of that documentation, but I do encourage everyone to actually go through and read the finer details, because a lot of the literature that's cited -- I mean, I'm going to talk about some of the implications of the literature, but I'm not going to go into them, but the citations are there.

And then for those who are even extremely more interested in the subject, you could actually -- there's a bibliography and you could actually get some of the publications.

And additionally, to those in the audience: the complete copy of the report came onto the website a little bit late, but it is there, so you can access that.

So one of the first questions: why did -- you know, why do we have a compost tea task force? Well, one of the things that was recognized, that there was -- there's a wide usage of compost tea by organic growers but there is a lack of uniformity in the regulation of compost.
tea by certifying agents and the Board felt there was a need to clarify regulations regarding the use of compost tea, and if we all remember -- next slide, sorry, Ann -- when the original compost tea task force looked at a number of issues involved around compost, including making recommendations of alternative methodologies for making compost, almost vermicomposting, and there was a section on compost tea that could not really be resolved, so the compost tea task force was initiated to really do further investigation of compost tea, and that's why the task force was -- was extended: to really look more specifically at the implications of compost tea.

So there was a need to investigate scientific data regarding human pathogen issues, and many certifiers and organic farmers expressed concern about the restrictive natures of the NOP's ruling of treating compost tea as a raw manure.

So in other words, you know, practitioners out there utilize compost tea for a multiple of uses, including nutrients, plant pathological properties, pest control, and they felt that following the 90-120-day restriction on raw manure would really not produce -- you know, not enable them to use compost tea for the properties that they're using it for. So next slide.

Some of the compost tea task force members --
well, Eric Sideman, again, was the chair. He was the next NOSB member. Dennis Holbrook was the co-chair, but he has resigned. Owusu Bandele is an NOSB member. Will Brinton from the Woodin [phonetic] Research Lab; Esper Chandler, Texas Plant & Soil Lab; Steve Diver was a representative at ATRA and he has expertise in compost tea; Clive Edwards was from the Ohio State University. Next slide.

Elaine Ingham, Soft Food Web [phonetic], Incorporated. Myself, member of the National Organic Standards Board. Fred Magdoff, University of Vermont. Pat Milner, USDA, the ARS division. Steve Scheuerell is from Oregon State University. Zea Sonnabend represents CCOF, California Certified Organic Farmers. And Larry Zibilisk, I don't know -- I'm not sure what his -- USDA, ARS. Next.

And we just want to have special recognition to Eric for chairing, and also Dennis, the compost tea task force, in keeping the committee on target, Eric really did a great job; and Steve Scheuerell for the massive amount of work, he really took the lion's share of work to prepare the document and do all the editings of the drafts and completing the final document. Next.

So the areas of expertise that the task force covered was organic farming practices and certification, some of the members had expertise in compost, some had
expertise in compost tea production and analysis, some had plant pathology backgrounds, horticultural and soil science, some of our members had EPA pathogen regulation expertise, food safety, and environmental microbiology.

So basically we felt that, you know, one of the great things about the task force was the diversity and the -- really, the high levels of expertise that the task force members had, and one of the challenges, I think, was the fact that we had people with such, you know, expertise and really were committed, because there definitely were different viewpoints, especially when it came to the human pathogen aspects of the studies, and some of our recommendations you'll see at the end reflected kind of a -- I think -- a learning process and a collaborative effort to try to take diverse views and really fuse them into a regulation that we all could agree with.

And I think it's noted on a further slide that Owusu (inaudible) but I can let you know that 11 of the 12 members supported the compost tea task force report as you see it. There was one member who did not vote in favor of the task force report. That member agreed with the recommendations but did not agree with some of the scientific data and scientific analysis that was expressed in the report, and that individual has been encouraged to do public comment to the Board on that minority opinion,
so you will be likely seeing that.

The member requested that I kind of forward that information to the NOP prior to the meeting, but I just did not feel it was my role to do that. So because we're not voting on this report at this meeting, I will encourage that member to put it in a format that they're comfortable with and take more time to kind of detail that information, but we look forward to seeing that minority opinion.

MR. RIDDLE: Did that person vote against or abstain or do you have --

MS. KOENIG: It was against --

MR. RIDDLE: Against, okay.

MS. KOENIG: -- the report as it stood.

MR. RIDDLE: Okay. Thanks.

MS. KOENIG: Okay. So if you go through the report, there are some definitions, to give you a frame of reference in terms of the information that's in the report, and I'm just going to highlight some of those definitions today. Well, actually, Owusu was going to highlight those. These are the ones he picked out, that he thought was important for you to develop a framework for this presentation.

So "composing" is: A managed process in which organic materials, including animal manure and other
residues -- I guess -- are decomposed aerobically by microbial action.

"Thermophyllic composting" refers to: A time-limited self-heating process in which heat generated by microbial respiration is retained in the mass of a pile or (inaudible) such that vulnerable pathogenic microorganisms are destroyed. Next.

And we just wanted to acknowledge that "compost" is defined by the NOSB task force, and this was presented in the 2002 Task Force Report that was submitted to the NOSB from the original compost task force, of which some of the members overlapped to this compost tea task force.

They define "compost" -- in addition to that described in Section 205.203(c), so we're not saying it replaced it, but it was a broadening recommendation of the definition of "compost" -- as "Acceptable if it's made only from allowed feedstock materials, except for incidental residues that will not lead to contamination; 2) the compost undergoes an increase in temperature, to at least 131 degrees Fahrenheit, and remains there for a minimum of three days; and 3) the compost pile is managed to ensure that all feedstocks heats to the minimum temperature."

The reason why I included that definition was that the report -- in other words, when it speaks of
compost, it -- the recommendations are not only based on
the "compost" definition that's in the Rule but also on
the compost task force recommendation for the broadened
definition of "compost."

So here in the report, and as I'm doing the
presentation, again, we're considering a broad definition
of "compost."

Okay. "Compost extract" is: Any mixture of
compost and water, additives, and adjuvants that is not
held for more than one hour before use. Compost extracts
lack sufficient holding time for microorganisms to
multiply and grow significantly."

So in other words, if you, you know, take a
handful of compost, throw it in a bucket of water, mix it
up, and spray it before -- in that holding time period,
less than an hour -- no more than one hour before use,
it's defined as "compost extract."

"Compost leachate" is: Liquid that has leached
through a compost pile and collects on the ground, compost
pad, or collective" [phonetic] "dishes, puddles, and
ponds." It doesn't sound like a very good thing. Okay,
next.

"Composting additives" are: "Materials separate
from compost and water, that are added in the process of
making compost tea, that are presumed to sustain and
enrich microbial growth. These are distinct from spray
adjuvants, that are tank-mixed immediately prior to
application of compost tea.

Examples include, but are not limited to, the
following: molasses (inaudible) extract, fish-based
products, kelp, and green plant tissue. Next.

And then a "manure extract" is: Water
suspension containing raw, non-disinfected manure when the
suspension is maintained for several hours or more, is
sometimes referred to as "manure tea."

So in other words, when we talked about the
compost extract: the manure is grabbed, thrown in a jug
of water, and basically made into a soluble form. Next.

A "pathogen" is: A microorganism capable of
causing disease or injury, used to refer to plant or human
pathogens. Next.

And then "spray adjuvants" are: Any material
added to compost tea immediately prior to application of
compost tea. These may include materials that are
designed for wetting and sticking agents, plant nutrients,
and those materials that sustain and enrich microbial
growth but, because of short time frame between addition
and application, there is a very low probability of
multiplying undesirable microorganisms in the spray tank.

Next.

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And then "vermicomposting," as it's defined and used in the document, is: A process of worms digesting organic matter to transform the material into a beneficial soil amendment. And basically, if you look in the compost task force report, again, there are different time intervals, which I'm not going to read off the slide, and temperature and methodologies that must be met to meet the vermicomposting standard. Next.

So, you know, the environment that we were working in, in terms of the task force, was that compost tea practitioners have developed a wide array of compost tea production practices for both -- the majority for plant disease and/or fertility management.

However, there are relatively few peer-reviewed studies that exist for compost tea production and use, and this is where the compost tea task force had to, you know, deal with looking at what literature there was available and also what experiments that had been conducted but hadn't yet been written up in peer-reviewed publications, to again come together with that information, to present a recommendation that would satisfy the requirements of our task. Next.

The original, again, compost tea task force recommended that compost tea be allowed but no sweeteners, which means molasses, and those other additives, were to
be added.

The National Organic Program ruled that compost tea should be treated as raw manure regarding the 90- to 120-day waiting period, and I explained that earlier.

And then a number of organic farmers and certifiers believe that this interpretation was too restrictive in terms of how practitioners were using it and their real reliance and perceived need of this material in their organic farming system. Next.

So we approved the establishment of this task force at the November 2002 meeting. Our -- the membership of that task force was determined by the original -- you know, Eric and the chairs at that time and was set on May 1st, 2003. The initial conference call was held on May 9th of 2003, and -- actually, Owusu made a mistake in this -- the final draft was approved on April 6, 2004, with 11 in favor, 1 opposed, and 1 unavailable, and I explained that issue just prior. Next.

In our report, the compost tea task force attempted to distinguish between the practitioner-based knowledge -- in other words the practice and what farmers are seeing, usually anecdotal information -- versus scientific knowledges, that is supported by controlled replicated experiments.

And, again, because like many, I guess, inputs

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and aspects of organic farming systems, a lot -- there hasn't been a whole lot of funding given to land grant institutions to this type of research, so we want as a group to acknowledge kind of the practitioners, the observations and, you know, kind of hands-on science that farmers are doing, but also we needed to balance that with whatever scientific data that we could obtain.

A major concern of the compost tea task force -- and if you look at the -- you know, read the whole document -- was the potential for human pathogen contamination of edible plants, as regulated by the Final Rule, Section 205.203, and this really was the impetus and the reasoning of why there had to be, you know, concern about this product. You know, if there wasn't a human pathogen issue, I wouldn't be standing here doing this presentation today, it would have been something that the Board could have probably wrestled with more -- a year ago.

So, basically, a lot of the discussion and the presentation of the research focused on the human pathogen component or issue involved in compost and compost teas. Next.

So I want to go a little bit through the methods of production, just in case people are not familiar with it, but basically, methods do vary, because there's
farmers who are making their own setups on their farm, and -- and then there's -- companies are actually selling units [phonetic], so the technology is very diverse.

But water is the primary component, and the compost that's used is the next largest component. Compost tea can differ regarding that water/compost ratio. It also can differ based on whether somebody's putting in supplemental nutrients, or, like I said, molasses or those -- those additives, and also the level of dissolved oxygen, whether -- to what degree it's aerated, if it's aerated at all, those types of issues.

And there are -- again, commercial and homemade brewers are used, so, again, there's a great variability of the methodologies, the inputs that are used into the tea, and the recommendation needs to kind of encompass all that variability. Next.

Typically the ratio is 1 part compost to 10 to 50 parts water. A porous container is used, aeration is achieved via a direct air injection or recirculation of water for 2 to -- 12 to 24 hours, and often compost tea additives are used to enhance the microbial proliferation, and typical additives include molasses, yeast extract, and algal powders. Next.

There are also passive aerated systems, which usually are 1 part compost/3 to 10 parts of water, they're
done in open containers, from 1 to 3 weeks, and they can be done with or without stirring, and compost additives are used infrequently in these types of systems. Next.

Again, the purpose of these compost tea additives is they encourage microbial growth, which means -- you know, most -- especially if you're using it for pest management or fungal control or microbial control on a plant, you're trying to encourage the beneficials, but it also -- it's non-selective, that kind of growth, so if you do have any kind of human pathogen contamination in your tea, they can also grow, because you have now these compost tea additives.

So basically -- there has, however -- and that was an important point that some of the members wanted to bring out: that although, theoretically, you could possibly support human pathogens if present in small numbers -- because these -- again, the additives increase that growth -- we know of no documented cases of foodborne illnesses from the use of compost tea.

However, the studies -- you know, theoretical studies done in the laboratory, you can -- we saw mixed results, some of them which did not necessarily show microbial growth, but there were studies that did show microbial growth.

So the data -- the data showed -- you know,
different researchers, depending on different methodologies, showed different results, but, again, some members felt that it was really important to bring out that no documented causes [sic.] of foodborne illnesses have been recorded, to our knowledge, from compost tea use. Next.

How is it, basically, used on the farm. Well, it can be foliar-sprayed or applied through an irrigation system, you know, it would be an overhead irrigation system, or a sprayer. You can have -- it's used sometime as a stubble digester or a green manure inoculant. In other words, it's applied to crop residue or cover crops, usually after mowing and before incorporation into the soil. Next.

It can also be applied through irrigation systems or sprayers on -- directly to the soil. It can be applied through a drip-irrigation system, you know, because it's water -- you know, basically it's a water-soluble product.

And you can use it with a soil-less media, it's used to moisten media before planting or as a post-plant drench. Next.

You can -- some growers use it to pre-soak seed or vegetative planting material before planting. And then some people apply it to suppress -- manure collection...
points -- to suppress the odor of compost piles, additionally. Next.

Again, the plant growth responses to compost tea is largely anecdotal; in other words, it's: growers have been using it and they've reported yield increases by their sight, but there's been no replicated -- or few replicated studies to prove that it does in fact show plant growth.

But the postulated mechanisms is that you're providing nutrients and/or the microbes may be producing phytohormones, to help increase plant growth.

There's also postulated indirect mechanisms, including, you know: affecting the soil structure; or creating, you know, a microbial-beneficial population around the rise of sphere -- around that root, that can increase or, you know, provide more nutrients; and in terms of plant pathogens, they may be -- those same microorganisms may be producing compounds that are deleterious to other microbes in the soil. Next.

And basically -- and, again, that's where the disease management reports come in, again, a lot of anecdotal reports citing less severe foliar diseases and root diseases using the products.

There have been some scientific studies showing both, again, significant and non-significant results.
regarding disease suppression, and the variability in
compost tea composition has been cited, basically, for
these inconsistencies.

In other words, because you have so many
different systems operating, you have different quality
composts, you have different methodologies and additives
going in, it's really hard to produce -- unless you're
doing a lot of, lot of, studies -- replicated experiments
that are going to give you consistent results. So next.

Again, there were microbial hazards that were
considered by the task force, primarily centered around
human pathogens. The compost tea task force recognized
that this was an area where there was significant data
gaps. But basically the task force considered the types
of variables potentially associated with the deleterious
microbial contamination from a human perspective.

In other words, we looked at kind of the whole
environment of a cropping system and we tried to pinpoint
areas of risk, and then we tried to gather data to suggest
whether these in fact were -- were true. Next.

So the reasoning -- there's things about compost
tea production that should be considered if you're
considering human pathogen populations or you have
conscerns about human pathogens.

One of them is that in some of the compost teas,
you may be using manure, and manure has a high potential
of contamination.

So, again, if you're composting it according to
the Rule, this should reduce it, but there still is an
associated risk.

Another aspect, where there's not much data
available, is compost stability, but the relationship
between compost stability and human pathogen levels is
really -- has not been determined, but the task force did
want to acknowledge that the area of compost stability was
a potential area of research. Next.

Other areas of concern was -- was water quality,
and basically the task force acknowledged that you want to
have clean water to start with.

Sanitation, you want to make sure you're clean,
your machines, effectively, to reduce pathogen
populations, but, you know, the machines and how you
handle those in an operation are an avenue where you could
have multiplications of microorganisms.

Vector access, you know, if these machines are
set up on farms or areas where you have any kind of
rodents, they could potentially contamination a batch of
compost.

Brew time and temperature, depending on how long
it's being brewed and the temperature levels that is
reached could have effects on microbial populations. We acknowledge that compost tea additives -- and within the report there are a lot of literature citings that I would want to call to your attention.

The only peer-reviewed article that the committee could find was that of Duffy, that was just recently published, and in that there were -- again, you know, I'm kind of doing this from the top of my head, but he looked at, I think, salmonella and different levels of molasses, and it indicated that at lower levels of molasses, there were no multiplications of salmonella, but as you increase the concentration of molasses you could get an increased concentration of salmonella.

A lot of the researchers, however, had opinions on this type of research, and I think they are -- some of the criticisms are valid, because this type of research is done under a laboratory setting, where you're putting a known amount of inoculant in an environment that is usually conducive to pathogen growth, and their argument was that these -- this may not be analogous to what happens in the field.

So just a caution that much of the experimentation that has been done thus far, that is either done, the one study, in a peer-reviewed journal is a laboratory-based analysis.
And then some of the research that was presented by, actually, members of the compost tea task force, where they did similar studies with e-coli and replicated it in two different labs, it was the same phenomenon, where they incorporated a certain amount of pathogens to start with, added a molasses kind of solution, and then quantitatively looked at the growth of microbial populations.

The compost tea task force acknowledged that there are crop and environmental factors that could affect microorganisms, and some of that includes plant architecture, things like lettuce and apples, there's some evidence to suggest that those types of crops, because of their architecture and the shapes of leaves and the gaps that exist there, that those plants create an environment that may be conducive to the growth of these pathogens.

So we just want to acknowledge that there's certain crops that may have, you know, higher risk factors.

Additionally, there was some -- some thought about, you know, distinguishing between crops that are typically edible, or typically cooked, or typically eaten raw, as maybe ways that a regulation could be written, but there really was no consensus on how that could be formulated into a recommendation.

And, additionally, environmental factors,
because we're -- we're trying to create recommendations that can be used throughout the -- you know, the country, you know, UV radiation from the sun, temperature factors, they can all affect microbial growth, so there was just an acknowledgment that this is an area of -- of interest and where research needs to be done. Next.

Another factor: if there are actual pathogens present, the contaminant levels of compost teas, you know, if there already are some, they can certainly be a problem with human pathogen associations.

And I'm not sure, Zea, if you have anything else to -- to say about those areas, because as I'm standing here, I'm not necessarily recalling those subcategories, so if you have anything to --

MS. SONNABEND: No (inaudible).

MS. KOENIG: Okay. And then pathogen, again, pathogen survival, a lot has to do with, again, crop architecture, environment, and post-harvest intervals, and that was something that -- actually, pre-harvest interval, and what they were -- what we acknowledged in the report, that there -- perhaps as research was developed, there may be regulations that could be developed based on time from application to the time you harvest.

And then, additionally, there may be post-harvest treatments, such as disinfectants, that could be
used to reduce microbial populations. Next.

The data gaps that the committee wanted to acknowledge, and there are lots of them, there really was no information in the literature on cost benefit analysis, very little literature -- informational literature on the ecology of human pathogens, again, pre-harvest application intervals, compost stability, different feedstocks, phytotoxic reaction to compost teas, and dissolved oxygen content. So these were areas that the compost tea task force felt like they had to acknowledge that they felt that data really was needed in these areas, to develop a good recommendation. Next.

Okay, so now what we've all been waiting for, da-da-da-da, "the recommendations."

So the recommendations from the task force is that:

Potable water must be used to make compost tea and for any dilution before application. So in other words, a clean source of water to start with.

Equipment used to prepare compost teas must be sanitized before use with a sanitizing agent as defined by CFR 178.1010. Next.

Compost tea should be made with compliant compost or vermicompost, using the NOSB Compost Task Force Guidelines set forth on April 18th, 2002, for thermal
compost and vermicompost or compost as defined in Section 205.203(c)(2).

For compost tea, this applies to -- even -- and this is the distinction and the important point, I guess on this recommendation: for compost tea, this applies to 100-percent plant feedstock materials in addition to manure feedstock, which may harbor high levels of fecal bacteria because of non-manure compost.

In other words, if you remember the compost reg, the 90-120 days exists for compost that has manure incorporated into it, whereas plant-based compost, there's no waiting period.

But in our recommendation, there is evidence that even plant-based materials, starting materials, can harbor human pathogens. So it's a more restrictive, I guess, guideline for compost tea, compared to compost. Next.

Compost tea made without compost tea additives, so compliant, in other words compost tea can be applied without restrictions. Next.

Okay, this one's a little mouthful, and I think it's a little tricky, but: compost tea that's made with compost tea additives can be applied without restriction if the compost tea production system -- in other words, the same compost batch, the additives, and the equipment -
- has been pre-tested to produce compost tea that meets the EPA-recommended recreational water quality guidelines for a bacterial indicator of fecal contamination, and this is based on the US EPA recommendations of 2000, and these indicators and the passing criteria are --, and it gives you the two numbers for e-coli and enterococci. Next.

And then -- now, after you've done that pre-test, at least two compost tea batches must be tested, using the accepted methodology, with the average population of indicator bacteria, cross-compost tea batch is used as the measure of passing, and then each new batch of compost -- that means any -- so you test your compost twice, and you can use that compost in that aerator continually, but if you go to another compost pile, that would require that the system quality-assurance pre-test be conducted again, as indicated, and after it passes again, compost tea from the system can be used, with that restriction.

This, again, is a recommendation I think that was a compromise and eventually accepted, 11 of the 12 members of the task force, and the -- I guess the victory here is that there was -- you know, a compromise reached by all parties, saying that -- you know, that we recognize the additives -- the issues with additives but we feel that there can be testing protocols developed and there
are standards out there that the group -- you know, the 
compost task force recommends, that the teas then 
therefore can be regulated with -- with a reduced, you 
know, risk factor in terms of human populations. Next.

If a compost tea made with compost tea additives 
has not pre-tested for indicator bacteria, its use on food 
crops is restricted to the 90- to 120-day pre-harvest 
interval restrictions, and that's similar to what, you 
know, compost -- raw manure is in the Rule.

In the view of the task force, educating 
producers about the potential for contamination and its 
impact on public health and marketing, as well as how this 
recommended quality-assurance testing system would avoid 
potential contamination, will provide compelling 
incentives for producers to follow the rules. Next.

"Compost extracts," oh, "any mixture of compost, 
water, additives, and adjuvants that is not held for more 
than one hour before use, may be applied without 
restriction." So if a grower just makes a compost 
extract, it's used before one hour, it could be used with 
that restriction, and this is based on the feeling from 
the task force that you would not have a proliferation of 
growth in that -- in that time period, that would be of 
any concern.

And then raw manure extracts or teas may be
applied to the soil with a 90- to 120-day pre-harvest restriction, but foliar applications are prohibited. Next.

Compost leachate may be applied to the soil with a 90- to 120-day pre-harvest restriction, foliar applications are prohibited, and compost tea is not allowed for the production of edible sprouts. Next.

And then, finally, and I think a very important recommendation follows:

"The emerging acceptance of compost teas as a biologically-based crop-production tool by organic as well as conventional growers clearly indicates the need for further scientific investigation to validate the benefits and concerns of compost tea.

"The Task Force unanimously urges USDA and its agencies to strongly support additional research on the potential for crop contamination and plant disease, pest control by compost tea.

"There is an urgent national need to address critical data gaps, uncertainties, and variability in existing data that limited the evaluation of potential crop contamination by the current Task Force." Next.

And then, Zea, I'm just going to let you -- I don't know if there were some --
MS. SONNABEND: Yeah.

MS. KOENIG: -- just points that you wanted to state.

MS. SONNABEND: Yes. I just really have two points to make, in addition to what Rose has said.

I think that this task force was very well-appointed on your part, the Department and the NOSB, in that it did start out with people with widely-divergent opinions as well as expertise, and, like any group of scientists getting together, there is quite a bit of scientific bickering over every single fine point in this recommendation, and so it really is much more of a victory than it looks, for us to have achieved a recommendation and a report with this degree of information in it and this degree of concrete recommendations.

And then the other point, in relation to that, is: You know, from the practical certifier/inspector side, is this a recommendation that is really enforceable for organics? -- and I think it is, which is why I supported the recommendation.

Although it sounds like a big mouthful, with the testing protocol for pre-testing and batches and all that, that we've explained, the benefits of being able to use the compost tea so far outweigh the relatively small cost of the testing and the relatively small additional burden.
that it puts on growers, that I think it will be welcomed as a procedure, as opposed to not having the compost tea at all.

So I do think that it is verifiable, that certifiers, you know, are able to work with this, that inspectors can see it in the field, and that growers can achieve this, for the most part. You know, having to do pre-testing will be -- would be burdensome on really small growers who stir their compost tea in a bucket, but those are really the people who need the pre-testing the most (chuckles), because they're not using very sophisticated equipment.

So that's all I wanted to say about that.

MS. KOENIG: And then if you guys had any questions, I mean, we can answer them, I guess. Becky.

MS. GOLDBURG: I was curious about the feasibility of doing the testing for indicator bacteria. Are there some quick tests, Scrip [phonetic] tests or whatever, that -- something farmers can use, or do you have to have a microbiology lab to test?

MS. KOENIG: I mean, I gather that it would actually require a laboratory.

MS. SONNABEND: You do have to take it to a lab, but it's probably a 24-hour, you know, result, and not really very expensive.
MS. KOENIG: And, you know, again, the -- one of the scientists at the USDA, the -- really the food-safety individual who signed off on the report, I think the fact that this testing protocol was there really enabled that individual to have a comfort level with the recommendation.

So although it is cumbersome and there would be a cost associated with it, it does allow at least businesses that are involved in compost tea to continue to market to organic producers, and I think what Zea says is true, I mean the technology is there for rapid testing and other areas, it's just a function of, you know, how much demand there is.

So I -- you know, in the future, if compost tea is the next best thing (chuckles), compared to other inputs, then, you know, perhaps that'll occur. Jim.

MR. RIDDLE: Yeah. I'm really impressed with this report, I think the Task Force has done excellent work. I had a couple specific questions on the recommendations.

On Number 5, the second paragraph, the compost tea, with compost tea additives that's not been pre-tested, and you're recommending that that would be allowed for grain crops intended for human consumption, with no restrictions. Correct?
MS. SONNABEND: 90-to 120-day --
MR. RIDDLE: Oh, it still would be?
MS. SONNABEND: Yeah.
MR. RIDDLE: I'm reading it wrong, then.
MS. SONNABEND: Right. The second line --
CHAIRMAN KING: It's "not intended."
MR. RIDDLE: "Crops not intended for human consumption, ornamental plants, and grain crops are exempt from the bacterial testing and 90-/120-day" (inaudible) --
MS. KOENIG: Yeah, but the concept on that -- and, again, remember how I had said that there was a lot -- considerable discussion on plant, plant species, literature that indicated that there could be certain plant types that harbored bacteria because of their architecture, or the fact that they're eaten raw, you know, such as lettuce and apples.
MR. RIDDLE: Yeah.
MS. KOENIG: The general consensus of the group was that grain crops are mostly -- you know, are processed and that they felt assured that they would be cooked, you know, in terms of human consumption.
UNIDENTIFIED FEMALE VOICE: Right.
MS. KOENIG: And ornamentals are not consumed by humans, but there are -- there is an industry out there that, you know, may -- or, in fact, is producing
ornamental crops. So it just allowed for the use of two
kind of specific plants that we all could agree upon.


MS. KOENIG: I mean, there was -- again, there
was a proposal during the process of many different
reviews that there was a USDA list of most-edible crops
that are cooked versus ones that are eaten raw, but we
kind of acknowledged as a committee that -- that, you
know, we have a natural -- you know, a lot of people are
natural food eaters, in the organic community, so what the
average American eats cooked (chuckles), a lot of our
consumers eat raw --

MR. RIDDLE: Uh-huh.

MS. KOENIG: -- and a lot of us didn't feel
comfortable about using that list as a guidance. So this,
again, was the agreement --

MS. SONNABEND: It's prohibited for sprouted
grains, below.

MR. RIDDLE: Okay, right. And then I also had a
question on 7 and 8, on the raw manure extracts. There
90- or 120-day would apply, but it says "foliar
applications are prohibited." That's a strong word,
"prohibited." So even if there's more than 120 days,
foliar application -- I don't -- what's the basis for
that?
MS. KOENIG: You know, again, a lot of the -- you know, the basis of all the restriction -- the (inaudible) of the task force was human pathogens, and again, because of the composition of that task force, there were individuals on -- you know, you had individuals that had a great comfort level with compost teas, and then there were individuals that had no comfort level --

MR. RIDDLE: Yeah.

MS. KOENIG: -- and this basically was -- you know, that -- coming together of those two groups. Most people -- you know, it's similar to the 90/120 day, why is there 120 and why is there 90?

MR. RIDDLE: Right.

MS. KOENIG: Well, it's an extension of that, they just felt that foliar application -- to be safe, at this point in time, again --

MR. RIDDLE: So it's really: an abundance of caution.

MS. KOENIG: It's abundance again.

MR. RIDDLE: Yeah.

MS. KOENIG: And again, it's based on the data available today -- well, actually, April 6th, 2004 --

MS. SONNABEND: Or lack of data available to --

MR. RIDDLE: And lack of data, okay. I just wondered --

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MS. KOENIG: So lack of data available.

MR. RIDDLE: -- if there was something I was missing on that --

MS. SONNABEND: Right. No.

MS. KOENIG: It's the precautionary principle (inaudible) --

MR. RIDDLE: No, it's "prohibited," "foliar application of manure tea prohibited," period.

MS. KOENIG: Goldie.

(No audible response.)

MS. KOENIG: Goldie. I'm sorry, Mark, do you want to call on her?

MS. CAUGHLAN: No, that's fine, I forgot --

CHAIRMAN KING: Well, it's --

UNIDENTIFIED MALE VOICE: Goldie's (inaudible).

MS. CAUGHLAN: Well, I was just going to point out that wheat and barley are both used for juicing, sprout and then juice.

MS. SONNABEND: Prohibited for sprouting.

MS. CAUGHLAN: However, it is isn't -- but I think that's another step. In other words, I take that indicator to mean you couldn't use -- the way that read, to me, was: meaning you don't do alfalfa sprouts in a liquid tea, soak, or something like that, I mean -- before they sprout, but where you're taking a mature grain crop
and then you're making a wheat sprout and then you're juicing it, that's a direct --

MS. KOENIG: I think that that is a good point --

MS. SONNABEND: Well --

MS. KOENIG: -- and what we can do is -- you know, we're not voting on this during this meeting, we're just presenting.

MS. SONNABEND: I also think that, you know, while it might be a concern, the chance of anyone using compost tea on a grain crop, economically, is like -- so minimal that I don't think it realistically is going to (inaudible).

MS. GOLDBURG: Sure, but if you're writing a standard, you don't write it to that.

MS. KOENIG: Right.

MS. SONNABEND: Right.

MS. KOENIG: And I think that that's a valid point, Goldie, so what we can do is, you know, make note of that and then just kind of look over the recommendation and see where -- see --

MS. GOLDBURG: I mean, it's also true that commercial --

MS. KOENIG: I think --

MS. GOLDBURG: -- commercial growers can use --
MS. KOENIG: Right.

MS. GOLDBURG: -- compost tea to their heart's delight.

MS. KOENIG: And I think that the intent of the- -

MS. GOLDBURG: With no safety standards, so --

MS. KOENIG: -- the intent of kind of that sprout, we probably thought that we were covering it underneath that, but it's really not defined, so it's a pretty -- I think it's a valid -- a valid point.

MS. GOLDBURG: Conventionally [phonetic].

MS. KOENIG: Thank you. Anything else?

(No audible response.)

MS. KOENIG: Thanks.

CHAIRMAN KING: Thank you very much for all your hard work. That was fantastic. I know it took a lot of time and there were some challenges, so --

MR. SIEMON: I'd like to make a motion of no task forces over five people.

(Laughter.)

CHAIRMAN KING: Rose may accept that.

(Laughter.)

MR. RIDDLE: I have a question about the process.

CHAIRMAN KING: Quick comment.

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MR. RIDDLE: I know we're not voting on this as a recommendation, but should the Board go on record as accepting this report? I mean --

UNIDENTIFIED MALE VOICE: Yes.

MR. RIDDLE: Well, I'd move that we accept the Compost Tea Task Force report.

CHAIRMAN KING: Is there a second?

MS. COOPER: Second.

UNIDENTIFIED FEMALE VOICE: Second it.

CHAIRMAN KING: I'll take Ann, I saw her first. It's been moved and seconded, moved by Jim Riddle, seconded by Ann Cooper, that we accept the Compost Tea Task Force report.

All those in favor say aye.

BOARD MEMBERS: Aye.

CHAIRMAN KING: Opposed, same sign.

(No audible response.)

CHAIRMAN KING: Motion carries.

MS. KOENIG: Mark, just --

CHAIRMAN KING: Yes.

MS. KOENIG: So a point of process too, is that -- so this'll -- it's on the web, we'll accept public comment, it'll be posted, we'll be taking public comment on the recommendations, and then --

CHAIRMAN KING: Is that your desire?
MS. KOENIG: Yeah.

CHAIRMAN KING: Okay.

MS. KOENIG: Because we need to vote on it in the next -- at the next meeting.

CHAIRMAN KING: Okay.

MS. KOENIG: So we will officially be -- so it'll be posted for the public to comment on, and then we'll be voting next meeting on it.

CHAIRMAN KING: Okay. Now we're to the point in the agenda where we'll actually be voting on committee recommendations, and we're going to start with materials committee, that of course doesn't have any materials but has a couple recommendations.

MS. KOENIG: Okay, the Sunset Proposal, Provision, that was posted on the web, and that we discussed earlier, again, it wasn't up and submitted in time to make a formal vote, so we're not asking for a formal note.

Additionally, the National Organic Program sent us some documentation last week, with what they believe is a better version of our -- you know, they've taken our Sunset Provision, they've reviewed it, they've considered things such as the whole federal rulemaking process, that I think that we considered but, in our naivete of the process, I don't think we really understood the full
implications of a 5-year sunset and what that meant in
terms of the time frame of how we have to proceed in this
process to get it all done by 2007.

I've thought long and hard, and, you know, I've
been -- people say, "Oh, you look horrible" (chuckles) at
the end of the day, there's many reasons why you do, but,
you know, I take this -- you know, this role very
seriously, and I take the Sunset Provision and materials
quite seriously, and I certainly want to do -- you know,
represent the growers that I represent and what's in the
best interests of the industry.

Having said that, and thinking about the
process, I've asked Arthur Neal to come and give him an
opportunity to really fully explain the proposal that
they've worked with, the modifications that they have
made, and we've met as a committee and talked about a few
areas that we suggested needed a little more thought, and
-- so, you know, I don't know if he had time to digest
that information.

But the one thing that I think I always come
back to, and I think we all have to come back to, in this
process -- well, there's two things: one is what our
concept of Sunset Provision is, and partly I think it's
kind of in a misinterpretation of what a sunset provision
is, by the Board. Many times, as we're doing our work,
we've always thought about the sunset, you know, and I've heard it many times, "Well, we don't have" -- you know, "we'll put it on, and in 5 years we're going to be reviewing everything anyway."

So we've looked at it, and we've kind of -- at least myself personally -- have kind of, you know, identified it as a time for full review. However, you know, again, because I'm naive to what a sunset is in a regulatory sense, I think we need to listen and understand what sunset means, you know, as -- as far as regulatory aspects, and that was explained in the letter that -- and the documents that we received prior to the meeting and hopefully the NOP is going to share with us.

So I think we need to be open-minded with the concept of what sunset means in a regulatory perspective, and then, more importantly, the one thing I always have to remind myself is that the sunset is just mechanism, you know, one kind of safeguard in the system, to review. There always is the opportunity to question things that are on the list, okay, and that -- you know, we always have to go back to that point, that at any time anyone has the opportunity to put in a petition to remove something from that list -- and really, that's for the community to understand.

So the sunset we thought was -- you know, again,
some of us thought as "the mechanism," but I think we need
to really rethink what the sunset mechanism is and, again,
just acknowledge that there are -- there is a second
mechanism for the public to address materials that -- that
may need to be considered to either be -- you know, be
considered on the list.

So, with that introduction, Arthur -- or I'm not
sure who in the NOP was going to --

MS. ROBINSON: Mind if I be Arthur [phonetic]?
CHAIRMAN KING: You can be whoever you want,

Barbara.

(Laughter.)

MS. ROBINSON: Do I have to identify myself
again? Barbara Robinson, Deputy Administrator,
Transportation & Marketing Programs.

Thanks for all your remarks, Rose, that you just
made, because a lot of those we are certainly in agreement
with, and hopefully then it'll just make our presentation
a little bit briefer.

MS. KOENIG: No, don't make it briefer.

(Laughter.)

MS. ROBINSON: We do thank the Board for the
recommendation on sunset, we appreciate it very much, and
we understood the amount of time and thought that went
into it. While you were at work on your recommendation,
we also were doing research on our end, about what is a sunset, because we had many of the same questions that you had, and so we did that kind of research, we looked at legislation.

Sunset is not unique to this program, it does happen with many laws or many regulations, and what we found was the following, and I believe most of this we explained to you, but the public probably doesn't know this.

Sunset is not -- is typically an expiration that would occur -- it's a call for a review of the conditions that warranted the law or the regulation in the first place.

In the case of this program, sunset is: a call to review the conditions that warranted putting a material on the National List in the first place.

So try and think about this -- and Rose brought up a very good point. If you have trouble getting your arms around that, that we're asking the public and the Board to review the conditions, not the material, if you have trouble getting your arms around that, remember: since this program has been implemented, only two petitions have been submitted to the Department to remove a material from the National List. One was for cornstarch, on the basis that there was apparently an
organic supply of cornstarch available, the Board considered that and rejected that and left cornstarch on the list; the second was sodium nitrate, and the Board again took public comments on that and the Board decided to leave sodium nitrate on the list.

But that provision is available to any person at any time, so that -- if you want to think of that as the trap door, another mechanism, a failsafe provision, however you want to think of that: that is always there.

Now, from our perspective, sunset is a public process. It's facilitated by rulemaking through the National Organic Standards Board's mechanisms. You are the integral part of this process. The reason that we believe that this must be done with rulemaking, aside from the fact that our lawyers will stand there and tell us "that's the only way you're going to do it," but there's a good reason for that, and I'm going to use these words that you've heard us use, and then I'm going to say something about them:

The reason we do this through rulemaking, with the public fully engaged, is that in that way we pretty much ensure -- not altogether, but pretty much -- we ensure that neither the Department -- and it's important that you understand this, neither we nor you would appear to be arbitrary, or capricious.
Now, we use the words all the time, and, you know, it strikes me that they have a very negative connotation, it makes it sound like you willy-nilly pick things out of the air and decide what to do and, you know, reward your friends and punish your enemies, and that's not what those words mean.

It just means: unintentionally or not, because we all come to the table with biases, doing it in an open rulemaking process is a way to minimize that from occurring.

So the important thing to remember about this, and this is important for the people who are sitting in this room today, two points: if the public does not weigh in -- explicitly, everybody, you can't just think it, you must communicate, in writing, however that is -- to the Board through the Department -- whether you believe there is still a continued need for these materials on the National List, if you do not do that, if we receive no comment on material X, on October 21, 2007, regardless of what the Board thinks, the material goes away. It will not be available for use. If it is a prohibited material, it will be available for use. Okay?

So the public must get engaged in this.

MR. RIDDLE: I missed that last part.

MS. ROBINSON: If there is no public comment, if
the public is silent -- let's just pick a material.
Sodium nitrate. I don't care. Pick anything.

UNIDENTIFIED MALE VOICE: No, that's not a good one.

MR. RIDDLE: No, I just meant --

MS. ROBINSON: Whatever. Material X.

MR. RIDDLE: The part about if it's prohibited -

MS. ROBINSON: If it is -- if it's a material for which there is an exemption, it's an allowed synthetic, and there is nothing from the world at large that yes, this need -- a need continues to exist for this material, then we can only conclude the need no longer exists; therefore, it will no longer be allowed.

If it is a prohibited material and we hear nothing, then we will conclude that it must be okay, and it will then become allowed to be used.

MR. RIDDLE: You mean a prohibited natural.

MS. ROBINSON: Yes.

MR. RIDDLE: Okay.

MS. ROBINSON: Yes.

MR. RIDDLE: Okay, good.

MS. ROBINSON: What did I say?

MR. RIDDLE: That's what threw me.

MS. ROBINSON: Did I say prohibited synthetic?
CHAIRMAN KING: No, you just said prohibited.

MS. ROBINSON: Oh, okay.

UNIDENTIFIED MALE VOICE: You can imagine (inaudible).

MS. KOENIG: Barbara, I just wanted -- because I see alarmed faces and I just wanted to -- because I also was -- the state of shock. The -- what Keith had explained to me, you don't -- in the sense of something that's on the list in either category, you don't have to provide additional information, it's simply a letter stating that -- you know --

MS. ROBINSON: It can be as simple as --

MS. KOENIG: -- Farmer A, "I use" --

MS. ROBINSON: Yes.

MS. KOENIG: -- "X-Y-Z" --

MS. ROBINSON: Yes.

MS. KOENIG: -- "A-B-C-D, E-F-G," I could list 156 --

MS. ROBINSON: Yeah.

MS. KOENIG: -- and say "I need all of these."

MS. ROBINSON: That's --

MS. KOENIG: That's public comment, it stays on.

MS. ROBINSON: All you need to do is put a placemaker down, okay?

MS. KOENIG: Okay.
MS. ROBINSON: Write us a letter: you need this material, the need still exists for this material --

UNIDENTIFIED FEMALE VOICE: So it's not a petition.

MS. ROBINSON: No. In fact, that's one thing the sunset review is not: it is not a petition process.

MS. KOENIG: Okay. So trade organizations --

MS. ROBINSON: Like I said at the beginning --

yeah. Anybody --

MS. KOENIG: -- organizations, individuals --

MS. ROBINSON: Yeah.

MS. KOENIG: -- as long as it's submitted --

MS. ROBINSON: Yeah.

MS. KOENIG: -- then it stays --

MS. ROBINSON: Anybody.

MS. KOENIG: -- everything is status quo.

MR. RIDDLE: And there doesn't have to be any evidence, just a statement.

MS. KOENIG: No.

MS. ROBINSON: No, not -- not --

MS. KOENIG: Status quo.

MS. ROBINSON: No, you're just going to tell us -- all we want to know is: do you believe that there is a continued need for the material? Just write us a letter and say, "We need it." That's good enough, to keep this

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process going.

MR. ARTHUR NEAL: Arthur Neal, National Organic Program. And what Barbara's talking about is at -- the advance notice of public rulemaking level, because there are three -- and she hasn't gotten there yet, but there are three different levels: advance notice of public rulemaking; proposed rule; and final rule.

MS. ROBINSON: Right. So we will publish an advance notice of proposed rulemaking, and the guts of that will be the document that you already have, the sunset review process, because we tried to develop -- think of it almost like a preamble, okay, what is this process about; for everyone else, this is -- is this on our website yet?

(No audible response.)

MS. ROBINSON: It will be? So that everyone else can read what the Board has been sent.

Now, another point I want to make, before we get to the process a little bit, I want everyone to understand: there's sort of a feeling and people sense: okay, sunset, it's an event. Sunset is not an event. From now on, sunset is an annual activity that will take place. You understand that.

Every year that you add materials, 5 years later someone is reviewing the need for those materials to

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continue. This is the first board that will initiate a sunset process, but some of you won't even be on the board by the time sunset -- this sunset occurs. But understand that in 2012 -- if we all are still here --

(Laughter.)

MS. ROBINSON: -- in 2012, this big clump, okay, the one that became active October 21, '02, this whole big clump of materials has to go through it again, plus any materials added by the Board through rulemaking in 2007. Therefore, what you want to realize is that sunset is a growing activity, it will become a bigger and bigger job every year, assuming boards continue to add materials to the list. Because it never is just a one-time review to see if it's okay; it goes on in perpetuity.

And that's one reason, that's a very important reason, why the process that we laid out for you through rulemaking, it must withstand this annual action by the Board and participation by the public.

So we could not write procedures for a sunset as if it was a one-time event, we have to put something in place, because what -- again, what you're doing is -- like we've talked about before, here we go creating the process again, for future boards.

So, as Arthur started to say -- do you want me to go through these three stages real quick?

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MS. KOENIG: I -- one -- because -- I think it's important, and one of the questions that I had, in terms of the advance rulemaking:

When it goes to public comment, even on the process -- because what I'm assuming is that we also -- there's going to be public comment on this process? You said it would be on the NOP website, but the first rulemaking is rulemaking of the process; correct?

MS. ROBINSON: No. No. An advance notice of proposed rulemaking is the Department's way of saying to the public at large: we are about to engage in rulemaking, heads up. Now, the public is certainly -- the public is always free to comment to us, Rose, the public can write to us and, you know, windows don't close, we don't say, "We don't care, we don't want to hear from you," we never say that. Sometimes we take what you give us and we think about it, but, you know, we don't take it, but we will always take input.

So the ANPR -- what?

MR. RIDDLE: George had a question.

MS. ROBINSON: Oh, I'm sorry, George.

MR. SIEMON: I had several questions here. So if those conditions are established, question one is: who establishes that condition, one letter is enough, or is it -- somebody makes a judgment that the condition still is
needed?

MS. ROBINSON: Well, let me walk through that.

MR. SIEMON: All right.

MS. ROBINSON: Okay? We put out the ANPR and we tell the public -- and we do, in the ANPR --

MS. KOENIG: No acronyms.

MS. ROBINSON: Huh?

MS. KOENIG: No acronyms.

MR. RIDDLE: Advance notice of public rulemaking.

MS. ROBINSON: Oh, I'm sorry. I'm sorry. ANPR means advance notice of proposed rulemaking. Forgive me, I shouldn't do that. That's the heads-up I was just talking about.

Now, remember back to when this rule itself was being created, there was a Proposed Rule, and then there was a Re-Proposed Rule, but there's -- normally there's a proposed rule, everyone is free to comment, the Department takes the comments, Department digests the comments, the Department is obliged to answer the comments through rulemaking, it does so when it publishes the final rule, and then there's even usually some -- well, very often there's still a comment period that's allowed after the final rule.

But what we will do is we'll publish the advance
notice of proposed rulemaking and we will tell the public: here's what you need to do, and all that you need to do is communicate to us in writing, and we'll probably allow electronic, but let us know whether or not you believe a continued need exists for any or all of these materials, and that's all they have to do, at first.

That then triggers sort of the universe of materials that the Board is going to look at, and it will also trigger -- hopefully not, but it will trigger a subset, which we haven't heard anything, from anybody about.

Now, before -- I don't want to -- Arthur's much better at going through all the particular details of what's going to be involved in the proposed rule, so I'm going to let him walk you through that process, but then we'll take any questions that you have.

MR. NEAL: In the proposed rule, what happens is that the Board has now formulated their recommendation in terms of -- they've assessed all of the public comments generated through the advance notice of proposed rulemaking -- yes, ma'am.

MS. KOENIG: Okay, I think there was a step left out.

MR. NEAL: Uh-huh.

MS. KOENIG: According to your documentation.
So Barbara made it sound like it was simply a little letter, that said yea or nay, and what in fact your policy says is that if something affirms something on the list, then you, as an individual, can say: yes, we need this, that's all the documentation that's necessary. Or -- step one.

UNIDENTIFIED FEMALE VOICE: An ANPR step (phonetic).

MS. KOENIG: Okay. But the other -- isn't this step one at ANPR stage if you say -- you say: hey, there's something on there I don't want --

MR. NEAL: Right.

MS. KOENIG: -- and you said -- sorry, I don't want to say "you," because I'm assuming --

MR. NEAL: Right.

MS. KOENIG: Isn't -- based on your document, a set of information and data that you must then provide, that requires more than just a letter at that stage --

MR. NEAL: Let me explain --

MS. KOENIG: -- and that's an important point, that I think needs to be explained.

MR. NEAL: -- a little more to you. You've got to take into consideration this big picture. There have been years of activity taking place to put materials onto the National List.
When you take into consideration how materials have made it onto the List, they've gone through scientific research, they've gone through public comment, and final rulemaking, so the data that supports materials that are currently listed on the list already have a foundation established.

Now, through the ANPR, you can't tell a commenter what they cannot say. They can say, "We want the material," they can say, "We don't want the material." However, there is a reverse consequence for saying, "We don't want the material," because the same way that a material was recommended for inclusion onto the National List is the exact same way a material has to be pulled off of the National List, which means that if the recommendation is made that "We do not want the material any longer, there's no longer a need," that has to be justified. That need no longer has to be justified -- I mean that need has to be justified.

MR. RIDDLE: I'm confused, then, because I thought things automatically expire unless someone says they're needed --

MR. NEAL: I'm not finished.

MR. RIDDLE: Okay.

MR. NEAL: Now, the Board has the opportunity, because the Board assesses the comments -- because you're
going to get comments that say, "We want it," you're going
to get some comments that say, "We don't want it." The
Board can either attempt to justify the fact that there's
no longer a need for the material or just rest in the fact
that this material has already been vetted by prior
boards --

MS. CAUGHLAN: Has what?
MR. NEAL: -- already been vetted by prior
boards and recommended for inclusion onto the National
List and there is a need that has been established, in
formulating their recommendation.

Do we understand?
MR. RIDDLE: Yeah, so far.
CHAIRMAN KING: We're hoping there's more.
MR. NEAL: Okay.
CHAIRMAN KING: Okay.
MR. RIDDLE: -- to follow [phonetic].
MR. NEAL: If the Board decides that there is no
longer a need for the continued use of a substance, then
that need -- the need has to be justified to no longer
exist, and what Rose is talking about is how you document
the non-existent need for the use of a material, and that
-- that entails that the material has a negative -- what
is it --

MS. KOENIG: It's the three points in OFPA that
we used for -- during the petition process and evaluation.

It's the environmental -- there's a -- you know,
detrimental environmental impacts, a wholly natural
substance is available, and -- give me the third one.

MR. NEAL: And that it's not consistent with
organic farming and handling.

MS. KOENIG: That's not -- okay.

MR. NEAL: So the needs to this [phonetic] --
you'd have to document the substance is harmful to human
health or the environment, the substance is not necessary
to the production of agricultural products because there
is an available wholly-non-synthetic substitute product,
and the substance is not consistent with organic farming
and handling. Kim.

MS. DIETZ: When we had talked earlier from the
materials committee, is it the public that's providing us
with this information or is the Board who's having to
provide this information?

MR. NEAL: Both. It all depends on who's trying
to justify that the need no longer exists. So if the
public makes that statement, that the need no longer
exists, and you've got competing interests, you've got
people out there saying, "There is a need for it" and
you've got somebody saying, "There is no need for it,"
somebody's got to justify the position. And the position
has already been laid for it to be on the list. The
position that has not been lain is the one to take it off.
That's why there is a process by which we say -- a
petition process to remove a substance from the National
List.

UNIDENTIFIED FEMALE VOICE: (Inaudible.)

MR. NEAL: Well, I know, that's why -- that's
why we do not invite that type of activity.

MS. DIETZ: So this board may receive positive
letters and negative letters and then it's the due
diligence of the Board to say: okay, if there is not a
need, then we need to document it with these factors that
you're providing.

MR. NEAL: If there is not a need for it, right,
correct. Yes, Rose.

MS. KOENIG: So -- and again, I had the
privilege of looking at it, so I kind of processed it a
little bit more, and what our -- again, you know, the
points are again: the letter, keeping things on as a
simple letter, again, making a change is the one where the
burden -- I don't want to say the burden -- it's really
the burden of proof, because that's the only way I can
think of it in my feeble mind, is: the burden of proof is
on the person who wants to remove something from the List,
that exists, and this burden of proof that the NOP has
suggested and has offered in their final Sunset Provision
is acceptable to me because it's based on the OFPA
criteria.

We're not pulling things out of the hat, we're
not asking people to jump through new hoops, they're
basically taking those three OFPA criteria, and
additionally, there -- but there is two differences that I
could pick out, and I just wanted to pinpoint -- you know,
point those out.

One is, there is a greater emphasis on the --
because you're asking -- there's a request to really prove
that there are alternatives, with data more than just what
we're getting in some of these TAPs, like -- you know,
I'll give an example of hydrochloric acid, that lactic
acid and acetic acid is available.

The data would have to be provided that the
form, the function -- there's a supply of those things,
that there's readily-available alternatives and they work.
And then -- so that's one difference.

And then the second difference is that there is
an econom- --

MR. NEAL: An industry impact.

MS. KOENIG: -- an industry impact statement, in
addition to the OFPA criteria, that is written into the
language of this final Sunset Provision, and that is the
other, second point that I picked out that is distinct and
different from what you're seeing in a regular petition
process, and I think it would make sense to justify --
Keith did a great job -- understanding why the Office of
Management & Budget requires that. So if you can --

MS. ROBINSON: Two points I just want to keep
making here, for the folks in the audience. You
understand now what we're asking, that when we public the
advance notice of proposed rulemaking, a simple one-line,
two-line communication to the Department is sufficient
for, you know, putting your placeholder down. That is all
that's required.

When we get to the proposed rulemaking stage and
someone wants to argue to allow the use of a material to
expire, we are asking -- as you just heard Rose: that
burden of evidence is on the commenter and it will not be
sufficient to simply go back and find whatever the Board
did, you know, 5 years earlier, or whatever their debates
were, and go get out that argument and restate it, because
the Board, in its deliberations in previous years, had
already determined, regardless -- you know, taking the
totality of evidence it had at the time, it determined
that that material met the criteria of OFPA.

So you must be able to show that the material no
longer meets the criteria, and the only way to do that,
that I can figure in my little brain, is: you must have
some new evidence that we don't know about, and that's
what the Board will then have to weigh.

MS. DIETZ: And you said this was during the
proposed rulemaking?

MS. ROBINSON: Yes.

MS. DIETZ: Okay.

MS. ROBINSON: I mean, you're free to submit --

UNIDENTIFIED FEMALE VOICE: Right.

MS. ROBINSON: -- all of that to us during the
advance notice of proposed rulemaking; we're just not
requiring that.

MS. KOENIG: And that is the note -- you know,
and after thinking about the process, something -- this is
to the Board and to the public: if there are materials
that you -- you know, you now know are going through
sunset, this is the time to start gathering data and
going that information in as soon as possible, because
there's going to be a very short window of opportunity,
unfortunately, unless we can figure out a way to extend
it, that we, as a board, are going to be able to handle
anything that would contradict -- and I'm saying what
exists, you know, any of those second line --

MS. ROBINSON: Right. That's -- yeah.

MS. KOENIG: -- of products, things where we're
going to have to really evaluate, and it appears to me --

you know, and that -- that's the question I have for you.

There was this assumption that there could be
additional -- you know, there is -- and in your provision,
they allow for additional technical information to be
obtained, but in reality, the way things are going in
terms of our petition process, it's not a speedy,
immediate response.

MS. ROBINSON: That's one --

MS. KOENIG: So one of the challenges --

MS. ROBINSON: Right.

MS. KOENIG: -- and I'm asking you, I mean,
because I see this as kind of the area where we could get
caught up, is: how -- and I don't know if you've thought
about it: how can we get access to information quickly,
technical information, if we need it? Because we have,
based on what we were talking about, 90 days --

MS. ROBINSON: That's right.

MS. KOENIG: -- to come up with --

MS. ROBINSON: That's the other thing, is we --

included in the document that we have given to the Board
is a very detailed timetable that lays out this whole
process from start to finish, and if you go through -- I
think if you actually add up all the time in there, I
think it actually adds to 41 months. That's why we're
starting now.

The clock has already begun to tick, from our perspective in the Department. We know what we're up against in terms of OMB, we consider -- we are assuming the Office of Management & Budget will designate this to be a major rule. That has certain significance in the government. Once -- once it is determined that you are engaged in major rulemaking, which means you have a significant economic impact on businesses, of X number of dollars, and once you trip that switch, you trip multiple clearance and review levels throughout government, and you top it all off with Congress getting 60 days to review it themselves.

But it is such a laborious process to get through, that we -- we believe that it must be started immediately.

MR. RIDDLE: I've got two questions. It sounds like if somebody wants something to expire, or be removed, it's very similar to submitting a petition to remove, they've got to -- the burden of proof, the evidence, with new information, you know, is on that petitioner.

But you mentioned that you received two petitions to remove and cornstarch was one of them, and do you know from the records when that happened? -- because I can't find when the Board voted on that.
MS. ROBINSON: I honestly don't know, Jim.

UNIDENTIFIED MALE VOICE: That's inside

(inaudible).

MR. RIDDLE: It hasn't been since I have, and I can't find it in the records. I just wondered -- since you said it, I figured you knew when that happened.

UNIDENTIFIED FEMALE VOICE: We're in our fourth year, so --

MS. ROBINSON: I just made it up.

(Laughter.)

MR. RIDDLE: Well, I didn't know.

MS. ROBINSON: No, I'm just kidding.

MR. RIDDLE: I mean, if you could say what year, I could look back at the minutes --

UNIDENTIFIED MALE VOICE: (Inaudible.)

MR. NEAL: I can't recall.

MS. ROBINSON: The other --

MR. RIDDLE: But the other -- the question is about the 90 days for the Board to review. Is --

MS. ROBINSON: Right. And before you get to your question, let me just address the last part -- something that Rose asked, and that is: whether or not there could be some sort of extension here. I know that we -- you know, that's been talked about, "Well, if the Board is working on it, if the Board is recommending it,"
you know, "isn't that good enough, can't this keep" -- "go on?" The answer is, unfortunately, no, and it's not because you're in a regulation, it's because you are bound by your law. The law is what will cause the lights to go out here. If it was a matter of just, you know, adjusting the regulation, we probably could figure out a way to do it, but since it's a law, you know, that's the brick wall. So we can't do that.

MS. KOENIG: Right. But worst-case scenario, okay, let's just play hypothetical, because I think -- this is just an issue for me. Worst-case scenario, say product A, there's no -- there is a letter of support for it, and then there's another letter, against it, with evidence, okay, and we get this, and the points are really valid, we find that there's enough OFPA criteria, but it was one of those early-on petitions that did not have an adequate TAP, in our opinion, we need to seek additional technical information. That -- and I know you like to have a really big docket, but hypothetically (chuckles) --

MS. ROBINSON: That's not our preference.

MS. KOENIG: Well, but -- I mean, hypothetically, that product could be held back. I mean, the worst-case scenario is: by doing that, you would trigger it off the list. Correct?

MS. ROBINSON: Yes. Are you asking if the rest
of the list could move forward without --

MS. KOENIG: Yeah. The rest of the list could.

MS. ROBINSON: Yes. Yes.

MS. KOENIG: Okay.

MS. ROBINSON: Of course.

MS. KOENIG: So we are -- we're tied -- so there are ways, it's just --

MS. ROBINSON: Whoever is affected by that one material --

MS. KOENIG: -- will be mad [phonetic], right.

MS. ROBINSON: -- are the affected parties, yeah, and you might be hearing from them.

MS. KOENIG: Right.

MS. ROBINSON: But -- yes, but -- now -- and we will do our best to work with the scientific experts, you know -- we do have in AMS a scientific program area, food scientists, microbiological folks. We can consult with them. They have contacts in EPA and FDA. We will do our best to work to make sure that as much technical information as is necessary for the Board -- that we can make it available.

But remember what you're -- you will have to weigh the evidence that is given to you, and there will have to be a -- I don't really want to stand here and say "compelling," but I would assume, if I was in your shoes,
it should be pretty compelling evidence why it no longer 
meets the criteria that you determined it already met.

    MR. NEAL: Well, it's really the need.
    MS. ROBINSON: Yeah.
    MR. NEAL: (Inaudible) there's no need.
    MS. ROBINSON: Right. So -- okay.
    CHAIRMAN KING: I have a quick question. I know 
we're talking about the process and procedures which we'll 
go through here, and I wanted to know the timeline that's 
listed, as --
    MS. ROBINSON: Yes (inaudible).
    CHAIRMAN KING: -- I'm guessing, sort of a -- 
    somewhat of a draft, if you will, in this document, and I 
have been numerically challenged in the past, so correct 
me if I'm wrong, but it appears we have 41 months until 
the deadline --
    MS. ROBINSON: That's right.
    CHAIRMAN KING: -- from -- give or take a few 
days from today. As I add this up, there are a minimum of 
32 months in the process.
    MS. ROBINSON: Right.
    CHAIRMAN KING: Now, that's not a big window.
    MS. ROBINSON: No, it's not.
    CHAIRMAN KING: But as we look at this as a 
board, 90 days clearly --

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MS. ROBINSON: Yeah.

CHAIRMAN KING: -- is kind of "a train wreck waiting to happen" --

MS. ROBINSON: And that -- that's right.

CHAIRMAN KING: -- and so recognizing this difference between 41 and 32, perhaps that's an area we could --

MS. ROBINSON: Well, let's -- you know, I mean, we put down what we conservatively estimate --

CHAIRMAN KING: I understand.

MS. ROBINSON: -- everybody will want to have their hands on this thing and take a look at it.

CHAIRMAN KING: I understand.

MS. ROBINSON: And yes, one of the reasons we did it like this -- and it does look like it's cutting it close, that there's a little bit of a window.

A couple of things you want to keep in mind:

This year is an election year. You know, I'm sorry to bring up politics, but it's a fact of life where we live, and when there is going to be a congressional election or a presidential election, people get a little bit more reticent, they get much more cautious about regulations that any agency -- not just us, but any agency -- is working on, and so there's -- you know, that just tends to slow the process down a little bit more.
To the extent that we can, if there are places
we can save time, give the Board an extra 30 days, take 30
from us, something like that, we'll do it. We're not
going to let this train wreck, Mark.

CHAIRMAN KING: I understand.

MS. ROBINSON: That's what the Board and
importantly that's what this industry needs to understand:
the Department takes it very seriously that this -- you
didn't start this industry just to grind it to a halt
5 years later. That's not going to happen. So we'll get
there. Andrea.

MS. CAROE: I actually have two questions. My
first one is kind of basic and remedial, but tell me:
when this -- when we go through the sunset, we do this
procedure, are we putting something back on the list for
5 years or are we keeping it on the list for another
5 years?

MS. ROBINSON: You are renewing its exemption.
If it's an allowed synthetic, you're saying: we've looked
at it, we've considered all the evidence, we are renewing
the exemption for this allowed synthetic for an additional
5 years, and that 5-year date will be the effective date
of publication of the Final Rule, and that will start the
clock over again, and it should be October 21, 2012, or
earlier, if a miracle occurred and we actually got this

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done, you know, in the summer of 2007.

MS. CAROE: Okay. My next question, and this is -- not to be the big black cloud over this, but: what happens if, somewhere along this process, while somebody's reviewing this, including, and not limited to, Congress, somebody says "No" or "We don't like this" or "We want more information" or "We want you to do something different," what happens to the --

MS. ROBINSON: Somebody -- who, like someone in Congress says they want you to look at more?

MS. CAROE: You know, any -- OMB, OGC, anybody along this path kicks [phonetic] this.

MS. ROBINSON: Well, the Department has to work with its federal partners. Now, as far as telling you that you need -- no one from Congress is going to come and tell you, "Well, I want that material and you need to rethink this." That is the Board's authority: to weigh the evidence before it and make that determination. That is your statutory authority: to renew this exemption.

MS. CAROE: I don't think anybody -- I'm not talking about a technical issue as far as whether the material's fit for organic or not, but I'm talking more of a procedural issue or if they wanted something else done.

MR. NEAL: One of the things -- we've taken that into consideration, but that's captured in the timeline,
because something could happen where they say, "No, this
won't cut it," because it happened to us when we -- when
we were developing the proposal, re-proposal, and final,
they send it back, and they can take as much time as they
need.

So that's why the timeline is such, because
those things happen, and if we cut into the timeline, we
cut into the opportunity to meet the deadline.

MS. CAROE: And then what happens?

MR. NEAL: We'll have to find out.

MS. CAROE: Okay. I just -- you know, I don't --
- I don't know how these things work, and I know you guys
go through this stuff all the time, but, you know,
obviously business doesn't come to a screeching halt,
there's got to be something -- you know.

MS. KOENIG: I had a question, maybe -- you
know, and I think it's a good question to ask at this
point. There's a number of annotations, okay, so on the
proposal that you showed us, there was just two choices,
it either stays on or it comes off. There may be cases
where somebody wants it to stay on but they want the
annotation removed, maybe they want an annotation that's
not there. Is this the point where those changes can be
made in the process, Keith, do you know that?

MR. NEAL: It really gets you into --
MS. KOENIG: Because there may be cases where people, you know, write a comment, not necessarily that any of the economics have changed but no -- you know, "this annotation is too small," and they can provide data, but is this the point where they would do that, where there could be made to changes --

MR. NEAL: I will not say straight up no, somebody cannot do that. However, I will say this. That gets you into a petition-type deal and not the continued need for the substance, because after the review process is over, they still can petition to modify an annotation.

See, what happens is that your workload -- you start to conflict your work, you start to conflict sunset review with petition process --

MS. KOENIG: So -- but that's the question. So it's not the forum for doing that, or --

MR. NEAL: No.

MS. KOENIG: Well, that's -- I think it's a valid question, because we need to know, and the public needs to know.

CHAIRMAN KING: Let's just -- there's a lot to discuss here, clearly, and Keith, you've got a comment, but I want to make one point first, and that is that we need to wrap this up, literally, in the next minute. We've got petitioners here, materials to vote on. So if
we could just wrap this up. And one more point before, Keith, you make your comment, is that this will be ongoing dialogue, so you need to understand this isn't the end here, it's just sort of opening it up and asking questions. So Keith. Thank you.

MR. JONES: Okay, I'll take a minute.

Rosie, I think you have to understand, is that once we get into rulemaking -- Arthur made a very good point -- we can't constrain the public to comment, okay, and the public may comment and say, "We want annotation X taken off," "we want Y annotation added." They're free to comment. That's what public comment is about, it's what notice and comment rulemaking is about.

I think as we analyze that set of comments, we're going to be reluctant, though, to accept those comments because we believe that that really is outside of the scope of the sunset process, and let me tell you why we believe that.

We can conclude sunset and then the Board has in its possession public comments, on a range of issues, that it can then take and look at and say, "You know, this is a pretty compelling comment for the removal of this annotation on X material," or Y -- or whatever, you know, whatever the comment is, and then take an appropriate action straight up on that issue, and I think because of
the workload you're going to be facing, it would be more
prudent on your part to stay as narrowly focused as you
possibly could in the material review process.

CHAIRMAN KING: Okay, I just want to make a
quick thank you, Rose, for your questions and thought
process on this and thank the Department for your
comments.

A quick agenda adjustment, I'm going to move the
handling committee up and we'll discuss those materials
now, and then we'll come back with crops after the break,
then livestock following that.

MR. O'RELL: So, Mark, are you ready to --

UNIDENTIFIED FEMALE VOICE: Same order?

MR. O'RELL: Tetra sodium pyrophosphate?

UNIDENTIFIED FEMALE VOICE: Well, nitrous oxide
was first.

MR. O'RELL: Well, we were asked to make an
adjustment in the order.

UNIDENTIFIED FEMALE VOICE: That's fine.

MR. RIDDLE: What's going on?

MR. SIEMON: We're trying to get (inaudible)
before our break.

CHAIRMAN KING: And there's some people who need
to catch flights, and clearly we're a little bit behind,
so I want to get to materials, just so you understand.

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MR. RIDDLE: Yeah, I appreciate it.

CHAIRMAN KING: It's not a coup, Jim, we're --

MR. RIDDLE: No, I just like to know (inaudible), because I thought we had a process.

MR. O'RELL: If everybody's comfortable with the change in the agenda now: tetra sodium pyrophosphate, as we discussed yesterday, was petitioned for the use as a pH adjuster and dough conditioner.

Following our report yesterday on tetra sodium pyrophosphate with our handling committee recommendation, we had discussion on the Board. We've incorporated -- when we had our breakout session we incorporated some of the comments from the Board, we also considered public comment that was made yesterday, and let me just go -- because we did this and we don't have copies for everybody --

CHAIRMAN KING: Arthur's going to try to pull it up for --

UNIDENTIFIED FEMALE VOICE: Just the voting form.

MR. RIDDLE: Yeah, that's just a blank.

MR. O'RELL: Just the voting form. But let's just go through and note the changes we did make, starting with Category 3.

UNIDENTIFIED FEMALE VOICE: Category 2.

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MR. O'RELL: Okay, Category 2, yes. We did make an addition on Category 2, Question Number 2, "Is there an organic substitute?", we had marked "Yes," but in our documentation and comments we also noted that this -- that what the petition stated with organic lecithin as an emulsifier was not applicable in this situation, it was confirmed by public comment and some other information that we had received prior to the meeting.

So we've marked "yes/no." Okay, Jim.

MR. RIDDLE: Yeah, I'm sorry, but I don't see anything to follow, but I'm trying --

MR. O'RELL: You don't have the sheet?

MR. RIDDLE: No.

MR. SIEMON: (Inaudible) your regular sheet.

MR. RIDDLE: Yeah, I thought they'd be in the meeting book.

MR. O'RELL: Okay, moving on now to Category 3, and when the committee met in its breakout session, we considered the comments that were made regarding the public testimony that we had put in the documentation column, which we agree we do not want as a board or a committee to endorse a product that may be on the marketplace or recognize products on the marketplace that shouldn't be.

So we are striking, in Question Number 1, under
"Documentation," the -- starting with Public Testimony 91902, Dr. Bossy, "There are products currently labeled 'Certified Organic' in the marketplace."

We are leaving in Public Testimony 91902, Page 84, Tom Harding, "All these organic products have high consumer acceptance," period.

We are striking "and are certified by responsible accredited certifiers."

Any questions on --

(No audible response.)

MR. O'RELL: Number 2, "Is the substance consistent with organic farming and handling?" We had marked originally, as a committee, "Not applicable." We are changing that --

UNIDENTIFIED FEMALE VOICE: It was an error.

MR. O'RELL: It was an error, typo. -- to "Yes."

MR. SIEMON: Was it supposed to be "Yes" all along?

MR. O'RELL: It was supposed to be "Yes." It was a typo. And then we are striking again the same verbiage, Public Testimony 91902, Dr. Bossy, "There are no" -- "There are products currently labeled 'Certified Organic' in the marketplace."

And then the final comment on the Public
Testimony by Tom Harding, "and are certified by
responsible accredited certifiers," striking that
sentence, that half of the sentence, leaving in "All these
organic products have high consumer acceptance."

Number 3, "Is the substance compatible with a
system of sustainable agriculture?" We had marked "N/A,"
so we're striking all documentation in that column.

Now, Number 6, "Is the primary use to recreate
or improve flavors, colors, or nutritive values lost in
processing?" We have added three sections. The first one
is a note from the TAP, tetra sodium pyrophosphate, TSPP,
on Page 2, "The specific use petitioned is as a pH buffer
and dough conditioner for use in organic meat-alternative
products."

We are also including, from public comments made
yesterday, testimony from Dr. Garish Ganjyal and Steve
Ham, MGP Ingredients, quote: "Currently no alternatives
exist for the functional properties displayed by TSPP when
used in small amounts in this proprietary process.
Extrusion processing is used in this proprietary process,
which involves high-temperature and high-pressure cooking
for a short duration. TSPP is unique because it has a
high melting temperature and thus withstands the
extrusion-processing conditions while maintaining its
functionality."
We are also adding a quote from an e-mail that was sent on behalf of the petitioner to the handling committee, stating: "Texturization in the finished ingredient is the primary result of the thermomechanical process during the actual extrusion process; i.e., pressure heat shear at the die plate, forming heads, et cetera."

Now we go to the handling committee recommendation to the full board. We had discussion based on new information -- or public comment and information from the Board, and we have -- we took a second vote, there was a motion by Kim, seconded by Andrea, and let me just pull this up and read this from the computer.

(Pause.)

MR. O'RELL: The motion was to allow TSPP under 205.605(b), with annotation, in quotes, "for use in meat-analog products."

This is going back to the original annotation that was voted on on the last Board meeting and striking the word "texture." That vote was 6 yes, zero no, zero abstentions, zero absent.

CHAIRMAN KING: Discussion?

MR. SIEMON: I guess I'd just like to know if that annotation causes any trouble whatsoever for the use of the product, I wouldn't think it would, so --
UNIDENTIFIED FEMALE VOICE: We -- no.

MR. SIEMON: Okay. Great.

CHAIRMAN KING: Andrea.

MS. CAROE: I just wanted to comment on that. We had relooked at the not using an annotation and the concern that this would be used --

UNIDENTIFIED MALE VOICE: Andrea? I'm sorry.

MS. CAROE: The concern was that if there was no annotation, that it could open it up, actually, to improved texture in other products, specifically meat. So that's the reason we came up with an annotation that broadly covered the petitioned request but didn't expand it to where it would not meet criteria -- the criteria for inclusion on the list.

MR. RIDDLE: Yeah, I just want to express appreciation for the work of the committee.

MR. SIEMON: You going to do that with a motion?

MR. RIDDLE: Yeah, I --

MR. O'RELL: Should do that with a motion?

MR. RIDDLE: Yeah, sure, I'd move approval -- no, I'm not, I am not going to move the approval.

UNIDENTIFIED FEMALE VOICE: It dies because of lack of second.

MR. RIDDLE: You guys almost tricked me.

(Laughter.)
MS. DIETZ: I'll make the same motion: to add tetra sodium pyrophosphate on 205.605(b) as a synthetic, with the annotation as a meat-analog --

UNIDENTIFIED FEMALE VOICE: For use in.

MR. O'RELL: For use in meat-analog products.


MS. CAROE: I'll second.

UNIDENTIFIED MALE VOICE: Jim, you could second it.

MR. RIDDLE: It already was.

CHAIRMAN KING: It has been? Who seconded?

MR. RIDDLE: Andrea.

CHAIRMAN KING: Andrea seconded. All right, so it's been moved and seconded that we consider the addition of TSPP to .605(a). Correct?

UNIDENTIFIED FEMALE VOICE: .605(b).

CHAIRMAN KING: .605(b), sorry, with the following annotation: "for use in meat-analog products."

Is there any discussion?

MS. GOLDBURG: I'm going to raise one point, because I think I'm going to vote against this material, and that is, I think that when we do vote, we ought to consider whether we need organic meat-analog products.

MR. CARTER: Yeah, I have the same concern.

UNIDENTIFIED FEMALE VOICE: (Inaudible)
discussions (inaudible)?

CHAIRMAN KING: Okay. Further discussion?

MR. SIEMON: Well, if we're going to go that far, my concern always is, if you do that, then you have a "made with" product and you'll still have it out there -- instead of being 95-percent organic, you're going to have it 70-percent organic, and we've actually done a disservice, because the market will always go to that lower one if they -- if that's what you're enforcing [phonetic], so to me, that's really important.

MS. CAUGHLAN: I think that's a very valid --

CHAIRMAN KING: Goldie, go ahead.

MS. CAUGHLAN: No, I said I think that's a very valid rationale.

MS. KOENIG: Can you elaborate on it a little bit, what you're --

MR. SIEMON: Well, if we prohibit this material, then they'll just put a "made with organic" claim and it'll be 70-percent organic, if we allow it, then people are able to make a meat analog, whether we need it or not, at 95. You're not going to stop the product from being on the marketplace and trying to go out to the organic consumer. Now it's a choice of enabling that to be 95 or we limit it to the 70.

CHAIRMAN KING: Kim.
MS. DIETZ: This same discussion we went into detail about 20 pages of the original time we voted on this material, and remember, if this material is also considered a processing aid, it does not need to be on the label. So on a "made with" product, you may have one ingredient and it'll be a hundred-percent grain and on a "made with" label. So there is confusion out there to the consumer, and that's why we did not originally recommend a "made with" label.

CHAIRMAN KING: And I just -- I actually voted for this recommendation, I had a similar concern with George and I made the point of the "made with" category, and I guess one of the things that helped me to support it is: understanding, as I walk into a grocery store, that there are lots of consumers who -- vegetarians, primarily -- who do consume this product and who are supporting it. And the second was that -- and I could be wrong on the math here, but it was .5 percent of TSPP in the actual ingredient that then goes into the final product, so I think we're --

MR. O'RELL: 10 percent in the final product.

CHAIRMAN KING: So we're talking about a pretty small percent. Dave.

MR. CARTER: Well, I just -- one of the things I'd like to ask too is just -- on the Category 1, down
there under Number 10, the documentation says "as noted, tetra sodium pyrophosphate has been linked to kidney damage; however, all reviewers shared the consensus that the levels used in food manufacture should not pose a serious risk for most consumers," that's --

(Laughter.)

MR. CARTER: That doesn't give me a lot of confidence, that it "should not for most consumers."

That --

MS. DIETZ: That's what is written in the TAP, that's verbatim.

MR. CARTER: Okay.

MR. O'RELL: Yeah. I mean, the problem with that, that is exactly -- it's verbatim language from the TAP, but the fact is that if you look at the GRAS standing [phonetic] and everything else associated with the safety, it's not considered at these levels for a food additive, it's really not a concern.

CHAIRMAN KING: So if I'm hearing you correctly, Kevin, that science was based on much higher usage.

MS. DIETZ: There was another reference in the TAP where it said that most of the health risks were related to the medical industry, not food.

MR. SIEMON: Should we add that?

MS. DIETZ: It's in there, it's on our notes.
MS. CAUGHLAN: I'm just realizing that in our annotation we say "for use in meat-analog products," but this is really for use in meat-analog processing aid or ingredient that goes into the final -- you understand what I'm saying? There's a step there.

MS. DIETZ: (Inaudible) as a processing aid in meat analog --

MS. CAUGHLAN: Right. It's actually --

MS. DIETZ: (Inaudible.)

MS. CAUGHLAN: Pardon?

MS. DIETZ: That was the original annotation, and so we just felt that was the best one, but whether it's a process or a product, it ultimately is the final product.

MS. CAUGHLAN: And it's in there.

MS. DIETZ: And it's in there.

MR. O'RELL: Mark.

CHAIRMAN KING: Yeah.

MR. O'RELL: Can I address the kidney damage? If we're reading from the TAP, "extrapolation from rat models may overestimate kidney damage from sodium pyrophosphate as a food additive," and then it says, "but, overall, phosphate consumption may be more relevant because sodium pyrophosphate readily converts to orthophosphates," and orthophosphates we do have on the
National List for approval --

UNIDENTIFIED FEMALE VOICE: For use in dairy.

MR. O'RELL: -- in dairy foods.

MS. KOENIG: And this wasn't -- it's not a comment to this product, it's just a general comment, because -- I mean, we heard it yesterday, and I guess I -- after thinking about it, I was a little uncomfortable with this notion that because something is GRAS or the idea of Good Manufacturing Practices makes something okay, because if that was the -- you know, that is the assumption, I mean that's why you have GRAS, that's why you have FDA, that's why you have testing, but in the -- in the OFPA sense, I mean, if that was the case, then there would never have been a criteria to ask the question.

You know, so the question -- somebody begged the question, because even though in that world, you know, there is that assumption, I don't think that we're supposed to put that in every category, that with Good Manufacturing Practices things should be okay.

I think that category acknowledges -- should acknowledge the data that is out there, and it can say with -- you know, "with GRAS it is" thing, but I don't think that we should just always just go over that and say, "Oh, of course," because we could answer that for everything, you know, pesticide use is fine as long as
you're wearing applicators, but -- but we know in reality, as practitioners, that that's not always the case, and to me, that's why the criteria was -- is there, so that's all I wanted to say.

MR. O'RELL: Right. But I think that's only one factor that we're considering; we're not basing the whole thing on the fact it's GRAS. In addition, the substance, in terms of anything linked in damage to human health, is very sketchy in the TAP.

MS. KOENIG: No, (inaudible), I'm not talking about this product, I'm just saying as we go through these forms, there's a reason why those questions are there, and the answer to everything is not "because it's GRAS," you know, you're supposed to think more about it, in terms of a more holistic concept.

MR. O'RELL: I agree. I think we did for this review.

MS. KOENIG: Okay.

MR. SIEMON: Call the question [phonetic].

UNIDENTIFIED FEMALE VOICE: Call the question.

CHAIRMAN KING: The question's been called.

MR. SIEMON: Twice.

CHAIRMAN KING: "Twice," George says. Okay, so, again, we're voting on tetra sodium pyrophosphate to be added to 205.605(a), with the following annotation: "for
use in meat-analog products." All those in favor say aye.

MR. O'RELL: Wait, we've got to take a motion.

CHAIRMAN KING: We do, sorry. All right.

MR. SIEMON: It seemed so easy.

(Laughter.)

CHAIRMAN KING: I know. So we'll start --

UNIDENTIFIED MALE VOICE: Rookie mistake.

CHAIRMAN KING: It is a rookie mistake.

(Laughter.)

MR. SIEMON: Dave always did it in a different order each time, so --

CHAIRMAN KING: Yeah.

UNIDENTIFIED FEMALE VOICE: Katherine, are you going to be calling the vote, were you wanting to record?

CHAIRMAN KING: Are you recording the vote?

UNIDENTIFIED FEMALE VOICE: Just total.

CHAIRMAN KING: Huh?

UNIDENTIFIED FEMALE VOICE: Just total.

UNIDENTIFIED FEMALE VOICE: Do you want me to record the vote?

CHAIRMAN KING: Please.

UNIDENTIFIED FEMALE VOICE: (Inaudible) the yeas and nays and abstain --

CHAIRMAN KING: Hold on.

UNIDENTIFIED FEMALE VOICE: Give me a minute to
put everyone's name down.

CHAIRMAN KING: All right. All right, we'll start over here, and we won't go the same way every time, okay, but we are going to start with Ann this time.

MS. COOPER: Yes.

CHAIRMAN KING: Ann says "Yes." Rose?

MS. DIETZ: Yes.

MS. COOPER: Yes.

MS. KOENIG: Yes.

MS. CAROE: Yes.

MR. SIEMON: Yes.

MR. CARTER: No.

CHAIRMAN KING: Andrea's "Yes," George is "Yes," Dave is "No."

MR. RIDDLE: A reluctant yes, hesitant, a slow yes.

(Laughter.)

CHAIRMAN KING: Mark, yes.

MS. DIETZ: Kim, yes.

MS. OSTIGUY: No.

MR. O'RELL: Yes.

MS. CAUGHLAN: Yes.

MR. LACY: Mike, yes.

MS. GOLDBERG: Becky, no.

CHAIRMAN KING: Okay, so we have 3 no's out of
13, so we have -- we have 10 yes votes, 10 yes, 3 no's.

UNIDENTIFIED FEMALE VOICE: 10 yes, 3 no's.

CHAIRMAN KING: 1 absent. Okay.

MR. CARTER: You forgot to ask if anybody has a conflict.

CHAIRMAN KING: Oh, yeah. Dave just noted I forgot to ask: Does anyone have a conflict they'd like to disclose? Sorry. That's my second rookie mistake.

MR. SIEMON: I'm in the meat business.

(Laughter.)

CHAIRMAN KING: Just for the record: George is in the meat business.

(Laughter.)

MR. SIEMON: That's why. I have five heifers (laughs).

CHAIRMAN KING: All right, motion carries. Okay, Kevin, it's yours once again.

UNIDENTIFIED FEMALE VOICE: Is the next one nitrous oxide?

MR. O'RELL: It is, if I can find it.

(Pause.)

MR. O'RELL: Okay. Second material from the handling committee is nitrous oxide. We presented that yesterday, indicated that it is petitioned for use as a propellant, talked about some of the environmental
concerns and the greenhouse effect. I know -- in the interest of time, I'm not going to go through all of that.

The committee recommendation: there was no change, there was no public comment given, and there was no discussion from the Board. So the committee, on the vote to allow nitrous oxide for addition to 205.6 failed, in a vote: yes, zero; no, 5; no abstentions; and 1 absent. That was as synthetic non-agricultural.

That was rejected, and that is still the handling committee recommendation to the Board.

CHAIRMAN KING: Discussion?

(No audible response.)

CHAIRMAN KING: Is there a motion to consider the recommendation?

MS. CAUGHLAN: I move.

CHAIRMAN KING: Goldie moves we consider the recommendation. Second?

MS. OSTIGUY: Second.

CHAIRMAN KING: Nancy.

UNIDENTIFIED FEMALE VOICE: Who did the motion?

MR. O'RELL: Goldie did a motion.

MR. RIDDLE: What's the exact wording, what's the wording of the motion?

MR. O'RELL: It's: to allow nitrous oxide for addition to 205.6, synthetic non-agricultural product.
UNIDENTIFIED MALE VOICE: To allow?

UNIDENTIFIED FEMALE VOICE: You have to vote to allow.

MR. O'RELL: The motion is to allow.

(Pause.)

CHAIRMAN KING: Okay, does everyone understand the motion?

(No audible response.)

CHAIRMAN KING: All right. Here we go. Any refusals, any conflicts?

MR. SIEMON: Oh, yeah, I want to start thinking about whip cream.

(Laughter.)

CHAIRMAN KING: Yeah. You're not in the whip cream business, okay.

(Laughter.)

CHAIRMAN KING: Okay. We'll start with Becky.

MS. GOLDBURG: No.

UNIDENTIFIED FEMALE VOICE: The motion is --

CHAIRMAN KING: The motion is to allow, so a "No" vote means you will not allow it, we understand.

VOICES: Right.

CHAIRMAN KING: Okay. Mike.

MR. LACY: No.

CHAIRMAN KING: No.
MS. CAUGHLAN: Goldie, no.
MR. O'RELL: No.
MS. OSTIGUY: No.
MS. DIETZ: No.
CHAIRMAN KING: No.
MR. RIDDLE: No.
MR. CARTER: No.
MR. SIEMON: No.
MS. CAROE: No.
MS. KOENIG: No.
MS. COOPER: No.
CHAIRMAN KING: That's 13 no's, zero yeses, 1 absent.

Do you have anything else?
(No audible response.)

CHAIRMAN KING: Okay, I think we'll take a quick break, 15-minute break. My watch shows about 3:15, we come back at 3:30, and we will start with crops.
(Off the record at 3:15 p.m. and reconvened at 3:30 p.m.)
CHAIRMAN KING: Just real quick, as a board, finish up one quick order of business with the processing committee and then we'll move on.

MR. O'RELL: Yesterday we -- the handling committee submitted a written report, which was an update on materials used as food contact substances.
Unfortunately, this report did not get the 30-day published, so we can't vote officially on the recommendation, but what we'd like to do is to propose that we have a Board vote to accept this document, and then at least it will be posted again on the website and we can take future action.

From the handling committee, we are going to be working more on food contact substances and we'd like to recognize these six ingredients -- or six materials that we have formally approved for addition to the National List.

CHAIRMAN KING: Is there a motion to accept the report?

MS. DIETZ: I'll make the motion.

MS. CAUGHLAN: I'll second.

CHAIRMAN KING: Kim Burton moved that we accept the food contact substance report, and Goldie Caughlan seconded.

Discussion?

(No audible response.)

CHAIRMAN KING: I don't think we need an individual vote on this. All those in favor say aye.

BOARD MEMBERS: Aye.

CHAIRMAN KING: Opposed, same sign.

(No audible response.)
CHAIRMAN KING: Motion carries. Anything else?

MR. O'RELL: That's it from the handling committee.

CHAIRMAN KING: Thank you, Kevin. We'll move on to the crops committee now.

MS. OSTIGUY: Starting with soy protein isolate, the committee met this morning and discussed the comments that we received and the public testimony yesterday, and the motion was to reject the TAP and request information that does address the material used as a soil amendment.

The vote for rejecting the TAP was 4 yes, zero no, and zero abstentions.

CHAIRMAN KING: Discussion? Andrea?

MS. CAROE: In the TAP, on the first page, in the first paragraph, the last sentence, it says, "No information concerning its use in either conventional non-organic or organic plant fertilizer was found," so they looked for it and they didn't find it.

I guess I'm asking: if you're sending it back, what are you expecting them to find in the second look that -- because clearly they looked for it, they just -- there's no information there. We're sending it back for more information, but they have acknowledged that there is none.

(Pause.)

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MS. OSTIGUY: I'm not quite sure how to put this nicely. I'm not sure how -- and this is nothing about you, this has to do with the reviewer.

(Laughter.)

MS. OSTIGUY: I'm sorry. I saw the --

MS. CAROE: (Inaudible.)

MS. OSTIGUY: I saw the look on your face and was like "Oh my God." No.

MS. CAROE: "Did I ask the wrong thing?"

MS. OSTIGUY: No, no, no. This is the -- the TAP contractor again.

This particular TAP reminded me of the original ones before they started doing some decent ones. I believe, based upon notes that I've taken and such, that there are some questions that they didn't attempt to answer. One does not need specific details about soy protein isolate specifically to be able to answer the concepts of what happens when you use these kinds of materials, which are some of what we want to know about, use in soil, it's not -- you know, you don't have to know -- the studies don't have to have been done specifically on soy protein isolate only, but anything that is similar to it, and I do not have the impression, based upon this TAP or our prior experience with this TAP contractor, that they would have asked questions in that context. I would
at the very least like to know that. But --

MS. CAROE: Okay. Well, as I understand soy
protein isolates, they are an extracted piece of a plant,
not changed or synthesized in any way but just a
sophisticated pull-out of that one piece, and I'm pretty
familiar with the process from my lab background. That
material is already in a plant. How different is using
this material as using a green manure of soybeans? As far
as -- as far as the interaction in the soil --

MS. OSTIGUY: There can be tremendous
differences with the bacterial interactions when you have
extracted all the other parts of a green manure from it.

MS. KOENIG: It's the C-to-N ratio.

MS. OSTIGUY: Excuse me?

MS. KOENIG: It's the C-to-N ratio. In a green
manure --

MS. OSTIGUY: I can't hear you.

MS. KOENIG: In a green manure you have carbon
in association with nitrogen, and part of that nitrogen is
-- part of the carbon is broken down by some of that
nitrogen. In a product where you just have solely
nitrogen, it's a more quick release. And we're not saying
that, you know, that's either good or bad, but we're just
saying that there's implications in terms of that use of
nitrogen versus of other types of nitrogen in the system
and we want that to be -- to be comprehensively covered.

And additionally -- and I'm sorry, Nancy, I
don't want to pull -- the discussion that we had after we
relooked over the definition of "synthetic" and -- there
was some discussion, you know, whether this in fact was a
natural, which was different than what the commenters
said, so there was kind of a change in position among the
members in our committee as far as the way we were looking
at that.

But that said the processing, the hexane
extraction process, was not covered in the TAP, and
because manufacturing of the soy protein isolate is one of
the OFPA criteria, we felt that we needed additional
information about the manufacturing process in the sense
of using hexane as an extraction material. We wanted to
specifically know the environmental consequences and
properties of that hexane and, really, whether there are
alternatives to that in -- in just the criteria of
manufacturing.

MS. OSTIGUY: Kim.

MS. DIETZ: So my question is, because we have
defered materials in the past and not given really good
guidance on -- well, that's not true. We've not got back
what we asked for.

So when we revised these forms, I was the one
that recommended that if we defer, that we be specific in what we believe.

So all I ask this committee is to make sure that you are specific, if we're going to defer this material, so that we get what we need, so that this gentleman does not go on six years [phonetic] without voting on this material.

So I can support that, because I want this to have a very thorough review with this material and make sure we're doing the right decision, so that's just what I would request and that -- you know, that we give a detailed guideline to the TAP contractors.

MS. OSTIGUY: Jim.

MR. RIDDLE: Yeah. Yeah, I think there are a lot of detailed questions here, and I would like to add to it. Rose just mentioned about the environmental effects of hexane, and I don't see that in the list yet, because we didn't know --

MS. OSTIGUY: It's in my notes.

MR. RIDDLE: Okay. -- because we didn't know that was part of the manufacturing process for sure.

MS. DIETZ: That's not true. It was in the original petition, and it was in the flowchart supplied to the contractors, so I don't know what --

MR. RIDDLE: Okay. Well, the TAP acted like
they didn't know.

MS. OSTIGUY: We didn't look at the material.

MR. RIDDLE: So I guess I was misled by reading the TAP.

UNIDENTIFIED FEMALE VOICE: Yes.

MR. RIDDLE: And then also the role of legumes in the crop rotation, the whole systems-type questions. And then I just have a question about what you mean, what the committee means, the -- in your questions there, the fourth line from the bottom, it starts: Answer, Category 1, Question A, "Is soy protein isolate persistence?", I imagine "persistent," but then, "can in concentrate"?

MS. OSTIGUY: Yeah.

MR. RIDDLE: What does that -- do you know what that --

MS. OSTIGUY: It -- in --

MR. RIDDLE: Oh, "can 'it' concentrate," okay. Okay.

MS. OSTIGUY: Some of these, I know the answer. They didn't answer the question.

MR. RIDDLE: Uh-huh.

MS. OSTIGUY: I can provide information.

MR. RIDDLE: Yeah. Well, you're not being paid $4,000.

UNIDENTIFIED FEMALE VOICE: We're board members.

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(Laughter.)

MS. OSTIGUY: But I also want to make it clear that we aren't clueless about what the answers are.

MR. RIDDLE: Uh-huh.

MS. OSTIGUY: I --

MR. RIDDLE: Yeah.

MS. OSTIGUY: You know, I can do some of this off the top of my head without a problem.

MR. RIDDLE: You know, and I can support deferring it; I just don't have a lot of confidence in this particular -- you know, our contractor to follow through.

MS. OSTIGUY: Well, they have been done -- doing a much better job generally and a much better job when we ask for information when it's been incomplete.

MR. RIDDLE: Yeah, but I look at the -- yeah. Some of these others, the urea one is not very helpful either.

MS. OSTIGUY: Yeah. They have -- they have, though, improved. And it may be that this is actually a non-synthetic, you know, that -- it may be that fundamentally inaccurate of a TAP.

MR. SIEMON: That was my question.

MS. OSTIGUY: Yeah.

MR. SIEMON: You were not able to determine that
this is a synthetic?

    MS. OSTIGUY: Well, that was where we went
around and around in the conversation this morning, was:
is it a synthetic? is it a non-synthetic?

    MR. SIEMON: Okay. Then we're stuck.

    MS. CAROE: Well -- I mean, logically, it's --
to me, it's a non-synthetic, because it's --

    MS. OSTIGUY: After hexane extraction?

    MS. CAROE: It's not molecularly changed. The
extraction is simply a method in order to take out a piece
of the original plant. It's not changed.

    MS. OSTIGUY: Andrea, there was disagreement,
that's all I can tell you.

    MS. CAROE: Well, I can tell you I believe it's
non-agricultural. I mean, it's been manipulated in a way
that it is -- no longer has its agricultural identity, but
it's not synthetic.

    MS. OSTIGUY: Andrea -- yes, I hear what you're
saying. We had -- there were people that were -- stated
your opinion, there were people that stated others. There
was no conclusion that we were able to reach, as a
committee. Richard?

    MR. MATTHEWS: Yeah. I need a bit of a
clarification on something. This is Richard Matthews,
Program Manager, National Organics Program.
I'm not sure I heard correctly a few moments ago when there was discussion about the fact that there was a question written onto the sheet and Nancy says she knows the answer?

MS. OSTIGUY: I know the answer, but I -- I could not -- this is not a test for them, but I'm not the one that's supposed to be supplying everybody with the answer. Now, I could write those out.

MR. MATTHEWS: Then I think you should, because this Board has the responsibility for reviewing the material, this Board is appointed --

MS. OSTIGUY: This --

MR. MATTHEWS: Wait a minute.

MS. OSTIGUY: This is not --

MR. MATTHEWS: Let me finish.

MS. OSTIGUY: -- going to finish the questions, though.

MR. MATTHEWS: That's okay. Let me speak my piece.

This Board is appointed because of expertise that they have, and I have serious problems with a board that would take the attitude that they know the answer to the question that wasn't answered by the scientists but they're not going to answer the question because they're not paid $4,000 to do TAP, and that is exactly what was
said.

MS. OSTIGUY: That is not what I said.

MR. MATTHEWS: So, folks, if you know the answer to something fill in the blank, if there's something you don't know the answer to you can't fill in the blank, then send it back, but don't send it back, because you don't want to fill in the blank.

MS. OSTIGUY: That is not what was said, Richard. The reason for sending it back was lack of information. There are some things in here that they did not answer, that yes, I can't answer, and I would be willing to write those down.

CHAIRMAN KING: I would entertain a motion to consider.

UNIDENTIFIED FEMALE VOICE: Specifically what's the information that's --

UNIDENTIFIED FEMALE VOICE: There is a motion on the table.

VOICES: No.

UNIDENTIFIED FEMALE VOICE: Oh. No, okay.

MS. KOENIG: May I just say one thing, you know, as a comment to Richard and Nancy. I think -- you know, and I understand Nancy's point, and I don't -- I think -- I guess what we want to say is that we can supply information, but part of a technical review is actually to
review the literature. I mean, it may be my opinion, and it may be Nancy's opinion. I mean, I have had basic bio-- you know, we both have Ph.D. shift in sciences, but I'm not going to write down "Rose says" -- you know.

In order for me to document that and do it as a scientist, I would have to do a literature review and do a comprehensive analysis of those things, and I think what Nancy is saying is that she knows, you know, based on her scientific background -- just like I said, carbon-to-nitrogen ratio -- but, you know, to be -- to do a scientific evaluation, as a scientist, it's our job to go into the literature and referee publications and document that fact. That's part of the scientific process.

So Richard, we will do our job and we will supplement information, but in order for us to do a literature review on things, it's a considerable amount of time, and what we're saying is that we can look at data -- I mean, to me, our role -- and correct me if I'm wrong -- is to use our expertise to analyze documentation, to see if we can support it or not support it.

If there's areas that we don't support, then we need to confirm that. But I think what's Nancy's saying is it's -- you know, if we have time, we can do some literature review, but the idea of contracting out that information is for a contractor to actually gather that

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information and do literature review.

So -- that's just my comment.

CHAIRMAN KING: Is there a motion to consider?

UNIDENTIFIED FEMALE VOICE: Let George have his 

(inaudible).

MR. SIEMON: I just had a basic question, that 
maybe is too basic, but: If it was synthetic, is it 
possible for you to consider this as a fertilizer? 
Because one of the TAP reviewers says no, you can't, if 
it's -- so I just need that clarification.

MR. RIDDLE: Well, that's --

MR. SIEMON: If it was declared synthetic, is it 
possible to consider it as a fertilizer? I just need an - 
- I don't -- that's the basic -- I've read the law here, 
under what they refer to as -- 6508(b); I just need to 
know what ya'll -- I need some help.

MS. KOENIG: Can I -- just from the basics of 
the committee, if it was a synthetic, if it stays within 
that category -- and again, this is my opinion after 
sitting on conference calls and getting kind of a general 
feeling of the group -- it would end up being synthetic, 
not allowed, because there's plenty of natural sources of 
nitrogen out there. Okay?

All the reviewers said it was synthetic. You 
know. So if we use the documentation provided to us by 

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the contractor, then we would go the route of: synthetic, not allowed.

What we're saying, as a committee, is: hey, this may actually in fact be a natural, and we may not even have to go there, but from the information that was provided, we see there is an extraction method involved in that, and we place -- there is some concern that there perhaps are other materials that could be used in an extraction process that may warrant us to look at it as a non-synthetic but, however, may stick it in a "prohibited" category, with an annotation only allowing certain extraction methodologies.

So that is really, you know, kind of where the committee stands in terms of thinking at this point, but none of us were comfortable based on the lack of information and not having the ability to go into textbooks, at this point, to make a decision at that point, we did not think that that was, you know, in the best interests of the industry or the petitioner.

MR. RIDDLE: I move we defer.

MR. SIEMON: Second.

CHAIRMAN KING: It's been moved and seconded that we defer, moved to Jim Riddle, seconded by George Siemon.

Further discussion?
(No audible response.)

CHAIRMAN KING: Hearing none, for a vote, we'll start with you, Ann, this time.

MS. COOPER: Yes.

MS. KOENIG: Yes.

CHAIRMAN KING: Andrea?

MS. CAROE: I'm going to abstain.

MR. SIEMON: Yes.

MR. CARTER: Dave, yes.

MR. RIDDLE: Yes.

CHAIRMAN KING: Mark, yes.

MS. DIETZ: Yes.

MS. OSTIGUY: Nancy, yes.

MR. O'RELL: Kevin, yes.

MS. CAUGHLAN: Goldie, yes.

MR. LACY: Mike, yes.

MS. GOLDBURG: Becky, yes.

UNIDENTIFIED FEMALE VOICE: That's 12 yeses, 1 abstention, and 1 absence.

UNIDENTIFIED FEMALE VOICE: 12 yes and 1 --

UNIDENTIFIED FEMALE VOICE: -- 1 abstention, 1 absence.

UNIDENTIFIED FEMALE VOICE: Why was it deferred?

UNIDENTIFIED FEMALE VOICE: Inadequate TAP.

MS. OSTIGUY: Additional material.
MR. RIDDLE: It's in the committee's report.

CHAIRMAN KING: "Additional information needed."

MR. RIDDLE: "Details to be provided by committee."

MS. OSTIGUY: Okay, 6-benzyladenine. Is everybody ready? Okay. The committee discussed the public testimony that was presented yesterday. After the discussion the committee voted that the material was synthetic and rejected its addition to -- its addition to the National List because hand pruning is an alternative practice that is currently available and currently used.

The vote to reject -- or the vote to add was: zero to add, 4 no's, and zero abstentions. Discussion?

MR. SIEMON: I just -- is there anyone that can confirm that people already hand-thinning? I heard yesterday that was the only way. Is that -- it is? Rose.

MS. KOENIG: One of the -- you know, again, in committee discussion, the -- the alternative hand thinning came up as a discussion item, that we thoroughly discussed, and one of the benefits of placing this on the web was we were hoping we were going to get public comment from farmers who felt that this was erroneous -- you know, not erroneous, but it over-- -- you know, a tax [phonetic] that was just too much, that they really needed these things.
The only public comment that we received was that of the petitioner, which really was a repeat of the same reasonings for including it.

So based on the fact that there was no public comment from farmers and producers stating they needed this, we assumed our -- that that alternative was not needed.

MS. OSTIGUY: Jim?

MR. RIDDLE: Yeah. In order to have a vote, I move that it be added to the List.

CHAIRMAN KING: Is there a second?

MS. CAUGHLAN: In order to have a vote I'll second it.

(Laughter.)

CHAIRMAN KING: It's been moved by Jim Riddle that we add 6-benzyladenine to the List, and seconded by Goldie Caughlan. Discussion, further discussion?

(No audible response.)

CHAIRMAN KING: Hearing none, we'll proceed to vote, beginning with Becky.

UNIDENTIFIED FEMALE VOICE: That doesn't work. Start with Rose. Just alternate.

CHAIRMAN KING: All right, we'll start with her.

MS. KOENIG: No.

CHAIRMAN KING: Rose says "No."

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MS. GOLDBURG: No.
MR. LACY: No.
MR. RIDDLE: No.
CHAIRMAN KING: No.
MS. CAUGHLAN: Goldie, no.
MR. O'RELL: No.
MS. OSTIGUY: No.
MS. DIETZ: No.
MR. CARTER: No.
MR. SIEMON: No.
MS. CAROE: No.

UNIDENTIFIED FEMALE VOICE: 13 no's, 1 abstention.

CHAIRMAN KING: 1 absence.
UNIDENTIFIED FEMALE VOICE: Absence, I'm sorry.
MS. OSTIGUY: The next one was urea. Urea, the committee discussed, there was no additional information that was presented. Urea was petitioned for a use that doesn't exist with EPA, so we really can't even consider it.

MR. SIEMON: And this, used in a trap, is required for EPA clearance?
MS. OSTIGUY: Yes, it is. As an attractant, it does have to be listed. Now, it's probably not a difficult listing to do, but somebody would have to go
through that process; and if somebody did, we have all the
materials, then, to add it to the List at that time.

    MS. DIETZ: Yeah. And this -- historically,
we've done this before, we just archive the petition and
archive all the information, that if it does come back up,
then we can re-review the material, but it's just
considered archived.

    MS. KOENIG: I make a motion to archive it.
    MS. DIETZ: I'll second.
    MS. OSTIGUY: Okay.
    MR. SIEMON: Do we need to vote on it?
    MS. DIETZ: Yeah, I guess we do have to vote.
    MR. RIDDLE: Well, it's clear, it's in the
record --

    CHAIRMAN KING: And I would entertain a motion
to add to that that we're accepting the committee's
findings, so if we could --

    MR. RIDDLE: You accept that as a friendly
amendment?

    UNIDENTIFIED FEMALE VOICE: Yes.

    CHAIRMAN KING: So it's been moved that we
archive the information on urea and accept the committee's
findings. I'm not sure who made the motion. Rose made
the motion.

    UNIDENTIFIED FEMALE VOICE: Archive what?
UNIDENTIFIED FEMALE VOICE: Archive the petition and the TAP report.

CHAIRMAN KING: And accept the committee findings. Do we need an individual vote on this?

UNIDENTIFIED FEMALE VOICE: And who made the motion?

CHAIRMAN KING: Rose.

MS. OSTIGUY: Rose, seconded by Kim. Question, when you say you're accepting the committee findings, you're referring to the committee findings that it is not EPA-approved?

CHAIRMAN KING: Yes.

UNIDENTIFIED FEMALE VOICE: The whole review and everything.

UNIDENTIFIED FEMALE VOICE: We haven't really detailed it.

UNIDENTIFIED FEMALE VOICE: We have not, no, received a report on their actual findings beyond (inaudible).

CHAIRMAN KING: My understanding is we're accepting the finding that it's not a legal EPA label claim.

UNIDENTIFIED FEMALE VOICE: That's correct.

UNIDENTIFIED FEMALE VOICE: That's what I wanted to clarify.
UNIDENTIFIED FEMALE VOICE: And it's -- basically, the committee recommended for deferred, so deferred and we're archiving it.

CHAIRMAN KING: Okay. We're going to start with Andrea this time.

MS. CAROE: Yes.

MS. GOLDBURG: Yes.

MR. LACY: Yes.

MR. RIDDLE: Yes.

CHAIRMAN KING: Yes.

MS. CAUGHLAN: Yes.

MR. O'RELL: Yes.

MS. OSTIGUY: Yes.

MS. DIETZ: Yes.

MR. CARTER: Yes.

MR. SIEMON: Yes.

MS. KOENIG: Yes.

MS. OSTIGUY: Last one, for crops --

UNIDENTIFIED FEMALE VOICE: What's the vote, please?

MS. OSTIGUY: 13 yes, zero no, no abstentions, 1 absence.

MS. CAUGHLAN: No, it's 12, 1, and 1. I mean --

CHAIRMAN KING: No, 13 --

MS. CAUGHLAN: You're right. I'm sorry.
MS. OSTIGUY: 13 yeses, zero no's, 1 absence, no abstentions.
(Pause.)
MS. DIETZ: Come on, girlfriend (inaudible).
(Laughter.)
UNIDENTIFIED FEMALE VOICE: Oh, but our table's not ergonomically correct.
CHAIRMAN KING: Pressure. Pressure.
(Laughter.)
MS. OSTIGUY: Okay, the committee considered the information that was provided yesterday during public testimony, and also the public comments that were received on hydrogen chloride's use for de-linting cotton seed.
A motion was made -- I believe by Rose, I don't remember who seconded it now -- to add hydrogen chloride to the National List, with the annotation "for de-linting cotton seed for planting."
The vote was 4 yes, zero no, zero abstentions.
MS. DIETZ: I just want to make sure that you incorporated my changes into the original document, that I asked.
MS. OSTIGUY: Yes, it'll be going in. Any other comments?
MR. SIEMON: This hydrogen chloride is the same thing that was with the soy product; right?
MS. DIETZ: No.

MS. OSTIGUY: No.

MR. SIEMON: No?

MS. OSTIGUY: Are you thinking of hexane?

MR. SIEMON: Well, okay --

MR. RIDDLE: It's one of the materials, yeah.

UNIDENTIFIED FEMALE VOICE: It's one of the two materials in the extraction process, yes.

MR. SIEMON: That's what I mean.

MR. RIDDLE: After the hexane, then the other steps. Yeah, you're right.

CHAIRMAN KING: Okay.

(Pause.)

MS. OSTIGUY: Is there a motion?

MR. RIDDLE: I move approval, with the annotation as stated by the committee.

UNIDENTIFIED FEMALE VOICE: I'll second it.

UNIDENTIFIED FEMALE VOICE: Can you read the annotation again, please.

MS. OSTIGUY: "For de-linting cotton seed for planting."

CHAIRMAN KING: Okay, it's been moved and seconded, and we're voting on hydrogen chloride, with the following annotation: "for de-linting cotton seed for planting." So we'll start with George.
MR. SIEMON: Yeah -- yes.

UNIDENTIFIED MALE VOICE: Was that two votes or-

(Laughter.)

MR. SIEMON: Well, I'm trying.

UNIDENTIFIED MALE VOICE: You're here in Chicago; you never know.

(Laughter.)

UNIDENTIFIED MALE VOICE: Yes.
UNIDENTIFIED MALE VOICE: Yes.
CHAIRMAN KING: Yes.
UNIDENTIFIED FEMALE VOICE: Yes.
UNIDENTIFIED FEMALE VOICE: Yes.
UNIDENTIFIED MALE VOICE: Yes.
MS. OSTIGUY: Yes.
UNIDENTIFIED MALE VOICE: Yes.
UNIDENTIFIED FEMALE VOICE: Yes.
UNIDENTIFIED FEMALE VOICE: Yes.
UNIDENTIFIED FEMALE VOICE: Yes.
UNIDENTIFIED FEMALE VOICE: And yes.
MS. DIETZ: I just want to commend that process on that material, because that was one that -- I think we remember it was originally a "No," we got public comment, and thank the committee for taking that back, that was --

MR. RIDDLE: And what about your comments on

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the language, that's just between -- the rest of us don't need to review that?

MS. OSTIGUY: Yeah, we've done that. GRAS.

There was just comments --

UNIDENTIFIED MALE VOICE: Not now, you voted on it.

MR. RIDDLE: I know, we already voted, and

(inaudible) --

UNIDENTIFIED FEMALE VOICE: I trust that

(inaudible).

MR. RIDDLE: Okay.

CHAIRMAN KING: Okay.

MR. RIDDLE: Yeah.

CHAIRMAN KING: Is there anything else from you?

MS. OSTIGUY: No.

CHAIRMAN KING: Okay. That concludes crop committee materials. And next is livestock.

MS. OSTIGUY: I get to do more.

CHAIRMAN KING: Yeah. It's just a little marathon, Nancy.

MS. OSTIGUY: Yes. Yes. Well, yeah, when you let Kevin go first, I was wondering if I'd lose my voice.

The first one on the list is moxidectin. I have a couple of changes on the evaluation criteria, I have no idea how the errors came up, but they -- I made them.
I can say is that they happen on occasion.

On Category 1, Number 3, the documentation has that the half-life of moxidectin is up to 6 months;
actually the citation in the TAP, on Pages 5 and 6, is 2 months. So that shows up again in Question 8, Category 1, and Question 9, Category 1.

In addition -- well, no, it does have "binding tightly to the soil," so it -- it basically doesn't go anywhere.

The committee, when evaluating this material, found that it was synthetic and voted to add the -- and in the vote to add the National List, the vote was 5 yes, zero no, zero abstain, with the annotation: "control of internal parasites only." Comments.

(No audible response.)

MS. OSTIGUY: Motion. The annotation, again, was "control of internal parasites only."

CHAIRMAN KING: Is there a motion to consider?

MS. GOLDBURG: I so move.

CHAIRMAN KING: It's been moved by Becky.

Second?

MS. COOPER: Second.

CHAIRMAN KING: Seconded by Ann.

UNIDENTIFIED FEMALE VOICE: And the annotation again --? I just want to make sure (inaudible).
MS. OSTIGUY: "Control of internal parasites only."

CHAIRMAN KING: Dave, you're on the hot seat.

MR. CARTER: Okay. And starting off let me just say, this one causes me more trouble than any, just --

CHAIRMAN KING: Oh, this discussion.

MR. CARTER: -- the whole parasiticide -- no, this is about -- this is just explaining my vote, but --

The fact that ivermectin is allowed kind of shades everything else, so I will vote Yes.

MR. RIDDLE: Yeah, I'm torn on this one too and, yeah, share Dave's concern that ivermectin is on the list.

From all that I've read, gathered, this is a more environmentally sound substance than ivermectin, but I do still have some concerns about its environmental impacts and also just the cultural practices that we really base organic livestock production on, I don't think we've done near enough to prevent parasites, and I don't -- that hasn't been discussed at length in the TAP, I don't think.

And, yeah, I've come to the very firm conclusion that I'm going to abstain on this.

(Laughter.)

MR. RIDDLE: I'm not going to oppose it, but I just can't bring myself to support it.

CHAIRMAN KING: Well, I'd like to thank Jim for R & S TYPING SERVICE - (903) 725-3343

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having the longest recorded in history (inaudible) --

MR. RIDDLE: (Laughs) To abstain.

CHAIRMAN KING: Yeah.

MR. RIDDLE: Non-vote.

CHAIRMAN KING: Yeah, non-vote, exactly.

UNIDENTIFIED FEMALE VOICE: It's a vote with the majority.

UNIDENTIFIED FEMALE VOICE: Yeah.

CHAIRMAN KING: Okay, I'll vote no.

MR. RIDDLE: We're not voting yet, are we?

CHAIRMAN KING: Yes.

MR. RIDDLE: Oh, that was the vote. I abstained. I thought we were just still discussing.

MR. CARTER: It seemed like it.

(Laughter.)

CHAIRMAN KING: If someone wants to move to reconsider, that's fine.

MR. RIDDLE: No, no. I abstained.

CHAIRMAN KING: All right. So: no.

MS. DIETZ: Kim, yes.

MS. OSTIGUY: Yes.

UNIDENTIFIED MALE VOICE: Yes.

UNIDENTIFIED FEMALE VOICE: Yes.

UNIDENTIFIED MALE VOICE: Yes.

UNIDENTIFIED FEMALE VOICE: Yes.
UNIDENTIFIED FEMALE VOICE: Yes.
UNIDENTIFIED FEMALE VOICE: Yes.
UNIDENTIFIED FEMALE VOICE: Yes.
UNIDENTIFIED MALE VOICE: Yes.
UNIDENTIFIED FEMALE VOICE: 11 yes, 1 abstention, 1 absence, and 1 no.

MS. OSTIGUY: Okay. Last one is proteinated chelates, and there was some additional discussion this morning, when I was busy with the crops committee, so I do not know what happened with this one.

MR. SIEMON: We added an annotation, but otherwise everything remains the same.

MS. OSTIGUY: Well, I don't even know what the annotation is, so somebody's got to do this --

MR. SIEMON: I can tell you what the annotation was: protein source must be of mammalian or poultry --

UNIDENTIFIED FEMALE VOICE: I can't hear a word you're saying.

MR. SIEMON: Okay, Nancy's going to lead us through this, but we did add an annotation today that said: the protein source must not be of mammalian or poultry origin.

MS. OSTIGUY: Okay, I can finish up that. Okay, what the committee recommended was that chelated minerals be added to the list, that it is a synthetic, with the...
annotation: "Protein sources must not be of mammalian
or" --
(Pause.)
UNIDENTIFIED MALE VOICE: -- "poultry origin."
MS. OSTIGUY: -- "poultry origin." The vote --
George, do you know what the vote was? -- because I wasn't
there.

MR. SIEMON: It was 4-0, in favor.

MS. OSTIGUY: And the committee vote was 4 yes,
zero no, zero abstentions. Discussion? Kim.

MR. SIEMON: It was 5-0, excuse me.

MS. OSTIGUY: Oh, 5-0?

MR. SIEMON: I'm sorry. We didn't -- we had 2,
then 3. It was 5-0, committee.

MS. DIETZ: My question, as the same as
yesterday: is this material commercially available for
all farmers with this restrictive of an annotation? -- and
I'm not a livestock expert, but -- I mean, I assume you're
having to supply a bunch of farmers or livestock people
with this material, and is it commercially available, do
we know that for sure, with this restrictive of an
annotation?

MR. SIEMON: We had the same concern, but we had
a document from someone who did research and said it was,
so it's not like two -- two sources, but we had one
written source that there was, so -- it's a good
challenged.

MS. OSTIGUY: Jim first, and then Andrea.

MR. RIDDLE: And it --

MS. DIETZ: Nationwide? I mean, I hate to --

MR. RIDDLE: Well, it -- yeah, and from the
information that was provided, the animal-origin sources
would be very rare, that's not what's typically out there,
so what is available is the vegetative sources of protein,
but for cautionary purposes we are saying that the animal-
origin sources would not be allowed. So it's not like
we're taking something away.

MS. OSTIGUY: Andrea.

MS. CAROE: My question is: Is it easily
identifiable, which materials don't contain --, I mean is
that information that the vendor of the product will have,
or -- I mean, you're saying that the protein generally
doesn't come from them, but is it all -- I mean is it --
does anybody know where that is and where that isn't? I
mean, if you can't identify -- if you can't justify that
you're within the restriction, then you can't use it
because you --

MS. CAUGHLAN: I don't (inaudible).

MS. CAROE: I'm just asking. I could see that
that might be a problem, for people to actually get the

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documentation that verifies that they are working within that restriction.

MR. RIDDLE: Well, I'd just respond, you know, that that's always a problem with any material, just -- making sure that it is from allowed substrates or allowed ingredients. So I don't see the burden of proof here any different than for other synthetic substances that are on the list currently.

UNIDENTIFIED FEMALE VOICE: With annotations.

MR. RIDDLE: Yeah, with annotations.

MS. CAROE: With annotations. But that doesn't always mean that this is going to be -- I mean, just because we've always done it before, I don't know if it's --

MR. RIDDLE: Well, yes --

MS. CAROE: Especially --

MR. RIDDLE: -- from -- the information from the petitioner is that yes, that information is available. Whether that is available -- or the information is readily available for everyone in the industry, I really can't answer that, but it is for the petitioner, and therefore, once it becomes an annotation, it is something which can be complied with.

MS. CAROE: The reason that I'm asking is because if you're saying it's rare that it would be from...
those sources and it's difficult to find, how much are we
gaining by putting people through that extra rigorous
step, to -- do you see what I'm saying?

MR. RIDDLE: Yeah. Well, it's a precautionary

--

UNIDENTIFIED MALE VOICE: Yeah.

MS. OSTIGUY: Kim.

MS. DIETZ: I'm going to wait (inaudible).

MS. OSTIGUY: Dave.

MR. CARTER: On this particular issue, yeah, I
think the precautionary principle is prudent for us to
follow. And I think that on the area of animal-source
products in any feed or feed supplement is going to be
more -- there's more and more pressure on FDA and the like
to start getting into that and to go into things that
ranchers and farmers have normally assumed were not
sourced from animal sources and to begin looking at that,
and so I think we need to establish where we're going to --
where we're going to draw the line on that, because -- I
think from the standpoint of the integrity of the system,
and particularly, the organic consumer out there expects
that we are not going to be using anything from animal
sources in feed.

MR. SIEMON: I hope -- I don't think it's been
said already, but I just want to make sure everybody's
clear that these -- these materials are actually presently allowed, and we -- we thought we ought to review them to see, because of the FDA, so we went through them, to see, and we're actually continuing to allow them except now we're offering this annotation. It's a little bit different, but it's already allowed.

MS. OSTIGUY: Kim.

MS. DIETZ: I just sense a lot of restlessness in the audience when we gave that annotation, and I am really uncomfortable voting on an annotation on a material we already allow unless I'm really confident that that's available to everybody. So if it's currently allowed, then -- I'm just not convinced that that -- that's true, and I -- we had people coming up here, we had everybody chit-chatting, and I just am not comfortable knowing that that's really the proper annotation, with that much restlessness, and without hearing the public comment on it, so I don't -- I don't understand that. There's not a motion on the table yet, obviously, so if someone wants to make a motion --

MR. RIDDLE: Yeah. Well, I move that proteinated chelates be placed on the list, with the annotation: "Protein sources must not be of mammalian or poultry origin."

MR. CARTER: I'll second it.
MR. SIEMON: Is that the right motion -- just so we're really clear -- since it's already allowed through the one --

UNIDENTIFIED FEMALE VOICE: I think you're just adding an annotation.

CHAIRMAN KING: So the specific motion is only to add the annotation?

MR. RIDDLE: Well, no, it's to -- it would be to add it to the list under the feed supplements section.

CHAIRMAN KING: Okay.

MR. SIEMON: Yeah, because it would be added, to be annotated.

MS. KOENIG: I guess I'm -- I'm confused. So you're saying that we voted on -- this was one that we voted on prior? No.

MR. RIDDLE: No, no.

CHAIRMAN KING: No, no. That's what I was clarifying.

MS. KOENIG: So why are you saying that it's already on the List, then?

MR. SIEMON: Because it's an FDA vitamin and mineral allowed under the Rule. It's already (inaudible).

UNIDENTIFIED FEMALE VOICE: It's implied, you say, by -- because it's under a category that's --

MR. SIEMON: Yeah. A broad category. So my
interpretation of this vote is really about adding the
annotation or not. If it fails, it's still allowed, it's
just not allowed -- I mean, we need to clarify it, because
we could get in trouble here.

CHAIRMAN KING: That's right.

UNIDENTIFIED FEMALE VOICE: Well, what --

MR. SIEMON: We should vote on the annotation,
in my opinion, so we don't get in any confusion here that
a "No" vote means it's not allowed at all.

MS. DIETZ: Right. If I really had the right
intention, I would have made the motion without the
annotation, we'd have voted on it. So right now we have a
motion on the table, with the annotation.

MR. SIEMON: Okay. So -- then if this gets
voted down, then we'll have another vote going the other
way, no problem.

CHAIRMAN KING: So let's review the motion, once
again, please. Jim, if you could.

MR. RIDDLE: Yeah. Well, the motion would be to
place it on the National List, with the annotation:
"Protein sources must not be of mammalian or poultry
origin."

UNIDENTIFIED FEMALE VOICE: And who was the
seconded vote?

UNIDENTIFIED MALE VOICE: Dave.
MR. CARTER: Second.

MR. SIEMON: Maybe before we vote: Is there anybody in the audience that knows anything about the availability? -- because I hear a lot of cautions here about non- -- according to what we're doing here. Dave?

MR. ENGEL: Thank you for asking. I don't know anything about availability --

MR. RIDDLE: Identify --

MR. ENGEL: Oh. I'm David Engel, dairy farmer from Wisconsin.

I don't know anything about availability, but I want to repeat the question that I asked the committee earlier, in maybe a little bit different context.

Chelated proteins are so prevalent in the industry that I -- and I asked you specifically, when you quoted, Jim, Mr. Walker as a proof that there was availability of non-animal-sourced chelated proteins, that it was -- you could get them. I don't know. You guys don't know. Be really careful with this.

UNIDENTIFIED FEMALE VOICE: Right.

CHAIRMAN KING: Okay.

MR. SIEMON: Okay.

UNIDENTIFIED FEMALE VOICE: Kelli.

CHAIRMAN KING: Kelli.

MR. SIEMON: I would have called that an opinion
versus information, myself, but --

MS. SHEA: Kelli Shea. Thanks for asking for input.

Because I don't believe we really addressed varying sources of this product, I really think it's a good idea to look at the annotation like you are, but I don't believe you have the information to do it.

Because this product is currently allowed for use, did you consider deferring the vote until you could get additional information on whether or not it is available in the preferred source you're discussing? It would not cause harm to farmers because it currently is available, you would be able to do due diligence, get the information you need, to make the wise choice.

UNIDENTIFIED FEMALE VOICE: Time to vote?

CHAIRMAN KING: Is there a motion to strike? There's a motion on the table, there's a motion on the table that's been seconded.

MR. RIDDLE: Well, yeah, I just want to respond to those comments, because, you know, I think there's no way we want to be allowing animal-origin supplements here anyway. I mean, this -- this petition has been before us for quite a long time, and I think, in an abundance of caution, in today's environment, we do have a reason to move forward.
So I call the question and go to a vote.

UNIDENTIFIED FEMALE VOICE: It starts with you.

MR. RIDDLE: That's right. I vote yes.

UNIDENTIFIED FEMALE VOICE: Who did the second on this?

MR. CARTER: I did.

CHAIRMAN KING: Dave Carter did.

UNIDENTIFIED FEMALE VOICE: All right. Okay, go ahead.

CHAIRMAN KING: I abstain.

UNIDENTIFIED FEMALE VOICE: No.

UNIDENTIFIED FEMALE VOICE: No.

UNIDENTIFIED MALE VOICE: No.

MS. OSTIGUY: Yes.

UNIDENTIFIED MALE VOICE: No.

UNIDENTIFIED FEMALE VOICE: Yes.

UNIDENTIFIED FEMALE VOICE: Yes.

UNIDENTIFIED FEMALE VOICE: Okay, wait, wait one second.

MS. COOPER: Yes.

UNIDENTIFIED FEMALE VOICE: Wait one second, please. I've got to go up. So Ann, yes. Rose?

MS. KOENIG: Yes.

UNIDENTIFIED FEMALE VOICE: Yes.

UNIDENTIFIED FEMALE VOICE: Andrea?
MS. CAROE: No.
UNIDENTIFIED FEMALE VOICE: George?
MR. SIEMON: Yes.

UNIDENTIFIED FEMALE VOICE: Dave?
MR. COOPER: Yes.
UNIDENTIFIED FEMALE VOICE: 7 yeses, 5 no's, 1 abstention.

MR. SIEMON: Chair, what's the vote required?
CHAIRMAN KING: Two-thirds, I believe, or --
UNIDENTIFIED FEMALE VOICE: It doesn't pass, because it's 8 to 5. Abstention goes majority.
CHAIRMAN KING: Let me pull out the calculator. We need a two-thirds.
UNIDENTIFIED MALE VOICE: Two-thirds of 13.
CHAIRMAN KING: Yeah. Motion fails. Seven comes out at 53 percent. We had 7 yeses.
MR. RIDDLE: And the abstain goes with the majority.
CHAIRMAN KING: Abstain does go with the majority.
MR. SIEMON: Yeah.
UNIDENTIFIED FEMALE VOICE: Yes, it does.
UNIDENTIFIED MALE VOICE: Did you count that, eight?
CHAIRMAN KING: No, I did not.
UNIDENTIFIED MALE VOICE: Yeah, it's still 62 percent.

CHAIRMAN KING: Yeah, still not enough. We needed nine.

UNIDENTIFIED FEMALE VOICE: Motion fails.

MR. SIEMON: Okay, is there another motion?

MR. RIDDLE: Well, I move to --

UNIDENTIFIED FEMALE VOICE: (Inaudible).

CHAIRMAN KING: Hold on.

UNIDENTIFIED FEMALE VOICE: Can you summarize what's going on, please?

CHAIRMAN KING: The votes were -- it was 8 to 5-

UNIDENTIFIED FEMALE VOICE: It was 7 yeses --

CHAIRMAN KING: 1 abstention. Go ahead.

UNIDENTIFIED FEMALE VOICE: 7 yeses, 5 no's, 1 abstention, 1 absence.

UNIDENTIFIED FEMALE VOICE: Okay.

CHAIRMAN KING: The motion does not carry.

MR. SIEMON: And I'm looking for a new motion.

MS. KOENIG: I'll make a motion to defer the material.

MR. CARTER: I will second it.

CHAIRMAN KING: Rose has made the motion to defer the material, Dave Carter has seconded. Discussion.

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UNIDENTIFIED FEMALE VOICE: Are we going to defer based on request for more information?

UNIDENTIFIED FEMALE VOICE: Well, that's what we're going to discuss.

UNIDENTIFIED FEMALE VOICE: Motion to defer, second by Dave.

CHAIRMAN KING: Correct. Is there discussion?

Rose.

MS. DIETZ: Yeah. I based the deferral on gathering information on the commercial availability of plant -- non-mammalian sources of -- of the protein, proteinated chelates.

CHAIRMAN KING: So Rose is specifically saying the deferral is to gather more information concerning the sources indicated.

(Pause.)

CHAIRMAN KING: Is there discussion?

MR. RIDDLE: Yeah. So who's going to do this gathering, and how -- I mean, this is not to send it back to the TAP contractor, correct, this is for the Board to solicit the information?

MR. SIEMON: (Inaudible) two confirmations, I guess.

MS. DIETZ: If we -- this is just going off the top of my head, but if we go back through and put this on

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the recommendation sheet for the next meeting, that the motion was to defer based on information on commercial availability, then we see what kind of public comments that we get, and we could use that information.

So I urge the community and the livestock industry to comment and to find out whether or not you have commercial availability sources based on that original annotation, and let's be specific in the document from the livestock committee.

CHAIRMAN KING: Rose.

MS. KOENIG: But I would also urge the committee to do just minimal research (inaudible), you had one source, you said, try to get, you know, that three sources, just in case public comment doesn't come in, so we can proceed.

CHAIRMAN KING: Are you agreeing to do minimal research, Jim?

MR. RIDDLE: No, I'm just agreeing with what she was saying.

CHAIRMAN KING: I'm just kidding.

(Laughter.)

UNIDENTIFIED MALE VOICE: (Inaudible.)

UNIDENTIFIED FEMALE VOICE: Okay, I'm ready.

File the motion.

MR. SIEMON: We'll seek public comment.
CHAIRMAN KING: Okay. Question's been called. We begin with me. The motion is to defer. "Yes."

UNIDENTIFIED FEMALE VOICE: Yes.
MS. OSTIGUY: Yes.
UNIDENTIFIED MALE VOICE: Yes.
UNIDENTIFIED FEMALE VOICE: Yes.
UNIDENTIFIED MALE VOICE: Yes.
UNIDENTIFIED FEMALE VOICE: Yes.
UNIDENTIFIED FEMALE VOICE: Yes.
UNIDENTIFIED FEMALE VOICE: Yes.
UNIDENTIFIED MALE VOICE: Yes.
MR. CARTER: Yes.
UNIDENTIFIED MALE VOICE: Yes.
UNIDENTIFIED FEMALE VOICE: 13 yeses, no no's, 1 absence.
MR. SIEMON: Mark, it was the committee's will to make a statement about the antibiotic directives, so is this the time to bring that up? -- I was told.
CHAIRMAN KING: Sure.
UNIDENTIFIED FEMALE VOICE: It is?
MR. SIEMON: I don't know.
UNIDENTIFIED FEMALE VOICE: (Inaudible) voting?
UNIDENTIFIED FEMALE VOICE: On the recommendations.
MR. SIEMON: I'm --

UNIDENTIFIED FEMALE VOICE: Are we on committee reports, or where are we at?

UNIDENTIFIED MALE VOICE: Yeah, it's still committee reports.

CHAIRMAN KING: We're on livestock.

MR. SIEMON: Okay.

UNIDENTIFIED FEMALE VOICE: Is this it for materials?

CHAIRMAN KING: No, no, no. We still have more materials; we're just finishing up livestock.

MR. SIEMON: This just a resolution the committee put forward --

UNIDENTIFIED MALE VOICE: Actually, we're done with materials.

UNIDENTIFIED MALE VOICE: We're done with materials.

CHAIRMAN KING: Oh, we are, that's right.

UNIDENTIFIED MALE VOICE: That's right, we're done with materials.

UNIDENTIFIED FEMALE VOICE: Unless there's a policy material.

CHAIRMAN KING: A policy material?

(Laughter.)

CHAIRMAN KING: Dave, do you --
MR. SIEMON: Okay, the committee put forth a resolution, a simple paragraph, to revisit this, which I'll be glad to read, and then a series of background, why they felt this was proper to send this message forth. So I'll read the paragraph; even though you all have it, I'll read it for the audience.

"The National Organic Standards Board respectfully requests that USDA National Organic Program withdraw the 41304 Antibiotic Guidance Statement and work collaboratively with the NOSB to develop policy guidance with is consistent with the Livestock Healthcare Practice standard, statements made by the NOP in their preamble, "NOSB Recommendations, Consumer Expectations, and the Principles of Organic Livestock Production."

MS. DIETZ: A question on process. I haven't seen this document --

MR. SIEMON: Yeah.

MS. DIETZ: -- and you're asking the Board to vote on something that we've never seen and it's just been put forward in front of us, so -- again, I'm a stickler for giving me time to read (inaudible) --

MR. SIEMON: I agree.

MS. DIETZ: So I can't support it.

MR. SIEMON: That was my concern, about process,
too, but --

MS. DIETZ: Yeah.

MR. SIEMON: -- but it is just a paragraph that we're putting forth, but --

MS. DIETZ: It just goes to -- you know, we're asking the NOP to give us time and -- to look at things and to look at policies and to follow process, and we're not doing it; I just disagree. Not that I disagree with the contents, that I'm aware of [phonetic].

CHAIRMAN KING: So, point of clarity: George, you're just forwarding the paragraph, the resolution, with the statement you just read; correct?

MR. SIEMON: Correct.

CHAIRMAN KING: The rest is background information, supporting information.

MR. SIEMON: Uh-huh.

CHAIRMAN KING: So technically that's what we would be voting on.

MR. SIEMON: I believe that was the committee's vote, uh-huh.

CHAIRMAN KING: Okay. Rose, then Dave.

UNIDENTIFIED FEMALE VOICE: So you're only sending this, you're not sending the whole thing?

MR. SIEMON: Well, we are sending the whole thing, but the -- what we need to vote on is the
resolution, again, because of the time to look at it. Now, we could wait to tomorrow, I guess. I don't know how to deal with this, this just --

MS. KOENIG: Well, I think that the spirit of the intent is good, you know, and I think that there's more than one directive out there. I think it's the role of the Board to look at all of the directives and compose a letter really fully commenting on them, in a constructive way.

So it's not that I'm not -- you know, again, I agree with the spirit of it; I just don't think that this is the process by which we want to communicate and I think it's something that we could handle, you know, perhaps in an executive committee meeting and people could work on the ways to compose a document and then put it forth with more thoughtful ways of addressing the issue.

So my -- again, I -- I'm -- I guess I move to -- to just -- to keep -- the issues are there, and we're all aware of them, but, really, think about the process by which we want to address it.

MR. SIEMON: I don't know if we need a movement -- I mean, a motion, do we need a motion or not, just -- to not --

CHAIRMAN KING: Did you move to consider the resolution?
MR. SIEMON: No, I (inaudible).

CHAIRMAN KING: Rose, are you moving that we consider this an executive committee call?

MS. KOENIG: I'm moving to accept the document as a point of reference for the entire Board, but any action should be taken at a later point, through the executive committee process, to really consider, you know, what -- how we want to deal with the policy directive.

CHAIRMAN KING: Second?

MR. RIDDLE: Could you restate your motion, before I can second it? I'll second it, I think.

MS. KOENIG: All right, let me clarify.

CHAIRMAN KING: Perhaps in ten words or less.

MS. KOENIG: Yeah. I'm asking -- basically, the motion is: to defer the issues to the -- to defer the issues at this meeting and allow the executive committee to process all the policy statements and come up with a format to address the issues.

MS. DIETZ: I'll second that.

CHAIRMAN KING: Does anybody have this motion down? We're going to ask you a third time, Rose. Is the spirit of the motion -- and Nancy, could you say that, I think you've succinctly --

MS. OSTIGUY: Move to defer the motion and send it to the executive committee for consideration.
MS. KOENIG: I'm saying to --

MR. SIEMON: Well, there wasn't a motion that you can defer.

MS. OSTIGUY: Or move the resolution, whatever, the topic, issue.

MR. RIDDLE: As I first understood Rose, what I heard her saying was to -- the Board to vote to accept the committee's resolution and forward it to the executive committee for action.

MS. KOENIG: What I'm saying is that: accept the document --

MR. RIDDLE: Yeah. Okay.

MS. KOENIG: -- we're accepting the submittal of the document, similar to: we accept a task force --

MR. RIDDLE: Right.

MS. KOENIG: -- as an internal document, or as a document --

CHAIRMAN KING: Do you consider this --

MS. KOENIG: -- but it's not a policy, it's not our view on policy.

CHAIRMAN KING: Do you consider this a friendly amendment to your motion?

MS. DIETZ: I don't, as a seconder, I'm going to take back my second on that motion. It's not what I thought, so --
CHAIRMAN KING: The second has been withdrawn. Could we restate the motion. Are you sorry you made the motion?

(Laughter.)

MS. KOENIG: What I'm saying is -- I mean, I think it's --

CHAIRMAN KING: Do you want to withdraw the motion and --

MS. KOENIG: Okay, I'll restate the motion.

MR. SIEMON: Are we saying we want to defer any response to the --

MS. KOENIG: Yeah, it's not --

CHAIRMAN KING: Hold on, hold on. I'm asking, are you restating the motion --

MS. KOENIG: My motion is to -- I guess the motion is for the executive committee to respond to the directives from the NOP and formulate a process and a response based on available information, based on input.

MS. CAUGHLAN: What I heard you say was all of the recent directives.

MS. KOENIG: Yeah, that they need to analyze it-

MS. CAUGHLAN: This does not relate to that --

MS. KOENIG: Exactly.

MS. CAUGHLAN: -- and just now I didn't hear a
MS. KOENIG: I'm saying all directives.

CHAIRMAN KING: Hold on, hold on.

MS. DIETZ: Here was the motion --

CHAIRMAN KING: This is the --

MS. DIETZ: -- for the executive committee to respond to the directives from the NOP and formulate a process and response based on information.

MR. SIEMON: Input, maybe.

MS. DIETZ: Inputting information, which includes this kind of stuff.

CHAIRMAN KING: Goldie, are you proposing a friendly amendment?

MS. CAUGHLAN: I was trying to clarify, and she just clarified.

CHAIRMAN KING: Okay. Is there a second? We have a motion on the table, and the motion reads: for the executive committee to respond to the directives from the National Organic Program and formulate a process and response based upon input information. Is there a second?

UNIDENTIFIED FEMALE VOICE: Based in input information from whom?

CHAIRMAN KING: I'll entertain friendly amendments, but first we need a second to have the actual motion considered. Is there a second?
UNIDENTIFIED MALE VOICE: Rose is the first?
MR. CARTER: I will --
CHAIRMAN KING: Is it a second?
MR. CARTER: No, it's not a second. If that's going to tie, I will make a --
CHAIRMAN KING: Motion fails.
MR. CARTER: I will make a new motion: that we direct the policy development committee to bring forward to the executive committee a statement expressing the sense of the Board on the directives that have been issued by NOP.
MS. KOENIG: I'll second that.

(Laughter.)
CHAIRMAN KING: Dave. Remember, she's typing this in, so --
MS. DIETZ: Yeah, I'm fast, but I ain't that fast.
CHAIRMAN KING: Yeah.
MS. DIETZ: Say that again, please.
MR. CARTER: Okay. That this Board directs the policy development committee to bring forward to the executive committee for consideration a resolution concerning the sense of the NOSB on the policy directives issued by the National Organic Program.

UNIDENTIFIED FEMALE VOICE: Did you get a

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second?

CHAIRMAN KING: Yeah, seconded by Rose. So it's been moved and seconded that --

MS. DIETZ: That the policy committee -- direct the policy committee to bring forth to the executive committee for consideration a resolution of policy directive issues by the NOSB.

CHAIRMAN KING: Issued by the NOP.

MR. CARTER: Let's do -- bring forward to the executive committee a resolution concerning the sense of the NOSB --

MR. SIEMON: Sense?

MR. CARTER: -- regarding the policy directives issued by the National Organic Program.

(Pause.)

CHAIRMAN KING: Do you want to read it back.

MS. DIETZ: Okay, I'll try it again. Direct the policy committee to bring forth to the executive committee for consideration a resolution concerning the sense of the NOSB regarding the NOP policy directives. I hope that's good enough.

MR. SIEMON: Is the word "sense" (inaudible)?

CHAIRMAN KING: Are you okay with that?

MR. RIDDLE: Yeah, sense of the Board.

MR. RIDDLE: Yeah. Dave, you know, this resolution that the livestock committee has brought forward was passed, I believe unanimously, by the committee, and I'm just wondering if your motion would account for or allow this resolution to be fed into the policy committee's considerations.

MR. CARTER: Absolutely. No, I think that we would look at this -- the policy development -- I mean, as a point of information, the policy development committee this morning began to draft up a statement along this line but we didn't have all of our committees there so we were hesitant to bring it forward until we at least got it out, because three of our members were in other meetings.

So I think this resolution, as well as the one that we were working on, we would bring together to address the sequence of directives that were issued over the last couple of weeks.

MR. RIDDLE: Okay.

CHAIRMAN KING: Goldie.

MS. CAUGHLAN: Point of information. So the executive is going to put this together and, to use the USDA word, vet it (inaudible) rest of it to the Board?

MR. CARTER: My thought is that the policy committee would bring this forward to the executive committee. The executive committee is the only committee
that is authorized to act in the absence of the full board, so the executive committee, you know, can act on it. What I thought is for the executive committee -- the role of the policy committee is to do some of that detail work on the policy issues and bring them forward, then, to the appropriate committees or to the full board for consideration. In this instance it would come to the executive committee.

MS. DIETZ: Dave has made the motion. We don't have a second.

MR. RIDDLE: Rose did right away.

MS. KOENIG: I seconded.

MS. DIETZ: I didn't hear that. Okay. That's fine. My only comment, again, is to -- if this board would please give all its members adequate time to review documents and -- so that we make sure we have a very good process and it's consistent.

CHAIRMAN KING: Duly noted, but I think in this case it was practically unavoidable, so I do appreciate the work of the committee. Is there further discussion?

(No audible response.)

CHAIRMAN KING: Hearing none, we'll proceed to vote on the motion, beginning with --

MR. CARTER: We don't need a roll call on this, this could be --
CHAIRMAN KING:  All those in favor signify by saying aye.

BOARD MEMBERS:  Aye.


(No audible response.)

CHAIRMAN KING:  Motion carries.  Okay, I think that's everything for livestock.  Is that correct?

MR. SIEMON:  Yeah.

CHAIRMAN KING:  Dave, you're still on the hot seat, policy development committee.  Is there anything to-

MR. CARTER:  Oh, gosh.  Yes.  Policy development committee this morning met and reviewed two issues.  The first one are the amendments to the Board policy manual.  Two areas of change were made and posted for comment, that being, specifically, the confidentiality requirements in the Board policy manual; and the second one, to address the change in the materials approvals forms that we've been used, to incorporate those and substitute them for the ones that we previously had in the policy manual.

So I would move that we amend the policy manual as recommended by the policy committee.

MR. RIDDLE:  I'll second.

MS. OSTIGUY:  Second.
CHAIRMAN KING: We've got a tie second. We'll take Goldie.

MS. CAUGHLAN: I think it was Nancy.

CHAIRMAN KING: Oh, I'm sorry, Nancy. Moved to Dave, seconded. Okay, it's been moved and seconded that we accept the proposed amendments to the Board policy manual. Is there discussion?

MR. RIDDLE: Yeah, I do want to just point out that Dave said there's just the two changes, but actually there's a few more than that, there's deleting the whole peer-review section, there's changing the name of the processing committee to "handling," and there's a whole bunch of things that were pending because we didn't deal with any non-material issues in October, so just to be clear, but it's all there in your meeting book, so it's -- it's pretty comprehensive changes.

CHAIRMAN KING: And just a point of information, it's my understanding this has been on the -- posted on the web for quite some time, so --

MR. CARTER: It's not only been posted on the web, it's been color-coordinated on the web.

UNIDENTIFIED FEMALE VOICE: Yeah, it has.

CHAIRMAN KING: Yes. Yes. The most colorful document.

MR. CARTER: Yes, sir.
UNIDENTIFIED FEMALE VOICE: Call the question.

CHAIRMAN KING: The question's been called. All those in favor of accepting the proposed amendments signify by saying aye.

BOARD MEMBERS: Aye.

CHAIRMAN KING: Opposed, same sign.

(No audible response.)

CHAIRMAN KING: Motion carries.

MR. RIDDLE: Yeah, and it just -- I'll follow through with sending a cleaned-up copy to the NOP, that actually deletes those green things and adds the yellow things, as they should be, and moves the colors and saves them for another day.

(Laughter.)

CHAIRMAN KING: It's a colorful comment.

(Laughter.)

MR. CARTER: Okay, the second item is the compatibility with organic production and handling, and before we go into the consideration of this formally, I just want to recognize that Jim particularly has done an incredible amount of work on this, he has carried 95 percent of the workload on this, including developing 22- and 23-page drafts of material with background, and I want to acknowledge that.

This was posted. There were six public comments.

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that were received. All of the public comments recommended that we drop from there Section M, which read "Does the substance facilitate the development of new organic products?", so the policy development committee has recommended, then, that we move forward the statement of "compatibility with organic production and handling," with the deletion of Section M, and I would so move.

MR. SIEMON: I'd second.

CHAIRMAN KING: Moved by Dave, seconded by George.

MR. RIDDLE: And the revised version was handed out yesterday --

UNIDENTIFIED MALE VOICE: Yes, draft 5.

MR. RIDDLE: Right, draft 5.

CHAIRMAN KING: Okay. So it's been moved and seconded that we accept the report, omitting Section M; right?

UNIDENTIFIED MALE VOICE: Well, it's not to accept the report, it's a recommendation.

MR. CARTER: Yeah, it's a recommendation.

CHAIRMAN KING: Okay. Discussion?

MS. KOENIG: I just had kind of a question. This is on the OFPA criterias that we use in the materials process, so I was just wondering if there -- do you have any ideas of how we might be able to incorporate these
concepts into that, either as an appendix or -- I mean, because we're voting on it here today and kind of gone through this process, but how do we translate that to those sheets or get to that information? Kim?

MS. DIETZ: I think that when -- at least originally, when we were drafting this document, we said that it would be used as a guidance document in the material review process, under compatibility, and -- so that was my understanding of where this would be used, and I think -- and that's why we all supported it, and we've been using it in handling, specifically annotating what sections, so --

MS. KOENIG: So you're saying -- so just keep it in the Board policy manual, with the --

MS. DIETZ: Yes, as a guidance document.

MS. KOENIG: Okay, that's just --

CHAIRMAN KING: Jim and Dave.

MR. RIDDLE: Yeah, and that's one thing I was going to suggest, if this passes, that I'll add it to the version of the Board policy manual that I submit, and then it also should be provided to TAP contractor and reviewers so that they have it handy, and then committees should use it when they -- questions come up about compatibility.

CHAIRMAN KING: Okay.

MS. KOENIG: So I guess -- how would we notify --

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- or do you want the materials chair to notify the -- I mean, do we have -- you know, we have to somehow move to get that -- not a motion, but how do you see --

MR. RIDDLE: Uh-huh, take action.

MS. KOENIG: Who do you want to get it to NOP to make sure that --

CHAIRMAN KING: Is there --

MR. RIDDLE: I think the offer from the materials chair would be --

MS. KOENIG: Okay, I'll do it.

MR. RIDDLE: I remember when they testified in October it was a question they had --

MS. KOENIG: Right.

MR. RIDDLE: -- "What do you mean by compatibility?"

MS. KOENIG: Okay, I'll --

CHAIRMAN KING: Let's limit discussion to the actual motion to accept the recommendation. Is there further discussion?

(No audible response.)

CHAIRMAN KING: No.

MR. SIEMON: Call the question.

CHAIRMAN KING: The question's been called.

Voting on the recommendation, compatibility with organic production and handling. All those in favor signify by

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saying aye.

BOARD MEMBERS: Aye.


(No audible response.)

CHAIRMAN KING: Motion carries.

MR. CARTER: That's all for policy.

CHAIRMAN KING: Okay. All right.

UNIDENTIFIED MALE VOICE: And then the 606 Task Force --

CHAIRMAN KING: Yeah, we'll do -- I was going to do Andrea real quick, and then we'll come back.

MR. SIEMON: That's fine.

CHAIRMAN KING: Andrea, I think you had a quick item that --

MS. CAROE: Yes. We have draft 8 of the compliance procedures for minor non-compliance, and it's a vote to accept that guidance, and I put that in that -- in that frame because this is a guidance, this is educational information for certifiers, okay, it's --

MR. SIEMON: And that's not in here, is it, not in --

MS. CAROE: No. It was handed out yesterday. Right?

MR. RIDDLE: Yes.

CHAIRMAN KING: Yes.
MR. RIDDLE: Yeah, and there have been no changes to that version that was handed out.

MS. CAROE: There's been no changes from that version, and that version had very few changes from draft 7, which has been up on the web. Received one public comment, and there were -- those few changes that were made were based on the public comment.

MR. RIDDLE: So I move the approval --

MR. SIEMON: I second.

MR. RIDDLE: -- of draft 8, I guess it is.

MS. CAROE: Draft 8.

UNIDENTIFIED MALE VOICE: Hard work.

CHAIRMAN KING: Moved by Jim, seconded by George, I believe.

MR. SIEMON: Yes.

CHAIRMAN KING: Okay. Is there discussion?

(No audible response.)

CHAIRMAN KING: Hearing none, we'll proceed to vote. All those in favor signify by saying aye.

BOARD MEMBERS: Aye.

CHAIRMAN KING: Opposed, same sign.

(No audible response.)

CHAIRMAN KING: Motion carries.

MS. CAROE: Just shows you how sexy a certification is [phonetic].
CHAIRMAN KING: Actually, you get the ribbon for most efficient today, Andrea.

(Laughter.)

CHAIRMAN KING: Jim, I believe you have a document from the 606 Task Force.

MR. RIDDLE: Yeah. Well, I made the presentation this morning, there was good robust discussion, and some --

UNIDENTIFIED MALE VOICE: (Inaudible.)

(Laughter.)

MR. RIDDLE: -- and there had -- some public comments as well as Board comments, so there was a need for the task force to meet during the breakout session, and we did some changes, which the members there in attendance all approved, and I redrafted and printed it out and got it copied, and it's less than 22 pages, and it's here for your consideration, and I'll just highlight what changes have been made, very quickly.

And it's not page-numbered, I apologize for that, but on the fourth page, there's a change, in the middle of the page, which is the end of the "Background" section, and some information that was previously Recommendation 1a has been moved into "Background Information," where it was a discussion of some previous NOSB recommendations.
UNIDENTIFIED FEMALE VOICE: What? I'm lost.

MR. RIDDLE: Okay. The fourth page, you see where it says Recommendation 1a?

UNIDENTIFIED FEMALE VOICE: Yeah.

MR. RIDDLE: The two paragraphs right above that used to be in 1a, in a former life; now they have been downgraded to "Background Information," because they are, really, historical. So they're not part of our new recommendation.

UNIDENTIFIED FEMALE VOICE: And that is fair [phonetic].

MR. RIDDLE: Okay. Then in -- 1a is what used to be 1b, but it hasn't changed content-wise.

Okay, then on the current 1b, the only change there is on the opening paragraph, second sentence, where it says, "In order to be consistent and transparent with the material review process, each substance currently located in 205.606 shall be reviewed for reclassification by the handling committee to determine if the substance" blah blah blah.

So it's just that -- this is not a re-review, not a TAP review, it's just reclassification, and it's a directive or request to the handling committee.

Okay. Recommendation 2, no changes to the first two paragraphs, and there's a change to the large A
heading paragraph, to read: "For a non-organic agricultural ingredient used in a processed product labeled as 'organic' to be determined as not commercially available, the applicant or certified operator shall submit," and the rest of that remains the same, but just that lead-in to the sentence was something that had been brought up this morning, so that's been added.

And then Item Number 4 was changed from "during the inspection" to "during the certification evaluation," so that gives the certifier flexibility. Some of this may happen at inspection, some of it may happen in the office.

So that was in consideration of comments.

MS. DIETZ: Just one question.

MR. RIDDLE: Yes.

MS. DIETZ: And I'm not sure if this covers it or not, you can tell me if it does, but if -- if -- not during the certification evaluation but in mid-year a material becomes -- it's not available organically -- I mean, we have due diligence to contact the certifier and say, "This is what I'm going to do." Is that acceptable in this, is it covered during --

MR. RIDDLE: Yeah. My understanding would be --

UNIDENTIFIED FEMALE VOICE: It's part of evaluation at that point, but the --

MR. RIDDLE: Yeah.
MS. DIETZ: Okay.

MR. RIDDLE: Evaluation is ongoing on something like --

MS. DIETZ: Okay. All right. It is considered ongoing from a certifier/handler relationship.

MR. RIDDLE: Right.

MS. DIETZ: Okay.

MR. RIDDLE: Whenever there's a change in the organic system plan --

MS. DIETZ: Okay, they have to -- okay.

MR. RIDDLE: -- you have to notify --

MS. DIETZ: Okay. That's fine.

MR. RIDDLE: -- be updating your plan.

Number 5, at the very last line there, we added amongst -- "The written evidence may include ingredient evaluation reports," so it says: "Written evidence may include letters, faxes, e-mail, correspondence, ingredient evaluation reports." That could include like certificate of analysis about an ingredient of whatever. So a little more flexibility.

And then also, at the top of the next page, the words "as applicable" were added, "a minimum of three potential suppliers shall have been contacted."

Okay. Then under B-2, there was 2 -- there was -- previous 2 and 3 have been merged into 1, which now
reads -- I mean, you've got to -- in the context: "The certifier shall validate that the applicant or operator has documented that the ingredient is not commercially available in an organic form by reviewing best available information, listing known source of organic ingredients."

So it really puts the focus on the certifier to validate the operator's documentation.

And then the last change is to add a post-script -- I couldn't think of a better word --

UNIDENTIFIED MALE VOICE: Epilogue.

(Laughter.)

MR. RIDDLE: That is new language, and that is:

"The 606 Task Force acknowledges that this recommendation does not apply to organic seed determinations. The Task Force recommendations that the crop committee and/or policy development committee develop a draft organic seed recommendation which is consistent with this recommendation." So we just don't want any confusion.

And then a similar sentence is added at the very very end, under "Conclusion": "A comparable and consistent recommendation is needed to address organic seed issues."

So those are the changes, trying to incorporate
as many of the comments as we could. So I move its
adoption.

CHAIRMAN KING: Is there a second?

MS. CAROE: I'll second.

CHAIRMAN KING: Moved by Jim, seconded by

MS. OSTIGUY: I don't understand why Recommendation
2a, Number 5, the top of the next page, where you
have added "as applicable," could you explain what this
means.

MR. RIDDLE: Andrea, could you explain what this
means.

MS. CAROE: Sure. This is to accommodate
situations where the ingredient is very specific and two -
- three reasonable sources are available, so it is a
guideline that three is a reasonable or a typical number
but there may be situations that require more or less than
that.

MS. DIETZ: I have to agree with that -- I just
see that as weak, I don't know where -- are the certifiers
able to determine if it's applicable for three potential
suppliers, and -- and that would be after the fact, so --

MS. CAROE: Well, I guess -- I would have to
say: in the negotiation between an applicant and

certifier, that is a discussion that they would have, as
far as the applicant coming to them and explaining the
challenge.

MS. DIETZ: Yeah, I -- I guess, as a handler, if
I have "as applicable" in my handling plan, I can always
make justification as to why I only chose one and try to
get that through, so I -- but at the same time, I can
understand that if there's not three suppliers, at least I
tried for three, you know, and the -- and again, I feel
that the industry has somewhat supported a minimum of
three sources, and so I -- I just -- I think that's too
weak and I'm not sure I support it, but I --

CHAIRMAN KING: Is there a motion?

MS. DIETZ: We have a motion on the table.

MR. RIDDLE: Well, yeah, and that can be amended
to delete if someone --

MR. CARTER: We could strike that.

MR. RIDDLE: Yeah, to strike --

MS. DIETZ: I would like to make a motion to
strike "as applicable" and just put in "minimum of three,"
and at least you can document where you've tried three
different sources and you've only gotten one.

MR. O'RELL: I would second it.

CHAIRMAN KING: So moved to Kim to strike the
words "as applicable," and seconded by Kevin. Discussion
on that motion?
MS. OSTIGUY: Kim and I had, I think, different reasons for questioning that one.

(Laughter.)

MS. OSTIGUY: I was actually wondering more about what you were saying earlier, Andrea, about how if you only require three, then that's all that folks are going to do. Kim's amendment doesn't address that issue.

CHAIRMAN KING: So you don't support --

MS. DIETZ: Well, I can just tell you that we've historically, again -- from the processing group, we have agreed, through our MPPL committees and through lots of different trade -- through the trade organization and through the handling committee, that a minimum of three has been something that our industry could live with, and so that's why we said a minimum of three.

CHAIRMAN KING: Is there --

MS. DIETZ: You have to have a number, if you want somebody to do something, so that's -- that was the magic number that we all said we could live with.

CHAIRMAN KING: Is there additional discussion on the motion on the table to strike the words "as applicable"?

MS. DIETZ: There's a motion and a second.

MR. RIDDLE: Yeah, there's a motion and a second to strike. Yeah, I'd just like to comment on it.
Essentially, it's here as an attempt to compromise, and, you know, that's the role I was playing in chairing this task force. You know, certainly the will of the Board, you know, will be determined here, so -- you know, I think it does -- you know, my personal opinion is that it does weaken it and make it less predictable for both certifiers and operators. That's my personal opinion. Kevin?

MR. O'RELL: My only comment, to support Jim, is that yeah, I think we added it in there as a compromise. I'm not sure I personally was comfortable with it at that time, and reviewing it, I do agree that I think it's weak, and I think a minimum of three is reasonable for processors who are trying to locate organic sources of materials.

MS. CAUGHLAN: Good-faith effort, is that a -- making a good-faith effort is really what we're saying. What about putting that kind of language in there?

MR. RIDDLE: Well, we're trying to quantify what a good-faith effort is. When is it good enough?

MS. DIETZ: Okay, call the question.

CHAIRMAN KING: The question's been called. We're just voting to strike the words "as applicable."

All those in favor signify by saying aye.

BOARD MEMBERS: Aye.
CHAIRMAN KING: Opposed, same sign.

UNIDENTIFIED FEMALE VOICE: Aye.

UNIDENTIFIED MALE VOICE: Aye.

CHAIRMAN KING: Okay, 12 yeses, and -- you want a head count or --

UNIDENTIFIED FEMALE VOICE: Do a hand count.

CHAIRMAN KING: Let's do a quick hand count. We had two no's, I think, is that correct? All those in favor, signify by raising your -- one of your hands.

MR. SIEMON: I'm abstaining.

CHAIRMAN KING: We have 1 abstention and 2 no's. Okay, so now we're back to the original --

MR. RIDDLE: Yeah. As amended.

CHAIRMAN KING: -- motion to accept the report, the recommendation, as amended. Is there discussion?

(No audible response.)

CHAIRMAN KING: Hearing none, we'll proceed to vote. All those in favor signify by saying aye.

BOARD MEMBERS: Aye.

CHAIRMAN KING: Opposed, same sign.

(No audible response.)

CHAIRMAN KING: Motion carries.

MR. RIDDLE: Wow, and that task force is disbanded.

(Laughter.)
UNIDENTIFIED MALE VOICE: Which means they buy beer tonight.

CHAIRMAN KING: That's right. Does anyone have anything else?

I would entertain a motion to recess.

MR. CARTER: So moved.

MR. O'RELL: Second.

CHAIRMAN KING: It's been moved and seconded.

We recess. Thank you all very much.

(Whereupon, at 5:05 p.m., the meeting was recessed, reconvening at 8:00 a.m., April 30, 2004 place.)

* * * * *

CERTIFICATE

In Re: NATIONAL ORGANIC STANDARDS BOARD MEETING
Place: CHICAGO, ILLINOIS
Date Held: APRIL 29, 2004
Time Held: 8:00 A.M.

We, the undersigneds, do hereby certify that the foregoing pages, number 360 through 592, inclusive, is the true, accurate and complete transcript prepared from the reporting by LEAH JOHNSON in attendance at the above-identified hearings, in accordance with applicable provisions of the current USDA contract, and the below-signed persons have verified the accuracy of the transcript by (1) comparing the typewritten transcript against the reporting or recording accomplished at the hearings and (2) comparing the final proofed typewritten transcript against the reporting or recording accomplished at the hearing.

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UNITED STATES DEPARTMENT OF AGRICULTURE

IN RE:      X HELD APRIL 30, 2004
X 8:00 A.M.
NATIONAL ORGANIC STANDARDS X BEST WESTERN INN OF CHICAGO
BOARD MEETING      X BUCKINGHAM ROOM
X 162 E. OHIO STREET
X CHICAGO, ILLINOIS  60611

VOLUME III OF III

APPEARANCES:

COMMITTEE CHAIRMAN:   MR. MARK KING
BOARD MEMBERS:
MS. REBECCA J. GOLDBURG
MR. MICHAEL P. LACY
MS. GOLDIE CAUGHLAN
MR. KEVIN O'RELL
MS. NANCY M. OSTIGUY
MS. KIM M. DIETZ
MR. JAMES RIDDLE
MR. DAVID CARTER
MR. GEORGE SIEMON
MS. ANDREA CAROE
MS. ROSALIE KOENIG
MS. ANN L. COOPER

ALSO PRESENT:    MR. RICHARD MATTHEWS
MS. KATHERINE BENHAM
MS. BARBARA ROBINSON
MR. ARTHUR NEAL
MS. ZEA SONNABEND
MS. LESLIE ZUCK
MS. MERRILL CLARK
MR. MARTY MESH
MS. URVASHI RANGAN

REPORTER:     MS. LEAH JOHNSON

CONTRACTOR (NOT PRESENT):  R & S TYPING SERVICE
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CHAIRMAN KING: I'd like to officially reconvene the meeting of the National Organic Standards Board.

The first thing we have on the agenda today is public input, but before we get started on that, Dave has indicated to me that he has a quick announcement, and I think it's important that we hear this before public input so you have an idea of what we're thinking. Dave.

MR. CARTER: Okay, thank you, Mr. Chairman.

I asked Mark this morning for a point of personal privilege, I usually don't wake up unprovoked by something other than an alarm clock, but this morning I got to thinking that I really think that it's important that this Board makes some sort of statement before we leave Chicago today in regard to some of the policy directives that have occurred, and I -- I know we did some things yesterday that talk about taking some things forward from policy development to the executive committee, but I can't help but think that it's important for us to make some sort of statement at this meeting, so I just wanted to announce my intent, before we adjourn this morning, to offer up a very short resolution that would just express the disappointment and concern of this Board over the lack of advance notice or consultation by NOP in the issuance of certain policy
directives. So I just want to announce my intent to offer that before we adjourn so that it's not a surprise to the Board members and we can be thinking about that. Thank you, Mr. Chairman.

CHAIRMAN KING: Thank you, Mr. Carter. Just a quick -- some housekeeping issues with public input. We have 35 signed up. We've allotted approximately 2 hours, 2 hours and 15 minutes, on the agenda. Several Board members have expressed to me today we clearly understand the importance of public input, therefore will extend the public input, to the best of our ability.

However, we have posted 5 minutes, I would ask you to understand that you have 5 minutes, stick to that, get your message to us in an efficient and effective fashion, and we appreciate that.

The court recorder has asked -- clearly we have a full room today. Your comment is extremely important to this process. In order to get this on tape, we ask that any conversations you have, please take those out in the hallway, that don't relate specifically to what's happening at that time.

Also, if you have cell phones, pagers, things of that nature, please turn to vibrate, turn them off.

And without further ado -- hold on. Jim Riddle.

MR. RIDDLE: Yeah, just a few things to add to
that, Mark. In case -- I just want to say that if you
haven't signed up, you still can sign up, and that's on the
back table -- or it's up here right now. And also, if you
do have a proxy, under the Board's rules, you can carry one
proxy, which gives you 5 additional minutes to speak, and
if that's the case, please announce that when you start
your comments.

And Kim is the timekeeper and has a sign for
1 minute, to give you a warning, but if you don't see her
sign, your 5 minutes still elapses, but that's just
politeness on our part. And if you did comment on
Wednesday, you can still offer additional comments today.

So just wanted to be clear about all of that for
everyone.

CHAIRMAN KING: Okay, the first person I have
signed up, who registered in advance, is Mark Kastell.

MR. KASTELL: Good morning. My name is Mark
Kastell, and I'm a hired man. I work for farmers. I'm
here today representing the Cornucopia Institute, based in
Cornucopia, Wisconsin, and I'm here today to send a clear
message to United States Department of Agriculture
Secretary Ann Veneman.

In the emerging battle between organic consumers
and family-scale farmers, who literally have built the
organic industry from the ground up, and in this battle
against the forces of evil, the corporations who have shown they are willing to compromise organic integrity in the pursuit of profit. The USDA's National Organic Program has taken sides in this fight, the wrong side.

As we started to connect the dots, it soon became obvious that in virtually every instance -- maybe this is what Mr. Carter was referring to -- the NOP has been willing to water down the organic standards. That evidence is so overwhelming that there are no longer any discernible dots left to connect, and left with a black page.

Many of the NOP directives have made it possible to organic factory farms. I wouldn't call these farms. This is dumbing down the organic standards. However, our customers are not dumb. Organic consumers are not dumb. They understand that God created cows and other ruminants to eat grass. Circumventing the pasture requirement is just flatly wrong.

They understand that livestock needs access to outdoors in order to encourage their natural behaviors and to ensure good health and longevity. Furthermore, they understand that the law and federal regulations require this access, and they are demanding proper enforcement.

They understand that the need by factory farms to bring in cheap replacement cattle from conventional operations is proof positive that these farms are not
creating the healthy environment for livestock that is required by the law that we're trying to respect here today.

We are at the precipice of a very tall cliff, and economically, let me tell you on behalf of the farmers that I'm here representing today, it is a long, long way down. We are running the risk of destroying the credibility of organic agricultural in the eyes of the consumer.

Consumers Union, publisher of Consumer Reports magazine, has taken the responsibility of monitoring eco label claims. It is incredibly distressing that because of corporate abuse and the actions or inactions of the NOP staff, because of this, they have felt it necessary to question the value of the "organic" label, especially on imports.

One other subject matter that I'd like to bring up is imports and the question of the credibility. I got an e-mail yesterday from one of the CEOs from one of the most respected processors and marketers of organic food. He's incredibly concerned about the lax oversight by the NOP on foreign certifiers, some domestic certifiers, we now see farmers and processors shopping from certifiers, we see organic food from name-brand companies from Guatemala, Chile, Mexico. Here's broccoli from China. Can we trust that the same way we can trust our indigenous farmers and

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our good certifiers here?

At any rate, in closing: We have lost confidence
in the ability of the USDA's National Organic Program to
protect the integrity of organic agricultural. We call on
Secretary Veneman to execute regime change at the National
Organic Program. We need management and staff at the NOP
who are qualified, have a strong background in organic
agricultural, and respect the organic community. More
importantly, we need folks at the NOP who respect the
organic community, and our leadership as represented by
this Board and the power that you hold by federal law, by
virtue of federal law.

And I thank you very much for your comments -- I
thank you very much for the opportunity to elicit these
comments. Thank you.

(Laughter.)

CHAIRMAN KING: Jim.

MR. RIDDLE: Yeah. Mark, just a question, or,
actually, a clarification.

MR. KASTEL: I'm sorry --

MR. RIDDLE: You mentioned a concern about the
imported products, and under the regulation, they have to
meet the same regulation, and any foreign certifiers have
to be accredited by USDA, and this issue came up, I think
it was Wednesday, about the site visits of foreign
certifiers, because there is major concern that the domestic certifiers have been visited but foreign ones have not, and the response to questions -- and I just wanted to inform you, since you weren't here, and other members of the audience, is that that process of visiting the -- I think it's -- nearly 40 foreign certifiers is to begin in June.

MR. KASTELL: Yes, that's -- that is the concern that I was articulating here, and -- but furthermore, even within our domestic infrastructure here for certification, Jim, I have anecdotal reports from both processors and farmers that if -- in fact, a very intimate experience with one, who's a member of a cooperative, I've worked with, where the farmer was -- his farm plan was turned down by an IFOM-accredited [phonetic], very responsible organization, and he simply shopped for a different certifier and he's now delivering organic product.

So this is happening on all levels. Again, one of the problems is we've created this ceiling, rather than the floor, in the marketplace, we can't create a higher level of respect for some certifiers, and these are usually the farm-based -- farmer-based organizations that helped build this industry, there's no way for them to communicate with their customers that they're really doing the right job and add value to some of these products that are being
responsibly produced. So those are the two basis --

MR. RIDDLE: And I did have a question also about
the pasture. You made a very strong statement there about
the need for access to pasture, and the Rule requires
access to pasture, and "pasture" is well-defined in the
Rule. Are you aware of livestock operations that are
actually not providing pasture, say to their milking herd,
or something like that?

MR. KASTELL: Jim, I -- my concerns in that area
are twofold: one, reports of, you know, a dryland dairy
with a muddy feed lot, to me, compared to my farm, that's
not pasture.

And secondarily, although there are some dairy
producers in this country that have pasture-based
operations with larger herds, that's an aberration. Most
of these confinement outfits, the -- really, the logistical
constraints of trying to move a thousand to 3,000 to 5,000
cattle onto fresh paddocks in a true environment where
they're going to gain any reasonable amount of their feed
intake from pasture, it's a very dubious concept, and I
want -- and the farmers that I represent, who can produce
with 50, 70, a hundred cows, the kind of milk, if you're
using milk as an example, that consumers want.

I do not want these folks who are working so hard
to be at a competitive disadvantage. There has to be strict oversight and enforcement, and I'm not confident that's happening right now, Jim.

MR. RIDDLE: Well, we need to move on, but if you have actual evidence, that would be very helpful, to bring that to the livestock committee. Thanks.

MR. KASTELL: Okay. Thank you.

CHAIRMAN KING: Thank you. The next person is Kelly Casper.

UNIDENTIFIED MALE VOICE: And on deck --?

CHAIRMAN KING: Marty Mesh. Thank you for reminding me (inaudible).

MS. KASPER: Hi. My name is Kelly Casper. I'll be reading mine, as well as I have a proxy from a farmer. It is --

UNIDENTIFIED MALE VOICE: So that's 10 minutes.

MS. KASPER: Alice Rules [phonetic], executive director of Georgia Organics. This is Eddie [phonetic].

"I am the mother of a 2-year-old child and a strong believer in supplying my family with healthy organic foods. I've spent a great deal of time and energy receiving the benefits of organic foods and other natural products, such as cleaning supplies, shampoos, et cetera.

"I am well aware of the problems that have
occurred due to pesticides, the overuse of antibiotics, and factory farming in general. Due to my findings, I have chosen to supply my family with organic natural products whenever possible. This has been an extremely expensive proposition, but it is something that both my husband and I strongly believe in. We believe that spending extra for a gallon of organic milk is not only allowing us to have a product free from growth hormones and antibiotics, it is also allowing us to support what we believe in with our money.

"In essence, each time we spend a little extra for an organic product, we are voting for that company and industry, hence Horizon Organic.

"It is very saddening to me to discover that the 'organic' label is being bastardized in front of our very eyes. I realize that money makes the world, and especially this country, go round, but in the instance of the 'organic' label, I hope that the big-money corporations are not allowed to push out the small farmers, who started the organic movement by doing things the right way.

"I have been a supporter and investor for Horizon Organic. My family has access to their milk at all times. However, it is very disappointing to discover that this company is held to a different and less-
demanding standard than the small farmers out there.

I personally am a vegetarian; however, my husband and my child both eat chicken. I am fully supportive of them, and one of their favorite items that I buy is the Applegate Farm chicken sausages. Now I have learned that the preservatives, which were legally approved, have been added to their products.

"As a consumer, I am at the mercy of the companies which I have put my faith in. They in turn are held to a certain standard by this board. If that standard is lowered, without the consumer being duly informed, an injustice is being done.

"That is why I am here today. I want my voice to be heard. This is something I strongly believe in, and when I buy something that is labeled as 'organic,' I hope that the label actually means something. If the powers that be have their way, enough loopholes will be added that the label will be nothing but a way to increase their profit by charging a higher price for something that is marginally different than the conventional product.

"I'm here today in the hopes that this Board will hold true to the mission of organic farming and not be swayed to institute shortcuts and loopholes by companies chasing an almighty dollar at the expense of consumers, such as myself and my family. Thank you."
And then the proxy by the farmer. "George Organics, a non-profit organization promoting organic and sustainable growing for the health of Georgia's land and people, is writing in response to concerns about the weakening of organic standards in our country.

"Georgia Organics is a membership-based organization of farmers, consumers, gardeners, and agricultural professionals who are committed to healthy farming and food.

"The National Organic Standards Board bears the responsibility of maintaining the integrity of our organic rules and policies and remembering the values that brought forth these rules in the first place. We recognize this is a tremendous job and one that endures enormous pressure from a variety of external influences. The Board must regard public trust of the organic standards as tantamount, superseding corporate or individual interest.

"Equally important is the commitment of organic farmers to public and environmental health. These two audiences should not be forgotten in the interests of third-party profits and politics. Georgia Organics urges the National Organic Standards Board to not fear from its mission in ensuring high-quality products and standards that respect farmers and consumers.

"If the Board continues to allow the loopholes
that are becoming more and more apparent, then the Board very well may be the architect of its own demise as farmers and consumers gradually abandon the process for something better. We remain hopeful that the future of organics holds more promise than current predictions."

    Thank you very much.

    CHAIRMAN KING: Thank you. Jim.

    MR. RIDDLE: Yeah, I would just like to respond. Kelly, thanks for your comments.

You mentioned especially in the proxy about the Board allowing loopholes, and I feel obligated to go on the record to state that -- especially with the preservatives in ready-to-eat meat products, that that was not an action of the Board, it was done with no knowledge of the Board, substances were interpreted to be allowed as preservatives in these products, these are new compounds, they're not on the National List, they have --

The company was following the rules petitioned to the Board to have those substances reviewed, and the decision was made to allow them, without consultation of the Board, so I just want to be clear what the record is on that.

    MS. KASPER: And make clarification that I don't think I was stating this board, it was the -- there's another board that was there.
MR. SIEMON: NOP.

CHAIRMAN KING: The program.

MS. KASPER: I'm sorry, I think I -- yes, so it wasn't -- I'm sorry, I mis- -- I did not explain myself very correctly, but it was important to GO so --

MR. RIDDLE: That's why I felt a need to clarify.

MS. KASPER: Thank you. Good. I'm kind of new at this. I appreciate it, thanks.

CHAIRMAN KING: Thank you. Next is Marty Mesh, on deck is Urvashi.

MR. MESH: While USDA -- Marty Mesh, Executive Director of Florida Organic Growers and Quality Certification Services.

While USDA has done many things right and I would like to give them more "atta boys" and positive reinforcement, the ever-ticking clock causes me to focus more on the discussions in the areas of concern. It does not mean (inaudible) things are not appreciated, and I'm sorry that USDA higher-up program staff aren't here to hear my positive comments and issues of concern to consumers.

I also want to express thanks on behalf of organic cotton growers, those of us who buy organic cotton products, and supporters of a more ecologically-sound
production systems to the crops committee for considering public input and changing the recommendation in the entire board for the decision which affects cotton seed -- organic cotton seed for planting.

As an organic farmer for over 25 years and being involved in the community and the industry for over 30 years, I'm concerned about the confidence that consumers may lose in the "organic" label. This loss of confidence has been the result of some of USDA's actions, the process or lack thereof, and most recently by the directives. Even the name, "the directives," brings to mind the old Soviet Union and Eastern European countries, where a directive would be issued from party officials and blind obedience was mandated, without comment, without revision, and without representation.

We again urge the NOSB to weigh in and the NOP to reconsider some or all of the recent directives. NOP acknowledged that a mistake was made in the title, and now we would like -- the NOP must acknowledge a mistake may be made in substance. How possibly could fishmeal, fortified with prohibited materials or containing prohibited materials be considered natural and not up for certification program to question the use of any amount.

As a board member of the Organic Trade Association, and my comments do not reflect the official
position of the Organic Trade Association --

(Laughter.)

MR. MESH: -- I urge the NOP to improve its
communication with the Organic Trade Association, which
would result in less and less problems, more positive
reinforcement, and consumers that maintain confidence in
the "organic" label. It is in the industry's best
interests to maintain confidence in the National Organic
Program and organic products in the marketplace.

The recent directives play right into the hands
of those who attack organic agricultural at every
opportunity, for now we can't maintain that materials are
reviewed before they were put on the National List and
used in the field.

While I think that some flexibility to a degree
is reasonable and Florida organic growers used to have a
policy on unintended applications which would result not
in the loss of certification for 3 years, the current
policy -- I mean guidance -- I mean directive, goes too
far in potentially allowing multiple uses in applications
of inert ingredients that will make consumers wonder and
facilitate attacks on the organic industry.

This seems contrary to the Organic Foods
Production Act purposes, along with the other directives.

Remember uniform standards, consumer confidence, and an
increase in trade, the basic purposes of the Organic Foods
Production Act.

I have to comment on the livestock variance
which was put in the Rule, recognizing that disasters will
happen. It is in the Rule, and the USDA will set
themselves up for possible legal action if some process is
not implemented to deal with the valid request based upon
the livestock variance on feed when a natural disaster
happens.

At the recent meeting at Beoflock [phonetic]
with internal certifiers, it was very easy to see that
many, many, many of the certifiers who have been
accredited by USDA were totally or basically unfamiliar
with the regulation. These accredited foreign certifiers
still have not had a site visit, and USDA should verify
that its accredited certifiers are at least demonstrating
that they are getting it right most of the time.

My compliments to the compost task force. I
have a question. I thought I saw in yesterday's
presentation that after two tests and a follow-up test,
that it meant that the system would no longer need to be
tested. Maybe I misunderstood. So I just -- on the
record, I finished early, and I will designate my
remaining time for the good of the cause.

UNIDENTIFIED MALE VOICE: For previous
infractions.

(Laughter.)

MR. MESH: "We'll credit it against your account."

CHAIRMAN KING: As always, thank you, Marty.

Urvashi's up next, and I believe it's Bart Reid after that, on deck.

MS. RANGAN: So I believe I'm taking Angela's proxy time, that's from Florida Organic Growers, so Consumers Union would like to thank them for their time.

Good morning. It's really been quite a few days for all of you and for all of us out here, and my heart's pounding, so -- I think there's a lot of anger in this room. People in this room deserve what's been happening the last few days, you deserve more.

We're all spending a lot of money and a lot of time coming to these meetings, and the goal of these meetings is supposed to be to improve the standards, and ever since the implementation of this program, I know we at Consumers Union an a number of these folks back here have been doing nothing but watchdogging what the National Organic Program is doing, and it's really a travesty to consumers, to farmers, to certifiers, to inspectors, and it's very rare to find an industry where you actually see all of those stakeholders sitting on one side of the
fence, saying, "Please maintain high standards."

It was enlightening to hear the National Organic Program's presentation, and it was enlightening to learn how they arrived at some of these directives. It's also enlightening to know that they think that there aren't any significant changes and that the public has no right to comment on these directives. That is bull honky, and we have a right to comment on these, this is a public program, and so I'm going to continue to do that.

The goal of this program is not, as one of the NOP staff said, to level the playing field. The goal of this program is to create a consistent and meaningful label for consumers, that adds true value over conventional production, because that's why consumers are buying organic, because it adds a premium to the product.

At the very least we expect those standards to be maintained. At the very best, we hope that there'll be improvements in the standards over time.

As director of the eco labels program for Consumer Reports magazine, I'll tell you that there are other label programs, that are running up right behind organic, that are doing a pretty good job of maintaining standards and improving them over time. It's a lesson that can be learned by this program, which set the precedent for all of them.
Things of particular concern -- and I'm submitted for the public record our press release that we did yesterday, and I'll give that to Katherine, the fact that the USDA is drastically cheapening the meaning of organic.

These directives actually, even though this isn't a safety program, start to undermine the public health implications of this program, which is somewhat remarkable.

I want to go back to pesticides for a minute. I know I spent my whole time talking about it before, but it's worth mentioning again. I got a lot of questions, even from people here: What are EPA inerts? What is List 3 and List 2? Why do we keep throwing these things around?

I want to say for the public record what List 3 inerts are. Inerts are not benign ingredients, inerts are not the active ingredient in formulations. Really heavy-duty synthetic formulations require a carrier that's also heavy-duty synthetic to carry it into the system.

List 2 -- List 3 ingredients, it's 56 pages, if you care to go to EPA's website, of ingredients. It includes ingredients of unknown toxicity. We don't know what the toxicity is of the ingredients, and according to EPA, an inert ingredient was placed on List 3 if there
were no basis for listing it on any of the other lists; that is, it wasn't toxic and it wasn't non-toxic, so it needed to go on this list.

The agency will continue to evaluate these chemical substances, as additional information becomes available, to reclassify as List 1, 2, or 4. List 3 is unknown, and it's prohibited in the OFPA and it's prohibited in the regulations.

List 2, potentially toxic inert ingredients, high priority for testing inerts. Many List 2 ingredients are structurally similar to chemicals known to be toxic. Some have data suggesting a concern. There's a reason why these lists exist, there's a reason why the OFPA prohibits them, and there's a reason why the regulations, even though they never said "before use," mean that you can't use these things and you have to determine what's in them before you use them. That's what the public expects.

The fact that now prohibited pesticides can easily be used on these things is ridiculous. That's zylene, toluene, formaldehyde, here's some others, ethylbenzene, succinonitrile, methylisobutylketone, naphtha, toluene trichloroethane, these are all on List 2. There is no way that the public is going to fly for these ingredients being used on crops, especially unknowingly.

Who's responsible for that? Who's responsible,
if we find those pesticide residues on the food?  Are the
certifiers responsible?  Is that what the NOP is doing?
Are the farmers responsible?  Because there's going to be
liability issues that arise from that, and so someone
needs to take those under consideration.

The next thing I want to turn to is fishmeal.  I
heard Richard Matthews say that there's no need to
regulate -- there's no need to review fishmeal because
it's a natural ingredient.  Wow.  Consumer Reports just
came out with 12 natural ingredients in dietary
supplements that are incredibly dangerous, we'd like the
FDA to get them out.

Ephedra is a natural ingredient.  It's not okay,
it's not safe.  We know that fish contains ingredients
that are not safe for consumers.  Despite the fact that we
learned that you could mix in synthetic preservatives and
that those didn't need to be reviewed, and that was just
absolutely amazing, on top of the fact that we've got
tuna, the most common fish that's eaten in this country,
laden with mercury.

The fact that an organic label can now be used
on a can of tuna and not mean anything, including the
NOP's lack of testing for it or requiring for it or even
needing the NOP program, I want to take a little bit of
time to talk about what FDA considers to be the public
health concerns with fish right now, and especially tuna. For a 22-pound toddler, the weekly reference dose is 7 micrograms of mercury. Two ounces of canned tuna provides a dose of 20 micrograms of mercury. A 44-pound 5-year-old, the weekly reference dose is 14 micrograms of mercury. A 6-ounce sandwich, that's what a sandwich is, of tuna, would provide that child 61 micrograms of mercury. That is more than four times the recommended reference dose, or the reference dose allowable.

For a 132-pound woman, the reference dose is 42 micrograms of mercury, and you get it again, a 6-ounce can of tuna is still the same reference dose for that woman, it's 61 micrograms of mercury. That woman, if she ate a tuna sandwich a week, would exceed the reference dose by 50 percent.

If we don't test fishmeal for mercury and we start allowing this to not only be fed to fish but to cattle, which -- incidentally, cattle don't eat fish, but --

(Laughter.)

MS. RANGAN: -- what are we doing? This is not what consumers expect out of this program. If a consumer sees an organic label on a fish, they're going to expect more than this, and the fact that we're going to feed it
to our cattle does not get around this issue. Mercury
doesn't really go away, it's a metal.

The last issue to deal with today is that Consumers Union believes that USDA is on a very slippery slope of allowing drug use in organic production. It is of particular concern when we heard clarifications to the fact that it isn't just antibiotics that could apply on the dairy farm but any drug, including growth hormones? You're going to have a lot of explaining to do to consumers by the time we get there.

So my advice is: the answers are very simple, to address these problems, that's the good news. There's a lot of bad news today, but the good news is, how do we find out what's in pesticide formulations? Take EPA up on their program for their pesticide registration list. EPA has offered to review pesticide formulations and crack the code for manufacturers, to allow them to list it as appropriate for the National Organic Program and without violating confidential business information.

It seems like a more logical way to go to get these pesticide formulations approved, so we know what's in them, so we know it's appropriate for use, before we use them. What about the fish? Fish is food. The NOP does authority over food. So don't allow the use of any organic label on fish until the standards come out
properly, and get moving, because the advice has been
conflicting from the National Organic Program, they --
these are significant changes to what they have said
before, so they have an obligation to get those standards
ironed out, to work with the National Organic Standards
Board and get those out for public comment. Let's get on
with it, let's do it, let's test for mercury. These
aren't difficult things to figure out.

On the antibiotic issue, the OFPA says no
antibiotics. We already started with the slippery slope
on herd replacement and that a herd can be one cow, and
now we're at the point of: any cow can come out of
organic production at any time and receive any drug to
treat illness? I'm going to be going back and looking up
to see what growth hormones do over that year, are there
any last implications? do you give a shrink hormone after
a growth hormone?

(Laughter.)

MS. RANGAN: We appreciate your time. Thank you
very much for your hard work.

CHAIRMAN KING: Rose, then Andrea.

MS. KOENIG: Thanks for your comments. I mean,
one solution to the fishmeal, for those out in the
audience, would be to petition it as a natural prohibited,
and if you could, you know, go through the website and go
through that process, that's one way. If in fact, you
know, there are high levels of these heavy metals, it's
the logical way to go about that issue.

MS. RANGAN: Thanks, Rose, we'll do that.

MS. KOENIG: As far as the -- you know, the
List 3 and List 2, I mean, we had a task force that had a
different recommendation than that -- of what is in the
directive. You know, we'll work our best to try to see --
see what can be achieved.

MS. RANGAN: Thank you.

CHAIRMAN KING: Andrea.

MS. CAROE: Rose made my comment, so --

CHAIRMAN KING: Jim.

MR. RIDDLE: Yeah. I appreciate your concerns
and share your concerns and just once again want to make
it very clear that none of these directives were developed
in consultation with the advisory board, even though our
charge under statute is to advise the Secretary on
implementation of the Act, and implementation is a
process, it's not an event that happened October 21st,
2002.

I was especially astounded to learn that this
pesticide policy was developed with no consultation of
EPA, when EPA controls pesticides and has the organic
registration program. What would you advise the Board
that we do or what do you see our next steps, not just for
the Board, that should be done in response to these
developments?

MS. RANGAN: Jim, thank you for that. Your
point's well-taken, and I think that since the National
Organic Program can't seem to consult with the EPA on
pesticide registration, I recall this board a few years
ago brought in someone from the EPA. I believe that's how
this pesticide registration program got started. He
seemed very willing to help out with the NOSB, they seemed
very willing to sit down with you and crack codes and make
this program work.

So I would say you're going to meet with a
pretty helpful EPA on that level, and that would be my
recommendation. In my first public comment: what
Consumers Union would like to see is we'd like you to make
a recommendation to mandate this organic pesticide
registration program for pesticide formulations. It's a
voluntary program for manufacturers.

If you're a pesticide manufacturer, you don't
have to do it, and if you don't want to do it, it's --
like you're a farmer and you don't want to be certified
organic, then you don't have to be organic, you can make
your pesticide formulation and go along the conventional
production route.
But if you want that added value, if you want to add a premium to your product, then let's get it straight that you actually have value added in your product and that it's appropriate for organic production.

CHAIRMAN KING: Rose.

MS. KOENIG: Just a clarification. And I think -- it sounds like you understand. As far as my recollection on that program, it is a voluntary for -- you know, and it doesn't allow List 3, it basically allows only those formulations that contain List 4 --

MS. RANGAN: That's correct.

MS. KOENIG: -- and it's a dual label. So it still does not eliminate this List 3 directive issue. I mean, that would identify those formulations that are in contact compliant. So we could, you know, through that again develop a database of knowledge for those products, which I think is the way to go, those -- you know, we need to inform people, you know, the information's out there, so you don't have this, you know, difficulty in identifying. That is, to me, the cautious way of going about it. But the labeling program is not the answer to this List 3 issue.

MS. RANGAN: It's one way of solving the problem.

MS. KOENIG: It doesn't solve the problem of
that directive, it doesn't solve the problem, because if
that directive is still out there, you could still have
this labeling program and those things could be listed.

MS. RANGAN: You're correct. The directive
itself needs to be rescinded. I'm sorry if that goes
without saying, but --

(Laughter.)

MS. RANGAN: I mean, the directive itself can't
stand while you mandate that. I understand implementing
two contradictory programs, but --

MS. KOENIG: No, but I'm just saying I don't --
I think it -- you know, that's not -- what I'm trying to
say is that's not the solution.

MS. RANGAN: Yeah. That's fair enough. I'm
just saying that I'm looking at these directives, and in
picking up the phone and calling EPA before I got here:
EPA's not going to give that information to farmers,
they're not going to give it to certifiers. It would be
an illegal violation, I guess that's redundant, of
confidential business information. They're not going to
do it. So this whole "You try, and if you can, great, and
if you can't, go ahead and use it" is not -- is not a
policy.

MR. RIDDLE: Yeah, I was just -- I wanted to add
that it's -- their labeling program is not solution for
the List 3s and List 2s, but the mechanism is a door for a
correction to solve it, and the phone call hasn't even
been made.

CHAIRMAN KING: Thank you very much.

MS. RANGAN: Thank you.

CHAIRMAN KING: Next up is Bart Reid, with Brian
Condon on deck.

MS. KOENIG: Just one comment on the List 3. We
-- I believe we have a process, which is the petition
process, which we've already proved -- we've added one
List 3 inert -- actually, two List 3 inert on my tenure
on the board. That process has been established, and I
think that that is the process that should be followed,
because we then can review those List 3 inert. It
doesn't allow any List 2 inert, that I know of. I mean,
I guess they could be petitioned. But there is a process;
the process has worked.

For those farmers who have had formulations,
they've come forth to the Board, they've petitioned, and
we've solved the problem for those producers, and I have
not heard, in the last couple of meetings, of any farmers
who have come forth and told us there is a problem that
exists on this issue.

CHAIRMAN KING: Thank you. Rose. Sorry about
that. Bart, we are now ready.
MR. CONDON: Howdy. My name's Brian Condon, and I'm actually up next. Of course, I'm not Bart. Bart is in Texas right now.

CHAIRMAN KING: So Bart is up, all right.

MR. CONDON: Yeah.

UNIDENTIFIED MALE VOICE: We have a statement from Bart.

MR. CONDON: Yeah.

CHAIRMAN KING: Oh, so you're reading both.

MR. CONDON: Yeah.

CHAIRMAN KING: All right.

MR. CONDON: So really I guess I could be up here for 10 minutes.

CHAIRMAN KING: 10 minutes, that's right. Okay.

MR. CONDON: We'll try to not do that. In any case, the first thing I'm going to do here is read a letter that Bart wrote to the USDA in response to the April guidance statement having to do with the scope of the NOP. And just so you know, Bart is a certified organic shrimp producer in the state of Texas, and he feels that the directive did a certain amount of damage to him. So here goes Bart's letter to the NOP.

"Dear Mr. Jones: I would like to petition you, the NOP, and the USDA to initiate immediate rulemaking concerning the status of organic seafood, and particularly..."
previously certified organic farm-raised seafood, shrimp
in my case, that was certified by the USDA/NOP-accredited
third-party certifier, Quality Certification Services.

"The Permian Sea Shrimp Company has spent
considerable sums of money to obtain an organic
certification and the latest guidance statement from the
NOP totally usurps all our efforts and leaves us in
financial jeopardy as a business. We have product in the
market with the NOP seal as organic, and we have many
customers that are purchased and are in negotiation with
us to purchase our shrimp due primarily to the fact that
we have obtained this certification via the NOP rules.

"The USDA recognizes fish and aquatic animals as
livestock. In all programs that USDA offers, like the
non-insured crop disaster program and Farm Service Agency
loan programs, aquatic animals are listed as livestock.
Most all 50 states' agricultural departments recognize
fish and aquatic animals as livestock. It is only
appropriate and logical for the NOP, a USDA division, to
recognize aquatic animals as livestock.

"The organic rules have a base of rules and
procedures that are suitable for any livestock regardless
of specificity for specific breeds or species. There are
parameters within these rules for feed, stocking
densities, and ranging requires, water, health, welfare,
and processing that can be applied universally to any livestock and used universally to certify any livestock.

"We recognize that specific rules can and should be appropriate in the long term, but initially there are enough basic rules that apply to all livestock that certification is possible. The certification using basic rules is a starting point, and the individual companies that obtain certification can provide additional information to develop species-specific rules in the future.

"There is no way to develop rules for every individual animal and plant that a producer may wish to produce for the organic market, and to separate aquatic animals out from livestock is equivalent to separating out rice from terrestrial crops because it grows in water.

"The market definitely respects the USDA's NOP certification, and that is why we have sought and obtained this certification and why our market is using this very certification to develop confidence within their markets. The latest guidance statement erodes this confidence and will cause a significant burden on Permian Sea Shrimp Company and its customers, who have purchased our shrimp under the confidence that the certification was real and backed up by the NOP.

"Specifically, Permian Sea Shrimp Company will
be financially and materially harmed and devastated by the new position of the NOP, and we ask that you initiate immediate rulemaking to clarify and alleviate this situation for us, our customers, and the organic retail community.

"We realize that organic seafood in general is a complicated situation, but farm-raised seafood, livestock, has a place in the organic market and is in the scope of the current NOP rules.

"We certainly will be willing to assist in developing any specific rules that are needed in the future but insist that the basic livestock rules are sufficient to allow the certification of our shrimp and other conforming fish and aquatic animal operations under the NOP and using the NOP seal.

"Permian Sea Shrimp Company asks that you initiate rulemaking on this and consider our petition to maintain our certification and NOP's authority to support our certification in the marketplace. This not only will avoid financial ruin for us but instill confidence in the market for NOP's program and reputation and continue to develop a consumer confidence and awareness for organic farm-raised seafood. Sincerely, Bart Reid, Owner, Permian Sea Shrimp & Seafood Company."

So that was the letter from Bart. This is just
an excerpt of a letter that QCS had sent to the USDA last week, responding to the guidance statements back in April. I'm just going to read the last paragraph or two.

"In summary, we request that the USDA honor the simple statements that the NOP has issued previously via three concrete actions: 1) engage in immediate rulemaking to establish standards for aquatic animals; 2) allow beyond the current 18-month provision those aquaculture producers meeting current NOP standards to use the USDA 'Organic' seal in the marketing of their product; and 3) protect consumer confidence and organic producers by disallowing the use of the 'Organic' label on aquaculture products that do not meet NOP standards, products that also undercut the price of those that do meet the standards.

"This lack of clarity on the issue in the past has gotten the organic industry into the current conundrum, and we hope that the NOP will act decisively, publicly, and promptly on the matter in order to restore order and confidence in the organic marketplace."

And that's all I've got for now.

CHAIRMAN KING: Thank you. Dave.

MR. CARTER: I'm sorry, what was number 2 that you just said?

MR. CONDON: Number 1 was: engage in immediate
rulemaking. Number 2 was: to allow the use of the
USDA/NOP seal beyond the 18 months, as provided in the
guidance statement.

MR. CARTER: And also, just -- while I know you
refer to them as guidance, and when they were they posted
they were issued as -- or they were listed as guidance,
but we were informed earlier this week that those were
directives, and that is an additional level of concern
that many of us have.

MR. CONDON: Okay.

CHAIRMAN KING: Thank you, Brian. Next is Brian
Leahy, and Liana is on deck.

MR. LEAHY: I'm Brian Leahy. I'm President of
California Certified Organic Farmers. We are a trade
association of -- made up of certified organic producers
and handlers.

I'm here mainly today to talk about one of our
lines of products, I would suppose, best represented by,
say, Traditional Medicinals, a tea company --

UNIDENTIFIED FEMALE VOICE: What?

CHAIRMAN KING: Can you say that again.

MR. LEAHY: Can you hear? Traditional
Medicinals is a tea company that's been in company since
1974. I'm not sure if they were here Wednesday or not. I
have something written, that I'll submit afterwards, from
them.

The recent guidance/directive that -- on the Scope just destroyed a long-term existing organic line, which is the supplemental teas. In Traditional Medicinals' case, they have a simple tea, it's peppermint, and they make a claim, they say it may promote digestion. Because of that claim, it then falls under FDA's regulations, and USDA is now saying that they cannot regulate -- they can't use that organic claim any longer, which we think is creating real confusion in the marketplace, it's really destroying a traditional organic line.

This is exactly why we came to USDA, was to establish, you know, standards so that we can market organic products and everyone's on the same level. USDA's now saying that because of this claim, they are thrown into the world of "consumer beware."

So we think it's a real problem, and I think it -- it brings up three real problems with this program right now. One is the communications. It would have been very easy for USDA/NOP to have told the regulated community that "we are considering this change, is there a way we can talk about this first and maybe come up with some solutions," and we think there are solutions, we think this could be as simple -- something as simple as an
MOU between FDA and the NOP and just take care of this problem. We just think it's -- they opted out of a long-standing category of organic goods. So I think that is -- that is probably "the" biggest problem here, is simply the communications between the regulated community and the program itself.

I think that's really -- that's what we had to say, is -- and I know it's not your -- this board's problem, but it's your problem to communicate to this -- to our regulator and say, you know, this -- we did not establish the National rule to destroy organic trade, we set it up to facilitate it. So thank you. Is there any questions on this?

CHAIRMAN KING: Dave.

MR. CARTER: Thank you, Brian, and I think your point is excellent, because when you take a look at some of the interpretations that are made, it's not only just USDA having jurisdiction over organic and that doesn't then involve FDA or EPA or, you know, whatever, but even within USDA, the fact that it's -- that NOP is within the Agricultural Marketing Service, and so therefore it doesn't relate to NRCS or whatever, that the importance of at least developing some memorandums of understanding, inter-agency and intra-agency, so that there is consistency, I think is something that is doable, you
know, even if there's no legislative changes or new rulemaking down the road, that that would at least be a good set, and I appreciate you bringing that forward.

MR. CONDON: You know, if they didn't -- if USDA backed out of every product that some state regulation also talked about, or federal regulation, it'd be just about everything, we've got this many rules, you know, coverage everything, so -- this one just seems like it's -- it's a cop-out, to be perfectly honest.

CHAIRMAN KING: Andrea.

MS. CAROE: Brian, the Traditional Medicinals products, are they making a structure function [phonetic] claim (inaudible)?

MR. CONDON: Yeah, and they claims they -- in peppermint is: it may promote digestion.

MS. CAROE: So that's what puts it as a dietary supplement?

MR. CONDON: Yeah. And then they have -- on their box, then, that the consumer sees, they have to have the FDA dietary supplement label on the back.

MS. CAROE: Now, could you -- I don't know if you know this or not, but I'm not -- I'm trying to figure this out. Functional foods, where do they fit in and are they not making a structure function claim and would they then fall as a food -- I mean, there seems to be several
different shades of gray between food and dietary
supplement.

MR. CONDON: There are, I mean -- and -- you
know, the Rule -- the organic Rule, it's very clear, it
says -- it does -- agricultural products meant for human
consumption, agricultural -- you know, herbal teas
definitely fall within that, and they have since the very
beginning of organic, it's just -- you know. So -- and,
yeah, I don't know -- right now there's a turf war between
FDA/USDA on, you know, "what do we regulate?", and in the
industry right now, one of the hottest fads in food is to
make all kinds of dietary supplements and just all kinds
of claims. I mean, I sold kiwis because they were an
aphrodisiac back in the '70s.

(Laughter.)

MR. CONDON: And the Farmers Market in
San Francisco, they sold pot for a while.

MR. CARTER: Did you say kiwis?

(Laughter.)

MR. CONDON: You know. But does that fall under
FDA? I -- you know, there -- I don't know, but it's --
it's -- as soon as they start opting out of long-term
existing businesses because some other regulatory agency
has some claim in it, what kind of business alliance
[phonetic] is that? We had -- one of our prospective
clients was working with our processing person, Jane
[phonetic] Kennedy, two days after this came out, she
called, crying, on the phone, you know, "This has
destroyed" -- "My life savings have been aiming at going
into this particular business, USDA" -- "I had every
reason to believe that it was part of this regulated
scheme, and now, out of the blue, comes this directive,"
and that's -- I mean, that is also one of the main
problems, is communications, you know, let's talk about
these. Existing businesses, that's -- it seems like a
kind of a basic, you know, sense of dignity, is to talk to
each other first.

CHAIRMAN KING: Andrea.

MS. CAROE: As a certifier, Brian? I mean, the
USDA has kind of kept this open, that certifiers could
have their own standards and certify to them and do them --
- I don't know, basically, organic 5 years ago
(inaudible).

MR. CONDON: Yeah.

MS. CAROE: As a certifier, do you see that
that's something that would be attractive? I mean, is
that --

MR. CONDON: Yeah.

MS. CAROE: -- you would do or -- I mean, it's
really tough for you answer, I (inaudible) --
MR. CONDON: No, I think it's an excellent question, because when this directive came out, you know, there's all kinds of categories in here, and some of them make a lot of sense, they -- in my mind, to make organic cosmetics is kind of goofy, I mean you -- it's just -- it's not food, you know. Our standards were agricultural based, you know, and unless -- and if other industries, like cosmetics, pet food, right now, those make perfectly good sense to have, you know, different standards, non-USDA standards, but this one, peppermint tea, I mean that is -- that's food, you know, and that's why we set up this regulatory scheme.

So I don't -- we have no problems doing other standards, we think that the marketplace will be there, but we also remember the confusion, you know, people were -- even under the California act, you could have 2 percent organic ingredients in that thing and then the whole label said nothing but "organic." It was very confusing and very misleading. And the herbal tea people, dietary supplements, I mean, they fit under the program, and they just think that it's going to be a race to the bottom and a lot of confusion.

CHAIRMAN KING: Thank you, Brian. Liana's up next, and Harriett is on deck.

MS. HOODES: Good morning, all. This is Liana
Hoodes. I'm the Organic Policy Coordinator for the National Campaign for Sustainable Agriculture, Organic Committee.

As always, I'm going to really stick a lot to process here, and so -- I'm going to jump around a little bit at first, though, and make a few comments on some of the directives, guidances, whatever they are, and our comments on them. Mainly we have a comment on the whole damn process, that's broke.

(Laughter.)

MS. HOODES: So -- but I would like to say: in terms of the antibiotics in livestock, we would like to state unequivocally: this decision is about protecting management styles and not about animal health care. It's always been possible to raise healthy animals without the use of antibiotics, in general -- there are specific cases it's needed -- in an organic system, but it is probably not possible in a factory farm setting, and that -- this change is clearly catering toward factory farm settings, and that is a problem, in addition to the process to get to that guidance or directive.

Similarly, inerts, the issue of the allowance of inerts if you don't know you have them is a real big problem in terms of this label and the consumers' expectations about not having this in their -- in the organic

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system at all, and it seems to go way out of the -- what
was normally expected, those normal decisions we wanted
you as a board to have to make. This is way beyond any of
that.

On the sunset provision, I just would like to
make a comment. Our pressing for a couple years for you
folks to be able to hire an executive director, this is
directly related to that. This is coming up on some
massive work that you folks have to do, and if -- you're
amazing -- I didn't even start by thanking you.

You are an amazing volunteer board that has done
incredible amount of work, and the least that we, as in
representatives of our government, and our government
could do for you is to get you an executive director that
-- to staff out some of this massive work that you have
already and that is coming up on you.

I do want to thank you for this forum, I want to
thank you for my being able to speak to you, and also for
us all to listen to all of the comments. We appreciate
that in an ongoing way.

We, as National Campaign Organic Committee,
continue to object to the treatment of this OFPA-mandated
board by the Department. We specifically refer to the
NOP's refusal to move the recommendations of the board
through a regulatory process and their increasing
usurpation of the statutorily-defined role of the NOSB.

Where are those years of recommendations, and what is the process used to determination which ones will become regulation? You folks could join in the refrain, since you have heard it from me for years now, those exact words.

In addition, we object to the practice of the NOSB -- of the NOP making materials decisions without the NOSB or without public notice and comment, and we question severely their authority to do so. In this the NOP has crossed the line. The responsibility to review and make recommendations to the Secretary regarding National List as outlined in OFPA is the most important statutory role of the NOSB.

So here we know that the NOP's move from the issuance of policy statements, that were sort of Q & As on the website, to what on the surface may appear a more formal process of what were guidances, and may still be guidances on the web but are now directives, is confusing. Those statements have gone through no more rigorous notice and comment, and while nominally welcoming input, really offers directives that materialize on the web and appear to be effective immediately.

We encourage you as a board to become much more active on your own behalf in supporting those pierces of
process that you need to move through. We will as a community support you in standing up for not accepting these directives, these guidances, that violate the law and violate your statutory role.

We will be proposing some language that we think the NOP should go to rulemaking, defining guidances, directives, regulations, and your role. That has never been done. Many other agencies have those clear-cut lines so everybody knows which is which. None of us in this room know what a guidance or a directive is, and we all deserve to at least know that process.

CHAIRMAN KING: Jim.

MR. RIDDLE: Thanks, Liona, for your words of support and encouragement and your marching orders for our future lives.

(Laughter.)

MR. RIDDLE: I was thinking last night, you know, about the past two days and the Board here, and -- I mean, it's -- it's what keeps me going on the Board, the fact that people came so well-prepared, and we've dealt with a myriad of issues, and done it in a very thoughtful manner and a respectful manner and an inclusive manner, trying to take into account public comments and the comments of diverging views on the Board. So I'm very pleased and proud of our process.
I want to comment on the executive director issue. Some of us have worked very hard to get that in the legislation, the appropriations, $100,000 for NOSB executive director, additional funds for peer review and for TAP reviews, and that money was appropriated by Congress.

When we've asked about that, we really haven't gotten information from the program, but it's my understanding that a couple weeks ago, Undersecretary Hawks was asked by Senator Herb Cole a question about these three items, and Undersecretary Hawk responded that the NOP was just about to hire an executive director for the Board.

We don't know anything about that, and you'd think that the Board, according to OFPA, has the power to hire an executive director and we'd have a role in establishing the job description and reviewing candidates, and I think we need to follow through with that. The money's there, and we need to take action, the Board needs to get more assertive on that.

I also want to inform you and other members of the audience that in the last couple months, leadership of the Board has written two letters, the last one went in last week, signed by 11 members of the Board, expressing our concerns, particularly about the materials review.
process and how we are not able to exercise our statutory authority the way things have been going for the past four months, with petitions being submitted and materials being allowed, which are not on the list, and going to TAP reviews without our screening.

This is very disconcerting to the Board, so we share your concerns and have been trying to take some actions and will continue to take actions.

MS. HOODES: And I in no way meant to imply that you weren't taking actions --

MR. RIDDLE: No, you clearly said we were.

(Laughter.)

MS. HOODES: And I do hope that you know that we are going on the Hill specifically on those issues, those three questions have been asked several times of the Department, about the director and the TAP review and the peer review panel, and I note that in OFPA the quote is "requires the Secretary to" -- quote -- "authorize the Board to hire a staff director," is the exact language that -- in OFPA. And yes, we need to continue to push Congress on these issues for you, on behalf of you, because you do work so well on behalf of us. Thank you.

CHAIRMAN KING: Liana, thank you for your comments and support. Thank you very much. Harriett. On deck is John Clark.
MS. BEHAR: Okay, my name is Harriett Behar. I'm a full-time organic inspector, a grower of organic vegetables since 1973, and certified organic since 1988. I'm also an avid organic consumer.

I'm concerned that the NOP is not going through the OFPA-mandated process of NOSB review and public comment on many of their directives and materials issues. The "organic" label is a privilege. It appears that the NOP, through their most recent directives, are allowing access to the organic market that is not based on a whole-systems approach of promoting soil, plant, and animal health but, instead, eroding the fundamental regulatory framework supporting that "organic" label.

I urge the NOSB to exert their OFPA authority, both as the materials list guardians and as the statutory advisory counsel to the NOP, to be even more proactive in fulfilling their role in the public private [phonetic] partnership given to them under the OFPA when guidance, directive, or other NOP provisions are put forth, and I'm extremely disappointed that the NOP process does not consult the NOSB and the broad expertise and stakeholder support that you represent.

I'm concerned that the recent NOP directives set many dangerous precedents. The inerts and pesticides, as a precedent, this directive allows producers to use
possibly prohibited products as long as they are unaware of the toxic List 2 or 3 inerts. This encourages manufacturers to hold back information in order to have access to the organic producer input marketplace.

In the future, fertilizer manufacturers, processed ingredients suppliers, et cetera, could choose not to release information as a way to gain access to the organic market. This is the precedent. Future NOP personnel and NOSB boards could use this precedent that permits this type of secrecy in order to just allow use of unknown materials.

Consumers wish the precautionary principle to be in place when putting their trust in organic products, and this allowance of unknown products seriously compromises their trust.

Lastly, this puts a significant burden on both inspectors and certifiers to work on obtaining information from suppliers, when the producers should prove themselves that their organic system plan meets the Rule, not that they do not know what they are using and therefore it should just be allowed.

Antibiotics to be used in animals that are at least one year prior to organic milk production: first, I believe this directly contradicts of the OFPA and the NOP rule, which does not allow antibiotic use in organic...
animals or edible products from organic animals.

It is a human health concern that overuse of antibiotics, both directly admitted to humans and animals, are causing antibiotic-resistant bacterial strains to develop. During inspections it would be difficult to track that all uses of the allowed and present antibiotics are meeting the specific requirements of this directive.

The temptation to use antibiotics for problems in animals less than one year from organic milk production is great. This also substitutes an input use for a preventative proactive approach that mandates that farmers develop healthy living environments for their animals, that promote health. The use of antibiotics to routinely control pneumonia in calves does not encourage the producer to improve the sanitation, ventilation, and stocking rates in the calf barn.

I understand the need for humane treatment for young animals, and if the NOP feels this is absolutely necessary, I would feel much more comfortable, although not in complete support, with this allowance if it was mandated that a veterinarian verify that the antibiotic was needed and that they administered it. This opens the door to any type of animal health product to be used in animals one year from organic dairy production.

Fishmeal. The precedent here allows any
secondary ingredient to be included in a non-synthetic product that is fed as a supplement. The allowed use of ethoxyquin, a prohibited preservative, embedded in this "natural" fishmeal opens the door for other items to be bundled into any "natural" products, such as synthetic amino acids, mammalian and poultry by-products, or other non-allowed materials.

In addition, this directive allows fishmeal as a livestock supplement, and this includes cattle, who do not naturally choose to eat fish.

Scope. I believe this directive sets the precedent allowing the use of the "organic" label on products that are outside the scope, whether they are certified or not, and this will confuse the consumers if organic throughout the marketplace truly does not have a meaning.

The word "organic" should be reserved only for those products that are certified by an accredited certifier, not those who just want to gain financially from the "organic" label, with no certification.

I urge the NOP to expedite work on standards for the areas mentioned in the Scope document in order to close this dangerous loophole.

Finally: I'm concerned that consumer confidence in the "organic" label will be eroded based on these

MR. SIEMON: You know we've taken a stand about the antibiotics and a lot of these issues, we've -- we've taken a stand once, twice, thrice, you know. So do you all -- I'd like to ask you and even several others: are we to the point of wanting to open up the Rule again and rewrite the Rule?

MS. BEHAR: Well, the Rule says that animals should be -- for emergency use, to preserve the animal's life, that antibiotics can be used, but the Rule is very clear that antibiotics are not allowed in animal products or edible products from organic animals.

So I believe that the Rule is very clear that antibiotics are not allowed.

MR. SIEMON: But the USDA lawyers say it's not clear, and they've interpreted it that way, so the only thing left is to either do rulemaking or the lawsuit-type thing, so --

MS. BEHAR: I believe, yes, that the consumers and many organic supporters believe that if the Rule needs to be opened, to strengthen, that statement that I just said, then we should open the Rule.

CHAIRMAN KING: Thank you, Harriett. Dr. Clark, and Jonathan Landeck is on deck.
DR. CLARK: Thank you. My name is John Bill Clark, Cassopolis, Michigan. I'm a certified organic farmer. I have a proxy from another organic farmer in my neighborhood, name is Roger Outlaw, Niles, Michigan. Strange name, on this morning, I guess.

CHAIRMAN KING: I was going to ask you about that.

DR. CLARK: I wish to second the idea of regime change, and I would illustrate that by asking how many members of the NOP staff are here in this room at this very moment?

I count -- how many? One -- she may not even be considered a member of NOP, I'm not sure.

CHAIRMAN KING: No, she's very much a member, and she works very hard, and we do appreciate the fact that Katherine's here, so I will make that clear.

MS. BENHAM: Thank you, Mark.

(Laughter.)

DR. CLARK: But when she has any function in --

CHAIRMAN KING: You don't want to be on her bad side, so --

(Laughter.)

DR. CLARK: -- in directives, I -- I don't think I want to blame her for the directives.

I don't disagree with anything that's been said.
so far except that it's always a puzzle to me, why do we
even bring up List 2, List 3, List 4 inerts, because
pesticide use is incompatible with organics paradigm.
We've been farming livestock, fruit, fish, honey,
vegetables. Livestock includes beef cattle and sheep, and
now we're getting into some birds and hogs. But we've
never seen any need for antibiotics or parasiticides, not
even for the sheep.

So you have just approved a parasiticide which
is also considered insecticidal and antibiotic, and I will
state my -- my favorite way of putting the organic
paradigm: pesticides cause pesticide -- pest problems,
and when you stop using them, the pest problems go away,
usually. And that's not limited to herbicides or
insecticides, it goes to the full spectrum, -iocides of
all kinds.

Bear with me for a careful reading of
6517(c)(1), Part A must precede Part B for every material
and note that after A-B-3 is for non-synthetic, non-
organically-produced materials that have survived A-2 and
A-3. That leaves no place for synthetics in handling.
They are strictly forbidden by 6510(a)(1). There's no
place on the National List for these. If used, products
are remanded to the "made from" label.

Congress was very clear and specific about this.
That's why they created the "made from" category. Handlers, and only handlers, are entitled to use this category and the 5-percent non-synthetic National List-listed ingredients for making their products.

Certifiers are not entitled nor responsible for certifying "made partly from" products. They certify only 95 to a hundred products without synthetics, and certified ingredients on the ingredient panels, neither their seal nor USDA's "organic" seal is permitted by statute on these products. Certifiers who defy this are risking lawsuits by consumers, producers, and handlers, who have every right to use the "made partly from" label down to 50 percent.

Now that percent organic labels are permitted, this is not a demeaning of a "94-percent organic" label. 70 percent for certain exports doesn't mean that 50 to 70-percent "made from" products should be prohibited.

Do you realize how many minor ingredient producers, like Trout Lake Farms in Oregon, have been put out of the organic business? Why do you persist -- and I'm talking to NOP now -- in this liability risk-laden practice of permitting synthetic ingredients and brow-beating handlers who have a statutory right to use these materials, if products are labeled properly?

Congress never intended for NOSB or certifiers...
to bear the burden of relisting/rehashing the FDA GRAS List. That's why they provided the "made partly with" label. They also designed the three-tiered labeling regime to avoid misleading consumers. That's also why the ludicrous attempt by NOSB to squeeze synthetic ingredients into the review process, that was never intended to include them, has been so difficult and convoluted.

A texturizing synthetic, TSPP, in a one-ingredient product, with no disclosure on the ingredient panel?: How low can you get? People buy that product, who are on low-salt diets, or maybe sensitive to synthetics, and they don't get any disclosure that it's in the product? The annotation at least should include a requirement to put that on the ingredient panel. It's half a percent? -- I heard yesterday.

Okay. All feed -- oh. The 5-percent allowance for non-organic ingredients does not translocate to feed. All feed must be 100-percent organic. Evasions of this by pretending that mineral supplements -- mineral supplement concentrates are not feed is clearly not conforming to the statute. No synthetics here either. Complete feed should be made complete by using diverse organically-produced crops, not with some short of chelated proteins or synthetic amino acids.

Okay, slightly more here. Compatibility with
organic resides primarily with alternatives, both practices and materials. The Secretary hasn't determined -- when I brought this up, tried to bring this up, yesterday, about 6517(a) and (b), it has to be (a) and (b), not just (b) without (a), and George came back, he came over to see what I was thrashing around about, George came back and looked at what I said, he brought it to you, and then he came back with: the Secretary hasn't determined that it's harmful to human health, and go through the other two categories and that.

What has NOP been doing for the last 14 years? Policy -- policing any attempt to deal with the food safety and residue testing in 6518(k)(5) and 6511(c)(2)(b)? Those things are part of the law, and they've been totally ignored by NOP.

I would second the idea that you need an -- you have the right and the need for an executive director, whatever you call it, that would be selected not by USDA, and the process for appointing members of the Board should be also controlled by the organic community at least, if not you.

I found out from Dennis Blank [phonetic] yesterday, or the day before, I can't remember which, he FOIA'd certain documents from USDA and found out that the three red herrings in the Original Proposed Rule,
radiation, sewage sludge, genetically-engineered things, the FOIA'd letters that showed that those insertions into the Original Proposed Rule, came from higher up and outside -- well, higher up in USDA and from outside corporations.

I hope I haven't violated confidentiality with Dennis, but I thought that should be public knowledge, if it isn't already. So thank you very much, again. Any questions?

(No audible response.)


MR. LANDECK: Thank you very much. I'm Jonathan Landeck, from the Organic Farming Research Foundation. This is imply a statement to acknowledge the diligent work of the NOSB and an encouragement to continue this work, and especially to echo the comments made by several of us, to be a bit more assertive in your role, in your interactions with the NOP, and to pursue further clarification of your role and scope of responsibilities. Again, thank you very much for your -- for your fine work.

CHAIRMAN KING: Thank you.

UNIDENTIFIED MALE VOICE: And he had offered that time to me (inaudible) --
(Laughter.)

CHAIRMAN KING: And I saw several Board members wanting to support him in his statements.

(Laughter.)

CHAIRMAN KING: This is Richard Wood, and we have Merrill Clark on deck.

MR. WOOD: I'm Richard Wood, the Executive Director of Food Animal Concerns Trust, or FACT. FACT is a non-profit organization that advocates for humane and sustainable farming practices to improve the safety of meat, milk, and eggs, and to promote humane and sustainable animal husbandry. Our formal comments are being passed around.

Kathy Seus, FACTS Farm Program Manager, presented comments to you on Wednesday on NOP's overall role and problems with that role. I thank you today for the opportunity to provide brief comments specifically focused on the issue of antibiotics, antibiotic use, with dairy livestock, as described in the Guidance Document issued on April 13th, or the Directive, however we want to refer to that.

FACT acknowledges that Section 205.236 of the Organic Rule addresses the origin of livestock. This section defines how livestock can be moved into an organic herd and, even though the meat from these cows cannot be
marketed as organic, how after 12 months the milk or milk products can be so labeled.

Some organic dairy farmers have asked for a clarification on this section. Kathy on Wednesday addressed our concerns with this section as well. However, this concern and this entire section of the Rule deals specifically with the origin of livestock and nothing else, and a number of dairy producers have been faithfully following this protocol.

FACT also strongly supports Section 205.238, stipulating that organic livestock producers must not, quote, "sell, label, or represent as organic any animal or edible product derived from any animal treated with antibiotics," unquote.

It is our understanding that organic dairy producers have been carefully following this protocol when marketing both meat and milk and dairy products. This prohibition is central to what it means for a product to be organic as we all understand, and in our view it is a basic assumption that consumers make as they go to the dairy cooler in the grocery store.

FACT also strongly affirms that a sick animal must be treated with therapeutic drugs, including antibiotics, even though the animal is under organic management. The Preamble to the Organic Rule states
clearly that the producer must not withhold medical
treatment from a sick animal to maintain its organic
status.

However, the Rule also states that if livestock
are treated with antibiotics or any synthetic substance
not included in the National List, then the product cannot
be labeled as organic. We all understand that.

FACT believes that the Guidance document, or the
Directive, on livestock health care undercuts the intent
of the Preamble and the substance of the Organic Rule
itself. The Guidance Statement pieces together portions
of 205.236 and 205.238 to come up with a seemingly new
section in the Rule altogether.

The Guidance document takes the provision of
.236, that milk can be marketed as organic after 12
months, and pastes that provision into .238, so that now
the "origin" provisions apply to antibiotic use as well.

FACT opposes this "cut and paste" approach to
implementing the Organic Rule. We believe this revision
undermines the integrity of the "organic" label as meaning
"no antibiotics." It goes against the current practice of
organic farmers, dairy farmers, and will undercut consumer
confidence in organically-produced products of all kinds.

FACT is joined in opposition to this position,
or this -- to this guidance, our opposition is joined by
the Union of Concerned Scientists, the Center for Science in the Public Interest, Environmental Defense, and the Institute for Agricultural and Trade Policy.

This new Guidance is a major change to the organic standards. During the NOSB meeting on Wednesday, and probably yesterday as well, I wasn't there, though, there's already been much debate and a large amount of confusion about the meaning and intent of this document. However, there is an established procedure for making significant changes that allow for a well-informed public debate where all stakeholders have the opportunity to respond. That procedure is the rulemaking process. This Guidance should be withdrawn by the NOP and submitted for public debate as a proposed modification to the organic rule. The Campaign to Keep Antibiotics Working, or KAW, is submitted a letter to USDA Secretary Veneman to ask that this step be taken. FACT is a member of KAW, which has a combined total of more than 8 million supporters.

We see this Guidance Statement as a significant change that deserves full and formal scrutiny by the NSOB -- by the NOSB --

(Laughter.)

MR. WOOD: -- and by all stakeholders. Sorry about that.

(Laughter.)
UNIDENTIFIED MALE VOICE: It's a Freudian slip.

(Laughter.)

MR. WOOD: We want all stakeholders, regardless of their name, to be involved in this, organic farmers, processors, suppliers, the consuming public, and we ask that this Guidance be withdrawn and submitted to rulemaking. Thank you very much.

CHAIRMAN KING: Questions.

MR. RIDDLE: No question, but I want to just thank you for that statement.

MR. WOOD: You betcha.

CHAIRMAN KING: Thank you.

MR. SIEMON: They've been called worse.

(Laughter.)

CHAIRMAN KING: Primarily by you.

(Laughter.)

CHAIRMAN KING: Next is Merrill Clark, and Carol King is on deck.

MS. CLARK: Thank you. My name is Merrill Clark, Roseland Organic Farms. We are primarily producers of organic livestock, and I was a charter member of the NOSB back in '92 to '96.

Actually, I view the role of this particular NOSB to be particularly challenging, obviously, and that's been noted this week. Difficulty as it was for me to wade
through the waters of the charter NOSB and try to figure out things like what elementare [phonetic] is before anything else was even discussed, plus becoming a livestock committee chair and consumer rep, this board has to leap other -- other hurdles, policy development criteria. Much improved, however, material review procedures, and a way of accommodating each other's special concerns that I find particularly refreshing, so congratulations on that. But you have this other hurdle, of dealing with the directives that have already been mentioned. We did not have anything like that in the original board I can tell you. You also -- actually, we didn't have enough, it was kind of a little laid back with the NOP at that point.

At the very least, I was known as one who never met a synthetic I could vote for --

(Laughter.)

MS. CLARK: -- many of the votes were 5 to 1, 6 to 1, and, well, there goes Merrill again.

(Laughter.)

MS. CLARK: I'm still that way (chuckles).

Which brings me, of course, to antibiotics, ivermectin, moxidectin, and fishmeal, plus the pesticides and inerts and everything that are popping up, that no one would ever think would ever really be coming up, both by NOP and,
unfortunately, some NOSB activity that I can't agree with. The cut-and-paste, however, is certainly going on, and the paste jars at NOP must be quite large at this point.

We'll be petitioning, actually, talking about it ourselves, to remove ivermectin as a synthetic pesticide, which is what a parasiticide is, and an antibiotic, they're nothing but synthetic pesticides, let's realize that, with maybe moxidectin, after that, advertised as a, quote, "better" parasiticide, don't like it, not to mention a response to that antibiotic directive.

It's clear pasture -- non-confined, organic animals, such as ours, and many others out there, in the organic stream are never particularly threatened by parasites to the extent that they have to have a synthetic pour-on parasite poison for internal use, when alternative animal lifestyles and management practices, including outdoor pasturing, are included and are available and in place.

Parasiticides, antibiotics, whatever you want to call them, mean nothing but a deterrent to animals, and, again, as somebody mentioned, the huge potential for parasite resistance. Why do we want to trap an animal in a situation that they're being diminished, not enhanced. Pesticides are doing that.

I agree with Kathy Seus, who spoke yesterday, or
Wednesday, suggesting that the NOSB work on animal
husbandry standards a little bit more completely. I know
you have the problems with the varying parts of the
country, but to me -- I remember what Bill Welsh used to
say: I can't grow pineapples in Iowa. If we can't
sufficiently grow or raise a dairy animal somewhere in
boggy, wet Arkansas, okay; should we throw in materials to
kind of make it work? I don't think so. That's where you
kind of go a little bit to -- downhill, let people bloom
where they're planted, and keep stuff wherever they are,
that works with where they are, work with the earth.

Can both NOP be doing -- can the NOP really be
doing more, actually, to discredit organic production in
the eyes of consumers and the producers, who resort to
none of the aforementioned synthetics?

Why are consumers demanding organic meat and
milk? We've heard it before: no pesticides, no anti-
biotics, no parasiticides. What's going on here between
where I was and where we are now, lots of good things, but
these are really troubling.

A quick look at materials criteria, for
moxidectin, for instance, which was just voted unanimously
and -- on the Board just yesterday. Harmful to the
environment? Yes. Adverse biological chemical
interactions? None that have been found. Thank you, but
how could they not have harmful interaction in an organic farm system? Binds to the soil? Yes. Adverse on non-target species? Yes. Sounds adverse to me. How many criteria not satisfied needed to kick a material off the list I've never understood. Some people have said, you know, you have to comply with all of them. Well, it doesn't matter. If one's good, it doesn't matter if the -- all the -- aren't other [sic.], it's -- antibiotics and paracides don't even pass the first three qualifications, that talk about "Consistent with organic? No," "Not harmful to the environment? No," and "Are there substitute practices? Yes."

I heard on TV last night a headline that was stated, said what they were starting to do -- "What are they starting to do with your food?" Thank goodness they weren't referring to organic food at this time. But, you know, somebody else out there will be starting a challenge, the liability, if we don't -- if we aren't really careful with what we're starting to allow. Thank you.

CHAIRMAN KING: Jim.

MR. RIDDLE: Thanks, Merrill. I just want to clarify a couple things, and that is: I think I heard you say that our vote on moxidectin was unanimous, and there were --
MS. CLARK: Maybe not --

MR. RIDDLE: -- I think 3 votes against and 1 abstained --

MS. CLARK: I'm sorry.

MR. RIDDLE: -- with a lengthy disclaimer.

(Laughter.)

MR. RIDDLE: As I recall. But also, then, after we received, at the end of the day, a couple different people asked me about the annotation on moxidectin, because it's quite short, what we passed, "internal parasites only," and you look at the annotation on ivermectin and it's quite lengthy. But I just want to clarify that that lengthy annotation on ivermectin is really a restating of the section in 205.238, and so it's redundant, and that same restrictions apply to moxidectin, it cannot be used for slaughter stock at all, ever. The only allowance is for breeder stock when used prior to last third of gestation and not during lactation, for breeder stock; and dairy stock, when a minimum 90 days prior to the production of organic milk. So those override both of those parasiticides.

So I just wanted to make that clear to everybody, that this wasn't an allowance for slaughter stock or a more liberal annotation than ivermectin.

MS. CLARK: I get it, but it's still squeezing
in something --

MR. RIDDLE: No, I --

MS. CLARK: -- that begins to start the ball rolling downhill.

MR. RIDDLE: I understand your concerns, and that's why some people voted against.

MS. DIETZ: I'll tell you what the official vote was: 11 yes, 1 no, 1 abstention, 1 absence.

MR. SIEMON: I just wanted to make a statement about -- you said petitioning for materials. You know, after hearing what we heard yesterday about the sunset clause, it's rather obvious that we need the organic community now to start petitioning materials that are becoming more and more obvious they don't belong on the List --

MS. CLARK: I was hoping there was a petition form right here, that we could pick up and start doing it.

MR. SIEMON: -- because, first off, when you and I were together in '92 and '93, things have changed so dramatically in our knowledge, there's materials that we put on there in good faith, that really now, to us, seem obviously the wrong decisions, and maybe --

MS. CLARK: So you all --

MR. SIEMON: Maybe we're still making wrong decisions, but --
MS. CLARK: Somebody has to petition, you don't stimulate that; is that right?

MR. SIEMON: We can't do that. We need the organic community to help us, because there are materials that in the past were wrongly put on there, to come forward now and to start -- trigger that process.

CHAIRMAN KING: Dave.

MR. CARTER: And just to follow up on that, because that's -- as I said prior to my vote -- and the second-most-lengthy, I think, disclaimer. But, you know, given the fact that ivermectin is on there, then you start to phrase things -- as long as that's on there, then let's have something that's less egregious than ivermectin, but if, you know, the community wants to step forward and petition both of those things off of there, I don't think many of us on this board would have any problem with that.

MR. RIDDLE: Right. And those petition forms and instructions are on the NOP website, and you basically follow the same procedures as you petition to add something, well, you petition to remove it, but then you need to address the criteria and your specific objections need to be in the context of the criteria.

MS. CLARK: Yeah, we need to definitely be doing more of that.

MR. SIEMON: But I would do that material by
material and not lump things together.

MS. CLARK: Okay.

CHAIRMAN KING: Yeah, good point, George. Thank you, Merrill. Annie Kristo [phonetic] is up next, and Tom Harding is on deck. Wait, I'm sorry, you're right. It's Carol King. I apologize. Annie, you're on deck.

MS. KING: Actually, I have Amy's vote [phonetic] by proxy, and I am losing my voice, I apologize. We would first like to thank the Board for all your hard work, and I understand we're probably beating a dead horse here, but I do have a statement regarding the dairy replacement and the antibiotic use that I would like to read.

The contradictions in the National Rule referring to the organic dairy production must be corrected. In reference to the guidance document, which is now going to be issued as a direction, posted on the NOP website on 4/14/04, Nova New York Certified Organic (indiscernible) would like to make the following statement.

Section 205.238(c)(1) says: "A dairy animal treated with antibiotics cannot be sold, labeled, or represented as organic."

Section 205.236(a)(2) says: "Milk or milk products must be from animals under continuous organic
management beginning no later than one year prior to the
production of the milk or milk products that are to be
sold, labeled, or represented as organic."

The meaning of these sections is clear: an
animal treated with antibiotic or other prohibited
substance must leave the herd and can never be considered
organic again. Allowing treatment with antibiotics does
not comply with this section of the Rule for "continuous
organic management." By definition, continuous means
without interruption.

To allow a dairy producer to treat a cow with
antibiotic or other prohibited substances, then keep her
on the farm and manage her organically for a full year, is
problematic. Who's going to monitor that animal and be
sure her milk is not sold as organic or fed to organic
calves? This is going to encourage some dairy producers
to cheat. There's no way a certifier can monitor what
happens on a dairy farm day to day.

It is essentially allowing a continual state of
transition, which was clearly not the intent of the Rule.
The contradictory nature of this guidance goes hand in
hand with the origin of the livestock Guidance issued on
April 11th, 2003, and I know that's a dead horse too, but
we're still trying.

Section 205.236(a)(2) is clearly referring to a
one-time whole-herd transition, and the last paragraph of
that section states that once an entire distinct herd has
been converted to organic production, all dairy animals
shall be under organic management from the last third of
gestation. The intent of the Rule is clear, after dairy
transitions of the herd to organic production, from that
point on all animals must be managed organically from the
last third of gestation.

The Guidance documents of 4/11 and 4/14, which
we have now been told will be referred to as directives,
leave the interpretation wide open. To correct this
inequity to dairy producers is simple. If the intent of
the Rule is followed, once any operation transitions their
herd to organic production, all animals must be managed
organically from the last third of gestation.

There can be no distinction between dairy farms
that transition before or after the NOP went into effect
or whether they transitioned with 100-percent organic feed
or used the feed exemption. It is discriminatory to new
farms and detrimental to the organic dairy industry as a
whole. Once a farm is certified for dairy, all animals
must be managed organically from the last third of
gestation. This includes any replacement heifers
purchased and brought onto the farm.

Requiring all animals to be managed organically
from the last third of gestation was the clear intent of the Preamble. It is the interpretation that is fair to all producers. It is the interpretation that maintains the integrity of the organic dairy industry, and it is the interpretation that consumers expect, are willing to pay for, and deserve. Thank you.

CHAIRMAN KING: Next is Tom Harding, and I believe it's John Cleary on deck.

MR. HARDING: Did you skip somebody, I thought, or --

UNIDENTIFIED MALE VOICE: No, she spoke --

CHAIRMAN KING: She spoke for Amy.

MR. SIEMON: We were so eager to hear you talk.

(Laughter.)

MR. HARDING: Thanks, George. Well, good morning to everyone.

I just want to start off by saying that this process is incredible, and the work you're doing is incredible, and I don't think we say that enough, and I want to thank not only all of you on the NOSB now, I mean, I've seen an enormous improvement in processes and the way you're looking at it, and we're going back and correcting a lot of work that was, of course, in some cases a mistake in the past, but that's an imperfect world that we live in, and that's the nature of it, but I want to thank you.
very much for it.

Knowing that it's not [sic.] imperfect world, I want to thank the NOP, because they've also laid some very important documents no the table, continue to raise the hair on the back of our necks, to make sure that we're focused on some very important issues.

(Laughter.)

MR. HARDING: We've asked for this document, by the way, for two years. Now we've got it and we don't like it. Now we have to do something about it, if we don't. But I want to tell you there are some pieces in these documents that are very important to us.

But I want to remind you that the work you're doing is critically important, I want you to focus on history, because there's a lot of history in this room, some we like and some we don't, there's a big industry out there who would like to see us -- perhaps either be part of us or see us fail, and I think it might be that they want to be part of us. We've got to make sure that the level playing field is very high and the consumers are always engaged in this process.

So don't give up this important work, continue to push hard, and even when we disagree, Jim, it's okay with me. I think it's very important, the process that I saw for the last two and a half days, it's an excellent
process, you've done an enormous job to improve it, and that includes the people in the NOP, both those who were in the room earlier and not in this room now.

The other thing I want to say is that it's very important that we recognize where we are today, because 25 years ago, when there was no OMRI, there were certifiers running around the country, who were barely making the standards survive at farm level, who were organizing materials and evaluating them.

I was involved in one of them. We never approved ivermectin. George knows that. I look over here, Dave. We never approved it. We brought in the best of experts.

The fact is, is that we do have materials on the list. They're there for a reason. Some view those as tools, others as weapons and hazards to the industry, and I remind you that the rules were twice the withdrawal of the label for the use of antibiotics on dairy herds and in meats, up until we got the law.

So we need to fix this problem. We have not, with this new document, now called the Directive. We are still unclear, you just heard from this lady before me, we still have problems understanding where the dairy herd is.

I was operating with -- a lot of my dairymen were -- we were certified no antibiotics, 12-month
transition, when all around me there were other dairymen being certified who were using antibiotics and who were not waiting 12 months. So we do need to put this consistency [sic.] and fix the inconsistency right now.

The other things that are very important, for me anyway, the new directives are on the table, so what, let's go at 'em, let's be proactive, and let's camp on the Hill.

The other thing that's very important is the materials process. I think you've improved it enormously, but let me tell you, there's a lot of work on the table yet, and I want to remind you again that we want to grow the industry, and there are some needs for what I would call environmentally less-hazardous materials to be put in this process, you put a few on the List yesterday, in the livestock, in the soils, and also in processing. These are important things. But make sure we continue to manage the bar very high.

Our main objective is to grow the industry at a very high level.

Supplements in fishmeal, I would just like to know what the hell a supplement is and how much a supplement constitutes in the feeding of an animal, any kind of an animal. I want to remind you there are people working on organic fishmeal, and so we don't want to
discourage that work by opening up the store, but at the same time, we're using fishmeal, let's quantify it. Let's quantify, at least some guidance, what a supplement is. I've already said enough about antibiotics, but whether you believe it or not, there's probably a bunch of farmers out there saying, "Woo, I am really happy about this," and there's a bunch of people in this room that are sad, and some consumers very confused. So we need to fix it.

The other thing that's really important is to change. The scope of work that came out, that's now -- it went from a guidance to a directive, I'll tell you, there's some pretty meaty stuff in there, and I would encourage us to put the flag and plant it high. We don't want to lose the word "organic."

We don't want to lose any part of this industry that can grow, whether it be a tea or a supplement or a pet food or a fish. Everyone knows that I think wild fish are better than farm fish, but that's another whole discussion, and I stand by that.

Let's plant this flag and let's not let the FDA or any other department within the government take the word "organic" from us, and you need to be [phonetic] damn mad and damn correct to make sure that doesn't happen.

The other thing that's truly important is that...
we don't give up. In fact, we should never give up. We might abuse one another, and we might fight like hell, but we do stand for a common set of objectives, that's: to build an organic industry with integrity.

The other thing that's very important to me is that we look at the communications, you open this in transparency.

MS. DIETZ: Time.

MR. HARDING: You have made this process. I encourage you to continue to do that, and I want to encourage you, as I close, absolutely build this partnership, this public-private partnership, with the USDA, don't let anybody off the hook, and hang in there, because there's no other partnership like it in the world.

There's none in Europe, there's none in Japan, no consumers at those tables, no industry at those tables, they just make the laws. Thank you very much.

MR. RIDDLE: Yeah, Tom, thanks for your comments, and I wanted to ask, when you said "camp on the Hill," I just want to be clear: you're saying that members of the industry, community, consumers, take their concerns to Congress over some of these issues, that's what you're saying as one option?

MR. HARDING: Absolutely.

MR. RIDDLE: And then you also said something
about, you know, some farmers out there being happy about
the antibiotic directive --

MR. HARDING: Uh-huh.

MR. RIDDLE: -- possibly. We haven't heard from
them. We have heard from farmers and veterinarians about
some missing tools in their toolbox --

MR. HARDING: Right.

MR. RIDDLE: -- never antibiotics, and those --

MR. HARDING: I agree.

MR. RIDDLE: -- have been petitioned, have been
considered, and have been recommended by the Board, and
they have never appeared on the National List --

MR. HARDING: Absolutely right.

MR. RIDDLE: -- where we are still missing the
livestock materials that the Board's recommended, and I
think if we had those tools we wouldn't be in the
predicament that we find ourselves in now, and, once
again, I don't know if there's anybody to ask, but that's
a question of mine.

MR. HARDING: You're right, Jim, you're right.

MR. RIDDLE: What's happened with those
livestock materials?

MR. HARDING: And we need to find out where they
are and why they aren't on the table and why they haven't
been voted on and why aren't they put on there. What I
said about the antibiotics, I can tell you, there are
people in this room, there are people not in this room,
that feel very different about antibiotics than perhaps
you and I do, and I can promise you that if we ask most
consumers, the perception is: no antibiotics, yet that's
not the case in some cases.

I would strongly ask the Board to move those
issues back to the table, those materials that we have
recommended and do need, and get them back on the plate,
and I'm not sure that the course of action we have with
the antibiotics, no matter who we make happy, is going to
be good for the industry as a whole, but I think whatever
we do, there must be a level playing field, and all
certifiers must be playing under the same set of rules and
interpreting those rules the same consistent way for
consumers.

Anything else?

(No audible response.)

MR. HARDING: Thank you all very much again.

CHAIRMAN KING: Thank you, Tom.

MR. SIEMON: I think we ought to give additional
time for praises for us, every -- a half minute, instead
of praising us, they get a half-minute longer, I really
do.

(Laughter.)
CHAIRMAN KING: Thanks for setting a precedent, Tom.

(Laughter.)

CHAIRMAN KING: John Cleary is up next, and Eric Bremmer is on deck.

MR. BREMMER: Mr. Chairman, Eric Bremmer, from (inaudible), New Jersey, I'm going to proxy my time to John Cleary. I just want to additionally state that (inaudible) appreciate the quality of the composition and the work of the NOSB, and thank you very much.

CHAIRMAN KING: Thank you.

UNIDENTIFIED MALE VOICE: You have ten and a half minutes.

CHAIRMAN KING: Because of the kind comment, of course.

(Laughter.)

MR. CLEARY: And I'll -- I'll still try to be concise. My name is John Cleary, an accredited certifier from Vermont Organic Farmers, which is the certification program owned by Nova Vermont. We certify about 300 operations in Vermont. Nova Vermont also represents another -- a thousand organic consumers that are Nova members.

I want to thank the NOSB for the incredible work that you all do, and also to thank the National Organic
There's been a lot of concern and criticism today of some things about the National Organic Program, and I want to, as a certifier, make sure that I acknowledge that, you know, we highly respect both the individuals and the regulatory role of the National Organic Program and sincerely look to having a positive constructive relationship to build this public and private partnership, that is, the National Organic Program.

The key thing in having this partnership be successful really is this Board, and at the risk of being redundant, I have to say some of these things, because the farmers that we represent at our last annual meeting gave me a mandate to come here to affirm the role of this Board as the advisory committee that continues to work on these interpretation issues.

So I know you all know that, we can't say it enough, but this Board is critical to the success of this program, because in order for the National Organic Program to be successful, we need to have transparency, we need to have public participation, and we need to have organic expertise. Those are three things that this Board provides, in an excellent format, and we can't lose those things.

One key thing about the lack of process in
interpreting the standards, and I'll be honest about this, as a certifier, certifiers are nervous about asking the NOP questions, because we're scared that we're going to get an answer that has been developed without any consultation from the organic community, without any consultation from the NOSB.

As a result, we found -- just the things that people have mentioned -- inconsistent interpretations among certifiers, farmers who don't know what the rules are because they hear different things from different people, and certifiers, like myself, kind of stuck in a strange place where we're truly trying to do the right thing, truly trying to follow the regulation, but getting conflicting messages.

Even when we do get clarification from the NOP, in terms of guidance documents or directives, and as we look at those things as compared to the guidance that we receive through NOSB recommendations, we're not clear how we're supposed to use that information that we get, and we're not clear what process was followed to come to those conclusions. And as a certifier, that's a real problem for us.

One key thing that will help, that's been mentioned before, is hiring an executive director. I just encourage you all to keep pushing on that, and I encourage
the NOP to make sure that the NOSB is a major player in
the hiring of that person.

I'm going to move on to a few specifics.
Regarding the antibiotic Guidance document, I'll say it's
something we've been very sensitive to in Vermont and in
the Northeast, in determining: what do our farmers need,
and this document came out, actually, just in time before
our recent meeting of our livestock and dairy advisory
committee, and we talked about this quite a bit, and we've
gone out, we've asked our farmers -- we have a dairy tech
program that works closely with our transitioning
producers and our existing organic producers, and we've
heard from the farmers, they're saying, "You know what?
When we transitioned, we thought that this was going to be
a really big deal and we were going to need these
antibiotics for our calves and for our young stock, but we
found out that we don't," and we have not heard from our
farmers that there is a need for increased use of
antibiotics in organic production. So I wanted to put
that out there.

In addition, a major concern for us and for the
farmers that we represent on the dairy side is this
12-month conversion, continuous conversion, process.
Nowhere else in federal regulations have I seen parallel
and inequal standards that are applied arbitrarily,
depending on the time frame or your method of transition.

Clearly this does not maintain to the standards, and I know you all have worked a lot on this, but I feel like the antibiotic issue and the transition issue will both be solved by pushing, in any ways we can, for Rule change, to clarify that the 12-month conversion was only meant to be for a whole-herd conversion and not as a continuous conversion.

So I'd just encourage you to keep working on that.

MS. DIETZ: Time.

MR. CLEARY: I can continue on to the proxy time, is that true?

CHAIRMAN KING: Yes, you have a proxy, five more minutes, yes.

MR. CLEARY: The next thing -- again, just to reiterate, the NOSB livestock medications that were approved, our farmers need those things, it's really critical, and as a certifier, I'm in a really tough position, to have to say either -- to tell farmers "either you have to sell this animal or you can't treat it in the human way that's required," even though we know those materials are allowed.

Just encourage you and to ask if we could get a
response at some point today, maybe from the NOP, about
the status of those in relationship to FDA.

Last thing, a separate topic, but also something
that I haven't heard anything -- haven't heard much about
today is this issue about National List products, multi-
ingredient products that are on the National List,
phosphoric acid, you know, fish emulsion, or seaweed
issue, and it also kind of brings in the
fishmeal/ethoxyquin issue, is we need to clarify, and it
may take some changes to the National List, this issue of
adding synthetics to other natural materials and what
effect that has.

My recommendation is that the National List
should only have single-ingredient things, rather than
multi-ingredient formulations, and that all ingredients
have to be reviewed, rather than just saying, "Well, if
it's on the list as an allowed synthetic," any synthetic --
the example is that you could add, you know, urea to --
or another synthetic fertilizer to a fish emulsion, and
under the Guidance that we've received through various
letters, that would now be allowed, because, you know,
fish emulsion is an allowed synthetic.

The other thing I wanted to point out about
that: The only way that certifiers, like us, know about
this phosphoric acid issue is because these letters kind
of bounce around on the internet, you know, one letter
goes to a certifier here, from the NOP, someone else hears
about it somewhere else, and, you know, we're calling each
other and -- so this a lack of communication between the
certifiers and the NOP is a real problem.

One thing I'd like to present, people have
talked about a little bit, a number of certifiers in this
room have organized a new organization of accredited
certifiers to work on these communication issues, and we
sincerely look forward to working closely with the NOP and
the NOSB to clarify some of these issues.

So that's all I have. Thank you very much for
your time.

CHAIRMAN KING: Thank you. At this time we have
a break scheduled, and when we come back, I have Eddie
Daniel, with Angela -- and I can't pronounce --

UNIDENTIFIED MALE VOICE: Cadell [phonetic].

CHAIRMAN KING: -- Cadell on deck. So we'll
take a 15-minute break.

(Off the record at 10:00 a.m. and reconvened at 10:17
a.m.)

CHAIRMAN KING: Thank you for allowing us to
take a break, and one quick comment.

I want to thank everyone for their well-thought-
out public comments, they are very important, we take them
very seriously, and we will be adjusting the agenda accordingly. However, I will remind everyone that there are a couple factors out of our control.

One is that there is an ACA training this afternoon in this room, which means that we cannot be out of here any later than 12 o'clock. At our current rate, it's going to be challenging to accomplish that, so I would just suggest -- you do rightfully have five minutes; however, if you can keep your comments a little bit shorter, that will allow us to get everyone's comments in.

And at this time, one -- another issue. It was mentioned earlier that the Board has responded with an official letter concerning process, that being materials review among that, among those processes, and because of the lack of time, that sort of thing, I was literally forced, as chair, to distribute this letter, asking Board members to review and support the letter in 24 hours or less.

As you might imagine, considering we all travel, and we have professional endeavors and, believe it or not, other lives as well, that was difficult to do, and in that case I know Kim was out of her office and had -- you know, basically managing multiple priorities, and at this time I wanted to just give Kim some time for a brief acknowledgement.
MS. DIETZ: Thank you. I'll time myself, two minutes.

I had told this Board that I would formally acknowledge that letter, so I'm going to do so for the record. I'd like to formally acknowledge the dedication and hard work of this Board. As representatives of this industry, it is very important that we work together to protect the word "organic."

As mentioned earlier, the NOSB drafted a letter to the NOP with regards to the materials review process. I did not sign the letter prior to its submission because of the short time frame we were asked to review it.

As promised, I will formally go on the record to say that I support the letter's directive on the materials review process.

As past materials chair, I can tell you that it is essential that we have a full understanding of the process and our roles in that process.

I also plead with the NOP and this Board to respect the fact that each and every one of us deserves to have an adequate time period to review documents. I will continue to object to any policy or recommendation on something where -- he's telling me --

MR. MESH: One minute.

MS. DIETZ: One minute.
(Laughter.)

MS. DIETZ: I will continue to object to any policy or recommendation unless given an adequate time period to fully understand what I am reviewing. It is disrespectful to each of us to push things through the process. Thank you very much.

CHAIRMAN KING: Thank you, Kim. Next we have Eddie Daniel, and Angela, you are on deck.

MR. DANIEL: My name is Ed Daniel, I'm Vice President of Bushinboy [phonetic] Farms. We grow Pacific white shrimp in Florida, in fresh water, and we are currently certified antibiotic-free, alum-free [phonetic], and specific chemical-free. The board of directors of the company made a decision, based on sales and marketing, to go a hundred-percent organic. This is two years ago. So the chairman asked me, "What do we have to do," and I told him, "Well, we can be certified based on the NOP rule, but there's one problem," because I had -- at a conference, I had a talk with Richard Matthews, and the NOP's stand [phonetic] was that you couldn't certify shrimp because you would have -- you needed to have certified organic fishmeal, and as long as you have certified organic fishmeal, then you could certify your shrimp organic. So I asked the board for a million and a half dollars, so I got a million bucks, plus we bought Tilapia [phonetic]
Farm and we contracted for certified organic feed for the -- Tilapia, and we also are building a processing plant to process the fishmeal so we'll have certified organic fishmeal. Then with my certified organic fishmeal, I should be able to have my certified organic shrimp.

But then later on there was a guidance, some ruling, that, well, shrimp can be certified under livestock, and livestock doesn't require to have certified organic fishmeal. So I said wow, that's good, we're still going to continue with our program of providing a certified organic fishmeal, and we can be certified organic, USDA organic shrimp, based on the livestock regulations, and -- so we sent a formula to the feed manufacturer, using conventional fishmeal, of course excluding any material that would be prohibited, and we promise our customers, because they're the ones who ask us, "We want organic shrimp," so this year we're producing 2 million pounds of shrimp, that should be -- should be organic.

Recently, as you all know, there is another Guidance, statement that came out, saying that we cannot have our certified shrimp. My only question is -- I don't want -- I'm not asking for any favors, I just want: what do I have to do to have my certified organic shrimp, that my customers are requesting? We are willing to follow any
regulations and do whatever has to be done and spend the money that has to be spent to do it, but what are the rules? -- and we would appreciate if they can't keep changing the rules while we're doing it, and all I do, the board of the company, I just ask them for what I want and they give me what I want, because they tell me what they want. So I can't keep (chuckles) -- you know, "What's going on here?"

Also I'm helping change company -- a shrimp processor in Ecuador also, and they are certified organic by Nature Land, and they don't even have to use certified organic feed, they can use conventional grain, also fishmeal, as long as it doesn't have any prohibited material.

Now, I stopped them from doing this last year, even though they could, I told them, "No, we'll get you certified organic by the USDA." Now they're telling me, "What we gonna do?" And apparently they are going to be sending in shrimp that are certified by Nature Land, which is an accredited agency, by the USDA.

Now, they wanted me to market that product for them, but I refused, because I don't want to market any shrimp that's not USDA-certified organic. And they also would like to do that, they can produce up to 10 million pounds of shrimp a year, that's certified organic.
So, again, my purpose for being here, just to ask the NOP, "Tell me what I have to do," and I'll do it. And I would like an answer somehow from them --
(Laughter.)

MR. DANIEL: -- sometime this week, or I give them a few more days next week.
(Laughter.)

MR. DANIEL: Because I don't want a refund from the USDA, okay, I don't want the million and a half back, I just want to know what to do. Thank you.

CHAIRMAN KING: Thank you.
(Applause.)

CHAIRMAN KING: Angela is up next, and Ray Green is on deck.

MR. MESH: We designated her time for Urvashi earlier.

CHAIRMAN KING: Oh. Thank you, Marty.

MR. MESH: I'm being forthright and honest.

CHAIRMAN KING: Ray, you're on. I see Ray's on his cell phone. Ray, do you want to -- okay, no, he's hanging up.

MR. GREEN: Good morning, NOSB Board members, and I have to say "dittos" for all of the quality work that you're all doing, and I know a good portion of that comes from the California delegation. You can't hear me?
UNIDENTIFIED MALE VOICE: Not quite. Get a little closer, just in case.

UNIDENTIFIED MALE VOICE: Speak up, Ray.

MR. GREEN: Okay. So "dittos," and special thanks to the California contingent.

I'm here representing over 3,000 companies in California that are engaged in the production and processing of organic products, and I want to introduce perhaps something that the NOSB Board, as well as the NOP, possibly have not considered, which is: the activities, the directives, the guidance documents, the guidelines, whatever we care to call them, how they may affect state organic programs. At this point in time we only have two of them, but it does have an effect.

To save time, I'm going to read just a short, short paragraph and then enter into the record here just a two-page excerpt from the California Administrative Procedures Act of 2002.

"No state agency shall issue, utilize, enforce, or attempt to enforce any guideline, criterion, bulletin, manual, instruction, order, standard or general application, or other rule which is a regulation as defined in Section 11.342 unless the same has been adopted as a regulation."

So some of the guidance documents and directives
that come are possibly not enforceable, and since we are
going to be funding all of the appeals for administrative
law judges, the guidance documents and directives and
policy statements that are being issued may not have the
force of law in some states, that have to actually follow
an administrative procedures act.

So as you're making some of these, please
consider the implications and the effect that it could
have on state organic programs, and I'll give this to
Katherine to enter into the record and I'll stop there.

CHAIRMAN KING: Thank you, Ray. Questions?
(No audible response.)

CHAIRMAN KING: Okay. Moving on, Cissy Bowman,
and Mack Devin is on deck.

MS. BOWMAN: Hello. I'm Cissy Bowman. I'm
president and owner of Indiana Certified Organic, an
accredited private certifying agency. I also have the
proxy for Jay Feldman, of the National Coalition Against
the Misuse of Pesticides, although I'm signed up in two
places, so do you want me to speak all at once?

CHAIRMAN KING: Yes.

MS. BOWMAN: Okay. I'm going to start with the
incamps [phonetic] statement. We would like to address
compliance -- the compliance and enforcement directive on
pesticide use, and because it directly impinges on the
statutory authority of the National Organic Standards Board under the Organic Foods Production Act and its responsibility to ensure compliance with the standards of the Act. As we understand this directive from the National Organic Program on allowable inert ingredients and pesticide products used in organic production, we believe it is in violation of the law. This directive does not ensure that the materials introduced into organic production are in compliance with the standards set forth in the process of review.

This failure to comply with the statute goes to the very heart of the law, that is intended to establish reasonable production practices and consumer confidence that organically-labeled products are held to a clear standard of review distinct from other laws and programs.

The directive as we understand it would allow inert ingredients listed by EPA as List 2 or 3 inerts to be used in certified organic production if the certifying agent and producer, after a reasonable effort contacting a manufacturer, EPA, and other USDA-accredited certifying agents, are unable to ascertain whether inerts in a pesticide are allowed under the NOP.

This approach erodes the clear standard of the Act and allows hazardous and potentially hazardous substances to be added to organic production.
As the NOP knows, OFPA mandates that only the NOSB may propose substances for inclusion on the National List of synthetic substances permitted in the production of organic products.

By its action USDA fails to understand the purpose of the National List. OFPA Section 21.18 requires that the List contain an itemization by specific use or application of each synthetic substance permitted. It also states: "The National List may provide for the use of substances in an organic farming or handling operation that are otherwise prohibited under this title only if the Secretary determines, in consultation with the Secretary of Health & Human Services and the Administrator of the Environmental Protection Agency, that the use of such substance would not be harmful health and the environment, is necessary to the production or handling of the agricultural product because of unavailability of wholly-natural substitute products, and is consistent with organic farming and handling."

Use of the language "only if" mandates the Secretary to determine that each requirement identified in Section 21.18(c)(a)(i), (ii), and (iii), is met before a synthetic substance is considered for inclusion on the National List.

Thus the National List cannot be a list of
synthetic substances just generally recognized as safe or
registered by EPA or under review and can only be
considered if identified in Section 21.18(c)(b)(i) for use
in farm production or as a synthetic inert, Section
21.18(c)(b)(ii), in an approved pesticide, and must be
based on a case-by-case determination of safety, need, and
consistency with organic methods.

As designated by OFPA, the NOSB and the
Secretary are directed to consider only three classes of
substances for inclusion on the National List. The
managers of the Senate House Committee [phonetic] report
on OFPA stated that:

"The National List may include exemptions for
substances otherwise prohibited but which the National
Organic Standards Board and the Secretary determine are
harmless to human health and the environment, are
necessary because of the unavailability of wholly-natural
substitute products, and are determined to be consistent
with organic farming practices. Such exemptions, however,
must meet one of the three following criteria: the
substance is used in production and contains a synthetic
active ingredient in the following categories," I will not
waste time by reading all of this to you, because I'm
assuming by now you guys already know it, but -- you know
that section, I'm assuming.
Why is this inert issue important for organic growers and consumers? The organic industry is successful because of the trust that exists between the industry and consumers. Consumers are willing to pay a premium price for organic food in order to provide healthy food for themselves and their families and to support sustainable agricultural practices.

In order to maintain this trust, consumers must feel confident that practices and materials used by organic growers and processors adhere to the highest standard and provide labeling disclosure when that is not possible.

The standards and the National List, however, need to remain strong in order to maintain consumer trust, on which the organic industry is based and thrives. Thank you.

And I also want to say I am aware that some of my comments, and this comment, is really directed at these directives and not at the NOSB, I understand that you guys are not responsible for those directives.

Okay. I'm going to -- I have a very scattered public input because I've had so many thoughts, so I'm going to be jumping around between NOP and NOSB, and I hope you'll bear with me.

With regard to this pesticide List 2 and 3 issue
-- or this inerts 2 and 3 issue: as a certifier, we've developed a process for trying to identify what's in -- what are the ingredients, and what we do is when we have a farmer that wants to use a product, an input, and we don't have an ingredients list on it, we contact the manufacturer, we have a letter that we send to them, we have forms that we have them fill out, we offer them confidentiality statement, and in that process, in over a dozen cases, we have never had one manufacturer refuse to provide us, under confidentiality, with the ingredients, including inerts, for these materials.

On the plane here I had the interesting experience of riding with almost an entire planeful -- it was a small plane -- of people from Cargill, and I noticed all of these Cargill things and said, you know, "What are you guys going to Chicago for?", and they said that they had a meeting, and I said, "Well," you know, "could I talk to you about" -- you know, "that you sell inputs to farmers," and they said yes. And so I said, you know, "Well, if like one of my organic farmers wanted to use soybean meal, or something like that, could you give me verification that it's identity-preserved" [phonetic] "GMO-free?" They said, "No problem."

They also told me that they would release to me
inert ingredients in any of their materials. I have the
guy's card. Okay. I think that this is something that
can be done. We've been doing it. And quite frankly, I'm
not very interested in going backwards on this and saying
if we don't know, then it's okay. Now, this -- that's,
again, an NLP issue.

This is an NOSB issue. With regard to your
committees, in the past -- and I know George remembers
this -- committees used to have members of the public
come, they would meet and have members of the public come
and help discuss things with them. I think with regard to
materials review, having some members of the public maybe
be on there as like a task force, when you're dealing --
wouldn't it have been great to have some organic cotton
growers, you know, when you were working on hydrochloric
acid?

So I suggest to you that maybe you should find a
way, or try to find a way, to bring members of the public
with experience in before we get to the point of the
meeting here; you might have a lot more clarification on
what's really happening out in the field. And it was done
in the past, so I don't know why it can't be done again.

GMOs. Gosh, yesterday, I got upset when I
started hearing, "Oh, well, is that only about seed?"

There is no difference between planting a roundup-ready
soybean in the ground and grinding it up and putting it on
the ground. I'm sorry. Consumers -- when they said no
GMOs, they didn't mean just no GMO seed, they meant no
GMOs. I'm a grandmother. I raised my kids on organic
food. They didn't have GMOs back then. But when my
grandchildren were born, I told my kids, "I don't want
them eating GMOs." This is the first generation of
children that are being raised on food that's genetically
manipulated. If GMOs are going to be in organic food, I
guess I'm just going to have to make sure I feed them
stuff I grow myself, because there is no way I'm going to
let those little boys be eating GMOs.

Yesterday there was some discussion about a
database. I just want to bring up one point about that.
I certify a lot of Amish farmers, and I think that if they
knew their names were going to be in a database that was
shared with every agency in the government, they're
probably going to get out of organics.

It's going to affect the dairy industry greatly,
there's a lot of transitioning Amish farmers, but I can
tell you right now, if I go back to my Amish farmers and
my Amish grower groups and tell them that's going to
happen, their bishops are going to tell them "We're not
going to be part of this anymore."

They didn't even get certified, a lot of them,
until it was required by law, and I think that this
infringes on their freedom of religion, and -- so it's
just something I think that needs to be taken into
consideration.

I also want to talk about antibiotics. My
daughter was just in the hospital for 14 days, in
intensive care, with an antibiotic-resistant staph
infection. She is on four months of oral antibiotics,
it's a new formula they hope will work. Before that they
were talking about four months of a permanent IV of
antibiotics, meaning that she could not work, someone had
to take care of her. She's 29 years old. The antibiotics
issue is huge. It's not just about whether or not we're
getting them.

I also want to speak to you from my heart: I've
been a proponent of this program for a long time, but I'm
-- after some of the things I've been hearing with these
directives and with regard to the GMOs, I'm getting kind
of ashamed, I really am. I've told a lot of people that
this made a difference. We've got to make sure it
continues to make a difference, we really do. Thank you
for your time, and for all of your hard work, you guys are
great.

CHAIRMAN KING: Andrea.

MS. CAROE: Cissy, it's my understanding from
the presentation yesterday on ECERT that there would be an
opportunity to remain confidential as far as your listing.
I may have picked that up wrong, I think we have to
clarify that, but --

MS. BOWMAN: I know there are a lot of
questions.

MS. CAROE: Well, I mean -- and I think there is
for them too, that it's in development, and I think we
were -- we were presented with something that is in
process, but I -- I believe that question was asked,
regarding confidentiality, and specifically, I believe
that anybody that's listed will have to sign a release
with their certifier, is the way I remember that.

MR. SIEMON: Yeah, that's what I heard too.

MS. CAROE: So just to ease your mind on that
one little issue, is I think we will have some protection
--

MS. BOWMAN: I just have to speak for my Amish
farmers because they're not going to come here and speak
to the government for themselves.

MS. CAROE: And, you know, there's a variety of
reasons why I think people would want to keep their names
or their addresses or their products somewhat
confidential, so -- I do believe that protection is going
to be in there, and I believe the program has heard the
concerns on that, so hopefully we'll be able to deal with that issue.

CHAIRMAN KING: Kim.

MS. DIETZ: Cissy, I wanted to comment on the materials process (inaudible) this, but the process that we went through with this group of materials I think was the best that we've ever done this far --

MS. BOWMAN: I agree.

MS. DIETZ: -- so it builds into that, that the committees have to have recommendations posted on the web 30 days prior to a meeting, and that's the opportunity for people to comment and to submit written comments and to tell the Board what you think of that recommendation, and then we take those and then come back to the meeting with them.

So I agree that we need public input, but I'm not sure how we -- how or if we could even go about getting people involved during the material process.

MS. BOWMAN: I wasn't necessarily talking just during the materials process, but in committee discussions. George could tell you how it was done in the past.

MS. DIETZ: Okay.

CHAIRMAN KING: Jim, then Dave.

MR. RIDDLE: Yeah, I just wanted to follow up on
that too, because I think it is -- you know, a valuable suggestion is more public involvement in the materials process, but I think the responsibility does rest here with members of the public, because we certainly would be open to accusations of favoritism, you know, who do we leave in? who do we leave out? kind of thing, and that's why we've tried to, you know, make sure that whatever's been petitioned is available on the database right from the get-go, so people know what's even entering the pipeline, and then all the way through our recommendations, so that that can be commented on. So I just wanted to, you know, say that.

Where I do see the expertise being drawn in is in our task force process, such as the compost tea task force and other task forces we've done, that that's very valuable. So I just wanted to say that.

MS. BOWMAN: I don't think I've used all of my 10 minutes. Could I just say a couple more things?

MS. DIETZ: You know, and I stopped the clock, so I --

MR. RIDDLE: Well, you can always respond to comments -- I mean questions.

MS. BOWMAN: I just have one more very -- really short thing to say, and that is that it seems like USDA is making my job a lot harder, as a certifier, and if I am
really a government regulatory agent and they're going to
tell me what to do and make this job this hard, I think I
should be on the payroll.

(Laughter.)

MS. BOWMAN: And I also want to add --

MR. RIDDLE: You're an agent.

UNIDENTIFIED MALE VOICE: Go, woo, woo.

(Laughter.)

MS. BOWMAN: I also want to add that if I were
to change OFPA today, I would say that you guys should be
compensated for loss of productivity and for the time that
you spend. I think that that was one of the worst parts
of the law, is the fact that you guys don't get anything
for the hard work that you do.

UNIDENTIFIED FEMALE VOICE: Yes.

MR. CARTER: Did that get in the record?

CHAIRMAN KING: Yeah, can you say that again.

(Laughter.)

CHAIRMAN KING: Dave had a question, then Nancy.

MR. CARTER: No, Kim and Jim covered mine, as
far as the public input.

CHAIRMAN KING: Nancy.

MS. OSTIGUY: I actually do, though, want to
second what Jim was saying about the difficulty of pulling
in individuals in the committee meetings, who gets
included and who doesn't, I don't want to get accused of favoritism, so what I happen to like about our new process is the fact that it's posted, anybody can comment, anybody can call me up, call a board member up, write us, tell us what they think, rather than me, as the chair of the crops committee, saying, "Oh, I would like so and so to tell me about this."

MS. BOWMAN: But not every farmer has access to the web.

MS. OSTIGUY: That's true. But it is a whole lot better in terms of broad public participation than me requesting specific information from a specific person.

MS. BOWMAN: I know, I've -- I've personally called with regard to issues, I just -- and I don't have to be their certifier, I call farmers and just say, "What are you doing," you know, "What's happening," and maybe that -- I just ask for -- you know, "Who do you know that's doing" blah, you know.

But, again, you know, I can tell you right now there aren't that many farmers who use the web, and they're not going to start. And there used to be a mailing that went out from NOP, you could sign a postcard and get a mailing, and I don't think that exists anymore.

UNIDENTIFIED FEMALE VOICE: It's too expensive.

MR. RIDDLE: Nothing about this, I just am
concerned about kind of our schedule, I know you --

CHAIRMAN KING: Right, (inaudible) people --

MR. RIDDLE: -- but we've still got a lot of
people signed up, and we have never cut off public
comment. I mean, we represent the public, it's important
for us to hear, and I'd just like to suggest that if
there's a need for another room, that NOP should start
making arrangements for the afternoon, because I think we
need to hear public comment, and that's the top priority,
people have spent their time and money to come, and we're
not going to cut that off.

CHAIRMAN KING: Duly noted. I think if we stay
on schedule and everyone considers the time, that we can
be done in an efficient manner.

MR. RIDDLE: Okay.

CHAIRMAN KING: So let's please try to stay on
track. Next up is Mack Devin; Lynn Coody is on deck.

MR. SIEMON: No more praise.

(Laughter.)

CHAIRMAN KING: Right. Just get straight to the
issue. Mack's not here. Lynn, you're up.

MS. COODY: Hello again. I'm Lynn Coody from
Organic Ag Systems Consulting, in Eugene, Oregon, and my
consulting practice is focused on assisting certifiers in
meting the accreditation requirements of the NOP.
I consider the policy directives recently released by the NOP to be stunning in the sense that I've been thinking about them for days and I've had a hard time figuring out just what to say at public comment about them, but luckily I did recover enough this morning in order to write down a few thoughts in order to give public comment and break my -- and not break my commitment to talking to the NOSB.

To me, the most disturbing aspect of these directives is that they were devised and promulgated without the consultation with the NOSB. Although it may be the NOP's legal right to make some interpretations of the Final Rule, it is not the NOP's right to make drastic changes to the organic standards without careful consultation with the NOSB and with the public. That's part of the Organic Foods Production Act.

Not only is it not right, it's counterproductive, and at the end -- and the end result is unacceptable in that it created a regulatory environment that is untenable.

For example, the inerts directive forces certifiers to act in violation of the Organic Foods Production Act by allowing synthetic materials that are on the EPA inerts List 2 and 3, which have not been reviewed by the NOSB, and certainly not been approved, this is
clearly in violation of the NOP and it puts certifiers in a very difficult position, possibly even a legally untenable position.

The fishmeal directive allows farmers to feed livestock a toxic preservative, ethoxyquin, which is commonly known to be in the commercially available supplies of fishmeal, with -- basically using fishmeal as a carrier for an unapproved material. This could be extended to other synthetic materials easily if you take the NOP's directive further.

The antibiotics directive results in organic dairy products derived from cows who may have been treated with antibiotics, a situation that has been vigorously protested by consumers since before the NOP was even established.

Simply put: These directives are not right. I have been involved with writing industry standards, laws, and policies for over two decades, including having had the honor of representing farmers and certifiers during the negotiations and drafting of the Organic Foods Production Act.

I know what the intent of these provisions in the OFPA mean, I know what it means when we put in there that the NOSB must approve and recommend to the NOP about the use of synthetics materials. This simply has not been
followed in some of these directives.

Since the time of the drafting of OFPA, the voices of farmers and certifiers, and even the NOSB itself, have been tuned out by the NOP. What I see now is that NOP directives to certifiers twist both the intent and the plain reading of the law, creating a system of regulation that forces certifiers and producers to act against their own better judgment and the long-held understanding of the elements of organic production systems.

During this NOSB meeting, I've been very grateful to see wonderful examples of the NOSB listening carefully to public comment and reconsidering their positions, mostly on materials, which has been a major focus of this long meeting we've just been through, and in light of the ideas of the public, they -- the positions have been changed.

Although I -- I've thought hard to try to remember even one example of the NOP responding to public comment in recent times. I have been unable to think of even one example.

I urge the NOSB to continue and amplify its effort to uphold the organic standards as we understood them back in the days when we were writing OFPA and specifically to work to get the NOP to reconsider the
contents of the policy directives.

Thank you once again.

CHAIRMAN KING: Thank you, Lynn.

MR. RIDDLE: A very quick comment, I said this before, but Barbara wasn't in the room and --

Yesterday, Barbara, when we were talking about sunset, said that it's a process, not an event, and clearly implementation is a process, not an event, it's something that happens every day.

CHAIRMAN KING: Thank you, Jim. Next up is Weenonah, I can't make out the last name, and she has a proxy from James Christianson. On deck is Richard Kanak.

MS. BRATTSET: Thank you. My name is Weenonah Brattset. My family and I own and operate a 250-acre beef and grain farm in southeastern Wisconsin. For many years my husband and I employed sustainable farming practices because we believed we had an obligation to treat the land with respect.

Several years ago, at the urging of friends and neighbors, we decided to begin the process to become certified organic. At first, the many rules and regulations governing organic certification seemed overwhelming. However, as we studied and learned more about these rules, we were continually impressed with how sensible they were and how, as we became more involved in
the process, these rules and regulations made more and more sense.

My husband recently passed away, and now my adult children have helped pick up the work which he did. They too are committed to organic agriculture. We are willing and eager to abide by the rules governing organic production because they make our way of life sustainable. We have found that our products are sought after by people eager to find healthy food.

For small arms, like ours, being organic makes the difference between barely getting by and being able to command a fair price for the food we produce.

Unfortunately, we're seeing an effort on the part of the National Organic Program staff at the USDA to weaken organic standards for the benefit of corporate agriculture. This is shameful. It's also somewhat enlightening. Can it be that mega-dairies and huge chicken farms need to steal the label "organic" to be profitable? -- because that's precisely what the NOP is allowing them to do when they bypass the rules which honest organic farmers follow and respect; or is it that these corporate farms see organic agricultural as a threat and wish to make the "organic" label meaningless?

I've included with this letter a list of issues which are of concern to those of us who truly value

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organic agricultural, and I won't read them, but they're attached, for the record.

It's past time for a change at the USDA's National Organic Program. It's time for Secretary Veneman to respond to the concerns of organic farmers and consumers. We need leadership which is respected and trusted. We need transparency in all of the NOP's actions. We need accountability from USDA and the NOP. And we have no intention of settling for any less.

And I would like to tell you people all thank you so much for your volunteer work, and I know what volunteer-ism is and how time-consuming it is, and I and all the people that I know in this organic movement really appreciate your efforts.

And now I'll read a letter from Jim Christianson, who is my next-door neighbor and a dairy farmer and, for obvious reasons, couldn't get up at 3 o'clock and come with me this morning, so (chuckles) --.

Jim Christianson is a third-generation dairyman from Jefferson, Wisconsin, area. The land he farms has been in the family since 1955. In 1999, when conventional milk prices dropped $6.50 overnight, Jim decided to become certified organic with OTCO.

The changes were mostly on paper since the land and herd had always been managed biologically. He began

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selling organic milk to Organic Valley in 2001 and has never looked back. The following are his comments to the NOSB and the NOP:

"Organic has been a Godsend to my family and me. There is little doubt that I would have gone out of business when milk prices dropped in the '90s, just as I watched many of my neighbors do. Now our farm is thriving and my cows have never been healthier.

"I want you all to know that I am very concerned about the future of organics when I hear about some of the recent decisions that have been passed out. I am also worried about how long it seems to take to change and enforce organic rules. My cows go outside and graze pasture. It's not only the way God meant cows to eat, it's the law with organic.

"I understand that there are organic dairies that do not pasture their cows or that have too little pasture for the size herd they are managing. You need to do whatever it takes to make sure that the requirement for pasture is enforced uniformly for all organic dairymen.

"As a fairly small producer, with a closed herd, I often have certified-organic replacement heifers for sale, but I usually have to sell them at the conventional auction, because the way the Rule is being enforced, many larger producers are allowed to use conventional heifers.
"I have written letters, filled out surveys, and signed petitions in favor of closing this loophole, but nothing seems to be happening. The extra premium that I would get from selling organic heifers would make a big difference on our farm.

"Please enforce the Rule that says that once a farm is converted to organic, all the calves must be organic from the last trimester. In fact, the situation seems to be getting worse, since now I understand that organic dairymen can not only buy conventional heifers, with unknown background, but they can even give antibiotics and conventional feed to their calves born on the organic farm. Antibiotics have no place on an organic dairy, not even with calves. If you start allowing antibiotics on dairy farms, customers will abandon organic milk in droves.

"The last thing on my mind has to do with health-care medications that have been approved for use in organics but are still not allowed because they have not been finalized into law. Organic dairy farmers need these tools to treat our cows. Particularly important for me is to be allowed to use aloe vera, which I used to use, and propylene glycol to take care of milk fever. We need to be able to use something as soon after it is voted to be allowed as possible. To have to wait two or three years
is ridiculous.

"My neighbors often ask me, 'What is the most difficult thing to deal with when changing to organic?' My answer is always: 'Good information.'" Gradually, over the years, there's been more and more information available to us.

"Therefore, when the USDA changes the rules on what we can use and what we can do, it causes a lot of confusion. We end up not knowing what we can and cannot do. We have a very good thing going, with organic. Please don't mess with it just to make it easier. The consumer won't believe that organic is any better than conventional. Thank you." From "James Christianson."

I thank you very much.

CHAIRMAN KING: Thank you.

MR. RIDDLE: I have a request. I mean, this subject has come up a couple times now, at least, about the materials, livestock materials, that the Board has reviewed and approved, and I just have a request that before we adjourn, that we could have an update from the staff on the status of that.

MR. SIEMON: That'd be great.

CHAIRMAN KING: Next is Richard Kanak, and I believe it's John Chernis on deck.

MR. KANAK: Hi. My name is Richard Kanak. I'm
an organic consumer. I have two proxies I'd like to read, plus my own statement, if that's okay.

CHAIRMAN KING: Only one proxy allowed, you get a maximum of ten minutes.

MR. RIDDLE: A total of ten minutes, one way or the other.

MR. KANAK: That's pressure, then, right?

CHAIRMAN KING: Yeah.

MR. KANAK: Okay.

CHAIRMAN KING: We're confident you can do it.

MR. KANAK: Well, I'm going to start with the easiest one first. This is from an Amish farmer, received over the internet, and it's a little difficult to read because sometimes -- the way it was written. But anyway, here it goes.

This is from Rufus Yoder, in Belleville, Pennsylvania. This is his statement:

"We are a certified organic from PCO. We are a dairy farmer and have 20 cows and about 70 acres of land. We put a big effort to this farm. But the problem is that the NOP, without the approval of the NOSB, decided to allow the large organic dairy farms, like Horizon and others, to purchase conventional heifers and then phase them into organic production. This clearly puts sustainable farmers, like us, who make extra efforts to
care for their animals, at a competitive disadvantage, and we do not want this to happen. We need to draw the line in the sand where it belongs. We want the rules to be kept the same. We very badly need better or new management in the NOP." This is signed "Sincerely, Rufus Yoder."

I'm going to read my own statement, and then if I have next time I'll read the next proxy.

The organic standards must be such that we consumers do not have to be concerned that there are degrees of organics. Purchases are made because of what is not in or not on the item. I once read a statement attributed to Warren Porter, a toxicologist from the University of Wisconsin, and this is a quote: "There are more than 77,000 pesticides out there right now. Not a single one of them that's been registered has been tested for neurological, hormonal, or immune function or impact on those functions. People need to understand that just because a pesticide is registered, that does not necessarily mean that it has no biological activity."

That was the end of the quote.

It is very a difficult and time-consuming task to keep up with this ever-changing world. It is very difficult to read the fine print of ingredients on the labels of all too many items. It would be a full-time
just to be searching that all the -- what all the
ingredients are, let alone knowing the reason for the
inclusion in the package.

The simple solution should be: looking for the
USDA "organics product of the USDA" on the label, but this
is not the case. The New York Times of Wednesday,
February 26, 2003, highlighted several issues of
questionable practices which were accepted as organic by
the USDA: organic livestocks being fed non-organic feed;
and uneven enforcement of the outdoor grazing
requirements. Would the NOP have made a different
decision if there were not so many questionable areas in
the standards? The NOSB must take steps so the USDA
organics label is not under constant pressure to be
revised to accept as organic: questionable practices.

Mad cow disease is an example of the results of
questionable practices. Is not the rule that allows non-
organic dairy cows to be converted to organic production
also a questionable practice?

Do I have time for my next proxy?

MS. DIETZ: You have 7 minutes left.

MR. KANAK: A lot of time. I can slow down,
right? I'm just too nervous, that's all.

This is a proxy before the National -- I'm
sorry. It's from the Churches' Center for Land & People.
It's from Tony Ends, and I begin:

"My name is Tony Ends. I offer testimony regarding organic farm policy from several vantage points. With my wife Della and family I've worked for ten years to establish a direct-market-approach produce enterprise and small-scale livestock farm in southern Wisconsin. As such, I live and work in a farm community and care deeply about my neighbors and countryside.

"I've written on farming and farm issues for daily newspapers and agricultural publications. I worked full-time at an institute for sustainable agricultural research and education for four years, helping agronomic soil scientists and farmers design and fund on-farm research projects in Iowa, Illinois, and Wisconsin.

"I presently lead a USDA small business innovation research project that is establishing a yield and marketing cooperative in Wisconsin. In July 2003 I was appointed part-time director of Churches' Center for Land & People. This ecumenical effort for farming people promotes justice, earth stewardship, and community. The Center was organized during the 1980s farm crisis and has been active in Iowa, Illinois, and Wisconsin, expanding services to Minnesota last year. People of Lutheran, Catholic, Episcopal, United Methodist, United Church of Christ, Presbyterian, and Quaker faiths support our work.
"From long-standing experience, I address you with a sense of urgency. Trends that have driven agriculture to consolidate and specialize in endlessly large scale are well-documented. Over the past 60 years they've almost completely undermined local infrastructures and support for farming communities across our region.

"In shackling our farmers to federal subsidies and excessive reliance on fossil fuels, they have also placed US food security in jeopardy. In the past 15 years, direct marketing, premium production, and value-added enterprises have brought some relief from oppressive consequences of agricultural industrialization.

"Sustainably integrated and organic farming practices that spawn these new trends have benefited many thousands of alternative growers and producers. If National Organic standards, however, bring industrial practices to these new areas of farm and food production, neither the people nor the land will benefit. Young farmers and farm couples will not have a chance to enter agricultural. Local economies will not regain the ground they lost to global and corporate interests in conventional food and farm production.

"The rural revival of our nation desperately needs to happen, for food safety, food security, sustainability will never take place. I ask you to
broaden your board membership and to ensure representation of these interests in ongoing development and implementation of National Organic standards. I ask you to help save organic farming from being lost to the same trends that have caused conventional agricultural production to cannibalize itself. I ask you quite simply to oppose genuinely free market and fair trade practices in your policies and rules for the common good of the democratic majority instead of the private gain of a very few."

CHAIRMAN KING: Thank you. Yes, Kevin.

MR. O'RELL: Mr. Chairman, I would just like to go on record of saying that I'm disappointed today to hear that people are coming to use public comment period for making public and personal attacks to companies. I don't feel that that's what public comment is for in this forum. It's for commenting about organic standards, commenting about the National Organic Standards Board and the National Organic Program, and it's not -- in my opinion, it is not a place for public attacks and personal attacks on companies or individuals. I would just like to urge the public not to use this tact.

CHAIRMAN KING: Thank you, Kevin.

MR. SIEMON: As well as positive. Just don't use any brand names or company names. We're talking about
policies here, doesn't matter, positive or negative, just
don't do it.

CHAIRMAN KING: This is clearly your time to
express your thoughts and feelings, and we appreciate
that, just try to keep them somewhat generic and don't
refer to specifics. We may not have all the facts. Do
you have a comment?

MR. RIDDLE: No. I just -- I -- well, yes,
then.

(Laughter.)

MR. RIDDLE: No, I'm uncomfortable as well, and
I just second what Kevin is saying. I think it's one
thing to talk about scale issue or systems issues, but I'm
uncomfortable and really don't think it's appropriate to
be singling out companies or individuals, but anyone is
free to speak as well, so --

MR. O'RELL: I recognize that. Thank you.

CHAIRMAN KING: Thank you, Kevin. Next is John,
I believe it's Chernis, and on deck is Michelle Wander.

MR. CHERNIS: No, that's okay. Sorry I don't
have papers to hand to you, I decided last night at
8 o'clock to come. I'm a certified organic farmer. I
farm 5 acres of vegetable crops in central Illinois, and I
wish there were more growers here, I think they might have
been able to make it had the timing been a little bit
different, it's -- it's hard to get here at prime planting season.

I guess I have two comments, and I'm afraid that we're losing the small grower under the present setup. I'm one of the few growers in our market that's certified, but I'm among many that have farmed organically for 15, 20 years, and they're leaving primarily -- or they're not becoming certified primarily for two reasons:

One, what seems to them -- who -- they sell the produce primarily locally, that the rules are overly burdensome in terms of recordkeeping, they just don't fit their scale of operation, the detail needed. You can still come on these farms and track what happened, but just the transferring of records to meet the certification standards are quite time-consuming, and I think that if some thought would be put into it, we could get at this and reduce this load.

Secondly, they also point to the fact that NOP is consistently changing the rules, and without good process, and -- so they really feel that -- as if it's become to mean nothing, and if we lose them, if they no longer use the term "organic" to describe themselves, we'll lose their consumers, and their consumers are the ones that primarily have helped made this whole thing become a word, it helped make the definition, "promote
organic" and why it ended up becoming a word that USDA has now defined.

So I guess, in the end, you know, I urge you to, one, try to get back this local small grower, and small isn't really below $5,000, small is -- can be pretty big and still just sell in your local area, and 5 acres can become -- we have 600 -- my yearly activity log has 600 line items. My harvest log has another 6-, 700 items. It's really burdensome, and it really would help no inspector get to what happened.

So -- and also just redefining and having good process, it takes time to get the rules right, and they're ever going to -- they're going to be ever-changing, but you guys need to be supported. Thanks.

CHAIRMAN KING: Thank you.

MR. CARTER: Two things. Number one, obviously I support completely what you say about the disruption and the changing of the rules in midstream, it is an evolving process, but we have to have some consistency, and that I think is what this Board is trying to push for.

In terms of the scale issue and the small growers, I think that one of the things that is the strength of the Rule today is that it doesn't prohibit additional labeling claims on there, and I think that those of us that work in those areas, those are some
things that we need to continue to work on, is to get some parameters around areas, such as locally produced or certified GRAS finished [phonetic] or those type of things, that can be brought in as additional claims.

I think the computer is getting more savvy as they go forward, to read what's in there, and we need to make sure that there's some integrity on those additional claims as we go forward.

MR. CHERNIS: But you're forcing growers to move away from a term that they wholly support, because it's being redefined in the marketplace.

CHAIRMAN KING: Jim.

MR. RIDDLE: I also wanted to just very quickly respond to your concerns about the burdensome recordkeeping, and the Rule does allow for a lot of flexibility, that the records be appropriate to the operation, so a small grower can have, you know, records that are appropriate, that meet the lot numbering or something, of a different operation.

And I also wanted to point out that there are some standardized templates for vegetable growers, that are on the ATRA website (inaudible) tools --

MR. CHERNIS: Sure. I have -- my spreadsheet's a little bit better than that one, and it's a total line item on Excel as well, but -- I mean, I -- I guess my
point being that -- is that we've worked really hard to keep the records that we're being asked for, and we're not being told, "Oh, you don't need any of that," we're being asked that we need -- that they want to be able to track it, and so more clarification -- and some examples -- I guess a specific example would be: so we write things in notepads and then we process them to the -- to a computer, or we transfer them to computer. That process I don't think really helps anyone. Just having those data sheets in a pile for our type of operation should be sufficient. If an inspector asks me, what happened on this date, I could find that information.

But having to transfer all that to -- and we have a computer -- I put a computer in our barns so we could facilitate this, but it's really -- takes my employee an hour a day to input everyone's -- what they did that day. It's overly cumbersome when you could still get at the -- I could simply have a list of -- a materials list of what we use. Do you really need to know which crop I sprayed on it? You need to know what day, but do you need to know which crop and which field? I have five acres, "I sprayed it out there." I mean, I could tell you -- I could answer the question, and if you decided to -- I mean, the only caveat I would see is: let's say you then banned that product, or I was using a product that wasn't
approved for use, so all the -- so the grower would risk, if they didn't want to keep that record, that they -- well, their whole crop would be uncertified, and they should be allowed to take that -- that risk, but --

CHAIRMAN KING: I encourage you to work with your certifier. Thank you. We have another question, Andrea, and then Rose, did you --

MS. DIETZ: I don't.

MS. CAROE: I just want to point out that if you truly feel you're meeting the intent of the Rule and your certifier disagrees, there is a process for an appeal, and that process is in there as an education to both you and the certifier and the community at large, and it shouldn't be looked at in a negative way but in a way that we get further clarification, we bring these issues out, we talk about them, and so I encourage you, if you really feel that what you're doing, your manual methods of maintaining the data --

MR. CHERNIS: Uh-huh.

MS. CAROE: -- are sufficient to meet the intent of the Rule, then you have that right to ask for --

MR. CHERNIS: Yeah. I think my point here would be that for me, certification -- being certified was an easy step. I didn't want to lose control over the term, and we can -- we can handle the recordkeeping, but five
other growers at our market have said, "To hell with it,"
so how do I convince them that "No, it's not so
burdensome" and so forth, because the way it reads and the
thing they get confronted with, you know, everybody's up
in arms over, you know, seed, you know, how can I prove to
them that I got -- you know, these are really -- getting
more instruction on that and showing examples of
flexibility -- "Well, you could do this" -- would really
help these growers make that move and say, "Okay, I can do
that, I can make" -- "I can give them that information."

MS. CAROE: Yes. Commercial availability is an
issue we are spending a lot of time on. We're starting
with minor ingredients, but as our Guidance has suggested,
we are talking about further taking that into the seed
commercial availability. We see this as one of those
growing areas where we're constantly filling in the detail
as we go. So we hope to be able to do that for you, we do
understand that's a huge challenge, and please understand
that, you know, it's not unheard, it just is going to take
some time to work out the sophisticated details of that..

MR. CHERNIS: Just more clarification on it to
help growers --

CHAIRMAN KING: Thank you, sir, I'm sorry, but
we have too many --

MR. CHERNIS: Sure.
CHAIRMAN KING: I really, truly am. Thank you for your input. I'm just trying to work everyone in.

MR. CHERNIS: No, no, I didn't want to be here anyway.

CHAIRMAN KING: All right. Thank you. Michelle, and then Rachel is up next.

MS. WANDER: Hi. I am a professor at the University of Illinois, I'm a soil scientist.

MR. RIDDLE: If you could state your name, please.

MS. WANDER: This is Michelle Wander. -- and I have a proxy for Lloyd and Deanna Shaffer [phonetic] from Elkman [phonetic], Wisconsin, and, being an educator, I'm -- really thank you all and the people who have spoken today for the education that I have already gotten, and I'm sort of I guess catching up with realizing how much of a communication and education role that you all play, and you need to maybe do better, and I know that's ridiculous to ask a group of people that's volunteering all their time, but it seems like this organic discussion of the concept and the intent is of critical importance, I hope that --

UNIDENTIFIED MALE VOICE: It's a little hard to hear.

MS. WANDER: I have to be that close, wow.
Okay. And I -- so I hope that the comments -- and I know they will be taken seriously by you. As I said, I'm an academic, so I go to a lot of committee meetings, and I realize that very often the meeting is not heard, and that's because the level above can either just check off that that meeting was held and they proceed with their assumptions and their conclusions already, so I know that -- my hope is that our testimonies today will help you get done some things that I suspect you want to get done.

I'm a person who's been interested in organic for a long time, for nearly 20 years, I've been working on this topic, studying soil organic matter, which is believed to be one of the critical aspects of well-managed organic systems.

People who are certified use lots of practices that are intended to improve and basically enhance the characteristics of organic matter so we achieve efficient nutrient cycling and on and on, and I've had the luxury, really, of using say big science and lots of fancy tools so that I could prove or understand what was different about organic systems than conventionally-managed systems.

I have to confess to you today that my work hasn't done any or very much good for practical managers to do a better job at being organic stewards, and that's because the basic caveats or philosophy of organic
management is pretty good, it's basically common sense systems management, and this goes for crops and livestock systems, as we've heard many people attest to today, and the standards that were negotiated socially within communities within context were very, very reactive and intelligent, easy to inform and to maintain checks and balances.

Now that we've gone to a system that's regulated at a higher level, this puts a lot of very good things that were in place at jeopardy. I have a colleague who's a legal scholar and he talks really about how when you go to rules, how they become actually vulnerable and in a way how science serves as a handmaiden to undo social goals, and I heard his comments, they were about fisheries in Africa, but I really heard them having a lot of meaning for what I see is going on in organic.

There are a lot of things that -- even though I said a moment ago that the science that I've engaged in, I think there's a lot of things that scientists can and need to do that will help with the standards, will help with some of the discussion, but I think by getting engaged in these sort of technical small points, in some ways you get off of the -- off balance when you get -- are engaged in this discussion of organic, because it really is -- people use terms that are not -- as a scientist I don't regularly
use, about philosophy and values, that are subjective, but
they're shared and they're common in this community, and
these are the things that, yes, while you should use
scientific input, you really need to go back to your base
and your community to have these discussions and have
process that lets this be negotiated, and I know you all
try to do that, and you're getting undercut.

And I guess the reason I'm motivated to come
here and talk to you about this is that I hear students
who I see as a critical future, and I know some of you, as
former students, where really this is important that the
public and these students who care very much buy in,
they're walking away from organic, they're reviewing it
with skepticism, and they're choosing between growers at
local markets and who's got the best local face or
commitment that they hear, and this is really a tragedy
for, I see, the people who have done the really heavy
lifting, and I know many of you have done that heavy
lifting.

So I'm very concerned about that, and I guess
it's this really -- you know, I have some specific cases
where I think the stewardship aspects that are
specifically managed, that science will help you with, are
one territory, and I think that the work that people like
myself do, we can go in and help organic do it better, but
the truth is, a lot of what we learn and publish will be 
immediately adopted, sometimes be more effective at the 
stewardship component of organic production. Right?

We saw in the Nature article on organic nature 
being given -- organic being suggested to be less 
sustainable than no-till when you include a cover crop. 
Right? So organic is going to be pounded and pressed to 
make that case over and over.

Where organic will always hold the upper hand in 
the cards will be the broader goal set of sustainability 
if they hold onto that. If you trade away care about 
social goals, about health and these larger, more 
subjective, difficult-to-grapple-with concepts, organic 
should, in many ways, lose the strong competitive edge 
that it should have, and this is really where people 
involved in trade, you know, corporate partners, need to 
protect the brand, and if they're smart, they will -- they 
will retain their traditional base.

And I guess that's really my main message, and I 
think that some of the issues, say in GMs, are really 
instructive, where we could talk about how BT toxin 
doesn't persist in soil so it must be safe, another 
person: well, is this specific case an allergen or not? 

Don't get caught up in the petty small pieces, 
you know. It's the philosophy and multiple sets of goals
that you have to go through that really will keep you safe, and that's really by entertaining it, you know, and I encourage the NOP to use the Board as the shepherds of the philosophy, you know, and that's: as a citizen. And I guess -- because there were so many engaging ideas, I'll try to contain myself here. The comments of Lloyd and Deanne Shaffer from Elkman, Wisconsin, submitted on April 28th, which I do appreciate the date because I know this time of year is very stressful on producers.

"We have a small family dairy farm with 50 cows. We have been shipping organic" --

UNIDENTIFIED FEMALE VOICE: Louder, please.

MS. WANDER: "We have been shipping organic milk for approximately one and a half years. We abide by strict rules set out by our certifying agency. We were under the impression that the NOP was set up to make sure that certifying agencies were all uniform, that they will and have the same rules. What is the NOP doing by changing the rules? They should be enforcing the strict standards that the certifying agencies have set forth. The Secretary of Agriculture should only be appointing people that are devoted to the organic" -- or "devoted to organic agricultural and to the NOSB. We are organic farmers because we believe in what we are doing. NOP is
making a mockery of the organic farmer. They are taking organic out of "organic." Everyone should have to follow the strict standards in this country and in others. We feel that the organic industry is doing fine before the governments decided to get involved. Now they are," and then the word got cut off, c-h, unless that means something to somebody. Thank you.

CHAIRMAN KING: Thanks. Next is Rachel, and then Jane Brandley is on deck.

RACHEL: Good morning, or afternoon now, I suppose. My name's Rachel, and I live in Chicago, and I'm a third-generation Chicagoan. I've been a vegetarian for 12 years, and I'm involved locally with organic gardening clubs and Organic Farmers Market, which is held in West Humboldt [phonetic] Park, if any of you are familiar with the Chicagoan area. I'm also a chef.

So for this reason, and many other reasons, I am concerned about the direction of the word "organic." I am concerned when it comes to the federal government getting involved in regulating such a thing. I think that organic by itself is a manifestation of natural processes of Mother Earth and can in and of itself not necessarily be regulated.

But, of course, we work with corporations and we work with the global economy, so we have the government
stepping in and trying to mandate it, and I become very scrupulous [sic.] and very weary of their intentions, because most of the time the government is working hand in hand with the corporations because they're the ones that pocket the money to them for their campaign funds or whatever else.

So that's where you get things like the EPA petitioning for toxic sludge to be considered organic, that's where you get Lists 1, 2, and 3, with synthetic chemicals that nobody's even heard of and -- so I am impressed that everybody here volunteers, and I'm sure that you guys all have a very committed self to organics.

But I'm also here on a proxy, so I'll just read that.

CHAIRMAN KING: Unfortunately, I need to announce: we have official Board policy for written proxy, so I'll give you the full five minutes, I'm forced to enforce it today, and I apologize for that, due to time constraints.

RACHEL: Written? I don't understand what you're saying.

CHAIRMAN KING: You didn't provide a written proxy. Do you have a written proxy?

RACHEL: I have a proxy written, yeah.

CHAIRMAN KING: Thank you, you're fine.
Continue. Never mind.

RACHEL: Oh, you turn it in, and after I cross my e-mail off.

Okay, the testimony's from Nathan Hetterick [phonetic] before the National Organic Standards Board today. "My father and uncle are the president and co-president and owners of Village Edge Farms, LTD, a certified organic dairy farm and a member of the Organic Choice Co-Op. Village Edge Farms is located next to the little village of Nelson in the area of west-central Wisconsin, along the Mississippi River. The farm was homesteaded in 1865 by David Hetterick and has been owned and operated by six generations of the Hetterick Family. Brothers Greg and Dennis, along with their families, now operate the family farm.

"One of the family highlights has been the process of becoming an environmentally safe certified organic dairy farm. In 1991 the Hetterick Family went away from the chemical and commercial fertilizers that pollute the air, soil, and water. By 1997 the farm was partially certified organic, then two years later the cows and all the land that was farmed was certified organic. In the year 2000 Greg and Dennis met together with other sustainable and organic farmers to start the formation of Organic Choice, with the dream to market their own dairy
products.

"Our farm and families are our biggest pride and joy. The Hetterick Family is very proud to work hard together to provide a better product for the consumer. The family is also proud to provide a healthier environment for the next generation to come.

"One of our concerns is the use of GMO contamination in organic crops. While we typically support new technology, we are very suspicious of the push for GMO crops. Now only have they not been adequately tested, but they are being forced upon farmers by market pressures and not simply offered as one choice of many.

"We do not believe that GMOs offer any benefit to any creature that consumes them, and we do not want cross-contamination of GMO crops with our certified organic crops. Please keep the concerns about GMOs and organic farmers in mind.

"We support strong standards for organic farming. While no farmer would attest to enjoying the red tape and paperwork necessary to become certified organic, we truly believe that we offer a product that is superior to conventional farming techniques.

"We strongly urge you to support the need for standards for organic personal-care products, fiber, fish, and seafood and pet food, the need for an ongoing peer-
review panel as mandated by the OFPA in the Final Rule to
oversee the USDA's accreditation program, the need to
conduct on-site evaluations of foreign certification
agencies approved by the USDA, the need for an NOSB
executive director staffed to asset the 15 volunteers
onboard, the need for a technical advisory panel, contract
announcements to be publicly posted, and for bids to be
solicited in an equitable and transparent manner.

"The need for NOP enforcement actions, including
suspensions and revocations of certification to be
publicly posted. Currently there is no public record of
NOP enforcement actions.

"We, along with the members of Organic Choice,
oppose recent action by the USDA's NOP to allow companies
to use substances not on the National List, sodium lactate
and potassium lactate as processed-meat preservatives and
phosphoric acid to fortify aquatic plant extract
fertilizers. These actions were taken with no
consultation of the NOSB, who has authority under the OFPA
over the National List, actions by the NOP to undermine
the NOSB's statutory authority over review of petitioned
substances and the National List. NOP's two-track
[phonetic] dairy herd interpretation, which requires
family farms that convert their entire herd to organic
production, to raise all replacement heifers as organic
from the last third of gestation while allowing factory-style operations to continually introduce conventional heifers so long as they are managed organically for one year prior to milk production.

"This is wrong and undermines the effort of farmers like us, who are still family farmers, lack of outdoor access for poultry, as evidenced by actions of the NOP to mandate certification of the country hen, the lack of NOP implementation of over 50 NOSB policy recommendations.

"In closing, I also wish to say that we need a management change, regime change, at the USDA's National Organic Program. We want someone who has extensive experience in organic agricultural and is universally respected by organic farmers and consumers. We have lost confidence in the present management and do not believe they are working towards the best interests of the organic farmers, who are truly farmers of integrity and care about the environment.

"We do not want people who are only concerned for those enterprising and greedy farmers who only enter the organic market for the money. Please keep standards high and farmers accountable. We work very hard to ensure the consumer gets the highest-quality organic product we can provide. Keep the standards high so other farmers can
do the same. Thank you for your time. Nathan Hetterick."

CHAIRMAN KING: Thank you. Next is Jane Brandley, and on deck is Dave Engel.

MS. BRANDLEY: Yes, I'm Jane Brandley, and I'm here to read my own statement as well as a proxy statement, and I'll start with the proxy, if you don't mind.

This is from O Farm [phonetic], John Bobbi [phonetic], Executive Director, and they are in Brussels, Wisconsin. This statement is to the National Organic Standards Board for submission to the National Organic Program, from John Bobbi, Organic Farmers Agency for Relationship Marketing, Executive Director.

"The Organic Farmers Agency for Relationship Marketing is a farmer marketing agent in Cummin."

[phonetic] "We represent organic field crop cooperatives and farmer marketing associations in a region that spans the major grain-producing areas of the United States, over an 18-state area and Ontario, Canada. A number of our member organizations market their farmers' grain into the world market. In addition, O Farm members, organization farmers, produce organic milk and livestock.

"We wish to bring to your attention the following points of concern to our farmer members in maintaining the integrity of the organic industry: 1)
The integrity of organic feed and grains must be continued to be maintained and the standards strictly forced. Weather conditions are already stressing crops over a large part of the US, pointing to another tight year of feed and grain supplies, especially for livestock. Significant amounts of grain may be important. Organic standards and certification requirements need to be strictly enforced.

"2) Dairy heifers should be raised according to organic standards from the pregnant cow on through to the freshening animal. Organic dairy producers should not be allowed to bring conventional dairy heifers into their herd at any point.

"3) The pasture requirement standards should be uniformly interpreted and strictly enforced.

"And 4) The NOP has matters before it that were brought for resolution up to two years ago. NOP's inaction in deciding these matters has the potential to compromise the integrity of organic to farmers, consumers, and the entire industries. Matters before it should be decided and acted upon in a timely manner.

"We respectfully request for NOP to act upon matters before it and take necessary steps to protect the integrity of organic grain, dairy, and livestock producers, because their livelihoods and incomes depend
upon it," and he thanks you "for your consideration, John
Bobbi."

My statement, I'll begin by saying I am just a
consumer, and I'm probably more confused than I was
before, about what organic is. I live in Lake Geneva,
Wisconsin. I've had a college education. I have my own
small business. I raised four children, and I have a
grandchild.

I make this trip here today because eating
organic is a way of life for me. I gladly spend three to
four times what one would spend for conventional food
because I believe it affords me the best opportunity of a
long and healthy life. However, I am not happy to spend
that kind of money on food that is labeled "organic" but
has been adulterated by the use of unapproved additives,
chemicals, or other so-called safe items.

What I'm hearing is that factory farms are to be
allowed to call themselves organic. There is no way that
factory farms and "organic" can be synonymous. In the
face of a mad cow disease outbreak, the USDA lied about
the amount of testing done. That lie not enough, they
tried to strong-arm other countries into reducing the
amount of their testing. How can we trust an agency that
lies to the public? How can we trust an agency that
appears to be bent on destroying the public trust in
organic labels?

The agency is being asked today to fund a director and to maintain the integrity of the "organic" label. Those are legitimate and reasonable requests. If the USDA and NOP continue to erode the integrity of the "organic" label, it will be up to the individual to research each and every bit of food they eat, every item they put on their body. It will be up to organic organizations to investigate every item that calls itself organic and make that information available to the public.

Presently I do my best not to buy so-called organic products that are put out by large food producers, and I won't mention any names here. I do not trust that these large producers are totally honest about their organic ingredients.

I no longer donate to my representatives because they do not hear me. No one in the government seems to be listening. My giving goes to organizations that I believe will preserve organic food sources, will encourage the intelligent use of our land and resources, will disseminate the information we need to make safe choices in food and other products we use in our ordinary daily lives.

Organic has become a thriving business. It will continue to grow and prosper because we cannot trust our
conventional food sources. Company who want to get into the organic business should recognize the reasons behind the lack of trust in conventional foods and understand they will not win a share of the market without garnering the public trust.

I would just like to add that this has been an eye-opener for me today, because I am just a consumer, I do read labels, I try very -- to be very careful about what I eat and what I feed my children, even what I feed my dog. I don't eat meat. I'm concerned now about the fish.

We out there in the public who buy these products want to know that there is someone who is being honest and honorable about this "organic" label, and while you all are volunteers, you all seem to have our best interests at heart, the truth of the matter is: you are a board, and someone in the government someplace is really pulling the strings and making the decisions, and it's discouraging to the average public, but I thank you for your time and effort.

CHAIRMAN KING: Goldie.

MS. GOLDBURG: I just want to respond that I heard you twice refer to yourself as "just a consumer." Don't ever do that.

MS. BRANDLEY: Well, but I'm not in the trenches
(chuckles), I just buy.

MS. GOLDBURG: Well, I would urge you also not to -- not to stop having faith in the "organic" label, recognize that it is a process, recognize that we all have to guard against many forms of attack, not the least of which is the expansion of genetically-engineered crops, which is a very -- and other such technical situations, continue to believe in this, you have four grandkids, I have five, and I'm interested in my own health, but I'm much more interested in the future and in maintaining a future that we can all see our children going into, so please don't lose faith in this process. Thank you.

MS. BRANDLEY: Well, I continue to buy organic, because I certainly can't buy conventional.
(Laughter.)

MS. BRANDLEY: But I would like to know that when the label says "organic," it is what I believe organic to be, and I don't want to -- I don't want to see any of that other stuff in it.

MS. GOLDBURG: Your participation is very much a part of that process of maintaining integrity. Thank you.

CHAIRMAN KING: One quick comment. Coming from the retail background, like Goldie, what I would add to that is that: yes, you are in the trenches, you're the front line, you're the end user, and what you think and
care about matters, and we need to hear that message and we need to respond to that message, so thank you very much, seriously, for coming here today.

MS. BRANDLEY: Thank you.

(Applause.)

CHAIRMAN KING: Kim.

MS. DIETZ: On behalf of someone who works for a large corporation and one of the first acquisitions in the organic industry, we have been leaders in this industry, we follow all the rules, each and every one of us have been instrumental in implementing these standards, so while organic foods is a personal choice and I will always stand behind that, I do take offense to the daggers and everything being thrown against large corporations, because we too are just as invested as each and every one of you in this audience, and it's not fair to say stuff like that. Thank you.

CHAIRMAN KING: Okay, next is Dave Engel, on deck is Leslie Zuck. We have approximately 15 minutes and we have five people, that's all I'll say.

MR. ENGEL: David Engel, a dairy farmer from Wisconsin, and the Executive Director of the Midwest Organic Services Association.

I too want to provide great encouragement and thanks to the Board, to the National Organic Program and
their staff, and to all the pieces that I referred to in my last public comment two days ago, because we're all working together. I think, you know, in the interest of time, I would just like to make one observation, and I don't think Marty will mind my using him as an example, but all of the comments that have been made today have been, I think, good, they have a context, tomorrow is another day, we have to go forward and practically and considerately take things into consideration in our own spheres on our daily work lives, our personal lives, and as the collective here, but, you know, the organic industry, when it started -- the reason we're here now is because we wanted to be here now.

The minor, relatively minor, intensities that have come up these last few days are all part of a process that we're going through, and, you know, Marty got up and said some very fine words about the directives, et cetera, how we need to change them, but on the other hand, you know, he was part of an effort to approve a very specific product for a very specific industry, and I think we all need to have that kind of leeway, that kind of honor and respect from everybody, because we're all in it together, and what was good for one person may not be of interest to another person, but in the sum of things, a lot of what we're talking about here today needs to be taken in a
larger context. I don't think we're "going to hell in a
hand basket," but we need to keep working together.

CHAIRMAN KING: Thank you, Dave. Leslie, and
then Jean Zanzaville.

MS. ZUCK: Leslie Zuck, Pennsylvania Certified
Organic, an accredited certifying agent, in Pennsylvania,
and I have to say that I agree with everything that
everyone has said about all the wonderful work that the
Board has done, how's that for a collective compliment.

CHAIRMAN KING: We'll take that.

UNIDENTIFIED FEMALE VOICE: You still just have
five minutes.

(Laughter.)

MS. ZUCK: Our farmers in Pennsylvania are,
however, very upset about the antibiotic directive, and
they say to me that they work very hard to raise their
animals organically and now they see the door being opened
to those farmers who do not make those efforts and who may
now resort to antibiotics, especially for their young
stock.

The farmers who manage their farms organically
do provide humane treatment to their animals, they will
administer a prohibited medication to an animal to save
its life or to reduce suffering, and we know this, because
they -- they call us and they ask us what do they do now
with that animal, and we -- we do tell them that the
treated animal would have to be a non-organic animal and
so forth, and this happens occasionally, and it's usually
a few calves, maybe as many as five or six, and, you know,
with this new directive, the farmer would be allowed to
keep the calves in the herd, and that's not necessarily a
bad thing, and I think the farmer would agree that he
would like to continue to be able to do that.

However, the consequences are also that it would
be increasing the practice of treating animals with
antibiotics, parasiticides, et cetera, et cetera, and our
farmers do consider this a significant weakening of
organic integrity.

Because once these materials are on the farm,
they're ready available and they will be regularly used.
Essentially, calves and heifers will be managed no
differently than conventional calves and heifers,
including perhaps medicated milk replacer or calf feed.

Okay. As an accredited certifying agent, we are
being directed to allow this practice, in violation of the
Organic Foods Production Act, which prohibits the use of
antibiotics and other prohibited materials. If we as a
certifying agent -- if a certifying agent doesn't follow
the directive to allow antibiotics in violation of the
Act, the certifying agent will have its accreditation
revoked.

The same goes for pesticides with unknown inert: if we allow them, we violate the Act; if we prohibit them, we violate the directive. Same goes for the fishmeal, preserved with ethoxyquin: if we allow it, we violate the Act; if we prohibit it, we violate the directive.

I'm not sure how much longer we can go on in this schizophrenic state or how much longer the organic community can really put up with it, and I don't know the answer, but I do know that there are a lot of really smart people in this room and we need to put our heads together and figure out something very soon, because this is very urgent. Maybe we need to march on Washington, I don't know.

At the very least, I think that we need to have an implementation period for the certifying agents and producers to swallow these directives, you know. We can't be expected to implement them instantaneously, and that's a real -- a difficult burden, especially on the producer. It's like we told them yesterday they were supposed to be doing this, and now tomorrow they have to be doing that. So that's a problem.

And I have an announcement to make: any accredited certifying agents who would like to join the
new certifying agents organization, or are thinking about joining, to meet us in the lobby at 7:30, at this hotel, and we're going to have an informational dinner meeting at 8 tonight. If anyone would like to attend that and has already done so, let myself or Dave Engel or Valerie Francis know so we can put you on the reservation list.

CHAIRMAN KING: Andrea.

MS. CAROE: Leslie, you had mentioned that in regards to the antibiotic directive that came out, that -- I guess you're not satisfied but you do see some benefit to this -- that it might be a good thing if they could keep those few animals on the farm.

In that vein, do you see that there is any suggestion that you or the community can make for how this could be implemented with some restrictions or something that would alleviate your concern that this would initiate overuse of these materials?

MS. ZUCK: Whenever this issue has come up before, in the exact vein, you know, "should we allow antibiotics up to 6 months," or any of those kind of exceptions, our farmers have been adamant and said that they've done -- you know, for them, the cost benefit analysis don't allow it at all, because they're doing that now, for the most part, and if they have to sell a calf or so, they don't mind. They feel that it's more important
that we have strict standards.

MS. CAROE: That wasn't my question. My question was: Could this be implemented with something attached to it, something more, that would prevent it from being overused? I mean, I understand you're saying if it's in or out, you prefer out, because you think it (inaudible) --

MS. ZUCK: Well, the my answer is: No.

CHAIRMAN KING: Thank you. Next is Jean, then Steve LaFayette, and Kelly Shea will be our last comment today.

MS. ZAZADIL: Hi. I'm Jean Zazadil, I'm a consumer and interested or concerned citizen. I'm not going to read my own comment, because everything has been said more eloquently before, but I do want to comment on the praise for the Board as well as the statements of Thomas Harding.

I am reading the proxy of Jim Cone [phonetic] of Almar [phonetic] Orchards in Flushing, Michigan:

"My wife, five children, and myself, along with four full-time and many seasonal part-time workers grow 40,000 bushels of organic apples on our 250-acre farm. We used to grow with conventional methods and almost went broke because of the cost of chemicals, low market prices, and cheap foreign imports. Sven years ago we started
transitioning to certified organic production, and now, as
an organic grower, I can make a decent living for my
family and afford to hire other people that went to spend
their life growing food for others.

"Our farm is more sustainable now that we do
organic production because it has less reliance on costly
chemicals that damage my soil and negatively impact the
environment.

"Almar Orchards now grows in harmony with Mother
Nature, letting her do most of the work in controlling the
pests, insects, and diseases. We use very friendly
chemicals like hot pepper juice, soap, garlic, vinegar,
and Neem [phonetic] oil, molasses, liquefied fish and
seaweed, insect mating disruption, diatomite herb
[phonetic], and kaolin clay.

"Our farm is now teeming with wildlife because
of the absence of harsh chemicals. I only wish that I had
started growing organically 25 years ago, before my wife
and I started rearing our children on the farm.

"Organic farming is part science and part
religion. Probably only other organic farmers truly
comprehend that statement. One cannot be close to God if
you are out there poisoning His Earth. Organic farming
takes a lot more labor, a greater understanding of the
complexities of life that is interacting in and on the
land. It is a proactive approach instead of the conventional reactive method of spraying a chemical to fix a problem that shouldn't have occurred because it could have been prevented.

"The conventional apple-growing industry is going broke, without government support dollars. Look at the hundreds of millions of dollars that were given to growers the last three years, and yet 23 percent of them still went under, according to the Michigan Department of Agriculture, here in Michigan in the last three years. If you lower the standards for organic certification or change the rules to make it easier to grow organically, you'll substitute man-power and brain-power for chemical-power.

"Factory farms and corporations will overpower the family organic family operations. If consumers become confused about what organically-grown food really is, or lose faith in the certification process and enforcement, or think for one minute that government is manipulating the system and the rules to help big business may get another buck, then the increasing demand for organic food will shrivel and die. My farm and most of my other pioneer organic farms of the 21st Century will also die. They will probably be resurrected as housing projects.

"Please don't listen to big business, but
instead, listen to the simple little organic farmer, for he is the meek of this Earth."

Thank you.

CHAIRMAN KING: Thank you. Steve LaFayette, and then Kelly, you're on deck.

MR. LAFAYETTE: Good afternoon. Thanks for your time and the opportunity to speak with you. I am going to forego my own personal statements, I've given copies, on organic acid-free paper, and I'm just going to read the proxy statements of two other farmers, but quickly try to just make the connection that I am here as a consumer, I'm -- I know we're all consumers, but I'm not affiliated with any organization, I'm not a member of an organization, I don't farm; I shop.

But I am here to speak for a few farmers that I have a great admiration for, who grow things that -- you know, I try and grow these same foods and I kill 'em half the time, so I have a --

(Laughter.)

MR. LAFAYETTE: I have a great appreciation for what they do. And one of the main other reasons why I'm also here to make the connection is that I have health issues, I have allergic reactions to certain foods, which you can read about in my statement, but it speaks directly to my concerns, that have been already voiced and
articulated regarding organic labeling and to the larger issue of organic marketing.

So just to just straight into the proxy statement here, of Jeff Webster, he wants to make some comments regarding the federal program of organic certification.

"My name is Jeff Webster, and I'm Secretary of the Sierra Club National Agricultural Committee. I'm speaking for myself and not for the committee at this time. I'm concerned about means testing regarding organic production and processing of our food. I'm also concerned about the possibility of the federal certification process not checking with producers and processors regarding compliance of set-forth organic standards.

"I would hope that at least an annual inspection be done by certified federal inspectors regarding the use or misuse of chemicals introduced into the process, that should not be there. Also there should be a soil test done each year of any land that is certified to be organic. There should be an annual test run on all food crops on farm that are part of the organic program, to ensure that they meet the strictest standards of organic purity, in addition to the above monthly checks at random, an unannounced should be conducted at any processing facility preparing organic foods for human consumption.
The organic food in question should be checked at every step of the processing and packaging process.

"If any of the above checks are not done or if they fail organic standards set forth" -- "set forth, the land, grower, and procedures should be held liable for not meeting these standards and put on non-producer or -processor status for a period of six consecutive months for the failure. At the end of the six-month period, the system in question is checked again, and, if in compliance, will be allowed into the organic chain of food production for humans again.

"The entire process of organic food production should be very transparent and open to public inspection. Federal organic standards should be at least as rigid as the traditional organic certification processes and was. The health of our nation and its food supply is an issue of the highest importance."

And again, because of, you know, my own food allergies to specific foods, you know, I clearly understand how, you know, even -- you know, how our health is inextricably connected to the food we eat.

The other proxy statement here is from Larry Gilbertson.

"The testimony" -- no. As Larry: "I farm a small certified organic dairy in central Wisconsin. This
farm has been certified nearly three years and has been farmed that way at least three years prior to certification. Milk from about 40 cows is sold organic, and all herd replacements are from on-farm births. It has been a closed herd for many years, well before being involved with organics. All winter forage and summer grazing come from this farm. No split conventional crop or livestock production is done on the farm.

"I have deep concerns for organic food and the people who look to the USDA "organic" label. They want to feel assured that what they are buying and paying a premium for truly meets organic standards and that those standards are consistent for all production.

"There is little need for a National Organic standard if favoritism and exemptions are granted to large influential deep-pocket farm operations that do not want to or can not follow the standards set by the National Organic Rule.

"When stories of these exemptions come out in the press, it destroys the whole organic program for everyone, save perhaps only the few getting the favors, at least in the short term. Those consumers looking for food produced in more earthly friendly way and the small producer following the rules are directly affected. The small producer feels his work is in vain and the consumer..."
trusts nothing. Those on the outside, looking in, the
conventional producers scoff at the whole organic movement
and label it all as" -- "and label it all as. They are
only in it for the money.

"This is real unfair to the people who have
worked hard in the cause and believe in what they do. The
National Organic Program needs people who understand
organics and have a passion for this alternative type of
food production in this country.

"If the present leadership of the National
Organic Program is only really versed in conventional
production methods and maybe feel there is really no
difference, then this leadership should stay in the
conventional USDA community and not be in a position where
exemptions can be granted to rules for a select few, rules
such as: poultry outside access; or being able to feed
non-organic feedstuff because organic costs too much; or
replacement heifers slipped into large operations, that
were not raised organic due to limited supply, and waiting
to cash in quick on the rising organic market, and a whole
host of other shortcuts.

"With organic sales increasing annually, there
are many who wish to destroy this whole thing and make it
go away. Companies producing GMO crops do not like the
organic community, suggesting there may be consequences to
using their products, and they don't like the complaints about contamination with pollen drift or production mix-ups.

"Conventional food production is threatened with loss of market share. When bad press comes out regarding some organic rule that was suspended in favor of large production and the almighty dollar, those who wish to destroy the whole organic movement are just smiling."

So I'd just like -- and as far as this last sentence, I'd just like to include myself. You know, Larry and I would wish and request upon the Board to appoint people to the National Organic Program that will protect the integrity of the program.

So thank you for your time.

CHAIRMAN KING: Thank you very much.

MR. LAFAYETTE: And Larry and Jeff, thank you for your time.

CHAIRMAN KING: Thank you. Kelly.

MS. OSTIGUY: Before you start, Kelly: I need to leave, Rose is going to leave, this is not -- the public comment has been absolutely wonderful; we have a plane to catch, so I apologize.

MS. SHEA: I'm not even going to be two minutes, okay? This is Kelly Shea, with Horizon Organic Dairy. I had no prepared statements for today, but in light of what
I've heard in this room since this morning, I really felt that I needed to stand up and speak, and not only to the NOSB but to this audience also.

I'm appalled by what I saw here today. I really believe in activism and in bringing people together to effect change, but when it's based on untruth, I cannot support it. I spoke to the consumer today who stood up here -- great lady with the little boy -- and said it's very disappointing to discover that Horizon Organic is held to a different, less-demanding standard than the small farmers out there.

Who is Horizon Organic? We are a dairy marketing company, with 260 to 300 independent family farmers supplying milk to us. We are held, our company and our farmers, to the same standards as everyone else. And when I asked this lovely lady where she got her information from, she pointed to another person in this room and said that actually she was a consumer of Horizon Organic products and was shocked to learn from this person that we employed these type of practices.

Horizon Organic, since its inception in 1991, has fought for organic foods produced without growth hormones, antibiotics, or dangerous inputs, and if you really want to talk about the truth, you should talk about that. If you want to talk about the truth, you should
talk about the fact that Horizon Organic just gave all of its producers a voluntary raise, but that kind of good news is not brought up here. Untruths are brought up here. And if there is an enemy to the organic industry, it is not from without, it is from within, and I suggest we get ourselves together. Thank you.

CHAIRMAN KING: Thank you all for your public comment, it's a very important part of the process, we appreciate it, it is considered, and we appreciate you taking time out of your busy schedules and lives to come here, to help this program.

Unfortunately, we have to move very quickly --

MR. CARTER: Mr. Chairman.

CHAIRMAN KING: Yes, Dave.

MR. CARTER: If you would formally close the public comment period, I have a motion that I would like to make very quickly, while we're --

CHAIRMAN KING: Thank you. The public comment period is formally closed.

MR. ANDERSON: As I mentioned this morning during a point of personal privilege, I would like to offer for the Board's consideration a resolution that simply says:

The National Organic Standards Board expresses its strong opposition to and concern with the National
Organic Program's issuance of significant policy directives without consultation with or advance notice to the NOSB. I would so move that resolution.

MR. RIDDLE: Second.

UNIDENTIFIED FEMALE VOICE: Do you have that in writing, for the record, so that I don't have to remember what you said?

MR. CARTER: Yes.

CHAIRMAN KING: Okay, moved and seconded.

Discussion.

(No audible response.)

MR. CARTER: This does not do anything to change the motion -- the motion yesterday directs the policy development committee to bring forward some further, but I just -- as I mentioned this morning, I thought it was important for this Board to make a statement before we leave Chicago.

CHAIRMAN KING: So it's your intent that it's read into the record.

MR. CARTER: Right. Moved and seconded, this was a formal motion.

CHAIRMAN KING: Discussion?

(No audible response.)

CHAIRMAN KING: All those in favor, signify by saying aye.
BOARD MEMBERS: Aye.

CHAIRMAN KING: Opposed, same sign.

MS. DIETZ: I'm going to abstain.

CHAIRMAN KING: 1 abstention.

MR. SIEMON: Can we do our work plans offline?

CHAIRMAN KING: I would suggest by next Friday just submit your work plans, and then any unfinished business concerning recommendations, information, and the like, please have that to Katherine by next Friday, if at all possible. That's May 7. Next meeting.

(Off the record and reconvened.)

CHAIRMAN KING: All right.

MR. RIDDLE: An update on the status of the livestock materials that the Board's recommended, and we heard from the FDA in October, and we've heard it come up from several public commenters, the need to move that forward, so I just wanted people to know, on the record, where that's at.

MR. JONES: The document has been completed, it is at Office of General Counsel, they've raised a number of questions about the document, they have significant concerns about the level of documentation associated with the materials. We are going back in consultation with OGC and attempting to answer their concerns. But that's where it's at, and it won't move forward until those concerns
get answered.

MS. DIETZ: Keith, are any of those materials on the docket that we have re-reviewed from the May meeting or are these all --

MR. JONES: The docket contains everything through May 2003.

CHAIRMAN KING: Any questions, comments?

MR. RIDDLE: No, that's all. I just wanted to know and have it in the record where it was at, so -- some things may get kicked back to the Board if there's clarifications on kind of our language or --

MR. JONES: I actually don't think it's -- you know, and this is what I know at this point, and I am drafting that docket, it is in my control, okay, so my conversation with OGC at this point leads me to believe that it is a drafting process, that the information that we have is sufficient, it's a question of getting it in the docket. I do not anticipate that we'll need to come back to the Board.

We have gone through the consultation process with FDA on all of those materials. Some of the materials I think that were mentioned in public testimony this morning, as many of you know, are off-label use and will not be included in the docket. Propylene glycol for the use of treatment of milk fever is an off-label use for
that material, and that will not be included in the
docket.

CHAIRMAN KING: Other questions?

MR. RIDDLE: Thanks, Keith.

CHAIRMAN KING: Thank you very much. Quickly,
at our last meeting we had tentatively said we would like
to have an NOSB meeting in conjunction with Expo East.
I believe the proposed dates were October 12, 13, and 14,
so if people could confirm that on their calendars
quickly.

MS. CAUGHLAN: Is the 12th, 13th, and 14th the
date of --

CHAIRMAN KING: -- the meeting. Expo would
follow.

MS. CAUGHLAN: Expo would follow it, as it is
this time.

CHAIRMAN KING: Correct. It's my understanding
it begins on the 15th, Expo.

MR. O'RELL: You know, Mark, the only thing that
I would raise is a question -- for those people who have
to be there for the full length of Expo, like we have to
be for the full length of OTA, this is for seven days that
we're out on the road, and for people who travel all the
time, it's really tough.

CHAIRMAN KING: Yeah.
MS. CAUGHLAN: But it's important, for a lot of us, to be able to combine those two.

MR. O'RELL: Then hold them overlapping somehow, to cut the time, if that can be done.

MR. SIEMON: As much as I agree with Kevin, because I'm going to be here nine days, it also brings a lot more public commenters, the other side of the coin.

MS. CAUGHLAN: Yes, and that's very important.

MR. SIEMON: The other side of the coin. So it really is a toss-up -- it's a tear, it really is. And Goldie, they're proposing that we meet Tuesday, Wednesday, and Thursday, and then Expo starts on Friday, is the proposal.

MS. CAUGHLAN: Right.

MR. SIEMON: So it's a little better than this, where we've got a day lag in here.

CHAIRMAN KING: Right. Right.

MS. CAUGHLAN: Or a day of recovery, no matter how you -- depending upon how you look at it.

MR. RIDDLE: Just one other factor, and Rose is gone, but, you know, there's that whole sunset proposal or process out there, and there -- if that does kick in, there's a certain period where the Board would have to meet, and so that may impact or we need to kind of coordinate or think about that in our meeting schedule,
but for now let's set it at this --

    CHAIRMAN KING: Well, thank you, Jim, that is an important point, we may need to adjust based on the sunset provision, but for now, if we could agree on October 12, 13, and 14, that's Tuesday, Wednesday, Thursday, we'll just move forward with that.

    MR. RIDDLE: Okay. As far as our next executive, will you just send -- executive committee meeting, will you just send something around?

    CHAIRMAN KING: Yeah, I'll send an email.

    MR. RIDDLE: Yeah.

    CHAIRMAN KING: Okay. Thank you. Any other business?

    MR. SIEMON: I move to close.

    MR. CARTER: I second.

    CHAIRMAN KING: It's been moved and seconded that we adjourn. The meeting of the National Organic Standards Board is officially adjourned. Thank you.

(Whereupon, at 12:08 p.m., the meeting was adjourned.)

* * * * *

CERTIFICATE

In Re: NATIONAL ORGANIC STANDARDS BOARD MEETING

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We, the undersigneds, do hereby certify that the foregoing pages, number 578 through 764, inclusive, is the true, accurate and complete transcript prepared from the reporting by LEAH JOHNSON in attendance at the above-identified hearings, in accordance with applicable provisions of the current USDA contract, and the below-signed persons have verified the accuracy of the transcript by (1) comparing the typewritten transcript against the reporting or recording accomplished at the hearings and (2) comparing the final proofed typewritten transcript against the reporting or recording accomplished at the hearing.

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UNITED STATES DEPARTMENT OF AGRICULTURE

NATIONAL ORGANIC STANDARDS BOARD MEETING

Meeting held on the 23rd day of October, 2003

at Radisson Barcelo Hotel
2121 P Street, N.W.
Washington, D.C.

TRANSCRIPT OF PROCEEDINGS
MEMBERS OF THE BOARD:

DAVID E. CARTER, CHAIRMAN
MARK KING, VICE CHAIR
JIM RIDDLE, SECRETARY
KIM M. BURTON
OWUSU BANDELE
GEORGE L. SIEMON
ANDREA CAROE
GOLDIE CAUGHLAN
REBECCA J. GOLDBURG
DENNIS HOLBROOK
NANCY OSTIGUY
ROSALIE L. KOENIG
MICHAEL LACY
KEVIN O’RELL
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THE CHAIRMAN: All right. If we can reconvene
the meeting. I can only reconvene the meeting when
Katherine lets me reconvene the meeting. We’ll
reconvene the meeting. Anyway, I want to welcome
everybody back for day two of the NOSB. This morning we
are going to spend dedicated exclusively to public
comment. If you do want to comment, there is a signup
sheet at the back. You need to sign up to give public
testimony. We would ask that out of courtesy that
everyone silence their cell phones, and if you have
conversation you need to carry on please do that in the
hallway so that we can stay focused on the folks that
are presenting public testimony. For those of you that
were not here yesterday, this meeting is really
dedicated to two areas, and the over arching thing is
materials, but today what we’re looking at is a part of
that. The other part of it is going through some of the
materials that have already been reviewed by the NOSB
and using a standardized format to kind of harmonize how
we come to our decisions. But what we want to focus on
today is the criteria that the Board utilizes in the
materials review process that deals with the
compatibility with organic agriculture. And we’re going
to be talking later on this afternoon about that
criteria, and coming up with our guidance document or
our instructions how we use that, and so we’re
particularly looking for input on that this morning.
That being said, this is public comment and as members
of the public you’re free to say really whatever you
want in your five minutes when you come forward because
this is your time to give us some input. So everyone
will be asked -- will be limited to five minutes on
their comments. Jim is our official timekeeper here,
and he will hold up the official NOSB authorized form
X93-4, the one-minute speaking form. So just when he
holds that up you’ll know that it’s time to wrap up your
comments. So we’ll start at the top of the list and
work down, and leading off the comments this morning is
Jim Pierce, Organic Valley, and then next up will be Dr.
Mac Devin.

MR. PIERCE: How are we doing for sound on
this microphone? Good morning. Like the swallows to
the cliff of Capastrano or the buzzards to Hinkley, Ohio
the NOSB has returned to the Barcelo Hotel in
Washington, D.C. A lot of the usual bird watchers are
here to witness his spectacle along with plenty of fresh
curiosity seekers. Ever the optimist trapped in a
cynic’s body, I honestly hope no one leaves here
disappointed but I am glad to have the opportunity to
illuminate some concerns. For the record, my name is
Jim Pierce, self-appointed certification czar at Organic
Valley, a certified organic farmer owned marketing
cooperative proudly boasting over 600 members moving
over a million pounds of organic milk every day. My
main interaction, one of my main interactions with your
Board besides street theater has been to assist in
championing 17 materials for inclusion on the National
List for livestock use. My constituency is confused and
frustrated. The messages they’re hearing from the
National Organic Program are mixed, muddled or non-
existent, especially recently concerning livestock
materials. I found it very disturbing to learn that the
agenda for this meeting has been usurped, that nothing
from your Board’s committee work plans is going to be
advanced, that two proposed rule amendments are still
not published, and that the third docket, the one that
matters most for the 600 plus Organic Valley farmers
since it will presumably include livestock materials and
recommendations is not yet scheduled for release. The
challenge today is like a high school essay. We’ve all
been given the same assignment, write a five-minute
essay titled in substance review and evaluation, what
constitutes compatibility to consistency with a system

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of sustainable agriculture, organic production, and handling. Better than what I did on my summer vacation. Fortunately for you all it’s open book and the answers are right in front of you. God bless Jim Riddle, the policy committee, and everybody who assisted them to compile this draft document titled Compatibility with Organic Production and Handling. Friends, this wheel has been rolled. The 1990 Farm Bill defines sustainable agriculture to include an integrated system of plant and animal production practices. In 1994 in an NOP report to the NOSB titled Moving Toward Sustainability States organic management methods protect the environment, minimize pollution, promote health, and optimize biological productivity. And my favorite nugget of insight from the 2001 revised Codex guidelines, the consumer will not be deceived concerning the nature, substance, and quality of organic food. To this most helpful guideline I would offer you another quote first poorly pronounced in the native dialect and then translated, the life of the land is perpetuated in righteousness. That’s the state motto of Hawaii, first quoted by King Kamama [ph] III in 1947 after being passed along countless generations part of the oral fabric, the life of the land is perpetuated in righteousness. Indigenous peoples, anyone in fact, who
puts their hands into dirt on a regular basis
understands this instinctually. Righteousness is
sustainable and compatible. Righteousness can be
synthetic or processed. Righteousness certainly can be
a recent discovery, but righteousness is also
availability. It’s transparency. It’s accountability
and consistency and unfortunately what the farmers and
handlers are getting from the National Organic Program
is not entirely righteous. I urge you as a citizens’
advisory board representing us to stand strong in
solidarity and demand better service from the USDA
program, which you have been mandated by law to advise.
We need the tools and recommendations that you work so
hard on now. The four-year sunset on the signing is
over half gone putting the organic poultry industry in a
very awkward spot. Ten other livestock materials are
trapped in a semantical vortex between FDA and USDA,
which could have and should have been resolved in an
early September meeting that was unfortunately
cancelled. Even though technical corrections like the
reinstatement of carrageenan to the list has taken over
three years jeopardizing the certification of otherwise
righteous handlers. I repeat we need these tools now.
I would also remind you that the paradigm of organic
production is for better or worse practiced in the

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conventional world. Economic practicality must be weighed along side animal welfare and environmental sustainability. The National Organic Program celebrated its first birthday three years ago. An unruly infant, this baby is looking like it will be a terrible two for the record books. I shudder even to think what it’s going to be like as a teenager. Maybe I’m being too critical. From a comfortable distance the NOP is working pretty well for most people in most situations. The USDA enjoys significant respect by consumers. The NOP Web site has improved dramatically, and at least one blatant attempt to circumvent NOP process through appropriation amendment was resoundly defeated, all with an NOP that is inarguably understaffed without adequate resources and forced to sail in uncharted waters. Stick those feathers in your cap understanding that there’s still a lot of work to do. Paint a clear bright line. Don’t leave here without determining exactly what constitutes compatibility with a system of sustainable agriculture, and you will have once again accomplished the excellent work that we have come to expect from you all. Thank you and God bless.


One of the things I forgot to mention in this part too is that under our policy is that a person may submit a
written proxy to the NOP or NOSB requesting that another
person speak on his or her behalf, but no person shall
be allowed to speak during the public comments period
for more than ten minutes, those people carrying
proxies, so I just always like that line added at the
outset. Okay. We got Dr. Mac Devin, and then following
that will be Tom Hutcheson.

MR. DEVIN: Good morning, and hello again.
The last time you guys met I talked to you about a
compound that my company produces. I’m a veterinarian
with Fort Dodge Animal Health. For the record, my name
is Mac Devin, and I’m back here today to keep it before
you. And interestingly enough in a nice fashion given
what you’ve been talking about. Moxidectin as it turns
out among the ivermectin and nobimycin [ph] compound
family, which is all housed under the term
macrocyticlactin [ph] happens to be a whole lot more
friendly to the dung dwelling insects, and indeed that
are affected by the excretion of these various compounds
is parasiticides. As you have been told before, it is
very friendly to the dung dwelling insects, primarily
the scrabbidy [ph] which would be the ones we call the
dung beetles, and in other people’s terms the enviro
beetles because these guys are the ones who are
responsible for manure management out on the pastures.
We talk about sustainable agriculture. That involves animal agriculture. And with the economic issues that Jim has just mentioned, that’s important because if we have large populations highly concentrated on grazing lands then manure management becomes an issue. So consequently we have to have products that are not harmful, that encourage those populations so that we have adequate manure management. These beetles are very important in that they bury that waste and actually put it down in the root zone where the nitrogenous parts of that waste can be utilized by the plants to produce forage. Extremely enough the product that you currently have approved, ivermectin, is very damaging to those beetles at the excretion levels in the manure, eight parts per billion whereas moxidectin up to 260 parts per billion does not damage the emergence of the larvae. So I would encourage you to as you review these compounds to at least look at the importance of that manure management issue because if you look at animal agriculture, particularly where you have very high population densities, that is a very serious issue and certainly an environmental issue as we think about run off from pastures. Much of our grazing land in this country is land that is not necessarily flat. It’s on quite a bit of slope, a lot of streams in the area, and
those are things that you as a Board have to address as you select these compounds. That’s really what I came here to say, and I appreciate your time. And I’ll be glad to take any questions if you have any.

THE CHAIRMAN: Questions?

MR. DEVIN: That was easy. Thank you.

THE CHAIRMAN: Okay. Tom Hutcheson, and then we’ll go to Mike Condon.

MR. HUTCHESON: A couple of items to hand out. I have 30 copies so there will be a bunch left when we get to the -- Tom Hutcheson, associate policy director for the Organic Trade Association. First, congratulations to all on this first anniversary of the publication of the final rule. It is very exciting to have come to a point at which we are led to move to more specifically articulate the principles of maintaining organic integrity through handling. Regarding compatibility with organic systems, please keep OTA’s principles of organic production in mind along with the Codex principles, copies of which are circulating. OTA wishes the Board great success in refining these ecological system management principles, and OTA is more than willing to work with NOSB as it develops and refines specific handling criteria from these principles of the management of energy flow and material cycling,
the basic parameters of ecological science. If it were
an easy task it would have already been done. I for one
do not expect any easy, simple, or quick solutions but
it is very important work and every further step taken
will make NOSB’s decisions more robust. Thank you.

THE CHAIRMAN: Questions for Tom? All right.

Mark Condon, and then Liana Hoodes.

MR. CONDON: Good morning, everyone. I’m
representing the American Seed Trade Association. Let
me just give you a little background of our group.
Founded in 1883, the American Seed Trade Association is
one of the oldest trade organizations in the United
States. Its membership consists of over 800 companies
in North America. We have many members that are very
much involved in development of organic seed or organic
agriculture production. I have three issues that I
would like to bring to your attention today that we have
reviewed. The first one is the current exception
allowing the use of conventional untreated seed in
organic production. The second issue is the inclusion
of seed pelleting, film coating, and priming services
within organic seed production, and lastly the
acceptance of food grade permitted substances in organic
crop production system. AST wishes to point out that
the permitted use of convention and untreated seed is a
major exception to the required use of organic inputs in
organic crop production. While we acknowledge that the
availability of seed varieties produced organically is
still limited continuing to allow crop producers to use
cheaper untreated conventional seed will now only
perpetuate low supplies from organic seed. Currently
the majority of producers of organic seed are failing to
sell sufficient quantities of their inventories. The
current exception serves as a disincentive now to
growers to purchase more expensive organic seed. The
situation is also causing many organic producers to
consider dropping out of the organic seed production at
the current time. ASTA therefore feels now it is time
to establish formal deadlines where organic seed is
mandatory for organic crop production. To facilitate
the move toward mentor use of organic seed AST would
like to assist USDA in establishing a national data base
of organic varieties to be published on the Internet.
We point out that it currently has a target date of the
end of this calendar year as all members are going to
develop national data bases to promote the use of
organic seed stocks. ASTA also believes there’s a need
to have an additional section of the NOP rule developed
for seed technology companies that provide pelleting,
film coating, and priming services. Currently such
technology is being evaluated under Sections 205.601, 205.602, and even 205.605. However, these things only refer to processed organic foods. The difficulty is that film coats and pellets are processed products, which cannot be labeled under the current language. This oversight needs to be addressed due to the complexity of pelleting and film coating formulations. The seed industry must have the option of labeling organic seed with these technologies as 100 percent organic or made with organic. And lastly the seed industry advocates acceptance of food grain permitted substances in organic crop production systems. Currently those allow food grade synthetics in Section 205.605 must be evaluated again for the use in organic crop production. And as supported by NOP staff there needs to be immediate acceptance, not re-evaluation of materials permitted in food processing for use in organic crop production. We appreciate the opportunity to present our views to the National Organic Standards Board, and remain at your disposal for any clarification or additional information on these or other seed-related topics. Thank you.

THE CHAIRMAN: Thank you. Questions? Yeah. Kim, then Jim, then Mark.

MS. BURTON: I’m trying to take notes at the
same time. It’s very challenging.

MR. CONDON: Yes. I can imagine.

MS. BURTON: You had mentioned that synthetics should be reviewed for crop production, and just a reminder the process for us to review any material would be to petition it.

MR. CONDON: And we intend to in the future.

MS. BURTON: So somehow we need to know what you’re looking at or what exactly you’re talking about before we can do any action, so I encourage you to go to the Web site and look at the petition process for those materials.

MR. CONDON: Thank you. We will do that.

THE CHAIRMAN: Jim.

MR. RIDDLE: And I just want to add to that you made a reference to the 205.601 and 602, and those are materials used in crop production. It’s the 605 that is food handling, food processing, so that would be the appropriate point to petition for inclusion on 601 with the synthetic allowed for use in crop production, and seed treatments is a category under OPFA, which can be considered so the door is open for consideration. That’s not a given that something will end up on the list but the door is open. The question I have concerns the production of organic seed from foundation or...
certified stock, which from my understanding is often
treated to preserve germination and storage. So how do
you get to organic seed when that parent stock can’t be
used under the regulation and prohibition of treatments.
I mean that’s an issue I hear from seed producers.

MR. CONDON: It’s a very big issue, and
actually it is the number one issue that we believe is
limiting the supply of organic seed. Our position
simply is we believe that seed treatment should be
allowed in the breeding process of seed. We do not
advocate treatment of the finished product that would be
available to producers, but we believe there would be no
residue in the breeding process, and so therefore it is
really a moot issue. And that one specific regulation
is basically preventing many seed companies from
developing many organic varieties, and I highly
encourage you to look at that particular proposal as
well.

MR. RIDDLE: And to follow up on that, that
could be part of a petition itself that the limited use
of a certain material be requested with a restriction on
its use only in the production of organic seed but not
in the breeding program.

MR. CONDON: I’m sure you’ll be seeing our
petition shortly.
THE CHAIRMAN: Mark.

MR. KING: Could you speak a little bit more in detail to the demand for organic seed versus conventional price difference? You talked about inventories, seed companies considering dropping out.

MR. CONDON: Well, just in general seed is not a homogenous commodity in terms of pricing. I couldn’t really respond because quite frankly different varieties have different price structures. But the general fact is that the process verification steps that people need to go through to certify organic seed does constitute additional regulatory and other type of processing steps, which will in fact increase the price of seed. And what we see now currently happening is that because of the current exemption people are basically still relying on conventional seed because the producers prefer to have a cheaper seed, and this is actually reeking havoc in the process. The growth in organic seed is still modest. I think it’s one to two percent of what is generally produced, and that’s a very, very estimate figure. We don’t envision it to be a major portion of the seed industry but it is a segment of the industry that there are specific entities that wish to address that and to become very specialized in that.

And for that reason it’s that segment we wish to
represent their interest and make sure that whatever the
rules and regulations are that at least this segment of
the industry is giving a good opportunity to at least
comply with what we believe is the sound ideals of
organic seed production.

THE CHAIRMAN: Other questions? Yeah, Rose.

MS. KOENIG: I actually did a presentation
this past summer on seeds and had the opportunity to
look at the data bases and also speak with some of the
seed companies that were currently engaged in organic
production. And as far as the data base there are
actually through the Organic Materials Review Institute.
I think there’s a number of organizations that if you go
to the Web there is access at least of the companies.
It doesn’t list every single variety. So if you’re in
the process of preparing something like that, I think
there are -- there’s information out there already
compiled. I guess the point when I spoke to some of the
companies that were producing seeds there were a few
major points that I recall that the heads of those
companies told me. One was more of a quality issue that
they hadn’t convinced themselves yet that they could
bring -- get the quality because they were dealing with
many smaller producers. It was more of a quality
control issue at the company, not necessarily a material
issue that I heard from that particular producer. Just
locating the growers that already were certified and
figuring out the mechanism to work with a lot of -- a
large number of producers to get the same quality
control. So I think that’s very different than
necessarily materials aspect of it. And then
additionally one of the concerns was the technologies
for some of the crops, more specialization, such as the
greenhouse cucumbers or seedless watermelon where you
need to use certain techniques and chemicals in that
process to actually produce a seedless. So I spoke to
that person and said those types of things would
definitely have to be petitioned. And then, you know,
again I recommended similar to what Jim is saying if
it’s really a very specific use if you narrow down the
use to that specific purpose, I think it’s just a matter
of then you can really explore the alternatives. So I
think if your group does do that application process to
certainly be very definite and provide some of the
background and technical information. And then as far
as the seed coats go, I know again the Organic Materials
Review Institute isn’t the USDA but they have one seed
comp[any], Harris has a coat that I think is -- well, it’s
a natural material that is already on there so there are
some pelletorization techniques that do use natural,
more of a natural process, and if those do exist, and Harris is a major company, you have to look at again are there alternatives out there, if there are companies that are producing alternatives using natural products. You have to consider that when you’re doing your petition.

MR. CONDON: I will do that. It’s just that organic seed production is a major departure from conventional seed production. It’s going to take some time to kind of move it in that particular direction. I think you all appreciate that. Just two things. One, please view our Web site, www.amseed.org. We have a very comprehensive policy position paper on organic seed that outlines many of the concerns and what we can comply with and what we cannot comply with. And that’s listed on my thing. And also just to be aware that the American Seed Trade Association has established an organic, a standing organic committee, within the association so the first meeting of this committee will occur in January in Savannah, Georgia. So at that time we will be reviewing a lot of that, and I’m sure get the consensus from all segments. We represent not just vegetable seeds but corn seed, soybean seed, and a whole lot of seed, and hopefully they’ll be bringing to you a consensus position on many of these issues in the

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future.

MR. RIDDLE: And just one quick comment. You mentioned your Web site, and I was going to ask about that. I’m glad to hear there’s a committee and you got policy up there. Do you have listings yet of the companies producing organic seed and varieties through your Web site?

MR. CONDON: Not at the current time.

MR. RIDDLE: Okay. But, yeah, as Rose mentioned ATRA has some of that. Are you familiar with ATRA?

MR. CONDON: Uh-huh.

MR. RIDDLE: And then OMRI does but it really comes down to a certification issue at this point, and there is a complete listing of all accredited certifiers on the NOP Web site, and if they’re aware of all the availability that’s going to help move it forward as well, so you certainly are free to provide information to accredited certifiers.

MR. CONDON: As a matter of fact, the chairman of that committee is an organic certified of seeds so we have industry plus, you know, organic certifiers involved in this committee.

MR. RIDDLE: Thanks.

THE CHAIRMAN: Thank you very much. Any other
-- okay. Next up is Liana Hoodes, followed by Emily Brown Rosen.

MS. HOODES: Good morning. I’m Liana Hoodes with the National Campaign for Stable Agriculture. I’m at a real disadvantage. I have to read my own handwriting here. It’s quite a challenge. I’d like to start by congratulating you all and the NOP on the one year anniversary of the implementation of this program. While we don’t want to make light of the years of work which have come before, you both have completed the one-year mark of a really Herculean effort of launching this new and innovative program for a national standard and a label. This is just an amazing amount of work and has really moved forward quite a bit in the past year. At the NOP you’ve done a lot of work with few staff with greatly increased Web communication to joining hands with the community to face the assault on the livestock feed standard, and initiating the one-time internal audit with ANSI. To you on the Board, we know that the federal advisory committees in government are usually made up of dedicated volunteers. I believe that you all have raised that bar the work of a volunteer. It is amazing and we are all out here often stunned at the level of work that you perform in the program on behalf of us all. Your work has not only been on standards,
materials, and the National List, but for us the work is really important in continuing to uphold the public trust, listening, responding, and giving voice to the concerns of us out here. That is a major piece that we thank you for and consider as a big part of your job.

And we at the National Campaign Organic Committee along with many, many other groups have been out there on the Hill and elsewhere advocating for increased funding and increased attention to the work of this Board and to the program. In that light I ask you to consider the growing pains of a program in its infancy, continue to evaluate and improve the program while we all celebrate its success. In the spirit of the one year look at the program we have produced this short piece on some emerging trends and challenges in the program. It is a very short case study that concludes with six recommendations that we ask you to take to the department and to your congressional delegation. These recommendations to USDA are, 1, publish a time line process and protocols for USDA in addressing NOSB recommendations made since the final rule. 2, establish a permanent peer review panel. The NC audit addresses the international norms for an internal audit but it does not as far as we know meet the requirements for establishing a peer review panel. 3, bring the NOP into

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full compliance with ISO 61 and ISO 65 guidelines. 4, develop a program manual for the NOP’s accreditation program in compliance with ISO 61, which is approved by the NOSB and made available to the public. 5, recognize third party accreditation programs as recommended by the NOSB to reduce the expense and time consuming burden to certifiers of double accreditation. 6, recognize that all entities involved in organic, producers, handlers, certifiers and consumers must have full appeals rights. The process for these appeals procedures must be promulgated through notice and comment rulemaking. Finally, know that when all is said and done the failure of USDA to implement congressional intent jeopardizes consumer confidence in organic. Thank you.


MS. ROSEN: Hi. My name is Emily Brown Rosen. I’m glad to have another opportunity to address you today. A couple of things first before I talk a little bit about compatibility just based on what happened yesterday. I think we had a really nice opportunity with the FDA coming in. I’m really glad that that happened, and that discussion was very productive. I think that this is a real break through, and I think we
got some clear signals from them that they’re willing to
work on language and it is a matter of semantics on a
lot of these products that you’ve worked hard to review
and recommend. I think that work could be done very
expeditiously to scrap some language and revise some of
those annotations, send them back over there, get them
to sign off, and get it in a docket and get it out. I
think there would be no reason to slow down on that now,
and it is something that really needs doing. I also
want to talk briefly about the whole idea of the sunset
review. I know there’s been ideas floating around how
to handle that. It’s going to be a huge project
obviously, and the process is long. We see the process
takes long to review materials, so I would suggest this
idea of I think it came from NOP to publish a Federal
Register notice announcing the eventual sunset review,
and just letting the public sign up for items that they
think deserve attention. And I would recommend not
waiting to do that. I recommend doing that as soon as
possible considering that, you know, it’s been taking
three years to get dockets published. I think we should
start that now. Then the critical ones that need review
can be addressed, and then we can -- and also from the
point of view of the contractors who said yesterday that
it’s hard to budget their time. They don’t know when

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the assignments are coming in, and they have a certain amount of money to work with. You know, you have this reserve. If you identify some critical ones that need doing, then they can budget their time better, their staff better, and get the work done in a more timely way. So I’d just ask you to consider that. Moving ahead, compatibility. This is clearly a really important role for the NOSB under your authority of reviewing materials to the OPFA criteria. And I think it was initially written into that also with the concept of this is criteria of flexibility of criteria that compatibility is not a hard and fast thing. It’s basically -- urge you to consider basing it on principles of work and production as your Board did in 1994 recommended how to evaluate this criteria based on principles of organic production. And there was some developed at that time and your Board has developed them again now. You have a good set of principles to work from. It’s similar to Codex principles and Codex also has, I’d like to remind you, has moved forward with their criteria for input evaluation this year. So we have a new draft there, and I highly advise you to incorporate that into the whole compatibility thing. The number one criteria under Codex is any substance must meet the following general criteria. It’s
consistent with principles of organic production as outlined in these guidelines. I think that gives you a lot to hang on, a lot of good considerations to work from. Let’s see. You know, the general principles we all know, and this is the point where you get to on the TAP review to say does it meet all these principles, does it meet most of these principles, do we have doubts about some of the suitability here, and that’s why I also urge you to consider the precautionary principles, which has been widely applied in Codex, IFOM [ph], and international considerations. And it grants you a little bit of flexibility and a protective nature for the organic consumer. I’d just like to read this. When an activity raises the threat of harm to human health and the environment precautionary measures should be taken even if some cause and effect relationships are not fully established scientifically. In this context the proponent of the activity rather than the public should bear the burden of proof. I think this is where it’s your job to protect the organic consumer when something doesn’t appear to be fully warranted to meeting all the criteria for the organic rules. And that’s really it. Any questions?

MS. KOENIG: I had a question on the viewpoints on this concept of the sunset provision and
publishing a list. I kind of thought about the same
system myself, and I guess the only question to you
would be if you publish a list and you don’t get any
comments does that mean that the product is accepted or
-- you know, needed or not needed. How do you interpret
some of the comments -- certainly we get comments, you
know -- if there are no comments when we publish
something, does that mean everyone is satisfied and
therefore it stays on or does it mean that...

MS. ROSEN: Well, then it would probably be --
that’s probably a legal question. I mean, you know, you
probably are -- you’d have to look at the statute and
required to review the list, but there’s probably many
ways to do that, not with TAP reviews. So I probably
wouldn’t be -- you’d have to get NOP to give you counsel
on that. I’m not sure what you would be required to do.
I have a feeling you’d get comments. I personally know
you’d get comments on the rules. There’s a number of
things that we’ve identified that just need
clarification or reconsideration. And I think if we had
that list on the table up front it would be easier for
you to divide up the work over the next couple of years
and get started on it.

MS. KOENIG: I guess your -- there’s two ways
to look at it. I think the approach of publishing that
list when it’s certainly to facilitate so that we don’t have to use a lot of funds to perhaps repeat a lot of work or look at things...

MS. ROSEN: Right. You can identify the things that are generally acceptable, yeah.

MS. KOENIG: Right, but so what -- what I’m hearing from you is you see the utility of that publication in terms of time management.

MS. ROSEN: Well, I think it makes it a public process too. It’s not like you’ve chosen exactly what needs -- I know that’s something you’ve been struggling with. It gives the public -- you know, and you can see the volume and quality of these comments, and you can judge -- you know, give you a guide to what’s really critical.

THE CHAIRMAN: Kim.

MS. BURTON: We have gone through like four or five versions of how to review the sunset, and the latest one is pretty much doing exactly what you say, just publish the list, receive the public comments, and then start reviewing them that way. We couldn’t really determine a fair way or an accurate way or prioritization or anything other than...

MS. ROSEN: I mean I don’t know if it has to be a Federal Register notice but a notice of some sort...
and then get it started, yeah.

MS. BURTON: So we do have another draft on
the table.

THE CHAIRMAN: Jim.

MR. RIDDLE: Yeah, just a comment to the
Board. You brought up, Emily, the Codex guidelines, and
I just wanted to point out to Board members that there
are excerpts from Codex in the draft on compatibility
that I handed out yesterday under addendum F so there’s
excerpts from the Codex principles, and then the
complete new revised criteria for materials review.

MS. ROSEN: Do you have them in there because
I have some more copies right here.

MR. RIDDLE: Oh, okay. Yeah, they’re already
in. I pasted them in.

MS. ROSEN: Oh, okay.

THE CHAIRMAN: And also the precautionary
language is included in one of the documents that the
policy development committee distributed yesterday too.
Other questions for -- okay. Thank you, Emily. Dave
DeCou, and then Hubert Karreman.

MR. DECOU: Good morning. My name is Dave
DeCou. Thank you for the opportunity to talk with all
of you. I got to speak to you for a few moments
yesterday. Among many other things, I am an organic
grower, and one of the issues around concepts of consistency and compatibility with sustainable agriculture or organic handling or whatever the other terms are it’s imperative from a grower’s point of view that flexibility be maintained in the working actions of those rules. As a grower, I’ve watched other growers convert to organic, and the first inclination is always to go for a substitution. Well, I used to use this. What can I substitute that’s organic. In the end almost everybody who succeeds as an organic grower goes beyond that, and comes up with an entirely new system, a new way of looking at it and that requires flexibility on their part and flexibility within the parameters that we are given. So I see the same thing being necessary probably in the food handling, organic food handling level, with that flexibility in new systems. We need to leave opportunities for people to find another way to achieve a product of whatever the product may be of equal quality, if it’s organic probably higher quality. I see that in the organic produce industry that our organic produce is typically always equal to and often higher than conventional produce, not that I’m promoting anything. Then I’d like to reiterate several other things that were stated earlier. Look at the international standards. Don’t go in opposition to them...
at all. In the long run as growers what do you want to do. Most of us sell locally. A few of us ship out of the country. We want to be able to do it without having to go, oh, my God, I got to keep track of this other little detail here in my paperwork because when I ship it to Japan I can’t use this or that or whatever it may be, so let’s not deviate from the possibility of harmonization so that we can all have a very similar definition of organic across the globe. And the precautionary principle just makes a great deal of sense to me. Our consumers are considering that the products that we provide are as healthy as they can possibly be and let’s be pretty cautious about that. Thank you.

THE CHAIRMAN: Questions for Dave? Thank you, Dave. Hubert Karreman, and then Urvashi Rangan.

MR. KARREMAN: Good morning. Hubert Karreman, Pennsylvania. If the Board is willing, I’d like to finish up something from yesterday. That was an excellent session. I’m really glad that happened. I’d like to maybe emphasize that please streamline the process for the veterinary materials you already voted on last year that were already endorsed by this Board, those troubled items. Please include the items with the simple annotation under veterinary directive with a valid client patient relationship, and this will enable
the Amduga [ph] clause. And please create one category under livestock materials. You’ve already set precedent for that with the one category under the processing materials. Then items won’t be tagged as Madisons technically and the FDA will not need to assert their regulatory authority over them as we heard right from them yesterday. As this process is hammered out, I’m hoping that the NOP might grant some latitude, perhaps as the FDA would put it regulatory discretion to the accredited certifiers regarding these materials. Since these were already voted on to be allowed and it’s basically a technical rewriting for them to pass into the Federal Register, I’m hoping that you could maybe give them the accredited certifiers just a little wiggle room or so until they’re in the register. It kinds of freaks out farmers when they treat a cow with gluconate and they get a noncompliance. It just really freaks them out. It freaks me out too. So perhaps regulatory discretion may be the most important term that came out of yesterday’s meeting. Now in substance review and evaluation what constitutes compatibility consistency with the system of sustainable agriculture, organic production and handling. I think we all agree that humane treatment of certified organic livestock is paramount but let me quote 205.238(c)(7). “The producer
of an organic livestock operation must not withhold medical treatment from a sick animal in an effort to preserve its organic status. All appropriate medications must be used to restore an animal to health when methods acceptable to organic production fail. However, livestock treated with a prohibited substance must be clearly identified and shall not be sold, labeled or represented as organically produced.” That’s quite a vexing statement especially for guys like me that are out in the field and for all the farmers. Basically a farmer cannot withhold appropriate medical treatment, yet if he or she uses prohibited materials the animal will be removed from the herd. In essence, the farmer is being punished for doing what’s best for the animal. That’s quite the Catch 22. In agriculture we humans are in control, but is it control with compassion for the animals under our care when they’re hurting or is it by cold calculation in a purely mechanical reductioness way. In order to keep compassion high in the standards for humane care, I would suggest a line of treatment with a prohibited material within the first year of life when the young animals’ immune systems are still developing. This is much more scientifically based than the no prohibited materials after the last third of gestation. The last
third of gestation clause has absolutely no scientific basis. It is a number pulled out of thin air, and it should be done away with. Do require the strict organic feeding and management from birth with the allowance of therapeutic use of perhaps prohibited material but only for individual cases diagnosed by a veterinarian. And I will virtually guarantee you’ll hear a collective sigh of relief from both small farmers and large farmers. To guard against cold calculation and reductionist extremism please also free yourselves from the excipient and preservative quagmire. Please stay focused on the active ingredients when it comes to veterinary compounds for the relief of pain and suffering. Excipients will hog tie many of the compounds that are critical in helping to paint the big picture of organic agriculture as compassionate and truly caring for the animals within the system. Thanks.

THE CHAIRMAN: Okay.

MS. BURTON: Can you repeat your simple annotation for me?

MR. KARREMAN: Yeah, in the beginning there?

MS. BURTON: Yeah, under veterinary directive with.

MR. KARREMAN: I think it’s simple. I mean it’s straight up. It’s a few words. Under veterinary
directive with a valid client patient relationship, and that enables the Amduga clause to kick in.

MR. BANDELE: I just had a question. One concern that I would have would be that if you put that under veterinary directive then veterinarians with more training in conventional would be more apt to recommend those synthetics. Could you respond how you see that?

MR. KARREMAN: You mean it would kind of open up the door that way?

MR. BANDELE: Yeah.

MR. KARREMAN: Okay. I stand in front of you here, and I know how to use alternative veterinary medicines. There’s probably in all honesty maybe six or ten of us in the country that know how to use them for livestock. There’s a lot of alternative veterinary medicine in cat and dog and horses. So when I come to you and last year I came to you asking for these products, I’m thinking about my colleagues out there that have no clue about alternative medicine but they’re out there any time of the day or night, and they want to do what’s best for the animal. And it still would be only like for emergency uses. It’s not like a routine daily thing. I mean keep all the feed and all that stuff as strict as you can make it, and I mean it. But it’s to relieve that occasional pain and suffering when

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a veterinarian, not me or even me, says, gee, this animal needs some synthetic morphine or whatever to relieve pain. First, there’s no alternatives to that in the holistic world, and secondly most vets are conventionally trained, and they wouldn’t know anything else. Does that answer your question? I don’t think it opens the door because there’s such a few compounds. It’s not like they’re going to be dispensing it. It would be the use at the time for that animal, and it would be recorded.

MR. BANDELE: But I think what you said in a way kind of goes along with my concern that if they don’t know alternatives then they would be more apt to deal with the synthetics. Not you because in terms of being in tune with organics, but the other folks out there.

MR. KARREMAN: Well, all I can say is I truly hope that there’s an educational process for other veterinarians out there that are working with an occasional organic farmer too. I have a high concentration. I got 53 certified organic dairies and three beef certified farms. Most guys only have one or two in their area. So they’re not going to really stay up on it. And, believe me, I try when they call me from Illinois, when they call from Wyoming, whatever, I talk

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with them. And, you know, I try to teach them stuff but there’s only so much you can do but there will be an educational process. That’s a matter of time. But we need these things right now. I can go home tonight and be called out for an emergency, and I may need to use one of these compounds. And so I’m hoping that the NOP will not throw a noncompliance on the certifier of that cow because I used a synthetic or a colleague did. That ties into the timing thing. I mean time is of the essence.

THE CHAIRMAN: Mark and then Kim.

MR. KING: Yeah. Just a quick real life example of something that happened, so a question for you. A local dairy farmer called me a couple weeks ago and had a cow that had they thought either hip dysplasia, injured spine, something kind of, you know, conditions were slick in the pasture. Maybe the cows were playing, romping, whatever, slid.

MR. KARREMAN: She was down?

MR. KING: Yeah, couldn’t walk, couldn’t do anything, in extreme pain, that sort of thing. Can you elaborate on an example like that?

MR. KARREMAN: What I would do, let’s say?

MR. KING: Yeah.

MR. KARREMAN: Okay. What I’d do on a cow
like that, I’d probably do electro acupuncture, and I’d probably give it homeopathic hyperokin [ph] and coniumac [ph]. And what a conventional practitioner would do, would immediately reach for flunixin [ph] and dexamethazone [ph]. Dexamethazone is a steroid so that’s way out. So the flunixin [ph], which is one of those items, could be used for your guy’s cow and his vet out there -- her vet, sorry. Whoever, you know, because they might not have learned acupuncture, and maybe they don’t even care to but at least they’re helping that animal and the organic consumer wants humane treatment. Because if they find out that there’s animals out there not being treated to relieve pain and suffering, that’s going to give a black eye to organics. And you’re also going to find if you don’t allow any synthetics, none let’s just say to be absolute, you’re going to have veterinarians slipping in things or you’re not going to have good record keeping. We’re under the assumption there’s going to be proper record keeping with the hope that the veterinarian respects the farmer’s right to be organic. But if you really say no to all that you’re possibly going to run into that, and that would be terrible.

THE CHAIRMAN: Kim.

MS. BURTON: My comment to your question would
have been that as a Board when we review material, we should be looking at alternatives and if there’s a better alternative then we should be giving that recommendation. So only the materials that are on the list could a veterinarian use anyway so we already looked at those. It’s not carte blanche to all medicinals.

MR. KARREMAN: Oh, no, not at all. No. The materials you are grappling with and the NOP has to get through or not or whatever, I honestly don’t think you’re going to see a whole lot more of medicinal compounds from the veterinary perspective trying to get in the door. I really don’t think you’re going to see a whole other 15 of them all at once come at you. Last year was critical because the rule was being implemented.

THE CHAIRMAN: Andrea.

MS. CAROE: Are you suggesting that this annotation under veterinarian directive be for all the medications on the list, and the reason I ask is are you suggesting it should be for aspirin and things that the farmer could administer himself?

MR. KARREMAN: Well, they also can buy aspirin over the counter. I guess strictly maybe from a self-serving standpoint but also for the animals, I’d say it

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would be good if a veterinarian were to be involved with the decision, but that’s not going to always happen, you know, because farmers can take care of little problems themselves. I don’t know. I would say at least on the prescription label things, at least that. Okay. Thanks.

THE CHAIRMAN: Thank you. We have Urvashi, and then followed by Doug Crabtree.

MS. RANGAN: Good morning. Some of you may not be able to see me behind this but good morning. My name is Urvashi Rangan. I’m from Consumers Union. We’re the publishers of Consumer Reports magazine. We’re a nonprofit independent research institute, and our sole mission is just to provide information to consumers so they can make better informed purchasing decisions. I’m the director of the Eco Labels project. Our goal is to rate the credibility of environmental labels in the marketplace. And as many of you well know, we’ve been watching the organic label for some time, and all the organic labels are posted at ecolabels.org. I first want to thank everyone for all the work in the past year, and to say congratulations for the one year anniversary markets. It’s pretty remarkable, and obviously sales of organic are doing very well. And Eco Labels has given the organic label
on food a highly meaningful rating. The concern that
the Consumers Union has, and we remain having, is that
sales should not be driving the standards of the organic
label. And we are concerned about the cashing in on the
organic label and exemptions that are granted to the
standards in order to make the label custom fit the
product or the ingredient. I want to talk about
materials review, and more specifically I want to talk
about materials that just aren’t reviewed as a result.
And I’d also like to point out in the August issue of
Consumer Reports we have written an article on the
challenges to the organic program, and what consumers
should be watching out for in the coming year with
regard to the standards. And I’m happy to hand that out
to you. The first thing I want to focus on is cosmetic
labeling and personal care products. Consumers Union
has been testifying on this at the last NOSB meeting,
and we continue to be concerned about this. The
labeling that is being used on cosmetic products is
egregious. It is not following the labeling regulations
on food. Consumers Union has made repeated inquiries to
the National Organic Program over the last several
months asking who is regulating the word organic on
cosmetic products. We have yet to receive a response
from the National Organic Program, and we would like a
response to that. There are several problems with
cosmetic products labeled as organic. First of all,
they do not comply with several of the standards that
are present for food. Water is of course the one
ingredient that is exempt if you add water and food. It
doesn’t seem to be exempt in cosmetics. I know there’s
a lot going on in the background as to hydrosols and
added water and what is added water, and will it be used
in the calculation of organic ingredients, but none of
this information is being publicly disclosed. I’m
chasing down this information in the shadows, and
consumers have the right to know what’s going on
especially since labeling has already been allowed on
these products. Any ingredient that is nonorganic seems
to be able to be used in these products whether it’s a
heavy synthetic like hydrogenated castor oil, and one
could ask could we see an organic label on anti-
bacterial soap. I wonder, and I’m concerned that that
will be able to happen based on the lack of standards
that are in place right now, and the lack of enforcement
going on in the labeling. Where are the standards for
cosmetic labeling? Why is labeling being allowed before
the standards are fully formulated, and who is enforcing
the standards on it? As a result, I’m sad to report
that Eco Labels has rated the organic label as being not

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meaningful on cosmetic products, and that is what we are showing now on our Web site, and that is what we are going to be telling consumers. So if there’s any lesson to be learned from that, we hope that when we get to labeling fish that standards will be in place before the organic label is allowed on fish. Consumers Union is still concerned about the fact that fish that is laden with mercury and PCBs will be able to carry the organic label. We hope and encourage you to develop those standards and submit them for public comment so that the aquaculture standards for organic will not end up in the same morass that cosmetics are in. Chasing down all of these problems takes a lot of time and work, and a lot of us come here time and time again because we’re chasing down these problems. I’m not sure if this is a symptom or truly part of a more systemic problem with oversight, but a one year, one time audit of the National Organic Program is not oversight. It is not what the Organic Food Production Act states, and consumers need accountability from this program. They need to know that it is transparent, and as a result a one time audit this year is not sufficient to meet oversight for the National Organic Program. Thank you.

THE CHAIRMAN: Thank you, Urvashi. The other thing you mentioned the article you had in the Consumer
Union. I notice this month also Progressive Grocer has got a fairly extensive article on the debate surrounding organic cosmetics. So it was a good article as well.

Questions? Yeah, Jim.

MR. RIDDLE: A quick comment. At the May meeting I had brought along and had in front of me a bottle of Ground Forest organic herbicide. Well, since then I was in Maine at my sister’s and there in her bathroom was a spray bottle of Organic Power bathroom cleaner.

MS. RANGAN: That’s right. Cleaners are next.

MR. RIDDLE: What’s organic about that?

MS. RANGAN: That’s correct.

MR. RIDDLE: Is the consumer being misled by use of the term organic on these kind of products?

MS. RANGAN: I think there’s no question that they’re being misled and that it is in fact deceptive labeling on those products. The fact that all sorts of other ingredients could be used that are not certified organic ingredients is absolutely just because it’s exempt now from review or it will be exempt doesn’t make that product an organic product to the consumer, and frankly this focus on whether the ingredient is organic is one question but if you’re looking at the product as a whole you have to assess whether the product as a whole...
whole is also meeting organic standards.


MR. LEITERMAN: Good morning. I’m Dan Leiterman with Crystal Creek representing organic farmers all over the United States. And thank you very much for having me here. We had a lot of good education yesterday with the FDA, and I think I want to reflect on a lot of the comments you heard this morning. I don’t want to repeat them but I want to reiterate too. Last year in October we had a deadline to get some materials accomplished and reviewed, and I want to applaud the wisdom and the leadership that this Board and NOP had. It offered our industry in dealing with livestock materials a great guidance, and we proceeded during the year very nicely. The certifiers out in the field had flexibility. They used common sense, and even though there’s a lot of questions and some discrepancies on interpretation there is the ability to work through that. Consequently, there is a movement forward. However, just recently in the last month or so there’s been a great deal of confusion with the issuance of the
comment that materials cannot be used unless it’s on the national registry and finalized by the NOP. It threw turmoil into the materials handling process again. Last year we had leadership and direction from the NOP that if the materials were voted on by the NOSB that it could be used they were considered in transition, and that was very, very helpful. And I think you’ve heard comment this morning requesting for some kind of intermediate stage, administrative discretion, however you want to term it, but you have a train going down a track at this point and it’s proceeding very nicely, and at this point we see there’s a couple of rails being punched out. And for somebody to come and say, well, we’ll put those rails back in in about three to six months might not answer the problem. You see, so we would request that something be looked at for the voting that you’ve already undertaken and it’s been working nicely. We understand the process, and I’m talking about materials that have been voted on already. I understand the process for new petitions bearing in mind that the petitions that you voted on have gone through the process, and even though the TAP reviews may have been questionable the process was worked on, and, you know, it worked pretty good. So what I’d like to recommend is that some kind of intermediate acceptance period,
administrative discretion, call it what you will for the
next three months or however long it takes. Don’t punch
the rails out. We got a lot of things to do out there
for the livestock in maintaining health. I liked the
clause comment in recognition that the FDA is out there
and the EPA. We function under those guidelines. We
work understanding that they have claims requirements
and labeling requirements. And if the Board looks at
their mandate and makes recommendations what they feel
is allowable for organic under the context of FDA and
EPA that’s fine with us so we’re looking for that
guidance. The second comment on Anduga. I’ve got two
veterinarians on staff. We’re an educational company.
We try very hard to teach producers how to prevent
issues. I think that takes us a long ways towards
avoiding the use of crisis management with antibiotics
and drugs and hormones. But I want to caution you on a
couple points that there’s a lot of material that’s
dietary that I would hope does not come under the
inclusion of Anduga that producers can be allowed to use
materials at their discretion if they’re allowed for
organic use and they meet FDA requirements. Let’s
please not include them as a drug. And I found
yesterday there’s a fine line relative to claims on
dietary material. And I don’t want to have that fogged
up too much. I mean if it’s a dietary material and it’s
good for the animal and it’s preventative in nature, and
the claims are not there and they’re not minimal, let’s
not make that an Anduga issue. So that’s all I had to
say for today. Thank you very much.

Brian Leahy followed by Marty Mesh.

MR. LEAHY: That’s a hard act to follow. I’m
Brian Leahy. I’m the president of California Certified
Organic Farmers. We own a certification agency but we
represent producers for the most part. I came here for
a little history lesson and concerns. The really
organic farmers are really just conventional farmers,
the guys I learned to grow from were large scale
conventional Republican guys, tried the chemicals, and
just said this is a lousy way to farm, you know. This
toxic chemistry base is not the way to go for farming.
They are really innovative people, and that’s who we’re
really attracting right now in our program is some of
the most innovative corporate farms in the country, and
they’re trying organic. And they need the same tools to
compete with their conventional program, and that’s the
real concern is that we lock organic into a system
that’s really outdated. By the time we start attracting
Brian Baker and the materials people we had already lost
50 years of good biological base research. And, you know, we’re starting from a behind position at it is, and we need to catch up, and we need the tools to compete with conventional agriculture. You know, in the marketplace which has driven organic for a long time we’re already seeing real reductions in premiums. This year in the vegetable production there was a couple of months when the conventional guys were getting a better price than the organic, and the good organic farmers were just swapping their organic lettuce and what not into the conventional market. On carrots right now you can buy organic carrots for about the same price in the larger retailers, and we’re seeing that in the farmers markets too because so many people now are in farmers markets. So what we need to remember is this biological based farming is really the best way to farm, and we need to encourage it and to do that we need the technology and the innovation that our science can provide so this is just a plea not to lock ourselves into some sort of time warp. The other -- I also get a lot of calls from people trying to come up with new innovations for agriculture, and they are really getting discouraged because they are doing what they believe fits into the organic philosophy that they’re not seeing their materials improve, and they’re spending lots of
money on research. And if we don’t allow them a consistent program that they know if they do these steps they can get this thing approved and then used, we are going to really stop the flow of innovation, so that’s a main concern. Another concern that our producers are really calling me about is a lack of consistency in the applications of rule where the rule is clear. A simple example is the rule for one reason or another says that the USDA still needs to be a certain color. And so we have told our producers that, and one producer alone spent a million dollars to get into compliance, and then other certifiers have allowed their clients to go with a color scheme that fits their marketing. That’s a simple thing but it creates a lot of hardship and ill will for the program as a whole. Things are more complicated such as the use of antibiotics in existing herd for milking. A lot of certifiers are saying you cannot use that. Some are, and it creates real confusion among the producers. And that’s why we did this federal rule was for consistency in the marketplace, and so everyone feels they’re on the same playing field. So that’s my concerns, and thank you.


MS. KOENIG: I guess I just need some clarification as far as those -- you know, in terms of
materials. I’m not quite sure what you’re suggesting.

MR. LEAHY: What I’m suggesting is that we, you all, keep an open mind that -- we figure out what the basic philosophy of organic is. It’s a biological process. We’re trying to work with the soil, rejection. It was easy to really reject the inappropriate technology, organic phosphates, the really harsh fertilizers. So then we have to say, well, how are we going to give the farmers the tools to grow food in this marketplace and compete with the conventional people that are using these chemical tools. That enhances soil life, that creates a healthy environment for the food. The whole basis of organic was that you create a healthy soil, and a healthy soil leads to a healthy plant and healthy food, nutritious food. And it’s easy to get locked into not using new approaches and new techniques. So I guess I’m asking for an open mind and just remembering the very basis of organic, which was giving the farmers tools to work with nature to create the healthy soil. Does that answer it at all?

MS. KOENIG: Well, I mean the techniques and such. I guess our charge is really the materials, and I guess if there’s specific things in terms of the petition process or criteria that we use or now that we’re re-evaluating kind of some of those methodologies,
and how we’re looking at things, I think those are fair suggestions and such. I think you have to be really careful about just tailoring the needs of a program to solely the marketplace. I think you have to have a consistent philosophy instead of criteria, and then if those aren’t working, that’s what I’m saying, if you have some suggestion as to some of the specific materials and where there were areas in the criteria that you think perhaps maybe not fairly judged it, I think those are useful comments but just blanketly saying that we need more tools it’s really hard for us to kind of judge what you’re saying. So I’m saying your comments are good but please be more specific. Maybe you could forward those.

MR. LEAHY: Yeah, really I’m talking -- I mean some of it is just a plea not to get locked in. You know, when we started organics and said, well, it’s just not synthetic, we’ll go to synthetic, and if we start doing more research on soil biology and soil health, we may find that there are certain fertilizers that don’t disrupt soil life, but they allow farmers the nitrogen that they need. So as time evolves, as research evolves and we start learning more about what is healthy soil and what’s going on in the soil then let’s figure out what really works and what isn’t. Even the term

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synthetic sort of like in botany right now the whole filo planning, all that kingdom, that’s out the window and innovation is in recategorizing. You know, it’s not stagnant. And I don’t want organic to be -- that’s probably the main plea. Let’s use -- we know what we want, which is we want a healthy soil, we want a healthy farmer, farm worker, and we know it was easy to say -- phosphates and DDT and all that. That was nonsense, and we can get rid of that. And that was an easy day’s organic. But now we need to grow as our science and our knowledge grows, so I guess that’s what I’m saying. Definitely the marketplace -- the consumers, most of them have no clue really what organic is but they kind of know in their heart what it is, and we can’t play with that, you know. We have to respect that. We build that marketplace. They have certain expectations, you know. They keep saying keep organic organic. We can’t just say we can make it easy for the producers but we do have to allow the producers to grow and use science as it comes along.

THE CHAIRMAN: Okay. Jim and then Mark.

MR. RIDDLE: And, Brian, one of the last things you said in your formal comments really caught my attention. I just want to make sure that I heard you correctly. What I thought I heard you say was that
you’re aware of some accredited certifiers that are
allowing the use of antibiotics in existing organic
dairy operations?

MR. LEAHY: Yeah. There’s a spirit of the law
and there’s the letter of the law. Now when we read --
we and many other certifiers when they read -- our
certification company, when they read the rule it says
you can use -- if an animal comes from outside that
dairy herd, it could have had the use of antibiotics on
it. We also see it as if that animal is inside that
herd you cannot use antibiotics on it, and then continue
in that dairy herd and eventually milk it a year later.
And we see the herd as a closed system. It’s on one
farm. The herd is the herd. And then other certifiers
see it as that animal is not really part of the herd
until it’s milking. And we see that as really -- I
don’t read it that way. I don’t read the letter of the
law that way, and I definitely don’t read the spirit of
the law that way.

MR. RIDDLE: Yeah. There’s a separate section
of the rule which deals with the ongoing prohibition of
antibiotics. There’s the door and there’s, you know,
varying interpretations of that conversion issue, but
once the herd is converted and the animal is on the farm
it cannot be treated, I’m surprised to hear this. And
if you’re aware of something or any of your producers, anyone, there are complaint procedures to document that, and I would encourage use of those.

THE CHAIRMAN: Mark.

MR. KING: It sounds like some of what you’re saying, Brian, and correct me if I’m wrong, is in looking at the materials review process and the structure of that, if you will, we need to consider new developments, science, things that are happening in the industry, and so my question is related to that. And understanding what Jim and so many others have said on this Board over time that organic agriculture is really a systems approach inputs can be part of that system so can you speak in your opinion to the system’s approach from an education ongoing sort of perception in the industry, if you will.

MR. LEAHY: Sure. I mean that’s a good -- we have -- you know, there’s only a handful of organic farmers that have more than ten years of experience. They came to -- almost every one of them came from a chemical approach, so they are learning. It’s an incredible learning curve, and in California we don’t have -- the land grant universities are just backing into organic now so there’s no way to turn to find out how to do this. So what the farmers are doing is...
they’re taking their existing mentality and they’re applying that to organic. And, you know, the hope is that after doing this for 20 years or so, that’s how long it really takes to learn to integrate, they will start to see this as a holistic system, and the real advantages in the crop rotations and using all the tools of organic. So we backed into organic. We were just biological farmers because we were into wildlife and plant diversity and all that, and our neighbor said, you know what, what you’re doing happens to fall under the Organic Act of -- California Act of ’79. But most of the farms you go on to them that are organic, it’s still fence row to fence row farming. They are proud of these farms. And that’s the kind of stuff eventually we need to get out of that cycle. But, you know what, these guys are courageous as it is, and what we see with the larger farms is they start organic in a small way, and they start learning a lot in their conventional. They really start to reduce the most toxic chemicals. They start looking at soil again. So when I got this guy, George Tantomental [ph], he’s like 80 years old. They’re farming 60,000 acres for God’s sake of vegetables, and then he started organic. And it was like, George, I said, you know what, this is making farming fun again, and they’re taking what they know and
they’re applying it to other places. So that’s the kind of stuff that we want to encourage. The goal of organic was always to return agriculture back to a biological base. That’s the goal. If you keep that, keep your eye on that ball, it’s simple. What we all do is simple.


MR. MESH: Marty Mesh with the Florida Organic Growers Qualify Certification Services. First, thanks to the department for standing firm on their actions on the feed issue, posting denials and revocations, as well as continuously trying to make the Web site more functional. For example, I think the transcripts of the NOSB meetings are up there. I also want to appreciate the actions of the department on the continued progress towards getting a peer review panel established by taking the important first step of having an external review done of the USDA accreditation program. Partly because of the National Organic Program, we do have better response and action on the parts of land grants that Brian just mentioned, and on the parts of NAS, RMA, EPA and FDA, so I appreciate the NOP a lot and know that they’re a small staff with very limited resources has essentially accomplished a great deal. I believe that those limited resources could be made more effective by
having an NOSB executive director to move the Board work forward on a day-to-day basis and provide consistent interaction with the NOP staff. I believe the NOP could take better advantage of what I call a hyper participatory industry, which is open to volunteering when they feel the work is in line with their work and values is respected, and is actually taken into consideration. I am one of the founding board members and retiring board members of OMRI, and was impressed with the staff and board’s time just to develop a response to the request for input. You guys were handed this yesterday. It’s quite a well thought out, well written document that took an incredible amount of time, and I wonder if it’s just going to be put somewhere and that’s it. So the NOP could make better use of those organizations with the industry and people willing to give their time. The memorandum of understanding between OMRI and the National Organic Program should be moved forward, finalized, and the NOP should take advantage of national nonprofit organizations that are willing to help. This Board, the National Organics Standard Board, volunteers their time. Committees get input from stakeholders and make programmatic recommendations which many times seem to go nowhere. And I realize that the regulatory process takes a long
time but this contributes to disconnect between the industry, the community, the National Organic Program staff, and even what I perceive as even between the NOSB and the NOP staff. I believe the Board is supposed to deliberate and make recommendations, which the National Organic Program staff should find ways to put into regulation. They need to take more advantage of your willingness to do a lot of work, which you do. There needs to be a better and consistent communication and dissemination of information between the National Organic Program and its certification agent so that all certifiers find out information not from the people that certify or from the press but from the department. The inconsistency on what’s going on is disheartening for those of us that deal with the stuff every day, day-to-day on the ground. And livestock issues especially are problematic. Brian just mentioned antibiotics being used on young calves by some certifiers and not by others. Those types of issues are huge issues when you’re on the ground trying to explain to some producers why they can’t do something every day. Does the NOSB have direct communication with agencies like EPA and FDA? I found yesterday very helpful, and it would seem like you could do your job better by having more effective and better direct communication. I’m not sure
if Jim Pierce’s statement earlier that methiamine is halfway through its time period on the list is accurate if indeed the register hasn’t even been published, and it won’t go into effect until the day after publication. I know that Barbara was on the agenda, and I didn’t get a chance to -- and didn’t get a chance yesterday to do an update but I think the NOP update to the Board and the public is very important. Old presentations have included even the NOP presenting its budget, its budget and expenses which help give a better understanding for someone like me who is going to meet later on with the congressmen on the Appropriations Committee who, believe me, ask very tough and hard questions when I always go there saying the program needs more resources. I still have 30 seconds left. Yeah. It’s incredible. I’ll give it up to Michael.

THE CHAIRMAN: Questions, comments for Marty?

MR. MESH: Are you all going to address the question whether you have direct communication with agencies like FDA and EPA?

THE CHAIRMAN: Yes. We are having that discussion as we go forward about how does -- we brought this up yesterday in our work session, how does the

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Board interface with the agencies.

MR. MESH: Because those guys were incredibly impressive yesterday.

THE CHAIRMAN: You bet. No, it’s an important point at least -- in the discussion that we’ve had with the Board is we move things forward, how can we have that direct interface to fulfill our role. So now you’ve cut into the 30 seconds that you allotted to Michael.

MR. RIDDLE: He’s down to one minute now.

THE CHAIRMAN: Go ahead, Mike.

MR. SLIGH: Well, thank you for allowing this opportunity. I’m Michael Sligh. I’m policy director for the Rural Advancement Foundation International, and I’m co-chair of the National Organic Committee for the National Campaign, and what seems like an ancient member of this illustrious body. And I’m glad to see the discussion that took place yesterday. I thought the presentations were excellent. I thought you got a lot of good guidance. I bring praise to the department and to this Board, as well as words of encouragement and some words of caution. I won’t reiterate the six points of architectural deficiency that we worked very hard to elaborate to you, but we do ask that you take those points seriously, and that you put those points on your
agenda of your next meeting in anticipation to really understand and get to the bottom of those deficiencies before it does jeopardize organic integrity. I also want to speak a little bit about the materials review, and recognize that I thought Rich’s point was important yesterday when he said that it’s important to find TAP reviewers who have real life experience with material. But I also think it’s going to be terribly important to find real life TAP reviewers who understand the seventh criteria, and that you must also create a benchmark for this seventh criteria in a meaningful way that will provide advice for future boards as this goes forward in time. I think that when we envision the seventh criteria, we were thinking about the principles of organic and sustainable agriculture. We were thinking about the precautionary principle. We were thinking about does this material cause scale bias. Does this material support a particular size scale over another. Does this material encourage product substitution opposed to a knowledge based approach to organic. As an organic farmer myself, that was what I saw powerful was that it could be knowledge based, that we were looking not to have to buy more and more materials and to use more and more things. We were looking for how can we use our knowledge of that natural systems to apply that
toward prevention and toward health. And I caution us that we want to be conservative. We want to think carefully about a never ending list of materials that may be more aimed at convenience or at a particular scale opposed to a real need out there to move the system forward. I also think that the ongoing role of the Board -- I want to kind of put back on my former Board member hat and just say a few remarks about in envisioning this Board we saw this Board as being a new fresh approach to a partnership between government and the public and the industry, and that you have dual responsibilities that must be taken equally seriously. Yes, indeed, you must provide timely publicly vetted thoughtful and concise and consensus advice to the department. You must meet their needs on a timely basis. They’re under a set of pressures, and you must be able to meet their needs. You also must be continually accountable to the broad civil society and to the broad stakeholder community that was outlined so clearly in the statute. It’s very important that you continue to commit on an annual basis to get out in the countryside. The farmers don’t live here in D.C. or in Chicago or in Austin. You got to commit one time a year to go to an annual conference of the farmers or to the countryside and ask how is this program working, how can
we improve it, what’s good about it, what needs to be changed, and to take that information and translate that into recommendations to the department. It must be a two-way street. That is an equal part of your responsibility. I think the need for a closed session, there’s a rare need. I would hate to see the classic school board technique become a norm for this Board where you have your real discussions in private, and then come with a face to the public. That’s not -- that was not our vision for this Board. We intended it to be very transparent. We had few tough questions in our day, and we managed to do them in the public way, and I think it will build confidence for both you and the department if you continue to go the direction of public meeting. Oversight of the TAP review is in your jurisdiction including the development of convening that body and overseeing that body, and you must take that statutory authority seriously. Marty has already said about the issue of the budget. Give them an opportunity to talk about the budget because if they’re short on resources that needs to be a part of the public record so that we can help defend that and encourage that direction. So put it in writing, and put it on the agenda.

THE CHAIRMAN: Okay. Thank you, Michael.
MR. SLIGH: Thank you.

THE CHAIRMAN: I would just like to follow up with your suggestion about getting to the countryside because I think that that is something that however it can be accomplished not only for NOSB but for NOP. I’m wondering what suggestions you might have. I’m thinking about some other FACA boards like the Small Farm Commission when it was put together and how it went around. But what suggestions might you have for getting out to the countryside?

MR. SLIGH: Well, I mean exactly that was the tact that we took at the founding board was to say let’s go out across the country and hear because we know it costs a couple thousand dollars to come here. And if you’re on a farming schedule it’s just not going to be real. I look at the upper Midwest that has that organic conference. Over several thousand people are coming to that event. You could have a listening session there. You could have a board meeting there. You need to look for those opportunities to take advantage of where farmers do gather and tap into that. One-third of the farmers don’t have access to Internet. The Web thing is a great deal but one-third of the farmers don’t have access. You got have a hard copy mailing list. You got to communicate with the broad people out there that are
not going to come to Washington and not find the Web
based. So I hate to see you go just strictly to a Web
based approach.


MS. BURTON: Mike, you commented on the closed
sessions, and you had heard some rumblings over the last
couple of days on that, so I just wanted to kind of give you
my opinion on it. It’s not that they’re closed sessions
other than it’s a chance for this Board to work on our
relationships with each other and to spend some time
together...

MR. SLIGH: Yeah. Yeah.

MS. BURTON: ...developing that, and there has
been past boards have done that, and Caroline Brickey
was adamant about at least a half a day prior to the
meeting for this Board to get together just to relate
one on one versus in a public setting. And a lot of
times like we had a dinner last night. It was great
just working on those communications. So I am the one
who advocates that because I think it’s important for us
to have a little bit of time. We all have very busy
schedules. We fly in. We fly out. We work, work,
work, work, and we don’t get to know who we really are
on this Board, and I think that’s imperative that we
have that.
MR. SLIGH: Well, I think social time, a bus ride out to see a farm, and getting out in the countryside are good ways to bond, and we use those tools to bond but making a formal closed session I think on a regular basis sends a message that’s probably not that helpful to build trust, so I’d just look for informal ways to do that opposed to making it some formal part of your normal -- you know what I mean.

MS. BURTON: We’re kind of bound because if we don’t say we have to be here at a certain time then half of us won’t show up because we have other lives so it’s a tough thing.

MR. SLIGH: Yeah, I appreciate that.

THE CHAIRMAN: Other comments, questions?

Thank you, Mike.

MR. SLIGH: Thank you. Keep up the good work.

THE CHAIRMAN: Rachel Jamison, followed by David Engle.

MS. JAMISON: Hi. I’m Rachel Jamison. I’m here today on behalf of the Washington State Department of Agriculture Organic Food Program, and on behalf of the National Association of State Organic Programs. I have statements from both. I will start with a statement given to me from my supervisor Miles on behalf of NASOP. The National Association of State Organic
Programs requests that the NOSB include the following points in the NOSB statement that would define what is “compatible with the system of sustainable agriculture and are consistent with organic production and handling.” The NASOP board would like to offer these brief points to address the relationship of production and handling inputs within the larger context of this statement. A substance must, 1, not be harmful or damaging to the environment including soil, water, and air by its intended use and manufacture and transport, 2, not negatively impacts human or animal health by its intended use, manufacture, or transport, 3, be necessary for the production or handling of a given product, 4, not have an allowed natural substitute, and, 5, not be a substitute for loud and effective mechanical, cultural or biological methods or practices. I think a lot of those issues were addressed yesterday anyway but I had to say it anyway. So the next statement is on behalf of WSDA Organic Food Program. It’s a lot more specific. NOP 205.404 granting certification B3 requires that organic certificates list categories of organic operation including crops, wild crops, livestock or processed products produced by the certified operation. The NOP currently does not require an organic certificate to include a list of the specific crops.
and/or processed products produced or handled by the certified operation. As I just said, NOP 205.404 B3 requires that only categories be listed. The WSDR Organic Food Program would like the NOSB to recommend that organic certificates be required to list specific crop varieties and/or process products for two main reasons. One is the inspection audit. When inspecting a certified handler verifying that a product being handled is in fact certified is difficult without a certificate that lists specific varieties. For example, certified food processor making a frozen mixed vegetable pack consisting say of peas and carrots when an inspector goes and asks to see certificates verifying the organic compliance of those ingredients if the certificate only reads mixed vegetables as an inspector we don’t have a way of verifying that mixed vegetables includes the carrots and peas that are being processed. Two regards -- the other reason is international certificates, and this I’ve had some recent experience with. When inspecting a certified handler verifying that imported products being handled that have been certified by the NOP accredited for an agency are compliant with the NOP and not another governing body standard is difficult. Many ISO guide 65 accredited certifiers inspect multiple international standards.
Unless otherwise specified, the default standard to
which the products will be inspected is the standard of
the governing country within which that certifier is
based, not necessarily the NOP. NOP accreditation of a
certifying agent does not mean that the certifier is
always certifying to the NOP. For example, with coffee
most coffee grown is grown outside of the United States
and certified by foreign NOP accredited certifiers. If
while inspecting a coffee roaster certificates indicate
that a foreign NOP accredited agent has certified
organic coffee it’s hard for the inspector to verify
that, A, the coffee has been inspected to the NOP and
not to say EEC 209291, and, B, the specific varieties of
coffee being roasted are in fact certified. With the
current certificate requirements a potential exists for
coffee being roasted by a U.S. based company certified
by a U.S. based NOP accredited certifier to be roasting
coffee that if it is actually certified because the
certificate doesn’t require that the specific variety be
listed that it’s been certified to a standard other than
the NOP. Without requiring that organic certificates
list specific varieties of crops produced and/or handled
issuing NOP compliance certificates is like issuing a
driver’s license without a name. They indicate without
question that someone is able and legal to drive. They
just don't specify who.

THE CHAIRMAN: Questions?

MS. KOENIG: I guess it’s a question. I just don’t quite understand, and I can understand, I guess, with the larger -- when you’re processing something but I mean if I list a variety of Mazuna [ph], how the heck is the inspector going to know is it some -- is it variety A. I mean Mazuna is Mazuna, and unless you’re a geneticist or really understand a variety, a variety is just a kind. I mean it’s not even a nomenclature.

MS. JAMISON: I think that’s a really good point. The National Organic Program doesn’t do well to address the needs both of larger producers and their processors, and of smaller producers and processors because obviously for a small mixed vegetable farmer, you know, it is laborious to list 50 or some odd varieties of vegetables, and they obviously might and more than likely will change out of season. But also as an inspector it’s my responsibility to verify with the larger operations that a processed product or processed, you know, where we’re using ingredients that are from other countries have in fact been inspected to the NOP. We owe it to the consumers of the product, and we owe it for our own integrity as a certifying agent to know that when our tag goes on a product that all of the...
ingredients have in fact been certified and inspected to the NOP standard. It’s a good question. I don’t know how it can be addressed.

MS. KOENIG: I mean it just doesn’t seem like variety is a solution in my mind. I mean if somebody is doing a proper inspection at the farm level shouldn’t they be verifying those kinds of things? Isn’t that what the whole process is about?

MS. JAMISON: Right. It’s hard, however -- yes, it is what the whole process is about. Recently just to use an example, I was doing an inspection of a fairly large coffee roasting facility. In doing the audit of all the certificates, I noticed that one of the certificate, Kraubs [ph], who is in fact NOP accredited, when I looked at the certificate and it identified what standard the bean was produced to it was produced to the European standard and not to the NOP, and I’ve seen crop certificates that list the NOP. So I mean when it’s only organic coffee then how can I say, well, you cannot sell your Costa Rican bean, your Mexican bean, and your Nicaraguan bean because those are certified by this agency. You know, there needs to be a way that I then can differentiate what is in fact allowed.

MS. KOENIG: Those are not varieties. Those are origins of production, right?
MS. JAMISON: Those are actually varieties of beans. There’s a Nicaraguan bean, a Mexican bean. Yeah, they are varieties.

MS. KOENIG: Okay. So those actually are beans that -- Costa Rica can be producing a Nicaraguan bean.

MS. JAMISON: Exactly. Yes.

THE CHAIRMAN: Okay. Jim, Mark, and then Owusu, and then Kim.

MR. RIDDLE: Thanks, Rachel. I really appreciate the comments that you shared about the deficiencies or limitations on the amount of information that’s on certificates. As a long-time inspector I’ve looked at a lot of certificates, and I don’t think that the mandatory categories necessarily limit the information. There can be additional information such as produce according to NOP, but it’s not mandatory at this point. And the compliance, accreditation, and certificate committee is aware of those deficiencies, and did some work on it earlier this year, constructed a draft recommendation that was circulated amongst the committee, and discussions with NOP. You know, there’s several options, I would say, to address this but I think probably the most promising is electronic certificate data base where all certifiers enter more...
complete information into the same data base for the
generation of certificates, and then that -- certain
fields of that are available to buyers so anyone can go
on and find out just what’s certified to what standard
by whom, and on what date, so it’s available in real
time. So it is an ongoing issue that the Board is aware
of. Certainly NOP is working on trying to address as
well from my understanding.

MR. KING: Strictly from the promotion of
trade, which is what you’re talking about with the
certificate, I understand that in some cases listing
like in the coffee bean would be appropriate, and I
think there’s an example of that. But beyond that, I
think looking at the farm plan and the application all
of the supporting information as an inspector is a way
to accomplish that as well.

MS. JAMISON: Oh, it definitely is. I mean
I’m not in any way saying that the farm inspection
doesn’t do well, but when that farm inspection
translates into a certificate, and that certificate
needs to be used in an inspection of a processing or
handling facility it needs -- because in our program we
have inspectors that do a lot of producers. We have
inspectors that do a lot of processors. And so I’m not
there to look over the farm plan and be at the farm of
this place knowing that, oh, yeah, mixed vegetables covers peas, carrots, plus 1,000 other varieties. So there needs to be some way of really efficiently tying the two together.

MR. BANDELE: I just wanted a clarification. When you’re saying varieties, are you talking like for example let’s take the vegetables. Are you talking about species or are you talking about cultivated varieties?

MS. JAMISON: Cultivated varieties. For instance, carrots. I mean there are thousands -- I guess cultivated varieties. Instead of mixed vegetables it would be carrots. You wouldn’t have to...

MR. BANDELE: That’s not a variety, a cultivated variety. You’re just talking about species.


MR. BANDELE: Okay. Now to follow up on that, do you see any distinction between the need to do that on the international versus the national? I’m thinking in terms of what we’re talking about like a small mixed producer here. Do you still see the need to list every particular species, and then what would happen in the case of a farmer changing his plan due to crop failure? Does that mean that he grew something different under your scenario that that would not be certifiable
MS. JAMISON: I think that it will be applicable more to the larger producers as opposed to the small mixed variety but again with the need for consistency there needs to be some way that these certificates capture all of the crop categories that are being grown.

THE CHAIRMAN: Okay.

MS. BURTON: As a producer, that kind of scares me because we used to have to list everything that we manufactured. When we go through an organic handling plan and we submit our application to our certification agency we have to provide to them formulas, certificates for every raw material ingredient profile reports, and we submit that to the certification agency who in turn should give that to an inspector. So to have to list every single product on our certificate, I think there’s pros and cons to it. Every time we add a new product or delete a product we have to update our certificate so where it may be handy for the producer it certainly isn’t for the manufacturer or the processor.

MS. JAMISON: Yeah. I don’t know specifically how to address it but I do believe it needs to be addressed whether there be a certificate or a data base or a requirement on the part of the certifier to have
available to other certifiers complete list, and have
the certificates remain generic, I don’t know, but
something needs to happen so that when those products
are being traded among certified entities their
compliance to that national standard can be verified.

THE CHAIRMAN: Andrea.

MS. CAROE: Okay. I fully understand that the
requirements of the rule in regards to what is printed
on the certificate is minimal. That said, the
requirement is also there that a manufacturer have an
organic system plan, and in that they have to show
evidence that they’re compliant with the regulation
which requires them only to use ingredients that are
certified to this regulation. So whether that’s on the
certificate or not there still needs to be evidence to
support that part of their compliance. So in that I’m
not sure that the certificate is going to be the answer
to require a long dissertation of detail of the
certification or if that can be provided another way
that gives them the flexibility and ability to provide
other types of documents that facilitate trade in the
marketing of those organic products.

MS. JAMISON: Yeah. I mean I definitely do
believe that it is also the responsibility of the
certified handler to insure that all the products
they’re sourcing are certified to the NOP. However, even those of us in the industry know that it can be confusing trying to differentiate what products have been certified. I mean in Washington State, for instance, we have farms that are certified with three different standards.

MS. CAROE: But the requirement of the vendor to provide to the manufacturer is something that shows up and it’s before they market that product so...

MS. JAMISON: You’re correct, yes.

MS. CAROE: So I think as an inspector going to a manufacturer you should be able to see evidence of that. If that’s deficient then that’s a different issue than the certificate. That’s an issue of compliance with appropriate organic ingredients.

MS. JAMISON: I can see that, yeah. I think it’s more complex. I think there are more complex issues especially when you’re dealing with products being traded internationally especially when our handlers are told source products from NOP accredited certifiers, so if the certifier is accredited to the NOP it’s an easy assumption to make that a certificate for the product that you’re getting is in fact certified to the standard.

MS. CAROE: I don’t believe that that
statement that source from NOP accredited certifier is appropriate. It’s source NOP certified products.

MS. JAMISON: Uh-huh.

MS. CAROE: And the assumption that all accredited certifiers certify only to the NOP is false.

MS. JAMISON: No, I actually that misstatement. Yeah, that isn’t true, but it’s hard and it’s going to be an educational curve for our handlers to fully understand that.

THE CHAIRMAN: Okay. Thank you. All right. I know it’s 10:00. That’s when we have a break listed, but we have David Engle. We have Kelly Shea, who has submitted a proxy to allow Dr. Karreman to provide an additional comment, and I have one written statement to read in so if you’re game we’ll stay here for that, and then take a break or if you want to take a break now.

MR. RIDDLE: So that’s it?

THE CHAIRMAN: Yeah.

MR. RIDDLE: No more signups?

THE CHAIRMAN: No. No more signups.

MR. RIDDLE: Well, ask if anybody who hasn’t signed up.

THE CHAIRMAN: No, we’re not going there.

MS. CAUGHLAN: Dave, are you going to go back to the two no shows?
THE CHAIRMAN: Yeah. Oh, that’s right.

That’s right. We do have some no shows. Okay. Then let’s take a 20-minute break here and come back. And if you haven’t signed up, and you do want to give some testimony there’s signup sheets at the back.

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[Off the record]

[On the record]

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THE CHAIRMAN: As I said before, we got David Engle. We got Kelly Shea, who has filed a proxy. Robert Hadad. Also, I want to make sure because there’s two sheets at the back that if you wanted to give public comment there’s a public comment sheet back there which is separate from just the sign-in sheet, so if you went in and signed in the sign-in sheet thinking that that was signing you up for public comment you need to sign up on the other one. So we will -- I will call upon David Engle.

MR. ENGLE: So my name is David Engle. I am the executive director of Midwest Organic Services Association. But today I’m primarily here as a farmer, and I’ve been to maybe seven or eight of these meetings and I think they are excellent. I really enjoy the public comment part. I agree with a lot of what has
been said even though as Richard Matthews said yesterday
a lot of what we hear is repetitive. We’re here talking
about the same things it seems time and again. But I
also want to thank everybody, the NOP, the staff, the
NOSB and all of us representing our various organic
industry counterparts, our community counterparts, and I
too would like to celebrate the one-year anniversary
that we’ve come to, and if you would allow me to share
in a somewhat different format what I feel is the same
thing that everybody has been saying, but I’m going to
try to do it in a different way. I’ve never done it
before but we’ll see. He said just don’t do it off key.
This is called an organic anthem, To Farm This Land
Organic. It’s written to the tune, a Stan Rogers tune,
Northwest Passage. How many of you have heard of Sir
Albert Howard, Aldo Leopold, Rachel Carson? Good. But
if for just one time we would farm this land organic,
and see the hand of Howard reaching for the horizon it
would be so fine there would not be all this panic in
sweat and mud with tears and blood, this truth we set
our eyes on. For 50 years the chemicals and sprays have
harmed the planet. For 50 years we’ve taken Mother
Nature for granted. Now the time has come to be more
humble and wise. Lest one day we awaken to a rather
rude surprise. Ah, but if for just one time we would
farm this land organic, and see the hand of Howard reaching for the horizon, it would be so fine. There would not be all this panic in sweat and mud with tears and blood. This truth we set our eyes on. Leopold and Carson both wrote and warned about stuff like this, that the web of life and a silent spring simply cannot co-exist. And still we’re so dang wrapped up in our technology and greed. We think we’re cool but we are fools to play God with the seed. Ah, but if for just one time we would farm this land organic, and see the hand of Howard reaching for the horizon, it would be so fine. There would not be all this panic in sweat and mud with tears and blood. This truth we set our eyes on. And so many of us now around the world are trying hard to farm in tune with Mother Nature we’re trying not to harm. The life in the soil and in the water and in the air, we’re learning lots of new things and what we’re learning we share. And but if for just one time we would farm this land organic, and see the hand of Howard reaching for the horizon, it would be so fine. There would not be all this panic in sweat and mud with tears and blood. This truth we set our eyes on. And for those of us who do not farm, let us have no fear. We can choose to buy our food from those whose farms are near. And if that food is organic then how wonderful,
how great, but if we wait for all who eat to care then
it will be too late. But if for just one time we would
farm this land organic, and see the hand of Howard
reaching for the horizon, it would be so fine. There
would not be all this panic in sweat and mud with tears
and blood. This truth we set our eyes on. And so it is
our time will come, our time will come just so for each
of us one by one our time will come to go. And when we
meet St. Pete he’ll ring that bell, and he will say dear
friend, you farmed organic. You did very well, let us
pray that more folks will take and farm their land
organic, and see the hand of Howard reaching for the
horizon, then it will be so fine. There will not be all
this panic in sweat and mud with tears and blood. This
truth we set our eyes on. Much of what we’re talking
about...

THE CHAIRMAN: What I say is your time is up
but, David, what were you saying in your...

MR. ENGLE: I was just going to say much of
what we’re talking here today about today, one of which
is by request to the National Organic Program is
compatibility, the issue of compatibility and criteria
for it, and then the other thing that’s coming to me is
process. And I think we’re doing well. We need to
remember as Brian was indicating where this comes from

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and what the final result is that we want. We want good
organic food, and it comes from land, and it comes from
a farmer, and as Michael said many of them cannot access
this form here, and yet this form here has so much
effect on the farms and how they do things. So keep up
the good work.

THE CHAIRMAN: Thank you. Okay. Kelly Shea, who has proxied or asked to bequeath her time to Hubert Karreman for...

MR. KARREMAN: Well, I certainly can’t follow David’s moving song. I apologize. You don’t even want me to try. But I did -- I wanted to just respond a
little further to Owusu’s question regarding opening up
the barn door, so to speak, to a lot of synthetics, that
all veterinarians just use synthetics instead of having
the incentive to look into alternative treatments, which
of course we want for soils, crops, and livestock. And
I guess I’d give you the example of like coughing
calves, very typical on dairy farms up in the Midwest,
Northeast, wherever. And let’s just say -- and this
would be on the thought I had which apparently I found
out is the OTA position on raising young stock, that
you’re allowed to use a prohibited material, let’s just
say up to the first year of life. I’ll just say that.
Maybe six months, eight months, a year. Let’s say that
prohibited material is an antibiotic. Okay. I can tell you from my experience when I’m called out to my farmers you have a pen of coughing calves. The farmer is tipped off that there’s one calf sick, and that calf will have its ears drooping, it will have wet lung sounds, it’ll have a fever of 104, 105, and it will die if you don’t give it an antibiotic. But chances are if there’s like 15 calves the other 14 are quite happy. They’re eating. They cough a little, a little dry cough, low grade fever. But they’re still looking good. That’s when I definitely use the alternative treatments. We don’t just bang them all up with an antibiotic, just that one really sick one. And there’s various conventional tools and vaccines, stimulants that would be allowed to do that. So, you know, perhaps you could have it if you were to go there as a one-time treatment in life for that animal within the first year of life when their immune system is still developing. You would have caring compassionate, you know, treatment for livestock. You’d have the veterinarian tending to the young animal whether it’s a little sheep, a pig, calf. I do believe the organic consumers would like that. I don’t really think they’re going to rally and protest that that animal should necessarily be banned forever from production. That’s my own feeling. I grow up in the

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suburbs outside of Philly. I know how a lot of consumers think that way, the organic folks. I just wanted to really kind of touch on that. And the other thing -- I guess I do have five minutes but I don’t think I’ll take the whole five minutes. Yeah, that will be an educational process, okay, of those other veterinarians, you know, that only know conventional stuff. I know Dr. Detloff [ph] from Crystal Creek, he has a book coming out. There’s a book I have a chapter in coming out from Iowa State on holistic livestock management. Hopefully, that’s a kind of academic book. I have my own book coming out which is hopefully a neutral kind of thing on pharmacology of plants and how do use them. So there’s things happening but we definitely need to keep in mind, you know, the one animal, the two animals that need that treatment even if it’s an antibiotic type thing in the first year of life. And I don’t think you can prove that the antibiotic if it is in there would be in the milk a year later even by easing the FDA regression scheme of figuring out the no effective limit or whatever even if you were to bump that up six months, eight months, whatever. I don’t think scientifically it would be there. The Europeans allow occasional use. However, you have to watch that because if you use an antibiotic or prohibited material,
I shouldn’t hit on antibiotics that much, sorry, a
prohibited material too often you will have a
disincentive for companies like Dan’s to make things.
Okay. But like once in a lifetime, I think that’s
pretty reasonable. So hopefully that answers your
question a little further.

THE CHAIRMAN: Yeah, Jim.

MR. RIDDLE: Just a clarification but I heard
you say that you thought that the organic trade
association allowed or would recommend the use of
prohibited material, antibiotic, in the first six months
or one year. Is that accurate what you said, correct?

MR. KARREMAN: I thought I understood that to
be the case. May I...

MR. RIDDLE: Well, if I could ask Tom
Hutcheson from the OTA...

MR. KARREMAN: I don’t know for sure.

MR. RIDDLE: ...what the AOS, the American
Organic Standards, says about that.

MR. KARREMAN: Yeah, perhaps.

MR. HUTCHESON: This is a policy post AOS that
was developed by the livestock subcommittee of the QAC
in concert with the QAC chair and OTA’s executive
director and was expressed last year at an NOSB meeting.

MR. RIDDLE: Okay. So that is an OTA policy.
MR. HUTCHESON: Yes.

MR. RIDDLE: Okay.

MR. HUTCHESON: And that’s medicines, not all prohibited materials.

MS. CAUGHLAN: Would that include antibiotic?

MR. HUTCHESON: It would, yes.

MS. CAUGHLAN: On the OTA?

MR. HUTCHESON: For the first year only.


MS. GOLDBURG: Can I ask one, Dave?

THE CHAIRMAN: Yeah. I’m sorry. I didn’t see you had your hand up.

MS. GOLDBURG: Yes. That’s okay. Hugh, you’re proposing a policy for the first year of an animal’s life. Clearly you’re talking about dairy cows, I think. Would you extend this policy to other sorts of animals like chickens that don’t live all that long?

MR. KARREMAN: You’d probably have to be species specific. I’d say for poultry...

MS. CAUGHLAN: But you would still extend it with a different time limit.

MR. KARREMAN: Well, you know, to be really honest I’ve never understood this but beef cattle are treated very differently than dairy cattle. I’m not really a beef practitioner but it’s the same genus and
species as dairy cattle. I don’t see why they’re
treated so purist like compared to dairy cattle because
you have a beef animal that’s going to live to be about
18 or 24 months. You could cut back perhaps that
emergency one-time use for pneumonia when it’s 2-1/2
weeks old until for beef cattle, I don’t know, until
five months instead of a year. I don’t know. But still
you have to take into account certain scientific
realities with animals. Their immune systems are not
confident. They’re under passive immunity with
colostrums until about three months of life, and then
they’re on their own. And that stress time is when they
get hit bad. And you can have great organic management
and might have a few farms that they don’t have problems
with calves but a lot of them, they don’t look good.
They look pretty ratty, but then they’ll come out of it
at about a year’s time, time and again, and they look
good. They’re a little smaller because maybe they were
parasitized or had some problems but they’re sleek,
shiny and everything at about a year. Before that, I
don’t think they got all the strength or reserves that
an adult animal would.


MR. HADAD: Good morning. My name is Robert
Hadad, and I’m the director of farming systems for the
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Humane Society of the United States. I’d also like to applaud the NOSB’s efforts for doing such a great job under I think extreme duress, and I hope that your efforts will continue if allowed to. I’m very concerned about the quagmire surrounding livestock medication situations, and I think there’s a lot of great suggestions that have been brought up today. There’s a lot of great expertise out here that could really help in addressing the situation, and I think these resources need to be tapped into. So I really emphasize that we really need to fix this problem because as mentioned before there’s kind of this paradox going on where you can’t use things but you have to use things that’s not organic, so I mean you got to deal with this. There’s still the issue of outdoor access for poultry. Those things are still up in the air, and believe me porches and balconies for chickens just don’t cut it. And when consumers find out what’s going on, they’re not going to buy it literally. This whole thing is undermining consumer confidence. I mean just as it’s starting to build up, you know, to have this thing being torn down underneath them is not acceptable. The issues of interpretation of the regulations as just haphazardly as whoever comes in the door as we’ve seen in certain circumstances is just not acceptable either. We need
transparency and we need consistency. The issues of inconsistency again in the whole certification process is quite serious. Some certifiers are allowing some practices, others not. Some certifiers are not doing what they should be doing while others are being forced to do things that they know don’t follow the spirit of organic practices. And I’ve been involved in organic agriculture for 25 years. I farm organically, and I am not certified because I’m not going to at this point. There are many, many farmers that are jumping ship, but I’m a supporter but I don’t like seeing my role change as being a watchdog. And some of the suggestions have been to deal with some of the situations as, well, we’ve got a process that we got to start talking about getting these situations straightened out from people who are watching. Well, getting that information, real precise detailed information to file complaints, A, shouldn’t be our job, and, B, it’s hard to do accurately. I mean there’s a lot of hearsay and there’s a lot of rumors. There’s a lot of information that’s being passed around, that’s being talked about that may be confidential that if it wasn’t confidential that we could blow the lid off things, but that’s not the way this thing should be running. It should be running based on something that has been put together accurately, and it hasn’t. The
farther this program has moved forward the behinder it
seems that it’s getting, and again consumer confidence
is being threatened. That’s what’s really holding this
whole thing together is our hope that the consumers are
going to buy into this, and make this an economically
viable option. I mean we know that on the ecological
level it is a viable option but it needs to be
profitable, and if the word certified organic is being
dragged down it’s not going to last. And we at the
Humane Society of the United States have been very, very
supportive of the organic program. We helped do a lot
of background work on livestock regulations years ago.
But in all good conscience it’s hard to become a
supporter and remain a supporter when we’ve got these
serious issues. So I’m really hoping that we can fix
this, that we can tap into all the expertise that’s
around here and that things are not done behind closed
doors or in far off buildings but we can have an open
dialogue where people can be tapped into and get some of
this work accomplished so you can be sure that we really
can do a good job of this if the system allows us to.
So thank you very much.

THE CHAIRMAN: Questions or comments? Okay.
I didn’t announce who was next but we have Christopher
Ely. And then we’ll go back and start catching up on
some of the folks that weren’t here when they were
called. I have to remember who that is. Go ahead.
Doug Crabtree and John Immaraju will be next. So go
ahead.

MR. ELY: Thank you. My name is Christopher
Ely. I’m from Applegate Farms. For those who aren’t
familiar, we are an organic fruit or meat processor. We
are nationally selling fully cooked meat products, and
have been for over 50 years. We were doing organic
about 15 years ago so we have quite a bit of experience
in it. And there are two issues which I find coming up
that are starting to create problems within at least the
meat industry, the organic meat industry, one being food
safety. We’re being under the jurisdiction of the FSIS,
USDA. We have the strictest guidelines and regulations
for food production in the United States of any segment
of the food industry. And some of these new
regulations, for example, one that is coming up in
November called Listeria risk assessment are starting to
conflict with organic regulations, and they are
basically requiring us to use certain products in our
production of meat to assure safe pathogen free products
out on the marketplace to consumers. And as much as we
have for 35 years never used chemicals in any of our
meats, nitrates, phosphates, fluoridates, and such, this
is putting us in a terrible situation. And we’re not quite sure how to address it and still remain organic. And this issue, I mean I don’t need to go into a lot of detail meaning there are certain products that the USDA is recommending everybody to use to fight Listeria, e-coli, salmonella, but these issues need to be addressed because it could basically injure this part of the industry. My second issue is just about a year ago a major customer of ours was requiring that all of our farms and slaughter facilities, et cetera, be inspected for humane growing and humane slaughter, and my answer back to them was we’re organically certified, and they said that doesn’t mean a thing. There are no organic standards for humane. And basically they were right, particularly humane slaughter. And this is an issue when you think that McDonalds lives to higher standards than the organic people do when it comes to humane slaughter because they’re following Temple Granden’s [ph] guidelines, and there are no guidelines. And if you were to argue humane growing in organic, it’s open to interpretation by one inspector to the next. I’ve been on organic farms that are certified organic, and I would never use them because in my opinion they are not humane in the way that they’re providing, for example, water or feed though they are providing it but not in
ample quantities, and that’s just an example of what’s going on. And we really need to nail this down because this could be an issue. And people assume that organic is more humane, and, you know, reality is we have not defined it, and we’ve left it with interpretations and words like adequate, and adequate doesn’t mean anything. And we need to be very definitive in our regulations of humane and to somehow get them into the NOP’s regs. Thank you.

THE CHAIRMAN: Goldie, then Owusu, then Becky. Just stay at the podium for a few minutes. Okay. Go ahead, Goldie.

MS. CAUGHLAN: I worked in retail as a consumers representative and those are consistent. We sell a lot of product, so excellent. You used the word required, then you later said recommend relating to -- Listeria is nothing to fool with. We all know that. So would you clarify?

MR. ELY: The new risk assessment regulation, and I have not torn it apart completely but in reading summaries of it they are going to classify plants, meat processing plants, in what they do to control Listeria. And if you don’t meet certain requirements you’ll be put onto a category, a high risk category, of which you will get intensive inspection by the USDA which any plant in...
the United States, and we no longer process though we
used to be a processor, we no longer process and we
contract about 20 plants in North America to produce for
us. All of them do not want to be in that category. It
puts them in a very, very bad position particularly for
liability.

    MS. CAUGHLAN: This is part of the Homeland
Security stuff that has fallen...

    MR. ELY: This goes beyond Homeland Security.
    This is just pathogen control which is zero tolerance.

    MS. CAUGHLAN: I understand, but there is --
some of the regulations, as I understand it...

    MR. ELY: Yes. Yes.

    MS. CAUGHLAN: ...are flowing from that.
    Increased enforcement or whatever. So the high risk
category. But again at this point they haven’t
required.

    MR. ELY: The words required, if you have ever
dealt with the USDA in a meat plant they sometimes don’t
use the word required, but they have other ways to
enforce it, and I’ll just leave it at that. It puts you
in a very uncomfortable position.

    THE CHAIRMAN: Owusu.

    MR. BANDELE: Basically I have the same
question that Goldie has, required versus recommended,
but one other part I would like to ask is that do you take into account the history of the disease at a particular plant or that’s not taken into account?

MR. ELY: Yes. Yes. Yes. There is that. But, you know, I’ll back this up by also saying our experience in dealing organic meat is that organic meat is no more pathogen free than commercial meat. In fact, we actually find higher counts of salmonella in our poultry than we do in commercial poultry. And that puts -- we’re already bringing into our facilities a pathogen inoculated product if that’s the way to put it that creates a real bad situation to begin with.


MS. GOLDBURG: I was wondering if you could tell us in a little more detail what USDA is I guess recommending for pathogen control for Listeria.

MR. ELY: Example. They’ve actually classified certain categories of ready to eat meat products such as hot dogs, sliced deli meats, et cetera, already in a high risk category. And to remove it out of that high risk category so you don’t get intensified inspection they’re saying we require that you will -- here are the requirements. One of them is you can use sodium lactate. You could use sodium diacetate. Sodium diacetate is buffered vinegar. But you can’t say
vinegar on your label. You have to say because there
are standards of identity for vinegar for the USDA and
it must have a certain pH, and you buffer it and use
that pH. Those are two examples of what those products
are not approved on the NOP approved list at the moment.
If you go -- if you don’t use those then, yes, you could
get away with not using them, but as I said then it puts
you in an intensified inspection system, and that
intensified inspection system is hell, to put it
bluntly.

MS. GOLDBURG: How are those used in the meat
processing?

MR. ELY: I’m sorry?

MS. GOLDBURG: How are those two compounds
used in the meat processing?

MR. ELY: You add them into as part of the
ingredients, and they are there to control pathogens
simply.

MR. KING: To what degree are they added?

MS. CAUGHLAN: And would you name those again,
please?

MR. ELY: Well, it varies on the meat product
but it can be anywhere from 1 percent to 5 percent. It
depends on their effectiveness. And, for example,
botulism is the only known chemical to control botulism.
is sodium nitrate, but they now found another product, sodium lactate, which is a -- they always refer to it as an organic acid if you understand my term of organic here. And they do find that also can control botulism.

MS. CAUGHLAN: What were the two things that you mentioned?

MR. ELY: Sodium diacetate, which is buffered...

MS. CAUGHLAN: No, no. The vinegar and the...

MR. ELY: Which is vinegar. Sodium diacetate, which is buffered vinegar, and sodium lactate, which is a salt of lactic acid, lactic acid which is created by bacteria and sugar.

THE CHAIRMAN: Let me go down the list here because I got Kim, Kevin, and then Mark.

MS. BURTON: It sounds to me like these are perfect materials for petitions.

MR. ELY: Exactly. But the unfortunate thing it’s coming so rapidly. This is my concern.

MS. BURTON: Well, it has up to three years.

MR. ELY: Pardon?

MS. BURTON: We’ve had that for three years.

MR. ELY: Oh, no, no, but I’m saying the USDA is moving so rapidly on these changes that it’s hitting faster than not.

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MS. BURTON: I’d encourage you to get those in fairly quickly. We have some meetings coming up.

MR. ELY: Okay.

MS. BURTON: We have funds for TAP reviews. And that would give us a good opportunity to look at alternatives and look at the regulatory uses and needs and all that. That’s really your only option at this point is to petition for use of those.

MS. CAUGHLAN: Or if those were mandated it would obviate.

MS. BURTON: Even if they’re mandated they still have to be on the national list at USDA or FDA or whatever would supercede our list, but they still have to be approved materials similar to vitamins or anything else unless it’s a food context substance material. That is, you know, a whole different area, but it sounds like these are ingredients that are actually put in the product and so they do have to be on the national list.

MR. ELY: Correct.

THE CHAIRMAN: Kevin.

MR. O’RELL: Actually between Becky’s question and Kim’s comment on petition, those were the two areas I was going to cover.


MR. KING: I may be asking the obvious but it York Stenographic Services, Inc.
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sounds like you’re saying that this is the solution to
perhaps...

MR. ELY: It is the most tried and true
solution because if you want to use something else, you
have to do scientific studies and prove to the USDA that
any other system you use is effective. And if you’re a
small company -- Oscar Mayer can do a scientific study
because they have a band of scientists to do that for
them, hence they patent quite a few products in the
United States because of that. If you’re not Oscar
Mayer, you can’t do scientific studies. It just would
take too many years and too many dollars.

THE CHAIRMAN: Kevin is reconsidering his
previous action.

MR. O’RELL: Based on the comment you just
make now, are some of these alternatives concerns of
handling methods and practices as opposed to chemicals?

MR. ELY: You can -- today I will say that
meat plans and HASA programs have some of the best
handling practices today. We’re working in rooms that
are 35 degrees. This is beyond the most sanitary,
cleanest operation that you can possibly do because you
still have the danger of Listeria contamination or
salmonella contamination problems.

MR. O’RELL: So you’re taking it from the HASA
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or GMP’s control of the two where you have to have a chemical solution or preservative solution.

MR. ELY: Some -- you know, it...

MR. O’RELL: You can’t do this alternatively with the HASA plan?

MR. ELY: There is another alternative that is not yet proved by the USDA that is being used in Europe, and you might consider it a more natural way. Just at the moment it’s -- you know, we are trying to get the USDA to approve it to allow us to use that system, but it might be two or three years before that’s allowed.

THE CHAIRMAN: Rose.

MS. KOENIG: It’s maybe more of a statement than a question but I mean this is just -- this is the writing on the wall. I mean there’s going to be a lot in the future as far as food safety goes, not only in your industry but even in fresh fruits and vegetables down the road.

MR. ELY: Correct.

MS. KOENIG: Is there a process upon which -- have you been involved in the process upon which these regulations have come down, and is there -- or OTA as far as really trying to educate about the industry, and because of the long time it takes to do these material reviews, and you as a producer may not be able to -- or
us really pull information from the companies that are actually producing those compounds that they’re recommending. The other alternative is really being engaged in the process, and as regulatory things take place really being more proactive and educate about the industry and some of our concerns rather than just reacting to kind of this...

MR. ELY: You’re absolutely.

MS. KOENIG: So I’m asking you was there a process that have you been involved in the general audience, is OTA involved or is USDA -- are we involved in this type situation?

MR. ELY: I personally have been on for about a year now the Livestock Subcommittee but that’s more on growing issues versus processing issues because I’m not sure there’s a -- or I may be wrong, is there a committee that talks about meat processing? I mean there’s so few of us. Organic Valley is here, and there’s me and I don’t know quite -- there maybe might be two more in the United States. We’re not a huge group. But because it’s probably the last of organic segment that people haven’t -- that’s just coming alive now.


MR. SIEMON: My only comment is this is once
again the kind of thing we had with the boiler compounds. We have a conflict between organic and the basic cold pack relationship. It’s a lot about the relationship. You’re in the plant. You’re bagging your 5 or 10 percent of production, and then you’re affecting their whole status. So this is again part of the infrastructure that we run into time and time again.

MR. HUTCHESON: I’d just like to reiterate something Rose said that it’s happening not only in meat but across food production where having somebody -- a major sprout producer very concerned about the new regulations, about chlorine use and what he’s done is come up with an alternative risk assessment tool that he believes should be able to be used, and I can only encourage the Board to examine alternatives and take this up as an agenda topic some time in general to see how the program -- see if you can work with the program to figure out ways to help producers.

THE CHAIRMAN: For the record, that was Tom Hutcheson. All right.

MR. MESH: Michigan State is having an organic food safety conference next spring.

THE CHAIRMAN: Okay. Marty said that Michigan State is having a food safety conference next spring, organic food. Okay. Very good. All right. Then I
will go back to see if Doug Crabtree. Okay. John
Immaraju. Okay. Then the last oral statement that I
have here is Lynne Cody.

MS. CODY: Hi. My name is Lynne Cody. I’m a
consultant with Organic Ag Systems Consulting in Eugene,
Oregon. I’m here today to talk about the issue of
compatibility as you asked us to do. I wanted to let
you know that I have written materials list with OMRI
for the OTA for various certifiers around the world,
including the original materials list that became OMRI
that came out of Oregon CCOF, and I’ve also written
materials list for IFOM, so I do have some experience
with writing materials list. I am also the person who
originally suggested the concept of using criteria in
OFPA, and then was counted on by Kathleen Merrigan [ph]
to draft those criteria and negotiate them with a number
of different stakeholder constituencies. I wanted to
say today that when we originally were talking about
this seventh criteria about consistency with organic
principles -- methods, we did consult with many, many
different constituencies including environmental consume
groups. Many, many discussions occurred around this.
We were thinking at the time that it was the principles
for organic that should be considered, and we did have
principles of organic originally that we tried to get
into the law but they were kind of weeded out as time
got along. We were not aware of the precautionary
principle at the time because it was a concept that came
out later on after we had these discussions, but I do
feel looking back on things that this is actually a very
concise statement of what we intended. Secondly, I’d
like to say that yesterday I was very surprised to hear
about the concept of taking the use categories out of
the National List. OFPA specifically says that
materials must be listed by use. I’d like you to go
back to that and make sure that you are being very --
having very careful consideration of this concept. When
one writes a materials list annotations and use
categories are balanced so that you can use list
categories to basically create annotations for large
blocks of materials. That’s the way our National List
and almost every other organic materials list that I
know of is constituted. Under that annotations are used
to make specific limitations for materials that explain
how they can be used or under what circumstances
specific materials can be used. A lot of care has gone
into creating the materials list as we know it. It came
from the private sector originally. It was -- a long
time ago ALFANO [ph] did a long -- ALFANO, which is now
the Organic Trade Association, did a long study that
compared all of the materials lists from around the
country. We found 95 percent agreement at that time.
The National List is an outgrowth of that, and all of
these materials lists do list by use. So a lot of care
has gone into creating both the use categories and the
annotations. I feel that a change in this way of
drafting the materials list is a significant change, and
it would have impacts on consumers because consumers
have based their public comments and their acceptance of
these materials on the current limitations that are
defined both by use categories and annotations. For
operators and certifiers it would mean a very big change
in production practices and the way that operators are
certified, and I feel that because we’ve already gone a
long way thanks to the NOP based on creating
international agreements this is another thing that
would be threatened by a change in the materials list
that’s not very, very carefully formulated. Yesterday I
heard the NOP staff state that such a change is possible
under their current authority and could be done as soon
as the next round of the materials list coming out in
the Federal Register. I also heard the staff say that
if the Board did not want this to occur you needed to
make a recommendation for caution or to prevent that
from happening. I stand here to urge you to please make

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that recommendation. Do not allow this change to occur
without very careful consideration. Thank you very
much.

THE CHAIRMAN: Thank you, Lynne. Questions?
Rose.

MS. CODY: When I talk about accreditation no
one ever had any questions. Here I am ready for a
question.

MS. KOENIG: I had a question because actually
we’re looking at OFPA on some of the new forms that we
may use as working documents as we go through this
process, and I just have -- and this is my own pet
peeve, I guess. And since you -- somebody had told me
you had helped draft those language and maybe...

MS. CODY: I was a lot younger than though.

MS. KOENIG: Yeah, and I understand because
the one that has the substance is used in the production
and contains an active synthetic ingredient in the
following categories.

MS. CODY: Right.

MS. KOENIG: Were you meaning -- because I
always say it either is an active -- I mean substance c
contains something. What were you meaning by that?
Were you mixing up like a brand versus a generic at that
point?
MS. CODY: At that time we were not very -- we
did not really fully understand the difference between
generic lists and brand names list. There was no such
concept as a brand name list. So we were not totally
clear about that issue, but I can say that that list of
exemptions has largely been forgotten in the way that
materials lists have been formulated since then. It was
the clear intent of the people drafting the law in my
opinion, my experience, that those were the only
categories for which synthetics could be allowed, and
Emily pointed that out yesterday in her talk too.

MS. KOENIG: I guess the question under -- you
know, you had and production aides, and then you put
including. You did not put not limited to, and you just
included netting, tree wrap seals. I mean there was no
place really for any kind of mined minerals of any kind,
you know, whether...

MS. CODY: Because my minerals were natural so
we didn’t...

MS. KOENIG: I mean like -- not mined,
synthetic like some of these supplements or like
potassium silicaine is one of the products that are
coming up.

MS. CODY: Those categories, originally the
farmer group that I was representing did not craft the
list to contain those exemptions at all. Those were put in by consumer and environmental groups who were worried about the effects of just using the criteria, which they considered to be a big open-ended net to allow many different types of synthetics in. And so what they did was they took a current materials list at the time, which like I forget who it was that was saying we shouldn’t keep -- we should make sure that we can evolve. This is a case where things were put in the law that don’t allow the evolution of the production aides category to evolve. But that was something that was again put in at the last minute without a whole lot of discussion and understanding about what the effects of it were just like the types of changes that we’re doing now. So that’s one of the reasons that I know that we have to be very careful when we’re making conceptual changes in the way that things are listed, and the way that things are evaluated to make sure that we understand for the future what implications they have so...

MS. KOENIG: Many of the -- not many but there are certainly examples on the list that are not consistent with those production aides like...

MS. CODY: There certainly aren’t.

MS. KOENIG: ...some of the post-harvest.
MS. CODY: There certainly are. And not just in crop production either. Most notably, not in crop production.

MS. KOENIG: So are you saying that some -- I guess even though you had taken the -- I mean you had taken like a census at that point in time sort of like what Brian is saying. Now the industry has evolved, we’ve gone through this materials process. We’re recognizing that perhaps things have to be more broad to encompass at least some of the production practices that now -- because a lot of changes in the industry, so how do you -- so what do you recommend in that sense? I mean you’re saying stick with the categories, yet we’re saying we’re beyond some of those categories at the present.

MS. CODY: I’m saying that it’s time for the categories possibly to be revamped but not to be wholesale disregarded. I feel that in my view, and as an experienced writer of materials list, having more categories is better than having less. For example, if you had a category that said just livestock drugs as opposed to sanitizers and cleaners and everything being mashed in together, then all of those FDA concerns could be addressed in that one section, and the other they wouldn’t be having to deal with FDA labeling and wording.
for things that really are intended to be sanitizers. So that could even be an annotation for the entire category of livestock drugs that it has to satisfy FDA labeling or whatever would work for wording for the FDA. It would also mean that you could make specific provisions in that category for those materials that are prescription drugs versus nonprescription drugs. Those are the kinds of things you could write in the annotation specific materials. So I feel that both tools are necessary, the listing categories as well as annotations, and I do not support having them taken away without a lot of careful consideration and transparency and consultation with the public, which I think if you’re wondering whether you’ll ever get any comments on your review of other materials, you know, the re-review of materials, if this kind of change is made I will guarantee that you will get wholesale because you’ll have one big category you’ll get a whole big categorical complete about the list that now there’s not enough specificity about the materials and therefore we want all these materials off the list because the annotations are gone. That’s the problem that you’ll get if you do it that way. It will reduce the list versus increasing it over the long haul because people will not stand up, will not stand for the gigantic broadening that will

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occur without the use categories, specifically the use categories. The annotations, you know, you can craft those individually but the use categories make a big, big, big difference in the lists. That’s all.

THE CHAIRMAN: Mark.

MR. KING: In your opinion based on what you just said if we were to increase the number of categories in a specific section of the National List could that effectively reduce our need for annotations...

MS. CODY: Yes.

MR. KING: ...and still make the list more operational?

MS. CODY: Potentially it could, yes, because as I tried to explain this is hard to explain in five minutes so thanks for asking that question. Actually the way a list writer works is that you balance the use of categories with the use of annotations. If one goes up the other one may be able to go down somewhat, but we have so few categories and they cover -- especially in livestock it’s especially difficult, they cover so many disparate types of materials that’s why you end up with so many annotations.

THE CHAIRMAN: That’s a good point.

MS. CODY: Thank you, Mark, for asking that
question. That’s just what I wanted to be able to say.

MS. CAROE: Lynne, we’re struggling with materials that get listed under a specific use, and then that same material, which is found to be innocuous and perfectly acceptable for organic practices, later we find out that there’s another use for it that doesn’t fit in that category anymore so we’re ending up doing triple TAP reviews for the same material.

MS. CODY: Right. That’s because you’re relying more on annotations than on listings, list categories.

MS. CAROE: I was talking specifically about materials that end up in a category like sanitizers and disinfectants but are also used, you know, somewhere else.

MS. CODY: Some in another category?

MS. CAROE: In another category.

MS. CODY: Well, then you just list them in two different categories.

MS. CAROE: But it’s not just list them. I mean in order for something to be put on the list in another place requires to go through the process again.

MS. CODY: Well, that’s true, that’s true. That’s because OFPA says you have to list by use, and so as soon as you start listing by use you may have to
reconsider material for another use, but at least if you had them listed in more categories you could potentially at least in processing say if you had livestock and crops or livestock and processing. You may have to list them twice. But at least under processing you could potentially have less complicated annotations which would at least for processing eliminate the re-review of that material for processing.

MS. CAROE: Well, okay. I guess the next question I have for you is what you reference your definition of use because I could say use is for crops, I could say use is for livestock, I could say use is for handling in a very broad stroked term or I can say use is for cleaning a water steam line.

MS. CODY: That’s right. That’s a really good point. What I’m urging you to do is to take the more detailed definition of use categories, not just crops, processing, and livestock. In that case you could just have an alphabetical list, all the synthetics, the allowed synthetics, and all the prohibited naturals for processing crops and livestock. But I don’t think that serves the regulatory purposes well. I don’t think it serves the consumer well, and I don’t think it serves the certifier and the operator well because there’s no – it’s so general that you would end up with so many
annotations to make it acceptable to the public that the regulatory angle of it like you said having to re-review everything all the time for different tiny uses would be burdensome, more burdensome than the other way around. That’s the way I see it.


MS. CAROE: I don’t know if...

THE CHAIRMAN: Oh, I’m sorry.

MS. CAROE: ...you have a specific annotation that you wouldn’t be re-reviewing for a new annotation for a new use. I don’t understand...

MS. CODY: I don’t have that off the top of my head but I’d be happy to work with you to come up with examples on that.

MS. CAROE: What I’m trying to explain, Lynne, is that if you have a very specific category that a material is ending up in and you’re going to use it for another, you’re still going to re-review it to put it in a new category as much as you re-review it if it has a very specific annotation, so I don’t understand why you feel that it would be beneficial to have more categories.

MS. CODY: Because normally the way materials lists normally work is that they are hierarchical so the smaller changes occur at the smaller levels, and it’s
only when a large change occurs that you would have to put it in another use category like is it a fertilizer and is it also used in processing, which there are cases like that. Some of the synthetic processing aides can be used as synthetic fertilizers. In that case it’s clearly -- if you have it listed under processing already we know it can’t be used as a fertilizer, but it may be able to be used, and I’m not very knowledgeable about processing, it may be able to use say for baking cookies and it may also be able to be used for preserving meat or things like that in which case all of those things are covered as an allowed synthetic listed on the processing list. You don’t have to have every single little thing like you have now. Anyway, you almost need to sit down and go through examples to show how this works on a very specific basis so it’s probably not the best place to discuss it here. But I’d be happy to work up some examples showing why sometimes you would have to relist it versus -- you would have less problem, less likelihood of having to relist it versus changing the annotation. Anyway, that’s been my experience in writing all these materials lists. I just got done with a big one for fiber processing for the OTA where this was -- became even more apparent to me than ever before so I know you’ll be seeing that soon. You can take a
look there.

THE CHAIRMAN: Okay. Let’s -- because I mean there’s a lot of stuff and obviously this is a work issue here that we can’t solve during public comment.

Jim.

MR. RIDDLE: Well, yeah. I’ve been waiting to make a response here because Andrea’s question certainly is a really good point and something we’ve wrestled with since I’ve been on the Board, and in OPFA 6517(b), content of list, the words used the list shall contain an itemization by specific use or application of each substance, so that tells me we’re talking specific use or application as the guidance there to work from. But I think this can also be handled in the instructions to the TAP contractors that, okay, someone petitions for a material and a specific use, but let’s look at the universe in the TAP review process and other potential uses compatible with the criteria in organic system, and then as the Board deals with the material let’s not be limited only to the original petition use and where we place it.

THE CHAIRMAN: Michael, I think wants to...

MR. SLIGH: I just wanted to say one real quick historical point was that when we took the votes on materials on the original list many of the votes were
very close, and it was the annotations themselves that
allowed the Board to even put many of those materials on
the list at all, and if you take away the annotations
you are going to have a bit of an outcry, a national and
international outcry, so you must be very careful on how
you deal with that.

THE CHAIRMAN: Okay. Obviously, this is going
to be a big issue for us, so I appreciate it. Okay. I
don’t think that there’s anybody else at the back that
has signed up. I do have a couple of written things. I
shouldn’t put a candy in my mouth before I -- okay. The
first comment here to be read into the record is from,
I’ll probably slaughter the pronunciation here, but John
Immaraju. I’m writing to find out as to when the May
14, 2003 NOSB recommendations will proceed to the next
step and be added to the National List. We have a lot
of growers who have been regularly asking us to when
they can go back to using our products, ecozin [ph],
amazine [ph] and ornazin [ph] on their organic farms.
We have informed them that the NOSB has approved and
recommended that tetrahydropherferal [ph] alcohol THA,
FA, and EPA list inert ingredients in our formulation be
added to the National List. This delay is causing
extreme hardship for us, the manufacturer, as well as to
enlighten growers who seen the benefit of using our
products. I feel it will be of true service to the organic farming community if the listing process is speeded up. Perhaps the first anniversary of the NOP is a good time to move all the noncontroversial approved materials to the National List and bring it up to date. Any information on this time line would be much appreciated. Thank you for your help in this matter.

Regards, John M. Immaraju, Ph.D., AMVAC, manager, international product development. The second item is a statement to be read into the record, the position statement on organic dairy replacement to origin of dairy livestock from the Northeast Organic Dairy Producers Alliance. The Northeast Organic Dairy Producers Alliance, NODPA, held its annual meeting on August 22, 2003, in Albion, Maine. There were over 75 farmers representing Organic Dairy Producers in the Northeast at attendance at this meeting. States represented at the meeting included Pennsylvania, New York, Connecticut, Vermont and Maine. As a group, we represent over 350 organic dairy farmers. Vote was taken at the meeting on the issue of organic dairy replacements, and the vote was unanimous in support of the last third of gestation for all dairy herd replacements, and in support of all organic dairy farmers working under the same set of standards. As
representative of Organic Dairy Farmers of the Northeast, we strongly disagree with the NOP’s current interpretation of the origin of dairy livestock. We believe that the contradiction in the rule regarding dairy replacements was an oversight during the assembly of the final rule, and that the mistakes should be corrected to be in line with the intent stated in the preamble. The language in the preamble of the NOP rule is perfectly clear in requiring all livestock to be raised organically from the last third of gestation once the farm is certified organic as opposed to current NOP interpretation, which allows buying in of conventional heifers and managing them organically for 12 months. With the current interpretation, we feel that the NOP has neglected to act on substantial public and NOSB input in regard to all herd replacements being organic from the last third of gestation. We also strongly object to the double standard resulting from NOP’s current position. This results in the lack of equal protection for organic dairy producers. All organic producers should have a level playing field and the same set of standards regardless of their date or method of certification. Sincerely, Northeast Dairy Organic -- Northeast Organic Dairy Producers Alliance, NODPA, and representatives listed below. And those representatives

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are listed so we’ll enter this into the written record.

With that, I think we have completed the public comment period. I don’t see anybody else in the audience waving their hands that they weren’t called upon, so I appreciate the input. This is very helpful, and we are now at 11:30. So I would recommend that we break now for lunch. Then we come back in an hour and start at 12:30 rather than -- yes, George.

MR. SIEMON: Well, just I have another this afternoon.

THE CHAIRMAN: Okay. Because we have the two things that we have on the agenda for this afternoon are the discussion of the compatibility document, and the Board election, but because of the work that we have tomorrow then I would hope that perhaps if we get some time this afternoon, we can start in on at least at the committee level working through that process to bring forward for tomorrow. Does that make sense? Okay. George.

MR. SIEMON: My concern is if we’re going to look at the proposed policy that was put forward about compatibility that’s what our objective, we’re going to do a little writing by committee. That’s always a concern. But I was wondering is there any way we could put it on the Power Point so the community can see it.
MR. RIDDLE: That’s the plan.

MR. SIEMON: Okay. That’s the plan. Then we can write on the Power Point till we make changes because it is so frustrating to be in the audience and not know the document. Okay, good.

MR. RIDDLE: Yeah, absolutely. And also to add to that there are two copies of the 23-page committee recommendation extra, and it’s really just pages 7, 8, and 9 where the options are stated, so if anyone in the audience would like these with the understanding that if anyone else in the audience wants copies that they share then you can have the paper but really the only parts that needs photocopied as the working draft is the options pages that you can find there. But, yeah, already anticipated. Got it on a disc and we’ll have it up on the screen, the options, option three, the recommendation.

THE CHAIRMAN: Okay. We will recess. We will come back at 12:30.

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[Off the record]

[On the record]

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THE CHAIRMAN: Let’s reconvene the meeting.

Again, I will admonish everybody to turn their cell
phones to silence or vibrate because we don’t want another embarrassing incident like happened this morning. Anyway, this afternoon we’re going to spend time now going through the development of the document on compatibility with the system of sustainable agriculture and consistency with organic farming and handling. As I said, we had the policy development committee that has been working through this process. I appreciate the comments this morning during the public testimony that gave us some input on that, and so with that I will turn it over to the chair of the policy development committee to lead off the discussion.

MR. KING: Thanks, Dave. Yeah, the policy development committee was asked to develop a statement that defined compatible with the system of sustainable agriculture and organic handling, so we have a 22-page document that’s been developed in the last few weeks. There are three pages primarily that do list three options that will be on the Power Point. And Jim Riddle is the primary author. The committee worked together on this, and as I understand a lot of the motivation for this particular document came from a good hot sauna and a plate of veggie stir fry. So because -- and ping pong. Let’s not forget that. So at any rate because Jim is the primary author we’re going to ask him to sort
of give us an overview of the options, and I’ll let Jim comment a little bit on the format of input.

MR. RIDDLE: Thanks, Mark. Well, just like everybody who commented this morning during the public input session, the Board was also charged with answering the question of what is in materials review, what is meant by compatible, consistent with sustainable agriculture and organic farming and handling. And instead of starting totally with a blank slate here this afternoon, I had suggested to the policy development committee that we do some initial drafting just to have something on the table for consideration because despite how much fun it is to draft by committee it’s easier or more rewarding to at least start with something even though the end product may look quite different in the end. And I just want to explain a little bit about what the committee went through. I did put a draft together initially, which is essentially option one in your document, and with some supporting language. And we had an initial conference call 2-1/2 weeks ago with Keith, and I guess Becky, Mark, Dave and I, Nancy is on the committee but couldn’t make that because of her own schedule and the very short time frame we were working under, and we regret most of the calls that that was the case. But it was all turned around in a 2-1/2 week
period here. Well, during that initial call we had been
giving some thought that we review really two distinct
types of substances, those used in production, and
there’s criteria for production materials and then
handling materials. And so coming out of the first call
the change that the committee recommended from the
initial draft was to break the draft into two separate
statements, one to be used for the evaluation for
compatibility of production materials versus handling
materials. So that is option two was to pull those
apart. And I circulated that back to the committee, and
then we had a second conference call a week later
another Friday afternoon, and in both of these calls I
learned the meaning of the word robust. They were very
honest, exchanges of information, and I must -- I just
really want to hand it to Keith for how you communicated
and how the committee, we went head to head, and I’ve
never been pushed so hard for free as I was in this
process, but it was a good pushing. And coming out of
that second call Keith made it very clear to us that
what’s most helpful for the program are measurable
criteria or factors in order to understand what is
compatible and consistent, and so that led to the
drafting of option three. And that’s still up for
discussion whether it meets that goal of being
quantifiable even using, as Keith said, soft measurements. It doesn’t have to always come to numbers per se but something that you could hold up and measure. And so that’s the -- option three is a bullet point format, and then the policy development committee met here on late Tuesday afternoon, and made some more revisions to option three, and then adopted that as the recommendation and that was a vote of 3 to 0 with two absent. So Becky wasn’t there or Nancy so it really is a draft. And I approach this very much with the understanding that the Board first saw this, the other members of the Board, yesterday, and it’s been a very tight time frame to get something on the table. And I am anticipating changes, deletions, additions, whatever, to this draft. So what I would propose as far as how we manage this afternoon would be to work from option three the committee’s recommendation unless people have other desires or think it would be better to go back to either of the other options or an option four, which does not exist at all.

THE CHAIRMAN: Kim.

MS. BURTON: Just a couple general statements. One, thanks for acknowledging we just got this yesterday. It’s not easy for the Board to work on stuff like this when we just got it, so I hope we can all --
know we can all get through it. You have some opening comments on the first pages. Do you want us to go through that now or to make recommendations at a further date as far as drafting language in some of the different recommendations and questions we have on that and the preface.

MR. KING: Your question is the preface, not the actual option, and it...

MS. BURTON: Right now I’m talking the whole documents because I do have some comments on some other areas of the document only having had about an hour to read it.

MR. KING: Yeah, I don’t see why we can’t consider...

MS. BURTON: I mean I would rather start from the beginning if we could.

THE CHAIRMAN: Okay.

MS. BURTON: And then I don’t have a problem going to three.

MR. RIDDLE: Oh, yeah. I think that’s fine, and we all understand the focus will eventually be the option.

MS. BURTON: And especially because nobody -- the other thing was no handler representatives are on this committee, and there’s two of us, so we really need

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to make sure that we go through this pretty thoroughly.

MR. SIEMON: Just one of your assumptions was that it needs to be some way measurable, and I heard that can be soft but yet in Barbara’s breakdown of the three categories, this being the third one, the other two are supposed to be the much more measurable objective, and this was one that was more attitudes, so I just got to ask a question about measurable on this category going back to Barbara’s memo which was about the three different breakdowns. Let’s talk about consumer perception. You can do a survey and get the people don’t want antibiotics and dairy. That’s data. I mean we’re not going to go out and do that though.

MR. RIDDLE: That’s my understanding that it’s possible to measure but it doesn’t mean it will be measured in every instance.

MR. SIEMON: I don’t want to open ourselves up to a task that we’re not going to do here.

MR. RIDDLE: Right.

MR. KING: And I think one of the things we discussed if memory serves me correctly is that it’s possible to recognize, so keep that in mind that you can read the statement and recognize what we’re talking about. You may not be able to measure everything numerically but you can say, yes, this is happening or,
no, this is not. Does that make sense?

MR. RIDDLE: Yeah, and I just want to add that the options that we addressed, we tried not to duplicate any of the other criteria so those stand on their own. This is only the additional things that are, as Keith said, implied in the statute but if it’s stated in the statute it’s already a requirement, but when that criteria of compatible with a system of sustainable agriculture, what does that imply? What is our understanding at this point in time for guidance on how we interpret that in the materials review process.

MS. BURTON: So this is a guidance document when we review the category of compatibility and consistency.

MR. RIDDLE: Right. And, yeah, a couple of other things on that. Whatever we come up with here at the end of today is still a working draft.

MS. BURTON: Right. Oh, yeah.

MR. RIDDLE: We’ll play with it tomorrow when we go back and revisit some of our materials but it will be posted for public comment and would be adopted at the next meeting hopefully but it also will end of the day be used by the NOP as any material is moved forward in the regulatory process if questions come up so it has to work for them. So it’s a collaborative here despite
what our recommendation is, but we’re not attempting to
do the finished product by the end of this meeting but a
working draft we can take forward.

MR. SIEMON: And we’re going to start off with
option three is my understanding.

THE CHAIRMAN: Well, we’re going to start off
going through I think the overall document but to why
the committee got to option three. I think we want to
do some of that, and even before you start in I guess I
would ask -- and again the Board had recommended that we
try and get microphones on the table with the NOP so we
can have a little more of a participatory session here,
and I know it’s difficult but, Keith, particularly any
comments that you want to offer before we start wading
through this is being the person that’s introduced the
term robust and to...

MR. JONES: Yeah, into the vocabulary.

THE CHAIRMAN: Into the vocabulary.

MR. JONES: Let me make a couple of comments.

First of all, I think we at the program really do
appreciate the amount of time that’s gone in on this
even though it’s a short time frame that you worked
under. And we did hold your feet to the fire. I mean
we do believe that this is an important undertaking and
an important effort. I do want to remind you of the
fact that what you’re trying to do is define consistency. I mean you’re trying to put some bench marks around consistency, if you will. You’re not trying to reinvent the wheel, you know. You’re not trying to go beyond the statutory language. You’re simply trying to say what consistency means in the context of this particular statute. I think in fairness to the full Board there should be a couple of things that are talked about. One of the things that I advocate and continue to advocate, and it was indeed rejected by the committee, but I think it’s important nonetheless is that one of the ways that you could look at this question is that it is an outflow of the decision processes from the first six criteria. In other words, if all of the triggers are met in the first six criteria you then by default have a product, a substance, that is consistent with sustainable agriculture. I advocated for that approach because I’m not very smart. I try to make things as simple as possible, and that is a very simple process. In other words, you’re not trying to define something that doesn’t have a definition but you’re simply looking at your existing work products and then as it flows out that becomes the consistency question. That was rejected by the committee because I think the committee
felt that there needed to be some more around this whole notion of consistency. I only caution you in this regard that you can’t go beyond the statute. In other words, you got to make sure that this ties back in some way to the statute and the regulations. We can’t in defining consistency now have extra regulatory requirements that perhaps we’re going to impose on people. You can ultimately say you would like to see this as part of the regulation. That’s again your prerogative. But you need to be careful there in wrestling with this. The final thing I’ll leave with you is that we are very serious about making sure that these processes are measurable, and I think you have heard that from a number of your commenters this morning that is the way to get you out of some of the dilemmas that you face and some of the discussions that you kind of get yourself into is to have more objective bench marks where those bench marks are defined. You know when you hit the target, and as Jim well knows and the members of the committee that was the question that I continue to pose to the committee. How will you know when you’ve hit the target? And not only how will you know when you’ve hit the target, but is it transparent and readily understandable enough that the public knows that the target has been hit too. So that is in the
general statement, my comments, and I appreciate that.

MR. SIEMON: Yesterday when we talked, I think it was in the morning we were talking about we’re not supposed to approach issues just outside the law, yet we got into issues that were cultural, I’ll call them, for better use, issues like we have like child labor. I really need clarification between -- Barbara yesterday said we’ll defend, if you have a basis for that or some data for that, we’ll defend what you all decide. And what Keith just said, which is stick to the statutory. So I find those conflicting, and before I got into this conversation I need to understand that because there’s issues in here I didn’t think we were going to approach personally in this thing.

MR. JONES: I don’t think anything Barbara and I said are inconsistent. I mean I think what we’re saying is that we’re respectful of the process that comes out of this. If we can believe that it can be defended, we’ll defend it. Okay. I don’t know what’s going to come out of this process, and I think the reluctance -- my only admonition is just stay focused, I guess perhaps focused on the statute and regulation may be -- but just stay -- you know, stay focused, and make sure, George, that the points that you can come up with can be defended. In other words, you can put some
measurements around those, and you can say, yes, we can
defend this and this is how we know that we have bench
mark. The beauty about the process that you’re going
through is the consistencies not defined by the statute.
The statute uses consistency but it never defines what
that is, so you do have some latitude in terms of where
you go because it is not a defined term by the statute.

MS. ROBINSON: Let me give you an example of
what Keith...

MS. KOENIG: Can we move a mike over to that
table?

MS. ROBINSON: Let me give you an example.
When Keith said you don’t want to impose additional
regulatory requirements something, let me give you an
example of that. Suppose you decide that in order to
show something is compatible and consistent you, and
you’ve heard us say we want it to be measurable, you
come up with the idea of saying, well, the material is
compatible and consistent if it can be shown to be three
times more safe than what FDA has set, some limit that
FDA has set or EPA and some other material. I would say
you’ve over stepped your regulatory authority there
because you don’t have the right to take another
agency’s safety requirements and manipulate them and say
that -- you see where I’m going with this, you just
tread into a safety area that you don’t have authority
for. In effect, what you’ve said is that FDA should
have set the threshold higher. That would be an example
of putting out a measurement and getting into a
regulatory area that you really -- you don’t have
anything to stand on. Now as far as -- I don’t think we
really need to -- I don’t want to keep going back to
this thing about child labor. I just truthfully pulled
it out of thin air as an example. But if you feel --
you know, when you talk about things like how labor is
used to make something, you do have your regulation and
your act is based on appropriate stewardship of
resources. I would interpret resources not only to be
the physical or the -- yeah, the land, the air, and the
water but the people, the human resources as well. So
that’s how I would accommodate it if you felt that
strongly about something, and you wanted to be able to
incorporate it, so I don’t think there’s really any
compatibility there. But I really -- I don’t want to
see you keep going back to something like, you know,
bringing up social issues and child labor stuff and like
that because I think it’s going to derail you from where
you’re really trying to get to today. Like I said
yesterday construct the most logical, the most
reasonable scenarios that you’re likely to be

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confronting, and we’ll worry about the far flung exceptions and weird stuff later but try to stick to something sort of reasonable.

THE CHAIRMAN: Well, what I’d like to do, and I’m going to sit back and let the committee lead the discussion here, but I think the document as a whole kind of walks through the discussion of the rationale and the background behind then what gets down to what is option three, and option three really contains a listing of bullet points to try and get it down to the things that I think Keith was trying to get to of specific things that you could look at. And I think at that point then we can start to go through each of those individually and see, you know, if that conforms, but it least takes us from the general context down to the specific recommendation. Rose.

MS. KOENIG: I just have a question and it’s a broader question. It’s really just in the form of guidance document concept because when we asked OMRI I guess to do that presentation there was a recommendation I think from both groups about guidance documents on synthetic versus nonsynthetic, and agricultural versus nonagricultural. And those are defined, you know, as this is not defined, you know, in the definition section so I guess I just wanted -- and maybe I should have
asked it then but is this the same kind of idea that OMRI was looking at in the form of those types of things too that are not clear within these criteria? Was the basis behind asking for this definition -- I’m saying that I think it’s good because it wasn’t defined or because you think it needed more clarity or both?

MS. ROBINSON: Both.

MS. KOENIG: So you don’t think that like TAP reviewers coming back and saying things were synthetic or nonsynthetic even though it’s defined if we do produce further guidance documents it’s for clarity in that sense as long as it doesn’t conflict with the definition.

THE CHAIRMAN: Okay.

MR. RIDDLE: Yeah, and I wanted to -- the reason why this is vague, I would say, I mean it’s in the statute compatible with a system of sustainable agriculture, and it’s an organic regulation but all of a sudden you have that term sustainable agriculture not defined in OFPA but it was defined in the 1990 Farm Bill, so there is a statutory basis for -- and that’s early on in the document that we quoted that. Mark had found that and contributed that to this draft, and I’ll just read that for people who don’t have a copy. The term sustainable agriculture means an integrated system
of plant and animal production practices having a site
specific application that will over the long term
satisfy human food and fiber needs, enhance
environmental quality, natural resource base upon which
the agriculture economy depends, make the most efficient
use of nonrenewable resources and on farm resources and
integrate where appropriate natural, biological cycles
and controls, sustain the economic viability of farm
operations, and enhance the quality of life for farmers
and society as a whole. I think the first three of
those we pretty well cover off in the other criteria,
you know, the environmental measurements, but sustaining
the economic viability of farms, and enhancing quality
of life for farms and society as a whole does then
bridge into -- a better example, the child labor issue,
which is one of the points in the option. So it really
broadens. When it is in OPFA it broadens the scope of
the factors that can be considered. It does become more
than an environmental assessment.

MS. KOENIG: And that was one of my confusions
on this being a guidance document versus what several
commenters I heard saying this is the seventh criteria,
and to me it’s not a seventh criteria is what I’m
hearing. There’s no regulatory -- this is a guidance,
and we can certainly keep social issues and all that,
but again it’s an evaluation of those that we have to
take into consideration and hopefully measurable ones.
But again it’s not a seventh criteria for us.

MR. RIDDLE: The seventh criteria is already
there. This is how we understand it.

MR. KING: Exactly.

MS. KOENIG: Okay. Just clarifying that.

MR. SIEMON: It’s in OFPA.

MR. RIDDLE: Right. Right.

MR. KING: And this is our attempt to better
understand the meaning of that.

MS. KOENIG: I was going to say that
definition is -- that’s from the SARE. SARE was formed
in 1992, I think. I think that came from the SARE
program.

MR. KING: It may have stemmed from there but,
yeah, Congress defined it so that’s how we got...

MS. KOENIG: So that’s also sustainable
agriculture research program definition because that’s
what they base their granting program on that same
definition.

MR. KING: And we felt -- you know, we’re
trying to be consistent with other things that are
happening so to not make this too confusing.

MR. RIDDLE: And just to respond to Keith’s

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point about the seventh criteria being the outflow of the first six, we discussed that. We seriously considered that but we looked at the congressional language, the congressional report, and then also Codex, which US is a signator on, the Codex guideline, and it’s our understanding as a committee that each of the criteria stand on their own. Otherwise, why would it even be there. You’d functionally eliminate the seventh criteria if by definition it just meant you meet the other six, and there would be no reason to have a seventh criteria. So then we took the understanding from that point forward that it does stand on its own so therefore we need to provide guidance on what it means.

MR. BANDELE: Jim, back to the SARE definition. I thought somebody along the line they included that social equity along with...

MS. KOENIG: This is the one that when you go through the SARE program at least in the southern region when you look at grants, that’s how that program defines it.

MR. KING: So are people comfortable in moving forward with looking at the specific option at this point or are there more questions in general?

MS. BURTON: Just a couple things. Nothing big, I don’t think. On the first page just a couple of

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-- because I just saw this was -- the third paragraph, the last sentence, it says while the NOSB routinely makes compatibility and consistency determinations the Board has not established a guidance document to insure that determinations are made in consistent, transparent, and equitable manner. I think that’s a lot to expect out of a document. That’s just my opinion. And that this guidance document should just assist us in the process, and that would be my recommendation that we don’t limit ourselves to everything that it’s supposed to do. So this is what I would recommend, while the NOSB routinely makes compatibility and consistent determinations the Board has not established a guidance document to assist in that process because I don’t know if it’s going to insure that we always are consistent, transparent, and equitable.

MS. KOENIG: You could say in that process in an effort to make.

MS. BURTON: Sure. Sure. That’s fine.

MR. RIDDLE: I think we need to keep those placeholders there.

MS. BURTON: I don’t want it to be -- it assures that we do that.

MS. KOENIG: Yeah, in an effort to make it more consistent and transparent.
MS. BURTON: Okay.

MR. KING: Yeah, I think leaving the terms and just softening up the language a little bit.

MS. BURTON: Yeah. Thank you. That’s what I...

THE CHAIRMAN: Can you re-read that, Kim?

MR. LACY: Let me throw another thing in there before she reads it. I had a similar concern. I just put help right in front of insure.

MS. BURTON: To help insure?

MR. LACY: Right. Would that satisfy you, Kim?

MS. BURTON: Yes, that would satisfy.

MR. RIDDLE: I do have the whole document on the disc.

MR. SIEMON: I don’t know. I mean if we’re going to go through it word by word, I’m still concerned about the audience. If we’re going to go through the whole thing. I thought we were going to jump to the options.

MS. BURTON: Well, I think that’s a downfall getting a document -- and that’s why I asked whether you want us to comment now or comment later.

MR. RIDDLE: It depends on how many. Well, I’m set up for that. Well, we’ve got all afternoon. It
doesn’t mean we have to use it.

   MS. BURTON: Can I tell you what our

   recommendation is? It’s just one word.

   MR. KING: So the recommendation now is just
to insert the word help, is that correct?

   MS. BURTON: Yes.

   MR. KING: Okay. The document is up.

   MR. SIEMON: The third paragraph, second to

   last line, the word insure.

   MR. KING: Yes. Insert the word help, help

   insure.

   MR. RIDDLE: Well, this will be -- I’ll just

   insert them as we go along. We don’t have the changes

   because we can compare them by looking at the previous
draft.

   MR. KING: We can just make it a different

   font color.

   MS. BURTON: And then it’s also in number

   three.

   MR. KING: Okay, Kim, you have another comment

   about...

   MS. BURTON: And the same sentence is in

   three, current situations and practices.

   MS. CAUGHLAN: Where are you?

   MS. BURTON: Page 2, current situations,
practices.

MS. CAUGHLAN: Where on the page?

MS. BURTON: Second to the last paragraph.

MR. RIDDLE: The same sentence. Okay.

MS. BURTON: You have under current situations and practices the handling, page 3 of 3, the 1995 handling recommendations. Just for a point of clarification.

MS. CAUGHLAN: Where on the page?

MS. BURTON: Page 3 of 3 on the bottom, point of clarification. On November, 1995 the Board recommended this materials review criteria for handling, and I thought that the handling criteria is already in OFPA and it’s in the regulations as far as what you should be reviewing handling materials under, so these numbers -- it’s continued on page 4 where you have all these consumer perceptions, historic precedents, and all of these criteria. Could you just clarify this because this isn’t going to supersede what...

MR. RIDDLE: Oh, no. This was just for historical reference and that was not the handling criteria recommendation.

THE CHAIRMAN: Can you pick that up on the mike?

MR. RIDDLE: Yeah, can you hear me okay?
MS. BURTON: So can you tell me what this is then?

MR. RIDDLE: Well, this was pretty early on in the drafting process and just trying to provide guidance to the program back in ’95 on just what the criteria should be.

MS. BURTON: And then the other criteria was formally adopted because I worked with Joan Kasell [ph] on that so this is just for references.

MR. RIDDLE: Yeah.

MS. BURTON: But you have it under current situations and practices, and that’s my comment. You have it under current practices, and that’s not the case. Our current practices are using the most recent recommendations that the Board made that is in our criteria of evaluating materials.

MR. SIEMON: Where would I find that? Is that in this document?

MR. KING: Well, I think what Kim is referring to is 205.600, and that this is historical information that led to the development of 205.600 so that we need to at least position this differently within the document.

MS. BURTON: It’s not currently -- we’re not currently reviewing materials under this criteria. We...
have criteria that came after this that the industry
recognized.

MR. RIDDLE: That’s a good point. I don’t
know how we change that but I certainly can insert a
sentence that just puts that in a proper context.

MS. BURTON: Because maybe evolution of
practice -- handling criteria.

MS. CAUGHLAN: Instead of current situational
practices you mean.

MR. KING: Or just historically speaking the
following information was considered while developing,
and then just go into something that states clearly this
isn’t the current practice.

MS. BURTON: Because what the industry agreed
on is what we’ve got right now and we’re evaluating
against.

MS. CAUGHLAN: Is that the right sentence?

MR. RIDDLE: No, but it applies to this as
well.

MS. CAUGHLAN: Okay.

MR. RIDDLE: It applies to both. Everything
starting from that in 1994 down is really presented just
for historical context. I’ll just put in bold the
following are presented for historical background.

MR. JONES: We just want to remind the Board before you get perhaps sidetracked here is that the criteria that is spelled out in 205.600(d) only applies to substances used as a processing aide or adjuvant. So it’s only when the use as a processing aide, which is defined by regulation were an adjuvant, which is not defined by the regulation, that those criteria come into play so just be aware of that.

MR. SIEMON: And then for the rest of the ones in the original seven are the ones that we’re using.

MR. JONES: That’s right, and for anything that’s not a processing aide or an adjuvant you’d have to revert back to the original criteria.

MR. SIEMON: So very well. These for ’95 still are Board guidelines even. If they’re not for processing aides, they still could be valid still.

MR. KING: Well, and I think Keith’s point is it clearly separates the two, the handling and processing is in the regulation, that production is in the statute, and so that we’re only referring in this case to the handling which is in the regulation and this criteria. And the reason that came in is through defining a system of sustainable agriculture. We also looked at defining a system of organic handling and/or processing, so that’s sort of where this is leading.
But the two are clearly different in that sense.

MR. JONES: Actually what we’re saying is crops, livestock processing ingredients not including adjuvants processing aides are all in the statute. The processing aides and adjuvants are statute and regulations.

MR. SIEMON: I don’t want to beat what Kim just said in disagreement but, Kim, it seems to me that that still is a standing policy of NOSB from that meeting. It says here this is dealing with number seven, the question or assignment today, this is what the NOSB Board did on number seven. It says right there it’s adequate to meet the other six criteria. At least that’s the way I’m reading into this because they’re going into some of these same issues. So it might be historical but it’s not replaced by those six in the law. This is a stand alone as far as I can read, and I don’t see anything -- the 2001 is the principles. I think these are all valuable just to see what the past Board did.

MR. RIDDLE: And that’s why they’re represented.

MR. SIEMON: Yeah. We can move on.

MR. RIDDLE: To help us be consistent and compatible with the Board in 1995.

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MR. KING: Yeah, and I’m sorry if I implied they were replaced. I shouldn’t have said that. This is really how things sort of came to be.

MS. KOENIG: Although correct me if I’m wrong, Kim, the evaluations that we’re using as far as when we go through those materials we’ve been using just the ones within the rule, not the OFPA...

MS. BURTON: Yes.

MS. KOENIG: ...criteria. Take any of the processing materials that we looked at even in May. We always used those materials that -- the criteria in the rule, not these.

MS. BURTON: Right.

MS. KOENIG: Maybe that was not correct.

MS. BURTON: Well, I was involved in drafting the current criteria that we use for processing with Jim Kasell, and to my recollection it was our intent to use the ones that we currently use as criteria for evaluating materials in processing. And this document we have before us was prior to that. It was not a document that was agreed upon by the entire industry. From this came the criteria that we’ve got, so that was my point, and that we’re not currently using this criteria in evaluation of those materials. That’s all I
really wanted to say. We can keep it in there but I just wanted to make sure that it’s not...

MR. RIDDLE: Are you happy with how I put it in context?

MS. BURTON: Yes. Thank you.

MR. RIDDLE: Those two items are historical reference, and I can scroll back up to where I inserted that, and at the top of the page. It only references -- or presented for reference. I’m glad I looked at it again. The following citations or excerpts.

MR. KING: So it sounds like we’re comfortable with that. Do we have other general comments before we move to the options?

MR. SIEMON: Just so I understand because we’re supposed to be using the word sustainable agriculture. Did you all then decide that this definition from 1990 was inadequate as compared to just adopting that? We just got through reading it. Was that -- I see some of them are in your options but as compared to make it simplistic since we have a legislative reference did you consider just using that like combined with our principles, those two...

MR. KING: If I understand you correctly, you’re just making a general statement including that definition and not going further with bullet points?
MR. SIEMON: If we’re supposed to be defining what’s sustainable agriculture system, sustainable agriculture here, and we have a definition I’m just asking did you consider adopting this?

MR. KING: Well, I think we tried to reflect that in all the options but in general terms just adopting just that definition and nothing else we could fall short of our assignment.

MR. RIDDLE: Well, and of course it’s a two track assignment, and that is compatible with a system of sustainable agriculture, and consistent with organic farming and handling, so that meant we had to address both of those pieces. The sustainable agriculture says nothing about organic farming and handling, especially not handling.

MR. KING: Does that answer your question, George?

MR. SIEMON: Yeah. I’m actually just trying to -- I’m reading the law, and it doesn’t say consistent with organics, so I’m just trying -- number seven is just about sustainable ag.

MR. KING: Yeah.

MR. SIEMON: So you just added another...

MR. RIDDLE: Yeah, but OFPA does say consistent with organic farming and handling as well.

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MR. SIEMON: In another section you mean because number seven just says...

MR. KING: A different section, yes.

MR. SIEMON: I’m trying to deal with our homework assignment. It says compatibility with a system of sustainable agriculture. So now I’m asking why not just -- I’m just reading the law. I didn’t make the law up.

MR. RIDDLE: Our assignment, what was posted in the Federal Register, was in materials review what is meant by compatible/consistent with a system of sustainable agriculture/organic farming and handling. Those are two phrases that are used, and we need guidance on it. We’re trying to wrap them into one recommendation.

MR. KING: That’s what’s on the agenda.

MR. SIEMON: Okay. Let’s go.

MR. KING: And that clearly sort of states where we are going with it.

MR. RIDDLE: And then in the back in one of the addendums it became addendum G does cite those various statute references which the compatibility of sustainable agriculture but also the references from OFPA and then from the rule on consistent with organic farming and handling. Anything else on the larger...
MS. BURTON: In the conclusion, you’re saying the conclusion is that all these factors must be taken into account, and I don’t know if we’ve made that determination. I think it should say should be taken into account until we come up with the final recommendation on...

MR. RIDDLE: You’re on option three?

MR. SIEMON: What reference?

MS. BURTON: I’m on page 5 of 5, for conclusion.

MR. RIDDLE: Okay.

MS. BURTON: The statutory, regulatory and guidance documents cited above indicate that ecological, social, and economic impacts, nutritional value, consumer perception, and international considerations must be taken into account when the NOSB evaluates substances for compatibility. And I think the word must is too strong in this conclusion statement.

MR. SIEMON: I agree. So we have can, could, should.

MR. JONES: Dave, if I could comment a little further too. I think we have a concern when you start characterizing what the statute and the regulation does, which is what this paragraph does. It’s characterization of what the statute and regulation...
supposedly does. The statute and regulations say what they say. I mean the plain reading of those or what you come away with, and I think we have struggled with any time that there’s a characterization of what those statutes and regulations imply. You may want to just word this into a simple sentence that says all statutory and regulatory requirements have to be met, end of story. Okay. But when you start characterizing what those statutes and regulations do we get nervous.

MR. KING: Would it be acceptable to drop the statutory and regulatory and just say that ecological, social, and economic should be considered? Would that be another option? I’m just throwing that out.

MR. JONES: Yeah. You could take the first part of that sentence and just begin it with the word ecological.

MR. RIDDLE: How about if we scratch statutory, regulatory, and guidance and just say the document cited above indicate that ecological blah, blah, blah should be taken into account because then we’re not linking it to an interpretation of statute.

MR. JONES: Jim, let me tell you why we have concern over this area. We are a signatory to Codex. Okay. We may argue, and probably will argue, in a lot of different venues positions that are vastly different
than other signatories to Codex. We will always argue whatever the U.S. government position is on a given issue. And so when you say that Codex should be adhered to, well, yeah, okay, but we may have positions that are antithetical to what Codex says and we’re going to argue very strongly on. Okay. So that’s why we have concerns when these things start getting characterized as to what should happen or must happen or things like that. The thing that you want to focus on is that all statutory and regulatory requirements have to be met. Okay.

MR. KING: I just had a quick comment, and then I think Rose had a question. So what I’m hearing you say, Keith, is that these are really good references that we use for information purposes but to not then take that, characterize it as part of the document, simply to use it as strong support for the final product.

MR. JONES: Right.

MR. SIEMON: So I suggest the sentence starts with the ecological and social myself.

MR. KING: Rose, did you have a comment?

MS. KOENIG: Yeah, I just said you might want to just do in conclusion, and just state, you know, sustainable agriculture should include, and then just state what you are because you’re basically saying --
you’re concluding that -- it’s assuming that based on the above information. It just says sustainable agriculture should include considerations of the following. It doesn’t say it must include but those are the things that you should include. You might say sustainable agriculture as it is consistent with organic farming and handling should include -- that’s basically what you were trying to do so that’s what you can conclude.

MR. JONES: But keep in mind, folks, and then I’ll shut up and let you guys proceed, but you’re trying to put parameters around consistency. Jim’s point is well taken that sustainable agriculture is already defined. That is a defined term. It exists. You don’t have to define sustainable agriculture. Your task is to put fence posts around compatibility and consistency. Okay. So taking on Rose’s point actually maybe you want the sentence to say when consideration or in consideration of compatibility and consistency these things should be considered because that’s what you’re trying to...

MS. CAUGHLAN: In determining compatibility is really what we’re saying.

MR. RIDDLE: That’s fine with me.

MS. CAUGHLAN: In determining compatibility.
MR. KING: Okay.

MS. KOENIG: Just basically taking that last sentence and somehow working it in your first sentence.

MR. SIEMON: If that’s the homework assignment let’s use that as a precept.

MR. KING: Okay. So what do we have up there now, Jim? You just dropped the first part...

MR. RIDDLE: Right.

MR. KING: And I think we’re hearing maybe to add compatibility and consistency to the beginning of that. In considering or in determining, I think is the term that...

MR. RIDDLE: But that’s at the end of the sentence.

MR. KING: Good point.

MR. SIEMON: Just start with ecological.

MS. KOENIG: Somehow word it so that that -- and you just should say that you’re just making a statement as to what our assignment was.

MR. RIDDLE: Okay. I see. I get it.

MR. SIEMON: And we went to the word should.

MR. RIDDLE: Yeah, got it.

MR. KING: How does that look to everyone?

Are we comfortable at least in general terms, does that make sense to everyone? All right. Hearing no
comments, are we ready to move on to the options? Take it away, Jim. Not literally of course.

MR. RIDDLE: Well, since we have the whole document up, are there any comments first on the option one or two or do we move directly to option three? Are people comfortable or do you want to consider or comment on the first two?

MS. CAROE: I just have one question for option two.

MR. RIDDLE: Okay...

MS. CAROE: Where do medications for livestock come in, A or B?

MR. RIDDLE: A.

MS. CAROE: So they’re organic farmers?

MR. RIDDLE: Yes. There actually are materials...

MS. CAROE: It just seemed like that applied more to farming than livestock production. That’s why I asked.

MR. RIDDLE: And I...

MS. CAROE: I know, but I mean medication, I don’t know, it just seemed like more inputs, field inputs, and that sort of materials were being considered when that was written. I just wanted to verify...

MR. RIDDLE: No, I think it’s a very valid
criticism not of our work but of the criteria
themselves. I don’t think they really addressed the
livestock issue, the livestock medications sufficiently
or envisioned that when they were written, and that’s
why the Board in a different work has tried to provide
some guidance on how to interpret each of the criteria
for livestock. I think that’s a different assignment.
But I fully agree.

MR. KING: Are there other comments concerning
the options?

MR. RIDDLE: We’ll go right to option three
then.

MS. CAUGHLAN: I would prefer to go to three.

MR. KING: Yeah, I think that seems to be the
most appropriate. Do we have comments on option three
in general terms specifically?

MS. CAROE: Well, as I read through this in
the pro part of this option three is that is presents
tangible criteria, and I still find the criteria are all
judgment calls. They’re not what I would call tangible.
I mean you’re still making judgment decisions, and I
don’t know that you’ll ever get away from that but
they’re still judgment. Tangible to me means...

MR. BANDELE: I have the same concern. I’d
just take out tangible and say criteria.
MR. RIDDLE: Fine.

MR. KING: Okay. Did you get that, Dave?

Okay. Comments on the specific points, verbiage.

MS. CAROE: G, maintain the authenticity and integrity of organic products so that the consumer will not be deceived. I don’t like that.

MR. KING: I felt the same way about received and the way that -- but it is from Codex so...

MR. RIDDLE: No, we can change it. It’s just a reference point. It’s our document, our guidance, our recommendation. George.

MR. SIEMON: I was going to suggest we say something like satisfy the consumer’s perception for authenticity and integrity of the organic product.

MS. BURTON: Yes, be positive instead of negative.

MR. SIEMON: So my suggestion is satisfy the consumer’s perception for the authenticity and integrity of the organic products period. And drop that whole receiving -- satisfy the consumer’s perception for the authenticity and integrity of organic products. Authenticity is your word too but I’m trying to work with some of the sense of these.

MS. CAROE: This is one of those areas where tangible to me seems far fetched because how are you...
going to do that?

MR. SIEMON: Do a survey of consumers.

MR. RIDDLE: Yeah, it’s possible that it could be measured through survey.

MR. SIEMON: Do you want antibiotics in organic dairy products, you know.

MS. CAROE: But you’re not saying even on a specific area. You’re saying in general it meets their perception.

MR. KING: Right. And you could do a survey based on specific areas that they perceive of the industry so you could measure it. I understand what you’re saying but by design.

MR. SIEMON: Or you could read public input from past rules and get a lot of tangible data about what people want.

MR. RIDDLE: Or any time a material is petitioned...

MR. KING: One at a time. Yeah, Keith has a comment too.

MR. JONES: I’d just remind the Board that as far as a lawful definition of integrity if you’re complying with the regulation all the lawful requirements have been met. I mean the product is determined to be on its face to have integrity.
MR. SIEMON: I’m willing to drop authenticity and integrity.

MR. JONES: And so I think you need to be careful or at least give serious consideration to implying that integrity is measured by something other than full compliance with the regulation. Okay. Because when you do that you’re sending quite mixed messages to consumers. Now certainly consumers can weigh in on the use of any individual material. You do that quite often in your deliberations and taking public comments how is this going to play out. But I think when you give the impression, and I think you have here, give the impression that something is other than full compliance with the regulation you’re really sending mixed messages.

MR. KING: Okay. George has...

MR. SIEMON: Well, you know, I’m trying to react to what’s been given here so this is a little tough because I’d be satisfied just to say satisfy the consumer’s perception of organic products and drop that whole just to follow...

MS. CAROE: Or just drop out and integrity.

MR. RIDDLE: Yeah. I like authenticity.

MR. SIEMON: Okay. Authenticity is fine. Whatever works.
MR. KING: Becky has a comment.

MS. GOLDBURG: I just want to comment on two different items.

MR. SIEMON: Well, let’s get through this one.

MS. GOLDBURG: Yeah, so I didn’t...

MR. KING: Let’s finish this and then we’ll come back to you. But I’m comfortable with George commenting in that consumer perception has been a driving force in this marketplace, so it needs to be in there but I don’t know how others feel about dropping at least integrity, perhaps even authenticity.

MR. RIDDLE: I don’t want to go on the record against integrity. But, no, I hear what Keith is saying, and I think there are numerous places in the rule where integrity is mandated but here it’s as we’re considering a potential material to add how will that impact consumer’s perception of integrity. Would it undermine integrity if we added this material to the list and endanger consumer perception.

MS. CAROE: But Keith’s point is if you put it on the list and it’s used it is organic integrity because it’s on the list, and it’s within the regulation.

MR. RIDDLE: But this is in our deliberation.

If somebody comes forward and says I got data people are
going to stop buying organic products if you put this on
the list because it undermines the integrity of the
organic system. That’s a valid consideration. You’re
really dealing with the perception.

MR. KING: Hold on. I think Goldie had a
comment, and then we’ll go to Dave. Do you want to
chime in, Goldie, or was that just...

MS. CAUGHLAN: Well, I think perception is --
I’m struggling with this because we’re talking -- the
way it’s worded we should probably just get away from
that part of it but I wasn’t put off by the wording
which said that the consumer will not be deceived
concerning the nature, substance, and quality of the
food. And the reason I wasn’t put off by that, and the
reason that I rather liked it and don’t view it as a
negative statement not to offend but marketing so
frequently -- I mean consumers right now believe that
there’s no pesticides used in the growing of organic.
They believe that there’s no synthetic substances used
in organic processed foods, so we have a lot of -- so
when we talk about consumer perception and try to equate
that with the same thing as saying organic integrity
those are two different things. You can have what we
fully believe is strong and organic integrity, and you
can still have a consuming public, which I think we do,
which perceives a whole different substance, and that’s
the weakness of our catch up in terms of education.

MR. KING: Dave was up next, and then we’ll
go...

THE CHAIRMAN: Okay. Well, I just -- I think
the only thing that’s really cumbersome is that you got
these modifiers. You’ve got the perception of
authenticity, and to me authenticity is authenticity. I
mean you can have the perception of authenticity and it
can be a phony, right, you know, new and improved, and
so I think that we need to really talk about consumers
desire, the consumers concern, whatever. I mean it’s
not -- to me perception a lot of times is not reality.

MS. CAUGHLAN: Well, you just said it’s the
other way but it’s the same...

MS. BURTON: Expectation.

THE CHAIRMAN: Expectation. I like that word.

MS. BURTON: Marketing 101.

MS. ROBINSON: Guys, this is -- let me come up
here. This is fine. You know what would help is if you
-- if instead of listing these as factors suppose you
just -- everything you got here is just cool, okay, but
at the front of all of them if you turned them into
questions is this substance because keep in mind what
you’re doing. You’re not talking about, you know, the
product. You’re talking about this substance you’re evaluating. Does the substance, the use of it, promote ecological balance. Does the substance affect global warming. Does the substance conserve biological diversity, dah, dah, dah, dah. I kind of like this expectations idea for consumers but again I see nothing wrong with your looking at a substance and you don’t want that substance to reduce or undermine the integrity or the authenticity although I take Dave’s point. It’s quite correct. It’s either real or it isn’t. It’s not just it feels real, it looks real.

MR. KING: But we have a real seal.

MS. ROBINSON: And you have a real deal too.

But if you -- sometimes if you just phrase these things as questions and really keep those words the substance it’ll keep you focused on what you’re doing, and then it fits. I mean Jim is absolutely right. You don’t want something to undermine integrity. It’s okay to have that in there. So that’s a thought. Also, when you’re doing this sometimes it’s helpful to just say to yourself what would be incompatible. Sometimes that helps you get to what is compatible by trying to figure out the things that you would reject out of hand. That’s just a suggestion.

MR. KING. Okay. Becky, then Kim, then Rose.
MS. GOLDBERG: Am I allowed to go on to new 
points yet?

MR. KING: I think we should finish this 
thought and then we’ll come back to you.

MS. GOLDBURG: That’s what I thought. That’s 
why...

MR. KING: Okay. All right. You’re still on 
deck. So Kim.

MS. BURTON: And the reason that we’re 
deceived is because there’s lots of marketing data out 
there that is now available on organic products that 
would be very beneficial with this G if it was worded 
correctly, and if we leave it open enough we have data 
right now in spins and all over the place that would be 
very helpful, so if we leave it open and we have 
expectations and perceptions, we can quantify that right 
now today so that was...

MR. KING: Can you elaborate on that? What do 
you mean specifically? I understand what you’re saying 
but do you want to be more specific or not? Do you 
think it’s -- so you’re saying general is better.

MS. BURTON: Absolutely.

MR. KING: Okay.

MR. RIDDLE: Which language are you 
supporting? I just want to be clear on where you’re at.
MS. BURTON: Satisfy the consumers expectations for the authenticity and integrity of organic, and that is measurable right now in the organic industry with marketing data.

MR. KING: Are you saying you should say organic and not organic products?

MS. BURTON: Organic products.

MR. KING: Okay. Do we need -- are we okay with this point? Can we in a general sense agree on that?

MS. CAROE: Well, are we going to change it based on the substance, the substance in a product?

MS. BURTON: We could do that.

MR. RIDDLE: Well, I’d like to comment on that.

MR. KING: Let Jim comment and then I wanted to elaborate on it.

MR. RIDDLE: Yeah, I think Barbara raises a really good idea. If only we would have had another conference call. I could have taken another sauna and played some more ping pong. How I’d like to respond to that is that we don’t do that right now. We don’t try and do that right now, but we craft an option four which turns it into questions but without making any substantive changes to the content but just keep focused.
on the content here, and then see which would work
better but I think you’re on the right track.

MS. ROBINSON: I just offer that because it
helps you stay focused on what it is you’re trying to...

MR. RIDDLE: Is that okay?

MR. KING: Go ahead, Andrea, and then I wanted
to comment.

MS. CAROE: Well, I’m just looking at the
point, and is the point saying that if you use a
material in an organic product it won’t meet the organic
expectation of the consumer or is it saying that the
material doesn’t meet? I still don’t -- what I took
from Barbara’s point is stay focused on the fact that
you’re talking about a material. We haven’t addressed
the material in this point. We addressed organic
products. Are you talking about organic products that
use the material?

MR. KING: Well, that’s how I understood
Barbara’s point, and I don’t want to necessarily speak
for her but it sounded like to me she was talking about
if this substance or material is used in a product
that’s labeled as organic would it meet the perceived
expectation for dah, dah, dah, dah.

MR. RIDDLE: And the way this is drafted right
now, you have to go back to the lead-in paragraph, the

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first half of any of these sentences is in order to
determine if a substance that’s used to manufacture is
compatible the following factors must be considered. So
all of this is already in the context of reviewing the
substance but it might keep us more focused to just
repeat that in a different format.

MS. ROBINSON: Well, look at the discussion
you’re having.

MR. RIDDLE: Valid point.

MR. KING: So good point and George...

MR. SIEMON: I would like to ask that we go
through the first paragraph first if we could because it
is the whole thing here, right? Just like you said. I
have some changes. So I think we should go through the
first paragraph before we jump down to the bullets. Is
that all right?

MR. KING: I don’t see any reason why we can’t
back up and...

MR. SIEMON: We could even go in order. We
could be radical, you know, we could even go down the
list.

MR. RIDDLE: It’s all open. I think we should
have started there.

MR. KING: Go ahead, George.

MR. SIEMON: I think again the word must has
to be revisited. In order to determine if a substance that’s used are compatible, the first question I have is about the word must. I’m not so sure when I looked on these bullet points we’re going to be able -- we’re going to be hung up that we have to look at every one of these points. I’m not sure with our TAP process we’re going to be able to deliver a must on these issues.

MR. BANDELE: Some of them aren’t applicable. Some of them are only applicable to livestock.

MR. SIEMON: All right. Let’s talk about must.

MS. GOLDBURG: It should be...

MR. KING: Let George...

MS. GOLDBURG: ...considered as applicable.

MR. KING: Let’s consider that while we’re on George’s point. Becky, what was -- as applicable?

MS. GOLDBURG: Yeah, something like that. That would fix the problem.

MR. KING: Okay. And Dave is putting that up, so let’s stay with that so we can...

MS. BURTON: And must should be changed to should.

MR. KING: Nancy, go ahead.

MS. OSTIGUY: I actually disagree because all we’re saying is we must think about them. That’s what’s
we’re saying with must consider, so you can say it’s not relevant. So must means that you can’t skip the question because you don’t even want to think about it in the first place. I think we should think about it, and then if it’s not applicable because it’s livestock and we’re not dealing with it, okay, you still considered it.

MR. RIDDLE: I have a compromise.

MR. KING: Okay, Jim.

MR. RIDDLE: A compromise would be to delete must and say are to be considered as applicable. It’s not as strong as must but it’s still a directive, are to be considered as applicable.

MR. KING: Nancy is saying okay. Becky. Okay. Do we have other concerns or comments for us?

MS. GOLDBURG: I have a concern with number eight only because...

MR. KING: Well, wait, I was talking about just the first paragraph.

MS. GOLDBURG: Oh, okay.

MR. KING: If we’re done there then we’ll go with that. Okay. George is not done.

MR. SIEMON: Okay. So then the way this is written if I read it that we’re limited to the factors listed. If there was some factor we haven’t thought of...
are we -- can we go there still or do we need a statement that says -- I find it’s the limiting thing. There could be things we’re not thinking of today.

MR. KING: Or we’re unaware of at this time, yeah.

MR. SIEMON: But yet we were told to up barriers here so I understand that but these to me reflect the kind of concerns that we want to look at but that’s opening the door.

MS. CAUGHLAN: Or among those to be considered.

MR. SIEMON: Well, that’s why I’m trying to bring it up because this is a definitive statement as far as I can read even though we just added some -- you just consider it, skip right over it, but what if there’s other factors, put them in later or do we want this kind of language...

MR. KING: Andrea, do you have a comment?

MS. CAROE: Well, I mean the problem we’ll get into is if we’re not transparent if we don’t write down what that criteria is. We can’t add it later. I mean, you know, tomorrow you want, you know, I don’t know, farm boxed or something like that, you know, you can’t do that to the petitioners. They have to know that in advance. It’s got to be transparent.
MR. KING: Go ahead, Rick, and then Jim.

MR. MATTHEWS: Andrea is on the right road here because part of what you got to take into consideration this document isn’t only for your use. It’s going to be what is provided to those who are going to be filing petitions so that they know what it is you’re going to be looking at. Now just because you create one today doesn’t mean it can’t be amended down the road. The thing is that you want to put everyone on notice as to what it is you’re going to look at. If you change that later on, and then put everybody on notice about the change, that’s fine.

MR. KING: I want to make one quick comment, and then go to Jim concerning Rick’s comment. So in the future, let’s say five years down the road, some sort of unpredictable or intervening event, you know, a future board can certainly draft new language or adjust criteria as see fit -- as they see fit.

MR. MATTHEWS: Yes.

MR. KING: Okay.

MR. MATTHEWS: You’re not binding future boards. Future boards could decide that your actions today don’t fit where they want to be 15 years from now.

MS. KOENIG: And they will.

MR. KING: Yeah, I’m sure they will at some point.
point, yeah.

MS. KOENIG: We’re doing it now.

MR. KING: Go ahead, Jim.

MR. RIDDLE: Rick said what I was going to say.

MR. KING: Okay.

MR. SIEMON: I think instead of as applicable, I think when applicable would be a little better because as applicable could be a little confusing that these all -- consider these as applicable.

MR. KING: Yeah, I can see your point. When applicable.

MR. RIDDLE: Are there any English majors?

MR. KING: Okay. Do we have other comments on the introductory paragraph? Okay. Seeing none, we’re going to Rose who has a comment on A.

MS. KOENIG: I don’t think A is workable because I just went in to that lovely two-page document and if you thought we were going to leave anything out, don’t worry. It’s in this document. I mean it’s just for the price we’re paying these individuals I mean there’s a lot of information in that. I’m not saying that either we -- you know, we have to look at the criteria and figure out which ones. Most of these are -- I would say you could use this as the guidance of your
criteria but not included in the criteria like all the criteria should encompass the most important points within your organic production and handling document but most of these -- a lot of these are repetitive of what you have down. So, you know, if I was a TAP reviewer and saw that page and then saw this page, I’d hand back the contract and say this is just one of the criteria. You know, it’s just, you know, I think we need to either embody the most important things that are in this document within those criteria rather than reference that document.

MR. KING: All right. So point A, be more specific. Take point A and...

MS. KOENIG: I would say take point A out. I think that the information in here is very important. We need to pick out the most important points that we think are consistent to sustainable ag and organic ag rather than just handing them that whole sheet. And I think some of them are already in your criteria so we need to kind of compare that to what we have down here and make sure we have the most important points embodied into our document.

MR. KING: And I think if I recall correctly the principles have gotten us to this point. We felt that they were important. I do see your point though.
If you’re a contractor, and that’s the very first point on here, and then you look up principles you’re like, oh, my God, can I have 10,000 just to start. But, Jim, if you want to comment on that because I know we have talked about this quite a bit.

MR. RIDDLE: Yeah, and I’ve gone both ways on this. I hear exactly what Rose is saying, and I hope that I’ve already extracted the relevant points that aren’t already covered by another criteria from our principles. Kind of at the end of Friday or whenever how it got back in there was looking at the newly revised Codex criteria, the number one criteria, as Emily said yesterday or maybe today consistent with the principles of organic production as defined in these guidelines. They’re holding that up and then you go back to their principles, and they really match up with our principles, and so that kind of, well, maybe we should keep that in there as number one, but I see the problem...

MS. KOENIG: My thinking is that you might be able to put it in your introductory paragraph that that should be a guidance. I mean they should look through it but that’s not necessarily -- we don’t want them to go through and pinpoint everything. You use this document to form your concept as you’re a TAP reviewer,
and the most important point that you have to cover are these.

MR. KING: Okay. Barbara, you had a comment?

MS. ROBINSON: At one time when I was talking with you about compatibility and consistency, I had suggested that you look at your principles for ways to help you define compatible and consistent. But I actually think my problem with A is kind of like Rose’s problem. It’s sort of like saying, okay, in order to find if the material is consistent and compatible, it has to be consistent with our principles of consistency and compatibility, kind of like defining it using a definition to define itself but then in any event if you read through the principles carefully every one of your principles must already be satisfied by an organic system plan. I mean those are embodied in the regulations. You go back and read the preamble. You read the beginning. What does every plan have to consist of. I think you would have already, you know -- you’ve already met those by the time you get to reviewing a material because you had had so why do it again. I guess I sense that your concern that if you take that out that somehow you’ll neglect these principles, and that can’t be the case. You wouldn’t do that.
MR. SIEMON: I think the six criteria deal a lot with them as well.

MS. ROBINSON: They do. They do. So I think you already will be bound by those. You already do that, but then you have these additional more specific criteria or factors that help you define compatibility.

MR. KING: With that in mind, Dave has put some language he’s inserted in the paragraph, and I don’t know how -- if people would like to comment on that, advantages, pros, cons.

MS. CAROE: Well, my comment on Barbara’s comment. In regards to the organic system plan this criteria is for nonorganic ingredients, so I don’t see how the organic system plan applies to the criteria to accept a nonorganic ingredient. The regulation regulates organic ingredients. This is the nonorganic ingredients that can go in it. Am I wrong? But I mean I...

MS. ROBINSON: You’re right.

MR. RIDDLE: Yeah, this is substance evaluation.

MS. CAROE: So, you know, the organic system plan is not related, I don’t think.

MS. ROBINSON: If somebody comes to this Board and asks you to approve Chilean nitrate, you’re not
being asked to approve Chilean nitrate in a vacuum. You
have to approve Chilean nitrate because it’s being used
to produce product X. It’s being used on a farm. It’s
being used in a processing plant. It’s going to be
added to a product. But all of the rest of that,
Andrea, all of the rest of that, subtract out the
Chilean nitrate, all must obey the principles of organic
system plan, the plant that’s using it, the farm that
uses it. So I guess what I’m saying is you’re not
chucking the principles. Those have to be recognized,
would have had to get there. And in every organic plan
that a producer provides to a certifying agent it
specifically must state how you are using synthetic
materials in accordance with this regulation. You have
to write that down. You have to keep that kind of
record, and you have to negotiate that with a certifying
agent so that you can show that even using that material
you are in compliance with the spirit and intent of this
law and its regulations.

MS. CAROE: So you’re referring to like the
utility requirements and the pest control requirements
and sanitation requirements.

MS. ROBINSON: Exactly, yes.

MS. CAROE: Okay.

MS. ROBINSON: Replenish and maintain long-
term soil fertility. That’s a principle. Chilean nitrate itself, I mean you’re going to evaluate all these substances but you’re going to do it within the context of those principles.

MR. KING: Yeah, I think that was clarified.
Jim, go ahead.

MR. RIDDLE: You had asked, Mark, our reaction to Dave’s proposal. That would be deleting A but moving it as a place marker in the introductory paragraph, and I’m comfortable with that. I guess I would like there to be some linkage but that it not open up a whole new can of worms like Rose was saying as a factor in itself. It’s actually 20 factors, for instance, so this just makes a linkage. Is that comfortable with you?

MS. KOENIG: Yeah, I mean you’re saying you need to do it in the spirit of our principles, you know, that your whole analysis should be reflected in what we believe is our principles but not every -- and then we highlight the things that are the most important as it pertains to sustain -- because most of these -- they all pertain but some of them are very specific in the ones you really want to highlight. And that whole idea is to highlight and reduce so that you can get -- you want a document that you can afford to produce that gets to the points that are the most important to the group rather
than covering -- if we could get somebody to cover it all, yeah, that would be the best document, but in the real world we only have a finite amount of resources.

MR. KING: I see your point. Goldie, you had...

MS. CAUGHLAN: But the obvious would be that you would not not give them the copy of the principles.

MS. KOENIG: Oh, yeah, but that’s a thing because now here’s the time to really reference it. I mean you should have looked at it all the way.

MS. CAUGHLAN: In its context it is the background. It is the underlying value system that brought us to that obviously. I like it this way better.

MR. KING: Yeah, please consider this as a strong supporting reference, if you will. Okay. Do we have other comments on the points? Becky, yes.

MS. GOLDBURG: Yeah, I had one. My first comment is I think fairly trivial. In most of the points we say something to maximize or minimize or whatever. In the case of global warming we just say impact on global warming. We should probably say minimal impact or minimal or something like that.

MS. KOENIG: Minimize.

MS. GOLDBURG: So that’s a small comment. My
other comment is broader, and I think maybe even more broad if we’re intending these criteria to sort of reflect the principles because the principles say a lot about environmental considerations that actually isn’t in the list here because Jim tried not to make this too duplicative. At the same time I find criteria B, promotion of ecological balance, incredibly vague. And I say that as someone who actually at one time got a Ph.D in ecology.

  MS. BURTON: I think it’s easier to say that you adversely do not affect ecological balance.

  MS. GOLDBURG: Well, there isn’t defined ecological balance, we don’t want to get into all that stuff but...

  MR. RIDDLE: Finish your thought.

  MS. GOLDBURG: You know, we need to talk about no pollution, maintenance of geo-chemical cycles and things like that, and I think we ought to maybe rewrite B and maybe C now too to be some sort of environmental criteria or series of environmental criteria.

  MR. KING: Are you suggesting combining the two or just elaborating on each individual point?

  MS. KOENIG: Defining it more in detail.

  MS. GOLDBURG: I’m not sure. I’d have to, you know, look at it.
MS. KOENIG: Well, the thing is if it’s something you actually want to be able to quantify you have to be pretty defined.

MS. GOLDBURG: Right.

MS. KOENIG: I mean if you really want bench marks those are too vague.

MS. GOLDBURG: Well, I don’t think C is necessarily all that vague but B is really...

MS. KOENIG: Well, C though there’s a thing -- I’m not sure that’s the word you want to say because when I see biological diversity, I see you want to increase biological diversity in many of these systems. You don’t want to decrease them. But you’re saying conservation, and I know what you’re saying. You really want to...

MS. GOLDBURG: I think this means the natural system so we don’t want to have a substance that ends up in...

MS. KOENIG: But that’s what I’m saying.

MR. RIDDLE: Maintain or improve. That’s a phrase used in the rule, natural resource list.

MR. KING: Well, if you have things in mind that we can actually...

MS. KOENIG: Well, this is a draft so they could...
MR. KING: I know, but I’m just -- while we’re talking about it, it’s...

MS. GOLDBURG: Yeah, I think it’s not something to write by committee.

MS. COOPER: So, Becky, with the biological diversity if that’s sort of the wild diversity then how can we get to the plant diversity on the farm?

MR. KING: Can you say that again louder, Ann?

MS. COOPER: My question was because I had sort of taken diversity as -- and it is sort of backwards having conservation of diversity but insuring diversity of plant stock, of breeding stock, of seeds and stuff like that, but if we’re looking at this biological diversity as diversity of the environment as opposed to on the farm and of plants and stuff, so how do we insure that because I think that that’s important so we don’t have line one kind of tomato left.

MS. KOENIG: But the thing is that sometimes also you have to look at these in terms of the materials that we look at, synthetics, okay. Sort of like take a synthetic and see if it goes through the system. There’s going to be certain categories, and that’s the whole thing, you know, you kind of look at it as a whole but things like peroxides and sanitizers would never make it through many of these systems although their use...
is essential in the systems, so I don’t know how you
embody that concept. And the same thing with a lot of --
because they’re tools getting back to -- Brian is not
here, but many of the tools don’t necessarily -- I mean
I hate to say a lot of them are not necessarily
consistent with these types of ecological principles or
sustainable ag. So I don’t know how to say it but in
certain ways we have to create some kind of balances
like Brian said in his comment. You know, you need to
have the tools within your system, yet you want to do it
in a way that you’re still evaluating those tools but if
you set up such a stringent system by a strict
definition it really would be hard to take some of the
products we currently have on our list and the industry
feels that you should stay on the list I don’t think a
lot of them might not get through the system. I’m not
saying that that’s -- but I’m just saying if you do that
mental exercise to go through that.

MR. KING: Goldie.

MS. CAUGHLAN: But these are to be considered.
Remember, we’re not creating a checklist that has a
total at the bottom as Keith analogized yesterday. It’s
simply that they are in our mind that we are considering
them, and that’s no different than how we evaluated
every material since I’ve been on this Board is that we
consciously struggled with all of these issues and we know some percentage of them we’re not comfortable with but we are constantly considering the balance or the good of -- or the necessity.

MS. KOENIG: I mean I’m just talking out loud because again this is really new information, and I’m just trying to process it.

MR. KING: And I think you bring up a really valid point. After just a quick comment, Keith, and then we’ll call on you.

MS. CAUGHLAN: But I’m hearing you say that you’re uncomfortable with it because it would rule and it’s just a consideration.

MS. KOENIG: I think all these things are -- I think that in theory all these factors are really great, okay, but if we’re writing a document on sustainable organic agriculture, I think all those concepts are embodied in the definition. But what our charge is figuring out materials that can be applied in those systems so really to me the essential thing to do is figure out maybe a shorter list that really are those factors sort of like what they have to have.

MR. KING: I understand what you’re saying, and there are two different things. One is initially we don’t want to make this so cumbersome that no material

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will ever get through this in present day sustainable organic ag, which makes perfect sense to me. Okay. But then secondly if we just simply have a base line of the bare minimum I’m not sure that gets us where we want to go in terms of promoting where we hope to be years down the road. But one more thing and then we have several people that want to comment, and that is it’s my understanding these are things we’re considering when we think about criteria seven. We’re not talking about writing...

MS. KOENIG: But you’re better off instead of saying ecological balance. Are you concerned about the water? Then put the water down. If you’re concerned about the air pollution, put air pollution down. You know, you’re taking one vague term of sustainable ag, you know, that means a lot to everyone else. Well, if you think that means a lot try ecology. That means a hell of a lot to even more people, you know. So you need to just define it as water is water, if it’s air, it’s air. And then it makes it easy to have bench marks because, yeah, you can go to the Clean Water Act, and you can get numbers. If heavy metal is your problem EPA has a list on heavy metals. But they don’t have a list on ecological balance. Those are more concepts and you can’t put numbers on concepts.
MR. KING: All right. So more specificity in this case. Keith, Jim, and then Andrea.

MR. JONES: A point that we would make for consideration is simply decide on what’s important. Decide on the concepts that you want that’s important, get them written down today. I think you obviously seen that you’re not going to solve this question in the afternoon. Then as you work on this, and as you get public input you can continue to hone and perhaps begin to think about weighting or prioritization or something like that, but the challenge that is in front of you today is to get those broad place holders down so that you don’t miss something. And get them down on paper. Get them as close as you can possibly get them today, but move on. And then get this document where it’s got your place holders. Then Rose’s point is well taken. You can then take and take care of those place holders to get the language of the place holder, you know, exactly the way you want it.

MR. KING: So by considering, for example, you’re saying ecological balance way too vague, but we know that’s a priority and out task in hand in the future would be, okay, what specifically do we mean by that.

MS. KOENIG: Because I think when you go and
we’re all done with the task and you put the -- you
know, you give it to a TAP reviewer they have to be able
to have a reference sort of like what Barbara is saying,
they got to be able to search the literature and come up
with a scale or a number. And I’m not saying all
numerical values embodies ecological balance but there
are factors and there are studies that do look at water,
that do look at air, that do look at heavy metals, and
most of those again are in -- I mean it’s in the rule.
I mean we talk about air, we talk about heavy metal, we
talk about certain things.

MR. KING: Okay. Jim, then Andrea.

MR. RIDDLE: I appreciate what Keith said
there a lot, and that is to keep place holders in and
see if we can further refine them, but once they’re gone
they’re gone, so today is the day to keep place holders,
but I think on that particular one the promotion of
ecological balance that I struggle with whether that
should even be included because all the factors that we
might use to measure it may already be in the other
criteria. Are there adverse effects on the environment
from the manufacture, use or disposal. That’s one. And
then are there adverse biological or chemical
interactions in the agro ecosystem. Those are already
mandatory. So those may cover it. We may find that we
don’t need to refine it further. But for now if we can just keep it as a place holder in this draft, I’d be happy with that.

MR. KING: Andrea. Yes, finally.

MS. CAROE: All right. In setting up this list of criteria, in setting up any requirements in this regulation the US and the EU have been different in philosophy. The US set a criteria that they don’t fall below. The European set a higher criteria that they allowed to derogate off of and come down off of. That’s the way they work it. We’ve never worked that way. We set a criteria, this is the rules, this is what’s out there. I think we need to continue to do the same thing with the criteria for materials that these petitioners are looking at. And they need to have bench mark numbers, and whether that’s Clean Water Act or the criteria for what is a wetlands, and that exists and it is tangible, or what is a rain forest. Those definitions are out there. I think we need to put down real things, and not have will consider because then the petitioner is investing in something they have no idea how this Board is going to think about whether they’re consistent or not consistent with a vague idea. I don’t think that’s really fair.

MR. KING: I think we’re in agreement on that,
and I think your point really builds on Rosie’s that if we look at it as Keith and Jim have said place holders for today, have them be as part of that draft, and then we can further define those place holders perhaps by looking at the statute or the regulations to see if it’s already supported, and if not where do we go, you know, to further define that.

MS. CAROE: Each one of these is a filter, and if you look at all of them together that is taking it -- I don’t think any one of these has got to be so strict because once you do that like Rosie said nothing is going to make it through the filter except water, and, you know, I mean that’s it, and not so sure about water. I mean that’s the truth of the matter is. The fact that we’re looking at it from so many different perspectives is what’s going to make it a thorough evaluation. It doesn’t have to be one item to the -- you know, to that level.

MR. KING: I’ve been superseded by another chair.

THE CHAIRMAN: I see lots of squirming going on. We’ve been at it now for two hours so let’s take a 15-minute break.

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[Off the record]
[On the record]

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THE CHAIRMAN: Okay. Let’s see. We’ll turn it back over to discussion. During the break Becky came up and said that she and Rose have caucused during the break and they have some things to offer. So, Mark, as I turn it back over, you can call on them.

MR. KING: Yeah, one quick thing. We hope to be really completed in this process in about an hour for today just looking at sort of the place holders that Keith said so let’s continue with the discussion, and we’ll start with Rosie and Becky since they have some valuable input.

MS. GOLDBURG: Okay. We have tremendously valuable input, and we propose not trying to redraft items B, C, and D, but rather striking them from the explanation of compatibility because they are all environmental criteria that really fall under another National List criteria, which have a lot to say about the environment. That said, we think that it may be quite valuable for the Board now or in the future to explain some of the other National List criteria because they really aren’t all that specific when it comes to dealing with certain environmental considerations. But given that the criteria already talk about things about
like environmental contamination during the manufacture, misuse or disposal of a substance and so on, B, C and D are somewhat redundant to the first six criteria.

MS. KOENIG: What we’re saying is sort of like what Keith said the environmental ones are really embodied in the other criteria really strongly. The social -- if you notice, we didn’t include E, which is renewable resources recycling. Those aren’t really embodied in the other criteria. But as Becky said, we feel that even though they’re embodied in the other criteria they need to also have a little bit more definition so that we can actually put in those bench marks, be it water, air. You know, spend a little bit more time defining in those sections because if not -- if we do that, it’s not bad to have it here. Actually having that preamble, all those things again are in the principles so it’s not saying that you’re not looking at them but what we’re saying is we now really want you to concentrate on those aspects of sustainable ag that are not embodied within the other criteria, which really are economic and social factors and such.

MR. KING: So a quick comment, and then we’ll go to Jim, so we have our general introductory paragraph, however, beyond that these are the specific areas as you’ve stated that we’ll look at. And Jim
MR. RIDDLE: Yeah. Well, I can go along with that for B because I do think ecological balance is covered off by the other more specific criteria, and I also agree with the need for some guidance on some of those down the road. But now that we moved the reference to the NOSB principles just as some kind of a reference point in the introduction part of that understanding was looking at those principles and seeing if there’s some particular points that we want to highlight in these. And I feel that biological diversity is not covered by the other criteria, and the same thing with impact on global warming or minimizing impact on global warming. I don’t think that’s covered. I think that’s a stand alone that is relevant, so I guess I’m not comfortable with that. So long as we see this as a draft and the place holder type approach, I’d rather keep C and D in there myself at this point.

MS. GOLDBURG: Just to make further comment. I’m not going to fall on my sword over C and D, but criteria two is the substance, manufacture, use and disposal do not have adverse effects on the environment. That’s about as broad as you can get.

MS. KOENIG: You can define that and say -- we could put under this consideration of, you know,
endangering habitat. We could embody those in there, but what I’m saying in terms of a TAP review let’s go back to what are we doing this for. We’re doing it to make the function easier for somebody who’s preparing a TAP and then for us to evaluate a TAP. It’s much easier to do it in a systematic fashion so when you get to those criteria -- it’s sort of like you’re asking them to be redundant in certain ways and repeat information. And I think that two again we can have those same points but let’s logically put it where the statement is the most strong towards that in particular.

MR. RIDDLE: Yeah, but we aren’t defining those others here today. We aren’t providing any guidance or...

MS. KOENIG: Well, what we’re proposing is that we take those and go back to the other criteria and see which ones do overlap, and then this way your last one can really spend more time maybe detailing the ones that they don’t focus on. It’s just a proposal suggestion.

MR. KING: Okay. Nancy had a comment, then Keith, then Owusu.

MS. OSTIGUY: I actually agree, and I didn’t talk with Rosie and Rebecca during the break, but I think repeating them isn’t necessary. Now we might need
to define what we mean by the environment and include these kinds of things. I think they should be included. But to be repetitive is one thing that drives me nuts about sometimes the current TAPS is when it’s addressed in five different places.

MS. KOENIG: And they cut and paste.

MS. OSTIGUY: Yeah. And all they do is cut and paste, which is what I would do too so I’m not criticizing them for doing it, but it’s difficult as a reader. If you would like to have a succinct summary of a topic why repeat it in three places.

MS. KOENIG: Unless you’re trying to weigh the importance, and that’s valid. If you think that it is so important that you have to weigh it in every category then I think there’s a validity in checking it twice but then that should be a decision that you make as a group understanding that. Every time you repeat something usually it means that you’re repeating it because you’re weighing it as a very important factor.

MR. KING: Keith, you had a comment.

MR. JONES: Yeah. We actually envisioned that you’ll have so much fun wrestling with criteria number seven that you won’t go back and wrestle with the rest of the six. I say that facetiously but there are certainly areas in the other six criteria that need this
analysis just as you’re doing with criteria number seven, and I think Rosie’s point is very well taken is that as you begin to look at how these sections interlink and relate to one another you will come across with some understanding as to the outliers that are not addressed in any of the other criteria, and that actually need to be embodied in number seven. But it’s only doing that kind of systems thinking that you’ll begin to identify the outlier, so I think Rosie is really on the right track here and shouldn’t be dismissed out of hand because as I said in my slide yesterday you can begin to assign proxies for some of these other points and the other criteria, you know, bird kills related to environmental manufacturing or something like that. You can begin to work on those things if the place holder is already there. And I think that’s what Becky is saying is that, look, there’s a broad place holder here that’s already in some of these other criteria. We need to acknowledge that, go back and wrestle with what that means, what’s the upshot of that, but really focus on those things in number seven that are really the outliers that are not captured in any other place.

MR. KING: Owusu.

MR. BANDELE: You were talking about B, C, and
D. I have a concern with D, the global warming. I fully understand the importance of it and agriculture’s potential contribution to those problems, but any process that releases carbon dioxide in the atmosphere would contribute. I’m just wondering how would you envision the quantification of that impact.

MR. KING: Jim.

MR. RIDDLE: For further development.

MS. GOLDBURG: Yeah. I want to respond to it. I think that’s actually one of the most quantifiable things that’s up there that you can think about the various greenhouse gases and their CO2 equivalents and manufacturing and what not. And if you really wanted to, we probably don’t want to come up with numbers, but I think someone is going to drive their SUV to work during the manufactures of a substance and so on. There’s going to be some impact on global warming, but what we don’t want is a process where probably either huge amounts of CO2 are released or lesser amounts of some of the more potent greenhouse gases.

MR. KING: Okay. So as a general statement here, I’m hearing that we have our place holders. We’ve listed place holders. And we’re talking about striking some, elaborating on others. To make the best use of our time, I think that what we’re saying really is that,
again this is a working draft, from an action item standpoint that we will look at the statutory requirements, the regulatory issues to find out is there crossover with any of these, and if so, and it’s a stronger statement, it may eventually be dropped. But as a general rule are we comfortable with what’s up there. Do we still want to strike those two for now, consider it.

MS. KOENIG: I’d like for you to say they’re going to be embodied in the other criteria, not struck because it’s a whole document.

MR. KING: I understand. I understand.

MS. KOENIG: I mean I don’t think we can look at those criteria in isolation, and as long as they’re embodied, and I think they can more easily be embodied in those criteria, then I mean a great example is every time we do a TAP people want to know about economic impact. Hard to get, and some of that data will not be available, but if you have it under the sustainability criteria then if it is available we can force the point for more elaboration on that subject. And, again, that’s a very hard one to do but just because it’s difficult doesn’t mean we shouldn’t at least try to generate the data.

MR. KING: Jim.
MR. RIDDLE: Well, I agree totally with what both of you have said, and Nancy’s point of not having — eliminating redundancy unless there’s a point to being redundant like you were saying. But until we’re further elaborating the others is there a problem with leaving these here for now and then shift them over to where they’re more appropriate later so we don’t lose them. I mean...

MS. KOENIG: Well, I think we pointed out that even those have to kind of be redefined but I mean I don’t really care what you do with them. I mean as far as — I mean I do care. I mean if you want to keep them there and work on them, that’s fine. The more work the merrier.

MR. KING: We have two people that have comments, but let me just ask this very obvious question, and it’s one of a starting point. Is the starting point this document referring back to everything else we know or is it as Keith had suggested, I think, the first six criteria, and then moving on from there, so we focused on this, which I’m comfortable with, but I just throw that out as...

MR. SIEMON: Our homework assignment is taking for granted one through six, how do we enhance seven to compliment one through six. B, C, and D got to go. You
know, it’s things that are already covered. If we need to recover them somewhere else then we’ll go there but we can’t be duplicative or this will get all muddled again. Complimenting one through six, B, C, and D got to go. We got to move on too.

MR. RIDDLE: Well, so far we’ve deleted A, B, C and D.

MS. KOENIG: Don’t take it personally.

MR. RIDDLE: No, no. At least we have something to delete.

MS. KOENIG: We thought that E was actually one that wasn’t necessarily covered with that focus than the other ones because really how energy resources are used. Does it encompass any kind of renewable resources. That we didn’t feel really was necessarily embodied in the other criteria.

MR. RIDDLE: And it’s clearly covered in the definition of sustainable agriculture.

MS. KOENIG: And that might be recycling of nutrients in the sense of, you know, like some kind of other products. It’s not just energy. It’s recycling systems.

MR. RIDDLE: Renewable resources.

MR. KING: Andrea.

MS. CAROE: Well, I just have a question over
our definition of maximize and reduction. Maximize, what does that mean? Now much is maximized? How do we define that? Is there a way that we can...

MR. KING: Well, I would answer that as sort of a positive influent on the review of sorts in a general sense. I understand what you’re saying.

MS. CAROE: So promote is more appropriate than maximize?

MS. GOLDBURG: We don’t want to maximize the use of renewable resources.

MR. KING: Yeah, that does make sense when you think about it.

MS. GOLDBURG: Let’s cut down as many trees as we can.

MS. KOENIG: You want to decrease the dependency on nonrenewable...

MR. RIDDLE: It’s versus nonrenewable resources.

MR. KING: Yeah. Yeah. So...

MS. KOENIG: Decrease the dependency on nonrenewable resources.

MS. CAROE: So do you want to say that...

MR. KING: Or potential to promote. I mean we’re thinking about a system or a model that does promote the use of a renewable resource versus a
nonrenewable.

MS. KOENIG: Yeah, then you decrease the dependency on nonrenewable resources.

MR. RIDDLE: And reduction should be reduced there.

MR. KING: Reduce the dependency of external inputs or nonrenewable resources. I mean I don’t know, do we need to take it that far? Do we need to add on external input or the use of nonrenewable resources? Is that what we mean by external inputs, nonrenewable?

MS. GOLDBURG: External inputs especially nonrenewable resources.

MR. SIEMON: I think it could be and recycling period because the material we’re talking about is an external input itself. That can stay too.

MR. KING: Good point. It is considered by default an external input in many cases.

MR. RIDDLE: Yes.

MR. KING: Yes, but. Go ahead.

MR. RIDDLE: But a fundamental principle is organic agriculture minimizes the use of synthetic inputs. That’s a fundamental principle, and it’s one that’s not capture in the other six criteria. So it’s — you know, I think it’s important to either leave it in or move it to its own stand alone point.
MR. SIEMON: That would be probably the best but let’s just leave it in right now. It belongs here.

MR. KING: So we just want to leave external inputs. We’re not going to add nonrenewable resources. Are we going to consider...

MR. RIDDLE: Promoting the use of renewables.

MS. CAUGHLAN: How is it worded?

MR. SIEMON: As far as place holders, I think we can leave it.

MS. CAROE: What goes in must come out. I don’t understand that so if...

MR. KING: He’s saying off farm inputs or out. That’s why we’re trying to define it further. Okay? Do we really mean nonrenewable resources that are purchased and brought into or onto an operation. I think that’s what we’re trying to get at.

MR. RIDDLE: That’s a fundamental concept of organic agriculture.

MR. KING: Exactly.

MS. CAROE: Okay. Can we apply this to a material just so I can get a feel for how we would be looking at this?

MR. KING: We’ll do that tomorrow.

MR. SIEMON: I was thinking microbial compound, that might do recycling rather than bring
manure from the outside. I’m just trying to think of something what we’re talking about here.

MS. CAROE: Okay. But this also applies to processing aides for handling, these criteria, so I mean take something that’s already on the list like glycerine or something like that. How would that apply?

MR. RIDDLE: But it’s as applicable.

MR. KING: Yeah, so it may or may not apply to every single one.

MR. RIDDLE: It may or may not.

MR. KING: Can we leave that as sort of a place marker for now. We got one going through.

MR. RIDDLE: The next one, let’s just...

MR. KING: Let’s look at F.

MR. SIEMON: I had a hard time knowing what material would positively influence the welfare. I know it would positively influence health of an animal but you have specifically up here natural behavior and welfare, so could you give me an example of material that would affect that versus health. Health, I understand. But this is a little different twist you’ve thrown at me. What material would affect the natural behavior and welfare of an animal that isn’t all about the health that’s covered in the rule?

MR. KING: When I think of natural behavior, I
think of the environment that they live in almost more
so than a material.

MR. SIEMON: So fence post would be a
material?

MR. KING: Well, I mean I see your point. I’m
just thinking out loud.

MR. SIEMON: I’m just trying to -- renewable
plastic fencing because it’s less harmful to the animal?
I’m just trying to think of something.

MS. CAROE: No, it would just be more like fly
control or something like that maybe.

MR. SIEMON: Okay. That’s a...

MR. KING: It could be, yeah, like pest
management. In the case of pest management, I think in
the regulation it already talks about natural over the
others.

MR. RIDDLE: Yeah, but that’s in terms of
practices. Here this is a substance evaluation.

MR. SIEMON: It’s about a material that
influences their natural behavior and welfare.

MR. RIDDLE: So it’s consistent.

MR. BANDELE: Well, do you want the material
to...

MR. RIDDLE: And I think it’s appropriate to
say, I’m sorry, Owusu, positive influence on the health,
natural behavior, and welfare if you’d like to add that.

It is a separate way of looking at it but...

MR. SIEMON: That definitely would help make
the sentence make more sense to me is add health. I
just thought that might be covered somewhere else.

MR. RIDDLE: No, it’s really not.

MR. SIEMON: Okay. Then I would suggest F
that we add on the health natural behavior and welfare
of animals.

MR. KING: Okay. Owusu.

MS. KOENIG: Meaning all three?

MR. RIDDLE: Yeah, as applicable.

MR. BANDELE: The material having a positive
influence.

MS. GOLDBURG: When applicable.

MR. RIDDLE: When applicable.

MR. BANDELE: The material having a positive
influence on the natural behavior. Aren’t we more
concerned with the material not interfering with the
natural behavior?

MR. RIDDLE: Yeah, but we tried to phrase it
in a positive instead of the absence of a negative.

MR. KING: Back to your point.

MR. BANDELE: I think those are two different
things. I think if you’re looking for material to
positively influence the animal that’s one thing, but if you’re looking for a material not to interfere with the positive, I don’t think that that’s interchangeable to me. And I thought that would be a bigger concern with a synthetic.

MR. RIDDLE: So what you’re -- does not have a negative influence.

MS. KOENIG: Well, I think it goes back to Barbara’s point. If you change those two questions, which we probably will, it’s going to read does it have an influence, negative or positive, however you want to put it. I mean these things are probably going to come into the form of a question because it’s for a TAP reviewer to analyze so I think that’ll be washed out when we change it into a question.

MR. KING: And I think if we think in terms of are these things in general that we want to be here and we can word smith a little bit more later as we put it into action, if you will. Jim, go ahead.

MR. RIDDLE: Yeah. I think it’s really a fundamental question though is do we phrase it what is the influence on, blah, blah, blah, or does it have a positive influence or does it not have a negative influence.

MS. KOENIG: What is the influence? We want
to know both. They probably have...

MR. RIDDLE: But we’re looking for qualitative
guidance, I think.

MS. KOENIG: But you want to know -- I mean
qualitative can be positive qualitative, and there can
be negative in the same thing. Mostly everything has
pros and cons. So you really want to know on all those,
you want again that literature research. You don’t want
to form -- we want to be objective. We don’t want to
value judge. We can’t value judge in our questions.

MR. RIDDLE: No, but I saw this as setting
some bench marks which can be used for the value
judgment, and I agree in terms of what the TAP reviewer
-- we want to know pros and cons. We don’t want to lead
that, but how we determine whether something is
consistent and compatible, it has to not have negative
influences or...

MS. KOENIG: I just don’t think these are
black and white. Mostly everything has a -- you could
probably take any of these peroxides, go back to hydro
peroxide, okay, the reason why it’s so great is because
it kills a lot of bad things because, you know, the
reason why it’s bad is because if you analyze it for
biodiversity it kills a lot, and then it becomes bad.

So I think the thing is you want to know the non-value
judgment, what does it do in the system, how does it affect things in one way, how does it affect things another way, and then you look at both of those and decide which is acceptable.

MR. KING: And one thing, I think what we’re talking about here is we do want to know the pros and cons, but ultimately we may judge it based on the positive indicators that we find.

MS. KOENIG: Right. Exactly. Exactly. But you don’t just ask for one, and then not get the other. That’s value judgment.

MR. KING: Yes. I think that’s a valuable point, and yet I understand what Jim is saying. We will most likely look at it...

MS. KOENIG: Right. We’re going to take -- you know, we want to -- certainly there is based on that definition if you look at -- based on the rule there is a slant as to what is -- what we’re promoting and what we’re not promoting. But you don’t really ask the TAP reviewer necessarily to analyze it only in one way.

MR. RIDDLE: I’m looking at the questions in our material review form, are there adverse effects, is there the potential for detrimental interaction, are there adverse biological or chemical interactions. I mean those already have value judgments built into other
criteria, into the other questions that are being asked. So I don’t see this as inconsistent to have that kind of terminology here.

MS. KOENIG: Yeah, I see what you’re saying in that sense then.

MR. KING: Can we in general agree though that these are areas we do want to look at in the end as positive indicators for animal behavior and health, however you -- okay. And we do want to leave this one in there.

MR. RIDDLE: Yeah, we’re not hearing that.

MR. KING: Okay. On to -- well, we kind of covered...

MR. RIDDLE: I think we’ve -- we’re satisfied in our expectations for G.

MR. KING: So H.

MS. KOENIG: We didn’t go -- why don’t people just bring up on what they have issues now because we weren’t going line by line. We were kind of bringing up...

MR. KING: Well, yeah, we’re, I guess, deciding do we want to leave these in there, okay, as place holders, if you will.

MR. SIEMON: Is protection the right word versus something like encourages. Protection is kind of
like relative. You got a standard already, and that’s a hard...

    MR. RIDDLE: I don’t know.

    MR. KING: Well, and again I guess we want to look at this as do we want to consider economic viability as the question for today, and we can work smith and have more action at the committee level. Is everyone in agreement that that’s something we want to consider?

    MR. RIDDLE: It’s part of the sustainable agriculture definition.


    MR. SIEMON: I heard say why don’t we just drop including Codex, international standard regulations, and why don’t we say equivalent or stronger.

    MR. KING: Andrea.

    MS. CAROE: Well, I would say does it conflict with international and existing standards so that we can also look at AOS and other standards as well. International alone?

    MR. KING: Keith.

    MR. JONES: Let me tell you this gives me --
this phrase gives me pause, and let me tell you why.
The United States does not like to tie itself to any
given standard other than its own out there. It doesn’t
want to minimize its flexibility, and in fact we may
find ourselves where we want to argue a position that is
different than a consensus position that exists in the
rest of the world because we believe it is best for U.S.
producers. And what I would like to see these points
is, you know, we need to do what is best for U.S.
producers and handlers. If that is an issue in
international trade, then that has to be addressed at
that level. In other words, that will be addressed in
the negotiations that occur on international trade, but
we should not unilaterally disarm, and I would encourage
the Board not to take the approach of unilaterally
disarming but always insure that the Board’s decision is
like straight up what is the best options for U.S.
producers and U.S. processors and then let that get
sorted out through the trade process.

MR. SIEMON: But does that mean we can
consider this? We don’t have to be bound by it or
limited by it but it’s a consideration how it interacts
with international.

MR. JONES: Well, I think it might be a
fleeting thought. You might come to the conclusion
that, okay, this is different, okay, but what I’m saying, George, is that I don’t want you to be constrained by doing something in the best interest of American producers just because it may be different than existing regulations out there or other regulations.

MR. KING: Okay. One quick question, and then Andrea, Jim, and Owusu. So, Keith, to put your language into action if we look at a TAP review in the future and it said -- and it had international standards listed like it does now, and is this in harmony, if you will, for lack of a better term, you still see that as important but not to limit us by...

MR. JONES: Well, I think that information is useful. I think it’s usefulness is limited though because you should not be constrained on any decision that you make other than what is best for U.S. producers and processors. In other words, the fact that the material is not used in Europe while interesting should not affect your vote. You are here to represent U.S. producers and U.S. processors. Okay. It is a point of information. It is an interesting point of information. It should not be where you make your final judgment.

MR. KING: Andrea.

MS. CAROE: Can we at least look at the rationale that international standards have made on a
particular material as they apply to our other criteria so, you know, if it’s not allowed in the Netherlands because, you know, they’re at sea level and they’re worried about their water or, you know, whatever, it may not be applicable but it may be important for us to understand their rationale for not allowing the material or allowing the material.

MR. JONES: Yeah. I would be careful though, Andrea, about drawing absolute conclusions and saying what has happened in the Netherlands therefore is a perfect analogy for what is going to occur in the U.S. Okay.

MS. CAROE: That’s not what I said. That’s not what I said. I said reviewing the rationale as it applies to our criteria, so look at their reasons for doing certain things, and if they influence our decisions on our other criteria so bring it back in house.

MR. JONES: Yeah, I wouldn’t preclude any use of any data sets out there, okay, in terms of your decision-making process, but I do not ever want to see a board come to the conclusion that because a material is not used in Europe or not used in Japan or not used wherever that we can’t use it. Okay. That just can’t be.
MR. KING: Okay. We got Owusu, Rosie, George, Jim, Rick.

MR. RIDDLE: What, you’ve reordered it?
MR. KING: What?
MR. RIDDLE: Well, earlier I was up here with...

MR. KING: Okay.
MR. RIDDLE: I’ll be quick.
MR. KING: Okay, go ahead.

MR. RIDDLE: What I’m hearing is it’s a valid consideration, some valuable information that we should have but shouldn’t lead to any foregone conclusion or be the rationale for our recommendation, but what triggers the tap reviewer to ask those questions, right now there’s really no basis by keeping this in as a factor, and I’m very open that it be rephrased, so equivalents, that’s a problematic term here, I think. What we need to know is the status, international status, and then that’s just part of our consideration, so I think it’s important to keep in the mix because this will trigger asking the question and getting us the information so that we can protect American farmers and handlers.

MR. JONES: The way I would handle this is that just as you use your principles as a point of reference, I would ask as a point of reference the use
of material in other international regulations. I would
not make it, if I had a preference I would not make it a
part of your criteria. It should be some information
that you’re aware of, that you’re cognizant of. Okay.
But it should not in any form be part of your decision
process because again you’re here to represent you’re
here to represent U.S. producers, U.S. processors, U.S.
interests. Okay.

MR. KING: Okay. Owusu.

MR. BANDELE: Yeah, what you just said is
basically how I felt about it because in the past we
have had materials whereby we looked at what happened
like the Chilean nitrate, for example, so our standards
were different. But I still think that’s a very
important piece of information when you look and see
maybe across the board that material is not used for
various reasons. I still think that’s good background
material in the evaluation.

MR. KING: Rosie.

MS. KOENIG: I mean that’s what I was going to
say. I mean we’ve been using -- I don’t remember about
the Virginia Tech people, but I know most of OMRI under
the background information would always say
international status, and then they would say whether it
was allowed.
MR. KING: Status among international.

MS. KOENIG: So I mean we could put -- I mean
I think again background information, not necessarily
criteria.

MS. BURTON: Why don’t you just put identify
international organic regulations so it’s just, like you
said, it’s just reference material.

MR. MATTHEWS: Identify the status of the
substance within...

MS. KOENIG: And then -- yeah, just identify
it.

MR. MATTHEWS: It seems to me that what we’re
really talking about are the experiences of others,
which really gets back to what are the environmental
impacts of this? What are the human health concerns
with this product? It’s not so much if we allow this
product are we consistent to the rest of the world.
Like Keith says, we don’t care if we’re consistent with
the rest of the world. Really we’re looking for what’s
best for organic farmers here in the United States in
producers and handlers in general. But when you come
right down to it, it seems to me that where this is
leading is that these issues should already be addressed
under what environmental impacts do they have. What
human health concerns are associated with this material.
MR. KING: Extremely speaking from a criteria standpoint.

MR. RIDDLE: Yeah. Yeah.

MR. KING: And I think we’re in agreement that this is useful information to have. So Dave and then Andrea.

THE CHAIRMAN: Well, I just -- one of the things, how does it affect farmers in the U.S., but I think one of the things we’re seeing though is a lot of farmers or processors or whatever in the U.S. are also engaged in international commerce, and so I think that that’s at least a consideration that we got to look at how does this line up. Now I agree completely with Keith. We got to represent what’s best for the environment and the farmers here but I think to at least identify this is important.

MR. MATTHEWS: Well, that’s a good point too because whatever regulations we establish here once you allow the material here you’re allowing the material everywhere unless there’s a law within that area that prohibits that. So, yeah, that’s a valid point. Everything we do affects producers and handlers worldwide.

MR. KING: Andrea.

MS. CAROE: Just a really quick point. I mean
we’ve already established that we can say does this meet
the organic consumer’s expectation. Why can’t we say
does this meet the international organic consumers
expectation because farmers in the U.S. are entering
international trade.

MR. JONES: Andrea, you can. I mean you
obviously can write this thing any way you want. I just
want to caution you on trying to make a decision based
on consumer perception in Europe or consumer perception
in Japan or something like that. I mean the thing that
I remain concerned about is that, yes, international
trade is important. It is a growing market outlet for a
number of organic producers. There’s a notion here
though that there will at some point in time be
equivalents, okay, and I don’t know that I share in that
optimism. I mean I think you’re always going to have
elements of compliance with other countries’ standards.
Okay. And there may be just certain times where we use
a material that another country doesn’t use, and if you
want to ship product to that country you’re just going
to have to comply with their standards. That’s just a
fact of life. Okay. That’s the way trade occurs now.
It’s the way trade will occur in the future. And while
again while I think this is useful information I don’t
want to ever see a board make a decision on saying,
well, we know this is really the best for U.S. producers. We don’t have the same environmental concerns that the Netherlands have, okay, but because it’s not allowed in international trade we’re going to turn it down. I think that is a mistake. I think we really always need to look at what our needs are first, act on those needs, and let those issues then get sorted out in the trade arena.

MR. KING: Okay. Rosie, and then Goldie.

MS. KOENIG: Well, I guess this is a question for the intent of that when you guys were going through the thinking process. Was your intent, was it to identify the substances that people had prohibited or was the intent to just see if it was allowed? I mean because there’s two ways. I mean I can understand if you’re saying, well, we want to see what they prohibited because we want to see the reason or the rationale behind it so we can include that. Maybe there’s information in the Netherlands that we’re missing here to make our TAP more complete, and that’s very different than saying, well, let’s just see if it’s there. So is the assumption that it was that and that’s why we want to look at it. Where were you coming from in terms of that equivalency?

MR. KING: To me it was just embracing or
understanding that we live in a global market place, and
I think Keith’s hit on the real point here. We’re
talking about U.S. farmers. It’s not our intent to go
beyond that but...

MS. KOENIG: So you were looking at it then
from an economic issue. Could doing this hold up
economic trade?

MR. KING: Well, trade in general. There are
a lot of different factors in trade, economic being one
of those. So that was my read on it knowing that as
Dave said some U.S. companies, farmers, handlers will
engage in international trade, therefore, it is
something to at least know about.

MS. KOENIG: Okay. So could it be linked to
H? Could it be linked to H? If your intent was trade
or economic viability, could you like something saying
if it is a -- is there international implications -- is
it consistent with somewhere in the H somehow
pinpointing that somebody know that’s your intent. What
I’m saying when you have that status, I don’t know what
your intent is as a petition reviewer. I don’t know if
you want me to look at economic data or you want me to
look at it in terms of environmental perspective or
both.

MR. KING: Well, Jim, go ahead, and then we
got Goldie.

MR. RIDDLE: Yeah, right. I’d just like to respond to that. Several rationales, I guess, for including it. One is the question is being asked right now as part of the TAP reviews but there’s no basis for that question being asked. This gives the basis because now it’s part of our understanding of compatibility as there’s a whole world out there. And we’re charged with protecting the public interest of U.S. farmers and handlers, and if we’re going to place something on our list that’s going to be a barrier until equivalency can sort it out we just need to know that. We need to know what its regulatory status is in regards to the rest of the world. It doesn’t mean we shouldn’t put it on there but we need to do it with full knowledge so that we don’t get accused of you guys have approved something, and now we’ve lost millions of dollars of markets because you didn’t even think about its impact on our behalf.

MS. KOENIG: Okay. So back to the definition of sustainability, which is compatible in terms of the same -- so you’re saying that last one, enhance the quality of life for farmers and society as a whole, is that where it fits within the frame work of sustainability?
MR. RIDDLE: Yeah. It’s not related only to the economic viability of farm operations. This is bigger than just the farm. This is society as a whole linkage, handlers as well. And this is one where I’m really comfortable keeping it in neutral phrasing like what Dave has done, what Keith had suggested. We just need to know the facts.

MS. KOENIG: I guess the only thing is that I think that that -- we can move on. I just think you need to pinpoint actually the information you want.

MS. CAROE: It’s not a criteria right now.

MS. KOENIG: What’s that?

MS. CAROE: It’s not a criteria.

MS. KOENIG: Yeah, because right now we could get the same information. It’s allowed. It never was looked at, and the EU, it’s not listed in the EU. You know, so unless there’s...

MS. BURTON: Redundancy from the beginning of the TAP, starting at the TAP usually.

MS. KOENIG: Well, it’s not required in the TAP but what I’m just saying...

MR. RIDDLE: Right. This gives us a linkage.

MS. KOENIG: But what I’m just saying is I don’t -- unless you pinpoint a specific question then we’re just -- we’re likely just to get the status, and
if that’s all you want, that’s fine. Okay.

MS. CAROE: But what do you do with it? You don’t have a criteria. It’s not accepted...

MR. KING: It’s reference material. I put this...

MR. JONES: It’s the point that you just want the information. The program can provide that. The program with every petition can simply say, okay, you know, you think this is useful. Here’s its status worldwide. In other words, just because it’s currently being asked by the TAP doesn’t mean it needs to continue to be asked by the TAP, and it doesn’t mean that you can’t get it in some other way if you find that kind of useful in just your thought process. Again, I’m just very concerned about putting something in a document that we’re going to publish for petitioners who will come away with the understanding that this is a criteria that you’re going to use to make a determination in terms of go or no go, and that’s not what I’m hearing you want to do. You want to be aware of the information but you simply only want to be aware of the information. Okay. Is that what I’m hearing?

MR. MATTHEWS: And possibly could you just ask for that at the time of the petition when they’re filling out the petition. Why not say as a part of this
petition you need to tell us not only its different uses but what is its standing within the international community.

MS. KOENIG: Actually that might be better because then they might find out that nobody else allows it so they may say, you know, it’s not likely, you know. It may give them a little more information.

MR. KING: Goldie, Dave, then Kim.

MS. CAUGHLAN: I’ve been thinking about the other -- the whole other aspect of it, which is that we sometimes are extremely myopic or whatever when it comes -- what if that substance has been approved in those other countries, and we frequently don’t look very closely at research that’s been done in other areas or what is its record of safety, what was its record of safety for the health in that country when it was used. Did they use it for a time and then prohibit it? Was it a different type of manufacture? I mean...

MR. JONES: But, Goldie, that’s not a trade issue. That’s a data set issue related to some specific questions that you already asked, okay, and so I think the point needs to be recognized that you get at some of these other questions without asking this one. Okay.

MS. CAUGHLAN: If indeed we do get -- if indeed the TAP reviewers -- I don’t recall many times
the TAP reviewers ever look at international historical uses of a substance, and that’s my point. And I’m not looking at just the economic impact here.

MR. JONES: But you might not even get that data with the way the question -- because the way the question is right now it’s a go, no go question. It is equivalents with international organic regulations including Codex. It’s go, no go. Okay. And what you’re saying is that there is...

MS. CAUGHLAN: International research is what I’m saying.

MR. JONES: There is some research. There’s some data sets out there. Behind any decision that an international community has made that would be useful that’s an entirely separate issue than a go, no go decision based on a trade. Okay.


THE CHAIRMAN: Okay. Rick made my point.

MR. KING: Okay. So Davis is off. Kim, you had a point?

MS. BURTON: I just heard Keith saying that perhaps we capture this somewhere else in the process, and perhaps even USDA provides us that information, and if they’re going to be reviewing the TAP then they’re...
going to be going through FDA, EPA. Perhaps that’s the area where they provide us -- if you’re just simply looking at material information on where else it’s at, and if you have that data base, then they provide that to us in the TAP process right at the get-go.

MR. JONES: And one of the things too that I want to caution you on about looking at Codex, Codex is a guideline. It has no value in international trade other than a guideline. It is a reference point but it is not a standard in terms of international trade.

Okay. And you have regulatory schemes in the European Union that are 190 degrees different from what we do here in the U.S. which means that you might have the material approved for use in the European Union that would never even get on anybody’s radar screen. Okay. So again that goes back to my argument about this notion of equivalency. Embodied in the statement is the notion of equivalents that doesn’t even exist in the real world in terms of regulatory schemes or regulatory structures. So I think it’s just problematic from the get-go, and I think there’s a lot of different ways to get at the tangible questions behind this research, the experience, that kind of thing, in other questions that get asked without taking it head on from a trade standpoint.

MR. KING: Okay. I had Arthur next.
ARTHUR: Keith just answered, I mean provided
the statements that I was going to provide.

MR. KING: Okay. Jim, you had a point.

MR. RIDDLE: Yeah, just one other part of the
rationale for including this is the OMB circular 119,
which is executive agency directive that in the interest
of promoting trade your agency should consider
international standards and regulatory applications.
And if there’s some other way to make sure that we’re
going to be able to get that information, and it is being considered --
earlier today we were talking about seed treatments. It
can certainly be a case made that seed treatments are in
the interest of U.S. producers for U.S. agriculture, but
one impact of us approving that would be none of the
things grown from treated seeds could be sold as organic
outside of the U.S. I just want to make sure that we’re
going to be able to get that information as...

MS. KOENIG: That’s why if you linked it with
H somehow because you’re really talking about economic
viability. That’s why I asked you is it the economic or
the trade issues you’re concerned about or is it the --
all the reasons why they wouldn’t want it on the list,
and if it’s economics then it’s appropriate at least to
get the status. Like Keith said, it shouldn’t make or
break your decision, but then you’re aware of it and the
context of trade in some sense.

MR. KING: So in this case I think we all agree we want the information. The question is how do we get the information, and it sounds as if we have options other than this to get the information. So the question is do we want to take it out of here while still protecting the fact that we see this as valuable.

MS. KOENIG: Can we -- going back to H...

MR. KING: Realizing, you know, we have about 15 minutes.

MS. KOENIG: If it said instead of protection promotion or does it promote would be the question, not necessarily protect but does it promote the economic viability of organic farms at home and abroad. That implicates that you’re going to want them to look at one of the -- the domestic economic viability and international economic viability.

MS. CAROE: We had looked at the word encourage too.

MS. KOENIG: Or domestic and foreign markets you could put on it.

MR. KING: Yeah. And again what Rosie is proposing is combining the two essentially, H and I.

MS. KOENIG: Because then it’s actually -- it’s embodied in a criteria that you can then understand
in the context of what you’re asking.

MR. KING: And I guess I have a question for the department, two questions. One is this acceptable in your eyes and, two, how can we insure that it is part of the information we receive when we get a TAP.

MR. JONES: Well, there’s a couple of ways that we can do that. We can obviously ask the petitioner, you know, to supply that through the petition process, you know, just as a point of information, status and other -- using other regulations. And as long as you tie it to just a cognitive fact of trade, I think that’s fine. It’s this notion that there’s a go, no go decision based on equivalents, okay, and that’s the way the current phrase is written so if you get rid of the phrase and yet capture what you want in H, we don’t have any problem with that.

MR. SIEMON: The only problem I have with what Rose recommended is that the economic viability is actually part of the sustainable definition so personally I’d like to still see it stand alone, but at the same time gather that information on the international somewhere else.

MS. KOENIG: The other thing is like let’s use an example because it’s easier for me to -- let’s say...
the question was does the substance from the economic
viability of organic farms both domestically and abroad.
If somebody was doing that in a TAP report, say they
were looking at hydro peroxide, and you found out that
hydro peroxide as a post harvest treatment, you know,
helped prevent post harvest diseases, so in essence you
got more yield, okay, so you have more domestic
production. But then if they looked and then you looked
at the broad market and found out that it wasn’t allowed
in the EU, well, it wouldn’t necessarily promote
economic viability overseas because there could
potentially be trade barriers. That’s all they would
have to say in that thing. Not that there exists, but
that that was just an issue. And that’s all we need to
know, it’s an issue.

MR. KING: Dave.

THE CHAIRMAN: I would speak against combining
those two because I think that they really are distinct.
And the way that it’s phrased up there, it’s very
confusing because now is our charge to protect the
economic viability of farmers, organic farmers, in
Venezuela, you know...

MS. KOENIG: No.

THE CHAIRMAN: Because the way it’s phrased up
there, I just -- I think that, you know, the term about
economic viability covers a lot of things, and identifying international agreements or regulations is separate from that. I can’t make that total connection because I think there’s a separation, and for -- and I don’t know why we get hung up on this but I just think that it is useful to identify the international agreements, and then when that information is provided to the Board we can use that to make a judgment of -- you know, if this thing is found to be really nasty in the Netherlands then we ought to, you know, take a look at it or if it’s good somewhere else that’s a factor that we use to run through the filter to see how it affects U.S. farmers.

MR. KING: Can’t we simply ask for the information. Okay. All right.

MS. KOENIG: Barbara has got it.

MR. KING: Barbara has got it. Then we got Jim.

MS. ROBINSON: I don’t like grouping them together either but what you could do is -- I think Keith is right. You don’t want to get into this equivalents business, but you want to know the information, and Dave just had a really good example because suppose you’re considering material, and you didn’t know but it has been used in a foreign country,
and it had like devastating experience with results. So why don’t you just say like you have impact on global warming, impact or effects or experience in other markets. Then you can say was it a positive experience or a negative experience, and you take that into account and you just add that in when you’re looking at how you would evaluate this material. So just instead of I being what it is, just say experience in other markets, international markets or foreign markets.

MR. RIDDLE: And that would include its regulatory status as well.

MS. ROBINSON: Yes, you can do anything.

MR. RIDDLE: I wanted to come back to what Keith was saying as far as how the information can be gathered. I agree it should be part of the petition but that’s biased information, and so I want a -- I mean that’s submitted by the petitioner. It’s not necessarily factual. That’s their information they’re providing to the department. I want another check. I want unbalanced whether it’s the TAP contract or the department.

MR. KING: Yes, Rick.

MR. JONES: A comment I was going to make quite some time ago, and it relates to a comment that Goldie was making that had to do with it sometimes shows
up in a TAP, other times it doesn’t show up in a TAP. I
want to remind you that this is only one small piece of
the puzzle that we’re all working on. And we want to
come out with a better statement as to what needs to be
in a petition. We want to come out with a better
statement of what we want from the reviewers, so this is
a perfect example of something that we need to include
that may not already be addressed adequately somewhere
else. Just keep in mind that we’re not saying throw it
out. We’re saying that this can be used in other spots
that we’re also trying to shore up and make it more
effective.

MR. KING: In Rick’s general message what
we’ve heard is look at this holistically or as a system,
and so point well taken. Okay. Are we comfortable with
that? Can we move on? Identify the experience in
foreign markets. Okay, good. Onward, upward, downward.

J, minimum quantity necessary to achieve a desired
function.

MS. KOENIG: I don’t understand that.

MS. BURTON: What’s the minimum to achieve the
technical function -- desired function. I like
technical but I think...

MS. KOENIG: But we can’t control minimum. I
mean we either approve it or not approve it. I mean we
don’t -- we can’t say -- I mean unless you want to get
into annotations that you only can use two ounces per...

MR. KING: Yeah, I can’t wait to do that. So, Kevin, if you could just speak from your experience
because processors probably aren’t going to use more
than they need to, are they?

MR. O’RELL: No. Customarily those things
cost money so you’re going to use -- and they have
negative effects because a lot of the functional
ingredients only work in a narrow range to give you the
desired finished product effect. If you exceed that,
you can have negative effects. If you go less than
that, you can have it too. It’s like a bell shaped
curve. But I guess I’m questioning a little bit as to
along with what Rosie said, are we going to -- let me
ask you what the thinking in putting it here was.

MS. KOENIG: I have a...

MR. KING: We’ll got to Rosie, then Jim, and
keep Kevin in the whip here.

MS. KOENIG: Are you trying to say that are
there other potential substances that would allow less
of a -- like, for example, on acid there’s strong acids
and there’s weal acids, so if you’re looking at quantity
you can use less of a strong acid to achieve the same
result, so that’s the only place where to me a quantity
would -- and then what’s the justification because
there’s again pros and cons. Weak acids are safer
but...

       MS. GOLDBURG: Isn’t that already covered in
one of the other criteria?

       MR. KING: Yeah, it is in some ways, and I
guess...

       MR. RIDDLE: Which one?

MS. GOLDBURG: Alternatives.

MR. RIDDLE: Alternatives.

       MR. KING: Yeah. It’s also really covered in
labeling too. I mean if you’re going to exceed a
certain percent or...

       MR. RIDDLE: It’s crops. It’s...

       MR. KING: Yeah. That’s true. That’s true.

MR. RIDDLE: The desired function is not just
product related. It could be crops. It could be
livestock, pest control.

       MS. CAROE: And also it may vary depending on
what product you’re using in terms of wash material for
fresh produce. It may be different for lettuce than it
is for sprouts or something. I don’t know. I mean how
would you answer that question if it’s a very generic
material?

       MR. KING: Well, that’s an example especially
if you’re washing fresh produce where to get the desired safety effect you might have a certain level where someone may think more is better. You see what I’m saying?

MS. BURTON: There’s usually guidelines to materials.

MS. KOENIG: I guess the only place you could do it -- the only example we have in our rule is Chilean nitrate where you’re limiting the amount because of an environmental factor but that’s not necessarily -- but that does not -- you wouldn’t look at that as a criteria. You would review it, and that would be your conclusion from doing a good TAP review, not necessarily -- you don’t want people to -- that’s like saying I want you to find the minimum quantity, and they can’t do that. That’s for us to decide after we’ve looked at the body of information.

MR. KING: Perhaps we should restate it that we just simply want to know -- and I think we get this from those TAPS, what is the normal use or how does it, you know, the dose, the amount applied per acre. I mean we -- George.

MR. SIEMON: Well, now that you brought up Chilean nitrate is the restriction due to the environmental or is the restriction due to try to
encourage rotation and use of other products? Isn’t that compatible with sustainable and organic principles?
Now you brought that up. I was really off the subject, but that really ties right in with this compatibility issue what you just...

MS. KOENIG: But number two says the substance, manufacture, use that does not have adverse effects on the environment and are done in a matter compatible with organic handling is one of the criteria. It’s criteria two.

MR. RIDDLE: That’s what we’re trying to determine.

MS. KOENIG: But I’m just saying is that already embodied in what we’re asking, do we need to ask it again? Is that the point that you’re trying to get?

MR. RIDDLE: Yeah. Yeah, essentially.

MS. KOENIG: So the same criteria too.

MS. CAROE: So between that and the alternatives you cover it.

MR. SIEMON: Criteria two in the alternative.

MR. O’RELL: The point is to try to get the information about its application in terms of trying to limit its quantities. I mean it may be we want to limit it like we did with sodium nitrate but that will be once we know its application and its effect on the

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environment and other things that it can impact.

MR. RIDDLE: But like George says though it’s really its impact on the system. It’s not a straight environmental impact but it’s to encourage crop rotation and natural nitrogen cycling.

MS. KOENIG: All right. Okay. Then the other question that you would ask are there established best management practices...

MR. RIDDLE: For use of the substance.

MS. KOENIG: For use of the substance or best manufacturing practices, and what are they.

MR. KING: That’s a good point.

MS. KOENIG: Okay. That’s what you’re asking. although they may not be applicable to organic systems that’s all you’re going to get. I mean they’re not going to probably have it but that will give you an idea of how it’s recommended in conventional ag. Then you have something to say, okay, this is how it’s used.

Knowing the product, is that sufficient or do we want to reduce that?

MR. KING: Well, and I think what we’re talking about here is two things. One, is this really a criteria or we want a way to get the information to make a decision that fits this in some way, which is your point. How do we get the information that allows us to
make a decision that in the end we’re confident means
that we’ve used the minimum quantities...

   MS. KOENIG: Well, you can ask for the best
management practice. The best management practice is we
limit -- the minimal amount to get the desired effect,
but that’s...

   MS. BURTON: Usually the manufacturer gives
you those, and that’s their...

   MS. KOENIG: In crops, no. Not necessarily.
A lot of experimental stations will go it. It just
depends...

   MS. BURTON: Like in handling we would create
our own best manufacturing practices. An MSDS sheet
would give you more technical limits, so we have the
technical data somewhat. It just depends on I guess
where you’re looking.

   MR. KING: So we’re kind of back where we were
at before. It’s important information. How do we get
the information for consideration so we can make a sound
decision.

   MS. CAUGHLAN: I’m confused as to why it’s
presented as a criteria because I don’t see this...

   MR. KING: It’s a draft.

   MS. CAUGHLAN: No. I’m saying it’s a
consideration but it’s just not a criteria.
MR. RIDDLE: I agree. I saw this one as problematic. I put it in as a place holder for this discussion.


MR. O’RELL: Isn’t this -- if we’re asking for information this is something that could be in as we say we’re going to modify the TAP petition for the petition process and be requested for information of application and use and whatever the substance is as opposed to...

MS. KOENIG: Is there a regulated minimum requirement?

MR. O’RELL: ...being a factor listed because we’re not...

MR. RIDDLE: Yeah. We get that information and then with our other factors for compatibility we can assess the information we get against those established factors. I think Rosie had -- are there BMPs, are there GMPs.

MR. MATTHEWS: Right. Right. And this fits right into what has been kind of talked all along is Rosie is right and saying it the way it is. We talk about the best management practice. Well, you’ve got a criteria in there that’s asking about how it’s manufactured in the industry, so why not as a part of...
flushing out those criteria as well tell the TAP
reviewer that we want you to address this along with
this particular criteria. Make sure you include this
kind of information. We can also turn to the petitioner
again and say you have to address his criteria, include
this kind of information in your response.

MR. KING: Consider the substance
manufacturer, for example, please include PMPB.

MS. KOENIG: Yeah, under that criteria.

MR. KING: Okay. All right. So I think we’re
going to strike it and move on.

MR. BANDELE: I was just thinking though some
of the newer products may not have a best management
practice but if we knew the recommended rate that would
at least give some information that the manufacturers
recommend.

MS. BURTON: They have to put in the petition
their recommended use. It’s already there in the
petition.

MR. KING: All right. K, no mining
manufacturing using child labor or through any
violations of international labor organization
conventions.

MR. BANDELE: I’d like to have a clarification
in terms of the international labor organization

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conventions, what’s meant there.

MR. RIDDLE: Well, those are -- well, once again I don’t know if the U.S. is still a signator here or not but those are -- I don’t have those as an appendix here. It’s just a piece that didn’t get done but they do exist. They are stated, transparent...

MR. BANDELE: What’s the nature of them?

MR. RIDDLE: Pardon?

MR. BANDELE: The nature of them.

MR. KING: He’s asking in general.

MR. RIDDLE: Yeah, well, no child labor, no slave labor. I don’t have -- we’re not talking about farming practices. We’re talking about a substance once again. Not Board members. That’s why I clearly put in no mining or manufacturing using. We’re not talking about once a product is used on the farm.

MS. KOENIG: I think the question is is there because again then while in Korea or while in -- let’s a better friendlier country so it don’t look like...

MS. ROBINSON: Call it reliance.

MS. KOENIG: While in France they’re using child labor or something like that, wherever. Because if you say no, they would have to extensively go through -- you want to get a general idea.

MR. RIDDLE: Barbara got a good -- reliance
on...

MS. CAUGHLAN: We want the status of.

MR. RIDDLE: Does not rely on.

MR. KING: Is there reliance on.

MR. RIDDLE: Once again, we shouldn’t shy from being qualitative here.

MR. KING: Okay.

MR. RIDDLE: And this is one linked to the definition of sustainable agriculture, the good of society as a whole.

MR. KING: And we may find out that I is pertinent or may not be pertinent.

MR. RIDDLE: Right. Right.

MR. KING: In general terms are we in agreement we want that as a factor?

MR. BANDELE: Yeah.

MS. GOLDBURG: Yeah.

MS. KOENIG: The only thing is -- well, I’m trying to think...

MR. KING: Almost. Almost there.

MS. KOENIG: No, no. I’m just trying to think how hard it is for somebody to get that information, how you can direct a contractor to it. For brands it’s certainly easier because you know where the company is although they can do overseas operations.
have mines, and there’s only certain mines or something
like that in certain areas. It’s just how -- I mean we
can keep it in and see how it comes out. If all the
TAPs have not enough information to be found then we may
have to...

    MR. RIDDLE: This is one where the petitioner
would have the burden of proof.

    MS. CAUGHLAN: If we’re going to go there it
isn’t just mining or manufacturing using child labor.
As we know, the international situation with chocolate
right now has been blown open around the fact of slave
labor in parts of Africa and other parts so that it
isn’t just mining and manufacture. If we’re going to go
there...

    MS. GOLDBURG: Well, it’s not just children.

    MS. CAUGHLAN: Right. Anything involving.

    MR. KING: We’re talking about working
conditions.

    MR. RIDDLE: Wouldn’t that be manufacture?

    MS. CAUGHLAN: No, it isn’t manufacture. It’s
actually harvesting and the working on the plantations,
whatever.

    MR. RIDDLE: Handling production.

    MR. KING: Yes.

    MS. ROBINSON: There are countries that -- you
know, there are human rights agreements in countries that refuse to sign, and there are countries that do. There is documentation. I know that the state department keeps track of stuff like that. The first question out of the chute is from the petitioner where is the stuff made. If it’s made right here in the U.S. of A, and that’s the source of it, then don’t worry about it.

MS. KOENIG: Well, that’s not true because there can be a lot of different manufacturers.

MS. ROBINSON: That’s true. That’s true.

MS. KOENIG: You’d have to look at all manufacturers of that generic...

MS. ROBINSON: That’s true, but the information is obtainable. I mean if there’s nothing wrong with asking for this, and you’ll find out soon enough whether this is so unbelievably difficult to get that all you want to do is whenever a material comes before you and you’re talking to people, you periodically stand up and say, and by the way don’t buy this from a company that doesn’t sign up for human rights. Maybe you just incorporate as a matter of your principles but, you know, it’s okay to recognize it.

MR. KING: Jim.

MR. RIDDLE: And the ILO may not be the

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appropriate reference point but for now it’s a place
holder and gives us a chance to see if there’s something
more appropriate.

MR. KING:  Owusu.

MR. BANDELE:  I think there’s another use too, and that is if folks know that we’re concerned about
this issue, and then when the TAPs go up on the Web
site, et cetera, then some information may come from
other sources.

MS. CAUGHLAN:  That’s a very good point, very
good point.

MR. KING:  Yeah, that’s very good actually. Okay. So we’re all in agreement this one stays. We’ll
move on. Where are we at?  L, consistency with
substances historically allowed in organic production
and handling. I like it. My question is how do we
determine consistency with, and I just throw that out
for...

MS. KOENIG:  I think you look at the
historical status like we do with...

MR. MATTHEWS:  I would caution that historical
not be ancient history but also -- I mean it could be
ancient history but it should also be what’s there on
the National List at this time as well, so I mean when
you talk historical make sure you’re looking at the

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entire span.

MR. KING: Okay. I got Kevin, Kim, and Nancy.

MR. O’RELL: Well, Richard touched on some of what I was going to say, but in addition to is this something that we’re trying again to just obtain information for or do we use it as a factor in our criteria for determining a substance for use, and how does that affect new products that come that may not have a historical background?

MR. KING: Well, I think one of the things at least I heard in conversations with the program and at the committee level is that, yes, consistency is important in general, and so looking at what the Board has done not just in the past but perhaps in an ongoing role, I heard that as important. I got Kim, Nancy, then Rosie, then Jim.

MS. BURTON: Yeah. My question was just where were we going with this because to identify the historical use, we typically do that in the TAP report already. Are we establishing this as criteria, does it have to have historical use or again is it just reference material because we don’t want to stymie the technology. I jotted down sodium nitrate. We got the whole spiralina issue, and that’s not a historical use. That’s a good way to look at something because we need
to know whether it had historical use, but are we using this as a criteria for evaluating something. So I was just wanting to know what was the intent with this, and maybe further clarify this statement. If we’re just looking for historical use, then let’s just ask for it.

MS. CAUGHLAN: Yeah, what is the historical use but seeing...

MR. KING: I got Nancy, Rosie, Jim, and now Goldie.

MS. CAUGHLAN: I don’t know that it has to be consistent.

MS. OSTIGUY: My only question is how far back in history do we want to go? You know, if we pick 20 years ago there’s things that we might not think are acceptable at this point so do we really want that information even, so there might be -- we might want to further define this by saying, you know, starting from this year forward we want that information. There’s going to be a point where it’s superfluous. If it was 20 years ago, we’ve all decided that it’s not something that we’re likely to use.

MR. KING: Well, I can give you two, OFPA or the -- I’m just throwing those out but that’s a good point. Yeah. Okay. Rosie.

MS. KOENIG: I think -- sort of what Kim said
but the -- you know, we’re looking for -- the definition of sustainable agriculture has nothing to do with historical use of anything. So you put it in the history section. Now there are things that may be historically used that, yes, are sustainable but just because it’s historical doesn’t mean it’s sustainable. Do you know what I’m saying? So that’s why it doesn’t belong in seven.


MR. RIDDLE: Well, I think it does belong in seven. I think it needs to be both historical and current use, needs to be taken in consideration, but it’s only one factor. Just because something doesn’t have historical use and is inconsistent with current does not mean it wouldn’t be approved. It’s just something to consider.

MS. KOENIG: Yeah, but when you have it under the definition of something because don’t forget in the section we’re defining sustainability. Okay. The assumption is to me when you’re looking at history means that if it is historically on there means that it is sustainable. If it wasn’t historically there then somebody judges it as not being sustainable. Maybe I’m...

MR. RIDDLE: No. If I could just respond. We
got a whole host of criteria, and we approve things that
don’t pass all the criteria, and I just see this as
relevant factor to be considered just like any of these
others, and just because something has been used and is
consistent doesn’t mean it should be approved. We
should say enough is enough on some things, on others
say this has never been approved before, so what?

MS. KOENIG: I’m not arguing in terms of
background information. Okay. I’m not begging that
question. I think it is useful information. It’s just
-- I mean we get that all the time. It was listed by
CCOF and it wasn’t listed by Washington State, so I look
at it and say, well, that really gives me a lot of
information. Does that mean Washington never looked at
it or did they -- so if you’re going to do an analysis
of why it was or why it wasn’t it’s good information but
when I see that historical stuff there was very few
agencies that actually did a materials process, and we
don’t know whether -- if somebody could provide us the
information that, yes, Washington looked at it and the
reason why they decided it shouldn’t be added with this,
and I can agree with that criteria.

MR. RIDDLE: But don’t just look backward.
Look forward. Do we want future determinations to be
consistent even of our own consistent with ourselves?
Do we want future boards to be consistent?

MS. KOENIG: Yeah, and we do.

MR. RIDDLE: Okay.

MR. KING: All right. Now I’ve got Goldie, Kim, Owusu, Barbara, and Rick.

MS. CAUGHLAN: I’m going to pass because I...

MS. BURTON: The re-review process flashed at me.

MS. KOENIG: Okay. I can buy it. Good argument, Jim.

MR. KING: All right. That was quick. Owusu.

MR. BANDELE: I’m having trouble with these being either make or break or just things to consider, and it seems like the more we talk about it is just things to consider, things to consider, and then if you take like, for example, some of the stuff that’s been used historically by certifiers like they list three, et cetera, wouldn’t really have any relevance either. I understand we could consider it but I don’t see it as a make or a break. And this is true with most of these.

MR. KING: As Jim said, these are not stand alones. They’re important but no single point up here is a stand alone. Barbara.

MS. ROBINSON: I just was going to add two points. One, ask the question again. Put it in the
question. And, secondly, you might have approved a
material or a previous board may have approved a
material, and you’re looking at another material that is
so similar. This is not just, well, did we approve it
before or did somebody approve it before. It’s not
just the re-review. It’s also consistent with historic
previous approvals or prohibitions. It’s in effect
asking you to be consistent with the previous record.
Okay. So I don’t see anything wrong with having it in
there. And then I think where Rose is going is this is
how you’d argue it if we were actually looking at a
material and you got to that criteria. And Rose would
say just because that Board approved it back then
there’s no reason to approve it again. And that would
be giving it the kind of discussion and weight which is
the exact reason why you ought to have it in here, so
you can ask that question when you get there.

MR. KING: Okay. I got Rick, then Goldie.

MR. MATTHEWS: And mine parallels very well
with Barbara’s. If you read this it says consistency
with substances, plural, historically allowed. And what
I’ve been hearing in conversation has been predominantly
this substance, its historic aspects, whether it’s been
used or on the National List for similar use or
whatever. So you do, I think, need to differentiate
between the two. You’re talking about that particular
substance’s history, and then you’re talking about
similar things like ivermectin versus moxidectin, so I
just wanted to point that out.

MR. KING: And I think the way we want to
record that, we know it’s here, but two different, very
different things. This particular substance, how was it
used in the past or has it been used in the past, and
then how does this substance relate to the universe of
substances, and is it consistent. Okay.

MR. MATTHEW: The second version that you just
did is actually what this statement says. It’s not what
we were discussing.

MR. KING: Okay. I got Goldie, then Andrea.

Sorry.

MS. CAUGHLAN: Again, it was just what I was
going to say, and now it’s been said. Wonderful how
that works. I’m beaming it out.

MR. KING: Good energy.

MS. CAROE: Can we just clarify it then to say
consistency with this substance or similar substances?

MS. ROBINSON: Or previous substances or other
substances.

MR. KING: Yeah, I think -- and again we can
word smith a little bit later but in general terms is
this what we’re trying to say. I think that’s where we want to go.

MR. RIDDLE: And I just flashed on something when Rick was speaking that should it also say and practices.

MS. CAUGHLAN: Well, organic production and handling practices.

MR. RIDDLE: Yeah.

MR. KING: Then what do we say in our opening -- no, you’re right. It’s just substance use and manufacture.

MR. RIDDLE: So is it consistent with practices that are used.

MS. CAUGHLAN: Substances or practices...

MR. RIDDLE: We are. The substance, but is it consistent with other substances and practices.

MS. ROBINSON: Right. You’re confusing your definition with your criteria. You’re using your own definition again to define what...

MR. RIDDLE: Yeah, I understand that. That’s a problem.

MS. ROBINSON: You’ll naturally do that, Jim. I think you’ll naturally consider the practice and how it’s used but just stay with the substance.

MR. RIDDLE: As the noun, yes. We’re also
measuring it against other substances that are historically allowed but also other practices. This is a systems approach. This is another like concept that - - I didn’t capture this the first time. I’m actually having a new idea of my own.

MR. KING: Okay. And I just...

MR. RIDDLE: I don’t know. Just something to throw out there because we do look at things not just in the context of substance evaluation but in the whole system the practices. How does it match up with the practices that are historically allowed.

MR. KING: Dave, then Owusu.

THE CHAIRMAN: Okay. Yeah, I would weigh in on -- I think Jim is on the right track because I think, you know, if you’re going to look at parasiticide you not only measure that against another parasiticide but then you also talk about pasture rotation or other practices in a holistic system or an organic system that may be an alternative to the substance.

MS. CAROE: We already look at alternatives.

MR. RIDDLE: Yeah.

MR. KING: Okay. Hold on. I got Owusu, then Andrea, I want you to make that point, and then Barbara.

MR. BANDELE: It may be implied but I was thinking we’re really looking at consistency with
substances historically allowed or disallowed because some of the substances -- you know, we may have a record also of those being disallowed.

MR. KING: Yeah, I think...

MR. RIDDLE: That’s a real good point.

MR. KING: I think that should be considered.

I think Andrea’s point is important.

MS. CAROE: Well, I mean what you had just said about practices, Jim, we look at when we look at alternatives because when we look at an alternative to material it’s not just one for one, it’s what can you do in place of using this material. So I think it’s covered. I don’t think it has to be put in here. I think this should be kept simple and to the point and focused on what we...

MR. JONES: Jim, it really is covered. I mean you already go through that rumination around practices when you look at alternatives, okay, and your threshold question is are there alternatives for this substance, and if your conclusion is yes then you’ve already identified that set of...

MR. RIDDLE: But I’m not thinking of it only as an alternative practice to use of a substance but is the substance -- how does it match up with the practices that are currently allowed as an alternative.

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necessarily.

MR. JONES: But you would already get at that question in the other criteria...

MS. CAROE: The alternatives to using the substance in terms of practices or other available materials.

MR. KING: Then that’s criteria six so...

MR. RIDDLE: That’s fine. I throw out ideas.

MR. LACY: Sometimes they stick, sometimes they don’t.

MR. RIDDLE: That’s right.

MR. KING: Barbara disappeared. She must not have a comment now. Okay. So where are we at, are we okay with this? Is this where -- do you want to leave it at that? Okay. All right. M, compatibility with the precautionary principle, i.e. when a substance is used manufacture raises threats of harm to human health or the environment precautionary measures should be taken even if cause and effect relationships are not fully established scientifically. The proponent of a substance should bear the burden of proof to demonstrate compatibility. I’ve heard precautionary principle a lot today, so I think we’re in agreement that is something we want to look at. Kim.

MS. BURTON: I’m in charge of safety at our
plant so I think of a minimum requirement for wearing a respirator or something for using a cleaning chemical or dumping ink into a drum or something like that. You have minimum requirement. And I almost read this as that we should even take further measures regardless of what an MSDS sheet says. And even though there’s no scientific data to that if it doesn’t require a mask then we should require one because that’s the best thing to do, but it’s very vague and it’s subjective. In a manufacturing plant, I see this as a problem. I see this as a problem statement. And the proponent should bear the burden of proof to demonstrate compatibility so as we look at materials and handling they have an MSDS sheet that has personal protective equipment requirements, and are we going to say, well, you bear the burden of truth. Prove this further, and we’re going to require more protection. So to me it just seems like we’re getting into regulatory areas that are really not our burden.

MR. KING: Okay. And that’s what we’re to consider. I got Mike, Nancy, and Rebecca.

MR. LACY: I just couldn’t figure out on this one how you were going to measure the threat of harm to human health and the environment if you’re not going to take into account scientific information.
MS. OSTIGUY: I’ll actually go for both of them. To address what you brought up, Kim, if you were going to follow the precautionary principle and you had a chemical that was being used, and for other chemicals or for let’s say much higher exposure than you could ever anticipate from a chemical of interest you might wear protective equipment. Would you have to under the precautionary principle for a level that there’s absolutely no scientific documentation that there’s any particular harm. The answer is actually no because you have to consider the effect of wearing the protective equipment, so it’s looking at the whole. Now if there are some scientific data saying that harm is possible but we haven’t -- don’t have irrefutable proof in some ways it’s like looking at global climate change. There are people that will argue on one side and people that will argue on the other, and the question is do we proceed as if global climate change is happening or do we proceed as if it’s not. The precautionary principle would tell us to proceed as if it is. So you’re using scientific data. It’s just instead of -- you know, when we are doing statistical analysis of our data we set our chance of erroneously concluding that nothing is -- erroneously concluding that something is happening when nothing is at 5 percent. We don’t want to do that.
the same time we have an error of the opposite
happening. It turns out that actually if you look at
that error in most studies the chance of -- if you have
a study that was -- that concluded that nothing was
happening, the data error is typically within the range
of 40 to 60 percent. What that means is that you have a
40 or 60 percent chance of having concluded that nothing
was happening when something was. That’s the opposite
of the precautionary principle, which is the way we
currently work in science. We’re very conservative
about saying that something is happening, and the
precautionary principle in some way flips that. So
that’s the way to think of it. Where you might make the
error, are you going to say that something is happening
when it might not be or are you going to say that
nothing is happening when something might be.

MR. KING: Okay. I got Rebecca, Owusu, and
then Mike and Rosie.

MS. GOLDBURG: I strongly think that the
precautionary principle is part of our philosophy of
dealing with substances. However, as it’s articulated
there and how I think of it in policy discussions the
principle is usually enunciated with respect to health
and environmental effects, which are other criteria. So
if we only want the precautionary principle to deal with

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the other criteria that have to do with human health and
the environment, I’m not sure it belongs in this
compatibility list. If we are concerned with the
precautionary principle with respect to recycling of
resources or welfare of animals or labor, then we need
to leave it in here. And, you know, I can’t quite
cconvince myself that we are but I’ll leave that open.

MR. KING: Okay. Thank you. I got Owusu,
Mike, then Rosie.

MR. BANDELE: I just kind of see this as being
used in situations, emergency type situations, and the
problem in terms of the precautionary principle often
times it’s really difficult to make the cause and effect
being scientifically. Sometimes that takes years and
years, but there may be cases in which something is
apparently happening even though we can’t prove it
statistically. So I think it’s important. My only
concern is the legal ramifications of us turning down
the material without scientific basis, you know, and
then the legal implications of that response to the
petitioner’s concerns.

MR. KING: Yeah, that’s certainly a
consideration. Mike.

MR. LACY: Owusu stole my thunder. I think I
would be satisfied if you could put up there when a
substance, its use and manufacture raises threat of harm
to human health or the environment as evidenced by some
type of scientific information or there’s some
scientific basis to that. Then the rest of it would be
okay with me.

THE CHAIRMAN: Give me that language again,
Mike.

MR. LACY: It’s not very good. I’ll have --
how about if I give it to you in the morning.

MR. RIDDLE: So you’d be taking out even if
cause and effect relationships are not fully established
scientifically, and modifying that so that it does lean
on some science.

MR. LACY: As long as you had some scientific
basis on the front end of that sentence, that would be
acceptable.


MS. KOENIG: I guess -- everybody thinks they
know what this means.

MS. BURTON: I’d like to put it to use
somehow. I’m having a problem with that.

MS. KOENIG: I’m thoroughly confused of how
through the TAP process that somebody -- what would we
ask...

MS. BURTON: Let’s look at flavors. Okay.
Flavors are flammable. They’re flammable. They contain alcohol. They’re a flammable liquid that you have to by law handle in a certain way, organic flavors, conventional flavors. You can’t mail them through the U.S. mail. You can’t ship them Fed Ex because they have to have special handling. So it’s a material that has -- it’s a substance that raises a threat to human health. It’s flammable. And it can harm -- I imagine harm the environment. The precautionary measures for any material and handling, and I’m not sure how it -- I assume crops or anything else, you’re required by law to already have protection in place for the human. Not so much the environment that I know of but -- well, and the environment because dumping -- disposal. So I feel regulatory covers this. I’m not against it but I just don’t see where it’s applicable.

MS. KOENIG: I don’t understand how what information -- like how would the TAP reviewer look at that, and how would they analyze this information because what I’m thinking when I read that is that if anything could be potentially harmful to human health then it wouldn’t therefore be sustainable is what you’re saying in this category. That’s the only way I can interpret it. But I don’t know, is that -- what do you mean by putting it in there? Do you just want us to
like have that umbrella that this is something that we should understand as we go through the sustainability criteria or like how does that become a criteria? How do we value it, how do we judge it, how do we measure it.

MR. KING: Okay. I got Jim, Nancy, and then I think Keith. Okay. We’ll strike Keith.

MR. RIDDLE: You know, my simplified version of precautionary principle is better safe than sorry. You know, look before you leap. But that didn’t quite seem like it captured -- was adequate. To me I think it’s a critical and consistent approach to organic agriculture. Organic agriculture is not necessarily science based, but we know it’s right, you know. We know it’s farming in harmony with the earth even though everything that we prohibit we don’t empirically have the data upon which to base the prohibition. But we have taken the better safe than sorry approach towards agriculture, and so here I’m very open to rephrasing it, but I think it’s critical and it’s not only human health and environment. I think those are already covered in other criteria or more directly linked but I think it does have a place in the compatibility discussion. And I think by having it in there is exactly what’s going to give us the legal basis for a challenge if we don’t have
it, but then we make a determination, oh, we’re just not really comfortable with this. We don’t have all the empirical data to reject it but we don’t have any reference to precaution. I think we’re more vulnerable to not be consistent, transparent and all that. So, you know, I’d like to play with this...

MR. KING: Well, two things. One, I got Nancy next and then Kim and Keith, but I wanted to go to Rebecca real quick. You listed three things earlier besides human health and the environment that you felt were important, and could we just jot this down.

MS. GOLDBURG: The question I raised was whether we want to apply the precautionary principle to anything other than human health and the environment with other criteria, and I ticked off three of the considerations up there that wasn’t comprehensive. And I would really like an example of where we would want to apply the precautionary principle in a labor setting or an animal welfare setting or whatever else is up there because...

MR. RIDDLE: Consumer perception.

MS. GOLDBURG: Consumer perception.

MR. RIDDLE: That’s clearly one.

MS. GOLDBURG: So you would say that the burden of proof is to establish that there won’t be a
problem with consumer perception when we approve a
synthetic material. I’m just not sure about that.

MR. RIDDLE: Not that there won’t be a problem
but it’s something that we need to address. Are
consumers going to reject organic products, are they
likely to. We aren’t going to know empirically but if
something GMOs, radiation.

MR. SIEMON: Cloning.

MR. RIDDLE: Cloning.

MR. SIEMON: Cloning is a good example.

MR. RIDDLE: Yeah. RVST.

MS. BURTON: Okay. I think I have it because
to me if we have scientific basis established where it
causes human health and environmental, we will have that
data so I would recommend that you simply insert the
word when after the third sentence, effect relationships
-- basically when science is not established. So let me
see if I got this right. When a substance is used and
manufacture raises a threat of harm to human health or
the environment or whatever else we want to put in there
precautionary measures should be taken even if the cause
and effect -- or should be taken when scientific data is
not fully established or something -- see where I’m
coming, Rosie?

MS. KOENIG: Well, a good example is list re-
inerts, I guess.

MS. CAUGHLAN: Can’t hear you, what?

MS. KOENIG: List re-inerts. By definition, we don’t know. So try to use that. Use that because that would fit in my mind so prove to me how we can judge that like how that fits in it. I think maybe by example.

MR. KING: I think you just said it.

MS. KOENIG: I know, but I don’t...

MR. KING: You don’t know so...

MS. KOENIG: So therefore -- okay, so in other words if things aren’t established we’re going to take the high road.

MR. RIDDLE: That gives us a basis to stand on.

MS. KOENIG: All right, so that’s the precautionary.

MR. KING: Kevin, I had you down.

MR. JONES: Well, I was just going to try to throw out some examples but that’s it.

MS. CAUGHLAN: It’s better than the RBST because the RBST offends -- it offends...

MS. KOENIG: So the document by saying EPA has classified that as of unknown toxological. EPA has classified it. That’s fine with us. That’s our bench
MS. BURTON: Where no regulatory body has identified a risk or something like that.

MS. KOENIG: No. It’s when -- it’s like the bench mark is if a regulatory body cannot -- have not figured out the scientific data themselves...

MS. BURTON: Right. Right. Right.

MS. KOENIG: ...how can then we make a decision. We’re going to take the precautionary principle because...

MS. CAUGHLAN: Radiation is a better...

MS. GOLDBURG: Yeah, I think that’s a good consumer perception example.

MR. KING: Okay. All right. So are we -- let’s look at where we’re at.

MR. RIDDLE: How about just delete of harm to human health and environment, just raise threats or

MS. GOLDBURG: Concerns.

MR. RIDDLE: Concerns, yeah.

MS. GOLDBURG: And I’d put the words something about -- do we have burden of proof in there? Yes, we do. Okay. That’s fine.

MS. CAUGHLAN: The cloning was a really good...

MS. GOLDBURG: Okay. So just raises concerns,
and then we’re going to strike threats of harm to human health or the environment. Yeah, that -- that’s a good foundation.

MS. KOENIG: I think this is one that if the question was asked it would be more clear. Does the substance -- would the precautionary principle apply to the substance and why, and then I can understand it.

MR. RIDDLE: Just rejection by consumers could be one.

MS. KOENIG: But you’d have to establish it somewhere even with soft data.

MR. RIDDLE: Yeah, I agree. And it links to others.

MR. KING: Owusu, then George.

MR. BANDELE: If we used list three in that situation though there’s not any scientific basis for not allowing those.

MR. RIDDLE: No. It doesn’t mean they’re prohibited. We can consider them case by case.

MR. BANDELE: We got the word in here when there is scientific basis.

MR. RIDDLE: But they can be considered.

MR. BANDELE: So there are some situations where there is no scientific basis but we still take precautionary...

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MR. KING: Yeah.

MR. BANDELE: My point is I don’t think that scientific basis, the first part, should be there.

MR. KING: So, okay. Should we just not have scientific in there?

MR. BANDELE: I don’t think so because he goes on to say that when it’s not fully established.

MR. RIDDLE: Oh, I see, yeah. We don’t want to -- it’s probably better below.

MR. BANDELE: Right.

MR. KING: Is not fully established. Okay.

MR. RIDDLE: When a substance is used or manufactured raises concerns precautionary measures should be taken...

MR. KING: I think Owusu’s point is what if there isn’t any scientific data.

MR. BANDELE: No, but it says not fully established so that takes care of that.

MR. KING: Okay. So you’re okay with that.

Okay. Good.

MR. RIDDLE: And this is a draft.

MR. KING: Yes, it is. It is. Okay, so are we okay with that one? All right. They’re having their own conversation. Now George has a couple of things he wanted to bring up about possible additions.

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MR. SIEMON: Yeah. I was given this assignment before I had this draft so one of the things I’m disturbed about is we really aren’t saying preventative management here or anything like that, and I think we need to have something that if a material encourages or is compatible or enhances preventative management is a criteria that we should have here. And I think that will be the case where that will swing us over a tad to remember, oh, this does help preventative management. I just don’t see anything in here about that, and it really isn’t covered in the other criteria. So I’d like to suggest something, enhance preventative management or...

MR. KING: Can we all just focus on the conversation, please?

MR. SIEMON: ...something like that. I don’t know what the right wording is but compatible with preventative management.

MR. KING: Okay.

MR. SIEMON: I think there will be a material -- I just hate to see us do this without the word preventative in this document. It just seems...

MR. KING: Yeah, and so George’s proposal is to add, and Dave has something up there, encourages or enhances preventative management.
MR. SIEMON: I don’t really have an example, no.

MS. KOENIG: Methianine. You could argue that it’s preventative, you’re preventing disease.

MR. SIEMON: So that’s my first one.

MR. KING: Okay. Are we all okay on that?

MR. RIDDLE: Yeah.

MR. SIEMON: Okay. The next one is more complicated but, you know, I heard Brian Leahy say today, and it’s so true, organics is always based on healthy soil. And I know we all think that but I have man example. So I had one that said, this is rather hard, helps promote plant and animal health through soil fertility. And while I can get in a lot of trouble on that one, I’m going to go back to the calcium decision we made years ago where we didn’t allow it as a fertilizer but we allowed it as a feed additive. And with organics in my world you always want to feed the soil, which feeds the plant, which feeds the animal. And so for me to have not allowed to feed the soil but to allow us to feed directly to the animal violated one of the foundation principles of organics. There may not ever be an example again like that. But to me that was a classic compatibility with organic systems and principles that we -- I didn’t agree with the decision.
THE CHAIRMAN: Can you give me that language again, George?

MR. SIEMON: I’ve been struggling with this. Helps promote plant and animal health through soil fertility, and unfortunately I only had that one example. I wish I could think of another one.

MS. CAUGHLAN: That’s a good one.

MR. SIEMON: So that’s a foundation.

MR. KING: So this really goes beyond criteria five, which talks about soil organisms. This is general...

MR. SIEMON: I’ve read through these trying to get ready. I just can’t say how these are covered myself. This is truly compatible organic system type stuff, soil health.

MR. RIDDLE: And see, yeah, it used to be covered off by the linkage to the principles.

MR. SIEMON: I even had questions about that. It was biological activity. But anyway let’s not go there. We already threw that one out.

MR. RIDDLE: Yeah. That’s why it wasn’t -- it had its own...

MR. SIEMON: So somebody help me out on this point then. If we’re not allowing synthetic fertilizers then what does that say about this particular point?
MR. BANDELE: We do allow synthetic fertilizers if we choose to.

MR. SIEMON: That question was never really resolved because some people say that OFPA disallows us from doing that.

MS. KOENIG: That was a prohibited practice.

MR. KING: Yeah. Right. So your question really focuses on fertility in general here, and what do we mean by that.

MR. SIEMON: No. It focuses on the fact that we’re talking about a synthetic substance, and this is soil fertility, and the act does not allow that.

MR. BANDELE: That’s a complex...

MR. SIEMON: So you’re saying it could be not a fertilizer that decreases soil fertility.

MR. BANDELE: No, I was thinking of fertilizer so you’re right in what you’re saying.

MR. KING: Yeah. That’s an issue, and then I think that Emily’s point is too that a practice or a system or...

MR. RIDDLE: To me fertility is too narrowly defined there. I think we’re really talking about oil ecology, soil health. Plant and animal health -- but that is the fundamental principle. I know where George is headed.
MR. SIEMON: People have found tremendous -- much better advantage feeding the soil than feeding the animal the same material.

MR. HOLBROOK: By virtue of what he just said you’re feeding the symptom. You’re not feeding the cause, and by putting it in the soil you’re eliminating the symptoms potentially.

MR. KING: Say that again.

MR. HOLBROOK: Well, he’s just talking about the product, what was it, calcium...

MR. SIEMON: Calcium hydroxide.

MR. HOLBROOK: You’re using that as a feed supplement because you have a deficiency in the soil most likely which is not producing it through the plant itself. And so there you’re treating the symptom versus the cause so if you’re able to use that in your soil fertility program you’re going to increase that potentially, thereby you’re going to be able to gain more in the diet that that animal is going to be pasturing off that land.

MR. KING: And so what we’re really saying is to focus on the source, and the source is the soil or the beginning of the system. And so let’s not put what we believe is a band aid in a feed issue or nutritional issue that could essentially go all the way back to the ...
soil.

MR. HOLBROOK: Right.


MR. SIEMON: The difference is a synthetic issue as to the branch.

MS. OSTIGUY: Yes, because you can also apply the same logic to soil that why do you have the deficiency there. Is it a matter of solitium [ph] being deficient just because of the rocks that are there, et cetera, which isn’t that equivalent to the animal issue of deficiency in the food that you’re trying to replace but it depends on what you’re adding it for. Is it to replace something that you’re not doing well in the soil process.

MR. SIEMON: And the thing we ran into that one is just the basis of some are very long term. They don’t have an immediacy of availability versus some that were more available, and so the answer was there’s long term ones available so let’s not allow that but that didn’t help the immediate year one, year two problem, so it’s the somewhat long term versus short term, and that’s why we rejected the product. We didn’t think it was -- we thought it was too short term.

MR. KING: And I think there are two separate things here that George is saying the soil is the
foundation, and Nancy brings up the issue if you can envision a circle or a cycle at what point are we choosing to intervene here.

MR. RIDDLE: Yeah, and in option one and two was included by having the definition of organic production, which really captures this in there. I’m not hearing opposition to this. I think it could use more work, refinement on that. I just wondered if there are any other ideas, any other concepts that we’ve missed.

MR. KING: George, do you have anything more on your list?

MR. SIEMON: No.

MR. KING: Does anyone else have a suggestion, something that could be added in general terms today without an extreme amount of work smithing but that we should at least consider. I mean which is not to say that we can’t add something later. Okay. Thank you all very much.

THE CHAIRMAN: All right. Thanks, and I really want to commend not only the work of the policy development committee but the committee as a whole here for this because I think this is a really good strong step forward for us.

MS. CAROE: And the NOP.
THE CHAIRMAN: Yes. You’re absolutely right.
The comments from the NOP as well because I think this
demonstrates how we can come up with some good workable
documents. Now I think we’ve been here for -- it’s 4:00
in Chicago, which is when you were hoping we’d be done
with this part, but why don’t we take another 15-minute
break, and then we will come back for the Board
election.

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[Off the record]

[On the record]

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THE CHAIRMAN: Reconvene the meeting. Can
somebody find Dennis. I’d like to have a full
contingent. There he is. Okay. I almost had to use
Jim’s phone. The magic phone. We’re at the time on the
agenda for the election of officers, and the procedure
that we have in our Board policy manual is election of
officers shall be elected for terms of one year by
majority vote at the annual fall meeting of the Board.
Candidates may be self nominated or nominated by another
member of the Board. Should an officer resign or fail
to serve a full term the executive committee shall
appoint an interim officer. The interim officer shall
serve in the capacity until the next regularly scheduled
meeting of the Board during which an election will be held to fill the remainder of the term, the important part being that the election is by majority vote so if there is more than one person that is nominated for a position, we will do it by secret ballot. If there are more than two people nominated for a position, we will continue to vote until somebody has a majority vote. Before I open the floor for nominations for Chair, I’d like to take a point of personal privilege. And I think as everybody knows last month I announced to the Board that I would not like my name to be placed in nomination for reelection as Chair.

MS. OSTIGUY: And he’s changed his mind.

THE CHAIRMAN: No, and I have not changed my mind although dinner last night was -- yeah. And I think everybody knows that I really wasn’t a candidate for it the first time around but this time I was adamant that I will not allow my name to be put into nomination. But I just want to say that when I was elected two years ago, and after the shock wore off, I guess, I sat down and really laid out three things that I wanted to accomplish as Chair and for the Board, and I shared these with Ken Clayton and A.J. Yates a couple weeks ago. But the first thing was that we were in a critical time for the Board, and I draw the analogy from my work...
in cooperative development that it’s the importance of making the transition from the steering committee or the organizing board to a board that is an operational board for a federal regulation, and the procedures that we’ve done to do that. The second thing as Chair was I wanted to make sure that provided the opportunity for all of the voices of the organic community to be heard at this table so that there was open and transparent discussion. And the third thing that I wanted to accomplish was to build really a collaborative, cooperative relationship with the program, and I think we saw this afternoon how we can move things forward when that relationship exists. I think that in many of the instances I feel very good about the last couple of years, and it was during the last four months that really then some things began to happen in terms of communication, my relationship with the agency that I began to feel increasingly frustrated and even somewhat a little jaded. I called it getting a case of the willies for those of you that know Willie Lockrits [ph]. But when those type of things happen, I always think that it’s, you know, time to recognize that it may be best to change the people in the discussion, and the only one that I can control right now is the one that sits right here, and so I think and I made the decision that I
think it’s best for me to step aside and for someone else to come forward and to fill this chair, and to continue the work that is so important in developing the communication, the relationship with the program making sure though that the integrity of this Board is never compromised. And so the only thing that I would ask is whoever fills this chair that all of us around the table and everyone in the audience give them their full support because I found that so important for the last two years. This Board has been an incredible resource. And final thing I want to say is I want to thank all of you, and excuse me while I choke up a little bit, but the opportunity to serve as Chair of this Board when the national organic rule was implemented a year ago, and the opportunity to serve as the Chair of this Board earlier this year when the organic community stood up, and I think this Board was out in front, standing up to protect the integrity of the organic rule are two things that I will never forget, and I will always -- Sue and I will always appreciate very deeply. So thank you all from the bottom of my heart, and with that I would accept -- the floor is open for nominations for the position of the Chair. Is there a nomination for the position of Chair? Okay, Kim.

MS. BURTON: I’d like to nominate Mark King.
THE CHAIRMAN: Okay.

MS. CAUGHLAN: Second.

THE CHAIRMAN: It’s been moved and seconded that Mark King’s name be placed in nomination. Is there any other nominations? Are there any other nominations?

MR. LACY: I move that nominations be closed.

THE CHAIRMAN: Okay. There’s been a motion that nominations be closed.

MR. SIEMON: Second.

THE CHAIRMAN: And seconded. All in favor of Mark King as Chair of the NOSB signify by saying aye. Opposed, same sign. Motion carries.

MR. KING: Well, I graciously accept, and I’m honored and Dave will certainly be a tough act to follow but I look forward to working with everyone closely, and appreciate your support thus far, so thank you very much. This is a very exciting industry and one that I am grateful to be part of.

THE CHAIRMAN: Thank you for accepting, Mark.

One of the things I should have clarified too because I asked the question at the dinner last night and it was the will of the Board that the transition happen after this meeting, so don’t -- one more day to bring a whole new meaning to the term lame duck. The floor is now
open for nominations for the position of Vice Chair.

    MS. CAUGHLAN: I nominate Jim Riddle.

    THE CHAIRMAN: Okay. The name of Jim Riddle has been placed in nomination. Is there a second?

    MR. LACY: Second.

    THE CHAIRMAN: It’s been seconded. Are there any other nominations? Are there any other nominations? Are there any other nominations? Hearing none, I will accept a motion that nominations be closed.

    MS. CAUGHLAN: I move that the nominations be closed.

    THE CHAIRMAN: Is there a second?

    MS. CAROE: second.

    THE CHAIRMAN: All those in favor of Jim Riddle as Vice Chair of the NOSB signify by saying aye. Opposed, same sign. Motion carries. The Board is now open for nominations to the office of Secretary.


    THE CHAIRMAN: Okay.

    MR. LACY: I will second it.

    THE CHAIRMAN: Okay. The name of Kim Dietz has been nominated and seconded. Are there any further nominations? Are there any further nominations? Are there any further nominations?

    MS. CAUGHLAN: Motion to close.
THE CHAIRMAN: A motion has been made to close
nominations. It’s been seconded. All those in favor of
Kim Dietz, signify by saying aye. Opposed, same sign.
Motion carries. And I should offer, Mr. Riddle, would
you like to say something as Vice Chair and Kim as
Secretary?

MR. RIDDLE: I say quite a bit. Well, I do
want to use the opportunity to express my admiration to
you, Dave, and appreciation. It hasn’t been an easy
time but it’s been a good time, and I think this Board
has functioned well. We continue to improve in our
procedures, and so I’m really glad that you’re still
going to be on the Board, and I look forward to
continuing working with you. And about the only thing
the Vice Chair does is, I think under our policy manual
is manage the Board policy manual, and then occasionally
touch the gavel. But I’m honored to serve on the
executive committee in that capacity.


MS. BURTON: Well, thank you all. George, for
Kim Dietz. That was the first time I was officially
recognized. It was strange. I too am very proud of
this Board. I think we’re a great group of people, and
we work very well. And what we did today accomplishing
that set of criteria has been a challenge for this
industry for 10 to 15 years, so I commend all of you on
doing a good job at that. I also would like to announce
that I’m going to step down as materials chair. I think
it’s time for somebody else to take over materials.
We’re starting with a new phase. We’re starting with
new procedures. And I thoroughly enjoyed materials, and
I think it’s been great just like being Chair it’s been
great to be with materials at a time when we just
implemented this rule, and I look forward to supporting
this Board further.

MS. CAUGHLAN: And you’ve done a terrific job.
I think we all are indebted to you tremendously.

THE CHAIRMAN: Okay. With that, there will
obviously be some reorganization. The new Chair will be
working with members of the Board to talk about the
committees and how we restructure those. And so I think
that this is a good team, and again I just want to say
as the outgoing Chair that this Board is an incredible
Board and the resources that are here, I think the
organic community is well served. So with that now as
far as how we move toward tomorrow when we get into this
with the materials that we have in front of us, I think
the comments that I’ve heard from a number of folks is
we need to prioritize the committee’s need to prioritize
so let me throw it out to the committee chairs right now.
how we want to handle any time tonight or in the morning
or how we want to handle the agenda tomorrow. George.

MR. SIEMON: I need to just understand
tomorrow. It looks like it’s all -- is it working
sessions, non-whole Board working sessions, right?

THE CHAIRMAN: Well, it’s going to be yes and
no. And Barbara and Rick, can you explain to us maybe
your thoughts on how...

MR. MATTHEWS: This is supposed to be set up
tomorrow so that you can break into three groups dealing
with crops, livestock, and processing materials. Then
you would ultimately come back together to work through
the documents at the full Board.

MS. KOENIG: So we’ll have one set of
documents for the whole process. The committees would
bring their...

MR. MATTHEWS: Yeah. The committee would work
out theirs for their respective materials and then they
would bring their documents to the full Board, and then
the full Board would create the one master document.
And they’re supposed to have this out tomorrow so that
there will be a couple of tables, one on each side, plus
different configuration from where you are now.

THE CHAIRMAN: Okay.

MR. MATTHEWS: So it’ll actually be a large

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table so that you’ll be facing each other when you come back together but it will still provide three different working areas.

THE CHAIRMAN: Okay. George, Jim, Rose.

MR. SIEMON: So there’s four different sessions, or even more. There’s five -- the whole day is basically working sessions so are we expecting the breakouts to be in the morning and then the whole group together in the afternoon?

MR. MATTHEWS: Yes.

MR. SIEMON: Is that the...

MR. MATTHEWS: They’re going to break out and you’re going to work as committees to do the first set of the reports. Then you’ll come back together and make sure that you’re all in agreement and then develop the master document.

MR. SIEMON: So then do we need to have it so we’re meeting at different times or can all three committees meet at once because of the overlap?

THE CHAIRMAN: I think we’re going to deal with the overlap issue as best we can just because we got to take advantage of the time that we have here and the folks that are double committed will have to...

MR. MATTHEWS: And what you’ll be doing is that we have brought CDs with all the TAPs on them so...
that there will be one available for each of the
committees, and you’ll be able to work from your actual
laptop then.

MR. SIEMON: I’ve got a conflict so I was
wondering if I could have the livestock first thing in
the morning. Would that be possible?

MR. MATTHEWS: Well, livestock, crops and
processing will all be going at the same time.

MR. SIEMON: All at the same time. I thought
we just said there was conflict.

THE CHAIRMAN: No, we’re going to be going at
the same time but we will then be coming back as a Board
to, you know. This is a little bit of an experimental
process so we’re going to -- Jim and then Rose.

MR. RIDDLE: Yeah. I don’t know how many
materials each committee has. Some have more than
others, but I’m assuming, I just want to make sure this
is correct, that each committee when they first get
together in the morning is going to set the priority or
the order based on some kind of choice, not necessarily
alphabetical but we -- I don’t know if it took -- I
won’t -- it took us a long time to go through one with
one person, I don’t know that we’ll all get through all
of them, so I think we need to be selective in
prioritizing what we start off with, see how it goes,
then just not set ourselves up for failure.


MR. MATTHEWS: And you could be creative. For example, if you had three people on the committee, one could take category one, another one take category two, another one take category three, and then you kind of discuss it together. I mean it’s not that you have to take them one at a time and everybody work through it. You guys are free to do it however you want. What we are doing is we are providing the mechanics so that you can break up into three groups and use electronic TAP reviews, but then how you decide to work it amongst yourselves is totally up to you.

THE CHAIRMAN: Barbara, did you have -- okay. Rose, and then Kim.

MS. KOENIG: Can we get a hard copy, at least one, because it’s really sometimes hard for me to kind of scroll up and down. It’s just I’m not efficient.

MS. OSTIGUY: Several of us have brought hard copies. I brought one, and Goldie said she brought hers.

MS. KOENIG: For all of them?

MS. CAUGHLAN: I think so. I think I have them all. Actually Kim had sent out the one and so...

THE CHAIRMAN: You printed them all. Okay.
MS. CAUGHLAN: I printed those up.


MS. CAUGHLAN: I haven’t cross checked it but I think that was it.

MS. BURTON: Point of clarification, some of the materials are deferred, and there are some that were deferred that had TAPs and they have enough information to complete, but then there are some that don’t. Of the ones that have information, do you want us to work on those or wait till the next meeting when we actually come forward with our...

MR. MATTHEWS: You’re only working on those that you made a recommendation to us on.

MS. BURTON: That we voted on.

MR. MATTHEWS: You’ve already approved the material, and we’re looking for -- and those that you may have disapproved, but anything that was approved or disapproved we want to convert it into those terms.

MS. ROBINSON: All the materials are in the book...

MR. KING: Yes.

THE CHAIRMAN: Okay.

MS. ROBINSON: ...that you’re going to do. And every material has a set of forms, so then all I need to do is go back and look at the TAPs.
THE CHAIRMAN: Okay. TAP and minutes and experience and all of that. Okay. Now the last thing that we need to talk about this afternoon that’s on the agenda is the next meeting of the Board. And, Barbara, you had talked about a January-February. I know we’re operating under a continuing resolution right now. But does that still fit within the program’s -- because I know January and February gets...

MR. SIEMON: How about the last two weeks of January?

THE CHAIRMAN: Well, the second to the last week of January is out for me unless we want to do this in conjunction with the National Bison Association annual meeting.

MS. CAUGHLAN: Or eco farm is the 21st.

THE CHAIRMAN: Or eco farm is...

MS. ROBINSON: February would be better.

MR. JONES: Yeah, BIOPOC [ph] is around Valentine’s Day, three days, I think, either side of Valentine’s Day.

MS. KOENIG: Ann and I have a meeting here the 15th, 16th, and 17th so if it was before or after that, that would be okay.

MR. SIEMON: How about the first week of February?
THE CHAIRMAN: How about 18th, 19th and 20th of February?

MS. CAROE: I think that might be BIOPOC. Is it the 18th through 20th that’s BIOPOC?

MS. COOPER: It’s school break too here.

THE CHAIRMAN: What’s that?

MS. COOPER: School break. Washington’s Birthday break is that week so schools are out if people care.

MS. CAUGHLAN: The school break starts the 16th, is that right?

MS. COOPER: Yes, the 16th through the 20th.

THE CHAIRMAN: How about the 9th through the 11th?

MS. CAUGHLAN: Oh, February. We’re still February?

MR. KING: Yes, February.

MS. CAUGHLAN: 9th, 10th, 11th of February.

THE CHAIRMAN: Yeah. Rose said she’s out then.

MS. KOENIG: Well, is it possible either the 18th to the 20th or before the 14th just so that...

MS. BURTON: She’s here already.

MS. KOENIG: I mean I just don’t want to make two trips two days after to the same place.
MR. KING: That’s another point.

MR. RIDDLE: Does it have to be here?

THE CHAIRMAN: No, that’s...

MS. KOENIG: All right. Have it in Florida. I could show you some farms. Marty can help.

THE CHAIRMAN: She’s not responsive on that, having it in Florida.

MS. ROBINSON: It’s cheaper -- believe it or not, it’s cheaper to be here because to go some place else not only do we have to transport you but we have to transport all of us too.

MR. SIEMON: 9th, 10th, 11th.

THE CHAIRMAN: 9th, 10th, 11th.

MS. CAROE: Or the 11th, 12th, 13th. Did we already say that was out?

MS. GOLBURG: I can’t do any of that.

MR. SIEMON: BIOPOC is usually around Valentine’s Day.

MR. MATTHEWS: BIOPOC [ph] is 19th, 20th, and 21st.

THE CHAIRMAN: Okay. So 11th, 12th, 13th.

MS. GOLDBURG: I don’t think I can do the 13th.

THE CHAIRMAN: 10th, 11th, and 12th.

MS. CAROE: 10th, 11th, and 12th is great for those of us that are on the west coast and have to
travel.

MR. KING: Yeah, you don’t have to leave on Sunday.

MS. COOPER: I can’t do that.

THE CHAIRMAN: You can’t. Okay. What days are out for you in there, Ann?

MS. COOPER: Basically both the weeks of the 9th and the 16th.

MR. RIDDLE: How about the first week?

THE CHAIRMAN: How about the 3rd through the 5th?

MS. GOLDBURG: I have a board of trustees meeting for my organization.

THE CHAIRMAN: What dates does that go?

MS. GOLDBURG: It’s the 4th through 6th in Florida. How about the last week of February, the week of the 23rd?

THE CHAIRMAN: The last week of January is the week of the 26th.

MR. SIEMON: The upper Midwest conference is Friday, Saturday, and Sunday.

MR. RIDDLE: 26th through 30th, somewhere in there.

MS. CAUGHLAN: That would be good.

MR. SIEMON: That’s the upper Midwest.
conference.

THE CHAIRMAN: Rick.

MR. MATTHEWS: How about the first week in March?

MR. SIEMON: That’s Expo.

THE CHAIRMAN: That’s Expo.

MS. CAUGHLAN: If you want to do it in conjunction. If we’re going to make it that close it would be good to have it...

THE CHAIRMAN: With Expo. I mean we’ve done that before.

MR. SIEMON: Expo is March 5 and 6 -- 4th to the 6th, so we could do it the 1st, 2nd, 3rd.

THE CHAIRMAN: No. OTA is in Chicago this year.

MR. SIEMON: How about connect it to Expo March 1, 2 and 3.

MS. CAUGHLAN: Yes.

MS. ROBINSON: Where is it?

THE CHAIRMAN: Anaheim.

MR. SIEMON: That goes against trying to do it in D.C.

MR. ELY: When you tie it in with Expo there’s a lot of activities surrounded around Expo that are part of our business function as well so it’s just...
MS. KOENIG: Can we go back to discussing Florida in February. You’re willing to go in California in March and travel. Orlando has really cheap air fare. THE CHAIRMAN: Well, we were rationalizing by saying...

MS. CAUGHLAN: We heard from Michael Sligh. We’ve heard from others, and we remember the history of this Board. I mean there have been -- there’s been one meeting that hasn’t been either in D.C. or Austin or back here, and Anaheim, so perhaps it won’t be this one but I think we’ve got to struggle with that. I think that it’s not responsive to the needs of the community if we just say we cannot go to the inner lands. THE CHAIRMAN: Okay. When is the upper Midwest conference, Jim?

MR. SIEMON: The 27th, 28th of February.

THE CHAIRMAN: So the upper Midwest conference is the 26th, 27th, 28th. If we did the meeting the 23rd, 24th, 25th.

MS. COOPER: Of what month?

THE CHAIRMAN: February.

MS. COOPER: I can do that.

MR. MATTHEWS: Lacrosse is out. I’m sorry. That area there costs us an arm and a leg every time. It really does. I mean if we have three meetings it’s
already going to cost us 90 grand. If you go to
Lacrosse we probably won’t be able to have three
meetings because it’s going to cost us more than the
normal $28,000 to $30,000 for a Board meeting. I’m
sorry. That is just too expensive for us to do.

THE CHAIRMAN: Okay.

MR. SIEMON: Let’s go back to January.

January is out because we got a material responsibility
here, you all. I’d really rather we met in January. We
didn’t do any materials this meeting. Even December for
that matter.

MS. COOPER: What’s the last week of January,
the week of the 26th?

MR. SIEMON: That’s what I advocated but it
didn’t work for somebody.

MS. COOPER: The week of January 26, anyone?

MS. GOLDBURG: I’m holding the 27th and 28th,
but if it pans out I just won’t go.

MR. SIEMON: I’d like to suggest January 26,
27, 28.

MR. KING: I can do that.

MS. COOPER: Remember those on the west would
like to travel on a Monday and a Friday.

THE CHAIRMAN: March.

MS. CAUGHLAN: Again, consider what that does.
to the materials that are waiting review. We have to look at the benefit of the consumer and the petitioners.

MR. SIEMON: How about December 16, 17, 18?

THE CHAIRMAN: Okay. Well, let me just take this sequentially then. The last week of January is out for...

MR. SIEMON: Nancy.


MS. OSTIGUY: Well, do whatever.

MR. KING: Nancy says do whatever.

THE CHAIRMAN: The first week of February is out for Rebecca. Dennis is grimacing. Okay.

MR. HOLBROOK: Yes, my hand is up. That two-week period is not good for me.

THE CHAIRMAN: The week of February 9 is out for Ann.

MR. SIEMON: It’s tough for me. I had plans.

THE CHAIRMAN: Tough for George. The week of the 16th of February is out for Andrea.

MS. CAUGHLAN: Three people.

THE CHAIRMAN: Okay. Four people. The week of the 23rd.

MR. RIDDLE: The 26th on is out.

THE CHAIRMAN: Okay. Well, let’s look at the 23rd, 24th, and 25th, and I know folks don’t like to
travel on Sunday but, you know, sometimes it happens. Travel happens. So let’s look at those dates.

MR. RIDDLE: I’d need us to quit early on the 25th.

THE CHAIRMAN: Okay. Just remember from here on the 25th you’re traveling back with the time zone so it’s not quite as bad as coming from the west here. Okay. Those are the dates and we will -- Rick.

MR. MATTHEWS: Okay. If you’re going to go with the 23rd of February all work will have to be in by the 23rd of December. It also means -- I’m just giving you a heads up, and you’re going to be working on your 30-day period to put together the committee reviews of these materials during the Christmas and New Year’s holidays, and that’s going to be part of your 30 days.

MS. CAUGHLAN: What’s happening in March?

THE CHAIRMAN: Yeah, what’s happening in March, guys? Let’s look. Okay. I hope the new guy does a lot better in scheduling these meetings. The second week in March.

MS. BURTON: I have an audit. I can’t do that.

THE CHAIRMAN: That whole week?

MS. COOPER: That whole week.

MS. CAUGHLAN: What is the date of Expo?
THE CHAIRMAN: Probably the 5th, 6th, 4, 5, 6. 
The 15th. The 15th is getting too late?
MR. KING: I can do the week of the 8th.
THE CHAIRMAN: Yeah, but Kim can’t. The 15th, 
16th, and 17th.
MS. CAUGHLAN: Are we planning to do the May 
meeting in conjunction with...
MR. SIEMON: I got written down the 29th of 
April, 30 and 31.
MS. CAUGHLAN: Just keeping in mind that’s 
going to leave us another short...
MS. KOENIG: What are the materials coming up, 
what is on the work plan?
MR. KING: Can we set a date to the side?
MR. SIEMON: For what, March?
MR. KING: Is that possible? Because we 
clearly...
THE CHAIRMAN: Well, okay, first of all let me 
just take the week of March 1 by a show of hands, 
realizing what Kevin said about companies and conflicts, 
but for around the table is Expo going to be -- are you 
going to be tied up getting stuff ready for Expo that 
week?
MR. SIEMON: If it’s the 1st, 2nd, 3rd, Monday, 
Tuesday, Wednesday.
THE CHAIRMAN: Monday, Tuesday, Wednesday of that week. Second week of March, any time during that second week. You got the audit all week, right, Kim?

MS. BURTON: Yeah.

THE CHAIRMAN: Okay. The third week of March, 15, 16, and 17. What was the problem? I know the Sunday travel thing and all that.

MR. ENGLE: I think I’m the only one that’s got a problem there or maybe Nancy too.

MS. OSTIGUY: No, I don’t. I’m fine.

MS. CAUGHLAN: I think that’s it.

THE CHAIRMAN: Okay.

MS. CAUGHLAN: 15, 16, 17, so we travel on the 14th.

THE CHAIRMAN: Okay. So we tentatively have the 15th, 16th, and 17th. The good thing about that is the Dubliner has quite a thing going on on St. Patrick’s Day. Okay. Let’s ruminate, and with that then the 15th, 16th, and 17th, March.

MR. MESH: Where?

THE CHAIRMAN: Where? Well, right now we’re talking here but we’re subject, yeah -- it can go...

MR. RIDDLE: What about Chicago then at the end of April, is that still...

MR. KING: That’s six weeks away.

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MR. RIDDLE: I know. I know.

MR. SIEMON: The 29th, 30th, and the 1st is what we had previously said.

THE CHAIRMAN: Well, let’s hold this, and I’ll tell you what, you know, maybe some hops and yeast tonight will help us think this thing through, and if there’s something that comes forward we can bring this back up tomorrow, but let’s put those on the calendar for right now.

MS. CAUGHLAN: I think we need to do a bake sale to take the Board out to the hinder lands.

THE CHAIRMAN: Yeah. Okay. With that, we will stand in recess until 8:00 a.m. tomorrow morning.

***

[End of Proceedings]
CERTIFICATE OF REPORTER, TRANSCRIBER AND PROOFREADER

IN RE: NATIONAL ORGANIC STANDARDS BOARD

HELD AT: WASHINGTON, D.C.

DATE: OCTOBER 23, 2003

We, the undersigned, do hereby certify that the foregoing pages, numbered 1 through 309, inclusive, are the true, accurate and complete transcript prepared from the reporting by the reporter in attendance at the above identified hearing, in accordance with applicable provisions of the current USDA contract, and have verified the accuracy of the transcript by (1) comparing the typewritten transcript against the reporting or recording accomplished at the hearings, and (2) comparing the final proofed typewritten transcript against the reporting or recording accomplished at the hearing.

Date:

_________________________________
Judy E. Henderson, Transcriber
York Stenographic Services, Inc.

Date:

_________________________________
Sarah Mowrer, Proofreader
York Stenographic Services, Inc.

Date:

_________________________________
Jason Blymire, Reporter
York Stenographic Services, Inc.
The National Organic Standards Board (NOSB) meeting of April 28–30, 2004, was attended by 13 members:

**NOSB Members Present:**

- Mark King, Chair
- Jim Riddle, Vice Chair
- Rebecca Goldburg
- Michael Lacy
- Goldie Caughlan
- Kevin O'Rell
- Nancy Ostiguy
- Kim Dietz
- David Carter
- George Siemon
- Andrea Caroe
- Rosalie Koenig
- Ann Cooper

**Absent Members:** Owusu Bandele

Dennis Holbrook (resigned)

**National Organic Program (NOP) Staff:**

Barbara C. Robinson, Agricultural Marketing Service Deputy Administrator, Richard H. Mathews, NOP Program Manager, Katherine Benham, Arthur Neal, Keith Jones, Toni Strother, Bob Pooler, Darcie Priester, and Anita Okrend, USDA Scientist and Technology Programs

Mark King thanked and welcomed everyone to the meeting and had each member introduce him/herself. Mr. King stated that the Board will have some interesting topics to discuss and deliberate over the next few days and appreciated everyone positive focus and input.

**Approval of the Meeting Agenda:** – [OPEN SESSION – 8:00 a.m.] See Discussion Document

Mr. King asked if everyone had a chance to review the agenda for approval, and moved for approval, and Mr. Carter seconded. The agenda was unanimously approved.

**Approval of Meeting Minutes:** See Discussion Document

Mr. King directed the Board members to the October 2003 meeting minutes located in the meeting book at the first tab, and asked if there were any proposed changes or amendments – no response. Mr. Riddle moved for approval, and Mr. Siemon seconded. The October 2003 minutes was unanimously approved.

Mr. King stated that the executive committee meetings were listed in the meeting book and posted on the website for review and informational purposes.

**Announcements:**

Mr. King announced that Mr. Bandele could not attend the meeting for medical reasons, and our thoughts are with him for a quick recovery.

Mr. Riddle announced that a letter went out to the Board on last week informing them of the formation of an Accredited Certifiers Association, and wanted to mention that for the record. He stated that there is a need for a network, and a professional association for accredited certifiers. He also informed everyone that this is not an inspectors association, we’ve had that for years, but now there’s a similar organization for the certifiers that are USDA–accredited; and it’s housed at an interim address at the Vermont Organic Farmers, NOFA–Vermont office.

Mr. Riddle brought to everyone’s attention a scientific study that was published in the Renewable Agriculture and Food Systems, entitled, “Profitability of Organic Cropping Systems in Southwestern Minnesota.” He said
that a 10 year study of organic four–year crop rotation versus 2–year conventional systems was conducted; and quoted a statement from the abstract, “with premiums, the 4–year organic strategy had net returns significantly higher than conventional systems. Without premiums, the net returns were statistically equal”, and they were looking at yields and profitability in this study and finding that even without organic price premiums it was equivalent profitability. For more information review the Renewable Agriculture and Food Systems, Volume 119, pages 135–146.

Mr. King also announced that Dennis Holbrook resigned from the Board because of challenging family situations – he’s not only managing his own farm but some of his father’s business. It appears to be a wise decision based on the work and professional demands; he will be missed. Nancy Ostiguy agreed to step in and take over where Mr. Holbrook left off with crops; Mr. King wanted that to be reflected in the minutes.

PUBLIC COMMENTS – April 28, 2004

The following individuals presented public comments. Each person’s comments were recorded and transcribed for the record; and some individuals also presented written comments. Transcribed comments, and where applicable written comments can be found at DESIGNATED ATTACHMENTS.

REGISTRATION SHEET [ATTACHMENT A]
SIGN–IN SHEET [ATTACHMENT B]

John Clark, Roseland Organic Farms [Pg. 8, Attach. 1]
Merrill Clark, Roseland Organic Farms [Pg. 14, Attach. 2]
Kathy Seus, Farm Program Manager, Food Animal Concerns Trust, [Pg. 23, Attach. 3]
Steve Ham and Dr. Girish Ganjyal, MGP Ingredients, [Pg. 30, Attach. 4]
Thomas Harding, AgriSystems International, [Pg.43, Attach. 5]
Jim Pierce, Organic Valley, [Pg. 50, Attach. 6]
Haim Gunner, EcoOrganics, [Pg. 54, Attach. 7]
Maury Johnson, NC+ Organic Seed, [Pg. 69, Attach. 8]
Ray Boughton, Lakeland Organics, [Pg. 80]
Nenad Filajdic, Product Development Manager, Valent BioSciences, [Pg. 90]
Zea Sonnabend, CCOF, [Pg. 96]
David Engel, Dairy Farmer & Executive Director, MOSA, [Pg. 108]
Leslie Zuck, Director PCO, [Pg. 112]
Urvashi Rangan, Environmental Health Scientist, Consumers Union, [Pg. 119]
James Wedel, President, Texas Organic Cotton Marketing – Marty Mesh Proxy, [Pg. 123, Attach. 9]
Marty Mesh, Quality Certification Services, [Pg. 138]
Steve Harper, Small Planet Foods, [Pg. 142]

PUBLIC COMMENT CLOSED FOR A LUNCH BREAK – 11:45 a.m. to 1:17 p.m.

THE NOSB MEETING RECONVENED AT 1:30 P.M.

NOP UPDATE – Richard H. Mathews, Program Manager, NOP (For more information, see Discussion Documents and Slide Presentation as indicated below)

Mr. Mathews introduced himself, as the Program Manager of the National Organic Program, and stated that he had 40 Power Point slide presentation and will try to answer a lot of questions that have been coming up.
Cost Share Programs [Pgs. 144–146, Slides 2–7]: There are two different cost–share programs, Agricultural Marketing Assistance (AMA) program, and then National Organics Program, and the purpose of these two cost–share programs is to assist with costs of the NOP Certification.

NOP’s Budget [Pgs. 147–148, Slide 8]: The total budget of the NOP is $1,443,000. USDA and AMS take overhead from that; and the overhead that is expended is $180,756; salaries and benefits – $741,846 which is actually an increase over previous years; NOSB is budgeted this year at $90,000, other non–paid category – $430,400, and ATTRA – $40,000.

Compliance Cases [Pgs. 148–15, Slides 9–12]: There was a discussion regarding the current status of compliance cases that are still open and closed for FY 03 and FY 04; most of these cases have labeling issues, and the most common violation issue is not being certified.

NOSB Nomination Process [Pgs. 151–153, Slides 13–15]: Effective January 24, 2005; the following positions will be open for a 5 year office term: 2 producers, 1 handler, 1 environmentalist, and 1 retailer position, and the due date for all resumes is June 14, 2004. To ensure everyone the opportunity to seek nomination to the Board an AMS News Release was published on March 8, 2004, Federal Register Notice was published on March 16, 2004; 8,646 postcards were mailed to certifying organic producers and handlers; postcards were e–mailed to 41 Land Grant Universities and 3 USDA Outreach Programs, and NOP is in the process of notifying organic retailers and environmentalist groups encouraging them to apply.

Accreditation [Pgs. 153–155, Slides 16–17]: To date NOP received 137 applications for accreditation. According to the preamble to the Final Rule, we estimated that we might get 50 of these, and the interest in the program from certifying agents was underestimated. 53 of those 137 are private domestic certifying bodies; 4 have withdrawn since they submitted their applications; 20 applicants are states; Connecticut has withdrawn its application; 64 foreign certifying agents have applied, 2 have subsequently withdrawn their application. Out of 137, 92 have been accredited; 38 are private organizations operating in the U.S.; 15 are states, and 39 are certifying agents operating in foreign countries. Auditors are performing site visits for the foreign, and we got one team in South America right now.

For those who have not been accredited, they have neither been turned down nor approved; 12 are with the auditors; 5 are private domestic; 3 are states, and 4 are foreign. There are 26 still waiting for information, and haven’t made it to the auditors. The information that they sent in is woefully deficient, the auditors can’t do anything with it, and they go back to the applicant and request additional information. So right now, there are 6 privates and domestics that are in that boat; 1 state and 19 foreign in that boat.

Export Arrangements [Pg. 155, Slide 18]: We still only have 1 export agreement with Japan, and 5 recognitions with: British Columbia, Denmark, New Zealand, Quebec and the United Kingdom. There is a difference with arrangement and recognition: an arrangement in the case of Japan, they have agreed that our standards are equivalent to theirs and they recognize product produced to the NOP for export to Japan. Recognition is where we have recognized that foreign government’s accrediting process is equivalent to NOP, and it allows the governments in those five countries to accredit certified operations to the NOP.

Equivalency Agreement [Pgs. 155–158, Slide 19]: As of today, we still do not have an equivalency agreement with any foreign country. The closest we are with negotiations is the EU, and we’re not there yet, but still working on it. Mr. Jones stated that there is a joint E.U.-U.S. summit that will be held in Dublin, Ireland in late June that will provide some impetus on both sides for the conclusion of an agreement. There is significant kind of process questions that we still have to address, both externally
through the EU process and internally within the U.S. government, as to how best to conclude the recognition agreement. We have made significant steady progress towards the -- essentially the dilution of any technical issues that are outstanding.

**Directives: [Pgs. 159–195, Slide 20]**

Mr. Mathews stated that he wanted to provide some clarifications on some words that have been used in the organic community, such as “guidance” and “directive”, and when NOP issued the program scope, the antibiotics, and the fishmeal guidance statement were issued, it was sent to the Board and to OTA the day before it was published, and what should have been done was to say that that was a directive, and not guidance.

He said that the Directives basically tell you what you have to do to comply with the Act and the regulations; guidance would tell you here is our best thinking of one way for you to be within compliance of the Act and the regulations, however you might find a better way and still be within compliance. With guidance, you don’t necessarily have to follow the guidance as long as you still maintain compliance, and directives tell you this is the only way to do it. Therefore, the title for the first three will change from “guidance” to “directive”, and if there’s a better term that is less inflammatory, please let the NOP know.

Dave Carter stated that they recognize that it’s NOP’s job to issue the Directives, however, in their role to advise the Secretary on implementation of the Rule, he has continually asked about works in progress and directives that are developed, and what is the opportunity for the Board to participate in some discussion as a work in progress. He also said that the directives came down in short notice and felt that the public had been shortchanged as far as being prepared to give public comment after the fact.

Mr. Mathews stated that the following documents were not out for public comment; however, they have been vetted with the USDA attorneys, who vetted with management, and they’re based on the regulations and the statute. What has been done with these documents is that there are excerpt portions of the Act, and the regulations were based on the directives.

Barbara Robinson also stated that the reason we don’t ask for public comment and a better way to think of these directives is that they are the law and the regulations. All we did was try to figure out a way to make it easier to understand as they’re written. Before you get to what NOP is saying, first you’ll see all the citations from the preamble, from the regulations, and the statements from the law. Finally, we strongly believe that if we are about to issue anything, if it can’t be anchored directly to the law or the regulations, we shouldn’t say anything.

For more information regarding discussions on the Directives see Pgs. 159–265, and the slide presentation [Slides 20–40].

**BREAK AT 4:00 P.M. AND RECONVENED AT 4:15 P.M.**

**PRESENTATION OF COMMITTEE DISCUSSION ITEMS**

**MATERIALS** – Rose Koenig, Committee Chair

**Review of Materials Process: [Pgs. 266–276]**

Ms. Koenig gave a slide presentation on the Materials Process Update. The text of this presentation can be found with the meeting transcripts. [See Slide Presentation and Discussion Document]
Sunset Provision: [Pgs. 276–291] [See Discussion Document]

Ms. Koenig presented a report on the “Sunset Provision Report”, and stated that the document was posted one month in advance of the meeting and hoped everyone had a chance to review. She said that according to OFPA, the Board had the responsibility to come up with a policy for the provision, and that if you look at all the sections within the N.L. going from 205.601 to 205.606 there are approximately 154 substances currently on the N.L. That number was not the same that NOP came up with, because she went through – one material was in multiple categories, and counted it as one rather than three. Assuming that if a review was to be done on chlorine materials that are listed, that review would cover all uses; and that’s how she came up with 154. Also according to OFPA, the N.L. will become fully implemented within 5 years, and the committee proposed as an internal policy and procedure for the review of substances in accordance with 7 USC 6517(e), that basically the NOSB and the NOP shall compile and manage a materials database for exemptions and prohibitions, including an official Sunset date for each substance on the N.L.

NOP stated that they are in the process of developing and working on a database; and NOSB have their own database. All materials appearing on the N.L. as published in the Federal Register Final Rule dated October 21, 2002, must be reviewed by October 21, 2007. There are materials that were amended after that date in other dockets, and those would have to be reviewed 5 years from their final Federal Register Notice.

Based on the number of materials in any given 5 year period, the NOSB would select approximately one–fifth of the N.L. for review to comply with that section of Sunset Provision. The Board will not vote for approval on the Sunset Provision document at this meeting because it was not into the NOP 30 days prior to the meeting, so this is just for discussion only. The NOP will publish the entire list of materials, 605–601 to .606 inclusive, which shall be reviewed by October 21, 2007, in the Federal Register and request public comments on the prioritization of materials for review.

Jim Riddle stated that the Board will need to vote to accept the committee’s report so that it’ll officially go on record as accepting the report. Ms. Koenig spoke to Richard via phone, and he indicated that he didn’t have a problem with the Board voting on it as a working document and then officially voting on it during the next meeting and we should consider that. Ms. Koenig also received an email from Mr. Neal indicating NOP’s position on the Sunset Provision which is very different from the committee.

Mr. Neal commented that the e–mail that was sent was a well–vetted document with approval from senior management at USDA. NOP built upon the NOSB committee recommendation to take into consideration the federal process that has to take place to reestablish these materials that have exemptions under the NOP. He stated that NOP did reject their recommendation; however, NOP actually accepted the majority of it, but had to tailor it to fit the federal process, because as noted, it takes about three years to finish the process, and he continued to explain the process.

Ms. Dietz wanted to know the status of the working draft document for the Sunset, and stated that because of the timeline the Board couldn’t vote, but take it as a committee recommendation and give it formally to the NOP. Mr. King stated that the Board should acknowledge it as a work in progress, it’s not perfect and there will be ongoing dialogue with the Department. He also asked if NOSB could work with NOP on the document, knowing that there is a sense of urgency to get the process started and move forward with the agenda today. Mr. Neal stated that he didn’t know about the document portion, and didn’t see any changes to it, because it acknowledges the fact that the Board may want additional information on materials.
Ms. Koenig stated that she'll convene a meeting of the materials committee to discuss the document and before the end of the meeting provide at least a position on it that can be resolved, and after discussion, make a recommendation on how they can proceed.

Mr. Neal commented that the process should be driven by the comments, because they should take into consideration that that particular process helps the process to be unarbitrary and uncapricious, non–capricious and it’s fully transparent to the entire public and it should fit within the federal process.

ACCREDITATION, CERTIFICATION, AND COMPLIANCE – Andrea Caroe, Committee Chair

Compliance Procedures for Non–Compliances Recommendation: [Pgs. 291–293] [See Discussion Document]

Ms. Caroe stated that version 7 or draft 7 in the meeting book was obsolete and that there was a new version 8 with minor changes that was left in track mode so they could see the changes. The changes were based on comments, and the back section of the document discusses each of the comments that were received. She received comments from one commenter only and addressed every portion of those comments; and it was sent to the committee and Jim made some additional changes and there was none further. This has been voted on by the committee; the document has been around for a long time and hope to have a vote on it by the next day. One commenter asked for the word “major” to be used, and there is an opportunity for a hybrid, where they could put “major” in parentheses to keep the integrity of the language that’s used in the Rule, and more clarification to the users of this document.

Mr. Riddle stated that most of the changes are on page 7, which is the addendum section, and that’s where the definitions and the use of the word “major” non–compliance in parentheses to clarify the difference between minor non–compliances and major non–compliances. There are also some changes to the headings of the tables that have been recommended by the commenter.

CROPS – Nancy Ostiguy, Committee Chair

Ms. Ostiguy stated that the committee didn’t have anything at that time but will address the issue on Compost Tea on Friday.

HANDLING – Kevin O’Rell, Committee Chair

Update on Materials Used as Food Contact Substances Report: [Pgs. 294–297] [See Discussion Document]

Mr. O’Rell provided an update on materials used as food contact substances that was submitted on April 15, it wasn’t published for 30 days. He stated that it was there intent to acknowledge food contact substances and give a quick update and then move on in our work plan. NOP did acknowledge that food contact substances were outside of the scope of the NOP or the NOSB for materials review.

The Board recommended the materials from past meetings to be added to the N.L. and there were six materials: activated carbon and periacetic acid, and four boiler water additives: ammonium hydroxide, cyclohexlamine, diethylaminoethanol, and octadecylamine, the materials should be considered as food contact substances. The Handling Committee recommended that since the materials were previously petitioned and approved, that the Board should include them on the N.L. Mr. O’Rell stated that he understands that there’s confusion in the industry regarding food contact substances, however, the Handling Committee will prioritize their work plan to clarify the qualification of materials for the food contact substance list.
Ms. Dietz also commented that the confusion out there was two–fold: confusion on the materials that they did make a recommendation for, and those were the only materials that never appeared on a docket. She said as a handler representative, she kept receiving calls regarding periacetic acid, saying that “my certifier said that I can’t use it, well, it’s a food contact substance and people don’t know how to read the List. Therefore, until they understand how to read the List, and the public understands that this recommendation to acknowledge those materials that was recommended at one point and that they are placed back on the N.L. It’s an acknowledgment and then the committee will go forward and try to hash out exactly how to interpret food contact substance list for handlers. Mr. Riddle wanted to know if they would vote to accept as a committee report. Ms. Dietz stated that it was not sent to the NOP for a vote to accept this as a committee report. Mr. O’Rell stated that it was their intention to vote on it as a committee recommendation.

Mr. Riddle stated he appreciated the confusion that this attempts to clarify as far as the status of those six materials, but the whole food contact substance list doesn’t fit our needs, and they’ve reviewed those materials on the food contact substance list and they have different names or they’re combined with other ingredients, and is a more formulated product for specific use – this is a generic substance that fits the rest of our format for the N.L. Therefore, he supports moving that part of it forward.

Mr. O’Rell stated that he wanted the Board to a vote on that, and maybe have a discussion with the NOP. The committee was in favor to put this up for a vote with the NOSB full committee, and our recommendation for these materials, which we all voted on and approved at previous meetings, and should be placed on the N.L. It also recognizes that fact that these could also be considered as food contact substances, but there needs to be a lot of clarification on food contact substances as far as the pre–market notification with the FDA on food contact substances, the definition of it.

LIVESTOCK – George Siemon, Committee Chair

No committee reports.

POLICY DEVELOPMENT – Dave Carter, Committee Chair

Board Policy Manual Revisions/Action Item for a Vote: [Pg. 298] [See Discussion Document]

Mr. Carter stated that the committee only had two items: (1) the Board Policy Manual which is a living document that gets addressed as new policies come forth, and they had two changes for proposed incorporation that deals with confidentiality procedures – particularly with non–public information, confidential business information and how the Board handles that; and (2) the incorporation or the substitution now of the new materials review forms based upon the forms that NOP developed that was utilized at their last meeting. The committee will bring that forth for consideration.

Compatibility Recommendation: [Pg. 299]

Mr. Carter circulated a draft of the statement on compatibility with organic production and handling. The process on that is that NOP requested a recommendation on the following question: What are the factors (reasons, issues, parameters, structures, limitations) and constraints that the NOSB should use to determine a substance’s compatibility with a system of sustainable agriculture and its consistency with organic farming and handling?

He stated that at the last meeting, the committee developed 13 criteria which was listed in the book and posted for public comment. They received six public comments, and the comments suggested that they drop the 13th item which was Item M: does the substance facilitate the development of new organic products? There was a lot of discussion saying that was a good criterion and could use that as a
justification to approve a lot of items just because they would spur the development of other organic things. There were 13 and one was dropped, and now they have a 12-step program for organic compatibility.

Mr. Riddle also added that on the draft it explains on Page 2 and 3 how the comments were dealt with and summarized what comments were received and then how they were addressed.

PRESENTATION OF MATERIALS RECOMMENDATION

CROPS COMMITTEE – Nancy Ostiguy

**Soy Protein Isolate** [Pgs. 306–309]

The material was petitioned for use as a fertilizer, and the committee recommendation was to reject the TAP because it did not address the use of the material as a soil amendment, it was focused on food. The committee recommended deferral, and the voted 3 Yes, 0 Nos, and 0 Abstained

**6–Benzyladenine** [Pgs. 310–314]

The material was petitioned for use as an apple fruit thinner, and what it does is cause you to lose a certain portion of the fruit on the apple trees, eventually enhancing production. The committee's conclusions on the material was that it was agricultural, synthetic, and voted to reject the material because hand pruning is an alternative practice that is available and currently used. One of the quotes from the TAP that they used was: “Switching to chemical solutions as an alternative to farmers working in the field is not an example of sustainability, regardless of economic profitability.” The committee voted 4 Yes, 0Nos, and 0 Abstained, and the committee recommended rejection based upon of failure on Criteria 2 and 3.

**Urea** [Pgs. 314–316]

The material was petitioned for use as an insect fruit fly attractant, and contrary to what it says on the agenda, the committee actually had finished its work. They were told after the TAP was completed that the material is not approved for the petitioned use, so they couldn’t approve or not approve it because it didn’t meet EPA's criteria. Ms. Ostiguy stated that as far as she can tell, nothing should be done on this one, and wanted to know if anybody had an alternative view. Mr. King asked if the Board should officially reject a material that the petitioned use does not have a legal label claim.

Ms. Dietz stated that in the past something similar to this happened and they withdrew the petition versus reject the material – if there’s no EPA allowance for it, it’s up to the petitioner to do that. Mr. Mathews commented that if there’s no EPA allowance, we don’t take action. **No Action Taken**

**Hydrogen Chloride** [Pgs. 317–320]

The material was petitioned for use in cotton seed de-linting process, and the committee voted that the material was agricultural, synthetic, and to reject it, indicated that the criteria – Criteria 1, 2, and 3 caused the failure of this chemical because of its extreme corrosivity, very reactive, if released, very damaging to soil and plant life; and, as they had heard this morning, which is not true, that alternative organic acids may be use. The committee vote: 4 Yes to reject, 0 Nos, 0 Abstained, and the committee will continue to review the material.
HANDLING COMMITTEE – Kevin O’Rell

**Nitrous Oxide** [Pgs. 321–326]

The material was petitioned for use as a whipping propellant for food-grade aerosols, and most of the concern was around the environmental aspects of nitrous oxide and the fact that it is a potent greenhouse gas and has a half-life of 120 years. They answered Question #1, adverse effects, yes, but they also considered a magazine article which said that it was an infinitesimal amount, 2 parts per million for total production, but we still felt that was answered yes on most of the environmental questions. This is a GRAS item, and harmful effects on human health, mostly resulting from the misuse of the product, so we answered yes, but from inhalation of laughing gas. “Is there a natural source?” Not that’s practical for commercial availability. It naturally occurs -- nitrous oxide naturally occurs due to the action of soil bacteria.

On question number 3, we put yes and no; and that is the substance essential for organic -- for handling of organically-produced agricultural products. In the petition there were stated uses -- alternatives using already-approved materials but there was some dispute from the petitioner on the effectiveness of these substances to yield a product that's acceptable for the consumer, so we tried to recognize both aspects of it since there was conflicting information. However, the petitioner did say he was unaware of any tests that have been done on a gas mixture of nitrogen and CO2. On alternative substances, again we answered yes/no, and under the same conflict: that the TAP had indicated there were but the petitioner said that they were not acceptable to produce a product for consumer quality. The committee voted on synthetic and non-agricultural: 5 Yes, 0 Nos, 0 Abstained, and 1 Absent. And then there was a motion to allow nitrous oxide for addition to 205.6, Vote 0 Yes, 5 Nos, 0 Abstained, and 1 Absence. Material was voted not to be allowed.

**Tetrasodium Pyrophosphate (TSPP)** [Pgs. 326–342]

Petitioned a specific use as a pH buffer and dough conditioner for use in organic meat-alternative products, and this is a substance that we had reviewed and voted on at our last meeting and had voted to approve as a committee. The NOSB Board voted to approve TSPP, and it came back from the NOP with the request that we re-review this not only with the new forms that were given to us but addressing a specific issue.

The specific issues which were alternative substances, which we have gotten additional information and determined that there may be alternative substances but we had indicated that these would produce, from information we got from the petitioner, an undesirable product in terms of quality, functionality, unwanted discoloration, undesirably odor, and foul taste. The other issue primarily centered around this -- the product used to recreate texture, and after consulting with the petitioner and understanding, as we heard today in public comments, the intended use of this as a pH buffer and dough conditioner, that it actually is working too as a processing aid to condition the dough through the extrusion process. The actual texture is being formed by a thermo mechanical process, as opposed to the sole use of tetra sodium phosphate. The committee reviewed it again, and recommended a motion to allow under 205.605(b). The committee vote on synthetic and non-agricultural: 4 Yes, 0 Nos, 0 Abstained, and 2 Absent.

LIVESTOCK COMMITTEE – Nancy Ostiguy

**Moxidectin** [Pgs. 343–345]
Petitioned for use as a topically applied broad–spectrum parasiticide effective against both internal and external parasites; the committee recommended that it was agricultural, synthetic, and that it be allowed with an annotation for control of internal parasites only.

It was the committee’s opinion, that it failed on Criteria 1, and that was the reason for the proposed annotation because of concern about the half–life of the material and impact on soil organisms. The committee recognized that it is also less problematic than a material that’s currently on the List, Ivermectin, but the annotation was to respond to the issue of its half–life and soil–organism impact. It was much less a chance of any kind of contamination if it was for internal parasites versus external.
Proteinated Chelated [Pgs. 346–end]

Petitioned for use as a supplement in livestock, and the committee voted that it was synthetic, allowed, non–agricultural. The committee vote: 4 Yes, 0 Nos, and 0 Abstained. Approved.

There was some concern about copper and zinc, on the effect in soil and on soil organisms, but the committee didn’t feel that an annotation was reasonable. Mr. Riddle suggested an annotation that protein source must not be of animal origin.

The meeting was recessed at 6:30 P.M.

Reconvened on April 29, 2004 at 8:00 a.m.

COMMITTEE RECOMMENDATIONS:

CFR205.606 TASK FORCE REPORT – Jim Riddle and Kim Dietz


Mr. Riddle stated that he had passed out the current draft from the task force that is for commercial availability, and recommended rule changes. He said that it came to the Executive Committee’s attention early this year – January, that there remain issues on commercial availability and the need for consistency and how it’s being interpreted in the field, and this was actually when the Final Rule was published in 2000. There was a request for comments at that time and recognition of the need for further rulemaking on commercial availability and so it remained an open issue.

Comments were submitted, including comments from the Board, and then further recommendations from the Board as it relates to the agricultural ingredients on the list, 205.606. That was really the basis of the work and the starting point of this task force and the objective was to establish acceptable practices to be followed by certification applicants, certified operators, and certifiers, for consistent, transparent, and predictable determinations of commercial availability applies to two different sections of the Rule. The one being seeds, where a producer can use non–organic seeds if it’s documented that organic seeds are not commercial available in the equivalent variety and form, quality, and quantity needed by the operation; and then it also applies to minor agricultural ingredients used in processed products, where a handler must attempt to source organic ingredients if the product is to be labeled as organic. They must attempt to source organic ingredients for everything agricultural in that product, and if it’s documented that an ingredient is not available in an organic form, is not commercial available, then the certifier can allow a non–organic form of the ingredient, but there’s been no further guidance to provide consistency in how those determinations are being made or to spell out the requirements for the operators to meet in order to state their case.

The recommendation from the Task force is a lengthy introduction section, and then the background section, which has the definition of “commercial availability,” some citations from the regulation and from the preamble, have all been posted on the web.

BREAKOUT SESSION

NOP ECERT Program – Keith Jones [396–428]

Mr. Jones gave a slide presentation on the ECERT Program, and the text of this presentation can be found with the meeting transcripts.
He stated that the project vision is to supplement a secure, integrated web–based system for electronic collection, use, and dissemination of information that is required to be submitted under the NOP regulations. Multiple users will be able to enter data into a common database that would capture both regulatory information and compliance information for use on a real–time basis – access worldwide through a web–based interface, and utilizing data that we’re required to collect.

The system was designed with our first–line interface folks in mind – the accredited certifying agents and AMS compliance; and that are the two primary user interfaces that the system is designed for. Part of this will be proprietary, only USDA and accredited certifying agents will have access to certain information related in the primary interface.

LUNCH BREAK – 11:45 a.m.

The meeting was reconvened at 1:11 p.m.

COMPOST TEA TASK FORCE REPORT – Rose Koenig [Pgs. 430–465] (For more information, see discussion document)

Ms. Koenig presented a slide presentation and stated that the task force went through many changes of authority over time, and Eric Sideman, who was a past NOSB member, co–chaired the committee with Dennis Holbrook, Rose Koenig and Owusu were the individuals that from the Board were actually on the committee. Because Owusu could not attend, Ms. Koenig asked Zea Sonnabend, who was a member of the compost tea task force, to assist with the presentation. She provided the Board with a summary document and encouraged everyone to review for the finer details because she will be talking about the implications of the literature, and the citations are there. The document is posted on the web site.

She said that one of the things that was recognized that there was a wide usage of compost tea by organic growers but there is a lack of uniformity in the regulation of compost tea by certifying agents and the Board felt there was a need to clarify regulations regarding the use of compost tea, and when the original compost tea task force looked at a number of issues involved around compost, including making recommendations of alternative methodologies for making compost, almost vermicomposting, there was a section on compost tea that could not really be resolved. The compost tea task force was initiated to really do further investigation of compost tea, and that’s why the task force was extended to really look more specifically at the implications of compost tea. There was a need to investigate scientific data regarding human pathogen issues, and many certifiers and organic farmers expressed concern about the restrictive natures of the NOP’s ruling of treating compost tea as raw manure.

She said that 11 of the 12 members supported the compost tea task force report; there was one member who did not vote in favor of the task force report, and that member agreed with the recommendations but did not agree with some of the scientific data and analysis that was expressed in the report. That individual has been encouraged to do public comment to the Board on that minority opinion. The member requested that the information be forwarded to NOP prior to the meeting, however she felt it was not her role to do that. She stated that the committee was not voting on this report at this meeting, and encouraged that member to put it in a format that they’re comfortable with and take more time to detail that information, and they looked forward to seeing that minority opinion.

The recommendation from the committee is that potable water must be used to make compost tea and for any dilution before application. In other words, a clean source of water to start with; equipment used to prepare compost teas must be sanitized before use with a sanitizing agent as defined by CFR 178.1010. For compost tea, this applies to 100% plant feedstock materials in addition to manure.
feedstock, which may harbor high levels of fecal bacteria because of non–manure compost. The Task Force unanimously urged USDA and its agencies to strongly support additional research on the potential for crop contamination and plant disease, pest control by compost tea. There is an urgent national need to address critical data gaps, uncertainties, and variability in existing data that limited the evaluation of potential crop contamination by the current Task Force.

Mr. Riddle moved that the Board accept the Compost Tea Task Report, and Ms. Cooper seconded. The Board unanimously approved the report. The report will be posted and taking public comment on the recommendations to be vote on at the next meeting.

**COMMITTEE RECOMMENDATIONS**

Materials – Rose Koenig [Pgs. 465–500] *For more information, see Discussion Document*

**Sunset Proposal:** Ms. Koenig stated that the document was posted, and was not submitted in time to make a formal vote. The NOP sent the committee some documentation last week, with what they believe is a better version. NOP took the committee version of the Sunset Provision, and reviewed and considered things such as the whole federal rulemaking process. Ms. Koenig said that she had been thinking about the process and asked that Arthur would come and fully explain the proposal that they’ve worked with, and what modifications have been made.

**NOP Statement:** Ms. Robinson came forth and thanked the Board for their recommendation on Sunset; and told them that she appreciated and understood the amount of time and thought that went into it. She stated that the NOP also did research on our end, regarding “what is a Sunset,” because we had the same questions and looked at legislation. Sunset is not unique to this program, it does happen with many laws or many regulations, and Sunset is typically an expiration that would occur – it’s a call for a review of the conditions that warranted the law or the regulation in the first place. In the case of this program, Sunset is a call to review the conditions that warranted putting a material on the National List in the first place, and we are asking the public and the Board to review the conditions, not the material.

Since this program has been implemented, only two petitions have been submitted to the Department to remove a material from N.L.; one for cornstarch, on the basis that there was apparently an organic supply of cornstarch available – the Board considered that and rejected that and left cornstarch on the List; the second was sodium nitrate, and the Board again took public comments on that and decided to leave sodium nitrate on the List.

She said that from NOP perspective, Sunset is a public process; it’s facilitated by rulemaking through the NOSB’s mechanisms, and you’re part of the integral process. Rulemaking must be done with the public fully engaged, because this will ensure -- not altogether, but pretty much -- we ensure that neither the Department -- and it's important that you understand this, neither we nor you would appear to be arbitrary, or capricious. Those words are used all the time, and may have a very negative connotation, it appears like thing are pick out of the air and decide what to do and, you know, reward your friends and punish your enemies, and that's not what those words mean. It just means, unintentionally or not, because we all come to the table with biases, doing it in an open rulemaking process is a way to minimize that from occurring.

So the important thing to remember about this, and this is important for the people who are sitting in this room today, two points: if the public does not weigh in -- explicitly, everybody, you can't just think it, you must communicate, in writing, however that is -- to the Board through the Department -- whether
you believe there is still a continued need for these materials on the National List, if you do not do that, if we receive no comment on material X, on October 21, 2007, regardless of what the Board thinks, the material goes away. It will not be available for use. If it is a prohibited material, it will be available for use.

She wanted people to understand that Sunset is not an event, from now on it’s an annual activity that will take place. Every year that you add materials, 5 years later someone is reviewing the need for those materials to continue; and this is the first Board that will initiate a Sunset process – sunset will occur in 2012. The one that became active October 21, 2002, the clump of materials has to go through it again, plus any materials added by the Board through rulemaking in 2007. Sunset is a growing activity, and it will become bigger job every year, assuming Boards continue to add materials to the List. That is why the process has been laid out for rulemaking; it must withstand this annual action by the Board and participation by the public. We could not write procedures for a sunset as if it was a one–time event; we have to put something in place, because what you’re doing is, as we talked about before, creating the process again for future Boards. Ms. Robinson and Mr. Neal further explained the Advanced Notice of Public Rulemaking (ANPR) steps and process to the Board and the public, and continued to address and answer questions regarding the Sunset Provision.

MATERIALS RECOMMENDATIONS

Handling Committee – Kevin O’Rell

TETRASODIUM PYROPHOSPHATE (TSSP) (Pgs. 501–515)

Mr. O’Rell stated that TSSP was petitioned for the use as a pH adjuster and dough conditioner, and following the committee’s recommendation, they had a discussion with the Board. They incorporated some of the comments from the Board and also considered public comment that was made yesterday. There was further discussion regarding the changes made to the public comment documents that the committee reviewed.

The committee recommendation based on new information or public comment and information from the Board, and they took a second vote, the motion was to allow TSPP under 205.605(b), with annotation, “for use in meat–analog products.” He stated that this will go back to the original annotation that was voted on at the last Board meeting and striking the word, “texture.” The committee voted: 6 Yes, 0 Nos, and 0 Abstained, 0 Absent. Ms. Dietz made a motion to add TSSP on 205.605(b) as a synthetic, with the annotation for use in meat–analog products, and Ms. Caroe seconded. **Final Board vote: 3 Nos, 10 Yes 0 Abstained, 1 Absent**

NITROUS OXIDE (Pgs. 516–519)

Mr. O’Rell stated that the Nitrous Oxide was petitioned for use as a propellant, and the committee talked about some of the environmental concerns and the greenhouse effect. The committee recommendation is that there was no change, there was no public comment given, and there was no Board discussion. The committee voted to allow nitrous oxide for addition to 205.6 Failed, 0 Yes, 5 Nos, 0 Abstained, and 1 Absent. Ms. Caughlan made a motion to allow nitrous oxide for addition to 205.6, synthetic non–agricultural product, and Ms. Ostiguy seconded. **Final Board vote: 13 Nos., 0 Yes, 0 Abstained, and 1 Absent.**
FOOD CONTACT SUBSTANCES:

Mr. O'Rell announced that the Handling Committed submitted a written report which was an update on materials used as food contact substances. He stated that the report did not get the 30–day publication, and will not officially be voted on at that meeting. He suggested that the Board vote to accept the document and it will be posted again on the website and then take future action. The Handling Committee will be doing more work on food contact substances and would like to recognize six materials that were formally approved for addition to the N.L. Ms. Dietz made a motion to accept the report, and Ms. Caughlan seconded. **Final Board Vote: Unanimous – motion carries.**

Crops Committee – Nancy Ostiguy

**Soy Protein Isolate** (Pgs. 520–534)

Ms. Ostiguy stated that the committee met and discussed the comments that was received and public testimony, and the motion was to reject the TAP and request information that does address the material used as a soil amendment. The committee vote to reject the TAP: 4 Yes, 0 Nos, 0 Abstained, and 0 Absent. Mr. Riddle made a motion to defer the material because of inadequate TAP report – additional information needed, and details to be provided by the committee, and Mr. Siemon seconded. **Final Board Vote:12 Yes, 0 Nos, 1 Abstained, 1 Absent. Board vote was unanimous – motion carries.**

**6–Benzyladenine** (Pgs. 534–536)

Ms. Ostiguy stated that the committee discussed the public testimony and voted that the material was synthetic and rejected its addition to the N.L. because hand pruning is an alternative practice that is currently available and currently used. The committee vote to add was 0 Yes, 4 Nos, 0 Abstained, and 1 Absent. Mr. Riddle moved that it be added to the List, and Ms. Caughlan seconded. **Final Board vote was 13 Nos, 0 Yes, 1 Abstained, and 1 Absent.**

**Urea** (Pgs. 536–540)

There was no additional information that was presented, and Urea was petitioned for a use that doesn’t exist with EPA. Ms. Koenig made a motion to deferred and archive the petition and TAP report on Urea, and accept the committee’s findings that it is not EPA–approved (it’s not a legal EPA label claim), and Ms. Dietz seconded. **Final Board vote was 13 Yes, 0 Nos, 0 Abstained, and 1 Absent.**

**Hydrogen Chloride** (Pgs. 540–542)

The committee considered the information that was provided during public comment, and also the public comments that was received on hydrogen chloride's use for de–linting cotton seed. A motion was made by Ms. Koenig to add hydrogen chloride to the N.L. with the annotation “for de–linting cotton seed for planting.” The committee vote was 4 Yes, 0 Nos, 0 Abstained. Mr. Riddle made a motion, with the annotation for de–linting cotton seed for planting, and Ms. Koenig seconded. **Final Board Vote: 13 Yes, 0 Nos, 0 Abstained, and 1 Absent.**
Livestock Committee – George Siemon/Nancy Ostiguy

Moxidectin (Pgs. 544–547)

Ms. Ostiguy stated that because of errors she had a couple of changes on the evaluation criteria; on Category 1, Number 3, the documentation has that the half-life of moxidectin is up to 6 months; actually the citation in the TAP, on Pages 5 and 6 is 2 months; in Question 8, Category 1, and Question 9, Category 1. The committee voted, synthetic, 5 Yes, 0 Nos, 0 Abstained, to add to the N.L. with the following annotation, “control of internal parasites only.” Ms. Caughlan moved to approve and Ms. Cooper seconded, with the annotation, “control of internal parasites only.” Final Board Vote: 11 Yes, 1 Abstained, 1 No, and 1 Absent.

Proteinated Chelates (Pgs. 547–562)

The committee recommended that Chelated Minerals be added to the Lit, as synthetic, with the annotation: “protein sources must not be of mammalian or poultry origin.” 5 Yes, 0 Nos, and 0 Abstained. Mr. Riddle moved that proteinated chelates be placed on the List with the annotation: “protein sources must not be of mammalian or poultry origin”, and Mr. Carter seconded. The Board vote: 7 Yes, 5 Nos, 1 Abstained, 1 Absent. The motion failed. Mr. Koenig made a motion to defer the material and Mr. Carter第二ed. Ms. Dietz based the deferral on gathering information on the commercial availability of plant – non-mammalian sources of the protein chelates. She also urged the community and the livestock industry to comment and find out whether or not you have commercial availability sources based on that original annotation, and be specific in the document from the livestock committee. Final Board Vote to Defer the material: 13 Yes, 0 Nos, 1 Abstained, 1 Absent.

Livestock Committee Antibiotic Directives – George Siemon (Pgs. 562–574)

Mr. Siemon stated that the committee put forth a resolution, a simple paragraph that read, “The National Organic Standards Board respectfully requests that USDA NOP withdraw the 41304 Antibiotic Guidance Statement and work collaboratively with the NOSB to develop policy guidance which is consistent with the Livestock Healthcare Practice standard, statements made by the NOP in their preamble, “NOSB Recommendations, Consumer Expectations, and the Principles of Organic Livestock Production.” Ms. Dietz commented that she did not see the document and therefore can support it. Ms. Koenig moved to defer the issues at this meeting and allow the Executive Committee to process all the policy statements and come up with a format to address the issues. Ms. Dietz seconded. There was a discussion on what type of document Mr. Siemon put forth, and then the second was withdrawn.

The motion was reinstated, “for the Executive Committee to respond to the directives from the NOP and formulated a process and response based on information.” No second, motion failed. Mr. Carter made a motion that we direct the Policy Committee to bring forward to the Executive Committee for consideration a resolution concerning the sense of the NOSB regarding the NOP policy directives. Ms. Koenig seconded. Final Board Vote: Unanimously – Motion carries

Policy Development Committee – Dave Carter

Board Policy Manual (Pgs. 574–577)

Mr. Carter stated that the committee and reviewed two issues: (1) the amendments to the Board Policy manual; changes were made and posted for comment, specifically, the confidentiality requirements in the manual, and (2) to address the change in the materials approvals forms that the Board used to incorporate those and substitute them for the ones that they previously had in the policy manual. Therefore Mr. Carter moved to amend the policy manual as recommended by the committee, and Mr.
Riddle seconded. Mr. Riddle stated that there are more than one changes to the manual such as deleting the whole peer–review section, changing the name of the processing committee to “handling”, and there were things pending because they didn’t deal with any non–material issues in October. Mr. King stated that the manual is posted on the web site. **Final Board vote: Unanimously – Motion Carries**

Mr. Riddle will follow–up and send a clean copy to the NOP that actually deletes those green things and add the yellow comments.

**Compatibility with Organic Production and Handling (Pgs. 577–580)**

Mr. Carter recognized and thanked Mr. Riddle for the incredible amount of work that was done, and stated that he carried 95 percent of the workload, including developing 22–23 page drafts of material with background. He said that this was posted and there were six public comments received; all of the comments recommended that we drop from there Section M, which read “does the substance facilitate the development of new organic products?” The committee has recommended that we move forward the statement of “compatibility with organic production and handling,” with the deletion of Section M, and Mr. Carter made a motion to accept the Draft 5 recommendation; Mr. Siemon seconded. **Final Board Vote: Unanimously – Motion Carries.**

**Accreditation, Certification, and Compliance Committee – Andrea Caroe**

**Compliance Procedures for Non–Compliances Recommendation (Pgs. 581–582)**

Ms. Caroe stated that Draft 8 was handed out and was voted to accept as guidance because this is educational information for certifiers. There were no changes from that version, and that version had very few changes from draft 7 which is posted on the web. They received one public comment and changes were made based on the comment. Mr. Riddle moved for approval of draft 8, and Mr. Siemon seconded. **Final Board Vote: Unanimously – Motion Carries.**

**606 Task Force Report – Jim Riddle, (Pgs. 583–592)**

Mr. Riddle stated that there had been some Board and public comments, and there was a need for the Task Force to meet and redraft and print out all 22 pages and he highlighted all the changes that was made to the document. Mr. Riddle discussed all the changes that were made and moved for adoption of the document, and Ms. Caroe seconded.

Ms. Ostiguy stated that she didn’t understand Recommendation 2a, Number 5, at the top of the next page, “as applicable” and asked for explanation.

Ms. Caroe stated that this is to accommodate situations where the ingredient is very specific and two -- three reasonable sources are available, so it is a guideline that three is a reasonable or a typical number but there may be situations that require more or less than that.

Ms. Dietz agreed, however, where are the certifiers able to determine if it's applicable for three potential suppliers, and -- and that would be after the fact, so -- Ms. Caroe stated that in the negotiation between an applicant and certifier, that is a discussion that they would have, as far as the applicant coming to them and explaining the challenge.

Ms. Dietz stated that as a handler, if she have "as applicable" in my handling plan, she can always make justification as to why she only chose one and try to get that through. She also understand that if there's not three suppliers, at least she can try for three, you know; and felt that the industry has
somewhat supported a minimum of three sources, and it’s too weak and wasn’t sure if she would support that. Mr. King asked if there was a motion? Ms. Dietz confirmed, and Mr. Riddle said to amend to delete. Mr. Carter moved to strike; Ms. Dietz made a motion to strike “as applicable” and put in “minimum of three” and at least you can document where you’ve tried three different sources and you’ve only got one. Mr. O’Rell seconded. **Board Vote as amended:** 11 Yes, 2 Nos, 1 Abstained, 1 Absent, Mr. King stated that they were back at the original recommendation, and made a motion to accept the recommendation as amended – Vote: Unanimously approved – motion carries.

The meeting was recessed at 5:05 p.m.

**Reconvened on April 30, 2004 at 8:05 a.m.**

Mr. King opened the meeting and stated that the first thing on the agenda was public input, however said that Mr. Carter had a quick announcement.

Mr. Carter felt that it was important for him make some sort of statement before they left Chicago in regard to some of the policy directives, and wanted to offer up a very short resolution and give the Board members something to think about that would express the disappointment and concern of the Board over the lack of advance notice or consultation by NOP in the issuance of certain policy directives.

Mr. King stated that for public input they have 35 signed up and allotted approximately 2 hours and 15 minutes on the agenda; and several Board members expressed to him how important public input and requested extension of the public input session.

**PUBLIC COMMENTS – April 29, 2004:**

The following individuals presented public comments. Each person’s comments were recorded and transcribed for the record; and some individuals also presented written comments. Transcribed comments, and where applicable written comments can be found at **DESIGNATED ATTACHMENTS**.

**SIGN–IN SHEET [ATTACHMENT C]**

Mark Kastel, Organic Farmer Representative, Cornucopia Institute, [Pg. 596, Attach. 1]
Kelly Kasper, proxy for Alice Rolls, Executive Director, Georgia Organics, [Pg. 602, Attach. 2]
Marty Mesh, Executive Director, Florida Organic Growers and Quality Certification Program, [Pg. 607]
Urvashi Rangan, Environmental Health Scientist, Consumers Union, [Pg. 611]
Brian Condon, proxy for Bart Reid, Organic Shrimp Producer, Permian Sea Shrimp Company, [624]
Brian Leahy, President, California Certified Organic Farmers, [Pg. 628, Attach. 3]
Liana Hoodes, Organic Policy Coordinator, National Campaign for Sustainable Ag, [Pg. 635, Attach. 4]
Harriet Behar, Organic Inspector, [Pg. 641]
John Clark, Certified Organic Farmer, [Pg. 646]
Jonathan Landeck, Organic Farming Research Foundation, [Pg. 651]
Richard Wood, Executive Director, Food Animal Concern Trust (FACT), [Pg. 652, Attach. 5]
Merrill Clark, Roseland Organic Farms, [Pg. 656]
Tom Harding, [Pg. 667]
John Cleary, Accredited Certifier, NOFA–VT, proxy for Erich Bremer, NOFA–NJ, [Pg. 675]

**Break at 10:00 a.m., and reconvened at 10:17 a.m.**

Mr. King made a couple of announcements that there was an ACA training that afternoon and the room needed to be vacated no later than 12 noon. He mentioned that the Board responded with an official letter concerning the materials review process and he literally forced as Chair to distribute the letter asking Board
members to review and support the letter in 24 hours or less, and asked Ms. Dietz to provide a brief acknowledgement.

**Statement from Kim Dietz, NOSB Secretary, [Pg. 682]**

Ms. Dietz informed the Board that for the record to formally acknowledge the letter and the dedication and hard work of the Board. She said that as representative of the industry, it was very important that they work together to protect the word, “organic.” The Board drafted a letter to the NOP regarding the materials review process and she didn’t sign the letter prior to its submission because of the short time frame that they were asked to review it. Therefore, she wanted to go on record in saying that she supports the letter’s directive on the materials review process. And finally, that it’s essential that the Board have a full understanding of the process and their roles in the process; and she pleaded with the NOP and the Board to respect the fact that each person deserves to have adequate time period to review documents.

**Public Comment continues**

Ed Daniel, Vice President, Bushinboy Farms, [Pg. 683]
Ray Green, California Certifier, [Pg. 687, Attach. 6]
Cissy Bowman, President/Owner, Indiana Certified Organic, proxy for Jay Feldman, National Coalition Against the Misuse of Pesticides, [Pg. 689]
Lynn Coody, Organic Ag System Consulting, [Pg. 703]
Weenonah Brattset, Organic Farmer, proxy for James Christianson [Pg. 706, Attach. 7]
Richard Kanak, Organic Consumer, proxy for Rufus Yoder and Tony Ends The Churches’ Center for Land & People [Pg. 712]

**Statement from Kevin O’Rell, Handling Committee Chairperson, [Pg. 718]**

Mr. O’Rell said that he wanted to go on record as saying that he was disappointed to hear that people were coming to use the public comment period for making public and personal attacks to companies, and felt that is not what public comment was for in that forum. It’s for commenting about organic standards, commenting about the NOSB and NOP, and in his opinion, it is not a place for public and personal attacks on companies and individuals. He urged the public not to use this tact.

**Public Comment continues**

Kevin Chernis, Organic Farmer, [Pg. 718]
Michelle Wander, Professor Soil Scientist, University of Illinois, [Pg. 725, Attach. 8]
Rachel Azzarello, proxy for Nathan Hetrick [Pg. 731, Attach. 9]
Jane Brandley, Organic Consumer, and proxy for John Bobbi, Executive Director, Organic Farmers Agency for Relationship Marketing [Pg. 736, Attachs. 10 & 11]
David Engel, Executive Director, MOSA, [Pg. 743]
Leslie Zuck, Pennyslyvania Certified Organic (PCO), [Pg. 744]
Jean Zazadil, Organic Consumer, proxy for Jim Koon, AllMar Orchard, [Pg. 748]
Steve LaFayette, and proxy for Jeff Webster, Sierra Club National Ag Committee, and Larry Gilbertson, [Pg. 752, Attach. 12]
Kelly Shea, Horizon Organic Dairy, [Pg. 757]

**Public Comment Period Officially Closed**

**Statement by David Carter, Policy Development Chairperson, [Pg. 759]** For more information, see Discussion Document]
Mr. Carter offered for the Board’s consideration the following resolution, “The NOSB expresses its strong opposition to and concern with the NOP’s issuance of significant policy directives without consultation with or advance notice to the NOSB.  Mr. Carter moved that the resolution be accepted by the Board, and Mr. Riddle Seconded.  **Final Board Vote: 12 Approved, 1 Abstained, 1 Absent**

Mr. King suggested to the Board members to submit their work plans to Katherine by next Friday, May 7, 2004.

Mr. Riddle requested the status of the update on the livestock materials that the Board’s recommended, they wanted to move it forward because they heard from FDA in October, and several public commenters.  Mr. Jones stated that the document was in the Office of General Counsel, and they’ve raised a number of questions, and they have significant concerns about the level of documentation associated with the materials.  NOP will be going back in consultation with OGC and attempt to answer their concerns, that’s where they are and they won’t move forward until those concerns are answered.  He also stated that the docket contains everything through May 2003; and we have gone through the consultation process with FDA on all of those materials.  Some of the materials that were mentioned during public testimony are off–label use and will not be included in the docket.  Propylene Glycol for the use of treatment of milk fever is an off–label use for that material and will be included in the docket.

**Next meeting: October 12, 13, 14, 2004**

**Meeting adjourned at 12:08 p.m.**
P R O C E E D I N G S

CHAIRMAN KING: Good morning. I'd like to officially call to order the meeting of the National Organic Standards Board.

Welcome to Chicago. Thanks for being here. Thanks for your interest. I look around the room and I see a lot of familiar faces, I see a lot of years of dedication and experience to the industry.

As usual, we have some interesting topics to discuss and deliberate over the next few days, and we'll appreciate your input and your positive focus on that.

Would like to essentially start the meeting with board introductions, so Ann, if you'd like to start.

MS. COOPER: Ann Cooper, I'm a chef from New York, and I'm a consumer.

MS. KOENIG: I'm Rose Koenig, producer, from Gainesville, Florida.

MS. CAROE: Andrea Caroe. I'm the certification director for Protected Harvest and an environmental representative.

MR. SIEMON: George Siemon, from Wisconsin, and I'm the producer rep.

MR. CARTER: Dave Carter, from Colorado, a
consumer rep, but in real life an itinerate farm organizer.

MR. RIDDLE:  Jim Riddle, certifier rep,
University of Minnesota.

CHAIRMAN KING:  Mark King, a retail rep,
Indianapolis, Indiana.

MS. DIETZ:  Kim (Burton) Dietz, and I'm from
California, and I'm a handler representative.

MS. OSTIGUY:  Nancy Ostiguy, environmental
representative.

MR. O'RELL:  Kevin O'Rell, Boulder, Colorado, and
I'm a handler representative.

MS. CAUGHLAN:  Goldie Caughlan, Seattle,
Washington, consumer rep.

MR. LACY:  Mike Lacy, Atkins, Georgia, science
rep.

MS. GOLDBURG:  I'm Becky Goldburg, from New York.
I'm an environmental representative.

CHAIRMAN KING:  Okay, thank you. At this time
has everyone had a chance to approve the agenda? -- I hope.
I'd like to officially approve the agenda.

MR. CARTER:  You need a motion for the -- second.
CHAIRMAN KING:  It's been moved and seconded.
All those in favor say aye.

BOARD MEMBERS:  Aye.
CHAIRMAN KING: Opposed, same sign.

(No response.)

CHAIRMAN KING: Motion carries.

At this time, in the first tab of your book, you'll see the minutes from the October meeting, 2003. Are there any proposed changes or amendments or edits at this time?

(No response.)

CHAIRMAN KING: I would entertain a motion.

MR. RIDDLE: Yeah, I'd move that we approve the --

MR. SIEMON: I'd second that.

MR. RIDDLE: -- October minutes.

CHAIRMAN KING: Moved by Jim Riddle that we approve the October 2003 minutes, seconded by George Siemon. All those in favor say aye.

BOARD MEMBERS: Aye.

CHAIRMAN KING: Opposed, same sign.

(No response.)

CHAIRMAN KING: Motion carries.

Quick note here, the executive committee meetings are actually listed here, those are on the website for your review, so those who are interested in what the executive committee has talked about over the past few months,
they're there for information purposes.

And one quick announcement I forgot to make:
Please, if you would, those of you who have cell phones,
turn them off, turn them to vibrate. If you do get a call
or something of that nature, we'd greatly appreciate your
stepping in the hall to take the call, that sort of thing.
So thank you for that.

Are there -- and I do have one quick
announcement. Owusu Bandele was not able to make the
meeting for medical reasons, so our thoughts are with him
and hope that he gets well soon, so we regret that he can't
be here.

Are there other announcements? Jim?

MR. RIDDLE: Yeah, Mark, I have a couple of
announcements. One went out to the Board -- I believe it
was last week, a letter informing the Board of the
formation of an accredited certifiers association, and I
have a copy of that, if you haven't seen it or didn't make
note of it, and I just wanted to mention that for the
record.

I see this as a very positive development. There
is a need for a network, a professional association, of the
accredited certifiers. So I just wanted to call that to
everyone's attention.
This is not an inspectors association, we've had that for years, but now there's a similar organization for the certifiers themselves, that are USDA-accredited. And it's currently at an interim address, it's housed at the Vermont Organic Farmers, Nova [phonetic], Vermont, office.

And then also I wanted to bring to people's attention a scientific study that has just been published in Renewable Agriculture & Food Systems, entitled "Profitability of Organic Cropping Systems in Southwestern Minnesota," and that was a 10-year comparative study of organic four-year crop rotation versus 2-year conventional systems, and just to quote one thing from the abstract: with premiums, the 4-year organic strategy had net returns significantly higher than conventional systems. Without premiums, the net returns were statistically equal. So they were looking at yields and profitability in this study and finding that even without organic price premiums it was equivalent profitability.

So that's in Renewable Agriculture & Food Systems, Volume 119, 135 through -46, page numbers. That's it.

CHAIRMAN KING: Are there other announcements?
(No response.)

CHAIRMAN KING: Okay, I have one other

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5485 S. LIVE OAK, GILMER, TX 75644
announcement concerning a board member. Many of you are aware that Dennis Holbrook has resigned from the Board. Dennis called me several months ago, and he's had some challenging situations in the family; consequently, he's not only managing his own farm but some of his father's businesses, and so he regretfully resigned, but it appeared to be a wise choice based on the work demands, professional demands before him. So he will be sorely missed, and fortunately we have people, like Nancy, who have stepped up and taken over some of where Dennis left off with crops and that sort of thing, so we're very grateful for that. I did want that to be reflected in the record.

If there are no additional announcements at this time, we're actually a bit ahead of schedule, we're ready for public comment.

And just a quick reminder, and I think Katherine had indicated there are two sheets for the sign-up of public comment, one for today, and of course one for the second session, which is on Friday. So it's important, I think, to sign up in advance, especially for Friday, it appears there may be some additional people coming in for the conferences and the like, so it would be, I think, a good idea to reserve a spot early, if you will.

And I think we're ready for the first -- I don't
know if we have a sheet up here. Oh, an official
announcement. Jim Riddle, who has so graciously served as
our timekeeper for the last many years --

MR. RIDDLE: I've lost track of time.
(Laughter.)
CHAIRMAN KING: -- has officially handed over his
-- well, his sign --
MR. RIDDLE: Yeah, the one-minute sign.
CHAIRMAN KING: -- the one-minute sign, as well
as the official timekeeping duties, to Kim Burton today.
So you have five minutes to make comment, and you'll get a
one-minute warning.

We have two names on the first -- we have John
and Merrill Clark.
MS. CLARK: Well, we're not joined at the hip, so
we would -- we're two different people.
CHAIRMAN KING: Yes, I'm aware --
MS. DIETZ: So you each want five minutes?
CHAIRMAN KING: So do you each want five minutes,
or you're doing this together --
DR. CLARK: Yes.
CHAIRMAN KING: All right. Thank you.
MS. DIETZ: I have my baking timer here, so when
you're baked, then it's going to go off.
(Laughter.)

DR. CLARK: Okay, good morning. My name is Dr. John Clark. I am a biochemist who turned organic farmer in 1968, after a long career as a biologist, research chemist, and professor.

My wife, Merrill, was a charter member of the NOSB from '92 to '96. I became a student of the OFPA statute during this period and wrote a number of published analyses of the OFPA, including a complete analysis of the Act in the University of Toledo Law Review in 1995.

This document was based on this statute and was heavily reviewed by student editors, faculty editorial staff, as well as editors at the University of Law Review -- University of Toledo Law Review and University of Toledo Law School itself.

Unfortunately, this review has been roundly ignored by USDA's National Organic Program personnel, the NOSB and the USDA Office of General Counsel, who were all provided with multiple reprints of that review in 1995.

I have furnished copies of that review for everyone, including a copy of my statement.

I'm here to tell you that the Final Rule is rife with multiple violations of the statute. Furthermore, elicitations of those violations can be found in 26 pages
of single-spaced line-by-line, word-by-word comments
submitted by me in April 1998 in response to the first
proposed Organic Rule.

I spent the entire month of March 1998 grinding
out these comments, with recommended deletions, additions,
and extensive references to the OFPA. If these comments
had been taken seriously, they might have enabled the NOP
to quickly publish a final rule and regulation consistent
with the OFPA statute. Instead we got a Final Rule 5 years
later, ignoring comments by me and others, which persisted
in previous inconsistencies and further violations of the
OFPA statute.

I ask now that NOSB request a reproduction of
these comments for each present NOSB member, as well as
obtaining copies of the Law Review. I have done the second
thing for you.

I find it shocking that 14 years after OFPA's
passage NOSB and NOP persist in the pretense that Congress
did not make clear the legislative letter and intent of
this law and that members are still trying to substitute
their own agenda, their own agendas, on many aspects of the
statute, particularly when it comes to the List of
synthetic ingredients in processed foods labeled "organic."

The National List procedures for technical
advisory panel reviews have been mishandled, misdirected, and illegitimately done, in many instances, for many substances. They have now ended up with an unbelievable array of questionable materials allowed for organic use, with more being jockeyed up for approval today.

On the second page, Line 3, it's 6518(m), not 6519(m), if you could correct that. TAP reviewers are generally misinformed about three criteria -- about the three criteria, 6517(c)(1)(a) for review qualifications, and the category qualifications, 6517(c)(1)(b), and the applications of the seven criteria under 6518(m).

If, and only if, the criteria in 6517(a) and (b), (c)(1), (a) and (b), are met, NOSB should reject any review not demonstrating this procedure to qualify a material for review under 6518(m). That's what Congress intended, very clearly and concisely, in the law.

Furthermore, all materials must include specific use and application annotations. They rarely do. The Organic Materials Review Institute and Virginia Tech are not necessarily legitimate TAP reviewers because of incompetence, conflicts of interest, or lack of transparency.

USDA must find qualified reviewers, compensate them fairly, and keep permanent files on each petitioned
material, in addition to using a proper tolling period for
renewed reviews under the required 5-year Sunset Provision
referred to in the statute. This Sunset period does not
run from October '02, it runs from the date of the NOSB
review to each substance.

Then I call on the National Organic Program
director and staff to conduct NOSB information assessments
on the content of -- I'll start skipping these things,
conduct NOSB information sessions on what is commonly
called a precautionary principle as it applies to organic
standards. The staff as well as NOSB should avoid the
pursuit of risk assessment and take up the more important
task of risk avoidance.

MS. DIETZ: Time.

DR. CLARK: The rest of it is fairly clear, I
won't insult you by going over my time and reading the rest
of it, but the last paragraph, "Violations of the OFPA in
USDA's rule are unconstitutional because the administrative
branch of the federal government has only the authority to
enforce the law and not to make it. Even if there is a
precedent for this, nothing can justify making rules which
mislead organic food consumers. OFPA is a law which is
about making claims to consumers, a generally foreign
concept at USDA, where producer and processor groups have
been the focus for decades.

CHAIRMAN KING: Thank you.

DR. CLARK: Thank you.

CHAIRMAN KING: Merrill Clark. Hold on, we have a question. Dr. Clark, Rose has a question for you, if we can get you back up here, that'd be great.

MS. KOENIG: Is this working now?

THE WITNESS: Since you last heard from me, I'm deaf in one year --

CHAIRMAN KING: It's just that the speaker's pointed toward the audience, you can't hear it.

MS. KOENIG: Oh.

Did you have a chance -- we have a Sunset Provision that the materials committee has proposed as far as the process that we're trying to come up with to go through this 5-year Sunset. Did you have the opportunity to take a look at that?

DR. CLARK: I looked at something briefly yesterday and I was kind of surprised that everything dates from '02, and there are materials on the List that have been reviewed 11 years ago.

MS. KOENIG: Yeah, part of that's because the (inaudible) start with when the rules -- it starts on the day of implementation, that's why that '02 date is there.
DR. CLARK: That's not the way I read the statute.

MS. KOENIG: Well, my -- I guess my -- my question was -- I guess my comment now, if you looked at it, would be: it would be helpful -- you seem to be concerned and interested about materials process, if you could perhaps submit, after you take a look at that Sunset Provision, comments on that, that would be very helpful for the materials committee.

DR. CLARK: Okay. I've offered to do -- not only review -- I did some in '94 and '95, and I've never been asked since to do anymore, but I've been, I thought, visibly available to do more and comment on the process as well.

CHAIRMAN KING: Are there other questions?

MR. RIDDLE: I just have a comment.

CHAIRMAN KING: Jim has a quick comment.

MR. RIDDLE: John, I appreciate your concerns. I just want also you and other people in the audience to be aware that, you know, one of the criteria in OFPA, as I'm sure you know, is consistent with a system of sustainable agricultural, and then in the Rule it mentions compatibility with organic farming and handling, and at the Board meeting last October we spent a lot of time working
on a draft to further define and explain what that means, and that has been posted for several -- for two rounds of public comment, and we'll be considering the final draft on that, and I just want to point out that it does embed the spirit of precaution. So I appreciate you bringing that up in your comments, and the Board is trying to address that with the compatibility draft.

DR. CLARK: And I would appreciate having the latest draft of that. I'm not sure I have that.

MR. RIDDLE: Yeah. It's posted on the website leading up to this meeting. There's slight amendment of deleting one line from it, that we'll be considering as we vote, but it's not substantially different than what's been posted for 60 days.

CHAIRMAN KING: Thank you, Dr. Clark. Merrill, now we're really ready for you this time, so --

MS. CLARK: Well, thank you. Merrill Clark, growth on organic farms, and one of the charter members for NOSB back in '92 to '96 and chaired the livestock committee.

I'm here today to embellish about a portion of a letter that I wrote to Jim Riddle back in March, 18, of this year, which I am told he copied you all. One of the issues of that paper -- which I'll talk about the most, but
I have a couple of things to add to that -- is the organic inspection and certification of already USDA FSIS-inspected livestock processing facilities. We feel the addition of another inspector, another work beyond the work of competent FSIS inspectors already at the site at smaller processing plants normally used by most of the small- or medium-size organic livestock producers is redundant, unnecessarily expensive, and actually a major stumbling block to getting any significant quantity of certified organic meat products into the marketplace.

An example of the problem: within the Dallas, Texas, State Burger website, which I looked at recently, is the question: "Is State Burger beef organic?" This is the name of a product. His answer was: "Well, from our research, it appears the federal government now regulates it, so it can be called certified organic, so we have to be careful how we use the term." Then he says, "First of all, I don't believe there is any such thing as a certified organic processing plant, livestock processing plant."

We at Roseland Farms are beginning to agree with them. After having gone through the hassle of searching out now three USDA-inspected processing plants over the course of 20 years, the new rule is forcing additional certification of the same plants, not because the ones we
have been working with through the USDA FSIS inspection are inadequately, with inspectors incapable of ensuring all organic processing standards are met, but because animal
slaughter and meat cutting and wrapping seem to be falling into the same handling/processing category as complicated multi-ingredient processed-food products and other categories.

These products do probably require extra oversight because of their additive uses, cooking, mixing, and all the other things that go on with making a processed product, but cutting up a side of beef into T-bone and other cuts and wrapping them is not -- it's not that complicated.

I'm here to say that the continual inspection that is presently at work in these smaller processing plants across the country can easily be expanded to cover the extras required by organic meat slaughter and handling.

Denny Proctor of Great Lakes Processing, the only finally certified organic meat processor in all of Michigan and maybe in a three-, four-, five-state area, in the Great Lakes, told us last February that he was required to make no changes at all in his processing protocol in order to comply with the protocol organic standards that were already in place. In other words, he was doing everything
required already that was being asked by USDA inspection protocols.

I believe that is undoubtedly the case in the plant we are using, that is, USDA FSIS-compliant, in Shipshewana, Indiana, and 400 miles closer to us than the Great Lakes plant that's certified in Sheboygan, Michigan, and our concern is about continuing to ship animals, which we haven't had to do in the past, 400 miles one way.

USDA inspectors are at both of these plants regularly when animals are slaughtered. FSIS inspectors can and do become quickly versed in the other things to look for with respect to organic processing requirements. We have set up a protocol with this processing plant that reflects what we require, animals first in line before any slaughter takes place, preceded by complete segregation of our animals from any others, no conventional feed fed while they're there, Roseland beef sides tagged and hung in separate quarters, all equipment first used for the cutting of our halves, 180-degree water for sterilizing and washing down facilities, et cetera.

FSIS inspectors can and have been carrying out these checks. FSIS and AMS are a part of the same agency. Certainly they can work together on bringing this about.

What are the other options? Well, we could build
our own 500,000 -- or I mean a million-dollar inspected
processing plant and then pay the cost for certification we
are already using or try to find another processor who
wants to be -- who might want to do our work but not
terribly concerned about being certified and having another
inspector on top of the first inspector come in again.

    Organic Valley is probably, I suspect, the
biggest operation that can afford to have their own
processing plants. I was told, actually, by Pam Saunders
that Organic Valley had a phone call not too long ago that
this point is well-taken, that I'm bringing up, and should
be brought up for a possible rule change.

    When I contacted OTA, for instance, for
information about certified organic processing facilities,
they were able to lead me to no one, period.

    Certainly the Rule with respect to requiring
additional organic certification and inspection at USDA
FSIS-complaint processing plants needs to be reviewed,
looked at, or something.

    I wanted to add a couple other related issues.

    MS. DIETZ:  Time.

    MS. CLARK:  Do we have large animal, otherwise
called kayfall [phonetic] processing facilities or
livestock facilities in the organic tradition, there seems
to be a concern that there are large dairy operations and
the continued need for other antibiotics and parasiticides
maybe to accommodate larger dairy, factory, farm, whatever
you want to call them, and as far as we can get away from
anything relating to a K-fall, the sooner we better do
that, because it is not anyplace at all in the Rule on
organic animal production.

CHAIRMAN KING: Are there questions for Merrill?
Yeah, Dave.

MR. CARTER: Merrill, so you're recommending that
we would allow slaughter to be handled in a non-certified
facility, organic certified --

MS. CLARK: Well, in an FSIS-inspected and
therefore certified -- if there were some way where the
certification could take place through FSIS -- I don't
understand the reason for having this inspection and then
another inspection, because there isn't that much more --

MR. CARTER: Okay. How would you handle it,
because even some of the smaller plants now, as a part of
their slaughter process, are doing things like rinse and
chill, when they run a super-chilled saline solution
through the carcass after they stiff the animal or -- or
those type of things. I mean, there are some processes, in
actually slaughtering the animal and cutting the carcass,
in which some chemicals and some things are utilized. How would we -- how would we --

MS. CLARK: Well, we're -- we're just talking about sterilization of hot-water rinse, first of all, or our particular animals or some other's organic animals would just have a different process, which they would put into their protocol and set it up. It wouldn't have to be: well, here's what we do with all the conventional animals, we have to do it with yours as well. If there's something that's allowed through organic, that FSIS can certify to -- it's -- it's terribly -- I mean, how many people know where these certified livestock processing plants are, and -- otherwise, you know, if we keep it that way, we're -- we're stuck with no certified organic livestock.

CHAIRMAN KING: Jim.

MR. RIDDLE: Yeah, just a quick comment. I promise not to comment on everything that everyone says.

(Laughter.)

CHAIRMAN KING: We're going to hold you to do that.

MS. CLARK: Too (inaudible) so far.

CHAIRMAN KING: Yeah.

MR. RIDDLE: On the record (inaudible). Yeah, in the past few months I did a survey of organic livestock
research needs, and one theme that kept coming up was exactly what you're saying: the lack of local, regional processing capabilities for organic livestock.

So it certainly is a need, I think it's a need just in general, not for organic livestock, but we've lost a lot of the --

MS. CLARK: Yeah.

MR. RIDDLE: -- infrastructure out there for slaughtering. But also, I worked for years as an inspector and inspected a number of USDA facilities, slaughter facilities, and found, you know, numerous things happening which didn't meet organic standards, you know, use of pesticides in the kill room, lack of audit control, lack of cleanup procedures that would be necessary. So there's -- you know, I -- I wouldn't support anything to weaken the organic certification of those facilities, but, you know, possibly training FSIS inspectors to understand the organic regulations I think would be a major step forward.

But I did just want to point out that there is at the present time the organic certification cost share, that will reimburse handling facilities as well as farmers up to 75 percent of the certification inspection costs, up to $500 a year. So that would be an incentive for some smaller regional processors, you know, to go that route,
but I think it -- you know, the studies I've done certainly
show that this is a valid concern that you bring up.

    MS. CLARK: Well, yeah, because the processor
we're using now has an inspector coming, FSIS inspector
there, and they're there all the time. A certifier
inspector, what does he come, once a year? He, she,
whoever. I mean, they're always there, and if they know
the protocol for organic, why -- that's far better than
saying, "Here comes my once-a-year certifier inspector."
It's sort of crazy.

    And talking about diminishing, I'm very worried
that I see antibiotics and parasiticides coming up on all
this for animal production. I don't get it.

    CHAIRMAN KING: Are there other questions?
(No response.)

    CHAIRMAN KING: Thank you, Jim. Thank you,
Merrill.

    Next we have Mark Kastel.

    UNIDENTIFIED MALE VOICE: (Inaudible) Friday.

    CHAIRMAN KING: Okay. I think I'm probably going
to butcher this next name. Kathy Seus.

    MR. RIDDLE: Mr. Chairman, could you say who's on
deck, please.

    CHAIRMAN KING: Yes. Thank you, Jim. Dr. Bossy

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5485 S. LIVE OAK, GILMER, TX 75644
[phonetic] is on deck.

MS. SEUS: Last name is spelled S as in Sam, -e-u-s, as in Sam, like Dr. Seuss, less one S.

UNIDENTIFIED FEMALE VOICE: I'm having real difficulty hearing, whether it's a combination of this -- and the microphone does not seem to be fully functional.

CHAIRMAN KING: Yeah. I don't see our technical soundperson. When he gets in -- okay, sorry for the interruption.

MS. SEUS: That's okay. You all know my name now, right?

CHAIRMAN KING: Yes.

MS. SEUS: Good morning. My name is Kathleen Seus, as you all know. I'm from -- I'm the farm program manager from Food Animal Concerns Trust, which is a non-profit organization founded in 1982 that advocates humane and sustainable farming practices, and I'm pleased to have this opportunity to provide comments on behalf of FACT to the NOSB.

FACT welcomes the animal husbandry standards included in the National Organic Program, specifically Sections 205.236 through 205.239. These standards provide a basis for which elevation by which eligibility for organic certification can be established.
However, while we acknowledge NOSB's effort to create minimum standards for humane animal husbandry, we are concerned that the current standards are very vague and lack clear definition. This lack of clearly-defined standards has left the issue of organic animal husbandry open to interpretation by NOP and producers that undermines the integrity of the organic program and erodes consumer confidence in the USDA Organic label.

FACT is concerned about this lack of clarity for several reasons. First seems to be the inclination of NOP to overstep its authority to override or reinterpret established animal husbandry standards. To illustrate this concern I reference two examples.

The first is the court case Massachusetts Independent Certification v. Ann Veneman, Secretary, U.S. Department of Agriculture, and A.J. Yates, Administrator, Agricultural Marketing Service, regarding country hen.

The second example is the April 13th, 2004, guidance document regarding the origin of livestock and dairy animals.

The relevance of the examples are more completely detailed in my written comments, I don't have time to go through everything. However, the fact is that NOP does not have the authority to override or reinterpret or rewrite...
standards as established by the NOSB.

Secondly, FACT is concerned about the impact NOP interpretations may have on animal health and well-being. Here I refer specifically to the guidance document beforementioned. FACT is concerned that the need for any organic dairy operation who's already been 100-percent certified to go outside the organic system for replacement heifers may be indicative of possible animal health problem on the farm, resulting in higher-than-normal mortality.

I quote: "The primary goal of organic agricultural is to optimize the health and productivity of interdependent communities of soil life, plants, animals, and people. Compromised animal health has no place within an organic production system."

FACT is also concerned about the survival of smaller family farms. Organic food production is one of the few remaining niche markets available to smaller farmers. Smaller farmers need these niche markets in order to survive the mass consolidation of the agricultural industry as a whole.

Every time NOP overrides or reinterprets the established standards, particularly in favor of larger factory-style organic farming operations, they un-level the playing field. This places the smaller independent family
farms at a competitive disadvantage and threatens their economic sustainability, which violates the very principle on which organic agricultural is founded.

Finally, FACT believes that clearly-defined standards are crucial to consumer confidence in the Organic label. FACT managed Nest Eggs, a brand of Kaytree [phonetic] eggs, for 18 years. I personally managed that for 2 years. FACT established clearly-defined standards for the production of nest eggs, such as stocking density and the prohibition of force molting. Consumers who purchased nest eggs knew exactly what the production standards were and can count on the enforcement of those standards.

However, because concise animal production standards had not been established by the NOSB, consumers cannot be certain which production practices were used to produce the organic food they see in the stores.

All organic eggs, beef, poultry, pork, or dairy, for that matter, are not the same when it comes to animal production practices. FACT believes this lack of consistent production practice erodes consumer confidence.

Without clearly-defined animal husbandry standards, the current standards will continue to be abused. FACT believes that NOP will continue to interpret
standards as they see fit. This undermines the integrity of the organic program, erodes consumer confidence in the Organic label, and contributes to the disappearance of family farms in rural communities.

FACT would like to call on the NOSB to clarify animal husbandry standards. We'd like to see this done for every animal species covered under the National Organic Program. For example, we'd like to see minimum stocking densities, we'd like to see concise definition of "outdoor access." We welcome the opportunity to work with NOSB to help establish --

MS. DIETZ: Time.

MS. SEUS: -- these standards. Thank you for your time.


MR. SIEMON: So just to your last part there, you would actually like to see us get very specific about stocking densities, the whole nine yards, and do you see issues of doing that nationally? That's one of the authority things we've had.

MS. SEUS: You know, I understand it's -- it is thorny, because, for example, we just completed an investigation of about 70 different egg brands that advocate -- or that indicate they're humane, including...
organic brands, and what we found is, stocking densities
and whether or not they allow force molting and whether or
not they beak trim, et cetera, they really vary from
production -- from producer to producer.

The issue is, is that the USDA Organic label is
like an eco-label and there needs to be some substantial
definition behind it, and I don't think we see that. I
mentioned the case of the country hen, you know, outdoor
access is not defined.

Some -- we -- I know there are some producers,
I've met them at organic trade shows, that let their hens
out on pasture, and then there are other ones I talked to
on the phone, when I was doing my investigation, that admit
the hens rarely, if ever, go outside.

I think that's a problem, and when consumers are
looking at different organic eggs, they have no idea what
the standards are, they don't know whether those hens got
outside or not. To some consumers, that's an issue.

And so it would be nice if there were some -- you
know, even if the stocking densities were low, lower than
you would normally consider, it would be nice to have some
standardized production practices out there so consumers
know at a minimum what they're getting when they see the
Organic label.
MR. SIEMON: Does your organization have quantitative standards?

MS. SEUS: We don't have quantitative standards. We are working on basically what I would consider guidance documents for standards for different animals. We obviously do for laying hens because we have the nest egg program. Our standards were probably a little higher as far as stocking density, we had two square feet per bird, it was a cage-free operation, it was not organic, so they did not go outside, although they did have access to natural sunlight, they're Amish farms, so there was no -- it was impossible to do lighting systems, so they have to use sunlight.

But I know there are also other organizations out there, Free-Farmed is one example, Humane Farm Animal Care, where they do have, you know, quantitative standards in place, and I know other organizations are doing that as well.

So I think it's something that's very possible. I'm not saying it's not time-consuming, and I'm not saying it's not going to take a lot of effort, but I certainly think it's something that's possible and might -- might -- you know. And I also think that as the organic industry gets bigger and bigger and more big business, and I'm
talking M & M, Mars, and Con-Agra, and they're already in the organic industry, I think -- I think as the industry gets bigger and it's more dominated by these large industries, I think we're going to see animal husbandry standards decrease and decrease unless we do something to establish standards now. It may not happen for 10 years, but the organic industry is not going to grow at 20 percent forever and at some point people are going to start looking to do some cost-cutting to -- you know, to keep their margins, and it's certainly not going to be to give the animals more pasture.

So it'd be nice to have standards in place so those kind of things don't happen in the future.

CHAIRMAN KING: Other comments or questions?

(No response.)

CHAIRMAN KING: Thank you very much for your input.

MS. SEUS: Thank you.

CHAIRMAN KING: Dr. Bossy is next. Thomas Harding is on deck.

MR. HAM: Dr. Bossy was not able to attend, so I am Steve Ham, and Dr. Girish [phonetic] Ganjyal from MGP Ingredients.

We wanted to thank you for -- I think the
National Standard --

CHAIRMAN KING: Steve, just for the record, how do you spell your name?

MR. HAM: Oh, I'm sorry. Steve Ham, H-a-m.

CHAIRMAN KING: Okay. Thank you.

DR. GANJYAL: And I'm Dr. Girish Ganjyal, G-i-r---

CHAIRMAN KING: We may need a spelling on that.

MR. HAM: It's on the sheet.

DR. GANJYAL: It's on the sheet.

CHAIRMAN KING: Oh, you are on here?

DR. GANJYAL: Yes.

CHAIRMAN KING: Okay, great. Thank you.

MR. HAM: It's much faster.

UNIDENTIFIED MALE VOICE: And please speak into the microphone.

MR. HAM: Okay. We want to thank the National Organic Standards Board for allowing us to present this testimony on behalf of MGP Ingredients, hereinafter MGPI, to support the petition for inclusion of tetra sodium pyrophosphate, hereinafter TSPP, to the National List.

TSPP is an analog of sodium phosphate and is used for buffering and conditioning during the extrusion of wheat gluten. This textured wheat protein is then used as
an ingredient for making organic meat-alternative products. TSPP is listed on the FDA's Generally Regarded as Safe List and is an ideal processing material for organic products. It is presently being used in dairy-substitute products, cheeses, spreads, meats, poultry, and cereals. TSPP is used in small quantities at levels of .5 percent to 3.5 percent in MGPI's proprietary process to produce this textured wheat protein, which in turn is typically used at about 10 to 12 percent in finished consumable products. Thus the level of TSPP in finished consumer products is even smaller.

Currently no alternatives exist for the functional properties displayed by TSPP when used in small amounts in this proprietary process. Extrusion processing is used in this process and involves high temperature and high-pressure cooking for a short duration. TSPP is unique because it has a high melting temperature and thus withstands the extrusion processing conditions while maintaining its functionality.

Saytan [phonetic] is a product made by mixing gluten with water and spices. It does not generate any fibers, like a textured wheat protein, and has poor sensory characteristics. Other materials have been used at three to four times the amounts of TSPP, which gives distortions.
to color and taste.

Furthermore, commonly-used and accepted alternative materials have been tried and offer no serious processing advantages, and none are approved for organic processing.

The following ingredients were tested and their processing effects were as follows. I'm just going to list these, since you have copies. Sodium hydroxide, sodium bicarbonate, sulfur bisulfate, sulfite, metabisulfite, sodium phosphate, disodium phosphate, tetra sodium polyphosphate, sodium polyphosphate, and the last one listing the TSPP.

As mentioned earlier, excluding the TSPP, these materials reduce product quality, functionality, affordability, and cause unwanted product discoloration and undesirable odor and taste to these organic products so cannot be produced from a natural source and has no organic ingredients as substitutes.

TSPP not only aids in the processing of this product, it also retains the digestibility characteristics. Textured wheat protein has an excellent digestibility of 96 percent.

To obtain good textured wheat protein product, the wheat gluten needs to be conditioned to the correct pH
and should flow uniformly and easily in the extruder. TSPP helps to condition and helps the full ability of the wheat gluten in the extruder and thus does not directly texturize the wheat gluten but, rather, creates ideal conditions for the wheat gluten to be textured in the extruder.

Textured wheat proteins provide organic food processors diversity to their product line in the vegetarian, meat analog, and health foods categories.

Finally, in light of the above unique functional properties of tetra sodium pyrophosphate, MGPI is requesting in this petition to expand the sodium phosphate category, which is already approved on the NOSB list for dairy use only, to include milled and processed grains, especially wheat gluten, and TSPP to be added to the sodium phosphate (inaudible) that is already approved. Thank you.

CHAIRMAN KING: Now, does he have an additional--

MR. HAM: No.

CHAIRMAN KING: You're just along, okay.

MR. HAM: To help with questions.


MS. KOENIG: The sentence you wrote -- I guess I need some -- I need some clarity. You say it doesn't directly texturize the wheat gluten but, rather, creates ideal conditions for wheat gluten to be textured in the
extruder, and what does that mean?

DR. GANJYAL: What that means is -- like -- like extrusion is basically a high-temperature, high-pressure cooking system in which basically you know, (indiscernible) which will, you know, knead the dough and everything, like cook it nicely, and by the time it comes to us, then the texture -- it forms texture, like when the fibers are formed.

But actually what happens is the cooking system -- the cooking time is very, very short, and that's why we need some agent to actually make it flow easily, otherwise it will -- you know, the wheat gluten is a dough, it sticks to the system, and so that's why we want something which will make it flow easily in the extruder, and that's the main reason why we want to use TSPP. I mean, that basically helps it, to texture it.

CHAIRMAN KING: Sir, just for the record, could you please read your name into the microphone again for the court recorder.

DR. GANJYAL: Yes. My name is Girish Ganjyal.

CHAIRMAN KING: Thank you.

MS. KOENIG: How do you discern between -- I guess that wording -- again, I'm reading your words, I'm just trying to understand what the difference between --
you're saying functionally it's textured so that it can be processed, but does that -- but that texturizing does result in a texturized wheat gluten, doesn't it? I mean, you say it doesn't, but -- so you're saying -- I mean, it doesn't get removed once it's gone through that process, I mean it's still there and it still functions, correct, or no?

DR. GANJYAL: Basically, that's the reason -- it actually processes, and also like -- probably like some of it is gone because -- I mean, at the high temperature, and there's a lot of water in there, okay, so it solidifizes [phonetic], and when it comes out of the extruder, as the pressure is released, the steam evaporates. So probably some of the TSPP is operated, along with the moisture in there. That maybe -- does that answer your --

MS. KOENIG: Not really, sorry.

CHAIRMAN KING: Okay, Kim and then Kevin.

MS. DIETZ: Are you generally going to be here when we actually review this material, are you here for the few days, if we have questions about the process?

MR. HAM: We were going to leave this evening.

CHAIRMAN KING: Kevin.

MR. O'RELL: I would like to try to bring some --

MR. HAM: I'm sorry, can I add a comment.
Dr. Tom -- or Thomas Harding -- Thomas Harding is our consultants. I believe he will be attending the full --

CHAIRMAN KING: Okay. Go ahead.

MR. O'RELL: It might help to have the technical people here at that time as well, though.

Rosie, just to try to bring some clarification to this and maybe simplify some of the conversation that was going back to satisfy Rosie's question: it's my understanding, and maybe it's incorrect, that TSPP is functioning more as a flow agent through the system but the texture's being created by the pressure in the extrusion process, and the heat.

DR. GANJYAL: Exactly.

MR. O'RELL: Is that --

DR. GANJYAL: Yeah. The --

MR. O'RELL: Can you elaborate, just -- I mean, I wanted -- that's my understanding of how the texture is formed.

MR. HAM: The TSPP is added to help the wheat gluten flow through the -- through the extruder. It's helping with pH and flow. The texturization is actually occurring because of the pressures and temperatures of the extruder, it's a cooking --

MR. O'RELL: The texturization is a mechanical
process.

MR. HAM: Right, through -- through pressure and temperature.

CHAIRMAN KING: Andrea and then Jim.

MS. CAROE: On the first page of the document you provided, you go through the alternatives, and for the sodium phosphate, disodium phosphate, tetra sodium phosphate, and sodium polyphosphate, you have a comment in the process effect that the higher levels of use, 9 to 10 percent or more. Could you explain what that means.

MR. HAM: Sure. We were going through an evaluation of different potential alternatives, and in the evaluation of these -- the ones you mentioned, we were finding that we were needing to use significantly higher amounts to achieve similar effects.

MS. CAROE: Higher amounts of the tetra sodium phosphate?

UNIDENTIFIED MALE VOICE: No.

MR. HAM: No, higher amounts of the sodium phosphate, disodium phosphate, tetra sodium polyphosphate, and sodium polyphosphate.

MS. CAROE: Right.

UNIDENTIFIED MALE VOICE: So 10 percent --

MS. CAROE: (Inaudible) 10 percent higher than
what you would have used for the (inaudible) --

MR. HAM: My understanding -- I'm sorry. My understanding -- go ahead, Girish.

DR. GANJYAL: Yes. If you -- what does that mean is, like when we tried using these different materials, actually we had to use a lot more than -- I mean like 10 percent more than what you would use -- the tetra sodium pyrophosphate.

MS. CAROE: Okay. That's what I just wanted to clarify.

MR. HAM: Thank you.

CHAIRMAN KING: Jim.

MR. RIDDLE: Yeah, I had a question about that too. With these other materials, some of which are allowed, were you getting the same texture response, that you find desirable for your product?

DR. GANJYAL: No [phonetic]. The reason -- I mean, especially tetra sodium pyrophosphate, it helps -- I mean, with that you get the desired product more easily, and also the texture is more better when we use that.

MR. RIDDLE: Okay. So it's not -- it's a combination of using this material with the pressure and temperature that creates the texture or improves the texture; correct?
MR. HAM: Correct. The textured wheat protein that we are producing is different than like a saytan-type product, where it's a solid mass, it's more of extruding to have meat-like appearance, although this is not a meat alternative on its own, it's used as an ingredient in those types of products. So to achieve that type of texture, using the higher levels, we -- we're not getting identical texture, but more importantly, we're getting off color, odor, sensory properties by using these higher levels.

MR. RIDDLE: Okay. And those higher levels, 9 to 10 percent, that's in the wheat gluten itself, not in the finished consumer product; correct?

MR. HAM: Correct. We are using -- this finished product would then be hydrated in water and used as a percentage in a finished product formula, probably 10 to 12 percent, in a finished product.

MR. RIDDLE: Okay. Thanks.

CHAIRMAN KING: I have Nancy, then Kevin.

MS. OSTIGUY: Am I correct that any changes in the flow properties will change the texture?

DR. GANJYAL: Do -- say that very briefly -- what again, say -- like when we texturize (inaudible), like you work the dough, you knead the dough very nicely, and you've put a lot of mechanical energy into the dough, and this
extruder -- I mean, say, for example, in a broad sense, what I can say is (indiscernible) then we may have to extend the extruder far, far bigger, okay, because the time which is available to cook in the system is very, very less, so you want to make sure that it flows very nicely and mixes very nicely when the dough is going into the screws [phonetic]. So that's -- I mean, we found that TSPP is basically helping us in that flow, so that it gets a good amount of time to cook properly and uniformly.

CHAIRMAN KING: Kevin.

MR. O'ReLL: Yes. The use of orthophosphates was discussed before, and I'm just a little confused, I'd like to get some clarity from you. The use of orthophosphates, we were told before, didn't provide the same functionality in terms of a finished product, but now you're saying here that the orthophosphates require just a higher usage level of 10 percent more. If -- if something that's already approved works at a 10-percent higher level, does it give you the same texture --

DR. GANJYAL: Well, in that case what happens is we don't get like enough of the wheat actually in the final product, like say for example you have like 100%, you add like 12 percent or -- the other products, then the actual level of the wheat in the final product is very, very less...
when you compare it with using TSPP. And also it gives
like off flavors and, you know, odor and all that sort of
stuff.

MR. O'RELL: Well, I guess what I'm asking is:
if you can use an already-approved product at 10-percent
higher level, do you get the same results or are you saying
you get different results that are unacceptable?

DR. GANJYAL: Well, I mean, it gets -- I mean, it
gets like other off flavors and, you know, like different
other stuff along with that.

MR. HAM: I think, on the sensory properties, it
doesn't make as acceptable a finished product, or an
acceptable ingredient in our -- to our customers to use in
organic products.

CHAIRMAN KING: Rose had a quick question.

MS. KOENIG: I understand it's your -- so you're
looking for the substance for your proprietary process,
which involves a certain mechanical setup, with pressure
and temperature. Is there other wheat proteins available
on the market that is commercially being used in products
that are currently being labeled as organic or that are
doing just different processes and not using the TSPP?

MR. HAM: I think, as far as functionality, I am
aware -- well, I've got -- no, I'm not aware that there are
any organic products out there. We do offer a diverse product range. What we are seeking with this is for a few specific products within -- within our diverse product line. To achieve the fibrous texture, it is important to do this. To just simply run product through the extruder and grind it to a powder, for example, may be not necessary.

MS. KOENIG: But -- I mean, I'm a producer too, I mean I pretty much know what my competitors are doing, you know, I'm -- I'm relying on you guys, I guess, you know, as far as -- because my -- I guess my concern, when -- you were talking about specific parameters of a proprietary process, so is it -- what I'm -- my question: is it just unique to your process and because of the parameters, temperature and pressure and mechanical --

MR. SIEMON: You're really asking about the extrusion, aren't you?

MS. KOENIG: Yeah. Well, that's what --

MR. SIEMON: Extrusion --

MS. KOENIG: So I'm just saying: is it specific to your particular proprietary process or is this an industry-wide --

DR. GANJYAL: Well, yeah, I mean, the extrusion process is used industry-wide, sure, but they produce like
different -- like probably some of -- I don't know whether
they use that in the organic products, but they use like
soy texture and soy products, but the -- the -- you know,
they use like rancidity and like different other -- off --
I mean side effects when you actually process soy. So
that's -- I mean, this -- I mean, our customers like this
product more, better than.

CHAIRMAN KING: Okay. Are there additional
questions, comments?

(No response.)

CHAIRMAN KING: If not, I think we'll move on
now. Thank you very much for your input.

DR. GANJYAL: Thank you.

CHAIRMAN KING: Next up Thomas Harding; on deck,
Jim Pierce.

MR. HARDING: Good morning. It's a pleasure to
be here. To be quite honest, I didn't think I was going to
be back here talking about tetra sodium pyrophosphate.

As you know, the reason we're here is because of
the reconsideration which was handed down through the
rulemaking process, where there was a 3-to-3 split and
there was some question about the annotations, so I'm told,
and that it needed some more review.

But in any case, I'm not going to repeat most of
what's already been said and just jump into some of the
critical areas that are important. So with that history,
we had to first of all find out what reconsideration was,
and we eventually found out, and what I've done is I just
prepared a couple notes, and I also have a letter
circulating that is from one of the end users who is in
support of the use of this material in their made-with-
organic product.

So I'm going to pay attention only to the
additional page comments [phonetic] so that we can shut
this pretty short.

TSPP needs to be permitted in organic ingredients
and products, not only in made-with-organic, because
there's been a lot of discussion about that at the previous
meeting. There is no advantage to the consumer and it
causes the manufacturer and end user unnecessary
formulation difficulties and unnecessary added cost, and we
get to the additional materials that are used, and the
other types of materials, it raises the cost and of course
it reduces the organic ability. In other words, instead of
95/5, we're now 75/25. And so that's a very important
factor.

Plus, allowing TSPP in organic product
ingredients raises the bar for manufacturers to use more
organic raw materials and ingredients. The "made with
safe" has the opposite effect. In other words, we lower
the amount of organic product, as was said before, and we
increase the amount of chemical going into it.

The prepared value-added organic food products,
including meat analogs, are experiencing significant
growth, representing major consumer interest in
consumption. TSPP adds to the quantitative values -- the
qualitative values of these new products. We must provide
the consumer with safe product choice, not decide for them
what organic products they can eat. End users support the
use of TSPP -- please reference the letter that I'm
circulating -- and recognize they have been -- and they
have been at other NOSB meetings, supporting this process,
and I want to be very clear that our intent was not to have
TSPP singled out as a new ingredient but to make it part of
the sodium phosphate analog, which is now restricted under
annotation to dairy.

So we're not trying to restrict it for, quote,
our proprietary, because there's nothing proprietary about
this very important question you raise. Our formulation is
very simple, it's .5 percent for one product, and 3.5
percent for another, and the rest is wheat gluten and
organic flour. In both cases those organic ingredients are
the principal products.

In the end use of this product, we're talking about, in one case, seven percent, in another case somewhere between 10 and 12 percent, in -- as an ingredient in the actual finished organic product. So we're talking about rather low levels of use.

The other thing was that in this process, in all the research I did -- and I'm certainly not the technical person that these gentlemen are, but: This a thermal mechanical process. That's actually what ends up forming the texture, the flow legency [phonetic], which is so important, where TSPP, because of its high melting point, it's very essential to be able to do that. Otherwise you'd have an extruder about a quarter of a mile long. So it's really important to get that through the system, to cook it only for a period of time, without destroying the overall qualitative values of it, and then at the same time get it through the system and into the finished product.

So those are very important points there. MGP ingredients, the organic ingredient manufacturers here, and you've heard from them and gave compelling testimony about TSPP and its functionality, quality values, safeness-in-low-use rate, and clearly stated their research has found no alternative to TSPP.
There was some concern that TSPP does not show up in the final product ingredient panel. That is true. However, it is not required by FDA. I must point out that TSPP is listed on the ingredients we manufacture at MGP, it simply says, "organic wheat flour, organic gluten, and TSPP." It's not our fault that the labeling system does not require it on the labeling of the finished product, somewhere between seven and ten percent.

Thank you very much. Any questions?


MR. RIDDLE: Yeah, Tom. The statement you handed out to the Board from Kevin Scott, President, (inaudible) Foods Company, has a line that I find curious. It says, "Our current line of certified made-with-organic meatless burgers and breakfast products currently contain certified-organic ingredients with TSPP."

MR. HARDING: That's correct.

MR. RIDDLE: Well, TSPP is not on the National List.

MR. HARDING: TSPP was being used prior to the implementation of the National List, we petitioned that, and, as was said at this board two previous times, it was approved for our use pending the final rulemaking and being placed in the National List, and that's the way it was
MR. RIDDLE: Well, I understand what you're saying, but everything that didn't make it on the National List is prohibited, and recommendation of the Board doesn't allow the use of a substance until it's gone through the rulemaking process. So I guess I'd like a little more background on this, who's certifying this, how many companies, certifiers, are allowing this.

MR. HARDING: Well, I think you'll have to go back into your own history a little bit. The way the material was handled, as I understand, anyway, that, first of all, it was being certified as a product before the final implementation. When the petition was place forward, that's one of the issues we raised. That same document was submitted before, and we addressed that, that the certifier had given us a continuance pending the final review of the petition and at such time would then make a decision whether we would continue to use it or not if in fact it was approved by the NOSB and was then placed on the List eventually. That's the history.

MS. DIETZ: I have a comment.

CHAIRMAN KING: Kim has a quick concern.

MS. DIETZ: That was brought up, and I don't think that's a place for this board -- that's a compliance
issue with USDA, and we -- that -- we can go back to our
minutes, and we discussed this in detail --

    UNIDENTIFIED MALE VOICE: Exactly. I agree with
you.

    MS. DIETZ: -- so I don't think we need to bring
it up.

    MR. RIDDLE: It's very clear that a substance is
not allowed for use --
    MS. DIETZ: Right.
    MR. RIDDLE: -- until it's on the National List,
and that was made clear previously when this was discussed,
and it hasn't changed.
    MS. DIETZ: Well, we don't need to know who
certified it.
    MR. RIDDLE: Well, I think it is public knowledge
and public information who certified it.
    MR. HARDING: What we've done, this -- being very
open and honest about what's happened, over the period of
the implementation of the Rule, what transacted and what
you think or what somebody else thinks, so I'm not going to
get into an argument here about that, Jim.
    MR. SIEMON: And that's an industry-wide issue
about a whole --
    MR. HARDING: Exactly.
MR. SIEMON: -- host of materials and not just this one alone.

MR. HARDING: And I would bet there are a whole host of them. But anyway, thank you all very much, I appreciate it.

CHAIRMAN KING: Other comments or questions for Tom?

MS. DIETZ: And I just have one -- in fact this board did recommend that materials could be used until on the National List, and that was a formal recommendation, even though it's not being -- taken place, so --

MR. HARDING: Right. And the vote was clear that it was an approved material to go on the List, and I have to be honest with you, I was totally shocked that we had it sent back to reconsideration, because we advised them that the annotation could be problematic.

MS. DIETZ: That's the process, and that's okay.

MR. HARDING: Exactly. Thank you very much.

CHAIRMAN KING: Thank you, Tom. Next up is Jim Pierce, on deck is Haim Gunner, with Eco Organics.

MR. PIERCE: Good morning, Mr. Chairman, NOSB, NOP staff, ladies and gentlemen of the gallery. I'm Jim Pierce, self-appointed certification czar at Organic Valley.
In the interests of total transparency, I would like to point out and state for the record that I work with and for NOSB member George Siemon at Organic Valley. George, like the rest of you, struggles to put aside professional affiliations in this forum in order to stay true to your appointed constituency, in George's case farmer producer.

I will do no such thing. I stand before you, devoted on behalf of my constituency, the 650 family farmers who together, with over 250 employees and 65 processing plants, make up the largest and most successful organic dairy farming co-op on the planet, and we're upset. (Laughter.)

MR. PIERCE: Since we're in the Windy City in the midst of baseball and Billy Goat fever, let me summarize our concern in baseball paraphrase by saying: there is no joy in organic mudville.

I would respectfully direct your attention now to the diagram on the back of this testament. Some of you might be familiar with the heighth curve. The heighth curve is a visual tool to track — used to track progress of many things, including business start-ups, technology, and personal relationships.

Today I would like to use it to describe the
National Organic Program and your role in its future. The classic height curve is comprised of five distinct parts: the trigger event, the peak of inflated expectations, the trough of despair, the slope of enlightenment, and the plateau of success.

The trigger event in this height curve starts on October 21, 2001, at a Whole Foods store in Washington, D.C. When Deputy Secretary of Agriculture A.J. Yates announced the implementation of the National Organic Program, we all had a big collective hug. The ensuing peak of inflated expectations contained enough momentum to establish the USDA Organic seal as the single most successful eco-label in the food industry.

Now cue the piano into minor key as we slip into the evitable but always disturbing trough of despair. Bake [phonetic], the bottom of the trough, April 14, 2004, the date that three so-called guidance documents were issued by NOP, representing what the organic dairy farmers in my co-op feel is the most serious threat to organic integrity to date, a greater threat even than any previous assault by far, in fact, because in contrast to previous assaults by unscrupulous operators and corrupt politicians, these maladies are from the inside, from the National Organic Program staff, from the very guardians and managers.
responsible for the ultimate oversight of our livelihood.

The scope document which guides fraudulent
salesmen of organic sewage sludge and organic kitty litter
to go ahead and use the word "organic" and leave the USDA
out of it and let the buyer beware is short-sighted and
shallow.

The livestock feed document, which guides immoral
feed manufacturers to use fishmeal regardless of
sustainability, contamination, and prohibited materials, in
direct contract to the hardworking good advice that you,
the NOSB, provided them, is an insult.

But the document titled Dairy Replacement, that
erroneously guides organic dairy producers to use
antibiotics anytime, on any organic farm, on any calf or
cow, is a travesty, setting the organic standards back by a
decade and threatening to destroy the reputation of organic
much faster than wild-caught salmon or imprisoned poultry.

So we're pissed, but we're far from giving up,
and despite rumblings that we hear from you all of burnout
and brick wall head-banging, we're not going to let you
give up either. We're counting on every member of the
National Organic Standards board, present and future, to
lead our national organic program out of the trough of
despair and up the slope of enlightenment. That's your

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job, clean, pure, and simple.

In the coming hours and days you'll hear a myriad of suggested solutions, many of which you're already familiar with. Weigh the proposals, make the wise decisions we know you're capable of, and get organic back in the limelight.

Thank you, as usual, but no less sincerely, for your attention, for this opportunity to address the Board directly. I look forward to watching you work through the material decisions that are before you. By posting committee recommendations on your website, your transparency has improved tremendously. After reading all the petitions, TAPs, and committee recommendations, I would so much like to assure you that you are faultless in your decisions, but alas, you are not.

Particularly, the crop committee has, in my opinion, arrived at the wrong decision in two cases. Hopefully there's people here today from the cotton industry to address the hydrogen chloride issues and from the apple growers to address the 6-benzyladenine -- I knew I'd do that wrong.

If my comments have moved anybody beyond motivation to enrage, I apologize. God bless you, and thank you.
CHAIRMAN KING: Jim, as always, thank you for your animated comments, it's very encouraging to get your input, and I think that we're all aware there's some ongoing challenges and you, you know, have the support, certainly, of the Board to work together with the program. I know later today that the program has a few minutes and perhaps they can address some of the issues at that time in their presentation.

Do people have questions or comments for Jim?

(No response.)

CHAIRMAN KING: Thank you, Jim.

MR. PIERCE: Thank you.

CHAIRMAN KING: Mr. Gunner is up next, and Lori Johnson is on deck.

DR. GUNNER: As the Board knows, the reason I'm here is because the TAP committee recommendations were directed to the use of soy protein isolate as a food, and in fact our submission is for soy protein isolate as a soil amendment, and in the hope of avoiding a deferral of a decision for soy protein isolate, I asked to come here to supplement the recommendations and the questions which the NOSB asked, in the hope that this would fulfill what you want to know and so that we could get a decision early, rather than late, particularly in view of the fact that
we've been hunting for a decision for some 4 years.

I should start by saying that I'm a microbial ecologist by training, and my interest in soy protein isolate was sparked by the fact that -- applied an experiment having to do with microbial treatments, the soy protein isolate stimulated an extraordinary explosion of microbial growth. Then considering the isolate, because of its very high nitrogen content, anywhere up to 15.5 percent, and a very, very low C/N ratio, at the level of about 2, it turns out that this could be an extraordinarily effective fertilizer as well as overall stimulus to the soil ecosystem.

Very briefly, since I've already submitted the responses to the questions that you felt the TAP group had not provided you with, let me simply review the questions that you asked and our responses to them.

One, use of the material as a soy -- soil amendment. Well, I've already indicated that we get an explosion, sometimes a 6- to 800-percent increase in microbial populations. This has both the effect of stimulating further organic matter decomposition so that in addition to the nutritional value provided directly by the soy protein isolate, you get a second (indiscernible) of fertilizer.
The explosion of microbial communities is also turns out to be effective in suppressing microbial pathogenic attack on crops simply by competitive exclusion. We've submitted data to show the effects on turf grass growth, on clippings, on root expansion, and I won't take up the committee's time by reviewing this.

In short, what we have is not only an extraordinarily effective fertilizer effect but a very large ecosystem series of beneficial effects.

The question for the committee, of course: is the material synthetic or non-synthetic? Well, it's very difficult to synthesize protein. This, of course, is synthesized in the -- in the soybean and the issue is really the manner in which the protein is released from the bean.

Our contention is that this is compatible with Regulation 205.605(j)(1), in which the plant extracts which use sodium hydroxide as a neutralizing agent, as well as humates, are available for registration and we feel that under this regulation, that soy protein isolate also qualifies.

Other questions which the committee asked is in terms of genetic modification. The high rate of microbial decomposition and the virtual disappearance of the soy
fertilizer makes this a moot point. In addition, whatever nucleic acids carry the genetic information is simply not part of the protein isolates.

The basic manufacturing process leaves a very, very trivial amount of sodium hydroxide. Essentially the sodium is what we're concerned with, and at the rate of application, it is truly a meaningless residue.

Are there adverse effects in the environment from manufacture, use, and disposal? None that we have been able to determine, and none has ever been described.

No toxic or adverse effects. Undesirable persistence, no, I've already indicated that the material is very, very rapidly decomposed by microbial communities.

And finally the question "Are there other natural organic fertilizers?", and indeed there are. Natural manures with a nitrogen content of about 4 percent, municipal waste, 6.5 percent, crop residues, about 7.5, fishmeal, higher, 12 percent, fish emulsions, 5 percent, kelp or seaweed.

The problem with these, of course, is that fishmeal, fish emulsions, and others are highly undesirable because of their odor, and most undesirable, of course, is their extraordinarily carbon-to-nitrogen ratio, which means that they are very long-term residues in the soil.
In short, I feel we have an exceptional soil amendment, certainly natural in its derivation and certainly equivalent to other treatments which are registered, such as the humates and the kelp extracts. Thank you.

CHAIRMAN KING: Thank you, sir. We have questions. I have Nancy first, Kim second.

MS. OSTIGUY: Did I understand you correctly when you said that the question of GMOs was irrelevant because the protein doesn't contain the product in GMOs and it's your source --

DR. GUNNER: No. I said it's irrelevant because the amount of residue is negligible, and we get such a high rate of decomposition, the cell [phonetic] is -- virtual total disappearance because of microbial activity.

MS. OSTIGUY: But the source of the soy could be soy that --

DR. GUNNER: Oh, yes, it could be, yes.

MS. OSTIGUY: -- has been genetically modified.

DR. GUNNER: Yes.

MS. OSTIGUY: Okay. That's what I wanted to know.

CHAIRMAN KING: Okay, I have Kim, and then Becky.

MS. DIETZ: Hello, Haim.

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DR. GUNNER: Kim.

MS. DIETZ: I have to just go on record that this gentleman has probably the long-lasting record of the materials review process, he started with this in 2001, so I just need to officially say that. Whether it's a positive thing or a negative thing, I think you've certainly (inaudible) --

DR. GUNNER: It's a tribute to my endurance and commitment to this product.

(Laughter.)

MS. DIETZ: Yeah. I think that, you know, it is a very difficult product, and I'm going to have a long lengthy discussion when we actually review this material, so, one, are you going to be staying through the meeting, that's my question for you, when we actually review the material?

DR. GUNNER: To my great regret, I have a plane to catch --

MS. DIETZ: Okay.

DR. GUNNER: -- but I -- I would like -- perhaps during the break we could meet. I have to leave at 12:10.

MS. DIETZ: Okay. That's really all my comment. But he has been in this process for 5 years, between OMRI and the petition process and having confusion, so I hope we
can at least get something done --

DR. GUNNER: Did you all get copies of the

material I submitted?

MS. DIETZ: Yes. There are public comments in

the book, I believe.

UNIDENTIFIED MALE VOICE: Yeah, and a flow chart.

CHAIRMAN KING: Becky, then Rose.

MS. GOLDBURG: I want to thank you for supplying

us with so much information. I wanted to follow up on the

question that Nancy asked about the residues, and you argue

that they're trivial. Are you speaking of the nucleic acid

residues or of the --

DR. GUNNER: Well, there's total decomposition

MS. GOLDBURG: Total --

DR. GUNNER: Yeah. We've done this -- you know, my basic training is in microbiology, and we find that you have virtually -- not virtually, you have total decomposition and you get microbial cessation of growth until you add another dose of material, then you get a typical dose response.

So that -- because it is so available, you have, you know, short-chain amino acids, peptides there, there's virtually no residue in the soil, that we've been able to detect.
MS. GOLDBURG: So -- I'm still not sure. Are you arguing there's no residue of the GM protein itself or the --

DR. GUNNER: There's just no residue on the material, it is --

MS. GOLDBURG: On the material itself.

DR. GUNNER: Yeah.

MS. GOLDBURG: Okay.

DR. GUNNER: It is either -- because the carbon-to-nitrogen ratio is so narrow, it's so immediately available, and, as I said, the turnover in native organic matter, just a -- really an extraordinary array of beneficial effects, and to include this material I think is -- from organic registration, and we've had a lot of people who are very interested in using it in organic growth, I feel is doing an injustice to potential growers. It's simply extraordinary, very high -- the highest nitrogen level of -- unless you're going to bridge [phonetic] products, with urea and the like, of an organic material eminently available, and certainly comparable, in its manufacture, to kelps or humates.

CHAIRMAN KING: Okay, Rose, and then George.

MS. KOENIG: A couple questions. What was the nitrogen level of the protein, what are you saying the
percentage was?

DR. GUNNER: It goes anywhere -- the ultimate product has anywhere from 13.5 to 15.5 percent.

MS. KOENIG: Okay. If there is feather meal, which is a protein, which is pretty readily available, that's about 12 percent nitrogen --

DR. GUNNER: Right.

MS. KOENIG: -- other than the ones you listed which would be comparable. Additionally, did you see the committee's recommendation? I mean, there is -- on the website the committee has proposed a recommendation --

DR. GUNNER: Yes. But the recommendations were based on a misapprehension, they treated it as a food ingredient.

MS. KOENIG: No, what I was going to say was that the process that went through is -- you know, it did go and -- was technically reviewed as a crop and a soil amendment. What the -- and you can access the web to see that report. And if you have web access and you haven't viewed that --

DR. GUNNER: Of course I haven't, but the reports we --

MS. KOENIG: -- it might make sense --

DR. GUNNER: -- got demonstrated that the ultimate response was to turn it down, they simply were not
-- was not adequate presentation by the TAP

recommendations. Is there anything beyond that?

MS. KOENIG: I think that the TAP kind of went
through some of those --

DR. GUNNER: I saw that it did [phonetic] --

MS. KOENIG: -- the issues that you had, and

maybe -- through -- because it was a long process, that in

2001 it may have been, I wasn't aware of that, but I can

assure you that the TAP that we looked at did look at it

based on the OFPA criteria and as a crop soil amendment, so

just to clarify that.

DR. GUNNER: Certainly the latest staff

recommendations which were turned down by NOSB --

UNIDENTIFIED FEMALE VOICE: It was deferred.

DR. GUNNER: -- seemed to be inadequate.

UNIDENTIFIED FEMALE VOICE: The recommendation

was deferred, and he has read that, and his response is in

the public comments, I think he's (inaudible) asking.

MS. KOENIG: Okay. And then I guess, finally,

back to Becky's question on the GMO issue, because it was

something that was discussed by the crops committee, do you

have any sign [phonetic] -- the question is not whether the

protein -- the soy protein gets degraded, it's the fact

that I guess the source of soy -- there's so much GMO soy
now, the -- it's really the BT toxin, what the effects
would be not on the microbial population within the soil
but other, you know, insect populations that might exist in
the soil that would be affected by that toxin, and do you
know of any -- because we did not have that information
provided in the TAP, and I think that's what --

DR. GUNNER: I have not seen any data on use --
since this is a novel application of soy protein, as a
fertilizer, virtually no data exists. But again, the rapid
uptake and decomposition suggests that the danger to any
insect population is minimal. We're talking about the
disappearance of this material applied to soil and
fertilizer amounts within -- you get activity within the
first 24 hours. So the notion that this would be a danger
to any incidental population is -- is very remote, in our
-- and by the way, as an ecologist, I'm not unconcerned
with this.

And also, as one of the (indiscernible)
environmentalists here, of the -- one of the first
departments of environmental science, I can claim some
credibility in my concern for the environment.

CHAIRMAN KING: I have George, then Jim.

MR. SIEMON: I just needed to understand the
commercial use here. You said it's 13 to 15 and a half
percent nitrogen, and what is the recommended use per acre, like pounds --

DR. GUNNER: We use it -- you have to appreciate that this is not inexpensive, it about .5 pounds per thousand square feet, we speak in terms of applications of turf and the like, on golf courses, so it's not designed for broad agronomic use, it's --

MR. SIEMON: So you said 25 pounds per thousand --

DR. GUNNER: .5 pounds.

MR. SIEMON: Point --

DR. GUNNER: .5. It's a very minimal amount.

MR. SIEMON: And what's the cost, does any -- what would a farmer --

DR. GUNNER: Oh --

MR. SIEMON: Just so I understand.

DR. GUNNER: It costs about -- you have to say -- it would be at the level of about --

(Pause.)

MR. SIEMON: That's okay, if you can't answer it.

DR. GUNNER: It would be -- it depends on volumes, of course, but it's roughly about a buck and a half a pound, not inexpensive.

MR. RIDDLE: Yeah. Well, I agree with your comment that the TAP review addressed who would use this soy protein isolate and I found it wholly inadequate and I think that was part of the basis of the crops committee recommending deferral, but you provided much more detailed information, and I thank you for that, and one of the questions I had, that the TAP didn't address, it discussed various manufacturing processes but said that the petitioner had not supplied the information. Well, now I see that you have, and it's clear in your flow chart that this is a hexane-extracted --

DR. GUNNER: No hexane residue.

MR. RIDDLE: Yeah. We're not talking residues, we're talking processing methods and inputs. But it's hexane-extracted, made from non-segregated soybeans; correct?

DR. GUNNER: Right.

MR. RIDDLE: Okay. And then in -- your information you provided and the TAP provided looked at the, you know, nitrogen on an input substitution type of basis rather than looking at the whole-systems approach, which --

DR. GUNNER: Right.

MR. RIDDLE: -- under the regulation, soil-
Building crop rotations are mandatory. So your nitrogen needs to be coming from the natural nitrogen cycle to begin with, and that aspect is not addressed in either your information or in the TAP.

The question I have is, can your company or another company produce this material from segregated non-GMO soybeans? -- because we're not talking about or debating the effects of the residues, it's a fact that the regulation prohibits the use of excluded methods, so can you produce this substance from --

DR. GUNNER: Yes. I mean, the question is not the nature of the soy, the question is the process itself, and whether or not it's genetically modified does not determine ultimately the protein concentration in which we are interested.

MR. RIDDLE: Yeah.

DR. GUNNER: Now, the --

MR. RIDDLE: So that's a possibility.

DR. GUNNER: Yes. But non-GMO, of course --

MR. RIDDLE: Because --

DR. GUNNER: -- would add to the expense enormously and (inaudible) --

MR. RIDDLE: Yeah, but that's not our worry. And then the other is just whether -- you know,
the committee's recommended to defer, and would you rather that we take action one way or another?

DR. GUNNER: Yes, we would, because I'm assuming there is an appeals process and after all of these years, the committee has been as steeped in this problem as we are, so that I would -- yes, we would prefer a decision, hopefully on the basis of adequate information available to you.

MR. RIDDLE: Thank you.

CHAIRMAN KING: Okay. Other questions? Kim?

DIETZ: Just -- I was going to save this comment, but I'm going to -- while you're here I'm just going to state this. In 2001 Mr. Gunner petitioned to OMRI for the material because it truly is a brand-name material, so I'm going to go on the record and say that it's a brand-name material.

The reason that it was in the system so long was because it's a brand-name material, and now it's before the Board as a material to be placed on the National List. So we have a lot of confusion on this board because we shouldn't be reviewing the soy protein isolate, in my opinion, we should be reviewing the two materials, the -- I think it's the hydroxide, the sodium hydroxide, the two materials, and I have my notes, when we actually review
this material I'll go through it.

So I'm not sure what we're going to do with this, in my opinion, as a board. I would like to sit down and talk to the crops chair and the NOP because I'm confused over it, and I've been just as involved in it as you have for the last 4 years, intimately.

So I'd like to get it settled, and yes, I would like to come to some resolution for this meeting [phonetic] Mr. Gunner and figure out what exactly it is and where's the problem. But again, I believe it's a brand name and it should be handled differently.

DR. GUNNER: Well, thanks to the Board and its patience.

UNIDENTIFIED MALE VOICE: And your patience.

CHAIRMAN KING: And yours as well. Thank you.

DR. GUNNER: Thank you.

CHAIRMAN KING: Let's see who we have next.

Maury Johnson, and Ray Boughton is on deck.

MR. JOHNSON: Good morning. My name is Maury Johnson. I'm with NC Plus Organic Seed, in Lincoln, Nebraska. I'm also a member of the American Seed Trade Association committee on organic seed, and I just wanted to share with you this morning a little bit of our view of organic seed.
I think one of the things that has been a little bit frustrating to us and perhaps to some other people is that the concept of organic seed and why it is a good concept has in many cases been lost to the organic grower. In many cases he sees this as just another rule or just another burden for him to carry, and what we're trying to do at NC Plus and what I've encouraged the American Seed Trade Association to do is to focus, instead of on the negative side, what are the positive aspects of organic seed and how can organic seed contribute to the organic effort.

And in the little brochure that I passed out to you, I would like to talk a little bit about some of the benefits as we see them and we think should be emphasized, as well as some of the specific issues relating to not just organic seed but seed in general.

At NC Plus and, I believe, other seed companies attempting to do organic seed we're trying to provide seed products that meet the unique demands agronomically of organic farmers, as well as the markets that they're trying to serve.

One of our main crops, of course, is corn, and raising corn organically, in the organic environment, is quite different than on conventional. The products, the
hybrids, need to be different. But the organic farmer's also looking to market his products to a different set of consumers, and in the case of soybeans, for instance, there is much greater interest among organic farmers for food-type soybeans as opposed in the conventional, where the emphasis is on a commodity.

So organic seed producers and organic seed companies and public entities can concentrate on the kinds of products that the organic consumers are asking for.

A second advantage of organic seed that is sometimes lost is that purchase of organic seed by organic farmers helps to support other organic farmers rather than a multi-national corporation that doesn't really care one way or the other about the organic farmer.

At NC Plus, we have organic seed production on about 3500 acres involving corn, soybeans, red clover, alfalfa, two or three grass species, and organic -- and sorghum, Sudan grass, we have production from Michigan to Texas to Wyoming to Minnesota, and we are working with farmers in all of those states, who now have another opportunity, if they want to pursue it, for a crop to raise.

The third advantage, I think, is that organic seed has the potential to be less in GMO content than
conventional seed, non-GMO content will be a very high priority, and I'm not here to debate, you know, whether -- the GMO levels and all that, but if the organic seed grower tests his seed stock, if he's very thorough and dedicated to cleaning the equipment, if you have a facility where the seed is being conditioned and bagged, that is non-GMO, and if you have the final testing of the organic seed product before it goes out to a customer, those are all things which we have found in our experience have greatly limited GMO content.

But those are all things that the conventional seed producer is not likely to pay as much attention to as an organic seed producer.

CHAIRMAN KING: One minute.

MR. JOHNSON: Just briefly on some other issues: Will organic seed be as good as conventional seed? It certainly can be, but seed quality is often determined by the environment and by experience, and those are things that organic seed producers are going to have to gain very quickly.

How about cost, and I know cost is not supposed to be part of the equation, but cost is merely a --

CHAIRMAN KING: Time.

MR. JOHNSON: Okay.

MR. SIEMON: Are you satisfied with the present rule on organic seed?

MR. JOHNSON: We would like to see greater consistency of the implementation of the Rule. As a for instance, we estimate on field corn that probably no more than 40 percent of the organic corn acres in the United States are being planted to -- with organic seed. The problem is not the shortage, the problem is implementation.

MR. SIEMON: Do you think there's adequate organic seed corn available and that it's not -- you said it's not shortage. You feel it's available?

MR. JOHNSON: It's kind of hard to say for sure how many acres are out there, but using USDA statistics, NC Plus by itself, just knowing what we can supply, we could -- by ourselves we could probably supply 80 percent of the market, and there's five or six other organic seed providers for corn. So in the case of corn, I think the supply is there. I think in the case of soybeans the supply is there.

In the case of alfalfa and some other crops, it's going to take a little time to build those supplies, but a lot of seed producers are kind of sitting on the sidelines,
wondering what kind of a market is there going to be. We have taken kind of an aggressive approach, but many other folks are kind of waiting to see.

   The supply will come pretty quickly, because it's -- again, it's a relatively small market, but in the field crops that I'm familiar with, I'm convinced the supply can be filled pretty quickly.

   MR. SIEMON: Of course, some of the problem is the availability, you've got to order months ahead of time and often you run out of corn right that moment, so it's that infrastructure development too, is a another other part of it.

   MR. JOHNSON: Well -- and again, I'll just speak for our company, but we have maturities that can go from Texas to North Dakota, you can call us now and get -- maybe not every one of our hybrids in any particular seed size, but you can get any hybrid maturity we have available.

   And one of the discouraging things to us is that last year, and even this year, we will be obsolescing a fair amount of seed, organic seed, because we couldn't get it sold, and that's kind of discouraging.

   CHAIRMAN KING: Jim, and then Andrea and Dave.

   MR. RIDDLE: Yeah. Maury, thanks for your comments. Besides the need for better consistency in how
it's being implemented and enforced, a question -- if you see any deficiencies or problems with the Rule itself as it applies to organic seed, that's one question; and then also, the Board has a recommendation, that we'll be discussing tomorrow morning, on the whole commercial availability issue, to help clarify and bring consistency to that. But that recommendation was written in the context of minor ingredients for processed foods, but it would also impact the organic seed, and so I will appreciate -- will you still be here tomorrow?

MR. JOHNSON: No. I have seed stock to deliver (chuckles).

MR. RIDDLE: Okay. Well, if you have any comments on that, it would be very helpful, but also just -- as the Rule is written, are there some things that you would like to see changed, that maybe the Board should, you know, form a task force or cost committee, do some work on?

MR. JOHNSON: Well, in the Rule there is reference to equivalent varieties, is a variety from company A equivalent to a variety of company B, and that's a pretty tricky question, because, you know, we're dealing with a living entity here, a seed, and the crop that it produces, and what is equivalent, so that the whole notion of equivalency is a little bit hard to get a grasp on.
We have always felt, at NC Plus, and I think other companies as well, that our goal is to make our seed good enough that you, as an organic grower, would buy it even if the Rule wasn't in place. We don't want the coercion there.

But by the same token, farmers and growers are creatures of habit, and if they're used to going to a particular seed provider and now all of a sudden you're asking them to change, there's some resistance, but all we're saying is: give organic seed a chance, recognizing that there are some long-term benefits out there, and so give it a chance, and I guess again concentrating on the long-term payoff and potential for use of organic seed.

I guess the other thing -- the other comment that I would make is -- and I have suggested this to our ASTA group as well, I think this has to go on a crop-by-crop basis. I mentioned corn. There's adequate supplies of field corn out there. Grain sorghum acres are very small and rain sorghum production requirements are such that you have to have fairly large fields to grow the crop. It is unlikely that in the near future there would be sufficient demand to produce organically grain sorghum seed. I mention ed alfalfa. Alfalfa takes some time to get going. So I think you have to kind of look at it on a crop-by-
crop basis.

But I guess what I would like to see is that the use of organic seed be kind of like using treated seed on certain crops. In other words, people who use treated seed can lose certification, but if there is supplies of organic seed of a given crop, then maybe we need to get to the point where they lose certification on that. I hate to be suggesting something that strong, but maybe that's what it's going to take.

CHAIRMAN KING: So if I'm hearing you correctly, and then I have several people that want to speak, you're saying if we could get more specific and look at it literally on a crop-by-crop basis, that may help define --

MR. JOHNSON: Right.

CHAIRMAN KING: -- commercial availability.

MR. JOHNSON: Because there's some crops where the number of acres are so small and the production requirements are so -- are such a nature, it's going to be difficult, from a business point of view, to justify producing that seed organically.

CHAIRMAN KING: Andrea, then Dave.

MS. CAROE: Well, as Jim mentioned, we will be discussing a recommendation on commercial availability for minor ingredients. One of the controllers [phonetic] that

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we looked at and had included in that is a requirement that both the user of that ingredient and the certifier that is certifying use of a non-organic ingredient maintain a certain effort to look for the particular ingredient in organic, and by doing that, they need to use tools which are clearinghouses of availability.

To your knowledge, and you mentioned that you're involved in a C group, is there a list of availability of organic seed, is there a list of different vendors that are selling different types of seeds?

MR. JOHNSON: On, I believe it was, March 25th, our American Seed Trade committee group -- and we've met three or four times over the last year, and we have been working on a proposal for a database of organic seed suppliers, that first of all you'd have to be certified organic to be on the List, and it would be on kind of a crop-by-crop-type basis, and that was brought up and it was discussed in a meeting between our American Seed Trade committee group and some folks from the USDA, Kevin and Rick Matthews, for their -- it was just something that was discussed, it's something that our American Seed Trade group has to look more carefully at. We're meeting in Philadelphia at the end of June and I think we're going to try to finalize a recommendation as far as a national
database that would list organic seed suppliers.

MS. KOENIG: I have a question.

CHAIRMAN KING: Rose.

MS. KOENIG: Two things. There are databases out there, because I did a presentation on organic seed. I mean, it doesn't give you the quantities and varieties, but there's certainly sources, if you type in -- so there's -- there's some efforts out there by various organizations that at least list the manufacturers.

I wanted to go in a different direction, because we're -- the cost committee was looking at a material that was used for de-linting cotton, hydrochloric acid, and I just wanted to know, as I started looking -- you know, part of the issue was treatment versus a process, and I didn't -- I still haven't, I guess, got the answer, as far as how much chemical processing goes on, in terms of, you know, taking the raw seed and making it a marketable product for either -- precision planting, is there other crops, other than cotton, where the physical structure -- you know, the properties of the seed have to be removed for planting, and do you view that kind of removal as a process or a treatment, or association?

MR. JOHNSON: First of all I have to tell you that the crops that we work with, there is no treatment or
processing going on of those -- of those particular crops.

MS. KOENIG: But you still have to clean it, correctly [sic.] -- or --

MR. JOHNSON: Right. We clean it with mechanical means. Our group, though, has discussed other seed crops, primarily in the area of vegetables, and certain coating materials that are -- have been used there on the seed itself, and at NC Plus we are looking at some of these materials to use on the seed, because one of the things about untreated seed is that it -- in some ways it does kind of add to the cost to the farmer at some point because, you know, he may have stem loss [phonetic] or -- or whatever. As a seed producer, the fact that we never use seed treatment or coatings of any kind puts us at greater risk as well.

But this issue that you talked about is primarily with the smaller seeds, especially the vegetable seeds, where they're made -- need to be some sort of coating just to be able to plant those, and I'll have to tell you, I'm not very knowledgeable on those kinds of crops.

I guess one other comment, if I could make it here: at NC Plus, we have done a lot of testing for GMOs in the seed stock and in the seed that we sell, and we think that that has been an important service to the
customers that we sell to and the customers -- and the
people they're trying to sell to, and we've invested a lot
of money in that over the years, and I guess one of the
things that we would like to see is maybe some
identification by the seed seller of what he has done, in
terms of GMO content, not that there maybe necessarily
needs to be a standard, but just identify if the seed has
been tested or not tested or whatever.

CHAIRMAN KING: Thank you very much.

MR. JOHNSON: Thank you.

CHAIRMAN KING: At this time I think we'll take a
quick break, 15-minute break, and have -- who do we have
next here. Ray. Ray, you're up when we come back, and
what's the official time, 9:58, so we'll reconvene at about
10:12, 10:15.

(Off the record at 9:58 a.m. and reconvened at 10:20 a.m.)

(Tape change.)

CHAIRMAN KING: All right, let's officially get
started here. The next member for public comment is Ray
Boughton.

MR. BOUGHTON: Thank you, board. I'm Ray
Boughton, I'm from Colfax, Wisconsin, up about 60 miles
straight east of St. Paul, Minneapolis, and up northwest of
Eau Claire.
I'm here today because I'm concerned, like Maury is, on production of organic hybrids. Lake Organics is located in Colfax, Wisconsin, which is 25 miles northwest of Eau Claire or 60 miles east of St. Paul, Minnesota. Lakeland Farm was established in 1929 by my grandfather, and it's a third-generation farming operation. We are farmers.

We currently farm 900 acres of organic certified corn, soybeans, food-grade soybeans, and hybrid seed corn. Our organic hybrid seed corn is marketed in five states by another family-owned business, Bruner [phonetic] Seed Farm in Durand, Wisconsin. I believe in Wisconsin there's only about three or four family-owned seed companies left; everything else has been bought up.

I am president of the Wisconsin Organic Crop Improvement Association Number 1 and a member of the International Standards Committee for OCIA International in Lincoln, Nebraska.

A problem has developed where untreated foundation seed cannot be purchased. Nearly all the seed purchased for seed production has been treated with Capitan [phonetic] or Apron, which is a prohibited material by the NOP. This material is used to protect the seed from seed diseases, including seed rot, which Maury just mentioned.
just a few minutes ago.

The hybrid being produced from these foundation seeds are not only specific to the Wisconsin area but are the product of decades of seed breeding. In the past Bruner's has bought the foundation seed variety, only licensed seed company that can purchase this seed, that we cross-breed to produce various hybrids, which are harvested and processed for resale the following year. We've got a full one year in between. This process is one full generation from the actual sale to the organic farmer who plants a seed which is untreated.

Monsanto is buying up many of the foundation seed stock companies. Last year the seed company where we purchased the majority of our seed stock from, Holden Seed (indiscernible) was purchased by Monsanto, which will most likely limit the availability of untreated seed. It was -- just as a little after-thing: it was purchased at an enormous price, I don't know how many millions more than the actual company was worth, if that kind of relates what they're looking at.

Our concern is that as long as organic seed producers can only use untreated seed and foundation seed continues to be treated, organic seed developers and seed producers will be very limited in their hybrid selections.
Large corporate seed stock companies, like Pioneer International, Northrup King, and Garst will continue to sell untreated seed to the organic farmers, that had been grown from treated seed stock, using chemicals, commercial fertilizer, and all conventional farming methods, while the organic producer, on the other hand, using all organic farming practices, is prohibited from producing the seed stock from the treated foundation stock.

Because of this disadvantage, organic seed producers will probably meet their demise in the future.

Thank you very much. I'll take questions.


MR. SIEMON: I'm a little confused. You say that the problems that developed were untreated -- I guess I -- I just answered my own question; no wonder I was confused. (No response.)

MR. BOUGHTON: (Chuckles.) As I put, two -- there's two other letters, and one shows our attempt last year to buy untreated seed foundation stock, you'll see Holden Seed, at the bottom you'll see a little clip there called a -- Monsanto Company.

MR. SIEMON: So basically your certifier is telling you -- you're saying there's no commercially-
available alternative and they're still telling you no because it's treated.

MR. BOUGHTON: It's treated, yes. And where we have to compete, as he mentioned before, you can call up your local Pioneer dealer, he will have untreated seed if you order it far enough ahead for him, but that same seed that you're allowing Pioneer's person to sell, we can't sell, and they have treated theirs with chemicals and everything else, but us, using all organic -- and the only thing different that we use is the foundation stock, which is one whole generation away from the actual end user, probably two, actually, two generations.

MR. SIEMON: And this is -- your certifiers determine that.

MR. BOUGHTON: Yes. It's NOP's standard.

CHAIRMAN KING: Just a point of clarity.

MR. BOUGHTON: Yes.

CHAIRMAN KING: It sounds like, in the foundation seed production, you're talking about two different --

MR. BOUGHTON: Right.

CHAIRMAN KING: -- production systems, one clearly conventional, but in your example, it's your intent to use this foundation seed on land that's managed organically?
MR. BOUGHTON: All organic, completely organic.

MR. SIEMON: And then the land will qualify.

CHAIRMAN KING: Yeah.

MR. BOUGHTON: It's all qualified, certified.

CHAIRMAN KING: So it would be a prohibited --

MR. BOUGHTON: Jim, you could probably clarify that a little bit, what happened when the standards were written.

MR. RIDDLE: Well -- right.

(Laughter.)

UNIDENTIFIED MALE VOICE: Thanks, Jim.

(Laughter.)

MR. RIDDLE: You know, historically, the requirement was for organic farmers to use untreated seed, and if you couldn't get untreated, then you could use treated; and then it went up a notch, you know, to the organic; and then total prohibition on the treatment; and then, simultaneous, having the organic seed requirement has implications for the production of organic seed, so you can't use a treated foundation stock to produce an organic hybrid that would then be planted by an organic farmer, and, you know, I just want to be clear on what you're requesting, and that is, as I understand it, and you
correct me if I'm wrong --

    MR. BOUGHTON: Yes.

    MR. RIDDLE: -- that there would be a change in
the Rule or a clarification of the Rule as it applies to
organic seed production, that there be an allowance for
treated seeds or certain treatments to be used for
production of organic seed, not the production of an
organic crop.

    MR. BOUGHTON: Right. Strictly for foundation
seed stock only.

    MR. RIDDLE: Right now, the way, instead of a
rule change, that that could be accomplished would be: to
petition the use of the treatments for that specific use,
for the preservation of foundation seed, or however the use
would be annotated.

    MR. BOUGHTON: Yes.

    MR. RIDDLE: So that the door is open for that
approach without a rule change right now.

    MR. BOUGHTON: Right. That's what we are
requesting, to go -- go that route.

    CHAIRMAN KING: Okay, Rose.

    MS. KOENIG: I guess the -- so the foundation
stock is controlled by you? The foundation seed.

    MR. BOUGHTON: Very few companies. One of them
here is, as you have in front of you, Holden Seed out of Iowa. What is happening now is Monsanto is buying up the seed stock companies. You can see where that's going to be heading down the road.

MS. KOENIG: But -- so -- I mean, have you requested just non-treated --

MR. BOUGHTON: Yes. Yes, we have.

MS. KOENIG: -- and they --

MR. BOUGHTON: We have requested seed stock. There are certain numbers, when you're plant breeding --

MS. KOENIG: Right, I know.

MR. BOUGHTON: -- when you start breeding different numbers, we have to have like a certain male or a certain --

MS. KOENIG: Right, I know.

MR. BOUGHTON: -- female to create a hybrid, and that's where -- we're running into our major, major problem on that.

MS. KOENIG: But there's no -- I mean, the treatment for your parental lines -- just like an organic grower has to purchase a hybrid, I mean we have to go through, say, the same commercial -- you know, like Opito [phonetic] Seed or some of the -- the larger companies. Again, like George said, it may take six months in advance
to request non-treatment, but that's something that, when
asked, they have been able to accommodate, but it does take
a lot of planning. There's -- why won't they do that with
the parental stock?

MR. BOUGHTON: We raise 168 acres of seed corn.
When I go to Holden's, which is a multi-million-dollar
company, and walk in the door and ask for five bags of
seed, you can see where I'm coming from.

MS. KOENIG: But it's a post -- the thing is, is
-- same thing, I mean, I'm buying a pound of onion seed, so
it's even less than 150 pounds, from Opito. The thing is,
is that is a post -- I mean they have the untreated seed,
and then at a certain point it's treated --

MR. BOUGHTON: Much of it --

MS. KOENIG: -- because it doesn't come off of.
So -- so I guess --

MR. BOUGHTON: No, all of it -- no.

MS. KOENIG: I guess what I would say is that we
need to make sure there's due diligence that that in fact
is the case, because I know as a producer requesting a
pound of seed, it is obtainable. It does take extra
effort. And what the seed companies have told me is that
"that's no problem, we just need to know because we don't"
-- you know, again, it comes -- it doesn't come off the
plant treated, there's a process where they do take those lots and do it at a certain time, but you can perhaps request those before that time.

MR. BOUGHTON: We do not have the ability, as a small company, to go a year in advance and ask for five bags of seed. It would be -- you'd -- when you're talking about Monsanto, you're not talking like -- I don't know where you buy -- where you purchase your seed, what type of seed you're planting, but corn seed is a completely different -- we're -- we're talking corn, that's all I'm talking is corn, and that's a completely different product. As you mentioned, it's specific to this one -- one product.

CHAIRMAN KING: First of all, thank you for attaching these letters, and I think Rose is on the right track here. We understand, I think, your challenge, as you've communicated it. As with everything we do these days, documentation is key --

MR. BOUGHTON: Right.

CHAIRMAN KING: -- and being able to forward that to perhaps further define the issues so we can somehow resolve it.

Are there other questions or comments?

(No response.)
CHAIRMAN KING: Just a quick housekeeping note.

Please --

MR. BOUGHTON: Thank you.

CHAIRMAN KING: -- try to refrain from talking while we're doing public input, we'd like to concentrate on the conversation at hand.

I simply have a company name for the next, it's Valent BioSciences, so if there's a representative from Valent BioSciences, please give your name for the record, for the court reporter, please.

MR. FILAJDIC: Hello, my name is Nenad Filajdic. I'm a product development manager of Valent BioSciences. First of all I'd like to thank you for an opportunity to be here and say a few words about 6-benzyladenine, which is used in apple thinning.

What was available before were commercial products such as Promalin and Accel, and they also, in addition to 6-benzyladenine, contain giberellic acid. This new product that we have, Accel, is only based on 6BA, so basically what it's used for is thinning and sizing, also fruit quality, mostly used in apples.

What is important about this product is that it's basically naturally-occurring in plants, it's cytokinin, and we synthesize it basically just because it's a big
savings. It would be fairly impossible to produce it straight from the plants because of the quantities, but we do synthesize it, and it's naturally-occurring cytokinin. It's non-toxic, it doesn't harm any beneficials, it's very low toxicity and very low persistence in the environment.

In addition to that, there's no other chemical thinners or any -- I should say effective thinners available in organic production, even though some are tried, with limited success. What non-apple growers have as an alternative is NAA, basically, and 7-carbaryl, which are not very environmentally-friendly compounds, so this is basically the only -- the only other alternative that organic growers could use, in case that this is approved.

Right now we don't have a formulation that is organic because our commercial products have other ingredients that are -- two ingredients that are actually category 3, but if this -- if 6BA is included in the List, we would be ready to produce organic formulation, because the research has been performed on it.

This would enable organic growers to save -- to save on its production, because the (inaudible) thinning would be pretty much avoided, and as most of you know, that is the single most -- single biggest cost for apple producer, is thinning.
So I need to apologize because I don't know if my document got to you in time, I e-mailed it, but if not, we also submitted this document before, it was just not updated for 6BA alone product, it was mostly based on 6BA plus gibberellic, so I updated that and I sent it. It has a lot of information in addition to what I just said, but if you have any other questions, I would be glad to answer those. Thank you very much, again, for your time.

CHAIRMAN KING: People have questions? Rose, did I see your hand go up?

MS. KOENIG: I did. If anybody has one, I just want to check before I answer the question -- ask the question, but I guess one of the questions I had, and I'm not sure if we have it, was public comment from apple growers as far as the need for the product.

I mean, one of the things that the committee discussed was the -- you know, the optional -- the labor-intensive -- I mean not -- again, I'm a producer, and, you know, weeding and hoeing is -- is labor-intensive, but that's what we do.

So can you just speak to -- to those -- to the hand-thinning option.

MR. FILAJDIC: Sure. There are some numbers also in the report that came out and it basically states on

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average the cost for hand-thinning to be $1680 for a 20-acre farm, and that's four or five times higher than what non-organic producers can spend, because basically these other compounds, like NAA and 7, are fairly cheap. So that is basically, in a nutshell, what -- where it would come out economically. As I mentioned, I'm fairly certain that's the biggest single cost in apple production.

If we talk about sustainability, I see this product as being sustainable because one of the -- one of the important objectives in production is to stay in business, and this will allow a lot more flexibility. So that's how we see this, we see this as a help to organic growers.

There is a lot of interest for this product in Europe also, we're working -- that's basically why we started working on this formulation that is going to be organic.

CHAIRMAN KING: Jim.

MR. RIDDLE: Yeah. You mentioned Europe. Is this substance allowed in Europe at the present time?

MR. FILAJDIC: We submitted for registration in key countries a couple of months ago, so what we're looking at is sales in a few major countries in 2005, most of the
countries 2006. This is not organic. So --

MR. RIDDLE: Oh, that's just for conventional use.

MR. FILAJDIC: Yes.

MR. RIDDLE: Okay. So it's not approved for organic use --

MR. FILAJDIC: Not yet --

MR. RIDDLE: -- in Europe yet.

MR. FILAJDIC: -- no. No.

CHAIRMAN KING: Dave.

MR. CARTER: Yeah. Just a question on the handling of it during application, because the TAP noted that, you know, it's not harmful as long as you have the proper protection, which you can say about just about anything, so, you know, as far as in your intent or something like that, but --

MR. FILAJDIC: Nothing unusual. I'm not sure of the numbers, but there's (indiscernible) four hours, which I believe is pretty much the minimum. I'm not aware of any -- any additional requirements that we have other than --

MR. CARTER: What are the main problems with exposure to it, I mean what would you run into?

MR. FILAJDIC: I'm not really aware of anything.
Our toxicity is fairly low. There is a little bit of an
eye irritation, but other than that, toxicity -- I have
numbers in a document that I submitted. It's very low.
And persistency in the environment is also very short.

MR. SIEMON: Did we get the document he's
referring to?

CHAIRMAN KING: I don't know, I can't seem to
find it, unless someone else --

UNIDENTIFIED MALE VOICE: No, I didn't either
(inaudible) --

CHAIRMAN KING: -- so I don't know if that's
something that Katherine had received --

UNIDENTIFIED MALE VOICE: Can we make copies?
CHAIRMAN KING: Do you have copies with you?

UNIDENTIFIED FEMALE VOICE: I have some copies.

I downloaded one, it was on the website, so I'll get
copies.

CHAIRMAN KING: All right. Rose had another
quick comment.

MS. KOENIG: I have just one more question. Are
you familiar -- I know the Organic Materials Review
Institute has a brand name of a natural source of cytokinin
on there. Are you familiar with that product, and do
you --
MR. FILAJDIC: No, I'm not. As far as I know, this is -- as far as I know, Valent BioSciences is the only company actually doing extensive research on this. There are other companies that use generic products. There is actually a 6BA that is already registered in the United States for non-organic production by Fine Agrichemicals [phonetic] but only at a -- at a low rate, so --

MS. KOENIG: This would be a naturally-derived form. I think it's from --

MR. FILAJDIC: No, I'm not.

MS. KOENIG: -- fish or --

MR. FILAJDIC: Oh. No, I'm not.

CHAIRMAN KING: Additional questions?

(No response.)

CHAIRMAN KING: Thank you.

MR. FILAJDIC: Thank you very much.

CHAIRMAN KING: Next is Zea Sonnabend, CCOF; on deck, David Engel.

MS. SONNABEND: Hello. I'm Zea Sonnabend, from California Certified Organic Farmers. Most of you have seen me up here many times. Of course I would like to comment on pretty much every subject brought up today, but I'm going to confine myself to a few subjects that have been brought up yet, that I think are important.
First of all, the petition that you'll be dealing with concerning urea in pheromone traps for olive fruit fly. I understand that the urea was petitioned as an active ingredient, which in use in the field, at least in California for olives, it is not, it is the -- and the TAP review is really inadequate to explain the situation in which it is used, and so I feel like I need to fill this in, because we have a lot of olive growers that would probably like to use the material as an inert in a pheromone trap.

These traps are for a fly, not a moth, and the traps need to have urea in liquid form to be able to work effectively, and therefore it's like a little bottle that is hung in the trees, and the sticky part with the pheromone is at the top of the bottle and then a solution of ammonium carbonate and perhaps urea is used in the bottom of the bottle to provide the smell like rotting meat that attracts the flies to the traps.

So far my personal interpretation of the exemption that you gave to list three inerts for pheromones would apply to urea for this use because it is on List 3, it's registered for -- as an active pesticide not for this use, but it is also on EPA List 3 as an inert, and it is serving the function of the -- the equivalent function of
the other List 3 inerts in the other types of twist-tie
traps.

Anyway, I understand that you don't want to allow
it as an active, perhaps, but I do urge you to word your --
whatever vote you take on it so it does not prevent its
use, perhaps, as -- under the pheromone exemption for
List 3 inerts in traps.

So far as actually haven't let our growers use it
because it was under petition and I didn't understand
exactly the finer points of the petition, but the ammonium
carbonate by itself is not working that well, we have a
really bad olive fruit fly problem that's evolved in the
last couple of years. And I will be here when you discuss
it, if you need more background information.

Secondly, as sort of the historical voice of the
past materials reviews for the NOSB, I was quite concerned
that the letter that the department issued concerning
phosphoric acid in aquatic plant products.

The original NOSB, when they put things on the
National List, had no intention for other synthetic things
that were not mentioned in the annotation to be allowed in
those products. Not -- and I don't want to say that I'm
opposed to the phosphoric acid, possibly, in aquatic plant
products, I think it might be a very appropriate thing,
because they do need something to preserve and stabilize it, but it should be reviewed by a TAP review, because there are other alternatives calcium propionate and -- or sodium propionate and sorbates and things like that, that could also serve the same functions, and not just blankly allowed without a TAP review for that purpose.

It, you know, leaves the door open potentially to elemental sulfur with emulsifiers, fish products with urea in them, all kinds of additives that could be used with things on the National List.

I urge you to put a statement at the beginning of 205.601 which says that things on the National List may only be used in the -- with the restrictions in the section to say that they should only be used with the annotations as presented, not with additional products in them.

Okay, I also wanted to comment on the Sunset document for the National List. I read this very quickly. I think it is really important to set up a procedure for -- you know, to review the -- re-review the materials.

I do really hope that you don't base it entirely just on technical information, because the technical information from the original reviews is not equivalent to the technical information you get today and you'll be creating a lot of work.
I do think it's a good -- the part about going for public comment to suggest priorities for review is a good idea. Review the controversial ones and -- but make a streamlined procedure for the ones that aren't going to have a lot of controversy or else you're going to really be in for an amount of work you're not going to be able to complete.

And last of all, I was on the Compost Tea Task Force, we made a very thoughtful document and recommendation, and I will be here to help with background information on that and to provide anything you might need from that task force. Thank you.


MS. DIETZ: Zea, on the phosphoric acid, I'm a -- as a historian, I'm going to ask your opinion, and also Steve Harper here is a past NOSB member so I might ask Steve --

MS. SONNABEND: And Merrill. Actually, Merrill was on the NOSB at that time.

MS. DIETZ: Since we've been reviewing materials at this board, we asked to see the whole manufacturing process, and it's been part of our discussions that if we approve a material, then we're approving everything that it takes to make that material function on the National List,
so that would be anything that's used in that manufacturing process of that material, unless we specifically annotate against or restrict.

So what you said is contradictory to what I believe we've (inaudible) --

MS. SONNABEND: No, they did -- well, they did look at the things that were used in aquatic plant products --

MS. DIETZ: Okay --

MS. SONNABEND: -- and decided to only allow --

MS. DIETZ: Okay. Right.

MS. SONNABEND: -- hydroxide stabilization, potassium hydroxide stabilization. Or extraction, excuse me.

MS. DIETZ: Okay.

MS. SONNABEND: However, not as much information was available at the time they did that review about other additives, about the need for preservatives in the products.

MS. DIETZ: Right. But from a board standpoint, we can't go back until the re-review of the material and look at an entire process, but our function of this board and the material on the National List is it's allowed unless it has a specific annotation that --
MS. SONNABEND: This does have a specific annotation and --

MS. DIETZ: Right. I'm talking in general, I'm not --

MS. SONNABEND: Right.

MS. DIETZ: -- specifically talking about the phosphoric acid issue --

MS. SONNABEND: Okay. But --

MS. DIETZ: -- but just as a blanket so that --

MS. SONNABEND: Yeah. It's just that that annotation was expanded upon by the NOP, and I don't believe that was the intention when it was voted into the --

MS. DIETZ: Okay, and I'm not commenting on that, other than as a historian and as how we have to look at a material on a National List --

MS. SONNABEND: Uh-huh.

MS. DIETZ: -- and there's many, many, many that are on there. I mean, natural flavors is a typical example that --

MS. SONNABEND: Uh-huh.

MS. DIETZ: -- and there's many, that if it's on there, then we have to assume that the process to make it is allowed unless it's restricted by the annotation.
MS. SONNABEND: Right.

MS. DIETZ: Okay. Okay.

CHAIRMAN KING: Jim, then Rose.

MR. RIDDLE: No, Rose was first.

CHAIRMAN KING: Okay, Rose, then Jim.

MS. KOENIG: Which gets me back, I guess, to sort of Kim's point and what you brought up in terms of the Sunset Provision. The Sunset Provision that was proposed by the committee allows for that -- the calling of more technical information on issues that have kind of surfaced, such as perhaps the fish in aquatic plants, and also allows, I guess, the NOSB to re-look at some of those earlier materials that were put on in the early years, that as I understand it -- and again, I wasn't on the board -- were in page formats and very abridged versions, not really a technical review at all but sort of just a compilation of information that people could gather.

Could you comment --

MS. SONNABEND: Okay --

MS. KOENIG: -- to those reviews, because --

MS. SONNABEND: Uh-huh.

MS. KOENIG: -- you know, there is a suggestion that those -- that technical information was adequate, and that's what --
MS. SONNABEND: Right.

MS. KOENIG: -- I'm trying to understand, is the adequacy of that technical --

MS. SONNABEND: They varied a lot. There were 160 -- or -54 products reviewed in three NOSB meetings, or four. I mean, we had days where 40 were done in a day. But the background information varied from some that I have huge volumes in my files on just one material, to the one-page format.

They did receive technical review in the sense that each material got sent to three experts in the field, who did offer their opinions, just like today, but the source documentation that those three experts had to deal with was skimpier than it is today, and what they -- some of those three experts did actually write papers about it, and others just checked the box, "okay, synthetic," or "not okay, synthetic." So it varies.

That source document does exist still. You can go back over it. But, you know, my concern with your -- the version that you showed me, that -- the way it's written, is that -- and I apologize for saying this, but some of the clarity of it is mired in proposing future guidance documents (chuckles), and it doesn't make clear that there could be things that won't need supplemental
review to just be able to go through. So it would be good
if it could just elaborate a little bit more on that,
maybe.

CHAIRMAN KING: Okay. I have Jim, then Nancy,
then Ann.

MR. RIDDLE: One comment, not a question. I
appreciate your historical perspective on the aquatic plant
extracts and that the only substances which can't be used
are those which are allowed under the annotation, and I'd
just like to read something from the preamble, that Rose
had brought to my attention, Page 80612, where the NOP said
that synthetic ingredients in any formulated products used
as organic production inputs, including pesticides,
fertilizers, animal drugs and feeds, must be included on
the National List. As sanctioned by OFPA, synthetic
substances can be used in organic production and handling
as long as they appear on the National List.

So, you know, that really is the precedent that
we're working under.

MS. SONNABEND: And that's why aquatic plant
products is on there in the first place, because most
people think: oh, that's a natural, but the extraction
process renders it to be a synthetic, and that was decided
by the original NOSB.
MR. RIDDLE: And my question is about the urea in the traps, and I -- I heard this interpretation, that it could fall under the EPA List 3 allowance that's already become part of the amended rule, and the question I have is about the removal of those traps as standard practice. Are these something which actually can be recovered and removed or are we looking at --

MS. SONNABEND: Yes.

MR. RIDDLE: -- soil application here?

MS. SONNABEND: No, no. It's a little bottle.

MR. RIDDLE: Yeah.

MS. SONNABEND: It does not leave the bottle. The bottles are pulled down at the end of the year. The material gradually evaporates over time.

MR. RIDDLE: But the bottles themselves and any residues or remaining materials are removed.

MS. SONNABEND: (Nods head.)

MR. RIDDLE: Okay.

MS. SONNABEND: I do want to make it clear that, you know, so far, that is my interpretation, but I have not advised these UF growers that they could use this yet --

MR. RIDDLE: Yeah.

MS. SONNABEND: -- until the petition got clarified.
MR. RIDDLE: Right.

CHAIRMAN KING: Okay, Nancy, and then Rose has an additional comment.

MS. OSTIGUY: Zea, my question is on urea still. Explain to me your reasoning for looking at urea as a pheromone rather than an attractant. It is not a standard pheromone for an insect.

MS. SONNABEND: Okay. A pheromone twist-tie, for instance, or a pheromone wing trap contains the pheromone, and then it contains additional substances that help the pheromone disperse, that keep it from breaking down too fast, that maybe -- you know, additional attractant-type things. We don't know what all the List 3s are. We looked at a couple of them, but we don't know what they all are, in all the different pheromone traps, and the problem with reviewing them all is what led to there being an overall exemption. This -- it all comes in one package that you buy from the company.

In the olive fruit fly traps, mostly the growers put them together themselves. There is -- University of California has been providing pre-made traps to some -- in some counties, but mostly the grower has to get the pheromone, get the bottle, get the ammonium carbonate, and put it together themselves.

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I see it as being an equivalent thing, although the grower made it themselves, but they do have to get the urea and the ammonium carbonate component from -- you know, it's a different thing, when they buy it, and they put it together themselves.

MS. OSTIGUY: Well, the logic --

MS. SONNABEND: So maybe you do -- I mean, it is your prerogative, but I'm just saying if you're going to reject the petition as it stands, word it carefully with whether you want to allow that, its use as an inert, or not, because otherwise it's still in limbo, the way it's actually used.

MS. OSTIGUY: But what I would -- what I'm trying to understand from what you're describing is the difference between inert and active when the material is an attraction. That is an active ingredient, in my understanding of the definition, of active versus inert.

MS. SONNABEND: I think the pheromone companies don't see it that way necessarily. You know, I -- it's your determination to make.

MS. KOENIG: I think the problems you get with this, what you're describing -- and again, I have to think a little bit more about it, but my gut is, is that if there's a commercial product, okay, that contains urea, it
would be under the inerts, it wouldn't be listed on that
product, then based on what we voted on as far as the
List 3s for those types of traps, it would be okay.

But what you're saying to me: with these
homemade jobs it's a totally different story because it's
not a commercial product, so in fact we can't -- you know,
our hands are tied on this one, we can't approve it as an
-- you know, an item, we can't approve it if it's not
registered with the EPA. I mean, for the first step is --
if it is -- so I'm saying if you can find a commercially
available product that has it as an inert --

MS. SONNABEND: How -- I mean, I just have
trouble understanding how farm advisors are recommending it
if it's not approved by the EPA.

MS. KOENIG: But farm advisors are not
recommending it to the NOP --

MS. SONNABEND: Right, I understand that.

MS. KOENIG: -- you know, that's not our -- you
know. So anyway, that's -- that's I think --

MS. SONNABEND: You know, it's another example
of: the commercial companies get to sell the product but
the farmer doesn't get to make it themselves.

CHAIRMAN KING: Other questions for Zea?

(No response.)
CHAIRMAN KING: Zea, thank you. David Engel is next, and Leslie Zuck is on deck.

MR. ENGEL: Good morning. My name is David Engel. I'm a dairy farmer from Wisconsin, still.
(Laughter.)

MR. ENGEL: I'm also the executive director of the Midwest Organic Services Association, and recently I am what would be called an interim board member, interim steering committee member, of the recently-formed Accredited Certifiers Association.

So my comments today, as they have been in the past, I tend to like to kind of step back and look at the larger picture and get a sense of what we're doing with the pieces that we have.

You know, like when we were growing up, our mother said, "Well, you pick them up and put them away." Well, as mature adults now, we have a lot of pieces out there that we're working with, and sometimes they get kind of messy, they're not really where they should be, they're not working properly, and, as several people have expressed today, when we come to a meeting like this, it's a mess, it seems like, to some of us, but I -- I don't take that view.

I think the pieces are very positive. Obviously they are what we have to work with. They are pieces like
the NOSB, the national rule, the federal rule, the National Organic Program and their staff, the different certifiers, companies that are petitioning products, the petition process itself, all of these pieces go together, and we are working with them now.

So to repeat, then: process is everything to me, and we need to make sure that these pieces are working together. For example, one thing that has been mentioned before that we think would be very, very positive would be an executive director for the National Organic Standards Board, because that would help you people coordinate within yourselves and provide a go-between between the NOSB and the NOP. We think that would be very positive.

Another issue that has come up in the past, that I'm not sure where it's at, at a certain point -- I believe it was last year, I can't remember, the peer review panel was brought to the table by the National Organic Program and a certain kind of process was put in place. It didn't appear to me that it was what the Organic Food Production Act required in terms of a peer-review panel, but nevertheless, there was something started, and I'd be interested to see where that comes from -- or how it ends up.

Another issue that has come up in terms of process has been timely publication of the ingredients that
the Board recommends in the federal docket so that they can be brought into production, into use, by producers.

Generally speaking, the community has felt -- and this was brought up today earlier -- that a recommendation and an approval by the National Organic Standards Board then would result in a timely publication in a federal docket and it could be used in a reasonable manner. That has not happened, and it's caused a lot of problems.

Another issue that has been brought up today and that I feel that some of these, you know, issues could be addressed by looking at the process we have, is: whose authority is it to provide guidelines, and what kind of relationship are there in answering these questions, that we all have, to what they mean on the ground, and an example of that has to do with the treated seed, for example.

The dairy interpretations that have been made by the National Organic Program, that seem to fly in the face of what everybody's been doing, and yet now there's an interpretation, so -- it's a guideline, it's an interpretation.

What does this mean to a certifier and how they apply it? One good example of process that has occurred, I think -- and I've talked with several of you about this,
and that's the feedback that I've gotten -- is last -- the
last NOSB meeting, you all went through a -- you stepped
back, you went within and you addressed the compatibility
issue, and this was based on a need, perceived by
everybody, to put together better --


CHAIRMAN KING: Finish that sentence and then
we'll have some questions.

MR. ENGEL: To provide better review of
materials. Thank you.

CHAIRMAN KING: Questions for David about any of
the items he brought up?

(No response.)

MR. ENGEL: Thank you.

CHAIRMAN KING: Thank you. Leslie Zuck, and
Urvashi is on deck.

MS. ZUCK: My name is Leslie Zuck. I'm the
Director of Pennsylvania Certified Organic. We certify
about 300 operations in Pennsylvania, a lot of chickens and
cows. I'm also on the interim steering committee with Dave
Engel for the Accredited -- the newly-formed Accredited
Certifiers Association, and I would like to make a couple
quick comments, at the beginning of my comment, about two
of your draft recommendations, since you're going to be
talking about those in the next couple days.

On the accredited certifying agents' procedure for determining minor non-compliances, I would really -- I know that you originally were asked to take out the term "major" as it applied to non-compliances, but I really would like to have you reconsider using the designations "major" and "minor" non-compliances because -- we've even just tried to discuss this document, and the issue -- it just becomes a semantic nightmare, and it could become a legal nightmare as well when we're dealing with clients, because having the word "non-compliance" refer only to major non-compliances makes things unnecessarily difficult, because when you say "non-compliance," the word usually would refer to both of those types of compliance -- non-compliances.

So it should -- the plain "non-compliance" should refer to either and we need to bring back the "major" and "minor" so that we can be clear what we're talking about. I mean, it's hard enough for certifiers to really understand, we're having a discussion in the staff -- you know, with the staff, and we have to convey that information to our -- our clients and our farmers.

On the commercial availability draft recommendation, Number 2-B, 3 and 6, these -- actually,
these two first comments were also on behalf of the Northeast Certifiers Association, or group. B-3 is asking -- or requiring certifiers to verify the non-availability of a material by checking current lists of some sort, and we believe this burden should be placed on the producer to produce to us the Lists that were checked and, you know, bring that as part of their Organic System Plan. The burden is on the producer to verify that.

And Number 6, submitting a list to the NOP of all materials that we approve, and we would just like to know why -- what would that information be used for and why would that additional burden be placed on certifiers.

Okay, my main comment is about the guidance statements -- the guidance statement on the use of fishmeal as a protein supplement in the feeding of organic livestock.

After reading the document, it occurred to me that it would be extremely important to have a definition, a better definition, of what a protein supplement is. Since it doesn't have to be organic and it can be fed in any amount, I fear that without more specific information defining it, that it would open the door to a lot of things. What one producer or certifying agent would call a supplement another producer or certifying agent could just
as easily call a feed ingredient, which would then have to be organic.

So we need a little help here. In fact, the current definition does -- it says -- it defines a feed supplement as a combination of feed nutrients, some even saying fishmeal as a stretch, to get under that definition, if it's not a combination of feed nutrients. So I think we just need some help with that there.

I would also like to ask for clarification from either the NOSB or NOP regarding Section 205.237 and as to whether the non-synthetics referred to there cover both agricultural and non-agricultural materials. The fishmeal guidance statement doesn't clarify whether the fishmeal is allowed because it's non-synthetic or because it's non-agricultural, or doesn't it matter.

As an accredited certifying agent, it's important for us to have this clarification. It affects things like the use of maybe molasses, kelp, alfalfa meal, or, depending on the definition, even soybean meal as a protein supplement. So we need a little help with that too.

It's important for us to know whether we must prohibit these non-synthetic materials and supplements that are allowed under .237 if they also contain a synthetic ingredient that is not on the National List. PCO has
allowed the use of fishmeal as a non-synthetic under .237
as long as it did not contain a synthetic ingredient not on
the National List, such as a synthetic preservative,
ethoxyquin, but fishmeal preserved with the natural
preservative Nature would be allowed. Did I say we did
allow -- we did not allow the use of fishmeal with
ethoxyquin but we do allow the use of fishmeal with the
natural preservative Naturox.

So since the statement -- as long as it does not
contain synthetic ingredients is missing from that guidance
statement, I'm just wondering why that issue wasn't
mentioned and whether, as a certifying agent, I should be
allowing or prohibiting these materials.

CHAIRMAN KING: Thank you. Questions? Andrea,
Ann.

MS. CAROE: Do you have your comments written,
Leslie?

MS. ZUCK: I do not. I could write them.

MS. CAROE: I mean, you've got a lot of good
comments in there about a lot of recommendations.

MS. ZUCK: Yeah.

MS. CAROE: We're going to be discussing that,
and I tried to take as good notes as possible, but --

MS. ZUCK: Well, I'll tell you what, my next
sentence was going to be a recap of those three things, the	hree basic -- the three basic questions I have, which are:
a need for a better definition of supplement, especially
protein supplement, which there is no definition for; and
can the non-synthetics allowed under 205.237 be
agricultural or non-agricultural; and three, is fishmeal
allowed even if it contains a prohibited material, and if
so, are other non-synthetic supplements also allowed if
they contain prohibited materials.

So that's kind of a summary of my questions.

CHAIRMAN KING: Well, and I think it would be
important if we could get copies of those questions
somehow, even if --

MS. ZUCK: I'll do that. I have it on my
computer, but I couldn't print out.

CHAIRMAN KING: Oh, yeah. But they're very well
thought out, so I think it's important to go ahead --

MS. CAROE: And also your comments on the minor
non-compliance and commercial availability.

MS. ZUCK: Okay.

MS. CAROE: Well, I guess this was under the
commercial --

MS. ZUCK: Yeah, that was --

MS. CAROE: Yeah, the commercial availability as
well.

MS. ZUCK: The commercial --

MS. CAROE: Those comments that you made as well, I'd like to see those written down, if I could.

MS. ZUCK: Sure, I'd be happy to.

CHAIRMAN KING: You're passing --

MS. ZUCK: I wrote these on the train, so you don't want a copy of this.

CHAIRMAN: We're going to get to you eventually, okay?

MS. ZUCK: I can hardly read it.

CHAIRMAN KING: Third time's a charm, right?

Jim, you --

MR. RIDDLE: Yeah. On the commercial availability, we did receive some other comments that were posted on the website, similar to yours, and I don't have the draft open in front of me right now, but I do believe that we've made some changes --

MS. ZUCK: Good.

MR. RIDDLE: -- but we will -- I'll be presenting that tomorrow morning. So you'll be here?

MS. ZUCK: I will be.

MR. RIDDLE: Great. Yeah. So if they're not being addressed, then speak up, you know, at that time, if
they haven't, but it would sure be helpful to get them in writing.

    MS. ZUCK: Will do.

    MR. RIDDLE: As far as answering those other questions about the implication of the feed -- fishmeal, I think we have the same, similar questions.

    CHAIRMAN KING: Other questions for Leslie?

    (No response.)

    CHAIRMAN KING: Okay. Thank you.

    MS. ZUCK: Thank you.

    CHAIRMAN KING: Urvashi, you're up, and James Wettle is on deck.

    MS. RANGAN: Good morning. My name is Urvashi Rangan. I'm an environmental health scientist for Consumers Union. We're the publisher of Consumer Reports magazine. I also direct the eco-labels project at Consumers Union, where we rate environmental labels on lots of products, and organic is definitely one of them. So one of the main missions of that is to educate consumers as to what organic means, which is why I come here to every National Organic Standards Board meeting.

    We want to thank you again for your tireless efforts to guard the standard and guard this label for consumers. Without you, without these open public forums,
it would be very difficult for us to express our concerns on a regular basis about these things. It also gives us an opportunity to regroup, to learn what new things have been issued.

We also want to commend the NOP for prohibiting the use of the USDA label or any NOP approval implications on personal-care products, on dietary supplements, and on aquaculture. We think that consumers are better served by that, and for those -- for all of those for a variety of different reasons, but we commend them for their actions on that.

However, these guidance statements that have been issued in the last week, of which I think there were four new ones, I'm not sure what this is. Some of these come with significant changes to the regulations and to the law. This is a public program. That process that needs to be in place is that these things need to be proposed in regulations for public comment. It's really difficult when we have clarification statements that are also subject to change at any time without public comment. This is not what guidance needs to be, this isn't how this program needs to be run.

There's one of these directives that's of particular concern to Consumers Union, and I think I'm
going to probably spend most of my time today talking about that, but there are other issues that I'm going to be bringing up on Friday concerning labeling inconsistencies, concerning the fishmeal, concerning the antibiotics in livestock.

But this one I'm going to talk about today is of most concern to Consumers Union. I don't think there's been an issue as important to maintaining consumer confidence in the label, and that has to do with this compliance and enforcement directive for pesticide use in organic production.

We don't see this as a compliance and enforcement strengthening; we see it as a loosening of compliance and enforcement. Consumers expect -- and this is what the regs and the law say -- that there are no synthetic pesticides reviewed unless otherwise reviewed by the National Organic Standards Board and approved for use on the National List.

We get this question all the time from consumers: what is on organic produce, are there pesticides being used, are there synthetic pesticides being used. To be honest with you, I get it internally at Consumers Union. People don't quite understand. And it's already convoluted enough to explain that well, it's not that there aren't any synthetic pesticides, but those that are used are approved
by this board. That is the very essence of the law and the regulations, and it is before they are used they are reviewed and approved.

This entire document disregards that fact, that these compounds and these agents need to be reviewed before they are used. Many of you may recall the Consumers Union has tested organic produce for pesticide residue, we did that before the National Organic Program. Because there have been assurances now that there is a process in place for reviewing these materials, the question has not been opened again, as to whether or not these things need to be tested. This document opens that question. These prohibited pesticide residues could be found now on organic products that include ingredients on EPA's List 2 and 3 that are prohibited for use in organic production.

Consumers rely on this board to make sure that that doesn't happen. It cannot happen. It is serious erosion of what the organic label means to consumers. And this guidance document makes significant changes to that and makes a serious shift of the standards.

It's based in secrecy, these ingredients are not required to be listed, it is under confidential business information. Based on a conversation I had with EPA yesterday: only the manufacturer really has access to what
ingredients are in those formulations. EPA is the only one that can crack that code. That's why EPA proposed a pesticide registration guidance for manufacturers of pesticides who want to get extra labeling that their pesticide is okay for the National Organic Program. We would like to see this board mandate that pesticide manufacturers have to go get that NOP label from NOP -- from EPA. EPA has offered to do it. We need to take them up on that opportunity.

CHAIRMAN KING: Questions or comments for Urvashi?

(No response.)

CHAIRMAN KING: Thank you very much.

MS. RANGAN: Okay. You're welcome.

CHAIRMAN KING: I have James Wettle up next, and then Marty Mesh is on deck.

(Pause.)

CHAIRMAN KING: This is your official proxy, I see. So we'll have the opportunity to see Marty for ten minutes.

UNIDENTIFIED MALE VOICE: I think he needs a handicap for doing this to me.

(Laughter.)

MR. MESH: They asked me to. As the primary --
my name's Marty Mesh, reading comments on behalf of the Texas Organic Cotton Marketing Cooperative.

As the primary marketer of organic cotton grown in Texas, the Texas Organic Cotton Marketing Cooperative is against the NOSB's crops committee's proposal that hydrogen chloride not be added to the List of allowed or regulated substances. Our reasons and comments on recommendations and the TAP reviews are detailed below.

As stated in the co-op petition, we are requesting that the NOSB allow the restricted use of hydrogen chloride in the process of de-linting organic cotton seed because we have no alternatives.

First of all, there is no commercially-available organic cotton seed; second, there is not any commercially-available non-organic cotton seed that is not acid-delimited; third, planting un-de-linted or fuzzy seed is not an option with mechanized planting; and fourth, there are no commercially-available alternative processes for de-linting the seed or otherwise making the fuzzy seed suitable for planting.

The crops committee and TAP reviewers suggest the use of lactic or acetic acid as alternatives but acknowledge that these may not be effective. All of the de-linters and others with expertise in dealing -- in the
de-linting process, that we have talked to, agree that
these acids would not work satisfactorily.

One of the persons we discussed this with was Dr. Gay Jevedin [phonetic], retired senior director of research for Cotton, Inc., who is the co-developer of the dilute acid-de-linting process using sulfuric acid. Dr. Jevedin stated in a phone conversation April 14th, '04, quote, "Acetic acid and lactic acid would not be suitable alternatives for commercial de-linting of cotton seed. These acids are too weak to remove the lint in a short enough time to prevent damage to the seed," unquote.

As far as alternative processes of de-linting, we have pursued and are continuing to pursue any possibilities that we find. We're working with Tom Wiedengardner [phonetic], director of cotton seed research and marketing for Cotton, Inc., on starch coating the fuzzy cotton seed to make it usable in mechanical planters. Wiedengardner, who has been involved with Cotton, Inc., in the development of easy-flow cotton seed for the feed industry is now trying to improve the process for planting seed. We have sent him 250 pounds of fuzzy cotton seed for trial in his pilot plant, if he is able to get it going.

However, Wiedengardner indicates that at best commercial availability of planting seed using this process
is several years away.

Also another company, LT Kinzer Company, is working on an enzyme de-linting process, but here again, it is in developmental stage and is a few years away from commercial availability.

We've also looked into the mechanical de-linting options but because of the various problems have not found anything that's a viable solution. One of the best hindrances to finding an alternative to de-linting with hydrogen chloride, whether it would be trying organic acids or special mechanical de-linting, is that no commercial de-linting company is willing to do anything out of the ordinary for the small quantity of planting seed needed by organic producers. We have difficulty even obtaining acid-de-linted seed that is not treated with various chemical seed treatments.

The large seed companies will not provide untreated seed at all. We are fortunate that one small seed company has been very good to provide us with untreated planting seed, and a few local de-linters will de-lint producer cotton seed and leave it black, with no chemical seed treatments. However, even these who have provided us black seed are not at all interested when approached about alternatives to hydrogen chloride because
our volume is so small.

The TAP review mentions that, quote, "organic cotton production is more than a hundred-million-dollar-a-year business," unquote. However, the current annual farm value of cotton sold in the organic market is approximately 2 million -- that's a 98-percent error -- for production in the United States and 15 million worldwide.

The TAP review also touches on the issue of whether the use of hydrogen chloride as a de-linter means HCI is being used as a processing aid or a seed treatment.

It is our position that it is a processing aid, not a seed treatment, because of, among other reasons, the fact that EPA does not require that it be registered as a seed treatment.

The criticalness of the issue of organic cotton producers' ability to plant seed that has been de-linted using hydrogen chloride cannot be overemphasized.

The members of our cooperative produce a large majority of the organic cotton grown in the U.S. --

MS. DIETZ: Time.

CHAIRMAN KING: Finish your summary, please.

MS. DIETZ: Your time on your first five minutes up, so you can finish it up --

MR. MESH: Well, let me finish the sentence.

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MS. DIETZ: That's fine.

MR. MESH: All of our numbers you see that has been de-linted with HCI, as far as we know, all other producers in the country do also, and I'll give part of my five minutes to the Texas Organic Cotton Cooperative, to finish their letter.

MR. RIDDLE: Okay. Go ahead and then finish and then we'll see if there are any questions on this.

MR. MESH: As has been previously stated, we have no alternatives at this time. If organic producers were to be decertified for the use of this seed, it would eliminate organic cotton production in the U.S. If that happens, 4,000 or more acres would return to conventional cotton production because there are no other economically viable crops in this arid region, west Texas.

It would be especially regrettable for this to happen at this time because the demand for organic cotton appears to be finally taking off, our cooperative and others have worked very hard for many years to develop the organic cotton industry. It would be a tragedy if just at the point that there's potential for converting significant acres of cotton to organic with the accompanying reduction in pesticide use. I don't know if you're aware of how much pesticides are used in conventional cotton. It's...
substantial. In fact, there's none -- no other crop more.

The seed issue is allowed to eliminate domestic organic cotton production. We urge you to recommend that hydrogen chloride used for de-linting cotton seed be considered a processing aid and to allow hydrogen chloride for use in organic production for de-linting cotton seed.

The Texas Organic Cotton Marketing Cooperative will continue to pursue both mechanical and organic solutions for the process and will inform you as soon as we have found one.

MR. RIDDLE: And Marty, my clock shows you used just a little over a minute of your own time, so why don't you start --

MR. MESH: I think Kim was the timekeeper, I thought we were going to make improvements in the ability for timekeeping.

(Laughter.)

MR. RIDDLE: It's hard to let go of that (inaudible). But you'll have about four minutes on your own is what --

MR. MESH: "About" is the critical --

UNIDENTIFIED MALE VOICE: Your reputation precedes you.

MR. MESH: You know, if there's questions on the
de-linting -- I mean, I would also add that your TAP review is suspect, you have a Ph.D. of -- associate professor of chemistry in the middle of the U.S., you have a masters with biochemistry in forensic drug testing in the eastern U.S., and you have the U.S. --

CHAIRMAN KING: Marty, let me just interrupt. Are there questions for Marty concerning the de-linting process?

MR. MESH: Or the TAP reviews, I would take either one.

MS. KOENIG: No, and -- you know, Marty and I had talked as I know he had -- we had concerns with the TAP report, I mean, and that's what I wanted to make clear to individuals sitting in the room, is that when we vote and when we submit a recommendation for either crops or -- you know, any of the committees, I mean, it's based on the information at hand, and that's why it's really important, now that we're following that process and having it on the website in advance, that hopefully we'll get more of this public input and -- which means, you know, back to Jim's comment, that: yeah, there's some decisions in there that the committees made, but again, those decisions were made based on the information at hand, and we worked to try to let people know about that so that if there was other
information that we didn't have within the TAP, that we could consider that. So I thank you and I thank the Texas cotton growers for coming forth with that information, because one of the big things was the -- that gray area of alternatives, and the fact that they have brought forth an expert really helps the process, as far as being able to reconsider and think about this thing before the final vote.

The question I had was -- and what wasn't clear was whether the co-op -- and I think you made it clear. When you say organic seed production, were they -- are they in fact producing organic seed that they're trying to use themselves or is this an issue in both the non-commercial-ly-available -- you know, that organic seed is noncommer-cially-available and therefore it's just a process similar to the foundation seed that's occurring and therefore cotton is not even being able to be grown?

I mean, I assume that they're using seed that is already being processed, or de-linted. I don't know. What's the current situation?

MR. MESH: Right. The petition is so that organic cotton producers can use organic cotton seed in planting. It has to be processed as a processing aid with hydrogen chloride, so that they can continue to do that.
If you deny the petition, then the only thing they have left to do is find -- there is no alternative. You know, I was going to say find treated -- I mean find conventional seed, but that's going to be treated with HCI as well. There is no alternative.

MS. KOENIG: Thank you, because that wasn't clear.

MR. MESH: So their goal is to use organic cotton seed.

CHAIRMAN KING: Nancy has a question, then Dave.

MS. OSTIGUY: One of the points that you read in the letter, that I have a question about: since cost is not an issue that we can consider, one of the items is that planting of the linted version of the seed is impossible with the mechanical planting process.

MR. MESH: It's not possible. I mean, you plant cotton on thousands of acres --

MS. OSTIGUY: Right. Well, that's what I said, is it's not possible, right. But is mechanical processing -- is that a cost issue? What's the reason for mechanical planting?

MR. SIEMON: Compared to doing it by hand?

UNIDENTIFIED FEMALE VOICE: You mean mechanical -- any mechanical de-linting?
MS. OSTIGUY: Well, yeah, I'm supposing.

MR. SIEMON: Mechanical de-linting?

MS. OSTIGUY: No, I'm talking about planting, because it says that you can't plant linted cotton. One of the ideas is -- linted cotton seed because it messes up the planter. I'm not a farmer, okay, I --

MR. SIEMON: So you mean as compared to planting by hand?

MS. OSTIGUY: I know honey bees really well, you ask anything about honey bees, I can do that, but farming I don't know. And so the question is: is there any other way to plant?

MR. MESH: No, there's not any other way to plant --

UNIDENTIFIED FEMALE VOICE: Not commercially.

MR. MESH: -- cotton on -- I mean, you know, you can't grow cotton planting by hand. And, you know, Keith was a cotton farmer, or your dad was a cotton farmer, and maybe he could add some expertise, you know. I mean, I can tell you all about watermelons but not --

UNIDENTIFIED MALE VOICE: We don't hold that against the cotton industry.

(Laughter.)

MR. MESH: But as far as I know, there is no
other way to plant cotton except mechanically planted.

    MS. OSTIGUY: Which is what the question was: is there another alternative to planting.

    UNIDENTIFIED FEMALE VOICE: To the best of his knowledge.

    CHAIRMAN KING: Okay. All right, Dave, you had a question.

    MR. CARTER: Well, mine was almost along the same line of Nancy in that I need, you know, cotton 101. Coming from Colorado, it's not a big crop up there.

    MS. OSTIGUY: Yeah.

    MR. CARTER: But in planting it, I mean, is the de-linting -- the planting is the only issue that the de-linting is relevant? I mean, are there other -- other reasons that you need to de-lint the cotton seed before planting it or is it just because of the -- the mechanically planting?

    MR. MESH: Mechanically planting.

    MR. CARTER: Okay. There -- I mean, is there any other ways of -- is it drilled, like you drill wheat, is it --

    CHAIRMAN KING: Keith, please, come forward. You'll have to come to the mic, otherwise I'll be in trouble with the court recorder.
MR. MESH: Just for the record state your name.

(Laughter.)

MR. JONES: I'm Keith Jones, with the National Organic Program, and unfortunately, I have been a cotton farmer, so --

The last fuzzy cotton that was planted in the cotton belt was probably in the 1950s. My dad switched over from fuzzy planting to acid-de-linting planting in the mid to early '50s. You can't even find planters today that will plant fuzzy seed. If you look at planting systems today, it's primarily vacuum planters, and even when you were using plate-type planters, that technology was really not available even up until the mid '50s, was really the last fuzzy plate-type planters that were -- that were available.

So you're -- so because you're using vacuum planters today, de-linting is even a -- more of an issue than it was, say, even, you know, 30 years ago, because what you're trying to do is move that seed through essentially a tube, a plastic tube, about three-quarters of an inch, and you're trying to move that seed through vacuum from the seed hopper into the ground. So it's a planting issue, pure and simple. And when these folks say the technology is not available to plant fuzzy seed, that's a
CHAIRMAN KING: Quick question, someone who spends a fair amount of time among collectors of antique and old equipment and that sort of thing. What you begin to see over time is sort of the "what comes around goes around" adage and that, you know, technology does sort of reappear, and in your opinion, with this experience, Keith, would there ever be a point in the future where a planter would be remanufactured to plant fuzzy seed; if so, why; if not, why?

MR. JONES: Now, in my opinion, Mark, that's not going to happen, for two reasons. One, all the fuzzy planters of that era essentially went to Mexico and got junk, that's where all our planters went, okay. You might find a 4-O planter somewhere, stuck in a tree row, that could still plant fuzzy seed, but farmers out on the high plains of Texas use 12-, 16-, 24-row equipment, okay, it's very sophisticated. And so to go back -- to go back to that 4-O operation is just out of the question.

There's actually no demand even to do so, for an equipment manufacturer to do that, because nobody plants fuzzy seed anymore. The chosen path beginning in the 1950s for seed production was acid de-linting, and the reason for that is it's primarily a fungal issue. You take -- I mean,
you get a better distribution in the stand [phonetic]
because it's easier to plant, but it's also a fungus issue,
because what you've got in fuzzy seed is you've got the
ability to create disease and fungus problems. If you
eliminate that seed, particularly in areas that's got high
ambient temperatures, if you eliminate that fuzz around the
seed, you eliminate any place for that fungus to grow, okay.

And so we were able to move from -- and this is
off the top of my head, but we were able to move from
planting about 20 to 24 pounds per acre fuzzy to, at the
time of our latest technology, which was in the early '80s,
anywhere from 6 to 10 pounds per acre de-linted, okay.

CHAIRMAN KING: Nancy.

MS. OSTIGUY: Keith, the -- so -- but did the
de-linting decrease application of fungicides or any of
that sort of -- or did it just increase your ability to --
increase the density?

MR. JONES: Yeah, the issue, Nancy, is that --
one of the things that these guys are wrestling with is
that when you -- when you de-lint seed, you routinely apply
some sort of fungicide too. Okay, that's just -- that's
just the process. If you go to the de-linter, they're
applying -- they're not only de-linting but they're
applying a fungicide.

MS. OSTIGUY: With conventional seed.

MR. JONES: With conventional seed. So the challenge for the folks in Texas is to -- is to essentially get the seed de-linted, pull that seed out of the line so that the fungicide doesn't get attached to it, and it's my understanding that the -- the cotton industry, because these guys are not using GMO materials, it's still a save-your-seed kind of industry.

I mean, we saved all our seed when I was growing up, you would catch your planting seed from the gin, you would take it to the de-linter, have it de-linted, and that was -- that was what you would use. We used foundation seed that we saved for about 4 years and then we bought foundation seed about every 4th year.

And it's my understanding that JIMI [phonetic] is adopting a similar practice, and that is, they are harvesting organic cotton grown in -- according with the regulations, they are catching the seed at the gin, they're then taking that seed to the de-linter, and because they have to have it de-linted in order to plant the next crop, they have to have the HCI applied to it, and then the HCI essentially kicks it out from being organic again.

So they're caught in this kind of catch-22 that
they're never going to be able to get out of the cycle,

so --

MS. OSTIGUY: Okay.

CHAIRMAN KING: Are there additional questions or

comments for Keith?

(No response.)

CHAIRMAN KING: Thank you very much, Keith.

MR. MESH: So moving into my four and a half

minutes or so, the --

(Laughter.)

UNIDENTIFIED FEMALE VOICE: We'll see

(inaudible) --

CHAIRMAN KING: Yeah. It may be less at this

point.

(Laughter.)

MR. MESH: You know, again, my question is about

the TAP reviewers having no -- no history with cotton

production and relying on them for expertise. I view this

petition similar to methionine, I mean here's an industry

trying and looking at doing -- you know, creating

alternatives, trying to be in search of alternatives,

thinking that there is an alternative in the future, doing

some research, but clearly it's a few years away, and this

board approved methionine, you know, for a limited amount
of time, saying, "Let's do the research and try to find something that's more compatible with organic."

I will also bring up the issue that organic cotton seed is a huge feed source not treated with HCl, that seed is captured before the de-linting process and then it goes into being a component of livestock feed, and if you -- you're going to do away with a huge potential source of livestock feed, and Jim Pierce could probably give you some figures on how many producers are using organic cotton seed as a livestock feed source.

So, now moving on to Quality Certification Services, that's who I'm here to represent, a USDA-accredited certifier. We sent a letter to the USDA and the past secretary of the NOSB by mistake, but I hope that he forwarded to the rest of the members of the Board our letter, requesting a revision -- you know, re-looking at the scope document.

We're specifically concerned about aquaculture, which has been certified to the national rule prior. It was an excellently-written letter, and I'll make sure you get a copy eventually from Jim.

(Laughter.)

MR. MESH: And fabric, we think -- we're a little confused on that. It's not the worst thing to make a
mistake or issue a guidance document or a direction that
should be reexamined; it is much worse to not be willing to
admit a mistake and remain adamant that driving down the
wrong way -- driving down the wrong way of a one-way road
is okay because it's only going one way.

We request the NOSB to pass a resolution
requesting the USDA to take the steps we outlined in our
letter, which your past secretary has, to protect the
organic farmer and confidence of the organic consumer, and
I could go into it, but because the clock is ticking, I
wouldn't get very far, I reckon, but, you know --

MS. DIETZ: Now you've got a minute.

MR. MESH: But basically, you know, there was a
May '02 policy statement, and there's been public
statements made by the program, saying if you can certify
something to the Rule, it can be by an accredited
certifier, you can label it as organic and put a USDA seal
on it. People have invested hundreds of thousands of
dollars in organic production practices, meeting that,
based upon information -- in legal terms they call it
detrimental reliance, when you clarify something with an
authority and then act upon that, and those people are
being put out of business immediately based upon that scope
document, or scope change, without any public process.
So just know that I've finished early, I think this is a first.

(Laughter.)

CHAIRMAN KING: Okay. Kim has a question.

MS. DIETZ: While you were commenting on people -- reviewers of the TAPs, I just had one comment I was going to make, but since it's kind of brought out --.

One of the reviewers for a number of TAPS on the crops committees was an accredited certifier, and I --

MR. MESH: Can they certify cotton?

MS. DIETZ: -- I had a problem with that. There was a number of materials. So I just questioned having accredited certifiers actually conduct TAP reviews, I see somewhat of a conflict of interest there, and so we just probably need to address that.

MR. MESH: And did that certifier have experience in cotton?

MS. DIETZ: It was on three or four materials that we're going to be reviewing (inaudible) --

MR. MESH: Right, but my guess is they've never certified a cotton farm.

MS. DIETZ: Probably not, but it was -- it was an accredited certifier that -- I think it's a potential conflict.
MR. MESH: I think that's a comment to a process, you know, but --.

CHAIRMAN KING: Additional questions for Marty? Jim?

MR. RIDDLE: Yeah. Not a question, but I did receive your letter, and it was excellent and very well-written.

MR. MESH: I couldn't hear you, what? It was what?

(Laughter.)

MR. RIDDLE: And I will forward it to the rest of the Board. I thought you'd sent it to all the Board members, so I'm sorry for that. But, you know, the concern you raise is major and a change in the rules of the game after companies have made investments when the previous scope document said: if you can certify, if you can produce to the Rule as written, you're eligible for certification, and companies in a number of sectors have done that, and I -- you know, I think it's something that we probably need to hear a response from the NOP on how they came to that conclusion and also what their response is to the companies that are suffering economic harm because of this reversal in scope.

CHAIRMAN KING: Other questions?
(No response.)

CHAIRMAN KING: Thank you, Marty.

MR. MESH: Finished early.

CHAIRMAN KING: Indeed, nice. I don't know if Steve Harper's in the room, I have him down for public comment.

UNIDENTIFIED MALE VOICE: He is.

CHAIRMAN KING: He is?

UNIDENTIFIED FEMALE VOICE: We at least can acknowledge that he's here.

CHAIRMAN KING: He's saying no -- okay.

MR. HARPER: I'm Steven Harper, from Small Planet Foods. I guess I just want to acknowledge all the hard work that the NOSB continues to put forth. I'm sorry. I just wanted to acknowledge the incredible work that the NOSB continues to put forth. And I have a lot of concerns, but I did not have time to put some comments together, but I do want to make some positive comments on the 606 Task Force and the direction of the commercial availability and the clarification of the national -- the National List as it regards processing, and I think that is a very good direction for the Board as far as a recommendation, and I guess I'm going to leave my comments there. So I think that's a really good direction to help clarify that whole...
situation.

CHAIRMAN KING: Well, it's very good to see you and very nice to have you here, and we appreciate any comments you have.

I think now -- it's 11:45. What we'll do is break for lunch and come back, unless there are additional -- anyone who has not signed up, that wishes to give public comment, okay, and after lunch we'll begin with the NOP comments. We're scheduled to start at 1:15. I would literally like to start at 1:15, so please be back before that. Thank you.

(Off the record at 11:45 a.m. and reconvened at 1:17 p.m.)

CHAIRMAN KING: I'll reconvene the meeting of the National Organic Standards Board. First up is our comments form the National Organic Program, Rick Matthews. Rick has indicated that he has a number of slides, and I would entertain questions from the Board as he goes through his presentation; however, he may at some point say, for example, "the next slide may answer this question." So we'd like to get this through this efficiently, knowing that we have limited time. So if you do have a question, please feel free to make note and we'll recognize it. It's all yours, Rick.

MR. MATTHEWS: Okay. I would stand up, but we do
need to be able to work the microphones. Katherine, take it to full screen.

Okay, I'm Richard Matthews, I'm program manager of the National Organics Program, and I've got about 40 slides here that we're going to try and answer a lot of the questions that have been coming up, and the first one is we're going to talk about the cost-share program.

There currently are two different cost-share programs, there's what we refer to as the AMA, which stands for Agricultural Marketing Assistance program, and then there's the National Organics Program.

The purpose of these two cost-share programs is to assist with costs of the NOP certification. Under this program, the -- under both programs, actually, the AMA and the National,

Certified operations are entitled up to 75 percent reimbursement of their cost of being certified. The maximum amount that they can receive is $500. This is actually per year, so somebody who is renewing their certification is also entitled to receive cost-share funding.

Both programs are administered cooperatively between the USDA and the participating states. USDA allocates the funds to the states and the states process
the applications and distribute the funds to the people who apply for cost-share.

The AMA cost-share program is a $1 million program. It's currently funded yearly. It's for producers only. There are 15 states that are eligible to participate in this program. 13 of them are found in the Northeast. The two exceptions to that are Utah and Wyoming.

We currently have 14 states participating. The state that is not participating is Rhode Island. Rhode Island has historically not participated because Rhode Island has historically not charged for certification. They are going to, however, begin participating in this program with the next fiscal year.

For our purposes, a fiscal year runs from October 1st through September 30th, so beginning fiscal year 2005, which begins October 1 of this year, Rhode Island will join the group.

The national cost-share program is a $5 million program. It's a one-time funding. To date we have allocated -- or obligated 3.6 million of that $5 million, which means that there is 1.4 million that remains, that can be obligated to the states that are participating in the program.

The national program is for both producers and
handlers, but because of the AMA program, those 15 states that are under the AMA program, it's only handlers that apply under the national program in those 15 states.

We currently have --

CHAIRMAN KING: Rick, you've got a quick question, I think, about cost-share.

MR. RIDDLE: Yeah. You say there's 1.4 million left that hasn't been allocated, so at the current rate of allocation, by the end of this year or next year, would you anticipate --

MR. MATTHEWS: We have no idea when it'll run out. As states need additional funding, we provide that additional funding based on the history of the use of the funds within the state.

MR. RIDDLE: Would it be safe to say by the end of 2005 it could be short of funds?

(Laughter.)

MR. MATTHEWS: I --

MR. RIDDLE: Well, I'll say that. You don't need to. Okay, thanks.

MR. MATTHEWS: All right. We have 45 states participating in the national program. The two that would be eligible for both producers and handlers that are not participating are Arizona and Louisiana. Delaware, Nevada,
and Rhode Island are those states that are in the AMA program, their handlers are not being served under the national program.

The next one is a category that we seem to have had a lot of interest in lately, and that's the NOP budget. The total budget of the National Organics Program is $1,443,000. The Department, meaning USDA, and the Agricultural Marketing Service take overhead from that. The overhead that is expended is $180,756. That leaves, for salaries and benefits, 741,846, which is actually an increase over previous years. The NOSB is budgeted this year at $90,000. Now, what comes out of that budget is the cost of travel for board members, the printing of all of the documents for the board members' meetings, renting this room, paying for the airline tickets, things like that.

Then also included in there, for example, this year is the nominations process for new board members. Other non-paid category is $430,400. This includes travel, staff travel, parcel post, rent, communications, utilities, contracts, printing, supplies, equipment. Under contracts you will find TAP reviews, you will find our contract for doing compliance work, contract on copier maintenance. So that's where the contracts come in, mainly copier, compliance, TAP reviews, and some other miscellaneous
things that we've done in the past, you know, 40,000 here for -- for example, I believe it was with ATRA we did a $40,000 contract. So that's the kind of thing that goes into that.

UNIDENTIFIED FEMALE VOICE: (Inaudible.)

MR. MATTHEWS: Yeah. And in the non-pay area, contracts takes up the lion's share of that, there's very little that goes into these other areas.

Okay, now moving on to compliance cases, for fiscal year 2003 we had 114 cases that were opened by the compliance staff. 16 of those 2003 compliance cases remain open, seven of them are still in NOP compliance, nine of them have been referred to the NOP staff for follow-up work, and out of the nine that have been referred back to us, we have gone to the attorneys and requested the filing of a complaint for revocation of certification, so we have one now that has gone to the hearing clerks, to be assigned to a judicial officer. Three cases have been combined into one of the seven open cases in the NOP compliance.

That means that 96 of the cases that were open -- three cases have been combined into one of the seven open cases in the NOP compliance. That means that 96 of the cases that were opened in 2003 have been closed. 32 of those were closed because there was no NOP violation. Six
of them were also closed because there was a lack of
evidence in order to pursue the case. 58 of the cases
resulted in corrective action.

You'll note that from the Listing below, most of
these deal with labeling issues. The second most common
violation is: not being certified. So out of the 58
corrective actions taken, 26 have corrected the labeling,
12 have removed organic labeling from their products, seven
chose to become certified, and that was basically the
violation, they weren't certified, and 13 other corrective
actions.

Now, I can't sit right here and tell you what
each one was, but they're single occurrences of a violation
that were not of a labeling or a certification nature.

In fiscal year 2004, so far we've opened 18 new
cases. Seven have --

UNIDENTIFIED FEMALE VOICE: (Inaudible.)

MR. MATTHEWS: I'm reading from the wrong slide.

43 cases were opened. 25 remain open. Of the 25 that
remain open, 21 are still with NOP compliance, they're all
under investigation. Four of them have been referred back
to the NOP, and we'll be taking additional action.

Now we go to the closed cases. 18 of those cases
that were open so far this year have been closed. Seven of
them, again, no NOP violation. In fact, one of those seven involved an exempt operation. Eleven others have taken corrective action: three corrected labeling, three removed organic labeling, and then five other corrective actions.

Again, you can see that the primary reason for the cases that we're receiving have to do with either the person is not certified, which is the second most common, and then the most common is the labeling issue.

Okay, new members for the --

CHAIRMAN KING: We've got a quick question from Andrea.

MR. MATTHEWS: Andrea.

MS. CAROE: These cases where there is a representation of organic that is not certified, what surveillance is picking these folks up, is it complaints that you're receiving from the public or is this some other type of surveillance that's --

MR. MATTHEWS: Well, the compliance staff also does surveillance by going into supermarkets and buying product.

MS. CAROE: Is that primarily where you're seeing -- because I mean there was always a question, we knew that --

MR. MATTHEWS: Some of them are a result of an
NOC compliance staff buying products and then following up with the sellers of those products. The other way is through people who are filing complaints, and I don't have a breakout of how many of them were the result of complaints versus how many of them were the result of the compliance staff going into supermarkets and buying product.

For the Board, as I'm sure that many of you are aware, there is going to be five openings effective January 24th of 2005. Two of those are producers, one is a handler position, one is an environmentalist position, and one is the retailer position. These are 5-year terms of office. We have gone out with an announcement, and the resumes -- for those people who are interested in being board members, the resumes are due June 14th of 2004.

To date, we have published the news release that was published on March 8th of 2004. We've also issued a Federal Register notice, which was published on March 16th of 2004. That is what we have done in the past, a news release and a Federal Register notice. This year, for the first time, we are able to do something entirely different, and what that is, is that using the client lists that are supplied by certifying agents, we have been able to compile a list of 8,646 producers and handlers operating within the
United States. Every one of them has been mailed a postcard with the information that was found in the news release and the Federal Register notice. So every certified operation has been mailed a postcard, inviting them to submit their own names for nomination to this board.

We've also e-mailed postcards to 41 land-grant universities and three USDA outreach programs. We have not finished. We are still trying to do more. We are trying to contact environmental organizations as well as retailers. So we're doing quite a bit of outreach, trying to get a good slate of nominees for this board.

So far, as of April 23rd, we've received ten resumes; two producers, one handler, two retailers, and five environmentalists have submitted the resume needed for us to process their nomination. We've also got four nominations where we think these are really people who are serious and we're just waiting for the resumes; three of those are producers, one of those producers also qualifies as a handler, and the other one is a retailer. We've also received 25 inquiries, these are people that we really don't know, in some cases, who they are, but we do know that we have 11 producers who have inquired, we have one retailer who has inquired, and then 13, we don't have
enough information, but they have contacted us about board membership. Jim?

MR. RIDDLE: Yeah. Does a person need to state which seat they're seeking or you make that determination?

MR. MATTHEWS: We would prefer they tell us what they're seeking.

MR. RIDDLE: Okay.

MR. MATTHEWS: It helps in screening them. And you can apply for more than one position. A producer who is also a handler could say that "I want to run for a producer or a handler position."

Okay, we're going to move on now to accreditation. To date we've received 137 applications for accreditation. For those of you who looked at the preamble to the Final Rule, we were estimating that we might get about 50 of these, so we kind of underestimated the interest in the program from certifying agents.

53 of those 137 are private domestic certifying bodies. Now, four of them have withdrawn since they submitted their application. 20 of these applicants are states. One of those states has withdrawn its application; the state that withdrew is Connecticut. 64 foreign certifying agents have applied, and two of them have subsequently withdrawn their application.
Out of the 137, we have to date accredited 92. 38 of them are private organizations operating in the United States, 15 of them are states, and 39 of them are certifying agents operating in foreign countries. George?

MR. SIEMON: Are there physical visits for the foreign people yet, or what's the status of that?

MR. MATTHEWS: The auditors are performing site visits for the foreign, yeah. We've got one team in South America right now, don't we?

UNIDENTIFIED MALE VOICE: They'll start in June.

MR. MATTHEWS: In June.

UNIDENTIFIED MALE VOICE: Starting in June.

MR. SIEMON: Okay.

MR. MATTHEWS: Okay. For those that have not been yet accredited, and we don't -- we don't turn anybody down, we just don't approve them, okay, we just -- so for those that have not been neither -- they have neither been turned down nor approved, 12 of those are with the auditors, five of those are private domestic, three are states, and four are foreign.

26 are still waiting for information. Now, what that means is they haven't made it to an auditor, they have sent in information, the information is woefully deficient, and the auditors can't do anything with it, so what they do
is they go back to the applicant and request additional
information. So right now you have six privates, domestic,
that are in that boat, you have one state in that boat, and
you have 19 foreign.

Okay, now we'll move on to the arrangements for
export. We still only have one export agreement, and that
is with Japan. We have five recognitions; those are with
British Columbia, Denmark, New Zealand, Quebec, and the
United Kingdom.

The difference between arrangement and
recognition: An arrangement, in the case of Japan, is
where Japan has agreed that our standards are equivalent to
theirs and they recognize product produced to the National
Organics Program for export to Japan.

A recognition is where we have recognized that
foreign government's accrediting process as equivalent to
ours, and it allows the governments in those five countries
to accredit certified operations to certify to the National
Organic Program. Okay.

The final of the three categories for how people
get in is that of equivalency. As of today, we still do
not have an equivalency agreement with any foreign country.
The closest we are is with the negotiations with the EU,
and we're not there yet, but we're still working on it.
MR. O'RELL: A question.

MR. MATTHEWS: Yes.

MR. O'RELL: Is there any foreseeable time frame for the EU equivalency agreement?

MR. MATTHEWS: You want to answer that one, Keith? Keith's our chief negotiator. You know I couldn't let that one go by, Keith, after all the discussions we've had.

MR. JONES: No, I understand. I'm --

CHAIRMAN KING: The question was: is there a time line for the EU negotiations?

MR. JONES: The question is, is there a time line for the EU negotiations. There is a joint E.U.-U.S. summit that will be held in Dublin, Ireland, in June, late June, that is providing some impetus on both sides for the conclusion of an agreement. There is significant kind of process questions that we still have to address, both externally through the EU process and internally within the U.S. government, as to how best to conclude the recognition agreement.

We have made significant steady progress towards the -- essentially the dilution, if you would, of any technical issues that are outstanding. There are some, obviously, but we have, over the last 18 months, really
whittled those down just to the absolute essence.

You know, Kevin, you're asking me to gaze into a crystal ball, and I think my best guess is: There is certainly a strong desire on both sides to conclude an agreement. There's strong trade interests on both sides that would like to see the agreement concluded. If it's going to happen, it will happen this summer, I'm convinced of that, okay, because I think the timing and the momentum and everything is coming together, that if this is really going to happen, it will happen this summer.

MR. O'RELL: Keith, would this be a blanket equivalency for the full regulations, or will there be sections carved out where differences do occur --?

MR. JONES: Well, when we speak in terms of equivalence, at least from the perspective of AMS, we never assume that there will be 100-percent equivalency. When we talk and use the phrase "equivalence," we are assuming a combination of equivalence and compliance on both sides, okay. So that's the way we -- that's the way we view it.

At the current time we have carved off no sector, we have carved off -- there's not been any products carved off, with the exception of honey. It appears that the Europeans are not going to accept any U.S. honey at this point. Okay. And keep in mind those -- those -- the
issues that I'm talking about are still in negotiation, so
that might, again, work itself out, but at this time,
that'd be the only product area that's not under
consideration.

MS. CAROE: Keith, one more question. Just
educate me a little bit on government process. When this
gets signed by both countries of origin if an agreement is
reached, is that effective immediately or is there some
other government process that happens? I mean, if this
were to happen this summer, would it be effective this
summer or --

MR. JONES: No, that's -- that's a good question.
Usually, Andrea, the way the process works is that when
it's -- when it's signed off by the representatives of the
respective government, U.S. government, the European
Commission, it would be effective at a date certain.

There might be a lag time between the signing of
the documents and the effective date just because there may
need to be some things, you know, put in place to make
certain things happen, but it would be a very short time
frame that we've been looking at, after -- after signature.

So I think you can take some comfort in the fact
that if we're going to do this, it can happen relatively
quickly.
MS. CAROE: Thank you.

MR. MATTHEWS: Any other questions?

(No response.)

MR. MATTHEWS: Okay, the next area is the area of the directives, and let me explain something about directives first. We probably use some words that are a little bit foreign to the organic community as a whole, we use terms like "guidance" and "directive," and when we issued the program scope, the antibiotics, and the fishmeal guidance statement, when we sent that to the Board and to OTA the day before it was published, what we should have done was to say that that was a directive and not a guidance, and the reason for that is that directives basically tell you what you have to do to comply with the Act and the regulations; guidance, on the other hand, would tell you: here is our best thinking of one way for you to be within compliance of the Act and the regulations; you might find a better way yourself and still be within compliance. So the guidance is -- you don't necessarily have to follow the guidance as long as you still maintain compliance; a directive, however, tells you: this is the only way to do it.

So we will be changing the title on the first three from "guidance" to "directive." If there's a better
term that is less inflammatory, please let us know, but we are rather limited by government-speak as to what we can call these, so we hope that we're not inflaming situations simply because of a word that we have to use to describe what it is that we have to do.

MR. MESH: What about "proposed" (inaudible)?

UNIDENTIFIED FEMALE VOICE: Yeah.

MR. MATTHEWS: But they're not proposed, they're not proposed, Marty. Okay, let's move on to the next --

CHAIRMAN KING: Hold on, Rick, Dave just had a quick question.

MR. CARTER: I do want to extend on that, I mean as far as directives, and I think one of the things that at least some of the Board is a little bit concerned about is, on these things -- and we recognize that it's NOP's job to issue the directives, but in our role, statutory role, to advise the Secretary on implementation of the Rule, you know, I continually ask about works in progress, and when directives are developed, what is the opportunity for the Board to have some participation in some discussion as a work in progress, rather than -- and particularly when directives come down on very short notice before the Board meeting, and so then the public, you know, feels like they've been shortchanged, as well as being prepared to
even come in and give public comment after the fact.

MR. MATTHEWS: Well, those really aren't out for public comment. Those are actually documents that are vetted with the USDA attorneys, that are vetted with management, and they're based on the regulations and the statute. You'll notice that what we've done with these documents is we excerpt portions of the Act and the regulations, and that's where we're basing the directive.

CHAIRMAN KING: Barbara had a quick comment.

MS. ROBINSON: Barbara Robinson, Deputy Administrator, Transportation Marketing Programs.

The reason we don't ask you for public comment -- a better way to think of these directives is: they are the law and the regulations. All we did was try to figure out a way to make it easier to understand, they're written, and that's why you see in every directive, before you get to what NOP is saying, first you see all the citations from the preamble, from the regulations, and the statements from the law, and so -- and we do that because we strongly believe that if we are about to issue anything, if it can't be anchored directly to the law or the regulations, we shouldn't be saying it.

But you should think of it, certifying agents should think of it, as just: this is the law and these are...
the regs; we're simply saying it in a different way.

CHAIRMAN KING: Rose.

MS. KOENIG: I had a question. I guess I saw the three -- well, I guess they came last week. The pesticide use lists three inerts. Somebody just notified me, I guess on Monday, at a meeting, that there was some directive there. But, you know, in terms of the reg, I don't understand how that would fit. And, again, I -- you know, I apologize for not having time to process that, but according to my knowledge -- and again, I'm not a lawyer, but it's pretty specific in terms of the National List, that only List 4s are allowed, and we've been systematically putting on List 3 as they've been petitioned, and I -- as I read it: it allows for a use if somebody is not knowledgeable. But I don't see where that can be justified except in the sense of a regulatory -- I guess that's your regulatory discretion.

MR. MATTHEWS: We -- and the next few slides are going to tell you what these documents do and that they do not do. We have always taken the position: if we tell you that you can do something at a certain point, the flip of that is that you can't do something at a different point; or if we say it's okay to use this, then it's the opposite, you know?
For example, speaking ahead of what we've got here, somebody said, "Well, what if we give the antibiotic to the breeder stock in the last third of gestation?"

Well, if we said you can apply it to -- administer it to the animal before the last third of gestation and the calf is still organic, if we say that, then it really means that if you do it in the last third of gestation, it's not organic.

And I guess -- it seems to me that it's almost like we're going to have to say both sides of the coin every time we go out with something, but I'm going to try and explain these things as we go along.

MS. KOENIG: Okay. I'll wait till then.

MR. SIEMON: I just want to clarify, because there's a lot of -- a lot of questions about these documents. Are we going to go through a discussion now about these documents?

MR. MATTHEWS: I'm going to give you the dos and the --

MR. SIEMON: We are going to?

UNIDENTIFIED FEMALE VOICE: We are.

MR. MATTHEWS: -- what they do and what they don't do. Okay?

MR. SIEMON: I'm glad for that.
CHAIRMAN KING: Okay, and Jim, just one quick comment --

MR. RIDDLE: Yeah, before you get to the specifics of the documents. Barbara addressed the public comment limitations or non-existence but didn't -- you didn't really respond to Dave's question about the role of the Board, where we're charged under OFPA to provide advice to the Secretary on implementation, and I look back --

UNIDENTIFIED FEMALE VOICE: And this is already being implemented [phonetic] --

MR. MATTHEWS: This is already implemented.

MR. RIDDLE: Well, it's implemented continuously. That's why you have to --

MR. MATTHEWS: Well, it's --

MR. RIDDLE: -- give guidances on an ongoing implementation.

MR. MATTHEWS: These sections of the regs have already been implemented. What we are finding is inconsistent application across certifying agents.

MR. RIDDLE: Right.

MR. MATTHEWS: And so what we have done is taken what we know to be inconsistent practices by certifying agents and tried to bring uniformity to these issues.

MR. RIDDLE: But, if I could continue, I look
back at a policy, what probably would be considered now a directive, that was developed a while back in collaboration with the Board, and that was how to calculate percent organic ingredients and the role of added water, and I see that as a model example where the Board was consulted, drawn into the process, and came up with a directive which has not been open to criticism, it's really stood. People understand it, and it's the best example that I can think of where the Board was drawn in, we were able to exercise our responsibility, and the end product then has the support of the Board and the public.

So, you know, I just hope we can use that as an example and move in that direction more than, you know, this blindsiding or catching us by surprise, where -- it's just not a healthy situation.

CHAIRMAN KING: And simply put, just to follow up on Dave and Jim's comments, I think it's safe to say that the Board really would like to be involved in the process, we feel we're here to assist and advise, and if there's something that we can do to help that process improve, then we're certainly open to that. So --

MR. MATTHEWS: Okay, we hear that. The next slide, please. Okay, we're going to start with program scope. What does the program scope do? It identifies
product categories not covered by OFPA. Those include personal-care products, body-care products, cosmetics, dietary supplements, over-the-counter medications, health aids, fertilizers, soil amendments, manure.

It also identifies product categories covered by OFPA for which we have not engaged in rulemaking. Those two areas are: aquatic animals and pet food. We just have not done rulemaking, and we can't require, we can't enforce, our standards on industries that have not been afforded the opportunities of the Administrative Procedures Act, which requires formal rulemaking in order to bring them into the fold.

Again, what the directive does, it states that the products not covered by OFPA cannot be certified to the National Organics Program. It states that aquatic animals and pet foods, in the absence of standards, cannot be certified to the NOP. It does not mean that they will never be covered by the NOP; it's just that there are no standards, and in the absence of standards, you cannot be certified to the NOP.

It states that products that cannot be certified to the NOP cannot carry the USDA seal. That's both for those that are not covered by OFPA as well as those that are covered by OFPA, that have not yet had rulemaking.
performed.

    Now, what the directive does not do, it does not
prohibit certification of such products to other standards.
    You'll recall in the preamble to the Final Rule we say
that certifying agents who want to certify products that
are not -- that are not covered by the NOP standards may do
so, so this means that Dave Engel's group can go ahead and
create standards for cosmetics, if that's what they want to
do.

    MR. RIDDLE: For organic cosmetics.
    MR. MATTHEWS: For organic cosmetics. They can
do that if they want. We have not said that certifying
agents cannot create their own standards for the products
not covered by OFPA.

    This directive does not allow the identification
of non-organic agricultural ingredients as organic. As the
directive clearly states, all agricultural products
produced and handled in the United States must be certified
to the National Organics Program to carry the word
"organic." Okay, so we're not saying that you can use
conventional products in these products as an ingredient
and call it organic unless it is an organic ingredient.

    MS. CAROE: Excuse me.
    MR. MATTHEWS: Yes.
MS. CAROE: So that's the enforcement of the ingredient deck of these products that are outside of OFPA?

MR. MATTHEWS: The entire labeling of those products is outside of OFPA, but if they're going to say that an agricultural ingredient within that product is organic, then it has to be organic, it has to be a truthful label claim.

MS. CAROE: So does that --

UNIDENTIFIED MALE VOICE: That --

MS. CAROE: Let me finish that. So does that mean that NOP compliance could actually enforce that if --

MR. MATTHEWS: No. We would probably turn that over to Commerce.

MS. CAROE: Okay.

UNIDENTIFIED FEMALE VOICE: Justice.

CHAIRMAN KING: Okay, I think George had -- okay, Kim.

MS. DIETZ: One of the questions we're hearing out there is the use of the word "certified." We'll have USDA-certified agricultural products and we will have QAI-certified or, you know, Joe Smith-certified. Will they be able to use the word "Certified Organic"?

MR. MATTHEWS: Yeah. Yes.

MS. DIETZ: Thank you.
MR. MATTHEWS: They can --

MS. DIETZ: As long as it's truthful labeling.

MR. MATTHEWS: -- make any truthful claim. What they cannot do is represent it to be USDA/NOP-certified.

MS. DIETZ: That's a question out there, that people are asking.

MR. MATTHEWS: That's right. It does not prohibit identifying organic agricultural ingredients as organic, as I said, it does not prohibit labeling such products as organic.

UNIDENTIFIED MALE VOICE: And it doesn't matter what standard.

MR. MATTHEWS: It doesn't matter what standard. Because cosmetics are not covered, for example, by the Organic Foods Production Act. We cover agricultural products, and a cosmetic's not an agricultural product.

CHAIRMAN KING: Barbara.

MS. ROBINSON: Just to add to what Rick is explaining there, just to make it perfectly clear to people, in case you don't realize:

USDA is given its authority by the Congress. USDA cannot unilaterally wake up one day and decide that it now has jurisdiction over another agency's regulated entities. Those products that are not covered by OFPA
because of Congress are covered by the FDA, and we have no
authority to change that, we cannot enforce against
products over which we have no jurisdiction.

If you have issues with that, you must take it up
with the Congress. You cannot ask USDA to do it
differently; they have no authority to. It's just a simple
fact of government.

CHAIRMAN KING: Dave, then Becky.

MR. CARTER: What, if any, discussions have been
held with other agencies, such as FDA, that if entities
under their jurisdiction are going to use the term
"organic," that there is some sort of consistency with the
USDA Organic Rules, has there been formal discussions or
informal discussions with those agencies on that issue?

MS. ROBINSON: I think we've probably had a few
informal discussions, but nothing of any seriousness, and
frankly, given that we do not have the enforcement
authority for those areas, we expect those industries to do
just as this industry did. USDA is not going to propose
standards and we're not going to propose regulatory
behavior to the FDA. We expect the industry to come
forward and -- Keith -- Keith can add to this.

MR. JONES: Dave, that's actually an excellent
question, because we're required to consult, we actually
have consulted with FDA, we've consulted with FDA
extensively on this. I just had a conversation with FDA
last week.

FDA is not certain -- and I can't speak for FDA
and wouldn't speak for FDA. They're not certainly exactly
what they're -- what they're going to do. FDA has been
quite clear in all of the discussions that it has had with
USDA and with industry that our rendering is correct. You
know, laws have limits, the Organic Foods Production Act
has limits, and these areas that we're talking about are
squarely within FDA's purview for their labeling, okay?

So we've been very diligent in making sure that
FDA has been involved in the process and that FDA concurs
with where we're at in this.

CHAIRMAN KING: Hold on, I've got people ahead of
you, Andrea. Becky and George.

MS. GOLDBURG: Barbara or Keith. I'd like to
better understand the limits of this directive when you're
dealing with agricultural products. I understand what
you're saying about cosmetics and so on not being covered
by the law, but let's take fish or pet foods. I'm not --

MR. MATTHEWS: That's the next slide, I'm going
to address fish and pet food on the next slide.

MS. GOLDBURG: Okay.
MR. SIEMON: Same question here.

MS. GOLDBURG: Well, can I ask my question --

MR. MATTHEWS: Sure.

MS. GOLDBURG: -- and then you can tell me it's on the next slide. I want to understand what the limits of the certification of those types of products outside the USDA program are. For example, how does part of the statute and the regs that deal with prohibited methods apply to, say, salmon? Could we have organic transgenic salmon? I guess I'm trying to jive in my mind how --

UNIDENTIFIED FEMALE VOICE: That's a (inaudible), that's a totally different issue, Becky.

MS. GOLDBURG: Well, I --

UNIDENTIFIED FEMALE VOICE: We don't have standards, so they can't be certified.

MS. GOLDBURG: I know. So basically --

UNIDENTIFIED FEMALE VOICE: There is no certified organic salmon to the USDA standard.

MS. GOLDBURG: I know. I know. But that's my question. I understand that. So in other words, outside -- certifiers can certify to their own standards --

UNIDENTIFIED FEMALE VOICE: Right.

MS. GOLDBURG: -- that they create.

UNIDENTIFIED FEMALE VOICE: Right.
MS. GOLDBURG: And I'm not -- I don't (inaudible) any certifiers about to do this, but I want to understand how open the scope of potential organic certification for agricultural products is.

UNIDENTIFIED MALE VOICE: It's open.

MS. GOLDBURG: Is it entirely open, is it partially constrained by --

UNIDENTIFIED FEMALE VOICE: What do you mean by open, what do you mean is it open?

MS. DIETZ: I think what the question is, and this is where the industry was 20 years ago, whether it's OTA developing standards or whether a private entity develops standards, they're going to be allowed to do that, as long as they certify to a standard. There's no -- USDA is not going to step in and say "those are approved" or "not approved." It's going to be --

MS. ROBINSON: Industry can bring us standards for those -- what you're going to see from Rick on the next slide, pet food can come forward, fish can come forward, they -- as you saw in the previous slide, they are covered by OFPA, but we have no standards. Ergo, if the industry brings us standards, we go into our rulemaking mode, we publish them, we ask for comment, we take the comment, we work with it, we publish a Final Rule, boom, they're
covered. From that point on, any private standards go away.

MS. DIETZ: But until that point --

MS. GOLDBURG: But until that point, when there are only private standards, they can be highly variable --

MS. ROBINSON: That is true.

MS. GOLDBURG: -- and my question is: are there constraints on what those private standards can say?

MS. ROBINSON: No.

UNIDENTIFIED FEMALE VOICE: No.

UNIDENTIFIED MALE VOICE: No.

MS. ROBINSON: No.

MS. GOLDBURG: So, for example, prohibited methods are not prohibited from the private standards --

MS. ROBINSON: It is pre-October 21, 2002, for those commodities. That's what you have to go back to.

MS. GOLDBURG: Okay. Thank you.

MR. SIEMON: I'd rather see the slide, but -- it just fits in so well. So we couldn't have just said: since we don't have standards, we're going to use livestock feed for pet food, or something like that, you couldn't have had that discretion is what you're saying, until we developed standards?

MR. MATTHEWS: We -- in order to fully comply
with the Administrative Procedures Act, we have to go
to through rulemaking that involves the pet food industry.
Okay? Let's move on to the next slide, Katherine.

CHAIRMAN KING: Andrea, did you have -- Keith,
then Andrea, then Rick.

MR. JONES: Let me walk you guys through this,
because I think there's -- I think there's a disconnect,
there's a serious disconnect between what certain parties
believe that USDA can do under its authority and what we've
actually done.

Through the Organic Foods Production Act,
essentially what you had, through the promulgation of the
Final Rule, was a federalization of standards for certain
products, okay, so this -- the point that I'm trying to
make here, folks, is that this is not anything new. What
we are finally setting out in writing is in fact
100-percent consistent with what USDA has done since day
one under the authority that is vested in it by the Organic
Foods Production Act. We have in no way, okay, changed
the process.

As we go through notice and comment rulemaking,
which is the only way we can promulgate standards, we
cannot assent to voluntary standards and then somehow say
that they're under the Rule and you can carry the seal.
The only way that we can have standards which carry the USDA seal is to go through notice and comment rulemaking. There are areas, which we spell out in this directive, where that has not happened.

There's also, in the case of pet food, a cross-jurisdictional issue, pet food is regulated by the Food & Drug Administration, so not only have we not only gone through no notice and comment rulemaking for the sake of pet food, there will be additional consultation that will have to occur with FDA to ensure that they want us to essentially reach into their labeling protocols and regulate the labeling of pet food when the modifier "organic" is attached to it. Okay.

Now, in certain cases -- and again, this is quite consistent with what we have set out from day one, is that we regulate up to farm gate, okay? We do this with cotton. Cotton has always been regulated under the regulations as they're written, up to and including the farm gate. We have no textile standards; we have said that. We have no processing standards for textiles; we've said that.

Therefore, the ability for cotton, once it is spun and woven into fabric, that is essentially unregulated by OFPA, okay? And so what we've said, in an analogous way, is that there are certain products that -- if you want
to use this to get your head around -- that are like
cotton, that we simply either, one, do not have the
authority to regulate, nor have we gone through the process
that we are required to go through to promulgate standards.

So what I want to leave you with is this single
notion, and if there's a lack of clarity, I want to stay up
here until we get this, okay, because this is no different,
we have done nothing different in this directive that is
inconsistent with anything that we have said in terms of
the concept and how we regulate things, this kind of march
of federalization, if you want to call it that, and the
notion that our limit -- that our authority sometimes is
limited to farm gate certification.

So those are the two things that you really need
to take away from this presentation, is that there's an
authority question and there's a process question. Okay.

CHAIRMAN KING: Okay, I have Andrea, Jim, then
Rose.

MS. CAROE: Okay, I just want to clarify
something in my own mind. The relationship and the
arrangement that the program has with BATF and alcoholic
beverages, is that possible only because alcoholic
beverages fall within OFPA but outside the labeling
authority of the program?
MR. JONES: Well, that relationship is actually codified through a memorandum of understanding, okay, so there has been consultation, BATF's -- which is now -- what is it -- TTB, their attorneys sat down with our attorneys and said, "Okay, we think we can play in the same sandbox with you, okay?" That's how that piece of the puzzle got put together, is because there was a meeting of the legal minds in terms of the respective authorities that are contained in various statutes, and then there was an MOU that was put together that linked those various authorities. Okay.

MR. NEAL: Also, there are legal responsibilities -- Arthur Neal. There are legal responsibilities that USDA/NOP has that TTB cannot perform on behalf of USDA regarding their products, so TTB does not have the legal authority to say whether or not -- if an organic claim on a wine product is legal, because USDA has not granted them that authority, and it would be the same instance if USDA tried to say that an organic claim on an FDA-regulated product was compliant, because FDA has not granted us that authority.

MS. CAROE: My question is really geared at why this relationship couldn't be duplicated with other products.
MR. MATTHEWS: Let me answer that. Let me answer that. The issue of alcohol beverage was always contemplated to be covered, for example the sulfites issue, and as -- you'll recall that originally all the sulfites were prohibited from any wine product, and the industry went to Congress and was able to get Congress to agree to saying that sulfites can be used as long as that wine product is only labeled as a "made with." So in that case, the alcohol beverages were always included in the original rulemaking. The pet food has not. That's the difference. Okay?

CHAIRMAN KING: Okay, I have Jim, then Rose, then George.

MR. RIDDLE: Yeah. You know, Keith, when you were talking about the march of federalization and this is a part of a continuum, I guess some of the confusion that's happening out there is, you know, people read the May 2002 Scope policy, which said these sectors are eligible, and they proceeded to set up systems which followed the regulations, certifiers certified to that, they made major investments, and now that's been turned on its head for certain sectors. And I understand what you're saying in that -- you know, like pet food, I've talked about this, you can make pet food to the human food standards, label it
to the human food standards, but it's just packaged for pets. Why can't you continue to do that, and what I'm hearing, and correct me if I'm wrong, is that there is a need for an MOU with FDA, something like that, because they have code jurisdiction or they have jurisdiction over --

UNIDENTIFIED FEMALE VOICE: They have jurisdiction --

MR. RIDDLE: -- pet food labeling, that NOP doesn't have.

MR. JONES: Right.

MR. RIDDLE: So that's standing in the way, even though it can be produced and --

UNIDENTIFIED FEMALE VOICE: Yes.

MR. JONES: Yes.

MR. RIDDLE: -- and certified --

MR. JONES: Yes.

UNIDENTIFIED FEMALE VOICE: That is a labeling issue (inaudible).

MR. JONES: Yeah. And Jim, let me respond to the last point first, and then I'll get into the March policy statement.

This is a labeling authority issue, okay, and FDA has the labeling authority, full stop, for the products that we have delineated in that scope direction. Full
stop, okay, they have the authority.

Now, this in -- the knitting together of NOP and FDA authority I think is much more -- personally, this is a personal opinion, don't take it as gospel from USDA, but it is my personal opinion, in looking at the authorities, that the knitting together of those authorities is much more complex than sitting putting an MOU, okay?

Now, it may not be so, we are in continuing consultation with FDA and will be in consultation with FDA on these issues for the foreseeable future, okay? Because one of the things that you've got to understand is that we desire the same thing that you desire, okay, and that is, we want clarity in labeling, we want consumers protected, okay, we want consumers to understand what they're buying, but we also want people to understand that our authority is limited.

I know this is hard to believe, but we are not the all-knowing, all-seeing individuals that you think we are, okay? We're limited, okay? We're limited as to where we can go, and that's something you're just going to have to get your arms around, okay?

Now, in terms of the March policy statement, okay: in hindsight, it is unfortunate that that document was written the way that it was, okay, but let me say this,
Jim: It wouldn't matter if we had published that statement 40 times or one time, we cannot give authority we don't have, okay?

So that's what you need to keep in mind, is that we cannot give authority where we have not been delegated that authority by Congress. So it is unfortunate, again, that that statement was written the way it was, you know, we recognize that people made some decisions on that, that's why we think we've been kind of recognizing that, you know, in this -- in this -- but we can't give authority -- no matter how much you would force us to do something, short of notice and comment rulemaking and short of FDA saying, "Yes, we're going to allow you to regulate the labeling of this product when 'organic' is attached to it," we just don't have the authority to give, okay, and that's straight up.

CHAIRMAN KING: Okay. We'll have Rose, George, then Dave.

MS. KOENIG: So -- and that's, I think, the sense of confusion, because I know I've (chuckles) -- I've been to so many presentations where they say, "The only difference now is that the USDA owns the word 'organic.'" So what you are saying is, is that if you -- if it's an agricultural product within your authority, yes,
you do own that word in the sense, but you don't own the
word in things that are not -- beyond the -- your
authority.

MR. JONES: Right, and --

MS. KOENIG: So -- and that's where this -- and
that's why on these body-care products, if it's an agricul-
tural product, you still -- you may not -- you know, you
may send it to a different office, but you -- it is still
under -- within our regs if it's agricultural organic --

MR. JONES: Well, but --

MS. KOENIG: -- but anything else, body-care
products, things outside of that, you don't own the word,
anybody can own the word.

MR. JONES: Yeah, and let me -- let me pick up on
that. I think that's -- if I understand you right, Rose --

MS. KOENIG: I know what you're saying.

MR. JONES: -- that's a correct rendering of
where we're at. Now, when -- and I was guilty early on of
saying we own the word "organic" --

MS. KOENIG: Yes, you did, and that's why -- and
that's why I'm saying that the communication has been
always "we own the word" and that's what --

MR. JONES: We own the word organic, for the
products we own the word --
MS. KOENIG: Organic on.

MR. JONES: -- organic on --

MS. KOENIG: Exactly.

MR. JONES: -- okay, and --

MS. KOENIG: But we've taken that all the way, as: you own the word and that, you know, the word is -- you know, and there's going to be regs, so --

UNIDENTIFIED MALE VOICE: First there was the word --.

(Laughter.)

MR. JONES: Yeah. And I guess in response, there should -- there should have been some sort of understanding that the term "organic" when it's applied to chemistry is not regulated by the Organic Foods Production Act.

Okay, so there are certain -- there are certain uses of the modifier "organic" that we don't regulate. So despite my inarticulate nature, you should have picked up on the fact that: well, okay, well, I think I kind of know what he's talking about here, even though -- if he's not exactly using the right words. Fair enough?

MS. KOENIG: That's fair. But I think that sense of confusion -- I mean, I take things literally, and I think most people that are not accustomed to this regulatory arena and the way the federal government works
in terms of departments -- I mean, half of the confusion among the Board is -- you know, and I was telling somebody, you know, the learning curve in this, you know, as far as people being on the Board, is incredible. I mean, we don't -- we don't function on a day-to-day level, so it just seems, you know, in some ways incredibly inefficient, but I understand what you're saying. I think it's just going to be a process of us trying to --

MR. JONES: Well, and one of the things that we're --

MS. KOENIG: So give us time.

MR. JONES: One of the things that we're trying to do, we're trying to do exactly what you're asking us to do, and that is: speak with clarity, you know, don't use shorthand, and we're guilty of that, we're guilty in assuming that you just know what we're talking about, okay, and I -- I own that, okay.

So what we're doing, I think, now for -- for -- perhaps better than we've ever done before is we're saying in our writing and in our speech: okay, this is really where it's at, this is where you draw the lines, okay?

MS. KOENIG: Just one thing, and I'm just going to make this assumption, it's a statement. I think -- and maybe -- this is my observation, and I don't know if it's
true, but it seems like there's a learning curve even within your agency, as far as how you're extending to these other agencies, and I think the alcohol was a good example, that there are some groups that are easier to kind of mesh your programs with but there are others that are also bogged down in bureaucratic and regulatory language that is not such an easy fit, and those are the ones where you're not -- where we're seeing this kind of -- there may never be an agreement. So I'm reading into that that --

MS. ROBINSON: You're right, Rose, but let me just say, this is not in defense of the Department at all, but there probably has not been a new program created in USDA for probably 35 years, so -- and this is -- this is brand-new, it's

MS. KOENIG: And what --

MS. ROBINSON: -- it's from the ground up --

MS. KOENIG: So I think that the way that the industry sees these directives is: aha, they knew this all the time, and now they're finally -- you know, it's -- I am understanding that it's a learning process for you, it's not something that you've decided to just change the playing field midstream or anything like that, and so -- okay, I understand.

MS. ROBINSON: Okay.
CHAIRMAN KING: Okay, all right.

MS. ROBINSON: I think we should try and get back on track here.

CHAIRMAN KING: So how's that next slide coming, Rick?

MR. MATTHEWS: Yeah, it's -- yeah, we really do need to get back on track because --

CHAIRMAN KING: Hold on, hold on, I do have a couple other people with comments, but Rose, you're done on this one.

MR. MATTHEWS: Okay, but let me just say this one thing. There's still 43 percent of the presentation yet to go.

CHAIRMAN KING: And it is near 2:30, so -- we appreciate the math on that. I have George, then Dave, then Jim.

MR. SIEMON: Just a point of clarification, then, because I'm concerned for the pet food industry. They can now go to a certifier, get them to adopt standards that are -- they can't say they're equal or -- to NOP standards, but they could do them equal to NOP standards and use the word "organic" on the front of -- the labels, so they can go forward without the USDA seal and we can avoid most of the disruption, but they can't imply that it equals NOP
standards, even though they do.

    MS. ROBINSON: The products that we don't cover, George, are still bound, as all products in the United States are, by truth-in-labeling clauses.

    MR. SIEMON: I know, but it's truthful if they meet the human standards for NOP, it's truthful.

    MS. ROBINSON: If it's truthful, they can say it.

    MR. SIEMON: But it says right in your document they may not imply --

    MR. MATTHEWS: Okay, hold on a second, hold on a second. What we have said is that pet food, like fish, can be certified to any standard that is out there, with the exception of the NOP.

    MS. ROBINSON: Right. Right.

    MR. SIEMON: I don't understand that [phonetic], but okay --

    MR. MATTHEWS: Okay. Now, the ingredients in that pet food, the corn, the beef, the rice, whatever, if it's produced here in the United States, it has to be produced to the NOP. We're regulating the labeling. The only reason why we're not covering labeling at this time is that we have not gone through the rulemaking for that process, when it comes to pet food, that --

    MR. SIEMON: But there's no reason why all those
MR. MATTHEWS: That's -- they --
MR. SIEMON: -- and complies with all USDA things.
MR. MATTHEWS: -- they can make all truthful --
MR. SIEMON: I mean, we've got to help these people here.
MR. MATTHEWS: They can make all truthful label claims, they can say the rice was produced to the National Organic Standards. They can say the beef was produced to the National Organic Standards. They cannot say that this dog food --
MR. SIEMON: I understand.
MR. MATTHEWS: -- was produced to the National Organic Standards.
MS. ROBINSON: And just for sake -- you know, the pet food folks, they -- one of the reasons we haven't brought them under is they have their own labeling guidelines, they have -- you know, AFCO has its own labeling. They did come to USDA before implementation and they asked us to change our labeling regs to accommodate them, and we said no, we were not going to change the labeling regulations in this program to accommodate the pet
food industry, we thought that there had to be another way
to work this out and that we wanted to see some activity on
their part, so --

MR. MATTHEWS: Okay, let's kind of slide on to
the next slide.

CHAIRMAN KING: Well, hold on, I've got Dave,
Jim, and then we're moving on, and it is approaching 2:30,
I'll remind the Board of that.

MS. DIETZ: Five minutes each?

CHAIRMAN KING: Yeah.

MR. CARTER: I recognize there's 43 percent, but
that's not 43 percent by weight. This is really one of the
heaviest issues in this presentation.

(Laughter and applause.)

MR. MATTHEWS: I don't know that that is true.
You haven't seen the rest yet.

(Laughter.)

UNIDENTIFIED MALE VOICE: I think we're just
warming up.

MR. CARTER: And also, just let me put into the
record, I'm going to try and avoid entering into
discussions pertaining specifically with pet food, because
I am involved in a pet food project that is not organic but
is at least familiar enough to know that there's a lot of
folks out there playing fast and loose with definitions on pet food.

The question, though -- I guess the comment that I would make is to encourage -- and I recognize, Keith, that it's more difficult than just doing a memorandum of understanding with FDA on some things, but that would sure be a great place to start, is to enter into a memorandum of understanding as a first step.

MR. RIDDLE: And my question --

CHAIRMAN KING: Yes, go ahead, Jim. Next and last.

MR. RIDDLE: I just want to make clear that an accredited certifier can have this other certification to any standard and still have their name, you know, similar, same basic claim, "certified by," you know, who they are, X-Y-Z certifier, that would appear on an NOP product, they don't have to set up a separate entity or something. You know, as far as what the consumer would read would be the same name of the same certifier that's certifying an NOP/USDA organic product. Correct?

MR. MATTHEWS: That's what we've said.

MR. RIDDLE: Okay, yeah. All right. Then I just -- I also have a suggestion that I think might bring some comfort, and that is: if there was information posted

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about how to file a complaint with the Justice Department, if you have concerns about truth in labeling or untruthful labeling, you file a complaint to us when it's something we regulate, you've already got that, but here's where you go and how you do it --

UNIDENTIFIED FEMALE VOICE: We can put the link over to FTC's Truth in Labeling, and they have that right on their website, how to file a complaint.

MR. RIDDLE: Uh-huh, yeah.

UNIDENTIFIED FEMALE VOICE: And they will also tell you how to go to your state attorney generals.

MR. RIDDLE: Right.

UNIDENTIFIED FEMALE VOICE: We can put the link on, that's not a problem.

CHAIRMAN KING: Rick, next slide.

MR. MATTHEWS: All right. What do we need for aquatic animals and pet food to be certified to the National Organic Program? We need industry submission of proposed standards. In reality, we need three things: we need a proposed standard; we need them to tell us why this particular standard; and they need to provide us with information about the industry to be regulated. Okay.

You know, we recognize that pet food is something that probably doesn't take an awful lot of changes to the
regulations to make pet food possible under the NOP. The problem is, we haven't done the rulemaking. Okay.

I can tell you that there's three areas of concern. Labeling is number one. Number two, are they using any kind of synthetics that the rest of the food industry doesn't do. I don't know the answer to that. The other thing is that in .237, livestock feed, we talk about by-products. How many of these by-products are being fed to mammals. Dogs and cats are mammals. So you'll have to take a look at that section as well.

But other than that, it looks like it's pretty -- pretty easy for this Board or the pet food industry, or this Board and the pet food industry, or even a consultant for the pet food industry, and I know there's a couple of you on this Board, that if you want to throw together some standards and submit them, we'll start the rulemaking process.

MR. SIEMON: Is that a livestock committee process?

MR. MATTHEWS: The livestock committee can work on it.

MR. SIEMON: I don't know, I'm just asking.

UNIDENTIFIED MALE VOICE: Or a pet food task force.
(Laughter.)

MR. MATTHEWS: The bottom line is, you guys can work on that, and will we take that from you? Of course we will.

CHAIRMAN KING: Okay, and we can talk about that later.

MR. MATTHEWS: Now let's move on to the next slide, Katherine.

CHAIRMAN KING: All right, next slide.

MR. MATTHEWS: There's also been some questions about whether or not we'll extend the October 21st, 2005, deadline for using up existing supplies. When it comes to those products that are not covered by OFPA -- again, those being cosmetics, body-care products, fertilizers, things like that -- the answer is: no, because we're -- we're not regulating those areas, so no, we won't extend that deadline.

But when it comes to fish -- aquatic animals actually, because there's more to it than just fish, but -- aquatic animals or pet food, the answer is: possibly. It really depends on what's happening within the industry as far as creating standards that we can then put through the rulemaking process.

MS. CAROE: Rick?
MR. MATTHEWS: Yes.

MS. CAROE: So the only thing that's non-compliant about those labels is if they actually have the USDA seal or represented as USDA organic certified?

MR. MATTHEWS: That's correct.

MS. CAROE: So if they say organic and they have a certifier's name, that label's still complying as long as the certifier has something they're certifying to --

MR. MATTHEWS: That's correct.

MS. CAROE: -- and it does meet it.

MR. MATTHEWS: The ones that have to be changed are those that are using the USDA seal or say "certified to the NOP" or something to that effect.

MR. MATTHEWS: Does that affect a lot of people? It'll affect some. Some people will run out of the labels before the deadline, and what they'll have to do is get new plates printed up, or made up, so that they can get new packaging printed without those claims. Otherwise they'll still in business for making organic cat and dog food.

MS. CAROE: Now, some of these things have really long shelf lives, that are on the shelves. They're not going to -- they're not going to have to do recall or anything, those --

MR. MATTHEWS: It's going to be --
MS. CAROE: It's in commerce --

MR. MATTHEWS: It's going to be another one of these old product deals.

MS. CAROE: Okay.

MR. RIDDLE: And the thing about animal by-product use, that would really be applicable if you were going to certify the pets.

(Laughter.)

MR. RIDDLE: I mean, that's prohibited, if you wanted to certify the pets -- I'm not trying to be cute, I --

MR. MATTHEWS: What I'm saying is that some people have raised that issue and I'm saying take a look at it to see if it's a problem.

MR. RIDDLE: Right.

MR. MATTHEWS: I've heard people from both sides of it saying, "Well, that's not a problem," other people say it is a problem, so I'm saying that's one area to look at for determining whether or not it's a problem. Okay? Other than that, the only things I've heard about is: well, is that particular paragraph a problem, yes or no; what about materials; and what about the proper labeling scheme for pet food. So that's -- that seems to be the challenge for the pet food industry. Okay.
Let's move on to the List 3 inerts. See, Dave, this one's going to be probably more than 43 percent.

(Laughter.)

MR. MATTHEWS: It reminds producers and ACAs that pesticides can only be used when pest-management practices fail, and that's something that everyone has to keep in mind. You have pest-management practices within the standards. Those come first. Just because something is on the National List doesn't give you carte blanche to just use it, it has to be a part of the organic systems plan.

Use of List 3 inerts is prohibited. You cannot knowingly use a List 3 inert. The producers and the accredited certifying agents must try to determine what List 3s are in the pesticide product that the producer is proposing to use. Okay. They have to try.

The pesticide use must be listed in the organic systems plan, and the organic systems plan must be negotiated, enacted, and amended through dialogue between the certifying agent and the producer. None of those requirements have changed. Okay.

This directive acknowledges that List 3 inerts are not listed on the pesticide label. The farmer has no way -- when he goes into the farm supply store and picks up a container of a pesticide that has an approved ingredient...
listed, the approved active is listed on the product, he has no way of knowing what's in there, with the exception of the List 3, which EPA requires to be listed. Okay. So he's got to be able to -- he has to then try to find out what is the inert in that product, unless it's listed someplace else, for example an OMRI listing, or maybe the certifying agents have been able to find out what it is and maybe this new certifying agents organization can help us pull together a listing of all products that may not be on OMRI'S list but certifying agents know whether or not they contain List 3s. So that's work to be done.

Now, the producers and the ACAs may not be able to find out what is in that product. We're looking for them to contact the manufacturer, we're looking to them to contact the EPA, we're looking to them to contact other ACAs in order to try to find that out, but it's very likely they're not going to be able to get that information.

What this directive does is it says that after due diligence the ACA will approve the use of pesticides with unidentified inerts. Okay. Due diligence means contacting the manufacturer, contacting EPA, and contacting other ACAs.

This directive also requires that the producer be informed of the requirement to immediately stop the use of
this product should it come to the attention of the
certifying agent that that product does indeed contain a
List 3 inert. They have -- the certifying agent should be
telling the producer that up front. Once that is
identified as a problem, then they have to tell them again,
okay, "We have since found out that it has a List 3, you
have to stop." Okay.

They also need to document this notification,
both times, document it when they first tell them, "Okay,
we're going to approve the plan with this material," and
also when they tell them to stop using it. They would take
no adverse action on the producer that used one of those
products that was later found to have a List 3 inert.

Now, if the producer used something that was
later found out to have been prohibited, they would have to
stop immediately. If they chose to use it again after
having received written notification to stop, then the
certifying agent must initiate procedures to revoke
certification. There's only one way of correcting a
non-compliance for use of a prohibited substance on your
acreage, and that is to go through a whole new period,
which is a minimum of three years.

So in the case of somebody who willingly used it,
knowingly, willfully used it, they're going to get revoked
for 3 -- for 5 years. Now, that's -- that's just the way
it's going to be. Yes, Rose.

MS. KOENIG: Now, this, to me, is an example of
sort of what -- I guess Jim's example of the -- what was
the process -- the water, going back to the percent water.
I under- -- you know, I'm not -- so the question is not to
the -- to what you're saying there, it's more of an
alternative that I think is a more responsible approach.

MR. MATTHEWS: What is?

MS. KOENIG: My approach.

(Laughter.)

MR. MATTHEWS: All right. What's your approach?

MS. KOENIG: I mean, EPA -- I mean, everything
that is a pesticide has to be registered with EPA, okay.

MR. MATTHEWS: Right.

MS. KOENIG: You can take the active and you
could probably -- I'm assuming it has a database, you could
get a list of every active that we've approved, natural and
things on the List, and EPA could pretty easily -- maybe
not tell us what the List 3 is, but they could probably go
through all of those and tell us which are List -- which
have List 4 inerts and which have List 3 or List 1 or
List 2 --

MR. MATTHEWS: If that was --
MS. KOENIG: -- and we could provide that information so that you could avoid even having that loophole, because -- I don't want to call it necessarily a loophole, because it isn't a loophole if in fact the procedures are followed that way, but I think that the information is there, there's two federal agencies involved. We had Bob Tourlet [phonetic] come, they made that proposal as far as the alternative voluntary labeling scheme, that I know that that's not required, but it seems like there should be some interagency communication that you guys could facilitate and provide that information to your certifiers, that would provide that information, and we wouldn't need this directive.

MR. MATTHEWS: There's no requirement for the manufacturer to give up that information, and in many cases EPA doesn't have that information. So it's not an easy matter for the certifying agent just to call them up and say, "Does it have a List 3?" Now, that is the key way to do it, is you don't say, "Tell me what's in the product," but you can ask them, "Your inerts, are they on a List 3 or a List 4 or a List 2 or a List 1?"

MS. KOENIG: That's what I'm saying, I'm not saying -- no, I'm not saying to disclose a particular inert, but doesn't the -- can the EPA just inform the ones
that are compliant and the ones that aren't compliant by
brand name? You know --

MR. MATTHEWS: I don't know that they can.

MS. KOENIG: Well, that, to me, is the question.

I mean, that seems like --

MR. MATTHEWS: Well, right now we can't get that
information.

MS. KOENIG: Well, then I -- you know -- okay.

MR. MATTHEWS: That's what this problem with the
List 3 is all about.

MS. KOENIG: But we --

MR. MATTHEWS: What you have done is you have
prohibited the use of a product that farmers in many cases
have no way of knowing whether or not they're in
compliance.

MS. KOENIG: But I'll go back -- again -- you
know, because -- I was on the List, the inerts task force,
and I will argue that this example, whether it's inerts or
formulated -- formulations of natural fertilizers, it's the
same issue. Things that are not -- there's things that
don't require -- again, it's a labeling issue, that growers
may, you know, purchase, that they then find, even though
it says, you know, organic manure or organic stuff, that --
and they don't really realize that there's other --
UNIDENTIFIED MALE VOICE: Correct.

MS. KOENIG: -- other examples. Like for example, a good example of it is soil mixes, okay, a lot of -- metromix. It says metromix, you're buying metromix, it doesn't tell you necessarily that there's 10-10-10 piters [phonetic] in those things. Growers have to find that information out through using Organic Materials Review Institute or working through their certifiers.

So this issue is not unique, necessarily, to List 3 inerts. I think the solution is easier with List 3 inerts because we actually have a federal agency that regulates it and that does somehow have that information, that perhaps could be, you know, conveyed to us in a format that would be acceptable to them as an agency. So I'm just putting that out.

CHAIRMAN KING: I think what Rose is asking is: could we explore that, in your opinion, and you don't have to answer that now; please take it into consideration.

MR. MATTHEWS: Okay.

CHAIRMAN KING: Goldie, then Jim.

MS. CAUGHLAN: Help me understand, Richard, how we can come to this position of saying we -- we can't find out whether it's in there or not. I mean, I was reading that thing and I thought, you know, it was leading to say
therefore not being able to find a disclosure, therefore
not being able to find out would lead us to assume: okay,
you can't use it, which is precautionary principle. How in
the hell can we come to this opposite -- how do I go and
talk to consumers? I don't -- it's -- I'm sorry: it's
nuts. That is so backasswards.

(Laughter.)

MR. RIDDLE: Yeah. Well, I'll say that in a
different way.

(Laughter.)

MR. RIDDLE: It's my understanding that, you
know, the burden of proof is on an applicant to demonstrate
compliance and the use of approved materials when they
enter the process, but now it -- as I understand this, it's
rewarding producers and manufacturers for withholding
information, and this applies not just to List 3 but also
List 2 inerts.

UNIDENTIFIED FEMALE VOICE: And List 1.

MR. RIDDLE: Well, List 1s are required to be
labeled by EPA, is my understanding. So that information
is revealed. But List 2s and 3s are not, and 4s. So it
could fall anywhere there, so it's not just List 3s.

I guess, you know, I'm assuming that you develop
this in consultation with EPA, and I'm just wondering what
their opinion has been, because I know they do have a lot
of this information and have that pesticide, you know,
labeling program that this impacts, cross-jurisdictional,
like we were talking about before. I'm just wondering what
they've said about this to you, to help move this forward.

MR. MATTHEWS: When it comes to this program,
they defer to us.

MR. RIDDLE: But have you talked -- I mean did
they review this, did they review this --

MR. MATTHEWS: No, they did not review this.

MR. RIDDLE: Okay.

CHAIRMAN KING: Other comments? We have just
one, Zea, quick comment.

MS. SONNABEND: Can I just make a really quick
comment?

CHAIRMAN KING: Yes; very quick, please.

MS. SONNABEND: You said at the beginning that
these directives were things about the way the Rule always
was, and this is not what you've been saying to us up until
this point. In fact, you know, I know on several phone
calls you said, "You can't use it if you don't know what's
in it." So now we've been going along and -- you know,
California, the materials capital of the world,
practically, right? So we've got our growers all trained
now, we're issuing these -- I forget what you call them, we call them cease-and-desist orders: you stop using it if you can't find out what's in it, we get them 30 days. Now we have them all trained. This is a step backwards now, we have to retrain them.

The directive gives no phase-in, it says it's effective instantaneously. We don't have internal process developed for this new thing. You know, it's not guidance, it's -- it throws us into a tizzy about it.

CHAIRMAN KING: Thank you. Go ahead.

MR. MATTHEWS: Okay, let's move on. What the directive does not do, we do not see it as allowing List 3 inerts. It's recognized -- what we are doing is -- and why we have taken this position is that we recognize that the farmer doesn't know, and in many cases the certifying agent doesn't know. Okay? They can't identify this stuff. Without this ruling, it's: when in doubt, go without. In other words, anyone who uses that substance is going to be out of organic for 5 years.

UNIDENTIFIED MALE VOICE: When in doubt?

MR. MATTHEWS: When -- well, if you don't know what it is and you're -- part of the problem is that certifying agents are all over the map on this one. What you have to remember is that when a prohibited substance is
applied to your land, you're out of organic production for 5 years. You're revoked.

CHAIRMAN KING: Knowingly.

MR. MATTHEWS: That's your revocation.

CHAIRMAN KING: Knowingly.

MR. MATTHEWS: That's when you knowingly do it.

Okay. So the only option is, the only other option that we see, is to go out there and tell people: yes, the active is allowed, but no, you can't use the product, and not through any fault of your own, but because manufacturers won't give you the information.

CHAIRMAN KING: Kevin.

MR. O'RELL: Rick, the directives, as I understand it, are based off of legal substance, so what -- in this case of this interpretation, this is based off of legal advice, legal counsel, with the USDA, or is this --

MR. MATTHEWS: It becomes an enforcement issue, how do we enforce this thing.

MS. CAUGHLAN: You have to know.

UNIDENTIFIED FEMALE VOICE: You have to know where you don't use it.

UNIDENTIFIED FEMALE VOICE: "When in doubt, do without."

CHAIRMAN KING: Rose?
MR. MATTHEWS: How about some certifying agents, any certifying agents want to weigh in on this?

MS. DIETZ: I think we need to --

(Rapping.)

MS. DIETZ: It's 3 o'clock, and we haven't started even our agenda yet.

MR. MATTHEWS: That's right.

CHAIRMAN KING: Yes, that's right. Very quick question, not a statement, I have Rose, then you, Kim.

MS. KOENIG: I just want to reiterate, I guess, what Jim said, that your policy directive talks about List 3, but List 2 falls into the same category --

UNIDENTIFIED FEMALE VOICE: Same thing.

MS. KOENIG: -- which is an area -- okay, 3 is of unknown toxicology, and again, we feel that that issue, once EPA goes through those, is going to be resolved, but we still have the same issue that none of the -- you know, the List 2s aren't also. So the directive, Number 1, what about List 2s? So if we find out that it's a List 2, then they've lost it for 5 years? So the directive, if you're going to go for this, needs to cover -- you know, and I don't recommend it, because I don't agree with it, but it probably needs to entail also List 2 inerts because they're subject to the same concern, if that's the way you're
thinking.

Again, I am not proposing that, because I don't agree with the directive, but again, I would just -- you know, "when in doubt, go without." I feel, as a producer, okay, and I'm a user, okay, forget the certifiers, you know, I live -- this is my living, you know, this -- the program -- and that's what I always says, "You are my servants" (chuckles), "I am your stakeholder, the program is to serve me, and I am just one producer," but that is my job, just like it's your job to manage a program. My job -- if I want to get certification, I have to come to the plate, I have to find the information out, I have a serviced called the Organic Materials Review Institute that I utilize, I utilize my certifier, I do that due diligence, and if I can't find the information, I do without, I don't risk it.

MS. DIETZ: It's 3:00. They should do public comments on Friday.

CHAIRMAN KING: Yeah. Sorry, we have to keep moving forward. So Kim, did you have a quick comment, or no?

MR. MATTHEWS: Do you want to keep going or do you want to --

CHAIRMAN KING: I do want to keep going. I just
want to say one quick thing, and I understand that this is a heavy issue, if you will, but let's focus on one thing that Rick just commented on, and I think you may have caught it, and that is: this is an enforcement issue. So if we have suggestions, ideas, so on and so forth, in the future, not at this particular moment, perhaps you would want to focus on that. Rick.

MR. MATTHEWS: Okay, let's move on to the antibiotic hot button. Again, what the directive does, this one reminds producers and ACAs that sub-therapeutic antibiotic doses are strictly prohibited under the Organic Foods Production Act.

The use of antibiotics is allowed to treat illness when preventive practices and veterinary biologics fail. Okay. They are -- it is allowed, to use. The problem is that there are effects from doing that.

So the next slide provides that this directive identifies the effects of using antibiotics. An animal that has been treated with an antibiotic can never be sold, labeled, represented as organic. Products from slaughter animals cannot be sold, labeled, or represented as organic. Dairy animals must be managed organically for 12 months before milk can be sold, labeled, or represented as organic. Breeder stock treated prior to the last third of
gestation can give birth to an organic animal. Okay.

Again, what the directive does, it clarifies that OFPA and the regulations do not prohibit dairy farmers from treating sick dairy animals with antibiotics, and I repeat from what we had said just at the last slide, treated dairy animals must be managed organically for 12 months following treatment before milk can be sold, labeled, or represented as organic.

Now, when we say "managed organically," that means 100-percent managed organically. Okay. George?

MR. SIEMON: You know, my biggest question about -- I don't know what's my biggest question, but this of course brings up the whole issue of all prohibited medications, not limited to antibiotics.

UNIDENTIFIED FEMALE VOICE: Correct.

MR. SIEMON: If I read this correctly, any medication can be used now as long as you have the 12-month window prior.

MR. MATTHEWS: We're only talking antibiotics here. We're only talking antibiotics. That was the issue that was of contention between certifying agents and what is the issue that we have addressed.

MR. SIEMON: But this is a clarification of the law, as you've said.
MR. MATTHEWS: For antibiotics.

MR. SIEMON: So I can't take this logic and not see that this applies itself equally to all medication, this whole document as well.

MR. MATTHEWS: We've only addressed the issue of antibiotics --

MR. SIEMON: Okay.

MR. MATTHEWS: -- with this directive.

MR. SIEMON: So then for right now the -- since you've only addressed that, the understanding of the community should be: this is only for antibiotics and not for any other forms of prohibited medication.

MR. MATTHEWS: Yes.

MR. SIEMON: Should that be the understanding of the community?

MR. MATTHEWS: Until we review it for other things. We've only reviewed it for antibiotics.

MR. SIEMON: Okay.

MR. MATTHEWS: That was the issue that was put to us. Okay.

What this directive does not do: it does not allow sub-therapeutic doses; it does not permit milk from treated animals to be fed to organic animals; it does not permit milk from treated animals to be sold, labeled, or
represented as organic; it does not allow treated animals
to be sold, labeled, represented as organic slaughter
stock; it does not allow the feeding of non-organic feed,
in any quantity, to treated animals.

And that's where I said on the last slide:
managed organically. You can give this animal that is ill
a dose of an antibiotic; if that animal was an organic
animal, it loses organic status for meat. That animal then
has to go through organic management for 12 months from the
date of the last administering of that antibiotic, for the
purpose of saving that animal's life, before it can produce
organic milk.

MR. SIEMON: I'm so glad you brought that up too,
because that was my next question, about the feed, because
it really brings open the whole feed issue. But just so
I'm clear about the 12 months: is that managed organically
for 12 months? If you give that calf an antibiotic 16
months prior to milking, what -- I just need clarification
on the whole organic feed on the certain class of dairy
animals, we have two classes of dairy herds --

MR. MATTHEWS: We have changed nothing. We have
only clarified that a dairy animal can receive an
antibiotic and go through a 12-month management organically
and still be able to produce organic milk. We have changed
nothing related to origin of livestock.

MR. SIEMON: So if it's 16 months -- I have two questions. If it's at 16 months, they've still got to be fed organically all the way through --

MR. MATTHEWS: Oh, yes.

MR. SIEMON: -- and the 12 months not relevant.

MR. MATTHEWS: Yes. You cannot -- you cannot manage that animal organic- -- as a conventional animal after giving that dose and still have it become organic again, you have to continue to manage that animal organically, with this one exception, that you could give it a shot or a suppository, whatever, you know, to correct the animal's illness at that point. It's really a humane issue, in my mind, you're taking a very sick animal, you have a choice, you can take it off your farm or you can treat the animal. Now, where -- in real terms, where is this going to be important? It's going to be important for young stock, because the farmer already is faced with a 24-month period before that animal is going to be productive, okay. So if you're treating it within the first three months, it's still got to go through the same organic management that it would have, but that animal has lost its meat status as organic. You still have to manage him organically all the way through.
Now, is it practical to think that a farmer is going to treat a mature animal and then keep it on its farm for a year? I doubt it. They're going to get rid of that animal. Okay?

MR. SIEMON: And by your chart, this is -- we have two streams of dairy animals, in the dairy world, and this chart shows that this is for all streams, and so I have another question that's kind of a broader question. Are we real clear that those in the dairy stream that come in with the 12-month have to feed their calves organically from day of birth, last third of gestation forward? I'm not clear on that. But this -- if I'm to follow this conversation and read this chart, we're all clear that no matter what stream you come in, you must raise your calves organically, feed and everything else, besides for this antibiotic exception now, from the day of birth. That is not the case in the field right now. We need to address that.

MR. MATTHEWS: George, go ahead and run that by me again. I missed it. I was getting corrected on a point that I made before.

MR. SIEMON: No matter how you come into the dairy program, this is a little off-subject, but it's very relevant. How you come into the dairy program, we know
there's two streams, no matter what stream you come
through, you must raise your calves, that are born on your
farm, organically.

MR. MATTHEWS: Right.

MR. SIEMON: And you can't take them off the farm
in any way or bring them back, and I'm just referring to
your chart here.

MR. MATTHEWS: Yeah. And --

MR. SIEMON: And then I'm informing you that is
not the present enforcement out there in the field right
now, our understanding. That's maybe another clarification
we --

MR. MATTHEWS: And there may be -- the document
itself may have created a bit of misunderstanding, because
you're -- we're not really contemplating that you take the
thing off the farm and then bring it back a day later, or a
year later, or anything like that, you treat the animal,
you mark it, and then you manage it organically without
using any of that milk, to either be sold to consumers or
even used as feed for other -- for young stock, for
example.

And George, a technical correction a previous
statement.

MR. SIEMON: Okay.
MR. MATTHEWS: Yes, the only question posed to us was antibiotics, but by extension it would apply to other medications.

MR. SIEMON: I think so too.

MR. MATTHEWS: Okay. Becky.

CHAIRMAN KING: Becky.

MS. GOLDBURG: I'm curious whether the NOP has a definition of sub-therapeutic antibiotic use pertinent to this directive. As I understand it, there is no widely-accepted definition of sub-therapeutic, there are a variety of definitions. I know that FDA has no definition. So I'm curious whether -- how you're making the distinction between sub-therapeutic and therapeutic antibiotic use.

MR. MATTHEWS: To me, and the way we mean it --

UNIDENTIFIED MALE VOICE: That's in the Act.

MS. GOLDBURG: It is actually in the Act?

UNIDENTIFIED MALE VOICE: Yes. That's (inaudible) statutory --

MR. MATTHEWS: Sub-therapeutic is a requirement within the Act.

MS. GOLDBURG: Yeah, but I don't think it's defined.

UNIDENTIFIED MALE VOICE: And I think that's covered in FDA as well.
MS. GOLDBURG: No, there is no FDA definition.

UNIDENTIFIED MALE VOICE: Sub-therapeutic?

MS. GOLDBURG: There is not.

MR. MATTHEWS: Okay. But basically what we're saying is that in the presence of illness that would dictate that you have to bring -- that you have to use an antibiotic in order to save that animal's life, or -- if you're a veterinarian -- basically it's an issue call by a veterinarian. If your animal is so sick that it has to have an antibiotic, or I suppose even if it had gone through a surgery and you needed to have an antibiotic to prevent an infection, this is where the humane part of it comes in, you can go ahead and do it, but there are costs for having treated your animal in a humane way. One of those is that you lose the organic status of that animal for meat purposes.

MS. GOLDBURG: Yeah, I understand that, but just --

MR. MATTHEWS: And this only applies, really, to dairy animals, okay?

MS. GOLDBURG: Yeah.

MR. MATTHEWS: Any other animal, it loses its meat status, it's out of the organic anyway.

CHAIRMAN KING: Jim, then Andrea.
MR. RIDDLE: Yeah. You've said -- and you have it stated up there -- that this does not permit milk from treated animals to be sold/labeled as organic --

MR. MATTHEWS: Right.

MR. RIDDLE: -- but yet I've heard you say verbally that yes, an animal can be treated with an antibiotic and 12 months later its milk sold/labeled as organic. So it does allow --

MR. MATTHEWS: Well, but it doesn't allow it during the 12-month period.

MR. RIDDLE: Yeah, but it was a treated animal. So it does allow the milk from a treated animal to be --

MR. MATTHEWS: After 12 --

MR. RIDDLE: Yeah, with conditions.

MR. MATTHEWS: -- months of organic management.

MR. RIDDLE: Okay. So I just want to address that. And then what I -- this correction you've made about: it applies to other medications --

MR. MATTHEWS: Uh-huh.

MR. RIDDLE: -- so that would include hormones as well. So there --

MR. MATTHEWS: No. Hormones are specific --

MR. RIDDLE: If they're used for therapeutic purposes --
MR. MATTHEWS: This is for illness.

MR. RIDDLE: -- treatment -- yes.

UNIDENTIFIED FEMALE VOICE: Illness.

MR. RIDDLE: Yes. I mean, I don't see the line. It applies to other medications of any category --

UNIDENTIFIED FEMALE VOICE: I'm not a livestock expert, but do you give hormones for illnesses?

UNIDENTIFIED MALE VOICE: Yeah.

UNIDENTIFIED FEMALE VOICE: Yeah.

UNIDENTIFIED MALE VOICE: Sure you do.

MR. SIEMON: Just breeding problems.

MR. RIDDLE: Breeding problems.

CHAIRMAN KING: Next example, Barbara.

UNIDENTIFIED MALE VOICE: Viagra?

UNIDENTIFIED MALE VOICE: Menopause.

(Laughter.)

UNIDENTIFIED MALE VOICE: Just to support -- we have to remember, in the dairy, which is so complex, in the new herd clauses, those animals coming into the program could have previously had antibiotics, could have previously had hormones.

UNIDENTIFIED MALE VOICE: Right.

UNIDENTIFIED MALE VOICE: So we have to be somewhat even here about this because some understand. Not
that I agree with the document, don't anybody misunderstand me, but still, I can agree (inaudible) --

MR. MATTHEWS: But it does -- but it does address in some respect the concerns of dairy farmers of the unlevel playing field with regard to health care for the young stock that they have on their farm, that are organic.

MR. RIDDLE: Okay, so that's the --

MR. MATTHEWS: But we're not -- but we're really not --

MR. RIDDLE: The origin of stock allows prior treatment in an animal's life, before it comes into the organic program; then the livestock health care practice must be followed, and it says a producer must not sell, label, or represent as organic any animal or edible product derived from any animal treated with antibiotics. It doesn't say within a year; it says "must not." So I just -- I --

MS. CAUGHLAN: So where does this come from?

MR. RIDDLE: Yeah, where does this come from? I think -- you know, what's driving this?

UNIDENTIFIED FEMALE VOICE: What about the level playing field for the consumer?

MR. RIDDLE: Edible product --

MR. NEAL: In Section 236 -- Arthur Neal is my
CHAIRMAN KING: Arthur.

MR. NEAL: In Section 236 there is no -- what happens, it says that organic animals must be managed continuously for 12 months. Those animals can be considered to -- the milk from those animals can be sold as organic. It says that --


MR. NEAL: It doesn't say "unless treated with a prohibited substance." It can't -- that's under "Origin."

MR. RIDDLE: Right.

MR. SIEMON: Then how come you're requiring the feed -- a 100% organic feed on the second stream, then?

UNIDENTIFIED MALE VOICE: What was that?

MR. SIEMON: Then why would you require a 100-percent organic feed on that one stream of dairy that you're requiring --

MR. NEAL: Because it must continuously be managed organically.

MR. MATTHEWS: The exception to the 100-percent organic feed is only found for whole herd conversion, it is not found for any other situation.

MR. SIEMON: But it -- so you're differentiating between feed and medication at that time.
MR. MATTHEWS: Yeah, we're differentiating between feed and medication.

MR. SIEMON: Except for replacements.

MR. MATTHEWS: One heals, the other one keeps them nourished.

MR. SIEMON: Except for replacements on the one stream. That's another subject.

CHAIRMAN KING: Andrea.

MS. CAROE: Okay, I just wanted -- I really don't have a question but I just -- I want to make a comment on two things that are kind of a by-product of this directive, and one is that an unenforceable section of this rule has been: we have never been able to identify a farmer that's withholding treatment of a sick animal, and this will hopefully prevent some of that from happening, because that's -- that's in the regulation, you can't withhold treatment from an animal that's sick, but if a certifier goes a year later, after the animal's died, they have no idea that that happened that way. So that -- I just want to put that in the mind, because I really think that's an important thing, that we've never been able to address.

And then the other thing is, there is a discrepancy between buying a replacement animal at a sale barn and transitioning them and somebody that's growing
their own.

UNIDENTIFIED MALE VOICE: Speak up, Andrea.

UNIDENTIFIED MALE VOICE: We can't hear you.

MS. CAROE: I don't think which mic works.

MS. ROBINSON: I don't think it is working.

MS. CAROE: I'll speak loudly. Now, the other
issue was the discrepancy between somebody that's raising
their young on their farm and buying from a sales barn and
transitioning, because those animals could have been
treated and fed, and anything could have happened to them.

It almost -- it's almost counter-productive to promoting
growing the young animals on the farm, if it's easier to
buy them from the sale barn and transition them, than to
deal with a young animal that is more susceptible to
disease.

MR. SIEMON: They just clearly said that all
those people that qualify for that have to raise their
calves and keep their heifers rather than go out and buy
other heifers as a shortcome, they just clarified that -- I
hope all the ACAs hear that so they can do it.

UNIDENTIFIED MALE VOICE: What was that?

UNIDENTIFIED FEMALE VOICE: I didn't hear that.

CHAIRMAN KING: I think we all missed that one,
George.
MR. SIEMON: They just said about the two streams of dairy, the ones that qualify for the 12 month, they must raise their heifers organically and cannot be selling them and buying back heifers elsewhere as some way to get around and cheapen the cost of replacements, which you were just referring to.

MR. MATTHEWS: That's always been in there, we haven't changed that regulation.

MS. CAROE: I'm missing something.

MR. MATTHEWS: We have not changed any standards related to the origin of livestock. We have simply addressed whether or not a dairy animal can receive treatment for illness and still remain on the organic farm, and the answer is: yes, you can treat it, you can stay on the organic farm, it can never be used as organic meat, it cannot be used for the production of organic milk for 12 full months, and during that full 12 months it must be managed organically.

UNIDENTIFIED MALE VOICE: And longer.

MS. CAROE: Well, let me just say this, I mean --

MR. MATTHEWS: And it could be longer if you treated a two-day-old calf.

MS. CAROE: Okay. But if -- I understand that origin of livestock has not changed by this directive, but
if a farmer had an animal born on their farm, two-day-old baby, that gets pneumonia, okay --

MR. MATTHEWS: Right. And it was born as an organic animal.

MS. CAROE: It was born as an organic cow.

MR. MATTHEWS: All right.

MS. CAROE: They treat that animal, they sell the animal, they cull it out. Another organic farm --

MR. MATTHEWS: That is sold as a conventional animal.

MS. CAROE: Sold as a conventional animal.

MR. MATTHEWS: Right.

MS. CAROE: Another --

MR. MATTHEWS: Cannot come back.

MS. CAROE: -- organic farmer is looking for a replacement animal, buys one at a sale barn, which is not required to have any lineage on that animal, buys that animal, unknowing that it was an organic animal that's gone conventional, bring it in, transition it for 12 months, in effect they're doing exactly what the directive is saying.

MR. MATTHEWS: Well, yes, that -- there is always the risk that an animal that was born organic was treated and then culled from the herd, went into the conventional market. There is the possibility that if the -- if the
buyer of that animal, who is organic, did not do due
diligence of trying to find out the history of that animal,
you might possibly have that animal come back onto the
farm.

MS. CAROE: So --

MR. MATTHEWS: Under the regulations, it's not
allowed to come, but it is possible that one would.

MS. CAROE: Right, and that was my point. My
point is that it allows it to stay on the farm and it
doesn't weaken it in any way.

MR. MATTHEWS: Right. That's right. This option
actually would create an opportunity where that is less
likely to happen, hopefully. You're more confused?

MR. RIDDLE: Just --

MR. MATTHEWS: Then we should have just left it
the way it was, Jim (chuckles).

MR. SIEMON: But again, I made an assumption
earlier, but after listening to this, I've got to go back
-- assumptions, always gotta worry about them. If you
bring in through the one-time exception, you're still
qualified for this same use of antibiotics.

MR. MATTHEWS: Yes.

MR. SIEMON: Okay.

MR. MATTHEWS: You're -- the animal that you're
bringing in is converted. Now, again, the likelihood of
treating a mature animal --

    MR. SIEMON: I'm talking about calves, I'm
talking about a calf.

    MR. MATTHEWS: -- and keeping it on the farm is
pretty slim.

    MR. SIEMON: I'm talking about calves.

    MR. MATTHEWS: Okay.

    MR. SIEMON: Because we have two different
replacement clauses for dairy, and it doesn't matter which
one you're in, all of them qualify for this antibiotic use.

    UNIDENTIFIED FEMALE VOICE: Yeah, that's right.

    CHAIRMAN KING: That's a true statement.

    MR. MATTHEWS: Yes. Remember --

    MR. SIEMON: It's not totally logical, but --

    MR. MATTHEWS: Remember that the 80/20 rule for
feed is only available to a whole herd conversion.

    MR. RIDDLE: During the conversion process.

    UNIDENTIFIED FEMALE VOICE: Right.

    MR. RIDDLE: Once they've converted --

    MR. MATTHEWS: During the conversion process.

    MR. RIDDLE: -- all animals must be organic from
the last third of gestation. If someone comes in through
the 1-year clause -- I'm really confused, coming out of
this -- what about those calves? They're fed organic?

It's required that they have to be fed organic?

MR. MATTHEWS: Yes.

UNIDENTIFIED MALE VOICE: Yes.

MR. MATTHEWS: Yes. Yes.

MR. RIDDLE: But that's contrary to your --

MR. MATTHEWS: Managed 100-percent.

MR. RIDDLE: And that's contrary to your prior policy statement on the two herds, where you had that chart?

MR. MATTHEWS: No, it isn't. No, it isn't. We are not addressing the origin of livestock at all.

MR. SIEMON: Jim, that previous one was replacements, bought replacements. But I hope NOP is hearing: there's a lot of confusion about raising those on those farms that qualify for the 12-month. You need to hear that. There's a lot of confusion.

UNIDENTIFIED MALE VOICE: They're being fed conventional.

MR. SIEMON: Because that's the shadow here -- it's not even the subject we're on, but that's the shadow that's still confusing us.

UNIDENTIFIED MALE VOICE: Yeah.

MR. SIEMON: That document on replacement says

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brought in replacements, bought, they're saying no matter which way you come in, you have to raise your calves organically, organic feed and all, until we come up with this new exception here, and you can't sell your calves off and buy heifers back for the one year, which is going on right now.

UNIDENTIFIED MALE VOICE: Totally.

MR. SIEMON: So we need to deal with this, it's going on, it's --

UNIDENTIFIED MALE VOICE: That's what the chart says.

UNIDENTIFIED MALE VOICE: Yeah, that's what your prior chart says.

MR. SIEMON: You need to deal with this, so you all need to hear it. There's a lot of -- we need a directive on this one.

CHAIRMAN KING: But this is -- but, yeah, that's -- so that's another issue that we need to clarify --

MR. MATTHEWS: That's a different issue.

CHAIRMAN KING: -- clearly. I think I need to be heavily medicated right now, I don't know about you.

(Laughter.)

UNIDENTIFIED FEMALE VOICE: Don't ask for directives (chuckles).
MR. SIEMON: Let's move on. Let's move on.

UNIDENTIFIED FEMALE VOICE: Life's like a breakout issue.

CHAIRMAN KING: Yeah, there you go. All right. So Rick, how close are we to --

MR. MATTHEWS: Oh, we're getting a lot closer.

CHAIRMAN KING: Well --

UNIDENTIFIED FEMALE VOICE: We'll move on.

MR. MATTHEWS: I'm not sure that it's going to be any quicker. Now, we can cut it off --

CHAIRMAN KING: I'm just wondering if at some point people would need to go to the bathroom and take a break, so let's --

MR. MATTHEWS: The only thing left is fishmeal and the materials review process.

CHAIRMAN KING: Let's get through antibiotics, at least. Are we done?

MR. SIEMON: We're done. Let's move on.

MR. MATTHEWS: Antibiotics, we're done.

CHAIRMAN KING: What's the will of the Board, do you want to take a quick break now or do you want to finish --

UNIDENTIFIED MALE VOICE: I think we're so off schedule we ought to keep moving, myself.
UNIDENTIFIED MALE VOICE: Let's just finish NOP.

CHAIRMAN KING: I'm hearing "Let's finish NOP."

Rick, if you have to go to the bathroom, tough luck.

(Laughter.)

MS. ROBINSON: We've got seven more slides.

UNIDENTIFIED MALE VOICE: Do you want to try to define "sub-therapeutic"?

UNIDENTIFIED FEMALE VOICE: No, not now.

UNIDENTIFIED FEMALE VOICE: Not right now.

UNIDENTIFIED MALE VOICE: Not right now.

(Laughter.)

UNIDENTIFIED FEMALE VOICE: And whether it's --

(Pause.)

CHAIRMAN KING: Okay, Rick, I guess you're off and running on the next subject.

MR. MATTHEWS: All right, now we're on to fishmeal. Go ahead and click again, right button.

What the directive does: reminds producers and ACAs that Section 205.237(a) allows the use of non-synthetic feed additives and supplements in organic production. Fishmeal is an allowed protein supplement. It's neither organic -- it's natural.

What if the fishmeal contains a synthetic substance? Fishmeal is a natural. All naturals are
allowed unless prohibited. Fishmeal is not organic. How much fishmeal constitutes a supplement?

MR. SIEMON: No, no, no, no, go back.

UNIDENTIFIED FEMALE VOICE: Go back.

UNIDENTIFIED FEMALE VOICE: Go back.

UNIDENTIFIED FEMALE VOICE: Put it back on.

UNIDENTIFIED MALE VOICE: Back up.

MR. SIEMON: You had a good question but there wasn't the answer. Synthetic is defined in our rule that if a substance is formulated or manufactured by a chemical --

MR. MATTHEWS: Fishmeal has never been determined by this Board to be a synthetic product.

MR. SIEMON: But it has synthetic ingredients.

MR. MATTHEWS: It doesn't have synthetic ingredients.

UNIDENTIFIED FEMALE VOICE: Yes, it does.

MR. MATTHEWS: It may have a synthetic ingredient.

UNIDENTIFIED MALE VOICE: Fish emulsion is listed --

MR. SIEMON: The question is: what if it contains synthetic --

MR. MATTHEWS: But fishmeal it --
MR. SIEMON: What if it contains a synthetic substance? That's your question up there.

MR. MATTHEWS: It has never been ruled to be a synthetic substance by this Board.

UNIDENTIFIED MALE VOICE: What if it contains a synthetic substance?

UNIDENTIFIED FEMALE VOICE: Yeah.

UNIDENTIFIED FEMALE VOICE: Yeah.

MR. MATTHEWS: It doesn't matter.

UNIDENTIFIED FEMALE VOICE: Why?

MR. MATTHEWS: It doesn't matter. It's a natural product.

(Cross-talk.)

MR. SIEMON: So if they would --

MR. MATTHEWS: Okay, we're not going to meet -- or meeting of the mind on this, and it's -- under --

MR. SIEMON: Okay, so the answer should be --

MR. MATTHEWS: -- under the rulemaking that has already been done, if you go to the preamble, it says that fishmeal is allowed, and all we're doing is reiterating the fact that a determination has already been made that fishmeal is allowed, and there's no criteria put on that fishmeal.

MR. SIEMON: So as long as it's an FDA product,
it doesn't matter what's involved in the fishmeal, if they want to put amino acids in there or something like that and it still be called fishmeal, fortified fishmeal --

MR. MATTHEWS: As long as it meets the definition of what a fishmeal is.

MR. SIEMON: By the FDA.

MR. MATTHEWS: Right.

MR. SIEMON: This is based on the determination of synthetic, and you said it's never been determined to be synthetic, so in order to be determined synthetic, someone would have to go through the TAP review process, to have it declared as a prohibited material, right, prohibited natural?

MR. NEAL: That's right. That's right, because fishmeal -- fishmeal has not been prohibited, because all naturals are allowed unless prohibited.

MR. SIEMON: But all of us thought that if a natural had a synthetic in it --

MR. MATTHEWS: But you have to remember that all naturals, including naturals that are used in an organic food, the natural, if it was created using synthetics, it doesn't matter, it's allowed, in the last 5 percent of human food.

UNIDENTIFIED MALE VOICE: It's got to be on the
List.

UNIDENTIFIED MALE VOICE: Only if it's on the List and we've reviewed it.

MR. MATTHEWS: The same thing doesn't -- no.

MR. SIEMON: Okay, next --

MR. MATTHEWS: No, naturals are allowed unless prohibited under crops and livestock.

MR. SIEMON: So if an FDA-approved additive has a prohibited material in it, that's on our list, then clearly it's not allowed? If an FDA-approved additive has in it a synthetic -- prohibited synthetic that's on the NOP list, then clearly wouldn't that mean it wouldn't be allowed?

MR. MATTHEWS: I'm still not following the question.

MS. KOENIG: I have an explanation, I think I have clarity.

CHAIRMAN KING: Rose, go ahead.

MS. KOENIG: I think fish -- it's like aquatic -- it's like fish emulsion or aquatic plants, that in reality, if it's a processed product that involves a synthetic substance, that it -- I -- this is my personal opinion, so -- I mean, this is not -- I'm not speaking from a regulatory view, but I view fishmeal as -- what people are saying, if it's -- if there's anything -- if it's, you
know, processed in some way, it may in fact have to be petitioned, because similar to aquatic plants or similar to fish emulsion, there may be a procedure, to get to the finished product, that would require it to be petitioned and then perhaps annotated.

MR. MATTHEWS: Yeah. Now, to confuse it even more: If there were fish standards in place, the fish would have to be organic and then it would have to have gone through the process, but it's -- right now fish are outside our scope, and it's a natural, and so it's allowed.

UNIDENTIFIED MALE VOICE: Even if adulterated?
UNIDENTIFIED FEMALE VOICE: Yeah, but fish --

CHAIRMAN KING: Jim, then George, then Becky.

MR. RIDDLE: I'm going to come back to that preamble that I read earlier today and ask you how it squares with that when it says "Synthetic ingredients in any formulated products used as organic production inputs, including pesticides, fertilizers, animal drug and feeds, must be included on the National List," and feed supplement is defined as "feeds." So to me, when it says "feeds," that's a broad category. And so here, you're saying that it doesn't matter if it has synthetic ingredients, where you said earlier that they must be on the National List.
MR. MATTHEWS: .237 allows non-synthetic substances to be used as a supplement in organic feed.

MR. RIDDLE: Well, yeah, I have no problem with that. Fishmeal without synthetics. But once you've added a synthetic --

UNIDENTIFIED FEMALE VOICE: Right.

UNIDENTIFIED FEMALE VOICE: -- then you've got a different --

MR. RIDDLE: It's a different issue.

MS. DIETZ: It sounds like a certifier issue to validate that there are no synthetics in that --

UNIDENTIFIED FEMALE VOICE: But not if they're given a directive that doesn't call for that.

CHAIRMAN KING: Hold on, let's stay on track.

MS. KOENIG: But fishmeal becomes fish emulsion, it's a natural that is changed once it's -- unless the fish -- if the fishmeal is purely fishmeal, then I agree with that, but what that question begs is: if it contains a synthetic substance, it then -- that's what I'm saying, then it becomes fish emulsion and it has to go through the process of going -- it's a natural that now has been altered and it gets reviewed.

MR. MATTHEWS: Well, fish emulsion would. We're not talking about fish emulsion, we're talking about
fishmeal.

MS. KOENIG: No, but --

MR. NEAL: Just a second, guys, just a second.

CHAIRMAN KING: Point of clarity?

MR. NEAL: Yeah.

CHAIRMAN KING: We're looking for that.

MR. NEAL: There are a lot of issues, that are trying to be hashed out right now, that are a point of contention, and it all revolves around what can and cannot be reviewed by the Board. What does the Act allow to be included on the National List. If you turn to 6517 of the Act, this is the issue that we face. But it's in there. You go -- it's on the right-hand column of the page, 21-18.

CHAIRMAN KING: 21-18 or 6517, same thing.

MR. NEAL: Okay, (c)(1)(b).

CHAIRMAN KING: Okay.

MR. NEAL: It says -- and let's read --

CHAIRMAN KING: Where are we starting?

MR. NEAL: This says that -- (c)(1) says "The National List may provide for the use of substances in an organic farming or handling operation that are otherwise prohibited under this title only if: (b) the substance is used in production and contains an active synthetic ingredient in the following categories: copper and sulfur
compounds, toxins derived from bacteria, pheromones, soaps, horticultural oils, fish emulsions, treated seed, vitamin and minerals, livestock parasiticides and medicines, and production aids."

Now, this is -- what was that, Nancy?

CHAIRMAN KING: Never mind, move on.

MR. NEAL: This talks about active synthetic ingredients.

Now, it sounds like we're back at a phosphoric acid issue, where there may be a preservative used that's not an active ingredient. Well, how do you petition the Board to include a non-active ingredient in a feed formulation for inclusion on the National List if there's no entry point for it by the Act? Because the Act says "active synthetic ingredients."

CHAIRMAN KING: Nancy, then Rose.

MS. OSTIGUY: Am I understanding you correctly that your reading of this says that we can -- and there's part of this I wouldn't have a problem with. The only things that go on the List are things that are in the category that you just read, and it must be inactive, otherwise it's prohibited?

MR. NEAL: No.

MS. OSTIGUY: So you are saying that if it's not
an active, then it's okay even if it otherwise would be prohibited if it was active?

MR. NEAL: Correct.

MR. SIEMON: Then why did we go through all that about the aloe preservatives?

MR. NEAL: I don't know.

MR. SIEMON: You don't know. Good, I'm glad you said that.

(Laughter.)

MR. SIEMON: No, I'm agreeing with you, I don't know either.

MR. NEAL: Now, listen, listen, and if you think I'm wrong --

MS. OSTIGUY: Why did we do anything with inerts, then? They're not actives.

MR. NEAL: Inerts is specifically identified in Paragraph 2. Now, if you'll take a look at vitamins that are allowed, on the National List, there are I'm sure some carriers invited that are not on the National List. The Act did not envision for every inert -- well, I won't say inert -- inactive ingredient that's used in a feed formulation or any other product to be considered by the Board because it's too expansive. That means that there are products that are on the market right now that could
potentially be in violation under the standards.

UNIDENTIFIED MALE VOICE: You're missing something in the law right now, I'll tell you what it is --

CHAIRMAN KING: Hold on.

MR. SIEMON: You've got to be recognized.

CHAIRMAN KING: Friday, please, public comment can go forth --

UNIDENTIFIED MALE VOICE: I can help you --

CHAIRMAN KING: Hold on.

UNIDENTIFIED MALE VOICE: -- out immensely on this right now.

CHAIRMAN KING: Not right now.

MR. SIEMON: I've got a new question, just -- because I can see we're really going to be (inaudible) about this. This -- just like my question about antibiotics -- then covers crabmeal and any non-synthetic, non-agricultural material, whether it's got synthetics or not, as long as it's FDA-approved, anything, any and all?

MR. MATTHEWS: Yes. And all of those marine products would change if there were standards for aquatic animals.

CHAIRMAN KING: Rose.

MS. KOENIG: Can you clarify that, Richard. I assume most -- it would change if there were standards for
wild aquatic animals, since all fishmeal at the moment is
made from -- or virtually all, I should say -- from wild
fish.

MR. MATTHEWS: Well, yeah, it's -- I guess -- I
say that if we had standards, I'm a little -- I don't know
the correct word. Let's say that I fail to see at this
point -- and I could be convinced differently, but I fail
to see how you're going to be able to open this up to all
aquaculture without a source of organic fishmeal, okay,
because there are -- you're going to have to be feeding
carnivores fish, and so --

MS. GOLDBURG: Right. But that's assuming that
you need -- want to or need to open it up to all
aquaculture.

MR. MATTHEWS: Well, that's assuming that it was
all opened up.

MS. GOLDBURG: Right.

MR. MATTHEWS: Now, I guess, to use Keith's
phrase, I should be a little more precise in the wording,
that if there were standards in place, then the -- and it
included wild-caught or even aquaculture-raised fish that
was available for the production of fishmeal, then that
fishmeal would have to be organic, okay.

The real problem is, right now, in the organic

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system, you wouldn't be able to turn a carnivore into an herbivore, so they're going to have to have a source of food for your aquatic animals that are carnivores, if -- if you went to --

MS. GOLDBURG: If you decided that you need organic carnivores.

MR. MATTHEWS: That's right, if you went to the stage of having carnivores covered by the standards. But right now there are no standards for any aquatic animals.

I'm just saying that the position that we take now is subject to change should there be rulemaking done in the future that would affect this position, okay?

CHAIRMAN KING: Okay, I have Rose, Kevin, George.

MS. KOENIG: I've had -- this is back to Arthur's statement, and I've had time to kind of think about this and rethink about it, and then the other day I was looking through the preamble of the Rule on Page 8612, and it's Subpart (g), administrative, where it talks about -- and the interpretation or the -- you know, how the National List of Allowed and Prohibited Substances -- descriptions of regulations, okay?

You go into the second column, looks like the second paragraph, where it starts "In this Final Rule," talks about only -- the EPA lists four inerts in that
section, but if you go down midway, and I'll read it,
"Synthetic ingredients in any formulated products used as
organic production inputs, including pesticides,
fertilizer, animal drugs and feeds, must be included on the
National List. As sanctioned by OFPA, synthetic substances
can be used in organic production and handling as long as
they appear on the National List."

But again, synthetic ingredients is not the same
as active, it's all, and they talk about formulations of.

MR. NEAL: And I truly do understand the
confusion of that text, of that language, but when you go
back to the Act, this is the authority, this is what we can
and cannot look at. The window that's opened are for
active synthetic ingredients.

UNIDENTIFIED FEMALE VOICE: Where?

MR. NEAL: (c)(1)(b)(i).

MR. RIDDLE: And everything else is prohibited --

UNIDENTIFIED FEMALE VOICE: No. He's saying --

MR. RIDDLE: -- every other synthetic --

MR. MATTHEWS: No.

MR. RIDDLE: I know. You're turning it on his
head from what we've understood before: synthetics are
prohibited unless they're on the List, but what I'm hearing
you say is synthetics are allowed, but only this category

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needs to be reviewed.

MR. NEAL: Watch [phonetic] the acknowledgement of the Act, it says, "the substance" --

MS. OSTIGUY: Where are you reading?

MR. NEAL: This is (c)(1)(b)(i). "The substance is used in production" and does what? -- "and contains an active synthetic ingredient." It does not say "the substance is used in production and it contains itself," there's something else in with this active synthetic ingredient that's being considered, "it contains," "the substance contains an active synthetic ingredient."

MR. MATTHEWS: Mark, you've still got a full afternoon of material to go.

CHAIRMAN KING: Yeah, I know. I know. It just seems -- okay.

UNIDENTIFIED MALE VOICE: You've already wasted a half an hour I could have saved you.

CHAIRMAN KING: Okay. Friday you can do public comment. We need to come back, but thank you.

MR. SIEMON: Can I ask one more question that's a new subject on this one? Just so I understand, of course we all know there's limitations of fish, and I hope there's no other fishmeals out there, but there's no limit on the percent that can be fed here --
MR. MATTHEWS: That's the next slide.

CHAIRMAN KING: Next slide.

MR. SIEMON: I just (inaudible), Rick, trying to help you out the best I can.

MR. MATTHEWS: Next slide.

(Laughter.)

MR. MATTHEWS: The regulation defines what a supplement is. I've included in brackets there as a supplement to help clarify what that statement is. Clearly it's really intended as something to supplement the feed, it's not meant to be a wholesale replacement of, say, a grain, it's not meant to be fed at an 80-percent level. 80 percent of a protein is no longer a supplement, it's feed. So it's -- it's what is there as a supplement, and you really need to be going back to AFCO and what they regulate for putting together a feed.

And you also have to remember too that fishmeal is going to have an impact on the quality of the meat or the ags or whatever, so your farmer is not going to be -- is not going to be feeding levels that are going to destroy his market.

MS. GOLDBURG: Can I ask you a question, Richard?

MR. MATTHEWS: Yes.

MS. GOLDBURG: Earlier you made a statement about
the need for fishmeal if you're going to farm carnivores, particularly aquatic carnivores, but here you're allowing fishmeal as a supplement, and I'm arguing that there should be a limit on how much of a -- what percentage of the feed it could be in order to be considered a supplement. Is there an implication there for farming of aquatic carnivores?

MR. MATTHEWS: There I don't see -- for example, feeding fishmeal to salmon, I don't see that as a supplement.

MS. GOLDBURG: Okay. If it's 45 percent of the feed.

MR. MATTHEWS: That is their main -- that's one of their main ingredients for their feed.

MS. GOLDBURG: Okay.

MR. MATTHEWS: Okay? You know, when it comes to feeding fish fish, that's -- that's what they eat, that's not a dietary supplement. But again, they're outside the current scope.

MS. GOLDBURG: Right, I understand that.

MR. MATTHEWS: Okay, let's go on to materials review. This one will probably be no less a debate.

There are currently the following stages to a materials review: a petition is received, the NOP reviews
the petition, there's a scientific review and reporting on that, there's a requirement for a technical advisory panel to be involved in the process, the NOSB committee will review and make a recommendation to the full board, and the full board will review and then make a recommendation to the Secretary, and then the NOSB -- I mean the NOP -- goes through the rulemaking process. So those are the things that are happening under a materials review.

Let's go to the next slide, please.

UNIDENTIFIED FEMALE VOICE: Wait a minute, wait a minute.

MR. MATTHEWS: Go back.

UNIDENTIFIED FEMALE VOICE: Go back. Are these going to be available --

CHAIRMAN KING: Could we just get copies of this, these slides printed out, posted, something?

MS. DIETZ: Are the slides going to be posted on the website?

CHAIRMAN KING: Knowing that we're sort of moving along --?

MR. MATTHEWS: Well, the -- yeah, we could probably make -- yeah, we could make the slides available. I'm not sure that out of context they'll always be clear.

MS. DIETZ: But at least so we can --
CHAIRMAN KING: Well, we can put a disclaimer on the top.

MR. MATTHEWS: But this just says the different things that a material goes through in order to be added to the National List.

CHAIRMAN KING: Yeah.

MR. MATTHEWS: Okay.

CHAIRMAN KING: The identified stages.

MR. MATTHEWS: Right.

CHAIRMAN KING: Okay.

MR. MATTHEWS: You had a question, Goldie?

MS. CAUGHLAN: (No audible response.)

MR. MATTHEWS: Okay. NOP is working diligently to redesign the materials review process. We recognize, just as the Board recognizes, that there are a lot of problems with the way the materials review process is working. All too often petitions have been deficient or the report has been deficient, there's been questions about whether or not there's enough in the report to satisfy the needs of the Board in making a determination as to whether something should be recommended or not.

So we're seeing all kinds of problems with this, we're seeing problems with things getting sent forward for review that probably should have never been sent forward.
So we're -- we're really doing an evaluation of the entire review process and we're trying to work through some changes.

We're taking a global approach to this, and the ultimate product is going to be a materials review manual that'll be published up on the website.

The first step in this was the checksheets that we created for the Board's use in the review of materials. We are currently working on NOP procedures, a standard operating procedure for how the NOP reviews a material from the time it's reviewed -- or from the time it's received as a petition until the time that it moves on to the scientists for analysis.

So we're really developing a standard operating procedure for us. We had hoped to have this for the Board before the meeting, but putting it in print has made it a whole lot bigger than we ever thought it was, and it hasn't been fine-tuned to our satisfaction yet, so we're not quite ready to share it with the Board.

We are also at the same time working on developing procedures for scientific review and reporting. We will be sharing this with the Board and seeking their input, because this is essentially the document that is going to be -- these procedures will help the reviewers
create the document that you're going to be receiving and then using, in company with your checksheets, to create your recommendation. So we see that as a critical part of this process. We're getting that started; we will share it with you.

Okay. Next one is that we're taking a look at the way the technical panel has been working, we think that there are rooms -- or that there is room for improvement on that as well, and we are proposing a new technical advisory panel approach which would increase the NOSB's involvement in the review process.

We're looking at this as probably being a five-member panel. The materials committee chair would definitely be a member of that, and then two of the following, which would be the livestock crop or handling, would also serve on that panel.

So you would have at all times three board members a part of the TAP review panel, and instead of the TAP review being done in conjunction with the report from the scientists, it would actually occur after the scientists have put together their report.

This panel would also include somebody from the Environmental Protection Agency and somebody from the Food & Drug Administration, the idea being that this new stage
in the review process would enable representatives of the Board to review the report at an early stage, to give feedback to the scientific organization, to say, "This just doesn't cut it and we need you to go back and work on this," or you might find that what they did was fine and the panel may vote to move it forward -- with a recommendation, maybe -- to the committee that the material appropriately belongs with. So then the next stage is to go to a committee of the Board.

Now, we're also looking for that committee --

CHAIRMAN KING: Wait, I think back up a second. Could we back up real quick, Barbara. Thank you.

MR. MATTHEWS: Okay, so you've got -- that's your committee, okay?

MS. DIETZ: So that the petition has been forwarded for a TAP review, the TAP review's in process, there's a time period --

MR. MATTHEWS: We would change the title of that from TAP review to -- it's been sent --

MS. DIETZ: -- scientific --

MR. MATTHEWS: -- forward for scientific analysis, so they would take and where the petition leaves off create the scientific background that is needed now for this new panel to then review it and then to make
recommendation over to the Board.

    MS. DIETZ: So we are in a sense --

    MR. MATTHEWS: Or to send it back to the scientists to gather more information.

    CHAIRMAN KING: Did you mean to say "to the committee"?

    MR. MATTHEWS: To the committee, yes.

    CHAIRMAN KING: Thank you.

    UNIDENTIFIED FEMALE VOICE: Well, this panel will get it sooner, but it really might stretch out the review process longer --

    MR. MATTHEWS: It might, or it might shorten it. The idea is to do away with the problem of deficient reports --

    UNIDENTIFIED FEMALE VOICE: Deferred TAPS.

    MR. MATTHEWS: -- and deferred TAPS, and what we're thinking is that if we change -- if we create essentially a new statement of work for the scientists and they follow that procedure and then it comes to this body of five and that body of five then analyzes that report for its sufficiency, then it can go on to the committee of the Board, whether it be the crops committee, the livestock committee, or the handling committee, and then that committee would do essentially what it already does. It
may want to do something else, I don't know, but it would then go to that committee.

But if it wasn't ready to go to that committee, then this panel would tell these people "this isn't ready to come to the Board, and therefore this is what you need to do to make this report ready to come to the Board."

MR. RIDDLE: So, yeah, just to be clear, so this five-member panel would replace the three-member TAP reviewers right now --

MR. MATTHEWS: Probably so.

MR. RIDDLE: -- in the stages, is that --

MR. MATTHEWS: Probably so.

MR. RIDDLE: -- what you're thinking, you're proposing?

MR. MATTHEWS: Yeah, that's what we're thinking, that it would actually be the Board that would take over that function, they would do it after the scientific information was gathered. This technical advisory panel would then advise the scientists on whether or not they did an adequate job. If they didn't, it would go back to the scientists, they would fill in the gaps, then it would come back to this panel, and then the panel would then make its determination and send it on to the committee of the Board, for them to do their review, okay, and then that committee
of the Board has already got a member from the technical advisory panel on it, that would also be able to speak intelligently as to what transpired at the technical advisory panel.

CHAIRMAN KING: Well, and clearly there are a lot of things that can be worked on in terms of the format of the report as it comes to the panel --

MR. MATTHEWS: Oh, yeah.

CHAIRMAN KING: -- those are not things we're going to deal with at this moment --

MR. MATTHEWS: Right.

CHAIRMAN KING: -- but we understand that that's kind of work in progress. I have Rose and Andrea next.

MS. KOENIG: And this is from experience, it's just my gut reaction, because it's -- again: in my opinion, the problem has never been with the outside reviewers. You're saying doing away -- as I understand, and maybe I'm not correct. I'm understanding you're saying that you do away with those three external reviewers and you replace them with this five-member panel.

MR. MATTHEWS: That's what we're saying, yeah.

MS. KOENIG: And what I am --

MR. MATTHEWS: In other words, it would go through a true technical advisory panel.
MS. KOENIG: Well -- but what I am -- what I would argue is that if you have three competent industry-focused and true experts looking at that scientific evaluation, they are much -- and I'm not trying to insult anyone on this Board, but they --

UNIDENTIFIED MALE VOICE: Just everyone.

(Laughter.)

MS. KOENIG: Yeah, just everyone, including myself.

(Laughter.)

MS. KOENIG: -- but I think that they theoretically have much more expertise than -- than any single board member. Because we -- we face this when we're looking at it, that we -- I really personally rely sometimes more heavily on those three outside reviewers than I do on the technical report, depending on the -- you know, the competency of the person who has filled out that review.

So I don't think -- and again, this is my personal opinion: this just makes our process more internal, there's no doubt in that, but I don't -- the problem is not: we need more involvement at that level. What we're doing is internalizing things and not -- we're bypassing getting even more information, which that three-
panel discussion really allows.

I think the best part of the whole process now is that external evaluation by those three individuals, other than the board members. So I would argue that -- that this does not increase the breadth of the program.

CHAIRMAN KING: Okay, Andrea, and then Jim.

MS. CAROE: Well, just -- I've got two things now, because I'm going to talk a little bit about what Rose just said and --

I agree that there are technical expertise that we get from those outside reviewers, but I also think that there are times that we read what the technical reviewers have written and realize that they don't have a full grasp of organic, and so it flips both ways sometimes. So that was something we would replace. I don't know if -- you know, it's just something we weigh out.

But my question to you, Rick, is: The two positions that you have, the environmental -- the EPA person and the FDA person, do you see these as a couple of people that are identified for working on this or randomly people that would be interchanging? I'm just worried about the efficiency of -- you know, if we get a different EPA person every time, it might be difficult.

MR. MATTHEWS: Well, we haven't worked out all...
the details, obviously, because I'm trying to tell you, in
advance, of what we're thinking as possible ways to solve
the problems that have cropped up over the last several
years from doing materials review, and so the idea is that
these would be experts in the areas of the materials that
are under review. Okay?

So that when the three Board members are sitting
there and they -- the scientists would also be there to
answer the questions -- the people that put together the
report would be there to answer the questions of the Board,
but also you could have EPA and FDA people there to help
answer questions of the three panel members from the Board,
so that in essence you're getting --

MS. CAROE: I guess my question was more --

MR. MATTHEWS: -- you're getting the Board
involved in the scientific information at an earlier stage
and at a stage where they've got access to the people who
have done the report, as well as people who regulate the
products.

MS. CAROE: I guess my question was more in
matter of reporting that information that the committee is
going to see and the procedures that eventually we'll have,
you know, that -- the check -- the check form that we have,
the first time we used it, we weren't very efficient at
it --

    MR. MATTHEWS: Right.

    MS. CAROE: -- and we got better at it --

    MR. MATTHEWS: Right.

    MS. CAROE: -- you know, and I don't know if
you're kind of thinking we're going to be going through the
learning curve constantly or if there's some way that we
 can kind of alleviate that a little bit.

    MR. MATTHEWS: We're two -- this is the danger
with putting out any proposal while it's -- while it's
still very -- very young, you know. I mean, the egg has
just been inseminated on this one.

    MS. CAROE: Well, just take it, then, as
something to consider in going forward.

    CHAIRMAN KING: Jim, then Dave.

    MR. RIDDLE: Yeah. Well, I appreciate being part
of a discussion that's predecisional.

    (Laughter.)

    MR. RIDDLE: I mean, it's what we've been
wanting, so here we are.

    (Laughter.)

    CHAIRMAN KING: So be nice.

    MR. RIDDLE: Yeah. For better or for worse.

    (Laughter.)
MR. RIDDLE: I guess, you know, I would like to just propose that this composition -- which I really like this composition, having somebody from EPA and FDA -- that
that --

MR. MATTHEWS: It's good to hear you like that, Jim.

MR. RIDDLE: Yeah. -- be applied at the review of the petition, because, you know, OFPA says that someone shall petition the Board and the Board shall convene a TAP. You know, so the Board has authority at that stage, and if we have expertise from FDA and EPA helping screen those petitions, they can give the expert advice on legality, as they regulate a lot of these substances, and then also the NOSB members on there can help direct the TAP on -- specific to that material, help customize it: "Okay, from our experience, organic experts, here are some things to look at."

So, you know, it could really lead to a higher-quality TAP, which has been a big problem, that scientific review. So I would just like to suggest that we apply this concept at that first step and maybe come back to the people to rescreen the scientific work --

MR. MATTHEWS: So you would like this step to be used in two different places.
MR. RIDDLE: Yeah. I'm just -- just thinking --
this is a lot to think about, but --

MR. MATTHEWS: Yeah.

CHAIRMAN KING: But just a quick proposal --

UNIDENTIFIED FEMALE VOICE: It gives continuity
to the flow (inaudible).

CHAIRMAN KING: Yeah. Dave, and then Kim.

MR. CARTER: I just want to build on that,
because I think -- you're right, Rick, you talk about the
danger of announcing this, but this is what -- I think if
we really think this through and what we're trying to
accomplish, you know, this -- this has got a lot of merit
to it. I don't want to see completely doing away with the
external reviewers, I think they have some value too, so if
we can -- if we can keep them as a part of the process but
continue this, I think this makes this a really good
process.

MR. MATTHEWS: Right. Well, and the reason why
we're bringing it up now is because we know that the Board
has been kind of antsy as to: what is it that the
Department is doing with regard to materials review, and
what we're trying to tell you is that we're not doing
anything secret, what we're really doing is sitting back
and saying, "Where are the problems, and what are the

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different things that we think we need to do in order to
address these problems?", and there is a role in here for
the Board in helping us to address the problems.

Now if we could -- if there's no other
questions --

CHAIRMAN KING: Kim had one quick question, and
then we'll move on.

MS. DIETZ: Jim, when you had talked about having
EPA and FDA involved at a step when we review the petition:
actually, that's the way it's currently --

UNIDENTIFIED FEMALE VOICE: It's supposed to be
going that way.

MS. DIETZ: -- supposed to be, is that --

UNIDENTIFIED MALE VOICE: Well --

MS. DIETZ: Let me finish. -- that before a
petition gets forwarded to the chair of the committee, that
it has already passed that screen; in other words, whatever
they're recommending has been already passed by EPA or FDA
or allowed for its petitioned use. So now you're actually
really saying three places in the petition process, but
that's just minutiae.

MR. MATTHEWS: Yeah. Well --

MS. DIETZ: And then my other comment is: This
is the first time that I've seen this, and earlier I had
mentioned about a potential conflict of a certifier reviewing the materials, I see this kind of opening up a little bit for conflict of interest for Board members in that, you know, they have -- they'll be the first ones to see a petition. So I'm just -- I'm a little leery there, that if you have Board members reviewing materials and making recommendations versus outside reviewers, that it could be perceived as a conflict. So that's a first gut instinct that I think we need to just develop.

MR. MATTHEWS: Right. Well, conflict of interest is definitely something that we would have to take into consideration when --

MS. DIETZ: (Inaudible) perception --

MR. MATTHEWS: -- appointing people to that TAP review committee.

MS. ROBINSON: For example, it might be the case that it's not necessarily the chair of the committee that sits on that panel.

UNIDENTIFIED MALE VOICE: Right.

UNIDENTIFIED FEMALE VOICE: (Inaudible.)

CHAIRMAN KING: Okay. So --

MR. MATTHEWS: No. But it's true, especially let's say that it was a material that -- let's say Ann's organization wanted to have a material reviewed and Ann was
involved in it and she happened to be the chair of the committee that would have responsibility for it, so obviously procedures would have to be in place that Ann would not be the one participating; even though she's the chair of the committee, somebody else on the committee would have to be involved in it.

So -- I mean -- but you're bringing up things that we haven't reached yet.

CHAIRMAN KING: Yeah.

MR. MATTHEWS: I mean, this is just, really, bare bones of an idea that we have and just an acknowledgment of the fact that we're looking at every single stage of the review process, to bring a much better product to the Board so that they have the tools that they need in order to make the recommendation that they're charged with making, okay, and that's all we're trying to do right now.

CHAIRMAN KING: And in general terms, I think you're aware, Rick, that the comments we're making are simply -- this is the first time we've seen the document --

MR. MATTHEWS: Right. Right.

CHAIRMAN KING: -- in general terms, we like it; however, what about this, let's think out loud, let's try to improve the process.

MR. MATTHEWS: Yeah. But I guess I'm not -- I'm
not trying to shut off the debate, I'm just saying that --

CHAIRMAN KING: No, I understand.

MR. MATTHEWS: -- this probably isn't the time --

CHAIRMAN KING: It's 4 o'clock.

MR. MATTHEWS: -- to be doing the debate.

CHAIRMAN KING: It's 4 o'clock, and you were

supposed to be done before lunch, pal.

MR. MATTHEWS: Yeah.

(Laughter.)

MR. RIDDLE: Yeah. 15 minutes, I think, I

remember.

UNIDENTIFIED FEMALE VOICE: You asked for the

whole thing.

MR. MATTHEWS: I was prepared to give you 30

minutes. You asked for it. I guess NASOP's [phonetic] in

trouble for theirs on Saturday, because they get the same

presentation.

Okay, last slide, I believe. No, second-to-last

slide. We're also going to be asking the Board, as a part

of this global approach, to develop a standard operating

procedure for what it is that the committee does when it

does its review and recommendation.

Now, I know you've already got some stuff written

up, but the idea is to put it into a standard operating
procedure format, and we would be asking the full Board to do the same thing, take what it is you do, put it into a standard operating procedure.

Then those two pieces would then come in to us, okay, and it would become a part of this manual that we're planning to publish on the web.

We're also planning, under this process, to do a standard operating procedure within the NOP on how we go about the rulemaking process. Now, keep in mind that if the scientific -- if the analysis of the scientific work that creates the work product creates an impact on the petition, we would then also have to go back and amend the petition procedures themselves.

So in essence, what we have done so far is we have said: okay, these are the -- here -- these are the checksheets that the Board needs to use to document the decisions that it is making. We're looking to go back a step and say: this is what the scientific community needs to put together for the Board to complete those checksheets. Then we're going to go back to the petitioner and say: this is what you need to supply to the scientific community, for them to do the job that they need to do, so that the Board can do the job that it needs to do, so that it can provide a recommendation to the Secretary for
publication in the Federal Register. Okay?

CHAIRMAN KING: Jim.

MR. RIDDLE: Yeah, and I just -- I really appreciate this and see it as collaborative process, and I just want to come back to OFPA, where it says: The Board shall establish procedures under which persons may petition the Board for the purpose of evaluating substances." So I --

MR. MATTHEWS: The petition procedures are out there, and what we're going to do is we're going to be working together --

MR. RIDDLE: Right.

MR. MATTHEWS: -- to figure out: is there a need for the change in the petition procedures?

MR. RIDDLE: Agree [phonetic].

MR. MATTHEWS: Okay. And the end result on all of these standard operating procedures and statements of work for each of the different stages will come together in the end as a manual for materials review, which would be published on the web, which then says, to the entire world: petitioner, this is what you have to do, this is what your material is going to go through, this is what you can expect.

So now the petitioner is no longer in the dark as
to what really happens once they submit a petition, and right now, they're in the dark more than anybody else.

CHAIRMAN KING: Rose.

MS. KOENIG: I would -- I just want -- as the materials chair, I want to, you know, I guess put in the public record that I feel that as you're going through this process, that the materials committee should be fully engaged from this day on in this process as a cooperative approach to this. I mean, you know, we've been asking for this for a few months, and I -- you know, I hope this move is -- this directive is -- not directive, I better not use that word -- that this is, you know, going towards that, you know, and I'd love to put it on our work plan as -- as something that we can do, but we need to work together, because things can be done a lot more efficiently if we're working together.

CHAIRMAN KING: Yeah, and I think we -- we recognize we're going to do that.

MR. MATTHEWS: Well, but, you know, all we were saying is that, you know, just be calm, let us work through what it is that we think we're going to need to do and where we're going to need the assistance of the Board, and, you know, really we were trying to identify things, and so now we're telling you exactly what we're thinking, and now
you can tell us what you think.

CHAIRMAN KING: Well, okay.

MR. SIEMON: Good work.

CHAIRMAN KING: Yes. That's it.

MR. MATTHEWS: That's it. That is the longest 30

minutes of my life.

CHAIRMAN KING: We do need a break. It's 3 --
especially 4 o'clock. Be back by 4:15, please.

(Off the record and reconvened.)

CHAIRMAN KING: I'm going to reconvene the

meeting. We're going to start with Rose, who's going to do

a presentation on the materials review process. This is a

presentation on where we currently are.

MS. KOENIG: And I'm going to do it -- I was

requested to do it really quickly, so I'm -- instead of

bypassing it, I'm going to go through it quickly and just

-- just highlight -- okay, so this is the materials process

update.

UNIDENTIFIED FEMALE VOICE: Today.

MS. KOENIG: Today. Go ahead, Ann, next. And

that's basically what I'm going to talk about next. Go

ahead. Okay, so as many people said, that a lot -- and I

wanted to put it in perspective, because I know many of you

have sat through these procedures, but a lot have not, and
I think it's really important to set the foundation of why we're here and what we're doing and how these decisions are made.

So basically, again, the Organic Food Production Act provided the National List of Approved and Prohibited Substances, it established the guideline for the substances on the List, and it outlined the role of the NOSB in the procedure of publishing and amending the National List. Go ahead, next.

And then just for people -- the -- Section 205.600 of the Organic Rule describes the criteria that shall be used in the evaluation of substances or ingredients in the organic production and handling sections of the National List, and basically it's the -- we deal with the synthetic and non-synthetic substances that are either allowed or prohibited. Go ahead, next.

If you go back to OFPA, the 6517, that's come up a number of times, there's guidelines for prohibitions or exemptions, and basically that is what we're doing. The National List is an exemption. It's not a given. The National List may provide the use of substances in an organic farming or handling operation that are otherwise prohibited under this title, okay, if the Secretary determines basically that it's safe, with other agencies,
it's necessarily to the production or handling of the agricultural product because of an unavailability of a wholly-natural substitute product and is consistent with organic farming and handling. Next.

(B), again, "The substance" -- this is what Arthur was saying -- "contains an active synthetic ingredient in the following categories," and it lists them. These categories are found in the National List section of the Rule.

Again, I look at these as the categories upon which we base our things. The NOP has taken a strict definition of "active" in this case. Next.

It is used in the production and contains synthetic inert ingredients that are not classified by the administrator of the EPA as inerts of toxilogical concern or is used in the handling and is non-synthetic but is not organically produced and a specific exemption is developed using procedures described in Subsection (d). Next.

And then there's things -- again, the National List can prohibit natural substances, and we discussed that earlier. Next.

And then the Secretary basically has to consult, again, in that section, to determine if it's harmful to the health of the environment, is inconsistent with organic
farming or handling and the purposes of this title. And then the specific prohibition is developed using the procedures again defined in Subsection (b). Next.

Subsection (d) is now what they refer to. These are the procedures for establishing the List. Next.

There can be no additions except for those that are proposed by the NOSB or amendments. Prohibited substances in no instances can be included, which are prohibited by the FDA or other federal regulatory bodies. Next.

And then notice and comment, this -- again, as the Department says, there is a procedure which they need to follow in terms of publishing the proposed National List and getting public comment and then doing the final. Next, Ann.

And then this just talks about how a publication has to be proceeded through by the NOP. Next.

And then this section outlines what we'll be discussing in a moment about the Sunset Provision, it tells what our authority is, and we'll be talking about a proposal that the materials committee has come up with to satisfy the Sunset Provision. Next.

And now these are the requirements, and the requirements are kind of embodied in that petition process
that we were talking about earlier in that -- what the NOP is looking at.

Basically, if you look at the petition process, we already are supposed to be reviewing the available information from -- I've got some tables -- the EPA, the -- you know, the departments of health and such, and looking for, you know, other agencies for these types of information. Next.

We have to work with manufacturers to find out how they're made and if they contain inert materials that are synthetically produced. Next.

And then it has to be submitted to the Secretary, along with the proposed National List, or any amendments such, after we convene a technical advisory panel as what to be considered for the National List. Next.

And then evaluation, and the evaluation procedure is basically the procedure that we're going to be following through the meeting.

When we look at these materials, we're not pulling things out of the air. Within OFPA, there are specific questions that have to be satisfied in order for us to place this on the National List, and one -- you can go, next -- basically -- go ahead, skip.

But these are -- again, if you go in reference to
this, for the sake of time, these are the things that we will be discussing. Compatibility with the system of sustainable ag, this is a documentation that we're going to be discussing again. Next.

And then in addition to the criteria set forth in the Act, there's sections of the Rule that look at processing aids or adjuvants and processing criteria that wasn't necessarily spelled out in the Act, and these are the criteria that we look at in terms of processed products.

Go ahead, next. So you can find that again in Section 205. I'm not going to go through it, but I just want to highlight again: there are parts of the Rule that you need to look at, and these are what we're going to be looking at in terms of some of the petitions, like the tetra sodium pyrophosphate and such.

Next. Next. Next. Next. Sorry, guys. So crops, just want to call the attention, the categories of the Rule that we'll be adding, may, or may amend during this meeting would be either 205.601, which are synthetic substances allowed for the use in organic production, and there's a number of items that we're going to consider for this category. None of the materials during this meeting will be considered for the category 205.602. Next.
Similar, livestock has a category 205.603, one of the -- the two that we're looking at in livestock are petitioned for that section of the Rule. Next.

Same with the processing, the 205.605 and .606. Next.

So the National List update, this is -- Rick would probably be better at explaining this, but when I spoke with him before I made the slide, basically, the Federal Register of May 22nd, 2003, contained the handling materials; the Federal Register as of April 16th, 2003, included the crops materials and technical corrections; and the Final Rule, everyone knows, of 2000 contained the recommendations. As of when I made the slides in February, that was the last update, the livestock materials had not gone to the docket. Next.

So the stuff that -- oh, actually, excuse me. Materials finalized May 22nd, 2003. As of March 10th, 2003, there were two draft dockets containing the materials of everything the NOSB approved prior to April of 2004 meeting of the NOP. Next.

Then so as far as the petition status -- okay, next. These are the materials that we're going to be looking for in the handling committee during this meeting. Next.
Two from the livestock, the moxidectin and the proteinated tea chelates. Next. And then these four substances for the crops committee will be reviewed during this meeting. Next.

These four have been sent for technical review by the NOP, and I just wanted to make people aware that those four did not follow the materials procedure that is outlined following this (indiscernible). They have been sent by the NOP directly to the TAP contractor. Next.

These two substances are under NOP review, they've come, and there is one additional petition, I don't think Arthur's here, but he had told me there was only one other one, and he can update us on that, because he left a message on my phone machine last week. Next.

And then petitions and other status, the potassium silicate was a petition that we looked at, the crops committee wanted to consider it as a pest control, fungal control, for crops, but it's not currently registered under EPA for that, so we're waiting on the manufacturer, as far as the fate of that.

And then the cryolite has been determined from the committee not to be forwarded for a TAP because there was no new additional information, the product had -- substance had been reviewed, it had been repetitioned, but
there was no new information to indicate that it needed further technical review. Next.

This is the materials process. I know Rick talked about this new procedure, but this is the materials process that currently the Board has been following, although there has been some deviations from that.

Basically, the minimum time frame for the National Material Review List is 145 days. In reality, if you look at -- you know, there's some that have been -- like soy protein isolate, as Kim said, that's been on the record since 2001. So there is some problems in terms of the timing on some of the materials for -- for various reasons. Next.

Day one through fourteen. Really the NOP staff has evolved at this point, they're supposed to take the petition for completeness, they are supposed to liaison at this point with the FDA or the EPA or any other federal agency that might be involved in a specific material, and make sure that that material is consistent with that other agency, federal agency. So that is the procedure. Next.

After that -- this is -- the materials chairperson should be sending a copy of that -- the materials chairperson should receive a copy of that petition, that petition should then go to the vice chair of
the materials committee and the vice chair of the designated NOSB committee, such as the crops, livestock, or handling.

And then really the vice chair of those committees convenes that committee, and they vote, basically, if that petition should go on for a technical review and -- at that point or if they feel right at that point that they can make a determination that it does not need to go, and make a recommendation at that point.

Again, this step has not been followed with some of the current materials, so I just wanted to make, I guess, the public aware that the NOP has -- on those four materials that I indicated previously, has gone ahead and set those for a TAP, bypassing that process. Next.

60 days prior to the NOSB meeting we should receive copies of the review from the NOP, and then our committees come together and we start reviewing that report and -- to get to a decision. Next.

30 days, by that time we've made a decision, we've now filled out these evaluation forms, and you should be able to access that through the website. Next.

And then, again, if you need to petition for documents, you can go to the NOP website. Next.

The work that we have pending as far as our
committee is: we've submitted -- which I'll review next -- the draft for the Sunset Provision, and within our Sunset Provision we have guidance documents to come up with how we're going to prioritize substances for Sunset Review, and also that we need to produce some guidance documents for defining what constitutes a review process for the Sunset Provision.

So, basically, those two -- somebody had asked: well, why don't you have those guidance documents? Well, partly because we need to buy into our process before we go through the painful agony of kind of developing these guidance documents, so the first step is really to buy into our concept of the process, and at that point, if there is agreements, the committee would then go forth and do that work. And then as you can see, through the conversation we had earlier, we'll probably be more engaged in redefining the materials process. Next.

Okay. Hopefully that was -- I'm sorry it was rush, but -- I did intend to do the full Kim Burton-style presentation, but I didn't get the opportunity at this meeting.

CHAIRMAN KING: Well, and just a quick point. I want to thank Rose for all of her hard work, and Rose, I apologize for the fact that you did have to rush, because I
know you put a lot of time in this.

MS. KOENIG: It's okay.
CHAIRMAN KING: It's important work, and it's ongoing work.

MS. KOENIG: Right.
CHAIRMAN KING: So thank you for your commitment to that.

MS. KOENIG: So did you want me to go through the Sunset Proposal?
CHAIRMAN KING: Yeah, I think we're now on to Sunset Provision.

MS. KOENIG: Okay. So as set forth, as I explained, in OFPA Section -- and I ask the Board I guess to refer to the section, your tab will say "Sunset Provision Report." For those who -- it was on the web almost a month before this meeting, so hopefully people have had the opportunity to look at it.

I will review it in as much detail as time permits. But basically, in our background information, we just said that this is the reason why we're going through this: because OFPA has told us that we need to come up with a policy for the provision.

And first the committee said to date -- this is the work -- you know, this is what we have in front of us.
Basically, if you look at all the sections within the National List, going from 205.601 to 205.606, there -- my count was approximately 154 substances currently on the National List.

This number is not the same that NOP comes up with, because I went through, and if one material was in multiple categories, I counted it as one rather than three. Assuming that if a review was to be done, say, on chlorine materials that are listed, that that review would cover all uses. So anyway, that's where my 154 come from.

And then basically we have, according to the OFPA, 5 years of -- when the National List has become fully implemented, to do some kind of review of these materials.

So what our committee came up with, and this was proposed as an internal policy and procedure for the review of substances in accordance with 7 USC 6517(e), that basically the National Organic Standards Board and the NOP shall compile and manage a materials database for exemptions and prohibitions, including an official Sunset date for each substance on the National List.

According to the NOP, they are in the process of developing and have already a working database. We have kind of our own working database. So this is something that we feel could be easily achieved.
All materials appearing on the National List as published in the Federal Register Final Rule dated October 21st, 2002, must be reviewed by October 21st, 2007. There are materials, as my slides show, that were amended after that date in other dockets, and those would have to be reviewed 5 years from their final Federal Register notice.

So based on the number of materials in any given 5-year period, the NOSB would select approximately one-fifth of the National List for review, you know, each meeting, under -- to comply with that section of Sunset Provision.

Upon the National Organic Standards' approval of the Sunset Provision -- and we're not going to be able to vote on approval this meeting because this document was not into the NOP 30 days prior to the meeting, so this is just for discussion -- the NOP will publish the entire list of materials, 605.601 to .606 inclusive, which shall be reviewed by October 21st, 2007, in the Federal Register and request public comments on the prioritization of materials for review.

So basically the committee decided that in terms of public transparency, that, you know, upon approval we would say okay, all 156 of these are going to be reviewed in the next 5 years, you, public, give us some input in
terms of how you think priorities should occur. Okay.

Then the -- after that public comment period would end, then the livestock, crop, and handling committees would choose approximately one-fifth of the substances from each applicable section of the National List each year for review. Committees will consider public comments regarding prioritization of materials for review.

In addition, the materials committee shall provide guidance documents to the committees on how to prioritize materials for review. The materials representative for each committee will be responsible for providing the list of substances that are proposed for review during the calendar year to the materials chairs persons, who will maintain the database. Each committee will work with their representative to the materials committee to determine which of the substances will require supplemental technical information, as set forth in 7 USC 6518(k)(3).

Substances that have adequate technical information provided by prior reviews, petitions, or other documentation may be reviewed based on that information. So this is -- again, the committees would determine if on-hand we have enough technical information to do our review.

The materials committee will provide guidance

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documents on what is adequate technical information, so
upon, again, agreement that this is the procedure, we as
the materials committee would come up with a guidance
document, a working document, basically, for the committee,
to give guidance as to, you know, "Do you have a TAP that
was adequate?", for example.

Requests for supplemental technical review will
be provided in writing by the committee's representative to
the materials committee -- to the materials chairperson.
Then the materials chairperson is responsible for
communicating the status and supplemental review needs, if
applicable, of materials to the NOP representative to the
materials committee.

Now, that's a little wordy, but basically, this
allows -- if the committee determines that there's not
enough technical information, it allows the NOSB to again
go to an outside review process to gain more technical
information on some substances. And as Zea commented
earlier, there were many substances earlier on in the
process that may have only had one sheet of information, in
terms of their technical review, whereas substances today
that are being reviewed, we're getting a lot more
information and they're following the OFPA criteria, we
have good form.
So certainly the workload is going to be heavier on materials that just don't have adequate information, and it was the materials committee's opinion that we wanted to reserve the right, based on review, to ought to have a TAP performed on materials that we felt were insufficient, in terms of providing scientific evaluation of materials.

So the NOP is responsible for requesting technical reviews and communicating the needs of the NOSB to their contractor, and, when necessary, the materials chairperson may interact directly with the contractor regarding the status of a substance review. However -- I should say however, but the NOP representative is responsible for making contact arrangements and communicating in the communication.

In other words, in this provision we wanted the materials chairperson to have the ability to talk to the TAP contractor but we also respect the right of the NOP and actually require them to be engaged in the process and participate in those phone calls so that, you know, there's consistency with what the NOSB is doing and what the NOP requires in terms of their contract with the contractor.

Okay, 60 days prior to the NOSB meeting the list of substances that will be reviewed for the Sunset Provision will be published in the Federal Register for
public comment. Committee recommendations for the 
substances to be reviewed for the Sunset Provision will be 
posted on the NOP website 30 days prior to the NOSB 
meeting, and substances that have been -- have specific 
expiration dates will not be included in the selection 
process.

So in other words, there are materials, I guess 
such as methionine, on the List that have a Sunset, within 
the National List, that stops their use, and those would 
not be subject to Sunset Provision Review. They're 
basically off the List.

Recommendation --

MS. CAUGHLAN: Rose, did you count how many of 
those, actually?

MS. KOENIG: I didn't. There are not many, but I 
haven't sat down and counted them, but we just wanted to 
acknowledge --

MS. CAUGHLAN: Was the Sunsetting commonly done 
prior to this last few years?

CHAIRMAN KING: Accelerated you mean?

MS. KOENIG: There's just a few, I think --

CHAIRMAN KING: I think there are five or so.

MS. KOENIG: Yeah. Like spirulina --

MS. CAUGHLAN: Right.

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MS. KOENIG: -- there was a provision for the use of chilean nitrate, I think --

MS. CAUGHLAN: Boiler chemicals.

MS. KOENIG: So there's a few -- boiler chemicals. So there's a few, not many. But I guess what we wanted to acknowledge, it was that the intent of the Board was to Sunset and end those but -- the meaning of their provision on the List.

Okay, so the third recommendation was on public communication. The NOSB recommends that the NOP post a Federal Register notice on an annual basis, beginning in 2005, amending those materials that have passed through the Sunset process. This is intended to result in requiring future boards to have to review fewer substances in a given year and to facilitate the work of future boards.

In other words, we wanted to acknowledge that this workload for the next 5 years, it's going to be tremendous, because everything -- all 156 or so materials are on -- became official, I guess, October 21st, 2002, but what we're saying in this recommendation is that as we go through the first one-fifth of the List, once we proceed, we want the NOP to engage in rulemaking on those so that the workload then gets spread out over time and future boards would then not have to deal with such a large amount
of materials at one time. So it's an effort, again, to just look towards the future and look at workloads and make things a little bit more doable. And it can be achieved through the rulemaking process. We just have more dockets over time.

Committee recommendations. So basically we recommend the adoption of procedures set forth in this document to meet the requires of the 7 USC 6517(e) of the Organic Foods Production Act, which requires us, again, to review each substance on the National List within three years of its publication, and then materials committee shall write guidance documents to provide a framework for committees on how to effectively and efficiently manage the process. The procedures outlined above may be modified by future boards to more efficiently manage the process, just acknowledging that you can write a lot of things down and have a great plan, but as people go through the process, there may have to be changes in the provision to really -- to meet obstacles that may come forth, that we just can't perceive at this point in time.

That's it.

CHAIRMAN KING: Thank you very much, Rose. I'll remind everyone tomorrow we'll actually be voting on recommendations in the afternoon. Does anyone have
questions or comments?

MS. DIETZ: This one we can't vote on because it wasn't --

MR. RIDDLE: We're not voting on this one.

MS. KOENIG: We can't -- we're not -- this is --

MR. RIDDLE: Yeah, I would like to address that, because, you know, we set up the 60-day window as a goal, and this, what, came in about 57 days out. So it certainly has been posted for a good long time. We also have a 30-day window for the materials committee recommendations, and the ones from the crops committee did not meet that. Those are goals. Those are targets. But the intent is to have it posted for public comment and for the Board to be able to have plenty of time to consider it.

So I think this is a very important and timely topic and we need to have a sense of the Board, so I would like to have us vote on accepting -- not at this moment, right now, but tomorrow, vote on accepting the committee's report so that we officially go on record as accepting the committee's report.

MS. KOENIG: Starting with those deadlines of time, Richard Matthews, on the phone, you know, as I spoke with him, indicated that he didn't have a problem with us kind of voting on it as a working document and then

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officially voting on it during the next meeting, so there
is that provision and we should consider that.

However, on -- I was out of town, so it was
sometime last week, when I got home I had received an
e-mail from Arthur Neal, indicating their position on the
Sunset Provision, which is -- it's pretty different from
our position. So we need to come to terms with where we're
at on this policy, we need to communicate kind of that --
where that -- and my question to Arthur -- I'm not sure if
he's here, oh, there he is -- was I -- and I didn't get a
chance to correspond with you because I was out of town,
and then -- I still haven't, again, you know, digested all
of what you had corresponded to me, but my question, I
guess, to you was: I assume that your correspondence to me
was your recommendation on a policy, kind of your
alternative. I just don't know where we are. I understand
from OFPA that it is pretty clear that we establish our
procedures, so I'm not sure how you wanted us to process
the information that was in your correspondence to me.

MR. NEAL: The e-mail that we sent to you all was
a very well-vetted document with senior management at USDA.
We took you guys' recommendation that you sent and we built
upon it, to take into consideration the federal process
that has to take place to reestablish these materials that
have exemptions under the National Organic Program. We did reject your recommendation, we actually accepted the majority of it, but we had to tailor it to fit the federal process, because, as noted, it takes about, what, three years to finish it?

CHAIRMAN KING: A little over, yeah.

MR. NEAL: Yeah, over three years to finish the process. Because there's going to be a Federal Register notice that states what's about to take place, then there's going to be public comment, then there's going to be the development of a proposed rule, then there's going to be more public comment, that helps the NOSB to prioritize the materials that need to be reviewed, that the public is saying: okay, there's no longer a need for this exemption, for the use of this particular synthetic substance, under the National Organic Program, and it gives the NOSB time to also make the recommendations to the Department in regards to which materials should be considered for inclusion on the National Organic -- I mean the National List.

But it also takes into consideration, you know, legal review by the Office of General Counsel, Office of Management & Budget, the departmental and administrative review, it -- there's a lot of time that is integrated into the particular proposal that we sent to you.
MS. DIETZ: I think the question was what do we do with our document, because we had prepared a document, just as a working draft for the Sunset --

MR. NEAL: Uh-huh.

MS. DIETZ: -- and I didn't think we could vote on it, with the timeline, but -- I mean, we could take it as a committee recommendation and give it formally to the NOP. And then this week we received your Sunset Review. So I think from a materials standpoint we're not really prepared to move forward on the recommendation that you brought to us.

MR. NEAL: Well --

MS. DIETZ: We could acknowledge both of them, Rosie, I think we formally acknowledge --

MS. KOENIG: Yeah. No, I --

MS. DIETZ: -- them and take it back to the group, but to vote on our docket, I don't feel comfortable doing that.

MS. KOENIG: No, I'm not recommending kind of a vote -- I feel that --

MS. DIETZ: We need to look at them, we haven't had time --

MS. KOENIG: Yeah, we need to really sit down and meet as a committee, and maybe we'll have an opportunity at
that time --

MR. NEAL: Well, the issue with that document is that that's the Department's position on Sunset --

UNIDENTIFIED FEMALE VOICE: Sure, we understand that, that's understood.

MS. DIETZ: But the question is -- and I guess maybe Barbara or you -- how do you define your position versus what the policy -- I mean, your position I do think incorporated a lot of our -- you know, the spirit of, I guess, our proposal. There were some, I think, substantial differences in -- and again, I mean, I haven't thoroughly processed what you had written, but what I gleaned from that was that things would automatically be just allowed unless there was substantial documentation from the public or, you know, some entity came forth with new information regarding the OFPA criteria.

So -- and what I didn't understand in your document -- I mean, our -- our document allows for public comment but it gives the Board the power to convene TAPs based on the fact that there's some -- let me go back.

Your document assumes that all TAPs were adequate, it pretty strongly stated that, and as I state my position again, and this is my opinion, I'm not speaking for the Board, my position, and what we heard from some of
the public today, was that in fact many of the substances that came on very early did not have adequate technical information, and that is the largest concern, I think, certainly of myself personally and of the materials committee, is that we feel there are many substances that were added on early, some of them that probably will remain on the List, but we want to, you know, for the future of the industry, the future of the process, be able to have adequate technical information for everything that's on that list so that we can kind of defend --

MS. DIETZ: I think they address that in the document, because there is a section that says -- and again, I didn't think we would be reviewing this today --

UNIDENTIFIED FEMALE VOICE: Right.

MS. DIETZ: -- but it does say, "Based on public comments received, the NOSB may decide that certain substances warrant a more in-depth review, requiring additional information or research that considers new scientific data and technological and market advances," so I think they've left that open, and I don't know if we want to waste all our discussion time on a document that we've had two days to review, so --

CHAIRMAN KING: In fact, I think we should acknowledge it's a work in progress, it's not perfect, that
there will be ongoing dialogue with the Department --

MS. DIETZ: But there's urgency.

CHAIRMAN KING: There is urgency, and this does need to happen. And so I guess what we're -- the last thing here is just to see -- that we can work with you on this document, knowing that there is a sense of urgency to get this process started, and move forward with our agenda today and (inaudible).

MR. NEAL: I don't know about the document portion, because the process has to begin.

MS. DIETZ: It does have to begin.

MR. NEAL: It has to begin.

CHAIRMAN KING: Uh-huh.

MR. NEAL: I don't foresee any changes to that document. I don't. I don't foresee any changes to that document, because it acknowledges the fact that the Board may want additional information on materials. I don't know what else there would be --

MS. KOENIG: Well, what I'll suggest, I will convene a meeting of the materials committee, we will discuss the document, and hopefully before the end of the meeting we'll provide at least a position on it, and maybe we can resolve -- we'll make a recommendation on how we can proceed, after we discuss it, by the materials committee.
So let's just leave it at that, because, again, we can work with you guys and try to work this out.

CHAIRMAN KING: Okay.

MR. NEAL: One of the things I want to leave you with is that the process should be driven by the comments, because you want to take into consideration that that particular process helps the process to be unarbitrary and uncapricious, non-capricious, and it's fully transparent to the entire public, and it has to fit within a federal process.

MR. RIDDLE: Yeah. And as I read both of these drafts, that's something I see in common.

MR. NEAL: Uh-huh.

CHAIRMAN KING: All right. Next, Andrea, accreditation.

MS. CAROE: Okay. Jim, do you have the copies?

MR. RIDDLE: Yes.

MS. CAROE: In the meeting books is version 7, or draft 7, of the accreditation certification agent compliance procedure for a minor non-compliance. We actually have version 8, or draft 8, and there are minor changes, they've been left in track mode so you can see the changes. They are based on comments, and the back section of this document does discuss each of the comments that we
We received comments from one commenter only, but I did address every portion of those comments, so you can see -- and this was sent to the committee, and Jim made some additional changes to it, and there was none further.

But this has been voted on by the committee. It's been sitting around for a long time. I hope to vote on this tomorrow. I think we've all seen this document quite a bit. I mean, it actually was authored before I was even on the Board, let alone the committee. So, you know, I'm going to defer to Jim a lot on some of the history questions here because I just -- you know. I commented on this outside the Board, so that's, you know, where I started with it.

I don't know that we need to waste a lot of time on this, based on our schedule, other than, you know, take a look at it and -- unless any of these -- there's very few changes, there's some definitions and title changes, and we did hear one commenter this morning ask for the word "major" to be used, and I talked to Jim a little bit about this, I have not had a chance to talk to Michael and Rebecca about this, but there is an opportunity, I think, for a hybrid, where we can put "major" in parens so that we keep the integrity of the language that's used in the Rule
but perhaps more clarifying to the users of this document.

CHAIRMAN KING: Okay, Jim.

MR. RIDDLE: Yeah. And in the draft that I just passed around, where you'll really see the most changes is on Page 7, which is the addendum section, and that's where what Andrea was saying about the definitions and the use of the word "major" non-compliance in parentheses there, to clarify the difference between minor non-compliances and major non-compliances. And then there are also some changes to the headings of the tables that have been recommended by the commenter. But that's basically the substantive changes.

CHAIRMAN KING: Questions, comments?

(No response.)

CHAIRMAN KING: Thank you. Crops committee, Nancy.

MS. OSTIGUY: We don't have anything at this point. The only thing the crops committee will be bringing up actually comes up later, on the compost tea. That's on Friday, I guess.

CHAIRMAN KING: All right. Thank you. Kevin, handling committee.

MR. O'RELL: Handling committee, we have an update on materials used as food contact substances. This
was submitted on April 15th, so, again, it wasn't published for 30 days. I think it's our intent to acknowledge food contact substances and give a quick update and then move on in our work plan, essentially, without going in -- I know we're pressed for time, without going into a lot of details on the background information on food contact substances, other than to state that the NOP did acknowledge that food contact substances were outside of the scope of the NOP, or the NOSB, for material review.

The NOSB has recommended the materials from past meetings to be added to the National List, and there were six materials: activated carbon and periacetic acid and four boiler water additives: ammonium hydroxide, cyclohexlamine, diethylaminoethanol, and octadecylamine. These materials may be considered as food contact substances.

It's the handling committee's recommendation that since these materials were previously petitioned and approved, that the NOSB would place them on the National List. We understand there's still a lot of confusion in the industry regarding food contact substances, and as part of our action of the handling committee, we will be prioritizing our work plan to clarify the qualification of materials for the food contact substance list. This is the
quick version.

CHAIRMAN KING: Yes, I understand, and thank all
of your patience. I know it's difficult to do some of
these justice in the limited amount of time. Did you have
a comment?

MR. RIDDLE: A question. I mean, once again,
what are we going to do with this?

MS. DIETZ: I think the -- the intent of it was
that there's -- the confusion out there is twofold: one,
there's confusions on the materials that we did make a
recommendation for, and those were the only materials that
never appeared on a docket.

So, as a handler rep, I kept receiving calls from
people, saying, "Well, I know you have periacetic acid, but
my certifier's saying I can't use it," and I'm saying,
"Well, it's a food contact substance," and people don't
know how to read that list. So until we understand how to
read the List, and the public understands, this
recommendation was at least put forth so we acknowledge
those materials were recommended at one point and that they
be placed back on the -- or that they be placed on the
National List.

So, again, it's mainly just an acknowledgment,
and then the committee is going to go forward and try to
hash out exactly how to interpret food contact substance list for handlers, because there's great confusion about that. Does that satisfy you?

MR. RIDDLE: Well, kind of, I mean it gives me more basis for the rationale, but it still doesn't tell me what we're going to do, if we're going to vote to accept this as a committee report or, you know --

MS. DIETZ: It was not sent to the committee in time for that.

MR. RIDDLE: To the NOP?

MS. DIETZ: To the NOP.

MR. O'RELL: To the NOP. I mean, that's -- otherwise, it was our intent to vote on it as a committee recommendation, so then the Board would vote for the --

MR. RIDDLE: You know, I really appreciate the confusion that this attempts to clarify as far as the status of those six substances, because that whole food contact substance list, it's like a square peg in a round hole, it really doesn't fit our needs, and we've reviewed these, on the food contact substance list they have different names or they're combined with other ingredients, they're more a formulated product for a specific use, whereas here, this is generic substance that fits the rest of our format for the National List.
So I support moving that part of it forward.

MR. O'RELL: If it's possible for us to do a vote on that, maybe we can discuss that with the NOP. We certainly would be in favor, on the handling committee, to put this up for a vote with the NOSB full committee.

MR. RIDDLE: It's not a change, exactly, we're not --

MR. O'RELL: No, it's not a change, it's a clarification --

MS. DIETZ: It's an acknowledgement.

MR. O'RELL: -- and continuing to say that our recommendation for these materials, which we all voted on and approved at previous meetings, that we still have that position: that these should be placed on the National List.

CHAIRMAN KING: And it's connecting it to the food contact substance aspect of it.

MR. O'RELL: And it's recognizing the fact that these could also be considered as food contact substances, but there needs to be a lot of clarification on food contact substances as far as the pre-market notification with the FDA on food contact substances, the definition of it.

CHAIRMAN KING: I think it would be difficult to
argue with clarity at this point, Kevin, so --

(Laughter.)

CHAIRMAN KING: Questions or concerns?

(No response.)

CHAIRMAN KING: Okay. Livestock.

MR. SIEMON: We have no non-materials standards, so really -- so livestock's so clear we didn't need to clarify anything.

(Laughter.)

CHAIRMAN KING: Policy development committee, Mr. Carter.

MR. CARTER: Okay. We have two items. Number one is our Board policy manual, which is a living document, that gets addressed as new policies come down the pike. We have two things that have come forward for that in our changes being incorporated, proposed incorporated, in our Board policy manual.

One of them has specifically to do with confidentiality procedures, and particularly with non-public information, confidential business information, and how the Board handles that.

The second is the incorporation or the substitution now of the new materials review forms based upon the forms that NOP developed, that we utilized at our
last meeting, so we'll be bringing those forward for your consideration.

Then you're getting circulated around the draft of the statement on compatibility with organic production and handling. The process on that is that NOP had requested a recommendation on the following question, which is:

What are the factors (reasons, issues, parameters, strictures, limitations) and constraints that the National Organic Standards Board should use to determine a substance's compatibility with a system of sustainable agriculture and its consistency with organic farming and handling?

As of the last meeting, we had developed criteria, which is listed in the book. That was posted for public comment. There were six public comments that were received. All of those public comments suggested that we drop the 13th item, which was Item M, which is: does the substance facilitate the development of new organic products? There was a lot of discussion saying that that really was not a good criteria, you could use that as justification to approve a lot of items just because they would spur the development of other organic things. So that was dropped, and that is the only change that is in,
then, the draft that was just distributed around. Seeing as how there were 13 and one was dropped, we now have a 12-step program for organic compatibility, I guess.

UNIDENTIFIED FEMALE VOICE: Is that in our book or did you pass it around?

MR. CARTER: I circulated -- it must have gone this way and not -- I'm sorry, I thought you split them in half.

MR. RIDDLE: No, I gave it all to you.

MR. CARTER: All to me, okay.

MR. RIDDLE: Yeah. I didn't want (inaudible).

(Pause.)

MR. RIDDLE: I just want to add that it also, in the draft that is getting passed around now, explains there on Page 2 and 3 how the comments were dealt with, so it summarizes what comments were received and then how they were addressed. It's less than 22 pages in length.

(Laughter.)

CHAIRMAN KING: And we thank you for that. Okay, additional comments, questions?

(No response.)

CHAIRMAN KING: Okay, great. Now we're on to presentation -- we're on to the 2 o'clock slot, "Presentation of Materials Recommendations," crops
committee, and --

MS. DIETZ: Since it's after 5, can you inform the public of what you're going to do, because we're past the agenda time. Are we going to keep going?

CHAIRMAN KING: I think we should present the agenda items, and certainly if there are suggestions from the Board I'm willing to entertain those, but I see no reason not to present the materials recommendations. We may not have as extensive a discussion as we would have had we started at 2 o'clock. So we'll go through that.

Tomorrow we do have a time slot allotted in the breakout session for additional work, if that comes up, for any recommendations in the morning, and then of course we'll be voting on recommendations in the afternoon.

So at this time, I mean, if you have a specific question, a concern, a point about the recommendation at hand, then certainly make it, recognizing that we're asking everyone here who may have family, friends, plans, things of that nature, to stay over. So let's do it justice but do it effectively and efficiently.

UNIDENTIFIED FEMALE VOICE: A life?


MR. RIDDLE: Yeah, before we go to those
materials recommendations, I would just like to hand out
the current draft on the 606 Task Force, the commercial
availability, and I'll be making that presentation tomorrow
morning.

    CHAIRMAN KING: Okay.

    MR. RIDDLE: But that way people will have it in
hand, and it's highlighted with nice hot pink, that shows
the changes.

    CHAIRMAN KING: Okay.

    MR. RIDDLE: Okay.

    CHAIRMAN KING: I think you need to talk about
the recommendation and if there are questions or concerns
and --

    UNIDENTIFIED MALE VOICE: Do you want any quick
background information?

    CHAIRMAN KING: I think that in the past -- and
I'm just -- in the past -- and please bear with us, this is
the first time we've used the checksheets, so Nancy's
question is: how are we going to do a quick overview.

    In the past we had an introduction, a background,
what the issue was, what the committee recommendation was,
and we would present it in that format, and I see no reason
why we can't have a similar format based on the information
in front of you, with some chair discretion, Nancy, so --
MS. OSTIGUY: There's going to need to be (chuckles).

MS. DIETZ: Let me, for a minute -- the checklist forms, if you have not seen them, I think they vastly have improved our process, and I think every one of us have agreed on that. The back sheet really is the one that has the recommendation on it, so if that's what they're going to be going to, if you have copies --

MR. RIDDLE: Yeah, that's the problem. I understood they'd be in the meeting book, and they aren't, so --

MS. DIETZ: So the committee does not have them?

MR. RIDDLE: I didn't print them out, I don't have them.

MS. CAROE: Because they were on the website (inaudible) --

MR. RIDDLE: Right, they were on the website, in the meeting book, so I assumed they'd be in the physical meeting book once we got here.

UNIDENTIFIED FEMALE VOICE: And they're not.

CHAIRMAN KING: Katherine, do you have any copies available that we could share, at least, from a board standpoint? I have a copy here, so I can certainly --

MS. DIETZ: I have a copy.
CHAIRMAN KING: -- and Kim has a copy, so --

UNIDENTIFIED MALE VOICE: I have a copy.

CHAIRMAN KING: Okay. So I think we can get through this. Those who don't have copies or need a copy, raise your hand and --

UNIDENTIFIED FEMALE VOICE: We'll share.

CHAIRMAN KING: We can have a shared experience.

MR. RIDDLE: I do have another question about the process, and -- as I understand it, you know, the draft we have -- or don't have -- is from the committee, but really what we submit to NOP is from the Board, not just the voting form but the actual evaluation form.

So the whole thing is open for consideration. If we feel that, you know, the committee is recommending that something be a yes but we think it should be a no and there's additional comments, that should be amended, or open for amendment, per se, so that we come up with a composite from the Board.

MS. OSTIGUY: Right, that is my view also.

MS. DIETZ: And then a point of clarification: Who's making those amendments, is it the committee chairs, is it the Secretary who's doing that, or would it be --

MS. OSTIGUY: Well, I would hope it's the committee chairs.
MS. DIETZ: Okay.

CHAIRMAN KING: Committee chairs, yeah.

MS. DIETZ: Okay.

UNIDENTIFIED MALE VOICE: Anyone can make them, but then they record them.

MS. DIETZ: They would record them and turn them in, okay.

UNIDENTIFIED MALE VOICE: That'd be good.

MS. OSTIGUY: I don't know if the rest of the Board -- I have no idea how much my comments, my mumblings here, have been out, but what I indicated is I thought the committee chair should do it, partly because we know what's going on, and it's too much work for the Secretary to try and put it all together.

MS. DIETZ: Thank you.

CHAIRMAN KING: I think, yes, that's what we'll be doing. Jim's point is just that people can make a motion to amend, so --

MS. OSTIGUY: Correct. Yeah, that would make sense.

CHAIRMAN KING: But the recording part will be the responsibility of the committee chair.

MS. BENHAM: Mark, I have an extra copy here that somebody from (inaudible) printed themself, their own self.

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MS. CAROE: I think the vice chair is the materials person, so they're really the one, it wouldn't be the chair of the committee but the vice chair.

MS. OSTIGUY: Yeah, that's fine.

CHAIRMAN KING: It's the chair's discretion at the committee level on how it gets recorded. We do know it must be recorded. Nancy.

MS. OSTIGUY: We'll try again?

CHAIRMAN KING: Yes.

MS. OSTIGUY: Okay. So we're going to start with -- as the agenda has -- with the order for the agenda, even though I love alphabetical and it's not.

Soy protein isolate is the one we're starting with, petitioned for use as a fertilizer. The committee's recommendation was to reject the TAP because it did not address the use of the material as a soil amendment, it was focused on food, so we were recommending a deferral.

Do you want any more detail than that or --

CHAIRMAN KING: Do you give a vote --

MS. OSTIGUY: Oh, I'm sorry, you can give the vote, yes. I can do that. The vote was 3 yes, zero no, zero abstained, on that one.

MR. SIEMON: And is that genuinely because we needed this information to make a decision obviously or was
it just kind of an irritation that TAP couldn't get it straight?

MS. OSTIGUY: No, it was not an irritation. Yes, there was irritation, but no, we weren't making a point (chuckles).

MR. SIEMON: Okay.

MS. OSTIGUY: The part of it -- some of the questions we had did get answered this morning, so there was supplemental information, so in our breakout section tomorrow morning the committee will talk about it again and we may change our recommendation at that time. I don't know. It depends on what everybody says. But I'm presenting what we decided, and we didn't have any of the information that was presented this morning, and we felt we needed that, to give it a fair hearing, because the response was: if we were going to do it based upon the TAP as it stood, the recommendation was going to be No, and that didn't seem right.

CHAIRMAN KING: Kim.

MS. DIETZ: Again, I commented this morning on this material, being somewhat involved with it as past chair, I'd like -- I'd like to see if perhaps Arthur and Bob and I could join your committee, because I want to just make sure we have some resolution to -- to this material
and what the direction is we need to go with it, whether we vote on it this week or defer it on specific reasons.

And then I also had a problem with this TAP, that, again, that third reviewer was a certified entity. So if we're going to defer it, then I think we need to ask for a third reviewer to re-review it.

CHAIRMAN KING: Jim.

MR. RIDDLE: I just -- I don't understand what your concern is, Kim. I mean --

MS. DIETZ: My concern with -- if I look at -- and this is a blanket concern on the TAP reports, but if I -- reviewer number 3, I think, on most of these materials is a USDA-accredited certifier from the Midwest, and I don't know whether NOP has a comment on that, but to me, I don't know if that's the place for an accredited certifier to be, a reviewer, because they could be -- they could have a biased opinion innately because their material isn't from that region or --

UNIDENTIFIED MALE VOICE: Certifying the person (inaudible) --

MS. DIETZ: -- or they could certify it -- I -- it just -- it strikes me as very awkward, so I question it. I don't know if it's right or wrong, but I would question an accredited certifier being a reviewer of a TAP report.
MS. KOENIG: I would just -- I think that it -- as long as it's fully disclosed, which, you know, we know that they're an accredited certifier -- I mean, I think it's analogous -- I mean, there's an accredited certifier on the -- well, I guess nobody is right now an accredited certifier, on the Board, but we all -- we all vote on things and we represent sections of the industry too, so we actually have, probably, more impact, but we do do conflict of interest, and I think as long as it's disclosed and -- so the answer, to me, lies in the contractor -- how the contractor screens those and makes sure that if they do have a conflict of --

MS. DIETZ: But the same one reviewed like six TAPs, so -- I just question it.

MS. CAROE: Yeah, it just --

CHAIRMAN KING: Andrea.

MS. CAROE: They should have --

CHAIRMAN KING: Rose --

MS. CAROE: -- a conflict-of-interest policy (inaudible) --

CHAIRMAN KING: Okay. Thank you. Andrea.

UNIDENTIFIED FEMALE VOICE: (Inaudible) the contractor.

MS. CAROE: I just -- I think there's a big
difference between being a stakeholder and being a reviewer of petitions. You know, innately this group of stakeholders all have a conflict, at one time or another we all have a conflict, that's why we're here, we represent that facet, that's why we're one vote of 15, or 14 at the present time. But providing information in this way, in order to make decisions, can -- if the person truly does have a conflict, can sway the entire vote of the Board because of the information that is selected to be included on this report.

I don't know for sure if I -- if I agree, but I -- as -- in my past life as an accredited certifier, I could see that certain materials being put on the List were advantageous to me, as a certifier, and promoted business.

So there very well may be that conflict, I don't know --

CHAIRMAN KING: Guys, I don't really want to cut this off, but I'm going to in the sense that I see this as a policy or procedure issue in terms of how the review process happens, unless -- does one individual or one individual from a specific sector of the industry have any more of a conflict than anyone else, so let's move on.

MS. OSTIGUY: Okay, the second item on the List was 6-benzyladenine.

And I think I know why I'm doing so many of the
materials: is because I can pronounce chemical names.
(Laughter.)

UNIDENTIFIED MALE VOICE: Amen.

MR. RIDDLE: I wasn't -- I had a few points I wanted the committee -- you're going to be meeting again on soy protein isolate, right?

MS. OSTIGUY: Yes.

MR. RIDDLE: In the morning.

CHAIRMAN KING: Yeah, breakout session.

MR. RIDDLE: Yeah, I was -- I mean, we got distracted on the whole discussion of conflict of interest of a reviewer, but I had a few points I just wanted to bring to -- I'm not on the committee, so now is my chance, unless I come to that breakout.

MS. OSTIGUY: Some points on --?

MR. RIDDLE: Yes, on the --

CHAIRMAN KING: Soy protein isolate.

MR. RIDDLE: -- soy protein isolate itself. Now that we've learned that it is hexane-extracted, you know, I'd like to add -- if it is deferred and questions about the environmental impact of that -- the only thing that the TAP says is that it's done in full compliance with environmental regulations. Well, of course it is. But I want some science on how the effluent or -- whatever, what
the environmental impacts of that, now that we know what
the extraction process is, and if we are deferring it, also
like to have more of a whole-systems approach reflected;
this is not just input substitution, we're talking about a
source of nitrogen, and nitrogen should come from legumes
in a mandatory crop rotation, and I'd like to see that
addressed in the TAP.

So I just wanted to make those points for the
committee to take.

MS. OSTIGUY: Any others?
(No audible response.)

MS. OSTIGUY: Okay. On to 6-benzyladenine, the
-- this material is petitioned for use as an apple fruit
thinner. What it does is cause you to lose a certain
portion of the fruit on the apple trees, eventually
enhancing production.

The committee's conclusions on this material was
that it was agricultural, synthetic, and voted to reject
the material because hand pruning is an alternative
practice that is available and currently used. One of the
quotes from the TAP that we used was: "Switching to
chemical solutions as an alternative to farmers working in
the field is not an example of sustainability, regardless
of economic profitability."
The vote on this was 4 yes, zero no, zero abstained. To reject, yes. Failed on Criteria 2 and 3.

CHAIRMAN KING: Comments, questions?

MR. SIEMON: You said that hand thinning is presently commercially being --

MS. OSTIGUY: Oh, yes. It is the only thing that is used.

UNIDENTIFIED FEMALE VOICE: Organic, yes.

MS. CAROE: Nancy, we had a commenter this morning from Valent BioScience that had apparently sent in a comment on this, and have you considered that comment, that came in late? Have you even seen it?

MS. OSTIGUY: That one I am not sure, but again, you know, the crops committee will be meeting in the morning and we will take into account all comments that have been made.

MS. CAROE: Okay. Because it sounded like there was quite a bit of substance in that document that should be considered.

MS. CAUGHLAN: And Rose indicated that there was an OMRI-approved source -- formulation, with a natural source of this substance.

MR. RIDDLE: I did have a question about how the committee came up with the answers yes and no to the
question about it being consistent with organic farming, "No," and I understand the rationale, and then --

MS. OSTIGUY: Okay, where are you?

MR. RIDDLE: Yeah, I'm sorry. Category 3, on the table there.

MS. OSTIGUY: 2 and 3?

MR. RIDDLE: Yeah.

MS. OSTIGUY: Uh-huh.

MR. RIDDLE: Yeah, 2 and 3. -- that it's not consistent, but yes, it is compatible. That doesn't quite seem consistent to me (chuckles).

(Laughter.)

UNIDENTIFIED MALE VOICE: No, but it is compatible.

MR. RIDDLE: But it is compatible (chuckles).

MS. OSTIGUY: Yes, but it is compatible. I think some of the logic here was that it does reduce production costs so it might increase [sic.] the economic liability of the farm, so that would increase sustainability. So there were -- the difficulty on this one was that there were aspects that made it sustainable and aspects that made it non-sustainable.

MR. RIDDLE: Okay. Yeah. And I can --

MS. OSTIGUY: And we're forced to do a yes or no.
MR. RIDDLE: Yeah, I understand it better, where you came up --

MS. OSTIGUY: So that's --

MR. RIDDLE: Okay.

(Pause.)

MS. OSTIGUY: Anything else?

(No response.)

MS. OSTIGUY: Okay, the next one was urea. Urea was petitioned for use as an insect fruit fly attractant. Contrary to what it says on the agenda, the committee actually had finished its work. What we had been told after the TAP was completed was that the material is not approved for the petitioned use, so we can't approve or not approve it because it doesn't meet EPA's criteria.

So as far as I can tell, we don't do anything on this one. Anybody have an alternative view, that we're supposed to do something?

CHAIRMAN KING: It was my understanding that it didn't meet -- it wasn't a legal label claim --

MS. OSTIGUY: Right.

CHAIRMAN KING: -- the petitioned use and therefore --

MS. OSTIGUY: -- we couldn't --

CHAIRMAN KING: -- we couldn't move it forward.
Rick?

MS. OSTIGUY: So I don't know if we officially reject or what we do with it, but --

CHAIRMAN KING: Do you need us to officially reject a material that does -- the petitioned use does not have a legal label claim?

MS. DIETZ: Can I comment?

CHAIRMAN KING: (Nods head.)

MS. DIETZ: In the past, something similar to this has happened and they've withdrawn the petition versus reject the material, so if you could -- if there's no EPA allowance for it, it's up to petitioner to do that, I suppose, but from a committee standpoint --

MR. MATTHEWS: If there's no EPA allowance, we don't take action.

MS. OSTIGUY: That was my assumption.

CHAIRMAN KING: So we'll just move on with that.

MS. OSTIGUY: Yes.

CHAIRMAN KING: Okay.

MS. OSTIGUY: So --

CHAIRMAN KING: Quick comment?

MS. DIETZ: Again, this is not -- this is, I guess, intended for the public to understand the process: you know, we're all human, we all make mistakes, and I
think --

UNIDENTIFIED MALE VOICE: Speak up.

MS. DIETZ: I said we're all human and we all make mistakes. Unfortunately, this -- in our procedure, as we follow it -- and I explained, between zero -- days one and fourteen the NOP is supposed to review the -- you review the petition for the intended use. In this case, it was urea as the active ingredient in a pheromone, and the petitioner was from a different country, it wasn't a US country, and we assumed when the committee got it the first time that that -- that they had looked at -- that NOP had actually done that research.

Somewhere in the process, it wasn't done. This should never have -- we shouldn't be here even looking at this. So this normally should not have occurred. I don't want people to think that this is how procedures occur, because it shouldn't have gone to this process, but it has, it's unfortunate, and that's where the committee stands on it.


MS. OSTIGUY: It actually sounds like a reasonably good idea, so maybe somebody should talk to EPA.

Anyway: Hydrogen chloride, this was petitioned for use in cotton seed de-linting process. The committee
voted that the material was agricultural, synthetic, and to reject it, indicated that the criteria -- both -- well, Criteria 1, 2, and 3 caused the failure of this chemical because of its extreme corrosivity, very reactive; if released, very damaging to soil and plant life; and, as we heard this morning, this is not true, that alternative organic acids may be used.

The vote was 4 yes to reject, zero no, zero abstained. And, again, we will be talking about this one in the morning.

CHAIRMAN KING: Rose, go ahead.

MS. KOENIG: I just want to say: I think it was the spirit of this vote -- again, I think you need to go into that a little bit -- was that we acknowledged the -- you know, the two criteria. Our biggest question as a committee, when we voted on it, was whether there was alternative substitutes.

Based on that TAP report, the TAP report indicated that. We voted based on that information. So this will be one that -- I think that we will definitely reconsider, because we did get the public comment that we thought we would get, so -- that's just -- all I wanted to say.

MS. DIETZ: I would like to request that crops
committee reviews this material that -- take into these things [sic.] for the following consideration.

   Number 2, on category 1, where "Is there environmental contamination during manufacture?", you have very good justification that there is, but at the same time, this is a grass material and that -- GMPs should be followed, and that's why we have GMPs, so that potentially things don't happen.

   So I think this is one where there is, but you also need to acknowledge that in the TAP it does say that as long as Good Manufacturing Practices are followed, as every material has those, that -- that are considered potentially dangerous. So that was number 2.

   On number 3, "Is the substance harmful to the environment?" On the TAP, Page 6, it's specifically stated that there was no residue left on the seed, and so I would like to see that added, even though it is -- the substance is harmful, that they do acknowledge that there's -- it's a pH neutral by the time they receive a seed.

   MS. OSTIGUY: Uh-huh.

   MS. DIETZ: Same thing on number 5, "Is there potential for detrimental chemical interaction?", as long as Good Manufacturing Practices are followed, you know, that -- that's your deterrent there. And that also this
material is considered a food sanitizer, so I would have
also included it in that section.

MS. OSTIGUY: In number 5.

MS. DIETZ: In number 5. Next page, under
category 2, "Is there a wholly-natural substitute
product?", yes, there are products that identify --

MS. OSTIGUY: Oh, this isn't applicable.

MS. DIETZ: Pardon me?

MS. OSTIGUY: It's not applicable.

MS. DIETZ: Right. Number 4 says yes --

MS. OSTIGUY: Oh, number 2, okay. Number 2.

MS. DIETZ: Number 4 --

MS. OSTIGUY: Okay.

MS. DIETZ: -- you say, "Yes, there are
substitutes" --

MS. OSTIGUY: Uh-huh.

MS. DIETZ: -- whereas the --

MS. OSTIGUY: Yeah.

MS. DIETZ: -- TAPs said they might not be
applicable; and also in your comments that you received
from the petitioner, they said they were not.

MR. SIEMON: And lactic and acetic acid is
considered wholly-natural? Am I wrong?

MS. OSTIGUY: It's an organic acid.
MS. DIETZ: And then the only -- the only other comments I had, in the handling committee, if there's alternatives mentioned, then we would have gone forth and asked the -- before we checked new material, we would have gone and asked to have a response from the petitioner, whether or not they've tested those alternatives, so I don't see anywhere in here where we've tried to see whether they've really tested the alternatives. Those are my only comments.

(Pause.)

MR. RIDDLE: This is a tough one for me, I mean as -- if people haven't figured out by now, I'm kind of a conservative when it comes to synthetic substances and didn't think I supported this, but hearing what I heard today has certainly opened my mind to change, and I think as the committee revisits it, it's really going to hinge on annotation; if you do move it forward, there's got to be a very limited use, you know, for --

UNIDENTIFIED FEMALE VOICE: De-linting.

MR. RIDDLE: Yeah. -- for de-linting cotton seed for use in planting. We're not talking about for livestock feed or something like this. This is to be planted. So that's basically it, for me.

CHAIRMAN KING: Other comments?
CHAIRMAN KING: Anything else, Nancy?

MS. OSTIGUY: No. I think that's all four of them.

CHAIRMAN KING: Okay, great. Now we're supposed to have a break.

(Laughter.)

CHAIRMAN KING: Kevin.

MR. O'RELL: Nitrous oxide was petitioned for use as a whipping propellant for food-grade aerosols, and I know that you want the condensed version of all this, so I'll try to make it condense.

Most of the concern was around the environmental aspects of nitrous oxide and the fact that it is a potent greenhouse gas and has a half-life of 120 years. Also considered -- we answered Question Number 1, adverse effects, yes, but we also considered a magazine article which said that it was an infinitesimal amount, 2 parts per million for total production, but we still felt -- that was answered yes on most of the environmental questions.

It is a grass item, and harmful effects on human health, mostly resulting from the misuse of the product, so we answered yes, but -- from inhalation of laughing gas --

UNIDENTIFIED FEMALE VOICE: Which we all thought
we needed at the time we got finished with this.

(Laughter.)

MR. O'RELL: I think we're there now.

VOICES: Yeah.

(Laughter.)

MR. O'RELL: "Is there a natural source?" Not that's practical for commercial availability. It naturally occurs -- nitrous oxide naturally occurs due to the action of soil bacteria. Jim, this is one I'm going to answer before you get to, but on question number 3, we put yes and no, so I know you'll probably ask us that. And that is the substance essential for organic -- for handling of organically-produced agricultural products.

In the petition there were stated uses -- alternatives using already-approved materials but there was some dispute from the petitioner on the effectiveness of these substances to yield a product that's acceptable for the consumer, so we tried to recognize both aspects of it since there was conflicting information.

However, the petitioner did say he was unaware of any tests that have been done on a gas mixture of nitrogen and CO2.

On alternative substances, again we answered yes/no, and under the same conflict: that the TAP had
indicated there were but the petitioner said that they were not acceptable to produce a product for consumer quality.

I'm trying to see any other questions that people might have, but maybe we'll just go right to the committee recommendation.

That was first -- we had voted on synthetic non-agricultural, and that was yes 5 votes, with zero nos, zero abstentions, and 1 absent. And then there was a motion to allow nitrous oxide for addition to 205.6, and there were zero yeses, 5 nos, no abstentions, and 1 absence, so the material was voted not to be allowed.

I don't know if there's any questions on that.

MR. RIDDLE: I just had one, and that is, on Criteria -- in category 3, number 6, the whole thing about "Is primary purpose to recreate or improve flavors, colors, textures," et cetera, you explained why you said no as far as recreating texture, because it creates the texture --

MR. O'RELL: That's correct.

MR. RIDDLE: -- but I would say that it should be answered yes on improving the texture, that it does -- its purpose is to --

MR. O'RELL: Do you want us to go yes/no on this one?

MR. RIDDLE: Well, you can do that, yeah, sure,
we can be schizophrenic and --

(Laughter.)

MR. O'RELL: We discussed that aspect, Jim --

MR. RIDDLE: Uh-huh.

MR. O'RELL: -- but -- you know, I guess it's how

you -- you know, I'm not going to say is, is, but the -- we

actually felt that it creates the texture and that's not

improving it because there is no texture without it.

MR. RIDDLE: Well, it's -- it's a liquid --

MR. O'RELL: It's a liquid.

MR. RIDDLE: -- so it has texture, but now you

pump in the gas, and now it's a whipped liquid.

MR. O'RELL: And that's creating a whipped

texture, from a liquid.

MR. RIDDLE: But it's improving it compared to if

you just kind of squeeze the can and this liquid came

out --

(Laughter.)

MR. O'RELL: Okay.

MR. RIDDLE: -- people wouldn't be very

impressed.

UNIDENTIFIED VOICE: (Inaudible.)

(Laughter.)

MR. RIDDLE: It makes it much more sale-able.

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MR. O'RELL: Duly noted.

MS. DIETZ: Well, I think our -- our dilemma was, is that does it create or recreate, and it does neither --

MR. RIDDLE: Yeah, I understand.

MS. DIETZ: -- and so that was -- that was one of the sticklers that we (inaudible), but you could note that, that could be noted on the comments (inaudible).

UNIDENTIFIED MALE VOICE: Thank you.

MR. O'RELL: We could note that on the comments.

MS. DIETZ: It's a tough one. I had one comment, that this committee also -- we had a lot of -- we put a lot of time and effort into this petition, we reviewed it the first time, we did not take any vote on it, we decided at that time we needed further contact with the petitioner, we graciously -- with Arthur Neal and Kevin we set up a series of questions ahead of time, we sent those to the petitioner, we got a conference call, we got our questions answered, and -- so I think that we can really say that we did a very thorough review of this material.

The one area -- that I do want to go on record -- that we struggled with was setting precedents for this material, because a lot of the discussion was around the ozone gas and the environmental aspects of it. There are materials on the National List currently that do the same
thing, and CO2 is one of those. So when we go to re-review materials, we need to look at that, and I will tell you that one of the primary reasons this was rejected was because it was for such a specific use, it was really for one use, and we didn't want to open up the world to having everything as a propellant for one specific use. So I just want to put that on the record, it is -- the greenhouse effect is a detrimental aspect, but there are other materials on the National List that are currently doing that.

MR. O'RELL: And we did recognize that in the comments on the TAP, particularly when we were doing the "substance consistent with organic farming and handling," noting that other greenhouse gases, such as CO2, are on the National List.

Next, tetra sodium pyrophosphate, TSPP, tetra sodium phosphate was petitioned a specific use as a pH buffer and dough conditioner for use in organic meat-alternative products.

This is a substance that we had reviewed and voted on at our last meeting and had voted to approve as a committee, the NOSB Board voted to approve TSPP, and it came back from the NOP with the request that we re-review this not only with the new forms that were given to us but
addressing a specific issue, which is the reason why I'm not going to go into the full explanation of all of the other factors, because we spent a lot of time on TSPP, so I'll focus it around the specific issues which were alternative substances, which we have gotten additional information and determined that there may be alternative substances but we had indicated that these would produce, from information we got from the petitioner, an undesirable product in terms of quality, functionality, unwanted discoloration, undesirable odor, and foul taste.

The other issue primarily centered around this -- the product used to recreate texture, and after consulting with the petitioner and understanding, as we heard today in public comments, the intended use of this as a pH buffer and dough conditioner, that it actually is working too as a processing aid to condition the dough through the extrusion process. The actual texture is being formed by a thermomechanical process, as opposed to the sole use of tetra sodium phosphate.

So we put this through its review again, and the committee recommendation to a motion to allow under 205.605(b), the committee vote was 4 yes, zero no, no abstentions, and 2 absent, and it's synthetic, non-agricultural.
MR. SIEMON: I just need to understand once again: why was this brought back to us? I mean, I had it clear [phonetic] the first time, but --
(Laughter.)

MR. SIEMON: I'm serious, I don't understand.

MR. O'RELL: It's my understanding -- and if NOP would -- wants to -- maybe Rick would be the best to -- let's not take my understanding. Rick is going to come up and address specifically why.

CHAIRMAN KING: Ladies and gentlemen, Rick Matthews.

MR. MATTHEWS: For the record, Richard Matthews.

This material, the first time that you approved it, we included it in a rulemaking action, to add it to the National List. Commenters came back, and about half of the commenters were opposed to adding it to the National List and basically they said that it violated one of the criteria, and it's the criteria that Kevin has been going over, about creating the texture.

So we, in reviewing the record, were unable to support the Board's position, so we did not submit it to the Final Rule, okay, so it has been referred back to the Board to address the issues that the commenters had raised during the rulemaking process the first time around.
So you're being asked at this time: Is this what you want to do? -- and if so, you need to justify why you're doing it to a greater extent than was done the first time. Okay?

And this is not only affecting this material, but it's also affecting the rulemaking that we're doing now on other materials, we're being challenged more and more to put in better justification for the actions of the Board, and that's why we went to these sheets.

Any other questions on this?

MR. SIEMON: So the bulk of what we're gaining, really, is this form, the category 1, 2, 3, with the explanations there, that's the bulk of --

MR. MATTHEWS: Yeah. Well, what'll happen is that in the future, when somebody comes forward and challenges one of your decisions, we'll have these forms to go back to in order to try and respond to the commenter in the Final Rule, explaining why you went ahead and did something that the commenter thinks is contrary to the Act.

CHAIRMAN KING: Kim, then Rose.

MS. DIETZ: The specific comment, like Richard said, was that the -- they felt that the primary use of the material was as a texture -- to alter the texture, and so we went back through and revised these materials.
I also just need to put another thing on the record, because this -- this section of criteria was originally drafted by Joan Gasau [phonetic] in Nineteen Ninety -- actually, 1998. I was asked to help her draft this language for this criteria.

And I want to read to this group the exact language that we wrote, because it's a little bit different than what's in the Rule, a little it's almost -- similar, and we -- Joan had been asked to work with the MPPL committee, which is OTA's manufacturing committee, on this criteria, and we had said that the material has to be reviewed and it may be used if -- and you would have to go through these principles, but its primary use or its primary purpose is not as a preservative or used only to recreate improved flavors, colors, textures, or nutritive value lost during processing, so there's key words in there, except that the latter case is required by law.

So our intent was that, one, the material's primary purpose is not: to recreate any of those categories or recreate something that's lost during processing.

So we really focused on this language when we reviewed because, one, we -- the comments that we have -- and we have a lot of public comments and comments from the
petitioner, that its primary use is a pH adjuster, okay, so we focused on that, and yes, it is a dough conditioner and yes, it does alter the texture, but its primary use is: a pH adjuster, and that that is something that wasn't lost during processing, it was actually -- the purpose of the material was to aid in that flow.

So we felt that we covered this criteria very well, if that makes sense to everybody. But you're going to come up against this as you re-review a lot of processing materials, so I really urge -- you know, I'm going to be off the Board, but I urge the handling committee and this Board to really look at how that reads, because it says "primary purpose," and another criteria is "lost during processing." So you have to have both of those to reject a material based on this criteria, in my opinion, as one of the original authors.

UNIDENTIFIED MALE VOICE: Thank you.

CHAIRMAN KING: Rose, then Jim.

MS. KOENIG: I had -- I have a question on the process the committee went through in terms of exploring the alternatives and the additional information that you received. And, again, it's really to question the process, not necessarily the information that you obtained, just to kind of think about how we go about those things.
So you went to the petitioner to get -- collect the data, or how was that -- refresh me again, you know, because --

MS. DIETZ: We actually pulled all of the public minutes from the last meeting, where we interrogated them, and they provided public testimony, and they provided us with documentation, so we really went back and said -- and re-reviewed it at that point. So that's what we did to -- to validate things had been tested, and you can see where the comments are.

MS. KOENIG: The question I have, again, and -- you know, and it's -- again, you know, I'm not picking on this particular product, but I think we need to be careful in terms of kind of the data or the information sources that we use. I mean, the petitioners, you know, have a vested interest, in many ways, if it's on the List, so we --

MS. DIETZ: But we'd already voted on this, so we felt we didn't need to focus on that, our focus was: --

MR. O'RELL: Right.

MS. DIETZ: -- was its primary purpose a textured product, and so we -- we just went back as justification, we didn't go back and re-review the material, because we'd already voted on it once; we just put the justification to

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it.

MR. O'ReLL: And we went back and reviewed the Board's comments at the time during this discussion for approval of this -- this substance. So that was just a re-review of everything, with new information where -- in dealing with the one point, that threw it back from the NOP to us.

CHAIRMAN KING: Jim.

MR. RIDDLE: Yeah, I will. I guess I'm uncomfortable with the Board's document, if we are to just accept the committee's form here, stating, as it does in several places, all of these organic products have high consumer acceptance and are certified by responsible accredited certifiers, when the substance is being used and is not on the National List. I mean, that -- that's a bit awkward, to me, for the Board to be putting in a document, which becomes permanent record, that we acknowledge that a violation is occurring by responsible accredited certifiers, you know, the use of a non-listed substance.

I really don't want the Board to go on record with that --

MS. OSTIGUY: But do we know that? Because what -- because being certified doesn't meant that --

MR. RIDDLE: Well, I assume if we put it in our
document, that we've verified that it's true.

Mr. O'Rell: What page are you looking at?

Mr. Riddle: Well, it's category 3, three one, three three. I mean, I have to accept that that is a true statement.

Mr. O'Rell: Well, it was statements taken from public comment.

Mr. Riddle: Yeah.

Ms. Dietz: Do you have a suggestion, should we just remove it, is that --

Mr. Siemon: It's a compliance --

Mr. Riddle: I don't --

Ms. Dietz: I mean, I don't -- it's not really relevant to what we're doing.

Ms. Caroe: But --

Unidentified Male Voice: We're --

Ms. Caroe: Hold on one second. Sodium phosphates -- sodium phosphates is on the List, and some can interpret that to say all sodium phosphates. Tetra sodium phosphate is a sodium phosphate. I don't agree with the argument, I'm just saying that I've heard it.

Chairman King: -- it could be made. All right.

Mr. O'Rell: It has been brought up that there is confusion as to whether -- if you go back to the actual
approval of sodium phosphate, it specifically indicates it was for the orthophosphates and not for classes of pyro- or polyphosphates; however, that --

MS. CAROE: The way it's in the List, in the regulation --

MR. O'RELL: -- there is confusion -- there is confusion in the industry, but --

MS. CAROE: -- you could justify it.

MR. RIDDLE: Your Honor, I would be much more comfortable --

MR. O'RELL: -- if we strike --

MR. RIDDLE: -- if those boxes contain the findings of the committee rather than the opinion of a public commenter, who also is the petitioner.

MS. DIETZ: Well, I --

CHAIRMAN KING: Is this work that can be accomplished tomorrow during the breakout session?

MS. DIETZ: I think public --

MR. O'RELL: Yeah, we can do this at the breakout session. We'll review that --

MR. RIDDLE: Yeah. It's just -- I would just be --

MR. O'RELL: It's just for cleaning up --

MS. DIETZ: Public comment is important.
MR. RIDDLE: Well, I understand, but it should be -- I think you get my point.

MS. DIETZ: I do.

MR. RIDDLE: And then it does --

MR. O'RELL: We can -- we will review those references on our breakout session.

MR. RIDDLE: Yeah. And then I have the same comment about improving texture. I mean, we heard this morning in the testimony that it's a combination of the substance and temperature and pressure but temperature and pressure alone do not get the resultant texture that they want, and these other materials they tried don't get the texture. This substance get the texture, it improves the texture. Those meat analogs would not have the consumer appeal, they would not be improved without this substance, so --

MS. CAROE: I disagree --

MR. RIDDLE: I do think that -- there should be an answer of maybe yes and no in explaining it, but I do think it improves the texture of this substance, just in all honesty.

MS. CAROE: No, I --

CHAIRMAN KING: Andrea.

MS. CAROE: I actually disagree with that,
because I do believe that the temperature and pressure does
create the texture. The material is facilitating that
process, but it doesn't create the texture.

MR. RIDDLE: I'm not talking about creating; I'm
talking about improving. It says --

MS. CAROE: Improve --

MR. RIDDLE: -- recreate or improve, and I think
on improve, the honest answer is yes.

MS. CAROE: I don't believe so, because it's heat
and pressure that's improving the texture. It's not doing
anything to the texture other than allowing it to use the
equipment.

MS. DIETZ: In number 6 it is addressed, and
you'll see it there, that yes, the TAPs indicate that it is
used for texture, but it is not stated to recreate the
texture, and as I went -- and as I tried to explain, that
this category says the primary use, and everywhere in the
TAP and everywhere in public comment, and the fact that we
already approved this based on this material's primary use
as a pH adjuster we felt was very relevant, and I think it
is put in there.

If you would like us to put something else, I
think we certainly can put it in there, but its primary use
is not to recreate or create texture. So the committee --
at least -- I can't speak for everybody, but we went round
and round on this and made sure we had the right answer, so
I'm -- I'm not willing to redo this form, so --

MR. O'RELL: I think --

MR. RIDDLE: I just think acknowledgment that a
function is to improve texture and then explanation that
maybe primary purpose, these others, as you've said.

MR. O'RELL: I think we can add some language in
that, recognizing that, Jim, that --

MS. CAUGHLAN: It facilitates extrusion --

UNIDENTIFIED FEMALE VOICE: Yeah.

MS. CAUGHLAN: -- and by facilitating extrusion
it does --

UNIDENTIFIED FEMALE VOICE: Yes.

UNIDENTIFIED MALE VOICE: -- improve the --
creating it.

MS. CAUGHLAN: But it seems like a secondary --
(Pause.)

CHAIRMAN KING: Rose.

MS. KOENIG: I just I guess had a question on the
voting. Is there any way -- and again, I didn't look at
the minutes to -- to find out. The original vote was what
on this, during the --

MS. DIETZ: Actually, I have the original vote.
MS. KOENIG: And can you give us who -- the individuals, what we voted (chuckles), how we stood, because --

UNIDENTIFIED MALE VOICE: What? Tell us how we voted last time?

MS. KOENIG: -- I mean, I'm saying there's --

MR. SIEMON: (Inaudible) tell me how we voted last time.

(Laughter.)

MS. KOENIG: There may be a reason why there's a few people that are not comfortable with it, because there was some -- I'm just trying to recall.

MS. DIETZ: We actually had a lot of different votes on this one, different amendments.

UNIDENTIFIED MALE VOICE: Yeah.

MS. DIETZ: But -- and some withdraws, this was a very painful material, as everybody remembers, but the -- it was -- a motion was made to allow TSPP as a synthetic under 205.605(b) for use only in textured meat-analog products. The vote was 8 favored, 3 opposed, 2 absent, 1 abstained.

MS. KOENIG: Do you know the recording of those individuals' --

UNIDENTIFIED MALE VOICE: I'm sure (audible)
voted against it.

MS. KOENIG: No, I mean, I'm just -- do you know how the -- do you know the individual votes, just -- I'll just try to get that later.

MS. DIETZ: But if you want to look at all the minutes, I have them, you're more than welcome to take them.

CHAIRMAN KING: George.

MR. SIEMON: Andrea brought up the issue about broadening the present phosphate sodium policy. I'd just like to know, did the committee even discuss that, or -- you know, whether to go back and look at that, the annotation that we have, did you all look at that?

MR. O'RELL: Well, it was discussed in the committee, but, again, you know, the specific petition was for a specific use, and although we acknowledged that the orthophosphates are approved for dairy applications only, at one point they were asked -- petitioned for expansion for soy products. That was voted down.

That's before I was on the Board. I don't know the exact discussion that went into that, but we were trying to address the specific use of tetra sodium pyrophosphate for its specific application it was petitioned for. Because we felt that that was following up
from the vote that we had had as a committee, or as a board, at the last meeting. I didn't think we wanted to muddy up the issue.

MR. RIDDLE: But the committee's recommendation doesn't have any annotation; correct?

UNIDENTIFIED FEMALE VOICE: No.

UNIDENTIFIED MALE VOICE: No.

MR. RIDDLE: So even though you only considered it for this one use, it's not being --

MR. SIEMON: -- limited.

MR. RIDDLE: -- limited, yeah, there's no annotation. Did you talk about that?

MR. O'RELL: Unfortunately, in the final vote, I was one of the absent, so I will defer to Kim.

UNIDENTIFIED FEMALE VOICE: I know we didn't.

MS. CAROE: Well, actually, I think we did. I think, in discussion, the -- the annotation was one of the things that flagged this as a texturizer, because of the ways that that was written, and we -- as I remember, and Kim, refresh my memory, but I believe we talked about what other possible uses and would any of those be -- we looked at all the uses that were in the TAP and would any of those be a problem for us, and it didn't appear to be, so we just took the annotation out, for clarity, to simplify,
simplification.

MS. DIETZ: Yeah, and, again, the original annotation was for use only in textured meat-analog products, and the comments were specifically against the word "textured meat," and since it -- again, since the primary use of the material is a pH adjuster, we did not want to turn this back around and say -- and confuse it even more, so we just made the recommendation that you have in front of you.

MS. KOENIG: So the implications of that is that if we put it on without annotation, it can be used in processing of any product, for any use, even though what you just said, as far as your research --

MS. DIETZ: Yeah.

MS. KOENIG: -- in terms of pH, you know, that --

MS. DIETZ: The other reason that we didn't put an annotation is that we have gone through phosphates four or five times and put four or five different phosphates on the National List, and every one has been for a specific use, and if we're -- either we're going to allow phosphates or we're not going to allow them, and we said, look, you know, if this keeps coming back because we're being very restrictive with annotations and then somebody comes back and says, "Well, it's for dairy" or "it's for this," either
we want them or we don't, and this committee said: we're
going to put it forth without an annotation.

    So the Board has -- you know, they can make a
recommendation, but this committee's was: no annotation.

    MR. RIDDLE: Yeah. I think the more we learn,
the more we know how important annotations are, the more we
learn about how broadly the List is being interpreted. And
so, to me, the lesson is: just like OFPA says, petition
for a specific use, and that -- I would support an
annotation, and maybe you can talk about that, see if the
committee wants to bring anything forward, but somebody
else probably will.

    MR. O'RELL: We'll revisit it as a committee.

    MS. DIETZ: We could bring the original
annotation back, but we've done the justification that we
were asked to do.

    UNIDENTIFIED MALE VOICE: All right. Thanks.

    CHAIRMAN KING: Kevin, is that --

    MR. O'RELL: (Nods head.)

    CHAIRMAN KING: Okay. I don't know if George or
Nancy is doing livestock.

    MS. OSTIGUY: I am.

    MR. SIEMON: Since I can't pronounce any of the
words, Nancy's going to.
MS. OSTIGUY: The first one on the livestock list is moxidectin, which is used as a -- it's a topically-applied broad-spectrum parasiticide effective against both internal and external parasites.

We actually considered this one a couple of marketings [phonetic], at least it feels like it. The committee recommended that it was agricultural, synthetic, and that it be allowed -- is that correct? Yes. -- with an annotation for control of internal parasites only.

This was despite the fact that it, in our opinion, failed on Criteria 1, and that was the reason for the proposed annotation: because of concern about the half-life of the material and impact on soil organisms.

We recognized that it is also less problematic than a material that's currently on the list, ivermectin, but the annotation was to respond to the issue of its half-life and soil-organism impact. Much less chance of any kind of contamination if it was for internal parasites versus external.

Go ahead, Jim.

MR. RIDDLE: Yeah, I missed the call, I'm on the livestock committee, so I apologize, but I just had a question. As I recall, this substance is applied as a
pour-on, a (indiscernible) external application.

MS. OSTIGUY: Correct.

MR. RIDDLE: And so -- and it does provide external parasite control as well.

MS. OSTIGUY: Correct.

MR. RIDDLE: So as an inspector, you know, and you have this annotation: it's only for control of internals --

MS. OSTIGUY: Uh-huh.

MR. RIDDLE: -- but it's applied to the external, and it controls externals --

MS. OSTIGUY: Uh-huh.

MR. RIDDLE: -- how can that be --

MS. OSTIGUY: Well, the reason for the -- that very instruction to use the material is because of internal parasites only.

MR. RIDDLE: Okay. So someone would have -- the inspector -- I mean the farmer would have to keep records showing that that is the reason, and still not routine use, it has to be --

MS. OSTIGUY: Oh, yeah.

MR. RIDDLE: Yeah, all these other conditions that are already in the Rule.

MS. OSTIGUY: Right.
MR. RIDDLE: So they'd have to have --

MS. OSTIGUY: There should --

MR. RIDDLE: -- documentation --

MS. OSTIGUY: One would hope that there would be records for the animal, of why they were treated, and so the records would indicate that it was for internal parasites.

MR. RIDDLE: Uh-huh.

MS. OSTIGUY: Because then you avoid also dip operations and that sort of thing.

MS. KOENIG: A question. Isn't -- I know it was petitioned for an anti-parasitic, it's a parasiticide (chuckles), but, you know, when I went back and looked at it again, the executive summary, I notice that it's a by-product of, actually, an antibiotic. I just wanted to clarify that -- is it in fact an antibiotic or is it a parasiticide?

UNIDENTIFIED MALE VOICE: Can I address that?

MR. RIDDLE: We went through all that.

MS. OSTIGUY: It's an antibi- -- it's a parasiticide.

UNIDENTIFIED FEMALE VOICE: Yeah.

MS. OSTIGUY: It's not an antibiotic. I know that we talked about that before. And the petitioner is
here also, if you want to ask him --

UNIDENTIFIED MALE VOICE: That was not responsive to the TAP committee (inaudible).

MR. SIEMON: That's why we delayed it (inaudible).

MS. OSTIGUY: Well, and I remember we asked that and you gave --

MS. KOENIG: Right.

MS. OSTIGUY: -- you got us that information about it too, so that was last time around that we'd asked that question and then checked up on it.

But it is not an antibiotic, it is actually a parasiticide, and I just don't have that piece of paper with me that indicates that.

MS. KOENIG: You know, it's just one of those that has been around and --

MS. OSTIGUY: Yes.

MS. KOENIG: -- I just was trying to clarify that, because I'm not --

MS. OSTIGUY: Around and around.

Any other --?

(No response.)

MS. OSTIGUY: Okay, the last one was the proteinated and chelated mineral complexes, used as a
supplement in livestock. The committee voted that it was
synthetic, allowed, non-agricultural. The vote was 4 yes,
zero no, zero abstained.

There was some concern about copper and zinc, on
the effect in soil and on soil organisms, but we didn't
feel that an annotation was reasonable, so -- so the --
voted for approval.

MS. KOENIG: Is there an annotation? I didn't
get that thing that you said --

MS. OSTIGUY: No, no annotation.

MR. RIDDLE: Once again, that was the same call I
missed, and I do have a concern about the source of the
protein, and I do have documentation here, Dr. Alfred
Walker, who's looked at some of the background on this, and
it is a possibility that the protein source could be an
animal -- of animal origin, and, you know, I don't know if
the committee's going to meet in the morning on breakout or
not; if so, I'd just hold this discussion for the livestock
committee; but if not, I will like to suggest an annotation
that protein source must be -- must not be of animal
origin.

And then there is the issue of excluded methods
as well. If it's a soy source, it's possible that it would
be a product of excluded methods.
MS. OSTIGUY: Right, but those aren't allowed.
MR. RIDDLE: Yeah. The animal by-products,
though, I do think needs to be specified.
UNIDENTIFIED FEMALE VOICE: Is that available,
commercially available?
MR. RIDDLE: Yes. It's commercially available
from non-animal, non-GMO protein sources, so, yeah, it
shouldn't be a problem.
MR. SIEMON: We are meeting tomorrow.
MR. RIDDLE: Yeah, okay.
MS. KOENIG: I have a question on -- getting back
to Jim's point, it's a question for Rick.
Is that your interpretation of the excluded
method as far as GMO when we place that on there, that
that's something that the NOP regulates, on these
materials?
UNIDENTIFIED MALE VOICE: (Inaudible) the use of
(inaudible).
MS. KOENIG: Well, GMO-derived, for --
MR. NEAL: What's the particular issue, though?
MS. OSTIGUY: The issue is: whether or not, as a
-- if you have a non-animal protein, your primary source is
probably going to be soybeans. Soybeans are going to most
typically beRoundup-ready, which is GMO. Could they use a
GMO material for the proteinated chelates, and would that meet the Rule, or does the Rule exclude it because GMOs are prohibited.

MR. NEAL: I won't answer that right off the top of my head. There's a question that I've got for you, though. When you think about this type of annotation, how do you enforce it, how does a certifying agent enforce it, and where do they get their information from?

MS. OSTIGUY: The sourcing from the person manufacturing it.

MR. NEAL: So everybody will provide all of this information for --

MS. OSTIGUY: Well, you'd know your source.

MR. NEAL: I'm just asking, because that's going to be -- that's going to be an issue, is enforcement.

MR. SIEMON: The average farmer won't have a clue.

MS. OSTIGUY: Well, the farmer won't --

UNIDENTIFIED FEMALE VOICE: But the agent.

MR. NEAL: I'm just asking a question.

MS. OSTIGUY: -- but the manufacturing source would know.

MR. NEAL: Okay. Because what could end up happening is that you eventually have an issue where some
farmers may not know, some will, and so you've got another
enforcement and compliance issue that you've got to
address. That's all I'm -- that's all I'm -- I mean, that's the only question that I've really got.

MS. KOENIG: I guess that that -- I mean -- and it's been on my radar screen for a while, and that's why I'm asking it, and you don't have to answer it now, but the question is, is: again, when NOP looks at those excluded methods, do they just simply look at "no GMO seed," or do they take it to the step of materials, both natural and things that are on the List, such as even soybean meal, are you checking to see -- or like the soybean isolate, are they from non-GMO sources, when it comes to that -- that --

MR. NEAL: There -- we say that manure from non-organic operations may be used as a soil amendment. We say the crop residues from non-organic operations can be used as a soil amendment. These could be -- I mean, these are soil amendments.


MR. NEAL: Those are naturals. Those are crop -- those are agricultural products we're talking about, those are not synthetics.

MR. SIEMON: Even if they're GMO, is what you're saying.
MR. NEAL: I'm applying it to my soil as a soil amendment, and we acknowledge that.

MS. CAROE: There is nowhere in the Rule that it specifies that a crop input has to be non-GMO, it's not in there. In fact, the cover crop can be GMO. It's not in there.

MR. NEAL: Well, the seeds --

MS. CAROE: The rotation can include a GMO crop that's not sold as organic.

MR. NEAL: Seeds could not be GMO.

MS. KOENIG: Well, that -- that's -- I really --
you know, as we especially look at these protein issues, and soy, you know, and we're getting into the National List of these products, I think there's a lack of -- you know, I don't know if it needs to be in a directive, but there certainly is a lack of clarity in terms of what -- how you view your GMO policy, because contrary to what Andrea's saying -- I mean, I would assume the cover crop in an organic-production practice could not be GMO seed.

MS. CAROE: It's not in the Rule.

MS. KOENIG: So I don't -- and that does have some implications, because, again, I think, personally, when I'm putting something on the List, I'm assuming that if it is a soy protein isolate, or if it's a protein
chelate, in this case, I assume that the GMO policy is covering the materials list, and if it isn't, I think we need clarity on that.

CHAIRMAN KING: Goldie has a comment, then Andrea, then Jim.

MS. CAUGHLAN: I mean, that's the whole point, is that if in fact this is a learning experience, just as the whole program is revealing itself as we go, it seems like moment by moment, and the fact of the matter is: we all know that GMOs are becoming a far bigger problem in terms of every aspect of the conventional manure and the conventional crop more and more and more. I mean, it flags everything.

So to me it's an issue of: how do we fix it, how do we make bloody sure that those aspects do get incorporated, whether it means additional call for rulemaking, in the interim directives, advisories to the - - but we have to fix it, we cannot just accept it.

MR. NEAL: I'd note that there may be a need for clarification on: how far do you go back, in the process, in terms of this "excluded methods" definition.

CHAIRMAN KING: Andrea.

MS. CAROE: To answer the question you asked first, about enforcing annotations: I can't speak from the
crop inputs as much as I can speak from non-organic ingredients in processed products, in which case you do run into a situation where a vendor of an ingredient has no idea what that original carrier corn was grown and whether it was GMO or not, so it is being enforced in -- the best possible, but incomplete, at best, because the information's not there.

Now, I don't know, every time you buy a feed supplement, if you're not buying it from a distributor that may not have that information because he's, you know, several points away from the growing of that.

CHAIRMAN KING: Jim.

MR. RIDDLE: Yeah. Well, the burden of proof is always on the person who wants to use the substance, to make sure they use approved materials, and I look at the List currently, under feed supplements, and I see it as very similar to the milk replacer, where there's annotation there: without antibiotics, emergency use only, no non-milk products or products from BST-treated animals. So there the GMO issue has been singled out, and so I think it would be appropriate for that to be part of the annotation.

And then the animal-origin issue would be another one that I think we would be very wise to include, and they are commercially available, the source is available,
according to the petitioner -- I don't have it in writing, but verbally -- and so I think it makes sense, verifiable.

MS. CAUGHLAN: I remember we had a discussion two or three meetings ago specifically on pulling back from so many annotations, and Keith spoke to this issue, saying that we were creating, by these extra annotations, more problems, but I think if -- you know, in -- that that is not necessarily it, and I think I would rather have it be redundant to the state that we state it every single time, "non-GMO" or "non-excluded methods," rather than to assume that it's somehow going to magically (inaudible).

UNIDENTIFIED FEMALE VOICE: Yeah.

MR. JONES: Let me just address this. As you know, annotations are one of my passions, okay --

(Laughter.)

MR. JONES: -- and the reason they're one of my passions is because -- I think, in many cases, they make you feel good, but they mean nothing in the field, okay? In other words, you walk away thinking you've done the right thing, but unless there's a data set out there you can capture, unless you have a verifiable annotation, you have created a lot of nice language without any regulatory impact, okay?

So you need to be very careful that when you use...
an annotation to prohibit a practice, that the data set
that you're going to rest on exists, okay, and: it's
readily available, in other words you can pick up the phone
and call your supplier and they will know whether or not X,
Y, or Z exists.

That's my only caveat: just be very careful.

MS. CAUGHLAN: Well, we should be much closer to
that now, given our greater development of databases having
to do with --

MR. JONES: You would think so, Goldie. Maybe,
or maybe not. I mean, one of the things I think -- it's
still amazing: out there, when you pick up the phone to
some of these folks, they don't have a clue and don't have
any way actually to even know --

MS. CAUGHLAN: Well, if we're not punching it
home all the time, they're not even going to create that or
look for it.

MR. JONES: Fair enough. But all I'm saying is
that: don't just add language for the sake of adding
language; make sure that you know, and that you've
consulted with certifiers who are certain that they can
verify the point that you want verified, because if you
can't do that, then you have just created a lot of nice
language.
CHAIRMAN KING: Another quick question, then Becky, then Andrea.

But please stay here for a moment, Keith. I understand what you're saying, and I think this message has been clear for a while. From your perspective -- and I -- as it pertains to this specific issue, "excluded methods": Do you feel, in your opinion, there is another path, to ensure that what we're trying to accomplish in this particular case is realistic?

MR. JONES: Well, let me give you my best professional judgment on where you're wanting to go. You have the ability to add annotation and say: we don't want this product being derived from excluded methods; but when you do that, you have created a dichotomy within your own regulation, okay, because now you're saying: well, in some areas we don't want this to happen, but in other areas --

In other words, if I go -- let's say I want to soybean meal as a nitrogen source for organic production, and I go down to Southern states, or wherever, and get ten 50-pound bags of soybean meal: I have no idea of knowing where that soybean has come from; and, further, there is nothing in the regulation that prevents me from using that soybean meal as a nitrogen source for fertility.

So just be careful, just be care- -- because
soybean meal is a natural, naturals are unregulated, okay,
we can't get at 'em, okay?

So be careful, as you're thinking through this,
that you're not creating this huge dichotomy in your own
regulation, where you're being quite schizophrenic as to
what you want to -- what you want to do.

CHAIRMAN KING: Becky, Andrea, Dave, then Rose.

MS. GOLDBURG: I just wanted to make a point,
which Keith partially made. I worry about singling out
products for no GMO and implying that others -- therefore
GMO is okay? and I think we really need consistent policy
on it. I don't know, do we need a task force, do we need
some directive from the NOP, do we need the policy
development committee, or whatever, to consider the issue,
but this is not something to deal with scattershot.

CHAIRMAN KING: Andrea.

MS. CAROE: Yes. I just want to remind this
Board that these materials on the list are not organic,
they're conventional materials, they were manufactured in
conventional facilities, for conventional production, and,
you know, going back and asking for this: yes, you'll get
a supplier that says, "Yeah, it's non-GMO, we never use
GMO," they'll say that, they may not -- the information
that you're getting is questionable, and I think that kind
of talks to Keith's data set: there is not hard -- we're
relying on affidavits and comfort language instead of hard
facts on it, and taking that back too far into the
conventional world, where there is no regulation and the
distributor of that product doesn't have to have that
information, it makes it very difficult.

I do understand what you're saying, Jim, the onus
is on the user of that material to justify it, but, you
know, that -- that is a bit of an issue, and this industry
is still, you know, 2 percent, 2 percent, and more likely,
if you're going to be a pain in the butt to a vendor to try
to get them to track it back all the way to the farm,
they're going to say, you know, "forget it, take your
business elsewhere," because that five pounds of soybean
meal doesn't really mean anything to them.

CHAIRMAN KING: Dave.

MR. CARTER: Yeah. I'm a little more concerned
on the -- and I agree with Rebecca on the GMO issue, but on
the other one, that Jim brought up, about the animal
source, I think that's something where we need to be very
specific, because I think, you know, if FDA is moving
forward and saying that they're prohibiting animal by-
products in feed, you know, there are some things -- and
I've been concerned for some time -- that there are some
things, such as Vitamin E12 and some other things, that ranchers and farmers routinely use, that they don't know are -- come from animal base, and so I think we need to flag that on this, that there has to be a distinction, that we're putting the stake in the ground on that, to make sure that we're not going to cross that line.

CHAIRMAN KING: Rose.

MS. KOENIG: And, you know, just to Keith, I guess, although he sat down: You know, I only beg the question because I think it's an area that -- I know, again, OMRI is not NOP, I'm not implying that, but when they look through their technical review of brand names, that is one of the questions that they -- they're posing for -- for inputs, so that it can be in compliance, you know, with the NOP.

So I think there is either a misunderstanding or non-clarity out there in the industry as far as: how far do you take those excluded methods, is it just simply seed source at the farm, you know, does it go to medications that might be derived from GMOs? I mean, there's so many processes now that involve it, and -- and if the NOP's position is it just ends at seeds, that's -- that's your position, but I think it just needs to be clear, so that -- again, you know, this "equal playing field" concept, that
everybody has a clear understanding towards that policy.

    CHAIRMAN KING: George.

    MR. SIEMON: No (laughs).

    CHAIRMAN KING: I just wanted to wake you up.

    Kim.

    MS. DIETZ: Maybe just a recommendation. Becky's already suggested maybe a task force be formed, and I know there's GMO decision trees out there, and there's lots of data and worksheets that we could certainly bring together (inaudible) --

    MS. KOENIG: But, Kim, I would like -- I mean, I think the directive is much more clear, to the point, because if there is -- it sounds like there -- there is already a thought process and a way that NOP is viewing it. So I don't want to go through a whole task force to come up with a recommendation --

    MS. DIETZ: My point was, there's information out there, that you need to look at it, before we have a lengthy discussion like this.

    CHAIRMAN KING: Yeah. Okay, so where were we?

    MS. OSTIGUY: We're done.

    CHAIRMAN KING: You're done.

    UNIDENTIFIED MALE VOICE: Yeah.

    CHAIRMAN KING: Okay. Well, let's officially
recess, and we will reconvene tomorrow at 8 a.m. Please be here promptly as we have lots of work to do again tomorrow. Thank you all very much for your patience.

(Whereupon, at 6:30 p.m., the meeting was recessed, to reconvene at 8:00 a.m. on Thursday, April 29, 2004, in the same place.)

* * * * *

CERTIFICATE

In Re: NATIONAL ORGANIC STANDARDS BOARD MEETING
Place: CHICAGO, ILLINOIS
Date Held: APRIL 28, 2004
Time Held: 8:00 A.M.

We, the undersigneds, do hereby certify that the foregoing pages, number 1 through 360, inclusive, is the true, accurate and complete transcript prepared from the reporting by LEAH JOHNSON in attendance at the above-identified hearings, in accordance with applicable provisions of the current USDA contract, and the below-signed persons have verified the accuracy of the transcript by (1) comparing the typewritten transcript against the reporting or recording accomplished at the hearings and (2) comparing the final proofed typewritten transcript against the reporting or recording accomplished at the hearing.

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APPEARANCES:

COMMITTEE CHAIRMAN: MR. MARK KING

BOARD MEMBERS:
MS. REBECCA J. GOLDBURG
MR. MICHAEL P. LACY
MS. GULDIE CAUGHLAN
MR. KEVIN O'RELL
MS. NANCY M. OSTIGUY
MS. KIM M. DIETZ
MR. JAMES RIDDLE
MR. DAVID CARTER
MR. GEORGE SIEMON
MS. ANDREA CAROE
MS. ROSALIE KOENIG
MS. ANN L. COOPER

ALSO PRESENT:
MR. RICHARD MATTHEWS
MS. KATHERINE BENHAM
MS. BARBARA ROBINSON
MR. ARTHUR NEAL
MS. ZEA SONNABEND
MS. LESLIE ZUCK
MS. MERRILL CLARK
MR. MARTY MESH
MR. DAVE ENGEL
MS. KELLI SHEA

REPORTER: MS. LEAH JOHNSON

CONTRACTOR (NOT PRESENT): R & S TYPING SERVICE
(903) 663-9567
CHAIRMAN KING: I'd like to call to order the Meeting of the National Organic Standards Board.

First off I'd like to thank everyone for their patience and persistence in your input yesterday; I think it was really valuable.

This morning the first thing we're going to start with is the .606 Task Force report, or the Jim & Kim Show, if you will.

A quick reminder for everyone: please put your cell phones to vibrate; if you have a comment, conversation, so on and so forth, take it out in the hallway, please; and then also, there's a sign-up sheet for Friday public input. I would remind everyone that we have two hours allotted for public input, so please sign up early, if you have comments, because we certainly want you to be a part of that.

So without further ado, I'll turn it over to Mr. Jim Riddle.

MR. RIDDLE: Okay. Good morning, and we're still getting the technology set up, but --

Yesterday afternoon I passed out the current draft from the task force, and this task force is for commercial availability, recommended rule changes, and just
a little background, while you're digging out that report:

It came to the Executive Committee attention early this year, I guess in January, that, you know, there remain issues on commercial availability and the need for consistency and how it's being interpreted in the field, and this was actually -- when the Final Rule was published in 2000, there was a request for comments at that time and recognition of the need for further rulemaking on commercial availability, and so it's -- it's remained an open issue.

There were comments originally submitted, including comments from the Board, and then further recommendations on the -- from the Board as it relates to the agricultural ingredients on the list, 205.606.

And so that was really the basis of the work, the starting point, of this task force, and the objective was: to establish acceptable practices to be followed by certification applicants, certified operators, and certifiers, for consistent, transparent, and predictable determinations of commercial availability that provide regulatory certainty, and commercial availability, really, applies to two different sections of the Rule, the one being seeds, where a producer can use non-organic seeds if it's documented that organic seeds are not commercially available in the equivalent variety and form, quality, and
quantity needed by the operation; and then it also applies to minor agricultural ingredients used in processed products, where a handler must attempt to source organic ingredients if the product is to be labeled as organic, they must attempt to source organic ingredients for everything agricultural in that product, and if it's documented that an ingredient is not available in an organic form, is not commercially available, then the certifier can allow a non-organic form of the ingredient, but there's been no further guidance to provide consistency in how those determinations are being made or to spell out the requirements for the operators to meet in order to state their case.

So that was the background for our discussion, and in the recommendation from the task force, you see a fairly length introduction section, and then background section, which has the definition of "commercial availability," some citations from the regulation and from the preamble, and I'm not going to read through that at all, that's all been posted on the web, and -- yes, George.

MR. SIEMON: Jim, is there an extra one of the handouts? I can't seem to find mine from yesterday.

(Document handed Mr. Siemon.)

MR. SIEMON: Thank you.

MR. RIDDLE: In case it's not commercially
available, we will get you another one.

(Laughter.)

MR. RIDDLE: Okay. So skipping down now to Recommendation 1a, which is found on Page 3. So, Ann, if you can scroll down a ways. All the Board members have this in front of you; I wanted to put it up on the screen so that members of the public could follow along.

I'm not seeing how that -- okay, so the first part of our recommendation was simply reaffirmation of a recommendation the Board made in May 2002 concerning the really the title and heading, the paragraph, in 205.606, and part of that is to remove the words "as ingredients," which don't appear in this recommendation, they do appear in the Rule currently, as written, and it's redundant, because when it says "allowed in or on agricultural processed products," "in or on" includes ingredients. So it's not to remove ingredients from consideration.

And then also this section only applies to organic products. "Made with organic" products can include conventional ingredients.

MS. DIETZ: And the other reason that we had originally recommended that we take "as ingredients" off is that materials on 205.606, in processing and ingredients, is defined as something that's put on the label, and processing aids are not ingredients, so there was some
confusion on whether or not people needed to have processing aids, and it's our everything that everything needs to be on the list, so we wanted to take away that confusion and basically state processing aids or anything used in or on must appear on the National List.

MR. RIDDLE: Right. So that really, 1a, was an affirmation of the prior standing recommendation of the Board, and then there's some new rationale which has been added to this version, and all of the new language is underlined in the Board's text and the language to be deleted has strikethrough.

Okay, moving to Recommendation 1b, and this is where this new draft is recommending some changes to the previous draft from the task force, and this is in response to comments submitted to the web posting, and here we are -- would be -- you know, if the Board supports this recommendation, we would be calling for replacement of the current Section 205.606 with a new Section 205.606, which would be entitled:

Non-organically-produced agricultural substances prohibited or restricted for use in or on processed products labeled as "organic" or "made with organic."

And, I'm not sure, maybe that "made with" should be deleted. Yeah. That's an oversight there. So --

MS. CAROE: Well, wait a second, do you want to
delete it, because you're talking about processing aids as well, and you would want it -- processing aids --

MR. RIDDLE: Okay, no -- yeah. I'm sorry. Yeah, that's -- Andrea. We would leave this in this section. I'm confused. I was -- because the intent --

UNIDENTIFIED FEMALE VOICE: (Inaudible.)

MR. RIDDLE: Yeah. Just to explain first, the intent of this new section would be similar to crop inputs and livestock inputs, where there's a category for prohibited naturals.

There may be certain agricultural ingredients which, after a petition, rulemaking, recommendation, that the Board may recommend are inappropriate for use in organic or should have some restrictions. There's no place on the current 205.605 List for such substances to be addressed. This -- especially the prohibition of agricultural materials.

So this would create a placeholder -- we don't have any specific substances in mind right now, but it would create a placeholder in order to address either prohibited naturals or agricultural substances that need very specific restrictions on their use, and that would apply to a product that's labeled "organic" or "made with."

Okay. And then, you know, it just follows with the language of the text for that section, which basically
repeats the title.

Any other questions or comments on that?

MS. DIETZ: Just a comment. The further rationale for doing this is that the current materials listed under 205.606 were confusing the industry there. There were materials on there that people were considering okay to use even though organic substances were out there in the area, so they were using them as a commercial availability list, and that was not the intent of 205.606. Again, the intent was to put materials on there that the Board wanted to restrict in some way.

MR. SIEMON: Jim?

MR. RIDDLE: Yeah.

MR. SIEMON: I'm sorry, I'm confused. 1a and -- 1b is building on 1a? These aren't alternatives, are they?

MR. RIDDLE: Well, yeah --

MR. SIEMON: Because you're talking about the same .606 in both of them.

MR. RIDDLE: Right.

MR. SIEMON: I'm confused, as usual, so --

MR. RIDDLE: Good (chuckles), and I was reading back through it this morning, and I felt the same way:

they are contradictory to one another.

In the first instance we were reaffirming an existing recommendation, but now that we have altered 1b --
originally lb, as you can see, was written to call for a
new Subsection .607, but that's really unnecessary. It
really should just replace .606 and --

MR. SIEMON: So if we've got lb, we don't do la?
MR. RIDDLE: Right.
MR. SIEMON: I wasn't clear.
MR. RIDDLE: Yeah. And I think the task force
should meet briefly during the break outside session to
address that, and maybe we'll just scrap the whole
discussion of la and focus on lb, so --

MR. SIEMON: Well, and we get to lc, I'll ask
about that one too.

MR. RIDDLE: Well, yeah, I'm ready to go there,
if you are. But yeah, thanks for -- thanks for pointing
that out, George. I did want to mention that.

MS. DIETZ: Yeah. It could just be wordsmithing,
where we say "prior recommendation NOSB May 2002" and just
take away that Recommendation la.

MR. RIDDLE: Yeah, just as part of the
background.

MR. SIEMON: Yeah.

MS. DIETZ: Because it's not really a
recommendation.

MR. RIDDLE: Okay. lc. Now, this one is an
try to deal with the substances that are currently on
.606 and two substances that the Board has reviewed and recommended be added to .606, gelatin and shellac, and our recommendation is that the Board look at those substances again, we use the words "review," but we're not talking about another TAP review or anything to that extent, we're talking about -- the Board has already completed the work on these substances, but now to run them through the choices of A, B, C, or D to determine where they should fall on the National List.

Since there will no longer be that list of commercially-unavailable agricultural ingredients under our recommendation, something needs to be done with each of those substances, they either need to be removed totally from the National List and just fall under the ACA authority of determining commercial availability for that material; or we might choose to recommend some kind of restriction or prohibition on any one of those substances, I'm not prejudging where they should go. Kim, then Rose.

MS. DIETZ: Yeah. I mean, an example is, you know, on the gums, there's an annotation: using water extraction only, and that might -- that would certainly be one that would -- could stay under .606, because it has a restricted annotation.

MR. RIDDLE: Okay. Rose --

MR. SIEMON: But you're recommending --
MR. RIDDLE: Rose.

MR. SIEMON: Sorry.

MS. KOENIG: So the handling committee would then -- I'm just looking at the process. So the handling committee would then make that recommendation based on, you know, some just small process, or -- I mean, how would we get that form of recommendation?

MS. DIETZ: Well, we know that -- I mean, this board, this existing board, has reviewed gelatin and shellac, so those -- I think those are ones that we could easily say, "This is how we recommended originally, this is where they should go," and then bring the others back forward and give some type of background and review as to why we feel that they should be moved, in what place, bring it back to the Board as a formal recommendation and have the Board vote on it.

MR. RIDDLE: But, yeah, it would be the handling committee --

MS. DIETZ: Yes.

MR. RIDDLE: This is kind of a work order for the handling committee.

UNIDENTIFIED MALE VOICE: (Inaudible.)

(Laughter.)

MR. RIDDLE: George, did you have --

MR. SIEMON: So the basis of this one is to have

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three sections under .606 and divide it up into three
different categories of what the real recommendation is
here?

MR. RIDDLE: I'm sorry --

UNIDENTIFIED FEMALE VOICE: Just one --

MR. SIEMON: You have 3a, b, c, and d --

MS. DIETZ: You'll have 205.605(a), .605(b), and
.606.

MR. SIEMON: All right, I'm looking (inaudible).

MR. RIDDLE: Well, yeah, if you're just looking
at a through d in this document, that's not where we're
recommending changing to the Rule, that's just the way that
the task force divided this up as the choices.

MR. SIEMON: Okay. I --

MR. RIDDLE: Yeah. You see a is actually
205.605(a), and then b is to place it on .605(b), c would
be the new .606, and d would be removal from the list.

MR. SIEMON: I didn't catch the five [phonetic].

I see.

MR. RIDDLE: Yeah. Okay. Any other questions or
comments on that part?

(No audible response.)

MR. RIDDLE: Okay, so that's really the substance
of the recommendation from the Board on how to address some
changes to the National List.
The next, Recommendation Number 2, is how to bring consistency and predictability to the commercial availability process, procedures to be followed by producers, handlers, and certifiers, so we just repeat the definition of "commercial availability" from the Rule and then go through determination procedures, and a change in this draft is that those procedures would fall under Subpart (e), Certification section of the Rule. We're not saying what number or creating a new number; we're just saying that it belongs in Certification Subpart (e). So that's a change here based on comments received.

Okay, at the top of the next page: A) "The applicant or certified operator must submit a written report to the certifying agent as part of the Organic System Plan or Organic System Plan Update that provides," and I am going to read through these:

Number 1) "A description of the ingredient and the required technical specifications of the ingredient, including form and quality";

"Estimate of the quantity of the ingredient needed within the specified time period if this is a factor in the requested allowance of a non-organic ingredient," and then in parens: "Quantity, quality, form, and function may be considered for individual product requirements and not for total business requirements for all potential
product lines."

And, Number 3) "Explanation of how the ingredient is used to fulfill an essential function."

So that's the information that the operator must include in the Organic System Plan.

And then, 4) "During the inspection, the application or certified operator must provide information concerning known sources of the ingredient and organic status thereof and provide written evidence of efforts to locate sources of organic ingredients, including the dates when potential supplies of applicable organic ingredient suppliers were contacted."

"Written evidence may include letters, faxes, e-mail correspondence, or phone logs of discussions with potential suppliers. A minimum of three potential suppliers shall have been contacted during the previous 12 months."

Rose.

MS. KOENIG: My question is in terms of kind of the way the Rule is presented, I mean --

MR. RIDDLE: If you can speak up, please, or closer.

MS. KOENIG: I'm sorry. I just don't see any section of the Rule that has this kind of descriptive requirements, so --
MS. CAUGHLAN: Proscriptive is really -- quite proscriptive.

MS. KOENIG: -- so I don't know if this is really -- you want them in the Rule or do you want a directive or I mean, this seems more like -- I mean, I appreciate the spirit of what you're trying to achieve, I have no qualms with, kind of, what's written; it's just placement in the Rule just seems a little inconsistent, I guess, to me, that there --

UNIDENTIFIED MALE VOICE: Well, I don't --

MS. KOENIG: It seems like there should be a format where you explain those things, whether it's a definition or a directive or --

MR. SIEMON: Should be a guidance (inaudible) --

MR. RIDDLE: Yeah, and I -- I didn't read through all of the background and citations from the Rule, to save some time, but some of that's explained there, and the language at the top, "Applicant must submit a written report to the certifying agent as part of the Organic System Plan on commercial availability," that fits with the Rule.

And we aren't saying what specific number or how it would fit, we leave that to the NOP, but we just recognize or acknowledge that it is the certification section, it's not the materials list section that needs
changed here, and maybe it can be addressed with a
directive or policy guidance, but it's a certification
issue and not a materials list issue.

Andrea, then Kim.

MS. CAROE: Well, I have somewhat the similar
concern as Rose on this, is that the Rule doesn't state
that you have to call three suppliers, and I think once you
say three suppliers, that's all you'll ever get, and a lot
of folks out there are doing a lot more to find those
organic ingredients, and I think it might be
counterproductive.

And also, telling the certifiers that the
inspector has to look at this, instead of them looking at
it through the application process, I think is getting into
their business; I think it should be broader and say that
"this should be evaluated by the certifier during their
certification process," but telling them to do it at the
inspection with the inspector I think is -- is: getting
into their business.

So some of this, I -- I agree that this is
founded in the Rule and that the Rule specifically states
that you have to -- as a user of a non-organic ingredient,
you have to justify the use of that ingredient with a
search for the organic ingredient, but this has gone a
little bit past that, and although it's great -- guidance
are a great -- a set expectation, perhaps, but I don't
think that we can say three suppliers and evaluate at
inspection and -- some of that is -- the detail may be too
much.

MR. RIDDLE: Kim.

MS. DIETZ: Just a bit of background on this.

These recommendations, really, have been in the industry
for probably the last three or four years and -- as a kind
of -- not written that you have follow this, but people
somewhat have been following it.

So the -- let me try to -- there were so many
things that you said, that I wanted to comment on.

So that I don't necessarily agree that this isn't
going to work, because as -- first of all, as a handler,
you're required to have in your handling plan a commercial
availability process, okay, so right now, if people don't
have what they do, they could, really, be in violation of
the Act. So that's the first thing. So this, I think, is
very fair for the handling/ processing groups out there to
follow, and we have been following it, in some sense.

The other thing is that you have to understand
that when you're out there sourcing ingredients, you don't
know you're going to be doing that when you submit your
application, this is something that's going to happen in
the field, so to speak, so you have to document what you've
got, you've got to have a system, and then you've got to follow the system. And so to me, having the inspector actually validate that you've done it is the right place to do that.

So those are my comments.

MR. RIDDLE: Mark, then Rose, then Andrea.

MR. KING: Yeah, I've been somewhat a part of this task force, and first of all, thanks for all the work, because I know a lot of time has gone into this, but one of the things you mentioned, Jim, that sort of caught my attention is Subpart (e), "We're not sure where this should go but we know it should go in the Certification section," and it seems to me that what we're attempting to do, in small part at least, is verify information through the inspection process.

So I don't know if at some point in the future we would want to consider that section verification of information, integrate commercial availability into that, I don't think that section totally does this document justice, but perhaps, as we talk about the inspection process, it could be inserted in there.

MR. RIDDLE: And the inspection process is part of Subpart (e) as --

MR. KING: Yes, in Section 403.

MR. RIDDLE: Right. So we're -- yeah.

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Basically, we're wanting to hand something to the NOP and --

UNIDENTIFIED FEMALE VOICE: Let them determine where it fits.

MR. RIDDLE: Yeah, from the Board. Let's see, Rose.

MS. KOENIG: So I guess just clarify on this Section (a), so is this for all ingredients, would a potential person have to --

MR. RIDDLE: All agricultural ingredients.

MS. KOENIG: All agricultural -- whether they're using organic or non-organic ingredients or all ingredients?

MR. RIDDLE: All ingredients used in a product labeled "organic."

MS. CAROE: The non-organic, this is for the non-organic, this is supporting the non-organic --

MR. RIDDLE: It's all agricultural ingredients used in a product labeled "organic."

MS. KOENIG: So even if it's -- even if you're finding organic sources, you would have to document --

MS. CAROE: No. No, not for the organic ingredients, not for ingredients that you find organic --

MR. RIDDLE: Oh. Well, no, you've got a certificate, you've got organic, you've bypassed this, it's
not applicable then, because you've already exceeded it. It's only -- yeah, it kicks in when you want to use a non-organic, but applies to all agricultural ingredients used in a product labeled "organic," not in a product labeled "made with," and of course not in one "100% either, it's irrelevant there, so --

Andrea, did you have something else?

MS. CAROE: Yes, I do. I just want to point out that ingredients are -- can be very specific. Say you were making a product that included spirulina as an ingredient, right now there's two manufacturers that I know of that do organic spirulina, just two. If you called both those manufacturers and they didn't have it available, would you not be in compliance because you didn't call three?

I mean, I think by setting a number, you're not understanding the scope of searching for ingredients. Sometimes the ingredients are quite available, other times they're very narrow, you know, you may be looking for a chocolate that freezes, for an ice cream bar, that's very specific, you know, I mean it's -- it's not necessarily -- I just -- I think the three -- I think once you use that on a certification level, that's -- it's just -- it's not always applicable.

And the other thing I want to say is that the Rule specifically states that a certifier must have enough
evidence, before they send an inspector in, that says this operation can possibly be certified, and the certification agency has the right to say, "We want to see that document for the sourcing of that ingredient" before they go in.

Now, if you -- you know, yes, it is the obligation of the on-site inspection to verify the information that was received in the claims that that operation is making, but you're specifically stating here that this is how the certification operation -- certification agent is going to operate, and I -- I just don't believe that we have the right to tell them how they're going to operate. You can tell them what needs to be done and what -- through the process, what you need to get out of it, but where it needs to be done, I think it's inappropriate.

MR. RIDDLE: Well, yeah, and I'd like to respond to that. The first point, on the minimum of three potential suppliers being contacted: that's not being changed in this draft; that was already something that the task force had agreed to in the prior draft. So we're not looking to change that, you know, right now.

And the intent is to bring predictability, so that you know if you have contacted at least three, it doesn't limit it to three, but at least three, then you have fulfilled a standard, that the certifier can't, you
know, change the rules on you at that point. It's to
provide consistency and predictability.

And yeah, maybe it's not appropriate/adequate in
all instances, but as a rule of thumb, that's what we're
trying to establish.

And on the -- yeah, on the other one, which is a
change being proposed in this draft, Number 4 there, that
was in response to comments, that the -- that this really
happens during the inspection, and I hear what you're
saying, that the applicant should submit the information on
the known sources of the ingredient and organic status
thereof in their organic system plan, and that should be
reviewed in advance of the inspection.

That's what we originally had recommended. And
then the commenter was saying no, that that really should
occur during the inspection, and on further thought, you
know, I'm thinking that maybe -- that during -- the
inspection, you know, part, should only apply to Number 5,
that that's when the inspector reviews the written
evidence, that -- that's something that happens on a daily
basis and can't be submitted as part of the organic system
plan, that's, you know, an ongoing process, the attempts to
source. It's not something that you do one day out of the
year, send in your plan, and you're done.

So I think that is appropriate that that be
directed to the inspection process, but Number 4, submitting information on the known sources of the ingredient and organic status, I think is appropriate to keep in the organic system plan.

So when the task force meets, I think we can talk about a change there. Mark, then --

CHAIRMAN KING: I was just going to say, I think this is really good dialogue and this is a good piece in front of us. It sounds like what we're really talking about here, if I may, is the difference between review of application and verification of information throughout the inspection process, and there are -- there are some ways to accomplish the same end through that.

So I appreciate the comments, and in about five minutes I'd like to wrap this up to stay on schedule, so --

MR. RIDDLE: Okay. Okay, so I think we'll continue that discussion in the breakout session.

B, which is really the steps that the certifier would need to follow in making these determinations, and, once again, to bring predictability and consistency to the process, so:

Evaluate the applicant or certified operator's claim that no organic substitutes are commercially available in form/quality/quantity needed by the operation to fill the required function;
2) Verify that the applicant or certified operator has made a good-faith effort to source organic ingredients;

3) Verify that the ingredient is not commercially available in organic form by reviewing the best-available information, listing known sources of organic ingredients;

4) Notify the certification applicant or certified operator of sources information which lists available organic ingredients if the certifying agent finds that such ingredients exist;

And then we're recommending in this draft to delete Number 5;

And then, moving on: Maintain and annually submit to the NOP an up-to-date list of ingredients that have been granted allowances in non-organic form, and then in parentheses: The list shall maintain the confidentiality of ingredients, suppliers, and parties granted allowances.

"The reporting requirement shall be implemented through the accreditation process by providing ACAs ample notification and time to adopt data-management systems," and that's a recognition that not all certifiers have the data-management systems currently in place. This is -- would be a new reporting requirement that will take some time to implement.
And then the rest of this remains as it came out of the task force: Require certified operators to update commercial availability information in each organic system plan update;

Acknowledge all complaints concerning allowances granted and provide rationale for determinations. If the investigation of a complaint provides significant new information, then the certifying agent must revisit the allowance; and

Require that products without sufficient documentation not be labeled "organic." Such products may be labeled "made with organic ingredients" if they meet all applicable labeling and product-content requirements for that category.

Any comments, questions on that part? -- and this is the last part. Andrea.

MS. CAROE: I -- as I voiced previously with this task force, I think Number 3 changes the intent of what the certification agent's role is. The certification agent isn't to take on the liability of the product. They are to verify that the justification provided by the applicant is appropriate. I don't feel that the certification agent's job is to verify that that ingredient is not available. They're verifying that the effort was due diligent but not that it's not available.
So -- I mean, I've said that before, and I really can't see that certification agents should take on that role.

MS. DIETZ: I think the same intent, she -- well, I think you're --

MR. RIDDLE: Kim?

MS. DIETZ: I think you're meaning the same intent that we are. We're not --

CHAIRMAN KING: Yeah.

MS. DIETZ: We're not saying you need to go out and verify that those are commercially available, saying verify the documentation --

MS. CAROE: But that's not --

MS. DIETZ: -- that's provided to you.

MS. CAROE: I mean, that's -- the one before that, Number 2, says "verify the good-faith effort."

I believe that is accurate.

MS. DIETZ: Right.

MS. CAROE: The next one says "verify that it's not commercially available." I don't agree with that. So I would suggest, once again, to strike Number 3.

MR. RIDDLE: Well -- yeah, and you're on the task force, and --

MS. CAROE: I know. I've said it before, though.

MR. RIDDLE: -- we have considered striking that,
and it's in the draft now, and in -- my sense is that in
order to determine if an operation is in compliance, the
certifier needs to assess not only the effort but also the
facts of whether those substances are at all available in
an organic form.

MS. CAROE: I disagree. I don't think that's
(inaudible).

MR. RIDDLE: This is an attempt to bring
consistency, and yes, there is a need for more information
on commercially-available organic minor ingredients to give
certifiers better tools to make those assessments, but they
need to actually perform some due diligence to determine if
the operation complies or not, besides just: whether they
made a good effort. Rose.

MS. KOENIG: Yeah, I hear Andrea's point. You
know, I look at this -- you know, there -- I guess it's
sort of like -- you know, not to go back to the List 3
inerts, but I will go back to them.

There's probably some ways in the future -- some
ways that the industry can develop these databases for
either -- you know, in this case it's manufacturers,
another case might be pesticides.

So I don't know if you want to -- you know, I
think maybe our efforts might be better placed: rather
than requiring this, is: working on and trying to
establish those kinds of lists and sources for certifiers
and acknowledge that people who are accredited certifiers
should be doing those kinds of things.

You know, I -- I think what Andrea's saying is
not that she opposes necessarily that -- you know, the
intent, I guess; it's just she thinks -- and I guess I tend
to agree -- that the format that it's in -- I think 3
probably does cover it.

MS. DIETZ: And we acknowledge that there is
really no place out there right now that has commercial
availability lists, so --

MS. KOENIG: Yeah. So, I don't know, I'm just
putting forth that it seems like in many cases that we're
showing that there has to be some kind of databases, I mean
similar to like what OMRI does in brand names, I mean there
should be databases used for reference. It's not a
requirement, again, but references so that people can get
those sources of information via -- I don't know -- NOP
website or what have you, so that there is tracking, and I
think that the USDA -- I mean, it's not their mandate to do
this kind of stuff, but they do have data-collection kinds
of things all the time, that maybe there could be some kind
of tracking --

MR. RIDDLE: Right.

MS. KOENIG: -- of the marketplace and what's
available.

MR. RIDDLE: Yeah. And I think --

MS. KOENIG: Not only, you know -- as a source
not only to help, you know, conventional, but also, if
there is organic, that really would be a great service.

MR. RIDDLE: I'd like to wrap this up, and the
task force will be meeting during breakout for just
fine-tuning this recommendation.

I did just want to point out that the rest of the
document explains -- summarizes some of the comments that
were submitted and how they have been addressed in this
draft.

And I also want to just point out: one of the
commenters said something in quite detail, that I encourage
you to read, and essentially advocating the removal of
commercial availability considerations altogether from the
Rule for minor ingredients, and if someone cannot find
organic ingredients in significant quantity and they can't
meet that 95-percent threshold, then the products be
labeled "made with organic," but just to take it totally
out, but that was contrary to the recommendation of the
task force, but I did feel obligated to mention that that
is another option and something which should be considered
and is addressed in these comments.

MS. DIETZ: And in closing, remember that we --
we have to have truth in labeling, so most of this is going
to happen in those minor ingredients, where if you have
something that's under 5 percent that you just can't source
-- take organic vanilla, for example, that's just right now
not available, or something like that, you're not -- and
you're going to label properly, whether it's a "made with"
label or an "organic" label (inaudible).

MS. COOPER: It's not like we're trying to cheat
the system, but --

MR. RIDDLE: Thanks, Ann.

CHAIRMAN KING: We thank all of you for helping
us stay on schedule, I appreciate that.

The next item on the agenda is new for this Board
in that it's a breakout session. The intent for the first
hour is to have three committees in a breakout, which would
be crops, livestock, and handling, those committees dealing
with materials.

It is at the chairs' -- the committee chairs'
discretion in terms of how they want to involve the public.

The ongoing goal here is to increase the level of
transparency and when we're reviewing it also confirm for
you that we do consider public input and that we do take
your comments when we deliberate and make decisions on
materials.

So I think at this point --
MS. DIETZ: I --

CHAIRMAN KING: Let me finish, one second. So it's at the chairs' discretion. In other words, the public perhaps may just simply observe and then at the end we could have a quick question-and-answer. We'll do this for one hour, then -- if the chair so desires, and then we'll do a quick break. Kim?

MS. DIETZ: A point of clarification with NOP. A number of the committees have to go back and actually make recommendations on materials. Is that something that we can have the public involved in, in deliberating and making recommendations --

CHAIRMAN KING: Observing.

MS. DIETZ: -- and observing? I mean, you know, we've got some materials that we have to take back, soy protein isolates and TSPP.

MR. MATTHEWS: Richard Matthews, National Organics Program. That's really up to the committee.

MS. DIETZ: Okay.

MR. MATTHEWS: The idea is that the committee would get together, go over the written public comment that was submitted prior to this meeting, plus what you heard yesterday during the public session, and that you would then rework your current position if you believe that there is a need for reworking, or you may come back and say,
"We're not making any changes."

Whether or not you take additional feedback from the public is really up to you.

MS. DIETZ: I just wanted to make sure we weren't violating anything.

MR. RIDDLE: Yeah. No, that's an important thing.

MS. KOENIG: I would suggest, though, in terms of process, that -- that the committee would formally recognize or ask somebody if that information is needed, that it's not the arena -- because it's really not fair, this is not -- this is not a section for public comment. If there's clarification, I think that, you know, it has to be a real specific issue, but certainly people can observe and listen.

CHAIRMAN KING: No, I think that's a really good point, and actually, I think primarily it is for you to observe. Occasionally if the chair wants to recognize someone or you have a pertinent point that deals specifically with that topic, you can make that point specifically, then that's fine, and it's at the chair's discretion.

MS. KOENIG: And then the only thing -- also, if the public is involved and the actual petitioner is there, I think that it -- well --
CHAIRMAN KING: This is at the chair's discretion, Rose, we'll let them decide that.

MS. KOENIG: Yeah, but I think there needs to be disclosure of anyone who is presenting -- who is -- if they are called upon, who they represent, because I think it's really important that we have some kind of process so that the committee understands who those individuals are.

CHAIRMAN KING: Okay, duly noted. Well, I want to see what Katherine -- then we'll go to Jim. Katherine, is that the sign-up sheet or the --

MS. BENHAM: The sign-in book -- that's for public comment, this is the sign-up book, so everybody needs to make sure that they sign in.

CHAIRMAN KING: This is sign in for today, as --

UNIDENTIFIED MALE VOICE: Attendance.

CHAIRMAN KING: -- as in "I've attended."

MS. BENHAM: Yes.

CHAIRMAN KING: Yeah. And you don't want to be on her bad list, so sign in now.

(Laughter.)

UNIDENTIFIED MALE VOICE: Is the sign-up sheet for public comments --

MS. BENHAM: Public comments out there too.

UNIDENTIFIED MALE VOICE: Out there too, okay, for tomorrow morning.
CHAIRMAN KING: Okay, and Jim, you had a comment.

MR. RIDDLE: Yeah. As I understand it, we're going to -- the crops, livestock, and handling committees are going to break out now, during this first session, before the break, and then after the break I'd like to meet with the 606 Task Force --

MR. CARTER: I'd like to meet with the policy development committee.

MS. COOPER: And I would like to meet with materials.

CHAIRMAN KING: Okay. So essentially -- it's almost 9 o'clock. This first session will go approximately 60 minutes, and then we'll take a break and come back and do the other stuff.

MR. MATTHEWS: For the record, Richard Matthews. I just want to clarify one thing. What I meant by: it was up to the committee chair is not that -- this is not a new opportunity for public comment; it would be strictly for maybe a clarification, somebody who had made a public comment, if you're wanting clarification you could ask for clarification, if the petitioner's there you could ask for clarification on something. This is not an opportunity for more public input.

MR. CARTER: So when Marty hands a yellow sheet of paper, is that public comment or clarification?
(Laughter.)

MR. MATTHEWS: That's probably public comment.

(Laughter.)

CHAIRMAN KING: Yeah, and I think Rick brings up a really good point. There is work to do during this session, so please keep that in mind and respect the interests of the committee.

So at this time let's go ahead and break out.

(Off the record and reconvened.)

CHAIRMAN KING: Welcome, hope you had a nice break, and thanks for your help during the breakout session.

We're going to start this off with Keith Jones, who's going to do a presentation, or an update, if you will, on the ECERT Program. ECERT, not Easter, Katherine.

(Laughter.)

CHAIRMAN KING: So if you could take your seats and get prepared, we'll get started here.

(Long pause.)

CHAIRMAN KING: Keith, it's all yours.

MR. JONES: Imagine, if you will --

UNIDENTIFIED FEMALE VOICE: You need to get near a microphone.

(Pause.)

MR. JONES: Folks, I apologize that our system's

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not going to let me be on the record. There's nothing that I'm going to say that's going to be of any sort of regulatory consequence, it's totally educational, you can take good notes, you can talk to me afterwards, you know, we'll make sure that you have the information you need, so --

UNIDENTIFIED FEMALE VOICE: Can you please get near a microphone? It's pretty hard to hear.

CHAIRMAN KING: Yeah, we couldn't --

MR. JONES: I can talk louder, how about that?

CHAIRMAN KING: Thank you, yes.

MR. JONES: All right. From the diaphragm, okay.

Okay, let's start over.

Imagine, if you will, a product supplier in Belgium wanting to source NOP product, an accredited certifying agent in California entering data real-time on producers and processors, and Item-S compliance, tracking also in real-time, compliance data related to non-compliances and trim lines in those non-compliances that are going on around the world. That's the vision of what I'm about to share with you this morning.

Multiple users entering data into a common database that would capture both regulatory information and compliance information for use on a real-time basis. Okay.

That is the NOP ECERT project, and I'm hoping that I can run this thing. Katherine? Okay, tell you
what, let me go back to the tried and true. Our vision is simply this: to supplement a secure, integrated web-based system for electronic collection, use, and dissemination of information that is required to be submitted under the National Organic Program regulations. Okay.

Real-time submission, access worldwide through a web-based interface, and utilizing data that we're required to collect anyway. Okay.

Now, we have designed this system with our first-line interface in mind, and our first-line interface, folks, is the accredited certifying agents, so we've designed this system with their needs in mind, and also AMS compliance. So that is the two primary user interfaces that the system's designed for.

Now, flowing out of that, because we're capturing this data, will be trade uses as well, which means that that purchaser in Belgium can eventually go online, source through our web-based source, and have access to every NOP product that is certified around the world. No other system will be able to combine both trade, product, and regulatory information.

Now, part of this will be proprietary, only USDA and accredited certifying agents will, obviously, have access to certain information related in the primary
interface. Okay.

The public side will be the trade side, where you, as an individual, can go in, type in a keyword, "potatoes," "corn," "soybeans," whatever, and outflow from that database will be a list of products that are certified with the NOP standards around the world.

One of the features that we are considering building into the system will be a distance measurer, because we know that people are very concerned about sourcing product as close as the location of their processing facilities, so one of the things that we're considering is doing, at least on the US side, a ZIP code search, where I, as a processor, could put in a ZIP code that says -- and my ZIP code in Virginia is 20121, I type that in, I click on "give me 150-mile radius," and then it spits out, based on ZIP code searches, products within 150-mile radius of my personal ZIP code. Okay.

Now, what I'm about to show you today represents the first build of this system, and let me tell you how we're putting this together. This system is designed to be modular in approach, we have contracted with a software developer, and what we are building is functionality over time. So what I'm about to show you today will not have all the features in it that I have just described, but I can walk you through what we can do today once we have the
system fully operational and then what our future builds will be.

Now, one of the things that you need to understand too is that one of the things that's going on in the federal government right now is a complete integration in US Customs departments' international trade data systems, and for some of you I had talked to about this project before, we actually expected to have it fully up and running this summer. That's probably not going to happen, because what has happened at AMS is that we have been tasked with ensuring that everything we do relating to software, data collection, and things like that, can integrate and interface with Customs ITDS project, okay.

ITDS, International Trade Data Systems, was kicked off back in 1995. It's designed to integrate all of the trade flow data and make more efficient clearing products through Customs. It has taken on an enormous urgency for Homeland Security, and so I, along with other AMS staff, are involved in looking at our systems to make sure that they integrate with ITDS, and that perhaps will slow down the full implementation of the project, so you just need to be aware of that. But regardless, what I'm about to demonstrate and show to you will be where we will be going, okay.

Now, as I said, the primary user — the primary
interface that we've designed is for ACA. ACAs are our eyes and ears on the ground. And I know you guys don't like to hear this, you are our agents on the ground, okay. You're the first line of defense.

So what we've done is designed this system for you, we've designed it to help you submit your data to us in an electronic common format, where you're not going to have to send paper to us anymore. We've also designed it and will design it to assist you in reporting non-compliances to us on a real-time basis so that we can begin to track trim lines related to various sectors of the Rule. Okay. So for the ACAs in the audience: this is really designed for you in mind. Okay.

Now, you will come to a site entry screen like this, and unfortunately, as I copied it off the website, we've got a number of marvelously gorgeous graphics that just didn't show up, okay, so there's some graphics up there, it's got AMS's logo, a little bar that says "National Organic Program Online Services," which is kind of what we're calling this.

So you're going to have a username and password. Marty, what do you want your username to be?

MR. MESH: I forgot my password.

(Laughter.)

(Cross-talk.)
MR. JONES: I'll tell you what I'm going to do, we're going to use Marty as a guinea pig and I'm going to -- for his username consider this: "I Cause Trouble Every Day," okay? That's his username, all right?

(Laughter.)

MR. JONES: And Marty, you'll have to pick out your own password.

UNIDENTIFIED FEMALE VOICE: (Inaudible.)

MR. JONES: Backing away from the facetiousness: An ACA will have a unique username that they'll set up, they actually go into the system and set that up. They also set the password up, and then that password can be shared by any person on staff that they feel like needs to have access to the system. We're not going to be dogmatic about security at that level, we feel like you need to make decisions on your staff as to who needs access to the system, okay? But you'll come to the system, you'll identify a username, and you'll be into the system. Okay.

You'll come -- as you come into the system, then, you will enter your data, okay? Now, we're going to have much of this data, address and phone numbers, so you will be able to say if it's a corrected address, a corrected phone number, in other words you'll be able to enter to us the latest information, because one of the things that we're noticing is that addresses and phone numbers...
obviously change over time, the address and phone number
that you gave us at the time of your accreditation may not
be necessarily the address and phone numbers that you're
using today. In most cases -- in fact, I can't think of a
case where you didn't update it, but you'll be able to
provide the latest information to us.

Now, I don't know how many of you can see the
bottom of the screen, but down in this area, this will be
information for USDA, so once -- and this actually,
unfortunately, says "certified" instead of "accredited," so
instead of "accredited," that's actually an error that the
contractor is going to have to go back and correct.

But we will verify this data, make sure it is
accurate, and then we will go into the system and make sure
that -- and in this case, this hypothetical case, this
individual's authorized for TM11 issuance [phonetic],
shipping to Japan [phonetic], they've been accredited for
crops, livestock, wild crops, and processed products.
Okay. So that sets the database parameters. Okay.

And then also it's got the creation of the file
date, any modifications in the date of accreditation.
Okay. That way we can keep track and determine
(inaudible).

Okay, now let's go to the certifying [phonetic]
client screen, and this is probably the most -- I think the
most interesting screen, and also it's going to be long-term the most useful. This will be the screen that the ACAs will use to update -- and I say update -- their client list.

Marty, let's assume you certified Tom, you signed off yesterday, you come to this system and you enter in X-Y-Z Organic, Tom Hutchison, address, information, and then one of the things too that the system will do is assign a unique identifier number to this client, okay? That way we'll be able to track the client throughout the system.

Now, I can't tell you what that unique identifier number is going to be yet, we're still going back and forth the contractor as to what makes sense in terms of using the identifier screen, whether it needs to be an alphanumeric screen, whether it needs to be something related to the certifier's name so that we can immediately identify it, we're still going back and forth as to what it's going to look like, but it will assign a unique identifier number.

Then you will click on -- and unfortunately, folks, we don't have web access today, so I can't show you a lot of the functionality, but you'll click on the status of Tom's operations, which at this point will be certified, you'll click on the operation type -- crops, livestock, whatever, there's a drop-down box there, that you can click
on what is being certified for, any -- or, I'm sorry, this
is processor and handler here, so this would be certified
producer and processor here, and then what the operation is
certified for, we just click boxes down in here.

UNIDENTIFIED MALE VOICE: I have a question.

MR. JONES: I'd like to hold -- the way I talk is
I'd like to hold questions till the end. I can go back
and --

UNIDENTIFIED MALE VOICE: I retract that last
question.

MR. JONES: I understand.

(Laughter.)

MR. JONES: I can go back and run through any of
these slides, and, you know, I'm here as long as I need to
be, I know you guys are on a schedule you need to stay to,
I've got this loaded on my system, if we want to gather up
afterwards and walk through it in more detail, I'm happy to
do that. So I'm here at your disposal, within reason.

(Laughter.)

MR. JONES: And then there's, of course, a date
creation, a modified date, and certification date, and
status change date. This status drop-down box here is
where you will go in and identify -- let's say you've
identified a non-compliance. There will be a drop-down
box, and this will be in the next build, it'll probably be

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over here somewhere, there'll be a drop-down box that says
"non-compliance," and then there'll be a drop-down box on
every section of the Rule, 205.404 (inaudible), whatever,
okay, and you can click on that, as the non-compliance, and
that will, when you click on that, autopopulate a common
non-compliance letter, that you will have the choice -- and
one of the things I do want some feedback on is whether or
not you would like to have this e-mailed automatically to
your client, if your client has e-mail access.

So essentially what you would do is you would go
to this screen, populate this on a real-time basis with
whatever data needs to be populated in the case that we're
just talking about, it's a non-compliance 205, let's say
.406, for whatever reason we want to use that. That will
autopopulate and bring you to another screen that will be a
common non-compliance letter, it'll have boilerplate
language in it that we have passed muster at OGC, and then
you will insert any applicable information that you feel
necessary, and then that letter can be sent either through
e-mail or you can print off and send it through regular
mail.

But we are considering the e-mail option. We're
trying to make this as electronic-focused as possible, as
paperless as possible, okay. Now, that doesn't mean you
couldn't get into the system and print off the letter for a
hard copy or something like that, but you would have the
ability to send a non-compliance letter by e-mail.

Another thing that the second build will do is
that once this screen is finished and completed, it will
autopopulate a common format certificate with standardized
language on it, okay. You can print that off at your desk.
So you fill this out, it will collect the information out
of the various fields, autopopulate into the common
certificate format, and you can print that out right at
your desk. Okay.

And really, as I summarize, what we're trying to
do, folks, is develop, as I said, an electronic system that
is the window to the NOP world, for regulators, for
traders, for ACAs. Okay. And we believe that within
relatively a short period of time, with -- hopefully within
the next six or eight months, we will have this system live
and operational, with the functionality that I just
described. Okay.

Now, software development within the federal
government is always a long and kind of laborious process
and it has taken on -- I want to share with you that it's
taken on a different kind of flavor now that we have an
emphasis on Homeland Security, because we have to integrate
with so many systems now, so you just need to be aware of
that.
But I hope what you can do, in walking away from this presentation today, is really two things: one, recognizing that we are -- and I know you guys don't believe this -- we are trying to make your life easier, okay, and we're trying to make it more efficient, the process more succinct, and the results more consistent.

And think, if you would, what this means for us in terms of enforcement, where we can look in a database that has non-compliances that's being inputted on a real-time basis, think what that does to us for our enforcement capabilities. We can begin to identify trim lines -- I go back to the 205.406 example. Let's say that over time we're seeing an enormous amount of non-compliances on this section. Well, that gives us some tips, either, one, nobody understands the section; two, it's poorly written, I mean there's reasons that nobody understands it; three, we haven't done an effective enough job in training on that particular section; or, four, maybe it's just not working on the ground, I mean maybe it's just -- there's just a disconnect with what's going on on the ground and the regulation, okay.

But can you see how having that data will help us make better management decisions and better enforcement compliances, and that's really where we want to be, is that we want to operate, folks, not on supposition, we want to...
operate on data.

And with that, I conclude my presentation.

Katherine, I don't know if I've got another slide in there or not. Yeah, just my contact information.

I'm happy to take questions, walk you through anything you don't understand. Thank you very much.

UNIDENTIFIED FEMALE VOICE: A question.

MR. JONES: Yeah.

UNIDENTIFIED FEMALE VOICE: Okay. Before that one where the non-compliance letter goes out --?

MR. JONES: Uh-huh.

UNIDENTIFIED FEMALE VOICE: -- directly, if it's a non-compliance letter that somebody's supposed to get information in within 30 days, if somebody in real-time, you know, sees this person is noncompliant but the real -- or certification process really isn't completed, it kind of almost puts like a black mark on this person. I'm not sure exactly what non-compliances you're talking about, minor ones as well as major --

MR. JONES: Well, you have to report non-compliances, okay --

UNIDENTIFIED FEMALE VOICE: And this is only major ones that --

MR. JONES: Yeah.

UNIDENTIFIED FEMALE VOICE: -- (inaudible)
suspension or (inaudible)?

MR. JONES: Yeah, ones that haven't been resolved, ones that you've tried resolving, hasn't been resolved. Now, keep in mind, folks, this is ACA data only. The world's not going to see this. That particular -- that particular screen -- that's why I said it's password-protected.

Now, what I didn't show you is that -- if we go back to -- if we go back to the trade side, what you will do on the trade side -- and this is not at all what it's going to look like, but you will just go in and say, "I'm looking for corn," and that would be a publicly-accessible data site [phonetic], okay (inaudible).

The ACA information that I've just described to you in the other screen, the only way that you get to that is through a password, which you will have, so the public's not going to see that. That's going to be ACA data, that's going to be USDA data.

I've got a lots of questions (inaudible).

UNIDENTIFIED FEMALE VOICE: I've got a question.

How would someone know if the client is currently certified, would it be that it creates a modified date? I mean, this is a continuation, they're certified in October 2003, then they get recertified again in November 2004. As an inspector, I have seen numerous times where someone has
been waiting six, eight months past when their annual inspection date is supposed to be, and still selling current product, switching certifiers. This also doesn't, you know, have anything to do with that either. There's -- the problem now with certificates is not really what's currently certified.

MR. JONES: Okay. Folks, certificates are good until suspended or revoked, okay? That's the way the regulation reads. They are good until suspended or revoked.

Now, the way you're going to keep track will be with the certification date, okay? This will change over time. The screen will also have a modification date, and every time you go and make a change to this screen, the database records the date that it is modified, okay? So we'll know, we'll know, we'll know every time an ACA makes a change (inaudible).

MS. SONNABEND: Is that modified date on the certificate that's automatically printing out?

MR. JONES: No. It'd be the certificate date.

MS. SONNABEND: Only that. So we wouldn't know if it's current, if they had had their annual inspection --

MR. JONES: A certificate is good until suspended or revoked, okay?

MS. SONNABEND: Are you going to be able to
MR. JONES: Yes. Great question, I'm glad somebody asked me. I'm ready for it. Okay.

The question is: are we going to be able to accept imported data? -- and the answer is yes. That was one of the first questions I asked the contractor, is: are we going to make certifying agents go back and recreate their lists? No. Okay.

And let me tell you what we're doing on that. You submitted to us 2003 data. You were required to do so. We have that. We've got it in lots of different formats. Okay, so what we're doing is we're going back and we are -- the program is taking that information that you sent to us and putting it into a Microsoft Access database.

In the not-too-distant future, probably sometime this summer, you will be receiving a letter from the program, that says: you will submit all data to us related to 205.400, .404, in this format, which will be a Microsoft Access database format, it will have the fields laid out, how we want the fields, because what we're going to do then is just take and capture that data when you send it to us and import it into the system.

So what you're going to be doing, Zea, is essentially you're going to be using this screen to update at the margins, okay?
MS. SONNABEND: If you're going to already take our list and give us our list back --

MR. JONES: Yeah. We're going to take the 2003 data that you've sent us, okay, and, like I said, this summer we're going to send you -- it'll be an Access file, we'll actually send you the file, and say -- and say to you: we want the data imported into this system, okay, so you will -- if everything works the way I hope it does, we will already have 2003 data in place, you will then send us the difference at the margins between the 2003 data and the 2004 data. Everybody understand what I'm saying? The marginal difference between the baseline database and then the database that exists at the end of calendar year 2004.

UNIDENTIFIED FEMALE VOICE: I see a field up here that says "Notes," but I don't see a field that's specifically designated for the crops or the products that are being certified.

MR. JONES: Excellent question. Excellent question. The next build that we will do is these will have drop-down boxes, okay? The reason that build number one didn't have drop-down boxes is that we -- I confess to you, folks on the crops and livestock side, it's pretty easy to come up with the nomenclature for certain products, okay, you can use census data nomenclature and things like that.
The difficulty, and the reason -- (inaudible), that's an excellent question. The reason we -- at the time that we made build one, it just didn't have any drop-down boxes, is that that actually forms the basis of the searchable database. So whatever you use as a search screen -- or a word here, okay, impacts how you'll be able to search, and it's particularly -- one of the things that we're still wrestling with, and I will tell you that both our software developers and myself don't have good answers for, is what we do on processed products [phonetic], because we've got accredited certifying agents that are certifying clients that have got 3,000 SKUs for processed products, 3,000 SKUs for processed product, okay, and I don't -- neither the software developer nor I have been able to come up with what would be the appropriate drop-down box there for somebody that might have 3,000 (inaudible), okay.

So there's a data question there that we're still wrestling with. I think we've got -- we've got the crops, livestock, and wild crops nailed, because I think we (inaudible), okay, but the process -- nobody's -- nobody's ever really tried to track products at this kind of level [phonetic], so (inaudible). (Inaudible)?

UNIDENTIFIED MALE VOICE: You said that the USDA and the federal certifiers [phonetic] will be the only

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people that have access (inaudible) because of your relationship (inaudible), if the National Security Agency or IRS comes to you and says, "I'm investigating Marty Mesh" (inaudible), you'll have to make that data available?

MR. JONES: Sure. I mean, this data -- when I say this is between the USDA and the ACAs, obviously any other federal agency would have access to it too, so that if there was a criminal investigation or something like that, we would share that. My point, then, is that this screen, these screens, are not available to the general public.

UNIDENTIFIED MALE VOICE: How much did you pay for the software?

MR. JONES: Well, the first bill was 25,000.

UNIDENTIFIED FEMALE VOICE: (Inaudible)?

MR. JONES: I actually don't know. Folks, now -- I mean, keep in mind, folks, software is a (inaudible), it's based on functionality, okay, and -- and one of the things too is that we were able to build it as cheap as we were, as they were, build it, is because we took a lot of the source code -- (inaudible) you can understand this -- we took a lot of the source code that existed for a program that AMS Fruit & Vegetable had and modified the existing source codes. So the fact that we only spent 25,000 on this first bill is solely related to the fact that we're...
using multiple -- or we're using a common source code for multiple functionality, and so we're trying to build it as cheap as possible.

But when you look at software, each additional function has a cost, and some (inaudible) as you go up in functionality, you know, and of course I'd love to have all the bells and whistles you can possibly put on it, with software development, the marginal cost actually increases with functionality. In other words, I can build the first module for 25,000; the next module, because I want to add additional functionality, it may take me $45,000 to build the next module -- and that's just hypothetical, I mean that's not -- I don't know what we're going to spend, but what I want you to understand is that as you build functionality, costs increase.

So we're still figuring out what's the best bang for the buck so that we don't go overboard in functionality but that we deliver the kind of services that you -- that you expect and need.

UNIDENTIFIED MALE VOICE: (Inaudible) things we've discussed in other contexts, been discussed here at the Board, is that when a certifier -- when a certifier permits a client to use a non-organic ingredient because an organic ingredient is apparently not commercially available, or if a certifier lets a grower use a non-
organic seed because that equivalent variety is apparently not commercially available, we've been talking about the benefit of having this data come in, and a certifier records this, "on such and such a day I allowed a grower to use X-Y-Z seed because organic was not commercially available," same thing with an ingredient. Is this the kind of thing that you envision coming into this system? It seems to me this would be an excellent conduit to (inaudible).

MR. JONES: It actually is, Dick, and I'm glad you brought that point up, because we actually think that over time, if the ACAs are doing their job and are updating this on a real-time basis, then you can go onto the public side, and let's say you want to see if, I don't know, a spice is available, or an ingredient, or something like that; if the ACAs are doing their job on a real-time basis, you ought to be able to find whether or not that particular ingredient is indeed available, you know, NOP (inaudible), okay.

So the seed side, Dick, is a little bit more difficult, because I think when we have -- and I'm not saying we wouldn't do this, but I think we might have to build another screen in for commercial availability issue related to seed, but on the ingredient side, maybe not, because the ACAs would actually -- if it's a seed producer,
they could put that information in, and so if I was looking for a variety of a seed -- I'm thinking off the top of my head here -- I'll think about it, but it's a good point.

UNIDENTIFIED MALE VOICE: And what you said was that if the ACAs are keeping track of all the things they've certified --

MR. JONES: Yeah.

UNIDENTIFIED MALE VOICE: -- then there would be a list of what's available --

MR. JONES: That's my bottom-line point, is that if the ACAs are doing their part and updating this on a timely basis, then this database that outflows from this data collection should be the most accurate information available about the universe of NOP-certified products anytime, in the world.

UNIDENTIFIED MALE VOICE: What about if a supplier thinks that people are using a non-organic version -- an inorganic ingredient, then what's to know who is allowing the non-organic version to be used, or is it being allowed (inaudible)?

MR. JONES: That's a level of complexity -- I'd have to think about that. I mean, that gets in -- as you can see, you can sit for the next 20 minutes and think out all kinds of functionality you'd like to see in this thing, and, okay, I can, you know, do this and I can make this
data go this way and things like that, because functionality and -- sometimes the cost of functionality increases, we're going to have to decide how best to handle some of those issues, but your point's well-taken. We've identified the system as a way to get to some of those issues.

Let me get to Leslie, she's had her hand up for hours [phonetic].

MS. ZUCK: Thank you. You (inaudible) categories, and a lot of us have our (inaudible) PRS [phonetic] categories, is that what you were talking about, PRS, is that organic (inaudible)?

MR. JONES: Yeah, Kathy and I have actually -- Kathy and I talked about this. To put everybody's mind at rest: I actually do talk to a lot of people within the government. (Laughter.)

MR. JONES: And Kathy and I have consulted closely on this --

MS. ZUCK: (Inaudible.)

MR. JONES: Yeah. And one of the things that -- in fact, Kathy and I had a meeting just the other day, and let me tell you what the problem is, Leslie, in terms --

MS. ZUCK: Because you're dropping a drop-down box. A drop-down box, you can only (inaudible) --
MR. JONES: That's right. And if those categories are too broad -- I mean, Kathy and I have talked about this: if the categories are too broad, then Kathy doesn't get the stratification that she needs to sort out --

MS. ZUCK: (Inaudible.)

MR. JONES: -- and I don't think a trader would either.

MS. ZUCK: (Inaudible.)

MR. JONES: Okay. I mean, a trader needs very precise stratification, okay, and that's -- that's the big dilemma with process side, is: what is this -- what is this dividing line between the right amount of stratification -- you know, giving enough data to traders where they can make a trade decision based on a product (inaudible) see if it's really available -- as opposed to just having, you know, a list of products a mile long and somebody's got to scroll through (inaudible).

MS. ZUCK: Well, my most important question is -- (Laughter.)

MS. ZUCK: Has it come up at all that -- where -- I -- the Rule doesn't require us to report individual process (inaudible), it requires us to report whether we certify (inaudible), products, but I guess handling, I'd like (inaudible) --
MR. JONES: Here's what we think's going to happen on that. I mean, if we --

MS. ZUCK: I mean, I'll do it, I just --

MR. JONES: Well, and here's what we -- here's what we think's going to happen. I personally believe:

why (inaudible).

MS. ZUCK: Well, some people might not, and that's what I'm saying.

MR. JONES: Okay.

MS. ZUCK: And you're saying it's a required field, we have to fill it out, but it's an ACA -- and some ACAs are saying, "I don't want to fill this out."

MR. JONES: But here's what we're going to do, okay? We want this system to work, and if we need to make a reg -- we don't want to have a heavy-handed approach to this, but if we need to make a reg change to get the quality of data that we believe is needed, we would look at that, okay.

MS. ZUCK: (Inaudible) not required.

MR. JONES: No, it's a fair -- it's a fair (inaudible).

UNIDENTIFIED MALE VOICE: This is less of a question, more of a request or a comment, from a certifying agent's perspective, where I think we can -- as certifying agents, we all have our own current data systems, and what
you're trying to do is standardize the way we, as
certifying agents, track document data (inaudible) certify,
which I think is a great role [phonetic], but (inaudible)
common nomenclature and what fields are being defined.

That's really important for us in terms of being
able to easily import our data from our existing systems
into yours. So I request that as you guys, working with
your software developer, pin down, "these are the fields we
know we are going to request of you guys, and this is the
nomenclature we are going to want you to use," let us know
so we can kind of develop our system to --

MR. JONES: I have got -- if it would be useful,
I have actually got -- it would have to go out as draft,
because it's still a discussion document between myself and
the software developer, but I could give you a draft of
what we believe the database fields will look like at the
current time, and that would be useful. If I could get
that to you -- it'll be the middle of May by the time I get
back to the office, but I can get that to you, if that'd be
(inaudible).

UNIDENTIFIED MALE VOICE: What would be most
useful is once you've made a decision: this is what it's
going to be, so that then we've (inaudible).

MR. JONES: Well, I can tell -- I mean, when I
send that draft out, I can tell you that that is the result
of the best professional judgment of both myself and the software developer on (inaudible). Now, we have not gone back to the software developer and said, "Okay, build this into the system," we haven't made that decision yet.

UNIDENTIFIED MALE VOICE: You're selling this program very much to us as a service-oriented approach for traders and not only to identify certified products but also availability, which is another feature in the program, and what I not hear about [phonetic]: will that be mandatory, for ACAs to use that program? -- because what you said, this is a service offered for you to work with and lend the service of (inaudible), but on the other hand, I understand that the Custom authorities will have the possibility to check, you want to get the data out of it, you want to check. So will it be mandatory, then, at the end?

MR. JONES: Well, this system is what we will be requiring ACAs to use. This will be (inaudible) --

UNIDENTIFIED FEMALE VOICE: (Inaudible.)

MR. JONES: Yeah. I mean, if you're a USDA -- if you're a USDA-accredited certifier -- and the reason for that is exactly the issue that was brought up, okay. We are required -- I mean -- and let me -- let me tell you what we went through -- I know you guys have got your hand up, and I'll get to you in just a second.
We went through a very sophisticated process, kind of wrestling with the service side of what we were going to do, and as I sat down with the -- with the software developer, it became very apparent that we could never write software programs to input un-data [phonetic] for uncommon systems [phonetic], that what we had to do is to build a system, essentially build it around a Microsoft Access database -- and assuming everybody's used Microsoft Access -- build it around a Microsoft Access database and then say: this is indeed the system, okay, this is what we're [phonetic] going to have to use.

Now, we believe that there's so many benefits around it, in terms of real-time data submission, trade availability, not only for that but also just for our ability to track -- track compliance issues related to it, that at the end of the day, everybody is going to be using the system without a lot of grumbling and complaining and that kind of thing.

I mean, I have -- I have not demonstrated -- those of you who might have been in the (inaudible) in February, I actually demonstrated the program to folks there. I haven't been in a setting where people didn't walk away saying, you know, "this thing's really slick," "this is really going to make our life easier," okay, "you guys are doing good work," you know.
So I hope that that's the sentiment that we continue to find, because, like I said, the presentation that I made before, that was (inaudible). Merrill?

MS. CLARK: (Inaudible) and certifiers (inaudible). Are producers going to be (inaudible)?

MR. JONES: Producers won't even need to get into this system.

MS. CLARK: They don't need to get in.

MR. JONES: They don't even need to get in it.

UNIDENTIFIED MALE VOICE: I don't know why they would even want to get in it.

MS. CLARK: (Inaudible) for certifiers' information (inaudible) --

MR. JONES: Well, but keep in mind, Merrill, this is going to -- this is going to be used -- this is going to be used for enforcement functions, okay? In other words, we couldn't let certifiers have access to the system because they could go in and click and -- you know, a certifier could write up a non-compliance, a producer could go in and click and say: no, non-compliance doesn't exist, you know.

(Laughter.)

MR. JONES: Okay? I mean, that's not going to work. Okay. So I cannot envision any scenario where you would want a producer in the system.
UNIDENTIFIED MALE VOICE:  (Inaudible.)

MR. JONES:  Maybe.

CHAIRMAN KING:  Well, Keith, and what about if a producer is trying to select a certifier?

MR. JONES:  Can I --

UNIDENTIFIED FEMALE VOICE:  Keith, I -- and maybe you haven't thought about this, but we have a number of producers who would not want their -- they wouldn't mind their name and address being listed in the (inaudible), but they're growing crops under contract, they're doing all direct marketing, they don't want to have their crop mix and stuff like that go into a trade source --

MR. JONES:  Public release of that information will be optional. As an ACA, you will need to require, okay, or you will need to ascertain from your clients: do they want their name, address, and phone number showing up (inaudible). If they don't, that's their choice, okay, because they've made it. They may say, "My trade" (inaudible) "are just fine, I'm happy" (inaudible), and so (inaudible). So that would be your interface with the ACA.

Marty.

MR. MESH:  The -- multiple users can log on.

Will there be a record -- (inaudible) logged on (inaudible) the data on our system, who that was? I'm concerned that --
MR. JONES: So you would want to track it at the staff level?

MR. MESH: Well, I'm asking if that's an option (inaudible) --

MR. JONES: Yeah, we can --

MR. MESH: (Inaudible) our staff entered in --

MR. JONES: Yeah, we could build -- we could build a build -- I mean, if that -- if you thought that was useful, that wouldn't [phonetic] be hard to do, is to build a field for staffing issues as we modify the data set [phonetic], okay, and that might be useful -- I don't know that that's useful for us, because the only thing that we want to know is: you came into the system on April 29th, 2004, and you modified it. Okay. Now, at your management level --

MR. MESH: We want to know who wrote that (inaudible).

MR. JONES: -- you might want to know who (inaudible).

MR. MESH: And then my other follow-up question -- boy, is this slick. (Laughter.)

MR. MESH: -- is: on the drop-down field for certification, you said you can choose one, but many times (inaudible) crops, livestock (inaudible), handling all on
the same operation?

MR. JONES: You can choose multiple [phonetic],
the way that's going to work. In other words, if they're
both producers and processors, yeah (inaudible). We've
actually thought about some of this stuff.

MR. MESH: Boy, are you good in making our life
easy.

(Laughter.)

MR. MESH: If we could only [phonetic] read this
and some of your directives (inaudible).

(Laughter.)

MR. MESH: We could even keep it organic.

(Laughter.)

MR. JONES: Okay, I know we probably need to wrap
up, so --

UNIDENTIFIED FEMALE VOICE: Thanks, Marty.

MR. JONES: -- Mark, you had a question?

CHAIRMAN KING: No, I was just going to follow
up, I was saying if a producer was going to actually choose
a certifier -- I understand why they wouldn't have total
access to the system, but could they go in and find out:
oh, by the way, there are now 72 accredited certifiers in
North America -- I'm just using an arbitrary number -- and
then, you know, similar to what you were talking about in
terms of close proximity geographically in terms of
sourcing something, could they look at that? I mean --

MR. JONES: Yeah, I suppose. I mean, once we --
it's a database question, Mark, but we could create a list
of accredited certifying agents and do a ZIP code distance
comparison, at least with domestic producers. So I could
put in my ZIP code, 20121, and come up with a list of
certifying agents 150 miles from my location, okay. We --
that's doable, you know, and I -- if people have got ideas,
I'm -- I want to hear ideas, if you've got ideas that.

Again, I also want to make sure people understand
that, you know, software development is not inexpensive, we
did this very cheaply, very cost-effective, but the reason
we did it is because we're sharing source code. When you
have to go out and write new source code, it becomes fairly
expensive, okay?

But I don't want to lose good ideas, that's why
I'm making this presentation this morning, is that if you
guys have got ideas, I want to be able to record those and
then kind of sift through those, as to what might make
sense in terms of the next build.

Okay, folks, I appreciate it. I'll be around
later on, if you've got other questions, I'm happy to sit
down and talk to you. Thank you.

CHAIRMAN KING: Thank you, Keith. Thank you very
much. In light of the fact we're a little bit behind

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schedule, I think what we'll do in order to give sufficient
time for the compost tea task force report, we'll move that
till after lunch, we'll go ahead and recess for lunch,
starting promptly at 1:30, so please be back here
accordingly.

(Off the record at 11:45 a.m. and reconvened at 1:11 p.m.)

CHAIRMAN KING: I'd like to officially reconvene
the meeting of the National Organic Standards Board.

We'll deal with the morning agenda item of
presentation of the compost tea task force. Rose Koenig
will have it up on the screen, and we'll discuss that.

And if you'll note in your agenda, there is not a
specific order in terms of the committee recommendations
noted, so I'd just like to read into the record:

We'll be taking the following committee order
this afternoon, for those of you who are interested:

We'll begin with the materials committee, which
will just include discussions of the reports there.

Then Andrea's committee, accreditation and
compliance will follow.

Then we'll go into crops committee, handling
committee, followed by the livestock committee, and then
we'll finish up with the policy development committee. So
that's sort of --

UNIDENTIFIED MALE VOICE: 606 Task Force, where
would that fit? (Inaudible)?

CHAIRMAN KING: Yeah. It was policy, handling, compost. So the 606 Task Force report will be presented under the policy development committee.

Rose, it's your baby.

MS. KOENIG: Okay. This time I don't have to do 40 slides in five minutes, so I get to shine. Actually, I'm going to -- why I'm standing up here --

The task force went through many changes of authority over time. Eric Sideman, who was a past NOSB member, co-chaired the committee with Dennis Holbrook, and myself and Owusu were the individuals that -- from the Board that were actually on the committee, Owusu taking -- Dennis Holbrook being the other co-chair, and then Owusu being the crops chair, both kind of played major roles; and then Dennis resigned from the Board, so I became, at the last moment, able to get some credit, becoming new chair. I guess that's the best chair you want to be, is at the last moment, after all the work is done, you get to gain a new title (chuckles). So now I'm co-chair.

And then Owusu was supposed to do this first half of the presentation today, and he could not make the meeting, so I've asked Zea to kind of be my sidekick, because she was a member of the compost tea task force, and I've indicated to her that, you know, if there -- comes to
a point, especially in the sections that Owusu was going to
cover, if she can help me, if there's any questions or
things that I'm missing, she may come up to the podium and
kind of add some additional information, so just to get you
understanding kind of the process and why we're doing it in
that order.

So, Ann, the -- it's actually tea 2, t-e-a 2. I
can kind of go into the general information too, as we're
getting started. You can go to the next slide. Okay.

Now, the Board all has a copy of the
documentation, and I'm going to summarize kind of that
documentation, but I do encourage everyone to actually go
through and read the finer details, because a lot of the
literature that's cited -- I mean, I'm going to talk about
some of the implications of the literature, but I'm not
going to go into them, but the citations are there.

And then for those who are even extremely more
interested in the subject, you could actually -- there's a
bibliography and you could actually get some of the
publications.

And additionally, to those in the audience: the
complete copy of the report came onto the website a little
bit late, but it is there, so you can access that.

So one of the first questions: why did -- you
know, why do we have a compost tea task force? Well, one
of the things that was recognized, that there was --
there's a wide usage of compost tea by organic growers but
there is a lack of uniformity in the regulation of compost
tea by certifying agents and the Board felt there was a
need to clarify regulations regarding the use of compost
tea, and if we all remember -- next slide, sorry, Ann --
when the original compost tea task force looked at a number
of issues involved around compost, including making
recommendations of alternative methodologies for making
compost, almost vermicomposting, and there was a section on
compost tea that could not really be resolved, so the
compost tea task force was initiated to really do further
investigation of compost tea, and that's why the task force
was -- was extended: to really look more specifically at
the implications of compost tea.

So there was a need to investigate scientific
data regarding human pathogen issues, and many certifiers
and organic farmers expressed concern about the restrictive
natures of the NOP's ruling of treating compost tea as a
raw manure.

So in other words, you know, practitioners out
there utilize compost tea for a multiple of uses, including
nutrients, plant pathological properties, pest control, and
they felt that following the 90-120-day restriction on raw
manure would really not produce -- you know, not enable
them to use compost tea for the properties that they're using it for. So next slide.

Some of the compost tea task force members -- well, Eric Sideman, again, was the chair. He was the next NOSB member. Dennis Holbrook was the co-chair, but he has resigned. Owusu Bandele is an NOSB member. Will Brinton from the Woodin [phonetic] Research Lab; Esper Chandler, Texas Plant & Soil Lab; Steve Diver was a representative at ATRA and he has expertise in compost tea; Clive Edwards was from the Ohio State University. Next slide.

Elaine Ingham, Soft Food Web [phonetic], Incorporated. Myself, member of the National Organic Standards Board. Fred Magdoff, University of Vermont. Pat Milner, USDA, the ARS division. Steve Scheuerell is from Oregon State University. Zea Sonnabend represents CCOF, California Certified Organic Farmers. And Larry Zibilisk, I don't know -- I'm not sure what his -- USDA, ARS. Next.

And we just want to have special recognition to Eric for chairing, and also Dennis, the compost tea task force, in keeping the committee on target, Eric really did a great job; and Steve Scheuerell for the massive amount of work, he really took the lion's share of work to prepare the document and do all the editings of the drafts and completing the final document. Next.

So the areas of expertise that the task force
covered was organic farming practices and certification, some of the members had expertise in compost, some had expertise in compost tea production and analysis, some had plant pathology backgrounds, horticultural and soil science, some of our members had EPA pathogen regulation expertise, food safety, and environmental microbiology.

So basically we felt that, you know, one of the great things about the task force was the diversity and the -- really, the high levels of expertise that the task force members had, and one of the challenges, I think, was the fact that we had people with such, you know, expertise and really were committed, because there definitely were different viewpoints, especially when it came to the human pathogen aspects of the studies, and some of our recommendations you'll see at the end reflected kind of a -- I think -- a learning process and a collaborative effort to try to take diverse views and really fuse them into a regulation that we all could agree with.

And I think it's noted on a further slide that Owusu (inaudible) but I can let you know that 11 of the 12 members supported the compost tea task force report as you see it. There was one member who did not vote in favor of the task force report. That member agreed with the recommendations but did not agree with some of the scientific data and scientific analysis that was expressed.
in the report, and that individual has been encouraged to
do public comment to the Board on that minority opinion, so
you will be likely seeing that.

The member requested that I kind of forward that
information to the NOP prior to the meeting, but I just did
not feel it was my role to do that. So because we're not
voting on this report at this meeting, I will encourage
that member to put it in a format that they're comfortable
with and take more time to kind of detail that information,
but we look forward to seeing that minority opinion.

MR. RIDDLE: Did that person vote against or
abstain or do you have --

MS. KOENIG: It was against --

MR. RIDDLE: Against, okay.

MS. KOENIG: -- the report as it stood.

MR. RIDDLE: Okay. Thanks.

MS. KOENIG: Okay. So if you go through the
report, there are some definitions, to give you a frame of
reference in terms of the information that's in the report,
and I'm just going to highlight some of those definitions
today. Well, actually, Owusu was going to highlight those.
These are the ones he picked out, that he thought was
important for you to develop a framework for this
presentation.

So "composing" is: A managed process in which
organic materials, including animal manure and other residues -- I guess -- are decomposed aerobically by microbial action.

"Thermophyllic composting" refers to: A time-limited self-heating process in which heat generated by microbial respiration is retained in the mass of a pile or (inaudible) such that vulnerable pathogenic microorganisms are destroyed. Next.

And we just wanted to acknowledge that "compost" is defined by the NOSB task force, and this was presented in the 2002 Task Force Report that was submitted to the NOSB from the original compost task force, of which some of the members overlapped to this compost tea task force.

They define "compost" -- in addition to that described in Section 205.203(c), so we're not saying it replaced it, but it was a broadening recommendation of the definition of "compost" -- as "Acceptable if it's made only from allowed feedstock materials, except for incidental residues that will not lead to contamination; 2) the compost undergoes an increase in temperature, to at least 131 degrees Fahrenheit, and remains there for a minimum of three days; and 3) the compost pile is managed to ensure that all feedstocks heats to the minimum temperature."

The reason why I included that definition was that the report -- in other words, when it speaks of...
compost, it -- the recommendations are not only based on
the "compost" definition that's in the Rule but also on the
compost task force recommendation for the broadened
definition of "compost."

So here in the report, and as I'm doing the
presentation, again, we're considering a broad definition
of "compost."

Okay. "Compost extract" is: Any mixture of
compost and water, additives, and adjuvants that is not
held for more than one hour before use. Compost extracts
lack sufficient holding time for microorganisms to multiply
and grow significantly."

So in other words, if you, you know, take a
handful of compost, throw it in a bucket of water, mix it
up, and spray it before -- in that holding time period,
less than an hour -- no more than one hour before use, it's
defined as "compost extract."

"Compost leachate" is: Liquid that has leached
through a compost pile and collects on the ground, compost
pad, or collective" [phonetic] "dishes, puddles, and
ponds." It doesn't sound like a very good thing. Okay,
next.

"Composting additives" are: "Materials separate
from compost and water, that are added in the process of
making compost tea, that are presumed to sustain and enrich

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microbial growth. These are distinct from spray adjuvants, that are tank-mixed immediately prior to application of compost tea.

Examples include, but are not limited to, the following: molasses (inaudible) extract, fish-based products, kelp, and green plant tissue. Next.

And then a "manure extract" is: Water suspension containing raw, non-disinfected manure when the suspension is maintained for several hours or more, is sometimes referred to as "manure tea."

So in other words, when we talked about the compost extract: the manure is grabbed, thrown in a jug of water, and basically made into a soluble form. Next.

A "pathogen" is: A microorganism capable of causing disease or injury, used to refer to plant or human pathogens. Next.

And then "spray adjuvants" are: Any material added to compost tea immediately prior to application of compost tea. These may include materials that are designed for wetting and sticking agents, plant nutrients, and those materials that sustain and enrich microbial growth but, because of short time frame between addition and application, there is a very low probability of multiplying undesirable microorganisms in the spray tank. Next.

And then "vermicomposting," as it's defined and
used in the document, is: A process of worms digesting organic matter to transform the material into a beneficial soil amendment. And basically, if you look in the compost task force report, again, there are different time intervals, which I'm not going to read off the slide, and temperature and methodologies that must be met to meet the vermicomposting standard. Next.

So, you know, the environment that we were working in, in terms of the task force, was that compost tea practitioners have developed a wide array of compost tea production practices for both -- the majority for plant disease and/or fertility management.

However, there are relatively few peer-reviewed studies that exist for compost tea production and use, and this is where the compost tea task force had to, you know, deal with looking at what literature there was available and also what experiments that had been conducted but hadn't yet been written up in peer-reviewed publications, to again come together with that information, to present a recommendation that would satisfy the requirements of our task. Next.

The original, again, compost tea task force recommended that compost tea be allowed but no sweeteners, which means molasses, and those other additives, were to be added.
The National Organic Program ruled that compost tea should be treated as raw manure regarding the 90- to 120-day waiting period, and I explained that earlier.

And then a number of organic farmers and certifiers believe that this interpretation was too restrictive in terms of how practitioners were using it and their real reliance and perceived need of this material in their organic farming system. Next.

So we approved the establishment of this task force at the November 2002 meeting. Our -- the membership of that task force was determined by the original -- you know, Eric and the chairs at that time and was set on May 1st, 2003. The initial conference call was held on May 9th of 2003, and -- actually, Owusu made a mistake in this -- the final draft was approved on April 6, 2004, with 11 in favor, 1 opposed, and 1 unavailable, and I explained that issue just prior. Next.

In our report, the compost tea task force attempted to distinguish between the practitioner-based knowledge -- in other words the practice and what farmers are seeing, usually anecdotal information -- versus scientific knowledges, that is supported by controlled replicated experiments.

And, again, because like many, I guess, inputs and aspects of organic farming systems, a lot -- there
hasn't been a whole lot of funding given to land grant
institutions to this type of research, so we want as a
group to acknowledge kind of the practitioners, the
observations and, you know, kind of hands-on science that
farmers are doing, but also we needed to balance that with
whatever scientific data that we could obtain.

A major concern of the compost tea task force -- and if you look at the -- you know, read the whole document -- was the potential for human pathogen contamination of edible plants, as regulated by the Final Rule, Section 205.203, and this really was the impetus and the reasoning of why there had to be, you know, concern about this product. You know, if there wasn't a human pathogen issue, I wouldn't be standing here doing this presentation today, it would have been something that the Board could have probably wrestled with more -- a year ago.

So, basically, a lot of the discussion and the presentation of the research focused on the human pathogen component or issue involved in compost and compost teas. Next.

So I want to go a little bit through the methods of production, just in case people are not familiar with it, but basically, methods do vary, because there's farmers who are making their own setups on their farm, and -- and then there's -- companies are actually selling units
[phonetic], so the technology is very diverse. But water is the primary component, and the compost that's used is the next largest component. Compost tea can differ regarding that water/compost ratio. It also can differ based on whether somebody's putting in supplemental nutrients, or, like I said, molasses or those -- those additives, and also the level of dissolved oxygen, whether -- to what degree it's aerated, if it's aerated at all, those types of issues.

And there are -- again, commercial and homemade brewers are used, so, again, there's a great variability of the methodologies, the inputs that are used into the tea, and the recommendation needs to kind of encompass all that variability. Next.

Typically the ratio is 1 part compost to 10 to 50 parts water. A porous container is used, aeration is achieved via a direct air injection or recirculation of water for 2 to -- 12 to 24 hours, and often compost tea additives are used to enhance the microbial proliferation, and typical additives include molasses, yeast extract, and algal powders. Next.

There are also passive aerated systems, which usually are 1 part compost/3 to 10 parts of water, they're done in open containers, from 1 to 3 weeks, and they can be done with or without stirring, and compost additives are.
used infrequently in these types of systems. Next.

Again, the purpose of these compost tea additives
is they encourage microbial growth, which means -- you
know, most -- especially if you're using it for pest
management or fungal control or microbial control on a
plant, you're trying to encourage the beneficials, but it
also -- it's non-selective, that kind of growth, so if you
do have any kind of human pathogen contamination in your
tea, they can also grow, because you have now these compost
tea additives.

So basically -- there has, however -- and that
was an important point that some of the members wanted to
bring out: that although, theoretically, you could
possibly support human pathogens if present in small
numbers -- because these -- again, the additives increase
that growth -- we know of no documented cases of foodborne
illnesses from the use of compost tea.

However, the studies -- you know, theoretical
studies done in the laboratory, you can -- we saw mixed
results, some of them which did not necessarily show
microbial growth, but there were studies that did show
microbial growth.

So the data -- the data showed -- you know,
different researchers, depending on different
methodologies, showed different results, but, again, some
members felt that it was really important to bring out that no documented causes [sic.] of foodborne illnesses have been recorded, to our knowledge, from compost tea use. Next.

How is it, basically, used on the farm. Well, it can be foliar-sprayed or applied through an irrigation system, you know, it would be an overhead irrigation system, or a sprayer. You can have -- it's used sometime as a stubble digester or a green manure inoculant. In other words, it's applied to crop residue or cover crops, usually after mowing and before incorporation into the soil. Next.

It can also be applied through irrigation systems or sprayers on -- directly to the soil. It can be applied through a drip-irrigation system, you know, because it's water -- you know, basically it's a water-soluble product.

And you can use it with a soil-less media, it's used to moisten media before planting or as a post-plant drench. Next.

You can -- some growers use it to pre-soak seed or vegetative planting material before planting. And then some people apply it to suppress -- manure collection points -- to suppress the odor of compost piles, additionally. Next.
Again, the plant growth responses to compost tea is largely anecdotal; in other words, it's: growers have been using it and they've reported yield increases by their sight, but there's been no replicated -- or few replicated studies to prove that it does in fact show plant growth.

But the postulated mechanisms is that you're providing nutrients and/or the microbes may be producing phytohormones, to help increase plant growth.

There's also postulated indirect mechanisms, including, you know: affecting the soil structure; or creating, you know, a microbial-beneficial population around the rise of sphere -- around that root, that can increase or, you know, provide more nutrients; and in terms of plant pathogens, they may be -- those same microorganisms may be producing compounds that are deleterious to other microbes in the soil. Next.

And basically -- and, again, that's where the disease management reports come in, again, a lot of anecdotal reports citing less severe foliar diseases and root diseases using the products.

There have been some scientific studies showing both, again, significant and non-significant results regarding disease suppression, and the variability in compost tea composition has been cited, basically, for these inconsistencies.
In other words, because you have so many different systems operating, you have different quality composts, you have different methodologies and additives going in, it's really hard to produce -- unless you're doing a lot of, lot of, studies -- replicated experiments that are going to give you consistent results. So next.

Again, there were microbial hazards that were considered by the task force, primarily centered around human pathogens. The compost tea task force recognized that this was an area where there was significant data gaps. But basically the task force considered the types of variables potentially associated with the deleterious microbial contamination from a human perspective.

In other words, we looked at kind of the whole environment of a cropping system and we tried to pinpoint areas of risk, and then we tried to gather data to suggest whether these in fact were -- were true. Next.

So the reasoning -- there's things about compost tea production that should be considered if you're considering human pathogen populations or you have concerns about human pathogens.

One of them is that in some of the compost teas, you may be using manure, and manure has a high potential of contamination.

So, again, if you're composting it according to
the Rule, this should reduce it, but there still is an
associated risk.

Another aspect, where there's not much data
available, is compost stability, but the relationship
between compost stability and human pathogen levels is
really -- has not been determined, but the task force did
want to acknowledge that the area of compost stability was
a potential area of research. Next.

Other areas of concern was -- was water quality,
and basically the task force acknowledged that you want to
have clean water to start with.

Sanitation, you want to make sure you're clean,
your machines, effectively, to reduce pathogen populations,
but, you know, the machines and how you handle those in an
operation are an avenue where you could have
multiplications of microorganisms.

Vector access, you know, if these machines are
set up on farms or areas where you have any kind of
rodents, they could potentially contamination a batch of
compost.

Brew time and temperature, depending on how long
it's being brewed and the temperature levels that is
reached could have effects on microbial populations. We
acknowledge that compost tea additives -- and within the
report there are a lot of literature citings that I would
want to call to your attention.

The only peer-reviewed article that the committee could find was that of Duffy, that was just recently published, and in that there were -- again, you know, I'm kind of doing this from the top of my head, but he looked at, I think, salmonella and different levels of molasses, and it indicated that at lower levels of molasses, there were no multiplications of salmonella, but as you increase the concentration of molasses you could get an increased concentration of salmonella.

A lot of the researchers, however, had opinions on this type of research, and I think they are -- some of the criticisms are valid, because this type of research is done under a laboratory setting, where you're putting a known amount of inoculant in an environment that is usually conducive to pathogen growth, and their argument was that these -- this may not be analogous to what happens in the field.

So just a caution that much of the experimentation that has been done thus far, that is either done, the one study, in a peer-reviewed journal is a laboratory-based analysis.

And then some of the research that was presented by, actually, members of the compost tea task force, where they did similar studies with e-coli and replicated it in...
two different labs, it was the same phenomenon, where they incorporated a certain amount of pathogens to start with, added a molasses kind of solution, and then quantitatively looked at the growth of microbial populations.

The compost tea task force acknowledged that there are crop and environmental factors that could affect microorganisms, and some of that includes plant architecture, things like lettuce and apples, there's some evidence to suggest that those types of crops, because of their architecture and the shapes of leaves and the gaps that exist there, that those plants create an environment that may be conducive to the growth of these pathogens.

So we just want to acknowledge that there's certain crops that may have, you know, higher risk factors.

Additionally, there was some -- some thought about, you know, distinguishing between crops that are typically edible, or typically cooked, or typically eaten raw, as maybe ways that a regulation could be written, but there really was no consensus on how that could be formulated into a recommendation.

And, additionally, environmental factors, because we're -- we're trying to create recommendations that can be used throughout the -- you know, the country, you know, UV radiation from the sun, temperature factors, they can all affect microbial growth, so there was just an
acknowledgment that this is an area of -- of interest and
where research needs to be done. Next.

Another factor: if there are actual pathogens
present, the contaminant levels of compost teas, you know,
if there already are some, they can certainly be a problem
with human pathogen associations.

And I'm not sure, Zea, if you have anything else
to -- to say about those areas, because as I'm standing
here, I'm not necessarily recalling those subcategories, so
if you have anything to --

MS. SONNABEND: No (inaudible).

MS. KOENIG: Okay. And then pathogen, again,
pathogen survival, a lot has to do with, again, crop
architecture, environment, and post-harvest intervals, and
that was something that -- actually, pre-harvest interval,
and what they were -- what we acknowledged in the report,
that there -- perhaps as research was developed, there may
be regulations that could be developed based on time from
application to the time you harvest.

And then, additionally, there may be post-harvest
treatments, such as disinfectants, that could be used to
reduce microbial populations. Next.

The data gaps that the committee wanted to
acknowledge, and there are lots of them, there really was
no information in the literature on cost benefit analysis,
very little literature -- informational literature on the ecology of human pathogens, again, pre-harvest application intervals, compost stability, different feedstocks, phytotoxic reaction to compost teas, and dissolved oxygen content. So these were areas that the compost tea task force felt like they had to acknowledge that they felt that data really was needed in these areas, to develop a good recommendation. Next.

Okay, so now what we've all been waiting for, da-da-da-da-da, "the recommendations."

So the recommendations from the task force is that:

Potable water must be used to make compost tea and for any dilution before application. So in other words, a clean source of water to start with.

Equipment used to prepare compost teas must be sanitized before use with a sanitizing agent as defined by CFR 178.1010. Next.

Compost tea should be made with compliant compost or vermicompost, using the NOSB Compost Task Force Guidelines set forth on April 18th, 2002, for thermal compost and vermicompost or compost as defined in Section 205.203(c)(2).

For compost tea, this applies to -- even -- and this is the distinction and the important point, I guess on
this recommendation: for compost tea, this applies to 100-percent plant feedstock materials in addition to manure feedstock, which may harbor high levels of fecal bacteria because of non-manure compost.

In other words, if you remember the compost reg, the 90-120 days exists for compost that has manure incorporated into it, whereas plant-based compost, there's no waiting period.

But in our recommendation, there is evidence that even plant-based materials, starting materials, can harbor human pathogens. So it's a more restrictive, I guess, guideline for compost tea, compared to compost. Next.

Compost tea made without compost tea additives, so compliant, in other words compost tea can be applied without restrictions. Next.

Okay, this one's a little mouthful, and I think it's a little tricky, but: compost tea that's made with compost tea additives can be applied without restriction if the compost tea production system -- in other words, the same compost batch, the additives, and the equipment -- has been pre-tested to produce compost tea that meets the EPA-recommended recreational water quality guidelines for a bacterial indicator of fecal contamination, and this is based on the US EPA recommendations of 2000, and these indicators and the passing criteria are --, and it gives
you the two numbers for e-coli and enterococci. Next.

And then -- now, after you've done that pre-test, at least two compost tea batches must be tested, using the accepted methodology, with the average population of indicator bacteria, cross-compost tea batch is used as the measure of passing, and then each new batch of compost -- that means any -- so you test your compost twice, and you can use that compost in that aerator continually, but if you go to another compost pile, that would require that the system quality-assurance pre-test be conducted again, as indicated, and after it passes again, compost tea from the system can be used, with that restriction.

This, again, is a recommendation I think that was a compromise and eventually accepted, 11 of the 12 members of the task force, and the -- I guess the victory here is that there was -- you know, a compromise reached by all parties, saying that -- you know, that we recognize the additives -- the issues with additives but we feel that there can be testing protocols developed and there are standards out there that the group -- you know, the compost task force recommends, that the teas then therefore can be regulated with -- with a reduced, you know, risk factor in terms of human populations. Next.

If a compost tea made with compost tea additives has not pre-tested for indicator bacteria, its use on food
crops is restricted to the 90- to 120-day pre-harvest interval restrictions, and that's similar to what, you know, compost -- raw manure is in the Rule.

In the view of the task force, educating producers about the potential for contamination and its impact on public health and marketing, as well as how this recommended quality-assurance testing system would avoid potential contamination, will provide compelling incentives for producers to follow the rules. Next.

"Compost extracts," oh, "any mixture of compost, water, additives, and adjuvants that is not held for more than one hour before use, may be applied without restriction." So if a grower just makes a compost extract, it's used before one hour, it could be used with that restriction, and this is based on the feeling from the task force that you would not have a proliferation of growth in that -- in that time period, that would be of any concern.

And then raw manure extracts or teas may be applied to the soil with a 90- to 120-day pre-harvest restriction, but foliar applications are prohibited. Next.

Compost leachate may be applied to the soil with a 90- to 120-day pre-harvest restriction, foliar applications are prohibited, and compost tea is not allowed for the production of edible sprouts. Next.

And then, finally, and I think a very important
recommendation follows:

"The emerging acceptance of compost teas as a biologically-based crop-production tool by organic as well as conventional growers clearly indicates the need for further scientific investigation to validate the benefits and concerns of compost tea.

"The Task Force unanimously urges USDA and its agencies to strongly support additional research on the potential for crop contamination and plant disease, pest control by compost tea.

"There is an urgent national need to address critical data gaps, uncertainties, and variability in existing data that limited the evaluation of potential crop contamination by the current Task Force." Next. Next.

And then, Zea, I'm just going to let you -- I don't know if there were some --

MS. SONNABEND: Yeah.

MS. KOENIG: -- just points that you wanted to state.

MS. SONNABEND: Yes. I just really have two points to make, in addition to what Rose has said.

I think that this task force was very well-appointed on your part, the Department and the NOSB, in that it did start out with people with widely-divergent opinions as well as expertise, and, like any group of
scientists getting together, there is quite a bit of scientific bickering over every single fine point in this recommendation, and so it really is much more of a victory than it looks, for us to have achieved a recommendation and a report with this degree of information in it and this degree of concrete recommendations.

And then the other point, in relation to that, is: You know, from the practical certifier/inspector side, is this a recommendation that is really enforceable for organics? -- and I think it is, which is why I supported the recommendation.

Although it sounds like a big mouthful, with the testing protocol for pre-testing and batches and all that, that we've explained, the benefits of being able to use the compost tea so far outweigh the relatively small cost of the testing and the relatively small additional burden that it puts on growers, that I think it will be welcomed as a procedure, as opposed to not having the compost tea at all.

So I do think that it is verifiable, that certifiers, you know, are able to work with this, that inspectors can see it in the field, and that growers can achieve this, for the most part. You know, having to do pre-testing will be -- would be burdensome on really small growers who stir their compost tea in a bucket, but those are really the people who need the pre-testing the most.
(chuckles), because they're not using very sophisticated equipment.

So that's all I wanted to say about that.

MS. KOENIG: And then if you guys had any questions, I mean, we can answer them, I guess. Becky.

MS. GOLDBURG: I was curious about the feasibility of doing the testing for indicator bacteria. Are there some quick tests, Scrip [phonetic] tests or whatever, that -- something farmers can use, or do you have to have a microbiology lab to test?

MS. KOENIG: I mean, I gather that it would actually require a laboratory.

MS. SONNABEND: You do have to take it to a lab, but it's probably a 24-hour, you know, result, and not really very expensive.

MS. KOENIG: And, you know, again, the -- one of the scientists at the USDA, the -- really the food-safety individual who signed off on the report, I think the fact that this testing protocol was there really enabled that individual to have a comfort level with the recommendation.

So although it is cumbersome and there would be a cost associated with it, it does allow at least businesses that are involved in compost tea to continue to market to organic producers, and I think what Zea says is true, I mean the technology is there for rapid testing and other
areas, it's just a function of, you know, how much demand there is.

So I -- you know, in the future, if compost tea is the next best thing (chuckles), compared to other inputs, then, you know, perhaps that'll occur. Jim.

MR. RIDDLE: Yeah. I'm really impressed with this report, I think the Task Force has done excellent work. I had a couple specific questions on the recommendations.

On Number 5, the second paragraph, the compost tea, with compost tea additives that's not been pre-tested, and you're recommending that that would be allowed for grain crops intended for human consumption, with no restrictions. Correct?

MS. SONNABEND: 90-to 120-day --

MR. RIDDLE: Oh, it still would be?

MS. SONNABEND: Yeah.

MR. RIDDLE: I'm reading it wrong, then.

MS. SONNABEND: Right. The second line --

CHAIRMAN KING: It's "not intended."

MR. RIDDLE: "Crops not intended for human consumption, ornamental plants, and grain crops are exempt from the bacterial testing and 90-/120-day" (inaudible) --

MS. KOENIG: Yeah, but the concept on that -- and, again, remember how I had said that there was a lot --
considerable discussion on plant, plant species, literature that indicated that there could be certain plant types that harbored bacteria because of their architecture, or the fact that they're eaten raw, you know, such as lettuce and apples.

MR. RIDDLE: Yeah.

MS. KOENIG: The general consensus of the group was that grain crops are mostly -- you know, are processed and that they felt assured that they would be cooked, you know, in terms of human consumption.

UNIDENTIFIED FEMALE VOICE: Right.

MS. KOENIG: And ornamentals are not consumed by humans, but there are -- there is an industry out there that, you know, may -- or, in fact, is producing ornamental crops. So it just allowed for the use of two kind of specific plants that we all could agree upon.


MS. KOENIG: I mean, there was -- again, there was a proposal during the process of many different reviews that there was a USDA list of most-edible crops that are cooked versus ones that are eaten raw, but we kind of acknowledged as a committee that -- that, you know, we have a natural -- you know, a lot of people are natural food eaters, in the organic community, so what the average American eats cooked (chuckles), a lot of our consumers eat...
raw --

MR. RIDDLE: Uh-huh.

MS. KOENIG: -- and a lot of us didn't feel comfortable about using that list as a guidance. So this, again, was the agreement --

MS. SONNABEND: It's prohibited for sprouted grains, below.

MR. RIDDLE: Okay, right. And then I also had a question on 7 and 8, on the raw manure extracts. There 90- or 120-day would apply, but it says "foliar applications are prohibited." That's a strong word, "prohibited." So even if there's more than 120 days, foliar application -- I don't -- what's the basis for that?

MS. KOENIG: You know, again, a lot of the -- you know, the basis of all the restriction -- the (inaudible) of the task force was human pathogens, and again, because of the composition of that task force, there were individuals on -- you know, you had individuals that had a great comfort level with compost teas, and then there were individuals that had no comfort level --

MR. RIDDLE: Yeah.

MS. KOENIG: -- and this basically was -- you know, that -- coming together of those two groups. Most people -- you know, it's similar to the 90/120 day, why is there 120 and why is there 90?
MR. RIDDLE: Right.

MS. KOENIG: Well, it's an extension of that, they just felt that foliar application -- to be safe, at this point in time, again --

MR. RIDDLE: So it's really: an abundance of caution.

MS. KOENIG: It's abundance again.

MR. RIDDLE: Yeah.

MS. KOENIG: And again, it's based on the data available today -- well, actually, April 6th, 2004 --

MS. SONNABEND: Or lack of data available to --

MR. RIDDLE: And lack of data, okay. I just wondered --

MS. KOENIG: So lack of data available.

MR. RIDDLE: -- if there was something I was missing on that --

MS. SONNABEND: Right. No.

MS. KOENIG: It's the precautionary principle (inaudible) --

MR. RIDDLE: No, it's "prohibited," "foliar application of manure tea prohibited," period.

MS. KOENIG: Goldie.

(No audible response.)

MS. KOENIG: Goldie. I'm sorry, Mark, do you want to call on her?
MS. CAUGHLAN: No, that's fine, I forgot --
CHAIRMAN KING: Well, it's --
UNIDENTIFIED MALE VOICE: Goldie's (inaudible).
MS. CAUGHLAN: Well, I was just going to point
out that wheat and barley are both used for juicing, sprout
and then juice.

MS. SONNABEND: Prohibited for sprouting.
MS. CAUGHLAN: However, it is isn't -- but I
think that's another step. In other words, I take that
indicator to mean you couldn't use -- the way that read, to
me, was: meaning you don't do alfalfa sprouts in a liquid
tea, soak, or something like that, I mean -- before they
sprout, but where you're taking a mature grain crop and
then you're making a wheat sprout and then you're juicing
it, that's a direct --

MS. KOENIG: I think that that is a good point --
MS. SONNABEND: Well --
MS. KOENIG: -- and what we can do is -- you
know, we're not voting on this during this meeting, we're
just presenting.

MS. SONNABEND: I also think that, you know,
while it might be a concern, the chance of anyone using
compost tea on a grain crop, economically, is like -- so
minimal that I don't think it realistically is going to
(inaudible).
MS. GOLDBURG:  Sure, but if you're writing a standard, you don't write it to that.

MS. KOENIG:  Right.

MS. SONNABEND:  Right.

MS. KOENIG:  And I think that that's a valid point, Goldie, so what we can do is, you know, make note of that and then just kind of look over the recommendation and see where -- see --

MS. GOLDBURG:  I mean, it's also true that commercial --

MS. KOENIG:  I think --

MS. GOLDBURG:  -- commercial growers can use --

MS. KOENIG:  Right.

MS. GOLDBURG:  -- compost tea to their heart's delight.

MS. KOENIG:  And I think that the intent of the--

MS. GOLDBURG:  With no safety standards, so --

MS. KOENIG:  -- the intent of kind of that sprout, we probably thought that we were covering it underneath that, but it's really not defined, so it's a pretty -- I think it's a valid -- a valid point.

MS. GOLDBURG:  Conventionally [phonetic].

MS. KOENIG:  Thank you. Anything else?

(No audible response.)

MS. KOENIG:  Thanks.

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CHAIRMAN KING: Thank you very much for all your hard work. That was fantastic. I know it took a lot of time and there were some challenges, so --

MR. SIEMON: I'd like to make a motion of no task forces over five people.

(Laughter.)

CHAIRMAN KING: Rose may accept that.

(Laughter.)

MR. RIDDLE: I have a question about the process.

CHAIRMAN KING: Quick comment.

MR. RIDDLE: I know we're not voting on this as a recommendation, but should the Board go on record as accepting this report? I mean --

UNIDENTIFIED MALE VOICE: Yes.

MR. RIDDLE: Well, I'd move that we accept the Compost Tea Task Force report.

CHAIRMAN KING: Is there a second?

MS. COOPER: Second.

UNIDENTIFIED FEMALE VOICE: Second it.

CHAIRMAN KING: I'll take Ann, I saw her first. It's been moved and seconded, moved by Jim Riddle, seconded by Ann Cooper, that we accept the Compost Tea Task Force report.

All those in favor say aye.

BOARD MEMBERS: Aye.

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CHAIRMAN KING: Opposed, same sign.

(No audible response.)

CHAIRMAN KING: Motion carries.

MS. KOENIG: Mark, just --

CHAIRMAN KING: Yes.

MS. KOENIG: So a point of process too, is that -- so this'll -- it's on the web, we'll accept public comment, it'll be posted, we'll be taking public comment on the recommendations, and then --

CHAIRMAN KING: Is that your desire?

MS. KOENIG: Yeah.

CHAIRMAN KING: Okay.

MS. KOENIG: Because we need to vote on it in the next -- at the next meeting.

CHAIRMAN KING: Okay.

MS. KOENIG: So we will officially be -- so it'll be posted for the public to comment on, and then we'll be voting next meeting on it.

CHAIRMAN KING: Okay. Now we're to the point in the agenda where we'll actually be voting on committee recommendations, and we're going to start with materials committee, that of course doesn't have any materials but has a couple recommendations.

MS. KOENIG: Okay, the Sunset Proposal, Provision, that was posted on the web, and that we
discussed earlier, again, it wasn't up and submitted in
time to make a formal vote, so we're not asking for a
formal note.

Additionally, the National Organic Program sent
us some documentation last week, with what they believe is
a better version of our -- you know, they've taken our
Sunset Provision, they've reviewed it, they've considered
things such as the whole federal rulemaking process, that I
think that we considered but, in our naivete of the
process, I don't think we really understood the full
implications of a 5-year sunset and what that meant in
terms of the time frame of how we have to proceed in this
process to get it all done by 2007.

I've thought long and hard, and, you know, I've
been -- people say, "Oh, you look horrible" (chuckles) at
the end of the day, there's many reasons why you do, but,
you know, I take this -- you know, this role very
seriously, and I take the Sunset Provision and materials
quite seriously, and I certainly want to do -- you know,
represent the growers that I represent and what's in the
best interests of the industry.

Having said that, and thinking about the process,
I've asked Arthur Neal to come and give him an opportunity
to really fully explain the proposal that they've worked
with, the modifications that they have made, and we've met
as a committee and talked about a few areas that we suggested needed a little more thought, and -- so, you know, I don't know if he had time to digest that information.

But the one thing that I think I always come back to, and I think we all have to come back to, in this process -- well, there's two things: one is what our concept of Sunset Provision is, and partly I think it's kind of in a misinterpretation of what a sunset provision is, by the Board. Many times, as we're doing our work, we've always thought about the sunset, you know, and I've heard it many times, "Well, we don't have" -- you know, "we'll put it on, and in 5 years we're going to be reviewing everything anyway."

So we've looked at it, and we've kind of -- at least myself personally -- have kind of, you know, identified it as a time for full review. However, you know, again, because I'm naive to what a sunset is in a regulatory sense, I think we need to listen and understand what sunset means, you know, as -- as far as regulatory aspects, and that was explained in the letter that -- and the documents that we received prior to the meeting and hopefully the NOP is going to share with us.

So I think we need to be open-minded with the concept of what sunset means in a regulatory perspective,
and then, more importantly, the one thing I always have to remind myself is that the sunset is just mechanism, you know, one kind of safeguard in the system, to review. There always is the opportunity to question things that are on the list, okay, and that -- you know, we always have to go back to that point, that at any time anyone has the opportunity to put in a petition to remove something from that list -- and really, that's for the community to understand.

So the sunset we thought was -- you know, again, some of us thought as "the mechanism," but I think we need to really rethink what the sunset mechanism is and, again, just acknowledge that there are -- there is a second mechanism for the public to address materials that -- that may need to be considered to either be -- you know, be considered on the list.

So, with that introduction, Arthur -- or I'm not sure who in the NOP was going to --

MS. ROBINSON: Mind if I be Arthur [phonetic]?

CHAIRMAN KING: You can be whoever you want, Barbara.

(Laughter.)

MS. ROBINSON: Do I have to identify myself again? Barbara Robinson, Deputy Administrator, Transportation & Marketing Programs.
Thanks for all your remarks, Rose, that you just made, because a lot of those we are certainly in agreement with, and hopefully then it'll just make our presentation a little bit briefer.

MS. KOENIG: No, don't make it briefer.
(Laughter.)

MS. ROBINSON: We do thank the Board for the recommendation on sunset, we appreciate it very much, and we understood the amount of time and thought that went into it. While you were at work on your recommendation, we also were doing research on our end, about what is a sunset, because we had many of the same questions that you had, and so we did that kind of research, we looked at legislation.

Sunset is not unique to this program, it does happen with many laws or many regulations, and what we found was the following, and I believe most of this we explained to you, but the public probably doesn't know this.

Sunset is not -- is typically an expiration that would occur -- it's a call for a review of the conditions that warranted the law or the regulation in the first place.

In the case of this program, sunset is: a call to review the conditions that warranted putting a material on the National List in the first place.
So try and think about this -- and Rose brought up a very good point. If you have trouble getting your arms around that, that we're asking the public and the Board to review the conditions, not the material, if you have trouble getting your arms around that, remember: since this program has been implemented, only two petitions have been submitted to the Department to remove a material from the National List. One was for cornstarch, on the basis that there was apparently an organic supply of cornstarch available, the Board considered that and rejected that and left cornstarch on the list; the second was sodium nitrate, and the Board again took public comments on that and the Board decided to leave sodium nitrate on the list.

But that provision is available to any person at any time, so that -- if you want to think of that as the trap door, another mechanism, a failsafe provision, however you want to think of that: that is always there.

Now, from our perspective, sunset is a public process. It's facilitated by rulemaking through the National Organic Standards Board's mechanisms. You are the integral part of this process. The reason that we believe that this must be done with rulemaking, aside from the fact that our lawyers will stand there and tell us "that's the only way you're going to do it," but there's a good reason.
for that, and I'm going to use these words that you've
heard us use, and then I'm going to say something about
them:

The reason we do this through rulemaking, with
the public fully engaged, is that in that way we pretty
much ensure -- not altogether, but pretty much -- we ensure
that neither the Department -- and it's important that you
understand this, neither we nor you would appear to be
arbitrary, or capricious.

Now, we use the words all the time, and, you
know, it strikes me that they have a very negative
connotation, it makes it sound like you willy-nilly pick
things out of the air and decide what to do and, you know,
reward your friends and punish your enemies, and that's not
what those words mean.

It just means: unintentionally or not, because
we all come to the table with biases, doing it in an open
rulemaking process is a way to minimize that from
occurring.

So the important thing to remember about this,
and this is important for the people who are sitting in
this room today, two points: if the public does not weigh
in -- explicitly, everybody, you can't just think it, you
must communicate, in writing, however that is -- to the
Board through the Department -- whether you believe there
is still a continued need for these materials on the National List, if you do not do that, if we receive no comment on material X, on October 21, 2007, regardless of what the Board thinks, the material goes away. It will not be available for use. If it is a prohibited material, it will be available for use. Okay?

So the public must get engaged in this.

MR. RIDDLE: I missed that last part.

MS. ROBINSON: If there is no public comment, if the public is silent -- let's just pick a material. Sodium nitrate. I don't care. Pick anything.

UNIDENTIFIED MALE VOICE: No, that's not a good one.

MR. RIDDLE: No, I just meant --

MS. ROBINSON: Whatever. Material X.

MR. RIDDLE: The part about if it's prohibited --

MS. ROBINSON: If it is -- if it's a material for which there is an exemption, it's an allowed synthetic, and there is nothing from the world at large that yes, this need -- a need continues to exist for this material, then we can only conclude the need no longer exists; therefore, it will no longer be allowed.

If it is a prohibited material and we hear nothing, then we will conclude that it must be okay, and it will then become allowed to be used.
MR. RIDDLE: You mean a prohibited natural.
MS. ROBINSON: Yes.
MR. RIDDLE: Okay.
MS. ROBINSON: Yes.
MR. RIDDLE: Okay, good.
MS. ROBINSON: What did I say?
MR. RIDDLE: That's what threw me.
MS. ROBINSON: Did I say prohibited synthetic?
CHAIRMAN KING: No, you just said prohibited.
MS. ROBINSON: Oh, okay.
UNIDENTIFIED MALE VOICE: You can imagine
(inaudible).
MS. KOENIG: Barbara, I just wanted -- because I see alarmed faces and I just wanted to -- because I also was -- the state of shock. The -- what Keith had explained to me, you don't -- in the sense of something that's on the list in either category, you don't have to provide additional information, it's simply a letter stating that -- you know --
MS. ROBINSON: It can be as simple as --
MS. KOENIG: -- Farmer A, "I use" --
MS. ROBINSON: Yes.
MS. KOENIG: -- "X-Y-Z" --
MS. ROBINSON: Yes.
MS. KOENIG: -- "A-B-C-D, E-F-G," I could list
MS. ROBINSON: Yeah.

MS. KOENIG: -- and say "I need all of these."

MS. ROBINSON: That's --

MS. KOENIG: That's public comment, it stays on.

MS. ROBINSON: All you need to do is put a placemaker down, okay?

MS. KOENIG: Okay.

MS. ROBINSON: Write us a letter: you need this material, the need still exists for this material --

UNIDENTIFIED FEMALE VOICE: So it's not a petition.

MS. ROBINSON: No. In fact, that's one thing the sunset review is not: it is not a petition process.

MS. KOENIG: Okay. So trade organizations --

MS. ROBINSON: Like I said at the beginning -- yeah. Anybody --

MS. KOENIG: -- organizations, individuals --

MS. ROBINSON: Yeah.

MS. KOENIG: -- as long as it's submitted --

MS. ROBINSON: Yeah.

MS. KOENIG: -- then it stays --

MS. ROBINSON: Anybody.

MS. KOENIG: -- everything is status quo.

MR. RIDDLE: And there doesn't have to be any
evidence, just a statement.

MS. KOENIG: No.

MS. ROBINSON: No, not -- not --

MS. KOENIG: Status quo.

MS. ROBINSON: No, you're just going to tell us
-- all we want to know is: do you believe that there is a
continued need for the material? Just write us a letter
and say, "We need it." That's good enough, to keep this
process going.

MR. ARTHUR NEAL: Arthur Neal, National Organic
Program. And what Barbara's talking about is at -- the
advance notice of public rulemaking level, because there
are three -- and she hasn't gotten there yet, but there are
three different levels: advance notice of public
rulemaking; proposed rule; and final rule.

MS. ROBINSON: Right. So we will publish an
advance notice of proposed rulemaking, and the guts of that
will be the document that you already have, the sunset
review process, because we tried to develop -- think of it
almost like a preamble, okay, what is this process about;
for everyone else, this is -- is this on our website yet?
(No audible response.)

MS. ROBINSON: It will be? So that everyone else
can read what the Board has been sent.

Now, another point I want to make, before we get
to the process a little bit, I want everyone to understand: there's sort of a feeling and people sense: okay, sunset, it's an event. Sunset is not an event. From now on, sunset is an annual activity that will take place. You understand that.

Every year that you add materials, 5 years later someone is reviewing the need for those materials to continue. This is the first board that will initiate a sunset process, but some of you won't even be on the board by the time sunset -- this sunset occurs. But understand that in 2012 -- if we all are still here --

(Laughter.)

MS. ROBINSON: -- in 2012, this big clump, okay, the one that became active October 21, '02, this whole big clump of materials has to go through it again, plus any materials added by the Board through rulemaking in 2007.

Therefore, what you want to realize is that sunset is a growing activity, it will become a bigger and bigger job every year, assuming boards continue to add materials to the list. Because it never is just a one-time review to see if it's okay; it goes on in perpetuity.

And that's one reason, that's a very important reason, why the process that we laid out for you through rulemaking, it must withstand this annual action by the Board and participation by the public.
So we could not write procedures for a sunset as if it was a one-time event, we have to put something in place, because what -- again, what you're doing is -- like we've talked about before, here we go creating the process again, for future boards.

So, as Arthur started to say -- do you want me to go through these three stages real quick?

MS. KOENIG: I -- one -- because -- I think it's important, and one of the questions that I had, in terms of the advance rulemaking:

When it goes to public comment, even on the process -- because what I'm assuming is that we also -- there's going to be public comment on this process? You said it would be on the NOP website, but the first rulemaking is rulemaking of the process; correct?

MS. ROBINSON: No. No. An advance notice of proposed rulemaking is the Department's way of saying to the public at large: we are about to engage in rulemaking, heads up. Now, the public is certainly -- the public is always free to comment to us, Rose, the public can write to us and, you know, windows don't close, we don't say, "We don't care, we don't want to hear from you," we never say that. Sometimes we take what you give us and we think about it, but, you know, we don't take it, but we will always take input.
So the ANPR -- what?

MR. RIDDLE:  George had a question.

MS. ROBINSON:  Oh, I'm sorry, George.

MR. SIEMON:  I had several questions here. So if those conditions are established, question one is: who establishes that condition, one letter is enough, or is it -- somebody makes a judgment that the condition still is needed?

MS. ROBINSON:  Well, let me walk through that.

MR. SIEMON:  All right.

MS. ROBINSON:  Okay? We put out the ANPR and we tell the public -- and we do, in the ANPR --

MS. KOENIG:  No acronyms.

MS. ROBINSON:  Huh?

MS. KOENIG:  No acronyms.

MR. RIDDLE:  Advance notice of public rulemaking.

MS. ROBINSON:  Oh, I'm sorry. I'm sorry. ANPR means advance notice of proposed rulemaking. Forgive me, I shouldn't do that. That's the heads-up I was just talking about.

Now, remember back to when this rule itself was being created, there was a Proposed Rule, and then there was a Re-Proposed Rule, but there's -- normally there's a proposed rule, everyone is free to comment, the Department takes the comments, Department digests the comments, the...
Department is obliged to answer the comments through rulemaking, it does so when it publishes the final rule, and then there's even usually some -- well, very often there's still a comment period that's allowed after the final rule.

But what we will do is we'll publish the advance notice of proposed rulemaking and we will tell the public: here's what you need to do, and all that you need to do is communicate to us in writing, and we'll probably allow electronic, but let us know whether or not you believe a continued need exists for any or all of these materials, and that's all they have to do, at first.

That then triggers sort of the universe of materials that the Board is going to look at, and it will also trigger -- hopefully not, but it will trigger a subset, which we haven't heard anything, from anybody about.

Now, before -- I don't want to -- Arthur's much better at going through all the particular details of what's going to be involved in the proposed rule, so I'm going to let him walk you through that process, but then we'll take any questions that you have.

MR. NEAL: In the proposed rule, what happens is that the Board has now formulated their recommendation in terms of -- they've assessed all of the public comments
generated through the advance notice of proposed rulemaking -- yes, ma'am.

MS. KOENIG: Okay, I think there was a step left out.

MR. NEAL: Uh-huh.

MS. KOENIG: According to your documentation. So Barbara made it sound like it was simply a little letter, that said yea or nay, and what in fact your policy says is that if something affirms something on the list, then you, as an individual, can say: yes, we need this, that's all the documentation that's necessary. Or -- step one.

UNIDENTIFIED FEMALE VOICE: An ANPR step (phonetic).

MS. KOENIG: Okay. But the other -- isn't this step one at ANPR stage if you say -- you say: hey, there's something on there I don't want --

MR. NEAL: Right.

MS. KOENIG: -- and you said -- sorry, I don't want to say "you," because I'm assuming --

MR. NEAL: Right.

MS. KOENIG: Isn't -- based on your document, a set of information and data that you must then provide, that requires more than just a letter at that stage --

MR. NEAL: Let me explain --

MS. KOENIG: -- and that's an important point,
that I think needs to be explained.

MR. NEAL: -- a little more to you. You've got
to take into consideration this big picture. There have
been years of activity taking place to put materials onto
the National List.

When you take into consideration how materials
have made it onto the List, they've gone through scientific
research, they've gone through public comment, and final
rulemaking, so the data that supports materials that are
currently listed on the list already have a foundation
established.

Now, through the ANPR, you can't tell a commenter
what they cannot say. They can say, "We want the
material," they can say, "We don't want the material."
However, there is a reverse consequence for saying, "We
don't want the material," because the same way that a
material was recommended for inclusion onto the National
List is the exact same way a material has to be pulled off
of the National List, which means that if the
recommendation is made that "We do not want the material
any longer, there's no longer a need," that has to be
justified. That need no longer has to be justified -- I
mean that need has to be justified.

MR. RIDDLE: I'm confused, then, because I
thought things automatically expire unless someone says
they're needed --

MR. NEAL: I'm not finished.

MR. RIDDLE: Okay.

MR. NEAL: Now, the Board has the opportunity, because the Board assesses the comments -- because you're going to get comments that say, "We want it," you're going to get some comments that say, "We don't want it." The Board can either attempt to justify the fact that there's no longer a need for the material or just rest in the fact that this material has already been vetted by prior boards --

MS. CAUGHLAN: Has what?

MR. NEAL: -- already been vetted by prior boards and recommended for inclusion onto the National List and there is a need that has been established, in formulating their recommendation.

Do we understand?

MR. RIDDLE: Yeah, so far.

CHAIRMAN KING: We're hoping there's more.

MR. NEAL: Okay.

CHAIRMAN KING: Okay.

MR. RIDDLE: -- to follow [phonetic].

MR. NEAL: If the Board decides that there is no longer a need for the continued use of a substance, then that need -- the need has to be justified to no longer
exist, and what Rose is talking about is how you document the non-existent need for the use of a material, and that -- that entails that the material has a negative -- what is it --

MS. KOENIG: It's the three points in OFPA that we used for -- during the petition process and evaluation. It's the environmental -- there's a -- you know, detrimental environmental impacts, a wholly natural substance is available, and -- give me the third one.

MR. NEAL: And that it's not consistent with organic farming and handling.

MS. KOENIG: That's not -- okay.

MR. NEAL: So the needs to this [phonetic] -- you'd have to document the substance is harmful to human health or the environment, the substance is not necessary to the production of agricultural products because there is an available wholly-non-synthetic substitute product, and the substance is not consistent with organic farming and handling. Kim.

MS. DIETZ: When we had talked earlier from the materials committee, is it the public that's providing us with this information or is the Board who's having to provide this information?

MR. NEAL: Both. It all depends on who's trying to justify that the need no longer exists. So if the
public makes that statement, that the need no longer exists, and you've got competing interests, you've got people out there saying, "There is a need for it" and you've got somebody saying, "There is no need for it," somebody's got to justify the position. And the position has already been laid for it to be on the list. The position that has not been lain is the one to take it off. That's why there is a process by which we say -- a petition process to remove a substance from the National List.

UNIDENTIFIED FEMALE VOICE: (Inaudible.)

MR. NEAL: Well, I know, that's why -- that's why we do not invite that type of activity.

MS. DIETZ: So this board may receive positive letters and negative letters and then it's the due diligence of the Board to say: okay, if there is not a need, then we need to document it with these factors that you're providing.

MR. NEAL: If there is not a need for it, right, correct. Yes, Rose.

MS. KOENIG: So -- and again, I had the privilege of looking at it, so I kind of processed it a little bit more, and what our -- again, you know, the points are again: the letter, keeping things on as a simple letter, again, making a change is the one where the burden -- I...
don't want to say the burden -- it's really the burden of proof, because that's the only way I can think of it in my feeble mind, is: the burden of proof is on the person who wants to remove something from the List, that exists, and this burden of proof that the NOP has suggested and has offered in their final Sunset Provision is acceptable to me because it's based on the OFPA criteria.

We're not pulling things out of the hat, we're not asking people to jump through new hoops, they're basically taking those three OFPA criteria, and additionally, there -- but there is two differences that I could pick out, and I just wanted to pinpoint -- you know, point those out.

One is, there is a greater emphasis on the -- because you're asking -- there's a request to really prove that there are alternatives, with data more than just what we're getting in some of these TAPs, like -- you know, I'll give an example of hydrochloric acid, that lactic acid and acetic acid is available.

The data would have to be provided that the form, the function -- there's a supply of those things, that there's readily-available alternatives and they work. And then -- so that's one difference.

And then the second difference is that there is an econom-- --
MR. NEAL: An industry impact.

MS. KOENIG: -- an industry impact statement, in addition to the OFPA criteria, that is written into the language of this final Sunset Provision, and that is the other, second point that I picked out that is distinct and different from what you're seeing in a regular petition process, and I think it would make sense to justify -- Keith did a great job -- understanding why the Office of Management & Budget requires that. So if you can --

MS. ROBINSON: Two points I just want to keep making here, for the folks in the audience. You understand now what we're asking, that when we public the advance notice of proposed rulemaking, a simple one-line, two-line communication to the Department is sufficient for, you know, putting your placeholder down. That is all that's required.

When we get to the proposed rulemaking stage and someone wants to argue to allow the use of a material to expire, we are asking -- as you just heard Rose: that burden of evidence is on the commenter and it will not be sufficient to simply go back and find whatever the Board did, you know, 5 years earlier, or whatever their debates were, and go get out that argument and restate it, because the Board, in its deliberations in previous years, had already determined, regardless -- you know, taking the
totality of evidence it had at the time, it determined that
that material met the criteria of OFPA.

So you must be able to show that the material no
longer meets the criteria, and the only way to do that,
that I can figure in my little brain, is: you must have
some new evidence that we don't know about, and that's what
the Board will then have to weigh.

MS. DIETZ: And you said this was during the
proposed rulemaking?

MS. ROBINSON: Yes.
MS. DIETZ: Okay.
MS. ROBINSON: I mean, you're free to submit --
UNIDENTIFIED FEMALE VOICE: Right.
MS. ROBINSON: -- all of that to us during the
advance notice of proposed rulemaking; we're just not
requiring that.

MS. KOENIG: And that is the note -- you know,
and after thinking about the process, something -- this is
to the Board and to the public: if there are materials
that you -- you know, you now know are going through
sunset, this is the time to start gathering data and
getting that information in as soon as possible, because
there's going to be a very short window of opportunity,
unfortunately, unless we can figure out a way to extend it,
that we, as a board, are going to be able to handle
anything that would contradict -- and I'm saying what
exists, you know, any of those second line --

MS. ROBINSON: Right. That's -- yeah.

MS. KOENIG: -- of products, things where we're
going to have to really evaluate, and it appears to me --
you know, and that -- that's the question I have for you.

There was this assumption that there could be
additional -- you know, there is -- and in your provision,
they allow for additional technical information to be
obtained, but in reality, the way things are going in terms
of our petition process, it's not a speedy, immediate
response.

MS. ROBINSON: That's one --

MS. KOENIG: So one of the challenges --

MS. ROBINSON: Right.

MS. KOENIG: -- and I'm asking you, I mean,
because I see this as kind of the area where we could get
caught up, is: how -- and I don't know if you've thought
about it: how can we get access to information quickly,
technical information, if we need it? Because we have,
based on what we were talking about, 90 days --

MS. ROBINSON: That's right.

MS. KOENIG: -- to come up with --

MS. ROBINSON: That's the other thing, is we --

included in the document that we have given to the Board is

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a very detailed timetable that lays out this whole process from start to finish, and if you go through -- I think if you actually add up all the time in there, I think it actually adds to 41 months. That's why we're starting now.

The clock has already begun to tick, from our perspective in the Department. We know what we're up against in terms of OMB, we consider -- we are assuming the Office of Management & Budget will designate this to be a major rule. That has certain significance in the government. Once -- once it is determined that you are engaged in major rulemaking, which means you have a significant economic impact on businesses, of X number of dollars, and once you trip that switch, you trip multiple clearance and review levels throughout government, and you top it all off with Congress getting 60 days to review it themselves.

But it is such a laborious process to get through, that we -- we believe that it must be started immediately.

MR. RIDDLE: I've got two questions. It sounds like if somebody wants something to expire, or be removed, it's very similar to submitting a petition to remove, they've got to -- the burden of proof, the evidence, with new information, you know, is on that petitioner.

But you mentioned that you received two petitions

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to remove and cornstarch was one of them, and do you know
from the records when that happened? -- because I can't
find when the Board voted on that.

   MS. ROBINSON: I honestly don't know, Jim.

   UNIDENTIFIED MALE VOICE: That's inside
   (inaudible).

   MR. RIDDLE: It hasn't been since I have, and I
can't find it in the records. I just wondered -- since you
said it, I figured you knew when that happened.

   UNIDENTIFIED FEMALE VOICE: We're in our fourth
   year, so --

   MS. ROBINSON: I just made it up.

   (Laughter.)

   MR. RIDDLE: Well, I didn't know.

   MS. ROBINSON: No, I'm just kidding.

   MR. RIDDLE: I mean, if you could say what year,
   I could look back at the minutes --

   UNIDENTIFIED MALE VOICE: (Inaudible.)

   MR. NEAL: I can't recall.

   MS. ROBINSON: The other --

   MR. RIDDLE: But the other -- the question is
   about the 90 days for the Board to review. Is --

   MS. ROBINSON: Right. And before you get to your
   question, let me just address the last part -- something
   that Rose asked, and that is: whether or not there could
be some sort of extension here. I know that we -- you
know, that's been talked about, "Well, if the Board is
working on it, if the Board is recommending it," you know,
"isn't that good enough, can't this keep" -- "go on?" The
answer is, unfortunately, no, and it's not because you're
in a regulation, it's because you are bound by your law.
The law is what will cause the lights to go out here. If
it was a matter of just, you know, adjusting the
regulation, we probably could figure out a way to do it,
but since it's a law, you know, that's the brick wall. So
we can't do that.

MS. KOENIG: Right. But worst-case scenario,
okay, let's just play hypothetical, because I think -- this
is just an issue for me. Worst-case scenario, say
product A, there's no -- there is a letter of support for
it, and then there's another letter, against it, with
evidence, okay, and we get this, and the points are really
valid, we find that there's enough OFPA criteria, but it
was one of those early-on petitions that did not have an
adequate TAP, in our opinion, we need to seek additional
technical information. That -- and I know you like to have
a really big docket, but hypothetically (chuckles) --

MS. ROBINSON: That's not our preference.

MS. KOENIG: Well, but -- I mean, hypothetically,
that product could be held back. I mean, the worst-case
scenario is: by doing that, you would trigger it off the list. Correct?

MS. ROBINSON: Yes. Are you asking if the rest of the list could move forward without --

MS. KOENIG: Yeah. The rest of the list could.

MS. ROBINSON: Yes. Yes.

MS. KOENIG: Okay.

MS. ROBINSON: Of course.

MS. KOENIG: So we are -- we're tied -- so there are ways, it's just --

MS. ROBINSON: Whoever is affected by that one material --

MS. KOENIG: -- will be mad [phonetic], right.

MS. ROBINSON: -- are the affected parties, yeah, and you might be hearing from them.

MS. KOENIG: Right.

MS. ROBINSON: But -- yes, but -- now -- and we will do our best to work with the scientific experts, you know -- we do have in AMS a scientific program area, food scientists, microbiological folks. We can consult with them. They have contacts in EPA and FDA. We will do our best to work to make sure that as much technical information as is necessary for the Board -- that we can make it available.

But remember what you're -- you will have to
weigh the evidence that is given to you, and there will have to be a -- I don't really want to stand here and say "compelling," but I would assume, if I was in your shoes, it should be pretty compelling evidence why it no longer meets the criteria that you determined it already met.

MR. NEAL: Well, it's really the need.

MS. ROBINSON: Yeah.

MR. NEAL: (Inaudible) there's no need.

MS. ROBINSON: Right. So -- okay.

CHAIRMAN KING: I have a quick question. I know we're talking about the process and procedures which we'll go through here, and I wanted to know the timeline that's listed, as --

MS. ROBINSON: Yes (inaudible).

CHAIRMAN KING: -- I'm guessing, sort of a -- somewhat of a draft, if you will, in this document, and I have been numerically challenged in the past, so correct me if I'm wrong, but it appears we have 41 months until the deadline --

MS. ROBINSON: That's right.

CHAIRMAN KING: -- from -- give or take a few days from today. As I add this up, there are a minimum of 32 months in the process.

MS. ROBINSON: Right.

CHAIRMAN KING: Now, that's not a big window.
MS. ROBINSON: No, it's not.

CHAIRMAN KING: But as we look at this as a board, 90 days clearly --

MS. ROBINSON: Yeah.

CHAIRMAN KING: -- is kind of "a train wreck waiting to happen" --

MS. ROBINSON: And that -- that's right.

CHAIRMAN KING: -- and so recognizing this difference between 41 and 32, perhaps that's an area we could --

MS. ROBINSON: Well, let's -- you know, I mean, we put down what we conservatively estimate --

CHAIRMAN KING: I understand.

MS. ROBINSON: -- everybody will want to have their hands on this thing and take a look at it.

CHAIRMAN KING: I understand.

MS. ROBINSON: And yes, one of the reasons we did it like this -- and it does look like it's cutting it close, that there's a little bit of a window.

A couple of things you want to keep in mind: This year is an election year. You know, I'm sorry to bring up politics, but it's a fact of life where we live, and when there is going to be a congressional election or a presidential election, people get a little bit more reticent, they get much more cautious about regulations.
that any agency -- not just us, but any agency -- is working on, and so there's -- you know, that just tends to slow the process down a little bit more.

To the extent that we can, if there are places we can save time, give the Board an extra 30 days, take 30 from us, something like that, we'll do it. We're not going to let this train wreck, Mark.

CHAIRMAN KING: I understand.

MS. ROBINSON: That's what the Board and importantly that's what this industry needs to understand: the Department takes it very seriously that this -- you didn't start this industry just to grind it to a halt 5 years later. That's not going to happen. So we'll get there. Andrea.

MS. CAROE: I actually have two questions. My first one is kind of basic and remedial, but tell me: when this -- when we go through the sunset, we do this procedure, are we putting something back on the list for 5 years or are we keeping it on the list for another 5 years?

MS. ROBINSON: You are renewing its exemption. If it's an allowed synthetic, you're saying: we've looked at it, we've considered all the evidence, we are renewing the exemption for this allowed synthetic for an additional 5 years, and that 5-year date will be the effective date of
publication of the Final Rule, and that will start the
clock over again, and it should be October 21, 2012, or
earlier, if a miracle occurred and we actually got this
done, you know, in the summer of 2007.

MS. CAROE: Okay. My next question, and this is
-- not to be the big black cloud over this, but: what
happens if, somewhere along this process, while somebody's
reviewing this, including, and not limited to, Congress,
somebody says "No" or "We don't like this" or "We want more
information" or "We want you to do something different,"
what happens to the --

MS. ROBINSON: Somebody -- who, like someone in
Congress says they want you to look at more?

MS. CAROE: You know, any -- OMB, OGC, anybody
along this path kicks [phonetic] this.

MS. ROBINSON: Well, the Department has to work
with its federal partners. Now, as far as telling you that
you need -- no one from Congress is going to come and tell
you, "Well, I want that material and you need to rethink
this." That is the Board's authority: to weigh the
evidence before it and make that determination. That is
your statutory authority: to renew this exemption.

MS. CAROE: I don't think anybody -- I'm not
talking about a technical issue as far as whether the
material's fit for organic or not, but I'm talking more of
a procedural issue or if they wanted something else done.

MR. NEAL: One of the things -- we've taken that into consideration, but that's captured in the timeline, because something could happen where they say, "No, this won't cut it," because it happened to us when we -- when we were developing the proposal, re-proposal, and final, they send it back, and they can take as much time as they need.

So that's why the timeline is such, because those things happen, and if we cut into the timeline, we cut into the opportunity to meet the deadline.

MS. CAROE: And then what happens?

MR. NEAL: We'll have to find out.

MS. CAROE: Okay. I just -- you know, I don't -- I don't know how these things work, and I know you guys go through this stuff all the time, but, you know, obviously business doesn't come to a screeching halt, there's got to be something -- you know.

MS. KOENIG: I had a question, maybe -- you know, and I think it's a good question to ask at this point. There's a number of annotations, okay, so on the proposal that you showed us, there was just two choices, it either stays on or it comes off. There may be cases where somebody wants it to stay on but they want the annotation removed, maybe they want an annotation that's not there.

Is this the point where those changes can be made in the
process, Keith, do you know that?

MR. NEAL: It really gets you into --

MS. KOENIG: Because there may be cases where people, you know, write a comment, not necessarily that any of the economics have changed but no -- you know, "this annotation is too small," and they can provide data, but is this the point where they would do that, where there could be made to changes --

MR. NEAL: I will not say straight up no, somebody cannot do that. However, I will say this. That gets you into a petition-type deal and not the continued need for the substance, because after the review process is over, they still can petition to modify an annotation.

See, what happens is that your workload -- you start to conflict your work, you start to conflict sunset review with petition process --

MS. KOENIG: So -- but that's the question. So it's not the forum for doing that, or --

MR. NEAL: No.

MS. KOENIG: Well, that's -- I think it's a valid question, because we need to know, and the public needs to know.

CHAIRMAN KING: Let's just -- there's a lot to discuss here, clearly, and Keith, you've got a comment, but I want to make one point first, and that is that we need to
wrap this up, literally, in the next minute. We've got petitioners here, materials to vote on. So if we could just wrap this up. And one more point before, Keith, you make your comment, is that this will be ongoing dialogue, so you need to understand this isn't the end here, it's just sort of opening it up and asking questions. So Keith. Thank you.

MR. JONES: Okay, I'll take a minute.

Rosie, I think you have to understand, is that once we get into rulemaking -- Arthur made a very good point -- we can't constrain the public to comment, okay, and the public may comment and say, "We want annotation X taken off," "we want Y annotation added." They're free to comment. That's what public comment is about, it's what notice and comment rulemaking is about.

I think as we analyze that set of comments, we're going to be reluctant, though, to accept those comments because we believe that that really is outside of the scope of the sunset process, and let me tell you why we believe that.

We can conclude sunset and then the Board has in its possession public comments, on a range of issues, that it can then take and look at and say, "You know, this is a pretty compelling comment for the removal of this annotation on X material," or Y -- or whatever, you know,
whatever the comment is, and then take an appropriate action straight up on that issue, and I think because of the workload you're going to be facing, it would be more prudent on your part to stay as narrowly focused as you possibly could in the material review process.

CHAIRMAN KING: Okay, I just want to make a quick thank you, Rose, for your questions and thought process on this and thank the Department for your comments.

A quick agenda adjustment, I'm going to move the handling committee up and we'll discuss those materials now, and then we'll come back with crops after the break, then livestock following that.

MR. O'RELL: So, Mark, are you ready to --
UNIDENTIFIED FEMALE VOICE: Same order?
MR. O'RELL: Tetra sodium pyrophosphate?
UNIDENTIFIED FEMALE VOICE: Well, nitrous oxide was first.
MR. O'RELL: Well, we were asked to make an adjustment in the order.
UNIDENTIFIED FEMALE VOICE: That's fine.
MR. RIDDLE: What's going on?
MR. SIEMON: We're trying to get (inaudible)
before our break.
CHAIRMAN KING: And there's some people who need to catch flights, and clearly we're a little bit behind, so
I want to get to materials, just so you understand.

MR. RIDDLE: Yeah, I appreciate it.

CHAIRMAN KING: It's not a coup, Jim, we're --

MR. RIDDLE: No, I just like to know (inaudible), because I thought we had a process.

MR. O'RELL: If everybody's comfortable with the change in the agenda now: tetra sodium pyrophosphate, as we discussed yesterday, was petitioned for the use as a pH adjuster and dough conditioner.

Following our report yesterday on tetra sodium pyrophosphate with our handling committee recommendation, we had discussion on the Board. We've incorporated -- when we had our breakout session we incorporated some of the comments from the Board, we also considered public comment that was made yesterday, and let me just go -- because we did this and we don't have copies for everybody --

CHAIRMAN KING: Arthur's going to try to pull it up for --

UNIDENTIFIED FEMALE VOICE: Just the voting form.

MR. RIDDLE: Yeah, that's just a blank.

MR. O'RELL: Just the voting form. But let's just go through and note the changes we did make, starting with Category 3.

UNIDENTIFIED FEMALE VOICE: Category 2.

MR. O'RELL: Okay, Category 2, yes. We did make
an addition on Category 2, Question Number 2, "Is there an organic substitute?", we had marked "Yes," but in our documentation and comments we also noted that this -- that what the petition stated with organic lecithin as an emulsifier was not applicable in this situation, it was confirmed by public comment and some other information that we had received prior to the meeting.

So we've marked "yes/no." Okay, Jim.

MR. RIDDLE: Yeah, I'm sorry, but I don't see anything to follow, but I'm trying --

MR. O'RELL: You don't have the sheet?

MR. RIDDLE: No.

MR. SIEMON: (Inaudible) your regular sheet.

MR. RIDDLE: Yeah, I thought they'd be in the meeting book.

MR. O'RELL: Okay, moving on now to Category 3, and when the committee met in its breakout session, we considered the comments that were made regarding the public testimony that we had put in the documentation column, which we agree we do not want as a board or a committee to endorse a product that may be on the marketplace or recognize products on the marketplace that shouldn't be.

So we are striking, in Question Number 1, under "Documentation," the -- starting with Public Testimony 91902, Dr. Bossy, "There are products currently labeled
'Certified Organic' in the marketplace."

We are leaving in Public Testimony 91902, Page 84, Tom Harding, "All these organic products have high consumer acceptance," period.

We are striking "and are certified by responsible accredited certifiers."

Any questions on --

(No audible response.)

MR. O'RELL: Number 2, "Is the substance consistent with organic farming and handling?" We had marked originally, as a committee, "Not applicable." We are changing that --

UNIDENTIFIED FEMALE VOICE: It was an error.

MR. O'RELL: It was an error, typo. -- to "Yes."

MR. SIEMON: Was it supposed to be "Yes" all along?

MR. O'RELL: It was supposed to be "Yes." It was a typo. And then we are striking again the same verbiage, Public Testimony 91902, Dr. Bossy, "There are no" -- "There are products currently labeled 'Certified Organic' in the marketplace."

And then the final comment on the Public Testimony by Tom Harding, "and are certified by responsible accredited certifiers," striking that sentence, that half of the sentence, leaving in "All these organic products
have high consumer acceptance."

Number 3, "Is the substance compatible with a system of sustainable agriculture?" We had marked "N/A," so we're striking all documentation in that column.

Now, Number 6, "Is the primary use to recreate or improve flavors, colors, or nutritive values lost in processing?" We have added three sections. The first one is a note from the TAP, tetra sodium pyrophosphate, TSPP, on Page 2, "The specific use petitioned is as a pH buffer and dough conditioner for use in organic meat-alternative products."

We are also including, from public comments made yesterday, testimony from Dr. Garish Ganjyal and Steve Ham, MGP Ingredients, quote: "Currently no alternatives exist for the functional properties displayed by TSPP when used in small amounts in this proprietary process. Extrusion processing is used in this proprietary process, which involves high-temperature and high-pressure cooking for a short duration. TSPP is unique because it has a high melting temperature and thus withstands the extrusion-processing conditions while maintaining its functionality."

We are also adding a quote from an e-mail that was sent on behalf of the petitioner to the handling committee, stating: "Texturization in the finished ingredient is the primary result of the thermomechanical
process during the actual extrusion process; i.e., pressure
heat shear at the die plate, forming heads, et cetera."

Now we go to the handling committee
recommendation to the full board. We had discussion based
on new information -- or public comment and information
from the Board, and we have -- we took a second vote, there
was a motion by Kim, seconded by Andrea, and let me just
pull this up and read this from the computer.

(Pause.)

MR. O'RELL: The motion was to allow TSPP under
205.605(b), with annotation, in quotes, "for use in meat-
analog products."

This is going back to the original annotation
that was voted on on the last Board meeting and striking
the word "texture." That vote was 6 yes, zero no, zero
abstentions, zero absent.

CHAIRMAN KING: Discussion?

MR. SIEMON: I guess I'd just like to know if
that annotation causes any trouble whatsoever for the use
of the product, I wouldn't think it would, so --

UNIDENTIFIED FEMALE VOICE: We -- no.

MR. SIEMON: Okay. Great.

CHAIRMAN KING: Andrea.

MS. CAROE: I just wanted to comment on that. We
had relooked at the not using an annotation and the concern
that this would be used --

    UNIDENTIFIED MALE VOICE: Andrea? I'm sorry.

    MS. CAROE: The concern was that if there was no
annotation, that it could open it up, actually, to improved
texture in other products, specifically meat. So that's
the reason we came up with an annotation that broadly
covered the petitioned request but didn't expand it to
where it would not meet criterias -- the criteria for
inclusion on the list.

    MR. RIDDLE: Yeah, I just want to express
appreciation for the work of the committee.

    MR. SIEMON: You going to do that with a motion?

    MR. RIDDLE: Yeah, I --

    MR. O'RELL: Should do that with a motion?

    MR. RIDDLE: Yeah, sure, I'd move approval -- no,
I'm not, I am not going to move the approval.

    UNIDENTIFIED FEMALE VOICE: It dies because of
lack of second.

    MR. RIDDLE: You guys almost tricked me.

    (Laughter.)

    MS. DIETZ: I'll make the same motion: to add
tetra sodium pyrophosphate on 205.605(b) as a synthetic,
with the annotation as a meat-analog --

    UNIDENTIFIED FEMALE VOICE: For use in.

    MR. O'RELL: For use in meat-analog products.
MS. CAROE: I'll second.
UNIDENTIFIED MALE VOICE: Jim, you could second it.
MR. RIDDLE: It already was.
CHAIRMAN KING: It has been? Who seconded?
MR. RIDDLE: Andrea.
CHAIRMAN KING: Andrea seconded. All right, so it's been moved and seconded that we consider the addition of TSPP to .605(a). Correct?
UNIDENTIFIED FEMALE VOICE: .605(b).
CHAIRMAN KING: .605(b), sorry, with the following annotation: "for use in meat-analog products."
Is there any discussion?
MS. GOLDBURG: I'm going to raise one point, because I think I'm going to vote against this material, and that is, I think that when we do vote, we ought to consider whether we need organic meat-analog products.
MR. CARTER: Yeah, I have the same concern.
UNIDENTIFIED FEMALE VOICE: (Inaudible) discussions (inaudible)?
CHAIRMAN KING: Okay. Further discussion?
MR. SIEMON: Well, if we're going to go that far, my concern always is, if you do that, then you have a "made with" product and you'll still have it out there -- instead
of being 95-percent organic, you're going to have it 70-percent organic, and we've actually done a disservice, because the market will always go to that lower one if they -- if that's what you're enforcing [phonetic], so to me, that's really important.

MS. CAUGHLAN: I think that's a very valid --

CHAIRMAN KING: Goldie, go ahead.

MS. CAUGHLAN: No, I said I think that's a very valid rationale.

MS. KOENIG: Can you elaborate on it a little bit, what you're --

MR. SIEMON: Well, if we prohibit this material, then they'll just put a "made with organic" claim and it'll be 70-percent organic, if we allow it, then people are able to make a meat analog, whether we need it or not, at 95. You're not going to stop the product from being on the marketplace and trying to go out to the organic consumer. Now it's a choice of enabling that to be 95 or we limit it to the 70.

CHAIRMAN KING: Kim.

MS. DIETZ: This same discussion we went into detail about 20 pages of the original time we voted on this material, and remember, if this material is also considered a processing aid, it does not need to be on the label. So on a "made with" product, you may have one ingredient and
it'll be a hundred-percent grain and on a "made with" label. So there is confusion out there to the consumer, and that's why we did not originally recommend a "made with" label.

CHAIRMAN KING: And I just -- I actually voted for this recommendation, I had a similar concern with George and I made the point of the "made with" category, and I guess one of the things that helped me to support it is: understanding, as I walk into a grocery store, that there are lots of consumers who -- vegetarians, primarily -- who do consume this product and who are supporting it.

And the second was that -- and I could be wrong on the math here, but it was .5 percent of TSPP in the actual ingredient that then goes into the final product, so I think we're --

MR. O'RELL: 10 percent in the final product.

CHAIRMAN KING: So we're talking about a pretty small percent. Dave.

MR. CARTER: Well, I just -- one of the things I'd like to ask too is just -- on the Category 1, down there under Number 10, the documentation says "as noted, tetra sodium pyrophosphate has been linked to kidney damage; however, all reviewers shared the consensus that the levels used in food manufacture should not pose a serious risk for most consumers," that's --
(Laughter.)

MR. CARTER: That doesn't give me a lot of confidence, that it "should not for most consumers."
That --

MS. DIETZ: That's what is written in the TAP, that's verbatim.

MR. CARTER: Okay.

MR. O'RELL: Yeah. I mean, the problem with that, that is exactly -- it's verbatim language from the TAP, but the fact is that if you look at the GRAS standing [phonetic] and everything else associated with the safety, it's not considered at these levels for a food additive, it's really not a concern.

CHAIRMAN KING: So if I'm hearing you correctly, Kevin, that science was based on much higher usage.

MS. DIETZ: There was another reference in the TAP where it said that most of the health risks were related to the medical industry, not food.

MR. SIEMON: Should we add that?

MS. DIETZ: It's in there, it's on our notes.

MS. CAUGHLAN: I'm just realizing that in our annotation we say "for use in meat-analog products," but this is really for use in meat-analog processing aid or ingredient that goes into the final -- you understand what I'm saying? There's a step there.
MS. DIETZ: (Inaudible) as a processing aid in meat analog --

MS. CAUGHLAN: Right. It's actually --

MS. DIETZ: (Inaudible.)

MS. CAUGHLAN: Pardon?

MS. DIETZ: That was the original annotation, and so we just felt that was the best one, but whether it's a process or a product, it ultimately is the final product.

MS. CAUGHLAN: And it's in there.

MS. DIETZ: And it's in there.

MR. O'RELL: Mark.

CHAIRMAN KING: Yeah.

MR. O'RELL: Can I address the kidney damage? If we're reading from the TAP, "extrapolation from rat models may overestimate kidney damage from sodium pyrophosphate as a food additive," and then it says, "but, overall, phosphate consumption may be more relevant because sodium pyrophosphate readily converts to orthophosphates," and orthophosphates we do have on the National List for approval --

UNIDENTIFIED FEMALE VOICE: For use in dairy.

MR. O'RELL: -- in dairy foods.

MS. KOENIG: And this wasn't -- it's not a comment to this product, it's just a general comment, because -- I mean, we heard it yesterday, and I guess I --
after thinking about it, I was a little uncomfortable with this notion that because something is GRAS or the idea of Good Manufacturing Practices makes something okay, because if that was the -- you know, that is the assumption, I mean that's why you have GRAS, that's why you have FDA, that's why you have testing, but in the -- in the OFPA sense, I mean, if that was the case, then there would never have been a criteria to ask the question.

You know, so the question -- somebody begged the question, because even though in that world, you know, there is that assumption, I don't think that we're supposed to put that in every category, that with Good Manufacturing Practices things should be okay.

I think that category acknowledges -- should acknowledge the data that is out there, and it can say with -- you know, "with GRAS it is" thing, but I don't think that we should just always just go over that and say, "Oh, of course," because we could answer that for everything, you know, pesticide use is fine as long as you're wearing applicators, but -- but we know in reality, as practitioners, that that's not always the case, and to me, that's why the criteria was -- is there, so that's all I wanted to say.

MR. O'RELL: Right. But I think that's only one factor that we're considering; we're not basing the whole
thing on the fact it's GRAS. In addition, the substance, in terms of anything linked in damage to human health, is very sketchy in the TAP.

MS. KOENIG: No, (inaudible), I'm not talking about this product, I'm just saying as we go through these forms, there's a reason why those questions are there, and the answer to everything is not "because it's GRAS," you know, you're supposed to think more about it, in terms of a more holistic concept.

MR. O'RELL: I agree. I think we did for this review.

MS. KOENIG: Okay.

MR. SIEMON: Call the question [phonetic].

UNIDENTIFIED FEMALE VOICE: Call the question.

CHAIRMAN KING: The question's been called.

MR. SIEMON: Twice.

CHAIRMAN KING: "Twice," George says. Okay, so, again, we're voting on tetra sodium pyrophosphate to be added to 205.605(a), with the following annotation: "for use in meat-analog products." All those in favor say aye.

MR. O'RELL: Wait, we've got to take a motion.

CHAIRMAN KING: We do, sorry. All right.

MR. SIEMON: It seemed so easy.

(Laughter.)

CHAIRMAN KING: I know. So we'll start --

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UNIDENTIFIED MALE VOICE: Rookie mistake.
CHAIRMAN KING: It is a rookie mistake.
(Laughter.)
MR. SIEMON: Dave always did it in a different order each time, so --
CHAIRMAN KING: Yeah.
UNIDENTIFIED FEMALE VOICE: Katherine, are you going to be calling the vote, were you wanting to record?
CHAIRMAN KING: Are you recording the vote?
UNIDENTIFIED FEMALE VOICE: Just total.
CHAIRMAN KING: Huh?
UNIDENTIFIED FEMALE VOICE: Just total.
UNIDENTIFIED FEMALE VOICE: Do you want me to record the vote?
CHAIRMAN KING: Please.
UNIDENTIFIED FEMALE VOICE: (Inaudible) the yeas and nays and abstain --
CHAIRMAN KING: Hold on.
UNIDENTIFIED FEMALE VOICE: Give me a minute to put everyone's name down.
CHAIRMAN KING: All right. All right, we'll start over here, and we won't go the same way every time, okay, but we are going to start with Ann this time.
MS. COOPER: Yes.
CHAIRMAN KING: Ann says "Yes." Rose?
MS. DIETZ: Yes.

MS. COOPER: Yes.

MS. KOENIG: Yes.

MS. CAROE: Yes.

MR. SIEMON: Yes.

MR. CARTER: No.

CHAIRMAN KING: Andrea's "Yes," George is "Yes," Dave is "No."

MR. RIDDLE: A reluctant yes, hesitant, a slow yes.

(Laughter.)

CHAIRMAN KING: Mark, yes.

MS. DIETZ: Kim, yes.

MS. OSTIGUY: No.

MR. O'RELL: Yes.

MS. CAUGHLAN: Yes.

MR. LACY: Mike, yes.

MS. GOLDBERG: Becky, no.

CHAIRMAN KING: Okay, so we have 3 no's out of 13, so we have -- we have 10 yes votes, 10 yes, 3 no's.

UNIDENTIFIED FEMALE VOICE: 10 yes, 3 no's.

CHAIRMAN KING: 1 absent. Okay.

MR. CARTER: You forgot to ask if anybody has a conflict.

CHAIRMAN KING: Oh, yeah. Dave just noted I
forgot to ask: Does anyone have a conflict they'd like to disclose? Sorry. That's my second rookie mistake.

MR. SIEMON: I'm in the meat business.

(Laughter.)

CHAIRMAN KING: Just for the record: George is in the meat business.

(Laughter.)

MR. SIEMON: That's why. I have five heifers (laughs).

CHAIRMAN KING: All right, motion carries. Okay, Kevin, it's yours once again.

UNIDENTIFIED FEMALE VOICE: Is the next one nitrous oxide?

MR. O'RELL: It is, if I can find it.

(Pause.)

MR. O'RELL: Okay. Second material from the handling committee is nitrous oxide. We presented that yesterday, indicated that it is petitioned for use as a propellant, talked about some of the environmental concerns and the greenhouse effect. I know -- in the interest of time, I'm not going to go through all of that.

The committee recommendation: there was no change, there was no public comment given, and there was no discussion from the Board. So the committee, on the vote to allow nitrous oxide for addition to 205.6 failed, in a
vote: yes, zero; no, 5; no abstentions; and 1 absent.

That was as synthetic non-agricultural.

That was rejected, and that is still the handling committee recommendation to the Board.

CHAIRMAN KING: Discussion?

(No audible response.)

CHAIRMAN KING: Is there a motion to consider the recommendation?

MS. CAUGHLAN: I move.

CHAIRMAN KING: Goldie moves we consider the recommendation. Second?

MS. OSTIGUY: Second.

CHAIRMAN KING: Nancy.

UNIDENTIFIED FEMALE VOICE: Who did the motion?

MR. O'RELL: Goldie did a motion.

MR. RIDDLE: What's the exact wording, what's the wording of the motion?

MR. O'RELL: It's: to allow nitrous oxide for addition to 205.6, synthetic non-agricultural product.

UNIDENTIFIED MALE VOICE: To allow?

UNIDENTIFIED FEMALE VOICE: You have to vote to allow.

MR. O'RELL: The motion is to allow.

(Pause.)

CHAIRMAN KING: Okay, does everyone understand
the motion?

(No audible response.)

CHAIRMAN KING: All right. Here we go. Any refusals, any conflicts?

MR. SIEMON: Oh, yeah, I want to start thinking about whip cream.

(Laughter.)

CHAIRMAN KING: Yeah. You're not in the whip cream business, okay.

(Laughter.)

CHAIRMAN KING: Okay. We'll start with Becky.

MS. GOLDBURG: No.

UNIDENTIFIED FEMALE VOICE: The motion is --

CHAIRMAN KING: The motion is to allow, so a "No" vote means you will not allow it, we understand.

VOICES: Right.

CHAIRMAN KING: Okay. Mike.

MR. LACY: No.

CHAIRMAN KING: No.

MS. CAUGHLAN: Goldie, no.

MR. O'RELL: No.

MS. OSTIGUY: No.

MS. DIETZ: No.

CHAIRMAN KING: No.

MR. RIDDLE: No.
MR. CARTER: No.

MR. SIEMON: No.

MS. CAROE: No.

MS. KOENIG: No.

MS. COOPER: No.

CHAIRMAN KING: That's 13 no's, zero yeses, 1 absent.

Do you have anything else?

(No audible response.)

CHAIRMAN KING: Okay, I think we'll take a quick break, 15-minute break. My watch shows about 3:15, we come back at 3:30, and we will start with crops.

(Off the record at 3:15 p.m. and reconvened at 3:30 p.m.)

CHAIRMAN KING: Just real quick, as a board, finish up one quick order of business with the processing committee and then we'll move on.

MR. O'RELL: Yesterday we -- the handling committee submitted a written report, which was an update on materials used as food contact substances.

Unfortunately, this report did not get the 30-day published, so we can't vote officially on the recommendation, but what we'd like to do is to propose that we have a Board vote to accept this document, and then at least it will be posted again on the website and we can take future action.
From the handling committee, we are going to be working more on food contact substances and we'd like to recognize these six ingredients -- or six materials that we have formally approved for addition to the National List.

CHAIRMAN KING: Is there a motion to accept the report?

MS. DIETZ: I'll make the motion.

MS. CAUGHLAN: I'll second.

CHAIRMAN KING: Kim Burton moved that we accept the food contact substance report, and Goldie Caughlan seconded.

Discussion?

(No audible response.)

CHAIRMAN KING: I don't think we need an individual vote on this. All those in favor say aye.

BOARD MEMBERS: Aye.

CHAIRMAN KING: Opposed, same sign.

(No audible response.)

CHAIRMAN KING: Motion carries. Anything else?

MR. O'RELL: That's it from the handling committee.

CHAIRMAN KING: Thank you, Kevin. We'll move on to the crops committee now.

MS. OSTIGUY: Starting with soy protein isolate, the committee met this morning and discussed the comments...
that we received and the public testimony yesterday, and
the motion was to reject the TAP and request information
that does address the material used as a soil amendment.

The vote for rejecting the TAP was 4 yes, zero
no, and zero abstentions.

CHAIRMAN KING: Discussion? Andrea?

MS. CAROE: In the TAP, on the first page, in the
first paragraph, the last sentence, it says, "No informa-
tion concerning its use in either conventional non-organic
or organic plant fertilizer was found," so they looked for
it and they didn't find it.

I guess I'm asking: if you're sending it back,
what are you expecting them to find in the second look that
-- because clearly they looked for it, they just -- there's
no information there. We're sending it back for more
information, but they have acknowledged that there is none.
(Pause.)

MS. OSTIGUY: I'm not quite sure how to put this
nicely. I'm not sure how -- and this is nothing about you,
this has to do with the reviewer.
(Laughter.)

MS. OSTIGUY: I'm sorry. I saw the --

MS. CAROE: (Inaudible.)

MS. OSTIGUY: I saw the look on your face and was
like "Oh my God." No.
MS. CAROE: "Did I ask the wrong thing?"

MS. OSTIGUY: No, no, no. This is the -- the TAP contractor again.

This particular TAP reminded me of the original ones before they started doing some decent ones. I believe, based upon notes that I've taken and such, that there are some questions that they didn't attempt to answer. One does not need specific details about soy protein isolate specifically to be able to answer the concepts of what happens when you use these kinds of materials, which are some of what we want to know about, use in soil, it's not -- you know, you don't have to know -- the studies don't have to have been done specifically on soy protein isolate only, but anything that is similar to it, and I do not have the impression, based upon this TAP or our prior experience with this TAP contractor, that they would have asked questions in that context. I would at the very least like to know that. But --

MS. CAROE: Okay. Well, as I understand soy protein isolates, they are an extracted piece of a plant, not changed or synthesized in any way but just a sophisticated pull-out of that one piece, and I'm pretty familiar with the process from my lab background. That material is already in a plant. How different is using this material as using a green manure of soybeans? As far
as -- as far as the interaction in the soil --

    MS. OSTIGUY: There can be tremendous differences
with the bacterial interactions when you have extracted all
the other parts of a green manure from it.

    MS. KOENIG: It's the C-to-N ratio.

    MS. OSTIGUY: Excuse me?

    MS. KOENIG: It's the C-to-N ratio. In a green
manure --

    MS. OSTIGUY: I can't hear you.

    MS. KOENIG: In a green manure you have carbon in
association with nitrogen, and part of that nitrogen is --
part of the carbon is broken down by some of that nitrogen.

    In a product where you just have solely nitrogen, it's a
more quick release. And we're not saying that, you know,
that's either good or bad, but we're just saying that
there's implications in terms of that use of nitrogen
versus of other types of nitrogen in the system and we want
that to be -- to be comprehensively covered.

    And additionally -- and I'm sorry, Nancy, I don't
want to pull -- the discussion that we had after we
relooked over the definition of "synthetic" and -- there
was some discussion, you know, whether this in fact was a
natural, which was different than what the commenters said,
so there was kind of a change in position among the members
in our committee as far as the way we were looking at that.
But that said the processing, the hexane extraction process, was not covered in the TAP, and because manufacturing of the soy protein isolate is one of the OFPA criteria, we felt that we needed additional information about the manufacturing process in the sense of using hexane as an extraction material. We wanted to specifically know the environmental consequences and properties of that hexane and, really, whether there are alternatives to that in -- in just the criteria of manufacturing.

MS. OSTIGUY: Kim.

MS. DIETZ: So my question is, because we have deferred materials in the past and not given really good guidance on -- well, that's not true. We've not got back what we asked for.

So when we revised these forms, I was the one that recommended that if we defer, that we be specific in what we believe.

So all I ask this committee is to make sure that you are specific, if we're going to defer this material, so that we get what we need, so that this gentleman does not go on six years [phonetic] without voting on this material.

So I can support that, because I want this to have a very thorough review with this material and make sure we're doing the right decision, so that's just what I
would request and that -- you know, that we give a detailed
guideline to the TAP contractors.

    MS. OSTIGUY:  Jim.

    MR. RIDDLE:  Yeah.  Yeah, I think there are a lot
of detailed questions here, and I would like to add to it.
Rose just mentioned about the environmental effects of
hexane, and I don't see that in the list yet, because we
didn't know --

    MS. OSTIGUY:  It's in my notes.

    MR. RIDDLE:  Okay.  -- because we didn't know
that was part of the manufacturing process for sure.

    MS. DIETZ:  That's not true.  It was in the
original petition, and it was in the flowchart supplied to
the contractors, so I don't know what --

    MR. RIDDLE:  Okay.  Well, the TAP acted like they
didn't know.

    MS. OSTIGUY:  We didn't look at the material.

    MR. RIDDLE:  So I guess I was misled by reading
the TAP.

    UNIDENTIFIED FEMALE VOICE:  Yes.

    MR. RIDDLE:  And then also the role of legumes in
the crop rotation, the whole systems-type questions.  And
then I just have a question about what you mean, what the
committee means, the -- in your questions there, the fourth
line from the bottom, it starts:  Answer, Category 1,
Question A, "Is soy protein isolate persistence?", I imagine "persistent," but then, "can in concentrate"?

MS. OSTIGUY: Yeah.

MR. RIDDLE: What does that -- do you know what that --

MS. OSTIGUY: It -- in --

MR. RIDDLE: Oh, "can 'it' concentrate," okay.

Okay.

MS. OSTIGUY: Some of these, I know the answer.

They didn't answer the question.

MR. RIDDLE: Uh-huh.

MS. OSTIGUY: I can provide information.

MR. RIDDLE: Yeah. Well, you're not being paid $4,000.

UNIDENTIFIED FEMALE VOICE: We're board members.

(Laughter.)

MS. OSTIGUY: But I also want to make it clear that we aren't clueless about what the answers are.

MR. RIDDLE: Uh-huh.

MS. OSTIGUY: I --

MR. RIDDLE: Yeah.

MS. OSTIGUY: You know, I can do some of this off the top of my head without a problem.

MR. RIDDLE: You know, and I can support deferring it; I just don't have a lot of confidence in this
particular -- you know, our contractor to follow through.

    MS. OSTIGUY: Well, they have been done -- doing
a much better job generally and a much better job when we
ask for information when it's been incomplete.

    MR. RIDDLE: Yeah, but I look at the -- yeah.
Some of these others, the urea one is not very helpful
either.

    MS. OSTIGUY: Yeah. They have -- they have,
though, improved. And it may be that this is actually a
non-synthetic, you know, that -- it may be that
fundamentally inaccurate of a TAP.

    MR. SIEMON: That was my question.

    MS. OSTIGUY: Yeah.

    MR. SIEMON: You were not able to determine that
this is a synthetic?

    MS. OSTIGUY: Well, that was where we went around
and around in the conversation this morning, was: is it a
synthetic? is it a non-synthetic?

    MR. SIEMON: Okay. Then we're stuck.

    MS. CAROE: Well -- I mean, logically, it's -- to
me, it's a non-synthetic, because it's --

    MS. OSTIGUY: After hexane extraction?

    MS. CAROE: It's not molecularly changed. The
extraction is simply a method in order to take out a piece
of the original plant. It's not changed.
MS. OSTIGUY: Andrea, there was disagreement,
that's all I can tell you.

MS. CAROE: Well, I can tell you I believe it's
non-agricultural. I mean, it's been manipulated in a way
that it is -- no longer has its agricultural identity, but
it's not synthetic.

MS. OSTIGUY: Andrea -- yes, I hear what you're
saying. We had -- there were people that were -- stated
your opinion, there were people that stated others. There
was no conclusion that we were able to reach, as a
committee. Richard?

MR. MATTHEWS: Yeah. I need a bit of a
clarification on something. This is Richard Matthews,
Program Manager, National Organics Program.
I'm not sure I heard correctly a few moments ago
when there was discussion about the fact that there was a
question written onto the sheet and Nancy says she knows
the answer?

MS. OSTIGUY: I know the answer, but I -- I could
not -- this is not a test for them, but I'm not the one
that's supposed to be supplying everybody with the answer.
Now, I could write those out.

MR. MATTHEWS: Then I think you should, because
this Board has the responsibility for reviewing the
material, this Board is appointed --
MS. OSTIGUY: This --
MR. MATTHEWS: Wait a minute.
MS. OSTIGUY: This is not --
MR. MATTHEWS: Let me finish.
MS. OSTIGUY: -- going to finish the questions, though.
MR. MATTHEWS: That's okay. Let me speak my piece.

This Board is appointed because of expertise that they have, and I have serious problems with a board that would take the attitude that they know the answer to the question that wasn't answered by the scientists but they're not going to answer the question because they're not paid $4,000 to do TAP, and that is exactly what was said.

MS. OSTIGUY: That is not what I said.

MR. MATTHEWS: So, folks, if you know the answer to something fill in the blank, if there's something you don't know the answer to you can't fill in the blank, then send it back, but don't send it back, because you don't want to fill in the blank.

MS. OSTIGUY: That is not what was said, Richard. The reason for sending it back was lack of information. There are some things in here that they did not answer, that yes, I can't answer, and I would be willing to write those down.
CHAIRMAN KING: I would entertain a motion to consider.

UNIDENTIFIED FEMALE VOICE: Specifically what's the information that's --

UNIDENTIFIED FEMALE VOICE: There is a motion on the table.

VOICES: No.

UNIDENTIFIED FEMALE VOICE: Oh. No, okay.

MS. KOENIG: May I just say one thing, you know, as a comment to Richard and Nancy. I think -- you know, and I understand Nancy's point, and I don't -- I think -- I guess what we want to say is that we can supply information, but part of a technical review is actually to review the literature. I mean, it may be my opinion, and it may be Nancy's opinion. I mean, I have had basic bio- -- you know, we both have Ph.D. shift in sciences, but I'm not going to write down "Rose says" -- you know.

In order for me to document that and do it as a scientist, I would have to do a literature review and do a comprehensive analysis of those things, and I think what Nancy is saying is that she knows, you know, based on her scientific background -- just like I said, carbon-to-nitrogen ratio -- but, you know, to be -- to do a scientific evaluation, as a scientist, it's our job to go into the literature and referee publications and document...
that fact. That's part of the scientific process.

So Richard, we will do our job and we will supplement information, but in order for us to do a literature review on things, it's a considerable amount of time, and what we're saying is that we can look at data -- I mean, to me, our role -- and correct me if I'm wrong -- is to use our expertise to analyze documentation, to see if we can support it or not support it.

If there's areas that we don't support, then we need to confirm that. But I think what's Nancy's saying is it's -- you know, if we have time, we can do some literature review, but the idea of contracting out that information is for a contractor to actually gather that information and do literature review.

So -- that's just my comment.

CHAIRMAN KING: Is there a motion to consider?

UNIDENTIFIED FEMALE VOICE: Let George have his (inaudible).

MR. SIEMON: I just had a basic question, that maybe is too basic, but: If it was synthetic, is it possible for you to consider this as a fertilizer? Because one of the TAP reviewers says no, you can't, if it's -- so I just need that clarification.

MR. RIDDLE: Well, that's --

MR. SIEMON: If it was declared synthetic, is it
possible to consider it as a fertilizer? I just need an --
I don't -- that's the basic -- I've read the law here,
under what they refer to as -- 6508(b); I just need to know
what ya'll -- I need some help.

MS. KOENIG: Can I -- just from the basics of the
committee, if it was a synthetic, if it stays within that
category -- and again, this is my opinion after sitting on
conference calls and getting kind of a general feeling of
the group -- it would end up being synthetic, not allowed,
because there's plenty of natural sources of nitrogen out
there. Okay?

All the reviewers said it was synthetic. You
know. So if we use the documentation provided to us by the
contractor, then we would go the route of: synthetic, not
allowed.

What we're saying, as a committee, is: hey, this
may actually in fact be a natural, and we may not even have
to go there, but from the information that was provided, we
see there is an extraction method involved in that, and we
place -- there is some concern that there perhaps are other
materials that could be used in an extraction process that
may warrant us to look at it as a non-synthetic but,
however, may stick it in a "prohibited" category, with an
annotation only allowing certain extraction methodologies.

So that is really, you know, kind of where the

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committee stands in terms of thinking at this point, but none of us were comfortable based on the lack of information and not having the ability to go into textbooks, at this point, to make a decision at that point, we did not think that that was, you know, in the best interests of the industry or the petitioner.

MR. RIDDLE: I move we defer.

MR. SIEMON: Second.

CHAIRMAN KING: It's been moved and seconded that we defer, moved to Jim Riddle, seconded by George Siemon.

Further discussion?

(No audible response.)

CHAIRMAN KING: Hearing none, for a vote, we'll start with you, Ann, this time.

MS. COOPER: Yes.

MS. KOENIG: Yes.

CHAIRMAN KING: Andrea?

MS. CAROE: I'm going to abstain.

MR. SIEMON: Yes.

MR. CARTER: Dave, yes.

MR. RIDDLE: Yes.

CHAIRMAN KING: Mark, yes.

MS. DIETZ: Yes.

MS. OSTIGUY: Nancy, yes.

MR. O'RELL: Kevin, yes.
MS. CAUGHLAN: Goldie, yes.
MR. LACY: Mike, yes.
MS. GOLDBURG: Becky, yes.

UNIDENTIFIED FEMALE VOICE: That's 12 yeses, 1 abstention, and 1 absence.

UNIDENTIFIED FEMALE VOICE: 12 yes and 1 --
UNIDENTIFIED FEMALE VOICE: -- 1 abstention, 1 absence.

UNIDENTIFIED FEMALE VOICE: Why was it deferred?
UNIDENTIFIED FEMALE VOICE: Inadequate TAP.
MS. OSTIGUY: Additional material.
MR. RIDDLE: It's in the committee's report.
CHAIRMAN KING: "Additional information needed."
MR. RIDDLE: "Details to be provided by committee."

MS. OSTIGUY: Okay, 6-benzyladenine. Is everybody ready? Okay. The committee discussed the public testimony that was presented yesterday. After the discussion the committee voted that the material was synthetic and rejected its addition to -- its addition to the National List because hand pruning is an alternative practice that is currently available and currently used.

The vote to reject -- or the vote to add was: zero to add, 4 no's, and zero abstentions. Discussion?

MR. SIEMON: I just -- is there anyone that can
confirm that people already hand-thinning? I heard yesterday that was the only way. Is that -- it is? Rose.

MS. KOENIG: One of the -- you know, again, in committee discussion, the -- the alternative hand thinning came up as a discussion item, that we thoroughly discussed, and one of the benefits of placing this on the web was we were hoping we were going to get public comment from farmers who felt that this was erroneous, but it over-- you know, a tax [phonetic] that was just too much, that they really needed these things.

The only public comment that we received was that of the petitioner, which really was a repeat of the same reasonings for including it.

So based on the fact that there was no public comment from farmers and producers stating they needed this, we assumed our -- that that alternative was not needed.

MS. OSTIGUY: Jim?

MR. RIDDLE: Yeah. In order to have a vote, I move that it be added to the List.

CHAIRMAN KING: Is there a second?

MS. CAUGHLAN: In order to have a vote I'll second it.

(Laughter.)

CHAIRMAN KING: It's been moved by Jim Riddle
that we add 6-benzyladenine to the List, and seconded by
Goldie Caughlan. Discussion, further discussion?
(No audible response.)

CHAIRMAN KING: Hearing none, we'll proceed to
vote, beginning with Becky.

UNIDENTIFIED FEMALE VOICE: That doesn't work.

Start with Rose. Just alternate.

CHAIRMAN KING: All right, we'll start with her.

MS. KOENIG: No.

CHAIRMAN KING: Rose says "No."

MS. GOLDBURG: No.

MR. LACY: No.

MR. RIDDLE: No.

CHAIRMAN KING: No.

MS. CAUGHLAN: Goldie, no.

MR. O'RELL: No.

MS. OSTIGUY: No.

MS. DIETZ: No.

MR. CARTER: No.

MR. SIEMON: No.

MS. CAROE: No.

UNIDENTIFIED FEMALE VOICE: 13 no's, 1
abstention.

CHAIRMAN KING: 1 absence.

UNIDENTIFIED FEMALE VOICE: Absence, I'm sorry.
MS. OSTIGUY: The next one was urea. Urea, the committee discussed, there was no additional information that was presented. Urea was petitioned for a use that doesn't exist with EPA, so we really can't even consider it.

MR. SIEMON: And this, used in a trap, is required for EPA clearance?

MS. OSTIGUY: Yes, it is. As an attractant, it does have to be listed. Now, it's probably not a difficult listing to do, but somebody would have to go through that process; and if somebody did, we have all the materials, then, to add it to the List at that time.

MS. DIETZ: Yeah. And this -- historically, we've done this before, we just archive the petition and archive all the information, that if it does come back up, then we can re-review the material, but it's just considered archived.

MS. KOENIG: I make a motion to archive it.

MS. DIETZ: I'll second.

MS. OSTIGUY: Okay.

MR. SIEMON: Do we need to vote on it?

MS. DIETZ: Yeah, I guess we do have to vote.

MR. RIDDLE: Well, it's clear, it's in the record --

CHAIRMAN KING: And I would entertain a motion to
add to that that we're accepting the committee's findings, so if we could --

MR. RIDDLE: You accept that as a friendly amendment?

UNIDENTIFIED FEMALE VOICE: Yes.

CHAIRMAN KING: So it's been moved that we archive the information on urea and accept the committee's findings. I'm not sure who made the motion. Rose made the motion.

UNIDENTIFIED FEMALE VOICE: Archive what?

UNIDENTIFIED FEMALE VOICE: Archive the petition and the TAP report.

CHAIRMAN KING: And accept the committee findings. Do we need an individual vote on this?

UNIDENTIFIED FEMALE VOICE: And who made the motion?

CHAIRMAN KING: Rose.

MS. OSTIGUY: Rose, seconded by Kim. Question, when you say you're accepting the committee findings, you're referring to the committee findings that it is not EPA-approved?

CHAIRMAN KING: Yes.

UNIDENTIFIED FEMALE VOICE: The whole review and everything.

UNIDENTIFIED FEMALE VOICE: We haven't really
detailed it.

UNIDENTIFIED FEMALE VOICE: We have not, no, received a report on their actual findings beyond (inaudible).

CHAIRMAN KING: My understanding is we're accepting the finding that it's not a legal EPA label claim.

UNIDENTIFIED FEMALE VOICE: That's correct.

UNIDENTIFIED FEMALE VOICE: That's what I wanted to clarify.

UNIDENTIFIED FEMALE VOICE: And it's -- basically, the committee recommended for deferred, so deferred and we're archiving it.

CHAIRMAN KING: Okay. We're going to start with Andrea this time.

MS. CAROE: Yes.

MS. GOLDBURG: Yes.

MR. LACY: Yes.

MR. RIDDLE: Yes.

CHAIRMAN KING: Yes.

MS. CAUGHLAN: Yes.

MR. O'RELL: Yes.

MS. OSTIGUY: Yes.

MS. DIETZ: Yes.

MR. CARTER: Yes.
MR. SIEMON: Yes.

MS. KOENIG: Yes.

MS. OSTIGUY: Last one, for crops --

UNIDENTIFIED FEMALE VOICE: What's the vote, please?

MS. OSTIGUY: 13 yes, zero no, no abstentions, 1 absence.

MS. CAUGHLAN: No, it's 12, 1, and 1. I mean --

CHAIRMAN KING: No, 13 --

MS. CAUGHLAN: You're right. I'm sorry.

MS. OSTIGUY: 13 yeses, zero no's, 1 absence, no abstentions.

(Pause.)

MS. DIETZ: Come on, girlfriend (inaudible).

(Laughter.)

UNIDENTIFIED FEMALE VOICE: Oh, but our table's not ergonomically correct.

CHAIRMAN KING: Pressure. Pressure.

(Laughter.)

MS. OSTIGUY: Okay, the committee considered the information that was provided yesterday during public testimony, and also the public comments that were received on hydrogen chloride's use for de-linting cotton seed.

A motion was made -- I believe by Rose, I don't remember who seconded it now -- to add hydrogen chloride to
the National List, with the annotation "for de-linting cotton seed for planting."

The vote was 4 yes, zero no, zero abstentions.

MS. DIETZ: I just want to make sure that you incorporated my changes into the original document, that I asked.

MS. OSTIGUY: Yes, it'll be going in. Any other comments?

MR. SIEMON: This hydrogen chloride is the same thing that was with the soy product; right?

MS. DIETZ: No.

MS. OSTIGUY: No.

MR. SIEMON: No?

MS. OSTIGUY: Are you thinking of hexane?

MR. SIEMON: Well, okay --

MR. RIDDLE: It's one of the materials, yeah.

UNIDENTIFIED FEMALE VOICE: It's one of the two materials in the extraction process, yes.

MR. SIEMON: That's what I mean.

MR. RIDDLE: After the hexane, then the other steps. Yeah, you're right.

CHAIRMAN KING: Okay.

(Pause.)

MS. OSTIGUY: Is there a motion?

MR. RIDDLE: I move approval, with the annotation
as stated by the committee.

UNIDENTIFIED FEMALE VOICE: I'll second it.

UNIDENTIFIED FEMALE VOICE: Can you read the annotation again, please.

MS. OSTIGUY: "For de-linting cotton seed for planting."

CHAIRMAN KING: Okay, it's been moved and seconded, and we're voting on hydrogen chloride, with the following annotation: "for de-linting cotton seed for planting." So we'll start with George.

MR. SIEMON: Yeah -- yes.

UNIDENTIFIED MALE VOICE: Was that two votes or--

(Laughter.)

MR. SIEMON: Well, I'm trying.

UNIDENTIFIED MALE VOICE: You're here in Chicago; you never know.

(Laughter.)

UNIDENTIFIED MALE VOICE: Yes.

UNIDENTIFIED MALE VOICE: Yes.

CHAIRMAN KING: Yes.

UNIDENTIFIED FEMALE VOICE: Yes.

UNIDENTIFIED FEMALE VOICE: Yes.

UNIDENTIFIED MALE VOICE: Yes.

MS. OSTIGUY: Yes.

UNIDENTIFIED MALE VOICE: Yes.

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UNIDENTIFIED FEMALE VOICE: Yes.
UNIDENTIFIED FEMALE VOICE: Yes.
UNIDENTIFIED FEMALE VOICE: Yes.
UNIDENTIFIED FEMALE VOICE: And yes.

MS. DIETZ: I just want to commend that process on that material, because that was one that -- I think we remember it was originally a "No," we got public comment, and thank the committee for taking that back, that was --

MR. RIDDLE: And what about your comments on the language, that's just between -- the rest of us don't need to review that?

MS. OSTIGUY: Yeah, we've done that. GRAS. There was just comments --

UNIDENTIFIED MALE VOICE: Not now, you voted on it.

MR. RIDDLE: I know, we already voted, and (inaudible) --

UNIDENTIFIED FEMALE VOICE: I trust that (inaudible).

MR. RIDDLE: Okay.

CHAIRMAN KING: Okay.

MR. RIDDLE: Yeah.

CHAIRMAN KING: Is there anything else from you?

MS. OSTIGUY: No.

CHAIRMAN KING: Okay. That concludes crop.
committee materials. And next is livestock.

   MS. OSTIGUY: I get to do more.

   CHAIRMAN KING: Yeah. It's just a little

marathon, Nancy.

   MS. OSTIGUY: Yes. Yes. Well, yeah, when you

let Kevin go first, I was wondering if I'd lose my voice.

   The first one on the list is moxidectin. I have

a couple of changes on the evaluation criteria, I have no

idea how the errors came up, but they -- I made them. All

I can say is that they happen on occasion.

   On Category 1, Number 3, the documentation has

that the half-life of moxidectin is up to 6 months; actual-

ly the citation in the TAP, on Pages 5 and 6, is 2 months.

   So that shows up again in Question 8, Category 1, and

Question 9, Category 1.

   In addition -- well, no, it does have "binding

tightly to the soil," so it -- it basically doesn't go

anywhere.

   The committee, when evaluating this material,

found that it was synthetic and voted to add the -- and in

the vote to add the National List, the vote was 5 yes, zero

no, zero abstain, with the annotation: "control of

internal parasites only." Comments.

(No audible response.)

   MS. OSTIGUY: Motion. The annotation, again, was
"control of internal parasites only."

CHAIRMAN KING: Is there a motion to consider?

MS. GOLDBURG: I so move.

CHAIRMAN KING: It's been moved by Becky.

Second?

MS. COOPER: Second.

CHAIRMAN KING: Seconded by Ann.

UNIDENTIFIED FEMALE VOICE: And the annotation again --? I just want to make sure (inaudible).

MS. OSTIGUY: "Control of internal parasites only."

CHAIRMAN KING: Dave, you're on the hot seat.

MR. CARTER: Okay. And starting off let me just say, this one causes me more trouble than any, just --

CHAIRMAN KING: Oh, this discussion.

MR. CARTER: -- the whole parasiticide -- no, this is about -- this is just explaining my vote, but --

The fact that ivermectin is allowed kind of shades everything else, so I will vote Yes.

MR. RIDDLE: Yeah, I'm torn on this one too and, yeah, share Dave's concern that ivermectin is on the list.

From all that I've read, gathered, this is a more environmentally sound substance than ivermectin, but I do still have some concerns about its environmental impacts and also just the cultural practices that we really base
organic livestock production on, I don't think we've done
ear enough to prevent parasites, and I don't -- that
hasn't been discussed at length in the TAP, I don't think.
And, yeah, I've come to the very firm conclusion that I'm
going to abstain on this.

(Laughter.)

MR. RIDDLE: I'm not going to oppose it, but I
just can't bring myself to support it.

CHAIRMAN KING: Well, I'd like to thank Jim for
having the longest recorded in history (inaudible) --

MR. RIDDLE: (Laughs) To abstain.

CHAIRMAN KING: Yeah.

MR. RIDDLE: Non-vote.

CHAIRMAN KING: Yeah, non-vote, exactly.

UNIDENTIFIED FEMALE VOICE: It's a vote with the
majority.

UNIDENTIFIED FEMALE VOICE: Yeah.

CHAIRMAN KING: Okay, I'll vote no.

MR. RIDDLE: We're not voting yet, are we?

CHAIRMAN KING: Yes.

MR. RIDDLE: Oh, that was the vote. I abstained.

I thought we were just still discussing.

MR. CARTER: It seemed like it.

(Laughter.)

CHAIRMAN KING: If someone wants to move to
reconsider, that's fine.

MR. RIDDLE: No, no. I abstained.

CHAIRMAN KING: All right. So: no.

MS. DIETZ: Kim, yes.

MS. OSTIGUY: Yes.

UNIDENTIFIED MALE VOICE: Yes.

UNIDENTIFIED FEMALE VOICE: Yes.

UNIDENTIFIED MALE VOICE: Yes.

UNIDENTIFIED FEMALE VOICE: Yes.

UNIDENTIFIED FEMALE VOICE: Yes.

UNIDENTIFIED MALE VOICE: Yes.

UNIDENTIFIED FEMALE VOICE: Yes.

UNIDENTIFIED FEMALE VOICE: Yes.

UNIDENTIFIED FEMALE VOICE: Yes.

UNIDENTIFIED MALE VOICE: Yes.

UNIDENTIFIED FEMALE VOICE: 11 yes, 1 abstention, 1 absence, and 1 no.

MS. OSTIGUY: Okay. Last one is proteinated chelates, and there was some additional discussion this morning, when I was busy with the crops committee, so I do not know what happened with this one.

MR. SIEMON: We added an annotation, but otherwise everything remains the same.

MS. OSTIGUY: Well, I don't even know what the annotation is, so somebody's got to do this --

MR. SIEMON: I can tell you what the annotation was: protein source must be of mammalian or poultry
UNIDENTIFIED FEMALE VOICE: I can't hear a word you're saying.

MR. SIEMON: Okay, Nancy's going to lead us through this, but we did add an annotation today that said: the protein source must not be of mammalian or poultry origin.

MS. OSTIGUY: Okay, I can finish up that. Okay, what the committee recommended was that chelated minerals be added to the list, that it is a synthetic, with the annotation: "Protein sources must not be of mammalian or" --

(Pause.)

UNIDENTIFIED MALE VOICE: -- "poultry origin."

MS. OSTIGUY: -- "poultry origin." The vote -- George, do you know what the vote was? -- because I wasn't there.

MR. SIEMON: It was 4-0, in favor.

MS. OSTIGUY: And the committee vote was 4 yes, zero no, zero abstentions. Discussion? Kim.

MR. SIEMON: It was 5-0, excuse me.

MS. OSTIGUY: Oh, 5-0?

MR. SIEMON: I'm sorry. We didn't -- we had 2, then 3. It was 5-0, committee.

MS. DIETZ: My question, as the same as yesterday: is this material commercially available for all
farmers with this restrictive of an annotation? -- and I'm not a livestock expert, but -- I mean, I assume you're having to supply a bunch of farmers or livestock people with this material, and is it commercially available, do we know that for sure, with this restrictive of an annotation?

MR. SIEMON: We had the same concern, but we had a document from someone who did research and said it was, so it's not like two -- two sources, but we had one written source that there was, so -- it's a good challenged.

MS. OSTIGUY: Jim first, and then Andrea.

MR. RIDDLE: And it --

MS. DIETZ: Nationwide? I mean, I hate to --

MR. RIDDLE: Well, it -- yeah, and from the information that was provided, the animal-origin sources would be very rare, that's not what's typically out there, so what is available is the vegetative sources of protein, but for cautionary purposes we are saying that the animal-origin sources would not be allowed. So it's not like we're taking something away.

MS. OSTIGUY: Andrea.

MS. CAROE: My question is: Is it easily identifiable, which materials don't contain --, I mean is that information that the vendor of the product will have, or -- I mean, you're saying that the protein generally doesn't come from them, but is it all -- I mean is it --
does anybody know where that is and where that isn't? I
mean, if you can't identify -- if you can't justify that
you're within the restriction, then you can't use it
because you --

MS. CAUGHLAN: I don't (inaudible).
MS. CAROE: I'm just asking. I could see that
that might be a problem, for people to actually get the
documentation that verifies that they are working within
that restriction.

MR. RIDDLE: Well, I'd just respond, you know,
that that's always a problem with any material, just --
making sure that it is from allowed substrates or allowed
ingredients. So I don't see the burden of proof here any
different than for other synthetic substances that are on
the list currently.

UNIDENTIFIED FEMALE VOICE: With annotations.
MR. RIDDLE: Yeah, with annotations.
MS. CAROE: With annotations. But that doesn't
always mean that this is going to be -- I mean, just
because we've always done it before, I don't know if
it's --

MR. RIDDLE: Well, yes --
MS. CAROE: Especially --
MR. RIDDLE: -- from -- the information from the
petitioner is that yes, that information is available.
Whether that is available -- or the information is readily available for everyone in the industry, I really can't answer that, but it is for the petitioner, and therefore, once it becomes an annotation, it is something which can be complied with.

MS. CAROE: The reason that I'm asking is because if you're saying it's rare that it would be from those sources and it's difficult to find, how much are we gaining by putting people through that extra rigorous step, to -- do you see what I'm saying?

MR. RIDDLE: Yeah. Well, it's a precautionary --

UNIDENTIFIED MALE VOICE: Yeah.

MS. OSTIGUY: Kim.

MS. DIETZ: I'm going to wait (inaudible).

MS. OSTIGUY: Dave.

MR. CARTER: On this particular issue, yeah, I think the precautionary principle is prudent for us to follow. And I think that on the area of animal-source products in any feed or feed supplement is going to be more -- there's more and more pressure on FDA and the like to start getting into that and to go into things that ranchers and farmers have normally assumed were not sourced from animal sources and to begin looking at that, and so I think we need to establish where we're going to -- where we're going to draw the line on that, because -- I think from the
standpoint of the integrity of the system, and particularly, the organic consumer out there expects that we are not going to be using anything from animal sources in feed.

MR. SIEMON: I hope -- I don't think it's been said already, but I just want to make sure everybody's clear that these -- these materials are actually presently allowed, and we -- we thought we ought to review them to see, because of the FDA, so we went through them, to see, and we're actually continuing to allow them except now we're offering this annotation. It's a little bit different, but it's already allowed.

MS. OSTIGUY: Kim.

MS. DIETZ: I just sense a lot of restlessness in the audience when we gave that annotation, and I am really uncomfortable voting on an annotation on a material we already allow unless I'm really confident that that's available to everybody. So if it's currently allowed, then -- I'm just not convinced that that -- that's true, and I -- we had people coming up here, we had everybody chit-chatting, and I just am not comfortable knowing that that's really the proper annotation, with that much restlessness, and without hearing the public comment on it, so I don't -- I don't understand that. There's not a motion on the table yet, obviously, so if someone wants to make a motion --

MR. RIDDLE: Yeah. Well, I move that proteinated
chelates be placed on the list, with the annotation:
"Protein sources must not be of mammalian or poultry origin."

MR. CARTER: I'll second it.

MR. SIEMON: Is that the right motion -- just so we're really clear -- since it's already allowed through the one --

UNIDENTIFIED FEMALE VOICE: I think you're just adding an annotation.

CHAIRMAN KING: So the specific motion is only to add the annotation?

MR. RIDDLE: Well, no, it's to -- it would be to add it to the list under the feed supplements section.

CHAIRMAN KING: Okay.

MR. SIEMON: Yeah, because it would be added, to be annotated.

MS. KOENIG: I guess I'm -- I'm confused. So you're saying that we voted on -- this was one that we voted on prior? No.

MR. RIDDLE: No, no.

CHAIRMAN KING: No, no. That's what I was clarifying.

MS. KOENIG: So why are you saying that it's already on the List, then?

MR. SIEMON: Because it's an FDA vitamin and
mineral allowed under the Rule. It's already (inaudible).

UNIDENTIFIED FEMALE VOICE: It's implied, you say, by -- because it's under a category that's --

MR. SIEMON: Yeah. A broad category. So my interpretation of this vote is really about adding the annotation or not. If it fails, it's still allowed, it's just not allowed -- I mean, we need to clarify it, because we could get in trouble here.

CHAIRMAN KING: That's right.

UNIDENTIFIED FEMALE VOICE: Well, what --

MR. SIEMON: We should vote on the annotation, in my opinion, so we don't get in any confusion here that a "No" vote means it's not allowed at all.

MS. DIETZ: Right. If I really had the right intention, I would have made the motion without the annotation, we'd have voted on it. So right now we have a motion on the table, with the annotation.

MR. SIEMON: Okay. So -- then if this gets voted down, then we'll have another vote going the other way, no problem.

CHAIRMAN KING: So let's review the motion, once again, please. Jim, if you could.

MR. RIDDLE: Yeah. Well, the motion would be to place it on the National List, with the annotation:

"Protein sources must not be of mammalian or poultry..."
UNIDENTIFIED FEMALE VOICE: And who was the seconded vote?

UNIDENTIFIED MALE VOICE: Dave.

MR. CARTER: Second.

MR. SIEMON: Maybe before we vote: Is there anybody in the audience that knows anything about the availability? -- because I hear a lot of cautions here about non- -- according to what we're doing here. Dave?

MR. ENGEL: Thank you for asking. I don't know anything about availability --

MR. RIDDLE: Identify --

MR. ENGEL: Oh. I'm David Engel, dairy farmer from Wisconsin.

I don't know anything about availability, but I want to repeat the question that I asked the committee earlier, in maybe a little bit different context.

Chelated proteins are so prevalent in the industry that I -- and I asked you specifically, when you quoted, Jim, Mr. Walker as a proof that there was availability of non-animal-sourced chelated proteins, that it was -- you could get them. I don't know. You guys don't know. Be really careful with this.

UNIDENTIFIED FEMALE VOICE: Right.

CHAIRMAN KING: Okay.

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MR. SIEMON: Okay.

UNIDENTIFIED FEMALE VOICE: Kelli.

CHAIRMAN KING: Kelli.

MR. SIEMON: I would have called that an opinion versus information, myself, but --

MS. SHEA: Kelli Shea. Thanks for asking for input.

Because I don't believe we really addressed varying sources of this product, I really think it's a good idea to look at the annotation like you are, but I don't believe you have the information to do it.

Because this product is currently allowed for use, did you consider deferring the vote until you could get additional information on whether or not it is available in the preferred source you're discussing? It would not cause harm to farmers because it currently is available, you would be able to do due diligence, get the information you need, to make the wise choice.

UNIDENTIFIED FEMALE VOICE: Time to vote?

CHAIRMAN KING: Is there a motion to strike?

There's a motion on the table, there's a motion on the table that's been seconded.

MR. RIDDLE: Well, yeah, I just want to respond to those comments, because, you know, I think there's no way we want to be allowing animal-origin supplements here.
anyway. I mean, this -- this petition has been before us for quite a long time, and I think, in an abundance of caution, in today's environment, we do have a reason to move forward.

So I call the question and go to a vote.

UNIDENTIFIED FEMALE VOICE: It starts with you.

MR. RIDDLE: That's right. I vote yes.

UNIDENTIFIED FEMALE VOICE: Who did the second on this?

MR. CARTER: I did.

CHAIRMAN KING: Dave Carter did.

UNIDENTIFIED FEMALE VOICE: All right. Okay, go ahead.

CHAIRMAN KING: I abstain.

UNIDENTIFIED FEMALE VOICE: No.

UNIDENTIFIED FEMALE VOICE: No.

UNIDENTIFIED MALE VOICE: No.

MS. OSTIGUY: Yes.

UNIDENTIFIED MALE VOICE: No.

UNIDENTIFIED FEMALE VOICE: Yes.

UNIDENTIFIED FEMALE VOICE: Yes.

UNIDENTIFIED FEMALE VOICE: Okay, wait, wait one second.

MS. COOPER: Yes.

UNIDENTIFIED FEMALE VOICE: Wait one second,
please. I've got to go up. So Ann, yes. Rose?

MS. KOENIG: Yes.

UNIDENTIFIED FEMALE VOICE: Yes.

UNIDENTIFIED FEMALE VOICE: Andrea?

MS. CAROE: No.

UNIDENTIFIED FEMALE VOICE: George?

MR. SIEMON: Yes.

UNIDENTIFIED FEMALE VOICE: Dave?

MR. COOPER: Yes.

UNIDENTIFIED FEMALE VOICE: 7 yeses, 5 no's, 1 abstention.

MR. SIEMON: Chair, what's the vote required?

CHAIRMAN KING: Two-thirds, I believe, or --

UNIDENTIFIED FEMALE VOICE: It doesn't pass, because it's 8 to 5. Abstention goes majority.

CHAIRMAN KING: Let me pull out the calculator. We need a two-thirds.

UNIDENTIFIED MALE VOICE: Two-thirds of 13.

CHAIRMAN KING: Yeah. Motion fails. Seven comes out at 53 percent. We had 7 yeses.

MR. RIDDLE: And the abstain goes with the majority.

CHAIRMAN KING: Abstain does go with the majority.

MR. SIEMON: Yeah.
UNIDENTIFIED FEMALE VOICE: Yes, it does.
UNIDENTIFIED MALE VOICE: Did you count that, eight?
CHAIRMAN KING: No, I did not.
UNIDENTIFIED MALE VOICE: Yeah, it's still 62 percent.
CHAIRMAN KING: Yeah, still not enough. We needed nine.
UNIDENTIFIED FEMALE VOICE: Motion fails.
MR. SIEMON: Okay, is there another motion?
MR. RIDDLE: Well, I move to --
UNIDENTIFIED FEMALE VOICE: (Inaudible).
CHAIRMAN KING: Hold on.
UNIDENTIFIED FEMALE VOICE: Can you summarize what's going on, please?
CHAIRMAN KING: The votes were -- it was 8 to 5--
UNIDENTIFIED FEMALE VOICE: It was 7 yeses --
CHAIRMAN KING: 1 abstention. Go ahead.
UNIDENTIFIED FEMALE VOICE: 7 yeses, 5 no's, 1 abstention, 1 absence.
UNIDENTIFIED FEMALE VOICE: Okay.
CHAIRMAN KING: The motion does not carry.
MR. SIEMON: And I'm looking for a new motion.
MS. KOENIG: I'll make a motion to defer the material.
MR. CARTER: I will second it.

CHAIRMAN KING: Rose has made the motion to defer the material, Dave Carter has seconded. Discussion.

UNIDENTIFIED FEMALE VOICE: Are we going to defer based on request for more information?

UNIDENTIFIED FEMALE VOICE: Well, that's what we're going to discuss.

UNIDENTIFIED FEMALE VOICE: Motion to defer, second by Dave.

CHAIRMAN KING: Correct. Is there discussion?

Rose.

MS. DIETZ: Yeah. I based the deferral on gathering information on the commercial availability of plant -- non-mammalian sources of -- of the protein, proteinated chelates.

CHAIRMAN KING: So Rose is specifically saying the deferral is to gather more information concerning the sources indicated.

(Pause.)

CHAIRMAN KING: Is there discussion?

MR. RIDDLE: Yeah. So who's going to do this gathering, and how -- I mean, this is not to send it back to the TAP contractor, correct, this is for the Board to solicit the information?

MR. SIEMON: (Inaudible) two confirmations, I
MS. DIETZ: If we -- this is just going off the top of my head, but if we go back through and put this on the recommendation sheet for the next meeting, that the motion was to defer based on information on commercial availability, then we see what kind of public comments that we get, and we could use that information.

So I urge the community and the livestock industry to comment and to find out whether or not you have commercial availability sources based on that original annotation, and let's be specific in the document from the livestock committee.

CHAIRMAN KING: Rose.

MS. KOENIG: But I would also urge the committee to do just minimal research (inaudible), you had one source, you said, try to get, you know, that three sources, just in case public comment doesn't come in, so we can proceed.

CHAIRMAN KING: Are you agreeing to do minimal research, Jim?

MR. RIDDLE: No, I'm just agreeing with what she was saying.

CHAIRMAN KING: I'm just kidding.

(Laughter.)

UNIDENTIFIED MALE VOICE: (Inaudible.)
UNIDENTIFIED FEMALE VOICE: Okay, I'm ready.

File the motion.

MR. SIEMON: We'll seek public comment.

CHAIRMAN KING: Okay. Question's been called.

We begin with me. The motion is to defer. "Yes."

UNIDENTIFIED FEMALE VOICE: Yes.

MS. OSTIGUY: Yes.

UNIDENTIFIED MALE VOICE: Yes.

UNIDENTIFIED FEMALE VOICE: Yes.

UNIDENTIFIED MALE VOICE: Yes.

UNIDENTIFIED FEMALE VOICE: Yes.

UNIDENTIFIED MALE VOICE: Yes.

UNIDENTIFIED FEMALE VOICE: Yes.

UNIDENTIFIED MALE VOICE: Yes.

MR. CARTER: Yes.

UNIDENTIFIED MALE VOICE: Yes.

UNIDENTIFIED FEMALE VOICE: 13 yeses, no no's, 1 absence.

MR. SIEMON: Mark, it was the committee's will to make a statement about the antibiotic directives, so is this the time to bring that up? -- I was told.

CHAIRMAN KING: Sure.

UNIDENTIFIED FEMALE VOICE: It is?

MR. SIEMON: I don't know.
UNIDENTIFIED FEMALE VOICE: (Inaudible) voting?

UNIDENTIFIED FEMALE VOICE: On the recommendations.

MR. SIEMON: I'm --

UNIDENTIFIED FEMALE VOICE: Are we on committee reports, or where are we at?

UNIDENTIFIED MALE VOICE: Yeah, it's still committee reports.

CHAIRMAN KING: We're on livestock.

MR. SIEMON: Okay.

UNIDENTIFIED FEMALE VOICE: Is this it for materials?

CHAIRMAN KING: No, no, no. We still have more materials; we're just finishing up livestock.

MR. SIEMON: This just a resolution the committee put forward --

UNIDENTIFIED MALE VOICE: Actually, we're done with materials.

UNIDENTIFIED MALE VOICE: We're done with materials.

CHAIRMAN KING: Oh, we are, that's right.

UNIDENTIFIED MALE VOICE: That's right, we're done with materials.

UNIDENTIFIED FEMALE VOICE: Unless there's a policy material.
CHAIRMAN KING: A policy material?

(Laughter.)

CHAIRMAN KING: Dave, do you --

(Laughter.)

MR. SIEMON: Okay, the committee put forth a resolution, a simple paragraph, to revisit this, which I'll be glad to read, and then a series of background, why they felt this was proper to send this message forth. So I'll read the paragraph; even though you all have it, I'll read it for the audience.

"The National Organic Standards Board respectfully requests that USDA National Organic Program withdraw the 41304 Antibiotic Guidance Statement and work collaboratively with the NOSB to develop policy guidance with is consistent with the Livestock Healthcare Practice standard, statements made by the NOP in their preamble, "NOSB Recommendations, Consumer Expectations, and the Principles of Organic Livestock Production."

MS. DIETZ: A question on process. I haven't seen this document --

MR. SIEMON: Yeah.

MS. DIETZ: -- and you're asking the Board to vote on something that we've never seen and it's just been put forward in front of us, so -- again, I'm a stickler for giving me time to read (inaudible) --
MR. SIEMON: I agree.

MS. DIETZ: So I can't support it.

MR. SIEMON: That was my concern, about process, too, but --

MS. DIETZ: Yeah.

MR. SIEMON: -- but it is just a paragraph that we're putting forth, but --

MS. DIETZ: It just goes to -- you know, we're asking the NOP to give us time and -- to look at things and to look at policies and to follow process, and we're not doing it; I just disagree. Not that I disagree with the contents, that I'm aware of [phonetic].

CHAIRMAN KING: So, point of clarity: George, you're just forwarding the paragraph, the resolution, with the statement you just read; correct?

MR. SIEMON: Correct.

CHAIRMAN KING: The rest is background information, supporting information.

MR. SIEMON: Uh-huh.

CHAIRMAN KING: So technically that's what we would be voting on.

MR. SIEMON: I believe that was the committee's vote, uh-huh.

CHAIRMAN KING: Okay. Rose, then Dave.
sending this, you're not sending the whole thing?

MR. SIEMON: Well, we are sending the whole thing, but the -- what we need to vote on is the resolution, again, because of the time to look at it. Now, we could wait to tomorrow, I guess. I don't know how to deal with this, this just --

MS. KOENIG: Well, I think that the spirit of the intent is good, you know, and I think that there's more than one directive out there. I think it's the role of the Board to look at all of the directives and compose a letter really fully commenting on them, in a constructive way.

So it's not that I'm not -- you know, again, I agree with the spirit of it; I just don't think that this is the process by which we want to communicate and I think it's something that we could handle, you know, perhaps in an executive committee meeting and people could work on the ways to compose a document and then put it forth with more thoughtful ways of addressing the issue.

So my -- again, I -- I'm -- I guess I move to -- to just -- to keep -- the issues are there, and we're all aware of them, but, really, think about the process by which we want to address it.

MR. SIEMON: I don't know if we need a movement -- I mean, a motion, do we need a motion or not, just -- to not --
CHAIRMAN KING: Did you move to consider the resolution?

MR. SIEMON: No, I (inaudible).

CHAIRMAN KING: Rose, are you moving that we consider this an executive committee call?

MS. KOENIG: I'm moving to accept the document as a point of reference for the entire Board, but any action should be taken at a later point, through the executive committee process, to really consider, you know, what -- how we want to deal with the policy directive.

CHAIRMAN KING: Second?

MR. RIDDLE: Could you restate your motion, before I can second it? I'll second it, I think.

MS. KOENIG: All right, let me clarify.

CHAIRMAN KING: Perhaps in ten words or less.

MS. KOENIG: Yeah. I'm asking -- basically, the motion is: to defer the issues to the -- to defer the issues at this meeting and allow the executive committee to process all the policy statements and come up with a format to address the issues.

MS. DIETZ: I'll second that.

CHAIRMAN KING: Does anybody have this motion down? We're going to ask you a third time, Rose. Is the spirit of the motion -- and Nancy, could you say that, I think you've succinctly --
MS. OSTIGUY: Move to defer the motion and send it to the executive committee for consideration.

MS. KOENIG: I'm saying to --

MR. SIEMON: Well, there wasn't a motion that you can defer.

MS. OSTIGUY: Or move the resolution, whatever, the topic, issue.

MR. RIDDLE: As I first understood Rose, what I heard her saying was to -- the Board to vote to accept the committee's resolution and forward it to the executive committee for action.

MS. KOENIG: What I'm saying is that: accept the document --

MR. RIDDLE: Yeah. Okay.

MS. KOENIG: -- we're accepting the submittal of the document, similar to: we accept a task force --

MR. RIDDLE: Right.

MS. KOENIG: -- as an internal document, or as a document --

CHAIRMAN KING: Do you consider this --

MS. KOENIG: -- but it's not a policy, it's not our view on policy.

CHAIRMAN KING: Do you consider this a friendly amendment to your motion?

MS. DIETZ: I don't, as a seconder, I'm going to
take back my second on that motion. It's not what I
thought, so --

CHAIRMAN KING: The second has been withdrawn.

Could we restate the motion. Are you sorry you made the
motion?
(Laughter.)

MS. KOENIG: What I'm saying is -- I mean, I
think it's --

CHAIRMAN KING: Do you want to withdraw the
motion and --

MS. KOENIG: Okay, I'll restate the motion.

MR. SIEMON: Are we saying we want to defer any
response to the --

MS. KOENIG: Yeah, it's not --

CHAIRMAN KING: Hold on, hold on. I'm asking,
are you restating the motion --

MS. KOENIG: My motion is to -- I guess the
motion is for the executive committee to respond to the
directives from the NOP and formulate a process and a
response based on available information, based on input.

MS. CAUGHLAN: What I heard you say was all of
the recent directives.

MS. KOENIG: Yeah, that they need to analyze it--

MS. CAUGHLAN: This does not relate to that --

MS. KOENIG: Exactly.
MS. CAUGHLAN: -- and just now I didn't hear a plural.

MS. KOENIG: I'm saying all directives.

CHAIRMAN KING: Hold on, hold on.

MS. DIETZ: Here was the motion --

CHAIRMAN KING: This is the --

MS. DIETZ: -- for the executive committee to respond to the directives from the NOP and formulate a process and response based on information.

MR. SIEMON: Input, maybe.

MS. DIETZ: Inputting information, which includes this kind of stuff.

CHAIRMAN KING: Goldie, are you proposing a friendly amendment?

MS. CAUGHLAN: I was trying to clarify, and she just clarified.

CHAIRMAN KING: Okay. Is there a second? We have a motion on the table, and the motion reads: for the executive committee to respond to the directives from the National Organic Program and formulate a process and response based upon input information. Is there a second?

UNIDENTIFIED FEMALE VOICE: Based in input information from whom?

CHAIRMAN KING: I'll entertain friendly amendments, but first we need a second to have the actual
motion considered. Is there a second?

    UNIDENTIFIED MALE VOICE: Rose is the first?

    MR. CARTER: I will --

    CHAIRMAN KING: Is it a second?

    MR. CARTER: No, it's not a second. If that's going to tie, I will make a --

    CHAIRMAN KING: Motion fails.

    MR. CARTER: I will make a new motion: that we direct the policy development committee to bring forward to the executive committee a statement expressing the sense of the Board on the directives that have been issued by NOP.

    MS. KOENIG: I'll second that.

    (Laughter.)

    CHAIRMAN KING: Dave. Remember, she's typing this in, so --

    MS. DIETZ: Yeah, I'm fast, but I ain't that fast.

    CHAIRMAN KING: Yeah.

    MS. DIETZ: Say that again, please.

    MR. CARTER: Okay. That this Board directs the policy development committee to bring forward to the executive committee for consideration a resolution concerning the sense of the NOSB on the policy directives issued by the National Organic Program.

    UNIDENTIFIED FEMALE VOICE: Did you get a second?
CHAIRMAN KING: Yeah, seconded by Rose. So it's been moved and seconded that --

MS. DIETZ: That the policy committee -- direct the policy committee to bring forth to the executive committee for consideration a resolution of policy directive issues by the NOSB.

CHAIRMAN KING: Issued by the NOP.

MR. CARTER: Let's do -- bring forward to the executive committee a resolution concerning the sense of the NOSB --

MR. SIEMON: Sense?

MR. CARTER: -- regarding the policy directives issued by the National Organic Program.

(Pause.)

CHAIRMAN KING: Do you want to read it back.

MS. DIETZ: Okay, I'll try it again. Direct the policy committee to bring forth to the executive committee for consideration a resolution concerning the sense of the NOSB regarding the NOP policy directives. I hope that's good enough.

MR. SIEMON: Is the word "sense" (inaudible)?

CHAIRMAN KING: Are you okay with that?

MR. RIDDLE: Yeah, sense of the Board.


MR. RIDDLE: Yeah. Dave, you know, this
resolution that the livestock committee has brought forward was passed, I believe unanimously, by the committee, and I'm just wondering if your motion would account for or allow this resolution to be fed into the policy committee's considerations.

MR. CARTER: Absolutely. No, I think that we would look at this -- the policy development -- I mean, as a point of information, the policy development committee this morning began to draft up a statement along this line but we didn't have all of our committees there so we were hesitant to bring it forward until we at least got it out, because three of our members were in other meetings.

So I think this resolution, as well as the one that we were working on, we would bring together to address the sequence of directives that were issued over the last couple of weeks.

MR. RIDDLE: Okay.

CHAIRMAN KING: Goldie.

MS. CAUGHLAN: Point of information. So the executive is going to put this together and, to use the USDA word, vet it (inaudible) rest of it to the Board?

MR. CARTER: My thought is that the policy committee would bring this forward to the executive committee. The executive committee is the only committee that is authorized to act in the absence of the full board,
so the executive committee, you know, can act on it. What
I thought is for the executive committee -- the role of the
policy committee is to do some of that detail work on the
policy issues and bring them forward, then, to the
appropriate committees or to the full board for
consideration. In this instance it would come to the
executive committee.

MS. DIETZ: Dave has made the motion. We don't
have a second.

MR. RIDDLE: Rose did right away.
MS. KOENIG: I seconded.
MS. DIETZ: I didn't hear that. Okay. That's
fine. My only comment, again, is to -- if this board would
please give all its members adequate time to review
documents and -- so that we make sure we have a very good
process and it's consistent.

CHAIRMAN KING: Duly noted, but I think in this
case it was practically unavoidable, so I do appreciate the
work of the committee. Is there further discussion?
(No audible response.)

CHAIRMAN KING: Hearing none, we'll proceed to
vote on the motion, beginning with --

MR. CARTER: We don't need a roll call on this,
this could be --

CHAIRMAN KING: All those in favor signify by
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saying aye.

BOARD MEMBERS:  Aye.


(No audible response.)

CHAIRMAN KING:  Motion carries.  Okay, I think that's everything for livestock.  Is that correct?

MR. SIEMON:  Yeah.

CHAIRMAN KING:  Dave, you're still on the hot seat, policy development committee.  Is there anything to--

MR. CARTER:  Oh, gosh.  Yes.  Policy development committee this morning met and reviewed two issues.  The first one are the amendments to the Board policy manual.  Two areas of change were made and posted for comment, that being, specifically, the confidentiality requirements in the Board policy manual; and the second one, to address the change in the materials approvals forms that we've been used, to incorporate those and substitute them for the ones that we previously had in the policy manual.

So I would move that we amend the policy manual as recommended by the policy committee.

MR. RIDDLE:  I'll second.

MS. OSTIGUY:  Second.

CHAIRMAN KING:  We've got a tie second.  We'll take Goldie.
MS. CAUGHLAN: I think it was Nancy.

CHAIRMAN KING: Oh, I'm sorry, Nancy. Moved to Dave, seconded. Okay, it's been moved and seconded that we accept the proposed amendments to the Board policy manual. Is there discussion?

MR. RIDDLE: Yeah, I do want to just point out that Dave said there's just the two changes, but actually there's a few more than that, there's deleting the whole peer-review section, there's changing the name of the processing committee to "handling," and there's a whole bunch of things that were pending because we didn't deal with any non-material issues in October, so just to be clear, but it's all there in your meeting book, so it's -- it's pretty comprehensive changes.

CHAIRMAN KING: And just a point of information, it's my understanding this has been on the -- posted on the web for quite some time, so --

MR. CARTER: It's not only been posted on the web, it's been color-coordinated on the web.

UNIDENTIFIED FEMALE VOICE: Yeah, it has.

CHAIRMAN KING: Yes. Yes. The most colorful document.

MR. CARTER: Yes, sir.

UNIDENTIFIED FEMALE VOICE: Call the question.

CHAIRMAN KING: The question's been called. All
those in favor of accepting the proposed amendments signify by saying aye.

      BOARD MEMBERS: Aye.
      CHAIRMAN KING: Opposed, same sign.
      (No audible response.)
      CHAIRMAN KING: Motion carries.
      MR. RIDDLE: Yeah, and it just -- I'll follow through with sending a cleaned-up copy to the NOP, that actually deletes those green things and adds the yellow things, as they should be, and moves the colors and saves them for another day.
      (Laughter.)
      CHAIRMAN KING: It's a colorful comment.
      (Laughter.)
      MR. CARTER: Okay, the second item is the compatibility with organic production and handling, and before we go into the consideration of this formally, I just want to recognize that Jim particularly has done an incredible amount of work on this, he has carried 95 percent of the workload on this, including developing 22- and 23-page drafts of material with background, and I want to acknowledge that.

      This was posted. There were six public comments that were received. All of the public comments recommended that we drop from there Section M, which read "Does the R & S TYPING SERVICE - (903) 725-3343
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substance facilitate the development of new organic products?", so the policy development committee has recommended, then, that we move forward the statement of "compatibility with organic production and handling," with the deletion of Section M, and I would so move.

MR. SIEMON: I'd second.

CHAIRMAN KING: Moved by Dave, seconded by George.

MR. RIDDLE: And the revised version was handed out yesterday --

UNIDENTIFIED MALE VOICE: Yes, draft 5.

MR. RIDDLE: Right, draft 5.

CHAIRMAN KING: Okay. So it's been moved and seconded that we accept the report, omitting Section M; right?

UNIDENTIFIED MALE VOICE: Well, it's not to accept the report, it's a recommendation.

MR. CARTER: Yeah, it's a recommendation.

CHAIRMAN KING: Okay. Discussion?

MS. KOENIG: I just had kind of a question. This is on the OFPA criterias that we use in the materials process, so I was just wondering if there -- do you have any ideas of how we might be able to incorporate these concepts into that, either as an appendix or -- I mean, because we're voting on it here today and kind of gone
through this process, but how do we translate that to those sheets or get to that information? Kim?

MS. DIETZ: I think that when -- at least originally, when we were drafting this document, we said that it would be used as a guidance document in the material review process, under compatibility, and -- so that was my understanding of where this would be used, and I think -- and that's why we all supported it, and we've been using it in handling, specifically annotating what sections, so --

MS. KOENIG: So you're saying -- so just keep it in the Board policy manual, with the --

MS. DIETZ: Yes, as a guidance document.

MS. KOENIG: Okay, that's just --

CHAIRMAN KING: Jim and Dave.

MR. RIDDLE: Yeah, and that's one thing I was going to suggest, if this passes, that I'll add it to the version of the Board policy manual that I submit, and then it also should be provided to TAP contractor and reviewers so that they have it handy, and then committees should use it when they -- questions come up about compatibility.

CHAIRMAN KING: Okay.

MS. KOENIG: So I guess -- how would we notify -- or do you want the materials chair to notify the -- I mean, do we have -- you know, we have to somehow move to get that through this process, but how do we translate that to those sheets or get to that information? Kim?

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CHAIRMAN KING: Jim and Dave.

MR. RIDDLE: Yeah, and that's one thing I was going to suggest, if this passes, that I'll add it to the version of the Board policy manual that I submit, and then it also should be provided to TAP contractor and reviewers so that they have it handy, and then committees should use it when they -- questions come up about compatibility.

CHAIRMAN KING: Okay.

MS. KOENIG: So I guess -- how would we notify -- or do you want the materials chair to notify the -- I mean, do we have -- you know, we have to somehow move to get that
-- not a motion, but how do you see --

MR. RIDDLE: Uh-huh, take action.

MS. KOENIG: Who do you want to get it to NOP to make sure that --

CHAIRMAN KING: Is there --

MR. RIDDLE: I think the offer from the materials chair would be --

MS. KOENIG: Okay, I'll do it.

MR. RIDDLE: I remember when they testified in October it was a question they had --

MS. KOENIG: Right.

MR. RIDDLE: -- "What do you mean by compatibility?"

MS. KOENIG: Okay, I'll --

CHAIRMAN KING: Let's limit discussion to the actual motion to accept the recommendation. Is there further discussion?

(No audible response.)

CHAIRMAN KING: No.

MR. SIEMON: Call the question.

CHAIRMAN KING: The question's been called.

Voting on the recommendation, compatibility with organic production and handling. All those in favor signify by saying aye.

BOARD MEMBERS: Aye.

(No audible response.)

CHAIRMAN KING: Motion carries.

MR. CARTER: That's all for policy.

CHAIRMAN KING: Okay. All right.

UNIDENTIFIED MALE VOICE: And then the 606 Task Force --

CHAIRMAN KING: Yeah, we'll do -- I was going to do Andrea real quick, and then we'll come back.

MR. SIEMON: That's fine.

CHAIRMAN KING: Andrea, I think you had a quick item that --

MS. CAROE: Yes. We have draft 8 of the compliance procedures for minor non-compliance, and it's a vote to accept that guidance, and I put that in that -- in that frame because this is a guidance, this is educational information for certifiers, okay, it's --

MR. SIEMON: And that's not in here, is it, not in --

MS. CAROE: No. It was handed out yesterday. Right?

MR. RIDDLE: Yes.

CHAIRMAN KING: Yes.

MR. RIDDLE: Yeah, and there have been no changes to that version that was handed out.
MS. CAROE: There's been no changes from that version, and that version had very few changes from draft 7, which has been up on the web. Received one public comment, and there were -- those few changes that were made were based on the public comment.

MR. RIDDLE: So I move the approval --

MR. SIEMON: I second.

MR. RIDDLE: -- of draft 8, I guess it is.

MS. CAROE: Draft 8.

UNIDENTIFIED MALE VOICE: Hard work.

CHAIRMAN KING: Moved by Jim, seconded by George, I believe.

MR. SIEMON: Yes.

CHAIRMAN KING: Okay. Is there discussion?

(No audible response.)

CHAIRMAN KING: Hearing none, we'll proceed to vote. All those in favor signify by saying aye.

BOARD MEMBERS: Aye.

CHAIRMAN KING: Opposed, same sign.

(No audible response.)

CHAIRMAN KING: Motion carries.

MS. CAROE: Just shows you how sexy a certification is [phonetic].

CHAIRMAN KING: Actually, you get the ribbon for most efficient today, Andrea.
CHAIRMAN KING: Jim, I believe you have a document from the 606 Task Force.

MR. RIDDLE: Yeah. Well, I made the presentation this morning, there was good robust discussion, and some --

UNIDENTIFIED MALE VOICE: (Inaudible.)

(Laughter.)

MR. RIDDLE: -- and there had -- some public comments as well as Board comments, so there was a need for the task force to meet during the breakout session, and we did some changes, which the members there in attendance all approved, and I redrafted and printed it out and got it copied, and it's less than 22 pages, and it's here for your consideration, and I'll just highlight what changes have been made, very quickly.

And it's not page-numbered, I apologize for that, but on the fourth page, there's a change, in the middle of the page, which is the end of the "Background" section, and some information that was previously Recommendation 1a has been moved into "Background Information," where it was a discussion of some previous NOSB recommendations.

UNIDENTIFIED FEMALE VOICE: What? I'm lost.

MR. RIDDLE: Okay. The fourth page, you see where it says Recommendation 1a?

UNIDENTIFIED FEMALE VOICE: Yeah.

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MR. RIDDLE: The two paragraphs right above that used to be in 1a, in a former life; now they have been downgraded to "Background Information," because they are, really, historical. So they're not part of our new recommendation.

UNIDENTIFIED FEMALE VOICE: And that is fair [phonetic].

MR. RIDDLE: Okay. Then in -- 1a is what used to be 1b, but it hasn't changed content-wise.

Okay, then on the current 1b, the only change there is on the opening paragraph, second sentence, where it says, "In order to be consistent and transparent with the material review process, each substance currently located in 205.606 shall be reviewed for reclassification by the handling committee to determine if the substance" blah blah blah.

So it's just that -- this is not a re-review, not a TAP review, it's just reclassification, and it's a directive or request to the handling committee.

Okay. Recommendation 2, no changes to the first two paragraphs, and there's a change to the large A heading paragraph, to read: "For a non-organic agricultural ingredient used in a processed product labeled as 'organic' to be determined as not commercially available, the applicant or certified operator shall submit," and the rest
of that remains the same, but just that lead-in to the sentence was something that had been brought up this morning, so that's been added.

And then Item Number 4 was changed from "during the inspection" to "during the certification evaluation," so that gives the certifier flexibility. Some of this may happen at inspection, some of it may happen in the office.

So that was in consideration of comments.

MS. DIETZ: Just one question.

MR. RIDDLE: Yes.

MS. DIETZ: And I'm not sure if this covers it or not, you can tell me if it does, but if -- if -- not during the certification evaluation but in mid-year a material becomes -- it's not available organically -- I mean, we have due diligence to contact the certifier and say, "This is what I'm going to do." Is that acceptable in this, is it covered during --

MR. RIDDLE: Yeah. My understanding would be --

UNIDENTIFIED FEMALE VOICE: It's part of evaluation at that point, but the --

MR. RIDDLE: Yeah.

MS. DIETZ: Okay.

MR. RIDDLE: Evaluation is ongoing on something like --

MS. DIETZ: Okay. All right. It is considered
ongoing from a certifier/handler relationship.

MR. RIDDLE: Right.

MS. DIETZ: Okay.

MR. RIDDLE: Whenever there's a change in the
organic system plan --

MS. DIETZ: Okay, they have to -- okay.

MR. RIDDLE: -- you have to notify --

MS. DIETZ: Okay. That's fine.

MR. RIDDLE: -- be updating your plan.

Number 5, at the very last line there, we added
amongst -- "The written evidence may include ingredient
evaluation reports," so it says: "Written evidence may
include letters, faxes, e-mail, correspondence, ingredient
evaluation reports." That could include like certificate
of analysis about an ingredient of whatever. So a little
more flexibility.

And then also, at the top of the next page, the
words "as applicable" were added, "a minimum of three
potential suppliers shall have been contacted."

Okay. Then under B-2, there was 2 -- there was
-- previous 2 and 3 have been merged into 1, which now
reads -- I mean, you've got to -- in the context: "The
certifier shall validate that the applicant or operator has
documented that the ingredient is not commercially
available in an organic form by reviewing best available
information, listing known source of organic ingredients."
So it really puts the focus on the certifier to validate
the operator's documentation.

And then the last change is to add a post-script
-- I couldn't think of a better word --

UNIDENTIFIED MALE VOICE: Epilogue.

(Laughter.)

MR. RIDDLE: That is new language, and that is:

"The 606 Task Force acknowledges that this recom-
mendation does not apply to organic seed determinations.
The Task Force recommendations that the crop committee
and/or policy development committee develop a draft organic
seed recommendation which is consistent with this
recommendation." So we just don't want any confusion.

And then a similar sentence is added at the very
very end, under "Conclusion": "A comparable and consistent
recommendation is needed to address organic seed issues."

So those are the changes, trying to incorporate
as many of the comments as we could. So I move its
adoption.

CHAIRMAN KING: Is there a second?

MS. CAROE: I'll second.

CHAIRMAN KING: Moved by Jim, seconded by Andrea.

Discussion? Nancy.

MS. OSTIGUY: I don't understand why Recommend-

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tion 2a, Number 5, the top of the next page, where you have
added "as applicable," could you explain what this means.

MR. RIDDLE: Andrea, could you explain what this
means.

MS. CAROE: Sure. This is to accommodate
situations where the ingredient is very specific and two --
three reasonable sources are available, so it is a
guideline that three is a reasonable or a typical number
but there may be situations that require more or less than
that.

MS. DIETZ: I have to agree with that -- I just
see that as weak, I don't know where -- are the certifiers
able to determine if it's applicable for three potential
suppliers, and -- and that would be after the fact, so --

MS. CAROE: Well, I guess -- I would have to say:
in the negotiation between an applicant and certifier,
that is a discussion that they would have, as far as the
applicant coming to them and explaining the challenge.

MS. DIETZ: Yeah, I -- I guess, as a handler, if
I have "as applicable" in my handling plan, I can always
make justification as to why I only chose one and try to
get that through, so I -- but at the same time, I can
understand that if there's not three suppliers, at least I
tried for three, you know, and the -- and again, I feel
that the industry has somewhat supported a minimum of three
sources, and so I -- I just -- I think that's too weak and I'm not sure I support it, but I --

CHAIRMAN KING: Is there a motion?
MS. DIETZ: We have a motion on the table.
MR. RIDDLE: Well, yeah, and that can be amended to delete if someone --
MR. CARTER: We could strike that.
MR. RIDDLE: Yeah, to strike --
MS. DIETZ: I would like to make a motion to strike "as applicable" and just put in "minimum of three," and at least you can document where you've tried three different sources and you've only gotten one.
MR. O'RELL: I would second it.
CHAIRMAN KING: So moved to Kim to strike the words "as applicable," and seconded by Kevin. Discussion on that motion?
MS. OSTIGUY: Kim and I had, I think, different reasons for questioning that one.
(Laughter.)
MS. OSTIGUY: I was actually wondering more about what you were saying earlier, Andrea, about how if you only require three, then that's all that folks are going to do. Kim's amendment doesn't address that issue.
CHAIRMAN KING: So you don't support --
MS. DIETZ: Well, I can just tell you that we've
historically, again -- from the processing group, we have agreed, through our MPPL committees and through lots of different trade -- through the trade organization and through the handling committee, that a minimum of three has been something that our industry could live with, and so that's why we said a minimum of three.

CHAIRMAN KING: Is there --

MS. DIETZ: You have to have a number, if you want somebody to do something, so that's -- that was the magic number that we all said we could live with.

CHAIRMAN KING: Is there additional discussion on the motion on the table to strike the words "as applicable"?

MS. DIETZ: There's a motion and a second.

MR. RIDDLE: Yeah, there's a motion and a second to strike. Yeah, I'd just like to comment on it.

Essentially, it's here as an attempt to compromise, and, you know, that's the role I was playing in chairing this task force. You know, certainly the will of the Board, you know, will be determined here, so -- you know, I think it does -- you know, my personal opinion is that it does weaken it and make it less predictable for both certifiers and operators. That's my personal opinion.

Kevin?

MR. O'RELL: My only comment, to support Jim, is
that yeah, I think we added it in there as a compromise.
I'm not sure I personally was comfortable with it at that
time, and reviewing it, I do agree that I think it's weak,
and I think a minimum of three is reasonable for processors
who are trying to locate organic sources of materials.

MS. CAUGHLAN: Good-faith effort, is that a --
making a good-faith effort is really what we're saying.
What about putting that kind of language in there?

MR. RIDDLE: Well, we're trying to quantify what
a good-faith effort is. When is it good enough?

MS. DIETZ: Okay, call the question.

CHAIRMAN KING: The question's been called.
We're just voting to strike the words "as applicable." All
those in favor signify by saying aye.

BOARD MEMBERS: Aye.

CHAIRMAN KING: Opposed, same sign.

UNIDENTIFIED FEMALE VOICE: Aye.

UNIDENTIFIED MALE VOICE: Aye.

CHAIRMAN KING: Okay, 12 yeses, and -- you want a
head count or --

UNIDENTIFIED FEMALE VOICE: Do a hand count.

CHAIRMAN KING: Let's do a quick hand count. We
had two no's, I think, is that correct? All those in
favor, signify by raising your -- one of your hands.

MR. SIEMON: I'm abstaining.
CHAIRMAN KING: We have 1 abstention and 2 no's.
Okay, so now we're back to the original --
MR. RIDDLE: Yeah. As amended.
CHAIRMAN KING: -- motion to accept the report, the recommendation, as amended. Is there discussion?
(No audible response.)
CHAIRMAN KING: Hearing none, we'll proceed to vote. All those in favor signify by saying aye.
BOARD MEMBERS: Aye.
CHAIRMAN KING: Opposed, same sign.
(No audible response.)
CHAIRMAN KING: Motion carries.
MR. RIDDLE: Wow, and that task force is disbanded.
(Laughter.)
UNIDENTIFIED MALE VOICE: Which means they buy beer tonight.
CHAIRMAN KING: That's right. Does anyone have anything else?
I would entertain a motion to recess.
MR. CARTER: So moved.
MR. O'RELL: Second.
CHAIRMAN KING: It's been moved and seconded. We recess. Thank you all very much.
(Whereupon, at 5:05 p.m., the meeting was recessed,
R & S TYPING SERVICE - (903) 725-3343
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reconvening at 8:00 a.m., April 30, 2004 place.)

* * * * *

CERTIFICATE

In Re: NATIONAL ORGANIC STANDARDS BOARD MEETING
Place: CHICAGO, ILLINOIS
Date Held: APRIL 29, 2004
Time Held: 8:00 A.M.

We, the undersigneds, do hereby certify that the foregoing pages, number 360 through 592, inclusive, is the true, accurate and complete transcript prepared from the reporting by LEAH JOHNSON in attendance at the above-identified hearings, in accordance with applicable provisions of the current USDA contract, and the below-signed persons have verified the accuracy of the transcript by (1) comparing the typewritten transcript against the reporting or recording accomplished at the hearings and (2) comparing the final proofed typewritten transcript against the reporting or recording accomplished at the hearing.

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UNITED STATES DEPARTMENT OF AGRICULTURE

IN RE: X HELD APRIL 30, 2004
X 8:00 A.M.

NATIONAL ORGANIC STANDARDS X BEST WESTERN INN OF CHICAGO
BOARD MEETING X BUCKINGHAM ROOM
X 162 E. OHIO STREET
X CHICAGO, ILLINOIS  60611

VOLUME III OF III

APPEARANCES:

COMMITTEE CHAIRMAN: MR. MARK KING

BOARD MEMBERS: MS. REBECCA J. GOLDBURG
MR. MICHAEL P. LACY
MS. GOLDIE CAUGHLAN
MR. KEVIN O'RELL
MS. NANCY M. OSTIGUY
MS. KIM M. DIETZ
MR. JAMES RIDDLE
MR. DAVID CARTER
MR. GEORGE SIEMON
MS. ANDREA CAROE
MS. ROSALIE KOENIG
MS. ANN L. COOPER

ALSO PRESENT: MR. RICHARD MATTHEWS
MS. KATHERINE BENHAM
MS. BARBARA ROBINSON
MR. ARTHUR NEAL
MS. ZEA SONNABEND
MS. LESLIE ZUCK
MS. MERRILL CLARK
MR. MARTY MESH
MS. URVASHI RANGAN

REPORTER: MS. LEAH JOHNSON

CONTRACTOR (NOT PRESENT): R & S TYPING SERVICE
(903) 725-3343

R & S TYPING SERVICE - (903) 725-3343
5485 S. LIVE OAK, GILMER, TEXAS  75644
CHAIRMAN KING: I'd like to officially reconvene the meeting of the National Organic Standards Board.

The first thing we have on the agenda today is public input, but before we get started on that, Dave has indicated to me that he has a quick announcement, and I think it's important that we hear this before public input so you have an idea of what we're thinking.  Dave.

MR. CARTER: Okay, thank you, Mr. Chairman.

I asked Mark this morning for a point of personal privilege, I usually don't wake up unprovoked by something other than an alarm clock, but this morning I got to thinking that I really think that it's important that this Board makes some sort of statement before we leave Chicago today in regard to some of the policy directives that have occurred, and I -- I know we did some things yesterday that talk about taking some things forward from policy development to the executive committee, but I can't help but think that it's important for us to make some sort of statement at this meeting, so I just wanted to announce my intent, before we adjourn this morning, to offer up a very short resolution that would just express the disappointment and concern of this Board over the lack of advance notice or consultation by NOP in the issuance of certain policy
directives. So I just want to announce my intent to offer that before we adjourn so that it's not a surprise to the Board members and we can be thinking about that. Thank you, Mr. Chairman.

CHAIRMAN KING: Thank you, Mr. Carter. Just a quick -- some housekeeping issues with public input. We have 35 signed up. We've allotted approximately 2 hours, 2 hours and 15 minutes, on the agenda. Several Board members have expressed to me today we clearly understand the importance of public input, therefore will extend the public input, to the best of our ability.

However, we have posted 5 minutes, I would ask you to understand that you have 5 minutes, stick to that, get your message to us in an efficient and effective fashion, and we appreciate that.

The court recorder has asked -- clearly we have a full room today. Your comment is extremely important to this process. In order to get this on tape, we ask that any conversations you have, please take those out in the hallway, that don't relate specifically to what's happening at that time.

Also, if you have cell phones, pagers, things of that nature, please turn to vibrate, turn them off.

And without further ado -- hold on. Jim Riddle.

MR. RIDDLE: Yeah, just a few things to add to
that, Mark. In case -- I just want to say that if you haven't signed up, you still can sign up, and that's on the back table -- or it's up here right now. And also, if you do have a proxy, under the Board's rules, you can carry one proxy, which gives you 5 additional minutes to speak, and if that's the case, please announce that when you start your comments.

And Kim is the timekeeper and has a sign for 1 minute, to give you a warning, but if you don't see her sign, your 5 minutes still elapses, but that's just politeness on our part. And if you did comment on Wednesday, you can still offer additional comments today.

So just wanted to be clear about all of that for everyone.

CHAIRMAN KING: Okay, the first person I have signed up, who registered in advance, is Mark Kastell.

MR. KASTELL: Good morning. My name is Mark Kastell, and I'm a hired man. I work for farmers. I'm here today representing the Cornucopia Institute, based in Cornucopia, Wisconsin, and I'm here today to send a clear message to United States Department of Agriculture Secretary Ann Veneman.

In the emerging battle between organic consumers and family-scale farmers, who literally have built the organic industry from the ground up, and in this battle
against the forces of evil, the corporations who have shown they are willing to compromise organic integrity in the pursuit of profit. The USDA's National Organic Program has taken sides in this fight, the wrong side.

As we started to connect the dots, it soon became obvious that in virtually every instance -- maybe this is what Mr. Carter was referring to -- the NOP has been willing to water down the organic standards. That evidence is so overwhelming that there are no longer any discernible dots left to connect, and left with a black page.

Many of the NOP directives have made it possible to organic factory farms. I wouldn't call these farms. This is dumbing down the organic standards. However, our customers are not dumb. Organic consumers are not dumb. They understand that God created cows and other ruminants to eat grass. Circumventing the pasture requirement is just flatly wrong.

They understand that livestock needs access to outdoors in order to encourage their natural behaviors and to ensure good health and longevity. Furthermore, they understand that the law and federal regulations require this access, and they are demanding proper enforcement.

They understand that the need by factory farms to bring in cheap replacement cattle from conventional operations is proof positive that these farms are not
creating the healthy environment for livestock that is
required by the law that we're trying to respect here
today.

We are at the precipice of a very tall cliff, and
economically, let me tell you on behalf of the farmers that
I'm here representing today, it is a long, long way down.
We are running the risk of destroying the credibility of
organic agricultural in the eyes of the consumer.

Consumers Union, publisher of Consumer Reports
magazine, has taken the responsibility of monitoring eco
label claims. It is incredibly distressing that because of
corporate abuse and the actions or inactions of the NOP
staff, because of this, they have felt it necessary to
question the value of the "organic" label, especially on
imports.

One other subject matter that I'd like to bring
up is imports and the question of the credibility. I got
an e-mail yesterday from one of the CEOs from one of the
most respected processors and marketers of organic food.
He's incredibly concerned about the lax oversight by the
NOP on foreign certifiers, some domestic certifiers, we now
see farmers and processors shopping from certifiers, we see
organic food from name-brand companies from Guatemala,
Chile, Mexico. Here's broccoli from China. Can we trust
that the same way we can trust our indigenous farmers and
our good certifiers here?

At any rate, in closing: We have lost confidence in the ability of the USDA's National Organic Program to protect the integrity of organic agricultural. We call on Secretary Veneman to execute regime change at the National Organic Program. We need management and staff at the NOP who are qualified, have a strong background in organic agricultural, and respect the organic community. More importantly, we need folks at the NOP who respect the organic community, and our leadership as represented by this Board and the power that you hold by federal law, by virtue of federal law.

And I thank you very much for your comments -- I thank you very much for the opportunity to elicit these comments. Thank you.

(Laughter.)

CHAIRMAN KING: Jim.

MR. RIDDLE: Yeah. Mark, just a question, or, actually, a clarification.

MR. KASTEL: I'm sorry --

MR. RIDDLE: You mentioned a concern about the imported products, and under the regulation, they have to meet the same regulation, and any foreign certifiers have to be accredited by USDA, and this issue came up, I think it was Wednesday, about the site visits of foreign
certifiers, because there is major concern that the
domestic certifiers have been visited but foreign ones have
not, and the response to questions -- and I just wanted to
inform you, since you weren't here, and other members of
the audience, is that that process of visiting the -- I
think it's -- nearly 40 foreign certifiers is to begin in
June.

MR. KASTELL: Yes, that's -- that is the concern
that I was articulating here, and -- but furthermore, even
within our domestic infrastructure here for certification,
Jim, I have anecdotal reports from both processors and
farmers that if -- in fact, a very intimate experience with
one, who's a member of a cooperative, I've worked with,
where the farmer was -- his farm plan was turned down by an
IFOM-accredited [phonetic], very responsible organization,
and he simply shopped for a different certifier and he's
now delivering organic product.

So this is happening on all levels. Again, one
of the problems is we've created this ceiling, rather than
the floor, in the marketplace, we can't create a higher
level of respect for some certifiers, and these are usually
the farm-based -- farmer-based organizations that helped
build this industry, there's no way for them to communicate
with their customers that they're really doing the right
job and add value to some of these products that are being
responsibly produced. So those are the two basis -- basics.

MR. RIDDLE: And I did have a question also about the pasture. You made a very strong statement there about the need for access to pasture, and the Rule requires access to pasture, and "pasture" is well-defined in the Rule. Are you aware of livestock operations that are actually not providing pasture, say to their milking herd, or something like that?

MR. KASTELL: Jim, I -- my concerns in that area are twofold: one, reports of, you know, a dryland dairy with a muddy feed lot, to me, compared to my farm, that's not pasture.

And secondarily, although there are some dairy producers in this country that have pasture-based operations with larger herds, that's an aberration. Most of these confinement outfits, the -- really, the logistical constraints of trying to move a thousand to 3,000 to 5,000 cattle onto fresh paddocks in a true environment where they're going to gain any reasonable amount of their feed intake from pasture, it's a very dubious concept, and I want -- and the farmers that I represent, who can produce with 50, 70, a hundred cows, the kind of milk, if you're using milk as an example, that consumers want.

I do not want these folks who are working so hard...
to be at a competitive disadvantage. There has to be
strict oversight and enforcement, and I'm not confident
that's happening right now, Jim.

MR. RIDDLE: Well, we need to move on, but if you
have actual evidence, that would be very helpful, to bring
that to the livestock committee. Thanks.

MR. KASTELL: Okay. Thank you.

CHAIRMAN KING: Thank you. The next person is
Kelly Casper.

UNIDENTIFIED MALE VOICE: And on deck --?
CHAIRMAN KING: Marty Mesh. Thank you for
reminding me (inaudible).

MS. KASPER: Hi. My name is Kelly Casper. I'll
be reading mine, as well as I have a proxy from a farmer.
It is --

UNIDENTIFIED MALE VOICE: So that's 10 minutes.

MS. KASPER: Alice Rules [phonetic], executive
director of Georgia Organics. This is Eddie [phonetic].

"I am the mother of a 2-year-old child and a
strong believer in supplying my family with healthy organic
foods. I've spent a great deal of time and energy
receiving the benefits of organic foods and other natural
products, such as cleaning supplies, shampoos, et cetera.

"I am well aware of the problems that have
occurred due to pesticides, the overuse of antibiotics, and
factory farming in general. Due to my findings, I have chosen to supply my family with organic natural products whenever possible. This has been an extremely expensive proposition, but it is something that both my husband and I strongly believe in. We believe that spending extra for a gallon of organic milk is not only allowing us to have a product free from growth hormones and antibiotics, it is also allowing us to support what we believe in with our money.

"In essence, each time we spend a little extra for an organic product, we are voting for that company and industry, hence Horizon Organic."

"It is very saddening to me to discover that the 'organic' label is being bastardized in front of our very eyes. I realize that money makes the world, and especially this country, go round, but in the instance of the 'organic' label, I hope that the big-money corporations are not allowed to push out the small farmers, who started the organic movement by doing things the right way."

"I have been a supporter and investor for Horizon Organic. My family has access to their milk at all times. However, it is very disappointing to discover that this company is held to a different and less-demanding standard than the small farmers out there."

I personally am a vegetarian; however, my husband
and my child both eat chicken. I am fully supportive of
them, and one of their favorite items that I buy is the
Applegate Farm chicken sausages. Now I have learned that
the preservatives, which were legally approved, have been
added to their products.

"As a consumer, I am at the mercy of the
companies which I have put my faith in. They in turn are
held to a certain standard by this board. If that standard
is lowered, without the consumer being duly informed, an
injustice is being done.

"That is why I am here today. I want my voice to
be heard. This is something I strongly believe in, and
when I buy something that is labeled as 'organic,' I hope
that the label actually means something. If the powers
that be have their way, enough loopholes will be added that
the label will be nothing but a way to increase their
profit by charging a higher price for something that is
marginally different than the conventional product.

"I'm here today in the hopes that this Board will
hold true to the mission of organic farming and not be
swayed to institute shortcuts and loopholes by companies
chasing an almighty dollar at the expense of consumers,
such as myself and my family. Thank you."

And then the proxy by the farmer. "George
Organics, a non-profit organization promoting organic and
sustainable growing for the health of Georgia's land and people, is writing in response to concerns about the weakening of organic standards in our country.

"Georgia Organics is a membership-based organization of farmers, consumers, gardeners, and agricultural professionals who are committed to healthy farming and food.

"The National Organic Standards Board bears the responsibility of maintaining the integrity of our organic rules and policies and remembering the values that brought forth these rules in the first place. We recognize this is a tremendous job and one that endures enormous pressure from a variety of external influences. The Board must regard public trust of the organic standards as tantamount, superseding corporate or individual interest.

"Equally important is the commitment of organic farmers to public and environmental health. These two audiences should not be forgotten in the interests of third-party profits and politics. Georgia Organics urges the National Organic Standards Board to not fear from its mission in ensuring high-quality products and standards that respect farmers and consumers.

"If the Board continues to allow the loopholes that are becoming more and more apparent, then the Board very well may be the architect of its own demise as farmers
and consumers gradually abandon the process for something better. We remain hopeful that the future of organics holds more promise than current predictions."

Thank you very much.

CHAIRMAN KING: Thank you. Jim.

MR. RIDDLE: Yeah, I would just like to respond. Kelly, thanks for your comments.

You mentioned especially in the proxy about the Board allowing loopholes, and I feel obligated to go on the record to state that -- especially with the preservatives in ready-to-eat meat products, that that was not an action of the Board, it was done with no knowledge of the Board, substances were interpreted to be allowed as preservatives in these products, these are new compounds, they're not on the National List, they have --

The company was following the rules petitioned to the Board to have those substances reviewed, and the decision was made to allow them, without consultation of the Board, so I just want to be clear what the record is on that.

MS. KASPER: And make clarification that I don't think I was stating this board, it was the -- there's another board that was there.

MR. SIEMON: NOP.

CHAIRMAN KING: The program.
MS. KASPER: I'm sorry, I think I -- yes, so it wasn't -- I'm sorry, I mis- -- I did not explain myself very correctly, but it was important to GO so --

MR. RIDDLE: That's why I felt a need to clarify.

MS. KASPER: Thank you. Good. I'm kind of new at this. I appreciate it, thanks.

CHAIRMAN KING: Thank you. Next is Marty Mesh, on deck is Urvashi.

MR. MESH: While USDA -- Marty Mesh, Executive Director of Florida Organic Growers and Quality Certification Services.

While USDA has done many things right and I would like to give them more "atta boys" and positive reinforcement, the ever-ticking clock causes me to focus more on the discussions in the areas of concern. It does not mean (inaudible) things are not appreciated, and I'm sorry that USDA higher-up program staff aren't here to hear my positive comments and issues of concern to consumers.

I also want to express thanks on behalf of organic cotton growers, those of us who buy organic cotton products, and supporters of a more ecologically-sound production systems to the crops committee for considering public input and changing the recommendation in the entire board for the decision which affects cotton seed -- organic cotton seed for planting.
As an organic farmer for over 25 years and being involved in the community and the industry for over 30 years, I'm concerned about the confidence that consumers may lose in the "organic" label. This loss of confidence has been the result of some of USDA's actions, the process or lack thereof, and most recently by the directives. Even the name, "the directives," brings to mind the old Soviet Union and Eastern European countries, where a directive would be issued from party officials and blind obedience was mandated, without comment, without revision, and without representation.

We again urge the NOSB to weigh in and the NOP to reconsider some or all of the recent directives. NOP acknowledged that a mistake was made in the title, and now we would like -- the NOP must acknowledge a mistake may be made in substance. How possibly could fishmeal, fortified with prohibited materials or containing prohibited materials be considered natural and not up for certification program to question the use of any amount.

As a board member of the Organic Trade Association, and my comments do not reflect the official position of the Organic Trade Association --

(Laughter.)

MR. MESH: -- I urge the NOP to improve its communication with the Organic Trade Association, which
would result in less and less problems, more positive
reinforcement, and consumers that maintain confidence in
the "organic" label. It is in the industry's best
interests to maintain confidence in the National Organic
Program and organic products in the marketplace.

The recent directives play right into the hands
of those who attack organic agricultural at every
opportunity, for now we can't maintain that materials are
reviewed before they were put on the National List and used
in the field.

While I think that some flexibility to a degree
is reasonable and Florida organic growers used to have a
policy on unintended applications which would result not in
the loss of certification for 3 years, the current policy
-- I mean guidance -- I mean directive, goes too far in
potentially allowing multiple uses in applications of inert
ingredients that will make consumers wonder and facilitate
attacks on the organic industry.

This seems contrary to the Organic Foods
Production Act purposes, along with the other directives.
Remember uniform standards, consumer confidence, and an
increase in trade, the basic purposes of the Organic Foods
Production Act.

I have to comment on the livestock variance which
was put in the Rule, recognizing that disasters will
happen. It is in the Rule, and the USDA will set themselves up for possible legal action if some process is not implemented to deal with the valid request based upon the livestock variance on feed when a natural disaster happens.

At the recent meeting at Beoflock [phonetic] with internal certifiers, it was very easy to see that many, many, many of the certifiers who have been accredited by USDA were totally or basically unfamiliar with the regulation. These accredited foreign certifiers still have not had a site visit, and USDA should verify that its accredited certifiers are at least demonstrating that they are getting it right most of the time.

My compliments to the compost task force. I have a question. I thought I saw in yesterday's presentation that after two tests and a follow-up test, that it meant that the system would no longer need to be tested. Maybe I misunderstood. So I just -- on the record, I finished early, and I will designate my remaining time for the good of the cause.

UNIDENTIFIED MALE VOICE: For previous infractions.

(Laughter.)

MR. MESH: "We'll credit it against your account."
CHAIRMAN KING: As always, thank you, Marty.

Urvashi's up next, and I believe it's Bart Reid after that, on deck.

MS. RANGAN: So I believe I'm taking Angela's proxy time, that's from Florida Organic Growers, so Consumers Union would like to thank them for their time.

Good morning. It's really been quite a few days for all of you and for all of us out here, and my heart's pounding, so -- I think there's a lot of anger in this room. People in this room deserve what's been happening the last few days, you deserve more.

We're all spending a lot of money and a lot of time coming to these meetings, and the goal of these meetings is supposed to be to improve the standards, and ever since the implementation of this program, I know we at Consumers Union an a number of these folks back here have been doing nothing but watchdogging what the National Organic Program is doing, and it's really a travesty to consumers, to farmers, to certifiers, to inspectors, and it's very rare to find an industry where you actually see all of those stakeholders sitting on one side of the fence, saying, "Please maintain high standards."

It was enlightening to hear the National Organic Program's presentation, and it was enlightening to learn how they arrived at some of these directives. It's also
enlightening to know that they think that there aren't any significant changes and that the public has no right to comment on these directives. That is bull honky, and we have a right to comment on these, this is a public program, and so I'm going to continue to do that.

The goal of this program is not, as one of the NOP staff said, to level the playing field. The goal of this program is to create a consistent and meaningful label for consumers, that adds true value over conventional production, because that's why consumers are buying organic, because it adds a premium to the product.

At the very least we expect those standards to be maintained. At the very best, we hope that there'll be improvements in the standards over time.

As director of the eco labels program for Consumer Reports magazine, I'll tell you that there are other label programs, that are running up right behind organic, that are doing a pretty good job of maintaining standards and improving them over time. It's a lesson that can be learned by this program, which set the precedent for all of them.

Things of particular concern -- and I'm submitted for the public record our press release that we did yesterday, and I'll give that to Katherine, the fact that the USDA is drastically cheapening the meaning of organic.
These directives actually, even though this isn't a safety program, start to undermine the public health implications of this program, which is somewhat remarkable.

I want to go back to pesticides for a minute. I know I spent my whole time talking about it before, but it's worth mentioning again. I got a lot of questions, even from people here: What are EPA inerts? What is List 3 and List 2? Why do we keep throwing these things around?

I want to say for the public record what List 3 inerts are. Inerts are not benign ingredients, inerts are not the active ingredient in formulations. Really heavy-duty synthetic formulations require a carrier that's also heavy-duty synthetic to carry it into the system.

List 2 -- List 3 ingredients, it's 56 pages, if you care to go to EPA's website, of ingredients. It includes ingredients of unknown toxicity. We don't know what the toxicity is of the ingredients, and according to EPA, an inert ingredient was placed on List 3 if there were no basis for listing it on any of the other lists; that is, it wasn't toxic and it wasn't non-toxic, so it needed to go on this list.

The agency will continue to evaluate these chemical substances, as additional information becomes available, to reclassify as List 1, 2, or 4. List 3 is unknown, and it's prohibited in the OFPA and it's...
prohibited in the regulations.

List 2, potentially toxic inert ingredients, high priority for testing inerts. Many List 2 ingredients are structurally similar to chemicals known to be toxic. Some have data suggesting a concern. There's a reason why these lists exist, there's a reason why the OFPA prohibits them, and there's a reason why the regulations, even though they never said "before use," mean that you can't use these things and you have to determine what's in them before you use them. That's what the public expects.

The fact that now prohibited pesticides can easily be used on these things is ridiculous. That's zylene, toluene, formaldehyde, here's some others, ethylbenzene, succinonitrile, methylisobutylketone, naphtha, toluene trichloroethane, these are all on List 2.

There is no way that the public is going to fly for these ingredients being used on crops, especially unknowingly.

Who's responsible for that? Who's responsible, if we find those pesticide residues on the food? Are the certifiers responsible? Is that what the NOP is doing? Are the farmers responsible? Because there's going to be liability issues that arise from that, and so someone needs to take those under consideration.

The next thing I want to turn to is fishmeal. I heard Richard Matthews say that there's no need to regulate
-- there's no need to review fishmeal because it's a natural ingredient. Wow. Consumer Reports just came out with 12 natural ingredients in dietary supplements that are incredibly dangerous, we'd like the FDA to get them out. Ephedra is a natural ingredient. It's not okay, it's not safe. We know that fish contains ingredients that are not safe for consumers. Despite the fact that we learned that you could mix in synthetic preservatives and that those didn't need to be reviewed, and that was just absolutely amazing, on top of the fact that we've got tuna, the most common fish that's eaten in this country, laden with mercury.

The fact that an organic label can now be used on a can of tuna and not mean anything, including the NOP's lack of testing for it or requiring for it or even needing the NOP program, I want to take a little bit of time to talk about what FDA considers to be the public health concerns with fish right now, and especially tuna.

For a 22-pound toddler, the weekly reference dose is 7 micrograms of mercury. Two ounces of canned tuna provides a dose of 20 micrograms of mercury. A 44-pound 5-year-old, the weekly reference dose is 14 micrograms of mercury. A 6-ounce sandwich, that's what a sandwich is, of tuna, would provide that child 61 micrograms of mercury. That is more than four times the recommended reference
dose, or the reference dose allowable.

For a 132-pound woman, the reference dose is 42 micrograms of mercury, and you get it again, a 6-ounce can of tuna is still the same reference dose for that woman, it's 61 micrograms of mercury. That woman, if she ate a tuna sandwich a week, would exceed the reference dose by 50 percent.

If we don't test fishmeal for mercury and we start allowing this to not only be fed to fish but to cattle, which -- incidentally, cattle don't eat fish, but --

(Laughter.)

MS. RANGAN: -- what are we doing? This is not what consumers expect out of this program. If a consumer sees an organic label on a fish, they're going to expect more than this, and the fact that we're going to feed it to our cattle does not get around this issue. Mercury doesn't really go away, it's a metal.

The last issue to deal with today is that Consumers Union believes that USDA is on a very slippery slope of allowing drug use in organic production. It is of particular concern when we heard clarifications to the fact that it isn't just antibiotics that could apply on the dairy farm but any drug, including growth hormones? You're going to have a lot of explaining to do to consumers by the
time we get there.

So my advice is: the answers are very simple, to address these problems, that's the good news. There's a lot of bad news today, but the good news is, how do we find out what's in pesticide formulations? Take EPA up on their program for their pesticide registration list. EPA has offered to review pesticide formulations and crack the code for manufacturers, to allow them to list it as appropriate for the National Organic Program and without violating confidential business information.

It seems like a more logical way to go to get these pesticide formulations approved, so we know what's in them, so we know it's appropriate for use, before we use them. What about the fish? Fish is food. The NOP does authority over food. So don't allow the use of any organic label on fish until the standards come out properly, and get moving, because the advice has been conflicting from the National Organic Program, they -- these are significant changes to what they have said before, so they have an obligation to get those standards ironed out, to work with the National Organic Standards Board and get those out for public comment. Let's get on with it, let's do it, let's test for mercury. These aren't difficult things to figure out.

On the antibiotic issue, the OFPA says no
antibiotics. We already started with the slippery slope on herd replacement and that a herd can be one cow, and now we're at the point of: any cow can come out of organic production at any time and receive any drug to treat illness? I'm going to be going back and looking up to see what growth hormones do over that year, are there any last implications? do you give a shrink hormone after a growth hormone?

(Laughter.)

MS. RANGAN: We appreciate your time. Thank you very much for your hard work.

CHAIRMAN KING: Rose, then Andrea.

MS. KOENIG: Thanks for your comments. I mean, one solution to the fishmeal, for those out in the audience, would be to petition it as a natural prohibited, and if you could, you know, go through the website and go through that process, that's one way. If in fact, you know, there are high levels of these heavy metals, it's the logical way to go about that issue.

MS. RANGAN: Thanks, Rose, we'll do that.

MS. KOENIG: As far as the -- you know, the List 3 and List 2, I mean, we had a task force that had a different recommendation than that -- of what is in the directive. You know, we'll work our best to try to see -- see what can be achieved.
MS. RANGAN: Thank you.

CHAIRMAN KING: Andrea.

MS. CAROE: Rose made my comment, so --

CHAIRMAN KING: Jim.

MR. RIDDLE: Yeah. I appreciate your concerns and share your concerns and just once again want to make it very clear that none of these directives were developed in consultation with the advisory board, even though our charge under statute is to advise the Secretary on implementation of the Act, and implementation is a process, it's not an event that happened October 21st, 2002.

I was especially astounded to learn that this pesticide policy was developed with no consultation of EPA, when EPA controls pesticides and has the organic registration program. What would you advise the Board that we do or what do you see our next steps, not just for the Board, that should be done in response to these developments?

MS. RANGAN: Jim, thank you for that. Your point's well-taken, and I think that since the National Organic Program can't seem to consult with the EPA on pesticide registration, I recall this board a few years ago brought in someone from the EPA. I believe that's how this pesticide registration program got started. He seemed very willing to help out with the NOSB, they seemed very willing
to sit down with you and crack codes and make this program work.

So I would say you're going to meet with a pretty helpful EPA on that level, and that would be my recommendation. In my first public comment: what Consumers Union would like to see is we'd like you to make a recommendation to mandate this organic pesticide registration program for pesticide formulations. It's a voluntary program for manufacturers.

If you're a pesticide manufacturer, you don't have to do it, and if you don't want to do it, it's -- like you're a farmer and you don't want to be certified organic, then you don't have to be organic, you can make your pesticide formulation and go along the conventional production route.

But if you want that added value, if you want to add a premium to your product, then let's get it straight that you actually have value added in your product and that it's appropriate for organic production.

CHAIRMAN KING: Rose.

MS. KOENIG: Just a clarification. And I think -- it sounds like you understand. As far as my recollection on that program, it is a voluntary for -- you know, and it doesn't allow List 3, it basically allows only those formulations that contain List 4 --
MS. RANGAN: That's correct.

MS. KOENIG: -- and it's a dual label. So it still does not eliminate this List 3 directive issue. I mean, that would identify those formulations that are in contact compliant. So we could, you know, through that again develop a database of knowledge for those products, which I think is the way to go, those -- you know, we need to inform people, you know, the information's out there, so you don't have this, you know, difficulty in identifying. That is, to me, the cautious way of going about it. But the labeling program is not the answer to this List 3 issue.

MS. RANGAN: It's one way of solving the problem.

MS. KOENIG: It doesn't solve the problem of that directive, it doesn't solve the problem, because if that directive is still out there, you could still have this labeling program and those things could be listed.

MS. RANGAN: You're correct. The directive itself needs to be rescinded. I'm sorry if that goes without saying, but --

(Laughter.)

MS. RANGAN: I mean, the directive itself can't stand while you mandate that. I understand implementing two contradictory programs, but --

MS. KOENIG: No, but I'm just saying I don't -- I
think it -- you know, that's not -- what I'm trying to say is that's not the solution.

MS. RANGAN: Yeah. That's fair enough. I'm just saying that I'm looking at these directives, and in picking up the phone and calling EPA before I got here: EPA's not going to give that information to farmers, they're not going to give it to certifiers. It would be an illegal violation, I guess that's redundant, of confidential business information. They're not going to do it. So this whole "You try, and if you can, great, and if you can't, go ahead and use it" is not -- is not a policy.

MR. RIDDLE: Yeah, I was just -- I wanted to add that it's -- their labeling program is not solution for the List 3s and List 2s, but the mechanism is a door for a conversation to solve it, and the phone call hasn't even been made.

CHAIRMAN KING: Thank you very much.

MS. RANGAN: Thank you.

CHAIRMAN KING: Next up is Bart Reid, with Brian Condon on deck.

MS. KOENIG: Just one comment on the List 3. We -- I believe we have a process, which is the petition process, which we've already proved -- we've added one List 3 inert -- actually, two List 3 inerts on my tenure on the board. That process has been established, and I think
that that is the process that should be followed, because we then can review those List 3 inerts. It doesn't allow any List 2 inerts, that I know of. I mean, I guess they could be petitioned. But there is a process; the process has worked.

For those farmers who have had formulations, they've come forth to the Board, they've petitioned, and we've solved the problem for those producers, and I have not heard, in the last couple of meetings, of any farmers who have come forth and told us there is a problem that exists on this issue.

CHAIRMAN KING: Thank you. Rose. Sorry about that. Bart, we are now ready.

MR. CONDON: Howdy. My name's Brian Condon, and I'm actually up next. Of course, I'm not Bart. Bart is in Texas right now.

CHAIRMAN KING: So Bart is up, all right.

MR. CONDON: Yeah.

UNIDENTIFIED MALE VOICE: We have a statement from Bart.

MR. CONDON: Yeah.

CHAIRMAN KING: Oh, so you're reading both.

MR. CONDON: Yeah.

CHAIRMAN KING: All right.

MR. CONDON: So really I guess I could be up here
for 10 minutes.

CHAIRMANN KING: 10 minutes, that's right. Okay.

MR. CONDON: We'll try to not do that. In any case, the first thing I'm going to do here is read a letter that Bart wrote to the USDA in response to the April guidance statement having to do with the scope of the NOP. And just so you know, Bart is a certified organic shrimp producer in the state of Texas, and he feels that the directive did a certain amount of damage to him. So here goes Bart's letter to the NOP.

"Dear Mr. Jones: I would like to petition you, the NOP, and the USDA to initiate immediate rulemaking concerning the status of organic seafood, and particularly previously certified organic farm-raised seafood, shrimp in my case, that was certified by the USDA/NOP-accredited third-party certifier, Quality Certification Services.

"The Permian Sea Shrimp Company has spent considerable sums of money to obtain an organic certification and the latest guidance statement from the NOP totally usurps all our efforts and leaves us in financial jeopardy as a business. We have product in the market with the NOP seal as organic, and we have many customers that are purchased and are in negotiation with us to purchase our shrimp due primarily to the fact that we have obtained this certification via the NOP rules."
"The USDA recognizes fish and aquatic animals as livestock. In all programs that USDA offers, like the non-insured crop disaster program and Farm Service Agency loan programs, aquatic animals are listed as livestock. Most all 50 states' agricultural departments recognize fish and aquatic animals as livestock. It is only appropriate and logical for the NOP, a USDA division, to recognize aquatic animals as livestock.

"The organic rules have a base of rules and procedures that are suitable for any livestock regardless of specificity for specific breeds or species. There are parameters within these rules for feed, stocking densities, and ranging requires, water, health, welfare, and processing that can be applied universally to any livestock and used universally to certify any livestock.

"We recognize that specific rules can and should be appropriate in the long term, but initially there are enough basic rules that apply to all livestock that certification is possible. The certification using basic rules is a starting point, and the individual companies that obtain certification can provide additional information to develop species-specific rules in the future.

"There is no way to develop rules for every individual animal and plant that a producer may wish to
produce for the organic market, and to separate aquatic
animals out from livestock is equivalent to separating out
rice from terrestrial crops because it grows in water.

"The market definitely respects the USDA's NOP
certification, and that is why we have sought and obtained
this certification and why our market is using this very
certification to develop confidence within their markets.
The latest guidance statement erodes this confidence and
will cause a significant burden on Permian Sea Shrimp
Company and its customers, who have purchased our shrimp
under the confidence that the certification was real and
backed up by the NOP.

"Specifically, Permian Sea Shrimp Company will be
financially and materially harmed and devastated by the new
position of the NOP, and we ask that you initiate immediate
rulemaking to clarify and alleviate this situation for us,
our customers, and the organic retail community.

"We realize that organic seafood in general is a
complicated situation, but farm-raised seafood, livestock,
has a place in the organic market and is in the scope of
the current NOP rules.

"We certainly will be willing to assist in
developing any specific rules that are needed in the future
but insist that the basic livestock rules are sufficient to
allow the certification of our shrimp and other conforming
fish and aquatic animal operations under the NOP and using the NOP seal.

"Permian Sea Shrimp Company asks that you initiate rulemaking on this and consider our petition to maintain our certification and NOP's authority to support our certification in the marketplace. This not only will avoid financial ruin for us but instill confidence in the market for NOP's program and reputation and continue to develop a consumer confidence and awareness for organic farm-raised seafood. Sincerely, Bart Reid, Owner, Permian Sea Shrimp & Seafood Company."

So that was the letter from Bart. This is just an excerpt of a letter that QCS had sent to the USDA last week, responding to the guidance statements back in April. I'm just going to read the last paragraph or two.

"In summary, we request that the USDA honor the simple statements that the NOP has issued previously via three concrete actions: 1) engage in immediate rulemaking to establish standards for aquatic animals; 2) allow beyond the current 18-month provision those aquaculture producers meeting current NOP standards to use the USDA 'Organic' seal in the marketing of their product; and 3) protect consumer confidence and organic producers by disallowing the use of the 'Organic' label on aquaculture products that do not meet NOP standards, products that also undercut the
price of those that do meet the standards.

"This lack of clarity on the issue in the past has gotten the organic industry into the current conundrum, and we hope that the NOP will act decisively, publicly, and promptly on the matter in order to restore order and confidence in the organic marketplace."

And that's all I've got for now.

CHAIRMAN KING: Thank you, Dave.

MR. CARTER: I'm sorry, what was number 2 that you just said?

MR. CONDON: Number 1 was: engage in immediate rulemaking. Number 2 was: to allow the use of the USDA/NOP seal beyond the 18 months, as provided in the guidance statement.

MR. CARTER: And also, just -- while I know you refer to them as guidance, and when they were they posted they were issued as -- or they were listed as guidance, but we were informed earlier this week that those were directives, and that is an additional level of concern that many of us have.

MR. CONDON: Okay.

CHAIRMAN KING: Thank you, Brian. Next is Brian Leahy, and Liana is on deck.

MR. LEAHY: I'm Brian Leahy. I'm President of California Certified Organic Farmers. We are a trade
I'm here mainly today to talk about one of our lines of products, I would suppose, best represented by, say, Traditional Medicinals, a tea company --

UNIDENTIFIED FEMALE VOICE: What?
CHAIRMAN KING: Can you say that again.
MR. LEAHY: Can you hear? Traditional Medicinals is a tea company that's been in company since 1974. I'm not sure if they were here Wednesday or not. I have something written, that I'll submit afterwards, from them.

The recent guidance/directive that -- on the Scope just destroyed a long-term existing organic line, which is the supplemental teas. In Traditional Medicinals' case, they have a simple tea, it's peppermint, and they make a claim, they say it may promote digestion. Because of that claim, it then falls under FDA's regulations, and USDA is now saying that they cannot regulate -- they can't use that organic claim any longer, which we think is creating real confusion in the marketplace, it's really destroying a traditional organic line.

This is exactly why we came to USDA, was to establish, you know, standards so that we can market organic products and everyone's on the same level. USDA's now saying that because of this claim, they are thrown into
the world of "consumer beware."

So we think it's a real problem, and I think it -- it brings up three real problems with this program right now. One is the communications. It would have been very easy for USDA/NOP to have told the regulated community that "we are considering this change, is there a way we can talk about this first and maybe come up with some solutions," and we think there are solutions, we think this could be as simple -- something as simple as an MOU between FDA and the NOP and just take care of this problem. We just think it's -- they opted out of a long-standing category of organic goods. So I think that is -- that is probably "the" biggest problem here, is simply the communications between the regulated community and the program itself.

I think that's really -- that's what we had to say, is -- and I know it's not your -- this board's problem, but it's your problem to communicate to this -- to our regulator and say, you know, this -- we did not establish the National rule to destroy organic trade, we set it up to facilitate it. So thank you. Is there any questions on this?

CHAIRMAN KING: Dave.

MR. CARTER: Thank you, Brian, and I think your point is excellent, because when you take a look at some of the interpretations that are made, it's not only just USDA
having jurisdiction over organic and that doesn't then
involve FDA or EPA or, you know, whatever, but even within
USDA, the fact that it's -- that NOP is within the
Agricultural Marketing Service, and so therefore it doesn't
relate to NRCS or whatever, that the importance of at least
developing some memorandums of understanding, inter-agency
and intra-agency, so that there is consistency, I think is
something that is doable, you know, even if there's no
legislative changes or new rulemaking down the road, that
that would at least be a good set, and I appreciate you
bringing that forward.

   MR. CONDON:  You know, if they didn't -- if USDA
backed out of every product that some state regulation also
talked about, or federal regulation, it'd be just about
everything, we've got this many rules, you know, coverage
everything, so -- this one just seems like it's -- it's a
cop-out, to be perfectly honest.

   CHAIRMAN KING:  Andrea.

   MS. CAROE:  Brian, the Traditional Medicinals
products, are they making a structure function [phonetic]
claim (inaudible)?

   MR. CONDON:  Yeah, and they claims they -- in
peppermint is:  it may promote digestion.

   MS. CAROE:  So that's what puts it as a dietary
supplement?
MR. CONDON: Yeah. And then they have -- on their box, then, that the consumer sees, they have to have the FDA dietary supplement label on the back.

MS. CAROE: Now, could you -- I don't know if you know this or not, but I'm not -- I'm trying to figure this out. Functional foods, where do they fit in and are they not making a structure function claim and would they then fall as a food -- I mean, there seems to be several different shades of gray between food and dietary supplement.

MR. CONDON: There are, I mean -- and -- you know, the Rule -- the organic Rule, it's very clear, it says -- it does -- agricultural products meant for human consumption, agricultural -- you know, herbal teas definitely fall within that, and they have since the very beginning of organic, it's just -- you know. So -- and, yeah, I don't know -- right now there's a turf war between FDA/USDA on, you know, "what do we regulate?", and in the industry right now, one of the hottest fads in food is to make all kinds of dietary supplements and just all kinds of claims. I mean, I sold kiwis because they were an aphrodisiac back in the '70s.

(Laughter.)

MR. CONDON: And the Farmers Market in San Francisco, they sold pot for a while.
MR. CARTER: Did you say kiwis?

(Laughter.)

MR. CONDON: You know. But does that fall under FDA? I -- you know, there -- I don't know, but it's -- it's -- as soon as they start opting out of long-term existing businesses because some other regulatory agency has some claim in it, what kind of business alliance [phonetic] is that? We had -- one of our prospective clients was working with our processing person, Jane [phonetic] Kennedy, two days after this came out, she called, crying, on the phone, you know, "This has destroyed" -- "My life savings have been aiming at going into this particular business, USDA" -- "I had every reason to believe that it was part of this regulated scheme, and now, out of the blue, comes this directive," and that's -- I mean, that is also one of the main problems, is communications, you know, let's talk about these. Existing businesses, that's -- it seems like a kind of a basic, you know, sense of dignity, is to talk to each other first.

CHAIRMAN KING: Andrea.

MS. CAROE: As a certifier, Brian? I mean, the USDA has kind of kept this open, that certifiers could have their own standards and certify to them and do them -- I don't know, basically, organic 5 years ago (inaudible).

MR. CONDON: Yeah.
MS. CAROE: As a certifier, do you see that that's something that would be attractive? I mean, is that --

MR. CONDON: Yeah.

MS. CAROE: -- you would do or -- I mean, it's really tough for you answer, I (inaudible) --

MR. CONDON: No, I think it's an excellent question, because when this directive came out, you know, there's all kinds of categories in here, and some of them make a lot of sense, they -- in my mind, to make organic cosmetics is kind of goofy, I mean you -- it's just -- it's not food, you know. Our standards were agricultural based, you know, and unless -- and if other industries, like cosmetics, pet food, right now, those make perfectly good sense to have, you know, different standards, non-USDA standards, but this one, peppermint tea, I mean that is -- that's food, you know, and that's why we set up this regulatory scheme.

So I don't -- we have no problems doing other standards, we think that the marketplace will be there, but we also remember the confusion, you know, people were -- even under the California act, you could have 2 percent organic ingredients in that thing and then the whole label said nothing but "organic." It was very confusing and very misleading. And the herbal tea people, dietary...
supplements, I mean, they fit under the program, and they just think that it's going to be a race to the bottom and a lot of confusion.

CHAIRMAN KING: Thank you, Brian. Liana's up next, and Harriett is on deck.

MS. HOODES: Good morning, all. This is Liana Hoodes. I'm the Organic Policy Coordinator for the National Campaign for Sustainable Agriculture, Organic Committee.

As always, I'm going to really stick a lot to process here, and so -- I'm going to jump around a little bit at first, though, and make a few comments on some of the directives, guidances, whatever they are, and our comments on them. Mainly we have a comment on the whole damn process, that's broke.

(Laughter.)

MS. HOODES: So -- but I would like to say: in terms of the antibiotics in livestock, we would like to state unequivocally: this decision is about protecting management styles and not about animal health care. It's always been possible to raise healthy animals without the use of antibiotics, in general -- there are specific cases it's needed -- in an organic system, but it is probably not possible in a factory farm setting, and that -- this change is clearly catering toward factory farm settings, and that
is a problem, in addition to the process to get to that
guidance or directive.

Similarly, inerts, the issue of the allowance of
inerts if you don't know you have them is a real big
problem in terms of this label and the consumers' expecta-
tions about not having this in their -- in the organic
system at all, and it seems to go way out of the -- what
was normally expected, those normal decisions we wanted you
as a board to have to make. This is way beyond any of
that.

On the sunset provision, I just would like to
make a comment. Our pressing for a couple years for you
folks to be able to hire an executive director, this is
directly related to that. This is coming up on some
massive work that you folks have to do, and if -- you're
amazing -- I didn't even start by thanking you.

You are an amazing volunteer board that has done
incredible amount of work, and the least that we, as in
representatives of our government, and our government could
do for you is to get you an executive director that -- to
staff out some of this massive work that you have already
and that is coming up on you.

I do want to thank you for this forum, I want to
thank you for my being able to speak to you, and also for
us all to listen to all of the comments. We appreciate
that in an ongoing way.

We, as National Campaign Organic Committee, continue to object to the treatment of this OFPA-mandated board by the Department. We specifically refer to the NOP's refusal to move the recommendations of the board through a regulatory process and their increasing usurpation of the statutorily-defined role of the NOSB.

Where are those years of recommendations, and what is the process used to determination which ones will become regulation? You folks could join in the refrain, since you have heard it from me for years now, those exact words.

In addition, we object to the practice of the NOSB -- of the NOP making materials decisions without the NOSB or without public notice and comment, and we question severely their authority to do so. In this the NOP has crossed the line. The responsibility to review and make recommendations to the Secretary regarding National List as outlined in OFPA is the most important statutory role of the NOSB.

So here we know that the NOP's move from the issuance of policy statements, that were sort of Q & As on the website, to what on the surface may appear a more formal process of what were guidances, and may still be guidances on the web but are now directives, is confusing.
Those statements have gone through no more rigorous notice and comment, and while nominally welcoming input, really offers directives that materialize on the web and appear to be effective immediately.

We encourage you as a board to become much more active on your own behalf in supporting those pierces of process that you need to move through. We will as a community support you in standing up for not accepting these directives, these guidances, that violate the law and violate your statutory role.

We will be proposing some language that we think the NOP should go to rulemaking, defining guidances, directives, regulations, and your role. That has never been done. Many other agencies have those clear-cut lines so everybody knows which is which. None of us in this room know what a guidance or a directive is, and we all deserve to at least know that process.

CHAIRMAN KING: Jim.

MR. RIDDLE: Thanks, Liona, for your words of support and encouragement and your marching orders for our future lives.

(Laughter.)

MR. RIDDLE: I was thinking last night, you know, about the past two days and the Board here, and -- I mean, it's -- it's what keeps me going on the Board, the fact
that people came so well-prepared, and we've dealt with a myriad of issues, and done it in a very thoughtful manner and a respectful manner and an inclusive manner, trying to take into account public comments and the comments of diverging views on the Board. So I'm very pleased and proud of our process.

I want to comment on the executive director issue. Some of us have worked very hard to get that in the legislation, the appropriations, $100,000 for NOSB executive director, additional funds for peer review and for TAP reviews, and that money was appropriated by Congress.

When we've asked about that, we really haven't gotten information from the program, but it's my understanding that a couple weeks ago, Undersecretary Hawks was asked by Senator Herb Cole a question about these three items, and Undersecretary Hawk responded that the NOP was just about to hire an executive director for the Board.

We don't know anything about that, and you'd think that the Board, according to OFPA, has the power to hire an executive director and we'd have a role in establishing the job description and reviewing candidates, and I think we need to follow through with that. The money's there, and we need to take action, the Board needs to get more assertive on that.
I also want to inform you and other members of the audience that in the last couple months, leadership of the Board has written two letters, the last one went in last week, signed by 11 members of the Board, expressing our concerns, particularly about the materials review process and how we are not able to exercise our statutory authority the way things have been going for the past four months, with petitions being submitted and materials being allowed, which are not on the list, and going to TAP reviews without our screening.

This is very disconcerting to the Board, so we share your concerns and have been trying to take some actions and will continue to take actions.

MS. HOODES: And I in no way meant to imply that you weren't taking actions --

MR. RIDDLE: No, you clearly said we were.

(Laughter.)

MS. HOODES: And I do hope that you know that we are going on the Hill specifically on those issues, those three questions have been asked several times of the Department, about the director and the TAP review and the peer review panel, and I note that in OFPA the quote is "requires the Secretary to" -- quote -- "authorize the Board to hire a staff director," is the exact language that -- in OFPA. And yes, we need to continue to push Congress
on these issues for you, on behalf of you, because you do
work so well on behalf of us. Thank you.

CHAIRMAN KING: Liana, thank you for your
comments and support. Thank you very much. Harriett. On
deer is John Clark.

MS. BEHAR: Okay, my name is Harriett Behar. I'm
a full-time organic inspector, a grower of organic
vegetables since 1973, and certified organic since 1988.
I'm also an avid organic consumer.

I'm concerned that the NOP is not going through
the OFPA-mandated process of NOSB review and public comment
on many of their directives and materials issues. The
"organic" label is a privilege. It appears that the NOP,
through their most recent directives, are allowing access
to the organic market that is not based on a whole-systems
approach of promoting soil, plant, and animal health but,
instead, eroding the fundamental regulatory framework
supporting that "organic" label.

I urge the NOSB to exert their OFPA authority,
both as the materials list guardians and as the statutory
advisory counsel to the NOP, to be even more proactive in
fulfilling their role in the public private [phonetic]
partnership given to them under the OFPA when guidance,
directive, or other NOP provisions are put forth, and I'm
extremely disappointed that the NOP process does not
consult the NOSB and the broad expertise and stakeholder
support that you represent.

I'm concerned that the recent NOP directives set
many dangerous precedents. The inerts and pesticides, as a
precedent, this directive allows producers to use possibly
prohibited products as long as they are unaware of the
toxic List 2 or 3 inerts. This encourages manufacturers to
hold back information in order to have access to the
organic producer input marketplace.

In the future, fertilizer manufacturers,
processed ingredients suppliers, et cetera, could choose
not to release information as a way to gain access to the
organic market. This is the precedent. Future NOP
personnel and NOSB boards could use this precedent that
permits this type of secrecy in order to just allow use of
unknown materials.

Consumers wish the precautionary principle to be
in place when putting their trust in organic products, and
this allowance of unknown products seriously compromises
their trust.

Lastly, this puts a significant burden on both
inspectors and certifiers to work on obtaining information
from suppliers, when the producers should prove themselves
that their organic system plan meets the Rule, not that
they do not know what they are using and therefore it
should just be allowed.  

Antibiotics to be used in animals that are at least one year prior to organic milk production: first, I believe this directly contradicts of the OFPA and the NOP rule, which does not allow antibiotic use in organic animals or edible products from organic animals.

It is a human health concern that overuse of antibiotics, both directly admitted to humans and animals, are causing antibiotic-resistant bacterial strains to develop. During inspections it would be difficult to track that all uses of the allowed and present antibiotics are meeting the specific requirements of this directive.

The temptation to use antibiotics for problems in animals less than one year from organic milk production is great. This also substitutes an input use for a preventative proactive approach that mandates that farmers develop healthy living environments for their animals, that promote health. The use of antibiotics to routinely control pneumonia in calves does not encourage the producer to improve the sanitation, ventilation, and stocking rates in the calf barn.

I understand the need for humane treatment for young animals, and if the NOP feels this is absolutely necessary, I would feel much more comfortable, although not in complete support, with this allowance if it was mandated.
that a veterinarian verify that the antibiotic was needed and that they administered it. This opens the door to any type of animal health product to be used in animals one year from organic dairy production.

Fishmeal. The precedent here allows any secondary ingredient to be included in a non-synthetic product that is fed as a supplement. The allowed use of ethoxyquin, a prohibited preservative, embedded in this "natural" fishmeal opens the door for other items to be bundled into any "natural" products, such as synthetic amino acids, mammalian and poultry by-products, or other non-allowed materials.

In addition, this directive allows fishmeal as a livestock supplement, and this includes cattle, who do not naturally choose to eat fish.

Scope. I believe this directive sets the precedent allowing the use of the "organic" label on products that are outside the scope, whether they are certified or not, and this will confuse the consumers if organic throughout the marketplace truly does not have a meaning.

The word "organic" should be reserved only for those products that are certified by an accredited certifier, not those who just want to gain financially from the "organic" label, with no certification.
I urge the NOP to expedite work on standards for the areas mentioned in the Scope document in order to close this dangerous loophole.

Finally: I'm concerned that consumer confidence in the "organic" label will be eroded based on these directives.


MR. SIEMON: You know we've taken a stand about the antibiotics and a lot of these issues, we've -- we've taken a stand once, twice, thrice, you know. So do you all -- I'd like to ask you and even several others: are we to the point of wanting to open up the Rule again and rewrite the Rule?

MS. BEHAR: Well, the Rule says that animals should be -- for emergency use, to preserve the animal's life, that antibiotics can be used, but the Rule is very clear that antibiotics are not allowed in animal products or edible products from organic animals.

So I believe that the Rule is very clear that antibiotics are not allowed.

MR. SIEMON: But the USDA lawyers say it's not clear, and they've interpreted it that way, so the only thing left is to either do rulemaking or the lawsuit-type thing, so --

MS. BEHAR: I believe, yes, that the consumers
and many organic supporters believe that if the Rule needs to be opened, to strengthen, that statement that I just said, then we should open the Rule.

CHAIRMAN KING: Thank you, Harriett. Dr. Clark, and Jonathan Landeck is on deck.

DR. CLARK: Thank you. My name is John Bill Clark, Cassopolis, Michigan. I'm a certified organic farmer. I have a proxy from another organic farmer in my neighborhood, name is Roger Outlaw, Niles, Michigan. Strange name, on this morning, I guess.

CHAIRMAN KING: I was going to ask you about that.

DR. CLARK: I wish to second the idea of regime change, and I would illustrate that by asking how many members of the NOP staff are here in this room at this very moment?

I count -- how many? One -- she may not even be considered a member of NOP, I'm not sure.

CHAIRMAN KING: No, she's very much a member, and she works very hard, and we do appreciate the fact that Katherine's here, so I will make that clear.

MS. BENHAM: Thank you, Mark.

(Laughter.)

DR. CLARK: But when she has any function in --

CHAIRMAN KING: You don't want to be on her bad
side, so --
(Laughter.)

DR. CLARK: -- in directives, I -- I don't think I want to blame her for the directives.

I don't disagree with anything that's been said so far except that it's always a puzzle to me, why do we even bring up List 2, List 3, List 4 inerts, because pesticide use is incompatible with organics paradigm.

We've been farming livestock, fruit, fish, honey, vegetables. Livestock includes beef cattle and sheep, and now we're getting into some birds and hogs. But we've never seen any need for antibiotics or parasiticides, not even for the sheep.

So you have just approved a parasiticide which is also considered insecticidal and antibiotic, and I will state my -- my favorite way of putting the organic paradigm: pesticides cause pesticide -- pest problems, and when you stop using them, the pest problems go away, usually. And that's not limited to herbicides or insecticides, it goes to the full spectrum, -icides of all kinds.

Bear with me for a careful reading of 6517(c)(1), Part A must precede Part B for every material and note that after A-B-3 is for non-synthetic, non-organically-produced materials that have survived A-2 and A-3. That leaves no
place for synthetics in handling. They are strictly
forbidden by 6510(a)(1). There's no place on the National
List for these. If used, products are remanded to the
"made from" label.

Congress was very clear and specific about this.
That's why they created the "made from" category.
Handlers, and only handlers, are entitled to use this
category and the 5-percent non-synthetic National List-
listed ingredients for making their products.

Certifiers are not entitled nor responsible for
certifying "made partly from" products. They certify only
95 to a hundred products without synthetics, and certified
ingredients on the ingredient panels, neither their seal
nor USDA's "organic" seal is permitted by statute on these
products. Certifiers who defy this are risking lawsuits by
consumers, producers, and handlers, who have every right to
use the "made partly from" label down to 50 percent.

Now that percent organic labels are permitted,
this is not a demeaning of a "94-percent organic" label.
70 percent for certain exports doesn't mean that 50 to
70-percent "made from" products should be prohibited.

Do you realize how many minor ingredient
producers, like Trout Lake Farms in Oregon, have been put
out of the organic business? Why do you persist -- and I'm
talking to NOP now -- in this liability risk-laden practice
of permitting synthetic ingredients and brow-beating handlers who have a statutory right to use these materials, if products are labeled properly?

Congress never intended for NOSB or certifiers to bear the burden of relisting/rehashing the FDA GRAS List. That's why they provided the "made partly with" label. They also designed the three-tiered labeling regime to avoid misleading consumers. That's also why the ludicrous attempt by NOSB to squeeze synthetic ingredients into the review process, that was never intended to include them, has been so difficult and convoluted.

A texturizing synthetic, TSPP, in a one-ingredient product, with no disclosure on the ingredient panel?: How low can you get? People buy that product, who are on low-salt diets, or maybe sensitive to synthetics, and they don't get any disclosure that it's in the product? The annotation at least should include a requirement to put that on the ingredient panel. It's half a percent? -- I heard yesterday.

Okay. All feed -- oh. The 5-percent allowance for non-organic ingredients does not translocate to feed. All feed must be 100-percent organic. Evasions of this by pretending that mineral supplements -- mineral supplement concentrates are not feed is clearly not conforming to the statute. No synthetics here either. Complete feed should
be made complete by using diverse organically-produced crops, not with some short of chelated proteins or synthetic amino acids.

Okay, slightly more here. Compatibility with organic resides primarily with alternatives, both practices and materials. The Secretary hasn't determined -- when I brought this up, tried to bring this up, yesterday, about 6517(a) and (b), it has to be (a) and (b), not just (b) without (a), and George came back, he came over to see what I was thrashing around about, George came back and looked at what I said, he brought it to you, and then he came back with: the Secretary hasn't determined that it's harmful to human health, and go through the other two categories and that.

What has NOP been doing for the last 14 years? Policy -- policing any attempt to deal with the food safety and residue testing in 6518(k)(5) and 6511(c)(2)(b)? Those things are part of the law, and they've been totally ignored by NOP.

I would second the idea that you need an -- you have the right and the need for an executive director, whatever you call it, that would be selected not by USDA, and the process for appointing members of the Board should be also controlled by the organic community at least, if not you.
I found out from Dennis Blank [phonetic] yesterday, or the day before, I can't remember which, he FOIA'd certain documents from USDA and found out that the three red herrings in the Original Proposed Rule, radiation, sewage sludge, genetically-engineered things, he FOIA'd letters that showed that those insertions into the Original Proposed Rule, came from higher up and outside -- well, higher up in USDA and from outside corporations.

I hope I haven't violated confidentiality with Dennis, but I thought that should be public knowledge, if it isn't already. So thank you very much, again. Any questions?

(No audible response.)


MR. LANDECK: Thank you very much. I'm Jonathan Landeck, from the Organic Farming Research Foundation. This is imply a statement to acknowledge the diligent work of the NOSB and an encouragement to continue this work, and especially to echo the comments made by several of us, to be a bit more assertive in your role, in your interactions with the NOP, and to pursue further clarification of your role and scope of responsibilities. Again, thank you very much for your -- for your fine work.

CHAIRMAN KING: Thank you.
UNIDENTIFIED MALE VOICE: And he had offered that
time to me (inaudible) --
(Laughter.)

CHAIRMAN KING: And I saw several Board members
wanting to support him in his statements.
(Laughter.)

CHAIRMAN KING: This is Richard Wood, and we have
Merrill Clark on deck.

MR. WOOD: I'm Richard Wood, the Executive
Director of Food Animal Concerns Trust, or FACT. FACT is a
non-profit organization that advocates for humane and
sustainable farming practices to improve the safety of
meat, milk, and eggs, and to promote humane and sustainable
animal husbandry. Our formal comments are being passed
around.

Kathy Seus, FACTS Farm Program Manager, presented
comments to you on Wednesday on NOP's overall role and
problems with that role. I thank you today for the
opportunity to provide brief comments specifically focused
on the issue of antibiotics, antibiotic use, with dairy
livestock, as described in the Guidance Document issued on
April 13th, or the Directive, however we want to refer to
that.

FACT acknowledges that Section 205.236 of the
Organic Rule addresses the origin of livestock. This
section defines how livestock can be moved into an organic herd and, even though the meat from these cows cannot be marketed as organic, how after 12 months the milk or milk products can be so labeled.

Some organic dairy farmers have asked for a clarification on this section. Kathy on Wednesday addressed our concerns with this section as well. However, this concern and this entire section of the Rule deals specifically with the origin of livestock and nothing else, and a number of dairy producers have been faithfully following this protocol.

FACT also strongly supports Section 205.238, stipulating that organic livestock producers must not, quote, "sell, label, or represent as organic any animal or edible product derived from any animal treated with antibiotics," unquote.

It is our understanding that organic dairy producers have been carefully following this protocol when marketing both meat and milk and dairy products. This prohibition is central to what it means for a product to be organic as we all understand, and in our view it is a basic assumption that consumers make as they go to the dairy cooler in the grocery store.

FACT also strongly affirms that a sick animal must be treated with therapeutic drugs, including
antibiotics, even though the animal is under organic
management. The Preamble to the Organic Rule states
clearly that the producer must not withhold medical
treatment from a sick animal to maintain its organic
status.

However, the Rule also states that if livestock
are treated with antibiotics or any synthetic substance not
included in the National List, then the product cannot be
labeled as organic. We all understand that.

FACT believes that the Guidance document, or the
Directive, on livestock health care undercuts the intent of
the Preamble and the substance of the Organic Rule itself.
The Guidance Statement pieces together portions of 205.236
and 205.238 to come up with a seemingly new section in the
Rule altogether.

The Guidance document takes the provision of
.236, that milk can be marketed as organic after 12 months,
and pastes that provision into .238, so that now the
"origin" provisions apply to antibiotic use as well.

FACT opposes this "cut and paste" approach to
implementing the Organic Rule. We believe this revision
undermines the integrity of the "organic" label as meaning
"no antibiotics." It goes against the current practice of
organic farmers, dairy farmers, and will undercut consumer
confidence in organically-produced products of all kinds.
FACT is joined in opposition to this position, or this -- to this guidance, our opposition is joined by the Union of Concerned Scientists, the Center for Science in the Public Interest, Environmental Defense, and the Institute for Agricultural and Trade Policy.

This new Guidance is a major change to the organic standards. During the NOSB meeting on Wednesday, and probably yesterday as well, I wasn't there, though, there's already been much debate and a large amount of confusion about the meaning and intent of this document. However, there is an established procedure for making significant changes that allow for a well-informed public debate where all stakeholders have the opportunity to respond. That procedure is the rulemaking process. This Guidance should be withdrawn by the NOP and submitted for public debate as a proposed modification to the organic rule. The Campaign to Keep Antibiotics Working, or KAW, is submitted a letter to USDA Secretary Veneman to ask that this step be taken. FACT is a member of KAW, which has a combined total of more than 8 million supporters.

We see this Guidance Statement as a significant change that deserves full and formal scrutiny by the NSOB -- by the NOSB --

(Laughter.)

MR. WOOD: -- and by all stakeholders. Sorry
about that.

(Laughter.)

UNIDENTIFIED MALE VOICE: It's a Freudian slip.

(Laughter.)

MR. WOOD: We want all stakeholders, regardless of their name, to be involved in this, organic farmers, processors, suppliers, the consuming public, and we ask that this Guidance be withdrawn and submitted to rulemaking. Thank you very much.

CHAIRMAN KING: Questions.

MR. RIDDLE: No question, but I want to just thank you for that statement.

MR. WOOD: You betcha.

CHAIRMAN KING: Thank you.

MR. SIEMON: They've been called worse.

(Laughter.)

CHAIRMAN KING: Primarily by you.

(Laughter.)

CHAIRMAN KING: Next is Merrill Clark, and Carol King is on deck.

MS. CLARK: Thank you. My name is Merrill Clark, Roseland Organic Farms. We are primarily producers of organic livestock, and I was a charter member of the NOSB back in '92 to '96.

Actually, I view the role of this particular NOSB
to be particularly challenging, obviously, and that's been noted this week. Difficulty as it was for me to wade through the waters of the charter NOSB and try to figure out things like what elementare [phonetic] is before anything else was even discussed, plus becoming a livestock committee chair and consumer rep, this board has to leap other -- other hurdles, policy development criteria. Much improved, however, material review procedures, and a way of accommodating each other's special concerns that I find particularly refreshing, so congratulations on that. But you have this other hurdle, of dealing with the directives that have already been mentioned. We did not have anything like that in the original board I can tell you. You also -- actually, we didn't have enough, it was kind of a little laid back with the NOP at that point.

At the very least, I was known as one who never met a synthetic I could vote for --

(Laughter.)

MS. CLARK: -- many of the votes were 5 to 1, 6 to 1, and, well, there goes Merrill again.
(Laughter.)

MS. CLARK: I'm still that way (chuckles). Which brings me, of course, to antibiotics, ivermectin, moxidectin, and fishmeal, plus the pesticides and inerts and everything that are popping up, that no one would ever
think would ever really be coming up, both by NOP and, unfortunately, some NOSB activity that I can't agree with. The cut-and-paste, however, is certainly going on, and the paste jars at NOP must be quite large at this point.

We'll be petitioning, actually, talking about it ourselves, to remove ivermectin as a synthetic pesticide, which is what a parasiticide is, and an antibiotic, they're nothing but synthetic pesticides, let's realize that, with maybe moxidectin, after that, advertised as a, quote, "better" parasiticide, don't like it, not to mention a response to that antibiotic directive.

It's clear pasture -- non-confined, organic animals, such as ours, and many others out there, in the organic stream are never particularly threatened by parasites to the extent that they have to have a synthetic pour-on parasite poison for internal use, when alternative animal lifestyles and management practices, including outdoor pasturing, are included and are available and in place.

Parasiticides, antibiotics, whatever you want to call them, mean nothing but a deterrent to animals, and, again, as somebody mentioned, the huge potential for parasite resistance. Why do we want to trap an animal in a situation that they're being diminished, not enhanced. Pesticides are doing that.
I agree with Kathy Seus, who spoke yesterday, or Wednesday, suggesting that the NOSB work on animal husbandry standards a little bit more completely. I know you have the problems with the varying parts of the country, but to me -- I remember what Bill Welsh used to say: I can't grow pineapples in Iowa. If we can't sufficiently grow or raise a dairy animal someplace in boggy, wet Arkansas, okay; should we throw in materials to kind of make it work? I don't think so. That's where you kind of go a little bit to -- downhill, let people bloom where they're planted, and keep stuff wherever they are, that works with where they are, work with the earth.

Can both NOP be doing -- can the NOP really be doing more, actually, to discredit organic production in the eyes of consumers and the producers, who resort to none of the aforementioned synthetics?

Why are consumers demanding organic meat and milk? We've heard it before: no pesticides, no anti-biotics, no parasiticides. What's going on here between where I was and where we are now, lots of good things, but these are really troubling.

A quick look at materials criteria, for moxidectin, for instance, which was just voted unanimously and -- on the Board just yesterday. Harmful to the environment? Yes. Adverse biological chemical
interactions? None that have been found. Thank you, but how could they not have harmful interaction in an organic farm system? Binds to the soil? Yes. Adverse on non-target species? Yes. Sounds adverse to me. How many criteria not satisfied needed to kick a material off the list I've never understood. Some people have said, you know, you have to comply with all of them. Well, it doesn't matter. If one's good, it doesn't matter if the -- all the -- aren't other [sic.], it's -- antibiotics and paracides don't even pass the first three qualifications, that talk about "Consistent with organic? No," "Not harmful to the environment? No," and "Are there substitute practices? Yes."

I heard on TV last night a headline that was stated, said what they were starting to do -- "What are they starting to do with your food?" Thank goodness they weren't referring to organic food at this time. But, you know, somebody else out there will be starting a challenge, the liability, if we don't -- if we aren't really careful with what we're starting to allow. Thank you.

CHAIRMAN KING: Jim.

MR. RIDDLE: Thanks, Merrill. I just want to clarify a couple things, and that is: I think I heard you say that our vote on moxidectin was unanimous, and there were --
MS. CLARK: Maybe not --

MR. RIDDLE: -- I think 3 votes against and 1 abstained --

MS. CLARK: I'm sorry.

MR. RIDDLE: -- with a lengthy disclaimer.

(Laughter.)

MR. RIDDLE: As I recall. But also, then, after we received, at the end of the day, a couple different people asked me about the annotation on moxidectin, because it's quite short, what we passed, "internal parasites only," and you look at the annotation on ivermectin and it's quite lengthy. But I just want to clarify that that lengthy annotation on ivermectin is really a restating of the section in 205.238, and so it's redundant, and that same restrictions apply to moxidectin, it cannot be used for slaughter stock at all, ever. The only allowance is for breeder stock when used prior to last third of gestation and not during lactation, for breeder stock; and dairy stock, when a minimum 90 days prior to the production of organic milk. So those override both of those parasiticides.

So I just wanted to make that clear to everybody, that this wasn't an allowance for slaughter stock or a more liberal annotation than ivermectin.

MS. CLARK: I get it, but it's still squeezing in
something --

MR. RIDDLE: No, I --

MS. CLARK: -- that begins to start the ball rolling downhill.

MR. RIDDLE: I understand your concerns, and that's why some people voted against.

MS. DIETZ: I'll tell you what the official vote was: 11 yes, 1 no, 1 abstention, 1 absence.

MR. SIEMON: I just wanted to make a statement about -- you said petitioning for materials. You know, after hearing what we heard yesterday about the sunset clause, it's rather obvious that we need the organic community now to start petitioning materials that are becoming more and more obvious they don't belong on the List --

MS. CLARK: I was hoping there was a petition form right here, that we could pick up and start doing it.

MR. SIEMON: -- because, first off, when you and I were together in '92 and '93, things have changed so dramatically in our knowledge, there's materials that we put on there in good faith, that really now, to us, seem obviously the wrong decisions, and maybe --

MS. CLARK: So you all --

MR. SIEMON: Maybe we're still making wrong decisions, but --
MS. CLARK: Somebody has to petition, you don't stimulate that; is that right?

MR. SIEMON: We can't do that. We need the organic community to help us, because there are materials that in the past were wrongly put on there, to come forward now and to start -- trigger that process.

CHAIRMAN KING: Dave.

MR. CARTER: And just to follow up on that, because that's -- as I said prior to my vote -- and the second-most-lengthy, I think, disclaimer. But, you know, given the fact that ivermectin is on there, then you start to phrase things -- as long as that's on there, then let's have something that's less egregious than ivermectin, but if, you know, the community wants to step forward and petition both of those things off of there, I don't think many of us on this board would have any problem with that.

MR. RIDDLE: Right. And those petition forms and instructions are on the NOP website, and you basically follow the same procedures as you petition to add something, well, you petition to remove it, but then you need to address the criteria and your specific objections need to be in the context of the criteria.

MS. CLARK: Yeah, we need to definitely be doing more of that.

MR. SIEMON: But I would do that material by
material and not lump things together.

MS. CLARK: Okay.

CHAIRMAN KING: Yeah, good point, George. Thank you, Merrill. Annie Kristo [phonetic] is up next, and Tom Harding is on deck. Wait, I'm sorry, you're right. It's Carol King. I apologize. Annie, you're on deck.

MS. KING: Actually, I have Amy's vote [phonetic] by proxy, and I am losing my voice, I apologize. We would first like to thank the Board for all your hard work, and I understand we're probably beating a dead horse here, but I do have a statement regarding the dairy replacement and the antibiotic use that I would like to read.

The contradictions in the National Rule referring to the organic dairy production must be corrected. In reference to the guidance document, which is now going to be issued as a direction, posted on the NOP website on 4/14/04, Nova New York Certified Organic (indiscernible) would like to make the following statement.

Section 205.238(c)(1) says: "A dairy animal treated with antibiotics cannot be sold, labeled, or represented as organic."

Section 205.236(a)(2) says: "Milk or milk products must be from animals under continuous organic management beginning no later than one year prior to the production of the milk or milk products that are to be
sold, labeled, or represented as organic."

The meaning of these sections is clear: an animal treated with antibiotic or other prohibited substance must leave the herd and can never be considered organic again. Allowing treatment with antibiotics does not comply with this section of the Rule for "continuous organic management." By definition, continuous means without interruption.

To allow a dairy producer to treat a cow with antibiotic or other prohibited substances, then keep her on the farm and manage her organically for a full year, is problematic. Who's going to monitor that animal and be sure her milk is not sold as organic or fed to organic calves? This is going to encourage some dairy producers to cheat. There's no way a certifier can monitor what happens on a dairy farm day to day.

It is essentially allowing a continual state of transition, which was clearly not the intent of the Rule. The contradictory nature of this guidance goes hand in hand with the origin of the livestock Guidance issued on April 11th, 2003, and I know that's a dead horse too, but we're still trying.

Section 205.236(a)(2) is clearly referring to a one-time whole-herd transition, and the last paragraph of that section states that once an entire distinct herd has
been converted to organic production, all dairy animals shall be under organic management from the last third of gestation. The intent of the Rule is clear, after dairy transitions of the herd to organic production, from that point on all animals must be managed organically from the last third of gestation.

The Guidance documents of 4/11 and 4/14, which we have now been told will be referred to as directives, leave the interpretation wide open. To correct this inequity to dairy producers is simple. If the intent of the Rule is followed, once any operation transitions their herd to organic production, all animals must be managed organically from the last third of gestation.

There can be no distinction between dairy farms that transition before or after the NOP went into effect or whether they transitioned with 100-percent organic feed or used the feed exemption. It is discriminatory to new farms and detrimental to the organic dairy industry as a whole. Once a farm is certified for dairy, all animals must be managed organically from the last third of gestation. This includes any replacement heifers purchased and brought onto the farm.

Requiring all animals to be managed organically from the last third of gestation was the clear intent of the Preamble. It is the interpretation that is fair to all
producers. It is the interpretation that maintains the integrity of the organic dairy industry, and it is the interpretation that consumers expect, are willing to pay for, and deserve. Thank you.

CHAIRMAN KING: Next is Tom Harding, and I believe it's John Cleary on deck.

MR. HARDING: Did you skip somebody, I thought, or --

UNIDENTIFIED MALE VOICE: No, she spoke --

CHAIRMAN KING: She spoke for Amy.

MR. SIEMON: We were so eager to hear you talk.

(Laughter.)

MR. HARDING: Thanks, George. Well, good morning to everyone.

I just want to start off by saying that this process is incredible, and the work you're doing is incredible, and I don't think we say that enough, and I want to thank not only all of you on the NOSB now, I mean, I've seen an enormous improvement in processes and the way you're looking at it, and we're going back and correcting a lot of work that was, of course, in some cases a mistake in the past, but that's an imperfect world that we live in, and that's the nature of it, but I want to thank you very much for it.

Knowing that it's not [sic.] imperfect world, I
want to thank the NOP, because they've also laid some very
important documents no the table, continue to raise the
hair on the back of our necks, to make sure that we're
focused on some very important issues.

(Laughter.)

MR. HARDING: We've asked for this document, by
the way, for two years. Now we've got it and we don't like
it. Now we have to do something about it, if we don't.
But I want to tell you there are some pieces in these
documents that are very important to us.

But I want to remind you that the work you're
doing is critically important, I want you to focus on
history, because there's a lot of history in this room,
some we like and some we don't, there's a big industry out
there who would like to see us -- perhaps either be part of
us or see us fail, and I think it might be that they want
to be part of us. We've got to make sure that the level
playing field is very high and the consumers are always
engaged in this process.

So don't give up this important work, continue to
push hard, and even when we disagree, Jim, it's okay with
me. I think it's very important, the process that I saw
for the last two and a half days, it's an excellent
process, you've done an enormous job to improve it, and
that includes the people in the NOP, both those who were in
the room earlier and not in this room now.

The other thing I want to say is that it's very important that we recognize where we are today, because 25 years ago, when there was no OMRI, there were certifiers running around the country, who were barely making the standards survive at farm level, who were organizing materials and evaluating them.

I was involved in one of them. We never approved ivermectin. George knows that. I look over here, Dave. We never approved it. We brought in the best of experts.

The fact is, is that we do have materials on the list. They're there for a reason. Some view those as tools, others as weapons and hazards to the industry, and I remind you that the rules were twice the withdrawal of the label for the use of antibiotics on dairy herds and in meats, up until we got the law.

So we need to fix this problem. We have not, with this new document, now called the Directive. We are still unclear, you just heard from this lady before me, we still have problems understanding where the dairy herd is.

I was operating with -- a lot of my dairymen were -- we were certified no antibiotics, 12-month transition, when all around me there were other dairymen being certified who were using antibiotics and who were not waiting 12 months. So we do need to put this consistency
[sic.] and fix the inconsistency right now.

The other things that are very important, for me anyway, the new directives are on the table, so what, let's go at 'em, let's be proactive, and let's camp on the Hill.

The other thing that's very important is the materials process. I think you've improved it enormously, but let me tell you, there's a lot of work on the table yet, and I want to remind you again that we want to grow the industry, and there are some needs for what I would call environmentally less-hazardous materials to be put in this process, you put a few on the List yesterday, in the livestock, in the soils, and also in processing. These are important things. But make sure we continue to manage the bar very high.

Our main objective is to grow the industry at a very high level.

Supplements in fishmeal, I would just like to know what the hell a supplement is and how much a supplement constitutes in the feeding of an animal, any kind of an animal. I want to remind you there are people working on organic fishmeal, and so we don't want to discourage that work by opening up the store, but at the same time, we're using fishmeal, let's quantify it. Let's quantify, at least some guidance, what a supplement is.

I've already said enough about antibiotics, but
whether you believe it or not, there's probably a bunch of farmers out there saying, "Woo, I am really happy about this," and there's a bunch of people in this room that are sad, and some consumers very confused. So we need to fix it.

The other thing that's really important is to change. The scope of work that came out, that's now -- it went from a guidance to a directive, I'll tell you, there's some pretty meaty stuff in there, and I would encourage us to put the flag and plant it high. We don't want to lose the word "organic."

We don't want to lose any part of this industry that can grow, whether it be a tea or a supplement or a pet food or a fish. Everyone knows that I think wild fish are better than farm fish, but that's another whole discussion, and I stand by that.

Let's plant this flag and let's not let the FDA or any other department within the government take the word "organic" from us, and you need to be [phonetic] damn mad and damn correct to make sure that doesn't happen.

The other thing that's truly important is that we don't give up. In fact, we should never give up. We might abuse one another, and we might fight like hell, but we do stand for a common set of objectives, that's: to build an organic industry with integrity.
The other thing that's very important to me is that we look at the communications, you open this in transparency.

MS. DIETZ: Time.

MR. HARDING: You have made this process. I encourage you to continue to do that, and I want to encourage you, as I close, absolutely build this partnership, this public-private partnership, with the USDA, don't let anybody off the hook, and hang in there, because there's no other partnership like it in the world. There's none in Europe, there's none in Japan, no consumers at those tables, no industry at those tables, they just make the laws. Thank you very much.

MR. RIDDLE: Yeah, Tom, thanks for your comments, and I wanted to ask, when you said "camp on the Hill," I just want to be clear: you're saying that members of the industry, community, consumers, take their concerns to Congress over some of these issues, that's what you're saying as one option?

MR. HARDING: Absolutely.

MR. RIDDLE: And then you also said something about, you know, some farmers out there being happy about the antibiotic directive --

MR. HARDING: Uh-huh.

MR. RIDDLE: -- possibly. We haven't heard from
them. We have heard from farmers and veterinarians about some missing tools in their toolbox --

MR. HARDING: Right.

MR. RIDDLE: -- never antibiotics, and those --

MR. HARDING: I agree.

MR. RIDDLE: -- have been petitioned, have been considered, and have been recommended by the Board, and they have never appeared on the National List --

MR. HARDING: Absolutely right.

MR. RIDDLE: -- where we are still missing the livestock materials that the Board's recommended, and I think if we had those tools we wouldn't be in the predicament that we find ourselves in now, and, once again, I don't know if there's anybody to ask, but that's a question of mine.

MR. HARDING: You're right, Jim, you're right.

MR. RIDDLE: What's happened with those livestock materials?

MR. HARDING: And we need to find out where they are and why they aren't on the table and why they haven't been voted on and why aren't they put on there. What I said about the antibiotics, I can tell you, there are people in this room, there are people not in this room, that feel very different about antibiotics than perhaps you and I do, and I can promise you that if we ask most
consumers, the perception is: no antibiotics, yet that's not the case in some cases.

I would strongly ask the Board to move those issues back to the table, those materials that we have recommended and do need, and get them back on the plate, and I'm not sure that the course of action we have with the antibiotics, no matter who we make happy, is going to be good for the industry as a whole, but I think whatever we do, there must be a level playing field, and all certifiers must be playing under the same set of rules and interpreting those rules the same consistent way for consumers.

Anything else?

(No audible response.)

MR. HARDING: Thank you all very much again.

CHAIRMAN KING: Thank you, Tom.

MR. SIEMON: I think we ought to give additional time for praises for us, every -- a half minute, instead of praising us, they get a half-minute longer, I really do.

(Laughter.)

CHAIRMAN KING: Thanks for setting a precedent, Tom.

(Laughter.)

CHAIRMAN KING: John Cleary is up next, and Eric Bremmer is on deck.
MR. BREMMER: Mr. Chairman, Eric Bremmer, from (inaudible), New Jersey, I'm going to proxy my time to John Cleary. I just want to additionally state that (inaudible) appreciate the quality of the composition and the work of the NOSB, and thank you very much.

CHAIRMAN KING: Thank you.

UNIDENTIFIED MALE VOICE: You have ten and a half minutes.

CHAIRMAN KING: Because of the kind comment, of course.

(Laughter.)

MR. CLEARY: And I'll -- I'll still try to be concise. My name is John Cleary, an accredited certifier from Vermont Organic Farmers, which is the certification program owned by Nova Vermont. We certify about 300 operations in Vermont. Nova Vermont also represents another -- a thousand organic consumers that are Nova members.

I want to thank the NOSB for the incredible work that you all do, and also to thank the National Organic Program.

There's been a lot of concern and criticism here today of some things about the National Organic Program, and I want to, as a certifier, make sure that I acknowledge that, you know, we highly respect both the individuals and
the regulatory role of the National Organic Program and
sincerely look to having a positive constructive
relationship to build this public and private partnership,
that is, the National Organic Program.

The key thing in having this partnership be
successful really is this Board, and at the risk of being
redundant, I have to say some of these things, because the
farmers that we represent at our last annual meeting gave
me a mandate to come here to affirm the role of this Board
as the advisory committee that continues to work on these
interpretation issues.

So I know you all know that, we can't say it
enough, but this Board is critical to the success of this
program, because in order for the National Organic Program
to be successful, we need to have transparency, we need to
have public participation, and we need to have organic
expertise. Those are three things that this Board
provides, in an excellent format, and we can't lose those
things.

One key thing about the lack of process in
interpreting the standards, and I'll be honest about this,
as a certifier, certifiers are nervous about asking the NOP
questions, because we're scared that we're going to get an
answer that has been developed without any consultation
from the organic community, without any consultation from
As a result, we found -- just the things that people have mentioned -- inconsistent interpretations among certifiers, farmers who don't know what the rules are because they hear different things from different people, and certifiers, like myself, kind of stuck in a strange place where we're truly trying to do the right thing, truly trying to follow the regulation, but getting conflicting messages.

Even when we do get clarification from the NOP, in terms of guidance documents or directives, and as we look at those things as compared to the guidance that we receive through NOSB recommendations, we're not clear how we're supposed to use that information that we get, and we're not clear what process was followed to come to those conclusions. And as a certifier, that's a real problem for us.

One key thing that will help, that's been mentioned before, is hiring an executive director. I just encourage you all to keep pushing on that, and I encourage the NOP to make sure that the NOSB is a major player in the hiring of that person.

I'm going to move on to a few specifics. Regarding the antibiotic Guidance document, I'll say it's something we've been very sensitive to in Vermont and in
the Northeast, in determining: what do our farmers need, and this document came out, actually, just in time before our recent meeting of our livestock and dairy advisory committee, and we talked about this quite a bit, and we've gone out, we've asked our farmers -- we have a dairy tech program that works closely with our transitioning producers and our existing organic producers, and we've heard from the farmers, they're saying, "You know what? When we transitioned, we thought that this was going to be a really big deal and we were going to need these antibiotics for our calves and for our young stock, but we found out that we don't," and we have not heard from our farmers that there is a need for increased use of antibiotics in organic production. So I wanted to put that out there.

In addition, a major concern for us and for the farmers that we represent on the dairy side is this 12-month conversion, continuous conversion, process. Nowhere else in federal regulations have I seen parallel and unequal standards that are applied arbitrarily, depending on the time frame or your method of transition.

Clearly this does not maintain to the standards, and I know you all have worked a lot on this, but I feel like the antibiotic issue and the transition issue will both be solved by pushing, in any ways we can, for Rule change, to clarify that the 12-month conversion was only
meant to be for a whole-herd conversion and not as a continuous conversion.

So I'd just encourage you to keep working on that.

MS. DIETZ: Time.

MR. CLEARY: I can continue on to the proxy time, is that true?

CHAIRMAN KING: Yes, you have a proxy, five more minutes, yes.

MR. CLEARY: The next thing -- again, just to reiterate, the NOSB livestock medications that were approved, our farmers need those things, it's really critical, and as a certifier, I'm in a really tough position, to have to say either -- to tell farmers "either you have to sell this animal or you can't treat it in the human way that's required," even though we know those materials are allowed.

Just encourage you and to ask if we could get a response at some point today, maybe from the NOP, about the status of those in relationship to FDA.

Last thing, a separate topic, but also something that I haven't heard anything -- haven't heard much about today is this issue about National List products, multi-ingredient products that are on the National List, phosphoric acid, you know, fish emulsion, or seaweed issue,
and it also kind of brings in the fishmeal/ethoxyquin issue, is we need to clarify, and it may take some changes to the National List, this issue of adding synthetics to other natural materials and what effect that has.

My recommendation is that the National List should only have single-ingredient things, rather than multi-ingredient formulations, and that all ingredients have to be reviewed, rather than just saying, "Well, if it's on the list as an allowed synthetic," any synthetic -- the example is that you could add, you know, urea to -- or another synthetic fertilizer to a fish emulsion, and under the Guidance that we've received through various letters, that would now be allowed, because, you know, fish emulsion is an allowed synthetic.

The other thing I wanted to point out about that: The only way that certifiers, like us, know about this phosphoric acid issue is because these letters kind of bounce around on the internet, you know, one letter goes to a certifier here, from the NOP, someone else hears about it somewhere else, and, you know, we're calling each other and -- so this a lack of communication between the certifiers and the NOP is a real problem.

One thing I'd like to present, people have talked about a little bit, a number of certifiers in this room have organized a new organization of accredited certifiers.
to work on these communication issues, and we sincerely
look forward to working closely with the NOP and the NOSB
to clarify some of these issues.

So that's all I have. Thank you very much for
your time.

CHAIRMAN KING: Thank you. At this time we have
a break scheduled, and when we come back, I have Eddie
Daniel, with Angela -- and I can't pronounce --

UNIDENTIFIED MALE VOICE: Cadell [phonetic].

CHAIRMAN KING: -- Cadell on deck. So we'll take
a 15-minute break.

(Off the record at 10:00 a.m. and reconvened at 10:17 a.m.)

CHAIRMAN KING: Thank you for allowing us to take
a break, and one quick comment.

I want to thank everyone for their well-thought-out public comments, they are very important, we take them
very seriously, and we will be adjusting the agenda
accordingly. However, I will remind everyone that there
are a couple factors out of our control.

One is that there is an ACA training this
afternoon in this room, which means that we cannot be out
of here any later than 12 o'clock. At our current rate,
it's going to be challenging to accomplish that, so I would
just suggest -- you do rightfully have five minutes;
however, if you can keep your comments a little bit
shorter, that will allow us to get everyone's comments in.

And at this time, one -- another issue. It was mentioned earlier that the Board has responded with an official letter concerning process, that being materials review among that, among those processes, and because of the lack of time, that sort of thing, I was literally forced, as chair, to distribute this letter, asking Board members to review and support the letter in 24 hours or less.

As you might imagine, considering we all travel, and we have professional endeavors and, believe it or not, other lives as well, that was difficult to do, and in that case I know Kim was out of her office and had -- you know, basically managing multiple priorities, and at this time I wanted to just give Kim some time for a brief acknowledgement.

MS. DIETZ: Thank you. I'll time myself, two minutes.

I had told this Board that I would formally acknowledge that letter, so I'm going to do so for the record. I'd like to formally acknowledge the dedication and hard work of this Board. As representatives of this industry, it is very important that we work together to protect the word "organic."

As mentioned earlier, the NOSB drafted a letter
to the NOP with regards to the materials review process. I did not sign the letter prior to its submission because of the short time frame we were asked to review it.

   As promised, I will formally go on the record to say that I support the letter's directive on the materials review process.

   As past materials chair, I can tell you that it is essential that we have a full understanding of the process and our roles in that process.

   I also plead with the NOP and this Board to respect the fact that each and every one of us deserves to have an adequate time period to review documents. I will continue to object to any policy or recommendation on something where -- he's telling me --

   MR. MESH: One minute.

   MS. DIETZ: One minute.

   (Laughter.)

   MS. DIETZ: I will continue to object to any policy or recommendation unless given an adequate time period to fully understand what I am reviewing. It is disrespectful to each of us to push things through the process. Thank you very much.

   CHAIRMAN KING: Thank you, Kim. Next we have Eddie Daniel, and Angela, you are on deck.

   MR. DANIEL: My name is Ed Daniel, I'm Vice
President of Bushinboy [phonetic] Farms. We grow Pacific white shrimp in Florida, in fresh water, and we are currently certified antibiotic-free, alum-free [phonetic], and specific chemical-free. The board of directors of the company made a decision, based on sales and marketing, to go a hundred-percent organic. This is two years ago. So the chairman asked me, "What do we have to do," and I told him, "Well, we can be certified based on the NOP rule, but there's one problem," because I had -- at a conference, I had a talk with Richard Matthews, and the NOP's stand [phonetic] was that you couldn't certify shrimp because you would have -- you needed to have certified organic fishmeal, and as long as you have certified organic fishmeal, then you could certify your shrimp organic. So I asked the board for a million and a half dollars, so I got a million bucks, plus we bought Tilapia [phonetic] Farm and we contracted for certified organic feed for the -- Tilapia, and we also are building a processing plant to process the fishmeal so we'll have certified organic fishmeal. Then with my certified organic fishmeal, I should be able to have my certified organic shrimp.

But then later on there was a guidance, some ruling, that, well, shrimp can be certified under livestock, and livestock doesn't require to have certified organic fishmeal. So I said wow, that's good, we're still
going to continue with our program of providing a certified organic fishmeal, and we can be certified organic, USDA organic shrimp, based on the livestock regulations, and -- so we sent a formula to the feed manufacturer, using conventional fishmeal, of course excluding any material that would be prohibited, and we promise our customers, because they're the ones who ask us, "We want organic shrimp," so this year we're producing 2 million pounds of shrimp, that should be -- should be organic.

Recently, as you all know, there is another Guidance, statement that came out, saying that we cannot have our certified shrimp. My only question is -- I don't want -- I'm not asking for any favors, I just want: what do I have to do to have my certified organic shrimp, that my customers are requesting? We are willing to follow any regulations and do whatever has to be done and spend the money that has to be spent to do it, but what are the rules? -- and we would appreciate if they can't keep changing the rules while we're doing it, and all I do, the board of the company, I just ask them for what I want and they give me what I want, because they tell me what they want. So I can't keep (chuckles) -- you know, "What's going on here?"

Also I'm helping change company -- a shrimp processor in Ecuador also, and they are certified organic.
by Nature Land, and they don't even have to use certified
organic feed, they can use conventional grain, also
fishmeal, as long as it doesn't have any prohibited
material.

Now, I stopped them from doing this last year, 
even though they could, I told them, "No, we'll get you
certified organic by the USDA." Now they're telling me,
"What we gonna do?" And apparently they are going to be
sending in shrimp that are certified by Nature Land, which
is an accredited agency, by the USDA.

Now, they wanted me to market that product for
them, but I refused, because I don't want to market any
shrimp that's not USDA-certified organic. And they also
would like to do that, they can produce up to 10 million
pounds of shrimp a year, that's certified organic.

So, again, my purpose for being here, just to ask
the NOP, "Tell me what I have to do," and I'll do it. And
I would like an answer somehow from them --

(Laughter.)

MR. DANIEL: -- sometime this week, or I give
them a few more days next week.

(Laughter.)

MR. DANIEL: Because I don't want a refund from
the USDA, okay, I don't want the million and a half back, I
just want to know what to do. Thank you.
CHAIRMAN KING: Thank you.

(Applause.)

CHAIRMAN KING: Angela is up next, and Ray Green is on deck.

MR. MESH: We designated her time for Urvashi earlier.

CHAIRMAN KING: Oh. Thank you, Marty.

MR. MESH: I'm being forthright and honest.

CHAIRMAN KING: Ray, you're on. I see Ray's on his cell phone. Ray, do you want to -- okay, no, he's hanging up.

MR. GREEN: Good morning, NOSB Board members, and I have to say "dittos" for all of the quality work that you're all doing, and I know a good portion of that comes from the California delegation. You can't hear me?

UNIDENTIFIED MALE VOICE: Not quite. Get a little closer, just in case.

UNIDENTIFIED MALE VOICE: Speak up, Ray.

MR. GREEN: Okay. So "dittos," and special thanks to the California contingent.

I'm here representing over 3,000 companies in California that are engaged in the production and processing of organic products, and I want to introduce perhaps something that the NOSB Board, as well as the NOP, possibly have not considered, which is: the activities,
To save time, I'm going to read just a short, short paragraph and then enter into the record here just a two-page excerpt from the California Administrative Procedures Act of 2002.

"No state agency shall issue, utilize, enforce, or attempt to enforce any guideline, criterion, bulletin, manual, instruction, order, standard or general application, or other rule which is a regulation as defined in Section 11.342 unless the same has been adopted as a regulation."

So some of the guidance documents and directives that come are possibly not enforceable, and since we are going to be funding all of the appeals for administrative law judges, the guidance documents and directives and policy statements that are being issued may not have the force of law in some states, that have to actually follow an administrative procedures act.

So as you're making some of these, please consider the implications and the effect that it could have on state organic programs, and I'll give this to Katherine to enter into the record and I'll stop there.
CHAIRMAN KING: Thank you, Ray. Questions?
(No audible response.)
CHAIRMAN KING: Okay. Moving on, Cissy Bowman, and Mack Devin is on deck.
MS. BOWMAN: Hello. I'm Cissy Bowman. I'm president and owner of Indiana Certified Organic, an accredited private certifying agency. I also have the proxy for Jay Feldman, of the National Coalition Against the Misuse of Pesticides, although I'm signed up in two places, so do you want me to speak all at once?
CHAIRMAN KING: Yes.
MS. BOWMAN: Okay. I'm going to start with the incamps [phonetic] statement. We would like to address compliance -- the compliance and enforcement directive on pesticide use, and because it directly impinges on the statutory authority of the National Organic Standards Board under the Organic Foods Production Act and its responsibility to ensure compliance with the standards of the Act. As we understand this directive from the National Organic Program on allowable inert ingredients and pesticide products used in organic production, we believe it is in violation of the law. This directive does not ensure that the materials introduced into organic production are in compliance with the standards set forth in the process of review.
This failure to comply with the statute goes to the very heart of the law, that is intended to establish reasonable production practices and consumer confidence that organically-labeled products are held to a clear standard of review distinct from other laws and programs.

The directive as we understand it would allow inert ingredients listed by EPA as List 2 or 3 inerts to be used in certified organic production if the certifying agent and producer, after a reasonable effort contacting a manufacturer, EPA, and other USDA-accredited certifying agents, are unable to ascertain whether inerts in a pesticide are allowed under the NOP.

This approach erodes the clear standard of the Act and allows hazardous and potentially hazardous substances to be added to organic production.

As the NOP knows, OFPA mandates that only the NOSB may propose substances for inclusion on the National List of synthetic substances permitted in the production of organic products.

By its action USDA fails to understand the purpose of the National List. OFPA Section 21.18 requires that the List contain an itemization by specific use or application of each synthetic substance permitted. It also states: "The National List may provide for the use of substances in an organic farming or handling operation that
are otherwise prohibited under this title only if the Secretary determines, in consultation with the Secretary of Health & Human Services and the Administrator of the Environmental Protection Agency, that the use of such substance would not be harmful health and the environment, is necessary to the production or handling of the agricultural product because of unavailability of wholly-natural substitute products, and is consistent with organic farming and handling."

Use of the language "only if" mandates the Secretary to determine that each requirement identified in Section 21.18(c)(a)(i), (ii), and (iii), is met before a synthetic substance is considered for inclusion on the National List.

Thus the National List cannot be a list of synthetic substances just generally recognized as safe or registered by EPA or under review and can only be considered if identified in Section 21.18(c)(b)(i) for use in farm production or as a synthetic inert, Section 21.18(c)(b)(ii), in an approved pesticide, and must be based on a case-by-case determination of safety, need, and consistency with organic methods.

As designated by OFPA, the NOSB and the Secretary are directed to consider only three classes of substances for inclusion on the National List. The managers of the
Senate House Committee [phonetic] report on OFPA stated that:

"The National List may include exemptions for substances otherwise prohibited but which the National Organic Standards Board and the Secretary determine are harmless to human health and the environment, are necessary because of the unavailability of wholly-natural substitute products, and are determined to be consistent with organic farming practices. Such exemptions, however, must meet one of the three following criteria: the substance is used in production and contains a synthetic active ingredient in the following categories." I will not waste time by reading all of this to you, because I'm assuming by now you guys already know it, but -- you know that section, I'm assuming.

Why is this inert issue important for organic growers and consumers? The organic industry is successful because of the trust that exists between the industry and consumers. Consumers are willing to pay a premium price for organic food in order to provide healthy food for themselves and their families and to support sustainable agricultural practices.

In order to maintain this trust, consumers must feel confident that practices and materials used by organic growers and processors adhere to the highest standard and
provide labeling disclosure when that is not possible.

The standards and the National List, however, need to remain strong in order to maintain consumer trust, on which the organic industry is based and thrives. Thank you.

And I also want to say I am aware that some of my comments, and this comment, is really directed at these directives and not at the NOSB, I understand that you guys are not responsible for those directives.

Okay. I'm going to -- I have a very scattered public input because I've had so many thoughts, so I'm going to be jumping around between NOP and NOSB, and I hope you'll bear with me.

With regard to this pesticide List 2 and 3 issue -- or this inerts 2 and 3 issue: as a certifier, we've developed a process for trying to identify what's in -- what are the ingredients, and what we do is when we have a farmer that wants to use a product, an input, and we don't have an ingredients list on it, we contact the manufacturer, we have a letter that we send to them, we have forms that we have them fill out, we offer them confidentiality statement, and in that process, in over a dozen cases, we have never had one manufacturer refuse to provide us, under confidentiality, with the ingredients, including inerts, for these materials.
On the plane here I had the interesting experience of riding with almost an entire planeful -- it was a small plane -- of people from Cargill, and I noticed all of these Cargill things and said, you know, "What are you guys going to Chicago for?", and they said that they had a meeting, and I said, "Well," you know, "could I talk to you about" -- you know, "that you sell inputs to farmers," and they said yes.

And so I said, you know, "Well, if like one of my organic farmers wanted to use soybean meal, or something like that, could you give me verification that it's identity-preserved" [phonetic] "GMO-free?" They said, "No problem."

They also told me that they would release to me inert ingredients in any of their materials. I have the guy's card. Okay. I think that this is something that can be done. We've been doing it. And quite frankly, I'm not very interested in going backwards on this and saying if we don't know, then it's okay. Now, this -- that's, again, an NLP issue.

This is an NOSB issue. With regard to your committees, in the past -- and I know George remembers this -- committees used to have members of the public come, they would meet and have members of the public come and help discuss things with them. I think with regard to materials
review, having some members of the public maybe be on there as like a task force, when you're dealing -- wouldn't it have been great to have some organic cotton growers, you know, when you were working on hydrochloric acid?

So I suggest to you that maybe you should find a way, or try to find a way, to bring members of the public with experience in before we get to the point of the meeting here; you might have a lot more clarification on what's really happening out in the field. And it was done in the past, so I don't know why it can't be done again.

GMOs. Gosh, yesterday, I got upset when I started hearing, "Oh, well, is that only about seed?"

There is no difference between planting a roundup-ready soybean in the ground and grinding it up and putting it on the ground. I'm sorry. Consumers -- when they said no GMOs, they didn't mean just no GMO seed, they meant no GMOs. I'm a grandmother. I raised my kids on organic food. They didn't have GMOs back then. But when my grandchildren were born, I told my kids, "I don't want them eating GMOs." This is the first generation of children that are being raised on food that's genetically manipulated. If GMOs are going to be in organic food, I guess I'm just going to have to make sure I feed them stuff I grow myself, because there is no way I'm going to let those little boys be eating GMOs.
Yesterday there was some discussion about a database. I just want to bring up one point about that. I certify a lot of Amish farmers, and I think that if they knew their names were going to be in a database that was shared with every agency in the government, they're probably going to get out of organics.

It's going to affect the dairy industry greatly, there's a lot of transitioning Amish farmers, but I can tell you right now, if I go back to my Amish farmers and my Amish grower groups and tell them that's going to happen, their bishops are going to tell them "We're not going to be part of this anymore."

They didn't even get certified, a lot of them, until it was required by law, and I think that this infringes on their freedom of religion, and -- so it's just something I think that needs to be taken into consideration.

I also want to talk about antibiotics. My daughter was just in the hospital for 14 days, in intensive care, with an antibiotic-resistant staph infection. She is on four months of oral antibiotics, it's a new formula they hope will work. Before that they were talking about four months of a permanent IV of antibiotics, meaning that she could not work, someone had to take care of her. She's 29 years old. The antibiotics issue is huge. It's not just
about whether or not we're getting them.

I also want to speak to you from my heart: I've been a proponent of this program for a long time, but I'm after some of the things I've been hearing with these directives and with regard to the GMOs, I'm getting kind of ashamed, I really am. I've told a lot of people that this made a difference. We've got to make sure it continues to make a difference, we really do. Thank you for your time, and for all of your hard work, you guys are great.

CHAIRMAN KING: Andrea.

MS. CAROE: Cissy, it's my understanding from the presentation yesterday on ECERT that there would be an opportunity to remain confidential as far as your listing. I may have picked that up wrong, I think we have to clarify that, but --

MS. BOWMAN: I know there are a lot of questions.

MS. CAROE: Well, I mean -- and I think there is for them too, that it's in development, and I think we were -- we were presented with something that is in process, but I -- I believe that question was asked, regarding confidentiality, and specifically, I believe that anybody that's listed will have to sign a release with their certifier, is the way I remember that.

MR. SIEMON: Yeah, that's what I heard too.

MS. CAROE: So just to ease your mind on that one
little issue, is I think we will have some protection --

MS. BOWMAN: I just have to speak for my Amish farmers because they're not going to come here and speak to the government for themselves.

MS. CAROE: And, you know, there's a variety of reasons why I think people would want to keep their names or their addresses or their products somewhat confidential, so -- I do believe that protection is going to be in there, and I believe the program has heard the concerns on that, so hopefully we'll be able to deal with that issue.

CHAIRMAN KING: Kim.

MS. DIETZ: Cissy, I wanted to comment on the materials process (inaudible) this, but the process that we went through with this group of materials I think was the best that we've ever done this far --

MS. BOWMAN: I agree.

MS. DIETZ: -- so it builds into that, that the committees have to have recommendations posted on the web 30 days prior to a meeting, and that's the opportunity for people to comment and to submit written comments and to tell the Board what you think of that recommendation, and then we take those and then come back to the meeting with them.

So I agree that we need public input, but I'm not sure how we -- how or if we could even go about getting
people involved during the material process.

    MS. BOWMAN: I wasn't necessarily talking just during the materials process, but in committee discussions. George could tell you how it was done in the past.

    MS. DIETZ: Okay.

    CHAIRMAN KING: Jim, then Dave.

    MR. RIDDLE: Yeah, I just wanted to follow up on that too, because I think it is -- you know, a valuable suggestion is more public involvement in the materials process, but I think the responsibility does rest here with members of the public, because we certainly would be open to accusations of favoritism, you know, who do we leave in? who do we leave out? kind of thing, and that's why we've tried to, you know, make sure that whatever's been petitioned is available on the database right from the get-go, so people know what's even entering the pipeline, and then all the way through our recommendations, so that that can be commented on. So I just wanted to, you know, say that.

    Where I do see the expertise being drawn in is in our task force process, such as the compost tea task force and other task forces we've done, that that's very valuable. So I just wanted to say that.

    MS. BOWMAN: I don't think I've used all of my 10 minutes. Could I just say a couple more things?
MS. DIETZ: You know, and I stopped the clock, so
I --

MR. RIDDLE: Well, you can always respond to
comments -- I mean questions.

MS. BOWMAN: I just have one more very -- really
short thing to say, and that is that it seems like USDA is
making my job a lot harder, as a certifier, and if I am
really a government regulatory agent and they're going to
tell me what to do and make this job this hard, I think I
should be on the payroll.

(Laughter.)

MS. BOWMAN: And I also want to add --

MR. RIDDLE: You're an agent.

UNIDENTIFIED MALE VOICE: Go, woo, woo.

(Laughter.)

MS. BOWMAN: I also want to add that if I were to
change OFPA today, I would say that you guys should be
compensated for loss of productivity and for the time that
you spend. I think that that was one of the worst parts of
the law, is the fact that you guys don't get anything for
the hard work that you do.

UNIDENTIFIED FEMALE VOICE: Yes.

MR. CARTER: Did that get in the record?

CHAIRMAN KING: Yeah, can you say that again.

(Laughter.)
CHAIRMAN KING: Dave had a question, then Nancy.

MR. CARTER: No, Kim and Jim covered mine, as far as the public input.

CHAIRMAN KING: Nancy.

MS. OSTIGUY: I actually do, though, want to second what Jim was saying about the difficulty of pulling in individuals in the committee meetings, who gets included and who doesn't, I don't want to get accused of favoritism, so what I happen to like about our new process is the fact that it's posted, anybody can comment, anybody can call me up, call a board member up, write us, tell us what they think, rather than me, as the chair of the crops committee, saying, "Oh, I would like so and so to tell me about this."

MS. BOWMAN: But not every farmer has access to the web.

MS. OSTIGUY: That's true. But it is a whole lot better in terms of broad public participation than me requesting specific information from a specific person.

MS. BOWMAN: I know, I've -- I've personally called with regard to issues, I just -- and I don't have to be their certifier, I call farmers and just say, "What are you doing," you know, "What's happening," and maybe that -- I just ask for -- you know, "Who do you know that's doing" blah, you know.

But, again, you know, I can tell you right now
there aren't that many farmers who use the web, and they're not going to start. And there used to be a mailing that went out from NOP, you could sign a postcard and get a mailing, and I don't think that exists anymore.

UNIDENTIFIED FEMALE VOICE: It's too expensive.

MR. RIDDLE: Nothing about this, I just am concerned about kind of our schedule, I know you --

CHAIRMAN KING: Right, (inaudible) people --

MR. RIDDLE: -- but we've still got a lot of people signed up, and we have never cut off public comment. I mean, we represent the public, it's important for us to hear, and I'd just like to suggest that if there's a need for another room, that NOP should start making arrangements for the afternoon, because I think we need to hear public comment, and that's the top priority, people have spent their time and money to come, and we're not going to cut that off.

CHAIRMAN KING: Duly noted. I think if we stay on schedule and everyone considers the time, that we can be done in an efficient manner.

MR. RIDDLE: Okay.

CHAIRMAN KING: So let's please try to stay on track. Next up is Mack Devin; Lynn Coody is on deck.

MR. SIEMON: No more praise.

(Laughter.)
CHAIRMAN KING: Right. Just get straight to the issue. Mack's not here. Lynn, you're up.

MS. COODY: Hello again. I'm Lynn Coody from Organic Ag Systems Consulting, in Eugene, Oregon, and my consulting practice is focused on assisting certifiers in meeting the accreditation requirements of the NOP.

I consider the policy directives recently released by the NOP to be stunning in the sense that I've been thinking about them for days and I've had a hard time figuring out just what to say at public comment about them, but luckily I did recover enough this morning in order to write down a few thoughts in order to give public comment and break my -- and not break my commitment to talking to the NOSB.

To me, the most disturbing aspect of these directives is that they were devised and promulgated without the consultation with the NOSB. Although it may be the NOP's legal right to make some interpretations of the Final Rule, it is not the NOP's right to make drastic changes to the organic standards without careful consultation with the NOSB and with the public. That's part of the Organic Foods Production Act.

Not only is it not right, it's counterproductive, and at the end -- and the end result is unacceptable in that it created a regulatory environment that is untenable.
For example, the inerts directive forces certifiers to act in violation of the Organic Foods Production Act by allowing synthetic materials that are on the EPA inerts List 2 and 3, which have not been reviewed by the NOSB, and certainly not been approved, this is clearly in violation of the NOP and it puts certifiers in a very difficult position, possibly even a legally untenable position.

The fishmeal directive allows farmers to feed livestock a toxic preservative, ethoxyquin, which is commonly known to be in the commercially available supplies of fishmeal, with -- basically using fishmeal as a carrier for an unapproved material. This could be extended to other synthetic materials easily if you take the NOP's directive further.

The antibiotics directive results in organic dairy products derived from cows who may have been treated with antibiotics, a situation that has been vigorously protested by consumers since before the NOP was even established.

Simply put: These directives are not right. I have been involved with writing industry standards, laws, and policies for over two decades, including having had the honor of representing farmers and certifiers during the negotiations and drafting of the Organic Foods Production
I know what the intent of these provisions in the OFPA mean, I know what it means when we put in there that the NOSB must approve and recommend to the NOP about the use of synthetics materials. This simply has not been followed in some of these directives.

Since the time of the drafting of OFPA, the voices of farmers and certifiers, and even the NOSB itself, have been tuned out by the NOP. What I see now is that NOP directives to certifiers twist both the intent and the plain reading of the law, creating a system of regulation that forces certifiers and producers to act against their own better judgment and the long-held understanding of the elements of organic production systems.

During this NOSB meeting, I've been very grateful to see wonderful examples of the NOSB listening carefully to public comment and reconsidering their positions, mostly on materials, which has been a major focus of this long meeting we've just been through, and in light of the ideas of the public, they -- the positions have been changed.

Although I -- I've thought hard to try to remember even one example of the NOP responding to public comment in recent times. I have been unable to think of even one example.

I urge the NOSB to continue and amplify its
effort to uphold the organic standards as we understood
them back in the days when we were writing OFPA and
specifically to work to get the NOP to reconsider the
contents of the policy directives.

Thank you once again.

CHAIRMAN KING: Thank you, Lynn.

MR. RIDDLE: A very quick comment, I said this
before, but Barbara wasn't in the room and --

Yesterday, Barbara, when we were talking about
sunset, said that it's a process, not an event, and clearly
implementation is a process, not an event, it's something
that happens every day.

CHAIRMAN KING: Thank you, Jim. Next up is
Weenonah, I can't make out the last name, and she has a
proxy from James Christianson. On deck is Richard Kanak.

MS. BRATTSET: Thank you. My name is Weenonah
Brattset. My family and I own and operate a 250-acre beef
and grain farm in southeastern Wisconsin. For many years
my husband and I employed sustainable farming practices
because we believed we had an obligation to treat the land
with respect.

Several years ago, at the urging of friends and
neighbors, we decided to begin the process to become
certified organic. At first, the many rules and
regulations governing organic certification seemed
overwhelming. However, as we studied and learned more about these rules, we were continually impressed with how sensible they were and how, as we became more involved in the process, these rules and regulations made more and more sense.

My husband recently passed away, and now my adult children have helped pick up the work which he did. They too are committed to organic agriculture. We are willing and eager to abide by the rules governing organic production because they make our way of life sustainable. We have found that our products are sought after by people eager to find healthy food.

For small arms, like ours, being organic makes the difference between barely getting by and being able to command a fair price for the food we produce.

Unfortunately, we're seeing an effort on the part of the National Organic Program staff at the USDA to weaken organic standards for the benefit of corporate agricultural. This is shameful. It's also somewhat enlightening. Can it be that mega-dairies and huge chicken farms need to steal the label "organic" to be profitable? -- because that's precisely what the NOP is allowing them to do when they bypass the rules which honest organic farmers follow and respect; or is it that these corporate farms see organic agricultural as a threat and wish to make the
"organic" label meaningless?

I've included with this letter a list of issues which are of concern to those of us who truly value organic agricultural, and I won't read them, but they're attached, for the record.

It's past time for a change at the USDA's National Organic Program. It's time for Secretary Veneman to respond to the concerns of organic farmers and consumers. We need leadership which is respected and trusted. We need transparency in all of the NOP's actions.

We need accountability from USDA and the NOP. And we have no intention of settling for any less.

And I would like to tell you people all thank you so much for your volunteer work, and I know what volunteerism is and how time-consuming it is, and I and all the people that I know in this organic movement really appreciate your efforts.

And now I'll read a letter from Jim Christianson, who is my next-door neighbor and a dairy farmer and, for obvious reasons, couldn't get up at 3 o'clock and come with me this morning, so (chuckles) --.

Jim Christianson is a third-generation dairyman from Jefferson, Wisconsin, area. The land he farms has been in the family since 1955. In 1999, when conventional milk prices dropped $6.50 overnight, Jim decided to become
certified organic with OTCO.

The changes were mostly on paper since the land and herd had always been managed biologically. He began selling organic milk to Organic Valley in 2001 and has never looked back. The following are his comments to the NOSB and the NOP:

"Organic has been a Godsend to my family and me. There is little doubt that I would have gone out of business when milk prices dropped in the '90s, just as I watched many of my neighbors do. Now our farm is thriving and my cows have never been healthier.

"I want you all to know that I am very concerned about the future of organics when I hear about some of the recent decisions that have been passed out. I am also worried about how long it seems to take to change and enforce organic rules. My cows go outside and graze pasture. It's not only the way God meant cows to eat, it's the law with organic.

"I understand that there are organic dairies that do not pasture their cows or that have too little pasture for the size herd they are managing. You need to do whatever it takes to make sure that the requirement for pasture is enforced uniformly for all organic dairymen.

"As a fairly small producer, with a closed herd, I often have certified-organic replacement heifers for
sale, but I usually have to sell them at the conventional auction, because the way the Rule is being enforced, many larger producers are allowed to use conventional heifers.

"I have written letters, filled out surveys, and signed petitions in favor of closing this loophole, but nothing seems to be happening. The extra premium that I would get from selling organic heifers would make a big difference on our farm.

"Please enforce the Rule that says that once a farm is converted to organic, all the calves must be organic from the last trimester. In fact, the situation seems to be getting worse, since now I understand that organic dairymen can not only buy conventional heifers, with unknown background, but they can even give antibiotics and conventional feed to their calves born on the organic farm. Antibiotics have no place on an organic dairy, not even with calves. If you start allowing antibiotics on dairy farms, customers will abandon organic milk in droves.

"The last thing on my mind has to do with health-care medications that have been approved for use in organics but are still not allowed because they have not been finalized into law. Organic dairy farmers need these tools to treat our cows. Particularly important for me is to be allowed to use aloe vera, which I used to use, and propylene glycol to take care of milk fever. We need to be
able to use something as soon after it is voted to be
allowed as possible. To have to wait two or three years is
ridiculous.

"My neighbors often ask me, 'What is the most
difficult thing to deal with when changing to organic?' My
answer is always: 'Good information.'" Gradually, over
the years, there's been more and more information available
to us.

"Therefore, when the USDA changes the rules on
what we can use and what we can do, it causes a lot of
confusion. We end up not knowing what we can and cannot
do. We have a very good thing going, with organic. Please
don't mess with it just to make it easier. The consumer
won't believe that organic is any better than conventional.

Thank you." From "James Christianson."

I thank you very much.

CHAIRMAN KING: Thank you.

MR. RIDDLE: I have a request. I mean, this
subject has come up a couple times now, at least, about the
materials, livestock materials, that the Board has reviewed
and approved, and I just have a request that before we
adjourn, that we could have an update from the staff on the
status of that.

MR. SIEMON: That'd be great.

CHAIRMAN KING: Next is Richard Kanak, and
I believe it's John Chernis on deck.

MR. KANAK: Hi. My name is Richard Kanak. I'm an organic consumer. I have two proxies I'd like to read, plus my own statement, if that's okay.

CHAIRMAN KING: Only one proxy allowed, you get a maximum of ten minutes.

MR. RIDDLE: A total of ten minutes, one way or the other.

MR. KANAK: That's pressure, then, right?

CHAIRMAN KING: Yeah.

MR. KANAK: Okay.

CHAIRMAN KING: We're confident you can do it.

MR. KANAK: Well, I'm going to start with the easiest one first. This is from an Amish farmer, received over the internet, and it's a little difficult to read because sometimes -- the way it was written. But anyway, here it goes.

This is from Rufus Yoder, in Belleville, Pennsylvania. This is his statement:

"We are a certified organic from PCO. We are a dairy farmer and have 20 cows and about 70 acres of land. We put a big effort to this farm. But the problem is that the NOP, without the approval of the NOSB, decided to allow the large organic dairy farms, like Horizon and others, to purchase conventional heifers and then phase them into
organic production. This clearly puts sustainable farmers, like us, who make extra efforts to care for their animals, at a competitive disadvantage, and we do not want this to happen. We need to draw the line in the sand where it belongs. We want the rules to be kept the same. We very badly need better or new management in the NOP." This is signed "Sincerely, Rufus Yoder."

I'm going to read my own statement, and then if I have next time I'll read the next proxy.

The organic standards must be such that we consumers do not have to be concerned that there are degrees of organics. Purchases are made because of what is not in or not on the item. I once read a statement attributed to Warren Porter, a toxicologist from the University of Wisconsin, and this is a quote: "There are more than 77,000 pesticides out there right now. Not a single one of them that's been registered has been tested for neurological, hormonal, or immune function or impact on those functions. People need to understand that just because a pesticide is registered, that does not necessarily mean that it has no biological activity." That was the end of the quote.

It is very a difficult and time-consuming task to keep up with this ever-changing world. It is very difficult to read the fine print of ingredients on the
labels of all too many items. It would be a full-time just
to be searching that all the -- what all the ingredients
are, let alone knowing the reason for the inclusion in the
package.

The simple solution should be: looking for the
USDA "organics product of the USDA" on the label, but this
is not the case. The New York Times of Wednesday, February
26, 2003, highlighted several issues of questionable
practices which were accepted as organic by the USDA:
organic livestocks being fed non-organic feed; and uneven
enforcement of the outdoor grazing requirements. Would the
NOP have made a different decision if there were not so
many questionable areas in the standards? The NOSB must
take steps so the USDA organics label is not under constant
pressure to be revised to accept as organic: questionable
practices.

Mad cow disease is an example of the results of
questionable practices. Is not the rule that allows non-
organic dairy cows to be converted to organic production
also a questionable practice?

Do I have time for my next proxy?

MS. DIETZ: You have 7 minutes left.

MR. KANAK: A lot of time. I can slow down,
right? I'm just too nervous, that's all.

This is a proxy before the National -- I'm sorry.
It's from the Churches' Center for Land & People. It's from Tony Ends, and I begin:

"My name is Tony Ends. I offer testimony regarding organic farm policy from several vantage points. With my wife Della and family I've worked for ten years to establish a direct-market-approach produce enterprise and small-scale livestock farm in southern Wisconsin. As such, I live and work in a farm community and care deeply about my neighbors and countryside.

"I've written on farming and farm issues for daily newspapers and agricultural publications. I worked full-time at an institute for sustainable agricultural research and education for four years, helping agronomic soil scientists and farmers design and fund on-farm research projects in Iowa, Illinois, and Wisconsin.

"I presently lead a USDA small business innovation research project that is establishing a yield and marketing cooperative in Wisconsin. In July 2003 I was appointed part-time director of Churches' Center for Land & People. This ecumenical effort for farming people promotes justice, earth stewardship, and community. The Center was organized during the 1980s farm crisis and has been active in Iowa, Illinois, and Wisconsin, expanding services to Minnesota last year. People of Lutheran, Catholic, Episcopal, United Methodist, United Church of Christ,
Presbyterian, and Quaker faiths support our work.

"From long-standing experience, I address you with a sense of urgency. Trends that have driven agriculture to consolidate and specialize in endlessly large scale are well-documented. Over the past 60 years they've almost completely undermined local infrastructures and support for farming communities across our region.

"In shackling our farmers to federal subsidies and excessive reliance on fossil fuels, they have also placed US food security in jeopardy. In the past 15 years, direct marketing, premium production, and value-added enterprises have brought some relief from oppressive consequences of agricultural industrialization.

"Sustainably integrated and organic farming practices that spawn these new trends have benefited many thousands of alternative growers and producers. If National Organic standards, however, bring industrial practices to these new areas of farm and food production, neither the people nor the land will benefit. Young farmers and farm couples will not have a chance to enter agricultural. Local economies will not regain the ground they lost to global and corporate interests in conventional food and farm production.

"The rural revival of our nation desperately needs to happen, for food safety, food security,
sustainability will never take place. I ask you to broaden your board membership and to ensure representation of these interests in ongoing development and implementation of National Organic standards. I ask you to help save organic farming from being lost to the same trends that have caused conventional agricultural production to cannibalize itself. I ask you quite simply to oppose genuinely free market and fair trade practices in your policies and rules for the common good of the democratic majority instead of the private gain of a very few."

CHAIRMAN KING: Thank you. Yes, Kevin.

MR. O'RELL: Mr. Chairman, I would just like to go on record of saying that I'm disappointed today to hear that people are coming to use public comment period for making public and personal attacks to companies. I don't feel that that's what public comment is for in this forum. It's for commenting about organic standards, commenting about the National Organic Standards Board and the National Organic Program, and it's not -- in my opinion, it is not a place for public attacks and personal attacks on companies or individuals. I would just like to urge the public not to use this tact.

CHAIRMAN KING: Thank you, Kevin.

MR. SIEMON: As well as positive. Just don't use any brand names or company names. We're talking about
policies here, doesn't matter, positive or negative, just
don't do it.

CHAIRMAN KING: This is clearly your time to
express your thoughts and feelings, and we appreciate that,
just try to keep them somewhat generic and don't refer to
specifics. We may not have all the facts. Do you have a
comment?

MR. RIDDLE: No. I just -- I -- well, yes, then.
(Laughter.)

MR. RIDDLE: No, I'm uncomfortable as well, and I
just second what Kevin is saying. I think it's one thing
to talk about scale issue or systems issues, but I'm
uncomfortable and really don't think it's appropriate to be
singling out companies or individuals, but anyone is free
to speak as well, so --

MR. O'RELL: I recognize that. Thank you.

CHAIRMAN KING: Thank you, Kevin. Next is John,
I believe it's Chernis, and on deck is Michelle Wander.

MR. CHERNIS: No, that's okay. Sorry I don't
have papers to hand to you, I decided last night at
8 o'clock to come. I'm a certified organic farmer. I farm
5 acres of vegetable crops in central Illinois, and I wish
there were more growers here, I think they might have been
able to make it had the timing been a little bit different,
it's -- it's hard to get here at prime planting season.
I guess I have two comments, and I'm afraid that we're losing the small grower under the present setup. I'm one of the few growers in our market that's certified, but I'm among many that have farmed organically for 15, 20 years, and they're leaving primarily -- or they're not becoming certified primarily for two reasons:

One, what seems to them -- who -- they sell the produce primarily locally, that the rules are overly burdensome in terms of recordkeeping, they just don't fit their scale of operation, the detail needed. You can still come on these farms and track what happened, but just the transferring of records to meet the certification standards are quite time-consuming, and I think that if some thought would be put into it, we could get at this and reduce this load.

Secondly, they also point to the fact that NOP is consistently changing the rules, and without good process, and -- so they really feel that -- as if it's become to mean nothing, and if we lose them, if they no longer use the term "organic" to describe themselves, we'll lose their consumers, and their consumers are the ones that primarily have helped made this whole thing become a word, it helped make the definition, "promote organic" and why it ended up becoming a word that USDA has now defined.

So I guess, in the end, you know, I urge you to,
one, try to get back this local small grower, and small
isn't really below $5,000, small is -- can be pretty big
and still just sell in your local area, and 5 acres can
become -- we have 600 -- my yearly activity log has 600
line items. My harvest log has another 6-, 700 items.
It's really burdensome, and it really would help no
inspector get to what happened.

So -- and also just redefining and having good
process, it takes time to get the rules right, and they're
ever going to -- they're going to be ever-changing, but you
guys need to be supported. Thanks.

CHAIRMAN KING: Thank you.

MR. CARTER: Two things. Number one, obviously I
support completely what you say about the disruption and
the changing of the rules in midstream, it is an evolving
process, but we have to have some consistency, and that I
think is what this Board is trying to push for.

In terms of the scale issue and the small
growers, I think that one of the things that is the
strength of the Rule today is that it doesn't prohibit
additional labeling claims on there, and I think that those
of us that work in those areas, those are some things that
we need to continue to work on, is to get some parameters
around areas, such as locally produced or certified GRAS
finished [phonetic] or those type of things, that can be
brought in as additional claims.

I think the computer is getting more savvy as they go forward, to read what's in there, and we need to make sure that there's some integrity on those additional claims as we go forward.

MR. CHERNIS: But you're forcing growers to move away from a term that they wholly support, because it's being redefined in the marketplace.

CHAIRMAN KING: Jim.

MR. RIDDLE: I also wanted to just very quickly respond to your concerns about the burdensome recordkeeping, and the Rule does allow for a lot of flexibility, that the records be appropriate to the operation, so a small grower can have, you know, records that are appropriate, that meet the lot numbering or something, of a different operation.

And I also wanted to point out that there are some standardized templates for vegetable growers, that are on the ATRA website (inaudible) tools --

MR. CHERNIS: Sure. I have -- my spreadsheet's a little bit better than that one, and it's a total line item on Excel as well, but -- I mean, I -- I guess my point being that -- is that we've worked really hard to keep the records that we're being asked for, and we're not being told, "Oh, you don't need any of that," we're being asked
that we need -- that they want to be able to track it, and so more clarification -- and some examples -- I guess a specific example would be: so we write things in notepads and then we process them to the -- to a computer, or we transfer them to computer. That process I don't think really helps anyone. Just having those data sheets in a pile for our type of operation should be sufficient. If an inspector asks me, what happened on this date, I could find that information.

But having to transfer all that to -- and we have a computer -- I put a computer in our barns so we could facilitate this, but it's really -- takes my employee an hour a day to input everyone's -- what they did that day. It's overly cumbersome when you could still get at the -- I could simply have a list of -- a materials list of what we use. Do you really need to know which crop I sprayed on it? You need to know what day, but do you need to know which crop and which field? I have five acres, "I sprayed it out there." I mean, I could tell you -- I could answer the question, and if you decided to -- I mean, the only caveat I would see is: let's say you then banned that product, or I was using a product that wasn't approved for use, so all the -- so the grower would risk, if they didn't want to keep that record, that they -- well, their whole crop would be uncertified, and they should be allowed to
take that -- that risk, but --

CHAIRMAN KING: I encourage you to work with your certifier. Thank you. We have another question, Andrea, and then Rose, did you --

MS. DIETZ: I don't.

MS. CAROE: I just want to point out that if you truly feel you're meeting the intent of the Rule and your certifier disagrees, there is a process for an appeal, and that process is in there as an education to both you and the certifier and the community at large, and it shouldn't be looked at in a negative way but in a way that we get further clarification, we bring these issues out, we talk about them, and so I encourage you, if you really feel that what you're doing, your manual methods of maintaining the data --

MR. CHERNIS: Uh-huh.

MS. CAROE: -- are sufficient to meet the intent of the Rule, then you have that right to ask for --

MR. CHERNIS: Yeah. I think my point here would be that for me, certification -- being certified was an easy step. I didn't want to lose control over the term, and we can -- we can handle the recordkeeping, but five other growers at our market have said, "To hell with it," so how do I convince them that "No, it's not so burdensome" and so forth, because the way it reads and the thing they
get confronted with, you know, everybody's up in arms over, you know, seed, you know, how can I prove to them that I got -- you know, these are really -- getting more instruction on that and showing examples of flexibility -- "Well, you could do this" -- would really help these growers make that move and say, "Okay, I can do that, I can make" -- "I can give them that information."

MS. CAROE: Yes. Commercial availability is an issue we are spending a lot of time on. We're starting with minor ingredients, but as our Guidance has suggested, we are talking about further taking that into the seed commercial availability. We see this as one of those growing areas where we're constantly filling in the detail as we go. So we hope to be able to do that for you, we do understand that's a huge challenge, and please understand that, you know, it's not unheard, it just is going to take some time to work out the sophisticated details of that..

MR. CHERNIS: Just more clarification on it to help growers --

CHAIRMAN KING: Thank you, sir, I'm sorry, but we have too many --

MR. CHERNIS: Sure.

CHAIRMAN KING: I really, truly am. Thank you for your input. I'm just trying to work everyone in.

MR. CHERNIS: No, no, I didn't want to be here
anyway.

CHAIRMAN KING: All right. Thank you. Michelle, and then Rachel is up next.

MS. WANDER: Hi. I am a professor at the University of Illinois, I'm a soil scientist.

MR. RIDDLE: If you could state your name, please.

MS. WANDER: This is Michelle Wander. -- and I have a proxy for Lloyd and Deanna Shaffer [phonetic] from Elkman [phonetic], Wisconsin, and, being an educator, I'm -- really thank you all and the people who have spoken today for the education that I have already gotten, and I'm sort of I guess catching up with realizing how much of a communication and education role that you all play, and you need to maybe do better, and I know that's ridiculous to ask a group of people that's volunteering all their time, but it seems like this organic discussion of the concept and the intent is of critical importance, I hope that --

UNIDENTIFIED MALE VOICE: It's a little hard to hear.

MS. WANDER: I have to be that close, wow. Okay. And I -- so I hope that the comments -- and I know they will be taken seriously by you. As I said, I'm an academic, so I go to a lot of committee meetings, and I realize that very often the meeting is not heard, and
that's because the level above can either just check off
that meeting was held and they proceed with their
assumptions and their conclusions already, so I know that
-- my hope is that our testimonies today will help you get
done some things that I suspect you want to get done.

I'm a person who's been interested in organic for
a long time, for nearly 20 years, I've been working on this
topic, studying soil organic matter, which is believed to
be one of the critical aspects of well-managed organic
systems.

People who are certified use lots of practices
that are intended to improve and basically enhance the
characteristics of organic matter so we achieve efficient
nutrient cycling and on and on, and I've had the luxury,
really, of using say big science and lots of fancy tools so
that I could prove or understand what was different about
organic systems than conventionally-managed systems.

I have to confess to you today that my work
hasn't done any or very much good for practical managers to
do a better job at being organic stewards, and that's
because the basic caveats or philosophy of organic
management is pretty good, it's basically common sense
systems management, and this goes for crops and livestock
systems, as we've heard many people attest to today, and
the standards that were negotiated socially within
communities within context were very, very reactive and intelligent, easy to inform and to maintain checks and balances.

Now that we've gone to a system that's regulated at a higher level, this puts a lot of very good things that were in place at jeopardy. I have a colleague who's a legal scholar and he talks really about how when you go to rules, how they become actually vulnerable and in a way how science serves as a handmaiden to undo social goals, and I heard his comments, they were about fisheries in Africa, but I really heard them having a lot of meaning for what I see is going on in organic.

There are a lot of things that -- even though I said a moment ago that the science that I've engaged in, I think there's a lot of things that scientists can and need to do that will help with the standards, will help with some of the discussion, but I think by getting engaged in these sort of technical small points, in some ways you get off of the -- off balance when you get -- are engaged in this discussion of organic, because it really is -- people use terms that are not -- as a scientist I don't regularly use, about philosophy and values, that are subjective, but they're shared and they're common in this community, and these are the things that, yes, while you should use scientific input, you really need to go back to your base
and your community to have these discussions and have
process that lets this be negotiated, and I know you all
try to do that, and you're getting undercut.

And I guess the reason I'm motivated to come here
and talk to you about this is that I hear students who I
see as a critical future, and I know some of you, as former
students, where really this is important that the public
and these students who care very much buy in, they're
walking away from organic, they're reviewing it with
skepticism, and they're choosing between growers at local
markets and who's got the best local face or commitment
that they hear, and this is really a tragedy for, I see,
the people who have done the really heavy lifting, and I
know many of you have done that heavy lifting.

So I'm very concerned about that, and I guess
it's this really -- you know, I have some specific cases
where I think the stewardship aspects that are specifically
managed, that science will help you with, are one
territory, and I think that the work that people like
myself do, we can go in and help organic do it better, but
the truth is, a lot of what we learn and publish will be
immediately adopted, sometimes be more effective at the
stewardship component of organic production. Right?

We saw in the Nature article on organic nature
being given -- organic being suggested to be less
sustainable than no-till when you include a cover crop. Right? So organic is going to be pounded and pressed to make that case over and over.

Where organic will always hold the upper hand in the cards will be the broader goal set of sustainability if they hold onto that. If you trade away care about social goals, about health and these larger, more subjective, difficult-to-grapple-with concepts, organic should, in many ways, lose the strong competitive edge that it should have, and this is really where people involved in trade, you know, corporate partners, need to protect the brand, and if they're smart, they will -- they will retain their traditional base.

And I guess that's really my main message, and I think that some of the issues, say in GMs, are really instructive, where we could talk about how BT toxin doesn't persist in soil so it must be safe, another person: well, is this specific case an allergen or not?

Don't get caught up in the petty small pieces, you know. It's the philosophy and multiple sets of goals that you have to go through that really will keep you safe, and that's really by entertaining it, you know, and I encourage the NOP to use the Board as the shepherds of the philosophy, you know, and that's: as a citizen.

And I guess -- because there were so many
engaging ideas, I'll try to contain myself here. The comments of Lloyd and Deanne Shaffer from Elkman, Wisconsin, submitted on April 28th, which I do appreciate the date because I know this time of year is very stressful on producers.

"We have a small family dairy farm with 50 cows. We have been shipping organic" --

UNIDENTIFIED FEMALE VOICE: Louder, please.

MS. WANDER: "We have been shipping organic milk for approximately one and a half years. We abide by strict rules set out by our certifying agency. We were under the impression that the NOP was set up to make sure that certifying agencies were all uniform, that they will and have the same rules. What is the NOP doing by changing the rules? They should be enforcing the strict standards that the certifying agencies have set forth. The Secretary of Agriculture should only be appointing people that are devoted to the organic" -- or "devoted to organic agricultural and to the NOSB. We are organic farmers because we believe in what we are doing. NOP is making a mockery of the organic farmer. They are taking organic out of "organic." Everyone should have to follow the strict standards in this country and in others. We feel that the organic industry is doing fine before the governments decided to get involved. Now they are," and then the word
got cut off, c-h, unless that means something to somebody.

Thank you.

CHAIRMAN KING: Thanks. Next is Rachel, and then Jane Brandley is on deck.

RACHEL: Good morning, or afternoon now, I suppose. My name's Rachel, and I live in Chicago, and I'm a third-generation Chicagoan. I've been a vegetarian for 12 years, and I'm involved locally with organic gardening clubs and Organic Farmers Market, which is held in West Humboldt [phonetic] Park, if any of you are familiar with the Chicagoan area. I'm also a chef.

So for this reason, and many other reasons, I am concerned about the direction of the word "organic." I am concerned when it comes to the federal government getting involved in regulating such a thing. I think that organic by itself is a manifestation of natural processes of Mother Earth and can in and of itself not necessarily be regulated.

But, of course, we work with corporations and we work with the global economy, so we have the government stepping in and trying to mandate it, and I become very scrupulous [sic.] and very weary of their intentions, because most of the time the government is working hand in hand with the corporations because they're the ones that pocket the money to them for their campaign funds or
whatever else.

So that's where you get things like the EPA petitioning for toxic sludge to be considered organic, that's where you get Lists 1, 2, and 3, with synthetic chemicals that nobody's even heard of and -- so I am impressed that everybody here volunteers, and I'm sure that you guys all have a very committed self to organics.

But I'm also here on a proxy, so I'll just read that.

CHAIRMAN KING: Unfortunately, I need to announce: we have official Board policy for written proxy, so I'll give you the full five minutes, I'm forced to enforce it today, and I apologize for that, due to time constraints.

RACHEL: Written? I don't understand what you're saying.

CHAIRMAN KING: You didn't provide a written proxy. Do you have a written proxy?

RACHEL: I have a proxy written, yeah.

CHAIRMAN KING: Thank you, you're fine.

Continue. Never mind.

RACHEL: Oh, you turn it in, and after I cross my e-mail off.

Okay, the testimony's from Nathan Hetterick [phonetic] before the National Organic Standards Board
today. "My father and uncle are the president and co-

president and owners of Village Edge Farms, LTD, a
certified organic dairy farm and a member of the Organic
Choice Co-Op. Village Edge Farms is located next to the
little village of Nelson in the area of west-central
Wisconsin, along the Mississippi River. The farm was
homesteaded in 1865 by David Hetterick and has been owned
and operated by six generations of the Hetterick Family.
Brothers Greg and Dennis, along with their families, now
operate the family farm.

"One of the family highlights has been the
process of becoming an environmentally safe certified
organic dairy farm. In 1991 the Hetterick Family went away
from the chemical and commercial fertilizers that pollute
the air, soil, and water. By 1997 the farm was partially
certified organic, then two years later the cows and all
the land that was farmed was certified organic. In the
year 2000 Greg and Dennis met together with other
sustainable and organic farmers to start the formation of
Organic Choice, with the dream to market their own dairy
products.

"Our farm and families are our biggest pride and
joy. The Hetterick Family is very proud to work hard
together to provide a better product for the consumer. The
family is also proud to provide a healthier environment for
the next generation to come.

"One of our concerns is the use of GMO contamination in organic crops. While we typically support new technology, we are very suspicious of the push for GMO crops. Now only have they not been adequately tested, but they are being forced upon farmers by market pressures and not simply offered as one choice of many.

"We do not believe that GMOs offer any benefit to any creature that consumes them, and we do not want cross-contamination of GMO crops with our certified organic crops. Please keep the concerns about GMOs and organic farmers in mind.

"We support strong standards for organic farming. While no farmer would attest to enjoying the red tape and paperwork necessary to become certified organic, we truly believe that we offer a product that is superior to conventional farming techniques.

"We strongly urge you to support the need for standards for organic personal-care products, fiber, fish, and seafood and pet food, the need for an ongoing peer-review panel as mandated by the OFPA in the Final Rule to oversee the USDA's accreditation program, the need to conduct on-site evaluations of foreign certification agencies approved by the USDA, the need for an NOSB executive director staffed to asset the 15 volunteers.
onboard, the need for a technical advisory panel, contract
announcements to be publicly posted, and for bids to be
solicited in an equitable and transparent manner.

"The need for NOP enforcement actions, including
suspensions and revocations of certification to be publicly
posted. Currently there is no public record of NOP
enforcement actions.

"We, along with the members of Organic Choice,
oppose recent action by the USDA's NOP to allow companies
to use substances not on the National List, sodium lactate
and potassium lactate as processed-meat preservatives and
phosphoric acid to fortify aquatic plant extract
fertilizers. These actions were taken with no consultation
of the NOSB, who has authority under the OFPA over the
National List, actions by the NOP to undermine the NOSB's
statutory authority over review of petitioned substances
and the National List. NOP's two-track [phonetic] dairy
herd interpretation, which requires family farms that
convert their entire herd to organic production, to raise
all replacement heifers as organic from the last third of
gestation while allowing factory-style operations to
continually introduce conventional heifers so long as they
are managed organically for one year prior to milk
production.

"This is wrong and undermines the effort of
farmers like us, who are still family farmers, lack of outdoor access for poultry, as evidenced by actions of the NOP to mandate certification of the country hen, the lack of NOP implementation of over 50 NOSB policy recommendations.

"In closing, I also wish to say that we need a management change, regime change, at the USDA's National Organic Program. We want someone who has extensive experience in organic agricultural and is universally respected by organic farmers and consumers. We have lost confidence in the present management and do not believe they are working towards the best interests of the organic farmers, who are truly farmers of integrity and care about the environment.

"We do not want people who are only concerned for those enterprising and greedy farmers who only enter the organic market for the money. Please keep standards high and farmers accountable. We work very hard to ensure the consumer gets the highest-quality organic product we can provide. Keep the standards high so other farmers can do the same. Thank you for your time. Nathan Hetterick."

CHAIRMAN KING: Thank you. Next is Jane Brandley, and on deck is Dave Engel.

MS. BRANDLEY: Yes, I'm Jane Brandley, and I'm here to read my own statement as well as a proxy statement,
and I'll start with the proxy, if you don't mind.

This is from O Farm [phonetic], John Bobbi [phonetic], Executive Director, and they are in Brussels, Wisconsin. This statement is to the National Organic Standards Board for submission to the National Organic Program, from John Bobbi, Organic Farmers Agency for Relationship Marketing, Executive Director.

"The Organic Farmers Agency for Relationship Marketing is a farmer marketing agent in Cummin."

[phonetic] "We represent organic field crop cooperatives and farmer marketing associations in a region that spans the major grain-producing areas of the United States, over an 18-state area and Ontario, Canada. A number of our member organizations market their farmers' grain into the world market. In addition, O Farm members, organization farmers, produce organic milk and livestock.

"We wish to bring to your attention the following points of concern to our farmer members in maintaining the integrity of the organic industry: 1) The integrity of organic feed and grains must be continued to be maintained and the standards strictly forced. Weather conditions are already stressing crops over a large part of the US, pointing to another tight year of feed and grain supplies, especially for livestock. Significant amounts of grain may be important. Organic standards and certification
requirements need to be strictly enforced.

"2) Dairy heifers should be raised according to organic standards from the pregnant cow on through to the freshening animal. Organic dairy producers should not be allowed to bring conventional dairy heifers into their herd at any point.

"3) The pasture requirement standards should be uniformly interpreted and strictly enforced.

"And 4) The NOP has matters before it that were brought for resolution up to two years ago. NOP's inaction in deciding these matters has the potential to compromise the integrity of organic to farmers, consumers, and the entire industries. Matters before it should be decided and acted upon in a timely manner.

"We respectfully request for NOP to act upon matters before it and take necessary steps to protect the integrity of organic grain, dairy, and livestock producers, because their livelihoods and incomes depend upon it," and he thanks you "for your consideration, John Bobbi."

My statement, I'll begin by saying I am just a consumer, and I'm probably more confused than I was before, about what organic is. I live in Lake Geneva, Wisconsin. I've had a college education. I have my own small business. I raised four children, and I have a grandchild. I make this trip here today because eating
organic is a way of life for me. I gladly spend three to four times what one would spend for conventional food because I believe it affords me the best opportunity of a long and healthy life. However, I am not happy to spend that kind of money on food that is labeled "organic" but has been adulterated by the use of unapproved additives, chemicals, or other so-called safe items.

What I'm hearing is that factory farms are to be allowed to call themselves organic. There is no way that factory farms and "organic" can be synonymous. In the face of a mad cow disease outbreak, the USDA lied about the amount of testing done. That lie not enough, they tried to strong-arm other countries into reducing the amount of their testing. How can we trust an agency that lies to the public? How can we trust an agency that appears to be bent on destroying the public trust in organic labels?

The agency is being asked today to fund a director and to maintain the integrity of the "organic" label. Those are legitimate and reasonable requests. If the USDA and NOP continue to erode the integrity of the "organic" label, it will be up to the individual to research each and every bit of food they eat, every item they put on their body. It will be up to organic organizations to investigate every item that calls itself organic and make that information available to the public.
Presently I do my best not to buy so-called organic products that are put out by large food producers, and I won't mention any names here. I do not trust that these large producers are totally honest about their organic ingredients.

I no longer donate to my representatives because they do not hear me. No one in the government seems to be listening. My giving goes to organizations that I believe will preserve organic food sources, will encourage the intelligent use of our land and resources, will disseminate the information we need to make safe choices in food and other products we use in our ordinary daily lives.

Organic has become a thriving business. It will continue to grow and prosper because we cannot trust our conventional food sources. Company who want to get into the organic business should recognize the reasons behind the lack of trust in conventional foods and understand they will not win a share of the market without garnering the public trust.

I would just like to add that this has been an eye-opener for me today, because I am just a consumer, I do read labels, I try very -- to be very careful about what I eat and what I feed my children, even what I feed my dog. I don't eat meat. I'm concerned now about the fish.

We out there in the public who buy these products
want to know that there is someone who is being honest and
honorable about this "organic" label, and while you all are
volunteers, you all seem to have our best interests at
heart, the truth of the matter is: you are a board, and
someone in the government someplace is really pulling the
strings and making the decisions, and it's discouraging to
the average public, but I thank you for your time and
effort.

CHAIRMAN KING: Goldie.

MS. GOLDBURG: I just want to respond that I
heard you twice refer to yourself as "just a consumer."
Don't ever do that.

MS. BRANDLEY: Well, but I'm not in the trenches
(chuckles), I just buy.

MS. GOLDBURG: Well, I would urge you also not to
-- not to stop having faith in the "organic" label,
recognize that it is a process, recognize that we all have
to guard against many forms of attack, not the least of
which is the expansion of genetically-engineered crops,
which is a very -- and other such technical situations,
continue to believe in this, you have four grandkids, I
have five, and I'm interested in my own health, but I'm
much more interested in the future and in maintaining a
future that we can all see our children going into, so
please don't lose faith in this process. Thank you.
MS. BRANDLEY: Well, I continue to buy organic, because I certainly can't buy conventional.

(Laughter.)

MS. BRANDLEY: But I would like to know that when the label says "organic," it is what I believe organic to be, and I don't want to -- I don't want to see any of that other stuff in it.

MS. GOLDBURG: Your participation is very much a part of that process of maintaining integrity. Thank you.

CHAIRMAN KING: One quick comment. Coming from the retail background, like Goldie, what I would add to that is that: yes, you are in the trenches, you're the front line, you're the end user, and what you think and care about matters, and we need to hear that message and we need to respond to that message, so thank you very much, seriously, for coming here today.

MS. BRANDLEY: Thank you.

(Applause.)

CHAIRMAN KING: Kim.

MS. DIETZ: On behalf of someone who works for a large corporation and one of the first acquisitions in the organic industry, we have been leaders in this industry, we follow all the rules, each and every one of us have been instrumental in implementing these standards, so while organic foods is a personal choice and I will always stand
behind that, I do take offense to the daggers and
everything being thrown against large corporations, because
we too are just as invested as each and every one of you in
this audience, and it's not fair to say stuff like that.

Thank you.

CHAIRMAN KING: Okay, next is Dave Engel, on deck
is Leslie Zuck. We have approximately 15 minutes and we
have five people, that's all I'll say.

MR. ENGEL: David Engel, a dairy farmer from
Wisconsin, and the Executive Director of the Midwest
Organic Services Association.

I too want to provide great encouragement and
thanks to the Board, to the National Organic Program and
their staff, and to all the pieces that I referred to in my
last public comment two days ago, because we're all working
together. I think, you know, in the interest of time, I
would just like to make one observation, and I don't think
Marty will mind my using him as an example, but all of the
comments that have been made today have been, I think,
good, they have a context, tomorrow is another day, we have
to go forward and practically and considerately take things
into consideration in our own spheres on our daily work
lives, our personal lives, and as the collective here, but,
you know, the organic industry, when it started -- the
reason we're here now is because we wanted to be here now.
The minor, relatively minor, intensities that have come up these last few days are all part of a process that we're going through, and, you know, Marty got up and said some very fine words about the directives, et cetera, how we need to change them, but on the other hand, you know, he was part of an effort to approve a very specific product for a very specific industry, and I think we all need to have that kind of leeway, that kind of honor and respect from everybody, because we're all in it together, and what was good for one person may not be of interest to another person, but in the sum of things, a lot of what we're talking about here today needs to be taken in a larger context. I don't think we're "going to hell in a hand basket," but we need to keep working together.

CHAIRMAN KING: Thank you, Dave. Leslie, and then Jean Zanzaville.

MS. ZUCK: Leslie Zuck, Pennsylvania Certified Organic, an accredited certifying agent, in Pennsylvania, and I have to say that I agree with everything that everyone has said about all the wonderful work that the Board has done, how's that for a collective compliment.

CHAIRMAN KING: We'll take that.

UNIDENTIFIED FEMALE VOICE: You still just have five minutes.

(Laughter.)
MS. ZUCK: Our farmers in Pennsylvania are, however, very upset about the antibiotic directive, and they say to me that they work very hard to raise their animals organically and now they see the door being opened to those farmers who do not make those efforts and who may now resort to antibiotics, especially for their young stock.

The farmers who manage their farms organically do provide humane treatment to their animals, they will administer a prohibited medication to an animal to save its life or to reduce suffering, and we know this, because they -- they call us and they ask us what do they do now with that animal, and we -- we do tell them that the treated animal would have to be a non-organic animal and so forth, and this happens occasionally, and it's usually a few calves, maybe as many as five or six, and, you know, with this new directive, the farmer would be allowed to keep the calves in the herd, and that's not necessarily a bad thing, and I think the farmer would agree that he would like to continue to be able to do that.

However, the consequences are also that it would be increasing the practice of treating animals with antibiotics, parasiticides, et cetera, et cetera, and our farmers do consider this a significant weakening of organic integrity.
Because once these materials are on the farm, they're ready available and they will be regularly used. Essentially, calves and heifers will be managed no differently than conventional calves and heifers, including perhaps medicated milk replacer or calf feed.

Okay. As an accredited certifying agent, we are being directed to allow this practice, in violation of the Organic Foods Production Act, which prohibits the use of antibiotics and other prohibited materials. If we as a certifying agent -- if a certifying agent doesn't follow the directive to allow antibiotics in violation of the Act, the certifying agent will have its accreditation revoked.

The same goes for pesticides with unknown inerts: if we allow them, we violate the Act; if we prohibit them, we violate the directive. Same goes for the fishmeal, preserved with ethoxyquin: if we allow it, we violate the Act; if we prohibit it, we violate the directive.

I'm not sure how much longer we can go on in this schizophrenic state or how much longer the organic community can really put up with it, and I don't know the answer, but I do know that there are a lot of really smart people in this room and we need to put our heads together and figure out something very soon, because this is very urgent. Maybe we need to march on Washington, I don't know.
At the very least, I think that we need to have an implementation period for the certifying agents and producers to swallow these directives, you know. We can't be expected to implement them instantaneously, and that's a real -- a difficult burden, especially on the producer. It's like we told them yesterday they were supposed to be doing this, and now tomorrow they have to be doing that. So that's a problem.

And I have an announcement to make: any accredited certifying agents who would like to join the new certifying agents organization, or are thinking about joining, to meet us in the lobby at 7:30, at this hotel, and we're going to have an informational dinner meeting at 8 tonight. If anyone would like to attend that and has already done so, let myself or Dave Engel or Valerie Francis know so we can put you on the reservation list.

CHAIRMAN KING: Andrea.

MS. CAROE: Leslie, you had mentioned that in regards to the antibiotic directive that came out, that -- I guess you're not satisfied but you do see some benefit to this -- that it might be a good thing if they could keep those few animals on the farm.

In that vein, do you see that there is any suggestion that you or the community can make for how this could be implemented with some restrictions or something
that would alleviate your concern that this would initiate
overuse of these materials?

MS. ZUCK: Whenever this issue has come up
before, in the exact vein, you know, "should we allow
antibiotics up to 6 months," or any of those kind of
exceptions, our farmers have been adamant and said that
they've done -- you know, for them, the cost benefit
analysis don't allow it at all, because they're doing that
now, for the most part, and if they have to sell a calf or
so, they don't mind. They feel that it's more important
that we have strict standards.

MS. CAROE: That wasn't my question. My question
was: Could this be implemented with something attached to
it, something more, that would prevent it from being
overused? I mean, I understand you're saying if it's in or
out, you prefer out, because you think it (inaudible) --

MS. ZUCK: Well, the my answer is: No.

CHAIRMAN KING: Thank you. Next is Jean, then
Steve LaFayette, and Kelly Shea will be our last comment
today.

MS. ZAZADIL: Hi. I'm Jean Zazadil, I'm a
consumer and interested or concerned citizen. I'm not
going to read my own comment, because everything has been
said more eloquently before, but I do want to comment on
the praise for the Board as well as the statements of
Thomas Harding.

I am reading the proxy of Jim Cone [phonetic] of Almar [phonetic] Orchards in Flushing, Michigan:

"My wife, five children, and myself, along with four full-time and many seasonal part-time workers grow 40,000 bushels of organic apples on our 250-acre farm. We used to grow with conventional methods and almost went broke because of the cost of chemicals, low market prices, and cheap foreign imports. Seven years ago we started transitioning to certified organic production, and now, as an organic grower, I can make a decent living for my family and afford to hire other people that went to spend their life growing food for others.

"Our farm is more sustainable now that we do organic production because it has less reliance on costly chemicals that damage my soil and negatively impact the environment.

"Almar Orchards now grows in harmony with Mother Nature, letting her do most of the work in controlling the pests, insects, and diseases. We use very friendly chemicals like hot pepper juice, soap, garlic, vinegar, and Neem [phonetic] oil, molasses, liquefied fish and seaweed, insect mating disruption, diatomite herb [phonetic], and kaolin clay.

"Our farm is now teeming with wildlife because of
the absence of harsh chemicals. I only wish that I had
started growing organically 25 years ago, before my wife
and I started rearing our children on the farm.

"Organic farming is part science and part
religion. Probably only other organic farmers truly
comprehend that statement. One cannot be close to God if
you are out there poisoning His Earth. Organic farming
takes a lot more labor, a greater understanding of the
complexities of life that is interacting in and on the
land. It is a proactive approach instead of the
conventional reactive method of spraying a chemical to fix
a problem that shouldn't have occurred because it could
have been prevented.

"The conventional apple-growing industry is going
t broke, without government support dollars. Look at the
hundreds of millions of dollars that were given to growers
the last three years, and yet 23 percent of them still went
under, according to the Michigan Department of Agriculture,
here in Michigan in the last three years. If you lower the
standards for organic certification or change the rules to
make it easier to grow organically, you'll substitute man-
power and brain-power for chemical-power.

"Factory farms and corporations will overpower
the family organic family operations. If consumers become
confused about what organically-grown food really is, or
lose faith in the certification process and enforcement, or
think for one minute that government is manipulating the
system and the rules to help big business may get another
buck, then the increasing demand for organic food will
shrive and die. My farm and most of my other pioneer
organic farms of the 21st Century will also die. They will
probably be resurrected as housing projects.

"Please don't listen to big business, but
instead, listen to the simple little organic farmer, for he
is the meek of this Earth."

Thank you.

CHAIRMAN KING: Thank you. Steve LaFayette, and
then Kelly, you're on deck.

MR. LAFAYETTE: Good afternoon. Thanks for your
time and the opportunity to speak with you. I am going to
forego my own personal statements, I've given copies, on
organic acid-free paper, and I'm just going to read the
proxy statements of two other farmers, but quickly try to
just make the connection that I am here as a consumer, I'm
-- I know we're all consumers, but I'm not affiliated with
any organization, I'm not a member of an organization, I
don't farm; I shop.

But I am here to speak for a few farmers that I
have a great admiration for, who grow things that -- you
know, I try and grow these same foods and I kill 'em half
the time, so I have a --

(Laughter.)

MR. LAFAYETTE: I have a great appreciation for what they do. And one of the main other reasons why I'm also here to make the connection is that I have health issues, I have allergic reactions to certain foods, which you can read about in my statement, but it speaks directly to my concerns, that have been already voiced and articulated regarding organic labeling and to the larger issue of organic marketing.

So just to just straight into the proxy statement here, of Jeff Webster, he wants to make some comments regarding the federal program of organic certification.

"My name is Jeff Webster, and I'm Secretary of the Sierra Club National Agricultural Committee. I'm speaking for myself and not for the committee at this time. I'm concerned about means testing regarding organic production and processing of our food. I'm also concerned about the possibility of the federal certification process not checking with producers and processors regarding compliance of set-forth organic standards.

"I would hope that at least an annual inspection be done by certified federal inspectors regarding the use or misuse of chemicals introduced into the process, that should not be there. Also there should be a soil test done
each year of any land that is certified to be organic. There should be an annual test run on all food crops on farm that are part of the organic program, to ensure that they meet the strictest standards of organic purity, in addition to the above monthly checks at random, an unannounced should be conducted at any processing facility preparing organic foods for human consumption. The organic food in question should be checked at every step of the processing and packaging process.

"If any of the above checks are not done or if they fail organic standards set forth" -- "set forth, the land, grower, and procedures should be held liable for not meeting these standards and put on non-producer or -processor status for a period of six consecutive months for the failure. At the end of the six-month period, the system in question is checked again, and, if in compliance, will be allowed into the organic chain of food production for humans again.

"The entire process of organic food production should be very transparent and open to public inspection. Federal organic standards should be at least as rigid as the traditional organic certification processes and was. The health of our nation and its food supply is an issue of the highest importance."

And again, because of, you know, my own food
allergies to specific foods, you know, I clearly understand how, you know, even -- you know, how our health is inextricably connected to the food we eat.

The other proxy statement here is from Larry Gilbertson.

"The testimony" -- no. As Larry: "I farm a small certified organic dairy in central Wisconsin. This farm has been certified nearly three years and has been farmed that way at least three years prior to certification. Milk from about 40 cows is sold organic, and all herd replacements are from on-farm births. It has been a closed herd for many years, well before being involved with organics. All winter forage and summer grazing come from this farm. No split conventional crop or livestock production is done on the farm.

"I have deep concerns for organic food and the people who look to the USDA "organic" label. They want to feel assured that what they are buying and paying a premium for truly meets organic standards and that those standards are consistent for all production.

"There is little need for a National Organic standard if favoritism and exemptions are granted to large influential deep-pocket farm operations that do not want to or can not follow the standards set by the National Organic Rule."
"When stories of these exemptions come out in the press, it destroys the whole organic program for everyone, save perhaps only the few getting the favors, at least in the short term. Those consumers looking for food produced in more earthly friendly way and the small producer following the rules are directly affected. The small producer feels his work is in vain and the consumer trusts nothing. Those on the outside, looking in, the conventional producers scoff at the whole organic movement and label it all as" -- "and label it all as. They are only in it for the money.

"This is real unfair to the people who have worked hard in the cause and believe in what they do. The National Organic Program needs people who understand organics and have a passion for this alternative type of food production in this country.

"If the present leadership of the National Organic Program is only really versed in conventional production methods and maybe feel there is really no difference, then this leadership should stay in the conventional USDA community and not be in a position where exemptions can be granted to rules for a select few, rules such as: poultry outside access; or being able to feed non-organic feedstuff because organic costs too much; or replacement heifers slipped into large operations, that
were not raised organic due to limited supply, and waiting
to cash in quick on the rising organic market, and a whole
host of other shortcuts.

"With organic sales increasing annually, there
are many who wish to destroy this whole thing and make it
go away. Companies producing GMO crops do not like the
organic community, suggesting there may be consequences to
using their products, and they don't like the complaints
about contamination with pollen drift or production
mix-ups.

"Conventional food production is threatened with
loss of market share. When bad press comes out regarding
some organic rule that was suspended in favor of large
production and the almighty dollar, those who wish to
destroy the whole organic movement are just smiling."

So I'd just like -- and as far as this last
sentence, I'd just like to include myself. You know, Larry
and I would wish and request upon the Board to appoint
people to the National Organic Program that will protect
the integrity of the program.

So thank you for your time.

CHAIRMAN KING: Thank you very much.

MR. LAFAYETTE: And Larry and Jeff, thank you for
your time.

CHAIRMAN KING: Thank you. Kelly.
MS. OSTIGUY: Before you start, Kelly: I need to leave, Rose is going to leave, this is not -- the public comment has been absolutely wonderful; we have a plane to catch, so I apologize.

MS. SHEA: I'm not even going to be two minutes, okay? This is Kelly Shea, with Horizon Organic Dairy. I had no prepared statements for today, but in light of what I've heard in this room since this morning, I really felt that I needed to stand up and speak, and not only to the NOSB but to this audience also.

I'm appalled by what I saw here today. I really believe in activism and in bringing people together to effect change, but when it's based on untruth, I cannot support it. I spoke to the consumer today who stood up here -- great lady with the little boy -- and said it's very disappointing to discover that Horizon Organic is held to a different, less-demanding standard than the small farmers out there.

Who is Horizon Organic? We are a dairy marketing company, with 260 to 300 independent family farmers supplying milk to us. We are held, our company and our farmers, to the same standards as everyone else. And when I asked this lovely lady where she got her information from, she pointed to another person in this room and said that actually she was a consumer of Horizon Organic.
products and was shocked to learn from this person that we employed these type of practices.

Horizon Organic, since its inception in 1991, has fought for organic foods produced without growth hormones, antibiotics, or dangerous inputs, and if you really want to talk about the truth, you should talk about that. If you want to talk about the truth, you should talk about the fact that Horizon Organic just gave all of its producers a voluntary raise, but that kind of good news is not brought up here. Untruths are brought up here. And if there is an enemy to the organic industry, it is not from without, it is from within, and I suggest we get ourselves together. Thank you.

CHAIRMAN KING: Thank you all for your public comment, it's a very important part of the process, we appreciate it, it is considered, and we appreciate you taking time out of your busy schedules and lives to come here, to help this program.

Unfortunately, we have to move very quickly --

MR. CARTER: Mr. Chairman.

CHAIRMAN KING: Yes, Dave.

MR. CARTER: If you would formally close the public comment period, I have a motion that I would like to make very quickly, while we're --

CHAIRMAN KING: Thank you. The public comment
period is formally closed.

MR. ANDERSON: As I mentioned this morning during a point of personal privilege, I would like to offer for the Board's consideration a resolution that simply says:

The National Organic Standards Board expresses its strong opposition to and concern with the National Organic Program's issuance of significant policy directives without consultation with or advance notice to the NOSB. I would so move that resolution.

MR. RIDDLE: Second.

UNIDENTIFIED FEMALE VOICE: Do you have that in writing, for the record, so that I don't have to remember what you said?

MR. CARTER: Yes.

CHAIRMAN KING: Okay, moved and seconded.

Discussion.

(No audible response.)

MR. CARTER: This does not do anything to change the motion -- the motion yesterday directs the policy development committee to bring forward some further, but I just -- as I mentioned this morning, I thought it was important for this Board to make a statement before we leave Chicago.

CHAIRMAN KING: So it's your intent that it's read into the record.
MR. CARTER: Right. Moved and seconded, this was a formal motion.

CHAIRMAN KING: Discussion?

(No audible response.)

CHAIRMAN KING: All those in favor, signify by saying aye.

BOARD MEMBERS: Aye.

CHAIRMAN KING: Opposed, same sign.

MS. DIETZ: I'm going to abstain.

CHAIRMAN KING: 1 abstention.

MR. SIEMON: Can we do our work plans offline?

CHAIRMAN KING: I would suggest by next Friday just submit your work plans, and then any unfinished business concerning recommendations, information, and the like, please have that to Katherine by next Friday, if at all possible. That's May 7. Next meeting.

(Off the record and reconvened.)

CHAIRMAN KING: All right.

MR. RIDDLE: An update on the status of the livestock materials that the Board's recommended, and we heard from the FDA in October, and we've heard it come up from several public commenters, the need to move that forward, so I just wanted people to know, on the record, where that's at.

MR. JONES: The document has been completed, it
is at Office of General Counsel, they've raised a number of questions about the document, they have significant concerns about the level of documentation associated with the materials. We are going back in consultation with OGC and attempting to answer their concerns. But that's where it's at, and it won't move forward until those concerns get answered.

MS. DIETZ: Keith, are any of those materials on the docket that we have re-reviewed from the May meeting or are these all --

MR. JONES: The docket contains everything through May 2003.

CHAIRMAN KING: Any questions, comments?

MR. RIDDLE: No, that's all. I just wanted to know and have it in the record where it was at, so -- some things may get kicked back to the Board if there's clarifications on kind of our language or --

MR. JONES: I actually don't think it's -- you know, and this is what I know at this point, and I am drafting that docket, it is in my control, okay, so my conversation with OGC at this point leads me to believe that it is a drafting process, that the information that we have is sufficient, it's a question of getting it in the docket. I do not anticipate that we'll need to come back to the Board.
We have gone through the consultation process with FDA on all of those materials. Some of the materials I think that were mentioned in public testimony this morning, as many of you know, are off-label use and will not be included in the docket. Propylene glycol for the use of treatment of milk fever is an off-label use for that material, and that will not be included in the docket.

CHAIRMAN KING: Other questions?

MR. RIDDLE: Thanks, Keith.

CHAIRMAN KING: Thank you very much. Quickly, at our last meeting we had tentatively said we would like to have an NOSB meeting in conjunction with Expo East. I believe the proposed dates were October 12, 13, and 14, so if people could confirm that on their calendars quickly.

MS. CAUGHLAN: Is the 12th, 13th, and 14th the date of --

CHAIRMAN KING: -- the meeting. Expo would follow.

MS. CAUGHLAN: Expo would follow it, as it is this time.

CHAIRMAN KING: Correct. It's my understanding it begins on the 15th, Expo.

MR. O'RELL: You know, Mark, the only thing that I would raise is a question -- for those people who have to be there for the full length of Expo, like we have to be
for the full length of OTA, this is for seven days that
we're out on the road, and for people who travel all the
time, it's really tough.

CHAIRMAN KING: Yeah.

MS. CAUGHLAN: But it's important, for a lot of
us, to be able to combine those two.

MR. O'RELL: Then hold them overlapping somehow,
to cut the time, if that can be done.

MR. SIEMON: As much as I agree with Kevin,
because I'm going to be here nine days, it also brings a
lot more public commenters, the other side of the coin.

MS. CAUGHLAN: Yes, and that's very important.

MR. SIEMON: The other side of the coin. So it
really is a toss-up -- it's a tear, it really is. And
Goldie, they're proposing that we meet Tuesday, Wednesday,
and Thursday, and then Expo starts on Friday, is the
proposal.

MS. CAUGHLAN: Right.

MR. SIEMON: So it's a little better than this,
where we've got a day lag in here.

CHAIRMAN KING: Right. Right.

MS. CAUGHLAN: Or a day of recovery, no matter
how you -- depending upon how you look at it.

MR. RIDDLE: Just one other factor, and Rose is
gone, but, you know, there's that whole sunset proposal or
process out there, and there -- if that does kick in, there's a certain period where the Board would have to meet, and so that may impact or we need to kind of coordinate or think about that in our meeting schedule, but for now let's set it at this --

CHAIRMAN KING: Well, thank you, Jim, that is an important point, we may need to adjust based on the sunset provision, but for now, if we could agree on October 12, 13, and 14, that's Tuesday, Wednesday, Thursday, we'll just move forward with that.

MR. RIDDLE: Okay. As far as our next executive, will you just send -- executive committee meeting, will you just send something around?

CHAIRMAN KING: Yeah, I'll send an email.

MR. RIDDLE: Yeah.

CHAIRMAN KING: Okay. Thank you. Any other business?

MR. SIEMON: I move to close.

MR. CARTER: I second.

CHAIRMAN KING: It's been moved and seconded that we adjourn. The meeting of the National Organic Standards Board is officially adjourned. Thank you.

(Whereupon, at 12:08 p.m., the meeting was adjourned.)

* * * * *

R & S TYPING SERVICE - (903) 725-3343
5485 S. LIVE OAK, GILMER, TEXAS 75644
CERTIFICATE

In Re: NATIONAL ORGANIC STANDARDS BOARD MEETING
Place: CHICAGO, ILLINOIS
Date Held: APRIL 30, 2004
Time Held: 8:00 A.M.

We, the undersigneds, do hereby certify that the foregoing pages, number 578 through 764, inclusive, is the true, accurate and complete transcript prepared from the reporting by LEAH JOHNSON in attendance at the above-identified hearings, in accordance with applicable provisions of the current USDA contract, and the below-signed persons have verified the accuracy of the transcript by (1) comparing the typewritten transcript against the reporting or recording accomplished at the hearings and (2) comparing the final proofed typewritten transcript against the reporting or recording accomplished at the hearing.

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5485 S. LIVE OAK, GILMER, TEXAS 75644
The National Organic Standards Board (NOSB) meeting of October 12-14, 2004, was attended by 13 members:

**NOSB Members Present:**

- Mark King, Chair
- Rebecca Goldburg
- Goldie Caughlan
- Nancy Ostiguy
- David Carter
- Andrea Caroe
- Owusu Bandele

- Jim Riddle, Vice Chair
- Michael Lacy
- Kevin O’Rell
- Kim Dietz, Secretary
- George Siemon
- Rosalie Koenig

**Absent Member:** Ann Cooper

**National Organic Program (NOP) Staff:**

Barbara C. Robinson, Agricultural Marketing Service Deputy Administrator; Richard H. Mathews, NOP Associate Deputy Administrator; Katherine Benham, Arthur Neal, Keith Jones, Mark Bradley, and Demaris Wilson.

Mark King thanked and welcomed everyone to the meeting and had each member introduce him/herself. Mr. King stated that the Board would have some interesting topics to discuss and deliberate over the next few days and appreciated everyone’s positive focus and input.

**OPEN SESSION – October 12, 2004, 8:00 a.m. - 5:00 p.m.**

**Approval of the Meeting Agenda:**

The Board reviewed the meeting agenda, and Mr. King moved for approval; Mr. Carter seconded. The agenda was unanimously approved.

**Approval of April 2004 Meeting Minutes Summary:**

Mr. King directed the Board members to the April 2004 meeting minutes located in the meeting book, and asked if there were any proposed changes or amendments. Mr. Mathews stated that he received and reviewed the minutes on Friday, and submitted four proposed changes. The Board reviewed the proposed changes; Mr. Mathews moved to accept the minutes with the four changes, and Ms. Caughlan seconded. The Board unanimously approved the April 2004 meeting summary minutes. For more information, see discussion document.

**Executive Committee Conference Call Minutes:**

Mr. King reported that with the exception of September, June, July and August committee conference call minutes are posted on the website. Mr. Riddle stated that the August minutes are still in draft format and will need committee approval. The Board recognized and approved the June and July minutes posted on the website for review and informational purposes. For more information, see discussion documents.

**NOP AND NOSB DISCUSSIONS:** For more information, see the meeting transcripts

**Update on the Status of Recommended Materials:** (Pg. 9)

Mr. Neal reported that NOP submitted to the Office of General Counsel (OGC) for review the NOSB materials and committee recommendations docket. NOP is expecting a quick turnaround from OGC, and as soon as they get their
response or comments on the docket, NOP will know whether or not it will go straight to the Federal Register or if more changes are needed.

**Livestock Materials:** (Pgs. 9-44) For more information, see meeting transcripts.

Mr. Neal reported that NOP have been in a very lengthy consultation process with FDA regarding the Board’s livestock materials recommendations. Out of the materials recommended by the Board, NOP is having problems with six that are sold as over-the-counter medications. The materials are calcium borogulconate, calcium propionate; activate charcoal, kaolin pectin, mineral oil, and potassium sorbate. The materials were not approved through FDA’s new animal drug application process or its new drug application for human foods. They were review through an over-the-counter review that is much different from prescribed medications.

Four out of the six drugs were marketed under monographs which is a process that FDA implemented historically, and serves as a recipe in terms of how to manufacture the drug, but not formally approved for use in animals. NOP has gone through a consultation process and it seems that the six materials are going to be problematic in terms of being included in the docket, and on the National List. Therefore, NOP will move forward with the ones that can be listed on the National List, which was recommended by the NOSB. The food contact substances docket - the processing docket is completed and is at OGC. NOP is waiting for OGC to give the approval to move into the Federal Register.

Mr. Neal also stated that FDA looked at many of the substances that will be listed without an annotation. He suggested not closing the door on those six materials, but move forward with the other ones that are approve, and continue to work with FDA in terms of their placement on the National List. NOP is planning to move forward with the recommended materials that are approve by FDA to be included on the National List. NOP will also move forward with the six that are problems, and work with the Board in terms of developing some type of way to list them on the National List with agreement from FDA.

Ms. Goldburg suggested that the Board should look into the Minor Use, Minor Species Bill that Congress passed and signed by the President. The Bill created some expedited review procedures for certain types of drugs used in animal production and it might be worth pursuing with FDA getting organic agriculture considered a minor use. It might provide some avenues for drug indexing and drug approvals that are helpful to the Board. Ms. Koenig motioned to consider legislation and look into the I-R4 program because it’s another example within the Federal government where minor uses are allowed. Mr. Riddle stated that as part of a Memorandum of Understanding (MOU), there should be some kind of resolution or recommendation from the Board because this is a priority to support the need to move this forward to a higher level, and suggested making this part of the Livestock Committee work plan.

Ms. Robinson suggested identifying four options, and then NOP will work with the Board to refine it. This will substantiate the Board and NOP sitting down and having a discussion with FDA on the possibility of creating a category called Alternative Medicines on the National List. There will be a posted guidance from the Board that will confirm the alternative medicines that the Board recognizes for use”. The second option is the negative over-the-counter drug option, and the one problem with that is how it will fit with the OFPA language. The third option to consider is a category of production aids with no reference to the specific use of the material, and the fourth option would be to explore through EPA’s program or through the recent action by Congress, that organic could be considered in Minor Use category and therefore get some relief from the labeling approvals of regulatory agencies. With those four options, we could develop a talking paper, and then have some things to sit down and explore with the senior policy officials at USDA, which always helps to have a dialog with another agency.

Mr. King asked the Board to consider the four categories to be included on the Policy Development committee’s work plan to accomplish this in the next couple of days. Mr. Riddle agreed that the Policy Development committee should take on for consideration by the Executive Committee to keep it moving and not having to wait until the next full Board meeting. He also stated that an introductory paragraph should stressed the need for the policy work at the highest levels to have the support develop that builds on the support that Arthur did.
Ms. Robinson will write the front end of the working paper that lays out the issue associated with the National List and the organic program; and make a request to the Secretary, detailing the need for a conversation with the Commissioner of FDA and then lay out the options. She will forward the working paper to the Board for review, and fill out the options with the possibility of breaking it down into two memos to the Secretary with an option paper attached. Ms. Koenig agreed to do the research on the I-R4 program.

Mr. Neal also apologized for not mentioning earlier that three or four crop materials have been lump into the processing docket. Mr. Mathews explained that the docket is already in the clearance channels, and it contains everything except for the livestock materials, which includes everything mentioned at last April’s meeting.

Discussion of NOSB Recommendations Concerning Compatibility, Commercial Availability, and Non-Compliances: (Pgs. 45-49) For more information, see discussion documents and meeting transcripts.

Ms. Koenig stated that compatibility with the system of sustainable agriculture is one of the Board’s criteria, and thought the Board had already adopted it. She also suggested incorporating it into the materials process because it clearly addresses an area where they have authority. The work plan is to make sure that it goes into the new petition notice and incorporated under that criterion.

Mr. King stated that the document was review and approved at the April meeting, and wanted to know if NOP had a problem with it being a part of the process. Ms. Robinson stated that they might have a few comments and questions for clarification. However, the decision process, and the authority to determine compatibility with the system of sustainable and organic production is the Board’s authority. Mr. Riddle also stated that the compatibility policy was incorporated into the Board policy manual, and will need to go to the TAP contractors and reviewers so that they understand our understanding of compatibility as well as the petitioners. Ms. Dietz stated that the Board has been using the document for the material review criteria, and incorporated how they define compatibility. Finally, Ms. Robinson stated that NOP didn’t have a problem with the TAP contractors having a list of what the Board defines to be compatible measures, but reminded the Board it was their decision to make. It is not up to a TAP contractor reviewer to tell the Board whether a material is compatible with sustainable agriculture. However, according to her understanding, the Board wanted the TAP contractors to have that to understand what it is they’re looking for and it’s the Board’s decision.

Minor Non-Compliances: (Pgs. 49-52) For more information, see discussion document

Mr. Mathews stated he still has reservations on the document since the first draft, and that it now has gone through eight different drafts. However, NOP hired Mark Bradley, Accreditation Manager, who will be working closely with him and the ARC branch on a number of issues; and the issue of minor versus major non-compliance is an area of responsibility for developing guidance within our operating manual. We will take all of the recommendations in the document into consideration during the discussion.

He also reminded everyone that every minor at some point becomes a major and we have to make sure that it’s fully acknowledge, because there are certain things in the Act and in the regulations that will constitute majors, and it will need to be made clear for certifying agents that minors do become majors. He appreciated the work that the Board did, and that NOP acknowledge that it’s a problem area, however, they will have to be very cautious as they move forward so that minor non-compliances that should it occurred, at some point becomes major, don’t end up into perpetuity.

Commercial Availability Task Force Report: (Pg. 52)

Mr. Mathews stated that it’s a complex issue, and NOP was not prepared to address at the meeting, and will provide a comment later.
Ms. Robinson reported that NOP issued statements at the April meeting obviously caused a lot of consternation in the organic industry and as a result, NOSB Policy Development Committee, USDA staff, and folks from the organic industry met in Washington, D.C., on June 9. A more collaborative relationship was needed in order for a relationship to continue to coexist. Since the meeting, the Board agreed to go back and develop feedback on the issue papers that were posted. Because of the collaboration, formal actions on issues will have to take place in an open meeting, and when recommendations are propose that require rule making, we will go through a second reiteration of public involvement.

Since the meeting, a list of issues was worked on, and NOP collaborated with the Board on how they intend to operate in the future. A letter was sent to OMRI agreeing to provide a review of the OMRI Generic Materials List, and OMRI and NOP agreed to ensure that the OMRI list of generic materials and the National List of Materials are coordinated and there are no inconsistencies. Provided prior to the Board’s input, the letter was posted and forwarded to all certifying agents. Drafted was a statement of work that explained the expectations of contractors who want to perform technical advisory panel reviews on materials petition for inclusion on the N.L. NOP will provide copies of the statement of work to the Board.

- **Petitions Procedures and Petitions:** The procedures were discussed with the Board for input and approval. All petitions will now be forwarded to the Board prior to submission for TAP reviews. A compliance questions was submitted to NOP regarding the organic status of seedlings and transplants, and prior to answering the question of the certifying agent, the generic questions was posed to the Board and got their feedback and then NOP answered the certifying agent’s questions.

- **Sunset of the National List:** NOP will continue to take the Board’s feedback on discussions about naturals versus synthetic materials. Materials have arisen and cause NOP to contact the Board, and the issue is how to define a material as natural versus synthetic. Hopefully, there will be some guidelines that can be agreed upon that are useful for resolving these determinations in the future because they pose problems when materials are petitioned for the N.L.

- **Review of the Board Policy Manual:** Ms. Robinson worked on the manual and provided the Board with copies for review. The Department received comments from the Board on the issue papers regarding fishmeal, antibiotics, and the scope document that will stimulate good dialog to discuss where to go based upon the Board’s input. (See discussion document)

Mr. Riddle stated that at the June 9 meeting, NOSB presented a framework document that built on NOP’s decision-making procedures. The Board tried to build in some feedback loops for consideration in the program manual referencing staff changes, and Board members change on policies. He wanted to know NOP’s reaction to the document that was presented, and will it continue to move forward.

Ms. Robinson stated that according to the way the document was written, it’s too rigid and implies that every time an issue comes up that this is exactly what we’re doing, we’re collaborating with you, and we’re coming to you with the issues. It came across that NOP needed NOSB’s approval to do the work, and while not averse to having something written that says, that NOP will commit to a consultative and collaborative role. She told the Board that after discussing the staff director’s position, it will become more evident that’s how the consultative role will be manifested because it will be part of the staff’s director duties to provide that link. Ms. Robinson will go back and take the drafted framework for collaboration document, respond to it in writing, and make edits. She also suggested doing some negotiating on the framework of collaboration words, put it in writing and see if that helps.

Mr. Riddle mentioned that during the public comment period, this is an open public comment period and people are not limited to the list of suggested topics on the agenda. He also wanted to clarify that the docket is at OGC for a final round of review and approval, and it contains all of the materials that the Board has recommended including the livestock
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materials. However, according to his understanding, they are included in that docket and currently six are problematic, and are describe in the docket as well.

Mr. Mathews clarified that there are two dockets and one is the livestock materials. Everything that the Board has made a recommendation on and previously acted on with the two amendments were done last fall. All of the livestock materials will be mention in the docket because the six that we’re not able to put onto the list obviously will not be propose for addition. The other docket takes everything except for the livestock material. There are two dockets, and once they are completed, everything the Board has acted on will be taken care of including the materials from last April.

NOSB Executive Director: (Pgs. 72-102) For more information, see meeting transcripts

Ms. Robinson provided a background description on the establishment of the Board, its activities and spending are under the Federal Advisory Committee Act (FACA). She stated that in the past, Congress provided an allowance of $90,000, and that was sufficient to cover expenditures associated with the activities of the Board. Last year the appropriation was increased and the report language urged the Secretary to authorize the hiring of the staff director, which meant that Agricultural Marketing Services (AMS) went back to the Department request and increase in the spending budget to be charge to NOSB activities. According to the Office of General Counsel (OGC), the staff director/executive director had to be considered within the FAC allowance. The Department also requested the Secretary’s approval to increase our ability to hire a staff director and the allowance, and unofficially, it was approved and increased by $100,000.

Mr. King asked if there’s a need for the Board to have an action item that describes some of the KSAs that would be involved. Ms. Robinson stated that it would be helpful; however, she’ll talk to personnel and draft something up. She doesn’t want to send a job announcement forward that doesn’t meet the Board’s expectations, and their input would be very valuable. Mr. King stated that Ms. Dietz will take the lead, and will attach a very brief addendum to the original document regarding the skill set they hope to receive. She will forward the addendum to the Board for review and finalize at the next executive committee meeting.

Materials Review Process: (Pgs. 102-104) For more information, see the meeting transcripts

Mr. King stated that Ms. Robinson mentioned in her description that petitions would be forwarded to the Board. Hopefully, we are improving this ongoing process and aware of the forms that will be used and how that will help the process.

Mr. Neal stated that over the course of the past four to five months there have been improvements in the Materials Review Process. NOP worked closely with the Materials Committee in discussing issues concerning the petitions process. Petitions were sent out to the whole board for comment to find out if the petitions met the categories of exemption under OFPA, and if there are any outstanding issues that needed to be addressed by the TAP contractors. For the future, we would like to ensure that we get a full TAP on petitions and will receive Board input on the petitions. The petitions will be review by the respective committee to see if there are areas of that petitions that will need further elaboration, and those questions will be supply to the TAP contractor for further scientific information.

The new element of the review process will be to supply the TAP reviews to the committees to review sufficiency, whether or not if those TAPs have addressed the questions and the OFPA criteria adequately. If the TAP is sufficient, it’ll be publicized, and then the process will begin for review of that material for a decision at the next meeting.

Update on TAP Contractor Final Statement of Work: (Pgs. 107-122) (For more information, see discussion document, and meeting transcripts)

Mr. Neal reported that the Board received a copy of the Final Statement of Work that was used in seeking out TAP contractors for this fiscal year. When seeking TAP contractors, the process is mainly handled out in Minneapolis field service office. The funds that we had to operate with were $300,000 and from the outset, we were seeking to attain multiple contracts for conducting TAP reviews for the NOSB.
Additionally, NOP sought bids for the work that needed to be completed, but due to time constraints, Minneapolis chose to initiate a Sources Sought Notice. The Notice sought interest in the specific work that was identified as needed to have been done by the NOP on behalf of the NOSB. The Sources Sought Notice was used to cut time, and to seek bids on the particular work may have cost us the ability to allocate the funds within the specific timeframe. Additionally, a list of respondents was generated, and after assessing all of the respondents that had the best qualifications for conducting the work, there were only two that were chosen based upon experience and the fact that they appeared on the GSA list, meaning that they have accounts and performed government work in the specific area. They have a limitation of $100,000 that each contractor will receive, that meant $200,000 is allocated, and a balance of $100,000. They were not able to find a respondent from the all Source Sought Notice that was used to perform the work to the level expected. Therefore, Virginia Tech’s $100,000 contract was extended because of the type of work that needed to be performed. The other contractor’s name is Woven Egg Consulting, out of Latham, New York and Denver, Colorado, and ICF Consulting, Fairfax, VA. Both have been identified as highly reputable companies that specialized in performing the types of scientific reviews on substances for EPA, FDA and other federal agencies.

Only three petitions can move forward, and we are thinking about forwarding them to all three TAP contractors to monitor the type of work product and how they perform under the new Statement of Work. This is a benchmarking procedure or process that’s use to assist in improving where we are currently.

Mr. Neal stated that an orientation session to bring all of the contractors together was discussed, and he didn’t see a problem with the Materials Chair having a role in the orientation process.

**Letter of Understanding with OMRI:** (Pgs. 122-132)

Ms. Robinson stated that in Chicago, NOP was approached by OMRI regarding the complete synchronization of the Generic Materials List and the National List. We agreed, because of problems with the auditors out on sites with certifying agents who have said their reference for approving materials used by operations is the OMRI list. The Generic Materials List is more user-friendly, it’s been there longer than the National List, and it’s what certifying agents are used to, comfortable with and it’s what they turn to. Neither OMRI nor USDA wants conflicting information out there, and we need an auditable process whereby accredited certifying agents are referencing the National List as the source of their information about approved materials. We have no problems with certifying agents using OMRI’s Generic List, but the source and the last word is the National List.

NOP also agreed to look at OMRI’s Generic Materials List and put it in a shared letter with the Board before sending it to certifying agents. NOP talked with OMRI, and agreed to let them select the priorities, the materials that they thought they had some questions about that they wanted to be sure that they described their use, their approval status, and their generic list was agreeable with the interpretation on the National List. There are a couple of materials on the agenda for discussion that will have to go back to the Board. There wasn’t a call in September, because we wanted to commit to sitting down and looking through the whole OMRI Generic Materials List and picking out materials and it didn’t get done. It was made clear to OMRI that there are questions that cannot be clearly answer based on the information that was received from the Board that we are not going to answer.

**OTHER NOP ITEMS**

**Nomination for New Board Members:** (Pgs. 132-133)

Ms. Robinson reported that there are 70 nominee applications submitted; the package is not finished being vetted through departmental agencies, the Office of the General Counsel, and have not gone to the Secretary. The appointments don’t expire until January 24, 2005. A widespread outreach was conducted this year, and as a result, we received the largest package of nominee applications that’s ever been received.
Audit Report from American National Standards Institute (ANSI): (Pgs. 133-137)

An e-mail was sent to the Board regarding receipt of a draft audit final report of our accreditation process from ANSI on October 5. ANSI provided a draft final report of their findings, and NOP will review the results and will have the opportunity to respond to the findings of the audit. ANSI will then take the response and determine whether it satisfactorily meets the findings that they had issued or still fails to meet the findings that were issued. They will then issue a final report of what they found during the audit, what was reported to USDA, here’s how it will be addressed, and here is ANSI’s response to USDA’s review of the audit findings. We will not wait to get the final; once we have our review and our response is finished. Hopefully, we will get it to you roughly by the third week in November. The content of the findings focused on three areas: (1) documentation of procedural manuals; our documentation and accreditation is lacking; (2) the second area deals with communication of our procedure, primarily to certifying agents; and (3) focusing on the actual audit and accreditation-related activities performed by the staff. In that category, the audit rated the staff exemplary in every case, highly professional, understanding of the tasks that they were performing, their interactions with the clients and their responses. The ANSI audit report and our response to the audit findings will be published on our web site and the future game plan will be to institutionalize this process.

List of Nominees for Membership to the Board: (Pgs. 139-140)

Mr. Riddle asked about the list of nominee being provided at the October meeting. Ms. Robinson stated a list will not be handed out at the meeting. The candidates’ background information are still being vetted by the Department’s White House Liaison office. She also stated that if they have someone to nominate, people could still write letters supporting and recommending individuals as members of the Board.

Mr. Riddle wanted to know after the investigation of the candidates, would the list be released at that point. Ms. Robinson stated that it’s not her decision; it’s the Secretary call whether or not to give out the list of nominees prior to her selection.

NOP STAFF AND FULL BOARD WORKING SESSION

NOP Directives: (Pgs. 142-147)

Mr. King stated that there needed to be points of clarity on where they are with the status of the Directives. They were publicized and rescinded, and there is some confusion out there in the industry.

Ms. Robinson reported that we’ve been ask the same questions; received letters asking and saying that there’s confusion and nobody knows what the status of the Directives. Our reply is that we’ve been waiting for feedback from the Board and have taken no compliance actions with regard to those issue papers. We were under the impression that we were going to resolve the uncertainty at the Board meeting with an open discussion based on the recommendations and the papers that was drafted. What was agreed to in June, we were going to work this out and figure out what we’ve got to do to make sure that there is no ambiguity and that everyone hears the same thing. This would be done in a public forum where the meeting is transcribed, the public will hear it, and come to a resolution.

LUNCH BREAK: 12:15 p.m.

LIVESTOCK COMMITTEE - George Siemon and Rebecca Goldburg

Antibiotics: (Pgs. 149 –172) For more information, see discussion document, and meeting transcripts

Mr. Riddle stated as a point of reinforcement for 205-238, the directive was limited to antibiotics and to strengthen it or for further clarification, he suggested inserting a few more words that would read NOP needs to issue a clarification statement that antibiotics and other prohibited substances are not allowed for organic animals. Any growth hormones or therapeutic hormones, or any other prohibited animal drugs are not allowed, not just prohibited.
Ms. Robinson responded that the Department concurs. Mr. King wanted to know if the process for the recommendation would be posted on the website for public comment. Ms. Robinson stated that we could say that no prohibited materials shall be given to livestock and still preserves their organic status, unless you approve the prohibited material. The Origin of Livestock will take a regulatory change—we’ll proceed with rulemaking.

Mr. Siemon stated that there was another issue in Chicago on the clarification statement regarding animals born and raised on organic farms, and there was some confusion about those animals that are raised organically and it was confirmed that it was part of the organic program. He would like to see that in the statement as well.

**Fishmeal: (Pgs. 173-178) For more information, see discussion document**

The NOP stated that fishmeal can be used as a protein supplement in feeding organic livestock without regard to the source or apparently the preservatives that might be used in the fishmeal.

In response to the report provided by Mr. Siemon and Ms. Goldburg, Ms. Robinson stated that the Department concurs, and complimented them on how well the statements were articulated and appreciated the hard work. She also stated that we have the same understanding, and the bottom line is that any synthetic added to fishmeal must go through the petition process and be approved by the Board in order for fishmeal with a synthetic to be used in livestock feed. Fishmeal is a natural, you concur. It’s nonsynthetic and fishmeal with a natural preservative or an approved substances is allowed.

We are in agreement with the two recommendations that deal with organic aquaculture, and believe that those rightfully belong to the task force that should be created on organic aquaculture. The last three, we believe that the NOSB should draft recommendations for the Department, and the Board needs to have this discussion on what turns a natural into a synthetic and come up with some clear fence posts on that.

Mr. Neal commented that when a synthetic substance is added to a natural, you need take into consideration how does one petition the term synthetic active because it’s not defined in OFPA. That needs to be defined because how does one petition a nonactive substance to be included on the National List, as a preservative. A preservative is not delivering the intended effect to the animal. These recommendations are will impact a host of other materials that are already on the National List.

Ms. Robinson stated that we can put a statement on the web site that fishmeal is a recognized feed supplement, a nonsynthetic. If fishmeal contains a synthetic substance, that synthetic substance must have been petitioned and approved by the Board and amend to the National List.

After much discussion regarding the differences between feed, feed additives and feed supplements, Mr. Riddle suggested writing a draft that will help with clarification when looking at the current definitions and how they are used in the Rule should be included on the Livestock Committee work plan.

**MATERIALS AND CROPS COMMITTEES – Rose Koenig**

**Working Draft Guidance on Inert Ingredients in Pesticide Formulation: (Pgs. 187-193) For more information, see discussion document and meeting transcripts**

The certifying agent and producer, after reasonable effort of contacting the manufacturer, EPA and other USDA-accredited certifying agents are unable to ascertain whether inerts in a pesticide allowed under the NOP. The certifying agent will approve that part of the organic production system plan.

In response to the report provided by Ms. Koenig, Ms. Robinson stated that the Department concurs, and will post a statement on the web site.
POLICY DEVELOPMENT COMMITTEE – Dave Carter

NOP Scope Document – Draft: (Pgs. 193-231) For more information, see discussion document and meeting transcripts

Mr. Carter provided the report summary on the Scope Directive that was issued in April 2004 on the following issues:

1) Personal Care Products, Body Care Products, and Cosmetics, 2) Dietary supplements, Over-The-Counter (OTC) medicines or health aids, 3) Fertilizers, soil amendments, manure, 4) Fish and Seafood, Farm-Raised or Wild-Caught, 5) Pet Food, and 6) Mushrooms, Apiculture and Honey, Greenhouse Operations, and Greenhouse Products, and Hydroponics Agriculture.

Mr. Riddle stated that in the second paragraph, page 4, under the NOSB consideration where they took the position and which agrees with prior statements from NOP, that the word “organic” is used to identify an agricultural product or ingredient. The context should state that the agricultural product or ingredient must have been produced and handled in accordance with the Act and the Regulation. The one issue that the committee should have tackled was the use of the word, “organic” on the principle display panel of these categories of products. The directive did set a deadline for such use for removal of such claims, and therefore, it is our position that we concur with that portion of the directive.

Mr. Carter stated that he didn’t want to speak for the whole committee, however, under the previous Scope Document, it was that if you could certify a process in which you complied with either the 70 percent, the 95 or the 100%, that you would be allowed to use it.

Mr. Riddle proposed an amendment to add a sentence that would follow the sentence that was read, which talked about the ingredients or agricultural products, and then specifically say if the word, “organic” is used on a principle display panel. The label claim must comply with Sub-part D of the regulation, which regulates the use of the 100% organic and made with organic claim. If it’s going to be on the front panel, it has to be consistent product content to other organic products. Mr. King stated that the amendment was moved by Mr. Riddle, and seconded by Mr. Carter and without further discussion, the Board agreed not to vote on the amendment, but to add it as an addition to the sentence.

At the conclusion of the report, Mr. Carter stated that the provision that was brought to the Policy Development Committee doesn’t list what the vote was, but the vote was unanimous. There were two members absent, so the vote was four in favor, and zero against, and two abstentions.

In response to the report provided by Mr. Carter, Ms. Robinson stated that the Department concurs.

PUBLIC COMMENT SESSION – October 12, 2004:

The following individuals presented public comments. Each person’s comments were recorded and transcribed for the record; and some individuals presented written comments. Transcribed comments, and where applicable written comments can be found at DESIGNATED ATTACHMENTS.

REGISTRATION SHEET (Attachment A)
SIGN-IN SHEET (Attachment B)

Debra Brister, Research Fellow, University of Minnesota, [Pgs. 213-217, Attachment 1]
George Lockwood, proxy for Richard Nelson, [Pgs. 217-223, Attachment 2]
Dr. Owen Keene, Heritage Poultry Management Service, [Pgs. 223-228, Attachment 3]
Dave Garforth, Green Harvest, [Pgs. 229-233]
William Jackson, AG-Rox-02, [Pgs. 233-236, Attachment 4]
Tom Hutchinson, OTA, [Pgs. 237-238, Attachment 5]
Mark Kastel, The Cornucopia Institute, [Pgs. 239-244]
OPEN SESSION – October 13, 2004, 8:00 a.m. - 5:00 p.m.

MATERIALS COMMITTEE – Rose Koenig

Sunset and the National List of Allowed and Prohibited Substances: (Pgs. 3-41) For more information, see discussion document and meeting transcripts.

Ms. Koenig reported that prior to the meeting; a document was posted on the website that reflected the board’s discussion. However, when they got to the meeting, NOP reviewed and presented their concepts of Sunset in the final document. The committee met on a conference call to discuss the Sunset provision, and how to mesh what the committee had suggested and what NOP suggested based on some of the constraints regarding federal regulation and having to go through rulemaking procedures.

Ms. Koenig stated that the Executive Committee voted on the draft document with the assumption that they would come back to the full Board. They wanted to let NOP know and confirm that the changes have been made, and that the Board is comfortable with it. Therefore, Ms. Koenig made a motion to approve the document, with the stated changes discussed for acceptance as the Sunset Policy. Ms. Dietz seconded. Mr. King stated that it’s been moved and seconded, and that the Board accepts the Materials Committee draft of the Sunset and National List of Allowed and Prohibited Substances. The document was unanimously approved.

Interpretation of OFPA and the National List – Analysis of Materials Provisions of the Act – Action Plan: (Pgs. 43-78) For more information, see discussion document and meeting transcripts.

Ms. Koenig provided background information on the report on interpretation of OFPA. She also talked about how she went through the Draft 1 addendum of the National List, looked at the List, used those OFPA categories and made some changes so that it’s a functioning list for the Board to ensure consistency with OFPA. Her primary goal was to fix the concept of interpretation of where those fillers, carriers, and agivents fit. She solicited discussion and input from the Board and NOP regarding the kind of institutional buy-in that OFPA really didn’t intend those agivents, fillers, and things like phosphoric acid, when it was petitioned to be placed on the List. Because the industry didn’t have the ability to understand the process, they have experienced a lot of heartache.

After discussion, Mr. Riddle stated that if there are no changes to the substances, or changes to the annotations, but rather just a change to the structure of the List so that it rearranges it in these categories, could that be done as part of the Sunset, republishing? On the other hand, what’s the target to move this kind of structure forward? Mr. Mathews stated it could be done at Sunset or at any possible time, and once it’s done to where you want it to be; it can be done section by section. You don’t have to wait for Sunset; it can be piecemeal and work through it. As you finish up with one part, we can move
to another part. There’s plenty of flexibility to work continuously on the National List. Ms. Robinson stated that the downside to rearranging the National List during the Sunset could cause public confusion. It’s a good idea to change it, that’s what we wanted to do. However, hold it for discussion later. Mr. Neal stated that it’s not a good idea to lump it in with Sunset, because industry people may not like the layout and start commenting on the way the List is structured. Then the docket will have to be rewritten to address the way the List is structured in addition to the Sunset materials.

Ms. Koenig concluded that the Materials committee would take the document and come up with a more formal process.

**HANDLING COMMITTEE – Kevin O’Rell**

**Materials Approved as Food Contact Substances – Update:** (Pgs. 79-81) For more information, see meeting transcripts.

Mr. O’Rell reported that at the April meeting, the Board voted to accept the Handling Committee’s report, to update the materials that are used as food contact substances. Additionally, it was also recommended that six materials that were considered as food contacted substances, previously voted on and approved by the Board would be added to the National List. He also stated because there was some confusion in the industry, it was the committee’s recommendation that the updated report be formally accepted, voted on and published on the website. It was the committee’s hope that the materials to be published in the next docket; however, according to the NOP’s update, that a docket was in the process for rulemaking with all processing materials, including the six materials, which were five boiler water additives, and four boiler water additives, activated charcoal, and parasitic acid.

In the April report, it recognized that the December 12th NOP policy statement clarified synthetic substances used as ingredients are subject to review by the NOSB. These synthetic substances would be classified either as an ingredient, which then would have to be on the National List, or as a food contact substances, which then would require the proper documentation for supporting that it is a food contact substance.

Mr. Mathews stated that they’ll go on there for a few months, but then will come off October 21, 2005.

**Organic Yeast/Agricultural vs. Non-Agricultural Substances – Action Plan:** (Pgs. 81-86) For more information, see meeting transcripts.

Mr. O’Rell reported that it was the purpose of the committee to provide an update and an action plan. The committee recognized a concern in the organic community regarding the flagged materials for yeast. The committee will form a task force to look into this issue and make recommendation to the full Board. The task force will include NOSB members and qualified individuals from the organic community. The decision will be to look at the issue of agricultural vs. non-agricultural, as opposed to just taking the yeast in question, because there are a number of substances that are on the National List under 205605(a) that could also be affected by a decision that would be made for yeast.

The task force will have a full review of the materials on 205605(a), look at reclassifying them, and from the criteria to further the definition of agriculture and non-agricultural. They will also interact with the task force that’s involved with synthetic-non-synthetic, because there will be some areas that will cross over or relate to that subject. Finally, the Board previously made recommendations for change in 205605.

Ms. Dietz also stated that at the meeting, the committee made a recommendation on commercial availability and had to restructure 205.605 to remove some materials. The new task force will do the same type thing, will go through and make recommendations on materials that are currently on the National List, and come up with a more user-friendly structure of the National List.

Mr. O’Rell concluded that there’s some high interest with this particular issue in the industry and would like to have it resolved to make a recommendation to the full Board at the next meeting.
Pet Food Standards – Action Plan: Materials, Labeling and Feed Provisions: (Pgs. 86-94) For more information, see meeting transcripts.

Mr. O’Rell reported that the committee recognized that there has been a lot of work done in the industry and were challenged to look at the work, assess what was completed, bring it to the committee for digestion, and then make a recommendation to the full Board at the next meeting. This is not a task force, this would involved a work plan for the committee to review, assess what is currently out there with OTA and AAFCO. Try to come to an agreement and draft a recommendation for presentation to the full Board at the next meeting.

It was determined that Keith Jones will work with the Handling Committee on the task force to specifically work on the Pet Food issue.

REPORT PRESENTATION (Pgs. 94-123)


PRESENTATION OF COMMITTEE DISCUSSION ITEMS (continued)

LIVESTOCK COMMITTEE – George Siemon

Wild Caught and Aquaculture Standards – Formation of Task Force: (Pgs. 123-) For more information, see discussion document and meeting transcript.

Mr. Siemon reported that this is a longstanding issue with two recent developments regarding the scope directive, which brought up the labeling of seafood products and wild seafood. Therefore, the committee proposed the formation of a task force to deal with these issues. The idea is to get approval for the formation of a task force, and then come back with the recommendations of who would be on the task force. He is willing to work straightforward on it and make it a priority to have the recommendations ready. Ms. Goldburg also stated that it’s important to move forward with this task force so that they can implement the new provisions of the Board policy manual.

COMMENTS FROM A. J. YATES, AMS ADMINISTRATOR – (Pg. 130-131)

Mr. Yates thanked and expressed his appreciation for all the hard work that everyone was doing. He also stated that their work goes beyond the days of meeting with USDA because of having to deal with issues on a daily basis, and looking at the regulations to make this industry successful, takes a tremendous amount of time. He expressed his support and wants to see the industry to continue to grow and profit, because as a farmer, he’s knows how important it is that we only can stay in business if we can have a profitable venture.

Wild Caught and Aquaculture Standards – Formation of Task Force (continued) (Pg. 132-134) For more information see discussion document and meeting transcripts.

Mr. King asked if the committee will create two task forces, one for aquaculture standards and one for wild caught standards, or dealt with those issues separately.

Mr. Siemon stated that there would be one task force for two working groups. He admitted talking to the group to understand the difference between the two programs, but that’s what been proposed, and it’s still two distinct subjects, and we’ll put them together. It doesn’t mean that the other will hold one back; if it’s ready, it should move forward and not held back by the other.
Mr. Riddle stated that because we don’t have anything in place, what he would like to see happen is that they will need to put out the call, on how and where people will submit their application. The committee will also need to talk about who makes the decision of whose selected or who serves on the task force. A description of the task force should be posted on the website, instructions on how to submit a CV or resume, and then have the Executive Committee to make the final selection. Then task force will be seated and ready for work.

MATERIALS COMMITTEE – Rose Koenig

Revised Federal Register Notice for Petitioned Substances – Draft 1: (135-139) For more information, see discussion document and meeting transcripts.

Ms. Koenig reported that the committee took a stab at revising the actual notice and updated some the names and dates, and took out sections that are no longer appropriate. The original notice came in 2000, and now it’s almost 2005, so you can expect some changes because the process has gone forward. NOP asked the committee to review the notice in order to modify it to improve the materials review process. The draft document was presented to begin a discussion to revise and finalize the petition notice for posting.

NOSB and NOP need to modify the petition notification instructions to petitioners and the petition process. This will improve the ability of the TAP contractor to evaluate and provide consistent information on each petition substance. It will also assist the TAP analysis of whether or not a substance is synthetic or non-synthetic based on NOP definitions and NOSB clarification of the definitions. Additionally, the information provided in the petition clearly needs to address all applicable OFPA criteria. The committee took the notice and did a preliminary analysis and recommendation; and the suggested ideas and recommended form for specific changes are in bold, and the original notification is not in bold.

Materials Review – Refining the Process and Presentation: (Pgs. 140-163) For more information, see discussion document and meeting transcripts.

Ms. Dietz stated that the Materials Committee did not discuss the document and suggested that Ms. Koenig provide only a summary of the report for presentation at the next meeting.

Mr. Neal stated that the document would replace the Federal Register Notice that is currently on the website and in the Federal Register, so it would have to go back through the process. Mr. Riddle suggested running it through the Materials Committee to make sure that they have a clean copy of the correct draft before they waste any of their time.

Ms. Koenig suggested orientation and training on the new system for the new TAP contractors. She also wanted to know if the Executive Committee could vote on that if they get to another draft stage, and would this be viewed as a working document in a sense of training petitioners. Ms. Dietz stated that the last orientation book was drafted but never approved by the Board. The Executive committee looked at it, but the Board never formally adopted it.

Mr. Neal stated that the petitioner would need to have a document that has gone through the formal clearance process for them to use and submit that information to NOP. We can’t operate off a draft. If there’s additional information that we need, and if it’s going to help them provide the information that needed by the Board to make a decision on their substance. It was concluded that the report will be a part of the Materials Committee work plan.

Ms. Koenig gave a slide presentation on the Materials Process Update. The text of this presentation can be found with the meeting transcripts. For more information, see the Materials Process Update Slide Presentation.

POLICY DEVELOPMENT COMMITTEE – Dave Carter

Policy for Scheduling NOSB Meetings – Committee Draft – Vote: (Pgs. 177-186) For more information, see discussion document and meeting transcripts.
Mr. Carter provided a preliminary report regarding the committee working draft document. He stated that Ms. Caroe requested establishing a more formalized procedure for scheduling meetings for the Board and various committees; therefore, she drafted a proposal for meeting protocols. Ms. Caroe stated that it’s a working document for consideration and for inclusion into the policy manual to assist with establishing respect for each other as members of the volunteer Board.

**Board Policy Manual Revision – Update:** (Pgs. 187-198) For more information, see discussion document and meeting transcripts.

Mr. Carter stated that on June 9, members of the Policy Development Committee met with NOP to discuss the framework for collaboration and other ways to improve the working relationship between NOP and NOSB. Ms. Robinson offered to review the Board’s policy manual and provide the committee with some advice and guidance to make sure that everything that is in the manual conforms, not only with OFPA and the Final Rule, but also with FACA and the illustrious Paperwork Reduction Act. She also circulated a document titled, Policy and Procedure, and Mr. Carter provided a report summary of the document for Board discussion. No action taken.

**Scope Document:** (Pgs. 199-201) For more information, see discussion document and meeting transcripts.

Mr. Carter stated that per their discussion on the previous day, he incorporated some technical corrections and changes to the scope document. After discussion, Mr. Carter made a motion to move the document forward for posting. Mr. Siemon seconded. The Board unanimously approved to post the document for public comments. 1 Absent.

**ACCREDITATION, CERTIFICATION AND COMPLIANCE COMMITTEE – Andrea Caroe**
(Pgs. 206-207) For more information, see meeting transcripts.

Mr. King stated that Ms. Caroe indicated that the committee did not have anything to bring forth at that time. Ms. Caroe commented that the committee took a back to other committees working and responding to the directives, therefore, they will submit their items at another date. Mr. Riddle stated that during public comment, a certifier commented that an issue about the information on certificates and the fact that compliance with NOP standards or regulations is not required. The committee started a draft 1 document and the committee didn’t follow through with it; therefore, he requested reconsideration to be included on the committee’s work plan.

**CROPS COMMITTEE – Nancy Ostiguy**

**Extraction Methods – Consistency with the National List and Natural Materials and Discussion on Potassium Carbonate and Hydrolyzed Extracts:** (Pgs. 208-211)

Ms. Koenig stated that originally when that agenda item came up, they were thinking of this paper on extraction, which became the synthetic versus non-synthetic documents. Therefore, in terms of the report, there is nothing to report. However, Arthur Neal provided an explanation and update on the recent correspondence that he received regarding extractants.

**Soy Protein Isolate Material Review – Vote:** (Pgs. 212-215)

Ms. Koenig reported that the committee met, reviewed the material information, and voted to defer the substance. The committee would like to seek additional information on the extraction process to determine: (1) whether or not the substance is chemically changed during the extraction process; (2) whether the substance is chemically changed after it is extracted to make it more functional for its intended use or uses; (3) what happens (chemical reactions) during the neutralization step in the extraction process; and (4) whether there is a presence of additional substances after extraction of the petitioned substances.
The committee thought it was important for the Board to clarify the definition of synthetic and non-synthetic so that this substance could be evaluated and be consistent with the intent of OFPA for inclusion on the National List. The committee submitted a draft document to begin the discussion on the further clarification of the definition of synthetic for the October 24 meeting, and that’s the one they discussed earlier.

The committee used three sources to obtain further information regarding the issues stated, the petitioner, the TAP contractor and an expert on soy bean manufacturing from Kansas State University provided additional information to the Board that will be considered in addition to the petition and the original TAP report o this substance. The committee will also consider public comments when making the recommendation because they have all the information, and will be able to make a decision on the substance.

Mr. Neal ask the committee to submit to the program the committee recommendations (Soy Protein Isolate) form that was provided to the Board so that NOP can officially post that on the website as a current update to the deferral. The documents are posted on the website; however, the only one that’s not posted is the one from Kansas State.

Compost Tea Task Force Report Recommendation – Vote: (Pgs. 215-222)

Ms. Koenig stated that there was public comment that came to the committee regarding the product. Two of them concern a question on the testing protocol that was suggested within the document, and they felt that it was expensive. They also felt uncomfortable and it wasn’t doable for the farmer. The second comment regarding the recommendation in the document that allowed for food contact disinfectant, like all materials on that list, suggested that they do have on the List disinfectants that are part of that larger list. She also stated that the first two comments expressed concern for many of the members on the task force. The way that we got buy-in from all members was specifically because we outlined a detailed protocol as far as testing of the machinery. They need to think more about those testing protocols and an alternate or come up with another proposal on that aspect of the document. Those who endorse the document probably would not endorse it if we made significant changes to that area. Finally, the second one is a good suggestion with good justification, and should be supported by members of the committee, even though it was an oversight. They need to make sure that any materials that are recommended for cleaning out the equipment should be consistent with the list. The comments should be incorporated and considered when voting on the report.

Ms. Koenig spoke to Eric Sideman about how originally there was a Compost Task Force, and Tea was supposed to be consider within that task force. Then it was broken off and additionally studied; and now they have two documents on very similar issues. Mr. Sideman recommended merging the two documents in terms of the recommendations in some format so that they’re accessible to people who need to look at them.

After discussion, Ms. Ostiguy motioned the Board to accept the Compost Tea Task Force report, and direct the Crops Committee to take the recommendations from this report and put them forward, which may or may not include all the recommendations from each of the reports. Mr. Bandele seconded. The Board unanimously accepted the report.

Inerts Directive – (Pgs. 222-231)

Ms. Koenig reported that the final request was to go back to the inerts directive document, and have it posted on the web. Mr. Siemon made a motion to have all the drafts posted. Mr. Bandele seconded. Ms. Dietz stated that the Materials Committee did not review the documents; however, she didn’t have a problem with posting them, but felt that there wasn’t a need to have a motion for posting. She also stated that the committee discussed taking them back for review and having drafts ready for the next meeting. Mr. Mathews asked for clarification if the committee would vote to have the document posted or just to have it posted. Ms. Koenig motion to have the document posted and Ms. Ostiguy seconded.

After discussion, Mr. King called the motion for all those in favor of recognizing the inerts document and forward for posting on the NOP website. Vote to recognize and post as an NOSB document: 7 Agreed; 4 Abstained, and 2 Absent.
Ms. Robinson recommended posting the Board’s statement and the Department’s draft guidance statements. Before publishing on the website, submit the documents to OGC and the Board for review, and the Board and NOP will submit their feedback. Mr. King stated that the Board created some feedback and will forward that to NOP.

**Origin of Dairy Livestock** – (Pgs. 231-233)

Mr. Siemon made a motion to accept two changes to the directive for Origin of Dairy Livestock document and Mr. Lacy seconded. Vote: 11 Favored, 1 Absent, and 1 Opposed.

**Fishmeal Document** – (Pgs. 233-238)

Mr. Siemon stated that there were no changes to the document, however, the committee noted in their recommendations that there are recommendations related directly to the directive, and some related to future work plans. Mr. Siemon motion to accept and Mr. Lacy seconded.

After discussion, Mr. Siemon accepted the friendly amended to the document. Mr. King read the friendly amendment to consider the Livestock Committee directive for fishmeal and forward for posting. Vote: 11 Favored, 1 Abstained, 1 Absent

**Election of Officers** – (Pgs. 239-244)

Mr. Jim Riddle, Chair
Mr. Kevin O’Relly, Vice Chair
Ms. Goldie Caughlan, Secretary

**OPEN SESSION – October 14, 2004, 8:00 a.m. – 12:15 p.m.**

**PRESENTATION OF COMMITTEE WORK PLANS** – (Pgs. 3-34)

Mr. Riddle opened up and asked each committee to provide a summary of upcoming work plans. For more information, see discussion document and meeting transcripts.

**NEXT MEETING** – (Pgs. 34-39)

February 28 through March 3, 2005

**PUBLIC COMMENT SESSION – October 14, 2004: (Continues)**

The following individuals presented public comments. Each person’s comments were recorded and transcribed for the record, and some individuals presented written comments. Transcribed comments, and where applicable written comments can be found at **DESIGNATED ATTACHMENTS**.

Lisa Donwhite, proxy for Leslie Zuck, PCO and Northeast Organic Dairy Producers Alliance, [Pgs. 48-52, Attachment 1]
Jo Ann Baumgartner, Wild Farm Alliance, [Pgs. 53-57, Attachment 2-A, 2-B, and 2-C]
George Lockwood, National Organic Aquaculture Working Group (NOAWG), [Pgs. 58-68]
Maury Johnson, NC+ Organics, [Pgs. 68-79]
Grace Marroquin, Marroquin International Organic Commodities Services, [Pgs. 80-87, Attachment 3]
Gwendolyn Wyard, Oregon Tilth Certified Organic (OTCO), [Pgs. 87-91, Attachment 4]
Richard Siegel, Lawyer, Private Practice, proxy for 15 Companies Supplying Organic Ingredients, [Pgs. 91-96, Attachment 5]
Mike Norman, Association of American Plant Food Control Officials, (AAPFCO), [Pgs. 96-103]
Brian Baker, Organic Materials Review Institute, (OMRI), [Pgs. 103-106]
Sharon Sherman, Pet Guard Company, [Pgs. 113-116]
Earl Louviere, Omega Protein, [Pgs. 116-118, Attachment 7]
Emily Brown-Rosen, proxy for Eric Sideman, [Pgs. 119-124]
Emily Brown-Rosen, proxy for Brendan O’Neill and Bill Mott, [Pgs. 124-129, Attachment 8]
Drake Sadler, Traditional Medicinal, [Pgs. 129-140, Attachment 9]
Joe Mendelsohn, Center for Food Safety, [Pgs. 140-150]
Susan Prolman, The Union of Concerned Scientists and Coalition to Keep Antibiotics Working, [Pgs. 150-153, Attachment 10]
Urvashi Rangan, Consumers Union, [Pgs. 153-155]
Michael Sligh, [Pgs. 155-157]

ADJOURNED:

October 14, 2004 – 12:15 p.m.
UNITED STATES DEPARTMENT OF AGRICULTURE

IN RE: NATIONAL ORGANIC STANDARDS BOARD MEETING

Meeting held on the 12th day of October, 2004
at 8:00 a.m.
The Washington Marriott Hotel
1221 22nd Street, NW, Salon E
Washington, D.C.

TRANSCRIPT OF PROCEEDINGS

10-12-04 NOSB Meeting Participants

Chair: Mark King

NOSB Members: Owusu A. Bandele
Rosalie L. Koenig
George Siemon
Kim M. Dietz
Kevin O'Rell
David Carter
Goldie Caughlan
Andrea Caroe
Rebecca J. Goldberg
Nancy Ostiguy
Michael P. Lacy
James A. Riddle

NOP Staff: Richard Mathews
Arthur Neal
Barbara Robinson
Katherine E. Benham

Public Comment: Debra Brister
George Lockwood

York Stenographic Services, Inc.
34 North George St., York, PA 17401 - (717) 854-0077
Public Comment: Owen Keane

Dave Garforth
William Jackson
Tom Hutchison
Pete Gonzalez
Mark Kastel
Hubert Karreman
Jim Pierce
Tony Azevebo
Ann Fanatico
Joe Smiley
Lynn Coody
Joe Mendelson
Emily Brown-Rosen
Brian Baker
Michael Sligh
John Cleary
Susan Ulery
David Engle
Urvashi Rangan
Marty Mesh
Bob Buresh
Leslie Zook
Sebastian Belle
PROCEEDINGS

October 12, 2004

CHAIRPERSON KING: -- opposed, same sign.
Motion carried. Are there any announcements? I'd like it to be noted this is the first meeting that Jim Riddle has not had an announcement. Seriously, we wanted to move into introductions. We can start to my right and move left. Please just give your name and position on the Board.

MS. KOENIG: Rose Koenig, Producer [ph] on the Board.

MR. BANDELE: Owusu Bandele, Producer.


MR. LACY: Mike Lacy, Science Rep.


CHAIRPERSON KING: Mark King, Retail Representative.

MR. RIDDLE: My mike doesn't come on. I'm going to have to change mikes. Jim Riddle, Certifier Rep from Minnesota.

MR. O'RELL: Kevin O'Rell, Handler Rep.


MS. GOLDBURG: Becky Goldburg, Environmental Representative.

York Stenographic Services, Inc.
34 North George St., York, PA 17401 - (717) 854-0077


MR. MATHEWS:  Richard Mathews, Associate Deputy Administrator, for National Organic Program.

MR. NEAL:  Arthur Neal, National Organic Program.

MS. ROBINSON:  Barb Robinson, National Organic Program.

CHAIRPERSON KING:  Thank you all very much.

Next, we have approval of the April, 2004, meeting. That is the meeting that was held in Chicago. Are there comments or discussion on those?

MR. MATHEWS:  Yeah, Mark. We just got them, I think, Friday. I finally did get some time to go through then and do have four changes I would like to propose. So those are in Tab 2 of our meeting book, and of the -- on page two, second paragraph down at the end there where it says Nancy Ostiguy -- we agreed to step in and take over where Mr. Holbrook [ph] left off with crops. I just wanted to clarify that meant crops committee and sharing crops committee. And page nine, Compost Tea Task Force report, second paragraph and referenced in the second sentence says "after the initial Compost Tea Task Force, well, that was the Compost Task Force. The first task force was just
Compost Task Force, so I just wanted to strike the word Tea there, so it's -- so it's correct and -- Jim, yes?

MR. RIDDLE: Would you also scratch "initial"?

MR. MATHEWS: Sure, yeah.

CHAIRPERSON KING: So it will read Compost Task Force.

MR. MATHEWS: Yeah, after "the Compost Task Force presented its findings." Okay. And then page 10 -- on this one, third paragraph down, it's accurate that Barbara presented information about two petitions to remove substances, but it was in our discussion that it was determined that the one on corn starch never did go to the Full Board, so I don't have exactly the language to correct that, but the Board did not take action on a petition to remove corn starch and -- so I guess -- yeah.

CHAIRPERSON KING: I was just going to say if you want to go ahead and go on and if we need to craft some language on that, I think is what you're saying.

MR. MATHEWS: Right. Yeah, it's really -- yeah. My lights aren't working, either. The -- maybe what we should do is change it from "Board" to "the committee."

MS. DIETZ: Yeah, I believe it was the Handling Committee, that you took that through the
Handling Committee.

MR. MATHEWS: Uh-huh.

MS. DIETZ: We can go back and look at the minutes, but I think it was a Handling Committee recommendation.

MR. RIDDLE: I have no problem with changing it to Handling Committee. It would still be the same result.

MR. MATHEWS: Yeah, I think that would be accurate, then. So really just changing where it says "the Board" after that dash, yeah, "the Handling Committee considered that and rejected it." Good. And the last one is page 14 at the very bottom of the page, last paragraph, "Mr. Carter felt that it was important for him to make some sort of statement before they left Chicago." I believe it was, "Mr. Carter felt that it was important for the Board to make some sort of statement before they left Chicago," so if we can just change "him" to "the Board." Would that be accurate, Dave?

MR. CARTER: Yes, yes.

MR. MATTHEW: Okay.

MS. CAUGHLAN: Board or the Policy Committee? Because we didn't have a Board recommendation. I think that's --
MR. CARTER: No, the actual comment, though, was that it -- we thought it was important for the Board to make a statement before we left the Chicago meeting.

MR. MATHEWS: Okay. Okay, so those are the changes I propose and I would move that we accept the minutes with those four changes.

CHAIRPERSON KING: Is there a second?

MS. CAUGHLAN: Second.

MR. MATHEWS: Are there any other changes?

CHAIRPERSON KING: Are there any other proposed changes or discussion? Okay, it's been moved and seconded. Do we approve the April, 2004 meeting minutes as amended? All those in favor signify with saying aye.

BOARD MEMBERS: Aye.

CHAIRPERSON KING: Opposed, same sign. Motion carries. Next, we have a review of Executive Committee Conference Call minutes. I believe all, with the exception of September, have now been posted on the web site?

MS. DIETZ: Yeah, we have June, July and August minutes.

CHAIRPERSON KING: Okay.

MS. DIETZ: Which changes have gone through after each call, so I'm not sure if anybody has any

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changes to those or not.

MR. RIDDLE: Yeah, the August ones are still
draft and have not been accepted by the -- or approved
by the -- but they are posted for review.

CHAIRPERSON KING: So we need to recognize
June and July.

MR. RIDDLE: Well no, we did -- we just --

CHAIRPERSON KING: It's just there for
reference.

MR. RIDDLE: Right.

CHAIRPERSON KING: Okay. Okay, next up we
have NOP discussion with NOSB and we have several topics
listed here on the agenda. I'll just go in order as
they are listed and we, of course, can talk about some
other items, too, but the first item we have up is just
kind of the status of previously recommended materials.
I know there's been a lot of hard work in that area and
there have been some challenging issues as we all learn
how to use annotations and where to place things on the
National List, so our goal here is just to have kind of
a sharing of information and discussion with NOP on some
of these issues and so we'll give you a chance to give
us a quick update on those, Rick or Barbara.

MS. ROBINSON: I'm just going to handle
materials.

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CHAIRPERSON KING: Okay. Good morning,

Barbara.

MS. ROBINSON: Good morning.

MR. NEAL: Good morning, Arthur Neal. Update
on the status of recommended materials. In regards to
the processing materials that have been recommended by
the National Organic Standards Board, those materials
and recommendations have been placed in a docket. That
docket is right now in the Office of General Counsel for
review. We are anticipating a turnaround from them. As
soon as we get their response or their comments on that
docket, we will be able to know whether or not we're
going to be able to either go straight to the Federal
Register or if we're going to have to make some more
changes. We're hoping that we have to make no more
changes to the docket. We've made all the changes thus
far that they've suggested and we're awaiting their
response on that particular docket.

In response to livestock materials that have
been recommended by the National Organic Standards
Board, we have been in a very lengthy process,
consultation process with FDA concerning those
recommendations. Out of the materials that were
recommended by the National Organic Standards Board,
we're having a problem with six in particular and those
six are the six that are -- you can find sold over-the-counter medications, in particular. We got them -- they are calcium borogluconate, calcium proprianate, activated charcoal, kaolin pectin, mineral oil, potassium sorbate. What we found out about these particular materials is that they have not been approved through FDA's new animal drug application process nor its new drug application for human foods, either. They have gone -- they have been reviewed through an over-the-counter review, which is much different than prescribed medications, the type of review that they go through.

These particular drugs, well, four out of the six of these drugs are marketed under monographs, which is a process that FDA had implemented historically and it serves as sort of like a recipe in terms of how you are to manufacture this particular drug, but it has not been formally approved for use in animals. So we've gone through this consultation process and it seems to be these six materials are going to be problematic in terms of being included in the docket in terms of a positive listing on the National List. So what we're going to do is move forward with the ones that we have, that we can list on a national list and not hold this up any longer. And I think those are all of the materials

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that have been recommended by the National Organics
Standard Board. If you guys got any questions, you can
raise those now.

CHAIRPERSON KING:  Kevin.

MR. O'RELL:  Arthur, is that for the Handling
Committee materials, is that the materials that were
considered as food contact substances, as well?

MR. NEAL:  No, the food contact substances
docket, which is what I'm calling the processing docket,
is at OGC. It has been completed and we're just waiting
for them to give us the okay to move for it in the
Federal Register.

CHAIRPERSON KING:  Andrea.

MS. CAROE:  Do you have an estimated time line
on those -- that processing docket? I mean, I know it's
in OGC's hands, but do you have any idea of how long
that's going to take?

MR. NEAL:  I don't have a specific time line.
I know that they're receiving some pressure to go ahead
and get that back to us ASAP.

MS. ROBINSON:  When did we give it to them?

MR. NEAL:  We gave that to them two months
ago.

MS. ROBINSON:  We will make it a point to
check with OGC and ask them about their clearance,
estimated clearance time.

MR. MATHEWS: The thing that we're concerned about is that this actually the second time it has gone. The first time they sent it back because there wasn't enough description as to what it was the Board was trying to achieve in the docket itself, in the preamble language. We hope that we have captured the essence of what it was the Board was trying to achieve in approving the materials and then put it into the dockets. And for your information, this is something we're going to have to do with all materials. In other words, the bottom line is the bar has been raised on us for getting things into the National List and so we have to be much more specific in what it is we're trying to accomplish and that's we've wrestled with for this docket. It's also what you're going to be wrestling with in the future in order to satisfy us because we have to set aside the attorneys.

MS. ROBINSON: And I will say that we were -- we weren't expecting that kind of reaction from OGC, so it did take us aback a little bit because it's probably the first time that they've sent a materials docket back asking for the kind of detail that they were asking for, so we just didn't expect it and so that's what's really caused the delay on our part.
CHAIRPERSON KING: Kim.

MS. DIETZ: Most of those materials were ones that have been in the pipeline for quite some time, so I would assume that now that we've got this new material review process and we've got the compatibility dockets and we're going through those, the criteria that that should help the process, correct?

MR. MATHEWS: Immensely.

MS. ROBINSON: It will help, yes. The key will be to be as detailed as possible. We also hope that -- and we'll talk about this later, of course, that with the more detailed requirements that we'll be expecting from TAP reviewers. We hope that that'll help quite a bit, too, so -- and the new petition procedures, so we do expect that this will be smoother. We have alerted OGC to the fact that, you know, Sunset will also be coming and so we're all going to try and do whatever it takes to make this run a little more smoothly. As I said, we were taken aback because this is the first time they've ever come back to us with these kinds of questions, so -- but we do expect that the new procedures we're putting in place will prevent this kind of delay, at least when it gets to the lawyers, in the future.

CHAIRPERSON KING: Jim.
MR. RIDDLE: Yeah, a comment and a question and I just want to say that, you know, when you do get those kind of questions from OGC about what was the Board's intent, they need clarification, you know, feel free to communicate that to the Board and --

MS. ROBINSON: As we will.

MR. RIDDLE: -- you know, let us --

MS. ROBINSON: Without a doubt, Jim.

MR. RIDDLE: -- help sort that out.

MS. ROBINSON: Right.

MR. RIDDLE: I'm sure we're willing to pitch in to get that clarified and help move them forward. On the livestock materials, I just want to make I understand this, that those six, or at least five of six, the potassium sorbate, I think, is a little different issue; it's not a direct medication, but the others are over-the-counter medications, correct? That's how FDA kind of regulates them or classifies them, so any livestock producer can use them and they don't object or -- that's why I need to understand.

MR. NEAL: FDA has looked at our request. Our request was very specific to accommodate the request of the Board, the recommendations of the Board. Based on their review, the use of those substances as a livestock medication do not meet FDA's regulations because they
are not FDA-approved drugs, animal drugs, that is. And as a result of our consultations, what we're finding out is more of an enforcement issue for FDA, just as it is for us, materials that are used in organic agriculture have to be on our National List. We have to enforce that all materials that are used are on the National List, the same with FDA. Materials that they have approved for use in animals have to be recognized as such. We could not find these in the FDA regulations anywhere as approved for use in animals.

MR. RIDDLE: Yeah --

MS. ROBINSON: Let me -- okay.

MR. RIDDLE: Okay.

MS. ROBINSON: Let me try and explain something here that -- and we've had this discussion before about the difference between FDA's regulatory process and -- excuse me -- and our regulatory process. USDA's regulatory process tends to be a proactive -- let's take the case of the organic standards. We set up the standards and then we say if you can meet these standards, you can use this label. FDA -- the best way to explain their regulatory process is it's almost a mirror image of the way we regulate. What they do, in fact, is allow certain labels to be used on products and you know, pet food's a classic example, where they say
they reserve the right to enter the market place and
then regulate against the use of something for health or
safety reasons. In the case of these livestock
medications, I will say, too, that we -- Arthur spent an
-- a huge amount of time going back and forth with FDA
even asking all right, how about if we put them on the
list with the annotation that they can be used when
prescribed by a licensed veterinarian and they said no
to that, as well. The problem that we're facing is that
since they have no drug approvals -- and to get a drug
approval, you understand what that would take, right?

MR. RIDDLE: Um-hum.

MS. ROBINSON: The company would have to do
drug trials and submit that to the FDA for approval.
Now, you're asking the manufacturer of Pepto-Bismol to
invest in the research -- I'm not saying it's not
legitimate, but from the company's perspective, I think
this is what's happening, is why go to all the trouble
to do the drug trials to demonstrate that Pepto-Bismol
is safe for use in livestock; there's no return for the
company to do that, hence they don't submit the drug
trial research to FDA, so FDA will not grant it an
approval status.

If we put it on our list, in effect, we have
codified what FDA refuses to codify and since we --
we do that, they will take action against us. I mean, we will have then attempted to one-up them by putting something in the Federal Register -- even though this industry would look at it as something just for you and FDA is well aware that these medications are used by livestock producers everywhere, but they're not going to allow them to be published in a Federal Register that to the world is a -- says the government has sanctioned the use of these materials.

What does it mean? It means -- my assumption is that there are, unfortunately for livestock producers, there are prescription medications that will accomplish the same purpose. My assumption is that this means that livestock producers will pay a higher price to obtain prescribed medications to accomplish the same purpose that these over-the-counter medications would accomplish and so they will have to incur the costs. The only other alternative that I can think of is petitioning the manufacturers to submit the drug trials to FDA to obtain the approval status by FDA for use in livestock production.

Now, I don't think this is anything specifically peculiar to organic. It is -- because FDA does not -- that's not their response to us. It's livestock production, period, not organic. And we know
that they're used by conventional producers, as well.

MR. RIDDLE: Well, I appreciate the
predicament and I think I understand and I really
appreciate the work that you all have put in, especially
Arthur, trying to move these forward. I mean, it just
-- to me, these are the most benign of the medications
that we reviewed and I look at the, you know, comparable
things that are on the list like aspirin. It falls in
the same category, right? It's something where they're
allowing any livestock, conventional, whatever to buy
large boluses of aspirin to reduce pain and that's not
an FDA-registered drug.

So I just, you know, I understand that they're
kind of turning a blind eye on these things. They know
that livestock producer -- I can go into any farm supply
store and buy these products and you know, there doesn't
have to be a veterinary prescription or anything like
that and as I recall, the presentation we heard a year
ago from FDA, they were telling us at that time it was
kind of a green light, but it sounds like things have
changed as it got more kind of down to the nuts and
bolts of putting them on our list and I understand that
putting them on our list would be an official, federal
registration, per se, of something that they haven't
registered. I -- but you know, we -- certifiers
certainly can't be put in a predicament of turning a
blind eye.

That's not something that we want to
courage, but at the same time, it's just -- there's
got to be some common sense here and how can we move
these forward? I heard two options, I think, either use
the high-priced veterinary drugs -- and some of them
don't achieve the same results as some of these -- or
try and get the manufacturers of these benign substances
to go through the expense and years of registration.
Neither of those seem very satisfactory. I just -- I'm
not ready to give up on it yet and I -- I hope we can
find a way to move them forward so they can be
officially used by organic livestock producers because
they are used by conventional producers.

MR. MATHEWS: I fully understand your
frustration, Jim, and we have tried to turn this thing
every which way. Arthur has put in a lot of time,
talked to many people at FDA. He is presented numerous
options and we're as frustrated as you are that we can't
get them there, but I guess it just comes to the fact
that the statute and the regulations say that if a
synthetic is going to be used, it has to be on the
National List. The FDA doesn't recognize the use that
the Board has recommended as being acceptable,
therefore, we can't put it on the list and if it's not on the list, the producer can't use it.

So while we all recognize that it's probably perfectly acceptable, but even there we have to recognize that it's the people sitting here and throughout the world who would really render an opinion as to whether or not these materials are even acceptable to them, so -- I mean, we would still have to go through the rule-making process and there's no guarantee that they would even have made the list going through the rule-making process. I think Barbara's right. The only way is for those who have an interest in getting these materials onto our National List to approach the FDA to get a recognition that they can be used in livestock and until that is accomplished, we're kind of caught between a rock and a hard place for achieving that fully.

CHAIRPERSON KING: Rose and then Dave.

MS. KOENIG: Again, this would be -- you'd have to re-review the materials, but could we put them under the off-the-category of production aids and have a preventative kind of annotation so that it would be alluded to in terms of the annotation but in terms of preventative health rather than a specific prescribed use? And would that be considered by FDA to not fringe upon their area of regulation?
MR. NEAL: I'm not quite sure, Rose. I understand where you're going. We've thought about it already. Can we put this substance on a national list without it having any type of connotation or reference to livestock?

MS. KOENIG: Well livestock, yes, because it would go under the livestock list, but --

MR. NEAL: But that --

MS. KOENIG: But medicine is the question, huh?

MR. NEAL: But that's the issue, though.

MS. ROBINSON: No, you don't want to go under livestock.

MR. NEAL: That's the issue, because how else would you use kaolin pectin under livestock even without an annotation? FDA has actually looked at these materials for us and attempting to see, you know, how could these things fit for -- and make it work for us. Matter of fact, one guy who we spoke with actually worked with alternative medicines and he says based on FDA regulations, there's just no way we can list them on our list as -- for use in livestock without them having some type of approval because the normal use for these substances would be for use as a livestock medication.

MS. ROBINSON: Let me ask you a --
MS. KOENIG: I had one other question, too, before -- I know for -- there's a thing in the -- at least for pesticide labeling, IR-4 looks at minor uses of pesticides on crops that typically wouldn't be labeled for and there's a process by which you can get minor uses in addition to labels and it's to address these very problems because companies won't make that investment into minor crops. Is there an analogous program in FDA similar to IR-4 in --

MR. NEAL: I'm not sure.

MS. KOENIG: Okay. Because that -- there may be -- I don't know, but that's how they do it with pesticides when you have minor use categories for crops.

MS. ROBINSON: Can I -- let me pose a question. It's really to my staff, but one thing I don't know -- and there's risks with this, but Rose, you mentioned -- Arthur, you mentioned alternative medicines and I'm just wondering sort of aloud -- we can't settle this here today, obviously, but maybe we need to think about if there's a way that we could create a category in the list that is alternative -- that the actual category is alternative medicines that -- then you don't list on the list kaolin pectate [ph]. Now the risk, of course, is that somehow -- I mean, you don't want people out there using stuff that you don't know about or that
you wouldn't approve, but I'm just wondering if there are some -- if there's some other way that we could -- we want to do this legitimately and we want to do it through rule-making, but if there's a way that we could introduce a category that allows some of these things to be used; they're not specifically listed with an annotation, they are -- the -- what you would see in the Register is a category of alternative medicines.

MR. NEAL: The way that many of these substances will be listed will be without annotation. FDA has already looked at that. The one option that I would place forth would be not close the door on those six materials, but we need to move forward with the other ones that are already given the okay by FDA and continue, maybe, to work with FDA in terms of their placement on our National List, looking at other methods of listing them, working with the Board on that issue may be one way to explore. But I guess to sum it all up, we're planning to move forward with the recommended materials that are already blessed by FDA to be listed on our national list. Those six are the ones that we're having problems with, so we're going to move forward with those and we can work with the Board in terms of maybe developing some type of way to list them on a national list with agreement from FDA.
CHAIRPERSON KING: Okay, I had Dave and then Andrea.

MR. CARTER: Well, mine was similar to Rose's thoughts in that I know for example, in the bison industry, there's nothing that's really been tested or approved. Everything's off-label use, which you're allowed to do to save the life or health of an animal and if there couldn't be some sort of a parallel strategy.

MR. NEAL: Dave, that's actually the approach that we took. That's the exact approach that we took. Only problem with our approach is we've got to federalize everything. We've got to codify it. Bison industry does not have to codify; we do. So you know, that option has been explored, it has actually been the one that has been chosen; we've just got to work on how do we get these six resolved.

CHAIRPERSON KING: Andrea.

MS. CAROE: Is there a possibility of allowing over-the-counter drugs as a general category unless prohibited and create a negative list of over-the-counter drugs that are prohibited for organic use?

MR. NEAL: I think that may be an option we can talk about as we negotiate on these six materials, so my recommendation would be to write that down for us.
and let's discuss that throughout the course of the
meeting.

MR. MATHEWS: The one comment on that; if you
-- it sounds to me, Andrea, that what you're saying is
that you would create a line item within the livestock
provision, 603, that all synthetics that are over-the-
counter medications would be allowed unless you
prohibited them and I think that's really a
determination the Board's going to have to make because
there's going to be a whole lot of stuff there and the
question is will the public agree with such a
determination for all over-the-counter medications?

MR. NEAL: Also, like I said, these are over-
the-counter medications, four out of the six, and FDA
told us no to these, so we would still have an uphill
battle in terms of FDA granting us that permission.

CHAIRPERSON KING: George, do you have a
question?

MR. SIEMON: Yeah. So going to the question
you are bringing up, there -- I want to just repeat
about just a title like Production Aids. If you left
the word livestock off, then how would -- what would the
answer from FDA be? If you left off the word livestock,
just Production Aid?

MR. NEAL: Don't know, George. That's an
option that we can definitely explore. But it's going
to have to be in context with the entire National List.

MR. SIEMON: Yeah. And you -- it was said
that we have to rely on prescriptions now and I'm a
little confused about that. You're talking about new
drugs into the process, materials that -- approving new
materials that would be alternatives to these
alternatives and -- because they have to be on the
National List in order to be used, these prescribed
drugs, and they're not on the list now, so we're talking
about another two or three years out there and as a
farmer rep, you know, this is obviously a big issue.

MR. MATHEWS: That's precisely the issue, that
the fact that these can't be used, what Arthur was
saying is that you would have to find something that FDA
or -- yeah, that FDA recognizes as allowable to achieve
the same purpose that you were trying to achieve and if
that isn't already on the National List, George, you're
correct. It would have to petitioned and then approved
by the Board, then it would have to go through the rule-
making process to find out what the public would say
about it and then it may end up on the National List.

MR. SIEMON: And in the course that the real
obvious thing is this should threaten a whole lot of
materials that are already on the list. And what is
there -- we already have done this and what's their response to that and what's going to be the result of that?

MR. MATHEWS: Are you -- what do you mean it threatens materials on the list?

MR. SIEMON: Well, there's some materials in here already that would have -- would follow along the same way.

MR. MATHEWS: We haven't researched that to see if that is true. If it is true, then it clearly was an oversight by all the reviewers prior to creating this thing as a final rule, which -- including the FDA, because everybody had a crack at it, so the particular reviewer for FDA looked at it, may have missed it.

MR. SIEMON: Um-hum.

MR. MATHEWS: That then may mean, if what you're saying is true, then it could be a problem come 2007 when the material sunsets. That, however, is a hypothesis right now. We'd have to look and see what the true status is of those materials.

MR. SIEMON: Um-hum. So you know, this is just a long-standing thing with the alternative medicine, the FDA problem, so to me, you know -- and when some of the other guidance documents that came out there, it came out about developing a better
relationship, the FDA memorandum understanding, because this is not going to go away. Basically, this is -- all the alternatives that we've built this industry on in the long, long run if you were to go all the way down this line. So what's being done -- I mean, I heard a little defeatness [ph] in you all's presentation, which I know, it's frustrating, but what's being done to develop a real bigger, broader memorandum of understanding with the FDA and the USDA so that we don't fight little battles everyone along the way and we get to some bigger understanding here?

MR. NEAL: Well, this has been the first time that this has been identified, so at this junction, nothing has been done because we're just finding out that this is a problem.

MR. SIEMON: Um-hum.

MR. NEAL: So now we have to work towards finding out how do we make -- what the objective is for the National Organic program merging and having some synergy with what FDA is doing in terms of enforcing the use of animal drugs.

MR. MATHEWS: But Barbara, isn't that going to take some real ladder-climbing to get some kind of relationship between USDA and the FDA on this subject? I know it's -- there's tension always, anyway,
relatively. I kind of take exception to a word that
Arthur used that nothing has been done and I guess, from
the angle that he was discussing that's true, but in
reality a lot has been done. I sent Arthur to FDA to
work for FDA for 60 days. That has helped us to
understand how FDA operates. It has created contacts
for us in FDA.

Arthur, during that 60-day period, learned a
lot and made a lot of good contacts and it's these
contacts that have been enabling us to explore the
various avenues for solving the problems with these six
materials. It's not so much that you create an MOU
between a sister agency and yourself in order to
communicate. What we have done, and I can't emphasize
this enough, is that we have sent somebody to FDA to
work for two months; actually, it was more like three
months because it was 60 work days and not calendar
days. So -- I mean, we have made the in-roads. They
know who we are, they know what we're doing. We have
learned who can help us and who can't and so we've
already done that outreach to FDA. The problem is that
the answers that we want, we just can't get, okay?
We've made tremendous progress on all the other
materials that you wanted, it's just these six we have
just been unable to make it work. But there is a great

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working relationship between FDA and the NOP.

MS. ROBINSON: Let me just follow up. George, you're correct. There needs to be a policy discussion and it really needs to take place above my level; it needs to take place with the administrator of FDA, the Commissioner or you know, one of the deputy commissioners and probably best -- at a minimum, the administrator of AMS, but more appropriately, I'd like to see it happen at the Under Secretary or the Secretary level. So you know, we're going to have to basically do some decision memo, briefing memo, explain the catastrophe that will be the outcome unless there is some fairly high-level policy discussion that takes place between FDA and USDA to figure out -- I mean, there's got to be a way to figure this out. There's got to be a way to come to something, the works, you know.

MR. SIEMON: Um-hum. First of all, I'm going to acknowledge -- I'm sure Arthur's laid the foundation for this development. That's probably the best step in the first place, to get in and see what the issues are. So would it be helpful, then, if we sent some directive this way to develop such a thing in the long run? Is that going to be -- help you get the attention of the people above you, Barbara?

MS. ROBINSON: It would never hurt.
MR. SIEMON: Okay.

MS. ROBINSON: We always welcome your communications and that will help us actually write the briefing memo, the info memo, whatever it is we need to do to go through channels to get the right folks sitting down at a table.

CHAIRPERSON KING: And so -- just -- I had a quick question, then Becky, then Jim. So concerning our discussion later today on the materials process, I mean, do you see this as something we can include in that in terms of trying to forward a recommendation from the Board that would help you --

MS. ROBINSON: Surely.

CHAIRPERSON KING: -- with your ongoing relations with other agencies and that sort?

MS. ROBINSON: Yeah.

CHAIRPERSON KING: Okay. Becky.

MS. CAROE: I just want to make two quick points. One was that I was intrigued by Andrea's proposal about -- allowing all over-the-counter drugs in organic agriculture, but I think it's an innovative idea but I wanted to point out that there are many antibiotics in our stats that are allowed over the counter and so we may create some more problems for ourselves if we take that route. Secondly, a suggestion

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-- I don't think it's a panacea, but Congress has passed something called the Minor Use, Minor Species Bill which was signed by the president and it creates some expedited review procedures for certain types of drugs used in animal production and it might be worth pursuing with FDA getting organic agriculture considered a minor use. It might, at least in some cases, provide some avenues for drug indexing and drug approvals that are helpful to us.


MR. RIDDLE: And I just wanted to come back to a comment, I think, Barbara said about the impact on the sunset review because I'm looking at the 603 list and besides aspirin, I see glucose, electrolytes, hydrogen peroxide, magnesium sulphate and a number of similar-type products that are on our list and yeah, maybe it was an oversight by past Boards or past reviewers or FDA when they reviewed, but nobody caught it and I think maybe common sense ruled the day then and now it's gotten a little lost and now it's more kind of a regulatory mindset and I understand that evolution. But I think that this really does need to be a priority because if we can it ironed out before we face the sunset, then we're not going to have that additional fear hanging over us that some of these benign
substances that we want to encourage the use of, not
discourage the use of, would disappear because of a
technicality.

        MR. MATHEWS:  I would caution the Board about
assuming that hydrogen peroxide, glucose, aspirin would
not have been allowed, okay, if people had taken a
closer look because there are substance that you've
recommended that I think would still probably fit into
the same category that are going to make it.  So I'm not
-- I guess what I'm saying is don't automatically assume
that materials that are on the National List now are on
a par with those six that we're saying that we can't get
on, okay, because we don't know that.  We haven't taken
and looked at them specifically to determine whether or
not there is a current problem with the National List,
okay?  So I wouldn't make the assumption that we've
got --

        MS. ROBINSON:  Don't hit the panic button yet.

        MR. MATHEWS:  Yeah, don't -- yeah, don't hit
the panic button yet.  I mean, they may be perfectly
okay.  Just because you think they fit into the same
category --

        MR. NEAL:  Right.

        MR. MATHEWS:  -- doesn't mean that they're not
allowed, okay?
MR. NEAL: What Rick is saying --

Pepto-Bismol's an over-the-counter medication, but it's also approved as a medication through the new drug application process. So just because it's an over-the-drug -- over-the-counter medication does not mean that it's not approved as a drug.

MS. ROBINSON: You lost me on that one.

MR. MATHEWS: I think you lost me on that one, too. I -- but let's not try and beat this horse any longer. It's already on the ground. The bottom line is don't assume, please, that you've got a problem with the list because you've got a problem with these six materials. We welcome, Jim -- if you would, or the Board, would like to identify materials that you have questions on that we could then present the question to FDA. We can do that and we probably should in light of the sunset provisions.

MR. SIEMON: Sounds like don't ask --

[Simultaneous comments]

CHAIRPERSON KING: I think we got enough right now, Rick.

MR. MATHEWS: All right. Well then, stop sweating it.

CHAIRPERSON KING: Okay. Yeah, Rose.

MS. KOENIG: I would like a -- I don't if we
can make a motion, but I would like to -- because I'd like to get it down; there's two action items that I think, from the conversation as far as what we can do. I think we also, in -- at -- you know, in unison with the NOP should look at what Becky mentioned as far as legislation and again, I stress the I-R4 program because I think it's another example within the federal government where minor uses are allowed.

CHAIRPERSON KING: Um-hum.

MS. KOENIG: And someone needs to take that on as a task because if we can at least come up and do some of that research, also, I think those are the, kind of the pathways to showing models where such systems exist.

CHAIRPERSON KING: Would that someone be the Materials Chair? No, but seriously I mean, we need -- and livestocks involved, too, so --

MS. KOENIG: Okay.

CHAIRPERSON KING: As well as Handling, so I don't I know how you want to approach this, but I think it's a good idea. I did make note of both the I-R4 and the Minor Use, Minor Species Act, I think you called it, Becky. So is there further discussion on an action plan real quick while we're on the topic? Go ahead, Jim.

MR. RIDDLE: Yeah. Just the MOU, the whole resolution or some kind of recommendation from the Board
that this is a priority and to try and help support the need for moving this forward, you know, at whatever higher level. I think that was another thing that was discussed.

CHAIRPERSON KING: Um-hum.

MR. RIDDLE: And so maybe if these could be kind of made note of by Livestock Committee for a work plan.

MR. SIEMON: Isn't that a policy committee because it goes to the bigger -- the pet food and I mean a lot of different issues there. Isn't that -- and is there any way we can get that done this meeting?

CHAIRPERSON KING: I think the resolution or a recommendation just reinforcing the need to move these to whatever level it takes to get resolution is something we could draft in, you know, have 24 hours to consider and get it put forward at this meeting.

MS. ROBINSON: Can I make a suggestion? I've taken notes on four options that you have listed and what I would suggest is whomever does it, I would prefer that the Board take a crack at at least identifying the options and then we'll work with you to refine it, but the options are one, would it be possible -- and then this will give us something to actually sit down and have a discussion with FDA about. Is there a
possibility that we could create a category called
Alternative Medicines on the National List? And that --
you know, we can develop that option as, you know, under
there there would be guidance specifically from the
Board that would be posted on the web that says here are
the alternative medicines that, you know, blah, blah,
blah, that are -- that the Board recognizes for use.
Let's stay away from the word approval.

Second option was proposed by Andrea, the --
sort of the negative over-the-counter drug option. That
one, I think, the one problem -- and sort of look at
pros and cons of each of these. One problem you may
have with that option is OFPA. I just don't know how
that would fit with the language of OFPA.

The third option, suppose there is a category
of production aids with no reference to the specific use
of the material and fourth would be to explore, through
EPA's programs or through the recent action by Congress,
that organic could be considered in Minor Use category
and therefore get some relief from the labeling
approvals of regulatory agencies. And if we had those
four options with a -- you know, then we can develop
them, we can go back and forth with you and develop a
talking paper, basically. Then I think, you know, we've
got some things to just sit down and explore with --
first of all, with the senior policy officials at USDA and that always helps, then, when you want to have a
dialog with another agency. So that's my suggestion.

CHAIRPERSON KING: Other comments?

MR. SIEMON: Well, if we do do something around this MOU, I really think we should include NOP in
the drafting so it really serves your purpose if we do anything about that, so -- so I'm clear -- are we going
to try using -- about this? Jim, you were saying Livestock Committee; I'm not resistant to doing it, I just thought it was such an over-arching issue that it would be better for the Policy Committee to come up with such a recommendation.

CHAIRPERSON KING: Rose.

MS. KOENIG: What I hear from what Barbara's saying, I think that, you know -- again, I'm not going to second-guess how federal agencies work. I mean, I think a lot does get done if you can identify key individuals in agencies and get your work done that way. Developing an MOU for the long-term would perhaps be a great long-term plan, but I think to immediately fix the situation, our time is best spent kind of exploring these four areas and see where we can get in the short-term because they're easily researchable and we can present a working document. You know, if the Policy
Committee or the Livestock Committee wants to look at long-term, you know, this concept of MOU, I think that's going to take a considerable amount of time. There may be some possibilities, I think, but -- you know, it sounds like you've got contact in the FDA, let's work with those and identify these four items and get to work.

MS. ROBINSON: I don't -- I'm puzzled by this -- I keep hearing this MOU that you think we need with FDA and I'm puzzled, why do you think we need an MOU?

MR. SIEMON: I thought that's exactly what you told us in Chicago concerning the directives on the fish meal -- I mean, you know, fish meal, pet food. I thought -- you know, you -- I thought I that's -- I heard you say clearly there that until we have that, you have to make these determinations because you don't have an understanding with them on these different things.

MS. ROBINSON: Well, what occurred before the Final Rule was published was very long, protracted conversations and negotiations with FDA because they have the jurisdictional authority for food labeling and so USDA had to have those discussions with FDA in order to basically introduce an organic label for food products. Now -- I'm not questioning and I'm not criticizing when I hear you say MOU, I'm just saying I
don't know that we necessarily need an MOU to get the job done with FDA. What we need is a conversation and we need a conversation at policy official level so that those of us at the staff level, you know, have got the support to say all right, let's brainstorm this and figure out a way to solve this problem without compromising either FDA's regulatory authority or the needs of the organic industry.

And that's why I'm thinking that the, you know, a working paper with some suggestions that would serve as a basis to sit down and have a dialog would be the way to go. I mean, I -- you know, MOUs are fine and everything, but I'd rather just solve the problem and of course, we can -- we'll ask FDA, you know, do we need an MOU to have this kind of relationship or can we not just simply work together as sister agencies to try and you know, figure this out.

CHAIRPERSON KING: Dave.

MR. CARTER: Well, I think -- and I'm probably the person that has beat the drum the hardest with the use of the word MOU or the phrase MOU and the MOU, I mean, is just a catchword for the vehicle. It's not really the end-all. The point of the story is to get some equivalency and some compatibility between how USDA and FDA, you know, handle these, whether it's done
through an MOU or a secret handshake or you know, whatever. I don't care what the vehicle is, it's the point is to try to get the end result, to have some equivalency.

MS. ROBINSON: We need a password.

CHAIRPERSON KING: Owusu.

MR. BANDELE: Yeah, I think it's a good suggestion that Barbara made in terms of those options, however, with one exception. I don't really think that the -- allowing all over-the-counters except the ones listed is a viable solution to the problem. I think it's much too broad.

MS. ROBINSON: That's okay, that's okay. You can trash your own proposals. The idea is that you have all the proposals and then we say well, here's the advantage and the disadvantage of these and we can even say which are the strongest and you know, which are the weakest, which we would prefer and which are the least preferable. I take you point, Owusu, and I -- in fact, I think you may have the most problems with that one, but nevertheless, it is an option. It may be the straw man you set up and knock down, but it's an option to put on the table.

MR. MATHEWS: It's also an option that you list your pros and cons on and that you look at the
different options within that option and you may create restrictions on that option. I mean, for example, you've already allowed certain materials as a blanket unless otherwise prohibited, so you may be able to come up with even another version of -- Becky raises the issue that some of them have antibiotics, so all of them are okay except for those that contain antibiotics or those that contain something else or those that are used in this way. So I mean I wouldn't, as Barbara said, just totally drop it right out of hand right now because it is an option we can explore and then you look at your options within the option.

MS. ROBINSON: Right. I mean, over-the-counter drugs are also classified into categories, you know -- aids and what-not. I mean, I'm not a pharmaceutical expert except when I get my prescriptions, but I'm sure that there are categories of over-the-counter drugs that you could -- so Rick's right. Even though it may be your weakest option, it is -- there's possibilities that you could construct something that says, you know, all over-the-counter medicines are allowed except for nine out of the ten categories. So you've limited everything except the one you want.

CHAIRPERSON KING: Yeah. Jim -- but hold on
one second. I wanted to summarize this quickly and kind
of finish this up and make sure we take away an action
plan here. So it's my understanding, and correct me if
I'm wrong, we're going to consider these four categories
and Dave, I think if you agree to put this on the work
plan for policy development -- what's not clear to me is
are we going to try to accomplish this in the next
couple of days or is this an on-going work plan? It
sounds like some on-going work.

MR. RIDDLE: Yeah, and that's what I was going
to suggest is the Policy Committee take this on for
consideration by the Executive Committee, you know, in
order to keep it moving, keep the ball rolling and not
have to wait until the next Full Board meeting but that
it also, besides, you know, the four options that have
been mentioned, any other brainstorming that we can up
with, as well. But then with an introductory paragraph
stressing the need for the policy work at the highest
levels, as well; to have the support developed there
that builds on the support that Arthur did by that work,
but -- so yeah, I think we -- and we don't need a motion
on that. We already have agreement to put that on the
work plan.

MS. ROBINSON: Mark?

MR. RIDDLE: And -- yeah. Then I have another
question.

MS. ROBINSON: Can I -- well, let me make the
-- in the interest good collaboration, I'll take the
first crack. I will write the front end of the working
paper that lays out the issue associated with the
National List and the organic program as if we were
going to send this memo say, to the Secretary, you know,
saying what we need is a conversation with the
Commissioner of FDA or something like that and then lay
out the options. And then I'll send it to you and so
that you -- it's usually easier to add and I can crank
out something fairly quickly on the front end of it and
then you fill it on these options as much as you can.
We may have to break this thing down into a short memo
to the Secretary with an options paper behind it, but we
can do that.

CHAIRPERSON KING: Um-hum.

MS. ROBINSON: And I can get you something.
Unfortunately, I'm sort of -- well, actually, I can --
I'll do something over the next week or so while I'm at
home.

CHAIRPERSON KING: Great. Rose --

MS. KOENIG: I agree. I'll do the I-R4
research. I'll take that and within the same amount of
time and look into that.
CHAIRPERSON KING: Okay. Sounds good. All right.

MR. RIDDLE: Yeah. Then I had a question. We heard about the processing docket or processing materials and livestock; were there some crop materials, too, or what's the status of them?

MR. NEAL: Apologize. Those crops materials have been lumped into that processing docket. There are only, what, three? About three or four of them. So they've been lumped into that processing docket. I apologize for that oversight.

MR. MATHEWS: Yeah, the docket that is already in clearance channels contains everything except for the livestock materials. Everything that's outstanding, including what was brought up at last April's meeting.

MR. RIDDLE: But not the boiler additives of the activated charcoal or it does?

MR. MATHEWS: Everything.

MR. RIDDLE: Okay, great.

MR. MATHEWS: Everything.

CHAIRPERSON KING: All right. If there are no further questions, we'll move to the next agenda item which is discussion of the recommendations concerning compatibility, commercial availability and non-compliances, so if we want to take those in order, I
believe Barbara or excuse me, Catherine [ph] has been kind enough to make copies and they're in the yellow folder, so if you want to pull those out for the purposes of discussion and -- and I guess we're just hoping to have some dialog here with NOP to make sure we're sort of on the right page, that you feel these are useful documents. If so, why? And if not, how can we improve on them?

MS. ROBINSON: Can I beg the court's indulgence? Can I ask the Board can we flip-flop here for a minute? Can we go to the framework for collaboration and then come back to these? Would you mind? Because I can -- I can't address your -- I didn't read your -- I'm sorry, I didn't do my homework on these. And I --

CHAIRPERSON KING: We appreciate your honesty. Does anyone have a problem jumping ahead and then coming back?

MS. ROBINSON: And I think that we have had -- the staff has been working on the issues in the yellow folder.

CHAIRPERSON KING: Yeah, Rose.

MS. KOENIG: I just wanted to state what -- you know, again, this is my opinion, but as far as the compatibility with the system of sustainable
agriculture, because that's one of our criteria that we look at materials --

   CHAIRPERSON KING: Um-hum.

   MS. KOENIG: -- I think that we can go ahead, as a Board, if this -- if we've already adopted it --

   CHAIRPERSON KING: Um-hum.

   MS. KOENIG: -- just incorporate that into our materials process because it clearly addresses an area where we have authority.

   MS. ROBINSON: That's true. That is your -- that's your purview. That's your decision, that is your opportunity to put your imprimatur on the materials approval process and we really -- unless I was to hear something that I haven't heard yet, we don't expect to contradict your definition of what is compatible with the system of organic production and processing.

   MS. KOENIG: So I really just think the work plan on that is as we go through this materials process to make sure that that goes into the new -- you know, if we're going to put out a new petition notice, that that gets incorporated under that criteria, but we've approved of that.

   CHAIRPERSON KING: Right.

   MS. KOENIG: I don't think we need NOP approval on that area.

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CHAIRPERSON KING: Well, we actually reviewed, voted on and approved this at the April meeting, so if NOP doesn't have a problem with this being part of that process, we --

MS. ROBINSON: We may have a few comments and questions for clarification, but like I said, the decision process, the authority to determine compatibility with the system of sustainable and organic production is the Board's authority. Now, actually --

CHAIRPERSON KING: Okay.

MS. ROBINSON: -- Rick tells me that he's willing to -- he has done his homework and so we don't have to interrupt the agenda and he'll address the minor non-compliance.

CHAIRPERSON KING: Sounds good.

MR. RIDDLE: And just on the compatibility, I wanted to point out that it now is incorporated in the Board policy manual, as well, but it does need to, you know, go to TAP [ph] contractors, reviewers, so that they understand our understanding of compatibility as well as petitioners.

CHAIRPERSON KING: Kim.

MS. DIETZ: And then we have been using this document when we have the material review criteria, so we just incorporate in as this document is how we define
compatibility.

MS. ROBINSON: The only -- we don't have any problem with the TAP contractors having a list of what you define to be compatible measures --

MR. RIDDLE: Um-hum.

MS. ROBINSON: -- but we again remind the Board that is your determination to make.

MR. RIDDLE: Right.

MS. ROBINSON: That is not up to a TAP reviewer to tell you whether a material is compatible with sustainable agriculture. You must determine. But we -- my understanding is that you wanted the TAP contractors to have that to understand what it is you're looking for. Just so we're clear about this. It's your decision, not theirs.

MR. RIDDLE: Right.

MS. ROBINSON: Okay.

MR. MATHEWS: Now on the Minor Non-Compliances document, I still have reservations on that document. I've had reservations of that document since draft one and I think it went through like eight different drafts? The -- one of the things that we have done within the NOP is we have hired Mark Bradley to come in and work with us and he is our accreditation manager. He's working closely with the ARC [ph] branch; he's working
closely with me on a number of issues and the issue of 
minor versus major non-compliance is an area of 
responsibility that has been given to Mark for 
developing guidance within our operating manual. Mark 
is the one that is trying to get that manual through. 
He will be working on that very issue. We will take all 
of the recommendations in this document that we're 
discussing right now into consideration.

Again, though, I remind everyone that every 
minor at some point becomes a major and so we have to 
make sure that that is fully acknowledged. There are 
certain things that are in the Act and in the 
regulations that will constitute majors. We need to 
make that clear for certifying agents. We also have to 
make, as I -- and I'm going to repeat myself. We have 
to make clear that minors do become majors. Let me give 
you an example and maybe you won't agree that it's a 
minor, but let's just give it in example, okay?

We had a case -- and this person has been 
revoked, by the way, by the USDA. The person did some 
physical alterations. The certifying agent told him 
you're not allowed to do physical alterations. They got 
a signed statement from the person saying they would 
ever do another physical alteration. So they looked at 
the physical alteration as being minor because they
could correct the problem for future and that it didn't
in any way impair the organic nature of what it was
that, you know, the meat or milk or whatever else
products are coming from that animal. So they
classified that as a minor. The guy signed off on a
document saying I shall never do this again. Well, he
did. So the USDA looked at that as a major. He had
been told not to do it, he acknowledged the fact that he
wouldn't do it again, he did do it; it became one of the
two counts against this person for revocation. So it
was elevated quite rapidly once it became a willful,
okay.

So there's a -- there's probably hundreds of
elements like that, so we are being very cautious when
it comes to this idea of laying out minor/major. I
mean, it's a no-brainer if you're using a prohibited
substance, it's major. It becomes a question of whether
or not it was willful or not, but you will always have
to put your land through a new three-year transition
even if the land was contaminated at the hands of
somebody that you employed to do that. So -- I mean,
that is always going to be a major. Because there's
only one way to fix the problem and that's a new three-
year transition for the acreage.

So these are the kinds of issues that Mark is
going to be working on. We appreciate what the Board
has done in putting this together, especially you, Jim,
and we acknowledge that it is a problem area but we have
to be very cautious as we move forward so that minor
non-compliances that should it, at some point, become
major, don't end up into perpetuity.

MR. RIDDLE: Um-hum.

MR. MATHEWS: Okay?

CHAIRPERSON KING: Okay. Thanks, Rick. Rick,
do you want to continue with Commercial Availability
Task Force report or shall we move on to --

MR. MATHEWS: We need some more time on that
one. We're not prepared --

CHAIRPERSON KING: That's fine.

MR. MATHEWS: -- to address that at this
meeting.

CHAIRPERSON KING: That's fine.

MR. MATHEWS: It's a complex issue.

CHAIRPERSON KING: Yeah, okay. I understand.

Well, we're actually a bit ahead of schedule for -- I
think for the first time.

MR. MATHEWS: Well, you can't help that.

CHAIRPERSON KING: I'm not sure what to do.

MR. MATHEWS: Well, you do want to talk
framework, right?
CHAIRPERSON KING: We do want to talk framework.

MR. MATHEWS: Yeah. Okay, well that's the next item.

CHAIRPERSON KING: And we don't have a break scheduled until 10:00 so let's go ahead and --

MS. ROBINSON: Well, let's go ahead. All right. I'll edit -- I'm going to address my remarks to the folks in the room as well as the Board. As many of you know, as most of you know, we issued statements earlier this April that obviously caused a lot of consternation in the organic industry and as a result, we had a meeting on June 9 in Washington, D.C. The members of -- members of the Board attended that meeting. I believe it was the members of the Policy Development Committee.

In addition, OTA was at that meeting; Michael Sligh was at the meeting and Kathleen Merigan [ph] was at the meeting representing the organic industry; A.J. Yates, the administrator of AMS; Kim Clayton, the associate administrator; myself were there from the Department and the Secretary did stop in very briefly on her way to another meeting, but at that meeting the Board as well as the other folks in the room made it abundantly clear that a more collaborative
relationship was needed in order for our relationship to continue to coexist. I think we heard a number of times during that meeting that we'd all rather not get divorced but we were all in dire need of counseling at that point.

And since that meeting -- and we developed some takeaways and among those was we expressly asked and the Board committed to going back and developing feedback on the issue papers that we had posted. We'll discuss those at this meeting. I do want to say briefly, at this point, my compliments to the Board on the feedback that you did develop. It's excellent and we appreciate it very much. But in any event, we decided, we committed at that meeting to have a more collaborative relationship and we believe that since June 9 that's exactly what we have done. I don't think that the program has taken an issue without having a discussion with the Board.

Now, formal actions on issues, because of this collaboration are -- will have to take place in an open public meeting. I don't think you, the public, want us to just pick up the phone, talk to the Board and make -- get the Board's input and make decisions without going through the public meeting process and so -- and there's actually two rounds of that. One is the public meeting.
that you're sitting in right now and the second is when
recommendations are proposed and they require rule-
making, we go through a second iteration of public
involvement.

So let me give you an example -- not an
example, let me give you a list of the issues that we've
worked on since June 9 that we have collaborated with
the Board on and this is how we intend to operate in the
future. We sent a letter to OMRI agreeing to provide a
review of the OMRI Generic Materials List. OMRI asked
NOP in Chicago if we would consider doing that so that
we can make sure that the OMRI list of generic materials
and the National List of Materials are in sync and that
there are not any inconsistencies. We agreed. We
drafted a letter; we sent the letter to the Board prior
to -- to get their input, which they did provide and
then that letter was -- it should be posted on our
website. We also sent it to all the certifying agents,
as well.

A statement of work was drafted to explain the
expectations of contractors who want to perform
technical advisory panel reviews on materials petition
for inclusion on the National List. We'll provide the
Board with copies of that statement of work. But we did
give the Board the copy of the statement of work prior
to sending it to Minneapolis and sending it out for TAP reviewers to apply. Actually, in that case, I'll be honest with you. We found out after we sent it to you that we weren't supposed to because it puts you into -- puts you in the potential position of, you know, influencing the contractual process. Nevertheless, we did it. I was told I created a criminal act in the Department and I forget what law it was I broke, but I had to go upstairs and get yelled at.

Petition procedures and petitions. We -- our procedures have been discussed with the Board for your input and approval. All petitions will now be forwarded to the Board prior to submission for TAP reviews. A compliance question that was submitted to us regarding the organic status of seedlings and transplants, prior to us answering the question of the certifying agent, we posed the question, the generic question to the Board and got their feedback and then we answered the certifying agent's question.

Sunset of the National List, as you know, we've been iteratively back and forth on that. We will continue to do that, taking the Board's feedback.

Discussions on naturals versus synthetic materials. I don't know that we could necessarily say we've had this, you know, all-in-caps heading, a discussion of naturals
versus synthetics, but materials have arisen and we --
and has caused us to contact the Board and what the
issue boils down to is how do we define a material as
natural versus synthetic? And so we have been having
those sorts of conversations and hopefully, we'll get
some guidelines that we can all agree on that are useful
for resolving these determinations in the future because
they do pose problems when materials are petitioned for
the National List.

So we intend to continue this collaborative
engagement. As I said, in many cases the file
resolution of the collaborative efforts require that a
public meeting will have to take place, you know, that
will slow us down but it will assure that the Board is
engaged with the Department and that your advisory role
to the Department is recognized. So I figured that just
giving you an action plan telling you what we've done
and this is how we intend to continue to operate.

Now, some other things, you know, that are on
the agenda for discussion later; you asked for a review
of the Board Policy Manual and I did that. The staff
isn't to be blamed for that, but I do have a policy
manual for you, I just haven't made all the copies yet,
but I'm happy to go over edits with you on that. As I
said, you've provided considerable to the Department on

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the issue papers; on fishmeal, on antibiotics and on
scope [ph] that we think we're going to be able to have
a really good conversation with you on and discuss where
to go from here based on your input.

And I know that there are, you know, several
other things. I don't know, do you want me to --
they're on the agenda for after the break so do you want
me to just wait and we'll just take them up then, but --

CHAIRPERSON KING: Well --

MS. ROBINSON: But I wanted you to know that,
I guess, our interpretation of the framework of
collaboration is do it, not just write you papers about
it, do it. And so we think that since June 9 we've done
it.

CHAIRPERSON KING: Well, I have one quick
comment and then Dave, then Jim. And I just wanted to
thank, you know, the staff for the last few months when
I've picked the phone up and called, I mean, you've been
there, been available or returned my call very quickly
and I know that you work very hard on a lot of these
issues and we appreciate that. And so it's been nice to
know that something did become, you know, productive for
all of us involved in the June 9 meeting and that
ongoing, I think you're right, Barbara. It's more of a
how do we do things not how do we send a "report card"
but at the end of the day we all need to know, you included, of course, that you know, that we've accomplished something and that we've moved this industry forward in a positive fashion including public input, including stakeholder interest, including you know, advisement from the NOP and the Board. So thank you for that. And Dave, did you -- okay, I was just trying to wake you up. Just kidding. Jim, I know, has a comment and George.

MR. RIDDLE: Yeah, I really appreciate the collaboration in reality as you described and I think the atmosphere has definitely more conducive to that and I look forward to building on that and it's quite encouraging to hear your comments about the drafts that we have on the table on the issue papers, as well. One comment, I -- and I've been traveling and I may have missed a discussion of the planting stock, that letter about the onion, you know, onion plants. I just thought at the end of the day -- I didn't know the Board had a, you know, consultation on that.

But I guess the question I have is about, you know, at that June 9 meeting we did present a framework document that built on your decision-making procedures and tried to, you know, build in some feedback loops for you to consider, you know, probably in your program.
manual that you reference there so that would be some
predictability, some, you know, and staff changes, Board
members change but policies, you know, stand until
intentionally changed and I'm just wondering what your
reaction is to the document that we presented there and
if that has any legs, if we can continue to move that
forward so that there's something that lives beyond us,
in a way. I mean, you know --

MS. ROBINSON: Well, let me be honest with
you, Jim. I -- well, I said I'll be honest. I don't
like the document because I thought if put in place,
rigid sort of loops -- it implied and maybe it was just
the way that it was written, that every time an issue
comes up -- even though we -- this is exactly what we're
doing, we're collaborating with you, we're coming to you
with the issues. The way that it came across to me was
that we had to get your approval, you know, to do work
and while I'm not adverse to having something written
that says that we, you know, commit to a consultative
and collaborative role --

MR. RIDDLE: Um-hum.

MS. ROBINSON: -- the detail in that document
didn't -- it just didn't punch my buttons. I would much
rather -- and when we discuss the staff director
position, I think it will become more evident that how
that consultative role is manifested because it will be part of the staff director's duties to provide that link.

   MR. RIDDLE: Um-hum.

   MS. ROBINSON: And in reality, Jim, as you know, as we all know -- I mean, surely you're not going to suggest that you're the least bit worried that we'd put something up on the web without talking to you. I mean, I think it's been demonstrated quite clearly that the checks and balances are in place --

   MR. RIDDLE: Uh-huh.

   MS. ROBINSON: -- and you know, so I don't see that -- you know, if you're concerned -- if what I'm hearing is gee, how do we trust you, how do we keep you from doing this again, I mean, I think you're on public record and I think you've demonstrated that, you know, ignoring the Board or ignoring the input or failing to get the input prior to taking significant actions, we would be doing at our own peril. Now, that is not to say that we will always agree with you, nor do we have to. And I think you agree with that statement, you know. What we're after is consensus, what we're after is a productive relationship that spurs this industry forward, that keeps it growing and maintains its integrity. So we heard you and you know, do we need...
something -- if having something on paper is going to make you feel better, maybe there's a place in the policy manual to do it, but I just -- the specificity in that framework paper just didn't do anything for me. Sorry.

CHAIRPERSON KING: Dave then Kim.

MR. CARTER: Barbara, I appreciate that. I don't know that we, you know, the level of specificity, I can completely appreciate your concern there. I think what we were trying to bring forward, though, with that whole process was somehow how to quantify and establish a procedure that we could use. And I think perhaps some of the specificity in there was in trying to utilize the decision tree process and those types of things that the program had brought to the Board previously in how to make decisions and as a first step of that. And how do we, you know, how do we integrate our decision-making process or how do we integrate our communication with the program as a part of the decision tree process that the program has said that it would like to use already. So I think that's where some of that got in.

Now, I would prefer, at the end of the day, to see a document that is very brief and gives some guidelines and some flexibility on that, but I do think it is helpful to have some sort of a written procedure.
CHAIRPERSON KING: Kim.

MR. CARTER: I think Barbara's --

MS. ROBINSON: I appreciate that, Dave, and I -- what I guess I'd rather see, if I -- and I'm just sort of brainstorming here by myself, but -- so it should be short, right, but I -- what I'd rather see is, you know, let's divide it into sort of the major activities or products like okay, what are we -- how are we going to handle things that arise on materials; how are we going to handle compliance issues; how are we going to handle, you know, standards, development issues, those sorts of things? I'd rather approach it from that way because then there will be some questions that arise that basically we need -- we almost need to just kind of like to be able to alert the Board quickly, you know, this is happening.

I mean, I can't off the top of my head think of an issue, but suppose there was one. Now, do I want to take a week to develop a decision tree and tell you, you know, the dire consequences that will happen if we don't answer this question today, da-da, da-da, da-da. I want to be able to get to you, say this is an issue, here's where we believe we need to go but you need to know about this. You need the heads up and you know, and tell us right now if there's something we don't know.
about this issue. I want a mechanism that allows us the
most flexibility that we can have and still have a
productive relationship.

CHAIRPERSON KING: Kim.

MS. DIETZ: I think you have a very talented
group of people up here that are good at writing
policies and procedures so we could certainly come up
with something that's going to achieve our goals. I
also want to remind everybody that at one point we had a
mission statement and we sat down as a group in a
working session for a few days and came up with mission
statement, that we revisit that mission statement and
perhaps somewhere in there we can put some new language
with this collaboration and it's short and concise and
that's between the Board and the NOP, so we should go
back and visit that.

CHAIRPERSON KING: Rose.

MS. KOENIG: I just wanted to mention to the
Board and it's something I talked to some individuals
about that no matter what, you know, you can write down
-- I sort of with Barbara in a lot of ways. You know,
you can have great plans but you still -- you know, the
bottom line is do you follow through with them. And I
think one of our issues that we need to struggle with is
we need to figure out in the next few years -- we're
going to have a big transition off of this Board and our
-- we need to orient new members so that they understand
these linkages and the relationships that are there or
no matter what we write down, there's going to be a non-
functioning relationship, so somehow as we bring on
these new members and then the following year, as the
next group comes in, people not only have to understand
what their role is but how this collaboration works so
that they can get to work and make sure the system
works. So that's something that we need to work with
NOP in figuring out how do we get oriented, you know,
how do new members get oriented to the system so that
they don't lose year, you know, of non-productivity.

CHAIRPERSON KING: I do recall at the June 9
meeting that one of the commenters said, you know, if
everything were running smoothly we wouldn't be having
this meeting and I think that's true and in large part
since that time, things have been pretty smooth and I do
understand the concern of Board members and people in
the industry who would want something in writing, not
necessarily that's incredibly rigid and says, you know,
you must call before you make a cup of coffee kind of
thing, but so that there is some sort of institutional
memory here and a foundation for ongoing relationships
that really are beyond us and beyond you, should you
choose another endeavor. But I recognize what you're saying, Barbara, that there does need to be some flexibility and you have to be able to call upon the Board as needed and not feel like there's a policy and a procedure for, you know, rearranging your desk before you do so, so --

MS. ROBINSON: Well, I'm more than willing to go back and take the framework for collaboration that you did draft and you know, see what -- respond to it in writing, kind of edit it, see if I can up with something that's a -- you know. I mean, let's just negotiate the framework of collaboration, the words. We'll go back and forth with that. That's not a problem. If that is what you -- if having something in writing, you know, really matters and that helps you, then that's what we'll do.

CHAIRPERSON KING: And I guess -- if I could just follow up on that -- I don't know necessarily that "it must be a document." It could be part of our Board policy manual and your standard operating procedures.

MS. ROBINSON: Sure.

CHAIRPERSON KING: I mean, if that accomplishes that, then I think that would be fine, so I don't think we're no -- necessarily married to the document format, but I think what we're saying here is
that we do want to know, ongoing, that the relationships will -- and you know, the policies and procedures will be there to make sure that we have good outcomes.

MS. ROBINSON: Kind of like an MOU.

CHAIRPERSON KING: The acronym for the meeting, right? Jim then Rosie.

MS. KOENIG: And again, I think it's very important -- I don't --

CHAIRPERSON KING: Rose then Jim.

MR. RIDDLE: Okay.

MS. KOENIG: Okay. Sorry, Jim. But you know, I don't -- I think the Board needs to take some responsibility because it is, in fact, a collaboration and we need to write job descriptions, you know, for the -- you know, if you're a Materials Committee chair, what are your roles, you know, so that when new people come in and they're stepping into a position they understand what their responsibilities are when they take that and then who the contact person is and also, you know, maybe some general -- we know -- I think through our experience on the Board, as we're leaving, you know, we know probably more effective ways of getting the job done in terms of, you know -- because I know what Arthur's been saying and I think it's true and when we have these conference calls we need to get a piece of
paper so that, you know, or the agenda or whatever, so I think that's part of that collaboration is what our responsibilities are, to fulfill that as well as the NOP's responsibilities.

CHAIRPERSON KING: Rose, I mean Jim.

MR. RIDDLE: Thanks, Rick. Yeah, I totally agree that as it's most important how we live, not what we say or what we write down, but -- and in our Board policy manual, we do still have the vision statement, admission statement and committee descriptions there already and we need to make sure that those are always up-to-date and build on those because those do carry on from Board to Board, but I -- in Barbara's kind of hierarchy approach of different, you know, types of issues, I really like that.

I think that is more tangible than the document that we put on the table and so if you're going to go back, don't, as far as I'm concerned, feel constrained to edit this, you know. Throw it out. Come up with something that works for you and let us respond to how it might work for us. But what we need is some kind of framework and like Dave said, it doesn't have to be long, doesn't have to be detailed, it shouldn't constrict you from conducting business, but it should also ensure that we're used to extent, a maximum, you
know, extent possible to really fulfill our mission
under OFPA, you know, advising the --

  MS. ROBINSON:  When I give you the edited
policy manual, I -- one of my suggestions was that you
break it into policy and procedures and so you would
have a section in the manual that is devoted to
procedures and this might be a perfect place to put
something like that, is the procedures that -- kind of
the rules of engagement between NOP and NOSB, something
like that.

  CHAIRPERSON KING:  Goldie.

  MS. CAUGHLAN:  Thank you. I've been trying to
figure out how I wanted to frame this, because certainly
we are pleased that we've been able to improve as
between the Board and NOP in understanding and a working
relationship and I think that that is good and that it
will continue to move forward. But I wanted to just, as
a consumer rep, particularly point to the fact that I
think a great deal that might be taken, particularly, to
NOP is that we're doing a lot of talking up here about
the relationship that -- as between the working
relationship between the Board, per se, and the program.
I think the public, the consumers, the other
stakeholders; I think it's very important and I feel
like I just want to state this for the record and to
NOP, that a great deal of the fallout that has come not
only at the April meeting, but at previous meetings has
resulted from the public feeling as though they are not
heard.

And I think when we have public meetings it
certainly isn't a good feeling that people have when
members of the NOP staff are not in the room when the
public is giving testimony. And that was the case
during much of the April meeting and much of the
feedback that I have read and heard has had to do with
this sense of being dist, that when you speak to
someone, particularly when you speak to what it feels
like this large and is, this huge entity of USDA or of
any agency. It's extremely important that the
representatives of that agency be present in a non-
defensive, listening mode.

And I know that you have taken very, very
seriously public testimony. I do not question that, but
I think it is very important that -- to keep in mind as
we move forward in this new spirit of collaboration that
the public testimony that we'll be hearing again this
time and the public who comes to these meetings, travels
at great expense, gives their time, their energy;
there's been a real frustration. And I would hope that
we can work on that specifically and have members of the

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staff be present both in fact and in spirit listening to public testimony, non-defensively, in a sense of moving forward. Because yes, I do believe that we all have the best interests of keeping organic organic as we go forward. Thank you.

MS. ROBINSON: Thanks, Goldie, and we fully accept those remarks.

CHAIRPERSON KING: Thank you, Goldie. Well, we have a break scheduled for 10:00. If everyone's okay with that, we'll be back here by 10:15, please.

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[Off the record]

[On the record]

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CHAIRPERSON KING: Rick, are you prepared to represent everyone at the federal level at this point?

MR. MATHEWS: Authorized to.

CHAIRPERSON KING: Well, yes. We want to continue our discussion with NOP ongoing, but we'll give a chance to round them up. There's Barbara, so good job, Rick.

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[Off the record]

[On the record]

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CHAIRPERSON KING: Well, I'd like to get started again and continue our discussion with NOP and the next item up is a discussion of an executive director position. Jim has informed me, has asked a couple questions at break and he wanted to make a couple quick points first.

MR. RIDDLE: Yeah, first someone asked me about the public comment period this afternoon and there -- on our agenda, there's a list of some kind of suggested topics that the Board and NOP was seeking comments on and -- but people are not limited to those topics. As always, it's an open public comment we can't control and we don't want to. We like new ideas and so we just wanted to clarify that, it's not limited to just that list.

And then also, there was a question about on this docket that is at OGC, hopefully for the final round of review and approval, that that does contain, like Rick said, all of the materials the Board has recommended, including the livestock materials because we got, you know, bogged down in the whole discussion back and forth, FDA and the status of those. Those are included on that docket and there will -- even the six that are currently problematic, they will be described in the docket, as well, is my understanding.
MR. MATHEWS: There are two dockets; one is livestock materials only. Everything that the Board has made a recommendation on that has not been previously acted on with the two amendments that were done last fall, all of those livestock materials will be at least mentioned in this docket, okay? And I say "at least mentioned" because the six that we're not able to put onto the list obviously won't be proposed for addition. The other docket takes everything except for the livestock material. So there's two dockets. Once they're both done, everything the Board has acted on will be taken care of, including the material from last April.

CHAIRPERSON KING: Thank you, Rick. George, go ahead.

MR. SIEMON: Yeah, I stepped out of the room when we did the compatibility -- did I miss the commercially available conversation, as well?

CHAIRPERSON KING: No, they're going to comment at a later date on that, so you didn't miss anything there.

MR. SIEMON: Are we going to talk about it in this meeting here or not? These next few days?

CHAIRPERSON KING: It was my understanding that NOP had requested additional time to comment --
MR. SIEMON: Okay.

CHAIRPERSON KING: -- in the future at some point.

MR. SIEMON: All right. I'm sorry. I missed that conversation. Thank you.

CHAIRPERSON KING: Okay. Okay, if there's no further discussion on materials, or a quick review, we just wanted to briefly talk about -- you know, some have called this position executive director, others have said it's somebody who will act as a liaison to the Board, so I don't want to, you know, limit it just to that title, but we did want to discuss ongoing how we could perhaps have an individual that would assist the Board in their efforts.

MS. ROBINSON: Okay. I'm very happy to report to you on that. A little background. As you know, you are created -- although you are created in statute, you are subject to the Federal Advisory Committee Act. And therefore, spending for this Board, for its activities, comes under what's called a FACA, FACA's the abbreviation of the Federal Advisory Committee Act. It comes under a FACA allowance that is -- this is going to sound a little weird, Congress both puts one foot on the brakes and one foot on the gas.

The Department of Agriculture, as every
federal agency, is given an allowance by the Congress as to how much money in total the federal agency can spend on any advisory committees that it forms. In the past, our allowance to spend on the NOSB has been $90,000 and that has been sufficient to cover the expenditures associated with the activities of the Board. Even though Congress increased our appropriation last year and the report language urged the Secretary to authorize the hiring of the staff director, we still had to -- because that would be charged to the FACA allowance, we had to go back and ask the Department for permission to increase the spending within our own budget and charge that to NOSB activities. We went to the Office of General Counsel and asked if the staff director or the executive director, whatever you call it, had to be considered within the FACA allowance and the answer came back absolutely.

So we petitioned the Department, the Under Secretary for Administration of the Department, and we asked the Secretary, herself, to approve -- it's at her discretion -- to approve an increase in our ability to spend money to hire a staff director. What I was told last week, unofficially, is the answer is yes, we may now increase our allowance by $100,000 so -- in order to hire a staff director. Now, that's -- I say that's...
unofficial. Congress has not yet acted on an appropriations bill for the Department of Agriculture. We're under a continuing resolution by law until November -- I don't know what date it is. It's early in November. I am limited to obligating something less than 14 percent of our budget.

Now, we are assuming, and we believe it's a safe assumption, that Congress is going to cut our budget this year. We'll get the same budget for NOP that we received last year. Therefore, there are sufficient funds to hire a staff director. So with that background -- I mean, that's kind of a long answer to get to -- the answer to the question is yes, we will hire a staff director for the NOSB. Now, that's the good news. The staff director must be a federal employee, so -- I'm going to say this and before you all get upset with me, just let me keep going a little bit.

The bad news is as a federal employee, they must be supervised by a federal employee, okay? They cannot work at the direction of the Board. Now, I know that doesn't sound good, but hang on a second. We want a staff director -- excuse me -- to fulfill the Board's expectations. This staff director, the duties and the responsibilities of this staff member will be to work with the Board. Now, we have your draft position.
description that you sent to us. We also have a
position description for a Board specialist, the staff
director, if you will. What we need to do now is go to
Human Resources, that's our personnel folks, and they
draft up the actual position announcement.

It's our intention to request a 30-day -- we
could go less, but we believe that we need to go 30-day
announcement. All sources at the GS-9, 11, 12 pay
grade. That means that, you know, you might get someone
who comes in and you know, they're just a shining star,
but their qualifications or their education says they
can only start at a Grade 9 or a Grade 11, but they've
got promotion potential up to -- the 9, 11, 12 means
that they can -- if they qualify, they can come in at a
12, but they -- if they only qualify at a 9, they can
come in and they get promotion potential up to a Grade
12. So that's what we're going to do.

Now, the -- I thought about this because I
know you're going to want -- you know, as an advisory
commitee, I can't -- you can't select the person, okay?
The most likely consequence of that will be some sort of
discrimination complaint or some -- believe me, we'll
have problems. We have to go through USDA's personnel
selection process. So what I want to ask the personnel
folks is if there is a way -- if I can ask applicants to
submit short biographies, things that I can give you by way of introduction of the candidates.

I'm also going to ask if there's a way, you know -- very often if I was interviewing someone on my staff or someone to be a member of my staff in one of my program areas, after I interview them, it wouldn't be unusual at all for me to say I want you to come and meet the rest of the staff and you know, then get the staff feedback on the candidate just, you know, because it's good information. You may find out the chemistry isn't there or you know, what I see, they may not see; that sort of thing. So I -- I also want to ask the personnel folks how can I -- once I get a list of candidates, how can we facilitate some sort of -- I don't even know what to call it, but informal introduction or interview with you.

This person is going to have to work closely with the Board, so it makes sense, from my point of view, that you -- even though you can't select the individual, that you say -- you may meet a candidate and you're totally turned off by him. I mean, I -- what's the point of us hiring somebody that, you know -- it just doesn't work. But I haven't asked personnel those questions. I will. And what we will -- it also means the individual that is hired, you won't do their

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performance evaluation, okay, but your feedback to us
will critically influence the performance evaluation of
the individual. So we will do that.

    I anticipate, given the way our personnel
procedures are, although they are trying very hard to
streamline their process, I can tell you there's not a
manager in USDA that isn't frustrated with the personnel
services that we get, but nevertheless, I'm hopeful that
we'll have something out and announced this fall and
then it will take a 30-day announcement period. Then
typically, the process is you give the mail a little
time to clear, although we will try to do this as much
electronically as possible. And once the announcement
is ready, of course, we will notify you. We do
typically -- it goes up on the USA jobs listing, but
we'll definitely notify the Board, because you know
people out there that you may wish to encourage to apply
for this position. So that's where we're going with it.

    CHAIRPERSON KING: If I could suggest perhaps
a test of character would be to provide them with every
TAP review to date and see what the reaction is in the
interview process, but --

    MS. ROBINSON: You do want candidates, don't
you?

    CHAIRPERSON KING: Yeah, exactly. For those
who are not savvy to the whole government format of
employee, can you explain the 9, 11, 12 thing a little
bit?

MS. ROBINSON: Sure. Typically, you know,
when you advertise this will be a -- the category is
called a marketing specialist. We may actually have a
position in the books that's called an advisory board
specialist and if we do, that's what will be used. But
personnel will tell you that certain jobs, there are
limits to the grades. 9, 11, 12 is your salary,
basically. A 9 is -- I don't know, I believe it starts
somewhere in the low 40's. My guess is a GS-12 is -- I
don't -- I have the numbers right in front of me, but
it's low 60's, maybe.

As a federal employee, of course, the
individual will receive all the benefits that a full-
time federal employee would get, so we estimate that at
a GS-12 level, the cost to hire a staff director is
approximately $100,000 and that's what we asked the
Department to spend. So very often, you know, if you
come into the Department, you've applied for a position
and let's say you have a bachelor's degree, you don't
have a graduate degree, but you have a B.S. or a B.A. in
some field and -- or you have the equivalent in terms of
work experience that the government says is equivalent
to a B.S., you may only qualify at a 9, okay? We just can't get you the 11.

You work for a year, provided your performance is fully satisfactory or better and your performance evaluations reflect that, you can be promoted immediately to a Grade 11. And then, again, you could be promoted within one year to a Grade 12. After that, then of course, in the federal system there are 10 steps associated with each grade.

You start at 1 -- the first three years with a fully satisfactory performance evaluation, you get what we call a within grade increase, which means -- so first three years you can go 12 Step 1, then Step 2, then Step 3. Then the government makes you wait 104 weeks to get your next within grade. And then you get up to Step 7 and then the government makes you wait, I think, three years to get your next step increase, so we try to make it as, you know, complicated and you know, non-motivating as possible, I guess, from what I hear from a number of people that -- does that answer your question, Mark?

CHAIRPERSON KING: Well, sure. And maybe even more than I wanted to know, but --

MS. ROBINSON: Yeah, probably.

CHAIRPERSON KING: But Dave, I think you had a
quick question?

MR. CARTER: Well, just a comment, Barbara. I don't know that anything you said that we would differ with or it comes as any surprise as far as this being a federal employee. I think everybody on the Board recognizes that this is going to be hired as a federal employee and there are, you know, certain accountability and review folks. And I think as we were developing the draft, the job description, at one point we put in there that the Board recognizes that the executive director will be an employee of USDA and as such will be governed under all applicable federal employment regulations but to the greatest extent possible, however, the executive director will report to the NOSB chair for day-to-day activities.

And you know, I know that in the private sector you have folks that have certain supervisory responsibilities but they can delegate, you know, certain portions of that and we don't need an MOU on this but, you know, part of the secret handshake, you know, procedures that we've got -- talk about delegating some of the things. Because really what this person is to be responsible for is to be working for the NOSB, with the NOSB chair and you know, to the greatest extent that that can be delegated on a day-to-day basis, I
think is what we're looking for.

MS. ROBINSON: Well, again, I -- you know, I
come back to my earlier statement; we will do it, Dave,
but it can't be written down that way.

MR. CARTER: Right.

MS. ROBINSON: There's just no way for a
federal employee to be supervised by a non-federal
employee, but the job description will reflect and what
I would envision a staff director doing is a staff
director is at every one of these meetings and when you
are developing your work plans and your priorities, that
staff director's working hand-in-hand and that's sort of
dictating the subsequent work priorities for that
individual.

MR. CARTER: But we could delineate, though,
in some aspects -- I mean, if this person's
responsibility is to work with the NOSB or the NOSB
chair, that deputy administrator, when performing the
annual review would gather input from --

MS. ROBINSON: Absolutely, absolutely.

CHAIRPERSON KING: Okay. Do you have a
question?

MR. RIDDLE: Yeah, you said -- yeah, you have,
you know, our job -- draft job description that we
submitted and then you have a job description for a
board specialist and that are moving, you know, towards this, you know, final announcement in the job description that'll actually be announced. I'm just wondering if you're going -- if your plan is to, you know, seek any further input from the Board before, you know, in the drafting of that final announcement and job description.

MS. ROBINSON: To the extent that I can, I will, but understand that personnel has a lot to do with this. They write up the announcement and they have very -- I don't even understand it, Jim. We'll give them -- in fact, we have a draft position description and what I want to do, as I said, I want to talk to personnel and when I find out how much sharing and how much interaction can we do with you to make sure that the right person gets this job and that, you know, that we get where you want to go. And I think -- in fact, you know, the draft position description that we have is quite detailed, is quite comprehensive and quite challenging.

So I -- all I need to do is find out, you know, does anybody in the Department have a problem -- because I don't want to taint the selection process from the get-go, so I need to find out can I share this job description with you and show you, you know, here's what...
we're asking for. Believe me, I have no problem with
getting your input, but you just can't believe that if
you dot your i or cross your t the wrong way, that folks
out there can make -- just make it really difficult in a
selection process and you know, I just don't want to
goof that up.

CHAIRPERSON KING: Kim then Goldie.

MS. DIETZ: I was one of the drafters of the
document, the executive director job description and I
did exactly that. I went onto the USDA web site and
pulled up job descriptions and being that I'm an HR
manager, I'm quite familiar with job descriptions and
processes, so what we gave you we tried to mimic as
closely as we could and in fact, we could go on their
web site and look up this marketing specialist and
probably have a pretty good idea of the job
responsibilities, so we have the information in front of
us if we want to get it.

One of the things in the job description,
Barbara, just for clarification since we're on this, we
weren't sure whether or not this employee would have to
be housed in Washington, D.C. or whether it could be
somebody that's in the industry working out of their
home, so I want to pose that question because it's going
to come up --
MS. ROBINSON: I know.

MS. DIETZ: -- and it's going to have a huge impact on members of the industry applying for this job.

MS. ROBINSON: My preference, Kim, and my great concern about this -- I have thought about this and -- but I believe that in order for someone to serve you well, I believe the person should work in Washington because I believe that person -- in order to serve you well; let's face it, many of the discussions and many of the disagreements that we have had over the past few years have been because we don't understand each other's systems because understanding how the government works is sometimes, you know, something of a mystery to folks who don't work in government.

I definitely believe that the learning curve of the processes of government is steep enough that you can't learn them when you are sitting in your house in Iowa or California. I believe you need to be in Washington and you need to work with, directly with the NOP staff. Now, that may change in the future, if this person, you know, stays with the position and over time it's -- you know, it's -- I've learned never to say never, but at the get-go, I would argue strenuously that that person needs to be in Washington. And I realize that will make a difference in the applicants, but I
just think it's important, to be part of this process, to be part of this program office and you know, to understand how does OGC work, how does the Office of Management and Budget operate, how does our budget get done? I -- you know, all of the things, you know, understanding how other agencies work, it's just -- you can't learn it outside of D.C. or at least, it's very difficult to do.

CHAIRPERSON KING: Can we at least get him a window? Goldie had a comment and then George and then Rose.

MS. CAUGHLAN: Well, several of the things that I was going to inquire about have already been addressed in the last exchange, but I'm wondering, Barbara, in the past when we've discussed the placement of the whatever we call it, executive for the Board, how we've generally discussed it, it's been indicated that although this was mandated by OFPA, that this was unique, is that the viewpoint, is that, in fact, true? Are there any other FACA boards where any similar relationship -- I mean, you've mentioned here board specialist, you've mentioned --

MS. ROBINSON: It is not uncommon for advisory boards to have executive directors, no, that's not uncommon. The executive director -- and by the way,
what do you want this person to be called, a staff
director or an executive director? I've heard you use
both, you know, the act says staff director, you guys
have called it an executive -- what do you want? Let's
settle on this.

MS. DIETZ: Executive.

MS. ROBINSON: Executive director?

MS. DIETZ: Executive director.

MS. ROBINSON: All right.

CHAIRPERSON KING: Yeah, that's what's in our
description, anyway.

MS. ROBINSON: All right. Then to go on,
Goldie. I was once an executive director to Secretary
Glickman's advisory committee on Concentration in
Agriculture and I was a federal employee. The executive
director is typically a federal employee, housed in a
federal agency, the agency that hosts the advisory
committee. There are rare cases of -- we don't even
call them advisory committees in the Department, we
actually call them corporations. The CCC is an example
of a corporation, Commodity Credit Corporation. The
Federal Crop Insurance Corporation, the Rural Utilities
-- it's not the exact name of it, but there is also a
corporation there, that are created by the Congress.

They actually have both private citizens -- I may have
explained this to you once before -- they have some private citizens on the board, as well as federal -- federal employees. For example, the Commodity Credit Corporation, the Board of Directors are all of the Under Secretaries of specific agencies or mission areas in USDA.

Those corporations may often have private staffs, but those are uniquely created by the Congress. The Commission on Agriculture, the 21st Commission on Agriculture you may have heard of that Barry Flinchbaugh was heading up, that was a commission. Again, it was created by the Congress; its authority was delegated to USDA. It actually had its own budget and it had a private staff, but you don't. You have -- you are just simply subject to FACA within USDA and so your advisory -- your executive director has to be federal. But no, it's not unusual at all to have executive directors for boards.

CHAIRPERSON KING: George then Rose.

MR. SIEMON: I was just going to ask a question about the interaction with the committees, you know, in the spirit of collaboration I think it's really important that whoever in the Department's working on issues like livestock work with a livestock committee. Is it envisioned that that will continue or is it
envisioned that this new person will be the only committee support person?

    MS. ROBINSON: Well, that person would probably have to work 36 hours a day --
    MR. SIEMON: I know.
    MS. ROBINSON: -- if he was going to serve all of the functions that the NOP staff have tried to serve, so I don't -- you know, I see that -- I see a primary task of this person to assist the Board and the materials process to making sure that there is the most rigorous process to making sure that you have the information that you need, that the petitions are done right, that the TAP reviews come back, you know, satisfactorily, that -- you know, because that is a major function of your Board.

    But -- and while I see that person also working closely with the Board on its various other activities, you know, I don't see this -- I don't know that it would work to just, okay, well the NOP staff says okay, we hired a staff director, that's it. You go deal with the Board and we're off to do other things.

    Well, now we've just destroyed the spirit of collaboration and probably thrown a wrench into any other types of efficiency that we were going to gain, you know, again the idea would be that we would add
another resource who rather than, you know, the whole staff trying to say deal, you know, pick up -- they're trying to backstop each other and do various -- we would have a person identified who is speaking with the Board and then speaking with the staff and we would have a more efficient communication and working relationship with this person. But again, I guess I see this as something that, you know, we'll -- we'll work it out, we'll -- you'll talk to us. Once this person is hired, you know, we sit down and there will be the development of that person's work plan for the fiscal year and you know, and we'll go from there.

MS. KOENIG: Which, I guess, that brings me to my point in terms of the USDA hiring -- as I understand, when it goes through the -- the personnel takes that job description and what you say the qualifications are, they do that screen so even if you had somebody in mind, unless that description had a qualification that met their qualifications, they would never even reach you, so that's what I understand in terms of the process.

So as I look at that job description in terms of qualification, it's my opinion that I would emphasize probably that chemistry or ag background and drop the administrative qualifications if, in fact, the Board deems materials as an essential function or the function.
that maybe is not, you know, well-represented right now in the NOP staff, if that's the qualifications that are the most important because the way I read the description -- I guess that's my question to you, how would personnel, given those qualifications that you're looking at, how would they do that pre-screen? Because you have administrative and chemistry so would the person have to have all of those qualifications to reach you or do they -- would they only have one?

MS. ROBINSON: No. There's -- the way the job description is -- will be posted -- we'll probably do this through our, what we call our pair [ph] system, it's an electronic system and there will be a set of general questions that each applicant will have to address, you know, and they'll have to say, you know, whether they -- things that run the gamut of, you know, have you ever been convicted of a felony, you know, what's your educational background, where have you worked before, you know, have you ever been a federal employee? Those sorts of things. There'll be a series of general questions and then there'll be these questions we used to refer to them as the KSAs and we used to have our own interpretation of what that stood for, but it's knowledge, skills and ability, is what that means. And what we'll do is you -- there's where
you put in your specific things that you want an applicant to really pay attention to.

For example, very often we'll put in a KSA that says, you know, understanding of organic marketing or you know, or the Ag Marketing Service, so we'll say understanding of marketing systems within the United States for agriculture. In this case, maybe we'd have a KSA that says familiarity or expertise in basic food chemistry or plant biology or something of that nature.

What happens is the person will be able to electronically say yes, I have some experience and then they'll be given the opportunity to elaborate on that, to write in for however many pages electronically they want to tell us about their qualifications in that area. Personnel then gets all these and they actually score them. I don't know exactly how they do it, but they score them and then they will present us a list of the folks who meet the minimum scoring and maybe like 80 out of a hundred points. So then we'll get that list and then we'll go through them all and then, you know, decide, you know, you sometimes -- sometimes you see the person that you think is the ideal candidate, you see them right there and call them up and offer them the job. More often, though, you call them all up and schedule interviews and bring them all in.

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MS. KOENIG: So that -- and -- so that knowledge base area's really where -- that's what I was saying, that the determination is made. I mean, I think that the job description that was provided kind of is a nice descriptive, but it seems like the input that we really need to provide is more in that knowledge base area or maybe we can't provide those, I don't know, but that's where you kind of -- you further define the qualifications you need --

MS. ROBINSON: Yeah, that's exactly right.

MS. KOENIG: So that's where the Board needs to --

MS. ROBINSON: Right.

MS. KOENIG: -- address it because just having a nice -- the other stuff is all kind of nice after the fact, it's --

MS. ROBINSON: Well, it's all teachable.

MS. KOENIG: Right.

MS. ROBINSON: It's all teachable without those specialized degrees. It's like the conversation you and I were having the other day over the e-mail system that I really regret -- well, I don't regret, but obviously my education is deficient because I skipped a lot of chemistry and biology courses and where I could. And now I realize, you know, I could've learned
something, I guess. So yeah, you would like to -- there are things that are easily taught on the job. Chemistry is not one of those things, so if that's a specific emphasis that you want -- and we have some folks in our science programs that can probably help us draft a KSA geared toward that, but we strongly suggest if you've got some specific language you want to see, send it in, because we'll use it.

MS. KOENIG: Yeah, and I think that's really an important point because thinking about candidates that may be scanning the AMS kind of web site, they're not typically necessarily going to be your science individual, so I don't know -- or maybe people just do a general job search, but --

MS. ROBINSON: Well, you never know. I mean, there are -- there's maybe folks from FDA or EPA who are looking for different job opportunities. There are science-based agencies throughout the government, so there are -- there's a candidate of pool -- I'm sorry -- a pool of candidatures, I'm sure, within the federal government and then, you know, you hope that there are folks, you know, graduate students coming out of universities, people at universities. Somebody who, you know, is interested enough in the topic area and has the expertise that, you know, we get some candidates to take
CHAIRPERSON KING: Quick follow-up and then Kim. Obviously you have the document we forwarded that's been approved by the Board concerning what we're calling the job description for executive director. In hearing this, you know, what you're calling knowledge, skills and ability, is there a need for the Board to have an action item that describes some of these KSAs, if you will, for lack of a better term, that would be involved in this?

MS. ROBINSON: It would probably be helpful. Again, we'll -- you know, I'll talk to personnel and I'll try to draft something up, but I also don't want to send a job announcement forward that doesn't meet your expectations, so I guess what I'm saying is yes, your input would be very valuable, but at the same time don't wait, okay?

CHAIRPERSON KING: Well, I'm just thinking this could be an addendum, if you will, to the original document, just as an attachment, very brief describing --

MS. ROBINSON: Sure.

CHAIRPERSON KING: -- the skill set that we hope to receive.

MS. ROBINSON: Sure. Okay.
CHAIRPERSON KING: Okay, Kim.

MS. DIETZ: Just for those in the public, I just wanted to read to you our qualifications. These were the things that we said we wanted to see in this job description and if we need to put it in a different format we can do that and I'd be happy to take that task on and pass it by the Board and put in the KSA -- but usually, when you draft job descriptions you want your requirements and required skills and desired skills.

And we put required as the education and training that we wanted a B.S. or B.A. or higher in management administration, agriculture, food technology, chemistry or related fields. And so typically you don't limit yourself, you look for the most well-rounded individual that you can in all those areas.

Granted, it's tough to get somebody who's highly -- who's got high administrative skills with high science skills. Typically, you don't find both of those. Experience is experience managing professionals in a highly technical, regulatory and public service-type organization. Proven ability to write and do public speaking; good computer skills; we desired qualifications knowledge in OFPA and NOP regulations so if somebody in their application had actually been involved in the industry and knew OPFA and knew NOP...
regulations, that would be an added plus. Experience in organic agriculture and/or organic food handling and then knowledge of organic certification and accreditation. So that was our little wish list in the person who's going to be getting this position. So we could certainly take that and put it in that KSA format somehow.

MS. ROBINSON: Okay.

CHAIRPERSON KING: Owusu.

MR. BANDELE: Yeah. I have two points. I think I see some problems in that required qualifications. Often times when you're putting out job descriptions, the fields are relatively related; agriculture, organic horticulture [ph] or related fields, whereas this one, it's really hard to tell where we are prioritizing those skills. I think, maybe, as we work in the draft more we have to maybe refine that because otherwise, it's a whole range of things lumped together as I see it. And second, I have a question, Barbara. I know like in academia sometimes if a position is open, there are informal situations whereby -- like students and other people who are not really decision-makers get a chance to interact with the applicants. Do you envision that type of scenario with maybe the Board chair?
MS. ROBINSON: You mean prior to the selection?

MR. BANDELE: Yes.

MS. ROBINSON: That's what I'm going to ask personnel about, Owusu, is how can we get some information of the candidates to the Board so that we can make sure that you're as involved as you can be within the law for the selection, whether we -- that's why I said one thought I had was, you know, asking the applicants to submit short biographies as a way of introduction, you know, something that I can actually send to you so you can read them. You know, very often -- I'll be honest with you. When I read applications how -- even though I haven't met a person, how they put themselves forward on paper says a lot to me.

I mean, I have some certain pet peeves. Somebody can't bothered to use spell check or complete their sentences and in my program areas I require the ability to communicate well and do writing and so, you know, they don't generally fare well on my first reaction list. But I do believe that the way people communicate about themselves on paper is very valuable.

So that was one thought I had and then the second part is that I will ask personnel how do we get a group of candidates, how do -- you know, your schedules
are impossible to deal with, so that's the other thing, is even if personnel says okay, yeah, you can do this, you can have a little tête-à-tête with the Board, it may be that you will have to say, you know, you're going to have to trust a group of you, a subgroup of you, some subset of you to, you know, whose schedules permit to come in and sit down and spend a day meeting with the candidates. I -- you know, I don't know. Again, those are the details, you know, the devil's always in them, but we can work through those; those are feasible. But we'll do what we can to get you the information and get you introduced to the candidates.

CHAIRPERSON KING: Thank you. I mean, that helps a lot, the update was very thorough and I appreciate that, but before we move on I have a quick question concerning the action on this for the Board based on Kim's reading of our current document. It sounds like we've covered a lot of the skill sets that you had mentioned.

MS. KOENIG: I think -- well, personally, I think you need to be pretty specific and you need to do some -- again, those -- the way that that knowledge area is going to eliminate -- is where the elimination occurs, you know, the first cut occurs, so I think that you need to really be pretty specific in that --
CHAIRPERSON KING: So my question is this, do we want to re-format that and --

MS. KOENIG: Yes.

CHAIRPERSON KING: -- and forward it on to NOP or --

MS. DIETZ: Yes, we can do an addendum to it.

CHAIRPERSON KING: Okay. So we have agreed to do an addendum. And Kim will take the lead.

MS. DIETZ: Yeah, I'll do that. Just one comment on the -- Owusu, on the variety of qualifications, you know, whether it's science or administrative. We really didn't want to limit ourself [sic]. Our intention was to hope to try to get somebody from the industry to fill this position, so by limiting that means you're going to knock out a candidate, so we just need to keep that in mind, too, that not everybody has science degrees or food science or agriculture. There might be somebody with a degree in psychology or something that -- yet, they have a lot of experience in the industry, so it's certainly the will of the Board but we didn't, at the same time, want it -- narrow it down so much that we couldn't see candidates.

CHAIRPERSON KING: Go ahead, Jim.

MR. RIDDLE: Yeah, just one more detail, then. Kim, does it work for you to redraft that, get
something around to us and us to finalize it at our next executive committee meeting? Will that work for you?
So that's one month we're setting for ourselves, then.
Okay.

CHAIRPERSON KING: Whoops. Okay, our next agenda item is the Materials Review Process and looking at how we're collaborating with NOP and how we're part of that, so I know earlier, I believe, Barbara, you had mentioned in your description of our sort-of ongoing working together, if you will, that petitions will be forwarded to the Board and then so on and so forth, so I want to throw that out as an example of how we're hopefully improving this process ongoing and of course, we're all aware of the forms that we use now and how that's helped the process, so I just throw that out to hopefully set the stage for a discussion on how we can further improve this process.

MR. NEAL: I think that over the course of the past four to five months, we've seen an improvement in the Materials Review Process. We've worked very closely with the Materials Committee and discussing petitions, issues concerning petitions. Matter of fact, we've even sent out all of the petitions to the whole Board for comment on those petitions to find out how such petitions met the categories of exemption under OFPA,
any outstanding issues that the Board may have felt that
needed to have been addressed by TAP contractors.

What we plan on doing in the future is making
sure that to make -- to ensure that we get a full TAP on
petitions, that we receive Board input on the petitions
first. And if the Board is reviewing the petition in
the respective committees, they see that there are areas
of that petition that need to be further elaborated
upon, that they will give us those questions in their
specificity and we will supply those questions to the
TAP contractor so that the TAP contractor can provide
further scientific information on those particular
questions so that the Board can have the information,
the necessary information to make a well-informed
decision.

The new, I think, element of the review
process that we're going to implement is that once we
receive the TAP reviews, we're going to supply those
reviews to the committees and to the Board for a review
of sufficiency, whether or not if those TAPS have
addressed the questions adequately, the OFPA criteria
adequately because we don't want to continue a situation
where we come to a Board meeting and the comment's made
well, you know, the TAP wasn't good, so we're going to
defer on the material. We're going to try to address
this up front. If the TAPs aren't sufficient, we want the Board to comment on it, on that up front. And we supply the TAP contractor with the information that needs to be further elaborated on. And that gives them the opportunity to make sure that the Board has the type of product that they need in order to make that well-informed decision.

After we're satisfied with that TAP, then we're going to make that publicly available and then the process is going to begin for the review of that material for a decision at the next meeting. I think that in terms of the Materials Review Process, that is mainly one of -- that's one of the main hang-ups. The other one is, I think, the issues surrounding what is synthetic, what is natural; the types of substances that can be reviewed under OFPA and those are discussions that are on the agenda for the next two days, two and a half days.

CHAIRPERSON KING: So am I hearing the need for another form? I'm kidding. But actually, I think you're right, that up front we need to know right away, do we actually have sufficient information to move forward and although I said that jokingly, I guess that -- that is a sincere question. I mean, do we need a check list? Is that the sort of thing we're looking for.
and do we think that would be helpful?

MR. NEAL: That -- let Kim address, first.

MS. DIETZ: Well, that was the first thing that came to my mind. I'm assuming Rosie has already thought of this, but really part of the TAP process in the past was that you can't just have subjective comments. If you're going to ask for feedback from this Board, you want it to be relevant, it should be relevant to OFPA, it should be relevant to what we're looking for in a TAP and not biased opinions. So we need to have some kind of document review form so that there is consistency. So we need to start working on that, it sounds like.

MR. NEAL: Sounds like a work plan item to me. And just to comment on that, too, though. Based on soy protein isolate from the last meeting, the Board had developed specific questions concerning that TAP. We supplied those questions to the TAP contractor, the contractor responded to those questions. As the committee reviewed the supplemental information, they saw further information that needed to have been identified. So we sent more questions to the TAP contractor; they supplied information with that. All of them were very objective, not subjective. And I do believe that the committee's satisfied with the
information that they have received, but in response to your item, Kim, a check list probably should be developed.

CHAIRPERSON KING: Jim.

MR. RIDDLE: I think this sounds like some good improvements, especially this opportunity to kind of defer a TAP before it comes up at a meeting, the inadequacies, but that is dependent on that arriving in time for the Board to be able to really give it a thorough review or the committee to give it a thorough review.

There's been times, of course, when we've gotten them right before a meeting and then we find out these just are inadequate and -- the other concern of mine and I don't think it's addressed in the, you know, upcoming agenda item, per se, and that is the, you know, the Board submitted a couple letters earlier in the year about the Materials Review Process and in particular some concerns about the, you know, new compounds made from, you know, synthetic substances on the list and allowance of those compounds without going through the petition process. And I don't think that that's been resolved yet, that issue. So -- and I don't think we can or will resolve it right now. I'm just bringing it up as a placeholder and the same thing on that
phosphoric acid and aquatic plant extracts issue. We
just don't want to drop those, you know, from this
consideration.

MR. NEAL: Those have not been forgotten.
Those issues were raised. We're well aware of them and
I think that for -- to a certain extent, they're going
to be touched upon in this agenda item because the
Materials Committee's looking at extraction processes.
When does something -- when does a material become
synthetic? And Rose's discussion she supplied about the
synthetic process.

MR. RIDDLE: Um-hum.

MR. NEAL: You know, these are types of
things -- does combining two materials render it having
to be petitioned? These are things that are probably
going to come out of the discussions that are going to
be held here this week.

CHAIRPERSON KING: All right. Okay, if there
aren't any other questions in a related matter, or if we
could talk a little bit about the TAP Contractor
Statement of Work, where we're at with that, that sort
of thing.

MS. ROBINSON: We got presents.

CHAIRPERSON KING: Thank you.

MR. NEAL: What you're going to be receiving
now is the Final Statement of Work that was used in seeking out TAP contractors for this year's fiscal, for this fiscal year. As you guys know that we -- you know, we've talked about the process and we've tried to engage in the process as much as possible. We inform you that in seeking TAP contractors, the process is mainly handled out in Minneapolis by our Field Service offices. The funds that we had to operate with were $300,000 and from the outset we were seeking to attain multiple contracts for conducting TAP reviews for the National Organic Standards Board.

Initially, we set out to, I guess, seek bids for the work that needed to have been completed, but due to the time constraints that we had, Minneapolis chose to initiate a Sources Sought Notice. And what that notice did is it sought interest in the -- in the specific work that was identified as needed to have been done by -- for the National Organic Program on behalf of the National Organic Standards Board. They chose to use this Sources Sought Notice to cut time. For us to go out and seek bids on the particular work may have cost us the ability to allocate the funds within the specified time frame. So in conducting this Sources Sought Notice, the generated a list of respondents and through these respondents they assessed the experience
that all of the respondents had based on the Statement of Work that we provided to them.

After assessing all of the respondents, they identified respondents that had the best qualifications for conducting the work that we needed to have conducted. Out of the list of respondents that they had, there were two that they chose and they chose those two based on their experience and the fact that they appeared on the General Service Administration's list, meaning that they already had accounts to perform work for the government in the area specified. So what they did is they had a limitation of $100,000 that each one of those contractors could receive. So with the two respondents that they had chosen, that meant that $200,000 had been allocated, so that left $100,000 outstanding.

Based on a list of respondents that they had, they were not able to find a respondent from the all sources notice that they had used. They were not able to find a respondent that could perform the work to the level expected, so what they did is that they extended a $100,000 contract to Virginia Tech, because Virginia Tech was already performing the type of work that we needed to perform. So that pretty much sums up the process in terms of the TAP contractors that we have.

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Oh, by the way, for one contractor, the name of the contractor is Woven Egg Consulting out of Latham, New York and Denver, Colorado.

CHAIRPERSON KING: Could you repeat that --

MR. NEAL: Woven Egg Consulting. Woven Egg --

UNIDENTIFIED SPEAKER 1: W-O-V-E-N?

MR. NEAL: Woven, right. W-O-V-E-N.

UNIDENTIFIED SPEAKER 2: Woven Egg?

MR. NEAL: Woven Egg.

CHAIRPERSON KING: Egg.

UNIDENTIFIED SPEAKER 2: Consulting?

MR. NEAL: Consulting.

MS. ROBINSON: Don't worry about the company name. It's the qualification, so --

MR. NEAL: Yeah, well.

MR. RIDDLE: From New York and Denver?

MR. NEAL: Latham, New York and Denver, Colorado. And ICF Consulting out of Fairfax, Virginia. Both of these have been identified as highly reputable companies that are specialized in performing the types of scientific reviews on substances for EPA, FDA and other federal agencies. Are there any questions concerning the process?

MR. RIDDLE: Yeah, but we don't know what they are yet. We just have to --
CHAIRPERSON KING: So when will these two new entities begin reviewing?

MR. NEAL: We have, based on the collaborative process and the Board's input on the List of Materials petitions that we received -- there are only really three that can move forward. What we're thinking about doing and we haven't finalized this yet, but sending all three to all three TAP contractors to see the type of work product that we receive from each, since we've not used two of them before and we have used Virginia Tech before, but that would give us a litmus test in terms of how they perform under the new Statement of Work that we have.

MS. ROBINSON: It does mean spending a little bit more money in the short run, but we really feel that it's time to -- we need some gauge, we need to able to get information back from these folks and these are all, of course, performance-based contracts and so we want to be able to know very early on in the game are we going to get the kind of performance out of these contractors that is satisfactory, so we figure what better way than to see how well they do, you know, up against each other for the same materials and -- okay.

MR. RIDDLE: We're also hoping that this would help in developing a model for all report so we would be

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looking to take the best from all three to create the
model for how all three vendors would do it in the
future. And of course, we would be looking to you for
input on that, as well.

CHAIRPERSON KING: Rose.

MS. KOENIG: One is just kind of a financial
kind of question and then I was going to -- I'll ask the
question later because I need to think about it, but as
far as when you give that -- when you get a hundred
thousand dollar award, what happens if it's not
utilized? Are we wasting $12,000 by -- I mean, it seems
-- I guess out of the experience of researching soy
protein isolate -- it's not rocket science, this stuff.
I mean --

MS. ROBINSON: You're right, Rose.

MS. KOENIG: -- if you understand the
categories --

MS. ROBINSON: It shouldn't be rocket science.

MS. KOENIG: What?

MS. ROBINSON: I totally agree with you. It
should not be rocket science. I don't understand why
the quality of the TAP reviews has been of the quality
that it's been and you know, I read the Statement of
Work and I'm not, I don't have a scientific background,
but it seems to me that, you know, what we're asking for
is rigorous research and a good letter to review and an understanding and comprehension of these materials and if you've got that kind of expertise you ought to be able to do it. Are we wasting money? I don't think so. We would've wasted the money had we not awarded the contracts. We had to -- you must obligate the funding by the end of the fiscal year; it simply reverts back to the Treasury. We don't get to save it for the next year. If the services are not paid for until they are rendered, if we have a bad contractor in the mix, they just won't get any future materials. There'll be nothing for them to bill against and -- you know, we're not going to throw good money after bad if the performance isn't there.

MS. KOENIG: I guess, you know, one suggestion rather than giving the same material to three contractors would be -- especially with the two new individuals and it probably wouldn't hurt with Virginia Tech and I don't know if it's -- if you would consider it kind of being too much Board input, but I would be happy, kind of, to work as the chair. And I know you don't like that direct relationship, you know, because it's caused issues in the past, so -- you know, as far as -- but I think that the relationship would be in terms of performing that work, not my opinion on a
product.

MS. ROBINSON: You mean contacting the contractor directly?

MS. KOENIG: Well -- I don't want to contact -- I would like to see the -- you know, as people work on those criteria, that there can be some kind of quality check before we get that final product and that we can, you know, maybe through Arthur, look at those at some point so that, you know, in this first TAP contract you have little bars where you have to -- once a section comes, let us look at it and kind of critique it before they get too involved and finally have the final product. You know, so I think that would be a better way of going about it than giving the same contractor all the stuff because it's guidance it appears that people need if they have the technical background, it's just performance on -- and what -- the product we want rather than --

MR. MATHEWS: We -- I believe the Board and NOP, in the past year and a half have come a long ways with regard to Materials Review. And I say that because we have had problems with the quality of petitions, the quality of the reviews and I'm not prepared to say that this is the fault of a vendor or the fault of the person who filed the petition. I think this is something that
can be shared by all of us. And I've spoken repeatedly over the last couple years about a global approach to the entire Materials Review Process. And I think we've made leaps and bounds in gains on that over the course of the last year and a half.

For example, we now have the check sheets that you use; we're developing where there's a better description of reasoning that you've made. Those check sheets then are what gets passed back to the vendor so the vendor now looks at this from the standpoint of well, this is what the Board needs so that helps them understand how to put the report together. And I think that works all the way back to the person who is filing the petition. So we've made a lot of progress in that area. The Statement of Work is another example of where we have enhanced previous work products to make it easier for the TAP reviewers to understand what is expected of them.

The comments that Arthur made earlier of well, we'll start sending the petitions out to you to look at it to see what you think about the petition, itself. Is the information that is needed there? Is there something about this product that you think is unique, that maybe something that isn't in the Statement of Work needs to be added in. I can also envision that we would
send the petition back to the petitioner and ask them
for more information. One of things that you're working
on at this Board meeting is a document that is going to
help us receive better petitions.

So I think we're making leaps and bounds. I
think that I kind of favor the idea of putting the
reviewers to the test. So we take one, two, three,
whatever and send it out to them and say take your best
shot at this and tell us, you know, do what you would do
for us. We look at that and maybe we wasted some money,
maybe they all come back with reports that are
identical; I doubt it. But at least then we can look at
what we're getting as work product. We'll know where we
need to work with each of the vendors to bring them up
to your expectations, to bring them up to our
expectations.

If we give them each a different material to
do, the problem I see with that is that each material
has unique characteristics that one might find but
another one not; but if we give them all the same
material, they're all working with the same issues and
hopefully, they'll all be picking up on the same things.
Am I explaining myself clearly on that? I just think
that if we're giving them all the same test, then we
know whether or not they've met our expectations and
whether they don't. That's where we help them do a
better job for us.

MR. NEAL: And just to comment real quickly,
it's more of a benchmarking procedure or process that
we're using. This is common, very common amongst many
industries. We're trying to set a benchmark so that we
can improve on where we are currently.

CHAIRPERSON KING: Jim then Kim.

MR. RIDDLE: Yeah, I really appreciate you,
you know, expediting the process and you know, having it
as a priority and not losing that money, so I -- and I
don't see this kind of test that you've set up as a
waste of money. I think it could really avoid wasting
money in the long run. So I -- you know, I think it's
innovative and I think it could really help, you know,
weed out or improve the -- at any rate, improve the
quality of the work products. So I think that's a good
idea. But I did want to come back to what Rose was
saying as far as the Materials Chair, providing some
input or direction. I know that when U.C. Davis and
Virginia Tech first came on several years ago, that I
think it was Kim had put together kind of an orientation
packet for them. I'm assuming that you put together
something along those lines this time, you know. I
mean, you've improved the Statement of Work, we've got,
you know, the forms. I mean, things are just better to
go in that packet, but I would like more of a response
or a clearer response to whether, you know, the
Materials Chair has a role in that orientation, as well.

MR. NEAL: We have discussed bringing all the
contractors together so that we can have an orientation
and I don't see a problem with the Materials Chair
having a role in that orientation process.

MR. RIDDLE: Um-hum.

CHAIRPERSON KING: Kim.

MS. DIETZ: Thanks. I also was just going to
reiterate; I know that as past chair it takes a
tremendous amount of effort to manage that process and
it is an evolution and has been for quite some time. I
also just want to remind everybody that with Virginia
Tech we actually hired Richard Thore [ph] as a
consultant to go in there and work side-by-side with
them to get these TAP contracts correct and it still
wasn't adequate enough. It's not just easy enough to
put on a piece of paper, so whatever we can do to ensure
success and not failure on this, whether it's, you know,
Rosie's input or the Materials Committee ahead of time,
I think is certainly worthwhile.

CHAIRPERSON KING: Rose.

MS. KOENIG: Yeah. I would just -- you know,
I'd just like the, I guess, the Materials Committee to have an opportunity to think about, you know, these pros and cons about, you know, whether the three -- I mean, it may be a good model, but let's -- let us think about it and give you that input as far as, you know, does that make sense, is that the appropriate approach. Because, I guess -- you know, and I need to think it over in my mind, but to me, my gut is is that no matter whether material X, Y or Z, you can assess quality. You don't have to necessarily be doing the same -- you know, it's just like an exam. You give students the same question, you know, many of them have the right answers. So it -- and I understand that approach.

We have a pretty descriptive idea and I think, you know, quality is something you can judge no matter what you give. But let us think about that a little bit. I guess it's my economic -- farmer. I just -- it seems like an awful lot of money to spend on one thing, you know. But anyway, let me think about that.

MR. MATHEWS: And we appreciate that. The whole idea behind this is to -- it's not a pass/fail type situation. What it is is that we're trying to identify where we may have weaknesses and I can envision that we'd have weaknesses from all three, where they don't -- where none of the people would totally meet all

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of our expectations and they would probably be different reasons. And what we're looking for is a way to early on in the process identify areas where we might have concern so that we could work with these people early on so that in the future the TAP -- the report would come in to us and we would send it out to the Board and the Board would say it looks good, let's go for it, rather than having the Board say well, they didn't answer this or I've got concerns about the way this was put together. So then we go back to them again. So I'm not saying that'll never happen, but what we're trying to do is identify ways up front so that we can make sure that we always receive a quality work product from all three vendors.

MS. ROBINSON: And I'd just like to add one more point on this before we move on or answer more of your questions. You make a very good point, Rose, but I guess our thoughts are that this is actually an investment that we're making, not an expense and when I look back over the past few years of the expense that we have incurred for work that you've been greatly dissatisfied with, I guess I would rather make this expenditure, this investment now and find out before we just, you know, go down the same path.

MS. KOENIG: I guess -- you know, as a

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scientist, again -- the thing that's wrong with --
what's flawed with your theory is that it assumes that
the controls are always going to be the same in
repetitive action, okay. So if you're using the same
personnel and under the same conditions, yes, you
probably could get a repeat but we're dealing with
companies that may hire graduate student and then they
hire a different graduate student. So you know, that's
why the -- to me, the stop gap is at the quality
control. What quality control do those contractors have
so that they internally make sure that they, themselves,
are doing that. I mean, I think it's great that the
committee does a second quality control -- feedback at
that, but that's, to me, the quality control at the
company level is the most important because the
variables change in companies. So -- and that's why I
think that your theory is flawed, but again, I'll think
about it. With due respect, but --

CHAIRPERSON KING: Dave.

MS. ROBINSON: Okay.

CHAIRPERSON KING: And then we'll wrap
this up.

MR. CARTER: Yeah, just briefly. I guess,
Barbara, I'll take a differing view because I actually
think that that is a good upfront investment and I think
yeah, Rose, you're right, you do have different controls. But I think when you do something upfront, you can get a pretty good sense of where the strengths and the weaknesses are and use that as some forward decision-making and save money in the long run.

CHAIRPERSON KING: And for what it's worth, I like your proposal and think that it would be a good indicator, at least to start from. So also -- we can wrap this up? Good. Next up -- and you mentioned this earlier, so we may not have a lot to talk to about, but a lot of people have talked about the letter of understanding, if you will, with OMRI and how that's moved forward and so it is on the agenda and we wanted to briefly touch on that.

MS. ROBINSON: I don't really have too much more to add than what I said earlier this morning and that is that in Chicago OMRI approached us and said, you know, we need to make sure, we'd like to make sure that the Generic Materials List and the National List are in complete synchronization. We agreed because we also know that we've had problems, we've had auditors out on sites with certifying agents who have said their reference for approving materials used by operations is the OMRI list.

And we fully recognize that it's a far more
user-friendly list than the National List. It's certainly been there longer than the National List and it is what certifying agents are used to, comfortable with and it's what they turn to. But neither OMRI nor USDA want there to be conflicting information out there and we also want a process, an auditable process whereby accredited certifying agents are referencing the National List as the source of their information about approved materials. Again, we have no problem with certifying agents using OMRI's Generic List, but the Bible, the source, the last word on the matter is the National List.

So we agreed that probably what needed to be done is that we need to take a look at OMRI's Generic Materials List and -- so we just agreed to do it and we said we would put it in a letter and that was the letter we shared with you before we sent it to certifying agents. And since we've done that, we've had a couple of phone calls with OMRI and the way it's been working was they would -- we let them select the priorities, the materials that they thought they had some questions about that they wanted to be sure that they were the way they described their use and their approval status and their generic list was copasetic with, you know, our interpretation on the National List. So we have gone
through those.

Unfortunately for OMRI, basically, in a couple of the materials we said sorry, guys, we're just going to have to go back to the Board. And those are on the agenda, I believe, to be discussed. So -- and so we had a call -- I think the last call, actually, that we had was in late August. We did not have a call in September because we were going to commit to sitting down and actually looking through the whole OMRI Generic Materials List and picking out materials and we just frankly didn't get it done. So we postponed our September call.

But at any rate, that is the -- that's sort of the informal working relationship that we're trying to do and we made it very clear to OMRI that where there are questions that we cannot clearly answer based on the information that we've gotten from the Board, that we're bouncing them right back to the Board, that we are not giving them out an answer.

CHAIRPERSON KING: Jim then Kim.

MR. RIDDLE: Yeah, I don't disagree with anything you said and totally understand that the National List is what should be cited in inspection reports and in certification decision letters, or must be, you know, and not the OMRI Generic List. But the
issue that's not being addressed here and I put this in my comments back on the draft letter is the status of the OMRI Brand Names List for formulated inputs and ingredients and there's, I think 46 accredited certifiers that essentially subcontract to OMRI to perform that service.

You know, each certifier has to, end of the day, make a determination if a formulated substance meets all the requirements of the National List and OMRI performs that service and I know that, you know, it's a big issue and you've got to get the Generic List squared away first, but what's really going to be helpful to farmers, processors, inspectors and certifiers is to know what the official status of a formulated product is once it has been placed on OMRI Brand Names List. So I don't know, you know -- interested in your comments on that.

MS. ROBINSON: I don't disagree with you, Jim. I think -- and I don't dispute the importance of it. We simply haven't got those resources right now to do that. And -- but we -- and we fully expect that OMRI is doing the due diligence in making sure that when they put a brand of product on their approval list that it does, indeed, meet the National List.

The questions -- and in fact, you know,
they're not asking us to review materials on the Generic Materials List that are, you know, clearly there they are on the National List. They're talking about in many cases, kind of, they're not even materials. They may actually be a practice or something -- and they want to know that the way they've written it up, there -- it's not causing any confusion either with the regulatory language or with the Board's recognized recommendations or with the rule, the regulations, themselves.

So sometimes it's not -- I don't mean to imply that when we said we're going to review their list that we're okay, they've got hydrogen peroxide; do we allow that on the list? Well, we look on the list, yes, we do. So it's not that, it's more, you know, the types of things that are in the OMRI list, yeah, and annotations. And frankly, I just -- you know, I just don't envision us getting to that brand name review any time soon.

It's not -- I don't -- like I said, Jim, I don't disagree with you that it's important, but it -- you know, unless you tell us that that's like a number one priority for us to redirect resources to, I think you have to rely on, you know, the integrity of OMRI's review process and their desire to serve the organic community as we do and as you do and you know, go from there.
MR. MATHEWS: One of the other things you have to keep in mind though, Jim, is that while OMRI has a wonderful list of branded products, not all branded products that would qualify are on their list and so certifying agents need to keep that in mind, that they can't deny a branded product because it's not on the OMRI list, they have to be able to demonstrate that it doesn't comply with the NOP. So if the branded product is not on the OMRI list, it may still be eligible and it's incumbent upon the certified operation and the certifying agent to work together to verify whether or not that branded product that's not on the OMRI list does indeed meet the NOP. If it does, then it can be used. If it doesn't, well then obviously it cannot be used.

MS. DIETZ: I'm going to take just a brief moment. I was one of the original founders of OMRI. There were five of us that sat around a room, I can't tell you how many years ago. Girls -- Brian and Emily in the back there will remember. But I think it's just a great achievement this industry is finally, you know, coming to this point where we're working with OMRI. Our intention, originally, was to merge them together and for OMRI to provide a tool to the industry where the NOP couldn't. So I think that's the goal. I want to
acknowledge Brian Baker and Emily back there, along with Lynn Coody and a lot of people that have spent a lot of years working on -- with OMRI; for them, with them and other different fashions and I think it's great that we're finally merging the two together.

CHAIRPERSON KING: Rose, did you have a comment?

MS. KOENIG: Yeah. And I guess that the-- more in terms of, you know-- the question comes down to OMRI has never stated that it's an inclusive list, that's never been an assumption of OMRI. It's a, you know, a volunteer kind of-- but what farmers need to know and I think what certifiers need to know is that they have used that list as a form of documentation, you know, when they go through the certification process. It's sort of that burden of proof. It's-- you know, they've used that as sort of like what Kim said. It was envisioned to be the tool to say okay, I've utilized this list. Someone has reviewed it because I, as a farmer, can't call every single brand name, you know, individual. And then it's up to me, if I decide not to use something on that list and I go and try to do that research on my own, but-- so what I think growers need to know and certifiers need to know and I don't think that that was necessarily clear in the letter, although...
I don't remember exactly everything that was in the letter, is that is -- do you recognize that? And that's what, I think OMRI is seeking, is recognition that that list is consistent with -- and it's a tool that the NOP recognizes as meeting the regulation.

MS. ROBINSON: Yes, but the problem that we saw happening, Rose, and the one thing that we said in the letter and that we still continue to say -- and I think it's been alluded to here, because OMRI's list is not inclusive -- what we saw happening on occasion was a certifying agent saying to an operation oh, I'm sorry, you can't use that material because it's not in OMRI's list.

And while that's not sufficient, it's possible that the material is on the National List or the material is allowed or the practice was allowed but simply because it wasn't on OMRI's list, the certifying agent was saying sorry, no dice, you can't use it.

Well, we didn't want -- and the whole idea of this working relationship is to send out the same message. Again, it's the same message to both certifying agents and to the operations. The OMRI list is compatible, it is in sync, it is perfectly consistent with the National List and it may be the tool that you do turn to, but it is not sufficient for a certifying agent to deny the use
of something simply because he couldn't find it on OMRI's list without also -- I mean, that's why I came back to the statement that the source of approval or disapproval is the National List.

MS. KOENIG: And I guess the confusion, though, again is, you know, and it comes down to what Jim was saying that the National List is a generic list. What farmers use are brand names, they don't use generic, so you know, I think the message -- you know, and again, I think that has always been clear, from what I understand, that certifiers tell farmers or even when I do trainings, that just because a product isn't listed on the OMRI list doesn't mean it's not allowed, but the burden of proof, then, is on you. It's your responsibility to find out. If they haven't voluntarily gone to that service, then you need to be proactive and find the information out.

MS. ROBINSON: That's right.

MS. KOENIG: But it doesn't discredit the list, but I think it's important for growers to know and the industry to know that that list is consistent because they are relying on that. And I think that's what OMRI was seeking and that the issue of other things is not really an OMRI issue, it's more of a communication issue between certifiers and your program,
as far as what -- about these other products. But that
is a different issue than whether the OMRI process is
reflective and you know, I don't want to use the MOU
idea again, because we've used Memorandum of
Understanding, but that the NOP recognize it as being
consistent with the Generic List.

MR. MATHEWS: We've issued the letter and what
you're saying does not differ from what we're saying. I
mean, the thing to keep in mind is that we are working
with OMRI, slowly as it may be, but we are working with
them, going through the Generic List. We're not
expecting to find anything on the Generic List that
isn't also on our list. What we do find, however, is
that annotations on their list may throw a question our
way that ends up in your lap with regard to their
particular annotation.

So we're going to be working with them, where
they've annotated something that isn't annotated on our
National List, okay? There are annotations in their
list that don't match up with our annotations. And so
what we have to do is we have to work through those
issues. Where there are unresolveable [ph] issues, they
definitely will come to your plate and it'll be --
that'll be the point at which you get involved in
helping us reconcile the discrepancy that appears to be
on OMRI's list. That, in itself, has a tendency to affect what is on the branded product list. I'm not expecting to find where products were allowed that shouldn't have been. I'm expecting more likely that we'll find products that should've been allowed or that may be able to be allowed in the future that might be blocked because of as to what the intentions of the Board are, which have led to an annotation on OMRI's list that, you know, might be rail [ph] material. And so it's those kinds of issues that we have to work with at this time and we are working with OMRI and you will be receiving some issues from us in concert with OMRI asking for you to resolve the differences.

CHAIRPERSON KING: Okay, I'm just looking at the time and the agenda. We have other NOP items listed. I'd like to cover that very quickly and then Barbara has a comment and then we'll take a quick recess for lunch and come back and talk about the directives and one question that's been asked of me by several individuals and Rick, I know you and I talked about this briefly on the phone, that is concerning the nominees for new Board members. And I understand that there are 71 or 2, some odd nominees and so I wanted to just touch on that and find out sort of where we're at in the process.
MS. ROBINSON: I was going to finish up with
the -- these are the last of the NOP items to bring to
your attention. So let's do the nominees. You're
right, we have over 70 nominees, applications that have
been submitted. The package is not finished being
vetted through departmental agencies, the Office of the
Inspector General, so the package hasn't gone to the
Secretary yet. And as you know, the appointments don't
expire until sometime in January, so she still has time
to make those selections, but in any event, we did quite
a wide outreach this year and as a result, probably got
the largest package of nominee applications that's ever
been received. So it's a lot of material to go through.

And the last item to update you on is I sent
you an e-mail last week. On October 5 we received a
draft final report, audit report from ANSI, that's the
American National Standards Institute. That is the
audit of our accreditation process. And as is a normal
course of an audit that's done within the Department,
ANSI provided us with a draft final report of their
findings, so -- now, we will review the findings and we
have an opportunity to respond to the findings of the
audit. ANSI will then take our response and determine
whether our response satisfactorily meets the findings
that they had issued or still fails to meet the findings
that they have issued. And then they will issue a final report that says here's what they found when they audited, here's what they reported to USDA, here's how USDA addressed it and here is ANSI's response to USDA's review of the audit findings. We're not going to wait until we get to the final final, we hope that once we have our review and our response finished, we're hoping -- I think I said to you by roughly the third week in November, we will publish the ANSI audit report and our response to the audit findings on our web site and our future game plan, then, is to institutionalize this process.

Now, it may not be with ANSI. There are other audit bodies out there who, you know, maybe would do a superior job or I don't know, but what we want to do is work with the Board to figure out what's the right kind of game plan here. My thoughts are that we don't do an audit every year because that we would do something more like a biennial type of audit. And the reason I suggest that is simply that by the time you do -- you'll never get out of the cycle. You do the audit, you get the findings; the agency needs to -- presumably, the audit will find some things we need to correct, you know, you'll -- you try to get your corrections done and then you're right back into the audit. So I would think
something like on the order of a minimum of 18 months, but a biennial type of audit process makes the most sense, giving the agency time to put its corrections in place and then the auditor to come back again and say you either got it right or, you know, well, you fixed that but now we've found something else.

Now, I have not read the entire audit report thoroughly. I have quickly read it and so let me give you the summary of the three kinds of -- the content that covers three areas and what they said. The content of the findings focus on three activities; documentation of procedures, basically. Do we have our procedures written down? Do we have the procedures manuals that we need? The audit found that our documentation and accreditation is lacking in several areas.

The second area of findings deals with communication of our procedure, primarily to our certifying agents. Again, the audit found the agency could do more in the area of communication with certifying agents. And the third area, the final area of the audit findings focuses on the actual audit and accreditation-related activities performed by the staff. And in that category the audit rated the staff exemplary in every case, highly professional, understanding of the tasks that they were performing, their interactions with

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the clients and their responses.

Now, the fact that the audit findings find that our documentation procedures are lacking is not an insignificant finding, by any means, but it is also not unusual. I certainly don't want to make light of it, but it is not an unusual finding in new programs because in the first place, you know, a new program and you're -- you know, you're trying to get up to speed quickly. But more importantly, I think, you don't have procedures written down for everything because you haven't confronted all of the situations, you know, that's where the real life experiences occur and you need to come back to the office and you need to sit down and write procedures for okay, how do we handle this? You can try to anticipate -- nevertheless, that's going to be the significant task at hand.

And as Rick has said to you earlier, we did hire Mark Bradley earlier this summer. For those of you who don't know him, Mark has a long history in the agency in the Ag Marketing Service. Mark Bradley actually introduced AMS to ISO 9000. I've known Mark since I was the Associate Deputy Administrator for the agency and I'm just thrilled that he's on the staff. He brings a tremendous amount of expertise to auditing processes, to documentation, to standard operating
procedures. What we like about Mark is that he thinks
like an auditor, he works like an auditor, but he lives
like a regular guy. So -- no offense to any auditors in
the audience. But anyway -- so we're really happy to
have him on board and we're -- he's going to -- and Mark
has a considerable previous experience in the Livestock
and Seed Program area of AMS, which is performing the
accreditation work for us, so he's quite familiar with
it. As I said, he introduced the agency back many, many
years ago, came to my office and said it's all about
ISO. What is that? So we're confident in his abilities
and that we'll move through this pretty well. So that's
the update on the audit. And that --

CHAIRPERSON KING: Thank you.

MS. ROBINSON: -- concludes the NOP update.

CHAIRPERSON KING: Jim has a quick question.

MR. RIDDLE: Yeah.

CHAIRPERSON KING: Not quite yet, Barbara.

MR. RIDDLE: Yeah, real quick. Just want to
make sure I'm clear that the ANSI audit only reviewed
the accreditation program, it didn't look into Materials
Review -- any of that other stuff that keeps NOP very
busy, right? Is that -- I mean, it was a narrow focus
on --

MS. ROBINSON: It was an audit on the
accreditation procedures.

MR. RIDDLE: Yeah.

MS. ROBINSON: Now, to the extent that any of the standard operating procedures that we must have in place are linked to things like delegations of authority and they are; you know, they would look at that and say, you know, have we done a good job there? Do we have the right documentation? But yes, Jim, it was --

MR. RIDDLE: Um-hum, yeah.

MS. ROBINSON: -- we contracted to do an audit of the accreditation procedure.

MR. RIDDLE: Um-hum.

MS. ROBINSON: And we want future audits to focus on that.

MR. RIDDLE: Um-hum.

MS. ROBINSON: Don't worry, there are all kinds of people out there ready, willing and able to do investigative audits of federal programs and --

MR. RIDDLE: Um-hum.

MS. ROBINSON: -- they do them all the time.

MR. RIDDLE: Yeah, and I understand what you're saying as far as wanting it to be a biennial process because of, you know, certifiers, especially the ones under the ISO 65 Program are in that continual audit review update cycle and it's like a treadmill;

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they'd never catch up. But I don't know if that is
fully consistent with ISO Guide 61 to have a biennial
process, you know, it's just something to talk about.
But I did have a different question and that is on the
list of applicants, it wasn't clear to me -- I know I
asked about it a couple months ago and we were told
during executive call that the list would be handed out
at this, at the October meeting like it has in the past
and just -- I'm not clear where that's at.

MS. ROBINSON: There won't be any list handed
out at this meeting.

MR. RIDDLE: At this meeting?

MS. ROBINSON: No.

MR. RIDDLE: So it's still being vetted, make
sure they're all --

MS. ROBINSON: Yeah, you know, people can
apply to be a nominee, to be selected for this Board as
they can for, you know, lots of advisory committees and
you know, you want to make sure that, for example, if
they're a producer, that they don't have an outstanding
loan with the Department; it's those sorts of vetting
procedures that you go through, that they're in good
standing with the Department and with respect to all of
its programs. That process hasn't been completed.

MR. RIDDLE: Um-hum.
MS. ROBINSON: There's a White House Office of Liaison that -- I think I said that, right? That has to go through -- does a vetting of all these folks. So it's -- it is premature. Now, we -- that doesn't mean you can't write in letters supporting individuals, recommending individuals, as members of the Board.

MR. RIDDLE: But how do I know who they are?

MS. ROBINSON: I don't know.

MR. RIDDLE: I just want to be clear, all right, will that list be provided once the vetting is complete?

MS. ROBINSON: I don't know. That decision is not made by me.

MR. RIDDLE: Uh-huh.

MS. ROBINSON: These are the Secretary's appointments, it is her call whether or not to give out the list of nominees prior to her selection.

MR. RIDDLE: But she approved that in the past? I mean, it was provided, has been provided in the past --

MS. ROBINSON: She gets -- I'm not going to -- the Secretary gets to do what she wants and make up her mind every year. It would be really inappropriate for me to speak for her.

MR. RIDDLE: Right.
CHAIRPERSON KING: George, quick comment and then we want to move --

MR. SIEMON: Well, I just want to go back to my commercially available -- I'm sorry, you all said you were going to review that document? I'd just like to -- in that review if we could get some feedback about the possibility of using other parts of the rule. I know it would take a real revision, but I'd just like to get your feedback on that because there's some issues that people have suggested that might be the solution, so I'd just like to add that, too. Because this deals strictly with processed food and I'm asking a question about the capacity -- move it beyond that.

MR. MATHEWS: And elaborate a little more on feedback on what?

MR. SIEMON: On using commercially available in the place that there was some discussion outside of NOP's process about using it, for example, to dairy replacements.

MS. ROBINSON: You just lost me. Say it again.

MR. SIEMON: Well, we all feel there's a need to clarify and unify the dairy replacements clause and so the question was could we use commercially available in that context?
MR. MATHEWS: Oh, so in addition to clarifying issues on when is seed commercially available and when is -- or when is an agricultural product to be used in an organic product not commercially available, you want to add in additional commercial availability options for other things such as dairy.

MR. SIEMON: Um-hum. Don't we have enough problems with commercial availability?

CHAIRPERSON KING: You bet. It's never ending.

MR. SIEMON: We have an equal amount of problems in the dairy world, too.

CHAIRPERSON KING: If we could move on. First of all, I want to thank the Board members for being prepared for the discussion and NOP especially providing us as thorough information as possible and I think it's important to have that dialog. It's been brought to my attention -- I'm sure it's no surprise to anyone here. And first, I just want to recognize that we need to, you know, be cognizant of the fact that it is a public meeting and there are many people here to hear our conversations and dialog about the directives. And one of the points of clarity, I think, that many people are seeking, myself included, in our travels and conversations with people out there is, is exactly where...
are we at with the directives and what I'd like to do is
just if we could have a -- just a brief conversation
about this one issue, then we will recess for lunch and
come back and perhaps have specific conversations about
the directives after lunch. But that is what is the
status of the directives? They were publicized and then
they were rescinded and there's some confusion in the
industry and so I think if we can sort of talk about
that, that would be helpful for the industry.

MS. ROBINSON: Well, I -- you know, I'm --
we've gotten the same questions, obviously. We've
gotten letters asking, you know, saying that there's
confusion and there's -- nobody knows what the status
is. And the reply that we have given is that we have
been awaiting the feedback from the Board and we have
taken no compliance actions with regard to those issue
papers and what we were under the impression that we
were going to do was resolve the uncertainty at this
Board meeting with an open discussion based on the
recommendations and the papers that you drafted. We
thought that's what this was going to do.

CHAIRPERSON KING: Well, we certainly don't
object to that.

MS. ROBINSON: Okay.

CHAIRPERSON KING: I was just putting that out
for those -- because there have been a lot of questions in the in-stream.

MS. ROBINSON: I know. I realize that.

CHAIRPERSON KING: How do we look at this from enforcement standpoint and what does this mean and so that's why you're --

MS. ROBINSON: Understandable.

CHAIRPERSON KING: -- hearing that question.

MS. ROBINSON: Understandable.

CHAIRPERSON KING: Not because we're confused about the process --

MS. ROBINSON: Okay. But see now, for this point right now, it doesn't matter. Anything that's been said between the time they were rescinded and today, because now we're all in the same room. I don't mean to say that those comments have no meaning, but here we are. Now we are at the point where we're going to have this conversation at -- beginning after lunch and this is where I thought -- this is what I thought we agreed to in June, that we were going to work this out and figure out all right, what've we got to do to make sure that there is no ambiguity and that everybody hears the same thing. And we would do that in a public forum where this meeting is transcribed and everyone who is interested from the public will hear it and we would
come to a resolution. Now, it may be that in order to
effect what we agree upon, we may have to do some rule-
making changes, but we knew that going into this. But
we're going to have that discussion today.

CHAIRPERSON KING: Sounds good.

MS. ROBINSON: Okay?

CHAIRPERSON KING: Thank you. Well, make it
quick, Rose.

MS. KOENIG: Yeah, on that note, then, as far
as our procedures or our process, because -- since I'm
the first up in terms of the discussion after lunch; so
the committees have presented these -- you know, our
recommendations in terms, you know, address the
directives and the recommendations, so do you envision
you would want us to vote, you know, discuss, you know,
present what our recommendations are and then
eventually, by the end of the meeting vote on what our
recommendations are and then what's the next step? Then
would you incorporate those or do you look them over or
are we supposed to be conversing and then we come to a
final agreement here? And so just for the public to
understand and for me to understand what the process is
after we go through this discussion.

MS. ROBINSON: Okay. You've drafted a
statement on each of these issues and you sent them to
us -- I've read them all, I presume the staff has read them all, too. As I said earlier, I thought that they were really good, constructive statements about each of the issues. So what I was assuming we would do -- and I don't really want to, you know, we can be flexible here. What I was assuming would happen is they -- whoever was responsible for the particular issue was going to be the spokesperson, would present that, present what you've written and your recommendations and then we just sort of have -- we'd have a give and take. And we would tell you okay, where we may have questions or where we may have some disagreement, but that we would just -- we would -- this is a working session; we would do this and we would do this now.

Let's not waste an opportunity to, you know, get these things settled once and for all. And maybe that say, you get all done and we decide okay, what we'll probably have to do is go back and write a proposed rule and that's exactly what we'll do and we'll be asking you to help us write that proposed rule, no doubt; help us, you know, with parts of it to the best that we can. But I thought that's what we were -- that's kind of the process we were going to go through. You talk to us, we talk back to you; we just thrash it out and we come to a resolution.
CHAIRPERSON KING: You mean actually communicate?

MS. ROBINSON: Something like that, yeah.

CHAIRPERSON KING: Say, that sounds great. I think we need food and --

MS. KOENIG: One statement. Because what's confusing me is on the proposed rule aspect of it and maybe I haven't researched all of the directives to the capacity that I should have, but when I looked at those directives, I thought those were interpretations of policy, you know, how you're taking the rule and interpreting it. I didn't -- I never looked at them as proposals for rules change and I never saw them --

MS. ROBINSON: They weren't, they weren't. But what I'm saying is in some of your statements, what you -- your recommendation would say -- and in fact, in some of the statements it actually says change the rules so that this is very clear. So that's what I'm talking about proposed rules.

MS. KOENIG: Okay, okay.

MS. ROBINSON: I'm not talking about the statements that were rescinded in April. I'm talking about your recommendations to take an action.

CHAIRPERSON KING: Okay. It's now 12:15.

MS. ROBINSON: Lunch time.
CHAIRPERSON KING: It is lunch time and we said be back at 1:15, so we will start again -- be back here at 1:20. I'll give you five extra minutes.

UNIDENTIFIED SPEAKER 1: Is this room going to be locked? For computers?

UNIDENTIFIED SPEAKER 2: Yeah.

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[Off the record]

[On the record]

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CHAIRPERSON KING: Thank you all for at least attempting to get back here in a timely fashion. I'd like to get started again and I apologize for being a bit behind on the agenda. Our first item up, which was originally scheduled just prior to lunch -- we'll begin a discussion of the committee drafts concerning the directives and I think that in this particular case, Rose was the primary author of the Inert document and I don't see her here, so we might actually jump to the next document because George is here.

MR. SIEMON: Becky's not here, either. She was going to do the Fishmeal, so do you want me --

CHAIRPERSON KING: Are you prepared to do antibiotics?

MR. SIEMON: I'm prepared to do antibiotics.
CHAIRPERSON KING: Well then, let's start there.

MR. SIEMON: Okay. I think it would be good for you all to talk about the assignment we were given.

UNIDENTIFIED SPEAKER: Use your mike, George.

CHAIRPERSON KING: Use you mike.

MR. SIEMON: Yeah, I'm sorry. The Policy Committee gave the different committees the assignment to go through and look at these directives and define what the issue was, compile any previous Board recommendations that are relevant to the directive and provide a recommendation for solving those issues. So it was a very clear assignment that we all went through and so the livestock document, the antibiotics is the first one and it -- that we're going to talk about -- and it was on both -- it was titled -- oh, I've got to find that now. It was titled about antibiotics and the --

CHAIRPERSON KING: Here's fishmeal.

MR. SIEMON: -- the origin of livestock. I'm sorry, I can't find it now. Can you guys help me?

MS. ROBINSON: The second tab on Tab 6, George.

MR. SIEMON: No, I was just trying to -- it's "Livestock Healthcare Practice Standard Origin of Dairy
Livestock." So it really was a little bit about both those subjects because it related to that, so -- are we going -- is it going to be up there on the board or are we going to --

CHAIRPERSON KING: Yeah, we had the Inerts --
MR. SIEMON: Do you want me to go through this, the different --
CHAIRPERSON KING: -- was initially scheduled, but can you -- yeah, she's got it up, so we're set, George.
MR. SIEMON: Okay. The issue was that the guidance docket came out allowing antibiotics when preventative practices and the other approved substances failed, as long as there was a one-year continuous organic -- prior to the sale of organic milk. That was the issue, that's what we're responding to. It's our opinion that that conflicts directly with 238C1, obviously the NOP differed with that. We felt that the same argument could've been used and we use the work misconstrue because it certainly wasn't the intent of NOP to allow other medications, which I think even -- and came out that was possible, as well as possibly other feed sources. So that was another of the issues that came out of it.

To us, one of the primary things is the York Stenographic Services, Inc.
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confusion is linked to the dual-track dairy replacement interpretation, which those of us that are involved in Livestock Committee and the dairy industry, feels a foundation -- concern here with this dual-track and then -- I'm going to jump through -- and then, of course, we -- the -- we talked about the -- what NOP has decided about that in our recommendation, which are all listed down below here. And we just felt there was a real conflict between the 238, which prohibits producers from using antibiotics and 236. So the foundation is we just felt that 238C1 was violated by the guidance document that came out. You know, you want me to go through all the recommendations, the previous recommendations all the way down?

CHAIRPERSON KING: Well, whatever you think would be most helpful to sort of frame the discussion, is what we're hoping for.

MR. SIEMON: Well, NOSB has been very -- pretty clear in all its recommendations. We just have here 98-4, but there's ones before that where we've always felt that there should be a unified standard for replacement and that antibiotic use is not to be used for animals on organic farms. We acknowledge that there was a problem with baby calves, there's still -- it's a debate in the industry about the antibiotic use there.
and so a couple of years ago we started a task force
trying to get people to put forward materials that were
alternatives to antibiotics that might be needed to deal
with that issue.

I think there's been a lot advancement in the
organic dairy trade to get away from antibiotics and the
dependency on them for calves. So I don't know, you can
read through that on here. You can see the different
recommendations that have been done that pretty much
have been for unified dairy standard and a pretty strict
no-antibiotic use. It gets really confused because it
-- this replacement clause mixes up with the livestock
health on -- for animals raised on a farm. And so you
end up with having two standards.

It gets very confusing, because for example,
calves -- if you're going to allow calves from outside
to come on organic farms, those calves might have had
antibiotics, but then you're not allowing antibiotics on
organic farms. So you get into a lot of different,
what's called two track of a -- two tracks for dairy
replacements and two different standards. So there --
it really ties in with the origin of livestock. Our
recommendations were fairly simple. We just think that
238C1 overrides the logic that was used and that once a
farmer is certified organic, all the animals must be

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treated organically and that they cannot use antibiotics
and if they do, they must remove them from the farm.

That's -- and so we said that's our
recommendation, to issue a clarifying statement -- have
you all got that up there? You need to enlarge that, if
you can, too. It's under Recommendations. So we had
three recommendations. One's to write a -- clarify a
statement that antibiotics are not allowed for once a
producer's certified organic. Number two was to work on
whether -- and we understand it might take a rule change
-- the unification of the organic dairy standards and
once they've entered that from then on that they're all
treated the same. And number three, that we make
livestock materials a priority. We all know there's
some frustration about livestock materials moving very,
very slow and we talked about that earlier.

So those are the three recommendations we
came up; it's no real rocket science here and mostly, it
goes on this 238C1, it's our interpretation of that
versus what was put out in the directive. But the big
issue to us is this getting to -- livestock. So
Barbara, you said earlier that some of these are going
to be rule changes. I'd like to identify that as one of
the top issues we need to deal with because there's a
lot of misconception that there's two standards out

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there, which in part, there are. And so we need to unify those standards once they're in the program.

I don't -- none of us mind that there's two ways to enter organic dairy production, but certainly the issue after that continues is inequitable. Anybody else on Livestock Committee? I went through that pretty fast, trying to get to the recommendation. We all went to the same restaurant, so we're all equally late here.

CHAIRPERSON KING: Jim reluctantly would like to comment.

MR. RIDDLE: Yeah, George, on the recommendation, I think, yeah, the first one is really important because of the confusion that occurred with the directive and then the retraction of it, that there be clarification that antibiotics are not allowed for organic animals or edible organic products once a producer's certified organic.

It's really reinforcing that 205-238 requirement and yesterday I took part in a day-long meeting of a [sic] organic committee of a campaign versus sustainable ag and there were broad stakeholder representation there and we went through all of these various recommendations and one suggestion to help clarify that first point, you mentioned about whether or not that directive was limited to antibiotics and it
might strengthen it or further clarify if we were to
insert a few more words and that would read NOP needs to
issue a clarification statement that antibiotics and
other prohibited substances are not allowed for organic
animals just to make it clear that, you know, any growth
hormones or therapeutic hormones or any other prohibited
animal drugs are not allowed, not just antibiotics.

So just a suggestion there to help clarify
that language. I think it's really important that a
statement be issued by the program on this topic and
that doesn't take a rule change.

MR. SIEMON: Another issue that I don't think
we caught, too, was the fact -- just a foundation issue,
is the federal rule -- the rule has a stricter standard
than OFPA for certain parts and so that's always -- when
you get down to this new legalistic world, you get into
a challenge how -- what the relationship is between a
rule that has a stricter stand than OFPA and so that was
a question I know was brought up, too, by the Department
is that the foundation rule is only the 12 months versus
-- the foundation law is 12 months and the rule has the
life of the animal for some of the people and 12 months
for some of the others. I think that's one of the
reasons why they fell back to this 12 month rule in this
antibiotic ruling.
But we still felt that disagreed with 238C1, which -- I don't know if we need to read that or not. Would anybody like me to read that? It's listed here, isn't it, somewheres [sic]? 238C1, "The organic livestock operation must not sell, label or represent as organic any animal or edible product derived from any animal treated with antibiotics. Any substance that contains a synthetic substance not allowed under 603 or any substance that includes a nonsynthetic substance prohibited in 604. Any edible product derived from any animal treated with antibiotics, organic livestock operation must not" -- to us, those are pretty clear wordings and even though we can see the confusion over the 12 months, we just feel they stand alone and should stand still.

CHAIRPERSON KING: Yeah, Barbara.

MS. ROBINSON: So do you want the Department's response?

MR. SIEMON: Sure.

MS. ROBINSON: Okay, the Department concurs.

MR. SIEMON: Okay. Now, that's on that one. Thank you.

CHAIRPERSON KING: Wait, hold on. Department then Andrea.

MR. SIEMON: The Department concurs, she said,
which I think means agrees.

CHAIRPERSON KING: Well, just --

MS. ROBINSON: That means agrees.

MR. SIEMON: Okay.

CHAIRPERSON KING: Just a question about the process, then. Will this be put on the web site for public comment?

MS. ROBINSON: I don't think -- you want public comment on the guidance statement?

CHAIRPERSON KING: On the recommendation.

MS. ROBINSON: That no prohibited materials can be given to livestock unless they are approved by the Board?

CHAIRPERSON KING: No. But what I was trying to do is understand George's -- or Livestock Committee's process on the recommendation, on these recommendations. If we're -- on number two, where we're talking about technical correction or a rule change.

MR. SIEMON: No, that would take all public -- I mean, it --

MS. ROBINSON: Now, the origin of livestock. Changing the origin of livestock --

MR. SIEMON: We're going to go there next.

CHAIRPERSON KING: That's -- okay, I thought --
[Simultaneous comments]

MR. SIEMON: I was going to go to the number two point next.

MS. ROBINSON: We can issue a statement that says no prohibited materials shall be given to livestock and still preserve their organic status. I mean, unless you approve the prohibited material. In other words, we agree with your statement.

MR. SIEMON: Well -- but then we still have the second part of the -- and --

MS. ROBINSON: Origin of livestock will take a rule change. That takes a regulatory change.

MR. SIEMON: And so you said earlier that's what may come out of this, so --

MS. ROBINSON: And that's what we'll do.

MR. SIEMON: So --

MS. ROBINSON: We'll proceed with rulemaking --

MR. SIEMON: -- you know, we would very much like to see this, it's been such a thorny subject --

MS. ROBINSON: Right.

MR. SIEMON: -- that we take this as a priority.

MS. ROBINSON: Right.

MR. SIEMON: Another issue that came up in
Chicago which I -- we didn't write in here about --
clarification statement was that these are for animals
born and raised on organic farms that we're talking
about here and there was some confusion about those
animals must be raised organically and you all confirmed
that was part of the organic program.

MS. ROBINSON: Correct.

MR. SIEMON: And I'd like to see that in a
statement, as well, because there's still a lot of
confusion about that our there.

CHAIRPERSON KING: George, if I could, Kevin
had a quick question.

MR. SIEMON: Oh, I'm sorry.

MR. O'RELL: It was just to clarify -- George,
my concern was on the second recommendation where the
Livestock Committee is requesting this as either a
technical correction or a rule change and I thought I'd
heard before that the NOP said specifically that this
requires a rule change and if that's the case, then
would we want to not say a technical correction?

MS. ROBINSON: It's not a technical
correction.

MR. O'RELL: Correct.

MS. ROBINSON: It's --

MR. O'RELL: It is a rule change.
MS. ROBINSON: It is a rule change and we'll have to go out and public comment will be invited on that. What you want to do, my understanding is you want to break that to tiers. You want to break that apart.

MR. SIEMON: After they enter the organic dairy, we'd like to have a unified standard.

MS. ROBINSON: Right. That will take a rule change. We'll have to write that up and then take public comment.

MR. SIEMON: Kevin, if you're suggesting that we take out as either a technical correction preferred, preferable -- you know, we just haven't necessarily agreed that it wasn't a technical correction. There's just been disagreeance [sic] amongst the NOP, at least in myself, so we can take that out -- I just feel like we need to fix it, whatever's the best way to fix it and public comment is -- can be part of that, so -- I don't know we're passing this, we're just --

MS. ROBINSON: Right, you're not --

MR. SIEMON: We're pointing to Harold Ford [ph].

MS. ROBINSON: Yeah, you're not voting on this at this point.

MR. SIEMON: Yeah.

MS. ROBINSON: You're telling us -- my
understanding is that you -- this dialog is you
communicating to us what you would like to see --

    MR. SIEMON: Um-hum.

    MS. ROBINSON: -- have happen, what your
preferred outcome would be. And we are -- we're
agreeing with you. I know you expected us not to, so
that's maybe causing some problems here, but --

    MR. SIEMON: No.

    MS. ROBINSON: -- we're agreeing, so we'll
work towards that. But the reason it -- I just want to
say, a technical correction is something that you do
when there, you know, it's clear that there was a, you
know, a mistake in the rule, you know, a word out of
place or you know, something --

    MR. SIEMON: Wrong with letter order --

    MS. ROBINSON: Yeah --

    MR. SIEMON: -- number order.

    MS. ROBINSON: -- I mean, something -- but a
rule change that has economic impacts on businesses is
not a technical correction. You're talking about a
substantive change to the rule and so you know, you
can't slip it into one of the materials dockets as if it
was a technical correction and say okay, we took care of
that little problem.

    CHAIRPERSON KING: Andrea was up next and

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then Jim.

MS. CAROE: I have two questions, George, one on the second sub-bullet for the second point. You indicate that the dairy producers and the certifiers have endorsed this recommendation. I was wondering if you have any data on that to show what kind of buy-in you've got from industry on this?

MR. SIEMON: I don't have any data on that. I just know from all the discussion -- there's been a lot discussed about this --

MS. CAROE: So --

MR. SIEMON: -- you know, so I -- that's hearsay, I guess, if you want to say it. I mean, it's pretty well-known how it fell out, but there's some dairy producers don't agree and there's some ACAs that don't agree, but the vast majority of them do.

MS. CAROE: So do you have -- I mean, I guess I was trying to get -- is this like a no-brainer, that everybody wants this or are we seeing a split decision somewhere or -- you know, is there a minority opinion on this or --

MR. SIEMON: There's definitely a minority opinion, I believe. I'm not -- I'd have to ask around, but I think the statement's correct, the vast majority. I don't know what vast majority means, 70, 80, 90
percent.

MS. CAROE: I think endorse was the word that kind of threw me as I thought when you used the word endorse that perhaps that you had some --

MR. SIEMON: No. There's been no --

MS. CAROE: -- more formalized data on that.

MR. SIEMON: Not unless -- not that I'm aware of, so no, I'd say that's just the feedback we've got.

MS. CAROE: The other question I have is in regarding to the sequencing of these recommendations. You indicated that calf hood medications are an issue, but that's like the very last item on here. If you don't deal with that first and then you take away allowances, is there going to be a problem? I mean, how widespread is this and are you --

MR. SIEMON: Well --

MS. CAROE: What I'm asking is do you have a recommendation of how these things would fall into place so that nobody gets stuck in a hole and -- without the tools they need in order to --

MR. SIEMON: Um-hum.

MS. CAROE: -- stay in organic production?

MR. SIEMON: Yeah. It's a good question. First off, a couple years ago we addressed this issue both in OTA and NOSB and we really put the word out
there what medications are needed that are on the list, let's make them a priority, this is a problem and we really got very little response. So some we've already done the last bullet. And the first bullet was referring to the frustration that we got -- talked about today about the materials not coming out that we have passed.

So I think both of those are in play right now and I'm not aware of that many calf-hood medications out there that haven't been brought forward, but we've called for them and if they're out there, we'd like to see them come forward and put through the process. So no, I don't think there's any -- this is a standard people are already working under right now, relatively. If you talk to the people in the community. I mean, there's a difference in the ACA, how they're endorsing this. But most of them are still not allowing antibiotics in young stock.

CHAIRPERSON KING: Jim.

MR. RIDDLE: Yeah, well first, I would like to respond to Andrea's question there because we've had drafts posted for both of the recommendations that the Board adopted. The first was for requesting an interpretation to support the, you know, one herd applies to both once they've been converted and then
when we adopted that, then we were told that it would
really take a rule change to address this, so then we
redrafted as proposed rule change language; that was
posted for public comment and then adopted by the Board
and in both of those rounds of public comment, we
received written comments and we received verbal
comments, which are part of the transcript public record
and we did not receive one comment in support of -- or
you know, opposition.

So I think it is accurate to say vast majority
based on the public comments that the Board received.
But it's still going to go out and I'm hearing a
commitment to pursue rulemaking on this issue and it's
going to go out for a public comment again in the
Federal Register. That will generate comments and if
there are concerns or opposition, that would be, you
know, the time to speak, to provide that data and the
issue of calf-hood medications, I think, would be a
logical concern to be raised in response to that
proposed rule.

So I think, based on all of the information we
have been provided, we do have support for this position
and it's still going to go through a big filter to
assess the impact. I guess in consideration of that, I
would ask whether it would be the intent of NOP to
publish as proposed rule or as interim Final Rule. I think this is a big issue. It's been an issue; we'd all love to see it get resolved. And it is creating disharmony, consumer confusion and I was just talking with a certifier over lunch who has, you know, some operations under both standards and the farther this goes, the harder it is to manage when you've got two standards being applied and in consideration, then, it certainly might warrant proceeding as an interim Final Rule.

MS. ROBINSON: Well, we would always prefer the most, you know, to get to the finish line quickly, too, Jim. But the Office of Management and Budget, which has to approve any rulemaking that we do has already told us that any rulemaking we do will be considered major and it will start as a proposed rule, so we tried that course and got our answer.

MR. SIEMON: I just want to clarify that, you know, what we're recommending is the May 14, 2003, as a starting place because the -- it says -- I'm just finding a fault with this writing here. "This will unify and clarify the standard for dairy herd conversion." It's not the conversion that we're trying to deal with here, it's about after they've converted -- about dairy replacements, so I think the May 2003.
stands, but Jim, I find that wording to be a little bit confusing talking about conversion. It's about the organic dairy replacement is the primary issue here.

MR. RIDDLE: I agree. It's kind of a post-conversion.

MR. SIEMON: Yeah, it's just not quite written right. Okay. I'm eager to talk about a rule change and the timing of the next steps, because I know it's a long process. Is it going to have to be tied to other rule changes or can we go alone on this, just this alone?

MS. ROBINSON: As soon as we get it written, we can go. But I'm not promising you that you're going to get a rule change in, you know, a month.

MR. SIEMON: Yeah, I know. It's a long process.

MS. ROBINSON: But there's no need to -- in fact, I would recommend not tying this rule change to other rule changes because, you know, why -- because if you get conflicts in one area, it holds up the whole thing, so I think you're really better off to proceed --

MR. SIEMON: I agree with that.

MS. ROBINSON: -- with a single issue per rule change.

MR. SIEMON: I agree with that. Okay.

MR. MATHEWS: Are you contemplating providing...
us with some economic impact data that we were -- that we will need in order to make this rule change?

MR. SIEMON: Well, if you tell us what you need, we'll try.

MR. MATHEWS: Well --

MR. SIEMON: Make an assessment of it, so --

MR. MATHEWS: It's the kind of --

MR. SIEMON: It depends on which way the Final Rule's going to go.

MR. MATHEWS: Right.

MR. SIEMON: Now we've got the May 2003 as where we're starting from, you know, it's -- we want to unify standards, the primary thing here. If it goes one way, it's less of a burden, if it goes the other way, it's more of a burden for -- you know, so this standard is more of a burden for a certain group of people.

MR. MATHEWS: Right. I guess I would refer back to the decision tree that we've got, that you use, we use that would help by working through what it is that is the real problem, why it's a problem, who is the problem for, what are the different options for solving it, what is the option that you've selected. And then try and provide us with some economic information as to what is the impact on the farmers for taking this action of changing this rule because we're going to be held to
a pretty high benchmark for making this rule change, not
only by ourselves, but by the Office of General Counsel,
by the Office of Personnel Management, so --

MR. SIEMON: But --

MR. MATHEWS: That's going to want us to be
able to fully justify this, so we're going to be looking
to you to help us fill in those blanks.

MR. SIEMON: Well, you know, the problem I'm
having though is was that done -- and when you have
these two standards, one group is disadvantaged over
another group at this time. Did you do the economic the
first time we did the rule? Because this is a real
disadvantage.

MR. MATHEWS: The first time the rule was done
there was an economic impact statement and there were
discussions with other federal agencies, including ONB
and we're going to have to go through the whole same
process again, so we're going to be relying heavily on
you for that information.

MR. SIEMON: If I could see the first work
that was done -- because those are the -- usually, the
smaller farmers are more impacted in anything that were
affected previously, so yeah, I know that needs to be --
and we'll look at the decision tree. And I'd like to
have the Livestock Committee revisit their

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recommendation and see if this is their -- still this recommendation. Even though we put it forward, it's good to start to all over and make sure we're -- got fresh eyes on it.

CHAIRPERSON KING: Jim then Rose.

MR. RIDDLE: I guess -- I think we have a standing recommendation to work from as far as the language goes that's already been adopted by the Board. I don't see a need there to, you know, delay on that. I can see providing some assistance or input on some of the impacts of it, but at the same time, you know, we are volunteers. If we had an executive director, that would be a great thing for that person to work on, but you know, we do have public employees who have the expertise to do some of this analysis, so I think if there's somebody who's leading the charge, who's getting paid and then says, as advisors, can you help us with this or that, great. But I don't think it's fair or realistic to expect us to do that as part of the analysis.

MS. ROBINSON: Well --

MR. RIDDLE: And I don't think that the original regulatory impact statement in the Final Rule approached the impact of a dual standard for dairy conversion or dairy herd replacement stock. So we
really don't have anything to work from there.

MS. ROBINSON: Well, we will have to do a reg
impact analysis, that's true. And when the Final Rule
was promulgated and the reg impact analysis was done,
you know, the data that was available at the time is far
less than it is today, even as skimpy as we still think
the data is today. But we do have better knowledge of
the numbers of dairy operations out there that are
certified. We can and we will contact all of our
certifying agents and we will try to get -- gather as
much information in terms of average sizes of operations
and that sort of thing.

It -- the issue, the -- when you do the reg
impact analysis, if you are weakening the rule, relaxing
the rule, in other words -- I shouldn't use the word
weaken in this room. But if you're relaxing a rule,
such as mending the National List, we consider that to
be a relaxation of the rule because you are adding more
options for producers. The burden to show the
regulatory impact analysis is far less because you're
not clamping down on people's businesses, you're giving
them more options and so the burden of showing an
adverse versus a beneficial impact is easier to do when
you're relaxing the rule. In this case, you know, I
can't conceive of this being a rule change that most
people would not believe is a tightening of the rule. You're making the rule stricter by what is you want. So in that case, in tightening up the rule, we'll have to be able to demonstrate that the benefits of tightening up the rule, the benefits of the change that we are proposing exceed the costs that the change will impose. And we'll look to, you know, we'll look for ERS date, we'll look for industry data, we'll -- we will come to you if you, you know, can help provide sources. There are many research organizations out there; we're not going to hold up a rule change because you do or don't get us the economic data that we want. But if you can be helpful, we would appreciate it. Yeah, it would speed up the process.

CHAIRPERSON KING: I think -- I just wanted to say something real quick, George. It's important to understand what our role is and so we appreciate that feedback and understand where we need to go with this and one of the things my hope is that comes out of the conversations today is takeaways, action plan, how are we going to approach this, are we on the same page? With that in mind, we, as usual, have limited time and we are scheduled for public input at 3:00 p.m., so we've got three other documents and so George, if you have some closing remarks, please feel free to set an action
plan in place. I think we need to at least complete the
circle here.

MR. SIEMON: Well, I think we're through with
this one. Ready to move to the fishmeal? I mean,
there's a lot to talk about the first one, but is that
all right? Okay, well I've asked Becky to present on
the fishmeal. She's kind of been our local -- or
livestock fish expert.

MS. GOLDBERG: Okay. So the Fishmeal
Livestock Committee recommendation is in the book under
the same tab, just on the other side of the orange sheet
of paper and the committee recommendation is obviously
in response to the directive issued by the NOP
concerning the use of fishmeal in livestock feed. The
NOP said that fishmeal can be used as a protein
supplement in feeding organic livestock without regard
to the source or apparently the preservatives that might
be used in the fishmeal. I will run through the
introduction to our recommendation.

The committee acknowledges that fishmeal is a
valuable source of protein and specific amino acids,
clearly methionine in poultry feeds is a particular
case. It's our view that fishmeal by itself, that is
before any preservatives are added, is nonsynthetic. We
also acknowledge that there's confusion about when a
natural substance becomes a synthetic. We had a lot of
discussion about this in the committee. NOP brought to
us some examples of substances; well, they're not say
natural substances, but substances where preservatives
are added, for example, in vitamins and whatnot and we
don't take them into account.

We know that fishmeal is highly perishable,
it's also combustible and therefore usually contains
preservatives, many of which are synthetic substances
and therefore not approved for organic livestock
production according to the relevant sections of the
rule. We know that the OFPA allows for the use of a
substance if it would not be harmful to human health or
the environment. We know that conventional fishmeal
can, at least in some instances, be produced from fish
harvested unsustainably and there certainly are some
data sets indicating that at least some fishmeal can
have contaminants such as PCBs, dioxins and so on and so
forth.

We state that organic fishmeal will not be
available unless standards for wild caught organic fish
and/or organic aquaculture are developed, in other words
so that there are fish -- organic fish available to make
organic fishmeal. And finally, we acknowledge there
remains confusion as to when a feed supplement or
additive becomes a feed to -- a 237A, requires a use of organic feed, but allows the use of nonsynthetic substances and substances listed on 205-603 as feed additives and supplements.

The definitions of feed, feed additive and feed supplement do provide definitive guidance as to the types of nutrients, carbohydrates, proteins, fats, amino acids, vitamins or minerals that are considered under each, nor do they establish limits on quantities allowed in feed rations. And we think this is a very important point. I'm not going to go through all the background statements in the recommendation. We reference an NOSB 1994 livestock feed standard recommendation, a number of sections of the rule and of the OFPA, and some definitions from AAFCO and the Association of Plant Food Control Officials concerning definitions of natural and natural organic fertilizer.

I'd like to then move on to going through the recommendations and if necessary, we can go back to the background statements and to questions later. First of all, as we said in our introductory statements -- it's a little bit duplicative, but the Livestock Committee believes that fishmeal by itself in nonsynthetic. We also believe that fishmeal with synthetic substances is synthetic. We find that fishmeal preserved with natural

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substances and that would not be harmful to human health or the environment should be allowed as a feed additive or feed supplement for organic production in accordance with various relevant sections of the rule. We find that the use of fishmeal must comply with all applicable requirements of the Federal Food, Drug and Cosmetic Act is required by the rule.

Natural preservative ingredients are allowed in fishmeal, used in organic production. Synthetic preservative ingredients used in fishmeal must be petitioned, reviewed and placed on the National List in order to be allowed according to 205-105A. The status of fishmeal for use in organic aquaculture as opposed to livestock production will be considered during the development of NOP aquaculture standards and issues to be considered should include the sustainability of fisheries exploited for fishmeal and possible contaminants in fishmeal.

If NOP standards and definitions are developed for the production of organic fishmeal, then organic fishmeal must be used as a feed, feed supplement or feed additive for any organic livestock in accordance with 205-237A, which requires the use of organic feed. Finally, and there are three items here that have more to do with general NOP policy and regulation rather than...
fishmeal itself. A clear, predictable policy needs to be developed concerning what incidental substances and livestock and crop production materials make an otherwise natural substance a synthetic; to clarify the distinction between natural and synthetic substances, the Livestock Committee recommends that the current definition of nonsynthetic or natural in the Final Rule will be revised. The definition's in the background section.

The AAFCO definition of natural and the EFCO [ph] definition of natural organic fertilizer should be considered in the revision process. We realize this is asking for a rule change and you know, that's a lot of work. Nevertheless, additional clarity, even by policy would be useful in helping people understand the difference between a natural and a synthetic. Finally, to clarify the differences between feed, feed additives and feed supplements, the NOP and NOSB should provide guidance concerning the types of nutrients, carbohydrates, proteins, fats, amino acids, vitamins or minerals allowed in each category and if there should be limits set on the quantities of nonorganic feed additives or supplements allowed in organic feed rations.

In other words, we think it's problematic if
feed additives and supplements are used in large quantities. We can't really tell then whether they're really feed rather than say, feed supplements. So that's a lot of recommendations and as I said, some of them deal with fishmeal specifically and some of them are more general matters of policy to do with the difference between natural and synthetic and the differences in meaning of feed, feed additives and feed supplements.

MR. SIEMON: It's really the first six bullets is recommendation on fishmeal and I would think that the two on aquaculture needs to be forwarded just to the task force that we're forming. And really, the next one, a clear predictable policy is really one of the bigger ones that I think is a Material Committee charge, but that seems to be the underlying issue here is when does a natural become a synthetic, so I think that's something that the Material Committee needs to take on. So really, it's the first six that are recommendations here for the --

MS. GOLDBERG: That are specifically in response --

MR. SIEMON: To this directive.

MS. GOLDBERG: -- to the directive. And the others are issues we had to grapple with in considering

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this recommendations and we spent a lot of time on this recommendation, but we wanted to raise them for consideration.

MS. ROBINSON: Okay.

MR. SIEMON: Um-hum.

MS. ROBINSON: Ready for the Department's reaction?

MR. SIEMON: Sure.

MS. ROBINSON: Okay, the Department concurs. In fact, in reading your -- again, I do want to compliment you. These are well, though-out, well-articulated statements and we appreciate the hard work that you all put into putting these together. We certainly appreciate the fact that with respect to fishmeal, your understanding is similar to ours. The bottom line is that any synthetic added to fishmeal must go through the petition process and be approved by the Board in order for fishmeal with a synthetic to be used in livestock feed. Fishmeal is a natural, you concur.

It is nonsynthetic and fishmeal with a natural preservative or an approved -- otherwise approved substance is allowed. So the Department concurs. On the two recommendations that deal with organic aquaculture, we agree with George. We believe that those rightfully belong to the task force that should be
created on organic aquaculture. And the last three, as we've discussed, we believe the NOSB should draft recommendations for the Department and we believe that the Board needs to have this discussion on what turns a natural into a synthetic and come up with some clear fence posts on that. But as far as the recommendations on fishmeal, we're fine.

MR. SIEMON: And then would -- are we going to take a statement to come out along that line or what's the process forward?

MR. NEAL: We have an additional comment. In considering when a synthetic substance is added to a natural, you need to take into consideration how does one petition -- and I guess at the same token, the term synthetic active is not defined in OFPA. And that needs to be defined because how does one petition a nonactive substance to be included on the National List, such as a preservative? A preservative is not delivering the effect, the intended effect to the animal. So this is one of the issues that Rose is going to be discussing, so these recommendations are going to impact a host of other materials that are already on the National List, so -- but it's going to impact a host of other substances on the National List, so these are some things that you want to think about.
MR. SIEMON: And this is an entry that's come up irregardless of the fishmeal, is about this active synthetic.

MR. NEAL: Right.

MS. ROBINSON: But in response to your question, George, we can put a statement on the web site that says fishmeal is a recognized feed supplement, a nonsynthetic. If fishmeal contains a synthetic substance, that synthetic substance must have been petitioned and approved by the Board and amended to the National List.

MR. SIEMON: Great. Thank you.

CHAIRPERSON KING: I think Rose and then Andrea had a question.

MR. SIEMON: Okay.

MS. KOENIG: It's not really a question, it's more to what Arthur was saying that one of the drafts that we'll look at in terms of -- it's called Interpretation of OFPA and the National List, does address that, you know, question that you all have already posed to us in terms of OFPA categories, you know, within that proposal and we'll get -- I don't want to spend a whole lot of time on it, but you know, the proposal suggests that the production aid category would be the category where that would fit rather than going...
back and you know, that there is actually a category
with an OFPA that we should consider placing these
because even though they're -- you know, I agree with
your argument that, you know, the preservative is not
the fishmeal active, but it does serve an active,
functional role as a preservative. So it is -- it's not
this concept of an inert. It is another additional
agreement that has a function, so that's whey we
considered the production aid category.

CHAIRPERSON KING: Okay, Andrea. Quick
question.

MS. CAROE: Yes. So I guess I'm -- you said
that there's some confusion between supplements versus
feed and clearly, the way I look at this, it's -- the
fishmeal's being treated as feed, is it not? Because
you're saying that at the point that we have aquaculture
standards and there's organic fish, that you have to use
organic fish for the meal, which would mean it would be
a feed, not a supplement. And as far as I know, we are
not petitioning all of the incipients in vitamins and
other supplements, so is it a supplement or is it feed
and are we following that on track? And the next thing
I want to add before you answer that is if it is a
supplement, shouldn't it be handled somewhat similar to
the way we handle vitamins in processed foods which has
levels that are appropriate for supplementing?

MS. GOLDBERG: Well, I think what you're getting at, Andrea, is something we highlight at the end of the differences between feed, feed additives and feed supplements are not defined and so it becomes very confusing what's what. In the context of livestock production, we are looking at fishmeal as a feed supplement. In other words, it's used to add amino acids or highly-digestible protein to feed typically at relatively low levels in an animal's diet. But it is legitimate to ask, particularly in the case of aquaculture standards, at what point does it actually become a feed, you know, if fishmeal is say, 30 percent of an animal's diet, that doesn't seem like a feed supplement anymore.

MR. SIEMON: It's not. So it's the level of feeding and of course, the rule that we're dealing with is 237A. This is being called the nonsynthetic substances and may be used as feed additive and supplements. It doesn't say -- anything to do with feed, so that's why if it is to be used as a feed, as in aquaculture, it's going to have to organic. But again, that's jumping the gun to our task force.

MS. GOLDBERG: We are just dealing with the livestock standards here and that's really important to
recognize.

MR. SIEMON: That's right. These other ones --

MS. CAROE: Okay, so your bullet point that says it will be required to be organic when we have aquaculture really doesn't apply because it's not a feed, it's a supplement.

MS. GOLDBERG: I don't see actually a bullet --

MS. CAROE: The one that starts, "If NOP standards and definitions are developed" --

MS. GOLDBERG: Right.

MS. CAROE: -- "which required the use of organic feed."

MS. GOLDBERG: If NOP standards and definitions are developed for the production of organic fishmeal, then organic fishmeal must be used as a feed, feed supplement or feed additive for any organic livestock. If there was organic fishmeal, then you could use it --

MR. SIEMON: Okay, I --

MS. GOLDBERG: But we don't have it at the moment.

MS. CAROE: But you said -- but you say it's required?
MS. ROBINSON: I would suggest you delay this until you have the task force on --

CHAIRPERSON KING: Yeah, this is --

MS. ROBINSON: -- aquaculture and wild caught.

MR. SIEMON: No, actually, I was wrong. This is the standard that says, "In the future, if there is organic fishmeal" -- this is almost is a commercially available situation, then you would have to use this, is what they're saying. So really, this is a distinct -- I didn't quite catch that earlier -- this is a distinct -- another standard. But again, I don't think that's -- just what we're dealing with today is the directive that came out about fishmeal and so I agree. This isn't about aquaculture, this is about a future -- when there is organic fishmeal, how does that relate to the use fishmeal for all feed uses?

MS. ROBINSON: You will have to change -- if you go down that row when you deal with livestock feed supplements, you're going to have to go back and change the rule again and say that oh, by the way, whatever we said about feed supplements, vitamins, minerals and all those things, now if they're organic, we're not going to let you just use natural, available substances. But I would really urge that you -- before you have that discussion now that maybe you'd wait and cross that
bridge when you get to that bridge.

CHAIRPERSON KING: Yes. Thank you. I'm just being cognizant of the time and we just have about 15, 20 minutes --

MR. SIEMON: Okay.

CHAIRPERSON KING: -- for two more documents.

MR. SIEMON: So I think the last thing is -- because everything got -- from the NOP is we have to develop this policy on when does a natural become synthetic, so is that going to become the Material's duty now?

CHAIRPERSON KING: Well, I know that Rose has done some preliminary work on looking at when -- looking at synthetic versus nonsynthetic --

MR. SIEMON: You feel that's in play now, that's in --

CHAIRPERSON KING: I think the process has started. I think we have a lot of work to do. So it, you know -- and God forbid the two committees actually work together on an issue, but -- and I say that because we've just started to do that, I think, more and more and it's a really good thing, so anyway -- what did you --

MR. O'RELL: It could be three committees, too.
CHAIRPERSON KING: It could be three committees. I think, Kevin, your point is valid. I mean, it could be the entire Board. Jim.

MR. RIDDLE: Yeah, the very last point. The differences between feed, feed additives and feed supplements is something, I think, that the Livestock Committee should keep on the work plan and maybe we can up with a draft to help clarify that, you know, looking at the current definitions and how they're used in the rule, so that would be one to, you know, we're not changing anything like that, but I think we should keep that on the Livestock Committee work plan.

CHAIRPERSON KING: Rose, you're up. Inerts Document.

MS. KOENIG: Okay. Sorry that I was late. We were trying to -- we had just gotten our food when it hit 1:30, so -- so thanks, George, for going ahead on the agenda. I just want to briefly discuss the Inert Ingredients draft, particularly the background was at the directive stated it -- "The certifying agent and producer, after reasonable effort, contacting the manufacturer, EPA and other USDA-accredited certifying agents are unable to ascertain whether inerts in a pesticide are allowed under the NOP, the certifying agent will approve that part of the organic production..."
system plan."

And that, essentially -- that statement or that kind of -- to me, it's more like an internal policy that was being directed in that directive, was the one that was the most trouble, some statement, I guess, for the committee. And we relied on, in terms of the background information, a lot of the OFPA and rule comments and sections of the rules that were appropriate in terms of dividing our -- devising a recommendation. And that document has been on the web site and it's in front of you, so I -- and in an effort to save time, I would just recommend that people look at that background information.

And we also had an Inerts Task Force in 2003 look at, essentially, the same issue in terms of the, you know, the discussion issue regarding List 2 and well, specifically, List 3 Inerts. The recommendations that the committee came up with -- there was four and I'll just, I'll read those and then we can do the discussion from that. Number one, the NOSB encourages pesticide manufacturers who want to market their products for organic production to take advantage of the EPA Organic Labeling Program. They are encouraged to disclose all product ingredients on the pesticide label including inert or other ingredients as advised by the
EPA.

And then two, pesticide manufacturers with products that contain allowed active ingredients and List 3 inert ingredients are encouraged to reformulate to comply with the existing regulation. Other options are to notify EPA of a need for expedited review and to petition the NOSB for review of that specific inert, List 3 inert. And note that petitions to the NOSB may take up to three years for regulatory action. However, we have looked at a couple, actually three different inert ingredients which are now -- have been recommended for inclusion on the list. So that has been a mechanism which manufacturers have taken advantage of, is going through the petition process.

Number three, since the EPA regulates the use claims, directions for use and composition of a pesticide product as a pre-market condition, the NOP should establish a functional line of communication with the EPA in order to provide EPA consistent information about organic standards and updates to the National List and to obtain advice from EPA on the status of petition materials. And some of that work has been done previously. Bob Torla [ph] has come forth to the NOSB and given presentations about kind of the programs that they have proposed.
And then finally -- and then this basically, Statement 4 kind of addresses that -- the directive, at least the problematic statement which we picked out in the directive. "Certified agents who find that producers are reporting use of pesticide products with unknown inert ingredients should instruct producers to discontinue use immediately unless the ingredients can be verified as complying with NOP regulation. Discontinuation of use will be considered sufficient corrective action for use of pesticide products with approved, active an unknown inert ingredients."

So really, the concept is -- you know, the difference, I guess, in our position versus the original directive is that the original directive said that there was a problem, there's an unknown and you can continue to use that unknown until we find out information. And that once we find out the information that there's a List 3 in there, then you have to stop and our recommendation says if there's an unknown and you can't determine it, that's when you stop. You don't allow in a farm plan continual use. So you do not approve in the farm plan.

MS. ROBINSON: In other words, this is when in doubt, go without.

MS. KOENIG: Exactly.
MS. ROBINSON: The Department concurs. That will only require a statement on the web site, as well. In case you were going to ask.

MS. DIETZ: Just to comment. Rose, you just -- clarification that the Materials Committee didn't -- these things came out without the Materials Committee discussing them and so Rosie's done a tremendous job on drafting lots of documents in the midst of a hurricane, two, three, four hurricanes, and -- but the committee's -- we haven't actually discussed them and that's why you see on our committee vote minority opinion and conclusion, there aren't any because we just haven't discussed them, but she's done a great job with the documents.

CHAIRPERSON KING: Other comments?

MR. SIEMON: Yeah, I'm just wanting to make sure because remember two years ago we had the apple people here talking about how hard it was to get what inerts were in the substances, so I guess that's what Barbara just said, so if they can't find out what's in it, they can't use it.

MS. ROBINSON: That's right.

MR. SIEMON: That's what I just heard you say, so I just want to -- because we heard from public testimony that they can't get this information, so I'd
like to hear what are we going to tell the farmers, then, when they can't get this information, don't use it or find some other one?

MS. KOENIG: Yeah, and I think, George, if you look at the -- well, the regulatory background and then the discussion -- it really -- the discussion elaborates on kind of the ways in which there has been some action taken to help address the situation, so although maybe all systems aren't perfect, there are mechanisms in place and resources that growers can utilize now and hopefully, the progress that has been demonstrated, you know, by EPA, by manufacturers who already have chose to reformulate, by people who have petitioned to get inert ingredients.

I mean, we've shown and we've demonstrated as a Board that we will consider selectively adding -- if we review them. So you know, I just think in this point of time and I think through the discussion items, we've clearly indicated that there are actions that have been taken since those, you know, initial issues that are moving in the right direction and that this policy reflects those recent actions and it really encourages those who have reformulated, it encourages agencies such as the appropriate technology transfer and the check sheet tools that hopefully we're supposed to, you know,
improve communication and grower knowledge, so you know, I just think that if you read that discussion, hopefully it will be helpful in understanding the justification.

CHAIRPERSON KING: Other comments? All right, next we're up with the Scope Document, Dave.

MR. CARTER: Okay, the Scope Document, the policy development committee went through the Scope directive that was issued in April and particularly some of the areas where there's overlap with other committees, we attempted to work that through and dissect that a little bit, so let me summarize here briefly, there is one error in this document that I noticed as I was reviewing it, but on the background side, when it talks about the areas where the Scope Document addressed the -- where we went through and I've got it summarized on here.

Scroll down just a little bit there. In those areas there where we have five areas listed, there are actually six. The one that's omitted from there is pet food, but the areas that the Scope, the April 13 Scope Document addressed are personal care, body care products, cosmetics; secondly, dietary supplements, over-the-counter; third, fertilizers, soil amendments, manure and related products; fourth, fish and seafood farm-raised or wild-caught and then the fifth area was
pet food and the sixth area was mushroom, apiculture, honey, greenhouse operations, green house products, et cetera. So what we tried to do was go through them and look at these in terms of each category. Again, as the others have done going through OFPA, the regulatory language, the preamble language, and trying to draw that through.

So the first two that we put together were the areas of number one, personal care products, body care products, cosmetics and other related products and number two, dietary supplements, over-the-counter medications, health aids and other related products. The areas from the April directive that where the program had kind of laid down their rationale is that number one, that these were areas that were under the jurisdiction of FDA and also affected by applicable state laws that accordingly, then, the products listed above may not display the USDA Organics seal or imply that they're produced or handled to USDA/NOP standards and that anybody using the seal would have until October 21, 2005 to use existing labels and packaging. There's also on this one been some extensive input from the industry, particularly OTA and others, who made the observations that the -- remember first of all, the -- let's see, you can go on down, Katherine -- I'm sorry,
I'm giving the cliff notes version of this. Go on down a little bit further. Yeah, okay.

   The OTA and others had specifically laid out three areas that number one is recognizing that it can be a complex task to develop, to apply standards that were developed for crops, livestock and food products to other ancillary areas. Number two, that given that first one, still that there is clear authority in OFPA over again a -- produced agricultural products that are included in those and that that authority should be the overarching factor to use in determining the scope of the organic program. And then the third, the absence of specific standards for such products such as personal care and cosmetics should not become a reason for allowing the organic claim to be used, to be made for such products and that until such standards are developed, USDA should not allow the organic claim to be made regarding these products.

   What the Policy Development Committee then had put out for consideration is that NOSB and the industry groups, consumer groups, affected industry and other stakeholders solicit information concerning the certification, regulation and labeling of organic personal care, cosmetic, dietary supplements and specifically recommended that there be two of the
following -- two questions be addressed; those being first, number one, should legislation be adopted and rules written to regulate the labeling of organic personal care, cosmetic and dietary supplements and number two, should legislation be adopted to prohibit the use of the word organic on products not covered by OFPA, including those areas. So trying to not only draw a fence around what could be labeled and how those would be handled, but also to create some clear boundaries to prohibit the use of organic in areas outside the scope. And let me just talk because I'm going to go through each of these and see questions or comments, feedback on that particular -- yeah, Jim.

MR. RIDDLE: Yeah, Dave. One thing you didn't mention there is the second paragraph under the NOSB consideration where we took the position and this agrees with prior statements from NOP, that if the word organic is used to identify an agricultural product or ingredient, then the agricultural product or ingredient must have been produced and handled in accordance with the Act and the regulation. So that's just kind of stating the obvious, but it needs to be stated here in this context.

MR. SIEMON: And that's in agreeance [ph] with the directive?
MR. RIDDLE: Yeah. But the one issue that we really didn't tackle here in this part of the document is that use of the word organic on the principle display panel of these categories of products. The directive did and set a deadline for such use for removal of such claims. Is our -- is it our position, then, that we concur with that portion of the directive? I mean, I was asked about this yesterday during discussions and I do think we can't just ignore the issue.

MR. CARTER: No, that's a good question. I don't want to speak for the entire committee, but you know, I think the sense of the committee was -- and under the previous Scope Document, it was that if you could certify a process in which you either complied with the 70 percent, the 95 or the hundred, you know, the hundred percent, that you would be allowed to use it and that was, I think, the major change, so --

MR. RIDDLE: So I would -- I'll just propose this. I guess I'll move that we add a sentence that would follow that, sentence that I did just read, which talked about the ingredients or agricultural products, but -- and then specifically say if the word organic is used on a principle display panel, the label claim must comply with Sub-part D of the regulations which regulates that use of the hundred percent organic and
made with organic claim. If it's going to be on the
front panel, it has to be consistent product content to
other organic products. So just propose that as an
addition to this.

MR. CARTER: Okay. Been proposed. Mark, do
you want to go ahead since there's something that's been
moved?

CHAIRPERSON KING: Yeah, is there a second?

MR. CARTER: I would second.

CHAIRPERSON KING: Second.

MR. CARTER: Yeah.

CHAIRPERSON KING: It's been moved and
seconded. Is there a discussion concerning Jim's
amendment? Kim.

MS. DIETZ: Jim, I'm just -- I'm a little
confused because the directive says that you cannot use
the USDA seal. We all know that that's what the
directive says, but currently, none of these products
have to be certified, so if you put on there that they
must comply with the labeling on the front panel, I
mean, who's going to check that? I mean, it's just --
that's a new concept. I would not discuss it, at least
that I've ever seen from this group. Not that I'm in
disagreement with it, but I'm just questioning -- you
can say all you want, but if these products wouldn't
have to be certified organic, then who's going to regulate that? It doesn't make sense to me.

MR. RIDDLE: Yeah, I'm just talking about product content. I'm not saying that they would have to be certified or not, it's just that the consumer sees those claims, hundred percent organic, organic or made with, that they match up with the same product content requirements as required for certified organic foods.

MS. DIETZ: Yeah. Again, just who's going to check it? I mean, we could say that, but it's not enforceable.

MR. RIDDLE: And we're not calling for a rule change or rule writing or legislation, we're throwing that out to the industry to take the lead in gathering that information, it's just our opinion that -- is that the label and product content should be consistent from aisle two to aisle four. Yeah.

MS. DIETZ: If they're honest, right?

CHAIRPERSON KING: Andrea.

MS. CAROE: Well, I think that is the final outcome that we all hope for, but I don't think it has place in this document. I think this document was about gathering the information and hopefully industry will work with the appropriate regulatory body of that PDP [ph] to reach that outcome, but I don't feel that it's
necessary here, I don't think it's appropriate here. I think that is our goal and that's why we've done this exercise, but it's -- you know, it has no place in this document.

MS. DIETZ: Just one other comment. I've been involved in some other industries who are working on these standards and some of them are actually considering adopting different levels for their use. In other words, not 70 percent, it might be 50 percent or it might be 20 percent, so for us to limit ourselves, some of the standards that we -- that might come forward might make different label recommendations. I think that's what Tom's raising his hand about. So I wouldn't want to limit ourselves with that. I think that that's a given, but we might see standards that are different from what the food standard composition is.

CHAIRPERSON KING: Dave, go ahead.

MR. CARTER: Okay, speaking in favor of the motion, I think, though, the reason that I believe that this would fit within the document is it does establish a goal of what we want. Just because there are other things floating around in other areas as to what would qualify under made with organic or -- I think what this Board wants to do is say that our goal is that any other area that comes along ought to be consistent with the
food standards.

CHAIRPERSON KING: All right, do we want to vote on this amendment? We need to be cognizant of the time.

MR. SIEMON: You know, I'm just a little confused about this whole -- there's a lot of -- should we deal with this one at a time, like personal care and this is an overarching statement that you're talking about now? This clause here. I mean, we're voting on just this -- the amendment to this paragraph or voting on the whole section here? I'm just a little confused by what we're voting on.

CHAIRPERSON KING: Jim, if you want to clarify exactly where you're going to insert this amendment we're voting on and then we're going to call the vote.

MR. RIDDLE: Yeah. And yeah, this vote would be just on the amendment that I proposed and I -- it's just a way of getting a clear sense of the Board is why I propose it as an amendment and exactly, it would fit under "NOSB consideration" on page four of this Scope recommendation, after the second paragraph. So there's some language that's in bold there --

MR. SIEMON: Um-hum.

MR. RIDDLE: -- and it would be inserted after that and it would read, "If the word 'organic' is used
on a principle display panel, the label claim must comply with Subpart D of the Final Rule." It's just for consistent product content and that's just a sense of the Board.

MS. ROBINSON: It's also the sense of the NOP. The NOP has consistently made that statement.

MR. RIDDLE: All right, then it does make sense.

MS. ROBINSON: If it is an agricultural product and you are manufacturing a product that we do not cover the labeling of and you try to represent the agricultural ingredient as organic, as you've heard us say, it had better be certified organic, to these standards.

MR. RIDDLE: Um-hum.

CHAIRPERSON KING: Should we vote?

MS. DIETZ: I just want a point of clarification. Because we're not voting on this document, so do we even need to vote on your recommendation change? I mean, you're just --

MR. RIDDLE: Well, if everybody accepts it, we don't.

MS. DIETZ: I mean your Policy Committee could make the change and then bring it back and we actually formally vote on this recommendation, so I just don't
want to confuse people that we've voted on one little sentence in a 15-page document and not on the whole document.

CHAIRPERSON KING: It's the will of -- what would you like to do, Dave, as PDC chair? How would you --

MR. CARTER: As PDC chair, no, I can take it as a consensus addition. That's fine.

MR. CARTER: Okay. It's been --

CHAIRPERSON KING: Is anyone opposed to adding it at this time? Just as a committee document? Okay.

MR. CARTER: So the third area was the fertilizer soil amendments, manure and related products. Again, very similar; the -- they're regulated by applicable state laws that they may not display USDA Organic seal and that they have until October 21, 2005 and that anything that is organic has to be labeled in accordance to USDA standards. The area here where a related group has been looking at this is the Association of American Plant Food Control Officers or AAPFCO, I guess. And they, in August, had -- have under consideration the following amendment to its model regulation and that would set up two specific groups, T-63 [ph] for organic production and SUIP-28 [ph] that would then define how they would begin to look at the --
at these particular materials or these fertilizer. This
is not a final action by AAPFCO, but it's been referred
to their labeling committee for further consideration.
The Policy Development Committee recommends that the
Board endorse a draft of that labeling definition for
organic production as presented above. Comment on that
particular --

MR. BANDELE: I just have one question.

Failure to comply with this requirement may result in
enforcement action, but currently though, that -- I
mean, USDA could not do that, is that not right?
Because it falls under state.

MS. ROBINSON: Right, but my understanding of
this is that the applicable state organizations are
going to do something that -- and we've actually had
conversations with them about this that they would
recognize a label that could go on these products that
say, in effect, suitable for use in organic production.
Now, is there an enforcement issue? Well, yeah, there's
probably an enforcement issue in just about everything.
If a certifying agent or an operation, you know, and
then the certifying agent discovers that even though the
product -- I mean, let's face it. There are producers
out there, products, and they'll mislabel. You know,
again it is up to the certifying agent and the certified
operation to ensure that the products that they use do indeed comply with the National Organic Standards so that they're not putting on a product, a fertilizer or a soil amendment that's full of heavy metals or you know, whatever and hopefully, that there's also an enforcement action through the state regulatory agency, as well. And there generally is, folks. They are usually quite aggressive about fraudulent labeling in their respective states. And we've had this conversation before, so -- so both AAFCO and AAPFCO would probably look into it, as would we.

MR. BANDELE: No, but I don't think the statement was aimed at like farm operators, it was aimed at the manufacturers and that was my point, that --

MS. ROBINSON: We would not take an enforcement action against a manufacturer, but again, I believe that the state attorney generals office and the state regulatory agencies would. They have a vested interest in protecting their industry.

CHAIRPERSON KING: Jim.

MR. RIDDLE: Yeah. And if accept this -- I guess we're going to, you know, take the whole thing as a package once we're done here at some point; but I just want to make sure that, you know, part of this recommendation is endorsing the term "for organic
production" that's being considered by AAPFCO's labeling committee and so if the Board endorses that term, we will need to follow up with a letter and work with NOP on that, hopefully, that you know, that we're on the same page and think they're headed in the right direction.

MR. CARTER: Okay. Did you have a question or --

MS. KOENIG: It's not really a question, it's I guess a statement, just something to think about or ponder. You know, as EPA -- this is sort of analogous in some ways to this EPA proposal on Inerts, you know, where you have another agency that kind of oversees an area and you're kind of working or liaisoning [ph] with them for this kind of labeling. I guess what I'm wondering, and I don't want to bring it up, I'm just again just saying is this any different than OMRI's kind of -- it's the same concept where you're entrusting an agency, whether it's private or public, to kind of take your regulation and utilize it. So my question is if there's a problem with the way a private entity -- you know, if we're going to examine how a private entity looks at our regulation, isn't it our job to look at how state organizations would look at the regulation? So that's my question.
MR. CARTER: I think you're right on that. I think what this is attempting to do, though, is to work with those entities that are already addressing these areas and just trying to develop some consistency with that rather than trying to develop a whole new framework, so -- okay, let me move on, then, to the fourth area, one of our favorite topics, which is Fish and Seafood, Farm Raised or Wild-Caught. Again, from the April directive that although off the provided coverage for organic aquatic animal standards, NOP has not developed standards. The products cannot use the USDA Organic seal and may not imply that they were produced or handled to USDA/NOP standards at this time. Operations producing products listed above had until April 21 to -- of 2005 to use existing labels and packaging.

This is an area, then, where the Policy Development Committee wanted to transfer or delegate or plead and cajole another committee to take this on, specifically that in working with the Livestock Committee to endorse at least their recommendation to establish a new task force on standards for wild-caught and farmed aquatic animals. And just like the old, the previous task force, it would be structured into two working groups, one on wild-caught, one on farm species.
and these groups will develop recommendations for considerations by the full task force which will, in turn, issue recommendations to NOSB.

The new task force will be directed to take into consideration the report issued by the previous aquatic animals task force and subsequent NOSB recommendations and that we will try and make sure the task force, the committee, excuse me, will try and make sure the task force has expertise drawn from NOSB and throughout the industry and we'll take it from there. So this is something that will be brought forward here at this meeting to establish that task force.

The fifth area, which is the area of pet foods, a similar approach, although OFPA provides coverage for organic pet food standards, there are not any standards proposed for public comment at this time. The products, pet food products may not display USDA Organic seal, but any operations doing that at this time have until October 21, 2005 to use up their current stock. The discussions was that pet food is currently regulated by state laws and largely under AAFCO guidance. There's been suggestions that the NOP livestock feed regulations be applied to pet foods, but the NOP organic livestock feed regulations do not contain a provision for made-with-organic-ingredients.
labeling claims and do not permit certain amino acids commonly used in pet foods. Organic livestock feed regulations also prohibit mammalian or poultry products fed to mammals. The third area under the discussion is the pet food could be alternately certified and labeled under NOP requirements for human food products, but this would limit the use of additives and processing aids to natural substance approved for human foods and synthetics currently listed at 205-605B.

So what the NOSB Policy Development Committee recommends that we solicit comments for organic pet food and that we further recommend that the NOSB Handling Committee convene a pet food task force, again a task force that would include members of the Board as well as members of the public representing the organic trade pet food industry, feed control officials, academics and accredited certifying agents.

Comments or -- and then the sixth area, which was mushrooms, apiculture and honey, greenhouse operations and greenhouse products, hydroponic agriculture; these are areas that the NOSB has had -- has addressed. These products from the April directive, the products may be certified to the existing NOP regulations which will be amended in future rulemaking to cover any unique production and handling.
requirements. NOSB has provided recommendations and the
NOP is saying they'll publish at the earliest possible
date through notice and comment rulemaking any
additional standards needed for these commodities.

So the Policy Development Committee recommends
that the NOSB agree with the NOP for a position that
mushrooms, apiculture and greenhouse operations can be
certified organic and the products, as such, can be
labeled as organic and carry the USDA Organic logo. We
point out that the NOSB adopted the support of an April
25, 1995 greenhouse recommendation, a section entitled
"Specialized Standards for Hydroponic Production in
Soil-less Media" and that their recommendations stated,
"Hydroponic production and soil-less media to be labeled
organically produced shall be allowed if all provisions
of OFPA have been met."

And though the issue has been discussed, the
NOSB has not yet submitted a recommendation on
hydroponic standards since a Final Rule was released, so
we request that the Crops Committee place the item on
its work plan and that rulemaking standards should not
proceed until the NOSB has submitted a final
recommendation. So these are the provisions that were
brought to the Policy Development Committee and it
doesn't list here what the vote was, but the vote was
unanimous. I think there were two members absent at
that time, so the vote was four in favor, zero against
and two abstentions, so --

CHAIRPERSON KING: Thank you, Dave, and thank
the committee. That's an extensive document and we
appreciate that. Barbara, did you have a quick comment?
I saw your little light come on. Anyway, Kim, looking
at the agenda; we're going to take a quick break. We
were scheduled from 3:00 to 5:00 for public input so we
will start in 15 minutes. And what do we have? Let's
synchronize our watches. Four after 3:00, so -- hold
on, Jim. We'll be here at 3:20.

MR. SIEMON: I'm confused. Aren't we ending
this exercise?

CHAIRPERSON KING: Can we get the NOP response
in the morning?

MS. ROBINSON: The Department concurs with
what you've written in your Scope response, yes.

CHAIRPERSON KING: The Department concurs.

MS. ROBINSON: The Department concurs.

CHAIRPERSON KING: So hold on. Before
everyone leaves, one quick thing and then -- wait a
second. Concerning public input; we scheduled it until
5:00, we will extend it until 5:30 considering we're
starting late. There are 35 plus people signed up. I
would encourage some of you to perhaps consider, if you would, please consider moving to the second public input session as we only have five people signed up. So anyone willing to do that, we would greatly appreciate that. A number of people have industry commitments tonight and need to depart by 5:30 but we are willing to extend it until 5:30, so thank you. We'll be back here in 15 minutes.

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[Off the record]
[On the record]

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CHAIRPERSON KING: While we're looking for the lost Board members here, I would like to offer another opportunity for those signed up for public input to actually not give your input today and do it on the public input session number two, which is Thursday morning. If there are volunteers and you would like to come forward at this time, I would greatly appreciate that. Okay. So now that we've recovered from that stampede, I have no other choice at this point but to limit your comment time to three minutes. We have 38 people signed up and there are a lot of industry commitments tonight, so it would be mathematically impossible to do the five minutes, so you have three
minutes -- yes, a quick question.

MS. WIRE: I'll go on Thursday.

CHAIRPERSON KING: Okay. And what's your name?

MS. WIRE: Gwendolyn Wire [ph].

MR. RIDDLE: You get the full five minutes on Thursday.

MS. WIRE: That's right. If I can't do it --

CHAIRPERSON KING: We may even be able to give you more than five on Thursday and we might even serve coffee.

MS. DIETZ: Just for protocol, I do have a timer and I'll set it for three minutes so everybody ensures they get the same amount of time and that at one minute you'll see a one minute sign and you'll have one minute to finish up. Okay?

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[Off the record]

[On the record]

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CHAIRPERSON KING: Okay, thank you all very much. We've had a few people move. We're still going to stick to the three minutes. We had four move. That still puts us at 34, but I appreciate that, so first up is Debra Brister.
MS. BRISTER: Okay. Good afternoon. I'd like to thank the Board for allowing me the opportunity to speak to you today. We were going to give a PowerPoint presentation. I was informed that we were unable to do that, so did we make photocopies of the PowerPoint presentation for each of you that should -- you should each have one of those copies. Additionally, you should have a National Organic Aquaculture Work Group participant list and finally, another handout is the National Aquaculture Act of 1980. So I'm going to go through the PowerPoint presentation. You may take a look at your handouts as I go through it.

My name is Debra Brister and I'm a research fellow at the University of Minnesota's Institute for Social, Economic and Ecological Sustainability. As some of you know, I've been involved in the process of developing standards for organic aquaculture for some years now. I've convened national and international workshops on organic aquaculture and served on the first NOSB Aquatic Task Force Aquaculture Work Group. I come before you today as a co-chair of the recently formed National Organic Aquaculture Work Group, or NOAWG, and would like to provide the Board with some brief information about our work group, who its participants are, how it can assist the NOSB and provides some
initial recommendations as you consider the reformation of the -- of another NOSB Aquatic Task Force.

The National Organic Aquaculture Work Group represents an alliance of approximately 80 aquaculture professionals, related parties with a strong interest and goal to assist in developing workable, science-based organic standards for aquaculture production and handling practices. Our work is aimed at proposing organic aquaculture standards for rulemaking procedures under the Organic Food Production Act that are consistent with the NOSB principles of organic production and handling. We believe it's important to develop science-based standards that are appropriate for aquaculture. Adequate sound science exists for many areas, however there are gaps that require further research. NOAWG is best suited to integrate sound science into the standards development process and identify priority areas for further research.

To provide a little background information, I'd like to talk about some seafood trends, global aquaculture production and global organic aquaculture production that exists today. I will quickly say that imports are playing an ever-increasing role to meet the demand for seafood in the United States. The table you have before you was prepared with data from the National...
Fisheries Service and it shows slight increases in exports and huge increases in imports. Note especially the increase in imported seafood from 1970, when the U.S. imported one billion dollars in fishery products to 2003, when the U.S. imported over 21 billion dollars worth. Global aquaculture production is the fastest growing food production sector in the world, growing at an average of nine percent per year compared to terrestrial livestock and 2.9 percent and captured fishery use at 1.3 percent.

There are no official statistics on organic aquaculture production yet, but in 2003 global production is estimated between 7,500 metric tons and 8,400 metric tons. This includes roughly 5,000 tons of salmon, 1,500 tons of shrimp, 500 tons of carp and trout, 500 tons of other species. Currently, approximately 20 to 25 certification bodies have standards for organic aquaculture and are certifying products used in different criteria. We know that there are organic aquaculture products entering into the U.S. market even though we have no national standards yet for organic aquaculture. This begs the question, should other countries define what organic aquaculture products are for U.S. consumers? If yes, this could impact the confidence of other organic labeled livestock products.
Anything of lower or non-compliance with the NOP could be bad for anything citified organic.

We know that there are tough issues that must be addressed thoroughly by standard-setting bodies. These include challenges with shellfish and other open-water operations; traceability; hatcheries and sources of stock; chemical and contaminant drift; aquatic feeds including fishmeal and oil, additives and supplements; proactive healthcare management; conversion periods; growing systems and more. Therefore NOAWG was created to assist, support and facilitate a nationally coordinated systematic approach to propose aquaculture standards to the NOSB and NOP using diverse stakeholder input, participation and mobilization of national expertise to use sound science. I'd like to turn the podium over to my fellow co-chair, George Lockwood, who will continue the presentation and also speak on behalf of Richard Nelson, our other co-chair who could not be with us today. Thank you very much.

MR. LOCKWOOD: Thank you, Debra. Thank you, Mr. Chairman, for the pleasure -- the privilege of speaking to you today. As Mrs. Brister has said to you, the national organic working group is a large and diverse group of experts in aquaculture. Altogether there are over 70 of us from a wide range of
livelihoods.

We have organic fish -- we have fish farmers as well as people who are in agriculture, producing organic products. We have academicians [ph], we have trade associations, we have people from federal and state agencies and we have a very interesting group of international participants. We operate by way of teleconferences, so we use a list-over [ph] which is a very effective way of communicating and we've had meetings, one meeting so far in Honolulu at the World Aquaculture Society Meeting and another one coming up in New Orleans in the year 2005. It is our intention to work closely with the National Organic Standards Board and the National Organic Program to come up with meaningful standards for development of aquaculture.

We anticipate that we'll have our work done within the next year. We will have some clarification issues which we want to bring to you sometime in the future, that we do hope to have most of our work done with recommendations for you within one year. So far, we have recruited our membership. We have begun to identify issues. We have begun working on fishmeal constraints. We have initiated a shellfish sub-group, which is really quite a different type of proposed standards. We've worked with the National Organic Standards Board.
Program on clarification issues and we have submitted grants to the USDA and others for possible assistance in various areas.

I'd like to add briefly to something that Debra just said. On the internet today there is a comment from Nature Land in Europe that they expect aquaculture, in the next year or the next several years, to reach 400 million dollars of organic products. In other words, the Europeans are moving ahead very, very rapidly. We have several recommendations for you that come out of what Mr. Carter has recommended earlier.

First of all, that wild be treated different than aquaculture, that the task force not deal with both, that they be split and handled separately. We ask that our work at the National Organic Aquaculture Work Group be integrated and be your arm to deal with aquaculture and be integrated directly with you. As for the task force, as recommended, we ask that this be delayed until we have an opportunity to make our reports to you and if at that time you believe that a task force is helpful and essential, that you deal with that issue at that time and not now. And that the -- our work group be able to report directly to you rather than through a bureaucratic intermediary.

MS. DIETZ: Time.
MR. LOCKWOOD: Should you wish to proceed, we ask that 50 percent of the members be appointed by us and that the 2001 Aquatic Animal Task Force not be the basis for your -- our future work; that it be resource, yes, but not a basis. Also, you have a definition of aquaculture we gave to you from the 1980 National Aquaculture Act. We would hope that you would codify it. Thank you very much.

CHAIRPERSON KING: Thank you very much.


MS. GOLDBERG: I wanted to offer a comment, perhaps ask a question. I think it's terrific that there's so many people in the aquaculture community who are interested in organic production and have in the past been a supporter of organic aquaculture standards. With that said, one of the things I think is really important about the National Organics Standards Board is represents a range of views. It includes consumer and environmental interests along with industry and certifiers and so on. And when I and one of my colleagues in the conservation community have approached this group about including consumer and environmental representation, we have been at least gently rebuffed and I'm curious why the group does not have a broader range of participants.
MR. LOCKWOOD: Well, first of all, Becky, 10 of our 72 members do come, one way or another, are connected to the organic community. Either being in an organic association or one way or the other. Secondly, nobody's been rebuffed. If for some reason you submitted names of people that aren't on our list -- it's an open list. You have the list directly before you; Debra handed it out. If you want people added, we'll be more than happy to have them.

MS. GOLDBERG: And can I ask another question, Mark?

CHAIRPERSON KING: Sure.

MS. GOLDBERG: My second question had to do with written comments you submitted along with Debra and Richard Nelson, and they seem to be the basis for your not -- urging that we not rely on the earlier aquatic species task force report, which I thought was a good first step. And part of the rationale seemed to be that there weren't adequate aquaculture representation in the group and b) that there was an adequate public comment and I just want to offer the observation that by my count, seven of the ten people of the aquaculture working group in the last Aquatic Species Task Force represented aquaculture interests in some way and also that the report was put out in -- of the task force in
the spring meeting of the NOSB, I guess, in 2001 and not voted on until the fall meeting and therefore there was a full summer for public comment.

MR. LOCKWOOD: There were two reports, you recall. One was from the working group, was correctly included, a number of aquaculture professionals. And there was a six-member task force that didn't include anybody from aquaculture that met in-camera and never once was an opportunity for anybody from aquaculture to comment on the report. So we really think it was not representative and it also contains significant errors. We certainly think it should be resourced because it represented some of your thinking, but it certainly should not be a definitive, basic document. We urge that it not be that.

CHAIRPERSON KING: Owusu and then Kim.

MR. BANDELE: Yeah, I'd just like to know when the organization was founded and also, in light of Becky's comments, what are your criteria for membership?

MR. LOCKWOOD: Just to express an interest in joining, is the second question. The first one, we began working about a year ago, sir.

MS. DIETZ: A point of clarification. If you have a proxy, if you could -- say you got a proxy when you come to the mike, that way I know in case Mark

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forgets to tell me. And then --

MR. LOCKWOOD: I have a proxy, ma'am.

MS. DIETZ: Okay, thanks. And then if you're
a second speaker, you'll need to also tell me that
because the confusion was the first speaker had a proxy
and you are second speaker, so that -- hence, the long
time period.

MR. LOCKWOOD: Thank you very much.

CHAIRPERSON KING: Okay. Next up is
Dr. Owen Keane and on-deck is Dave Garforth. And if you
could please repeat your name, who you are and where
you're from for the purposes of the court reporter, I
would greatly appreciate that. Thank you.

MR. KEANE: Okay. I'd like to thank the Board
for allowing me to -- these few minutes to address you.
My name is Dr. Owen Keane. I'm a poultry nutritionist.
I work for Heritage Poultry Management Service in
Annville, Pennsylvania. I've been doing this now for
approximately 15 years. Before that, I did work at Penn
State University as the nutrition, Poultry Nutrition
Extension Specialist. Before you, I think, Chris had
passed out a number of -- a couple of documents there
that -- the first one is Methionine Deficiency in
Organic Poultry and the second one is some comments that
I had jotted down before and was also presented to the
Board, I think, at a previous meeting. I didn't present them, somebody else probably did. Methionine is an amino acid which is one of the 10 essential amino acids needed to produce tissue proteins.

In poultry, methionine is unique because it is used to produce feathers. Since feathers are protein and a lack of feathering results in protein deficiency, feathers are very important to a chicken because it helps them regulate their normal body temperature of 107 to 108 degrees Fahrenheit. Bird in general have higher body temperatures than mammals. Chickens and turkeys will replace their feathers at least three times before they are sexually mature. If you count the downy feathers, or the feathers which they have -- which they were -- have had when they're hatched, then it would be four times. Other deficiency systems are noticeable. There are increases in nervousness, flightiness, wildness, hypertension.

This usually occurs in the first week or two after hatching. After two or three weeks, litter eating to feather picking will occur. Finally, the birds would begin to cannibalize each other, causing morbidity and mortality. When they reach this stage, there's very little that can be done to break the habit of the picking. Even adequate amounts of methionine at this
particular time will not solve the problem. So they must -- the methionine levels must be started at day one of age. The average feed consumption of a young chicken during the first week of age is about seven to ten grams per day and if you want to relate that to something that you see every day, it's probably about one teaspoonful, so it's not very much. In addition to that, in addition to the methionine, there needs to be another 40 plus --

MS. DIETZ: Time.

MR. KEANE: -- nutrients supplied to the seven to ten grams of feed in adequate amounts to maintain life.

CHAIRPERSON KING: Are there questions concerning his input?

MR. KEANE: I though a -- yeah.

MR. LACY: I know that we sort of cut you off, Dr. Keane.

MR. KEANE: Sure, that's all right.

MR. LACY: But maybe you -- I'm sure you had sort of a bottom line of summary. If you'd like to give us the bottom line of what you're presentation was going to be?

MR. KEANE: Okay. The bottom line is, basically, that methionine should be included in the poultry feeds. Now, methionine can be added in not,
perhaps maybe methionine, per se, but other feed ingredients that high amounts of methionine. I have no problem with that, if that's what the -- that's what you're considering a bottom line, this is what I consider a bottom line here, at least anyway, because they do need it and they have -- it is really what the -- well, all the nutritionists know is that it is the first limiting amino acid in a poultry feed. The other thing I wanted to explore with you, also --

MS. DIETZ:  Sir --

CHAIRPERSON KING:  Sir, this is question and answer.

MS. DIETZ:  -- we get to ask you some questions now.

MR. KEANE:  Sure, okay.

MS. DIETZ:  Mine's just more a comment.

MR. KEANE:  This doesn't take my three minutes, does it?

MS. DIETZ:  You've gone past the three minutes. It's a pretty fast three minutes, isn't it?

This Board has already reviewed methionine is --

MR. KEANE:  Sure.

MS. DIETZ:  -- as a material to be added on the National List.

MR. KEANE:  Yes.
MS. DIETZ: We added it with the Sunset Provision that it be removed, I believe, next year.

MR. KEANE: Two years from now.

MS. DIETZ: Okay. Our charge was that the industry needed to bring us alternatives, so I -- that's what I plead with you that you should read, maybe even go back to the minutes of that meeting and see what we've done. We've already gone through all this information.

MR. KEANE: I don't see them coming down the road.

MS. DIETZ: This was a statement, not a question for you.

MR. KEANE: Okay.

MS. DIETZ: So I encourage you to go back and encourage your industry to bring us alternatives. That's what we asked for, but otherwise, that material is going to be coming off the National List.

MR. KEANE: When is that coming out?

CHAIRPERSON KING: October of 2005.

MR. KEANE: Pardon?

CHAIRPERSON KING: October of 2005.

MR. KEANE: That's -- okay.

CHAIRPERSON KING: That would be a year from now.
MR. KEANE: That's a year from now.

CHAIRPERSON KING: Yeah.

MR. KEANE: That's fine, okay. But I don't see it right now and I'm formulating feeds for about a quarter of a million organic hands right now. So I -- I mean, I would use them right now if they were available. Now, some of the research that goes on in academia, because I'm quite familiar with academia, too. It doesn't get out there, you know, the -- to the ones that are out here that are doing all the formulation and feed formulations why, for about maybe four or five years. So this is what I'm really concerned about, more or less, than anything else.

CHAIRPERSON KING: Well, yeah. We appreciate your concern and it's been noted and in fact, Mike and I talked on the phone the other day that --

MR. KEANE: Good.

CHAIRPERSON KING: -- you know, I mean ongoing research needs to be done, looking at alternatives and certainly what's happening in the industry right now is always a concern, but as Kim said, our hope is to receive more information concerning alternatives with methionine, so thank you very much for your input.

MR. KEANE: Okay, very good. Thank you.

CHAIRPERSON KING: Yeah. Let's see,
Dave Garforth and on deck is William Jackson.

MR. GARFORTH: Thank you, Mr. Chairman.

Again, I'd like to thank the Board for giving us the opportunity to make some public representation today. As I said, my name's Dave Garforth. I'm representing Green Harvest, summer farming activities in Ireland and also Spreting [ph], which is a feed company which is affiliated to Green Harvest which obviously supplies the feed. I'm going to get my picture out, first of all, so you know where I'm coming from.

Okay, we hold the view that farming of viscivorous [ph] species, carnivorous species of fish under aquaculture can be a sustainable activity and can be brought under organic management. So that's really my principle guiding statement I want to make to everybody today. Just to fill you in on the background, we've been growing organic salmon in Ireland since 1996 under a variety of different certification agencies, natural -- being one of the formal ones, but also the Irish Organic Farmers and Growers Association, Bio-Swiss Standards, the French B.O. Standard and there's probably others if I could remember, but -- Soil Association in the U.K. and companies affiliated through there, as well. Aquaculture products including those derived from aquaculture -- I'm just going to read here, are traded
internationally.

Since the U.S. is an extremely important market for seafood on the one and organic products on the other, decisions taken at this level here by the NOP, the USDA and by the NOSB obviously have a huge potential to impact some global aquaculture and the trade and also the development of organic aquaculture globally. So I'd like to make that statement, as well. That's vis-à-vis policy, vis-à-vis labeling, vis-à-vis any standards which are set representing the missions for fishmeal, the missions for additives, you name it, diet, stocking -- we feel that the existing fish farming operations we have in Ireland can make a valuable contribution to the developments here and we'd like to try and support you in that.

We ask, therefore, if the following could be taken into consideration, first of all. And these are just something I've noted over the last, I suppose -- this morning, really, since we came to this meeting. Probably people that are aware there are several organic established activities operating globally. These cover a lot of species; salmon, trout, sea bass -- carps, other species, as well. Eels, I believe, shrimp, as well. These are operating -- some of these products have been operating for more than 10 years. So
obviously standards have been set in other areas. These will create new awareness in the marketplace and also achieve market exemptions.

Obviously -- and I think the NOSB Aquatic Task Force should be commended on this. Setting standards isn't easy; making recommendations isn't easy, so certainly I'd like to commend you on your first draft attempts at setting standards. It's clearly the most difficult thing to do and I think it's a great document and a good basis and starting point to move forward with those standards, as well. I like particularly some of your comments which you've made and it's interesting how closely they resemble the similar position we were in 10 years ago --

MS. DIETZ: Time.

MR. GARFORTH: -- and -- okay. I think that's about it.

CHAIRPERSON KING: Does anyone have a question for --

MS. CAUGHLAN: I'd like to just follow up. What was the position 10 years ago?

MR. GARFORTH: Our position 10 years ago. We began working principally with -- as an industry, with Nature Land, a certification agency. We wanted -- we saw a role to play in -- in the development of organic
aquaculture, so we approached, actually, Nature Land in the first instance. We approached other agencies, as well, which were involved in private certifications in Europe.

I should explain still in Europe, the activities in organic in terms of regulation for livestock and for aquaculture in particular, aren't dissimilar from where they are in the U.S. At this point in time there is an E.U. organic regulation, but there's no annex for aquaculture. So all the private standards survive just as private labels. They follow, basically, IFOAM, the International Federation of Organic Agriculture Movements guidelines, but in many respects, we're still at the same place as where you are, even though all these agencies have moved forward and developed their own standards, which have been recognized.

And I think that activity has helped a lot and certainly at this point in time, the E.U. is now trying to harmonize all these standards in Europe to come out with a common regulation or an annex to the E.U. regulation which will support, obviously, a more harmonized process for development of aquaculture in Europe. And perhaps -- I don't know if that's the driving force in the U.S., I think perhaps it might be
different. I don't know.

CHAIRPERSON KING: Jim.

MR. RIDDLE: Yeah, just quickly. We heard earlier a suggestion that we delay seating an aquaculture task force. What's your position? Should we move ahead at this time?

MR. GARFORTH: Well, I think certainly moving ahead in terms of the process of developing further recommendations and even setting draft standards is a positive move forward.

MR. RIDDLE: Okay, thanks.

MR. GARFORTH: It has to be done at some point, yeah.

CHAIRPERSON KING: Thank you. Next is William Jackson and let's see, on deck -- I have to skip down. Tom Hutchison.

MR. JACKSON: I'm burning up my three minutes.

MS. DIETZ: Oh no, you're not.

CHAIRPERSON KING: You haven't started yet.

MS. DIETZ: I'll wait until you start.

MR. JACKSON: All right. What I am excited about today is to share with you technology out of Japan that we've negotiated with on sanitizing and cleaning with water that has been charged so that when it comes out, it comes out, half of it, approximately, is on the
alkaline side, the other half is on the acid side. I'd like for you to turn to Tab Number 1, the back side of that page will give you the agency approvals that are already in existence.

Tab 2 talks about how it works by using tap water, a small amount of salt and electricity, a chemical change transforms these common ingredients into one of the most effective cleaning means of cleaning with a strong anti-bacterial effect, proven effective at removing bacteria by creating both alkaline and acid water and with the combination water, we're able to wash and sanitize without the use of harsh chemicals.

On the back of that page it shows how it occurs and on page four, or Tab 4, the chemical changes that take place and if you are thinking about the amount of salt, it is less than half the amount that we use for seasoning our food, so the amount is very, very minimal and the charge -- for example, what you're taking is the combination of the sodium and the chlorite. In that small amount with that charge, you end up with approximately 80 times the strength of the chlorite which immediately then -- thank you. Then -- the sixth one talks about very quickly, the different kinds of water, the pH of one is 11.3, one is 2.7. The different universities are on 7 and the number 8, we'll go down...
through a number of the bacteria and on page or Tab 11, there are questions and answers, but on the back of that there are university studies and some of you are as keen on that as I am and we have here -- I have two notebooks of just university studies here in the United States already completed on some of the main questions that we have. On page 12, I consider this --

MS. DIETZ: Time.

MR. JACKSON: -- to probably be the -- 12 is the most important page and that will give you the bacteria and viruses already proven effective.

CHAIRPERSON KING: Rose.

MS. KOENIG: Are you aware that you need to petition that if it's a substance, you know, you indicated -- it sounds like there's a synthetic reaction going on and you have a substance that is generated by your process.

MR. JACKSON: Yes, there are two ways to do it. Number one, you have to remember this is very --

MS. KOENIG: I don't want to get into that, but what I'm suggesting is that we have a process; if it's an actual substance that you want us to look at in terms of seeking approval for the National List -- because it sounds like it would have to be added to the National List, then you need to address that through the
petition process. And that's what I suggest you kind of look into and if you need some additional information, we'd be happy to provide that.

MR. JACKSON: There's a combination of answers to that, but I'll accept your request for doing a petition.

MS. CAUGHLAN: So the substance is electrolyzed -- oxidizing water?

MR. JACKSON: That's correct and --

MS. CAUGHLAN: And you're here presenting us with a brand name, that's the point.

MR. JACKSON: Yes.

MS. CAUGHLAN: You need to --

MR. JACKSON: Well, not a brand name. I'm just introducing the subject.

MS. CAUGHLAN: Right, concept.

MR. JACKSON: And I knew it was going to be a short period of time so I gave you 60 pages to look and then the following will be a presentation --

MS. CAUGHLAN: We invite your petition.

MR. JACKSON: -- of our request. It will include table salt and it will include that I want to put water in a bottle. Any other question? Thank you.

CHAIRPERSON KING: Mr. Hutchison, you're next and Pete Gonzalez is on deck.

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MR. HUTCHISON: Thank you. Tom Hutchison, Organic Trade Association. Please find in our written comments a draft of an OTA paper on organic pet food standards and an OTA position on a very important issue, the allowance of both organic and nonorganic forms of the same ingredient and made with foods, regarding which OTA requests an NOSB recommendation for rule change supporting OTA's position.

OTA does not usually take positions on specific materials, but we do have a task force on alternatives to synthetic methionine not yet ready to report, though I understand several people here will report independently on that. Studies have just been funded that will take several years to complete, so OTA would appreciate an additional period of allowance. A material sunset, please publish the entire National List in the Federal Register for comment as soon as possible to assess whether there's any new information available. If no new information is available, OTA urges NOSB to recommend continuing the current status of the material.

I see the attached for the pet food, proposed pet food standard. And they're full of comments in the written version. On aquatic animals, the Board must ensure that any aquatic animals standards it creates do not lower consumer confidence in the organic label. The
organic standard must not only meet any related existing standard, it must take into account and exemplify the ecological principles on which organic agriculture and its appeal to consumers is based. On policy development matters, thank you, Policy Development Committee.

There is a possible misinterpretation of an OTA position, though. OTA has been quoted in a passage meant to refer only to products that do not meet the NOP Final Rule, which should read the opposite way of the way it has been read, that being, "The absence of specific standards for such products should not become a reason for allowing the organic claim for such products if they do not meet the NOP rule. Until standards are developed, USDA should not allow the organic claim to be made regarding these products if they do not meet the NOP rule." For the directives, OTA supports the NOSB positions on fishmeal and unknown NRT [ph] pesticides.

On the Scope, our position's always been that if a product meets the rule, it is by definition in organically produced agricultural product and therefore should fall under the scope of the National Organic Program. OTA supports the comments of the American Herbal Products Association. On specialty crops, OTA agrees the NOSB recommendations should be published as proposed rules. Thank you very much.
CHAIRPERSON KING: Impressive, Tom.

Questions? Thank you very much. Pete Gonzalez and on
deck is Mark Kastel and it appears Mark has previously
-- has a proxy for Ann Lazor.

MR. GONZALEZ: Pete Gonzalez representing 670
or so members of Oregon Tilth, mostly in Oregon but also
across the country. We'd like to yield our time for
comments and the next commenter in light of your
schedule today.

CHAIRPERSON KING: Thank you.

MR. KASTEL: Do I have three minutes or five
minutes, Mark?

CHAIRPERSON KING: Six.

MR. KASTEL: Six minutes. Okay, thank you. I
have a proxy, as you know. Okay, I'm pleased to see
that our staff is here today --

CHAIRPERSON KING: Your name for the record,
please.

MR. KASTEL: I'm sorry.

CHAIRPERSON KING: Your name for the record.

MR. KASTEL: I'm going to get to that. It's
in the text. Mark Kastel, thank you. This is a
representation of respect for our Board and for the
organic community and we've seen what appears to be some
nuance changes today and so I'm hopeful. And even
though I'm from -- I live in Wisconsin, I'm from Missouri, so in six months we'll see. I hope we'll see.

My name's Mark Kastel. I'm here today representing the Cornucopia Institute based in Cornucopia, Wisconsin. I have a proxy in my possession from Ms. Ann Lazor, one of our board members and a Vermont dairy producer, who along with her husband, Jack, and their employees milk 45 Jersey cows and market the nicest organic yogurt or some of the nicest yogurt in the country under the banner Butterworks Farms.

In Chicago, the Cornucopia Institute, along with many other farmers, consumers and NGOs called for the equivalent for a regime change at the National Organic Program. The reward for our efforts was to have the past manager of the NOP promoted with a raise and salary. He was replaced by a young career bureaucrat demonstrably more respectful to the people involved in the process, but unfortunately, once again lacking a professional background in organic agriculture.

CHAIRPERSON KING: Sir, I would have your comments be objective and not personal attacks on character or anything. We will not stand for that.

MR. KASTEL: I --

CHAIRPERSON KING: I'm asking you one time, do not have personal attacks on individuals on this Board.
or the National Organic Program. If you have some constructive information to share with this Board, please do so.

MR. KASTEL: Okay. I'm hoping we're not taking time out of my testimony here. Mark, I was -- I do not know any of the staff members personally and I --

CHAIRPERSON KING: Please continue with some constructive comments.

MR. KASTEL: I'd like to respond to your comments, if I may.

CHAIRPERSON KING: No. Please continue with some constructive comments.

MR. KASTEL: I object to the characterization that there was something personal in nature regarding my testimony. More importantly, a by-product of the unprecedented volume of testimony in Chicago was understandable reaction to the guideline documents. In the press they were generated -- I'm sorry, you know, Mark, I want to respond to your comments. I think it's a --

CHAIRPERSON KING: Please continue with constructive comment. I'm not going to ask again. Thank you.

MR. KASTEL: In Chicago we objectively critiqued the fact that not only was our organization

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but others in the organic community unhappy with the fact that there was a lack of professional pedigree and technical experience on -- represented by the NOP staff. We still object to the fact that universally respected and creditable people with a production agriculture background or academic background that would be applicable to those duties are not represented on the staff.

That was the nature of the comments I made and I'm sorry that, you know, I'm probably not going to be able to present my testimony that I presented a week ago. I'm not a professional public speaker. The Cornucopia Institute is here today because of the wholesale expansion of factory farming into the organic dairy, poultry and beef production sectors. Although I'm quite comfortable with the fact that we do not have a limitation on scale in terms of organic certification, the law most definitely puts limitations on organic farmers of animal husbandry practices. The law calls for pasture being an integral part and component of feed intake for ruminants.

Why do we need to file lawsuits against our own government to enforce the law? You cannot milk 3,000 cows, 4,000 cows, 5,000 cows, milking them, in some instances, three times a day and provide them with...
real access to pasture. You can provide them with dry
lots and call that pasture, but that does not make it
pasture, nor does it comply with the law. Furthermore,
the claim by some farms and the willingness of the USDA
and certain certifying organizations to approve
confinement livestock because of the "stage of
production exemptions" disregards the tenor and spirit
of the law and rules.

This is disrespectful and a slap in the face
to Ann and Jack Lazor and the hundreds of other
hardworking dairy families who jump through the hoops to
produce real organic milk. Some would like to say that
we should move to the next label and abandon organics.
We are not ready to give up. There are too many good
people who have worked to long, including members of
this panel --

MS. DIETZ: Time.

MR. KASTEL: -- to abandon the hope that
organic farming has brought to rural America.

CHAIRPERSON KING: Thank you. Questions,
comments? Thank you.

MR. KASTEL: I'll say in closing, Mark, and I
assume you'll gavel me down again, that this is supposed
to be a democratic process. I --

CHAIRPERSON KING: This is a democratic
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process for asking --

MR. KASTEL: And though you might not agree
with my language --

CHAIRPERSON KING: Sir.

MR. KASTEL: -- in most venues, we have free
speech in this country and I --

CHAIRPERSON KING: Yes, you do. Yes, you do.
I'm just asking no personal character attacks. Thank
you for your comments. Next up is Herbert [sic]
Karreman. On deck is Jim Pierce, Organic Valley.

MR. KARREMAN: Hello. Hubert Karreman,
veterinarian, Pennsylvania. I just wanted to talk about
perhaps some things for your TAP reviews you do in the
future. I've had some confusion or problems with
various certifiers throughout the country on certain
treatments that have been used on dairy cows in
emergency situations and some of it comes down to
nomenclature, so the first thing I'd ask is that -- and
maybe this already done, but please, I guess, make it
more publicly known to the certifiers when something is
TAP reviewed and allowed.

But that when you're doing the TAP reviews,
please take all known commercial trade names that
included that TAP material, you know, make that
widespread known. How many -- what kind of and how many
commercial products are out there containing, let's say, calcium borogluconate, okay? Because certifiers will say if I put on my bill a specific trade name and they don't know that trade name, so they've got to review that whole product, even though it is calcium borogluconate. And it causes a lot of headaches for the farmer.

And also, if when you're reviewing a TAP material, if you could show if it's in the United States Pharmacopeia or the National Formulary since the FDA looks at that, well, they recognize that as the official compendium [ph] in the United States. Also, if you could show all chemical synonyms known for that TAP reviewed material, that would be helpful. I had a long drawn-out discussion with one certifier about calcium borogluconate because in a trade name it's called -- it has its name Borol Esters of Gluconic Acid. They had no idea what that was, so it was an educational process.

So basically, when you're doing a TAP review, please have as many different synonyms or -- and products with that active ingredient named so that in the end, if it does become allowed, that certifiers will have a nice list to choose from or if they see it come through. And also, I hope that when you're looking at TAP reviews before like in the front end -- you know, if
something's an electrolyte, that you don't do a TAP review on it, because calcium borogluconate is an electrolyte. I was on that TAP review as an OMRI reviewer back in 2000 and right now today, from what I hear this morning -- I wasn't there. I was late, but calcium borogluconate is being just jettisoned off to the side now because the FDA triggering what-not and yet, it's an electrolyte. So isn't it allowed?

MS. DIETZ: Time.


MS. KOENIG: We'll be discussing, I guess, tomorrow the revision of a petition form, which is what petitioners need to provide to the NOP and eventually to the TAP contractor and one of our suggestions or one of our changes is in addition to, you know, in addition to whatever generic you're applying for or petitioning for, what formulations exist out there so that the TAPs are kind of a much more wide scope, because that's -- it's -- the intention is you're putting a generic on not one specific brand name. But please look through that document. It's on the web. And perhaps you'll be here during that discussion or jot down some of your comments specifically and get them to me if you have specific -- because it sounds like you're really suggesting, you know, alterations in that process, so those are welcome.
changes. They're welcome suggestions.

MR. KARREMAN: Okay.

CHAIRPERSON KING: Jim and Kim.

MR. RIDDLE: Yeah, and just to follow up on that; this draft is just being introduced at this meeting so you will have time to review it and get input. It's not like we're going to take final action on it tomorrow.

MR. KARREMAN: Good. Okay.

MS. DIETZ: One of the things we've been tossing around -- I think Rosie said was CAS numbers and those numbers identify individual materials. Sometimes materials can have 20 or 30 different synonyms, so we need to be creative in thinking. MSDS sheets would list all the different names of materials and we have tried to incorporate those in the TAP reviews, but I don't know if we're going to be able to list 20 different alternatives of the same product on the National List, but certainly give us your feedback.

MR. KARREMAN: I think you should because, you know, if a product is used and it's technically the same thing, there's no reason to cause headaches and confusion for the farmer. That's it. Thanks.

CHAIRPERSON KING: Thank you. Next I have Jim Pierce and Ann, excuse me, Fanatco.
UNIDENTIFIED SPEAKER: Fanatico.

CHAIRPERSON KING: Fanatico.

MR. PIERCE: Mr. Chairman, I'm going to cede my time to my good friend Tony Azevebo and you can scratch his name from the list. He's several pages further.

CHAIRPERSON KING: Okay. Thank you.

MR. AZEVEBO: My name is Tony Azevebo. I'm sorry I don't have any pamphlets or anything to hand out.

CHAIRPERSON KING: For the reporter, could you please spell that? I know he needs to get that down. Thank you.

MR. AZEVEBO: A-Z-E-V-E-B-O. Tony. I'm a dairy farmer from California from the San Joaquin Valley and I'm very proud to be here and have this opportunity to express my feelings. I wouldn't want to do what you folks do and I'm glad that somebody else -- this is boring as hell. I -- that was not a bad comment about putting people down or anything, but --

CHAIRPERSON KING: No, I understand, I understand.

MS. KOENIG: So I guess we can assume you're not one of the 70 people who want to become a Board member.
MR. AZEVEBO: No, no.

MS. KOENIG: Okay.

MR. AZEVEBO: You're eating up my three minutes, don't laugh, okay. The San Joaquin Valley is a truly remarkable valley. It feeds over half of the United States and I grew up there. And I watched all the small farmers, you would call them family farmers, I call them hands-on farmers. I've watched them basically disappear for the animal factories that have taken over and now we have air quality problems, water quality problems and about eight years ago I was -- got into organics and it was truly a breath of fresh air. And I've also helped other producers come into organics and I'm not here to tell you what to do, but I'm just here to tell you what not to do.

Please don't let this go the same way that the conventional world went. That's the first thing. When you're doing -- when you're making a decision on anything, just ask yourself what's best for that organic consumer? Because I guarantee you, that's the best thing for an organic farmer. Just watch out for them. They're paying the premium; they're concerned if we allow this to be watered down, it's gone. For example, there's a large demand for organics now.

What do we do? Well, I'm from California, the

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land of the fine wines. If we want more fine wine, we
don't add water to it. It takes time to produce good
quality organic products and that comes with time, not
lowering the standards so more farmers to get in, but
educating farmers so that they can get in. So please
keep doing the job that you're doing and the other thing
we need to clear up. Everybody's calling this an
industry. Maybe it is on your level, but as a farmer,
the guy that fixes my heater gets 35 bucks an hour. I
don't get 35 bucks an hour and all he produces is hot
air and I produce food. I farm because I love to farm,
that's what I do. And organics has allowed me to stay
in farming.

So please keep doing what you're doing, I
appreciate your efforts but I'm noticing we're getting
-- it's not rocket science. I think this lady said
that; it's not. When you're making a decision, what
does the organic consumer want? It's simple. I'm not
up yet? That's all I got to say. Any questions?

MS. DIETZ: They said six minutes, he deferred
that to you.

MR. AZEVEBO: Oh, okay. Well, there is a
couple of other items that we can go into. Just
recently I allowed my farm to be used for the National
Center for Appropriate Technology and this is an
organization that invited NCRA individuals from the Farm Advisory Boards throughout the state to educate them on organics and sustainable farming, and they did this last Thursday and Friday. And so we had all these people from the Farm Advisory Office come out there and what was unique was they had been told two years ago don't pay attention to organics, it's kind of a fading -- it's a hippie-dippie type of a thing and now with the influx of farmers in California wanting to get in organics, they cannot -- they don't have the tools to educate them.

So we did two days of workshops, had other organic farmers talk to these people to help new farmers to get into the system. So my goal is not to keep anyone out. My goal is to try to bring and try to save more farmers. We also are working very active with -- oh, the water conservation outfit; I can't think -- what's the name, George? Bobby Kennedy's into.

MR. SIEMON: Oh, the Water Keepers.

MR. AZEVEBO: They found out that pasture is an excellent way to filter water and that's -- one of my primary crops, as we went back to pasteurizing and found out that it's not only beneficial for the animal, that's what the consumer wants, but we can commingle manure water and brackish water and what comes out the other
end on the pasture, it's good water, so pasture is an intricate part of sustainable agriculture.

And even though I agree that when we start putting large concentrations of animals in one group it's not good, I don't feel we should keep anyone out. If it's a level playing field, if they can get them out cows out on pasture, then I think we -- but we need to hold strong, strong rules. And also, one last thing, zero pasture for a lactating cow does not constitute a pastural. You need to make that clear. You might want to write that down. Zero pasture for a lactating cow does not constitute pasture. And thank you very much.

CHAIRPERSON KING: Questions?

MR. AZEVEBO: Are there any questions?

CHAIRPERSON KING: I guess not. Thank you very much for your input. Let's see. Ann, you're up and on deck is Joe Smiley.

MS. FANATICO: My name is Ann Fanatico and I'm a graduate student at the University of Arkansas and I'm finishing a Ph.D. in natural poultry production. And I want to inform the NOSB and organic community about upcoming research at University of Arkansas focused --

UNIDENTIFIED SPEAKER: Spell your name, please.

MS. FANATICO: Spell my name?
F as in Frank-A-N-A-T-I-C-O.

MR. RIDDLE: And could you pull the mike down a little closer?

MS. FANATICO: Sure.

MR. RIDDLE: Great.

MS. FANATICO: I want to inform the NOSB about upcoming research at the University of Arkansas focused on eliminating the use of supplemental methionine in organic poultry diets. The phase-out of synthetic methionine in organic production is a critical issue since it's added to nearly all broiler diets, organic and nonorganic to support the fast growth of broilers. In addition to feeding strategies, another possible solution with the elimination of methionine, synthetic methionine is the use of slow-growing birds, which slow-growing birds require, may require less methionine in the diet because they have a slower rate of growth and are less muscled than the fast-growing broilers.

Although the yield and efficiency of slow-growing broilers is worse than fast-growing broilers, slow-growing broilers may present a market opportunity because of potential meat quality and sensory attributes. The objectives of the Arkansas work are to determine the methionine assisting requirements of slow-growing broilers. We'll actually be looking at slow,
medium and fast-growing broilers and to evaluate the impact of feeding strategies with slow-growing broilers. Feeding trials will be conducted to validate the determined methionine requirements under various conditions. Target requirements at 80, 100 and 120 percent will help inform whether the requirements are overestimated, correct or underestimated.

The experiment will be repeated with outdoor treatments. The University of Arkansas has a portable, free-range research facility. Meat quality will be investigated, pH, color, tenderness, nutrient content and own-farm field trials will be conducted to verify that the resulting strategies on a working organic farm at West Virginia University. They will test the organic diets on their integrated sheep and poultry farm and they sell organic poultry to a local market. Economics will be analyzed and lastly, to disseminate research findings to the organic and scientific communities. Along with university extension activities, the National Center for Appropriate Technology will disseminate producer-friendly information about this. And this is a project that has a four-year work plan. Thank you.

CHAIRPERSON KING: Dave.

MR. CARTER: Yeah, thank you, Ann. Just a question. When you talk about slow-growing poultry,
what's your definition of slow-growing?

MS. FANATICO: Well, we're looking at birds that take more like 12 weeks to grow out as opposed to seven weeks, which is common for broilers.

MR. CARTER: Okay. And are you looking at alternative sources of methionine?

MS. FANATICO: We'll also be trying to tie into some of the feeding research that's going on with the task force and also some other projects, so we'll look at some alternative feeding strategies, as well.

CHAIRPERSON KING: Mike and then Rose.

MR. LACY: Just one quick question, Ann. You said a four-year work plan, so the results of this will be reported in --

MS. FANATICO: Well, we'll report results as we go along because the project is in multi stages, so there will be some information, but the project, you know, to complete the entire project will take four years.

MR. LACY: Thank you.

MS. KOENING: Can I ask you what the source of funding for the project?

MS. FANATICO: It's USDA Integrated Organic Program.

MS. KOENING: And did you -- as you heard, I
guess, hopefully here during the discussion that economic analysis is sometimes critical in this -- for methionine, since it's sunsetted [ph], it may not be an issue, but even given so, is there an economic analysis --

MS. FANATICO: Yes, I thought I mentioned that, but the National Center for Appropriate Technology is supplying a program specialist to analyze the economics, so we're going to compare economics.

CHAIRPERSON KING: And did I hear you mention that you're going to be comparing and contrasting meat quality, as well?

MS. FANATICO: Yes.

CHAIRPERSON KING: Okay. Thank you.

Joe Smiley and Lynn Coody is up -- on deck.

MR. SMILEY: Joe Smiley, Senior Vice President of Quality Assurance International and one of the accredited certifiers of the USDA. Thanks for the opportunity to speak at this meeting. I really enjoy the tenor of this meeting and I really would like to thank all the NOSB and NOP staff for really doing a great job for organics. I think that we are moving forward, I think things, mostly in a very positive light; we're working through a lot of problems that have taken years and I think we all need to just be patient.
with the process and trust in each other's good
judgment. So on to the points. This is a simple one
but it's a really major one for a working stiff on the
front lines of certification and that is certificates.

We really didn't expect to see a lot of
certificates coming into our agency that don't specify
in compliance to the NOP. Many certification agents are
accredited by the USDA, but they accredit to a number of
standards and a lot of times the certificates don't
specify what standard is -- they're accredited to. We
pursue that and say this -- we have to make sure that
this certificate is in compliance with the NOP, not some
other organic standard because as good as it may be,
this has got to be an NOP certificate.

We really want to see more focus from the NOP
and support from the NOSB on somehow hopefully avoiding
rule change, which I'm not really that excited about,
but getting a change in there so that certificates are
specific in citing in compliance to the NOP. After all,
that is the purpose or one of the main purposes of the
reg, so I just want to bring everybody's attention to
that. It's out there; there are certificates floating
around and it leads me to my next point, is we all want
a level playing field, whether it's for dairy farmers or
certifiers, we need a level playing field for everyone
and it's going to take time to get there.

We need -- it takes time to get a consistent interpretation of the regulation by all certifiers and I think we all -- and I'm sorry that Andrea isn't here because maybe some of my comments are directed to her committee, but it really takes a lot of work to get that team together and to get that consistent. Two ways we can do it is by more publications of decisions or of leanings that are being made by either the NOSB or the NOP on a web site; on-site visits to all accredited certification agents are important. I don't have time to comment on the Scope Documents, but I think you're all on the right track. I was very pleased with the comments this morning, so I'll pass on that.

The last irritant I have is something -- I mean, we argued about everything in the Organic Standards industry back in the '70s, '80s, '90s, but we never argued about the fact that you could use an organic in a conventional ingredient, the same ingredient in a product. I think OTA brought it up before. That's -- we didn't even argue about that. That was a slam dunk and we argued about everything, so I'd really like to see a correction to the current interpretation that there's a legal basis to allow an organic and a conventional ingredient in a made-with

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product, because once the industry, you know -- and I do use the word industry -- starts hearing that --

MS. DIETZ: Time.

MR. SMILEY: -- you're going to start seeing those products and I think we've got to nip that one in the bud.


MR. RIDDLE: Yeah, it's more of a comment, Joe. Thanks for your comments and I just wanted to let you know that back in 2003 the Certification Accreditation Compliance Committee did draft a recommendation and the first item there would be to require all certificates issued by accredited certifying agents verifying compliance with the NOP contained the phrase "Certified as compliant with USDA's National Organic Program" and you, as an accredited certifier, must verify that all ingredients being used by the operations you certify are indeed certified to this regulation, not some other regulation, but you're right, the rule does not require that in the section about information about on certificates and we were encouraged to kind of drop this issue. I'm hearing that it remains a concern and maybe the committee should take it back up.

MR. SMILEY: Absolutely. You have to. It's
happening. I mean, there's a lot of ingredients floating around that are certified by accredited certifiers, but aren't necessarily certified to the reg and there's no legal language, as I understand it, that forces them to put that on the certificate. So we don't know. So we have to do a lot of extra work and I'm just presuming all of my colleagues and competitors are doing the same amount of work. And that's a tough assumption to make some days.

CHAIRPERSON KING: George.

MR. SIEMON: You're the second one that's brought up this double ingredients. I'm sorry, I'm out of the loop. Is there --

MR. SMILEY: Let me be real clear, I --

MR. SIEMON: Is there some directive or something, something I'm not aware of?

MR. SMILEY: Dick can give you the numbers. Basically, there can be a legal interpretation that in the made-with label, you can have an organic and a conventional same ingredient in a made-with label because of the regulatory writing. Dick, you'll have to back me up on this.

MR. SIEMON: Is that now something that the ACAs are interpreting or is that something the NOP stated or made an opinion on?
MR. SMILEY: An ACA interpreted it and allowed the product to come out; we just said oh, they made a mistake, this ain't going to happen and apparently, it can. I would really -- if you don't -- Dick can --

MR. SIEMON: No, no. That's enough.

MR. SMILEY: Okay. Anyhow, right now -- let me be clear. This is not the NOP's fault, the NOP --

UNIDENTIFIED SPEAKER: I'm starting to run my meter.

MR. SMILEY: Yeah. This is not -- this is a -- it's a case that a legal opinion can be made; that can be allowed. And from what I understand and if the NOP wants to make a comment, I would love to hear it, but from what I can understand, it wasn't the intention of the rule; nobody intended that. But because of the nature of the regulatory writing in that section, it's defensible. Reprehensible, but defensible.

CHAIRPERSON KING: Thank you very much, Joe. Lynn, you're up and Joe Mendelson is on deck.

MS. COODY: Hi, my name is Lynn Coody. It's spelled C-O-O-D-Y and I am Principle Consultant of Organic Ag Systems Consultants located in Eugene, Oregon. My business focuses on providing accreditation to domestic -- assistance to domestic and international certification agencies in meeting the requirements of

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the NOP and ISO Guide 65. That means I work with
accreditation requirements of ISO and NOP on a daily
basis. I'm also the chair of the OTA Accreditation
Sub-Committee and I am very thankful to present my ideas
to you today.

I'd like to talk about three topics today,
which I'm going to list right now just in case I don't
get to them all. The first one is the role of ANSI
evaluation of the NOP's accreditation program; the
second is site audits of NOP-accredited certifiers and
the ability of NOP accreditation program to meet the
requirements of ISO Guide 61. But before I start, and
this is why I might not get into my whole testimony, I'd
like to say how pleased I am to have Mark Bradley as
part of the NOP as the accreditation manager. Those who
attended the trainings that Mark conducted on ISO Guide
65 a few years ago know that Mark has a depth of
knowledge about accreditation and is quite sincere in
his interest in the organic field and I should know
because I attended three of those trainings, myself.

So I'd like to get now to my first topic about
the ANSI evaluation. I'm sure we're all happy to hear
that the report is -- will be out soon in, hopefully in
-- sometime in November and I certainly look forward to
seeing that. I am also happy to hear that the

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Department is intending to implement a regular internal auditing program similar to the one just conducted by ANSI, but I'd like to remind you of another related responsibility for oversight which wasn't mentioned today and that is the role of the famous PIER Review Panel, which is referenced in the rule.

Yesterday I attended a meeting of the National Campaign for Sustainable Ag and presented a model that shows the different interactions about oversight of the accreditation program, which I'd be happy to share with the NOSB Accreditation Committee and I hope you'll tell Andrea, since she's not here. I also want to briefly mention the site audits of NOP-accredited certifiers have not been done as promised.

Last -- at the last NOSB meeting they said they would start them last summer and to my knowledge, none of them have been done for the foreign certifiers, which I feel creates an uneven playing field between foreign and domestic certifiers. And finally, just briefly, I'd like to emphasize the importance of the NOP's accreditation program with meeting the internationally accepted requirements of ISO Guide 61 and I will --

MS. DIETZ: Time.

MS. COODY: -- stop right there. I always

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have a lot to say about ISO Guide 61, so if you want to
know more, you can ask me. Thanks a lot.

CHAIRPERSON KING: Thank you very much, Lynn.

Joe, you're up and Emily Brown-Rosen is on deck.

MR. MENDELSON: Thanks. My name is
Joe Mendelson. I'm the Legal Director of the Center for
Food Safety. I do want to note that I have a proxy from
Liana Hoodes of the National Campaign for Sustainable
Agriculture. First, I'd like to thank both the Board
and the Program for all their hard work. We know it's a
lot that you have on your plate and we do appreciate it
and appreciate the spirit of this meeting.

First, I'd like to do my Tom Hutchison
imitation. We support the NOSB's paper on organic
livestock; we support the paper on fishmeal; we support
the paper on Inerts. I'd like to lend my support for
comments in a proposal made the Wild Farm Alliance
concerning amending the model organic farm plan to
consider bio-diversity and I also would like to note my
appreciation to Rose for the paper on revamping the
materials list. I think that would be helpful and it
certainly would be helpful to those of us in the
consumer and I guess, nontechnical material field in, I
think, understanding the list in classifying it that
way.
More specifically, consumers expect and need clarity, I think, on when the term "organic" is used in a principle display panel and unfortunately, I think in the discussion of the Scope paper, we really didn't get that clarity today and unfortunately, we didn't really have time to hear from the Program about what they -- how they view that issue. It was certainly a part of the directives and I think needs clarity and I hope at least we can revisit that later in the meeting. I think it's important to consider, though, in the Scope issue that there's a split in the authority or the scope of authority to set standards and the scope of authority to enforce. And by that I mean the scope to set standards in the Act clearly goes to agricultural products. And so, you know, follow that there's also -- I think I have six minutes, so Kim, so I have a --

MS. DIETZ: I didn't hear you say proxy.

MR. MENDELSON: Proxy. There is authority to enforce the term "organic", I'd say not the seal on agricultural products. The misuse of label goes to the term "organic", not the use of the seal. But if you play that out, you have specific standards that we might need on agricultural product that are not yet in place. It's been identified. Fish, for example; it's certainly our feeling that at that situation those standards

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haven't been set, that a label "organic" or the term "organic" should not be used on that product. That's a misuse of the term "organic" and there's clearly authority to enforce the misuse of that term "organic." Pulling the seal off isn't enough. The 65-19A goes to the term "organic." Consumers look to the term "organic" more than the seal, unfortunately. I think that needs to be clarified.

If you then go to nonagricultural products, I think it's clear that the Act does not provide the Department authority to set standards. So there may be some nonagricultural products like cosmetics standards are not -- the authority's not under the Act. They may have to go to other places like FDA. But if you look at enforcement as far as the term, use of the term "organic", the Act says you get -- the Department can enforce use of the term "organic" on a product, not an agricultural product, a product. It's a much broader term.

So the question becomes then, what is the scope or what -- how far does the USDA want to take its enforcement discretion in enforcing the use of the term "organic" on a label? I think that's a question that clearly needs to be addressed. I think one thing, it goes to resources on how far the Department wants to
extend that enforcement discretion. I think there also
might be some proxies on other ways to enforce that
enforcement -- you could look to the FTC, which enforces
all sorts of label claims. They've done it on "ozone-
friendly" and things like that. They could certainly do
it on organic, on nonagricultural products that are
organic.

I should add quickly that you'll hear from my
colleague at Consumers Union, that both Consumers Union
and Center for Food Safety have a joint position; a
recommendation or thought we'd like to put forward on
some of the cosmetic and personal body care products.
Real quickly, I would like to get to the Sunset
document. The law 65-17E requires full review
consistent with the provisions of that statute. That
includes looking at health and environmental issues
incompatibility issues. Unfortunately, the document
that's presented says we need to look at this general
concept of sunsets. Well, the real question is what is
the sunset within a concept of the Organic Food
Production Act? It's not generally how we look at
sunsets and it's not -- that doesn't give us some type
of justification on how other sunsets kind of truncate
the review of the statute specific.

Sunset review in -- under the OFPA means you

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have to look at materials consistent with 65-17 and that means you don't just look at whether it's continued use, you look at its health and environmental and organic compatibility. The list was designed to be -- in our -- consumer's mind, I think, diminishing, not entitlement to stay status quo by just looking at continued use. I also think you can't put a paper out there saying we're only going to look at continued use and not compatibility when the Board just put forward recommendations on what organic compatibility means out there.

Certainly, materials that have been reviewed in the past haven't necessarily been looked at that compatibility standard, so you know, I think it's unfortunate. I realize there's a serious burden of work, but the law says what it does. I think you'd be short-changing consumers' expectations about diminishing materials, about creating a list that diminishes materials, not create entitlements and I would ask that that document be revisited. Thanks.

CHAIRPERSON KING: Questions? Thank you, Joe. Wait, Rose has a question. Joe, Rose has a question. Sorry.

MS. KOENIG: On that -- back to the Sunset, because that is a document that's up there being

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considered for a policy or vote. Can you elaborate a little bit more in terms of your -- you are a lawyer, correct?

MR. MENDELSON: I try not to admit that.

MS. KOENIG: But -- because you didn't state that. But your legal interpretation of that -- because we -- our original document, our original proposal had a much more thorough review process. It was quite different, although the final document was a kind of bringing together of some aspects, but some of the points that you raised were in fact raised by the committee as we were trying to bring these two documents together. So if you could elaborate on that concept, especially the first part, that review of Sunset was something that the NOP had constructed or argued --

MR. MENDELSON: Well, I --

MS. KOENIG: -- you know, from a legal point of view and unfortunately, we're not lawyers, so --

MR. MENDELSON: Yeah, I just -- in reading over the document, there's this general discussion about what a sunset is and it sort of mishes-mashes statutes that may sunset, in general, the whole statute or the authority under the statute versus what the OFPA says specifically. The sunset only goes to the materials, so it's really, I think, disingenuous to look at other laws.
and other sunset provisions to give some type of gloss on how we can interpret Sunset provisions, generally. I mean, the sunset provision in the OFPA has to specifically be interpreted to be consistent with 6517. I mean, that's what it says. And if you'll look at 6517 -- I'm sorry, I don't have the subsection, I mean, it's -- you know, the three characteristics. So you know, I don't think you can look at statutes that have sunset provisions that don't related to organic and somehow say well, that allows us to eliminate two of the three criteria that we needed -- that, you know, that the OFPA says we've got to look at. I mean, that just -- that's just not -- is that clear?

MS. KOENIG: Yes, it is. And I had one more question. Taking advantage of some legal opinion. The one other question I had is that we -- and again, this may be more of a program area, so I'm just posing it to you and it's not to disrespect the NOP position on it, so I want to be clear on that. But we, as a committee, had questioned whether if we started the process, if we put through the Federal Register a notice that these materials were going to be up for sunset and if we went through kind of due diligence to complete the work, however, we didn't finish the work. We were -- and I don't want to quote because I'm not sure, but it was my
impression, I guess, that if we didn't finish the job
then the whole list would be nullified, that we were
kind of creating a train wreck for the industry and you
know, is that your understanding of how the Federal
Register process works?

MR. MENDELSON: Well, I think that the
question really is whether it's a five-year time frame,
the question is when that five years hits, does it
affect everything on the list and all the materials?
That's a tough question. I think, as I remember the
statute, it goes to materials, so if you have completed
them for specific materials, I think those materials
would have been met and then there would be other
materials that if you didn't get the job done in five
years, then those would fall off. I think there's
separability [ph] there in that sense. I would say
that's my interpretation and if you really want to rely
on that, you might want to have your own lawyer to be
under retainer to --

MS. KOENIG: Thanks. Thank you.

UNIDENTIFIED SPEAKER: You got what you paid
for.

CHAIRPERSON KING: Yeah. Thank you, Joe.

Emily's up and Brian Baker is on deck.

MS. BROWN-ROSEN: Good afternoon. I'm
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Emily Brown-Rosen and I am now with the Organic Research Associates. I had to think about that. I was going to comment also on the sunset process. Joe just made a lot of my points, so I won't belabor that too much other than I do have some specific surgical fixes, just a few words could be changed in that document and I think it would help protect the ability of the Board to review products and protect, you know, the material standards from certain problems that might come along and I think that is your duty when — under the sunset, is to review the list according to OFPA.

So his main point is that 6517 has three overarching criteria; substances should not be harmful to human health and the environment; the substance is consistent with organic farming and handling and there is an absence of wholly natural substitute products. So those are three criteria that it takes with other sub-criteria for you to review a product or a material to get it on the National List. So when you take it off, any of those three criteria, failing to meet that is a reason to take it off. The way the document is worded, there's an "and" there that a petitioner would have to prove that all three of those things didn't apply, there should be an "or." And there's several places in the document where it says that, so if someone
came in with compelling evidence that a substance had, say it was suddenly found to be carcinogenic, endocrine disrupter, that would be a good reason to re-look at it, maybe do another TAP review. So I'll give you those in writing so you can look at that when you work on the document.

My other comments are about some -- the draft proposal that the Materials chair has put forth on talking about the concept of the National List categories and how to review, you know, this whole concept of what is an active ingredient or is NOSB limited to only putting items on the list that are in those active ingredient categories mentioned in OPFA. And I'm really glad you're working on this. I think it's really important because we have different interpretations right now on the structure of the list as has been proposed by NOSB and what NOP has been saying in a few different instances.

So historically, we -- we've always considered that all synthetic ingredients need to be on the National List when used in production and there's -- in the case of some of these incidental ingredients, we've facilitated this by having certain categories on the list like aquatic plant products, liquid fish products which when -- as a category have synthetics in them and
got put on the list as a synthetic. If this is no
longer the understanding of how this can be, then this
other option that Rose has proposed outlining a new
definition or a new category of production aid and
separately listing some of these incidental ingredients
that may be permitted. And I think -- I would prefer
the old way, but if the new way is the only way to do
it, I have a definition here that I've worked on on
production aid and I'd be happy to share it with you.
If someone wants --

CHAIRPERSON KING: Could you please --

MS. BROWN-ROSEN: -- to ask me a question.

CHAIRPERSON KING: Yeah, you're time's up.

Could you please share that with us?

MS. BROWN-ROSEN: Okay. So based on what the
OFPA language is I would propose production aid includes
netting, tree wraps and seals, insect traps, sticky
barriers, roll covers and other equipment used in crop
and livestock production. It also includes substances
such as equipment cleanser, carriers, stabilizers,
agivants [ph], extractants [ph], excipients and solvents
that are necessary for formulation of fertilizers, soil
amendments, livestock feed and livestock medications. I
think that kind of covers all the bases, but you know,
we certainly could talk more about it. Thanks. Any
more questions?

CHAIRPERSON KING: Kim.

MS. DIETZ: Just a comment, Emily, because when we get to that discussion I just want to make sure that we have a definition in the NOP for processing aid and that we don't confuse the two because they are very separate.

MS. BROWN-ROSEN: No, no. In the --

MS. DIETZ: And so --

MS. BROWN-ROSEN: Oh, sorry. Go ahead.

MS. DIETZ: Yeah, so I just want to make sure that we look at that and that's why I bring it up now. It's been on my list, but it could be confusing; production aid, processing aid.

MS. BROWN-ROSEN: Right. Well, it's just in a different section. It's under Crop and Livestock and there's this next criteria is if used in handling, it must be blah, blah, blah. So there -- it's two distinct areas there. So I think you can differentiate based on that, so --

CHAIRPERSON KING: And are you going to forward that little statement to us in writing?

MS. BROWN-ROSEN: Yeah.

CHAIRPERSON KING: Okay. Thanks.

MS. BROWN-ROSEN: I'll get my extra copy.

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CHAIRPERSON KING: Brian Baker and Michael Sligh is on deck.

MR. BAKER: Brian Baker, Organic Materials Review Institute out of respect for the request for the chair, I cede my time and respectfully request the opportunity to speak to you on Thursday. Thank you.

CHAIRPERSON KING: Thank you very much.

Mr. Michael Sligh.

MR. SLIGH: Good afternoon. I am Michael Sligh with the Rural Advancement Foundation International based in Pittsboro, North Carolina. I rise to applaud the NOSB and the NOP for this demonstration of a new spirit of cooperation. We're looking for this to be a blossoming of a more trustful and generous atmosphere. I think one way that maybe you can build on this new spirit is to while here at this meeting, to mutually agree on some clear deadlines that you can hold each other accountable to.

For instance, the concurrence of the Department is some key confusion that was generated by the April statements would be very important to ensure that that gets up on the web site and goes out to certifiers as soon as possible and that you mutually hold each other to these kinds of deadlines. Similarly, the meeting that I attended in June with the Secretary...
and the Department, this -- procedures for cooperation
and collaboration between the Department and the NOSB,
this too needs a deadline for that to be resolved. This
would be a very useful contribution to future Boards and
would avoid a lot of future machination, I believe. So
I urge you to lock in those deadlines while here
together at this meeting. I think that will be a good
team-building exercise. I certainly support the
comments of Lynn and Joe that have already come forward.

I was looking to hear something about the
criteria of the TAP review contracts that spoke to the
qualifications for demonstrative expertise in
sustainable and organic agriculture and production and
processing. I think that the scientific criteria is
important, but I've seen a gap in some of the previous
TAP contracts because of their lack of understanding of
this particular approach to agriculture, so I just urge
the -- it may be there, but I didn't hear it.

The issue of the sunset, I want to stress that
the founding Board made many of our decisions about the
materials based on the promise that future Boards would
indeed meet the OFPA requirement of the re-review in
meeting the legal sunset. So we urge you to keep that
promise and to understand that we also voted those
materials with specific annotations and we would not
have voted those materials and in many cases the votes were very tight. And so it was in our view that the annotations and the requirement of the sunset were part of the deal maker of how we got to here and it's your role to keep that deal going forward, so thank you much.

CHAIRPERSON KING: Questions for Michael?

Rose.

MS. KOENIG: From the historical perspective on that sunset issue -- just to enlighten me, I guess, so when you envisioned a review was it as extensive of a TAP review as -- well, let's not go to the original ones because I know some of those -- that was not an extensive review --

MR. SLIGH: Well --

MS. KOENIG: -- so I guess what I want to do is speak to the ones that your Board, you know, the first Board put in and then perhaps speak to the ones that we're now looking at that we have contractors that have been assigned that have provided us with more information. I mean, do you expect the same kind of review of all or you know, what kind of ideas can you provide?

MR. SLIGH: Well, I think the OFPA was clear and that you should just go to the OFPA guidelines and follow that. It also has to be consistent. The bar for
putting material onto the list can't be lower than the bar for taking it off the list. There has to be consistency across that. You can't make it a higher burden to take it off than it was to put it on there. It needs to be consistent in both a positive and negative perspective and that the OFPA -- that language of sunset was very deliberate and it was a deal maker in the passage of the legislation and it was there to provide this accountability, part of the public/private partnership.

CHAIRPERSON KING: Dave.

MR. CARTER: Yeah, Michael. Emily just laid out three kind of criteria on the sunset. What's your thoughts on those specific ones as --

MR. SLIGH: They seem sound to me.

MR. CARTER: Okay.

MS. KOENIG: One other question. Because again, this is an area of kind of confusion where we get kind of advice from a lot of different individuals as we try to go forth and make these policies and again, the original policy that the Board came up with was quite different from the one that's on the web currently.

MR. SLIGH: Yes, it is.

MS. KOENIG: Speaking to the idea in rulemaking, I guess, that Barbara explained, you know, I
just don't know where that -- you know, again, not
having that legal expertise -- I think the idea, again,
as she stated earlier with once something's there, the
burden of proof to getting it off is higher, so that
idea of an equal bar, although it might've been the
intention, did you actually research that when you --
you know, I guess I'm having a hard time grasping with
what ideas that were out there and I think the concepts
and we all understand those, but now that we're in this
idea of what we have to do to satisfy the legal entities
within USDA, sometimes what we want and we have are two
different things, so that's just the situation.

MR. SLIGH: Well, if that's a question, I
think that -- I think the idea was that we weren't
creating a spiraling list of materials that would send
agriculture toward this product substitution, that
organic was not about just finding additional more and
more materials to meet an endless need, but that it was
based on the principles of organic agriculture and that
if new science comes forward or new information on a
positive light about something that we omitted, then
that's an opportunity during that comprehensive review
to reconsider. But it's also an opportunity if new
light comes to the fact that hey, you know, we really
don't need this anymore based on those criteria or other
sound reasons to take it off. We were counting on that as the check at the end of the day. That's the stop, that's the backstop. And if we lose the backstop, then we're concerned that we're into a spiral where there's not a conclusion.

MS. KOENIG: But I guess -- and I agree and I think that the policy -- now, maybe there's -- maybe you're speaking more to the issue of there may be an undue burden on the person who wants to take that off and that's a very different issue because I think the policy does state that, you know, new information would have to be there, so I don't think there's a difference in that, that it's not arbitrary.

Are you speaking to the concept that perhaps there's not enough time for individuals to do that, perhaps the Board doesn't have enough authority to extend time or to do more technical review, you know, what specifically are you talking about because within that policy that is a criteria for taking, you know, for considering not renewing something, so I don't think that there's a difference of opinions. Now, I also have reservations in that policy as far as is it too large of a burden, is it not enough time given for that because we have a certain, you know, deadline and I think that that's a different issue, so maybe if you could think
about that a little bit more and we can talk.

MR. SLIGH: Yeah, I'd be glad to think about it and give you some more careful advice. Thank you.

CHAIRPERSON KING: Kim, I think, had a quick comment and they we're going to -- or --

MS. DIETZ: Dave's light's on.

CHAIRPERSON KING: Oh.

MS. DIETZ: Michael, we've been talking about this, the quality of TAPS from the original 1995 recommendations to now and they are very, very different. I also know that we have -- we've had a sunset provision on the table for almost two meetings now and we're still without anything in the Federal Register and we have to do something, so I would encourage everybody to, you know, if you have public comments on those documents, do them fairly quickly. I don't know if they've been posted already. I believe they have. But we have to make some decisions pretty quick for the Register, it's got to go out because we have to start reviewing materials or -- I'm off the Board, but this Board does have to start reviewing materials, otherwise --

MR. SLIGH: We're more than anxious to help you meet your deadline and we want to do everything to avoid a possible crash at the end of the deadline.
That's not our intent.

CHAIRPERSON KING: Thank you. Next up is John Cleary, on deck is Susan Ulery.

MR. CLEARY: Hi, folks. My name is John Cleary from Vermont Organic Farmers and NOFA-Vermont. We are an accredited certifier representing 350 certified operations and about a thousand consumer members. I'm also here as a board member of the Accredited Certifiers Association/National Association of USDA Accredited Certifiers. The Accredited Certifiers Association really looks forward to working in a positive way with the NOP and the NOSB in the future. Thanks for the hard work that all of you all do. I'm going to hit a number of points and try to be quick about it.

The first one regarding the framework for collaboration between the NOSB and the NOP that was discussed this morning, I hadn't seen any -- you know, the information that you all have shared between each other about some of these feedback loops -- so maybe some of this was covered in that, but I'll give you real quickly some suggestions from my point of view as a certifier. Number one, when a certifier or producer asks the NOP for clarification or interpretation of a standard, it's my recommendation that before the NOP
provides an answer to that, that number one, they check to see if there is an NOSB recommendation on that topic. If there is an NOSB recommendation on that topic, then I would recommend that the NOP either defer to the recommendation or if the NOP disagrees with it, to publicly let certifiers and the NOSB know that they disagree with that so that topic could come back to the Board for re-review and that certifiers would know what to use for guidance. So before answers are sent from the NOP back to a certifier or an individual operation at that, feedback to previous NOSB recommendations is done.

And if there is not an NOSB recommendation on that interpretation and topic, I would suggest that the NOP bring that issue to the NOSB prior to providing an answer if it is an interpretation issue that's going to be setting a precedent for the future. And basically, certifiers need to know what is the status of these recommendations.

Really quickly, also I was informed a while back that the livestock docket may -- was possibly going to include an NOSB recommendation that would allow all excipients in health care products for livestock. That's something we strongly support; I know the NOSB's recommended it. I don't know if that is included in the

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livestock docket that the NOP said is in the process, but it would be great if we could have an answer on that. The last thing is I don't know if people in the room are aware that the pasture issue has sort of reared its ugly head once again and it appears that there are farms that are now being certified who are not providing pasture for lactating cows and I know the NOSB has provided some guidance on that in the past --

MS. DIETZ: Time.

MR. CLEARY: Okay. If I could just say, I don't if the NOP has -- there's rumors that there's been some clarification to a certifier that the NOP can't strictly enforce the pasture requirement. I don't know if that's true or not, if there are any comments about that. Thank you.

CHAIRPERSON KING: Rick.

MR. MATHEWS: That comment is not true.

MR. CLEARY: Great. I'm glad to hear that.

Thank you.

MR. MATHEWS: The pasture requirements are as published.

CHAIRPERSON KING: Jim.

MR. RIDDLE: Yeah, and John brought up another good question and that is about the status of our recommendation on the excipients, is that included in
that docket?

MR. MATHEWS: It's in the docket.

MR. RIDDLE: Okay. Thanks.

MR. CLEARY: Could I just pass out one thing from the Northeast Dairy Producers Alliance regarding strengthening the pasture standard to you all?

CHAIRPERSON KING: Thank you. Susan Ulery and on deck is Urvashi.

MS. ULERY: Good evening and thanks for giving us a chance to hang in here for the light in the day. My name is Susan Ulery. I am the Director of Regulatory Affairs for the Synergy Company, which is a dietary supplement manufacturer, the outcast child now.

UNIDENTIFIED SPEAKER: Could you spell your name?

MS. ULERY: U-L-E-R-Y. And I'm here today, however, speaking on behalf of OFPA because we're also members of the American Herbal Products Association and my topic is, I said on form Scope, but in sitting here I've been thinking well, maybe I should've said my topic is for prevarication. No, that sounds like John Kerry. Maybe I should say the topic is flip-flopping, but that makes me sound like I'm using a branded Republican term, so I wouldn't go there. The problem for us is the use of organic labels; it appears to be completely up in the
air for our industry. We've made tremendous commitments
in the supplement and herbal industry to the organic
program.

We support some four billion dollars worth of
herb sales go through the dietary supplement industry
that dietary supplements are maybe 18 to 20 billion.
Did I say -- it's four billion for herbs. Of those,
there are some 200 herb farms that are certified organic
right now who are members of OFPA and nobody, I think,
ever explained to us that dietary supplements weren't
considered food because under FDA regulations they most
certainly are. I refer you to 21 CFR, section 321(ff)
and so when -- I was talking with Mr. Mathews during the
break and I said I'm suffering from this illogical
condition here.

We think we're food; we know we're food
because FDA regulating us as food. We have to comply
with all food labeling unless Dushay [ph] creates an
exception for supplements. So how come you all are
trying to throw us out? And his logic -- and I'm
presuming this came from legal staff that, you know --
consulted is that well, the dietary supplement industry
wasn't specifically consulted when OFPA regs were
adopted, therefore you can't be regulated. And I think
we all thought we were consulted. We've thought all

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along we were part of the plan and so it's very
distressing to be thinking that we have to throw out all
our labels again.

You know, we threw them all out when NOP came
on line and we wanted NOP compliant labels and we got
ourselves certified and oh, those are gone; now maybe
we'll have a private standard. But then you have Joe
Mendelson saying absolutely not. You cannot use the
word, the term "organic." We want to support organic
farming and organic products for consumers and we need a
way to do that. We need your help. This is really sad.
Thank you. Do you have any questions? I gave a handout
which I hope all of you got.

CHAIRPERSON KING: Dave.

MR. CARTER: Yeah. Just a question. In terms
of dietary supplements, though, in regard to structure
or function claims, I mean --

MS. ULERY: Right.

MR. CARTER: You know, that does bring you,
then, under FDA --

MS. ULERY: We're under FDA to begin with and
so is food. For instance, the processed food can make
certain nutritional claims like a health food claim like
Omega 3 or some cholesterol-related heart healthy type
of claim. You know, you can even see that on breakfast
cereals, et cetera. And dietary supplements have a
corollary, which is the structure function claim and
those are -- both are regulated by FDA. So we see no
reason to distinguish ourselves in using an organic
label. If we can qualify and meet all the requirements,
we're there. We're already there and we want to stay
there. We don't -- we understand that -- my certifier's
rep is here and they think this is a great marketing
opportunity for a new organic label, but we kind of like
the one we have.

CHAIRPERSON KING: Jim. Jim has a question,
also.

MR. RIDDLE: Yeah, well you've taken a look at
the Scope policy, obviously, and that --

MS. ULERY: Many times.

MR. RIDDLE: -- particular section -- yes.
And I would be most interested in, you know, surgical
corrections to our draft, you know, that if you can
provide us specific language that would meet your goals
but still be consistent with the rest of the draft;
maybe we made a mistake by lumping the cosmetics and you
know, dietary supplements. So there's one to pull apart
right there and then let's deal --

MS. ULERY: That's what that letter that we
just handed out summarizes.
MR. RIDDLE: Yeah, but I don't see the revision language proposed and that's what I'm asking --

MS. ULERY: Okay.

MR. RIDDLE: -- not right now, but for you to work on and provide to us.

MS. ULERY: Basically, we don't think a revision is needed because we're there. We're food. I think that's the -- really the basic strain that underlies our thinking and it has all along. We are food under the CFRs. And then there are additional provisions we have to meet as supplements. But we figure if we meet the food requirements of FDA and of NOP, we're labeling correctly and we're in the game. But I'd be happy to dialog about that. If you guys think you need more from us, we would really like the opportunity to present it, so we'll be in touch. Thank you.

CHAIRPERSON KING: Urvashi, you're up and Marty Mesh on deck.

MR. ENGLE: Mark, I will give my three minutes to Urvashi. David Engle.

CHAIRPERSON KING: Oh, thank you.

MS. RANGAN: Thank you. My name's Urvashi Rangan. I'm an environmental health scientist with Consumers Union, we're the nonprofit publisher of York Stenographic Services, Inc.

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Consumer Reports magazine. Good afternoon and thank you all very much. Consumers Union would like to thank the Board for all of your hard work on getting your inputs on these directives together. Really, for the most part, we agree with all of them. We have a few comments to make on them.

We'd like to thank the National Organic Program staff for their careful consideration of those inputs and for reconsidering those directives that were issued that really shouldn't have been issued in the first place and while we're relieved, we don't want these issues to be quietly revisited again. Part of the confusion that happened over the summer was a lack of getting our questions answered, which we found particularly frustrating, as well reviewing minutes from meetings where it wasn't clear whether these directives were in practice or not and that is why we were staying on top of this and so while we are relieved, we don't want additional clarification posted on your web site and I'll get into that a little bit more in a minute.

I have a question about the antibiotic input that you gave today on livestock and it's unclear to me, Barbara, when you said that you concurred whether you concurred that all of the recommendations need to be proposed or whether indeed antibiotics right now cannot...
be used on the dairy farm. I'd like some clarification
to that question and whether it's all of that
recommendation that's going to need to go under proposed
rule or half of it for the replacement conversion
factor. I'm unclear on that.

As I mentioned before, I do think
clarifications do need to be made. This summer we found
an erroneous posting on the NOP site which was not dated
which had clarifications to the clarifications of the
clarifications and it was very confusing for us, it's
confusing for consumers, it's confusing for farmers. We
need things that are posted on that site to be dated and
we would like all of your answers to the NOSB input
today to be posted on that web site. We would also like
our questions that we asked you in our letter this
summer to be posted in the Q&A and we would like answers
to those questions so that we can have closure to all of
this and so that consumers and farmers and certifiers
alike are all on the same page.

On to some of the recommendations. Just -- we
have additional concerns about fish and fishmeal which
are addressed as in part in the fishmeal recommendation.
We think it's very good that synthetics used in fishmeal
are now going to be required to be reviewed and put on
the National List, but we do have concerns about
contamination issues in fishmeal, whether it's used as a supplement or whether it's sold as fish, there are still PCB and mercury contamination issues, as well as environmental impact of over-fishing that need to be addressed and while we appreciate that there's been a lot of progress made on the fishmeal recommendation, Consumers Union certainly thinks that it needs to go a step further and deal with those contamination and environmental issues.

I'd like to also reiterate what Joe Mendelson said about labeling. This program does have statutory authority over labeling on food and it's -- the lines have become blurred between personal care products and pet food and fish and pet food is food and fish is food and those things should not be carrying any organic claim until the standards are made that they can follow. When consumers see those claims on those products, they assume that the same standards are being followed for food. So please, we requestfully [ph] urge you to actually prohibit the use of the organic term on those food products until standards are made.

As far as the nonfood products, I want to make a comment on dietary supplements. For the record, Consumers Union actually has a big problem with the organic label on dietary supplements. We recently
published an article -- and I'm going to get a copy and bring it in tomorrow for all of you -- on a lot of safety problems with dietary supplements. We do not think that FDA is doing an effective job monitoring the safety of dietary supplements.

We do not actually agree with the law changes that equated dietary supplements with food and so to say that a dietary supplement is organic or nonorganic isn't necessarily offering consumers any additional value and consumers shouldn't assume that those supplements are any more safe.

Finally, on personal care products, we've got a huge product category out there carrying the organic label and we need to fix it now because consumers are buying these products and paying more money for some products which may be truthful and some products which may not be. Agricultural ingredients are used in personal care products. If you have a Shea butter and that's all you have in it, you have presumably a hundred percent organic product if you've grown it in accordance with the NOP standards.

So it shouldn't be rocket science to figure out that that can follow the labeling tiers. We need personal care product labeling to come in line with food labeling and if it's less than 70 percent organic you
just shouldn't be able to use the organic claim on the
front of a package. Twenty percent organic in personal
care products shouldn't be allowed. It's not allowed in
food. Thank you.


MS. KOENIG: The -- as far as the going back
to the fish, I think you should consider petitioning --
if there's -- the problem with -- it's -- you know, if
it's considered a natural, which the committee stated,
they believe it's a natural, if there are contaminants
in that natural, the only way that we can regulate it is
be petitioning it to be a prohibited natural. Now, that
could be annotated in the sense that if it is a
prohibited natural, those that contain a certain amount
of residues would be the ones that would be -- so it
could be annotated prohibited natural, but that's the
way to get about those things and it's the only way.

MS. RANGAN: Thanks, Rose. And we will work
on that. Thank you.

CHAIRPERSON KING: Yeah, Barbara.

MS. ROBINSON: Let me just -- Urvashi, you
asked about the antibiotics and the materials versus the
origin of livestock. The origin of livestock change is
a rulemaking change. We will issue a statement that
says that all prohibited materials can't be used in
livestock; that includes specifically antibiotics,
unless the materials have been petitioned and approved
by the Board and they have been published on the
National List.

MS. RANGAN: Thank you, Barbara.

MS. ROBINSON: And Rose is quite correct.

Petition fishmeal to be a prohibited natural if you
don't want it on the list or if you want it on the list
in that way. And as far as statements about who should
get the standards and who should not, we have actually
dialogued with OTA and suggested to OTA that for
products for which USDA does not cover the labeling,
that OTA can work with the industry to develop
standards, be the keeper of those standards, develop a
logo and then, of course, there's a considerable
consumer outreach that would have to be done.

It would be very parallel to what USDA went
through with the Board to develop the National Organic
Standards that might address some of these issues and
give consumers that comfort level, that those products
that we don't regulate, that want to communicate some
standard of performance to organic practices, there is a
-- you know, there is a recognized set of standards that
are published, they're accessible and they are, you
know, agreed upon by the industry.
MS. RANGAN: Barbara, I appreciate those comments, but I guess having the OTA take the lead on that seems in conflict with having an independent label program and there's other stakeholders who are involved, including consumers and others who just aren't members of the OTA and were not part of that process.

The Federal Trade Commission does exist to deal with truthful and misleading claims and one thing I didn't get to, but we strongly agree with Joe Mendelson and the Center for Food Safety is that perhaps the FTC needs to be brought in in this case to investigate the truthful and nonmisleading use of a non-USDA organic claim because it may be that the FTC doesn't find that to be at all useful. They don't find those unfriendly. They've prohibited that claim, they've prohibited "green," they've prohibited "environmentally friendly" because there just aren't standards and it is confusing and misleading to consumers and I think the FTC needs to be brought in to --

MS. ROBINSON: Well, we'll check on that, Urvashi, because I think for truthful labeling when it relates to these types of products, it might actually be FDA that administers that part of the truthful labeling. I think there may actually be a joint, shared authority for truthful labeling between those agencies.
MS. RANGAN: There is a shared, but it -- the
FTC has published guidance on green claims and organic
could easily be included in that for a non-USDA organic
claim. Thank you.

CHAIRPERSON KING: Thank you. Next up,
Marty Mesh; on deck is Bob Buresh.

MR. MESH: I have a proxy. So my name's
Marty Mesh, the executive director of Florida Organic
Growers and a certification program, Quality
Certification Services, a board member of the OTA,
although as always, these are my personal comments and
should not be reflected upon the OTA. Concerning
earlier comments, I have been called a troublemaker by
the staff of the National Organic Program and while some
may have thought it was a personal attack, I prefer to
reserve judgment since at that time it may have been
accurate, but however, since I've cut my hair and beard
I just am here to say to thank you for all your hard
work, for the change in the tone of the meeting and I
appreciate it.

However, since I do have a few extra minutes,
I will address a few -- couple of things. If USDA is
successful in moving audits to biannual basis, we would
be interested, as well, in moving our ISO audits to the
same type of schedule. I understand that on-site audits
for foreign certifiers are not being done and have not
been done. I made the same comments at the last meeting
talking about an un-level standard or playing field for
certifiers and I would urge that to be rectified, either
outsource accreditation audits to -- of foreign
certifiers or get them done. I requested cost share
information from the National Organic Program and
received totals but not the breakdown of the data that
we really need to further along.

I urge a resolution to the dairy materials
that came up earlier to suggest to move materials to a
more expensive and more toxic materials instead of a
material that has been petitioned and reviewed with a
positive outcome. It's just totally unacceptable to me.
I seem to remember FDA was here at a meeting saying that
organic is your program and really talking to the Board
at that time, addressing the Board, that organic is your
program and FDA has no interest in -- when it was asked
about materials, so it seems to me as though there's got
to be a way to figure it out.

We -- Quality Certification Services have
petitioned the Department for -- to engage in formal
rulemaking on behalf certified organic shrimp producers
and I somewhat disagree with my colleagues, Joe and
Urvashi, and I'm sure they misspoke, is the problem.
Shrimp that is currently produced in accordance with the National Organic Program regulation and was done so with a great investment and commitment on the part of producers now competing in the market with shrimp that is not produced and not produced even using certified organic feed, a great market disadvantage for those organic shrimp producers that really pioneered the way and I believe the just resolution at this point is to bar product on the shelf that doesn't meet the National Organic Program regulation. The Department even through the directive that is now withdrawn, so there's still confusion, gave 18 months to use up the labels.

Rosie's comments that "unfortunately, we're not lawyers", don't ever apologize for not being a lawyer is a -- I echo the earlier comments from the dairy producer about the most important thing is maintaining consumer confidence. I, as an organic farmer, you know, starting in 1976 and just, you know, I don't actively farm anymore, but again, the maintaining of consumer confidence is really the backbone of this whole program and if we lose it, it's really down the drain for organic producers. And with that I'd like it noted in the record that I finished early and --

MS. DIETZ: Three minutes.
MR. MESH: -- maybe it's the new look or
something that caused me to do that. Thank you.

CHAIRPERSON KING: I think Dave has a comment
or question or --

MR. CARTER: Marty, I couldn't help notice
when you're walking away, is there a bulge in the back
of your jacket?

CHAIRPERSON KING: Next up is Bob Buresh and
Bob, I believe you have a proxy, so you're in for six
minutes and on deck is Leslie Zook [ph].

MR. BURESH: Yes, I'm going to be speaking on
my behalf and then on Jackie Jacob, who is the other
co-chair of the task force. Thank you, Mr. Chairman,
NOSB and NOP staff. I'm Bob Buresh, Director of Poultry
Nutrition for Tyson Foods, Nature's Farm and I'm
co-chair of the Organic Trade Association's Methionine
Alternatives Task Force. The following are comments
presented on behalf of the task force only and not the
OTA, since the Livestock Committee has not met to
sanction our report yet.

Supplemental methionine was added to the
National List for use in October, until October of 2005.
No one is more aware of that deadline than we are. When
that sunset was implemented, it was understood that
there was a lot of work to be done to either find
suitable alternatives in time or to present an airtight

case for continued allowance. At the same time as the

sunset, we are being affected by our own success. With

the advent of the National Standards, the organic meat

sector is blossoming while the organic egg consumption,

with exponential growth, is best described as screaming.

As a result, the organic feed supply is struggling to

keep up with demand and is expected to remain fairly
tight for the next year, in the least.

As much as I'd love to stand here and tell you

that the organic broiler, egg and turkey industries will

be prepared to do without synthetic methionine in

October, I or we, as a task force, at this time, are not

that optimistic. With a year remaining, it looks like

the U.S. organic poultry producers are not yet able to

eliminate supplemental methionine. To do so, without

sufficient alternatives, would rock us to our

foundation. I expect that we will be discussing another

temporary extension or an experimental use allowance for

nonorganic feedstuff, subject to commercial

availability.

The intent of this group is not to prove that

our industry cannot survive without supplemental

methionine. My goal today is to convince you that we're

taking this work seriously and we will supply you with
the information necessary to reassess the position of
the supplemental methionine on the National List. At
the same time, I hope to stimulate discussion that will
focus on exactly what you expect and when you expect it
in order to make a decision.

I call your attention to the report I handed
out dated October 9. The report does not lay out our
progress so far as such that the information would be
insufficient to make good decisions. What it hopefully
does is articulate our work plant sufficiently to put
methionine on the agenda again at the next NOSB meeting.
We've delegated the responsibilities among the best
qualified members of the task force with the intent of
providing a supplemental information petition, authored
by the respective researchers and submitted to the NOSB
in time for discussion and decision at your next
meeting.

The good news is that we have an able group of
people dedicated to finding a way to comply with the
standards. We have done some testing and research and
we're trying to do much more. It's taken us a while to
get off the ground, longer than we anticipated and
certainly longer than we're comfortable with and -- but
we are making progress. You've heard already from
Ann Fanatico on the studies at the University of
Arkansas. Dr. Joe Moritz, who we hoped was going to be here, has some ongoing studies with pastured poultry at West Virginia. The University of Minnesota is scheduled to study the methionine content of natural forages next spring under the direction of task force co-chair, Dr. Jackie Jacob.

The European community has, to varying degrees, eliminated synthetic methionine from organic poultry production. Part of our research is to discover the successes and challenges that they have encountered. And while it's understood that cost and price are not the deciding factors in the allowance of a synthetic substance, they are factors to be weighed. We will analyze our findings and report on their impact on producers and the consumers.

I would like to end my comments with the challenge that if we, the task force, deliver to you, the Board, sufficient information next April to reconsider the status of synthetic methionine, can the NOP consider and the NOP deliver any changes before the October sunset? Hopefully, this question is rhetorical and the answer is yes, in which case I encourage you to advise and guide us today. If the answer is no, we need to dramatically redirect our efforts to manage the consequences. I thank you for your time and

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consideration and if there's any questions, myself or hopefully anyone from the task force here present might be able to help me.

CHAIRPERSON KING: Well, it sounds like you have a strategy in place and I guess my question is, I mean, is what he's asking, I think, is it realistic to consider that over the course of the next year if we find -- in other words, if there are no alternatives, that methionine would not come off the list, potentially, in October of 2005.

MR. MATHEWS: The challenge will be getting through both the proposed rule and a final rule in the time required. If it goes through as a single item, possible, but I'm not going to guarantee it.

CHAIRPERSON KING: Kim.

MS. DIETZ: I guess I would -- we've heard a lot of comments and I know this probably one material that has a huge impact and is a big concern. So I would ask the Livestock Committee, I guess, to put on your work plan and to really come up with some kind of recommendation or to work on this task force. Somehow the Livestock Committee should take this back, I would think, and at least keep abreast of what's going on and what our alternatives are, if we have any at all.

MR. MATHEWS: I would second what Kim has said.
because you need to start working on it now if you're going to be doing it.

MR. BURESH: And one of the challenges we saw, like Ann said, I mean she might have started her funding request for research years ago and it's now just coming to fruition and now we've got a four-year study and that's the same with the work at West Virginia and I think at Minnesota, as well. It's very slow in getting funding. We hoped we'd have had these answers by now, but it seems to be much slower in getting generated than what we'd even expected.

MS. DIETZ: And I know that when we discussed this material, one of the pitfalls of adding a sunset provision was, you know, we were hoping the industry would start going right then and there and they didn't and --

MR. BURESH: They didn't and yeah, it was -- we --

MS. DIETZ: It's kind of like we're going to give you the hard-nose petition and material tactic, but --

MR. BURESH: Um-hum.

MS. DIETZ: -- I mean, we did what we could do and I think the Livestock Committee --

MR. BURESH: As an organized group, right, we
did not get started as quickly as we probably should
have.

CHAIRPERSON KING: Jim and then Owusu and then
Rose.

MR. RIDDLE: I pass. Kim --

CHAIRPERSON KING: Okay, so Owusu then Rose.

MR. BANDELE: Did I hear you say that the
European community has eliminated methionine?

MR. BURESH: Yes.

MR. BANDELE: If so, could you say a little
more about that?

MR. BURESH: Yeah, just quickly. I spent -- I
just got back yesterday after two weeks over there and
it's hard to real quickly say what they're doing in
Europe because it seemed like each member country has a
little different twist, but basically, they've taken the
reverse approach. They banned synthetic methionine from
the start, but in most of those countries they have a
transition clause for nonorganic ingredients. Most of
the countries right now have an 80 percent organic
ingredient requirement. So they can feed other
nonorganic ingredients that still meet the regulations.

They can't feed animal proteins and they can't
feed all -- anything that would be against the organic
regulations, but they can feed some vegetable protein,
some high protein like the corn gluten meals and some of the ingredients on the list as long -- even if they're not strictly organic. So they're kind of in limbo between -- they've gone it from the back way. They said we'll ban it from the start, but in the meantime, we'll allow you nonorganic ingredients to help supply, not just methionine, but other requirements. It wasn't strictly for methionine's purpose.

But no, they have banned them and I assume in most countries or at least the ones in Western Europe, to the best of my information, yeah. But they do have -- sorry. They do have a deadline of like sometime in fall of 2005 that they're supposed to go to a hundred percent organic and they're struggling with they don't think they can do that, either. And they're trying to figure out what to do at the same time.

CHAIRPERSON KING: I think Rose had a question, then Mike.

MS. KOENIG: I want to -- I mean, I want to commend those who have put forth the effort to do the research and to kind of do the analysis and that was one of the, you know, when we had the discussion, that was sort of what the advice was, start doing the research so that people don't get, you know, caught in the last hour, you know, without the material.
Having said that, you know, we do have a, you know, it's listed in a specific way and based on the rulemaking process. It doesn't appear that that could be changed, to my knowledge, even if, you know, I was thinking well, maybe you could put in a petition again for reconsideration, but even if that was case, it still would be a gap between when it would come off.

I'd like to explore that and I think I heard you right and it was -- it's an area of the regulation that has never been quite clear and it's always been my intention to work on it, although I never have, and that is that research exemption section of the regulation which gives the Secretary the authority, you know, for research purposes to grant certain exemptions. Very vague area. I think it could be explored -- you know, and I'm not saying this is the way, because I think, again, I think it has to be weighed. I would hate to see this as kind of the loophole that's used to create exemptions upon exemptions on materials, but because you have the intent and it sounds like you do have research ongoing, I think it might be an area to explore because I think that might create perhaps a small window of opportunity. But that's really going to be for Richard and Barbara to consider.

MR. BURESH: Right. Until we at least have
some more solid answers.

MS. KOENIG: I don't know. I mean, that's something for those guys to really consider, but I don't see through the materials process how it could be expedited.

MR. MATHEWS: The research provisions do not provide for the use of prohibited substances. In fact, I think it's paragraph C that specifically says that you can't use a prohibited substance. So --

MS. KOENIG: But in the case, if the exemption was granted during a time when -- currently it is not a prohibited substance.

MR. MATHEWS: Well, right now it's not a prohibited substance.

MS. KOENIG: Right. So what I'm saying is is there, in any way, a way to use that exemption -- I mean, just think about it, that's all I'm saying.

MR. MATHEWS: As long as it's allowed, you can conduct research using it, but it's at the point that it becomes no longer allowed that you can't use it anymore.

MS. KOENIG: Well, then I --

MR. MATHEWS: And the material is slated to come off the list on October 21, 2005.

MS. KOENIG: I guess I never quite -- and
that's what I said, you know, Tuesday I don't quite understand, then, what that research exemption is about, but that's just my nonexperience, I guess, in federal regulation.

CHAIRPERSON KING: Well, I think it's worthy of exploration and I just -- I want to recognize both Becky -- oh, Mike then Becky then George. and we have three individuals yet to comment and we're past 5:30, so just throw that out as recognition of time. But Mike, please go ahead.

MR. LACY: I'll just be very quick. Appreciate the Methionine Task Force, you know, fessing up that they maybe didn't work as quickly as they could, but I also need to fess up being part of a university that it takes forever to get research done. Ann mentioned that it's going to take her four years to get her project done at Arkansas. Even if she had started three years ago, we'd still be a year away from getting her information.

CHAIRPERSON KING: Becky and George.

MS. GOLDBERG: While we have someone here who's on the task force, I've been thinking about all these issues and as a Livestock Committee member, I thought it would be really useful to know what the range is of inclusion rates for these various methionine
sources and diets. In other words, if we were to somehow encourage the use of nonorganic corn gluten or field peas or whatever as a substitute for methionine, you know, how much would be required? What's the range from substance to substance?

MR. BURESH: Well, that would -- it would really depend on the ingredient.

MS. GOLDBERG: Right.

MR. BURESH: I mean, limitations on fishmeal -- fishmeal, crabmeal, would be strictly due to the upper limits on -- so we don't get fishy tasting eggs and meat. I mean, you've only got a couple percent you're allowed or that you realistically can use before you start passing on the fishy flavor. Some of the proteins, corn gluten we can use fairly high levels of it. I mean, you could probably use 15, 20 percent of a diet.

MS. GOLDBERG: But how much at minimum would you need to supply sufficient --

MR. BURESH: Oh, that I can't -- I don't have that number in front of me. That's something we could get -- could come up with fairly quickly because these are known ingredients with known methionine -- or content. So that's just a --

MS. GOLDBERG: Do you have a sense of the
range, obviously with the fishmeal it's at the low end. What's the top end?

MR. BURESH: As far as the high inclusion rate?

MS. GOLDBERG: Yeah.

MR. BURESH: You're probably looking at the things that we could probably include at higher inclusion rates and not have other incurring problems would be things like the corn gluten meal is something that's a standard, conventional ingredient that's used at fairly high levels already. A lot of these ingredients, sunflower meal, some of them have other high fiber, other detrimental effects when you feed them over several percent of the diet. So it would just -- we would just have to ingredient to ingredient and just -- we can come up with that fairly --

MR. SIEMON: I think what she's saying if we're allowed conventional feed, would we end up with a 90 percent organic ration and 10 percent conventional if we're allowed these uses purely as methionine supplements? Additive, excuse me.

MR. BURESH: I think -- the visit -- when we were talking with some of the people in Europe and they were really concerned whether they could get to a hundred percent organic, as well. And we were visiting...
and we kind of came out with the idea of somewhere --
but we think between -- and this is strictly my opinion,
without any really sound research, is somewhere between
90 and 95 percent of the requirement -- I mean, if we
could get to -- we could probably go 90 to 95 percent
organic and then we -- with just our corn and soy. We
just can't get -- we still need something else in there.
And so it's just not going to be there. The fishmeals
-- I mean, we're not sure about those, but again, we can
only use several percent of the fishmeals because of the
flavor issue.

CHAIRPERSON KING: Okay. George, is there
more?

MR. SIEMON: Yeah, I just want to respond to
saying that there's been a lot of good progress.
Really, there was quite a bit of progress, initially.
There was all kind of unofficial trials that went on and
they all failed. And people kind of got a little
befuddled, you know, then there was visits to Europe
where the saw lots of failures as well as successes, but
you know, again, this conventional feed's a pretty big
deal. And I think now the task force -- my
understanding -- because there was quite a few trials,
initially. It's now turned into we need official help,
we need to really research this.
So I think there's -- to say there's not been progress, I know our company did quite a few trials.
It's more so that this -- there wasn't any success and now we're saying let's look at it from a bigger perspective.

MR. BURESH: Some of those initial trials were done by several of the companies and we just kind of said well, let's go out there and try to make some manipulations and it just doesn't work, but it's not scientific. The chicken -- you know, we had small pens, you know, we didn't have a lot of data and that kind of thing, but we just kind of put together some things, but it wasn't going to give us, you know, some good scientific answers.

CHAIRPERSON KING: Well, thanks. We appreciate your input and --

MR. BURESH: Okay. We'll keep you informed.

CHAIRPERSON KING: Thank you. Thank you. We have three people left. Leslie Zook is next, Lisa Dawn White is on deck and then our last commenter today is Sebastian -- and I can't read the last name.

MS. ZOOK: Mark, in the interest of time, I'll defer and Lisa Dawn White will also cede.

CHAIRPERSON KING: All right. Thank you very much. That was easy. Sebastian, and I apologize. I
can't --

MR. BELLE: I apologize for my poor penmanship. It's Belle.

CHAIRPERSON KING: Okay, I'm -- it's B-E-L-L --

MR. BELLE: E.

CHAIRPERSON KING: E.

MR. BELLE: I will make my comments brief. I have sat on a number of public committees like this and have gone through what you're going through. I commend you. I think you're very patient and conducting yourself very professionally and I don't envy you at all. I stand before you today as the Executive Director for the Maine Aquaculture Association. We represent both fin fish and shellfish growers. And I'm also a board member of a group called the Salmon of the Americas. And I'm also a member of the National Organic Aquaculture Work Group that referred to earlier today. And I would like to just make three brief comments.

One is we do support the development of national standards and I think this group deserves a great deal of credit for being willing to go back and deal with A word again. I know it was a rough tour on the first go-round and I'm hoping that it will be not quite as contentious on the second go-round, but it may
be and if so, then you certainly deserve credit for it.

I'd like to support the comments that Dr. Brister and George Lockwood and in particular make the point that there is a group out there which has been working on these issues for some time and I would hope that you take their work seriously and make -- I guess I'll make one comment on what my Irish colleague said earlier, which is -- I'm not sure that he understood the question.

One of you asked the question about would you delay the process and I think he didn't understand what was meant by that comment and I would ask him to correct me if I'm wrong, but I would view the process -- if there's pre-existing group out there which has already been working for a year, then the embracement of that group would seem to be me not a delay, but in fact, a way of accelerating the process and so I would hope that that would be viewed the same way by the Board.

If the Board determines that they are unwilling to allow that group to do work ahead of time and to be their kind of expert group as it were on the issues and they determine to form their own task force, then I would like to volunteer my group's services as a producer group to participate in that exercise and hope that we would be welcomed.
Finally, I would hope that any standards that are produced for aquaculture, be they shellfish or finfish, would be of the same high level of integrity and linkage to good science that have occurred in other organic standards that are being produced and if aquaculture is singled out and held to a higher standard, then I would hope sincerely that both the USDA and the Organic Standards Board would be willing to go back and revisit the standards in other producer groups and ensure that there is consistency across those groups. Thank you very much.

CHAIRPERSON KING: Perfect timing. Jim. We have a couple of comments.

MR. RIDDLE: Just to -- yeah. Quick comment. I'm the one who asked that question because I had understood the -- Mr. Lockwood -- one of the options he was laying out was for us to delay forming an NOSB task force until the work of the NOAWG is competed and in no way would I want to see us discard that work. I see the work that's occurred thus far as a way to jumpstart this public process. That's, you know, an industry-driven group and I'm hearing conflicts about -- how open it is. I take, you know, the comments that it is open to heart, but we're accountable to the public. We're a USDA advisory board and we have to be open, so I see...
this as a way of guaranteeing a transparent broad stakeholder participation public review that leads to official regulations and you know, rule writing process. So I certainly hope we can have both membership of the task force from that group and yours, whoever -- and to also use the work as a jump start in addition to the work that the previous task force did.

MR. BELLE: I wonder if I could just briefly respond to that. I agree with you. My concern is that you have parallel processes that particularly in a field like aquaculture where there are very few technical experts worldwide, let alone nationally, that some of the folks who were engaged in the existing process may become disillusioned and I think it would be a shame to lose those people. So that was my only concern. But I completely agree with you that yours is a process which is obviously much more transparent and public. I don't believe that anybody has been excluded from that group and in fact, I know there have been times when I have been quite -- as an industry representative, I have been quite uncomfortable with some of the participants in the group because they have had a history of criticizing my industry. On the other hand, I've learned a lot as part of the process.

CHAIRPERSON KING: Thank you very much. Well,
that concludes public input and our agenda for today.

Thank you all very much for your patience and your input. We start tomorrow at 8:00 a.m.

***

[End of proceedings]
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IN RE: National Organic Standards Board Meeting

HELD AT: Washington, D.C.

DATE: October 12, 2004

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UNITED STATES DEPARTMENT OF AGRICULTURE

IN RE:

NATIONAL ORGANIC STANDARDS BOARD MEETING

Hearing held on the 13th day of October, 2004
at 8:00 a.m.

The Marriot Washington Hotel
1221 22nd Street, NW, Salon E
Washington, D.C.

TRANSCRIPT OF PROCEEDINGS

10-13-04 NOSB Meeting Participants

Chair: Mark King

NOSB Members:

Owusu A. Bandele
Rosalie L. Koenig
George Siemon
Kim M. Dietz
Kevin O'Rell
David Carter
Goldie Caughlan
Andrea Caroe
Rebecca J. Goldberg
Nancy Ostiguy
Michael P. Lacy
James R. Riddle

NOP Members:

Arthur Neal, Jr.
Barbara Robinson
Richard Mathews
Katherine E. Benham

Guest Speaker:

Tom Bewick, USDA/CSREES
Other Appearances:

A.J. Yates
Brian Baker

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CHAIRPERSON KING: Welcome to day two. Thank you all for being here. Thanks for your patience and input yesterday. We very greatly appreciate that. Today is a mix of working drafts and action plans and strategic plans. And so we'll start of with materials discussion presentation of committee items. Rose is going to head us off with the Materials Committee to talk about a couple documents. Thank you.

MS. KOENIG: Okay. And then throughout the day, there's various sections where we're going to be talking about different types of issues and different documents. So what we're starting with this morning is the sunset and the National List of Aradin [ph] prohibited substances. So it's the sunset procedural document. And as far as the background or history on this, while Kim was materials chair and I was a member of the committee, we started talking about the process of sunset, and had numerous conferences calls, just trying to get our hands -- our arms, I guess, around the whole concept of a sunset review. And, you know, people came at it from different angles and had different concepts as to what sunset review really entails. And
like a number of subject matters within the OFPA, it
does state that a review has to be conducted, but again,
review really isn't defined. Although, as Michael Sligh
kind of mentioned yesterday, and some of the public
comments yesterday, that there are those three criteria
within OFPA that need and have to be considered when you
go through sunset.

So the Materials Committee, prior to the last
meeting, had a document that was on the web, posted,
that reflected kind of our discussion on the subject.
And when we got to the meeting, the NOP presented us,
after reviewing our document, with their concepts of
sunset, many of those ideas which are in this final
draft. But after the presentation of the draft, the
committee met on a conference call prior to June -- I
think it was in May -- really just to discuss the sunset
 provision and provide further input into that document
of -- that the NOP presented to us. So at that point is
where we kind of tried to mesh -- you know, create this
hybrid document between sort of the philosophical basis
of what the committee had suggested, and then what NOP
suggested based on some of the constraints that go along
with having a federal regulation and having to go
through rulemaking procedures.

After public comment yesterday -- I guess, let
me step back one moment. On all these documents that I'm presenting today, I just want to let the public know that, you know, I think myself as well as many other members of the Board spend considerable time -- you know, we have dreams at night. You know, we discuss it with our families, who get very bored with these subject matters, and all of our friends, so, you know, I tend to be pretty obsessive-compulsive when it comes to some of these things. So I just want to make the public aware, and hopefully they feel confident in the fact that we do review these things. You know, there's some members on this Board that, you know, nitpick at a lot of things, more so than I would. But I think all that input is really good information and, you know, it's really needed in this kind of process, although sometimes it feels like it's -- drags the process down. So what I'd like to say is, I went back into this document yesterday, because I felt like maybe we didn't communicate something right, or maybe it wasn't presented right, or -- you know, so looking at what seemed like the public didn't understand and what I thought was fairly clear in the document. And, you know, again, maybe it's because I've looked at so many times and I feel like I fully understand it. I will admit that there's probably a few errors in terms of
ands and ors, but in terms of content and what the
ultimate outcome of the procedures are, I feel confident
in the fact that I think this does get us to where we
need to be, and it is a practical way of looking at the
task. And I think that for those who do have concerns,
if after this presentation you still have those
concerns, please feel free to come up and we can work it
out and try to see if there are other ways that we can
verbalize or communicate with the public so that it
really reflects, you know, the true intent of the
document.

Okay, so having said that, I'm not going to go
through the whole document, but I wanted to just point
out a few things. In the first page -- and I think
Katherine is going to have that document up, and it was
on the web, and we all have a copy. But on the first
page in the section of overview of the National List's
sunset process, I just wanted to note, in the second
paragraph there, it basically outlines the three steps
that we're proposing. And one is the process begins
with a notice to the public that sunset will occur, and
we felt that this was very important. Again, the public
needs to be able to have a transparent process where
they can provide input. So at the get go, there's a
public notice that sunset will occur. And at that point
is when the public needs to say both whether they support the material, or if they don't support the material they have to say they don't support it and provide information. So it's -- if nobody writes even that they're going to support the material, then the Board has to consider it -- removal on that. So, you know, you have to provide input on all materials.

Second, it's followed by a review by the National Organic Standards Board of the conditions warranting the existing exemptions and prohibitions. So some of the concerns, I know, yesterday were -- you know, the NOSB isn't going to be looking at everything. No, in fact, we are looking and we have to vote on every material that is on that list. It's not that we're exempting any. Everything will be voted on. Everything will be reviewed. The difference is to the extent of how in depth each review will be is where it's going perhaps differ for different materials, okay? And then the process concludes with the secretary using public notice and comment rulemaking to renew the exemptions and prohibitions that were reviewed and recommended for continuation by the NOSB. So again, in that final process is another transparent step where public can provide input.

A lot of the other aspects of the document
talks about kind of the process that went -- the
committees and the National Organic Program went through
in terms of the different kinds of models that could've
been proposed. And, you know, many which I'm sure, when
the individuals who wrote OFPA probably thought some of
these models -- and perhaps picked a different model
than what we're proposing now. But I think as we all
understand now as we're implementing the rule, that when
OFPA was written, some of the ideas and concepts I think
we're really great, and they really had some great
intentions for the community. But I'm not sure if
everybody was fully aware, nor -- sometimes I feel like
I'm not fully aware sitting on the Board -- of how
government functions in terms of processes. You know,
I'm a private businessperson. When I want to do
something, I go out and do it. I don't check. I don't
have to do public comment. I don't have to check with
the secretary of agriculture. I just grow my crops. So
even though I did do some research and I actually
checked with another USDA person yesterday, you know, in
a conversation just in terms of that -- you know,
talking about economic analysis and some of the things
that we were told yesterday, I'd like to confirm that
other people in other departments have confirmed what
the NOP has said in terms of the economic analysis that
is required when you are trying to make something more restrictive. So it is a truthful statement and it's just the realities again of what we're dealing with when we're dealing with federal rulemaking.

So basically the sunset that is proposed by the committee, and hopefully that we're going to vote on and accept as a Board, with perhaps some technical corrections that Jim has and will provide, is within this document. And again, I'm not going to spend all of the time going through every single step. But specifically we will engage in rulemaking process. There will be a Federal Register notice on the materials that will be up for sunset. Not all of them on the list currently are going to come through this round, because some of them were placed in effect after the -- will come, I guess, subsequently in other sunsets. There is a substantial -- and again, when I spoke with Michael yesterday during comment, one of my concerns is really going to be in the implementation of this, how the Board is going to look at information, because there is a substantial amount of information that people who want to change something on the regulation has to provide. I am in full agreement that it can't be an arbitrary decision; I just don't like that material. You do have to provide data and some economic analysis and an
analysis of the alternatives. One of the things that --
I think that the Board has provided as, I think, a very
positive comment in this last draft of the document, is
that we encourage the NOP to show that alternatives are
not just other synthetic ingredients. Alternatives are
natural. They may be other things that are currently on
the list that are, you know, either environmentally safe
or maybe safe for human health, or they can be
management practices. So, you know, alternatives -- I
think we really broaden the concept and the
understanding of NOP in terms of what alternatives are,
and I think that that really is an important addition to
this document.

I guess what I'd like to do is move to Jim,
because he had some suggestions, or anybody on the
committee, if they have any suggestions in terms of
things that might -- they might want to consider or
change, or at this point, we can kind of debate, you
know, as a board, you know, some of the issues. You all
heard some public comment. If anybody wants to bring up
those issues, feel free to do so.

MR. RIDDLE: Yeah, thanks, Rose. And Rose
made a comment about some Board members being pickier
than her, and I won't take that as a personal attack,
and I have no idea who she could've been talking about,
Mr. Chair. But I do have a few changes I'd like to propose. And I guess I would propose them as friendly amendments to the draft that's being presented here, so we don't have to, you know, vote on each one, if Rose would accept them. And the first is on page two at the very top, the first sentence under "What does not occur during sunset." And it says, "The sunset process is not used to petition to add new substances to the National List, nor is it used to change an existing annotation."

And our intent there is that the -- this process is not used to expand the use by changing an annotation or to remove annotations. But there's a small oversight in that, if there are some technical errors in some annotations, it would be a chance to clean those up. So I would just add at the end of that sentence, just accept to correct technical errors. And I don't have any in mind right now, but I know, like, the last -- well, the first Final Rule, National List, had hydrated lime. You know, substance must be used in a manner that minimizes accumulation of copper in the soil. Well, hydrated lime doesn't contain copper. That was a technical error, and that was corrected in the current version. And there may be some others that need to be corrected. I don't know, but let's just keep that door open. And then the next -- and maybe on each one if --
Rose, if you could just say if you accept that.

MS. KOENIG: Yeah, I accept. But the only thing is that we may -- and again, this may be too nitpicky, but we probably need to define what a technical correction is. Rather than just saying technical correction, if you could just provide maybe -- could you say not to change an existing annotation?

MR. RIDDLE: Right.

MS. KOENIG: So, I think maybe if we explain that you can't -- just like you had said, we can't add additional uses nor take away -- and that's the discussion, what constitutes a technical -- either that or just define what technical correction is. If it's something that is -- was wrong in terms of --

MR. RIDDLE: Well, the language that I'm proposing is accept to correct technical errors.

CHAIRPERSON KING: Kim had a quick question, too.

MS. DIETZ: When we went through the Final Rule, the initial Final Rule that came out, there were technical corrections on that Final Rule, because there were some materials that were posted on the Preliminary Rule, got published on the Final Rule, and they were different. So that was a technical correction. That's what we were told at the time. And all the committees...
went through the National List and made their technical corrections and made recommendations. So we did -- we have cleaned up the lists in the past, and we have made recommendations on technical corrections, but they were changes that had changed from one rule to the other and somehow got missed. So they actually have to be rule changes in some -- at least that's from a historical standpoint.

CHAIRPERSON KING: Well, and I just want to speak in support of Jim's amendment. I think if we look at the sentence, it says that it's not used to petition or add new substances, nor is it used to change an existing annotation. That pretty well covers everything else, except to correct a technical -- or to make a technical correction, so -- George.

MR. SIEMON: I just -- I guess I got some bigger questions here. So this whole sentence -- I mean, and are you all done with that part?

CHAIRPERSON KING: We're waiting for Rose to say, yes, it's a friendly amendment, basically.

MR. SIEMON: Yeah.

MS. KOENIG: As far as the technical correction.

MR. SIEMON: Yeah. Is that a friendly amendment? Do you just accept that?
MS. KOENIG: I would -- again, I accept the concept. I just think that it would be important to just explain what you mean. Because, again, I don't -- I mean, what I think we end -- what ends up occurring when it comes to materials, if things aren't defined -- what we understand as this Board, you know, we're all sitting here, but when we leave -- the idea of technical, some people may say, well, technical could've meant, you know --

CHAIRPERSON KING: Scientific.

MS. KOENIG: -- scientific, you know, that kind of thing. So if it's the spelling -- you know, all I can say is expand on that definition, and we don't have to do it now, but if you could provide perhaps some definition to the word technical, imbibing the spirit of what we're saying here.

MR. RIDDLE: Sure. I think that's maybe something that the Policy Committee working with the NOP could provide some guidance. You know, what does NOP see as the bare -- you know, fence post for technical corrections?

MR. SIEMON: Yeah, I think that's the department --

MR. RIDDLE: Yeah.

MR. SIEMON: -- definition.
MR. RIDDLE: I mean, but just so we know. But -- so we get it maybe in the Board policy manual in a long run, so that future boards know what a technical correction is, as defined by the department. Is that sufficient? Okay, then we are done with that, George.

MR. SIEMON: All right. I got a couple questions here, and I'm just trying to catch up. So this means -- this first sentence means that it's kind of up or down, there's no changing anything, right, that's what this is all about, no -- so, I mean, and that's in the name of simplicity?

MS. KOENIG: It's in the name of what a review -- if you want to actually change an annotation, then you need to through the materials petition process, okay? You're saying you either accept what's there or you reject what's there, it's not that you can change what's there, because you decided that you need a different use or an extended use or a reduced use. If you need to do that, then you would have to --

MR. SIEMON: But --

MS. KOENIG: -- repetition.

MR. SIEMON: But we can eliminate materials without another TAP review.

MS. KOENIG: No. The -- if you --

MR. SIEMON: Yeah.
MS. KOENIG: -- read through the document --
and this is where I think there was a misunderstanding,
perhaps, in the communication. Although, again, I read
through it and maybe my eyes or the fact that I've been
so involved in the process, that I'm not understanding
that it's not communicated well. And what I suggest,
George, if you get to that section and you read through
it and it's not communicated properly, give me some
suggestions, okay. So I'm not --

MR. SIEMON: Okay.

MS. KOENIG: -- doubting that there could be
communication problems within the document, but the way
that -- I think it's written clear that everything will
be put on the Federal Register notice, and there will be
a review. If we want to -- if the public identifies
through public comment that there are materials that
they feel, you know, there's sufficient data out there,
and they've looked at the OFPA criteria and have
provided us with some foundation as -- and the
foundation is described into the -- in the document as
to what is legitimate foundation. We as a board have
the ability to set aside certain materials to do more
extensive review on. And, you know, can that review
process end up removing substances from the list? Yes.
Can that review process also hold up those few materials
from going through the sunset? Yes, because the TAP process is a lengthy one. So what's envisioned is that -- at least what I see in my mind, that as we go through sunset, a good majority of the materials will be fairly easy to get through. We will not have to necessarily do technical -- additional TAPs on, but I do hope that the Board looks these over and discusses, at least within the committee, each one of the substances, because certainly within OFPA that is our obligation, to provide a review. Those large lists of vastly uncontroversional materials would then go through the federal rulemaking process. There may be some that we want to perform TAPs and that -- as I understand it, maybe Richard can confirm or not confirm this, that there may be a separate docket that would have to wait for things that are going to require further technical review. Is that correct?

MR. MATHEWS: We would try to work with you in any way to make sure that materials that are already approved by the Board get into the notice and comment rulemaking process. The only problem or down side I see with that is the confusion that could be raised by virtue of the fact that some materials appear in the docket and others don't. And so we would have to work closely with you to make sure that the public understood...
that there were going to be two rulemaking actions. But we'll work with you to try and make sure that what can get done gets done in time.

MS. KOENIG: Does that clarify stuff, George?

MR. SIEMON: Let me ask a different question. If I'm in the -- if I want to eliminate any material, I have two options, wait for the sunset, and when you put out the list, then I simply make a comment that I think this one needs to be reviewed with good reasoning, and then the Board decides to follow up on that?

MS. KOENIG: There may be -- you know, there perhaps will be individuals or groups that will be able to provide enough technical information, and we may be able to go back to our archives of TAPs and just supplement those TAPs with this additional information. Plus, we all have the responsibility of going beyond just the TAP. I mean, if we have information or growers or, you know, all information, if it can be backed up with data or substantial facts that are valid, whether it's the TAP contract or a scientist at a university that isn't the contractor, it's our idea to kind of find that information out. So those are kind of the -- you know, the mechanism is that some people may provide that information and we may not have to go through the TAP, but --
MR. SIEMON: Um-hum.

MS. KOENIG: So we rely on all of our resources available.

MR. SIEMON: And the other way, of course, is they can petition now to get a material off.

MS. KOENIG: Yeah. And that is -- you know, and I always -- I think that that is sort of what convinced me and what I had to get through my thick skull during the last meeting, was that this is not the only process by removing a material from the list, that you can always petition to remove something.

MR. SIEMON: So would it be better if there was some obvious things to get off the list, for people do that sooner than waiting for the sunset process?

MS. KOENIG: Yeah. I mean -- you know, again, I think what the NOP stated, and I think, you know -- you know, whether the public likes it or not, or whether I personally like it as a farmer, the facts are we've only had one petition to ever remove something. You know, so you only can base -- you know, when you've got that, that's the only case of evidence. So what we're going on now is it seems like, at least in terms of the petition, you know, the way -- the formal means for doing that, that people haven't utilized that. Now, again, I still acknowledge that perhaps it's because
that process is difficult for people to do and that
also could be a reasoning, but --

CHAIRPERSON KING: Yeah. Owusu, I think you
had a question --

MR. BANDELE: Yeah.

CHAIRPERSON KING: -- and then Rick and
Barbara and --

MR. BANDELE: I just had a question that was
in terms of the all or nothing approach. You know, like
a situation would come up where something is really
useful, but there's a minor problem that was noted
before. And I just wanted -- could you speak to the
legal basis for not being able to change the annotation?

MS. KOENIG: I'm not a lawyer, so the legal
basis, you know, I would defer to probably Barbara,
although she's not a lawyer, either, but she probably
talks to them more often than I do. So I'll probably
defer to that, but I think -- you know, and again, in my
feeble knowledge of some these things, that -- again,
that this not -- a sunset is a very different process
than -- you know, it's to take something that's there
and either concur with it or reject it, but not
necessarily change it, but --

MR. NEAL: Also, to comment on that particular
question, it's the same -- similar question as George

York Stenographic Services, Inc.
34 North George St., York, PA 17401 - (717) 854-0077
raised about, I guess, people waiting until sunset before they say we want to change this, we want to change that. The intent of sunset was to review all of the substances that have been on the National List for five years, not just tinker with this -- the annotations that may be linked to a substance. So we don't -- legally, you don't want to confuse processes. We've already got a process that's set aside for amending annotations, for amending the National List by adding a new substance or removing substances. And they could've done that five years ago -- well, two years ago.

MS. KOENIG: They can do it now.

MR. NEAL: Yeah. And they can still do it. But the intent for sunset, we want to keep it focused on the review of the materials and not just an opportunity for people to come in and tinker with this and that, because they have an opportunity to do so. It may be easier for them in their opinion, but actually, it's set up the same way in terms -- you have to show the same evidence to get something off as you do to put it on.

MR. MATHEWS: Yeah. Let me address the concern about whether or not TAP reviews will be able to be done. As we mentioned yesterday, we just put a new $300,000 into TAP reviews. What --

MS. ROBINSON: Of last year's money.
MR. MATHEWS: Of last year's money. If we get our budget this year in a reasonable time, we should be able to add some more money into it. We are looking for that to be earmarked in large part to the sunset process. We don't have that many petitions in now. They're not coming in very fast. So really we've got a good chunk of change for the first time that can be used for materials, and we see that as -- in reality, what the Board will do is identify what materials are of most interest to the Board, based on feedback from the organic community or whomever, and that you would then let us know, and then we can go ahead and have some TAP reviews done early on in the process, that could then be provided to you to supplement the process of sunset itself, as outlined in this document. So figure on identifying some materials you want reviewed, we'll get them to the TAP reviewers, and hopefully that will help solve the problem on the ones that your nervous about at this point.

MS. DIETZ: I just want to remind people that we've looked at this draft a few times and we do need to get it going and voted on. But, George, on -- I'm sure Rosie will go through this. But there are certain steps that someone would have to take to recommend to remove a material. It's not just asking -- saying that you don't
like it, but you have to actually provide data, and like Rosie said, some economic information and alternatives.
So, I mean, the --

MR. SIEMON: And either process.

MS. DIETZ: Yeah, and the process.

MR. SIEMON: And either process. We've already heard sunset's the same --

MS. DIETZ: Right.

MR. SIEMON: -- in the documentation.

MS. DIETZ: Right. And it's a very good document. We spent a lot of time on it, and it'll work. And -- but as long as people take that responsibility, and that the industry goes out there and really -- it's time for us to do our homework, and here we are again. So I would also urge everybody to look at this seriously, you know, go back to OTA, go back to our committees and start working on the sunset.

MS. ROBINSON: Okay. Wait a minute, my brain's kicking in slowly here. You know, there's no reason -- if you already know of materials on this list that you feel that you've got problems with, or that you know from previous boards, you know that the documentation that's supported there, being put on the list, you know, you question it or you're not certain of it. Don't wait. If there's something right now, I
mean, that you can identify, something that you want a closer look taken, you know, I urge you to communicate that to us as soon as you can and we can -- and let's get started on it. Whatever we can do to make this process, you know, methodical and -- you know, and really, we don't want to wait until the last minute. I mean, that's why we're pushing you on it now. But by all means, the more that we can do to make it a better process, you know, we're willing to do that. So if you already know of something, you know, let us know that.

CHAIRPERSON KING: Don't wait for the sun to go down.

MS. ROBINSON: Correct. And Jim knows one already.

CHAIRPERSON KING: Yes, he does.

MS. ROBINSON: He was putting his hand up.

MS. GOLDBERG: I wanted to move on to the next section and ask a question about the alternatives.

MS. KOENIG: Okay.

MS. GOLDBERG: Is that appropriate at this time?

MS. KOENIG: Yeah. And -- yeah. Rather than -- again, since it's been on the web and you all have seen -- this was one of the documents that you actually had quite early, so that's why I haven't painstakingly
gone through each item. So if there are specifics, I think it's really appropriate.

CHAIRPERSON KING: Well, I think -- Becky, one minute. We're not quite done yet.

MS. GOLDBERG: Okay.

CHAIRPERSON KING: You have a quick correction on this section and then we'll vote.

MR. RIDDLE: I didn't say quick.

CHAIRPERSON KING: We're hoping, Jim.

MR. RIDDLE: Yeah, I hope it's accepted quickly. But, yeah -- and this is based on our public comments we received yesterday, and also other comments from the campaign meeting, when we went through this document. And it's in that -- it's also in that first paragraph, what does not occur during sunset. The last two sentences there. "NOSB has determined, based on scientific evaluations, consideration of public comment, that substances currently on the National List are already compatible and consistent with OFPA and its implementing regulations." I propose no changes. Leave that sentence in tact. That really says it all. But then I propose deleting the next sentence. "Since the substances have already been found to be compatible and consistent with OFPA and its implementing regulations, through petition process, sunset review should focus on
continued need of these substances in organic agricultural production and handling." Well, first, that is redundant, the bulk of the sentence, and I find it misleading in that it focuses only on one of the criteria under OFPA. And really, a substance needs to continue to meet all of the criteria in 6517 and 6518, and that's explained later in the document, and I just think it's misleading to focus solely on that one criteria in this paragraph.

MS. ROBINSON: Okay. How about if it -- if what it says is, give your -- leave your sentence that you wanted to leave alone --

MR. RIDDLE: Yeah.

MS. ROBINSON: -- alone. Then the last sentence simply says, therefore the sunset review should focus on the continued need for, and the rest of that sentence. And that is what sunset is doing, is focusing on the continued need for the substances in organic production and handling, right?

MS. KOENIG: Whether it's positive or negative.

MR. RIDDLE: Right.

MS. KOENIG: It doesn't --

CHAIRPERSON KING: Could you make reference at all --
MR. RIDDLE: Yeah.

CHAIRPERSON KING: -- on this?

MR. RIDDLE: Yeah. It removes the redundancy. In some way it's -- well --

MS. ROBINSON: And it eliminates the singular focus that I heard you say was troubling, that it's all -- the only focus is on whether it's compatible. So all we're saying is, okay, so sunset focuses on the continued need for the substance.

MR. RIDDLE: Uh-huh.

MS. ROBINSON: And the continued need, then, is based on all of the criteria.

MR. RIDDLE: I have no problem with that. I think that's fine.

MS. ROBINSON: Okay.

MR. RIDDLE: And -- yeah. Because it is linked to all the --

MS. ROBINSON: Right.

MR. RIDDLE: -- criteria.

MS. ROBINSON: Right.

MR. RIDDLE: And it's not just the availability of alternatives. There was, you know, a strong emphasis on that in that earlier draft, and I just didn't want it to lead just to that. I thought that was -- so --
MR. RIDDLE: Did you -- you caught that?

MS. KOENIG: Yes. Well, I kind of caught it.

MR. RIDDLE: Okay.

MS. KOENIG: Hopefully other people are taking notes, too, but, yes.

MR. RIDDLE: Okay, then it's acceptable. All right. Then I'll hold off on a couple other sections.

CHAIRPERSON KING: Okay, Becky, if you want to go ahead.

MS. GOLDBERG: Okay, thank you, Mark. My issue is on page four, under alternatives to allowed substances must be available. And the first sentence says that "All recommendations to discontinue the use of allowed substances require the availability of viable alternatives," and it explains what that means. And, you know, I generally agree with this principle, but it strikes me that it's a little bit too absolute, that there are conceivably situations where really new scientific information becomes available that a substance is, say, toxic to wildlife or whatever, and that we really wouldn't want it whether or not there are alternatives. And so I would love it if this was written in a way that was little less absolute. But so -- you know, something like, in general, our recommendations to discontinue the use of allowed substances.
substances require the availability of viable alternatives, you know, and then maybe having some allowance if there's unusually compelling evidence that a substance is incompatible. You know, demonstrate an alternative be available, something like that. It just troubles me that we in organic agriculture don't always insist that there be an alternative to everything, because sometimes we just don't find the substance acceptable.

CHAIRPERSON KING: Yeah. And I guess, do you want to propose an amendment to this section? I think Jim's got some notes, as well.

MR. RIDDLE: Right.

CHAIRPERSON KING: Maybe if we want to craft that --

MS. GOLDBERG: Yeah.

CHAIRPERSON KING: -- together. But your concern is that there could be other reasons to not have a material on the list, other than just saying that you want to discontinue the use of.

MS. GOLDBERG: Well, I'm arguing that sometimes -- you know, in a five-year sunset process, sometimes a new body of information really does become available that something is toxic or whatever, it's incompatible.
MS. DIETZ: And I agree, Becky, because, generally, when we review a material, we're looking at it globally. We're not just looking at -- specifically at alternatives, we're looking at, you know, carcinogens or what have you. So, I mean, I agree with that, and I think that future boards aren't just going to look at the alternatives and make a decision, they're going to look at criteria, hopefully, that are established when reviewing these materials, and we have a good process for that. So, I mean, we'll see what Jim recommends. But if we generalize that, I think it's important and we have to have it from a legal standpoint, but it's also part of the big picture.

MR. RIDDLE: Yeah. I think the earlier sections do emphasize that it must continue to meet all three of those criteria, you know, harmful to human health, the environment, necessary and consistency. And on this particular section, which is on page four, two-thirds of the way down, "Alternatives to allowed substances must be available." I guess the two changes I would propose, one is just in the title, to strike the words "must be available," because this section of the recommendation is really a description of alternatives being allowed. It's already stated that they must be available, but I just would like that removed from the
title. And then to change the first sentence, so that by deleting "All," and then changing "require" to should describe, so that it reads, Recommendations to discontinue the use of allowed substances should describe the availability of viable alternatives. And then leave the rest of it the same, where it talks about the evidence that must be provided to show that these things are indeed available, et cetera. So just a little modification there.

MS. KOENIG: Becky, do you think that that is --

MS. GOLDBERG: I think that's acceptable.

MS. KOENIG: Okay. And so do I, so --

UNIDENTIFIED SPEAKER: How about --

MS. GOLDBERG: Yeah.

MS. KOENIG: Okay.

MR. RIDDLE: Okay. Now on the title, striking the words "must be available." And then the first sentence, strike the first word, "All," and strike "require" and insert in it's place, should describe, so that it reads, Recommendations to discontinue the use of allowed substances should describe the availability of viable alternatives.

MS. DIETZ: A question for NOP. When we had originally drafted this document, we talked about the
people, if they want to take something off the list, they have to give alternatives. Is this going to weaken that in any way if it says, if you should describe something, does that mean, if somebody doesn't submit something, what are we going to do?

MR. NEAL: We talked about this on a call. The information, you know, what you guys have to digest is for your benefit. Because if someone comments with a single sentence and says we don't like X and they don't provide any of the data, it doesn't give you much to work with. Asking for this information up front gives you as much information as you need in order to make decisions with. I think the changes can work. Whether or not people follow it, even it said must require or should require, you're still -- you know, a 50-50 chance of getting what you ask for.

MS. ROBINSON: Yeah. Remember, too, that when you're doing rulemaking, even though we can provide structural guidance to people out there and say here's what we'd like you to comment on, you cannot -- you can't reject -- you can't tell people, here's how you must comment. They can write whatever they want. So the best you can do is to encourage through this document what information is going to be the most helpful to you in making a decision.
CHAIRPERSON KING: Jim, then Rose.

MR. RIDDLE: And elsewhere -- I mean, the whole rest of that paragraph remains the same, and it uses the word should, evidence should be presented, commenters should include literature, all of that. You know, so these are instructions.

MS. KOENIG: I guess that's -- well, actually that is very encouraging, because I know some of the stuff that was less digestible for me, and I think for others, was -- the first impression, I think, upon reading the document when we got it last time was that I just saw all these people trying to jump through all these hoops, and unless they got through all the hoops, they wouldn't be considered. But what I think I'm hearing you saying is that the document is an attempt to explain all the hoops that we love everybody to jump through. But they may not jump through all those hoops, but it's still our obligation to look at what they provide, and then we determine, have enough of those hoops been jumped through for our comfort level? And if they have, even though not all of them have been jumped through, then that is enough evidence -- they provide enough evidence for us to non-arbitrarily start looking at materials. Is that correct?

MS. ROBINSON: Correct.
MS. KOENIG: Okay.

CHAIRPERSON KING: Nancy.

MS. OSTIGUY: Hopefully what people will understand is that it's to their advantage to provide this information, because they may see a material in a particular way, and if we don't intuitively see it the same way, without their evidence, we won't get there. So it is to people's advantage to do as much of this as they possibly can.

MR. MATHEWS: I also have a proposed change to this paragraph. I've already talked with Arthur about this. We've -- we're working on the docket, so as soon as you guys finish up what you're doing, we're going to finalize the docket and get it into the clearance process. And what I have suggested is that the table be removed and not a part of the docket. And the reason for that is that I'm concerned that, if you look at the sentence just before the table -- it's the last sentence of that first paragraph -- the following chart illustrates the types of alternatives that must be recommended. I look at that chart and I start asking, well, are there other options? And I think one jumps out really quickly, unless I'm wrong, but you take the second crop and livestock row, it says, "Synthetic inert pesticide." Then a recommended alternative must be
nonsynthetic. I would say that that's not true. Let's look at ivermectin and moxidectin -- I guess that's the way it is. You know, there's two synthetics, and the Board has already debated previously whether or not one synthetic is better than another synthetic. So I'm concerned that putting a table like this, we miss something, okay? It doesn't say including but not limited to, it says you must do this. So take that for what it's worth, but I -- if it was me, I'd remove it.

CHAIRPERSON KING: So you're proposing a less prescriptive approach, which does have some alternatives? And I think you're right.

MR. MATHEWS: That's exactly what I'm proposing.

CHAIRPERSON KING: Rose?

MR. MATHEWS: So I would take out that last sentence and the table.

CHAIRPERSON KING: Okay. Thank you, Rose -- I mean, Rick.

MR. MATHEWS: Easily -- easy --

CHAIRPERSON KING: I'm just so --

MS. KOENIG: I had a sneaky suspicion that that wasn't corrected. I can't imagine that we would've missed that, because we discussed that. So I have a funny feeling that we did have other alternative listed
there. I mean, the one question, should we change the
must to a may? I mean, the thing is, I like the intent
of the chart, because I think it's very clear that we're
saying that -- that there's not -- that there's
nonsynthetic alternatives, there may be an allowed
synthetic, and that there are management practices. So
could the must say may? You didn't answer, but it's
okay. Just like my husband, he doesn't listen to me.

MR. MATHEWS: I mean, if you've got another
alternative -- if you've got another alternative, that's
fine. I guess I took the easy route of just dropping
that. But if you want to go in and say should include
and here are some examples, and change the must to may,
that's fine. I don't have a problem with that. I'm
just a little concerned that we box ourselves in, and
that's really where I was coming from.

MR. RIDDLE: Yeah, I think Rick makes a really
good point there, and I would suggest changing that must
to may, but then also adding in that box that he
identified, which is the right-hand column, the second
one under crops and livestock synthetic inerts, to add
or an allowed synthetic inert.

MS. KOENIG: That's what we did with handling
in the one above.

UNIDENTIFIED SPEAKER: Yeah, I think it was --
MS. KOENIG: Yes.

MR. RIDDLE: A technical error.

MS. KOENIG: That is exactly what a technical error is.

MR. RIDDLE: Yeah. Because there are list fours, and there's a few list threes we've approved, so --

CHAIRPERSON KING: Okay, do we have other comments? Yes, Nancy.

MS. OSTIGUY: That we still did not do a correction of the sentence above. There's still the must in there, at least I read that -- may.

CHAIRPERSON KING: Yeah. Well, I propose -- yeah.

MS. OSTIGUY: Okay, thank you.

CHAIRPERSON KING: To may.

MR. RIDDLE: Yeah. Then I have one more, and it's in way the smallest, but probably the most significant, and that is on that same page, in both the first paragraph and the third paragraph, there is the numbers one, two, and three, and they're connected by an and.

MS. KOENIG: Right.

MR. RIDDLE: And that really should be changed to an or. A substance must meet all three of those to
get on the list, which means it must continue to meet all three. So if it doesn't meet one of them, it could be removed. So in this usage it should be an or there. So changing and to or in front of the number three in paragraph one and paragraph three on page four.

MS. KOENIG: Can you elaborate to the public? You say it's the most significant. I understand what you're saying, but just for the explanation to the public so that they understand --

MR. RIDDLE: Sure.

MS. KOENIG: -- the difference between and, and or.

MR. RIDDLE: Well, I don't know if I can do that. The difference between and, and or in this use. Well, yeah, I tried to do it using very few words. It wasn't enough, I guess. Well, to repeat, under OFPA, in order for a substance to get on the list, it has to meet all three of these criteria, the harmful, or not be harmful to human health, the environment, not -- well, that it would be necessary and that it be consistent to get on the list. So when something is being removed, it still has to meet all three, but how we're using it in this sentence is that any one of those could be a reason to remove, so it should be or here on how the three are connected. I think I made it more confusing.
UNIDENTIFIED SPEAKER: No --

MR. RIDDLE: Oh, good.

MS. DIETZ: Can we look at that section in OFPA, because I see and?

MR. RIDDLE: Yeah, yeah, yeah. And is used in OFPA.

UNIDENTIFIED SPEAKER: Yeah, in OFPA -- get when you review it. You have to make sure it meets all those.

MS. KOENIG: So only one can keep it off.

UNIDENTIFIED SPEAKER: One keeps it off of the sunset, because --

MR. RIDDLE: You're mike's not on. No, you were going to do it, and I just wanted --

MS. KOENIG: Oh, gee thanks, Jim. What Jim is saying -- and I'll just restate it in my voice. But what he's saying is, in OFPA, in order to get something, you have to jump through all those hoops, okay? So there's an assumption that once it's on there that it jumped through all those hoops. Okay, in order to pull it off, you going to have to jump through the -- all of the hoops, because you've done that already -- because you're triggering one of those -- because now prove that it doesn't no longer meet those -- jump through those three hoops. All right. I think that -- got to get
those hooping now.

MR. RIDDLE: Those are the only changes I have.

CHAIRPERSON KING: Comments? Questions?

MS. KOENIG: Now, the Executive Committee had voted on a draft of this document, with the assumption that we were going to come back to the full Board, because we weren't comfortable as an executive committee, but we wanted to let the NOP know that, in the spirit, there was -- you know, we assumed there'd be some minor changes, but we thought that the general intent of the document would fly, which it -- so -- but we what want to do at this meeting is confirm with the changes that have been made, that the Board is comfortable with it. So I would appreciate a motion.

MR. RIDDLE: You may make a motion.

MS. KOENIG: I can make a motion?

MR. RIDDLE: Yeah, yeah, yeah.

MS. KOENIG: Okay. I would motion to approve the document, with the stated changes that we've discussed to that for acceptance as the sunset policy.

MS. DIETZ: Second.

CHAIRPERSON KING: It's been moved and seconded that we accept the Materials Committee draft of the sunset and National List of allowed and prohibited...
substances. Is there discussion?

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[No response]

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CHAIRPERSON KING: Seeing none, all those in favor signify by saying aye.

BOARD MEMBERS: Aye.

CHAIRPERSON KING: Opposed, same sign.

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[No response]

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CHAIRPERSON KING: Motion carries. Rose, you're still in the hot seat.

MS. KOENIG: I felt like I was -- people are going to get very sick of me during this meeting. Okay, now I'm going to move onto these other drafts. And I think -- as I stated with the sunset draft, I think it was pretty evident by the way that it was entitled and how I explained the process, that it truly was a committee document. Some of the documents that are -- that we're going to be viewing today have my name on it as the materials chair, and it's on there as the chair, because it reflects the fact that the committee really did not discuss this at all. We ran out of time. We had a lot of personal issues that we were dealing with,
professional issues, and then hurricanes didn't help the situation. So -- and the committee -- you know, I try to communicate with the committee, and I think people are comfortable with the decision I made to kind of just put my name on it and that, you know, this meeting was really a meeting of discussion, not necessarily final decision making. So that's why the document has my name on it.

However, you know, for the record, I do want to state that through the minutes -- because I spent a lot of time -- especially on this document that we're discussing now -- that I felt like I had a lot of individuals -- ghosts of individuals in the room as I was writing, because I pulled a lot of the old '94 and '95 minutes from previous National Organic Standards Board. And then I took advantage of the fact that I actually knew some of these individuals who had -- you know, whose names appeared in those minutes, and had conversations with individuals that were kind of instrumental in -- you know, having input into this concept of a national list. So I'd like to recognize Brian Baker and Emily, and also Jim Riddle helped me, because he just volunteered, you know, to get these documents processed, to just kind of help with the process in any way possible. So I thank those
individuals, and I just wanted to put that forth to the public so people realize that it just wasn't my thoughts.

So with that, we have a draft now in front of us. And I'll go a little bit more in detail with these documents, because, again, they were ones that came later on to the website, so I fully understand if people didn't have enough time to really digest or go over these documents. So the gist of -- and, Mark, how much time do we have, because I don't want to --

CHAIRPERSON KING: We're going to go until about ten o'clock and then --

MS. KOENIG: Okay.

CHAIRPERSON KING: -- take a break, so --

MS. KOENIG: Oh, good. Okay.

CHAIRPERSON KING: But it's okay if we take a break a little bit early.

MS. KOENIG: Okay. But -- so the justification -- and I think it's important. I think this one is a really important document, so I'm going to just read it, because there's no better way of kind of going through than kind of going through the document. It basically says that 6517 of OFPA outlines the procedures that shall be followed for the development and the implementation of the National List. It

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provides the guidelines for inclusion of substances on
the list, procedures and criteria that must be followed,
and outlines the authority of the secretary and NOSB.
The NOP had requested the NOSB Materials Committee to
review the petition substances within the context of
7 U.S.C. 6517.

The specific issues that need to be addressed
in this section in the National List are the guidelines
for prohibitions or exemptions -- places limits on the
types of substances that can be included on the list.
And I basically provide the historical background of
that section OFPA. And the real issue is number B, that
states what substances can be included on the list. And
if you look at that section, you know, here comes that
word that we're going around on, it states that there's
active synthetic ingredients in the following
categories. And again, this is for crops and livestock.
So those are the categories that OFPA had provided. And
then it also stated, you know, this section, synthetic
inerts reviewed by the EPA. That was bullet point two.
And then three is use and handling and is nonsynthetic,
but is not organically produced.

The production categories that are defined for
active synthetic ingredients were intentionally included
in OFPA to limit the scope of the National List, and the
use of synthetic substances in organic production systems. Now, I didn't come up with this idea. This is not my opinion. Again, within the document you can refer to some of the minutes. These things were stated in the minutes. They were stated in the Senate committee reports that came with OFPA. So really, again, that was the philosophy of the National List. Many of the materials decisions and procedures were established by the early members of the NOSB through consultation with the NOP, the organic industry, private and state certification organizations, and through public interest and input. The first proposed National List decisions were made primarily during the NOSB meetings between 1994 and 1996. Now having said that and having the opportunity to have Michael Sligh in the room, who was chair for some of those -- during that time, you know, you can understand sort of what he was explaining, even though it was written that way, you know, it was controversial. You know, it was a negotiation. It was an industry in its infancy and -- so maybe perhaps things are done to the type of procedures we're doing today. But no matter what, the situation is, there were things put on that list, and now we have to figure out how to deal with them in our policymaking, as we have evolved.
The NOP is currently interpreting the National List, and its existing annotations, with certifiers. One certifier is need clarification on materials described in the farm plan, and the petitioner submits substances for review for inclusion on the National List. In 2004, the NOP made two material interpretation, and these were phosphoric acid to stabilize aquatic plant extracts, and potassium lactate and sodium lactate for meat processing, for which the NOSB requested a formal clarification in an effort to understand the manner in which the NOP interprets the National List. Members of the NOSP -- NOSB have argued that the combination of generic substances on the list resulting in a synthetic reaction requires additional review of the new substance. And again, that was, for example, sodium lactate and potassium lactate. Such a substance is prohibited unless it is reviewed by the NOSB and recommended to be added to the National List. To suggest otherwise removes a key decision from the authority of the NOSB, as described in OFPA. But all synthetic substances used in production and handling must appear on the National List, which has been recommended by the NOSB.

Based on conversations with NOP staff, their current position is that once an active substance is...
listed, they're active, meaning that a synthetic substance falling into one of the production categories in 6517(c)(1)(B)(i), then all additives to the active are allowed unless restricted in the annotation that may accompany a substance. And -- you know, and I state that -- and again, I hope I'm not -- I hope when I wrote this that I wasn't misunderstanding what I've understood. So if I have -- if I am and it's erroneous, I would ask the NOP to explain -- you know, to explain my misunderstanding of it. And again, you know, the purpose of this document is to seek clarification, to really put down in writing -- which is something that we don't do very often, which I think is probably one our biggest mistakes as a functioning board. We have a lot of conversations, but we don't express our ideas in a way that's backed up with the regulation. You know, but -- so it's -- I think this document is important to start the communication, and that's the purpose of it, not necessarily to lay blame, although it probably sounds like it is.

So anyway, this is inconsistent with both the philosophy of what annotations were used for when they accompanied a substance on the list, and with the historical view of what needed to be petitioned to the list. And I've referenced minutes from Orlando and
Santa Fe, when these types of things were discussed. The annotations that accompany many of the substances on the list were utilized to narrow the use of a substance within organic systems, and I gave some examples of hydrated lime, which Jim just told me was not even a proper annotation -- lignin sulfonate and lidocaine or liedocaine [ph]. For substances extracted from plants, animals, or mineral sources, they were added to distinguish the synthetic forms from the nonsynthetic forms. And Keith and I discussed this kind of yesterday, and perhaps the way that they were added at that point really was not consistent with the way a regulatory agency looks at it, and he's not here today, but if we need to discuss that -- he was talking to Becky and I in terms of fish -- the fish meal. You know, the way it's read is I know what the intent was when it was placed on the list, but you don't -- his argument is it's either a nonsynthetic or a synthetic. And if something is a nonsynthetic, you don't add it to the list because there's synthetic ingredients in it. You add those synthetic -- the things that are synthetic in it and annotate it, you know, not in hydrolyzed -- one example is, like, aquatic plants or the fish emulsions, okay? So again, I thinks it's just probably not an in-depth understanding of what was occurring.
Not that anybody had any -- you know, anything other than a misunderstanding that went on there.

For substances extracted from plants -- okay, I'll go over that, probably. Extracted from plants, animals, or mineral sources, they were added to distinguish the synthetic forms from the nonsynthetic forms. They were not used to place restrictions on formulations of a substance when used in a brand name product or other commercial formulations. In other words, this is not a brand name list, it's a generic list. In the preambles to the second proposed rule in the Final Rule, the NOP concurred with members within the organic industry in their recognition that the National List would include all the ingredients in agricultural inputs and formulated products, and detail how the primary role of the NOSB would be to review -- the review of substances in the development of the National List. So the potential solution to resolve the issues that I came up with -- and I think that's what we need to discuss today with the NOP, and perhaps then the Materials Committee or the Crops Committee could come back with a formal recommendation -- is that one category identified in OFPA, 6517(c)(B)(i), stipulates that the substance is used in production and contains an active ingredient as a production aid, including
netting, tree wraps, seals, insect traps, sticky barriers, row covers, and equipment cleaners. The NOSB should explore the production aid category as the appropriate section to include substances such as carriers, stabilizers, agivents, fillers, extractants, excipients, and solvents, but do not have an active function in the formulation of foreign production that do -- sorry -- that do have an active function in the formulations of foreign production aids such as fertilizers, soil amendments, compost inoculants, sanitizers, aquatic plant extracts, and fish emulsions. Some of these substances are used in the formulation of brand name products, while others may be used after a substance is extracted to put it in the form that is functional for on-farm utilization. The Materials Committee should work with the NOP to explore this possible solution, or determine other ways to resolve this important issue. However, the NOP should recognize that such substance are intentionally used for a specific purpose, and therefore are active for the purposes of the regulation.

And then I kind of explored the idea of making the National List more consistent with OFPA, so it would be clear when boards add something to the list, that they are keeping those substances within the OFPA.
categories, okay? So as a kind of -- I'll read that
section now. "The following provides a brief analysis
of the current National List in relationship to the OFPA
categories. Section 205601, synthetic substances
allowed for the use of organic crop protection, and
Section 205603, synthetic substances allowed for the use
of livestock production, are not consistent with the
OFPA categories." These -- the categories that are
included in these sections are related to use
restrictions for the substances. For example,
205601(i), disease control, lists the synthetic
substances that may be used for disease control -- for
disease problems. To be more consistent with OFPA, the
category should read, copper and sulfur compound, and
list annotated uses, i.e. for disease control, followed
by the substances that contain copper and/or sulfur.
This would eliminate most of the categories on the list
such as rodenticides, herbicides, and compost feed
stocks. Appendix one provides a revised view of Section
205601, using an ordering system that utilizes the OFPA
categories as a first order in the hierarchy. It also
demonstrates in the production aid category how
substances such as stabilizers, fillers, and agivents
could be included. And I just say see category H in
that appendix. And then, Katherine, if you could bring
up that appendix, I would appreciate it.

Most of the substances in Section 205601 fit within the OFPA categories, which is the good -- I think that's a great -- that was just really pleasing to me, because I started worrying, thinking oh my goodness, have we been adding things and not really doing our due diligence, because we weren't using necessarily the same recording mechanisms that we're using today? And I think the ones that we have now clearly forces us to look at OFPA. But prior to that, I don't think we were as conscious of it.

So the good news is they do -- most of them do fit in it. There are, however, a few substances that don't appear to fall into the OFPA categories, and most of them are used in disease control. The NOSB needs to resolve how to include these substances or remove them from the list. The livestock section of the rule should also be revised to determine if the substances meet OFPA. The handling section of the list is not limited to the categories in OFPA, and the Handling Committee has proposed alternations to better accommodate the OFPA distinction between agricultural and nonagricultural substances.

And then finally I just suggested in the last section that there -- that the NOSB should consider
serving farmers and certifiers on the resources that
they utilize to determine whether or not inputs used on
the farm are compliant with the National Organic
Standards. There is a notion on the part of NOP that
growers may lose their certification because of the use
of materials that are not listed on product label. The
NOP has identified the pesticide formulations as a major
concern because of -- that inerts are not specifically
listed on the label. However, many inputs utilized in
farming operations are not specifically labeled. The
operator must obtain information about their inputs by
contacting manufacturings directing -- directly working
with certifiers who obtain information, and utilizing
resources such as OMRI list and information provided
from the U.S. Land Grant, colleges, USDA, and ATRA [ph].
The NOP has issued directives -- and directed
specifically that we're in an attempt in part to solve
the perceived problem of a lack of grower information on
materials. The Materials Committee may want to develop
a survey tool to determine the growers' knowledge on
materials, and determine how and where growers obtain
information about the National Organic Standards.

So if we can pull up that appendix, Katherine,
and just so that -- again, you know, that was sort of
the -- and maybe I -- maybe it wasn't what I was out to

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do, but I thought it was what I was out to do, to kind of go through that list and see where things fell. And, you know, in that process I decided, well, let's just maybe look at the list totally differently and use those OFPA categories. You know, one consideration -- you know, I asked Arthur this question the other day, was that if we determine that, functionally for the Board -- and again, I say this is more of a functional correction or a functional way for the Board -- and I think it'll help the Board. You know, will it -- is it more clear to growers this way? You know, I would argue, probably not. I think that, you know, perhaps the way that it exists in the regulation is more functional for growers, because it neatly says you can use this for this disease. And, you know, the big problem is that's what -- even if it wasn't comfortable for growers or for other individuals in the past, they've learned to utilize it. So to change it now, there may be some difficulties. However, I think, you know, our big priority and I think the most important thing is, you know, whatever -- if we decide not to change it, you know, this may be a way to just maybe have two -- you know, this is a functioning list for us so that we know we're consistent with OFPA. I don't know. So those are the kinds of things that I think we need to discuss.
MR. MATHEWS: At the risk of sounding too warm and fuzzy, I want to say that I think that Rose did a great job on this. And one of the things that we heard back during the second proposed rule was that people did not like the way the National List was laid out, and they wanted some changes, and we put into the preamble that, you know, we're at a stage where that would require additional rulemaking in order to make the kinds of changes that people were suggesting. So we've always wanted to see some kind of a change made. And so I encourage you to keep moving forward on this, because it's a giant step forward, I believe, for the people who are trying to use our list.

CHAIRPERSON KING: I just want to thank Rose and those individuals who helped Rose, because I think Rick is exactly right. This is a tremendous start to something that's been needed for a long, long time. And, Rose, I know you were challenged by a lot of things in the last few months, but this is a lot of work and I really, really appreciate your effort on this.

MS. KOENIG: You know, to me the -- you know, I -- again, you know, thank you. And the -- you know, this I think fundamentally is the easy part of it. You know, I think the most important -- you know, if we can, I guess -- you know, somebody -- I said to myself, or I

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said to my husband, you know, to be honest, sometimes I leave the farm and I come here and I get very frustrated, you know, because the stuff doesn't get done and I feel like I haven't been very productive and I'm a very productive-oriented person. So, you know, I came out with certain goals that I'd like to see that comes out of these documents. And, you know, I think that, you know, this consideration is -- was one of the goals, but I think my primary goal was really to fix this concept of interpretation of where these fillers, carriers, agivents fit. So I would really like to hear some discussion and maybe some input on the NOP, as far as -- you know, and I don't want to say, do you buy into it? But that really is the best words I can come up with, is there kind of this institutional buy-in that OFPA really didn't intend those agivents and fillers and things like phosphoric acid, when it was petitioned, to be placed on the list? Because I think that's really, in a policy way, really what's causing the industry a lot of heartache and just not an ability to understand what the process is.

MR. NEAL: I want to commend Rose again. We've worked pretty hard on it, me feeding Rose ideas and Rose, really, she just digested it and putting it all down on paper. Thank you, Rose, for the hard work.

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I got a question, because I do understand where you want to go. You want to be able to review everything that's used in the production of a material to be used in organic agriculture. But the question I have for you is, how far do you go back? How far in the production of a production material do you go back in the processing or the manufacture of that material in terms of including substances on this list? I do not believe that that was the intent of the act, because even in the new category that you've got here, production aids, you got vitamin -- D-3 I think is on there. What is in vitamin D-3, and if there's a preservative in it, does that preservative have to be on the National List --

those types of questions.

MS. KOENIG: Yeah. And I think, you know, some of the conversation, I guess, as we go through some of these other documents, they go hand in hand in this decision making process, because I agree, there has to be some kind of consensus as to, you know, when you're doing the review, exactly what are you reviewing? What is the substance, okay? And once you've identified that substance, what makes these additional things not part of that substance? So that's to me where the -- defining the nonsynthetic and the synthetic is really important, and getting to understand -- an understanding
of what the generic is, you know, what is consider a
generic. And once you have a generic, if it -- if
something -- you know, a good example -- and I think
it's on some of the more difficult things to grasp,
which is these extracted naturals, you know, like the
aquatic plants. I went back -- and again, we'll discuss
this, I think, when we go through the synthetic and
nonsynthetic paper. There is a point where -- when you
do the review of materials, and if you look at what the
definition of synthetic is, you're basically approving
the extracted product, okay? And that's what has to be
defined, I think, and pretty well understood by the
Board when they're doing that, and the TAP contractors,
specifically. Once you have that extracted product, you
know, it's there. If then you have to add a stabilizer,
or you have to add a preservative, you know, to make it
functional on the farm, or make it functional in way to
make it formulated into a brand name, all those agivents
and those fillers, those are the things that are not
part of that original substance. Those are additional
synthetics that are there for other functional reasons,
but they weren't -- they shouldn't be that extracted
generic.

And I don't know -- you know, and perhaps
maybe Emily or Brian can put it in better words if I'm
not explaining it. And again, I only refer to them, because I appreciate the fact -- and I think with a lot of this material stuff, it's almost like you have to do it 24/7 to really understand the complexities of really what -- you know, and I think we all think we know and we all -- and I -- you know, as I went through this process, it was a very rude awakening, that perhaps I assumed I knew a little bit too much.

MS. DIETZ: I agree with you, Rose, as the materials chair, it's your life. From a historical standpoint, when we've review materials, the reason we ask for a manufacturing process is that there might be something added to adjust the pH. There might be something added in the extraction method. And I'm just going based on my past five years on this Board, that if something is used in that initial process of that material, then you are approving that material all inclusive. You don't have --

MS. KOENIG: Right.

MS. DIETZ: -- to go back and add that. If that pH adjuster isn't on the National List, you're actually reviewing that material in its entirety. So I don't want to lose that concept, and I heard a little bit of that --

MS. KOENIG: Well -- and I'm sorry if I --
MS. DIETZ: Okay.

MS. KOENIG: -- misspoke. And I think, again, some of the documents, as we're going to see later, the improvement of the forms --

MS. DIETZ: Right.

MS. KOENIG: I think one of the things that's misleading on these -- on that petition notice -- and again, we'll get to it and speak to it in more depth in a little while. You know, the petition notice asks the petitioner to provide information on -- it almost sounds like on their product, and I think what petitioners are doing and what TAP contractors are doing is that they're looking at substances as substances for that particular brand or that particular use. But in reality, when you do a technical review, it needs to be very broad. You need to be encompassing all -- and that's kind of some of the discussion on soy protein isolate. It doesn't matter who petitions it, the job of the Board and the job of the TAP contractor is to look at all the ways that soy protein isolate -- because once it gets on the list, you're buying into that manufacturing process, okay? But once that generic gets on the list, that doesn't mean that you're buying into all the formulations of soy protein isolate as it appears in the marketplace. You know, so if a manufacture, you know,
feels that soy protein isolate needs to be looked at, because they feel it's a synthetic, or they want to determine whether the Board thinks it's synthetic, that's one question. Okay, if they know, in their formulation, that they're using a preservative or something post-extraction, then it's their obligation to put those substances on the list. That also is subject to a petition process. But they're separate issues, they're not the same. So I don't know if that explains it.

MS. DIETZ: That does. Yeah. I just wanted -- somehow we need to -- I mean, this question keeps coming up. How far back do you go, and we need to, at some point as a Board, you know, in all areas, whether it's handling or livestock or crops, go back and define that, because we keep getting asked that same question. So -- and then I have more, so I'll wait.

MR. NEAL: I've got a --

CHAIRPERSON KING: Arthur and then --

MR. NEAL: I was lost on a statement. Once -- say for instance, let's use soy protein isolate as an example. Once the process is approved, and I've identified everything that I'm using in my process, and it's placed on the list, the generic is okay for use, but it doesn't mean that all -- what was the term,
all --

MS. ROBINSON: All formulations.

MR. NEAL: -- all formulations of soy protein isolate are allowed. But if my formulation meets the generic process --

MS. KOENIG: You know, and there may be some cases. If your generic is, in fact, your brand -- you know, if you take that isolate and you don't -- you know, you take the extracted product, whatever it is, and you can make a brand name from that, by god, do it and there is no problem with it, you know. But, you know, if you take that soy protein isolate -- and again, it's really important for the Board to be very clear as to what -- and that's why we have to define synthetic or nonsynthetic. But -- you know, so that extracted product that we either -- you know, is a synthetic or a natural, whatever we draw that line on, that's fine. But post that, if a manufacturer uses anything post that -- wherever you've drawn the line, then there may be additional things that need to be added to the list.

MR. NEAL: This is the legal problem that we've got. Soy protein isolate on the list -- let's use a real example. Lignin sulfonates on the list, different versions of lignin sulfonate. And I think the proper term is lignin sulfonic acid. That's the term
that should be used. But lignin sulfonate is on the list. There's ammonium lignin sulfonate, I think different -- about five or six types. And the issue is that when a farmer looks a lignin sulfonate, they buy something that says lignin sulfonate, and they assume that I can use this, because there's nothing else contextually associated with that term that tells them they cannot. So legally we're having problems with interpretation. I mean, we do understand the intent, maybe, philosophically, but legally we cannot tell them, no, you cannot. Because if you look at the historical paperwork, all of these forms were listed in the TAP.

CHAIRPERSON KING: Jim and then Nancy.

MR. RIDDLE: Okay. Yeah. Sorry. Well, just on that, Arthur, I think that points back to the improvement that we're looking at in, you know, starting with the petition process all the way through of identifying synonyms and using the CAS or INS numbers, being very precise as exactly what is on the National List, what that means. So -- and I did also want to compliment and thank Rose for the efforts. This was kind of a last minute, late night-type push to get something in here, and it is real good, a very thoughtful document. But it is draft one, and it doesn't, you know, do the analysis of how do the

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livestock substances add up to this kind of structure of
the list. And then, how does this apply to the handling
materials, which really are under a totally different
paradigm? I think this is focused on the production --
materials used in production. But we also have to look
at the other side of it down the road. So, you know, we
aren't going to vote on anything today. I think just
taking the comments and for the committee to continue
the work on this, but I think it's a great start. The
one thing -- the question I have, I guess, for Rick,
Barbara, Arthur, if there's no changes to the
substances, or changes to the annotations, but rather
just a change to the structure of the list so that it
rearranges it in these categories, could that be done as
part of the sunset, you know, republishing? Or how can
-- what's our target here to move this kind of structure
forward, if it has legs?

MR. MATHEWS: Are you saying that you just
want to do this at the sunset?

MR. RIDDLE: Well, I don't know. Should we be
thinking that it's possible, or is this really a very
different issue? And I just --

MR. MATHEWS: This would be possible to do at
any time, and once you get down to where you want to be
-- I mean, we could even do it section by section. I
mean, you will note that, in last fall's rulemaking, we
did make some structural changes to the way the sections
were laid out. And so we could be working on that as we
go along. As you get a new substance for 601, then we
can go ahead and propose some changes at that time.

MR. RIDDLE: Okay.

MR. MATHEWS: So, I mean, this is something
you wouldn't have to wait for sunset for, we could do it
piecemeal and work our way through it. As you finish up
with one part, we can move to another part. I mean,
there's plenty of flexibility there, because we're going
to be doing rulemaking pretty continuously on the
National List. Every time we have a board meeting, we
add something new. We can work -- we can work other
magic with that section, as well.

MR. RIDDLE: Okay, great.

MS. ROBINSON: There is one downside to doing
it in sunset, Jim, and that is that sunset, itself, will
be -- you know, because it's all of the materials that
are on the list, it will be sort of a major event and
it's -- I could foresee that, you know, rearranging the
National List -- I could just see the opportunity for
people to say, well, so is it still there or not? I
mean, just public confusion. But it's a good idea to
change it. This is what we've wanted to do, but, you
know, let's talk about it. Let's not make the decision right here.

MR. NEAL: Also, I don't think you want to lump it in with sunset, because if you get some people in the industry who don't like the layout and start commenting on the way that the list is structured. Then you have to rewrite this docket to address the way that the list has been structured, in addition to the sunset materials. Right.

MR. RIDDLE: And that's something else. I did just want to mention -- yeah, this just came to the Board at the last minute. It's had no public comment, no review, and I think we really need to solicit that, you know, for the committees, you know, for their work.

MR. MATHEWS: The bottom line is, it's a good step forward, and as you work through it section by section, we can, at the time of updates of the National List, go ahead and propose this section by section and get our comment on that at that time.

MS. DIETZ: Just one comment on extraction processes and then -- because I don't want to lose that. We have put restrictions and annotations to specifically identify a process or certain areas of a process that we want to focus on. So we just need to keep light of that. And then, Rose, just a comment on the document
and I'm sure -- well, I know we'll go through it in the Materials Committee. On the last page you talked about providing decision making tools, and I question the NOSB's role in seeking out, you know, what farmers are using, or that -- you know, and advising farmers that they shouldn't be using something. I think that's the role of the certifier. So that's just a little -- I'm a little uncomfortable with that section.

MS. KOENIG: Well, really this -- and maybe it's not again written clearly, or maybe I didn't explain it clearly. And I think what the text says is that -- you know, I said the NOSB should consider surveying, so --

MS. DIETZ: Okay.

MS. KOENIG: And I'm just saying the survey is really to understand how people access information. And to be honest, you know -- you know, I put that idea out there, because I do think there's more appropriate organizations. I mean, if you want to do a survey, you know, I have enough of scientific background to know that there's proper ways to do surveys and there's not -- you know, so if we're going to engage in that, I think that we actually --

MS. DIETZ: Right.

MS. KOENIG: -- want to do it and maybe
contract out if possible. And I don't know if -- you know, and that's something that Richard and Barbara would know in terms of budgeting and funding. But, you know, if this concept of a survey has a direct impact on materials, although it's not a material per se, is that something that -- in the TAP contracting money -- and I'm not saying we want the TAP contractor to do the survey, but could they take some of their funds and then subcontract to somebody else to do this work? So is there a mechanism, maybe indirect at best, to utilize some of those funds to get at this question? And then the second question is -- that's I think also very important, is there ways of utilizing that TAP contract money to address these issues, sort of like the extraction process issues rather than particular materials? So substantive research or data collecting or review, similar to the synthetic or nonsynthetic document that I attempted, could that be done through also -- as an option by a TAP contractor?

MS. DIETZ: Well, we have in the past asked for boiler [ph] chemicals, who asked for an additional analysis. I think that's certainly within our purview. They can answer that. But again, I just question a survey to the farmers, when really it's the certifiers' role to know what they're using and their inputs, and it...
just might not be areas that we can or should go to. And then let me just finish with my comment and then everybody can go. You also -- we also mention in here utilizing resources such as OMRI, but I know there's other people out there doing brand name, and I hate to keep focusing on one company, and I think that's not fair in the industry. So we should change that and say utilizing resources such as other brand name material lists, because it's just a little competitive advantage. I think that that -- we need to be cognizant of that.

MR. CARTER: Well, mine was similar to Kim's, because what struck me is going through there -- in going through this whole process, and then the last thing with the survey seemed to be a little bit -- I understand, you know, encouraging, doing a survey, the thing. I'm wondering, this task is fairly monumental as it is. You know, the issue that comes up on a survey is, in structuring it, if you go out there and survey farmers about how they get their information and what they're using, is there a potential, then, that they're going to be concerned that's going to lead to some sort of enforcement action against them? You know, I mean, how do we do all of that? So that seems to be a separate stand-alone task to try and surround.

UNIDENTIFIED SPEAKER: Somebody's locked in
the bathroom.

CHAIRPERSON KING: He must be locked in the bathroom, yeah. Someone wants in, Dave. Yeah, I think the survey's a good idea, but maybe as a separate project, it seems like. But we know that this is a first draft, Rose, and we very much appreciate your effort. And, Barbra --

MS. ROBINSON: Well, I just -- on the survey, I mean, you want information. You want to know what growers are using out there. But in the first place, you don't want to do a survey. I don't -- and I hate to be the -- you know, the wet blanket from the bureaucracy here, but if you want to go out and do a survey, we're going to have to go ask OMB for permission to do this thing, and because -- what?

MR. CARTER: He said, I didn't even go down that road.

MS. ROBINSON: Oh. There's ways to get information. We have our ways. There are probably ways that we could get information, and we could certainly talk to certifying agents, who get this information -- they should be getting this information from the growers that they certify, and there are probably ways to do a cooperative agreement or some sort of a contract with an organization out there who can talk to the certifying agents.
agents and gather this sort of information. But I don't think you really want to go out and do a survey of farmers.

MS. KOENIG: And that's fine. I mean, somebody had told me you'd probably take that part out, and they were right. See, I learned -- so anyway, but --

CHAIRPERSON KING: But by that time it was --

MS. KOENIG: But I thought it was -- you know, sometimes you just have to stick it in. So anyway --

CHAIRPERSON KING: But it was midnight at that point, right?

MS. KOENIG: That's right. So it tells you not to be stubborn. But I think the point is -- you know, and I think -- and that was the reason why I kept it in, was that the idea is out now to the public and there -- you know, if -- you know, Organic Farming Research Foundation or, you know, there's these grant monies out there, I mean, it's -- you know, hopefully we planted an idea into somebody's head and that -- it's sufficient to me that -- you know, that it's been on the website. Somebody can take that thing and run. But, you know, we can drop that. That's -- you know, it's not near and dear to my heart.

CHAIRPERSON KING: George.
MR. SIEMON: Well, this brings up a lot of serious issues, and especially the restrictions that OFPA gives us to the categories we can consider. So I just wanted to ask about your use of production aids. It seems that that is one category that has some room to be broadly interpreted to allow different materials in. So when I look at your appendix one and how you divided these things out, you've put in -- put things into the production aids such as ethylene gas and that kind of thing, and so I'm following what you're doing. But then when I get to the substances that do not fit into OFPA categories, I wanted to ask you why minerals used for disease control could not be also a production aid, and why that didn't fit into that same broad thing, and I don't follow the logic there?

MS. KOENIG: Well, yeah. And, you know, again, and I wanted to say, my objective was to think broadly, to not think narrowly, and try to justify things as best I could. So, you know, again, this was just a first attempt, you know, with some logic behind. So I tried to broad that -- you know, I was trying to fit as much things on as I could. The one issue -- and I think it is something that the Board is going to have to wrestle with. I still think if we're going to broaden the production aids category, which I think is

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there's some good justification in doing so, I think we have to -- it has to be a broadening that is terminated, because, you know, again -- you know, the production aid category should not be the loophole now that exists so that everything can fit into a list, you know, because that is definitely not within the spirit of OFPA. But I think that we need to be conservatively looking at the issues, which I think I've done, you know, that are popping up, that have continually persisted, you know, within the minutes and within the evolution of this -- you know, this regulation, and broaden to encompass those and then close it. So, you know, why the disease didn't fit in --

MR. SIEMON: Yeah, yeah.

MS. KOENIG: -- because -- and that -- you know, here I am a plant pathologist. Maybe again, it's something that is too near and dear to my heart.

MR. SIEMON: And you got --

MS. KOENIG: You know, as a plant pathologist the only thing -- you know, when you say coppers and sulfurs, I mean, that to me -- you know, and I don't think it was a smart idea, but the OFPA category for coppers and sulfurs were -- to me specifically dealt with the disease control, you know, category. And if you -- a production aid, I don't consider -- these
production aids I guess that were listed, you know, ethylene and fillers and agivents, and really more importantly, the ones that were specified such as -- you know, they were physical structures like barriers and --
what were the original ones? You know, sticky -- sticky --

MR. SIEMON: Tree wraps.

MS. KOENIG: Well, tree wraps. Most of them really alluded to a physical purpose. You know, so I guess --

MR. SIEMON: But your list goes beyond that.

MS. KOENIG: I know, because I was trying to --

MR. SIEMON: So --

MS. KOENIG: -- get in things that were listed, okay, like compost feedstock. But then when I started thinking of disease control materials, that is so broad, I just -- I couldn't personally do it, but maybe somebody else can. I just -- in my mind, it just didn't fit, so, you know, I just -- that was just more of a personal decision.

MR. SIEMON: Okay.

CHAIRPERSON KING: Jim.

MR. SIEMON: I'm not finished.

MR. RIDDLE: Well, can I just -- can I comment
on this and then you pick it back up? And that is, we heard in public comment yesterday a proposed definition for production aids, and I think, if the Materials Committee would take that under consideration, because I do think that should be a part of this document, if we're kind of broadening the scope of production aids beyond those ones that are just listed, and it's meaning that includes but is not limited to, there still needs to be, you know, some restrictions on what is a production aid. There needs to be a definition. So I would just ask the Materials Committee to consider that definition that was proposed yesterday, and maybe that can help George out.

MR. SIEMON: That does help. So I guess I would just like to ask the NOP what they feel about this concept of broadening the production aid, in a legal -- could you have dealt with this? You all talked about it and it is a real issue.

MR. NEAL: I think we'll let the discussions continue. No, seriously, though, for most of you, this is the first time you had an opportunity to look at this document. There are things that you need to digest. I think broadening the scope of production aids is a possibility. I do believe that it's going to pose some challenges to you. So for right now, you know, we're
going to assist you as you discuss this matter further, and evaluate whether or not if what's on the table is going to be the best options for you.

CHAIRPERSON KING: I'll just ask a quick question. Do you see better options other than opening that up?

MR. NEAL: No, not really. I mean, the issue at hand -- I mean, you guys have got a monumental task in front of you, and you're wrestling with two big beasts. One, the OFPA criteria -- the categories. Two, this whole synthetic versus nonsynthetic. Well, there's three. How far do you go back in the production of -- production input -- in the manufacture of a production input? Those are three big bears you've got to wrestle with. So we're going to be here to assist you as you, you know, consult with the public and the industry in terms of what it is the desires of the organic industry would be.

MS. KOENIG: I guess I had just one comment --

CHAIRPERSON KING: Okay.

MS. KOENIG: -- for George on the production aid category, too. I will admit that the other idea that I explored, but I shot down, was the inerts, that little double i, you know, I thought, well, you know, because -- you know, there's active and there's inert,
and people like calling them inerts and, you know, you
went through OFPA and some people referred to them as
inerts and -- you know, because again, a lot of the
language was muddled in there, you know, in terms of
public comment and meetings and Board members. But I
looked and, you know, I examined OFPA and it was pretty
clear the way that it was, you know, written, because it
really specified FIFRA [ph] and pesticides, that inerts,
in their view, meant pesticides, and also the Board
discussed that in, you know, '94 and '95, and that was
really what inerts -- that little section was. So
that's why I went back to the production aid category
and didn't explore too much further the idea of
broadening the concept of inerts. But I think that is
just going to cause confusion if we go there. I think
production aids is a little bit cleaner.

CHAIRPERSON KING: Well, thanks --

MR. SIEMON: Okay, just for processing. So we
are going to be developing this production aid as a
definition and coming back to the Board sometime in the
future.

MS. KOENIG: Well, I think that the committee
is going to take this document, at least the materials,
and then, you know, giving -- listening to the input,
you know, and come up with a more -- you know, start a
formal process. Whether it's in three phases or one phase or two phases, you know, we'll just get to work on it.

CHAIRPERSON KING: Well, and as we discussed earlier, George, and I think your concern is well up wind, how do we shape the bullet list going into the future? This is a first draft. It's a really good start, and thank you again, Rose, for all your effort. But, yeah, ongoing, these are a lot of the questions, and certainly Arthur, I think, summed it up pretty well. I had a quick announcement concerning a couple people on the Board, actually several Board members who approached me last night concerning draft documents from yesterday, our responses, Board input, if you will, to the initially and then retracted directives, and their concern is that we just vote on our drafts as they are as a board to recognize them. And so at break -- we're actually ahead of schedule a few minutes. So we're going to take about 20 minutes, come back at 10:15, but I'll leave at the discretion of the committee chairs at this time, if you would so like to bring those documents forward, and your committee concurs, then all it will be is just to vote to recognize those documents. So I think it's a good idea, and we could do that later this afternoon, first thing after break. If there is any
discussion over lunch, that sort of thing, it'll give you time. So we'll look to vote on that mid-afternoon today.

MR. SIEMON: Yeah, I missed something. What are we going to do when we come back? You said --

CHAIRPERSON KING: You can do it during the break, okay? I just want to know from the committee chairs who drafted the documents concerning the directives, do you want to bring those forward for a formal vote? That's all, okay? Yeah, that's all.

MR. RIDDLE: Yeah.

CHAIRPERSON KING: Just --

MR. RIDDLE: So we can have it on the record.

CHAIRPERSON KING: On the record, that's all.

Okay, so let's be back at 10:15.

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[Off the Record]

[On the Record]

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CHAIRPERSON KING: Again, thank you all for your participation and hard work. And at this time we'd like to move to the Handling Committee and Kevin O'Rell, who has some issues to discuss.

MR. O'RELL: The first thing that's on the agenda for the Handling Committee is the materials
approved as food contact substances, an update. In the last April meeting, the Board voted to accept the Handling Committee report, which was an update on the materials that are used as food contact substances. In that report there was a recommendation that six materials that were previously voted on and approved by this Board be added to the National List. These were materials that were also considered to be food contact substances. Seeing that there was some confusion in the industry, it was the committee's recommendation that this update report be formally accepted by the Board, and it was voted on, accepted, and it was published on the website. It was our hope to have these materials published in the next docket, and as we heard in the NOP update yesterday, that there is a docket that's in process for rulemaking with all processing materials, including these six materials, which were five boiler water additives and -- or four boiler water additives, activated charcoal, and parasitic acid [ph].

Also in that April report, it recognized that the December 12 NOP policy statement clarifying synthetic substances used as ingredients are subject to review by the NOSB, and that these synthetic substances would either be classified as an ingredient, which then would have to be on the National List, or as a food

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contact substance, which then would require the proper
documentation for supporting that it is a food contact
substance. I don't know if the Board has any comments
or questions.

MS. DIETZ: I guess I have one comment. On
the boiler water additives, we had sunset on those
materials, and it looks they'll be put on and then taken
off fairly quickly again. But we just wanted to follow
through with that process, and at least have the public
know that there is a sunset, and if anybody's got
issues, they need to bring those forward.

MR. RIDDLE: Well, as I recall, there were
some specific annotations in addition to that, as far as
the type of use for packaging, I forget the exact
language, but it'll contain those annotations, correct
-- yeah, as well?

MR. MATHEWS: It'll contain exactly what you
would propose, the -- what is -- as Kim says, they'll go
on, but then they'll come off October 21 of 2005. I
believe that. Yeah, October 21, 2005. So they'll only
be on there for very few months.

MR. O'RELL: Okay. The next issue for the
Handling Committee was organic yeast agriculture versus
nonagricultural substances. And it was our purpose here
to report and update on an action plan. The Handling
Committee, recognizing that is a concern, particular --
in the organic community, there are some particular
materials that have been flagged for concern with this
issue, yeast particularly, and we will be forming from
the Handling Committee a task force to look into this
issue and make recommendations to the full Board. This
task force will include NOSB members and qualified
individuals from the organic community, which we will be
actively soliciting very soon. It was decided to look
at this as an issue of agriculture versus
nonagricultural, as opposed to just taking the yeast in
question, because there are number of substances that
are on the National List under 205605(a) that will --
could also be affected by a decision that would be made
for yeast. So there's definitely a determination into
looking at the criteria that was used in placing these
substances on 205605. Some other examples are dairy
cultures. There are colors that could be derived from
vegetable sources. So I think what this task force will
need to do is to have a full review of the materials on
205605(a), and classify them -- look at reclassifying
them and, from criteria, of further defining the
definition of agriculture and nonagricultural. This
task force would have interaction with the task force
that's involved with synthetic-nonsynthetic, as well,
since I think there will be some areas that will cross
over or relate to that subject. And the Board
previously made recommendations for change in 205606.
Maybe, Kim, if you want to comment further on those at
this time,
but --

MS. DIETZ: At the meeting, we made a
recommendation on commercial availability and really had
asked to restructure 205606 and take some of those
materials off. And I see this new task force doing the
same type of a thing, where we'll go through and make
recommendations on materials that are currently on the
National List, and we might even -- well, take the
opportunity to do similarly to what Rose just did with
the crops National List and just do it all at once, and
try to come up with some more user-friendly structure of
the National List, so --

MR. O'RELL: Thank you, Kim. So it would
be --

MS. KOENIG: I didn't realize it was on all
the time. There's no more light there. The -- because
I notice that -- I mean, I guess I want to just make a
-- I guess state a question. The concern I have with
the concept of task force is, do we really want a task
force? I mean, do want to bring outdoor -- you know,
outside individuals in an a formal way, or do we want to work through committees and get the job done by consulting with individuals as we meet them? Because, you know, one of the issues I have on the task force is that -- you know, just to try to get conference calls with Board members is difficult at best, and then when you try to bring a lot of other individuals in that formal process -- and if we do go the route of task force. And I think it's really important for us to set goals as to when we want to get this stuff accomplished and -- you know, instead of just -- we discussed that at length, too, and I -- because I'm going off the Board, I'd assume, at some point -- within the next year, maybe. You can't never know. We need to have historical input at the same time, and so we decided to form a task force. We also talked in length about confidentiality and how, you know, there's also a risk with forming a task force, that you bring public in. So although we're not, you know, set on a task force, we do need to make sure we have people like Steven Harper [ph], who've had recommendations on the ag versus nonag and synthetic versus nonsynthetic, so that we can get this done right this time, and not just put the demand on the task force -- or on the Board. If there's ways to bring past Board members in without calling it a task
force, I think that's also something that we could look at.

MR. CARTER: I think the task force -- I guess my interpretation when I saw this task force is really trying to pull together, you know, a group among the Handling Committee and the Materials Committee, and if you look at our Board policy manual, task forces don't require outside people to be -- they can be included. But I think this was an endeavor to try and coordinate some efforts between those to committees, have a single assignment, and then you dismiss that group when that particular assignment is done.

MR. O'RELL: Well, I think -- you know, officially, whether it's the word of a task force, what we do want to do is what Kim said. We talked about bringing in some historical perspective on how some of these materials were classified, we go back in time. Some of the criteria that we're using today is detailed, and we don't have that from some of the past materials that were voted in. So if it's a matter of consulting with them, I think it's going to be a limited group. We're going to try to get this done and expedite it. It's going to be on a fast track, it's not something that we're going to try to get such a working group that it's -- it gets stuck in the mud. We recognize that
this -- there's some high interest with this particular issue in the industry and we want to get resolution quickly. Our hope would be to be able to make a recommendation to the full Board at the next Board meeting. I told you that we'd get you back on time, Mark.

The last issue is pet food standards. We had a lot of public comment and input yesterday and I'm sure we may have some more tomorrow. This is a case where the Handling Committee recognizes that there has been a lot of work that has been done in the industry, and what we are challenged to do is to look at this work, assess what has been done, and bring it into the committee, digest this, then make a recommendation again to the full Board at the next meeting. This -- we discussed this. This would not be a task force, this would be a work plan involved with the Handling Committee to go over and review, assess what is currently out there with OTA, with AAFCO, and then try to come to a [sic] agreement and get a draft recommendation to this full Board for the next Board meeting.

MR. RIDDLE: Yeah. In the scope draft that we talked about yesterday, there was a section on pet food in there, the policy. The Development Committee was asking the Handling Committee to form a task force, and
I don't have, you know, any problem if you choose to do it within committee instead of a task force. But a couple of things that I would like to, you know, just bring back up, and that is the need for outside input, expertise of, you know, both kind of pet food industry, but also pet food control officials, to solicit information from them. And then the -- that scope document had a few questions, issues, and I just ask the Handling Committee to kind of take that on, even if you're not forming a task force.

MR. O'RELL: Yes, Jim, that's -- our intent is to certainly look outside and consult with all those individuals and information that's available out there.

CHAIRPERSON KING: Yeah, I just -- I had a quick question, and this may be for NOP or you, Kevin. On the agenda we listed action plan for pet food standards, and as part of that we put materials labeling feed provisions and the like. Perhaps just as initial guidance, that was my understanding, for a task force or the -- to start to look at those areas, and I guess I'm perhaps looking for some input from NOP. Is that the direction we should go in? Do you feel that's sufficient? How would you approach it?

MR. MATHEWS: For starters, that's right, it's just the starting point, that, you know, one of the
things that has to be addressed, are there materials
unique to pet food that aren't addressed elsewhere for
in -- say, in the food 605? The labeling issue needs to
be addressed. Is it going to be to label just like
food, or is it going to have a uniqueness of its own?
The feed provisions, obviously you've got to revisit
those, because there is a prohibition about feeding back
animal byproducts, and obviously dogs eat animal
byproducts. So you need to address those kinds of
areas. Those are the things that jump out to me, that
the livestock feed provisions, they need to be addressed
from the angle of pet food, the labeling needs to
addressed from the angle of pet food, the materials need
to be addressed from the angle of pet food. The -- to
me -- I mean, the growing of the crops is already taken
care of. The handling of the product is already taken
care of. You're just looking for what is unique for pet
food, and then including the pet food industry in the
rulemaking process.

MR. O'RELL: And we took that as some
guidelines. Certainly on the labeling issues, I think
that, you know, we're in agreement there. I'm not so
sure on the feed provisions. It's something we'd have
to discuss, because we're not certifying the pet, it's
-- so I'm not sure where that is, but that certainly is
something that we can discuss.

MS. ROBINSON: I think if it was me, what I would start off with is, sort of get square in your minds, do you consider pet food essentially a food? Then that would -- I mean, Rick's talking about the livestock feed provisions, and that's fine if you want to go down that road. A better road maybe to go down is it's, you know, people buy pet food, not animals, and it is considered a food product. That gets you out of the mammalian byproduct provision. But the biggest -- and it seems to me the biggest issue that you are going to grapple with is the labeling, and that is because, as you've probably already found out, that AAFCO has a different labeling scheme for pet foods than you have. And as I think we've told you before, they came to us before we implemented the standards, and they asked us to accommodate their labeling scheme within the NOP. And we said, no, that we wouldn't change the NOP labeling to accommodate their labeling scheme, because it is different. And then they have apparently a restriction on the use of the word organic, as they do with other quality labels, and that's the way they view it. For example, they don't allow -- it's my understanding they don't allow a pet food manufacturer to use AMS's standards for meat such as choice or prime,
to refer, you know, to the grade of the meat that's in
the product. So that was also a problem they had, was
they wouldn't allow organic to go in the ingredient
listing as a qualifier. So I think that's where you're
going to have your big issues, is just on determining --
you know, getting the labeling in sync without
compromising these labeling standards, getting it in
sync with the pet food industry folks and what they will
allow.

MR. CARTER: Well, I just was going to say, I
know that AAFCO, though, last year, at their meeting in
Denver, has under consideration some proposed -- and,
Jim, help me out -- amendment to the model regs to bring
the organic definition for pet food into compliance or
consistent with the USDA rules. So I think bringing
them -- you know, working with some of the feed control
officers -- officials in this process will be helpful.

MS. DIETZ: I guess I would ask that we have
somebody assigned to the Handling Committee with us on
this task force from the NOP office and who's going to
specifically work on this with us so that we know what
you know, about the pet food.

MS. ROBINSON: That would be your executive
director.

MS. DIETZ: Then I guess we won't have a
Proposal for the next meeting.

MS. ROBINSON: No, Keith will work with you.

MS. KOENIG: And that -- it's just kind of a housekeeping concept here. You know, we were having a -- you know, a number of people are moving off this year and next year, so, you know, I don't know how long this process is going to take, but I think we need to -- before we start these projects, we need to kind of map out and strategically plan so that we have some memory, or things are written down, you know, in various forms, so whoever ends up taking over -- and, you know, this could be a -- it doesn't sound like all this stuff is going to get down in the next meeting, and half -- a number of people are gone, unless they're somehow incorporated in the task force. So just thinking about, you know, how do we continue this process? I mean, the chair -- I think the chair, whoever that will be, should -- I just think needs to consider kind of those types of --

MR. O'RELL: Well, I think on the onset of the project from the Handling Committee chair position, that we'll make sure that we have clear guidelines set forth, and clear objectives as to what we need to accomplish, so that if there is a change in that chair position, that at least they have the road map to where somebody
at one time intended to get to.

MR. RIDDLE: Yeah. And also on -- in response to Rose, historically, at least since I've been on the Board, when there has been a rotation, people going off, those individual Board members have been invited back, and, I think, expenses paid for that next Board meeting. So there is some continuity and, yeah, they don't sit at the table, but they are invited specifically to be in the audience, and when there are issues that they've been working on, we've been very happy to recognize them and have their input. So hopefully that tradition can continue.

MS. KOENIG: You know, that was an issue that came up with the Compost Task Force and that's why I bring it up, you know, because -- you know, Eric was on that and he was the chair and, you know, because of funding they couldn't -- he couldn't come to that meeting. So don't assume that, and make sure that the chair is somebody that consistently is going to be present, because even though that -- and I remember during the Aquatic Task Force, that was the situation. And maybe funding is different now, but that's what we need to be clear, because as you make these assignments, it's really critical to have that, you know, representative there, because I felt at a loss when I
had to take over Eric's position, because I was involved, but not really as involved as I would have if I'd known I was going to become the chair at the last moment, so --

MR. O'RELL: Well, one of the things -- I hope that when we're assigning committee chairs and we're looking for people who are going to be on the Board for at least the next two years to have some continuity, and this is something that I wouldn't envision being done before that two-year period of time, so --

MS. DIETZ: Just to --

MR. O'RELL: Kim.

MS. DIETZ: -- comment while we're on that discussion, I know we have, in the policy manual, procedures for elections and that sort of thing, and I'd like to see that somewhere in the policy manual, that the current chair is at least on a board for the following year, so that we can transition and training. We have a lot of movement on this Board in the next few years, and like we did last year, I stepped down from materials so Rosie could be on it for another year. And next year's going to be the biggest challenge, because you only got really five Board members -- four, I think, that are going to be on here.

MS. KOENIG: No, if that's --
MS. DIETZ: So we need to think about that --

MS. KOENIG: Yeah.

MS. DIETZ: -- for future Board members, if we could put that in the policy manual.

MS. KOENIG: But, you know, if that was the case, then I'd have to step off as chair now, because I am off next year.

MS. DIETZ: Yeah. And I think we got to discuss what's the best for the Board as we -- you know, but in reality, yeah, that's true, is that the best thing for the Board? I'm not so sure. But to train the next person in materials, you know it takes a lot of work, or whether it's handling or whether it's livestock. So it's just something that we need to think about.

MR. O'RELL: Well, I think that concludes the Handling Committee report.

CHAIRPERSON KING: Thank you, Kevin. At this time I'll defer to Jim Riddle, who will introduce our presenter.

MR. RIDDLE: Yeah, well, it's really a privilege to have the opportunity to introduce Tom Bewick. I had asked to have a guest speaker here at this meeting, and we've followed our procedures that we have in the Board policy manual, and the Executive
Committee approved in advance, and Tom is the program
director of Plant and Animal Systems at USDA's
Cooperative State Research, Education, and Extension
Service. Yeah, yeah, the stakes have raised. Yeah,
anyway, as I was saying, Tom is director at the USDA
Cooperative State Research, Education, and Extension
Service, and CSREES, as I shorten it, has been empowered
under legislation to implement two different organic
research grant programs, and they're pooled together in
what's called the Integrated Organic Program. And so
Tom is going to give us a report on the recent round of
grants and the future for that program. So welcome,
Tom. Thanks for coming.

MR. BEWICK: Thanks, Jim. It's a privilege to
be here. It's a privilege to think that you're
privileged to introduce me. But I really do appreciate
the opportunity to come and talk with the Board and also
with the audience. We're trying to heighten the
awareness of this program, and once we get it up and
going, I can't talk without my pictures to remind me of
what I'm supposed to be saying. Hopefully it's plugged
in, because otherwise the power goes down and then -- as
Jim said, I work for the USDA. I'm with the Cooperative
State Research, Education, and Extension Service. I'm a
national program leader, specifically with

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responsibilities involving horticulture, but I do a lot of other things, as well.

And the Integrated Organic Program is what we call in integrated research and extension grants program, and this is what we mean at USDA, or at least within our agency, by integrated; they're multifunctional projects. And one of the things I should say is, our agency is the federal partner in the Land-Grant University System. So we have a number of funding conduits which we give money to the universities around the country to do research, education, and extension. And so multifunctional to us means just that, we want projects that emphasize research and extension and education -- higher education, so formal classroom instruction, graduate training, and also post-doctoral training.

Multi-disciplinary is another component of our integrated program, so we don't want single disciplinary -- we want to have interdisciplinary teams. And then we also like multi-state or multi-institutional projects. Within the Land-Grant University System, we have a 116 partners. Some of those partners are what we call the 1890 schools, that are traditional black colleges and universities. Some are 1994s, which are American-Indian universities. And so we like to see teams put together.
that cut across all of the partnership, so that we get, you know, really robust projects.

In the past we had a grant program called the Initiative for Future Ag and Food Systems, and that -- IFAFS is the moniker we put on that. That was -- and it still is authorized in the Farm Bill, but it's not being appropriated, and so we don't offer it anymore. But we try to take the concepts that we developed in that grant program and we're trying to apply them in the Integrated Organic Program. And one of those that's really important to us is the stakeholder advisory group that's formed before the project goals are outlined. So we don't want a researcher to go, well, I know what these folks need, and then he comes up with a -- he or she comes up with a project, and then goes and gets somebody to put their stamp of approval on it. We want these stakeholder groups to have input into what are the program objectives going to be, what's the methodology we're going to use. We want to see a measurable outcome-oriented plan for disseminating the information. So it has to have the extension component built right into it. And we like to see the stakeholders at either -- stakeholders that are part of the advisory board, or other stakeholders be involved in evaluating the project, not only the research end of it, but also the
outreach. Is it being meaningful, is being delivered in appropriate ways? And then we expect progress reports back that demonstrate the impacts of the programs that we're funding. And this -- again, this helps us when we get inquiries from Congress or if we get inquiries from the secretary's office, you know, how good is this program, and we can -- we have data that helps indicate that.

As Jim mentioned, the Integrated Organic Program is actually two congressional authorizations. One is the Organic Transitions Program, which was authorized in the 1998 Arera Act [ph]. And the second is the Organic Research and Extension Initiative, which was authorized in the 2002 Farm Bill. I'll go through a little bit of how these programs differ and are the same. How they differ, you can read it yourself. One is mandatory, $3 million for five years, 15 million total, the other is appropriated annually, so it's -- you know, it depends on how our friends in Congress, how successfully they are. The Organic Research and Extension Initiative has a very broad eligibility that includes basically anybody that can get the work done, whereas the Organic Transitions Program is limited to degree institutions. The higher ed function is not specifically mentioned in the newer legislation, and the
program goals are much broader. They include economic and consumer issues, whereas the Organic Transition Program focuses primarily on production issues.

If we -- at CSREES, we have teamed with other agencies -- go to the next one -- and so we have sort of a long history of collaborating to offer grant programs with other agencies that are larger than either agency could offer alone. And a couple of examples our microbial genetics program, which we offer with NSF, and also our precision ag and geospatial technology program, which we offered with NASA. NASA put up 5 million and we put of 3 million, so we had an $8 million program rather than a 5 million and a 3 million. So it works out really well. Since both of these authorizations are within the same agency, I just made the assumption it would be easy to combine them into a single program, and that didn't turn out to be the case, but we got it done anyway. What it does for us is it provides us with flexibility in funding a single project from multiple sources. It also -- it allows us to compete both programs at the same time using a single panel, which cuts down on the panel costs, and that allows us to put more money into projects rather than spending money on travel and food and that sort of thing. And then also it makes it easier for the applicants, because they
don't have to decide, well, am I eligible, or should I apply to this program or another program? We do all that internally. We decide where -- you know, who gets funded out of what pot of money, and it makes it easier for the applicants.

In 2004, this was the first year that we offered this combined program. We had a total of $4.7 million available for awards. We actually had 111 proposals submitted, 105 of those were considered to be eligible for consideration. Those 105 proposals requested over $47 million. So you can see that, even those 4.7 is a lot of money for USDA to spend on organic agriculture, it's not -- it's the tip of the iceberg. Eighty-six proposals were deemed by our peer review panel to be fundable, and those 86 proposals requested just over $42 million. So again, we only have about 10 percent of the money we need to get the job done. The panel recommended 11 proposals for funding. That represents 10 percent of all those that we received, and 13 percent of those were that were considered to be fundable.

We did a little analysis of the program based on priority and region of the country. These are not specific priorities, they're just sort of broad-based categories. So we have the priorities on the left,
crops, animals, economics, improvements, and organic standards, and then the other category, which takes into account a lot of things. And you could see there in the columns the amount request, the amount funded, and that the number indicates there are 73 proposals that dealt with crops. Of those 73 proposals, seven were funded. That equals about 10 percent of all the proposals that were submitted for crops were funded. And so you can see the percentages.

On the next slide we broke it down, and I saw some statistics a couple years ago, where 85 percent of all organic products sold were fresh fruits and vegetables. So we sort of made the assumption that we would get a lot of proposals for horticultural products, and that we would fund a lot of those, and what you can see is that we actually go more proposals for agronomic crops, and a lot of that had to do with animal feed issues and things like that, and we actually funded a higher percentage of those that dealt with agronomic issues. And so it was a little bit unexpected, but I think it points to the need, you know, there's a demand out there for information on those sorts of systems. We looked at it also by region of the country, and you can see that the northeast region and the western region were particular successful. They got nine -- those two
regions accounted for nine of the eleven proposals. They also got a higher percentage of the proposals, and there are some reasons for that, which I'll go into in a little detail in the next slide, and I'll go back to this IFAFS model.

In the northeast, a lot to the teams that were awarded grants had stakeholder groups that were already in place. In fact, one of the proposals that we funded in the northeast was a former IFAFS program that was running out of funds and wanted to continue its work. And so they had this measurable outcome-oriented plan. The other things, if you look at -- say, if you look at the sustainable ag research and extension website in the northeast, they have a lot of training in organic agriculture, both for producers and for extension specialists. And so they've made a commitment of resources to promoting organic -- service to the organic industry, and I think it was represented in that. And in the west, three of the awards -- three of the four awards went to the University of California, so two to UC Davis, one to UC Santa Cruz, and again, they have this long history -- a 20-year history of service to the organic industry. And so that as -- what this analysis will allow us to do is we'll say, okay, well, in the southern region, maybe there's a huge need to get some

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research and extension out there. We're not getting the
kind of proposals we want, so let's do a workshop.
Let's go down there to, say, you know, the University of
Georgia or someplace like that, and hold a two or three-
day workshop to help these folks get up to speed and be
more successful.

And the next slide, just to talk about the
programs for 2005 a little bit. In both the House and
Senate markup of our appropriations, which may or may
not come, we don't know, but it was marked at 1.88
million, which is the same level that was marked in
2004. We plan to get the 2005 RFA published at the
beginning of December. I've been told that this will
not be a problem. Last year, because it was a new
program, we had to submit the RFA to -- that was the
request for applications -- to the Office of the General
Counsel. By law they have 90 days to respond. If they
don't respond, you can go ahead and publish it anyway,
but if you do and they want to make changes, you get
into a lot of trouble. So we waited and waited and
waited, and by the time we were able to publish the RFA,
we only had 60 days to allow the community -- the
research and extension community to respond to the RFA.
Having said that, working with our friends at the
Organic Farming Research Foundation, we did get 111

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proposals. Some of them could've been better written. I think people had to hurry up a little bit. So what we're going to try to do this year -- and I'm still working with some of our leadership in the awards management branch -- we're going to publish the RFA in December, and we're going to give people until May. So that's, I forget, 120 days or something like that. So they have more time, take their proposals, rework them and put them into better shape so they'll be more competitive.

Again, the panel will meet in July. One of the things that we like to do with our panel is we like to have some producers on the panel, so people that are actually farming. So we picked July because, in most areas of the country, you know, the crops are at lay-by, and we can get farmers out of their fields at that time of year a lot more easily than we can in the spring or early summer. What we plan to do for 2006 is we're going to publish the RFA in October -- that will be announced in the 2005 RFA -- and then we'll hold the panel in February. Now anybody who's tried to travel into Washington, D.C. in February knows that can be pretty dicey. And I remember we were supposed to have a meeting last -- not last Presidents' Day, but the one before, we got what, 20 inches of snow that day? These
meetings can get canceled kind of easily in February, but at least that way we can again attract some producers and handlers to the panel so that we have that expertise to help guide us.

The last thing I wanted to say is we are currently recruiting an IPA to help provide leadership for the Integrated Organic Program. And what we're hoping is that we will be able to attract someone from a university. We'll provide 50 percent of their salary for a 12-month assignment. We provide them with a housing stipend and a per diem, and they also -- because they are temporary federal employee, they would be eligible for a transit subsidy. So it would be ideal for someone who's looking to do a sabbatical and get involved in policy leadership. There's my e-mail address. If you know someone that fits those descriptions, please have them contact me and we'll get them a letter describing the position and what we hope to accomplish with it. So that's all I have formally to present. I'll be glad to answer any questions. Yes, sir.

MR. SIEMON: For starters, what's an IPA?
MR. BEWICK: It's an interagency personnel agreement.

MR. SIEMON: Okay.

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MR. BEWICK: You see, I knew that wouldn't mean anything to you, either, so I didn't spell it out.

MR. SIEMON: All right. For seconds, you know, this sounds great and we're real excited to see this come in, but of course, it's obvious we need a lot more money.

MR. BEWICK: Yeah.

MR. SIEMON: So obviously that comes from Congress relatively, but how about inside your department? You've got quite a few grant processes is what I'm gathering. Is there a chance to gather some of those resources, too?

MR. BEWICK: We have two other grant programs that fund research in organic agriculture, but they're not specifically targeted to organic agriculture. The SARE program, the Sustainable Ag Research and Extension Program, funds a lot of projects on organics. And also our Managed Ecosystems Programs within the National Research Initiative funds -- research that deals with organic. And a lot of their research is comparing organic and traditionally managed systems, or conventionally managed systems, since organic is really the traditional system. But again, they're not specific for the needs of the organic community.

MR. SIEMON: And when you all made your
decisions -- I know this hard -- are you aware of other 
grants being given out, either through those programs or 
outside to avoid duplicity? Because I saw a little -- 
some of the reports I saw, I saw a little duplicity with 
some other grants. I just wondered -- because there's 
so little money here --

MR. BEWICK: Yeah.

MR. SIEMON: -- and so much work to be done.

MR. BEWICK: What -- in our application 
material, you're supposed to list all the grants that 
you currently have and all the grants that you've 
applied for. And we fund -- we don't -- we fund 
objectives. And so if you have a grant that has already 
been funded and it's covering the same material, we 
can't -- even though you might have the best proposal, 
we cannot fund you twice. It's actually against the 
law. And I know some people do it. If they get caught, 
you know, they'd be in a lot of trouble, one would 
assume.

MS. KOENIG: A couple of things. I have a 
couple of things. I mean, have you considered -- I'm 
coming back to the multi-regional aspect of it, you 
know, the fact that some regions didn't have 
representation. And since I'm from the south I was a 
little concerned. And I think that is similar to other,
you know, kind of projects where the same concerns arise. And I would suggest looking at the -- again, they have those national initiatives which are quite different, and I'm not proposing a national initiative, but the spirit of them is that certain projects function better and have a much more, you know, overlap -- it's a national problem rather than a specific regional problem. So they acknowledge that it's important to get by and cooperation from different regions. But you might want to consider a special category for multi-regional -- just like you have multi-institutional -- the multi, multi, multi.

MR. BEWICK: Um-hum.

MS. KOENIG: Is that another multi?

MR. BEWICK: Um-hum.

MS. KOENIG: And be multi-regional and then have that separate pool so that they are considered in some way, if that is a goal of your project.

MR. BEWICK: Yeah.

MS. KOENIG: But I think that's more effective than -- I think the training is good, but I think that's a much more effective way, because even if people, say, in the southern region or the central region don't themselves initiate the project, there are individuals in those regions that might say, hey, this puts me in a
different category area. My project does have multi-regional components, and I want to be looked at specially, and I'm willing to work or identify those institutions and kind of bring them with me --

MR. BEWICK: Um-hum.

MS. KOENIG: -- rather than having them initiate their own proposals. So --

MR. BEWICK: Yeah.

MS. KOENIG: -- a suggestion. And then -- and I don't know how, again, the -- I mean, I read it, but it was -- you know, it was quite detailed. But the one thing in the -- that I think is really important in the call is to somehow -- and maybe you already have it -- is linking the project to the regulation. Because I think one thing that researchers don't -- well, in my experience, they're not necessarily aware of is -- you know, they're functioning and they're doing their research and they think everything is applicable. But because organic is unique in the fact that they have to operate in a very different kind of system, I think it's really important for them to understand the regulation, understand what they're proposing, to make sure that, yes, this is a valid question. It also would encourage them to kind of understand really what issues are important on a research level here, because we discuss
you know, we actually had presenters, and I was happy
to find out that you had funded one of the projects on
methionine, because that was something that we
identified, you know, through our process that there was
an issue there. But I'm not sure if that was because
some people just happened to have known that. It would
be nice to have a way to really direct all researchers
to that information.

MR. BEWICK: Well, we -- certainly, if you
have a website where those things are listed, we can
include URLs in a request for application and that --
you know, it's kind of interesting. You know, we have
-- there are national lists of priorities for research
and extension, and we had some researchers that used
those national lists. And what the -- the peer review
panel actually criticized them because they didn't tie
it back to their stakeholders. They said, yeah, this
issue is really important nationally. And they said,
well, yeah, but is it an issue for your folks? So, yeah
-- you know, you think globally and act locally, right?
I mean, it's that kind of an approach. We do some of
those things like -- which you suggested, in the
National Research Initiative. But they got a $180
million. We have 4.7. And so it's kind of hard. You
know, we have some projects proposed that were multi-
regional, but you get a lot of investigators involved and they all have grad students and they all have post-docs, and all of a sudden, the budget's like 1.2, $1.4 million, and we'll fund those, but they have to be really, really good. And if they're not real tight, you can't justify the budget.

MS. KOENIG: Right.

MR. BEWICK: So we would do it. But to set aside a chunk -- you know, we'd have to set aside 25 percent of our budget and say, okay, we're going to fund one multi-regional project. And then if we don't get real good one --

MS. KOENIG: Yeah. But you guys did that in some ways with your systems projects. I mean, you identify those as ones that you would consider kind of -- you had the special category, if I remember, the call, that kind of distinguished systems --

MR. BEWICK: Oh, yeah, long-term research.

MS. KOENIG: Yeah.

MR. BEWICK: Yeah.

MS. KOENIG: Yeah. So, I mean, you --

MR. BEWICK: But we didn't fund any long-term --

MS. KOENIG: Yeah. And that's fine. I mean, what I'm saying is, if that's really your priority area
-- you know, there may not be people who can meet your
expectations, but --

MR. BEWICK: Right.

MS. KOENIG: I mean, as an agency, if that's
your priority, I just think that that might be a model
to explore rather than just doing presentations in
southern regions --

MR. BEWICK: Oh.

MS. KOENIG: -- with administrators or
researchers. Because, you know, building that capacity
is difficult at best.

MR. BEWICK: I agree. And we've tried to do
that. You know, we encourage people to collaborate with
1890s, as an example. You know, you can encourage all
you want. If they don't it, you know, you can't require
it. So -- but I agree with you. I think that's a
worthwhile goal, and that would be one of our strategies
to help increase the capacity in some of these
underrepresented regions. Yes, sir.

MR. BANDELE: I'm from the south, also, and I
think, in a sense, it's a built-in bias in terms of the
selection project, and by that I mean, naturally, in
areas like the northeast and California, which have a
longer history in organic production, they would have
more organic farmer stakeholders than the south, where
it hasn't taken as great a hold. And I don't know how
that could be corrected, but there's a great need there,
because the growing seasons are there, you know, the
farmers are there, but the organic thing has not caught
onto the extent. But if the criteria is established
stakeholder groups, then that's always going to be a
problem.

MR. BEWICK: Um-hum. Yeah. We recognize that
because of the way the program is set up, it tends to
favor certain types of proposals. And we're trying to
think of ways -- one way we could do it is we could have
a new investigator award. We could take a moderate
amount of money, set it aside and say -- and put it in
the request for applications that, you know, we'll give
money to an investigator who's interested in starting a
program in organic agriculture. It's be, like, maybe
$100,000 to allow them to put together an advisory
committee, to get some preliminary data that would make
them, you know, ultra-competitive in the overall
process. And we've done that in other grant programs,
and we're considering doing some of that with the
Integrated Organic Program. Yeah.

MR. RIDDLE: Yeah, Tom, a comment and then a
couple questions. I wanted to thank you for your
presentation and coming over here today, but also to
just thank you for your leadership on this and your vision. I had served on that review panel, and it was 26 members on it, and four solid days. And you talk about NOSB meetings being intense and exhausting, that was really intense, especially when, you know, about 20 out of the 26 are academics. But I do have -- I wrote an article on it that's supposed to -- that Rodale's newfarm.org website, that mirrors some of the information that Tom gave. I wanted to ask about this upcoming cycle for 2005. You mentioned that, you know, you still don't have the ORG funds that's -- it's part of the budget, or the appropriate request.

MR. BEWICK: Right.

MR. RIDDLE: So what happens if that --

MR. BEWICK: Well, we have a continuing resolution, so it's funded at the same level as last year.

MR. RIDDLE: Oh, okay. So that already is secured --

MR. BEWICK: Well --

MR. RIDDLE: -- for this round?

MR. BEWICK: They're probably not going to change it. I mean, it's always -- it might fluctuate.

The program will be there, but it --

MR. RIDDLE: Yeah.
MR. BEWICK: -- might -- the total dollar amount might fluctuate slightly.

MR. RIDDLE: Okay.

MR. BEWICK: Hopefully it'll go up.

MR. RIDDLE: Uh-huh. And then I did want to point out, in response to this last discussion, that all of the projects which are not funded received very extensive evaluations, and they're welcome to rewrite based on those comments and resubmit.

MR. BEWICK: That's correct, yeah.

MR. RIDDLE: And it's quite common that -- so that's another mechanism for improving the quality of those and the likelihood of getting funded. Then my other question is about kind of the opportunity for input from this Board or Board members, as far as, you know, priorities that we identify and the work that we do, either -- you know, there was a category for standards development, but also some of the production issues like the methionine or Chilean nitrate use and impacts, just some of the, you know, bigger issues that we run into. How can they be communicated and reflected in future RFAs?

MR. BEWICK: Well, you have my -- I'll give you a card. You know, if the Board wants to communicate with me -- right now I'm the program director for the

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Integrated Organic Program. If you communicate with me directly, then I write the RFAs, so I will see that those things are included. And I can -- like I said, I can include websites where people can go and get additional information. So I want to work closely with the National Organic Program, with the Board, and so I welcome that input. I mean, it is an open process. And in fact, in the RFA, there's a e-mail address. Anybody can send comments on the content of the RFA, on the -- you know, the process that we're using. And we take all those comments very seriously. So I would welcome it.

MS. ROBINSON: Tom, don't go away. In Tom's mission area, the mission area that includes CSREES, also includes ARS, the Agricultural Research Service. And, Jim, the reason I mention this is your comment about methionine. You know, ARS's job -- it's certainly part of their job -- they do the basic research for U.S. agriculture, the types of public research that private companies, you know, have no -- really, they don't have the incentive to undertake. And so -- and ARS -- I don't know what their exact mechanism is. I know that in the past, for example, agencies have been asked to communicate their research -- any kind of research priorities that they might have -- to ARS, and then ARS can take a look at it. But there's probably ways that
we can get those messages to the REE mission area -- and that stands for research, education, and economics -- so that it's not only CSREES, but the other agencies in USDA could take a look at it.

MS. OSTIGUY: Barbara, I have a follow-up question, except it just disappeared.

MR. BEWICK: I have those moments, too.

MS. OSTIGUY: It's a senior moment.

MS. KOENIG: Well, you know, I was going to state that I think that, you know, the organic community through the Organic Farming and Research Foundation, when they publish, they're searching for the O word. I mean, I think that really helped, because it really looked a the USDA's database. So I think that, in part, that was kind of a proactive way of addressing those issues. You know, I just -- I mean, I just have more hope in these specialized programs. I think there are individuals in the Land-Grant institutions, and in ARS, that can kind of craft a good argument that -- and a good proposal, but it's these types of things that are very specific to the industry that are unique. And so, you know, I see what you're saying, in that you shouldn't disregard other avenues. But certainly, you know, in terms of -- you know, and this is more for the citizens out there. You know, as far as putting our
energy into advocating for programs -- and that's a bad word, I know, when you're talking in a government forum, but those to me are the programs you really need to -- because they really center on our industry.

MR. BEWICK: I know the methionine issue was important because -- I mean, that exemption is going to lapse very shortly. And in a lot of cases, ARS is a lot more effective in solving problems short-term than our process is. I mean, because it takes, you know, us months and months and months to get the money out the door, and then the research has to get geared up, and it might be years before you get an answer. So, you know, I would encourage the Board to investigate how they might dialogue with ARS. I know they have -- ARS puts on listing workshops, stakeholder workshops. You can find out who's the -- would be associate deputy administrator for animal systems. They have one for plant systems. Call them up and talk to them. And they're like us, you know, we work for the people. So we take input from anybody that wants to give it to us, and I would encourage you to do that. And also in our mission area is the economic research service. And so if there are specific things that need to be done on economics, we could put out calls for proposals and we may not get any -- you know, any applications that fit.
that. So if you have something very specific that needs to be done, you know, immediately, deal with -- you know, Susan Ofitts [ph], the administrator, she'd send you down the line to talk to somebody else. But -- and I'm sure you know Kathy Green [ph] works a lot with organic systems. And so we take that input very seriously.

MR. BANDELE: The methionine research was mentioned yesterday. Could you give us a few samples on the plant-side of couple of the projects that were funded?

MR. BEWICK: Well, actually, I have a press release in my bag and I'll leave it out on the tail and provide it. It lists all the projects that were funded. That was one of the things that the mission area advisory board suggested we do to publicize the program was put out a press release. So that was -- that came out last week, I think.

MS. ROBINSON: Right. That's also available on the USDA --

MR. BEWICK: Yeah. I have copies, so --

MS. ROBINSON: Right, right. Just go to the recent news releases and you'll see it. I would also remind you that, one other program that I manage, it's called the FSMIP program, the Federal-State Marketing

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Improvement Program. It's a very small grant program. The total amount of the grants -- the total amount for funding grants is about $1.35 million. And the grant proposals must come through your state departments of agriculture. Now -- and the idea is to conduct research on marketing challenges faced by producers, and the emphasis is generally on small producers. And we have funded very, very many organic projects in the past couple of years. But that's just something to -- you know, the stage department of agriculture usually doesn't do the research, because as you know -- you know, sometimes there's maybe two or three people in the state department of agriculture, and there's certainly not a lot of people that are specializing in, you know, doing research. But then they'll work with a cooperator and the cooperator may be a Land-Grant university in the state. It can also be a non-for-profit -- it can sometimes be just, you know, individuals with particular expertise. It's a matching program, so that means that the state has to match dollar for dollar what we fund. The sizes of the grants are -- you know, they're small. They're typically around 30, $40,000, although we have funded projects as much as $100,000 on occasion. We'll be putting out a call for proposals this fall, and generally speaking, those are due into the department by
February sometime, and then the grants are released -- we try to do it in July. So that's just another thing to put out there.

Also I will tell you this, although it's very much in its infancy stage. And Tom, A.J. Dyer [ph] was at this meeting. The department is trying to take a look, forming kind of a working group, an interagency group, to take a look at its programs throughout the department, to ensure that there are not inconsistencies within or across agencies in the programs that they do have that are related to organic. For example, you don't want -- RMA now offers -- that's the Risk Management Agency -- offers crop insurance for crops -- for organic crops. You don't want the way that RMA delivers its programs to be at cross-purposes, for example, from the Farm Services Agency, which may have a disaster payments program. So there was a meeting held about a week or so ago which A.J. and I attended. You know, there was this sort of inclination to say, well -- okay, well, we have the NOP and you guys ought to take the lead on it, and quite frankly we said, thanks, but no thanks. We don't need another thing on our plate. But we did sort of kibbutz at this meeting and talk about -- you know, first let's take inventory of all the things that USDA does do related to organic, whether
formally or informally, and let's, you know, just take
the inventory and see -- make sure that we don't have
some inconsistencies. But it would also provide kind of
a gap analysis, too. It would be a way for us to find
out within the department, you know, what isn't being
done or, you know, is there something that kind of
glaringly jumps out at us.

So I didn't mention it in the NOP update,
because like I said, it just -- we just had a meeting
and it's very, very much at the infancy-type stage, you
know, just trying to get some folks together in a room.
But I also will be giving my feedback, which is that out
of the REE mission area, only ERS and A.J. from CSREES
were there. I thought, you now, we should have someone
from ARS. We didn't have anybody from APHIS, the Animal
and Plant Health Inspection Service, at that meeting.

So that will be one of my recommendations. But at this
point all we're being asked to do is try to put together
-- to contribute to a while paper on what kinds of
programs do we have and what do we do within our
respective agencies about anything that deals with
organic agriculture.

MR. BEWICK: I do know that Carolee Bull [ph]
from ARS, she's a scientist out in Salinas, she did a
detailed -- she spent six months searching ARS -- all
the ARS and CSREES, and she put together a list of all the researchers that are involved, you know, doing research along organic issues and what portions of their CSREES -- and it's a detailed report that she has available, so --

MS. ROBINSON: Is the report available?

MR. BEWICK: I'm not sure. I can give you Carolee's e-mail address.

MS. ROBINSON: Okay.

MR. BEWICK: I'm sure she'd make it available to you.

MS. ROBINSON: Oh, that would probably be really helpful to a lot of people. Okay, great.

MR. BEWICK: I guess that's it. Thank you very much.

CHAIRPERSON KING: Thank you very much, Tom. It was very informative, and we appreciate your time. We know you're very busy. It looks like we're actually on schedule. I think, George, I believe you're up next.

MR. SIEMON: Yeah. The next agenda item is about the formation of the task force for on the standards for aquatic animals. This is a longstanding issue, and the recent -- two recent developments, the scope directive, which brought up the labeling of seafood products, and then the Stevens [ph] writer about
wild seafood, and it brought us to the fact that we've got to work on these standards. So we're proposing to -- livestock is going to be the center of this, and that we form a task force to go ahead with this. So, you know, we are not -- I guess the idea is to get approval of that task force and then come back with the recommendation of who would be on that task force -- I guess the Executive Committee for approval of that task force. I think that's the process. So it's -- I don't know if we need to go through the document. It's pretty straightforward to me, so --

CHAIRPERSON KING: Do you have a time line in mind about how long it might take to form the task force? Do you expect -- you know, perhaps the next Executive Committee meeting we would talk about this -- two meetings? I mean, I'm just trying to get a general sense.

MR. SIEMON: I'm willing to work straightforward on it, so I don't know when the next meeting is. If it's next week, no, but if it's a few weeks away, yeah. I would like to make it a priority, so -- and then certainly I appreciate the public input we've had today -- I mean, yesterday, about the fish. And I guess -- I think since a lot of those people here, my own personal opinion is that I just like how our
interaction with OTA, that we certainly wouldn't endorse
some other group be in that task force, because we
haven't done that, as far as I'm aware of, with any
other groups. But we certainly will look to their
leadership and what they've done, and certainly would
like to see those people involved, as well. That's just
my own opinion, so we haven't met as a Livestock Task
Force on that yet. And -- yeah. And then in our
document we've got written down the responsibilities and
the conduct of the task force, which is on our policy
that we've written here. This is all -- and I certainly
would -- well, the 2001 -- we've already got a Board
motion that says that's to be guidance. I certainly, in
my proceeding, would want it to be just a guidance and
not a rigid thing, and it's certainly going to be open
to all the public input we can get on the subject. So I
don't -- yeah.

MS. GOLDBERG: Just to add two words to that,
I think it's really important as we go forward with this
task force, and other task forces, too, that we
implement the new provisions of the Board policy manual
-- really to task force you'd send it. We get task
force members to become really acquainted with the
policy manual.

MR. SIEMON: That's right there, now.
MS. GOLDBERG: Right.

MR. SIEMON: So do I need to make a motion --

MS. ROBINSON: I have a question, because I guess I was confused or maybe I went brain-dead or something yesterday afternoon. But during the public comment the members of the working group, the national working group, spoke and I was unclear, were you -- was the Board saying that you don't want to work with that group? I mean, I just was really confused about -- you know, they've done all this work to try and develop standards. How are you going to work with them or are you or what?

MR. SIEMON: Well, this is my opinion only. I just related it to how we worked with OTA. You know, we've never -- we take their recommendations, some of those people in our committee, but we certainly never turned over a task force to an outside group before that I'm aware of. So just using that as a -- it's no disrespect and we certainly want their input, but to turn it over entirely didn't seem -- I personally liked the proposal about 50 percent, but I haven't even talked to my committee yet.

MS. ROBINSON: Well, I'm not suggesting that you would turn over, you know, the work, I'm just -- I wanted to understand. You know, was there going to be...
some communication and some work with these folks?

MS. GOLDBERG: Yeah. I think it's essential that we have input from the task force and some overlapping membership and so on. I think the main distinction, as George said, is that we really haven't turned over a standard-setting process before to another group, and that we need a process that's perhaps more public.

MS. ROBINSON: I mean, I just -- I once had a professor who said never throw away information. So I just would hate to see the Board not take advantage of the work that that working group has done. And, I mean -- you know, you may decide that you disagree with the results of that working group, but they have spent a lot of time, it seems to me, at least from what I've heard.

MR. RIDDLE: Yeah. If I could comment on that, too? I may have been -- you know, I was at least involved in the discussion, and may have been a source of any confusion on it. But I am excited to have their work feed into our process. I think that it could really help jumpstart that. So their formal documents, we definitely want to look at and to have crossover in people, the human resources, too. So I think we do have to figure out a mechanism for kind of a call for task force members. Who do you call if you want to be on
this? How can you submit your name and credentials?

But, yeah, I would say we're very open. And I have been on a couple of conference calls with them and, you know, in conversations. So I'm familiar with some of the work that they're doing, so I totally value it. But we aren't going to limit it to that, and I think that's the issue. It's not going to be limited, it's going to be open to a broader and fully transparent, you know, stakeholder group.

So the one other thing that's not reflected in this draft, and that is -- and we didn't -- because the time was so short yesterday in the comment periods, one issue that I think needs to be resolved right up front is what makes a particular type of aquaculture or wild system organic versus one that's not. You know, and to -- it's going to be the standards at the end of the day that define that, but I think another short-term target should be, what are the principles? So looking at the current NOSB principle -- organic -- you know, principles for organic production and handling, a focal point could be what amendment to those principles is needed that's consistent with everything else there, that then can provide some guidance for the standards writing. You know, what makes this system of aquaculture organic? So that's just one thing I'd like.
to add kind of -- you know, not in a formal way, but
just in my opinion.

MS. ROBINSON: Okay. And one other thing is
the suggestion that -- you know, we realize that the
Board historically -- the industry historically, and
many people at least, have not supported the idea of
wild caught standards. But given that we have the
legislative language and you are going to explore it, I
throw out one suggestion, and that is to talk with the
folks in Alaska, who have spent a lot of time developing
a set of standards and may -- this is my sort of off-
the-cuff opinion and it's not worth very much, I'll tell
you that right up front. But from what I've heard, they
may well have, as far as wild caught seafood, the
toughest standards. And so if you want to be consistent
with, you know, your standards, you know, or the
highest, you are creating the gold standard. You know,
you may want to get in touch with those folks, because
they do have, from what we understand, extremely strict
procedures and standards for, you know, their -- for
their Alaska program of wild caught seafood, particular
for salmon. So it's just another suggestion of folks
that you could get in touch with.

MR. SIEMON: Just the one thing that wasn't
said that's in the document is that we aren't talking
about one task force of two working groups and dividing
these subjects up very differently, because they are
very different subjects. So -- and that's part of what
we're going to talk about in our recommendation, as
well. And I certainly --

CHAIRPERSON KING: Excuse me, George. If we
could just welcome A.J. We appreciate you attending.
We know you're very busy, and if you have some comments,
we'd certainly entertain that.

MR. YATES: Well, thank you very much. It's a
pleasure to be here. And I just wanted you all to know
how much we appreciate all of the hard work you're
doing, and we know that your work goes beyond the days
that you meet with us, because the issues that you deal
with on a daily basis, and looking at the regulations to
make this industry successful, takes a tremendous amount
of your time. And I want you to know how much I
appreciate that, and how much I want you to know that I
support your industry, and I want you to know that and I
want you to believe it. And I want to see this industry
continue to grow and be profitable, because that's what
-- I'm a farmer myself, so I know how important it is
that we only can stay in business if we can have a
profitable venture. I want to thank you again for all
of your hard work. And so I just wanted to stop by and

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be able to tell you how much I appreciate the work you
do.

MR. SIEMON: Just a last comment of
acknowledging the -- getting the Alaska, and also this
is a very political issue, obviously, you know. So I
think we need to really be careful and include all the
stakeholders so we do a good job here.

MS. CAUGHLAN: Well, I just also wanted to say
again for the record that we need to remember that we
also have, as a starting point, the original task force
reports, not to lose sight of that, not to in any sense
lose sight of that. And I had some sense yesterday that
there was a dismissive tone to some of the testimony
that we were hearing from the audience. Whether that
was intentional, probably not, but I do think that we
did have two excellent working-group task force reports,
and just to keep that clear that we start with that as
we attempt to include historical perspective on all that
we do.

CHAIRPERSON KING: George, and I just want to
make clear I understand what you're saying here, that
you will create two task forces, one for aquaculture
standards and one for wild caught standards, or you're
going to deal with those two issues separately within
the same task force?
MR. SIEMON: That's what the proposal is, it's one task force of two working groups. And I have to admit, I talked to my group to get the real difference between those two programs, but that's what's been proposed and -- but it's still two distinct subjects, but we'll put them together. And it doesn't mean to me, again, that one will be held back by the other. If one comes forward and is ready for movement, we should move forward with that and not in any way hold back the other. So to me they are separate, but we are calling them one task force of two working groups.

MR. RIDDLE: Yeah, and I wanted to just respond to Goldie's comment, that that is reflected in the charge for this task force as well as to take into consideration -- yeah. But then I want to talk nuts and bolts a little bit, and that is how to kind of put out the call, and how and where the people submit, and then who makes the decision of who's appointed or selected, who serves on this task force. We really don't have all those nuts and bolts in place or figured out, so we need to. And, you know, I would hope that -- you know, that that can happen like in the next week, and the description of the task force be posted on the NOP website, and then how do you submit the instructions for submitting your, you know, CV or whatever. And then
within a month or so have -- within a month have the Executive Committee make a final selection. And say within six weeks, that task force can be seated and begin work.

MS. ROBINSON: Well, there's no problem posting that on the website, Jim.

MR. RIDDLE: Yeah.

MS. ROBINSON: Now, I think that when people want to say I'd like to be a member of the task force, we -- you know, it's your board and you're going to create the task force, so we're going to direct them to contact the Board if they want to be a member of the task force, not to contact us, okay?

MR. RIDDLE: The board is kind of vague.

MS. ROBINSON: Well, why don't we just -- you know, if you don't have any objections, we can put down, you know, the e-mail addresses of the chair and the vice chair or the Executive Committee or the Board members, and say contact a Board member if you'd like to be a member of this task force.

MS. GOLDBERG: Why don't we work this out in the Livestock Committee and -- okay.

CHAIRPERSON KING: Fine, that's sounds good.

MR. SIEMON: So we're going to make a recommendation to the Executive Committee for the task
CHAIRPERSON KING: Correct. That's our action --

MR. BANDELE: I had one point, though, Mark. You know, many times, for example, with the Compost Tea Task Force, there are certain areas that were recognized as being important and -- et cetera. So my question -- to make sure that those niches were filled, so in addition to people who are formally applying, will there be another attempt to pull in other expertise beyond just what you receive?

MR. SIEMON: And of course, my answer is, yes. And one of the concerns I have right away is to make sure there's consumer interest represented. You know, and the group that came yesterday very clearly said it's about science-based facts, but we have also another element to contend with and that's the consumer. So I'd certainly -- that'd be right away an identification.

CHAIRPERSON KING: All right, thanks a lot. It's 10 until 12:00, so, Rose, I guess we can break for lunch a few minutes early if that's okay with everyone, or if you think you can go through this in 10 or 15 minutes, we'll do that.

MS. KOENIG: Well, maybe if we can get started and then I'll see how far we get.
CHAIRPERSON KING: Okay. All right. So we'll
give it 10 minutes --

MS. KOENIG: Okay.

CHAIRPERSON KING: -- and break at 12:00 for
lunch. Thank you.

MS. KOENIG: I want to direct people's
attention -- I guess, at least on the Board, to the
book, and then maybe, Katherine, you can put it up on
the overhead -- to the document that says, "NOSB
Materials Committee recommendation for revision of the
FR petition notification draft one for discussion." So
this is the actual -- kind of the text -- the text --

CHAIRPERSON KING: Tab eight, is that correct?

MS. KOENIG: Yeah, under tab eight. But
there's a number of documents in tab eight. So there's
two that we're going to be discussing, you know, on this
agenda. Item one is kind of a text view of what's on --
you know, what was in the notice and adding to that
text. And then we also kind of took a stab at revising
the actual notice and updating some of the -- you know,
the names and the dates and stuff like that, but also
taking out sections that are no longer appropriate,
because again, the original notice came in 2000 and, you
know, now it's 2004, almost 2005, so you could expect
that there are some changes, just because the process
has gone forward.

So I just have an introduction that we were -- we were basically asked by the National Organic Program to review the notice and the -- in order to modify it to improve the materials review process. And again, this is a working draft and it's presented to begin the discussion to revise and finalize the petition notice posting. And the background for discussion is that the NOSB and the NOP need to modify the petition notification instructions to petitioners and the petition process. This will improve the ability of the technical advisory panel, the TAP contractor, to evaluate and provide consistent information on each petition substance. It will also assist the TAP analysis of whether or not a substance is synthetic or nonsynthetic based on NOP definitions and NOSB clarification of the definitions. In addition, the information provided in the petition needs to clearly address all applicable OFPA criteria.

So basically we took the notice and did an preliminary analysis and recommendation. So I'd like to go forth on those points. And the ideas that are suggested and forms the recommendations for specific changes are in bold, and the original notification is not in bold. So hopefully that aids in understanding
what is being recommended. So starting from the section
that says, "Analysis and Recommendations," the first
item is a petition seeking evaluation of a substance
must indicate within which of the following categories
the substance is being petitioned for inclusion or
removal in the National List. And in the original
petition notice, one through five was listed and we
recommended that we add six nonorganically produced
agriculture products allowed in or on process product's
label as organic or made with organic specified
ingredients.

MR. SIEMON: I'm lost. Sorry.

MS. KOENIG: It's a draft one.

MR. SIEMON: I must have the --

MS. KOENIG: It's past that, George.

MR. SIEMON: I got it in front of me.

MS. KOENIG: It's the next document, to the
next standard.

MR. SIEMON: It's on the next standard. Oh,
no wonder I couldn't find it.

MS. KOENIG: But those two documents are in
the same --

CHAIRPERSON KING: Rose, could we just provide
an overview of what you're trying to accomplish here,
and then not necessarily read all the specific points?
I know it's an initial draft. And then, you know, we can take action and committee at a later date if --

MS. KOENIG: Okay.

CHAIRPERSON KING: -- we need to go over it.

MS. KOENIG: So basically -- which I thought I read, we're trying to update these two forms, because the NOP has asked us to provide input on those. Because originally the notice was placed on the web, as I understand it -- Arthur, you can correct me -- in 2000 and -- as a proposed rule, but never -- I don't know what happened at that point when those two notices came on. And then it was my understanding that you wanted us to update that documentation or take it so that it could be put on again in an updated version to reflect the current petition process, is that correct?

MR. NEAL: This is the issue. The issue is that the materials review process has matured, and the request for information for a petitioned substance needs to catch up with the process. Petitioners need to supply the Board with information that the Board can use to help them make more informed decisions, and to help the TAP contractor have access to additional information that they didn't have before because we didn't ask for it up front. The request for information does not take into consideration 606, for example. This is a national
list, but it's not reflected here. So what we're trying
to do is modernize our request for information to
petitioners who want to petition the National Organic
Standards Board for the review or evaluation of a
substance, and that's the issue.

MS. KOENIG: Thanks, Arthur.

CHAIRPERSON KING: Okay, thank you. And I
recommend -- Rose, thank you for this. I know you've
put a ton of work into it. It's really just for
discussion purposes, and I think it's a great foundation
to begin a discussion, and I think probably best be
discussed in committee at this point and interaction
with NOP, and I'm going to recommend, unless some people
object, that we break for lunch now and come back at
1:15, so --

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[Off the Record]

[On the Record]

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CHAIRPERSON KING: -- and try to be as
entertaining as possible to keep everyone awake in case
you had a heavy lunch. And, Rose, thank you very much
for your input earlier, and I want to make sure you know
I wasn't trying to cut you off, I was just trying to
keep us on track. But you are up now, again, looking at

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materials review and refining the process. It really is Rose's meeting.

MS. KOENIG: Yeah, that's what you're saying. That's right. You have to pick -- you know, and I don't know. I mean, it's really up to the Board at this point. I mean, we can go through the documents provided -- you know, I don't know if NOP had a chance to look at that. Maybe we could do the conversation by just doing that conversation with NOP, because that's not something that the committee sometimes has an opportunity to do. But -- so I don't know. You know, Mark, how would you like me to handle this? Because it seemed like you were bored stiff with it.

CHAIRPERSON KING: No, absolutely, no.

MS. KOENIG: I wasn't trying to offend anybody. You know, I don't really want to painstakingly put you through something you're --

CHAIRPERSON KING: No, no.

MS. KOENIG: -- not equipped to deal with,

so --

CHAIRPERSON KING: No, it was really more of a hunger issue, Rose. But, Kim, you had a comment.

MS. DIETZ: Rose, the Materials Committee hasn't even met on these, so I would suggest you just summarize them. We have to still go through them and
edit them, so just because they're new documents, I think in light of that fact that the Materials Committee hasn't even discussed them yet, they should probably just be summarized and then we can bring them back for the next meeting.

MS. KOENIG: And that's fine. I just didn't know if -- Arthur, if you had chance, if you wanted to include some input at this point? We're going back to the boring ones that I had to -- the petition notice, the Federal Register notice, and the -- you know, and then the document kind of describing the recommendation for revision of the FR notice -- I mean, the --

MR. NEAL: In terms of --

MS. KOENIG: -- notification.

MR. NEAL: In terms of that document, I have not had an opportunity --

MS. KOENIG: Okay.

MR. NEAL: -- to read it in its entirety. I've skimmed through it, but that's a lot -- it's a lot of material, and I do think I would need time to kind of read that and analyze it to see whether or not -- if it covers some areas that we've identified that need to be covered if something's left out.

MS. KOENIG: Okay, so maybe the best use of the time and it would be just to come to a consensus as
far as when, you know, the process so that we know -- I
mean, I'm sure you want it finished as soon as possible.
But would this be -- you know, how do you see this
document being utilized? Does it have to go again
through another -- you know, are you going to put in a
Federal Register notice? I mean, what do you want to do
with this product?

MR. NEAL: This product would replace the
Federal Register notice that is currently on our website
and in the Federal Register, so it would have to go back
through the process.

MS. KOENIG: Okay. And then --

CHAIRPERSON KING: Jim had a quick comment.

MS. KOENIG: Okay.

MR. RIDDLE: Yeah. I guess one problem here
is the version that's in the meeting book and posted on
the website was really still a discussion draft.

MS. KOENIG: Right.

MR. RIDDLE: The final -- you know, they were
flying back and forth so fast I can understand how it
happened. But I think, right now, given what's been
said and what Kim just said, it'd be good to --

MS. KOENIG: Yeah.

MR. RIDDLE: -- run it through the Materials
Committee and just make sure that they have one clean
copy of the correct draft before they waste any of their
time worrying over it.

MS. KOENIG: I agree. And the only suggestion
that I think we might want to consider -- and I don't
know if it's legally allowed -- would be, since we've
got new contractors -- we're going to train new
contractors, hopefully -- I mean, it would be nice to
orient them to at least the proposed new system. So
that's the question, how does the Board feel -- I mean,
can the Executive Committee vote on that if we get to
another draft stage, but maybe say prior to a -- maybe a
full Board meeting or a full vote on it, can this be
viewed as a working document in a sense of training
petitioners or -- because I'm not sure how, you know,
the time process for orientation of --

MS. DIETZ: Well, the last book that we
drafted, the orientation book, it wasn't approved by the
Board, it went through the Materials Committee, and I
think the Executive Committee looked at it, but it was
never formally adopted by the Board. So I guess that's
just from a past history. I think we could put stuff in
there like our Board policy manual. We put documents in
it for training purposes, but we never had to wait for a
Board meeting to approve it.

MS. KOENIG: Um-hum.
MR. NEAL: And in terms of the petitioner having a draft document to work from, it would have to be a document that has gone through the formal clearance process for them to use and submit that information to us. We can't operate off a draft. Now, if there's additional information that we feel we need, we probably need to go to them and ask them for it, if we deem that that's going to help them provide the information that's needed by the Board to make a decision --

MS. KOENIG: Right.

MR. NEAL: -- on their substance. We just kind of want to be consistent with that type of thing.

MS. KOENIG: Yeah, I guess that was the question, because some of this stuff pinpoints deficiencies that result in deficient TAPs. So as long as there an informal way of seeking that information, then I think that that's fine.

CHAIRPERSON KING: Well, and if you're concerned about the time line, then the Executive Committee, of course, is empowered to act on behalf of the Board if necessary. So if you think that's going to be an issue and you wanted to put that as part of the action plan, that's perfectly acceptable.

MS. KOENIG: Okay. Okay, any other discussion, because we can move on to the next -- I'm
still up, right?

UNIDENTIFIED SPEAKER: Yeah.

MS. KOENIG: Okay. All right, so let's take -- I just want to do the -- I want to say the Kim Show, because it's a modification of her old PowerPoint slides. That's -- well, yeah. But I did a really -- a very abbreviated form of it. What I want to do is, just for the sake of some individuals that might be in the room, just really quickly go through the materials process, just -- you know, because I know yesterday there was an individual who we recommended, you know, petition, so this is in effort to try to provide some clarity on the process as we -- you know, that we do at each meeting. So, Katherine, you can go to the next -- so basically the -- you know, this update -- this is just kind of a general outline, and some of which that we've already gotten the update from NOP as far as where things stand in terms of the process, and I would just -- if anybody has any questions, we can go back to Arthur and ask specifically about some petitions -- I mean, some substances.

You can go to the next slide, Katherine. The next -- so just -- I wanted to point out that these are the sections -- they've come up in a lot of these discussions. There are certain sections within the
regulation that we add during the materials review process to -- but we may not add to, but materials get petitioned for inclusion on various lists, the National List, within the regulation. So for crops it's either Section 60 -- 205601, that allows additional synthetics, and Section 205602 prohibits nonsynthetics. Okay, the next. And that's similar in livestock.

Next. And then in processing, there's these two sections that again you can see that through some of our discussions, but we're still trying to grasp with in terms of the -- you know, the understanding, I guess, of materials on these sections. We just acknowledge that is what exists currently. Next. We heard this update, and this slide just was from the national -- the Final Rule on -- and it has to be updated, because obviously there's been other materials that we've been updated on that have gone through the -- further through the Federal Register process. And probably the livestock I'll have to update, but we got those updates yesterday.

Next. Okay, well, there was one substance that the Crops Committee was to -- it was deferred from the last meeting, but it's on the agenda for this meeting. The Crops Committee has recommended to defer soy protein isolate, not an ideal situation, but based on the fact that as we started to write the -- what we
thought was going to be an extraction paper, which
became the synthetic versus nonsynthetic paper, I used
that soy protein isolate sort as the model to understand
the system. So it was actually a pretty efficient use
of time, and I think we pinpointed the questions that
had to be asked, we've asked those questions to both the
petitioner -- we've had Virginia Tech provide their
opinion on the questions that we asked, and we also have
gotten additional information from a scientist, who's a
feed specialist, who's provided his opinion on whether
this is synthetic or nonsynthetic. So I feel the
committee has enough information. Unfortunately, we
didn't have enough information at the right time to make
that decision. So I am confident that we are going to
be able to come back as a Crops Committee and make a
decision on this whenever the next meeting comes about.
Next.

MR. RIDDLE: And also the Livestock Committee
has a preferred substance, too.

MS. KOENIG: Okay. Do you want to -- okay.

MR. RIDDLE: And the question is, if it starts
as a favorable -- transcript, the Livestock Committee
has the substances deferred with proteinated chelates,
and the main question was if there are sources available
from nonanimal origin, the source of the protein. So
that's still waiting, you know, for further information.

MS. KOENIG: Okay. And petition materials and
progress, Arthur's probably a little bit, you know,
better equipped to answer questions. I know with the
ferric phosphate and ammonium, the committee -- the
Crops Committee has just received the TAP on those two
substances, and based on kind of the new concept that
the NOP has described, where the committee would then
look at the TAPs and kind of do a quality control step
at this point to see if it really is ready for decision
making, we are at that step. We've just received those
two TAPs and we've got -- I forget what the deadline is,
but we're going -- we have a deadline set by the NOP to
kind of meet to make a decision on whether they're
complete enough to continue, and if they are, we'll be
voting -- we'll provide a recommendation on those at the
next meeting. And if not, we'll send them back to the
contractor to clarify things that would potentially
cause a deferral.

Some of these other substances -- you know, I
know some of them are -- have been sent to the
contractors, but maybe, Arthur, you could just briefly
explain if you'd like, if you think there needs to be
some explanation on some of them?

MR. NEAL: I'll try to speak to them as best I
can. I don't think I'll be able to speak to all of them accurately. With sulfurous acid, sulfurous acid was petitioned to be used as a processing aid in a plant extract. This gets all the way back down to what can be approved on a national list. So we've been working the petitioner, and we've made them aware of where were are in the process, and right now how we cannot move forward on that petition due to the fact that we are clarifying the types of materials that can be petitioned through the act. Lime mud -- lime mud, we -- and by the way, we have not moved any of these petitions forward. This is what we were speaking about yesterday in terms of sending petitions to our new three TAP contractors. Lime mud, we'll move forward for a petition. Sodium laurel sulfate, there are issues with sodium laurel sulfate. We've been working with EPA. Sodium laurel sulfate is a EPA -- what is it -- exempt active ingredient on the list, 25B?

MS. KOENIG: Um-hum.

MR. O'RELL: Arthur, what was the petition used for, the sodium laurel sulfate? Because it's also used in handling.

MR. NEAL: I'll get there.

MR. O'RELL: Okay.

MR. NEAL: In production -- the petition used
was for use as a pesticide -- an herbicide in crop production. Under 25B, the only EPA approved use for that substance was for use as a pet food shampoo -- I mean, a pet shampoo, and it was not approved for use as a crop production material, other than the fact that it could be used in noncrops such as in roadways, ditches, and sidewalks and things of that nature. So we've been working with EPA and the petitioner on that issue. So the petitioner is reevaluating that petition, and at this moment, we'll not move forward for a TAP.

Sucrose octanoate esters was petitioned for use in honey production. It was also amended. The petition was amended to be used, I think, in crop production, as well. And that we'll move forward for a TAP. Kydacin [ph] I think was petitioned for use an agivent, and I cannot recall the status of kydacin.

MS. KOENIG: We -- as a committee we looked at kydacin and sodium laurel sulfate and lime mud. I think we recommended that it go for a TAP. I don't know, can you correct me if I'm -- we can go -- when we get to the Crops Committee report we'll clarify that.

MR. NEAL: Pulanin [ph] -- prulalin [ph] was petitioned for use in dietary supplements. Due to the position -- the nature of controversy that we're in right now concerning that, that area of production,
we've been working the petitioner and we have not moved forward with that TAP. Potassium carbonate -- potassium carbonate, I cannot -- okay, this was an older petition. Potassium carbonate was an older petition. We will have to move that one forward for a TAP, as well.

MS. KOENIG: That one on the web I know says in -- I think it says TAP, already. You know, on the web it indicates that the TAP is in progress, so -- and I know people have questioned, you know, where the progress on that one is. So it would be good to clarify that at some point on the web, whether it's in progress or not. It was something that the committee had looked at probably six months to a year ago and had recommended that it be looked at. So handling's also -- we looked at the pulanin and our recommendation I believe was to not forward that for a TAP, because it was a dietary supplement. So the handling did review it and put a stop on it.

Okay, next. These two are on other status, and a lot of these are on the web in these categories. Potassium silicate is -- I don't know what the -- the Crops Committee looked at it. It was a potential -- for the potential use in disease control, and sent it back to the petitioner in terms of providing information on that use and whether there were any EPA labels of that
-- that material for that use. So I don't know.

Arthur, if you had any additional information. We discussed, I think, at the last meeting, and if I remember correctly, there -- I don't think there was any kind of brand name with that active ingredient at that time, at least from that manufacturer.

MR. NEAL: And those two substances I cannot speak specifically to, Rose.

MS. KOENIG: Okay. Cryolite, I think I remember, it was a petition, it was one that was looked at before. There was no additional information, if I recall, on that petition. I hope I'm speaking of the right one. And I think that was just not -- the committee did not decide to go forward with that, because there was no additional information.

Next. Okay, so the material review process and -- you know, I really think we're just going to bypass this, because as you can see, you know, the minimum time frame is 145 days. We're not living up to the process that has -- you know, that we've been using to kind of explain what goes on in terms of petitioning. So ideally it would take a minimum of 145 days.

Next. And, you know, originally, you know, day 1 through 14, it goes to NOP staff and they review the petition to see if it meets all the requirements or
are not complete, and then it's handed off to the materials chairperson. Next. And then day 14 through 30, the chairperson sends a copy to the vice chair of the Materials Committee, and the vice chair of the designated NOSB committee and -- you know, there's basically a committee decision at that point as to whether or not goes on for a TAP. Next. And then 60 days prior to NOSB meeting, we get copies of the completed TAP review, and the NOSB committees will use this time frame to review the TAPs. Next. And then 30 days prior, the reviews are posted on the NOP website for review and public comment, and then copies of the TAP reports are sent to the petitioner at that point, too. Next. And then, you know, anyone who wants to get the petition, they'll find that the -- kind of that sheet that we're reviewing and hoping to update over time, that's the one that they would be utilizing now, this 2000 -- you know, 2000 version of the Federal Register notice, as a petitioner.

So I guess the bottom line on the presentation is that materials I think is in a state of change, you know, I think change for the better. We're kind of reevaluating how we have to proceed in the process and how to utilize, you know, the TAP contractors, the most effective way to how to use committees' expertise in the
most effective way. And, you know, hopefully, you know, it's my goal before I'm off of this Board, which is within a year, that this process will be established. So that's my goal, you know, as kind of my last action. So hopefully from a year from now, we'll have this -- the date's right, the process right, and in the meantime I would like to, you know, just state that I think there has been progress made since the last presentation. There is a lot more committee interaction again, included into the process, and I think it's going to be a much better process as a result of kind of the changes that we're proposing.

So with that, I have one final document. And again, it's a document that is called synthetic -- it's a clarification of the definition of synthetic that I prepared. And again I was trying to take a stab at this -- you know, at the first issue at hand, which is really the clarification of that definition. Originally -- and what's in the -- it's under the crops, and we're probably going to bypass that agenda item, as far as I know. And Nancy and I have really talked, but I think that's what we're hoping. Originally, after the last meeting when we were reviewing soy protein isolate, we got into a lot of discussion as far as whether it was a synthetic or a nonsynthetic. And, you know, we were

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under the impression that we needed to look at the extraction process to make that determination, and that is why, on the agenda, there was to be a discussion on extraction processes.

However, when I started researching extraction and really going back to that definition, as Arthur kind of tried to drill into my head, I realized that, really, extraction wasn't -- I mean, it's part of the issue, but the larger issue is really defining synthetic and understanding where extraction, you know, occurs, you know, and when does extraction end, and then kind of post-extraction processes begin. And the concept here is that -- and if you look at the definition of synthetic, for a lot of materials, it's really not that difficult. It doesn't -- again, not rocket science to figure out there's a chemical process involved, you know. And in this document I outlined kind of a basic chemistry lesson, and I think it again could be improved [ph] as a water chemical process, is just some examples. So many of the substances, it's really pretty straightforward, and those are the TAPs that we get back, and everybody's agreed that it's synthetic and, you know, the TAP contractor has written a nice thing to say. This is surely a synthetic process, and even the petitioner has acknowledged that it's synthetic. So
those are the easy ones.

The ones that are difficult seem -- most regularly occur in the substances that are extracted from naturally occurring plants, animals, or mineral sources. And basically the definition of extraction says that the substance can be extracted in any manner -- I should say that that's the way I interpreted it. We better go back to the definition. If anybody can pull that, I think it's in this document somewhere.

MR. SIEMON: Yeah, just so I'm clear about where we're at, this is a document that you've written up, not the committee?

MS. KOENIG: Yeah.

MR. SIEMON: Is this the start of a process that's --

MS. KOENIG: It's the start of a process, yes.

MR. SIEMON: Okay, that's all I need to know.

MS. KOENIG: Yeah, yeah. Okay. So it says, "The NOSB defines a synthetic substance as one that is formulated or manufactured by a chemical process, or by a process that chemically changes the substance extracted from a naturally occurring plant, animal, or mineral sources, except that such term shall not apply to substances created by naturally occurring biological processes." So again, you know, in my mind -- and I
think there also -- there's debate here. The NOP has
stressed and it's kind of suggested, and I think there's
argument for that, that it doesn't matter what you
extracted with, okay, as long as there's not a chemical
change in that product. And I think the way
historically people have viewed materials where they've
drawn that line is that it actually means that if you're
extracting with something and it ends up being part of
the material that you end up with, well, that probably
is going to constitute a chemical change.

So I went through this document again and, you
know, talked about extraction and talked about
formulation, you know, and the differences between
extracting and then formulating, and then generic and
brand name. And again, I don't think I want to go
through at length some of the chemistry and what a
substance is and what a compound is, but I tried to kind
of illustrate with things that are on the list, and used
really visual examples of chemistry, where you kind of
see what a difference between a mixture and a compound
and a substance would be, okay? So it's really --
hopefully provides a foundation. I actually see a
vision for this document in the policy manual or some
kind of orientation process, so that everyone has kind
of an understanding and then general background, as they
come onto a board, as to what, you know, these reactions
that they're looking at are, because not everybody has
that background.

CHAIRPERSON KING: So, Rose, it's my
understanding -- and again, thank you for your work,
because I know you put in a number of hours into this,
and I think, in particular, this document is very
helpful for those who do not have a science background.
It provides a foundation and does make really positive
references to, you know, the considerations that we make
as Board members. And so it's my understanding that
you'll be taking this back to committee, they'll talk
about it, and then you're goal is to --

MS. KOENIG: Well, I think --

CHAIRPERSON KING: That's where it gets -- you
want as part --

MS. KOENIG: Well --

CHAIRPERSON KING: -- of Board policy or
just --

MS. KOENIG: No. I mean, I think that it's
the same issue as agriculture versus nonagricultural.
You know, there's no difference in my mind between
synthetic and nonsynthetic. In both cases, there is a
generally vague definition that needs to be clarified in
a working document, and I don't think it's something

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that has to go in the regulation. I don't see it where -- I mean, I see it as our working understanding of what these definitions mean. Now maybe we would have to go through some other process, but I understood these as kind of the foundation papers that do have to be, I think, agreed upon, certainly, and do have to go out to public comment, so that we all clearly understand what we mean when we say synthetic and nonsynthetic, and when we say agriculture and nonagricultural. And that will also serve as the tool to the petitioner and the TAP contractor so that they understand -- and the reviewers -- when they say synthetic, we need to -- you know, we're going to be able to say prove to us, you know, where in the chemistry process does it make it synthetic, and how does that relate to our clarification of synthetic? So there's no gray, it should be black and white.

CHAIRPERSON KING: And I guess this is probably a question for someone on NOP to make sure that our work here is what it needs to be ongoing, in that what Rose is describing to me as guidance language or a guidance recommendation, if you will, and is that something that's going to put us on the same page as we go through this materials review process?

MR. NEAL: What is guidance language? For
whom?

CHAIRPERSON KING: This group, as we go through the materials review process. In this case, when we're considering something synthetic versus nonsynthetic. And so is that -- I want to know where you're at with that. Is that helpful? Will it suffice?

MR. NEAL: This is exactly where we want to go, but it's even beyond guidance for you. This helps people who petition to understand what it is or how their substance compares against what the Board is thinking. And there's a slight difference, too, between the nonag and the ag, because you've got nine substances in there that are not agricultural that you have to take into consideration. But we have to -- we have to begin to do what Rose has done, and that's begin addressing the hard issues, because, you know, as you look at the National List, you can see some inconsistencies with things that are considered natural now and not on this list if you go through this process, depending on how the Board comes out in terms of what we agree upon on what is synthetic and what is natural. That's why this document really needs to be vetted by the whole Board -- the full Board, so that when a decision is made, this is what the NOSB believes to be synthetic, according to the definition in the act. You know, because what you're
really doing is that you're putting feet to that
definition. Does heat treatment constitute a chemical
change? You know, these are the types of things that
have not been wrestled with specifically. They've been
addressed, but when it really comes down to the
technical aspects of it, Rose has begun to turn over
those types of things to make sure that all sides have
been viewed objectively.

CHAIRPERSON KING: And basically what I'm
attempting to do here is to put a handle on what's been
done to make sure that we make the best use of this
information, and the time that Rose has put into this,
and so we'll, as I understand it, take this back to
committee, bring this back, and then at that point the
Board will look at it. This will become part of this
ongoing materials review process that we're refining,
and at that point will be information provided to
petitioners, others involved in the process.

MR. NEAL: That's correct.

CHAIRPERSON KING: Okay.

MR. MATHEWS: Yeah. This is exactly where we
perceive the Board needing to go in order to bring
clarity to the petition and review and approval process
for all materials.

MS. KOENIG: So, you know, I think as you
review the document, the way it's written is it really provides that chemistry lesson, and it points out, again, some examples, you know, that are on the list and some that are just, you know, simply better visualized by somebody else's chemistry book, because I'm not a chemist. But -- and it brings out what I think the key issues, you know, on some of the naturals, you know, and there needs to be a lot more work. I mean, I dealt with proteins because again I was using soy protein isolate as an example. But after speaking with some of the public, you know, there's other naturals on there that are mixtures of products. So we have to not only kind of give the chemistry lesson, but we have to look at the list and kind of understand the decisions that were made, understand, you know, some of these -- again, you know, I was just speaking with -- on aquatic plants, hydrolyzed. What does hydrolyzed mean? Well, there was definition, although in the annotation, it's probably not clear and it may not be clear to everybody what that means. So we need to build on this document. But ultimately, you know, the service -- the ultimate output is there needs to be a policy and it needs to be clear as to -- you know, in -- you know, what's allowed, what's not allowed. You know, if in the extraction process, again, there's materials that are left, does
that make something synthetic? After something's extracted, if there's changes that occur after, does that not trigger the synthetic? And it has to be very well defined so that it serves as that guidance. The same with agriculture versus nonagricultural. Take that definition and first dissect the definition and then look at all the substances that are there and figure out can a policy be -- a consistent policy be generated from the thoughts that were in the minutes from those meetings that placed them there. And, you know, so I also implore again, you know, these documents, again, were not written in isolation, you know, using the ghosts of everyone out there that were in the minutes, you know, in those conversations. You know, I didn't invent this stuff. These things have been discussed, it's just they weren't well documented and they weren't in documents that the Board could utilize, you know, in one place.

CHAIRPERSON KING: Well, thank you very much again, Rose. This is a good start. George, you --

MR. SIEMON: Yeah. Rose, this looks really good, and I'll probably do poorly reading your basic chemistry as I did the first time I took the class. But I'll try hard to read through it. But -- and I just read through it trying to see if this answer the
question about when a natural becomes synthetic by the
addition of the a synthetic, and I'm not so sure I saw
it. So that was the issue we dealt with fish meal. So
is this -- maybe I missed it. Is that covered there?

MS. KOENIG: Well, like I said, I mean, I
think there's assumptions, and I don't think it's bad,
necessarily. You know, a lot of people say, don't go
there, don't go back, you know, don't go back to the
things we're assuming are natural, and I don't
necessarily share that view. I think that you examine
and you understand the basics by which people have come
to that conclusion, and I think, you know, for -- and I
did that for soy protein isolate. You know, why is
soybean meal okay, but perhaps the isolate may be
thought of as synthetic? You know, a lot has to do with
the chemical processes that occur, but you have to be
able to justify.

MR. SIEMON: Yeah.

MS. KOENIG: So you have to develop, you know,
kind of a policy looking at that. But, you know, back
to the fish meal, you know, and again, I'm not going to
-- if it was -- I think what Keith said was the take-
home message on that, that perhaps that document didn't
reflect -- and Becky and I have talked to Keith about
that. The document should say, fish meal is -- you
know, if you consider it a nonsynthetic, it's a
nonsynthetic, it always is going to be a nonsynthetic.
Again, if you add something post-extraction, the fish
meal still is nonsynthetic, it's the -- whatever you've
added after you've determined it's nonsynthetic that has
to go on the list.

MR. SIEMON: But that's the clarity we're
needed is, if you add a synthetic to a natural, that
synthetic must be on the list.

MS. KOENIG: If you --

MR. SIEMON: Somehow that was unclear --

MS. KOENIG: But --

MR. SIEMON: -- with fish meal.

MS. KOENIG: -- if you buy -- that's what I'm
saying, a lot of these documents -- because I wrote
them, they're married together. This document, if
you'll go back to the OFPA proposal, there is a
marriage, because that says, yeah, there's an OFPA
category for these, and this is the document that kind
of brings the proof that these needed to be added, this
is where they're added, this is why they're added, and
here's the category for those additions.

MR. BANDELE: Rose, I had a question. I was
looking at the definition of extraction, via NOSB 1995,
saying you can use anything. And then in the rule it
says you can only use certain extractants in the plant
extracts, in 205601.

MS. KOENIG: Those are annotations. Remember
again -- you know, on -- you know, and again, Brian may
be the best person to answer this. I'll try and if I'm
wrong, Brian, or anyone else that's out there, Emily --
on some of the -- like aquatic plant extracts, where you
have kind of a -- the extraction materials specified in
the annotation, that was essentially what -- the Board
decided that the nonhydrolyzed -- or how is it? It says
hydrolyzed, I guess, in the reg. That meant to say that
is the natural. Okay, other than hydrolyzed meant that.
The hydrolyser acknowledging was the nonsynthetic form.
And again, this is why it probably shouldn't have been
on there in that formation. So they stuck it on under
that and then put what the actual synthetic part was,
and that was -- they deemed that the extraction method
was the synthetic section, and that's what made it the
-- aquatic plants now synthetic, and that's why it was
annotated in that fashion. So that's why in that case
the extraction materials were added. In other cases, it
was different. There might've been pH adjustment, like
with fish emulsions, that was specified that now made it
synthetic. Does that -- Brian, do you think that -- or
Emily or someone out there that -- who was in those
minutes and maybe -- he's shaking his head. Okay.

MR. BAKER: Yeah, and it's a tough one, if it's appropriate. Does the Board recognize me?

MS. KOENIG: Is that okay?

MR. BAKER: Okay.

MS. KOENIG: Okay.

MR. BAKER: All right. Yes, I was -- I'm Brian Baker and I am the research director of the Organic Materials Review Institute, and was the certifier representative of the National Organic Standards Board at the April 1995 meeting in Orlando, Florida when this was first discussed. And it was a different time for TAP reviews. The TAP reviews were not as thorough or as detailed then as they have been in the past several years, so the bar has been raised. The discussion specific to aquatic plant extracts at the Orlando April of 1995 meeting, the determination was made that the substance was nonsynthetic and did not need to be added to the National List. This led to a great deal of confusion on the part of those who considered it synthetic and were concerned that it would limit the market and access to the market only to those products that were not hydrolyzed using an alkali substance, a potassium hydroxide or a sodium hydroxide.

In the transcriptions that followed in the

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Austin November 1995 meeting, there was again some confusion, and I acknowledge, the minutes are not terribly clear, but the -- something got negated. It was actually a hydrolysis process using an alkali, such as potassium hydroxide or sodium hydroxide, that was being considered for addition to that National List as a synthetic. And for whatever reason, it was transcribed as other than hydrolyzed. So there has been a technical error that's been carried through from the Austin '95 minutes that really has been extremely difficult to interpret and implement. And I think we all can acknowledge that there's considerable confusion out there in the -- on the part of industry as to what exactly is allowed and at what limits, at what thresholds, and is it pH driven, is it driven by unreacted potassium or reacted potassium and what's available. And so again, this is an area where I have to appreciate Rose's efforts, and that we all need to go in with an open mind and be willing to reconsider decisions that were made almost 10 years ago.

CHAIRPERSON KING: Thank you, Brian.

MS. KOENIG: And by the way, if you look into that first document under that OFPA kind of draft, that we discussed interpretation of OFPA and National List, those minutes are in the document, because I...
acknowledged them. Again, you know, there was again a
marriage of these documents. So those were kind of the
minutes. The minutes are there in those excerpts -- it
was to answer your questions -- are provided from those
minutes, as Brian described. I think, Becky, you have a
question?

MS. GOLDBERG: Yeah. I'll try and be brief.
I was just going to sort of ask again what George asked.
I think what George was asking is, is we understand that
if you take a natural substance and add a synthetic to
it, the synthetic is a separate substance. And clearly
in the first document you presented, you talked about
using a category, production aids, to deal with some of
the issues of added synthetics. I think what George was
asking is -- we discussed earlier a bit about following
through with that. But well be -- will the committee
spend some more time thinking about instances where we
may not want to separate added incipients -- synthetic
incipients from naturals? It's a tricky issue and I
don't know the right answer.

MS. KOENIG: My feeling again -- and I was --
you know, I try to look at it in unbiased fashion. I
don't -- I am not one to worry so much about how many
tools are gained or lost. And so you establish the
policy, and then once the policy -- as long as the
policy's fair and allows things to be placed on and goes through the same criteria, I think it's more -- you know, don't make -- don't create a policy so that things can get in that you might want in, because it causes confusion, and I think the list in a way is the result of sort of the stuff that Michael was -- there was a lot of compromises that were dealt with to accommodate a list. So now we've got a lot of inconsistencies that we've got to deal with. So I say establish a clear policy. I say look at materials and see how they fall into those policies. I'm not saying disregard it, I'm saying come to your comfort level and develop a policy that's consistent with that -- that you think is in the best interest of the industry, that's what I'm saying. But not that's in the best interest of one particular product.

MS. GOLDBERG: Right.

MS. KOENIG: Because it will fall into this --

MS. GOLDBERG: And I don't think any of us are advocating that.

MS. KOENIG: Okay.

MS. GOLDBERG: But there still may be some tricky issues in the future where we simply --

MS. KOENIG: Yeah, I know.

MS. GOLDBERG: -- can't know the incipients

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and medications and all that.

MS. KOENIG: Right.

MR. NEAL: To comment, too, about the addition of a synthetic to a natural, just that type -- that line of thought kind of raises a question, and that's the use of an approved inert with a natural substance. Does the addition of an approved inert with a natural substance then render the product synthetic? If I add a natural -- if I add a synthetic to a natural, it automatically becomes a synthetic. Those are the types of questions that you have to wrestle with.

MS. KOENIG: You mean in the sense of pesticides?

MR. NEAL: I mean in the sense of just the addition of a synthetic to a natural. If I add a synthetic to a natural, does it automatically make the natural a synthetic?

CHAIRPERSON KING: Well, and I think, if I understand your question here --

MS. KOENIG: No. I mean --

CHAIRPERSON KING: -- what you're saying is it's already on -- either on the National List or approved and therefore it's -- but yet it's gone from a natural to a synthetic, and does it then need to be --

MS. KOENIG: No. Yeah. No, I don't. I think...
what Arthur -- and then I think it's -- you know, and I totally understand. It takes a lot of thought to try to get an understanding of this stuff. And again, I'm not one to say that I have full understanding of it. But those are two separate -- and a natural -- if something you decide is nonsynthetic -- a natural that's nonsynthetic should never be on that list as that product. What makes it -- you know, that's what I'm saying. You draw the line as -- you know, be it -- you know, I think, by the way it's written in the OFPA or whatever that definition is -- I guess it's in the rule -- that if you take extraction as the final point, once it's extracted, then anything that's -- you know, and I explained earlier, that's post-extraction, whether it's to help preserve it, whether it's to help spread it, whether it's to fill in and add filler to something, those are all synthetics, post-extraction. That material is still, you know, a nonsynthetic up to that point. And if you can take that nonsynthetic and apply it directly, that's fine. But once it gets post, you know, either formulated or, you know, put into a form, then those additional things have to be on the list, and that's where really the brand names in some ways kicks in, because -- then you have formulated products, and that's why it's really important to understand the...
difference between mixtures and compounds and substances. That's why you've got that basic chemistry lesson. If you understand those things, then it gives you the foundation as to what things are on -- you know, what are we dealing with? Are we dealing with a compound, are we dealing with a mixture, or are we dealing with --

MS. OSTIGUY: Arthur, am I understanding your question correctly, that you're asking, does the natural change after you've added the synthetic such that we should be looking at it to put it on the National List?

MR. NEAL: I'll say, yes, and the reason why I'm asking the question is because the statement was made, when a synthetic is added to a natural, the natural becomes a synthetic. And so all I'm saying is that, as we're thinking through this process, we have to be aware that there are certain situations that we've got set up on the list, like the use of an inert -- approved inert with a natural. Does it now mean the use of an inert with a -- yeah, an inert with a natural makes that natural a synthetic. And since all synthetics have to be on a national list type of deal. So we just need to think clearly through the process, and we're all in this together. You're not standing alone and we're not letting you walk alone, because we
want to make sure that everybody reaches the same
destination. You know, we have to enforce, we have to
ensure that this is applied, you know, across the board
at the same level, there's no disadvantage to anyone,
and we want these questions answered -- we want these
questions answered just as bad as you do, honestly, we
really do. And I can't express how glad I am that Rose
has already started the process, and how important it's
going to be for the Board to now take these documents --
and that's a lot of reading and again studying, and
you'll go back to school.

MS. CAROE: Can I -- the way I'm looking at
this, Rose -- and please see if I'm following you. But
you're looking at it as, if you're mixing a natural with
another component, both components have to be
acceptable. The natural is accepted because it's
natural, the other one would have to be acceptable
because it's either listed or a natural, as well. Is
that correct?

MS. KOENIG: No, I'm saying that -- and again
-- and part of it is, I think, the confusion of the way
it's listed on the list, you know? I would like to --
you know, I think ultimately -- and let's take aquatic
plant extracts as an example, okay, because again, in
that annotation it says other than hydrolyzed. Well, it
really -- the way in my opinion, if you use these OFPA criteria as outlined in that other appendix document, okay, if you utilize that category as crop production aids, and you had underneath it -- let me see. I'm trying to, you know, maybe -- see, again, it has to be better well thought out, and maybe I shouldn't be speaking without thinking a little bit here. But --

CHAIRPERSON KING: Well, can I suggest, Rose, for the sake of the agenda -- and I'm not bored, by the way.

MS. KOENIG: Okay.

CHAIRPERSON KING: So don't --

MS. KOENIG: But I -- I think you can tell me.

CHAIRPERSON KING: I know. But I think this --

MS. KOENIG: What I'm just saying is that, you know, the -- you know, the reasons why something that would be natural, which you would consider nonsynthetic, the reasons why it would become synthetic was because there's usually an addition of something in there. Rick and then Kevin.

MR. MATHEWS: Let me take a stab at clarifying it based on what I think I hear.

CHAIRPERSON KING: And can we summarize, please? And then we know this is going back to

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committee, they're going to discuss it, it's ongoing work, so we can't answer everything today.

MR. MATHEWS: Let's step back and consider two examples. And at the risk of bringing up old wounds, I'll move forward, anyways. We've got fish meal. Everybody recognizes fish meal as a natural. You've said that the synthetic that would be used as a preservative to meet the Coast Guard requirements to prevent spontaneous combustion would have to be on the National List in order for fish meal to contain that substance. You wouldn't be putting the fish meal on the synthetic list in company with the ethoxiquin. You would be putting ethoxiquin on the list. So what I believe Rose is trying to say is that the aquatic plant extracts were a natural, and that the materials used for the extraction process were considered, and in reality what should've been on the list is just the extractant materials rather than the aquatic plant extracts extracted in this way. So that's where the confusion I believe lies.

MS. KOENIG: Yeah.

MR. MATHEWS: Am I right, Rose?

MS. KOENIG: You're right, but, I mean, more particular -- you know, like we'll say with ethoxiquin. Go back to that example. You probably would, under that
one, annotate it for use of fish meal, because, you
know, you still may want to annotate things and keep
annotations, but it's almost the opposite of what
appears. It's not fish meal with that annotation, it's
the synthetic with the fish meal -- specify that that's
where it can be used. So it's kind of counter, and I
think that would provide clarity. And I think -- again,
I think that those who put things on the list understood
that it wasn't that they were not clear, it's just they
didn't understand how it was going to be interpreted.
And I think now that we understand how it's being
interpreted, this is what we're trying to mesh, is how
we can do it, that it's clear in the regulatory language
and the interpretation, so that when we have, you know,
products such as I talked about and letters go out and
we're not happy with the decision, it's because -- you
know, I think some of it's just because of this not
understanding of how things are interpreting and how
things are appearing.

CHAIRPERSON KING: Okay, thank you. We're
going to move on. Sorry. Dave, you're up. I didn't
want to see you yawn.

MR. CARTER: That's okay. Rose was doing such
a good job, I was going to have her handle my work, too.
Okay, we have a couple of things on the agenda here.
The first one, which you will find back under policy tab 11, and it's a misnomer to say that this is a committee draft for a vote, because the committee has not formally acted on this, so this is just for preliminary discussion. But Andrea particularly has requested that we establish a little more formalized procedure for scheduling meetings for the Board and the various committees, and so has drafted this proposal on meeting protocols. And the key points of it are that, for conference calls -- the full Board conference calls be scheduled with at least weeks notification, that standing -- or the committee calls be scheduled with two weeks notification, and that in-person meetings be scheduled with at least three months notification. And she also drafted up some language here to talk about them in -- that in requesting for e-mails, if e-mails are circulated to schedule a meeting, that 48 hours be given for a response time for any e-mails, and that there is a provision for scheduling meetings with less notice than stated, but that you have to circulate the e-mail with 48 hours in response for the e-mail, and then follow up with phone calls to the folks that didn't get back to you. So that's really the summary. Andrea, any other -- did I hit the highlights or --

MS. CAROE: Yes, you did a good job at
summarizing. I do want to say that I did create this
draft, but I also consulted with a couple other members
on the Board. And the reason that this was drafted is
that I feel it's imperative as a stakeholders' Board
that when we meet we get as many of the stakeholders at
the table as possible. And we come to this Board from
various different positions and different places, and
it's sometimes difficult to understand the perspective
of each of our specific roles and how we are able to
schedule our time. So I wanted to put on the table a
discussion and then something that we can come to
agreement on in respect for each other and our positions
and our ability to accommodate this volunteer position
and our lives. So again, not everything in that
document is generated from me, but from people that I've
spoken with. We have people that travel a lot on this
Board, we have people that have business commitments
that are not very flexible, unfortunately, and this was
put there with a couple different ways to accommodate a
quicker schedule for those times that are just
impossible to give the long notice. So that's the
history behind it, and it's on the table. It is a
working document for consideration, and hopefully to be
put into the policy manual, again, to establish that
respect for each other as members of the volunteer
MR. CARTER: Now my one comment that I would have on this particular draft, too, is that the area in talking about scheduling meetings with less notice than, for example, the two weeks for committee, that -- and I appreciate the procedure for the e-mail distribution and then following up with a phone call. I would think that perhaps we might want to give a little bit of some breathing space there on the phone calls, that a reasonable effort be made to call. Because, for example, we've got one member of the Board right now that's somewhere in Nepal or Mexico or, you know, somewhere, so that there -- something there -- if something comes up, there may be somebody that is just absolutely out-of-pocket, but that a reasonable and determined effort be made to make that contact. Anyway, that's my comment. Other comments on this? Kim?

MS. DIETZ: A question. There's italics? Is that somebody else's comments on this document? It looks like there was --

MS. CAROE: Actually, those were Mark's comments. They were your comments, Mark. So this is a working draft and I left them -- I left them that way so that we can discuss them.

MR. CARTER: And just for information, this
draft was posted just as a part of the meeting, but there -- so really it has not had notice. George?

MR. SIEMON: Yeah.

MS. DIETZ: Oh, wait, I wasn't finished.

MR. CARTER: Kim.

MS. DIETZ: I was one that supported this document and I know that oftentimes, again, when we're all traveling and all that, at least if we have to schedule emergency meetings, which we've had to in the last year, we have to get calls within a few days. A lot of us are able to meet those calls and deadlines. The other thing is that I know that there's some guidelines by NOP on setting conference calls, and there's a two-week minimum notice. So this document really is a line-list. Seven? It's two weeks, isn't it, before they can set up a conference call?

UNIDENTIFIED SPEAKER: Seven days.

MR. SIEMON: Seven days.

MS. DIETZ: Okay. Well, whatever it is, we should probably try to follow that same guideline in there. If they require seven days to set a call, then we can require a seven-day notice. So let's just try to be consistent with that.

MR. CARTER: Okay, George and then Rose.

MR. SIEMON: I just might have misunderstood
you, because I don't see it here. To set up a committee
call, you can do that entirely through e-mail. I heard
you say follow-up calls, Dave, so --

    MR. CARTER: Yeah.

    MR. SIEMON: -- I don't see that and I'd be
concerned if you add that. It says e-mail and 48 hours
to respond.

    MR. CARTER: Well, okay. If you look at the
second page at the top of it, George, it says,
"Emergency Calls."

    MR. SIEMON: Well, yeah.

    MR. CARTER: They'd be scheduled with less
notice only after each member is contacted to reach
consensus on time and date. If members do not respond
to e-mail request, the chair, their designee, must
contact the member by phone.

    MR. SIEMON: Yeah. And I have no problem with
that for an emergency call, but on a regular call --

    MR. CARTER: Yeah.

    MR. SIEMON: -- e-mail with the 48 hours is
adequate --

    MR. CARTER: Yeah.

    MR. SIEMON: -- with the two-week -- you know,
what we have written down there.

    MR. CARTER: Yeah.
MR. SIEMON: So it's -- I didn't know if I heard that.

MS. DIETZ: And then just out of respect for people, that if you get something from your chair, then you should respond, because otherwise that's going to cause more work for them, so --

MR. CARTER: Yeah. Rose?

MS. KOENIG: I mean, I like the spirit of the document. I just -- I guess I'm concerned, just kind of knowing the way things have evolved. You know, maybe it's just the past few months have just been peculiar, but, you know, as they say, the four letter word happens. And, you know, a lot of times you're in your predicament, you know, and you got to get your work done. So, you know, if we can -- I don't know if we can solve the language to say this is ideally the policy, you know, without even the emergency clause, you know, that this is our hopes, these are our aspirations. But, you know, what happens if we violate it? I mean, are we going -- is there sanctions? I mean, so that's -- you know, it's great to have a policy, but what happens if you don't meet it, you know? Do you kick off or, you know --

MR. CARTER: So you would recommend --

MS. KOENIG: So, Mark -- does Mark insult you
at the next meeting?

MR. CARTER: You recommend this be a guidance and not a directive. Okay.

CHAIRPERSON KING: Now that I recall actually commenting on this document, I'd like to argue in support of the italics text here. But seriously, I did -- Andrea and I talked about this, and it is very difficult for boards like this to be both, you know, timely and effective and efficient and accommodate everyone's schedule, and so I'm in full support of, you know, anything that helps the Board operate in a more effective fashion. Having said that, what I would really hope to avoid is boxing us in and, you know, policying and proceduring us to death. So if we can set some, you know, realistic guidelines to ensure something happens in a timely fashion, then that's great. But let's keep it somewhat of an open and flexible process.

MR. CARTER: Okay. Andrea? Yes.

MS. CAROE: Again, this was meant in the spirit of ultimate respect for each other. It is a guidelines. It wasn't meant to kick anybody off the Board. I mean, if stuff does happen, Rosie, I mean, I've had to leave this meeting a couple of times. It was unfortunate, but it's out of my control. That happens. I understand that. But what I really don't
think that everybody has the perspective of is when something hot comes in, and they have a very flexible schedule, they expect everybody else to be moving on it, too, and that's not reasonable all the time. And when it's a really hot issue, that's especially the time that we need all the stakes at the table that we can get there, and I think we lose that when we try to react quickly, just -- and not out of anybody trying to keep people out of the situation, but it's just a matter of not understanding each other's lives and how we work.

MR. CARTER: Jim and then Nancy.

MR. RIDDLE: Go to Nancy first.

MR. CARTER: Oh, was she first? Oh, okay.

Nancy and then Jim.

MS. OSTIGUY: I support -- fully support the idea of making sure everybody has sufficient notice, and I also would prefer not to give any kind of sanctions if you can't get a hold of somebody. I've been the ultimate of not being able to find, and sometimes it's purely because I've not looked at my e-mail, and that should not be anybody's responsibility but mine. What I would appreciate is that the comments that are made in the proposal repeatedly mention industry as if industry is the only folks that have the tight schedules that sometimes don't allow flexibility, at least that's how
it's interpreted by me. So I would prefer that be extracted.

MS. KOENIG: Should we put academia and

industry --

MS. OSTIGUY: Well, no, no.

MS. KOENIG: -- and leave out the farmers?

No, I'm --

MS. OSTIGUY: No.

MS. KOENIG: I know.

MS. OSTIGUY: I just think that, you know, all

of us have really heavy time constraints sometimes.

MR. CARTER: Okay.

MS. OSTIGUY: And if we just accept that as a

generalization, wonderful.

MR. CARTER: Okay.

MR. RIDDLE: Yeah. I really appreciate this
discussion and having the draft in hand. I think,

though, now that the committee should take it back and

pare it down to the bare necessity, the basics. You

know, we've heard a lot of the reasoning for it, we've

had discussion of that, we accept that, but that's not

the format of the Board policy manual. What we need to

get to down to is just the nuts and bolts of kind of the

policy, the procedures we follow as guidance, so --

MR. CARTER: Okay. All right, it seems like a
go wrap-up of the discussion, then. Okay. Then,
Mr. Chair, what I'll move onto is the Board policy
manual. I know it says Jim, but I don't think he's had
time to look through anything, and I've been sitting
here perusing it. So the -- specifically after our June
9 discussion with the Policy Development Committee, or
members of the Policy Development Committee came in and
met with members of the program, and talked about the
framework for collaboration and other ways to really
improve the working relationship between the NOP and
NOSB. Barbara offered to go through the Board policy
manual and really provide us with some advice and some
guidance to make sure that everything that we have in
the Board policy manual then is -- conforms, not only
with OFPA and the Final Rule, but with FACA and the
illustrious Paperwork Reduction Act and other things
that we fall under. And so Barbara has done an
exceptional job. I want to commend her for really going
through and providing us with some things. Yesterday
morning she came in and circulated the copies of her
comments, it's this document that says, "Policy and
Procedure," and I do just want to walk very quickly
through some of these things, and then we will put this
out for discussion. We aren't in any way in a position
to take any action on this, but I just want to highlight
a few things.

UNIDENTIFIED SPEAKER: Page eight.

MR. CARTER: Yeah.

UNIDENTIFIED SPEAKER: Can we take this down?

Take this one down?

MR. CARTER: Yeah, you can take that one down, because I'm just going to verbally summarize. And I visited with her in the hall just a few minutes, because she was so thorough in this, she even offered to edit our mission statement a little bit. But in looking through it, I actually think these are some very constructive changes, but obviously things like that, the mission statement and things that we've adopted previously, we'll have to go back and revisit. So --

MR. SIEMON: Dave?

MR. CARTER: Yeah.

MR. SIEMON: Just so I'm clear, so these corrections, they're not listed -- they're not -- I can't find what was changed in this document.

MR. CARTER: Well, most of them are listed. As we go through -- she footnoted the things. So, Barbara, if you want to --

MR. SIEMON: Okay.

MR. CARTER: -- yeah, you know, add in as we go along here. The -- if, for example, you go down
under the mission statement where it says, "Duties of the Board and officers," and it goes down. There's a footnote, two, and her suggestion is that we just draw the language directly from OFPA, you know, to include in there. I mean, that's what we're getting at with the language there. Her suggestion is just to do that directly.

MR. RIDDLE: I have a question.

MR. CARTER: Yeah.

MR. RIDDLE: I've got a question about that, then. Would that be in place of this -- those sections, duty of care, duty of loyalty, obedience, or this --

MR. CARTER: No.

MR. RIDDLE: Okay.

MR. CARTER: No. I think as -- as we went through, you know, the duty of care, duty of loyalty, and --

MR. RIDDLE: Uh-huh.

MR. CARTER: -- duty of obedience, which are pretty traditional for a board -- you know, in board policy manuals -- remain in there. There is some discussion that I think that we will look as we go forward, in how we address the conflict of interest provisions and the verbiage there. A lot of the things that are in the Board policy manual right now are just
drawn from typical -- and my background was in nonprofit management, so it was drawn from a lot of the nonprofit statutes --

MR. RIDDLE: Yeah.

MR. CARTER: -- and traditional board policy manuals, so --

MR. RIDDLE: Yeah. So back to my question, and then -- and maybe this is for Barbara. That comment is about that first paragraph, which, as I recall writing it, it was paraphrasing of some language of OFPA, trying to just summarize it. But your comment there is to actually just cut and paste the text or lift the text verbatim, correct?

MS. ROBINSON: Right.

MR. RIDDLE: Yeah, okay.

MS. ROBINSON: That's all I was saying.

MR. RIDDLE: Okay, I just wanted to make sure I understood your comment.

MR. CARTER: If you go back to page four, this is one of the areas. For example, footnote six. It talked in our Board policy manual about NOSB members, including committee and task force members and contractors, and some explanation there about, you know, the contractors and agents of the Board, because by law the Board does not contract directly with private...
entities, USDA. So, you know, some areas do address that. But under footnote nine -- and I think this is something that we need to take back to committee and talk about, because it talks about the confidentiality requirements. And the question she asked is, what are the consequences for members who fail to maintain confidentiality? The consequences are limited, because we certainly can't cut our pay.

MR. SIEMON: That'll double the turnover.

MR. CARTER: Yeah, double the -- you know, those are some things we need to -- yeah?

CHAIRPERSON KING: I just want to note that several us don't have a page four, so for -- when you forward an e-mail copy or something, and then we --

MR. CARTER: Yeah.

CHAIRPERSON KING: -- we know what the -- no. Only Jim has page four.

MR. CARTER: Page five. I was kind of proud that it took us a full five pages to get her a little bit confused. But under footnote 14, she notes that you've lost me here, because it's talking about, again, the conflict of interest provisions, and specifically -- let's see where that's referenced. The Board advocating the value of -- in private discussions. It's talking about private discussions and the like. I think what we
were referencing there, Barbara, was the fact that it's been reported in the past that sometimes members of the NOSB get together at a bar after the meeting and have a beer or something like that. I've not been particularly, you know, a participant in any of those sessions. But anyway, it's time to talk about -- you know, in our informal conversations, that we're lobbying each other for a position where there's a conflict of interest.

MR. SIEMON: Where there's a conflict of interest.

MR. CARTER: Yeah, where there's a conflict of interest. Yeah. But otherwise we can buy beer until the -- yeah. The -- going back again, page six under conducting business. Again I think some very good suggestions is just to take some of the language and make sure that we have in the Board policy manual is just verbatim with what it is in OFPA to avoid any confusion. On page eight, the -- I guess the one thing where I was a little confused on, Barbara, is under footnote 22. You should make clear that your committees do not act on their own. They are directed by the Board, based on the requirements for work, either by the Board or the secretary. I guess -- I think that's covered. And maybe you're thinking of something else,
but where it says, "Other than the Executive Committee, no committee is authorized to act in the absence of the Board." So it's really talking about the committee. The standing committees have specific areas of work, which are described later on in that section. So we can visit a little bit off-line about -- if there's some confusion -- confusion there.

The -- back on page 10, then, there are some miscellaneous polices that again were inserted in the Board policy manual directly as they were adopted by the Board. We do have some things under there. For example, there's several footnotes under policy for presenters invited by committees. You -- I notice that you say that, you know, perhaps we ought to ask for a copy of their presentation prior to them coming to the meeting. If most presenters are like me, you're usually making up your presentation on the way to the meeting, even though you've accepted, you know. But anyway, we can address that.

The one thing that -- if you go back to page 11, there is the issue of the policy for surveys conducted on behalf of the NOSB committees. This is obviously one the things that was a point of contention in the past of what we had in our policy manual and what federal regulations require. So Barbara has suggested
some language that brings us more into conformance with federal policy. But again, we have to go back and look, because what was in the Board policy is what was adopted, so we'll have to -- okay, that is -- number one in there, and it's not footnoted, but number one is new -- is -- yeah, under policy for surveys conducted on behalf of NOSB committees, that is different from what was in, and it just wasn't footnoted. Yeah. Okay?

Yeah, Jim?

MR. RIDDLE: I'm just wondering, Barbara, if you have this in revision mode or somewhere where these kind of changes that you've inserted are easily identified, or if we really have to go through this side by side to find them all? I just --

MS. ROBINSON: I don't want to make this easy on you, Jim. Well, you know, it seems like if I sent it to you -- if I just send you the document -- probably -- I'll check, but it seems like we could go up and just say, click on final -- retract the changes.

MR. RIDDLE: Yeah.

MS. ROBINSON: The final will show in markup and it would show you --

MR. RIDDLE: It would show -- uh-huh -- yeah.

MS. ROBINSON: It should show you what I did.

MR. RIDDLE: If we can get that copy, it would
really help us with our next step on this.

MR. CARTER: So anyway, yeah, that -- because I think most of the changes that she had in there, at least as I was going through on the cursory review of this, were footnoted except for the mission statement and that other one, but that would be helpful. So anyway, those are the major things that I noted as I briefly scanned this. We will take this back now to the committee and work on bringing forward a draft. Yeah, Rose?

MS. KOENIG: I had a suggestion that I remember from a couple years ago now, and it's under for the confidential information statement, and we have it -- we have -- I guess in two places now. You had it -- you know, in the materials section it talks about what -- how it looks like in a petition, and then you again in that -- in your document, have a section on CBI, right? But the problem is and the issue that came up -- and I -- you know, and we got reprimanded for it, which was understandable. But at that point, I mean, I didn't discuss it, but one of my frustrations is I don't really know how you're supposed to act with this kind of information. You know, what are -- what can we and -- you know, the materials shows where it's deleted, but where -- what are we allowed to discuss? We're not
supposed to know about it, but, you know, how do we act
when we have CBI information? What's our code of
conduct? Because there was -- you know, and I was at
fault, I remember. You know, we crossed the line on
certain issues and I don't -- and I truly say, I mean, I
didn't realize that I was crossing the line or the
committee was crossing the line, but we were told we
were, but there was nothing in the policy manual, and I
had gone back to see, you know, maybe in that first
document that they gave me. I didn't read through it
all and there was something in there and I should've
known it. But so -- I mean, it was an issue that came
up and I think -- I don't know if you all have that kind
of information in a text form, but -- or the government
has it. I mean --

MS. ROBINSON: I'm actually trying to think,
Rose, and when I go back to the office, I'll make a note
to check with our ethics officer to find out if there is
something that's actually written down someplace about,
you know, what does it mean when we say hold
confidential business information confidential? I mean,
there's a lot of commonsense stuff, obviously, that
comes to mind. But I'd just be amazed if the government
hadn't written something down about those that we could
-- that we could share with you. But it's a fair
question, so I'll see what we can find.

    MR. CARTER: George?

    MR. SIEMON: Well, I wondered the same thing, just about confidentiality between the things NOP tells NOSB. And in fact, it has rules like that or, you know, things that they want to share with us, but they want to have some sense of confidentiality. I haven't seen that in here so far, so I just wondered if FACA has something like that already. I'd like to see us to build trust in that kind of thing, if there's something put in here about that, because I don't know.

    MS. OSTIGUY: Barbara, it's possible -- one thing that might help with the Board, in general, is while for a number of us potentially CBI or any other confidential information is intuitive, but that's not always the case. My husband's on a NASA FACA board, and they actually had a workshop that covered confidentiality, and that would probably be a very good idea for it to happen every once in awhile to remind old Board members and to train new Board members.

    MS. ROBINSON: Actually that's a good idea, considering that, you know, we'll have to have some sort of orientation for new Board members next year, so I'll look into that, too, and see if there isn't someone that could come and talk to the Board and explain.
MS. OSTIGUY: I could find out who it was.

MS. ROBINSON: Okay, that'd be great.

MR. CARTER: Okay, Jim?

MR. RIDDLE: You can find out, but you can't tell. Yeah, that section under professional conduct, which is -- on page four of Barbara's revisions here, has language on nonpublic information, was the title -- or the words given, not confidential information. But that was just provided by Keith to us a couple meetings ago to take it directly out of USDA text. So that's a fairly new addition to bring it in line with the USDA requirements.

MS. ROBINSON: Right. But don't -- now, nonpublic information is not always confidential, because --

MR. RIDDLE: Yeah, yeah, yeah. I understand that, but --

MR. SIEMON: Then that answers it. I was looking for the word confidential --

MR. RIDDLE: Yeah, that was in response to George's question, which was broader than CBI.

MS. ROBINSON: Okay.

MR. CARTER: Okay, other questions or discussion?

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MR. CARTER: Okay, this is another one that we will take back and working out of revision mode. But again, Barbara, I want to thank you for going through this, because I know that we put a lot of work into to developing this Board policy manual, and to know that this is the baseline for how we continue to go forward is very important.

Mr. Chair, I do have one other thing, as per our discussion yesterday on the scope document, I'd like to pass around, in order to try and move things forward as judiciously and properly as possible, I did incorporate some of the technical corrections and changes in this document. Really, those are three changes that -- I'll wait until everybody gets their copy.

UNIDENTIFIED SPEAKER: Dave, do you want this document or it this obsolete?

MR. CARTER: That's obsolete, also, yeah. This is what reflects the comments from the discussion yesterday.

MR. SIEMON: And the underlined are the improvements?

MR. CARTER: Yes. Well, some of the
underlined. I should've used something other than underlined, because, yeah -- here, you can -- okay, because I've got the original here. The -- there are really only three changes in that -- first of all, a technical correction on page one, it includes pet food as one of the areas of the scope that was unintentionally left off. When you go back to page four, it reflects, as Tom Hutchinson [ph] said during his public comments yesterday, that what was gleaned from OTA was -- and there was an error in that, so we included the underlined portions there, so that the paragraph now is amended, it reads, "The absence of specific standards for such products should not become a reason for allowing organic claim to be made for such products, if they do not meet the standard. Until standards are developed, USDA should not allow the organic claim to be made regarding these products, if they do not meet the standards." So I inserted that language there.

And then down below that is the issue that came up then under personal care products, cosmetics, and that is that, "If the words organic or made with organic are used on the principal display panel, such usage shall comply with the product content requirements of 205300, 301, 308, and 309 of the Final Rule."
So, Mr. Chair, I would -- if it's allowable, I would make a motion that we -- the Board move this document forward for posting.

CHAIRPERSON KING: Is there a second? I mean, we don't necessarily have to vote unless someone objects.

MR. SIEMON: -- or do you want to vote on these?

CHAIRPERSON KING: And I think that's good, we'll recognize him.

MR. CARTER: Yeah.

CHAIRPERSON KING: It's been moved and seconded that we move the scope document forward for posting and official recognition. Is there discussion? George?

MR. SIEMON: What's posting mean?

CHAIRPERSON KING: Posting on the web, I'm assuming --

MR. CARTER: Yeah.

CHAIRPERSON KING: -- Dave --

MR. CARTER: Yeah.

CHAIRPERSON KING: -- is what you mean. Okay.

MR. SIEMON: So just for the public record --

MR. CARTER: Right.

MR. SIEMON: -- not more than that? Okay.
UNIDENTIFIED SPEAKER: And for comments.

MR. CARTER: For comments. For public comments.


MR. RIDDLE: I just have a question about the OTA statement, because I'm the one that typed it in, and I want to know if I made the mistake and omitted that or was -- okay, that was not in the OTA report, or the organic report, you're newsletter. Is that -- pardon?

UNIDENTIFIED SPEAKER: Our --

MR. RIDDLE: Okay. Because I wanted to apologize if I was the one, but now I don't need to, so I'll save that for another time. Okay, I just wasn't clear.

MR. CARTER: Okay.

CHAIRPERSON KING: Rose.

MS. KOENIG: I have a question on clarification. All right. So if we post -- we're voting to post all these documents. Will there be kind of a generalized statement included in front of them with some kind of explanation? I guess what's -- I don't want to cause you more confusion, because they are response to directives, so do we need a statement or how are they going to appear?

CHAIRPERSON KING: I think -- yeah, in this
particular case -- and, Dave, if you feel differently, please speak up. But if you read the background section, it provides a pretty good foundation for why this document's been generated, so --

MR. CARTER: Yeah, I concur.

MS. KOENIG: I guess -- I mean, we should probably look at all of them and just make sure that there's enough language and -- okay.

CHAIRPERSON KING: We're only voting on this one --


CHAIRPERSON KING: -- at this time. So further discussion?

MS. DIETZ: This is going to be posted at the website?

MR. CARTER: If we approve it.

CHAIRPERSON KING: If we approve it.

MS. DIETZ: I'll just -- let me just say something, because everybody's looking at me. I'm usually the stickler for dates and things getting to us in advance, and I appreciate you bringing us back. I fully support posting it for public comment, and I know the urgency in getting all these documents out. So I do support it. Just for future reference, again, we need to try as a committee to make sure we get stuff out on a
timely basis, and this meeting was of rare exception, 
because I know we've all been stressed for time, but --

    MR. RIDDLE: But it was included in the
meeting book about a week ago, correct?

    MR. CARTER: Yeah. And the only reason that I
would bring this forward was that, as per the discussion
yesterday, everything in here reflects the discussion we
had yesterday. Two of the three suggestions are
technical in nature, and the other one is a quick read.

    CHAIRPERSON KING: Should I call the vote?

    UNIDENTIFIED SPEAKER: Um-hum.

    CHAIRPERSON KING: All right, it's been moved
and seconded that we approve the National Organic
Program's scope document for posting on the website.
All those in favor signify by saying aye.

    BOARD MEMBERS: Aye.

    CHAIRPERSON KING: Opposed same sign.

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    [No response]

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    CHAIRPERSON KING: Motion carries. One
absent. For the record, George Siemon is in the hallway
on his cell phone.

    MR. RIDDLE: Yeah, really there's two absent,
because there's one absent for the whole meeting.
CHAIRPERSON KING: That's true, that's true.

Does that conclude --

MR. CARTER: That concludes the Policy Committee report right now.

CHAIRPERSON KING: Perfect timing. Perfect timing. Let's take a break and be back here at 3:15.

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[Off the Record]

[On the Record]

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CHAIRPERSON KING: For those of you interested in public input, session number two, that will be tomorrow morning, and I believe, Katherine, the sign-up book has been outside, is that correct?

MS. BENHAM: Yes.

CHAIRPERSON KING: Okay. And if there are other interested parties who would like to sign up, the book is here, and if we could maybe pass that over to Katherine, and then if someone's interested in signing up, they can -- okay, all right. We'll let you keep it, and if there's anyone interested in signing up for public input tomorrow, please see Katherine.

UNIDENTIFIED SPEAKER: There are slots available.

CHAIRPERSON KING: There are slots available.
Hold on, we have question from the audience. Yes, sir.
Hold on, hold on. Yes, please go ahead.

UNIDENTIFIED SPEAKER: The departments from yesterday, will they be first?

CHAIRPERSON KING: It is my understanding that the order you had signed up in on the initial day, that you had been transferred to the following public input session. Now, it may not be exact, but we've done our best to do so. And, Katherine, can you confirm that they are all transferred? I believe -- I had made notes for everyone who had wanted to sign up. So you may wish to double-check just to make sure. Thank you. Well, we'll make every effort to get five. That's been our standard policy, and yesterday, of course, was just due to time constraints. There were probably four or five and I noted all of them, so --

MS. BENHAM: Four. Four.

CHAIRPERSON KING: Okay, that sounds about right. Okay. On the agenda next we have listed the Accreditation, Certification, and Compliant Committee. And if you'll recall, I believe it was yesterday we talked a bit about noncompliances in general, and that's been a large part of that committee's work over the last year or so. And Andrea has indicated that the committee doesn't wish to bring anything forward at this time. Do...
you have any comments?

MS. CAROE: This committee has kind of taken second seat to the committees that have been working on the directives and the responses to the directives, and due to that, important business that everybody's been working on, we've put off our items for a later date.

CHAIRPERSON KING: Jim.

MR. RIDDLE: Yeah, Andrea, during public comment yesterday, one of the certifiers brought up the issue about the information on certificates and the fact that the, you know, compliance with NOP standards or regulations is not required and there are, you know, problems because of that. And I know that in the past we've had started a draft, a draft one, when I was chair, and then we didn't follow through with it, and I would just request that the committee reconsider that for a work plan item.

MS. CAROE: Okay. And I'll include that, thanks.

CHAIRPERSON KING: Okay. We have Crops Committee, so, Nancy and/or Rose.

MS. OSTIGUY: Rose has been kind enough to agree to take care of this, since I'm slightly befuddled.

CHAIRPERSON KING: Well, and we've had some
request from the audience that Rose be more involved at
this meeting, so I think it's only appropriate.

MS. KOENIG: Okay. Yeah, more hits on --

MR. CARTER: I'm just honored to be sitting
next to you.

MS. KOENIG: Okay. So the first one was that
came on was the -- on the agenda was the presentation on
extraction or extraction procedures, if I have the
agenda in front of me. And as I explained before,
originally, when we came up with that agenda item, we
were thinking of this paper on extraction, which became
the synthetic versus nonsynthetic documents. So in
terms of that report, there is nothing to report.
However, Arthur would like to just explain kind of a
recent correspondence that he's received regarding
extractants and sort of just update the Board as to how
he sees us proceeding on the response to that request
from the public.

MR. NEAL: Thanks, Rose. About a month, a
month and a half ago -- it actually starts back further
than that -- there is a particular participant in the
industry who manufactures aquatic plant extracts. In
this manufacturing process he uses potassium carbonate
to extract the aquatic plant extract. And his question
was, this hydrolysis that is included in the National

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List, other than hydrolysis, does hydrolysis embody the use of potassium carbonate as an extractant? The NOP did not provide him with an answer directly. What we did is we referred that question to the Crops Committee for additional insight in terms of hydrolysis based on that recommendation that was made by the Board at that time. Rose has started doing some work and she's provided the definition of hydrolysis. And what we went looking for is for some insight and comment to the NOP on that particular process, hydrolysis, and whether or not if it allows the use of potassium carbonate, so that we can provide a response to this inquirer. So that's why that particular agenda item was listed, potassium carbonate, as an extractant.

MS. KOENIG: So I guess just to be clear on the process, that the committee will discuss it and kind of hopefully craft a response that you guys would consider, or does that have to be -- the committee would vote on it and how are we going to proceed just as you see procedural-wise on the -- what do you want from us and how do we have to do it? Is that direct enough, Mark?

MR. NEAL: A valid question.

CHAIRPERSON KING: Thank you, Rose. We've come a long way, truly.
MR. NEAL: The -- I think the best -- the best steps to take forward right now is to speak with the petitioner based on our conversations at this meeting, because we did not have or we're not sure whether or not if hydrolysis allows the use of potassium carbonate. Based on our knowledge we believe hydrolysis to be really the breaking of the bonds by water. But he was referring to some process that he says has been used in the organic industry for years. But I was not aware of it and we did not want to make any false moves without making sure that, you know, all of the different avenues and aspects concerning this procedure had been reviewed. We will get with the petitioner -- I mean, with the inquirer, and let him know the discussions that took place at this meeting. But in terms of a formal response, I think we would like for the committee to agree on that particular process and vote on whether or not that process does allow the use of potassium carbonate and send that to us as a committee response. And what we can do at the next meeting, that response can be recognized and be kept in the archives of decisions that was made by the Board for future reference, if anybody else has any questions about the use of hydrolysis and it's allowance of synthetics.

MS. OSTIGUY: Just so I'm understanding what
you're requesting clearly, you want specifically, do we -- does the committee believe that potassium carbonate is a hydrolysis process? But more generally, what -- define hydrolysis.

MR. NEAL: That is correct.

MS. KOENIG: And I just had a -- what's confusing me, is this same person who's petitioned to add potassium carbonate to the materials list, or is it a different individual?

MR. NEAL: A different individual and a different use.

MS. KOENIG: Okay. All right, now it's --

CHAIRPERSON KING: Okay. Is there other questions, discussion?

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[No response]

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CHAIRPERSON KING: All right. Rose, this is merely --

MS. KOENIG: Okay.

CHAIRPERSON KING: -- for formality, but if you would --

MS. KOENIG: Okay. So --

CHAIRPERSON KING: -- talk about soy protein.

MS. KOENIG: So soy protein isolate, it was --
the committee met, we again reviewed the information, and we voted to defer the substance. And I'll read what I sent to Arthur, because he asked for kind of a response, and he said he was going to -- he asked for this last week and I got it to him on Thursday, and he's going to take it and probably place it on the website. He's got something on there which is kind of a Reader's Digest version. So anyway, here -- this is what the committee -- the Crops Committee voted to defer the substance and seek additional information on the extraction process to determine, one, whether or not the substance is chemically changed during the extraction process; two, whether the substance is chemically changed after it is extracted it make it more functional for its intended use or uses; and three, what happens (chemical reactions) during the neutralization step in the extraction process; four, whether there is a presence of additional substances after extraction of the petitioned substance. The Crops Committee also thought it important -- it was important for the NOSB to clarify the definition of synthetic and nonsynthetic so that this substance could be evaluated and be consistent with the intent of OFPA for inclusion on the National List. The Crops Committee has submitted a draft document to begin the discussion on the further
clarification of the definition of synthetic for the October 24 meeting, and that's the one we discussed earlier.

The committee has also used three sources to obtain further information regarding the issues stated above. The petitioner, the TAP contractor, and an expert on soy bean manufacturing from Kansas State University has provided additional information to the Board that will be considered in addition to the petition and the original TAP report on this substance. The Crops Committee will also consider public comments on this substance when making the recommendation. And basically we have -- again, as I stated before, I believe we have all of that information now at hand, and I foresee that we'll be able to make a decision on the substance.

MR. NEAL: What the NOP will ask is that that particular recommendation that Rose just read come to the program in the decision -- really in the committee recommendations form that's provided to the Board so that we can officially post that on the website as a current update to the deferral.

MS. KOENIG: So you want another version of the soy protein isolate? Not a problem.

CHAIRPERSON KING: Kim.
MS. DIETZ: Rosie, is the rest of the Board going to get all those other documents, also, for the review?

MS. KOENIG: Go ahead.

MR. NEAL: The documents are posted on the website. The only one that's not posted on the website is the one from Kansas State --

MS. KOENIG: Um-hum, um-hum.

MR. NEAL: -- because we have not -- I didn't -- we didn't know whether or not -- just because he supplied that information to Rose, whether or not we could just post up our --

MS. KOENIG: Yeah.

MR. NEAL: -- website.

MS. KOENIG: I just -- yeah.

MR. NEAL: What we're doing is we're going to ask him first before we just post it on the website.

MS. KOENIG: Because I had told him and I asked him for his opinion and I said it would be used by the Board to evaluate it. But then, you know, upon thinking about it, I thought it was only fair to let him realize that it was a public document, and we just -- we couldn't get a hold of him. So -- but as soon as we get that okay -- because, I think, potentially he could be a good resource for the Board, and I didn't want to, you
know, create a atmosphere that -- you know, that he
didn't understand the process.

Okay, the last thing is the Compost Tea Task
Force report recommendation. There was some public
comment that came to the committee regarding -- there
was -- I should mention, on the soy protein isolate,
there was one public comment that has already come in on
that substance, and that will be reviewed with -- as we
do the review and any other additional public comments
that may come in once we post our decision before the
next meeting. But on the Compost Tea Task Force, there
was a few comments that came in on that product. Two of
them concerned kind of the -- question the testing
protocol that was suggested within the document, and
they felt that it was pretty extensive. It could be --
extensive and could be pretty expensive, and weren't
comfortable with that and felt that it just was not
necessarily doable for the farmer, and these were farmer
comments. And then the second comment had to do with
the recommendation in the document that allowed for food
contact disinfectant, like all materials on that list,
and they suggested -- and I think it's a very good
suggestion -- that we do have on our list disinfectants
that are part of that larger list, and it really -- we
probably should just allow the ones that are on our
list. We don't want to say that we're opening it up to all materials.

So I think that although the first two comments I think are clearly -- they were clearly concerned for a lot the members on the task force. The way that we got buy-in from all members was specifically because we outlined a detailed protocol as far as testing of the machinery. So, you know, it's my opinion, and I think this should be discussed, as to whether we -- you know, we want to think more about those testing protocols, and an alternate or come up with another proposal on that aspect of the document. But again realizing that those who endorse the document probably would not endorse it if we made significant changes to that area.

And then second one I think is easier to handle. I think that it's a good suggestion and I think there's good justification. I think it probably would've been supported by members of the committee, because, you know, it was an oversight. We need to make sure that any materials that we're recommending for cleaning out the equipment should be consistent with our list. So I think that that comment certainly should be incorporated and considered when we vote on it.

CHAIRPERSON KING: Owusu.
MR. BANDELE: Yeah, this is a further clarification. And I think the sanitation issue came about because the task force recommended, I think, the sanitizing agents in 21 C.F.R., and some of those probably would not be on our list. And as far as the extensive testing, most of that involved compost that -- which use additives, and there was a lot of discussion in the Compost Tea Task Force about that element and whether or not adding molasses would increase human pathogens. So most of that -- of the real strict protocol was aimed at that aspect, and I think we probably would not have had buy-in from some of the members of the Compost Task Force without those rigid restrictions. But in general, as you recall, if the compost used meets the specifications of the rule, then there are no restrictions. There was quite a bit of controversy also on the fact that compost tea made without -- and manures, and that has to follow the same patterns in terms of the additives, as compost tea made with the manure-based compost.

CHAIRPERSON KING: Is there more?

MS. KOENIG: The only other thing that I had to state was that Eric Sideman had spoken with me about kind of the -- you know, how to -- originally, if you remember, you know, there was a Compost Task Force and...
tea was supposed to be considered within that task force, and then it was kind of broken off and additionally studied. So we have two documents, basically, on very similar kind of issues. And he recommended that we eventually marry the documents in some way, at least in terms of the recommendations, that the recommendations kind of get put together in some format so that they're accessible to people who need to look at them.

CHAIRPERSON KING: And do you foresee doing this at the committee level and then bringing this back at some point in the future?

MS. KOENIG: Yeah, I think it's really up to the Board and how they see the -- you know, really -- you know, the bigger question is, what is the utilization of these documents? I mean, we've got two of them. They're forms of committee recommendations. It's still not clear how they're going to be utilized by the program. So that's probably the bigger issue. So, I mean, before -- I mean, we can always pull things out and create different ways that a document could look, but I'm just not sure ultimately what the use of the documents are, so --

CHAIRPERSON KING: Jim.

MR. RIDDLE: Yeah. I mean, I think this
report has a lot of valuable information and I just --
yeah -- am confused as to how it is to used or what
we're to do with it even as a Board right now. Now I
have no problem accepting it as a committee report or a
task force report, but I do have some problems thinking
about it being a final recommendation of the Board at
this point.

MS. KOENIG: Um-hum.

MR. RIDDLE: And we received some comments
that raised some valid concerns, and I'm just looking at
the recommendation section and just item number on, that
potable water must be used to make compost tea. Well,
OFPA doesn't say that. The rule doesn't require potable
water for irrigation. You know, so how can we require,
you know, a higher standard when it's, you know, passing
through or being mixed with compost for that water, when
you can draw irrigation water out of a creek or a river,
a catch-pond? And so I have, you know, some problems
with that. So I don't know. I certainly can support
accepting it as a task force report. It provides very
valuable information.

MS. KOENIG: Yeah. And I think at this point
-- I mean, that -- I mean, I think it's two different
processes. It's sort of like with the aquatic -- the
aquatic -- the original Aquatic Task Force. That report
was voted on and either accepted and then -- you know, how that's utilized by the program or the Board in the future is a separate issue. So I think upon voting on it is that you -- you know, that it's to acknowledge that there was consensus, though not a hundred percent. I think there was one person that opposed. So -- but accepting their report. Posting it, we've got public comments. And I think determining what happens with the document is a separate issue, but --

MS. GOLDBERG: Can I make a comment?

MS. KOENIG: Yeah.

CHAIRPERSON KING: Yeah.

MS. GOLDBERG: It seems to me that with this task force report, certainly accepting it is a great thing and it's valuable information and so on, but I think it's much more useful if, actually out of it, the Crops Committee comes up with some recommendations that get put forward. Certainly with the Aquatic Species Task Force report, we accepted the report, but then we actually made concrete recommendations that the Board voted on. And I think that makes a better process and gives more direction to what we'd like to happen.

MS. OSTIGUY: Can I make a motion?

MR. BANDELE: Yeah. Well, the recommendations were made, and I think as far as the purpose is
concerned, the main -- this whole thing came about because compost tea was interpreted to be treated as manure, as far as the NOP is concerned. So the purpose was to see whether or not that was, you know, realistic and to make recommendations, otherwise. And I think, to me, I recognize the point that Jim raised in terms of item one, but the main thing as I saw it was -- the main recommendation coming out of it, as I see it, was the third recommendation, saying that if the compost tea was made in compliance with the standards for compost, then that would be allowed without restrictions. So the recommendations are there and it wasn't just an intellectual exercise.

MS. OSTIGUY: I move that the Board accept the Compost Tea Task Force report, and that I guess direct the Crops Committee to take the recommendations from this report and the Compost Task Force and put them forward as recommendations, which may or may not include all the recommendations from each of the reports.

MR. BANDELE: I'll second it.

CHAIRPERSON KING: Is there a second?

Discussion?

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[No response]

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York Stenographic Services, Inc.
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CHAIRPERSON KING: Okay, it's been moved and seconded that the National Organic Standards Board accept the Compost Tea Task Force report and forward it onto the Crops Committee for further action. All those in favor signify by saying aye.

BOARD MEMBERS: Aye.

CHAIRPERSON KING: Opposed same sign.

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[No response]

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CHAIRPERSON KING: Motion carries.

MS. KOENIG: The final request would be to go back to the inerts directive document. It's similar to what we did with the scope. There was really no proposed changes that were noted from that original document. Back on five, I think, or -- and I guess for a similar process, the scope had that posted on the web.

CHAIRPERSON KING: What do we do? Is there a motion?

MS. KOENIG: Well, I was under --

MR. SIEMON: Yeah.

MS. KOENIG: -- yeah. Well, I was trying to -- if I got an understanding --

CHAIRPERSON KING: So moved.
MS. KOENIG: -- of what you wanted to do with these drafts was have them all posted, correct? And you wanted that in the form of a motion?

UNIDENTIFIED SPEAKER: And did you make one?

MR. SIEMON: I made it.

UNIDENTIFIED SPEAKER: I'll second it.

MS. DIETZ: Well, the Materials Committee hasn't even seen these documents. We haven't -- and it says from the Materials Committee, so I don't have a problem posting them, but if we're going to go through each one and post them, then this is really -- I don't think that's necessary to make motions to post them on the web. And we did discuss taking them back and looking at them and then bringing drafts forward.

CHAIRPERSON KING: Let me -- just a quick question. Then, Jim, it's my understanding you're talking about the inerts document, correct?

MS. KOENIG: Yeah, the inerts.

CHAIRPERSON KING: Okay.

MS. KOENIG: Yeah. And that's what I thought I was supposed to do, so --

CHAIRPERSON KING: Yeah. And that's fine.

MS. KOENIG: And I guess I don't understand --

CHAIRPERSON KING: And you're essentially moving that we post it for comment, correct?
MS. DIETZ: Right, like with Dave.

MS. KOENIG: Yeah, similar to what Dave -- the same --

CHAIRPERSON KING: Okay.

MS. KOENIG: -- the same section.

CHAIRPERSON KING: And is there a -- go ahead.

MR. MATHEWS: The difference from what I understood is that with Dave's, you recognize the scope and then voted to post. But Kim raises issues that there wasn't enough time to review it. So are you recognizing it and voting or just -- recognizing and voting to post or are you just posting? Just clarification for the record.

CHAIRPERSON KING: Would you like to make a motion -- an official motion?

MS. KOENIG: The motion is just to -- I don't think we're recognizing it, because I agree with Kim, it was never voted on.

CHAIRPERSON KING: Okay.

MS. KOENIG: So it's just to post.

CHAIRPERSON KING: Okay. And is there a second on that motion to post the inerts document on the NOP website for comment, is that correct?

MS. ROBINSON: Second.

CHAIRPERSON KING: Okay, it's been moved and
seconded that we post the inerts document on the NOP website for comment. Is there discussion?

    MS. ROBINSON: Yes.

    MR. RIDDLE: Yeah. Well, you know, given the seriousness of these issues and, you know, the level of discussion that we had yesterday, and the fact that they were submitted in the meeting book, you know, per deadline, you know, I wanted all four of them to be recognized at the same status. You know, I think that, you know, there were some very valid reasons why the committee couldn't complete action, but that doesn't mean that we haven't given it thorough consideration and discussion. So I don't -- we can maybe look back at the language on the one of scope, but I'd like it to -- the motion to mirror that same language, that same status. I think it's very important because of these issues and, you know, the confusion and just all of the related gravity here, that we go on record on these, the full Board.

    MS. DIETZ: And I guess I don't have a problem with going on record. My problem is that it says it's from Materials and Crops Committees and it's not. And if we're going follow protocol and these things are going to come to us in a timely fashion and we're going to vote on them in committees, then we should do that.
So -- and the other thing is I hate to waste our time to post something, get comment, and then the committees are going to have changes and then post it again, so -- and I also understand the urgency and the severity of this, that we get the public to understand. So I'm kind of in quarry [ph] on this one.

CHAIRPERSON KING: George, then Rose.

MR. SIEMON: But if we vote on this as a Board, it will no longer be a material. We'll take that title off and it will now be an NOSB Board recommendation for public comment.

CHAIRPERSON KING: That's correct.

MR. SIEMON: We're going move it out of the material, and it is bypassing a proper step, I agree, but we're not taking responsibility for that. Well -- I'm sorry. Somebody else?

CHAIRPERSON KING: Rose and Nancy.

MS. KOENIG: I mean, I was going to suggest one other option, although we can't vote on it now. It would be for the committee, if people felt like they could make a decision and go through it, I mean, we could, as a committee, meet, you know, before -- you know, and report back tomorrow and then vote on it tomorrow, if that would make people feel comfortable.

But that was -- I mean, I'm fine with George's decision.
And again, I mean, I thought I had published that e-mail prior and, you know, the justification of keeping this as materials and crops, you know, versus the other document is that, number one, most of the information or a good chunk of it came from the 2003 Inerts Task Force recommendation. So it's not -- not all of it's foreign, a lot of it was incorporated out of that document. And secondly, we discussed it in an Executive Committee call, and we ran out of time, really, on the Crops Committee call. And then at that point the chairperson had gone out of town. I mean, it wasn't out of the fact that we didn't attempt to make a vote, it was because we couldn't get a hold of anybody. We got absolutely no -- you know, I got no feedback, so -- okay.

CHAIRPERSON KING: Motion's been called. All those in favor of recognizing the inerts document and forward for posting on the NOP website signify by saying aye.

BOARD MEMBERS: Aye.

CHAIRPERSON KING: Opposed same sign.

MS. DIETZ: One abstention.

UNIDENTIFIED SPEAKER: I'm going to abstain, too.

CHAIRPERSON KING: Note three --

MR. SIEMON: Four.
CHAIRPERSON KING: Four abstentions, Katherine, and two absent. Thank you. So that's --

MR. RIDDLE: Yeah, the abstentions are counted --

CHAIRPERSON KING: Yeah.

MR. RIDDLE: -- with the affirmative.

CHAIRPERSON KING: Yeah. So that's easy.

MR. RIDDLE: With the majority.

MR. MATHEWS: So what did you do?

MS. ROBINSON: They voted to --

MR. MATHEWS: Recognize and post?

CHAIRPERSON KING: We recognized and post the document. So it's now a Board document for posting.

MS. DIETZ: That's an NOSB document --

CHAIRPERSON KING: Correct.

MS. DIETZ: -- not a materials or --

MR. RIDDLE: Yeah.

MS. DIETZ: -- Inerts Committee document?

CHAIRPERSON KING: Correct.

MS. ROBINSON: Yeah. I was going to wait and I guess bring this up tomorrow when we talked about -- when you talk about work plans. But let me make the following suggestion, which might address Kim's concerns, but also -- I hear what you're saying. You really -- you want people to know that you drafted this
feedback, you drafted these statements, and here's what you said. And while there's been, you know, public sitting here in the meeting, you know, and you really want to let the world know. But at the same time, we committed yesterday to drafting guidance statements that would reflect our concurrence with these statements. So here's a proposal, that what we do is we would publish both -- both this, your statements, and the department guidance statements. And my hope is that we can get these up on the website. I'm hoping for the first week in November, only because next week Rick is in training all week. I'm at home because of my husband's surgery. So I can draft the guidance statements. I believe that we'll have to run them back through the lawyers, but I would also send them to you so you know what we've drafted. Then -- and really lean on OGC to, you know, bless these things. And then what we would publish on the website would be, okay, here's -- and everybody knows that we had -- you know, we publish statements and cause a lot consternation. We ask the Board for feedback. This is the Board's feedback, this is our response to the Board. Here it is, here's the whole thing.

CHAIRPERSON KING: And a quick comment, and then Jim. And I think if I understand what we're
attempting to do here, Barbara, which has apparently
caused some confusion, is just to recognize that the
Board has created some feedback, and that we are
forwarding that to you. And so I think that's really
the only intent here on that point. Jim.

MR. RIDDLE: Yeah, I think that's a great
plan, Barbara. I really like it. And just like Mark
said, you know, for me it's a procedural issue,
yesterday when they were brought up, and then we
discussed them all and we didn't take any action, you
know? But as a Board we're all here together now and
this gets it on the record, that we support these. So
-- but I think that's a fine plan, as far as when
they're posted, to be set right up with kind of what
you're next step is, your response, your guidance. And
having our ability to input on that is wonderful, too.

MS. ROBINSON: Well, yeah. And then the
public, of course, free to send in any type of comment
that they want, which actually has the advantage, if
there -- you know, substantive comments that come in by
-- I don't mean to dismiss any comments, but, you know,
you may just get comments saying, you know, that-a-boy
or good job or, you know -- yeah, let's hope so.

UNIDENTIFIED SPEAKER: Way to go.

MS. ROBINSON: Yeah. But if you get -- if
there are substantive comments of a negative nature, you
definitely want to know that and put it on an agenda to
deal with at the next Board meeting, so that, you know,
so we don't perpetuate this type of thing and we go back
through this all over again.

CHAIRPERSON KING: Well, I think it sounds
like a great plan, and I guess my question at this point
is, does the Board wish -- we saw two documents that we
have not officially voted on or recognized for posting
and things of that nature, and do you wish to do the
same format -- use the same format for those?

MR. SIEMON: Yeah. Be consistent.

CHAIRPERSON KING: Okay.

MR. RIDDLE: Yeah.

MR. SIEMON: All right.

CHAIRPERSON KING: Is there a motion?

MR. SIEMON: Let's do the directive for the
origin of daily livestock first. And I just want to
note the two changes that were made yesterday in our
discussion. I didn't kill as many trees as Dave did,
and on your recommendations, where it says
"antibiotics," and this is not in -- she can't change it
up there. I had hoped she would. So we want to add
antibiotics and other prohibited substances there.
That's one change.
MS. KOENIG: What --

MR. SIEMON: We're on tab six, the origin of livestock -- dairy livestock, under recommendations.

There's no page number, but --

MS. KOENIG: What circle?

MR. NEAL: That page.

CHAIRPERSON KING: The first --

MR. SIEMON: The first bullet in the recommendations of the origin of livestock document. And it says, the clarification statement that antibiotics and other prohibited substances are not allowed. So the addition is and other prohibited substances. Everybody with me? The next bullet underneath, this will unify and clarify the standard for dairy herd conversion. We want to replace dairy herd conversion with organic dairy replacement. And that's all the changes we made to this document. The only other thing I'd say, both these documents, we have both things that relate directly to these clarification statements, and other things related to work plans, and they're not really separated, but I think that's okay. So I make the motion to accept those two additions or changes.

MR. MATHEWS: I'll second.

CHAIRPERSON KING: So moved and seconded that
we accept the Livestock Committee document, a directive
for origin of dairy livestock. Is there discussion?

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[No response]

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CHAIRPERSON KING: Hearing none, a call to
vote. All those in favor signify by saying aye.

BOARD MEMBERS: Aye.

CHAIRPERSON KING: Opposed same sign. One
opposed. Abstentions?

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[No response]

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CHAIRPERSON KING: Two absent, one opposed,
Katherine.

MR. SIEMON: Okay, the next one is the fish
meal document, which we have no changes to. But again,
I'll note in our recommendation, there is
recommendations related directly to the directive, and
some other was related to our future work plan. So I'll
make the motion to accept this as --

MR. LACY: Second.

MR. SIEMON: Mike Lacy second.

CHAIRPERSON KING: It's been moved and
seconded, and George moves, Mike Lacy seconded, that the
Board consider the NOSB Livestock Committee directive for fish meal. Is there discussion? Rose.

MS. KOENIG: Yeah. As I kind of mentioned, and Becky and I discussed, I think the wording on number one would be more consistent if he says that the committee feels that fish meal as a generic is nonsynthetic rather it say fish meal itself. And then the second, NOSB Livestock Committee believes fish meals with synthetic substances to be synthetic. That's -- that needs to be reworded, and I'm not sure I'm prepared to reword that, or propose something at this moment, but -- because I thought it was going to be looked at again.

CHAIRPERSON KING: Nancy.

MS. OSTIGUY: I'm wondering if we can just delete that. We'll have to come back and address more specifically, as Arthur has discussed adding a synthetic to a nonsynthetic, whether or not it becomes synthetic. But I think we probably can answer the question with fish meal is nonsynthetic, the first statement. And if what's added as a preservative is a nonsynthetic -- is a synthetic on the list, that it's still okay. If it's a synthetic that's not on the list, then it's not okay. So we can separate them.

MS. KOENIG: One suggestion might be to take your point one, two, three, four, five, the sixth one
down, and move it up to number two, because I think
that's what you want to say, and then just take out
number two.

MS. OSTIGUY: Um-hum.

MR. SIEMON: I accept taking out number two,
because number six covers it. Mike, a friendly
amendment or whatever you want to call it.

CHAIRPERSON KING: Okay. Other discussion?

Andrea.

MR. SIEMON: I was confused about as a
generic. Fish meal itself as a generic what?

MS. KOENIG: Well, we'll take out itself,
because I just think --

MR. SIEMON: Just say fish meal is --

MS. KOENIG: Is a generic substance.

MR. SIEMON: Okay, I accept that, too.

MS. KOENIG: Well, as a generic substance.

MR. SIEMON: All right, we both accept that.

CHAIRPERSON KING: So let's get that straight.

How is it going to read? The NOSB Livestock Committee
believes that fish meal --

MS. OSTIGUY: Is nonsynthetic.

MR. SIEMON: Is nonsynthetic.

MR. MATHEWS: Or has a generic substance to
it.

York Stenographic Services, Inc.
34 North George St., York, PA 17401 - (717) 854-0077
MR. SIEMON: No, just is nonsynthetic. And then you go down to number six, it says, "Any synthetic preservatives used must be petitioned."

MR. MATHEWS: Right.

MR. SIEMON: I don't see much room for --

MS. KOENIG: Well, okay, that's fine.

CHAIRPERSON KING: Is that okay?

MR. SIEMON: -- confusion, Rick.

MS. KOENIG: Yeah, I mean, that's fine to -- I just think itself was -- that's fine.

CHAIRPERSON KING: So it will read, the NOSB Livestock Committee believes that fish meal is nonsynthetic, is that correct?

MR. SIEMON: I liked itself on it.

MS. CAROE: I still have issue with the eighth bullet that puts a statement of commercial nonavailability in there, which would turn this into feed instead of a feed supplement.

MR. SIEMON: Well, that was why I was referring to those work plan issues in here instead of recommendations on the directives. So to me the first six bullets, now five bullets, were a direct recommendation on the directive, and things after that were work plan input. So they were -- I don't know how to --
MS. CAROE: I don't think that's distinguished in the document. I mean --

MR. SIEMON: That's why I brought it up.

CHAIRPERSON KING: Do you want to propose to distinguish it?

MS. KOENIG: We can accept this.

MR. SIEMON: We'll just have -- under that first five have recommendation on directive, and work plan recommendations for the rest of them.

CHAIRPERSON KING: So for the record, beginning with which statement will it be --

MR. SIEMON: Under recommendation would be recommendations for directive, and then after now the number five bullet that used to be number six bullet, we would have recommendations for work plan or -- work plan items.

CHAIRPERSON KING: And that begins --

MR. SIEMON: With the status of fish meal.

CHAIRPERSON KING: Thank you.

MR. SIEMON: Because you're absolutely right, that one right there in the middle that's not even related to -- it's its own little subject. Okay.

MS. ROBINSON: How about related issues for future work?

MR. SIEMON: How's that? That's --
MS. ROBINSON: As a title.

MR. SIEMON: It's the same thing, so I accept that, too.

CHAIRPERSON KING: Related issues for future work. Is that acceptable?

MR. SIEMON: Yes. Mike, I'm really agreeable.

CHAIRPERSON KING: All right. Further discussion?

[No response]

CHAIRPERSON KING: All right, it's been moved and seconded that we consider the NOSB Livestock Committee directive for fish meal and forward for posting as amended. All those in favor signify by saying aye.

BOARD MEMBERS: Aye.

CHAIRPERSON KING: Opposed same sign.

[No response]

CHAIRPERSON KING: Abstentions? One abstentions, two absent, Katherine. Motion carries.

All right. Yes, we are now ready for, and it appears to be our last agenda item of the day -- maybe not. Here's
MR. MATHEWS: There's only one absent.

MR. SIEMON: You've been saying two absent.

CHAIRPERSON KING: Yeah, because somebody stepped in the hallway and I can't add or subtract very well. So did you get that, Katherine? Okay, thank you, Rick.

MR. SIEMON: She wasn't confused.

CHAIRPERSON KING: Well, sometimes it's good to stand alone, George. The next item is election of officers. And as you well know, in our Board policy manual, we elect officers each fall, and are there nominees for the position of chair? Dave.

MR. CARTER: Yes, Mr. Chair. It's my honor to nominate somebody who has paid their dues to this Board and has been a tremendous worker. I'd like to place the name of Jim Riddle into nomination as chair.

CHAIRPERSON KING: Dave's nominated Jim for chair. Is there a second?

MS. OSTIGUY: Second.

CHAIRPERSON KING: It's been moved by Dave and seconded by Nancy that we nominate Jim Riddle as chair of the NOSB. Is there discussion?

UNIDENTIFIED SPEAKER: You didn't call for other nominations.
MR. RIDDLE: Yeah.

CHAIRPERSON KING: Oh, sorry, thank you. Are there other nominations? Are there --

MR. RIDDLE: On the record, yeah, I'm willing to accept.

CHAIRPERSON KING: Are there other nominations?

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[No response]

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CHAIRPERSON KING: Hearing none, call to vote. All those in favor of appointing Jim Riddle as chair of the National Organic Standards Board signify by saying aye.

BOARD MEMBERS: Aye.

CHAIRPERSON KING: Opposed same sign.

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[No response]

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CHAIRPERSON KING: Abstentions?

UNIDENTIFIED SPEAKER: I'm going to abstain.


MS. CAROE: I nominate Kevin O'Rell for vice chair.
CHAIRPERSON KING: Is there a second?

MS. OSTIGUY: Second.

MS. BENHAM: Who seconded?

CHAIRPERSON KING: Nancy seconded and Andrea moved to nominate Kevin O'Rell as vice chair. Are there other nominations? Are there other nominations?

[No response]

[No response]

MS. BENHAM: Does he accept?

MR. O'RELL: I would accept the nomination, thank you.

CHAIRPERSON KING: It's been moved and seconded that we appoint Kevin O'Rell as vice chair of the National Organic Standards Board. All those in favor signify by saying aye.

BOARD MEMBERS: Aye.

CHAIRPERSON KING: Opposed same sign.

[No response]

[No response]

CHAIRPERSON KING: Abstentions?

[No response]
CHAIRPERSON KING: Motion carries unanimously.

Are there nominations for the position of secretary?

Jim.

MR. RIDDLE: Yeah, I'd like to nominate Goldie Caughlan.

MR. SIEMON: I'll second that.

CHAIRPERSON KING: Jim nominated Goldie and George seconded it. Are there other nominees for the position of secretary?

MR. RIDDLE: Is she willing to do it?

CHAIRPERSON KING: Yeah. And are you willing to do it?

MS. CAUGLAN: I'm crazy. Yes.

MR. RIDDLE: What's crazy about it?

CHAIRPERSON KING: Yeah.

UNIDENTIFIED SPEAKER: She gets the egg timer.

CHAIRPERSON KING: You get the egg time, exactly, and the one-minute sheet. Let's not forget the one-minute sheet. But first, are there other nominees?

Are there other nominees?

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[No response]

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CHAIRPERSON KING: Seeing none, all those in favor of appointing Goldie as secretary signify by
saying aye.

BOARD MEMBERS: Aye.

CHAIRPERSON KING: Opposed same sign.

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[No response]

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CHAIRPERSON KING: Abstentions?

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[No response]

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CHAIRPERSON KING: Motion carries. Yes, congratulations. Jim?

MR. RIDDLE: Yeah, Mr. Former Chair.

CHAIRPERSON KING: Not yet.

MR. RIDDLE: Not yet. For the rest of the day. Yeah, well, I just wanted to say a couple of things, and that is I'm really looking forward to very focused and productive and fun year. And when I was asked to consider being chair, I didn't exactly jump at it. I did want to -- I don't need more stress in my life, but I do always need more fun, and I need more sense of satisfaction. I never can get enough. But anyway, so I am just really excited by how this meeting has progressed, and really looking forward to the coming year and working with the other officers and committee
chairs and the full Board and the NOP. So I just wanted
to say that, and since we have some time left, I wanted
to give a very special thank you and acknowledgement to
the outgoing Board members, or at least they hope
they're outgoing and we hope they aren't, but to
acknowledge the work that Mark has done as chair and as
a Board member prior to that. I think you've really
risen to the occasion. I really appreciate your
efforts. Kim as longtime materials queen and secretary
and just, you know, a dedicated, hardworking Board
member. I just really want to acknowledge and thank
you. And, Becky, thank you for your work and
leadership, and I will continue to work on the fish
issues. And, Owusu, thanks so much for chairing crops
when you did and all of your input and wisdom that you
share. And I have -- I brought a little something here
for each of you. No, it's better. It's better than the
cookies, even. I give --

MR. CARTER: Is it better than the organic
bimbo award that was given last night?

MR. RIDDLE: Yeah. You should open this now.

MS. DIETZ: I think I know what it is. I
think he was preparing it --

MR. RIDDLE: You do?

MS. DIETZ: -- when I called.
MR. RIDDLE: Let's see -- I think they're --
CHAIRPERSON KING: Are they all the same?
MR. RIDDLE: No, they're not all the same.
CHAIRPERSON KING: Okay.
MR. RIDDLE: Yeah, pink is for Kim. I've got a little color code. And white for Becky, and green for Owusu. Go ahead.
MS. DIETZ: Is it going to go whee?
MR. RIDDLE: No, no, no, no, no. You can just rip the --
CHAIRPERSON KING: There aren't synthetic materials in here, are there, Jim? Well, look at that. It's a USDA pig. Thank you very much.
MS. GOLDBERG: Thank you.
MR. RIDDLE: An official USDA stress pig, sheep, cow, and chicken.
MR. BANDELE: And, Jim, as a vegetarian, thank you very much. I appreciate it.
MR. RIDDLE: Yeah. And then the jam is some of our homemade raspberry jam, and it actually is all organic and --
UNIDENTIFIED SPEAKER: Is that USDA certified?
MR. RIDDLE: No, no, we are certified, actually.
MR. SIEMON: Under $5,000.
MR. RIDDLE: But, yeah, we're under 5,000.

But anyway, I figured that you've all helped us out of a jam and now it's time for you to get into some jam. Thank Joyce for that, too.

CHAIRPERSON KING: I just want to say thank you to everyone in this room, Board members included. And it's hard to imagine that I have served on this Board for five years. Time flies when you're having fun, although it hasn't always been fun. It has been challenging and interesting, and I've probably learned as much in this process as any that I've had an opportunity to be involved in my life, and I appreciate that very much. It's interesting to say that I will miss it, which sounds very bizarre at this point.

UNIDENTIFIED SPEAKER: Well, there's plenty of opportunities.

CHAIRPERSON KING: Is there? Yes, yes. Well, as I understand, office states you can't serve consecutive terms, so I'll be gone for quite awhile.

UNIDENTIFIED SPEAKER: Not for a task force.

CHAIRPERSON KING: Oh, good, good, I understand. So I want to thank everyone for your support ongoing, and look forward to assuming some new roles in the industry, and would give other outgoing members at this time an opportunity to make comments if
they so desire.

MS. DIETZ: We're going down the line. I wasn't prepared to give a speech. We've never done this before. We've got time. Oh, we're wasting time. Where's the beeper? We have five minutes?

CHAIRPERSON KING: Yeah.

MR. RIDDLE: Yeah.

MS. DIETZ: You know, I've thoroughly enjoyed this Board and I'm very happy to see us with this last meeting -- it won't be our last, I know that -- with the attitudes and the cohesiveness, and I do cherish all of you, and we've all done a great job, and you should be very proud. This last five years with the implementation, it's been a tremendous task and I commend all of you. But I'm not going anywhere, so I plan on sticking around and being very involved in this industry as I have my whole life so far.

MS. GOLDBERG: And I want to second what Kim said about -- such a good outgoing note for all of us, with the spirit of cooperation, and saying I'm going to miss the members of this Board and being together as a group quite a great deal. So I'm not going to take my five minutes.

MR. BANDELE: And I won't take the remainder. But again I'd like to thank everyone for the opportunity.
to serve. I have a tremendous respect for the integrity of the Board, but oftentimes we have not always agreed on everything, but in spite of our differences and background and training, et cetera, we were able to come up with a consensus with some very tough, tough situations. So again, I'll miss everyone, and thanks for the opportunity.

CHAIRPERSON KING: Yes, Barbara.

MS. ROBINSON: Just on behalf of the department, we would certainly like to say thank you to the outgoing Board members, thank you for your hard work and your dedication. Yeah, I know, we haven't always agreed, but that's not what this is about. It's about helping this industry grow, and your dedication, it has never, ever, ever been questioned, nor has your integrity. And it's been my pleasure to work with you. Jim, congratulations. We look forward to a productive year with you getting you retrained. But actually I do believe if we keep our sense of humor and we keep our perspective, we're going to make this work. So thank you all very much.

MR. RIDDLE: Yeah. And tomorrow the first thing on our agenda, we have one hour to talk about work plans and meeting schedules. And to help facilitate that, I've kind of been keeping a scorecard -- not a
scorecard, but writing a list of some of the work plan
items as they've come up, divided by each of the
committees. So just to help you do that or maybe you
can stay up later and watch the debate and not have to
feel that you have to suffer over them, but they are
just suggestions. But so I got a sheet for each of the
committee chairs. And we talked a little bit during the
break about committee chair assignments and, you know,
with five new members coming on the Board, you know, we
don't know who we'll have to draw from and what kind of
expertise they'll be bringing to the table. So I don't
anticipate any changes in the very short-term. But at
the same time, we do have an understanding. It's not
part of our policy manual, but it's certainly just a
good idea that people in their last year on the Board
aren't in every position of authority and chairing every
committee, but we really have a shortage of people
losing five, and five more going off with only four
available, so we're going to have to keep some people in
their last year on the Board in positions as committee
chairs until we have some new people, see who they are,
but I think it's really critical for the four people
that have longer terms to just recognize the opportunity
-- put it that way -- for chairing committees. And if
you aren't chairing yet, to step into vice chair in a
very active role and prep yourself for chairing. So I just wanted to say that, and then that's it. So we should plan on our -- discuss our work plans and our future meetings tomorrow morning.

MR. SIEMON: I wondered, since we have time today --

CHAIRPERSON KING: Do you -- I don't know.

MR. SIEMON: Oops, I didn't have my thing on.

CHAIRPERSON KING: We may have time. I don't know if the department's prepared to discuss that today. We hadn't really put it on the agenda. It's something for consideration, considering some of the issues before us.

MR. SIEMON: Well, I'll just -- okay.

MR. MATHEWS: We're prepared.

MR. SIEMON: I'm quite concerned about what I heard yesterday about the methionine thing, that if we wait until an April meeting that it will not be able to be dealt with, and I feel like we've a lot of workload that's coming up, a lot of discussion, committee recommendations that weren't quite ready or required a lot of TAPs, and I'd like to see us have the meeting in January, so that if we go forward with anything on the methionine, we have time to do it. So we avoid -- we have a lot of responsibility here, so --
CHAIRPERSON KING: So you literally want to try to put something on the counter, and I think we just have to ask the department first if they're going to have the money in time.

MR. SIEMON: I'm starting -- I'm rolling the ball.

MS. ROBINSON: We're very much in favor of -- well, you'll have new members, so you'll need an orientation.

MR. SIEMON: Yeah.

MS. ROBINSON: You've put an awful lot of work on the table in the last two days.

CHAIRPERSON KING: So are you saying --

MR. MATHEWS: When are the new members --

CHAIRPERSON KING: Yeah.

MR. MATHEWS: -- appointed?

MS. ROBINSON: Well, the -- your terms expire January 23.

MS. CAROE: So the new members --

MS. ROBINSON: The 24th.

MS. CAROE: -- come in on the 24th of January.

So to set a meeting in January, we won't have new members yet.

MS. ROBINSON: Well, we're talking about late January or early February, but not waiting -- the point
is not waiting until April for a meeting. That's the point, really, and we can do that.

MR. MATHEWS: In reviewing the minutes from the April meeting, there was a lot of things that were discussed as being addressed in the next meeting, so I think that there's plenty to do for a January meeting. There's the materials things that Rose has brought up. You -- the methionine that George mentioned. Maybe we can get soy protein isolate done by then. You have two TAP reviews that the reports, if they're acceptable, maybe we can move forward with those. So there's -- I would say that there's plenty of things that the Board and we can work on between now and the end of January, the first part of February. And so even though Katherine, who will be stressed out over Christmas, we can do it.

MS. CAROE: I propose that we hold off until like the second week in February so our new members, who are newly appointed, can accommodate it.

MR. RIDDLE: Well, the other option would be to shoot for earlier in January with this group.

MS. CAROE: Well, let's --

MR. RIDDLE: As far as being productive on work, you know, we wouldn't have to orient.

MS. ROBINSON: You have an overlap, anyway, at York Stenographic Services, Inc.
34 North George St., York, PA 17401 - (717) 854-0077
that meeting, both old members and new members.

CHAIRPERSON KING: Yeah.

MR. RIDDLE: Yeah. But --

MR. MATHEWS: And also keep in mind that you're talking about trying to do something early in January. Are you going to be ready well before Christmas, or are you going to need to move into the holiday season a little bit? Remember you got Thanksgiving and Christmas and New Year.

MR. RIDDLE: Oh, we'll just break down, so --

MR. MATHEWS: We have NOSB work to do.

CHAIRPERSON KING: So essentially, yeah, I mean --

MR. CARTER: It looks like one big Christmas present.

CHAIRPERSON KING: Well, I mean, let's throw some numbers at this. On what you're saying is, if it were early January, you're roughly talking about 14 weeks, essentially, give or take. So if we -- so what's real in terms of a time frame here?

MR. RIDDLE: Well, it's Andrea's suggestion.

MR. MATHEWS: I don't know that you have to decide tonight, but I like the idea that George has brought it up now so that you can be at least thinking about it overnight. Because we're thinking that you
will also need to meet probably early August.

MR. SIEMON: And furthermore, I think that with all these time tables, it's like, you know, you're getting tied by 60 days, 90 days. We're going to have to maybe break our -- do it around expo or do it -- I want to do what's most effective for the industry, and doing it instead of my expo-type time frame. I think we need to go to a workload time frame, all the lead times and all the stuff we're dealing with now.

MR. MATHEWS: Now, the reason why I mentioning August is that with the feedback from you on the sunset document, we can now move forward with pushing that through, and we would be pushing -- no guarantees, but the idea would be that we'd have something published by the end of the year on sunset. That would leave -- the next three months would be for public comment. The next three months after that would be where you're digesting the comments and coming through with your recommendations. So I envision that you would probably getting together sometime in August to address the issues and make recommendations back to us. So that works along with what George is talking about, do the workload.

CHAIRPERSON KING: So --

MS. CAUGLAN: So you'd be talking February,
April, August?

MS. ROBINSON: No.

MR. MATHEWS: No, February and August.

MS. CAUGLAN: You would not be meeting?

MR. MATHEWS: We would not meet in April or May, we would meet based on workload in January so that we can take action on the things that really need to get done. And then we would meet in August in order to take care of things related to sunset and anything else that might come up between now and next August.

MR. RIDDLE: And then we would have the option of October if we needed a third meeting, correct? I mean, does that -- is that possible?

MR. MATHEWS: That would already give you three meetings for this year -- for the fiscal year.

MR. RIDDLE: Because if was October, it'd be the next fiscal year.

MR. MATHEWS: Right.

MR. RIDDLE: Well --

MR. MATHEWS: Again, I would think that you'd want to make sure that that -- George is right, we need to do it -- we need to do meetings at this time in relation to the workload that needs to be done, because sunset is going to be critical time for us and we really need to be looking at gearing the meetings around.
sunset.

MR. RIDDLE: Um-hum.

MR. MATHEWS: So there's nothing that says we wouldn't do one in October, but then, again, it depends on what available come October.

MR. RIDDLE: Um-hum.

MS. DIETZ: If we're going to do one in February, if we could maybe discuss some dates, because the second week is horrible for me. I'm gone for 10 days in February, so --

MR. SIEMON: Well, January 31 through --

MS. DIETZ: Yeah, early February --

MR. SIEMON: -- the 4th.

MS. DIETZ: -- or late February, yes.

MR. CARTER: That date works for me.

That's --

MR. SIEMON: January 31 through the 4th, and not the whole time, obviously. And BEOFOCT [ph] is at the end of the month for any of those who would go there.

MR. RIDDLE: My daughter's getting married February 5, and I've been told to clear my calendar the week leading up to that.

MR. SIEMON: Okay. How about the last week of January, is that -- that's where we -- with the new
people? That's the 24th, 25th, 26th.

CHAIRPERSON KING: That's probably too soon.

MR. SIEMON: Oh, is it --

MS. DIETZ: I don't think that's very fair to the new members. They're going to be appointed on that Monday and they you're going to ask them to be in a meeting?

MS. CAUGLAN: Rick or Barbara, is there any way we could --

MS. ROBINSON: Sorry.

MS. CAUGLAN: Could we ask for any kind of a dispensation from the secretary as to the timing of their appointments? I mean -- because --

MR. MATHEWS: Please explain.

MS. ROBINSON: You mean, ask --

MR. SIEMON: We need to have --

MS. ROBINSON: -- them to give them to you earlier?

MS. CAUGLAN: Well, I think we're talking as though they would be appointed the third week in January. That's --

MS. ROBINSON: No, no, no, no, no. I'm saying --

MS. CAUGLAN: They might very well be appointed --
MS. ROBINSON: They could, they could be
appointed --

MS. CAUGLAN: -- earlier.

MS. ROBINSON: -- before that.

MS. CAUGLAN: Would it be --

MS. ROBINSON: But I -- you know, these guys
are -- I'll tell you what, rather than try to pick this
date, why don't you guys look at your calendars, and
starting with, say, the last week of January through the
month of February, state when you are not available for
a two-day meeting, and e-mail it in to us.

MR. SIEMON: Two days with orientation, too?

MS. ROBINSON: All right, three days.

MR. MATHEWS: Okay. Well, I can already tell
you that Arthur and I are tied up the entire last week
of January.

MS. ROBINSON: E-mail me.

MR. MATHEWS: Barbara's going to take the
meeting by herself.

MS. ROBINSON: You don't think I can?

CHAIRPERSON KING: All right. So think about
this -- think about this tonight. We'll try to get some
definitive dates on the calendar tomorrow. Is there any
business to -- hold on. Yes, but we'll talk -- we'll do
that tomorrow.

York Stenographic Services, Inc.
34 North George St., York, PA 17401 - (717) 854-0077
MR. SIEMON: Yeah.

CHAIRPERSON KING: George.

MR. SIEMON: I'd like to request if the Livestock Committee could get together here and set up a meeting so we can go forward with fish. With our two-week notice thing, if we can just set up right now -- to set up a time to meet in the next while, because we need the consensus for two weeks for a Livestock Committee call.

CHAIRPERSON KING: Okay. So the Livestock Committee's going to meet after we recess here to schedule a call. Is there any other business?

MR. RIDDLE: Well, I just wanted to clarify what George said. Given our new two-week requirement and -- no, no, no. That was -- that's a draft proposal that hasn't even gone through committee. We need the seven days before a conference call. That's really --

CHAIRPERSON KING: He was just trying to give you --

MR. RIDDLE: Yeah.

CHAIRPERSON KING: -- incentive.

MR. RIDDLE: And I just didn't want there to be confusion that we have --

MR. SIEMON: Well, but I respect that.

CHAIRPERSON KING: Well, we've never had
confusion, so let's not start now.

        MR. RIDDLE: Unnecessary confusion.

        CHAIRPERSON KING: That's right.

        MR. SIEMON: We've been --

        CHAIRPERSON KING: Owusu has a comment.

        MR. BANDELE: I have a question to Rick and, you know, and inviting feedback from the Board. I came across a unique situation where a farmer has a pond of tilapia, and he's going to be moving toward certification and he wants to use the fish waste. And it's not really manure as defined, as far as the rules as I understand it. Like, in other words, it mentioned that manure comes form livestock, and then fish is not part of the livestock, so could you clarify that?

        MR. MATHEWS: Fish is livestock under the act, and we’re going to be correcting that definition in a future rulemaking. And I believe it's in the --

        MR. BANDELE: That's right, that's right.

        MR. MATHEWS: I think it's actually in the livestock materials docket.

        MR. BANDELE: Okay. So that person would have to treat that as regular manure, in terms of whether he wanted to compost it over the 90 to 120-day period between application, according to that?

        MR. SIEMON: I considered those --
MR. MATHEWS: Is it a liquid or is it --

MR. BANDELE: Well, see, he has both. You know, you have the effluent, and then you also have the solid waste, as well.

MR. MATHEWS: Well, the solid waste is clearly manure, and I would think that the liquid would be, as well. Just like a dairy farmer has both solid and --

CHAIRPERSON KING: Okay, is there any other business to come before the Board? We will recess and reconvene tomorrow morning at 8:00 a.m. with -- public input begins at 9:00. Thank you all very much.

***

[End of proceedings]
CERTIFICATE OF REPORTER, TRANSCRIBER AND PROOFREADER

IN RE: National Organic Standards Board

HELD AT: Washington, D.C.

DATE: October 13, 2004

We, the undersigned, do hereby certify that the foregoing pages, numbered 1 through 262, inclusive, are the true, accurate and complete transcript prepared from the reporting by the reporter in attendance at the above identified hearing, in accordance with applicable provisions of the current USDA contract, and have verified the accuracy of the transcript by (1) comparing the typewritten transcript against the reporting or recording accomplished at the hearings, and (2) comparing the final proofed typewritten transcript against the reporting or recording accomplished at the hearing.

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______________________________
David A. Martini, Transcriber
York Stenographic Services, Inc.

Date:

______________________________
Sarah Mowrer, Proofreader
York Stenographic Services, Inc.

Date:

______________________________
Charles Brown, Reporter
York Stenographic Services, Inc.

York Stenographic Services, Inc.
34 North George St., York, PA 17401 - (717) 854-0077
UNITED STATES DEPARTMENT OF AGRICULTURE

IN RE:

NATIONAL ORGANIC STANDARDS BOARD MEETING

Hearing held on the 14th day of October, 2004

      at 8:10 a.m.
The Marriott Washington Hotel
1221 22nd Street NW, Salon E
Washington, DC

TRANSCRIPT OF PROCEEDINGS

10-14-04 NOSB Meeting Participants

Chair:             James R. Riddle
NOSB Members:

Kevin O’Reill
Goldie Caughlin
Mark King
Rebecca Goldburg
Andrew Caroe
Michael Lacy
Kim Dietz
Owusu Bandele
Nancy Ostiguy
George Siemon
Arthur Neal, Jr.
Barbara Robinson
Richard Matthews
Rosalie Koenig
David Carter
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Proceedings

York Stenographic Services, Inc.
34 North George St., York, PA 17401 - (717) 854-0077
CHAIRMAN RIDDLE: Good morning. Mark and I talked over breakfast about who was chairing today. And he said, well, last time after the election he started the chairing, so bear with me, please, and I’ll try and feel my way through here today. On our agenda we have our committee chair reports, and then scheduling our next board meeting. And then at 9:00 a.m., is a public input session. So if you have not signed up and would like to offer comments, the sign-up sheet is still out on the table outside. So please do that, and we will go to that at 9:00. But first, we have the committee chair reports on work plans. And I would just ask, as you give or summarize your work plans and what the issues are, if we can prioritize them a bit -- I meant to suggest that late in the day yesterday -- but if you can think of it either in terms of, you know, the most pressing issues, or kind of the low hanging fruit, things that can easily be accomplished as being how to prioritize. So who’s ready first? Okay. Andrea, Accreditation Committee.

MS. CAROE: Accreditation Committee has two items on their work plan. The first item is to review and finish the document regarding the certificate...
document and the information on that document. The second item is a lesser priority, but important, and that is to provide some guidance to operations seeking certification and choosing a certifier. So we will be working with industry to collect the important aspects that an operation should consider when choosing a certifier, and the questions that they should be asking as they interview certifiers, to find the best fit for their organization. That’s it.

CHAIRMAN RIDDLE: Okay. Any questions or comments from other board members, NOP? All right. Thanks. Let’s see. Nancy’s not here yet. Who else is ready. George, are you ready to go? All right. Livestock, George.

MR. SIEMON: I was still rewriting. I’m in priority.

CHAIRMAN RIDDLE: Oh, sorry. No. I didn’t say it.

MR. SIEMON: That’s all right. It looks like our work plan is expanding. First, our top priority right now is to do this task force, to recommend the appointees to it, to the executive committee, and to establish a process. And you know what our objectives, and criteria, and all that are, keep that and get that going. Our next priority, I hope is to collaborate with
the NOP on this problem with the FGA classification, and see what we can do about that. And then we had the dairy replacement as a rule change that was going to be our first rule change, I think, that we face. And so that’s a priority issue that came out of this meeting. And then a great concern to myself -- and I think we’ve heard from the public -- is the methaninine issue. So I’d like to have us take that up and see as a committee what we feel we need to recommend that extension or not. And then we’ve got some more materials to work on. We’ve got gelate still hanging out there. And then I thought we might take a look at the material list too to see if there is any that we are concerned about that shouldn’t be set ahead of the time, if that’s -- that’s maybe not the committee, but, certainly, it’s something we face in our workload. And that’s enough.

CHAIRMAN RIDDLE: Yes. Questions or comments for George?

MRS. KOENIG: Yes. As far as the methaninine review, what I would like to see, if, you know, if the issue is alternatives, I know there’s that committee that is, you know, through OTA, that has developed and is looking at research alternatives. But, I mean, if we have this -- the TAP -- this TAP funding, and we have contractors, and we have material, I think in addition...
to having the committee’s report, I think it’s important
to have a non, you know, using a technical, you know,
contractor to also give an objective approach. And I
wouldn’t want to see that individual necessarily going
through methaninine. It think it needs to be like an
addendum to the original TAP. But really have them at
the same time, hopefully, find some feed specialists,
and particularly look at the alternatives, so that we
have some technical information in addition to whatever
the livestock committee comes up with, and whatever the
industry has been doing thus far to make a decision,
because I, personally, am not comfortable. I guess -- I
don’t want to -- I want to keep consistent with the
process if we’re going to re-look at any kind of
material.

CHAIRMAN RIDDLE: So, George, do you have a
response? Well, I guess I’d like to follow-up on that
because I’m not exactly clear, if you were suggesting
that in this methaninine issues development, going back
to one of the technical contractors for some further
information, that’s what I think Rose was suggesting.
And how could that work for the program’s standpoint?

MR. SIEMON: Well, again, all I was going to
do was bring it up to the committee about what they felt
would be the next step. But I really could just lump
that into the sunset material issues. I think there are several materials that we don’t want to live to the sunset. So I’d rather -- what I heard was get going on it sooner than later, rather than balling up. So to me, it’s part of maybe some other materials as well. So I don’t know how the rest of the committee feels. But I know it’s an issue we face, and I just wanted to bring it to the committee as an action for a work plan item.

CHAIRMAN RIDDLE: And that’s what I heard you say was separate from the methaninine issue, is to look at the livestock materials list and take up Barbara’s suggestion, are there some priority issues for early review, just to get the information flowing early on.

MR. SIEMON: And new information for a TAP might be the thing we need, just like Rose has suggested. That might be just what we need to do. Some of those cases might need a whole new TAP, quite honestly. If you’re talking about an even handed process, some of the older taps were very uneven-handed, compared to the present ones.

MS. KOENIG: And I guess that’s what is troubling me. And, again, I take it away. We could call it material X. There’s a number of X, Y’s, and Z’s on our list that have a terminated sunset. And, again, I don’t -- I’m not saying yes or no, or here or there,
but when the Board voted on it, there was a terminated sunset. Now if people want to re-look at it, is there a process to do that? You know, I don’t necessarily see that process unless maybe somebody re-petitions.

CHAIRMAN RIDDLE: Rick or Barbara? Rick?

MA. MATTHEWS: If it’s the will of the Board to take another look at methaninine -- which it seems to me that’s what George is asking for -- we can package up the analysis work that Barbara did on the methaninine tap, as well as the tap itself, send it off to one of the new vendors for a new tap drawing from the previous, and to provide additional supplemental information, if that’s what you want. In other words, if you decide you want to do something, we can get moving on it right away.

CHAIRMAN RIDDLE: Okay. Thanks. And also I’d ask the committee chairs if you have a conference call scheduled or planned, to just report on those kind of nitty gritty too. George, do you still have -- okay. Kim.

MS. DIETZ: It seems to me like the process for this is very similar. The material is on the national list. And if somebody wants to amend the annotation, they should submit a petition -- listen carefully -- to amend the annotation. And the specific
charges we had with methaninine was that somebody should be looking at alternatives to methaninine. So I would think that the Petition to Amend would list the alternatives, and the work that’s currently being done on those alternatives. And then that would give the Board the ability to go in and say, okay, this is an Amended Petition. Here’s what they’re asking for. You can request a supplemental tap based on that research, or whatever they are, and then you have the ability to open that annotation back up and make a new recommendation.

CHAIRMAN RIDDLE: Thanks. Yes, Rose.

MS. KOENIG: I would concur with Kim. I’m totally comfortable with that process. I just don’t want, you know, because once you go around the process for one material law, you know, then you don’t have a process. So, I mean, I’m not saying don’t do it, I’m just saying, we need a process. We need to have an amendment. We have a process established to allow people to do that. And they have to go through the formal networks.

CHAIRMAN RIDDLE: Yes. Thanks. George.

MR. SIEMON: Some guidance, you know, I would like to see somewhere -- reading the scope document, APE [ph] culture is an issue we’ve not faced, honey. And it
was in the scope document as well. So I’d like to --
because what Nancy is a specialist at. So to me, if
we’re ever going to face that issue, it would be a good
time to do it while she’s on the Board. So that was
something else to ask guidance for, if that’s part of
the workload or not, because it was in the scope
document as well.

CHAIRMAN RIDDLE: Barbara?

MS. ROBINSON: Well, we do have
recommendations from the Board, and there have been
drafts, something to begin building draft -- the
additional standards that might be needed. We have all
agreed that, you know, those commodities, mushrooms,
honey, greenhouse, you know, they’re covered, yet we all
recognize that there could be some, and, in fact, there
are some peculiarities, some unique practices associated
with each of those that need to have additional rule
making. And we do have past recommendations. We do
have a fair amount of documentation that we can -- and
that’s what we’re trying to do is get started
constructing some proposed rule making on those.

CHAIRMAN RIDDLE: Okay. Anything else for
George? Hearing none. All right. Dave, Policy
Development Committee?

MR. CARTER: Thank you, Jim. We have six
items on our work plan. Three of them that I put up at
the top really fall under the heading of administrative
issues that I think we want to take care of fairly
promptly. First of all is to continue to work on the
finalizing the job description or the efforts to procure
an executive director for the NOSB, work with the
program on that. Secondly, is to establish our policy,
however formally or informally, for with the NOP, NOSB
collaboration. There was discussion particularly
Tuesday of to what extent do we want to have a specific
detailed framework for collaboration or something more
informal. And I think we want to continue to work that
forward. Third is it incorporate the Board Policy
Manual revisions, which include the issue on scheduling
our meetings, incorporating those comments from Barbara,
the discussion of that, and how we incorporate that in
developing within the manual, an explanation of
technical corrections. The last three things on our
work plan then fall more under the heading of policy
issues, in which we will be working with some of the
other appropriate committees. First of all is the area
of handling of livestock medication materials. We want
to work with the Livestock Committee. But there was a
request on Tuesday that we look at particularly the four
areas, is it possible to create a category of
alternative medicines on the national list? Is there a potential to create a negative over-the-counter list? Is there a category of production age, with reference to specific use and/or is there an opportunity to have organic included as a minor use category by FDA. So I think those were the things that Barbara outlined on Tuesday, as some potential areas to look at. Fifth, or the second area under the policy areas would be in working with the Handling Committee, is the handling of organic and non-organic ingredients in made with products, and how do we begin to develop some recommendations on that? And then the sixth area is starting to establish some guidance on the issue of temporary variances for research.

CHAIRMAN RIDDLE: And would you be working with the Crops Committee on that?

MR. CARTER: Yes.

CHAIRMAN RIDDLE: Okay. Any comments, questions, for Dave? Andrea?

MS. CAROE: Could you repeat the fifth one, Dave? I don’t understand what you wrote.

MR. CARTER: Yes. Is the issue of handling of organic and non-organic ingredients in the made with category, is the discussion on somebody with the 70 percent -- meeting the 70 percent, and they use, you
know, 70 percent of one ingredient, and then 20 percent
of a non-organic of the same ingredient. There’s been
some discussion about the blending of like ingredients
in finished products.

CHAIRMAN RIDDLE: And you may have missed it,
Andrea, but during public comment this came up a couple
times, that there is inconsistency in how that’s being
applied by certifiers. Some are allowing this, and
others are not. So there’s differences in how the rule
is being read. Yes, Kevin.

MR. O’RELL: So, Dave, your intent would be to
provide a -- some type of guidance document on that,
or...

MR. CARTER: Yes.

MR. O’RELL: Okay. And that’s working with
handling.

MR. CARTER: Handling.

MR. O’RELL: We may add that to the list.

CHAIRMAN RIDDLE: All right. Anything else
for Dave? All right. Speaking of your list, Kevin,
handling.

MR. O’RELL: The top priority for the Handling
Committee work plan would be the formation of the
agricultural and non-agricultural task force to make
recommendations for materials on 205 605(a). We’ll
prepare a statement of work outlining objectives, tasks, and timetable, and make a recommendation to the Executive Committee for that taskforce, along with appointees. The second would be the pet food draft recommendation to begin work on that as a committee. Third would be sunset material review process to identify those materials that may be problematic early, and try to get a jumpstart on those. And then there’s still -- I’ve had some questions on the food contact substances, so I guess once again we will try to clarify the qualification materials classified as food contact substances, and provide a guidance statement that the Board could vote on at the next meeting. And then we will be reviewing petition substances as needed. And I need to add to the list finally working in conjunction, I guess, with the Policy Development Committee on the use of, as Dave just indicated, the non-organic and organic ingredients in a made with category.

CHAIRMAN RIDDLE: Okay. Thanks. Any -- Rose?

MS. KOENIG: I guess on the, again, the task force for agricultural and non-agricultural, I mean, I talked a little bit to Kevin, but I guess -- yesterday. The first task really is to, you know, I consider it more of a board task rather than a taskforce task. And that’s really drawing those lines, you know, analyzing
the definition, analyzing what’s on the list. And I guess I say that in terms of -- I think it’s a, you know, we identified that, you know, the fete of those documents is more board policy as to how, you know, it’s similar to synthetic and non-synthetic, how we think or how we perceive AFFA [ph], you know, after analyzing minutes, analyzing AFFA, analyzing the regulation and definitions, and what’s on the list. And I guess I get a little nervous about doing that important function. And I think there’s other functions about that section which is more policy and how it looks. But as far as the definition of that, I think that’s, to me, the first priority. And I’m not sure if you really need an outside taskforce. I mean, I think we will seek recommendations from the public. But I guess the concern I have is that if you have a taskforce with various stakeholders, depending on who the stakeholders are, we don’t want a definition -- like I said, you know, you run into the problem where you start defining something based on specific substances rather than what’s the best for materials. So that’s just my personal suggestion.

CHAIRMAN RIDDLE: Thanks, Rose. And we did talk about that yesterday. And I think we’ll leave up to the Handling Committee to take the lead on this, how
they see best fit to bring something for our consideration.

MR. O’RELL: I think what we’ll do is -- because I haven’t had a chance to talk to the Handling Committee yet during this meeting, so I guess the first thing that we’ll do is have a handling committee meeting, get input from that committee, and try to prepare, as I said, the Statement of Work, as to what are our specific objectives, and the tasks that we need to accomplish. And then maybe from that we’ll see what is the best way to go forward. Maybe it will be to seek counsel from individuals, the public, and then to decide to do it as a committee. So I guess the taskforce, what I would say is that should not be specific. Let me change that to working with the Handling Committee to find out what are our objectives and needs, and if we can handle it internally, we’ll do that, and seeking public comment.

CHAIRMAN RIDDLE: Kim.

MS. DIETZ: I guess, Rose, it’s similar to your ghostwriters, that we want to make sure that we get historical input from -- so whether we call it a taskforce or we seek other information, I guess the issue with the taskforce is confidentiality. And while working on something like this, we felt it was important
that those people working on it understood our Board Policy Manual and that portion of it. So whether or not it’s ghostwriters or taskforce, as long as I think our goal is to make sure that we look at it and get as much information as we can, from past history and from past board members.

CHAIRMAN RIDDLE: Anything else for Kevin?

MR. MATTHEWS: Yes.

CHAIRMAN RIDDLE: Rick.

MR. MATTHEWS: Actually, this isn’t just for Kevin, but I’ve -- I’m concerned because I’m not hearing about the four documents that are going to go up on the website for comments. And I would think that the scope documents should be part of policy. The antibiotics should be included in George’s for livestock. And then we still have the other two issues that we also need to be -- well, yes, the fish meal and the inerts. And, obviously, we haven’t gotten to the Materials Committee yet. But we need to make sure that all four of those are on the work plan for your next meeting.

CHAIRMAN RIDDLE: George?

MR. SIEMON: I’d be glad to -- my understanding is we can work with you all about the clarification statements you all are putting out. But there’s nothing for the next meeting on antibiotics.
Then I’m confused.

MR. MATTHEWS: Then my question is, why are you putting them out for public comment if you’re not going to be acting on public comment?

MS. ROBINSON: Wait. Let’s -- I thought yesterday that we -- what we talked about doing -- George, you’re about to fall off the table there. I thought what we talked about doing was you’ve given us your feedback, and we committed to writing guidance statements to, in effect, give the department’s concurrence with the statements that you drafted. And then we were going to put the whole kit and caboodle up on the website and say, here’s what the Board said. We’ve heard the Board. Here’s our clarification statements, our guidance statements, and where there was the need for rulemaking, we would acknowledge that. And then we just post the whole thing. And, of course, the public is always free to comment. Now I guess maybe where Rick -- maybe I’m not understanding. But then if in your meeting in February -- or whenever we have this next meeting -- I suppose you could theoretically vote and say we accept the whole thing. But I thought we were going to kind of put this thing to bed and move along.

MR. MATTHEWS: Well, maybe I just need to have

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clarification for myself. It was -- the impression I
took away was that we were going to be seeking public
comment on your documents. And if that’s the case, than
I thought we had to address that public comment. But if
you’re not seeking public comment, well, then that’s a
different issue.

CHAIRMAN RIDDLE: Yes. Barbara, did you...

MS. ROBINSON: Well, I guess, you know, Rick
and I obviously disagree a little here. My feeling is
that since April we have received public comment. I
doubt that anybody would seriously disagree with that.
I think you’ve heard it. We certainly have heard it.
So I think at this point the ball is in our court to
respond to the Board. And so that’s what I thought we
were going to do. And correct me if I’m wrong, it’s
possible I forgot. I knew I was going to say this, but
I thought I did yesterday, that over the course of the
next week I will write the draft. I’ll draft the
statements. We will submit them to legal counsel again
to make sure that they are comfortable with what we’re
saying, that they support it, but we will submit it to
you too, to tell you this is where we’re going. And
that hopefully, if we can push the legal folks and say,
don’t put this at the bottom of the pile. Read it and
tell us that we’re okay, that we can get this published,
you know, like within the next two weeks or so.

CHAIRMAN RIDDLE: George?

MR. SIEMON: Publish means here is our interpretation, and this is the way it is.

MS. ROBINSON: Right.

MR. SIEMON: That’s the objective here.

MS. ROBINSON: Right. Right. And then we would say, okay, so we have settled these issues as far as we can with guidance statements. And then the origin of livestock will require a rule change. Everything else, I believe we agreed we could issue clarification statements on.

MR. SIEMON: But, Rick, I think it would be great for all of the committees to take a look at the new statement coming out as part of our work plan. I think that’s awesome. You know, I’d be glad to do it. I just hope some day we settle these issues and move on too.

MR. ROBINSON: Rick, well, clearly, I was confused. So I stand corrected.

CHAIRMAN RIDDLE: All right. Well, I think it’s a good reminder for each of the affected committees to kind of have it as a placeholder that there is going to be a draft response coming from Barbara. And there will be a timely -- a need for a timely turnaround and
comments. And that may just be e-mail circulation and
not formal committee meetings to generate those
comments. Goldie.

MS. CAUGHLIN: Well, I just wanted
clarification as to the role of public response to the
action of both of us as it goes up on the web.

MS. ROBINSON: I guess -- here’s what I don’t
see. You know, we’re going to respond to you with, we
think that the dialog has taken place. And I thought
that when we said on Tuesday, when each of these
statements came up, and each of them was presented, and
I believe I clearly said, and the department concurs,
that means we agree, that we would, you know, end this
talk. Now that’s not to say that, you know, we
don’t expect to get any fan mail. Everyone in the
United States, in fact, everyone who operates globally
is free to comment. And, you know, we will accept those
comments. They can write letters to you, they can
comment to the department, and, you know, that’s all
fine, well, and good. But I’m not under the impression
that we’re going to ask for public comment to keep this
iterative process going. I thought we wanted to resolve
these issues and move on. So I guess what I’m saying
is, yeah, everybody can talk to us, but we’re not -- in
fact, if that’s what you want to do, Goldie, if you want
to go out and get public comment, this isn’t the process
to do it. That requires -- then you’ve got to go
through the formal rule making process. And why do we
want to do that?

CHAIRMAN RIDDLE: Goldie, follow-up? And if
we can wrap this up, please.

MS. CAUGHLIN: It wasn’t my intent to -- I
just wanted clarification. I wanted -- I think that we
are in agreement. I just wanted it to be so that when
people read our minutes or leave this meeting, they have
an understanding that, strange as it seems, we truly are
striving to show that we are in concurrence on exactly
what we have said. And I just wanted to underscore that
I think it’s important that that be understood, and
also, secondarily, I would -- to again affirm what you
just pointed out is that always at any time, whether or
not a document on the web says public comment in the
sense of the official or formal timelines and so on,
comment is always appropriate from anybody who is a
stakeholder. And we’re all stakeholders. And positive
comments are good too.

Anything else there? Okay. We have two committees left
to report. And, Nancy, I don’t think you were in here
when I had asked the chairs to prioritize the items. So
I’ll give you a little more time if you’re not ready, and we’ll go to Rose -- or you are? Okay. We’ll go to Rose first.

MS. KOENIG: I was trying to figure out kind of the priorities. Well, a new priority came on the table at this meeting, which is how do we kind of deal with the new contractors? How do we make sure they understand the system? How do we know that they understand the kind of product that they need to give us? And I thought long and hard about kind of the NOP’s proposal, and I think it can be done in a more effective way, personally. And so -- I thought I could. And then I thought, well, what is that? I mean, it’s easier to say, yeah, you can do it in a better way. And then I thought about a recent training that I’d been involved in in the regulation. And George, from ATRA [ph], was involved in it, and the University of Kentucky, and the University of the Virgin Islands, University of Florida, and Marty Mesh [ph], and Omerie [ph], and somebody else in there. But anyway, it’s -- and, again, I’m not the inventor of it. I worked with an extension. An individual works an extension and learns how to train, how to teach. And I found out that my learning type is I can take notes and, you know, I’m a very active learner. But a lot of people aren’t that way.
most effective way of really teaching somebody or training somebody is really interactive training. And I think that I would propose -- and I’m prepared to kind of give at least one -- write one module so that the NOP kind of understands the kind of proposal. But it’s really, as I thought about it, to take the products that we want -- we basically take -- either we could take some of the existing materials, but it’s probably better to take a material that’s already been reviewed, or materials that have already been reviewed, and identify the issues in each section of OFBA [ph], and try to, you know, so the learning objectives, for example, in a system of compatible -- in compatibility with agriculture, we have a document that lists all of those. And you would give, perhaps, the, you know, all three contractors in the same room, you’d give them maybe a section to read, you know, and then they would have 30 minutes, you know, with their team, whoever’s going to eventually do the writing to figure out what the, you know, where is this compatible or isn’t compatible, and then you do a critique or an analysis with them in the room to kind of point out the things that they, you know, because you have the answers already kind of what you think, what they did correctly, what were things that they missed, so that everybody’s on the same page.
You’re training everybody in the same way. You’re putting everybody on an equal playing field through the training.

CHAIRMAN RIDDLE: Rose, if you can just summarize the work plan items, because we’re got limited time before public comment.

MS. KOENIG: Okay. All right. But I’m just saying that that would be a priority because I think it is, even though I have these other documents on board, that’s, to me a priority, is do an effective training that can be done if -- the same way for future boards. The next would be the petition notification that we went through, because that probably needs to be gone through, rule making so -- we’ve got to work with the NOP and figure out if that’s enough, if we provided enough information and modification. We have to work in the committee and vote on those documents first, and make changes. But then, really, pass it onto them, and it’s their job, as I understand, to kind of go through the Federal Register process.

CHAIRMAN RIDDLE: Well, if you bring it to the executive after the committee has voted...

MS. KOENIG: Yes. I guess that would -- that’s what we would have to do in this case if we wanted to expedite that.
CHAIRMAN RIDDLE: Right. Okay.

MS. KOENIG: So we’d have to have a comfort level on the Board to do that. We have the sunset -- we voted on the sunset document, but we need to develop our internal procedures so that we get a handle on what kind of timeframe we need, and what we’re going to have to do as committees, so that when we have these 90 days, we’re prepared to do the work that needs to be done within the 90 days. So that’s making those operating procedures. And then we need to address pretty much all of the documents, kind of the non-synthetic versus the synthetic. I’d like to take that document and really try to start to identify kind of the policies, or the benchmarks, or whatever you want to call them, that starts really setting the parameters. And we need to vote on those by the next meeting -- I assume -- so we can operate by those as we go through materials. And I’d like to have that done before we start looking at any new materials -- and there will be some that come up on the next meeting, at least as a working document, I guess. I want to put on -- update, there’s a loose structure right now for a materials review, like you saw on the slides. There’s kind of an old system; there’s a new system that Arthur has been working on at the NOP. So we just need to write that down, and we need to have
it as a working document, whether it’s what ends up
being our practice two years from now. But we need to
really understand what the procedures are, and what
NOP’s proposing, and how we understand it to exist, and
make sure that there’s an agreement in terms of the
process. So I think the committee can work on that.
And then just really -- Jim had mentioned a pre-
screening. And I guess what you were referring to --
and I agree that committees, working with the committees
-- and I guess I would have to go on each committee
telephone call. But I would suggest that the committees
get together really early on and start identifying a
list of materials that they feel might need to be
reviewed. And this is on the existing materials list as
far as sunset, you know, do the first step, even though,
you know, it will go through the materials process as we
have proposed. But, you know, I think Richard and
Barbara identified a very good system, which will allow
us to start reviewing prior to that, you know, document,
and prior to the policy. Committees are now allowed, as
I understand it, and they’re willing to let us identify
materials ahead of time and start working on taps for
those materials that are going to need additional
review. So I would suggest committees do that really
quickly. And then I think it’s just kind of a
housekeeping item, the potassium carbonate issue that
Arthur mentioned. I’m not quite sure procedurally how
you want to handle it. I mean, there’s, again, a letter
on the table. He’s asked for committee response to the
letter. I mean, we can, as a committee, maybe draft a
response, and then vote on it as a committee. I just
don’t know if the executive committee wants to vote on
that draft and then give it back to Arthur.

CHAIRMAN RIDDLE: Well, I would think ideally,
yes, that there would be summarized for the executive
committee, and we’d have a chance to discuss it and take
a position.

MS. KOENIG: Well, then I would suggest, you
know, that’s, I think, another expedited item. So we,
you know, at the next executive call we would need to
have that draft done, because there was urgency in the
letter as far as the need for a response.

CHAIRMAN RIDDLE: Okay. Is that it?

MS. KOENIG: I think so.

CHAIRMAN RIDDLE: Is that all?

MS. KOENIG: Well, my only concern -- sort of
what Richard was saying -- I mean I proposed the AFFA,
you know, we were, you know, what are we doing as far as
the -- did the committees -- because I didn’t hear them
mention it, and maybe I was wrong, that I thought
livestock and processing was going to do the same thing, trial run for the AFFA criteria, and see where -- just like I did for crops, see where materials lie, if they fit within the criteria. But I don’t know, maybe everyone expected me to do that. But I can’t, I mean, I’ve done that for crops. I think it’s up to the committees because that’s one way committees are going to understand and buy in in the process. Because if I continue to do all of this, you know, you’re not engaged enough. And it’s a dramatic change. So I think committees need to start examining it.

CHAIRMAN RIDDLE: I thought I did hear livestock mentioned along those lines. But I think it’s good, good to keep it on the table. Any other questions? Yes? And we need to...

MS. DIETZ: I’ll be quick.

CHAIRMAN RIDDLE: Yes.

MS. DIETZ: Yes, Rose, I think handling would take that with the ag, non-ag, and look at the list all at the same time. That’s what we had discussed. I have a question for Richard and Barbara on the sunset. Thank you. Assuming -- if you could just really quickly take us through the steps once the Federal Register goes out and timing, so that the public has an idea of how quickly we’re talking about this Federal Register notice
going up, and how quickly the public has to respond, whether they want a material to remain on the national list, or they are going to do the work to have a material removed. There’s a sheet on the back of the sunset provision that gives us days.

MR. NEAL: Based on what we’re anticipating, we’re anticipating an ANPR, the Advanced Notice of Proposed Rulemaking to be published by the end of the year. Let’s say if it’s published in December, that gives the public 90 days to comment on that advanced notice of proposed rule making. That advanced notice of proposed rule making, we’ll be asking the public to identify the materials or the substances, exemptions or prohibitions that should be continued for use or not continued for use in organic agriculture production, where there may be some desire to remove substances, they would have to provide data to support their position within the 90-day period. After the 90-day period is up, the Board will commence its work in analyzing those comments. Once we receive the Board’s Formal Recommendation, then we will begin to draft a proposed rule.

MS. DIETZ: How long will it take the Board to do that?

MR. NEAL: 90 days for the Board. And we give
ourselves 90 days to draft a proposed ruling.

    MS. DIETZ: We like 90.

    MR. NEAL: Then after we draft the proposed rule, then you start the government process. The Office of General Counsel, they get 90 days. Office of Management and Budget, they get 90 days. Once we get it back from them, we can finalize it, put it out for public comment. The Proposed Rule will be out for public comment for an additional, I think, 90 days. Once we receive public comment, then we finalize the proposed rule, make it into a final rule. You get 90 days for that. Then it has to go through the government process all over again. So we’re looking at a pretty lengthy process. That’s why we have to start now. So the earlier the public can start generating their ideas, and concerns, and positions on the substances that are currently identified on the national list, those that have been on the list for five years, the better off they will be. And the same for the Board. If there’s some, as Barbara stated, that you know that you want additional information on, we can go ahead and begin to get that information now.


    MS. OSTIGUY: The -- I semi-prioritized them.
We need to deal with materials. The taps that we’ve currently been sent and soy protein islet, sunset priorities, reviewing the compost and compost T [ph] reports to make recommendations for potential board vote, guidance document on commercial availability of organic seed, hydroponics and guidance on temporary variances for research.

CHAIRMAN RIDDLE: Could you please repeat that a little slower?

MS. OSTIGUY: Okay. Materials, the taps that have come in, and soy protein islet, look at sunset priorities that the Crops Committee might have, reviewing the compost and compost T reports to make recommendations for a possible Board vote, guidance on commercial availability of organic seed, hydroponics, and guidance on temporary variances for research.

CHAIRMAN RIDDLE: Okay. Thank you. Any questions, comments for Nancy? Okay. And I do have one, and that is we did receive some extensive public comments in writing in advance of this meeting from a group called Wild Farm Alliance, proposing some changes to the kind of model organic farm plan that the Board has approved to strengthen some of the section on natural resources, and they will clarify the questions being asked there. And I think that we’re going to
hear, you know, verbal comments today. And I’d just ask that the committee stay open to adding that to the work plan, you know, as time permits. Biodiversity, you know, and conservation of natural resources. Any other comments, questions for Nancy? All right. Thanks. Oh, yes, Goldie.

MS. CAUGHLIN: Nancy, was -- when you mentioned hydroponics, it’s on there as a -- I mean, do you have any...

MS. OSTIGUY: My understanding is it was talked about on Tuesday, when I wasn’t here. No. I don’t know anything about it.

MR. BANDELE: Well, the Crops Committee did some preliminary work on hydroponics, in terms of trying to determine whether or not it fit under the auspices of organic production. And we waited for further feedback from the Policy Committee, which we now have. So we’ll move forward with it.

MS. OSTIGUY: Thank you.

CHAIRMAN RIDDLE: Okay. Anything else? All right. Thanks, all committee chairs. I think it’s obvious we all have our work cut out for us, and then some. All right. So we’ve got a few minutes left to talk about the schedule for next board meetings. And we had a preliminary discussion last -- or yesterday
afternoon, and it’s been proposed sometime in January or February, and you were asked to kind of check your calendars overnight and see if we can nail this down, at least to the week, today for that meeting. And then it’s proposed that the following meeting be in August. I don’t think we need to try and get dates. That’s going to depend on the whole movement of the sunset process. But I would just propose, for the sake of time here, February -- the week February 7, through 11. No. No. It’s -- I can’t before February 5. But after February 5, my daughter’s going to be married, and I’ll have one less thing to worry about.

MS. ROBINSON: Actually, Jim, NOP also -- a meeting in January is just not going to work. Let’s just cross off January.

CHAIRMAN RIDDLE: And I had -- yes, Kim.

MS. DIETZ: Well, I had said I’m gone ten days in February, so to be gone another 25-15 days -- how about the last week in February? Is that open for anybody?

CHAIRMAN RIDDLE: So that’s a no, George? You wouldn’t be available?

MS. DIETZ: The 28th through the 4th of March?

MR. SIEMON: How about the 21st, 22nd, 23rd of February, or I’d prefer, of course, the week before,
like the 16th, 17th, 18th.

MS. DIETZ: That won’t work for me.

MR. SIEMON: How about the 21st?

CHAIRMAN RIDDLE: Well, I propose the 7th through 11th. And it sounds -- I know it’s a burden, Kim, but...

MS. DIETZ: Well, I would prefer the week of the 21st. That would work better for me. It at least gives me four or five days at home without being on the road for that long of a time. So if the 22nd, if that’s possible, would be better. And if it’s not, than I’ll just have to see if I can make it or not.

MR. SIEMON: Is President Day, is that a holiday? So we can’t do it then.

CHAIRMAN RIDDLE: So Monday, the 21st, is a federal holiday?

MS. DIETZ: Yes.

CHAIRMAN RIDDLE: President’s Day, I believe. Okay. All right.

MS. ROBINSON: If we need to have a meeting over the course of a weekend, that’s fine. I will tell you, we would much prefer the meeting to be here in Washington again, particularly if we have new members, you know.

CHAIRMAN RIDDLE: Barbara is speaking.
didn’t quite -- you kind of trailed off there.

MS. ROBINSON: We would prefer the meeting to be here in Washington.

CHAIRMAN RIDDLE: Okay. Does the 22nd, 23rd, 24th work?

MS. DIETZ: Can we do it at the end of next week? I mean, that’s a week off for children, and for those of us who are parents...

MR. O’RELL: I agree. I have the same conflict, if that’s a week off for kids, I’m sure my wife has a condo rented somewhere for skiing.

CHAIRMAN RIDDLE: You’d rather not have the meeting in Washington then?

UNIDENTIFIED SPEAKER: Or we could have the meeting where your condo is rented.

CHAIRMAN RIDDLE: I knew this would be fun. I just didn’t realize how much fun. George.

MR. SIEMON: How about the 7th, 8th, 9th, of March?

UNIDENTIFIED SPEAKER: Then you’re getting into Expo West.

MR. SIEMON: I know. Well, the expo is the 17th, 18th, and 19th.


UNIDENTIFIED SPEAKER: I like having it up at
Kevin’s condo.

MS. DIETZ: I don’t carry around schedules. I don’t work on schedule. I don’t know if that’s spring break or not. I think it may be for elementary schools in Florida, but I don’t know.

CHAIRMAN RIDDLE: Well, at some point we’re going to have to sacrifice something.

UNIDENTIFIED SPEAKER: Or somebody.

CHAIRMAN RIDDLE: Yes. Let’s at least nail down tentative, and we’ll -- yes, Rick.

MR. MATTHEWS: You can just let us make all of the decisions for...

CHAIRMAN RIDDLE: Well, we tried that. I’m glad you’ve taken credit for all of our mistakes. Whatever it takes.

UNIDENTIFIED SPEAKER: The first three weeks in February is out. Right?

CHAIRMAN RIDDLE: For one reason or another.

UNIDENTIFIED SPEAKER: Okay. Well, that’s really the best time for me.

CHAIRMAN RIDDLE: Yes. I still -- February 7th, through 11th, and then I’m hearing March 7th, through 11th. Well, let’s get something down here, and then we will confirm it. This is still tentative. Whatever we walk away today is still tentative. But I want dates.
Okay. Let’s try that March one, between the 7th and 11th of March. Pardon?

UNIDENTIFIED SPEAKER: I just don’t -- I don’t know.

CHAIRMAN RIDDLE: You don’t know. Dave?

MR. CARTER: That works for me. I’m just getting nervous that we’re waiting that long for...

CHAIRMAN RIDDLE: Yes. Well, if we’re well prepared in advance, that’s the good side of it. It gives us more time to be better prepared. Rose and George, let’s...

MS. KOENIG: I guess I need a clarification. Are the board members that are no longer on the Board as of that date, will they be voting? Are they voting members? Because, I mean, I want to accommodate schedules, but if some -- if it’s between -- so, I mean, I think we need to accommodate, for one, the voting members, because those are the ones that actually are...

CHAIRMAN RIDDLE: Well, I appreciate your sentiment. George?

MR. SIEMON: Well, my concern, again, we are moving the meeting from April forward, earlier, so that we can get -- if there was a due process, get done by October 1, or get it done. So if March doesn’t work, I think we have to do it in February. So I’d have to hear...
from NOP if March is cutting -- because April was going
to be too tight, and March worries me, the way the
government moves, still too tight. So, to me, that’s
our -- we’re working around this work plan thinking now.
And for me, methaninine is a big issue, and I want to
work around that deadline.

CHAIRMAN RIDDLE: Barbara.

MS. ROBINSON: I realize you want to try and
get a date down here, but it’s, you know, how about go
back to the idea that we send you all blank calendars
for the weeks in February, and not -- I would really not
like to see you delay as long as mid-March. But let’s
just send around the calendars. Mark the calendars that
you -- this gives everybody time to go home, check with
families and schools, and find out what the spring
breaks and that sort of thing are. I know around here
there tends to be a spring break -- winter break, I
guess they call it -- in February sometime. But I don’t
know the dates. Look at your schedules and e-mail me
back the dates that you are absolutely unavailable. And
then we’ll send it back out and say, you know, here’s
what everybody says. And we ought to be able to do this
over the course of next week, if we just -- everybody
just reads their e-mails.

UNIDENTIFIED SPEAKER: So you’re going to...
MS. ROBINSON: Yes. I’ll send you blank calendars, and then you -- see, see, this is a sign.

CHAIRMAN RIDDLE: Okay. And so it sounds like a plan. Let’s set a deadline here. Within two weeks, how about that, everyone on the Board has weighed in and we nail it down at the first executive call.

MS. ROBINSON: That sounds fine. Can everybody do that, answer their e-mail within the next week, and reply back? If I don’t hear from you, I’ll bug you.

CHAIRMAN RIDDLE: All right. Thank you, Barbara. She has to check with John Ashcroft first. You’d make a good executive director for this Board. You know how to take charge. Appreciate it. Okay.

Nancy?

MS. OSTIGUY: Just a question. When is the next executive committee phone call?

CHAIRMAN RIDDLE: Yes. Let’s not try and do that right now. Approximately a month from now. And I’ll take the lead on that of proposing dates, and get that nailed down here in the next week, and then we’ll have it set two weeks ahead of time. Okay. Anything else here before we go to public comments? Great. All right. If there are people in the audience that haven’t signed up yet, right now I have the book. I don’t know...
if there’s another copy. But you still can sign up.

There are 18 people registered, which at five minutes
each, that’s, what, about an hour and a half? So we
should have time for five minutes per comment. I think
it’s an hour and a half. I think 12 times five would be
an hour. And another six times five would be another
half hour. Maybe we need a policy on this. At any
rate, we have three hours allotted, with a break in
there somewhere that we’re definitely going to need. So
I think we have time for people to have five minutes
each. Rick?

MR. MATTHEWS: Barbara factored in questions
from the Board.

CHAIRMAN RIDDLE: Oh. Okay. Well, while
they’re getting that figured out, I just want to give a
couple reminders to people that are going to comment.
There were some people who were signed up for Tuesday
that graciously offered to comment today, and they’re at
the head of the list. And, like I said, you’ll have
five minutes. If you have someone who signed up and
have a proxy, you can have an additional five minutes.
And please make note of that when you start your
comments so that the timekeeper is aware of it. Also,
when you begin your comments, state your name. And if
you’re representing any organization or company, please
state that. Goldie will be keeping time, and we’ll hold
up a one-minute warning sign. But if you don’t happen
to look up at that time and see it, that’s not her
fault. It’s just a courtesy. It doesn’t mean that the
clock is ticking, or it’s like in suspension until you
see the -- it means it was one minute when she held it
up.

MS. CAUGHLIN: I like that prior absolution.
CHAIRMAN RIDDLE: Yes. Yes. The blinking
light and then the buzzer.

MS. CAUGHLIN: Where’s the hook?
CHAIRMAN RIDDLE: Yes. The electric shock.
And also I would just ask -- the subject matter, as
always, is wide open. So any concerns or information
that you care to share, we certainly appreciate hearing,
appreciate you taking the time to come here. The one
thing that we will not tolerate is attacks on persons,
or particular companies, or organizations, so please if
you have critical things to say, that’s not a problem.
Just don’t make them personal in how they’re offered.
So with that, Bob Bolus is the first person up, and
Leslie Zook on deck. We’ll take a break a little bit
into this.

MR. BOLUS: Is this on? Thank you for
allowing me the opportunity to speak to the National

York Stenographic Services, Inc.
34 North George St., York, PA 17401 - (717) 854-0077
Organic Standards Board this morning. My name is Robert Bolus, and I speak today as a concerned organic consumer, a veterinarian with over 25 years of experience in aquaculture and seafood safety, and as a member of the National Organic Aquaculture Working Group. I wanted to bring a number of issues to the Board’s attention this morning. We are faced with a number of important decisions regarding the use of fish meal and fish oil in aquaculture, and to a lesser extent pet foods. And I wanted to point out some salient facts about fish meal and seafood to the Board this morning.

Seafood is an important part of a healthy and balanced diet. Specifically, it provides absolutely essential component to the human diet, the highly unsaturated omega three fatty acids EPA and DHA. These essential fatty acids are found nowhere else but in the marine food chain. They’re eaten by the larvae of all marine fish, which are then, in turn, eaten by bigger fish, like anchovies and sardines, which are, in turn, eaten by even larger fish like tuna and swordfish, which are, in turn, harvested by man. This is the marine food chain that accumulates the essential fatty acids, and makes seafood an essential ingredient in the human diet. In our search for these fatty acids, we have over harvest the ocean, and are in the process of collapsing
the marine food chain that I just described. We started
at the top by harvesting all of the tuna and swordfish,
and now we have moved down the chain and are over
harvesting the herring and the sardines to use as fish
meal and fish oil in animal and aquaculture diets. It
is true that the commercial fisheries have collapsed,
and that aquaculture has grown to fill the void. A
significant portion of the catfish, rainbow trout,
tilapia, salmon, and shrimp that we consume are today
raised on farms with prepared diets based on fish meal
and fish oil. Today, fresh water fish raised on fish
meal are nutritionally equal to the marine seafood that
we are replacing. But before we consider limiting or
banning fish meal or fish oil in organic farming, let’s
make sure that the nutritional value of the products we
label as organic are equivalent in nutritional value to
the products that we wish to replace. This issue is
especially important to pregnant and nursing mothers who
absolutely must have DHA in their diets to support the
normal growth and development of their fetus. We are
clearly faced with a dilemma. The USDA clearly
recognizes the importance of seafood in a healthy diet,
and recommends that we eat at least two seafood meals a
week. Pregnant and nursing mothers are encouraged to
eat even more, especially oily fish. The FDA, on the
other hand, advises pregnant and nursing mothers to stay away from seafood because it’s contaminated with mercury and other toxins, harmful for the developing fetus. This situation is so critical that marine algae are today raised specifically for the extraction of DHA oils. These oils are now supplementing over 90 percent of the human infant formula produced worldwide. The organic solution to this dilemma is to provide organic seafood to nursing mothers, who can then provide the essential fatty acids to their babies the natural way, through their breast milk. Issues of environmental sustainability in food safety have long been of concern to the aquaculture community. The 70 plus members of the National Organic Aquaculture Working Group have spent their entire careers in marine sciences and aquaculture, much of the time searing for sustainable solutions. Aquaculture is, on the surface, superficially very like agriculture, but there are fundamental differences in the way these animals are raised. The diverse membership of the National Organic Aquaculture Working Group brings critical expertise to the decision making process of this Board. I urge the Board to accept the recommendations put forth by NOAG, and detailed in their September 29, letter to the Board. And I also urge the committee to specifically list
essentially fatty acids on their approved supplement lists. These fatty acids are just as essential as vitamins, minerals, and amino acids. Their use is not only approved by the USDA and the FDA, but encouraged.

Thank you.

CHAIRMAN RIDDLE: Thanks, Bob. Any questions, comments?

MS. GOLDBURG: Can I ask you a question? Bob, I know you work or have worked for a company that produces marine algae for supplementation...

MR. BOLUS: That’s true.

MS. GOLDBURG: ...as a source of omega three fatty acids. And I know you’ve been interested in providing it as a feed supplement to increase omega three fatty acids in animal feed. And I wonder if you could briefly tell us what the prospects are at the moment for marine algae serving as a feed supplement.

MR. BOLUS: Absolutely. There is great potential. And most of it is being realized right now. The process is one of enablement. Marine algae and the biotechnology to raise them, very similar to yeast, has largely been to support the public health dilemma for human mothers and going into breast milk. But now these alga meals are being raised in larger quantities. In combination with fish meal replacement strategies, fish
oil replacement strategies can be accommodated by the use of these alga meals. There are a number of trials in place in many of the species that I mentioned that show that these alga meals can replace fish oil and fish meal completely in the diets, at least of lower food chain species. Right now shrimp, tilapia, catfish, and other orbiverous species can be raised completely without the use of products or marine ingredients. They're used to change the diets of carnivorous species, such as salmon, are going to require some more work. But right now the technology is being used by the rainbow trout industry, tilapia, catfish, and, of course, marine shrimp.

CHAIRMAN RIDDLE: Any other questions? I just have one. I think it’s a fascinating topic, and if you could -- would be willing to provide general information, not company specific information, to the Aquatic Species Taskforce for consideration of that issue.

MR. BOLUS: I certainly would.

CHAIRMAN RIDDLE: Thanks.

MR. BOLUS: You’re welcome.

CHAIRMAN RIDDLE: Or the Livestock Committee, I guess, too. All right. Leslie Zook, and then Daisy Putsty-Lein [ph].
MS. DONWHITE: In Leslie’s absence, if I may speak on behalf of the Pennsylvania Certified Organic.

CHAIRMAN RIDDLE: Okay. And that is...

MS. DONWHITE: Lisa Donwhite.

CHAIRMAN RIDDLE: Okay. And then the next on deck would be JoAnn Baumgartner. Thanks.

MS. DONWHITE: And, actually, in fact, I’m going to be reading testimony for NODPA, the Northeast Organic Dairy Produces Alliance.

CHAIRMAN RIDDLE: And, I’m sorry, just before you start, is this then ten minutes? Do you have...

MS. DONWHITE: No. Just five.

CHAIRMAN RIDDLE: Just five. Okay. Thanks.

MS. DONWHITE: Okay. Recent questions about the pasture requirement in the National Organic Rule have prompted NODPA to blueprint a pasture policy. This policy reflects our need as producers for a quantitative, measurable, and enforceable standard for all certified organic dairy operations. We feel that the ambiguous language currently used to define pasture requirements in the organic rule has lead to disparity between operations in various regions certified by various certification agencies and has opened the door for operations without adequate or, in fact, any pasture systems to pursue organic dairy production. NODPA is
expressing producer concern that certifiers don’t have enough tools to use in requiring pasture. While the rule may evolve at the federal level into something more functional over time, there is currently an interim period during which producers, certifiers, and processors are left with the responsibility of implementing a meaningful policy which can be applicable to organic dairy farms across the nation. Consumer confidence in the USDA certified organic logo is the cornerstone of current and future growth in the industry. To compromise that confidence by overlooking the intent of the National Organic Rule and the NOSB recommendation on pasture is not in the best interest of the organic dairy sector. Processors, with the cooperation of producers and certifiers, can set and enforce minimum standards to pasture which can help protect the integrity of organic until the NOP adopts language capable of doing so. And I would just like to read the most pertinent recommendations from NODPA. NODPA supports the pasture recommendation of the NOSB Livestock Committee, dated June 7, 2001, which stated that grazed feed must provide a significant portion of the total feed requirements for organic limited animals. The NOP has failed to adopt this recommendation, and has also failed to ensure that all certifiers require sufficient pasture systems as a
basis for certification. NODPA concludes the quantitative minimum pasture policy with measurable parameters needs to be adopted by certifiers, processors, and the NOP. Consistent with the NOSB recommendations and consumer expectations, NODPA recommends the following pasture standard for all organic milk producers, and these are organic dairy animals from six months of age and up must consume no less than 30 percent of their daily dry matter intake from pasture for a minimum of 120 calendar days per year, with a maximum stocking rate for lactating ruminants of 3,000 animal pounds per acre of pasture, up to a maximum of three cows per acre. Pasture is defined as land growing suitable grasses and other ferriages from which the ruminant animals self-harvest the plant material, which is still connected to its roots for food by grazing. Feeding green shop or any mechanically harvested or stored feed on a pasture setting does not qualify as pasture. Pasture must be managed to prevent environmental degradation. And the only stage or production exemption allowed is from birth to six months of age. Lactation is not an allowable stage of production exemption from providing pasture for milking animals for the entire grazing season. And I was asked to give you a copy of this. It does go on to define...
other recommendations that they make. And -- are there any questions?

    CHAIRMAN RIDDLE:  George.

    MR. SEIMEN:  Would you tell us who NODPA is?


    MR. SIEMON:  I meant...

    MS. DONWHITE:  Oh, who the group was.

    MR. SIEMON:  ...not the people in the organization, just so everybody’s clear who this is from. The Northeast Organic Dairy Producers Alliance.

    MS. DONWHITE:  Right.

    MR. SIEMON:  Right.

    MS. DONWHITE:  Yes. I’m sorry.

    MR. SIEMON:  Was that from the Northeast group or from the whole national group, that standard?

    MS. DONWHITE:  I’ll be completely honest with you, I was handed this paper about an hour ago, and told to please read it, so I’m not sure.

    CHAIRMAN RIDDLE:  Mark?
MR. KING: This is probably more of a statement than a question. But concerning -- I would call them stocking rates, that you have there in terms of, you know, pounds per acre, pasture, that sort of thing. But if we do get a copy of that, that would be interesting to see the references, and where those numbers came from.

MS. DONWHITE: Yes. And, in fact, it does go on to talk more about stocking rates.


CHAIRMAN RIDDLE: And if you can give -- well, with Katherine [ph], she had asked me to make that announcement, and I neglected to, so I’m in trouble already. So, yes, if anyone has written comments, if you just have one copy, please give it to Katherine. Otherwise, if you have multiple copies, then you can hand them out to the Board. So, JoAnn Baumgartner is next. Laura Smith has signed up a -- would assume you have a proxy for her or no?

MS. BAUMGARTNER: No. Well, I think I can do this in five minutes, maybe six.

CHAIRMAN RIDDLE: Okay. Well, but the next -- I just want to warn the next person -- that would be George Lockwood after Laura Smith. But you’re here. Thanks.
MS. BAUMGARTNER: Thank you. I’m JoAnn Baumgartner, with the Wild Farm Alliance. We submitted a request for the NOSB to consider endorsing bio-diversity additions to the organic system plan. I, myself, was an organic farmer for ten years, and for the last three years have been working with the Wild Farm Alliance. We’re a new organization. We’re composed of sustainable agriculture advocates and wild lands conservation proponents. I know how hard it is to farm in today’s economy, and also know that the management decisions can be and are made that balance the needs of the farm and the needs of diversity and natural resource conservation. A couple of years ago IOIA requested our assistance to help them train inspectors about bio-diversity since it’s in the rule, but there’s no common understanding of what that means. We received support from Organic Farming Research Foundation Others, and formed a committee of 15 members, including organic certifiers, organic farmers and inspectors, and conservationists to define criteria for bio-diversity conservation, and to create supporting materials that will be used by organic farmers and certifiers. Well, why should we care about bio-diversity? Consider, two thirds of the land in the continental US is in agriculture. Farming is responsible for about 40
percent of the endangered species listed. And ranching
is responsible for about 20 percent of their listing.
This is due in part to the habitat destruction, but also
water development and invasive species. Our committee
began the task of developing bio-diversity criteria by
reviewing the National Organic Program Rule. And we
found the definition, or course, that organic production
must include promoting ecological balance and conserving
bio-diversity. We also found in the preamble that it
shows the intent, the use of conserve establishes that
the producer must initiate practices to support bio-
diversity. And there’s a standard that requires the
maintenance or improvement of natural resources,
including wetlands, woodlands, and wild life. Our
committee then looked at the organic bio-diversity
recommendations and standards around the world, and made
the connection between what was required by the NOP, and
what others were doing. We have drafted two, 20-page
guidebooks for farmers and for certifiers. And during
that process our committee recommended that we submit
bio-diversity criteria as an organic system plan
addition for possible NOSB endorsement. By answering
questions and mapping resources, farmers will become
more knowledgeable about bio-diversity within and beyond
their farm, and inspectors will be able to see that they

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34 North George St., York, PA 17401 - (717) 854-0077
are making an effort, no matter what their situation. The National Organic Program Rule is a great piece of legislation. And these proposed additions will help to implement the bio-diversity and natural resource components, as written. Organic farms are ideally suited to support bio-diversity, and at the same time take advantage of nature’s benefits. Additionally, millions of members of conservation groups that don’t currently support organics will be more than likely to when bio-diversity criteria are used and transparent in the industry. Besides, I work with the committee, we are connecting with the larger community. I just came back from Kenya, where IFOM [ph] had a bio-diversity conference, and they have some key bio-diversity standards. We’re working right now to put together a bio-diversity conference that will be ahead of the eco-farm conference in California in January. So the Wild Farm Alliance and our committee respectfully request that NOSB endorse the bio-diversity criteria we submitted as additions to the NOSB’s modal organic system plan, because certifiers and farmers look to the NOSB for guidance, endorsement additions will be a critical step in establishing a common understanding and expectation. We are not seeing to rewrite the rule, and are not seeking clarification. Rather, this action is
important in implementing the regulation as written. We
ask that the Board refer the proposed organic system
plan additions to the Policy Development Committee for
consideration in development of a recommendation for
action by the full board at your NOSB spring meeting.
Questions?

CHAIRMAN RIDDLE: Thanks, JoAnn. Questions?
Yes, Barbara.

MS. ROBINSON: I’d like to suggest to the
Board that for these particular comments, that you take
a look at them and remember the working group I was
talking to you about yesterday that’s getting going in
the department to take a look at programs across USDA to
make sure that they’re not inconsistent, and that they
are -- we provide consistent guidance program and
service to the organic community, that this set of
comments these guidelines you might submit to the
Natural Resource Conservation Service, get them into the
department somehow so that agencies whose primary
mission does deal with bio-diversity and conservation,
you know, are informed of this so that they get that.

MS. BAUMGARTNER: We do have -- we have been
working with NRCS, and, in fact, somebody here from
Washington who heads the CSP Program is on our
committee. So we’re both working nationally and locally
with NRCS.

CHAIRMAN RIDDLE: I’m also hearing, Barbara, your suggestion is that the Board, if the Crops Committee takes this up, or Policy Committee, but, yes, we need to talk about that, that we also engage or solicit input, and share information with NRCS as this moves forward. But it has been, I think, kind of an undefined area of the regulation. It is required. But how do you assess compliance with those bio-diversity and natural resource sections of the rule? Dave?

MR. CARTER: Yes. I was just going to say, I think that this is something that is more -- is appropriately handled by the Crops Committee.

MS. OSTIGUY: Thank you so much.

MR. CARTER: I don’t want to hog everything.

MS. OSTIGUY: Well, it’s actually sort of near and dear to my heart anyway, so it’s fine.

CHAIRMAN RIDDLE: All right. Mark?

MR. KING: Yes. I just want to thank you for your work. As someone who does a fair amount of farm inspections, I think that this is the type of information that’s really needed at that level. So thanks for your pursuits.

MS. BAUMGARTNER: Thanks for your support.

CHAIRMAN RIDDLE: Yes. Thanks. And I did
want to also point out, we receive the documents electronically, but they’re also printed after tab four, blue divider, in our meeting book. So they’re and for the public, they are in the meeting book posted on the website. Any other questions, comments? All right. Thanks. Next up, George Lockwood, and then Karen Robin, on deck.

MR. LOCKWOOD: Thank you, Mr. Chairman. I’m George Lockwood. I appear this morning as an individual, not as a co-chair of the working group, aquaculture working group. First of all, sir, I’d like to express our disappointment and my disappointment about us being limited last Tuesday greatly in our presentation, to six minutes. We came fully prepared for a 15-minute presentation. And as a result of being limited to six minutes, we were thrown off base and really weren’t able to get our points across. That being said, you’re moving ahead within the Aquatic Animal Taskforce. We ask -- I ask that not one token member from aquaculture be placed on there, but that several. We ask in our presentation that at least half the members be from aquaculture. Whether or not that’s realistic, I don’t know, but certainly more than one individual, no one person can adequately represent the five major species groups that are going to be involved.
with a multitude of farming practices that are employed across the country, and the multitude of feed options for some of these species. I would also like to say that as far as I’m concerned, you will receive my full cooperation and the cooperation of many, perhaps not all, of the members of the aquaculture working group that we’ve assembled. And finally, sir, let me point out something that we were unable to get across in our presentation. We are going to be seeing, we expect within a matter of months, a flood of foreign products certified as organic coming into the United States marketplace, particularly in the area of salmon and shrimp. We think it’s very important that the American consumer have products that are certified under the USDA, and not Natureland, which is particularly aggressive in aquaculture now, or some other foreign certification body, particularly those in Chile, which is where much of the salmon production is going to be coming from. So thank you, sir, for this opportunity to be with you again.

CHAIRMAN RIDDLE: Thanks, George. Any questions, comments for George? George.

MR. SIEMON: Now I can look through my papers. But where do we stand now on this imported -- with this scope that we’ve done? What’s the status of this
imported fish? Can they still use the word organic without any restrictions?

MR. LOCKWOOD: You can’t use the USDA label. But if it’s certified by Natureland, and says organic, it can be labeled organically certified by Natureland.

MR. SIEMON: So the scope work we did this week didn’t change that whatsoever.

CHAIRMAN RIDDLE: Well, we wouldn’t have changed it. We would have given a recommendation on how USDA handles it. But, Barbara, could you comment?

MR. SIEMON: Is there a concurrence on that too? I just can’t recall.

MS. ROBINSON: We have said you recognized and as George points out, we don’t yet have standards for aquaculture or for wild caught seafood. Therefore, the USDA seal can’t be used. The product cannot be represented to meet the NOP standards. But, yes, other folks can use the word organic. Now they can get their products certified by a USDA accredited certifier to a set of private standards. You know, that’s why the push is on to develop standards in the -- under the NOP, that will cover these products so that, you know, everybody will be held to the same standard.

CHAIRMAN RIDDLE: Anything else? Appreciate your concerns, George, and I apologize for the way
things developed on Tuesday. It was out of our control, just how popular we are.

MR. LOCKWOOD: Thank you, Jim.

CHAIRMAN RIDDLE: Way too many comments there.

Okay.

MS. OSTIGUY: I have a question.

CHAIRMAN RIDDLE: Yes. Sorry. Nancy.

MS. OSTIGUY: Does this also mean that an American producer could label their product organic without the USDA standard?

MS. ROBINSON: Yes.

CHAIRMAN RIDDLE: George?

MR. SIEMON: The Policy Committee, can you tell me why didn’t we make a recommendation on this here and to try to reverse the directive? On this, this time, I just read through the thing. It just says about the taskforces is all it said. There’s no way we could have --

MR. CARTER: Well, I think on this particular one we’re leaving it to the taskforce to give the direction on all of this. I think if we’re going to have a taskforce to establish aquaculture recommendations on aquaculture standards, in both wild caught and farm raised, I don’t think we want to sort of confuse the thing by issuing our own set of
recommendations for a policy and then also have a
taskforce that’s developing other ones. I think we
leave them to work on that.

MS. GOLDBURG: Can I ask a question of Barbara
or Rick? It seems to me there are two issues here, one
is that a US certifier can certify a fish as organic to
some private standards, or the livestock standard, and
whatnot, and we have a little bit of that going on now.
The other issue is that people certified of private
standards that are not US standards, they’re private
standards. And does the USDA have any legal authority
to restrict the use of the word organic in the latter
situation?

MS. ROBINSON: No. That’s why, even if you
made a recommendation, you can’t undo or create a
regulation or a statute by a recommendation alone.
That’s why we have to go out and do the standards. And,
you know, it’s the pre-October 21, 2002, situation for
those commodities that are not covered.

CHAIRMAN RIDDLE: Rose.

MS. KOENIG: I guess what’s confusing to me
then, when the standards are developed then is that when
you gauge -- engage in equivalency? I mean, what is
equivalency?

MS. ROBINSON: Once we have standards, any
product that comes into the United States that
represents itself as organic, once we have standards,
must be to NOP standards.

MS. KOENIG: I see. So that’s the
distinction.

MS. ROBINSON: Yes.

CHAIRMAN RIDDLE: Just a comment. It
certainly is confusing to consumers because now on most
products the word organic does mean USDA organic,
whether the seal’s on it or not. But yet that same word
can be on something that’s not covered by the standards,
and consumers don’t know the fine points here. And what
I’m hearing is the only possible remedy on these
categories in the short-term would be as was discussed
on Tuesday involving the Federal Trade Commission and/or
FDA, where there’s jurisdiction there, if someone has
reason to believe that fraudulent, misleading label
claims are being made. Correct?

MS. ROBINSON: That and getting your Trade
Association, getting your industry groups to do the
kinds of education, the public service organizations,
educating consumers to say that, you know, there’s NOP
organic, and then there are possibly private organic
standards. But that’s the unfortunate situation that
we’re caught in. And that’s why I keep reminding you,
go back to pre-October 21, ’02. You had the same
situation for all commodities. Now you’ve got, you
know, we’ve just got some that we have not brought under
the umbrella.

CHAIRMAN RIDDLE: Goldie.

MS. CAUGHLIN: It also -- I would like to just
point out that if the USDA seal were not a voluntary
seal, if it were a required, mandatory seal, that would
go a long way toward giving the information up front to
the consumer, because one of the biggest things that I
hear from consumers is confusion right on our shelves,
with products next to each other that are organic, one
having a seal, the other not having a seal. It comes up
all the time. And, certainly, when it comes to this
sort of a situation, would go a long way toward that.
Secondly, I just -- a personal comment, I guess. I work
with a chain of food cooperatives that has vowed that we
will not be permitting the sale in our stores of fish
labeled organic, unless or until there were to be USDA
standards, period, even at our own loss of revenue,
which we know the same products being sold in other
markets. And I think we’re seeing in co-ops, certainly
in many natural food stores, an opportunity to educate.
And, hopefully, I think this is really important to get
these distinctions out.
MR. LOCKWOOD: We’re also seeing now wild oats importing Irish salmon organically certified.

MS. CAUGHLIN: Some of the other large retailers have decided not to do that, in addition to our own, or not to, you know...

MS. ROBINSON: The only comment I would make in regards to that is -- well, two. Number one, the Agricultural Marketing Service, where this program is housed, is just that. It is a marketing service. There are very few programs within AMS that are mandatory. When it comes to marketing, the philosophy of this agency is that marketing programs are voluntary. They are something that industry requests, or industry desires, and then industry can avail themselves of the marketing label. The second thing is that I would say that although we believe and we -- well, we believe that the USDA NOP standard is the gold standard, and that’s what we worked hard to create, I would just say that USDA would not sit here also and say just because Ireland has an organic standard for salmon, that it is somehow, you know, that there’s some pejorative association with that. I mean, you don’t know. The Irish organic standard may be the gold standard that, you know, eventually is adopted. In other words, I don’t want to see you get into a situation of saying,
you know, oh, yes, the Irish have got a standard for salmon, because we don’t know. We haven’t done that kind of work.

CHAIRMAN RIDDLE: Thanks. Yes. We will not tolerate personal attacks on the Irish either. Owusu. And then I’d like to wrap up this discussion if we could.

MR. BANDELE: I just have a kind of related question in terms of the -- just a point of clarification. Like something like hydroponics, which is -- can be covered by the rule but in which no guidance has yet been given, than at this point a USDA accredited certifier could certify an operation that’s organic. Is that right?

MS. ROBINSON: Yes. Yes. We believe that hydroponics are covered under the standards. They fall under the crop standards. But we recognize that, you know, there may be additional details that need to be added to the standards.

CHAIRMAN RIDDLE: George.

MR. SIEMON: If you have any information about standards in the world, like the Irish standards, or any of the work you all have done so far, it would really be great if you could send us materials to give us a jump start when we start our working group.
MR. LOCKWOOD: I have a notebook, sir, that’s about that thick, of international standards, and just the sections that apply to aquaculture. And I must say that IFOM [ph] has taken the lead in trying to pull all of this together. But there’s a wide variety of practices that occur in the international -- under international standards, various certification groups. And I would also say as I said earlier, Natureland seems to be very aggressive in the area of aquaculture, and has certified people in Chile as well as in Europe.

CHAIRMAN RIDDLE: All right. Thank you. Dave.

MR. CARTER: Just one quick question. Without getting personal, but the standards that you just referenced that are being used in Chile, I mean, are they anywhere close to what you would want to see in the US?

MR. LOCKWOOD: That’s a subject open to a lot of conjecture. I think we’re just -- right now we’re too early to give any opinion on that. Like I said, Natureland has given a lot of thought and a lot of work to this. And our approach has been to not -- to use the international certification standards as references, but really not much of a guide. We want to see what they’re doing, but we want to do what’s best for the American
farmer and the American consumer.

CHAIRMAN RIDDLE: Thank you. Okay. And we will take a break in 15 minutes at ten. It’s a scheduled break. If we can get a few more commenters in before that. Karen Robin is next. Is Karen here? Okay. Well, there’s a quick one. Grace Mariquen is next, and then Morey Johnson. Are you ready to go, Grace?

MS. MARIQUEN: I’m going to let Morey go before me.

CHAIRMAN RIDDLE: Okay. If Morey’s ready to go, that’s fine.

MR. JOHNSON: Good morning. My name is Morey Johnson. I’m with NC Plus Organics in Lincoln, Nebraska. We’re a seed company based in Nebraska. My comments today are from my position with NC Plus Organics, and not as a representative of the American Seed Trade Association. I have been on the Organic Seed Committee of the American Seed Trade Association for a number of years, and will be chairman this coming year. This past June, our committee passed a recommendation onto the -- up the chain of command of the American Seed Trade Association. And it had several important points regarding organic seed. The first thing our committee recommended was that there be a National Organic Seed
database developed under the authority of the USDA and NOP. The operation of the database could be handled internally by the USDA or could be farmed out to a designated agent. Secondly, our committee made the recommendation that this database be located on the Internet, and seed suppliers and brokers could have access on a 24/7 basis to update their inventories and keep those current. This would be a database that could be used by farmers, by certifiers, by inspectors to check on availability of species or certain particular hybrids or varieties. Thirdly, we recommended that organic seed technology products, such as priming treatments, film coats, and pelleting also be listed, provided that they were consistent with organic rules. Fourth, on the database organic varieties would have a variety and scientific names. They would have the supplier name, and these would be organic only suppliers. And the name of the organic certifier of the seed would also be listed. And finally, we -- our committee recommended that certifiers notify the USDA of exemptions on a monthly basis so that seed suppliers and others could see what seed products were not available. So we made that recommendation this summer, and that went on through the chain of command at ASGA. And I believe that has been communicated, at least in a formal
way, to the NOP. But the database is just a beginning step. We kind of recognize that. And some of the work that you have done with the commercial availability on food ingredients, and some of the things that you have said there, we would like to echo that as far as seed. I believe you made a recommendation in terms of documenting non-availability of food ingredients. And that type of procedure, we would also like to see with seed where non-organic seed is being used. We would also like, as I mentioned earlier, that there be some sort of documentation used where allowances or exemptions were permitted for the use of non-organic seed. Organic seed suppliers are kind of caught in the middle here a little bit. There are a number of suppliers in the United States that have embarked on this process. And in many cases, they are sitting on inventory that’s not moving. And so there are a lot of seed suppliers that are wondering about the future. And we, at ASGA, and individually, would like to see progress made here and clarification of the rule so that as seed suppliers, as growers, we kind of know what the rules are.

MR. KING: One of the issues, I think, that’s prevalent here, and having reviewed some contracts and understanding the distribution chain a little bit is
that, you know, demand sometimes is driven by clearly
the purchaser or the contractor in this case. And they
may have, you know, form, function, quality, parameters
within that contract that fit a certain variety of seed.
I’m sure you’re familiar with this. Therefore, that’s
driven down to the production level. And, you know, in
some cases a certified organic seed may or may not be
available. And so I see that as part of the issue here,
and was just curious how you felt about that. Because,
you’re right, I would like to see all certified organic
seed out there. But it seems to be driven almost from
the opposite end.

MR. JOHNSON: And that’s certainly a good
point. In the case of, for instance, soybeans, there
are certain manufacturers who like a particular variety
because of how it goes through the manufacturing
process, I think that’s probably also true with some
vegetable varieties as well. So the end users, the
buyers need to be integrated into this. And I guess we
would ask that they be sensitive to the organic seed
issue. And I think -- I’ve been involved in this for
five years, and I think there’s been a lot of
development of organic seed varieties that could fit
some of these uses, and could be equivalent as for the
end user. But the end user needs to be involved too.

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CHAIRMAN RIDDLE: Rose?

MS. KOENIG: Yes. Two things. I guess -- I was trying to understand. So is that a recommendation that your organization has, you know, as far as a database? I’m not quite sure when you were saying NOP, and having a database. I don’t understand if that was just a proposal or...

CHAIRMAN RIDDLE: Barbara.

MS. ROBINSON: We have been working with ASTA [ph] on this. And at this point we’re waiting for -- I think we’ve been talking with Chip Sunderstrome [ph].

MR. JOHNSON: Well, Alexis at the ASGA Office, I think, has registered with Keith.

MS. ROBINSON: Right. Right. We’ve had many conversations. And so we’re awaiting the forwarding of the data from ASGA, and we will publish it. Because I think, obviously, one of the keys here is let’s get the database up, the listing of suppliers of certified organic seed, so that folks, you know, know what is available, but also know what’s not available.

CHAIRMAN RIDDLE: A follow-up, and then Owusu’s in line.

MS. KOENIG: I guess, you know, in general, I don’t have a problem with. I just was wondering if that service was going to be provided for all types of input.
And that’s my concern. It’s -- I mean, if another industry, whether it’s fertilizer or other inputs on farms, do they have the same access to that kind of a situation? And then if everyone has that same access, I don’t have a problem with it. And then the other thing is, if it goes on the website, I guess if they’re certified it’s not an issue. But with the seed treatments and such, like you were -- who determines if those seed treatments are compliant with NOP? Is that just part of the certification process then? And when you get those seed treatments, then does your certifier make sure that whatever you disclose the materials to the certifier and they check to see if it’s on the list? I just don’t understand how that quality control -- I guess I’m a little scared or have reservations because there’s not -- there’s some natural, certainly like clays that are used in, you know, as -- for, you know. But there’s a lot of priming and such that may go on that really might be a gray area.

MR. JOHNSON: I guess on your first comment about why is this done for seed and maybe not further inputs, seed, I think, is one of the few areas where there is an allowance for an exemption based on commercial availability. In other words, on fertilizer I’m not aware of, you know, of possible exemptions. But
on seed, there was an allowance made for exemptions.
And there was no supply there originally. And maybe
that’s one difference. As far as any of the seed
coatings or pelleting, those all would have to be
certified as organic. They’d have to approved and that
type of thing, for them to be included in this database.

CHAIRMAN RIDDLE: Owusu.

MR. BANDELE: I was just wondering, I had two
questions. First, the seeds that are not moving, would
they be more likely to be organic or vegetable seeds?
And the second question is that with not a reason -- I
mean, it’s kind of a loophole if a farmer, for example,
insists on a particular variety, and that variety isn’t
available, but maybe something similar is. He could
kind of use that as a loophole. Would that be -- is
that part of that problem as well?

MR. JOHNSON: Well, first of all, I think you
were asking is vegetable seeds less available than row
crops. I think -- was that...

MR. BANDELE: When you were talking about that
they were not moving, that the -- yes.

MR. JOHNSON: Right. It kind of varies on a
crop by crop basis. On the small grains, I would
estimate that maybe 60 percent of the acres are using
organic seed. On some of the other field crops like
corn and alfalfa, it’s probably in the ten to 20 percent range. On vegetable crops, again, I think it varies quite a bit, depending on what the species is. There are some of these that are much easier to produce organically. My general feeling, in talking with the vegetable seed people, is that they have inventories that are not moving as well. For the vegetable it seems to be much more like Mark was saying, that the vegetable -- the buyers of, say, organic carrots request a certain variety. If that variety is controlled by the particular company, and they don’t want to do organic seed, then it’s not available organically. So in vegetables, I think the buyers have a much stronger role than, say, on something like corn or alfalfa. And your second question, I....

MR. BANDELE: No. That’s fine.

CHAIRMAN RIDDLE: Okay. I have a question, and then a couple comments. You mentioned about a draft, kind of a white paper that you have. Is that publicly available, or something you could make available to the Board? Our Crops Committee is going to be taking on this issue, commercial availability.

MR. JOHNSON: This was something that NC Plus and a couple of other companies participated in through the Organic Trade Association. At this point it is a
draft only. And it is being reviewed. But I don’t think it’s available today for public viewing.

CHAIRMAN RIDDLE: Okay.

MR. JOHNSON: But it should be fairly soon.

But basically what it does is it follows up and makes some suggestions for the future.

CHAIRMAN RIDDLE: Okay. And then, yes, I had a comment about this list or database. And those are two very different things. There currently is a list of feed suppliers on the NOP website. And I don’t know, I assume that someone just has to provide proof of certification, and they’re on the list. It’s a voluntary list. It’s not a recommendation of any company. I think it says something like that, disclaimer there. And I can see, you know, without a lot of effort or expense, the program, doing a similar list of organic seed suppliers. But what you suggested was a real time database of inventories of varieties, as I understood it. And I just wonder if that is appropriate, or what. And even for both of these things if the department might look at outsourcing or moving that to a group like ATRA, which is an information supply, you know, that under contract to USDA. Just some thoughts. We don’t have to work this out now. I just wanted to...
MR. MATTHEWS: Well, the details on how it would get posted haven’t totally been worked out. It’s just that we have expressed a willingness to work with making this happen. And if it’s real time we may have security issues. So it might end up being something like a link to another site. But the point is we are willing to work with ATRA to provide both producers and the certifying agents with the information they need to comply with the regulations.

CHAIRMAN RIDDLE: And it’s a huge need. One last comment, and then we’re going to take a break.

MS. KOENIG: The one concern I have, and I think it’s probably your agency and your committee is fully aware of it. But one of the treatments that we just -- well, one of the substances that we approved, I guess last meeting, was for de-linting cotton. And there’s a lot of, I know, inputs that you use in terms of the processing of seeds for either disinfection. And then there are techniques, at least in vegetable crops, where you use inputs to do like seedless watermelons, those, you know, for the eventual expansion of the organic seed market into specialty crops or things where you have to do genetic -- non GMO genetic manipulation. Those substances would have to be included on the list. And I think the industry needs to start thinking about
those petitions, because we have the money now available
to look at those specialized uses for seed treatments.
And this is the time to, as an industry, get on the ball
for those petitions, because those types of seeds that
would require those kinds of, you know, synthetic
substances to produce the organic seeds need to be
petitioned, or else they really should not be, you know,
they’re not allowed.

CHAIRMAN RIDDLE: Arthur.

MR. NEAL: I want to address Rose’s issue. If
I understand, tell me correctly, that the companies that
would be listed would be certified. So if the companies
who were providing the seeds are certified, than the
certifying agent would ensure that the seeds were
produced according to the standard. So that should...

MS. KOENIG: Which I fully understand. And a
lot of ferriage crops or grain crops is not as much of
an issue. But once you get into vegetable crops there’s
issues there that are not -- that are a lot more
chemical. And I’m just saying, I agree, I’m not
questioning what is certified now. I’m just saying for
the industry to continue to grow...

MR. JOHNSON: One comment I would make. This
past summer I attended the International Organic Seed
Meeting in Rome. And one of the things that just really
impressed me was the number of seed treatments, seed
enhancement type products that are being investigated
and looked at in Europe. For our company and for a lot
of the companies I know, we don’t use anything, but we
have started looking at a couple of products that are on
the armory list. So I think as time goes ahead, there
will be more of these kinds of products that people will
need to look at.

CHAIRMAN RIDDLE: Okay. Thanks.

MR. JOHNSON: Thank you.

CHAIRMAN RIDDLE: And we will -- when we come
back from break -- I’ll say this first before we break,
Grace Mariquen will be first up, and then Richard
Siegel. And we will break until 10:20. But please be
back and ready to go for discipline. We might finish
early.

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[Off the record]

[On the record]

***

CHAIRMAN RIDDLE: Next up is Grace Mariquen.
And then there’s a slight change, and following Grace
will be Gwendolyn Wired. Thanks. Go ahead, Grace.

MS. MARIQUEN: Should I wait for Goldie or...

CHAIRMAN RIDDLE: Pardon? Oh, we don’t have
our timekeeper. Yes. There’s some problem with the
women’s rooms, I guess. I don’t know anything more.
Can you handle that, Mark, please?

MR. KING: Yes. I’ll do my best. Are we
ready?

CHAIRMAN RIDDLE: Okay. Mark’s going to fill
in as timekeeper.

MS. MARIQUEN: Set, go?

CHAIRMAN RIDDLE: Yes, please.

MS. MARIQUEN: My name is Grace Mariquen, and
I’m president of Mariquen International Organic
Commodity Services, Inc. My company is based in Santa
Cruz, California, and we import organic ingredients and
supply organic ingredients domestically for the natural
food industry. I am here to explain to the Board why
the national list should be amended to reclassify yeast
as an agricultural product. Yeast is currently listed
as a non-synthetic, non-agricultural substance under
Section 205605(a). On July 30th, we requested that the
Board adopt a recommendation that yeast be transferred
to Section 205606, as an agricultural product. Yeast is
a product that needs to have its status updated on the
national list. Yeast is now commercially available in
an organic form. I know this because I import organic
yeast from Europe. The manufacturer is Ograno [ph], in
Regal, Germany. The organic yeast is called Boreal [ph]. It is certified organic by two organic certifiers in Europe, Lackon [ph] in Germany, and Beoswiss [ph], in Switzerland. Both of these are NOP accredited certifiers. The story begins back in 1997, when the first proposed NOP rule was published. Organic yeast was not yet available, so it was necessary to put the yeast on the list. When yeast was first listed it was treated as a non-synthetic and as a non-agricultural substance. At the time it did not seem to make any difference whether yeast was called non-agricultural rather than agricultural. Yeast belonged on the national list, and the category didn’t matter. In the second proposed rule and in the final rule, yeast continued to be carried as a non-agricultural substance under Section 205605(a). Then in 2002, when I began importing organic yeast, to my great shock I learned that my organic yeast was not on par with other organic ingredients. Manufacturers making organic products are not required to use organic yeast once they meet the 95 percent organic threshold. Handlers are free to use conventional yeast instead. The yeast I brought over from Europe did not sell, and I took a serious financial loss as a result. The final rule does not recognize organic yeast as an organic product. Why? Because in
the final rule, yeast, in general, is not classified as an agricultural product. So in theory, is it not certified organic. In a letter from Richard Matthews, on February 11, 2004, he confirmed that under the final rule handlers are not required to source organic yeast. I will now show you two labels. And, in fact, it’s in your packet. One of them is for halla [ph] bread from Whole Foods, and the other is from Willaver’s [ph] Certified Organic Ground Ale. And when you look at these labels, you’ll see that all the ingredients listed are organic until it gets to yeast. And the yeast is not organic, what’s being used. And the same applies to the ale. This is a paradox because organic yeast is just as commercially available as these other ingredients shown on the two labels. This is why we have made our request to the Board. At this time we are not trying to get yeast removed from the national list. Instead, we simply want to get yeast out of its straightjacket category that it’s in right now as a non-agricultural substance, and have it into a category of being an agricultural product. This will recognize that organic yeast is on the market. It will give organic yeast an even shake with other organic ingredients. Once yeast is classified as an agricultural product, then manufacturers will be required to use the organic

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yeast under the organic preference, Section 205301(b).
They will start putting this new organic yeast into
products, and it will enhance the integrity of their
products. They will stop using conventional yeast,
which is made with synthetics. Organic yeast is made
without any synthetics. Here are some of the synthetics
that are used today in conventional yeast that’s being
used widely, ammonia, ammonia salts, sulfuric acid,
caustic sodalize [ph], synthetic anti-foaming agents.
And the waste water is really difficult to dispose of,
whereas in the organic yeast the waste water is used to
produce further products. What we’re asking is in line
with prior recommendations on the Board to look at
205606. The reason that 205606 has those five
ingredients listed is that the Board, in June of 2000,
asked the Department to move those five ingredients from
non-agricultural to an agricultural status. The
Department did this in the final rule.
CHAIRMAN RIDDLE: Time.
Rosie?
MS. KOENIG: As far as the classification, I
guess what I have a hard time understanding is if, you
know, and I read the -- I think Mr. Siegel’s letter was
from your company. Right? So I didn’t want to -- okay.
That’s what I thought. So based on that concept, if yeast is similar to mushrooms and mushrooms is under the crop standards, how, in a farm system plan, can you raise yeast to meet the requirements of the cropping requirements within a farm system plan? I mean, it’s beyond just what you grow something on.

MS. MARIQUEN: Well, is mushrooms certified organic right now?

MS. KOENIG: They are. But, you know, yeast -- there’s part, you know, yeast is a unit nucleate, you know, fungi. Not all -- figure you have, you know, a kingdom of fungi, and not all fungi are looked at as the same. And the edible fungi are fruiting bodies of certain higher, you know, fungi. So I think you need to, perhaps, look at -- and, you know, I kind of requested the processing -- although I think it’s beyond a processing -- committee -- handling committee -- sorry -- issue. But a lot of it has to do with if you’re going to bring biology into the analysis, than you really need to look at the biology of the systems, and you have to look at it in terms of the crop standards. So it’s not as simple as just saying it’s a fungi, therefore, it’s agricultural.

MS. MARIQUEN: I’m not a biologist or a scientist by no means, so I can’t address it from that
standpoint. But I do know that right now we have broccoli sprouts certified organic. We have mushrooms certified organic. We have the yeast that’s grown on whole grains, corn, wheat, and produced throughout its system with grains. So it’s an interesting point you’re bringing up from that perspective. But right now we already have set up a precedent. And I think that it’s an interesting point to be looking at, because this is just the beginning. There are people developing different kinds -- lactobacillus, that’s another one that just comes in right behind the yeast. There are people now working on a series of ingredients. So it’s important that you’re looking at this category in general, because this is only one part that you’re going to have to address.

CHAIRMAN RIDDLE: Kevin?

MR. O’RELL: Grace, I’m glad that you recognize that there is -- there are other materials on the list that would maybe come under the same -- qualify under the same decision that we’d be looking at yeast. And if you heard earlier on the Handling Committee work plan, this is a number one priority. We will be meeting on this quickly to try to see how we move forward. It’s a, certainly, a complex issue that will need to be handled, and we’ll be looking for public input as much
as we can, and getting counsel as well. This product, the yeast product that you are talking about was certified -- is certified organic by Beoswiss. Do you have their standards of how they -- or can you provide those?

MS. MARIQUEN: I think we’ve submitted a standard. If not, I’ll make sure that you have that. I think we did -- we submitted the one from Latcon. And I’ll get the one from Beoswiss.

MR. O’RELL: That would be fine. Thank you.

MS. MARIQUEN: And I also wanted to say, I’m very encouraged and glad that you’re considering this meeting that’s coming up in spring, because these are very important issues to be addressed.

CHAIRMAN RIDDLE: Kim.

MS. DIETZ: Grace, I just wanted to thank you for your patience in this process. It’s been probably a couple of years that you’ve been going and forth and trying to figure out exactly what to do with yeast, and whether we petition to remove it, or whether we work on what angle. And I also remember our first conversation when you were like, what a mess this is. And how do you guys deal with these regulations? And you sound like you’re a pro. You did very well. I wanted to tell you that. So learning is the way -- getting your feet into
it is how you learn. So thank you for your patience, and hopefully, we can figure it out for you.

MS. MARIQUEN: Thank you. And thank you, all, for your dedication and hard work. I think we all in the industry appreciate it.

CHAIRMAN RIDDLE: Thanks, Grace. Next up is Gwendolyn Wired, and then Richard Siegel. And I would just ask -- we’ve had a few more people sign up, and so we’re really going to be pressing time limits. So if the Board members can keep their comments and questions as succinct as possible. Thank you.

MS. WIRED: Good morning, Mr. Chairman, NOP staff, and ladies and gentleman of the gallery. My name is Gwendolyn Wired. I am the primary processing program reviewer for Oregontilth Certified Organic. I did pass out my comments -- it was a fairly thick packet -- on Tuesday, because I was planning to go on Tuesday. And I’m hoping that you still all have that.

CHAIRMAN RIDDLE: That was the...

MS. WIRED: Correct. If you don’t, I have more copies here.

CHAIRMAN RIDDLE: That says Oregontilth Certified Organic up in the header.

MS. WIRED: Correct. All right. I’m here today to present you with the work that Oregontilth has...
put together in regards to distinguishing agricultural
from non-agricultural substances for use in organic
process products. I’m extremely pleased to hear that
the handling committee is going to be working diligently
on this to address this issue. And I’m hoping that our
work can significantly help you in this effort, that it
can provide a springboard, a foundation to work with.
As a leading certifier of organic process product,
Oregontilth has been faced on several occasions with the
challenge of reviewing many new and some not so new
ingredients that are entering into the organic
marketplace. And in so many of these cases it’s just
extremely challenging to determine whether the substance
would fall under the national list definition of
agriculture, agricultural product, or non-agricultural
substance, and therefore, need to be petitioned. In
addition to looking at these ingredients on 605, and
figuring out whether they should go to 606, the other
problem, from a certifier standpoint, is that where
people are submitting these ingredients, such as mallic
[ph] acid, and steric [ph] acid, and innulen [ph], and
they’re providing us with this background and saying,
this is an agricultural product. And so you’re seeing
those ingredients on the panels of organic products now
in the marketplace. And we don’t know what criteria was
used to determine that that particular ingredient was, indeed, an agricultural product. The definition of an agricultural product is -- it’s broad, and that definition alone certainly, you can bring in all sorts of things -- the non-agricultural substance, a substance that’s not a product of agriculture, such as a mineral or bacterial culture that’s used as an ingredient in agricultural product. Here the example of a bacterial culture not being a product of agriculture raises the question of whether this refers to microbial cultures. And if so, then how does organic mushrooms and organic yeast, both of which are commercially available as organic, fit into this? For the purposes going on with the definition for the purposes of this part, a non-agricultural ingredient also includes a substance such as gum, citric acid, or pectin that’s extracted from, isolated from, or a fraction of an agricultural product so that the identity of the agricultural product is unrecognizable in the extract islet or fraction. The concept that an ingredient product or substance is no longer agricultural once the identity of the agricultural product is unrecognizable is nearly impossible to evaluate. And it’s not consistent with many of the agricultural products currently on the market. Most processing activities render the finished
products as unrecognizable from their original raw materials. Substances that are clearly recognized as agricultural products, such as Malta dextrin [ph], rice syrup, and vegetable protein could all be classified as non-agricultural, according to this definition, without further specification of the term’s identity and unrecognizable evaluation of the substance is difficult, at best. And furthermore, the examples of pectin and gums as non-agricultural substances is completely confusing, because both of these substances are also listed as agricultural ingredients. So in response to this, Oregontilth has put together a decision tree that’s meant to provide a standardized and transparent evaluation tool to ensure consistence among certification agencies and the organic industry. I provided you with the decision tree and accompanying narrative that explains the issue, the basis for the questions used in the decision tree, definitions to support the terminology used in the decision tree, and several examples of substances evaluated using the criteria set forth in the decision tree. I don’t think now is the time to go into the details of the decision tree. It’s a very complex subject, as we know. I put the document together. I have a degree in food science and chemistry with an emphasis on fermentation science.
And I also consulted with food science professors at the university I went to school at. So I’d just encourage you to use this information that we have provided in your process. Thank you.

CHAIRMAN RIDDLE: Thanks, Gwendolyn. Kevin?

MR. O’RELL: Yes. Just a comment. Thank you for the information. It’s very thorough. And I think it will certainly help us, and will be considered in our process as we determine this, because not only do we have to look at the materials, but we have to provide criteria and guidelines as to how we determine what is an agricultural product.

MS. WIRED: Thank you. And I also would like to offer my services in any way, any help in the process. I’d be more than happy to help out. Thank you very much.

CHAIRMAN RIDDLE: Yes. Thank you.

MS. ROBINSON: Yes. Do you -- you said you had more copies?

MS. WIRED: I do, yes.

MS. ROBINSON: Can I have one, please?

CHAIRMAN RIDDLE: Richard Siegel. And next up -- I’m losing track here -- is Mike Norman.

MR. SIEGEL: My name is Richard Siegel. I’m a lawyer in private practice here in Washington, DC. And
I’m speaking today on behalf of a group of 15 companies that supply organic ingredients. Rather than read the 15 names, they’ll be on the statement that I -- written statement that I give you. The phenomenon of multi-ingredient organic processed foods is familiar to all of us. And these new products have required a constant stream of new materials that were not previously available organically. These 15 companies that I’m representing today are active in a sub-industry that’s providing these ingredients, flavors, yeast, lecithin, molasses, spices, and colors are just some of the examples. It was anticipated that because the regulations provide for organic preference for these ingredients, that these ingredients would come to market. They would be taken up. They would be incorporated into organic products in a seamless way. And this is in a process of continuous improvement. But the ingredient companies that have gone into this business, I have found that in many cases this has not happened, and there have been departures from the principle of using only organic ingredients when available in organic processed foods labeled as organic. This has an affect on the organic integrity of the products. The permission to use a non-organic ingredient is a privilege. And this privilege should
not be abused. At the critical control point here are
the certifying agents. They make the critical decisions
working with food processors. In some cases certifying
agents have found conflicting interpretations as to
whether an organic ingredient could be used or must be
used. Omry [ph] has made interpretations which have
raised some questions. Also, there’s a dilemma when
organic ingredients come on the market, but they’re very
much more expensive than conventional. And this puts
the certifiers into sometimes a delicate situation. How
far should they go in being -- in requiring their
certified entities to use these ingredients? And
mainly, there’s a -- there are gaps in information.
Beginning last fall, the organic ingredient sector put
together an informal group of companies, which now
number 15. We presented correspondence to the NOP in
January. And we received a letter on February 11, from
Mr. Matthews, which he subsequently posted on the
website. And we’re very happy with this response, this
prompt response, and this very good first start. We
also hope, at some point, to see questions and answers
also added to the website, which will further clarify
and sharpen what our issues were. This leads us to the
next development, and that was what the Board did in
Chicago when you adopted the recommendation of your
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commercial availability 606 taskforce. The companies that I’m speaking for today want to thank the Board for doing this, taking this action, because we think that tightening the procedures for greater transparency and greater accountability will move this quite along. The suggestion that there be reports from certifiers each time they grant exceptions to the organic ingredient, we think that an annual report is not enough, and we would like to see this done on a spot basis. We would like to see this happen each and every time there’s an exception granted. This would probably be easier for the certifiers to do than to wait for a year and then retrieve all the information from 100 different scattered files. So that’s one issue that we would like to enhance -- see the commercial availability proposal enhanced by making the reporting by certifiers of the exceptions granted in ingredients be far more frequent than annually.

CHAIRMAN RIDDLE: Time. Conclude your thoughts there.

MR. SIEGEL: My concluding thought is we are in this industry talking more and more about our -- having a database similar to the one for seed. And we’re considering maybe using the OTA database in a different way.

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CHAIRMAN RIDDLE: Kim.

MS. DIETZ: Thanks, Richard, for your comments. We all know that our industry is growing, and that organic, raw materials are becoming more and more available. When I as a buyer with Smuckers, about ten years ago, we actually developed the first organic flavor. We paid a flavor house to use citrus oil, organic citrus oil. We used organic extraction ingredients. And we were the only supplier at that time of organic flavors, a lemon and lime flavor. What we’re seeing is organic flavors are becoming more, and more, and more available on the market. What we’re also seeing is that the commercial availability of those quality, quantity, function, form, are not yet at the same point of natural flavors. So I would ask you to put your thinking cap on, and those 15 people that you have with you, because how are we going to transition? We’ve come leaps and bounds from ten years ago when we had no tools, basically, to any time something becomes available, we put it in as an organic form. But we still don’t have all of them. And I’m sure that’s the same with yeast. There’s all different forms of yeast. There’s all different forms of different products. So that’s going to be this dilemma, and this Board’s dilemma in the next few years with the sunset is it’s
not just the black and white, and it’s not just one product. It’s several different forms of the same product.

MR. SIEGEL: Thank you.

CHAIRMAN RIDDLE: Thanks. Anything else?

Thanks, Richard.

MR. SIEGEL: Thank you.

CHAIRMAN RIDDLE: Okay. Mike Norman, and next up Brian Baker.

MR. NORMAN: Well, my name is Mike Norman. I’m here representing AAPFCO, the Association of American Plant Food Control Officials. I am associated with AAPFCO because I am myself a plant food control official with the Washington State Department of Agriculture, and I’m responsible for all of the commercial fertilizer registrations at Washington State Department of Agriculture. So I’m the official AAPFCO liaison on the NOSB. And if you have any questions or comments you would like to take to the -- excuse me, did I say something funny?

MS. DIETZ: No, sir. I apologize. The alphabet soup that we all live with, and it was beautiful.

MR. NORMAN: Oh.

MS. DIETZ: I’m very sorry. I’ll extend your
MR. NORMAN: So I’m your point of contact for the NOSB and NOP. If you have any questions or comments you want to take to the AAPFCO, you can contact me at my Washington State Department of Agriculture e-mail address, which is Mnorman@agr.wa.gov. That concludes my presentation. Any questions?

CHAIRMAN RIDDLE: Rose?

MS. KOENIG: Yes. On the -- I guess it was -- I’ve seen so many documents -- I think it was the scope document where there was an outline of sort of what your organization was proposing in terms of labeling. My question to you is, you know, I guess are you -- how do you want to work together? I mean, it sounds like your agency has kind of lead the way in determining kind of a labeling system. But is there any way that we can help support it? You know, what would you like from us also?

MR. CARTER: Can I...

CHAIRMAN RIDDLE: Dave?

MR. CARTER: Yes. If I could, and if you could just give us an overview of the deliberative process or the decision making process that is used within AAPFCO? I’m a little bit familiar with AAFCO [ph] but not with AAPFCO, about how long it takes, what’s your committee process, and the like.
MR. NORMAN: Okay. My first suggestion is always use the acronym by the letters, like I did. The AAPFCO is the Plant Food Control Official. There’s the AAFCO, which is the Feed Control Officials. And there’s the AACO and AA Pesticide, PCO. So it’s -- because especially for AAPFCO, which is plant flood, fertilizer, and the feed, control officials, which is AAFCO. The acronym is phonetically pronounced the same way. So it’s helpful to just say the letters. The next meeting -- okay, first of all, make it clear that we’re talking about labeling for fertilizers, okay, not end use products consumed by people. So that’s a real big distinction. And the way to start would be to e-mail me. The next meeting is in February of 2005. The comments need to be in 60 days ahead of time. If you want your voice heard at the table, send me an e-mail and I’ll forward it on. Right now AAPFCO has developed a definition for organic input that was proposed in 2004, in February. I believe it went to tentative status in August, at our annual meeting, and that’s just basically a definition that more or less says a product that meets NOP definition for allowable and organic production according to NOP. Then there was a policy statement, same thing, it was proposed in February 2004, and it went to tentative status in August 2004. And it
relates to organic inputs as defined previously. Now this is what you could put on the label of a fertilizer, and this product meets -- is an organic input, and is allowable under the various different programs out there. It could be NOP. It could be the Washington State Department of Agriculture’s Organic Food Program, you know, any type of OMRI, you know, any of that type of thing. It’s kind of a bit of a four or five laundry list of different organizations. So that’s kind of just in the infancy, just getting started. And neither of those are final. And that will be up for discussion in February of 2005. And you need a 60-day lead time. So your deadline to get them to be would be about December 7, a day that may or may not live in infamy. That’s a joke. And then that would give me about four or five days to get the comments to AAPFCO people so that they’ll have time to get it on the agenda and all that type of thing.

CHAIRMAN RIDDLE: Follow-up, Dave?

MR. CARTER: Yes. Well, that’s -- because I don’t know if you’ve looked at the scope document that has been forwarded here. But we do reference that, you know, on August 3, 2004, AAPFCO, E-I-E-I-O, considered the following amendment to its model regulation, and it went through the specific language you have there. And
then the amendment’s been referred to AAPFCO labeling committee for further consideration. And then we acknowledge that, you know, this is handled by state authorities, and we recommend that the NOSB endorse the draft labeling definition for organics. So we’re trying to endorse that. And what we’re trying to figure out, this is where within we would need to submit something by December 7, to get it on your docket for...

MR. NORMAN: Yes.
MR. CARTER: Okay. All right.
CHAIRMAN RIDDLE: I have a quick comment, and then Mark. I just really want to thank you for coming here. It’s great to have an identified liaison with your organization. And it’s my understanding now as chair, that I will be following up as far as that letter and in cooperation with NOP. But I do want to point out, you said something about that that claim that you’re considering would signify compliance with NOP requirements, and then a few others. You said Washington State OMRI, et cetera. And I just want to clarify that it’s really -- those others, any accredited certifier, including Washington State, and then a materials review institute like OMRI, are operating under the constraints or requirements of the NOP. So it’s really -- that is the over-arching law and

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regulation that any of these inputs must meet. So they
either must be natural or specific substances on the
national list. So just keep that in mind, just wanted
to remind you there.

MR. NORMAN: Yes. There’s a lot of real
important issues that need to be worked out. And the
main thing that I’ve kind of learned thus far is as I
understand it, NOP doesn’t govern labeling of
fertilizers, they govern the inputs. And we’re talking
about labeling of fertilizers. So there’s a whole world
of organic production out there for NOP. And there’s a
whole world of home and garden and other fertilizer
companies out there who have a bag with organic
ingredients. They put the name organic on it, and they
don’t feel that they need to put all the advisory
statements to someone who might want to produce an NOP
on the bag, that they consider that the producer’s
responsibility to know what it is they can and can’t
use. And in a big sense, a lot of people like organic
to mean organic across the board. And it’s -- I don’t
think that’s going to be possible. I’m not sure any one
set of definitions will ever make everyone happy. But
we’re just in the infancy getting started. And I,
myself, have only been with AAPFCO three years. And so
I’m learning.
CHAIRMAN RIDDLE: Mark. And then we need to move on.

MR. KING: Just a question for you, actually. It’s my understanding that your organization, AAPFCO, helps coordinate consistency within the states concerning their regulation of fertilizers. Correct?

MR. NORMAN: Right. The federal government doesn’t regulate fertilizer. So the organization is basically -- it defaults to the states. And the organization tries to rule by consensus with having uniform fertilizer rules nationwide so that companies don’t have to come up with 50 different labels, one for each state. And commercial fertilizer industries are also there. They’re invited to the meeting to comment. So that’s it. And my December 7, reference, please, that was a joke. I don’t know where that came from, but please take it as such. I look forward to working with you all. Okay. Thank you.

CHAIRMAN RIDDLE: One more quick, I guess.

Rose.

MS. KOENIG: I just -- I thought it might be useful, you know, the EPA has come up with a labeling, kind of alternative voluntarily labeling program for labeling pesticidal input, compliant with the NOP. So I don’t know if you’re aware of that, it was a Federal
Register Notice. But maybe you could look at that, because it may help.

MR. NORMAN: I missed the first part of what you said.

MS. KOENIG: It’s a similar type of idea that, you know, EPA has also proposed kind of a labeling program to distinguish organic products from -- it’s a voluntary program. So I’m just saying, maybe you should -- if you don’t have that document, you might want to reference it as something.

MR. NORMAN: Okay. Send your e-mails. I’ll get them forwarded to where they need to go, and look forward to meeting with you all. And I had a great walk down Washington DC, Tuesday, I think, and it’s been a great trip. Thank you. Have a safe trip home.

CHAIRMAN RIDDLE: Thank you. Thanks for coming, Mike. Okay. Brian Baker is up, and then Bob Beauregard, next.

MR. BAKER: Hello. Brian Baker, research director, Organic Materials Review Institute, or OMRI. For those of you who don’t know, and then to remind those of you who do, OMRI is still a professional, independent, transparent, non-profit that reviews materials and comparable processes for compatibility with organic production processing and handling. And
I’m pleased to be here today, and still standing, and participating in the NOSB process. It’s just absolutely crucial for clarity and consistency in the development of organic standards. And I’m really pleased with the process we’ve made over the past couple of days. And just as all of us have had to make adjustments with the implementation of the rule, it hasn’t been an easy course. But it’s something that I think has brought about a great number of improvements and has caused us to look into things that we’ve -- we once took as articles of faith. And to have that thrashed out to a public process, it hasn’t been easier or clean all the time. But I think it’s been very productive. As Barbara Robinson mentioned, we have requested a review of our generic materials list. Let me back up. The three -- we have two or three different services that we provide the organic community, the industry. One, is we publish a generic materials list. We’ve revised that generic materials list to be compliant with the National Organic Program rule. As Barbara mentioned, we have asked for that generic materials list to be reviewed by the National Organic Program to make sure that we are, in fact, in compliance, and we will work with them on that. Another service that we provide is a brand name products list, which, of course, is built upon the
generic list. We also, incidentally, provide an organic seed database. We’ve had that on line since 2001. And not many people know about it or use it. But just throw that out there, it’s there if people want to use it. We’re not a certifier. We work with certifiers to try and help them do their job better. We also hope to lessen the burden of government the NOP, AFFA officials, EPA, other regulatory agencies. So we’re not from the government, but we’re trying to help. And the ISSA [ph] we’re also pursuing, ISSA-65 accreditation, we are not pursuing certification accreditation, and instead we’re pursuing accreditation under ISSA Section 65, and we’ll be revising our procedures accordingly. So briefly, to touch on what you’ve dealt with over the past couple days, largely in support of the progress that’s been made here, the whole natural synthetic distinction is very vexing. Interpretation of the national list is easy, interpretation of the rule involves much more than that. It’s the allowed naturals and prohibited synthetics that really can cause a lot of consignation and a number of other aspects that we have to address. And the precedent that goes back to before the NOP and before the AFFA, should not be disregarded. I know that we learn new things every day, and that we have to re-evaluate processes and manufacturing sources. But the -
by in large, there’s been a body of review going back to 1979, in the California Organic Foods Act, where people had been making determinations about what’s natural, what’s synthetic, what’s subject to that. Briefly, go through the -- this whole question of what’s an inert, what’s, generally speaking, that’s been applied to pesticides and other materials. The use of -- the addition of a substance has an intended technical or functional affect. And, you know, just about everything else is active. And we’ve always treated pesticides differently in organic, because they have been so high profile and controversial. Under scope, fertilizer labeling, as long as it’s legal in most states to label non-compliant fertilizers is organic, there’s going to be this confusion. We hope to work with NOP and AFFA to eliminate that. Thank you for your time.

CHAIRMAN RIDDLE: Thanks, Brian. Any -- okay. Thanks. We have Bob Beauregard, and then Sharon Sherman.

MR. BEAUREGARD: Good morning, ladies and gentlemen. My name is Robert Beauregard, and I’m serving as general manager for the Country Hen. Did everyone receive a copy of the presentation? There’s no organic fish meal production in the United States.
CHAIRMAN RIDDLE: If you could speak up, please, sir, or move that mike closer.

MR. BEAUREGARD: There is no organic fish meal production in the United States, and there’s little fish meal being produced in the U.S. Poultry diets. The reason that fish meal is not used for poultry is most certainly due to its relatively high cost. Cod and soy, plus methaninine furnish enough of the necessary amino acids at a lower cost. The protein, poultry rations is calculated on the basis of individual amino acids, not gross protein. In spite of its high cost, the Country Hen has used fish meal for the past 15 years, except for the time when it had to meet organic standards which required the use of Nature Rocks [ph]. Nature Rocks was not available to the fish meal producer that serviced our company at that time. The company which preceded the Country Hen is called Horaso Oro [ph], and is located in Columbia, South America. They’ve used fish meal for about ten years. The reason that the owner of both of these companies believe and believes in fish meal, is that fish meal is not only very high in protein and omega threes, but also contains UGF, or an unidentified growth factor, a term that is not very -- that is not used very much today. Fish meal is not only important for chickens, but important for humans and for

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the environment. Fish meal is good for chickens. In looking back, it is easy to see that the UGF may have been due to the effect of the omega three oil contained in the fish meal. Recent research has shown that the particular omega threes from the fish oils, called EPA and DHA, are important to the health of the bird, especially in fortifying the immune system. Three studies show that the use of fish oil reduces the severity of coccyxiosis, an inflammation in the intestines due to parasites. Since organic regs prohibit the use of conventional anti-coccy drugs, such as Amprolium, fish meal becomes very important to us in controlling coccyxiosis. Another study shows that chicken subjected to salmonella and staphylococcus faired better when the diet contained fish oil. A Purdue study has shown that fish oils also helped better bone formation. It seems obvious that Martin Day [ph] laying hens living in egg factories are existing on artificial diets. They eat a ratio composed basically of seeds high in omega six, another essential fatty acid. A hen should have a ratio of about five to one in omega six to omega three. A hen that is eating a percentage of fish meal is getting valuable omega threes, especially in the very important EPA and DHA. Hens roaming outside on spacious pasture, 50 birds per
acre, will naturally increase their omega threes from the grass if it hasn’t been stripped bare. However, they will only receive LNA, which is not as important since LNA converts very, very slowly to EPA and DHA. In addition, free ranging carries a very high risk of Avian Influenza, which can be caught from waterfowl and other birds. We prefer to include the omega threes in the normal daily diet, and to use porches instead of free ranging with its high risk of AI. Fish meal is good for humans. Fish meal is not only good for chickens, but it is good for humans too. In the 1970’s, two Danish scientists created a stir among the medical world when they found a traditional Eskimo village practically free from cancer and heart disease. The Eskimos lived on a diet high in fish and seal, full of fat and cholesterol. Since then, over 2,000 studies have been done, many of which we’ve confirmed that omega threes are very important in the control of heart disease, cancer, strokes, depression, and arrhythmia. The average American diet has a ratio of omega six to omega three of 20 to one, when the average should be four to one. A book by Dr. Aramas Symophalis [ph] called The Omega Diet, is an excellent reference on the subject.

CHAIRMAN RIDDLE: Time. And we have your complete written comments here for the parts you didn’t
get to. Any other questions? Becky? I’m sorry.

MS. GOLDBURG: I was just looking through your comments, written comments you presented. And it appears you’re getting fish meal from Canada, salmon meal.

MR. BEAUREGARD: Correct.

MS. GOLDBURG: And the salmon meal appears to be coming from New Brunswick. And the only large source of salmon in New Brunswick is farm salmon, so I assume it’s made from farm salmon byproducts. And there’s been a lot of publicity this past year about contaminants in farm salmon. And I’m wondering if you’ve done an analysis of the fish meal you used for contaminants. And if so, what are you...

MR. BEAUREGARD: Well, if I’d have gotten through the whole presentation, it will explain it. And there are several attachments on the copies that I passed out. We do test for contaminants, mercury levels, we do peroxide tests for, you know, contamination, obviously. So all those attachments are...

MS. GOLDBURG: Do you do organic chlorines?

MR. BEAUREGARD: Excuse me?

MS. GOLDBURG: Organic chlorines, like PCB’s and dioxins?
MR. BEAUREGARD: We check for all of that stuff on almost every load that comes in. We test it in the beginning of the load, and we test it at the end of the load. And we receive loads in at about a 20-ton load each time that it arrives.

MS. GOLBURG: And your data in here?

MR. BEAUREGARD: The data should all be in there.

CHAIRMAN RIDDLE: George?

MR. SIEMON: You’re aware of what we did yesterday or the last few days, with fish meal? I was just reading through your document here, and you refer to 603. Are you satisfied with what we’ve done, which is allowing fish meal, but then if there’s synthetic preservatives, that those preservatives...

MR. BEAUREGARD: Yes. The Nature Rocks is obviously -- like I said, if I had gotten through the whole thing, Nature Rocks, all of the ingredients in the Nature Rocks are natural, and they are on the list.

MR. SIEMON: So you’re satisfied with the work we’ve done.

MR. BEAUREGARD: Yes. Very satisfied. I’m very happy with it. And the other comment I would like to make is that I have a real good feeling about the positive collaboration that I’ve seen in the past couple
of days with, obviously, with the -- with both staffs. I feel good about it, and I just think it’s a real good thing.

CHAIRMAN RIDDLE: Thank you. Thanks for your comments. I’d just like to update the Board. The list shows ten people signed up left. And we have 45 minutes. Oops, was there -- Becky?

MS. GOLDBURG: Yes. Back to Mr. Beauregard. There have been two of us looking for your data on contaminants in here, and we can’t find it.

MR. BEAUREGARD: I’ve only got my presentation. I don’t have the attachments. Were those included in that? Okay. That was my mistake. Those test results were not included as attachments, but we can provide them to you with no problem. We’ll get them to you ASAP.

CHAIRMAN RIDDLE: Thank you. A quick comment, Mark.

MR. KING: Thank you, Jim. I just want to thank you for your work in putting this together. And if I’m noting this correctly, your first communication was back in May of last year, concerning this issue. Is that correct?

MR. BEAUREGARD: Not. It was not. Originally, I believe it was in -- I believe an
attachment included was back in...

UNIDENTIFIED SPEAKER: '99.

MR. BEAUREGARD: You mean the first load of fish meal?

MR. KING: No. Never mind. I was just talking about -- we'll take later.

MR. BEAUREGARD: Okay.

MR. KING: Thanks.

CHAIRMAN RIDDLE: All right. Sharon Sherman, and then Earl Luvier.

MS. SHERMAN: My name is Sharon Sherman, and I am the president of the Pet Guard Company. We distribute our products in the health food stores and veterinarian offices. We've been in business...

UNIDENTIFIED SPEAKER: Excuse me. The name of the company?

MS. SHERMAN: Pet Guard.

UNIDENTIFIED SPEAKER: Thank you.

CHAIRMAN RIDDLE: Pull the microphone...

MS. SHERMAN: We've been in business for 25 years. We're members of the NNFA, the OTA, and I've served on the Executive Board of the Southeast Region of the NNFA. Members of our company have served over the past 20 years, as a liaison to AFCO. I want to thank the NOSD and the NOP for their hard work this week. And

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we believe there’s, of course, work still to be done. I
must disagree with some of the assumptions stated at
these meetings, and strongly agree with others. My
strongest objection deals with the belief that organic
pet food should not be classified as organic food. We
believe it is. Although the finished product is not
intended for human consumption, various regulatory
agencies, most notably the FDA and USDA, mandate that it
be made safe for human consumption. Just as organic hay
is not intended for human consumption, it’s still
organic. We feel that the need for these products has
been established and is overwhelming, simply for the
health benefit side. The public wants and needs these
products for their pet companions, since most of them
also believe and live an organic lifestyle, and they
want the same for their pet companions. The need also
has been heightened due to the mad cow issues. Our 95
percent organic pet foods are certified by three
certifying agents, OCIA, Onecertain, [ph] and
Oregontilth. The mechanics for the organic
certification process is followed just as if we’re
manufacturing green beans or organic potato chips. We
can never have 100 percent organic product because of
the vitamins and minerals which must be added due to
state and federal regulations, due to pet foods’

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classification as a single source of nutrition for companion animals. Organic pet foods may combine more ingredients to get a single organic entity, but that should not disqualify them as an organic product. There are organic ingredients used, whether it’s organic chicken, turkey, beef, cranberries, brown rice, or carrots are raised for human consumption, so we, as a company, compete in the human channel for commodities, for organic ranchers and farmers to have another outlet for their commodities, can only further the growth of organic products, and thus ensure more sustainable, earth friendly methods for our cultural and animal husbandry in the future. I’m asking that the same standards for human fed pet foods -- human foods be used for pet foods. Do not lower the bar, but make it equivalent so that consumers can have the same confidence when they’re buying an organic product with the USDA shield, the same standards have been met by all. In conclusion, organic pet foods should be considered not as a second-class citizen, and should be regulated the same as human organic food. We’ve waited 23 years for standards to be developed so we could offer organic pet foods to the public, because we believe that the future is in organics. And, of course, we believe that it’s important from the aspect of sustainable
agriculture. And also, there are many companies that have invested millions of dollars, and contract packagers, organic processors of grains to -- and there are other pet companies that have been doing, you know, have been creating organic pet products. And I thank you.

CHAIRMAN RIDDLE: Thank you. Kevin?

MR. O’RELL: I appreciate your comments. And I don’t know if you heard earlier, but in the Handling Committee work plan, we are going to take up the pet foods, and make a recommendation to the full Board on pet food standards. I don’t think that there was any biased discussed, unless I missed something about a particular direction that we would head on. And, certainly, looking at it in terms of organic food standards is a possibility that will be discussed.

MS. SHERMAN: Thank you.

CHAIRMAN RIDDLE: Thank you. Earl Luvier, and then next up Eric Sideman [ph], to be delivered by Emily Brown-Rosen.

MR. LUVIER: My name is Earl Luvier. I’m the director of quality control for Omega Protein. Conventional fish meal can be produced from fish harvested unsustainably, which may contain contaminants, such as heavy metals, PCBs, dioxins, and pesticide
residues. I think you’re all familiar with that statement. In an earlier meeting, Barbara Robinson referred to the Alaskan fish harvest. The Alaskan fish harvest accounts for approximately 30 percent of the total U.S. production of fish meal. This is from a combination of a variety of species harvested mainly for human consumption. Due to the logistics, this is primarily shipped to or exported to Japan, and not sold here in the U.S. The remaining 70 percent of the U.S. fish meal production is from menhaden, harvested from the U.S. Atlantic and Gulf Coasts. Omega protein produces approximately 70 percent of the menhaden based fish meal. Menhaden fish meal is a product. It’s not a byproduct of any other fishing operation. When making decisions regarding sustainability, I urged the NOSB to bear in mind that this species variation. All fish meal is not created equal. At this time I’d like to submit stock assessment reports for both Atlantic and Gulf menhaden stocks that show the fisheries are not being overexploited, and are sustainable. This data was generated by the national Marine Fishery Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce. NNNF has been performing these annual studies for -- well, since the mid 1950’s. As with sustainability, issues regarding heavy metals,
PCBs, dioxins, pesticide residues vary between species. This species variation should also be taken into account when making any decisions regarding fish meal. Omega protein has been monitoring PCBs and pesticide residues for over 30 years. Heavy metals and dioxin data is a bit more resent. Tests on regular samplings performed by independent, third-party laboratories show that menhaden fish meal is well below current U.S. guidelines for human food.

CHAIRMAN RIDDLE: Thank you. Any comments, questions?

MS. GOLDBURG: Would you be willing to make your data on contaminants available to the NOSB?

MR. LUVIER: Absolutely. I don’t have them with me, but I’ll pass out some of my cards that have my e-mail address.

CHAIRMAN RIDDLE: Goldie?

MS. CAUGHLIN: What were the two areas that you mentioned? If I understood you, you were talking about the menhaden stocks that were sustainable, mentioning two geographic...

MR. LUVIER: Yes. Atlantic coast and the U.S. Gulf of Mexico coast.

MS. CAUGHLIN: Thank you.

CHAIRMAN RIDDLE: Okay. Thanks a lot. Eric
Sideman, by Emily Brown-Rosen, and then Morgan Hutchinson. And, Emily, you’re signed up on your own.

UNIDENTIFIED SPEAKER: Wait a minute.

Technical...

MS. BROWN-ROSEN: Yes. I have another one, but I’m seating that to Eric. So this could be ten minutes, but I don’t think I’ll take that long.

CHAIRMAN RIDDLE: Okay. So it’s Eric, and then Emily.

MS. BROWN-ROSEN: Well, I’ve waived my -- I’m Eric -- Eric’s got two. I’m Eric today. You might not realize that.

CHAIRMAN RIDDLE: I see. She’s ten, but it’s both for Eric.

MS. BROWN-ROSEN: Okay. I’ve been asked to present this comment from Eric Sideman, a former NOSB member, former Aquatic Taskforce member, and representing the Maine Organic Farmers and Gardeners’ Association. We would like to comment on a number of issues facing the NOP that are being considered at this meeting. The first one is certification of aquatic animals and the use of fish meal as livestock feed. We would like to comment on the proposal of the Livestock Committee to establish the new taskforce on standards for wild caught and farmed aquatic animals, and the...
proposed directive on the use of fish meal as a supplement in feed. These two issues should be considered together, because fish meal made from wild caught fish is used as a feeding grain for farmed, organic animals. And if farmed, aquatic animals are to be labeled organic, they would clearly be a livestock product and fall under the livestock regulations of the NOP rule. We support the directive prepared by the Livestock Committee, and recommend the NOSB adopt it. Well, you already did that. We feel a need to comment on these two proposals from the Livestock Committee, because we do not want to see rules written that serve one sector of our county at the cost of another. We are particularly interested in environmental costs. Organic standards have always been founded on the principle of reducing environmental impact of production to a minimum. It is important that any guidelines for aquatic production consider the impact of such production on natural populations and ecosystems, including contamination with toxins, nutrient contamination from feed, and over fishing natural populations of fish. Fish meal should only be used as a supplement to balance amino acids in livestock feed, and not be used as a major feed component for a source of protein. We believe that organic livestock should be...
fed organic agricultural products, and that the use of non-organic products should be kept to a minimum, even if they are natural. The bulk of the energy and protein for livestock, be the aquatic or land animals, should be from organic agricultural production. The NOSB proposal to set up a new aquatic animal taskforce, as pointed out by the first -- should be supported by the -- as pointed out by the first Aquatic Animal Taskforce, is the next step to develop standards. The first taskforce pointed out the reasons why wild caught fish do not meet organic principles, but they did not -- but they did welcome the development of standards for aquaculture. The original Aquatic Animal Taskforce was well balanced, and included representatives from a wide array of interested parties, including environmentalists, organic farming, processing and marketing industry representatives, and those with commercial interests in both the wild and aquaculture fish industry. The taskforce was put together in a way to avoid standards being developed that would serve any special interests and not serve the broad interests of the public. We strongly believe that the new taskforce should also be set up to represent all of these interests. It’s the only way that the recommendations can be based on all the science, including protecting the environment and the values of the organic community.
Okay. The second comment is on synthetic sources of methaninine. We would like to comment on the planned phase in 2005, of the allowed use of synthetic sources of methaninine as an additive in livestock feed. The NOSB recommendation that synthetic sources be permitted until 2005, and that producers use the years before implementation of the rule in 2005, to develop livestock feed using natural sources of methaninine. Natural sources of methaninine do exist, and include fish meal, sunflower meal, and other natural sources. AFFA limits the approved use of synthetic materials to those for which there are no natural sources. But the NOSB recommended this temporary exception to allow the industry time to change a common practice. The NOSB specifically set this phase out date so organic livestock production would come into compliance. We support this original NOSB recommendation. Third comment is on aquatic plant extracts. It touches on this potassium carbonate issue that the Crops Committee is looking at. I’m not going to read the whole thing. It goes into quite a bit of detail about the chemistry of aquatic plant extracting. I’ll just read a few parts of it. But I think you should possibly -- you have the whole written comment. Section 205601(j), one of the rule that’s only potassium hydroxide and sodium.
hydroxide is permitted materials to use when producing aquatic plant extracts. We believe that this intent of this recommendation that lead to this listing could be interpreted to include other materials used in the extraction process. We recommend that potassium carbonate be added to the list of permitted hydroxide materials that are noted in 601(j). Potassium carbonate dissolves in water to form potassium catines and carbonate anions, carbonate in water rapidly, equivalent with bicarbonate and hydroxide, hence, the increase in Ph. I don’t think I’ll read all of this chemistry. But they basically believe that the intent of the NOSB recommendation was to allow all these materials that caused the alkali hydroxide reaction. Last comment is on pet food and cosmetics. We have no objection to the USDA developing organic standards for pet food or cosmetics if the standards represent the basic principle of organic production. Production of organic pet food should follow the basic organic livestock feed standards. For example, 100 percent of the agricultural products in the food should be organically produced. Production of cosmetics and other care products should follow the basic organic processing standards, that is 95 percent of the product be made from organic agricultural products, otherwise it should follow the

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requirements for the made with organic labeling. And that’s it. Any questions? Not that I can answer for him.

CHAIRMAN RIDDLE: Yes. Any questions for Eric? Thanks, Emily, for delivering those. And like she pointed out, they are in our meeting book, the written comments, that have more details. Okay. Next up is Morgan Hutchinson, and then Drake Sadler.

MS. BROWN-ROSEN: Hello. I’m actually reading these comments on behalf of Brendon O’Neal [ph], and Bill Mott, of the Seaweb [ph] Aquaculture Clearinghouse. This is regarding the formation of a taskforce on standards for organic production of aquatic animals. This Seaweb Aquaculture Clearinghouse believes organic standards need to be developed for aquaculture. We further support establishment by the NOSB of a new Aquatic Species Taskforce with balanced representation from all stakeholders, including the public. We believe that in order to maintain the overall integrity of the National Organic Program, and the USDA Organic Certification seal, it is especially important that new organic standards for aquaculture be consistent with and following the guiding principles and USDA’s current organic standards. Organic aquaculture standards must not be fundamentally different than the remainder of
organic standards for livestock. While we understand that there is increase in demand for organic products, including fish and shellfish, we understand that some in the industry are eager to obtain organic classification. We feel that bending the rules to accommodate certain forms of aquaculture would be a mistake. The USDA organic label is the gold standard, and should be as strong as possible. In recent years there has been pressure to adjust organic standards to current best management practices instead of adjusting industry practices to meet organic standards. Standards for organic aquaculture must not undermine the integrity, credibility, and public understanding, and trust developed for other organic standards. And organic aquaculture must be held to the high standards recently applied across most other forms of food production. Development of weak standards for aquatic organisms would undoubtedly result in consumer confidence -- reduced consumer confidence in the organic program as a whole. In this context, it is particularly important to note fundamental problems associated with proposals for organic certification of carnivorous fish aquaculture, and the use of net pens or other open systems. First, farming carnivorous fish, as currently practiced, is dependent on the use of feeds made from fish meal and...
fish oil, both of which are derived from wild fish product, and neither of which can therefore be considered organic under any of these standards. While our comments are focused on farm species, it is important to note that we share the same concerns for the certification of wild fish, and feel that their certification, under the organic label, would further undermine the organic program, current organic standards for animals or prior diet consisting of all organic materials. Therefore, if carnivorous fish, both farmed and wild, were to become certifiable as organic, this certification would require significant deviation from the well-established standards to which all other organic animal producers adhere. Furthermore, farming of carnivorous fish currently results in the net loss of fish protein, which goes against the core principles of sustainability, ecological soundness, and avoidance of damage to natural eco systems that underlie the rationale for organic production. Second, the use of open aquaculture systems, such as net pen, or in some cases cages in both near shore and offshore waters is problematic and not in agreement with basic organic principles, such as the responsible management and recycling of waste. Discharges from these facilities directly into surrounding bodies of water can include
uneaten food, feces, drugs, and other chemicals,
diseases and parasites, and exotic species and strains
of aquatic organisms. In contrast, several types of
aquaculture are well suited for -- to organic
certification. Those include aquaculture operations
raising low tropic level species, like catfish. Some
aquaculture operations raising such species in low
discharge ponds or re-circulating systems, especially
when poly-culture integrate aquaculture are
incorporated, and particularly good candidates for
consideration for organic certification. We hope that
the NOSB will take these specific points into
consideration. The NOSB should create a new aquaculture
taskforce with balanced representation from all states,
including the public. Seaweb, which has been involved
with aquaculture issues since 1998, would like to be
included on the taskforce. If wild aquatic organisms
are to be considered as well, it should be addressed by
a separate taskforce, as the issues involved are
significantly different. Members of the aquaculture
taskforce should include fish farmers, consumer
representatives, representatives of the conservation
community, scientists, and certifiers. The input of
aquaculture industry members and supporters is
important, but should be solicited as part of a balanced
panel. It is critical that experts from outside of the industry with no financial interest at stake be included. This is especially important, given that the industry members and supporters need to provide a detailed understanding of concepts such as domesticated animal nutrition and aquaculture system engineering. But they may not provide an adequate understanding of host ecosystem conditions and interactions with the farming system and the community. Diverse representation will be critical since these concepts will be equally important in deciding on appropriate standards, and on which systems and species qualify. The NOSB should create its own taskforce and not rely on recommendations of current groups that are weighted to heavily in favor aquaculture industry interests. Standards for organic aquatic organisms must remain fully consistent with other national organic standards, and under the requirements of the Organic Foods Production Act of 1990. It is our belief that the procedures and publicly recognized USDA organic label should always be a highly coveted goal for producers, and reserved only for those who are utilizing innovative and the most sustainable methods of production.

CHAIRMAN RIDDLE: Thank you. Questions, comments? Dave.

York Stenographic Services, Inc.
34 North George St., York, PA 17401 - (717) 854-0077
MR. CARTER: Can you tell me just a little bit more about the organic aquaculture clearinghouse, its composition and how long has it been around?

MS. BROWN-ROSEN: I don’t know a whole lot. I just started working for Seaweb. The aquaculture clearinghouse is a subset of Seaweb, which has been around since 1998. And the aquaculture clearinghouse is based out of Rhode Island, and mostly does working collecting scientific reports and really just gathering a database of information on aquaculture.

MR. CARTER: Okay.

MS. CAUGHLIN: The name of your primary organization, that is Seaweb?

MS. BROWN-ROSEN: Seaweb.

MS. CAUGHLIN: Thank you.

CHAIRMAN RIDDLE: Okay. Thank you. Drake Sadler, and then Joe Mendelsohn.

MR. SADLER: Good morning. My name is Drake Sadler. I’m the CEO and cofounder of Traditional Medicinals. For the past 30 years, we’ve been involved in at...

CHAIRMAN RIDDLE: Yes. We can pass it out. And we’ll need you on the mike for the transcript.

MR. SADLER: Again, my name is Drake Sadler. I’m the CEO and cofounder of a company called Traditional Medicinals.
Traditional Medicinals. We’ve been involved in organic herb agriculture for the past 30 years. You know, I’m glad I’m going at the end this morning, because it’s given me a real appreciation for the work that you do. I thought my work in the herb industry was complex. But the diversity and complexity of the issues that you face is quite overwhelming. And to mirror Grace’s comments -- I don’t see Grace here now -- but I just want to acknowledge you all for the work you’re doing.

Volunteer work is often a thankless job. And, anyway, I just appreciate all the time you put into this. And I appreciate the opportunity to speak to you. I’ve given you this handout. I’m just going to read a few comments from it, and hopefully, you will look at the document later. This morning I come to express our concerns about statements and recommendations that have been made in the National Organic Program Scope Document, with regard to certified organic herbal dietary supplement products. Of particular concern are factual errors that were made in the proceeding NOP guidance statement. Specifically, the errors of fact include the assertions that herbal dietary supplement products are neither agricultural products nor food products. According to federal law, under the Dietary Supplement Health and Education Act of 1994, “A dietary supplement shall be
Secondly, the USDA National Agricultural Statistics Service, 2002 census of agriculture, clearly identifies herbs as agricultural products. In the draft scope document approved on September 28, by the PDC, NOSB recommends addressing the questions of whether new legislation should be adopted, and rules written to either regulate the labeling or organic herbal dietary supplements, or conversely prohibit the use of organic on herbal dietary supplements. We would hope that it would now be obvious that no new legislation or rules are necessary because herbal dietary supplements, such as organic medicinal herbal teas, inarguably fall within the scope of the NOP. They’re composed of 100 percent agricultural products, and they’re legally defined as foods under the dietary supplement regulations. Now the predominant end users for certified organic medicinal herbs is in the manufacture of organic herbal dietary supplement products and other natural health products. Restricting organic medicine herbs and herbal products from NOP organic certification would have a significant negative impact on organic herb farmers and their customers. And I understand that there’s been some confusion about this matter. And I think maybe a simple way to simplify the issue would be with a couple of
examples. It’s my understanding, for example, that Smuckers makes organic juices and also makes antioxidant claims on some of their juices. Well, therein lies the conundrum. We certainly wouldn’t want to see a juice nut be allowed to be called organic, simply because it makes an antioxidant claim. I think we would all be in agreement with that. I -- grab the box of Cascadian’s [ph] Organic Honey Nut O’s cereal with organic raspberries, very clearly a healthy heart claim, a lower cholesterol claim. These claims are allowed by Food and Drug in the same way that dietary supplement claims are allowed for our organic raspberry leave tea product. They buy the fruit, we buy the leaf. There, in essence, is no difference between these products. They both make claims. They both make health claims. Those health claims are regulated by Food and Drug. And our organic certification, of course, is regulated in the same way.

CHAIRMAN RIDDLE: Time.

MR. SADLER: Thank you. That concludes my statement. I just want to, again, thank you for your attention to this matter.

CHAIRMAN RIDDLE: Thanks. Any questions, comments? Yes, Kim.

MS. DIETZ: I’ll just -- I guess I’ll ask you this question because I was going to call the pet food
people back up and ask them that question -- this question. Clearly, the scope has said that you’re not within the scope of the NOP rule for dietary supplements as it has with pet food. And the scope also said that you need to remove the USDA seal within 18 months. Have you, and do you know if people in the supplement industry have started to make those label changes, or are you guys kind of in a limbo waiting and hoping, I guess?

MR. SADLER: Yes. I can’t speak for the rest of the industry, and certainly not for the pet industry. Our company, we are -- we feel we’re in a state of limbo. And we’re really opposed to removing the use of the symbol. I mean, we are a food. Herb tea is for human food consumption. It is a food. It’s classified as a food by Food and Drug. Herbal dietary supplements are food. We’re not talking OTC drugs, we’re not talking anything else. They’re foods.

MS. DIETZ: And my other comment is that we had a guest speaker -- or a public speaker on Tuesday, who was also from the supplement industry, and she was very frustrated at, you know, what does she do now? And, I mean -- I don’t know if Barbara and Richard can answer this -- but clearly, if you feel you’re a food, then if you are regulated as a food, then you need to
try to get that straightened out.

MR. SADLER: Well, that’s why we’re here.

That’s why I’m here.

CHAIRMAN RIDDLE: Rose?

MS. KOENIG: Yes. Sometimes, although you
complimented us on understanding all issues, this is one
that I, you know, I keep on looking at Dave. I don’t
understand it because if I grow -- I grow peppermint in
my herb garden and sell it fresh, you know. I don’t, I
mean, people can take it home and dry it and make a tea.
I mean, but I call it organic. And that’s what I don’t
understand. I mean, I can understand maybe on certain
things that are dietary supplements, but -- so if you go
to the food -- I mean, if you look at the Lipton tea --
you know, I don’t know if we want to use trademarks, but
anyway. So anyway, but if you go in the tea aisle and
there’s organic tea, but because it’s in the herbal --
if you saw it as an herbal remedy it’s all of a sudden a
different type of labeling. If you could clarify that,
I just don’t understand it.

MR. SADLER: Well, yes, I mean, that’s -- I
mean, that’s the inherent problem here with when
document -- it is being exempted from -- I mean, when we
make peppermint, we produce peppermint, we buy our
peppermint from the northwest, northwest farmers. If we
just simply call it organic peppermint, or let’s say organic chamomile, and we make no calming claim or no digestive claim, which is allowed under the Dietary Supplement Law, well, then there probably would be -- I can’t imagine there would be any problem with simply labeling it as organic, and using the USDA seal. But as soon as we suggest which is allowed us in the same way that Cascadian [ph] can make a lower cholesterol claim, as soon as we suggest for a moment that there is some kind of health benefit, that appears then to put us into this category which is otherwise exempt from being able to use the USDA seal. I mean, it was just an error. I think it’s just -- it was a mistake, and just something that needs to be remedied.

MS. DIETZ: I believe, Rose, because this is an area -- we buy Echinacea. Clearly, we have a lemon, ginger Echinacea drink, and I could buy the same Echinacea from the same farmer or same broker as he does. I can label it certified organic because it’s a beverage. I believe the problem is that food and beverage are under a different jurisdiction than supplements. And so there’s that line, and there’s where the scope has said food. Beverages are allowed to be certified organic, and supplements aren’t. So that’s what we need to clear up, that distinction, and what --
where in FDA does food fall versus supplements. It’s not necessarily a label claim issue, although supplements have a laxer -- they’re allowed to say certain claims that we aren’t. So it clearly goes by the jurisdiction.

CHAIRMAN RIDDLE: Kevin.

MR. SADLER: Again, we are regulated. Both our companies are regulated by Food and Drug. When you make an antioxidant claim on your label, you’re required to substantiate that, in fact, ingredients in that product have antioxidant properties. And the same way with our raspberry leaf product, we’re required to substantiate through historical use, that raspberry leaf, in fact, has benefits for women.

CHAIRMAN RIDDLE: Kevin, and then Owusu.

MR. O’RELL: Just a point, I guess, of clarification. When the cereal or when the beverage makes a claim for an antioxidant property, they’re making it under a structure function or an approved health claim for food product. And when you’re making your claim, it clearly classifies that the claim is being made under DuShea [ph], so you’re under the dietary supplement.

MR. SADLER: Yes. But that’s an issue for Food and Drug, and not the organic standards.
MR. O’RELL: Well, I’m just trying to throw that out there and see what — do we have a response from NOP on that distinction? Okay. Okay.

MR. SADLER: I mean, Food and Drug simply clarifies that there are different kinds of claims that can be made for different kinds of foods. This is a food. What I gave you is a food. So Food and Drug, you know, has the responsibility for regulating how those claims are made. But they’re still foods.

CHAIRMAN RIDDLE: Owusu.

MR. BANDELE: Yes. The disclaimer that you have here on the organic raspberry leaf tea, would that same disclaimer be on that cereal, and why or why not?

MR. SADLER: Well, no. It would be different -- all different products have different disclaimers. And with herbal products, there are certain kinds of warnings also that are required that are different for a cereal product, for example, although if a cereal product had, I don’t know, certain kinds of grains or nuts, for example, where there might be a problem with a consumer that had an allergy to nuts, you know, there would be a failure to warn issue if they didn’t specify that there were nuts in that product.

MR. BANDELE: I wasn’t talking about the specific ones. I was talking in general, whereas this
one says, these claims have not been tested or evaluated
by Food and Drug Administration.

CHAIRMAN RIDDLE: Within FDA guidelines, there
are a variety of kinds of claims and disclaimers that
are required for all across the whole breadth of types
of products. I don’t know specifically. I haven’t read
all the labels on that particular product. But there
are different disclaimers. Goldie.

MS. CAUGHLIN: I believe the distinction is
the DuShea disclaimer -- he was reading the DuShea
requirement, which is that you must, as you do, state
that this specifically, these statements have not been
evaluated by the FDA. That is the requirement of
DuShea, under which you’re operating isn’t a requirement
under the thing -- under the other program, the
Cascadian’s, the different...

MR. SADLER: Basically, Food and Drug requires
that because they don’t want consumers to believe that
by virtue of not saying something, that Food and Drug
has endorsed or approved products for certain health
benefits.

CHAIRMAN RIDDLE: Rose, then Kim, and then
we’re going to move on.

MS. KOENIG: You can take -- as I understand
it, if you took the same tea that you’re using and just
labeled it differently and didn’t have any health claims
and just said Echinacea tea, then it would be okay.

    MR. SADLER: Sure.

    MS. KOENIG: But it’s the health -- because
you found added value in putting it in medicinals,
that’s given you added value. And what we’re saying, I
guess -- and I’m trying to understand. So what we’re
saying is that you can add that value in that sector,
but we’re drawing the line because you’ve made that
choice. If you want to not label it that way, you can
still label your product, but you can’t do it in both
sectors.

    MR. SADLER: Yes. Apparently. I’m not sure
that it adds value from our perspective, although it
probably does. I mean, the mission of our company is to
educate about the value of traditional herbal medicine.
That’s really the mission of our company.

    CHAIRMAN RIDDLE: Kim.

    MS. DIETZ: Since we’ve heard from two public
speakers on -- what do they do? Can they write to NOP,
or to write to FDA and ask for exactly where that line
is drawn on clarification as to why they aren’t under
the scope of the rule? And could they -- so we could
help -- so we could understand it also, can we get that?

    CHAIRMAN RIDDLE: Okay. If I could just
summarize or offer a brief comment myself, and that is
that I appreciate the information that you have shared,
and the other commenter on Tuesday on this issue. And I
think it’s some new information that we didn’t have as a
member of the Police Development Committee. And we may
have made a mistake in grouping both the personal care
products and the supplements, or medicinal products, in
applying the same language to both. It’s clear to me
that they are different, and it should be more refined.
And I would just ask that the NOP take this information
under consideration as you develop your response to us,
and we also take it into consideration as we review
that. And maybe we can come up with a more refined
position here before this is posted. Is that a
reasonable way to walk away today? We look at how --
and it’s the same thing Kim’s saying.

MS. DIETZ: The definition of food, because we
know cosmetics are under FDA, as well as food, as well
as supplements. So where is that distinction that this
is not a food?

CHAIRMAN RIDDLE: Thank you.

MR. SADLER: Sure. Thank you.

CHAIRMAN RIDDLE: Okay. Joe Mendelsohn, and
then Susan Perlman.

MR. MENDELSON: Good morning. Thanks again.
Thank you again, Board, and program for your work. I came here this morning thinking I was just going to sip my coffee and listen to the comments. And I’m glad I was only drinking decaf, because what I heard about the label, I think threatens, frankly, the integrity of everything that OFPA tried to create, and everything consumers expect by organic. To have labels out there with the term organic that are not consistent with this program, or not enforced by this program on food, goes, I think, against the whole intent of the OFPA, and that consumers, among others, expect consistent standards. If there is a term organic out there in which standards are not developed by this program, consumers are confused. They don’t know what organic means. And I hope everyone in this room knows that consumers think right now the term organic goes to the USDA standards. I mean, 275,000 people wrote in about creating those standards, be consistent with their expectation. Now they’ve got organic out there in products that’s not consistent with that standard, or we don’t know? I mean, that, to me, threatens the integrity of the whole industry. And I hope people recognize that. And I want to, at the risk of being redundant from my testimony earlier this week, I want to read the OFPA particular section that deals with enforcement. This is 7 USC 6519
Subsection 8, misuse of label. “Any person who knowingly sells or labels a product as organic, except in accordance with this title, shall be subject to a civil penalty of not more than $10,000.” There are at least three things that follow from that. One, to knowingly sell or label as organic, you have to be consistent with this chapter and its implementing regulations. That means if there are not standards developed for an agricultural product, you can’t be consistent with this chapter. And to use the term organic is a misuse of the term as written in the Act. Now I realize there may be some private standards out there, some that people might want to recognize. But unless the USDA says these private standards are consistent with the chapter of OFPA, then to label something as organic is a violation of the law. Two, violation of misuse of label go to the term organic, not to the use of the USDA seal. So I think removing the USDA seal, as a way of dealing with this, doesn’t remedy the violation. The Act goes to the term organic. And it also doesn’t remedy the confusion to the consumers. And, three, misuse of the term organic goes to a product, not an agricultural product. Therefore, it provides the agency with broad enforcement authority. It’s simply not true that USDA can’t enforce against
misuse of the term organic, simply because it’s an agricultural product and there’s no standards developed yet, or any other product. I mean, a product is a broad term. Agricultural product is a specific term, or more specific term. So, again, I think USDA is wrong in saying that their enforcement authority ends only on products that standards are set, and are agricultural products. And we need USDA, as consumers, to step up and enforce it. That’s what this Act wants you to do. That’s what consumers want you to do. So I think the key question then becomes, you know, how far is USDA’s enforcement -- they have discretion in how far they enforce -- how far it goes. And if it only goes to a certain point, then we’ve got to find someone else. But to have labels out there that say organic, they’re inconsistent with the standard or not recognized as consistent with the standard, if it’s a private, you know, some type of private party is, I think, a death now to this industry, and consumers are not going to want it. Thank you.

CHAIRMAN RIDDLE: Thanks, Joe. Kim -- Joe.

MS. DIETZ: Just a comment, because I’ve been thinking about this since you brought it up and Irbashi brought it up on Tuesday. We saw a tremendous backlash in this industry when the scope document came out, and
just by the fact that we couldn’t certify anymore under
the rule for certain products. And there’s -- people
are claiming million, billions, trillions of dollars
being lost in the organic industry because they’re no
longer certified under the USDA seal. I understand
where you’re coming from, but I also understand that a
lot of people have invested in the organic label, and
there’s a lot of people that have true integrity, you
know, such as Traditional Medicinals, a lot of people
that have put a lot of time and effort into trusting the
organic label. And to do away with that right now for
lots and lots of products, I’m not sure that’s the
answer. I understand the concern, and I also know that
our goal is to increase organic agriculture. And by
taking away the organic label for all these different
products is going to hurt the organic industry in the
long run. So the consumers -- somebody had made a
comment -- and I don’t know who it was -- about
educating the consumers. So that’s one thing. And the
other thing is, 20 years ago when we didn’t have
standards, we had an industry that came up with the AOS.
We had an industry that’s kind of self-enforced, and
such as like Goldie said, by just not allowing certain
things. So I take that for you to go back and think
about it. And I’m sure you have. I’m not sure taking
the organic label away is the answer.

MR. MENDELSOHN: Can I respond to that just
briefly? I certainly recognize that there are, you
know, many people who have made investments and acted
with good hearts, good intentions on a number of
products that some standards might not exist right now
under the USDA Program. I’m not saying that that’s not
-- I mean, I’m not saying that herbal products wouldn’t
come under the program. Okay. I’m not saying that.
I’m saying that right now there may not be standards for
some herbal products. I mean, arguably, I think we just
heard there probably are. But for something like fish,
the Board’s identified that standards, specific
standards for fish need to be out there. There are not
standards. Okay. That’s not saying that -- I’m not out
here saying we should never label fish organic, and that
people shouldn’t invest in that. I want to see organic
aquaculture. But right now there are not standards. If
there are not standards that you’re certifying to,
recognized by USDA, organics shouldn’t be on the label.
I’m sorry. That confuses consumers. Again, it’s not a
question -- mine is not a question of scope, it’s a
question of enforcement at this point. Okay. And I
certainly want to see proper claims on, you know,
products, and a wide range of products, as long as
they’re proper. Again, that goes to, you know, hurting the integrity -- the future of organic. I think the question is, what is organic, and creating the consistency of organics? So, I think, consistency of organic in the long run is what’s going to drive this industry. And so, you know, I wouldn’t want the industry to say I’m trying to take away their right organic. But if it’s an organic claim that consumers don’t know what it’s about, that hurts in the long run, and it shouldn’t be out there right now. I want to see organic main consistency, and then have it in the marketplace.

CHAIRMAN RIDDLE: Thanks, Joe. Rose.

MS. KOENIG: I also have a question because, again, you know, another one of those issues. These scope things are just beyond -- maybe I spend too much time thinking about synthetic and non-synthetic, which seems easy now. What Barbara said struck me, because I kind of listen, I try to figure out, oh, that makes sense now, you know, try to take pieces of information. So I guess in my mind I’ve made this division, and I don’t know if it’s the correct division, so maybe you can help me. As I understand it, things like aquaculture, things that the USDA has said is within the scope, eventually will -- there will be standards made,
and they will be able to enforce. And what I understand, if I’m correct, is that in this interim between the time now, even though everything else -- the things that we have standards we can enforce on. This interim is analogous to the interim between, you know, writing the rule, proposed rules, and finally full implementation. I was allowed to use my certification and my word organic, even though I wasn’t, at that time, you know, an accredited certifier, I could still do it and be legal. And that’s what I’m understanding is the stuff on fish, although I’m not -- I mean, it’s not ideal, I don’t necessarily like it, but stuff like aquaculture or fish is analogous to that interim period for things that, you know, for crops and livestock that were in that process at that time. So it’s not suggesting that this is going to be forever, that this is a short-term situation that we’re in until standards are developed. And I know it’s not ideal in the consumer marketplace, but that’s the reality. And then I think the other issue, as I understand, are for products that within that scope document, that they will never be -- that there’s no chance that the USDA is going to regulate. But those claims are still there. Is that what -- am I understanding you correctly?

MR. MENDELSON: My argument is, okay, we had...
a very real issue when the full program came on, I mean, phasing it. Okay. But I don’t think the law says that the development of a specific standard then triggers enforcement. Enforcement exists on -- over the term label organic. Okay. So in other words, I mean, USDA’s authority to enforce on the term organic label on fish doesn’t magically appear all of a sudden because you have a specific standard on fish. It’s clearly within the scope of the Act right now. And it’s something that they can enforce again. And, you know, I don’t think we’re in quite the analogous position with fish that we were with a whole bunch of other products because there wasn’t organic aquaculture out there. I mean, in the U.S. at least, recognized in the U.S., that needed to be phased in. Now we’re starting to see it over this interim period. So if the policy is done, the enforcement policy, if you will on that, has now allowed a couple things to come in organic, that, you know, we have no standards for, we have no idea. And it wasn’t like there was an existing history of it.

MS. KOENIG: So you’re saying in the case of fish that there may be operations -- if an operation can prove that they fit the Act now, they’re allowed to have the organic label, and if they don’t, they can’t, because that’s the only enforcing way you can enforce
the reg as it stands then.

MR. MENDELSON: No. I go -- it’s been identified that there needs to be specific standards under the Act for fish. And the Board and others haven’t said, in lieu of developing those standards, you can meet the existing Act, which I believe you’ve done under mushrooms and other things, saying we need honey, we need mushroom standards, but in lieu of that you can meet the existing standards. You haven’t done that for fish. Okay. We recognize that there needs to -- it’s a whole different deal. So, I mean, I don’t see how -- you know, I don’t think -- I don’t see how it’s -- how you can be consistent under OFPA right now for fish, because there aren’t standards. And it’s been recognized that those standards need to be developed, and if you’re not consistent with the chapter, than it’s a misuse of the term organic to have on the label right now. I hope that’s clear.

CHAIRMAN RIDDLE: Thank you.

MS. GOLDBURG: Can I ask one more question?

CHAIRMAN RIDDLE: Becky.

MS. GOLDBURG: I’ll be really brief, Jim. Joe, you know, we’re a really diverse Board here. But one of the things none of us are are attorneys, and so I think that we don’t have a full understanding of
alternative interpretations of the OFPA. And I personally think it would be useful, and there would be other Board members who would have it be useful, to have a really brief legal memo explaining your alternative interpretation to the departments.

MR. MENDELSON: After my testimony on Tuesday, I decided to do that. So I will put it on paper and get it to you. And I appreciate the opportunity. And, again, you said it’s an interpretation. And it will be my interpretation. But I’d say, you know, as part of the consumer and NGO community, we’re the, you know, we represent a great deal of the market. And so, you know, this, I think, you know, my interpretation is consistent with the way I think consumers view it. I mean, that’s my job as an advocate for them. So I just, you know, keep that in mind when you’re reading it.

CHAIRMAN RIDDLE: Thanks. We have three more commenters, Susan Perlman, and then Irbashi Rangan [ph].

MS. PERLMAN: Hi. Thank you. Again, I’m Susan Perlman. I’m with the Union of Concerned Scientists. And I want to thank you for the opportunity to comment today. I’m speaking on behalf of both the Union of Concerned Scientists and the Coalition to Keep Antibiotics Working or KAW. And I’m here to talk about
the NSOB Livestock Committee’s directive for origin of dairy livestock. For those who don’t know, Keep Antibiotics Working, is a coalition of 13 health environment consumers, humane, and other advocacy groups, including the Union of Concerned Scientists. We seek to promote -- we seek to protect the effectiveness of lifesaving antibiotics by curtailing overuse of these drugs in animal agriculture. The Union of Concerned Scientists and KAW strongly support the NSOB Livestock Committee’s directive for origin of dairy livestock. We agree that it is incumbent upon the USDA’s National Organic Program to issue a clarification statement that antibiotics are never allowed for organic animals or edible organic products once a producer is certified organic. We call for NOP to adopt the May 14, 2003, NSOB recommendations on origin of livestock, preferably as a technical correction rather than as a rule change. We urge the USDA and related agencies to approve NSOB recommended healthcare materials for livestock. We believe that these actions are necessary to maintain the integrity of the organic label for dairy products. For the label to be meaningful, it is important that after a dairy operation has been certified organic, animals brought onto the operation must be organically raised from the last third of gestation. Animals should not be
rotated between organic and non-organic production. The
dairy products of animals treated with antibiotics must
not be labeled organic. And, finally, I’d like to take
this opportunity to renew a request. In June 2004, KAW
submitted a written request to USDA Secretary Ann
Veneman, asking for public confirmation that antibiotics
are never allowed in animals used to produced organic
dairy or other animal products. We never received a
response to this letter. We are deeply concerned that
more than four months after Secretary Veneman rescinded
the Spring ’04, origin of livestock directive, there is
still no indication that this rescission has been
implemented. At this juncture, we restate our request
for the USDA to publicly confirm that the directive has
been withdrawn, and that the withdraw has been
implemented on the ground. Thank you very much.

CHAIRMAN RIDDLE: Thank you. And I don’t know
if you were here on Tuesday during our discussion of
that issue, but that has been verbally stated on the
record by the NOP, and there will be a written document
posted, addressing those issues, I believe, to your
satisfaction.

MS. PERLMAN: Great. Thank you very much.

CHAIRMAN RIDDLE: I also just want to, for the
record, point out that we’re technically the NOSB, the
National Organic Standards Board, not the National
SOB’s.

MS. PERLMAN: Oh, sorry. I’m sorry about
that.

CHAIRMAN RIDDLE: And I don’t take that as a
personal attack on the Board. Irbashi Rangan, and then
Michael Sly.

MS. RANGAN: Good morning. Here we go.

Thanks a lot. Again, I want to reiterate some points on
fish, because there’s been a couple statements made
today, and I want to just let everyone, for the record,
in this room know where Consumers Union stands on this,
as far as the education of consumers right now with
organic fish. Around the use of any organic claim on
fish at this time, is, one, perhaps a violation of AFFA.
But it doesn’t have to meet any standards, necessarily.
So there may not be any standards followed by people who
are shipping in organic fish into this country. There
may not be any verification whatsoever. And, therefore,
the meaning of that label on fish will be inconsistent
from fish product to fish product. That means fish
contaminated with mercury or PCB’s, fish raised with the
use of antibiotics maybe could be allowed to carry the
organic label. That wide variability in the meaning is
not only confusing to consumers, but in some cases that

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could mislead and be deceptive. It is simply not in line with food standards. And if antibiotics are used in the raising of it, that goes against the entire gradient of the organic program in this county. Consumers do not want that in the organic fish that they buy. And if that is not clearly made understood, it simply may not add any value over conventional fish. Previous comments this morning outlined some of the nutritional benefits that are compounded through the fish food chain. I also want to say that that’s how contaminants are compounded through the fish food chain, so that’s how mercury gets compounded. That’s how PCB’s get compounded. And while omega threes are an important nutrient for consumers, fish is simply not the only source of them. EPA issues advisories on fish that are highly contaminated with PCB’s to consumers. The FDA has dietary recommendations on how much mercury a pregnant woman should eat. We’ve heard this morning that consumers should be eating three servings of fish a day. The fact of the matter is, for a woman of childbearing age or children, more than two, three ounce albacore tuna sandwiches a week will exceed their recommended daily intake for mercury. That’s not three servings of fish. So by slapping an organic label on it, which has no meaning, which does not take mercury
into consideration, is simply doing consumers a
disservice. As a result, Consumers Union will continue
to tell consumers not to waste their money on organic
fish. It undermines what the meaning of that label
should mean on organic fish. It also undermines your
hard work that you’re going to undertake in the
aquaculture taskforce, because until standards are made,
if we’re telling consumers don’t bother, it’s going to
be very confusing when the standards eventually do come
out. It’s really important that this label maintains
its integrity, maintains its consistency and meaning to
consumers, and we strongly urge this Board to prohibit
the use of the organic label on fish until those
standards are created.

CHAIRMAN RIDDLE: Thank you. Questions,
comments? All right. Michael Sly, our last commenter.
You’re the final word.

MR. SLY: Well, thank you. I’m just rising to
make three comments. One is on the issue of brining
closure to the April directives. I heard many good
steps in that direction, and the department is going to
be putting something up on the website, it sounds like,
as soon as they can get it cleared, and then technically
get it up on the website. The one piece of closure I
did not hear that would be, I think from an
in institutional point of view, would help prevent future NOSBs and NOPs from possibly going down that road again, would be to set a very strict deadline for bringing in that closure about the collaborative procedures. I know you all discussed that, and there was discussion at the June meeting about, you know, bringing that into writing and putting that into wherever it belongs in the procedure manuals. I think that’s essential that you do that so that is a part of the written record, and so it’s clear to future generations of boards and future USDAs that that’s a well thought through process, that it’s mutually acceptable to both parties. So I strongly urge you to lock that in, and that will help really bring that to closure. Secondly, I want to bring to your attention in a way the next wave of firestorm that is growing in the countryside related to the issue of stage of production. We think that certifiers may be interpreting stage of production in multiple ways that may not meet the needs of the consumers or organic agriculture in the long run. We urge you to look at that issue. I don’t believe on my tenure on the Board it was ever our intent that stage a production would include lactation, for instance, or other stages that are, you know, quite a long period of time. That was something that was supposed to be a very, very
discreetly narrow issue, and not something that can be broadly interpreted by certifiers. And, finally, I just want to thank all of you who are retiring off the Board for meeting your call to serve your country. I don’t take that lightly. I know it’s a huge sacrifice to do that. I also urge you, who are retiring, to take a little bit of time and try to document as a way of an exit exercise, if you will, some of the lessons learned from that experience that can be passed onto future boards. I’m still concerned about the continuity over time. And I think any place markers or wisdom that you can pass on, that will be greatly appreciated to the next round. So thank you for all of your hard work.

CHAIRMAN RIDDLE: Thank you, Michael. Any comments, questions? Yes, Barbara.

MS. ROBINSON: Michael, you’re right. We didn’t commit to a time to develop a written set of collaborative procedures. So I’ll commit that we will have something to the Board so that there can be something to be voted on and approved at the next board meeting. Okay.

MR. SLY: Thank you for that clarification.

CHAIRMAN RIDDLE: Very good. Thanks. Thanks for asking the question. I just have a few closing comments, and then I’ll open it up if any other board
members or USDA have any. I would like to thank,
sincerely thank all the members of the public who have
taken the time and offered your expertise, your
insights, your passion. I’m just so impressed, always,
by the thoughtful comments, and also your patience, and
how diligent you are. This certainly is a community
that cares. I also would like to thank Barbara,
Richard, Arthur, for sitting here with us this whole
time. I really want to see the same, you know, just
physical layout where we’re all at the same table at
future meetings, but more than that, the collaboration
that’s been expressed and exercised at this meeting.
And I really want to express my thanks for that. And
also, I want to thank other USDA staffers, and
especially Katerine Benam, [ph], all the work that you
do that facilitates our work. You really rise to the
occasion. And I want to thank the Board members. We’re
a dogged group. We -- I mean, people -- we’re just so
engaged. And I especially thank the outgoing board
members. I look forward to seeing you at the next
meeting. But thank you for your efforts over the years.
And I’m going to miss having you all to work with as we
move forward. Any other comments? Barbara.

MS. ROBINSON: Actually, I would just echo
everything you just said, Jim. Number one, to the
retiring board members, we do thank you very much for
your service, to the department, as well as to your
industry. Like I said yesterday, we recognize that you
do it on a volunteer basis, and that’s a lot to ask.
And your dedication has been completely apparent, and is
very appreciated, as are the remaining board members.
And we look forward to the same sort of dedication from
new board members. And we’re sure you’ll get them up to
speed very quickly. And as A.J. said yesterday, and I
just want to say again, and I heard it in Michael’s
remarks, I believe, that I’d like to think we turned a
corner. And this was a good meeting. And I look
forward to our meetings continuing down this road. I’ve
heard this meeting described once as a love fest, but
once as one of the most boring meetings anybody has ever
been to. Same here, Nancy. In government, we take that
as a high compliment. We were boring. At any rate, the
objective is to be constructive, to work together, and
to solve problems, and to keep this industry growing
with the highest integrity. And I have always believed
we can do it. And I still believe we can do it. We
will disagree. We’ll probably even have some fights.
But we will try not to, absolutely. And we’ll just keep
at it. We’re not going to give up because we know that
you certainly are not going to give up. So it’s your

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industry, it’s your program, and it’s our job to serve you. Thanks.

CHAIRMAN RIDDLE: Thank you. Any other comments, board members? Any motions? Yes, Dave.

MR. CARTER: Yes. I will make a motion. But first of all, I also want to thank the officers that served for this last term, because I know you shouldered a lot of the work. And to the folks going off, I think it’s always wise to remember that you may not officially be part of the NOSB, but we will always consider you a part of the NSOB. And with that, I make a motion that we adjourn this meeting.

CHAIRMAN RIDDLE: Is there a second? Nancy seconds. All in favor, say aye.

ALL: Aye.

CHAIRMAN RIDDLE: Those opposed? Same sign. Thank you very much.
CERTIFICATE OF REPORTER, TRANSCRIBER AND PROOFREADER

IN RE: NATIONAL ORGANIC STANDARDS BOARD

HELD AT: WASHINGTON, DC

DATE: OCTOBER 14, 2004

We, the undersigned, do hereby certify that the foregoing pages, numbered 1 through 161, inclusive, are the true, accurate and complete transcript prepared from the reporting by the reporter in attendance at the above identified hearing, in accordance with applicable provisions of the current USDA contract, and have verified the accuracy of the transcript by (1) comparing the typewritten transcript against the reporting or recording accomplished at the hearings, and (2) comparing the final proofed typewritten transcript against the reporting or recording accomplished at the hearing.

Date:

________________________
Lea A. Witmer, Transcriber
York Stenographic Services, Inc.

Date:

________________________
Sarah Mowrer, Proofreader
York Stenographic Services, Inc.

Date:

________________________
Brad Weirich, Reporter
York Stenographic Services, Inc.
The National Organic Standards Board (NOSB) meeting of February 28-March 3, 2005, was attended by 13 members:

NOSB Members Present:

James A. Riddle, Chair    Bea James
Kevin O’Rell, Vice Chair   Hubert Karreman
Goldie Caughlan, Secretary  Rosalie L. Koenig
Andrea Caroe     George Siemon
Rigoberto Delgado    Julie Weisman
David Carter    Kim Dietz
Gerald Davis
Michael P. Lacy

National Organic Program (NOP) Staff:

Barbara C. Robinson, Agricultural Marketing Service Deputy Administrator; Richard H. Mathews, NOP Associate Deputy Administrator; and Arthur Neal

OPEN SESSION – February 28, 2005, 9:00 a.m. - 5:00 p.m.

Approval of the Meeting Agenda:

The Board unanimously approved the meeting agenda.

Announcements:

Dave Carter announced that he would be absent from meeting on the following morning to attend the U.S. Department of Mint issuance of a new bison nickel in commemoration of Lewis and Clark.

The Chair announced Ann Cooper’s resignation from the NOSB. There are only two years remaining for her term as Consumer Representative and it will be added to the next round of nominations; there will be six open seats that will come out in March with a deadline sometime in June. The selection to the Board is January of 2006.

The Chair stated that following the new members’ orientation session, new operating procedures were discussed regarding the Board’s committee compositions and the committee members list will be updated on the website after the meeting.

The Chair reported that the USDA’s total budget for 2004 was $82 billion; however, he wasn’t sure how much was allocated to organic programs, between NOP and the various research dollars for organic, the organic cost share, and the National Ag Statistics Service. It totals up to about 11.9 million, which is 1/100th of a percent of the total USDA budget; there is a tremendous opportunity for growth.

The Chair announced a couple of changes in procedures and asked the committee chairs or who will present a draft for action for a vote on behalf of the committee to make a motion to introduce the draft for tabled discussion. It can always be moved and set aside or send it back to the committee for further discussion, deliberation, or development. The Board will move and second items to place them under discussion.

Additionally, to minimize redundancy and for more efficiency, the Board will wrap up the votes after discussing an item, However, it doesn’t mean that a vote can’t be held over for the next day providing that there are good reasons.
Approval of October 2004 Meeting Minutes Summary:
After several changes were proposed by Mr. Carter, the Board unanimously approved the October 2004 meeting minutes. For more information, see discussion document.

COMMITTEE PRESENTATION OF RECOMMENDATIONS AND ACTION ITEMS VOTES: (For more information on committee presentations, see meeting transcripts and agenda)

Compliance, Accreditation and Certification – Andrea Caroe, Committee Chair (pg. 23)
Ms. Caroe reported on the committee agenda items, recommendations, and action items for vote.

Materials – Rose Koenig, Committee Chair (pg. 26)
Ms. Koenig reported on the committee agenda items, recommendations and action items for a vote.

Policy – Dave Carter, Committee Chair (pg. 33)
Mr. Carter reported on the committee agenda items, recommendations, and action items for a vote.

Executive Committee Conference Call Minutes (Pg. 44)
The Chair stated for the record that the minutes will not be review during this meeting; they are not approved by the full Board only during the Exec calls. They are usually in the meeting book, however, we are behind with the review and approval, and therefore they are not in the book.

Livestock – George Siemon, Committee Chair (Pg. 45)
Mr. Siemon reported on the committee agenda items, recommendations, and action items for a vote. Mr. Neal reported that on January 24, the NOP called for nominations to the Aquatic Animals Task Force. The task force will be comprised of 24 individuals. Nomination closed on February 23, 2005.

Handling – Kevin O’Rell, Committee Chair (Pg. 58)
Mr. O’Rell reported on the committee agenda items, recommendations, and action items for a vote. Mr. Neal reported that on January 24, 2005, NOP called for nominations to the Pet Food Task Force. The task force will be comprised of 12 individuals. Nominations closed on February 23, 2005.

Crops – Nancy Ositguy, Committee Chair (Pg. 66)
Ms. Ostiguy was not available to give the report; therefore, Ms. Koenig provided a report on the committee agenda items, recommendations and action items for a vote.

NOP Update – Barbara C. Robinson, Deputy Administrator (Pg. 79-105)
(See meeting transcripts for more information)
Ms. Robinson provided update on the following issues:

- Since last summer, NOP promised to provide to the Board NOP’s accomplishments after clearance through the Department and will give a 24-hour heads-up notice before posting on the website. However, there were two items that NOP is working on that was not forwarded to the Board, and one is the collaboration document for publishing in the Federal Register, and the second was USDA response to the NOSB response to the four issues that are related to antibiotics, fish meal, inerts, and the scope of coverage of the NOP regulation. Inquiries were made to the Department regarding their status; however, they are still in the clearance process.

- A draft of the collaboration document was forwarded to the Board that addresses an agreement between the Board and NOP dealing specifically with working together on issues, and it lays out the format of when will NOP propose something to the Board and get an answer.
NATIONAL ORGANIC STANDARDS BOARD MEETING SUMMARY  
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- NOP published the Federal Register guidance docket that should have been published before last April. The docket calls for public comments, which was extended until early April.

- NOP received feedback from the Office of General Counsel (OGC) on the executive director position announcement. She is working on the draft document that will need to be polished to incorporate all of the things that Board would like to see. Projected posting of the job announcement is scheduled for Spring.

- Arthur provided updates on the task forces. NOP is still working on two dockets that deal with crops and processing. The processing docket is being held up because of the court case.

- She provided a detail report on the January 26, Harvey vs. USDA, Secretary Ann Venemen case in the 1st Circuit Court of Appeals in Boston to issue a decision on an appeal. (For more information on the court proceedings, please review the meeting transcripts).

NOSB Committee (Pg. 108) (For more discussions regarding the Board's membership, review the meeting transcripts)

The Chair reported on the Board new members and talked about the new composition of the committees. He stated that the members should be looking towards very short term changes especially for the chairs who are in the last year of their terms, and at that time a new committee chair will be announced prior to the next meeting.

End of First Day Proceedings – February 28, 2005 at 6:30 p.m.

OPEN SESSION – March 1, 2005 – 8:00 a.m. – Call the Meeting to Order – Jim Riddle, Chair

PUBLIC COMMENT SESSION

The following individuals presented public comments. Each person’s comments were recorded and transcribed for the record; some individuals presented written comments. Transcribed comments, and where applicable written comments can be found at the DESIGNATED ATTACHMENTS.

Nathaniel Bacon, Organic Dairy Advisor, NOFA Vermont, (Pg. 10)
Clark Driftmier, Aurora Organic Proxy for Mark Retzloff, (Pg. 15)
Dr. Juan Velez, Director, Farm Operations for Aurora Organic Dairy, (Pg. 18)
George Wright, Organic Dairy Farmer, New York, (Pg. 29)
Robert Hadad, Director, Farming Systems for the Farm Animal and Sustainable Ag Section, (Pg. 36)
Harriet Behar, Organic Inspector, (Pg. 38)
Mark Kastel, Co-Director, Cornucopia Institute, Proxy for William Welch and Merrill Clark, (Pg. 47)
Blake Alexandre, Organic Dairy Farmer, (Pg. 58)
Rich Ghilarducci, Humboldt Creamery Association, (Pg. 64)
Nancy Gardner, Secretary, Northeast Organic Dairy Producers Alliance, (Pg. 67)
Henry Perkins, Organic Dairy Farmer, Maine, (Pg. 71)
Roman Stoltzfoos, Organic Farmer, Lancaster, PA, (Pg. 74)
John Stoltzfoos, Organic Dairy Farmer, New York, (Pg. 78)
James Gardner, Organic Dairy Farmer, New York, (Pg. 81)
Urvashi Rangan, Scientist, Consumers Union, (Pg. 90)
Dave Johnson, NODPA, (Pg. 96)
Cathy Arnold, Dairy Producer, New York, (Pg. 105)
Kevin Englebert proxy for Arden Landis, Organic Dairy Producer, New York, (Pg. 112)
Kathleen Seus, Food Animal Concerns Trust (FACT), (Pg. 115)
Cameron Wilson, Nordorf, (Pg. 120)
Adam Eidinger, Organic Consumers Association (Pg. 128)
Grace Merriquin, President, Merriquin International, (Pg. 131)
Arthur Harvey, Organic Grower, (Pg. 138)
Tom Hutchison, Organic Trade Association (Pg. 141)
Jim Pierce, Organic Valley Crop Cooperative, (Pg. 146)
Jo Ann Baumgartner, Director, Wild Farm Alliance, (Pg. 150)
Tom Miller, Organic Dairy Farmer, (Pg. 157)
Tony Azevedo, Organic Farmer, (Pg. 161)
Martin Samson, Organic Farmer, (Pg. 165)
Vanessa Bogenholm, Organic Grower, (Pg. 169)
Diana Kay, Organic Farmer, (Pg. 173)
Craig Weakley, Director, Organic Agriculture, and Sourcing for Small Planet Foods, (Pg. 176)
Ed Zimba, Organic Dairy Farmer, (Pg. 181)
Lyle Edwards, Organic Dairy Farmer, (Pg. 186)
Jack Lazor, Organic Dairy Farmer, (Pg. 187)
Richard Siegel, Attorney, (Pg. 191)
Joe Smille, (Pg. 198)
Leslie Zook, Executive Director Pennsylvania Certified Organic, (Pg. 204)
Emily Brown-Rosen, Consultant, Organic Research Associates, (Pg. 209)
George Kuepper, National center for Appropriate Technology, (Pg. 216)
Charles Flood, Organic Dairy Farmer, (Pg. 218)
Marty Mesh, Executive Director, Florida Organic Growers and Quality Certification Services, (Pg. 231)
Diane Goodman, (Pg. 240)

End of Public Comment

Comments from Neil Blevins, Deputy Administrator for Compliance, Safety and Security (Pg. 243-261)

Mr. Blevins provided a report on the Compliance office and its responsibilities regarding compliance and enforcement.

NOP Update: Richard H. Mathews, Associate Deputy Administrator, NOP (Pg. 261-268)

Mr. Mathews reported on accreditation regulations and audits of accredited certifying agents.

PRESENTATION OF COMMITTEE ACTION ITEMS

Accreditation, Certification and Compliance Committee – Andrea Caroe (Pg. 269)

Information on Certificates Recommendations

Ms. Caroe presented eight recommendations that were made by the Committee regarding certificates that are in compliant with National Organic Program standards.
UNITED STATES DEPARTMENT OF AGRICULTURE

IN RE:

NATIONAL ORGANIC STANDARDS BOARD MEETING

Meeting held on the 28th day of February, 2005 at 9:00 a.m.

The Washington Terrace Hotel
1515 Rhode Island Avenue, NW
Washington, D.C.

TRANSCRIPT OF PROCEEDINGS

2-28-05 NOSB Meeting Participants

Chair: James A. Riddle
Vice Chair: Kevin O'Rell
Secretary: Goldie Caughlan

NOSB Members:
Andrea Caroe
David Carter
Gerald Davis
Rigoberto Delgado
Bea James
Hubert Karreman
Rosalie L. Koenig
Michael P. Lacy
George Siemon
Julie Weisman

NOP Members:
Richard Mathews
Barbara Robinson
Arthur Neal, Jr.

Other Appearances:
Kim M. Dietz
York Stenographic Services, Inc.
34 North George St., York, PA 17401 - (717) 854-0077
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David Carter, Policy Development 33
George Siemon, Livestock 44
Kevin O'Rell, Handling 58
Rosalie Koenig, Crops 66
CHAIRPERSON RIDDLE: All right, I'd like to call the meeting to order. Thank you. Well, welcome to the National Organic Standards Board Meeting, and all member of the Board have a meeting book that you received this morning, which has our agenda and the various drafts we'll be considering during this meeting. Does anyone have any changes to the agenda, comments?

[No response]

CHAIRPERSON RIDDLE: Is there a motion to approve the agenda?

MR. CARTER: I would approve -- move approval of the agenda as printed.

MR. LACY: Second.

CHAIRPERSON RIDDLE: Is there a second? Mike Lacy seconds. Any discussions, any changes?

[No response]

CHAIRPERSON RIDDLE: Hearing none, all in favor say aye?

BOARD MEMBERS: Aye.

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CHAIRPERSON RIDDLE: Those opposed, the same

sign.

***

[No response]

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CHAIRPERSON RIDDLE: All right, we will proceed, following the agenda as it was published prior to the meeting. Are there announcements? Dave?

MR. CARTER: Just a point of personal privilege. Mr. Chair, I -- the four years I've been here, I've never missed any minute of NOSB time. Tomorrow morning, though, I will have to be absent briefly. The -- it's here in town, but the mint is issuing a new bison nickel formally tomorrow in commemoration of Lewis and Clark, and we have a live trained buffalo coming to be on the lawn of the Capital tomorrow morning at 10:00 a.m. for that. And so I have to go up there and see that.

UNIDENTIFIED SPEAKER: If you see one run by here, we know that --

MR. CARTER: But anybody that's here that has any comments that they plan on presenting as far as the public comments tomorrow, if you have advanced copies or anything, please give those because I am very interested in the public comment.
CHAIRPERSON RIDDLE: Okay, and we'll keep a stack running there in your absence for you to read after you get back. Okay, any other Board members have announcements?

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[No response]

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CHAIRPERSON RIDDLE: I have a couple and one is for those that don't know -- the Board members already know, but I just wanted it in the official record that Ann Cooper has submitted her resignation from the Board. And my understanding is that the procedures for filling her seat, instead of -- there's two years remaining on Ann's term and she holds a consumer rep seat. The remainder of that term will not be filled, but it will be added to the next round of nominations. So there will actually be six seats open and that will -- the call for those nominees will likely come out in March sometime, with a deadline sometime in June. But sometime in the first half of this year there will be -- the openings will be announced with the appointments made towards the end of the year to take the seats in January of 2006.

And I also wanted to let members of the public know that this morning we had an orientation session and
discussed a lot of operating procedures of the Board and the composition of committees, and we do have, you know, some new committee members who will be introducing themselves next. But we will be updating the lists of all of the committee members on the website after this meeting. So I just wanted to mention that.

And just one final announcement. I've been doing a little number crunching and I just wanted just to go into the record for information purposes. I took a look at the USDA's total budget for 2004, which was $82 billion, and I was just curious on how much is spent on the organic programs. And between the NOP and the various research dollars for organic and the organic cost share and the National Ag Statistics Service, it totals up to about 11.9 million, which, when you do the math, is 1/100th of a percent of the total USDA budget. And I just point that out because it shows we have a tremendous opportunity for growth. But that's the reality of the situation.

MR. SIEMON: I thought the point was how understaffed NOP is.

CHAIRPERSON RIDDLE: Well, that's true, too. And how much -- how much is being done for the fastest growing sector of agriculture by this program staff as well. So I just wanted to mention that for the record.
Any other announcements before we move on?

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[No response]

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CHAIRPERSON RIDDLE: Okay, seeing no hands or lights, I'd ask the Board members to go around the room and introduce yourselves, and we won't go into the details that we did in our own meeting, but give a little background as well on kind of what got you here and feel free to share some of your thoughts, you know, looking forward to the coming year on the Board as well. So, Mike, would you please start?

MR. LACY: I'm Mike Lacy, science representative from the University of Georgia. This is my second or third year. I can't remember which right at the moment. But enjoyed very much the interaction, learning more and more about organic agriculture, and glad to be here again.

MR. DAVIS: My name is Gerald Davis. I'm a new member on the Board as a producer rep. I have worked in organic vegetable farming for 12 or 13 years from California. I'm an agronomist and pest control advisor by trade, and I'm looking forward to sharing this experience.

MS. WEISMAN: My name is Julie Weisman. I'm
also one of the new members of the Board. I -- I occupy one of the handler -- I'm one of the handler representatives on the Board. I -- I'm involved in the manufacture of organic flavors and other minor ingredients. And I look forward to the work that the Board will be doing in the new future. Thanks.

MR. KARREMAN: My name's Hubert Karreman, a veterinarian in Pennsylvania on the environmentalist position, one of the three. I got my start in agriculture working with the Soil Conservation Service and along the environmental issues that they deal with and that got me interested in the dairy cows. At this point I work with about 75 certified organic and transitioning dairy farms in Lancaster County, Pennsylvania.

MR. DELGADO: Well, I'm Rigoberto Delgado. I'm a producer from Texas, El Paso, Texas.

CHAIRPERSON RIDDLE: Move a little closer.

MR. DELGADO: And once again, I'm Rigoberto Delgado, a producer since 1988 from El Paso, Texas. I'm delighted to be here. I look forward to working with all of you. I'm impressed so far with the type, level, and quality of work and I hope I can contribute as much value as you have done so far.

MS. CAROE: I'm Andrea Caroe and I'm very
happy to say for the first time that I am not the newest member of this Board. This is starting my third year on the Board in the environmental seat. I have a background in running environmental laboratories in compliance with EPA regulations. Also as -- I worked in the past as an organic certifier. Presently, I am a certifier to an organization that certifies to crop-specific regions, specific, IPM environmental standards. So -- and I hold the -- I hold the environmental seat and I am chair in the Accreditation Committee of this Board.

CHAIRPERSON RIDDLE: It should be on. Yeah, this one has to stay on.

MR. O'RELL: Okay.

CHAIRPERSON RIDDLE: But you might've just shut it off.

MR. O'RELL: I would've known you had the master --

CHAIRPERSON RIDDLE: There we go.

MR. O'RELL: Okay.

MS. CAUGHLAN: That's right.

MR. O'RELL: I'm Kevin O'Rell and I'm a handler representative, also chair of the Handling Committee. This is my third year on the Board, coming on in 2002, and I bring an expertise in over 30 years of
food product development in the food and dairy industry,
which includes in the past 14 years of my own business
in product development, consulting, and regulatory
requirements. The last nine or ten years have been
involved in product development in the organic industry.

CHAIRPERSON RIDDLE: And my name is Jim Riddle
and I am a certifier representative on the Board, a
long-time organic producer, inspector, and currently
work for Rodale's newfarm.org as an organic policies
specialist. And I know that we have a lot of items on
our agenda for this meeting, and then there are other
very critical items not on our agenda that are
undercurrents to the meeting as well. But I look
forward to a very productive meeting, and we'll try and
keep it light, keep it positive, and make progress
wherever we can.

MS. CAUGHLAN: Goldie Caughlan, consumer
representative from Seattle, Washington. I work with a
chain of retail food cooperatives, but my position is
not as a retail representative, but as a consumer rep.
I think that's about it.

MS. KOENIG: My name is Rose Koenig and I'm a
producer representative from Gainesville, Florida.

MR. SIEMON: George Siemon. I'm the farmer
rep and I'm a organic egg farmer and vegetable farmer.

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MS. JAMES: The most important one never says very much. My name is Bea James and I'm new. This is my first year and I am the retailer representative for the National Organic Standards Board. I'm from Minneapolis, Minnesota and I am the senior full-health manager for a 20 upscale grocery store chain in the twin cities are called Lunds -- and it's one of the only grocery stores where we have organic cakes on the shelf, carpet on the floor, and chandeliers in the ceiling. And I'm looking forward to where this committee has been and where we're going and how we can stay there.

MR. CARTER: Dave Carter. I'm one of the grizzled old veterans on the Board finishing our last lap. Testing.

CHAIRPERSON RIDDLE: Yeah. No, no, go ahead.

MR. CARTER: Okay.

CHAIRPERSON RIDDLE: Yeah. There, you turned it off.

MR. CARTER: There we go. The --

MR. SIEMON: That'll teach him.

MR. CARTER: Anyway, I'll learn it eventually here. Consumer rep; also chair of the Policy Development Committee. I spend part of my life as the executive director of the National Bison Association; a part of it as a founder and principal of a new pet food
company that kind of a grew out of a project of helping
natural ranchers earn a premium on more of the animal;
and part of my life doing some consulting, and part of
my life trying to get one kid out of college and one
through high school.

CHAIRPERSON RIDDLE: All right, thanks. And I
would like to point out that we have four members whose
terms have just ended. And Mark King will be joining us
later tonight. His flight got delayed. Owusu Bandele
won't be able to be with us at all for this meeting.
And I believe Becky Goldberg will be coming in on the
last day or day and a half. But we do have the honor of
having Kim Dietz here with us, and so I'd like to
introduce Kim. If you'd like to say a few words. And
at times, as there are drafts that we're considering
that Kim has helped develop, the reason the outgoing
Board members are invited is because they do have
expertise still kind of in the mix. So they're invited
to the last meeting -- or the first meeting after their
term ends, with the opportunity to provide information.
So, Kim, if you'd like to --

MS. DIETZ: I'm going to use Bea's mike.
Would you turn it on for me?

MR. CARTER: There we go. When the red
light's on, you know it's on.
MS. DIETZ: Kim Dietz. I have spent the last five years on this National Organic Standards Board. It's been a pleasure, it's been a pain, and I'm glad to off and at the same time I'm very nervous to go out, so to be honest with you all. I was the handler representative and I believe that's about it. I will be here -- recommendations on the committee level and I'll certainly be here to give you my input on that.

CHAIRPERSON RIDDLE: Thanks, Kim, and thanks for your years of service. I think we should give Kim a round of applause. Well, before we move to the minutes, I just would like to explain a little bit about how I intend to use the gavel. I think the gavel itself is pretty self-explanatory; that people may or may not have noticed yet the USDA stress turkey here. When the -- at the last meeting in October, we had gotten these stress toys that were given to each of the outgoing Board members, along with a jar of raspberry jam, and there as a chicken, a turkey -- well, no, a chicken, a lamb, a pig, and a cow. But they come in sets of five, or at least they're cheaper if you buy them in sets of five, so knowing me, I got the full set, so I was left holding the turkey. I didn't have anybody to award it to at that time. And so I thought it'd be appropriate to have it here and if things are getting stressful, if you see...
me reach for the turkey, that's a bad sign. So we want the turkey to be just left here and have a stress-free meeting as we possible can.

MS. CAUGHLAN: I just want to know, is it organic and heirloom?

CHAIRPERSON RIDDLE: No, no, this is the hybrid modern turkey. It's not edible. And then also, as we move through the next few days, we're going to change the way we have dealt with some of our business slightly, and that is, I'm asking the committee chairs or whoever is presenting a draft for action, for a vote on behalf of the committee, to make a motion to introduce the draft, then that way it's all clear what exactly is on the table for discussion. And we can always move to set it aside, to send it back to committee, or to hold it overnight for further deliberation and development, but we will move and second items to place them under discussion to begin with. So that's a little change of procedure.

The other change is that we'll try and minimize the redundancy of -- in the past we have discussed things one day and come back and voted on them a different day. We'll try and wrap up votes when we have discussed an item. It doesn't mean we can't hold them over and vote the next day if there's a good reason.
to, but that way we can avoid some redundancy and be a little bit more efficient in how we use our time. Rose?

MS. KOENIG: I just noticed in my book that I was missing a finding fact report. I didn't know if anyone else was and just to make a note to check, because I'm going to need a copy. I don't have anything behind that tab.

MS. CAUGHLAN: Which tab is it?

CHAIRPERSON RIDDLE: It's the meth tab. It comes after number five in the Livestock Committee materials.

MS. CAUGHLAN: Well, it's --

UNIDENTIFIED SPEAKER: You're missing the whole thing?

CHAIRPERSON RIDDLE: Rose is missing the meth tab. So other people should check to see.

MS. WEISMAN: Twenty pages?

CHAIRPERSON RIDDLE: Yeah.

MS. KOENIG: All right.

CHAIRPERSON RIDDLE: And it was dated May 21, 2001. It's the original technical review. Okay, everybody else has it, great. All right.

MR. CARTER: After which tab?

CHAIRPERSON RIDDLE: Well, after tab five and then you look for meth.
MR. CARTER: Yeah, yeah. Mine is actually a -- I do have something there, but it's on chelated mineral complexes, so --

CHAIRPERSON RIDDLE: Oh.

MR. SIEMON: We'll look around, it might be in it.

CHAIRPERSON RIDDLE: It's not in front of the chelates?

MR. CARTER: Okay.

MR. SIEMON: Look around, it might be there.

MR. CARTER: Oh, okay. Wait.

MR. SIEMON: I'm sure it's --

CHAIRPERSON RIDDLE: Well, we all want to get on the same page here.

MR. CARTER: Oh, yeah, it is. Okay.

CHAIRPERSON RIDDLE: You do have it?

MR. CARTER: It's ahead, okay.

CHAIRPERSON RIDDLE: Okay. All right. So the next item then on the agenda is the approval or consideration of the October 2004 meeting minutes. Is there a motion to approve? Dave?

MR. CARTER: Yeah, let me -- Mr. Chair, I would move to approve the minutes, though, with several changes. You had gone through and made some changes to the minutes and had asked me to review those as well. I
did go through those and the changes that you have
offered and circulated to the committee, I would move
that.

MS. CAUGHLAN: Second. I'm going to second
it.

UNIDENTIFIED SPEAKER: I haven't seen them.

CHAIRPERSON RIDDLE: Yeah.

MR. SIEMON: Electronically we got them.

MS. CAUGHLAN: I was on vacation. They came
late, but I have looked them over now and that's why I
can second them. But if you haven't seen them.

UNIDENTIFIED SPEAKER: No, that's all right.

MR. CARTER: And if you want me to review, I
mean, I will go down and summarize. Some of them are
just grammatical.

CHAIRPERSON RIDDLE: Yeah, I think it would be
good if you would --

MR. CARTER: Okay.

CHAIRPERSON RIDDLE: -- please. I know
it's --

MR. CARTER: The changes that are in on page
one, under approval of the 2004 meeting summary, it was
the -- four changes were proposed by Mr. Riddle and not
Mr. Mathews. The Executive Committee conference call
minutes the Board reviewed, the June and July Executive
conference call minutes, and did not approve them. The Board does not approve the Executive Committee minutes.

Under the Livestock Materials portion of it, under the four options, under number two was to change that to allow "over-the-counter" animal medications, but to provide a negative list of all prohibited ones. Number four was to specify that under the minor use/minor species that Congress had passed, legislation for minor use/minor species, and that the Board also discussed whether more communications with higher levels of USDA and FDA can facilitate the approval process in the future.

Down on page two, under the framework for collaboration, under the discussion of the Board's collaboration document, it was noted that Ms. Robinson agreed to provide a collaboration policy for NOSB consideration. And then moving to page four, under the Policy Development Committee section, where it said on behalf of USDA, Ms. Robinson concurred to add a sentence saying Ms. Robinson agreed to provide written response to all four NOSB issues papers.

MS. CAROE: Which was that? Where is that?
CHAIRPERSON RIDDLE: It's a the top of page four, right above public comments section.

MS. CAROE: Um-hum, okay.
MR. CARTER: And then also on page four is just a typographical correction on John Smiley. At the top of page five --

CHAIRPERSON RIDDLE: Joe Smiley.

MR. CARTER: Excuse me, Joe Smiley. At the top of page five, the Board voted unanimously to accept Materials Committee drafts of the recommended approach to Sunset as presented by Ms. Koenig as amended, to add the words as amended. Under the materials approved as food contact substance update -- and this one had several changes in it, so let me just -- and I'll read it slowly. The -- as recommended to be amended, the paragraph would read, On behalf of the Handling Committee, Mr. O'Rell reiterated the fact that the committee's report -- new language -- which encouraged the addition of six food contact substances -- again, new language -- to the National List, despite the possibility that they might be considered food contact substances -- end of new language -- had been accepted by the full Board at the last meeting. The six materials in question: four boiler water additives, activated charcoal, peracetic acid are in the NOP processing docket.

The April report: new language quoted from and the new language on NOP policy statement,
differentiating between synthetic substances as ingredients in contact substances. And then the remainder of the paragraph being new language which reads, the April report also noted that the Handling Committee would prioritize in their work plan to clarify the qualification of materials on the foods contact substance list.

Further down on the page, again, on page five, under Livestock Committee, the wild caught and aquaculture standards. The sentence would read, Mr. Siemon announced the Livestock Committee's intention to form a task force with two working groups, one to, and then inserted the word address, replacing the word develop. The remainder of that sentence remaining unchanged. And let's see. Whoops, I'm going up. On page six, under the Materials Committee, the revised Federal Register notice for petitioned substances, the paragraph beginning with Ms. Koenig presented a draft to request, was to add a sentence that says the draft remained at the committee level for further development.

Under Policy Development Committee, the same page, policy for NOS -- scheduling NOSB meetings and calls, where it says Mr. Carter presented a draft of the meeting conference call schedule protocols, again, to add a sentence stating the draft remained at the
committee level for further development.

On page seven, under fish meal vote, would be to change it to say the Board voted to accept rather than consider. The Livestock Committee's response to the NOP directive. So the words response to the NOP are inserted in that sentence. Under page eight, the reference to Emily Brown Rosen is deleted under the proxy for Brandon -- Brendon O'Neal [ph]. And that is it. Okay. So those are included. The amendments is a part of my motion to approve.

CHAIRPERSON RIDDLE: Okay. And your secretary accepts that?

MS. CAUGHLAN: Yes.

CHAIRPERSON RIDDLE: And is there any discussion to any of those suggested changes to the minutes?

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[No response]

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CHAIRPERSON RIDDLE: Seeing none, we'll go by voice vote on this again. All in favor say aye?

BOARD MEMBERS: Aye.

CHAIRPERSON RIDDLE: Those opposed, the same sign.

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[No response]

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CHAIRPERSON RIDDLE: Okay, thanks, Dave.

Yeah, George?

MR. SIEMON: Just to be incentive for the people in the audience, are we going to try to have PowerPoint up tomorrow, so as we go through some of these documents, that they have the chance to see them?

CHAIRPERSON RIDDLE: Yeah. Yes, I was just going to talk about the kind of difference between discussion items and action items. And the rest of today's agenda is, if you see on our agenda, called discussion items, items for discussion, and those are really updates on the committees' works in progress and won't be considered for votes at this meeting. And most of those there are very early stages of drafts, so really no drafts on the table yet. Tomorrow, all items that we will be considering for action or vote will be on the screen so that members of the public can see those -- you know, PowerPoint -- as we're considering them. So -- yeah. But today, we won't be voting on anything today. It's more just a discussion day.

So with that, I'm moving on to the presentation of discussion items, the reports from the committee chairs. And I have asked the committee
chairs, when you are finished with your discussion items that are listed, to also just summarize, just a few words, the action that you'll be bringing forward as well. So you weren't here earlier when I mentioned that, but --

MS. CAROE: I get to be the first one.

CHAIRPERSON RIDDLE: Yes. Well, yeah. I mean, at least you only have one of each. So I hate to put you on the spot, but accreditation starts with A and --

MS. CAROE: I always --

CHAIRPERSON RIDDLE: -- and so does Andrea. So, Andrea, if you would discuss where the committee is at on the peer review and the ANSI report.

MS. CAROE: Okay. We have one discussion item that we will be looking at in the very near future, and that is the operationalized -- institutionalized I think is the word we used for the peer review process. We had this section item for awhile and we tabled it until we saw the ANSI report and the response of the NOP; to take a look at how it's going to be used and come up with some reasonable expectations of how peer review will be standardized moving forward. This report came out very near the time when we were publishing the Federal Register action items. This committee did not have
enough time to do a thorough job at looking at this in order to have a vote on a procedure. So -- and I think the members probably now have had a chance to read that document. We will be getting together and looking at it. We'll have discussions with the NOP and create a document of procedure for how this will move forward. But at this time, it's just on the plan and we really have not done no work on this subject. Jim, do you want to add anything to that?

CHAIRPERSON RIDDLE: Well, yeah, I was -- I read the ANSI report and then the NOP response when it first came out, and then was reading it again on the flight here yesterday. And you know, I definitely see some items where the Board can have a role in both providing some recommendations for addressing some of the deficiencies or issues that were identified during the ANSI audit, but also, the Board having, you know -- you know, possibly a role in the ongoing review process. So I think that the report certainly noted numerous areas of improvement and you know, document control, the lack of a quality manual, and quite a few areas, and I certainly encourage everyone to read that. It's the kind of thing that is fundamental to the future and the credibility. The integrity of the whole program is the structure of accreditation. That's what it's all about.
So I ask people to provide input to the committee on this topic to help us craft a very well-informed recommendation.

MS. CAROE: Yes. Be sure the input -- the valuable input out there of certifiers that have gone through the accreditation process and have dealt with the ISO requirements would be helpful and we will be moving forward, yes, making recommendations, but I really feel more in a collaborative sense, working with the Program for the overall success of the Program and strengthening that. So that is -- that's it in a nutshell.

CHAIRPERSON RIDDLE: Any other comments, questions, members of the Board, on the topic?

[No response]

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MS. CAROE: Okay. And then the only action item we do have for this meeting is, we will be voting on a recommendation for standardizing some of the information required on certificates, in order to add some consistency to what is being represented out there, the document, the certificate, and to facilitate commerce experience. We are aware of some difficulties with verifying those organic ingredients because of some
of these varieties of certificate formats that are out there. So our recommendation is in the meeting book and will be voted on in this meeting. And I don't have anything else to say on that. Is there any questions about that process? Anything?

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[No response]

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MS. CAROE: Then I'm done.

CHAIRPERSON RIDDLE: Okay, thanks, Andrea.

All right, next is Materials. Rose.

MS. KOENIG: Well, actually there's one discussion. But just to note, from the last meeting, we were asked to look at the petition request form that's on the web and kind of update that, but that -- which we did and presented a draft at the last meeting, but that was kind of placed on hold. It wasn't considered a priority item for this meeting. So we will confer back to the NOP and perhaps pick up those, because there was some changes made in that petition notice. And once we get information that that's something that the NOP wants us to go back and do, as far as work, will resurface, the draft will reappear. So that's one thing.

And then as far as the -- in the book it says discussion of procedures, we will -- you know, so far
the talk as far as committees just identifying materials prior to the Federal Register notice going to the public to identify materials, if you look at the Sunset policy that we adopted at the last meeting, it gives each committee the privilege of identifying materials themselves. So, you know, right now that we just -- we have given ourselves that privilege. I would like to say that we, as the Materials Committee, can provide guidance. I'm not sure how much guidance you want. I know some of the issues that the committees need to be aware of is identifying materials that are the list that are not consistent with the aqua criteria, because many of them, now that we have those forms, we are identifying where in the aqua criteria each material falls. And if you remember the draft from the last meeting, where I went through the crops and kind of divided the categories up and identified materials that fall within those categories, there were a few in crop that weren't consistent, and livestock. We haven't gone through that exercise, but that's certainly something that committee chairs and committees should be aware of. If there's things that don't fit in either the crop and the livestock categories, they should be at least identified and perhaps looked at in terms of review.

If you know something, if there's new
technical information on something, that that certainly could necessitate a review by the committee. If you feel that there may have been a technical review that was not adequate in the past, that may be a reason for a committee to look at, determining that a certain material may need to be reviewed.

Just be aware that there's $300,000 to do reviews for both Sunset and the petition, so we do have the budget to look at numerous materials. And if a committee feels that there is some justification for doing that review, they should not hesitate identifying those materials quickly. Because once a Federal Register notice goes out to the public, we will have a backlog of materials that we're going to have to deal with. Some may not need technical review, some may. So if we can jumpstart the process via the committee identification, it's something that I think would be helpful.

Just one question of clarification that I think the committee had dealt with and we've talked about it on the Board, and maybe at this meeting at some time we can get clear is that I think we've determined that Sunset is not a time, and that was within the statement to change an annotation. It's simply to either keep something on as it stands in the regulation.
now or take that off. And so the question -- and I
think that we still need some clarification, and that's
something I think the committee needs work on, is that
the if the annotation needs to be changed, our
assumption now is that the -- it would not be renewed
and it would have to, I guess, be repetitioned. So that
is just something I throw out because it's something I
think that the Materials Committee's going to have to
determine, because I have a feeling that on some of the
materials, they may be -- the committee may want to
review them because of an annotation, yet, our hands are
kind of tied as far as the fact that we can't alter a
material on the list. It's either yea or nay. So I
think that's probably the critical issue that the
Materials Committee has to think about, and it has to be
clear to both the public and the Board how that process
would proceed, because it could jeopardize or create a
gap between material that the industry is using and the
petitioning process, if it needed to be repetitioned.

CHAIRPERSON RIDDLE: Yeah, Rose, it's my
understanding from our discussion of this last time that
we did amend the draft to allow technical-type
corrections to annotations, because there are some items
like the chlorine materials, where the annotation does
not reflect the prior Board's language for the
annotations. So those kind of changes to annotations could be considered during the Sunset process, but that the Sunset process was not a time to expand the allowed uses of a substance by removing or extending its annotation. But that would take a new petition to extend the allowed uses or to change the form of the substance. You know, a substantive change to the annotation, so to speak, would take a petition, but a technical change would not. Now would be the time to make those changes. Hugh?

MR. KARREMAN: Would the new petition have to have new TAP as well, or could you use the existing TAP that was done?

CHAIRPERSON RIDDLE: Yeah. And it would depend on what the request in the petition was. If the petition, you know, requests a use that had been considered in the prior TAP review, then there wouldn't be a need for a new TAP. If it's considering something, or if it's requesting something that is a new use that was not addressed at all, then there certainly be warranted a new technical review.

MS. KOENIG: Yeah. And, Jim, you know, back -- you know, I recall that being the understanding. I just think that what we may view as a technical change and what may in reality what -- how the regulation would
view a technical change, I think might be different. So what I'm just saying is that I think that has to be clear because I think that that is an area that we may run into some issues, and we might as well try to work out that process before we get there and find out that there may be issues due to the kind of -- around the subject of annotations.

CHAIRPERSON RIDDLE: So I just wanted to make sure that I captured, just kind of in summary, some of the guidance that you're providing to each of the Crops, Livestock, and Handling Committees as they prioritize substances for early review, to look at them whether they do fit in the OFPA categories and fit the OFPA criteria, and whether or not there's new technical information about a substance, or if there's a sense that the prior review was inadequate or not sufficient, I guess. So those would be some factors to consider, right?

MS. KOENIG: Yeah. And I think, you know, as we proceed, if there are issues out of our control, you know, because of changes that --

CHAIRPERSON RIDDLE: Um-hum.

MS. KOENIG: -- may be of a legal matter on some areas of the list, then that -- then those things would have to be addressed in some guidance. But at
this point, we are going to offer guidance just on what's here today and now for all the committees.

CHAIRPERSON RIDDLE: And this early review -- this topic came up over lunch -- you know, prioritizing a substance for an early review does not mean that the substance would go off of the list any sooner, it's just, as informed stakeholders, we understand that some substances are problematic, or we know that they're going to be identified for review in this process. So it's just jumpstarting the scientific review. It has nothing to do with any of those substances disappearing or not being renewed. It's really to get the science so that we can make a better informed decision, or the rest of you that'll still be on the Board in 2007 can make a decision at that time. Okay, anything else? Any -- Rose? Or any questions? Further comments for Rose?

MS. CAROE: Just one question.

CHAIRPERSON RIDDLE: Yeah, Andrea.

MS. CAROE: You want the subcommittees to go and look at the list and determine which ones may be problematic according to OFPA and require a further TAP, is that correct? Is there going to be a process where the committees are going to bring those materials to -- does the -- who has the authority to order the TAP, is it the committee or is it the Board or is it the
Materials Committee, or what do you foresee procedurally how that would go?

MS. KOENIG: Well, I think -- can we defer, maybe, that question until -- because some of this is covered in some of our action items. So I think when we get to that action item, in terms of kind of the internal workings of the Sunset procedures, I think some of that question will be answered. So I don't want to kind of discuss it now and then go back to it. But if there's something that -- if after we review that and it's still not clear or we have to expand on things, I think that would be the appropriate time to -- and in the meantime, I'll look over that and make sure that it is addressed, and if it isn't, we can kind of discuss that at that point, if that's fine with you.

MS. CAROE: That's fine.

CHAIRPERSON RIDDLE: Okay, anything else?

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[No response]

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CHAIRPERSON RIDDLE: All right, Mr. Carter, the Policy Development Committee.

MR. CARTER: Okay, thank you, Mr. Chairman.

Coming out of the October meeting, the Policy Development Committee had a work plan that had six...
specific items on it and then a couple more have been added along the way. So the two items that we have are the top and the bottom of that list, and which is why one has been moved forward and the other one there's not a lot to talk about at this point.

But at the top of the list was the -- was the discussion or was the executive director job description. Just for some background information, the Organic Food Production Act does provide for a staff director, or as we call it, executive director, to be provided for the NOSB. It wasn't until just this last round that, actually, funds have been appropriated to facilitate that. And so in trying to draft this, in working with NOP, recognizing that that individual will be a federal employee and have to go through all of the appropriate requirements and qualifications for that, but at the same time, in trying to devise a job description that fits our needs and really has that individual responding to the NOSB, the Policy Development Committee, then, has developed the draft document that was forwarded to Barbara in December and she will probably provide some comments on where they're at in that process at this point.

But let me just go through and -- and since it's not in the book here, just to review the things
that have come out, the Policy Development Committee also relied on Kim Dietz to advise because of her background in human resources as well. So anyway, the description that comes through talks about the responsibilities of the executive director being -- including but not being limited to several areas. Number one, helping to organize the meetings of the Board and committees. And since it's not in the book, I will try and get a printed copy to circulate to everyone here, too, although it was circulated previously. Number two, to assist the Board's secretary in recording meeting minutes; document the proceedings of the standing committee meetings; maintain all Board archives and records; serve as the primary operational liaison to the National Organic Program; next is, in consultation with NOP, to serve as the primary operational liaison with other government agencies, and that refers to the interaction that we have with agencies such as EPA or FDA; next, in consultation with the Board chair and to the chairs of the appropriate committees, the executive director will manage the work plan established by the Board; next, assist in the preparation of all Federal Register notices pertaining to activities of the Board; next, represent the Board in fulfilling the statutory responsibilities of convene technical advisory panels;
and finally to assist the Board in the preparation of policy recommendations. So those are the general job descriptions.

When it comes to the requirements, we have recommended that, under the required qualifications, there be seven areas, specifically beginning with the education or training in management, administration, agriculture, food science, communications, public administration or related fields; secondly, education and training in chemistry and/or biology; third, ability to manage and administer multiple tasks; fourth, experience in working with volunteers and public agencies; fifth, proven ability to write and do public speaking; sixth, good computer skills; and seventh, ability to take the initiative and follow through with assigned duties.

And then under the desired qualifications is knowledge of agencies and interests involved in the implementation of the NOP, or the National Organic Program, and secondly, experience in management, education, and communications. So there are the required qualifications that, at the top, the food science, chemistry, biology, and then the usual administrative management-type of qualifications.

There was a lot of discussion there, in trying
to, you know, really cover all of the things here, but
make sure that this didn't become just a clerical
position, but it really was an executive director
position to have some liaison with -- you know, some of
the things that might be assigned with that. So that
was what was -- has been forwarded to the Program and
they will take it from there. So --

CHAIRPERSON RIDDLE: And I want to point out
that that draft was reviewed and approved by the
Executive Committee. But this is just our wish list.
It's been turned over. This is not a job posting at
this time, so don't apply yet. Wait until it comes back
out on the other end from USDA.

MR. CARTER: Okay. So -- questions on that?

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[No response]

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MR. CARTER: Okay. Then the second item,
which, as I mentioned, was at the bottom of our work
plan, so there's nothing to be presented at this time.
But that is the guidance for temporary variances on
research under 205.290(a)(3). And specifically, what
that refers to is the temporary variances for practices
used for the purpose of conducting research or trials of
techniques, varieties, or ingredients used in organic
production or handling, and it's trying to define -- now, that's practices and not substances. But what does that mean, and we had some discussion on this over lunch -- in trying to facilitate research of organic practices in a manner that doesn't threaten somebody's organic certification, and how do we define that? I know in here it talks about the Policy Committee working in conjunction with the Crops Committee, but even through the discussion at lunch today, it seems like there's some relationship that may come forward with some livestock issues as well. So this is one that we don't have anything. We're beginning the process and this will be part of our work plan going forward. But any input that we can get at this point will be helpful.

So --

CHAIRPERSON RIDDLE: Yeah. Any other -- any questions, comments? Yeah, Rose.

MS. KOENIG: I'm sorry. I don't want to go back, but I have to go back, because I just thought there is a little more discussion. I just wanted to put on the record on the draft job description, and I think I stated it in discussions before that, you know, I personally believe that, you know, our first and foremost jobs is the material issue. And although I think that a lot of the other characteristics are very
noble in a person, that it still is firmly my belief
that these material issues aren't going away, in fact,
they're getting more complicated every day, especially
with the Sunset review process, and that really -- that
-- a person with that technical background in either
food science or chemistry, to me, is the utmost -- of
utmost importance, because I think that is something
that -- again, not to be insulting to anyone at the NOP,
that I think that that is also a skill that would be,
really, a big additive to their staff.

MR. CARTER: Well, and just -- the NOP has
conveyed that same desire, also. I mean, that's -- so
you're -- I don't think that's being insulting or
anything there, because I know they recognize and that's
why we have put those things up at the top of the list
of required qualification.

Okay. Then, Mr. Chair, before you go on to
the next one, I'll just give a trailer here of what's
coming, coming attractions from the Policy Development
Committee over the next couple of days -- is that
tomorrow we will talk about the livestock medication
recommendations that were made by the NOSB, but have not
been approved by the FDA. Again, that was coming out
with the list of options, so to speak, of how we might
proceed with that. In cooperation with the Livestock

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Committee, we have developed a draft document to talk about how we might proceed with those.

Also, tomorrow afternoon is the policy for NOP/NOSB collaboration. And again, that is to consider adoption of the policy to be presented by NOP. Then on Wednesday morning, if you haven't had enough of Policy Development, we're back with the Board policy and procedure manual revisions. We did talk about that in our orientation this morning. But again, coming out of the meeting, some of the new procedures we've drafted up and have put those into the manual, which was posted for public comment.

Secondly is the handling of organic and non-organic ingredients in the "Made With" category. And again, a draft document has been developed by the Policy Committee that is in the book here.

And then finally is the request for the NOP's support for changes to the use of the word organic on the AAFCO-approved fertilizer labels. And again, this was something that was discussed. It's a recommendation to NOP on how they communicate this issue. It is one that was approved by the Policy Committee, but not unanimously. And so in the draft document you have both the committee report and the minority report.

CHAIRPERSON RIDDLE: And we will be having a
report from the liaison from AAFCO earlier in that day
that will further inform our consideration of that.
Anything else for Dave -- the Policy Committee?

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[No response]

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CHAIRPERSON RIDDLE: Okay. Well then, we're
going to hit rewind and go back to Materials, because
Rose has pointed out that she didn't describe or
summarize the action items that the Materials Committee
will be presenting in the next days.

MS. KOENIG: See, if it's not on the agenda --

CHAIRPERSON RIDDLE: Sorry.

MS. KOENIG: What we're going to be discussing
-- and I guess only on Wednesday -- will be just a
discussion of the synthetic versus nonsynthetic. This
was a draft. The first draft was presented at the last
meeting. The committee has taken that draft and we're
not intending it to be a final draft at this meeting.
What we're trying to do is gather more input, because
previously we just -- we introduced it and brought it
back to committee. We refined it, but we're not at the
point of making a recommendation. But we do want
discussion of that so that we can come up with a final
recommendation for the next meeting. So there is an
updated draft in the book, and that is something that, certainly, we would be happy to receive public comment on and Board discussion on.

The materials review procedures, I want to just update and discuss the revised material procedures that -- that have been proposed and what we are utilizing. They have become more of a finalized procedural policy. And so there's a document in there that kind of revises that, and hopefully we'll be able to vote so that we all have an understanding of how that procedure works.

And I'm not sure there's an action item on extraction methods under the agenda, and I'm not sure, Jim, what -- because I was not present at that phone call, because my father was in the hospital.

CHAIRPERSON RIDDLE:  Yeah.

MS. KOENIG:  So I know you had to make that --

CHAIRPERSON RIDDLE:  Right. And that was a separate work plan item, but my understanding -- now, that is imbedded in your synthetic versus nonsynthetic draft.

MS. KOENIG:  Correct.

CHAIRPERSON RIDDLE:  So yeah.

MS. KOENIG:  Okay.


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MS. KOENIG: And then finally, what we mentioned earlier with Andrea, there is a document for the internal workings of Sunset procedures --

CHAIRPERSON RIDDLE: Yeah.

MS. KOENIG: -- and that's not on that. But we can pull that in, since we thought to put that on that line item, I guess. I thought it was there, but it appears not to be. It was on -- it was something that you could open up off the website. So I know --

CHAIRPERSON RIDDLE: Oh, no, it's there. It's just -- it's the first item right after your name.

MS. KOENIG: Oh, okay. All right.

CHAIRPERSON RIDDLE: Yeah.

MS. KOENIG: Because -- all right.

CHAIRPERSON RIDDLE: Yeah.

MS. KOENIG: Oh, yeah.

CHAIRPERSON RIDDLE: They've got that in bold twice, so --

MS. KOENIG: Okay. So that --

CHAIRPERSON RIDDLE: -- it's confusing.

MS. KOENIG: Yeah. So that's why it confused me. So the Sunset document is there and that --

CHAIRPERSON RIDDLE: Okay.

MS. KOENIG: -- is the one we just discussed earlier. Thanks.
CHAIRPERSON RIDDLE: Yeah, uh-huh. Okay. And before we move to Livestock, I'm going to hit rewind even further, because I realize that after the approval of the October minutes, we were supposed to review Executive Committee conference call minutes, and we do not approve those as a full Board. Those are approved by the Executive Committee at the next meeting. And we're kind of behind in those being presented back to the Executive Committee, and them being approved and posted, and partially because of Katherine Benham's injury. And for those of you who don't know, at the end of January, Katherine slipped on the ice here in D.C. and broke her ankle badly and is still in a waist-high cast. So she's been losing more than a few minutes. She's been -- that was a joke.

MR. O'RELL: For the record.

CHAIRPERSON RIDDLE: For the record, that was a joke. No laughter. So anyway, there really -- there aren't any in the meeting book, previously. There usually are Executive Committee minutes in the meeting book, but we are behind in the review and approval. But I did just want to mention it for the record. And Katherine's injury had a lot to do with that. So okay, moving on now to Livestock. George.

MR. SIEMON: Okay. The discussion I had is
really our work plan -- and just to show the things we're working on. The first is apiculture, which Nancy Ostiguy is the one leading that, and so really it's just on our work plan for the year. So there's really not much news there.

The dairy replacement rule change was in relationship to the directives that we had about the antibiotics, and we put forward again our replacement clause that we had already recommended, asking that to be incorporated into the -- the directive about the antibiotics, but there's no -- that's really in the -- we have not -- back out of the Department yet, so there's been no action on that.

The third thing is Aquatic Animals Task Force, which I'm going to ask Arthur to give us the best update on that. It's in the Department now.

CHAIRPERSON RIDDLE: And if you'd identify yourself for the record, Arthur.

MR. NEAL: For the record, Arthur Neal, the National Organic Program. On January the 24th, 2005, the National Organics Program released and called for a nomination for an Aquatic Animals Task Force. That task force would be comprised of 24 individuals. That task force would also be split into two working groups, one for aquaculture, and another
working group for wild caught. As of today -- well, on
Wednesday, January 23rd, the nomination period closed.

CHAIRPERSON RIDDLE: February, February.

MR. NEAL: February 23rd, and I apologize --
the nomination period closed, and the Department, at
this time, has already received 16 formal nominations
for the Aquatic Animals Task Force. However, we do
acknowledge the fact that because this call for
nominations stated that nominations had to be mailed in,
there could still be some nominations coming in through
the mail, so we are waiting about -- we're still waiting
for a few more nominations to come in, that we are aware
of, through the mail, before we give it to the Livestock
Committee and begin working with them on finalizing the
process in terms of -- the inner workings of the working
group and contacting the new people who have been
nominated to let them know whether or not they have been
selected for the task force. That's the update on the
Aquatic Animals Task Force in a nutshell.

CHAIRPERSON RIDDLE: Yeah, Andrea.

MS. CAROE: Arthur, what happens if you don't
receive any more?

MR. NEAL: That is something that we'll have
to talk about after we've received what we think are the
last of the nominations. There are a couple of options;
to call for more nominations; or you may go with the
nominations that you have; or you decide that there's
not enough interest in that area and you hold off until
you get more interest. We have to talk about this after
the fact.

MR. SIEMON: And of course, we have the
members from the Board, as well, who will be on that
task force. Okay, the fourth discussion item is the
Sunset material review and you know, as was said
earlier, these are not necessary recommendations. We
think these things ought to go off the list. They're
recommendations to be looked at first and foremost. And
so in our discussions, we've identified oxytocin and
ivermectin as things we'd like to put at the top of the
list for reviews. But again, that's just the reviews
and not anything like a recommendation. So that's the
discussion items.

CHAIRPERSON RIDDLE: Yeah, George, before you
move on, the first thing you mentioned was the
apiculture, the beekeeping standards, and those -- you
know, we did have a task force that submitted a report
that was accepted by the Board, and that is in the
meeting book and was posted again on the website, and it
did generate some comments. And I just want to
acknowledge that comments were received and those will

be catalogued and could be considered by the Board. And you know, I'd really like Nancy to be here, since she is an apiculture expert. But if the Livestock Committee would keep that on your work plan, and to consider the comments that came in this round, before any further action and you know, for the Livestock Committee to feel free, I guess, to incorporate those comments into a draft recommendation that goes beyond the task force report in the coming months. And then if there are going to be, you know, proposed rules, of course, those would go out for a whole other round of public comments before there'd ever be final rules. But I did want to acknowledge that since this was --

MR. SIEMON: And what tab is that --

CHAIRPERSON RIDDLE: Well --

MR. SIEMON: I can't -- right now.

CHAIRPERSON RIDDLE: Well, it was definitely active on the website, so I assume it was in apiculture, right there after number five, the second tab down, and it's the October 16, 2001 Apiculture Task Force report. So we did receive public comments and those will be -- but it won't be lost just because we aren't taking action at this time. They will be sent to the committee for further action, okay?

MR. SIEMON: Yeah.
CHAIRPERSON RIDDLE: So just keep it on the work plan and --

MR. SIEMON: Okay.

CHAIRPERSON RIDDLE: All right.

MR. SIEMON: And then tomorrow, the action items, we have -- two of them are clarifying -- I would call clarifying, where we're using the question and answer format. You know, the different one is to deal with the issue that came up about calcium carbonate in livestock feed, and we're proposing a question and answering format to answer that. The other two is the proteinated chelate, which has been in the TAP review process, that we decided to go ahead and to allow its continued use, but we developed a series of questions to clarify that what is not -- what form of it would not be allowed, and that's in the book as well. So those are two different things which is on that tab.

And the other two, Mike Lacy will be presenting tomorrow about the DL-Methionine, which is in petition to address the extension -- the Sunset that -- the time limit on it which is to fall '05, to extend that. So that's a vote that we're going to take tomorrow. And the last one Hugh Karreman will be presenting about the pasture policy, where we were asked to take another look at the 2001 recommendation, and
we've made some modifications to that that's going to be voted on tomorrow as well.

CHAIRPERSON RIDDLE: Any comments, questions for George on any of these items?

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[No response]

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CHAIRPERSON RIDDLE: Okay, seeing none --
MR. SIEMON: Okay, while I got the floor --
CHAIRPERSON RIDDLE: Yes, George.
MR. SIEMON: -- we've got coffee. No, seriously, can we deliver the coffee here?
CHAIRPERSON RIDDLE: Yeah. And I think Hugh actually has a question, though, so -- and Kim does, too. All right.
MR. KARREMAN: I'm just wondering, would the -- back to the ivermectin, is -- I know it's just going to be kind of reviewed scientifically and whatnot, right? But, you know, as a priority thing. At what point could there be some kind of language saying that, if ivermectin -- ivermectin comes off, but kind of couple that with the moxidectin that was already allowed, and like kind of Sunset one as the other one as the other one becomes allowed. Is that possible to do, so there's no cap?
MR. SIEMON: That's a real good question. That's definitely the intent of our reconsidering. It's based on moxidectin, so -- coming in. So somewhere, I hope moxidectin's through by -- by that time period, you know. It shouldn't -- we hope it won't run into the same problems it ran into at other places.

CHAIRPERSON RIDDLE: Yeah, maybe Arthur could just comment on where, you know, that moxidectin is in the pipeline.

MR. NEAL: By that time frame, we're hoping the same thing. We'll just put --

MS. CAUGHLAN: We can't hear you for some reason.

CHAIRPERSON RIDDLE: Yeah, that one's not --

MS. CAUGHLAN: I don't think that's --

MR. NEAL: Can you hear me now?

CHAIRPERSON RIDDLE: Yeah, you have to be really close to that one.

MR. NEAL: Hopefully, by this time -- way before that time frame it should be in the pipeline. It's just that things have gotten clogged up in the system due to all the activity going on.

CHAIRPERSON RIDDLE: Okay. And, Kim, you had a question or a comment or --

MS. DIETZ: Just a comment. As --
CHAIRPERSON RIDDLE: Well, you'll need to speak into a mike.

MS. DIETZ: Okay.

CHAIRPERSON RIDDLE: Don't you know the rules?

MS. DIETZ: I get my exercise that way. As the committee chairs were talking about the National List, the materials they're recommending for review, if you could just give the justification as to why you picked those materials. I know that not all of them have issues that there are incomplete TAPs or what have you. Some of them are just industry concerns that we know are going to be contentious items. So if you name the material, could you just give us the justification so we understand why that material was picked?

CHAIRPERSON RIDDLE: Thank you. That's a really good reminder. Mr. Coffee?

MR. SIEMON: Yeah, we're working on it.

CHAIRPERSON RIDDLE: No, I'm not anxious for the coffee, it was --

MS. CAROE: Speak for yourself.

CHAIRPERSON RIDDLE: Yeah. But it was --

MR. O'Rell: There was a question asked.

CHAIRPERSON RIDDLE: Yeah, there was a question asked that related the ivermectin and oxytocin, that you anticipate at least recommending to the
Livestock Committee that they be priority reviews, and if you could just give a very brief rationale for why identify those two substances.

MR. SIEMON: Well, ivermectin is because of the moxidectin. We feel there is a more appropriate one for livestock that it can be used on, both in FDA approval as well in the technical review we had. So that one's fairly clear, we think there's a better alternative. Synthetic as it is, it's a better alternative.

On the oxytocin, that's just a matter of the industry growing and changing and learning to live more without the -- that, too, it's a hormone. One of the concerns the consumer has is hormones, so that one might be more debatable. But that -- things have changed a lot since 1995 in the holistic livestock care. So they're all going to be reviewed.

CHAIRPERSON RIDDLE: Right.

MR. SIEMON: These are the priorities. Well, I know --

CHAIRPERSON RIDDLE: For an early review.

MR. SIEMON: Early.

CHAIRPERSON RIDDLE: Uh-huh. Yeah. And my understanding of the Sunset process is, if no one challenges a substance, it would be renewed without a
full review.

MS. KOENIG: Yes, no.

CHAIRPERSON RIDDLE: Yeah?

MS. KOENIG: The -- you know, the wording and
the understanding within the document is that review can
take a number of different forms, okay? A review can be
that the committees have -- have looked at the list of
considered public comment. If there's no public
comment, they can use old TAP reviews if they feel that
that's necessary. So there's going to be committee
review of everything. Whether there will be an
additional technical request is the distinction. And so
the committees should identify those items that they
feel need additional technical information on so that
they can conduct the review within the committee. If
you feel that -- if you look at the old TAPs and you
feel that -- and you look at the public comment, you
know, but at this point, you're not going to have public
comment. But if you look at the old TAPs and you feel
like you know some new information that's now available,
or new techniques, that is a reason to perhaps get more
additional technical information. But if you feel that
it's adequate, you may not need that additional
technical information. Again, if you look at the Sunset
document -- and I think that philosophy applies even to
this process -- if you know, as stated in there, these substances have been hopefully reviewed to some degree. Certainly, the ones more recently, they've been under more scrutiny and better quality TAPs. So we anticipate that if there are ones that should be highlighted, are those probably that were put on many, many years ago. That's probably where the most changes have occurred. But there should be a technical reason. It could be inadequate technical information that you have available. But don't forget, you can use the technical information that has already been conducted. So -- but everything will be reviewed. It's to what degree do we seek additional technical information.

CHAIRPERSON RIDDLE: Okay, thanks for that correction. I was using review just to mean the additional scientific review by the contractor. So thanks for explaining that. Hugh?

MR. KARREMAN: As far as when you're reviewing other materials for Sunset and you're saying, George, you know, there's alternative things to various substances now in the last 10 years. Will they be brought forth, documented, kind of like I see -- it's kind of like Methionine extension. There's other -- there's research going on to look for alternatives to Methionine. Will that be the same for oxytocin and
other things like that?

CHAIRPERSON RIDDLE: Would you like to respond or -- Rose?

MS. KOENIG: Well, certainly -- you know, a lot of it again is going to be up to the committee. The optimal way of doing a review, you know, is to utilize the TAP contractor. However, committees may feel like they can gather all the information they need on a substance, because they have that ability within their committees to do so. You know, the idea is that, you know, you should bring in your own resources, if you have the expertise or resources, and you certainly should utilize the technical review panels or a contractor, if that is necessary. So that's really what the committees need to determine, you know, when they're reviewing each of those substances. But what we're saying for those that you know you want to go through the TAP contractor because you've identified that there really was a very inadequate TAP, you don't feel like you have the expertise on your committee to get the information, those are the ones that -- to me are the ones that you highlight and those are the ones that we want to, to the best of our ability, gather more technical information, and we do not want to wait, you know, until we're into this time crunch to do so.
MR. SIEMON: With oxytocin, for sure you're going to have to provide what's new. What's the alternative? So you're going to have provide some proof of the new alternatives, especially with that one.

MR. KARREMAN: Actually, I don't think there was ever a TAP review done on that one, so it'll be good to see. Because all TAP reviews have to show minimal alternatives, anyway, right, in a complete TAP. So that'll take care of itself, I think.

CHAIRPERSON RIDDLE: Um-hum.

MS. KOENIG: And one other thing -- the other thing is that, synthetics that are listed, you know, because not all synthetics come on the list at the same time, and this is the case of the oxy -- what is it, oxy --

CHAIRPERSON RIDDLE: Tocin.

MR. O'RELL: Tocin.

MS. KOENIG: Tocin. I was thinking of some other -- not the drug -- anyway -- anyway --

UNIDENTIFIED SPEAKER: Oxycontin?

MS. KOENIG: Yeah, Oxycontin. Well, if there's -- organics of the list, and I'm not saying this is the case with this material, but there may be something that was added that is a synthetic that the committee decides is more of -- that something that was
added previous. There now is another alternative that
is on the list that was not considered. So those are
the things that are considered that could be --
substitutes and alternatives. So that -- those are
areas where even substances on the list may be
justification to pull something else off, because now
you have a better synthetic --

CHAIRPERSON RIDDLE: Okay, anything else
before we go to Handling?

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[No response]

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CHAIRPERSON RIDDLE: Well then, Kevin,

Handling.

MR. O'RELL: Sure. For the Handling Committee
discussion items, the first is the Pet Food Task Force.
I'm going to defer to Arthur Neal. He's going to give
us an update on that after the Federal Register notice.

MR. NEAL: January 24 -- committee went out
and called the nominations for the Pet Food Task Force.
It would comprised of 12 individuals and this task force
-- with the purpose of developing labeling standards for
pet food, organic pet food. The nomination period
closed on February 23, last week -- nominations, seven
formal nominations for the Pet Food Task Force. We hope
that there may be more nominations coming through the mail. We're going to wait a couple of weeks to make sure that we receive all of the Pet Food nominations and maybe move on to -- get with the Handling Committee to discuss our next step with respect to formation of that task force.

MR. O'RELL: Thank you, Arthur. Any questions for Arthur on the Pet Food Task Force?

CHAIRPERSON RIDDLE: It's the same thing as the aquaculture -- I think the Federal Register notice had up to 12 --

MR. NEAL: Right.

CHAIRPERSON RIDDLE: -- on this.

MR. NEAL: Right. And the options -- I mean, the good options -- just because you didn't meet 12 does not mean you still can't have a task force. But that's something we will discuss once we know for certain how many nominations we have. And if we need to call for one nomination, we can definitely do that.

CHAIRPERSON RIDDLE: So each of these committees will need to work with you to come up with a plan to either seat the task forces from the nominees that have been submitted, plus the Board members that are interested, or decide whether it's best to go out with another call for nominees, correct?
MR. NEAL: Right.

CHAIRPERSON RIDDLE: Okay.

MR. NEAL: I don't think it's going to be that big of an issue. Pete Jones is actually going to be the individual who's going to work with both task forces. And the options are -- I think are well enough that they can be implemented in a fairly productive fashion.

CHAIRPERSON RIDDLE: Yeah, Hugh?

MR. KARREMAN: For both of those task forces, are there -- have they already -- are there certain charges that they need to look into or any questions that have been brought up, you know, that they need to answer, or is it just kind of forming a task force to have one and --

CHAIRPERSON RIDDLE: The -- go ahead, Arthur.

MR. NEAL: With respect to the Aquatic Animals Task Force, the charge is to develop standards for the production, handling, and labeling of aquatic -- aquatic animals and those feed products for aquatic animals. There's already great talk in the aquatic animal industry regarding these standards, and I think they're already drafting standards to apply to the task force, especially the pet food industry. We haven't heard as much talk, but we do know there is an interest. And what we said was a charge for them would be to develop...
labeling standards, production labeling standards for organic pet food. Their charge is probably best -- in Aquatic Animals Task Force because they've got more to work with with existing standards, and we already have talked about it.

CHAIRPERSON RIDDLE: Yeah. And I'd like to point out that, in your meeting book, right after tab five, the Federal Register is the sub-tab there and that has the Federal Register notice, you know, asking for nominees for these task forces, and it does have a section: what are the task force groups' objectives and time requirements? So those are summarized there and they were also contained in the scope document from the Policy Development Committee from our October meeting as well. So for the Aquatic Animals Task Force, it's certainly to work from the prior Aquatic Species Task Force report --

MS. CAUGHLAN: Right.

CHAIRPERSON RIDDLE: -- as a starting point --

MS. CAUGHLAN: Right.

CHAIRPERSON RIDDLE: -- to consider all of the existing information and then -- which did recommend development of standards for the aquaculture part of it, but did not recommend standards for the wild fish. But to start from that page and then see what can be done as
far as developing draft standards to present to the
Board first, and then we would make a recommendation to
the Department.

MR. O'RELL: Our second discussion item for
the Handling Committee is the Sunset materials review.
We had a discussion of priorities for materials, and the
result of the discussion, we identified three materials
that we felt were likely to be controversial and
indicated that we needed additional information and we
want to get on these earlier. These three items listed
under 205.605(a), one is colors. We felt that -- the
reason why is we felt that this is a group of materials
that needs a TAP review. There was never a TAP review
done on this previously, and it was not voted on by the
Board prior to being added to the list. The second item
is flavors. Again, a lot of things have changed since
this has gone on the National List. There now are
products that are out there as organic flavors. There's
a lot more that we need to know about the manufacturing
process of some of these items. Some of the flavors out
there might be impacted by 205.605(b) and the lawsuit.
Julie, do you have any additional support on the
flavors?

MS. WEISMAN: Yeah, Kevin, I did. I wanted to
agree with you that a lot of the natural flavors is on
section A as a category, as a general category, and that's because they are actually defined in C.F.R. by the FDA. And as we know, NOP is not allowed to supercede other -- other rules in the C.F.R. But I do think that -- and I think it is true that when these rules were written there were -- there were not -- organic flavors did not exist, so that has to be taken into consideration. But I would also like to add that what we call -- what our -- the category of organic flavors are almost entirely organic, in the 95-percent category. And so they're -- they may or may not be alternatives, depending on other matters that are -- that we have to await clarification on with the lawsuit.

And then the last thing I wanted to say about that is that there is going to be discussion during these meetings during the next few days about the issue of defining synthetic and nonsynthetic, and I think that -- that will also have an impact on -- on organic flavors as they're currently manufactured, being an adequate alternative to natural flavors.

MR. O'ReLL: Thank you, Julie. The third item that the Handling Committee identified was yeast, and that's surrounding the issue of the agricultural versus nonagricultural debate that continues today, which leads us into our third -- third discussion item, which is the...
clarification for the definition of agricultural versus nonag. Just a little background. There is concern that there are items that are on the National List, under 205.605(a), that have come under question as being organic or agricultural. And by their placement on 205.605(a), they are considered as nonagricultural. The Handling Committee has taken up this task of trying to get clarification for the definition of agricultural and nonagricultural. We did a lot of looking in from a historical perspective, that when the Board put together its first recommendations for the National List back in 1993, there were no legal definitions for agricultural or nonagricultural.

In certain cases, some materials were given to the Board after being assigned the status of ag versus nonag by a USDA-funded researcher. Currently we have definitions for ag and nonag in the rule, and these have been criticized as being somewhat vague. So the Handling Committee is continuing to work on this effort, and we are hoping to define this in simple terms, looking at its agricultural roots in the definition for clarification, and we hope to have a formal recommendation for the full Board at the next meeting, whenever that is scheduled. Are there any questions on the discussion items?
MR. O'RELL: For the Handling Committee we have four action items. All of these were Q and A's that came from the NOP. The first one is the status of albumen in organic wine making. The second one is to provide clarification on a calculation that we use for tea, for tea extract. The third is a question that we need to provide input to the NOP concerning the status of a material, bitter orange, as a natural processing aid. The final one is the retail certification Q and A that as asked of the NOP, and we in turn were asked to provide input concerning this retail certification issue for retail food establishments.

I think it's -- it's appropriate to point out that we had a lot of discussion within the Handling Committee regarding the process. These four Q and A's took a lot of time from the Handling Committee and diverted us from some of the other issues that we felt that we had priority to try to get to these. We're hoping that -- maybe questioning the process that we're using today, in terms of all questions going to the NOP and coming back to the NOSB and for us to have to put it to committee and have the -- getting the committee
together and hashing out these responses to go back to the NOP. We're wondering if maybe there isn't another process we might want to look at, particularly when we get an executive director on board. And that's our --

CHAIRPERSON RIDDLE: Report for now.

MR. O'RELL: -- report for now.

CHAIRPERSON RIDDLE: Any other questions, comments, any other committee members' input?

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[No response]

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CHAIRPERSON RIDDLE: Okay. All right, next is Crops, and Nancy Ostiguy had already scheduled a -- some academic dissertation defense and couldn't make it here today. She will be arriving tonight. And so Rose is on the Crops Committee and has agreed to provide the report here.

MS. KOENIG: And -- and fortunately, Nancy and I did not communicate when I found I was going to be doing this, so I'm going to -- hopefully, I'm representing what she would say. And then what we could do tomorrow, if there's something she wants to add, give her that opportunity if there's -- because of that fact.

As far as the Sunset material review, some of the materials that -- I know that have been identified...
that do not have specific categories in OFPA are potassium bicarbonate, hydrogen peroxide, both for disease control. So those are two disease control substances that don't fit into a category.

CHAIRPERSON RIDDLE: Oh, okay. So the rationale would be that they don't fit the OFPA category. Okay, I just wanted to make sure you're covering the rationale as well.

MS. KOENIG: Yeah.

CHAIRPERSON RIDDLE: Thanks.

MS. KOENIG: And then there's aquatic plant extract, liquid fish products, and humic acids. All have annotations that deal with the extraction procedures and/or pH adjustments. So that -- that is something I know that the committee is concerned that we have consistency with those annotations and we want to make sure that -- that the annotations, the way that they were written, and now that we understand how they're interpreted, if they really reflect what the original intention of the annotation was, because they have been -- it's something that has come back to, you know -- you know, when there was -- they've just been identified, but there's not a clear understanding that those annotations really represent what -- what the intention of the -- what their intention was, I guess,
when they were made. So again, that -- those were ones
that I discussed, that these are annotation kind of
issues and I'm not sure if they're necessarily best
dealt with there in Sunset, but I'm laying them out.
Also, peracetic acid for fire blight control doesn't
really fit into the OFPA category, either.

One area that the committee feels is --
there's a -- mulches are listed, newspaper or other
recycled -- other recycled paper. There's a -- a type
of newsprint is placed on that within the list, and we
feel that there is the processes that are now done for
paper have changed and the inks have changed, that
that's something that we need to get more -- a TAP on so
that we understand kind of that -- what's on there for
mulches. I know that's one of the ones that have been
identified for a technical review. So those are the
ones that I am aware of.

As far as the draft recommendation for
hydroponics, I know that was something that Owusu had
committed to work on. There was an original draft back
in 2001 or 2002 that the committee looked at that he had
developed. And so that is something that, as far as I
know -- and again, we can check with Nancy, but there
has been no progress on that. So that's something that
the committee must go forth and work on if standards are
needed. I mean, maybe the first discussion is just
really something that's needed. I'm not understanding
-- because we seem to be having this on every single
agenda. It's not getting done, but I don't -- I'm not
sure what's going on in the industry as far as how
certifiers are -- and that may be the best way to go
about it, if it's not -- you know, is it or is it not an
issue? Is it in an area that standards need to be
developed? We certainly don't want to do committee work
if there are operations being certified. We need to
know that, currently, if the present standards are
covering hydroponics.

And then I'm not going to go over the
temporary variance for research guidance because Dave
has, and just so you know that it's going to be a
collaborative effort between, I guess, Livestock and
Crops as far as developing those guidances.

And now, as far as the action items for the
Crops Committee, I just wanted to point out that -- that
-- I'm now optimistic. We have members on the new Crops
Committee, because of the new members that -- we'll be
able to get quorum. Unfortunately, on the drafts and
the materials that are here, we didn't have quorum,
although the votes are placed on that so that we could
get the discussion item on the agenda. And there are
drafts, but the Crops Committee had difficulty getting together on that. So that's just a note. So when it comes for discussion of these items tomorrow, there may be modifications to those recommendations, and we welcome that, because we don't feel that we really had adequate input in the determination of some of these things for Crops. So basically, the soy protein isolate technical TAP review, we're considering that for a vote; ammonium bicarbonate and ferric phosphate. So those are three materials that are scheduled to be considered — considering the petition to add it to the National List. There's the use of compost and compost tea. What was on the web, from what I gathered when I was asked to do this -- just like the old Compost Task Force reports. And I think that the idea was to have a recommendation to accept those. We'll have to have Nancy on that one, because I'm not quite sure.

CHAIRPERSON RIDDLE: Yeah, as I recall, it is to merge those into a recommendation.

MS. KOENIG: Okay, okay.

CHAIRPERSON RIDDLE: Yeah.

MS. KOENIG: And then guidance on commercial availability. There's a draft that will be discussed and perhaps voted on. Maintaining or improving natural resources, there's a draft for consideration. And then
there also was a question and answer on waxed boxes, to
provide NOP input on the status of the waxed boxes for
produce.

MS. CAUGHLAN: And this Q and A -- you
mentioned the Q and A on compost? There was two
separate --

CHAIRPERSON RIDDLE: Yeah, it would be part of
that whole --

MS. CAUGHLAN: Part of it.

CHAIRPERSON RIDDLE: Yeah.

MS. CAUGHLAN: Okay.

CHAIRPERSON RIDDLE: Yeah, the question is
about the -- the agenda says Q and A on compost, and
that would be addressed at the same time of merging the
compost and compost tea reports into a recommendation.

Hugh.

MR. KARREMAN: Just one question regarding the
newspaper. You said that's up for Sunsetting because of
new printing practices or whatever? Is that --

MS. KOENIG: Well, when I say -- again,
everything is -- everything that was on the list as of
2002 is up for Sunset.

UNIDENTIFIED SPEAKER: Automatically.

MS. KOENIG: The newsprint has been identified
by the committee, that specific item that -- again, that
we are aware that there has been technical changes in
the printing industry, and we feel that those were not
covered in the original TAP.

MR. KARREMAN: Would any action on a crop use
of newspaper affect farmers using it as livestock
bedding? Would that have any effect? If you were to
Sunset it, because, definitely, farmers chop newspaper
for bedding and I'm not sure if that would affect
livestock from a crops perspective. I just wondered.

MS. CAUGHLAN: Do they consume it?

MR. KARREMAN: They could. They shouldn't,
really, but -- I mean, not normally if they're normally
fed, no.

MS. KOENIG: Well, yeah. I mean --

MR. KARREMAN: Just --

MS. KOENIG: -- it's not on the livestock list
and it's been deemed synthetic.

MR. KARREMAN: So it would affect the
livestock?

MS. CAROE: Well, it shouldn't be part of the
cropping system, period, so --

MR. KARREMAN: Just wondering.

CHAIRPERSON RIDDLE: Well --

MS. KOENIG: I would -- I think -- the best
answer to that is that it's not -- it's on the list

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under crops because it was determined to be a synthetic
that needed to be added. If it -- if it's being
utilized in livestock operations, it needs to be
petitioned for that use because it's -- not that I'm
aware on that livestock.

    MR. KARREMAN: I mean, it's a great way to
recycle newspaper.

    MS. KOENIG: Right. So, you know, within in
the TAP that -- again, we cannot add something through
the Sunset process that's not on the list already.
Okay. But if we're going to ask the contractors for a
technical review, we could ask them to increase the
scope to look at that utilization, although we would not
be adding it at that time during Sunset, but it would
provide us with technical information as we're going
through it -- if it was to be petitioned, that they
would already have a base of information.

    MS. CAUGHLAN: Good.

    CHAIRPERSON RIDDLE: It is on the list,
though, twice, once for mulch and then once as compost
feed stocks. So in the compost feed stock listing is
where it would directly related to livestock production
often. And that's how it gets in the compost, as being
first used as livestock bedding and then goes into the
-- into the compost stream. So it's certainly something

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that could be addressed, like you say, in the review process, it's use there.

MR. SIEMON: It's actually -- on living conditions, 239.(a)(3), where it says, "If the bedding is typically consumed by the animal species, it must comply with the feed requirements." So then you get a debate. If this is typically --

CHAIRPERSON RIDDLE: Consumed which --

MR. KARREMAN: No, it's not.

CHAIRPERSON RIDDLE: No, uh-uh.

MR. KARREMAN: I mean, that's not impossible --

MR. SIEMON: Well then -- then it's allowed.

MR. KARREMAN: You know --

CHAIRPERSON RIDDLE: Right.

MR. SIEMON: Then it's allowed.

MR. KARREMAN: Then it's allowed, good.

CHAIRPERSON RIDDLE: Um-hum.

MR. KARREMAN: Good.

CHAIRPERSON RIDDLE: Um-hum. But to go into compost, it is regulated. There is a listing that prohibits glossier colored ink. It allows it otherwise. So it's just something to be aware of as we move forward. I think it's a good point.

MS. KOENIG: One of the things is that there's
a lot of soy-based inks now --

CHAIRPERSON RIDDLE: Oh, you're on the
newspaper.

MS. KOENIG: -- so that really is -- those
were not common at -- we believe those were not commonly
used when it was placed on there, so we would want to
know, you know, how much use soy-based inks have, those
types of things. Because, you know, the ink was
specifically placed out of the annotation.

CHAIRPERSON RIDDLE: Andrea?

MS. CAROE: So, Rose, this is one of those
situations, then, where you're actually looking at
pulling it off the list and then putting it on because
you're changing the annotation? Because if you're
interested in putting this on the list without colored
inks, if there's soy-based inks that are used and we
feel that that's consistent and organic -- should be
able to use that, then this would be one of those
situations where you're going to -- you're going to
propose removing newspaper off the list for repetition
without the annotation?

MS. KOENIG: Right now what the committee
would be doing is looking at it as it exists for the
Sunset process, and determining if that -- the way it
appears is adequate for -- for what currently is out
there. That's what I am saying. On some of these it's not clear and that's what -- we have to have further discussion, I think, with NOP as far as how we can go in determining, can we put it back on during the materials Sunset process without that annotation? I don't know.

Those are the kind of instances and peculiarities, I think, that we're going to come forth on some of these.

MS. CAROE: But if you're having a review done to extend its potential, it would be best to have two or three other questions addressed at the same time. We've done that in the past.

MS. KOENIG: I think those are ones that were placed on and there probably wasn't adequate information. There was an annotation there for a reason. We feel that we need to reexamine, because, technically, we know things have changed and that that -- the way it appears may not be sufficient and it may not be useful.

MS. CAROE: Well, I absolutely understand the logic you're presenting. It was purely a procedural question --

MS. KOENIG: Yeah.

MS. CAROE: -- based on your earlier comments that you made.

MS. KOENIG: Um-hum.
CHAIRPERSON RIDDLE: And I think, you know, if we had the Federal Register notice for Sunset out, we'd have a lot better understanding of what the rules of the game are and what can happen and what cannot. We've seen, you know, drafts, we've had input on drafts, but until it's posted in the Federal Register, we don't know the final word and what exactly can happen with an annotation or not during this review process. Anything else for Rose? Yeah. Or no, that's not a hand, that's a book.

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[No response]

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CHAIRPERSON RIDDLE: All right. Well, we actually --

MR. SIEMON: Yeah, what are we going to do?

CHAIRPERSON RIDDLE: We could go to recess --

MR. SIEMON: All right.

CHAIRPERSON RIDDLE: -- but --

MS. CAROE: But --

CHAIRPERSON RIDDLE: -- I think we have a lot to accomplish here in the next few days, and Barbara has offered to begin the NOP update this afternoon and address -- especially some of the issues that have been raised during our discussions so far this afternoon,
executive director, collaboration, some of those things. So that could help, you know, give us more time tomorrow for the public input session. So if Barbara and Rick are willing to -- yeah.

MR. O'RELL: Jim, just a point -- and Barbara --

UNIDENTIFIED SPEAKER 1: That's not on. It's not on.

UNIDENTIFIED SPEAKER 2: It's never on.

CHAIRPERSON RIDDLE: Huh?

UNIDENTIFIED SPEAKER: It hasn't been on.

MR. O'RELL: It's never on. They're saying it's never on.

UNIDENTIFIED SPEAKER 2: It hasn't been on the whole afternoon. There it is.

UNIDENTIFIED SPEAKER: Okay.

CHAIRPERSON RIDDLE: There, it's on.

MR. O'RELL: Just a point. I do know, in the agenda, a number of people are coming specifically tomorrow to hear the NOP --

MS. CAUGHLAN: To hear NOP's --

MR. O'RELL: -- update.

MS. CAROE: That's right.

CHAIRPERSON RIDDLE: And what is the concern if we -- go ahead, Barbara.
MS. ROBINSON: Well --

MR. SIEMON: Who are you, again?

MS. ROBINSON: For the record, Barbara Robinson.

CHAIRPERSON RIDDLE: You have to be close to those type of mikes it seems, so --

MS. CAROE: It's terribly hard to hear.

MS. ROBINSON: Well, most of the things that you brought up today I can answer them fairly straightforwardly. I suspect what you're really talking about in a little more depth, Kevin, might be related to the court case, and I can -- we can do that now or we can wait until tomorrow. That's purely up to you. You can break into your committees, because I know you do have a lot of work to do. But I thought I could at least give you the update on the things that you've raised in your committees, and then you can actually tell folks yourself where they are. Let me get to my notes real quick.

As you know, since last fall we promised --

since last summer we promised that absolutely everything we did, as soon as we got it cleared through the Department, we would be giving you a 24-hour heads-up and then it would go up on our website, and I think you'll agree that that's exactly what we've done. We've
pretty much given you guys everything that we've been working on. There are two things that we have been working on that we have not given you. One is the collaboration docket -- document. It's not a docket. It will not be published in the Federal Register. And the second is the USDA response to the NOSB response to the four issues, and those related to antibiotics, fish meal, inerts, and the scope of coverage of the NOP regulation. Every week I ask for the status on these and every week I am told that they are still in a clearance process. They are not in our office.

Now, you have seen a draft of the collaboration document. I did forward that to you through e-mail. And when it comes out of clearance, it is not going to look drastically different, because it's essentially an agreement between you, the NOSB, and we, the NOP, as to how we'll work together on issues, and it's what you saw in that draft document. It's kind of a, you know, let's categorize the issues and you know, from -- it doesn't say major or minor, but it kind of lays out that format of when would we propose something to you and get an answer to the thing.

In the meantime, we have published in the Federal Register a guidance docket, which had we had published perhaps before last April, we might not have...
gone through what we went through last April. In any
event, that docket is out there. It does call for
comments by the public, and I believe the comment date
extends until early April.

UNIDENTIFIED SPEAKER: April 4.

MS. ROBINSON: April what?

UNIDENTIFIED SPEAKER: The 4th.

CHAIRPERSON RIDDLE: The 4th.

MS. ROBINSON: 4. That's early. And so we
are very much looking forward to that. That is a formal
proposal of how USDA would issue guidance about
regulations. But again, it would be -- that also would
be an interact process. In other words, we would
propose through the Federal Register, you know, here's
what we're thinking about issuing guidance on and then
we would take comment on it. Likewise, the public may
also initiate that process and ask us to issue a
guidance. In any event, I do apologize, because we
don't have those two documents that we worked so hard to
get done.

On the USDA response to the Board statement,
you also will not see anything that is a surprise to
you. In other words, that document says what we said
last October, that we concur, and the one place where I
believe we said you asked us to issue a technical
correction, we said -- and we said it at the meeting as well, verbally, that we would have to go through rulemaking and that is the dairy replacement provision of the reg.

On the executive director, we have received feedback back from the legal folks. I am working on the draft. I thought -- I was really hoping to have a draft position announcement to bring here to at least hand out to all the Board members so you could take a look at it, and we just have been overtaken by events with the court case. We do have -- like I said, we do have a draft. I need to polish it up a little because I've written all over it. But it will incorporate, I believe, all of the things that you want in -- that was in the document that Jim and Dave forwarded to me. And so I'm hoping that, you know, later this spring we'll actually be able to get a job announcement up. As I may have told you before, we will do this electronically, but we will post it on our website when it is available and we'll tell people where to go. We don't control that process. It's done through -- you can access USAJOBS and that sort of thing. But you'll get a link to click on and you'll be able to go in, and you will actually be able to apply for the job online. And so that's the approach that we're going to take on that.

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On the task forces, you've already had the update from Arthur on where we are with aquaculture and pet food. We have two dockets that we are still working on that -- one deals with crops and one deals with processing. Again, the processing docket is going to have some -- it will probably be held up because of the court case. And I'll give you a short -- short update where we are with the court case if you want, or if you just simply want to hold off until tomorrow, that's fine. It's up to you.

CHAIRPERSON RIDDLE: Well, there's a lot of people anxious to hear, but at the same time, they'll want to hear tomorrow. So if you don't mind repeating yourself --

MS. ROBINSON: I do it all the time.

CHAIRPERSON RIDDLE: -- I think it would be helpful. Pardon?

MS. ROBINSON: I always repeat myself, so I don't mind. Well, okay, let me just run through sort of the -- what happened and where we are today. On January 26, the 1st Circuit Court of Appeals in Boston, for the state of Maine, issued a decision on an appeal and basically, the appeals court found in -- agreed with the lower court, that is the district court, on all but two counts that were raised in the appeal.
On the third count, which dealt with what you all know as 606, the court remanded back to the district court, the lower court, and said that it was not sufficient for the Department to simply assume the interpretation that it assumed. Rather, the Department would have to make explicit the interpretation on 606.

And the court considered six counts, and the court declared that it was a reasonable determination by USDA of whom to certify and who not to require to certify, essentially recognizing that those were not actively engaged in processing did not require certification. This was the argument raised about wholesalers not needing to be certified.

The court agreed with the Secretary on 606, but then, as I just said, declared it would like the Department to declare that 606 is -- constitutes the universe of what is commercially unavailable. The court did not disagree with the lower court that a certifier's logo is not confusing, but rather furthers the asked purpose in providing traceability on products that are less than 95 percent organic. The court also agreed with the Department that it was not an unreasonable restriction to forbid certifying agents from giving uncompensated advice.

And now we come to the two most important
counts for most folks, and that is -- those were the
counts the appeals court disagreed and overturned by the
district court. The first is the 80-20 feed provision
for dairy livestock. The court pointed to the plain
language of the act and said that the Department had
exceeded its authority when it wrote the regs, wrote the
exception, and that livestock must be feed a total feed
ration of organic.

The second count the court overturned was the
claim that there could be synthetics in processed
products. The court said plainly, the clear language of
the act says that there can be no synthetics in
processed products. What -- the way the court does this
is they use a seminal case called the Chevron Case.
That case basically says you first look at the language
of the Congress. If the language of Congress is so
plain that ordinary individuals could read it and come
to the -- all come to the same conclusion, then you stop
there and you say that's it. If on the other hand the
language is ambiguous in some way, then the court is far
more deferential to what the agency does, provided the
Secretary, again, is not being arbitrary or capricious,
but that the Secretary has chosen a reasonable course to
proceed.

In these particular counts, particularly in
the synthetic, the court basically read back two
provisions in the act, which says that for -- one which
says that certified handling operations may not add any
synthetics during the processing or any post-harvest
handling of the product. And in the other section of
the law, which you're quite familiar with, is that
substances may be added during processing only if they
are nonsynthetic and not produced organically.

So then what happens? Well, the court issues
its decision and then there's 45 days from the date of
the appeals court decision -- that would be March 12,
except that's a Saturday, so we roll over to the first
Monday, so that takes us to March 14. By that time, the
Solicitor General of the Department of Justice must
recommend for an en banc, what's called en banc review.
That's e-n b-a-n-c. Or -- and that would be a review
before the full circuit court of appeals. The circuit
court has already remanded the case back, so there is no
point in going to a -- an expanded hearing at the
circuit court level.

People have asked, could you go to the Supreme
Court? The test for going to a supreme court is very
stringent, and this case does not need meet those tests.
In fact, it is -- many people have already said it was
very unlikely that the Solicitor General -- and I don't
know what the Solicitor General would recommend, before
you ask me. But it is quite conceivable the Solicitor
General would not recommend an en banc review in this
case. The court has ruled for what meets -- what rises
to justification for an en banc review, and those rules
are whether there was unanimity or not among the judges.
In this case there was a unanimous decision by all of
the judges. Whether there have been conflicting
decisions arising because of multiple court and multiple
circuit court hearings and you know, different circuits
disagreed, there have been none of those; whether the
language itself was the plain language found in the act
or the law versus the court providing its interpretive
language of what the law says. And because they point
to what's just there in black and white, it is highly
likely that -- I shouldn't say highly because -- but it
is possible the Solicitor General simply will not
recommend for an en banc review.

At that point, the case goes back to the
circuit court and the circuit court will issue what is
called a summary judgment. That summary judgment will
come back to the Department of Justice, and then the
Department of Justice will inform the Department of
Agriculture, and then we will have no but to comply with
the summary judgment issued by the court. In all
likelihood, that compliance would -- will entail a rulemaking change. You know, if your regs are not in compliance with the law, you will be told to change your regulations. But unlike rulemaking that we do on a usual basis, where we go out and propose it and then issue it and ask for comments, we will not ask for comments, because we are complying with a court order. It's not -- this isn't a debate. The other alternative that is available, of course, is an alternative that was always open to the industry, and that is a legislative remedy. The industry is always free to go to the Hill and open up the act.

As I -- you know, now you know what we know. We do not know what the Solicitor General is going to recommend, and we do not know what the summary judgment will look like. And frankly, folks, this is the first time I've ever been involved in a case like this, so I don't even know what a summary judgment looks like. I don't think it's going to be very specific. They're not going to say change Section 205, dah, dah, dah, dah, you know? I mean, I don't think courts do that. I suppose it's possible. But, you know, the big question for us and the commitment that we have made, certainly to ourselves and we hope to this industry, is that whatever we have to do, we will do our -- we will press every
limit that we can in order to, you know, minimize the
disruption to whatever extent we can on the industry, as
far as time lines, stream of commerce. Whatever it is
that we can do, we'll definitely take advantage of,
short of risking -- you know, one thing we do not want
to do is become in contempt of the court. That would
invite cutting off your funding, turning out the lights,
you know, all kinds of things.

So that's really where we are. And as I've
told folks before, as soon as we know something, you'll
know it. There's nothing to be gained here by secrets
or, you know, we don't have anything up our sleeves that
we haven't told you about, and more heads are better
than a few heads on this one. So that's where we are.
Any questions?

CHAIRPERSON RIDDLE: Rose?

MS. KOENIG: I just had one question as far as
that. And I know you may not have the answer, but when
that federal notice would come out -- I understand it's
not up for comment -- when is that active, the day that
it comes out or is there a time period for the industry
to adjust?

MS. ROBINSON: That's one of the things we'll
press for flexibility on. That's one of the -- you
know, if the court comes back and tells you to change
your regs to get into compliance with the law, any
agency would try to stretch it out as long as you can.
Well, how long can we take? Now, you know, in all
honesty, I don't know. I mean, obviously, we have a
Sunset provision that's already on the way and you know,
where everything would expire naturally,
October 21, 2007, and that's 30 months away, 30-plus
months away, and that's -- you know, is that good enough
for the court? I have no idea, Rose, I really don't. I
have -- you know, put that on the table, it does
demonstrate that we do have a process under way.

MS. KOENIG: And one more question. Back to
your comment on the remedies. If a remedy was from an
act of Congress, say, you know, a case scenario that
that act of Congress came, I would imagine -- you know,
you make action for Sunset. Say, let's do that -- 207,
and then say there was a remedy prior to that, then I
guess things would be status -- go back to status quo,
maybe. I don't know. But if the remedy comes after 207
and everything's been taken off and now you want to put
things back on, do you have to go through the whole --
you essentially would have to go through the whole
petition procedure to get --

MS. ROBINSON: Well, are you asking, if
somebody fixed this in Congress, would it interrupt the
normal Sunset process?

MS. KOENIG: No, I am talking about -- I'm saying that if something -- we can discuss it later.

MS. ROBINSON: Yeah.

MS. KOENIG: It's sort of scenario after scenario.

MS. ROBINSON: Right, right. I don't know. I mean, it would depend on what Congress does, clearly.

CHAIRPERSON RIDDLE: Bea.

MS. JAMES: Well, now that we know that we have confirmation from the court that, say for example, on one of the issues --

MS. CAUGHLAN: You don't have your mike on.

CHAIRPERSON RIDDLE: Yeah, please, get your mike.

MR. SIEMON: Hold on a second.

MS. JAMES: -- that synthetics are not allowed, going forward, how will we monitor or communicate to manufacturers and producers about that particular issue, and once there is a summary judgment, how are we going watch that and make sure that there's -- that that --

MS. ROBINSON: That there's compliance?

MS. JAMES: Yes.

MS. ROBINSON: The same way that we do now, we...
have a complaint procedure, we have a compliance process. We will, of course, be communicating immediately with all the certifying agents and explaining to them what the summary judgment is, what we have to do. Any changes that we make to the regulations will, of course, contain effective dates in them. And you know, remember, that when we threw the switch on the Program on October 21, 2002, we recognized at that time a stream of commerce issue, and we worked with that stream of commerce issue. And I believe, at that time -- Rick could probably correct me, but I'm almost positive that we said to folks was, you know, if you've got the paperwork to show that this was produced, you know, in this interim period and labeled, you know, no problem. You're -- it's just moving itself naturally through the marketplace. We do not have recall for any in this program, we don't have stop sale authority, so we can't yank a product off the shelf. But we didn't do it in October of '02, so -- but my basically reply is, we will use the same procedures that we have currently to ensure compliance with the NOP.

CHAIRPERSON RIDDLE: Goldie.

MS. CAUGHLAN: Just to point out, though, that, you know, in October of '02, it was up to you. It was up to the Department to make that decision, and that
may not be up to you to make that decision. And that, I think, is what -- it's the guillotine that's hanging.

MS. ROBINSON: You're right, Goldie. As I said, we don't know what this court is going to say to us. You know, I don't know whether they write a decision that says effective immediately or effective when you feel like it or effective within a reasonable time. We don't know.

CHAIRPERSON RIDDLE: Hugh.

MR. KARREMAN: You probably can't answer this, but I have a number of transitioning dairy farmers right now and some that are in their second year, going to be in their third year in a few months. You probably can't answer it, but, I mean, if they're -- when this comes down the final -- you know, when it comes into effect, if the people are in their second and third year of transition doing the 80-20 and they're in good faith doing that, do you think that they would all of a sudden kind of have to start a whole new year of a hundred percent?

MS. ROBINSON: Well, look, I don't envision us -- again, I -- please don't hold me to this. Nobody was doing anything wrong, okay? Everybody has been following the regulation and doing what they are reading, you know, that we say the regulation is
tantamount to the law. So everybody's been following that. Nobody's been doing anything wrong -- well, actually not complying with the regs. So the fact that a summary judgment comes out, doesn't mean we're going to run right out and yank everybody's certification. We're not going to suddenly suspend you because you were following the law; but today the law changes. The -- there is -- there is a court case, in fact, that deals with that, that says that the -- you know, the government cannot retroactively punish for -- for the fact that the laws changed. It can't go back and go get you, and it'd be like going -- the IRS coming back and you know, suddenly saying you, you know, violated the tax code because they changed it in the middle of the year. Well, you don't do that.

Now, I don't -- for the future, from that point forward, Hugh, again, I don't know. But I know that nobody's going to get punished for complying with these regulations up until they get changed.

MR. KARREMAN: What I mean is if a dairy farmer is in his or her seventh month of that year, would they be still allowed to do that 80-20 for the last five months do you think? You probably can't answer it, so -- sorry.

MS. ROBINSON: No -- yeah.
MR. KARREMAN: That's just going to be really --

MS. ROBINSON: There's going to be a million --

MR. KARREMAN: -- really weird.

MS. ROBINSON: -- and one scenarios that people come up with and we're going to have to figure out some way to address them. But --

CHAIRPERSON RIDDLE: I've got a couple questions, and they don't relate to scenarios or speculation, but rather the role of the Board, I guess. You know, what should we be looking at as far as, you know, our work plans and our role, you know, setting aside any legislative changes? Okay. And we get the summary judgment and the rule has to change to comply with the law on these two counts -- so actually on three, because on 606 there'll be a regulatory change there as well. Will the Board be consulted, active player, make a recommendation on these, or will you be pushing --

MS. ROBINSON: Well, I think you're going to hear --

CHAIRPERSON RIDDLE: -- in your position?

MS. ROBINSON: -- you're going to hear from private folks, from folks in the industry, about the
issues that they think you probably ought to be paying
attention to. I don't think that's appropriate for me
right now to stand here and give you, you know, my
thoughts on what your work plan ought to be. As far as
complying with the summary judgment, no, the Board won't
-- I mean, Jim, we really won't have a role in it, I
mean, other than -- if we can pick -- whatever we can --
you know, if we can pick a time frame or something, but
this is kind of like -- for all intents and purposes,
you have heard from the Supreme Court, and basically,
you will be told to -- we will be told to fix it and
that's it. There won't be any, well, what do you think?
How about if we do this? And while we're at it, we'll
do this, and we will be told to fix the provisions of
the regulation that, in the court's words, contravene
the law. In other words, we exceeded the authority
given to us by Congress, and there won't be any
discussion about it.

CHAIRPERSON RIDDLE: But I understood you to
say that you didn't anticipate that they would be, you
know, micromanaging the language of the change to the
rule. So someone's got to -- going to have to draft
those changes to the rule.

MS. ROBINSON: Right.

CHAIRPERSON RIDDLE: And will the Board have a
role in that?

MS. ROBINSON: Well, I actually think that the legal counsel the Department will probably be telling us how to change that language.

CHAIRPERSON RIDDLE: Uh-huh.

MS. ROBINSON: And I don't think that there will be a whole lot of -- you know, truthfully, my best answer to you is, I honestly don't know.

CHAIRPERSON RIDDLE: Uh-huh.

MS. ROBINSON: I don't know how much --

CHAIRPERSON RIDDLE: I understand.

MS. ROBINSON: -- flexibility or who's -- you know, it may just be that the lawyers walk down the hall and say strike this provision, or do this or whatever, because, you know, it's not going to get out of the Department and get published, unless the legal counsel is satisfied that it comports with that summary judgment out of the court, because no one wants to go back there.

CHAIRPERSON RIDDLE: And then my other question -- the release of something on our agenda that we aren't likely to vote on, and that is the synthetic versus nonsynthetic guidance on making those determinations. That really does impact, you know, the fallout from this case. But there's been someone else that's done -- that some of the substances on the
605(b), the synthetics list, are available in nonsynthetic form, and is that something the Board should be looking at, a re-review or a priority review for some of those substances and you know, not to give the appearance of contravening the --

MS. ROBINSON: Right.

CHAIRPERSON RIDDLE: -- you know, will of the court, that oh, all of a sudden, well, they were synthetic but now they're not synthetic.

MS. ROBINSON: I understand, I understand.

CHAIRPERSON RIDDLE: But it has to be based on the science and on -- you know, on this review and following procedures.

MS. ROBINSON: Well, all I can do is feedback to you what you guys have said to us, and that is that you want to have input to these things. So why -- I guess what I'm asking, Jim, is why ask whether you can initiate that? Why don't you just -- why can't you initiate that?

CHAIRPERSON RIDDLE: I like it when you say that.

MS. ROBINSON: Well, I mean, let me put it like this. Suppose we initiated it. What would you be telling me?

CHAIRPERSON RIDDLE: Wait for us.
MS. ROBINSON: Right. Okay. So your question was answered?

CHAIRPERSON RIDDLE: All right. Is there someone who hasn't spoken yet?

MS. JAMES: Jim --

CHAIRPERSON RIDDLE: Yeah, Rigo.

MS. JAMES: -- you know --

CHAIRPERSON RIDDLE: Well --

MS. JAMES: I'm sorry.

CHAIRPERSON RIDDLE: Yeah.

MS. JAMES: But also on that comment, though, we don't want to waste our time, either.

CHAIRPERSON RIDDLE: Yeah.

MS. JAMES: There's so many other issues to be addressed, that if you spend a lot of time trying to help propel something and not really have that voice heard --

CHAIRPERSON RIDDLE: Yeah.

MS. ROBINSON: You know, March 14 is --

CHAIRPERSON RIDDLE: Thank you.

MS. ROBINSON: -- two weeks away, and then, you know, there's a short period of time after that before you'll likely hear back from me. The district court and -- while it may be good to begin to prepare, or certainly prioritize the issues that you think need

York Stenographic Services, Inc.
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to be addressed, I don't know as I'd be sitting down and rewriting 7 C.F.R. a total of five --

CHAIRPERSON RIDDLE: No.

MS. ROBINSON: I think with patience, calm, take a deep breath, everybody just -- I know this is frustrating, believe me, not nearly as frustrating as if I was one of you folks who are producing something, or one of you folks who are supplying the product to producers. But it's generally been my experience that a good approach at times like is just take a deep breath and stay calm and you know, figure out -- look at all of the options and all of the things that could happen, before we just go chasing down one way or the other. And we'll work with this industry as best we can.

CHAIRPERSON RIDDLE: Um-hum. Rigo?

MR. DELGADO: Thank you. Just for clarification, I understand that we still have to wait for the recommendation from the Solicitor General?

MS. CAUGHLAN: Get into the microphone. I can't even hear you.

MR. DELGADO: Well --

MS. CAUGHLAN: Sorry.

MR. DELGADO: -- just for clarification, in fact -- we still have to wait from the recommendation that the Solicitor General is going to give us, correct?
MS. ROBINSON: He's not going to give a recommendation to us, he will make --

MR. DELGADO: Well, he will --

MS. ROBINSON: Right.

MR. DELGADO: What is it, then?

MS. ROBINSON: The Solicitor General makes the decision whether or not to go forward, and he will decide -- he will tell us his decision. But it is up to the Solicitor General whether or not to petition the 1st Circuit Court of Appeals. And as I said, the mere fact -- maybe I didn't. The mere fact that you don't like the decision that you get is not a sufficient reason to petition the court, otherwise, as you know, it would all be -- everything would go to court every day, because there's at least one party that's never happy with the decision. So we have made our analysis known to the Solicitor -- USDA, and it's not me, it's attorneys in the USDA work with the corresponding appellant attorneys for the Department of Justice. Those are the folks that actually represent the U.S. government in court cases. And so they are well aware of the importance of this decision and its implications.

CHAIRPERSON RIDDLE: Rose?

MS. KOENIG: You know, part is my lack of understanding, and I guess the -- I've heard -- of York Stenographic Services, Inc.
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course, different people interpret different things, I guess. But does the NOP feel that it's going to impact all categories of labeling, the 70 percent "Made With," the 95 percent and the 100 percent? Are all of those impacted as far as your analysis on that decision?

MS. ROBINSON: Well, all we can do is read what the court is pointing to, and the court is pointing to the language that says the certified handling operation. So -- and we don't have any more insights. Under your regulation, a certified handling operation is a processor. The certified handling operation has -- could make a hundred percent organic product, they could make a 95 percent organic product, they could make a "Made With" product and make a less than a "Made With" product. They can make anything. The court pointed to the entity and the activity, not to the labeling. So, you know, a feed processor is a certified handling operation. And you know, the court's language -- that the act says no synthetics shall be added during any post-harvest handling or any processing of any such product. A full stop. And that's what we're reading and that's what you're saying, and that's not anything new, that's there in the act.

MS. KOENIG: So would that also impact, in your opinion, post-harvest treatments on things like in
crops, like for example, in ripening of some of the fruits? That's a -- it's a crop material, but it is a post-harvest application. Have you analyzed that or not? I mean, that's just something to think about. I don't know.

MS. ROBINSON: Well, I'm not a lawyer.

MS. KOENIG: Okay.

MS. ROBINSON: Like I said, I'm reading the same language that you are, and it's tied up in synthetics and what you do. Okay, I'm done. That's it?

MS. KOENIG: No --

CHAIRPERSON RIDDLE: Um-hum.

MS. KOENIG: -- this has a -- okay.

CHAIRPERSON RIDDLE: Rose?

MS. KOENIG: Moving off of that whole subject, is there anybody that can -- I don't know if it's fruitful at this point. We did have some questions on those annotations. I don't know if you want -- if you don't want to comment or Arthur doesn't want to comment, but you were discussion some of the things that we were going around the Board with, and one was this annotations or modification of annotations. Is there any clarity or position that the Department has on that discussion?

MS. ROBINSON: You lost me on that one. Can
we back into that?

CHAIRPERSON RIDDLE: Okay. Yeah, the Federal Register notice for Sunset --

MS. KOENIG: Yeah, because Sunset --

CHAIRPERSON RIDDLE: -- and what --

MS. ROBINSON: Oh, oh, oh.

CHAIRPERSON RIDDLE: -- is in play --

MS. ROBINSON: Oh, it is possible --

CHAIRPERSON RIDDLE: -- during those reviews.

MS. ROBINSON: -- that a statement -- you know, that doesn't necessarily mean that the Sunset docket would have to be held up, but obviously, a statement would have to be issued either amending that docket or in that docket that said, effective October 21, 2007, all synthetics -- no synthetics would be allowed for processing.

MS. KOENIG: No, that's not what I was meaning.

CHAIRPERSON RIDDLE: No, no, no, no.

MS. ROBINSON: Oh.

MS. KOENIG: We're getting off that subject.

MS. ROBINSON: Oh, okay, okay. But I thought that's you meant. Sorry.

MS. KOENIG: You don't even have to think anymore about that case.
MS. ROBINSON: All right.

MS. KOENIG: The question was, when we discussed this -- you know, the Sunset in terms of identifying certain materials that have annotations that may trigger review, you know, that discussion we had about technical versus a substantial change in that annotation and would it have to be repetitioned. I don't know if you had thought about that or have a position on that. If not, you know, we don't have to discuss it.

MS. ROBINSON: Yeah.

MS. KOENIG: But I was just wondering if you have anything --

MS. ROBINSON: I don't right at this time. I don't know what kind of flexibility you have on that. Arthur may have something more.

MR. NEAL: We're going to take it under advisement.

MS. ROBINSON: Oh. I guess we're taking that under advisement. Is that a good topic on your response? All right? Nothing else?

MR. SIEMON: -- time, but we're going to let you off easy.

CHAIRPERSON RIDDLE: You're coming back tomorrow.
MR. CARTER:  Jim?

CHAIRPERSON RIDDLE:  Yeah, Dave.

MR. CARTER:  Just one question, a procedural.

CHAIRPERSON RIDDLE:  Um-hum.

MR. CARTER:  And Barbara mentioned the -- the notice on the guidance document, and I'm wondering, do we have anything -- have you thought anything while we're convened how the Board is going to formally, you know, provide a comment on that guidance document?

CHAIRPERSON RIDDLE:  Yeah.  Well, I read it when it first came and made some notes, but then held off on drafting anything for consideration by the Policy Committee, because I wanted to see the collaboration document because I see a linkage between those, and I was quite concerned, in reading the good guidance document, that there was only one reference to the NOSB and that was just as a potential commenter, similar to a trade association, that no role in the formulation and drafting of guidance.  And in reality, we now are engaged in the drafting of guidance and I think that is critical for public confidence in the Program and just good -- coming up with good guidance.

So, you know, Barbara has told us that the draft that she presented us will not be significantly different than the collaboration document that will be
coming out. So I think that the committee should, you
know, take a look at that document. You know, the clock
is ticking. April 4 is the deadline for comments on the
good guidance docket. So I guess I would like to see
that as one of the top priorities for the Policy
Development Committee and you know, get some comments
in. Whether they -- I mean, we won't have them done to
be addressed by the Board at this meeting. They aren't
on our agenda, anyway. But if the Executive Committee
could review those at our next meeting, I will have to
schedule a meeting sometime in March or maybe April 1 to
act on it. But if the Executive Committee can be
empowered to take final action on that Policy Committee
draft, I think that's the best we can do.

And we can't begin public input, we can't
begin consideration of action items here in the
remainder of today, so unless there are other, you know,
discussion items that Board members would like to bring
up, I would suggest that --

MS. CAUGHLAN: Jokes, jokes.

CHAIRPERSON RIDDLE: Jokes. I would
suggest --

MS. CAUGHLAN: A little lightening?

CHAIRPERSON RIDDLE: I would suggest that any
committees that need to do any homework or, you know,
review the materials in the meeting book and we take the
time for committee meetings, and I guess the one
committee I would request to meet is Policy Development,
to consider some changes on the AAFCO recommendation,
because there is some new information coming out of the
Labeling Committee meeting in Phoenix. And so if we
could consider that and if we can meet -- I don't know.
Are there other committees that would like to meet Rose?

MS. KOENIG: I think go -- again, these are
the issues we had with the Crops Committee because
there's three materials. Even though Nancy isn't here,
if members of that committee could perhaps get together
and kind of review the information, I think it would be
helpful.

CHAIRPERSON RIDDLE: Oh. And -- yeah, I would
like to just read this into the record, because we do
have the five new members that introduced themselves and
they do have -- have been assigned to committees, so I
would like to read each of the committees and the new
composition.

So the Compliance, Accreditation, and
Certification Committee: Andrea Caroe, chair, myself,
Mike Lacy, Julie Weisman, and Bea James.

The Crops Committee: Nancy Ostiguy, chair,
Rose Koenig, Gerald Davis, Rigoberto Delgado, and Bea
James.

The Handling Committee: Kevin O'Rell, chair, Goldie, Andrea, Julie, and Bea. If I'm going too fast, just let me know.

But the Livestock Committee: George Siemon, chair, Nancy, Dave Carter, myself, Mike Lacy, Hugh, and Rigoberto.

The Materials Committee: Rose Koenig, chair, Goldie, Nancy, Gerald Davis, Hugh, and Julie Weisman.

And Policy Development: Dave Carter, chair, myself, Kevin, Andrea, and Rigoberto.

And I have asked the committee chairs -- well, the entire -- each of the committees to be looking to the very short-term changes, especially for the committees where the chairs are on their last year of their term, and to have a new committee chair identified, certainly prior to the next meeting, to be passing the torch, as it were, to new committee chairs on short order. So anything else on the committee -- any other committees that need to meet? Any comments?

MR. SIEMON: Maybe Hugh -- but maybe at least -- I think you and I are the only Livestock ones. I'd like to give you --

MR. KARREMAN: Sure. Get that out of the way?

CHAIRPERSON RIDDLE: Yeah.
MR. KARREMAN: Okay.

CHAIRPERSON RIDDLE: Okay, that's not an official meeting. The microphones weren't turned on, so you guys just need to talk. Yeah, Bea?

MS. JAMES: I have a question --

CHAIRPERSON RIDDLE: Yeah.

MS. JAMES: -- about the changeover of the Board and some concerns regarding the new members coming in, and that being almost half of the Board membership, and then next year we're going to be, like, the senior members, I would think. Is that something that we at some point should discuss, or should we save that for another time, or should that be done over the years?

CHAIRPERSON RIDDLE: It is.

MS. CAUGHLAN: Maybe the day after the years.

MR. O'RELL: Yeah, yeah.

CHAIRPERSON RIDDLE: Yeah. And I think it's a real structural problem, and it's something that was a concern of mine when I first came on the Board, because at that time it was, you know, five members going off three years in a row, and then two years where no one. It's staggered a little differently, but now we're going to get a year where there's six members that go off. And at that time, I propose the matrix to transition into three members every year, so then you've always got
12 members for continuity. There may be some problems
with OFPA, but I don't -- I don't know. But to me, I
invite the new Board members to tackle this and try and
propose something to get more continuity.

MS. JAMES: Well, yeah. I mean, I just have a
lot of concerns about it, because I know that even
though we all have our respective expertise, that as a
Board committee that's doing something so important,
that the senior membership is, like, critical for
success. And it just makes -- I mean, you know, when I
volunteered for this position, nobody told me I would
be, like, a senior member in a year.

CHAIRPERSON RIDDLE: You've never advanced so
fast professionally.

MS. JAMES: Yeah. And I rely on the expertise
of the people who have been doing this for, you know,
five years, four years, to help mentor us into how to --
how to do this, because it's not only studying and
learning the different respective areas that need to be
addressed, but it's also the process, which is something
that you can't learn except from somebody who's been
doing it.

CHAIRPERSON RIDDLE: Um-hum.

MS. JAMES: So I just -- you know, I just want
to bring it up, but I don't know if it's -- I feel like...
even though I'm bringing it up, it's kind of like, well, you know, give me the turkey, because that is not --
that there's nothing you can do about it.

CHAIRPERSON RIDDLE: Uh-huh.

MS. JAMES: But it is something that, as us as
just the group, I would like to be able to discuss.

CHAIRPERSON RIDDLE: Um-hum. Yeah. OFPA
clearly prohibits a Board member who's served a full
term from being reappointed, so that's not an option.

MS. KOENIG: Jim?

CHAIRPERSON RIDDLE: Yeah, Rose.

MS. KOENIG: I mean, one option would be not
only for this present group, but NOP could cordially ask
past NOSB members if they're willing to serve as a
mentoring group. They could not vote, but they could be
-- they could have a list of those still -- the past
Board members that are still interested in
participating. But, you know, they can't serve as --
and I don't know. I mean, that's something maybe you
should think about as a new member, in what capacity do
you think people could be utilized.

MS. JAMES: So if the Board now was to try to
create something like that and make it inviting so that,
you know, previous charter members could come in and
help mentor us and still get some of the support from
the USDA for funding that, is that something that we could propose?

MS. CAUGHLAN: You could propose it.

CHAIRPERSON RIDDLE: Yeah, yeah, to Dave and -- and I'm just looking in OFPA and under term, a member of the Board shall serve a term of five years, except the Secretary shall appoint the original members of the Board for staggered terms. And they were appointed on staggered terms, but just three years out, that's why you got five, five, and five. But it does not say that it's locked into those staggering rotations as such. So that could be a change recommended, or, you know, keeping advisors or mentors on. I mean, we love coming to these meetings.

MS. JAMES: I'm sure.

MR. SIEMON: It might be a fine line between staggered and staggering.

CHAIRPERSON RIDDLE: Staggering terms.

MR. SIEMON: Yeah.

CHAIRPERSON RIDDLE: Yes. Dave?

MR. CARTER: Well, no, you brought up the point I was going to make, was the five years. But just from an anecdotal side, Bea, the thing that you will find is you will become less impressed with the senior knowledge the more you work with us.
MR. SIEMON: Thanks, Dave.

CHAIRPERSON RIDDLE: Rose, again.

MS. KOENIG: The other thing, too, that, you know, maybe we could work within, right now there is a green -- you know, the green book out there that -- that well, Michael Sligh has. I know he's made copies for the new Board members, and we receive those. Those are a compilation of the old minutes. There are minutes that are on the web, at least for 2001. So certainly there are tools out there to kind of get yourself up to speed on some of these issues. So just maybe we can give you guidance as far as some of those resources, also. And -- but, I mean, I think we're all open to thinking of innovative ways to utilize past knowledge. I mean, you can always call individuals.

MS. JAMES: Right. And I'm not just, you know, thinking of myself on this Board, I'm thinking of --

MS. CAUGHLAN: Structurally.

MS. JAMES: -- structurally going forward into the future that to be the most effective would be to always kind of deal with -- encapsulate some of the wisdom from the people who have been doing it for awhile.

CHAIRPERSON RIDDLE: Um-hum. Yeah, and
speaking of one, Kim has something to offer.

MS. DIETZ: Yeah, we had a great discussion at length on the very topic, so I encourage you to pull up the past recommendations of the Board, because we tackled this for a couple of years knowing this day was coming, and we certainly didn't just drop it on you, Bea. We really tried to improve the rollover period. The other thing is, I noticed that Bea was on three committees and I would encourage you not to join more than two.

MS. CAUGHLAN: Somebody just got three seats.

MS. DIETZ: There's a tremendous time commitment, calls and that sort of thing, that you don't want to spread yourself too thin. It takes a lot work, so just think about it. Maybe that should be in the policy manual, that you try not to be on more than two committees, especially if you guys are going to be chairing probably next year.

CHAIRPERSON RIDDLE: Well, there are quite a few people on three committees.

MS. WEISMAN: Yeah, we all are.

CHAIRPERSON RIDDLE: Yeah.

MR. O'RELL: Um-hum.

CHAIRPERSON RIDDLE: Sorry. You know, I'm just --
MS. CAUGHLAN: But it doesn't mean it's the --
CHAIRPERSON RIDDLE: -- the only lucky one.
MS. CAUGHLAN: -- effective use.
CHAIRPERSON RIDDLE: No, no, but we have six committees and 15 members.
MS. CAUGHLAN: Fourteen.
CHAIRPERSON RIDDLE: Well, in theory, we have 15. Okay, we're definitely leaning towards the staggering. Any other comments before we break for some committee work?
MS. CAUGHLAN: A restroom break.
CHAIRPERSON RIDDLE: A restroom break. Okay, well, we will recess for today. And then we --
MR. CARTER: The Policy Committee will reconvene here in about 10 minutes.
CHAIRPERSON RIDDLE: In 10 minutes, and we reconvene for a public input session tomorrow morning at 8:00 a.m.
MS. KOENIG: Perhaps, also, I don't know -- there may be some overlap, but if perhaps -- at least the people that are members, if we can reconvene in about 10 minutes, and then if we have to set a different time because you've got other committee obligations, we can meet at --
UNIDENTIFIED SPEAKER: Like at 6:30.

CHAIRPERSON RIDDLE: But we already know that.

***

[End of proceedings]

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CERTIFICATE OF REPORTER, TRANSCRIBER AND PROOFREADER

IN RE: National Organic Standards Board

HELD AT: Washington, D.C.

DATE: February 28, 2005

We, the undersigned, do hereby certify that the foregoing pages, numbered 1 through 117, inclusive, are the true, accurate and complete transcript prepared from the reporting by the reporter in attendance at the above identified meeting, in accordance with applicable provisions of the current USDA contract, and have verified the accuracy of the transcript by (1) comparing the typewritten transcript against the reporting or recording accomplished at the meeting, and (2) comparing the final proofed typewritten transcript against the reporting or recording accomplished at the meeting.

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IN RE: NATIONAL ORGANIC STANDARDS BOARD MEETING

Meeting held on the 1st day of March, 2005
at 8:00 a.m.

The Washington Terrace Hotel
1515 Rhode Island Avenue, NW
Washington, D.C.

TRANSCRIPT OF PROCEEDINGS

03-01-05 NOSB Meeting Participants

Chair: James A. Riddle
Vice Chair: Kevin O'Rell
Secretary: Goldie Caughlan

NOSB Members: Andrea Caroe
               David Carter
               Gerald Davis
               Rigoberto Delgado
               Bea James
               Hubert Karreman
               Rose Koenig
               Michael P. Lacy
               Nancy Ostiguy
               George Siemon
               Julie Weisman

NOP Staff: Richard Mathews
          Arthur Neal
          Barbara Robinson
Public Comment:

Nathaniel Bacon, NOFA Vermont
Clark Driftmier, Aurora Organic
Juan Velez, Aurora Organic
George Wright
Robert Hadad, Humane Society of the United States
Harriet Behar
Mark Kastel, Cornucopia Institute
Blake Alexandre
Rich Ghilarducci, Humboldt Creamery Association
Nancy Gardner, NODPA
Henry Perkins, Maine Organic Milk Producers and NODPA
Roman Stoltzfoos, Lancaster County Organic Farmers and Natural By Choice
John Stoltzfoos
Jim Gardner
Urvashi Rangan, Consumers Union
Dave Johnson, NODPA
Cathy Arnold
Kevin Englebert
Kathleen Seus, FACT
Cameron Wilson
Adam Eidinger, Organic Consumers Association

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CHAIRPERSON RIDDLE: Good morning. I'd like to call the meeting to order and I'd like to thank you all for coming. We have a lot of issues before us at our meeting and certainly look forward to your comments and we'll do our best to represent the interests of the entire organic sector as we move forward. I have a couple of announcements before we start. Probably the most important is to let you know where the restrooms are and you have to go around the registration desk and then down to the lower level and then straight on ahead is where the restrooms --

UNIDENTIFIED SPEAKER: Or up on the second floor.

CHAIRPERSON RIDDLE: -- or up on the second floor there's restrooms, as well, so up or down, your choice. And then I also wanted to let you know that Nancy Ostiguy, one of the Board members, was driving in from Pennsylvania, or hoped to be last night and because of the storm, is hoping to be driving in today, so she'll be missing the public comment, but hopefully will be here shortly after lunch in order to take part in our meeting. And Dave Carter will be leaving about 9:30 to go to the Capitol where a new buffalo nickel is being

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introduced and Dave is Executive Director of the National Bison Association and they'll have Cody the trained buffalo there and so Dave does need to be gone for a little while, but he'll be taking pictures.

And yesterday we talked a little bit about what constitutes a quorum and decisive votes and there was a little confusion about that. I've looked in the Board Policy Manual and under OFPA, a quorum is a majority of the Board, so we have 14 members on the Board, so a quorum is eight. So at any time we need to have eight members to have a quorum to conduct business. And then for decisive votes, it's two-thirds of the votes cast of the number of members present at that time for a decisive vote, so it does not take ten, necessarily. If we had all 14 here, then two-thirds of that would be ten at that time, but we only need eight to have a quorum to conduct business. So I just wanted to clear that up.

Okay. We'll start with public comment and we've had a sign-up sheet, or people, according to the Federal Register notice, needed to sign up in advance and really the time allotted for public comment today filled up and if you aren't on the list for today, well, during the first break you might check your name here, but you might also see if there's someone who's on the
list who would be willing to trade, but there are plenty
of slots available for Thursday comment, so you can
still sign up as a walk-in for comment on Thursday
morning.

And before we start with the commenters, I
would just like to read the rules for public commenting
that are in our Board Policy and Procedures Manual.
Well, all persons must sign up in advance and you'll be
called upon to speak in the order that you signed up and
unless otherwise indicated, each person will be given
five minutes to speak, and that's what it said in the
Federal Register notice; a person -- you need to give
your name, an affiliation before you give your comments,
so please try and remember that so I don't have to take
time reminding you.

And you may submit a written proxy requesting
that another person speak on your behalf and you can
come with a proxy from someone else and receive, you
know, speak on that person's behalf, as well as your
own, if you signed up, for a total of ten minutes, but
not to exceed ten minutes. You can't bring more than
one proxy. Or you can bring them, but they're not going
to give you any more time, so the maximum is ten. And
Goldie will be the timekeeper and she will, at four
minutes, hold up a sign giving you a warning that
there's one minute left, but if you don't see the sign, that's not her problem. Your clock keeps ticking and she will let you know when five minutes has expired and I will let you finish your sentence. So summarizing, concluding your remarks, but please respect the rule for everyone else's benefit.

And the last rule here is that individuals providing public comment will refrain from any personal attacks or from remarks that otherwise impugn the character of any individual, and that includes attacks on the Board members, attacks on USDA staff, attacks on any other individuals, either individual persons or companies, So please refrain personal attacks. I know there's a lot of passion. We don't -- we like passion. Passion is a good thing.

But if you engage in personal attacks, well, that will detract from your comments, for one thing; so it doesn't do any good. If I sense that there's a personal attack going on, I will call that to your attention, ask you to please rephrase your comments. If you persist, I will ask you to conclude your comments. So just a fair warning there. And the most helpful comments -- you can talk about anything, it is a public forum, but the most helpful comments are those which are directed at our agenda items that help us do a good job.
of representing you, our stakeholders. So with that, are there any comments, announcements from members of the Board before we start? George?

MR. SIEMON: Could you tell people that the list for the next ten, so people -- what the order is, or -- is there a list --

CHAIRPERSON RIDDLE: Yeah, I've got it.

Thanks.

MR. SIEMON: It just seemed like the queue up --

CHAIRPERSON RIDDLE: Sure, yeah. And I will always, when I call a person, let you know who's on deck, but I'll give the first five that we have signed up. First would be Nathaniel Bacon, then Mark Retzloff, Dr. Juan Velez, Clark Driftmier, and Mark Lipson are the people who have signed up in advance, so -- okay, anything else, members of the Board? All right, everyone's clear on the rules and we'll proceed. All right, Nathaniel Bacon, NOFA Vermont. Yeah, and you'll speak at the podium.

***

provide information about organic dairy production,
assist farmers through transition and do financial
planning with farmers. NOFA Vermont currently certifies
85 dairy farms in Vermont and about 15 to 20 new dairies
transition every year, so organic dairies are a real
bright spot in Vermont agriculture. Many of these farms
need to make significant investments towards
transitioning, conservation improvements and setting up
grazing systems for their animals that meet, what we
believe, is the intent of the organic standards; that is
all milking cows and older heifers graze fresh pasture
as a critical part of their nutrition, health care and
living conditions. We firmly believe that is what both
consumers of organic milk and the vast majority of
organic dairy farmers want. To do otherwise is simply
not organic farming.

I think it's important to remember that
there's no basis to discuss whether organic livestock
should be pastured or not. Pasturing is already
required in the rule; it is just being enforced
unevenly. We do need to find a way to clarify this
standard in a fair way to consumers and farmers. The
NOSB and not the recommendations do this and adoption is
needed to maintain the integrity of organic agriculture.

In the past several years, effective pasture standards
have been proposed but have not yet been acted upon. This inaction is causing a major rift in the organic community and needs to be resolved.

NOFA Vermont strongly supports a clear pasture standard that ensures all organic ruminant livestock, including milking cows, receive good pasture as a significant part of their diet. We support both the NOSB and not the pasture recommendations to put some teeth in the law. Currently, the vague wording of the pasture standard creates great difficulty in certifying dairy farms and creates an unfair playing field between dairy farms and between certifiers. Ask ten people what "access to pasture" means and you'll probably get ten different answers. But there is a research consensus on parameters that define a grazing dairy farm. Dairy farm business summaries out of both Cornell and the University of Wisconsin define grazing farms as those which provide, at minimum, 30 to 40 percent foraging pasture during the grazing season. This should be the basis for the organic pasture standard, as well.

I want to be clear. NOFA Vermont understands and supports size-neutral organic standards. This is not an issue of large farms versus small farms. If a large organic farm sets up an adequate grazing system that includes lactated cows eating green grass, it
should be certified. Large-scale grazing dairies do exist in the U.S. and internationally. Because the standard's so vague, organic farms of all sizes may be getting around the rules. The issue is when a farm seeks to avoid pasturing out of inconvenience or inadequate land base. In our opinion, adequate grazing acreage needs to be planned, just like alternative livestock health care and organic feed sources need to be planned.

We also recognize that regional and climate differences exist in respect to grazing, however this doesn't mean that the pasture standard can be simply ignored or marginalized. Organic agriculture has always recognized that in order to be sustainable, farming must be adapted to the location. It would be essentially impossible to grow pineapples in Vermont due to our cold winters. There may other areas of the country you simply can't raise organic dairy cows due to lack of pasture.

In closing, I want to take off my certifier hat and say that in my spare time I work on a 125-cow intensive grazing dairy farm. I see the many benefits of pasture directly. Many of the environmental and animal health challenges that we face during the winter barn season go away May 1 when the animals go out to

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grass. Not coincidentally, this is also the time when visitors to the farm show up. They know that pasture is the natural place for a cow. Grazing research bears this out. In Cornell's 2003 dairy farm business summary, the cull rates for grazing farms were 25 percent lower than cull rates for confinement farms. Vet and medicine costs were 67 percent lower for grazing farms than for confinement farms. It's clear to cows and farmers, consumers, and most certifiers, that pasture is essential. I hope it's clear to the NOSB and NOP, as well. Thank you.

CHAIRPERSON RIDDLE: Thank you. Oh, Nat, question. Hugh?

MR. KARREMAN: Nat, when you mentioned the Cornell and the University of Wisconsin definitions of grazing dairy, you said 30 to 40 percent grazing. Is that just as nad [ph] or dry matter or what?

MR. BACON: It's on a dry matter basis, is my understanding, yeah.

MR. KARREMAN: Okay, thanks.

CHAIRPERSON RIDDLE: Okay, Mark Retzloff and then Dr. Juan Velez is next on deck.

***

MR. DRIFTMIER: Good morning. Mark Retzloff from Aurora Organic is indisposed. He went home sick,
so I'm another speaker, Clark Driftmier from Aurora Organic. I will speak and then free up my spot, so if someone else wants to join the list, we've got an extra spot. Good morning.

COURT REPORTER: Could you spell your name, please?

MR. DRIFTMIER: Excuse me?

COURT REPORTER: Could you spell your name?

MR. DRIFTMIER: Sure, Driftmier. Drift as in snow drift, M as in Mother-I-E-R. First of all, I'd like to send all of my greetings from the fellow employees at Aurora Organic, our farms, our farm workers, certifiers in Texas and in Colorado. It's a great pleasure to be here and to see many of you again and to see many of you for the first time. The first is overall all of the people in the organic sector need to be supportive of NOSB and the great work in the National Organic Program and I just wanted to start out by saying that Aurora Organic is very, very supportive of this work and just to clarify one thing, we will, without hesitation, follow all guidelines and interpretations and all of the rules in the guidance documents of the NOP and also the NOSB. We're very proud to be members of this industry and we're a hundred percent supportive of what you all are doing and want to follow that.
The second thing I'm going to say is that all of the decisions that should be based, made in the pasture issue and in all issues need to be science-based. There's quite a bit of science that has been published. In my belief, not enough of that science has been brought forward for discussion; some of it has, a lot more of it needs to be and I highly encourage both the NOSB and the National Organic Program to use science as the basis for all the decisions, all the recommendations in guidance documents. Included in this, I think that there should be a multi-day major science forum on the issues of organic and organic pasture where all of the different opinions and all of the different research documents to date can be fielded where people of all persuasions can partake of that science to help make science-based decisions.

The next thing I wanted to say is that the management of everything regarding managing an organic dairy should remain interpretive as it was designed in the original OFPA in 1990 by the writers of OFPA and by many who are in this room and even at this table, rather than to become overly proscriptive. The diversity of conditions across the country is so great that an overly proscriptive law, particularly one that is based on arbitrary measures and certain percentages, et cetera,
will not work across the broad diversity of agriculture in America.

I also want to say that the growth of organics and the mainstreaming of organics is a very good thing. In my own functional area, I'm a sales and marketing guy. I have seen organic move from the very, very fringe of society, if not to the very center of society, at least a little closer to the center of society than it used to be and this is a very good thing. This affects NOSB and NOP policy, as well. Everything should be done to encourage the maximum growth of organics; growth in all different sectors, growth in all different scales, growth in all different geographies. And I would like to say specifically that I believe that every geography in the United States is a wonderful place to have organic dairy.

And the last thing I'd like to say is that in this whole process we all need to work together. As Jim so rightly stated, organic is populated by people of great passions, people of strong opinions, people whose opinions are not changed easily; there is a way to go about our debates with professionalism and collegiality and respect. The world is watching us, we do live in a glass house and the true enemies of organics stand aside smirking whenever we disparage or attack one another.
So I would just like to encourage everyone here to follow professionalism and collegiality and respect in all of our discussions. Thank you very much.

CHAIRPERSON RIDDLE: Thank you, Clark.

Questions? Okay. All right, next Dr. Juan Velez and then Mark Lipson is up, but George Wright would be after him if Mark's not here.

***

MR. VELEZ: Good morning. My name is Juan Velez, V-E-L-E-Z. I am the Director of Farm Operations for Aurora Organic dairy, both Texas and Colorado. I want to thank the NOSB and the NOP for giving me the opportunity to speak this morning. I want to start by saying again that I heard something very, very important yesterday. Jim Riddle -- this is not a personal attack -- said something very important yesterday. He said it has to be done based on science and we just heard Clark saying the same thing.

Just to start, I think that we all agree very, very well that the access to pasture rule or recommendation is extremely important, specifically for three major areas of animal husbandry. The animal welfare, animal health and natural behavior of the animal. Dr. Temple Grandin, a world-renown research and an expert in animal behavior and animal welfare, made a
comment at the last American Dairy Science Association
meeting where she pointed out that the two major points
to take consideration in when you are -- about animal
welfare on a dairy farm. Body conditions of the animal
and the percent of cows that are lame at the particular
farm. Those are the summary of all the research that
she had done at dairies, extremely critical.

I've also found out some interesting articles
on -- that come from Europe. Researchers from
Switzerland in 2004, where they did some analysis of
percent of lame cows and injuries of the hock joints on
animals that were housed in a tie stall system during
the winter, but they were grazed during the grazing
season and they compared the number of injuries of the
hock joints in those cows that were in tie stall versus
cows that were on a loose housing system during the
entire year; much higher incidence of hock joint
injuries and also a higher incidence of teat injuries on
those cows that were not tie stalled during the winter.

Also, we have found that due to the highly
domesticated dairy cow that we have today and the highly
genetically selective dairy animal that we have today,
it's very difficult to maintain adequate body conditions
scored on these highly producing dairy cows when they
have only grazing as a nutritional system. Research at
Penn State University demonstrated that cows that go from a diet that would store feed to a diet on -- based on grass, lost significant body conditions score at the end of the grazing season.

I believe that this -- some objective way to measure adequately animal health that could be evaluated from a farm-to-farm, season-to-season across the entire United States. Measurements as body conditions scored percent of lame cows -- percent of cows that are chewing their cud. In other words, ruminant at any particular time as an indication of rumen health are very important factors, also as a measurement of reproductive health, we could evaluate very easily the calving interval of different dairies across the country regardless of their living conditions.

On the aspect of animal behavior, I think that we all can agree that the cows can express at freedom their animal behavior when they're grazing. My question is does that freedom of animal behavior during the four or five months of the grazing season compensate for the complete depression of such behavior during the winter time? And just to leave you with a question, do we think that we, as an industry, should reconsider, when we talk about animal behavior, the use of artificial insemination? I want to thank you again for the time.
that you have given me. That's all I have. Do you have any questions? I knew that Hugh would have some.

MR. KARREMAN: Just one question. I know from your, Aurora's two letters, at least the first one that you sent back and from what you're saying now, body condition score is a very important indicator of how -- it's in my experience with my grazing farms that -- I'll agree with you that cows drop in body condition when they go out on grass, but they're not only on grass and they're being supplemented, as well, so at least in my area of southeastern Pennsylvania I find body conditions score, indeed, becomes a little less than more during the grazing season, but it's not to a pathologic end. I think body conditions score, you have to look at it -- if we're talking health versus disease, which you're talking about health, I'd say if you get a body conditions score of less than about 2 and probably greater than about 4.3 to 4.5 in standard body conditions, scoring 05 [ph], you get on either end, you're going to have health problems. But I think anywhere in-between, they are within normal range and even cows in confinement can drop in body conditions score two points when they're fresh, when they're milking 150 pounds or whatever, they get pretty lean. So I'm not so sure I agree with body condition tagging.
right with the health, total health of the cow.

MR. VELEZ: Definitely, I agree with you. My point being is it's a measurable evaluation of a global, overall health of a dairy herd, usually regardless of whether it's in confinement, loose housing or 100 percent pasture, 30 percent of dry matter pasture, you could identify a farm that is in trouble due to a lack of adequate nutrition, whether it's over-feeding and you find five percent even though when we talk about health, when we talk about animal welfare, what I'm referring to, as Dr. Temple Grandin is, yes, every animal that is on the 2.0 body condition is an animal welfare issue. My point is you can measure that and evaluate that across different systems. But I agree with you that there's no such an ideal that it can -- I mean, there's not anything between 2 and 4.2 is healthy even though there's some variation depending on the systems, yes.

MR. KARREMAN: That's a good objective way to look at things, for sure.

MR. VELEZ: Yes.

MR. KARREMAN: One of the objectives.

MR. VELEZ: Exactly.

CHAIRPERSON RIDDLE: Yeah. Okay, Bea.

MS. JAMES: I appreciate your passion and actually, the people who have gone before you, also,
describing and talking about your concerns. I'm new, so
I'm learning about, you know, how you're explaining your
position, that it would be really useful for me if you
could tell me exactly what it is you want.

MR. VELEZ: What I exactly want is to express
my concern on the lack of fundamental evaluations and
research done in the areas to say that one system is
better than another system on -- in regards to animal
welfare, animal health and natural behavior. I have
difficulty finding out that one specific -- in the
literature, that one specific system is better on those
two factors than another system because when you read
the literature, it all goes down to good management of
the health, welfare and natural behavior, overall. In
other words, there's grazing systems that are -- that
could be terrible to all three of those factors and
confinement systems or loose house systems that are
terrible to all those factors. So I think that as an
industry, we could evaluate and measure across the
country with some specific objective measurements to
compare such systems.

CHAIRPERSON RIDDLE: Okay, thanks. Rose.

MS. KOENIG: I think, on a scientific basis,
it's fairly difficult to -- you can evaluate systems,
different parameters within a given experimental --
system, but the variability between -- I don't think it's as easy as you suggest. I mean, science is a tool, it's an evaluation tool, I agree there could be answers in science, but I don't think it's as simple as you're suggesting, because I think there's many factors and many variables in the systems and if it was so easy, I think some of that research would be conducted. So I don't -- I just don't want you to simplify those kinds of things --

MR. VELEZ: No, I -- I apologize. I didn't mean to simplify. It's a very difficult task.

MS. KOENIG: Yeah. And I think that the thing that I don't -- in one sense, there's this concept of using measurable indicators and say -- and I think that's actually the regulation -- you know, a good farmer -- I'm not an animal farmer, but I am a crop farmer, and you should be collecting that type of data to evaluate your system already. That's a requirement, as I understand, in the regulation. So I think that that's a good management practice and it probably should be conducted out there because I know we do it on our farm, evaluating our practices and -- but from the last person -- there seems like -- there seems to be this idea that you want flexibility, you don't want any numerical values in the recommendation or the definition
of access, yet you want to use numerical values to
evaluate -- so in my opinion, if you go down that line,
okay, this is my own opinion, you can't pick and choose
in some ways, that values do have an important role and
I think that, in my opinion, if you really want clarity
-- now, I'm not saying I know that number or that
percentage, be it dry matter, it could be in acreage, I
don't know, but I think that that's probably the most
clear-cut way for all farmers, but it has to be
appropriate to various geographical areas and --

MR. VELEZ: Yeah, and I'm very glad you asked
that and pointed it out and asked the question because
when we -- what I'm trying to say is if we become
extremely proscriptive on pasture, we don't have a
reason to say that 30 percent or 45 or 15 or 25 is going
to create a better, a healthier cow, is going to allow
the cow to express a behavior any better because it's
four months of the year and it's not going to for sure
provide you with a healthier animal, or is it going to
be a better well-being animal. However, what I'm saying
is if we are going to measure, we should measure
objectively what represents those three characteristics;
welfare, well-being and animal behavior, because if we
become proscriptive in a system, you can only feed so
much grain, we will be -- we'll be not allowing the
management system to get to the final objective, which is those three things, optimize those three things.

CHAIRPERSON RIDDLE: Yeah, and I don't want to prolong this; we have a lot of other speakers. I have a comment and question, I think there a couple of other Board members that still do, but I -- and to me, these factors come together in a quantifiable way by looking at number of lactations. You can assess, you know, the reproductive health, body score in a very simple quantifiable by looking at number of lactations, you know, to compare. You didn't mention that and I would just like your reaction to that --

MR. VELEZ: Definitely.

CHAIRPERSON RIDDLE: -- the lifespan of the animals on the farm, in other words.

MR. VELEZ: Definitely. What -- that -- two things about that. I think that it has be done after the farm has been in business operating for several years --

CHAIRPERSON RIDDLE: Sure.

MR. VELEZ: -- first of all, and second of all, I think that the problem with that one is that culling is an economic decision, not necessarily a welfare [ph], natural health or natural behavior decision. And any farm, small, large, big, medium is
making that culling decision based on economics, whether
the cow is producing, you know, milk or not. And I
think that is a little bit skewed in the organic
industry because of the price of milk, if you compare it
to the conventional business because the price, the
current price of milk is a big factor in the culling
decision, so it's more of an economical decision, not
necessarily a health decision.

CHAIRPERSON RIDDLE: Well, it certainly --

MR. VELEZ: There would be --

CHAIRPERSON RIDDLE: It certainly can be part
of a health maintenance program, as well as genetics,
too, so --

MR. VELEZ: Definitely. If you identify the -
- reasons extremely well in your records and you can
differentiate voluntary culling versus involuntary
culling, definitely.

CHAIRPERSON RIDDLE: Other Board members,
quickly. Hugh.

MR. KARREMAN: Juan, I just -- as a fellow
veterinarian, I totally agree that things should be
science-based. For the short time I've been on this
Board, however, I've found that science is not
everything and while I still will maintain that things
should be scientifically based and not just have

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anecdotal stories here and there patched together, in
between there, there's reality and we, as a Board, have
to consider what the organic consumer thinks of when
they think of organic dairy cows, so I think we have to
keep that in mind.

MR. VELEZ: Definitely. I -- let me -- yes, and I think that we should also look at the research on
that aspect and see what percent of organic consumers
are drinking organic milk because cows are on pasture or
because they have 20 percent grain on the ration or is
it just because they care about their own health. I
mean, I think that we should look at the research -- and
not just think that it is because -- thank you.

CHAIRPERSON RIDDLE: Um-hum, good point.

Dave.

MR. CARTER: Yeah. Juan, very briefly, thank
you for your comments. I think one of the things that
all of us, in looking at organic systems is, it is not
just about animal health and it's not just about the
health of the land, but it's the interrelationship of
the two. And I know that you're concerned about overly
proscriptive approaches, but how, you know, how would
you view, looking at some of the NRCS, you know, areas
where they take a look at the carrying capacity of
various regions and the like and using that as some
guidelines as to how we approach the access to pasture.

MR. VELEZ: I think it's important, very critical, very important and it is -- it got some science base and like Clark said earlier, I mean, we as a company, are definitely dedicated to comply with whatever is decided, definitely, and I think that is a very good approach.

MR. CARTER: Thank you.

MR. VELEZ: Thank you.

CHAIRPERSON RIDDLE: Next is Mark Lipson or someone carrying his proxy here?

UNIDENTIFIED SPEAKER: Can you put that to the bottom of the list?

CHAIRPERSON RIDDLE: Yeah, I can keep that open. Then we have George Wright and next up, Robert Hadad.

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MR. WRIGHT: Good morning. I'm not very good at this. To be honest with you, I'm scared to death but --

MS. CAUGHLAN: We don't bite, we really don't bite.

MR. WRIGHT: I have no scientific information. I'm a passionate dairy farmer from northern New York, wife and I farm 50 cows. We farmed for several years
conventional, switched over to organic production five
or six years ago. We love the life style, we love the
-- we love people coming to us; people drive by the
farm, they look for cows in pasture. They say this is
beautiful. And many of my family and relatives believe,
or that's what they think farms are, is our little farm
up there on the hill with 50 cows wandering around out
in the pasture and we do supplement some of their
pasture with some feed, but for the most part -- and
we're just barely on the Canadian border in northern New
York -- we don't have much of a growing season, but we
can a hundred percent graze our 50-cow herd.

We have set it up, we have made it this way to
a hundred percent graze our 50-cow herd for 120 days and
then we have to supplement a little bit each side of
the, each end of the growing season, but -- so we have a
few months in the winter, probably -- well, between four
and six depending on how spring and fall treat us, that
we have to feed them everything they get because there's
nothing there to eat.

But now to read my speech, and I'm not trying
to be a smart aleck or anything with this, but I believe
that some of the best reasons to support the pasture
policy that NOFA's presenting here today with some
numbers, is to eliminate some of the consumer doubt and

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possible consumer fraud, only -- I mean fraud to the consumer. And I'm not going to stand here and say that grazed milk is better than confinement milk because I have no scientific proof of it, I'm not a -- I just gather information from what people tell me; I'm like a human sponge. And my concern is most of the organic consumers that I know, and my family, extensive family of a hundred or so people, believe that they're paying a premium price for product that is produced by cows grazing on green grass in sunny pastures and -- I lost my place. Oh, yes.

Even in the conventional market, milk marketing, you don't see any commercials on television or pictures on milk cartons with cows standing in a free style situation, a confinement building, bellied up to a feed bunk getting their lunch. You just don't see that kind of commercials out there, so if it's that great a thing, then why aren't we advertising it?

I just think the consumer is being lied to a little bit about where their cows are coming from. They're being portrayed as being pastured, but many of them are not being pastured -- the cows, I mean. I guess. And I'm just afraid that this is going to, in the long term, damage what I consider to be one of the greatest things in the world, the organic dairy market.
right now, is because consumers will lose confidence in
the product if they think it's all created on factory
farms and once this gets out, it seems to just keep
snowballing. And not that I have anything against the
factory farms; I feel they have their place in society.

They -- I guess I'm just going to wrap this up
as you folks on the Board here, which is an honor to be
in this country where we're able to do this kind of
stuff, stand up and run our mouth. You people on the
Board are -- have got a real important task ahead of you
and as you're deciding some of these things that you're
going to hear about pasture and this and that, to please
remember that you're not -- you're sending a message and
I assume it's probably going to affect USDA and anybody,
any other organizations that you folks are -- contact,
that whatever your decision towards pasture is going to
largely affect the outcome of dairy farming in Vermont,
I mean, in the nation as small farms.

I mean, you know, the conventional market,
almost all the small farms are now selling out, so we're
running out of small family farms. I mean, we're
going giant family farms, so -- I mean, you guys are
faced with a monumental task and all I ask is please do
-- think with your heart and try to do the best thing
that you can. Thank you.
CHAIRPERSON RIDDLE: Thank you, George. Bea, a couple --

MS. JAMES: I have a question for the gentleman.

CHAIRPERSON RIDDLE: You don't get off that easy.

MR. WRIGHT: I thought I had it made. It was quiet there for a minute.

MS. JAMES: I really appreciate hearing from you and from the real farmer, you know, a small farmer who's not used to coming out and talking in front of a group of people. I appreciate that, so thank you for that. But when you say you want us to think with our hearts and make sure we do the right thing, what would that be to you?

MR. WRIGHT: Well, all I'm saying -- I mean, you guys are talking science and I was thinking about this when I was listening. You know, science is a good thing, but science is a lot of times twisted a little bit with consumer perception and -- or you know, perception of people, the passion of things. I mean, you know, like saving the whales and stuff like that. Big business certainly didn't want that to happen or anything, but some of the organizations out there that brought it to the people's attention got the public to
denounce, you know, that kind of treatment of that animal. So I -- and that's where I just think that we've got to be careful. This is largely a public perception of what the industry is, the dairy industry. Is it still fuzzy?

MS. JAMES: So what you're saying is that you would like to see what in regard to pasture, exactly?

MR. WRIGHT: Well, I fully back the -- you know, the 120 days minimum, 30 percent dry matter and whatever the other couple things were they had in it, but just as a guideline -- and I mean there can be some -- as far as I concerned, it could be a little fuzzy logic on that. There's going to be dry years, there's going to be wet years. The main thing is to go onto a farm and actually see that there is some kind of a grazing system on this farm. You know, I'm not looking for specific intentional -- intensive grazing or anything like that, but just the intent that there's -- and I don't mean a fence around 10,000 acres, either, you know. Something that looks like they planned it.

MS. JAMES: Okay, thank you.

CHAIRPERSON RIDDLE: Hugh.

MR. KARREMAN: So George, thank you for very much for being up here. Glad we finally got to meet. I wanted to follow up on what Dave Carter said to Juan
Velez, the last speaker. So that if somehow we want to do what's right for the -- of all organic dairy farms, you would -- how would you feel, I mean, you know, following -- it might not be what NOFA wants, but what the Natural Resources Conservation Service has to say per your county for grazing. Would that be fair, because it might be different, though, in California and Washington state?

MR. WRIGHT: Oh, yeah. I mean, I -- that has to be part of the factor. I can't say as it might be a hundred percent because -- I'm not saying not this plan is a hundred percent, but maybe a merger, you know, marriage of the two, to come up with the ideal plan, you know.

MR. KARREMAN: I mean, that would allow some flexibility, as well.

MR. WRIGHT: Oh, that's what I say. I don't think that -- I mean, we've got to have some kind of a definite standard, but we can -- we don't have to maybe make it as definite as we have. I mean, we've got to have wiggle room. But not to the point where we can abuse it.

MR. KARREMAN: All right, right. Okay. Thanks.

MR. WRIGHT: Am I in the clear?
CHAIRPERSON RIDDLE: Yeah, thanks. All right, Robert Hadad or someone carrying his proxy? There's Robert. And next up is Harriet Behar.

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MR. HADAD: Good morning. My name is Robert Hadad. I am the Director of Farming Systems for the Farm Animal and Sustainable Agriculture Section of the Humane Society of the United States. We represent over eight million constituents, all consumers who we have been in conversation with promoting organic livestock production as being a system that is -- provides good welfare for the animals and provides great opportunities for small farmers in rural communities. And we're hoping that the integrity of the organic system is maintained for everyone to continue to believe in it. I think the National Organic Program spells out ecological parameters for organic farming, more or less, and the livestock regulations are set out underneath that. In the document that I have handed out to everyone here, I try to set that argument out using examples from the regulations to try to set that out and it's too long to get into here for the brief five minutes we have.

Yet, we're here discussing access pasture for ruminants, which seems to me, I believe ridiculous at
this time. Arguing that it's too dry all the time to pasture a milking herd or that stage development allows for confinement or that pasture may not be in the best health interests for the animals, you know, it's -- the farmers that have come up here and talked, they know what pasturing means. It's been that way for a very, very long time. Cattle have evolved in an outdoor system where pasturing is about as close as you can get to a natural system. The answers to these arguments are good management, good stockmanship [ph] and there are limitations. If conditions don't allow for pasturing, as the organic regulations demand, that you can't have an organic dairy farm there. I mean, it is -- to say that every -- you know, it's the inherent right for everything to be organic if the conditions just aren't there doesn't make any sense. There are limitations. The rules are not supposed to conform to the farm, the farms are supposed to conform to the rules. Any other argument against pasture for ruminant is simply an attempt to circumvent the Natural Organic Program and gain financial advantage.

The Northeast Organic Dairy Producers Alliance have set out a great example of a definition for pasture and its usage. I include that in the document there, and we at the Humane Society endorse their definition as
the minimum requirements because organic integrity is at risk here once again -- and this issue is huge. This probably one of the biggest things we're going to run against that's going to really define whether organic is going to be believed or not. And if we screw it up, there's not going to be much left for consumers to trust in. Thank you.

CHAIRPERSON RIDDLE: Thanks, Robert. Okay, Harriet Behar and then Mark Kastel is next.

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MS. BEHAR: Hi. I'm probably not going to get through all my comments, but you have them in front of you. I'm an organic inspector, an organic farmer and a consumer and I'm making suggestions to the various NOSB recommendations to aid in clarification of the issues, as well as to aid in verification, which as an inspector, I feel is very important. For pasture, I agree with the pasture recommendation that you have in front of you. You mark [ph] your recommendation with the following addition: "The farm plan should clearly document the significant feed value obtained from pasturing during the grazing season versus the non-grazing season.

In addition of a table to the certification agency farm plan application detailing the various York Stenographic Services, Inc.
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rations for all stages of life and the quality of the
forages during the grazing season and the non-grazing
would be verifiable. The grazing season is the same as
the crop growing season using the same inputs or
activities for a specific region. If the crops in a
region need irrigation to grow, then the pasture should
be irrigated." This suggestion allows for regional
differences.

Technical corrections. The NOSB made

recommendations many years ago with a list of technical
corrections to the current rule and I believe the NOP
agreed that this could be done with minimal
difficulties. I urge the NOSB to remind the NOP to
print these in the Federal Register very soon.

Inconsistent communication. I also urge the
NOSB to consult with the NOP in the development and
implementation of their program manual. The Federal
Register Guidance Proposal is one part and I urge
everyone present to make thoughtful and constructive
public comment. Proof of NOP compliance to the NC [ph]
audit requirements should be made public. A transparent
and consistent process must be used when developing
guidance and information must be distributed equally to
all interest parties. In the past, NOP e-mails or other
communications to only one producer or an agency,
without passing this to everyone else, has caused
confusion and lack of consistency in both products in
the market place and organic certification.

Peer review panel. The new Secretary of
Agriculture understands the need for a permanent peer
review panel for the NOP and I encourage the NOSB to
continue to work with the NOP to put this in place.

Commercial availability for organic seed --
you can just refer to this as you go through all your
things. The last section of the NOSB recommendations
states that the producer does not meet the good faith
effort in searching for and using organic seed, but they
lose certification. This is not clear if they lose
certification for their whole farm for one year, three
years, or just for that crop for that year. My
suggestion is that if all the search criteria are not
met, that the current year's crop using the non-organic
seed might not be considered organic, but that the
entire farm would not lose certification and certainly
not for three years.

The retailer discussion on labeling. I
believe that the certified retailer is the final
distributor of the enclosed packaged product and they
should be allowed to use their certification on the
private label products if they are certified. During
the inspection of this certified retailer -- will be verified that for all ingredients and processing facilities had been approved. A retailer may purchase processed products regionally from different certifiers using the same formulation, but those -- each facility might be differently certified and they may wish to use only one label or packaging for these various products produced regionally.

Information on certificates. It is difficult to verify current organic certification based on certificates issued many years in the past. I have seen certificates presented to me during inspection that were no longer valid due to the switching of agencies or whatever. I only knew that since I had been the most recent inspector of that producer in question, I would like to see that that was on a valid certificate. I would like to see a most recent inspection date or a certification annual review date added to the certificate, since this is a truthful information statement and when everyone in tracking that the non-expired certificate holder actually filed the annual inspection certification review that is required.

On diversity. As an inspector and a member of the -- Farm Task Force, I enthusiastically support an addition to the organic farm plan encouraging farmers to
clearly review their farm system and how they can
enhance the ecological services and biological diversity
to improve their operation. I'm done?

CHAIRPERSON RIDDLE: Yes, you are. A
question, though. There can be questions. Andrea.

MS. CAROE: Harriet, in regards to the
information on the certificates, you want to see an
annual renewal date or the last inspected date.
Although that would get you a lot closer to verifying
that they are compliance, there is an opportunity where
that certificate could be suspended or revoked, that you
still wouldn't know that information. Do you have any
input on how you would like to see that remedied?

MS. BEHAR: Well, if they were annually
reviewed. They have to go through an annual inspection
and certification review, so that date would show that
they had not surrendered their certificate, that they
had not been suspended from certification. You know,
right now the certificates do not expire, so I see
certificates from 2002, I have no idea if they're still
currently certified and many -- I mean, it's happened to
me numerous times, when I know that they're no longer
with that previous agency.

MS. CAROE: Well, really what I'm talking
about is if you went into a facility today and saw a
certificate that said last inspection date was April '04, you wouldn't know between April and now something's happened to that certificate.

MS. BEHAR: That's true, but at least it would be that I knew that they had gone through their annual review.

MS. CAROE: So you're just looking for getting us closer and that you recognize that's not the whole way?

MS. BEHAR: Yes.

MS. CAROE: That we need a real time system in order to really capture that up-to-the-minute data?

MS. BEHAR: That would be helpful, but this would -- and it's truthful. It's a truthful statement that shows that they've gone through the annual review that they're required to do. I understand the certificates are not to expire, but there is a truthful statement, I think, that we can add to the certificate that would verify their compliance.

MS. CAROE: Thank you.

CHAIRPERSON RIDDLE: And I want to thank you for your comments and I just invite you to get any suggested amendment language to committee chairs to be considered to incorporate some of your thoughtful concerns as we debate these items this afternoon and
MS. BEHAR: I know it's quite a smorgasbord there, but --


MR. KARREMAN: Just a quick question. From what I see on the dairy farms that I get into, they all have annual re-inspection. They would have paper otherwise milk truck's [ph] not going to pick them up, so I just guess I don't understand what the problem is because they're all annually re-inspected and they should have the paper stating that. I realize once they're certified that's forever, so what's the -- what's happening? It's not -- they're not showing --

MS. BEHAR: The certificate doesn't have a date.

MR. KARREMAN: Right.

MS. BEHAR: So let's say I'm at a dairy farm and they're buying hay from someone and they show me a certificate from the person they're buying the hay from. That certificate may say October 2002 for the issuance date of the certificate and I don't know if they've been annually inspected each year.

MR. KARREMAN: Well, then maybe the hay sellers should show the annual re-inspection paper, too.
MS. BEHAR: There is none. They would have to show their inspection report --

MR. KARREMAN: Why is that with dairy farmers? They get annually re-inspected.

MS. BEHAR: But the certificate doesn't show the date.

[Simultaneous comments]

CHAIRPERSON RIDDLE: We can talk about this further. It's not a new issue. Bea, anything -- other point here?

MS. JAMES: Well, obviously I like it when people come up there and say exactly what they want and I thank you for doing that.


MS. BEHAR: Yes.

MR. LACY: Sorry, Harriet. The last two things on your list had to do with livestock issues. Could you just very briefly mention those since you ran out of time?

MS. BEHAR: Yes. Okay, there was -- one was I was told by a Wisconsin producer that he cannot sell homeopathic and take remedies and tinctures into the state of Iowa because the FDA does not have them listed and so this is a problem that the NOSB should be working.
with the FDA to find a way for over-the-counter drugs and these remedies because the organic farmers in Iowa now cannot use these products legally and of course, there's problems with commerce that he can't sell these products.

And the other thing is the methionine, and I just really feel that the NOSB should encourage the NOP to give some money to an actual NOSB task force and actually make it happen. There is kind of a reliance on an OTA task force in the past and it really, it was all volunteers and there was no organization and so I don't want to see the extension go into infinity and I want to see a real concerted effort to see a natural solution.

CHAIRPERSON RIDDLE: But yeah, I just want to be clear. You do support the extension at this time backed up by --

MS. BEHAR: I support the extension at this time, but really want to see some money and energy put towards solving the issue.

CHAIRPERSON RIDDLE: Uh-huh. Okay, thanks.

All right, Mark Kastel and then Blake Alexander on deck.

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MR. KASTEL: Thank you, Mr. Chairman. My name is Mark Kastel. I'm the co-director of the Cornucopia Institute. In addition to my own testimony, I have a
proxy and will be reading comments from one of our board members, William Welch, a livestock, organic livestock producer and former member of the National Organic Standards Board. I'll also read a few excerpted comments from another former Board member, Merrill Clark. The NOP has received thousands of letters and I have over a thousand additional letters and some petitions, signatures which are addressed to Chairman Riddle that I'll ask that be placed into the official record.

The Cornucopia Institute will not be presenting comprehensive testimony today, although I want to say that we are honored and humbled to stand with the hundreds of organic dairy producers from throughout the country who have reviewed and formally endorsed the testimony that will soon be presented by the Northeast Organic Dairy Producers Alliance. Like the Alliance, Cornucopia strongly supports the work of the Livestock Committee of this panel and its draft pasture recommendations. But because of past abuses, we feel strongly that there should be a base line measurement for -- to facilitate cursory oversight by certifiers and inspectors. That is not to say that a comprehensive farm plan and judicious oversight by certification authorities will not still be necessary.
The dairy community's recommendations of a minimum of 30 percent dry matter intake 120 days per year on pasture and a maximum of three cows per acre is just a starting point. Most farms will be out of compliance with the letter of the law and the spirit of these rules if they only pasture their animals according to those minimal specifications. The debate concerning access to pasture is both legal and philosophical. We are here today discussing the legal parameters of the question. But make no mistake about it, there is a higher authority than the USDA.

The final judges in this matter will be the consumers who have so heartfeltly [ph] joined with family scale farmers to create what corporations now view, with anticipation, as enhanced profit margins. They're very happy and they have reported those attributes to their shareholders.

We cannot allow corporate profiteering to besmirch the good name that organic foods have earned in the marketplace. In the eyes of the consumer, operating factory farms is not consistent with why they are willing to pay a high premium to buy organic food. The law and regulations are scale-neutral but requiring real pasture as a fundamental prerequisite of organic livestock production will reign in the abuses that are
taking place in the eyes of the consumers.

The consumer sentiment I'm articulating here is fully applicable to other livestock species, including poultry, swine. I'll spend the balance -- actually, I'd like to present for the record and I know there's already been some testimony. A number of -- a synopsis of a number of peer-reviewed published articles that very much support the benefits in terms of animal health, of a pasture-based system and the benefits of human consumption based on enhanced milk components of milk consumed from animals raised on pasture.

I'd now like to just read a couple excerpts from Mr. Welch's submission and Ms. Clark's submission. Bill Welch is a member of the Cornucopia board of directors. He's a former member of the National Organic Standards Board, a pioneering organic livestock producer raising principally poultry, chickens, turkeys and hogs and in his submission he says in his opinion, as a board member, when we discussed and voted on, what we -- in terms of pasture and in terms of stage of production, what we meant was a newborn or very young animal, a sick animal, a cow that is not ready to give birth or any circumstances that would cause harm to an animal if it was turned out on pasture. It certainly did not mean lactating animals. He goes on to say that in every one
of us -- excuse me. Everyone was aware and helped and
looked at the pasture measure in the first place through
research done by many state universities that learned
that milk from cattle on pasture had twice the amount of
CLA, one of the greatest cancer causing preventatives
known. Those are -- those comments are from Bill Welch.

And comments from Merrill Clark, who serves on
the Cornucopia's policy advisory panel; she was a member
of the National Organic Standards Board from '92 to '96.
Her testimony includes the statement, "A recent comment
in the Organic Journal of January 2005 is troubling.
The notion that certain types of farming," -- this
echoes Mr. Hadad's testimony from the Humane Society --
"that certain types of farming can only be done in
certain ways in certain parts of the country is narrow
minded."

"In fact, that" -- excuse me -- "that is what
organic farming is all about. It can only be done in
certain ways and in certain cases only in certain parts
of the country. Organic pineapple cannot be produced in
Iowa and organic beef and dairy milk cannot produced on
dry lots or in arid areas of California or Texas unless
the rules are changed." And I really thank you for the
opportunity to present two livestock producer's
testimonies who could not be here today. I'll answer
any questions or I'll stand aside and let others speak.

CHAIRPERSON RIDDLE: Just for the record, who was the proxy from, Mark?

MR. KASTEL: The proxy's from Bill Welch.

CHAIRPERSON RIDDLE: From Bill Welch. Okay, thanks. Yeah.

MR. KASTEL: And I'll submit those two documents. I'm sorry.

CHAIRPERSON RIDDLE: Andrea.

MS. CAROE: Your support of the National Organic Dairy Producers Alliance --

MR. KASTEL: Northeast.

MS. CAROE: I'm sorry. Suggests a stocking rate of no more than three cows per acre. How does that compare to the European stocking rate? I thought it was four cows per acre.

MR. KASTEL: To be honest with you, I'm not sure what the standards are in Europe, but I should also emphasize that those numbers were refined in consultation not only with the northeast farmers, but in an umbrella group -- right now it doesn't have a name. They call it the Multi-state, I believe, Ad Hoc Committee and it includes the Midwest organic dairy producers and West Coast producers. I want to emphasize, that's an upper limit.
Most farmers who will testify here today have stocking levels far lower and that's why I wanted to emphasize the qualification of our endorsement that even though a farm might operate within those parameters, it's still incumbent upon that operator to develop a farm plan that's based on the maximizing pasture potential to enhance the instinctual behavior of the cattle and maximize the health of the cattle and the quality of the milk. So someone could be operating a three-cows-per-acre and be out of compliance. In most areas that get adequate rainfall, where livestock agriculture has been historically concentrated in the United States, stocking levels should be much lower than three cows per acre.

MS. CAROE: Right. And then my question is related to organic has an international identity, so you know, even though we won't be constrained by European regulations, it's important to understand how consistent we are --

MR. KASTEL: Well, if in fact they're at four and we're more conservative, we obviously won't violate. There are other regulations in our livestock management practices which are stricter than the European standards right now.

MS. BEHAR: I have it. It's two dairy cows
per hectare.


CHAIRPERSON RIDDLE: Rose.

MS. KOENIG: And I guess maybe it's a naive question and -- I guess I'm less inclined -- I understand the spirit of the minimum or maximum number of cows per acre, but I don't -- I think that people can access acreage, if you could purchase a lot of acreage to justify a large amount of cows, it's still hard to verify that they're there, so I firmly believe more on this percentage, you know, basis on a number of days because I think that also for somebody in an area -- you don't want to penalize individuals that might have great management practices and are able to -- farm land is expensive in some areas, so if people can figure out a way to produce a healthy pasture and again, I'm not a livestock producer, but I am a vegetable producer. You don't want to provide -- or limit any individual, I think, in terms of cows, but I think that that percentage built in a -- I think accomplishes, maybe, what peoples' objectives are.

MR. KASTEL: Well, I --

MS. KOENIG: I'm not saying that that percentage is right, but --

MR. KASTEL: Sure. I agree with you in

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principle that the dry matter intake percentage is really the governing statistic there, but let me just emphasize that three cows per acre is pretty much at the extreme, in the national polling that the dairy producers themselves did, in what's going on in organic farming right now -- and you're really accurate in your summation of access to pasture.

You can have 15,000 acres of dry land pasture and you can open that farm gate, but if you keep the feed bunks full, those animals are never going to wander out into that very poor quality pasture and so like most of organic farming, this is built on integrity and the question is have there been abuses going on of people saying we're on pasture, of having a dry yard with bale feeding and calling that pasture? And we're here today because the farmers and consumers really want this body to tighten up the -- to give some tools to the certifiers so that we can tighten up the situation in the minority of abuses that are going on right now.

CHAIRPERSON RIDDLE: Hugh.

MR. KARREMAN: I would agree. Well, two things. As far as the dry land pasture you just mentioned, I would suggest that if a farm is irrigating their crops, that they certainly can irrigate pasture. Do you agree with that?
MR. KASTEL: Absolutely.

MR. KARREMAN: Now, in areas where there --

MR. KASTEL: It may or may not be economically viable for a farm to make that kind of investment, but if they can grow crops, they can produce pasture.

MR. KARREMAN: Right. I agree with that.

Now, in areas where there's not irrigation, let's say in the Northeast, what if there's a horrible drought year and let's say -- you know, I mean, what if you can't get X amount of dry matter for X amount of days as being suggested? What happens to that farm if they only -- let's say it's 120 days, 30 percent dry matter just for argument's sake. What if they only got 88 days at 25 percent dry matter? What mechanism is there or is there any mechanism or do we just say well, they're not organic then?

MS. KOENIG: No --

MR. KASTEL: There's a mechanism that exists right now -- but first of all, let me say just like the three animals per acre -- and you could convert that to animal units if you wanted to. We're basically asking you folks to use your good judgment and Hugh, you know, it's a pleasure to have you on the Board -- in the rules right now allow producers for temporary reasons -- this is not during the entire lactation, but for temporary
reasons due to one of the factors being environmental, if you're going to -- if it's in California, some of the dairy farmers I visited there, they get their 50 or 60 inches of rain in a concentrated period of time. If you put the animals out there, they're going to tear up the pasture and likewise, if there's no feed value there, but the 120 days, the Northeast farmers are pasturing, the folks that are here today, far longer than 120 days. In Wisconsin we pasture far longer than 120 days. We try to -- and again, they're just benchmarks and that's why I emphasize that you could be at those target numbers and still be out of compliance, so it's still very important that the certifiers concentrate on that farm plan in collaboration with the farmer and develop something -- excuse me -- with integrity.

MR. KARREMAN: Thanks.

MR. KASTEL: Okay, thank you.

CHAIRPERSON RIDDLE: Mark, I thank you and I do try and wait until the end to ask my questions. And you know, I really appreciate your comments and the need for a predictable and enforceable standard. I think that is everyone's intent here regardless of scale or region and you know, I just have problems when we set numbers at a national level that may or may not be
appropriate and may not, you know, give the flexibility
that I've heard, you know, farmers express a need for
and certainly know, as an inspector, the realities on
the ground and we're looking at the -- a reference to
the NRCS prescribed raising standard which is then --
there's a national standard and then it's further
defined at the state and even county, you know, so that
it is site-specific, which is part of the organic
production definition, site-specific conditions. And I
just want to know if that's something that your group or
the people that you represent could support, which puts
some teeth in -- for enforceability, but it gives that
regional and site-specific flexibility that we also need
at the same time?

MR. KASTEL: Well, Jim, make no mistake about
it, please. We have a good rule in place right now.
The majority of all the dairy producers here today and
the majority of all the dairy producers in this country
follow that rule without confusion. They understand.
Almost every dairy farm operates with good pasture
management practices and the draft that this committee
is considering today, without further prescriptions, is
a good enhancement of that tool to help certifiers.

But the problem is that we've seen abuse, what
we're interpreting as abuse. The request that we made
of the USDA for a formal investigation was because of numerous multi-year allegations of this abuse and so the question is any rule that you folks promulgate here today, there's some lawyer somewhere or that -- will look for that loophole and some public relations -- we have farming by public relations going on now in organics. Some of the folks George talked about, the advertising. You know, is that true, is that truly reflective of conventional dairy farming or organics?

We want to deliver, we want to make sure that as a community we deliver what the consumers assumes they're getting and so we've endorsed the tools that the Northeast dairy folks have tested throughout the dairy community around the country, the organic dairy community. If you folks can figure out a better way to do that, we have great confidence because your starting point, that your heart's in the same place that we're at, so we would leave that up to your discretion. I know you're going to get more testimony today about some examples of how to come up with better enforcement.

CHAIRPERSON RIDDLE: Okay, thanks. Thanks, Mark.

MR. KASTEL: Thank you, all.

CHAIRPERSON RIDDLE: Next up is Blake Alexandre, followed by Rich Ghilarducci. Did I really
butcher that?

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MR. ALEXANDRE: Good morning and thank you very much for the opportunity to speak here today. I truly consider it an honor and a privilege to be able to come here. This is my first trip to Washington to lobby for anything. I've handed you a letter that Stephanie, my wife, and I wrote and basically I wrote it; she added a paragraph at the beginning and end and I'd like to talk today, though, based on the comments that I've written this morning and the notes that I've come up with today. I'm also holding a herd summary sheet of our herd and it's got four years of history on it and so that's kind of my fact sheet.

Stephanie and I, first of all, we milk a lot of cows in northern California and close to 3,000 head of mature cows, milking and dry, on three different locations of which all are certified, however, one of our operations is a dual operation where we also have about 500 to 600 conventional cows still left over from our original herd and we continue to feed new cows into that herd when they fall out of the organic system.

I truly am just a dairy farmer. We have built our business, just the two of us, without our parents, without any help from any other folks, financially,
other than a bank and our education and background started out -- actually, we met at Cal Poly San Luis Obispo, where we were learning everything there was to know, at the time, about high-yield production agriculture. And somewhere along the line, about a dozen years ago, I met Dennis Avery, who wrote the book "Saving the Planet with Pesticides and Plastics" and I really fell for his talk. I actually spent a day with him and had a chance to kind of see his side of the equation and I left there, literally, wanting to go buy that book and give it to all the vocational ag students in our neighborhood.

And I was quite proud that we were doing our part, you know, to feed the world and as a high-yield production agriculture business. We were -- I stated in there we were taking advantage of all the tools of the industry and Monsanto would sell us. We were literally doing what we thought was the right thing to feed the people in an efficient way. And not just the people in our neighborhood, but the people of the world. It was a noble cause.

Somewhere along the line I then had a chance to meet Alan Savory and Alan Savory is with the holistic management concept. He runs the Savory Institute in New Mexico and a really good personal friend of mine and I
spent a day with him walking on the beach in Santa Barbara and it started all kind of to make sense. At the time we were considering organic. My friend has since gone to work for him, quit his job and works full-time out there, and I kind of learned the other side of the equation. And the first thing I brought up to him was the stuff I had learned from Dennis Avery and questioned all that and tried to get all that back in perspective because our organic venture brought a lot of new knowledge and a lot of new understanding of the whole system.

We've talked about pasture today all in regards to the cows and I think we've completely missed something. In the organic systems we need to talk about the health of the system. We haven't even talked about the health of the soil and from my understanding, which is only, you know, limited knowledge, but the health of the system, the biology in the soil, the activity of the plants, the time that the -- anyhow, that's a concern we need to address and I would love to answer questions on that. I'd like to mention, it's not in our letter, that we're certified by the Animal Humane Association and we have been for a few years and I'm quite proud of that and I think that's a significant factor. And they would never allow us to run a confinement area.
Specifically, one of my, you know, to your question, what am I asking for? I'm asking for you to give the certifiers something to hang their hat on, something that they can enforce. The rules are there, much like Mark spoke a minute ago in front of me. The rules are there, but the certifiers need help enforcing them, obviously, because they're making mistakes. I want to -- I would ask you to -- you know, to -- oh, time's up.

CHAIRPERSON RIDDLE: Time.

MR. ALEXANDRE: All right.

CHAIRPERSON RIDDLE: You can wrap it up. You were in a though there.

MR. ALEXANDRE: Okay. I believe we need to honor the concerns and the expectations of the consumers, you know. We advertise our milk with pictures of cows on green grass and that should be in the equation somewhere.

CHAIRPERSON RIDDLE: Thank you, Blake. Any questions, comments? I have one. Okay, go first.

MR. KARREMAN: When -- just, I think, from what I understand from out in California last year at the meeting, you guys were totally conventional with like, what, 1500, 2,000 head?

MR. ALEXANDRE: Yeah.
MR. KARREMAN: It sounds like you've successfully converted to organic.

MR. ALEXANDRE: Correct.

MR. KARREMAN: That's great.

MR. ALEXANDRE: Yeah, we went from three times a day milking to two times a day milking and cull rates and all that got incredibly better and the cow health and I'd say our body condition is less than what it used to be, but our cows are now athletically healthy, they exercise a lot and things are different. You know, it was mentioned earlier that cull rate is an economic decision and that's an economic decision that most dairymen don't have the privilege of exercising. The cows decide when they're going to get culled and so it's usually an economic decision to keep the cow. We never have an incentive to sell the cows that I can think of.

MR. KARREMAN: And do you irrigate pasture?

MR. ALEXANDRE: Yes, yeah. We're fully irrigated. We also have incredible rainfall of 50 inches in our -- we have our two ranches are 100 miles apart and 50 inches in one location and over 80 at the other, and then a dry season where we irrigate a lot.

CHAIRPERSON RIDDLE: Okay, thanks.

MR. ALEXANDRE: Thank you very much.

CHAIRPERSON RIDDLE: All right,
Rich Ghilarducci and then Dave Johnson on deck.

COURT REPORTER: Could he spell his last name for me?

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MR. GHILARUDDCI: Thank you. My name is -- and I appreciate the NOSB giving me the opportunity to come up here and speak today. My name is Rich Ghilarducci and that's spelled G-H-I-L-A-R-D-U-C-C-I and I'm from Humboldt Creamery Association. We're a dairy cooperative located in northern California and we have 60 members within our region. Twelve of those 60 are certified organic dairies. On my -- I'm speaking on behalf of our membership and the organic dairies. We sat down and we discussed this and we looked at the NOSB's recommendation that you're considering today. And one of the things that just want to clarify is, and people kind of blanket the West as being the feed lot and the factory-type farms -- we do have bigger dairies, but all of our dairies are pasture-based and so when I say that, they probably spend anywhere from 10 to 11 months out on the pasture, the dairies do.

They do use some type of confinement. They've got loafing sheds during the winter time, during the heavy rainy period so that their fields are not trampled, to ruin the feed for the rest of the year. So
they do take that into consideration. Just to make sure, to give you guys some specifics on what our members have said -- I want to get that in before we close here -- is they had came up and thought that ruminant livestock must graze pasture and I think graze is a key element in your language that you submit forward to the USDA.

Access to pasture, I think that's where certifiers may have a problem when it's just a broad verbiage, access to pasture. Grazing pasture is very important to include in your language when you come up with your final decision. We do feel that as far as some of the specifics, if they're in the guidance, our members do live by the 120 days, the 30 percent dry matter coming from the land and also the three cows per acre, so we can abide by those, whether you put those in the specifics or not, we do abide by those. But we believe the most important language that you can get in there is that the cows must graze, they must get their nutrient value off of the pastures and I think that's very, very important in your final decision.

And another thing that I think one of the significant things that we heard today is -- and I'm just trying to summarize and you guys are getting hit with a lot of different verbiages -- organic dairies
need to adapt to the organic guidelines, not the opposite; that was one of the best comments made today, is that the guidelines do not adapt to the organic dairies. You cannot make the guidelines fit every dairy. It's up to the dairy industry to fit the guidelines and that may mean that geographically it doesn't fit into every region of the United States.

But we believe strongly, our membership -- I worked with our members to convert to organic, the 12 dairies. The access to pasture, as we interpret it, was very important when we -- when I proposed to our members to convert to organics because we knew from economically they would never compete in a conventional industry with confinement-type dairies, and that's what this is all about, is economics. And when I say that, you know, the difference between trying to argue the points, whether you can do -- you take the Central Valley, which is an arid region in the U.S., or in California, and where they have a lot of confined dairies.

Every one of those dairies, if you looked back 20 to 30 years ago, were pasture-based, but because of economics they converted to confined dairies. So it's not that pasture cannot be done in those areas, it's because they converted economically to achieve a different environment economically for their dairy
herds. And at this time I'll answer any questions that
you guys may have. All right, thank you very much.

CHAIRPERSON RIDDLE: Thank you very much.

Okay, Dave Johnson, then Henry Perkins.

MR. JOHNSON: Can I ask for somebody else to
speak in my proxy and then I speak in their proxy?

CHAIRPERSON RIDDLE: Just trade places with
someone else?

MR. JOHNSON: Yeah, yeah.

CHAIRPERSON RIDDLE: Yes.

MR. JOHNSON: Okay. Nancy Gardner's also on
the list.

CHAIRPERSON RIDDLE: Okay, Nancy Gardner and
then Henry Perkins.

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MS. GARDNER: I am Nancy Gardner, wife of a
New York organic dairy farmer and secretary of the
Northeast Organic Dairy Producers Alliance. I've been
requested by the board of NODPA to read the statement
from the board. If you have any questions about this,
if it's permissible, I'd like to divert those questions
to a present board member.

"The Northeast Organic Dairy Producers
Alliance represents over 200 organic dairy producers and
many related business in New England, New York,
Pennsylvania, New Jersey and Maryland. Our mission is to enable organic family dairy farms, situated across the extensive area, to have informed discussion about matters critical to the well-being of the organic dairy industry, as a whole.

The issue of pasture is paramount importance to the organic dairy producers represented by NODPA. Due to the ambiguous language of the NOSB recommendations, the NOP standards about the pasture requirements of ruminants and the recent press and complaints to the USDA regarding pasture requirement violations, the national spotlight is on organic milk production and what that means to consumers. NODPA leaders and dairy farmers from across the country have worked diligently over the past one to two years trying to ascertain and agree on what we consider significant portion of the total feed requirements to meet.

Although NODPA supports the February 1, 2005 Livestock Committee pasture recommendation, especially the addition that reads, 'lactation of dairy animals is not a stage of production under which animals may be denied pasture for grazing,' we feel that more specifically specificity is absolutely necessary. Without numerical standards, the guidance document will continue to allow access to pasture to be a matter of York Stenographic Services, Inc.
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interpretation. Measurable parameters are needed to
provide a floor for minimum intake to ensure that all
ruminants truly have real and significant pasture intake
and a ceiling for maximum stocking rate.

We appreciate that the Livestock Committee is
seeking comment for clarifications of the definition of
pasture and more specificity on what constitutes a
significant portion of the total feed. In response to
the call, NODPA, in concert with many other organic
dairy producers and organic advocacy and customer
organizations from around the country respectfully
recommend that the definition of pasture be amended to
read, 'Pasture is land managed to maintain or improve
soil, water and vegetative resources and to provide
maximum feed value by growing sustainable grasses and
other forage from which animals graze plant materials
still connected to its roots.'

This recommended pasture definition language
seeks to tighten up and more narrowly define pasture so
that non-grazing feeding practices can no longer be
construed by some as pasture, such as feeding machine
harvest forages in outdoor setting.

We agree with the language in the Livestock
Committee wording that says, 'The grazed feed must
provide a significant portion of the total feed.
requirements.' We respectfully request the addition of the following words: 'Significant portion of the total feed means that at least 30 percent of the daily dry matter intake needs to be -- needs for all ruminants 12 months of age and up for a minimum of 120 calendar days per year should be provided by pasture. Stocking rate shall not exceed three cows per acre.'

We would ask that farms not in compliance with these provisions should be allowed one year to come into compliance, but will need to file an updated and enforceable farm plan providing for the adequate pasture within 60 days of the publishing of a new pasture guidance document by the USDA. Thirty and forty percent of forage intake from pasture has been used by the Cornell Dairy Farm Business Summary over the years as a minimum intake needed for farms to be included in their grazing farm summaries. Although there can be no significant basis" --

CHAIRPERSON RIDDLE: Time, but conclude your thought.

MS. GARDNER: -- "for the 30 percent pasture intake compared to 29.32 or 30 percent seems to be a reasonable level to qualify the term significant." In my own words, as a wife of a dairy farmer, when natural -- when a natural end is wanted, nature is its best

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manager. Please help us. Let a cow be a cow.

CHAIRPERSON RIDDLE: Thank you, Nancy.

MS. GARDNER: Is there any questions? I can bring up a board member if you'd like to have any questions.

CHAIRPERSON RIDDLE: I think you've been clear in what you're requesting of the Board.

MS. GARDNER: Thank you.


MR. PERKINS: When do I start? Right now?

CHAIRPERSON RIDDLE: Henry Perkins.

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MR. PERKINS: Okay. I'm Henry Perkins. I live up in Maine and I milk -- better. I have trouble with these. I don't like to get them too close to my mouth. I don't know why, but -- all right. I live in Maine and I milk about 70 cows and I'm here representing the Maine Organic Milk Producers; there's about 60 of us. And I'm also on the board of NODPA, which that nice young lady just, was part of and I guess I'm representing them, too, and I was asked to hand -- there's about 60 in here -- to a guy named Jim Riddle. That's you, but you don't have a whole lot of room, so
-- okay. I guess the way I see it, I'm here to try to help you figure out what the definition of substantial is and the way I see it every consumer here who buys organic milk does it for one or more of the following reasons: one, it doesn't have antibiotics in it; two, no pesticides; three, no synthetically produced fertilizers; four, no artificial hormones; five, these cows are -- got to be out on pasture and getting some of their nutrients from pasture, and number six, some of these people that buy this are just plain smart, so -- I'm not here to talk about that.

I'm here to talk about the pasture thing and I think I probably can do this a little bit better if I tell you what pasture is not. Pasture is not a herd of cows standing around on a slab of concrete or out on a piece of ground that has long since seen any form of grass growing that a cow get any, anything out of in the way of nourishment. Pasture is not corn silage, pasture is not grain, pasture is not green chalk [ph], pasture is not dry hay hauled to one of these areas out on the ground and pasture is not a grass -- silage. Pasture is green grass that cows rip off the roots and swallow.

Now, up here in Maine, which is one of the more northerly locations, we don't have any trouble providing 120 days of normal pasture. Most of the time
we get pasture from the 1st of May until the end of October and that is six -- 180 days, so in that period of time there's a little leeway where if you had a drought, you probably could catch it on part of the other -- 120 minus, 180 minus -- 60 days, okay. Let me see. Where was I? Okay.

Now, we talked about this up in the state of Maine and we had absolutely no trouble agreeing that lactating cows must get a substantial portion of their pasture -- nutrients from pasture, but we couldn't really agree on just how big a percentage it was and I think that's your job, okay. But as a member of NODPA, we have come up with three cows per acre, 30 percent and 120 day thing. We've got conventional farms in the Northeast here that, due to their physical layout, that makes them impractical for them to become organic, whether they would like to or not, but there is always another market for them than just, you know, you cannot twist the rules to make your farm, you must make your farm conform to the rules. And I think I'm running out of time, right? Okay, I'll take any questions.

CHAIRPERSON RIDDLE: Questions for Henry?
MR. PERKINS: Thank you.
CHAIRPERSON RIDDLE: Thank you. Thanks for coming.
MR. PERKINS: They told me to wear this.

OKAY?

CHAIRPERSON RIDDLE: Let them eat grass is what it -- we'll put that into the record.

MR. PERKINS: All right.

CHAIRPERSON RIDDLE: Okay, Carolea Arnold and then -- okay. Is there a Roman Stoltzfoos proxy? I can't quite tell what --

MR. STOLTZFOOS: Proxy for Carolea.

CHAIRPERSON RIDDLE: Okay. So you're Roman?

MR. STOLTZFOOS: Stoltzfoos.

CHAIRPERSON RIDDLE: With a proxy for Carolea --

MR. STOLTZFOOS: For Carolea, yes.

CHAIRPERSON RIDDLE: -- from -- 10 minutes.

And this will be the -- you'll be the last speaker before our break.

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MR. STOLTZFOOS: My name is S-T-O-L-T-Z-F-O-O-S, first name, Roman, R-O-M-A-N.

Thank you for this opportunity. I'm Roman Stoltzfoos from Lancaster County, southeast Pennsylvania. I'm here representing four groups. First, it's my family. I'm going to pass a picture around to the Board of my family. Here's an experiment to see how many children
you can get on one farm. There's 11 children, by the way. I tell people we farm and raise children and truly, that's the reason we're on the farm. My wife and I decided years ago this is the best opportunity we had to work with each other and our children and we believe the family farm has been and will continue to be the best producer of safe food for America. We had this vision to make a living, to work together with our children and to be able to teach them respect for God's creation and the life-generating systems from the complexity of the soil to the complexity of human relationships.

Secondly, I am here to speak on behalf of the co-op which I'm vice president of, that's Lancaster County Organic Farmers. We are a group of over 20 grass-based dairies, most of the Amish farms located in Lancaster County and surrounding areas. We certainly support the NODPA position, some quantifiable standard that can be a safeguard for the good organic name.

Thirdly, I'm here as a board member of Natural By Nature, which is the buyer of most of the organic milk that the Lancaster County Organic Farmers produces. And fourthly, I'm here to represent the consumers who buy the milk that we produce through Natural By Nature and other channels and we believe that
their interest and belief is that their organic milk is coming from farms where cows are grazed in a reasonable way. Our cows and our farm are out on grass at least 350 days a year. There was maybe three days this winter where we didn't put them out because -- well, it would've been damaging to the grass. But we believe that they can benefit even in the winter time from being out off of concrete and away from concentrating the nutrients all in one area.

I'd like to at this time read a letter from Natural By Nature, Ned MacArthur. "At Natural Dairy Products it is our belief that pasture is an integral part of what makes organic milk special. Access to pasture is only one part of the equation. Grass from these pastures should contribute as a substantial part of the diet for both lactating and dry cows. There is overwhelming evidence that milk from cows and grass has a healthier omega profile and higher levels of the fatty acid CLA, Conjugated Linoleic Acid. In the face of this evidence, it becomes impossible to ignore the role of grass in organic milk production."

"Without a strong pasture requirement in the national organic plan, the result will be consumer confusion and a loss of credibility for the organic dairy industry. Family farms that have committed to
organic production see their market become diluted with milk from industrial farms that intend only to pass organic certification requirements by the slightest of margins and once again we will see a rift in American agriculture wherein the good of the family farmer and the consumer is put behind the needs of those few corporate entities that stand to make large profits for a few individuals."

"With a strong pasture requirement, these industrial farms will at least have to play by the same rules as the rest of the industry. It is our belief that these farms can comply with a solid pasture protocol. If they do, they will be a viable part of the nation's organic milk supply, but without a good and meaningful pasture rule, the future of the organic milk market will be obvious. Organic milk will lose much of what it makes -- what makes it special and become just another agricultural commodity that makes no meaningful connection between the land and the consumer. American family farms deserve better than this." I'll take questions if there are any. No. That's all I have. Thank you.

CHAIRPERSON RIDDLE: Thank you. Okay, well I said that you would be the last speaker before break, so I'll stick to that and when we come back from break,
John Stoltzfoos is next up followed by Jim Gardner, so it'll be a 15 minute break, so that would put us at 10 after 10:00, so I ask everyone to please be back in their seats. My microphone's not working. I didn't have it on. Ten after 10:00.

[Off the record]

[On the record]

CHAIRPERSON RIDDLE: Please take your seats. We're still missing a few Board members, but -- one, two. Okay, we do have a quorum, so we'll go ahead. Oh, here -- before we start, I wanted to also let people know that there are still slots available for testifying on Thursday and that list is in the back of the same list that's up here, so over lunch, if you haven't signed up for Thursday, that's the place to sign up. All right, where were we? John Stoltzfoos.

MR. STOLTZFOOS: Yes, my son's going to speak on my behalf, John.

CHAIRPERSON RIDDLE: Okay.

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MR. JOHN STOLTZFOOS: I want to thank you for this opportunity to speak. I'm John Stoltzfoos from New York, Whitesville, New York. We have a dairy farm there. I have two brothers, younger brothers; I'm 22, and we all live at home with our parents. We currently...
farm on a 257 acre dairy farm and we rent 200 acres for beef, cow pasture and a hay grove.

On our farm we are -- have 70 milk cows on 65 acres of rotational grazing. Within the past two years, my brothers and I have incorporated into our body 25 head of beef cattle which we are grazing on 75 acres of open range and they are full-time pasture there. They get 100 percent of their feed forage from the pasture. Our pasture for our dairy herd provides during the summer 90 percent of the forage dry matter in the grazing season. The other 10 percent is dry hay throughout. And our grazing season runs somewhere between 150 to 170 days. In the winter our cows are outside a couple hours of a day except on very cold conditions when sometimes it drops to 30 below or something like that. Overall, our cows are outside 80 percent of the time throughout the year.

We feel very strong about pasture for these reasons: the health of a cow is a very high concern; the quality of the product for the consumer -- we feel that grass, that is one of the top qualities and is very important; and most of all, the consumers that we talk to believe that organic milk comes from cows that are on pasture.

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Producers Alliance, that pasture definition be further refined such that pasture is land managed to maintain or improve soil, water and vegetation resources and to provide maximum feed volume by growing suitable grass and other forages from which animals graze plant material still connected to its roots. Organic dairy animals from 12 months of age and up must consume no less than 30 percent of their daily dry matter intake from pasture with no less than 120 days per year with no more than three milking cows per acre. I believe our farm is close to one cow per acre, currently.

And I urge the NOSB to adopt these recommendations so that I can see a future in true organic milk as well as our customers, for my family and the consumer. If we do not have a defined set of rules to follow on these grazing issues, I do not see a future in myself taking over the family farm. I have some friends that are on conventional dairy farms and the conventional farms in their area are just falling out and so there's no future for them and I believe that if we do not set a set of rules that it's going to fall off for the organic farmers, too. Thank you. Are there any questions?

CHAIRPERSON RIDDLE: Thank you, John. Thanks for coming. Okay, next we have Jim Gardner and then
Urvashi Rangan for Mark Lipson, who was on the list earlier.

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MR. GARDNER: Thank you for having us here today. I know there were some questions raised earlier on the basis of science --

CHAIRPERSON RIDDLE: Your name.

MR. GARDNER: Oh, Jim Gardner, New York state. I'm a dairy farmer, have four children, true family farm. We have 50 cows and farm about 400 acres of ground. Okay, I've got about 15 years of applied research on my farm for anybody who would have questions about what goes on organic farming, whether or not grazing is sustainable. I know there was a lot of questions about the science behind it, but what I do find is that usually science catches up to what nature's already shown us, okay.

Some of the things I found by grazing cows on a sustainable system; I used to have a 26,000 pound herd average when I was doing conventional farming. I found my cull rates to be around 40 to 45 percent. I now find my cull rates near about one to two percent per year. I found the health of the cattle that I work with has greatly increased since I've started grazing many years ago. Some of the things I found were displaced almasons
[ph] have decreased entirely. The main -- I did an experiment on my own farm with that, removing all the weeds in my conventional system at the time and found that the weeds were a big component on the health of the cows. A lot of people don't like weeds in their fields -- I'll give you an example. Dandelions are a great alkalizer and a great liver cleaner when you have stored feed. If you are to feed in the spring you notice most places in the country, they come up first. They're great for clearing out the livers.

Burdock, you see cows eating burdock leaves. They clean the blood. Okay, a lot of the weeds that we see around the countryside -- I've been to California, I've been to, you know, the Northeast, Midwest and the central part of our country and some of the Southeast and the conditions for grazing do -- you know, vary quite a lot, but when farmers get involved in the grazing aspects, they do pay off greatly whether they be for the health of the farmer or the health of his bottom line.

Fresh pasture provides a lot of nutrition for cows. I mean, that's been spoken about a lot today. Vitamin A is a crucial ingredient in the cow's diet. When cows eat stored foods, Vitamin A decreases very rapidly once the foods are stored. Fresh pasture
contains lots of Vitamin A. If you're familiar with a
cow at all, they have a large hide. That's the
epithelial reculsa [ph] cells. They thrive on Vitamin A
and D from sunshine. Okay.

The three cows per acre maximum. It's a very
good stocking rate. If you go above that, you will find
you start running into concerns of manure build-up on
pastures. The 120 days of grazing minimum; I've had the
opportunity to talk to people around the countryside, in
the northern regions of our country and other areas and
have found that that's a very good number that
represents a safety -- for the most part, throughout the
country even where the region is colder and a shorter
growing season.

The 30 percent dry matter intake, there are a
lot of studies going on right now where universities are
trying to catch up to what farmers are doing. I find
that I talk to a researcher in Penn State University,
they're currently running tests. They've given amounts
of dry matter intake, amounts of wet forage intake. I
can give those names of those researchers, but they are
finding that the cows that they brought out on pasture
do have a tendency to lose weight, but I like to term
that like Alexandre, that they are athletically more
conducive. I know if you take the average -- the way
that nature was designed -- if you take a cow or a person who is overweight and they become, they go into an exercising program and eat properly, they will be healthier. There's no question about diet. I think probably most of you are probably, you know, practicing some form of nutritional balance in your life. Okay.

I would hope that you would strongly consider the NOPDA rules that were presented to you. I believe that you'll find that they've been well thought out, well researched and questioned like, as it's been presented to you, by the farmers around the United States and we've come to that conclusion, that those would be safe numbers and viable for all regions unless the region is not conducive to grazing cattle. Okay, do you have any questions?

MS. KOENIG: Yeah, just kind of --

CHAIRPERSON RIDDLE: Rose.

MS. KOENIG: -- I'm sorry -- and explanation of how you collected that consensus, you know, information from region to region to make sure that 30 percent is representative and have you thought through that, if you had a minimum of 30 percent, especially in regions that have longer grazing periods -- and I don't know, I'm just thinking about this, but it would also mean that places -- I would assume that if you had -- if
you could pasture 10 months out of the year, they still
would all mean -- meet 30 percent. So you might have
regions where there still would be perfectly good
pasture but because of that 30 percent --

MR. GARDNER: Okay. Good question. These
rules that we have written are for maximum amount of
cows, minimum amount of intake. If you exceed those
minimums, it's fine. It's like a -- the rules that we
currently have in organic standards for pasture right
now equate to having a speed limit sign on the highway
that says speed limit and it says drive safely, okay.
And it's open to anybody's interpretation of what safe
is. It could be 100 miles an hour, it could be 25 miles
an hour, okay. That's not what we're looking for. We
need direct interpretation. That's where the numbers
are key because without the numbers we don't have the
limits, the safety nets. If a person can graze at a
larger amount of dry matter intake in their region,
fantastic, as long as they meet the 30 percent, okay.

Like I said before, the stocking rates of
three cows -- we questioned farmers across the country,
okay. Majority of the farmers, you will find, will run
one to two in that range of stocking rates. Three is
quite a high number, but it can be done, okay. And
anybody that's, you know, can do that, it makes it
useful for them, too, so they're not going against what
the rules have.

CHAIRPERSON RIDDLE: Hugh.

MR. KARREMAN: I was just wondering -- you
know, I tend to agree with you as far as when the spring
flush happens the cows, you know, might seek out
dandelions and burdock and other nutritious weeds, as
people may call them, but they certainly have
nutritional components that we don't study, necessarily,
at the land grant universities and what-not. I was just
wondering, from you own farm research that you do, then,
if they have that in the springtime in the grazing
season, does your farm make hay or silo feed from that
so that they get that during the wintertime, as well?

MR. GARDNER: Yes.

MR. KARREMAN: I'm just kind of wondering.

MR. GARDNER: Yes, we do. As a matter of
fact, we specifically try to mow and bale -- we do seed,
we seed alfalfa, we seed archer [ph] grass, we seed
different kinds of legumes, trefoils and such, but we do
strive that when the dandelions are out in the fields in
May, we -- the fields that we're going to mow, we make
sure that we mow those when they're in bloom, okay, no
matter what the height are. This time of year are when
cows in the Northeast in the northern parts of our
country seem to be challenged for nutrition, okay, and you'll see the difficulty in muscle. They start to struggle getting up and down. By cleansing their blood with the stored dandelions, even though the components are lower, it will help to cleanse the livers, it will help to replenish some of the vitamins that are missing.

We also use red clover and make sure that it's -- a lot of people would mow it at the 10 percent bloom stage; we mow it at around the 50 percent bloom stage and exclusively save it for this time of year for our cows because they are -- it has a built-in detergent in the buds themselves to help clean the blood of the cattle, okay. It all works very well. There are great nutritional ways to help your cows, you know, to stay healthy.

I do have a tie stall barn. That tie stall barn, I can say, from my own applied research is that once we started changing and incorporating a year-round organic system, okay, of grazing our cows and watching and taking care of important vital systems of the cows through their nourishment that we found great health increases and better, you know, less teats stepped on in the barn. As a matter of fact, I could say zero. We've accomplished that over the last five years now, okay, and haven't changed the environment of the barn at all.

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Any other questions?

CHAIRPERSON RIDDLE: Yeah, Gerald.

MR. DAVIS: You mentioned your cull rates dropping when you switched to organic. I think previously you mentioned your production level you were at, but you didn't say --

MR. GARDNER: Okay.

MR. DAVIS: -- where you wound up.

MR. GARDNER: Okay. What I found, when my production level was at 26,000 pounds on 50 cows -- I've got plenty of dust collectors in my basement in a box, you know, to verify that, but I found it didn't help the bottom line. My production now is about 19,000 per cow. My cows stay around a lot longer. The inputs are lower. I have heifers to sell annually, out of a small herd like that, quite a few.

I also -- the overall production of cows in their lifetime has increased, so on a cow basis, instead of having a cow last for two or three lactations, my cows are lasting four, five, six, seven, eleven, okay, so the pounds per cow that I'm receiving out of my cattle since I've done the changing has increased far more than to offset the poundage per year. I'd rather see a cow stay around a long time than -- and produce more milk in a lifetime than to stay a short while and...
produce a large amount in a short period of time.

CHAIRPERSON RIDDLE: Bea.

MS. JAMES: You mentioned that the burdock and
dandelion has optimum nutrition when it's in full bloom.
How do you determine how much of your acreage you're
going to harvest for off-season as opposed to letting
your cows forage, you know, all of that?

MR. GARDNER: Okay. The way we set it up, we
have set aside -- we have pasture areas of our farm that
exclusively the cows graze that time of year to have the
intake of those nutrients from those plants. We've set
aside other cropping areas of our farm to be able to
harvest in a timely fashion. Those areas are also
opened up to grazing later on, okay. If we have a rainy
year such as we did in the Northeast last year, our cows
are exposed more to the blood cleaning-type forages in
order to keep their livers clean because of Vitamin D
content coming from the sun is minimal with all the
cloud cover that we had last year. Does that answer
your question? Okay. Any other questions?

CHAIRPERSON RIDDLE: Thanks very much for your
comments. All right, next Urvashi Rangan for
Mark Lipson and then Cathy Arnold with a proxy from
Maureen Napp [ph]. Oh, I'm sorry. Yeah. You'll be
after Urvashi. That would be Dave Johnson will be next.
MS. RANGAN: Good morning. My name's Urvashi Rangan. I'm a scientist with Consumers Union, we're the nonprofit publisher of Consumer Reports magazine. I'd like to welcome the new members of the Board and thank Mark Lipson and OFRF for their time. I'm here to talk about a few different things. The first thing is about the directives. In April, last April 2004, the USDA published several directives that really eroded the integrity of the organic program and after a large public outcry, the Secretary then rescinded those directives. We spent last summer incredibly confused as to whether those directives were in play or not. They were simply deleted from the web site and there was no other clarification posted. There were also erroneous postings during that time justifying the positions of the USDA and why those directives made sense and this was even after the Secretary had rescinded those directives.

In October 2004 at the last NOSB meeting, several of us asked again for clarification on the status of the directives. We were assured by the USDA that clarifications would be posted on the web site within a few weeks of that meeting. We have still yet to see those clarifications posted on the web site.
There's no clarifications. There's no status update. We don't know what's happened to them and this is simply a disservice to consumers, to the certifiers, to the farmers, to the inspectors. Nobody knows what the status of that is. Can pet food be certified or not? Can aquaculture products be certified or not? Can antibiotics be used on a dairy farm or not? Can List 3 ingredients be used if you don't know that it's in your formulation or not? We need answers to these questions. We need these clarifications posted.

I think, for us at Consumers Union and many other organizations, we wonder why this is so difficult to be transparent with the public about this program. But after seeing the ANSI report, that is the audit of the accreditation process, it becomes painfully clear why these problems are in place and why it is we haven't seen these clarifications. Document control is not in order at the USDA. There don't seem to be any procedures for web site postings or web site deletions and as a result, the process cannot be comprehensive or intelligent for consumers or farmers.

We really encourage this Board to please work with the USDA to get these clarifications posted and if there are problems, then we'd like to know the status of the clarifications. We'd like to know where they are,

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where it's being hung up and where we might expect to
see the clarifications made.

On a separate point, we want to talk about the
petition process. At the last NOSB meeting we made
several comments about aquaculture, fishmeal, fishmeal
with synthetics. Rose, you were the one that asked us
well, why don't you just go ahead and petition it and we
did, in fact, follow that procedure this past six months
and tried to draw petitions for that as well as for a
few other things. The petition process is incredibly
long and cumbersome and in order for us at Consumers
Union or any other public agency to garner the resources
to submit a petition, it's almost prohibitive.

And I ask this Board if we could please find a
way to make it easier for the public to perhaps submit a
briefer petition initially to see if that's worthy of
going through the tap process because for us to simply
dredge all of the literature out on something, prepare
all of the materials you need, is really simply -- it's
prohibitory for us. We don't have the time to do it and
it makes it very difficult for the public then to have
to submit materials. So we'd very much like an
expedited [ph] process, some kind of streamlined form;
a two-page form that we could fill out initially to
submit to the Board.
Finally, I'd like to talk about the NOSB guidances on livestock, on the access to the -- access to pasture -- thank you. Part of the problem -- and I'm just so pleased to see all of these dairy farmers here today. I think what the farmers bring here is their expertise and their wealth of knowledge, that it is, in fact, possible to raise animals on pasture and to get them outside, and it's just -- it's very refreshing to have them here, so I appreciate that.

But I think the problem with this access to the pasture standards follow the same vein as the access to the outdoors pasture for poultry and that is that while the law requires it and consumers expect it, the regulations are weak and interpretation is loose and as a result, consumers are not getting what they expect with access to pasture or outdoors. Thank you.

CHAIRPERSON RIDDLE: Is there any comment and --

MR. MATHEWS: I have some comments.

CHAIRPERSON RIDDLE: Okay, Rick. And identify yourself, please.

MR. MATHEWS: Yeah, it's Richard Mathews. I'm the Associate Deputy Administrator, National Organics Program. You say that no statement has been made on the status of the four documents that were taken down. I'll
remind everyone that at the NOSB meeting in October we said that we'd concur with the Board's findings. Those findings were as follows. Fishmeal is allowed as long as synthetics are not used, if those synthetics are not on the National List. Again, we concurred.

List 3. List 3's are not allowed. It's a policy of when in doubt, go without. We agreed. Antibiotics. The Board said no. We agreed. With regard to aquaculture and pet food, the Board has called for the formation of task force. We agreed, we published and we are now getting nominees. When it comes to a streamlined petition process, we tried that. We tried going without all of the data. It was a nightmare and the Board had considerable problems with doing their job because of the lack of the information that needed to be provided, therefore we went back to the full petition process.

We are in the process of working to enhance that. We have a new statement of work. We have check sheets that the Board uses. The public has been notified of those check sheets, the public has been notified of the new statement of work and we are working with the Board to create a new petition process which is going to address the exact same issues. So I must state we have taken all of those actions that are being called
MS. RANGAN: Can I comment?

CHAIRPERSON RIDDLE: Yeah.

MS. RANGAN: Richard, thank you for your comments, but part of the trust-building between the public and the USDA comes with do what you say and say what you mean. At the last National Organic Standards Board meeting you all promised that we would have clarifications posted on the web site. There was so much confusion around those directives. They shouldn't have been issued in the first place. You took them off, you deleted them off the web site and we were told we would have clarifications posted within a few weeks. There are no clarifications posted. You said to the public that you would post them and you haven't done that. So in the spirit of trust-building we would much appreciate seeing those posted.

CHAIRPERSON RIDDLE: And I just want to comment because I appreciate your concerns and coming in and sharing that. The Board shares the same concerns and so has the Program. Those documents have been drafted and have gone up the chain in USDA for clearance and my understanding, they're still held up and they still will be posted, but everything we've heard reflects exactly what Richard said, that the Program...
does concur with our positions as stated in October, but we also look forward to those being released in writing. Bea, did you have --

MS. JAMES: No.

CHAIRPERSON RIDDLE: Okay. Thanks. All right, now for Dave Johnson and then Cathy Arnold, also, with a proxy from Maureen Napp.

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MR. JOHNSON: Thank you. My name is Dave Johnson. I operate a seasonal grass-based dairy in north central PA and I'm also pleased to be able to represent the NODPA board and speak about the infamous NODPA position that everybody has heard about and just want to make sure we have the official position in writing to the Board.

Thank you for the privilege of speaking here today and I'm also very grateful that my wife was willing to accompany me here to Washington and I have four children at home that have actually been willing to run the farm while I'm gone, so I really have great appreciation for them.

In our area of Pennsylvania, we farm hilltops, about 2,000 feet in elevation. It's pretty nasty and cold. I suspect probably right now it might be up to 20 degrees with about a foot of snow on the ground, even
though we're only 200 miles from here. Our growing season, frost-free, is only about a hundred days -- hundred-day corn is a good stretch -- and we have about 7500 heating degree days, so it's a challenge even in this area of the country in farming anything. We pasture our cows and that has been historically been the case in the Northeast because one thing our climate doesn't do is give us a lot of good high hay drying weather.

Several people have referred to studies regarding pasture-based production, some in Cornell, some in Wisconsin. One thing that seems to emerge in all these studies is that our current high-production paradigm and high-producing cows aren't necessarily the best fit for grazing and a lot of my colleagues in dairying in Pennsylvania have decided that they need a different kind of cow or they need to lower production expectations to have a really healthy cow and a good operating ecological system.

And you know, pasture feeding is very difficult because it involves a really complex biological interaction between the plants and animals, and it's a tricky job to do no matter where you are in the country. Every climate, every environment faces some real challenges of how to do that. You know, we
get about 40 to 50 inches of rain, but sometimes we get five inches in a day and a lot of that's not even in the growing season, so we have mud problems and we need to put a lot of money in investing, in lanes and things like that. So it's a real challenge no matter where we are and yet there's been a lot of work done in the art of grazing, I mean, it's an old science, there's a lot of information out there. And fortunately, it can be done and we feel like there can be places for that anywhere.

NODPA's taken a position that for pasture to really mean anything, we need some definition. Walking over here, I saw grass growing in the cracks of the sidewalk. That's not pasture, I don't think, but we need to define what that is and that's why as we've talked to dairy farmers around the country, we've tried to put some figure on this. You know, 30 percent seems arbitrary for dry matter intake, but may I -- or actually comment to the fact that some of our standards are somewhat arbitrary.

Why three years for a transition for a farm? Well, it's an arbitrary figure that we've picked to try to come up with some reasonable way to turn land into organic production. 120 days seems like an arbitrary figure, but as we've talked to farmers around the

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country, even in very dry conditions, even in very harsh, cold climates, it seems like 120 days is doable and might I add that the certifiers already have, in the provisions, an opportunity for emergency conditions.

When people find I have an organic dairy, they usually respond by saying oh, your cows are out on grass, and I think it's important that we deliver what the consumers want. And as a farmer, at the risk of saying something too touchy and feely, a lot of what we know and believe and practice is not necessarily based on sound science or scientific studies, and as a farmer, I can verify that this is the best thing for the cows and their behavior, is when I turn them into a paddock and I see them dance and sing and graze, I know it's the right thing to do. So we need to have a pasture standard that's real; it's critical to the future of our industry, it's critical to our livelihoods, it's critical to organic, period. Any questions?

UNIDENTIFIED SPEAKER: Dancing cows, that's a nice thing to --

CHAIRPERSON RIDDLE: Athletic, singing, dancing cows. Rose.

MS. KOENIG: I think I was under -- you know, the 30 percent -- I guess I had heard a Cornell report mentioned in one of the speakers that also is a member
of your organization.

    MR. JOHNSON: Right.

    MS. KOENIG: I was under the understanding that, in fact, there was some data to suggest that there was some weight to that numerical value. Am I -- did I misunderstand that?

    MR. JOHNSON: Well, it was a figure, I think, that Cornell decided to use to try to separate what is really a grazing farm from a farm that's basically confined and puts the cows in an exercise lot.

    MS. KOENIG: And was that 30 percent?

    MR. JOHNSON: That was 30 percent that they came up with, from what I understand.

    MS. KOENIG: But then -- I mean --

    MR. JOHNSON: On a dry matter basis.

    MS. KOENIG: -- I would not say that -- I would caution you by saying that they're arbitrary numbers.

    MR. JOHNSON: Okay. I mean, it may come across as an arbitrary number, but I think as researchers, they try to put a specific figure on it so that it did have some meaning. I know on my farm, I can do better than 50 percent for almost 200 days a year by really trying to push the season extension and optimize what I can do to maximize the input from grazing, and I
think most farmers, even in this Cornell study are doing far more than that. They're really trying to optimize the pasture intake.

MS. KOENIG: But I'm clear to understand that that 30 percent, even at -- you use the word arbitrary. So for the record, the 30 percent came from a Cornell study that defined --

MR. JOHNSON: Cornell used 30 percent. The 30 percent that were recommended was really a result of concession from farmers from Maine to California. We've had numerous conference calls, we've talked about it email-wise back and forth to try to come up with some consensus as to what pasturing cows means, so that's why we have tried to put some figures on it so that you, as a board, can define what does pasture mean.

I mean, it's already there in the rules, access to pasture. What does pasture mean? You've already developed a recommendation last year, I think it was, that there be a significant portion of their feed from pasture. What does significant mean? This is what we've tried to put a figure on and you know, we're recommending numbers. You ultimately have to decide what pasture and what significant feed means. We feel like a dry matter intake or a maximum stocking rate of three cows per acre is one way to go about doing it. If
you can come up with better ways, we mentioned the NRCS standards -- there's a host of things that we can do.

And I think it's doable for certifiers, too, because they already have to determine feed levels in the transition year; 80 percent organic, 20 percent non-organic. There has to be some way that the certifier is already looking at what's being fed to cows and determine where it's coming from. So I think there's ways to do it, whether you back-calculate from how much a cow producing 80 pounds of milk should be eating, whether you go out and measure your pasture levels before and after grazing; I think most good dairy farmers are already doing some way -- sometimes it's intuitive, but they are already getting good ideas as to how much the cows are eating from pasture. And that really should be in the organic plan and I hope certifiers are serious about doing that.

CHAIRPERSON RIDDLE: George.

MR. SIEMON: Yeah. Just since there's been so much reference to Cornell, maybe somebody else will know more, but one of the inputs I got was that the Cornell -- that they used the 30 percent to be included in their grazing farm summary. That was the threshold they established just to be in this other group that has -- I don't what the grazing farm summaries are used as, but
what I have as a reference to that, the reference is used as -- this document doesn't say dry matter, it says 30 percent. We've asked several times if it is dry matter, so I'll take it that it is dry matter, but this document does not say dry matter. But that's the threshold they've established to be included in grazing farms, experiments for research or you know, that kind of thing.

MR. JOHNSON: In the presentation that -- the paper that I just submitted, the NODPA position does say, "Significant portion of the total feed means at least 30 percent of the daily dry matter intake needs for all ruminants 12 months of age and up for a minimum of 120 calendar days per year," and then, "Stocking rate shall not exceed three cows per acre."

MR. SIEMON: And since I haven't been asking a lot of questions, your 120 calendar days does not mean continuous?

MR. JOHNSON: No, it may not. I mean --

MR. SIEMON: Just so I -- because I heard someone say they had a bad time in August --

MR. JOHNSON: Sure.

MR. SIEMON: -- they made up for it in September, so I just -- it doesn't say --

MR. JOHNSON: Right. I mean, I don't know if
there's areas of the country, they get two rainy seasons and have split grazing times; I don't know. But I think we've found as we've talked in consensus, that 120 days somewhere out of 365 days a year is doable, even in dry years. I've had some very, very dry years and I've definitely done better than 120 days. It's a management issue.

CHAIRPERSON RIDDLE: Hugh.

MR. KARREMAN: Just on that Cornell study, I know I was at a Penn State grazing nutrition meeting a couple of years ago and they were referencing Michigan State University kind of survey like what you've been talking about and they're using 50 percent to be included in the study, so you know, it changes from different areas.

MR. JOHNSON: I know Wisconsin's done some studies and I don't know what numbers they've used.

CHAIRPERSON RIDDLE: Thanks, Dave. And I have to say that we have a lot of people still signed up to speak this morning. I'd ask that, you know, you not repeat things that other people have said but just reference your support for them and try to offer new information. I also ask the Board to try, as much as possible, to be disciplined in asking questions to just help further our drafts as much as possible. It's all
just way too interesting. And so Cathy Arnold with an additional proxy for Maureen Napp, correct? And then Arden [ph] Landis on deck.

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MS. ARNOLD: I guess I'd just like to start out my time first saying greetings to all of you and thank you for your time and dedication, and I am Cathy Arnold, a dairy producer from central New York. I farm with my husband and brother-in-law and along with our two children, we ship milk from 100 organic cows and have done so for the last seven years. But I just want to clarify this question, what the 30 percent is. A current cut-off figure that Cornell University uses in deciding whether farms, for their economic studies -- this is for analyzing their on-farm economic data.

They used to use 40 percent forage intake as the cut-off for grazing farms and they just couldn't get enough farms to do the work, because it's a tremendous amount of work to do, put all this, the data, together for your farm. So they reduced it down to 30 percent forage intake, but this is just the very base minimum that they require for a dairy to be included in that category, but most of those farmers are producing, using far more.

I'm also speaking with the proxy of Maureen

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Napp from Preble, New York, who milks 75 to 80 cows with her husband, Paul, and we all support the inclusion of these NODPA figures as minimum benchmarks. And Rosie, thanks for your question earlier to Jim Gardner and our intention with this is not that farms that have a six month grazing season will only use four or if they have a ten month grazing season, it will only graze for four. We feel it's an obligation of all farms and certifiers to use the fullest extent of their grazing season, but that if an area can't even produce 120 days of grazing, then they should not be considered for organic dairy, but perhaps the NOSB would want to consider some wording to make sure that people don't misinterpret it to mean that they can shorten their grazing season down to 120 days.

My husband, Rick, was not able to come today, but he sent his thousand words in the form of a picture and a question. And this is a picture of our grazing dairy and his question to you is would you rather have a minimum pasture benchmarks attached to the pasture guidance document so that organic dairy consumers would look at an organic dairy farm and see a picture such as this or see a confinement feedlot with organic dairy cows on it? The NOP rule contains prescriptions to ensure that basic standards of organic production are
followed and prescribing numbers to ensure a minimum pasture intake is no different and I just want you to think of the fact that a 30 percent dry matter intake for only 120 days of the year ends up only being 10 percent of the annual dry matter intake of a cow, hardly a compellingly significant amount. So if we can't even get that as a minimum, you know, what kind of message are we sending to our organic dairy consumers?

Some who speak against minimum pasture benchmarks say that more study is needed and I'd just like to call your attention to this pile of books here on the table. That's just a portion of the research and books already available relating to studies on pasture and how to do it and how to do it right. And cows have been on pasture for centuries and it's only the last few decades that man has taken them off pastures and put them in confinement systems. But we don't need more extensive research to make this change; much research has already been done. The University of Vermont found that udder disease, including clinical mastitis, udder edema and teat injuries were consistently less in herds managed on pastures compared with those in confinement.

The new South Wales Regional Veterinary Laboratory found the prevalence of campylobacter being commonly isolated from feedlot beef cattle was 58...
percent compared to 66 -- compared to six percent for
dairy cattle on pasture and two percent for beef cattle
on pasture. The National Veterinary Institute of
Finland found the prevalence of Listeria was two to
three times higher during the indoor season than from
animals on pasture. North Carolina State University
found pastured cows had fewer clinical cases of mastitis
and lower cull rates. But decisions based on laws and
systems of nature need not be seen as inferior to
decisions based on human-run scientific studies. We do
not need to wait for man and research and science to
reveal all the secrets and intricacies of nature, we
just need to accept that nature knows more than we do.

But allowing artificial insemination, however,
is one area where the NOSB must allow the concern for
the safety of the humans, the men, the women and the
children, who work with and around organic livestock to
override the fact that using bulls is more natural than
AI. Too many people are killed or maimed by bulls each
year for the NOSB to ever consider prohibiting
artificial insemination on organic dairies as Aurora
Organic Dairy has called upon the NOSB to do today.

Some who speak against minimum pasture
benchmarks cite lower milk production as a result of
grazing. While it may happen, it's not a given. With
lots of good pasture and good management, pastured cows can be highly productive. We've done it for years. But the goal of organic dairy production is not to maximize output, but to allow cows to be part of their natural environment, to graze and to reap the nutritional benefits for themselves and for the milk and ultimately, the consumers, that only pasture can provide.

The current rule on access to pasture has worked where certifiers were willing to uphold the intent of the rule. However, this nonproscriptive approach has allowed abuse by some operators, operations and certifiers, as there are operations where organic dairy cows do not have access to pasture and real significant intake during the grazing season. Unless forced to do so by proscriptive rules, we're afraid that such operations will continue to exist. So I urge the NOSB to please add some prescriptive numbers to this pasture guidance document so that all organic cows will be achieving a minimum significant intake of pasture. Thank you. Any questions? Yes, George.

MR. SIEMON: Yeah, on this -- almost too radical sometimes. Are you all concerned about certifiers and inspectors and how they're going to measure the 30 percent and just turning into a tangled mess, you know, do the cows weigh 1150 pounds, do they
weigh 1175 pounds, was it dry that month, was the pasture this percent moisture, I mean, I just worry about the practical --

MS. ARNOLD: Well, my suggestion would be, I think, pretty straightforward and simple is that just prior to the grazing season, the farm documents how much stored feed they're feeding and then once they're into the grazing season, see if they've reduced that stored feed feeding by 30 percent. And most everybody is, has a nutritionist or doing rations so they calculate down to dry matter basis or -- and I think Lisa Englebert [ph] will be up here in a little while and she's a certifier and she could maybe speak to that better than I can from the certifier angle.

MR. SIEMON: The other question was I know some farmers who are pasture advocates also choose to keep their animals in, let's say, in the daytime when it's red hot and they graze nights, and that seems to be acceptable amongst the pasture advocates, but I'm concerned about, again, getting that 30 percent with that --

MS. ARNOLD: Yeah, I would think that if during the hot season in July and August, if cows went out in the morning after morning milking and they were back in the barn by 12:00 noon and then out again at the
night, if they've got good pasture out there, there's no
question they'll get 30 percent intake if the feed is
out there and they're not stuffed full when they leave
the barn. So I think it's a management issue.

CHAIRPERSON RIDDLE: Rigo.

MR. DELGADO: Thank you very much for that
beautiful picture of your farm. Quick question, can I
borrow your document, the one from Cornell?

MS. ARNOLD: Oh, yes.

MR. DELGADO: We were talking about it so much
that I want to make sure we take that as a reference.
I'll give it back to you. That's it.

CHAIRPERSON RIDDLE: Thanks. Oh, George.

MR. SIEMON: I don't want to -- did they
specify 120 days in there?

MS. ARNOLD: No.

MR. SIEMON: They didn't specify a time frame,
they just specified --

MS. ARNOLD: I don't believe they specified a
time frame, but I expect in New York, it's more than 120
days that they would've --

CHAIRPERSON RIDDLE: It was just really a
cut-off that they said to participate in this program.

MS. ARNOLD: Right.

CHAIRPERSON RIDDLE: That's where -- okay.

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All right, Arden Landis and then next up
Kathleen Seus.

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MR. ENGLEBERT: Well, my name is actually
Kevin Englebert. I'm here on a proxy from Arden Landis.
Thank you --

MS. CAUGHLAN: Plus your own or just --

CHAIRPERSON RIDDLE: Arden?

MS. CAUGHLAN: Are you here for one
presentation or two?

MR. ENGLEBERT: Just one.

CHAIRPERSON RIDDLE: Yeah.

MS. CAUGHLAN: Thank you.

CHAIRPERSON RIDDLE: Okay.

MR. ENGLEBERT: For myself, yeah. I'm taking
his -- my name's Kevin Englebert. I operate a 120 cow
organic dairy in upstate New York with my wife, Lisa,
and our three sons who are now 22, 19 and 15 years old
and who have been able to finally start participating in
some of these national discussions about organic
standards. I'm going to take Mr. Riddle's advice.
There's been so many eloquent speakers about the pasture
issue; that's the main reason I'm here, but I'm going to
diversify just a little bit and I'll be brief. I've
been involved in the organic industry for over 25 years
now and I can remember sitting around the kitchen table with two or three other people trying to write the standards for northern New York and also giving presentations and seminars in hope that a farmer would show up and I must say that none of us could've ever envisioned where we are today and I think this is an important time in the organic movement.

We were, back then, like an infant. No one really paid much attention to us, you know, it was just a little fad that would go away. There were pockets of small farms around the country that truly believed in what they were doing, but nobody -- there was nobody to turn to for advice or direction and it's just amazing to me how much things have changed in the last 25 years. And as you sit on the Board -- and my opinion -- back then we never had anybody challenge us as far as what we -- they could use in their farm or what their production process had to be. We simply came up with standards and the people that were involved were very idealistic and they were involved in organic agriculture because it was something they truly believed in and they just agreed with what we said and did what we laid down as our rules.

And I believe that as times have changed, you're going to be approached by people who want to
stretch rules or add ingredients that probably should
not be allowed and there would be three basic reasons
why they would. The first is, could be, the scale of
their operations. Many of the things that have been
allowed in modern agriculture have allowed farmers to
continually get bigger and bigger, but some of us
realized that those things aren't sustainable. So I
would caution you to be careful about allowing more and
more ingredients or procedures or processes that truly
aren't sustainable and really shouldn't be allowed, that
maybe the answer is to scale back on their size of the
farm and their production.

The second thing would be the health of the
soil. As someone spoke earlier, three years was just an
arbitrary number. In many cases it can take longer than
that for soils to be truly healthy. And that's where
all life begins. The soil is a living, breathing entity
and once it reaches a point that it's truly healthy and
maintained that way, the farm, the animals, the people
will also become more healthy and not require more and
more or different ingredients or treatments that a
hundred years ago weren't available, anyway.

And lastly, the thing that I can say in honest
opinion is agreed, there are many people moving into the
organic business now that really don't care about
consumers or farmers or sustainable agriculture or the health of the soil. They're, unfortunately, only motivated by one thing and that is to make money. And in my opinion, accumulating wealth and a corporate stock value and those types of things have no business influencing how decisions are made on organic standards. So you are now the current legal guardians of what started out as a very tiny, small organic movement and I hope you will take this seriously and think about those things as you face the challenges that you're met with. Thank you.

CHAIRPERSON RIDDLE: Thank you. Okay.

Kathleen Seus followed by Dennis Feland [ph].

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MS. SEUS: Hi, my name is Kathleen Seus. I'm with Food Animal Concerns Trust or FACT. FACT is a nonprofit organization that advocates for humane and sustainable farming practices. I'm here as a representative of FACT and our 20,000 consumer supporters. I'd like to comment on access to pasture. I know you've heard a lot of comments already about it, but this is the hot topic. FACT believes dairy cows and all ruminants should have regular, if not continuous, access to pasture. For dairy cows this includes both dry and lactating cows. I've read through the comments.
of various corporations, organizations and individuals posted on the NOSB web site with regard to this issue. I've seen the call for sound science to guide the decision regarding the access to pasture requirement. I believe it's good practice to use science as a basis for informed decisions, however I have all too often seen animal agriculture commodity groups use the call for sound science as a way to avoid dealing with situations that require changes in their practices, despite the fact that animal welfare can be greatly improved with change.

And despite the plethora of animal welfare science available, any data that does not support the position of commodity agriculture has often been ignored or criticized by industry. The truth is science can be used to support both points of view, including the view that ruminants should be raised on pasture throughout their lifetime.

I'd also like to point out that there are new areas of animal well-being research emerging that not only look at physical data statistics such as sematic cell count, body conditions scores and parasite infection levels, but also at behavioral, motivational and ethical applications to assess animal well-being.

Scientific leaders in these areas include Ray Strickland.
from the University of Maryland, Janice Swanson from Kansas State University, Ed Pager and others at the Livestock Behavior Research Unit at Perdue just to name a few. If we're going to use science, let's make sure we incorporate all scientific disciplines when we make our decisions.

In fact, science can be used to support FACT's position and the position of many of the farmers we've already heard from today that dairy cows, both dry and lactating, should have access on a regular basis to pasture and I'm not going to go into that any longer. However, I think it was Rose that said science only goes so far and is only one tool that we have. Just as important as science are the guiding principles, philosophy and intent behind the National Organic Program. Twelve years and thousands of working hours, mostly volunteer in the making, FACT strongly believes the intent of the organic rule is to require dairy cows at all stages of their reproductive life to have access to pasture.

In addition, consumers expect, when they see organic dairy products in the stores and support them with their dollars, that the cows do have access to pasture. As an example, one Chicago-based consumer network has called for a boycott of dairy products that
do not provide access to pasture for lactating cows. As stated in their call to action, although the milk from cows raised on these dry lot style farms may be "technically organic" because of the feed provided to the cows, this 3,000-member organization's calling for support of "ethically organic producers," buying products from companies who understand the spirit of organics.

Unfortunately, due to imprecise terminology in the national organic rule, some companies have used creative interpretation to manipulate the wording, using temporary confinement for animal stage of production as a justification for not providing pasture to lactating animals. However, as stated earlier, this violates the spirit of organic agriculture and it's not the intent of the organic rule. These rules need to be more specific. It's not small family dairy farms that are challenging or manipulating the access to pasture requirement, but large corporations. These corporations are not philosophically committed to the spirit of organic agriculture, in fact, some of these corporations also manage commodity confinement dairy operations.

The corporations are entering the organic market place as a way to tap into a rapidly growing and profitable market segment. FACT has no qualm with large
businesses entering the organic marketplace. However, if they enter, they should abide and respect the basic principles of the philosophy of organic management practices. If large companies want to participate in organic dairy farming, they must change their management practices to meet the requirement of the organic rules and intend it, not expect the rules to change to accommodate their practices or management style.

It's important to protect consumers by protecting the integrity of the organic standard. This is true not only for dairy, but for other organic livestock, organic produce and all organic products. Otherwise, the organic standard will be meaningless. Remember, organic farming is supposed to represent the gold standard in food production. Let's make sure we keep it that way.

CHAIRPERSON RIDDLE: Thank you, Kathleen. Any questions? Okay, thanks. Next up is Dennis Feland. Is Dennis here? I'm not seeing him. Cameron Wilson, then, and then Adam Eidinger [ph]. And I would just like the record to reflect that Henry Perkins submitted 61 letters in support of his comments and Mark Kastel submitted 32 letters in support, as well as 209 petitions with five names per sheet, so 1,045 names in support of his comments. I just wanted to get that into
the record. Thanks. And you are Cameron?

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MR. WILSON: Yeah, my name is Cam Wilson and I'm going to change the subject a little bit. We've been talking about livestock and I'm going to talk about slugs and snails and ferric phosphate. Okay. I represent the company, Nordorf [ph]. We're a German family-based company that develops natural products and one of the products we have is slug and snail bait which uses synthetic ferric phosphate as the active ingredient and we've petitioned to add synthetic ferric phosphate on the National List. The TAP review came back to us in early February with a two to one vote against allowing ferric phosphate on the grounds that alternate and effective methods exist.

So what I want to do is talk through the compatibility of synthetic ferric phosphate with organic crop productions and talk a little bit about the ineffectiveness of these alternate methods that currently exist. I'll highlight some of the comments from the scientific community about these current allowed methods, go into some of the economic needs for this type of product, discuss some of the current approvals for ferric phosphate that exist worldwide and also in this country. And then just a little bit about
where we are with the product, itself.

Compatibility with organic crop production.
EPA's bio-pesticides division determined that our ferric phosphate product will not harm humans, non-target organisms or the environment. This is from an EPA fact sheet. I believe you may have copies of this presentation that I've given, if not, you can -- it's easier to follow. According to the TAP review, synthetic ferric phosphate is consistent with organic farming and handling practices and the substance is compatible with the systems of sustainable agriculture as a crop production aid. And that was -- came from the review. That came from the TAP review.

Ferric phosphate occurs naturally in the soil, however, no mined source is commercially available. It is defined as grass, which is generally regarded as safe by the US FDA. Ferric phosphate biodegrades into iron phosphate, two nutrients that are used by plants. Synthetic ferric phosphate is already allowed for use in organic livestock production as a trace mineral and the reference to that is the National List 205603.

The ineffectiveness of alternate methods identified in the TAP review. This refers to pages one to three of the comments. I submitted a written response to the TAP review, which wasn't received until
last Friday, so you probably don't have copies of it and it hasn't been posted on the web site. However, the TAP review acknowledges severe limitations with alternate methods currently available. Letters from slug and snail research experts and organic farmers submitted to NOP state that current organic methods for slug and snail control do not work in a commercial organic agriculture and that baits would be the most effective control method. The current methods are only suitable for home gardens.

Experts in slug and snail research assert that ferric phosphate base are a more effective control measure for organic crop production and current alternate methods are not acceptable. The experts making these quotes include Dr. Ronald Hammond [ph], Ohio State University; Mark Gold [ph], the University of California; Brian Caldwell, Cornell University; Professor Glen Fisher, Oregon State University; and Dr. Maharmon Barrie [ph] from USDA.

Some of the highlights of the letters that they have submitted to NOP include the following comments: "Biological controls are not an effective option and will not -- and will sometimes feed on the actual crop." "Barrier controls are not effective because slugs and snails occur within the field."
"Dietentious [ph] earth is ineffective under moist conditions, therefore requiring constant reapplication. One mile of banding would be required for a 10-acre field, which is impractical." "Repellant controls wash off with rain or irrigation and require constant reapplications."

Two of the proposed repellants in the TAP review are copper-based products. Traps, bait stations would be required at a rate of 200 to a thousand stations per acre and would require constant filling.

CHAIRPERSON RIDDLE: So yeah, you didn't get the one minute warning.

MS. CAUGHLAN: Sorry. Too busy reading your material.

MR. WILSON: Oh, is that -- that was the one minute warning? I didn't --

CHAIRPERSON RIDDLE: No, that was actually the five minute time. So yeah, just --

MR. WILSON: Okay, I will mention you can read through the economic damage from slugs and snails. I would just like to mention one -- it's really important, is that this product, this -- ferric phosphate is already approved by the EU. It's approved in Australia. It's up for approval in the next two to three months.

In Canada, the Canadian Food Inspection Agency allows York Stenographic Services, Inc.
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USDA-approved products to come in and does not require their own standards at the moment. And there's no GMO ingredient in this product. The product is registered, it's currently used by growers, not organic growers, but -- and I respectfully ask the NOSB committee to consider adding synthetic ferric phosphate to the National Organics List.

CHAIRPERSON RIDDLE: Thanks. Hugh.

MR. KARREMAN: I don't know the whole background of the TAP review since I'm not on the Crops committee, I guess that's through the Crops. By the time -- actually, I'm pleasantly surprised to hear that there's a snail and slug bait because lungworm is a real problem for dairy farms in the northern part of the country and snails are the factor for lungworm, so I just want to state for the record I like that there's some kind of prevention for lungworm possibly out there in the organic world along with that all the other agencies around the world seem to be okay with it and that it is grass.

CHAIRPERSON RIDDLE: Rose.

MS. KOENIG: Part of the discussion yesterday in regards to Sunset, how to do it, targeting materials on the list that don't fit within OFPA categories. If you look on page 23 of the TAP review of the ferric...
phosphate, the reviewers say that ferric phosphate does not have any of the following components, and what they mean under that -- for that reason clearly that there's certain categories within the organic food production -- that materials have to fall within and if they don't fall within them, they really can't be listed. Now, I'm not saying, because we've seen it yesterday that there are some inconsistencies in doing our Sunset process -- we're going to try to reconcile the inconsistencies because we have to be consistent with OFPA. So I'd implore you to kind of look at your product and maybe tomorrow morning our discussion, you know, state your case --

MR. WILSON: Yeah, I'll be here all day tomorrow.

MS. KOENIG: And I'm not arguing with any of your EPA information. I'm asking you to tell me what category that material falls under --

MR. WILSON: Sure.

MS. KOENIG: -- in the organic food production list.

MR. WILSON: So which category --

MS. KOENIG: Yeah. And if you need some guidance, we can talk about it --

MR. WILSON: Yeah, I probably will, so --
MS. KOENIG: I asked you to refer to page 23 of the TAP because that's the one that where it says -- the reason why it's under livestock is that you stated it's under minerals and that is an OFPA category.

MR. WILSON: I guess the interpretation was did they classify it as a production aid?

MS. KOENIG: That was the interpretation and I mentioned yesterday during the meeting that there was an approach in the Crops committee during the last term -- this meeting had a quorum, so -- and some of that it wasn't a majority opinion as to whether that goes into that and additionally, that OFPA category, there has been documentation in October to kind of define that category and at this point -- we have -- there is some definition within OFPA. Yours clearly doesn't fit within that. What is described in OFPA for production aid, the Board is considering, you know, perhaps looking at an expansion of that, but at this point, there is no other guidance other than what's in OFPA --

MR. WILSON: Right.

MS. KOENIG: -- and from what I can see, as a Material chair, I can't find where it would fit within OFPA categories.

MR. WILSON: Yeah, we had this internal discussion in our own office that it -- we call -- for
us, it's a mineral and we didn't understand why it was
classified as a production aid, but we ended up with
deciding amongst ourselves that that's a nice word for a
pesticide, is a production aid, that doesn't fit into
another category, you know, such as a soap or a
horticultural oil.

MS. KOENIG: So that is -- if there has been
discussion, that would be the most truthful information
to present to the Board during that time, as far as
comment.

MR. WILSON: So whether it's classified as a
mineral or a production aid --

MS. KOENIG: Well, if you could provide us
with information and -- what production category you
feel you're --

MR. WILSON: Right.

MS. KOENIG: -- within OFPA, within those
restrictions for us to consider, that would be
fruitful --

MR. WILSON: I think it's -- like OMRI
classifies it as a vitamin/mineral section under
livestock.

MS. KOENIG: Livestock is very different
from --

MR. WILSON: Yeah.
MS. KOENIG: I don't want to take up any more time.

MR. WILSON: Okay, thank you. Appreciate that. And thank you for your time.

CHAIRPERSON RIDDLE: Yeah, thanks Cam. Okay, Adam Eidinger and then Grace Meriquin.

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MR. EIDINGER: Good morning. My name is Adam Eidinger. Thank you for having me here today. I'm representing the Organic Consumers Association and I'm going to be submitting a petition today that's been signed by 4700 people over the last weekend over allowing factory dairy farms to be certified organic. I basically just want to read the petition and that's going to be the extent of my comments today.

"Intensive confinement of dairy cattle is unacceptable under the USDA organic label or according to federal regulations; is also inhumane and in the case of factory farms, bad for the environment. American organic consumers believe that milk and dairy products labeled organic are coming from cows that have regular access to pasture and are primarily grass-fed. Organic dairy feed lots violate organic integrity, defraud consumers and threaten to undermine consumer faith in the USDA organic label. Grain-fed cattle and dairy
animals are not as healthy, nor are their products as nutritious and healthy as grass-fed or pastured animals. Grass-fed is a traditional organic approach and the best way for both the cows and human health."

"America has 80,000 dairy farms left with an average herd size of 80 to 90 animals. Many of these farmers would go organic if they got the help in technical assistance and economic incentives to do so. The organic community needs to get off our knees and demand our fair share of the USDA budget in farm subsidies. We don't need organic feedlots with thousands of cows in intensive confinement pretending to be organic farms to produce the organic meat and dairy the country needs. A critical mass of America's family size dairy farms can make the transition to organic and meet the ever-growing market demand for organic products if they are given a helping hand to do so."

"Horizon and Aurora and other dairy feedlots need to be pressured to abandon their factory farm feedlot strategy. If they are willing to buy from genuine pasture-based organic dairy farmers, then OCA can recommend their products. Otherwise, we'll have no choice but to eventually call for consumers to avoid purchasing all factory farm organics. If we let the industrial organic model prevail, for example, factory
dairy farms selling to Wal-Marts to give them, give
consumers cheap low-grade organic products, we will run
the risk that small and medium-sized farmers and
retailers will not survive."

"The Organic Consumers Association calls on
the USDA NOP to accept livestock standards recommended
by the NOSB that call for regular pasture access and a
predominantly grass-fed diet for organic dairy cows.
Organic feedlots must cease and desist from labeling and
selling their products as organic."

The Organic Consumers Association is
submitting a petition today signed by 4700 organic
consumers over the weekend calling for USDA NOP to
uphold strict organic standards for dairy products and
to save paper, I put it on a disc rather than to print
them all out.

CHAIRPERSON RIDDLE: Yeah. All right.

MR. KARREMAN: Just a quick point. You
mentioned some specific dairy processors in your talk
and I'd just like to say that you mentioned Horizon and
I have 35 certified organic Horizon producers in my area
and their average herd size is probably about 50 cows,
so just be careful calling the whole company as a
factory farm-type situation.
MR. EIDINGER: Clearly, that's not the case. I understand -- I mean, what you're saying is true and it's not the case that Horizon is engaging in this, but we understand that plans are in the works and that's something that we are watching and concerned about, especially when you have very large retail -- the largest retailer in the country, Wal-Mart, attempting to become a major distributor.

CHAIRPERSON RIDDLE: Yeah, and we're not here to debate the merits of any one particular company, but rather to focus on the draft before us and how to clarify and strengthen the pasture requirements, so I appreciate your support in that effort.

MR. EIDINGER: Okay. Thank you.

CHAIRPERSON RIDDLE: Next is Grace Meriquin and then Arthur Harvey.

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MS. MERIQUIN: A little change of pace. My name is Grace Meriquin and I'm president of Meriquin International based in California. We import organic ingredients for the food industry. I'm here once again to request that the Board support the classification of yeast as an agricultural product. Yeast is currently listed under Section 205.605(a) as a nonsynthetic, nonagricultural substance. It was seven months ago, on
July 30, 2004, that we first filed our request with the Board. Since then, there has been a task force of the Handling and Materials Committee working on an overall definition to distinguish nonagricultural from agricultural materials. The task force has been considering our yeast question as part of this effort and we thank you all for this consideration.

However, we want to emphasize that yeast is a special case that deserves its own solution, whether or not there's a general definition of agricultural versus nonagricultural and we are asking that yeast should be treated as an agricultural product now that it can be produced organically. In 1993 when the NOSB was planning the original National List, no one had yet heard of organic yeast and based on the state of technology at the time, the NOSB considered yeast as a nonsynthetic material, but one that could not be produced organically. In those days all yeast production relied, on some extent, on the use of synthetic materials.

To make organic products with yeast, it was necessary to put yeast on the National List. This led to the listing of yeast, beginning in 1997 in the first proposed rule as a nonsynthetic but also nonagricultural. It is important to note that the NOSB

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voted to declare all five types of yeast listed under Section 205.605 as nonsynthetic. Yeast is, after all, a living microorganism, a fungus. Yeast is grown and harvested like a crop. There is nothing inherent in yeast that prevents it from being produced organically or being considered an agricultural product, just as mushrooms.

By 2000, a European yeast manufacturer, Grano [ph], in Germany, developed a process for making organic yeast. This yeast, Beorial [ph], is certified organic by two organic certifiers in Europe, Lacon [ph] in Germany and BioSwiss in Switzerland.

Now I'll get to the real crux of the matter and it's not easy to explain this, but because the NOP Final Rule treats yeast as a nonagricultural substance, we find ourselves in a real Catch 22. Take an agricultural ingredient. It has to be organic if organic is available. Take yeast. On the National List yeast is called a nonagricultural substance and this is -- now, this is a real problem. There is no way to require an organic ingredient to be organic if it is nonagricultural. In a letter from Richard Matthews on February 11, 2004, he confirmed that under the Final Rule, handlers are not required to source organic yeast. Presently, once manufacturers meet the 95 percent
threshold, they are free to use conventional yeast in
the remaining five percent.

To our knowledge, organic yeast is the only
organic ingredient that manufacturers are not required
to use. Because of this quirk in the Final Rule, this
is all completely legal. This is why we're asking for a
change in the status of yeast in the Final Rule. All we
ask, are asking for is a fair shake for yeast. Once the
NOP regulations put yeast on the National List as an
agricultural product, then manufacturers will be
required to use organic yeast if it's commercially
available. Manufacturers are using conventional yeast
instead of organic yeast in organic products. This
conventional yeast is made with a host of synthetics as
processing aids. Conventional yeast is made with the
following synthetics: ammonia, ammonia salts, sulphuric
acid, caustic soda lye and synthetic foaming agents.

In closing, we'd like to leave the Board with
four points. In 2000 the Board, acted decisively to
recommend that seven nonsynthetic materials be
reclassified as nonagricultural. All we're asking is
that the Board make the same type of recommendations
that it made in 2000. The second -- has presented a set
of criteria to determine whether materials are
agricultural or nonagricultural. Under this criteria

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yeast would be an agricultural product. And finally, yeast is not a synthetic. It is not affected in any way by the recent federal ruling of Harvey versus Venemen about the synthetics in processed foods. So thank you all and I appreciate the consideration.

CHAIRPERSON RIDDLE: Thanks, Grace. Kevin.

MR. O'RELL: Grace, we certainly understand the problem and your concerns and I know that this has been an issue in front of the Handling Committee and this Board for a period of time. We understand -- we appreciate your patience in this. I know you weren't here at the update yesterday when we talked about some discussion items, or maybe you were and I missed you.

MS. MERIQUIN: Yeah, I was. You're going to discuss it at the next meeting.

MR. O'ReLL: Okay.

MS. MERIQUIN: And I appreciate that.

MR. O'RELL: Absolutely, we felt that, when we looked at the situation with yeast, it was the committee's determination that to just make a decision on yeast without clarifying the definitions of agricultural and nonagricultural would have had an impact on other items that are on 205.605(a). So in order to go through the process, we really feel we need to get the definition for agricultural, nonagricultural
clarified. We intend to make that recommendation by the
next meeting and that, in turn, we'll take on the
question of the yeast.

MS. MERIQUIN: So there will be an action
point?

MR. O'ReLL: It will be an action point at the
next meeting.

MS. MERIQUIN: Yahoo.

MR. O'ReLL: Yes.

MS. MERIQUIN: Anyone else?

CHAIRPERSON RIDDLE: George.

MR. SIEMON: Just so I understand. So once we
have that document then it will be just a simple motion
on our part to suggest to change -- let's say we say
that it's agricultural, then what's the action we're to
take?

CHAIRPERSON RIDDLE: Well, yeah. I assume
we'll have a good draft to work from and be able to act
on it and if we vote, then that would be a
recommendation for a rule change to the Department, so
it would have to re-categorize yeast or other similar
substances as agricultural.

MS. KOENIG: I would just remind the Handling
Committee that Sunset review is taking place, that you
could tap into additional funds and review this in the
context of that by utilizing outside sources, so think about perhaps including that process.

MR. O'RELL: And yesterday -- is this on? Yesterday when we -- yeah, the light -- either way. I blew it. Yesterday when we spoke about our priorities for Sunset review, we talked about three materials and yeast was one of those materials that we are expediting for a review.

MS. MERIQUIN: But you're not saying that this wouldn't then really go into effect until 2007, when you're saying that?

MR. O'RELL: Well, I think what we need to do is to complete our committee work and then make a recommendation, but as I said, we won't get at it -- it's an action item for the next meeting.

MS. MERIQUIN: I would greatly appreciate that and I thank you all.

MR. O'RELL: And I have a question and you don't have to answer it now, but if you know of any other government regulation that would categorize yeast as agricultural, that would be very helpful information --

MS. MERIQUIN: I think we've included that in a memorandum in July --

MR. O'RELL: Okay.
MS. MERIQUIN: -- because when you import yeast it's imported under an agricultural product, so --

MR. O'RELL: Okay.

MS. MERIQUIN: -- that's in keeping with what USDA has already established.

MR. O'RELL: Okay, great.

MS. MERIQUIN: Thank you.

MR. O'RELL: Thanks.

CHAIRPERSON RIDDLE: All right, Arthur Harvey and next up, Tom Hutchison.

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MR. HARVEY: Hi, I'm Arthur Harvey from Maine. I'm a certified organic blueberry grower, a certified handler, a certified beekeeper and also an uncertified distributor of -- by virtue of the exclusion in the regulation for distributors. And I do some organic inspecting, as well. My affiliations have nothing to do with what I'm going to say here today, but I am a member of the North American Fruit Explorers, a member of the Independent Organic Inspectors Association, a member of the Organic Trade Association and a member of the planning board in my town.

My topics today will continue a discussion begun by Barbara Robinson yesterday. First of all, on the summary judgment of the appeals court decision, I
hope the NOP or the AMS will choose to seek some input to the terms of the summary judgment by a conversation with me. I will be in D.C. until Thursday after lunch and my attorney's office is approximately half a mile from here. As you know, the court will look primarily to the plaintiff for a recommended summary and the defendant also can give an opinion. However, if the plaintiff and defendant agree, then the court is almost certain to respect their recommendation. It's worth a try, in my view.

And this leads me to the broader issue of due diligence by the NOSB. The NOSB is charged with the responsibility of developing policy and consulting with the NOP on the implementation and the direction of the program. I think that this should begin and really, it must begin by the Board members, individually and collectively, studying the Organic Foods Production Act. Too often in the past I think the Board members have dipped into a particular part of the Act and pulled out a sentence or a paragraph which seemed to apply to a particular situation. That's not enough.

Any law or any court decision can be understood only by reading it as a whole as it was written. There are areas in the Act which are ambiguous, but then there are lots of areas that are not...
ambiguous and the Board members need to understand those. There are gaps in the regulation. I can mention three specific sections of the Act which have never been implemented in the regulation and I think the Board should give special attention to those. In 6510, Subsection 5 and 6 deal with storage and packaging and if you read those parts of the law you'll see that there is certainly scope for the use of synthetics in both storage and packaging and you couldn't really have packaging without some synthetics.

So any discussion of the recent court decision which eliminated synthetics in some aspects of handling should not be understood as eliminating synthetics in storage and packaging. It's a very important distinction. And I think only -- this -- these distinctions will only be made clear when the rule includes additional subsections dealing with storage and packaging.

There are also some contradiction in the rule which -- particularly in Section 105 that might bear your study, so I guess that's all I have to say at the moment.

MS. CAUGHLAN: Well, you did -- you mentioned 6510. What were the other two that you wanted to --

MR. HARVEY: Oh, yes. Well, the Safe Drinking
Water Act requirements and handling are mentioned in the Act but not carried over into the rule and I think if they were carried over into the rule, then the scandalous use of chlorine which is now occurring because of this lack in the regulation, that chlorine is being used up to 200 parts per million in handling fresh produce and carcasses and it really shouldn't be happening and if the law's requirement for safe drinking water, then that wouldn't be possible.

CHAIRPERSON RIDDLE: And what's the third?

MR. HARVEY: Well, the third -- there are these two sections in regard to packaging and storage and they are separate subsections in the law. It should be addressed.

CHAIRPERSON RIDDLE: Thanks, Arthur.

MR. HARVEY: Sure.

CHAIRPERSON RIDDLE: Tom Hutchison, then Jim Pierce.

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MR. HUTCHISON: Tom Hutchison, Organic Trade Association. Welcome to the new Board members. Pleasure to be here. OTA thanks NOSB's Policy Development Committee for its prompt response and proposed recommendation for a rule change regarding "made with" products, that such products should not be
allowed to contain both organic and nonorganic forms of
the same ingredient and for its recommendation for
communication from USDA to the Association of American
Plant Food Control Officials concerning the use of the
word organic on fertilizer labels.

OTA thanks NOSB's Livestock Committee for
recommending an extension of the Sunset for methionine
and urges the full work to follow suit. OTA looks
forward to a recommendation on criteria for research
exemptions. OTA also thanks the Livestock Committee for
its apiculture standards, which have been needed for
some time. While the proposed standards vary from OTA's
American Organic Standards and previous NOSB-recommended
standards, OTA is most willing to accept the results of
the NOSB process, which we trust represents further
consideration of what is workable. I believe NOSB has
received comments which address the workability of the
standards and hope that the traditional balance between
rigor and workability will be maintained.

Regarding the likely affects of the Harvey
versus Veneman decision, OTA is assessing the likely
economic impact on the trade and will communicate this
to USDA. For your information, OTA has submitted to
USDA an argument against including "made with" products
in the decision based on the non-applicability of OFPA
to such products except for the organic portion of those products. OTA notes that the rigorous requirements for "made with" products in the rule, even though these are not required by the law, are also part of the carefully crafted compromise the rule represents.

Regardless of speculation regarding the ultimate remedy for the lawsuit, OTA requests that NOSB issue a statement defending its prior recommendations and process by stating in a letter to the Secretary that NOSB recommends that the Secretary work in whatever ways are possible for the NOP to continue as it has been formulated and currently exists in the NOP Final Rule. The rules, the result of a decade-long discussion among a very broad set of stakeholders, that resulted in a carefully crafted compromise allowing both strict standards and the continued growth of the organic sector. Thank you.

CHAIRPERSON RIDDLE: Bea.

MS. JAMES: Would you be willing to share a copy of what you were just reading there with --

MR. HUTCHISON: Yes. This is an amended version of the copies I had made. I will get that to you by tomorrow.

MS. JAMES: Okay, thank you. Thank you.

CHAIRPERSON RIDDLE: Okay, Rose.

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MS. KOENIG: I just wanted to make a clarification because a number of people had said an extension on the findings. The process is that that material, the Sunset, is three years. So what is being brought forth, at least my understanding as the Materials chair is that it has been re-petitioned, okay? So when they look at it, we're not -- it is Sunset with the term Sunset on it, because I keep on hearing people saying that word, considering an extension. We're not considering an extension, we're -- it has been re-petitioned. It's just a technical change, but I think it's significant because we have to respect what the prior Boards have voted on for that particular material.

CHAIRPERSON RIDDLE: Andrea.

MS. CAROE: Addressing your comment that this Board should provide a recommendation that our prior recommendations be considered. If the judgment comes down and the court orders a remedy to the discrepancies noted in the lawsuit, we want to use -- can happen. I mean, obviously we like our prior recommendations; we wouldn't have spent the time we worked on them, but I'm sure what you expect from the Secretary or this Board to do is that it is part of summary judgment the court orders that remedy would happen.
MR. HUTCHISON: As has been noted, the remedy has not yet been set. Primarily, we're looking for a statement of USDA support for past NOSB and NOP work, including the structure of Section 605, which USDA has previously offered arguments for. We're not sure that all of those made it into the discussion around this particular case. We'd just like those to go on the record again. I would leave all the specifics of whatever's possible to the Secretary.

I'm sure that USDA knows far more than I do about how they might go about participating in the process. Options do include legal challenges still at this point, including asking for further consideration of the case and one of the good reasons to do this is because there has been a great deal of confusion around whether or not the decision is applicable to "made with" products.

That's something that certainly should have been clear in the decision and isn't, and it would have an extraordinary economic impact on the industry and therefore that should be clarified as early as possible. Again, a statement for -- of support for minimizing the impact on the trade would be helpful and those are the sorts of things that I think could come out of that.

CHAIRPERSON RIDDLE: And as you know, we don't
have an agenda item to address the impacts of the
lawsuits during this meeting and I would ask that your
comments be directed to the Policy Development Committee
and also that Barbara Robinson and Richard Mathews are
going to be giving a brief NOP update and maybe they can
respond to some of that here this afternoon, so thanks.

MR. HUTCHISON: Thank you.

CHAIRPERSON RIDDLE: Jim Pierce and then
Jo Ann Baumgartner and then we'll have to talk about
lunch.

MR. PIERCE: You ready?

CHAIRPERSON RIDDLE: Yes, indeed.

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MR. PIERCE: Good morning, Mr. Chairman, NOSB,
NOP staff, ladies and gentlemen of the gallery. I'm
Jim Pierce, self-appointed certification czar at Organic
Valley Crop Cooperative. In preparing remarks for
today, I reviewed my files of past public comments. By
my count, at least 12 times I've given you advice,
criticism, constructive and hopefully, a smile or two.
Why? For one thing, I like it. I enjoy condensing a
thousand thoughts into 700 words and watching your
reaction, especially you, Jim and Goldie.

Another thing, I'm a man of action.
Testifying before you gives me a sense of
Accomplishment. Admittedly, some years it's like carrying a cup full of water great distances to the sea only to throw it in, but at least -- it may not make much of a difference, but darn it, along with everyone else, we've done something. And who knows? Mostly I do it because I like a challenge and God knows over the years the National Organic Standards have been a challenge.

Now, usually the comments that I bring to you are on behalf of the farmer-member-owners of the Crop Cooperative. The farmers in my co-op wholeheartedly endorse the farm-based plan approach to resolving the pasture situation and are greatly concerned about the potential loss of the whole farm transition for dairy, the 80-20 rule. The body of my testimony today, though, orbits far beyond the co-op and are presented on behalf of the greater US organic poultry community.

Our dog in this meeting's hunt is methionine. With the -- I'm sorry, I lost my place. Since the Board meeting last October, I'm fast becoming a reluctant expert on the subject with the logistical assistance of the Organic Trade Association, I led a task force of about a dozen actual experts through the process of writing a petition for the extension of methionine Sunset beyond this October. Could the petition have
been done better, he asks rhetorically? Yes, of course. Way better. Unfortunately, life is what happens while dreaming and recently life in the National Organic Standards sense has been the type of dream that you wake up from in a cold sweat. Do I honestly feel bad that we didn't deliver every attachment that we promised? Yes, sir, you betcha, as they say back home.

Finally, is the task force in agreement with the recommendation that the Livestock Committee has put forward to allow the use of methionine for three more years while research is completed? Yes, we are and as a group, we strongly encourage the rest of you on the Board to approve this recommendation. Three years is sufficient time to do meaningful trials and on various feed stuffs that show potential and to accumulate some good data from the university studies outlined in the petition.

Despite the absence of posted endorsements of our petition, as well as for your recommendation, they have been accumulating and will be submitted for the record with this testimony. The task force co-chair, Bob Buressh, has been tallying signatories, including organic egg and broiler marketers who represent hundreds of producers. The list will grow considerably since the use of synthetic methionine among poultry producers—
growers in this country is universal. For good or bad, that is the production model that we must find actual, practical, suitable alternatives to.

As accidental expert at the hub of this process, I see several potential breakthrough situations in our reliance on synthetic methionine. The most obvious is the development of alternative feedstuffs rich in natural methionine, such as potato protein, corn gluten and casein. More exciting, perhaps though, is the potential production of natural methionine through fermentation, as well as the rediscovery of heritage breeds, which produce well on lower methionine requirements.

As you may know, the organic -- the European community is also struggling with the same challenge of a hundred percent organic diets and no synthetic methionine. It's clearly in our common interest to share information in order to overcome this challenge. In researching the petition, those channels of communications have been opened.

If you, the NOSB, agree to the proposed three-year extension, then I promise you that the methionine task force will give our very best good faith effort to publish periodic reports on our progress so that you will have the assurance that the time which you have so
graciously granted us will be used as effectively as possible. Thank you very much and I'll be happy to answer any questions that I know the answer to. Okay. And who gets this for the record?

CHAIRPERSON RIDDLE: Okay. Thanks, Jim.

Jo Ann.

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MS. BAUMGARTNER: Hello, I'm Jo Ann Baumgartner, Director of the Wild Farm Alliance. Thank you for hearing my comments today. We request that the biodiversity conservation criteria be added to the natural resource section of the NOSB's model organic system plan. To give you some background, the Wild Farm Alliance is composed of sustainable agriculture advocates and wild lands conservation proponents. We have been in existence for four years and are located in Watsonville, California. We have a national focus and a well-known national board.

A few years ago IOIA, Independent Organic Inspectors Association, asked us to send them biodiversity conservation materials for use in their inspector training sessions. After sending them some basic materials, we realized that a broad-based group should be brought together to identify biodiversity criteria. With funding support from Organic Farming

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Research Foundation and others, a technical advisory committee was formed composed of organic farmers, certifiers, inspectors and conservationists. The committee reviewed biodiversity criteria used by organic certifiers around the world. It also thoroughly examined the National Organic rule, which requires biodiversity conservation, both in the definition of organic production and in the preamble and we found that the natural resource section requires maintenance or improvement of wetlands, woodlands and wildlife.

With this knowledge, we identified international biodiversity practices that were applicable to the NOP rule. While we were developing these educational guides for organic farmers and certifiers, which you have a summary of the guides in your packet, our committee realized that the NOSB support of biodiversity criteria in the organic system plan was an important piece of this effort, if all organic farmers and certification agencies were to truly address what is already in the NOP rule. In addition, the NOSB's endorsement would help even out the application of this rule across the country.

Organic agriculture is often thought as ecologically sustainable and indeed, it should be. While having much to offer, it also has a ways to go.
Consider that all agriculture across the continental U.S. comprises -- it takes up about two-thirds of the landscape, but its impacts to habitat and water resources make it responsible for more than a third of our wildlife and a quarter of our plants being on endangered species lists.

Organic production has well addressed toxic pollution impacts. Once the biodiversity intent of the rule is addressed, organic farms will begin to better contribute to reversing this biodiversity crisis and at the same time will reap the beneficial ecosystem services nature has to offer. And organic marketers can capitalize on this deeper commitment to biodiversity by swaying the millions of members of wildlife groups that organic is not just about clean food, but about ecologically functioning landscapes.

I know how hard it is to farm in today's global economy because I was an organic farmer for 10 years. I also know that management decisions can be and are made that balance the needs of farms with the needs of biodiversity and natural resource conservation. Last fall we submitted initial requests to NOSB. I'm going to leave the version that is before you now. The Crop Committee helped to revise and streamline it to a more concise form. It is this revised biodiversity criteria.
we are requesting to be included in the NOSB's organic system plan. This request does not seek to rewrite or clarify the rule, rather it's providing a key element in helping to implement existing regulation. By endorsing these biodiversity conservation additions to the OSP, you will be keeping the ecological integrity of organics strong.

Once a decision is made by the NOSB, we will publish our biodiversity educational guides and distribute them to a couple thousand organic farmers and certifiers. Our current and planned outreach also includes working with IOIA on their biodiversity standards, producing events like the one we just had on farm biodiversity prior to the ecofarm conference and making presentations to USDA -- staff and at inspector training sessions. Thanks for considering this request.

And then I wanted to make a comment about asher [ph]. Our board feels that the recent draft on graze feed needs to be further defined so that the word significant is articulated better, so -- any questions?

CHAIRPERSON RIDDLE: Hugh.

MR. KARREMAN: Just where is that biodiversity statement? Where do you want to put that into? I'm just not up to speed.

CHAIRPERSON RIDDLE: It's under Crops.
Committee. There'll be a tab for biodiversity, I think it's called. So I just want to be clear on what you're asking for and that is adoption by the full Board of the Crops Committee draft. You're not suggesting any amendments to it, you're comfortable with it the way it stands.

MS. BAUMGARTNER: Yes, exactly.

CHAIRPERSON RIDDLE: And then I -- just to make sure I heard you clearly then, that will -- or your group is waiting our action before you move some of your guidance forward, correct? Is it --

MS. BAUMGARTNER: Um-hum.

CHAIRPERSON RIDDLE: And then I also understand that ATTRA has funding for a project to revise the organic system plan template, so if we endorse this, it could feed into that project, as well.

MS. BAUMGARTNER: That's right. And ATTRA will be speaking about that later.

CHAIRPERSON RIDDLE: Oh, okay. All right. Anyone else? Thanks. Thanks, Jo Ann.

MS. BAUMGARTNER: Thank you.

CHAIRPERSON RIDDLE: Well, it's noon or a little after and I haven't done the numbers, but there are still quite a few people who signed up for today that we haven't gotten to. Whether to just continue...
with public comments for another half hour or to break
for lunch and come back; I mean, we have a lot of
business we need to attend to, as well. Richard has
offered the NOP update currently on the agenda as 45
minutes, to shrink that down to about 15 minutes and
really cover the most important points so we can save
some time there. The Board members, is there a sense
here, a suggestion?

UNIDENTIFIED SPEAKER: Do you think we could
get it done in a half an hour?

CHAIRPERSON RIDDLE: The remaining commenters?
No.

MR. O'ReLL: No, no. No. We've got to -- no,
take the break because -- either way.

CHAIRPERSON RIDDLE: Right, if we're going
to --

[Simultaneous comments]

MR. WRIGHT: Can I speak on behalf of some of
my fellow dairy farmers who have come across the country
out of their own pocket? It would behoove us to give
them an opportunity to make their trip worthwhile.

CHAIRPERSON RIDDLE: I understand and
sympathize with that. I see Richard reaching for the
microphone. Do you have a suggestion here?

MR. MATHEWS: Yeah. The people that are in
the typed list, which accounts for just about everybody there; all should be allowed the opportunity to speak. They were all pre-registered and the fact that we have been unable to manage the four hours time because of -- and I'm not criticizing, I'm saying that, you know, this thing was packed together five minutes per person and you've held them to the five minutes, but all of the questions have lengthened this out and I, too, echo the sentiments of the individual that we've got people who have come, who were pre-registered; but more importantly to me is the fact that all too often people show up to speak on behalf of farmers and it's very rare that we actually hear from farmers and the significance about this is that we're dealing with farmers who have a 24/7 job. The ladies back on the farm who are providing the milk, they still have to be milked, and so I applaud them for coming and I don't want to see them cut off.

CHAIRPERSON RIDDLE: Well, I think, then, that we'll break for lunch, we'll come back to comments and when we do, Tom Miller and then Tony Azevedo will be up. And let's try and be back at 1:00; that's 55 minutes for lunch. Okay?

[Off the record]

[On the record]

CHAIRPERSON RIDDLE: If people could take York Stenographic Services, Inc.
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their seats, please, and if you have a conversation, you can take it out in the hall, if you -- yeah. Okay. And I forgot to give this reminder this morning, but it didn't happen yet and that is if you have a cell phone, you please turn it to vibrate or silent or just off. Our next commenter is Tom Miller and then after Tom, Tony Azevedo.

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MR. MILLER: Good afternoon. I'd like to thank you for the opportunity to speak here today. My name is Tom Miller. I'm a certified organic dairy farmer from south central Wisconsin. I'm affiliated with CROP [ph]. They market all of our milk under the Organic Valley label. Our farm consists of about 370 dairy cows and 1400 acres of land, 500 of which is rented. There are seven family members who are actively involved in the farm operation along with three full-time hired employees, so we may be a large organic farm by the standards in our area, but we are truly a family farm.

Our farm today consists of 250 acres of pasture. Four years ago we had a little over 20 acres, but as soon as we realized that the NOP was going to require that we pasture our entire herd, we got busy and started planning on a way to comply with the new
regulations. We called our county extension agent and our NRCS representative. They helped us develop a pasture plan that would -- for us to reach our goals. The NRCS representative also helped us sign up for an equip program that paid us for transferring row cropped acres to pasture. That money helped pay for seed, fencing, lanes and level [ph] lines to the pastures so that we could do management-intensive grazing.

We presented our plan to a certifying agency. They approved it with the understanding that we would make necessary progress each year that would be verified by the organic inspector in our annual inspections. We started implementing our plan and had a minor setback the second year. We had a lot of winter kill in one of our -- some of our pastures, in fact. It set us back almost a year because we had to reseed those pastures. After explaining it to our certifying agency, they understood and agreed to extend our plan for another year.

My two brothers, who are the herdsmen, also starting learning all they could about grazing because we were conventional many years before that and but just started reading everything they could, went on pasture walks, attended grazing seminars and conferences.

We really like what pasturing has done for the York Stenographic Services, Inc.
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health of our cows and the quality of the milk we produce. We see very little production loss from pasturing and what loss we do see is mostly in mid-summer when the pastures start getting a little dry. I believe pasture's an important part of the organic way of farming. I also believe that every organic farm, no matter what size it is, must follow the same rules for pasturing. That's why we must make the rules clear enough so that they aren't open for different interpretations of the same rule.

I also believe that every farm should be able to develop their own plan to comply with these rules in a reasonable amount of time and that time should both be agreed upon by the farmer and the certifying agency. I believe this is very important in order to preserve the quality and integrity of organic products and to maintain the trust of the organic consumer. To me, organic is more than just a word that means more money for products. Organic is also a sustainable way of farming and a way of life and a philosophy that includes all aspects of farming from the soil and wildlife, all the way to the products we produce and the food we eat.

This is important and worth the extra effort it takes to do things right and everyone must interpret the rules the same way to keep it fair and equitable for...
everyone. That's why I do support some sort of a minimum requirement for pasture. I'm not sure if 30 percent is the right number because it's so variable in different parts of the country. I do believe we need a minimum and perhaps give the certifying agencies the opportunity to raise those minimums depending upon what part of the country they're in. At the same time, we probably need to give them a mechanism to be able to police themselves so that certain certifying agencies can't abuse those privileges. And that's pretty much all I have to say. Any questions?

CHAIRPERSON RIDDLE: George.

MR. SIEMON: I'm quite interested in seeing how -- we considered the NRCS as a resource here in determining what's appropriate pasture and you said it was a valuable part of your planning process and the guidelines and what would you think about using that resource as part of our setting the minimum standards or part of the pasture document?

MR. MILLER: Well, the NRCS was very helpful for us. It gave us some guidelines on pasturing, what our stocking rate was; they have certain guidelines for that. They were helpful because we do have some water ways that run through some of our pastures and they were -- they had certain limitations on when we could graze
that in order to preserve soil quality, so yeah, we got a lot of information from them as far as pasture, for our particular area.

CHAIRPERSON RIDDLE: Thanks, Tom. Okay, Tony Azevedo and then Martin Samson.

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MR. AZEVEDO: My name is Tony Azevedo, that's T-O-N-Y A-Z-E-V-E-D-O. And I had a lot to say at the beginning of the day, but it's pretty much been said and -- if you didn't get it by now, folks, you're never going to get it. I mean, there's not a lot I could say. I'd like to tell you a little bit about myself. I'm from California from the middle of the San Joaquin Valley, a very productive valley, also very polluted and some of our biggest polluters came from our fellow dairymen, factory farms. So we've learned a great deal over the last 40, 50 years of what confinement dairies do.

Some of you might remember me. I was -- I spoke last October and the two issues was if you have a hard decision to make, do what's right for the organic consumer and it will be the right thing for the farmer. And the other thing was zero pasture for a lactating cow does not constitute organic, so I think you got that message.
I think we should focus on things that we possibly can agree on. And it is, it's about the consumer. If the consumer didn't support us, we wouldn't really be here. And it doesn't have anything to do with size, as far as -- I'm from the valley of the big. We have some big farms there and these are my friends and a lot them family members and there's a place for that, that's what conventional is for. And they want to do that thing and I don't have a problem with that. So to me, it's a lot to do with money and if you want to know what this is all about, it's about money. And don't get me wrong, I love money. I have a very expensive lifestyle and organics has been able to afford me that lifestyle.

What's happening in the West is very unique. I'm on the cutting edge as far as seeing things happening and one of the unique things, that as more farmers come into this, there's a fork in the road. And I really wouldn't have complained to this point, because we always had confinement dairies, until the cancer started to grow. And one of the things I'd like to show you is I brought you a carton of -- this milk is processed in California, and I covered the label to protect the innocent, and what's neat about this carton -- usually everybody thinks that pasturing is like the
fourth or fifth thing on the consumer's mind. This
carton has the -- the first thing is our cows are
pastured. That's the first thing and everything else is
secondary, the no antibiotics, no -- and it literally
has the cows on the front dancing and singing like, you
know, you can see that here.

    What's unusual about this carton is not one
drop of this milk came from an organic farm. It all
came from a confinement operation. Every drop. Now,
how can they say this on the back? Hey, it's
California. We can tell you anything. I mean, I have
no problem with that. We do a lot of things, that's --
we even have talking cows out there. So the fact that
they print that and it's not really organic milk, I
don't have a problem with that.

    Where I have a problem is this same outfit
produces so much of this stuff, that now they sell
tanker loads of organic milk. So now I have this
product in California coming all the way to Wisconsin
and Minnesota by tanker load and is putting into cartons
that are trying to do it the right way, because if
you're short of organic milk, you call on an organic
broker or another processor and say hey, I need some
organic, sure we'll send you a tanker load; as long as
it's certified, there's no reason to question it.
So about 80 percent of organic milk right now is being produced this way. Now, no matter what happens here today -- I'll tell you one thing right now, farmers like myself are not going to be used as poster boys. It's just not going to happen. I do have some control over the -- of my milk and it's not going to be commingled with this type of fooling the public. The other carton I brought you --

CHAIRPERSON RIDDLE: All right, finish up that carton.

MR. AZEVEDO: Okay. This carton's going to be a quick one. Covered the label to protect the innocent. It has a great story on the back and it's about me and --

CHAIRPERSON RIDDLE: It is true, I'm sure.

MR. AZEVEDO: And it's all true. You'll actually get diabetes if you read this story. This is a great story. But the fact is I don't want that -- I don't want this in here and we need to find a way to stop that; not tomorrow or the day after, immediately. Any questions, please?

MR. SIEMON: I think they're confused. You're saying it's not organic milk. It's certified organic milk, but you don't consider --

MR. AZEVEDO: Oh, you bet it's certified.
MR. SIEMON: Okay.

MR. AZEVEDO: It has USDA here by the laughing cow and all kinds of labels all the way around it, but I know where this milk is produced. This is not organic milk and this fooling of the public has to stop or else it's going to ruin all of us. Question?

UNIDENTIFIED SPEAKER: We got it by now.

CHAIRPERSON RIDDLE: Thanks.

MR. AZEVEDO: Thank you very much for listening to us.

CHAIRPERSON RIDDLE: Congratulations on the first use of duct tape at an NOSB meeting. I have never figured out how we could fit in duct tape. Okay, Martin Samson is up and next is Vanessa Bogenholm and while Martin's making his way up here, I do want to mention that Lisa Englebert was signed up and just has decided to submit written comments here essentially supporting the NODPA position and those comments are on behalf of the NOFA, Northeast Organic Farming Associations of Connecticut, Massachusetts, New Jersey, New York, Rhode Island and Vermont, so we do have those in the record. Okay, Martin. Thanks.

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MR. SAMSON: Mr. Chairman, members of the NOSB. My name is Martin Samson. I am an organic York Stenographic Services, Inc.
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consumer from Vermont and I want to thank you for
allowing me to share my concerns about the relationship
between organic pasture and organic milk and I heard,
too, when Mr. Chairman asked for speeding this process
off and see if I can skip those arguments which already
have been made and there are many. There are a few
things I would like to say because some of the arguments
presented here are, in my view, not strong enough.

The grazing of the organic dairy cow is very
essential and it's historically the picture of the
natural behavior, which is asked for in 205.3 to 239(a)
and I think it's very important that the connection
between grazing -- and that has been said before -- be
linked to natural behavior. You have been asking for
specific suggestions and my suggestion would be because
your recommendation of 2001 of the NOSB Livestock
Committee deals with pasture. If you would be willing
to consider to go from pasture specifically to dairy by
adding every time there is words about pasture, between
brandishes say grazing, for grazing of, especially
during lactation, because I think that's very important
that we make that connection that the milk is derived
from, as much as possible, grazing.

I have under economic criteria a comment where
I say if -- it's very hard to explain what I feel is

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wrong about having a mega-dairy in New Mexico or in Colorado and I didn't know exactly how to explain that, but the dairy -- a Vermont dairy farmer friend said Vermonters did not go to Colorado to tap maple syrup because there are no sugar maple trees to speak of in Colorado, and likewise, Vermont organic dairy farmers did not go to Colorado to produce organic milk because there are no natural green pastures in Colorado that could accommodate mega-dairies.

I know that there is some grass in Colorado lands, but that grass, without irrigation, cannot support 12,000 or so pounds of milk that current organic dairies need to yield per cow per year to maintain organic vitality. I have seen the growth of conventional mega-dairies in New Mexico in the '90s and they create fabulous low-cost priced milk, but they can only do that by taking away the dairy cows' natural behavior. The organic rule specifically doesn't allow that.

I want to make a little comment about farming is more than science. I have read some of the comments of the Aurora Dairy and I'm very impressed with the desire to look at almost everything being proven by science, but it makes me feel that there is a try there to redefine what the natural behavior for a cow is with
allowing them less pasture, less grazing and more other
stuff and I got a little bit shocked by reading through
the comments when there is the request for more science
containing the insinuation that there might be a chance
that my organic milk from grazing cows might be
contaminated with *E. coli* and I think that that is
taking science and turning this thing completely upside
down.

The last comment -- issue is the demise of the
organic label. I am very concerned that if the NOSB and
after them to use the -- not able to really create a
situation in which the pasture requirement is solidified
that I, as an organic consumer, have to walk away from
the label and say hey, I don't trust this label anymore.
I have already heard people and I will support them who
say we will go to another label, another label which
really promises that the connection is taken care of
between the organic milk and the organic pasture. And
I'm not looking for that to happen, but the chances are
that will happen and I really encourage you to take that
in your consideration that there is no need for it, but
it might happen if the regulation doesn't become strong.

CHAIRPERSON RIDDLE: Thanks, Martin.

MR. SAMSON: Thank you for your -- very much
appreciate your work. I don't know if you have any

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questions. Thank you.

CHAIRPERSON RIDDLE: Thanks. Okay, Vanessa Bogenholm and then Diana Kay [ph].

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MS. BOGENHOLM: Good afternoon, everyone. I am Vanessa Bogenholm. I am a organic strawberry and raspberry grower. I represent VB Farms. I own it all by myself. There's no 25 kids at home working for me, I'm happy to say. All my employees get to do it and call me on the phone every 20 minutes. I'm also very honored to sit as chairman of the board of California Certified Organic Farmers and I speak on the ferric phosphate issue representing CCOF and my own farming operation.

I do not agree with the two TAP reviewers who do not think that ferric phosphate should be allowed for organic production. I believe these two reviewers have no idea how farming occurs in a field and have never actually seen a commercial organic operation. Their comments were more appropriate to a small garden, not a farm run as a business. The reasons I believe ferric phosphate should be allowed and the TAP reviewers were wrong, (1) no viable control exists for organic production if snails or slugs exist. Slugs and snails are ever present in our fields because of constant

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irrigation. There are no ways to exclude snails and slugs because they are already in the fields when the fields are planted. Heavy infestation occurs in the spring after the rains when the markets are the highest and the crops are just establishing. In the spring we can lose up to 20 percent of the first berries from slug damage.

Slugs and snails can crawl out of the produce when it gets to market causing a quarantine issue when the produce is shipped. Organic strawberries have the same marketing characteristics by PACA as conventional strawberries when they arrive, which means they must be free of pests. A slug crawling out of a single box can stop an entire pallet, which is 120 boxes of berries in Florida, especially, or England which we got stopped three times in England last year for a slug.

Copper bands are unusable around a field because they are very expensive if used. Used copper right now is $1.25 a pound and I use them large scale. Now, one of the questions was what is a large scale grower? I will consider anything over a quarter of an acre too large to use a copper band. Tractor work is impossible with a copper band around your field and just feet traffic would cause damage. You don't know, for strawberries we actually go in and harvest twice a week.
One reviewer said that spraying household ammonia can be used as a control for slug damage in strawberries. This isn't even legal for organic production and the reviewer used this as a reason for not allowing ferric phosphate for organic production. It is ridiculous. The National Organic Standards Board should not be paying for technical reviews that are this unprofessional. Beer traps in my field? It is not legal for me, as an employer, to have beer in my field around my employees. Can you imagine what my Workmen's Compensation plan would be?

Let alone, what if a teenager came to my farm, drank the beer out of my slug traps and then left and got into a car accident? To even suggest this in a TAP report, I feel is incredibly unprofessional, especially for a paid person. One year we really did try to trap the slugs out of the field. We put out hundreds of wood boards, wet them down every night, put them on the dirt; in the morning the employee went out, scraped off the slugs and killed them. We did this to just a half acre block. It took an employee three hours a day. After a little over $500 in labor, we just abandoned the project and abandoned that part of the field.

With the quantities I grow there are no other trap crops we could do. The trap crops are just -- the
strawberries are preferred hosts, so is head lettuce, of course. And I really feel that, you know, it's not a process of an environmental problem with ferric phosphate. I understand the process the Crop Committee has of where to put it. I understand that's a difficulty. I hope the NOSB understands my reasoning why ferric phosphate is needed for control for snails and slugs in organic production and consider adding it to the National List of Allowed Materials.

I also hope the NOSB works out its issues and get products reviewed in a more timely fashion. Ferric phosphate's waited for two years for its review and we, as growers, had only two weeks to respond before the NOSB meeting -- with the material. I feel this waiting of two years was too long and to expect me to get a bunch of growers active in two weeks was very difficult.

TAP reviewers need to be professionals in the business and understand what farming is and not be quoting farm magazines as viable alternatives. Thank you.

CHAIRPERSON RIDDLE: Thanks, Vanessa. Any comments? Okay. Diana Kay and then James Hahn [ph]. Are you going together?

MR. HAHN: Yes.

CHAIRPERSON RIDDLE: Okay, so then the next
person up will be Craig Weakley.

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MS. KAY: Hi, I'm Diana and this is Jim, my partner. And we do have a small, very small farm. We raise herbs for our own personal use. We are organic, although not certified in Maryland, Frederick County. We also happen to make personal care products and that's what we're actually here today to talk about, so maybe this will be a little diversion from all the talk about livestock. And by the way, I wasn't kidding. I hope you did all save room for dessert because I brought dessert here today, which happens to be our completely organic single ingredient organic, certified organic cocoa butter.

This is USDA cocoa butter. We happen to pour it into this container and I'm going to take a bite of this right now. I'd pass it around first, but I can give you one. This product is an edible product. It also happens to be a fantastic moisturizer. It's recommended by obstetricians for women for pregnancy, stretch marks. It's been used for decades. By the way, it's delicious.

MR. HAHN: Let's talk about the problem.

MS. KAY: The problem that we're having right now is that we are struggling and we have been for a
long time because we cannot get our products into stores. The problem? There are -- the word organic for body care products has no regulation. It isn't -- it's not into the rule where -- and that's why we're here today. We want to ask you, request that you will beseech the powers that be to bring body care products into the rule. We'd like to see some rule making. And to drive home our point, we also wanted to present you with this bouquet of organic flowers for your inspection.

CHAIRPERSON RIDDLE: Well, they're plastic, so they don't come under the regulations.

MS. KAY: Well, that's what we're up against. There are products in the marketplace right now that have zero organic ingredients in them, zero, and the word organic is emblazoned on all of the packages, in the advertising and I'll tell you what, we are seeing dozens of new companies every week, every week. The consumers are not protected at all. And we also, by the way, have a retail store, a very tiny little shop at our farm and we have a lot of consumers who drive up from D.C. on the weekend, so we're hearing from them face to face.

We also hear from consumers around the world and what we're telling you here today is they're...
horrified when they find out that the word organic has no meaning when they walk into a store and they walk --
they turn to the right and they buy organic carrots and they walk 50 feet and they turn to the left -- it has no meaning at all on the other side of the store.

MR. HAHN: They don't know that.

MS. KAY: No, they don't know that. These are trusting consumers. The word -- what we're hearing is frustration from these people and also distrust. They're saying well, then why should I trust anything? This has no meaning. We have to do something about this. So that's why we're here today.

MS. JAMES: Jim.

CHAIRPERSON RIDDLE: Yeah.

MS. JAMES: First of all, thank you for the visual aid. I will always remember that body care needs to be addressed and I actually look forward to the day when you will be up here telling the Board, which probably won't be in my life time --

MS. KAY: Oh, don't say that.

MS. JAMES: -- what needs to be fixed on the organic definition in body care.

MR. HAHN: We're running out of time. Thanks.

CHAIRPERSON RIDDLE: Thanks. Okay, Craig Weakley and then Ed Zimba [ph].
MR. WEAKLEY: Good afternoon, Board members.

It's a pleasure to be here. I'm Craig Weakley. I'm Director of Organic Agriculture and Sourcing for Small Planet Foods and also from 1992 to 1996, I served on the National Organic Standards Board. The comments I make today are my personal opinions. I'm going to start out by providing a historical perspective. In 1992 the NOSB recognized that there was a conflict in the language of the Organic Foods Production Act with respect to the use of synthetic ingredients in organic processed foods. So we took the issue to the USDA and said look, what do we do here? We don't want to waste our time on something if the law prohibits it.

USDA took the matter to the Office of General Counsel, their attorneys, and the OGC came back and said look, there's a conflict in the law. We need the NOSB to make a recommendation as to what will be best for the industry. So of course, we all know that the NOSB received much public input on the issue of synthetic ingredients in processed organic foods, conducted TAP reviews and ultimately recommended to USDA that a few synthetic processing materials be included on the National List of Allowed Materials.

What many people may not know is that the NOSB
also consulted with Kathleen Merrigan who actually wrote
the Act when she was on Senator Leahy's staff. Kathleen
told us that it was not Senator Leahy's intent or the
intent of Congress to prohibit all synthetic processing
materials. The intent was to prohibit chemical
preservatives, artificial flavors and artificial colors.

Kathleen told us that the intent of the Act
was to have the NOSB recommend which synthetic
processing materials, if any, are compatible with
organic principles. And of course, over the last 12
years that's exactly how the NOSB has proceeded. During
the 12 years prior to the implementation of the National
Organic Standards, the NOSB did an amazing job of
listening to all the stakeholders and conducting TAP
reviews of scores and scores of synthetic processing
materials. I think the current National List very well
represents the intent of the Organic Foods Production
Act with respect to synthetic processing materials.

The materials meet the seven criteria in the
act. At the time that the materials were approved,
there were no natural alternatives and they've been
historically used by organic processors for a number of
years. Unfortunately, as we know, a member of the
organic industry has decided that the NOSB process that
we all worked on so hard for many years was wrong. As a
result of a lawsuit and a very narrow legalistic decision by the appeals court, we find ourselves in a position where all synthetic materials for organic processing will soon be prohibited, materials such as baking power, vitamins, minerals and pectin will be banned from organic processed foods.

The court ruling is based on a technical flaw in the words of the Organic Foods Production Act. The court ruling does not mean that synthetics are incompatible with organic principles, of course not. We all know that some synthetics are compatible with organic principles and we've been working with them, using them on farms and processing plants for years.

The court ruling is inconsistent with the intent of the OFPA and is inconsistent with the common practices of organic processors over the past two decades. For example, Cascadian Farm has made organic jam since 1980. That jam contains pectin. Pectin is a naturally dry but technically synthetic material. So after 25 years of selling a certified organic jam, under the new court ruling, we'll have to take this product off the market.

The concern is, is that a recent USDA opinion, which we hope is wrong, but now has to, you know, has to be considered their opinion. They believe that the
court ruling will also apply to "made with organic ingredients" products. In other words, we can't use synthetics even in products made with organic ingredients. So we'll have a product that's been on the market for 25 years as certified organic that will have to be discontinued because we can't even label it jam made with organic fruit. This is crazy.

The impact of the court ruling could cripple the organic processing industry. I do recognize that there is little that the NOSB can do to counter the court ruling, but I would ask that the NOSB continue to uphold the basic concept that some synthetic materials are compatible with organic food production. Farmers have scores of synthetics that they use on the farm. Handlers and processors also need a few synthetics in order to produce high quality products that consumers want.

Consistence with its recommendations, the NOSB should formally recommend that USDA try to appeal this court ruling. My goal, as a former member of the NOSB and as an active participant in this industry since 1989, is to transform agriculture, to provide incentives and opportunities for conventional farmers to convert their land to organic production. This goal is shared by many in this room today. Our ability to continue to
transform agriculture is dependent on increasing consumer demand so that more acres are needed, more acres can be converted.

The elimination of the synthetic processing materials on the National List will decrease the number of organic products available to consumers. It will decrease the demand for organic crops and ultimately reduce our ability to transform agriculture.

CHAIRPERSON RIDDLE: Thank you.

MR. WEAKLEY: This was not the intent of the Organic Foods Production Association and consumers are not protected by limiting baking powder, vitamins and minerals and pectin from organic foods. So I ask you, as a Board, to support the efforts of organic processors to move toward a resolution to this problem.

CHAIRPERSON RIDDLE: Okay. Your time is up. Thanks. Are there any questions?

MR. WEAKLEY: Does anyone want to ask me if I had a conclusion?

MS. CAUGHLAN: Craig, do you have a conclusion?

MR. WEAKLEY: Thank you, Goldie.

CHAIRPERSON RIDDLE: I thought it was, but --

MR. WEAKLEY: Yes, I do have a conclusion. We need balanced and reasonable National Organic Standards.
that allow all types of organic food producers to
operate within the recognized principles of organic food
production. The National Organic Standards were not
broken, but unfortunately, someone decided to fix them
and was able to convince three judges that the standards
needed fixing. Now the standards are broken. As we've
done on many occasions, it's time for all organic
stakeholders to rise to the occasions and work together
to reverse the impact of this appeals court ruling. Our
ability to transform agriculture to organic farming
methods depends on it. Thank you.

CHAIRPERSON RIDDLE: Thanks, Craig. Thanks
for your contributions. Ed Zimba and then
Lyle Edwards, Jr.

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MR. ZIMBA: Are you ready? My name is Ed
Zimba and I'm an organic dairy and crop farmer that
consists of 300 milk cows and 2500 acres of crop land --
together. I would first like to express my appreciation
to the Board members for all their volunteer time and
effort that they sacrifice to maintain high the
integrity level of this organic industry. I'd also like
to say thank you to the NOP.

I'm also thankful to have the opportunity to
be here to represent myself as well as the rest of the

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organic dairy farmers in Michigan and we sell our milk
to Horizon Organic Dairy and H.P. Hood. I have 25 years
of experience in applied research, which is better than
any other government, college or scientific research.
My school -- I come from the school of common sense and
hard knocks. The first half of these years I was a
chemical farmer, without grazing and the cows were in
total confinement in dirt lots. We turned and burned
cows in a very high production. I was just at a
three-state conventional dairy meeting in Michigan, Ohio
and New York last week and the average culling rates
were 30 plus percent.

In the early '90s I was introduced to organic
farming and learned the importance of building soil
health, which improves the health of the crops, the
animals and ultimately us, the human beings. As I
researched out what would be necessary requirements to
farm organically, I was -- the rules stated we have to
graze all our lactating dairy cows, so I began to invest
and do whatever is necessary to do that. It was pretty
common sense what the rules said.

We spent over $300,000 on 303 acres of prime
crop land for grazing around my present dairy as it is.
We went to the expense to seed the pasture with top
quality grasses, clovers to help meet the needs of the
health of the cattle. We fenced off 250 acres for
grazing. We built walking lanes, water lines and spent
over $30,000 -- the benefits of grazing that I've seen
over the years now is that the grass is so much higher
in availability of protein, energy, minerals and
vitamins and fermented [ph] feeds. But we have less
feet and leg problems because they are off the wet
concrete. We have better immune systems now. We have
increased a cow's life. We have less cattle problems.
Our vet expenses have let down -- went down. We lowered
our mastitis problems. We have better conception rates
now with breeding. We have better body scores. We show
better heat. We have better muscle tone to the cattle.

Milk quality has also improved. We have
tested our milk and found higher CL results compared to
our conventional farmers in our area. We lowered
sematic cell counts. Our soil keeps improving, the
health -- the more earth worms that we have in our soil
is now -- we keep getting more and more tons per acre in
our grass as we keep building the soil. There's
controversies out there saying that there's problems
with parasites. We check them every year and throughout
the year. We are not having problems with parasites
because we keep building and mineralizing our soil and
getting good grass uptake, good mineralized grass. We
have no problem with deer diseases -- we have them running out through our pastures, Michigan is noted for high deer eggs [ph]. We have no problem with balancing pasture with TMR [ph] feed rations. We have no problem milking high production cows and grazing them. We have no problem keeping body scores good on high-producing cows, either.

In summary, this is all applied research, better than any government, science or college research. Good grazing management, high intensive rotation grazing is good for the health of the cows. You need to apply organic fertilizer, calcium, minerals and trace minerals to the soil to achieve good production grass and quality milk. Our pasture is the most profitable land out of the 2500 acres that we farm. We look forward to grazing every spring and wish we could graze year-round if the climate would allow.

Consumers deserve to get the milk they're being told that they are getting, milk that is from grass-fed cattle, just as is stated on every organic carton. As stated by the NODPA rules and other people that talking across the United States, I support the rules of three cows per acre including lactating cows, at least 30 percent of dry matter intake, 120 days of minimal grazing per year. Pasture -- as connected to
the roots. These rules have been discussed nationwide
and no matter where the -- each area will be able to
comply. This is not the size of the farm that is
important, but that everyone needs to comply to the
rules. The NOP and certified agencies also need to
better enforce them, that we do not find ourselves here
again under similar circumstances. We need to raise our
tag [ph] level, we need to stay on top and keep on it.
The organic rules were set to farm organically. If
farms cannot comply, they should not farm organically.

We, the people, have spoken. Please listen.

Don't let someone else set the grazing rules for us.
The organic was built on common sense and high integrity
to the health of the cows by the grass roots people.
The grass roots people knew what grazing meant. Let's
get back on it. Please listen to what the majority of
the people are saying here and I thank you very much.

Do you have any questions?

CHAIRPERSON RIDDLE: Thanks, Ed. Okay, and
Lyle Edwards, Jr. and then Jack Lazor, but for the
record, I wanted to note that there were 31 signatures
to the Methionine Renewal Petition that Jim Pierce had
presented earlier today, so I just wanted to mention
that for the record. Okay, Lyle.

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MR. EDWARDS: My name is Lyle Edwards. I, with my wife, Kitty, own an organic dairy in Westfield, Vermont. I'm here to support the pasture standards for organic farms. I'm surprised I'm even here asking to support pasture requirement in organic dairying. Even with the NODPA's proposed three cows per acre, I have a hard time thinking that they would certify my farm if I did have three cows per acre. Pasture and organic dairying are synonymous with each other. If you were to look at the history -- if one was to look at the history of organic dairying, pasture has always been an essential part of it.

Another part of the picture is what consumers of organic dairy products expect. If organic rules were to allow feedlot operations to operate as organic, that, in my view, would be a gross violation of what organic dairying is. Organic dairying is an alternative to the industrialized conventional model. The conventional confined model -- excuse me. Organic dairying is an alternative to the industrialized conventional model. The -- excuse me. The -- I can't read my own writing here. I'm sorry. Okay.

If one was to convert the conventional confinement model to organic, we would -- it would severely weaken the organic label. On the subject of...
everything has to based on science, I would just like to say science doesn't explain everything. Science doesn't explain dowsing, but it works. Science doesn't explain God, either, but people believe in Him, so -- anything else?

CHAIRPERSON RIDDLE: Thanks, Lyle.

MR. SIEMON: Thanks, Lyle.

CHAIRPERSON RIDDLE: Jack Lazor and then Richard Siegel.

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MR. LAZOR: My name is Jack Lazor. I live in northern Vermont, Westfield, right next door to Lyle there and first, I wanted to -- I have a little brief here from the National Family Farm Coalition that they're signing on to the NODPA pasture standards, so I'd like to give that to you. I didn't come to dairy farming from the conventional side.

I started dairy farming in the '70s as a, sort of a back-to-the-land homesteader and there really wasn't even organic back then, but we had a couple family cows and we knew that we really didn't like doing it the way all our neighbors did, so we -- you know, we -- they were just bewildered when we wouldn't use an antibiotic and we -- but every decision I made was sort of anti-industrial. We really wanted to promote life at
all levels.

I think that was our logic of going into, you know, the type of farming that we pursued and we grazed our cows in the '70s and we didn't really -- we knew they needed -- we knew that pasture was a whole lot easier than hauling and feeding them in the barn and we only had a few of them then. And then as the '80s began, we started our own little yogurt business and we've had a yogurt on the market since 1984, which is Butterworks Farm and it's a little bigger than it was today, but we're still a really small outfit.

But I think we've always been serious grazers and the grazing movement started in the '80s. We really didn't have organic certification in Vermont until, I would say '85 or '86. We were with OCIA for one year and then we formed our own certification group after that, Vermont Organic Farmers. And at that time there were only two organic dairies in Vermont. There was really no marketplace for it, but at the same time, the grazing movement was really growing and you had books like Andre Voisin's Grass Productivity and Newman Turner's Fertility Pastures and a lot of conventional farmers were being saved by grazing.

And so what happened is as all of a sudden the demand for organic milk grew in the late '80s, early
90's and crops started and the Organic Cow of Vermont started and the first dairy farmers to go to the organic side were the people who were grazing their cows. It was a natural fit. So I think organics and organic dairying and grazing your cows has -- they've always gone hand in hand.

And for me, I'm -- I feel like I was kind of one of the pioneers to start and in the very beginning, I was a little bit undone by -- all the conventional guys were kind of getting into it and only getting into it for the money, but what happened is organic dairying and grazing grew on everybody. They loved it and it became part of them. The movement started and it's been a great thing. And we have 85 organic, certified organic dairies in Vermont, you know, it's a segment of the economy that's growing 10 or 15 percent a year and it's a really good thing. And I want to see it continue.

I want to see farms continue to switch to organic methods, be they large or be they small, but I think grass is the sort of the be-all and end-all of the cow and if you are feeding cows forage, grass has to grow nearby. And whether you're going to get that grass from stored hay or stored forage or pasture, you have to grow it there. So if you're in a dry environment,
you've got to irrigate hay, I think you can irrigate pasture.

There's one other thing I'd like to say about cows and cows have the potential to either pollute the earth or heal the earth and they have the ability to sort of eat forages and then turn them into milk, manure and urine, and if you want to -- if you don't want to have your cows be a polluter, I think you really -- you need to either trap their waste in carbon-base, like straw, sawdust or some kind of bedding and compost it, or have that go directly onto the earth, onto grass, onto a living soil.

And if your animals are on a feedlot, even if they are on dirt and all that urine from those cows is filtering down into that dirt, it's not a very healthy situation and you're not making this earth a better place and I came to organics because I want to save the earth and I don't think confinement conventional agriculture has any place in saving the earth, so -- thank you for listening to me.

CHAIRPERSON RIDDLE: Thanks, Jack.

MR. SIEMON: Thanks, Jack.

MS. CAUGHLAN: Thank you.

CHAIRPERSON RIDDLE: Dick Siegel and then Joe Smillie.
MR. SIEGEL: Good afternoon, members of the Board. My name is Richard Siegel. I'm a practicing lawyer in Washington, D.C. and I'm here to talk about the organic seed recommendation that the Crops Committee will present tomorrow. And I appreciate the privilege of appearing before the Board and also to have heard many of the presentations on dairy farming and pasture because organic seed is another issue within the regulations that raises a question of the chain of organic integrity.

I'm here on behalf of seven companies that have developed a business for supplying organic seed to organic growers. Organic seed, as you know, is required, but there is also a liberal allowance policy. You may use a conventional untreated seed when no organic seed is commercially available in an equivalent variety. Now, the process for giving these allowances has varied from certifier to certifier. It has not been consistent, predictable or transparent.

The Crops Committee has put together a very comprehensive proposal which addresses a number of the issues. It calls for a national organic seed data base, it tightens the procedures that growers and certifiers would need to follow before an allowance to use non-
organic seed as granted. Certifiers and growers would become more accountable. Certifiers would have to report to the NOP on allowances that they granted and this would be public information, so that the -- everyone would have a picture of which organic varieties were needed, which seed was being in demand for organic growers, but was not available commercially, so that the seed industry could respond and provide those varieties.

Now, another provision that the Crops Committee has presented is -- involves those who not only grow with organic seed, but those who buy the products that the growers grow. The problem here is that the growers are supposed to comply with the organic seed requirement, but their customers are not specifying that they use organic seed. So we're asking the grower to maybe, in some cases, take on an additional financial cost to buy organic seed without giving him a way of recouping that cost when he sells the product into the market.

So we want the people who buy the products from the growers to be aware of the organic seed requirement and to comply with it by, if possible, specifying when they tell the grower what sort of seed they want the grower to use -- and this if very common. Tell him, as well -- tell the grower we want you to use

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organic seed. So the grower should not be left alone to comply with the organic seed requirement. The organic seed requirement should become part of the fabric of organic food production through all the levels of the food production system.

Now, in the prepared statement, we have some minor changes in the text that we would propose. And we hope to work together with the Crops Committee and we're very appreciative of Nancy Ostiguy's work, Rose Koenig's interest and the interest that Jim Riddle has shown when he went to the Eco-Farm Conference last month in California and met with a number of the people that are part of our organic seed industry group. This is a -- so we think the Crops Committee has given us a good start.

Once these procedures are in place, we'll be able to consider a vigorous enforcement policy, but we're discussing some other issues, as well, because organic seed has presented us with a lot of challenges to get it to work smoothly. One challenging issue that we're working on is to put some prudent limits on allowances and we would do this be looking to what Europe has done. In Europe, different member states are having committees meet and decide which organic varieties of seed are out there and if there are enough

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organic seed in a particular crop, make that a
determination that there's a critical mass and cut off
allowances from then on. This would --

CHAIRPERSON RIDDLE: Okay, time. Thanks.

MR. SIEGEL: -- be a good incentive for --
that would produce quantity and quality of organic seed.
I'll be happy to take questions. Yes.

CHAIRPERSON RIDDLE: Rose.

MS. KOENIG: Companies -- I know you listed a
number of companies, some who are conventional, a few
companies and some which are more agronomic crops, where
does the company, in terms of this collaborative group,
where do they see the most supply in -- I mean, are
there -- where are the issues? Are they greater in
conventional crop production and not in the agronomic --
are they both in their infancy?

MR. SIEGEL: They're both -- in both cases,
both in the agronomic crops, corn, soybeans and grains,
and in the horticultural crops. There are issues --
there's a great deal of concern about the allowances and
how easy it seems to be for a grower to get an allowance
from a certifier. And someone making an investment in
good genetics and breeding and production into the
organic seed market wonders if the demand will justify
this kind of investment. And so going at the process,
making the process more transparent is one way to do it
and looking overall at where you could get to a point
where you could cut off allowances for a particular crop
because there was enough seed available and enough
variety; not every variety, but enough varieties.

CHAIRPERSON RIDDLE: Yeah.

MS. KOENIG: Just one more -- have the
companies talked about -- you know, one of the issues is
they're selling seeds, they have to sell usually the
year's seeds. I mean, is there any kind of a pre-order
or -- I mean, it's great to have a database, but what's
more important, I think, for seed companies is
understanding the pre-market demand so that they can
meet the demand because they are usually a year behind
in some ways and how -- are they thinking about ways to
rectify that, not just in kind of today, what's
available today. A lot of farmers kind of know what
they want --

MR. SIEGEL: Well, there is an organic seed
business growing and many certifiers who are represented
in the room, such as Oregon Tilth and CCOF and
Pennsylvania Certified Organic are doing excellent work
in educating their clients about organic seed and where
to find it. But it's not a uniform national effort and
yes, there are farmers that are adopting organic seed,
but there are a lot of gaps and one of the gaps is that in the more commercial, the larger commercial-size growing operations, the customers will come and say we want you to use a certain highly desired hybrid and the answer is where do you get that hybrid organically. Well, you can't get it because it's still controlled by the seed company that owns it and they won't release it organically. The virtue of what the Crops Committee has presented to us is to take the decision for requiring organic seed one step away from the grower and saying the same customer who is saying grow this hybrid for me should say grow this hybrid and get it organically.

And if that started to take hold in the market, the demand would come back to the seed company that owns the hybrid and the seed company would release the hybrid to have it grown organically so that there'd be an organic seed supply of the very best and the most highly desired marketable seed. And this is what we want to break open and so I commend the Crops Committee for taking on this issue.

CHAIRPERSON RIDDLE: Gerry.

MR. DAVIS: Richard, looking at your list of the seed companies that you represent, I see at least one, it looks like they're just a -- not just a, but a...
distributor rather than a producer of seed. How many of this seven that you identify here are actual producers for seed --

MR. SIEGEL: Well --

MR. DAVIS: -- versus just distributors trying to access seed on the market and sell to their customers?

MR. SIEGEL: Well, I think some of the companies have their own growing operations, but they also deal with seed grown by others.

MR. DAVIS: Right.

MR. SIEGEL: Snow Seed is a distributor in Salinas.

MR. DAVIS: Right.

MR. SIEGEL: Maybe you're familiar with them from California.

MR. DAVIS: Exactly. That's the one I'm referring to --

MR. SIEGEL: Yeah. Yeah, well they're a distributor but they are very interested in developing the organic sector.

MR. DAVIS: So all the rest of that list -- I'm ignorant on this -- represent companies that produce some of their own seed as well as access --

MR. SIEGEL: That's right.
MR. DAVIS: Okay.

MR. SIEGEL: That's right.

CHAIRPERSON RIDDLE: I just want to thank you for your precise comments and I would ask the Crops Committee and the full Board to take them into consideration as we move our draft forward.

MR. SIEGEL: Thank you.

CHAIRPERSON RIDDLE: Thanks.

MR. SIEGEL: And thank you, Jim, for your leadership on this.

CHAIRPERSON RIDDLE: Joe Smillie and then Leslie Zook.

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MR. SMILLIE: Well, thanks again for meeting. Thanks again for the opportunity to speak and thanks again for all your work. I know how much it is. My name is Joe Smillie, that's S-M-I-L-L-I-E, the original Northumberland spelling, and I'd like to especially address my comments to Bea. I will tell you exactly what I'm here to get from the NOSB. My main subject is the document called the Listing of Certifying Agents Name on Packaged Product, the recommendation of the Handling Committee. When I saw it, I was aghast. What I'd like to see is to have the Handling Committee table this document, not go to take any action on it and
actually rethink and rework it because I think there's some misunderstanding here.

Number one, I'm referring to, again, the NOSB Handling Committee Recommendation Listing of Certifications Agents Name on Packaged Product, February 7. And I'll just keep referring to the document. Number one, it seems to me that the first mistake is when they're referring to retail establishments being voluntarily certified and hence, not able to put their certifications agent's name on a product in retail, that's accurate. If they're voluntary certification is for retailer certification -- in other words, their actions as a retailer, this would be all correct interpretation; however, a retailing establishment can also act as a handler and actually does in many, many instances.

A retailing establishment can get very much involved in the sourcing of ingredients, the manufacturing process and other specifications involved in the production of a product with their name on it. In that case, they act clearly as a handler. Like everyone else in the industry, I used to give a lot of seminars on organic manufacturing, used to ask the crowd what do organic manufacturers manufacture and we'd get all sorts of answers; well, it's soy and all sort of...
various things and the answer is labels. Most organic
manufacturers, as do most manufacturers, come up with
the idea and then commission it to a toll processor or a
repacker or someone else to actually make the product.
They're very much involved in the product and they
create the label.

And that's, in fact, the case -- let's say
Robert Redford wanted to start a line of organic foods.
They would not buy a manufacturing facility. They would
go to a toll processor or a custom processor, give them
the specifications for the product, create the label in
their office and then basically have that -- put that
product on the marketplace. In that sense, they're
clearly acting as a handler under all those citations
that are mentioned in this recommendation. In fact,
that's the way it works.

We also certify distributors and traders as
handlers, so therefore a retail establishment that
engages in having a manufactured product made for them
under their label, has every right -- in fact, must be
certified and then has every right to use that
certification's agent name on their final product. This
document has a minority opinion which is pretty close to
being correct. I would even go farther then the
minority opinion. In fact, I would say that if you
pursued this line of reasoning, that a retailer, because
they are a retailer, are not allowed to be a handler, I
think you would be acting in a very discriminatory
manner. They have every right to engage in the process
of manufacturing, even though they don't necessarily own
the facility, as most manufacturer's don't.

I'd be glad to take questions on that. We can
cite all the numbers; they're all in here. It's just
the conclusions that are wrong. I think the mistake was
made in referring to them as a retailer and thinking
about them as excluded or voluntarily certified. They
can seek certification. So I would ask the Handling
Committee to re-look at this, whatever the format is,
table it, don't bring it to action, et cetera.

I'd also like to just echo the comments,
keeping it short. I think Craig Weakley gave you a very
good presentation of the history and the intent,
Kathleen Merrigan's intent, Leahy's intent on the law
and I would respectfully submit that the NOSB has a very
large role to play in encouraging and respectfully
recommending the Secretary of Agriculture to do
everything in this case he can to make sure that we try
and ameliorate the draconian measures that may be
enforced upon us. I think leaving it to the Development
Committee is not quite appropriate; I think the Handling
Committee, since this is clearly a handling issue, also needs to drive that recommendation and let's get USDA behind this industry and supporting the recommendations that all of us took 12 years to create.

And I think Tom also gave you some very specific action items that can be done. I think there's a lot that can be done to ameliorate, if not totally correct, I think, what is an over-swing of the pendulum in this area. Thank you very much. Do you have any specific questions on the --

CHAIRPERSON RIDDLE: Kevin.

MR. SMILLIE: Okay.

MR. O'RELL: Joe, appreciate your comments. In terms of tabling this issue, what -- tomorrow it will come up as an action item which -- hear me out -- which we will have discussion on. It will be entered in in the form of a motion and during the discussion period, we'll be tackling these issues and you can see how we got to the position that we did. And there is a minority report that will go with it. One of the actions of the motion could be to table the motion for -- so it doesn't mean that it's just open for a motion for discussion and then certainly one of the options would be to table it if that's the way the Board felt. Are you going to be around when we have our discussion
on this?

    MR. SMILLIE: Absolutely.

    MR. O'Rell: Okay.

    Chairperson Riddle: And my question for you is have you written the correct answers out?

    MR. SMILLIE: Sure.

    Chairperson Riddle: All right, that would be helpful if you could provide your version of how you think that the answer should read for the committee to consider.

    MR. O'Rell: That would be excellent.

    MR. SMILLIE: Okay, will do.

    Chairperson Riddle: Yeah, that would be very helpful. And last time you appeared before us, you had a different issue and that was the use of organic and non-organic ingredients in the "made with."

    MR. SMILLIE: I should commend --

    Chairperson Riddle: And have you read that draft --

    MR. SMILLIE: Yes, and I --

    Chairperson Riddle: -- in a --

    MR. SMILLIE: No, if -- I really commend your work on that draft and I think that that gets the intent of the law clear, so --

    Chairperson Riddle: Okay.
MR. SMILLIE: -- I had that in my notes to thank you for that work and I'm glad you did it.

CHAIRPERSON RIDDLE: You'd have run out of time, I'm sure, that's all.

MR. SMILLIE: Yeah. Well, thank you so much.

CHAIRPERSON RIDDLE: Okay, Leslie Zook and then Emily Brown-Rosen.

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MS. ZOOK: Hello. I was going to say good morning, but I guess it's afternoon now. I'm Leslie Zook, I'm the Executive Director of Pennsylvania Certified Organic and we represent, certify 300 organic crops, livestock and handling operations, mostly in Pennsylvania, but also throughout the Mid-Atlantic. Some are large operations, some are small. About a third, over a third, actually, over a hundred of our operations are organic dairy farms including Dave Johnson's dancing and singing cows. We certify them.

I also represent the Accredited Certifiers Association here today and I think I'll start with that. The ACA does support the Livestock Committee's recommendations on pasture and especially, particularly the clarification on stage of production. We're really happy that you included that. We thought it was clear
and we thank you for that specific guidance.

We also urge the NOP to continue to hold its strong position on pasture for ruminants. We believe that this is very important, as many of us here do, to promote and in some cases, actually restore consumer confidence in the organic label on dairy products which, in turn, really does benefit all producers, whether large or small and we want to make that clear that we support that position.

It's been just great hearing from all the dairy farmers. I mean, I think this is one of the first meetings I've been to where there are actually more farmers than certifiers here. And you know -- and I know you guys don't listen to us. I keep saying well, I'm representing these farmers and well, here they all are. Isn't this great? So you know, it's just really great, because they're, you know, really busy, as you all know and I'm just thrilled.

As a certifier, we are not opposed to having the idea of the percent dry matter or animal units per acre. We would appreciate some guidance as long as we can maintain the flexibility we need to accommodate the really diverse management systems that we deal with, especially, you know in PA -- in Pennsylvania, for example, we have -- might have a farm that they graze...
half their herd during the day, half their herd at
night, you know, that makes it somewhat difficult to put
into an equation. I'm not really sure how I would
figure that out.

People often -- farmers often rotate their
cows through their cropping systems. You heard
Jim Gardner talk about grazing his hay fields after he
takes off that medicinal, gourmet dandelion hay, right,
so -- I mean, that's really common. They're going to be
grazing their corn stubble, they're going to be putting
their cows out, you know, so it isn't the situation --
the norm is not this big square pasture with so many
acres that we can divide by how many cows there are, so
as a certifier, I want to make sure that I have that
flexibility to be able to, you know, do our job without
having to make everything fit into some kind of a
formula or mathematical equation.

And you know, the other issue is the age of
the animal continues to change throughout the year, so
you know, you might have these, okay, calves; there's
this particular requirement for heifers it's something
else and for the milking cows it's something else, but
every month those things change because the calves
become heifers, the heifers become cows and you know,
I'm trying to think this all through; I'm wondering how
we really would figure all that out and unfortunately, it's really going to come down to more forms and more paperwork for these guys, you know, for the farmer, so -- but they're the ones here who are asking for it, so I'm not saying we're opposed to it. I just -- and we can do it. It's just going to be, you know, a little bit more difficult and a lot of it's going to fall on our inspectors to be able to calculate that, so I'm -- you know, that's where we are with that.

And on a completely different subject, tea. Nobody spoke about tea today, have they? PCO does support the Board's recommendation on the calculation for percent organic ingredients for manufacture of organic tea and that is, the way I understand it, using the weight of the dry leaves prior to brewing. It was a little confusing with all the different formulations in there and that's what we would support.

On certificates, if anybody wants to know, we do recognize that certificates are a problem with the different ways people are putting issuance and -- well, not expiration date, excuse me. But we would all like to see uniform language on certificates, not just certifiers; I think everyone in the industry would really benefit from that. Of course, a data base will help. We don't know when that's going to occur, but we
do really have to make sure that whatever fix we come up with, you know, is clear, practical and doesn't confound the situation more. You know, issuance of the certification document, I'm not really clear what that means. At PCO, we issue a certificate for life, it's good for life. One certificate, that's all you get. Then every year we have an organic product verification that does specify, you know, the specific products that are currently certified and if anybody wants to know my position on seed, I can tell you that in one sentence.

CHAIRPERSON RIDDLE: Okay.

MS. ZOOK: Well, actually my position is that we -- the PCO really doesn't give allowances for non-organic seed when there's -- but it comes down to what do you mean by -- variety? I mean, that's what it really is. I mean, we don't really want our growers to have to grow -- if they're growing Brandywine tomatoes, we're not going to tell them well, you know, German Johnson or -- they're really similar, so you should get those because I know that growers' customers want those Brandywine tomatoes. Well, we happen to know that Brandywine tomatoes are available organically and they're using those seeds.

I would like to support Emily Brown-Rosen's comments on the revised language for your recommendation.
on seeds; since she comes after me, I thought I better get that in. Any questions?

CHAIRPERSON RIDDLE: Okay.

MS. CAUGHLAN: Thank you.

CHAIRPERSON RIDDLE: Thanks, Leslie.

Emily Brown-Rosen and then George Kuepper.

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MS. BROWN-ROSEN: Hi, I'm Emily Brown-Rosen and I am now a consultant with the Organic Research Associates, a private company in New Jersey. But my experience is in certification and in materials review for the last 15 years. I have specific comments on some of your recommendations and creating some language suggestions, which I'm passing around. I will go through them all, the highlights, then if you have any questions, you can ask me now or later, whatever.

So the topics I want to touch on here are the information on certificates, commercial availability of seed recommendation, ammonia and bicarbonate TAP review and the Sunset provision, which I think I lost my first page of and also, I have, at the back of this comment on Sunset provisions -- I mean Sunset priorities, I should say. There is also a short comment on the made with organic ingredients policy from the Policy Development Committee. So they should all be circulating.
Okay, first I think I'll go on the certificate policy from -- I guess that was the Accreditation Committee. I'm supportive of this recommendation. I think this information is really important, especially calling for the certified as compliant with USDA National Organic Program. That's certainly a problem with especially international companies. We're certifying to multiple standards and you get one certificate fits all. It doesn't really tell you if it's NOP compliant. So that's very good.

I think that the challenge in writing this as just guidance is that this is very specifically written in the rule as a narrow short list of requirements on the certificate, so I really think you should phrase this as a regulation change, otherwise it will not be binding on the certifiers and you likely will not get, you know, enough uniform compliance on that, so I've suggested breaking it into rule change and guidance into all your recommendations and I wrote that up for you.

An initial requirement that's missing here, which we've identified before as certifiers, have identified is that for process products, on the certificate there needs to be identification of the label category for which the product is certified. Products that are certified as organic, meaning 95
percent ingredients are often used as ingredients in other process products. So if there's no means of identifying these products, they likely can and will be used in a product that's later labeled a hundred percent organic. So we need to know 95 percent or 100 percent or else it gets confusing the further you go down the line, so I suggested some language for that.

On the date issue, I agree there's all kinds of dates or terminology about dates, but when I read your proposal, I wasn't clear what you were suggesting as a solution. You mentioned that all certificates should say a date of issuance, but it wasn't clear to me that that was -- is that the same as same as effective date, the initial certificate or not? I would support -- I thought you meant maybe the update date on the certificate, that I would support. I also like Harriet's idea that you have a date of annual inspection, something to indicate the timeliness or the last time it was issued.

Okay, so I think that's that on that one and I've given you the language on that. Next on the commercial -- feed recommendation. I like your suggestions about the farm records and how the farmers are supposed to, you know, have written evidence of their efforts. I suggest reordering them in a slightly
different order so that your idea of not placing as much
of a burden on -- oh, dear. One minute. Okay. Not as
much of a burden on the farmer would be -- they do
on-farm trials, so I just reordered that so it made more
sense. They'd still have to document three different
sources.

On the certifier requirements, I disagree with
Mr. Siegel. I think it's way too much to expect the
certifiers to submit every single seed variety that's
non-organic that's under review. One individual
vegetable grower could be having 200 different varieties
on his farm. I think that's a nice voluntary option
once we get this data base going that people can post
wants and needs on it, but let's start out focusing on
what is available organically, get that data base going
before we try and identify what's not available. It's
too big of a universe.

And last, I think enforcement techniques are
appropriate for that kind of guidance, which -- so I
struck that out, too. I guess that's my time.

CHAIRPERSON RIDDLE: And you can conclude and
wrap --

MS. BROWN-ROSEN: Any further questions on --
oh, on the "made for organic," for instance? Policy
suggestion change?
CHAIRPERSON RIDDLE: Well, you handed out another handout on Sunset priorities --

MS. BROWN-ROSEN: Yes.

CHAIRPERSON RIDDLE: Can you just tell us what we have here --

MS. BROWN-ROSEN: Okay.

CHAIRPERSON RIDDLE: -- very, very briefly?

MS. BROWN-ROSEN: What we have there is just my comments from my experience with things that are hard to understand or I think there's new information about that should be considered as priorities. A number of them have been mentioned by the Crops and Livestock Committee. I've gone ahead and identified a few more, chlorine -- you know, you can go through and look at them and ask me. But the streptomycin, terracycline, I think would be a big issue for crops. I think there's a lot of concern about antibiotics being in the crop and there are some new products out there.

CHAIRPERSON RIDDLE: So these are some suggestions for priority reviews --

MS. BROWN-ROSEN: Yes.

CHAIRPERSON RIDDLE: -- just on crop and livestock materials.

MS. BROWN-ROSEN: Right. That -- further on processing, didn't go there yet because of the whole
scenario --

CHAIRPERSON RIDDLE: Yeah, okay. Well, I would just ask each of those committees to take them into consideration. Andrea.

MS. CAROE: Thank you for your comments on the information on certificates. Regarding the regulatory rule change, we do recognize that some of these requirements may require a rule change. We really didn't go into the logistics of how these things would happen yet, but we wanted to get the concepts down there, but I appreciate your addition there. Also, I think it's very good and I do think this is something we need to consider and amend as far as tying the label claim to the products, that is critical and I appreciate you pointing that out.

CHAIRPERSON RIDDLE: Hugh.

MR. KARREMAN: Emily, just a question on -- you have some strike-outs here on the Sunset materials for the livestock materials. What --

MS. BROWN-ROSEN: Yeah, those are --

MR. KARREMAN: Underline like including vaccines or whatever.

MS. BROWN-ROSEN: Right.

MR. KARREMAN: I mean, are you saying that these should just be -- I guess what you're saying --

York Stenographic Services, Inc.
34 North George St., York, PA 17401 - (717) 854-0077
strike out everything after parasiticides [ph] --

MS. BROWN-ROSEN: Well, I indicated by strike-outs which ones need re-review, okay, and then I -- some of this is wish list. I think it might be, you know, when you're talking about changing annotations to make it more understandable, but -- so I suggest your wording --

MR. KARREMAN: So -- but these -- these things you listed are the things you would like to have a priority review?

MS. BROWN-ROSEN: Right.

MR. KARREMAN: Okay.

CHAIRPERSON RIDDLE: Dave.

MR. CARTER: Okay, you've piqued my interest.

One quick sentence on --

MS. BROWN-ROSEN: Okay. That is that -- the sentence that you recommended for change, "Non-organic ingredients may be produced without regards to Paragraph 4, 5, 6 and 7." That's the "made with" section at 301(c). There's been a ton of confusion about this section ever since day one and it was a subject of the first frequently asked question, which was asked by me back in 2001, which is do the other 30 percent of ingredients have to be on the National List. NOP clarified that at the time. It's in the frequently
asked questions that no, that sentence really only means non-organic agricultural ingredients do not have to meet paragraphs 4, 5, 6 and 7. So if you're proposing a change, stick that in because there's still mass confusion. I find all the time people think that made with organic, you know, can have any synthetic ingredient because -- just because of the way they read the rule.

CHAIRPERSON RIDDLE: Okay, thanks. Next is George Kuepper and then John Kepner.

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MR. KUEPPER: Thanks for the opportunity to address you today. I'm George Kuepper, that's K-U-E-P-P-E-R. I'm with the National Center for Appropriate Technology and we're the folks that are responsible for the ATTRA project that was mentioned earlier and really appreciate your extending the comment period a little bit today. To show my gratefulness, I've shortened my presentation a bit.

As mentioned earlier, when Jo Ann Baumgartner was speaking, about the organic system plan and everything. I'm here to sort of fill you in on a project that is ongoing. We got some funding late last year from the National Organic Program for a project that we're calling the OSP Organic System Plan Project
and among the deliverables of that project is a livestock system plan. About, oh -- I guess that was in 2002, Jim, that you all vetted the crop system plan that we make available through ATTRA and what we're planning to do with the livestock system plan is essentially produce something that's consistent with this.

In the process of doing that, we're also going to do some slight updates to the crop plan. Most of it's real fine language stuff. There's items in here that tend to make the plan sound like it's a documentation form and we'd like to make it all consistent so that producers aren't confused, that they actually see it as a planning document. So that's minor stuff. And where this is really relevant to what you're going to be doing here is the proposal that came from Wild Farm Alliance that's on your plan for Wednesday afternoon.

We consider it part of our task to implement and put whatever you approve as an action, we're in the position of working that into these documents so, you know, basically that can move off your plate. That's, you know -- we consider ourselves responsible for doing the wordsmithing and making that all fit together so, you know, that's what we feel we're involved in and we certainly encourage you to support what the Wild Farm Alliance has proposed.
Alliance has proposed.

And also on that project, I would just mention that we're also going to be producing a compliance check list for handlers that is comparable to the check list for producers that we did back in 2003 for the NOP. So that'll be another product that comes out of this project. And at that, I'll cut myself off. Do you have any questions or comments? I'm out of here.

CHAIRPERSON RIDDLE: Thanks, George, and thanks for your good work there at ATTRA. John Kepner and then Charles Flood. No John Kepner? How about Charles Flood? And then Marty Mesh and that'll be it.

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MR. FLOOD: Good afternoon. I had a -- my name is Charles Flood, commonly called Chuck. I'm a certified organic dairy and beef grower in central New York and I also have a lot of consumption, as we buy all the products you people are talking about. I had a prepared statement, but everybody's hammered all those points home, so I'd like to address some of the comments that we've heard today.

I'd like to go back to the organic seed first. One of the things you have to look at in the organic seed when you start making it a positive requirement, is who makes the money? We talk about greed, available --
and I'll use the example red clover is available organically. It's 2.75 a pound. Untreated is available for .75 a pound. Now, who's being labeled as organic when you, as a Board, are charged with making that delineation?

We're still looking for more organic milk in the dairy industry. Every day we're -- there's people out soliciting it and they're still looking for grazing farms. This goes back to the point where we need those guidelines. We graze 365 days a year. I'm in central New York, 1642 feet. Now you would say how do I graze? Okay, I harvest what I feed my cows today, but they're out in pasture today. They're out in a pasture today and it's not impossible. We do graze 214 days. Our elevation is very similar to Dave Johnson's. A lot of people here know where my farm is. The thing is every individual dictates his own management style and that determines the criteria.

We graze 214 days a year average for the last 22 years. Of that time, our 150 animals that we're raising get 99 percent of their dry matter intake from pasture. It is very easy to meet 30 percent. Those are very lax guidelines. As a dairy producer, I think it's a good point to start at. I figure in a year, maybe two years, we'll be back here asking you to change that to
50 percent. That would be my goal. And extend the
grazing season to six months. I think these are things
that we have to look at.

We've heard a lot about research. You can
find a study that's for practice and you can find a
study that's against the same practice. If you want to
find the study or dictate more research, I think you
have to go back to Ed Zimba's comment. He's got 10 or
15 years, I think he said, on his own farm. I have 22
years on my current farm. I have over 35 years of
grazing experience, myself. So as applied research, you
can't beat it.

I think all of the rules that were commented
on today are good. We've been certifiable since 1983.
Our soils and our animal health continues to improve the
more we listen to what nature tells us, not what
politics dictate or party politics, as I view it. And a
comment that George made, NRCS requirements are very
lax. They are a benchmark to start people and that
might be a tool to use in a regional concept.

I've been all over the United States and I've
never found a farm that couldn't graze if you could take
the manager away for three days and teach the cows to
graze again. With that, I'll cut mine short, entertain
any questions.
CHAIRPERSON RIDDLE: Rose.

MS. KOENIG: I guess -- well, one of your comments was concerting to me and that was coming back to re-change -- I will not vote on a recommendation with the content that you're going to come back in a couple years and go through the same process because that indicates to me that it hasn't been well thought out.

MR. FLOOD: It has been well thought out and we've made a consensus to go with 30 percent, 120 days, grazing being a living forage that the animal harvests from its roots.

MS. KOENIG: And is there any reason to think that consensus wouldn't be there a few years from now because that --

MR. FLOOD: I think that --

MS. KOENIG: And that's my concern and that's what I've spoke to other folks about.

MR. FLOOD: I think --

MS. KOENIG: If you're going to be specific and then a year later you're not going to be happy with that specificity, then it needs to be thought out a lot better and that's why I was trying to find out where this 30 percent is coming from, have you evaluated really what you're -- what the goals are and what it really means on the national level?
MR. FLOOD: I think what we have is national consensus on these guidelines, the 30 percent, the 120 days. That's what we have at this point. If that consensus changes, then you would be in a situation where you would come back. At this point, I don't think you're going to find processors willing to push the envelope any further than that. They need product to meet the consumers' demand. I hope that answered your question.

CHAIRPERSON RIDDLE: Bea. Bea first, then --

MS. JAMES: I have a question for you. Would it satisfy you if, say, hypothetically there was the ability for milk farmers to actually label their cartons how much percentage pasture-fed that their cows are in the milk that consumers are buying?

MR. FLOOD: Most farmers don't package their own product.

MS. JAMES: Right, but what I'm saying is if there were the ability for a farmer -- for a manufacturer to actually make claim of what percentage of the milk has come from cows that are -- the reason I'm saying that is that, say two or three years from now you come back and say well, I'm actually doing 70 percent pasture-fed and boy, I want credit for that. So that --
MR. FLOOD: I don't think that's an issue for
the NOSB Board. I think that's an issue for the milk
processors and the producers.

CHAIRPERSON RIDDLE: And if it were truthful
labeling, there's nothing preventing that right now.

MR. FLOOD: Correct.

CHAIRPERSON RIDDLE: Gerry.

MR. DAVIS: This would've been interesting to
ask each of these dairymen as they came up that -- did
-- the consensus that I hear about settling for 30
percent of the dry matter intake, I'm gathering from you
that is 50 percent not viewed as doable for the broad
spectrum of dairy farmers that have discussed this, that
you know of, at least.

MR. FLOOD: I think if all the farmers that I
know -- and I know a large group of them. There is a
lot of discussion and consensus and talk of it and to
get to a figure that everyone could agree to, we had to
bring it down to 30 percent because there are too many
of those variables, you know, there's that -- the farmer
that's making the transition, he's organic and he
started grazing and he hasn't learned how to ration off
in the barn and he hasn't learned that his cows will
learn to graze. It's just like we've heard about 29,000
pound herd averages and 26,000 -- Jim Gardner told you
about 26,000 pounds. I found the only time I made any money was when I didn't look at the pounds per cow sold, but the pounds per lifetime.

In my herd right now I have 15 cows with over 150,000 pounds in their lifetime. Now, you can go look at any DHI record and that's rare, and I only milk 50 cows. The average age of my cows -- and I have a grazing herd, I have a rainbow herd; I got the expression from Hugh. If it's got four legs and gives milk, it's been in my barn at some time. I'll milk it.

CHAIRPERSON RIDDLE: Andrea, did you have --

MS. CAROE: I want to explore a little bit this national consensus on the 30 percent and could you kind of describe for me how this information, how this is consensus is kind of organized. Are there groups that have been working on this together, formal groups, or is this kind of --

MR. FLOOD: NODPA has been kind of the spearhead group and through various contacts -- I mean, most of the organic producers are internet capable; I'll use that term -- and we have contacts. I have friends in Colorado and California and Canada, even, and you know, we contact through e-mail and that was one of the consensus things that kind of came up from our producer meetings and that's what I'll call them, because it's a
group of organic dairy people getting together and discussing this.

MS. CAROE: So is there any statistics or any information written down from NODPA on this issue?

MR. FLOOD: There is and I think you already have in your comments stacked the number of petitions that were signed and submitted.

CHAIRPERSON RIDDLE: Um-hum, yeah.

MS. CAROE: But I mean as far as the 50 percent.

MR. FLOOD: Yeah. That figure's in there. They all signed it. It was over -- I think there's like 2400 signatures.

CHAIRPERSON RIDDLE: There are several different --

MR. FLOOD: Right.

CHAIRPERSON RIDDLE: -- petitions, letters --

MR. FLOOD: I know I saw it in the information that was handed to me prior to this.

CHAIRPERSON RIDDLE: Goldie, did you --

MS. CAUGHLAN: Well, my notes -- I don't remember who it was a while back was saying that 30 percent dry matter and 120 days represents only 10 percent --

MR. FLOOD: Of the total dry matter for the
animals. For the year.

   MS. CAUGHLAN: And it does mean -- and then
   you, also, are telling us that your experience and
   several of the other long-term --

   MR. FLOOD: You can graze -- you can stockpile
   grass, you can stockpile small greens to get started
   earlier in the season. There's a lot of things you can
   do to change your harvest window and that increases the
   number of days on pasture, which would increase the
   amount of dry matter.

   MS. CAUGHLAN: The 30 percent strikes me as a
   really low figure and it's --

   MR. FLOOD: It is a low figure.

   MS. CAUGHLAN: -- troubling to me and I'm
   wondering where's the incentive going to be year two? I
   understand the concept. I mean, certainly that's the
   history of our rule making process has been to
   constantly move up, but where's the incentive here --

   MR. FLOOD: Historically, the --

   MS. CAUGHLAN: -- if you're saying it's driven
   by --

   MR. FLOOD: -- National Organic Program has
   set minimums, not maximums. And you can't certify above
   the rule. If we at least put a benchmark in that you
   have to have 30 percent for 120 days, that indicates
that these animals are going to have access to pasture
and they're going to get 30 percent of their dry matter
during that time.

MS. CAUGHLAN: And yet we're hearing a great
deal today that the farmers here want to be sure that
consumers are getting truly grazed milk.

MR. FLOOD: In that respect -- and I'd like to
answer it a different way -- we're seeing a movement in
the milk industry to commingle our milk, you know.

MS. CAUGHLAN: Pool. We're back to pool,
right.

MR. FLOOD: I -- yes. For efficiency for the
processor. I am against it, as a farmer, because my
milk is very high in CLAs because it's a grass-based
dairy.

MS. CAUGHLAN: Exactly. So it doesn't tell
you if you have what type of milk?

MR. FLOOD: Yes, it does, but you still have
to start somewhere and education is the carrot. If they
start with 30 percent and they see an improvement in
their animal health and they see an improvement, they
will go to 40 percent, they will go to 50 percent
automatically. It's happened time and time again.

MS. CAUGHLAN: Do you see if the rules were to
be promulgated in such a way that a percent, not
mandated, but --

MR. FLOOD: Suggested?

MS. CAUGHLAN: That you could put a percent on label?

MR. FLOOD: Yes. It would be very beneficial.

MS. CAUGHLAN: It would be beneficial to see that that would be an added incentive?

MR. FLOOD: Yes.

CHAIRPERSON RIDDLE: And Bea.

MS. JAMES: I know we're trying not to ask a lot of questions, but I feel this is a very important issue on the percentage and I just want to know if you personally compromised in the 30 percent?

MR. FLOOD: Most definitely.

MS. JAMES: How many farmers that you know do you think compromised?

MR. FLOOD: Twenty percent.

MS. JAMES: Okay.

CHAIRPERSON RIDDLE: George.

MR. SIEMON: Well, just so we make sure. We're talking about dry matter versus total feed, because you're talking about "as is." You would see they're pastured during the season, so you get a much bigger percentage, but grain is very dry and pasture is very wet, so when you wash it all down -- so I don't
I wish I had the ration right in front of me to
tell you what you're grazing 15 pounds of --

MR. FLOOD: 240 pounds as fed, of grass, four
pounds of grain is the average grazing dairy.

MR. SIEMON: Well, it can be higher than that.

I don't see --

[Simultaneous comments]

CHAIRPERSON RIDDLE: Let's not debate dairy
rations right now.

MR. FLOOD: Statistically, a cow will consume
in access of 240 pounds of pasture as fed. That's on a
93 percent water base and then four pounds of 99
percent, or 92 percent dry grain.

CHAIRPERSON RIDDLE: Julie, you haven't said
much so you will be recognized.

MS. WEISMAN: Thank you. I actually would
like to work my way back to Bea's question because I am
wondering if there is a way to get at knowing the
percentage of dairy farmers who can actually achieve
above that 30 percent and maybe even like how many can
get to 40 percent, how many can get to 50 percent, how
many can go above that, and then as a separate question,
I would be -- and it's not just a question -- I don't
expect you to answer this, but it's an appeal for
someone to be able to organize the information. I'd
also like to know not just the percentage of dairy
farmers, but also a percentage of the national organic
herd, could I call it that, that is able to be --
achieve those levels of dry matter from pasture.

MR. FLOOD: One of the disadvantages to
obtaining a higher level of dry matter intake on pasture
is the fact that most processors want year-round milk,
while seasonality -- you heard Dave Johnson say he milks
seasonal, his cows are dry now or -- in that process,
he's milking very few. Well, that works great in
Pennsylvania and New York if your milk company will take
you that way because the interpretation in this goes
back -- and George could probably explain it better --
when they're trying to balance milk, they don't want to
be bringing milk from Tennessee to New York because New
York's all dry because they've all gone seasonal and
vice versa.

So it becomes a balancing act to get it year-
round. It becomes a management decision where your
level of production's going to maintain. As far as the
first part of your question, I think you have a vehicle
in the NOP web site to collect that data if we had a
question forum for producers to submit those figures.

MS. WEISMAN: See, it pays to go last.

CHAIRPERSON RIDDLE: Oh, no. Hugh.
MR. KARREMAN: Just that -- I think the USDA this year is going to be doing some kind of census on organic farms, so that should help with that question of the national herd. No?

CHAIRPERSON RIDDLE: Yeah, there are going to be a couple of questions on the national ag census, but I don't know that it'll be gathering this level of detail about grazing. I haven't seen the questions yet, but that's something to consider. Should be there.

MR. FLOOD: Any other questions? Thank you.

CHAIRPERSON RIDDLE: Thank you, Charles.

Marty Mesh.

MR. SIEMON: Last but not least.

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MR. MESH: Okay. Here's my proxy.

MS. CAUGHLAN: So how many are you -- Marty, how many are you going to use?

MR. MESH: Seven minutes and 15 seconds.

CHAIRPERSON RIDDLE: We don't have a policy for partial proxies, I'm sorry.

MR. MESH: Okay, then just add the whole thing. My name's Mary Mesh. I'm the Executive Director of Florida Organic Growers and Quality Certification Services. I started farming organically in 1976. I want to welcome the new members of the Board for the
start of your five-year stint, which I'm sure will be
two years of active memories. My hope is that my newly
committed goal of keeping not one but both feet out of
my mouth will be successful during your entire term on
the Board, however, I will continue to state my own
beliefs and represent organic growers who may not be
able to come to industry meetings, themselves, as well
as the greater industry and organic community
perspective.

   The Board's just -- on your last speaker --
the Board's waiting until the last dairy farmer to ask
questions that more rightfully should've been addressed
to all the dairy farmers that proceeded is one example
of targeting your input on the non-appropriate
population, I would think. I do serve on the board of
the Organic Trade Association, however, I do have to say
that my views are not the official position and at times
they're not the same position as the Trade Association.

   The -- it was mentioned that the real time
system for certificates was presented at the May '04
Board meeting in the past and if -- when Keith Jones did
a presentation on the certificates, if it is to be held
up because of either technology, administrative or any
other reason, then the critical point of having some
dates on certificates should be considered or figuring
out a way for somebody else to do the data base because quite frankly, dates on certificates would do more to help the industry grow, not hold it back and as well as help the verification process, which has been a part of it.

The NOSB terms need to be rotated to avoid such a massive shift as 11 new folks over a 14-month period and the rapid loss of the institutional memory. I have to say, as a person whose formal academic education was in psychology, I was most intrigued by your recommendations for addressing FDA regulations affecting NOSB recommendations concerning livestock mediations and --

CHAIRPERSON RIDDLE: Medications, not mediations.

MR. MESH: I'm sorry. M-E-D-I-A-T-I-O-N-S, mediations. And so I am interested to see the -- I don't want my time -- hold the time. I am interested to see the mediation process for livestock, but since most of the thing dealt with livestock medications, I think the take-home point is that USDA and the National Organic Standards Board need to get a system quickly implemented to allow safe, non-toxic, over-the-counter materials to be used in organic livestock health management as opposed to more toxic, costly medications.
I think I've said that before. There's materials that are on the list that probably should come off the list; there's materials that aren't on the list that have been reviewed that need to be on the list and currently, there's no materials for pain and suffering of animals which doesn't seem to me to be very organic.

While I appreciate the support of methionine -- I'll leave that to try to save time. I would urge whatever the outcome of your pasture discussion is, is that the National Organic Program and their lawyers, whoever -- anybody, somebody confirm that it is indeed an enforceable, verifiable standard that certifiers can actually take to the ground or take to the farm and do the certification process. It doesn't help anybody if it's not a verifiable and enforceable standard.

I'm concerned that the ever-increasing cost of accreditation needed to make sure that our clients have access to both the US and global markets keeps increasing. The USDA accreditation costs to maintain our NOP I-65 [ph] accreditations has gone from a couple thousand dollars to over $6,000 without taking into account staff time needed for compliance. USDA hourly rates have risen from what I think was $28 an hour to what was proposed at least to be $98 an hour. It may be at $64 an hour, clearly outpacing the wages of organic

York Stenographic Services, Inc.
34 North George St., York, PA 17401 - (717) 854-0077
water mill [ph] and workers and certification program
staff.

We're also concerned about covering the cost
of USDA compliance investigations and feel like it's
either reasonable reimbursement or some other method
needs to be developed so that non-profit certification
programs that are absorbing all the costs that the USDA
general budget gets all the potential compliance fines
from up to $10,000 per violation. I'm curious to hear
all the stories and benefits of organic -- from the
organic dairy producers and wonder how long it'll take
USDA to actually recognize and promote organic
agriculture practices.

How many organic dairy producers show up at
biotech advisory board meetings to claim that by
switching from organic dairy operation to more
chemically-intensive agriculture practices using RGBH
has resulted in increased animal health and
environmental benefits? In Florida, this type of
intensive dairy production has resulted in a net loss of
dairy farmers, almost making them extinct, while at the
same time increasing profits for Monsanto.

I urge the USDA to engage in a meeting with
Arthur Harvey to reach an adequate summary judgment
which would avoid the negative consequences to the
organic industry marketplace and disruption to the dairy
producers that are already in the process of
transitioning to becoming a certified organic dairy. I
wanted to comment on the time frame. Harriet said
something about an inspection date. That doesn't work
because of the 18-month language in the regulation and
my concern about your organic seed requirement would
mean that the USDA NOP -- I thought he was gaveling me.

I got scared because you used to have -- that
the USDA National Organic Program is contributing to the
loss of biodiversity because growers all over the world
will have to comply with the National Organic Program
requirements if they want to access the USDA -- US
market in that the organic seed requirements will have
effects for growers all over the world and really result
in the loss of biodiversity. With that -- it's not a
personal attack, but this is my last sentence. I'm glad
to see -- I was glad to see that we have a kinder,
gentler timekeeper and although that should not be
targeted as a personal attack on the old timekeeper at
all.


MR. MESH: Are you going to ask me about my
next paragraph? Okay.

MS. CAROE: Marty, you said something about
the dates on certificates didn't work for 18 months?

    MR. MESH:  Well, Harriet had mentioned, you know, at least put in the date of the inspection, although because an inspection can take place in the regulation that an inspection has to take place at 18 -- up to 18 months from the last date of the inspection, so it's not like the annual, you know, yearly certificate. It would be a little bit harder for the industry to know that okay, this a current certificate.

    MS. CAROE:  So it's what we recognized when Harriet spoke on these questions.

    CHAIRPERSON RIDDLE:  Anything else?  Dave.

    MR. CARTER:  Just a quick question.  So do you prefer binding arbitration for livestock or mediation?

    MR. MESH:  We're still at the investigative stages of --

    CHAIRPERSON RIDDLE:  Binding medication.

    Okay.  Well, I would just like to thank all of the commentors and really thoughtful comments that were offered today and in a very respectful manner.  So I want to applaud you on that.  I especially -- thank you. And I especially want to thank all of the farmers who have taken the time and the money out of your own pockets to come here and I hope you can stay and you know, keep track of our own debate, but also just to
walk away knowing that this is your program and we do
listen to you and we certainly try to represent your
interests to the USDA as best that we can. And for
those of you who haven't said enough, you still can sign
up for Thursday comments and that'll be -- Francine will
have that. So you've certainly given us a lot to
ruminate over. We're going to -- did you want to --
yeah, Richard want to say a few words and then we're
going to take a break.

MR. MATHEWS: Yeah, I also want again to thank
all the farmers for coming in today. I know that it's a
real challenge for you to be able to get away from the
farm and I must say that I'm six weeks short of seven
years working on this program and I think it's a fair
thing to say that there are more farmers in this room
today then in all of the seven years that I've worked on
this program. And you are truly to be commended for
coming and it's been a pleasure to hear from you. You
have given us more than all of the so-called experts who
speak on your behalf have ever given us, in my
estimation, and again, thank you for coming.

MS. ROBINSON: No offence to the experts.

MR. MATHEWS: Yeah, no offense to the experts.

CHAIRPERSON RIDDLE: Okay.

UNIDENTIFIED SPEAKER: Richard, I'm going to
take that as a compliment since I am a farmer.

CHAIRPERSON RIDDLE: We will take a 15-minute break which puts us a little after 3:15. Let's say 3:17, please.

[Off the record]

[On the record]

CHAIRPERSON RIDDLE: Please take your seats.

Okay, yeah, we have a quorum of the Board here and before we get started again, I would just like to introduce Nancy Ostiguy, Board member. She finally made it in from mid-state Pennsylvania, so if you could just tell a little bit about yourself, Nancy.

MS. OSTIGUY: Okay. I work in the Department of Entomology at Penn State. I'm one of the environmental representatives on the Board. I do work on honeybees and I'm working on non-pesticidal control for my -- it kills the honeybees, so helping, hopefully, some organic beekeepers in -- to meet the standards. There's no question we don't have anything on the list right now for them to be able to function very well.

CHAIRPERSON RIDDLE: Thanks, Nancy. And Nancy chairs Crops Committee and also serves on Livestock and Materials. And I had overlooked one name for public comment and so I apologize for that, and Diane Goodman said she'll be brief and has a few words to wrap things.
up.

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MS. GOODMAN: Thank you, Mr. Chairman. Thank you very much. And welcome to the new NOSB members. It's a pleasure to have met you all and welcome to our world. I hope you find it as enjoyable as I have for all the years that I have been involved in it and thank you also to the Board and it's impartment for today's meeting. I have a brief comment. I have it written out here very scribbled, so I'm going to read it to you. I think that'll be the easiest way to do it.

I'm speaking in support today to two issues. The first of these issues is in support of the Livestock Committee's recommendation for the re-petition of the allowance for methionine, to encourage -- also to encourage the National Organic Program's consideration of a methionine alternatives task force including member of the industry to develop the alternatives for sources of methionine in the future. In light of the work of the OTA livestock committees, a methionine alternatives task force, I think that a formal oversight process under the formal nominating process of a task force of NOP would be well-deserved and appropriate at this time and perhaps accelerate the work that we accomplish in the next three years. And I would like to specify that
those standards, those alternatives for methionine be
developed for all levels of production, supporting the
scale neutral intention of the regulations of the
department.

I'd also like to speak to support the current
flexible interpretation of pasture requirements as they
are written into the regulations now, to allow a
diversity of production systems that will serve the
diversity of the growing market for organic products.
Specifically is my concern for the Board's vulnerability
and deserved sensitivity to the acquisitions of factory
farming and abuse by some of our larger dairy producers,
to the lack of organic integrity as it equates to market
success, that the size of an operation somehow
determines organic integrity.

In this organic arena our original goal was to
change the way we produce food, to transition as many
acres as we could to organic agriculture, to change the
way we grow food, to bring as many acres as possible
into the highest form of sustainable production, which
is organic farming. By allowing diversity in the
systems, we will achieve our goals of changing
agriculture. By limiting our systems in dairy, in
poultry or in retailing, by narrow implementation of the
-- by -- excuse me -- by implementing narrow
interpretation of our regulation, we limit our ability to grow, to thrive both as an agricultural movement and an industry and our ability to provide food filled with organic integrity for everybody.

I'm a city girl. I'm from New York City, but I spent five years farming in California's Central Valley, so I know both lifestyles and both cultures. And I'm now back home and what home is to me, and that is the city. And I can tell you, as involved as I am in the rural/urban relationships that go on in the cities, that city dwellers are, in fact, the largest market for organic food simply by our sheer numbers. In 2005, this is the first year in history where more people in the world will live in cities than they do outside cities -- this is the United Nations statistic for this year. It was wonderful and personally wonderful for me, because I love farmers, I love farming, but it was wonderful to have heard from so many farmers as we did today, and as a long-time organic advocate, I love hearing farmers speak up.

But farm life happens in rural areas and farmers are not urban consumers. So what's important to urban consumers, yes, a perception of organic. One that means environmentally safe, healthier -- a healthier choice, less toxic chemicals and available where they
shop. Well, that takes quantity and it takes consistency. Without the flexibility to allow the regulations to be site-specific, region-specific and scale neutral, the largest markets in this country for organic food will not continue to support the demand that up until now and into the future will fuel and continue organic growth on the farm. Thank you very much. Any questions?

CHAIRPERSON RIDDLE: Thanks, Diane.

MS. GOODMAN: Thank you. Okay, next item on our agenda is NOP update and discussion, so Richard, are you going to start it off or --

MR. MATHEWS: We'll let Neil start it off.

CHAIRPERSON RIDDLE: Okay. Neil, would you please introduce yourself and welcome to the meeting here.

MR. BLEVINS: Thank you. If you don't mind, I'm going to take this off there so I'm not -- I'm a moving target, at least.

CHAIRPERSON RIDDLE: Yeah. You're going to have your back to somebody.

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MR. BLEVINS: I'm Neil Blevins. For those of you who are compulsive note takers, that's N-E-I-L B-L-E-V-I-N-S and here's where it gets more
challenging. My title is Associate Deputy Administrator for Compliance, Safety and Security. For those of who are slow note takers, I'll repeat that again. I'm the Deputy Administrator for Compliance, Safety and Security. I'm responsible for quite a few programs in the Agency. I bet you can guess that Compliance is one of them, Safety is one of them and Security, that's bio-security, physical security, employment security, food security, any kind of security you can think of other than my own job security.

In Compliance, we have a very, very small staff and it will remain so. I have about a half a dozen to a dozen at any time investigators who are badge carriers and in addition to that, I have an auditor who does audits of federal and state programs, audits of some handlers that have to pay assessments to the marketing order and research -- assessments. And I've a got a very small team of people who are devoted almost entirely to various issues in the National Organic Program.

I have two people in Fresno, California, the Central Valley we've heard so much endearing talk about today who primarily do the complaints. Almost all complaints are handled out of California, not because California needs more work than any place else, but it
just became convenient for me to house them there and they can work in any direction. Those two people -- there used to be one, now there's two -- some of you have met or probably one or both of those gentlemen. And I have one other person on staff who handles primarily working with the agents. They're in enforcement actions and in doing preliminary work on appeals.

A number of the investigators have some of the NOP compliance pieces finally and I don't say finally because it's taken a long time, but because the time is finally right to move some of the complaints, some of the problems we've had into formal investigations to see if we can't get them in front of one court or another.

All right, that sort of is a basic introduction. I've heard a lot of malarkey about there not being a lot of compliance in this program. This program has more compliance than any other program we have in the Agency. You have hundreds of people who are working on compliance now. You have tens of thousands of dollars being spent on compliance. The federal government has the fewest number of people in that process and the smallest amount of money, but we have agents, inspectors -- that's by law the front line of compliance in this industry. And I -- what I've seen of
the inspectors, in particular, I am delighted at the work they've been doing and their knowledge. We need to keep bucking up the agents a little more -- and some of you who are agents, I apologize that you are for limited purposes a federal agent and as so, you have certain responsibilities to ensure compliance by those who you certify. And that's up to now, has been primarily the focus of the Compliance program is to -- for certified people, give the agents to do what they're supposed to do.

We get a complaint about a certified person with a bad, a questionable label or something that's been -- that's questionable about whether or not they should have been certified; I'm not running out to do that. There is a person in the law that is responsible for investigating that and dealing with it before I do. My job, Richard's job, our job is to then assess whether the agent did their job initially and did their job in following up. If they don't, then we've got two people to deal with, the operation and the agent.

But until that time, every agent deserves a chance to straighten it out themselves. That's what the law says and -- state of this program, if any of you think that there's an agent out there -- and I welcome your suggestions -- that's got it a hundred percent.
right, that thinks along the same lines as Richard, heaven help you, then I -- I have yet to see that. I've seen some agents struggling mightily to do it right, to understand what is, why all admissions, an incredibly set of regulations to figure out.

You know, we've heard here time and time again today we're dealing about the problem that's caused by this pasturing and grazing business, but until that occurred, how many different interpretations of that particular regulation you think there was in this country? And then you take that and apply it overseas where it also applies and I ask you how many interpretations of that regulation you think existed. If you think that's the only part of that regulation where we don't all see eye-to-eye, then I think you need to stay later in the program and have some more indoctrination. And what that goes to say is that nothing is easy.

You complain to the Department of Agriculture that somebody isn't allowing sufficient pasteurization [ph], we have to look and see well what the heck does that mean? What did the agent tell them? We agree with the agent. Oh, no. Now we've got to get attorneys involved, we've got to get the program involved. We probably even have to get the Board involved before it's
all over on a simple question where we all know the facts. We all know that the cows in the pasture for X number of days, but we don't necessarily know if that's a violation of the law.

Five years from now when we all come back, a decade when we all come back, we better know all those answers. But you've got to realize no matter how much you want this program to stand up and run, it's like asking your baby kid to start talking when he comes out of the womb. It can't happen. It can't happen without millions and millions of dollars to use in the program and all kinds of heartache because each of you probably has a different idea of what needs to be done, where the problem is, what the interpretation of the regulations ought to be, so it's not an easy solution. All right, there's my apologies for the moment.

Some of you may be interested well, what are you doing? How many complaints have we had? We processed about 250 complaints in a little over two years and those largely have been resolved in way or another. In the first year of the program, a lot of those were aimed at getting people certified. This is -- everybody that's going to label their organic to be certified. So we give them an option; get out of the market or get certified.
I don't need to spend thousands and thousands of dollars to get somebody who wants to be certified in court and fined. I need them certified. Most of the complaints that we've dealt with have been people getting out of the marketplace. We haven't found them again. Or we've gotten them certified through an agent. So there's about roughly 250. How many people are suspended or revoked right now would you expect? I can tell you that as of right now there are at least 250 people that are revoked and over 250 people are suspended, still suspended and at least 50 people are -- and I say that is because one of the problems I'm having is some of the agents telling us what they're doing.

There are 97 agents. Right now there's about 15 of them who are reporting in with suspensions and revocations. Huh? There's about 15 of them. We're just now taking those -- Shannon -- I don't know if you've met Shannon in the back -- is putting it all in a data base and we started working on them a few at a time. I can't get all 97 working yet because I can only improve a few at a time. Those who are the most willing to get better, those are the most anxious to be good agents for working with.

We're adding a few at a time, going back and say hey, we haven't heard from you. Have you been doing
any compliance work, have you taken an adverse action?
Have you told anybody that they are not in compliance?
Have you taken a suspension or a revocation? What the heck does that mean? Most of you don't know what suspension or revocation means. We have people who are shocked. When we get a revocation letter now, we say okay, I need to know what kind of an organization this person was. Are they a sole proprietorship, are they a corporation? I don't know because you've just made them ineligible for certification and I need to know who all the responsible people are.

And most agents say huh? All I did was revoke part of their operation. No, no, no, you didn't. You revoked, you took an action by law that affected not only the operation, but the people in it. So there's -- people are backtracking and trying to make suspensions, revocations on the suspensions, all kinds of things trying to figure this out. It's to be expected. It's frustrating for us all. It's frustrating for everybody here. This is the top portion of the program. Hopefully there won't be a -- they'll figure it out in the next couple of years or they won't be agents. But we've got to give them a chance to figure it out with us, with us, and get it going.

What are the questions? I'll take them first.
from the Board, if you have any questions about where we're going with compliance and enforcement, what we're doing, what we're not doing, what we're pretending to do or -- Rose?

MS. KOENIG: I mean, you were here the first time for the discussion. In terms of compliance, are numerical values for issuing guidance one of the things that you, in charge of compliance, is like as far as --

MR. BLEVINS: I'm not sure I understood the question. Try it again.

MS. KOENIG: Well, let's give the pasture as an example. At the compliance level, we've heard some suggestions today with a numerical value rather than an adjective saying significant. From a compliance perspective, what is the most clear-cut way of developing guidance on something like pasture?

MR. BLEVINS: Your problem is you go forward for anybody that's interested in enforcement, is creating an understanding for everybody in the system and that is if you say that you have to have significant pasturing and the agent tells the operator you need to significant pasturing and the agent then goes out a year later, an inspector goes out and says significant pasturing, they let the hens [ph] out and not the rest of them or whatever they find, if the operator comes
back and says well, I thought that's what you meant by significant pasturing.

At the very least, all you can do is send them a notice of non-compliance, give them a chance to improve and eventually if they fail to comply with you or as the agent's interpretation of this, at that point, you've got -- you can start earlier if you didn't give them a more quantitative approach to it and say here's what I expect. I expect you get the whole cow out of the barn and I expect them to be out of the barn for at least five hours a day, 120 days a year and they -- all of a sudden there's stuff that I can't begin to understand but feed.

The more specific you are in the guidance, the more easier you are to say to I don't understand what you didn't know. You knew, you did it deliberately and not only can I skip a step in the enforcement process -- because if -- anybody that knowingly does something, you can go and say you don't get another chance to comply, I'm going to propose your suspension and not only that, I'm telling USDA and they're probably going to try and get some money for your violation.

But that's an answer to -- the more you can make the regulation understandable rather than

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of -- like I say, you've got to get in charge of
Richard's mind, because if it's an interpretation of the
regulation, he is God. You may all have five different
interpretations of the regulation, but by law, by law
there is one person who is the master of it and that's
the person who administers it for the federal
government. So it doesn't necessarily matter. That's
what you've got in some of these other parts about well,
is it clear or not clear within the law that you can do
it, is it clear within the regulation. If there's room,
he's the arbiter. Other questions? Yes, sir.

UNIDENTIFIED SPEAKER: Yeah, where I live in
-- national brands of bananas with USDA stickers all
over them. One of them says organic, it doesn't mention
any certifier. The other one says certified organic, it
doesn't mention any certifier. So who's supposed to do
and what can possibly be done about that? One of them,
like I say, doesn't even claim to be certified, but the
USDA stickers are on every bunch.

MR. BLEVINS: I wouldn't begin to understand
all of that stuff. We are having some problems with
some imported product, as you would guess and getting
some foreign product, foreign certifiers to understand
technical things on what kind of labels should be on
there or things again that I'm not the best person to
answer. I take facts and turn them over.

CHAIRPERSON RIDDLE: Neil, Neil, there's some Board members that still have some questions, if you would, please, and then actually we are going to need to keep moving.

MR. BLEVINS: You bet.

MR. SIEMON: At the level you work, you know, there's the law, there's the rules, the regulations, so these guidance documents, we're being told that they are non-enforceable. Are they used as a guidance for you in your --

MR. BLEVINS: No, actually not.

MR. SIEMON: They're of no value then?

MR. BLEVINS: I'm not saying there isn't value. To the extent that they are policy or an expression of an interpretation, they are useful, but you cannot violate anything under the law and the regulation. Those are the only two things you can violate.

MR. SIEMON: But these guidance are interpretative of the rules, so -- still, the wording in the rules, all of it really counts.

MR. BLEVINS: Well, it is. They help interpret that. They tell the agent what the Board and the NOP believe this regulation to mean and what they
expect the agent to do and as long as that's within a common sense interpretation of that regulation, then it's practically as good as the regulation because it is our interpretation of that particular regulation, not be too redundant.

CHAIRPERSON RIDDLE: Bea.

MS. JAMES: I have a couple of -- one is kind of a comment/question in regard to Arthur's question on bananas. And this is just from my experience as a retailer. There is difficulty with getting some of the suppliers from the smaller third world countries to have the stickers that actually say certified with them for cost reasons. The PLU sticker that is on the bananas always starts with the prefix 9, which indicates that it is organic and at this point, that is one of the ways, at a retail level, if you can actually determine whether or not it's organic.

Now, the retailers are putting these other stickers that they can find -- there is a problem with having enough stickers -- and one of the places where they can actually get stickers to put on individual produce items such as bananas and apples, because that's a lot of stickering to have to do to individual products, is the USDA ones. So I -- you know, I don't know if that really answers your question. I think that
there are some clarifications that need to happen in
order for stickering of the individual produce items to
be more clear for the consumer and so I just wanted to
comment on that.

And then secondly, in response to Rose's
question with how we, as a Board, are to try to be the
so-called voice of the organic standards and try to
represent the people, when we do that, when it gets to a
certain level is there a preference for science-based
facts versus experience facts and what would you
recommend that we do when we -- you know, when we try to
give these recommendations? Do we always want to
incorporate both? Does one have preference over the
other?

MR. BLEVINS: You're talking about rule making
and guidance?

MS. JAMES: I'm talking about -- well,
anything. When we present our recommendations for
different guidelines, is it -- are they taken more
seriously if they are science-based recommendations or
is experience-based recommendations --

MR. BLEVINS: Not necessarily. These are the
best people to answer that. Truly, this is a marketing
program and not a science program.

MR. MATHEWS: The -- what we're really looking
for is some form of justification for whatever change it is that you want to make. And this goes back to some old stuff that I've said long before you came on, that we need to know what is the problem, why is it a problem, who's the problem for, what are the different solutions to the problem, what options did you look at and what were the pros and cons of each option, so we're looking for that kind of information, so to say that a science-based versus something else is necessarily going to -- one or the other is going to overrule the other, is not a good statement. It's really going to be on an individual-by-individual basis and so the best thing to do is to provide us the kind of information that we've asked for.

CHAIRPERSON RIDDLE: I've got a couple of questions, Neil. You mentioned some approximate numbers on the suspensions and revocations, but what about the enforcement by your division that could lead to the $10,000 fine. Are there any gone to that level?

MR. BLEVINS: Not yet, and that's what I say, there's a couple that could. We recently finished an appeal in which the administrator denied the appeals and it would likely have gone forward. It may not go forward now simply because there's been some additional settlement between the operator and -- which makes it
really tough to adjudicate. What happens with cases that we have to have, you know, intentionally, knowingly, whatever the language in the -- willful violation before we can go after even the first inning [ph] and we always have to start from scratch. A lot of what the agents give us is not terribly useful. It's -- with the exception of the inspection reports, the correspondence back and forth and the evidence the agent has about the violation, the knowingness of it and everything else requires a split back in the hands of investigators rather than take it forward. We have about four of them now that are in the hands of formal investigators.

CHAIRPERSON RIDDLE: Okay.

MR. BLEVINS: And those are just within the last couple of months.

CHAIRPERSON RIDDLE: I have one more question and your division's now handing the appeals, correct? It's not --

MR. BLEVINS: Yes.

CHAIRPERSON RIDDLE: -- NOP taking the lead, but you're taking the lead.

MR. BLEVINS: No, I do not work with the NOP and I handle all the appeals.

CHAIRPERSON RIDDLE: Uh-huh. And kind of York Stenographic Services, Inc.
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where's that at or how's that gone now that you took it over?

MR. BLEVINS: Well, since we took it over in June, we received nine appeals. Two of those have been dismissed. The administrator, in his wisdom, has decided that if you don't follow the regulations, you can't have an appeal. So the regulations dictate what's required in an appeal. It has to be received within 30 days or whenever the time period. It has to have a copy of the proposed action attached to it. It has to be sent to the right address. It has to give the reasons for the appeal.

If it doesn't have all those things that are required by the regulations, we dismiss them. We've dismissed two so far. We finished one appeal. The administrator signed one appeal, denying it and there is at least one more that's in clearance. So out of the nine, that's three that have been finished, there's really two in clearance now, so those are moving fairly rapidly, but every one of those has some fairly interesting and unique issues that lawyers had to sign on to.

We look at two things. We're judging appeals first of all, not on whether or not the person should be suspended, but whether or not the agent has sufficient
evidence to suspend them. That's a different test.
That's a different test. If the agent comes forward
with no documentation, they don't get suspended. So we
have to look at that. Then we have to look at, because
the regulations required this, the administrator denies
an appeal. You don't get suspended, you don't get
revoked, you don't get denied.

We then have to file a complaint before the
Department, have a hearing and try it, which means we
have to go to the attorneys and say will you try this?
Is the language of the regulation sufficient that you
can try it? Is the evidence going to be sufficient if
we can develop it for you to try it? So there's just
sort of a two-part test to every appeal. Goldie, do you
have a question?

MS. CAUGHLAN: Well, I was -- it's probably
not something that you can respond to but --

MR. BLEVINS: I can take it.

MS. CAUGHLAN: -- I hear a great deal of
concern from consumers who worry that there is less
verifiability of organic products coming from outside of
the United States. I just -- do you -- are you involved
in any of the foreign actions?

MR. BLEVINS: Well, I can tell you -- every
agent, foreign or domestic --

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MS. CAUGHLAN: Are USDA.

MR. BLEVINS: -- have to be accredited, go through the same process and we do have -- we have one appeal from an international operator who has been suspended. We have a number of complaints that have been examined by them. I don't have a particular feel that there's greater noncompliance. I think there have -- it's more difficult for them to understand some of the labeling and things like that sometimes. By the time they translate us and put it into a translator or something, it comes out a little whacky sometimes. Was there another question? Jim, do you want to move on?

CHAIRPERSON RIDDLE: I do. Thank you very much for coming. I think it's really important to hear an update from your division, hear what you're covering, so -- Rick, you have some NOP update items for us.

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MR. MATHEWS: Richard Mathews, Associate Deputy Administrator, National Organics Program. I'm going to do like Neil so I can turn around and face the audience. The only thing that I really want to talk about is accreditation and I'll leave any other issues to Barbara, but we did cover them yesterday. Some of the issues have already been covered today.

The interesting thing is that over the last
two, three weeks we've been getting some media inquiries
and they're saying that so-and-so says that you guys
don't audit certifying agents. Is that true and why
not? Plus other questions with regard to auditing
certifying agents. I'm here to tell you that we have 97
certifying agents and indeed, we do audit them. Now,
let me set the stage a little bit.

Under the regulations, people coming into this
program can be accredited before they get an on-site
audit. And the number one reason for that is no one can
certify anyone to our standards until they are
accredited. So a certifying agent that is not
accredited won't get any clients. So you've got to be
accredited before you can get your first clients. Also
under 205.504(d), we have a requirement that certifying
agents send us at least three packets related to clients
that they have certified. Okay. So you've got to be
able to certify someone before you can -- you have to be
able to be -- you have to be accredited before you're
able to certify anyone.

When we did the original rounds of
accreditations, if you go back and look at our list with
the dates, you'll find that almost all of them are
domestic. So the domestic people have been audited
first. Then we started giving some accreditations of
foreign. Now why did it take it longer to do accreditations of foreign? Because as Neil said, they have trouble understanding our regulations. I think it has a lot to do with language barriers.

Okay, so first out of the blocks were the domestic guys. Then some of the foreign got into it. Now you have to get clients. I can give you an example of a certifying agent that has not yet received an on-site review of the National Organic Program's auditors. And why is that? Well, because this Chilean certifying agent, even though they are accredited, still has no clients, okay. So you can't audit someone who has no clients. So our policy is the first ones into the hopper and those with the most clients are the ones who get audited.

Okay, now I've set that stage. Now let me give you the numbers. We have 97 accredited certifying agents of which 62 have gone through on-site audits. All right. Out of the 56, 39 have been audited that are domestic, okay. So 49 of the 56 domestics have received their audits. Again, continue to remember that those who came in last are going to be the last ones audited. We've got three of the remaining seven that are scheduled this calendar year. The other four are scheduled for 2006. Now, out of the 97, 41 are foreign.
Again, remember they were the last ones accredited. So far we have audited 13. I can tell you that most of those are the two certifying agents in Australia, those in Canada. There are a number in South America. We also have scheduled for the rest of this year 14 that will be -- during the rest of this year. Okay?

Then the remaining 14 are scheduled for 2006. Now, if the Chileans still don't have anybody by 2006, we won't be auditing them. So just as a recap, we have 56 domestic, 49 have been audited. Three are scheduled for the remainder of this year. Four are scheduled for next year. We got 41 foreign. Thirteen have been audited, 14 are scheduled for 2005 and 14 are scheduled for 2006. Any questions about that?

UNIDENTIFIED SPEAKER 1: You said 13 have been audited first and now you say 14?

MR. MATHEWS: Thirteen have been audited to date.

UNIDENTIFIED SPEAKER 1: Okay.

MR. MATHEWS: Fourteen more will be done this year and then 14 will be done next year.

UNIDENTIFIED SPEAKER 1: Are there any in Europe that have been done?

MR. MATHEWS: The ones in Europe are the ones that are still scheduled for this year.
UNIDENTIFIED SPEAKER 1: Okay.

MR. MATHEWS: I know that we've got a couple of them scheduled for April. One of them is planning to go out of business and so they've had some discussions with that one.

UNIDENTIFIED SPEAKER 2: I'm almost afraid to ask this question but this will be our fourth site visit this year and --

MR. MATHEWS: Your fourth site visit this year?

UNIDENTIFIED SPEAKER 2: Not fourth -- our fourth year after our site visit.

MR. MATHEWS: Uh-huh.

UNIDENTIFIED SPEAKER 2: So have you guys gone about when you would start the five year -- start all over again? Aren't we supposed to have a site visit again in five years?

MR. MATHEWS: Yes.

UNIDENTIFIED SPEAKER 2: And would that be next year? I mean, that's sort of scary to think about already, but I wondered if that was on your radar screen.

MR. MATHEWS: We are starting to work on the issue of that. We've got to start getting out and renewing all of the people who are already in --
UNIDENTIFIED SPEAKER 2: Next year will be our fifth year.

MR. MATHEWS: Right. So we will need to be working with you to get out there and do that and those audits do have to be done before the renewal. Yeah. We're as nervous about it as you are.

UNIDENTIFIED SPEAKER 2: Well, that's my -- thank you.

MR. MATHEWS: But the bottom line is yeah, we are doing the audits and we will be working with you, don't worry about it.

UNIDENTIFIED SPEAKER 3: How many of the audits have resulted in the denial of accreditation?

MR. MATHEWS: We have not denied accreditation to anyone, okay. We still have over -- I think it's somewhere in the neighborhood of 40 applicants who have not received accreditation because they can't meet the requirements for accreditation. We have made it a practice not to deny, we just keep working with them and if they can't come up to the level, then they just don't get accredited. It's not a matter of denying them, it's -- if they work to find out if they can get it. It's just like with, I would think with somebody who applies for certification. In your case, you do deny it. But in our case, we just keep the file open. Now, I can
tell you that we are discussing that very issue that
some of them have been on the list for so long that
probably just for our own recordkeeping, it would be a
good idea to just notify them that you know, it's been X
period of time since you applied. You haven't been on
time compliance, so we're closing the file and you're
welcome to try again on another date. Any more
questions? Board?

UNIDENTIFIED SPEAKER 4: When they're on that
list -- when they haven't been -- they haven't received
accreditation, do they have to be denied? Can they
certify for that period?

MR. MATHEWS: Not to the NOP. If you're on
the list of applicants -- because we have more than one
on the list. We have a list of applicants and on the
list of applicants we indicate whether they got
accredited and what dates their accreditation was
effective. Those that don't have that date on there,
those are people who have not been accredited and they
may not certify to the NOP.

CHAIRPERSON RIDDLE: And we need -- this will
be the last question on this, please. Thanks.

UNIDENTIFIED SPEAKER 5: I'm a little
confused, but when you were talking about the foreign
certifiers and 13 have been audited and you had three
scheduled for 2005 and 14 --


UNIDENTIFIED SPEAKER 5: What happens to the other people? Do they just wait? They can't do business until --

MR. MATHEWS: Oh, they're all doing business. They're all doing business and we look at when were they accredited, how many clients do they have, then we also, in order to try and keep costs down, we also try to pair the -- take the trip and do two at the same time, so we're trying to be reasonably friendly so that we can split the cost between the agents who are trying to beat the cost of it.

CHAIRPERSON RIDDLE: Thanks. So Barbara, are you going --

MS. ROBINSON: I think that --

CHAIRPERSON RIDDLE: I know we need --

MS. ROBINSON: -- you guys are so far behind schedule. You guys are so far behind schedule, it seems that you probably should get back -- try to get back on schedule. We don't really have anything to add to what we said yesterday and we're not going to get into any kind what if questions related to the law suit anyway, so if it's okay with you, we would just as soon see you proceed.
CHAIRPERSON RIDDLE: Okay. Well, I'll ask the
other Board members are there any particular questions
that you'd have for Barbara, just to give a chance here.
Okay, hearing none, seeing none, we will move on. All
right, the next item and the first action item to
consider is Accreditation Committee. Andrea,
information on certificates is -- take the lead here.

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MS. CAROE: Okay. Posted on the list, I was
-- the posting that this committee worked out for
updating the information that is required on the
certificates to facilitate commerce and to facilitate
compliance during the inspection process. We have
received -- I can go through the summary of what this
committee has done, but I want to note that we have
received comments from Harriet Behar, Leslie Zook, Emily
Brown-Rosen and Marty Mesh regarding this particular
issue. But I would like to go through the
recommendations of this document which is in Tab 4 of
the meeting book for anybody on the Board.

Instead of going through the entire document,
I'd like to go straight to the recommendations. There
are eight recommendations made by this committee. The
first two are to require that the certificates clearly
state that this product is compliant with the National
Organic Program standard for the accredited standards -- 
I'm sorry, accredited certifiers. The first one has 
some stock language that we would like used. Certified 
as compliant with the National Organic Program. The 
second point is for recognized certifiers. Certifiers 
that have been accredited to programs that are 
recognized to be consistent with the National Organic 
Program's accreditation program. 
These are certifiers that are not accredited 
directly by the National Organic Program, but their 
accreditation is recognized. We would, as well, like to 
see language -- indicating that the standard that that 
product was measured against was the standard of the 
National Organic Program. 
The third point is a standard language for 
date of issuance and this was to get to the point that 
many commenters made in having an up-to-date certificate 
that clearly shows that the client or the applicant or 
the certified entity is current with their 
certification. Again, as it's been pointed out, it's 
not a perfect fix because there is an 18 month -- since 
the last certificate that that particular certificate 
would still be good -- another inspection. So this 
would get us closer. It's not a perfect fix, but that 
was why that point was put in there.
The fourth one is to expand the categories. Right now the categories in the rule are required to include crops, wild crops, livestock or processed product. The committee recognized that there are a wealth of other categories that are out there, so we would like to expand those.

The fifth item is date of identification of crops and products so that it's clear from one certificate to another what the product is that's being certified. We recognize that this is going to take some work to come out where that standard list comes from and how to expand that, so this is just -- the fifth, that was the fifth item.

The sixth item is to establish the data base, E-Cert. We promote that idea. That's going to bring us to a real time -- okay. That will bring us to a real time compliance or recognition of the compliance of that particular operation.

The fourth [sic] one is to allow that data base to link with existing certifiers' data bases to facilitate that transfer of information without undue burden on the certifiers. I will comment at this time that the certifiers already have a requirement to annually report what products are being certified by what entities. This would give them an opportunity to
do that continually instead of once a year -- so we're trying to ease the extra burden as much as possible.

And the last item that we recommend is some training on that data base, E-cert, so that the certifiers can effectively use that without too much frustration as possible. That is the summary of the recommendation at this time. I welcome any questions from the Board.

CHAIRPERSON RIDDLE: Well --

MS. CAUGHLAN: I though E-Cert was on hold.

CHAIRPERSON RIDDLE: Okay, so there's a question, first from Kevin, just if that needed to be entered as a formal motion and it's my understanding, Andrea, that due to some of the comments you received that there's going to be a little redrafting before introducing it as a motion, is that correct?

MS. CAROE: Yes. I think based on the comments that we have received and the most substantive comment, I believe, is Emily's in regarding to linking label claims to the products, which I personally believe is a very component of this. I would like to take this back to committee for some additional language and represent this tomorrow, potentially, for a vote. So at this time I would suggest that we don't make a motion. It is on the table. If the committee wants to, you
know, that's -- you know, a motion can be made, but I
would suggest we don't at this time.

CHAIRPERSON RIDDLE: Um-hum. I did want to
also mention someone from the Washington State
Department of Agriculture gave me some written comments
and there is one comment also on this draft supporting
-- "We are pleased that this issue is being addressed by
the NOSB and support the recommendation of the
committee, essentially without requiring that organic
certificates list specific varieties of crops produced
and/or handled. Issuing NOP compliant certificates is
like issuing a driver's license without a name." They
indicate without question, that someone is able to
drive, they don't however, specify who. So that's
another comment in support of our draft. But so the
committee try and meet this evening once we recess
and --

MS. CAROE: Yeah, I believe that's the best --
we could wordsmith, but I think it would take up
valuable time --

CHAIRPERSON RIDDLE: No.

MS. CAROE: -- for this Board.

CHAIRPERSON RIDDLE: None.

MS. CAROE: So I would prefer to bring it back
with the language already worked out.
CHAIRPERSON RIDDLE: Okay. So we'll put that in the queue. All right. Thanks, Andrea. Okay, and that's -- we have some new committee members, as well, to be -- pay attention there. All right, next on the agenda, I believe is Livestock Committee. Let me make sure I'm on -- yeah. So George --

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MR. SIEMON: All right. We get to have all the fun. We had four different subjects. I'll do the two that were more -- the clarifying guidance documents first. And so the first one is the chelates and that's in Tab 5 in your book. This has been an item that's been hung up, a little bit of confusion while we've been waiting for more information from the TAPs. It's argued about because it's FDA-recognized material, but we thought that we should look into it more and now we've chosen to go for a Q and A-type approach to get it off our work plans, so that's what we have here and Jim, do we need a motion to --

CHAIRPERSON RIDDLE: Well, first -- yeah, before we even start that, I'm trying to discipline myself to ask if anyone has any interests to declare concerning the chelates issue. Okay, seeing none, proceed. So yes, then the appropriate thing would be to -- the appropriate thing, George, would be for you, as
committee chair, to move this and see if there's a
second.

MR. SIEMON: I would like to move that we
adopt a recommendation on the chelated mineral
compounds.

MS. OSTIGUY: Second it.

CHAIRPERSON RIDDLE: Okay, it's moved by
George, seconded by Nancy. Is there discussion? Yeah,
Hugh.

MR. KARREMAN: I think part of the confusion
is on or has been on the proteinated aspect of the
chelates.

MR. SIEMON: No, the source of them is the
biggest issue, whether they're GMO or animal by-products
was some of the concern and so we've just gone through a
question and answer so that a person comes and asks can
they be used, they're clearly reminded that they are
allowed, but not the excluded sources or animal by-
products.

MR. KARREMAN: Would they be -- would a
private review agency like OMRI be good to have to say
what products are actually okay, you know, is it more of
a private --

CHAIRPERSON RIDDLE: Well, it -- you know, the
first line is the producer to, always a burden of proof,
but then it's the certifier in reviewing their plan, but
they may contract with OMRI or another material review
service, that part of it, so yeah, that would -- but
that would be acting on behalf of the certifier in
review of the products that farmers wanting to use.

MR. KARREMAN: Yeah, there's different forms
of chelates. There's polysacrite [ph] chelates, there's
-- okay.

MR. SIEMON: It's always difficult to know
what's in them, where they come from. Okay, is there
any more discussion about this item? Okay.

CHAIRPERSON RIDDLE: Just -- yeah, George, you
question -- the motion that we have includes question
one and question two as a package.

MR. SIEMON: Okay.

CHAIRPERSON RIDDLE: So any further debate,
discussion, questions about it? Seeing none, we'll move
to a vote and we will take a roll call vote and I'll
start to my left with Nancy and then we'll just go
around this way and then we'll rotate who starts next as
we move down the line with other items.

MS. OSTIGUY: Yes.

CHAIRPERSON RIDDLE: Dave.

MR. CARTER: Aye.

CHAIRPERSON RIDDLE: Bea.
MS. JAMES: I'm going to abstain.

CHAIRPERSON RIDDLE: Abstain, okay.

MR. SIEMON: Yes.

CHAIRPERSON RIDDLE: George, yes. And I'll call your name just so it's in the record. Rose.

MS. KOENIG: Yes.

CHAIRPERSON RIDDLE: Yes. Goldie.

MS. CAUGHLAN: Yes.

CHAIRPERSON RIDDLE: Yes. Does the chair wait until the end?

MR. O'RELL: Yeah.

MS. CAUGHLAN: Yes.

CHAIRPERSON RIDDLE: Everyone says yes, yeah.

All right, Kevin.

MR. O'RELL: Yes.

CHAIRPERSON RIDDLE: Kevin, yes. Andrea.

MS. CAROE: Yes.

CHAIRPERSON RIDDLE: Yes. Rigo.

MR. DELGADO: Yes.

CHAIRPERSON RIDDLE: Yes. Hugh.

MR. KARREMAN: Yes.

CHAIRPERSON RIDDLE: Yes. Julie.

MS. WEISMAN: I'm going to abstain.

CHAIRPERSON RIDDLE: Abstain. Gerald.

MR. DAVIS: Yes.
CHAIRPERSON RIDDLE: Yes. And Mike.

MR. LACY: Yes.

CHAIRPERSON RIDDLE: Yes. And the chair votes yes, so it is 12, yes; 0, no with two abstentions.

MS. CAUGHLAN: Which becomes --

CHAIRPERSON RIDDLE: Pardon? Which passes.

MS. CAUGHLAN: Right.

CHAIRPERSON RIDDLE: With a majority, right.

Um-hum. So -- okay.

MR. SIEMON: Okay, the second issue was the NOP received a question about calcium carbonate in livestock feed; they referred that to us and again, we've chosen just to answer that in question and answer format, something that can be posted on their web site as a guidance document. So I'd like to make a recommendation that we adopt this recommendation from the Livestock Committee.

MS. OSTIGUY: Second.

CHAIRPERSON RIDDLE: Okay, so there's a motion to accept the calcium carbonate recommendation by George, seconded by Nancy. Discussion? George.

MR. SIEMON: Well, I don't know if people want to go through the questions and the logic behind it or I'm just -- with the shortage of time. You know, this is a fairly simple -- I'm sorry, I just lost my --
CHAIRPERSON RIDDLE: Okay. Well, the question that was presented to the Livestock Committee, question one, does the NOP regulation permit livestock producers to use calcium carbonate as a feed supplement for livestock intended to be sold, labeled or represented as organically produced? Please provide your rationale. And our recommended response is yes, mined calcium carbonate is a nonsynthetic substance allowed for use as a feed supplement or a feed additive and then "from that section of the Regulation 205.237(a)."

Question two -- any comments on that part? Seeing none, question two was can a mineral product such as calcium carbonate carry the term organic on its label? Please provide your rationale. Our recommended response, no. Section 205.2 defines organic as a labeling term that refers to an agricultural product produced in accordance with the Act and regulations. Calcium carbonate is not an agricultural product and therefore is not qualified to carry the term organic under the NOP regulation and then quotes from the Regulation 205.301(e)(1) on livestock feed and (e)(2), further on livestock feed.

And then one more paragraph. "Since mined calcium carbonate is allowed as a nonsynthetic feed supplement or feed additive under 205.237, a blended..."
feed ration containing calcium carbonate, other approved ingredients and 100 percent organic raw or processed agricultural products can be labeled 'organic livestock feed'". So any further discussion, questions? Seeing none, we'll move to the votes. So Dave Carter.

    MR. CARTER: Aye.

    CHAIRPERSON RIDDLE: Bea.

    MS. JAMES: Yes.

    CHAIRPERSON RIDDLE: Dave votes yes, Bea has yes. George.

    MR. SIEMON: Yes.

    CHAIRPERSON RIDDLE: Yes. Rose.

    MS. KOENIG: Yes.

    CHAIRPERSON RIDDLE: Yes. Goldie.

    MS. CAUGHLAN: Yes.

    CHAIRPERSON RIDDLE: Yes. Kevin.

    MR. O'ReLL: Yes.

    CHAIRPERSON RIDDLE: Yes. Andrea.

    MS. CAROE: Yes.

    CHAIRPERSON RIDDLE: Yes. Rigo.

    MR. DELGADO: Yes.

    CHAIRPERSON RIDDLE: Yes. Hugh.

    MR. KARREMAN: Yes.

    CHAIRPERSON RIDDLE: Yes. Julie.

    MS. WEISMAN: Yes.
CHAIRPERSON RIDDLE: Yes. Gerald.

MR. DAVIS: Yes.

CHAIRPERSON RIDDLE: Mike.

MR. LACY: Yes.

CHAIRPERSON RIDDLE: Yes. And the chair votes yes so that's unanimous 14 --

MS. CAUGHLAN: Wait, you forgot Nancy.

MR. O'RELL: You've got to come back around.

CHAIRPERSON RIDDLE: Yes, I've got to start at the top. I'm learning.

MS. OSTIGUY: Yes.

CHAIRPERSON RIDDLE: Yes. It is unanimous.

So that's 14, yes; 0, no; no abstentions. Okay, George.

MR. SIEMON: The next one is the methionine issue and since my co-op is one of the ones with a petition on it, I'm going to excuse myself from voting and leading the conversation, so I've asked Mike Lacy to do that, so --

CHAIRPERSON RIDDLE: Okay. And I forgot to ask if there were any recusal -- I mean, any conflicts on the calcium carbonate.

UNIDENTIFIED SPEAKER: Rookie mistake.

CHAIRPERSON RIDDLE: Yeah, I -- it's just full of them today. Okay. But thanks, thanks for clarifying that, George. Mike.
MR. LACY: Thank you, Jim. The Livestock Committee received a petition from the task force that was put together to study the issue and in the interest of time, I will just go straight to the Livestock recommendation and then if there are any questions or clarification, we'll be glad to try to answer those, but the recommendation is in two parts.

After careful consideration and discussion of the merits of the petition, the Livestock Committee recommends the use of synthetic methionine in organic poultry production to be extended to October 1, 2008 to provide time for thorough research on organic alternatives to be completed. This recommendation follows inclusion allowances provided in 205.603, synthetic substances allowed for use in organic livestock production, (d) as feed additives.

In addition, a temporary variance petition for the allowance of the use of nonorganic feed ingredients for organic poultry production for research purposes was also submitted by the petitioners. The requested variance would allow the feeding of nonorganic feed ingredients for research purposes. The variance would require approval by NOP, be limited to trials of a thousand birds or less, and require immediate and full disclosure of research findings and expire
October 1, 2008. The Livestock Committee recommends that this request be rejected. The Livestock Committee cannot support or request to feed nonorganic feed to birds that would be labeled and sold as organic.

CHAIRPERSON RIDDLE: Okay, do you move that?
MR. LACY: I would move that both of those recommendations be accepted by the Board.
CHAIRPERSON RIDDLE: Okay, is there a second?
MS. JAMES: Second.
CHAIRPERSON RIDDLE: Bea seconds. Discussion.

Andrea.

MS. CAROE: Well, I would offer an amendment. I'd like to see these as two separate votes, two separate issues.
CHAIRPERSON RIDDLE: Okay, well there's a request for two separate votes.
MR. LACY: That's okay with me. I forgot who seconded it. Bea, I think -- is that --
CHAIRPERSON RIDDLE: Okay, so -- all right. Well, let's have two separate discussions then. So we'll consider the first one now and then we'll take a separate motion to consider the other one. Rose.

MS. KOENIG: Actually, some of the questions are directed -- I had -- I lot of the issues that I have is more of a process issue at this point with the
petition. I tried to access the web site prior to the meeting to pull up the old TAP. I could not find it on the web site. And I don't know if that was just my computer, but it wasn't there, so what's concerning to me is that I knew, at the last meeting we voted on this, there were a lot of public comment and did we get public comment this round on this petition?

MR. NEAL: All public comment -- Arthur Neal for the record. All public comment on this issue -- and I think there was some, I'm not sure how much. It's in the book. You've got a set of public comment and the meeting book and then you've got a second book full of public comment, so you may have to thumb through those and separate it into livestock and crops.

MS. KOENIG: Did the committee analyze that to see if there was any comment this round on methionine? And then, Arthur, was that -- was it just my experience that I couldn't pull out the 2001 -- TAP?

MR. NEAL: The 2001 or 2000 TAP on methionine is on the web site. The problem is it is on the archive portion. So if you would click on archive, it's under P for petitioned substances. So it's not with the most recent petitions that we've received because we've got to merge the old stuff with all the new petitioned substances.
MS. KOENIG: Okay. So it wasn't -- the issue I have, you know, again -- well, I'd be interested for the committee to report on the number of public comments, but this was a contingence issue back in 2003 and we heard a lot on pasture today. No one mentioned methionine --

CHAIRPERSON RIDDLE: Oh, yeah.

MS. CAUGHLAN: Two people.

CHAIRPERSON RIDDLE: Yeah.

MS. KOENIG: Two people, oh. There were so many. But --

UNIDENTIFIED SPEAKER: Three.

MS. KOENIG: Was it three? Okay. It just doesn't make a whole lot of sense to me, but I'm very concerned that the original TAP report wasn't there. It was in our book, so I was able to go back and reference. And then additionally, when I looked at the petition on the web site, there were missing items there as far as things that were promised and I know that was mentioned that they couldn't get compiled, but it seems like there's a lack of information and I know there is a pressing -- I know the industry feels that, you know, under a lot pressure. I'm just very concerned about the process.

MR. LACY: I'll try to answer the question as
best I can. I think the task force did make a very good faith effort to study the issue thoroughly and most of the input that we received was in communication with the task force and I expect that that's probably the reason that there wasn't a great deal of public input is that everybody knew that the task force was working very, very hard to come up with alternatives and a plan to address the situation. That would be my best guess as to why the passion that you saw in the pasture may not have been present in the methionine issue, is that it was in good hands as far as the task force was concerned.

CHAIRPERSON RIDDLE: Arthur.

MR. NEAL: As a suggestion, just to make sure that particularly, the decisions that that are going to be coming with respect to petitioned substances, there's also a decision sheet that was filled out by the committee and I think that you also need to go through.

CHAIRPERSON RIDDLE: Yeah, Arthur makes a good point and that is that the decision sheets are filled out and accompany the recommendation and have a lot of further background material and draw from the original TAP, as well as the Livestock Committee. I sent out a number of e-mail appeals, I guess, for input on this from pasture, poultry list serve and inspectors list.
serve and then also to certifiers looking for data, anecdotal, even, of poultry operations that are -- you know, that have rations without synthetic methionine and frankly, didn't get any. Right now, I think it is -- I mean, I don't support it. I didn't last time.

However, I think that given the circumstances and given the fact that there have been a couple of new of the CSREES research grants have been directed to this topic, to development of both alternative feeds that could be grown organically and there are a number of promising substances or feeds out there and addressing the potential of slower growing breeds that could have, you know, real promise and excel with lower methionine requirements.

Those projects have been funded, but of course, they were just funded last year. They're just now under way and so I think it does warrant renewing the allowance, but not for a full five years and so I can support this three-year, what I call, extension, but as you pointed out earlier, it's really a renewal of its listing. First, the Board members -- well -- yeah, but I also got the aye over here, too, and so Dave and then Kim.

MR. CARTER: Excuse me. I was one of the folks that supported the compressed time on this
originally because we did want to kind of send a shot across the bow to say this is important to really try and find an alternative to methionine because we felt uncomfortable with it and yeah, I sort of reluctantly support the extension, although I feel good that I think we have sent the message and there is a lot of work now out there developed, just nothing has emerged and I don't think we want to disrupt, you know, the industry right now to the extent that it would, if they were not, so --


MS. DIETZ: Kim Dietz, past NOSB member. I just wanted to bring up the fact that I made the recommendation at the last meeting, so it is in the minutes, requesting and appealing to someone to petition that that would be the proper way to deal with this material, so I do believe that the process was handled correctly and that we did get a petition to look at the annotation to methionine, so I just would urge you to keep moving forward with it.

CHAIRPERSON RIDDLE: Rose.

MS. KOENIG: Okay, so the other question I have as far as a recommendation -- although I didn't vote -- I can't remember how I voted. I don't think I voted in favor the last time. With this three year --
and I know that was sort of a compromise, let's do a three-year Sunset. It didn't seem to work, so the way that this registered process -- I don't know if we really -- I mean, I know that, you know, the Sunset would come up on this and I know a lot of things that we weren't comfortable with, we've done a shortened Sunset. But what we're finding is if we do the shortened Sunset, then it automatically drops off. It has to be re-petitioned. So -- and they added -- the thinking behind the committee in terms of going to this three-year -- what was the basis of deciding on that.

When was the discussion or was that just kind of a --

CHAIRPERSON RIDDLE: No, there was --

MR. LACY: There was significant discussion and I was not on the Board when you all voted on it the first time. If I had been, as your science rep, I hope I would've smart enough to tell you that three years was unrealistic, that research could not be started up, completed, reported on in that period of time, so the Livestock Committee decided this time that five years was not enough. Three years should be enough to allow the research that's been started in the past year to be completed, to be reported, to be proven in the field and by 2008 we should have some answers to this question.

MS. KOENIG: Just a follow-up to --
CHAIRPERSON RIDDLE: Okay, follow up.

MS. KOENIG: If -- but if some of the research is checking on breeds -- I buy the idea that within three years if you found alternative feedstuffs, although there would still be a need to plant those things and the supply still has to come into the marketplace, so it's not simply how long it takes for research, but then that stream of commerce on the other end. And still -- the breeds, you know, if you find a breed. Have you checked with hatcheries and you feel that there would be adequate time if the research came out in a year, two and half, that in six months the industry could adopt those practices? Because there's one thing about -- you and I know, I mean, there's research and then there's extension and adoption and those are very different animals.

MR. LACY: It's a good question. You're asking hypothetical questions and we can't be sure of. Fortunately, poultry regenerate at a tremendously fast rate, so biology is in our favor in that regard.

CHAIRPERSON RIDDLE: Andrea.

MS. CAROE: Well, extending past that a little bit and I don't know what type of research goes into looking for alternatives to this material, but if it's identified that another material would be a reasonable
replacement, that material would have to potentially go through the petition process and get listed, as well, so that would kind tack on some more time, as well, to the fix. So I would -- I don't know if that's a good possibility of the outcomes of this research or not.

MR. LACY: You're talking about an alternative to synthetic methionine rather than an agricultural product that would have higher levels of methionine?

MS. CAROE: Yes, another synthetic.

CHAIRPERSON RIDDLE: Yeah, but the alternatives that are being explored are agricultural and could be organic, so they wouldn't have to go through the petition and listing process. Any further discussion?

MS. KOENIG: I just --

CHAIRPERSON RIDDLE: Yeah, Rose.

MS. KOENIG: One of the -- you have feed additives -- the category you're actually proposing for and OFPA -- is sulphur what you're -- and the justification for that is because sulphur's part of the content?

MR. LACY: Sulphur amino acid, correct.

MS. KOENIG: Are there other -- is that consistent with what -- I didn't really look at the livestock list to see what was listed under sulphur on
there. Is there any compounds in sulphur listed on the livestock --

    MR. LACY: I don't remember that there's specifics on there. Arthur and I were looking at it yesterday and --

    MR. NEAL: On what?

    CHAIRPERSON RIDDLE: It's listed as a feed additive on the National List, but it's eligible for consideration under OFPA criteria as a sulphur amino acid.

    MR. NEAL: Right. You've got to look at OFPA criteria first. That's what governs what can make it onto the National List and whether or not there's a sulphur compound on the National List right now under livestock, I think is irrelevant considering the fact that there are inconsistencies.

    CHAIRPERSON RIDDLE: Any further discussion, comments, questions? Yeah, Bea.

    MS. JAMES: Maybe you can answer this, Mike, or maybe you can't. Do you know the closest sources that are being developed as alternative for the finding? Are they mostly animal-based or vegetable?

    MR. LACY: I think -- they couldn't be animal-based. We listed those in the background material. The ones that we listed include soybeans, peas, white corn
gluten, potato protein, seed meal such as sunflower,
flax and hemp, cornella [ph], alfalfa meal, fresh
pasture and casein. Insects and earth worms are also
rich in methionine.

MS. JAMES: Okay, I just wanted to make sure
that we were clear about that because the TAP report
lists predominantly animal-based alternatives for
methionine. And I know there's a lot of consumer
concern about vegetarian animals and --

MR. LACY: Right.

MS. JAMES: -- animal-based products.

CHAIRPERSON RIDDLE: Rose.

MS. KOENIG: I talked a little bit to Mike
about this. Are there -- I know that you -- there was,
I guess, a rebuttal in the petition on -- I mean, not on
the petition, on the TAP regarding the -- they said it
was kind of a misnomer that methionine is used to
increase growth or faster growth and -- but that -- that
is our tactic that we have to look at, so how did the
committee -- was there discussion on that? Was there a
discussion on maybe coming up with some numerical level
so that -- you know, we talked a little bit and I just
wanted you to -- I know you had some time to think about
perhaps putting in a level for feed, whether that would
be practical or not.
MR. LACY: The task force, again, did a very good job of addressing the fact that methionine is not a growth promoter and we included that in our background material. It's a necessary dietary requirement that's essential to maintain health in poultry. The Livestock Committee did address again, after your question yesterday -- we met last night -- and 205.237(b)(2) says producers must not provide feed supplements or additions in amounts above those needed for adequate nutrition and health maintenance for the species at a specific stage of life. So we thought that putting in specific numbers would be redundant.

On top of that, if you put -- it's a self-correcting feed additive. If you put in too much methionine then your growth and efficiency are actually going to be decreased because your amino acid balance would be out of whack again. So no one that is knowledgeable is going to use more methionine than what's necessary to balance the diet.

CHAIRPERSON RIDDLE: Julie.

MS. WEISMAN: Yeah, I wanted to go back to -- get some clarification on this -- the issue of the time frame and the three-year as opposed to five-year and Kim came up to make a point that this is -- for us, to remind us this is being re-petitioned. So correct me if
I'm wrong; the way I see it is that three-year window is just to give time for the re-petition to take its course. That three years is not necessarily required as the total time that research can be completed. Is that understanding not correct?

CHAIRPERSON RIDDLE: Arthur has a comment.

MR. NEAL: If I'm not mistaken, the petition was actually for the annotation to be extended. It wasn't necessarily the re-petitioning of the substance, but it was -- actually, the petition was for the annotation, because you can petition to modify a substance that's currently listed and that's what was happening.

CHAIRPERSON RIDDLE: Andrea.

MS. CAROE: Okay, for procedure-wise, is the petition is being removed, does that material Sunset in five years from the original date it was put on the list?

MR. NEAL: What was the question again?

MS. CAROE: When methionine was put on the list, did it start its five year clock on the Sunset or has it started at the date that the petition, the annotations are removed, because if the annotations are removed, it's the original listing.

MR. NEAL: When methionine was placed on the York Stenographic Services, Inc.
34 North George St., York, PA 17401 - (717) 854-0077
National List, it was not placed on the list for five years, it was --

MS. CAROE: I understand that. I understand that. Methionine was listed with an annotation. There's a petition to remove the annotation. Methionine was listed for three years now?

MR. NEAL: The clock restarts.

CHAIRPERSON RIDDLE: Yeah.

MS. CAROE: The clock started when?

MR. NEAL: If methionine -- if the annotation on methionine is modified as the Livestock Committee has recommended, the clock will start as soon as the annotation is changed. Restart.

MS. CAROE: So it's a new listing.

MR. NEAL: Right.

MS. CAROE: It's not the old listing changed, it's a new listing.

MR. NEAL: Yes.

CHAIRPERSON RIDDLE: And it's a three-year -- from that time that it gets published in the Federal Register's Final Rule is what the committee's recommending. That's what we're considering.

MR. MATHEWS: It depends on what you do. Richard Mathews. It depends on what you do. If you remove the annotation so there is no annotation, it's an
automatic five years and the clock starts on the
effective date of the Final Rule removing the
annotation. If you put a new annotation in, the clock
starts on the date of publication of the Final Rule
changing the annotation. Now, if you put an earlier
than five year Sunset into the new annotation, then the
annotation will determine when that five -- when that
period of time expires. But it begins anew with the
publication of the Final Rule.

CHAIRPERSON RIDDLE: Rose.

MS. KOENIG: I think this needs some
clarification because -- and I -- I'm not -- I
understand the theory, because I know we say that it's
being removed, that it would -- we'd have to go through
the Federal Register process to put it back on, correct,
so in other words, we would end up with an 18 month or
so delay if we do it the way -- removing it and then
adding it back on. Is that the issue because as --

MR. MATHEWS: With this particular material we
have said that we would do our best to expedite whatever
your ruling is, whatever the Board recommends to us, we
will immediately start working on it, knowing full well
that if you make a recommendation that would have this
material on the list beyond October 21, 2005, that that
Final Rule has to be out before October 21, 2005. The
approach that we would take is that it still has to go
proposed rule and Final Rule. We would have just that
one material in the docket and so that would be the sole
ting that people would comment on, that would hopefully
facilitate getting it through the clearance process and
also it would be only one thing that we would be taking
public comment on, so that we only have to analyze one
set of comments on, you know, on one issue. So
hopefully, we could get it done in less than 18 months.

CHAIRPERSON RIDDLE: Kim.

MS. DIETZ: My materials -- Kim Dietz. And I
understand the confusion. I think -- whether it's
methionine or any other issue, any time you're going to
get a petition to amend an annotation, you're going to
have to consider it as kind of like a new material
starting all over again and that time line of the new
Federal Register notification and placement on the
National List is going to trigger that new five year, so
it's up to you to determine what's the best remedy for
the situation, whether you make that a five year
automatic, you know, date or whether you put a new
annotation on this material, again limiting it by that
date.

CHAIRPERSON RIDDLE: Mike.

MR. LACY: And just to be clear, we have

York Stenographic Services, Inc.
34 North George St., York, PA 17401 - (717) 854-0077
suggested another -- a new annotation for October 1, 2008, a three-year --

CHAIRPERSON RIDDLE: All right. So our debate is concluded. Everyone's clear on what we're voting on in this motion, which to essentially replace the current annotation with a new date of October 1, 2008 and so --
pardon? Yeah, Rigo.

MR. DELGADO: I'd like let the Board know that I will be abstaining or excusing myself from this vote. I do have some --

CHAIRPERSON RIDDLE: You can't be heard, so get a little closer to the mike, sorry.

MR. DELGADO: I'm abstaining or excusing myself from voting on the basis that I do have some trial poultry going on in the operation --

CHAIRPERSON RIDDLE: Well, I appreciate you informing us of that and my understanding is you're saying that you are setting up some poultry operations and then logically would be using feed that contains methionine. Kevin.

MR. O'ReLL: Jim, just -- Rigo wouldn't necessarily have to recuse himself, he just would need, according to our Board policy manual, you would just need to declare that you have a conflict of interest --

MS. CAUGHLAN: Potential.
CHAIRPERSON RIDDLE: A potential.

MR. O'RELL: Thank you, potential. And then it could be up to the Board to decide if they wanted you to recuse yourself.

CHAIRPERSON RIDDLE: Right.

MR. DELGADO: I'm declaring I have a potential conflict of interest.

CHAIRPERSON RIDDLE: Thanks. And from George's opening statement, he was specifically recusing himself because his company was the petitioner. He also has a poultry operation, so has that as two levels of conflict or interest, I guess, but it's specifically clear that as petitioner, he would recuse himself. As a farmer who uses a substance -- you know, it's a bit of a gray area.

You would not have any unique advantage because you're on this Board over any other poultry farmer or profit any more -- you're not a manufacturer of methionine. You might say that some other farmer who grows crops that might be rich in methionine might have an interest in defeating it because they could grow something to replace it. I mean, we can really get too far afield in this, so I guess, you know, I would like a sense of the rest of the Board in reaction to Rigo's situation. Dave.
MR. CARTER: Yeah, I think you've analyzed it well. I mean, you know, all of us come with conflicts of interest, but there are certain areas where we would stand to personally profit if something went through, one or the other, as opposed to somebody else that's out there and so, you know, even though you have a conflict of interest and you're using material, I don't see that as a basis for recusing, so --

CHAIRPERSON RIDDLE: Andrea.

MS. CAROE: Well, likewise, I believe that you do not have a conflict that would prevent you from voting on this particular -- I think consideration on the second vote in regards to research, since you've disclosed that you will be doing research and if it is research on methionine alternatives may be an area where recusing may be warranted, but on this vote I don't see the need.

CHAIRPERSON RIDDLE: Okay, I'm seeing general agreement with that, no one jumping up screaming. Okay, so thanks for bringing that up and once again, I apologize for not asking others after George made his statement at the very beginning. I'll try and do that at the beginning, but -- okay, back to we're ready to vote and so Bea leads it off this time.

MS. JAMES: Absent.
CHAIRPERSON RIDDLE: Abstain?

MS. JAMES: Abstain.

CHAIRPERSON RIDDLE: And George has recused so he is essentially absent. He's not counted in the total one way or the other. Rose.

MS. KOENIG: I'm going to abstain.


MS. CAUGHLAN: I support the motion.

CHAIRPERSON RIDDLE: That's a yes. Kevin.

MR. O'RELL: Yes.

CHAIRPERSON RIDDLE: Yes. That's Kevin's -- yes. Andrea.

MS. CAROE: Yes.

CHAIRPERSON RIDDLE: Andrea, yes. Rigo.

MR. DELGADO: Yes.

CHAIRPERSON RIDDLE: Yes. Hugh.

MR. KARREMAN: Yes.

CHAIRPERSON RIDDLE: Yes. Julie.

MS. WEISMAN: Yes.

CHAIRPERSON RIDDLE: Yes. Gerald.

MR. DAVIS: Yes.

CHAIRPERSON RIDDLE: Yes. Mike.

MR. LACY: Yes.

CHAIRPERSON RIDDLE: Back to the top. Nancy.

MS. OSTIGUY: Yes.
CHAIRPERSON RIDDLE: And Dave.

MR. CARTER: Yes.

CHAIRPERSON RIDDLE: And the chair votes yes, so 11, yes; two abstentions and one recusal; zero no's, I'm sorry, in the middle there. So 11, zero, two, one. Okay, so that motion carries. Thank you. George, I think it's back to you, isn't it?

[Simultaneous comments]

CHAIRPERSON RIDDLE: Oh, I'm sorry. I'm glad you guys are on top of this. Where did you get this chair? Okay, so it's the research part of the -- so you need to actually propose it as a motion.

MR. LACY: I think we did that. I think we split them into two, but I'll move again.

CHAIRPERSON RIDDLE: Yeah, right. We'd appreciate that just for clarity.

MR. LACY: The temporary variance for allowance of the use of nonorganic feed for research purposes be denied.

MS. OSTIGUY: I second it.

CHAIRPERSON RIDDLE: Okay, so it's moved by Mike and seconded by Nancy that the request in the petition for a research variance be denied. Is there discussion? Andrea.

MS. CAROE: Mike, can you give us a little bit
more information about what actual -- what is the
framework around what the petitioner is requesting?

MR. LACY: The petitioner's requesting
permission to run research trials with nonorganic feed,
small trials of a thousand birds or less and prior
permission from NOP, but our concern was that nonorganic
feed would be used in organic poultry production, that
those birds could be sold as organic and we just didn't
think that was in the spirit of the rule.

MS. CAROE: I guess I agree. I understand
what you're saying, but I'm trying to figure out how
this research proceeds without organic producers
involved in this way. I mean, are they -- is the
research happening on a conventional operation or how
exactly is this -- I mean, this is a strictly -- but how
are they going to find alternatives if the alternatives
are feed --

MR. LACY: The research that looks to be most
promising at the moment is going on at the University of
Arkansas, West Virginia University, University of
Minnesota, other research institutions. So that's where
we think that the answers to this issue will come from.
Now, those will have to be proven in the field,
obviously. That's part of good research, is taking what
you have proven in the laboratory and see if it works in
the real world, but we don't think that those birds
should be sold as organic. This is something that
organic poultry producers are going to have to do as
their contribution to the cause.

CHAIRPERSON RIDDLE: So yeah, that really was
the bottom line for the committee, was saying no to the
sale of the birds as organic. Otherwise, you know, we
certainly support the research as it was proposed and
clearly, it's just don't sell the birds as organic.
After what we went through with Field Dale [ph] and all
that, there's no way that we wanted to see nonorganic
feed being sold, you know, fed to birds that are sold as
organic then. It seemed a bit hypocritical. Any other
comments on this?

MS. CAUGHLAN: Call the vote.

CHAIRPERSON RIDDLE: Okay.

MS. OSTIGUY: Jim.

CHAIRPERSON RIDDLE: And -- yes, Nancy.

MS. OSTIGUY: Could we just clarify the
direction of the vote so that if you are in favor of the
variance, you vote no on the recommendation. If it's
against the variance, you can vote yes on the
recommendation.

CHAIRPERSON RIDDLE: Right, um-hum. The
motion is to reject the variance, reject the request.
And Rigo, can you tell us a little bit more about your research, you know, does this rise to the level of a potential financial gain-type of conflict?

MR. DELGADO: Essentially, I'm going to be doing the opposite --

CHAIRPERSON RIDDLE: Yeah, speak up. You've got to get closer. Yank that cord. I don't know. Can't it come further?

MR. DELGADO: Different feed mixtures. Our intent was never from the start to actually sell them as organic and run several trials, see how it works. Separate from what we're calling the organic traditional approach and nothing else.

CHAIRPERSON RIDDLE: To feed them organic feed?

MR. DELGADO: Absolutely.

CHAIRPERSON RIDDLE: Okay, uh-huh. So I don't see --

MR. DELGADO: Organic feed that meets all the requirements --

CHAIRPERSON RIDDLE: Uh-huh. Does anyone see a conflict, direct financial gain? I don't either. Okay, so we will move on with the vote then and we start with Rose.

MS. KOENIG: Yes.
CHAIRPERSON RIDDLE: Yes, Rose. Goldie.

MS. CAUGHLAN: Yes.

CHAIRPERSON RIDDLE: Yes. Kevin.

MR. O'RELL: Yes.

CHAIRPERSON RIDDLE: Kevin's yes. Andrea.

MS. CAROE: Yes.

CHAIRPERSON RIDDLE: Yes. Rigo.

MR. DELGADO: Yes.

CHAIRPERSON RIDDLE: Yes. Hugh.

MR. KARREMAN: Yes.

CHAIRPERSON RIDDLE: Yes. Julie.

MS. WEISMAN: Yes.

CHAIRPERSON RIDDLE: Yes. Gerald.

MR. DAVIS: Yes.

CHAIRPERSON RIDDLE: Yes. Mike.

MR. LACY: Yes.

CHAIRPERSON RIDDLE: Yes. And Nancy.

MS. OSTIGUY: Yes.

CHAIRPERSON RIDDLE: Yes for Nancy. Dave.

MR. CARTER: Yes.

CHAIRPERSON RIDDLE: Yes. Bea.

MS. JAMES: Yes.

CHAIRPERSON RIDDLE: Yes. And George refuses again and the chair votes yes. So we have 13, yes; zero, no; zero abstentions and one refusal. Okay, thank you.
you. Now back to George, right?

    MR. SIEMON: Right. The subject of the day, pasture. And --

    CHAIRPERSON RIDDLE: Oh, yes. And before we start on pasture, now that I know what the subject of the day is, are there people who have a direct interest, potential conflict on the pasture issue? Okay, Kevin.

    MR. O'RELL: I just wanted to say in accordance with our Board policy manual, I just wanted to disclose to the Board and to the public that I work for a company that owns dairy farms and has over 300 producer partners that we work with. I'm putting it out as potential -- I'm not necessarily recusing myself.

    CHAIRPERSON RIDDLE: Um-hum.

    MR. O'RELL: Unless the Board feels differently.

    CHAIRPERSON RIDDLE: Okay, appreciate that. Let's deal with Kevin first. Is there anyone who feels that because he works for a company that is in the dairy business and he would need recuse. I'm not seeing that, but thanks for revealing that. George.

    MR. SIEMON: I'm in the same position, but -- so I'm in case one there and case two, since -- being supporting this, it was asked that I have Hugh lead the conversation. That's a little different thing than
reclusing, but as far as the cooperative, I'm just
saying -- we don't own any farms, the cooperative I work
for.

CHAIRPERSON RIDDLE: Okay, so my understanding
is that similar situation, but your company has been
very active in soliciting comments on this issue and
because of that you've asked someone else to take the
lead in presentation of the recommendation. Is there
anyone that feels that it should go further than that?
Seeing none -- okay, so we'll turn --

MR. KARREMAN: Let me hand this -- these are
some papers I want to hand out to fellow Board members.
I've got to keep my copy. Take one with the staple,
single sheet with the staple. Jim Pierce has them for
the audience.

[Simultaneous comments]

MS. CAUGHLAN: We don't have --

CHAIRPERSON RIDDLE: Not yet, that's the
original up there, so far.

MR. KARREMAN: Okay, should we start?

CHAIRPERSON RIDDLE: I think hold on until
Dave is --

[Simultaneous comments]

CHAIRPERSON RIDDLE: I think it would be best
if it gets up on the screen and give people a chance to
settle down here. Which one are you going to do first?
Single sheet first, okay. We all have it in paper, so
sometimes we can rely on paper and ink.

MS. CAUGHLAN: Can he just go through it?
CHAIRPERSON RIDDLE: Yeah, he will. Okay,
Hugh. And you're starting with the single sheet,
correct?

MR. KARREMAN: I'm starting with the single
sheet. Basically, the Livestock Committee is proposing
three rule changes and because of that, we're -- I'm
going to go over them now, but we're not going to vote
on them today, we're going to sleep on it overnight and
come back tomorrow and vote on them, okay? But because
of a lot of public comment and some of these changes
that we made fairly recently, we're going to wait until
tomorrow to vote, but here they are.

On the single sheet the background for this
particular rule change, Language Within the National
Organic Program Final Rule 7 C.F.R., Part 205 creates an
ambiguity regarding the applicability of specific
provisions of the regulation in the life stage of
livestock. Sections 205.239(a)(1) and 205.239(b)(2)
reference "stage of production" in regard to access to
outdoors and temporary confinement. Section
205.237(b)(2) utilizes the terminology "stage of life"
to describe the allowance for specific levels of feed supplements or additives.

Development of enforceable standards for stage of production is problematic, particularly in regard to dairy animals. The Board's original intent was to refer to practices within the specific stages of an animal's total life. While life encompasses a total span of an animal's life, production may be interpreted to refer only to that portion of life in which the animals are producing milk, so we recommend a -- the Livestock Committee recommends a rule change to make the language in 205.239(a)(1) and 205.239(b)(2) consistent with the language in 205.237(b)(2).

The language, therefore, in 205.239(a)(1) would read: "Access to outdoors, shade, shelter, exercise areas, fresh air and direct sunlight suitable to the species, its stage of life, the climate and the environment." Therefore, 205.239(b)(2) would be amended to read, "animal's stage of life." And we voted in the Livestock Committee six in favor of that, none opposed, one was absent.

CHAIRPERSON RIDDLE: Okay. Is there --

UNIDENTIFIED SPEAKER: Second.

CHAIRPERSON RIDDLE: Well, we're not going to move it right now. Good try, though. We're just
presenting it to give people a chance to react, but is
there any preliminary discussion, reaction, just kind of
questions you don't understand about this, I guess.
We're not going to debate it, but just so people
understand. A little more background, Hugh.

MR. KARREMAN: I guess from when I read the
rule, just as a veterinarian out there in the field, I
never understood the term "stage of production" too
well. It's always been kind of confusing to me and
probably to other farmers, I would imagine. And so when
you're looking at when you can confine an animal, you
know, why should you, perhaps, confine an animal, it
seemed relevant that illness would be, you know, a good
reason as well as early life. And so -- and that's not
really stages of production, that's a stage of life.
And then lo and behold, it's in 205.237, so we're making
it more consistent with what's already in the
regulation.

CHAIRPERSON RIDDLE: Andrea.

MS. CAROE: You had mentioned that the
original intent when this language was crafted it was
for a stage of life, even though it says stage of
production and I was wondering if you had actually went
back and looked at the minutes or you know, was there --
is that just based on, you know, talking to other past
Board members or how did you come about -- because I struggle with what the intent of some of these things are that we're putting --

MR. LACY: May I defer to a more senior member is you're asking about previous minutes? I really don't know.

CHAIRPERSON RIDDLE: George.

MR. SIEMON: I'm trying to remember, myself.

CHAIRPERSON RIDDLE: Oops, your light went back on.

MR. SIEMON: I was in on it and I think it was because at the time we were trying to deal like with the stage of what your fattened [ph] cow, so -- but I think stage of life truly is a reflection of what was -- because we were talking about young calves -- we were talking about all the different parts of a life. I think it is a better word, especially once we found that the stage of life -- it just makes all good sense to get it uniform throughout the rule and since stage production brought on the confusion, stage of life -- so I think it's a great motion.

CHAIRPERSON RIDDLE: Rose.

MS. KOENIG: I'm sorry. Sometimes we have a copy of the regulation in our meeting book and I thought I gave that, so -- well, maybe you can just answer to me.
quickly. This section of the book, does it only deal with -- does it deal with poultry, also, though and maybe analyze it for poultry or other types of animals -- have a change of wording or -- we seem to focusing a lot on dairy, but you know, there is grazing cattle and when you change something for dairy and we got a lot of feedback on --

MR. SIEMON: Yes, the first one, 239(a)(1) is the general access to outdoors, it covers all livestock. Yes, they're both general. They're not at all specific.

MS. KOENIG: So did you do that analysis -- yeah, I have to go back and read all this and understand it better, since we're just seeing it now. Did the committee do that kind of analysis to see how it might implement other species other than dairy?

CHAIRPERSON RIDDLE: Mike.

MR. LACY: I'll take a stab at that. We -- since we thought the original intent of stage of production was actually stage of life -- stage of life was more inclusive, included stage of production so we thought that it was applicable to all species.

CHAIRPERSON RIDDLE: Yeah. And we did talk about poultry and hogs and it does, you know, relate to that temporary confinement, but once again, I find that it is more accurate a word, life instead of production.
I mean, it applies to the entire life cycle of an animal, not just when a chicken is laying an egg. That's when it's in production, is when it's laying an egg. So to me, it's just a much more accurate -- and I was really happy to see that it was used elsewhere in the rule. We weren't proposing a new term. Okay, so -- yeah, Bea. And then we'll --

MS. JAMES: I just, you know, for the record -- I'm sure this would've been picked up, but just grammatically, the one that's written here needs to have a comma after suitable to the species, comma, it's stage of life. So -- I mean, you wouldn't -- yeah.

CHAIRPERSON RIDDLE: Yeah. That would be Dave, I believe.

[Simultaneous comments]

CHAIRPERSON RIDDLE: Good point and maybe we'll change that before we vote. All right, move on to the next one, please.

MR. KARREMAN: Okay. Do I need to read the whole introduction? Now we're going to look at the stapled sheet of paper.

CHAIRPERSON RIDDLE: Yeah, and there's no change to the introduction from what was posted and is in your book already.

MR. KARREMAN: Okay, so then the
recommendation the Livestock Committee is putting forth is somewhat different than what was posted on the web site and therefore we're going to wait until tomorrow to vote on this, okay. And the -- we recommend a -- the second rule changed from 205.239(a)(2) that talks about access to pasture for ruminants and we would like to amend that to read not "access to pasture for ruminants except" -- we would like it to say "ruminant animals grazing pasture during the growing season." Andrea has a question.

CHAIRPERSON RIDDLE: Okay. Andrea.

MS. CAROE: Are we going to have any problems with the words growing season? I mean, is that obvious what the growing season is or is that going to provide a legal loophole of some kind?

MR. KARREMAN: I believe that -- actually, it's obvious that it's backed up by the -- what we will bring in the next rule change would be NRCS. We're going to bring that into it and that would be specific to each region in the US, okay?

CHAIRPERSON RIDDLE: Right, there are legally defined growing seasons in every area.

MS. CAUGHLAN: The types of forage, the types of plants.

CHAIRPERSON RIDDLE: Okay.
MS. KOENIG: Well, that's what's a little confusing to me like in -- I have a big problem unless you can get me a copy of that, practice proscribes the Code 528. I'll tell you right not, I can't -- but as far as the growing season in an area like Florida, for example, or the South where you have maybe -- the temperature fluctuates, so in theory, annual or different grasses can grow and then they might die back and then they may grow.

How is that defined in terms of a growing season? I mean, our growing season for vegetables, I can tell you right now, is November to July. We could grow all year, but the conditions get such in organic systems -- and the NRCS doesn't really specialize, you know, in necessarily organic systems -- so if you go to some kind of text, you know, it's possible to grow 12 months of the year, but that's not appropriate for a minor organic farming system.

MR. KARREMAN: Well, we're talking about livestock and grazing and I believe there is someone from northwestern California that said they can graze 50 our of 52 weeks a year, so if you can, you should. And the NRCS, yeah, it's not custom tailored to organics, but I think the organic industry can look to them in each county where there are field office technical

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guides and look to that and you'll find, as far as
grazing and something called prescribed grazing,
Document 528. It'll say when animals should be out in
pasture and when they should be taken off and at what
the height the minimum height the grass or whatever --
to start grazing and what the minimum height should be
to take them off again. And therefore, I think it is
valid to look at NRCS-type information and I was going
to get into that next. Should I just go right into it?

CHAIRPERSON RIDDLE: Yeah, please.

MR. KARREMAN: Okay. Because actually, I
mean, we heard a lot today about 30 percent for 120 days
and you know, it seems to be some very good information
behind that from Cornell and some other universities
discussed a lot, but the one thing is that if we were to
arbitrarily say they must have X amount of feed for X
amount of days, that's all it's saying is the feed and I
think we, as the National Organic Standards Board, have
to also look at the agro-ecology involved with the whole
farm and the Wild Farm Alliance also brought up very
valid points regarding biodiversity. And the Natural
Resource Conservation Service, in their Document 528,
which is called Prescribed Grazing takes into account --
there's about six goals in that, okay. May I read the
goals? Okay, so we'll all know about them.
First -- well, not first, but -- promote economic stability for grazing land sustainability by "developing a grazing system that provides forage for as much of the year as possible to minimize supplemental feed cost." Two, to improve or maintain quantity and quality of forage for livestock health and productivity. Three, to improve or maintain the health and vigor of plant communities. Four, improve or maintain water quality and quantity. Five, reduce soil erosion and maintain soil condition. And six, improve or maintain food and cover for wildlife species.

So I -- what's really nice about it is each county has an NRCS office and they can -- that Document 528 and many things with the NRCS are tailored for each county in this country and therefore, we aren't putting this blanket rule of X amount of dry matter for X amount of days on everybody from Maine to California, Florida to Alaska, but each -- they have -- what we would like to see is in the organic system plan that they are actively working within -- they don't have to get signed up with the NRCS, but it has to be evident that they are working towards those goals.

MS. KOENIG: So -- I don't -- again, I don't work with the NRCS. Does the NRCS come in and say okay, you can have three cows per acre. Is that the kind of
specificity -- and then if that is the case, you know, from a regulator perspective, are we then giving our authority to the NRCS and we're going to say okay, if you determine it's three cows per acre, that's okay in organic?

MR. KARREMAN: Actually, there was a farmer who was here from Wisconsin, Tom Miller, I think his name was, who talked about actually when he started to graze, he actually went to the soil conservation people in his county and they helped him set up exactly this, this kind of plan. Is he here still? Okay.

MS. KOENIG: But don't forget, you know, county-to-county, there's --

UNIDENTIFIED SPEAKER: But every county, they have --

MR. KARREMAN: But what's nice is that we're giving flexibility across the country and he did say there was a stocking rate calculation and I asked him what percent dry matter is he getting from it and he said 40 percent. But, you know, I think just that they're following that plan, that we have a good basis to go on with the recommendation. I would think there's some sound data in science behind it, if it's the NRCS. I'm hoping so and assuming that. And you know, there are a number of USDA agencies, so we're working with
Mr. Carter: And I've done some work with NRCS in the past on the local -- there's a tremendous amount of variation, but that reflects the fact that there's a tremendous amount of variation --

Ms. Caulfield: All across the country.

Mr. Carter: -- in moisture, in geology and climate across the country. I mean, one of the commenters this morning was talking about Colorado and you know, it cannot sustain, you know, a certain amount of animals. Well, in Colorado you go from areas where there are 45 inches of moisture per year to areas where there are less than seven inches of moisture per year and you go from areas where there's -- the elevation's at 4500 feet to areas where it's 14,400 feet and the NRCS, the regional, the local specs account for that and provide, I think, a good, reliable, quantifiable benchmark for what is the carrying capacity of that land and if it's able to support more animals, then it supports more animals.

Chairperson Riddle: And they also have practice standards for irrigated pasture, as well. The thing I like about it is it does reference another federal standard within USDA that is adapted to
site-specific conditions, which is part of the
definition of organic production. So I think it gives
producers the guidance that they need, but also gives
inspectors and certifiers access to the tools to assess
compliance. So it makes the standard much more
enforceable. Gerry.

MR. DAVIS: I wanted to pose a question about
what about southern areas of the country, arid areas
where little rainfall in a 12-month growing season, for
example; would under those guidelines NRCS, would they
say you have to irrigate 12 months out of the year and
keep your animals on that pasture all year long?

MR. KARREMAN: I don't think so, but I'd be
happy to look it up; some country in Arizona. I'll look
it up for you, but I can't do it right now, but I know
that if you irrigate your crops, I would think that you
could irrigate your pasture, as well.

MR. DAVIS: Is that -- I'm just trying to
clarify is that what that means for the grower in that
area, that to be an organic dairy farmer --

MR. SIEMON: No, they if they were to come
back and say 40 acres per cow. You've got a dry land
desert --

CHAIRPERSON RIDDLE: Yeah, that's the other
option.
MR. SIEMON: -- they'd come back and say in this county, we recommend --

MR. DAVIS: Right, right. Dry land. But if you want to do a dairy in that area and you have water --

MR. SIEMON: Then they would say for irrigated acres is three cows per acre.

[Simultaneous comments]

MR. DAVIS: Well, I understand that.

MR. SIEMON: -- dry and irrigated, the dry land area. They differentiate between the two.

MR. DAVIS: Exactly. That's what NRCS would say, but would that be construed to mean that the farmer in that area, organic dairy farmer would have to have his animals on pasture, which means for him irrigated, because he can't have one animal per 40 acres.

MR. SIEMON: So many more months is your question.

MR. DAVIS: Yeah. He would have to keep his animals on grazing all year long, compared to the farmers in New York or Wisconsin that their growing season's only 150 days.

MR. KARREMAN: I think it's a valid point we should look at.

CHAIRPERSON RIDDLE: Well, there would still
be the other allowances for temporary confinement, so if it's just too hot for the animals, they could be kept in to protect their own health and well-being, or if there is inclement weather for temporary confinement -- we wouldn't be removing that temporary confinement allowance. Rose.

MS. KOENIG: Again, I don't have the NRCS plan in front of me and I'm talking about -- I don't understand how the data base is set up, but I can say that for example, in Florida, they've got best management practices for growing crops and those best management practices are not based on organic systems, so the levels of nitrogen would be consistent on carrots, but because we're using different forms, there's no best management practices for manure, for example.

So you know, it's -- I think that the best management practices in a lot of states form a foundation that you can maybe draft a recommendation for, but they -- a lot of times they don't -- they're not drafting things for organic farming systems, so I don't know if the NRCS does that same thing, but the concept, as I understand it, and again, in that organic farm system plan and such, sometimes these management practices try to accommodate the worst-case scenarios.
And I don't know if that's how NRS [sic] --
you know, same thing with when you're trying to get crop
-- you know, that's the same thing when you go through
the USDA standards, they'll use the lowest conventional
-- I'm just cautioning the -- utilization of that
without doing that kind of analysis.

CHAIRPERSON RIDDLE: Well -- and I just
respond because these standards are set up for farmers
who choose to apply for either equip or CREP funding for
prescribed grazing, so these are a higher level of
eligibility in order to qualify. So it's not just like
some BMP that they put out for carrot production, which
is just a guidance for if you want to grow carrots. So
-- and Hugh, what else? And just finish explaining the
draft and then we'll ruminate.

MR. KARREMAN: Let's see. So we've talked
about -- we kind of got ahead of ourselves just a
little, but I guess the third rule change we'd like to
make, Livestock Committee has -- come out of Livestock
Committee is on 205.238(a)(3) -- we'd like to have under
rule change for 205.238(a)(3), the term "appropriate
pasture condition" and then, you know, the appropriate
number of animals shall be determined in accordance with
the regional Natural Resources Conservation Service
conservation practice standards per Code 528. Therefore
205.238(a)(3) would read, "The establishment of
appropriate housing, pasture conditions and accordance
with the regional Natural Resources Conservation Service
conservation practice standards for prescribed grazing
and sanitation practices to minimize the occurrence and
spread of diseases and parasites." Yes, George.

MR. SIEMON: So we're not asking for a new
definition, we're just asking for these words to be
inserted in there. Right?

MR. KARREMAN: Yes.

MR. SIEMON: But it's in effect a new
definition.

MR. KARREMAN: Yes. And it refers back to the
NRCS as a standard to -- for certifiers to make sure
that there's appropriate pasture.

CHAIRPERSON RIDDLE: Goldie.

MS. CAUGHLAN: Well, when you first -- you
talked about it, you specified Code 528. I noticed you
left it out in your actual verbiage here.

MR. KARREMAN: Okay. We can put it in.

CHAIRPERSON RIDDLE: Yeah. That was our
editor. Dave.

MR. CARTER: Yeah and just because -- I left
it out because before when we've typed some things like
to FDA and said, you know, it's this; if the other

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agency would change their numbering on some codes, you know, then we're out of conformance, so I kind of hated to put that in there. I want to refer to the standard, that if they change and we don't, all of a sudden, you know, they're talking about how to build a road or something.

MS. CAUGHLAN: Right.

CHAIRPERSON RIDDLE: Um-hum.

MR. KARREMAN: Okay. Should I read No. 3?

MS. CAUGHLAN: Yes.

CHAIRPERSON RIDDLE: Well, 3 hasn't changed, has it?

MR. KARREMAN: 3 has not changed. That was posted on the web site. That has not changed. No. 3, it's on the second page.

CHAIRPERSON RIDDLE: Bea has a question.

MS. JAMES: I just want to make sure that I understand this. I know Rose asked about it, but I just want to make sure I'm clear that the National Resources Conservation Service conservation practice standards, that that -- that is taken into consideration with different climate changes by region.

MR. KARREMAN: Yes, absolutely. And each county has an office.

MS. JAMES: By county.
MR. KARREMAN: In nearly each county.

MS. JAMES: Okay.

CHAIRPERSON RIDDLE: Rural county. I hope so.

MS. CAROE: I have a question --

CHAIRPERSON RIDDLE: Well, let Hugh present it. Well, actually, No. 3, there were no changes proposed, so if you have a question on it, now would be the time just for clarification. Andrea.

MS. CAROE: I have a question about the words significant portions, the term significant portions. We don't define it. Are we just perpetuating the same confusion?

MR. KARREMAN: The question was on the term the grazed feed pasture lot is a significant portion of the total feed requirements and in this guidance document that we had been working on that came out of committee in late January, that was -- I'm sorry.

CHAIRPERSON RIDDLE: Just hold on. If there's quite a bit of conversations going on in the audience. If you can -- have to talk, please take it in the hall. Thanks. Go ahead, Hugh.

MR. KARREMAN: We also realize that the word significant is a very, you know, descriptive-type word instead of quantitative, but this is a guidance document and therefore, you know, it's to be looked at well, what
do they mean by how much, you know, pasture? Well, significant portion -- but by referencing the NRCS Code 528, we take care of that. I think we take care of that.

CHAIRPERSON RIDDLE: And we maybe should have a heading above 3 and 4 to clarify that those are recommendation for guidance, they're not recommendation for rule change.

MR. KARREMAN: See, what was up on the web site was just the guidance document and as we went through it and thought about ambiguity possibly being taken advantage of, like in significant portion or maximized pasture and all that, we started to think more and it seemed that we needed a rule change and that's why that's being added in now, so I apologize for that confusion.

MS. CAROE: Well, the only thing that has got me concerned or I think we should address is that predominantly the comments today, the number on this significant portion and even though you're going with the NRCS recommendations for the length of time of pasture without the temporary confinement restrictions, I don't know that it addresses it -- I don't know that -- maybe it's just a matter of wording in here to indicate that, you know, that this committee feels that
if the NRCS recommendations for the length of time is
covered but that the portion should be considered
significant. I mean, otherwise, it's meaningless to
have significant portion in there. It's completely
immeasurable and unverifiable.

   CHAIRPERSON RIDDLE: Um-hum.

   MR. KARREMAN: True. And I think I gave Rose
-- there is a livestock per stocking rate calculation
that the NRCS does go through, so -- and it is for CREP
and equip programs. We're not going to force any
farmers to be in that, but we're going to refer to their
numbers and hopefully that is above and beyond their
basic best management practices, so as far as the 30
percent that was talked about quite a bit today, like I
mentioned, one of the farmers who did specifically this
program for his grazing, he's grazing 40 percent dry
matter, so -- and I think it'll be different for every
area, but it'll make sure that those cows are walking on
the grass eating the green grass planted at its roots in
whatever's best for the agro-ecology of that local area.

   MS. CAROE: Again, I just suggest some
language that states that if NRCS recommendations are
followed, the length of time of pasturing that this
committee considers that a significant portion and then
don't name the number, but you've already addressed the
problem.

MR. KARREMAN: I think that's what --

MR. SIEMON: So do you want to add that it
where it says significant portion as match as meeting
the requirement of the NRCS, is what you want to add in
here.

MS. CAROE: What I suggest it says that if --
in meeting NRCS requirements for the length of time in
which an animal can be pastured, this committee
considers that portion of pasture to be significant and
it addresses the problem, addresses the issue that there
should be significant pasture.

CHAIRPERSON RIDDLE: Nancy is --

MS. OSTIGUY: I have some suggestion wording.

On that second sentence that currently reads, "The
grazed feed must provide a significant portion of the
total feed requirements." Excuse me. Insert right
after -- or right before the period, "based upon a
Natural Resource Conservation Service conservation
practice standards for prescribed grazing Code 528." So
based upon those practices. So significant would be
based upon the NRCS's conservation practice guidelines.

MS. CAROE: I would suggest instead of "based
upon", "as defined by."

MR. FLOOD: I'd like to clarify a point to the
Board. NRCS --

CHAIRPERSON RIDDLE: Well --

MR. SIEMON: You have to be recognized.

CHAIRPERSON RIDDLE: This is just for discussion. We're going to be getting lots of feedback as we break and so if you could hold that --

[Simultaneous comments]

CHAIRPERSON RIDDLE: Okay, all right. Please approach the mike and identify yourself.

[Simultaneous comments]

CHAIRPERSON RIDDLE: Well, I'm -- you said recognize him and I did.

MR. FLOOD: We're talking about NRCS. First off, my name is Chuck Flood again. NRCS, when they go to an individual farm, prescribe grazing as Hugh referred to, is done as BMP for that individual farm. If that farmer chooses --

MS. CAUGHLAN: What's BMP?

BOARD MEMBERS: Best Management Practices.


MR. FLOOD: Best Management Practice. If that farmer chooses to only graze his cows two hours a day, that becomes his BMP. So --

MS. CAUGHLAN: So that's what she's referring
to when she says --

MR. FLOOD: So the NRCS is only going to do what is in that farmer's interest, not what we're trying to determine today.

MS. CAUGHLAN: Thank you.

MS. CAROE: That's what I -- we've got to be careful on these things.

UNIDENTIFIED SPEAKER: He was very critical of --

MR. SIEMON: You know, first off, I didn't hear this until last night, but it's my understanding from reading the documents, they establish the stocking rate, that they recommend -- they establish when you should have the animals on the pasture and when you should take them off and I got quite a -- I went through the -- I got quite a prescriptive of what they would recommend to you, you know, so I'm a little concerned about this, too. They were giving away the whole thing here, but what I read seemed to be quite prescriptive, so I don't know. I mean, I'm concerned, too, but --

CHAIRPERSON RIDDLE: Rose. Was that a hand or --

MS. KOENIG: Yeah, it is. And again, I'm not that familiar with NRCS, but as I understand the thing on the size of farms, some farms are required, if they
have large impact in an area, which is vegetables, that
they have to have a plan. For smaller farmers, at least
with vegetables, they don't necessarily have to. It's a
volunteer kind of basis, but I don't think NRCS is a
regulatory body, it's really as an incentive for growers
to do the right thing, so I think the gentleman in the
back -- I mean, they're moving towards, but they don't
go on a farm and if a -- you know, if a farmer wants to
do something, they're going to try to help them do it
better, but they may not -- you know, and they may use
best management practices, then rainfall data, but
there's a lot of discretionary determination, I think,
between the NRCS agent and the farmer, but I can -- may
be wrong.

CHAIRPERSON RIDDLE: Julie.

MS. WEISMAN: Yeah, I mean, I have a little
different read on how we're trying to bring NRCS into
this. It seems to me that we are not asking them to be
the enforcing agent, we are asking them to establish a
guideline and USDA will -- NOP will be, you know, will
be the enforcement. I see a difference, unless, you
know, maybe --

CHAIRPERSON RIDDLE: Well -- and I think
you're on the right track. This is in accordance with
an NRCS prescribed grazing plan. It's not saying that
they have to file a plan with NRCS, but they have to be in accordance with whatever the regional specific requirements are for a prescribed grazing plan.

MR. KARREMAN: Can I also add that, you know, to answer your question back there, Chuck, and I mean for most of my farmers in southeastern Pennsylvania and a lot of the grazing farmers that were here today, would quite easily be above and beyond this NRCS-type basis, okay. This would be a minimum. This sets -- at least there's a bar that says you have to be doing this and that to be grazing your animals in an agro-economically sound fashion if you're an organic farm. It's a minimum, not a maximum.

MS. JAMES: But that --

CHAIRPERSON RIDDLE: Bea.

MS. JAMES: Sorry. That opens up personal accountability and that -- from what I gather that we heard from a lot of the farmers today is they're saying that they want us to look at being more specific because they are taking personal accountability and there's a lot of people out there that aren't but that are making the claims that they are.

CHAIRPERSON RIDDLE: Andrea and then Dave.

MS. CAROE: I think we need to look back at the NRCS requirements and come a little bit closer -- I
hear what you're saying, Rosie, about BMPs, but NRCS also distributes equip money and I can't imagine that they just do that to anybody that meets their own requirements, you know. I think there is probably some more stringent quality to the requirements than just going on a farm and looking at their plan and making sure they make payments.

CHAIRPERSON RIDDLE: Then Dave.

MR. CARTER: Well, I think -- yeah, and I want to get back to what Julie was referring to because I think, you know, when we're talking about this is in trying to figure out what works best for a pasture-based system, we also have to recognize that pastures differ extremely from Vermont to Colorado to California and you know, again, going back to one of the folks that made some public testimony this morning, yes, you know, you don't do maple sugar in Colorado because you don't grow maple trees, but you do graze cattle, you do, you know, you do have things.

You can't have a regional food basis or you know, a dairy system that is organic if it's appropriate to the environment and to the ecosystem of that particular area and the NRCS is the best agency within USDA that has developed the data base and the base line for what is appropriate to each region, use that as your
base line. NOP then, you know, enforces to that.

MR. KARREMAN: That's exactly what we're trying to do.

CHAIRPERSON RIDDLE: So anyway, let's finish this up. This is just a presentation and something for us to think on and talk about. I think we're going to get to No. 4.

MR. KARREMAN: Okay, No. 4, temporary confinement. Was it just the D part?

CHAIRPERSON RIDDLE: That's the only change.

MR. KARREMAN: Okay. Should I read No. 4, the whole thing?

CHAIRPERSON RIDDLE: No, just read the change and see what questions come up.

MR. KARREMAN: "Temporary confinement is allowed only in the following situations" -- there's A, B, C and here D -- "during a stage of life" -- the new term that we would like to have a rule change for, would then affect this guidance document. "During a stage of life. For ruminants, a stage of life that warrants temporary confinement from pasture includes (A) birthing, (B) dairy animals up to six months of age, and (C) beef animals during the final finishing stage, not exceed 120 days. 2. Lactation -- lactating dairy animals" -- should be -- "Lactating dairy animals is not
a stage of life under which animals may be denied  
pasture for grazing."  "Lactation in animals is not a  
stage of life under which animals may be denied pasture  
for grazing."

CHAIRPERSON RIDDLE: Okay. Andrea.

MS. CAROE: Format change. You have both a  
positive and a negative list going. I would suggest you  
eliminate number -- (ii) and include that language as a  
note under (i) just because -- otherwise, if somebody  
comes in with something different, then it's listed here  
in (i) or (ii), it's not clear prohibited or allowed.

CHAIRPERSON RIDDLE: Yeah, it's another  
editorial change that we can do. That's very important.  
It's one of the most important things we've talked about  
today.

UNIDENTIFIED SPEAKER: Pasture is the only  
thing we've talked about today.

CHAIRPERSON RIDDLE: So make that note.

MR. KARREMAN: So then there'd be three stages  
of life and four stages of life that ruminants -- oh,  
forget it. Forget it.

CHAIRPERSON RIDDLE: You just eliminate the  
little double i's and put "Note: lactation is not" --  
blah, blah, blah. Okay, so that's been presented,  
preliminary discussion. And it is 10 until 6:00. Is
that it for Livestock Committee for today, George, or --

MR. SIEMON: I just wonder if we shouldn't confer for a minute after the break-up, if we could, the Livestock group.

CHAIRPERSON RIDDLE: Um-hum.

MR. SIEMON: But I also would like to know when do you think that we'll be able to present and vote on this, if we could fit in the schedule so we know --

CHAIRPERSON RIDDLE: Well, when do you think you'll be ready to present? I -- you know, it's very important -- some of these items of the other committees will go fast.

MR. SIEMON: I'd rather do it tomorrow because the people over here --

CHAIRPERSON RIDDLE: Yeah, tomorrow. But should we try and set a target, like after lunch? We'll shoot for that.

MS. CAUGHLAN: We also have to --

CHAIRPERSON RIDDLE: Yeah, I understand and hopefully we can do that first off.

MS. KOENIG: Jim, I just have a procedural thing.

CHAIRPERSON RIDDLE: Yeah, Rose.

MS. KOENIG: Okay. It's more of a question directed towards Richard. Now, these -- like, when I
read -- because you haven't asked us specifically for
guidance for 4, you know, in a formal process like you
have this time -- this was a request for guidance,
correct, to the Livestock Committee?

MR. MATHEWS: Initially, that's what it was,
but I also realized shortly after sending that, that you
probably wouldn't be able to do it without some
rulemaking in addition to guidance.

MS. KOENIG: So this will go through a --
whatever comes out of it is going to go up for public
comment? Just to get that straight in my mind.

MR. MATHEWS: Whatever rule changes you come
up with would have to go through rulemaking, which would
have a comment period for the public, yes.

MS. KOENIG: Okay, but the -- if say an NRCS
plan is put in place or 30 percent, is that a rule
change or is that just a guidance statement?

MR. MATHEWS: The language that the Livestock
Committee is recommending be inserted into the
regulations is a rule change and we would do a proposed
rule to change the sections that they've identified in
uses of wording that they've identified. We would allow
a period for the public to comment on that and then we
would go to Final Rule. Because the proposal includes
both guidance and rulemaking. For example, Rose,
they're talking about changing the words "access to pasture" and they're either scratching "access to pasture" --

MS. KOENIG: Right.

MR. MATHEWS: -- and putting in several new words, that is a rulemaking change.

MS. KOENIG: Right. That I'm not as concerned about as like the -- if we insert an NRCS document or --

MR. MATHEWS: But that's the same thing. That is a rule change, yes.

MS. KOENIG: Okay, thank you.

CHAIRPERSON RIDDLE: Well -- okay, and there's really only one more item on today's agenda. Yeah, well the policy has, too, but there is -- we anticipated on the collaboration document that we would have something from NOP. We don't, and so we don't have anything for action there, but we do have a draft that's in the meeting book on the livestock medications or mediation, either one, and Dave is willing to move that forward if the rest of the Board is willing to hang on here for one more item related to livestock. So --

***

MR. CARTER: Okay, yeah. So we can move this and while Arthur's getting his machine tooled back up there, let me just explain the two items as the chairman...
just mentioned. We don't have anything on the collaboration. The Policy Development Committee has forwarded to NOP the recommendation; the NOP has taken that to OGC and is awaiting a response back from OGC. Barbara has mentioned that she calls them up quite frequently to see when that's coming. She does not anticipate that it will look much different than what we presented, but we're still awaiting that.

Now, when it comes to the livestock medications correction, just as a background, there were 10 issues, 10 items that were recommended for approval by NOSB that got hung up primarily because of issues relating to FDA and --

CHAIRPERSON RIDDLE: Dave, I just want to point out that's after Tab 6 and then you see Livestock Meds, so just --

MR. CARTER: Yeah, under Livestock Meds.

CHAIRPERSON RIDDLE: -- so everybody gets on the same page.

MR. CARTER: Yes.

CHAIRPERSON RIDDLE: Thanks.

MR. CARTER: So essentially, the NOSB was informed by the NOP that the livestock medications which were not formally approved by FDA could not be put on the National List, so consequently, then, the directive
that we had coming out of the October meeting was to
take a look at the options, the potential options that
we might have for addressing this issue and the Policy
Development Committee, in cooperation with the Livestock
Committee looked at six specific areas.

If you look through those on the second page,
option number one was to create a category of
"alternative medicines" on the National List. The pros
on this was that the creation of a new category for
alternative medicines would make the National List were
user-friendly for producers, consumers and certifying
agents; approved alternative medicines would be clearly
listed in their own section. The con on this was that
-- this is at the top of page three, Arthur -- a
creation of an alternatives medicines category on the
National List does not resolve the issues concerning the
use of medications not formally approved by FDA.

The second area that we looked at was creating
a negative over-the-counter list and recognizing that
there's a provision for a review of over-the-counter
drugs through FDA's Center for Drug Evaluation. There
was discussion about allowing all over-the-counter
medications for use of organic livestock production,
however a number of antibiotics are now allowed as over-
the-counter medications for livestock, so that led,
then, to the discussion about creating some type of a negative list.

The pros on that -- that it would allow numerous medications to be used by organic livestock producers. The cons were that FDA does not have an OTC program for livestock medications, so there is no context to create a negative list of prohibited medications and in addition, the evaluation criteria procedures -- create and manage such a list.

So the third area was to create a National List category of "production aids" with reference to specific use. When we looked at this, we decided that the advantages would be the creation of a production aid category for alternative livestock materials as consistent with OFPA and would satisfy FDA's concerns about unapproved animal drugs appearing on USDA list as medical treatments. The drawback would be while creation of a production aid category may be part of the solution, it would require a new rule change in addition to the rule change necessary for adding the recommended substances to the list, would not likely resolve all of the FDA's concerns since unapproved medications would appear on USDA's National List.

Fourth area was to included organic as a minor species/minor use category by FDA. That was taking a
look at the legislation that was passed recently by Congress. The advantage of this is that the option may provide a long-term opportunity to facilitate the FDA approval or in some cases indexing the medications used by organic livestock producers, however the drawback is the conditional approval process still requires considerable data development and the indexing process is not applicable to major species which includes most organic livestock, particularly cattle, swine and the like.

Fifth area was review all recommended materials to more correctly place them in categories consistent with FDA regulations. The advantage here was that this would address a few of the problematic substances without an additional rule change and without formally listing the substances not approved by FDA. The drawback is that this does not allow the use of all substances recommended by the NOSB and does not address the structural problem of allowing organic livestock producers to officially use the same substances currently used by conventional producers.

And then finally, number six was to pursue further clarification at higher levels of USDA and FDA to facilitate coexistence of NOP and FDA regulatory process for these substances. Again, getting back to
some of the things that we've recommended previously in terms of Memorandum of Understanding or the like. The advantage here, the option allows for the current list of substances recommended by NOSB to be added to the National List, but also addresses the structural issues that future substances can be added to the National List with full approval and cooperation of USDA and FDA. Drawback is while the NOSB can lay the groundwork and urge cooperation between USDA and FDA, communication and effective action must occur between officials within the two agencies. So with all of that in mind, we really came forward then with the fourfold recommendation. The -- and what that is, is to place NOSB-recommended substances on Section 205.603 of the National List and the NOSB Policy Development and Livestock Committees recommend: (1) USDA and FDA should pursue further clarification at higher levels of USDA and FDA to facilitate coexistence of NOP and FDA regulatory process for the listing of unapproved medications and other substances recommended by NOSB, essentially, No. 6.

The second thing was we recommended NOP should pursue rulemaking to create a National List category in Section 205.603 of production aids with reference to specific use. On the third, USDA should investigate FDA

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recognition of organic livestock production as a minor use/minor species category, and fourth, NOP should review all recommended materials to work -- correctly place them in categories consistent with FDA regulations.

Bottom line is out of all of the things we looked at, there wasn't a single silver bullet in there, so it's really taking a look, starting at the top levels of the communication between USDA and FDA to try and coordinate that, but going down and then trying to carve out some of these specific things that might help us address these individually, these 10 issues that we had formally approved or recommended.

CHAIRPERSON RIDDLE: So would you care to make that as a motion, the recommendation section?

MR. CARTER: I would formally make that as a motion, recommendation section -- to recommend that.

MS. OSTIGUY: Second.

CHAIRPERSON RIDDLE: Nancy seconds. Dave moves, Nancy seconds. Discussion.

MS. CAUGHLAN: I'd just like to comment. I think this is really a thorough consideration and it might even also -- the pattern in which this is presented and the deliberative effort that you've gone through is a good layout for future sticky wickets here.
Thank you.

MR. CARTER: There were lots of folks that weighed in on this one, so it was very helpful.

CHAIRPERSON RIDDLE: Yeah, Becky did a lot of work to help.

MR. CARTER: Yeah, Becky did a lot of work on this.

MR. MATHEWS: Jim.

CHAIRPERSON RIDDLE: Yeah.

MR. MATHEWS: I'd like to echo Goldie's comments on that. This is a really good thorough job on this issue and I commend the group for the work they did.

CHAIRPERSON RIDDLE: Any further discussion?

No further compliments, though.

MR. KARREMAN: I have one question.

CHAIRPERSON RIDDLE: Hugh.

MR. KARREMAN: So then what happens with the products that were, you know, voted on by NOSB two years ago that are still kind of in a murky black hole? Does this help them or not? Are they kind of coming out of that black hole, starting to see the light?

MR. MATHEWS: You mean will this get us out of the black hole?

MR. KARREMAN: Well, yeah. With this --
MS. CAUGHLAN: You have a laser light?

MR. CARTER: And I would -- you know, I would just say Hugh, no it doesn't -- you know -- it's like I say, it's not the silver bullet that cures everything. It is sort of the road map about how we work our way out of the black hole.

MR. MATHEWS: I can assure you that Arthur has tried all kinds of things and this is just one more tool in his arsenal of attempts to get these materials blessed so that we can put them on the list.

MR. NEAL: Also, just as an update. We had conversations with FDA last month and what they've agreed to do is work with their legal counsel to see how they can get those materials that are not approved for use in animal drugs but are on the low end of the radar screen, the benign substances, see how they can craft some language that can help us get those listed on our National List. And in terms of the docket, the docket is still being finalized.

CHAIRPERSON RIDDLE: So essentially, this reinforces undergoing efforts, anyway. Yeah. Okay, any further discussion? Seeing none, Rose starts off this round.

MS. KOENIG: Yes.

CHAIRPERSON RIDDLE: Rose, yes. Goldie.
MS. CAUGHLAN: Yes.

CHAIRPERSON RIDDLE: Yes. Kevin.

MR. O’RELL: Yes.

CHAIRPERSON RIDDLE: Andrea.

MS. CAROE: Yes.

CHAIRPERSON RIDDLE: Yes. Rigo.

MR. DELGADO: Yes.

CHAIRPERSON RIDDLE: Yes. Hugh.

MR. KARREMAN: Yes.

CHAIRPERSON RIDDLE: Yes. Julie.

MS. WEISMAN: Yes.

CHAIRPERSON RIDDLE: Yes. Gerald.

MR. DAVIS: Yes.

CHAIRPERSON RIDDLE: Mike.

MR. LACY: Yes.

CHAIRPERSON RIDDLE: Nancy.

MS. OSTIGUY: Yes.

CHAIRPERSON RIDDLE: Dave.

MR. CARTER: Yes.

CHAIRPERSON RIDDLE: Bea.

MS. JAMES: Yes.

CHAIRPERSON RIDDLE: George.

MR. SIEMON: Yes.

CHAIRPERSON RIDDLE: Okay. Unanimous.

Fourteen --

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MS. CAUGHLAN: Did you vote?

CHAIRPERSON RIDDLE: Oh, the chair votes yes.

Geez. I think -- good work. It's good to finish on a unanimous vote and a sense of accomplishment. So we have two items to hold over from today's agenda and that is coming back to accreditation and I would like to try and insert that after the Policy Development Committee, before Handling, if possible. Yeah, after Policy Development. Policy Development starts over again in the morning after the AAPFCO guest speaker. Yeah, Dave.

MR. CARTER: But please credit this last piece of work to our account to make up for anything we really screwed up.

CHAIRPERSON RIDDLE: Yeah. And then we'll try to insert the Livestock right after lunch between whatever committees are happening then.

MR. SIEMON: And if we could have a little Livestock session here right now?

CHAIRPERSON RIDDLE: A Livestock session right now and Andrea?

MS. CAROE: Accreditation, as well.

CHAIRPERSON RIDDLE: As well now. Okay, before dinner. Okay. I just -- I'm on ball, but -- okay, Crops before dinner. How about Livestock for dinner? Okay. Well, we will recess until 8:00 a.m.
tomorrow morning. Thank you. Thank you all today.

***

[End of proceedings]

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IN RE: National Organic Standards Board

HELD AT: Washington, D.C.

DATE: March 1, 2005

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UNITED STATES DEPARTMENT OF AGRICULTURE

IN RE:

NATIONAL ORGANIC STANDARDS BOARD MEETING

Meeting held on the 2nd day of March, 2005
at 9:00 a.m.

The Washington Terrace Hotel
1515 Rhode Island Avenue, NW
Washington, D.C.

TRANSCRIPT OF PROCEEDINGS

3-2-05 NOSB Meeting Participants

Chair: James A. Riddle
Vice Chair: Kevin O'Rell
Secretary: Goldie Caughlan

NOSB Members:

Andrea Caroe
David Carter
Gerald Davis
Rigoberto Delgado
Bea James
Hubert Karreman
Rosalie L. Koenig
Michael P. Lacy
Nancy Ostiguy
George Siemon
Julie Weisman

NOP Members:

Richard Mathews
Arthur Neal, Jr.
Barbara Robinson
Other Appearances:

Kim Dietz
Mark King
Michael Norman, AAPFCO

Public Comment:

Leslie Zuck, Pennsylvania Certified Organic

Tony Acevedo
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PROCEEDINGS
March 2, 2005

CHAIRPERSON RIDDLE: Okay, if you didn't hear me the first time, would you please take your seats. If you still have conversations, please take them out in the hallway, unless you're a Board member. We need you.

MS. CAUGHLAN: So just be quiet.

CHAIRPERSON RIDDLE: Yeah, then just be quiet. Right. Okay, thanks for being here again, and welcome to day three of our NOSB meeting, and we'll begin this morning with a guest speaker. And so I'd like to introduce Mike Norman. Mike's with the Washington State Department of Agriculture, a fertilizer control official, and Mike will be giving us a report on the recent mid-year meeting of the Association of -- the American Association -- which is it?

MR. NORMAN: Association of American.

CHAIRPERSON RIDDLE: Yeah, the Association of American Plant Food Control Officials -- and the use of the word organic on fertilizer labels.

MR. NORMAN: Thank you for the introduction, Chairman Riddle, and it's a pleasure to be here this morning. I'm here to discuss some issues relating to organic fertilizer labeling. That came from the midyear meeting AAPFCO, February 19 through 23. That was last
week. I am an employee of the Washington State Department of Agriculture, and through that role I'm also a member of AAPFCO, which stands for the Association of American Plant Food Control Officials, and I'm the liaison from AAPFCO to NOSB.

The next slide, please. At the meeting last week, the labeling and definitions committee of AAPFCO took motions that were approved the labeling and definitions committee and board of directors to first raise the term organic input and the policy, SUIP -- that stands for statement of uniform interpretation policy 28 -- from tentative to official, and to table some requested changes that came from the Organic Trade Association. Those requested changes from the Organic Trade Association to move four terms -- four officials terms, currently official, to modify those. Those requested changes were tabled. And those four terms were -- the next slide -- organic fertilizer, natural organic fertilizer, natural fertilizer, and organic-based fertilizer. So the requested changes to those official four terms were tabled to the next meeting of AAPFCO, which is the first week of August in St. Petersburg, Florida.

Okay. These -- the term organic input was recommended by the committee and approved by the board.
to move from a tentative term to an official term. And
organic input reads as follows: "Organic input is a
fertilizer whose ingredients comply with the
requirements of the National Organic Program Final Rule,
as specified in 7 C.F.R. Part 205.

The next slide. Okay, this slide -- this
policy, SUIP 28, takes three slides, so just bear with
me on this. Okay. SUIP 28, labeling of organic input
products: Products intended for use as organic inputs
may make statements on the product's label that affirm
that the product is in accord with the National Organic
Program. For example, suitable for organic farming;
acceptable for use in organic production; meets National
Organic Program requirements for organic production, or
meets USDA standards for organic production; and they
use the logos issued by recognized agencies, such as
OMRI, the USDA, certifying agencies, state programs or
other recognized organic input listing services. Such
statements about organic inputs are exempt from the
requirements pertaining to organic labeling under
federal law [ph]. I guess my only real observation from
the meeting of AAPFCO by a steering committee was that
the term organic can mean different things to different
people.

The next slide. So organic input and SUIP 28
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don't become official official until the entire
association of AAPFCO votes on it in Clearwater-St. Pete
-- Clearwater-St. Pete in the first week of August. And
the current wording of organic input and SUIP 28 will be
open for discussion at the next meeting, and all the
terms and definitions and policies are always -- the
manual is a living document, it comes out annually, and
things change all the time. So you can always modify
these things with time. You just have to submit
comments, which, for the next meeting, would be --
submit your comments to me by April 21 and I'll make
sure they get to the right place. And the continued
participation of NOSB with AAPFCO is encouraged.

The next and final slide -- if you have any
comments, it should be in e-mail, give me a call or a
fax, and I have some cards if -- I might just leave them
out there for awhile. If you want my contact
information, of course, e-mail's probably the best. But
that concludes my presentation. I will be happy to
answer any questions.

CHAIRPERSON RIDDLE: Yeah, thanks for coming,
Mike. Any questions from the Board?

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[No response]

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CHAIRPERSON RIDDLE: Well, I have one just for clarification. You put up those other four terms, and I know that Organic Trade Association had proposed some changes to those and that's -- those changes are part of the Policy Committee's draft that's in our meeting book, so if people want to see what was proposed for change -- well, just two things. With the new term, once it becomes official, the organic input term, that doesn't change the allowance of something being called an organic fertilizer that would be not allowed. So, you know, it's something that contains Uria or sewage sludge could still make the claim organic fertilizer. That -- the kind of inconsistency there or contradiction or opportunity for confusion has not be eliminated. There's been an additional claim of organic input being added to the allowed claims, is that correct?

MR. NORMAN: Well, the current definition for organic input in SUIP 28 doesn't mean complying with NOP at all times. So in the case of Uria, that's kind of an interesting issue. According AAPFCO, Uria meets the definition of organic, but it fails the definition of organic nitrogen. So there's -- that's an important distinction. And in the case of sewage sludge or biosolids --

CHAIRPERSON RIDDLE: Yeah, biosolids, yeah.
MR. NORMAN: -- you know, I haven't -- I read the letter last night again, and I wish I had had the foresight to talk a little bit with the AAPFCO board of directors on that. I'm not sure that biosolids would be allowed to be a label. It'll be allowed to say organic on them. But it sounds like it would. I mean, there's still going to be some difficulties, I think.

CHAIRPERSON RIDDLE: But the new organic input --

MR. NORMAN: No.

CHAIRPERSON RIDDLE: Yeah.

MR. NORMAN: No.

CHAIRPERSON RIDDLE: But the -- there currently are products that are manufactured from biosolids that carry an organic fertilizer claim, and that's one of the concerns, I think, that still remains, I guess.

MR. NORMAN: I think that this probably don't. And --

CHAIRPERSON RIDDLE: Uh-huh.

MR. NORMAN: -- also, AAPFCO has no enforcement authority at all. It's a collection of plant food control officials. Well, because fertilizers are not regulated by the federal government, we have come together cooperatively to try to work by consensus.
to assist the fertilizer community by trying to promote
uniformity in the development of policies and terms and
definitions and that type of thing. So AAPFCO itself
doesn't really have any legal authority at any level,
but states look to it as an important guide to -- as
they develop a law or rule, or implement a current law
or rule, to try and maintain uniformity.

CHAIRPERSON RIDDLE: And you mentioned that
comments can be submitted up until April 21 on the
organic input and the SUPI --

MR. NORMAN: SUPI.

CHAIRPERSON RIDDLE: -- SUPI. So if this
Board would like to have some input on, you know, that
long policy statement, the SUPI, we could do that,
direct it to you by April 21, is that correct? But
that's still fluid, as I understand --

MR. NORMAN: Yes.

CHAIRPERSON RIDDLE: -- that if there's some
modifications to just help improve the language --

MR. NORMAN: Well, the opportunity will be
available at the annual meeting, the first week of
August, to change organic input in SUPI 28 before it
goes to the entire association. That's my understanding
right now. I've really only been with AAPFCO two and a
half years; the Washington State Department of

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Agriculture, just over four. But I looked at last year's agenda and typically what happens, the entire association comes together and they vote on labeling. Like, the labeling and terms committee will meet, and then they all come together at the very end as an entire association and the committees report and the entire association takes action.

CHAIRPERSON RIDDLE: Uh-huh. So would just -- it would be best to get them to you by April 21, but that's not drop dead, it's so long as the input comes in prior to the early August meeting or --

MR. NORMAN: Yeah, you'll definitely be heard --

CHAIRPERSON RIDDLE: Uh-huh.

MR. NORMAN: -- your comments. Basically, we need a three-month advance to get items on the agenda, in this case, for the labeling and definitions committee. It's three months in advance for the annual meeting, and it's two months in advance for the midyear meeting. So the first week of August would put you in the first week of May, so if you get it to me the third week of April, I'll make sure --

CHAIRPERSON RIDDLE: Okay.

MR. NORMAN: -- that -- Maryam Khosravifard is the chair, and I can provide -- she would be the person
that all of these go to, and if you want her
information, I'll be glad to give it to you, her
e-mail --

CHAIRPERSON RIDDLE: Okay. Gerry?

MR. DAVIS: Jim, I had a question and maybe
you could answer it later in our discussion, but I
thought maybe I'd better ask it while he's up there.

CHAIRPERSON RIDDLE: Yeah.

MR. DAVIS: The confusion that I heard about
the organic input designation versus just someone making
a fertilizer claim of organic, like it contained
biosolids or Uria, is there steps being taken within
your labeling committees, a step to address that and
eliminate the usage of organic, unless it's -- you're
going to say organic input and discontinue any other
reference to organic in the labeling?

MR. NORMAN: Well, I think that's what we're
talking about right now. Right now there's a definition
for organic and organic input. The definition for
organic is official, and the definition for organic
input will become official in its current or in a
modified state at the annual meeting in St. Petersburg.
So it's an issue, you know. That's a problem, from your
perspective.

MR. DAVIS: So they recognize that that is a
problem and it's not just -- the intention is not just
to allow it to continue as is, organic meaning, in your
designations, Uria, biosolids, so on and so forth?

MR. NORMAN: Well, that's the issue that we're
talking about. That really -- that answer to that
question just has to work through AAPFCO. And if you
want to call, you can, to address that question. But
it's -- right now, organic doesn't mean complying with
animal feed, which, I think, is where you want to go.
Or you tell me.

CHAIRPERSON RIDDLE: Yeah, ideally, yes.

MR. NORMAN: Right. You're not there yet.

CHAIRPERSON RIDDLE: Rose?

MS. KOENIG: Yeah. Well, I was just kind of
looking at the Policy Committee's document. It was
related to that issue. I just had a couple question.
So T-12 and the headline, like organic fertilizer T-13,
are those your terms?

MR. NORMAN: Those are AAPFCO terms.

MS. KOENIG: Yeah. So those are the
terminology that you all use. And those terms, do they
-- how does it look on the -- is that a term that then
appears on the bag or the lot or the -- for bulk? I
mean, how does that term become part of the -- you know,
call it the information panel or whatever -- to a
farmer?

MR. NORMAN: Well, AAPFCO doesn't enforce any laws or rules, so the answer to that question then is, the labeling on a fertilizer bag is up to the company and the state control officials that review labels in our registration process.

MS. KOENIG: So even if you have a definition, that still may not even end up on a bag, it's just -- this is sort of your -- you know, your general wish list of how you would like things to be ordered or conform to, because you don't have any regulatory authority on it, do you? Or how does --

MR. NORMAN: No, it's an effort by plant food control officials in the states that come together. And since the fertilizer labeling contents and things like that is not regulated by EPA, for instance, say, in the case of pesticides, it's up to the states. So all 50 states could operate in a void -- and Puerto Rico and Canada could operate. So it's actually for the whole North American continent. But we all could operate independently, but this an effort for all to come together and wherever possible identify consensus and put that in the manual, which is a very important reference. People look to it in the industry and government agencies when developing laws. But to answer
to your question, it basically comes down to whatever
the laws and rules are on the books at the time at the
state level and during the registration process and what
the fertilizer company submits as a label.

MS. KOENIG: Can there be additional -- I
mean, you have this T-12 organic and you know, if that
mentioned in there is your definition -- I mean, I don't
see why -- you know, I want to change it because I'm
friendly to organics, but -- I mean, that's pretty much
a chemistry book definition and we can argue that it's,
you know, a carbonaceous kind of a label. So is there
-- do you foresee kind of -- you know, when you need is
there -- the general consensus, is there -- what's the
general consensus of the group, or does it make sense
for us to try identify another word or a -- not
necessarily for us to change organic, but -- because
we're right here. We're trying to change a definition,
which to me sometimes might be harder than actually
proposing a new word or a new schematic. I know if I
wasn't sympathetic to an industry, I want them to
propose a new word rather than changing my working
definition as I understand it. So I don't know. That's
my question.

MR. NORMAN: Well -- yeah. That just has to
work through. I don't know how that board will respond

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to this entire issue in the future, but you're on track.  
I wouldn't propose another definition of organic. If 
you really have a problem with organic, focus on 
organic, because the more variations there are of 
organic -- you tell me -- right now we have organic and 
organic input and I don't think you want to add another. 
Maybe you do, I don't know.  

CHAIRPERSON RIDDLE: Okay. Anything else, 
because we need to wrap up? Yeah, Mike. 

MR. LACY: Jim, I'm sorry. I just wanted to 
make sure.  

CHAIRPERSON RIDDLE: Yeah, no problem.  

MR. LACY: The people that are part of your 
organization do have regulatory authority, though. 

MR. NORMAN: Oh, yeah.  

MR. LACY: You have state -- you have state 
officials that have regulatory --  

MR. NORMAN: Yeah.  

MR. LACY: -- authority.  

CHAIRPERSON RIDDLE: Um-hum. 

MR. NORMAN: Basically the plant food and 
AAPFCO -- well, it doesn't always -- basically, it's the 
Association of American Plant Food Control Officials. 
So it is -- the people who vote are solely those state 
employees who enforce state laws and rules regarding
plant food and fertilizers.

CHAIRPERSON RIDDLE: It's a little early for beer. Yeah. And just to follow up on that -- and yeah, the state officials themselves do have the enforcement, regulatory authority, but the association does not. But the association sets uniform definitions that then are used by the state -- most of the state --

MR. NORMAN: Voluntarily.

CHAIRPERSON RIDDLE: Yeah, voluntarily. They aren't bound by those, but it's a way to bring consistency to the terms that the states then approve and regulate. And this -- these broad changes to all four of those definitions were first introduced this time, so it really stimulated a lively debate. And you know, the debate on this -- you know, addressing the larger issues will continue, as Mike has said.

MR. NORMAN: Yes.

CHAIRPERSON RIDDLE: But right now the allowance of a new additional claim is on track to be approved, that would then allow those more detailed claims like, fertilizer that complies with NOP regulations could become a legal claim on a fertilizer product, if states still have to act on that after AAPFCO has taken final action as an association, right?

MR. NORMAN: Correct.
CHAIRPERSON RIDDLE: Yeah. Okay. All right, well, thanks a lot and thanks --

MR. NORMAN: Thank you.

CHAIRPERSON RIDDLE: -- for being a liaison to the Board here.

MR. NORMAN: My pleasure. Thank you. Have a good day.

CHAIRPERSON RIDDLE: Thanks, Mike. Okay, well, now to Board actions. So we left off yesterday with the Policy Development Committee still having some items to deal with. So, Dave, I'll turn it over to you.

MR. CARTER: Okay, thank you, Mr. Chairman. The -- I think what we'll do is we'll switch up here in the order some things, because we do have at the bottom of the list there of our remaining items the request for NOP support for changes to the use of the work organic in the AAPFCO-approved fertilizer labels. And we did meet the other night to discuss this issue and the items that were just presented by our speaker that came out of the meeting. And accordingly, then, in our committee, the committee voted to take the current draft of this recommendation off the table, with the understanding that we will develop a new proposal before consideration by the Executive Committee prior to the next meeting of AAPFCO. So we want to retool our recommendations in...
light of the discussion that they had at the meeting.
So this particular draft we're taking off the table.
We'll have something to bring forward.

CHAIRPERSON RIDDLE: Okay. And now we just heard that they'll be meeting in early August, but Mike would like input by April 21, in order to influence the discussion specifically on the organic input --

MR. CARTER: Right.

CHAIRPERSON RIDDLE: -- and the SUIP.
MR. CARTER: Right.

CHAIRPERSON RIDDLE: What would you propose, then, as far as Policy Development, to get something to Executive?

MR. CARTER: Well, we already have another item on there for the input on the good guidance for consideration by the Executive Committee by April 4, so I think we'll just run this parallel with that.

CHAIRPERSON RIDDLE: Okay. So do we need a motion to authorize the Executive to act on behalf of the Board on providing input here, just to make it clear?

MR. CARTER: I don't think we need a motion, because the -- yeah, the Executive Committee has that by default.

CHAIRPERSON RIDDLE: Okay, I just wanted to
make that -- make it clear that we wouldn't be somehow vulnerable and accused of acting without the authority of the Board.

MR. CARTER: Yeah.

CHAIRPERSON RIDDLE: But so long as everyone understands that Policy Development will be drafting something and you'll be circulating it to all Board members, so people not on the Executive should get any input to members of the committee or the Executive Committee so that we can take everyone's opinions into consideration.

MR. CARTER: I would never think of doing it any other way.

CHAIRPERSON RIDDLE: I don't know why it crossed my mind. Okay, so that wraps up --

MR. CARTER: Okay.

CHAIRPERSON RIDDLE: -- that item for now.

MR. CARTER: So then, we'll go back to the top of the list, and if you will go to the Board policy manual that is in the handbook there. Well, it's under the -- it's under five -- under six. Excuse me. And this represents, primarily, as we talked about in the October meeting, was to get the feedback from NOP on some issues and make sure that what we have in our policy and procedures manual actually complies and helps
us to work with NOP. Barbara did an extensively thorough job in going through and getting us feedback on that. It was extremely helpful. And so we've gone through and made some revisions on that, and we've left this in the -- the document here is in revision mode, so you can kind of go through it and see the changes that are made in the manual.

The first sections, again, just going through the duties and responsibilities of the Board members, really nothing significant changed there. The -- when we get back to the principles of organic production and handling, mostly that is just some formatting changes. But when we get into -- yeah.

CHAIRPERSON RIDDLE: You jumped back to principles already?

MR. CARTER: Oh. Oh, excuse me. Wait a second. The document here -- I'm going to have to pull it up on my computer because my document goes from page 11 to page 14.

CHAIRPERSON RIDDLE: Oh.

MS. ROBINSON: Dave, I have the whole thing. Do you want it?

MR. CARTER: Do you have the whole thing?

Yeah.
thing in mine.

MR. CARTER: Okay. Let me just grab yours, Barbara. I've got the cliff notes version.

UNIDENTIFIED SPEAKER: There's no changes on 12 and 13, is there?

CHAIRPERSON RIDDLE: No, no changes, it's just --

MR. CARTER: Okay. Okay. Yeah, on page -- you know, under the officers' responsibilities on page 11, again, no major changes on that. The -- just a second. Okay. The duties of the committee chairs, no major changes. The miscellaneous policies, going down through the policies for surveys, we got the feedback on that, so we're squared away on that. That was something that we'd been working on to -- and was a source of some conflict previously, and so the survey policy now, just so everyone understands, that if we proceed to do anything, the manual clearly states that before they are submitted for approval to the USDA, they have to go through OMB and the whole procedure, which had hung us up in the past.

Now going back to section seven, the principles of organic production and handling, primarily just some editing -- formatting changes in that section.

MS. ROBINSON: What page are you on, Dave?
MR. CARTER: 19.

CHAIRPERSON RIDDLE: Okay. And the version in our book must be in the revision mode --

MR. CARTER: Yeah.

CHAIRPERSON RIDDLE: -- because it shows there's formatting. So --

MR. CARTER: Yeah, that's --

CHAIRPERSON RIDDLE: So once the final is approved and you resubmit --

MR. CARTER: Yeah, this will be taken out.

CHAIRPERSON RIDDLE: Yeah.

MR. CARTER: We just -- yeah. We just left this in here so everyone could see what were the revisions being made. The -- going back to page 22, the procedures of the NOSB, I see that we have a change there. We're referencing Rose there, so we need to make another change, an editing change on the materials review process to make sure that that's completely up to date. And Rose had e-mailed back that that was the current one, but I just didn't take that back. So can you double-check on that, Rose?

MS. KOENIG: Yeah, because -- I mean, we -- at this meeting we have -- we're going to have to make an abridged form of it, but --

MR. CARTER: Okay.

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MS. KOENIG: -- we've got it and now and more recent, but we think it's correct, so --

MR. CARTER: Yeah. Okay. Going back to page 24, we have the TAP contract procedures now in the book to talk about what is the procedure, when do we bring on the TAP contractors. The -- page 25 and 26, again, those are mostly formatting changes going down through there. Talking about the time line now for completion of the TAP procedures. This is new information that we now have in here to provide. And that continues on, then, through page 33. We have the evaluation criteria as a part of the procedures manual now. The -- on page 41, the procedures for the material reviews process is now included. On 43, an appendix for the decision making procedures for NOP. And then finally on 44, just a brief summary of the FACA facts for citizen advisory committees, the duties, and a cliff notes version on page 46 of parliamentary procedures.

So the manual is getting more comprehensive as we go, and I think we're getting it pretty well set with all of the things that come under, you know, our operational procedures. So we need to have -- or I will make a motion at this point to adopt the updated Board policies and procedures manual as presented.

MS. CAUGHLAN: Second.
CHAIRPERSON RIDDLE: Is there a second?
Goldie seconds. Dave moves and Goldie seconds.
Discussion? Andrea?

MS. CAROE: I would offer a friendly amendment based on the information that Rose is going to confirm, that --

CHAIRPERSON RIDDLE: Speak into your mike.

MS. CAROE: Okay. I'd offer a friendly amendment, that the -- the approval be contingent on Rose's verification that the TAP procedure is accurate.

MR. CARTER: Okay, I'll accept that --

MS. CAUGHLAN: Yes.

MR. CARTER: -- as a part of the original motion, if that's okay.

CHAIRPERSON RIDDLE: And Rigo.

MR. DELGADO: I would also like some time to review it. So if Rose is having some time, can you just give me the opportunity to review it?

MR. CARTER: Well, I -- what this is referring about is that what will finally be put into the manual --

MR. DELGADO: Um-hum.

MR. CARTER: -- is updated information that she will be -- and that will just be the part under --

MS. CAUGHLAN: Materials.
MS. KOENIG: The TAP.

UNIDENTIFIED SPEAKER: The TAP --

MR. CARTER: -- the TAP.

UNIDENTIFIED SPEAKER: -- procedure.

MR. CARTER: Yeah, the TAP procedure. So what we really have here, Rigo, this is -- this is more just a -- this isn't a policy document that we're putting out, this is more just sort of the rules of the road that we operate under. So --

MR. DELGADO: Thank you.

CHAIRPERSON RIDDLE: Okay. And I would just also ask that -- that the -- and you're already aware of this, that the formatting notes be removed, it be taken out of revision mode, but also on the very cover sheet, that the words policy and procedures manual be --

MR. CARTER: Yeah.

CHAIRPERSON RIDDLE: -- enlarged in bold, and then the date of our vote be inserted as well. So just all that. You don't need to make that as part of the motion, but just --

MR. CARTER: No, no, that's just --

CHAIRPERSON RIDDLE: -- a reminder. And also to check on that statement of work to make sure it is the correct and current version, and remove those little bracketed internal notes between committee members.

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MS. CAUGHLAN: I think what you're saying is you'd like to put it in Jim mode.

MR. CARTER: No, it is in Jim mode. Yeah, a lot of it's in --

CHAIRPERSON RIDDLE: But I want it in a final --

MR. CARTER: -- Jim and Dave mode right now.

So it'll be --

CHAIRPERSON RIDDLE: Okay. Barbara?

MS. ROBINSON: If you recall, Jim -- and I think I did send this to all of the Board. Remember when I sent you an e-mail and made up -- Jim, you got sort of a form, whereby the Board would submit formal recommendations to us?

MS. CAUGHLAN: No.

CHAIRPERSON RIDDLE: No.

MS. KOENIG: I did.

MS. ROBINSON: You do, too.

MS. KOENIG: I recall something like that.

MR. CARTER: Yeah.

MS. ROBINSON: Yes, you do, because you sent it back to me and said --

CHAIRPERSON RIDDLE: Oh, yeah. Yeah, yeah.

The one I didn't like, though.

MS. ROBINSON: Yes. Well, but I -- all I can
do here is offer a suggestion that you consider -- as long as you want to have things here like how are you going to present your materials recommendations and those sorts of things, I think it -- you know, it wouldn't be a bad idea if you considered some kind of format, something -- you can take what I sent you and mess with it, you know, edit it, whatever. But that might also be something that we could -- because it does help us put down, you know, the history. You have something formal, a document --

UNIDENTIFIED SPEAKER: Jim?

CHAIRPERSON RIDDLE: Yeah. And just -- yeah. If I can just respond to that and just explain. Right at the very tail end of our orientation session on Monday, Arthur handed these out, which are -- which is the same that you'd sent around, or maybe a slightly modified, improved, updated version. But the new members haven't seen any of this at all. But essentially, this would be a cover sheet that would go with any final recommendation. Once we've amended it, taken final action, the committee chair polishes it up, resubmits it with this cover sheet that just summarizes, you know, the topic and exactly what the recommendation is and what category it fits under. So this is really a cover sheet. It doesn't replace the recommendations.
that we -- that are much -- that are more detailed as far as background and -- yeah, it's a cover sheet to help track and -- yeah. Bea?

MS. JAMES: I wanted to make a recommendation that we look at the outline of the presentation that Dave did yesterday, that was very thorough and complete, and see if there's opportunities for using that in how to present recommendations.

MR. CARTER: You mean, the thing with the options and then --

MS. JAMES: Um-hum.

MR. CARTER: -- the pros and cons and then the --

MS. JAMES: Right.

MR. CARTER: Okay.

MS. JAMES: And you have the introduction and --

MR. CARTER: Yeah, okay.

CHAIRPERSON RIDDLE: Oh, uh-huh. Yeah, currently in the Board manual there is an outline for recommendations.

MS. CAROE: Yeah. I'm not so sure that that was what the outline was on Dave's presentation, though, yesterday. So then --

CHAIRPERSON RIDDLE: Right, it was a -- it
went beyond that.

MS. CAROE: It was more -- yeah.

MR. CARTER: It was -- yeah.

MS. CAROE: It was very thorough and --

CHAIRPERSON RIDDLE: Yeah, uh-huh.

MR. CARTER: Okay.

MS. CAROE: Yeah.

CHAIRPERSON RIDDLE: Right. Are you proposing that as amendment, or is that something for the Policy Committee to put on the work plan to develop?

MS. CAROE: Put on the work plan to --

CHAIRPERSON RIDDLE: Okay.

MS. CAROE: -- develop.

CHAIRPERSON RIDDLE: Yeah. All right. So right now this sheet has been circulated, and Barbara is suggesting that we consider inserting this --

MS. CAROE: If we have a motion on the floor, can we amend the motion?

CHAIRPERSON RIDDLE: You can amend the motion by adding this. So, yes, it is germane. Yes?

MS. CAROE: Okay, I offer another motion -- an amendment to the motion to include the format for making -- for formal recommendations.

MS. OSTIGUY: Second.

CHAIRPERSON RIDDLE: Okay. Is there
discussion?

  MS. CAROE: Doesn't it have to be --
  CHAIRPERSON RIDDLE: No, this is not --
  MS. CAROE: Is there a second motion or is this --
  CHAIRPERSON RIDDLE: No, your original earlier about Rose, that was a friendly amendment that was accepted by the maker.

  MR. CARTER: Yeah, I just incorporated that into my original motion, so --
  CHAIRPERSON RIDDLE: Right. This is new business.

  MR. CARTER: Yeah.
  MS. CAROE: Okay.
  MS. CAUGHLAN: Yeah.
  CHAIRPERSON RIDDLE: So I'd rather have a separate vote just on this as an amendment.

  MS. CAROE: Okay.
  CHAIRPERSON RIDDLE: So this was just passed out. Some of the Board members had seen an earlier version. Is there any discussion, reaction? Mike?

  MR. LACY: We're voting on this as a new motion rather than an amendment?
  CHAIRPERSON RIDDLE: Well, it is an amendment to Dave's motion, but it's a stand alone, so we focus
just on the content of this cover sheet.

MR. LACY: Then I'd suggest we make it a
motion.

CHAIRPERSON RIDDLE: It's already been made a
motion and seconded. Andrea made the motion and --

MR. LACY: That's was my question.

CHAIRPERSON RIDDLE: Nancy -- yeah.

MR. LACY: I'm sorry, but I misunderstood your
answer.

CHAIRPERSON RIDDLE: Well, sorry. Probably
the first time. Any other discussion just on this cover
sheet, to add that to our Board policy manual that's
being considered? Yeah, Rigo.

MR. DELGADO: Just a question. Can you give a
background on how old this document is and -- that we're
still working on it and developing it?

MR. CARTER: Well, yes. The document itself
was created in 2002. I mean, we -- or formally adopted.
We worked on it, you know, through the year in 2002 and
began to adopt. And then, since then, as issues have
come up, we've added things to it, such as the TAP
contracts and the forms. So the idea behind this is
that, you know, as long as the Board is following the
procedures here in our manual, then we're not going to
get in hot water with NOP or USDA or, you know, anybody

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else. So, yeah. Well, sort of. At least over procedural issues, yeah. Over philosophy, we'll get into lots of hot water.

    CHAIRPERSON RIDDLE: Yeah, it's it minimize risk.

    MR. CARTER: Yeah.

    CHAIRPERSON RIDDLE: Yeah, Rose. And just on the cover sheet.

    MS. KOENIG: Yeah, the cover sheet.

    CHAIRPERSON RIDDLE: Yeah, good.

    MS. KOENIG: The thing that doesn't make sense to me is the response by the NOP, because if we're going to hand this -- our work really is up to that. You know, the NOP's response is not our -- I mean, we don't know, so -- I mean, in essence, it would be blank when we would hand it to you, so --

    CHAIRPERSON RIDDLE: Um-hum.

    MS. KOENIG: -- it doesn't seem like something -- unless you meant response at the meeting. Barbara smiled. I think it's going to be okay.

    MR. LACY: Or maybe desired response.

    CHAIRPERSON RIDDLE: Well, I think that's --

    MS. KOENIG: I'm not sure what --

    CHAIRPERSON RIDDLE: It's a good question, and could you explain how that would be handled?
MR. MATHEWS: The intent is that you would submit a recommendation, and we would take your cover sheet and put our answer on it.

MS. ROBINSON: It's not intended to be --

MR. MATHEWS: And it would be posted on the website.

CHAIRPERSON RIDDLE: Okay.

MR. MATHEWS: That's what you want answered, right?

MS. KOENIG: Right.

CHAIRPERSON RIDDLE: Yeah.

MS. ROBINSON: It's just a cover sheet. You may have a whole series of technical or you may have a whole lot of paper behind that. That would just simply be a way the we would trap officially --

CHAIRPERSON RIDDLE: Um-hum.

MS. ROBINSON: -- Board recommendations submitted to us, separate from materials recommendations. Like for example, you make a recommendation to us to write to AAPFCO, right? So you just -- and it would just provide a better way for us to start systematically building the paper trail, the history, that's all.

MS. KOENIG: I guess one thing is, with that -- as far as posting. Okay, so we hand it to you. I
would just hate to see things not posted because there's a delay in the response. So would that be -- if we hand it to you, it's not going to be posted, even though that section might be blank for awhile? I mean, how do you --

MS. ROBINSON: We can always start of with saying, you know, accepted by NOP. I mean, the first response can be, you know, the NOP recognizes that the recommendation was forwarded to us, and you know, it's being worked on by NOP. No, it shouldn't -- I agree with you, Rose, there's no -- there's no intent to get it and then, you know, not do anything with it, not post it.

CHAIRPERSON RIDDLE: Um-hum.

MS. ROBINSON: It's more a recordkeeping mechanism.

CHAIRPERSON RIDDLE: Okay. Any other discussion just on the cover sheet amendment here?

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[No response]

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CHAIRPERSON RIDDLE: Seeing none, all in favor of adding this to the Board policy manual that then will be voted on next, say aye.

BOARD MEMBERS: Aye.
CHAIRPERSON RIDDLE: That's a voice vote. All opposed?

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[No response]

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CHAIRPERSON RIDDLE: Okay. So now this is insert in a proper section and Dave will take care of that as the editor. I'm sure there's debate, then, on the original motion as amended?

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[No response]

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CHAIRPERSON RIDDLE: Okay, seeing none, and now we will go with the roll call vote.

MS. JAMES: Jim?

CHAIRPERSON RIDDLE: Yes.

MS. JAMES: Do I have to make it a motion to put the working policy into effect for making a better outline for presenting the recommendation?

MS. CAUGHLAN: Uh-uh, no.

CHAIRPERSON RIDDLE: No, but if you would've wanted to stay on the Policy Development Committee --

MR. CARTER: Oh, that's cruel, that's cruel.

CHAIRPERSON RIDDLE: No, I think the committee hears you and recognizes the need to improve the format,
and just make sure, then, tomorrow, when Dave presents
the work plan, that it is on the committee's work plans.
So yeah, we don't have to vote on that.

MS. JAMES: Okay.

CHAIRPERSON RIDDLE: All right. Okay, back to
the roll call on adopting the Board policy and
procedures manual as amended, and we start with Goldie.

MS. CAUGHLAN: Yes.

CHAIRPERSON RIDDLE: Yes. Kevin?

MR. O'RELL: Yes.

CHAIRPERSON RIDDLE: Yes. Andrea?

MS. CAROE: Yes.

CHAIRPERSON RIDDLE: Yes. Rigo?

MR. DELGADO: Yes.


That would be -- okay, Julie?

MS. WEISMAN: Yes.

CHAIRPERSON RIDDLE: Gerald?

MR. DAVIS: Yes.

CHAIRPERSON RIDDLE: Yes. Mike?

MR. LACY: Yes.

CHAIRPERSON RIDDLE: Nancy?

MS. OSTIGUY: Yes.

CHAIRPERSON RIDDLE: Dave?

MR. CARTER: Yes.
CHAIRPERSON RIDDLE: Bea?
MS. JAMES: Yes.
CHAIRPERSON RIDDLE: George, absent. Rose?
MS. KOENIG: Yes.
MS. CAUGHLAN: Twelve, zero, zero, two.
CHAIRPERSON RIDDLE: And I vote yes, so we have 12 yes -- pardon?
MS. CAUGHLAN: Twelve, zero, zero, two?
CHAIRPERSON RIDDLE: Yeah, 12 yes, 0 no, 2 absent, and no abstentions. Okay. So, Dave, I think you have one more item, is that right?
MR. CARTER: Yes, Mr. Chairman, the last item, if you will turn again under tab six, there is the "made with" tab, and this is our recommendation for a change in 205.301. And it is -- refers to a contradiction that is in place currently on the "made with" category, specifically that Section 205.301 indicates that products containing at least 70 percent organically produced ingredients may contain non-organic ingredients produced without regard to the fact that the product may contain organic and non-organic versions of the same ingredient. And what that comes about is because 205.301(c) is in conflict essentially with 205.301(f). So the contradictory language in those two areas is creating some problems for certifiers. And as one of
the items, then, we had on our work plan was to recommend a change, and what we are recommending is on the second page there, and that would be strike and (7), and to add some new language so that the statement that the -- 301(c) would now read, products sold, labeled, or represented as "made with organic (specified ingredients or food groups)." Multi-ingredient agricultural products sold, labeled or represented as "made with organic (specified ingredients or food group)" must contain (by weight or fluid volume, excluding water and salt) at least 70 percent organically produced ingredients which are produced and handled pursuant to requirements in subpart C of this part. No ingredients may be produced using prohibited practices, specified in paragraphs (1), (2), and (3) of 205.301(f). No product labeled as made with organic may include organic and non-organic forms of the ingredient. Non-organic ingredients may be produced without regard to paragraphs (4), (5), and (6) of Section 205.301(f). If labeled as containing organically produced ingredients or food groups, such products must be labeled pursuant to 205.304.

This passed on a committee vote of four yes, zero no. There were two members absent. So, Mr. Chairman, I would make a motion that we approve this.
recommendation.

CHAIRPERSON RIDDLE: Okay. Is there a second?

MS. JAMES: Second.


MS. CAROE: Dave, when we did this work, I don't remember us deleting and (7), because that section specifically refers to the non-organic ingredients and how they are produced.

MR. CARTER: Um-hum.

MS. CAROE: I thought we were leaving and (7) in, but including the language that -- the language that was added. I don't remember us taking out (7) in that one sentence.

MR. CARTER: Yeah, that was the original.

MS. CAROE: The reason I object to that is because, then, the non-organic ingredients have to be produced without the use of an organic and a non-organic form, and I didn't think we were going to that level. So a manufacturer who is using a minor non-organic ingredient would have to track how that minor non-organic ingredient was produced, not how their product is being produced and their minor -- it tracks back one level if you mention this statement.

MR. CARTER: Well, let me -- okay, run that by
again.

MS. CAROE: This sentence refers to how the non-organic ingredient is produced --

MR. CARTER: Right.

MS. CAROE: -- not what the non-organic ingredient is, but how it is produced. So it tracks back one extra level. It's not saying that your non-organic ingredients have to be strictly organic or strictly non-organic, it's saying that the non-organic ingredient had to be produced using ingredients that were non-organic or organic-only. It tracks back one level.

MR. CARTER: Okay.

MS. CAROE: I wanted to make it very clear that the non-organic ingredients could not be both --

MR. CARTER: Right.

MS. CAROE: -- so you couldn't have a label that has both organic cinnamon and non-organic cinnamon in it --

MR. CARTER: Right.

MS. CAROE: -- for a "made with" product. But this is saying, if you use non-organic cinnamon, that you have to actually track that to make sure there was no organic used in the production of that cinnamon. Do you see what I'm saying? It tracks back --
CHAIRPERSON RIDDLE: I do.

MS. CAROE: -- one level.

MR. CARTER: Okay.

MS. CAROE: So and (7) is appropriate in this sentence. The sentence added is clarifying, and we know that there's been confusion in this --

MR. CARTER: Okay. So if we leave in -- (7) in there, though, are we --

CHAIRPERSON RIDDLE: It allows the use of organic ingredients in the manufacture of the non-organic --

MR. CARTER: Non-organic.

CHAIRPERSON RIDDLE: -- portion, the 30 percent.

MR. CARTER: Okay.

MS. CAROE: That is correct.

CHAIRPERSON RIDDLE: Yeah.

MS. CAROE: And those --

MR. CARTER: Okay.

CHAIRPERSON RIDDLE: Uh-huh.

MS. CAROE: And those minor ingredients that are deemed non-organic, you can still have some organic components.

MR. CARTER: Yeah.

MS. CAROE: You're still designating them --
MR. CARTER: Okay.

MS. CAROE: -- as non-organic.

MR. CARTER: Yeah. Okay. And I'm just saying the procedure -- I mean, that's a substantive change to what the committee voted on, so I would -- let's put that on as an amendment.

CHAIRPERSON RIDDLE: Right, we'll have to --

MR. CARTER: Yeah.

CHAIRPERSON RIDDLE: -- vote on it separately.

MR. CARTER: Let's vote on that separately.

MS. CAROE: Okay, I offer the amendment to --

MS. CAUGHLAN: Put and (7) back in.

MS. CAROE: -- include --

MR. CARTER: And (7).

MS. CAROE: -- the and (7).

MR. CARTER: Okay.

CHAIRPERSON RIDDLE: Yeah, to remove the strike-out.

MR. CARTER: Okay.

MS. CAROE: To remove the strike-out of and (7).

MR. CARTER: We'll just do the new -- put the language in and remove --

MS. CAROE: That's correct.

MR. CARTER: -- the strike-out, okay.
MS. CAROE: That is correct.

MR. CARTER: Okay.

CHAIRPERSON RIDDLE: Okay. So there's a motion. Is there a second to removing the strike-out from the and (7) from the --

MR. O'RELL: Second.

CHAIRPERSON RIDDLE: -- committee's draft?

Kevin seconds. Further discussion?

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[No response]

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CHAIRPERSON RIDDLE: Okay, seeing none, I will try a voice vote on just this amendment. All in favor say aye?

BOARD MEMBERS: Aye.

CHAIRPERSON RIDDLE: Those opposed?

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[No response]

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CHAIRPERSON RIDDLE: Okay, thanks, Andrea. I have a comment as well. Dave, yesterday we did receive a comment from Emily, and I just had it here and now I don't know where I put it. There it is -- that -- to insert the word agricultural in that, after non-organic. Then it would read, non-organic agricultural ingredients.
in that underlined sentence --

    MR. CARTER: Right.

CHAIRPERSON RIDDLE: -- in the committee's
draft.

    MR. CARTER: Right.

CHAIRPERSON RIDDLE: Because that's to remove
confusion that these restrictions only apply to the
agricultural --

    MR. CARTER: Agricultural ingredients.

CHAIRPERSON RIDDLE: -- ingredients.

    MR. CARTER: No. And that's a good -- and I
think that's compatible with the committee, you know,
was intending. So --

CHAIRPERSON RIDDLE: So if someone offered
that as a friendly amendment, you would accept it?

    MR. CARTER: I don't -- yeah. I don't think
that's -- I think that's in line with what the committee
looked at. So --

CHAIRPERSON RIDDLE: And I can't do that.

    MR. CARTER: Yeah, so if, like, somebody like
Andrea would offer that as a friendly amendment --

MS. CAROE: Well, it's a friendly amendment to
add the word agricultural.

    MR. CARTER: Okay, the maker of the motion
would accept that as a friendly amendment, yes, and
would add that to the --

CHAIRPERSON RIDDLE: And who was the original seconder of the original motion?

MS. CAROE: I think it's Bea.

CHAIRPERSON RIDDLE: It was Bea, yeah.

MR. CARTER: Yeah.

CHAIRPERSON RIDDLE: Would you accept that?

MS. JAMES: Um-hum.

CHAIRPERSON RIDDLE: Okay. So that is accepted and consistent with the committee's intent.

Okay, so everybody caught there's been a further change. So now, any other discussion on the motion as amended?

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[No response]

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CHAIRPERSON RIDDLE: All right, seeing none, we will proceed with the roll call vote and Kevin first.

MR. O'RELL: Yes.

CHAIRPERSON RIDDLE: Kevin, yes. Andrea?

MS. CAROE: Yes.

CHAIRPERSON RIDDLE: Rigo?

MR. DELGADO: Yes.

CHAIRPERSON RIDDLE: Hugh?

MR. KARREMAN: Yes.

CHAIRPERSON RIDDLE: Julie?
MS. WEISMAN: Yes.

CHAIRPERSON RIDDLE: Gerald?

MR. DAVIS: Yes.

CHAIRPERSON RIDDLE: Mike?

MR. LACY: Yes.

CHAIRPERSON RIDDLE: Nancy?

MS. OSTIGUY: Yes.

CHAIRPERSON RIDDLE: Dave?

MR. CARTER: Yes.

CHAIRPERSON RIDDLE: Bea?

MS. JAMES: Yes.

CHAIRPERSON RIDDLE: George?

MR. SIEMON: Yes.

CHAIRPERSON RIDDLE: Rose?

MS. KOENIG: Yes.

CHAIRPERSON RIDDLE: Goldie?

MS. CAUGHLAN: Yes.

CHAIRPERSON RIDDLE: And the Chair votes yes, so we have a full slate, unanimous vote, 14 yes, 0 no, 0 abstentions. Okay.

MR. SIEMON: We're on a roll.

MR. CARTER: That's it.

CHAIRPERSON RIDDLE: Thanks, Dave. Andrea, are you ready, then, for the Accreditation?

MS. CAROE: If we can take five minutes so I
can get it on the projector?

CHAIRPERSON RIDDLE: Yeah.

MS. CAROE: Because I --

CHAIRPERSON RIDDLE: Okay. All right. Well, I hate to take a break and let people escape.

MS. CAROE: I just have to transfer it over.

CHAIRPERSON RIDDLE: Yeah. No, no, that's fine.

MS. CAROE: It's just going to take a minute.

CHAIRPERSON RIDDLE: Okay.

MS. CAROE: Unless you want to postpone it?

CHAIRPERSON RIDDLE: Well, or do we want to go to one of your items or -- I think you're next, right?

MR. SIEMON: Andrea's next.

UNIDENTIFIED SPEAKER: What do you want to do, just five minutes?

MS. CAROE: I just have to get it off of my computer --

CHAIRPERSON RIDDLE: Yeah.

MS. CAROE: -- and onto the other computer.

CHAIRPERSON RIDDLE: Yeah, yeah. Okay. We'll take a five-minute recess for Andrea to regroup and -- I know, but please be disciplined here so we can stay on track. Yeah, the Board members be disciplined.

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[Off the Record]

[On the Record]

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CHAIRPERSON RIDDLE: I have a quorum, and so let's go ahead and resume business. And so it's Accreditation Committee. Andrea has some changes to the draft.

MS. CAROE: Yes, there were changes made to the draft last night, based on comments received, and the first is at the bottom of page five. I mean -- I'm sorry, the bottom of page one.

CHAIRPERSON RIDDLE: Okay, yeah. What tab is this again? And let's get on the --

MS. CAROE: It's tab four.

CHAIRPERSON RIDDLE: Tab four.

MS. CAROE: Richard, can I ask you to tab -- to bring us down to the bottom of page one --

MR. MATHEWS: Okay.

MS. CAROE: -- so that the --

MR. MATHEWS: Is this the right document?

MS. CAROE: This is the right document.

MR. MATHEWS: Okay.

MS. CAROE: It just needs to be brought down.

CHAIRPERSON RIDDLE: Oh, and then --

MR. MATHEWS: Bring it down.
CHAIRPERSON RIDDLE: Just scroll down.

MS. CAROE: Right.

CHAIRPERSON RIDDLE: All right.

MS. CAROE: Thank you. A little bit further.

It's red. It's in track mode. There. Oh, blue.

MR. MATHEWS: Blue.

MS. CAROE: Red on my screen. To address the commenter who suggested that it is important to understand the label claim associated with the particular product that is being certified, we've added the language, in addition, where a processed product is used as an ingredient by an organic end-user, it is imperative that the label claim of the organic ingredient is clearly indicated on the product's certificate. In this way the end-user can demonstrate compliance with the organic content requirements for the product that they are producing. So this again is an allowance for manufacturers who are purchasing processed ingredients to understand at what level those products have been certified so that they can comply with their product requirements.

CHAIRPERSON RIDDLE: Excuse me. And that is to explain that a change in the recommendation that'll come up later on.

MS. CAROE: That's right. That's background
information.

CHAIRPERSON RIDDLE: Yeah.

MS. CAROE: And if we go down to the recommendation on page four -- if we go down to the --

CHAIRPERSON RIDDLE: Mark?

MS. CAROE: -- recommendation on page four --

CHAIRPERSON RIDDLE: Mark, if you could scroll -- yeah.

MS. CAROE: Continue down to page four.

There, right. So we've made the change to the third recommendation. It requires ACAs to use the standard term -- oh, this is a separate issue. There is a change to use "most recent annual update." This, again, was based on comments received during testimony, that the inspectors and the certifiers would benefit from understanding that the operation has been in compliance. It's not a perfect fix. There's an 18-month period that an operation can be in compliance from their last annual visit. But this will prevent a three-year-old certification that's not been renewed from being representing -- representing the company as organic. So that change was made.

CHAIRPERSON RIDDLE: And if I could just add to that, that that is a phrase that's used in the rule in Section 204.406(b), is where the reference to the

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inspection and then the scheduled date of annual update. 
So it's a phrase taken from the language of the rule.

MS. CAROE: Right. And then section four --
recommendation four, we added the language that requires
the label claim, or the labeling category under which
products are approved, to be also disclosed on the
certificate. Those are the only changes that were made
to this recommendation.

CHAIRPERSON RIDDLE: Okay. So would you like
to move the draft as presented?

MS. CAROE: Yes. Can I make the motion?

CHAIRPERSON RIDDLE: Yes, yes.

MS. CAROE: Okay, I make the motion --

CHAIRPERSON RIDDLE: I can't. I'm about the
only one who can't.

MS. CAROE: Okay, I make the motion, then,
that this recommendation be approved as amended.

MS. CAUGHLAN: Second.

CHAIRPERSON RIDDLE: Okay, moved by Andrea,
seconded by Goldie. Any further -- any discussion? Not
further, but any discussion?

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[No response]

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CHAIRPERSON RIDDLE: Yeah? Well, seeing no
discussion, we'll go to a vote. So -- and this once
again will be a roll call vote. And let me make -- get
my notes here. Just a second. And we start with
Andrea. Andrea?

MS. CAROE: Yes.

CHAIRPERSON RIDDLE: Yes. Rigo.

MR. DELGADO: Yes.

CHAIRPERSON RIDDLE: Hugh?

MR. KARREMAN: Yes.

CHAIRPERSON RIDDLE: Julie?

MS. WEISMAN: Yes.

CHAIRPERSON RIDDLE: Gerald?

MR. DAVIS: I abstain.

CHAIRPERSON RIDDLE: Mike?

MR. LACY: Yes.

CHAIRPERSON RIDDLE: Nancy? Absent. Dave?

MR. CARTER: Yes.

CHAIRPERSON RIDDLE: Bea?

MS. JAMES: Abstained.

CHAIRPERSON RIDDLE: George?

MR. SIEMON: Yes.

CHAIRPERSON RIDDLE: Rose?

MS. KOENIG: Yes.

CHAIRPERSON RIDDLE: Goldie?

MS. CAUGHLAN: Yes.
CHAIRPERSON RIDDLE: Kevin?

MR. O'RELL: Yes.

CHAIRPERSON RIDDLE: And the Chair votes yes.

So we have 11 yes, 0 no, 2 abstentions, and 1 absent.

MR. SIEMON: I think we can set a record for most votes without a no vote here.

CHAIRPERSON RIDDLE: Well, let's keep working on it.

MR. CARTER: I was about to vote no on the policy manual just to break the --

MR. SIEMON: Well, I'm getting worried here.

CHAIRPERSON RIDDLE: Okay, thanks, Andrea, and thanks to the committee for dealing with those comments in a timely manner. Okay, now we go to the Handling Committee. So, Kevin, take it away and I'll scoot the mike over the best I can.

MR. O'RELL: The first item on the agenda for the Handling Committee is a Q and A regarding the status of albumen. Albumen is used in the process of winemaking. It's a clarifying agent. The NOP was asked for the status of albumen in regard to the winemaking process and under the current NOP regulations. Albumen is derived from egg whites. It's a common binding agent or clarifying agent in winemaking. And what we have done is taken this as a specific that was passed to the
Handling Committee. The question was, is albumen allowed for use in the clarification process during organic winemaking under the current regulation? The NOS -- or the Handling Committee recommendation was that this ingredient, albumen, needs to be petitioned. Our rationale was that without a petition and technical review, there was not enough information that was provided to us to determine if albumen was agricultural or nonagricultural with the process in extraction. And if was agricultural, if there would be a commercially available organic form. Section 205.105(c) prohibits the use of nonagricultural substances used in or on products, except as otherwise provided in 205.605. And 205.105 -- Section 205.105(b) prohibits the use of non-organic agricultural products used in or on the processed products, except as otherwise provided for in 205.606. And because albumen does not appear on the National List, it was our feeling it needed to be petitioned. So I'm going to enter this in as a motion for our recommendation. I would move that the NOS -- move that this ingredient, albumen, needs to be petitioned.

MS. CAROE: I'll second.

CHAIRPERSON RIDDLE: Okay. Before we start discussion, are there any Board members that have any
interest to declare on either albumen or winemaking?

MR. SIEMON: I'm an egg farmer.

CHAIRPERSON RIDDLE: You're an egg farmer.

MR. O'RELL: Or you like wine.

CHAIRPERSON RIDDLE: Or you like wine.

MR. CARTER: I drink a lot of wine.

MS. JAMES: Yeah, I like wine.

CHAIRPERSON RIDDLE: Yeah. Well, I don't think the egg farmer would rise to the level of a conflict. Okay, discussion?

MR. O'RELL: Mike?

MR. LACY: I'm assuming that it's just because the albumen is dried that it's not considered an agricultural product.

MR. O'RELL: Well, we don't have -- we don't have a petition. A TAP hasn't been filed on albumen or a petition hasn't been filed, so we don't know the manufacturing process, if there would be any other inputs that would need to be considered in the process of extracting the albumen.

MR. LACY: But albumen itself would be agricultural, it's just the process that you're concerned about?

MR. O'RELL: Yes. All right. George?

MR. SIEMON: But, Mike, is albumen just egg...
whites?

MR. O'RELL: Yeah.

MR. SIEMON: Well then, it seems to me that if it's just egg whites and someone dries it, that it should be almost that we're allowing it, unless it was produced by a natural substance for drying. But we're not just looking at it as an agricultural product and we're not going to allow it be used.

MS. CAUGHLAN: Because we don't.

MR. O'RELL: What --

MR. SIEMON: But we don't know about every natural agricultural --

MR. O'RELL: George, what we're just saying is, if a person wants to know an answer to the question of albumen, just file a petition stating what it is, what the process is, what form it's in, and an easy determination could be made by -- by the NOP or the NOSB that it's an agricultural product. But without that information -- we're not given that information. That was the concern of the Handling Committee, we were not given any information.

MR. SIEMON: I guess my question would be for NOP, in general, how they would handle this. I guess I understand your position.

MR. O'RELL: Right.
MR. SIEMON: And the other thing I wanted to say is it's also used in -- for clarifying maple syrup. So that's another use.

MR. O'RELL: And those are other uses that the petition needs to identify. We don't have those. Hugh?

MR. KARREMAN: What he questioned, albumen, at least in my thoughts of it, is natural. If it's natural, why would it have to be petitioned or reviewed and all that? What he questioned.

MR. O'RELL: Well, if it's organic -- if it's an agricultural product, then it would need to be organic. So we need to determine and make sure that the process involved in the form of albumen that's being asked to be used meets the requirements for agricultural. Then it would have to be a organic. If it's a natural substance and not agricultural, it would have to be on the list at 205.605(a).

CHAIRPERSON RIDDLE: Just to clarify, there's two different structures for the list. For crops and livestock, if it's natural it can be used without being on the list. For processed products, it must be on the list to be used, unless it's organic.

MS. JAMES: Michael, I have a question. Albumen, is that another -- isn't that the protein of the egg white or is that just the white? Is it just the
white?

MR. O'RELL: The -- do you want to answer, Michael?

MR. LACY: Well, from a poultry science perspective, the albumen is considered the egg white.

MR. O'RELL: And just for additional information, the egg white is comprised of about 85 percent water and 10 percent protein. It has some lipids, some fats, some trace minerals. So albumen is a portion --

MS. JAMES: They're removing the water, correct, except for the wine production?

MR. DAVIS: In the concentrated form.

MR. O'RELL: Well, that's --

MS. JAMES: Yet to be determined.

MR. O'RELL: -- yet to be determined.

MS. JAMES: Okay. So we just need more information.

CHAIRPERSON RIDDLE: Kim.

MR. O'RELL: Kim.

MS. DIETZ: Just a point of clarification for new Board members. The Q and A coming back to the committee is a new process. This is something that's out of the collaboration and giving you more information on materials to work with. The real issue came to the
Handling Committee of whether or not this material needs to be petitioned, and that's the question they answered.
So if you guys don't debate it, really, you can't do anything without a petition, and you have to go through that process.

MR. SIEMON: I'm still confused. People are selling organic egg whites right today in cartons. So if there's an organic egg white that's dried -- I can't say the word -- and that's still -- I don't know why you have to petition that. It's nonfat dried milk when I sell nonfat dried milk.

MR. O'ReLL: If there -- if it's organic, there's no problem, there's no problem. What we're being asked, again, George, as Kim had said, this is a question that's coming to us from the NOP. We're just saying that we don't have enough information. It's albumen. We don't know the form, we don't know the process.

MR. SIEMON: But if there was dried -- this albumen, today, if somebody could use it --

CHAIRPERSON RIDDLE: Organic.
MR. SIEMON: Organic.
CHAIRPERSON RIDDLE: Organic.
MR. O'RELL: Organic, yes.
MR. SIEMON: -- somebody could use it?
MR. O'RELL: Yes, definitely. Yes.

MR. SIEMON: So I'm a little -- why wouldn't we just say, at that point -- it's available today, commercial available?

[Simultaneous comments]

MR. O'RELL: I wonder if the binding agent that's being used is extracted from egg white, albumen protein? It's a portion of those albumen proteins that make up 10 percent of the egg white and it's solvent extracted.

MR. SIEMON: Okay, all right.

MR. O'RELL: That was a point of the Handling Committee, we don't know, we don't understand, and if somebody just asked me for clarification of albumen, if it's not organic and it's not clearly agricultural, they need to file a petition so that we understand, and that's all that we're -- this is a new format for us on these Q and A's. No further discussion? Rose?

MS. KOENIG: I guess the only thing -- I guess what I'm understanding the Board is you could make a sentence just as you stated, that there may -- there are or may be -- there could be acceptable forms of albumen and they would be, but we don't know whether that is -- we don't have the clarification. So it's just acknowledging that -- that it could be, you know,
organic. Yeah, in one case, would it be okay? But in this case, you feel we may need a petition.

MR. : Are you adding a motion or are you --

MS. KOENIG: It's just a discussion. I mean, I could motion. It sounds like that's the thing that George is --

CHAIRPERSON RIDDLE: You could offer to amend the motion with a sentence saying organic albumen would not need to be petitioned. Organic albumen would be allowed by definition.

MR. SIEMON: That satisfies all the other conditions.

MR. O'RELL: That would -- as a friendly amendment?

MS. CAUGHLAN: Yeah.

MR. O'RELL: That's the intent. So we wouldn't have a problem with that. A seconder?

MR. KARREMAN: I'll second.

MS. CAROE: No problem.

CHAIRPERSON RIDDLE: Okay. So Rose made that motion and Andrea seconded.

MS. CAROE: No --

MR. O'RELL: No.

MS. CAROE: -- I accepted.

CHAIRPERSON RIDDLE: Oh, then you will be --
yeah, yeah, it didn't need to be seconded from her. She offered it as a friendly amendment.

MR. O'Rell: A friendly amendment.

Ms. Caroe: And I --

MR. O'Rell: It's accepted.

Ms. Caroe: And I accepted.

Chairperson Riddle: Right.

MR. O'Rell: And the seconder --

Chairperson Riddle: Right, yeah.

MR. O'Rell: -- accepted it.

Chairperson Riddle: Thank you.

MR. O'Rell: So, Rose, once again, if there's a source of organic albumen --

Ms. Koenig: I mean, that's not the wording. I just wasn't clear. If you could just identify that the committee has a term that --

MR. O'Rell: Right.

Ms. Koenig: -- you know, what is acceptable as organic.

MR. O'Rell: We could just organic albumen --

Ms. Caroe: Should be allowed, but it's not --

Chairperson Riddle: Would be allowed by definition.

MR. O'Rell: Would be allowed by definition.

Chairperson Riddle: Uh-huh. You don't need
to speculate --

MR. O'RELL: No, no, let's not go further.

CHAIRPERSON RIDDLE: -- on the -- it's just -- it would be allowed.

MR. O'RELL: It would be allowed. Yes, we would accept that. Okay. Julie.

MS. WEISMAN: I hate to mucky up the waters here.

CHAIRPERSON RIDDLE: It's your turn.

MR. SIEMON: Welcome aboard.

MS. WEISMAN: There's an issue proceeding this as to whether it is ag or nonag? Did I hear that correctly? That was part of the question in --

MR. O'RELL: Well --

MS. CAUGHLAN: It's part of our procedure.

MS. WEISMAN: -- and the same thing was discussed yesterday in terms of yeast. How can we say that it's organic? We haven't yet determined whether it is agricultural or nonagricultural.

MS. CAROE: That's a issue.

MS. WEISMAN: Okay, all right.

MR. O'RELL: That's --

MS. WEISMAN: A working question.

MR. O'RELL: That's a work in progress, but a good point.
CHAIRPERSON RIDDLE: And clearly, this is a derivative of an agricultural --

MR. O'RELL: Yes.

CHAIRPERSON RIDDLE: -- product.

MR. O'RELL: Nobody --

CHAIRPERSON RIDDLE: It comes from eggs.

MR. O'RELL: There's no question that it's agricultural roots. The only concern was, we don't have information in front of us as for the manufacturing process to -- and in what form the albumen is, is a particular -- there are several albumen proteins. Are these specific proteins? Lysozyne, which we've also voted on, is a component of albumen proteins, and there's about four or five, Michael, I believe, albumen proteins that compromise albumen. And so we just don't know.

[Simultaneous comments]

CHAIRPERSON RIDDLE: Yeah, we'll talk about compromising proteins.

MR. O'RELL: So --

CHAIRPERSON RIDDLE: Okay. So it's been -- it's been amended, friendly amended, has been accepted. Is there any further discussion?

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[No response]
CHAIRPERSON RIDDLE: Does anyone need me to read back over the friendly amendment?

[No response]

CHAIRPERSON RIDDLE: Everybody understands that. Okay, then we will move on to the vote, and we start with Rigo.

MR. DELGADO: Yes.

CHAIRPERSON RIDDLE: Yes. Hugh?

MR. KARREMAN: Yeah.

CHAIRPERSON RIDDLE: Yes?

MR. KARREMAN: Yeah.

CHAIRPERSON RIDDLE: Julie?

MS. WEISMAN: Yes.

CHAIRPERSON RIDDLE: Yes. Gerald?

MR. DAVIS: Yes.

CHAIRPERSON RIDDLE: Yes. Mike?

MR. LACY: Yes.

CHAIRPERSON RIDDLE: Yes. Nancy?

MS. OSTIGUY: Yes.

CHAIRPERSON RIDDLE: Yes. Dave?

MR. CARTER: Yes.

CHAIRPERSON RIDDLE: Yes. Bea?
MS. JAMES: Yes.

CHAIRPERSON RIDDLE: George?

MR. SIEMON: Yes.

CHAIRPERSON RIDDLE: Rose?

MS. KOENIG: Yes.

CHAIRPERSON RIDDLE: Goldie?

MS. CAUGHLAN: Yes.

CHAIRPERSON RIDDLE: Kevin?

MR. O'RELL: Yes.

CHAIRPERSON RIDDLE: Andrea?

MS. CAROE: Yes.

CHAIRPERSON RIDDLE: And the Chair votes yes, so we have another unanimous vote, 14, 0, 0, 0. All right. Kevin?

MR. O'RELL: The second action item from the Handling Committee is regarding a tea calculation Q and A. Again, I've asked Julie if she would present this proposal, or motion -- recommendation.

MR. MATHEWS: Hey, Jim, since we're the ones that got to enforce this, I'd like to ask a question. The saying that it has to be organic works for organic wine. It doesn't work for "made with," because the agricultural product does not have to be organic if it's used in a "made with" product.

CHAIRPERSON RIDDLE: Andrea, would you like to...
MS. CAROE: The motion did not say that it has to be organic, all it said is, if it is organic, it is allowed. It didn't say that it has to be organic.

MR. MATHEWS: But what about "made with" wine that could be making it with a non-organic version?

MS. CAROE: Well, in that situation is where we want more information on the technique for manufacturing that product. It possibly could be allowed as well -- probably is allowed as well. But until we have more information, we cannot make that statement. The only statement we can make definitively is, if it is organic for sure, it's allowed by definition.

MR. MATHEWS: Okay. But my concern is that we have certifying agents worldwide who are certifying wines right now as either organic or "made with," that my guess is, if they're a white wine, they're using albumen. How are we supposed to be enforcing this?

CHAIRPERSON RIDDLE: Well, my answer would be the same as the committee, that it's a processing aid that would need to be petitioned.

MR. MATHEWS: Okay. But you realize that you are now asking me to issue a directive to all certifying agents telling them that everyone has to stop using
albumen until such time as this Board makes a decision
on this product? All white wines will come off the
market if they're using albumen, and they are.

CHAIRPERSON RIDDLE: Andrea?

MS. CAROE: Well, I mean, a certifying agent
can do this investigation and determine that it's
agricultural and that there is no prohibited materials
involved, and then it's an allowed --

MR. MATHEWS: Now you're delegating --

MS. CAROE: -- non-organic ingredient. Well,
hold on one second. This is a Q and A response, and the
Q and A response is, if I were a certifying agent in
that situation, I could get the information. Asking
this Board without the information, we cannot come to a
determination.

MR. MATHEWS: But you're now delegating your
responsibility for the determinations on materials to a
certifying agent with that answer.

MS. CAROE: That's not correct. I don't agree
with that. We're not saying that this material
necessarily has to be listed. We are saying that the
petition should be submitted for us to make an
evaluation on whether that has to be listed or not. If
it indeed does not have to be listed, a certifying agent
has the authority to allow their certified entities to
use that material. The certified entity, if they receive that information and determine that it was a synthetic or a nonagricultural material, would deny it until it was listed.

MS. DIETZ: Do you need to clarify that on your statement for Richard's concern?

CHAIRPERSON RIDDLE: Yeah, I don't think so. I mean, it would've been nice to have had more background from the Program for the committee to consider in advance.

MR. O'RELL: Well, and all of this -- the discussion of the Handling Committee getting to this recommendation, the NOP was involved in that discussion and on the call. Again, we weren't asking for information, but saying we don't have all the information you're asking us to answer a question that we don't have the information to respond properly.

MR. MATHEWS: But this gets me down to the point -- this is the same issue that we work with in the office all the time, and that's why -- and we've been criticized for answering questions. And so we have been pushing the questions to the Board, and I don't know how we answer this person's question, based on what you just voted on, because you voted on saying that it has to be organic, but there's too many if buts.
MR. O'RELL: No, no --

MS. CAROE: No, that's not we said.

MR. O'RELL: -- that's not what the motion --

it indicated. The motion had indicated that the albumen

needs to be petitioned. If there's an organic form of

albumen, it's acceptable.

MR. MATHEWS: Okay. But that means that all

non-organic forms are unacceptable until you guys review

the materials.

MS. CAROE: No, that's not true.

CHAIRPERSON RIDDLE: And after the summary

judgment, that may be the case. But right now --

MR. MATHEWS: Not if it's agricultural. If

it's agricultural and it's used in a "made with"

product, it doesn't have to be on the list. If it's

agricultural and is used in an organic product, it has

to be on 606. If it's nonagricultural and is synthetic,

then you're right, the Harvey case is going to have an

influence.

MR. O'RELL: But -- okay, go ahead.

MS. CAROE: No, go ahead.

MR. O'RELL: How can we determine if it's an

agricultural product when we don't have any information

about the manufacture or the process of the material in

question? Kim, would you like to --
MS. DIETZ: This has come up in the past, Richard, and when anybody asks this Board to determine whether something is agricultural or nonagricultural, synthetic or nonsynthetic, we at least have more information, such as a petition, to help the committee decide. And in this case, because -- again, we'll just reiterate. Because we didn't have the information, we had to give you the answer that we did. If they want this Board to answer that question, and not their certifying agent, then you got the answer that you got because we don't have the information in front of us. So -- and Andrea said, if it -- the certifiers do have the ability to determine if something's agricultural --

MR. MATHEWS: Yes.

MS. DIETZ: -- and non-organic.

MR. MATHEWS: But they would have to do the same research that this Board would have to do --

MS. DIETZ: Absolutely.

MR. MATHEWS: -- to answer the same question. And oftentimes certifying agents will just tell their clients to task us.

MS. DIETZ: Um-hum. So in this case --

MR. MATHEWS: And this -- and we've been asked.
MS. DIETZ: So they need to provide this Board more information if they want the right answer.

CHAIRPERSON RIDDLE: And Rose?

MS. KOENIG: I mean, what I -- I mean, I think what Richard is asking is that clearly, in our motion, we made a statement, but that doesn't provide enough detail as to the guidance. So I suggest that the Handling Committee -- I mean, that motion has been accepted, but if we could provide maybe a fuller statement of clarification, just so that it's -- so that our position is understood, maybe in a document which is not in the -- in the recommendation.

MR. O'RELL: Well, I think we could certainly reconsider, but the issue is that we had a motion, we voted, it's passed the Board. We're saying we need -- we don't have the information here today for us to provide guidance, speculation, or anything on material that we don't know anything about that specifically wasn't addressed in a petition, I think is not wise.

MS. KOENIG: No. And I'm not suggesting that. But Andrea gave some suggestions as far as the scenarios or the implications of that, and I think that that might just be a useful thing to write down to really make it clear, because I'm not sure if Richard had clarity. I don't know. I mean -- I mean, you're asking us
something -- I mean, I think that we should give you -- if you don't think our motion was clear to provide you with the information, did you feel what Andrea said was clear? I mean, do you want us to write that down? I'm trying to make it --

MR. O'RELL: Richard, could I ask --

MR. MATHEWS: We can do this another time. I just -- at this point I don't know how to advise certifying agents and winemakers, okay?

MR. O'RELL: Bea and then Andrea. Oh, Mark.

MS. JAMES: I guess I just have a -- I have a question. Are you -- are we assuming, are we actually -- is it read in between the lines that by saying that organic albumen is acceptable, that that means that non-organic is not acceptable? I think that there's an assumption there, and that that's what I'm hearing from you, is that you think that it's going to be interpreted that non-organic is unacceptable and I don't think that's what we're saying here.

MR. MATHEWS: Well, that's the way I was interpreting it.

MS. JAMES: I think that we're saying is that there needs to be kind of this grace period before that decision is made, because we need more information before we can make that decision.
MR. O'RELL: I'd like to call on Mark, who was also on the Handling Committee during the time we had this discussion and voted on this item, and then Andrea has a point of clarification, and then let's --

CHAIRPERSON RIDDLE: And Julie, also.

MR. O'RELL: And then Julie.

MS. WEISMAN: Maybe, depending on what --

CHAIRPERSON RIDDLE: Maybe.

MR. O'RELL: Okay.

MR. KING: I'll be brief. Mark King, for the record. Rick, I have a question. To me this is about process as much as anything, and when I looked at some of the Q and A's, not just this one, the lack of information makes it difficult for the Board to make, you know, a reasonable determination. And this stems, I think, from our ongoing collaborative process. So I thank you for, you know, involving the Board, and I think that's a good thing. But in terms of what emaciates [ph] the question to you, is there some way that we can get additional information as a Board so that -- because these answers are very black and white, but as you've suggested, they don't cover the material in a thorough fashion, and their -- or your hands are tied and you can't necessarily enforce.

MR. MATHEWS: You had the exact same
information we did. It was just a question and that's all we had.

    MR. KING: I guess what I'm --
    MR. MATHEWS: So we gave you a hundred percent of what we had.
    MR. KING: I understand. But I guess what I'm suggesting is, is there way to seek additional information before it comes to the Board?
    MR. MATHEWS: Well, yeah, we could do the research on the Internet for you. I mean, that's -- I mean, that's --
    MR. O'RELL: The person asking the question should -- we should be able to go back to the person asking the question and get specific information to be able to respond to this question.
    MR. MATHEWS: Yeah.
    MR. O'RELL: Andrea and then Julie.
    MS. CAROE: To just put this in perspective, I mean, we're all looking at albumen. Albumen comes from eggs. We know it's agricultural. They think that -- I mean, redo the question and say an inquirer asked, can I use canola oil? Well, we know that canola oil can be organic, and a certifier will verify that the techniques to create that canola oil were appropriate. But we also know that canola oil can have the same extraction and it
can be inappropriate, right? Not allowed for organic use. In this case, we know albumen comes from an agricultural root. We don't know how it gets there. We don't know anything about the technique. We do know that if they went through the certification process, that that process is consistent with organic, and by definition it would be allowed. We cannot make a blanket statement that says that this product, because it came from agricultural roots, is appropriate. There may be techniques that are inappropriate as well as ones that would take it to an organic end. The statement we made is that if they did go through a certifier and became certified, for sure, by definition it would be accepted. That said, canola oil that's non-organic and used, a certifier can make the determination that it was an appropriate non-organic ingredient, agricultural, based on receiving more information. Again, we don't have that information. Just like a certifier would ask for more information on the topic, so are we before we say yes or no. Does that make sense?

MR. MATHEWS: Okay. Then what you really -- let me see if I understand this. What you would really like me to do is to go back to the questioner and say, you need to talk to your certifying agent and make a determination of whether this is a synthetic or a
natural. And if it's synthetic, it has to be on the National List. If it's natural, you can continue to use it.

CHAIRPERSON RIDDLE: No.

MR. O'RELL: No, because --

MR. MATHEWS: Okay. Well, I'm just trying to get clarified as to how I answer this question and how I enforce it and what I tell --

MR. O'RELL: Kim.

MR. MATHEWS: -- certifying agents.

MR. O'RELL: Okay.

MS. DIETZ: I can't make the motion, but I can give advice, I guess. What it sounds to me like is that the committee needs to take this back and ask for more information from the person who asked the question so that the answer isn't detrimental to the industry. So I suggest you just table this and tack it back and then have the committee request more information. And if this is the process that this committee has to go through after every Q and A, I would seriously look at what you're doing. So but in this case, since it is going to affect a lot of potential products, you should probably table it and seek more -- seek more information, or tell the person who asked the Q and A to go to their certifying agent and they, too, can still
CHAIRPERSON RIDDLE: Yeah. And the Board has voted, so actually tabling is not germane, but we can continue the discussion with NOP on the implications of this. But my understanding right now is that if the albumen was organic, certified by an accredited certifier, it can be used in any product category. If it's agricultural and the certifier determines that it clearly could be used in the "made with" category in that 30 percent, it's status otherwise would need further petition and further review. But those two things I think are solid answers that could be given, and otherwise, more information is needed.

MR. MATHEWS: Yeah, okay. We can give that answer, but that's almost like a non-answer. I mean, from the standpoint -- and I'm perfectly willing to do that. We would say, you know, if it is organic, you're good to go. If it's agricultural, you're good to go. If it's synthetic, it has to be on the National List.

MS. WEISMAN: If it's agricultural, you're good to go if you're certifier has made you do your due diligence and has reviewed that it's not -- extracted, it doesn't contain GMOs, et cetera.

CHAIRPERSON RIDDLE: Yeah. All right. But it meets the other criteria, yeah.
MR. MATHEWS: Okay.

CHAIRPERSON RIDDLE: Uh-huh. Thanks, Kevin.

MR. O'RELL: Next. And we're probably going to have more of these, because it's unfortunately in this process and it's something that I think that we need to review as a Board. I'll just make a comment that the process that we're going through with this collaboration effort is leading to a situation like this, where we're coming here and taking time up, valuable time during a board, on discussion of something that, to me, I think could be answered relatively -- well, more quickly and more easily than what we've gone through here in the last 30 minutes. So it's something to consider going forward.

CHAIRPERSON RIDDLE: Rose, I guess.

MS. KOENIG: Well, I just want to -- I think that the process may be difficult for a committee. It's something that we're not used to and it may be the format or the structure upon which we need more information to answer these things. But a number of our issues with NOP in the past has been interpretation of materials and such, that we were not satisfied with their interpretation. So if that's -- if we feel strongly about that, and I think we do, materials is our area, and not just putting things on a list, but making
sure that there is a consistency with what we believe
and what they are stating to the certifiers, I think it
is Board work.

MR. O'RELL: Just one comment on that. Rose, I agree, but I think that maybe there is a better way to
approach this in terms of the NOP looking at the
specific issues, and with the guidance of the OTC
answering these responses and running by the Board for
-- for our input prior to going public with the answer.
And I think, at least at that point, we don't run into
these type of issues here today, where we're getting
into these technicalities, where if we came from an
answer that the NOP said, this is how I would answer
this question, and then it would come to the Board for
confirmation and input.

CHAIRPERSON RIDDLE: Yeah. And I would just
like to comment. We don't have the collaboration
framework back yet, and I think once we do, it does
separate out different levels of concerns and issues.
And I think that there should be a mechanism where NOP
can present a question like this to the relevant
committee, the relevant committee presents a proposed
answer to the Executive, we meet monthly, and then if
the Executive can just approve it, we provide our input
in a timely manner. If the Executive says, no, this
needs full-Board consideration, then we'd hold it over, depending on the significance of the issue. So I agree, there needs to be streamline, but it all relates to that framework for collaborative, right?

MR. MATHEWS: Just one quick comment on that, Jim. The Board can take no action in the absence of a full-Board meeting before the public.

CHAIRPERSON RIDDLE: The Executive -- do you mean --

MR. MATHEWS: No one. This Board can have no action absent a public meeting, no final action from the Board absent a public meeting.

CHAIRPERSON RIDDLE: Well, okay. Well, we need to know what the limits of action -- when inaction becomes action, because the Executive does act on certain things and those are, you know, required in the minutes. So we just need to --

MR. MATHEWS: But the Executive Committee meetings are not public meetings. All formal actions of this Board have to be at a public meeting.

CHAIRPERSON RIDDLE: Well, when we get the framework, I think we'll see what can be addressed between meetings that aren't really actions versus actions that have to come up at a Board meeting, because we need to be able to provide ongoing input as well that

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aren't actions. Okay, Kevin, are we ready to resume?

MR. O'RELL: Yes, I'm ready to resume. We're going to move forward and Julie is going to present the next Q and A, which was regarding tea calculation.

MS. WEISMAN: Yeah. A Q and A came in from a manufacturer of an organic tea beverage who wanted clarification on how to calculate the percentage of organic ingredients for her tea product, which is made in the following way. The tea leaves are brewed in water and then the leaves are removed. And then added to the brew are organic sugar, a natural flavor, citric acid, and that is the -- those are the ingredients in the final product. This is -- some background is that, in the situation where there's a product that has a standard of identity, a multi-ingredient product, the NOP will not override that standard of identity that's been set out by some other federal agency. But that is not the case in this product. It does not currently have a standard of identity, therefore the committee referred to Section 205.302. Is it okay -- excuse me. Is it okay to -- just to the decision now, after giving the background?

MR. O'RELL: Certainly.

MS. WEISMAN: Okay. We support -- well, I'll read the rule. The rule states that the percentage of
all organically produced ingredients in an agricultural product sold, labeled, or presented as 100 percent organic, or "made with" organic, or that include organic ingredients, must be calculated by dividing the total net weight, excluding water and salt, of the combined organic ingredients at formulation by the total weight, excluding water and salt, of the finished product. So therefore we feel that the -- that this manufacturer needs to go to the dry weight of the tea leaves at formulation in calculating the product. Now there was a minority opinion, and I don't -- I'm not sure at this point who wrote the minority opinion, so I actually -- if someone could let me know.

UNIDENTIFIED SPEAKER: Mark's raising his hand.

MR. O'ReLL: Mark?

MR. KING: Yeah, I wrote it.

MS. WEISMAN: It was you.

MR. O'RELL: You wrote it.

MS. : Okay.

MR. KING: It's not my opinion, but I wrote it.

MS. WEISMAN: Oh, okay, okay. All right. All right. So --

CHAIRPERSON RIDDLE: It's such a minority, no
one knows.

MS. WEISMAN: No. Okay, so I would like, then, to point out that there was a minority opinion, that some members felt that an operation could implement testing procedures, such that a percent of tea batches produced could be tested regarding the weight difference between the dry leaves pre-infusion versus the tea leaves dried to a standard moisture post-infusion. These sample tests as percent of the total batches of the tea produced could document and verify the accuracy of the calculation of the percent of organic ingredients per formulation. And a formula was proposed for this, that the manufacturer use the net weight of the flavor infused from the tea leaves in the calculation, which would be determined by establishing the standardized weight of the tea leaves before infusion, which could be referred to as tea one; the tea leaves could be dried on low heat to a standardized moisture content prior to weighing to remove atmospheric moisture; after infusion, the tea leaves are dried to the same moisture content as prior to infusion and then weighed. That would --

UNIDENTIFIED SPEAKER: It would be zero.

MS. WEISMAN: That would be tea two. Tea one minus tea two equals tea three, the net weight of the tea used as the ingredient in the final product. I
include this because it was a minority opinion and I
felt obligated --

MR. O'RELL: Yes.

MS. WEISMAN: -- to report that.

MR. O'RELL: Apparently, an anonymous minority
opinion. Any discussion?

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[No response]

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MR. O'RELL: No -- we -- did you make -- did
you --

MS. CAUGHLAN: Is there a motion?

MR. O'RELL: -- put in a motion? We need to
enter a motion in terms of the recommendation, which I
think --

MS. WEISMAN: Oh.

MR. O'RELL: -- would be --

MS. WEISMAN: Should I include the committee
-- what the committee's vote --

MS. CAUGHLAN: No.

MS. WEISMAN: -- was into the record? Okay.

So I make a motion to accept the recommendation of the
committee.

MS. CAROE: I'll second.

CHAIRPERSON RIDDLE: Okay, Julie moves and
Andrea seconds. So discussion? Andrea?

MS. CAROE: In looking at 205.302(a)(1), there's a conflict in the rule, and the conflict is they use both the words ingredient and formulation. Ingredient, by definition in the regulation, is any substance used in the preparation of an agricultural product that is still present in the final product as consumed. But formulation is not as consumed. So that's -- you know, I think -- I can understand the minority opinion on this one. I don't agree that that is to the intent of what we're trying to do, but the rule has conflict, and I would suggest that at some point we may want to resolve that conflict with some language change to the rule.

CHAIRPERSON RIDDLE: Yeah. And this actually was suggested and voted on by the Board as a technical correction to the rule back in -- after the rule came out, because what the rule says is you establish this percent organic ingredients by dividing the total of ingredients, minus water and salt, by the total weight or volume of the finished product. And as you know, there's processing loss, there's conversion factors. You would end up with products which contain more than 100 percent organic ingredients following that calculation. And one thing Julie didn't mention is the
audit. A compliance checklist has actually corrected this in the instructions they give to auditors when they look at how certifiers are calculating it, and that's inserted here. And there they say, for solids you divide the total net weight of the combined organic ingredients at formulation by the total weight of all ingredients, not the total weight of the finished product. And then they follow that same logic for liquids. You divide the ingredients by the -- the organic ingredients by the total ingredients, and then the same for combined products. So that -- that really is the way to come up with a correct calculation of percent organic ingredients, is comparing ingredients to ingredients, not comparing them to finished products. So we do have a contradiction with what the rule says versus what the auditors are looking at, and many certifiers are following the calculations as instructed by the auditors.

MR. O'RELL: Andrea?

MS. CAROE: Again, Jim, my concern is the definition of ingredients, which says that is the product as it exists in the final product consumed. So the ingredients, by definition, is what's the end product, not what's used in the formulation. So I believe that that technical -- or that correction needs...
to be made to the rule. Ingredients needs to be
designated as what's used in the formulation, not what's
existing in the final product.

MR. O'RELL: Mike.

MR. LACY: I don't understand this question.

What would keep somebody from -- you know, let's say you
could brew tea -- brew an ounce of tea for 10 minutes
and get a product, or brew 10 ounces of tea for 10
seconds and get the same product. What would keep
people from -- from manipulating their formulation in
order to meet a requirement? Does that make sense?

MR. O'RELL: Only the fact that they have to
deliver a product that the consumer is going to -- going
to want. The mike's not on? Only based -- I think --

MR. SIEMON: It was on before.

MR. O'RELL: Yeah.

CHAIRPERSON RIDDLE: You just weren't close

enough.

MR. O'RELL: Only based on what the consumer
reception could be for that product. But if you want to
manipulate the regulations, I guess we can all work
within the regulations when you're developing or
formulating products.

CHAIRPERSON RIDDLE: So long as it meets 95

percent organic content to be labeled organic,
essentially. Bea?

MS. JAMES: How is this formula determining -- determining that? Because you're diluting it in -- the final product is diluted in water, correct? Right?

CHAIRPERSON RIDDLE: That's outside the calculation.

MS. JAMES: Okay. So the question seems like they're asking how to calculate, but it's not asking how to make sure that there's the correct ratio, right, that there is a standard ratio, because you could have more or you could have less if a manufacturer wanted to, according to this ratio that you have in here in this formula. If a manufacturer wanted to make something that was less diluted, there's nothing in this ratio or in this calculation formula that's telling them that they can't do that, right?

CHAIRPERSON RIDDLE: Right.

MR. O'RELL: But --

MS. JAMES: So maybe somebody could explain that, because I'm confused by the question, too, a little bit. I'm confused -- is the question asking, does there need to be a standard formulation so that a final tea product actually has a certain amount of organic dry tea, or is it just asking how to calculate that?
MR. O'RELL: It's just asking how to calculate that by the rule that we have today. Arthur?

MR. NEAL: This question came from Japanese, and the issue is that if they're using a natural ingredient and they have, let's say, organic sugar, a natural flavor, and they've got tea -- tea leaves, if you looked at the way that the regulations are written and it says that, excluding water and salt, if you actually take what's in the final product, you don't have tea leaves in the final product, you've got the tea flavor. And what happens, by not taking the weight of the tea leaves, their product is at jeopardy of not being able to be labeled as organic, because the tea leaves weigh a lot more than flavor -- tea flavor. So they want to know, how do we do it, you know, consistent with what the regulations say?

CHAIRPERSON RIDDLE: George?

MR. SIEMON: Yeah. I'd like to hear -- I think -- is there -- unless they understand that you certify tea companies, I'd like to hear someone from the field that's doing this, what you think of this. I don't know if there's any other certifiers, but I'd like to hear some input.

MS. ZUCK: Leslie Zuck, Pennsylvania Certified Organic.
CHAIRPERSON RIDDLE: You need to speak closer.

MS. ZUCK: Really?

CHAIRPERSON RIDDLE: Yeah.

MS. ZUCK: We weigh the -- use the weight of the tea leaves, and the reason we felt -- similar to what Arthur's saying, if you did the calculation of the difference -- if you'd keep -- if you dry out all the moisture, you're going to get zero, pretty much. You know, if you standardized it each time and you try to find the difference to find out what the tea flavor was, you're going to get zero, and that product, even if they used organic tea to brew it, would not be able to be labeled as organic tea, because -- I mean, it's going to be really close to zero. I think it would be negligible once you standardized it down. I mean, that's not the reason we do it. We thought it made sense to weigh the -- do the weight of the tea leaves because it was an ingredient.

MR. SIEMON: So from your experience, is this recommendation going to be workable?

MS. ZUCK: I believe so. I think the other way around would be extremely burdensome and my clients would say, are you out of your mind?

MR. O'RELL: Yes, absolutely.

CHAIRPERSON RIDDLE: Well, you'd only need to
do it once to establish how much --

MR. O'RELL: No.

MS. WEISMAN: No, no, no.

CHAIRPERSON RIDDLE: Well --

MS. ZUCK: I don't -- no. Well, I don't know, I don't know.

MS. CAUGHLAN: No.

UNIDENTIFIED SPEAKER: Guess who's the minority?

MS. ZUCK: You're an inspector. I mean, you want to try to figure all that out? I don't know.

CHAIRPERSON RIDDLE: No, the burden is --

MS. ZUCK: Right, I know, I know. But I think it would be a problem of being able to get any tea in it to label it, because the natural flavoring wouldn't have to be organic. So there wouldn't be anything organic except the sugar, so you have to label it organic sugar water, you know?

CHAIRPERSON RIDDLE: We have that on the market.

MR. O'RELL: Andrea and then Nancy.

MS. CAROE: Also something to understand is, if you take that brewed tea and dry it, you're not just losing water, you're losing that volatile flavor component, so you're not even getting a real number.
The flavor that's you've infused is leaving with the water. It's got a boiling point less than 212, so they go away. So you're not even getting an accurate number, you're just getting the residues and they're not even the desirable component of the flavor.

MR. O'RELL: Arthur?

MR. NEAL: The other issue that's in the back of our minds, too -- because what we're seeking, we're seeking to try to be as consistent as possible in these calculations, especially with the type of products that are produced without a standard of identity. Remember when we had the soy issue and we didn't use soybeans as the original ingredient. We said the -- what is it, the concentrate that they --

UNIDENTIFIED SPEAKER 1: Isolate.

MR. NEAL: Right.

UNIDENTIFIED SPEAKER 2: The soy protein isolate.

MR. NEAL: The isolate, that's what we allowed for the use. And so I guess we have to be kind of consistent in how we instruct people what you start with. So that's another reason why the question is on the table.

MR. O'RELL: Julie.

MS. WEISMAN: But I think that this is
consistent with your example, because I would say that
the dry tea leaves are equivalent with the soy protein
isolate, whereas the green tea leaves, you know, before
they're dried would be more -- would be more comparable
to soybeans. So I think that -- I think that it is
consistent.

CHAIRPERSON RIDDLE: I'm understanding now
that I am the minority opinion on this.

UNIDENTIFIED SPEAKER: But that's your
opinion.

MR. O'RELL: I wondered when that was going to
register.

CHAIRPERSON RIDDLE: But I do disagree,
because with the -- when you're making soy milk, through
most processes you're removing the fiber, and that fiber
is not counted in the calculation, it's not the whole
bean, it's the amount of the bean actually becomes the
ingredient. And scientifically, to be consistent, in
the tea you would not count the dry tea and all its
fiber, you'd only count the part of the tea that
actually goes into the product as the ingredient. I
don't care about this one way or another, but to be
consistent and to really come up with the honest
calculation of what percent of that product is indeed
organic, it should be just the amount of the flavor from
those dried tea leaves that entered the product. And there is a way to determine it with low heat, where it wouldn't volatilize. It is scientifically possible.

MR. O'RELL: Kim.

MS. DIETZ: I think, Jim, then what you're getting into is inconsistencies and how people manufacture and the amount of time they heat it and all that kind of thing. It's kind of a crazy situation, unless you have a standard or unless you can actually measure and unless there's consistency amongst the whole industry, you pretty much have to go with the -- well, you don't have to go with it, but the recommendation before the Board is probably the best that we can do with the information we have and with the -- how to calculate percent organic based on how the rule is read.

CHAIRPERSON RIDDLE: Well, yeah. And I just realize that, in my comments on this draft and maybe -- and in the committee's draft, it didn't go back to that policy statement which has various categories for calculation, and you know, maybe we should look at that for consistency as well, because this takes it to another step, but it should be consistent with that, which is on the website somewhere.

MR. MATHEWS: Your favorite collaborative effort.
CHAIRPERSON RIDDLE: Yeah, right. Yeah, that was a good one, but we weren't addressing tea at that time, so this is another mindbender along that line.

MR. O'RELL: Jim, are you suggesting additional information in the rationale, or do you disagree with the motion of the answer to the question of the way tea is calculated, which we're saying yes to?

CHAIRPERSON RIDDLE: Well, actually both. I mean, I disagree with the answer, and I do think that that other policy statement should've been, you know, taken into consideration or excerpted or something, referenced here. You know, I go along with the will of the Board, though. I mean, it's fun to actually be debating and not just chairing.

MR. O'RELL: Andrea, and then I want to pose a question to the NOP.

MS. CAROE: I think we need to look at this in the big picture and not into the gnat's ass leather up the goolie. Because -- I mean, ultimately, no tea manufacturer is going to buy a tremendous amount of tea leaves and not infuse them to a quality product. And a quality product doesn't mean that there's going to be fiber in that product. I don't believe that's the intent. The intent of the rule is to ensure that there -- that the final product was produced using organic

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ingredients, and I believe that those organic ingredients are there. Because of this processing technique, the weight is removed, but the tea leaves are used, and I think that it would be -- I think it would be doing a disservice to this industry to eliminate -- because the citric acid alone is a non-organic ingredient. It's enough to take these guys out of the label claim.

MR. O'RELL: And I think that this is consistent with the way the calculations are being done today with other companies for infusing tea. And I would ask the NOP before we get into another bind of preventing -- presenting emotion and voting on it and then have an objection from NOP as to how they can interpret it, if we follow our guidelines here of answering your question of a yes and a no, in accordance with what the motion will be made, is that sufficient for you, Richard, in terms of your needs?

MR. MATHEWS: For tea only, yes.

MR. O'RELL: That's what we're being asked, is for tea only. Okay, can we -- Julie, I guess we -- did you make a motion or did you just --

MS. WEISMAN: I think I did. I'm not ignoring the process, but I think that's what I did.

CHAIRPERSON RIDDLE: Yeah.
MR. O'RELL: Okay. Well, I just want to clarify that for --

CHAIRPERSON RIDDLE: Andrea seconded it.

MR. O'RELL: Andrea seconded it. The motion is in answer to the Q and A. To calculate the percentage of organic ingredients, does the manufacturer use the dry weight of the tea leaves as the amount of tea in the final product, and the recommendation is yes. There's a second part to that. Or does the manufacturer use the flavor infused from the tea leaves or some other measurement as the amount of tea in the final product. The answer is no, and we've provided a rationale. That's the motion that is up for voting. So, Jim, do you want to do the roll --

CHAIRPERSON RIDDLE: Yeah, yeah, we'll proceed, then. So let's see, we started with Rigo, and so it's Hugh. Hugh?

MR. KARREMAN: Yeah.

CHAIRPERSON RIDDLE: That was a yes. Julie?

MS. WEISMAN: Yes.

CHAIRPERSON RIDDLE: Gerald?

MR. DAVIS: Yes.

CHAIRPERSON RIDDLE: Mike?

MR. LACY: Yes.

CHAIRPERSON RIDDLE: Nancy?

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MS. OSTIGUY: Yes.
CHAIRPERSON RIDDLE: Dave?
MR. CARTER: Yes.
CHAIRPERSON RIDDLE: Bea?
MS. JAMES: Yes.
CHAIRPERSON RIDDLE: George?
MR. SIEMON: Yes.
CHAIRPERSON RIDDLE: Rose?
MS. KOENIG: I'm going to abstain.
CHAIRPERSON RIDDLE: Abstained.
MS. CAUGHLAN: Yes.
CHAIRPERSON RIDDLE: Goldie, yes. Kevin?
MR. O'RELL: Yes.
CHAIRPERSON RIDDLE: Andrea?
MS. CAROE: Yes.
CHAIRPERSON RIDDLE: Rigo?
MR. DELGADO: Abstain.
CHAIRPERSON RIDDLE: And the Chair votes no.
MS. CAROE: The first no vote.
CHAIRPERSON RIDDLE: The first no vote. Thank you. My privilege. Okay, so that passes with --
MS. WEISMAN: There's a second part -- there was --
CHAIRPERSON RIDDLE: Okay. But --
MS. WEISMAN: -- a second question.

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CHAIRPERSON RIDDLE: -- can I just give the numbers here? That would be 11 yes, 1 no, and 2 abstentions.

MR. CARTER: Not only did the Chair no, he got weird.

CHAIRPERSON RIDDLE: Or maybe I got the math wrong, too.

MS. CAROE: No, you got it.

CHAIRPERSON RIDDLE: Is it 12?

MS. CAROE: It's 11, 1, 2, 0.

CHAIRPERSON RIDDLE: That's only 13. Are we missing --

MS. CAROE: Fourteen. Eleven, one, two.

CHAIRPERSON RIDDLE: Oh, yeah. Okay. I knew I could get the math wrong if I kept trying. All right, Julie.

MS. WEISMAN: Okay, question two under the subject of calculation for tea was, to calculate the percentage of organic ingredients, does the manufacturer include or exclude the amount of water used to formulate the final product? This was kind of a no-brainer, I think. Exclude -- that's according to -- 205.302(a) states very clearly that a handler excludes the added water and salt from the weight and/or food volume of organic ingredients at formulation, and to exclude salt
and water from the total net weight of the finished product when calculating the percentage of organically produced ingredients in the product. So there is consistency in this part. Between formulation and finished product, it's the same.

MR. O'RELL: So there's a motion to -- in response?

MS. CAROE: There's no motion.

MR. O'RELL: Would you make a motion?

MS. WEISMAN: Okay. Then I move that for Board vote on the committee's determination that water be excluded in the -- calculating the percentage of organic ingredients to formulate the final product.

CHAIRPERSON RIDDLE: Is there a second?

MS. CAROE: I'll second.

CHAIRPERSON RIDDLE: Okay, moved by Julie, seconded by Andrea. Kevin?

MR. O'RELL: Discussion?

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[No response]

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MR. O'RELL: I think we're ready to vote.

CHAIRPERSON RIDDLE: Yeah, all right. So we start with Julie.

MS. WEISMAN: Yes.
CHAIRPERSON RIDDLE: A definitive yes.

Gerald?

MR. DAVIS: Yes.

CHAIRPERSON RIDDLE: Mike?

MR. LACY: Yes.

CHAIRPERSON RIDDLE: Nancy?

MS. OSTIGUY: Yes.

CHAIRPERSON RIDDLE: Dave?

MR. CARTER: Yes.

CHAIRPERSON RIDDLE: Bea?

MS. JAMES: Yes.

CHAIRPERSON RIDDLE: George?

MR. SIEMON: Yes.

CHAIRPERSON RIDDLE: Rose?

MS. KOENIG: Yes.

CHAIRPERSON RIDDLE: Goldie?

MS. CAUGHLAN: Yes.

CHAIRPERSON RIDDLE: Kevin?

MR. O'ReLL: Yes.

CHAIRPERSON RIDDLE: Andrea?

MS. CAROE: Yes.

CHAIRPERSON RIDDLE: Rigo?

MR. DELGADO: Yes.

CHAIRPERSON RIDDLE: Hugh?

MR. KARREMAN: Yeah.
CHAIRPERSON RIDDLE: The Chair votes yes.

We're back to harmony, 14, 0, 0, 0. Okay. Yes, and I did say we'd take a break, so come back at a quarter until 11:00. So just a little over a 15-minute break. A bonus.

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[Off the Record]

[On the Record]

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CHAIRPERSON RIDDLE: We'll get started again, and it's still the Handling Committee and it's the bitter orange Q and A. So, Kevin?

MR. O'RELL: Okay.

CHAIRPERSON RIDDLE: I think we -- yeah, it went off there. Okay.

MR. O'RELL: Well, let's see if this is a bitter pill or bitter orange. We'll try again at another Q and A. The bitter orange came as a question to the National Organic Program from a manufacturer of a formulated product that was asked whether his product had to be petitioned for inclusion on the National List in order to be used in organic processing. His product comprised of bitter orange, which is a flower and peel water-extracted solvent-free. That's all we know about the bitter orange material. And citric acid, which is...
listed at 205.605(a), malic acid, 20 -- which is in the
in final rulemaking process. I guess it's on the docket
that's coming -- that's being held up, is that correct?

CHAIRPERSON RIDDLE: Yeah. And the Board
recommended it for 605(a) as well.

MR. O'RELL: (a), yes. Ascorbic acid, which
is 205.605(b), which, at the time of this discussion,
was prior to the lawsuit. So that wasn't considered.
And again, glycerin, under 205.605(b), and water, which
is excluded under 205.302(a). The specific question
that was asked is, considering that the product in
question is formulated with a number of ingredients,
some that are allowed on the National List, others that
are not, but all of them are addressed in the
regulations, the NOP requests the NOSB to provide input
on which of the following substances must be petitioned
under NOP regulations. The recommendation from the
Handling Committee was that the bitter orange would need
to be petitioned. Again, there was a concern that we
didn't have enough information. We understand that it
comes from an agricultural source. We did have some
information in terms of it being solvent-free, but felt
-- at that time, the committee felt that they needed
additional information to determine exactly what this --
how this material was derived, is there an organic

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source of material, and the vote was, from the
committee, five yes, one absent. So in the form of a
motion, in response to the question that was asked from
the NOP regarding the bitter orange, the recommendation
from the Handling Committee is that this ingredient
needs to be petitioned.

CHAIRPERSON RIDDLE: Okay. So we have a
motion. Is there a second?

MS. CAROE: I'll second.

CHAIRPERSON RIDDLE: Kevin moves, Andrea
seconds. Discussion?

MR. O'ReLL: Discussion?

MR. SIEMON: Yeah. And of course, this sounds
a lot like the --

MR. O'RELL: Yes.

MR. SIEMON: -- albumen. How close does this
all relate to ag or nonag -- I mean, agriculture and
nonagriculture? Is that part of the heart of this
question?

MR. O'RELL: Well, it certainly is part of the
question in terms of the process that the material goes
through. We know that the source is agricultural, we
just wanted to make sure of the other inputs into -- the
extraction processes are compliant with the regulations.

Julie?
MS. WEISMAN: Yeah. Mike, this also benefits from a clarification added, just like we did with the albumen, that if the bitter orange is a certified organic bitter orange, then we already know the answer to those questions. That would be all right.

MR. O'RELL: I guess I would ask the NOP, before we go through and vote on a motion again, as to how -- are on track to answer your question to --

MR. NEAL: The answer is yes, and Julie raises an interesting point, that if that bitter orange would be certified as organic, it would clearly then not have to be petitioned. However -- yeah, it would not have to be petitioned. But if it's not organic, then it would have to be identified on a list.

MR. O'RELL: On the list. Bea.

MS. JAMES: Do we have enough information to know if bitter orange is --

MR. O'RELL: Your microphone.

MS. JAMES: Do we have enough information to know whether or not if bitter orange is a potential synthetic or not?

MR. O'RELL: It's --

MS. JAMES: Do we understand the extraction process and do we -- I mean, have we --

MS. WEISMAN: That's why we're asking for a

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petition. A petition doesn't necessarily mean that the
aim is to get it on the list, it's just to have enough
information to even determine whether it needs to be
considered --

MS. JAMES: So --

MS. WEISMAN: -- for the list or not.

MS. JAMES: -- really, this is --

MR. O'RELL: Again, this comes -- this --

MS. JAMES: Like George mentioned, it's like
the albumen.

MR. O'RELL: In our mind in the Handling
Committee, this comes back to the same -- the same thing
as the albumen, we don't have enough information about
this particular ingredient to make the determination.
Is it agricultural? We know it's from an agricultural
source, but we don't know the inputs and the method of
extraction in the process, and that needs to be
determined in order to make a question. So again, we're
just taking it back and saying, we need more information
to determine where it would be at if it needs to be on
the list of allowed synthetic or agricultural product
that's not organically available.

CHAIRPERSON RIDDLE: Arthur.

MR. NEAL: Also, to comment on the extraction
method, based on what was provided to the Program, it's
states that it was water-extracted and solvent-free, about the extraction process.

MR. O'RELL: I guess one of the things -- I guess one of the things that was questioned as well or brought up for discussion is even if this would qualify under a natural flavor. And we just -- Julie?

MS. WEISMAN: It very well may --

MR. O'RELL: Yeah.

MS. WEISMAN: -- looking at these ingredients, in which case it is already on the list.

MR. O'RELL: Yes, exactly. So I mean, that is our concern, that we don't have enough information. If we had the information in terms of -- in terms of the process, the extraction of this product, it could be determined that this is a natural flavor and already allowed on the natural list.

CHAIRPERSON RIDDLE: Okay, any further discussion? Right, Rigo.

MR. DELGADO: Just for clarification purposes, what's the next step? Assuming we approve this motion, are you going to go out and request a TAP or what --

MR. O'RELL: Arthur?

MR. NEAL: I guess it's going to depend, because, one, the whole natural flavor issue came up in the conference call and you may to explore before you
make your final decision, because it could impact on what happens with the recommendation. Once we receive your recommendation, what we're probably going to do is try to get back to the inquirer so that we can advise the inquirer what his next step should be. That's what's going to happen with the recommendation.

MR. O'RELL: Any further discussion?

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[No response]

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MR. O'RELL: Hearing none --

CHAIRPERSON RIDDLE: Hearing none, I'll take his mike away. So we'll move to the vote, and we start Gerald.

MR. DAVIS: Abstain.

CHAIRPERSON RIDDLE: Gerald abstains. Mike?

MR. LACY: Yes.

CHAIRPERSON RIDDLE: Yes. Nancy?

MS. OSTIGUY: Abstain.

CHAIRPERSON RIDDLE: Nancy abstains. Dave?

MR. CARTER: Yes.

CHAIRPERSON RIDDLE: Bea?

MS. JAMES: Abstain.

CHAIRPERSON RIDDLE: George?

MR. SIEMON: Yes.
CHAIRPERSON RIDDLE: Rose?

UNIDENTIFIED SPEAKER: She's absent.

CHAIRPERSON RIDDLE: Absent, okay. Goldie?

MS. CAUGHLAN: Yes.

CHAIRPERSON RIDDLE: Kevin?

MR. O'RELL: Yes.

CHAIRPERSON RIDDLE: Andrea?

MS. CAROE: Yes.

CHAIRPERSON RIDDLE: Rigo?

MR. DELGADO: Yes.

CHAIRPERSON RIDDLE: Hugh?

MR. KARREMAN: I abstain.

CHAIRPERSON RIDDLE: Julie?

MS. WEISMAN: Yes.

CHAIRPERSON RIDDLE: And the Chair votes yes, so -- so we have nine yes, zero no, four abstentions and one absent. Well, I have Nancy, Bea, Hugh, and Gerald abstaining, and Rose was absent. Okay, so it does pass.

MR. O'RELL: Okay. Now we're going to move on to one that's going to be a lot of fun.

MR. SIEMON: We were really having fun before.

MR. O'RELL: Well, if you thought you were having fun before, George, just wait for this one. This in response to another Q and A that -- this is in response to another Q and A that came from the NOS --
from the NOP to the NOSB, and this one involves a very
specific scenario that was given to us, to the Board, in
terms of a question. That question is, a retail
establishment has been voluntarily certified by a USDA
accredited certifying agent, certifier X, to sell
organic products. The certified retail establishment
contracts with a certified organic handling operation,
certified by Y, to manufacture organic products for
distribution by the retail establishment. The organic
products that are produced by the contracted handling
operation are also packaged and labeled by the handling
operation. However, the labels used to label the
product package -- the packaged products are supplied to
the contracted handling operation by the certified
retail establishment. The certified retail
establishment does not perform any processing function
-- and that's in the question -- that it does not
perform any processing function for this product during
its manufacture. The first question that was asked, and
it might be best to take these individually, is based on
the scenario presented and the requirements contained in
the NOP regulation, which ACA is "required" to be
identified on the label of the packaged product.
Certifier X or certifier Y, please provide your
rationale. Certifier X being the voluntarily certified

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retail establishment, or certifier Y being the handler that produced the products in the scenario.

And the response for our recommendation, we had indicated certifier Y is required to be on the labeled product. According to Sections 205.303(b)(2) and 205.304(b)(2), the ACA that certified the "handler" that processed and packaged the product must be identified on the ingredient statement. And this example scenario, the certified retail establishment does not perform any processing function for this product during its manufacture. Now, there's nothing in the regulation that would prevent certifier X from also being identified as the certifier of the retail operation. So in response to question number one, based on this scenario, our answer is certifier Y. So we would entertain a motion that -- so it'll be moved that, in response to the NOP question number one, the Handling Committee states certifier Y is required to be listed on the labels.

MR. SIEMON: I move that.

CHAIRPERSON RIDDLE: Well, Kevin moved the motion. Is there a second?

MR. SIEMON: I'll second.

CHAIRPERSON RIDDLE: Okay, George seconds.

All right, discussion? Andrea.
MS. CAROE: I am the minority on this question and I'll disclose that right from the beginning. My concern is that the question is flawed. The question states that this retailer does not participate in any manufacturing, yet it also states that they are providing the labels and contracting the manufacturing and that's -- that is a contradiction. And so I can't see that this question is being answered correctly in stating that the retail establishment that is contracting this product and providing a label under a labeling recognition -- regulation, is not responsible to be the final handler. So I vehemently disagree with the answer to this question.

Also, I would like to, at this time, state that we have received some strong public comment on this and I've also received written comment that will be presented tomorrow during public testimony from the major retailer about this issue. So I would suggest we entertain tabling this.

MR. O'RELL: Was that a motion, too?

CHAIRPERSON RIDDLE: Well, it's not.

MS. CAROE: It's not yet, but I just --

CHAIRPERSON RIDDLE: It's a suggestion to entertain. I like those. But Nancy and then Bea.

MS. OSTIGUY: I guess that I'm winding up with York Stenographic Services, Inc.
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Andrea's comment. I'm trying to figure out how the fact that this is a retail establishment is actually important at all, because what they're doing in some ways is what a lot of labels do, you contract with folks to grow whatever you want, you contract with somebody to do the processing, you provide the labels. So you're physically not turning any screws anyplace, or picking up agricultural products, but you're responsible for all the decisions that are made all along. So my reaction is that it should be certifier X, the retail establishment, since they're the one making the decision. I will fully admit, this is not an area I'm an expert in.

CHAIRPERSON RIDDLE: Bea.

MS. JAMES: The question clearly states that the retail establishment does not perform any processing function and that they're contracting that out and they're not actually manufacturing any product on the facility, then, you know, certifier Y would be the only -- would be the only seal that should be on the product, because a retail establishment does not have the authority for certification. They are contracting -- they're contracting that out and they are trusting that the manufacturer that they hired to make their -- to do their product is the one that has the certification and
that is responsible for the seal.

MR. O'RELL: Let me respond. I'd like to respond to Bea and just give some additional background from the Handling Committee, and then I'll recognize, I think, Julie and --

CHAIRPERSON RIDDLE: Well, George was also in line, too.

MR. O'RELL: -- George. Sorry, George.

CHAIRPERSON RIDDLE: Yeah.

MR. O'RELL: You can go next, George. But a lot of this came down to the question, and I agree with Andrea, the question is misleading the way it is worded. It says the retail establishment does not -- is not involved in the process. When we go back to the definition of a handler, any person engaged in the business handling agricultural products, including producers who handle crops or livestock of their own production, except such terms shall not include final retailers of agricultural products that do not process agricultural products.

And then if you go to the processing section and read the definition for processing, which I think we all know, there is the one question mark in there, it's otherwise manufacturing, and that's where the otherwise manufacturing can go back to a retailer who contracts.
for processing the product at a manufacturer. But in
the specific scenario we were given in the question, it
states that this retailer does not process.

Just a point of discussion, then we'll go
around. But I would not have a problem if somebody made
a motion to table this and take it back to the
Certification Committee for retooling, because we've had
some public comment, we've had some public input. I
know we're going to have more tomorrow as well on this
issue, and I think that might be a good direction. But,
George?

MR. SIEMON: Well, of course, this is a very
complex issue and -- but certifier Y is the one who can
certify for the integrity of that product becoming a
finished retail product, correct? They're the one that
is responsible for that.

CHAIRPERSON RIDDLE: They certified the
handler, the contract and handler.

MR. SIEMON: So when it's a finished retail
product, that certificate's the one who covered that
aspect of it?

MR. O'RELL: Sure.

CHAIRPERSON RIDDLE: Um-hum.

MR. SIEMON: And the only other complication
throughout it is often the manufacturer -- the co-packer

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has a certificate, and the person who sold the labeled
product has a different certificate as well as the
retailer has a different certificate. So organic -- who
sells it to a retailer with a different certificate. So
you could actually have three different certificates
involved if organic -- didn't control the certificate of
the handler. So I don't want to confuse the issue, but
I think that's more important, who's in charge of the
integrity. It's got to be the one identified, and in
this case it's Y. It doesn't matter if there's an M,
too, Y is the one that's got to be held accountable. So
I think this makes sense to me.

MR. O'RELL: Mark and then Julie.
CHAIRPERSON RIDDLE: And then Andrea.
MR. O'RELL: And then Andrea. I'm sorry.
Mark, Julie, Andrea.

MR. KING: Yeah, Mark King. I agree that the
answer is correct. I also agree that the question is
flawed. So if we're going to go back and look at this
in some way, or fashion a different answer here, then I
would recommend that we also amend the question.
Because we're going to end up confusing a whole lot of
people out there if we don't look at the phrase, the
certified retail establishment does not perform any
processing function, without elaborating on what a

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processing function is in terms of manufacturing. So I think we need to look at that.

MR. O'RELL: I agree. I think that the way we have answered this as a committee is technically correct, however, it is very confusing because of the question that was stated and it's probably going to cause more confusion if we go forward with this today. Julie.

MS. WEISMAN: I am going back to the way Bea posed the question before, and I want to say that that retailer has no less of a right to be considered the manufacturer, than a celebrity-brand product who doesn't -- who does the same thing, who buys the ingredients, has them contracted. There are many, many products that are -- you know, that are on the market that are a brand that is -- has its own certification, but the owner of that brand does not actually physically turn any of the screws or anything.

MR. O'RELL: Andrea.

MS. CAROE: In a lot of cases, what these retailers are doing when they're doing their private labels -- and it needs to be considered -- is they are producing a label and they may have several regional co-packers with different certifications producing the product for them. Now, when they get certified, they...
are being certified to verify that the products that
they're selling and representing as organic do comply
with their label and are compliant. So in other words,
they are the final handler. They take it a step above
the manufacturing process of that individual can. So
this is a very complicated issue. This is more than the
question has indicated. I am making a motion right now
that we table this. We get further public comment
tomorrow. And I would like to make a second motion,
that this be redirected to the Certification,
Accreditation, and Compliance Committee.

MR. O'RELL: Can we take one motion?

MS. CAROE: Sure.

CHAIRPERSON RIDDLE: Well, it just -- it'd be
in one. It'd be --

MR. O'RELL: If you want to do one motion with
both, that'd be fine.

MS. CAROE: I would be fine to do one motion.

MR. O'RELL: Yeah, that would be --

MS. OSTIGUY: Second.

MR. O'RELL: Okay.

MS. WEISMAN: Before we do that, could -- I
mean --

[Simultaneous comments]

CHAIRPERSON RIDDLE: Well, we can discuss.
MR. O'RELL: We can discuss, but there's been a motion --

CHAIRPERSON RIDDLE: To table.

MR. O'RELL: -- to table and take it back for discussion with the NOP to clarify the question --

MR. CARTER: The motion shouldn't --

MR. O'RELL: -- and direct --

MR. CARTER: -- really be to table, the motion should be just to send it back.

UNIDENTIFIED SPEAKER: Send it back.

MR. O'RELL: Yeah.

MR. CARTER: Because --

UNIDENTIFIED SPEAKER: Because to table, you pull it back off again.

MR. CARTER: -- tabling means you take it off and you can't discuss it until it's removed from the table.

MR. O'RELL: Thank you. A point of information.

CHAIRPERSON RIDDLE: Okay, so -- so I'll step back in as Chair now. So we have a motion to redirect back to committee, and also to engage the Accreditation Committee, correct, you wanted both of those to part --

MS. CAROE: That's correct.

CHAIRPERSON RIDDLE: Yeah. Okay. And, Nancy,
did you second that? So Andrea moved, Nancy seconded.
Okay, discussion on that? Okay. Arthur, you have a comment?

MR. NEAL: The comment was that the question is flawed. I don't believe that the question is flawed, I think that there's an interpretation of a definition that has been extended beyond, and that's the use of the term otherwise manufacture. And if you look up the term manufacture, it normally implies a physical involvement in the production of something. Now, I think that's another element to the question. The question itself I think is proper. Now, if you want to look at the question differently, that's another issue, that, you know, if you want to expand the definition or define otherwise manufacture to include contracting, as contracting means processing, because that's what we're stating. Because the question says, but does not process. So if you want to say contracting is processing, that's a totally different issue.

CHAIRPERSON RIDDLE: Yeah. And the motion now is to redirect back to committee and to engage the Accreditation Committee in that discussion.

MS. CAROE: Can I respond to that?

CHAIRPERSON RIDDLE: Well, it's not -- it's a additional information that's not really germane to the
motion. That would happen once it's been redirected as you continue development of the answer. So anything about whether it should be redirected back to committee or not? That's the motion on the floor.

MS. JAMES: Yes.

CHAIRPERSON RIDDLE: Okay, Bea.

MS. JAMES: I just --

CHAIRPERSON RIDDLE: Microphone.

MS. JAMES: I just want to make sure that when we do redirect it back to -- for review, that we -- that we are very clear that we actually answer the question as it is stated, and the question is very clear that the retailer is not a processor. That is the question that needs to be answered. And then I think, in addition to that, we need to look at some of the other points that were brought up about potential scenarios where the retailer could potentially be more involved than what this question is posing.

CHAIRPERSON RIDDLE: Um-hum. And the second question gets more at that, I would say, that we haven't even considered yet. Okay, Andrea would like to respond.

MS. CAROE: Well, I don't accept that, and I don't accept that because, in the scenario, the -- the retailer is physically creating a label. They are...
physically putting language on a label. So if we want
to go back to manufacture is a physical thing, somebody
in that organization is providing the content of that
label.

CHAIRPERSON RIDDLE: Arthur?

MR. NEAL: And I clearly understand that. But
even if I look at the definition of process, labeling is
not included. It says physically packing or enclosing
in a box.

MR. O'ReLL: Yeah.

CHAIRPERSON RIDDLE: Kevin --

MS. CAROE: Get manufacturing.

CHAIRPERSON RIDDLE: And I think we're all in
agreement that, in the question, what's happening is
we're stating that the processor does not manufacture.
But in looking behind the question, I think -- and what
Andrea is looking at is that they provide a label and
that's part of it. Even though labeling is not part of
the definition for processing, we have this otherwise
manufacturing in there that needs to be defined. So I
think when we go back to the question, that that's --
the root of it is going to be an explanation about an
answer to the question and then an explanation about
otherwise manufacture. So we got Bea and then George.

MS. JAMES: I think there's -- I think there
needs to be more information about how a retailer creates their label, and I think that's one of the things that we need to get more information on, because the scenario that I'm understanding and that I'm accustomed to is that a retailer does the artwork for a label, submits that to the manufacturer, the manufacturer creates the ingredient standards and information, nutritional information that is on that label. So perhaps -- perhaps before, you know, we get into a discussion about -- about whether the retailer is actually creating a label with the ingredients, maybe we need to do a little bit more research on that and figure out some scenarios that are going on.

CHAIRPERSON RIDDLE: Okay. And I said George next, and I know Andrea wants to respond.

MR. SIEMON: Yeah, I just didn't understand, so -- and I hate to bring up another scenario, but if the retailer is not certifier -- certified, but by law you're allowed to -- if they're going to have a private label, they would have to become a certified identify. Because they're putting the label on it.

MR. NEAL: They would have to be certified. They would be required for certification.

MR. SIEMON: No. If they're buying from a manufacturer that is certified, has a certified plant --
I'll sell you a private label. All you do is provide
the label. Why would the retailer have to be certified?
I heard you say, because he provides the label, they
have to be certified? All that's certified all the way
through is identified on there. Why would the retailer
have to be certified at that level?

CHAIRPERSON RIDDLE: Andrea?

MR. SIEMON: No, I'm following your logic --

MS. CAROE: No, I understand what you're
saying, and in some cases, George, you're absolutely
right. In some cases -- I mean, let me go back to Bea's
question. There isn't one path to this. The retailers
are across the board. Some retailers are simply
providing a specification that a contractor is creating
a product and selling them that meet that specification.
That's different than a retailer that's out there
creating a formula, even sourcing ingredients in a lot
of cases. There are -- you know, there's -- it's across
the board. I mean, it's not one path. You're not going
to be able to get that answer as one situation, it's not
happening.

Now, George, to answer what you just said, in
some cases -- in most cases -- in most cases, those
private labels do -- in the creation of those products,
do constitute manufacturing.
CHAIRPERSON RIDDLE: Arthur has --

MR. SIEMON: Say that again?

MS. CAROE: There are private labels in which
a retailer or other entity -- it doesn't even have to be
retailer, somebody that's creating a product and
contracting out the physical labor to create that
product, they may be considered to be handler because,
in the overall scheme of things, they are manufacturing
a product. They are marketing it and manufacturing a
product.

MR. SIEMON: Even though the handler -- the
manufacturer is certified, they're the ones responsible
to buy certified products, they're the ones responsible
for the certified processes, they're the ones with the
right application label, the one who orders the product
and helps do all the arranging, you're saying should be
the master certifier. I think the one accountable for
the job is the one that should be the one that's held
accountable, and that's the manufacturer.

MS. CAROE: Yeah, that's -- we'll disagree.

MR. NEAL: Just to kind of keep it back in
context --

CHAIRPERSON RIDDLE: Arthur.

MR. NEAL: -- to keep it in context, the
question said, who's required to be on the label? Now,
if we say that if I contract, that's processing, then we're saying that retailers are required to be certified and their certifying agent must be listed on the label. The question -- I mean, yes, they may be listed, their certifying agent. They may be certified and their certifying agent may be listed on the label, but the question says, who's required? Under the regulations, who's required? I just want to keep this in context here.

CHAIRPERSON RIDDLE: Kevin?
MR. O'RELL: I think that our discussion is getting off of the track from what the motion is on the floor. We have a motion on the floor now to take this back to committee for further discussion, and I would call the question.

CHAIRPERSON RIDDLE: All right. And I think that's a good reminder, and we'll proceed to vote on the motion to send it back to committee and to engage the Accreditation Committee in the development of the answer along with the Handling Committee. So that's what we're voting on, to send it back to committee, and the first up is Mike.

MR. LACY: Yes.

CHAIRPERSON RIDDLE: Mike votes yes. Nancy?
MS. OSTIGUY: Yes.
CHAIRPERSON RIDDLE: Yes. Dave?

MR. CARTER: Yes.

CHAIRPERSON RIDDLE: Bea?

MS. JAMES: Yes.

CHAIRPERSON RIDDLE: George?

MR. SIEMON: No.

CHAIRPERSON RIDDLE: Rose?

MS. KOENIG: Yes.

CHAIRPERSON RIDDLE: Goldie?

MS. CAUGHLAN: Yes.

CHAIRPERSON RIDDLE: Kevin?

MR. O'RELL: Yes.

CHAIRPERSON RIDDLE: Kevin votes yes, for the record. Andrea?

MS. CAROE: Yes.

CHAIRPERSON RIDDLE: Rigo?

MR. DELGADO: Yes.

CHAIRPERSON RIDDLE: Hugh?

MR. KARREMAN: Yes.

CHAIRPERSON RIDDLE: Julie?

MS. WEISMAN: Yes.

CHAIRPERSON RIDDLE: Gerald?

MR. DAVIS: Yes.

CHAIRPERSON RIDDLE: And the Chair votes yes, so we have 13 yes, 1 no, and that's it.
MR. SIEMON: Just one no.

CHAIRPERSON RIDDLE: I only heard one.

UNIDENTIFIED SPEAKER: I said there was only one vote.

CHAIRPERSON RIDDLE: Yeah. Okay, so that will be sent back to the committee for Handling Committee to work with Accreditation Committee. And the next question, Kevin? That was just question one. That's the way it was presented. Would you like to just --

MR. O'RELL: Unfortunately, yes, now that you've called that to my attention. Questions two and three, I would move that we also follow the recommendation to take this back to committee.

MS. OSTIGUY: Second.

CHAIRPERSON RIDDLE: Okay. So Kevin moves and Nancy seconds to send questions two and three back to the committee and also to engage the Accreditation Committee in the development of the answers. Any discussion on that motion?

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[No response]

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CHAIRPERSON RIDDLE: Seeing none, we will start with Nancy.

MS. OSTIGUY: Yes.
CHAIRPERSON RIDDLE: Dave?
MR. CARTER: Yes.
CHAIRPERSON RIDDLE: Bea?
MS. JAMES: Yes.
CHAIRPERSON RIDDLE: George?
MR. SIEMON: Yes.
CHAIRPERSON RIDDLE: Rose?
MS. KOENIG: Yes.
CHAIRPERSON RIDDLE: Goldie?
MS. CAUGHLAN: Yes.
CHAIRPERSON RIDDLE: Kevin?
MR. O'RELL: Yes.
CHAIRPERSON RIDDLE: Andrea?
MS. CAROE: Yes.
CHAIRPERSON RIDDLE: Rigo?
MR. DELGADO: Yes.
CHAIRPERSON RIDDLE: Hugh?
MR. KARREMAN: Yes.
CHAIRPERSON RIDDLE: Julie?
MS. WEISMAN: Yes.
CHAIRPERSON RIDDLE: Gerald?
MR. DAVIS: Yes.
CHAIRPERSON RIDDLE: Mike?
MR. LACY: Yes.
CHAIRPERSON RIDDLE: The Chair votes yes.

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Back to harmony, 14 yes.

MR. O'RELL: And with harmony, that would conclude the Handling Committee report and action items.

CHAIRPERSON RIDDLE: Okay, we're actually -- we have the appearance of being ahead of schedule, and we have the Livestock Committee with the change to pasture, but we said that would be after lunch. And Handling -- I mean --

MR. SIEMON: And I hope this lights up.

CHAIRPERSON RIDDLE: If you could turn on your mike to an announcement.

MR. SIEMON: I would request the Livestock Committee have lunch together again, because we've got yet some more changes, so it'll be another fine meal.

CHAIRPERSON RIDDLE: Okay. All right, Livestock Committee to eat lunch together. Rose, are you prepared to start the Materials Committee here before lunch?

MS. KOENIG: Why don't I do the --

CHAIRPERSON RIDDLE: The mike.

MS. KOENIG: Okay. Well, Arthur and I have had to work on downloading. I have -- I'd like to use this time to maybe -- not really particularly on the -- we went over it last time.

CHAIRPERSON RIDDLE: Uh-huh.
MS. KOENIG: So I didn't know whether I would go through this or not, but after speaking at dinner with several of the new Board members, I would like this opportunity to maybe just talk about the whole materials process for them, maybe with the aid of a little bit of slides, but also for the other Board members to help or even to ask questions, because, as you know, a lot of your responsibility on the Board is to make decisions about materials.

CHAIRPERSON RIDDLE: Okay. So --

MS. KOENIG: So maybe we can start with just a little bit of a slide show.

CHAIRPERSON RIDDLE: Go ahead.

MS. KOENIG: Some of it will be -- it's going to be reinforced in some of the documents.

MR. NEAL: Do I have it?

MS. KOENIG: No, I have it -- documents that are on the -- on the -- in the next section of the materials.

CHAIRPERSON RIDDLE: Okay.

MS. KOENIG: I'll give it to Arthur first.

CHAIRPERSON RIDDLE: Okay. So as I understand it, you -- well, let's take just five minutes to get you set back up and then you'll have a half hour for presentation.
MS. KOENIG: Yeah. I mean --

CHAIRPERSON RIDDLE: But it won't be anything to vote on now before lunch, it's just --

MS. KOENIG: No, it's going to be an -- just an overview kind of thing.

CHAIRPERSON RIDDLE: Yeah, the materials review process and the status report. So we'll do that.

MR. O'RELL: Five minutes.

CHAIRPERSON RIDDLE: Five minutes while they get set up here.

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[Off the Record]

[On the Record]

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MS. KOENIG: And again, if -- it's mostly for new members. The older members are bored to death with this slide show. And also for members in the audience who don't really understand how the process works. It's not that detailed, so if you have any questions, go ahead and ask. And then I'm just going to give you guys a quick overview. Some of this stuff is going to be repeated as discussion items, too, that the Board will vote on. But --

CHAIRPERSON RIDDLE: And you make sure and stay close to that mike. It's not very --
MS. KOENIG: Okay, all right. So, Arthur, if you can go ahead.

MS. CAUGHLAN: You can remove it and walk around the room.

MS. KOENIG: Walk around and sing. It's karaoke. Okay, the materials process update. So I'm just going to talk about the more defined procedures for the materials review process. We'll go over a little bit the Sunset review process. We'll talk a little bit about some of the substances that have been petitioned to the NOP, some of which we're reviewing today, and some which are, you know, in the process. And then, you know, we're going to go over during the Crops and time of the meeting, and we've already went over Methionine, the things that are under review for this meeting. Go ahead, Arthur.

So for the new members -- and we've talked about this, the Organic Foods Production Act, which you all have a copy of in your meeting book. It provided for a list of approved and prohibited substances, and that's in the regulation or the -- you know, when we start adding to these sections -- I think it's 205.600 -- and different ones for livestock and crops and handling, that's where we're adding to in the regulation. And there's also lists of naturals that can
be prohibited. So as you look through those material
sheets that the committees have provided, there's
different categories as to what things are being
petitioned for. But it was the Organic Foods Production
Act of 1990 that established the guidelines for
substances on the list, and it also outlined the role of
you guys, the NOSB, in the process of establishing and
amending the National List. So this really is, you
know, a statutory requirement of the Board.

Next. And I just want to point out that if
you -- you know, what you really need to read are those
sections of the Organic Foods Production Act and the
regulation that talks about materials, and there are
evaluation criteria that was set forth in the act for
livestock and crops, and those are the criteria that we
will go through as we fill our materials sheets, and
you're going -- you've seen the sheet for Methionine
already, and you'll see them through Crops. And it's
really important for you to look at it. These sheets
are relatively new in the process. I think we've been
using them for about two years now. The Board has found
that they're very useful, and the NOP has found that
they're very useful in helping us really document how or
if different materials that are petitioned meet the
criteria.
So if you can't justify what you're doing in a committee, there's -- that indicates something. Either you need more information, perhaps from a contractor, because you should be able to fill in all of those areas. Now, it may be controversial, but you still should be able to have remarks. So again, if you're going through the review process and you find out you can't answer a criteria, you're probably lacking information. One way to get the information is perhaps to go back to the contractor, and I'll tell you at what stage you can do that. And if you don't do that at that stage, then you as a committee may have to do some research on your own to try to obtain that information.

Okay, next. So substances are petitioned for -- usually for a specific use in the organic farming system. And typically -- well, they are petitioned. They have to have a specific use. Now, sometimes when you -- when we ask the contractors to do a review, they may go over other uses in the system, and there has been instances where the Board has brought in a use -- realize that -- even though they petitioned it for this, we feel that maybe we should put it on for -- you know, give it an additional kind of use. In some cases, I think I recollect. But a lot of times what happens is that, because it's petitioned for a specific use, many
things on the list have annotations that limit it to
that specific use. And if you go through the list
you'll see that things -- an annotation is something
that follows the substance on the list. So something
might say for a disinfecting irrigation lines, and that
needs to be interpreted as that's the only use for that
particular substance.

And like I said, things -- there are natural
substances that can be prohibited, and there's a listing
for that. So there's not a large number of them, but
that is a possibility that you'll be coming forth and
again using that same criteria. And then the key thing
-- you guys, the new people, may not know that all
materials remain on the list for five years. And again,
this within the Organic Foods Production Act. And they
must be re-reviewed through a Sunset process. And the
interesting thing for you new folks is that you will be
engaged, heavily engaged in the reviewing for the Sunset
process, because this work has to be done for substances
that came on the list in 2002; it has to be completed by
2007. And I think what's really important to note, and
it was really hard for a lot of the Board members
initially, is that the -- you know, most of us work in
businesses, we make decisions and they're implemented
the next day, for good and for bad. You can fire
somebody, you can hire somebody. One of the difficulties that I had as a new Board member -- and it's so frustrating after so and so years. It takes the federal government a lot longer than you might think before you make an action, and that can actually be -- you know, it's gone through the Federal Register process and actually placed on the list. So not only -- until the -- you may vote on it today. It can't be used, usually, in organic production until about 18 months after that. So it's a long process.

Next. So what I'm going to do, I'll go through this fast, because -- well, hopefully fast. And it actually will serve as an initial discussion of some of the things that are in -- on the materials document today, and I think it's important to go through, because I won't be able to go into much detail when we have to vote on it. We've had the process upon how we do our business as a materials -- in materials as a Board is constantly evolving, you know, partly because we have to do things like Sunset. That's a new activity of the Board. And partly because, as we go through and experience these petitions, we find out some -- you know, the good and the bad and the ugly, and what works and what doesn't work, and what works for other contractors, and how do we provide sufficient
information so that we can get our job done. So this is
kind of the -- what we're proposing that happens, you
know, in 2005. Basically, NOP receives a petition --
and again, a petition can be written by a manufacturer,
it could be written by a farmer that needs the product,
and then the petitioner is noticed that they've received
it.

Next. And then the second phase is really --
the National Organic Program reviews for the
completeness and the eligibility of that petition. They
ask, you know, is it eligible under the Organic Foods
Production Act and the regulation? And they have a
checklist that they make sure they go through to
determine whether there's an OFPA criteria for this
particular material and you know, where in the
regulation it fits. And the second step, which is
really important, is it approved and consistent with
other applicable regulatory authorities? Because some
pesticides that are used in crops and in livestock may
have EPA registrations and we have to make sure that
things that are being petitioned for a particular use
are actually labeled for that use. Similarly with drugs
and the FDA. And then is there confidential business
information designated by the petitioner? And if yes,
they have to notify the petitioner, acknowledging that
they've received that designation. And we talked a little bit about -- that first day, of how the Board has to deal with those -- that type of information.

Next. The petition is posted on the website. And unfortunately, I found out from talking to a number of you folks that, for some reason, not everybody was informed that that's how, now, as new members or as old members, that we are accessing the information about what's coming in the meeting. So it's really important to keep -- you know, keep on that website to see if there's new things we had posted, and then prior to meetings, finding out all the documents that you're going to need to answer in the meeting should be posted on the website. And you can always go to the petition database and that's an important thing to do, just to see where things are and there may be petitions available. Hopefully, if you're in a committee, you're going to know those things because you'll get other copies of that.

The Materials chair is -- tells the designated committee chair of the petition, that a petition is there by the National Organic Program, and the committees have 21 days to review the petition that has come in, and you know, after it's gone through NOP review. And you can submit questions to the
National Organic Program. So in other words, if there's things after you've read the petition that, you know, you really want some more details on, that is the time to try to write those questions down to make sure that these contractors that do the technical review are going to provide you with that information. And then the National Organic Program will notify the contractor responsible for the technical review that the petition is complete and eligible for evaluation. And our committee -- our questions, along with that petition, get submitted to the contractor.

Next. If that petition, again, in phase two it was found out that it was incomplete, a notification to the petitioner of this determination is given, and then they have the opportunity to provide the information to make it complete. Sometimes it's incomplete and it stays incomplete for whatever reason. So if everything is complete, it goes to, then, phase three, which is a technical evaluation. And contractors evaluate substances based on the statement of work which is in the policy -- Board policy manual. You can take a look at that. And they will also answer questions provided by the committees. So committees, again, it's really important that you look at those petitions and try to frontload the information that you may need in
the evaluation process. And contractors will prepare
technical evaluation using a template provided and
distribute -- by the NOP, and distribute the draft to
the National Organic Program. But basically -- that you
will consistent -- hopefully, consistent TAP information
coming back that follows those criteria. Now, there are
two contractors, and people do have different styles in
writing, but they will have the same format. And so --
and again, that doesn't ensure that, again, the quality
of the work is the same, but certainly the way it comes
back to us will be the same.

And then phase four, a sufficiency
determination. And this is really important and it's
very different, I think, than we've done in the past,
and it's supposed to be kind of a quality control in
this process, because this has been identified as a
problem by the National Organic Standards Board. A copy
of the draft evaluation report is distributed to the
Materials chair -- Materials Committee chairperson and
the chair of the designated committee that that petition
is from. So if it's a crop petition, it would go the
chair of the Crops Committee. And then the draft
evaluation report is reviewed by that appropriate
committee and the National Organic Program for quality
and adherence to the statement of work. And then you

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have basically 21 days, each committee. So you'll get a conference call together. The chair will be responsible for that. You're responsible to make sure that -- that you inform them whether you're available or not and then also be on that call. But you'll have 21 days to determine whether that draft is sufficient or not to be able to make a decision. If it's insufficient, that's the time when those things go back to the petitioner. You know, and if you don't do your job within those 20 working days, it's assumed that you don't have a problem with the quality of work. So it's really important to do it. Now, if you get to this Board meeting and it's determined that the work isn't sufficient, I think NOP is going to say, well, that's too bad, because the committee was supposed to determine that. Now you figure it out. I assume that's the position that the NOP's going to take. And then phase five is analysis and recommendation. If the draft evaluation is sufficient, then you initiate a review and make a recommendation on the action of that substance.

Now, this is an additional part of this and I think, again, as we evolved -- after we met, I guess, with the NOP, Jim and I, and talked about things, and we discussed this a little bit in committee and I think this is something that we're going to see if it works or
it doesn't work. But as -- if you look through the
Organic Foods Production Act, the Board still has the
ability to -- to convene a technical advisory panel and
to provide additional scientific evaluation on the
petitioned substance. And we're -- one of the things
that we're discussing or trying to figure out is if or
how committees could seek, perhaps, additional technical
advisory information from scientists to help them in
their determination. Because with the new process, the
contractors, if you look at the statement of work, they
no longer will be providing outside reviewers to
evaluate their work. You will get a TAP report solely.
So it's a technical report. Now, what we're thinking,
we -- Jim and I -- and we talked to the NOP about this,
there may be cases where that is sufficient, and there
may be cases where there's not enough expertise on the
National Organic Standards Board, your particular
committee, to really make you comfortable in making that
decision. So we want to develop some kind of formal
process so that we could utilize some form of a
technical advisory panel to provide maybe some
additional information or review of that technical
findings of the contractor. So again, it's not worked
out and this is part of that evolution of the process.
The committee must recommend an action of the substance
no later than 30 days before a scheduled meeting, and
then the NOP posts that recommendation on the website
and requests and receives public comment.

Next. Phase six, the substance is added to
the agenda item and discussed and voted on by the full
Board, and you're seeing phase six now for Methionine
and the materials that are in the materials -- in the
book, you know, at this meeting today and yesterday.

Next. So that really is -- you know, and then
we make our vote, and if we vote yea and it goes through
that federal process -- and again, it may take 18 months
until it's actually listed on our National List and
allowed for use by growers. So that kind of completes
that process. So do you guys have any questions on
that? I think --

CHAIRPERSON RIDDLE: Mike had one and then Kim
has a point.

MS. KOENIG: Okay. Who -- oh, Mike. Okay.

MR. LACY: A quick question.

MS. CAUGHLAN: Mike, your mike.

CHAIRPERSON RIDDLE: Yeah.

MR. LACY: Just a quick question. You may
have said this, Rose, already and I apologize, but where
is this located? Is this located for new members to --

MS. KOENIG: It's the document -- it should be
in our meeting book.

MR. LACY: Is it in the meeting book?

MR. NEAL: Yeah, it is --

MS. KOENIG: Yeah, it's --

MR. NEAL: It should say petition process, I think. Let me see here.

MR. LACY: Okay, thanks.

CHAIRPERSON RIDDLE: And ultimately, it really should be in the Board policy manual.

MS. KOENIG: Yeah, we are --

CHAIRPERSON RIDDLE: But --

UNIDENTIFIED SPEAKER: Materials review.

MR. NEAL: Materials review?

MS. KOENIG: Yeah, it's -- it's actually the NOP's document.

MR. NEAL: Tab eight.

MS. KOENIG: Tab eight, yeah.

MR. LACY: Yeah, thank you, Arthur.

MS. KOENIG: So we'll be discussing. I just wanted to -- like I said, knowing that some folks weren't able to access that information, they didn't know that they were supposed to get that information from the materials -- from the website, for new members just to kind of go over that in more detail. Kim?

MS. DIETZ: Just a form of process. This
document has -- the Materials Committee hasn't seen this
document yet. So we never reviewed it in the last --
we've never voted on this or looked at it. So --

MS. KOENIG: That was actually -- it was a
draft that was sent around by NOP that they asked for
comments on.

MS. DIETZ: Okay.

MS. KOENIG: And then I took the comments --
Jim had made comments and I made comments on it, because
it was their draft, so --

MS. DIETZ: Okay. Well, just for the process,
that it should go back to the Materials Committee and
get a recommendation. And then I -- you know, the TAP
reviewers, I a hundred percent agree with that, but I
think that you need to be -- and again, I've said this a
thousand times, you need to make sure you have that
process down so that it doesn't seem like you just have
a selected pool of people reviewing it. But it should
be a Federal Register notice seeking people. And then
are you going to pay these people and how you're going
to go through that? So before you actually initiate
this, somehow we need to figure that part of it.

CHAIRPERSON RIDDLE: Right.

MS. KOENIG: That document -- you know, part
of the reason why the Materials Committee hasn't voted
on it is because it was a -- it was embedded within the statement of work document that went to contractors, and it was also a document that NOP used to train the contractors, and they did send it around prior. So it was sort of a --

MS. DIETZ: So it's not a committee document.

MS. KOENIG: It's not really a committee document. There was feedback from the committee, but it's basically -- and we made suggestions and that's why it's in the meeting, that members have the ability to make suggestions. Those that did -- now, we can add more suggestions during this meeting and give it back to them and that's why there's a draft there. I took the comments that Jim made and comments that I made, and we can add comments to the meeting book. But this is basically how NOP has taken our original process -- and we've been asking for this. You know, how are we doing business? So this is their response, this is how they see we're doing business. Okay. So that's why I think there's a little state of confusion.

And then again, that TAP concept, it's coming out of OFPA. That really is the area where we want to discuss and refine. But we -- you know, for those who have discussed, we feel that it could be a valuable way of seeking out additional information, because we are --
that review process is not in the statement of work and
there are no longer outside reviewers coming in with the
petitions. Okay. I don't -- I think --

CHAIRPERSON RIDDLE: And it is -- it's getting
near --

MS. KOENIG: Yeah.

CHAIRPERSON RIDDLE: Well, it is noon.

MS. KOENIG: I don't think I'm going to go on.
I think that I'm going to stop there because it is noon,
and I just hope that it's helped some of the new members
at least clarify a little bit.

CHAIRPERSON RIDDLE: Thanks, Rose. Okay, it
is lunchtime, and so the Livestock Committee will be
meeting and eating. I don't know if any other
committees need to meet, but we'll come back to the
pasture recommendation right after lunch, and then pick
back up with the Materials Committee.

MR. SIEMON: Oh, right after lunch.

CHAIRPERSON RIDDLE: Well, if you're not ready
to move it, just report back after lunch. Okay, great.
So we'll start again at 1:00 p.m.

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[Off the Record]

[On the Record]

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CHAIRPERSON RIDDLE: -- the Board members to take your seat. We're ready to resume, and we're going to go back to the Livestock Committee and the pasture language. So, Hugh, you've got a few things that were presented yesterday and there's been some updates based on comment. We've had a couple more Livestock Committee meetings, so please update us on where we're at.

MR. KARREMAN: Okay. Due to the lots of public input we've had, we have taken a lot of that into consideration, and as Jim just said, we have had two Livestock Committee meetings since just yesterday. And so the first thing that -- well, we brought up yesterday the stage of life, a change to the rule for the term stage of productivity or production. We want to make it stage of life, so I'm not going to go over the background, but -- should I just read the recommendation?

MR. SIEMON: Make the recommendation.

CHAIRPERSON RIDDLE: Yeah, yeah.

MR. KARREMAN: Well --

CHAIRPERSON RIDDLE: Yeah, you can --

MR. KARREMAN: Do I need to move to make it?

CHAIRPERSON RIDDLE: Sure.

MR. KARREMAN: I move that we make this recommendation as a full Board.
CHAIRPERSON RIDDLE: Okay. And then go ahead and read it and then we'll ask for a second.

MR. KARREMAN: Okay, the recommendation. The Livestock Committee recommends a rule change to make the language in 205.239(a)(1) and 205.239(b)(2) consistent with the language in 205.237(a)(2). The language therefore in 205.239(a)(1) would read, access to outdoors, shade, shelter, exercise areas, fresh air, and direct sunlight suitable to the species at stage of life, the climate and the environment. So therefore I move that we change 205.239(b)(2) to be amended to read animal stage of life.

MR. CARTER: Second.

CHAIRPERSON RIDDLE: Hugh moves -- Hugh moves and Dave seconds. And that would affect two places in the rule, correct, two different sections would be changed. Okay, is there a discussion on this motion?

CHAIRPERSON RIDDLE: It was presented in detail yesterday. I want to make sure everyone's clear on what we'll be voting on here.

MR. SIEMON: This was a handout --

CHAIRPERSON RIDDLE: Okay, George.

MR. SIEMON: This was a handout from yesterday and it's not in your book.

CHAIRPERSON RIDDLE: Right. A single page.
Yeah. And it's on the screen under recommendation as well. If you can't find your sheet and for everyone in the audience, it's up on the screen.

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[No response]

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CHAIRPERSON RIDDLE: Okay, seeing no further discussion, we'll move to vote, and we start at the top again with Nancy.

MS. OSTIGUY: Yes.

CHAIRPERSON RIDDLE: Okay. Dave?

MR. CARTER: Yes.

CHAIRPERSON RIDDLE: Bea?

MS. JAMES: Yes.

CHAIRPERSON RIDDLE: George?

MR. SIEMON: Yes.

CHAIRPERSON RIDDLE: Rose?

MS. KOENIG: Yes.

CHAIRPERSON RIDDLE: Goldie?

MS. CAUGHLAN: Yes.

CHAIRPERSON RIDDLE: Kevin?

MR. O'RELL: Yes.

CHAIRPERSON RIDDLE: Andrea?

MS. CAROE: Yes.

CHAIRPERSON RIDDLE: Rigo?
MR. DELGADO: Yes.

CHAIRPERSON RIDDLE: Hugh?

MR. KARREMAN: Yes.

CHAIRPERSON RIDDLE: Julie?

MS. WEISMAN: Yes.

CHAIRPERSON RIDDLE: Gerald? Absent.

MS. CAUGHLAN: He's absent.

CHAIRPERSON RIDDLE: And Mike?

MR. LACY: Yes.

CHAIRPERSON RIDDLE: And the Chair votes yes, so we have 13 yes, 0 no, 1 absent. Thank you. Okay, please continue.

MR. KARREMAN: Okay. I would like to move that we make another rule change, and the recommendation would be --

CHAIRPERSON RIDDLE: Yeah, you can go ahead --

MR. KARREMAN: Okay.

CHAIRPERSON RIDDLE: -- and read it, and Arthur's getting it up on the screen.

MR. SIEMON: Also handed out yesterday. No, that's right, we changed it.

CHAIRPERSON RIDDLE: It's been --

MR. KARREMAN: No, this is from the two meetings we've had since with the public input.

CHAIRPERSON RIDDLE: Right.
MR. KARREMAN: So I move that this recommendation be considered by the whole Board.

MS. CAUGHLAN: Do we have paper copies?

MR. SIEMON: No.

CHAIRPERSON RIDDLE: No.

MR. KARREMAN: It's going to be up on the screen here.

MR. SIEMON: Let me explain it. You have your copy in your book.

MR. KARREMAN: Yes.

MR. SIEMON: We can explain what we did.

CHAIRPERSON RIDDLE: Well, it's better to --

MR. SIEMON: Okay.

MR. KARREMAN: It's up on the screen, folks. Okay. So the rule change for 205.239(a)(2), the committee -- the Livestock Committee recommends that it be amended to read, ruminant animals' grazing pasture during the growing season. (i): this includes all stages of life except, A, birthing, B, dairy animals up to six months of age, and C, beef animals during the final finishing stage, not to exceed 120 days. (ii): lactation of dairy -- lactation of dairy animals is not a stage of life under which animals may be denied pasture for grazing. I move that we accept this.

MS. OSTIGUY: Second.
CHAIRPERSON RIDDLE: Was that Nancy? Okay.

Hugh -- Hugh makes the motion and Nancy seconds adoption of this proposed rule change. Bea?

MS. JAMES: I thought there was -- I thought we were going to change the lactation comment so that it was more -- it was more positive? Am I wrong on that? I think, Andrea, you made that recommendation.

CHAIRPERSON RIDDLE: Andrea?

MS. CAROE: And we had talked about making it a note in the comment before, so I'm sure -- this -- the reformatting doesn't reflect the suggestion that I made yesterday.

MR. KARREMAN: I do believe that if this passes it would go the NOP to be worded grammatically correctly. Is that -- I mean --

MS. CAROE: No.

MR. MATHEWS: It's best --

CHAIRPERSON RIDDLE: Richard or Arthur, whichever.

MR. MATHEWS: It's best that your full intent is conveyed as accurately as humanly possible before it comes to us.

MS. CAUGHLAN: Yeah.

MR. KARREMAN: Andrea, what would --

CHAIRPERSON RIDDLE: Okay.

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MS. CAROE: Did you say something about that --

MR. SIEMON: I thought this was --

MS. CAROE: -- commented on the number two?

MS. OSTIGUY: Can I -- Hugh, didn't --

CHAIRPERSON RIDDLE: Nancy?

MS. OSTIGUY: Well, during the meeting -- the Livestock Committee meeting that we just had, didn't you say something about the (ii), the lactation portion, and that Richard had said something about it?

MR. KARREMAN: I believe, but please correct me if I'm wrong. This morning we had talked and you had mentioned that -- the statement would be --

MR. MATHEWS: But where you're putting it is fine.

MR. KARREMAN: Yeah, okay, that's what he was --

MR. MATHEWS: Maybe what Andrea is bringing up is how it's worded.

MS. CAROE: No, the placement.

MR. MATHEWS: She's not saying you can't use it, she's saying she wants to clarify --

MS. CAUGHLAN: No, she didn't want the (ii).

MS. CAROE: Can I say what I'm saying?

MR. KARREMAN: How would you like it to --
MS. CAUGHLAN: You wanted to eliminate --

MS. CAROE: Let me explain what I'm saying.

CHAIRPERSON RIDDLE: Andrea, please, please, please say what you say. Uh-huh.

MS. CAROE: I'll say what I say. My concern yesterday was, the way it was listed as (i) and (ii), you had a positive list of what those stages of life were that would be considered, and (ii) was a stage of life that wasn't considered. And the gap that you leave with a positive and negative list is anything that is outside of that and where does it fall. My suggestion was to take the information that lactation is not a stage of life to be considered and use that as a note in the previous positive list. So you -- in other words, what you would be saying is, these are things that are stage of life and then a note for clarification that lactation is not considered a stage of life.

MR. KARREMAN: How does NOP feel about that?

MR. MATHEWS: It works fine.

MR. KARREMAN: Okay. Well then, I move to amend this.

CHAIRPERSON RIDDLE: Well --

MS. CAROE: Well, I'd like to motion for amending this, and I can't see it. My contacts won't let me see this. So -- but -- do you want to try the
words with it?

MR. KARREMAN: I don't want to mess it up and I --

MR. MATHEWS: What she said earlier --

MS. CAUGHLAN: You just move it up and eliminate --

CHAIRPERSON RIDDLE: Richard?

MR. KARREMAN: Right.

MR. MATHEWS: She said note lactation for dairy animals is not. So all you have to do is take out the (ii) and write a note --

CHAIRPERSON RIDDLE: A colon. Okay.

MR. KARREMAN: I don't want to see this as a footnote, I want to see it right in there.

CHAIRPERSON RIDDLE: You want to see it in parentheses. Remove the parentheses, but just have note colon.

MR. KARREMAN: No, just have it as a new sentence right there after 120-days period and then say the next word is lactation of dairy animals is not a stage.

MS. CAUGHLAN: Leave the word note out.

MR. KARREMAN: Take note colon out of there, please.

UNIDENTIFIED SPEAKER: No, no, no. No, no,
no, it has to --

MR. KARREMAN: What?

MS. CAUGHLAN: See, this is what happens when your words snap in.

CHAIRPERSON RIDDLE: As a committee.

MR. KARREMAN: And I'm not a wordsmith, so whoever --

CHAIRPERSON RIDDLE: Is that a hand, Rose?

MS. KOENIG: Yes.

CHAIRPERSON RIDDLE: Rose.

MS. KOENIG: And it's a question for Richard.

If when we -- I still have a problem with the word growing season. That can be misinterpreted. If there's -- if it's droughty and plants don't grow, then the temperatures are conducive to grow if you were irrigating. And if there's no irrigation in an area and plants are in dormancy because of the lack of moisture, not a lack of temperature, would that be constituted as a growing season? How do you define growing season? Is it a temperate -- if the temperature is conducive, is that fine? I don't -- that's what I don't understand about growing season. Because like I said, for me, even though I can produce crops all year, my growing season isn't all year.

MR. KARREMAN: I think the question was --
MR. MATHEWS: That's really better directed to the Board than us.

MR. LACY: The question is for us.

MR. MATHEWS: The next question that the committee should be --

CHAIRPERSON RIDDLE: Mike.

MR. LACY: Jim, I think that the Livestock Committee's intent on this is a growing season is from sometime in the spring to sometime in the fall.

MS. KOENIG: It doesn't work in the southern region. So if you say when -- and I don't -- you know, is it annual crops --

MR. LACY: I think --

MS. KOENIG: -- is it perennial crops?

MR. LACY: I'm sorry, Rose. I think for pasture it does work in the southern regions. I think it works in any region. There is a -- there is a defined growing season for pasture, based on the type of pasture it is, whether it's a cool weather pasture, cool weather grass, or a warm weather grass or whatever. So I think that is defined, or definable, I guess is what I'm saying.

CHAIRPERSON RIDDLE: And I would just add to that, in looking through some of the more detailed NRCS standards for prescribed grazing, they do define the
growing season where they have made those more specific standards. So it certainly is definable. It doesn't mean that it has been defined in every particular county, but it is quantifiable.

MR. KARREMAN: And we will reference the NRCS in the guidance document.

CHAIRPERSON RIDDLE: Yeah, later on.

MS. KOENIG: I'm just -- again, I guess I'm not clear, because you're changing something to make something more clear. I don't really understand why it can't be access to pasture, anyway. I still don't understand why that wording -- how significant that change is. I haven't been convinced that there's a difference. And I haven't been involved in the committee's discussion, but if you're trying to improve the understanding, what I'm saying is that I think Rose even brings a different set of perhaps misinterpretation of things, and --

CHAIRPERSON RIDDLE: Mike? I'm sorry. Were you done? Mike?

MR. LACY: I think what we're trying to do, Rose, is make sure that the intent is not missed here and that animals are not put out on pasture when there is not -- during a non-growing season, and that counts as pasture. Does that make sense? So we are trying to
clarify what constitutes grazing -- appropriate grazing.

MS. KOENIG: So you're saying you don't want it to be misinterpreted that just putting an animal outside versus actually outside and eating?

MR. DAVIS: Grazing means eating. If you look at the pure --

CHAIRPERSON RIDDLE: Gerald, your mike, please.

MR. DAVIS: Grazing, you know, technically, if you want to analyze the term, would mean chomping off at the roots and chewing it. I mean, at root level or whatever --

CHAIRPERSON RIDDLE: Um-hum.

MR. DAVIS: -- that the animal is grabbing it and they're not being fed it. Like it's been said that some people are doing -- dumping bales of hay out in an open lot or something like that. That is not --

MR. KARREMAN: That's not grazing.

MR. DAVIS: That's not grazing.

CHAIRPERSON RIDDLE: Right.

MR. KARREMAN: No.

CHAIRPERSON RIDDLE: And I think, you know, as a member of the Livestock Committee, you know, we're trying to respond to the numerous, you know, thousands, actually, of comments that we've heard here, that

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ruminants must graze when there is pasture available

during the growing season, and that's when there is

pasture. So we're trying to make an enforceable

standard that's predictable so people know what the

rules of the game are. I think this captures it

compared to access. Access is very fuzzy. This makes

it clear that ruminants must graze when there's

something out there to eat. We'll go to George and then

Kevin and then back to Gerald.

MR. SIEMON: Well -- and after this

recommendation here, we have a guidance document

recommendation that we'll further --

CHAIRPERSON RIDDLE: Um-hum.

MR. SIEMON: -- to meet what the growing

season and what our interpretation of this is. This is

the rule and next comes the guidance document. So we

put the two together, which, even though we're told

guidance doesn't have enforcement, at least it's about

interpreting this statement. So the two might help if

we look at them together. But that's the document you

were given yesterday with some changes we'll show you.

CHAIRPERSON RIDDLE: Kevin?

MR. O'RELL: Actually, George just answered my

question.

CHAIRPERSON RIDDLE: Okay. Gerald?
MR. DAVIS: The growing season stipulation there, in arid regions of the country, is there going to be any gray area on -- when there's no moisture and nothing's growing, is that to be construed as that's not the growing season, which is per a lot of the months of the year in Arizona, for example.

CHAIRPERSON RIDDLE: Hugh.

MR. KARREMAN: I -- I don't know if we need to put it in or not, but I would think that if you're irrigating your farm in Arizona for crops for during the growing season, then you shall be irrigating your pasture for grazing during that same growing season.

MR. DAVIS: Exactly. But in the example of the non-irrigated confinement farm who is trucking in outside forages from -- purchasing them on the market and not growing them themselves, does this give a loophole, is my question, to say there's no growing season here?

UNIDENTIFIED SPEAKER: Not with the guidance.

MR. KARREMAN: We believe, with the guidance, that that is answered and we'll go over that.

CHAIRPERSON RIDDLE: Okay.

MR. SIEMON: I agree.

CHAIRPERSON RIDDLE: George.

MR. SIEMON: I agree it's a whole, but right
next to that farm, does the irrigated acre get nine
crops or six, seven crops of alfalfa right next door,
what is the growing season? You know --

MR. DAVIS: Well, here.

MS. KOENIG: Yeah, but --

CHAIRPERSON RIDDLE: Rose and then Kevin.

MS. KOENIG: That's -- if you want to use that
terminology, I don't have a problem with it if it's
defined, in my mind. Either do it via temperate and say
that, if the temperatures are conducive to the species'
growth, that's constituted as -- individual farms may
choose practices that do not allow something to grow.
So on farm A it's not in the growing season because I
don't irrigate and my grass is dormant. But next door
it is their growing season because they irrigate and
therefore the grass is growing. You could -- you know,
different -- it's like in the south, if I -- you know, I
just think that you're -- I don't know -- that that's --
to me the point is that unless you define growing
season --

CHAIRPERSON RIDDLE: Kevin, and then we'll go
to NOP comment.

MR. O'ReLL: If there is guidance to determine
what is the growing season, shouldn't we share that now
so we understand? If we're discussing and voting on

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something that uses the term of growing season, it would be very helpful to understand that guidance and not have it come later after we vote on this motion.

    MR. KARREMAN: Yeah. Actually, I think we could actually talk about the guidance document and maybe leave this aside for now. I don't know how you do that procedurally --

    CHAIRPERSON RIDDLE: Well --

    MR. KARREMAN: -- if it helps define --

    MS. KOENIG: Well, but most terms that are not clear in the regulation under the definition section and are not in guidance documents that I can think of, at least, where you would have some ambiguity and --

    MR. KARREMAN: Yeah.

    CHAIRPERSON RIDDLE: Okay, Rick?

    MR. MATHEWS: I'm not offering a solution to the problem, I'm just posing another question, okay, just this is something for you to ruminate over.

    CHAIRPERSON RIDDLE: Um-hum, yeah.

    MR. MATHEWS: It might be possible to say ruminant animals' grazing pasture, full stop. But then that doesn't address the 120-day issue that others had been bringing up. I know that you're talking about doing something like that in guidance. The one thing that I have to caution on is guidance isn't enforceable.

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So as much I hate just quantifying numbers that don't work very well, this might be a spot where you have to consider something like that in order to get around the issue that Rose is bringing up. In other words, do you say ruminant animals' grazing pasture, full stop, or do you say ruminants' grazing pasture at least X number of days during the course of the year? And maybe that gets around your problem of this growing season. However, whatever that date is, that number of days you set, it's got to be doable even in a year of drought, because if you don't, then your cows aren't organic anymore, okay?

CHAIRPERSON RIDDLE: Hugh?

MR. KARREMAN: I believe that's why we have --

MR. MATHEWS: Or at least you've got a violation.

MR. KARREMAN: I believe that's why we have those numbers that have been talked about in the guidance document. That's all.

CHAIRPERSON RIDDLE: Right. Andrea?

MS. CAROE: Richard, I guess -- there's still a possibility of a variance for inclement weather and -- well, I mean, we don't have a definition for inclement weather, but in an extreme drought, would that be a situation where somebody could claim that it's inclement weather?
MR. MATHEWS: Well, we could explore that.

MS. CAROE: I'm not --

MR. MATHEWS: It's --

MS. CAROE: I'm not saying one way or another.

MR. MATHEWS: It would -- you would --

MS. CAROE: I'm just exploring --

MR. MATHEWS: Yeah.

MS. CAROE: -- the flexibility at this point.

MR. MATHEWS: Yeah. The thing about variances are that you're supposed to request them ahead of time. Obviously, if you had a variance because of you couldn't meet the grazing time, a lot of that's going to be dependent on how -- how you'd been grazing previous to that time. So I mean, it might work fine in an area where you have snow all winter, but it may not work so well in Florida, where somebody had just not been grazing and then suddenly decided to at the time that the drought was coming along. So I don't know.

CHAIRPERSON RIDDLE: Well, I'll speak as an individual Board member again and -- to me, I think this as recommended here makes all the sense in the world. It makes it clear that ruminant animals shall graze, and then when they graze is during the growing season. That is a quantifiable, regionally specific term. It doesn't say that they have to graze every single day of the
growing season. The guidance sets some, you know, minimums that they have to be out, you know, 120 days and a certain amount of their diet in guidance. But to me this does set an enforceable standard compared to what we have now, in combination with the guidance. And I'd rather keep the numbers and guidance rather than lock them into the regulation, personally.

MR. MATHEWS: Yeah. And one of the things is that the growing season should be included in the organic systems plan that is approved by the certifying agent. So that should take care of the growing season problem. I have a little concern about what you just said, though, Jim, that you're not expecting the cows to be out every day. And my reading is this is, the cows are expected to be out there every day, with the exception of the provisions that are provided elsewhere in the regulations that would allow you to do it when the weather conditions are such that the animals shouldn't be out.

CHAIRPERSON RIDDLE: Exactly. And that's what I meant by -- I didn't delineate those --

MR. MATHEWS: Okay. Well, I just --

CHAIRPERSON RIDDLE: -- but yes, inclement weather, health and safety, risk to water and soil quality, it just means that still the growing season is
going on during some of those factors.

MR. MATHEWS: That's okay. Now it's on the record --

CHAIRPERSON RIDDLE: Yeah, okay.

MR. MATHEWS: -- what we really mean, so you don't have somebody coming along later saying, well, Jim Riddle said.

CHAIRPERSON RIDDLE: Thanks, you're projecting. You're looking after me. I appreciate that. Looking out for me. I think we've had a good discussion of this. I mean, unless there's something new to bring up, I'd like to move ahead to a vote on this item. George, anything to add?

MR. SIEMON: I hate to be duplicative, but we're being told that the word note has the same influence as any other part of this clause. To me a note is a footnote. So I hate to go back, but note has the same power as any other word in this rule, on the record, I might add.

CHAIRPERSON RIDDLE: Well, we'll see if they'll respond. Okay. Andrea, go ahead.

MS. CAROE: The reason I suggest note is because that sentence is not inclusive of all things that could not be stage of life.

UNIDENTIFIED SPEAKER: Right.
MS. CAROE: So it's not inclusive. If you put it there without note, it looks inclusive and it adds to confusion to it. That's why this is an example given. It could be an e.g. if you prefer, but it is not inclusive, so it should not be put in there as a statement standalone.

CHAIRPERSON RIDDLE: Richard?

MR. MATHEWS: Okay, I think we're getting into a stage where we can bail you out. This -- I think that the language as it's presented and the discussion that's going to be in the transcript makes it real clear that you're saying that lactating cows can not be withhold from pasture for any reason other than an urgent issue, such as they're sick or there's a hurricane coming through or a tornado or something, so you would have that. The -- we can work with the attorneys on the wordsmithing that needs to be done. No matter what you come up with and no matter what we then come up with, the attorneys will surely tinker with it.

CHAIRPERSON RIDDLE: Um-hum, um-hum.

MR. MATHEWS: Okay? So I think, at this point, the message is clear, unless somebody thinks otherwise.

CHAIRPERSON RIDDLE: Okay. Dave has another point.
MR. CARTER: Well, this is just a -- note. Since we eliminated (ii), we no longer need the (i) up there --

CHAIRPERSON RIDDLE: Yeah, good.

MR. CARTER: -- so just to clean it up.

CHAIRPERSON RIDDLE: All right. Okay, now I think we've polished it all we can and -- Rigo, you haven't said anything yet.

MR. DELGADO: I just have a question about the procedure. If you're going to have the lawyers tinker with our language, are we going to be able to look at that language and make sure that it meant what we meant it?

CHAIRPERSON RIDDLE: Well, just -- my response is, it would be posted as proposed rule, so we along with everyone else will have a change to tinker with the lawyers' language. They are to respond and comment on that lawyers' language, anyway. We won't be able to tinker with it, but I wish we could. But we will be able to comment on it and -- yeah, so -- all right. So now we will move to the vote on this as it's been amended, and we start with Dave.

MR. CARTER: Yes.

CHAIRPERSON RIDDLE: Bea?

MS. JAMES: Yes.
CHAIRPERSON RIDDLE: Bea is yes. George?
MR. SIEMON: Yes.
CHAIRPERSON RIDDLE: Rose?
MS. KOENIG: No.
CHAIRPERSON RIDDLE: Goldie?
MS. CAUGHLAN: Yes.
CHAIRPERSON RIDDLE: Kevin?
MR. O'RELL: Yes.
CHAIRPERSON RIDDLE: Andrea?
MS. CAROE: Yes.
CHAIRPERSON RIDDLE: Rigo?
MR. DELGADO: Yes.
CHAIRPERSON RIDDLE: Hugh?
MR. KARREMAN: Yes.
CHAIRPERSON RIDDLE: Julie?
MS. WEISMAN: Yes.
CHAIRPERSON RIDDLE: Gerald?
MR. DAVIS: Yes.
CHAIRPERSON RIDDLE: Mike?
MR. LACY: Yes.
CHAIRPERSON RIDDLE: The Chair votes yes. We have 13 yes --
MS. OSTIGUY: Jim?
UNIDENTIFIED SPEAKER: Nancy, Nancy.
CHAIRPERSON RIDDLE: Oh, gees. Sorry --
MS. OSTIGUY: Yes.

CHAIRPERSON RIDDLE: -- Nancy. And then the Chair votes yes after Nancy.

MS. OSTIGUY: Am I so unmemorable?

CHAIRPERSON RIDDLE: Well, I'm just looking -- I'm so narrow-minded. So we have 13 yes, 1 no, and no abstentions. Okay, Hugh, I think you have --

MR. KARREMAN: Okay. Now we're going to move on to the guidance document that previously the Livestock Committee had put out on January 26, but we have changed it and changed it again and yet again, taking into account -- really taking into account the public comment. And so I guess I probably should go through --

CHAIRPERSON RIDDLE: And get a little closer to that mike.

MR. KARREMAN: I should go through the whole thing, I think, except maybe B. But anyway, I would move that the Board accepts this guidance document for pasturing -- for pasture ruminants.

MS. OSTIGUY: Second.

MR. KARREMAN: Okay. So I think I should read it. Guidance for interpretation of 205.239(a)(2), organic system plan. Ruminant livestock shall graze pasture during the months of the year when pasture can

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provide edible forage. The organic system plan shall have the goal of providing grazed feed greater than 30 percent dry-matter intake on a daily basis during the growing season, but not less than 120 days. The organic system plan shall include a time line showing how the producer will satisfy the goal to maximize the pasture component of total feed used in the farm system.

For livestock operations with ruminant animals, the operations organic system plan shall describe, one, the amount of pasture provided per animal, two, the average amount of time that animals are grazed on a daily basis, three, the portion of the total feed requirement that will be provided from pasture, four, circumstances under which animals will be temporarily confined, and five, the records that are maintained to demonstrate compliance with the pasture requirements. Okay. So the latest changes are in the italics up there on the screen.

MR. SIEMON: We replaced --
CHAIRPERSON RIDDLE: Well --
MR. KARREMAN: George?
MR. SIEMON: We replaced the existing second line and made it give a whole new line. I'm sorry I didn't mark the replacement.

CHAIRPERSON RIDDLE: Okay. Well, let's just
stay focused on this paragraph. Any comments or just clarification questions? Andrea?

MS. CAROE: So none of this language was posted at all and we have no public comment on this?

MR. KARREMAN: Part of the language was posted.

CHAIRPERSON RIDDLE:

MS. CAROE: On this new language --

MR. KARREMAN: No.

MS. CAROE: -- in this new concept.

MR. KARREMAN: That's correct. And I would -- I would recommend, if I may at this time, or later do I --

CHAIRPERSON RIDDLE: Well --

MR. KARREMAN: Well, okay.

CHAIRPERSON RIDDLE: -- most of this was posted, but the rest is responding to the massive public comments which are incorporated into this draft.

MR. KARREMAN: This guidance document that we're going to be reading through here is -- I feel should have -- should be moved upon by us and put out for public comment.

CHAIRPERSON RIDDLE: Yeah, so --

MS. CAROE: So the recommendation -- the motion changes.
CHAIRPERSON RIDDLE: Well, it could or it could not. We can vote to adopt, with the understanding that it will be posted for a round of public comment, and then if there needs to be reconsider, next time we will. But, Rick, would you help us here and then --

MR. MATHEWS: Arthur reminds me that he looked at the guidance document out now on how we're going to do guidance documents. So if you're sending us something for guidance, we'll offer guidance with that procedure, most likely --

CHAIRPERSON RIDDLE: Uh-huh, uh-huh.

MR. MATHEWS: -- which, then, there will be public comment on the guidance document.

CHAIRPERSON RIDDLE: Good point --

MR. KARREMAN: Because -- Andrea?

MS. CAROE: Well, I just want to know --

CHAIRPERSON RIDDLE: -- automatically.

MS. CAROE: -- the procedure is after that -- you know, I mean, obviously, from the testimony that we've received here, the dairy producers are very engaged in this process and do want a voice in this process. This is substantive input that's been included in this and I want -- I think that the final document should really reflect the broader comments, not just those producers that have been here. Although we put a
lot comments, it doesn't represent the universe of dairy -- organic dairy farmers. So my question, though, related to after those comments get -- come back in, the responsibility of the committee and the Board to address those in the guidance.

CHAIRPERSON RIDDLE: Um-hum.

MR. KARREMAN: I agree with that.

CHAIRPERSON RIDDLE: Yeah.

MR. MATHEWS: Jim?

CHAIRPERSON RIDDLE: Okay, Rick and then Kevin.

MR. MATHEWS: There seems to be -- there seems to be avenues. One, you can go ahead and do your thing on this guidance document, with the understanding that we'll do nothing with the guidance document other than to post it so that you can receive comment on it. And then you can act on it again in the fall. The other option is for you to send it to us to do a guidance document through the public comment process. It's up to you.

CHAIRPERSON RIDDLE: And my understanding of the way it's been presented now would be for the Board to send it to NOP. That's the motion that's on the table. Kevin, I've been saying -- you want to get recognized. You're too close to be recognized.
MR. O'RELL: I understand. Well, I guess what I was going to put out for a point of discussion is the fact that, I think, since we had some information -- new information, following up with Andrea said, that it should be a recommendation from this Board to be posted for additional public comment, to be acted on -- upon at the next meeting.

MS. Koenig: Instead of going to the NOP first, is that what you're saying?

MR. O'RELL: That's what I'm saying.

MS. KOENIG: Yeah, I agree with that.

CHAIRPERSON RIDDLE: Well, that --

MR. KARREMAN: Yeah. Yeah, I can agree with that --

MR. CARTER: Well --

MR. KARREMAN: -- because there are things in there.

MR. CARTER: Okay, procedure.

CHAIRPERSON RIDDLE: Yeah, Dave?

MR. CARTER: I would recommend -- as long as we understand what the -- what the options are in doing this. Now we have the motion on the table. We let the maker of the motion finish reviewing the document, and then if you want to amend that to specify, you know, which way it will be handled, would be probably the...
clearest way to do it.

CHAIRPERSON RIDDLE: A good suggestion. So please proceed.

MR. KARREMAN: I apologize. I don't know all this procedural maneuvering, so --

CHAIRPERSON RIDDLE: Oh, obviously we do.

MR. KARREMAN: -- I'm learning it on the spot. I'm learning it as we go. All right, should I read B?

CHAIRPERSON RIDDLE: And stay close to the mike.

MR. KARREMAN: Should I read B, temporary confinement?

CHAIRPERSON RIDDLE: Yes. Yeah, let's --

MR. KARREMAN: Okay.

CHAIRPERSON RIDDLE: -- let's go through the draft.

MR. KARREMAN: Okay, temporary confinement. Temporary confinement means the period of time when ruminant livestock are denied pasture. The length of temporary confinement will vary according to the conditions on which it is based, such as the duration of inclement weather; and instances of temporary confinement shall be the minimum time necessary. In no case shall temporary confinement be allowed as a continuous production system. All instances of
temporary confinement shall be documented in the organic
system plan and in records maintained by the operation.
Temporary confinement is allowed only in the following
situations: one, during periods of inclement, such as
severe weather occurring over a period of a few days
during the grazing season; two, conditions under which
the health, safety, or wellbeing of an individual animal
could be jeopardized, including to restore the health of
individual animal or to prevent the spread of disease
from an infected animal to other animals; three, to
protect soil or water quality. That has stayed the
same. Is there any discussion on that?

CHAIRPERSON RIDDLE: Andrea?

MS. CAROE: You're tired of hearing from me.
I just want -- this is very vague guidance and it has
been, and there's no definition of what is inclement
weather. There's no definition to what constitutes a
problem for health, wellbeing or the other one. I don't
remember the other --

MR. SIEMON: Soil and water quality.

CHAIRPERSON RIDDLE: Soil and water.

MS. CAROE: Soil. You know, there's no
definition of what the constraints are of those. If
it's raining, is it inclement weather? Can I make a
case for it in my organic system plan? I mean, I just
want this committee to recognize, you're offering
guidance to provide some definition, yet there's still a
whole lot of areas that need definition.

CHAIRPERSON RIDDLE: Hugh and then George.

MR. KARREMAN: I think, as far as the
inclement weather goes, when we do say over a period of
a few days, meaning, you know, like a hurricane, a
tornado, some act of god.

MS. CAROE: What's a few? I mean, I'm just
saying that these are words that --

MR. KARREMAN: Yeah. No, that's fair, that's
fair.

MS. CAROE: -- have a whole lot of --

MR. KARREMAN: Yeah.

MS. CAROE: You know, I can say that 30 days
is a few days in the bigger picture of life. But, you
know, I'm looking at this from a certifier's view, and
it is -- you're leaving it up to the certifier to make
some judgment decisions, which is fine. I'm just asking
that you recognize that there are judgments being made
here.

CHAIRPERSON RIDDLE: George?

MR. SIEMON: I just want to make sure we
understand this within the context of are you delivering
an organic system plan that's going to deliver some very
specifics. You have to show that. Now, inside of that
there may be reasons to do it, but you can't -- you have
to first satisfy the top one. And yes, they are vague,
but they're very specific goals that you are shooting
for, that you delivered a plan that you can deliver on.
Those are very specific.

CHAIRPERSON RIDDLE: Yeah, I want to comment,
also, that hopefully you know that those -- the
temporary confinement is already allowed in the rule and
just with the words inclement weather, and this does
provide further guidance to producers and certifiers on
the limits of inclement weather. And the same thing to
the health and safety of the animals, it gives further
guidance. And yes, it is a bit, number one, a
discretion of the operator, of the farmer, and then the
discretion of the certifier in assessing how their plan
and their performance has complied with the rule. But
this does provide further guidance than currently
exists, and it's not changing the rule. Dave?

MR. CARTER: Well, I want to agree. You know,
Andrea, I agree with you, but I think, also, it's
difficult to make something for us that's going to be
over -- I mean, you talk about, you know, three days or
thirty days, or you know, are we going to get into
defining a level three hurricane as opposed to a level
five hurricane? And so you know, that's when we get down to some of these other areas and start tying it into NRCS, and I think it provides some guidance to those certifiers. But a lot of times, I mean, there still is going to be -- you know, there's going to be some calls, so we can't be overly prescriptive.

CHAIRPERSON RIDDLE: Okay, we've had a discussion of that --

MS. CAROE: And I just want to say that --

CHAIRPERSON RIDDLE: -- and is there something new?

MS. CAROE: I just want that to be recognized.

MR. CARTER: Yeah.

CHAIRPERSON RIDDLE: Okay.

MS. KOENIG: That's what I'd ask.

MR. CARTER: Yeah.

CHAIRPERSON RIDDLE: All right. Rose?

MS. KOENIG: I just -- again, with the severe
-- I just want to make people aware that, you know, in the south in the summer, if you went on any weather computer station, almost every day it's going to say severe weather -- you know, severe thunderstorms. So for four months you're likely to have severe weather. Is that consider a severe weather event that would be -- I mean, because it would end up being temporary
confinement for a couple -- the summer season, and
somebody could verify that almost every day, if you look
up the National Weather Service site, that they'll say
severe thunderstorms.

CHAIRPERSON RIDDLE: Hugh?

MR. KARREMAN: If that's the case, I would --
I don't live in Florida, but perhaps March through June
it's nice, then June through August or whenever having
that weather, or after the hurricanes, in September and
October through November it's nice again and that's 120
days, two months in the beginning and two in the end. I
don't know, I don't live in Florida.

CHAIRPERSON RIDDLE: Kevin?

MR. O'RELL: Hugh, I just -- I want to
understand what the motion is that's on the floor. Is
it the motion for this issue to be a guidance document
that we're voting on to post on the website for public
comments?

CHAIRPERSON RIDDLE: Let's come back to
that --

MR. O'RELL: Okay.

CHAIRPERSON RIDDLE: -- once he's done
presenting it. We will get clear on that.

MR. O'RELL: Okay, so long as we get clarity.

CHAIRPERSON RIDDLE: Yeah, okay, let's go to
number C, I guess.

MR. KARREMAN: Okay, C.

CHAIRPERSON RIDDLE: Uh-oh, Bea had one on B.

MS. JAMES: Hugh, you're doing really good.

I'm impressed.

MR. KARREMAN: We'll see by the end.

CHAIRPERSON RIDDLE: Do you want the turkey?

MS. JAMES: I guess, as long as we're really trying to analyze language in this -- in this section, that the one thing that I have a question on more than anything is the term temporary confinement, and that, you know, we all know in our minds what that means, that we're assuming that anybody who is handling their livestock is going to consider that as, you know, only a few days out of a season. But I think that there's the potential for misuse with those who don't necessarily follow the rules and try to read between the lines, and I think we just need to really be clear in our definition about -- about what we mean by temporary confinement, just for those who really -- you know, I'm just taking into consideration, yesterday, that we heard from so many people who felt that -- that that is currently being -- that that particular aspect is currently being abused. And so we need -- I think we need to really look at that.
CHAIRPERSON RIDDLE: Hugh?

MR. KARREMAN: I think that's what we're trying to do in this whole process, because I think part -- stage of production was under temporary confinement previously, and we're making, you know, for the lactating cows that are being held in, let's say, when people think they shouldn't be. That is now becoming a rule change so that that can not be a temporary confinement, and that is where a lot of people had problems with the temporary confinement, that milk cows were being kept in away from grass -- grazing.

MS. JAMES: Right. But I just think that with a lot of the -- the wording in here, when you talk about inclement weather, severe weather, a few days, that there are people out there, unfortunately, that may not be real -- that they might try to interpret that and be able to reinterpret that as a justification, if they were to be inspected and be called on, not following that.

CHAIRPERSON RIDDLE: And, yeah, a comment and then Nancy. Temporary confinement is allowed in the rule and is not defined, and I think the first paragraph, in combination with the items in that second section, gives a lot more guidance, restrictions, definition to temporary. Temporary means temporary, and
I think -- well, I would assume that at least most of
the producers who spoke yesterday utilized temporary
confinement at one time or another during the growing
season. So you know, it's something that certainly
needs to exist with certain boundaries.

MS. JAMES: Yeah, I guess I would just like it
to go on the record that I don't think it's defined well
enough here.

CHAIRPERSON RIDDLE: Well, tell us what you
want.

MS. JAMES: I want it to be better defined.

CHAIRPERSON RIDDLE: Well --

MS. JAMES: And -- and I think that --

CHAIRPERSON RIDDLE: Yeah, but how?

MR. O'RELL: Well, yes.

MS. JAMES: -- if we do -- if we go with what
Kevin was proposing --

CHAIRPERSON RIDDLE: Okay.

MS. JAMES: -- and we get more people to
comment --

CHAIRPERSON RIDDLE: We can keep working on
it.

MS. JAMES: Yeah.

CHAIRPERSON RIDDLE: Nancy?

MS. OSTIGUY: We actually, I believe, have a
choice when we do the -- any of these things. We can be incredibly proscriptive and try and go after the individuals who are not following the spirit of OPFA, or we can do what is clear for hopefully most everybody, so that folks understand the parameters under which they need to function, and when there are problems, fix them. So I would really prefer to leave things as they are, assuming we don't get tons of public comment telling us that they want numbers, because we need flexibility for our geographic differences around the country.

CHAIRPERSON RIDDLE: Now, Dave and then Bea.

MR. CARTER: Well, yeah. And I think, you know -- and, Bea, not be flippant, that's what we're continually -- that's what we've been wrestling with in the Livestock Committee, is how do we start drawing some definition around it, you know, without getting overly proscriptive, even when it comes to, you know, terms of illness. I mean, we -- you know, critters are critters and you don't have -- you don't have the ability to know how long one is going to stay sick and have to be in the barn as opposed to another. And so we can't, you know, do that. Now, if you look at the document and the guidance that's being provided here, it does start to do -- I mean, the inclement weather then talks about severe weather occurring over period of a few days, which is in
more detail than is in the rule. Health, safety, and wellbeing of an individual animal could be jeopardized, and it goes into more detail there. And so we're trying to do that, you know, at this point. And I think as it goes on, you know, there'll be some additional comment.

CHAIRPERSON RIDDLE: Bea, yeah.

MS. JAMES: Okay. Yes, I agree, critters are critters, but people are people, too, and that as this industry grows and more and more people become interested in capitalizing on this industry, there are certain segments of what we are responsible for, making sure -- hold the integrity of those people, and I think that there are going to be situations where we do have to get more proscriptive in our language, because there is the potential for misuse.

MS. OSTIGUY: I have a question.

CHAIRPERSON RIDDLE: Yeah. Well, we still have one more section to present, and then -- and then be clear on what the question is. So, Hugh, would you -- oh, yeah, sorry.

MR. MATHEWS: I've found all of this discussion to be absolutely fascinating.

CHAIRPERSON RIDDLE: Well, I'm glad we're keeping you entertained.

MR. MATHEWS: Temporary confinement definitely
is still a problem. You do have people out there who undoubtedly are taking advantage of the wording as it is. For example, you could have broiler chickens who never see the light of day, and I know you don't want that to happen, but it is happening. And so at some point down the road, you do need -- and today is not the time to do it, but you do need to go back to this issue and look at it from all angles and try to come up with something that lends a little more concreteness to the issue, so that -- so that we can eliminate what people are using as loopholes. Unfortunately, it's just like -- Kim can tell you. For personnel actions, you always write the personnel rules for the bad guy, and all the rest of them suffer because of it. But I see that as being the same kind of situation here, where you have to write your regulations to prevent the bad guys from taking advantage of it. And it's -- and I'm not talking in terms of dairy, I'm talking in terms of all animals that are supposed to be provided with access to the outdoors. There's 101 reasons, and probably even more, of why I can't put my animal out today.

CHAIRPERSON RIDDLE: Okay, well, it's been an informative and entertaining discussion so far. Hugh, would you like to present the last point?

MR. KARREMAN: May I just add one thing right
before that, that I believe what we're doing here right
now is tightening up a lot of those loopholes that
presently exist. It might not be perfect, but it's
certainly going that way.

CHAIRPERSON RIDDLE: But we're doing it in the
context of guidance --

MR. KARREMAN: Right.

CHAIRPERSON RIDDLE: -- and we may need to --
as we post this, get more input, take it to a rule
change on this particular item is what I'm hearing.
Please proceed.

MR. KARREMAN: Okay. So appropriate pasture
conditions. Appropriate pasture conditions --
appropriate pasture conditions shall be determined in
accordance with the regional Natural Resources
Conservation Service conservation practice standards for
prescribed grazing, Code 528, for the number of animals
in the organic systems plan. And therefore I think that
might answer a little bit to Rose's concerns in your
specific region, because the NRCS would -- is specific
to regions, about growing season and pasture and
whatnot. And I think that speaks to that, maybe not
perfectly well, but it does. And since there's been a
lot of discussion on this, and before we call the
question, is it -- it's up to the Chairman, of course.
Would it be possible to maybe have just any kind of informative interjection from the farmers that are specific to changes that we've discussed in the last two meetings in the last 24 hours?

CHAIRPERSON RIDDLE: Well, yeah, I understand that one person will present some comments or is prepared to present some comments in reaction to the changes we're proposing, and I think it would be informative to all of us to take the time to hear that, so long as they are as concise as possible. So if we can ask Tony to approach the podium and give us some reaction on what we have on the table right now. It looks like --

MR. a: Thank you very much. And I --

CHAIRPERSON RIDDLE: You can bend that up so you don't have to bend over. There you go.

MR. ACEVEDO: My name is Tony Acevedo from California, the San Joaquin Valley, and I'm a dairy farmer, 350 acres, 600 head, irrigated -- irrigated ground. I'd like to say that I'm very impressed with the accomplishments here. You're making my job very easy. There is -- on the rule change, we would like to see just a couple of words added -- if you look on that paper in front of you -- and the words are maximum; growing suitable grasses and other forages from which
animals graze; plant life material still connected to the roots. But we don't feel that these are major changes, but just it helps to define so that there is not any confusion. And I've noticed a great deal of consideration to trying to define these and I'm very impressed with that.

CHAIRPERSON RIDDLE: And just on that point, I'll just respond that the definition of pasture is not part of our recommendation right now. That would be a relevant comment to submit and for the Livestock to consider if that pasture definition should be further refined. But that would be a different rule change. So I appreciate that comment, but it's not exactly germane to what we're --

MR. ACEVEDO: It does not apply here?

CHAIRPERSON RIDDLE: Yeah.

MR. ACEVEDO: I apologize for that.

CHAIRPERSON RIDDLE: Okay.

MR. ACEVEDO: The only thing that I still hope that you would take into consideration, because it would solve a lot of problems, on the guidance document, not as a rule change, not as a rule, but the guidance document. I come from an area that 25 years ago we had a per cow -- so many cows per acre and it was set by the county, and it was a standard figure so that
overstocking wasn't allowed, and they decided for
 economical reasons to erase that. Because they erased
 that, I am now in one of the worse counties in
 California as far as water quality and air pollution.
 So by adding a three-cow per acre, it is -- it does not
 keep anyone out of organics, but just for water quality
 or the health of the soil. And I feel this is just very
 important to have at least in the guidance document and
 I'm hoping that you will consider that. Is there any
 questions?

 CHAIRPERSON RIDDLE: I think you're real clear
 on that, and I guess I would ask if any of the Board
 members would care to offer an amendment to insert a,
 you know, maximum stocking rate of three cows per acre
 into the draft, and if not, then we'll just take it, you
 know, as comments, but resubmit it once this gets close
 -- Nancy?

 MS. OSTIGUY: I would actually like to the
 committee to look at this, because my interest -- I have
 no problem with three cows per acre. What I'm curious
 about is what the geographic differences are. There are
 some places where three cows per acre is way too many,
 which that's fine, but there are some places where it
 might be okay, and I don't want to constrain things if
 we don't have to, but it may work. So I'd like for the
committee to look at it is what I'm saying. Not that we disagree.

MR. ACEVEDO: Well, I felt -- or the reasoning behind these numbers -- and I need to -- this is numbers that were taken from across the United States. It wasn't just a segment from the east or the west or the north. It is better to set a bar that everyone can go under, and that's why the number three came up. Now, the other reason number three came up, because as you well know, a thousand-pound cow puts out 80 pounds of feces a day. So you times that by three and then you times that by 365 days, because even when she's in confinement, that farm has to handle that waste. That's -- you know, that's about all you can do, you know, you're right there. But as far as pasturing, it's just a -- it's just a maximum.

MS. OSTIGUY: Yeah. Well, my only concern is putting the number there, when we haven't looked at it all. I was very comfortable -- am very comfortable with the 30 percent and 120 days because we discussed those kinds of things. It's just to make sure that we're more informed than to put a number to something.

CHAIRPERSON RIDDLE: Hugh and then Andrea.

MR. ACEVEDO: Do you want me to sit down?

CHAIRPERSON RIDDLE: I think so. If we have
another question, we'll call you.

MR. ACEVEDO: He said yes, you said no.

CHAIRPERSON RIDDLE: Oh. Well, maybe he has a
question for you.

MR. ACEVEDO: Okay.

MR. KARREMAN: No, it's just to -- I personally don't have a problem with the three cows per acre max. But I think it's a lot better basis for making decisions in the agro-ecology of organic dairy farms, in whatever region, if we are to look at the NRCS stocking rights, and that will be different per county in the United States. So maybe you'll only have two cows per acre in certain areas, maybe you'll have four. I don't know, but it's all site-specific. That's why I'm a little hesitant with just -- I can agree with it, but I'd rather rely on the Conservation Service for that. That's just my opinion.

CHAIRPERSON RIDDLE: Andrea and then Gerald.

MS. CAROE: Based on what we're hearing here today as the concept as it's being presented and the fact that it's new, I strongly urge this Board to present this for comment only and not enter it as a recommendation to the NOP, and get that bigger picture view from these organic dairy farmers. I don't know if three cows, whether it's viable or not. I shouldn't be
making that decision. That information needs to be coming from the industry.

CHAIRPERSON RIDDLE: Thank you. Gerald?

MR. DAVIS: My comment's similar. In the comment period, I would hope all the people would weigh in in the comments of what -- they would point out deficiencies in the NRCS date across the country. It'd be interesting to see how many comments we get, well, in my area, it's no good or they've deleted the -- there's no funding or all that kind of stuff, or there's nothing that exists that -- maybe it's more well-developed in New York or Lancaster, Pennsylvania, where Hugh is from and relies on them heavily.

MR. ACEVEDO: So it would be put in for public comment, is that what I'm understanding?

MS. CAUGHLAN: Yes.

MR. ACEVEDO: Oh.

CHAIRPERSON RIDDLE: The draft, but not -- the three cows per acre, no one's offered an amendment, so it currently stands as it's been presented by Hugh. But the --

MS. JAMES: I would like to offer an amendment.

CHAIRPERSON RIDDLE: Well, I recognize Richard first. He was waving his hand, so hold your amendment.
Richard?

MR. MATHEWS: Okay. I'll try to keep it brief so Bea can offer her amendment. The thing that I want to remind everyone of is that you've got some numbers in this guidance document. I have no problem with that. I mean, if you want to use 30 percent, 120 days, three animals per pasture, I have no problem with that. But I have to say that all three of those figures in a guidance document are unenforceable. So if somebody came up with 25 percent, we can't suspend or revoke. If somebody only did 119 days, we can't suspend or revoke. If somebody put five cows on that pasture instead of three, I can't suspend or revoked based on the fact that they exceeded the number in the guidance document.

Now, if they are guilty of polluting the environment because they are overgrazing, that's another matter. I can't go after people for overgrazing, I mean, because there's nothing there that defines quality of pasture in a quantifiable way that we can determine whether or not somebody's overgrazing. So it becomes very difficult for certifying agents to know when something is an offense that is enforceable. So it's -- the numbers are nice, but as a guidance document, they don't have any teeth, okay? So I just want to remind you of that.
The problem with putting numbers in, as I see them, and I had the great fortune of talking to about 200 dairy farmers in the past month, and I find that, very interesting, they all have some good ideas. The one thing that I caution everyone at when I talk to them is, are you creating a standard in which you can't meet? And the reason -- the things that concern me is that -- and I'm not saying that the three is a wrong number. It may very well be the right number. I heard an extension agent say three is the right number. I heard a dairy farmer argue that the quality of his pasture is so good that he can do four. I've heard others say, well, I know Joe over there, he couldn't do one on 10 acres, okay? And part of that problem, as I see it, for setting stocking rights is that you also have to have a pasture quality statement, and I don't know where we are at this point with quality of pasture. And I do know that he was trying to address some of that through these amendments that he's offering, and that's why the NRCS is in there, it's trying to get to the quality of pasture up. So I mean, I'm not passing judgment on anything, I'm just tossing out some what ifs, some things to think about.

CHAIRPERSON RIDDLE: Okay. Bea and then Dave.

MS. JAMES: Well, I don't know now. It's
CHAIRPERSON RIDDLE: Okay.

MS. JAMES: I've got to think about it now.

CHAIRPERSON RIDDLE: Well, we can't accept that as a motion.

MS. JAMES: No. You know --

CHAIRPERSON RIDDLE: That's okay.

MS. JAMES: -- I'm just like -- you know, I'm confused.

CHAIRPERSON RIDDLE: All right. Well -- all right. Dave?

MR. CARTER: Yeah, that's not a motion, that's --

CHAIRPERSON RIDDLE: Dave, and then I have a comment, and then Rose.

MR. CARTER: It's not a motion, that's an emotion, and I'll second that. But the --

MR. MATHEWS: Jim?

MR. CARTER: No, wait. I will -- let me, if I can -- the other thing, let's remember, is that when we're talking about setting rules for organic system plans and access to pasture and everything, that not every animal out there is a dairy cow, and not every ruminant is a diary cow. And so we're trying to carve -- we're trying to frame some things in terms of the
excrement that comes out of the backend of a dairy cow, you know, et cetera and so on. And that's why I prefer to go with the regional and NRCS, where it talks about regions, it talks about animal units, those type of things. And I think that if we say no more than three here and then, you know, the NRCS down there, it creates more confusion than it does clarification.

CHAIRPERSON RIDDLE: Okay. I have a comment and it's in response to Rick's comment about not being able -- a certifier and USDA not being able to take action against overgrazing, and I certainly hope that that's not the case, because the definition of pasture is very clear, that the -- well, that it's managed to provide feed value and maintain or improve soil, water, and vegetative resources. So if someone is degrading vegetative resources through their overgrazing, that could be a cause for action.

MR. MATHEWS: But -- yeah --
CHAIRPERSON RIDDLE: So --
MR. MATHEWS: -- it could be, but -- I mean, it could also get into a situation of splitting hairs --
CHAIRPERSON RIDDLE: Sure.
MR. MATHEWS: -- and he said, she said type of thing.
CHAIRPERSON RIDDLE: Sure, yeah.
MR. MATHEWS: Which would be more difficult.

CHAIRPERSON RIDDLE: But in the extreme.

MR. MATHEWS: Yeah.

CHAIRPERSON RIDDLE: Okay.

MR. MATHEWS: Well, in the extreme, it's going to be pretty obvious --

CHAIRPERSON RIDDLE: Yeah.

MR. MATHEWS: -- if they're overgrazing.

CHAIRPERSON RIDDLE: Yeah. But there could be action. Rose? And then I saw one over here.

MS. KOENIG: Well, I mean, I have nothing wrong with the guidance document per se, but what I'm hearing and what I stated yesterday is that I believe -- and I don't think it can be accomplished at this meeting, you know, which I don't have a problem with that. But I think, in fact, that you want an enforceable regulation, you want to quantify it in the regulation, and if you're not prepared to do it today, I think the guidance document couldn't go forth as far as a draft, because that's what it is, it's guidance. But I still believe that you want to see a quantifiable measure within a rule in this case and I don't think you're ready to do -- I am certainly not ready to vote on it today and I don't think that your committee -- you know, I think the farmers -- and I'm thinking as a
farmer. I'm not a dairy farmer, but I know, I think, what farmers feel and they would rather see this Board and this Program do it right, because six or nine months really is a very -- even though said 18 months was a lot, in terms of the impact, it's huge for growers, and we're willing to learn -- I am. I honestly will, but I am a grower. I think we're willing to wait for the right change rather than to not do something that will not achieve what ultimately all these folks want.

CHAIRPERSON RIDDLE: Okay. I was going to hit you, but that's your broken arm. Kevin?

MR. O'RELL: Well, I just want to echo Rose's sentiments that, you know, we've gone through a process here and we have passed a motion for a rule change, too, which is -- which is significant, it's significant progress, and that rule change will take 18 to 24 months to be effective. Why are we rushing with a guidance statement that supports that rule change? I think we really need to publish the guidance statement. This has come out of the Livestock Committee, several different drafts, and now we're getting input from the audience and trying to change it to numbers, I think we need to stick to the recommendation that came out of the Livestock Committee and decide whether we want to have a posting for public comment and input.
CHAIRPERSON RIDDLE: Um-hum. Well said, and I think we've had a lively debate.

MR. ACEVEDO: Thank you.

CHAIRPERSON RIDDLE: Thank you, Tony --

MR. KARREMAN: Thank you very much.

CHAIRPERSON RIDDLE: -- for your input. I've heard no amendments proposed to the draft coming out of the committee. The thing I've heard repeatedly stated from Board members is the need for this to be posted for a round of public comment. So would you restate your motion and make sure that the seconder is on board with that?

MR. KARREMAN: Okay. I would move, then, that this guidance document on livestock pasture requirements go out for public comment and we take a vote on it the next time we meet in the fall.

CHAIRPERSON RIDDLE: But did we --

MR. KARREMAN: And it comes out of the NOSB for pasture -- for comment and we can reevaluate things based on public comment at that time. I agree. The only thing -- that's the only obvious clear thing to me is that there's a lot of discussion, but I think we're all on the same page, so to speak, but it needs to be fleshed out a little better and I think we can do that.

MR. CARTER: At some point did you stop making
the motion?

CHAIRPERSON RIDDLE: Yeah.

MR. KARREMAN: Was that right? I'm not used
to that. I'm sorry. Okay. All right, I'll make a
motion that we send this out for public comment.

CHAIRPERSON RIDDLE: Okay.

MS. OSTIGUY: And I believe I was the
seconder. That's fine with me.

CHAIRPERSON RIDDLE: Okay, so Hugh moves and
Nancy seconds that this draft, as presented by
committee, be posted for public comment. All right.
George, a closing comment here?

MR. SIEMON: No, it's open --

CHAIRPERSON RIDDLE: Well --

MR. SIEMON: Okay. I just opened up the NOP
guidance document and they've got level one, level two,
that their all available for public comment. So are we
saying it's not going to enter into the NOP and then
they look for guidance? It's pre-NOP guidance input
versus then we'll give it to them and we'll have post-
NOP guidance input?

CHAIRPERSON RIDDLE: That's --

MS. OSTIGUY: Yes.

MR. SIEMON: I sat through this meeting -- we
always -- and vote. We always change here because
that's what the input's for. And to go and get more input, then we'll change it again, and then someone will say, let's send it out again. This is a guidance document. We've got 5,000 comments. You know, I need to understand how it relates to NOP guidance -- my question -- that we got a proposal from NOP.

CHAIRPERSON RIDDLE: Okay. And I saw Nancy first, then Kevin, then Hugh.

MS. OSTIGUY: That's -- George, your comments are applicable to almost anything that we do, but we could go on forever with getting public comment and you know, there is a point where we have to make a decision and move forward. I think, because of the volume of comments and the volume of comments during the meeting, this is a situation where we should go back to committee to take into account that the additional comments that might come from our on-the-fly changes, all of this, no matter when we make a decision, it can come back up for public comment again.

CHAIRPERSON RIDDLE: Kevin?

MR. O'RELL: Yes. And, Nancy, just following up on your comment, I mean, we have made some significant changes, and the fact that now we're starting the NRCS, that was never published for public comment in the Livestock recommendation that went out.
And I think that it would be warranted to get public
input on the NRCS.

CHAIRPERSON RIDDLE: Hugh?

MR. KARREMAN: I think, when we came out with
the original guidance on January 26 and we voted in the
Livestock Committee, it was then posted two weeks later
by NOP, and I'm not sure what the procedures are, but I
have in my mind that there's a 30-day public comment
time in general for things. And --

CHAIRPERSON RIDDLE: Well, that's just a
guideline, yeah.

MR. KARREMAN: Right. So --

CHAIRPERSON RIDDLE: Normally, it would --

yeah.

MR. KARREMAN: I mean, we got like five or
seven thousand comments, basically, unanimously
supporting that document, okay? We have changed that
document now, I think, by adding NRCS stuff and whatnot,
and I think we really need to have fresh input. And
maybe we have five or seven thousand comments again
saying that's great, or we'll get even more farmers
adding into the conversation. But I think we've really
improved things, too, right now.

CHAIRPERSON RIDDLE: Again? That's okay.

MR. O'RELL: Well, yeah. And, Hugh, I agree
with that, because the NRCS is something new to this and I really think we need to get out there and get the public input.

UNIDENTIFIED SPEAKER: I can't hear you.

CHAIRPERSON RIDDLE: Try again

MR. O'RELL: Try again? I don't remember what I said.

MR. SIEMON: You agree with --

MR. O'RELL: Ditto. But there was another point I was going to make. This is guidance -- a guidance document. It doesn't have the force of law. We did a rule change that we're putting through the system that does have the force of law. So for a guidance document that doesn't have the force of law, and we've made significant changes to the recommendation that was posted, I don't see why we don't go the route of posting it for additional public comment.

MS. OSTIGUY: Um-hum.

CHAIRPERSON RIDDLE: Okay.

MS. OSTIGUY: Can we call the question?

CHAIRPERSON RIDDLE: We can, but I was going to make a comment, so we won't.

MS. OSTIGUY: No, no, Rose is first, Rose is first.

CHAIRPERSON RIDDLE: And Rose, too. So I
haven't recognized Rose, so Rose first, and then I will, too.

MS. KOENIG: Can I ask the Livestock Committee -- I've heard it twice saying that we proposed two significant rule changes. Will there be a proposal from the Livestock Committee to make any additional rule changes that add specificity to the number -- it's either 30 percent, as the public comment said, or are you saying that that is only going to be embedded into this guidance document?

CHAIRPERSON RIDDLE: Nancy?

MS. OSTIGUY: It depends on public comment.

If what we're hearing, including from the Board, is that it ought to be a rule change, then that would be what comes back as a recommendation to the Board, is a rule change. If the general gist is we're okay with the guidance document, we'll stay with that. I have no preconceived decision at all.

MS. KOENIG: But when we send these two definitive rule changes to NOP, so long as they are willing and makes sense to their lawyers to have two separate documents with rule changes that impact the same area of the regulation, I mean, is that the effective way of doing it, or does it not matter to you how many -- I mean, I may have misunderstood. I mean,
I've been here for five years and it's very rare that you've ever even agreed to do a rule change and I want to get it right, because I'd love to see it in the term I've been on the Board. So I mean, the fact that you said you do it once, the idea of doing it twice, because it takes time and I know it takes a long time, so --

MR. MATHEWS: It takes a long time, it takes a lot of work, and it's hard to get things accomplished, especially when staff is busy doing other things. But I don't care how many rule changes we have to do. We can do them one docket at a time. So we can move forward with what you've already proposed, and then if you come back later and want to change this guidance document into some more rulemaking, we can do that as well. So it's -- you just make your recommendations and we'll do our best to get something done. If you look at us historically, we may still be working on the first proposal by the time you come out with something at the next Board meeting.

CHAIRPERSON RIDDLE: Dave, and then I'd like to move to a vote.

MR. CARTER: No. I was just going to say -- I mean, we do pass materials at various -- you know, each meeting and they got -- you know, they get rolled into one, you know, thing. And I think that the more we can
get stuff to them now, and if we come up with something at a different meeting, they will still have this, I'm sure, under drafting at that point. So let's go ahead and vote on it.

CHAIRPERSON RIDDLE: Okay, well --

MR. SIEMON: I just think it's important to remember, we were asked by the NOP to come up with a guidance document on pasture. That's what we set out to do. I think we've got a good document here. That's what they asked -- in the midst of that, we decided to go for a rule change. We didn't feel it was fair to go all the way to the rule change at the last minute. The ones we put forward help a lot, but to go all the way and you get all of this down was where we didn't feel we could do that so quick. We feel very good about our guidance document. I feel like we need to send direction to the Department of what our intent is, and I think this document represents that.

CHAIRPERSON RIDDLE: Right. And I agree with you, George. I think we've put a tremendous amount of work, and we've had five Livestock Committee meetings since we've been here, and we've received massive amounts of comment, and yeah. So I -- I will be voting no on this motion, because then we can reconsider it as guidance to NOP. Either way, it will be posted. And
so, Hugh, if you agree with George, you would vote now and then it can come back for a second vote.

    MR. MATHEWS: Jim?

    CHAIRPERSON RIDDLE: Yeah.

    MR. MATHEWS: To just lighten it up a little bit --

    CHAIRPERSON RIDDLE: Sorry.

    MR. MATHEWS: -- just because you vote no doesn't mean it has to be a new motion. There might be --

    CHAIRPERSON RIDDLE: Well, it doesn't mean it's dead. If it's defeated, it doesn't mean it's dead, is what I'm saying.

    UNIDENTIFIED SPEAKER: You're supposed to vote last, not first.

    CHAIRPERSON RIDDLE: Well, yeah. I'm just --

    UNIDENTIFIED SPEAKER: You just voted.

    CHAIRPERSON RIDDLE: -- that -- no, I haven't voted. I said, no, I'm going to -- just to let you know that it doesn't mean it's dead if this motion is defeated.

    MS. OSTIGUY: I call the question.

    CHAIRPERSON RIDDLE: So yeah, Hugh is gone and we start with Bea.

    MR. SIEMON: Okay.
CHAIRPERSON RIDDLE: So the motion is to post for comment only, it would not be to provide guidance to NOP, this motion as it's presented.

MS. JAMES: So it would absolutely be considered yes?

CHAIRPERSON RIDDLE: A yes?

MS. JAMES: Yes.

CHAIRPERSON RIDDLE: George?

MR. SIEMON: Is this on just to post for comment, right? No.

CHAIRPERSON RIDDLE: As opposed to --

MR. SIEMON: No.

CHAIRPERSON RIDDLE: -- guidance to NOP.

That'd be no. Rose?

MS. KOENIG: Can you restate the motion? I don't quite understand what it is.

CHAIRPERSON RIDDLE: Well, the -- do you have it there? The motion is to post as guidance document for public comment.

MS. KOENIG: Yes.

CHAIRPERSON RIDDLE: Goldie?

MS. CAUGHLAN: Yes.

CHAIRPERSON RIDDLE: Kevin?

MR. O'RELL: Yes.

CHAIRPERSON RIDDLE: Andrea?

York Stenographic Services, Inc.
34 North George St., York, PA 17401 - (717) 854-0077
MS. CAROE: Yes.
CHAIRPERSON RIDDLE: Rigo?
MR. DELGADO: Yes.
CHAIRPERSON RIDDLE: Hugh?
MR. KARREMAN: Yes.
CHAIRPERSON RIDDLE: Julie?
MS. WEISMAN: Yes.
CHAIRPERSON RIDDLE: Gerald?
MR. DAVIS: Yes.
CHAIRPERSON RIDDLE: Mike?
MR. LACY: No.
CHAIRPERSON RIDDLE: Nancy?
MS. OSTIGUY: Yes.
CHAIRPERSON RIDDLE: Dave?
MR. CARTER: Yes.
CHAIRPERSON RIDDLE: And the Chair votes no.
We have -- that'd be 11 yes and 3 no, 0 abstentions, so
it passes and will be posted for public comment, and we
don't have to vote again. All right, good work.
MR. SIEMON: That's it for the Livestock report.
CHAIRPERSON RIDDLE: Okay. It's 2:30. Oh,
gosh. Are you ready? Do you have a half-hour type item
that we can deal with before a break? I mean, we got --
MS. KOENIG: Yeah, I think so.

York Stenographic Services, Inc.
34 North George St., York, PA 17401 - (717) 854-0077
CHAIRPERSON RIDDLE: Well, I hate to let people out -- don't exist. If you --

MS. KOENIG: Yeah, I think what we could do is pick out one of things that we had already gone over.

CHAIRPERSON RIDDLE: Yeah, yeah, yeah. So if you -- and if there's something that we aren't going to take action, let's just make our reports pretty brief, if possible.

MS. KOENIG: So do you want --

CHAIRPERSON RIDDLE: Well, you have everything that's in the meeting book. So, Rose --

MS. KOENIG: Arthur, what I'm going to do is -- Jim wanted a short -- one of our short items, and I think the last one, the materials review procedures would be the item that we kind of discussed that prior to lunch.

MR. NEAL: The materials review procedure?

MS. KOENIG: Yeah.

MR. NEAL: This last --

CHAIRPERSON RIDDLE: Okay. So that's in tab eight, materials review, right?

MS. KOENIG: Yeah.


CHAIRPERSON RIDDLE: Nancy.
MS. OSTIGUY: I wanted to thank the NOP for copying a whole bunch of stuff for us on the prescribed grazing and stuff from the NRCS. It's very useful. Thank you.

CHAIRPERSON RIDDLE: Yeah. And I'll just point, there are some extra copies up here. There is a copy of the National 528, the prescribed grazing standard, and then some other background information. So when we take a break, if you'd like one of those, there are extra copies, so don't let them go to waste. So members of the public. Everyone on the Board got them already. So okay. Rose, are you ready?

MS. KOENIG: Okay, it's over here. Let's go to that. And the reason I brought this one over is because I thought it would be fast. It's actually the information I went over prior to lunch, with the different phases. And Kim had asked, had the Materials Committee seen this -- this one? The recommendation that NOP -- well, this is what -- NOP had given us a draft and asked for comments on the procedures.

MS. CAUGHLAN: Which one? Is this --

MS. KOENIG: Under tab eight, the materials review.

MS. CAUGHLAN: Oh, okay.

[Simultaneous comments]
CHAIRPERSON RIDDLE: Yeah, yeah.

MS. KOENIG: And Jim and myself had made some changes to the document, and this is what was presented. It is the working -- the working procedure and it would be recommended to add to the Board policy manual to update what exists in terms of the procedures. One of the questions was, we had 14 or 21 -- that one sheet that said ask Rose. Well, that is based kind of on our last process. So we would incorporate a sheet, timing a little bit more accurately, based on this document. And then, again, to me the only substantial -- it's a change in the sense that it's in OFPA, but one area that I said I think that needs some, perhaps, discussion -- I'm not sure if we can decide upon it today, but if we could agree to embody the concept, I guess, because the concept is in this document without the details, and I think the Materials Committee would have to work on the details. It's on page -- it's on the third page, under phase five.

And again, this is when -- after we sent the petitions out to the -- to the TAP contractor. Well, I always say the technical contractor, the person who gives us our information back. And we get that information back and it comes to committee. If you go down to the bottom of the page it says convene a
mutually convenient time to review, and then the committee may convene a technical advisory panel, by electronic mail or a conference call, to provide scientific evaluation of the petitioned substance, as provided by OFPA 6518(k)(3).

So that to me is -- again, it's something that is -- it was in the Organic Foods Production Act, under what our mandate is in terms of the review of materials. The only thing that isn't specific and won't get anymore specific in this document, I think is a working -- the next working plan document for the Materials Committee, as to how we would procedural go about organizing.

MS. OSTIGUY: I have a point of order. Are we supposed to have motion first?

CHAIRPERSON RIDDLE: That's what I was just going to ask, if you would like to --

MS. KOENIG: Oh, I'm sorry.

CHAIRPERSON RIDDLE: -- move this as an amendment to the Board policy manual. Is that how -- is that the --

MS. KOENIG: Yes.

MS. OSTIGUY: Second.

CHAIRPERSON RIDDLE: Thanks, Nancy.

MS. KOENIG: Sorry about that.

CHAIRPERSON RIDDLE: No, that's fine.
MS. KOENIG: I'm trying to get through in 30 minutes.

CHAIRPERSON RIDDLE: Um-hum. Okay.

Discussion? We're all like --

MS. OSTIGUY: Everybody's exhausted. Call the question. There's no discussion.

MR. DELGADO: Can you restate the --

CHAIRPERSON RIDDLE: Well, the -- yeah, the motion is to adopt the materials review process as an amendment to the Board policy manual to update that section of the Board policy manual. Yeah, and Kim has a point here.

MS. DIETZ: Just following up on that again. If we could just ensure that that's in the Materials Committee work plan to develop that guidance document, that way before you review materials again, I know that you have something.

CHAIRPERSON RIDDLE: I'm sorry. Can you be clear exactly which --

MS. DIETZ: Under the technical reviewers, if you could have some guidance document before you actually start using this policy, so that we understand what that process is. And put it on the committee's work plan.

CHAIRPERSON RIDDLE: Yeah. And that was a
point I think is critical that you had brought earlier, that -- I mean, these procedures already are being followed, but the missing link is this new responsibility to the Board, because it used to be the contractor convening the panels, but now that's not part of their statement of work and we don't have procedures yet for the selection of those potential panel members, how they would function. So the Materials Committee, we'll put that on your work plan for the future.

MS. CAROE: Jim?

CHAIRPERSON RIDDLE: Yeah, Andrea.

MS. CAROE: Can I ask which section this is going to replace and where this is going to placed in the policy manual? It's on page 22?

UNIDENTIFIED SPEAKER: You should go to the policy manual.

MS. CAROE: I think it's page 22, but I just want to make sure.

CHAIRPERSON RIDDLE: That's -- on page 22, Rose, is where the current materials review process is, where it's day one through fourteen, blah, blah, blah.

MS. KOENIG: Yeah, it would -- the petition information is renewed, update petition -- it would go in where -- we still may have an abbreviated format on 22, you know, that maybe kind of takes all that.
information and summarizes it, but pretty much there.

So it would be --

MS. OSTIGUY: In addition to --

MS. KOENIG: No, it would -- this is old.

This was based on the old materials review process, because we didn't have a -- kind of a formal, written procedural document between NOP and the National Organic Standards Board. So this was presented and this would replace that document.

CHAIRPERSON RIDDLE: Kevin?

MR. O'RELL: Rose, just a question in terms of the time line, then. On page 22, we have the procedures and we have the time line, and this new document has no time line associated with it. Is that something that's going to be integrated or --

MS. KOENIG: Well, I think it's going to be integrated, but one of the issues in the draft, because of kind of this changeover, it's just taken a lot longer than it ever has with -- Arthur probably could, you know --

CHAIRPERSON RIDDLE: Arthur?

MR. NEAL: Right not there's no associated time line, because all of the materials that we're getting have too many questions surrounding them.

That's why the process has slowed down so much, because
we have to take time to look at them a lot closer. And
the materials that we have on the table for this
meeting, it took one whole year for it just to get to
this meeting because there are too many questions. So
for right now there is not time line associated with it,
just because of the whole back and forth going on, and
then we brought on new contractors, where now they're
trying to find out how long it will take them to
actually complete a TAP. So once they've gotten into a
groove and we've got a set of our reports back from them
to you, then we'll be able to hammer out the new time
line.

CHAIRPERSON RIDDLE: And, yeah, I'd just would
like to point out that in this draft from the committee,
put together by NOP, there are some time frames.
There's like 21 days for the Materials Committee and the
relevant, applicable other committees to respond to a
petition that's been circulated, and another place where
there's 21 days, and then there's 30 for drafts to be
posted. So there are some time frames, but not an
overall time line.

MS. JAMES: Jim?

CHAIRPERSON RIDDLE: Yeah, Bea.

MS. JAMES: So if we incorporated the time
line in there, it would be a guideline, but it's not
enforceable, right? Is that -- am I correct in stating that?

CHAIRPERSON RIDDLE: It would be a guideline that theoretically is enforceable, but has not been enforced.

MS. JAMES: Okay.

CHAIRPERSON RIDDLE: Okay, any other comments? Is everyone -- Kim?

MS. DIETZ: Sorry, guys.

CHAIRPERSON RIDDLE: Well, no problem.

MS. DIETZ: As the past Materials chair --

CHAIRPERSON RIDDLE: This is your last hurrah. Make the most of it.

MS. DIETZ: Yeah. I feel it's really important to have some kind of a time line so the public understands the process of -- even if it's a very vague. I'd be happy to volunteer because I'm good at those little flow charts. To at least just take what we have -- you know, once a petition is received, we don't know the time between when the NOP receives it and when the contractor gets it, but we do know a time frame from once you guys receive a petition -- or a TAP back. And I think, at the minimum, the public should have that time line document so they know what they're expecting. I know there was a comment a couple days ago about a
petitioner that didn't get anything until two weeks before this meeting, and I think we need to really be careful with that and make sure the public gets what they want and what they should be expecting. So --

CHAIRPERSON RIDDLE: Rose?

MS. KOENIG: And I think that, Kim, it ought to be done. I just -- you know, in the past, I think we've gotten in -- because it says here the minimum flow, and maybe we can have a general statement, the minimum time, and then only in the areas -- once we get the TAP, we can control our time a little bit better.

CHAIRPERSON RIDDLE: Arthur.

MR. NEAL: Also, the time frame that Kim is mentioning, those are covered. See, the idea is to have this document posted on the website for all petitioners, but we didn't put it on the website just yet, until it comes out of the Board as being acceptable. But once all the petitioners have this document, they'll be aware of what to expect once they petition a substance.

CHAIRPERSON RIDDLE: Okay. Seeing no further debate, we will vote on the materials review procedures as an amendment to the Board policy manual. And we begin -- we begin with George.

MR. SIEMON: Yes.

CHAIRPERSON RIDDLE: Rose?

York Stenographic Services, Inc.
34 North George St., York, PA 17401 - (717) 854-0077
MS. KOENIG:  Yes.

CHAIRPERSON RIDDLE:  Goldie?

MS. CAUGHLAN:  Yes.

CHAIRPERSON RIDDLE:  Kevin?

MR. O'RELL:  Yes.

CHAIRPERSON RIDDLE:  Andrea?

MS. CAROE:  Yes.

CHAIRPERSON RIDDLE:  Rigo?

MR. DELGADO:  Yes.

CHAIRPERSON RIDDLE:  Hugh?

MR. CARTER:  Absent.

CHAIRPERSON RIDDLE:  Absent.  Julie?

MS. WEISMAN:  Yes.

CHAIRPERSON RIDDLE:  Gerald?

MR. DAVIS:  Yes.

CHAIRPERSON RIDDLE:  Mike?

MR. LACY:  Yes.

CHAIRPERSON RIDDLE:  Nancy?

MS. OSTIGUY:  Yes.

CHAIRPERSON RIDDLE:  Dave?

MR. CARTER:  Yes.

CHAIRPERSON RIDDLE:  Bea?

MS. JAMES:  Yes.

CHAIRPERSON RIDDLE:  The Chair votes yes, so we have 13 yes, 0 no, 1 absent.  Okay, it's a quarter
until 3:00. I think it's a good time for a break. We accomplished something else, so that's good, and then we'll come back for more of the Materials Committee, okay?

MS. KOENIG: That's fine.

CHAIRPERSON RIDDLE: All right. So --

MR. DELGADO: How long is the break?

CHAIRPERSON RIDDLE: Yeah, 15 minutes. At 3:00 p.m. is when come back.

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[Off the Record]

[On the Record]

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CHAIRPERSON RIDDLE: All right, we -- all right, we've got a quorum of the Board here. We'd like to resume business. We still have both the Materials and Crops Committees yet this afternoon. And we go back to Rose and your next item.

MS. KOENIG: Okay, the next item is -- is actually --

CHAIRPERSON RIDDLE: And could people, you know, close the door and quiet down in the audience? Thanks.

MS. KOENIG: The next item I want to deal with is the NOSB internal working document, draft three, and

York Stenographic Services, Inc.
34 North George St., York, PA 17401 - (717) 854-0077
I would like to make a motion to accept -- to accept this as our internal working document for Sunset review.

MS. OSTIGUY: Second.

CHAIRPERSON RIDDLE: Okay, there's a motion by Rose, second by Nancy, for the Board to accept the Sunset review as the internal working procedures of the Board. Discussion? Rose?

MS. KOENIG: I don't know how in detail people want me to go through on this document. I'll just go briefly over it and then if folks have specifics, then we can get into it. But basically, the document outlines both the NOP's responsibility and our responsibility in terms of the Sunset procedures. And additionally, there's an addendum -- and I think actually there's too many sheets copied, but there's numerous schematics that Kim provided to us, that basically takes the information and kind of puts it in a flow chart with some numerical that I use there in terms of times, so that people kind of understand how it all it would affect -- it starts with a federal notice to the public on the Sunset of the National List, those items that were posted on -- in 2002, October 21, 2002. And once that notice is posted -- it hasn't been posted yet -- then the federal starts the clock. And we will being comment in, and it could be the next day, it could
be any time within -- and even a little after the
comment period.

And we have talked with the staff to indicate,
you know, how they were going to just get those comments
to us. But basically, there will be a database, and
because the comments may be just about a single
substance or it might have multiple -- about multiple
substances in different categories, maybe crops and
livestock, we decided to code the comments, have
columns, C for Crops, L for Livestock, and H for
Handling. And we hope that there's only going to be a
five-day period between the time -- if NOP gets them all
electronically, that they can post them right to the
database. And then it will be the responsibility of the
chair and the committee members to actually go to that
database and look for the C comments, if you're in
Crops, and begin the process of reviewing the comments.

Once there's a large number of comments
received -- and actually, the number is up to the
discretion of the chairs of the committees. They would
then start the beginning of conference calls. And then
the conference calls should be just about -- we always
say an hour and a half long. So just kind of schedule
them -- they'll have to be scheduled probably
periodically in that time period so that we have a

York Stenographic Services, Inc.
34 North George St., York, PA 17401 - (717) 854-0077
chance to review all of the comments as they come in.

And we developed this kind of form that the committees will be fill them out when they start doing that review process in the committee. They would have the name of the substance, number one, the National List section, and annotation, if applicable, and then the comment code number. In other words, we do have a code scheme on -- you know, a comment come in. The first one would be one with the date, just so that you can make sure you're keeping up with the comment. And then the status, what the comment says. Do they want it reviewed or did they want it removed? And then number five, the committees would provide a summary of the comment and again, state the position provided by the commenters and determine the relevancy to OFPA or the 205.600(b) criteria. And then that information that does specifically address the criteria should be noted, and comments -- the committee should determine if the comments provided data, references, or expertise to justify the position expressed, and the committee also must determine if additional information or verification of the information provided is necessary. So that's in the kind of the summary statement.

MR. SIEMON: I got to ask a dumb question.

I'm sorry.
MS. KOENIG: Okay.

MR. SIEMON: Back to kindergarten for me.

MS. KOENIG: Okay.

MR. SIEMON: This is for all the materials that are going to be placed -- given notice that their Sunset's coming up and we're looking for comments on all the materials?

MS. KOENIG: Yes.

MR. SIEMON: Okay, at first I was reading it and it says for one material.

MS. KOENIG: No, this is for the --

MR. SIEMON: So this is for all the materials --

MS. KOENIG: This is for all those that were listed October 21, 2002. Because what NOP will say -- well, they're going to list -- the Federal Register notice will say all -- and I don't know if you specifically list every single one. Do you, in the notice, because I haven't seen the notice? But every single one that's up for Sunset will be on that Register notice.

MR. SIEMON: Thank you. Sorry.

MS. KOENIG: Okay. So then six -- and this is an area -- I think, again, all the areas that are might be worth discussing in six. Six: the committees will
recommend to the full Board a determination on each substance for review, removal, deferral, to seek specific -- or deferral, to seek specific technical information from the TAP contractors. So we are envisioning that there may be some that we may need to go through and get information from TAP contractors. TAP contractors shall be used to verify the information provided by the commenters, research or seek additional information requested by the committee. The request to a TAP contractor for more information needs to be detail-specific and based on the OFPA criteria. If a committee determines that they need additional information from the contractor, their written request will be immediately forwarded to the contractor prior to vote to the full Board. And that's something that I think if there's any discussion item here, that might be one. But that -- the reason why we put that in was because we felt that the committees needed an expedited process because we are in kind of a time crunch. So the committees make that determination. At that point there is ability for the Board to take a full vote and seek additional information, but it does give authority to committees to make that determination at that point, also.

So basically, some -- you know, we do envision
that some will have enough information to make
decisions, some may have to go out for technical, you
know, expertise in gathering more information. And then
basically, the -- the committee would then make the
recommendations at -- we think, two -- a minimum of two
and a maximum of four Board meetings to review all the
materials that will be reviewed by 2007. So when we
come to the final vote, each committee will provide the
recommendations to the Board on each substance 30 days
prior to the full Board meeting. So it will be very
similar to the -- when somebody's done a review of a
petitioned substance. And the recommendation will be
posted on the website and open to public comment.

The comments received at this point from the
public should address the committee's recommendation.
The Board will discuss each substance and recommendation
from the committee and vote on renewal, removal, or
deferral of the substance. Deferral of substances would
be based on insufficient information to make a decision
by the Board and would require a request for additional
information from the TAP contractor. Again, a request
would be written by the appropriate committees and
address OFPA criteria. Substances that are deferred
would be referred back to committee and placed on the
agenda for the next upcoming meeting. And then -- so
that stage is NOP rulemaking.

After each NOSB meeting, the NOP would begin rulemaking on those substances that were voted for renewal. The Materials Committee anticipates at least two dockets of materials for renewal, based on the assumption that deferred materials may take some additional time for review and a full-Board vote.

CHAIRPERSON RIDDLE: You know, first, Rose, I'd just like to thank you and the committee and Kim for providing a really clear draft and with the flow charts. I think it's quite understandable and something we can work from. And I have a couple of questions.

MS. KOENIG: Okay.

CHAIRPERSON RIDDLE: If this is adopted, would it be your intent that this also go in the Board policy manual, because it's not the only time -- you know, and Sunset will continue, so --

MS. KOENIG: Yeah, but -- correct. I think it is very appropriate to put it under -- with all the other materials' information and such. We just want you to realize that it's our internal working document and it's the first stab. You know, we may start working with this procedure and find out that it doesn't work.

CHAIRPERSON RIDDLE: Oh, it's -- yeah.

MS. KOENIG: It's a living and breathing
CHAIRPERSON RIDDLE: Uh-huh. And then the other question is, currently, some of the committees are already identifying substances for early reviews. How does that relate to this?

MS. KOENIG: Well -- and that was a question I know that Andrea had. And you know, we've got some public comment of -- that came in for committees. I don't -- I think we really - to be honest, we just assumed that committees would determine, for various reasons, that certain things might take a priority, based on prior TAPs or information from the public. So I'm not sure if we need a procedure for how you would do that. I think that it could be a loose structure. But if a committee determines that, it would go right to a TAP. They would vote on that, you know, the committee would have to vote that it needs more technical information.

CHAIRPERSON RIDDLE: Um-hum. Andrea?

MS. CAROE: This document really satisfies my concern, and my concern was that the committee had some arbitrary judgment here. But actually, all materials will have a judgment -- a recommendation from that committee. So that does address that question. The one thing that I'd like to ask you, Rose, is, in many cases,
as we're doing -- reviewing materials and recommending them for inclusion on the National List, we have gone back to the petitioner to ask for some more information, and in this case, for a material that's been on the list for five years and may not have been fully petitioned, you know, we have some materials out there --

MS. KOENIG: Right.

MS. CAROE: -- that -- how are we going to get that kind of information? I know we can get certain information from the TAP reviewer, but we have kind of lost a link, perhaps, with some of the petitioners, and do you foresee --

MS. KOENIG: Well --

MS. CAROE: -- that there's any way that we're going to be able to get that information?

MS. KOENIG: Well, the petitioner's information will be provided within their comment, and if you remember, the original Sunset document pretty specifically outlined what information can and has to be submitted. If you remember -- and I don't have -- it was the one we passed last time, that said what needs to be in a Sunset, you know, what kind of information and alternatives and data and stuff that is acceptable, and it's based on the OFPA criteria. And that's why in that the committees really determine if that data has been
provided. Now, there would be a way if their e-mail or
letter -- committees, I guess, if appropriate and if
necessary to perhaps have NOP contact those commenters.
But we really didn't consider that.

CHAIRPERSON RIDDLE: Nancy, then Kim, then
George.

MS. OSTIGUY: Andrea, what -- are you asking
about the original petition?

MS. CAROE: Um-hum.

MS. OSTIGUY: You're right, we do -- that link
is broken. Now, I'm sure we could under, you know,
circumstances, if necessary, see if that petitioner
still exists.

MS. KOENIG: We can access the archives. I
mean --

MS. OSTIGUY: Right.

MS. KOENIG: -- and I'll be honest right now,
the last, you know, six or so years there were good
TAPs, but when start accessing archives from the early
'90s, they're just --

MS. OSTIGUY: We're not talking about TAPs,
we're talking about the original petitioner, and we may
or may not have --

MS. KOENIG: Some of those were just --

MS. OSTIGUY: -- some of that information.
MS. KOENIG: -- early on in the industry that --

CHAIRPERSON RIDDLE: Yeah.

MS. KOENIG: -- came up and said there was no --

MS. OSTIGUY: Right.

MS. KOENIG: -- petition, per se.

CHAIRPERSON RIDDLE: Kim?

MS. DIETZ: The way I envision, probably, this happening is, at least those initial materials that we deemed that you need to review, you can start getting going on those by requesting the original, not the TAP, but the actual decision by the Board. And again, those are all archive materials. And then you're going to get public comment. I mean, even though you're going to start this process, you're really not going to be able to do much until the end of that 60-day public comment period. At that time, you know, you're going to have a lot of shuffling and organizing and looking at -- and perhaps those commenters can help you determine, you know, the questions that you've got or further them.

The other thing is, we keep talking about all the materials on the National List and it's just those that were on the list when the act was first implemented. So --
CHAIRPERSON RIDDLE: Right. Go ahead.

UNIDENTIFIED SPEAKER: What was the count? We have the count.

MS. DIETZ: It's about 200 materials.

CHAIRPERSON RIDDLE: That's all.

MS. DIETZ: Just 200.

CHAIRPERSON RIDDLE: George?

MR. SIEMON: Well, I'm a little confused, I'm sorry. I heard that they're going to get comments. I heard that. Then I also heard --

MS. DIETZ: Maybe you should do the flow chart and help explain to people --

MR. SIEMON: Well, I tried to look through that, but I also heard -- these people -- we're going to put the list on the web, people are going to make comments whether they should be reviewed or not, or are they -- they're not going to petition that they should go off or not? The public will just be able to make comments is what I'm reading here.

CHAIRPERSON RIDDLE: Rose, would you respond?

MS. KOENIG: What is envisioned is that people have to comment. If they want the material on, you know, the way that the Sunset provision works, if they say yea, it needs to be kept on, but they still -- you have to have comments to keep something on, okay? If
they say it needs to be kept on, then that -- there's an assumption in that Sunset document that it still is at the same stage it was when it was initially voted.

MR. SIEMON: If someone writes a comment that I still want this material --

MS. KOENIG: You still need -- you know, a vitamin something --

MR. SIEMON: Then -- okay, we consider that as our process.

MS. KOENIG: Yeah. If they say we don't need vitamin something in livestock, they have to provide information showing why it's not needed anymore. What has changed since the last technical review?

MR. SIEMON: So a negative comment is the same thing as taking on a responsibility to be petitioning that product to come off?

MS. KOENIG: To provide the specific information, and that information will be detailed in the Federal Register, but it's going to be based on the document that we voted on at the last meeting.

MR. SIEMON: And I wish I had that with me, because there's been quite a discussion I've heard about this. So -- so I don't have that criteria with me. It's harder to get a material off because you've got to take into effect -- what I'm hearing is the economic
effect of this, there is an additional criteria.

MS. KOENIG: Well then, Arthur, correct me if I'm wrong. The justification that NOP gave us for including economic data was because it's assumed that the industry's operating with that substance, so it goes off. It's considered an action of economic impact and that's why the economic impact data is required. Is that correct?

MR. NEAL: For the record, Arthur Neal. And what we said was industry impact, what would be the industry impact, because the industry has grown accustomed to using this. If someone wants to remove it, what's the eventual impact of removing a substance, now that you've got farmers using it for well over five years?

MR. SIEMON: So -- and I think now this makes sense. But under the front page it says, NOSB's responsibility. It says, once a new substance is posted. First, I thought that should be comment, but now I think it makes sense that it's substance.

MS. CAUGHLAN: And if there is no comment, if nobody speaks --

MS. KOENIG: No. Then it goes away.

MR. SIEMON: I got it.

MR. NEAL: That doesn't take away the Board's
ability to still renew it, because you have to remember, it was approved for inclusion on a list by the Board, and it had gone through the public process to also allow its use in organic production. So say for instance, if you've got 150, 200 substances on it, and if you're expecting somebody to comment on each individual substance -- let's say they miss one. It doesn't mean that they don't want it. Or if they just make broad, sweeping comments that we want all of these substances renewed on the National List, you have to be able to take that into consideration, because the Board still has the authority to renew it, even if somebody not specifically comment to renew it.

MS. KOENIG: Right. I mean, we have to take action. We have to take action. But the way that was explained to us by -- during the first session was that all things have to be commented on, that no comment should be interpreted as no interest, that the industry doesn't use it.

MS. CAUGHLAN: Well, now you're saying something different, Arthur.

MR. NEAL: Repeat that for me again.

MS. KOENIG: When it was first presented, that proposal -- because don't forget, we had a proposal and then you had a proposal and then we tried to mesh kind
of our ideas into the final document that's now there.

But I specifically remember -- and we can go back to the
record, because it was one of those things that I
actually told folks about, make sure you understand
this, that if somebody needed something -- you said
Sunset is Sunset. If there are no comments, the act of
Sunset means it's gone. But you're saying we need
comments that say it needs to stay on and we need
comments if people need -- want it to be looked at for
removal. But no comment means it's gone --

MS. CAUGHLAN: By default it's gone.

MS. KOENIG: -- by default.

MS. CAUGHLAN: That's what we were told.

That's been our --

MR. NEAL: Okay, I am corrected.

CHAIRPERSON RIDDLE: Rigo, hold it. Go ahead.

Andrea's patient.

MS. CAROE: Maybe.

CHAIRPERSON RIDDLE: Isn't she?

MS. KOENIG: I guess she is now.

MR. DELGADO: Let's see. Just to make sure
that I understand, if there is a material X out there
that is -- that has no comments whatsoever, but someone
in the Board does see an importance of keeping that
material on the list, we can still go ahead and keep it
up there, right?

CHIEF: Well, can Board members submit comments if something is still needed?

MR. O'RELL: You have to submit a public --

you have to submit a comment.

CHIEF: As an individual?

MR. O'RELL: As an individual.

MR. NEAL: Well, see, that's what I'm saying.

MS. KOENIG: The thing is, it would be conflict.

CHIEF: Uh-huh.

MS. KOENIG: It may be perceived as a conflict -- I'm sorry.

MR. NEAL: But that's what I'm saying, is that just if the public does not comment on a substance, you as a board, you're still comprised of individuals. That does not mean that you cannot submit a comment, you know, asking for the removal of a substance and still acting on that substance.

CHIEF: Um-hum. The Board, at that time, would need to have procedure understanding that if it was -- you know, the only person requesting renewal was a Board member, if then that person would need to step aside in that discussion.

MR. NEAL: What we'll do is we'll go back and
verify that particular aspect of it --

CHAIRPERSON RIDDLE: Yeah.

MR. NEAL: -- the procedure.

MS. CAUGHLAN: Of Sunset.

MR. NEAL: I don't anticipate that happening.

CHAIRPERSON RIDDLE: No, I don't, either. So let's -- yeah, Andrea.

MS. CAROE: Let me get off the subject just slightly, in that after these materials are recommended for rulemaking to be reposted on the list, it will go through, it's my understanding, the standard rulemaking procedure it went through the first time it was put on the list. So my question is -- first of all, tell me if that's inaccurate, but my question is, in the best of judgment of illustrious NOP staff, is there opportunity for these things to be kicked back for legal issues that were not originally identified?

MR. NEAL: Legal -- legal issues that were not original identified -- clarify that for me.

MS. CAROE: We have a docket -- we have two dockets that are being held up for consistency with other regulations, legal aspects. The original list -- the original dockets didn't seem to have as many issues as the recent documents -- dockets, since we became more sophisticated. My question is, if we -- are they being...
looked at the same way as they make their clearance
through the Program, NOGC, as they were originally when
they were put on five, seven, eight years ago?

MR. NEAL: No, dockets that were putting
through NOGC now are looked at more closely than they
were in the past, because you've got to remember, we
didn't have the rule in the past. Now we've got a rule
that's subject to being challenged. So now, with
respect to Sunset, what NOP would do is try to project
the problem areas and drafting proposals. So we may
even have two rules in the pipeline that take into
consideration some options, you know, the what ifs. We
may be drafting two rules at the same time, the same
proposed rule, but containing different things, just in
case. We don't want to find ourselves in a situation
where we have to go back to the drawing board and start
from scratch and waste more time.

Say for instance, where Rose is talking about
two dockets, and you may not have -- let's say the Board
doesn't complete any of its work before the time line to
renew. Let's say NOP has a docket that has no
substances in it, and it also contains a docket with
substances in it. So that way -- let's say that the
Board doesn't make its time line and we have to say
okay, all of these substances come off the National

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List, we'll at least have that docket ready to go. If
the Board does complete its work and has select
substances that will not make it, the first publication,
all we have to do is check those out of the docket and
then move it forward. But the dockets would hopefully
be prepared prior to the Board's making a decision --
final decision.

CHAIRPERSON RIDDLE: And Andrea and then, I
think, back to --

MS. CAROE: Yeah. I don't think you
understand the question that I've asked and maybe I
wasn't very clear. My fear or point of anxiety here is
that materials that the industry has been allowed to use
and are on the National List and were put on the list
very early on, before the clearance was so complicated
or so thorough, to be more positive, that these
materials would be commented for keeping on the list,
that we will do our due diligence and recommend that
they are put on the list again, and that in the
clearance process we'll find out that they're
inconsistent with an FDA regulation or an EPA regulation
or the Food, Drug and Cosmetic Act or whatever, and
they're not going to be allowed to be put back on.

MR. NEAL: That I can't -- I can't project
right there. I mean, part of it is going to depend on

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public comment. A lot of that's going to depend on public comment through the clearance process. For the most part, we don't foresee a lot of problems with those that are already contained on the list. However, as we've already noted, there are some issues going on with OFPA criteria that have to be taken into consideration. That's why the process needs to go ahead and begin in terms of committees identifying substances that need to be reviewed so that we don't get to the rulemaking stage and say, oops, we shouldn't have suggested that'll be added back on. We have to look at these things during the review process at committee.

CHAIRPERSON RIDDLE: Okay. I have one other question that came up the other day, whenever that was, and that is the annotations and what is in play as far as changes to annotations during this Sunset process, and I think we said we'd talk about that. I don't see it reflected in the document here, and maybe it can't be answered right now. But if there are, you know, annotations that are technically incorrect, hopefully those can be corrected in this process, but just would like to know kind of the rules of the game and what can happen with annotations in the review. And, Arthur, do you have --

MR. NEAL: From what I heard yesterday -- I
think that was yesterday.

UNIDENTIFIED SPEAKER: It was two days ago.

MR. NEAL: Two days ago?

CHAIRPERSON RIDDLE: Yeah, I think it was Monday.

MR. NEAL: Yeah. And correct me if I'm wrong, Jim. You stated that, you know, it would be allowed to amend the annotation to reflect the original language that the Board had recommended. If it the language in the Final Rule was wrong technically, based on, you know, a grammatical error, a comma's missing, something like that, I can understand. But if you're talking about the intent, the Board's intent was not adequately captured in the annotation, we have to look at that closely, because a lot of the annotations and issues that were raised are addressed in the Final Rule. I know one of the issues you brought to light was the chlorine issue and that's -- just some discussion in the Final Rule on that annotation. So go back to say let's put the Board's original annotation on it, would be more than a technical correction, that would be a change in intent.

CHAIRPERSON RIDDLE: That's debatable, but --

Kim?

MS. DIETZ: I believe our previous discussions
were that if there was a change to the annotation, that we were recommending people petition to change that annotation before the Sunset period. In other words, if somebody knew an annotation was wrong right now in one of those 200 materials, they should petition now to change that annotation before this Board could make that recommendation.

CHAIRPERSON RIDDLE: But certainly, kind of the laser-pointed approach.

MS. DIETZ: Yeah. I mean, without doing a full-blown TAP again, I'm not sure how you could really justify changing an annotation on a material.

CHAIRPERSON RIDDLE: Um-hum. Rose?

MS. KOENIG: Go ahead.

CHAIRPERSON RIDDLE: Or Richard.

MR. MATHEWS: We concur.

CHAIRPERSON RIDDLE: Oh, thank you. Uh-huh.

MS. KOENIG: There's only one example that I can think of is like aquatic -- I think it's aquatic plant extracts and there's a separate hydrolysis or something, and that has been confusing about what hydrolysis means. So there are notes in the minutes that explain what the intent was, and it's not changing, it's clarifying what that means by adding a word. I think you're saying that one of the intents, if it's for...
clarity, that it may or may not be acceptable, but if it
changes for use, then it's not up for change. Through
Sunset. It can only be changed through petition.

CHAIRPERSON RIDDLE: Um-hum. Okay, we have a
motion. There have been no amendments to it. And the
motion from the Materials Committee is to accept the
Sunset review process as our internal working
procedures, and then also for placement in the Board
policy manual, correct? Is that accurate?

MS. KOENIG: Accurate.

MR. SIEMON: Yeah.

CHAIRPERSON RIDDLE: Okay. And let me get me
my --

MR. SIEMON: Do you have a second?

MS. OSTIGUY: Yes.

CHAIRPERSON RIDDLE: There was a second.

MS. OSTIGUY: I did.

CHAIRPERSON RIDDLE: Uh-huh. It was moved by
Rose, seconded by Nancy, and Rose is the first vote.

MS. KOENIG: Yes.

CHAIRPERSON RIDDLE: Goldie?

MS. CAUGHLAN: Yes.

CHAIRPERSON RIDDLE: Kevin?

MR. O'RELL: Yes.

CHAIRPERSON RIDDLE: Andrea?

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MS. CAROE: Yes.

CHAIRPERSON RIDDLE: Rigo?

MR. DELGADO: Yes.

CHAIRPERSON RIDDLE: Hugh?

MR. KARREMAN: Yes.

CHAIRPERSON RIDDLE: Julie?

MS. WEISMAN: Yes.

CHAIRPERSON RIDDLE: Gerald?

MR. DAVIS: Yes.

CHAIRPERSON RIDDLE: Mike?

MR. LACY: Yes.

CHAIRPERSON RIDDLE: Nancy?

MS. OSTIGUY: Yes.

CHAIRPERSON RIDDLE: Dave?

MR. CARTER: Yes.

CHAIRPERSON RIDDLE: Bea?

MS. JAMES: Yes.

CHAIRPERSON RIDDLE: George?

MR. SIEMON: Yes.

CHAIRPERSON RIDDLE: The Chair votes yes. All right, we've got a Sunset policy. Thanks again. So it's 14 yes, 0 no, 0 abstentions.

MS. KOENIG: Okay, the final tab is the syn, that's s-y-n, versus nonsyn, s-y-n, in your book. And this is -- this is a draft. It's a discussion item.
only. We want to get input and discussion, but we're not really even asking you to vote on the draft. We just want you to discuss it, to give us some feedback, so that we as a committee can come back, do some changes, and then present it as, hopefully, a draft that we're going to actually vote on at the next meeting. So this won't have any impact, except we probably will, again, as quickly as we can, make some modifications and get it posted so that we can perhaps have a longer comment period on the document.

CHAIRPERSON RIDDLE: Kim and then Andrea.

MS. DIETZ: I get my exercise. I like sitting out here because I can get up and move every now and then. I just want to thank the Materials Committee for posting this a discussion document. We originally were going to move it as a recommendation, but in light of the Harvey appeal, I was extremely nervous of even talking about synthetics, to be honest with you. My main concern with this document is that, if you look to page one of the draft, it talks about defining what a chemical process is. And in the definition of synthetic, even a heating is considered a chemical process. And the worse thing we need to do right now is not have any pasteurized juices or baked breads or cooked chips or anything like that. So I think we need
to be very, very careful with the definitions of synthetic and nonsynthetic and make sure that we really clarify what you mean by the definition of synthetic. Jim, you looked perplexed.

CHAIRPERSON RIDDLE: Huh?

MS. DIETZ: You looked perplexed.

CHAIRPERSON RIDDLE: Yeah, I'm not finding it.

MR. SIEMON: I did not find it on page one. I didn't see that on page one.

MS. OSTIGUY: It's on the very bottom, chemical --

MS. DIETZ: If you --

MS. CAUGHLAN: The bottom of --

MS. WEISMAN: On the very bottom, chemical reaction.

MS. OSTIGUY: -- chemical reactions shall --

MS. CAUGHLAN: Draft through the materials process --

CHAIRPERSON RIDDLE: Yeah.

MS. CAUGHLAN: -- verification of --

MS. KOENIG: Is it -- Kim, is it the formulation bolded that you're -- that there's an issue with or is it --

MS. CAUGHLAN: The chemical reaction.

MS. KOENIG: -- the chemical reaction?
MS. CAUGHLAN: The chemical reaction.

MS. DIETZ: It's the chemical reaction. If you -- on page one, any -- I'll just go through it, because I have notes on mine. "Any substance, other than those naturally occurring in a plant, animal, or mineral, is considered synthetic if it is formulated or manufactured by a chemical process." And then further down under the extraction definition, you have -- the third paragraph.

CHAIRPERSON RIDDLE: So first you read, actually, the definition of synthetic, right?

MS. DIETZ: Correct, correct.

CHAIRPERSON RIDDLE: Yeah, and it's in the law -- the rule. All right.

MS. DIETZ: Page one of the draft two, I just read the third paragraph under the justification, which is the definition of synthetic in the rule.

MS. KOENIG: Right, that's the one in the rule.

MS. DIETZ: Right.

MS. KOENIG: So that's -- I wanted to state that that's the same that's in rule.

MS. DIETZ: Correct, that is the definition in the rule. And then the purpose of this paper -- the purpose of this draft is to clarify, really, what is
synthetic.

MS. KOENIG: What is chemical change.

MS. DIETZ: What is chemical change.

MS. KOENIG: Not synthetic.

MS. DIETZ: Correct, correct, what is chemical change. Excuse me. And heating is considered a chemical change in this paper.

MS. KOENIG: No, the chemical reaction.

MS. DIETZ: Right.

MS. KOENIG: And that's why I was asking you which --

MR. SIEMON: Under extraction.

MS. DIETZ: If you looked under extractions --

MR. SIEMON: Heating, right there.

MS. DIETZ: -- it says, "Substances removed from naturally occurring plants, animals, or mineral sources can be extracted in any manner and with any substance, material, physical process, i.e. centrifuge, heating, chemical solvents, as long as the extraction process does not chemically change the substance that is being extracted."

MS. KOENIG: Right.

MS. DIETZ: Okay.

CHAIRPERSON RIDDLE: Right. So --

MS. DIETZ: If you turn the page now and we --
I'm trying to find out where we go -- and we look at just the basic chemistry --

MS. KOENIG: Um-hum.

MS. DIETZ: -- then within this document, we talk about how heating actually changes the chemical --

MS. KOENIG: It can or cannot.

MS. DIETZ: It can or cannot, right. So my concern is that if we go down this road with this paper without being very clear on what -- at what point something is turned synthetic, then we may not be able to have a lot of products on the market, because these will now be deemed synthetic.

CHAIRPERSON RIDDLE: Kevin.

MR. O'RELL: Yes, Kim, and I share your concerns. There are a lot of areas in here that point to specific processes, such as denaturization -- denaturing milk for proteins, which is a common practice in manufacturing many dairy products, where you're heating the milk up to denature the proteins to get a specific reaction. So there's a number of points in here, including even talking about from 50 to 60 degrees C. That's under legal pasteurization of milk. So it would say that the legal pasteurization of milk is a chemical change on the effect on the protein. So --

MS. DIETZ: Right.
MS. KOENIG: But can I -- let's go back to --
because --

MS. DIETZ: Okay.

MS. KOENIG: You know, this document, this is
a pre-Harvey case document.

MS. DIETZ: I know it was.

MR. O'RELL: Right.

MS. KOENIG: Okay. So we need to make that
statement, okay?

MS. DIETZ: We -- yeah.

MS. KOENIG: The intent of this was to define
synthetic for adding substances to the National List.

MS. DIETZ: Right.

MS. KOENIG: Okay, it wasn't to look at
synthetic -- you know, what processing of -- it was
simply to be able to use -- to understand what that
definition meant, so that when we got TAP reviews, we
could clearly determine things that we were continually
deferring whether it was synthetic or nonsynthetic --

MS. DIETZ: Right.

MS. KOENIG: -- where committees wanted to
make that distinction. So --

MS. DIETZ: Right. And the reason for my
concern is, if you'll look at the definition of
ingredient in the rule, an ingredient is identified as a
substance, and throughout this document, we talk about substances. So I wholeheartedly agree with where we're trying to take this because that needs to happen and it's a great opportunity for us to separate and really tell this community what we mean by synthetic. But again, let's just be careful that, by presenting a document like this, just for the material review process, we're not setting a precedence to define synthetic that could ruin more products that are out in the market. Nancy.

CHAIRPERSON RIDDLE: Nancy.

MS. OSTIGUY: One thing that -- the juxtaposition may be causing some of the difficulty. The basic chemistry 101 section is not actually an integral part to the previous page and a half. The idea was to put the basic chemistry 101 in the Board manual to provide people who find some of the chemical discussion difficult a place to go for some very basic information so they feel more secure. So -- and this -- correct me if I'm wrong, Rose, but that was almost literally from a chemistry textbook.

MS. KOENIG: Yes. And --

MS. DIETZ: Yeah. So -- yeah.

[Simultaneous comments]

MS. DIETZ: Yeah, it's not meant to be our
definition --

MS. DIETZ: I know, right.

MS. OSTIGUY: -- of chemistry 101.

MS. DIETZ: But we were trying to help and --

MS. OSTIGUY: Right.

MS. DIETZ: -- aid new Board members and aid
the process of material review.

MS. OSTIGUY: Well, one suggestion I would
make, because we're going to be going back to as a
committee, would be for us to separate these two things
so the juxtaposition is not misinterpreted. We can and
we could actually -- if wanted to just take the 101
section and say let's put in the Board manual. Then we
don't even have it anywhere near the rest of the
document. Then look at the rest of the document in
light of the current circumstances.

MS. DIETZ: Right. I just -- I'm just fearful
that in the light of where we're at today, that if we
link heating and pasteurizing and --

MS. OSTIGUY: Right.

MS. DIETZ: -- and denaturing with the term
synthetic, that we're going to get ourselves in further
trouble.

MS. OSTIGUY: No, I understand. I think we
need to take into consideration the points that you've
brought up, the points that Kevin said, because --

MS. DIETZ: Yeah, that's why we're discussing it.

MS. OSTIGUY: -- certain circumstances have changed.

MS. DIETZ: Yes, yeah. So again, I appreciate everybody being cognizant of this.

CHAIRPERSON RIDDLE: And just -- I really support separating out the basic chemistry. And you know, I would like to see the first part, you know, lead to conclusion, lead to recommendation that really provides the guidance, and I am fully confident that it will.

MS. OSTIGUY: I'd like to make a motion.

CHAIRPERSON RIDDLE: Oh.

MS. OSTIGUY: I'd like to move that we put the -- starting on the second part of page two, the basic chemistry 101 for the NOSB, through page seven, into the Board manual, just as reference information only.

MR. CARTER: So do have the original motion?

CHAIRPERSON RIDDLE: There was no original motion, it was just presented for discussion, but it is on the agenda for action, so it is eligible for this. But it would take a second.

MS. OSTIGUY: It does for a lack of second.
CHAIRPERSON RIDDLE: Pardon? Right now we're still waiting on a second. I'm not seeing --

MR. CARTER: Second.

MS. CAUGHLAN: I'll second it.

MR. CARTER: Second.

CHAIRPERSON RIDDLE: I heard a second. I heard Goldie second. Okay, so we have discussion on the motion to move the basic chemistry 101 section of this draft into the Board policy manual, and it was moved by Nancy, seconded by Goldie. Discussion on that motion?

Bea.

MS. JAMES: Not that I want to put you on the spot, Mike, but I would like to propose that, since we have a scientist that's actually on the Board, that he review it and see how -- you know, be able to comment on it and give feedback.

MS. OSTIGUY: Point of information.

MS. JAMES: Well, I mean --

[Simultaneous comments]

MR. O'RELL: We have a lot of scientists.

MS. OSTIGUY: Yeah, including one of the authors and another one of the committee members.

MR. O'RELL: Yeah.

MS. JAMES: All of the scientists.

CHAIRPERSON RIDDLE: Yeah, yeah. So all...
right, any other discussion on the motion of moving that
into the policy manual? Kim?

MS. DIETZ: I know it's important to have it a
policy manual, I'm just not sure if it's the right time
to do that. And please be careful with what you do and
how you act right now with regard to synthetics,
nonsynthetics. And documenting anything from this
Board, I'm very fearful and I don't think it's the right
time to do that.

CHAIRPERSON RIDDLE: Kevin?

MR. O'RELL: My point would be that this was
presented today just as a discussion item --

MS. OSTIGUY: No, it wasn't.

MR. O'RELL: -- and it was agreed that it was
going back to the committee for further work, and I
really think --

MS. OSTIGUY: No, it wasn't, it was an action
item.

MR. O'RELL: It was presented by -- by the
committee and that's where I would think we need to go
back and see what we want to do.

CHAIRPERSON RIDDLE: And yeah, I have to agree
with Kim and Kevin on this. I really appreciate it, the
information. I think it's important, but I would rather
see them on the same track. I mean, it's kind of legal
in our Federal Register notice of our agenda that this
was listed as an action item, so it can be considered
for action, but it was presented for discussion and --
but it has been moved and seconded, so we will vote on
whether it will go to the Board policy manual today or
be held at the committee. Rose?

MS. KOENIG: I just wanted to make an note on
one thing and when that -- and I don't have a problem
with putting it in the policy manual. I mean, the
information here has been posted for members who need to
refer to it, because it'll be in the meeting book as a
draft. So I mean, I think it's functions. But it took
me awhile -- I mean, the thing is -- the interesting
thing is that substances were removed from that, and
that -- in the original document -- and I implore people
to go back to the first document that was in the meeting
book last time, because it went into more details and it
went into the minutes of old meetings to kind of get a
consensus of how the process came about on extractions.

But, you know, it's actually conceding here
that -- anyway, go back to that old document. The big
issue was materials that were extracted from plants and
naturally occurring things. So those are the items that
are really hard for us to make a statement on a lot of
times when go through -- the materials -- so I actually
thought it was a big thing to say that the extraction process, as long as it didn't chemically change the substance, that you could really, you know --

MS. OSTIGUY: Do anything.

MS. KOENIG: -- you could use anything. That always stumped us. And really, the thing that was the impetus was the soy protein isolate TAP. There's a lot of discussion with -- and we said it's synthetic because it's -- that's used in the extraction. Then we started looking at the definition and we realized that no, it's allowed if you look at that definition. So what I'm trying to say is that this should be -- the things about that part actually is a much more liberal -- I think a very liberal understanding of what extraction is. And the things that seem to be disturbing is the idea of a chemical reaction, and just want I to say to the Board is that I think our hands our tied. I mean, you want us to make our recommendation. If we can't use any -- I mean, this is not something that is being invented, these are chemical reactions, and as I said in the committee meetings, you know, we may all as a group decide that -- that, you know -- and I wrote that, but I think the proteins of anything, how you want look at proteins, that's an area of, probably, discussion on the Board. And maybe we could say that, you know,
decomposition reactions aren't synthetic. But, you
know, if you went on to the National List -- that's what
I'm saying, the information for a legal defense is
already in -- on our list. This document only confirms,
most of the stuff that's on our list fits into this
idea, by chemical change.

CHAIRPERSON RIDDLE: The motion is to move the
basic chemistry section to the Board policy manual. I'd
ask all comments to just be pertinent, specific to that
motion. Bea, then Andrea.

MS. OSTIGUY: Well, I wanted to call the
question.

CHAIRPERSON RIDDLE: Well, I called Bea. So
then we'll vote.

MS. JAMES: To be honest, I just really feel
that is premature to vote to put this chemistry section
into -- into that with five new members, and quite
frankly, I can speak for myself, I'm not familiar enough
to be able to vote on this at this time, and I'm asking
for -- and I'll trust -- I mean, I trust that the
information is extremely useful, but I -- trusting isn't
good enough to -- it's not enough fact for me. So I
mean, I just feel like I need more time to be able to
review this and understand before I can vote on it.

CHAIRPERSON RIDDLE: Okay. Nancy?
MS. OSTIGUY: It's clarification. It sounds like it may go back to committee. What is it that people want if this goes back to committee? This is merely an extraction from a chemistry textbook. I am not quite sure what other authority you would like us to use.

CHAIRPERSON RIDDLE: Yeah, I think time to really read it and study it is one thing I'm hearing. Andrea?

MS. CAROE: I don't have any problem with the chemistry that's written here, it's accurate. It's accurate chemistry. I mean, that's what I studied. My problem is, is that it's incomplete in discussion about synthetics, and it's incomplete because, although the OFPA does not allow synthetics, it does allow certain processes, of which cooking is one of them. So I think, to the more complete answer, I would hate to have somebody look at this for the answer on synthetics. This is not the whole piece. And I think --

MS. OSTIGUY: That was never the intent.

MS. CAROE: Okay. But I feel like placing it there gives the perception that that's where it's at. So my concern is it by itself and not a discussion on allowed processes as stated in OFPA.

CHAIRPERSON RIDDLE: Okay, I think we've had a
good discussion of this and I would like us to vote on whether it --

MS. KOENIG: Are we going to be able discuss this -- those comments? We can vote on this. Are we going to go back and --

CHAIRPERSON RIDDLE: No, no, no, this is just the motion to move this into the Board policy manual, that's it.

MR. O'RELL: And that's just the basic chemistry 101 for NOSB?

CHAIRPERSON RIDDLE: Yeah, from that to the end. Uh-huh. So, Kevin, is first.

MR. O'RELL: No.

CHAIRPERSON RIDDLE: No.

MS. CAUGHLAN: I think I --

CHAIRPERSON RIDDLE: Yeah.

MR. O'RELL: No, I'm not first or --

CHAIRPERSON RIDDLE: Yeah, actually, I think Goldie's first, so you're right both ways. Goldie?

MS. CAUGHLAN: Well, I'll vote against my second. I vote no.

CHAIRPERSON RIDDLE: So no. Okay, Kevin?

MR. O'RELL: No.

CHAIRPERSON RIDDLE: Andrea?

MS. CAROE: No.
CHAIRPERSON RIDDLE: Rigo?

MR. DELGADO: No.

CHAIRPERSON RIDDLE: Hugh?

MR. KARREMAN: Yes.

CHAIRPERSON RIDDLE: Julie?

MS. WEISMAN: No.

CHAIRPERSON RIDDLE: Gerald?

MR. DAVIS: No.

CHAIRPERSON RIDDLE: Mike?

MR. LACY: No.

CHAIRPERSON RIDDLE: Nancy?

MS. OSTIGUY: Yes.

CHAIRPERSON RIDDLE: Dave?

MR. CARTER: Yes.

CHAIRPERSON RIDDLE: Bea?

MS. JAMES: No.

CHAIRPERSON RIDDLE: George?

MR. SIEMON: Yes.

CHAIRPERSON RIDDLE: Rose?

MS. KOENIG: No.

CHAIRPERSON RIDDLE: And the Chair votes no, so four yes, ten no, zero abstentions. We actually defeated something. That's very good. A sign of a strong Board, that we can go either way.

MR. CARTER: We can vacillate with the best of York Stenographic Services, Inc.
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them.

CHAIRPERSON RIDDLE: But thanks for -- and
definitely, keep it alive.

MS. : No.

CHAIRPERSON RIDDLE: It's really useful and it
stays at committee.

MS. OSTIGUY: It doesn't have -- it doesn't
have a point, though.

MS. KOENIG: Well, I want to go back to the
discussion of where you want us to take this.

MS. OSTIGUY: Right, that's what we need to
know.

MS. KOENIG: I don't care --

CHAIRPERSON RIDDLE: Yeah.

MS. KOENIG: -- if it's in the policy manual.

CHAIRPERSON RIDDLE: Well, I think the message
that I'm getting is to move them simultaneously so that
one is not taken out of context. That's --

MR. SIEMON: Can I --

CHAIRPERSON RIDDLE: George, then --

MR. SIEMON: Is it wrong that we would have
for reference only the difference between a heifer and a
cow and that kind of information? What would be wrong
with that is my question? This is just for reference
only for people like me who really failed chemistry. As
long as it's reference only, I just don't see the big deal.

CHAIRPERSON RIDDLE: Rose, then Kevin.

MS. KOENIG: Yeah. I just -- I feel that if people are sensitive about it, you have it as a reference. So I want to change --

MS. OSTIGUY: Don't change it now, right?

MS. KOENIG: -- just use the document. You know, just because it's not in the Board policy manual, it's a very useful document. I wish I could say I came up with the ideas, but a chemistry professor did.

MR. CARTER: We voted on the motion.

MR. O'RELL: Yeah.

CHAIRPERSON RIDDLE: Yeah.

MR. O'RELL: I withdraw.

MS. KOENIG: Okay.

CHAIRPERSON RIDDLE: Okay. You withdraw, too?

Okay. So --

MS. KOENIG: But I did have --

CHAIRPERSON RIDDLE: -- back to the --

MS. KOENIG: -- a comment.

CHAIRPERSON RIDDLE: Right.

MS. KOENIG: Okay, the position I think that Nancy and I both feel that we're in is that there is nothing more I can do with this document --
MS. OSTIGUY: Um-hum.

MS. KOENIG: -- because I fulfilled -- you know, as far as a discussion or a draft, in terms of materials being added to the list only. Now, if the Handling Committee wants to analyze and review it -- and I don't know in what context. I don't understand. If a material comes in -- and let's just -- I don't want to talk about what will happen in the future, but in the case of when materials come in on a petition, we are asked whether it's synthetic or nonsynthetic. What has been the justification of making all of our decisions down the line? Most of them -- that's what I'm saying, if you go and analyze everything that's on the list, they're all going to come into one of these kinds of reactions if they're deemed synthetic. And the only thing that is really a question, there are things, probably, that we didn't put on the list that we said were nonsynthetic -- they wouldn't have fit -- they hopefully would not have fit into this chemical change or any of that. So that's what I don't understand. I don't think we have enough guidance, as a committee, of what more that we can do on it. But do you want us to narrow the definition, take out the composition reactions? What do you want us to do?

CHAIRPERSON RIDDLE: Arthur, do you want
MR. NEAL: From an NOP perspective, one of the reasons why we allowed this matter to stay on the table for the agenda is because we know there's an issue going on with handling substances. We've got three substances on the agenda for Crops, that have to -- that a determination has to be made on if it's synthetic or nonsynthetic. Soy protein isolate's been in the works for three years, and the issue there is, is it synthetic or nonsynthetic. If it gets deferred again because we still don't know, that may be the case. But the main deal is to make sure that the Board actually resolves this issue because, absent knowing when a substance is a synthetic or a nonsynthetic, you really probably shouldn't be approving any materials.

CHAIRPERSON RIDDLE: Kim, and then I have a comment.

MS. DIETZ: My recommendation would be to have the Handling Committee look at this document and make sure that there's -- there's a lot of extraction processes in handling that this definition could affect. So at least let the Handling Committee take a look at it and make sure that somehow you clearly designate the difference between reviewing a substance to be included on the National List and a handling material, or a...
handling ingredient. And that's all, I guess, that I'm asking, is that this Board just doesn't make any decisions today that could affect the whole entire industry. So it's a great document and we've been working on it for quite some time, and I think it could continue go forward and we'll know very shortly which way to take it. But at this time, let the Handling Committee look at it, too, and make sure that you're not offsetting two different areas.

CHAIRPERSON RIDDLE: And I guess -- and my comment follows right up on that and that is, in the middle of the page where it says to ensure consistent application of the definition of synthetic, the NOSB may want to consider the following. I think it should be ultimately, the NOSB recommends the following. I mean, it needs to be in the phrase as a recommendation that this is how we understand each of these items, so that we know at the end of the day what guidance we've adopted. So I'd like it to turn into a voteable [ph] -- you know, actionable item. Rigo?

MR. DELGADO: I would like to recommend something that's somewhat more practical, going back to the question that Nancy had. And I like the table on the evaluation criteria for substances very much, in the sense that it's straight to the point. It has the
specific criteria that one follows to determine, in this
table, what is relevant or should not be considered.
Can we do the same with this information? Can we
actually identify the criteria that will tell me if
I'm --

MS. OSTIGUY: Yeah.

MR. DELGADO: -- of a specific substance, and
come to a conclusion on whether this material is --

MS. OSTIGUY: That's a good idea.

MS. CAUGHLAN: For the matrix.

MR. DELGADO: Yeah, a matrix, yeah.

CHAIRPERSON RIDDLE: Yeah, kind of a matrix.

Uh-huh. A good suggestion.

MR. DELGADO: That's what I'm looking for,
the --

[Simultaneous comments]

CHAIRPERSON RIDDLE: Um-hum. Yeah, Rose?

MS. KOENIG: Well, I mean, the idea is that
you actually -- you mean, functionally for you when you
get to the thing? I mean, if once we have the
definition, the contractor, we can say this is what we
mean by synthetic to the contractor. We should actually
be getting that information straight back. They will
say this is synthetic because it is a -- we want the
specificity, an addition or a combination reaction. And

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you have said that an addition combination reactions
make your products better. And that's why we need it,
because we've never specifically gotten that and there's
gray -- we don't know -- there's something -- you go to
the minutes and people say it's synthetic because it's
highly processed. That doesn't tell you anything. We
need to know exactly what -- what makes a synthetic
where.

CHAIRPERSON RIDDLE: Nancy?

MS. OSTIGUY: Well, I think if the Handling
Committee looks at it to make sure that we're not
messing something up, we can then put it into the kind
of framework that you're talking about, if nothing else,
for the TAP contractors to use so that they do supply us
with all the information that we need to make that final
determination, in the same way that we're using the
documents now. They have those, too.

MS. KOENIG: But --

CHAIRPERSON RIDDLE: Rick and then Kevin.

MR. MATHEWS: Yeah. You're on the right track
now. I agree totally with Rose and Rigo, that what we
want to see out of this Board, whether it's at this
meeting or the next meeting or the meeting after that,
we need something that is your statement of how you
determine whether something is synthetic or
nonsynthetic. This fits all into this overarching issue of fixing the materials review process, and this is one piece of that. And in order to make our decisions defensible, we have to have a good, definitive statement from this Board as to when is it this and when is not this.

And one thing that I'll remind you of is that, while I've been sitting on this Board -- I was not sitting on the Board. But -- and I don't want to, by the way. As long as I've been working on this Program, there have been times that I've heard the Board say wall, we're not really sure, so we're going to take the safe route out and call it a synthetic, and that's really not where we want to be. And so we need you to give us a definitive answer as to how do you determine what is synthetic versus nonsynthetic. And the sooner the better.

CHAIRPERSON RIDDLE: Andrea, you got bumped up.

MS. CAROE: I got bumped up? My question is a detail question on the document and it's the section, formulation shall be understood to mean. I don't understand formulation to mean what is written there. A formulation could be a spice blend. It doesn't have to be something that was extracted, it doesn't necessarily
have to be a synthetic. So I'm concerned about calling
all formulations -- because there are mixtures. So I
would prefer to distinguish the difference between a
reacted formulation and a mixture, which is later, it's
done later, but --

MS. KOENIG: Yeah. And I didn't -- Nancy kind
of worked on filling out of the recommendation of it,
and I was just thinking that that -- that might be the
area where we could supply -- this may solve it, and
think about it as a process in our Handling Committee,
if we just say that we're talking about clear
substances, compounds, or elements.

CHAIRPERSON RIDDLE: This is reaching the
level of committee work.

MS. OSTIGUY: Okay.

MR. O'RELL: Yeah.

MS. KOENIG: All right. But either way, if
the Handling Committee does that, it has to be high
priority. We need something if our next step is
contingent on you all and we're really at a standstill
until you guys can --

MS. OSTIGUY: We've got lots of time.

MR. O'RELL: The Handling Committee will
definitely participate and take a look at this. My only
concern was, in entering it into our policy Board

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manual, that we're saying in a sense that this is what
our guideline is for synthetic. Somebody could look at
that --

    MS. OSTIGUY: And misinterpret it.

    MR. O'RELL: -- misinterpret that out of
context and say, you pasteurize milk, that's a
synthetic. You add acids to juices, they disassociate,
that's a synthetic. And I just want to make sure that
we are very clear when we put it in, that we say that it
is for substances material review and not the result of
the processes that we go through, because we clearly are
allowed to process these products, to heat and add acids
together. That's the only concern, and we'll work
together.

    MS. OSTIGUY: Yeah. And I know -- and I'm
pretty sure Rose is in the same position, we don't know
that much about processing or handling. So I'm really
glad you guys are going to deal with that, because I
wouldn't do it adequately.

    MR. O'RELL: We just needed something else to
do.

    MS. OSTIGUY: We try.

CHAIRPERSON RIDDLE: Okay. Well --

MS. CAROE: Give Kevin the stress turkey.

CHAIRPERSON RIDDLE: All right. Well, that

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was a very good discussion. And now we'll be starting
on Crops. We already had that break, but it says on the
agenda -- but do you need five minutes. Huh?

   UNIDENTIFIED SPEAKER: Let's go.
   CHAIRPERSON RIDDLE: You go on --
   MS. OSTIGUY: Yeah, I can go.
   CHAIRPERSON RIDDLE: And it's Nancy's -- are
you ready to -- ready to roll?
   MS. OSTIGUY: Yes. Some of this -- well, it's
actually very apropos, what we just finished talking
about. So starting with the materials, soy protein
isolate, the committee recommendation that was published
has changed because the time of the -- that vote, there
were only two of us on the committee. We now actually
have a functioning committee, that -- now that Rigo and
Gerry have joined us. Where we are at this point is the
committee is recommending to, would you believe, defer,
because we don't have synthetic and nonsynthetic
defined. We have to be able to do that, and my concern
why I want to defer it is, the last thing we need to do
is not be consistent, and we're having a major problem
with that, so in the sense of, you know, feeling clear
about what we're doing. So defer soy protein isolates
again. Ammonium --

   MR. O'RELL: Was that a motion?

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CHAIRPERSON RIDDLE: It doesn't need to be --

MR. O'RELL: Oh.

CHAIRPERSON RIDDLE: -- if the committee

making a rep[ort.

MS. OSTIGUY: Right, yeah. Ammonium

bicarbonate, again changing the recommendation on what

was published for the same reason as soy protein

isolate. We desperately need to have the definition of

synthetic and nonsynthetic clear. The recommendation

was that it was a nonsynthetic. If we proceed to go

that direction, just to give the Board a sense of one of

the difficulties with this material, the committee is

considering adding ammonium bicarbonate to the

prohibited natural list and then listing this as an

acceptable processing method, because this -- based upon

our sense of what natural synthetic -- synthetic and

nonsynthetic was, without the real firm definition, this

was fitting as a nonsynthetic, but the concern is that

there are other ways in which this material is produced,

and not wanting the misinterpretation. That is being

thought about. If people have comments, other

suggestions, the committee would welcome them, including

from the public. Just how to figure -- how to do this

one right.

Ferric phosphate, moving right along, again, a
change in the committee recommendation. The committee had originally recommended to prohibit this material. We are changing that to a recommendation to allow, to add to the National List with an annotation that it is to be used as a molluscicide [ph] only. And -- in the mineral category, yes. We had to -- we also changed some of the -- the TAPs, so that would end up changing category two, where we had a couple of responses that pushed this material into not meeting the second criteria. Those have been changed to such that that criteria is met, the public comment yesterday and the day before, indicating that the materials -- the alternative methods were not realistic.

CHAIRPERSON RIDDLE: Are you making a motion? MS. OSTIGUY: Yeah, motion -- yes. So it needs to be seconded.

CHAIRPERSON RIDDLE: So -- MS. KOENIG: I'll second it.

CHAIRPERSON RIDDLE: So okay. Nancy moved, Rose seconded to allow ferric phosphate for -- as a molluscicide.

MS. OSTIGUY: Correct. Molluscicide.

CHAIRPERSON RIDDLE: Molluscide. Okay. First, before we start discussion, I'll ask, are there any -- does anyone have any interest to declare? And
snail or slug farmers?

MS. OSTIGUY: I have snails in my yard.

CHAIRPERSON RIDDLE: Okay, seeing none, we'll proceed. Andrea?

MS. CAROE: Nancy, a question. Why do we need the annotation when the list has a section for slug and snail bait? I don't believe it needs an annotation if it's listed in that reserved area of the list. It's Section --

MS. OSTIGUY: That would be accepted as a friendly amendment.

MS. CAROE: -- 205.600 --

MR. MATHEWS: 601(h).

CHAIRPERSON RIDDLE: 601(h).

MS. CAROE: Yes, (h). So I don't believe it needs new annotations.

CHAIRPERSON RIDDLE: So we've changed the motion for placement at --

MS. OSTIGUY: Yes, that -- so --

CHAIRPERSON RIDDLE: -- 205.601(h).

MS. OSTIGUY: To clarify the motion, then, I move that we move ferric phosphate to Section 205.601(h) as an approved material.

CHAIRPERSON RIDDLE: Okay, discussion on the revised motion? George?
MR. SIEMON: Does this cover all the original requested uses?

MS. OSTIGUY: Yes.

MR. SIEMON: As far as I know, it does.

MS. OSTIGUY: Yes.

MR. SIEMON: I just wanted to make sure, because we're not -- from the original question.

CHAIRPERSON RIDDLE: Rose?

MS. KOENIG: I just wanted for the record, if you remember, during public comment on this substance with the petitioner, you know, one of our areas that I couldn't figure out was where it would be placed. But upon thinking about it, just for the record, if the production aid changes to the middle category so the OFPA criteria is satisfied --

MS. OSTIGUY: Right.

MS. KOENIG: -- for this substance.

CHAIRPERSON RIDDLE: Okay. And the final materials review sheet will reflect that?

MS. OSTIGUY: Correct. So a revised version will be submitted to the NOP.

CHAIRPERSON RIDDLE: Okay. Any further discussion?

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[No response]
CHAIRPERSON RIDDLE: Seeing none, we'll move to a vote. Now Kevin gets go first.

MR. O'RELL: Yes.

CHAIRPERSON RIDDLE: Kevin, yes. Andrea?

MS. CAROE: Yes.

CHAIRPERSON RIDDLE: Rigo?

MR. DELGADO: Yes.

CHAIRPERSON RIDDLE: Hugh? Hugh is absent.

Julie?

MS. WEISMAN: Yes.

CHAIRPERSON RIDDLE: Gerald?

MR. DAVIS: Yes.

CHAIRPERSON RIDDLE: Mike?

MR. LACY: Yes.

CHAIRPERSON RIDDLE: Nancy?

MS. OSTIGUY: Yes.

CHAIRPERSON RIDDLE: Dave?

MS. CAROE: Absent.

CHAIRPERSON RIDDLE: Bea?

MS. JAMES: Abstain.

CHAIRPERSON RIDDLE: George?

MR. SIEMON: Yes.

CHAIRPERSON RIDDLE: Rose?

MS. KOENIG: Yes.
CHAIRPERSON RIDDLE: Goldie?

MS. CAUGHLAN: Yes.

CHAIRPERSON RIDDLE: And the Chair abstains.

I haven't done that yet.

MS. OSTIGUY: Wow.

MR. O'RELL: You're full of surprises.

CHAIRPERSON RIDDLE: Yeah.

MS. OSTIGUY: Ten, zero, two, two.

CHAIRPERSON RIDDLE: Oh, thanks. Ten yes, zero no, two abstentions, and two absent, so the motion passes. Thanks. Okay, moving on.

MS. OSTIGUY: Okay. Compost tea is the next item. It is not an action item; information only. The committee is working to bring to the Board a recommendation that combines the compost tea and the compost task force recommendations. We have not completed that yet. When we complete it, it will be posted prior to the Board meeting, where we consider it.

Commercial availability of seed.

CHAIRPERSON RIDDLE: And there's the other compost Q and A point there.

MS. OSTIGUY: Oh.

CHAIRPERSON RIDDLE: I assume that would also be rolled into that.

MS. OSTIGUY: That's in the same category,
yes.

CHAIRPERSON RIDDLE: Yeah, I just wanted to make sure for the record.

MS. OSTIGUY: Sorry. So the compost Q and A will also come later. Guidance on commercial availability of seed, organic seed. Based upon the public comment, what I would recommend is that we actually defer, it goes back to the committee and we take into account those comments. Does anybody want to go contrary?

CHAIRPERSON RIDDLE: Arthur?

MR. NEAL: A point of -- I just need clarification. The recommendations to defer, will the Board vote on those at the end, or are you just moving along as they are?

CHAIRPERSON RIDDLE: If the committee is reporting that they're holding them at committee --

MR. NEAL: Okay.

CHAIRPERSON RIDDLE: -- there's no action to take.

MR. NEAL: Okay.

CHAIRPERSON RIDDLE: If they had, you know, presented something for a vote and we voted to defer it, that would be a different action. But they're just recommending to hold at committee for further work.
MS. OSTIGUY: Right. Based upon the public comment and such. Let's see. Maintaining or improving natural resources.

CHAIRPERSON RIDDLE: George?

MR. SIEMON: Isn't there any discussion?

CHAIRPERSON RIDDLE: Maybe not. Do you have another comment? You can --

MR. SIEMON: Well --

CHAIRPERSON RIDDLE: -- ask a question of Nancy.

MR. SIEMON: -- I just feel like people are waiting for us to give input, and just stalling is just another six months. So I hear you. You all met and just thought you needed more time?

MS. KOENIG: Well, there was --

MR. SIEMON: There's some good input here.

CHAIRPERSON RIDDLE: Um-hum.

MS. OSTIGUY: Um-hum.

MS. KOENIG: There was. There was some significant input, and even today we got some input on the biodiversity issue. Again, just because of the structure, now we have a functional committee. I think it just makes sense to have a consensus, and I don't feel comfortable as a committee member -- our recommendation. We have to incorporate things.
MS. OSTIGUY: Yeah. I would very much -- I think that the work that was done, which we should thank Jim for doing, it was very, very good, but we have public comment that I would like to include and I would prefer not to do that on the fly. So -- okay. On the recommendation for maintaining or improving natural resources, we have a motion. I move that the Board accepts the provided enhancement of the natural resource component of the organic system plan, with the understanding that ATTRA would revise the format provided and that ATTRA's revised format will come back to the Board for a final consideration. Any discussion?

CHAIRPERSON RIDDLE: Is there a second?

MR. DAVIS: Second.

CHAIRPERSON RIDDLE: Gerald seconds.

MS. OSTIGUY: The idea here is that -- what we're after is the committee to agree with the ideas that are there, and the particular format might change. There are several of us that are on ATTRA's mailing list and such, to deal with this kind of thing, but ultimately, it would come back to the Board for us to look at to make sure that something hasn't been done that changes our original intent. So this is our -- an intent document.

CHAIRPERSON RIDDLE: Well, if we vote in favor
of this, we're endorsing the language and the concepts, but luckily we have ATTRA lined up to actually do the work of writing the amendment to the organic system plan template. That's not going to fall back to the Crops Committee, but then that revised template will come back and be presented to the Board again. So that's -- MS. CAROE: But this still represents values [ph] right?

CHAIRPERSON RIDDLE: Yeah. George?

MR. SIEMON: What we're talking about -- is this question airtight?

MS. OSTIGUY: Um-hum.

MR. SIEMON: The one that's up on the screen there, right?

MS. OSTIGUY: Um-hum.

CHAIRPERSON RIDDLE: Yeah.

MR. SIEMON: So the intent here -- a bunch of questions does not tell me of the intent, necessarily. So you say we're sending a message of intent to be reformatted. These are a lot of questions. Before we had -- I'm a little confused about what the intent of this is for. And the next question is -- it is in the opening paragraph. I don't know why we have water quality under biodiversity, including irrigation water, that whole part on water, the second -- the last -- not
the last line in that paragraph, but the two lines before that, I don't know quite know how that fits into the biodiversity, myself. Testing water --

CHAIRPERSON RIDDLE: And if I could respond to that. Some of that section is already in the organic system plan, but Section 205.200 requires that an operator will maintain or improve the natural resources of the operation. And then when you read the definition of natural resources of the operation in the rule, it says the physical, hydrological, and biological features of a production operation, including soil, water, wetlands, woodlands, and wildlife. So these are already requirements under the rule. It's just helping producers understand the options, and helping certifiers and inspectors understand how to assess compliance.

MR. SIEMON: But say I test my irrigation water and it has a trace amount of some kind -- material, then what?

MS. OSTIGUY: That's for processing and washing, that's not what I'm talking about.

MR. SIEMON: It's irrigation water. Irrigation water should not contain -- materials. We all know that's a real issue out there.

MS. OSTIGUY: This water is used for washing and processing organic products.
MR. SIEMON: No, the next line. The next line, irrigation water.

MS. OSTIGUY: Well, yeah.

MR. SIEMON: -- the processing. The processing is not about biodiversity, even if we went back to that one. Washing and processing is not biodiversity. It just seems to go --

MS. OSTIGUY: Some of these things are directly lifted from the current document, and right now I couldn't tell you which is which.

MR. SIEMON: Well, he's got 200.203(a) [ph], right? Is that -- do you mean the present rule?

MS. OSTIGUY: The present plan outline document.

CHAIRPERSON RIDDLE: Right.

MS. OSTIGUY: I didn't create any of this.

MR. SIEMON: Okay. So -- okay.

CHAIRPERSON RIDDLE: Gerald?

MR. DAVIS: George, I don't know if Mike's statement has anything to do with what you're saying, but in my mind, the term biodiversity and natural resources don't mean the same thing. And aren't we addressing natural resources? But I hear the biodiversity term throughout the meeting thrown up there connected to this issue. I'm a little confused on what
-- what is it, you know?

CHAIRPERSON RIDDLE: Yeah. Well -- and my response is, yeah, the broader category is natural resources, and that's how it's listed on the agenda, but biodiversity is one of those or --

MS. OSTIGUY: Right.

CHAIRPERSON RIDDLE: -- you know, some of those to be assessed, and then also is a requirement. I mean, the very definition of organic production includes to maintain or improve the biodiversity. So it is addressed in organic production, and this is just helping give better tools to assess compliance. Andrea?

MS. CAROE: Just based on something you just said, this is giving tools to assess compliance. You can't assess compliance by this guidance, you can't. I mean, this is not --

MS. OSTIGUY: Well, he knows.

MS. CAROE: -- this is not a rule. You can't -- this is guidance. This is strictly for information purposes and the certifier cannot use this to assess compliance with the regulation.

CHAIRPERSON RIDDLE: And it's -- it would be an amendment to the model organic system plan to help provide information to show -- you know, like for farmers, to show how they comply with the requirements.
It's not creating any new requirements that aren't there in the regulation at all.

MS. OSTIGUY: The goal was to clarify what already exists, the sum total.

CHAIRPERSON RIDDLE: Any other --

MS. CAROE: Yeah.

CHAIRPERSON RIDDLE: Yeah, Andrea.

MS. CAROE: Again, not to sound like Richard Mathews, but if you don't do these things, you're not going to be decertified. There's no grounds for decertification because of these items, and that's just something to keep in perspective as we work --

MS. OSTIGUY: No, that's not actually correct, because these are required to do by the law and the rule, not these specific items. What matters is whether or not your overall complying. And the question that's been coming is what do I do to comply, and this is to provide a way for farmers to go about the process so they can figure if they're complying. That's --

MS. CAROE: Again, I agree this is wonderful information and I think it was -- I mean, I'm glad to see somebody stating these conservation measures in association with organic, but it is information, it is not compliance. And you know, yes, yes, the rule does have compliance points, but how you meet those.

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compliance points, it's really take it or leave it when it comes to these. And this is very good educational information for the growers that are putting together a conservation plan to meet their requirements.

CHAIRPERSON RIDDLE: And I'll just respond once again by reading from the rule. "Production practices implemented in accordance with this subpart must maintain or improve the natural resources of the operation, including soil and water quality." That sounds like a requirement to me. And then must prevent erosion is another one. I mean, there are a number of natural resources-related components. George?

MR. SIEMON: Okay.

CHAIRPERSON RIDDLE: And then we're winding down.

MR. SIEMON: So I understand we're saying intent and we're going to get back to rewrite it.

CHAIRPERSON RIDDLE: Right.

MR. SIEMON: But they're going to rewrite it, as far as I know, in another form.

CHAIRPERSON RIDDLE: Actually incorporating it into the model farm plan.

MR. SIEMON: The model farm plan.

CHAIRPERSON RIDDLE: Right.

MS. OSTIGUY: Um-hum, um-hum.
MR. SIEMON: My only concern is it just increases paperwork for farmers. It's hard enough to get them fill out the paperwork we have. We're doubling the size of --

CHAIRPERSON RIDDLE: Nancy.

MS. OSTIGUY: What we started with was substantially longer than this. I shortened it considerably. ATTRA's goal is to shorten it, also, basically to clarify it. The idea is not to increase anybody's paperwork, but to make it more understandable what it is that they need to do in order to comply with that particular section of OFPA. So there may be some pieces that are applicable to a particular farm, other pieces that are -- you know, yeah, you're right. Paperwork, people don't like to do, but it's part of the process.

CHAIRPERSON RIDDLE: And another part of this is, throughout the ATTRA documents is checkboxes that give a producer of ideas of how they already are complying and just can check what they are doing already. Yeah, Hugh, and then let's try and wrap it up here.

MR. KARREMAN: I hate to beat a dead horse on the NRCS, but you know, they're the ones that'll just come up with the plan for you, so you're not doing a
whole lot of paperwork. You just say please come in, you know, do this kind of checklist and give me my conservation plan, and a lot of this will be included in that --

MS. OSTIGUY: Um-hum.

MR. KARREMAN: -- and you didn't have to do a thing.

MS. OSTIGUY: Right.

CHAIRPERSON RIDDLE: Well, yeah. But doing your NRCS, there's a bit of paperwork, too.

MR. CARTER: Yeah.

MR. KARREMAN: Yeah, but they will come up with the plan. You don't have to come up with it.

CHAIRPERSON RIDDLE: But sure, that would be another thing to show you're complying with all of these same requirements. Okay, let's go on to a vote now, and Andrea's turn to be first.

MS. CAROE: So can you read the motion you're reading?

CHAIRPERSON RIDDLE: Nancy, could --

MS. CAROE: Can you reread the motion?

MS. OSTIGUY: I move -- oops. I move that the Board accepts the provided enhancement of the natural resource component of the organic system plan, with the understanding that ATTRA will revise the format provided...
and that ATTRA's revised format will come back to the Board for final consideration.

MS. CAROE: Yes.

CHAIRPERSON RIDDLE: Okay. Rigo?

MR. DELGADO: Yes.

CHAIRPERSON RIDDLE: Hugh?

MR. KARREMAN: Yes.

CHAIRPERSON RIDDLE: Julie?

MS. WEisman: Yes.

CHAIRPERSON RIDDLE: Gerald?

MR. DAVIS: Yes.

CHAIRPERSON RIDDLE: Mike?

MR. LACY: Yes.

CHAIRPERSON RIDDLE: Nancy?

MS. OSTIGUY: Yes.

CHAIRPERSON RIDDLE: Dave?

MR. CARTER: Yes.

CHAIRPERSON RIDDLE: Bea?

MS. JAMES: Yes.

CHAIRPERSON RIDDLE: George?

MR. SIEMON: Yes.

CHAIRPERSON RIDDLE: Rose? Rose had to go help someone and she actually said her vote is yes. Goldie, what was Rose's vote? I should've asked you. They don't trust me.
MS. CAUGHLAN: Definitely yes.

CHAIRPERSON RIDDLE: A double yes. Okay, Goldie?

MS. CAUGHLAN: Yes.

CHAIRPERSON RIDDLE: Kevin?

MR. O'RELL: Yes.

CHAIRPERSON RIDDLE: And the Chair votes yes, so we're back to unanimity. It'd be 14, 0, 0, 0. All right, thanks.

MS. OSTIGUY: Okay, last item --

CHAIRPERSON RIDDLE: Nancy?

MS. OSTIGUY: -- waxed boxes. This was a Q and A that we got from the NOP. Get me to the right section here. The recommendation starts with the question, does Section 205.272 allow the use of boxes coated with a synthetic wax for transport of agricultural products? The answer: a box may be coated with a petroleum-based or a synthetic wax. Section 205.272(b)(1) prohibits the use of packaging materials that contain synthetic fungicides, preservatives, or fumigants. The allowance of nonsynthetic carnauba and wood resin waxes, in 205.605(a), applies to waxes that are directly applied to produce. It does not apply to waxes used on produce boxes. Certifiers allow the use of waxed produced boxes without concern as to the source.
of wax, so long as the wax does not contain synthetic fungicides, preservatives, such as BHT or BHA, or fumigants. Many boxes used for conventional produce are treated with fungicides, or else the box contains a fungicide-treated liner. These are not allowed for organic produce. If a bag or container contains a prohibited substance, then the use of reuse of that bag or container is prohibited under 205.272(b)(2), unless the bag or container has been thoroughly cleaned and poses no risk of contamination. This provision may be used by a certifier to prohibit the reuse of conventional produce boxes, or to require that packaging materials be removed from a storage area during pesticide treatment.

CHAIRPERSON RIDDLE: Okay. And do you move its --

MS. OSTIGUY: And that's a motion.

CHAIRPERSON RIDDLE: -- adoption?

MS. OSTIGUY: Yes.

CHAIRPERSON RIDDLE: Is there a second?

MR. LACY: Second.

CHAIRPERSON RIDDLE: A second by Mike, moved by Nancy. All right, discussion. Andrea.

MS. CAROE: I would just offer an amendment to change the word produce to product, just in case there's
an opportunity for a processed food to end up in a waxed box.

MS. OSTIGUY: A friendly amendment.

CHAIRPERSON RIDDLE: Accepted by Mike?

MR. LACY: Yeah, because chicken could end up in a waxed box.

CHAIRPERSON RIDDLE: Uh-huh. Okay, so you'll take care to make that revision before submitting the final, if it passes. All right, other comments on the now amended waxed box Q and A? Hugh?

MR. KARREMAN: Just wondering, when it says if a bag or container contains a prohibited substance, it says it can be thoroughly cleaned. By cleaned, how? Should that be defined, how to be cleaned before it's okay? It just seems kind of vague.

CHAIRPERSON RIDDLE: Yeah. Well, it's a direct quote from the regulation --

MR. KARREMAN: Oh, okay.

CHAIRPERSON RIDDLE: -- and it says, unless has been thoroughly clean and poses no risk.

MR. KARREMAN: Well, I'm just -- I'm still kind of curious how --

CHAIRPERSON RIDDLE: Sure.

MR. KARREMAN: -- would clean that.

CHAIRPERSON RIDDLE: I don't know that that's
our role as a Board, but --

MS. OSTIGUY: It was a similar concern that I had, that basically, that answered the same way.

CHAIRPERSON RIDDLE: Call ATTRA and find out how to thoroughly clean boxes so they don't pose a contamination risk. Maybe there's a fact sheet on that. George?

MR. SIEMON: I'm just concerned about the produce versus product that we've now moved into packaging. Product -- you know, I just -- you know, so I want to be cautious here. We started out with produce -- I'm all for waxed packages, don't get me wrong, but are we clear we're not --

MS. OSTIGUY: Well --

MR. SIEMON: -- jumping to the subject in the Crops Committee --

MS. OSTIGUY: The --

MR. SIEMON: -- into the Handling.

MS. OSTIGUY: The original question was product, so agricultural products. So --

MS. CAUGHLAN: It didn't say produce.

MS. OSTIGUY: It did not say produce. So we can say we're just being consistent with the question.

CHAIRPERSON RIDDLE: And also consistent with the rule, which uses the word product or ingredient
placed in those containers. So it even goes a little further in the rule. Andrea?

MS. CAROE: George, are you wanting to add the word agriculture to it -- agricultural?

MR. SIEMON: I was just asking more to Kevin to make sure we're not jumping into handling packaging-type concerns, to make sure that it's -- it's a big deal, waxed packaging. So if this works, that's fine.

MR. O'RELL: I think it's consistent.

MS. OSTIGUY: Um-hum.

CHAIRPERSON RIDDLE: Bea?

MS. JAMES: I have a question that maybe somebody can answer for me. If commingling is not allowed because of crops contamination, why are organic produce items allowed to sit on petroleum-based wax? Is there residue that takes place? Does a residue get onto the produce during transport, from the petroleum?

MS. OSTIGUY: I suppose it would depend on what level you might be interested in. If we were to go to parts per trillion or parts per quadrillion, I would assume something might be there, but I'm not positive. You know, the wax -- the purpose of waxed boxes is not to impart anything to the product --

MS. JAMES: Right. I understand that's a protestant -- to other outside -- it's just confusing a
little bit, because the regulations are so strict about
cross-contamination of products and synthetics, and here
we're saying that a box that does come into contact with
an organic food item, which actually might come directly
into contact -- say, such as apples, that it's okay for
those two things to commingle, but it's not okay for --
it's just a little confusing to me --

MS. OSTIGUY: Yeah.

MS. JAMES: -- why petroleum-based and

synthetic waxes are okay.

MS. CAROE: Jim?

CHAIRPERSON RIDDLE: Yeah, Andrea and then

Arthur.

MS. CAROE: This level of evaluation is done
on the certification level. During the evaluation and
the inspection and the certification review, they will
mitigate -- they will investigate the risk from
contamination, and I don't believe that it's necessary.
I mean, the rule clearly states that the product can't
be contaminated. The certifier will review if there's a
potential risk of contamination at that time. I don't
think that that's appropriate for us to weigh in on that
at this time.

CHAIRPERSON RIDDLE: Arthur?

MR. NEAL: I agree with Andrea. Packaging is
a totally different area in the regulatory world, and which FDA really handles. And you see, the way that they regulate that has even changed the whole food contact substance issue. But the reason why the commingling is a little bit different is because, in the handling of product, you want to make sure that, as a consumer, when you're purchasing an organic apple, you are buying an organic apple and not a conventional apple, because they both look the same. So in handling the products, you want to make sure that you're not mixing conventional and organic apples together by chance, selling the wrong type of product to the final consumer.

CHAIRPERSON RIDDLE: And I would just add that, you know, the answers here are an attempt to explain what is in the regulation, and the regulation puts certain restrictions on packaging material, but that's it. And then it also puts other restrictions on contact with prohibited substances. So it's not an attempt to kind of define purity, but rather what is allowed under the regulation and not --

MS. JAMES: I understand that, but it is -- it is inconsistent with some of the other things that we are saying, in my opinion. In my opinion, it is. And I'm not -- I just -- I mean, I see -- and I know we're
not supposed to be talking about packaging at this level, but so I'll just leave it at that.

CHAIRPERSON RIDDLE: Any other comments?

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[No response]

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CHAIRPERSON RIDDLE: Seeing none, we will move to the vote on the waxed boxes Q and A. And Rigo.

MR. DELGADO: Yes.

CHAIRPERSON RIDDLE: He says yes. Hugh?

MR. KARREMAN: Abstain.

CHAIRPERSON RIDDLE: Abstain. Julie?

MS. WEISMAN: Yes.

CHAIRPERSON RIDDLE: Julie votes yes. Gerald?

MR. DAVIS: Ye.

CHAIRPERSON RIDDLE: Mike?

MR. LACY: Yes.

CHAIRPERSON RIDDLE: Nancy?

MS. OSTIGUY: Yes.

CHAIRPERSON RIDDLE: Dave?

MR. CARTER: Yes.

CHAIRPERSON RIDDLE: Bea?

MS. JAMES: Abstain.

CHAIRPERSON RIDDLE: George?

MR. SIEMON: Yes.
CHAIRPERSON RIDDLE: Rose?

MS. KOENIG: Yes.

CHAIRPERSON RIDDLE: Goldie?

MS. CAUGHLAN: Yes.

CHAIRPERSON RIDDLE: Kevin?

MR. O'RELL: Yes.

CHAIRPERSON RIDDLE: Andrea?

MS. CAROE: Yes.

CHAIRPERSON RIDDLE: The Chair votes yes, so we have 12 yes, 0 no, and 2 abstentions. Okay, does that conclude the Crops Committee action items?

MS. OSTIGUY: Yes, it does.

CHAIRPERSON RIDDLE: Okay. Well, believe or not, that concludes our action items and --

MR. O'RELL: Are you going to let us go?

CHAIRPERSON RIDDLE: Yes, but not without just a instruction for tomorrow. The first item on our agenda is committee work plans. And you know, I think what we did in October the last time was very valuable, where it's not just a run-through quickly, but actually a bit of a presentation and to prioritize those and allow a little discussion, just so people understand what the other committees are doing. So I don't know if any of your committees need to meet or if the committee chairs can just present those. I leave that to the
discretion of the chairs to make that. But there's
certainly a number of important items to stay on the
work plans. Any other final words before we recess for
today? Arthur?

MR. NEAL: I just want to commend you for
moving and conducting these last sessions in a very
product fashion, because you had a lot on your agenda
and you stayed the course. You managed to get in about
six hours of public comment and cram in some work, and I
want to commend you on that, because I know it's a
daunting task over the last couple of days.

MR. SIEMON: Does that mean you're buying?

MR. NEAL: No, that means we try to get some
of the -- lessen the agenda items for the next meeting.

CHAIRPERSON RIDDLE: Yeah. And -- and also,
you know, we do have quite a few people signed up for
public comment tomorrow, and it's really important that
we all stay here and, you know, through public comment,
which is scheduled to end at noon. If we close early,
fine, but -- okay.

MR. O'RELL: Are we going to respect the noon
recess for those who have travel plans?

CHAIRPERSON RIDDLE: Yeah. Yeah, yeah.

Right. Well, I think it's 12:15. Okay, anything else
for today, otherwise we begin again at 8:00 a.m.
tomorrow? George? All right, thanks.

[End of proceedings]
CERTIFICATE OF REPORTER, TRANSCRIBER AND PROOFREADER

IN RE: National Organic Standards Board

HELD AT: Washington, D.C.

DATE: March 2, 2005

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UNITED STATES DEPARTMENT OF AGRICULTURE

IN RE: NATIONAL ORGANIC STANDARDS BOARD MEETING

Meeting held on the 3rd day of March, 2005
at 8:00 a.m.

The Washington Terrace Hotel
1515 Rhode Island Avenue, NW
Washington, D.C.

TRANSCRIPT OF PROCEEDINGS

03-03-05 NOSB Meeting Participants

Chair: James A. Riddle
Vice Chair: Kevin O'Rell
Secretary: Goldie Caughlan

NOSB Members: Andrea Caroe
David Carter
Gerald Davis
Rigoberto Delgado
Bea James
Hubert Karreman
Rose Koenig
Michael P. Lacy
Nancy Ostiguy
George Siemon
Julie Weisman

NOP Staff: Richard Mathews
Arthur Neal
Barbara Robinson
Public Comment:

1. Julia Sabin, Smucker Quality Beverages 36
2. Wendy Swan, Animal Welfare Institute 39
3. Steven Protanic, National Chicken Council 45
4. Kim Dietz, Past Member, NOSB 53
5. Lynn Coody, Organic Ag Systems Consulting 64
6. Leeanna Hoods, National Campaign for Sustainable Agriculture 69
7. Mark Kastel, Cornucopia Institute 78
8. Arthur Harvey 88
9. David Engel, Midwest Organic Services Assn. 91
10. Brian Baker, OMRI 94
12. Joe Dickson, Whole Food Market 105
14. Cissy Bowman, Indiana Certified Organic 120
15. Michael McGuffin, American Herbal Products Association 124
16. Pete Gonzalez, Oregon Tilth 127
17. Jim Pierce, Organic Valley 128
CHAIRPERSON RIDDLE: If people could take
their seats and wrap up their conversations. I've got a
motivated bunch today, I can tell. Okay, so the first
item on our agenda today, and I'd like to go ahead and
start with that, is discussion of committee work plans
and priorities and time lines. And I haven't made a
list of which committee to go first, so we'll just --
whoever is ready to present first. As soon as Kevin
opens his, he'll be ready. Anyone ready before that?
We only have three committee chairs here. We're missing
Rose, Andrea and Dave. Nancy, Nancy. No, no, no, no.

MS. OSTIGUY: Let's see. The items that the
Crops Committee is going -- has on its work plan include
a number of things from yesterday. Probably the most,
two most important items that we're going to be looking
at will be recommendations for the Board to consider on
the use of compost and compost tea. These are not done
in -- these two are not done in order of priority. And
the second one is commercial availability of seed, to
bring that back to the Board. We have two, at this
point, materials that we need to finish up; soy protein
isolate and ammonium bicarbonate. That will be
dependent on when we make the decisions about what synthetic versus nonsynthetic are, since most of those recommendations -- depend on that particular question. Hydroponics is also on the list. Those are the only items that I have at this time.

CHAIRPERSON RIDDLE: Any discussion, questions for Nancy? Problems here, complaint? Any additional items that people are aware of for Crops Committee to consider that have come out during public comment or -- Kim, did you have a point?

MS. DIETZ: Just your materials for the National List for the Sunset review. I think that if we could -- when you request a tab, identify questions, so I think that will probably --

CHAIRPERSON RIDDLE: Thanks, Kim, yeah. And each of the Crops and Livestock and Handling Committee, I -- they should be continuing prioritizing the early review materials for Sunset, so keep that in mind. Anything else? Okay. Kevin, ready to go for Handling?

MR. O'RELL: The Handling Committee work plan, we have eight items on there now. The first one is the synthetic versus nonsynthetic, to work with Materials Committee regarding the review and recommendation for the clarification of synthetic as it applies to substances, petition for the addition or prohibition to
the National List. That's number one for a reason that it's our priority, Nancy.

    Number two is the ag/non-ag issue, to review and provide guidance for clarification of current 205.2 definitions. Number three is the recommendation for the reclassification of yeast currently listed on 205.605(a). Number four is the Sunset material and review process, to move forward on materials identified as priority and from our meeting, committee meeting and presentations to the Board -- flavors and yeast.

    Number five is to work with the Compliance, Accreditation and Certification Committee to make a recommendation for the retail certification question that came from the NOP. Number six is the Pet Food Task Force and this would be -- participate in the Pet Food Task Force following NOP guidance as things come from the Federal Register notice. The NOP will be getting back in touch, I believe, with the Handling Committee in terms of how we proceed. Number seven would be review of petitioned substances as needed and finally, number eight is as a committee, we're going to review succession plan for future Handling Committee leadership. Any questions, additions? Hugh.

    MR. KARREMAN: Just -- I don't know if it's going to bother me, Pet Food Task Force; obviously, I
wouldn't be on it, but I'd be interested, being a veterinarian in the livestock area, about -- I don't if it's about labeling pet food or if it's actually sourcing organic sources of raw material in pet food, but I'd be interested -- to be involved a little.

MR. O'RELL: Okay. When we get the direction back from the NOP, I'll make sure that the full Board knows what our next step is. If there's any participation that you want to be a part of, you'll have that consideration.

CHAIRPERSON RIDDLE: I don't know why you say obviously. You wouldn't -- you're a Board member and there will be probably two Board members on it. If you're interested, and unless you have a conflict that would prohibit you from being on it, you'd certainly be eligible.

MR. O'RELL: You mean a Board member on the task force? Oh, I --

UNIDENTIFIED SPEAKER: Two Board members.

CHAIRPERSON RIDDLE: Well, we got one. Any others?

MR. O'RELL: Okay, thank you.

CHAIRPERSON RIDDLE: The only other thing, Kevin, is you know, once the summary judgment happens, if there's something where NOP asks for the Board's
input on, you know, as it relates to Handling, just ask you to keep a place open for that.

    MR. O'RELL: Okay, not a problem.

    CHAIRPERSON RIDDLE: Is this the place holder in the work plan on that? Okay, any other questions, comments for Handling? Okay. George, are you ready?

    MR. SIEMON: Sure. Well, a lot of follow-up has been discussed here. Our big priority -- they're all big priorities, of course. We have the Aquatic Task Force; we have an aggressive time line to both appoint those people and work through the issues, so we've been waiting for the register to close and that's happened now, so we're going to work with the NOP to assign that task force. We also put in for aquaculture our older standard to get feedback. We got one response, I think, but now we need to -- two?

    UNIDENTIFIED SPEAKER: Yeah, two detailed, yeah.

    MR. SIEMON: So we now have to work off of it, so that is -- we -- I can't say the word, so -- and then, of course, then we have this pasture thing that we put up for comment. I wonder if we're now heading for a rule change for that rather than the guidance now that we have more time, that we can give to the committee where we're going. We still have this -- trying to
unify the dairy replacement standards still -- now that we're rewriting the dairy part of the rule, maybe that will come to bear. Still we're going to use FDA. We've already -- that's what Dave gets, there's a lot to do on that. We're still watching over that process. We put forth the Sunset material and we're still looking at that. I heard a request for the methionine task force. I haven't talked to any of the committee members or NOP about that request that came out of this meeting. Way back in our work plan, this fiber-bearing standard and of course, just like all the committees, we're supposed to be looking for a new chairperson and then last, but not least, the response to the law suit -- never a dull moment.

CHAIRPERSON RIDDLE: Okay, any questions, comments for George? Nancy?

MS. OSTIGUY: No, but I have an offer of work. I'm willing to be the person to deal with agricultural standards, because I do know something about bees.

CHAIRPERSON RIDDLE: Right.

MR. SIEMON: Yeah, I know, and you are the right person. Anything else? All right.

CHAIRPERSON RIDDLE: And Nancy, do you have a copy of the two detailed comments that were submitted?

MS. OSTIGUY: No, I haven't seen them.
CHAIRPERSON RIDDLE: Okay, we'll try to make sure we get those to Nancy.

MS. OSTIGUY: I also want to make sure that we have broader comments on the standards before we forward because as far as I know, it has now hit the radar of the beekeeper community.

CHAIRPERSON RIDDLE: Yeah, so what I would suggest, taking that task force report and these two -- I mean, two comments that have come in, merging it into a draft recommendation and that'll be the -- you know, solicit comments and spread that as wide as possible, so great.

MS. OSTIGUY: Yes. I do know how to make sure that they will hear about it.

CHAIRPERSON RIDDLE: You've got contacts in the bee community, bee hive buzzing. Okay, any other comments for Livestock? Seeing none, okay, who's next, ready? Dave, okay. And then --

MR. CARTER: I even intended to have a printed copy for everyone and I faxed it to what I thought was the front desk and it went to sales [ph], so -- anyway, first on our list is develop for distribution to the Board -- I didn't forget that, Mr. Chairman -- and for the Executive Committee action a formal response to the good guidance policy Federal Register notice pending.
receipt of the collaboration document.

Secondly is to develop for distribution to the Board and for Executive Committee action, a follow-up to the AAPFCO organic labeling issue. Those are both very time-sensitive because of the short triggers on those. And then to work in cooperation with the Crop and Livestock Committees to develop a draft guidance on temporary variances for research. And as always, coming out of the meeting, there are more Board policy procedures, manual revisions to be handled; specifically, the materials approval and TAP review information for Rose, the Sunset review process and make sure that we get the clean, updated copy around to everyone. And then, just to continue to provide some follow-up on the issues that weren't addressed at this meeting, but elsewhere, such as the executive director, what's the -- you know, what's happening with that; the handling of the livestock medication materials and the follow-up on the "made with" issue, the organic/non-organic.

CHAIRPERSON RIDDLE: Okay, are there any questions, comments? Andrea.

MS. CAROE: Are you also looking for the --

MR. CARTER: Yes.

MS. JAMES: I'd like to recommend that this committee, and I'm volunteering, work on a procedure for handling questions that the NOP submits to us for the policy manual.

CHAIRPERSON RIDDLE: Oh, yes, and I should let everyone else on the Board and the record show that Bea originally had asked to be on the Crops Committee, but has since changed her mind and would -- has requested to be on the Policy Committee instead and that's fine with me and then just to let everyone know that, so the composition is different than I read the other day, slightly.

MS. KOENIG: I'd just --

CHAIRPERSON RIDDLE: Rose.

MS. KOENIG: -- like to volunteer, Dave, to work on the temporary variance for research.

MR. CARTER: Okay.

CHAIRPERSON RIDDLE: And I have one other item to consider of the committee and it also relates to Handling Committee and that is the criteria and procedures for commercial availability determinations for substances petitioned for placement on 606. There really are no criteria other than the definition of commercial availability and we really wouldn't know how to instruct the technical review contractors. It's not
currently covered in their statement of work. Those are all scientific review, not economic analysis, so I would ask the Policy Committee, since it is a policy issue, to take the lead, that you work closely with Handling on -- begin drafting some criteria and procedures for the commercial availability determinations.

MR. O'RELL: Jim, a question. Is this in light of the summary judgment coming out of the 606, that we want to have an expedited process, too, because from what I heard yesterday is that commercial availability will not exist unless something is on 606?

CHAIRPERSON RIDDLE: Right.

MR. O'RELL: Okay. So we're looking at procedures for how to go about to get something on the list?

CHAIRPERSON RIDDLE: Right.

MR. O'RELL: We'll have to work, obviously, closely with NOP --

CHAIRPERSON RIDDLE: Oh, for sure.

MR. O'RELL: -- on how to expedite things.

CHAIRPERSON RIDDLE: Right.

MR. O'RELL: Okay.

CHAIRPERSON RIDDLE: Yeah, the Board clearly will have a role, since it's a National List issue.

Okay. Anything else? Okay, seeing none, who's next?
MS. KOENIG: For the Materials Committee, we would hopefully have a committee recommendation on synthetic versus nonsynthetic after we get some information from the Handling Committee at the next meeting with some recommendations on that definition. We want to write a recommendation on how to go -- well, how to develop a technical advisory board, a panel, to -- for the materials process, so it would be more of an internal procedural document for the Board.

As a quick exercise, I'd like to go back to the re-organization of a list for -- based on OFPA criteria and do it for Livestock just so that we may identify materials on the list that don't meet the criteria and just let -- and giving the Materials Committee on those and they can determine if they need to be reviewed or how they want to handle that. And the last thing -- and I'm not sure if the Handling Committee's interested in looking at -- you know, after the judgment, looking at the lists for the materials that maybe could be considered --

CHAIRPERSON RIDDLE: Nonsynthetic.

MS. KOENIG: Yeah, and try to do an analysis, go back to the -- try to get the TAP resources and look at -- in those, if there may have been natural forms at
that time that were -- need to be economically feasible, just so that we can have a better idea of the impact. I know probably the industry is working on that, but I do feel that the Board probably should play a role and at least do an analysis of our present list.

MR. O'RELL: Yes, Rose, I think that's a good idea. We'll certainly take that up.

CHAIRPERSON RIDDLE: And so Handling and --

MR. O'RELL: Handling will work --

CHAIRPERSON RIDDLE: With Materials.

MR. O'RELL: -- with Materials, yes.

CHAIRPERSON RIDDLE: Okay. Any other comments, questions for Rose? Andrea.

MS. CAROE: Rose, your committee is very active and the work that you do is pretty time-consuming and I was really wondering when we would have new leadership for that committee, because I know that your term is coming to an end and this is one area we certainly can't have a lack of --

MS. KOENIG: The proposal, I think, is on the table, so -- just briefly, that would be to set up so that Nancy would take over for her final year on the Board and then really have somebody, one of the new members, in apprentice training, so for two years. So we do have identified somebody now to be -- Nancy
doesn't necessarily have to be the vice on the -- I mean, she knows it, she'll take it over and we want to get somebody in line to take over after her, so that person should be working closely even this year.

CHAIRPERSON RIDDLE: So that, then, goes back to Crops Committee of cultivating a new chair there in that field.

MS. OSTIGUY: And that is planned. In terms of somebody contemplating the Materials Committee as a future item, the -- while the workload is not small, it is much more handleable [ph] that it was before because of the workload of Kim and Rose in getting everything organized, so it's not as overwhelming as the Board has alluded to in the past, I don't believe. And fortunately, I don't think I need a training period.

CHAIRPERSON RIDDLE: Okay, anything else for Rose? All right. Andrea.

MS. CAROE: The Accreditation Committee has two work items. The first one is a steady item that was on the list coming into the meeting and that is to work in collaboration with the program to come up with procedures for the peer review process, so that's the first task at hand. And the new task that was brought about through this meeting is to work in collaboration with the Handling Committee as to those retail...
certification questions.

CHAIRPERSON RIDDLE: And Andrea, I would just ask, on the first item, the peer review, that the committee look at the larger ANSI report and response and see if there are any additional, you know, items to be engaged in beyond just the peer review issue.

MS. CAROE: Absolutely. I mean, that's why this wasn't completed before this meeting, is because we -- the ANSI report and the information that is clear to that process and the response of the program is critical in determining how useful the peer review is going to be and the building of procedures around, again, pursuing improvement on the program and the accreditation process.

CHAIRPERSON RIDDLE: Okay. Any other comments, questions for Andrea?

MR. DAVIS: Quick question.

CHAIRPERSON RIDDLE: Yeah, Gerald.

MR. DAVIS: ANSI. What's that stand for?

CHAIRPERSON RIDDLE: Oh, the American National Standards Institute, and just a tiny background. They were contracted by NOP to do a one-time audit of the accreditation program and they have a very detailed report that's posted on the NOP web site and then there's also an NOP response point-by-point to the
deficiencies that were identified during that audit, so then the committee will look at that and figure out what -- how we can contribute to addressing some of those issues. All right, very good. Next, I think we have -- is NOP, are you ready?

MS. ROBINSON: Yeah. Thanks, Mark. Okay.

CHAIRPERSON RIDDLE: So we have a little announcement or --

MS. ROBINSON: We have a few mementos that we didn't take a chance to give --

CHAIRPERSON RIDDLE: Okay.

MS. ROBINSON: -- to outgoing Board members Monday evening and incoming Board members.

CHAIRPERSON RIDDLE: Do we have that on the record? Please.

MS. ROBINSON: So, Mark --

MR. KING: Yes.

MS. ROBINSON: -- thank you very much. And -- a certificate of appreciation to Mark King for five years of dedicated services as a member of the USDA's National Organics Standard Board, 2001 to 2005.

UNIDENTIFIED SPEAKER: All right, one more here.

[Simultaneous comments]

MS. ROBINSON: Becky, are you ready?
CHAIRPERSON RIDDLE: Is Becky here?

UNIDENTIFIED SPEAKER: She will be down later.

MS. ROBINSON: She keeps doing this to me.

And then, as a new Board member, we have a Certificate of Appointment to Gerald Davis with appreciation for accepting the call to serve the nation and the United States Department of Agriculture as a member of the National Organic Standards Board and it's signed by the Secretary. Thank you very much.

MR. DAVIS: Thank you.

[Simultaneous comments]

CHAIRPERSON RIDDLE: Okay, is that it? Yeah, okay. Yeah, I'd just like to point out that Kim was acknowledged at a reception the other night, but we certainly want to thank you once again and thank you for your contributions during this meeting, too. It's been very helpful, yeah. And the other four new Board members were also presented their plaques of appointment and service to the nation at that reception that Barbara hosted on Monday evening, so it's not that Gerald is extra special, although he is.

UNIDENTIFIED SPEAKER: Don't tell anyone.

CHAIRPERSON RIDDLE: We're all special. Okay.

We still have a half hour before the public comment period begins and that time was posted in the Federal
Register, so it will be -- yes, exactly. That could
take a half hour right there, to talk about the next
meeting date approximate time because my understanding
from Richard and Barbara is there is funding and they
would like us to have a meeting in the -- this fiscal
year, which ends September 30, so sometime before the
end of September, but it does relate to the Sunset
docket which has not been posted yet. So it needs to
mesh with that time line once that kicks in, so we can't
set, you know, firm dates, but we should be looking at
our calendars for like August and September, so if
there's some times that are totally impossible for
people --

    MR. SIEMON: It's all impossible.
    CHAIRPERSON RIDDLE: Okay, George. It's all
impossible.
    MR. SIEMON: Those two months for me are --
but Expo, just for -- is the 14th, 15th, 16th, 17th of
September.
    MS. ROBINSON: Why don't you guys shoot for
August?
    MR. SIEMON: Well --
    CHAIRPERSON RIDDLE: Just point out dates like
that. September -- yeah.
    MR. SIEMON: Well, the 15th, 16th, 17th is
Thursday, Friday, Saturday and then Sunday's the 18th.

CHAIRPERSON RIDDLE: Hugh.

MR. KARREMAN: Just a few things. This would be, then, the second meeting of the year, because since I've been following this -- is it two meetings a year or would there be yet another meeting in October?

UNIDENTIFIED SPEAKER: Yeah, there would be a before and after --

MR. MATHEWS: If you have one in August or September, that's the third one for the year.

CHAIRPERSON RIDDLE: Oh, for the fiscal year, for the fiscal year, yes. Yeah.

MR. SIEMON: The fiscal year's October 1.

CHAIRPERSON RIDDLE: Yeah. All right, but it's the second in the calendar year and --

MR. KARREMAN: Yeah, I thought it was two a year. So anyway, my best times of the year with my farmers harvesting and all that would be September, October, so mid-September would be real nice.

CHAIRPERSON RIDDLE: Uh-huh. And George --

MR. SIEMON: Yeah, I -- we normally don't like to do it on the years we have Expo, but that would work best with me, I must admit.

CHAIRPERSON RIDDLE: And that's Expo MDC?

MS. CAUGHLAN: Right.

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MR. SIEMON: So the 12th, 13th, 14th or the 19th, 20th, 21st would be -- I know it's unhandy, but with the rest of my month's gone.

MS. CAUGHLAN: The week before Expo --

CHAIRPERSON RIDDLE: Okay, Rose.

MS. KOENIG: I would propose that we try to find maybe a week in August and a week in September and then depending on when that federal notice comes out, we really have to do it based on Sunset because we have a small window and we may need to do another, and that really depends on getting everything for Sunset. So if we can at least identify a week in August and for me, the first two weeks are better, before school starts. I'm not exactly sure what time school starts, the 17th --

CHAIRPERSON RIDDLE: So what you're saying it's better before or after -- I'm sorry.

MS. KOENIG: The beginning of August --

CHAIRPERSON RIDDLE: The beginning of August.

MS. KOENIG: -- and then whatever in September.

CHAIRPERSON RIDDLE: Okay.

MS. KOENIG: We can try around the first day of school.

CHAIRPERSON RIDDLE: All right. Dave.
MR. CARTER: Well, I was going to mention that the time before Expo's problematic, but I think I can shift that if I needed to, so we've got a lot of input coming back. It seems to work, but the only problem with that, after -- the week before Expo works --

CHAIRPERSON RIDDLE: Okay. George.

MR. SIEMON: Just responding to Rosie. Is the 15th, 16th, 17th of August, is that too close to school? The first two weeks of August don't work for me very well.

MS. KOENIG: I mean, we can do that, whatever. I have no --

MR. SIEMON: It seems like we should come up with two times.

CHAIRPERSON RIDDLE: Yeah. I think that's a good approach.

MR. SIEMON: So how about the 15th, 15th, 17th of August? I've got something planned, but I can rearrange that, so I can make that work --

CHAIRPERSON RIDDLE: Uh-huh.

MR. SIEMON: -- that week.

CHAIRPERSON RIDDLE: You're suggesting 16th through 18th? Okay, so one of the options suggested is around August 16 through 18. So far I'm seeing that that -- Julie, yeah.
MS. WEISMAN: I'm anticipating the second one.

CHAIRPERSON RIDDLE: And the other that was suggested would be the, what, 11th through 14th or 12th through the 15th, right before Expo? In September, I'm sorry. September. Bea.

MS. JAMES: My brother's getting married and my kids start school that week, too, so I wouldn't be able to attend that week.

MR. SIEMON: But afterwards?

MS. JAMES: Yeah.

CHAIRPERSON RIDDLE: Okay, so that doesn't work for Bea, but afterwards would work like, say 18th through --

MR. SIEMON: The 19th is a Monday.

CHAIRPERSON RIDDLE: Okay, the 19th through 21st. Julie.

MS. WEISMAN: I'm getting into shaky territory with that. I'm concerned about my mental health and -- close to October 1.

CHAIRPERSON RIDDLE: I guess you don't need to elaborate.

MS. WEISMAN: My daughter's getting Bat Mitzvahed and another industry organization that I have great responsibility for has its major event of the year on the 24th of September. I'm just -- the Bat
Mitzvah can't be -- that date's been set for four years --

CHAIRPERSON RIDDLE: No.

MS. WEISMAN: -- so I can't change that. I was hoping for before Expo.

CHAIRPERSON RIDDLE: Okay. Yeah, Andrea, a suggestion?

MS. CAROE: Just that in the past, you know, it's grueling having both the Board meeting and the Expo and I don't know -- I mean, because this takes a tremendous amount of energy, what we do here. I can't imagine that after Expo that this Board and the participating audience would be up for a Board meeting.

CHAIRPERSON RIDDLE: Well, we can sing Some Magical Moment --

MS. CAROE: Well, I would suggest we do this before the Expo.

CHAIRPERSON RIDDLE: Yeah, well the other choice -- I mean, that doesn't work for Bea -- would be to separate the two and two trips to D.C. for the people that need to do both. George?

MR. SIEMON: How about the 27th, 28th, 29th of September?

CHAIRPERSON RIDDLE: That's worse. That's definitely --
[Simultaneous comments]

CHAIRPERSON RIDDLE: We don't even have to think about that, yeah. Okay. I know this is, you know, really fun for the audience to watch.

MR. MATHEWS: Jim?

CHAIRPERSON RIDDLE: Yeah, Rick.

MR. MATHEWS: If you're going to talk 27, 28, 29 of September -- well, I know you just ruled it out, but if you're going to -- you might as well just be talking the middle of October right now, because that's only another couple weeks and we normally try to have a meeting in mid-October, anyways. So maybe if we just forget August and September and Bea -- well, the only reason why I'm saying that is that it's still a wild card that we're going to be able to do something in August and so if you're planning late September, then we might as well just do the mid-October and that'll give you another two or three weeks to do your work and be that much more prepared to address the issues that the commenters are going to provide to you. That's not a mandate, it's just a suggestion.

CHAIRPERSON RIDDLE: Uh-huh, yeah. And it may come to that, but right now we're just trying to pick out a couple dates in that August/September -- and so I would call on George.
MR. SIEMON: How about the 30th and 31st of August and the 1st of September? Going once.

CHAIRPERSON RIDDLE: Okay, people check their calendars. So it's suggested August 30 through September 1.

MS. OSTIGUY: No matter what, I'm going to be missing classes. I do not like to miss the first day.

CHAIRPERSON RIDDLE: Oh.

MS. OSTIGUY: That's really bad.

CHAIRPERSON RIDDLE: Yeah. Bad first impression.

MR. SIEMON: Is that the 1st or how about --

MS. ROBINSON: Jim.

CHAIRPERSON RIDDLE: Barbara.

MS. ROBINSON: You know, when we set this Board meeting, do you remember you all e-mailed me the dates that you were unavailable?

CHAIRPERSON RIDDLE: Right.

MS. ROBINSON: You sent me an e-mail and I mapped it out on the calendar and we found these dates. If you want to do that rather than sit here and -- it's up to you, but I'm --

CHAIRPERSON RIDDLE: I appreciate --

MS. ROBINSON: -- willing to once again, if you just pick the months from August through October --
CHAIRPERSON RIDDLE: Yeah.

MS. ROBINSON: -- the dates that you are
totally unavailable and then we'll find dates
wherever --

CHAIRPERSON RIDDLE: Yeah. But last time we
ran out of time and didn't have the chance to play this
Board game live, so -- I mean, we have come up with one
window now. Yeah, I appreciate the offer and we may --
it may come -- and in reality, it probably will come to
that at the end of the day, but it's good if we can all
agree to --

MS. CAUGHLAN: And the other problem is --

CHAIRPERSON RIDDLE: -- another window.

MS. CAUGHLAN: -- because we do still pretend
to have lives and it's the idea of trying to -- with all
the summer schedules.

CHAIRPERSON RIDDLE: Right.

MS. CAUGHLAN: Kids and family and --

CHAIRPERSON RIDDLE: I'm trying to anticipate
when the fish will be biting. Nancy.

MS. OSTIGUY: I was actually going to suggest
that we take up Barbara's offer.

CHAIRPERSON RIDDLE: Well -- Kevin.

MR. O'RELL: Actually, I like Barbara's offer
and this is why, because I also get in trouble at home

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because I don't have all my personal things on the
calendar and then I'll find out, you know --

CHAIRPERSON RIDDLE: I think we've heard

enough about that. Andrea and then Hugh.

MS. CAROE: I would just ask if we can go that
route and if we can do it quicker, or earlier than
later, because what notoriously happens, if I wait until
the last minute, my calendar's filled up with a bunch of
things in-between the time that I submitted it and the
date comes back.

CHAIRPERSON RIDDLE: What we have -- yeah,
Rose.

MS. KOENIG: Yeah. And I would just want to
point out to Richard, I just think that because of the
fact that we have so many new members and then after
December there's going to be another group of new
members, to me having these two meetings, as much of an
apprentice-kind of -- so that by the time we leave that
the members feel really comfortable with the process. I
think that there's a lot of value to that for the newer
members because it just -- coming up to speed on how
things function is really hard to the fact that a good
chunk of people are going to be gone after the last
meeting. I think we need two meetings between now and
the end of the year.
CHAIRPERSON RIDDLE: I support that, appreciate --

MS. CAUGHLAN: And Rose is volunteering to do more work, so we can't pass that up.

[Simultaneous comments]

CHAIRPERSON RIDDLE: Okay. I'm ready to declare victory and that is we have a -- oh, Hugh. I did say --

MR. KARREMAN: Just, you know, with all respect, you know, having three meetings like you want, I like Richard's idea of having it in October and having everything really thought about and worked on before that.

MR. MATHEWS: That's just my opinion, save the government's money this year, too. Just have the second meeting in October in the new fiscal year.

CHAIRPERSON RIDDLE: Okay. Well, we have identified one window, 16th through the 18th where everyone here agreed they were available and we'll propose -- August, I'm sorry. August 16 through 18 and beyond that, Barbara, we'll -- you'll send around something, a calendar for us to fill in our impossible availabilities and then propose something official.

Yeah, Rose and then Hugh.

MS. KOENIG: I actually think the August
meeting will work and this is why. We identified materials by committees that need to go -- that we know we want to Sunset, okay, so if we send those to the TAP review, whether that Federal Register notice comes out or not, we still may have a bulk of things that we could get off our table as far as beginning the Sunset TAP process, I believe. So I think that we could -- and plus we have how many TAPs do the contractors have of new materials? Three. Plus we had the old ones from Nancy, so I think we have enough material-wise to substantiate a meeting in August.

CHAIRPERSON RIDDLE: Right, and plus hearing the committee work plans, there's a lot of things that are well in development that we should be able to act on and we'll have comments back from some of these drafts, so I think we'll have plenty to have a meeting.

Richard, then Hugh.

MR. MATHEWS: And we've been holding off giving you questions, so we have more questions for you.

CHAIRPERSON RIDDLE: I appreciate that.

There's always that to add, yeah. Hugh.

MR. KARREMAN: I thought you were talking September 16th to the 18th, right before Expo. August is my absolute worst month. I'm driven crazy by emergencies, so it's the worst month for dairy cows in
this area, so August is not good for me.

CHAIRPERSON RIDDLE: We'll consider that
before we firm up the date. Anything else on that?

Well, we did that in only 15 minutes and we will -- I
have a couple more things here and that is I will send
around suggestions for the next Executive Committee
meeting. We don't have to spend time discussing that
for all the members who aren't on the Executive, but we
will set that in a timely manner before the end of March
in order to act on the issues from the Policy Committee,
the AAPFCO input and the good guidance document
comments. Dave?.

MR. CARTER: Yes, and just before we take the
short break that I know you're going to declare before
we go to public comment, I would like to -- well, when
we do take that short break, I'd like to get together
with the Policy Committee and we'll just set a date for
our next --

CHAIRPERSON RIDDLE: Oh, okay. All right,
good. And then the only other thing I had is, at one
point I passed around a cover sheet for recommendations
and so this is for committee chairs. After the meeting
now, a number of those drafts that we voted on were
amended and it's your responsibility, as committee
chair, to make those final revisions, polish them up,
but then to also fill out the recommendation cover sheet and submit that with each of those final recommendations. And Arthur, would you send that around electronically so people can complete them electronically and I ask each of the committee chairs to copy me on those finals that you sent in and -- so I can review them, as well. Arthur.

MR. NEAL: On the finals that are sent in, it actually should come through you with a signature, so --

CHAIRPERSON RIDDLE: Okay, right.

MR. NEAL: Right. That way we'll know -- oftentimes it happened we got them from different people, but if we get them from one person with the chair's signature on it, we'll know that this is the final.

CHAIRPERSON RIDDLE: Okay. So send them to me and I'll review them and sign off on them and submit them to the program. George.

MR. SIEMON: I'm pretty sure that we made changes on the Livestock -- I don't have those final wording, so I think Arthur -- we were making the changes on the screen yesterday. Yeah, we --

CHAIRPERSON RIDDLE: Oh, no. Yeah, we changed the numbers --

MR. SIEMON: Is that -- well, Arthur, I just
want --

MR. NEAL: George, I got --

MR. SIEMON: Okay. Well, anyway you'll send
to all the committee chairs if there's any changes, but
I just want to make sure I get the right one.

MR. NEAL: I've got changes. Now, if we
replace everything you said, I can't say yes and that's
why it's going to be up to the committee and the Board
chair to verify all these things.

CHAIRPERSON RIDDLE: Right.

MR. NEAL: I'm not the secretary of the Board.

CHAIRPERSON RIDDLE: Well, between Arthur,
Dave will help you, George, and I'll review it and that
particular one was the guidance -- no, no, that was the
proposed rule change, that was the rule change, yeah.

Yeah. So we'll go from here on that. Anything else on
that? If not, then let's take 10 minutes and be back
here ready to listen to public comments at 9:00 a.m.

Thanks.

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[Off the record]

[On the record]

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CHAIRPERSON RIDDLE: Come back through and
take your seats, get set up here. Some of them may not
be here, but you know -- okay. Okay, we'll begin the
second public comment period and just hold on a second
because I should read the -- from the Board policy
manual the rules for commenting, which I can't find.
What tab is that, Dave?

      MR. CARTER: Six.

      CHAIRPERSON RIDDLE: Yeah. Okay, once again.
All persons who wish to comment need to sign up, and if
you haven't signed up, I do have the book up front and
there is still time available for walk-ins today. You
will be called on in the order that you signed up, but
you can pass for the time being. You'll have five
minutes to speak.

      You need to give your name and affiliation
before you start your comments and you may -- someone
may submit a written proxy requesting that another
person speak on your behalf, however if you're carrying
a proxy, you will be limited to a total of 10 minutes,
so you can't bring in multiple proxies and get more
time. If you do have a proxy, please state that before
you begin your comments, as well, so that the timekeeper
knows.

      Goldie will be keeping time and she has a one
minute warning sign that she'll hold up. If you don't
see it, that's not her problem, but she will hold that
up at one minute just to let you know where you're at. And also, anyone giving public comment will refrain from personal attacks or remarks that impinge on the character of any individual. That includes Board members, USDA staff, any other members of the public organic community, including companies.

We have no problem with you expressing, you know, honest opinions in a passionate manner, but once you start making personal attacks, that detracts from your comments; it's counter-productive, and if I sense someone making a personal attack, I will mention that, ask you to please restate your comments. If you continue, I will ask you to conclude your remarks.

Okay. So with those understanding of the rules we will begin and the first person up is Steven Protanic [ph]. I'm sure I didn't pronounce that right and on deck, Julia Sabin. Steven.

MR. PROTANIC: Yes, I'm here but I'm having a problem setting up the PowerPoint.

CHAIRPERSON RIDDLE: Okay, so you'd like to pass.

MR. PROTANIC: If I may.

CHAIRPERSON RIDDLE: Yes, indeed. So Julia and then on the list is Mark Retzloff. Will Mark be speaking or is someone speaking on Mark's behalf? Okay,
then the next person would be Dr. Juan Velez. Is Juan still here?

    MR. VELEZ: No, I spoke Tuesday.

    CHAIRPERSON RIDDLE: Well, you signed up for both.

    MR. VELEZ: No.

    CHAIRPERSON RIDDLE: Clark, will you be speaking?

    MR. DRIFTMIER: No, we already commented.

    CHAIRPERSON RIDDLE: Okay, so none of those -- boy, that is the quickest comments we've received. So Wendy Swan. Is Wendy here? Yes, so you will be on deck and then if Steven's ready, we'll come back to you at that point. So Julia, thanks for your patience. Welcome.

    ***

    MS. SABIN: Good morning, the National Organic Standards Board, National Organic Program and interested members of the organic community. I'm Julia Sabin, General Manager at Smucker Quality Beverages. We procure organic ingredients, manufacture and market a number of organic products under our brands of RWP [ph] -- After the Fall and Natural Grocery [ph], as well as our all-organic brand, Santa Cruz Organic. Today I would like to address our extreme concern over the
outcome and possible ramifications of the Harvey versus Veneman lawsuit.

According to the USDA the court ruling not only prohibits synthetics in processed food products in organic label category 95 percent plus, but in a "made with organic", 70 to 94 percent category, as well. Furthermore, though we were hoping the USDA could obtain a hearing en banc for an expanded review of the case, we understand that the test of import -- the court for testing a standard review ONPO [ph] may not be met. The case has already been returned to the district court from the court of appeals and the USDA has to be prepared to implement the judgment of the district court.

Though we do not know what the details of the implementation or its timetable, it appears that the USDA will have to amend the regulations to come into compliance with the Act. We have been told that though this ruling will have intense financial and social damage to the farming and manufacturing community, the court will not address such damage, except in the case of damage possibly impacting a timeline for application of the rewritten regulations. The NOSB can address and mitigate some of this damage.

We urge the SOB -- NOSB, excuse me. I
apologize. I apologize. We urge the NOSB to work in concert with the NOP, Organic Trade Association and the organic community, please, please, please review the definition of the ingredient and ingredients statement. We could possibly refine the definition of ingredient in the regulation definitions, but of course, we do have to be responsible and make sure we can still capture non-ingredients that we do not want approved.

The NOSB should come up with workable definitions and should then revisit all materials currently deemed synthetic as stated in 205.605(b) of the National List. At Smucker Quality Beverages we believe in quality of the organic raw materials supplied to us by our farmers. We believe in the quality of the finished products for our consumers. We strive to innovate and rely on natural and organic ingredients and we believe in the strictest possible standards. We have been dedicated to organic mission for over 20 years. We remain dedicated to the growth of the organic industry. By providing consumers with more choices in organic products, we provide farmers with more value-added opportunities.

We strongly urge this Board to immediately begin assisting with the regulatory remedy the ramifications of the lawsuit. If left unchecked, would
require many products to be discontinued, ultimately
cutting off demand for organic ingredients and thereby
hurting the very farmers who have supported this
industry. Thank you.

CHAIRPERSON RIDDLE: Thanks, Julia. Any
questions? Thanks, it was very clear. Okay, Wendy Swan
and then next up will be Steven Protanic.

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MS. SWAN: Members of the Board, good morning.
My name is Wendy Swan and I represent the Animal Welfare
Institute, a non-profit organization founded in 1951 to
minimize the sum total of fear, pain and suffering of
animals. I submit the following comments on behalf of
AWI's legislative division, the Society for Animal
Protective Legislation. As part of its advocacy on
behalf of farm animals, the Animal Welfare Institute
maintains a farm animal husbandry standards program that
allows farms to abide by our strict husbandry standards
to use its name in connection with marketing of their
products. We are very concerned about maintaining the
integrity of organic standards with respect to farm
animal welfare and consumer expectation of this.

We thank you for the opportunity to speak
today and support access to pastures ordinance. With
the following exceptions, we urge the National Organic
Standards Board to adopt the Livestock Committee's pasture requirement recommendations. Ruminants must have substantial access to pasture. Cattle, for example, allowed to graze in grasses, herbs and leaves. Of the bush and open plains, cattle travel on average about two and a half miles per day while grazing and will graze up to nine hours a day in exceptional cases. When grass is sparse, cattle will graze up to 15 hours per day. They may spend two hours per day going into or searching for suitable grazing sites. Maintenance is rare on cows on pasture.

Grazing provides both nutrients and exercise. As herbivores, cattle are adapted to high-fiber, low-density diets and do not adapt easily to high-grain diets or manufactured items with grains -- with high-protein and low-fiber. Routine confinement of cattle on slatted or concrete floors has been associated with lameness which implies poor welfare. Access to quality pasture, exercise and the ability to graze, therefore, are essential to the biological and behavioral health of cattle.

Furthermore, customers believe, consumers believe that organic meat and dairy products come from animals who have substantial and legitimate access to pasture. We support the position of the NOSB, that
grazed feed must provide a significant portion of the total feed requirements of ruminant animals. In answer to the NOSB and Livestock Committee's request for clarifications, we agree with other groups submitting comments, including Cornucopia Institute and Northeast Organic Dairy Producers Alliance, that organic dairy animals must consume no less than 30 percent of their daily dry matter intake from pasture for a minimum of 120 calendar days per year.

To assure quality grazing, we agree further that stocking density per acre must not exceed three lactating dairy cows and may need to be less as appropriate for soil and climate. We further support the additional recommendation of these organizations to -- the definition of pasture. With respect to temporary confinement, we support the need to shelter animals during inclement weather that could harm the animals or other life or health-threatening circumstances and in the case of veterinary care, to treat disease or injury.

We agree with the NOSB Livestock Committee that lactation is not an appropriate stage of production recommendation -- excuse me -- is not an appropriate stage of production for routine confinement. We agree with the NOSB Livestock Committee recommendation that birth is a stage of production where it seems temporary.
confinement, but only in the case of severely inclement weather as in winter, when newborn calves could become chilled or when weather could impair the mother's ability to care for her calf or in the case of an anticipated birth -- an anticipated difficult birth or the purpose of improving the farmer's ability to observe and care for the animal and never as a routine procedure surrounding birth.

In general, cattle on pasture are fit, healthy and capable of unsupervised -- we do not agree with the Livestock Committee that confinement of beef animals during the final finishing stage is appropriate for organic production unless animals must be confined for feeding during seasons when quality pastures are not available or when pastures or poor conditions outside the farmer's control, such as drought. In such cases, cattle should continue to have access to pasture while feeding, while being fed hay and other feedstuffs that support normal ruminant function and deliver sufficient nutrients to maintain health. Thank you.

CHAIRPERSON RIDDLE: Thank you. Thank you for your comments. Did you -- were you here the last couple days and know how we've worked on documents and how do you feel about that?

MS. SWAN: I regret -- I had plans to attend...
the previous days and I regret that I wasn't able to come.

CHAIRPERSON RIDDLE: Well, we -- I think we've substantially addressed some of your concerns, group's concerns. What I've found -- what I've always kind of been wondering about -- I don't know what certification process -- I think AW has one for farm animals. I'm familiar with Free Farm, I guess another group, that there's a humane society, that the -- they had another one. Do you feel that organic livestock would pass your group's -- not the other one's, but your group's standards for humane care?

MS. SWAN: I think right now the Organic Standards have a lot to meet this -- they don't address all the concerns that we have regarding animal welfare.

CHAIRPERSON RIDDLE: Do you have some right off the top of your head that --

MS. SWAN: Oh, well ensuring access to pasture as far as cattle and ruminants, but as far as other species, there's not even a requirement for outdoor access. Looking more specifically at the different types of mutilations that might -- I don't know if the Organic Standards do prohibit mutilations.

CHAIRPERSON RIDDLE: Does your group, AWI -- are your certification for humane care of animals, is it...
mainly based on a per animal kind of assessment or a whole herd?

MS. SWAN: In essence, each animal -- if there's an animal that's not being cared for. It's an individual basis.

CHAIRPERSON RIDDLE: Do you have any certified organic livestock farms that are certified with your group at this time?

MS. SWAN: We do.

CHAIRPERSON RIDDLE: You do have some farms that are becoming certified with your group now?

MS. SWAN: Yes, right now. Right now, we're only working with feed farmers, but we've begun -- for other species and we're working -- we work with now over 400 pig farmers. We're working with dairy and cattle farmers.

CHAIRPERSON RIDDLE: Well, I'd just like to say for as long as I'm on the Board, I would like to have your group's input in our standard making.

MS. SWAN: We are available to assist you any way you want, absolutely.

CHAIRPERSON RIDDLE: Okay, thank you. And I just -- I wanted to add to that, just to -- since you weren't here the last few days, just to let you know that the Board did vote on two recommendations for rule

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change, took final votes, but those will be posted eventually as proposed rules and open for public comment during the notice and comment rule making process. We also voted on a very detailed guidance document that will be posted just for public comment that we'll be reconsidering at our next meeting, so please stay tuned and thanks for your comments.

And before the next speaker comes, if any of you have either multiple copies or just a single copy of your comments, if you please make sure and get that to Toni Strother so we can have those written comments for the official record. I should've said that at the very beginning. Okay, next up, Steven Protanic and please straighten me out on how you pronounce your last name.

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MR. PROTANIC: Mainly Protanic, but I also go by Pritenick [ph] or whatever you want to call me.

CHAIRPERSON RIDDLE: Okay.

MR. PROTANIC: Thank you for being here this morning. My name's Steve Protanic and I'm with the National Chicken Council and I'm here on behalf of Dr. Clothe [ph], who has taken ill. He's undergoing procedures to find out what's wrong. He asked me if I would give his presentation and express his concerns and really, they're the concerns of the industry, of the
poultry industry, in general, and the government, and
this is not new. If you could change this line -- some
of you have heard this before, but it's taken on a whole
new twist. Avian influenza, as you know, has been
considered an economic problem with industry, could be
devastating to industry if it's not handled when there's
an outbreak and so forth, and it's very well known that
wild waterfowl can introduce this into birds that have
access to them. But this has taken on a whole new
connotation with what has happened in southeast Asia.

The World Health Organization, which is part
of the United Nations, is taking avian influenza very
serious. Our own Centers for Disease Control in
Atlanta, Georgia, is taking this very serious. Even
Homeland Security has a board member on the U.S. Animal
Health Association and is actively participating in the
transmissible disease. We are very, very concerned
about potential disease, as the viruses are constantly
mutating. Any H-5, H-7 virus, even if it's low-
pathogen, has the potential to become highly pathogenic
and as we've seen in Asia, it appears to be maybe
crossing species. There's concern it could maybe mutate
even further, become an pandemic situation.

So this -- if we could go to the next slide.
AI happens and we don't have to go back very far. In
2002, in the Shenandoah Valley, we had an outbreak -- it
was an economic loss to the industry, 130 million. If
we could go to the next. Amsterdam, almost wiped out
their industry, but they learned from this that they
need to protect the birds from coming into contact with
wild waterfowl. They've reached that conclusion. If we
could go to the next one. Delmarva, as late as last
year we had an outbreak, had to destroy 300,000 young
chickens. And when you have an outbreak, it impacts all
of the farms in that vicinity. It's not just the one
where the disease shows up. If it's an H-5 or an H-7,
they're going to test the geographic region or perimeter
and if they find birds that test positive, the general
treatment is to destroy all of those birds. Next one.

This year we had turkey breeders, a breakout
in North Carolina. It wasn't a big outbreak, they
contained it, but it had trade implications
internationally. We have some trading partners, such as
Japan. Anytime we have an H-5 or an H-7 outbreak, even
if it's low-path, they cut off imports from all of the
U.S. And just to show how much the government is trying
to address this issue, the USDA awarded a $5 million
cooperative grant -- this is shared with five
universities, the University of Maryland is the lead
university -- to study and address avian influenza.
Okay, next one. APHIS has implemented a program to monitor, control and eradicate a -- with particular emphasis on the live bird markets and here we have the Asian thing. If we could move on again. This is a sustainable agriculture organization that works with school-age kids and they're learning from the lesson. Well, Dr. Clothe is asking that you suspend the mandate that the birds have to be -- have to be outdoors. I would like to offer just one more --

CHAIRPERSON RIDDLE: Conclude your remarks.

MR. PROTANIC: Closing remark.

CHAIRPERSON RIDDLE: Yeah.

MR. PROTANIC: That -- if we could go to the next slide. If we could do something like this and make it applicable to those areas where avian influenza has a history or we have large waterfowl populations, let the folks invoke this sort of thing to protect those birds from avian -- those are your danger points. Where you've got a history, it's going to likely happen again. We have watched water fowl --

CHAIRPERSON RIDDLE: Time.

MR. PROTANIC: You put your birds at risk.

CHAIRPERSON RIDDLE: Thanks.

MS. OSTIGUY: Jim.

CHAIRPERSON RIDDLE: Yeah, question.
MS. OSTIGUY: Do you know of a single example -- actually, I should preface this. My concern about avian influenza's very high. I have a public health degree. I would like to know if there is a single incidence of avian or other outbreak from an organic poultry operation?

MR. PROTANIC: I couldn't answer that specifically, but you know, organically raised, and the Council raises organic and several companies have organic, certified organic flocks that they raise -- they are susceptible. It doesn't matter --

MS. OSTIGUY: I'm not talking about susceptibility. I'm talking about source. My understanding is that the outbreaks that you are discussing are primarily transmitted by workers when they're moving from one facility to another.

MR. PROTANIC: We have that, we also have the live bird markets.

MS. OSTIGUY: And in confinement situations.

MR. PROTANIC: Well, we have -- well, that's not entirely that. If you look at the live bird markets in some of your major cities, New York and so forth, a lot of those birds come from flocks in Pennsylvania that -- I guess you would call them range farms. These birds do come in contact with other species, so there is a
cycle within that type of market and you've got two
things going. You've got the commercial that you're
alluding to and you also have the live bird market,
which has a different source in --

MS. OSTIGUY: Not organic.

MR. PROTANIC: And yes, you -- I mean, if you
think that you'll never have the exposure, run the risk
of avian influenza in your flock, I think you're --

MS. OSTIGUY: Who currently does allow for
confinement for health reasons? Have you considered
that?

MR. PROTANIC: Well, this -- and what
Dr. Clothe is asking is that where they're in a
high-risk area, if they can still raise birds
organically, but not expose them to wild waterfowl,
which they would be exposed to if they were allowed.

CHAIRPERSON RIDDLE: We have two more
questions and we have a lot of other commenters, so
Hugh.

MR. KARREMAN: I'm new on the Board, so if
I've heard about the poultry, this poultry question and
I know the Under Secretary of Agriculture of
Pennsylvania has told me, personally, that this is
definitely on their radar screen, this whole topic and
personally, I just -- quick glance, I like your
statement here behind me that's on the screen and if we
do already have something in the regulations for
confinement, temporary confinement for health reasons,
that's great.

Maybe we could further delineate that, but I
must also say that the -- you mentioned the open, or the
bird, live bird markets in New York and a lot of the
birds come from small organic farms in Pennsylvania,
many of my farmers are those farmers who you speak of.
They're dairy farmers that free-range birds and whatnot
and I have yet to hear of a single case being traced
back to any of my farmers. Believe me, I would've heard
about it, being a veterinarian with, you know -- with
public health and so I'd --

MR. PROTANIC: Well, that's about to change
with -- when the monitoring system takes full effect
that APHIS is implementing, which is focusing on
commercial poultry, as well as the live bird market
system. You'll have testing certification where the
birds come from. We'll have bird identification, either
on an individual or lot basis. And that's going to all
occur within the next few years. The Animal and Plant
Health Inspection Service, that we have worked with very
closely, have expressed very great concern about the
live bird market and it's the back and forth that has,
on a number of occasions, introduced -- into commercial. And I'm not trying to defend commercial or organic, I'm just saying there's a real risk out there and folks who would like to raise organic chickens are very concerned in those high risk areas and they're asking for some help.

CHAIRPERSON RIDDLE: Mike, did you still have a --

MR. LACY: Thank you. Steve, appreciate you coming and sharing with us and I wanted to address Nancy's question. I don't think that there is any documented case where organic poultry have been infected with avian influenza. The point is there are documented cases where birds that have access to outdoors has spread avian influenza to other flocks and that's been documented in Texas, California, Virginia. In fact, I think if you go back and look at any avian influenza outbreak, you can trace it back either to birds that had access to outdoors, or to wild birds, as Steve indicated.

CHAIRPERSON RIDDLE: And I just have a factual, you know, clarification. The 300,000 birds in Delmarva that you referenced and the turkey breeding facility in North Carolina, those were both confinement operations. Those were not outdoor --
MR. PROTANIC: I wasn't trying to --

CHAIRPERSON RIDDLE: All right. Okay, thanks for your comments. And I forgot to give the next person fair warning that they were up and it's Jay Feldman is on the list. Is Jay here? No, okay. And no one's speaking on his behalf. Well, then Kim Dietz, so -- and next up is Lynn Coody.

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MS. DIETZ: This is new for me.

CHAIRPERSON RIDDLE: I hope your battery lasts.

MS. DIETZ: It's in a very bad spot. And since I didn't have the use of your printer, I had to put it on here. Okay. Ready, Goldie? Okay. I stand before you today for two purposes. I'll be reading a document on behalf of GMA, or Grocery Manufacturers of America and lastly, I'll be addressing the Board as a concerned organic industry leader. However, before I begin, I would like to put on the record that although I was invited to attend this meeting by the USDA -- they're not covering my expenses. My actions this week should in no way be linked to the USDA. I sincerely thank the USDA and this Board for allowing me to serve you over the past five years as an industry representative.
I'm not going to read this entire statement.
I'm just going to read the bullet points that I think
are not redundant of what you've heard over the last few
days. Did everybody get a copy?

UNIDENTIFIED SPEAKER: I didn't.

MS. DIETZ: The ramifications -- and this is,
in fact, the Harvey versus Veneman -- on the food
processing industry, organic foods industry,
particularly. The ramifications of this decision span
the organic industry from the farm to the grocery store.
Virtually all products with the possible exception of
some fresh fruits and vegetables will be affected.
Therefore, we request that the National Organic
Standards Board and the U.S. Department of Agriculture
see to -- instructions to growers, industries and
consumers as this ruling is addressed or implemented.

We support the responsible oversight of the
NOSB and urge an administrative remedy that recognizes
the efforts of this Board and the organic community over
the last dozen years to review and in good faith approve
synthetic materials for addition to the National List.
Due to consumer demand, a substantial increase in
organic products has occurred, not only in organic
agricultural commodities like fresh fruits and
vegetable, but also in processed organic foods and

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beverages. Many of these processed organic foods and beverages depend on the use of approved substances, some non-synthetic, some synthetic.

A precipitous response to that ruling in Harvey versus Veneman would cause significant disruptions, loss of markets for many small growers because processors can no longer make certain products resulting in a disappearance of a number of acceptable organic products for consumers and potential confusion about what the term organic means. Again, we encourage the NOSB and the U.S. Department of Agriculture to minimize the disruption to organic growers, to the organic food processing community and to consumers when this ruling is implemented.

Now, I'll take the balance of my time addressing my personal concerns that are directly related to this Board and the functions of this Board. Materials. Many of you know that over the past five years, while serving on this Board, I was the Handling representative and also served as the Materials chair. I'm very concerned that a significant amount of Board time has been spent preparing for the Sunset review period, yet here we are today with October, 2007 right around the corner and we have no process implemented.

Although I fully realize that we're still
waiting for the ramifications of the Harvey law suit to reveal itself, I'm fearful that we may not meet the Sunset timeline for hundreds of materials. Unless that process begins immediately. I urge the USDA and the NOSB to keep on -- keep this as a high priority.

Committees. With a background in human resource management, I have been a strong advocate on proper committee and board structure. Earlier this week we discussed the natural attrition of this Board and how 11 of 15 members will be replaced in the next two years. I encourage the chair of the Board and new Board members to get people in places immediately. I'm also very concerned that if a steep learning curve over the next year will be forced on new members, I encourage this Board to form some type of formal entry program for these new Board members so that they can get up to speed as quickly as possible. I also recommend that an orientation session be mandated prior to any NOSB meeting with new Board members, to throw them into the -- not into service to this industry.

CHAIRPERSON RIDDLE: Okay, your time. Do you have any concluding remarks?

MS. DIETZ: Yes. I cannot emphasize enough on the importance of clarification of ag versus non-ag and most importantly, the definition of synthetic and
non-synthetic. You clarify these terms to either assist all stakeholders in this industry and help us make it through this catastrophic time or worse yet, do more damage to the entire industry. I will submit my formal recommendations to the Board on those definitions so that you have them and that's it. Questions.


MS. JAMES: Kim, what would you recommend as far as a process that might give more incentive for senior members to stick around after the end of their term?

MS. DIETZ: Well, I think that fortunately, you have farmers that can participate in these meetings and you have others, those of us who are hoping, you know, through this -- after these four meetings, but the incentive, really the only incentive, to me, would be to help assist them to these meetings, some of us who work for companies who support this industry, would still allow us to come on behalf of the industry, but some type of financial assistance, if possible.

MS. JAMES: So are you recommending that the -- that perhaps the NOP or the USDA could help supplement the cost of senior members to come and help the mentoring, the meetings like you did today?

MS. DIETZ: Realistically, that hasn't been...
the past -- I mean, I would encourage that. I also encourage, you know, the industry to help, if at all possible, through -- you know, maybe we could get some grants or if there's something to help through -- help this Board over the next couple of years get educated and help us make it through this.

MS. JAMES: That's what I was just going to say. It seems to me that if any such --

MS. DIETZ: Yeah.

MS. JAMES: -- scholarship or whatever were to be constructed, that it's more appropriate to come from OGA and the industry.

CHAIRPERSON RIDDLE: Kevin.

MR. O'RELL: Kim, I just want to personally thank you for all of your good work participating on this Board over the last five years and particularly for me in serving on the Handling Committee, working together on the Handling Committee. The Handling Committee and this Board to your comments --

MS. DIETZ: Which kept me up last night. I think I got the fix, believe it or not. It came to me.

MR. O'RELL: So we welcome those comments and review them and obviously, we have your phone number, so --

MS. DIETZ: Yeah, yeah. And I'm not going

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anywhere.

UNIDENTIFIED SPEAKER: And your e-mail address.

CHAIRPERSON RIDDLE: Gerald.

MR. DAVIS: Kim and the rest of the Board, the topic of determination of synthetic versus nonsynthetic. I think of what kind expertise we need, like a task force-type input and there is people who would help us determine that answer of what it is, so what we come up with is not shot down by a lawsuit later on under -- science in general says uh-uh, that's not accurate, I mean, you can't just say that, because it seems like a very specific thing, chemically versus our professional opinions.

MS. DIETZ: Yeah, and I think you have to -- that's valid, and Rosie and the Materials Committee did a great job on really defining what synthetic means from a scientific term. I think where we're lacking is maybe the industry perspective and how we got to where we're at today and we need to look at both of those and possibly what was the intent of synthetic and you know, we've all been around as you know and you know, my revelation last night was really clearly defining, you know, what so far have we allowed as a process and mix the process with the term synthetic and I think we've
got our answer. You know, task forces are great, but I'm not sure whether we need one in this case. I think we've got some good people on this Board right now and good historians out in the audience to help fix this and we should be able to do it.

CHAIRPERSON RIDDLE: And I'd just like to point out that individual Board members or committees can draw on outside expertise at any time and then the sooner that a draft recommendation is posted for public comment, the more the industry can focus and respond to that language. So we're trying to get things up in a timely manner. Nancy.

MS. OSTIGUY: Kim, I also want to thank you for all your efforts. It was very much appreciated and certainly helped me get up to speed on the Board. I agree also that we do not have to use a scientific definition of synthetic. We have words that we've been using a long time. Organic -- we all use that in a way that completely violates the scientific definition and that's okay.

MS. DIETZ: Yeah.

MS. OSTIGUY: But what we have to do is agree upon a definition. The law does this all the time, where they define things and I look at them and go oh, really. That doesn't look like the definition I know,
but that's okay.

CHAIRPERSON RIDDLE: Rose.

MS. KOENIG: I just want to clarify that we -- perhaps for Gerald, we do have a definition in OFPA.

CHAIRPERSON RIDDLE: Yeah.

MS. KOENIG: All we can do is clarify words -- so we're not defining from that, it's just really -- the definition's clarification of the terminology and the one that's in here is chemical change and that's why that document focuses on chemical change and we're bound by that -- you know, we have to work within the definition that exists and we -- there's some leeway, but you can't create -- you can use examples to help, you know, and that's where we need --

MR. DAVIS: That's what I was alluding to. I often don't speak well. In pinning down that issue, how do we do that without someone else shooting us down later?

CHAIRPERSON RIDDLE: George then Andrea.

MR. SIEMON: Kim, you know all about our processes here. There is -- you're not aware of anything we didn't do today that was in our agenda and like -- that might aid the situation?

MS. DIETZ: To have a definition by the end of this --

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MR. SIEMON: Yeah, is there any suggestion --

MS. DIETZ: George, I've been an advocate on this Board to not rush things unless they're really good, thorough thoughts. You're probably asking the wrong person, but I think that, you know, I would make this a priority for me and certainly give you my -- what I think would work and it's fairly simple and that's give it to the Processing Committee or the Handling Committee and they can take it where it needs to go, you know. We are where we're at and we can't go any faster, but I don't want to go backwards.

CHAIRPERSON RIDDLE: Andrea.

MS. CAROE: I would like for the community to know, if you don't know, the amount of work that Kim has put in on this Board has been head and shoulders above the average. I mean, she has done amazing work; it's all been behind the scenes and come out with these wonderful recommendations and policies that have built what this Board does to the status of excellency and I appreciate that. And also, I would like to recognize the company you work for that has allowed you to commit this time to this community.

You know, nobody ever talks about the folks that we work for allowing us to do this and I think that they deserve our appreciation, as well. Also, I know
you kind of got cut off with the timer and I wanted to
know if you had any other guidance on your list because
I'm going to pick your brain every minute I can, so
starting right now I wanted to know if there's anything
else that you had that you were unable to get to?

MS. DIETZ: I breezed through it fairly
quickly and I got my main points. I think, you know,
the definitions, you know, we can all work together.
The industry needs to work together, that was my
conclusion. We have -- we've gone through -- and we'll
come to consensus one way or the other. I really -- I
want to leave saying that I am very concerned with the
attrition of this Board and whatever we can do to help
ease that pain of the new Board members and give you
what you need. I talked to a number of people over the
last couple of days and with my HR hat on -- I think at
the end of this meeting you should ask all the new Board
members what do they need from us and what can we give
them to help them make it through the next five years
over the next year and you know, assist you with some
kind of -- you know, here's what I would do if I were
you and you know, I'd be happy to stick around and talk
to new Board members and try to pull something together.

CHAIRPERSON RIDDLE: Thanks, Kim, and thanks
again for your service. It's always been a pleasure to
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work with you even when we've disagreed. Okay, Lynn
Coody and then Leanna Hoods.

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MS. COODY: Hi, everyone. My name is Lynn
Coody. For the record it's spelled C-O-O-D-Y. My
business, Organic Ag Systems Consulting, is located in
Eugene, Oregon and focuses on assisting certification
agencies with complying with requirements of both NOP
and ISO accreditation. I also serve as the current
chair of OTA's accreditation subcommittee. On the first
day of public comment, Bea asked us to tell her exactly
what we wanted, so I'm going to do just that. The two
things that I want the most are these: I want the NOP's
accreditation system to be managed in full compliance
with the International Standard for Accreditation, which
is called ISO 61. I also want the NOP to set up a peer
review panel as an integral part of the management of
the NOP's accreditation system.

When I can say it that way it sounds really
simple, but believe me, I've been trying to explain the
importance of these two statements to many people for
many years and I recognize that the subject of
accreditation is both complicated and detailed. So
today, of course, I can only present a very cursory
overview of this critically important element of NOP's
responsibilities.

I'd like first, because I know some of you are new -- you actually haven't heard me talk about this before. Well, almost every single meeting for years I've been talking about the same types of things, so I'll give you a quick overview of what the subject is about. Both the rule and the law require establishment of a peer review panel as a way to provide regular assessment of both -- of the accreditation functions of the NOP. The rule in Section 509 provides specific details about the function of the peer review panel, stating that the peer review panel will review an accreditation systems against both the rule itself and ISO 61. The NOSB, a few years ago, made an excellent recommendation about the structure and function of the peer review panel, but the NOP has yet to institute the panel.

However, in 2003, NOP did take a wonderful step to get an analysis of its accreditation system, which you heard about just a few minutes ago, by the American National Standards Institute or ANSI. ANSI did an audit and on January 14, the USDA, the NOP, released the results of the report, which is great, because now we all know what's in the report. The report, for those of you who didn't get a chance to read this

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scintillating document, details 22, 22 non-compliances, some significant enough that if they occurred in the quality systems of a certifier, in my experience -- and this is my area of expertise -- the NOP would not grant accreditation to that certifier without requiring the correction of these non-compliances, nor would the USDA's audit review and compliance branch grant that certifier ISO accreditation. So this is something we should all look at.

So I only have a few seconds here, so I'll just give you a few examples of these non-compliances. One is the accreditation body does not have a detailed description of the accreditation process, and even more specifically stated, the NOP does not have a procedure for granting, maintaining, withdrawing, suspending, or denying accreditation.

The quality system. The NOP does not have a documented quality system, including no document control. There are no procedures for resolution of complaints, appeals, and disputes against the accreditation agent, itself. ANSI noted that the NOP does not have systems in place for current internal audits nor to analyze the result of the audits through the formal systems required by ISO, called management review. And also it's not clear who's authorized to
review and approve the documents that go on the website.

Concurrent with the ANSI report, NOP released its own responses to the report in detail, point by point. In my opinion -- well, the USDA indicated that a lot of current deductions were based on documentation that's new. We have no verification of that, but I'm sure they're working on it very hard and -- but we'd like to -- I'd prefer it if we could see this in a transparent manner so we could understand exactly what the fixes are. Even more importantly, there's no system in place for surveillance, which is continued oversight of the fixes of these problems. In a normal accreditation systems this does occur. For example, there's a government agency called the National Institute of Standards and Technology, specifically, does have a program to oversee accreditation in the organic industry. So in closing, I'd like you to consider the many benefits of -- whoops.

CHAIRPERSON RIDDLE: You're on it. Closing.

MS. COODY: Okay. So basically, here are the benefits of the ISO -- complying with ISO 61, as I see it. One, better communication of the NOP's rules and requirements to certifiers, farmers, processors, and consumers. Two, rigorous, transparent, and equitable application of accreditation requirements to all the NOP
accredited certifiers located throughout the world,
indicating a trickle down of increased rigor and quality
in the systems used by both certifiers and producers.
And third, increased acceptance to the extent for the
NOP accreditation systems by other governmental
authorities. So that's my ending.

CHAIRPERSON RIDDLE: Thanks. Thanks, Lynn.
Any questions, comments from the Board? Hugh.

MR. KARREMAN: I was just wondering, being new
to the Board, I always -- you know, I mean, we're here
in the U.S. and everything, but there's, you know,
certifiers in other countries that are accredited. And
how often does the NOP need to, you know, kind of do
site visits on them and was there anything in this
report that said anything about that? I really don't
know.

MS. COODY: Yeah.

MR. KARREMAN: It seems so far away when it's
in a different country. We talked of pasture in this
country and you know, it affects other countries. And
how much do they look into those other certifiers?

MS. COODY: Well, the foreign certifiers
theoretically are handled exactly the same way as
American certifiers. They -- the NOP's program does not
require a site visit prior to accreditation. So most of
the time, all -- not all of the -- all of the foreign
certifiers were accredited, received accreditation prior
to the site visits. Now, though, the NOP has started
doing some of these site visits, and I think that
sometimes -- I know I've heard you talk about this a
lot, but I think that it was at this meeting where he
explained that process, where they had to have a chance
to come up to speed. It is difficult, though.

I personally work with a number of foreign
certifiers. It's difficult, I'd like to point it out,
for them to know what's going on, what changes have
occurred to standards and things like that. It's their
responsibility, though, to check the NOP website and
through other communications from the NOP to know what's
going on. That's why it's so important that these
documents are distributed in a transparent way, so not
just those of us who can attend these meetings, one way
or another, can know what's going on. That's why the
issue of transparency is so important, but especially
with regard to accreditation and certification of the
standard issues, in my opinion.

CHAIRPERSON RIDDLE: Thanks, Lynn. Okay,
Leanna Hoods, and then we'll take a break, and then
after the break the first person up will be Mark Kastel.

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MS. HOODS: Good morning. My name is Leanna Hoods, I'm the Organic Policy Coordinator for the National Campaign for Sustainable Agriculture. I'd like to welcome the new Board members and thank the entire Board once again for your incredible work. It's just amazing. I really think over the years you've become, every meeting, more and more efficient, and it's unfortunate that it's not helping you get through -- it seems like it's piled on more and more, but kudos for all that you do. To the new members, I'll be giving you a copy of a book of decisions by the NOSB in years prior to 1997 and that -- and also, George, you get another one because you lost yours, and anyone else who needs another green book, ask me.

I have a list of comments, and so I'm just going to whip through them. Regarding the directives, I'd like to reiterate comments made earlier by others regarding the fate of the directives. While we clearly understand that NOP responses were sent up the line months ago, it would be useful to see a posting that either notes that the process outlined by NOP is under way, or specifically, post the directives on the web as deleted or rescinded so that -- because it's really of no help to the community that is not present here, you know, the majority of the community that doesn't come to
these meetings to know -- they do not know about the
announcement, other than to look at the -- in detail, at
the transcripts. And so the standing of the
announcements becomes murky.

As noted in the ANSI report, there needs to be
clear control of documents. Once issued, then
rescind and eventually archived. And these guidance
documents, the Federal Register notice on the guidance
documents, I think will absolutely help all of this to
really move in the right direction, but I think
something is needed soon, especially because you don't
know how long it's going to take to get down from above
to here, so if there could be a notice on a the website
that's clear.

General comments on the NOP process. I do
think full compliance to an ISO 61 quality system, as
described by Lynn, would put in place a participatory
transparent structure that would obviate, in many cases,
the reactive process that we find ourselves in. I think
I've noted many times I hope not to make a career of
coming here and saying, well, that's done poorly --
wrong, you know, and criticize it. We'll always be here
as advocates for organic integrity, but a process put in
place by detailed adherence to accreditation principles
is essential to the proper functioning of this program,
and its absence will impede the progress made for a more complete implementation of NOP.

I would like to address -- we've been looking at public interest groups that have been working on the petition process. You all suggested that if we saw a need to take materials off the list, that we could petition for that and I've been watching groups do it, and the process is really hard and really burdensome.

But I remember -- I'm remembering the meetings where you developed this process. It's an important process to be detailed. So I'm asking, can you think about, in all the other things you have to think about, how we could make that process work the way you want, when the materials look like they need to come off, that there could be some sort of streamlined initial part of the process. It's very burdensome for the public interest community to compile what's required on a petition. And I think it's a work-in-progress of how we make that work for those that -- to get materials off. But it's got to be a consistent process; so I'm just bringing that up.

We'll also bring up, in relation to the public interest community, the idea that Kim actually brought up about the burden on doing this work on the whole community and I think it's a great idea to think about.
scholarships for Board members that come off and that are still willing to work. It's really important to think about the volunteer hours that happen.

Also quickly, is there a way to figure out how to stagger the NOP appointments better? You know, that's another long-term piece. Also just quickly, in the comment period that occurred on Tuesday, it occurred to me that the -- is there a way to ask -- to have questions that relate to a group who come to propose something, be able to go back out, specifically with the NODPA group that came. Several of them got up and the questions were great, ongoing new things you thought of that you asked someone who was speaking, but did not necessarily represent that community. I'm thinking specifically of how they got to the 30 percent consensus on dry matter and would there have been a way to have a conversation and say is there someone in the group who represents the group that could tell us how you got there, because you were talking to one member and they may not have had the answer, and I don't know how you do that when the commentary is so long. Anyway, great work. Thank you very much.

CHAIRPERSON RIDDLE: Thanks. Hugh.

MR. KARREMAN: On your last point there, I believe there were various people that spoke to that,
how they came up with their numbers, at least to my satisfaction.

MS. HOODS: Okay.

CHAIRPERSON RIDDLE: But that's just an example. I think the issue she brings up is a good challenge for us, how can we draw in or extend that dialogue without showing favoritism --

MS. HOODS: Yeah.

CHAIRPERSON RIDDLE: -- as well, so -- Rose.

MS. KOENIG: I think, you know, as far as the petition -- and Arthur's probably the best to let us know about this, because some of it -- you know, the completeness question really is answered at NOP, via the sly [ph], but what I hope is happening is that -- you know, I think, if everything was provided in the petition, we wouldn't have to have a contractor, okay?

So I think that the concept is that, somebody who's doing due diligence and doing the literature review and really trying their hardest to obtain information is in this category, but that's not to say that you're identifying every single thing or maybe be able to -- you know, to know the world, and that's where the contractor, I think, confirms what's there and looks for additional information. I think that the process, you want that.
MS. HOODS: Yeah.

MS. KOENIG: And I think that there are groups out there that are attempting this; I think that they should, you know, do the best job they can and put it through the process and let, you know, Arthur and the folks at NOP to look at it and do that feedback and again, you know, we can probably have him answer that. But I think there is some flexibility there.

MS. HOODS: I appreciate that. I'll tell you, though, literature was the biggest thing that several of these groups came to us with saying that they're overwhelmed with all of the literature.

MR. NEAL: Are we talking about the petition process?

MS. HOODS: Yes.

MR. NEAL: The issue specifically with the petition process is if you look at the petition of ferric phosphate, there's only one person. He had two weeks to respond to a TAP -- and he came back with comments like this.

MS. HOODS: That's industry --

MR. NEAL: I understand. The thing is, though, if you expect the Board to have the information that they need to make an intelligent decision -- and the material is very important to the industry, then you
have to do due diligence to provide them with the
information. I mean, we tried the short-circuit method
and we -- for the livestock medication, and we're still
behind on it.

MS. HOODS: I understand. Well, it's just
that we're a bit -- the public interest groups are not
industry. Their interest is not economic to get them
off, it's -- and they're not paid to -- staff paid to do
this. That said, we are for a consistent process. So
I'm just talking about having a continuing conversation,
but -- and I take that point of view, as complete as we
can, that it goes out and that's really helpful.

CHAIRPERSON RIDDLE: Yeah. And you know, this
time there were a number of extenuating circumstances
that really compressed that, you know, public comment
time period way down, then what I've come full with as
chair, or a member of the public, when I've been on the
other side. So I think, you know, the point here is for
the Board to try and get its work done well in advance,
but also to not be afraid to set something aside in
recognition there hasn't been adequate time for public
consideration, too. That's a good decision in and of
itself when warranted. So thank you, Leanna.

And I just took a look at the numbers.
There's still 13 people signed up, which if everyone
took five minutes, that would be 65 minutes with absolutely no discussion. That's going to -- you know, we -- it, you know, can fit, but we certainly need to be disciplined. And I would suggest a 10-minute break. So coming back at 10:15, but a little break --

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[Off the record]

[On the record]

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CHAIRPERSON RIDDLE: I'd like to resume public comment and we have eight Board members in the room, so we have a quorum. We have nine, ten. Okay. And before we -- before we begin or resume public comment with Mark Kastel, I would just like to publicly acknowledge and thank, for the record, another Board member, Becky Goldberg, who, I understand, received your plaque of thanks in my absence. I didn't get a picture of you, but I would like to thank you for your contributions and it really has been a pleasure working with you, as well, Becky. And if you would like to give any remarks, you're welcome to, but you're not obligated.

MS. GOLDBERG: I just want to say thank you to everyone and I'm going to miss you all. I see Jim has his turkey, the stress turkey. I am so pleased.

CHAIRPERSON RIDDLE: Yeah. I explained that
the stress squeeze toys came in a complete set of five. We only had four Board members outgoing last time, so we're stuck with the turkey here. And just -- I haven't had to squeeze it yet, but I said it would a very bad sign if people saw me squeezing the turkey. Thanks, Becky. Okay, Mark Kastel. And up next is Arthur Harvey.

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MR. KASTEL: Thank you, Mr. Chairman. And I have a proxy here from Mary Ellen Franklin, who's a Vermont dairy producer, but I'll try not to take the full time here, though.

First of all, I really want to thank the commitment of this Board and the retiring members. You know, maybe it's time we thank your employer for the largesse and support for this process, but maybe it's time that we think about stipends in our budget in the future, and appropriations to accommodate farmers and you know, folks like Jim and Hugh, folks who don't have a corporate backing to support this process, so that you don't have to be injured financially for the kind of time commitment you invest here.

I met with Robert Hadad and the Cornucopia first point here and the Humane Society. Since we now are considering identifying yeast as livestock, we want...
to go on record as opposing the factory farm production of organic yeast. Look at the transcripts. And Robert couldn't be here, so I have his proxy, too.

First of all, let me very sincerely thank the Board and the NOP staff for the respect that you all showed for the dairy farmers who made the trek here to Washington and the seriousness in which you analyzed their testimony. Thank you very much. And thanks to Hugh for guiding the Board and the public through what was a very emotionally charged issue and still is.

I think together, the organic community has sent a clear and strong message to the investors who are building these large industrial-scale dairies. We have come together and we're still going to have some additional public discussion. But we've come together and things have really gelled here in the last few months and especially the last few days. So I don't think there's a lot of gray left anymore and that's what the farmers really came here to Washington to accomplish.

There was -- and just to make sure that your comfort level's high, there was some references to the 5,000 comments that came in, which is substantial. It's really over 8,000 comments when you look at what was submitted before the meeting, submitted from groups

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like, not only the Cornucopia Institute, but Northeast Organic Dairy Producers, Organic Valley, and Organic Consumers Association, and I'm still getting them on my -- you know, I haven't been able to print them out and I'm still getting them on my laptop at the hotel. More importantly, the dairy farmers who were here, I really want to emphasize, were not just a few, a sampling of dairy farmers from Maine to California, they were the officers and directors of the Northeast Organic Dairy Producers Alliance, the Midwest Organic Dairy Producers Alliance, the Western Alliance, and this ad hoc group they call the National Interstate Conference Calls, where they've all worked together. So the people you were hearing represent a lot of folks.

And those groups -- it was the front article on the NOFA, NODPA -- I don't know how to say that -- Northeast Organic Dairy Producers newsletter. They included a sample letter and instructions on how to participate. It was posted on their website. The Cornucopia Institute has now developed a nationwide database of organic farmers, not just dairy farmers. We put that out. So I guarantee you that the majority of all dairy producers in the United States knew about this meeting, knew about how to participate, and we received zero correspondence that didn't support those tighter
standards that you folks helped incorporate. So I don't know what we'll hear in the future on the comments, but I'm really confident that you folks acted in consort with the feelings of the dairy farmers around the country.

The next point, though, is we really want to encourage this Board as we go down the road to visualize and concentrate on transparency. Because as we've tried to take a look at some of the farms that are operating in this country, not just dairy farms, we've run into a brick wall. And in LaCrosse, at the Midwest conference last week, Roger Goldbaum [ph], one of our policy advisors and -- on our policy board and someone who I think a lot of folks in the community trust -- I've got the proxy, too. Thank you. We're really bemoaning the fact that when we asked to take a look at farm plans, when we've asked for any information, we can't get anything, zero. It's all proprietary and protected.

When we started working in the '80s to try to come up with a regulatory system with integrity, we thought that a consumer could say -- go to a retailer and say, how do I know that's organic, and that there may be an audit trail, a paper trail all the way back down to the farm, that the manufacturers, be it Organic Valley or Horizon or whoever they are, we would say, how
do I know this particular product's organic? They'd say these are the farms that produced it and here's how the farms are managed. But there's a total disconnect out there. There's a blanket of secrecy. And yes, there is proprietary business information that needs to be protected, but I don't know what that would be on a dairy farm, because we got grass, we got genetics, we got the mechanical infrastructure to a dairy farm and all that is pretty much open domain. And if somebody is doing something special, by all means, they should be able to protect that.

I once visited the Stony Field [ph] plant 10 or 15 years ago and they feel that their incubation process is very special. I couldn't get in that room, no pictures, that's it. Well, let's respect that. But on a farm, no matter what you're producing, and as an ex-certified organic producer, I'm not sure what should be secret. So sunshine is a great disinfectant and we need more of that.

In terms of Aryan influenza, I wanted to just briefly comment to please --

CHAIRPERSON RIDDLE: That'd be avian.

MR. KASTEL: Avian. What'd I say?

CHAIRPERSON RIDDLE: You said Aryan.

MR. KASTEL: Okay. I read the Washington Post
this morning and I'm really saddened, you know, at what
happened to that judge's family in Chicago, so it's
unfortunately a little engrained in my mind.

Avian influenza. I really want this group to
weigh all testimony very carefully. And you know, this
is a serious matter. But we're looking at Cornucopia a
number of these -- particularly, egg laying operations.
And some of these industrial dairy setups that we've
discussed, and some of these egg producers, are very,
very large split operations. They are industrial farms
first and organic farms second. And some of them is the
reason we're looking at questionable commitment to
access to outdoors. And so if there are special needs
in terms of bio-security on some of these very large
split operations, we don't want to put the smaller
units, who are really doing this ethically, at a
competitive disadvantage. You know, I have to ask the
question, is this a back door into confinement in large
industrial operations?

And I do want to -- I found Lynn Coody's
comments on the ANSI report, you know, very concerting
and we want to work with the NOP and especially if we
don't have adequate staffing levels. You know, we've
discussed the fact that we're being shortchanged in the
organic community in terms of research dollars. And you
know, we're not getting anywhere near the one or two percent that our industry represents in terms of research and we could certainly build a bigger and better organic movement if we had that. But we also should have a proportionately represented staff presence supporting this, you know, almost $15 billion industry now. And you folks need the tool if you need to communicate with us when you don't have adequate funding.

And in closing here, I'd like to just read the comments of Mary Ellen Franklin, relating to the Harvey v. Veneman ruling in terms of the transition for dairy animals. Because this is a very serious matter, most of us are committed in this room to family farm agriculture and it's one of the prime drivers that keeps the consumers committed. And she writes that our -- and by the way, this was posted on the ODAIRY list serve and I asked her for permission to read it today and it was posted in January.

"Our farm has just recently completed its organic transition, 12/04." Excuse me. "We just received our first organic milk check this week. When we started the final three months, we were outside with our grain company, knowing that we would not be able to keep up with the grain bill while receiving conventional..."
prices and we are well aware of the fact that the
conventional price has been good as of late." So I
mean, historically, this would be even harder. "Our
grain company has been very good to us and we will catch
up with them on the grain bill as soon as possible.
There is no way we could've asked them to do the same
thing if transition had required a full year of organic
grain. This is one farm that couldn't have done it
without the 80/20 rule. The 80/20 rule has to stay in
place or be brought back. I'm not sure how the rule
stands at this time. There are many transitioning farms
out there that shouldn't have the rug pulled out from
under them now. The world needs a lot more profitable,
sustainable, environmental-friendly, cow-friendly,
family-friendly, grass-based dairies. Mary Ellen
Franklin, the Franklin Farm, Gilford, Vermont." And
that's the extent of my statements.

CHAIRPERSON RIDDLE: Thanks, Mark.

MR. KASTEL: Thank you very much.

CHAIRPERSON RIDDLE: Hugh.

MR. KARREMAN: Just maybe a question -- or
just a statement. With the trace-back that you were
wondering about, you know, this is kind of maybe
parallel to that, but with the mad cow, you know,
disease that has happened at one time in this country
now officially, you know, the -- I forget which segment
-- the USDA and other segments of the cattle industry
are doing -- are going to be mandating that cattle are
identified properly. So that might help somewhat, but
that's mainly from a slaughter standpoint looking
backward, if needed. But -- you know, so it is
possible to actually -- I think it's still in its
infancy, but the trace-back system here in the United
States in agriculture is certainly beginning.

MR. KASTEL: Well, there's a lot of focus on
beef. Yeah, I'm going to turn this over to somebody
else. You know, New Zealand's a model for that.

CHAIRPERSON RIDDLE: Thanks. A new point.
Okay, Bea.

MS. JAMES: This actually has to do with the
information regarding three cows per acre, 120 days, 30
percent, and it's my understanding that your
organization really helped to collate all of that
information.

MR. KASTEL: Well, we supported the process
with the dairy -- it really came from the dairy
producers, not Cornucopia. We technically supported
them and we supported them in getting the word out.

MS. JAMES: Okay. All right. I'm looking for
a way for that survey to be put together in a
spreadsheet so that the averages can -- we can actually
look at those averages and have, you know, documentable
proof as far as 30 percent and 120 days.

MR. KASTEL: We'll ask something to be
submitted, but what they really did is they started at
much higher figures and they were trying not to lock
people out --

MS. JAMES: Right.

MR. KASTEL: -- based on geography, based on
the areas of the East Coast that were colder, and we had
areas in -- particularly out west that get 60 inches of
rain that could have stocking levels --

MS. JAMES: Sure.

MR. KASTEL: -- higher than three and we were
trying -- the dairy farmers were trying to make sure
that it was very reasonable levels that wouldn't shut
either anybody who's producing -- today or somebody who
really wanted to do a good job to have pasture. These
are not the ideals. Most of the farmers who appeared
today have much lower stocking levels and higher --

MS. JAMES: Sure.

MR. KASTEL: -- dry matter intake.

MS. JAMES: Yeah. And I understand that, but
I think it would be helpful for the Board if we actually
could take a look at that spreadsheet --
MR. KASTEL: We'll collaborate with them and we'll submit them to the Board --

MS. JAMES: Thank you.

MR. KASTEL: -- during the comment period.

CHAIRPERSON RIDDLE: Okay, thanks, Mark. And next up is Arthur Harvey and then Dave Engel. And as Arthur's making his way up, I would just -- I would remind Board members to please limit your comments or questions because we have a number of people signed up. The comment period ends at noon and if we're taking time in our discussions, we're going to take time away from people's even ability to offer their comments, even though they signed up. Thanks. Arthur.

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MR. HARVEY: Arthur Harvey. Yesterday after the chair -- the chair announced the adjournment of the public questions until eight o'clock this morning, I left the room with other members of the public. Shortly after that, the NOP staff called the Board to reassemble away from the recording system or the press and other interested parties. Then the NOP proceeded to present the one-sided version of a private meeting between myself and the NOP, which had been called for the ostensible purpose of seeking agreement on a joint proposal for summary judgment. Of course, exploratory
ideas put forward during such a private meeting are not correctly described as the true position of the party in this NOP tactic.

By accident, I was able to hear the latter part of this NOSB meeting, but was denied the chance to reply except during my five minutes before you today. Of course, I could not possibly reply to allegations when I don't have access to the complete text, for a time, equivalent to what the NOP had. I hope the Board will resist any future activities that discredit the process and which may be illegal. Secondhand and fragmentary quasi-legal opinions do not cut it.

Now that the NOP has abandoned any serious interest in achieving an agreement, I can discuss two issues. Section 606 of the rule disallows all non-organic ingredients in processed foods except for the five listed ingredients. This applies to organic as well as "made with" organic products according to 606. When I asked how they proposed to deal with thousands of "made with" organic products currently out of compliance with 606, the NOP's answer was a denial that this is the case. We have not received any compliance, they said.

Well, 606 has been in effect for several years. Almost everyone in this room knows, I dare say, that virtually every "made with" organic product

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contains up to 30 percent ingredients that are not
listed in 606. The NOP will not admit this and I can
think of only two possible reasons. Number one, total
ignorance of the real world of organic marketing. Or
number two; I will not describe this other possibility.

My other subject is the NOP effort to expand
the scope of the appeals court ruling so that it would
forbid synthetics in "made with" organic products. This
I will call the NOP's doomsday scenario, or it would, if
successful, bring the industry to its knees. An agency
that is supposed to serve organic producers and
consumers is engaged in a vigorous attack on one segment
in that industry, or perhaps the entire industry, by
mobilizing forces to rock the very foundation of the law
and Congress, given that OFPA was approved in the House
originally by a single vote, which may well succeed, and
has completely unpredictable consequences.

In passing, I should mention that the U.S.
attorney in Maine initially agreed with me that the
court judgment does not extend to "made with" organic
products, but he reversed that opinion upon hearing his
client's wishes. Of course, the U.S. attorney must
represent his client, which is the NOP, but he also has
a duty to the appeals court. We shall see what that
means in practice. Here's a letter by a competent

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Washington attorney which addresses this matter. Unlike the NOP position, which is not given in writing in written form with any backing from an attorney willing to accept responsibility for the opinion, this letter is signed.

CHAIRPERSON RIDDLE: Yeah. Closing remarks or are you providing a copy of the letter for the record?

MR. HARVEY: Well, I could --

CHAIRPERSON RIDDLE: There wouldn't be time to read it, but --

MR. HARVEY: I could make copies, but I don't have a copy at the moment. Would you like a copy later?

CHAIRPERSON RIDDLE: Well, you referenced the letter, so it's in the transcript, but yes, then the letter itself should be entered in the record. So if you can get --

MR. HARVEY: I'll get some copies.

CHAIRPERSON RIDDLE: Great.

MR. HARVEY: I'll bring them back.

CHAIRPERSON RIDDLE: Thanks, Arthur.

MR. HARVEY: Okay.

MR. HARVEY: Okay, Dave Engel, then Brian Baker.

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MR. ENGEL: My name is David Engel. I want to
thank everybody for this opportunity. I'm a dairy farmer and I'm the Executive Director of the Midwest Organic Services Association. I have spent the last 25 years along with my family milking cows and doing administrative work in the organic industry. I was one of the original crop -- the seven-crop dairy farmers and one of the original pioneers to develop organic dairy standards and I have spent the last 17 years working for these standards. Most -- at this time, certified is 291 dairies, one of which is a goat dairy doing very well. He markets off of his own farm.

And my main concern today, per the last couple days of testimony and discussion, is a tendency here for the community to represent and try to address a regulatory issue via philosophical and cultural differences. And you know, in simpler terms, that's -- we're taking the reins and trying to make them address corporate versus a small farmer, big versus small concerns. And I, as a farmer, much less a certifier, I have concerns with that. That is resulting in specificity in the rule and I don't think we should go there. There's an old saying, how blessed is the one who can from holy water run, and I would urge you to not to adopt specificity in the rules.

I did take a bit of time here in the last
couple of days to talk with a couple of dairy farmers back in our area, one is certified by MOSA and one is certified by Oregon Tilth; they are both part of the original seven-crop dairy farmers and both of them, along with my farm, are going to have challenges to meet the specificity that is being put into the rule, much less the specificity that is being talked about, for example, the number of cows per acre.

On other matters, I would like to show support for four different topics here. One is I'm looking forward to an executive director being hired for the NOSB and I'm looking to -- forward to a final collaboration document implementation. I'm looking -- I'm impressed with the content of the NOSB, I have been all along. And I would echo several of the comments recently as to -- Kim called it the attrition on the Board, which may not be quite the right term, but there is people coming onto the Board and leaving, and the training that's going to be necessary for that, to maintain the dynamic ability to grasp the fine details -- that are coming up here quite often.

The continued development of the National Organic Program via timely compliance with the recent ANSI audit, I'm looking forward to that. I have two questions. Will this be on an annual basis as it is
with ACAs or not and what place will the mandated -- the law -- rule-mandated, PRP, the peer review panel, play in the near future, vis-à-vis the recent ANSI audit report? And last but not least, the recent -- I'm going to call it the bounces of the ball of the Arthur Harvey case through the different literal and figurative courts, I hope -- I sincerely hope that all due consideration and discretion can be taken that can be taken will be taken by both the NOSB and the USDA as the next steps in deliberations take place for the benefit of the entire organic community. Thank you.

CHAIRPERSON RIDDLE: Thanks, Dave. Okay, Brian Baker, and you have a proxy from Dave DeCou. So next up will be Urvashi Rangan. Is Urvashi here? Okay. But I do see that Jay Feldman has arrived. He signed up and his name was called earlier. So Jay, would you like to speak next, Jay Feldman? Not immediately, but on deck. I take that as a yes. Brian, please proceed.

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MR. BAKER: Thank you, Mr. Chair and members of the National Organic Standards Board. I'm very pleased to be here. I appreciate all the work you're doing and I had a lot to say when I got here on Tuesday, and with each passing day and deliberation and action, I had less to say. So I'm going to get through very
quickly. I just wanted to introduce myself to the new Board members and just say that OMRI is a nonprofit that provides independent, transparent professional review of materials and processes compatible with organic production and handling, and we publish a generic materials list and a brand name products list to serve the industry and the public. We're committed to continuing our work with the National Organic Program. At the last NOSB meeting we talked about our -- the work that we are doing and getting recognition from the National Organic Program for the work that we've done prior -- since prior to the implementation and propagation of the National Organic Program, and we hope to continue to be serving the industry with quality for years to come.

I'd like to offer a few opinions about synthetic and nonsynthetic. That's something we deal with every day, certifiers deal with every day, producers deal with every day, handlers and processors deal with every day, people make decisions in production and handling all the time based on whether something is synthetic or not. Every single one of those decisions with -- it would not be practical for every single one of those decisions to be brought before the National Organic Program or the National Organic Standards Board.
It's imperative that we're all on the same page so we all know what we're talking about when we talk about what's natural, what's synthetic, what's nonsynthetic. And I applaud Rose's work in helping to bring about clarity and consistency there, but we still have a ways to go. We still have a lot of work to do.

And it's -- something that I should I mention is that we also, from 1999 to 2002, OMRI was the TAP contractor and offered a little bit of, you know, a few observations that are based on our experience, but it was not an easy job and my sympathies to the new contractors. I wish them well. The -- I'd like to say this, as far as the petitioned substances go and the content of petitions, it's often the case that a petition is going to be biased so that it's perceived as favorable and that's one of the more difficult tasks before the contractors or the NOSB, to get the facts and to see if a petition's complete, if it's accurate.

And it's -- we've been put in a difficult situation with respect to some of the petitioned substances before you, both at previous meetings and the current meeting because we've had access to information and again, it's been difficult for us to bring it forth because it's either confidential business information that is given to us by our applicants or we've had
access to information in -- through other channels,
based on our expert advisory council or our review panel members.

So coming to you and commenting on those petitions is a delicate subject and one we want to do with great consideration and deliberation. Two weeks prior to a meeting does not give us sufficient time. The 90-day period that we had to comply with when we were doing the TAP contracts, it was often difficult to meet, but we were -- if that was expected and demanded of us in order to give the public, the petitioner, and everyone time to respond and get accurate information and complete information before you so you can make sound decisions.

I'll skip over a few other things I was going to say and get to seeds. OMRI has an organic seed database. It's mentioned in your proposal. It's one of a growing number of databases out there and you know, in some ways it's -- it's not really clear if it's ever going to -- if we're ever going to have a single comprehensive database that will be able to provide the real-time inventories that can give the information needed to determine commercial availability. Our board is -- told us that if we can't do it right, we're not going to do it all.
We've got a database, ATTRA's got a database, OTA's got a database, OCA has a database, they're -- none of these databases are being used to their full potential. They are not being of service to the seed suppliers, they're not being of service to the certifiers and they're not being of service to the organic farmers. We need to come up with something that's going to work for everybody. And a couple of observations there, we're going to need to have a more clear procedure of what's expected of an organic farmer who wants an exemption from that. The lines need to be drawn very clear. Asking three suppliers and getting three answers, we've found that that is arbitrary. That is also subject to manipulation in some cases; an allegation that's been made by the suppliers who use our listing service.

So the other thing is that this question of equivalent varieties, we believe that's best undertaken by a jury of people who have experience with breeding and selection and development. So those -- that's a service that we're very interested in providing, but like I said, if we can't do it right and we don't have clear guidance on what to do, then we'll leave it for somebody else, so -- finally, I'd like to end with an offer of service to you. We want to share with you our

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expertise. Like I said, we have an advisory council that consists of many former National Organic Standards Board members, experts in industry, academia, and the public interest sector, and we want to -- we have a broad, open, transparent process that includes all stakeholders and we think we can be of service to you. So let's know us how we can help. Don't just wait until there's an NOSB meeting to ask a question. Thank you.

CHAIRPERSON RIDDLE: Thanks, Brian. Okay, Jay Feldman, and then next up would be Joe Mendelssohn [ph]. I haven't see Joe. Is there someone to speak on his behalf? No. Then Joe Dickson would be next.

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MR. FELDMAN: Hi. Good morning. Thanks, Jim. I apologize for not being able to be here at the whole meeting. I actually just got back from the Learning Disabilities Association meeting out west, and I can tell you --

CHAIRPERSON RIDDLE: Did you give your name and affiliation for the record?

MR. FELDMAN: Jay Feldman, Beyond Pesticides in Washington, D.C. -- that people across this country who rely on organic being a pure standard, especially when it comes to sensitive individuals whose immune systems and nervous systems are damaged. The organic
industry is successful, we believe, in large part
because of the trust that exists between organic
consumers and the industry. Our organization is trying
to bridge that since its very inception, working with
small farmers and consumer organizations. Consumers are
willing to pay a premium price for organically labeled
food in order to provide healthy food for themselves and
their families and also to support sustainable
agricultural and processing practices.

In order to maintain this trust, consumers
must feel confident that practices and materials used by
organic growers and processors adhere to the highest
standards and provide labeling disclosure when there is
not -- when this is actually not possible. And in
designing the law back in the late '80s, this issue was
at the top of the list and I guess it continues to be at
the top of the list today. The role of the NOSB is
extremely important in this regard, not only in carrying
out its statutory duty, but to serve as a check on the
USDA and the USDA's compliance with the law.

Beyond Pesticides joined as an amicus in the
Harvey case because of the strongly held belief that
organic practices are the solution to the pesticide
problem and that's why we believe the organic industry
has grown to what it is today, because of informed
consumers going to the marketplace for an alternative, a meaningful alternative to chemical-intensive agriculture and the food produced off of that land. To the extent that the organic industry or the organic solution is not viewed as meaningful or is eroded over time, then consumers will not support it.

I'd like you to note, please, that the issues that are in the Harvey case were issues that we commented on specifically back in June of 2000 during the public comment period, saying that truth in labeling requires differentiation, as the law does, between organic products and those products made with select organic and synthetic ingredients. The Sierra Club did the same at that time. The Sierra Club said the USDA should note OFPA does not provide on the National List for a class of synthetic substances to be used in processed foods labeled or sold as organically produced.

And I think the -- history and the record and the intent will show that that applies to the 95-5 only and it does not, as I take it, NOP -- this preliminary position is that -- to the "made with" category as well. This position grows out of the discussions during the drafting of and leading up to the passage of OFPA in 1990. The consumers who currently support organic in the marketplace are making an informed decision to
purchase, as I said earlier, outside the conventional chemical-intensive food production system, expressly because of concerns associated with the use of chemicals in the production and processing.

While it has been established that USDA allowance of synthetic materials in organically labeled food products is in violation of the law, some are citing or raising the question as to whether the law needs to be changed to reflect current realities of synthetic chemical use that has emerged under the current misapplication of the law. The real question from our perspective is the proper labeling. Really, it's the labeling, from our perspective, of processed organic products, not the viability of organic agriculture processing. That's a clear distinction there.

These issues need further discussion, but must be addressed and resolved in the context of consumer and industry viewpoints, resulting in a plan for moving forward that protects organic integrity and most importantly, consumer trust, which obviously, I've used that term numerous times. And we feel it's very important that the beauty of OFPA is the opportunity, we believe, to label products in a manner that conveys clearly to consumers what is in the products that they
are buying; that the five percent in 95 percent
organically labeled process products is reserved for
nonsynthetic -- non-organic ingredients, when necessary,
is clear to us and it's clear in the law and that's
where we sat down on this. I'll skip over some of the
other comments and let that -- that them be in the
record, please, but --

CHAIRPERSON RIDDLE: Yeah, summarize your
conclusion. You weren't given the warning, so --

MR. FELDMAN: Okay. One thing I'd like to say
is this whole issue raises this whole issue of good
government. You know clearly that just over six months
ago the USDA issued a directive which allowed for
across-the-board uses of certain inert ingredients.
While the directive was withdrawn shortly after its
issue, it represents a pattern, we believe, of
government action that erodes public confidence in the
process or in organic.

Clearly, the reversal of that was a good thing
and we appreciate the work that the NOSB did in that
regard. The progress -- and here's the conclusion. The
progress that has been made in the organic sector and
the growth in consumer support for it is incredibly
gratifying, and given -- and gives us a great sense of
hope for future opportunities. We realize that we still
face enormous challenges in many of the food production
processing issues. Our greatest hope is that consumers
and food producers will continue to work together to
meet these challenges rather than defend them away, and
clearly we're open, as I'm sure others in this room are,
to collaboration and working to try to resolve this.
Thank you for the opportunity.

CHAIRPERSON RIDDLE: Thanks, Jay. Rose.

MS. KOENIG: So I'm trying to get it clear.
Are you -- were you suggesting that perhaps the labeling
regulations is a place to seek some kind of resolution
as far as, you know, dealing with the regulations
without going back to OFPA?

MR. FELDMAN: Yes.

MS. KOENIG: And can -- do you have any
written suggestions that you might be able to provide?

MR. FELDMAN: Well, you know, we've been
trying -- we have a working group. I think that others
may have referenced this, and our hope is that in
collaboration with industry and consumer groups we can
resolve that issue as a labeling issue and move forward
on the restraints and parameters of OFPA. So we can
submit those and would like to when we've completed that
process.

CHAIRPERSON RIDDLE: Thanks, Jay.

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MR. FELDMAN: Thank you very much.

CHAIRPERSON RIDDLE: Okay, Joe Dickson, and then next up, Leslie Zook.

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MR. DICKSON: Good morning and thank you for this opportunity to speak here. I wanted to talk about an issue which came up yesterday regarding the certification of retailers and the listing of the certifying agent's name on packaged products. Whole Foods Market supports the Board's decision to return its recommendation to the Accreditation and Certification Committee for further review and discussion. The recommendation on certified retailers and private label products relies on a simplified example scenario which does not reflect the complexity of businesses such as ours.

We ask that the committee develop a recommendation which clearly differentiates between retailers who are also acting as processors and who have obtained separate handler certification from retailers who are simply re-labeling products and putting them in their voluntary retail certification.

The example scenario provided in the recommendation supposes a retailer which has undergone voluntary retail certification and then sells organic

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products which are produced by a third party with their labels provided by the retailer. Those labels show the name of the certifying agent which has certified the retailer's retail certification. In contrast, our private label products show the certifier name, which reflects the separate and distinct certification of our private label division, not our voluntary retail certification.

Whole Foods Market 13 separate organic certifications, our retail certification, a separate handler certifications for each our eight regional distribution centers, handler certifications for each of our bake houses and a handler certification for our private label division, which produces our store brand products. We have never understood the rules that allow for retailers to create processed organic products under their own label without separate handler certification.

As a point of clarification, there is no retailer certification, or retailer classification for certification. A retailer is technically a handler and retailers who do not act as processors are exempt from the requirement for handler certification. Once a retailer becomes a certified handler, whether voluntarily or because the retailer is acting as a processor and thus not exempt from certification, that
retailer becomes a handler under the rule, including the part of the rule which requires that the final handler and its certifier be identified on the label.

While we don't own or operate a single processing plant, our company contracts with hundreds of vendors to produce our organic products. Far from passively selecting pre-existing products from the vendors to produce our organic products -- I'm sorry. Far from passively selecting pre-existing products from the warehouse shelves, our buyers specify the source and the quality of our ingredients, they exert control over the manufacturing processes and they make other specifications which we believe qualify our business as engaging in the act of processing as defined in the rule. Unlike the retailer in the committee's example, Whole Foods Market does more than simply re-label and distribute the products. Most of these products would not have existed in organic form if not for our buyers' demands. We take full financial and legal responsibility for our private label products.

When a retailer has obtained separate handler certification for its private label products, that certification should sufficiently verify the organic integrity of the product being sold. And when a retailer is certified as a handler, they become the
final handler in the chain of custody of the product. 
The label should not be required to bear the name of the 
prior certifier in the chain of custody. Sections 
205.2, the definitions, 205.303(b)(2) and 205.304(b)(2) 
provide a regulatory basis for this distinction. 
The Handling Committee's recommendation and 
the ensuing discussion yesterday made it very clear that 
there's a need for clarification regarding the 
definition of the phrase "otherwise manufactured." If 
the act of simply re-labeling a product with one's own 
brand name constitutes "otherwise manufactured," then 
the retailer in the example is not -- certified. That 
retailer is required to be certified because it is 
technically acting as a processor and thus not exempt 
from the requirement for certification. We ask that 
NOSB and NOP carefully consider the issue of retail 
certification and the very gray area at the root of this 
disagreement. What does it mean to otherwise 
manufacture? We strongly believe that issue needs to be 
addressed so that the certification requirements for a 
retailers, private labelers and processors are clear to 
all stakeholders. Thank you. 

CHAIRPERSON RIDDLE: Thanks, Joe. 
MR. DICKSON: Thank you. 
CHAIRPERSON RIDDLE: Leslie Zook and then --
then I have some written comments that I'll summarize from David Granatstein, and then Cissy Bowman would be the next live commenter.

UNIDENTIFIED SPEAKER: Pardon?
MS. ZOOK: I have a proxy --
CHAIRPERSON RIDDLE: Oh, okay.

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MS. ZOOK: I'm Leslie Zook from Pennsylvania Certified Organic and I've been -- I must say, I heard Kim's concerns about the Board attrition and I thought he said nutrition. I've seen you all eating that whole food, so I didn't really understand that. But since you brought that up, I have been thinking about that a lot and I would feel really bad about trying to rely too much on the outgoing Board members, because five years is a long time. And I thought if maybe you could look into the procedures and there might be a way to go back and figure out a way to re-stagger your terms, because if three people went off the Board each year, and three times five is fifteen, I think that would work -- it seems like it wouldn't be as critical to bring people up to speed. I'm not sure how that would happen, but you know, I just wanted to kind of throw it out there. We talked a lot about pasture guidance and -- I really want to encourage you to continue to work on...
these guidance documents and not be put off by worrying
that they don't have any teeth. I don't want you to get
discouraged about that, because although that's
absolutely true at the enforcement level, these
documents are extremely important for the producers at
the farm plan level.

And you know, I guess I'll give you an
example. If we don't have any of these guidances, which
we don't on pasture right this minute, and a farmer
submits a farm plan to a certifier who looked at the
farm plan, we would look it over and we see their plan
is very complete. It talks about their feeding and
their pasture for their cows. And they might have a
hundred cows and they're submitting a farm plan and our
team looks it over and they have two acres of pasture.
So our certification team looks at it, thinks about it
and decides that they're not going to approve that plan
and they send it back to the client.

What's the first question we're going to get
from that farmer when they get that determination
letter? Well, if two acres isn't enough, how much is
enough? And we're like well, you know, we kind of go
well, you know, we can't tell you that. We kind of try
to make it sound like it's reasonable. We can't give
you an exact number, though. And they say to us well,
you don't know what the heck you're talking about. You know, how can you run a program and not really give us this kind of information? You know, how can you certify some and not certify others? You know, we couldn't really even tell them well, why don't you go to NRCS and use their recommendations, because that would be consulting, giving advice to overcoming an identified barrier to certification. We've told them why they weren't getting certified. We can't tell them then, well, use the NRCS guidelines, then we'll certify you. So I really want to explain to you that it's very, very important that you continue to work on these and it really does matter, you know, at that farm level. And again, just to be clear, we know that we can -- it's not enforcement and we can deviate and from those -- if it's three cows per acre or 30 percent dry matter and a farmer submits a plan to a certifier that is different from that and has more cows per acre, then we don't -- we can't automatically deny it because it's guidance.

But what we can do is put the burden on them to prove to us why do you think we should certify you with four cows per acre because of your management plan or your rainfall, what it might be, and if they have come back to us with a good reason, then our certification team can accept it. So there's built-in
flexibility, but it gives us something to give to the farmers so that they can work on their farm plan and they can continue to be in the program.

On Section 301(c), "made with" -- your proposed change for, rule change for the "made with" category, I really want to thank you for clearing up that confusion over, you know, whether or not organic and non-organic ingredients can be in the same product -- non-organic and organic forms of the same ingredient can be in a "made with" product. That's great and I thank you for that. But I will ask you to think about working on some guidance on what does "same ingredient" mean? If we have a tomato sauce and 70 percent of the tomato sauce is Roma tomatoes and 30 percent of the tomato sauce is another variety of paste tomatoes, what does that mean? Are they the same ingredient or not?

Another example might be pretzels that have 70 percent white wheat and 30 percent red wheat. Okay. Is that the same ingredient or not? And you know, some people may think that's a clear answer, but believe me, I'm asking you now because that's probably going to be one of your next Q and A's in the pipeline. Oh. No, I thought you had an answer for me there.

MR. MATHEWS: I do have an answer for you.

MS. ZOOK: Do I get more time on my --
MR. MATHEWS: We have actually ruled on this issue in the past when it comes to hops in beer. And there were two varieties of hops, one -- and what happened was the person claimed hops and we told them, no, that's not approved because you're using organic and non-organic hops. And he said well, but they're different varieties. And we said okay, name the variety and tell us which one is organic. So if they're -- we don't look at two varieties of tomatoes as being the same thing so long as they're differentiated on the label.

[Simultaneous comments]

MS. ZOOK: I guess that --

MR. MATHEWS: But you can still --

MS. ZOOK: Okay.

MR. MATHEWS: And we can get it out --

MS. ZOOK: Yeah, there could be a variety difference, there could be color differences within a variety and I'm not a scientist so I don't know how it all works out, but I think at some level we should know whether it's the same or not. And on the Q and A process, I know it's frustrating and it may seem like it's really painfully slow, but it is very important. Again, what you're doing here relates right on down the line to the farmer level and I really want the Board to
understand that, because that's what happens every day
in our office. The client calls us and we're like, well, we can't answer you, it has to go to our policy
committee. The policy committee thinks about it. Well, we can't answer you. We've got to get some information
from NOP. NOP now has this opportunity to be able to
send it on to you. Now -- but really, what else are we
going to do other than -- besides having a whole bunch
of different questions? There could be answers all over
the place from different certifiers and different, you
know, staff.

So the Q and A is a great thing and I do
encourage you to continue it. And the reason I ask on
this proxy is I come up here and I've got a lot to say
and I end up sort of dispensing with the you guys are
doing a great job, thank you very much, and I don't want
to use up any of my five minutes to say that, so -- but
I want -- we really do appreciate it, and the certifiers
especially really appreciate the communication between
the staff and the NOSB and this whole public process
because it's really the only way we can do our job, to
have this information from you. And it has been a long
meeting and a very good one. Thank you.

CHAIRPERSON RIDDLE: Thanks, Leslie. We
always recognize proxies for that purpose. Dave?

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MR. CARTER: Yeah. Just two real quick. One -- and I appreciate your comment on the staggered terms, because that's one of the things we're looking at. The problem is we got a little bit of difficulty with OFPA because it does specify that the Secretary can only appoint for five years, but we're looking maybe if somebody goes off the Board, you know, early or something like that, they'll start at least with the staggering, because I think that's a good approach. And then on the other thing, I guess, with the organic and non-organic ingredient, one of the things that we -- that I guess you need to look at on that, do those two ingredients have different functional -- like the two different types of hops, because almost by definition, organic and non-organic for different varieties of -- you know, of the same thing, so --

MS. ZOOK: There are a lot of questions like that that come up when we start to discuss that and that's why I'm asking if you guys can put some guidance on it. I did forget one thing. I totally agree with Joe Dickson's comment on the certifier label on the private label product. What he was talking about is really the best way to go about it and if we can get that fixed so that can work because otherwise, you are going to have the retailer put -- have products out
there with all these different types of seals from
different handlers that actually just co-pack for them
and that's a nightmare.

CHAIRPERSON RIDDLE: Okay. And I think Rick
has a comment on the staggering Board members.

MR. MATHEWS: Yeah.

MS. ZOOK: It's that poor nutrition that's
really contributing to the staggering.

[Simultaneous comments]

MR. MATHEWS: Well, it was like at 12:30 last
night when I was taking the photographs, so I'm not sure
if it's nutrition. But anyway, just joking. The -- we,
too, recognize that there's a problem that has developed
over time with the staggering of the Board members and
actually, this may be the perfect time to address that
as we get ready to move forward with six nominations;
five that will expire at the end of -- well, on January
24 of 2006, plus one that has just resigned for personal
reasons.

With six of them coming up, we could go back
and look to see how we might stagger those six positions
so that we can kind of even this out a little. I don't
think that we would get to a three per year, but we
could at least try to get to a point where we've got
less than four or five, less than five. And some years
where we have none, we could get some into those years, which would definitely help out. I don't feel that we can do that on our own.

And Dave's right, the -- the statute says the first Board will be staggered and after that it's five-year appointments. I will say that, in light of recent events, it's always prudent to be careful about doing things outside of the statute. But if it was the sense of this Board, if you could -- if you had a recommendation coming forth to us, we could take it to the attorneys and see if we couldn't stagger the next appointments. And to me it's kind of like a voluntary thing, too. We could ask people to volunteer to serve shorter terms or something. There may be some way that we can do this. But I think that, first of all, we've heard from the public, we've heard from the Board, and I think there needs to be a formal request to the Department to try and solve the problem.

CHAIRPERSON RIDDLE: Dave.

MR. CARTER: Great, one more item for the Policy Development Committee.

CHAIRPERSON RIDDLE: Add it to your work plan.

Okay, thanks. Okay. And I have -- and he has started the timer -- some comments submitted in writing from David Granatstein, Washington State University Center

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for Sustaining Agriculture and Natural Resources, and it pertains to research on certified organic land at universities, so it's directly relevant to one of the work plan items. And I'm not going to read the entire thing. The copy is available for the record, and I would ask that it gets scanned and then provided to both the Policy Development and Crops Committee for consideration.

Some of the concerns that Professor Granatstein has encountered: the testing of products for use in organic systems, just what is eligible for consideration for research purposes and how those products can be used on a certified organic or transitional research, things that are not currently approved substances. Second is experimental design and specifically, being able to run conventional treatments as baseline comparison alongside organic in replicated studies. And then the use of certified or transitional land and making sure that having that alongside the conventional land doesn't mean that the organic or transitional doesn't qualify. Once again, it's kind of duplicative and I'm just summarizing his comments.

And then preventing loss of an experiment. And here, researchers have pointed out a major disincentive to conducting organic research, that being
the inability to rescue a trial about to be lost due to
a factor for which there is no immediately effective
organic control. Well, farmers have to face this, as
well. I don't know that there's any answer, but it's
something else for the committees to look at.

And we would like to propose several ideas for
your consideration on this matter as a possible
solution. Two approaches include: develop a variance
for research on organic land that would address that
concerns. Well, that exists in the regulation. We're
just trying to explain it better. Develop a separate
organic research land verification process -- I assume
separate from certification -- that would accommodate
the concerns and satisfy funding requirements without
conflicting the certified organic and transition rules.

In either case there should be a stipulation
that product grown under the organic research category
would not be represented or sold as organic. So that's
something for the committees to consider. So I'll give
that to Toni and if you could scan it in and then e-mail
it as an attachment back out to the committees, thanks.

Question? Yeah, Nancy.

MS. OSTIGUY: Yes. On that topic, I think we
ought to include organic research for livestock in how
we consider this, because there certainly are issues
there that one would hope that we'd be doing research on.

CHAIRPERSON RIDDLE: Yes. And I would also like to point out that that section of the rule mentions products, ingredients, and it mentions production and handling. So there could be -- you know, and there certainly are universities and private companies doing research and you know, expanding organic handling options. So it might be -- we certainly don't want to focus only on the production side to the exclusion they're boxing in the handler side, as well. Okay, next up is Cissy Bowman, and then Michael McGuffin. Then we only have two more after that.

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MS. BOWMAN: I'll try to keep this short. I don't have a lot to say. I'm Cissy Bowman. I am the CEO of Indiana Certified Organic, a private certifier. I'm also a certified organic farmer. I'm on the board of Beyond Pesticides and I'm chairman of the Indiana Organic Peer Review Panel, which is working on a statement for the program at this time.

First of all, I want to welcome all the new people to the Board and thank all of the people who have been with this for so long and the people who are going off that have shared their time. This is going to be
long, hard job for you guys. Do depend on the people who have history with this and I know that there are a lot of people, especially the ones that stay here until the last minute of these meetings, they're here. I've been coming to these meetings since 1994 and they'll be here. Please talk to us and I know everyone's willing to share their opinions with you, for better or worse. I want to say -- especially thank for your generosity with time to the farmers, and thank you, Richard, for your comments to them. I have always wished more farmers came to these meetings. It's difficult and it's wonderful that they were respected so well.

I also -- I'm just going to kind of ditto a few people here, on what Leslie just said, Lynn, Leanna -- gosh -- Jay Feldman and Dave Engel, Brian Baker, ditto on everything that they just said, all right? And what do I want? Okay. I really want two things. I want to not let the differences that are being paraded today with everything that's going on to divide this community. This is a special thing, it's a very special thing, absolutely miraculous what's happened with organics and I don't want to open up OFPA. That scares me so much, it really does. I believe, like Jay said, I think we can work on some of these issues with labeling, and I've got some ideas and I'll go put them in writing,
but I really think we can fix this.

Yesterday we talked about waxed boxes. I have a new one for you, just for the future, I don't expect any answers. Can you use wax to dip a duck that's going to be organic? I've got clients asking me that. I don't even know how to classify the wax in this case, but inquiring minds want to know. Wax for dipping ducks so you can pluck them. And another alternative is in lye, which has also -- I've been asked about that. Apparently, Old Bally's Hogs Gall [ph] makes a good duck dipping solution. I'm serious. I have had a lot of conversations over this and it's one that we need to struggle with, because we're -- at this point in time we are -- we are limiting the growth in the organic duck industry. Pardon? I have faith that this -- that what's going on, what challenges today is not going to stop us. It's not going to -- I hope it does not ruin what we've achieved in these however many years? Since 1990 we've been working on it.

This community industry or business, whatever you want to call it, was built on folks who wanted to prove that the impossible could be done, and we will, we have, together. There's no difference between us. That's a democratic process, and the public input as farmers, consumers, regulators, et cetera; that we
cannot meet and overcome. The future is ours if we continue to fight for what organic means. Thank you.

CHAIRPERSON RIDDLE: Hugh and then Bea.

MR. KARREMAN: As far as dipping ducks, it's new to me, but I'm just thinking of my farmers in Lancaster County that do a lot of home processing of poultry and they're certified organic and they -- I do believe they're represented as certified organic free-range poultry. So I don't know -- but you might want to find out or I can try to find out.

MS. BOWMAN: Any contacts that you can give me. I have talked to one person who says that they have a mechanical process that works. I'm not advocating wax, I'm just saying --

MR. KARREMAN: Yeah.

MS. BOWMAN: -- it's an issue -- it's a hard one because what is -- is it a process? It's not an ingredient, you know what I mean? It's just -- it's a difficult question. So anybody who knows anything about it, send them to me, please. I would love to try to get this answer.

CHAIRPERSON RIDDLE: Bea?

MS. JAMES: Would you mind formally submitting that question to the NOP and make sure that you specify that it's a petroleum base?
MS. BOWMAN: Okay.

MS. JAMES: Petroleum-based wax.

MS. BOWMAN: It's a paraffin wax.

CHAIRPERSON RIDDLE: Hugh.

MR. KARREMAN: A quick thing on that. Mineral oil is okay for topical use and that's paraffin.

CHAIRPERSON RIDDLE: Well, you can contribute to the answer. Okay, is that it? Yeah, Michael McGuffin, and then next up, Pete Gonzalez.

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MR. MCGUFFIN: Good morning. My name is Michael McGuffin. I'm the president of the American Herbal Products Association. I have communicated with this Board and the Policy Development Committee, as well as with NOP, in writing on more than one occasion and I'm here this morning to make the same points that I have made in writing and to urge the Board to help me to clarify the dietary supplements that contain herbal ingredients, which are defined as a subset of food under federal law, are clearly within the scope of the NOP. And I appreciate very much the opportunity to address you and also the presence of NOP staff here.

Members of my trade association grow herbs and sell herbal products. To the best of my knowledge, all of our members who are growers are certified organic.
growers. Several of our members who market herbal products use these organically grown and produced herbal ingredients in their products and market their goods as organic. For example, certified organically grown Valerian root is extracted and certified organic grain alcohol. The resulting tincture, Valerian tincture, is clearly an organic product. When my members read what the NOP has said about the inclusion of their products in the National Organic Program, they're confused. NOP has at times stated that dietary supplements are outside of the scope of the NOP and other times NOP has stated the opposite, acknowledging that dietary supplements are, in fact, within the scope of the NOP. To add to the confusion, all of the decisions that NOP has ever taken on this issue have been withdrawn, so growers and marketers of organic herbal products really don't know what NOP's position is.

On the other hand, when my members read the Organic Foods Production Act, there's no confusion whatsoever. Though FDA defines an agricultural product to be "any agricultural commodity or product, whether raw or processed, that is marketed in the United States for human or livestock consumption." This is very clear. Valerian root tincture is an agricultural commodity. It is processed in organic alcohol.
manufactured from organic grain and so also an organic commodity. The resultant product and other dietary supplements are clearly within the NOP's scope.

And we are not, by the way, asking for any special treatment under the NOP. I read in the December edition of the Organic Business News that a staff member of the NOP has stated "that the NOP has no standards for dietary supplements." This is not accurate. The standards for dietary supplements are exactly the same as the standards for all organic foods. There are other similar subsets. Low-acid canned foods are foods and if you want to sell a certified organic low-acid canned food, we don't need separate standards, you just need to conform to the existing standards. Manufacturers of dietary supplements who conform to these standards must be allowed to participate in the NOP.

The American Herbal Products Association believes that the plain language of OFPA can only be read to include these products within the scope of the NOP. We hereby request this Board to revise its draft scope document to reflect the fact that dietary supplements are included in the NOP's scope and to do whatever else you can in the way of advising NOP to correct their erroneous interpretation of the OFPA as it relates to dietary supplements. There is no principal
argument to exclude these goods from the NOP's scope.

Thank you very much.

CHAIRPERSON RIDDLE: Thank you for your comments. We'll certainly take them very seriously. I think we're waiting on the official written response. Our previous posting before then, we would, you know -- and we've spoken before. I acknowledged that in our drafting last time, we lumped the herbal products in with the personal care products and didn't distinguish them as foods.

MR. MCGUFFIN: And the arguments would clearly be different for personal care products. And I'm here really just to argue about tinctures and tablets and capsules from certified organic folks. Thanks very much.

CHAIRPERSON RIDDLE: Thanks. Pete Gonzalez and then Jim Pierce.

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MR. GONZALEZ: Thank you. I'm Pete Gonzales. My current occupation is to serve the public benefit as the executive director of a nonprofit organization, Oregon Tilth. It's about 750 general individual members who would like to thank the Board for their service and welcome the new members. And also wish the best to Katherine and her recovery. And also my final comment
is that Oregon Tilth will be providing written comments
on numerous issues that have been discussed, but the 10
or 12 days notice is simply insufficient.

CHAIRPERSON RIDDLE: Okay, thanks, Pete. And
the clean-up batter here, Jim Pierce.

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MR. PIERCE: But not the least. Thank you for
that. Put that in the record. I'm Jim Pierce. I'm the
Certification Czar at Organic Valley. And I wish I
could speak without any notes at all. I see people do
that, but I'm always afraid I'm going to miss something,
so I like to speak with notes.

This will always be known as the NOSB meeting
that the farmers showed up to. You know, every one of
them has their unique flavor. I think the farmers left
-- that I spoke with, left here satisfied and with a
much better understanding of the process and the
difficulty of coming to a conclusion on these issues. I
think they were happy with the rule change that you put
in it on pasture, and that they were finally comfortable
with the guidance document going forward as guidance,
and not as official guidance, because I think, if
someone was to call the NOP and ask what is your
position on these new rule changes as they're moving
forward, they would say look at the guidance and public
comment. That's basically our concurrence at this point. We're going along with the NOSB. So I think you're on the right track.

I also think -- I hope that we sent a very clear message to the poultry industry yesterday that if you get in the target, look out. You know, farmers are adamant and passionate and they'll come out in force. I really thought things were going extremely well yesterday up until Barbara came in and sort of sobered the whole moment. But we won't shoot the messenger. It was definitely a wet blanket on an otherwise very productive afternoon, though. And as meeting leader, Mr. Chairman, you get an A plus. I think you've done an excellent job of working through this extremely long agenda. At one point we thought we were either going to be here until midnight or Saturday and it was just a matter of figuring which.

On methionine, we are very pleased with the unanimous vote to allow methionine to continue for use for another three years. And I'm just very pleased to go back to our task force and sign on to that petition and say that they are not only behind us in their decision, but they are also very clear that this is now a continuing allowance and we have some work to do. Along those lines, I will -- I've already begun
discussing with the OTA about setting up a separate task force to deal with methionine. I think there'll be a few adjustments on who's going to be on that task force and we will be getting regular updates.

We really, as an audience, would've appreciated a little more contention and less agreement. The unanimous votes -- but then, of course, you didn't get your calendar, your next meeting discussion is -- one of the things about rotating boards is that I can use the same clichés after three or four years and they sound fresh. One of them that I'd like to say is that I am a staunch standards conservative, that I'm a lot more of a materials liberal. And I think being a liberal on anything right now is kind of a kiss of death, but I was very pleased, as a materials liberal -- I don't mean I want to see anything and everything added to the list, of course not. But I'd really like to see any suitable tool for organic processors or farmers to be added to the list with as wide of an interpretation of use as possible. I really don't like narrow annotations. I'm really glad to see the ferric phosphate thing turn around. At the beginning of this meeting, I thought that was right on the wrong track, so it's come back -- so congratulations on that.

Being the last one up, you tend to have

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already seen things said before and I was -- I'd like to
think that I have the same good idea that Kim did, and
that is as you struggle with synthetic versus
nonsynthetic, look at the definition of processing.
There is a definition of processing in the reg and it's
my favorite one. It reads like poetry. But it also
includes a lot of words that indicate chemical change,
which is what this pivots on, baking, curing, grinding,
extracting. Extracting is the first section in that
document on chemical methods and the Chemistry 101, so I
think there's a lot of room to call something processed
without calling it synthetic and hopefully -- continue
working with the certifiers on things where they have
clear answers as retail certification question, I think
it would become a lot more clear to the certifiers.

Despite all the work you've done I see you've
got a very full agenda coming up. The work plans are
very full. I'm going to offer a couple things that I
heard yesterday. One is clarification on the livestock
about temporary confinement. You've elaborated that a
lot as it applies to pasture, but I think I heard a
request to go back now and clarify that as it applies to
the rest of the livestock. I have we're going to be
talking to you about the $5,000 exemption as it applies
not to retail, but to crops and livestock. And then, my
final thought, I really wanted to end by biting the head off a moisturizer bar, but that's been done, too.

CHAIRPERSON RIDDLE: You can have the turkey.

MR. PIERCE: So I will end with this, it's my standard benediction, which is thank you, God bless you, Godspeed until we meet again.

CHAIRPERSON RIDDLE: Thanks, Jim. Okay, and I -- yeah, Dave.

MR. CARTER: This isn't for Jim, but one of the previous speakers brought this -- this would be appropriate, Mr. Chair. I would like to make a motion to direct the chair of this Board to send an expression of our best wishes for a speedy recovery to Katharine Benham on behalf of the Board.

CHAIRPERSON RIDDLE: Yeah, and I don't know that we need a second and a vote on that. I'll actually go you one better. I've got money to put on the table here and in my closing remarks, I wanted to suggest that any Board members who felt so inclined -- you're certainly not pressured to -- but I kick in a little money to send some flowers, suggesting $5, but don't feel obligated, at all. But certainly, we send her our best --

MS. KOENING: I grow flowers. I know the price of flowers -- $10.
CHAIRPERSON RIDDLE: $10, is that suggested?

That's $150 if all members put in.

[Simultaneous comments]

CHAIRPERSON RIDDLE: Okay, well let's not get bogged down. We'll figure that out. A few closing remarks and one is just in response to Jim Pierce and you said that, you know, we have adopted a rule change. I just want it to be clear in the record and for everyone, especially the farmers that were here, the Board has recommended a couple of rule changes, but you know, they aren't enforceable until they've gone through the whole notice and comment rulemaking process, so I just want to be clear about that.

And I want to once again thank the commenters today and on Tuesday for both the informative content, which really helps us make informed decisions on your behalf of recommendations, but also the respectful manner that the comments have been offered. And I want to, you know, take this opportunity to thank the NOP staff, everyone at USDA who's working on the organic program. You are understaffed, under-funded. I know that, I can say that, and I think people should work to increase the funding for this program so that we are getting somewhere close to our fair share. But you're doing a valiant job with limited resources and we do
appreciate your efforts.

Once again, I'd like to thank outgoing Board members and to thank the current Board members and especially the new Board members for your input. It's been -- you've jumped into, you know, the middle of a fray, but it's that way every time. There's lots of issues on our plate, but you've certainly done your homework, come up to speed and offered some really valuable input as the meeting's gone along, so I welcome you and look forward to working with you and all the rest of the Board. And our work's not done and we do have the follow-through that I've already mentioned just coming out of this meeting, but we heard very ambitious work plans.

One thing I haven't mentioned is we do have monthly Executive Committee calls and any Board member is welcome to sit in on those calls, so that can be an effective way of self-mentoring by listening in to those calls, so you're welcome and we'll make sure that the notices of those calls go out to all the Board members with instructions on how you can listen in, essentially, and join those calls.

I think, in the big picture, though, we do have some, you know, large challenges ahead of us, certainly, and we're all aware of those. And I would
just repeat what I've said before, that we all see this
as an opportunity to work together in a deliberative
manner and to be inclusive and transparent in how we
move forward and that as we have new rule changes or
legislative changes, that we do our homework, get
together and reach consensus before anybody rushes off
for premature actions that could backfire and could harm
the very farmers that we've worked so hard to protect
and to protect the organic integrity in the process. So
one last thing, I would just like, while the Board
members are all here, before we run away to get a group
photo of the current Board for the record, so I close
with that. Are there any further motions? Andrea moves
to adjourn, Dave seconds, non-debatable, all in favor
say aye.

BOARD MEMBERS: Aye.

CHAIRPERSON RIDDLE: We're closed. Thank you
very much.

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[End of proceedings]

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CERTIFICATE OF REPORTER, TRANSCRIBER AND PROOFREADER

IN RE: National Organic Standards Board

HELD AT: Washington, D.C.

DATE: March 3, 2005

We, the undersigned, do hereby certify that the foregoing pages, numbered 1 through 135, inclusive, are the true, accurate and complete transcript prepared from the reporting by the reporter in attendance at the above identified meeting, in accordance with applicable provisions of the current USDA contract, and have verified the accuracy of the transcript by (1) comparing the typewritten transcript against the reporting or recording accomplished at the meetings, and (2) comparing the final proofed typewritten transcript against the reporting or recording accomplished at the meeting.

Date:

__________________________
Karen D. Martini, Transcriber
York Stenographic Services, Inc.

Date:

__________________________
Sarah Mowrer, Proofreader
York Stenographic Services, Inc.

Date:

__________________________
Tim Wagner, Reporter
York Stenographic Services, Inc.
The National Organic Standards Board (NOSB) meeting of August 15-17, 2005, was attended by 13 members:

NOSB Members Present:

James Riddle, Chair
Kevin O'Rell, Vice Chair
Goldie Caughlan, Secretary
Andrea Caroe
David Carter
Gerald Davis
Michael Lacy
Bea James
Hubert Karreman
Rosalie Koenig
Nancy Ostiguy
George Siemon
Julie Weisman
Absent: Rigoberto Delgado

National Organic Program (NOP) Staff:

Barbara C. Robinson, Agricultural Marketing Service Deputy Administrator; Demaris Wilson, Arthur Neal, Katherine Benham, Mark Bradley, Alena DeLoatch, Keith Jones, Toni Strother, Robert Pooler, and Francine Torres.

OPEN SESSION – Jim Riddle, Chair - August 15, 2005, 10:30 a.m. - 5:30 p.m. (Pg. 5)

Mr. Riddle thanked and welcomed everyone for coming to the meeting. He also made the following announcements: Mr. Delgado will not attend the meeting because of other commitments; and Dave Carter will arrive late. He said that the Board would also have a discussion with NOP regarding a new date for the upcoming fall meeting, NOP’s announcement for a new Program Manager and the Executive Director position, and the Board’s response to the ANSI Report.

Mr. Riddle also commented and expressed his appreciation on the surprise visit of the new AMS Administrator, Mr. Lloyd Day.

Approval of the Meeting Agenda:

The Board unanimously reviewed and approved the meeting agenda. See Discussion Document http://www.ams.usda.gov/nosb/meetings/0805agenda.html

Secretary’s Report: – Goldie Caughlan, (Pg. 12)

Approval of February/March Meeting Minutes Summary:


Executive Committee Conference Call Minutes

NOP Report: Barbara C. Robinson, Deputy Administrator, Arthur Neal, and Keith Jones, (Pg. 17)

The NOP provided an update on the:

- Job announcement for the Executive Director position;
- The status of recommended substances and materials dockets in the process of being published in the Federal Register;
- NOP’s plans with respect to complying with the court order on the Harvey vs. Johanns lawsuit; and
- NOP’s response to NOSB recommendations that were made at the Feb-March 2005 NOSB meeting.

PUBLIC COMMENT SESSION: August 15, 2005, 1:00 p.m. – 4:00 p.m.

The following individuals presented public comments. Each person’s comment was recorded and transcribed; and some individuals presented written comments. Transcribed comments, and where applicable written comments can be found at the DESIGNATED ATTACHMENTS.

PUBLIC COMMENT REGISTRATION SHEET (ATTACHMENT A)
SIGN-IN SHEET (ATTACHMENT B)

Kelly Shea, Director, Government and Industry Relations, WhiteWave Foods, (Pg. 45, Attach. 1)
Lynn Betz, Co-Founder/President, Sensibility Soaps, Inc. (Pg. 48, Attach. 2)
Tom Betz, Sensibility Soaps, Inc. (Pg. 53)
Mark Kastel, proxy for Maury Johnson, Blue River Organic Seed, (Pg. 60, Attach. 3 & 3A)
Tony Azevedo, Organic Farmer, (Pg. 74)
Monica Gonzales, GMA, (Pg. 83)
JoAnn Baumgartner, Wild Farm Alliance, (Pg. 86)
Stephen Clark, Florida Crystals Corp., (Pg.89)
Leslie Zuck, Executive Director, Pennsylvania Certified Organic, proxy for Jessica and Erin James (Pg. 99)
Kim Dietz, HR and Regulatory Compliance Manager, Smucker Quality Beverage, (Pg. 106 Attach. 4)
Grace Marroquin, Marroquin International Organics, (Pg. 136, Attach. 5)
John Tedeschi, Bath and Body Works, (Pg. 157, Attach. 6)
Jackie Greenbug, Organic Dairy Farmer, proxy for Lyle Edwards, Jr., and Barbara Buckmayer, (Pg. 160)
Juan Velez, Director of Farm Operations, Animal Welfare/Health Reform, (Pg. 162)
Clark Driftmeier, Aurora Organic Dairy, (Pg. 166, Attach. 7)
Steve Pechacek, President, Midwest Organic Dairy Producers Association (MODPA), (Pg. 176)
Jim Greenburg, NODPA, (Pg. 180)
Tom Hutcheson, Associate Policy Director, OTA, (Pg. 182, Attach. 8)
Steve Morrison, Organic Dairy Farmer, representing Northeast Organic Dairy Producers Alliance, (Pg. 195)
Steve Bowen, proxy for Ernest Martin and Ed Zimba, (Pg. 202)
Brian Baker, Research Director, OMRI, (Pg. 205)
Dick Siegel, Attorney, (Pg. 212, Attach. 9)
Debra Claire, President and Owner, Perfect Organics, Inc., (Pg. 216)
Joe Dickson, Organic Programs Coordinator, Whole Foods Market, (Pg. 222, Attach. 10)
Richard Theur, Consultant, (Pg. 230)
Kevin Engelberg, Engelberg Farms, (Pg. 233)
Henry Perkins, Organic Dairy Farmer, (Pg. 234)
Lisa Engelberg, Co-Administrator, NOFA-NY, (Pg. 243, Attach. 11)
Sally Brown, Organic Dairy Farmer, (Pg. 246)
Jim Riddle, proxy for Lynn Coody, (Pg. 248)
John H. Cox, proxy for American Spice Trade Association (ASTA), Flavor and Extract Manufacturers Association (FEMA), and International Association of Color Manufacturers (IACM), (Pg. 250, Attach. 12)
Gwendolyn Wyard, Processing Program Reviewer, Oregon Tilth, (Pg. 261)
Rick Segalla, Organic Dairy Farmer, (Pg.267)
Nancy Cook, VP, Pet Food Institute, (Pg. 276)
Urvashi Rangan, Environmental Health Scientist, Consumer Union, (Pg. 287)
OPEN SESSION: August 16, 2005, at 8:00 a.m.

Call to the Meeting to Order – Jim Riddle, Chair

PRESENTATION AND DISCUSSION OF FUTURE AGENDA ITEMS

Policy Development Committee – Dave Carter, Committee Chair, (Pg. 3)

Mr. Carter talked about how the Policy Committee met most of July to review and discuss their future agenda items, and he asked Mr. Riddle to provide a report on the draft guidance document for temporary variances for research.

Guidance on Temporary Variances for Research 205.209(a) (3): Mr. Riddle stated that he prepared a draft for the committee to work from based upon some input that he received. He said that after researching information and interviewing six agricultural researchers, he was able to develop a working draft document for the committee to review and discuss at the meeting. He stated that based on the regulations, it does allow for temporary variances for research purposes. However, there are no fence posts set in place or guidelines as to how those determinations were made, such as what constitutes a credible research project and a variance to certain sections of the rule. He said that the report was circulated to the research community, and received input from 20 researchers before constructing a second draft. The document was posted for public comment prior to the meeting.

The committee received a substantive amount of comments from the Organic Farming Research Foundation and USDA’s CSREES, and the comments will be taken into consideration for the next round. He would also like to
see incorporated into the draft the whole notion of split operations because many of the research projects really function as split operations; such as part conventional, part transitional, and part organic. Additionally, he will address in the future draft some of the comments regarding the split operation concept, and submit to the committee for review before posting for another round of public comment, and for action at the next meeting.

Criteria and Procedures for Determining Commercial Availability 205.606: Mr. Carter reported on the Policy Development and the Handling committees’ joint project to determine commercial availability under 205.606. He stated that the first plan was to meet Monday morning before the meeting; however, because of travel plans and other issues, the committee was unable to meet. Mr. Carter stated for the record that the project is still a work in progress.

He stated that one discussion item that was not on the agenda, the development of a new member orientation or a survival guide called “NOSB 101.”

Chemistry 101- Survival Guide for New Members: Ms. James stated that in response to the rotation proposal that was not approved, she, and Mr. Delgado developed a survival guide to assist all incoming new members who are selected to serve on the Board. Additionally, Mr. Riddle submitted some proposals for scheduling a rotation in order to alleviate so many members going off at the same time. However, according to the Organic Foods production Act as written, each member are subject to serve for five years, and the scheduled rotation changes that was submitted would have conflicted with OFPA. The survival guide will help new members to understand how to prepare for a meeting, understand each committee, and how to work with NOP.

Livestock Committee – George Siemon, Committee Chair

Apiculture Task Force Report – No Action Taken, (Pg. 8): Ms. Ostiguy on behalf of the Livestock Committee was not available to provide an update to the Board on the Apiculture Task Force Report. Mr. Riddle summarized the adoption of the report for beekeeping, which contained draft standards. He stated that there would need to be a discussion with the Program regarding the status of the recommendation, whether it will move forward as a rule change or a guidance document, and if further actions are needed from the Board before that could happen.

Mr. Neal stated that with respect to the Task Force Report, Ms. Ostiguy, who is a bee/honey specialist, had some concerns, and requested further review of the report prior to submitting feedback to the Program. Mr. Riddle commented that in the interim and in the absence of guidance or a rule change, operations are being certified organic – beekeeping operations, and additionally, there are products on the market carrying the USDA seal.

Materials Committee – Rose Koenig, Committee Chair (Pg. 11): On behalf of the Materials Committee, Ms. Koenig stated for the record that the published Federal Register Notice was scheduled to close and the public will only have a couple of days for comments. She said that the Board received some public comments that are posted, and will sift through the comments and forward to the appropriate committees for review and action. Mr. Siemon wanted to make Ms. Koenig aware that the Livestock committee did not request a TAP review for ivermectin because they have enough information. The Livestock Committee only needed to revisit it. Mr. Neal stated that he had begun to initiate the process of doing a full-blow TAP on the materials, and if there are specific questions, the committees should let him know before they start the actual evaluation.

Ms. Koenig requested a discussion from the Board and the Program regarding a posted document that specifically dealt with the OFPA categories, and would like to make sure that the list conforms to what is spell out in OFPA. She would like NOP to address some of the legal questions surrounding those categories to ensure that no materials are inappropriately included on the list.

Mr. Riddle stated for the record that once the public comments have been received on sunset for this round, the top priority for the Materials Committee and each of the relevant committees would be to first identify any of the more substances that needs a review – whether it’s a full review or just narrowly focusing on review of specific questions. The NOSB committeees would try to have recommendations for sunset by the next NOSB meeting. For more discussion, see the meeting transcripts.
Handling Committee – Kevin O’Reill, Committee Chair

Pet Food Task Force Update, (Pg. 34): Mr. O’Reill reported that the Board received the Pet Food Task Force update from Nancy Cook on yesterday, and stated that on a conference call, the Task Force discussed a timeline to present final recommendations to the Board at the Spring 2006 NOSB meeting.

Certification, Accreditation, and Compliance Committee – Andrea Caroe, Committee Chair

Peer Review Panel Report – No Action Taken, (Pg. 34): Ms. Caroe presented, as a future discussion item, the procedures for peer review panel. She stated that the committee would be submitting its recommendation on the ANSI report response from the Board. She also reported that the committee would like to submit its recommendations and vote on the Q&As for retailer and private label.

Crops Committee – Nancy Ostiguy, Committee Chair, (Pg. 36): Ms. Ostiguy stated that the committee would submit for discussion a draft document on hydroponics, and additionally would like to receive clarification on the Q&As for compost. The committee will also discuss moving forward on the apiculture task force report recommendation as a rule change or as guidance to the existing rule. Mr. Neal commented that NOP drafted the guidance under the current good guidance document practices for apiculture. However, it’s not published, because it’s still under review, and will look for further input from the NOSB.

Aquatic Species Task Force Report – Keith Jones, NOP, (Pg. 38): Mr. Riddle provided a brief summary on the published Federal Register Notice soliciting members for the Aquatic Species Task Force. He stated that the task force has two working groups, one for aquaculture, and one for wild aquatic species. The Aquaculture Working Group has many expertise members who participated in the National Organic Aquaculture Group (NOAG), and who also issued a white paper. Mr. Riddle stated that he already participated on three conference calls, and the task force is making good progress. He said that the white paper was use as a basis for drafting a report to make recommendations to the Board.

Mr. Jones reported that there were a number of comments that came in on the white paper and concluded that some good standards could come out of the white paper. He also stated that the wild fishery side continues to be problematic, in that the NOP will need to go back out and request nominees for the panel, and be more specific regarding requirements and qualifications. He also stated that the complexity and nature of the issues being discussed by the working group could result in the scheduling of some face-to-face meetings with working group members.

PRESENTATION AND CONSIDERATION OF COMMITTEE ACTION ITEMS

Policy Development Committee – Dave Carter

Board Policy Manual Revisions – Action Item, (Pg. 44): Ms. James presented, for a vote, the recommended revisions and additions to the Board Policy Manual. Proposed revisions and additions included: (1) TAP review information inserted on page 31 (Chemistry 101); (2) the sunset review material process inserted on page 45; (3) a NOP/NOSB collaboration document inserted on page 18; and, (4) Q&As for how NOSB should handle Q&As submitted from the NOP was consolidated in with the collaboration document on page 20. Discussion took place concerning wording included in the NOP/NOSB collaboration document and Chemistry 101 document. Changes were suggested in both. Mr. Carter moved to approve the entire Board Policy Manual as amended, and Ms. Ostiguy seconded. Board Vote: 13 Yes, 0 Nos. Recommendation Passes

Certification, Accreditation, and Compliance Committee – Andrea Caroe

Peer Review Panel Draft Recommendation – No Action Taken, (Pg. 89): On behalf of the committee, Ms. Caroe presented to the Board a draft recommendation on the Peer Review Panel procedures. She stated that Mr. Lacy initiated the original work, and the recommendation received a significant amount of input from the committee and Mr. Riddle. Mr. Lacy reported on the status of the upcoming review process that will give NOP
and NOSB time to react and make thoughtful changes based on a thorough review process. The committee was pleased with the ANSI review report; however, they would like to have an agency that is familiar with and have the expertise to conduct the actual audits. They would like to consider conducting an audit on a three-year basis to ensure a thorough review that will yield a thoughtful response and an action to that review.

Finally, the committee hoped that the audit process would be an opportunity to have and develop a collaborative discussion between NOP and NOSB. Mr. Lacy stated that there will be no action at this time, however, they did receive public comments prior to the presentation and would like to review before they come up with their final draft recommendation. Ms. Caroe stated that the committee will vote on the recommendation as an action item at the next meeting.

NOSB Response to the NOP Response to the ANSI Report Recommendation – Action Item, (Pg. 93): On behalf of the committee, Ms. Caroe presented, for a vote, a committee recommendation regarding the NOSB response to the NOP response to the ANSI Report. Ms. Caroe made a motion to adopt the recommendation, and Ms. Ostiguy seconded. Mr. Riddle provided a brief summary regarding the audit of the accreditation program that was conducted by the American National Standards Institute (ANSI). He said that NOP did a line-by-line response to the corrective actions on the deficiencies identified in the report. The Board received a request to evaluate the response and provide feedback. He provided a background summary on each of the eight recommendations listed on pages 2 and 3 of the report. After his report, Mr. Riddle commended NOP for contracting with ANSI to conduct the review and provided thoughtful responses to the findings of the report. It was determined that NOP will create drafts by September 30 to received feedback and comments from the Board. Board Vote: 13 Yes, 0 Nos. Recommendation Passes.

Listing of Certifying Agent’s Name on Packaged Product Recommendation – Action Item, (Pg. 111): On behalf of the ACA committee, Ms. Caroe presented recommendations on the Q&As submitted for retail and private labeling. Ms. Caroe stated that she had received some concerns from an ACA regarding the issue and had dialogue with a private retail labeler. However, they did not provide written comments or language suggestions to incorporate into the committee’s recommendation. “The CAC committee recommended that the term “otherwise manufacturing” be understood to include: creation of labels, formulation of products, and procuring ingredients for products. Mr. O’Reill moved to adopt the recommendation and Ms. Caughlan seconded. However, Ms. Caroe offered a friendly amendment to strike the words, “creation of labels” on pages 2 and 3. Mr. O’Reill seconded. The Board vote was 5 Yes, 7 Nos, and 1 Abstention – the vote failed on the amendment. Final Board Vote on recommendation: 8 Yes, 3 Nos, 2 Abstained. Recommendation Passes. See Discussion Document.
Livestock Committee – George Siemon

Consideration of Petitioned Substances: Sucrose Octonate Esters – Action Item, (Pg. 145): Ms. Ostiguy presented the committee’s recommendation to approve sucrose octanoate esters for listing on the National List with an annotation of only for use as a miticide in apiculture. Mr. Karreman seconded. Ms. Ostiguy offered a friendly amendment to delete the annotation, “only for use as a miticide in apiculture.” Mr. Karreman seconded. She offered the amendment because, according to EPA, the only approved uses for this material, at this time, are on mites. The NOSB voted to approve the amended recommendation to add to the National List for livestock use with no annotation. **Board Final Vote: 13 Yes, 0 Nos, 1 Absent**

Materials Committee – Rose Koenig

National List Categories Recommendation – Action Item, (Pg. 160): On behalf of the Materials Committee, Ms. Koenig presented the Committee’s proposal to revise the Organizational structure of the National List to resemble the Organic Food Production Act (OFPA) exemption categories. The committee reviewed both the livestock and crops list to ensure that things were in line with the OFPA categories. Ms. Koenig asked Mr. Neal to consult with legal counsel regarding the proposal that is on the table because one of the ways of getting the materials that we have approved to get within the OFPA categories is to be able to broaden the production aids category, as it exists in the OFPA. Ms. Koenig made a motion to adopt the recommendation and Mr. Siemon seconded. Mr. Neal stated that NOP would commit to taking the document to OGC for legal review and clarification. After a lengthy discussion, Ms. Koenig made a motion to adopt the recommendation and Mr. Siemon seconded. NOP agreed to go back to the Office of General Counsel for further legal research, and look at OFPA and its categories. The Committee voted to submit the document to the NOP as a recommendation pending reconstruction of the National List. **Board Final Vote: 13 Yes, 1 Absent, 0 Nos, 0 Abstentions**

Crops Committee – Nancy Ostiguy

Sucrose Octanoate Ester, (Pg. 184): Ms. Ostiguy presented the committee’s recommendation to approve sucrose octanoate ester for use in crops with no annotation. Ms. Caroe seconded. Ms. Ostiguy commented that the material acts as soap, has no toxic breakdown products, and is effective on soft-bodied insects. She also stated that it is currently registered by the EPA for mites and is non-toxic to bees (important if substance is sprayed on crops). The Board Final Vote: 13 Yes, 1 Absent, 0 Nos, 0 Abstentions. Approved

Chitosan (Poly-D-Glucosamine), (Pg. 195): Ms. Ostiguy presented the committee’s recommendation to add poly-D-glucosamine to the National List for crop use with an annotation to read “as an adjuvant only.” Ms. Koenig seconded. Ms. Ostiguy recommended the annotation because the committee did not want chitosan to be used as a plant growth regulator (which it could be if used in high quantities). As an adjuvant, chitosan will only be used in limited quantities (only as necessary) and would prevent its use as a plant growth regulator. Ms. Ostiguy made a motion to add chitosan to the national list and Ms. Caughlan seconded. **Final Board Vote: 13 Yes, 0 Nos, and 1 Absent**

Livestock Committee – George Siemon

Guidance on Pasture Requirements for the NOP Recommendation – Action Item, (Pg. 228): On behalf of the Livestock Committee, Mr. Siemon presented the guidance document on pasture requirements for the NOP to the Board, and asked Mr. Karreman to summarize the report. Mr. Karreman stated that the committee submitted two rule changes in March, and based upon public comment and input, the Livestock Committee proposed a rule change at 205.239(a) (2), not to be voted on today. At 205.239(a) (2), reflects public input, and that raising is a prominent and one of the most distinctive visible features of organic dairy farming. They proposed that it should say ruminants over six months of age shall graze growing pasture no less than 120 days per year, and the committee will work on that with the NOP. The committee would also consider the additional text that was sent back regarding the stage of life consideration.
Ms. Caroe made a motion to strike where applicable, the word “shall” under Section A, of the Organic System Plan and replace with the word “should.” Ms. Caroe motion to insert the word “a” and strike the word, “livestock are” to read as, “Temporary confinement means the period of time when a ruminant is denied pasture.” The committee motioned to strike the word “only” and to read as, “Temporary confinement is allowed in the following situations.”

Mr. Siemon stated the committee agreed with the following input that says, “both significant portion and not less than 30%,” and added, “per year after 120 days.” He wanted to make sure people didn’t take it out of context of the growing season which is one year growing season. The committee also revised the word, “maximize” to “optimize.”

Mr. Siemon moved to amend the guidance document as recommended by the Committee, and Mr. Karreman seconded. Final Board Vote: 13 Yes, 0 Nos, 1 Absent – Unanimously Approved. See Discussion Document

Clarification of the Definition of Synthetic as it is Applied to Substances Petitioned for Addition or Prohibition to the National List(s) – Action Item, (Pg. 243-): On behalf of the Materials and Handling Committees, Ms. Koenig presented for clarification a guidance draft document for recommendation to define synthetic as it pertains to determination for substances petitioned for addition or prohibition to the National List(s). She stated that the draft also includes two friendly amendments, and made a motion to approve the recommendation as amended, and Mr. O’Rell seconded. The Materials Committee recommended the following changes to amend wherever it says, “of food,” to insert the word, “or an agricultural product by a handling operation” to read as, “processing of food or an agricultural product by a handling operation.”

In Item 5, to insert the word “or handling,” to read as, “must be separately listed in the National List for use in organic production or handling.”

After a lengthy review and discussion of the draft recommendation, the full Board voted to accept the amended changes, and to submit the document to NOP for posting. Final Board Vote: 12 Yes, 1 No, 1 Absent, 0 Abstention

Handling Committee – Kevin O’Rell

Recommendation Relative to “Agricultural” and Non-Agricultural Substances - Action Item, (Pg. 373): On behalf of the committee, Mr. O’Rell presented as an action item a recommendation seeking clarification and consistency regarding the review of agricultural and non-agricultural definitions for substance. He stated that in regards to the determination and classification of substances as agricultural and non-agricultural, it was felt that the definition listed in the NOP final rule was vague, and included conflicts. There is no rule or guidance for the definition of what is and what makes a product agricultural or what is agriculture? He talked about the definition of an agricultural product listed in OFPA, but said that OFPA did not provide a definition for non-agricultural product; however, it defines non-agricultural substances. The definition of non-agricultural products was conflicting because there are many processed agricultural products, which have been extracted, isolated, or fractioned during processing to a point where they are no longer, resemble the starting agricultural material.

The committee met to discuss the removal of the non-agricultural definition, and decided to recommend a change for the definition of non-agricultural substances. The proposed definition would stated that a substance that is not a product of agriculture such as mineral or bacterial culture, period, striking the remaining portion of that definition, making it more simple and adding clarification. The committee recommended to adopt the guidance document for defining agriculture as it applies to agricultural products, and the second recommendation was for a rule change to the current definition of non-agricultural substance, which is a short version of the existing non-agricultural substance definition. The committee also recommended adopting the decision tree as guidance in determining a substance’s agricultural or non-agricultural status. The committee received public comments about a process in defining organic yeast – to take yeast and then using organic inputs, come out with a product that is more along the handling guidelines. The commenters did not addressed the committee’s concerns and issues in terms of how to classify yeast, whether it is agricultural, how does it fit in with the current standards guidelines, and how to
develop an organic system plan for yeast. Ms. Koenig provided a background and brief explanation regarding the guidance document.

Mr. O’Reill presented to the full Board three recommendations as separate votes, and move to adopt the attached guidance document for defining agriculture as it applies to agricultural products. Mr. Siemon seconded. After further discussion, Ms. Ostiguy made a motion to defer the entire recommendation, and Mr. Carter seconded. Final Board Vote: 12 Yes, 1 No, 1 Absent. DEFERRED

Crops Committee – Nancy Ostiguy, (Pg. 419)

Soy Protein Isolate and Ammonium Bicarbonate: Ms. Ostiguy reported that the committee is waiting for a decision on synthetics; therefore, the two materials are DEFERRED.

Compost and Compost Tea: Ms. Ostiguy reported that the committee would like to take the information back to incorporate comments and to increase the amount of agreement that relates to the topic. The Board voted to DEFERRED.

Guidance on the Commercial Availability of Organic Seed Requirements, (Pg. 421): Ms. Koenig provided a brief summary on behalf of the committee, regarding receiving comments and incorporating the amended changes into the document and Section D regarding a written description of research comparing organic and non-organic seeds or planting stock if such information is available. Research provided should be conducted using scientific methods. When conducting research, it has to be done in a way that reflects real research using scientific methods, and will provide proper controls in replications. Research supporting the justification of using non-organic seeds should address the form, quality, and genetic attributes of specific varieties. When a producer makes a claim that, the varieties of organic seed are not equivalent to a non-organic seed that producer prefers to use, supporting documentation must be provided to the certifying agent. Documentation of on-farm trials should be recorded in the operations organic farms systems plan. The comments that came in regarding sections (c) and (e) were deleted from the original document. She also stated that the committee would consider some of the additional comments that came in after the initial draft.

Ms. Ostiguy stated that the committee discussed and voted on reinserting what was (c) previously in the old version. The new insertion (d) is maintain and annually submit to the NOP as an updated list of specific non-organic crop varieties permitted by each agency. Each certifier should collect information in an organized fashion to assist producers who searched for an organic seed source, and if they did not find a source, they will have the opportunity to cross-reference that information. Ms. Ostiguy made a motion to adopt the amended recommendation from the committee. Ms. Koenig seconded. Board Final Vote to Adopt – 13 Yes, 0 No, 1 Absent

Maintaining or Improving Natural Resources – Organic System Plan Template, (Pg. 449): Ms. Ostiguy presented to the Board as an action item to amend its draft recommendation to delineate the natural resource component of the organic system plan on biodiversity management. She acknowledged assistance from Wild Farm Alliance and the National Center for Appropriate Technology. She stated that the committee received many comments and made a decision to go for the check boxes because the farmers understood more clearly, what the goals were. The form also provided additional items that they might consider doing, which means that it has both the educational aspect of what else one can do to increase farm biodiversity, and increases the chances for a farmer to get credit for what they are doing. Ms. Ostiguy made a motion to accept the additions to Part D of the Organic System Plan on Natural Resources on Biodiversity Management. Mr. Siemon seconded. Board Final Vote to Adopt – 13 Yes, 0 No, 1 Absent

REPORT ON FUTURE COMMITTEE WORK PLAN ITEMS – (See Committee Work Plans)

Handling Committee - Kevin O’Reell, Committee Chair - (Pg. 117): On behalf of the Handling Committee, Mr. O’Reell reported on future work plan items. He stated that the committee high priority issue is ag vs. non-ag that was deferred; and would submit a request to expedite a full TAP review for yeast to receive more information on the manufacturing process for both conventional and organic, and propose new recommendations. The
committee would review the public comments and move forward on materials that was marked priority, and look at other materials to see if they should be move up on the priority list as well. The committee will continue to observe and participate in the Pet Food Task Force as it moves towards making a recommendation. Finally, the committee will review any petitioned substances to be place on 606 as required, and work on the determination of commercial availability criteria in cooperation with the Policy Development Committee.

**Policy Development Committee – Dave Carter, Committee Chair** – (Pg. 119): Mr. Carter presented six items on the Policy Development Committee's work plans. Mr. Carter talked about the committee's collaboration with the Handling committee regarding 205.606. The committee will obtain public comments and develop final recommendation on research for temporary variances, and continue revising/updating the policy manual. The committee will complete revision of the 101 document for new member orientation, review of potential separation of mineral source supplements from ag source supplements, and also complete the analysis of the issues relating to the remediation of the court order based upon the document that NOP provided. Finally, the committee will plan the graduation party for the class of 2006. Additionally, Mr. Carter requested all Board members to submit their ideas on all or any of the court rulings and on how to change the rule to come into compliance. He will work with Bea James to construct a letter to the Secretary from the Chair on behalf the Board and circulate for concurrence and signature from each member. Members should submit their ideas and information to Bea James within two weeks for circulation to the Board and set a deadline for response.

**Crops Committee – Nancy Ostiguy, Chair** – (Pg. 128): Ms. Ostiguy reported on the Crops Committee future work plan to revise the compost and compost tea recommendation, and write Q&As, and review materials for sunset - streptomycin and tetracycline for the upcoming meeting. She stated that the committee would also present its recommendation for contaminants in fertilizer, and review and assess public comments for commercial availability of organic seeds. The committee will present recommendations for soy protein isolate and ammonia bicarbonate, and the draft guidance document for hydroponics.

**Compliance, Accreditation, and Certification Committee – Andrea Caroe** – (Pg. 131): Ms. Caroe stated that for the CAC committee future work plan item will be to submit the retailer Q&As for a Board vote; and submit a response to the NOP response to the ANSI Report document; work on the Peer Review Panel recommendation. She also stated that as those ANSI response items are generated, the committee should keep the plate clear for a quick response.

**Livestock Committee – Michael Lacy** – (Pg. 134): Mr. Lacy stated that for the Livestock committee's future work-plan items would be to continue working on the pasture requirement, and to develop clear rationale for the proposed rule change and guidance. The committee will continue working with Nancy on developing standards for organic honey; work on the ivermectin and moxidectin issues and other materials for sunset, and continue working with NOP on the impact of the court ruling for livestock. They will continue monitoring the avian influenza situation, and work on a statement of how organic poultry production should respond to animal and human health threat. Finally, aquaculture – Aquatic Species Task Force is still an issue, however, they will continue monitoring, and assisting the working groups to make sure nothing drops through the crack during the transition.

**Material Committee – Rose Koenig, Chair** – (Pg. 137): Ms. Koenig reported that there are some materials that have come up during the meeting that the committee will need to consider if they want to request a TAP, such as requesting a full TAP; or answers to specific questions or information. She talked about the need to have hard copies of all of the comments from Arthur regarding the sunset process. The committee would obtain concurrence on the committee’s procedures for synthetic/non-synthetic and the legal aspects of the reorganization of the national list. Ms. Koenig will send out a form outlining the process, and each committee fill out the materials process using those evaluation forms for each substance. Mr. Neal suggested each committee to submit those substances to Rose as soon as possible, and she will submit to NOP for additional clarification regarding manufacturing process.

Mr. Riddle requested that each committee chair to submit the final recommendations that came out of the meeting to him for review before submitting to NOP. Additionally, to fulfill the mandate under OFPA, he will also write a brief report of the meeting to the Secretary itemizing accomplishments and a summarizing of future work-plan items. Mr. Riddle presented for discussion the role of the Board regarding review of applicants for the Executive
Director position, and stated the job description has gone to Personnel, and will work with Barbara to provide a report at the next Executive Committee meeting.

NEXT MEETING

The week of the November 14th; to include the primary focus being the sunset review and election of officers.

CLOSING REMARKS

The Chair announced for the record that the Board adopted a rule change; however, he wanted to make it clear, especially for the farmers that the Board recommended a couple of rule changes, but they are not enforceable until they’ve gone through the whole notice and comment rulemaking process.

Ms. Caroe moved to adjourned, and Mr. Carter seconded. Approved unanimously.
UNITED STATES DEPARTMENT OF AGRICULTURE

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NATIONAL ORGANIC STANDARDS BOARD

+ + + + +

MONDAY,
AUGUST 15, 2005
+ + + + +

The above-entitled matter was held in Oriental Ballroom C of the Mandarin Oriental Hotel, 1330 Maryland Avenue, S.W., Washington, D.C., at 10:30 a.m., James A. Riddle, Chairperson, presiding.

NOSB MEMBERS PRESENT:

JAMES RIDDLE  Chairperson
KEVIN R. O’RELL  Vice-chairperson
GOLDIE CAUGHLAN  Secretary
ANDREA CAROE  Member
DAVID CARTER  Member
GERALD DAVIS  Member
BEA E. JAMES  Member
HUBERT J. KARREMAN  Member
ROSALIE KOENIG  Member
MICHAEL P. LACY       Member

NOSB MEMBERS PRESENT (Continued):

NANCY M. OSTIGUY       Member

GEORGE SIEMON       Member

JULIE S. WEISMAN       Member

NOP STAFF PRESENT:

KATHERINE BENHAM

KEITH JONES

ARTHUR NEAL

BARBARA C. ROBINSON
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PROCEEDINGS

(10:34 a.m.)

CHAIRPERSON RIDDLE: I'd like to call the meeting to order. It's 10:30, 10:31.

Just a few announcements before we get started. There are copies of the agenda outside, and there's a sign-up sheet for public comments out there as well.

I'd like to welcome all of you and thank you for coming. There are restrooms down the hall and to the right. I'd ask you if you have a cell phone to please turn it off or to vibrate mode. Also let you know that Rigoberto Delgado will not be here for this meeting. He had another commitment, a conflict, and so can't make it. Dave Carter will be coming in later this afternoon during the public comment period. He needed to get his son off to college yesterday and so had to take a flight this morning.

By the end of this meeting we will be talking further about whether or not there will be a fall meeting this year. So we're still in discussion with NOP about that.
I do want to thank the staff for all of the work that you put out to pull all of these documents together. It's a huge work load to have it. These books with all of the content and everything up on the Website and making the hotel reservations, I just want to acknowledge and thank you for that. It's a very lovely place where some of us especially not quite used to the accommodations, but we could get used to it.

(Laughter.)

CHAIRPERSON RIDDLE: I do want to acknowledge though that I have heard some concerns from especially farmers coming in that this is an expensive place and just like the parking is $33 a night, and we certainly always need to take the cost into consideration, as well.

But this is a very significant meeting. As many of you know, there are a lot of issues on our own agenda, but also in light of the court ruling. You know, we don't have things on our agenda directly, but some of our documents certainly have indirect impact, but that presents, you know, an ongoing
challenge for the Board and the program, and really everyone involved in the organic community, whether you're a farmer, processor, retailer or consumer.

And I have full confidence that we'll rise to meet those challenges and to get beyond, you know, some of the conflicts that we face right now.

It's also a time of change. At the AMS we have a new Administrator, Lloyd Day, who if you weren't here yet stopped by this morning to say hi. So I really appreciate his interest in this program, and we've looked forward to having that position filled for quite a while. So we're delighted to have Lloyd in that position of AMS Administrator.

But there also are some staff changes at NOP. There will be a new program manager. A position was advertised and names submitted, but that remains open, and then the position of NOSB Director, a staff position, also has not been announced yet, but we look forward to that being filled.

Two other things, I think, that are not on our agenda that I'd just like to comment. We have the ANSI report, the American National Standards Institute
report. We will be considering a Board response on that. There's also the USDA Office of the Inspector General conducted a review of the program, and that report has been submitted.

So, you know, it certainly is a time of upgrading and improving the quality systems, but it means more work and more challenges for everyone involved in the program.

I'm looking down at my agenda finally, and I had some remarks and I've concluded that, but next we have introductions. So I would ask the Board members to introduce yourselves, a little bit about yourself or share any remarks that you may have, open mic at this time. So we'll start with Mike and go around.

MR. LACY: Thank you, Jim.

I'm Mike Lacy. I am a poultry scientist at the University of Georgia and represent or am a science representative on the Board. This is my -- Jim always corrects me. I can't remember if it's third or fourth year, but somewhere in that general time frame that I've been on the board.
MR. KARREMAN: My name is Hugh Karreman, veterinarian in Pennsylvania. I work with, oh, 85 certified organic dairy farms at this point in time; got my start in agriculture with the USDA Soil Conservation Service about 20 years ago, and I'm one of the environmentalist seats.

MS. JAMES: My name is Bea James, and I'm the retailer out of Minneapolis, Minnesota, and this is my second meeting, and I'm happy to be here.

MR. SIEMON: George Siemon. I'm a farmer rep., organic eggs, 35 organic hens, and I also work for Organic Valley and have a lot of experiencing in manufacturing as well.

CHAIRPERSON RIDDLE: Is that 35 hens?

MR. SIEMON: Thirty-five hundred.

CHAIRPERSON RIDDLE: Oh, okay. Just for the record.

MR. SIEMON: For the record.

MS. KOENIG: My name is Rose Koenig, and like my fellow CEO farmer here, I'm a producer in Gainsville, Florida and just represent organic farmers on the Board. The last year on the Board.
MR. O’RELL: Kevin O’Rell. I’m from Longmont, Colorado, and I’m a handler representative on the Board, work for a company that produces organic soy milk and organic dairy products, and I think I’m finishing up my fourth year. I think, Mike, you and I go together.

CHAIRPERSON RIDDLE: Yeah, and Jim Riddle, organic producer of watermelons. That's just for our own, but inspector and educator and certifier rep. on the Board from Minnesota.

MS. COUGHLAN: Goldie Caughlan, working with consumer cooperatives in Seattle, Washington, PCP natural markets, and finishing the fifth year here on the Board.

MS. CAROE: I’m Andrea Caroe, and I’m an environmental rep. on the Board. I work for a nonprofit group that promotes sustainable practices in agriculture.

MS. WEISMAN: I’m Julie Weisman from Tenafly, New Jersey. I’m a handler rep. on the Board. This is my second meeting as well. This is my first year on the Board.
MS. OSTIGUY: Nancy Ostiguy. I'm in the Entomology Department at Penn State. This is my fourth year on the Board. I do research on honey bees. So when we finally get to that piece of information, I'll be having things to say.

MR. DAVIS: I'm Jerry Davis. I'm a grower representative on the Board. This is my first year, and I work for a certified organic vegetable farm in California.

CHAIRPERSON RIDDLE: Okay. Thank you. Are there any Board members who have announcements?

(No response.)

CHAIRPERSON RIDDLE: Seeing none, I will move on, and I already essentially gave the report in my remarks. I think the agenda speaks for itself. We certainly have plenty of work to do. So I won't take any more time with any further remarks at this time.

So we'll move on to the Secretary's report. Goldie.

MS. COUGHLAN: Well, the Secretary's report actually consists at this point of moving for
the approval of the February-March minutes, which are summarized in the book.

MS. OSTIGUY: Second.

CHAIRPERSON RIDDLE: Okay. Goldie moves and Nancy seconds that the minutes, the meeting summary of the February-March 2005 NOSB meeting be approved. Any discussion?

I'll just say that Catherine had sent these to the Board. I had submitted some revisions and those are incorporated and reflected in this draft. I don't know if any others had submitted any or not, but any other comments?

(No response.)

CHAIRPERSON RIDDLE: Hearing none, seeing none, all in favor of approving the minutes, please say aye.

(Chorus of ayes.)

CHAIRPERSON RIDDLE: Those opposed, nay.

(No response.)

CHAIRPERSON RIDDLE: Okay. Unanimous, the ayes have it.

Next Goldie?
MS. COUGHLAN: Well, for the Board members present, I'm not sure if we want to do it this way at this time, but I guess we will. Just ask for the Board's approval -- approval or review? Probably more review at this point -- of the executive minutes that are currently in the book through July, executive minutes. We don't normally take those up at meetings.

CHAIRPERSON RIDDLE: Right.

MS. COUGHLAN: And these also include the minutes that were taken in my absence by Katherine, and then there had been a long hiatus because of Katherine's unfortunate absence via a fall on the ice. So those are all completed.

How shall we?

CHAIRPERSON RIDDLE: Yeah. Well, during our executive call we talked about this, and the November minutes and then the June and July have now been approved by the Executive Committee, and we discussed having the executive vote at this time for the record, and that way we don't have to come back to it since they're in front of us. So --

MS. COUGHLAN: So I would ask if anybody
would like to move for --

CHAIRPERSON RIDDLE: You can make the motion.

MS. CAROE: For each individual?

CHAIRPERSON RIDDLE: Yeah, individually, just to be clear in the record.

MS. COUGHLAN: Okay.

CHAIRPERSON RIDDLE: So I would entertain a motion to approve the November 2004 minutes if someone would so move.

MS. COUGHLAN: I would move.

MS. OSTIGUY: Second.

CHAIRPERSON RIDDLE: Goldie moves, Nancy seconds, and this is an Executive Committee vote. So if you're not on the Executive, you don't need to vote now.

So all Executive Committee members in favor of approving the November '04 minutes say aye.

(Chorus of ayes.)

CHAIRPERSON RIDDLE: And those opposed?

(No response.)

CHAIRPERSON RIDDLE: Okay. Thank you.
And June 2005?

MS. COUGHLAN: So moved.

MS. OSTIGUY: Second.

CHAIRPERSON RIDDLE: Okay. Goldie moves; Nancy seconds, approve the June '05 Executive minutes. All Executive members in favor say aye.

(Chorus of ayes.)

CHAIRPERSON RIDDLE: Opposed.

(No response.)

CHAIRPERSON RIDDLE: All right.

MS. COUGHLAN: And July 11th --

CHAIRPERSON RIDDLE: Fourteenth.

MS. COUGHLAN: -- July 14th minutes.

CHAIRPERSON RIDDLE: You move?

MS. COUGHLAN: I move.

MS. OSTIGUY: Second.

CHAIRPERSON RIDDLE: Okay. Goldie moves and Nancy seconds to approve the July 14th, '05 Executive minutes. All Executive Committee members in favor say aye.

(Chorus of ayes.)

CHAIRPERSON RIDDLE: Those opposed?
(No response.)

CHAIRPERSON RIDDLE: All right. Thank you.

We're up to date, and, Katherine, are those now all on the Website as well?

MS. BENHAM: Except for July 14th.

CHAIRPERSON RIDDLE: Yeah, except for the July ones. Okay. So the others are on the Website for members of the public to review as well, and then the July ones will show up as final minutes now.

Thanks so much for helping us catch those.

Okay. Well, we're actually a little ahead of schedule. The next item on the agenda is the HOP report, including the response to our recommendations from the February-March meeting.

So, Barbara, are you ready got take over now?

MS. ROBINSON: Yeah. Mostly Keith will follow up behind me. I just have a couple of things. The job announcement for the Executive Director has gone to Personnel. So as I've explained to you before, I kind of lose control of the process once it
goes to the Personnel people. It gets into their
hands and their process. So as soon as they classify
it and, you know, announce it and they'll let me know
that, we'll post it on the Website for 30 days, all
sources, and let you know that.

And we have moved all of the docket
materials that were in our offices. Those have all
moved and are on their way to the Federal Register, if
not already published.

And we are beginning work now to prepare
to comply with the court order on the lawsuit, and
I'll turn it over to Keith to address the March NOSB
recommendations.

MR. JONES: Thank you.

What I'll do is go through the March
recommendations. By our count there were 14
recommendations that we were asked to respond to.
I'll go through those.

The first recommendation was for the
development of a standardized compliance certificate
and Web based issuance system. Our response is that
the NOP concurs and agrees to develop and implement a
standardized certificate of compliance to engage in notice and comment rulemaking to amend 7 CFR 205.400(b)(3), and to continue development of a Web based system for the issuance, confirmation, storage and retrieval of certificates of compliance.

Recommendation No. 2 regards the amending of 7 CFR 205.301, Paragraph C, to prohibit organic and nonorganic forms of the same ingredient and multi-ingredient products labeled as made with organic. The NOP concurs with the recommendation and agrees to engage in notice and comment rulemaking on the issue.

Recommendation No. 3 is to amend 7 CFR 205.601(b), to add ferric phosphate. The National Organic Program submitted a proposed rule amending this section for departmental clearance, and it was submitted on August 4th, 2005.

Recommendation 4 dealt with recommending changes to the natural resource section of the ATTRA organic farm plan template. There's actually no NOP response that's needed on that because the Board action is directed to a non-USDA agency.

Recommendation No. 5, the use of boxes
coated with a synthetic wax to pack, store, or transport organic produce. That recommendation is currently under review at OGC for a response.

Recommendation No. 6, the status of albumen in wine making. The recommendation was that albumen must be petitioned. NOP concurs and informed the questioner about this particular issue on May 2nd, 2005.

Recommendation No. 7 dealt with the status of bitter orange under the petition process. The recommendation was that bitter orange must be petitioned, and the NOP concurs.

Recommendation No. 8, the use of calcium carbonate as a livestock feed supplement. The recommendation was that mined calcium carbonate be considered as a nonsynthetic substance allowed for use as a feed supplement or additive and recommends that calcium carbonate not be considered as an agricultural product able to carry the term "organic." The NOP concurs, and the NOP informed the questioner on May 4th, 2005.

Recommendation No. 9 was the use of
proteinated and chelated materials as additives in livestock feed. There was a recommendation that these substances be considered as synthetic feed additives and supplements, and that those proteinated and chelated materials that were listed by AAFCO be allowed, except those products that were products of excluded methods or slaughter byproducts.

NOP concurs with that, and the NOP will publish guidance on this issue in accordance with NOP's good guidance practices.

Recommendation No. 10 dealt with changes to the regulatory language at 7 CFR 205.603, Paragraph D(1), recommends an extension of the expiration date for synthetic methionine to October 21st, 2008.

The response is that the National Organic Program published on July 29th, 2005, proposed rule extending the expiration date of synthetic methionine.

The comment period for this rulemaking actually closed today, August 21st, 2005, or August 15th, 2005.

Pardon me.

Recommendation 11 deals with suggested regulatory changes to 7 CFR 205.239(a)(1) or (a)(1),
It recommended changes to the language by striking "stage of production" and adding the phrase "stage of life," and making that change consistent and also Paragraph (b)(2).

It also recommended amending 7 CFR 205.239(a)(2) by striking the phrase "access to pasture for ruminants" and replacing with the phrase "grazing pasture during the pasture's normal growing season."

We're returning this recommendation to the NOSB due to a lack of clear and concise regulatory objective and would ask that the NOSB continue to work on this matter, and we're happy to engage in consultation on the subject.

Recommendation No. 12, Board policy manual revisions. The materials review process, the recommendation was that the -- to insert revision in the Board policy manual. There's no NOP response required. This recommendation just addresses standard operating procedures used by the National Organic Standards Board.

Recommendation No. 13 also dealt with the
Board policy manual, additions regarding review of substances subject to sunset review, recommended additions to the Board policy manual. Again, there's no NOP action required. The recommendation only addresses the standard operating procedures used by the National Organic Standards Board.

Recommendation 14 dealt with the status of livestock medications when use is recommenced by the NOSB or inconsistent with FDA approved uses. The recommendation dealt with encouraging the NOP to pursue further can are you at higher level of USDA and FDA recommend that USD investigate FDA recognition of minor species use categories for organic livestock, medications, and recommended that the NOP review all recommended materials more correctly placed in categories consistent with FDA regulation.

Our response is that the FDA center for veterinary very forward and CVM have explored as an expedient option, limiting the use of these substances to a licensed veterinarian. The NOP and FDA CVM continues to seek a workable solution to this issue within the Agency's respective statutory and
regulatory constraints.

Thank you.

CHAIRPERSON RIDDLE: Okay. Any further comments? If not, any questions from Board members? Discussion?

MR. SIEMON: Well, that's the first I've heard about the livestock. So I guess you said we'll just compare on that? It's not on our agenda now, and like another phone call? What's the process?

MR. JONES: Yeah, the process will be that we'll inform the Board with our concerns with a recommendation. Our primary concern with the recommendation is the lack of regulatory objective. It doesn't really say what it tries to accomplish.

We also have some concern with the languages as proposed, and so we think it's appropriate to have an extensive consultation on this entire issue.

MR. SIEMON: So that would just be back on our work plan.

MR. JONES: It will, yes.

CHAIRPERSON RIDDLE: Any other comments,
discussion?

(No response.)

CHAIRPERSON RIDDLE: All right. Hearing none, seeing none, it's not even 11 o'clock yet.

(Laughter.)

CHAIRPERSON RIDDLE: Now it's time for the NOP report. No.

Well, are there any suggestions? The next item on our agenda is public comment, which is scheduled and was advertised in the Federal Register as beginning at 1:00 p.m.

Yes, Hugh.

MR. KARREMAN: Is it okay to also ask about the FDA CVM?

CHAIRPERSON RIDDLE: Sure. Any of those topics.

MR. KARREMAN: Yeah, I'm kind of curious about that. Where does it look like it's going as far as the FDA CVM views on the troubled substances that were categorized perhaps inappropriately?

MR. JONES: Yeah, we continue to have very intense conversations with CVM on that issue. One of
the things that has come up, Hugh, and I'm going to let Arthur talk more of the details about it.

There has been this notion of where we run into problems where we've got this inconsistent use dilemma, perhaps one solution and CVM hasn't said it's a solution yet, but as I understand, they are entertaining it, where these substances would be used or could only be used by a licensed veterinarian, where a valid client-patient relationship exists.

I think from the prevalence perspective, that seems to be a workable solution. It may not get the Board where it wants to go entirely, but there's some pretty serious statutory and regulatory concerns here that have to be addressed from CVM, and I think the Board needs to recognize that CVM has really bent over backwards in terms of recognizing your dilemma, what you're trying to do, and they're really been pretty creative in my estimation of trying to think outside the box.

I'll let Art talk about it in more detail though.

MR. NEAL: For the most part what Keith
has stated is exactly what has happened. If I understand you correctly, there were six that were really problematic.

MR. KARREMAN: There were six that were not NADAs, and I think there were six others that were just over-the-counter, which were actually more problematic than the NADAs.

MR. NEAL: Right.

MR. KARREMAN: Could you say what the NADAs are versus the over-the-counters?

MR. NEAL: We have drafted the proposed rule for all of the livestock materials. That proposed rule is now undergoing OGC review for submission to the Federal Register. The six that had no NADA, we are in consultation with FDA concerning regulatory discretion.

Now, there's no guarantee that we're going to be granted regulatory discretion for those, but we're exploring all options with CVM. This is at right beneath the center director's level. So we're in active conversation with them concerning these materials, and what Keith has said is they do
understand the dilemma that we're faced with because some of these veterinarians that work on that staff have also worked on organic forms.

So they're aware of the dilemma, and we're in consultation about how to best resolve the issue. If those substances are not resolved concerning their use by the time the proposed rule hits the street, just understand that we'll still be working on it.

MR. KARREMAN: And then what about the NADAs themselves?

MR. NEAL: Everything is pretty much accounted for in the proposed rule, and we're looking at what Keith said earlier, licensed veterinarian use only, which is pretty much how FDA has its regulations set up for off-label use. It took a lot of research for us to do it, but we've got that done.

There's one snag, and that's moxidectin. Moxidectin by structure is an antibiotic. It's function is parasiticide, but the Board had NOP respond that no antibiotics could be used in livestock production. This is something that we've addressed in the proposed rule that the Board will have to consider
evaluating, this overall ban on antibiotics.

And Ibermectin also is an antibiotic.

CHAIRPERSON RIDDLE: I have a question just to make sure I'm clear. When you said something about, you know, as a required licensed veterinarian, that would be an annotation to a substance?

MR. NEAL: Yes. The way that you recommended many of the substances will not look the same way when you see it in a proposed rule, and that's why we've got a public comment period for that. So we won't engage in any dialogue about the proposed rule.

CHAIRPERSON RIDDLE: Right.

MR. NEAL: When you see it, then you talk back to or through the proposed rulemaking system.

CHAIRPERSON RIDDLE: And that has moved forward as proposed.

MR. NEAL: For clearance.

CHAIRPERSON RIDDLE: So that should be coming out in a couple of weeks.

MR. NEAL: As soon as OGC clears it.

CHAIRPERSON RIDDLE: Oh, right.
MR. NEAL: And if they don't have any more suggested changes, it normally takes about one to two weeks for it to get in the register. So we can't give you an affirmative time, but it's on its way out.

CHAIRPERSON RIDDLE: Okay. Well, I'm glad I asked because I misunderstood. I thought it had moved to the register, but, no, it's to the final OGC clearance.

MR. NEAL: For movement to the register.

CHAIRPERSON RIDDLE: Yes. So what I'm hearing, and I think it's really important for the Livestock Committee to take note is that those annotations will be different than what we originally recommended, and we'll certainly be looking for a close review by the Livestock Committee of that language, and if it is consistent with our original intent or if our intent needs to change, but if we can live with that, we should be prepared to submit our comments on those annotations because previously they would not have received NOSB input. There would be some new language from what we originally proposed.

So I think to make the circle complete we
certainly need to submit some comments, whether we agree or disagree, whatever.

MR. KARREMAN: If it comes out on the Federal Register and we want to comment on that, they are though in the Federal Register, and they would be allowed to be used under what is stated or would it --

CHAIRPERSON RIDDLE: No, this would be as a proposed rule. So they wouldn't be allowed yet.

MR. KARREMAN: Okay.

CHAIRPERSON RIDDLE: And it most likely would happen between meetings. So we wouldn't be able to wait until we have a full in-person meeting. So that's why the Livestock Committee would be charged with drafting the comments that then can be reviewed by the Executive and may need to take the form as a letter, you know, from the Chair and the Livestock Committee Chair to submit to the program since it wouldn't be able to come up in a full Board meeting as a Board recommendation.

Sound like a plan?

(No response.)

CHAIRPERSON RIDDLE: Okay. Any other
topics that you may not be clear about or have any follow-up?

(No response.)

CHAIRPERSON RIDDLE: Well, hearing none, I just wanted to say how much I appreciate this process, and I think it certainly sets an excellent precedent. I know it's a bit tedious, but there have been concerns in the past that we submit recommendations and then don't know what happens to them, and this really gives us a good sense of which ones you concur and accept, which ones you're going to move to some proposed rulemaking, and which ones need further work by the committees of the Board. So I really appreciate this process.

MR. NEAL: You're welcome.

MR. DAVIS: I had a question.

CHAIRPERSON RIDDLE: Yes, Gerry.

MR. DAVIS: About from what I'm hearing on the past year recommendation, I forget what item number it was, but that's going to be deferred back to us to rethink it, which would realistically mean next spring for a meeting or is it something that's going
to go on in between meetings, I guess?

CHAIRPERSON RIDDLE: Well, the work will happen between meetings. Certainly I think, you know, as George asked that we need to have, you know, more details as far as what's lacking in our recommendation so that we know what to focus on in further work.

But then it's going to be up to the Livestock Committee, again, to take the lead between meetings with conference calls and E-mails to draft a recommendation working in collaborations with the program so that the revised recommendation is something that they can work with better.

MR. DAVIS: I guess my main question was a timeline.

CHAIRPERSON RIDDLE: Yeah.

MR. DAVIS: Being that the proposed possible fall meeting probably would not include this because we're trying to abbreviate it or--

CHAIRPERSON RIDDLE: Right. We still have to talk further about that, but the prime focus for the fall meeting will be the sunset. You know, certainly our members of the Board, and I'm one of
them, that would advocate if there are some topics
that we can address, you know, and that are well
prepared, that aren't big, new controversies, we don't
need any additional new controversies, but if there
are some things that we can take five minutes and just
resolve and move on, I'd certainly be in favor of
including those kind of items on the agenda. But this
may not be one of them.

MR. DAVIS: Yes, considering the response
we got from the last meeting, anything new that's
substantive at all we would expect a lot of public
comment and might influence what meeting we put it at.

CHAIRPERSON RIDDLE: Yeah. So I think we
just need to really look at our work plan, look at the
time frame and prioritize what can happen at the fall
meeting if there is a fall meeting, and then what
would have to happen at the first meeting next year,
which is going to really pile up.

MS. COUGHLAN: Well, Katherine, I'm
noticing that I don't know if this is representative,
but if it is, when we go into it -- there, how was it?

CHAIRPERSON RIDDLE: That's nice.
MS. COUGHLAN: I think Michael decided to put us in the dark.

CHAIRPERSON RIDDLE: Pete did, yeah.

MS. COUGHLAN: Or Pete.

(Laughter.)

MS. COUGHLAN: I'm wondering if we need to rethink the afternoon seating arrangement. I think there's seats for 60, did I count? And I don't know with public comment. Is it a fire reg?

MS. BENHAM: Right.

MS. COUGHLAN: Well, what do we do if we have that many more people this afternoon that want to be in? Require people to stand?

MS. BENHAM: (Speaking from an unmicked location.)

CHAIRPERSON RIDDLE: Well, there are a few empty seats. That's one thing.

MS. BENHAM: That's the other thing. People could like move closer to each other.

(Laughter.)

CHAIRPERSON RIDDLE: Or you can actually spread the chairs apart so that you have a little
elbow room.

MS. BENHAM: Exactly.

CHAIRPERSON RIDDLE: But we can't increase the numbers of chairs is what I'm hearing.

MS. BENHAM: Yeah, we still have seats available.

PARTICIPANT: Unlike church, don't be afraid to come up here.

MS. BENHAM: Right, exactly.

Unfortunately, Goldie, I don't think we can change rooms either.

CHAIRPERSON RIDDLE: So, Rose.

MS. KOENIG: Since we have received a lot of public comment this morning, I'd like to recess early since we have the time so that we can have a little more time to review that before the public comment section and also have an opportunity to find cheaper lunch sources if possible so that my food and my mental things can be satisfied.

CHAIRPERSON RIDDLE: All right.

MS. ROBINSON: As far as lunch is if you walk down --
MS. KOENIG: Yeah, I know, down that street.

CHAIRPERSON RIDDLE: Well, other people may not.

MS. ROBINSON: There's also -- Tony, where are you? -- L'Enfant Plaza down D Street. Maryland, there's a food court in there. There's also right here at Portals, there's a little Chinese place. Just walk through the Portals literally. There's a Chinese.

MS. COUGHLAN: What does that mean?

MS. ROBINSON: Through the Portals? You'll be transported. "Beam me up, Scottie," that kind of thing.

What's the best way to get to that, Tony?

CHAIRPERSON RIDDLE: Is that helpful?

MS. ROBINSON: Yeah, and you're going to walk back out to the corner and then walk down. Walk down going towards the waterfront, but literally you see the Portals building.

CHAIRPERSON RIDDLE: Oh, it's a building, Portals.
MS. ROBINSON: Yeah, yeah. Portals is a building.

MS. COUGHLAN: Oh, the one with all of the fake store fronts along the street.

MS. ROBINSON: Yeah, yeah, yeah, and you can walk through the Portals, and there’s a courtyard, and there’s a Chinese restaurant.

CHAIRPERSON RIDDLE: Okay.

MS. ROBINSON: If you keep walking down the others, there’s the waterfront and there are restaurants down there along the waterfront. There’s Jenny’s, which is a great Chinese place. Like I said, L’Enfant Plaza over on D Street, all kinds of places in there, too.

CHAIRPERSON RIDDLE: Okay. So before we recess here, I’d like to be clear on what committees want to meet during this recess.

MR. SIEMON: Livestock Committee would like to meet.

CHAIRPERSON RIDDLE: Livestock Committee would like to meet.

MR. SIEMON: And maybe, Keith, we could
CHAIRPERSON RIDDLE: Yes, between this afternoon's break and dinner, let's try and have a Policy Committee.

Okay. So far all I'm hear is Livestock would like to meet now. Any other committee?

(No response.)

CHAIRPERSON RIDDLE: So those on Livestock hang with George, and we'll figure out a plan.

Yes, Barbara.

MS. ROBINSON: Jim, to make sure you are on time this afternoon because we typically run into this problem, can we insist that we all be back here at 12:45 so that we really do get --

PARTICIPANT: -- USDA update.

MS. ROBINSON: You already got the USDA update.

CHAIRPERSON RIDDLE: Yes. We got ahead of schedule. I apologize.

PARTICIPANT: -- published schedule. We have dairy farmers come from all over the country to hear the NOP report, and we got here at 11, and we
missed it. So I'm wondering if you would be kind enough to have maybe Ms. Robinson or someone summarize the particular response.

CHAIRPERSON RIDDLE: Well, I'll just respond to that.

We convened the meeting at 10:30, called to order, and, yes, it's surprising, but we got ahead of schedule. But the agenda is approximate, except for when we convene. We stick to that, and when we start public comment. Otherwise things do flex with time.

I apologize, but the bulk of the NOP update was a line-by-line response to each of the 14 recommendations that the Board made. I can't go through those again, but that was the bulk of the report.

And we can talk off line about the content of those.

PARTICIPANT: Well, in deference to the many people who traveled as far as from California, people who were interested in that issue, could you at least repeat so you don't have to do it 15 times for
each one of us?

CHAIRPERSON RIDDLE: Well, in particular, for the dairy producers, on those issues I will summarize that on the state of life and pasture rule change recommendations that we adopted at the last meeting, we were informed that those are being sent back to the Board for further work; that they did not contain adequate justification for why they needed to be rule changes.

So we need to do further work to give them some further information.

And then is that sufficient or, Keith, do you have something to add?

MR. JONES: The reason that that recommendation was coming back to the Board is a lack of a clear regulatory objective and the fact that we believe that the proposed language as written, as given to us, contains a number of ambiguities. Because this issue is of very high importance we want to make sure that the Board and the department are on the same page, one, in terms of exactly what your intent is, in other words, what's the problem that
you're really trying to fix; how you intend to fix
that in a way that provides clarity and concreteness
so that when we do, if that's the course that's taken,
go out for the proposed rulemaking, we're not
confronted with a proposal that is ambiguous at best.

And so that's really what it's designed to
do, and as we said, we're happy to engage in
consultation with the Board to resolve those issues,
to look at the concerns that we have so that the
Board's desires can be fulfilled.

CHAIRPERSON RIDDLE: Okay, all right. So
any other comments?

And Barbara's suggestion, I think, is a
really good one, that we be back at a quarter till
one, 12:45, and we will start public comment at 1:00
p.m.

So I don't have a list yet to know who's
up, but it's out front. So if you submitted your name
by E-mail or by phone call, you would be towards the
top of the list. So you might check that to make sure
you're here when your name is called. Otherwise
you'll roll over and be placed at the end of the list.
MS. COUGHLAN: Is the room to be secured as we exit?

CHAIRPERSON RIDDLE: Okay. As far as laptops and things?

MS. COUGHLAN: Right.

CHAIRPERSON RIDDLE: Does anyone know if it's going to be locked up?

PARTICIPANT: We will lock it.

CHAIRPERSON RIDDLE: It will be locked.

Okay, all right. So I have 11:18. So we will recess, and the Livestock Committee will meet, and we will be back here by quarter till, and we will definitely reconvene at 1:00 p.m. for public comment.

Thank you.

(Whereupon, at 11:20 a.m., the meeting was recessed for lunch, to reconvene at 1:00 p.m., the same day.)
AFTERNOON SESSION

(1:01 p.m.)

CHAIRPERSON RIDDLE: I'd like to reconvene here and thank everyone for being prompt.

We'll be starting with public comment, and I'll read off the first two people on the line, and then I will read through the kind of rules and procedures.

So as a warning, first up will be Kelly Shea and then Debra Claire on deck. So you can prepare yourselves.

The Board does have policy for public comment at meetings, and I'll just read through the seven simple steps, and that is all persons wishing to comment must sign up in advance, and the sign-up is still out in back. If you haven't signed up yet, you still can.

Persons will be called upon to speak in the order they sign up, and like I said earlier, if you missed your chance, you'll be moved to the end, and we'll ask again when we get to the end if there's anyone who had not been here when their name was
called.

And each person will be given five minutes to speak. Persons must give their names and affiliations for the record. The recorder has asked that if your name is somewhat difficult to spell, if you might spell that so that he can make sure to get that accurate in the record.

You may submit a written proxy to the NOP or NOSB requesting that another person speak on your behalf. No person will be allowed to speak during the public comment period for more than ten minutes. So you can carry one proxy, speak for yourself and on behalf of one other person, but no more than that.

And anyone providing public comment will refrain from any personal attacks or remarks that otherwise impugn on the character of any individual or company. So please keep your remarks focused. We certainly don't mind passion, but let's refrain from making any personal attacks.

Oh, yes, and Goldie will be timekeeper on your five minutes, and she'll hold up a sign giving you a one minute warning when four minutes have
expired, but if you don't happen to see the sign, that's not her problem. The clock continues to tick, and when five minutes is up, I'll ask you to conclude your remarks.

If you're in the middle of a sentence, conclude your thoughts, but then there is a possibility of Board members asking follow-up questions after your comments as well.

So everyone clear? Yes, Katherine.

MS. BENHAM: If they have written comments, make sure that I get a copy of it, please, and if they could pass it on down to the Board members. So make sure I get a copy of your comments, please.

CHAIRPERSON RIDDLE: Yes. The most important copy is to go to Katherine and to share with members of the Board, but make sure Katherine gets a copy.

MS. BENHAM: Yes. Thank you.

CHAIRPERSON RIDDLE: All right. With that, Kelly Shea.

MS. SHEA: Okay. Good morning. Thank you
for the opportunity to speak with you today.

I know it's going to be a really busy day.

So I promise to be quick and not use my full allotment of time.

My name is Kelly Shea, Director of Government and Industry Relations for White Wave Foods. Horizon Organic, which is now part of the White Wave Foods family, has been a leader in the organic dairy movement since its inception nearly 15 years ago.

As the first national organic milk brand, we're proud to have helped create today's growing organic dairy marketplace, as well as the standards that govern our industry practices and the seal that now differentiates organic dairy products from others.

Our strict and unwavering adherence to the best practices of the organic movement is a cherished part of our heritage. Organic is all we do at Horizon Organic. It's all we've ever done.

All of us who work at Horizon Organic are passionate about bringing healthful organic products to more American lunch boxes and dinner tables and
doing it in a way that respects the land, the animals, and the resources they provide us.

We know this mission is shared by the entire organic community. We believe the guidance on pasture that you will consider tomorrow will help further our common efforts by providing welcome certainty for farmers, dairy companies, and consumers.

So on behalf of Horizon Organic Dairy, I would like to publicly reiterate our full and unequivocal support of grazing guidelines and take this opportunity to thank you for helping the organic dairy industry achieve consensus on such an important facet of organic dairy production.

It's an exciting time for organic agriculture, and we're proud to be part of such a dynamic industry. It's also an important time. Now more than ever what matters is that we stand together in defense of our shared values and our common support for strong organic standards.

We're encouraged by the industry consensus reached on pasture, and we hope to see this sort of constructive dialogue occur with other challenges we
will undoubtedly face as an industry.

On that final note, Horizon Organic would encourage the USDA to move as quickly as possible to publish a Federal Register notice on the rule change that closes the lactation as stage of production loophole. We fully support this rule change and want all organic farmers, including those in the process of transitioning to organic to have certainty versus ambiguity wherever possible.

Thank you very much.

CHAIRPERSON RIDDLE: Thanks, Kelly.

Next up, Debra Claire and on deck, Lynn Betz.

Debra Claire.

(No response.)

MS. COUGHLAN: Okay. Lynn Betz, and next up is Tom Betz.

MS. BETZ: We would like permission to share our cumulative ten-minute time frame. We're back to back, if that is acceptable.

CHAIRPERSON RIDDLE: Sure.

MS. BETZ: Okay. Thank you.
CHAIRPERSON RIDDLE: And then on deck would be Mark Kastel. Thanks.

MS. BETZ: Thank you.

I'm Lynn Betz, co-founder and president of Sensibility Soaps, since 1996, a manufacturer of natural and organic bath, body and skin care products.

We have come here to request that the Board consider and take action on the decision of the USDA to prohibit the use of the USDA seal on the labels of personal care products.

In a May 2002 policy statement on the scope of the NOP, the USDA made clear that producers of non-food products, such as personal care, containing agricultural ingredients, quote, are eligible to seek certification under the NOP, end quote.

Based upon and relying upon this policy statement, our company achieved organic certification as a processor in July of 2003 along with other producers of personal care products. We invested in sourcing and formulating with NOP certified organic ingredients, adhered to the food standards, sought and
obtained certification for products under the NOP, thereby allowing our company to label and market our products as certified organic under the NOP.

Certifying agencies such as Pennsylvania Certified Organic understood the policy statement and authorized such certification.

In April 2004, the USDA issues a guidance statement reversing this position indicating that producers of personal care products would not be eligible to seek certification. A month later, however, that guidance statement was ordered rescinded by then Secretary of Agriculture Ann Veneman.

Then in April of 2005, the USDA issued an informal response to a statement of the National Organic Standards Board, and in that response indicated again that personal care products are not eligible to be labeled in accordance with NOP.

In the April 2005 statement, the USDA indicated that personal care products cannot display USDA seal and labels. As a result, we've been informed that continued use of our labeling would result in USDA enforcement action, including the
imposition of civil penalties.

The newest USDA pronouncement contradicts the foundational 2002 USDA NOP policy that invited personal care companies to invest in certifying NOP qualified products. Our company relied upon that statement and spent considerable time, money and effort to develop 21 different personal care products which were approved by Pennsylvania Certified Organic as meeting the NOP food standards.

Our labels carry the USDA seal and are 95 to 100 percent certified organic.

Our product line is called Nourish, food for your healthy skin, and that line was launched late last year. This decision has had a significant negative impact upon our business. Most retailers will not buy the brand fearing that the products will have to be pulled from the shelves. Our real and potential losses are significant.

In good faith, our company sought and achieved certification as an organic processor early on in 2003. We were successful in getting those 21 products certified under the NOP current food
standards in the fall of 2004.

The scope of the NOP included personal care, and we did what was required. And as we all know, compliance is not easy.

We are proud to have meet this challenge of formulating personal care products, and we proved that it could be done. I understand that there are groups who are working on standards for personal care. However, we're advocating that instead of replacing those standards or adding to them, if the food standards can be met, why can't we use the USDA seal.

It's the only credible way for consumers to truly distinguish organic from the misleadingly branded labeled "organic personal care products." To offer consumers the purest organic products should be encouraged and not prohibited. These products should carry a seal that consumers trust.

If the result of this issue boils down to a matter of jurisdiction, I would like to think that the USDA and FDA can work together in supporting businesses, such as ours who sought to do the right thing and now face punitive measures as a result of
following the rules.

The support of the original scope will ultimately serve consumers in seeking legitimate organic alternatives. Please make a decision to support personal care products which have demonstrated compliance with the current food standards so that we can again proudly carry the USDA seal.

Thank you.

MR. BETZ: I am Tom Betz, co-founder and vice president of Sensibility Soaps.

We invested a substantial amount of time and expense getting certified as an organic processor. We invested a substantial amount of time and expense developing an organic line of bath and body care products.

We have lost several potentially large amounts of business due to the recent ruling that would prohibit us from displaying the USDA seal on our labels.

What is the difference if we apply organic olive oil to a salad and from the same drum include this oil with other certified organic food ingredients
into a bath and body care formula? Don't we owe it to the consumer to have the same faith and truth in both products by displaying the trust and integrity guaranteed by the USDA's seal?

We were the first company in the USA to develop 21 organically certified bath and body care SKUs made from food ingredients as certified by the USDA. Why is this different from consumable food products made from the same certified list of organic food ingredients?

A large number of consumers depend on accurate food labeling, and in particular, those items displaying the USDA seal. Without the strength, an end-user trust of the USDA seal, much opportunity exists for companies to stretch the interpretation of the law by listing on their bath and body care products labels, such statements as "made with some 100 percent organic ingredients," clever looking pseudo seals to persuade that customers that the product has some regulatory strength behind it.

We are not using USDA certification as a marketing trick like competitors who claim organic but
are not certified. We are committed to it. It is confusing and misleading to the consumers when companies state 90 percent organic and their labels include ingredients which are chemicals and synthetics.

It undermines the good work in the food industry by allowing a double standard in defining organic. The seal is consumers’ only insurance of integrity and is not that what the NOP is all about?

We are following all of the existing guidelines. We are supporting farmers with our purchase of agreements. We are helping to reinforce organic lifestyles as mainstream. We are promoting USDA and PCO and the work they do on our labels. We respect USDA guidelines by not lobbying for looser regulations, unlike competitors.

Doesn’t the U.S consumer deserve truly organic skin care products when a company has found a way to make them consistent with food processing?

We have raised the standard for skin care products and needs the support of the USDA. It does not conflict with the role the FDA plays. It is
separate for it deals only with organic integrity.

Thank you.


MS. JAMES: Have you also lobbied with the FDA or is most of your lobbying just done here at the SBA?

MS. BETZ: We have not lobbied with the FDA. We’ve talked with the FDA, but not lobbied perse.

MS. JAMES: Have you considered?

MS. BETZ: I don’t know where the problem exists. I guess that’s the bigger issue. I don’t understand what it is, you know, why the decision was made. So I guess it would be important to move forward to understand that before we could decide on another appropriate plan of action, and I don’t know if anyone could shed any light on that here or not because that would be very helpful.

CHAIRPERSON RIDDLE: I can’t shed light on, you know, the NOP’s position, but just to inform you, it’s currently not on the work plan of any committee. I appreciate you coming again to reinforce
the need for the Board and the program to resolve this issue.

I know that's not very satisfying.

Andrea?

MA. CAROE: One, I just want to make sure you understand that -- and this is my understanding -- that you can still have your product certified organic and you can still label it as organic. You just are not allowed to use USDA symbol. Certifiers are free to certify organic body care products.

So you can continue to make that claim, and to my understanding the issue is in that this is a labeling law for agricultural products and that personal care products like yours fall under the jurisdiction of the FDA and not this area.

So, you know, it's a matter of the scope of labeling. This is about a marketing claim and the definition of that marketing claim so that the consumers have a consistent understanding of that, but within the realm of these products.

You know, if any other Board members want to shed some light, that's exactly where I see the
issue is for you. It's not that this Board considers those products less organic than food. It's a matter of, you know, within the regulatory arena, you know, how far can we go. How far can the program go?

MS. BETZ: I guess then it would boil down to an agreement with the FDA which, you know, I don't understand why if it does boil down to that that couldn't happen, you know, between the USDA and the FDA. Because I'm sure there are other examples of where government agencies work together to support initiatives, as well as businesses, to make things happen instead of stifling those things from happening.

I am aware that we can market our products accordingly. I'm also aware that when you look at the landscape of personal care products out there and the claims of organic, that there's nothing that would differentiate products that are truly made according to that, those standards, from other products.

You know, we can say all that we can. A seal was a very powerful, powerful way of determining that a company has, indeed, met a level of standard
that's higher than other companies could meet.

MS. CAROE: Jim, can I address that?

CHAIRPERSON RIDDLE: Yes, Andrea.

MS. CAROE: I just want to say that before this regulation was implemented, organic was out there on the marketplace and the organic certifier seals meant something for those products, and I think that your industry is where the food industry was not too long ago, and if you persevere, I mean, I think you might end up where you want to go, but at this point you do have the option of labeling your product and your certifier seal means something in the marketplace and, you know, with more products will mean more.

So I would suggest that, you know, don't lose heart over it. I think your products are valuable, and I think the consumers understand the value in those products, and we did see in food that there was recognition of those certifiers, and I would venture to guess that the certifier seal will still be recognized with your products now.

CHAIRPERSON RIDDLE: Thank you.

Okay. We have Mark Kastel and Tony
Azevedo on deck.

MR. KASTEL: Good afternoon. My name is Mark Kastel, K-a-s-t-e-l. I'm here today representing the Cornucopia Institute based in Cornucopia, Wisconsin.

I also have a proxy in my possession from Mr. Maury Johnson, one of our Board members who operates the largest certified organic seed production business for agronomic crops, Blue River Hybrids, based in Seward, Nebraska. That's formerly NC+ Organics.

I'd like to divide my time, my presentation today into two sections. The first will address our read on the sediments of the nation's organic dairy producers regarding the pasture debate, and I will briefly discuss the draft pasture guidance and some of the minor language changes supported by a broad coalition in the organic farming community.

First, let me talk about the survey we did of organic dairy producers in the country, which we shared with the Board. I hope you all received a copy of that during the formal comment period. And at this
time I want to kind of update you on some of the results. We've had a little more time to process that.

What prompted us to do that survey was concerns articulated by some that the requirement for a 30 percent minimum dry matter intake from pasture and a minimum of a 120 days would be onerous or impossible for some dairy farmers to meet.

What we did was we went out a survey to approximately 550 farmers throughout the country, which probably represents upwards of 50 percent of the organic dairy producers, at least certainly 50 percent of last year's numbers. We received 30 percent back, which in any survey is just a phenomenal response, but I want to emphasize that this happened during that public comment period, was done during spring planting and the first cutting of hay in most dairy regions. So to have 30 percent of farmers take their time to respond was really impressive.

Over 20 percent of our respondents were located west of the Mississippi River. We've made a real effort to make sure that we encourage
participation from dairy farmers out west because some of those regions are the ones under question.

And the results: 85 percent of producers supported the draft pasture guidance without qualification. Another 7.2 percent of producers who responded said that they supported the document and it would require them to make some operational changes on their farms. That's a combined 92.2 percent of dairy farmers that supported the document and felt they would not have any material problem in meeting the spirit and language of the document.

Three, point, six percent of the respondents indicated that they supported the guidance document, but would have some challenge that they felt would prevent them from complying, although I want to say that not all of them totally understood because they included, as an example, a farmer with 110 cows providing 98 acres of pasture for cattle over six months of age.

And there were one percent of farmers -- I'm sorry. Within that same small percentage of farmers, there were at least one example which I
illustrated in my previous commentary of a 25-cow operation in Maine with no pasture, and the explanation was all the pasture on our farm is on neighboring farms away from the milking operation.

And I'm not sure who certified that farmer, but our law is scale neutral, and there's nothing really more acceptable about a 25-cow herd that's not in compliance vis-a-vis no pasture than a 2,500-cow herd in the West with no pasture.

So finally, there were one percent of farmers that were just outright opposed to this language. They didn't want specific numbers or they didn't want additional regulations by the federal government, but really an overwhelming statement.

And I want to emphasize the document that we prepared and distributed was objective and unbiased in manner. We take our role as a foreign policy research group seriously. Our presentation was balanced. Given the arguments for and against adopting the guidance -- is that my five minutes, Goldie? Yeah. Thank you -- it was devoid of any advocacy on either side and if you recall, we included
the survey itself in our initial comments.

Now, if you'll allow me to switch hats, once the Cornucopia Institute was convinced that the vast majority of dairy producers support tough judicious enforcement of the pasture regulations we made an effort to give dairy farmers around the country the opportunity to chime in. I'm going to present to you today over 300 proxies that have come in almost exclusively from organic dairy farmers. So this is a very large percentage of the farmers in the country represented, a super majority, and they support this tough pasture items, and they're really articulating their support for the other farmers who have made the effort to come here today.

I also have about 400 petitions that were distributed by the nation's food co-ops and a staff petition that were submitted by all of the food co-ops in central Minnesota. We didn't solicit folks for these. This is a hot button issue that people can really relate to, both consumers and dairy producers. This is the spirit of what organics is all about.

And then I do want to distribute to the
Board, if I may a sign-on letter, signed by dozens of the most prestigious -- that's different than the original, I hope -- it's not. Okay. I'll get that to distribute. Sorry.

It's signed on by many of the leading agricultural sustainable ag. groups in the United States, consumer groups in the United States, and again, a number of food cooperatives, backing the draft plan with some very minor language changes that were presented to the organic community by a coalition of the Northeast Organic Dairy Producers Alliance, the Midwest Organic Dairy Producers Association, and the Cornucopia Institute.

And the language proposes changing not the substance, but just a number of small potential loopholes. As unfortunate as it is, the entire process is about closing loopholes that a very small minority of producers are exploiting. We want to make sure that we have a good approach here. I'm just going to highlight the two that have a little bit more than a language change, if I will. And I will distribute those to the Board. I'm really sorry.
The language was added, quote, significant portion of total feed. This describes the goal of the organic system plan as it was supported by the full Board in its October 17th, 2001 pasture recommendation. So we're going back to your original language.

And in reference to the 120-day minimum, language was added to qualify that at a per year, and that was added for time frame clarity without this clarification in areas with a long or continuous growing season. The minimum grazing time might be applied to an interval longer than one year.

So I will close at this point, thanking the Board for your efforts during this past six or eight months in deliberating this, and I also will further elaborate during my comments on Wednesday morning. The dairy community as it's represented here today very, very disappointed in the delay which could be at least a year in effecting a rule change. To suggest that the language was ambiguous or a lack of intent, there is plenty of language dating back to the June 2000 NSOB -- sorry. It's an occupational hazard.
I hate acronyms.

(Laughter.)

MR. KASTEL: -- dating back to the National Organic Standards Board meeting in 2000 and the 2001 recommendations, made it very, very clear that the intent of requiring pastures is to, quote: “the intent to require access to pastures to ruminants is to insure an organic production system that provides living conditions that allow animals to satisfy their natural behavioral patterns, et cetera. There is great documentary evidence that supports the position of this Board, and again, I will comment further and I will give my time at this point unless there are questions.

CHAIRPERSON RIDDLE: There is no time left.

MR. KASTEL: Okay.

CHAIRPERSON RIDDLE: Thank you, Mark.

MS. COUGHLAN: Good timing actually.

MR. KASTEL: Okay. I will get you that copy and make sure you have the tweaks to your language.
CHAIRPERSON RIDDLE: Question, Nancy?

MR. KASTEL: While you're asking the question I'll look for my copy.

MS. OSTIGUY: About the survey, did you get any information on the size of operations that were responding?

MR. KASTEL: Yes. I did not tabulate those. We were mainly looking at their ratio of pasture to the number of cows they had that were over six months of age, and there was quite a range, and in some cases some of the farmers who said they had a problem I made it a point to personally interview them because I wanted to understand what problem they had.

In one case there is a dairy producer in the northeast that thought they couldn't achieve 30 percent, and we did the calculation together, and they were already feeding 40 percent.

In another case somebody milking 120 to 150 cows, in essence, voted against the guidance document, and when I interviewed him, he said, "Well, we have no problem making it now. I'm worried about growth."
And obviously there are constraints to the organic management system. Not every size farm based on their land mass can accommodate a pasture based operation.

MS. OSTIGUY: And I also did some calculations on the number of respondents because you did everything in percents.

MR. KASTEL: Yes.

MS. OSTIGUY: So out of the 550 -- and I want to make sure I just have the ballpark numbers correct -- out of the 550 individuals that you sent surveys to, 165 responded.

MR. KASTEL: That's approximately correct.

MS. OSTIGUY: And then approximately 33 were from the West.

MR. KASTEL: That's probably about right.

MS. OSTIGUY: Okay.

MR. KASTEL: But that is probably a disproportionately large percentage of those producers because the farms out West, you'll hear from at least one farmer out here today, and he could probably comment on the average size of both
conventional and organic operations are large.

I visited five, 600-cow operations. I know I'm from Wisconsin, and we have a lot of 40 and 50 and 60-cow organic herds.

MS. OSTIGUY: Well, that was actually part of the question, was did you in any way stratify to represent farm size so that you got a cross-section?

MR. KASTEL: We didn't. I can tell you what I really -- so this is anecdotal instead of statistical -- I scrutinized very carefully not the mass of the respondents, but just the ones who thought they were going to have a problem. None of those were large farms. The largest of those, I think, was maybe 150 cows and as small as the one that was 25 would have been the smallest of those.

They were pretty rank and file, and I don't believe -- most of them were in the Northeast and in the Midwest.

MS. OSTIGUY: And how did you originally select the 550?

MR. KASTEL: They were every farmer, every dairy farm that we had the capacity to identify, that
we had resources to mail to.

    Now, I should qualify that. There was one
certifier that did their own, and we skipped that one,
that one certifier. And you have the text, and if you
don't have it, I can supply you with a copy today, but
we really -- to be in all sincerity, the reason that
we did this is I work for dairy farmers, and I heard
some very good, compelling questions as to how this
would affect folks. We know how not doing anything is
going to affect folks. There's a perfect economic
model for that, and that's conventional agriculture
where the size of the farms and the production model
have switched to confinement, and it squeezed any
profit margin down far enough that it has forced
people off of the land.

    And there's no reason to believe that we
won't, in the supply-demand continuum, we won't end up
with more milk at some point than the market can
absorb, and then we have a downward spiral. So we
know what doing nothing will do. We at the Cornucopia
wanted to figure out exactly what the impact on
farmers would be of this rule, of this guidance.
But remember we're not changing the rule itself. Most all farmers understand perfectly that pasture is a key component of feed, and they're complying. We're just trying to clarify.

CHAIRPERSON RIDDLE: Thank you, Mark.

MR. KASTEL: Okay. Thank you very much for your efforts.

CHAIRPERSON RIDDLE: Hugh.

MR. KARREMAN: A question for you, Mark.

MR. KASTEL: Yes.

MR. KARREMAN: What do you think of let's say large operations in the West that could graze? If they had 1,000, 2,000 head, would that be okay?

MR. KASTEL: Well, the largest legitimate organic farm that I've been on is 600 cows, and I know there's a few folks with a couple hundred more than that. I haven't visited them myself. You would be hard pressed to call that maybe a family farm because there's a lot of hired labor, but incredibly beautiful pastures, well maintained, permanent water, irrigation for some. This was in Northern California. We have at least one 500-cow producer in Wisconsin, but we get
30 or 40 inches of rain there.

The largest grazer in Wisconsin has graded 800 to 1,200 cows, not certified organic, but definitely pasture based. The question is: are some people going to legitimately dairy organically with pasture or are they going to farm by press release because can you move logistically 2,000 cows to a milking facility and then out far enough to a fresh piece of pasture, a fresh paddock every day or so?

And that's really questionable. What's the upper limit? But you know, obviously we're open to scrutinizing that, and if people want to make the proper investment, but to suggest that where some of the farms are being investigated right now can somehow switch to a pasture system that is maybe four to five times the largest of any legitimately operating pasture based organic dairy right now and do it in an area of the country where all of the crops are produced with irrigation without a really wacky kind of investment; you know, we could probably produce pasture on the moon if we could get the shuttle to work again, but I'm not sure if it would be cost
effective.

CHAIRPERSON RIDDLE: Okay. Thanks.

MR. KASTEL: Okay. Thank you.

CHAIRPERSON RIDDLE: All right. Tony Azevedo and on deck is George Wright. Is George here?

PARTICIPANT: No.

CHAIRPERSON RIDDLE: I hadn't seen him.

So on deck would be Monica

MR. AZEVEDO: My name is Tony Azevedo, and that's A-z-e-v-e-d-o. I am from California, where I live in the San Joaquin Valley, right in the heart of the San Joaquin Valley. It actually feeds one-third of the United States. It's a very fruitful valley, and I've been there all of my life, actually was born there.

And I appreciate having the opportunity to testify. I'm somewhat disappointed on the pasture issue, but I would like to kind of set it up in this scenario. In the late '50s, one of my favorite pastimes was going with my father and watching these small family farms selling out. It happened from about I'd say '55 to about '63, and these were
basically people that were guilty of just trying to make a living.

And so we'd get in the old flatbed pickup and we'd go to sometimes three sales a weekend. My father was also a small dairyman, and they would have all of their belongings on the lawn. I mean everything went for sale, and with the banks and the universities and what everybody was telling them is you've got to get bigger. You've got to get better. You've got to get efficient, man.

So they did. All around me they got efficient. Now I live in one of the most polluted valleys in the United States. The groundwater contamination and the air is just about to where you can't imagine it.

And to help it along a little bit, it also makes it conducive for the West Nile virus. I lost one of my best horses last week to West Nile, and we have 29 cases just in our county. Two people have already died.

What's wrong with that scenario, 1,000, 1,500? Actually nothing. These are all good people.
These are farmers that are my friends, my neighbors, but it's just too much for the land, folks.

So how does pasture fit into this? If you're going to have the proper amount of pasture for the cows that you have, it disburses those cows evenly through more ground. It's plain common sense.

Now, many of you recognize me. I've been here before, and I didn't bring my black hat because I was in a hurry and I forgot it, but I don't think I'm coming back because after all the testimony and after everything that's been done to prove this, that pasture has to be a requirement, if it's not understood by now, you're never going to get it. It's just not going to happen.

And probably a better approach to this issue is to educate the organic consumer on the importance of what pasture means for sustainable agriculture and forget this process. It's just not working.

Okay. I appreciate the effort, and I think this is my third time here. I've seen everything there is to see. So I'm not coming back.
Okay?

But like I said, if everything that's been documented and all of the petitions and all the people that have done everything and they still don't understand the importance of what pasture means to the environment, to the health of the animal, to the individuals that are on the farm, it's not going to happen.

I hope you continue the fight to pursue pasture, but right now I'm a little bit wobbly on it ever happening.

Once again, thank you very much, and do you have any questions, I hope? Yeah.

CHAIRPERSON RIDDLE: Rose.

MS. KOENIG: I guess constructively informing us on what aspects of the guidance that needs improvement, like is it the numbers, is it the whole thing, just throw out everything, but I mean, we need through this process to have alternative proposals and --

MR. AZEVEDO: What the NODPA suggested, the writing, we are -- when I say "we," I shouldn't
say "we." I actually only represent about -- there's not that many dairymen in California, but I actually only represent about ten, but these are very passionate individuals that don't understand why we're doing this to start with with pasture. I mean, is there somebody that's not?

But as this becomes more and more popular and it's getting more and more attention, it's going to go the same way the conventional world is, and I had first hand experience to see this happen.

MS. KOENIG: But, I mean, that's the question, and I haven't seen that proposal. I mean, I'm not on the Livestock Committee. So have a little patience with me.

But was there specific numerical values that needed to be changed? I mean, this is an effort to --

MR. AZEVEDO: Well, through the whole process it's been cut and watered down, cut and watered down, cut and watered down, and I've been very patient, and what they have, what you've recommended I'm fairly good with. I can live with that. There is
some tweaking that needs to be done. I'm just not really sure we can get it done.

And the reason I say this is because in my area there were some major, major environmental spills by the dairy industry, and under the current administration a lot of them were swept under the rug. They finally had to address one, the second largest creamery in the United States, could say that they were so violating they finally gave them a $4 million fine, but that's after an entire town couldn't stand living there anymore.

And I think this falls under that scenario. I think there's another power or other being that's --

MS. KOENIG: Well, I just wanted you -- I mean, we're not the -- the Board -- I mean, there's different levels. You know, if it's an implementation issue, you know, that's different from the issue that we're dealing with today, which is actually the writing of the clarifications. So what would be helpful is if, you know -- and it sounds to me -- am I getting this right? I'm passionate about a lot of
things, too, but what I'm interpreting from your thing is that you are okay. You think that this is okay --

MR. AZEVEDO: Absolutely.

MS. KOENIG: -- as far as the guidance for that.

MR. AZEVEDO: Yes.

MS. KOENIG: Okay.

MR. AZEVEDO: Absolutely. And I appreciate --

MS. KOENIG: And you're satisfied with that. You know, your frustrations on all other levels, I definitely understand where you're coming from, but, I mean, our job and what we're responsible for is to get consensus on this particular guidance document. So I don't want to misrepresent you. Okay.

MR. AZEVEDO: No, and once again, I appreciate what you folks do, and you take an enormous amount of time. I'm just not sure if we shouldn't be bowling or something else.

(Laughter.)

MR. AZEVEDO: That's it. Any other questions?
CHAIRPERSON RIDDLE: Jerry, just a clarification of what you're trying to get out of the data. You like the current guidelines, but you're reading the statement from the NOP this morning --

MR. AZEVEDO: Yes.

CHAIRPERSON RIDDLE: -- as an indication that even these that are semi-watered down for what you think is good won't even make it?

MR. AZEVEDO: I don't want to diminish our chances.

CHAIRPERSON RIDDLE: Okay.

MR. AZEVEDO: But just between me and you, I don't think it's going to.

(Laughter.)

MS. KOENIG: Can I say something? Again, I think there was a misunderstanding and, again, I don't want to speak to the NOP, but as I understood what Keith Jones said, it was that, you know, in fact, the writing, what we presented wasn't clear enough, that it really didn't get us where we wanted to go any better than what's written. So they're not going to propose a change that doesn't improve or clarify the
process. So they basically sent us back to do our homework.

Now, I think I wouldn't let that cloud the issue. I think, you know, you heard me speak at other meetings, and I'm glad to see that it is more specific. I think these are exactly the types of things that the NOP wants to see.

MR. AZEVEDO: You did your homework. You guys did your homework.

MS. KOENIG: So, you know, sit back. Obviously you're not applying to get on the Board, but you're certainly invited to come back.

(Laughter.)

MS. KOENIG: Anyway, come on back.

MR. AZEVEDO: What you've already done is fine. I can live with it, and I've watched this thing being diminished, being chappened (phonetic) up. Fine. You know, I know how to play ball, but it's just I'll tell you right now the way I look at it I think we're -- and I can't even think of the right term without swearing -- but I don't know.

Thank you very much for your time.
CHAIRPERSON RIDDLE: Thanks for your comments, and I think we share some of your frustration as well, but we will be back, and we will persevere, and hope you will, too.

MR. AZEVEDO: Thank you very much.

CHAIRPERSON RIDDLE: Okay. Monica Gonzalez and on deck JoAnn Baumgartner.

MS. GONZALEZ: Good afternoon. My name is Monica Gonzalez, Director of Scientific and Regulatory Policy at the Grocery Manufacturers Association, widely known as GMA.

The Grocery Manufacturers Association is the world’s largest association of food, beverage, and consumer product companies. With U.S. sales of more than 500 billion, GMA members employ more than 2.5 million workers in all 50 states. The organization applies legal, scientific, and political expertise from its member companies to vital food, nutrition, public policy issues affecting the industry.

Led by a Board of 42 chief executive officers, GMA speaks for food and consumer product manufacturers and sales agencies at the state,
federal, and international levels on legislative and regulatory issues.

The Association also leads efforts to increase productivity, efficiency, and growth in the food, beverage, and consumer products industry.

I am pleased to be here at the National Organic Standards Board meeting to provide some of our comments. GMA has submitted written comments to Docket No. TM0407, National Organic Program Sunset Review.

We fully support the national list process as implemented by the NOP and NOSB and believe it is sufficiently rigorous to meet the requirements of the OFPA. The national list contains a limited list of materials and helps keep appropriate controls on what can be called an organic product.

We have reviewed the proposed clarification provided by the Materials Committee regarding the application of the statutory definition of synthetic. We believe it correctly observes the distinction between offering a new definition of synthetic and offering a construction of the existing...
statutory term.

We support Board action to clarify the range of substances to which this synthetic definition should apply, but we would also like to request an extension to comment appropriately on this issue and also on the ag. and nonagricultural definitions.

We would also like to comment that GMA and its members fully support the existing national organic program. Companies have built their organic line business models based on this program and have supported farmers in their transition to organic by developing products that use their crops.

Because of the recent court decision in Harvey v. Johanns, identified inconsistencies in the program that can only be cured by Congress, we support efforts to have Congress clarify the OFPA so USDA can keep the program it spent 12 years designing.

We also support any necessary rulemaking by the USDA to insure the organic program comports with the court's decision.

Thank you very much.

CHAIRPERSON RIDDLE: thank you.
Okay. JoAnn and then Steven Clarke.

MS. BAUMGARTNER: Good afternoon. I'm JoAnne Baumgartner with the Wild Farm Alliance.

Tomorrow you will vote on the final biodiversity amendments to be added in NOSB's model organic system plan. This is an important step in providing implementation for biodiversity requirement already in the NOP rule.

The definition of organic production includes preserving biodiversity and the rule requires maintenance or improvement of natural resources of the farm operation, including wetlands, woodlands, and wildlife.

The original writers of the NOP recognize that biodiversity conservation had to be part of organic premier ecolabel. How could it be otherwise and still be held credible? Our nation and our world is in the midst of the largest biodiversity crisis that has ever occurred. Without our careful stewardship many declining species will wink out for good. Our waterways will be bereft of aquatic life. Our farms will need more and more artificial and
costly inputs.

This past spring we met with two dozen organic farmers in California and New Mexico to test biodiversity inspection questions. The farmers all felt biodiversity was an integral part of organics and a large number of them are planning on making improvements, like installing native plant hedge rows since reviewing and helping to refine the questions.

It is because the questions serve them as well as determine that they are conforming with the rule. In fact, some of the farmers are already figuring out how they can improve on their marketing strategy by sharing their biodiversity farm stories with their customers.

These biodiversity questions are opening up a new way to grow and market agricultural products. Becky Weed, Wild Farm Alliance board member and a Montana organic and predator friendly sheep producer, says we can only evolve toward improved management of local and global biodiversity is leaders like the NOSB strive toward that end.

Recognizing and understanding the roles of
biodiversity are part of an iterative process. The more you learn, the more you begin to learn. The NOP can't be true to its mission unless it integrates a full understanding of biodiversity.

When I myself was an organic farmer, I valued diversity for the resiliency it provided, but I think I would have been a better farmer and a better conservationist if I would have had these biodiversity -- this checklist that is part of the proposed additions to the OSP.

This checklist was created with the help of organic farmers, certifiers, and conservationists, including input from NCAT. It helps a farmer look at how he/she can contribute to the big picture conservation needs and at the same time address practices beneficial to the farm.

Ultimately the biodiversity amendments to the OSP will help make organic farmers more ecologically and economically viable, and society at large will benefit from the improved health of our landscapes.

Thank you.
MS. COUGHLAN: Thank you. Thank you for the work you do.

CHAIRPERSON RIDDLE: Thanks, JoAnn for your comments, and also I'd like to thank you and Wild Farm Alliance for the background work you did to prepared the draft.

MS. COUGHLAN: So, so important. Thank you so much.

CHAIRPERSON RIDDLE: Thank you.

Stephen Clarke and then on deck Leslie Zuck.

MR. CLARKE: Good afternoon and thank you for this opportunity to talk to you.

My name is Steve Clarke. I’m the Director of Industrial Research and Development for Florida Crystals Corporation. I did my undergraduate and graduate degree in England and then moved on to do a postdoctoral fellowship at Yale, and after that, went to teach chemistry at the University of the West Indies in Jamaica, which is when I became involved in the industry.

After that I went on to spend 16 years
with the Audubon Sugar Institute at LSU, Baton Rouge, as a research professor, and ten years ago I joined Florida Crystals, where I am responsible for developing and implementing new technologies, including the processes we use to make our own organic sugar products, both domestically and some of the international suppliers which, since they are supplying to the United States, are under the same regulations as we are domestically.

I joined Florida Crystals the same year this calcium hydroxide was approved for processing *organic sugar, and we can continue to use it confidently ever since. Yet although I am very familiar with the science and technology of sugar processing, I must admit that my knowledge of the history of NOSB decisions leave me rather confused sometimes.

So anyway, the definition of synthetic in both the OFPA and the national organic program regulations, while trying to cover all manner of substances in all circumstances, is justifiably very generalized, and I agree with you that it needs to be
I've been reviewing the recommendation of the Joint Materials and Handling Committees to clarify the definition of synthetic, and I believe this recommendation is on the right track.

However, maybe more specificity is necessary, and I will offer our comments and response to this. Over the last month we have provided substantial input to the OTA, and we support their comment to your recommendation and have added additional comments of our own. You should have copies of our full response, and I'd like to mention just a couple of the most important ones right now.

The definition of chemical reactions and synthetics and nonsynthetics as a chemist I find rather confusing. And I suggest or we suggest the definition of acceptable chemical transformation of chemical reaction as a process of manufacturer formulation that does not increase molecular complexity or has not resulted in changes to covalent both in the original substance.

Changes in ionic pairing would make sense
and should be considered as a nonsynthetic change. Oxidation reduction by chemical means are obviously not okay, and any increase in the number of complexity of covalent bonds is obviously, again, not okay.

We also support OTA's suggested language of the definition of nonsynthetic, which is a substance that is naturally occurring plants, animals, minerals, water, or air or a substance that has been created by naturally occurring biological processes or food processing techniques or actions as defined in the act. Nonsynthetic substances have not undergone changes to covalent bonds during manufacture, except in the case of naturally occurring biological processes or accepted food processing techniques.

We would also offer as well the suggestion that the term processing as it is defined in the OFPA and the NOP regulations be expanded to include processes such as crystallization, evaporation, and combustion.

Within that suggestion, the combustion and the term "heating" already included as allowed processing methods be further defined by the
committees.

We also strongly encourage you to follow the same processing methods allowed in food manufacturing to be extended to the manufacturer of inputs and substances used in food processing.

Materials on the unambiguously nonsynthetic list maybe should be allowed to be transformed into other materials which could be used as processing aids and so on, along the lines of the same techniques as used in food processing.

We appreciate your work and to continuously improve organic standards and organic production. I know how complex that these may be at times. Personally this opportunity to respond to your recommendations has shown me how complex your responsibility really is.

We have letters of support for this position, and these will be distributed shortly.

MS. COUGHLAN: Perfect.

CHAIRPERSON RIDDLE: Thank you.

Any questions? Rose.

MS. KOENIG: Well, comments, and a couple
I still think, and I thought it was clear in our document, that we're not defining processing or what is allowed in processing. This document specifically is to help make decisions on both throughout the crops, the livestocks, the materials decisions no matter what list things are.

As you know, the reasons for specific methods in the regulation for processing or handling was in that section for a reason, to describe post harvest changes or treatments so that you could take an apple and make applesauce, you know, acknowledging that bonds break when you're heating it, et cetera.

MS. CLARKE: I thought it was clear in our document, and maybe it isn't clear, that in that paragraph where we say that, number three, we distinguish between that in saying we're not talking about processing. We're talking specifically about materials to be added to lists.

MS. CLARKE: Right.

MS. KOENIG: And the comments that seem to be coming in confuses that issue, and I understand in
the light of other things that are going on there's a
great emphasis to try to solve everything through the
definition of synthetic and nonsynthetic.

However, I would implore you because I've
done an analysis of this, and one of the goals of
writing this definition was to be consistent with
things and decisions that had been made on the past
for materials, and I believe, and if I'm wrong I
certainly should be corrected, that the definition
that stands is reflective of past NOSB decisions in
terms of what we've said were synthetic, what we said
was not synthetic, and what we prohibited.

Okay. By doing the fundamental changes,
and I haven't studied all of your proposals because
we've gotten them kind of late. So I haven't been
able to do that type of analysis, but my gut reaction
is that by making the alterations that you are
suggesting, it would mean that things that we've
prohibited or not necessarily prohibited, but things
that we've called synthetic would now be nonsynthetic
in crops and in out livestock materials list.

So in other words, because it's
fundamentally changing the way that the Board has looked at materials, this definition was supposed to further describe the way and really present a document that helped Board members make sure that we were consistent with past an present and future materials decisions.

MR. CLARKE: Okay.

MS. KOENIG: Okay? So that's just fundamentally the difference. So what would be helpful to, I think, the handling and the Crops Committee would be perhaps for you to look at your proposal with the light of what our objectives are.

MR. CLARKE: Right, right.

MS. KOENIG: And see if that works. See if your proposal would change things, and it certainly will, I think, as you admitted, will change things on the handling list, but that really is not what we're trying to achieve with this document for the entire materials process.

MS. CLARKE: I understand, but the way I read this was -- the way I put this together, thought it through -- was this would restrict the number of
nonsynthetic, greatly restrict the number of nonsynthetics, but allow a redefinition of synthetic or of nonsynthetics.

MS. KOENIG: That's what you understood from the writing of this or what --

MS. CLARKE: No. The goal was to be able to redefine.

MS. KOENIG: No, it's not a redefinition. This is a clarification of how we've been doing up to now.

MR. CLARKE: Right, okay.

MS. KOENIG: That's all it is, and that's where I think therein lies a problem. We're not trying to fix results of recent happenings in the world of organics.

MS. CLARKE: Okay.

MS. KOENIG: We're trying to confirm how we've made decisions in the past so that we can feel comfortable with the decisions that we've made and have checks and balances to make sure that we are fairly assessing materials that are petitioned in front of us.
MR. CLARKE: Okay.

MS. KOENIG: That we can say, yes, we've been consistent, and as we go through our sunset process, we can say, "Well, maybe we had better look at this because something doesn't jibe with how we've been doing business."

That's the intention of this document, and it's the sole intention of this document.

MR. CLARKE: Okay.

CHAIRPERSON RIDDLE: Thank you, Mr. Clarke.

Okay. Leslie Zuck and then Jessica Greenblatt.

MS. ZUCK: Before you start the timer, Jessica and Erin James, the next two people won't be speaking. It will just be me.

CHAIRPERSON RIDDLE: You're still limited to ten minutes.

MS. DIETZ: I only want five minutes.

CHAIRPERSON RIDDLE: You only want five even though you've got two proxies.

MS. ZUCK: I thought you just might want
to let the next person know who they are.

CHAIRPERSON RIDDLE: Okay. Good point.

Thank you.

MS. COUGHLAN: So you're only going to five?

CHAIRPERSON RIDDLE: Then Kim Dietz would be on deck.

MS. ZUCK: I only need five minutes as far as I know.

CHAIRPERSON RIDDLE: And you get ten.

MS. ZUCK: Okay. That's probably good and it also says I'm speaking on personal care products, but I'm not. I'm speaking on pasture and stud.

CHAIRPERSON RIDDLE: All right. Carry on.

MS. ZUCK: Thanks.

I'm Leslie Zuck, Executive Director of Pennsylvania Certified Organic, an accredited certifying agency in Pennsylvania.

I attended the last meeting here in D.C. where many of the organic dairy farmers came down here and spoke and really did a very good job of convincing us all that we really needed to take a good look at
enforcing the pasture requirement of the rule.

I'm not a dairy farmer, and I reviewed the Livestock Committee's recommendation not as a dairy farmer, but as a certifier of over 100 organic dairy farmers mostly in Pennsylvania, and I have a concern that I want the recommendation to be really useful, and I want it to be understandable, fair, practical, and at the same time reflect the letter and the spirit of the law, and I think those are concerns that all of you have, as well.

So with those concerns in mind, I would like to suggest a few changes. As we all know, the guidance document is not law. Therefore, I would suggest that the word "shall," as it appears three times in the recommendation, be changed to "should" or some other language being less directive. So "shall" and "must" think are probably not appropriate for a guidance document.

And to make the document more understandable, I would suggest some brief introduction explaining why the pasture guidance document came about and what purpose you expect it to
serve. This could be done in a few sentences, and I think it would really help put things in the correct context for the producers and certifiers who have not been involved in the process.

I actually did that. I hadn’t been reading a lot of the comments on the Web and everything, and I took the current draft, and I just read it trying to read it as cold as possible, as though I knew nothing about why this was being done, and I think that it would really help to have some introduction in that regard, and I don’t think it will take much to do that, although I don’t have any language here for you, but I have faith that you can have that.

And I have another concern. It’s a little bit bigger. In Pennsylvania we have not yet been faced with this issue of the huge organic dairy farm versus the family scale organic dairy farm. All of our farms are small, averaging, oh, 60 cows or so on 100 acres or so, somewhere around there, and all of these farms have pasture.

As most of them also grow feed crops, such
as corn and soybeans for silage or just to feed, and this does seem to be changing. Many farmers do see the benefits of grazing and are converting more to hay and pasture, and we all think that's a really good thing.

However, I do not believe that converting all of a farmer's cropland to hay and pasture is the goal of the OFPA or the national organic rule, although some of us think that it should be. You know, it is not the case today as we speak about this issue.

I have a concern about the language in the recommendation that says, "The organic system plan shall include a time line showing how the producer will satisfy the goal to maximize," maximize, "the pasture component of total feed used in the farm system."

You know, according to this particular statement, if I'm a traditional farmer and I'm growing crops, should my organic system plan state how and when I'm going to convert all of my cropland to pasture?
I mean, I don't think that that's where we really want to go, and I feel it's a little too swayed in that position. I didn't think that was originally what the phrase meant. I really though it meant the cow should be out on pasture as much as possible, as often as possible rather than just having a few minutes a day access a few days a year.

And then when I started discussing this with other farmers and other certifiers, it turns out at least in some cases it's their understanding that, you know, as stated, the goal is to get as much land in pasture as possible.

So here we are. It's not even a final recommendation, and we're confused. The use of the term "maximizing this document does sound like we're supposed to start at 30 percent DMI and try to get to 100 percent DMI. I mean, if you read the document with that in mind, it could be interpreted that way, and I don't think that's fair. I really don't think this is the way some producers wish to farm, and I think we should respect that.

I would just suggest deleting the phrase,
you know, or drafting in a more balanced way that it's clear.

I'm not sure that the document really needs that if you're going to keep the 30 percent dry matter guidance in there. I don't know about the time limit to maximize pasture. I think maybe in a case where the person doesn't have 30 percent yet, you know, we can give them some time to get there, but you know, that's a certifier's issue, I think, more than a compliance issue, in my opinion.

Otherwise I think the recommendation is a really good effort, and I appreciate the time and energy that the committee put into it with all of the drafts and reading all of the comments and taking them very seriously.

That's it. Did I make five minutes?

MS. COUGHLAN: Five minutes.

MS. ZUCK: I'm getting good at that. Any questions?

CHAIRPERSON RIDDLE: All right. Thanks Leslie.

Kim.
MS. COUGHLAN: I'd also like to say that you either grow or have friends who grow -- oh, wonderful -- sunflowers, and we acknowledge and thank you for them.

CHAIRPERSON RIDDLE: Yeah, thank you for the sunflowers.

Kim Dietz, and then Julia Sabin.

MS. DIETZ: She's on Wednesday.

CHAIRPERSON RIDDLE: Oh, okay. Well, she won't be here.

MS. DIETZ: No, she won't be here.

CHAIRPERSON RIDDLE: Grace Marroquin, and we should make sure. Yeah, Wednesday it's noted. Okay. Thanks.

MS. DIETZ: I'll make sure Katherine gets that.

Okay. Rosey, I wish I was up here before the sugar guy. So hopefully I can help tame things a little bit.

Good morning, National Organic Standards Board, National Organic Program, and interested members of the organic community. My name is Kim
Dietz, HR and Regulatory Compliance Manager for Smucker Quality Beverage, past NOSB handler (phonetic) representative from 2000 to 2005.

Today I will be presenting comments to you on behalf of the Organic Trade Association's 205.605(b) Task Force and a few personal comments of my own. Comments from Smucker Quality Beverage will be presented on Wednesday by Julia Sabin, our General Manager.

I will begin with my personal comments which do not reflect those of Smucker Quality Beverages or the Organic Trade Association. I used to have to say NOSB, right, gang?

(Laughter.)

MS. DIETZ: Okay, all right. All I can say is the life after the NOSB has not slowed down at all for me. Over the past 60 days I have been advocating to the industry about the sunset deadline August 16th. I'm confident that the process is working. It makes me feel good.

However, I see by the comments posted on the NOP Website that there are not many comments...
received for crops or livestock. So I believe that my personal belief is that all materials should remain on the national list unless there's a comment or a petition to remove them.

Somehow you guys are going to have a task in front of you if there's no comments.

I urge this Board to be consistent when reviewing materials and to use the guidance and historical precedence that prior boards have adopted. Your duties are to represent the entire organic industry throughout this process.

Handling materials. I'll briefly talk on this. I did submit a recommendation again on those five handling materials that have been voted on by this Board from 2000 to 2002 that are still not on the national list. I urge a Federal Register notice as soon as possible on those.

There's five materials that the handling committee on this Board approved for recommendation on the national list: activated carbon, boiler chemicals for tempering glass and for packaging sterilization and peracetic acid. So I'd encourage a Federal
Register notice as soon as possible.

I'm getting calls weekly, monthly about these materials and whether or not people can use them.

Okay. So now I'll switch my hat and read to you on behalf of the organic trade association and hopefully I can answer some questions for you.

Okay. "Dear National Organic Standards Board and National Organic Program, OTA thanks NOSB for your excellent recommendation, taking us one step further closer to clarifying the definition of synthetic with regards to handling materials and all materials.

On April 22nd, we submitted to you a draft paper clarifying some concerns we had with the Materials Committee discussion document, dated February 2nd, 2005. Although not all of our points were incorporated into this current recommendation, we do acknowledge the overall intent that was taken into consideration, and we thank you for that.

We have submitted our comments by the task force. There's 14 members on our task force, four of
which are past NOSB members, and quite a few food
scientists and technical people on that task force.

A lot of it just went over my head. I'm
trying to decipher this document.

We didn't make a lot of changes, just some
clarifications and, again, we're just trying to
protect those processes that the handling industry can
use. The definition of synthetic does need
clarification so you guys can do your job and do it
right.

And I E-mailed all of you. The changes we
made were highlighted in blue, and there's not a lot
of them. Mainly when you talk about protecting food,
you mentioned the definition of food throughout this
document. Food is not defined in OFPA, and it's not
defined in the NOP regulations. So we have also
inserted handling operation and handling processing
methods.

Let's see. And, Rosy, to answer your
concern, we do see where you said that the intent of
the recommendation is not intended to address
processing of food. We see that. Again, we just --
thank you, Goldie -- we're just trying to make sure that the language is correct in there.
The most contentious area, again, for us is protecting the processing.

CHAIRPERSON RIDDLE: Could you finish? Go ahead.

MS. DIETZ: Okay. Thank you.

And chemical reaction. This task force went round and round and round on how to better define what is a chemical reaction and when does something turn synthetic and when does something not turn synthetic, and again, there was numerous scientists on this Board trying to distinguish between covalent bonds and non-covalent, and perhaps this is an area where you just need -- I hate to say this -- but a task force or something to help make sure that this is solid so that if we can understand it as a group, we had hours and hours on phone calls, and we still had a lot of trouble getting our group to understand it. So if we can't understand it and you can't understand it, the public isn't going to understand it.

I do know that this is a recommendation,
and it's a guidance document, but if you're going to use it, you should try to clarify it.

We've also submitted a decision tree. Whatever you do, I think that you need to make sure that you have a decision tree to help you step through the process.

Okay. Thank you.

CHAIRPERSON RIDDLE: Kevin.

MR. O'RELL: Thank you, Kim.

Kim, just following up on your question, and I know you submitted to the Board and to the NOP asking earlier electronically about the six items, the boiler compounds, the activated carbon and peracetic acid, and it's my understanding that those items have been submitted in a docket.

MS. DIETZ: Okay.

MR. O'RELL: Barbara, do you want to?

MS. ROBINSON: That docket is in OGC, Kim, but it is caught by the lawsuit, and so we're not totally certain of its outcome at this point.

MS. DIETZ: Okay. You know, I think the industry is being put in a horrible situation. You
know, you have peracetic acid and the activated
carbon, and certifiers are having to make decisions on
whether we can allow them or not allow them, and
regardless of Harvey they're going to be in some
label, and they're needed for handling.

CHAIRPERSON RIDDLE: Rose, go ahead.

MS. KOENIG: Well, first, back to what you
were saying. I've got so many copies of different
documents.

Okay. The first change you have, "or
allowed processing methods." I mean, if that's not
correctly written, what we are saying is extracted by
everything and anything in any matter with any
substance, physical process, you know, I'm not
opposed to listing other ones there, but again, by
specifying -- taking out four organic handling
operations, again, this is a generalized
clarification, and it shouldn't matter whether it's
allowed for handling operations, crops or livestock.

I thought it was covered with giving
examples and, you know, so I'm amenable to make that
more clear, but we do say any manner, which --
MS. DIETZ: Right. The clarification, as long as the extraction process does not chemically change, and heat changes the chemical; it chemically changes something. So, again, heat is an allowed process. So if you're allowing the processing methods to deem something nonsynthetic, such as heat, then make sure that the extraction method doesn't -- if you're using heat to extract and it chemically changes something, make sure that that doesn't turn it synthetic in that extraction method.

CHAIRPERSON RIDDLE: Barbara, did you have a comment?

MS. ROBINSON: Well, I have some comments and some questions, but I want to be sure that the Board is done first.

CHAIRPERSON RIDDLE: Okay, okay. Rose.

MS. DIETZ: So extraction is allowed. We know that extraction is an allowed handling practice.

MS. KOENIG: What I was saying is that I was trying, again, to be consistent with the way, you know, -- I just think that this is where people
just -- maybe I'm not being clear. I say it over and over and over again, that we're not talking about the processing of foods. We're talking about the ingredients.

So the best exercise, and again, I'm sorry if I'm being repetitive, the way to analyze this is to take your definition or take the definition that's here and look at the decisions that have been made by the Board to see which definition is consistent with the way we've been doing business.

MS. DIETZ: Right.

MS. KOENIG: Okay? And what I hoped our definition was reflected the way that we did business based on materials, and materials has nothing to do with processing of food. It has to do with either the list of substances that are on any of those --

MS. DIETZ: Well, then this recommendation should be for everything but 205.605 because there's food on 605. There's processing aids. There's things that are considered food.

So, I mean, it's a great document and it's very, very good. I just, again --
MS. KOENIG: What I mean by food, I mean products that have multiple ingredients or, you know, something that's 100 percent organic is applies.

MS. DIETZ: Right.

MS. KOENIG: You can do whatever you want with the darn apples after you run those apples. You know, you can heat them, you can juice them, you can blah, blah, blah.

MS. DIETZ: Right, right.

MS. KOENIG: And, again, I don't think we're going to solve this, but I would love for you guys who have this alternative to really take into consideration what I'm saying and I'll take into consideration what you've proposed here, but you know, again, my gut reaction is that all of a sudden we're going to have no substances on any list because now this changed.

MS. DIETZ: Right, and again, my intention is, again, just to protect the processes that we have and we tried to incorporate into this document and, as well you have.

MS. KOENIG: So can we agree that the
agreement is to look at both proposals that are there?

MS. DIETZ: Yes.

MS. KOENIG: And to kind of examine it?

MS. DIETZ: Yes.

MS. KOENIG: The process we're trying to achieve is really clarifying how we've been doing business.

MS. DIETZ: Right, and I think we're after the same goal. It's just the semantics of some of the wording.

MS. KOENIG: Okay.

MS. DIETZ: We're very close.

MS. KOENIG: Alright.

MS. DIETZ: And the chemical reaction we'll just have to work with.

MS. KOENIG: And, again, those chemical reactions, I don't think we should just -- you know, we need to think those.

MS. DIETZ: Right.

MS. KOENIG: Again, those chemical reactions should confirm the way that we deem things synthetic, and the objective is for the larger group.
When we send this information to a TAP contractor, what we want back from the TAP contractor is we think it's synthetic because you have a decomposition reaction or you have an ion exchange and, therefore, so that it's clear --

    MS. DIETZ: Right.

    MS. KOENIG: -- we're not going to get back things that -- you know, and again, we're not doing the review process where we have outside reviewers, but you know as well as I do that we would sometimes get TAP reports back where two people said it was synthetic and one said it was not synthetic.

    MS. DIETZ: Right, right.

    MS. KOENIG: Okay? It's impossible. You know, that shows not a clear understanding of a definition.

    MS. DIETZ: Right, right.

    MS. KOENIG: So this is to make sure that when somebody says it's synthetic, when we bring it to Barbara and those folks, that they can say the Board said this, and they're all in agreement that we now have a decomposition reaction. It's synthetic. The
1 lawyers will love it and, you know, it should
2 hopefully bypass the stalling of materials that are
3 sitting in limbo because we haven't done our job the
4 way we should have.
5
6 CHAIRPERSON RIDDLE: Other Board members?
7
8 MS. DIETZ: Barbara, did you have a
9 question?
10
11 CHAIRPERSON RIDDLE: Barbara?
12
13 MS. ROBINSON: Okay. Let me start with
14 questions that I had. On page 2, Kim, you say -- and
15 maybe this is also in the Board's -- "any synthetic
16 substance using the extraction process that remains in
17 the final extract above insignificant levels."
18
19 Will someone be defining insignificant
20 levels?
21
22 And then that has a technical or
23 functional effect. I assume those would be the
24 definitions that FDA uses, but sort of globally, my
25 feeling here when I read this, as my feeling is when I
26 read the Board's recommendations, the way that I come
27 at this -- I mean, you know, I've read these things
28 now and I'm not a scientists, as are most of us in
this room, and I guess something like -- I'm not even
going to say this right, I'm sure -- covalent bonds,
covalent, covalent, and ion exchange, and I'm like,
yee, yi, yi.

(Laughter.)

MS. ROBINSON: How am I going to explain
this one to the public at large, to people out there,
to consumers, to farmers, to people who say, "Can I

Are you guys proposing that we somehow are
going to at some point either write guidance or amend
a regulation and use the words "covalent bond" and
"ionic exchange"?

MS. DIETZ: No, no.

MS. ROBINSON: Okay.

MS. DIETZ: This is a --

MS. ROBINSON: You're writing the
underlying guidance for TAP contractors? You're
setting your guideposts?

MS. DIETZ: This is a working document.

This should reflect how we make decisions as a
document of guidance for our Board as we go through
our decision making process.

MS. ROBINSON: Okay.

MS. DIETZ: And it's intended for technical. I mean, it's not really intended for, you know, the average layperson out there.

MS. ROBINSON: Okay, but at some point, you all will understand ionic exchange and covalent bonds, right?

MS. DIETZ: No, you don't. What you do is that's why you hire a technical -- if we all understood it, we wouldn't need a TAP contractor. We would all be able to say we can read these things. We can understand it.

We hire a technical person to look at the information a petitioner sends and then provide clarification, you know, and then look at our regulation and try to figure things out.

This document is intended for those TAP contractors to specifically be able to say, you know, these are the reactions that are occurring because they have the scientific know-how and hopefully you've screened them well, that we can have confidence in
their ability to meet that decision.

MS. ROBINSON: That was going to be my next question. You'll believe them then, right?

MS. DIETZ: Well, we do have some expertise on the Board. These things do come up for public comment. So there are certainly scientists out there that can say, "No. Joe Blow has got it wrong. It's not an ionic reaction. You know, it's a covalent," you know.

MS. ROBINSON: That's going to be my next question. Are these scientific events or actions, whether it's a change in covalent bonds or ionic exchange; are these discrete and definitive? Is it like DNA where there's a 99.9 percent probability that it has occurred and it cannot be debated?

MS. DIETZ: Well, if you read the document, the things that really have not been definitive and what has been problematic has been these biological substances that are extracted, and that's why we spent a lot of time trying to get our handle on what extraction means.

And I think that there's a lot of
concession going out there by saying that it can be extracted in any way. I mean, some people might want to say no. You need to even look at how something is extracted. We don't want to allow X into the extraction.

So I think there are ways to further nit-pick--

MS. ROBINSON: Okay.

MS. DIETZ: -- at the process, but --

MS. ROBINSON: And the other thing is that at some point I -- this is my own preference -- but I'm going to do this anyway. I'm going to take your work and I'm going to take this comment from OTA, but for me to get a grasp on, you know, now where am I, I'm going to take what is in the reg. and then what you have proposed, and then yours. Because the only way I can figure any of this out is to do some sort of side-by-side to see how have you just changed what is existing and, you know, what's going to change as a result of this.

Did you just change the criteria? Did you move the fence post?
MS. DIETZ: Right.

MS. ROBINSON: What substances on the national list would now no longer be there or would you now allow? And then sort of what are, again, my pros and cons? What damage? What benefits? What kind of impact would we --

MS. DIETZ: That has -- and I think that --

MS. ROBINSON: That has to be done.

MS. DIETZ: And, Barbara, instead of doing it the easier way, the cheat-sheet way to do it, which I'm glad you're volunteering to do this, you know; you said you had a full plate.

MS. ROBINSON: I need more physical therapy.

MS. DIETZ: Go back to the original take. You don't even have to do it. Take a sample of old TAPs. Okay? And in the first thing it will say how is it made. Okay? And how it's made, many of the well written TAPs, including the newest ones, show the chemistry right there.

If you look at these things, even probably
a layperson could say, "Oh, that's" -- you know, but the chemistry should be in those TAPs, and in the past people have told us what the chemistry is, but they haven't explained what that chemical reaction is. Hopefully they'll say that and then we can confirm it.

MS. ROBINSON: Well, that will be good for the illustration, but I mean, just for the language itself I need to be able to see this, and I probably will do it because I'm not a scientist and because so far I don't get it, and until I get it, just to be honest with you, it's probably not going to get out of the box just because, you know, I keep reading it and I'm like, "I don't get this. I don't understand it."

And it's because I'm not a scientist. I'm an economist, but I just keep getting lost.

MS. DIETZ: Well, it has to be understandable. Everybody needs to understand it.

MS. ROBINSON: Yeah, and even though you're not going to share it with the public, even though you're not going to use it for the public, this is a public program, and I'm going to have to be able to defend it, and somebody some day is going to say,
"Why didn't my material get accepted for the petition?" and I'm going to have to say, "Well, your covalent bonds didn't" --

(Laughter.)

MS. ROBINSON: They bonded when they shouldn't have. Ionic exchange, and I don't mean to be flip, but somewhere I have to sound at least semi-intelligent so I need to get a little smarter about it, but I mean --

MS. KOENIG: What is your alternative choice, saying, "Well, we really don't have a" --

MS. ROBINSON: I agree.

MS. KOENIG: -- "and I don't really know why"?

MS. ROBINSON: I agree.

MS. KOENIG: I mean that's what you've been asking us to do.

MS. ROBINSON: You're right.

MS. KOENIG: To product what you want.

MS. ROBINSON: Rigor.

MS. KOENIG: There is your rigor. There's you defensible document.
MS. ROBINSON: Yes, but if you walked in and magically produced Albert Einstein and he said, "I have the answers," I would still say, "That's great, Albert, but you know, the theory of relativity just doesn't -- I still need it in English, you know," because English is the language that we all have to live with here, and this is a marketing program, not an astrophysicist program or a chemical program.

So we're just going to have to get it from there to there.

MS. DIETZ: And mind that we were looking at it from the food scientist perspective, not just, you know, for crops and livestock. So there's got to be a happy medium there somewhere, I'm sure.

MS. ROBINSON: I'm not criticizing any of this.

MS. DIETZ: I know.

MS. ROBINSON: Don't take it that way. I'm just saying the next step is going to have to be, you know, to translate into English and figure out where did we just land.

MS. KOENIG: I'm just saying -- all right.
I'll give you an analogy, okay, just so that you're not afraid of science. I mean, our crop producers are producing plants.

MS. ROBINSON: I am afraid of science.

How did you figure that out?

MS. KOENIG: Well, I'm producing vegetables. There's a chemical reaction that goes on in my vegetables. I don't need to know about the chemical reaction of photosynthesis to produce those plants, but you know, I could use -- you know, somebody spends a lot of time learning about those things and that can be used to understand better my system.

So that's all this is. Chemistry is not there to confuse things. It's to try and explain and provide justification for what we do. So don't get bogged down. Don't be afraid of the science.

CHAIRPERSON RIDDLE: There's two other Board members who would like to ask questions. I have a brief comment, well, two. One is we have a break pending and so Grace is up next. If you would come first after the break, we'd appreciate that. So as
soon as we wrap this up, we'll go to a break.

On the subject, I guess, to me once we get this voted on and approved, this is guidance for how the Board assesses petitioned substances, how those are evaluated, not food processing technologies, but petitioned substances, and to me the logical place for it to be housed will be in the Board policy and procedures manual because it will guide this Board and future Boards.

If you want to issue it as program guidance, that's fine, but it does need to provide information to future petitioners as well as TAP contractors so that there are consistent determinations made on each substance.

MS. ROBINSON: It's not sufficient to be in a Board policy manual. If you want this to be the way that the program operates in the future, if you are setting a precedent and you want this to be guidance --

CHAIRPERSON RIDDLE: Well, that's even better for me. I was just saying at the very least it can guide our work by being housed there.
MR. ROBINSON: That's fine, but if you want the program to use this and you want this to be, say, going to TAP contractors, then the NOP needs to understand it and incorporate it.

Now, it can be on the Website and you may have to get your science degree to understand all of the technicalities, but we'll provide the English 101 version of it as well.

CHAIRPERSON RIDDLE: I was thinking of hiring contractors with science degrees, and the statement of work for the contractors is in the Board policy manual, which is what I thought was a logical place to put it.

MS. ROBINSON: Yes, and that's a good place for it, too, but we will also adopt it.

CHAIRPERSON RIDDLE: Okay. Bea and then Hugh.

MS. JAMES: I mean, this is the first time that we've had this conversation about being able to understand how we literally write everything down, and we try to represent ourselves on the different guidance documents. And I think to Barbara's point,
that it would save us a lot of time if we did try to
write our documents in a way that we were writing them
not just for ourselves, but for other people who may
not have as much information, especially if they're
going to end up on the Website for public comment or
in the Board policy manual.

Because we're not only writing things to
help us try to translate and understand how we're
going to move forward with different documents, but
we're also writing history and for people in the
future, they need to be able to understand what we're
talking about.

CHAIRPERSON RIDDLE: Okay. Thanks.

Hugh, and then I've got Rosalie.

MR. KARREMAN: Just one thing on the
covalent bonds and the ionic processing or whatever.
Can't you explain those kind of things in plain
English in the Addendum 1 under basic chemistry? I
mean, really, that's exactly what that addendum is
for.

CHAIRPERSON RIDDLE: You're next anyway.

MS. KOENIG: Okay. What I was going to
say is, number one, you know, as far as how the document would potentially be used, it would be used by the NOP on the Website through the petition process; that if a manufacturer, which most of them should know how they produce their product, they have chemists on staff, they would be providing that information.

The TAP contractor would look at that information, confirm it or perhaps gather other ways that something could be processed so it would be used at that level, and it certainly would be used by the Board in their work. So it's those types of things.

As far as the clarification, I had the chem. for the NOSB 101 that everybody said couldn't go in this document. So we took it out and put it in the policy manual so that the public and layperson could. You know, that was the beginning of trying to make sense out of this.

So this document was not put forth originally in this form. It had the explanation. If you remember, we moved that for the policy manual. So it was there because I knew it would be confusing, and
if there's nothing enough examples in that or we have
to go back to Chem. 101 again, we can go back to that.

MS. DIETZ: No, we'll build on.

MS. KOENIG: But there was justification
originally in that, and our objective here was now to
take that out and let's get the concise recommendation
that that really belongs in the policy manual.

MS. DIETZ: So maybe you should table the
chemical reaction portion of it and further clarify
that so that it doesn't change the way you currently
look at materials on the national list.

MS. KOENIG: But, Kim, we used the
chemistry to view that. That's what the first
question we asked, is how is this made. So don't be
afraid of those reactions. That's how we do business.

MS. DIETZ: But the comment from our
committee was the reaction that was used as an example
would make salt synthetic. So just be careful of what
you do and look at it from all perspectives is all
that I'm asking.

MS. KOENIG: There are ways to make
synthetic salts.
MS. DIETZ: Okay.

MS. KOENIG: And that's what we wanted to be able to distinguish about, you know, natural salts and synthetic salts. So that's what I'm saying. This is the way so that we can make the distinctions between.

MS. DIETZ: But from an industry --

MS. KOENIG: But that's what's consistent on -- you know, sea salt I think is on there.

CHAIRPERSON RIDDLE: Kevin and then Arthur, and then we're going to take a break.

MR. O'RELL: Well, Rose hit on most of the comments that I wanted to make, but to just throw out there, you know, the purpose of this is truly a guidance document for our TAP reviewers. We've been making these calls and determinations about synthetic/nonsynthetic since the beginning of the program, and we've been making these without anything really written in one place as to what are we meaning when we say synthetic/nonsynthetic.

So, you know, the purpose of this is to put out some guidelines on the table that we can work
with, that TAP reviewers can work with, the industry
can work with because, as Rose said, they know the
materials. They know where it fits in.

And I think it does bring a level of
clarity, and certainly there are these nuances that
we're going to hit. This is a difficult subject to
approach, but I think it's a good start, and we're not
trying to make chemists out of everybody.

MS. KOENIG: Right.

CHAIRPERSON RIDDLE: Arthur and then I do
have Andrea. I had missed her, and then we will
break.

MR. NEAL: Real short. I just wanted to
clarify the placement and purpose of this document
will also serve for the industry because there's a
whole host of substances called naturals that are not
on a national list that will also have to be assessed
against this criteria. So that means all ACAs and all
producers that currently use these things called
naturals, and nobody maybe have looked at in some
time, will have to be reviewed against this same
criteria.
CHAIRPERSON RIDDLE: Good point. Thanks.

Andrea.

MS. CAROE: Well, it just kind of tagging onto Arthur's point who made part of what I wanted to say, it's also in the spirit of transparency for this Board. It's very important that those petitioning materials know whether their material is synthetic or not, especially as we move forward with the new program.

So you know, we're talking about justifying our decisions, but before it even gets there, if I'm going to invest hours and hours and hours into putting together a thorough petition, I need to know if it's got a snowball's chance if it's a synthetic and is going to be deemed that way. You know, it's not worth it to move forward necessarily.

CHAIRPERSON RIDDLE: Okay. Thanks, Kim.

MS. DIETZ: Thank you.

CHAIRPERSON RIDDLE: And we will take about a 12 minute break until whatever it is, 2:50, 2:50. We have a lot of commenters left. So a quick break, please.
WHEREUPON, the foregoing matter went off the record at 2:41 p.m. and went back on the record at 2:56 p.m.)

CHAIRPERSON RIDDLE: Is Grade Marroquin here? Okay. Grace is coming. You might hold up, but I'm glad you're here and ready.

Any other Board members?

While Grace is wetting her whistle, just a reminder that if you have a proxy to please announce that at the very beginning so that Goldie knows how much time you have.

So Grace Marroquin and then on deck John Tedeschi.

Grace.

MS. MARROQUIN: My name is Grace Marroquin, President of Marroquin International Organic Commodity Services, Inc., a company based in Santa Cruz, California. We supply organic ingredients to the food industry.

I'm here once again to request that the Board recommend the classification of yeast as an agricultural product. It was over a year ago on July
30th, '04, that we filled out a request to the Board that it recommend that yeast be transferred from 605(a) to 606 as an agricultural product.

Presently processed food products are being labeled and sold as organic that contain conventional yeast instead of organic yeast, and even though organic yeast is fully available, it cannot be officially recognized as an organic ingredient and required in products with an organic label.

Organic yeast cannot be officially recognized until yeast itself is reclassified as an agricultural product. Organic yeast is the only ingredient that is available in the market today that cannot be recognized as a required organic ingredient, and all we’re asking is that the Board allow organic yeast the same status as other organic ingredients.

Since filling this request I have traveled to Washington to address this Board three times with this same request. I would like to turn to the latest roadblock that we have encountered and this is a handling committee’s paper that is coming before the Board at this meeting. This proposed guidance
document concludes that yeast cannot be classified as agricultural.

I now want to explain what it would mean if the Board approves this guidance document. One, to produce yeast in a conventional way involves ammonia, sulfuric acid, caustic soda lye, synthetic vitamins, and synthetic anti-foaming agents. It required rinsing twice, and this generates contaminated waste water that has to then be further treated.

The process to manufacture organic yeast uses no chemicals and produces no chemically contaminated waste water. We have an appendix that clearly details all of this out.

Secondly, if the Board adopts this guidance, it would set the Board's policy that conventional yeast and not organic yeast should be the standard yeast in processed products that bear the organic label. This would be in direct conflict with the goal of organic integrity.

Thirdly, organic yeast could not be required as an ingredient in the last five percent of organic processed foods, nor could it be required in
any organic product. Organic processors would choose to use organic yeast could not count it toward their organic ingredient content when they're aiming for 70 percent or 95 percent threshold. Therefore, anyone using over five percent yeast would then not have an organic product.

Since organic yeast is certified in Europe and Japan, nonrecognition of organic yeast by the NOP would remain a barrier to equivalency and a restriction of free organic trade.

I will turn now to the finding of the committee that while mushrooms and yeast are both fungi, yeast is nonagricultural.

If yeast is not agricultural, then mushrooms cannot be agricultural. The guidance document rests on the distinction that mushroom produces fruiting bodies and yeast produces by budding.

Several members of the scientific community have submitted comments pointing out that this is a distinction without a difference. Here's a sampling of their comments.
The first one is from Professor Dr. Jean-Claude Hubert from the former chair of the Microbiology Department of the University of Strausberg. He said yeast can reproduce sexually as can mushrooms. Yeast, like mushrooms, can even produce fruiting bodies.

The second comment is from Susan Ulrey, Director of Regulatory Affairs for Synergy Company of Utah. Algae like yeast are single celled organisms, and algae like yeast are grown in a solution. Both algae and yeast can be and are grown in closed tank solutions. So how can algae be considered agricultural and yeast nonagricultural?

The third comment is from Paul Stamets. He's the author of six books and has written several scholarly articles on mushrooms, and he's a founder of Fungi Perfecti, and he said that many fungi that formed mushrooms can also express themselves in the form of yeast. Yeast are a simpler form of the life cycle of these mushrooms. Like beads on a string, these mushrooms can disassemble themselves from their mycelial form into their one cell form.
So to call yeast a nonagricultural product would logically require that mushrooms be called nonagricultural, and I'm not here trying to say that. I don't want to see that happen.

And more than a dozen individuals have filed comments in opposition to the yeast decision. The 606 task force of the Organic Trade Association is also opposed to treating yeast as a nonagricultural substance.

These comments come from ingredient suppliers and manufacturers and certifiers, scientists, and consultants, and it's now time to have yeast declared as agricultural.

I thank you all.

CHAIRPERSON RIDDLE: Thank you, Grace.

Questions? Kevin.

MR. O'ReLL: I'm sure there's going to be a lot of questions.

MS. MARROQUIN: I hope not.

MR. O'RELL: Well, no, this is the good thing. This is part of the process. This is why we're here.
The Handling Committee worked long and hard in trying to get some kind of recommendation to the table so that we had some form, some document, work product to get public input and get a discussion going. So I can see we did that, and that's a good thing.

Just some housekeeping. You said you filed a request with the Board for yeast to be transferred from Section 205.605(a) to 205.605(b). Was that a formal petition to do that or is that just your public comment to the Board? Because I haven't seen a formal.

MR. SIEGEL: That was a request.

CHAIRPERSON RIDDLE: Okay Could you identify yourself, please?


That document that we presented to the Board on July 30th, 2004, was not a petition because we were not talking about a substance that was going on the national list or coming off the national list.
That was a request to reclassify a substance that was in one part of the national list, move it to another part.

MR. O'RELL: But that was in your public comments; is that correct, that you submitted to the Board?

MR. SIEGEL: Yes. The reason for that characterization was explained. I explained that at the time.

MR. O'RELL: Okay.

MR. SIEGEL: And the regulations for submitting a petition, the guidelines say a petition is for a substance either coming on the national list or going off the national list, and so we didn't fit within that framework.

MS. MARROQUIN: And the other reason we did it that way was that Dick Matthews sent a letter to Richard in February 11th, and he said, "Should you desire reclassification of yeast as an agricultural product, a petition is required to remove yeast from 205.605 and to seek yeast reclassification as an agricultural product."
MR. O'ReLL: Okay. I just for clarification wanted to know it didn't go through the petition process, but it was part of the public comment process to request the Board.

MS. MARROQUIN: Right.

MR. O'ReLL: The other thing, in the Handling Committee in taking on this issue, the issue, we obviously were aware of your issue, and you have been speaking to this issue on organic yeast now for three meetings, I think, and we felt that the first place that we needed to start was to look at the definition of agriculture and to define a nonagricultural product and an agricultural product.

What we did in the process, and we looked at -- we spent a lot of hours in trying to decide which way we needed to go. The route that we chose, we tried in drawing the lines to draw the lines specifically to support past decisions by the Board that the decision that yeast was put on 205.605(a) as a nonsynthetic and was deemed at that time as nonagricultural.

And in all of the comments that are coming
to us from you and from others that we support, we
certainly want to have more organic inputs available
for us to use, but what seems to be happening is that
you're describing an organic processing plan, and the
yeast that you use, you're feeding an organic
substrate, and you're following to us more of the
guidelines for a handling plan than going back to the
yeast themselves being agricultural.

And I guess that's where we struggle. So
maybe you can help us out and tell us how do we go
back to the agricultural roots of yeast being organic
and deal with that as opposed to the production
methods because we all agree that the production
method is a better method.

MS. MARROQUIN: Right, and I think what
I'm going to do is when I leave here work with the
folks that we've been working on and be able to -- I
think there may be further comments that come along
that can support that and be able to come up with a
better explanation to you as to how I think that can
work. I think my concern here is it's just like how
textbooks get written every 20 years. There are so
many new ingredients that are becoming available, and we have to open up how we look at these new ingredients because we have ingredients that are going to be eliminated possibly from what we can use today, and here we have an ingredient that is produced with methods that follow clearly what would be the organic integrity of how you handle something and even how you grow it, your propagate it, you harvest it, you have quality control systems in place.

So I see Rosy wants to say something here.

MS. KOENIG: Yes. First of all, you know, on the technical definition, if you look at fungi, in parentheses when we say multi-cellular fruiting bodies, we say ascocarp and basidiocarp, and I intentionally put that in there knowing that mycologists might come forth, but those terms mean something and they're supposed to be and maybe parentheses shouldn't have been there.

We were trying to, again, write this for the layperson. If I just said multi-cellular fruiting bodies, I didn't think it was concise, but ascocarp and basidiocarp are the actual mushroom bodies that
edible mushrooms are formed of.

Yeast don't produce ascocarps and basidiocarps, and that's the distinction in that document, and so I just want to say that, you know, as far as that comment goes, you know, nobody addresses ascocarp and basidiocarp. They talk about the ascis, and I was never denying that they go through sexual cycles. I understand that. They do produce ascis, but they don't produce ascocarps and basidiocarps which are the edible -- and that's what I was trying to show -- the edible, what people refer to as edible mushrooms, but we --

MS. KOENIG: How about algae?

MS. MARROQUIN: The algae is in another section of the document, and similar to the synthetic/nonsynthetic document that was written, we have a regulation that first divides things into categories, and we have industries and things on our material list such as spirulina that already exists, you know, as we do business today.

And this document was, again, -- the Handling Committee was working on a way to somehow
make a definition that encompasses all of the things that we all have considered was in our process and lists as agriculture.

So that's what's reflective of that policy, and I used -- to not be arbitrary and not to forget things, we utilized the classification systems of organisms because all of these things are organisms, to make those divisions for us so that we could justify some of the thinking of why things were precisely done the way you're saying.

But you know, the larger issue, and that's what Kevin was stating, and this is really the perplexing part of the problem, is that in order for something to be agricultural, it has to either meet the crop standards, and as I explained to you, or the livestock standards.

MS. KOENIG: Right.

MS. MARROQUIN: I spent many hours trying to figure out through my knowledge of how yeast is produced, and forget just yeast; some of these other microorganisms that are fungal, aspergillus, et cetera. How one could fill out a farm system plan in
the various sections of the regulation to get certified. Okay?

And I could understand I could go there because I understood that. Like you said, you used the term "manufacturing." I like that term. It is very distinguished between farmed or produced, you know, farm production.

Manufacturing is closer to handling, and I'm assuming that those are the parts of the standards, the handling section are those that your yeast production system need most consistently, you know, if you were to fill out a plan. Okay?

But you certify handling operations so that they can handle agricultural products. Handling operations are not producers of agricultural products.

MS. KOENIG: But isn't the algae the same thing and there's a handling process?

MS. MARROQUIN: Exactly what you're saying. I'm not -- if there is an algae farm --

MS. KOENIG: Certified organic.

MS. MARROQUIN: If there's algae out there that's certified organic, I would use the same line of
questioning. What standards are they being certified to? Is it crops or is it livestock?

You know, in this proposal it says they photosynthesize. So they naturally should be able to meet -- you know, they would have to fill out the crop section of the farm system plan.

MS. KOENIG: Sure.

MS. MARROQUIN: And there may be some algae production that don't meet the standards, and that really is a certifier's job to see if that does or does not meet the standards, but the statement I will make to you, and again, I think Kevin said, not only go to the standards and find out what, but as far as this Board is concerned, I don't believe that this operation meets the crops or the livestock standards.

So if we were to say that they were agricultural, it would mean the next step would be microbial standards would have to be written so that one could fill out a farm plan based on microbial standards. Okay?

And mushroom growers have acknowledged that they sometimes find difficulty fitting into the
crop standards, and that's why we throughout the history have mentioned we need mushroom standards and recommendations.

So even if, you know, after reviewing this and it's the will of this Board to call it agricultural, I still feel that there's no appropriate standards as we see in the regulation to meet microbial crops or microbial fungi or however you want, however they would be written.

So it's still a long process to go through to get at your objective. What I explained to you before, there's another I think more simpler way to get at your objective, and I think this meets the comment that OTA came out with.

We have the materials process, and that will go back to where your substance lies. It can stay within that same category in nonagriculture products, but yeast are already annotated to exclude, I think, Petroleum manufacturing.

We could further annotate or change the annotation. It would have to go through the petition process, but you could basically petition ot have
yeast not change its position, but to be annotated, and you would have to go through, I'm saying, and prove this and state your case. I'm not telling you to do this in a light fashion because it does require input in work.

MS. KOENIG: Sure.

MS. MARROQUIN: But you could propose to change the annotation that might say made on substrates containing only organic grains and nonsynthetic substances. Okay? That doesn't change our definition of ag. It stays where it's at, but that would require certifying agencies to verify that the yeast that is used in breads or products have been raised on organic grain.

So it creates that stimulus in the industry that I think we all can agree is important, but it doesn't require us to go ahead and have to create a whole other set of standards for microorganisms, which, heck, if it's not in the scope of certify soaps, I don't quite think NOP is going to think that microorganisms are necessarily in their scope, but I may be wrong.
MS. KOENIG: Well, I can appreciate a solution that you're trying to present, and it's worthy of looking at. However, it has taken since July to come to this point, and I don't think I have the wherewithal within me right now to say, "Well, okay. This is what makes it a crop standard."

But I'll bet you there could be a way. It could be wild harvested spores, and I don't know. I'm not a scientist, just like Barbara is not a scientist. So --

MS. MARROQUIN: You don't need to be a scientist to figure that out, that one.

MS. KOENIG: Well, --

MS. MARROQUIN: It can't be done.

MS. KOENIG: Well, I would ask two things. I have two concerns here. Okay? And one is that if you're going to make a decision, that maybe you give it a little bit more time because there's a lot of things on the plate. I know that, with everything that's going on within the industry, but this is a place where you think you can make a decision. So let's make a decision.
But given that it has taken this long, you know, I can come another time and present my case.

And then secondly, my bigger concern is if we make an annotation for yeast, then how many other things do you have to make little, specific annotations for? And you could be doing that for a lot of new ingredients that are new, innovative ingredients. It's where we want to be going. We don't want to be stuck in a box.

And having spent 15 years in the industry developing ingredients for manufacturing and seeing the industry come to new levels of new products that become available and then it develops other products, I think we just have to stay open that way and not pick off each one.

But again, I appreciate the possible solution you're giving; worth considering, and I thank you.

CHAIRPERSON RIDDLE: Kevin.

MR. O'ReLL: Just a final comment. I know we don't particularly like to deal with annotations. I know the NOP doesn't like to deal with annotations,
and I'm not sure that this opens up a can of worms of a lot of things coming with annotations because this is a very specific thing in trying to find it, and I think it might be a better route than reclassifying something or drawing lines to make something agricultural where we don't have a systems plan in crop or livestock that this readily fits into.

However, if you can come up with some suggestions in that area, you know, that would certainly shed some light on it, and we will take your consideration as well. You know, we deliberate long and slow on this and make sure we're moving in the right directions.

MS. MARROQUIN: I appreciate that.

CHAIRPERSON RIDDLE: And thanks, Grace. Thanks for your input and your willingness to come back.

Goldie?

MS. COUGHLAN: I would also like to add, however, I think we recognize that it doesn't truly meet what you're talking about, which may or may not be able to be met, and that's our concern because
there is no way that an annotation obviously could guarantee that. There’s no way to mandate that it would be organic, and you want it obviously.

CHAIRPERSON RIDDLE: Okay.

MS. MARROQUIN: Thank you.

MS. COUGHLAN: So we’re aware of that.

CHAIRPERSON RIDDLE: Thanks.

MS. MARROQUIN: Thanks.

CHAIRPERSON RIDDLE: John Tedeschi is up and Jackie Greenburg is on deck, and while John is coming up, I’d just like to point out for the Board that John is number 17 out of 53, and we can’t debate all of the standards despite how worth it is.

George, did you have a point first?

MR. SIEMON: Yeah, my point is we’re doing committee work now with all the testimony, and to me it would be better to call these people back up if they’re in the audience still when we’re doing actually the committee work, and I think we should keep to the public testimony.

CHAIRPERSON RIDDLE: Okay. Thanks.

John.
MR. TEDESCHI: Thank you.

I am John Tedeschi. That's T-e-d-e-s-c-h-i, for the record.

I represent Bath and Body Works. We are an operating division of Limited Brands, a specialty retailer of apparel, fine fragrances and personal care products.

The company currently offers a line of natural and certified organic essential oils that have been certified through the National Organics Program and carry the seal. A major investment was made to develop very pure and high quality product forms being the existing food standard breaks. We have attained a seal through Penn Certified Organic, unauthorized certification organization, with a rigorous evaluation process with regard to organic submissions.

The purpose of my presence here today is to present the position of my organization and petition the Board regarding the recent decision to rescind the use of the National Organic Program seal for personal care products.

We believe the seal should continue to be
granted for personal care products. So please consider your decision as it will have significant impact in the marketplace.

I do not wish to review the activities that brought us to this junction as some previous presentations have already articulated it.

The USDA should consider maintaining the use of the national organics seal for personal care products for the following reasons. Consumers recognize the seal on products as high quality, high purity and meet required standards from a government agency or authorized certifying organization.

The NOP seal represents a credible differentiator for the consumer for products that attempt to imply organic, but contain synthetic chemicals.

The consumer must be provided honest, truthful, and no misleading information so that a proper decision of the point of purchase can be made. Without the NOP seal, the consumer will face the market with our product differentiation. It will leave the confusion for the consumer and create a
level playing field, whereas products using low grade materials or synthetics will be allowed the same recognition as higher grade forms.

Personal care products capable of being formulated according to the current food standards should be allowed to carry the USDA National Organic Program Seal. The action will allow consumers who desire a certified organic product alternative to purchase a form that has been formulated and manufactured with very high standards.

The United States Department of Agriculture and the United States Food and Drug Administration, each having jurisdiction over food products with the FDA providing oversight for cosmetics and personal care product forms pose a unique opportunity to collaborate in this product area.

Please accept our sincere appreciation for allowing Bath and Body Works the time to present our point of view related to this most important issue.

Thank you.

CHAIRPERSON RIDDLE: Thanks, John.
Okay. Jackie Greenburg and then on deck Juan Velez.

MS. GREENBURG: I'm Jackie Greenburg, an organic dairy farmer from Stratford, Wisconsin. I am going to read two statements from other producers. The first statement:

My name is Lysle Edwards, Jr. My wife and I have an organic dairy farm in Vermont. We milk 50 cows. I recommend to the Board that you pass the guidance document under consideration with revisions suggested by NODPA.

Pasture is a very important part of organic dairying and must continue as a requirement to keep organic dairying viable.

And here is the second statement from Barbara Buckmayer:

My husband Terry and I run a certified organic dairy since 1995. We currently milk 65 cross-bred cows on 550 acres of pasture and hay land in north central Missouri. We buy an organic grain and feed a small amount, two to six pounds per head per day.
We also process our milk on farm and sell it in half gallon glass bottles in three major metro areas.

In talking with consumers in stores and at the farm, we find that most people are interested in organic milk because of the health benefits they perceive are gained by drinking milk that has been produced in a humane fashion without the use of pesticides, herbicides, inorganic fertilizers, hormones, GMOs, antibiotics, sewage, sludge, or irradiation. They want milk that enhances both their health and the health of the cows that produce it.

The pasture requirement is the key to both aspects of this production. By enforcing the use of pasture organic milk becomes more than milk produced without questionable input. It becomes milk that is enhanced with CLA and Omega-3s.

Cows on pasture also have a quality of life that is not obtainable in confinement or factory farm situations. Pastures focus cows to get exercise to obtain that forage and allows them the freedom to exist in a social situation that is natural for
herding animals.

Consumers currently assume that organic dairies provide pasture for their cows to a great extent and are amazed and disillusioned when they discovered organic milk can be produced on factory farms.

If the pasture requirement is not adhered to, there will most certainly be a grassroots movement to find milk and other products that are produced using methods beyond organic. We strongly encourage the adoption of the organic dairy pasture requirements. We strongly encourage the NOSB to adopt the pasture guidance document with the modifications endorsed by MODPA and others.

Thank you.

MS. COUGHLAN: Thank you.

CHAIRPERSON RIDDLE: Thank you, Jackie.

Okay. Mr. Velez and then Clark Driftmier.

MR. VELEZ: My name is Juan Velez. That's spelled J-u-a-n V-e-l-e-z.

I am the Director of Farm Operations for our organic dairies.
First of all, I want to thank the NOSB and the NOP for giving me the opportunity to present my public comments.

It has been apparent over the last several months that there’s mainly four reasons why you guys have had to work so hard on coming out with a guidance document for pasture. I may say that those four in my opinion are the animal welfare and health issue; a second, expression of natural behavior; the third one, public perception, consumption, the consumer’s perception of organic milk; and the fourth one also of use is politics.

I am not going to talk about the last one.

I want to refer to Mr. David Engel’s comments on the February-March meeting in regards to the last one.

On the welfare and health issue, my opinion is that the current guidance document does not do anything to address that. I’m going to give a copy to NOP and to the chairman of the Livestock Committee of more than 150 scientific papers expressing very controversial results that differ tremendously depending on the management system.
The conclusion is that the system itself, the production system is not what produces health or welfare. It is the management of such a system that produces welfare and health.

I would like to propose that in order to guarantee that organic dairy farms do have a good system in place that takes care of animal welfare and health, we put a proposal to make all organic dairy farms go through an assessment and an audit of animal welfare performed by an accredited organization.

There are some of them already that are created by the USDA, and that eliminates all of the other aspects of how you are managing your dairy or how you are not, but it assesses and evaluates the end result, a very, very good program that is already in place in some of the dairies, organic and nonorganic.

On the aspect of natural behavior, I question whether this will have any real result when, in my opinion we also seem to ignore two extremely important aspects of natural behavior. One of them is allowing the cow to walk freely to water, in search for water and in search for feed during some periods.
of time during the year. So we are pushing this natural behavior during the summer or during the growing season, but we completely ignore them and allow cows to be tied with a chain to a tight stall, completely depriving the cow from some of the most natural behaviors, which is walking in search for water.

And also, a little controversial when we also allowed another natural behavior that is critical. I want to remind the Board that milk is a byproduct of the most natural behavior, which is the sexual behavior and natural service.

And on the issue of consumer perception, I am not an expert on the subject. However, I hear that depending on the way that the research is conducted, you get different results. If it is a guided survey, you get some answers. If it is nonguided, in other words, what I understand is you’re asked what are the most important reasons why you guy organic milk, no pesticides, no antibiotics, and no hormones come always on top of the list, and the pasture or access to pasture does not show up always when it’s a
nonguided.

Again, I'm not an expert. I do believe strongly that pasture is extremely good for cows. I do believe that the prescriptive measurements that are being suggested do not accomplish the results that perhaps are needed.

thank you for your time, and I will consider your questions if you guys would like.

CHAIRPERSON RIDDLE: Thank you.

Okay. We have Clark Driftmier and then Steve Pechacek.

MR. DRIFTMIER: Thank you very much.

I'm using a very small portion of Mark Retslough's, and I'm going to start actually, in addition, responding to Kim Dietz on her question about the national list, and I'm happy to tell you this is a very short comment on the national list.

Kim asked about livestock and why there were no responses. We will be turning in a livestock comment, and it will come tonight. That comment will be that we want to improve the entire national list for livestock, except for oxytocin and ivermectin,
which we believe should be removed from the list.

And regarding the processing part of the national list, we approve of the entire list as it currently is.

So now to my other comment. Mr. Chairman, distinguished NOSB/USDA colleagues and fellow members of the organic community, I'm Clark Driftmier, Senior Vice President of Marketing at Aurora Organic Dairy. Thank you for the opportunity to speak today.

I bring you greetings from the 170 employees of Aurora Organic Dairy and from the more than 200 partners, many of them family farmers who work with our company. I would like to share some of our thoughts about the growth of the organic movement, organic consumers, along with recommendations to this august body.

In our opinion, the organic movement has two principal goals: first, to convert a significant percentage of U.S. agriculture to certified organic production methods and, second, to stimulate an equally significant demand for organic products among U.S. consumers.
Let me propose a definition for significant that sets the organic at no less than 20 percent of U.S. agriculture and 20 percent or more of the food purchases of U.S. consumers.

To put this goal in perspective, there are currently three and a half million to four million acres of organic agriculture in America, certainly a testament to all of the work that all of us in this room and everyone in the movement have done.

However, there are 936 million total acres of agriculture in America. Within this larger context, organic agriculture comprises only .4 of one percent.

Certified organic milk cows comprise approximately .8 of one percent of the total U.S. dairy herd of nine million animals. There are about 75,000 organic cows.

To reach a goal of 20 percent, we will need to convert more than 180 million acres of agriculture to organic and nearly two million organic cows or milk cows need to be converted to organic.

Some in this room might disagree with so
high a figure, and yet I believe this goal is imminently achievable. Indeed, it is absolutely necessary in order for organic to fulfill our fullest promise.

Most of us came to organic because we rallied to the mission oriented call to convert agriculture, to change paradigms, to storm the ramparts, if you will. But a strong sense of mission must be accompanied by a practical nuts and bolts set of activities that will facilitate its achievement. As organic moves from the fringe of society towards its center, organic products must appeal to mainstream American tastes and expectations. They must be sold in packages and forms that consumers know and trust using processing techniques that uphold the highest standards of quality and food safety. They must also be offered at affordable prices.

And yet I see a dichotomy in this regard among a few of our organic colleagues. Some say they have a strong mission orientation to build organic, but they argue for illogical restrictions that would prevent organic from fulfilling its promise. They
want everyone to eat organic, but they won't allow for
certain practical and necessary items.

For example, they seek to disallow the
leavening agents to make organic baked goods and the
pectin to make organic jam. I ask you: how can we
storm the ramparts, convert agriculture, and convince
millions of consumers to buy organic if our dough
won't rise and our jam won't set?

Some of these people say they want
everyone in organic to drink organic milk, but they
seek to impose geographic exclusivity to limit the
production of organic milk to a few verdant acres in
the wettest climates and to prevent its expansion to
all regions of the country.

They also seek to limit organic only to
smaller farms and to prevent larger farms from
participating in the organic opportunity. All of this
to me is counterproductive. If the goal truly is to
convert anywhere near 180 million acres and up to two
million organic cows, then all of us are needed, and
then some, growing as rapidly and diversely as
possible east and west, big and small, all
geographies, all ranges of scales, all types of operations, and all with a set of rules and guidance that facilitates significant growth.

I know that the rapid growth of organic is disconcerting to some. There are some who warn that organic is getting too big, too corporate, too mainstream.

I argue something different. Organic is actually much, much too small. A portion of agriculture that we comprise, .4 of one percent, isn't good enough. It isn't big enough. It doesn't have the size or the scale or the clout to achieve the goal we all hold, which is to make organic a real force for change in America.

We need a much more robust plan to convert organic acreage. Certainly every conversion is good.

CHAIRPERSON RIDDLE: I think we missed the --

MS. COUGHLAN: I didn't know you had a proxy that was --

MR. DRIFTMIER: That's all right.

CHAIRPERSON RIDDLE: Please continue.
MR. DRIFTMIER: Certainly. Every conversion is good be it one half acre or 100,000 acres, but there are some who argue that only the small conversions, only the small farms are true to the spirit of organic.

We respectfully disagree. Both small and large conversions are necessary, and both small farms and large farms are vital in the enormous task that we have.

We also need a pragmatic, practical set of rules and guidelines designed to facilitate the rapid growth of organic across all segments, geographies, sizes, and scales. This is where you all come in. The NOSB and NOP fulfill critical and irreplaceable roles in the growth of the organic movement, and your actions have a major impact on the course of organics.

We call upon you to fulfill your charter in a way that promotes the rapid growth and expansion of organic and to reject those forces who would use lawsuits and other defeatist strategies to derail the progress we have made thus far.

We also ask that you give equal support to
all segments of organic, east and west, big and small, family farms, incorporations, and LLCs and what have you because in the final analysis, we are all in the same boat. We are all pulling on the oars towards the same destination.

The conversion of U.S. agriculture to organic methods and the widespread adoption of organic products by the American people.

Thank you very much, and here's to our organic future.

CHAIRPERSON RIDDEL: Thanks, Clark.

Okay, Dave, I'm sorry.

MR. CARTER: Yeah, this might be directed as much to Juan as to you, Clark, but one thing that I didn't hear either of you talk about was the part of the recommendation that came out last time trying to use some of the NRCS standards as a basis. I mean, I agree with you that you can't take the type of agriculture in one part of the country and say that those are the standards that have to be applicable for everywhere.

What about using some of the guidelines of
things like NRCS?

MR. DRIFTMIER: We think it's a useful voluntary tool, but at this point we would not recommend it to go into any sort of guidance like you must use this or you really ought to use this. We think that there's way, way too much that's not known about that.

But we do think that the progress that NRCS has made in trying to establish, you know, individuality between all the different counties in the country is an interesting thing to look at, but I think it's way, way premature to have any sort of prescriptive or, you know, you need to use this because we really -- I mean, I don't think anyone has done any significant study out of what it would actually mean in organic livestock.

Great. Thank you.

CHAIRPERSON RIDDLE: Yes, sorry.

MS. KOENIG: So specifically to the -- again, I'm not on the Livestock Committee. So I don't pay attention to the daily discussions that go on with the recommendation, but we do have that recommendation
brought forward in front of us to vote on.

So what specifically in that recommendation will you point out you have issues with?

MR. DRIFTMIER: We think you ought to go back to the drawing board. We think there are so many problems in that as is that you really need to take it back and reconsider.

Juan already spoke very eloquently about many of the problems involved in numerical prescriptive requirements. The body of testimony, actually it's not testimony. It's essentially every research study that we could find. There are over 100 research studies in the CDs that were turned across. They show evidence all across the board. There is no body of evidence supporting one versus the other.

So we think you ought to go back and keep working.

CHAIRPERSON RIDDEL: Dave?

MR. CARTER: Just one, and this is on the first part of your thing on the national list, the oxytocin and the ivermectin. What about moxidectin?
MR. DRIFTMIER: Juan.

CHAIRPERSON RIDDLE: Yeah, please approach the mic.

MR. VELEZ: We feel the same way about that one, too. We heard this morning from NOP there is also an antibiotic. Therefore, we disagree strongly to put it on the list.

CHAIRPERSON RIDDLE: All right. Thanks.

MR. DRIFTMIER: Great. Thanks a lot.

CHAIRPERSON RIDDLE: Okay. Steve Pechacek, then Jim Greenburg.

MR. PECHACEK: My name is Steve Pechacek, spelled P-e-c-h-a-c-e-k.

And I'm President of the Midwest Organic Dairy Producers Association, or MODPA, which represents 12 states in the Midwest and more than 300 certified organic dairy farms.

I'm also President of Organic Choice, a certified organic milk procurement agency from the Midwest which has more than 50 certified organic dairy farms as producers, as well as being an organic dairy producer myself.
I would like to thank the NOSB and the USDA for allowing my input here today and for the contemplation and deliberation over these important issues.

In 1948, Wisconsin peaked in its number of dairy farms at around 148,000. Today Wisconsin has slightly more than 15,000 dairy farms. That means that Wisconsin lost in the neighborhood of 2,333 farms per year, or around 6.4 farms each day, for 57 years.

There are other figures that show that the United States at its peak had more than three million dairy farms and today is down to around 70,000. Before the peak of the dairy farm numbers in Wisconsin and in the United States, most dairy farms would have been considered organic or would have probably met the organic standards or definitions of today. Most or almost all dairy farm utilize grazing as an integral part of their ration.

At that point in time, dairy farmers were also receiving 100 percent of parity. There were no great surpluses. Debt didn't run rampant, and the government balanced the only budgets between the
Depression of the 1930s and the present.

In Wisconsin, the dairy industry represents $19 billion of industry per year. As more small, independent family farms go out of business, the towns and agribusinesses supporting them go out as well, depleting the nation's entire economy and the U.S. further.

It is said that every empire that has existed in our world has crumbled when the empire failed to recognize the needs of the farmers who were producing their food. Please, accept, pass, and enforce the pasture guidance document under consideration with minor clarifications which has been endorsed by several organizations like the Northeast Organic Dairy Producers Alliance, the Midwest Organic Dairy Producers Association, the Cornucopia Institute, Organic Choice, and many others.

The chemical revolution of the country has not been kind to the family dairy farmer. While it may have made them more productive, it hasn't necessarily made them more efficient or more profitable as was previously explained by the great
number of dairy farms who have exited the industry and continue to do so to this very day.

In some cases it has already caused serious environmental problems, like erosion, water quality, and pollution. The arrival of the organic industry has been a catalyst which has allowed some dairy farmers to hang on. However, a fair organic pasture rule must be implemented to keep a level playing field for dairy producers nationwide.

The guidance document will help implement this. If we were to look at a map of the U.S., we would see that the previous top dairy producing states are located in areas where topography are conducive for grazing, also utilizing our nation's natural resources to their maximum potential.

Many of these areas in our country are now earmarked for recreation and development. The access to the renewable resources of food production on this land will be lost forever. Please keep America live today and help give our children the incentive they need to continue to keep our nation the productive land that it is while preserving our natural resources.
for future generations. Keep America strong and keep consumer confidence strong in American produced organic foods.

Thank you.

MS. COUGHLAN: Thank you.

CHAIRPERSON RIDDLE: Thanks, Steve.

Okay. Jim Greenburg and then Tom Hutcheson.

MR. GREENBURG: Good afternoon. My name is James Greenburg. I, along with my wife and three children, operate a grazing based dairy farm in central Wisconsin.

I want to thank the National Organic Standards Board and the USDA for allowing me to address this committee today regarding the grazing issue.

My number one concern with the grazing issue is that the integrity of the organic dairy products be maintained. People have the perception that organic dairy products are made from milk that is produced by cows as nature intended it to be produced from pasture.
Deviating from this perception will eventually water down organic milk to the point where it will become a meaningless name in the marketplace. Dairy cows were created to graze grass and breathe fresh air, and we need to retain this aspect as much as possible and project it to the consumer.

The organic dairy industry must have distinguishing characteristics like grazing to keep it a viable industry. By approving the grazing guidance document along with the minor clarifications that have been endorsed by the Northeast Organic Dairy Producers Alliance and the Midwest Organic Dairy Producers Association, of which I am a member, you will be insuring a future for small organic dairy farms that originated the organic dairy industry and currently make up the majority of all organic dairies in this United States of America.

In concluding, I would like to say that we all know that cows cannot receive all of their nutrition from grazing throughout an entire year due to varying climatic conditions. But we need to have a reasonable minimum standard which the guidance
document is that applies to all dairies.

Thank you.

CHAIRPERSON RIDDLE: Thanks, Jim.

MR. SIEMON: Jim.

CHAIRPERSON RIDDLE: Yes, George.

MR. SIEMON: Is somebody going to be given hard copies of the NODPA refinement? We keep getting reference to it. Is that happening here?

CHAIRPERSON RIDDLE: We received that already. It was included in Mark's.

MR. SIEMON: Okay. Was it in Mark's? Okay.

CHAIRPERSON RIDDLE: Yeah. Okay. thanks.

Tom Hutcheson and then Steve Morrison.

MR. HUTCHESON: Tom Hutcheson, Organic Trade Association.

First, responding to earlier comments on materials held up for publication in the Federal Register, for instance, activated carbon peracetic acid, et cetera, perhaps rulemaking on these could proceed for these to be placed on 605(b) with the understanding that the title of 605(b) may change from
"allowed inorganic and made with" to simply "allowed
and made with" as a separate rulemaking due to Harvey
v. Secretary of Ag.

I think that that rulemaking could proceed
for those materials with that understanding that there
might be further rulemaking regarding the title of
that section. That might make it easier for that to
get cleared.

There are a number of specific comments in
detail on the sheet that I passed around. I'd just
like to hit a few of the priority ones.

First, back for a moment to agricultural
and nonagricultural definitions, it is a complex
issue, and I think we need to identify all the issues
and options, and we would appreciate having some more
time to work on that within OTA.

We have come up with some recommendations,
including changing the definition of a nonagricultural
substance to a substance such as a mineral that is not
a biologically derived material produced through
cultivation or propagation by humans. And you'll see
also we support amending the guidance document and

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decision tree in accordance with a rationale that supports the position that bacteria, yeast, and other single celled organisms, whether or not they are photosynthetic, are subject to being cultivated or propagated by humans for the purpose of providing a biologically derived material.

Just as farmers feed the soil in an organic agricultural process, so have farmers for millennia produced yeasts and the products that they add value to, for instance Roquefort, one of my favorite cheeses and things such as champagne yeast. These have been traditionally the province of agriculture and on-farm value added processes, and I think that it would be a mistake to move forward with something that cut off some real possibilities that we have here for these processes to be included in the organic world.

Just a quick comment on compost. I urge the Board not to overlook the option of recommending a rule revision of the definition of compost if the result would help organic farmers. I noted that the discussion within the Board paper was very, very good.
and thorough, but it was within the box of the current
definition, and I would propose that the Board be
willing to look at a definition revision if that were
actually to benefit organic farmers, and I have some
ideas in the handout.

Regarding the commercial availability of
organic seed, OTA supports the comments of Richard
Siegel to come, especially as they represent the
position of OTA member seed companies.

Regarding the sunset, OTA has commented
that the proposed rule which follows the advanced
notice of proposed rulemaking should include all
materials listed in the advanced notice of proposed
rulemaking, together with a brief discussion of which
materials received comments during the ANPR comment
period and whether those comments were positive or
negative.

OTA has tried very hard to get people to
comment during this comment period, including
contacting certifiers and urging them to contact their
clients. I hope that comments are received on all of
the materials, but in case they're not, I don't think
that’s a reason for taking them off the proposed rule.

And just one note --

CHAIRPERSON RIDDLE: Summarize and conclude.

MR. HUTCHESON: One note on the piece that Kim handed out. The last page didn't print well. The committee chairs of the NOP have an electronic version of the decision tree for synthetics that we're proposing.

CHAIRPERSON RIDDLE: Kevin.

MR. O’RELL: Thank you, Tom, for your comments.

Clearly in the rule, bacterial cultures are carved out as part of the definition of non-agricultural products, that they cannot be or are a part of nonagricultural and cannot be an agricultural product. And your recommendation would now include bacterial cultures as well as the yeast area.

Just if you could give us a comment, I know you're asking for more time. Is this following up on what Rose and I had said earlier that the single cell microorganisms that do not have photosynthesis
don't readily fit into the livestock or crop standards as we see it now? And opening this door for bacteria as well as yeast, what's your thought about that? How would they fit with the current standards or do you think that we would have to look at standards for single cell microorganisms?

MR. HUTCHESON: That's exactly the question we need more time to answer. I think that it's quite possible that we could come up with a recommendation for microbial standards just as well as the mushroom specialty crop recommendation. It's also entirely conceivable we could come up with an adaptation that did the same thing.

One of the potential side effects of that is making it subject to commercial availability, and we just -- it's new ground for us and rather than paint ourselves into a box now, if you could present something that noted that at least the case of yeast needs further review and discussion so that we're free to come back to you with some responses on that, we'd appreciate that.

CHAIRPERSON RIDDLE: Rose.
MS. KOENIG: Yeah, and the questions I had, because you're both on that document following up. So you're requesting further information, further time to see whether -- I guess that's the question. You want to look at alternative ways upon achieving your objective or do you want just more time to comment on this because it seems like you sufficiently commented on our proposal.

I mean, if you can acknowledge that there may be alternative ways and we really didn't think about the standards, that acknowledges that because, you know, I've got a thing this thick that doesn't even address the points that we've brought up, the standards and the possible ability to annotate something. What this says is that we're going down that agricultural, you know, definition road.

I mean, if you're still considering that it's an ag. product, I don't see how your comments might change in a meeting, but if what I'm hearing from you is that we want to explore some of the alternative options that are out there, I think that's something different than what you're stating.
MR. HUTCHESON: Yes, I would --

MS. KOENIG: What you stated in your statement. Okay? So I want to give you the opportunity to explain that.

MR. HUTCHESON: Yes, I think that we are interested in coming up with the best result, and it may be that that best result would be a proposal for a rule change to include standards. It may be that there are other means, such as an annotation to come to something that would be a result that would encourage the kind of production that we're talking about.

We believe it's possible that that can be labeled organic, and if not, we need to be very clear on why, making sure we've teased out all of the issues and all of the ramifications of those decisions. We don't think that we're there yet.

MS. KOENIG: And then on the other document what I'm hearing -- and you've heard the other comment that you -- do you believe that there needs to be further analysis of your proposal or do you feel that your proposal is the way to go in terms
of the synthetic/nonsynthetic? Because you have pretty specific comments in your written document.

MR. HUTCHESON: The end that we're heading for is maximizing organic production. In order to do that, this is the way that we believe the synthetic versus nonsynthetic discussion ought to proceed, if that's the document you're referring to.

MS. KOENIG: Yeah, just based on some of that discussion. So you've done the analysis to look at the list to determine if the outcome of what you proposed, how it's going to impact those lists or you haven't done that analysis?

MR. HUTCHESON: The major analysis that we've done on the 605 is to identify the materials on 605(b) which might be able to be petitioned to be reclassified if petitioning is necessary to reclassify. That seems to be a gray area as well.

MS. KOENIG: Have you done an analysis of the crops and the livestock materials list to see the impact on those particular lists?

MR. HUTCHESON: No.

MS. KOENIG: Okay. I would suggest that
maybe when you come to public comment again think about that, doing that analysis or trying to see how that impacts because you said you wanted, you know, for the organic industry to grow just to make sure that you're representing all constituents in the association.

And then the other question I had, did the trade association actually vote on it? How does the Association come up with the recommendations? Is it voting by members or is it by committee? Who do these recommendations represent? I'm just not clear on that.

MR. HUTCHESON: The task force that was formed that came up with the report that Kim presented was formed by the Board of Directors specifically to look at 605(b) issues, which is one of the issues that it was limited to that due to, as I believe you put it earlier, other pressing matters, and that was the result of what that task force came up with, which was vetted by staff and then presented. That's why it's limited to what it was limited to. If we were going to go beyond that, of course, we would want to make
sure that all stakeholders were represented.

MS. KOENIG: Okay. I just was wondering about the ag. versus nonag. Was that the same process or was it a different task force?

MR. HUTCHESON: Formally that is a sub task force of the Board task force on materials issues.

MS. KOENIG: Okay. Thanks.

CHAIRPERSON RIDDLE: Okay. Hugh and then Bea, and, Tom, I think you are still up.

MR. KARREMAN: I guess, you know, I'm new to the whole yeast, agricultural/nonagricultural debate, but from the comments I've read and everything it seems as though I really like your rationale. Just as in cultivating grain crop farmers of these cultures must use seed, proper nutrients, growing environment, quality control, and appropriate harvest, it's like farming, you know, and agricultural production.

And I also hear, you know, the, I guess, definition of crops as something that undergoes photosynthesis. Is that in the definition of the crops? Just wondering.
MS. KOENIG: You need to probably go into the -- there's kind of a clarification. I forget what we officially call it, but it's in your ag. versus nonag. discussion item.

MR. KARREMAN: Okay. I mean, if I wasn't then I would say, you know, then the yeast probably should be okay, but then also the asexual reproduction versus sexual reproduction, certain worms, I guess, reproduce asexually.

MS. KOENIG: I would suggest reading that document because --

MR. KARREMAN: I apologize. I'm getting swayed by --

MS. KOENIG: Okay. I would suggest reading that document.

MR. KARREMAN: I'm not in that committee on a daily basis. Okay. Go on, go on.

CHAIRPERSON RIDDLE: We'll be discussing it tomorrow. So it would be good to read it before then.

MR. KARREMAN: Just I like your rationale.

CHAIRPERSON RIDDLE: Bea, did you have
something?

MS. JAMES: Yes. To take you down another path here, I'm just looking for your expertise and some of your research that perhaps you did. How did the OTA come to the decision that a retailer can be a final handler? I'm just curious about the conclusion between the space of no retail standards to a retailer should be a final handler, and that little piece of information between there and how you came to that decision.

MR. HUTCHESON: It is a very small space, and that is that there are only three kinds of certification. There's a certification for crops, livestock and handling, and therefore if a retailer is going to be certified, they have to meet the handler standards and, therefore, that is the kind of certification that they are held to.

MS. JAMES: I guess I'm just wondering why the OTA wouldn't be more concerned about the fact that there's not retail standards for certification and why you wouldn't pose that as being something for the Board to look at instead of jumping to just putting
the retailer into the handler category.

MR. HUTCHESON: I'd have to review our comments on the proposed rule. It is, of course, in the rule that retail stores are exempt from certification. Therefore, I would say it hasn't been -- of course, we have our own good organic retailing practices which we promote, but I would say it hasn't been a priority for OTA to work on mandatory certification of retail operations because of the way that the rule was written, which seemed to be the consensus at the time.

MS. JAMES: Okay. Thank you.

CHAIRPERSON RIDDLE: Thanks, Tom.

MS. COUGHLAN: Thanks, Tom.

CHAIRPERSON RIDDLE: I think that's it.

Steve Morrison and then Ernest Martin.

MR. MORRISON: Hello. I'm Steve Morrison, and I'm an organic dairy farmer from Maine, and I represent the Northeast Organic Dairy Producers Alliance.

I appreciate the chance to talk to you about this pasture guidance document that you have, I
think, been E-mailed or else you at least have had a chance to hopefully look at it. In both capacities as a farmer and as an NODPA representative, I think it's critically important that the Board pass the guidance document under consideration with the clarifications that are endorsed by NODPA by the Midwestern Organic Dairy Producers and other organizations.

The proposed clarifications to the guidance document are included in the first three sentences of Section A, which is the organic systems plan, and they don't change the substance of the guidance document, but they clarify certain points, and I'll read those first three sentences for the benefit of people that don't have a copy of this edited version in front of them.

And if you do have a copy, you might as well follow along. What it says is that ruminant livestock shall graze -- it says "shall graze" and maybe we should consider changing that to "should graze" -- pasture during the months of the year when pasture can provide edible forage. The certified operation as reflected in the organic systems plan
shall, and then maybe that should be reconsidered, have the goal of providing a significant portion of the total feed requirements as grazed feed, which means greater than 30 percent dry matter intake on an average daily basis during the growing season and not less than 120 days per year.

Growing season means the time of year that pasture growth is possible from natural precipitation or irrigation, and the rest of the Section A is unchanged by clarifications.

I think that it's important for the NOP to take immediate action and accept this clarification and disseminate it to the various certifiers so that certification agencies have some kind of a yardstick to go through the process of evaluating people's or producers' adherence to the requirement to have pasture in their operations.

The guidance doesn't change existing regulations. It simply quantifies the existing pasture requirement which will help the USDA perform its duty of enforcing the requirement, which exists already equitably across all sizes and, you know,
locations of funds.

NODPA also strongly urges the NOP to adopt the rule changes, which are a separate subject under consideration, to eliminate confusion about what constitutes pasture and access to pasture.

The cumulative effect of the rule changes which have been being reviewed and are going to continue to be reviewed, I guess, and this guidance document we feel will serve to promote the spirit and accomplished goals of the Organic Food Productions Act, which is to require that ruminants have access to pasture.

To follow up on a few comments that we've heard in earlier testimonies, I don't think that this quantitative guidance necessarily discriminates against farms by size. However, it does serve to discourage the concentration of large numbers of animals around a single melting facility.

The obvious solution, of course, would be to break large herd sizes down into groups, which are more manageable on a pasture based system, and distribute milking facilities over the landscape so as
to produce the effects of large numbers of animals
concentrated in a specific location.

Those are my comments. Thank you very
much.

CHAIRPERSON RIDDLE: Thanks, Steve.

Hugh.

MR. KARREMAN: Could you remind the Board
where did the 30 percent joint matter come from
exactly?

I'm just wondering. I've heard so much,
you know, comments.

MR. MORRISON: It came from within NOP by
the Northeast Area Producers Alliance after discussion
with members of farm production facilities outside of
that region. So we talked with people from -- you
know, after kind of coming up with that number, we
discussed it with people further west than just the
Northeast, and it seems like, you know, the number was
arrived at kind of after a lot of consideration.
There's a lot of tug-of-war in both directions on that
number. It seems like it was something that was
doable.
And it may be inconvenient for some operations which are not pasture based. You know, it may require that people reallocate their land use a little bit and change some of their corn grown to pasture and then maybe go outside of that immediate barnyard area, which is where it's most convenient to have pasture and plant crops elsewhere.

That's the answer to that question.

MR. KARREMAN: I thought it was based on a study from Cornell to be included in that survey. Wasn't that the original basis?

MR. SIEMON: No, it was the floor that they set for a farm to be called pasturing, was 30 percent dry matter was the floor.

MR. KARREMAN: In that one study.

MR. SIEMON: But I think that's what we heard last year.

MR. KARREMAN: Okay. Because, I mean, I talk a lot with my farmers just on daily farm calls, and to be honest, they don't really have any idea, many of them, what dry matter their cows are getting from pasture or not. They can figure it out and all,
and I just -- it would be difficult for a certifier to go in and inspect a place and say, "Are you getting 30 percent on a daily basis?" and what not.

I feel very comfortable at the 120 days, but personally just not the 30 percent, and I just wanted to make double sure where that was coming from the very first time.

MR. MORRISON: It's what we arrived at after a fair amount of discussion on this very subject, and it included discussion from people that were much heavier pasture users than that, and I think that with respect to the question about certification, I think that it seems like a daunting task to figure it out, but it really isn't when you -- I think that it wouldn't be as big a task once we had gotten used to figuring it out. I think the very first time it might seem like a challenge, but certifiers currently on dairy farms are responsible for trying to determine whether or not a farm has the right amount of forage and has purchased the right amount of organic grain to make the milk that the farm has purchased.

That's a calculation that certifiers are
required to do, and this would be another calculation of similar, you know, scope I think.

CHAIRPERSON RIDDLE: Thanks, Steve.

MR. MORRISON: Okay. Thank you.

CHAIRPERSON RIDDLE: My sense is that we could use a break.

PARTICIPANT: If we can have just one more.

They've got to leave on a plane.

CHAIRPERSON RIDDLE: Yes, we could. That would be Ernest Martin, and then we will have a break.

MR. BOWEN: Hi. Actually my name is Steve Bowen. I'm here with a proxy for Ernest Martin and another gentleman by the name of Ed Zimba.

(Laughter.)

MR. BOWEN: Hi. My name is Ernest Martin. My wife Norma and I own and operate a 60-cow organic dairy farm in northern Ohio. We have been farming since 1994 and we're certified organic in 1999.

In discussion among us and organic neighbors, we have come to the conclusion that organic dairy, the organic dairy industry is not enforcing the pasture requirements they way it should. We have been
in contact with NODPA and are in full support of the pasture guidance document with the minor revisions that are supported by NODPA, MODPA, and many other groups.

We believe that this is what the organic consumers expect of organic products and will be very displeased if informed about this lack of compliance.

We also believe that the integrity of the organic industry is at stake here. Let’s all work together to bring organic standards back to where they should be.

Sincerely, Ernest Martin.

And here’s the other one from Ed Zimba.

My name is Ed Zimba. I’m an organic dairy and crop farmer in Michigan. We milk approximately 300 cows and farm 2,700 acres. I regret not being able to attend the August NOSB meeting myself and am thankful for the opportunity to express my comments through a proxy.

As I stated at the March NOSB meeting, the health of our cattle and as well as the qualify and quantity of our milk production greatly benefitted
when we began grazing our cattle. For this reason, as well as the fact that the consumers expected to uphold the high integrity of the organic industry, I strongly recommend that the Board hear the voice of the organic farmers and pass the guidance document in question, along with the minor clarifications implemented by the NODPA, MODPA, and other organic organizations.

Your attention and consideration to this very significant issue is greatly appreciated by the organic consumer as well as organic farmers.

Thanks.

CHAIRPERSON RIDDLE: And your name again for the record?

MR. BOWEN: I’m Steve Bowen, B-o-w-e-n.

CHAIRPERSON RIDDLE: Okay. Thanks, Steve.

Okay. When we come back from a break, Brian Baker and then Richard Siegel will be the next up. Let’s make it ten minutes, please.

(Whereupon, the foregoing matter went off the record at 4:14 p.m. and went back on the record at 4:29 p.m.)

CHAIRPERSON RIDDLE: Okay. First up we
have Brian Baker and then Richard Siegel.

And before Brian starts I'd just like to encourage people to condense their comments as much as possible, and if you'll still be around on Wednesday, we are offering frequent flyer miles for those who will take a seat on a later flight.

(Laughter.)

CHAIRPERSON RIDDLE: But no. We'll try and get through all of the comments we can, and I think some of the Board actions for today or the discussion items we can get through in a condensed fashion.

Okay. Brian, go ahead.


And I really appreciate the opportunity to speak here. I have a lot to say, very little time, and I know there are a lot of people behind me. You know, if you guys met more often, you know, we could probably get a little farther in the agenda, but you know, you've heard all of this talk about pasture. I'm going to be talking about the other end of the
animal mostly and looking at manure and manure standards and how all of that is taking place and shaping up.

You know, manure in various forms is the most important input that organic farmers use, and manure management, of course, is a significant part of the NOP rule, and there remain a number of ambiguities in how manure management is carried out under the rule, and we're looking for some clarification.

There are two or three areas. The whole question of other methods of composting that are equivalent to those that are in the rule really need to go forward. We strongly support the recommendation of the compost task force and how that's not reversed. The recommendation previously made in May of 2002 is not reversed.

Other processes to further reduce pathogens or processed manure really is more appropriate to be limited in scope to thermal processing or dehydration. Processed manure can refer to the various chemical treatments, such as formaldehyde, metam sodium or Vapam, using carbon
dioxide or sulfuric acid to chemically react the ammonia. Those are synthetic processes, in our opinion, prohibited by the current rule.

Irradiation is another process to further reduce pathogen that in our opinion is not compliant with the NOP.

So, please, stick to dehydrated manure, thermally dehydrated manure as a process to further reduce pathogen. In our opinion that's consistent with the rule but some guidance is needed as to what is sufficient heat treatment to meet pathogen reduction standards.

We also see that because of the low carbon and nitrogen ratio that processed manure or dehydrated manure is not sufficient by itself to maintain or improve soil or organic matter content. It doesn't have the microbiological activity that compost has.

So for those reasons, its use should be limited, but it should not be restricted by days to harvest.

To switch to compost tea, in compost tea the task force recommendations to use potable water,
well intentioned but ill founded, out of place. Is potable water required for fully osprays (phonetic) of fish, for example, for example? Is potable water required for irrigation? Is potable water even required for post harvest handling of produce?

The use of nonpotable water in making compost tea would be a sound strategy for water conservation. It may be counter to the water conservation objectives of the NOP to require potable water sanitizing equipment, would require the use of pesticide, many of which are not on the national list. These sanitizing agents would need to be petitioned for that purpose. Chlorine, of course, is on there and hydrogen peroxide, but other sanitizing agents would have to be subject to the same kind of TAP review process.

Synthetic/nonsynthetic. Strongly support the NOSB's efforts to provide clarity and consistency. I really appreciate the incorporation of OMRI's comments.

We're moving ahead and making decisions already. A number of items that we review, you know,
to back up, you know, OMRI was the TAP reviewer or was the TAP contractor from 1999 to 2002, and we really needed this kind of guidance back then. This really would have helped us, and it will help with the sunset process and the rereview of the substances will help to bring clarity and consistency.

We understand there's a lot of fear and loathing about sunset, but you know, we also understand it's an essential process, and it was deliberately put in the Organic Foods Production Act because things change, because we get new information. We have to look at these things again.

OMRI is not going to support or oppose the sunset of any specific item. We are going to have to make adjustments. It's going to be work for us just like it is for everyone else, whatever the outcome and -- anyway.

CHAIRPERSON RIDDLE: You were saying? You conclude?

MR. BAKER: Yeah, the NOSB should prioritize those items that were not TAP reviewed and the ones for which the NOSB called for accelerated
rereview or sunset in a two year or other accelerated phaseout.

CHAIRPERSON RIDDLE: Rose.

MS. KOENIG: On those sunsettled materials, you provided written comment.

MR. BAKER: Yes.

MS. KOENIG: Regarding ones as going through the minutes that you pointed out two committees. So I suggest that perhaps, you know, the committees can look at the ones that you pointed out and evaluate those.

They've already submitted some of them on lists that they've pinpointed, and you know, I'll look it over and probably suggest that the committees look over your list and confirm your statements and determine whether they want to as a committee review those.

MR. BAKER: Right. It would be a good idea to come back through the minutes and through the discussion and find out what data gaps were identified. The NOSB made these recommendations with great reticence; that there wasn't complete
information, and that data gaps needed to be filled in
order for those materials to remain on the national
list after the specified period.

CHAIRPERSON RIDDLE: Brian, were those
submitted as sunset comments?

MS. KOENIG: They were in his public
comment submissions, but not -- I don't think as from
the Federal Register notice.

MR. BAKER: Right. We're not necessarily
responding to the Federal Register notice. We're just
procedurally pointing out that these were things that
the NOSB identified as requiring greater scrutiny and
it's up to this NOSB whether to follow the previous
NOSB's recommendations.

CHAIRPERSON RIDDLE: Yes, I understand
that it's really background information, but it's very
useful information, and I just want to make sure that,
you know, if it's possible to get it into the sunset
comments, it's not advocating for or against any
substance.

MR. BAKER: Right, right.

CHAIRPERSON RIDDLE: But that way it
wouldn't get lost and that way it's on the Web when people look at sunset comments. So that's till tomorrow. If it's possible, just something to consider.

MR. BAKER: Okay.

CHAIRPERSON RIDDLE: But thanks. Either way this Board will consider it.

MR. BAKER: Okay.

CHAIRPERSON RIDDLE: All right. Thanks, Brian. Was there another question? No. Okay. All right. Richard Siegel and then we have Debra Claire.

MR. SIEGEL: Good afternoon, Mr. Chair and members of the Board. Richard Siegel, S-i-e-g-e-l. I'm an attorney in private practice here in Washington, D.C.

One of the remarkable things about the organic program is its comprehensive sweep, and it runs all the way from the seed that goes into the ground to grow an organic crop all the way to the handling processes and complex ingredients, and I find myself earlier involved in a discussion of the
handling issues, and now I'm going to talk about organic seed.

I represent eight companies. You've probably seen our comments, which are a full statement of our more than five pages which I will try to condense very, very concisely. The eight companies I represent are a cross-section of companies that are entering in or have been in the organic seed production and distribution business. They're in the Midwest; they're in California; they're in the Pacific Northwest, and we do appreciate the work of the Crops Committee to bring forward its recommendation on commercial availability for organic seed.

The organic seed requirement is one of the weakest and most ambiguous provisions in the NOP final rule. This is why organic seed production and sales have not realized their potential, and they will not until we can strengthen the organic seed regulation.

There is organic seed on the market. It's available, but it's not being sold even though it's equivalent to conventional seed which farmers are using to grow their organic crops.
As for seed that is not yet available as an organic version, there will not be a full range unless seed companies can count on this regulation as being strict. So we need to raise the level of information and accountability. Only then will we have an organic seed regulation that will be understood, that will be respected and will be enforced, enforceable and enforced.

There are many reasons why the organic seed regulations is so weak, and one reason is the regulation allows growers to receive exceptions when organic seed is not available in an equivalent variety.

Another reason, there is nothing in the rule that insures that the certification decisions on these exceptions will be consistent, predictable or transparent, and so in granting these exceptions, the Crop Committee has addressed this by requiring thorough documentation and that's the heart and the soul of this regulation, of this proposal that the Crops Committee is bringing forward.

Now, because the aim of this provision is
predictability and consistency and transparency and accountability, we want to address two provisions that were in the earlier draft that made the earlier draft strong that have been for some reason dropped from the current draft.

One of these provisions is a requirement that the certifiers make reports to the NOP of all the exceptions that they have granted to growers to use conventional seed. The original version called for these reports to be made yearly by certifiers.

When we testified in March we said that these reports should be even more frequent than that, hopefully as often as monthly in order to be timely and provide a higher level of accountability. So we were very troubled to see no mention at all of reports in the new provision.

The other provision that we would like to see restored is the final one, 5(e), which underscored that unless growers meet the commercial availability requirement, this could affect their certification.

Maybe some people thought that was a little strict. Maybe some people could say that was
redundant, but we think that because the Crops Committee has taken the trouble to bring this document forward, we think that this emphasis was very well placed. We were sorry to see it removed.

Thank you.

CHAIRPERSON RIDDLE: Thanks.

MR. SIEGEL: And I'll be very happy to respond to questions.

CHAIRPERSON RIDDLE: Okay. We have your detailed comments in writing. So thank you.

MR. SIEGEL: Yes. Thank you.

CHAIRPERSON RIDDLE: Okay. We have Debra Claire and then Joe Dickson on deck.

MS. CLAIRE: Good afternoon. My name is Debra Claire and I'm the president and owner of Perfect Organics, Incorporated, an organic skin and body care company based in the Washington, D.C. area.

Our products are distributed nationally through both large retail and natural food chains and independent natural food stores. I'm requesting that this Board consider and evaluate the significant reasons why the USDA should reallow the USDA seal on
personal care products that meet the required standards.

Perfect Organics, Incorporated was founded on two main principles: providing consumers with exceptional quality, effective personal care products which do not contain synthetic chemicals or artificial additives, and to support sustainable agriculture and organic farming.

We accomplish our goals by offering organic personal care products formulated with certified organic ingredients sourced from certified organic farms. Our entire product line, all formulations, ingredients, and processing methods were specifically developed to meet the USDA organic food standards.

Understanding the role the USDA has in supporting farmers, expanding new agricultural markets, and offering a consistent, reputable seal of approval for consumers to depend on are key factors of this issue.

The following information and statements are provided on the USDA's Website. First, on the
Website the USDA’s mission which states that one of the key activities of the USDA is, and I quote, “expanding markets for agricultural products, developing alternative markets for agricultural products and activities.”

Second, concerning the USDA’s support of organic farming, government efforts to boost organic production have focused on developing national certification standards to assure consumers of consistent product quality and uniform standards to facilitate further growth in the organic sector.

Third, and again, on the USDA Website, regarding the credibility of the USDA seal in a consumer brochure explaining the USDA seal, it informs that with the seal, “you can be sure of the highest organic production and handling standards in the world.”

When reading the mission and goals of the USDA, it is completely understood as to why the USDA made the initial decision to allow personal care products to be eligible for the USDA seal. For companies such as ours who adhere to the USDA
standards, we are supporting sustainable agriculture. We are expanding the market for organic farmers, and we are providing personal care products based on agricultural ingredients to consumers.

The USDA seal is the best way for us to communicate the standards to which we adhere and to have a positive impact on the farms we choose to support. It is extremely important to understand the differences between conventional personal care products and organic personal care products. Our product ingredients are comprised of the same ingredients used for many organic food products. I've compiled just some of the certified organic ingredients that we use in our product formulations: oat bran, wheat bran, corn meal, almond meal, rice bran, sugar, sweet almond oil, sunflower oil, olive oil, coconut oil, hazelnut oil, camomile, and green tea.

All of these organic ingredients are grown on certified organic farms. All of these organic ingredients are purchased from farms that also supply the same ingredients to organic food manufacturers.
If, in fact, it is true as mentioned on the USDA Website that the USDA's mission includes supporting expanding organic agricultural and farming industry and offering a legitimate government standard in the best interest of consumers. Then it should be a given that it's appropriate that the USDA seal be allowed on personal care products that adhere to USDA organic food standards.

This is right in line with the USDA's mission and allows opportunity for companies such as ours to significantly impact the growth of the farms that the USDA supports.

Since May 2002 -- and I'll preface this by saying "in our opinion" because I do have respect for opposing viewpoints -- we feel the USDA has essentially taken on four different positions on the eligibility of personal care products using the USDA seal: first yes, then no, then yes, and now back at no again.

As a company whose main mission is to offer truly clean inorganic products to consumers and to support sustainable agriculture and organic
farmers, the inconsistency in the USDA's position has made it very difficult to plan or implement consistent marketing strategies.

These strategies would directly benefit the organic farmers we purchase our ingredients from and the consumers who look for guidance and some form of reliability when selecting organic, agriculturally based, personal care products.

I respectfully submit that this Board recommend that the USDA reallow the USDA seal on personal care products. With the USDA seal organic personal care companies, such as ours, will have a much greater impact in positively affecting the organic farming industry, sustainable agriculture, and the consumers who seek organic agriculturally based personal care products.

CHAIRPERSON RIDDLE: Thank you. Your time is up.

MS. CLAIRE: Thanks.

CHAIRPERSON RIDDLE: Thanks for your thoughtful comments.

Joe Dickson and then Rich Theuer.
MR. DICKSON: Hi. I'm Joe Dickson. I'm the Organic Programs Coordinator for Whole Foods Market. I just want to comment briefly on two specific issues. The first is the Board's recommendation on retail certification requirements.

We appreciate the Board's revised recommendation regarding the certification requirements for retail food establishments. We were among the first retail businesses to undergo voluntary certification of our stores, and we remain the only national retailer to be certified.

Based on our understanding of the rule, we have obtained separate certification for each of our produce warehouses, our commercial bakeries, our coffee roasting company, and our private label products because we believe that certification for those facilities is required by the rule since these portions of our business act as bona fide food processors.

But clearly defining the term "otherwise manufacture" to include practices such as the creation of labels, formulation of products, procuring
ingredients for products, et cetera, the Board's recommendation provides a valuable clarification which clearly establishes the responsibilities of all retail private labelers.

Under this recommendation, retailers who wish to simply sell organic products in a retail setting remain exempt from certification. Retailers who choose to otherwise manufacture organic products, including the creation of labels for private label products, must undergo certification.

This is a clear benefit for consumers as it requires third party verification of the organic integrity of all processed products regardless of the type of company that produces them.

And then on the Livestock Committee's pasture recommendations, we applaud the Board's recommendation regarding access to pasture for livestock. The most recent revision of the recommendation adds even clearer definition to the role of pasture in organic livestock production. There is a clear consumer expectation that organic ruminant livestock are grazed on pasture as this
practice allows the animals to fulfill their natural behavior as closely as possible.

In general, this recommendation is well crafted. It balances the flexibility required by farmers in various geographical areas with the expectation that livestock be given as much access to pasture as possible. However, Section B of the guidance fails to sufficiently regulate the specifics of temporary confinement.

In order to insure compliance with the intent of this recommendation, we believe that more specific criteria, including concrete time limitations and a precise definition of "to protect soil or water quality" is necessary.

While the intent of these recommendations is admirable and they represent a huge improvement over previous recommendations, we hope that the Livestock Committee will work to develop further clarification which would prevent the misuse of this guidance at the jeopardy of an animal's welfare.

Thank you.

CHAIRPERSON RIDDLE: Thank you, Joe.
George, then Bea.

MR. SIEMON: You know, I saw your private label. I'm kind of baffled. If in order for retail to have a private label they have to participate in producing the label, with their name on the label, it's their name. They want to be in charge or look at the way it looks.

MR. DICKSON: Right.

MR. SIEMON: Why would that make them have to be in the manufacturing world?

MR. DICKSON: According to the recommendation you guys just put out --

MR. SIEMON: You're supporting it. I'm asking you why. I'm baffled by it.

MR. DICKSON: Well, I mean, the way it happened for us, I mean, our private label has been certified now for, you know, three, four years under the standards or since these standards were out. We have certified our private label because in our minds, you know, we make the labels, but we also specify the formulations of the products. We specify what types of ingredients can be used. We basically have such a
huge hand in creating those products that it never
crossed our mind that we might not be certified for
that.

MR. SIEMON: You also certify your
retailers, your houses and all of that kind of thing.

MR. DICKSON: Right.

MR. SIEMON: But the label part, just
everybody has got to be involved with labels. I just
don't see that as a manufacturing role. So I just had
to ask that question.

MR. DICKSON: You mean if a retailer
simply has no other hand in the production of the
product except for making the label, just has their
name on it?

MR. SIEMON: Yeah.

MR. DICKSON: And it is certified
otherwise?

MR. SIEMON: Yeah.

MR. DICKSON: I don't know. I mean,
that's --

MR. SIEMON: Well, I'm asking your
opinion. We'll talk about it during the committee.
MR. DICKSON: In my opinion, if a retailer is just putting their name on a product that was formulated and produced totally separately by other folks who are certified processors, then maybe that retailer doesn't need to be certified.

CHAIRPERSON RIDDLE: Bea and then it looks like Julie or Andrea. Oh, Andrea.

MS. CAROE: Well, George, just not to cut this short, but we do have a lot of comments. We will get into that when we go through the recommendation because it does specify what gets you into the manufacturing realm, and as Joe has pointed out, there are activities that really bring a product to be, and those activities are regulated by the regulations. So we're covered.

CHAIRPERSON RIDDLE: Back to Bea.

MS. JAMES: I just wanted to ask you when you read the recommendation, does it say to you that if a retailer is involved in the process of label making that they should be certified for a private label product?

MR. DICKSON: I don't have the
recommendation in front of me, but I think that it --

MS. JAMES: I'm just asking because I want
to make sure that we are really clear.

MR. DICKSON: My understanding of that
recommendation when I read it is that basically
retailers are exempt from certification as long as
they don't process and process is defined as, you
know, cut, cure, mix, et cetera or otherwise
manufacture.

This recommendation to me defines
"otherwise manufacture" to include the creation of
labels, formulation of products, procuring ingredients
for products, et cetera, and that's right from the
recommendations.

MS. JAMES: Okay. So may be need to be
more clear on that because if a retailer says, "I like
that color" from our label, then that's about the
extent of their label making, then they would not
necessarily need to be certified.

MR. DICKSON: Right. Yeah, that should be
clarified.

MS. JAMES: So we can clarify that.
CHAIRPERSON RIDDLE: Yeah, that is committee work.

Julie.

MS. WEISMAN: But I do want Joe's opinion.

You said that if they're only making a label and nothing else, that then they don't have to be certified, but my question is: do you think are they allowed to if they want to be?

PARTICIPANT: Voluntarily.

MS. WEISMAN: Voluntarily?

MR. DICKSON: Voluntarily? Absolutely.

MS. WEISMAN: Okay. There's no reason that that should not go out.

MR. DICKSON: You know, I haven't thought about that because what we do is go different from that situation.

MS. WEISMAN: I understand.

MR. DICKSON: I hope it's something you guys take up in your discussions of this, but I can't think of an argument against that retailer being voluntarily certified.

MS. WEISMAN: Okay. Thank you for your
opinion.

MR. DICKSON: Thank you.

CHAIRPERSON RIDDLE: Okay. Richard Theuer and then Kevin Engelbert.

MR. THEUER: Good afternoon. I'm Richard Theuer, a consultant from Raleigh, North Carolina, and as a former Board member of the NOSB from the original '93-'95 crowd and as a TAP reviewer more recently, I applaud the efforts of the Materials Committee to clarify the interpretation of the definition of synthetic and to solicit the input from industry and the public because it's a task that has long been needed.

Over the past 12 years, the definition of synthetic or the application of the definition of synthetic to materials has been arbitrary, maybe capricious, ambiguous, and frequently inconsistent.

MR. SIEMON: Some of your best work, huh?

(Laughter.)

MR. THEUER: Well, George, I have proof. I'm reading from a TAP review dated April 4th, 2002, where someone, not me, said impure shellac appears to
be a natural product, et cetera. However, after treatment with ethanol and clarification with activated carbon, which is not on a national list, shellac is unquestionably synthetic.

Getting closer to home, a Ph.D. biochemistry with food industry experience in the Eastern U.S. made the great comment that the steam explosion process may yield clean cellulose without the use of harsh chemicals. If this is true, wood cellulose from those steam explosion process may be acceptable for inclusion on the national list, the temperatures involved, 200 to 250 degrees Centigrade, are within the capability of a home oven. Mine goes to 550 degrees F.

So the NOSB might consider it acceptable.

So that's another definition that we're in the position of Alice when she asked Humpty-Dumpty about a word, and he says, "When I use a word it means just what I choose it to mean, neither more nor less."

Therefore, I think it's extremely critical that the document that you produce as guidance to the Secretary, giving more flesh to synthetic is
absolutely critical, and it's critical for a petitioner so that he's dealing with a full deck rather than one where half of the cards seem to be missing.

And I notice that in Recommendation 3 from the Inspector General that final procedures will be completed by September 30th, 2005 for new procedures on petitions and TAP reviews, and that information is desperately required so that a petitioner and a TAP reviewer can do a decent job because many of the nontechnical members of the NOSB historically have relied upon the TAP reviews, and it's obvious the TAP reviewers didn't know exactly what the definition meant and applies a variety of interpretations.

The other thing I would like to emphasize is in the sunset process, when you see a TAP review and you read the determination of synthetic or nonsynthetic, be skeptical. Be extremely skeptical because I thought I did pretty good jobs on those, and I was out to lunch on that one.

Thank you.

CHAIRPERSON RIDDLE: Thanks.
Kevin Engelbert and then Henry Perkins.

MS. ENGELBERT: Thank you to everyone, the NOP and the NOSB members, for hearing us today.

I'd like to make a quick comment about the number of dairy farmers that are here this time as opposed to last time. Some of you have a dairy farming background or work with farmers and realize just what is involved to get a dairy farmer off the farm. And at the first meeting that we were at in March or February and March, one of us heard the comment from a person talking on a cell phone in the lobby of the motel saying that the lobby was swarming with dairy farmers.

Now, our harvest goes on year round, but spring, summer and fall add even more to our time constraints, and the fact that there are fewer numbers here shouldn't be an indication that we don't believe that this pasture issue is unimportant, actually that there are any of us here is quite remarkable because the sacrifices that we've made and the people that are at home doing the work for us are very, very large.

And the reason we are here, again, is
because of this pasture issue. We believe that pasturing ruminants has already been defined many, many years ago, and that this standard is coming under attack by various people or organizations whose motives are less than sincere.

Growth in our industry can come about with pasture based agriculture, and that isn't a restrictive component. We believe that pasture is what nature has intended. It's what makes animals healthy and it's what keeps them healthy.

And we realize that this process is slow and that, while some of us are somewhat discouraged by things that have taken place, we won't give up. We will continue to pursue this matter because there's too much at stake to not get it right.

Thank you.

CHAIRPERSON RIDDLE: Thanks, Kevin.

Okay. Henry Perkins and then Lisa Engelbert.

MR. PERKINS: I'm Henry Perkins, a dairy farmer from Maine. I was here this spring, and I don't think I'm going to repeat what I said. You'll
have taken it well and did a pretty good job with what you did with it.

The 120-day think in the "should" versus "shall," I think you in the guidance document, I think you can get that all straightened out.

Now, the 30 percent thing that people are questioning, I personally am not speaking for anybody other than myself, but I don't really think the 30 percent thing should be cut in stone. It seemed like you wanted a number to work towards, and we came around and gave you a number.

Now, whether it's 20 or 40 or 30 I don't think is a very important thing, but you wanted a number. So you got a number.

Now I don't know what I'm going to say, but I know what I want to say. I don't believe I'll be back here. It's kind of like pissing into the wind. It seems like this table sometimes fights with this table. I could be wrong, but there's an awful lot of ass-dragging going around here. So I just don't -- I've got better things to do. So you won't see me again.
Okay? If you've got any questions I'll answer them.

CHAIRPERSON RIDDLE: Question.

MR. KARREMAN: Henry, Mr. Kastel mentioned a Maine farmer with I think it was 25 cows and the pastures were, I guess, not right next to the barn and that kind of farm shouldn't be certified. Do you agree with that, I mean, just because the cows have to go a little further away from the barn?

MR. PERKINS: Okay.

MR. KARREMAN: He mentioned Maine and you're from Maine.

MR. PERKINS: I don't know who it is.

MR. KARREMAN: No, no. I don't -- I'm just saying --

MR. PERKINS: Okay.

MR. KARREMAN: -- being a --

MR. PERKINS: All right. It's not me.

MR. KARREMAN: Right. I knew that.

(Laughter.)

MR. PERKINS: Okay. Am I under the time limit now?
CHAIRPERSON RIDDLE: No, this is --

MR. PERKINS: This is off the record.

Okay, all right. Let's say you have a farm and this guy wants to milk organically, and he is surrounded by houses or mountains. No way he can pasture. Okay? He can't be organic. He can milk conventionally.

Now, if you have this person that has this farm and he is surrounded by a corn field, he can pasture. So he should pasture. What's wrong with him seeding down his corn field? And he can. If he doesn't want to, he's off the list.

He can ship milk conventionally. We're not trying to deprive him of shipping milk, but if it's not produced by a pasture based feeding system, then it can't be called organic. That's just my opinion of it.

MR. KARREMAN: Do you think the consumers know how much dry matter that the cows are taking in when they're out there? Are the consumers who we're trying to protect --

MR. PERKINS: No, I don't.

MR. KARREMAN: -- do they just want to see cows outside on the green grass? That's my belief. I
don't think the consumers really know that much about dairy nutrition, but they want to make sure that cows are out on pasture.

MR. PERKINS: Yeah.

MR. KARREMAN: But I don't think they're going to hold each organic farmer when they go and drive by and they say, "Hey, that's an organic farm. Are they getting X amount of dry matter?"

What's your?

MR. PERKINS: I agree with you, but are you going to take this five acre thing, little piece of pasture and let's put 300 cows on it? Isn't that --

MR. KARREMAN: That wasn't what I meant.

MR. PERKINS: Yeah, I know.

MR. KARREMAN: There might be ten cows an acre or six or three or one or whatever, but I guess, you know, I just really firmly do believe that cows have to be out on pasture to be organic, but I have a tough time with extra conditions on that after that.

MR. PERKINS: Okay. You're all right with the 120-day thing?
MR. KARREMAN: Oh, yeah.

MR. PERKINS: Yeah. So am I.

MR. KARREMAN: That's why I was asking about that small farm where the guy had to send his cows to a neighboring field or whatever, you know.

MR. PERKINS: Can he send them to a neighboring field?

MR. KARREMAN: Yeah. That would be okay as long as they're out in the field, correct?

MR. PERKINS: Yeah, but if he couldn't send them to a neighboring field.

MR. KARREMAN: Well, I would tend to agree with you.

MR. PERKINS: And he had nothing out around his barn but just enough space for a dry lot because once they've been out there a week, there's nothing.

MR. KARREMAN: Right.

MR. PERKINS: Well, then he's not organic, right?

(Laughter.)

MR. KARREMAN: Yeah. Good question,
CHAIRPERSON RIDDLE: Bea?

MS. JAMES: Yeah, I just wanted to make a comment because you're the second person who has kind of divorced themselves from these meetings, and I just wanted to say that I think all good relationships take time and effort, and I hope that the community of people that come here to lobby can continue to see this as a long-term relationship and not immediate results because sometimes good things take time.

So that's my comment.

MR. PERKINS: Okay. You didn't want me to respond to that though, did you?

MS. JAMES: Sure.

CHAIRPERSON RIDDLE: It's up to you.

MR. PERKINS: I'd rather go home.

(Laughter.)

MS. JAMES: So would we.

CHAIRPERSON RIDDLE: You had one more thing?

MR. KARREMAN: I just want to add on to what Bea said. I think it was back in 2001 when I
first came to these meetings standing right where you are petitioning for medically necessary materials to relieve pain and suffering in organic livestock, and I'm still waiting. So --

PARTICIPANT: Look where it got him.

MR. KARREMAN: Yeah, I know. You might be up here some day, but stick with it. Okay? Stick with it. We're trying to do it right.

MR. PERKINS: Yes, I know that. I know that.

MR. KARREMAN: I mean, so it's --

MR. PERKINS: And it looks to me like you've done a very good job and you kick it over to this table, and they just punted it right back to you.

MR. KARREMAN: No, I think they're trying to do it right as well. So once we get, you know, everybody doing it right, we'll be all happy.

MR. PERKINS: Okay, but I don't want to die of old age first.

(Laughter.)

MR. PERKINS: Okay.

CHAIRPERSON RIDDLE: Rose.
MS. KOENIG: You know, speaking as a farmer, I know it's really hard for all times growers to operate in different worlds, and you just have to realize that your realm sometimes is hard for other people to understand what you do, you know, how you communicate, but everybody has different roles in this process, and the farmer's role is integral to getting the whole industry going.

So I don't think throwing your -- you know, this is impacting you and you can choose to be involved or not to be involved, but just because you don't like necessarily conversation or people's opinion I don't think is a basis to ignore something that impacts your operation, and this really does.

So that's just my comment.

CHAIRPERSON RIDDLE: Yea, Nancy.

MS. OSTIGUY: I just have a quick one that's along the same lines. The phrase I like is that democracy is messy, but the alternative is very unpleasant. So we really want people to come in and tell us that we're doing this wrong or right or whatever and just help us get it right, and even
though it's incredibly messy.

MR. PERKINS: You're giving me hell, aren't you?

(Laughter.)

MS. OSTIGUY: But we want you to return some time. When it's important, show back up again.

MR. CARTER: I just have one question. Are we upwind or downwind?

(Laughter.)

MR. PERKINS: My olfactory senses have been burned out so long ago that I can't tell.

(Laughter.)

CHAIRPERSON RIDDLE: Thanks, Henry.

MR. PERKINS: See you later, maybe.

CHAIRPERSON RIDDLE: A sign of hope there. Okay. Lisa Engelbert and then Sally Brown.

MS. ENGELBERT: My name is Lisa Engelbert. I am co-administrator with NOFA New York Certified Organic in New York State.

I'd like to take an opportunity to thank the NOSB and the NOP for the hard work that they're
putting in not only clarifying these standards, but hopefully maintaining strict standards. It's appreciated.

Our organization is currently working with 104 certified organic dairies. We have 17 more in transition. I can't think of any of those 104 or the 17 that aren't meeting the new guidance of the 30 percent dry matter from pasture. We may have to tweak our organic system plan a little bit to be able to verify that, but it shouldn't be really difficult at all. I just wanted to put that out there.

I support the recommended rule changes, and I've got a couple of things. I have a joint statement from the NOFA, the Northeast Organic Farming Association of New York, Vermont, Connecticut, and New Jersey. I'm not going to read it. It's very redundant; basically says the same thing that NAPA, MIPA, Cornucopia, and many other agencies have already said. I have given that to Katherine.

I am going to read a statement from NOFA New York, which is Northeast Organic Farming Association of New York.
Our organization, the Northeast Organic Farming Association of New York, would like to reiterate our support of the committee’s recommendation for clarifying the regulations, the organic system plan, detailing the minimum dry matter intake standard of 30 percent and requiring descriptions that will assist producers in understanding the significance of pasture management in organic production.

We would also like to reiterate that the 30 percent dry matter intake standard is a minimum target, not a maximum. This minimum standard allows for the seasonal and regional variability, while still providing a standard that is reasonable for ruminants.

Lastly, we would like to commend the NOSB for its work to date and urge the committee to continue the job of upholding the integrity of the USDA’s national organic program. This certification program is providing the link between food quality and healthy farm management practices.

Problems of lack of clarity or manipulation in order to allow for lower farm...
production standards must continue to be addressed as they arise. We understand that there's a great deal of interest in meeting the demand for organic food products. Farmers and businesses can meet these standards if they're the standards that are currently in place.

The role of the NOSB in reviewing the many issues that relate to what appears fairly simple guidance is appreciated.

Thank you.

CHAIRPERSON RIDDLE: Thanks, Lisa.

Okay. Sally Brown and then I have a few comments from Lynn Coody.

MS. BROWN: Good evening. I'm a dairy farmer from central New York. We've been farming for 27 years. The last four years we've shipped organically, the best thing we've ever done.

When we did this, we initially did it for the economic reasons, but we've done a complete paradigm shift in the way that we treat our animals, and that's also the way we treat ourselves.

My daughter calls us now affectionately
Granola Crunchies.

I would like to thank you for the time and the attention that you're giving to this pasture issue, and I believe that the requirement to pasture is key to providing quality feed and a healthy environment for our animals. This allows us to produce a healthy product with the health benefits of CLAs and Omega-3s that benefit both man and beast.

Using the simple elements of nature helps us to realize the wholesome goodness that the organic consumer has come to expect, appreciate, and demand. They realize that the pasture and the ingredients and the benefits of pasturing is what separates our product, our organic product, from our commercial counterparts as they strive to feed their families with the purest and healthiest product available.

As a dairy producer, my husband and I support and request that the Board pass the pasture guidance document with the minor changes supported by all the organizations you've heard of previously, NOPA, MOPA. All of these little names drive me nuts, and the Cornucopia, oh, and with the support of both
consumer and producer organizations.

We request immediate action from the Board upon acceptance asking you to distribute these requirements to certifiers, allowing them to enforce the regulations on any farm that is not currently compliant.

I would also like to comment on the existing regulations that require a last 30 gestation for replacement animals and ask that the Board keep that in place, and also not to reopen the law in response to the Harvey's lawsuit.

Thank you for your consideration.

CHAIRPERSON RIDDLE: Thank you, Sally.

MS. BROWN: Yes, sir.

CHAIRPERSON RIDDLE: No, I said thank you. I have after Lynn is John Cox, and I have comments from Lynn Coody who signed up to speak, but couldn't make it here and then asked me to summarize her comments.

And her comments are directed to the Accreditation Committee's recommendation on peer review panels. So something we haven't heard about,
and I will be brief for the sake of time here.

Just for background, Lynn's business is organic ag. systems consulting, provides assistance to certifiers meeting accreditation requirements for NOP, ISO 65, and IFOAM.

And Lynn offers some suggested changes to the definition of peer review panel that the committee is recommending be changed as a rule change, and I won't go through those, but just make note of that.

And then the committee's draft calls on a rule change for the accreditation section of the NOP, and Lynn opposes that and encourages that the draft be restructured as guidance.

And then she submitted some detailed changes in revision mode for how that should be reconsidered. So I just ask the committee to take that into consideration before the action item tomorrow.

MS. JAMES: Jim.

CHAIRPERSON RIDDLE: Yes.

MS. JAMES: I just want to add that that information she put together was very well thought out
and very well written, and that we should definitely take a look at that.

CHAIRPERSON RIDDLE: Yes, all right.

MS. JAMES: Yes, and I have questions for Lynn.

CHAIRPERSON RIDDLE: Well, I'll entertain questions. No. All right.

PARTICIPANT: Jim, how will we be able to see that?

CHAIRPERSON RIDDLE: This is in your meeting book in the packet for the Accreditation Committee, but I have the colored version because I printed it off on my own printer.

Okay. John Cox, and then next up would be Gwendolyn Wyard.

MR. COX: Good afternoon, Mr. Chairman and members of the Board. My name is John Cox. I'm a lawyer here in Washington, D.C., and I have proxies today for three organizations that wish to comment concerning the sunset review. I understand that my comments will be limited to ten minutes; is that
correct?

CHAIRPERSON RIDDLE: Yes, that's correct.

MS. COUGHLAN: Wait a minute. We'll have
to start over. All right. Go.

MR. COX: Thank you.

First I would like to comment on behalf of
the American Spice Trade Association, ASTA. ASTA
represents the interest of approximately 300 members,
including companies that grow, dehydrate, and process
spices.

ASTA members and their customers produce
spices and seasoning blends certified as organic under
the National Organic Program.

ASTA requests that the National Organic
Standards Board renew the exemptions allowing the use
of the following items as nonagricultural, nonorganic
substances allowed as ingredients in or on processed
products labeled as organic or made with organic
specified ingredients or food groups.

Acids, citric and lactic, used as
acidulate to adjust for pH stability; colors used to
add color to seasoning blends; flavors used to add
flavor; sodium bicarbonate used as buffer and neutralizer; carnauba wax used as a formulation aid, lubricant, and release agent; yeast, autolyzate, Baker's, brewers, nutritional, and smoked used as a flavor ingredient; alginates used to maintain texture; ascorbic acid used as an antioxidant; chlorine materials used for disinfecting and sanitizing food contact services; lecithin used as an emulsifier for product stability and solubility; silicon dioxide used as an anti-caking agent; and xanthum gum used as a thickener.

The items listed above are important to ASTA members as either components of certified organic spice or seasoning blends or as processing aids used in their production. Therefore, ASTA requests that the NOSB renew the exemptions allowing their use.

ASTA also requests that the NOSB renew the exemptions allowing the use of the following items as nonorganically produced agricultural products allowed as ingredients in or on processed products labeled as organic or made with organic specified ingredients or food groups.
Corn starch used as a flavor carrier, gums, arabic, guar, locust bean, carob bean used as flavor carriers or emulsifiers.

ASTA is grateful for the opportunity to provide comments during the sunset review, and we are available to provide additional information to the NOSB.

The second organization that I'm representing today is the Flavor and Extract Manufacturers Association of the U.S., FEMA. FEMA is the national association of flavor manufacturers representing the vast majority of flavor companies in the United States. FEMA members create flavors for use in a wide variety of food and beverage products, including those certified under the national organic program regulations.

FEMA requests that the NOSB renew the exemption allowing for the use of flavors from nonsynthetic sources only and not produced using synthetic solvents, carrier systems or any artificial preservatives as nonagricultural, nonorganic substances allowed as ingredients in or on processed
products labeled as organic are made with organic specified ingredients or food groups.

The Organic Foods Production Act provides a strong presumption in favor of the use of natural ingredients in organic products. As you know, flavors are currently permitted in certain categories of organic products under NOP regulations. FEMA requests that the NOSB renew this allowance under the sunset review provisions of the OFPA.

Organic food and beverage producers use natural flavors in very small amounts, but they provide significant enhancement to organic products. When organic commodities are processed, they may lose taste. This is an issue with all processed foods. While the foods may be good for you, consumers are unlikely to eat foods that do not taste good even if they are good for you.

The addition of flavors to organic products makes the food more acceptable to consumers. Therefore, we strongly encourage the NOSB to renew the exemption for flavors.

FEMA also requests the NOSB renew the
exemptions for additional items permitted under Section 205.605, including acids, citric and lactic, colors, enzymes, sodium bicarbonate, carnauba wax, yeast, bakers, Brewer's, nutritional and smoked, alginates, ascorbic acid, chlorine materials, glycerine, silicon dioxide, and xanthum gum.

FEMA also requests the renewal of the exemptions allowing the use of the following nonorganically produced agricultural products allowed as ingredients in or on processed products labeled as organic or made with organic specified ingredients or food groups: corn starch, gums, arabic, guar, locust bean, and carob bean, lecithin, and pectin.

FEMA is grateful for the opportunity to comment during this sunset review, and we are available to provide additional information to the NOSB.

The third and final organization that I may representing today is the International Association of Color Manufacturers, IACM.

IACM is the International Association of Color Additive Manufacturers. IACM's members
manufacture and market colors that are incorporated into a wide range of foods, drugs, and cosmetics. IACM members also produce colors that are currently permitted in foods and beverages certified as organic under the NOP.

IACM requests that the NOSB renew the exemption allowing for the use of colors for nonsynthetic sources only as nonagricultural, nonorganic substances allowed as ingredients in or on processed products labeled as organic or made with organic specified ingredients or food groups.

Continuing to allow the use of colors from nonsynthetic sources only as nonagricultural substances allowed as ingredients in organic products is consistent with the mandates of the OFPA.

In addition, it will allow organic food and beverage producers to continue to utilize these colors which enhance the value of their products to organic food and beverage consumers.

IACM is grateful for the opportunity to comment during the sunset review, and we are available to provide additional information to the NOSB.
Mr. Chairman, this concludes my comments.

I appreciate the attention of the Board.

CHAIRPERSON RIDDLE: Thank you, John.

Kevin and then Rose.

MR. O’RELL: I just had a comment on your 606 recommendations. You talked about organic corn starch native, and there are native corn starch nonorganic, but there are organic sources of corn starch available. I’d just like to know your comment on that.

Have your associations or any members of the associations looked at these organic sources?

MR. COX: I can’t tell you directly. We haven’t had dialogue on that issue. I would be happy to ask them about it.

MR. O’RELL: As well as the availability of some of the gums. Organic locust bean gum is available as well.

MR. COX: Yes.

MR. O’RELL: So knowing that availability I don’t know if that would change your comments.

MR. COX: I trust they’re aware of the
market and still advance the request, but I will go back to them on that.

CHAIRPERSON RIDDLE: Okay. Rose.

MS. KOENIG: Two questions. Well, one comment and then a question. Well, two questions actually.

The way that you have them listed, is that to suggest that -- you have a use specified that's not what's on the list, on many of these, and I don't know if that's for you to make it clear of what your understanding of it is or if you're, in fact, suggesting annotations, which means that you would not agree with the way it's on the list.

So I need clarification on your statement because if you read the docket, it's to provide comment on the way that as the list appears.

MR. COX: We do not intend to ask for any annotation in these comments. The indication of how it's used is an attempt to let you know the importance of the significance of it. If a use has been listed in the comments that's inconsistent with the regs., then that's an error on my part.
MS. KOENIG: I don't know if you submitted these as a sunset material comment, but --

MR. COX: Planning to tomorrow.

MS. KOENIG: Okay. What I would suggest is if you're going to list those, if you are in agreement with the way that it appears on the list and its legal implications of its use under the way it appears on that list, I would suggest that you write your comments as it would appear on the list because then it would be clear that you're not suggesting that you're limiting or changing a use.

MR. COX: So perhaps just the item itself.

MS. KOENIG: Correct.

CHAIRPERSON RIDDLE: Or if you do put that "uses" in parentheses, an explanation, a paragraph explaining that you're giving examples of uses, that you're not calling for a change in annotation or something.

MR. COX: Okay. Thank you.

MS. KOENIG: And then the second question I had, since you list yeast under the way it's characterized in the book, I just want to make a
comment that, you know, you're asking other comments that your industry could provide. It's likely that we may not make a decision on yeast at this meeting. I don't know, but we certainly welcome comments on yeast since it applies to things that your three companies that you're representing produce.

MR. COX: You mean you would welcome comments from our companies concerning --

MS. KOENIG: Well, anything, but I'm saying --

MR. COX: -- designation of yeast as agricultural?

MS. KOENIG: Well, I am just saying that your final statement was there anything that, you know, we should be aware of or I don't know what your last comment was, but it suggested that --

MR. COX: A general invitation.

MS. KOENIG: Right. So I'm just saying that there are things if you look on our Website, there may be things that are applicable to your companies, and I just encourage you like I encourage farmers to keep involved and perhaps provide comment
on those types of issues also.

MR. COX: Okay.

MS. KOENIG: But I appreciate your list.

MR. COX: Thank you. Thank you.

CHAIRPERSON RIDDLE: Thank you.

Okay. Gwendolyn Wyard and then Rick Segalla.

MS. WYARD: Greetings, Mr. Chairman, Board members, officers of the NOP, and ladies and gentlemen of the gallery. My name is Gwendolyn Wyard. That's W-y-a-r-d, and I am the processing program reviewer for Oregon Tilth. I have a degree in fermentation science, and I am a practitioner of making wine and beer.

I'm here today on behalf of Oregon Tilth to provide comment on the recommendations relative to agricultural and nonagricultural substances.

First, I want to say I really appreciate the comments and the discussion that have occurred here today regarding this matter, and it's good fodder or, rather, substrate, and I plan to take it back and digest it all and hopefully prepare thoughtful
comments and suggestions for Wednesday.

But here today I do want to get in a ten cents, and first and foremost, I want to thank you. Oregon Tilth appreciates the NOSB's efforts to bring clarity and consistency to this very challenging issue.

We also thank you for acknowledging and taking into account the decision tree that Oregon Tilth proposed to the Board in October of 2004.

Oregon Tilth feels that the determination of agricultural versus nonagricultural should focus on whether a substance is derived from a living organism and has been intentionally gathered, raised, cultivated or propagated domestically or in wild harvested areas.

In the case of yeast, the breeding stock can be gathered from the wild or on a farm and then taking to a facility where it is maintained and further processed for use as a food. I personally have produced and handled wine in this fashion, and it's good.

If you were to adjust the first box of the
decision tree to focus on biologically derived material and how it's cultured and remove box number two which deals with bacterial cultures, you could run the substance through the rest of the decision tree and essentially verify whether or not it's synthetic or nonsynthetic.

From there if the substance falls out of the tree as agricultural, it can either be petitioned for inclusion onto 205.606 where the evaluation criteria for allowed and prohibited substances, methods and ingredients would be applied, or reviewed for organic certification according to OFPA and the National Organic Rule.

This approach works well because it allows for the organic production of yeast or other like substances that could be otherwise classified as nonagricultural and, therefore, not eligible for organic certification.

Oregon Tilth feels that we should have a rule that encourages in all cases possible the organic production and certification of ingredients or products that are intended or allowed for human or
livestock consumption. This is consistent with Oregon Tilth’s mission statement and it is consistent with the intent of OFPA.

I’m here asking you today to please reconsider your recommendations, particularly the guidance document defining agriculture as it applies to agricultural products and continue to work on this matter.

I thank you very much for your time.

CHAIRPERSON RIDDLE: Kevin.

MR. O’RELL: Gwendolyn, I just want to be clear on this. Are you saying that you would be in support of bacterial cultures, them being available for agricultural?

MS. WYARD: I do. I think we need to start with living organisms and then you have to go on with your review from there, but I think if you allow yeast, you also have to allow bacteria. I think it’s only consistent and fair that way.

MR. O’RELL: And in the conversation we were having earlier in terms of having a standards crop or livestock to have a single cell microorganism
fit in for an organic systems plan, do you see --

MS. WYARD: You would have to look to see
if that yeast or bacteria, if you're filling out your
handling plan, would you fill out the wild harvest
portion of it? Would you fill out the crop portion of
it?

You would have to see if you could
appropriately fill out a handling plan. I think you
could do that for yeast. I would have to further look
into, you know, different possibilities of bacterial
cultures and how that would work, but right now I can
say I've done it with yeast. So there's at least one
good example of where it could be included in both the
farm and the handling plan and work.

CHAIRPERSON RIDDLE: Rose.

MS. KOENIG: Just describe -- I mean,
since it sounds like you've certified yeast already.
You have?

MS. WYARD: In my own practice, I've made
wine where I've collected the naturally occurring
yeast on the farm and have used that naturally
occurring yeast to carry out the fermentation and then
have maintained that culture over time.

I've also, as a certifier, actually in my independent world, going back as an independent inspector, also did certify an operation that was making blackberry wine and also was collecting the naturally occurring yeast on the far.

MS. KOENIG: So then you would certify it to the wild? So it's wild harvest standards in addition?

MS. WYARD: Right.

MS. KOENIG: So in your mind as long as the yeast that people are talking about are collected each time you make -- you know, you have to get your inoculum just like the wild harvest standards state. You would have to go to the field, get a new culture, and then inoculate and make sure that the area that you're collecting it from meets the parameters of wild harvest, which means that you can assure that there's no prohibited substance that's applied to whatever you're fathering this microorganism.

So you can check all of those things and feel assured that any field that you might collect
that, and I agree with everything you said, except for having to go out each time. I mean, I would only go out, well, in some cases once and collect that naturally occurring yeast, and then I would maintain a culture, and that maintaining of the culture would be processing. That would be covered under handling.

MR. O’RELL: I assume you’re going to be around tomorrow when we have our discussion.

MS. WYARD: Yes, I’ll be here for the rest of the time.

Thank you.

CHAIRPERSON RIDDLE: Okay. Rick Segalla and then I'd ask Nancy Cook to give a report on the Pet Food Task Force because she needs to leave.

MR. SEGALLA: I am Rick Segalla, one of two certified dairy farmers from Connecticut. I milk about 100 cows now. When I was originally certified, went for certification in ’79 or ’99, I was milking about 135 cows.
And growing up in Connecticut, the Extension Service preached wall-to-wall corn, grow your energy, buy your protein, and that's what my farm consisted of originally.

And going to the organic process, my corn fields are now my pastures. I rented some land a little bit farther out to grow some of my other crops, and as for the 30 percent of pasture, I started out with the 135 cows, and as I developed my pastures and fed more and more pasture to my cows, I found that my four dogs take up a better part of my vet bill than my cows do. And I see my vet twice a year for pregnancy checks, and other than that the only time I've had them is for prolapse or something of that nature where, you know, you just can't do it yourself, and sometimes the vet can't do it either for you.

But it's conducive, I think. We go for the larger portion of pasture in our diet because it's healthier for the cows. You can sit there and say, well, gez, this farmer can't do this or can't do that, but either he reduces his numbers to work with the system that we're trying to set up and make it work.
It's not going to work at all because the consumers out there, you talk to consumers and the ones that are buying the organic milk, they know that pastured cows produce better quality milk. They know it. They know that they're out in the sunlight. They know that they're getting fresh product. They know about the fatty oils and acids and all of that stuff that people need, and they're not being fooled.

And if we allow so-called confinement dairies to survive in the organic atmosphere, they're not going to buy the milk because they're not going to, you know, readily the way that we would like them to do.

And also, if we allow these confinement dairies to move in, they're going to flood the market. They're always -- right now the handlers talk about, well, gez, we've got a little surplus milk now. Well, if we jump up production all of a sudden, there's going to be a lot of surplus milk, and then it's going to hurt the whole industry, and then there's going to be more of the smaller farmers going out and more of the bigger ones stepping in to take their place.
I want a place for my daughter to take over when I'm done. The farm was first bought by my mother's grandparents when they came over from Italy. They worked on the farm and then they bought it when it was sold, and it went to my mother and my father and now I'm trying to keep it going and keep it viable for the rest of us.

That's about all I have to say. Thank you.

CHAIRPERSON RIDDELE: Thanks, Rick.

Nancy has a question for you.

MS. OSTIGUY: Yes. Where in Connecticut?

My question is how urbanized is the area.

MR. SEGALLA: I'm in the northwest corner of Connecticut. There's about 4,000 people in town, and there's probably with conventional dairies and myself, there's more cows than there are people. For some reason we're just keeping at it. I have one farm in town that milks 700 cows. I think their farthest field is probably 40 miles away, which they grow crops on and bring in.

I have another farm that has got 400 cows,
and most of his land is beyond me. So I watch his trucks haul manure one way, and I watch his trucks haul feed the other way, and that's not sustainable. That's foolish, I think. With the price of fuel going up, I don't expect some of these farms to be in business because it just isn't going to work.

I mean, we're getting into the position where we're seeing higher fuel prices and everything else, and to put more vehicles on the road and move things around more and more when they don't need to be, I think, is foolish. I mean for some people they say it's good business, but you're making money for somebody other than yourself, and you know, I was number four in the State of Connecticut to get my certified pesticide license, and I was the first one in our area to put a sprayer on my corn planter, and I did away with all of that.

I mean, my health at the end of the spring plant, I was sick for two or three months in the summer because of these chemicals that I was handling, and I don't believe we got an honest answer from the chemical companies on what it does to the environment.
And after I stopped using chemicals, I would go out and plant my corn fields and it would take three to four years before I would see the actual response for the new crops. You'd see areas. Being I get to spray it myself, there were times when you would double spray and things like that, and you go back and plant it and you watch the crop grow funny. So you know it's still there.

And if you know how chemicals work either as a growth inhibitor or as an organophosphate that affects the brains and the operation of the system, you know, I mean it's basically rat poison. So it's in the system, and it gets into our food. Somehow or another it's there, and we've got to stop it, you know.

But that's my feeling. Thank you.

CHAIRPERSON RIDDLE: Thanks for coming.

MR. KARREMAN: I actually do have a question.

CHAIRPERSON RIDDLE: Okay. Hugh has one.

MR. KARREMAN: When you took your corn out and put it in the pasture, I'm just curious because
where I'm in Lancaster County, we have a lot of
landlocked farms, after size about 60 to 70 acres.
And so if they take land out of production for
pasture, they're generally buying in with higher fuel
prices, grain or other forages from Nebraska, from
Illinois and whatnot.

I'm wondering, you know, is that -- I hate
being the devil's advocate and everything -- but I
mean, it's just a reality thing. I mean if pastures
are, let's say, maximized and you take land out or
corn, let's just say then is it a sustainable thing if
you're going to be importing from across the country.

MR. SEGALLA: If you do a good job with
pasture management, the tons of dry matter that you'll
receive off the pastures will more than equal after
you've done it and, you know, maintained the
microorganisms and stuff in the soil the way you
should be will equal what you're getting off from
these other crops.

I mean, I see it in my alfalfa. I mean my
alfalfa crops, my neighbors will go by and they always
say, geez, your alfalfa looks good. Well, I'm doing
it organically. I'm not buying the high priced chemicals and all that stuff that they do. Their stands don't last. I've got stands that are five and ten years old.

Well, when I started going organic it's like everybody is going to look at you kind of funny, and I think that's the problem. You know, if they're not doing what their neighbor is doing, then maybe they aren't doing it right. But maybe the neighbors aren't doing it right.

I mean, it was done that way before and people survived.

MR. KARREMAN: Yes. No, I agree. I think it's just a paradigm shift basically from high production, let's say, down to lower production. I would imagine your production has probably dropped.

MR. SEGALLA: My production has dropped some, yes.

MR. KARREMAN: All my farmers have, yes.

MR. SEGALLA: You can't expect to produce like you would on, you know, a conventional herd and feed them everything. I mean I have neighbors that
were -- you know, if it came on the market, they tried it, from BST to what was it that Kodak had? Kodak produced a product that they used to feed to cows. What was it?

CHAIRPERSON RIDDLE: Well, this is --

MR. SEGALLA: But, I mean, what I'm saying is it just -- you know.

MS. COUGHLAN: In spite of the fact that we have to move on, what you have had to say has been very interesting at many levels, including your passion, and thank you.

(Applause.)

MR. SEGALLA: Thank you.

CHAIRPERSON RIDDLE: All right. Next we'll have Nancy Cook give a report on the Pet Food Task Force that Nancy is chairing, and while she's making her way up here, Ed Zimba is not here, is he? His name is down, but I think someone read a proxy on his behalf, and so Urvashi Rangan will be next and then Jim Kotcon.

So, Nancy, thanks, and please state your name for the record.
MS. COOK: Good afternoon. I'm Nancy K. Cook. I'm Vice President of Pet Food Institute, located here in the United States.

Do you like that? That's because there's one in South Africa, too.

Anyway, we're here in Washington, D.C., and I'm here today on behalf of the Pet Food Task Force set up by National Organic Standards Board through the handling group, I believe.

Well, who are we? We're organic producers, the manufacturers of organic products, manufacturers who have yet to make us single organic pet food, regulators, and then, of course, the ubiquitous trade associations.

Our charge from the group was to identify issues pertinent to the production of organic pet foods, including dealing with previously existing laws, and just in case anybody gets real worried about whether or not pet foods are regulated, there is the Association of American Feed Control Officials' handbook, their official publication. It's over 500 pages this year, and about 90 percent of that pertains
to pet foods, and that's before we make the first claim for being 75 percent or 70 percent or 95 percent or 100 percent organic.

Yes, it's a great place to be, isn't it? We have to look at labeling standards. We have to look at recommendations for the materials that we're dealing with, and we also have to make sure that we are conveying at the end of the day what organic really means back to the consumer.

So where are we? Well, we found that we're getting pretty good at conference calls. When we started out, some of us were speaking Irish and some of us were speaking Cockney, but we all think we have the same English language now, and we've pretty much worked our way around the same definitions. So one in June, one in July, and one in August just so we could make sure that we had something to report today has been a pretty active schedule.

The next scheduled call is about the middle of September.

We have determined that we have three areas of need: materials ingredients used for pet
food. There's a significant difference between those materials and what's available for livestock feed.

We need to look at the national list because there's certain nutrients that aren't on the national list for livestock feed, for instance, such as taurine which are essential for cat foods because cats can't make taurine arginine, which is derived from taurine.

And then finally, we have to look at those ubiquitous labeling requirements because the feed laws that have developed around pet foods since about 1962 have very specific naming requirements that we have to work with with all of the organic ingredients.

We have an outstanding group of people that are serving on this task force. Emily Brown-Rosen in the back here can slap me if I've said anything wrong, but she really works hard to keep me straight.

One of the major rules that we've come right slap up against is whether or not pet food is to be regulated like human food or like animal feed. Under existing laws in the states it's an animal feed.
We're finding that some of the regulations that to this point within NOSB have been developed around human food laws.

And to make it even more confusing, FDA is the controlling entity for pet foods in the federal government. So it just makes life really interesting.

We spend a lot of time on philosophical discussions, as everybody in this room, I'm sure, gets a chance to do, but to do that, we essentially had to do that to find out where we are at this point.

We really appreciate the support of Keith and his group, and without Emily and her team, we'd be in a lot of trouble. Trust me on this. I've learned a lot more about organic labeling processes and everything else I can think of that I ever thought I'd have to know, and I thank you for that opportunity.

If you have any questions, I'll be happy to bring those forth.

CHAIRPERSON RIDDLE: Dave.

MR. CARTER: Yes, thanks, Nancy. You mentioned the AAFCO book, and I know that on some of the things in the labeling there's quite a difference
in a draft code that you can say is made with three percent as opposed to under the USDA standards 70 percent, which when you come into those kind of things, which way is the task force looking at that?

MS. COOK: Well, you know, Dave, we've danced around that now for about three months. I heard a comment from Dr. Rod Noel, who is our direct AAFCO official on this task force, who in our last call was discussing that that might not be something that would be an opportunity to be used in dealing with organic pet foods at the three percent level.

It could be that there's going to be some melding of these two programs, where AAFCO actually has a subset of regulations for organic pet foods, and as I look forward at this and as I talk to the state regulators and some of these other folks, that's kind of what I'm feeling.

Now, that's just my thought sitting here, but to put it in a little perspective, I was five years as a state feed control official in Virginia before I came to BFI nine years ago.

So I kind of feel like if Dr. Noel and Dr.
Burkholder from FDA, who's also working with us on the
group, and I have an idea that that might be a way to
go, and if it works with what we need to do for
organic products, it may make life simpler rather than
harder.

CHAIRPERSON RIDDLE: Yeah, Andrea.

MS. CAROE: Just you had mentioned that
you're struggling with whether to consider pet food
feed or human food, you know, which track you're going
to go down. I just want to know kind of where the
line of thinking is with the task force. Which way
are you thinking you're going to go?

MS. COOK: Again, that's not something
that has been fully delineated at this point, but sine
it is considered to be animal feed under every state
law and under FDA, it's highly likely that it will be
an animal feed situation.

However, I've been working with Rod
Crossly on some issues, and I think some of you know
him. You know, again, it may be a situation where we
tweak the livestock definition and say livestock feed
except for pet food or something like that. There
might be something that's easier to do and makes it
more simple throughout.

But remember that everything I've given
you here is just kind of top note from where we've
been thinking and not anything that we've decided on
at this point.

We're lobbying Keith for a face-to-face
soon because body language over the telephone just
doesn't get it.

(Laughter.)

MS. COOK: I really like learning -- I'm
on conference calls all the time, and I have a rule,
two calls in a meeting because I really get tired of
"no."

CHAIRPERSON RIDDLE: Keith.

MR. JONES: First of all, I do want to
thank the task force for the work that they've done to
date, particularly Nancy and Emily. Nancy has done a
great job in terms of keeping us focused and keeping
us moving forward. Emily has done a marvelous job in
making sure that everything is recorded and that we
really have an accurate record of all the meetings.
Dave, to go to your point, one of the things I think that is emerging, there's no crystal ball that we can look in, I think, and see how this is going to work out, but there is an emerging recognition, I think, of the three labeling categories that exist, the made with, the organic, and the 100 percent. That seems to be -- I saw some kind of coalescing this last call of a recognition that we really didn't want to and certainly we weren't pushing an overturning of the apple cart, but a full examination of the NOP labeling regulations and also AFCO and kind of where those go.

What I see is that one of the things I've learned is that while people talk about pet food being manufactured in accordance with NOP regulations, in fact, when you scratch the surface what in my mind is being manufactured is a very narrow product line. There are no cat foods being manufactured because of the lack of taurine on the national list, and so what we've had through the conversations over the conference calls is just a recognition that while the regulations may be sufficient to allow a very narrow
spectrum of product to be produced, they're really perhaps not as robust as we'd like to see for an array of pet food products, that I think at least what's coming through the conference call is that a lot of manufacturers would like to make.

Andrea, going to your question about how the task force is looking at the feed, one of the livestock versus human, one of the things that did come up in the call last week, which I felt was useful, was a recognition that maybe the current heading in the what, 205.238, livestock feed, would be more appropriate to label that animal feed. Okay?

So you've got then a wider category to work under rather than just livestock feed.

MS. COOK: And labeling in that manner would also be then coherent with and cohesive with the International World Animal Health Organization for Animals -- World Health Organization for Animals, which is the Codex. Codex labels human food and animal feed, and then in all of the codex animal feeding regulations they say animal feed for human consumption. That's how they break it down.
I think there's another question here.

MS. CAROE: One quick question. If you go down the animal feed route or, you know, making that category more broad, how are you going to deal with the prohibition of animal byproducts in feed?

MS. COOK: That, again, is part of the situation that we're in. You may or may not be aware that the pet food industry produces or uses something in excess of 28 percent of the total rendered products produced in the United States. Now, that's not just talking about meat and bone meals. That's talking about tallows. That's talking about some of those products that you must have to do a lot of the things that we're dealing with.

It's a real learning curve for us. We're trying to learn as fast as we can so that we can get it back to you all hopefully by February or so.

MR. JONES: And one of the things, too, that we've recognized, Andrea, this last conference call was really a great call because we've now been together enough where we can respond to each other's questions.
But in fact, what you see is that you see a number of pet food products with chicken meal in it, which is really a byproduct. Yet it's not called chicken byproduct. Okay? Because if it was called a byproduct, then it would immediately be subject to a prohibition under our regulations.

And so what we're seeing, and in fact, Emily, I think, brought this up, is that we really need to have longer conversations with certifiers because we, I think, are seeing some rather artful interpretations of some of the ingredient listings in order to get around some of the prohibitions that we have under the regulation, but yet also produce a product that conforms to AFCO's regs. under animal feed and things like that.

So it has been a fascinating exercise over the last three months just to really get our hands around it.

MS. COOK: Yeah, I've learned to develop a whole new skin.

No, seriously, any questions any time, be sure and drop them to Keith or to me and we'll be
happy to try to fill you in on where we are. I really appreciate the opportunity to participate in this group.

So thank you very much.

CHAIRPERSON RIDDLE: Thanks, Nancy. I've been monitoring the calls, and I feel like really just starting to make progress. Like you said, things are coming together.

MS. COOK: It takes a little bit for folks to understand that nobody is in the business of putting anybody else out of business.

CHAIRPERSON RIDDLE: It's going to be a good product.

MS. COOK: Thank you. Have a great day.

CHAIRPERSON RIDDLE: Thanks.

Okay. We're going to carry on here for at least another half hour. We have a few people left, more than I want to count right now. Urvashi Rangan and then Jim Kotcon.

MS. RANGAN: So good evening at this point. My name is Urvashi Rangan. I'm an environmental health scientist with Consumers Union.
The spelling is U-r-v-a-s-h-i and R-a-n-g-a-n.

I’m with Consumers Union. We publish Consumer Reports Magazine. We have over 6.5 million subscribers. I know many of you, and I’m here today to talk about a couple of different issues.

One, I want to say that we appreciate the really tedious, tedious efforts to establish the clarifications for synthetic versus nonsynthetic and agricultural versus nonagricultural. We are in strong support of those recommendations.

I have one comment about a loophole in number six, but I’m going to get to that in just a second.

There has been a lot of discussion today about synthetics, and I as a scientist find myself in the painful position of educating the public about what a synthetic is, and I think one way to look at this and one way we try to engage consumers is to flip the lens, which is what is natural, and that is ultimately why consumers are looking to organic food products, because they are looking for something that is authentically and through verification natural, and
that seems like a very sort of big generalization, but that's the bottom line for consumers in looking for organic and their willingness to pay more for organic products. It is about how natural that product is.

And the organic products that are more natural than others are worth more to consumers. That is what they're looking for and not just in the ingredients, but in how animals are raised.

So whether we're talking about pasture requirements or whether we're talking about synthetic ingredients, ultimately know that for consumers the highest value of organic is one that is purely natural.

Also, I just want to mention that synthetics is a term that is outlined in the Organic Food Production Act. So this isn't about whether we like it or not or understand it or not. We have to understand it, and it is a scientific term, and again, the clarifications that are being made are science based clarifications that can be quantified and quantitated, and that's exactly what we need because when producers, George, like Organic Valley make
claims on their packages, "no synthetics used," we had all better know what we mean by that and so consumers know what they're buying and getting what they expect when they pay more for the product.

So as that, I also want to say that based on a recent court ruling about synthetics, it's sort of the elephant that's in the room, but we strongly support that court ruling, and we strongly support the petition that's been submitted to you by the Campaign Center for Food Safety and others on having the regulations come into compliance with the law that would basically prohibit the use of synthetics in the organic food category.

Consumers Union conducted a survey in March 2005 of over 1,200 online adults. Eighty-five percent of them do not expect artificial ingredients in food that they buy as natural. That is a very large number.

So what constitutes synthetic, what constitutes natural is at the center of the integrity of this label, of your job as the Board, and of what consumers are looking for in that label.
My one comment on the synthetic clarification has to do with number six, substances created by naturally occurring biological processes. Our concern is that a naturally occurring biological process I interpret as a scientist to mean a process that would occur in nature. So if you take a natural substance and you use it in a reaction to create something that would not occur in nature per se, then we do not agree that that outcome product would necessarily be a natural, and we think that it does require additional review by this Board to determine whether that's a natural or asynthetic ingredient.

I'd finally like to close. I wasn't going to comment on dairy, but the pasture is so fundamental, again, to what consumers think of as how animals are raised naturally, and we can argue about percentages, but I'll alert you all to the fact that unfortunately or fortunately, organic has been a highly meaningful label for consumers who buy milk, but there are other labels that are coming up. The grass fed label is one that the USDA is actually defining right now, which if we don't define pasture,
that label is actually going to impart more meaning in terms of what those animals are eating than the organic label will, and that will ultimately create a two tiered organic system where some organic dairy producers could do organic plus grass fed, and some would just do organic, and that would leave a lot of explaining for why organic does not incorporate those principles, does not mandate pasture, and does not really take into account the natural raising of the animal.

Thank you.

CHAIRPERSON RIDDLE: Thanks.

Julie.

MS. WEISMAN: Yes. Urvashi, I was wondering on the subject of substances from naturally occurring biological processed, could you give us an example of a process that is naturally occurring but doesn't occur in nature?

MS. RANGAN: Sure. An example would be an alpha analace (phonetic) extracted from a bacteria that would be used to convert dextrose extracted from corn into fructose and then the next enzyme that's
used to convert it into high fructose, that's an example of a reaction where everything seems natural on the surface and when you react it all together you actually end up with a product that was never occurring in nature, even though it was made with so-called natural ingredients.

Okay. Thank you.

CHAIRPERSON RIDDLE: Thanks.

Okay. Jim Kotcon and then Barbara Buchmayer.

MR. KOTCON: I took the liberty of preparing some written comments and so what I will do for those who hate reading as much as I do is just summarize them briefly.

My name is James Kotcon. I'm an associate professor at West Virginia University and have been managing an organic research farm for the last six years. This year I'm doing a one-year sabbatical leave with USDA's Cooperative States Research Education and Extension Service as the interim program leader for organic agriculture, and I'm bringing up a new topic today: the proposed guidance for variances
for organic research.

The USDA’s integrated organic program funds organic research. We receive a number of proposals each year. Many of those involve comparisons of conventional versus organic food in terms of the nutritional quality of conventional versus organic pest management practices and so on.

A requirement of the integrated organic program is that the research be done on certified land, and so we have this fundamental conflict of researchers desiring to evaluate conventional versus organic on the same farm and at the same time remain certified organic, and so I am simply going to say that I generally support the proposed guidance that was listed on the Web page.

I do have three additional points that I want to cover briefly that have come up. In the discussion on that guidance you have what you call a definition or three criteria that help to define what is research, and I certainly recognize the need to come up with some definition of what research is so that every grower that comes up with a noncompliance
doesn't suddenly apply for a research variance.

At the same time, I think it's important that we not try to get so specific that we ask certifiers to become the gatekeepers of what constitutes research. Certifiers have enough heartburn coming to certify a research farm as it is without having to evaluate what some of our highly technical methods are and whether they really constitute research. So that is an issue that I think needs a little bit more consideration.

Point number two is an editorial rewrite about recommendation A(3). I just have this thing about misplaced modifiers in sentence structure.

(Laughter.)

MR. KOTCON: Take it for what it's worth.

Number three, the recommendation A(4) specifically allows buffer zone requirements be waived in research areas, and I think that that's a very useful requirement. Plots that have prohibited substances applied could not be used to produce that would be certified organic, but they could be done on a certified organic research farm.
My concern is that that needs to actually be carried through for several years because those plots would need to be permanently marked and go through that transition phase again, and I think some additional attention to how a variance would be granted so that those plots would, in fact, go through that transition again and there would be appropriate requirements to prevent commingling and contamination of organic produce needs to be considered.

The other issue I wanted to bring up dealt with the natural resources guidance that is being proposed. In general, what is being proposed are some changes or additions to the model organic systems plan. I think those are very useful things. I think that they will help certifiers evaluate farms to assure that they are conserving natural resources. My only concern is that there's an implication that automatically applies if there is a requirement or even a line on the system plan, that that automatically sooner or later will come into a regulation.

I think it's important at this point to
recognize that these are not regulations. I don't think that the science is there to define a regulation as to how to encourage wildlife and what actually is required for that, and so I would suggest that some additional guidance on this point might be useful, although I do support the natural resources plan as offered.

Thank you.

CHAIRPERSON RIDDLE: Thanks, Jim.

Okay. Barb Buchmayer and then Emily Brown Rosen.

PARTICIPANT: I carry Barb's proxy, but as long as you are going to get through this list, I'll just wait and hold it until my turn comes.

CHAIRPERSON RIDDLE: Okay. Then Emily Brown Rosen and after her, Diane Joy Goodman.

Sorry. Caught you by surprise.

MS. BROWN ROSEN: Well, I thought I was 47 and we're about 35. So we're making progress.

CHAIRPERSON RIDDLE: We are.

MS. BROWN ROSEN: Hello. I'm Emily Brown Rosen. I'm a consultant with my own little firm
called Organic Research Associates.

I'd like to thank you all for all the hard work and there are so many position papers done for this meeting that it's just a lot to absorb, and that's why I think we're getting so many comments. There's a lot that you've addressed. So it has been really great.

I'll just be real brief, and I have a handout that you can read it more later. Just number one, the peer review panel document, I really support Lynn Coody's document. I think she's got very sound ideas, and yes, the definition does need to be changed to match up with the regulation, but the 509 section I think is fine as stands, and then you can go ahead and clarify it with your policy of how you're going to interpret and work with NOP on the peer review process.

So this is a case when we don't need a rule change. I think it's a strong part of the rule and we should keep it.

On the synthetic/nonsynthetic issue, I'm very supportive of the document that you've produced.
I think it's very clear that as Brian said, we've needed it a long time, and so this is great progress to have this for the materials review aspect.

It's probably not perfect, and I think as you go to apply it and move forward with it that there will need to be modifications or more details in certain areas, but I think it's a great working start, and you should go ahead and approve it and move forward.

I also want to reinforce a couple of other people's points that you know, this is a critical role for the Board to be making this decision or being able to make a consistent decision on synthetic/nonsynthetic, and that's your role as collecting the necessary science and advising the Secretary and the NOP so that they can make the proper role writing that's based on good science.

Agricultural versus nonagricultural. You know, this is a whole new situation here, especially post Harvey, I think. If you look back at OFPA, it doesn't really specify that the handling materials have to be categorized as agricultural or
nonagricultural, but what is says is that the substance is nonsynthetic but not organically produced.

So not organically produced means or could mean agricultural as well as nonagricultural substances. They could theoretically all be in that section, but as you pointed out, in the history of the Board, didn't feel it was necessary for agricultural substances to be on that list, and so that new category was created, which leads to this odd three-part category, natural, synthetic and agricultural. You know, one is sort of more like under here.

So it's hard logically to figure out how to put it in one place or the other, but I think because of Harvey it's more complicated because we have the possibility of these three classes, in which case we'll have nonsynthetic, which will be permitted for use in organic products; synthetic, which will likely only be allowed and made with organic products; and then agricultural which will be presumably allowed in the five percent nonorganic fraction of products that are labeled organic.
So now the classification of agricultural implies that the substance is compatible for products that are labeled organic, provided they're not available in organic form.

So it's tied in with the definition of synthetic and your definition of nonagricultural, and I support the definition on the flow chart on nonagricultural where it says that it can't be chemically changed other than by biological process or mechanical process, which I think is consistent with the synthetic position, and it means that agricultural basically means nonsynthetic. Otherwise you'd need to have another category of agriculture, meaning agricultural synthetic that could only be used and made with organic. You know, we're getting further and further down the road here.

So I just think you have to kind of rethink agricultural in that context.

And then this question of microorganisms being agricultural and certifiable as organic is difficult, and I can appreciate -- one minute? Okay. One minute.
One point is that if microorganisms were to be listed as agricultural, that implies that they are subject to commercial availability, and that it's possible to produce them organically.

This, as I think Rose has pointed out, area has many unanswered questions of which standards are you using to certify them as organic, and because our crop standards and our livestock standards really don't apply to microorganisms.

So I think before deciding whether to include all microorganisms as agricultural, I think it would be wise if you conducted a TAP review on the production methods used to produce commonly used microorganisms, including those that are claimed to be organic at present to evaluate with their compatible.

If that determination is made that you're going to put it as agricultural, then you're going to need a task force to say what are the standards for these. So it's kind of a whole long process here.

And I think you also have to remember that you recommended two years ago that all microorganisms should be classed as nonsynthetic. So you are going
to have to go back and revisit that, too, if that's what you decide.

CHAIRPERSON RIDDLE: Okay.

MS. BROWN ROSEN: I have more.

CHAIRPERSON RIDDLE: Questions?

MS. BROWN ROSEN: Okay. I have one more little point that's important. Would you like to hear one more little point, very quick?

CHAIRPERSON RIDDLE: Do you have another point quickly?

MS. BROWN ROSEN: Yes, very quickly. One other point is I think it's very important to draw the line on microorganisms as to the organisms, not their products because you can use natural organisms to produce all kinds of things like antibiotics, preservatives, you know, and God knows what's coming down the road next.

So don't lump them together. If you're going to put them over there, it's not them and all of their products.

That's all.

CHAIRPERSON RIDDLE: All right. Thanks.
We have Diane Goodman and then Dave Engel.

MS. GOODMAN: Good afternoon and thank you to all of the members of the National Organic Standards Board and the National Organic Program for the opportunity to speak to you, and thank you for all of your hard and diligent and excellent work.

Never being one to sweep important issues under the table or under the rug, I want to air a few of them out. I'm speaking today on behalf of my own opinions, myself, not any other entities.

And I'm not specifically referring to comments to any of the recommendations that are on the table, but I feel compelled to tell you what's on my mind.

I really wish that I could make an offer to you of some magic language that would resolve the controversy between synthetic and nonsynthetic, agricultural and nonagricultural, but I don't have those issues, but I do believe I don't have those solutions. I don't have those answers and those magic bullets.

But I believe that if we continue to work
together that we will as an industry be able to find those solutions, and I know that we can do that. I really know it in my heart that we can do this.

So I want to offer something to you that's my perspective. What you are responsible for is much more than what is synthetic or how many days a cow spends on pasture. You're responsible for the trust that is implied in the organic program. That's consumer trust; that's farmer trust; that's the trust that the media has placed in our program, and it's the trust that the government has in our program.

We've built this trust right along with the growth of this industry. As we've grown in the industry, as consumer demand has grown, the trust in what we have done has grown as well, and this trust is there because we had a system that works. It needs repairs from time to time, but overall it works.

Our NOP standards aren't perfect, and the challenges that we face point out those imperfections. This is an important undertaking. This is an important thing. So let's lift up the rug and up until the last few moments and few commenters,
everybody was skirting around the issue today about
the Harvey v. Johanns lawsuit and the court order that
NOP has to respond to.

This has been the elephant in the room
it's been called. It has been called other pressing
matters, and until the last few comments, I felt like
it was being treated like some contagious disease,
that if we bring it up we're all going to catch it,
and the truth of the matter is that this lawsuit --
how do I word this? -- the truth of this matter is
that what we are all dealing with in this room today
and for the next two days is the lawsuit, and we all
know it, and we're all aware of it, and if anybody in
this room isn't aware of it, you need to be aware of
it, that this is super most in our minds.

Yes, there's a lot of other business in
the National Organic Program that will go on that's
not affected by it, but this is huge.

So my comment really is to encourage
everybody to remember that we already have consumer
trust. Consumer trust is not what we're in jeopardy
of losing because of our current standards. Consumer
trust is what we could be in jeopardy of losing if we make changes to our standards that radically change what our consumers already believe about the truth of what we have done about the integrity of organic.

We have to preserve that trust at all cost. Yeah, we may need to be more restrictive, and we may need to use more constraint in some areas, and we need to be much more flexible in other areas.

Does that mean that we need to rethink the national list? Absolutely.

Does it mean that we need to remember to maintain and continue to grow our markets? Absolutely.

And does it mean that we preserve the truthful consumer trust that we have, that the public has in organics? Absolutely.

Thank you very much.

CHAIRPERSON RIDDLE: Thanks, Diane.

Dave Engel and then Kathie Arnold. We have, I think, a total of seven commenters left. So maybe we'll get through.

MR. ENGEL: My name is David Engel. I'm
an organic dairy farmer from Wisconsin. I'm the current Executive Director of Natures International Certification Services, and I was the former Executive Director of the Midwest Organic Services Association.

And my comments today, first of all, I would like to thank everybody. I think this is great, these kind of sessions.

My comments today are primarily as a dairy farmer, and I will bring in some of my experience running the organization of MOSA and the over 300 dairy farmers that that organization has.

I've milked cows for 24 years, and 14 of those years I've grazed per, you know, my inclinations from year to year, and my main concern concerning the numbers that the guidance document is proposing is the numbers and that as Hugh is indicating and as a couple other dairy farmers here have allowed, that the numbers may not be that important, but I do think the numbers are problematic.

And, again, I'm resting on many years of farming, a few less years of grazing, and a lot of exposure to and rubbing elbows with dairy farmers.
The survey that we did at MOSA of 290 dairy farmers at that time last April, just this past April, we had a 36 percent response rate, and of those 36 percent who responded, about 44 percent indicated concerns with the numbers.

Now, that wasn't necessarily that they couldn't do it. Some could not. Most probably could if they were forced to, but I do not disagree with anything that has been said here concerning the passion for grazing. I just have a concern that the way that we're trying to approach this with numbers is not in the spirit of the rest of the rule, nor is it in our best interest in the long run.

I really liked what Leslie said from the certifier perspective. I think she has some good suggestions. I don't really have any concrete suggestions on the wording. I know this is where that gets taken care of, but I know you guys have gotten everything in your minds and you're going to take it into committee, and I thought Leslie's comments were very good.

That's about all I have to say.
CHAIRPERSON RIDDLE: Thanks, Dave.

Okay. Kathie Arnold, and then Liana Hoodes.

Do you have a proxy? Okay. It doesn't mean you need the full ten minutes, but you have it.

MS. ARNOLD: I'm Kathie Arnold. My husband, his brother and I milk 110 cows on a farm in central New York, and we've been organic since 1998 and been in intensive grazing since 1993.

I want to start out making a few clarifications on things I've heard. Number one, I want you to be sure you know that Tony Azevedo, who spoke earlier, does indeed support the pasture guidance document, but he was just sort of expressing some frustration he felt from a seemingly setback that, you know, he heard this morning.

I also want you to know that Jim Greenburg from Wisconsin who commented earlier, who was rather modest in his comments, and I want you to know that he does graze 1,100 head on his farm, 550 of them being milking cows.

As far as where the 30 percent dry matter
intake comes from, I first hear it as a minimum pasture intake figure in 2001 when it was discussed at an Organic Valley Task Force meeting, and its use as a minimum grazing parameter has been supported by the Cornell dairy farm business summary using either 30 percent or 40 percent forage and pasture intake as a cutoff as to whether or not a herd is considered a grazing herd for their grazing dairy farm business summary, and I believe that also either the University of Wisconsin or Michigan also uses that kind of parameter similarly.

And this is a figure that has been deliberated widely among organic dairy farmers across the country and agreed to by a vast majority, and the reason we need to have minimum numerical standards is because the rule already requires pasture, and yet some operations are not providing pasture for their lactating cows.

So experience has shown that the current situation with the rule does not cut it. We need a definitive floor.

I would also say that even though not all
organic consumers may know about the fact that milk from grazed cows has higher levels of CLA, Omega-3, Vitamin E and beta carotene than milk from cows fed stored feeds, a significant portion of organic consumers and consumer advocacy groups are aware, and this consumer awareness will only continue to grow.

And I'd also say it's not appropriate to have four, six, or ten organic cows per acre of pasture as those levels of animal density will lead to over grazing, overload of nutrients, and overload of manure, and lead to environmental degradation.

Animal numbers must be appropriate, in appropriate balance with land acres.

Also, contrary to a previous comment, I would say that it is appropriate for the word "maximize" to be part of the organic system plan goal. The word "maximize" shows that there should be the intent on the part of producers that they will work when possible to provide more pasture than just the barest minimum.

For example, it's not appropriate for a producer who lives in an area where pasture grows for
eight months of the year to say after 120 days that they've met the minimum and now the cows can go back to 100 percent stored feed.

This is a guidance document. It guides. It's not a regulation, and it should encourage us striving for something better than the minimum.

I would also add that although no Pennsylvania farmers came today, they have shown through their overwhelmingly positive response to the Cornucopia pasture survey that they do support the pasture guidance document.

And I would also like to point out that the survey described by Dave Engel, the text that accompanied the survey to MOSA farmers advocated against the adoption of the pasture guidance document and thus did bring a question of bias to that survey.

And, Hugh, I wish you could have heard Darrell Emmick, New York State NRCS grass specialist who keynoted at our NODPA field days this weekend. He reported that he has measured annual pasture yields far in excess of average hay yields for the same geographical area. Properly managed pastures will
also provide a higher quality of feed than stored forages so that your farmers in Lancaster can feed lesser quantities of that expensive organic grain.

And then speaking both personally and on behalf of the membership of the Northeast Organic Dairy Producers Alliance in my role as policy committee chair, keeping organic dairy standards strong is of paramount importance.

At our NODPA annual producer meeting this past weekend, having a strict pasture standard and overall strong standards were identified by the membership as being in the top three issues of concern this year, just as in 2004.

So I ask that the Board adopt the draft guidance document with the minor revisions endorsed by NODPA, and I respectfully request that the NOP move quickly to post and disseminate the pasture guidance document when adopted by the NOSB.

And I would also like to thank the NOP for initiating this process back in January when Richard Matthews directed the NOSB to bring forth a guidance document on pasture.
I also would like to comment on organic dairy farmer sentiment regarding the loss of the 80-20 dairy herd transition clause because of the Harvey ruling. When the more than 50 organic dairy producers from Maine, Vermont, Connecticut, New York, Pennsylvania, and Wisconsin were asked at the NODPA annual meeting this past Friday how many were in favor of opening OFPA, not a single hand was raised.

The risks of opening the law are too great. Rather we support rule rewriting that would allow a dairy herd to be converted using third year transition feeds allowing the animals to be transitioned with the land.

NODPA also fully supports that rulemaking insures that all replacements be organic from the last third of gestation.

And lastly, I do realize that democracy takes time, and I will return.

(Laughter and applause.)

MS. ARNOLD: Thank you.

CHAIRPERSON RIDDLE: Thanks, Kathie.

Okay. Liana Hoodes and then Michael
Sligh.

MS. HOODES: I'm Liana Hoodes. I'm the organic policy coordinator for the National Campaign for Sustainable Agriculture.

I have detailed comments that I will get you in writing in the next day or so. So I'm going to try and whip through this, and I'll speak a little bit about what Michael wanted to talk about.

In the pasture guidance, we fully support the two previous recommendations by NOSB and the guidance proposed here, with the addition of the minor changes from the Cornucopia Institute, NODPA, MODPA, et cetera. We support this.

We think it's very necessary for a guidance. In general it has been clear there is confusion about pasture. So the idea of a guidance here is exactly what guidances are for.

On peer review panel, I refer you to Lynn Coody's comments. Excellent comments, and I would just like to talk briefly about that.

We specifically agree with Lynn and oppose the suggestion of the committee to change the peer
review panel to a peer review auditing/auditing organization. This clearly implies that only organizations could sit on what was the panel, and we disagree with that. We think it's very important to encourage the participation of knowledgeable individuals, as well, and there are some questions about how you deal with conflict of interest that can be dealt with. I think it's really important to keep that as a panel of experts.

We also find that this proposed language is more correctly a guidance than a regulation change, and we specifically are concerned that reference to ISO Guide 61, now ISO 17111, is important to be kept the way it is written in the current regulation. It's very important for the program to be compliant with ISO 61.

Guidances for research variances, we agree with the Organic Farming Research Foundation comments that were submitted, very strongly agree with those.

And sunset. You know, what I'll do? Synthetics. I'm sorry. The synthetics definition we absolutely agree with the proposal, and we support the
clarification of the definitions. This is what the NOSB is about, and you're right on target. This is really, really hard work over years, and I think you've got it right now. So we support that.

On the sunset, we acknowledge the fact that the sunset process is moving, but sunset has a clear implication. It describes a process whereby the decision to be permitted on the national list ends and the burden for any other action is heavier than that to take it off, and that is not what's happening.

It is the opposite of what a sunset means to have an automatic renewal.

We believe that materials must be reviewed before they go back on. At five years they are essentially off, and that is what a sunset means, and this is not a sunset.

We acknowledge there's a time constraint here, and we hope that at least you know about this and realize that what Michael Frye was going to talk about was that the Board that he chaired and subsequent Boards reviewed materials carefully and had discussions over materials where the vote was very
close, and the decision to approve it was based on the fact that they would be re-reviewed in five years; that it would come off and that it would have to be re-reviewed.

And those decisions would basically be thrown out with this kind of process that's set up now. We at least hope that as the process continues after this first deadline, that you relook at the sunset process and think about sunset the way it is clearly defined.

With reference to several comments here today, I just wanted to note that we strongly feel that the NOSB is not NOSB's job. In fact, the National Organics Program job is not about promoting an increase of organic acres or organic production. It's about the integrity of an organic label.

And we feel the Board has been doing a job to keep high standards and that that is what you're about. It is not about doing everything you can to have more product out there.

And we applaud the work that you've done to uphold strong standards.
Finally, we support the integrity of the organic label as specified in the Organic Foods Production Act, and we oppose any weakening of the act, and we have proposed regulation changes and we stand by them.

MS. COUGHLAN: I apologize. I did not give you one more minute. A one minute warning.

MS. HOODES: That's all right. I was running through it fast anyway.

CHAIRPERSON RIDDLE: Right on track anyway.

MS. HOODES: Right. Thank you.

CHAIRPERSON RIDDLE: Okay. Thanks Liana.

George has a question.

MR. SIEMON: I know you all are concerned about the sunset. So are you going to put forward the materials that you think should be reviewed since we're not doing all of them?

MS. HOODES: We're at a loss to find the resources to do this, and we'll try to do what we can, but we feel that the burden should not be heavier to take the materials off than to keep them on.
That's not what a sunset means.

And so we are looking to find a way to make some --

MR. SIEMON: Well, you're talking about petitioning. I'm just saying giving your input to us about which materials you think should be reviewed.

MS. HOODES: I am really trying to get that together.

CHAIRPERSON RIDDLE: You have until the end of tomorrow.

MS. HOODES: I know. I know. I have several meetings tomorrow to get that finished.

CHAIRPERSON RIDDLE: You're talking about red flagging things.

Okay. Marty Mesh and then Kathy Seus.

MR. MESH: And I wasn't even going to speak, just to get us to dinner, but I did want to express my appreciation.

My name is Marty Mesh with Quality Certification Services, Florida Organic Growers.

I really just wanted to touch on a couple of things, and one was to express my appreciation for
the work of the NOP staff the last few months and
Barbara. I don't know what to call you. Barbara.

And my appreciation for all of the work of
the committees by the Board and the documents and a
lot of the work that has come.

MS. COUGHLAN: Are you officially on
proxy?

MR. MESH: It depends if I run over time.

MS. COUGHLAN: No. Are you or aren't you?

MR. MESH: Okay. I am and ten I'll finish
early.

CHAIRPERSON RIDDLE: All right.

MR. MESH: So my appreciation for all the
work done by the Board and its committees.

The pasture recommendation, I want to
express my hope that for some resolution based upon
the desire as pastor of the Certifiers Council for
some consistency out in the field for certifiers to be
able to look and figure out what the intent was, what
the regulation says and take the guidance and hold
dairy producers accountable to doing that.

I am empathizing somewhat with Dave, but
disagree with -- you know, I think that is probably a good thing.

While I appreciate Liana's view and the Campaign's view on sunset. I am concerned about making sure that the materials are on the list, although in spirit I do agree that the Board meetings in years gone past, the idea that a material was going to be put on the list with the idea that five years from now it would come off the list, would be sunsetted, that I do think that the responsibility has been shifted to those people that might be questioning why the material remains on the list versus those people that want to keep the material on the list.

And then finally, finally, our certification program director Angela Caudle, who has come with me for years really, has accepted a position, and it will be assuming the executive directorship of IFOAM early in September, and so she won't be here, but we're going to keep on doing what we do.

And with that, why don't we go eat dinner?

CHAIRPERSON RIDDLE: Soon. Thanks, Marty.
Kathy Seus and then our last person that signed up, Luis Monge.

MS. SEUS: Hi. I'm Kathy Seus. I'm the farm program manager with Food Animal Concerns Trust or FACT. I'm going to try and be very quick because I'm commenting on the guidance for access to pasture, and I really just want to sort of offer my support for some of the things we've heard already today.

Graze pasture is a key feed component for dairy cows, and it provides a fundamental distinction between organic dairy farming and conventional factory farm style dairy production. In the eyes of the consumer it's a key value add and it's a benefit for which they're willing to spend additional food dollars.

I support the pasture guidance document that's under consideration with the few clarifications that were endorsed by the Northeast Organic Dairy Producers Alliance, the Midwest Organic Dairy Producers Association, Cornucopia Institute, and dozens of other organizations, FACT included.

This guidance and its clarification have
been discussed multiple times with public comment. There are a lot of farmers that came from across the country to support it, and there's a reason for it. Clearly, there's a lot of support for this.

And like Kathie Arnold said, I provided comment back in March on this issue, and I'll come back next March if I need to.

So that's it. I'm trying to make it short.

CHAIRPERSON RIDDLE: Thanks, Kathy.

Okay. Luis Monge.

MR. MONGE: It's Monge.

CHAIRPERSON RIDDLE: Monge.

MR. MONGE: Yeah. It's M-o-n-g-e.

Well, again, my name is Luis Monge. I'm from Dole Fresh Fruit International.

First of all, I want to say thank you for that opportunity to stand in front of you and put my two cents on this.

English is not my first language. So if I say something without sense, you'll let me know and I will explain that again. All right?
I don't know if you have in mind what you are doing right now, the big responsibility that you have on your shoulders, because you are making or, yeah, proposing standards that the NOP are going to put in place, and you're going to make the final rule for the United States, but it will affect us in Latin America and the rest of the world very hard.

I mean this is not only about the U.S. farmers. It also involves the lives and the industry all around the world. So good luck.

(Laughter.)

MR. MONGE: Yeah, really. It is very hard to satisfy 100 percent of the people. So you must do your best and good luck in that process, really.

Dole has organic operations in five countries. It is Honduras, Dominican Republic, Colombia, Ecuador, and Peru. This is only for organic bananas, and organic plain apples in Costa Rica.

We want to speak in favor of the continued allowance of ethylene on the crop production for pineapple flowering. It is extremely necessary to allow the use of ethylene. Otherwise you won't be
able to unifore (phonetic) the flower in on the fields, and you're going to need I don't know how much times more labor to harvest every pineapple on time to deliver well to your market, to you and your consumers.

And also, well, banana is a tropical fruit that needs to be harvested green in order to be shipped in a period of time that will vary from five days to ten days to 12 days, depending on the country of origin and depending on the market, and it must be in a ripening facility. It must be sprayed or fumigated with ethylene. Otherwise we will need to put the banana green on the supermarket, and obviously it won't be let's say a choice for the consumer because it will be like completely different from the conventional bananas.

I don't know or I just wanted to say again that there is many people behind your decision or behind our decision at the NOP and you guys. What are you going to do in the future? What are you going to propose to do in the future? But there is many people waiting for your decision, as well as we are waiting...
for a decision on the EU regulation in 2006 and Japan regulation, but U.S. is the main market for us.

So I think I learn in this country something that it maybe will take place this time, that you used to say if it works, don't fix it.

MS. KOENIG: If it's not broken, don't fix it.

MR. MONGE: Okay.

CHAIRPERSON RIDDLE: Rose?

MS. KOENIG: I just wanted to say that at least for the ethylene for the uniform flowering, that you should submit your comment if you have it --

MR. MONGE: Absolutely. I will in July.

MS. KOENIG: -- for the sunset review.

MR. MONGE: Yes. We did it.

MS. KOENIG: And you should additionally do it for the proposed harvest treatment, although that may be --

MR. MONGE: Can I ask you a question? Because I have had time to find the answer, but I haven't. Is ripening included where? I mean in the law.
MR. SIEMON: Handling.

MR. MONGE: Handling? I mean in the definition that you have in the NOP --

MS. KOENIG: No, we have it on our crops. Like it's crops, but it's listed, if I'm correct, as a post harvest treatment only, I think is how it's annotated.

CHAIRPERSON RIDDLE: Right, on the TAPs list.

MS. KOENIG: So it's actually under crops, but it's considered a post harvest.

MR. MONGE: So ripening this in 601?

MS. KOENIG: Right, but what I'm saying is that the sunset notice that came out wants comments on everything on the list.

MR. MONGE: Absolutely. We did it.

MS. KOENIG: There may be things on the list that get impacted by other decisions, but you should go forth and complete your sunset comments for everything that's on the list.

MR. MONGE: And if ripening is included in 601, why, ethylene for the greening of tropical fruit
or ripening of tropic fruit is included in 605(b)(10).

So what is going to happen with the lawsuit?

MS. KOENIG: It may be in both places. I don't know. It's probably in both.

MR. MONGE: It will be? Okay. Well, thank you and good luck again.

CHAIRPERSON RIDDLE: Thanks.

We're going to recess for today, but then we'll start at eight in the morning with the discussion items.

George?

MR. SIEMON: Just a second please. I don't always go for dinner. I'm concerned about the discussion items. First it's going right to the meat of our issues.

CHAIRPERSON RIDDLE: That's what I was going to ask mini chairs to really make those brief, just to report but not really a discussion. Just an update on where we're at.

MR. SIEMON: Okay. Because we have a lot.

CHAIRPERSON RIDDLE: I agree.

MS. CAROE: Can I ask the Accreditation
Committee, everybody at 7:30 tomorrow morning.

CHAIRPERSON RIDDLE: Accreditation Committee, 7:30 tomorrow morning here. Just come early, and then dinner at seven, but I'll tell them we're going to be a little late.

(Whereupon, at 6:53 p.m., the meeting was adjourned, to reconvene at 8:00 a.m., Tuesday, August 16, 2005.)
UNITED STATES DEPARTMENT OF AGRICULTURE

NATIONAL ORGANIC STANDARDS BOARD

TUESDAY
AUGUST 16, 2005

The above-entitled matter convened at 8:00 a.m. in Oriental Ballroom C of the Mandarin Oriental Hotel, 1330 Maryland Avenue, S.W., Washington, D.C., James A. Riddle, Chairperson, presiding.

NOSB MEMBERS PRESENT:

JAMES RIDDLE Chairperson
KEVIN R. O'RELL Vice Chairperson
GOLDIE CAUGHLAN Secretary
ANDREA CAROE Member
DAVID CARTER Member
GERALD DAVIS Member
BEA E. JAMES Member
HUBERT J. KARREMAN Member
ROSALIE KOENIG Member
MICHAEL P. LACY Member
NANCY M. OSTIGUY Member
GEORGE SIEMON Member
JULIE S. WEISMAN Member

NOP STAFF PRESENT:

KATHERINE BENHAM
MARK BRADLEY
KEITH JONES
ARTHUR NEAL
BARBARA C. ROBINSON

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Adjourn
PROCEEDINGS

8:09 a.m.

CHAIRPERSON RIDDLE: Okay. Good morning.

I call the meeting back to order. And we have two
staff members here so we officially exist. We can
carry on.

And we have quite a workload before us.

And we will resume our work at 4:00 p.m. yesterday as
far as the agenda goes with some fairly brief
committee chair reports on kind of future agenda
items. These would be the discussion items that will
not be voted on at this meeting. So they are really
just an update of works in progress.

So we'll start off with Policy Development
Committee. Dave?

MEMBER CARTER: Okay. Thank you, Mr.
Chair.

Policy Development Committee met most
recently in July to look over the items that are on
our agenda. And the first one was the guidance on
temporary variances for research 205.209(a)(3). And
I'm going to throw it back to Jim because Jim had
prepared a draft for us to work from based upon some
input that he had received. He had done some research
and interviewed -- got input from about six
agricultural researchers and developed the working
draft that we discussed at the meeting. So --

CHAIRPERSON RIDDLE: Okay. Thanks, Dave.

Yes, the regulation allows for temporary variances
for research purposes. But there really aren't any
fence posts set or any guidance as to how those
determinations are made, what constitutes a, you know,
a credible research project and a variance to certain
sections of the rule.

And I did construct an original draft with
some input from researchers. That went out for a kind
of narrow circulation to the research community,
received input from about 20 researchers in that round
before constructing the second draft. And then that
is what was posted for public comment leading up to
this meeting.

And we did receive some substantive
comments, notably from Organic Farming Research
Foundation. And then USDA's CSREES. And those will
be taken into consideration for the next round.

And in particular, I envision fleshing out the draft to incorporate the whole notion of split operations because a lot of the research projects really functions as split operations similar -- you know we certify organic farms that have part conventional, part transitional, and part organic.

And a lot of research projects really are in a similar situation where part is essentially conventional research. So that hasn't been reflected in the draft. So I anticipate trying to address some of the comments that have come in by incorporating the split operation concept in a future draft.

So anticipate another draft being submitted to the Committee for then posting again for a round of public comment and hopefully action at our next meeting.

MEMBER CARTER: Thank you, Jim.

The other item that we have on the agenda here is determining the commercial availability under 205.606. This is a joint project between the Policy Committee and the Handling Committee. And Plan A was
we were going to meet Monday morning before this meeting. And because of my travel schedule and because of other issues then that Barbara wanted to visit with the Board about, we did not get that accomplished. So that's still a work in progress.

One item that is not on the agenda but is coming from the Policy Committee as a discussion item is some work that we Bea and Rigo have been putting together on orientation or a survival guide for new Board members. We call it NOSB 101.

And this kind of came about from the folks that just came on the Board talking about things that would be helpful to help them get up to speed as they came on. And looking forward to the number of new folks that are going to be coming on in January and trying to prepare that.

So Bea, I'll let you discuss that briefly.

MEMBER JAMES: Well, Rigo and I basically put together some information to help new members. And this was in response to the rotation proposal not going through. Jim had put together some rotation proposals so that we wouldn't have so many members
going out at one time.

And because of the way the Organic Foods Production Act was written for NOSB members to serve five years, and the changes that we would have had to have made in order to have that rotation schedule put into action, it would have gone against OFPA. So what we've done instead is we put together a survival guide.

And there is probably about three pages of information just to help new members understand exactly how to be prepared for the NOSB meetings, how to understand the different committees, how to understand working with the NOP. And we can have more information on that at the next meeting.

MEMBER CARTER: And then the other item that the Policy Committee has been discussing, we want Everett here because it is an action item for tomorrow. But that is the Board Policy and Procedures Manual.

CHAIRPERSON RIDDLE: And that's actually later today.

MEMBER CARTER: Or later today. Tomorrow
being Tuesday, of course.

CHAIRPERSON RIDDLE: Unless today is yesterday.

MEMBER CARTER: It's still four o'clock on Monday.

(Laughter.)

CHAIRPERSON RIDDLE: Right. Okay. Thanks, Dave.

All right. Livestock Committee? George, do you have your discussion item -- Nancy's not here.

MEMBER SIEMON: Nancy is the leader of the agriculture discussion. She's not here.

CHAIRPERSON RIDDLE: Right.

MEMBER SIEMON: That's the agenda item, right? Agriculture?

CHAIRPERSON RIDDLE: Right.

MEMBER SIEMON: And Nancy -- can we come back to her when she arrives? I don't know where she is.

CHAIRPERSON RIDDLE: Yes, no, I don't either.

But, yes, for an update so we hopefully
don't have to come back to this, the Board did adopt a task force report that contained draft standards. And I think what is needed now is a discussion with the program as far as the status of that recommendation and if that, you know, will move forward, you know, as a rule change or guidance document and if any further action is needed from the Board before that could happen.

MR. NEAL: Which recommendation is that?

CHAIRPERSON RIDDLE: Yes, the Agriculture Task Force Report, the beekeeping.

MR. NEAL: With respect to the Agriculture Task Force Report, what we're expecting to happen is that I think Nancy is going to take a look at it because she's got some concerns about it.

CHAIRPERSON RIDDLE: Yes.

MR. NEAL: And we are going to get some feedback from her on it as well because we didn't have a bee specialist, a honey specialist on board at the time. And now we do. So she's going to take a look at it and give us some feedback on it.

CHAIRPERSON RIDDLE: Okay.
MR. NEAL: And what we'll do is that we'll probably begin the dialogue again on that particular document. We know that there is a lot of concern about how can bees be produced organically. And how can honey be produced organically.

But before we go with guidance on that, we want to make sure that we have at least the specialist on board look at that so that we don't go off in left field with guidance that does not apply.

CHAIRPERSON RIDDLE: Right. Yes. And in the interim, operations are being certified organic, you know, beekeeping operations, and there are products on the market carrying the USDA seal. So in the absence of guidance or rule change.

MR. NEAL: That's understandable.

CHAIRPERSON RIDDLE: Yes.

MR. NEAL: But before we go out with anything, we are going to make sure we've at least got feedback --

CHAIRPERSON RIDDLE: Yes.

MR. NEAL: -- from Nancy.

CHAIRPERSON RIDDLE: Okay. Well, I wish -
- just stay tuned on that.

Anything else from Livestock right now?

(No response.)

CHAIRPERSON RIDDLE: Okay. All right. Rose, Materials?

MEMBER KOENIG: Originally I had a slide show just to show the national sunset Process, which we're undergoing right now. I'll just summarize that verbally by saying that the closing date on the Federal Register notice is coming up really quickly. I guess you have a couple more days. When is the last date? Today? We've got today. And we've gotten some comments. And they are being posted on the Web.

And then the Board will begin the task of sifting through those and the appropriate committees will start viewing the comments and following the procedures that we outlined at the last meeting as far as how committees are supposed to report those back to the Board in recommendation form.

So if anybody has any questions or, you know, wants more information, you can either -- there are two places to look. One is the last meeting book.
had the procedures that we voted on for sunset as far as the working document for the Board.

And then this meeting, if you look at the slide show, there are some flow charts there that kind of explain the process, how it goes from the Federal Register notice, through the Board process, through the writing of the regulations which takes quite a bit of time.

And that's why we're under a lot of pressure to at least start the process, get as much as we can accomplished hopefully by the next meeting date.

The second item, in the materials -- in the sunset process that we established by the Board, each committee -- the Board has the ability to look at materials that they know may be problematic or they've heard public comment on or they may know information such that was brought forth yesterday by one of the commenters that, you know, the minutes reflected that it was supposed to be re-reviewed or, you know, there was some indication that the Board had the intention of looking those over.
So I asked each committee chair to identify materials that they would like to send directly for technical review. And the Crops Newspaper was brought up other than recycled without glossy or colored inks. Just because technology in newsprint has changed pretty dramatically, there are a lot of soy-based products out there. So it just needed to be looked at.

Aquatic plant extracts, humic acids, and liquid fish products, these seem to be problematic in terms of some of their annotations may not be clear.

Really the Committee is seeking just some details on the extraction processes and just really how they’re made because there are a lot of -- not a lot but some of the petitions, I guess, that come in seem to deal with these different products. And we’ve heard from folks out there -- certifiers -- that the annotations don’t seem to make a whole lot of sense. So anyway, we’ve decided to look those over as a large group.

And then Livestock, ivermectin and oxytocin have been requested thus far. And then in
handling colors, non-synthetics versus only in flavors, the way it reads in the regulation is non-synthetics sources only must not be produced using synthetic solvents and carrier systems or any artificial preservatives.

So those are the Committee's materials that they are sending for technical review thus far. I hope that the committees will get a chance to discuss any other materials that have come up, you know, as far as things that were in the minutes that you may not have considered that commenters have brought forth.

And I made a note of things that were discussed yesterday were streptomycin and I think tetracycline in crops. They are antibiotics that are used for fire blake control if I remember.

And then vitamins and minerals in livestock, specifically just looking at technologies because I guess the commenter was concerned about there are some processes that now involve GMOs. So we may want to consider that.

And then chlorine products, since chlorine
and chlorine products are on all three lists, so I guess because of the rates and some of the confusion, there was a suggestion to maybe look at that.

So it is really up to the committees but you have that information. I suggest you try to meet and determine if -- you know go to the minutes and confirm what we have gotten in public comment. And see whether you want to bring forth any more. That's it.

CHAIRPERSON RIDDLE: Any questions for Rose on that?

Yes, I have -- oh, George, go ahead.

MEMBER SIEMON: Just a comment that not necessarily will all those require a new TAP. Like we're not requiring a new TAP for ivermectin.

MEMBER KOENIG: Do you have specific questions that you have forwarded?

MEMBER SIEMON: I think we did.

CHAIRPERSON RIDDLE: Well, we did on oxytocin. I submitted those. I don't know about ivermectin.

MEMBER SIEMON: Ivermectin we just wanted
-- we felt we had enough information. Just need to revisit it so --

MEMBER KOENIG: Well, I suggest if you are going to revisit, if you know ones and you've got the information, go ahead and do it now because once you start getting into looking at it, there may be questions that come up. And now is the time to get additional questions answered.

CHAIRPERSON RIDDLE: Arthur?

MR. NEAL: I guess we need to be clear on this now because what I've begun -- I've already begun to initiate the process. And they're going to be doing full TAP, full-blown TAPs on these. So if there are specific questions -- only specific questions that you want to have answered, let me know those before they start on a full-blown evaluation because we're going to get charged for it.

CHAIRPERSON RIDDLE: Yes.

Hugh?

MEMBER KARREMAN: I think with ivermectin, I think the NOSB has said that if moxidectin comes on, ivermectin can go off. And I think that's the main --
so it would be really sunsetted. And I don't think you need to a full-blown TAP at all.

MEMBER KOENIG: But didn't we hear though that moxydectin was an antibiotic? So all three of them, I think you may need to look at all of those.

MEMBER SIEMON: We discussed that when we did moxydectin.

CHAIRPERSON RIDDLE: Right.

MEMBER SIEMON: Thoroughly. So --

MR. NEAL: That's understandable. But we're still got a dilemma. In May 2004 I think it was or October 2004, we said -- we concurred with the Board that antibiotics could not be used in dairy production. Now we've got three materials -- two on the list and one potentially about to go on the list that are structurally antibiotics but function as parasiticides. We've got a technical dilemma here.

What about any other material that is an antibiotic and functions as an antibiotic, can they be allowed for use in dairy production because we've got two on the list and one that's been proposed for inclusion on the list. They are antibiotics by
structure. So how does that impact the statement that we've gone out with to the public?

CHAIRPERSON RIDDLE: Hugh, what are the two on the list right now?

MEMBER KARREMAN: Ibermectin, oxytocin. Oxytocin is not an antibiotic.

CHAIRPERSON RIDDLE: No, it's a hormone. It's a naturally occurring hormone.

MR. NEAL: Well, definitely ivermectin because we've checked with FDA on that. We've actually had FDA chemists look at the structure of those.

MEMBER KOENIG: Okay. So it sounds like the Livestock Committee -- the other, I guess the final thing that I do want to state, although we'll come back to it in the discussion of the item is that there is a document posted that we will discuss on the OFPA categories, trying to get the listing -- making sure that is what on the list conforms to what was spelled out in OFPA. And hopefully NOP will be able to answer some of the legal questions surrounding those categories to make sure that there are not
materials that are not appropriately placed -- have been inappropriately placed on the list.

So when we get to that, we may have to come back to the sunset discussion. But let's just move forward now.

CHAIRPERSON RIDDLE: Yes, I just have a couple questions myself and that is I want to be clear that now once today is over and the public comments have been received on sunset for this round, that the top priority for Materials Committee and each of the three relevant committees is to first identify any of the more substances that need a review. And exactly what questions need to be asked in that review. And whether it is a full review or just a narrowly focused review with specific questions. So that's top priority, correct?

MEMBER KOENIG: Yes.

CHAIRPERSON RIDDLE: And then --

MEMBER KOENIG: So in other words, what you are identifying now are substances that don't necessarily have to have public comment to trigger the review. So we'd like all those Board materials -- now
there may be some comments on those additionally. But we're trying to, you know, whatever, you know, however many materials there has to be to come forth from the committees.

Now once comments come in, that list may grow. But you have the opportunity now as committees to identify those that --

CHAIRPERSON RIDDLE: Yes, and I think the committees have done that. There may be additional ones triggered by public comments that have come in either verbally yesterday or in the written comments that come in by the end of today. But that should be done in very short order.

MEMBER KOENIG: Yes.

CHAIRPERSON RIDDLE: And then the committees need to focus on essentially the non-controversial items that can be kind of reviewed, set aside for renewal. And then we have to go back to those more controversial or where we're lacking information, where we've requested a review. And decide on their status or recommendation for their status.
Hugh and then Kevin?

MEMBER KARREMAN: Just for clarification, what about something that is on the list now that has an annotation, I need to be a little clearer on that. For instance, the term biologics and in parenthesis right next to it, vaccines. If I were to want to just have the broad category of biologics, how do I work with --

MEMBER KOENIG: That changes the intent of the list. I mean that's --

MEMBER KARREMAN: Well, is that during sunset or not? I'm just curious.

MEMBER KARREMAN: -- really adding.

MEMBER KARREMAN: Those kinds of things. How does that come about if I want to work on that?

CHAIRPERSON RIDDEL: Yes, well, that's a good question. And a good example. You know the Federal Register notice, as I read it, didn't set limit on annotations.

I think we had made a recommendation that kind of annotations were not in play and this process could not be used to extend some things's use. It
would be to renew its existing, you know, item and existing annotation. But that wasn't reflected in the Federal Register notice. I just want to know the rules of the game there.

MR. NEAL: That's still the intent. And the reason why is because it will complicate this process. And the process for amending the national list is always going to be the same, through the petition process.

CHAIRPERSON RIDDLE: Yes.

MR. NEAL: The sunset is a deal that takes every five years for substances. So we don't -- we want to separate amending the national list with renewing the national list.

CHAIRPERSON RIDDLE: Right.

MR. NEAL: Changing the national list with conducting a sunset review of the national list. Whether or not a substance should be continued for use in organic production and handling.

MEMBER KOENIG: One -- I mean one thing the committees could do is that, you know, basically if there is an annotation that just doesn't work, is
not appropriate, I mean the obvious solution is you do not renew it during sunset. But you ask for the review of that so that you have the technical information that you could perhaps use that petition to re-review it with a different annotation. But I guess it is a separate process.

MEMBER KARREMAN: Well, you just do through the sunset, you know, just like anything else. Like ivermectin, oxytocin biologics. And then just go through that. And as it comes through sunset, they may change. It's getting reviewed in other words.

MEMBER Koenig: I don't -- I mean I'd have to defer to Arthur. I mean that's -- I don't know how these Federal Register notices and what lawyers decide in this. So I don't --

MR. Neal: If you are looking at broadening the scope of biologics, what you are essentially doing -- unless you decide to hold off on renewing its use until you conclude on that discussion, what you are essentially doing is that you are going to preclude the use of that material just because you want to take on additional work on it that
is not needed through this process. Because the farmers won't be able to use them anymore if it is not on that list. So that's why we're keeping sunset strictly to the continued use of a substance.

Now if we want to take up additional work on it, we can always do it through the regular process. But we don't want to do it through sunset because people are going to need to use these substances.

CHAIRPERSON RIDDLE: Yes, so --

MR. NEAL: And we can always have contractors do work on obtaining information for clarification purposes.

CHAIRPERSON RIDDLE: Yes.

MR. NEAL: That's throughout the entire year. Not just sunset.

CHAIRPERSON RIDDLE: Okay. Everyone clear on that? Kevin?

VICE CHAIRPERSON O'RELL: Just one question. What is the timing for the Board to receive the public comments once they've been submitted?

MR. NEAL: What was etched out in the
outline was 90 days after the comment period closes, which roughly puts us at about November 14th, 15th for the Board to come through with a recommendation. Depending on the meeting date when that is finalized, whatever date is going to be the next meeting, that's the date that we'll be looking for the recommendation to come from the Board.

VICE CHAIRPERSON O'RELL: No. But when will we see the comments? When will the Board see the comments that have been submitted to NOP?

MR. NEAL: Oh, the comments are being posted weekly on sunset. What we can do, we can send out hard copies to the committee chairs. But all of the sunset comments that we are receiving are being posted weekly on the website. On the home page, there is a link that says Sunset Comments.

And we've broken those down into Crops, Handling Livestock, and then Multi-Purpose, Multi-Practice, in general, comments so that you won't have to look for those that pertain particularly to your committee.

CHAIRPERSON RIDDLE: And one thing, I was...
reviewing those the other day and I did notice under crops there were a couple of handling substances. So I think every committee chair, when you get your packet, really look through it carefully and redirect it if you find something that is not for your committee. And some of them may be mixed and may have gotten missed by the staff. So we'll need to work together.

MEMBER KOENIG: And the forms, you know, when I get home, I can e-mail it to the chairs and everyone. Again, that process, and there is actually forms and a way you are supposed to present the recommendations. So we voted on it I'm sure. I know how I forget things I voted on, too.

But I'll send those to everybody since you are going to be engaged. But it really is -- you know the chairs have to be really active -- proactive on this thing because, you know, I would like to see at least if we're going to do this November meeting, to have a large list of kind of expedited stuff that there is no controversy.

You know we were all expecting a few but
it would be great to get the bulk of the work done at this November meeting so then we can concentrate on those materials that are more problematic.

CHAIRPERSON RIDDLE: And I had one other question that has come up and that is if there is not public comment one way or another on a substance, what is the Board's authority as far as recommending its continued use?

MR. NEAL: The way that the sunset process was put together is that if no one had commented on it, that meant there is not a continued need for the use of that substance by the industry. Because the industry was supposed to comment to you to let you know --

CHAIRPERSON RIDDLE: Right.

MR. NEAL: -- whether or not if they needed to continue to use the substances. So for the Board to say we need to continue to use this substance when nobody has commented on it, I think that's why OTA stated that we need to know in the proposed rule what substances have received comments and which ones have not because I think that they were going to go
back out and say look people, these substances have not received any comments and will potentially be removed from the national list. If you need to use it, you need to let the NOSB know.

MEMBER KOENIG: But essentially some of the commenters have said that we agree with keeping the list the same except for. So that kind of has covered them all --

MR. NEAL: Right.

MEMBER KOENIG: -- in the one comment.

MR. NEAL: We have had some comments that virtually say renew the entire national list.

MEMBER KOENIG: Keep it.

CHAIRPERSON RIDDLE: Yes.

MR. NEAL: So everything should be covered.

CHAIRPERSON RIDDLE: Okay.

MR. NEAL: But I was answering your question specifically.

CHAIRPERSON RIDDLE: All right. Yes, Hugh? And then we'll move on.

MEMBER KARREMAN: One thing that I brought
up at one of the Livestock Committee calls was the potential removal of strychnine was a natural prohibited due to certain medicinals that are used now with livestock that are naturally occurring medicinals that happen to have strychnine in it as alkaloid. And there could be some certifiers that say hey, that compound has strychnine.

So I thought that was going to be with the oxytocin and ivermectin. But maybe it doesn't need to be but I just wanted to say that I thought I'd submit it for that.

CHAIRPERSON RIDDLE: Right. And yes currently it is listed as prohibited natural. What I'm understanding from you is you'd like there to be an annotation allowing certain uses.

MEMBER KARREMAN: Certain naturally occurring forms of it.

CHAIRPERSON RIDDLE: Yes, yes. Well, it's a prohibited natural. So its natural form is prohibited and the synthetic form is prohibited by definition currently.

MEMBER KARREMAN: Right.
CHAIRPERSON RIDDLE: So that really is more an issue of adding an annotation and would be more appropriate to be petitioned through the regular year.

MR. NEAL: Yes.

MEMBER KARREMAN: Okay. That's fine. Thanks.

MR. NEAL: And let me make one more comment. The reason why we don't get into the changing of annotations, another reason is because it is going to require a lot more work, a lot more justifications just like a person would petition normally and have to make their case as to why the Board should do such a thing as to change a certain material, it's going to take up more of your time.

CHAIRPERSON RIDDLE: Right. And as a, you know, veterinarian, you are certainly free, even though you are a Board member, to submit that petition. You would just, you know, recuse yourself when it is being considered if you are the one who submitted it.

MEMBER OSTIGUY: Jim, I have a question.
CHAIRPERSON RIDDLE: Yes, Nancy, sorry I've been focusing over here.

MEMBER OSTIGUY: Well, I have a question about what you said in particular.

CHAIRPERSON RIDDLE: Yes?

MEMBER OSTIGUY: If you have no financial interest, you just think it is a good idea -- I'm trying to figure out --

CHAIRPERSON RIDDLE: Yes.

MEMBER OSTIGUY: -- sort of the conflict of interest here.

CHAIRPERSON RIDDLE: Well, right. And I was specifically referencing Hugh as a veterinarian and someone who uses the substance, even though he probably doesn't profit from it. But yes, in that case --

MEMBER OSTIGUY: I could see bringing it up.

CHAIRPERSON RIDDLE: Right.

MEMBER OSTIGUY: It makes sense to say okay, there is a potential here. And then allow the Board to say yes or no.
CHAIRPERSON RIDDLE: Yes, I think it -- yes, it would definitely have to be revealed. And it would just depend on what your interest in getting it reviewed is. If it is just general public good and you see a need, then it may not lead to your --

MEMBER OSTIGUY: Okay.

CHAIRPERSON RIDDLE: -- recusal.

MEMBER OSTIGUY: Okay.

CHAIRPERSON RIDDLE: Case by case.

Okay. And the revisions to petition notification, Rose, did you have a brief update on --

MEMBER KOENIG: That's the one you keep on putting on my work plan but -- no, at our conference call, we determined that that was not a big priority.

And so it may come up. It really is going to be triggered whether the NOP needs that because it's really -- you know I don't see that as our job unless it is requested from us. I mean I think we've got other pressing matters we've got to get on.

CHAIRPERSON RIDDLE: Yes, okay. And just for the record, we are still operating off a proposed petition that was posted June 2000 before the final
rule came out. And it does need updated. But maybe
the Board will be asked to have input.

MEMBER KOENIG: We have --

CHAIRPERSON RIDDLE: We've submitted --

MEMBER KOENIG: -- two meetings ago, we
submitted a copy of one which Arthur has but we can't
authorize him to use it.

CHAIRPERSON RIDDLE: And that was before
the court ruling as well.

MEMBER KOENIG: Right.

CHAIRPERSON RIDDLE: Arthur?

MR. NEAL: That's the reason why it has
been postponed --

CHAIRPERSON RIDDLE: Yes.

MR. NEAL: -- from this meeting because
there are some 606 issues that need to be adequately
captured.

CHAIRPERSON RIDDLE: Right.

MR. NEAL: The whole commercial
availability piece.

CHAIRPERSON RIDDLE: Yes. Okay. Thanks,
Rose.
Handling, do you have anything?

VICE CHAIRPERSON O'RELL: No. We had the update for the Pet Food Task Force meeting, which Nancy Cook gave yesterday. I guess the only thing that I may add to that update that she presented was that on the conference calls, we had discussed a timeline that the task force would present final recommendations to the Board at the proposed February/March meeting, 2006.

CHAIRPERSON RIDDLE: Okay. Thanks.

Certification, Accreditation, and Compliance? Andrea?

MEMBER CAROE: We have three items. The first item is the peer review panel process. And we are prepared to -- the procedure --

CHAIRPERSON RIDDLE: Yes, these would be just any discussion. And right now it is blank for yesterday's agenda. But it's just -- we'll come to those in a little bit.

MEMBER CAROE: Right, right. No, but I was just going to -- just presenting just the three items that we will be discussing.
CHAIRPERSON RIDDLE: Yes, sorry.

MEMBER CAROE: One is the peer review panel procedure, which we did receive some comments on. And this item is not for vote. It is just for discussion of the Board right now because based on those comments there will be some reworking of the document to make it stronger.

Next, we do have an ANSI report response from the Board and that is prepared for vote out of efforts with collaboration with the NOP to address those items that were identified during the ANSI audit.

And lastly, we do have the vote on the Q&Gs for retailer and private label recommendation. We didn't receive any written comment on this. I did receive late comment yesterday after the meeting. So I ask that any of the ACAs be around for that discussion. We may call you up to get further comment as we discuss it because I would like to vote on this.

And I also ask any ACAs that have concerns with the document to come prepared with language so that we can wordsmith this and get this voted on.
don't expect there will be any major changes -- some minor changes, clarifications, and plan on moving forward with that.

CHAIRPERSON RIDDLE: Okay. Great. Thanks.

Crops, Nancy, do you have any -- there's nothing listed for discussion there. We've got plenty of items for action.

MEMBER OSTIGUY: Right. No, the only things that we're working on that are currently not there is in theory the hydroponics, which nobody has taken up at the moment. And we're going to be dealing with compost in a little bit but we still have all the Q&As to do which will help clarify things hopefully.

CHAIRPERSON RIDDLE: Yes. And just to update you before you got in the room under the Livestock Committee, we did talk about the apiculture and the desire of the program to get your input in particular on the task force report that had already been recommended by the Board.

And if that would be appropriate, if there are changes needed, and then if it would move forward
as rule change or as guidance to the existing rule.
So just be thinking about that and hopefully we can
move that forward.

Yes, Arthur?

MR. NEAL: One thing I left out about
that, we have drafted guidance under the current good
guidance document practices for apiculture.

CHAIRPERSON RIDDL: Oh, okay.

MR. NEAL: We have not published it yet
obviously because we’re still looking at all of the
pieces to make sure that what is going to go out
covers the major points. So -- but we will be looking
for Nancy on some input on the Board document.

CHAIRPERSON RIDDLE: Okay. And yes, I
would ask that that input be channeled through the
Livestock Committee and at least the Executive
Committee to have a chance to review it as well.

I had chaired that task force even though
I’m not a beekeeper or a honey expert and I recognize
it may have some deficiencies. I look forward to it
being improved.

And I did also just remember that under
Livestock, we should just give a brief update on the aquaculture task force.

PARTICIPANT: Let’s ask Keith to do that.

CHAIRPERSON RIDDLE: Yes, and Keith just got in the room. I hate to put him on the spot right away. So I’ll start going on while he gets himself settled.

There was a Federal Register notice soliciting members for an Aquatic Species Task Force that has two working groups, one for aquaculture and one for the wild aquatic species. The Aquaculture Working Group has been seated. A lot of expertise members who have participated in the NOAG, the National Organic Aquaculture Group that issued a white paper.

And there have been, I think, three conference calls. I’ve sat in on those calls. And they are making good progress. And really using that white paper as a basis for drafting a report, recommendations to the Board.

Anything to add on that Keith?

MR. JONES: No, Jim. That’s an excellent
overview. The last two days, there's been a number of comments that have come in on the white paper. People are now coalescing around that. And I think there's really going to be good work that will arise out of that white paper. Actually probably standards will come out of that which is what we wanted. So I think there is excellent progress being made on that work as well.

The wild fishery side continues to be a dilemma for us. We have not been able to seat the panel. And, in fact, in conversations that I've had with folks who are interested in this particular area, they believe that we actually need to go back out and request again nominees for this particular panel. And be more specific as to the requirements that we're looking for.

It has been suggested that we actually try to find an oceanographer that can look at ocean patterns, water quality, temperatures, migration patterns, things like that, a fisheries manager that can also dovetail into the work of the oceanographer.

It's also been suggested that we really
need a certifier on this wild fisheries panel which we would certainly concur with. We do have a certifier identified through the previous work on the aquaculture side that could be -- that actually has said that they are willing to participate. So I think we've got that pinned down.

We've got some sustainability experts that we've got identified. And then it has also been suggested to us that perhaps a fish geneticist would be useful in terms of working with these wild species. So that's where we're at on the wild side.

It's been much more difficult than I personally ever anticipated in terms of putting that panel together. I think it is a reflection of the -- I guess I should say the kind of convoluted feeling about that particular sector that exists.

What we found is that you are either totally for the sector and believe it could be labeled without a problem as organic or you are totally against the sector and it is anathema to label as organic. And what we're trying to do is to seek enough of a diversity in that group so that we could
at least have a rational dialogue.

It's also been recommended to us that this is probably a task force where we really are going to need some face-to-face meetings, that because of the issues and because of the depth of the feeling on the issues, that a conference call is probably not going to be sufficient to wrestle out some of the details.

So that's really where we're at on both of those.

CHAIRPERSON RIDDLE: And just one question, with all of the high priority items already on, you know, the program's plate and the Boards, is there any chance of kind of setting that aside? Or that still has to maintain focus?

MR. JONES: Well, we would like to move forward with the process because we really think it is needed to meet some of our mandates and things like that. So I don't think that we could ignore it nor would we want to ignore it.

Whether or not it deserves, in the time frame that we're in right now, deserves the priority that one might attach to it I think is actually a call
for the Board. I mean maybe that is something that you want to think about it in terms of how we would -- if we would want to stand down that particular aspect.

And then, perhaps, in the spring go back out, you know, once we've got some of this other work behind us.

I don't know that we've actually thought about it at any level in terms of standing down. But it is certainly, I guess, an option for us.

CHAIRPERSON RIDDLE: Okay. So Livestock Committee maybe should think about that -- if there would be a recommendation or a sentiment to convey to the program on that. But, you know, I'm really glad the two are separated and, you know, delays on the one have not prevented the other from making progress because I think there is good progress being made on the aquaculture.

MR. JONES: Yes, I think we are, Jim, quite pleased with the progress that we're making on the aquaculture side. They are an enormously energetic task force as is the pet food group. And so they've really made good progress. The calls have
been quite useful and energetic. And I think we've got a lot to look forward to coming out of that group.

MR. MESH: Do you have a time frame?

MR. JONES: Marty, I don't think we know. I mean they are probably, you know, farther along than certainly the pet food group. And they do have actually a paper -- I mean they've got, you know, some draft standards that they are responding to.

If I had to -- this would be pure speculation on my part so let me preface it that way. You are probably not looking at anything concrete until the spring coming up.

CHAIRPERSON RIDDLE: All right. Thanks, Keith.

Okay. So moving on to the action items. So now we are at today. And Policy Development Committee is up first with some Board Policy Manual revisions. I'll turn it back over to Dave.

MEMBER CARTER: Okay. As I mentioned yesterday, which seems only a little bit ago --

(Laughter.)

MEMBER CARTER: -- Bea has been guiding us
through some updates and some revisions on the Board Policy Manual so I'd just like to turn it over to Bea to kind of walk through that.

MEMBER JAMES: Okay. The first thing I'd like to do is some of the Board members during a conference call asked if we would be able to see the changes that were made to the Board Policy Manual.

And the -- I have it in printed form but I wasn't able to electronically e-mail it out to everybody because I lost it on my computer. But I do have it in hard copy so I'm going to pass this around. And it shows all of the -- these are mostly format changes. It just has to do with just kind of reformatting it, cleaning it up, changing spelling errors and what not. So you can take a look at that.

And then the significant changes to the manual -- I'll just go through the list that's on our agenda for today starting at the top.

The TAP review information is on page 31, inserted on page 31. The sunset review material process, that's inserted on page 45. The collaboration document is inserted on page 18. And
then the Q&A for how NOSB should handle Q&A submitted from the NOP has been consolidated in with the collaboration. And that's on page 20 under Standard Interpretation and Handling Questions and Answers Submitted to the NOP.3, in particular the fourth bullet point down.

The Committee -- I just want to review this so the NOP can hear this. The Committee will receive necessary information from the NOP to help resolve the standards interpretation and questions or will be given the authority to do the research.

So that's something that we discussed at our last meeting is how the NOSB can get more support when questions are submitted to us for information that we might need from the NOP.

And then -- let's see -- that's as much as we have as far as what's been inserted. And then we would like to be able to include the decision tree. And we would like to be able to include the document that Rose put together, Chemistry 101.

And so those are some of the points that we need to discuss.
CHAIRPERSON RIDDLE: Yes, Andrea?

MEMBER CAROE: Which decision tree are you talking about? The one that is in synthetic versus non-synthetic? Or ag versus non-ag?

MEMBER JAMES: Yes.

MEMBER CAROE: That's the one that was put together by I believe it -- was it OTA?

PARTICIPANT: Yes.

MEMBER JAMES: And we've reworked it.

MEMBER CAROE: Okay. But that recommendation hasn't been voted on yet. Okay, so it's kind of simultaneous.

MEMBER JAMES: Yes. And we also haven't voted on what to do with the basic chemistry that Rose put together, which I think is a really valuable document for helping new NOSB members understand a little bit more about basic chemistry.

CHAIRPERSON RIDDLE: And as we proceed with our vote here, I guess I had envisioned that we would have separate votes first on just the collaboration document. And so, you know, if we need a focused discussion on that, let's maintain that.
MEMBER CARTER: If you get that on the table, Mr. Chair, I would move the approval of the collaboration document.

CHAIRPERSON RIDDLE: Okay.

MEMBER OSTIGUY: Second.

CHAIRPERSON RIDDLE: All right. Dave moves. Andrea seconds.

MEMBER OSTIGUY: No, no, I did. Nancy.

CHAIRPERSON RIDDLE: I'm sorry. Nancy, thank you, seconds approval of the collaboration document.

PARTICIPANT: Which page is that on?

CHAIRPERSON RIDDLE: That begins on page 18 through 20. Right. Any discussion? Any discussion on that?

Andrea?

MEMBER CAROE: Dave, what kind of feedback have you gotten from the NOP on this document?

MEMBER CARTER: The feedback that we got was that because we couldn't do it otherwise, that this was the appropriate place to put the collaboration document, was to have it as a part of
our Board Policy Manual. So --

CHAIRPERSON RIDDLE: Yes. And we
certainly received feedback, input on the content of
the document back and forth a number of times. And
then I also note that in the Office of Inspector
General Report, the program makes reference to this
document as being considered at this meeting and
evidence of our collaborative process.

MEMBER CAROE: I guess I just -- I
remember a document that Barbara Robinson wrote --

CHAIRPERSON RIDDLE: Right.

MEMBER CAROE: -- on collaboration. Was
that the basis for this? I can't remember the whole
history of this document.

MEMBER CARTER: Yes, that's the basis for
this. And because of running into some roadblocks
trying to adopt that otherwise, then it was suggested
that it become part of our Board Policy and Procedures
Manual.

MEMBER CAROE: Got you. Thank you.

CHAIRPERSON RIDDLE: Great. Any other --

George?
MEMBER SIEMON: Yes, the only input I have is that it says NOB Alerts, NOSB of the issue. I'd like to see NOB encouraged to put forward, you know, drafts for proposals. Just a general collaboration. Here's how we would handle it. Or here is a suggestion. I just don't quite see enough of that in here that NOP could take the lead on some of these issues rather than us always following -- I mean us always leading and them then redoing. So I just don't see that wording clear enough in here. I don't know.

CHAIRPERSON RIDDLE: Okay. Andrea?

MEMBER CAROE: Well, George, to speak on that, I think the whole dynamic may change when we have an NOSB Executive Director because we will have more at our hands in order to start documents and start that. Right now I can understand your point, especially with our action items so lengthy for the committees. But hopefully an Executive Director will make a change to that.

MEMBER SIEMON: And hopefully alerting NOSB of the issue might be the same as putting forward a proposal.
MEMBER CARTER: Well, I think --

CHAIRPERSON RIDDLE: Well, yes, Dave?

MEMBER CARTER: Yes, I think certainly that phrase, you know, is inclusive. It can certainly include some things like that. I think as we've had previous discussion, you know, we've always gone back and forth, you know, at what point does NOP need to make us aware of an issue coming up.

And I think this speaks to the point that when it first comes up, they need to let us know that an issue has arisen even though they don't have something formally prepared on that. So it's sort of the early warning system.

CHAIRPERSON RIDDLE: And also number two gets at that necessary information shall be provided by NOP. Well, necessary information could include a draft for our consideration. It's broad but, you know, that could be read to include that as well.

Any other comments? Any input from the program? Yes, I guess so. All right. Arthur?

MR. NEAL: I think the statement you made a little bit earlier that at what point does the NOSB
need to be engaged at such level is probably one that
we need to wrestle with at the program because some of
the questions that you wrestled with at the last
meeting I think some of you felt were not necessary,
that we could have probably handled them at program
level.

But we wanted to make sure that we
encouraged the collaboration process. First, taking
your comments into consideration, NOP providing a
draft, does that mean NOP re-framing the question,
providing the answer, and then giving it to the Board?
Is that what you are saying?

MEMBER SIEMON: I'm not afraid of that.

MR. NEAL: Well, that --

MEMBER SIEMON: That way we can work
together instead of us going on the road.

MR. NEAL: It hasn't been beneficial for
the program. The reason being is because what happens
in such a situation is that if we put our answer on
it, then we've sent you down another road. When we
give you something framed in a question, that allows
the deliberation to take place from the public and
from the Board. And gives us a fully vetted response.

So that's why we do it that way. Because we don't want to frame your thinking with our thinking.

CHAIRPERSON RIDDLE: Dave?

MEMBER CARTER: Well, I would just concur with what Arthur just said. I think that, you know, as I think about the discussions that we've had and some of the train wrecks and getting it back on track through the last few years, it's really come down to that point that the sooner that an issue comes up and at least both sides are notified of it, then we can start working together rather than having, particularly the NOP draft something and then we're just reacting to it.

So I really think that this is a good step forward to make sure that we start the collaborative process right from the get go.

CHAIRPERSON RIDDLE: Okay, Bea?

MEMBER JAMES: We actually have it in the collaboration document that it says the NOP will alert the NOSB as to how NOP would address the incoming
question or situation. So I guess the way it is proposed in the collaboration document that Barbara had put together is that how you want to have the question or the issue addressed will come from you to us.

MR. NEAL: And when we say addressed, we're not saying what the answer will be.

CHAIRPERSON RIDDLE: Right, right.

MEMBER JAMES: You might decide that you want to have your answer. And share that with us. And ask us for our feedback. You might decide that you don't want that.

MR. NEAL: What we would do is provide insight in our thinking but not the answer because that takes the public out of the process. That pretty much puts a bias from the NOP level.

And what we're trying to encourage is a collaborative process that really involves the public because the whole retailer question is a prime example of how the public dialogue impacts the NOSB recommendation. Now if we had come up with a response to that issue, it would have been, you know, beat this
answer up but it may have taken the public's dialogue out of it to where it may not have had more of the positive impact that it is having on this recommendation today.

CHAIRPERSON RIDDLE: I think George was next. And then Kevin. George?

MEMBER SIEMON: Well, I guess my sense of the group is that. But to me, I've never seen a shortage of opinions in this room here and anybody railroading anything through.

And my concern more so is that we've done work and then we've found out there is legal limitation, there are Department limitations. And we've been rolled down the Hill. And I'm talking about making more efficiency, more collaboration.

So me I'm still not satisfied that we don't. So I would suggest in the number two, we have at least something like legal limitations added into that necessary information somewhere. Departmental regulations related -- we need to get some boundaries.

It's great to open up the door and say talk about everything. But when we find out it is
illegal or it's this or it's that, then we're back --
another meeting, another meeting, another meeting,
another meeting -- what can we do to streamline this
process?

You are not going to limit the opinion of
this community, you know. It's more so get the
boundaries out first before we go forward. So I think
we need something more here about input before we go
down the road.

MEMBER CARTER: Are you providing that as
an amendment?

MEMBER SIEMON: Legal limitations right
after research.

CHAIRPERSON RIDDLE: Or some other legal
analysis. It's not --

MEMBER SIEMON: Legal analysis -- I'm
thinking on the fly here. But I think we need some
input from the Department about issues.

CHAIRPERSON RIDDLE: It doesn't bind them
to provide legal analysis every time there is an
issue, though. I mean I want to avoid that. These
are just examples of the types of information --
MEMBER SIEMON: Exactly.

CHAIRPERSON RIDDLE: -- that could be relevant. Okay. So have you offered that as a --

MEMBER SIEMON: I have offered that.

CHAIRPERSON RIDDLE: -- as an amendment.

MEMBER SIEMON: Legal limitations or analysis.

PARTICIPANT: Where is this to be added?

CHAIRPERSON RIDDLE: Okay. On --

MEMBER SIEMON: Number two after the word --

CHAIRPERSON RIDDLE: -- page 18, General Procedures, Item No. 2, after Research to insert legal analysis -- that implies limitations.

MEMBER SIEMON: That would be fine.

CHAIRPERSON RIDDLE: Okay. Is there a second?

MEMBER KARREMAN: I second.

CHAIRPERSON RIDDLE: Hugh seconds. So we'll stay focused on that for a moment. Okay. Do you have an alternative suggestion?

MEMBER KOENIG: Give me a second.
CHAIRPERSON RIDDLE: No, we had a second.

MEMBER KOENIG: No, give me a second.

CHAIRPERSON RIDDLE: Oh, give you a second.

(Laughter.)

MEMBER SIEMON: Watch your wording here.

CHAIRPERSON RIDDLE: Okay.

MEMBER KOENIG: Give me a minute.

CHAIRPERSON RIDDLE: And this is only on this point.

MEMBER KOENIG: Yes, it is.

CHAIRPERSON RIDDLE: Okay.

MEMBER KOENIG: But the problem with putting that in is the assumption in some ways that you know the path, okay? And if you go to a lawyer and pose that, they may not give you the answer. You have to present something to a lawyer for them to analyze. Okay?

And sometimes, you know, you are giving that power to a legal person. And you actually may be able to come up with innovative ways that they haven't thought of.
So, I don't -- I mean, you know it is unfortunate -- I think that we have the abilities on this Board -- I think a lot of us have learned, you know, it's a learning process and we have to somehow pass that down. I think we're more aware of the legal implications now than we ever were, you know, when we first got on the Board.

But I don't know if you want to tie it up with lawyers where the NOP has to first ask their lawyers and then advise us legally about -- you know you talk about complications.

CHAIRPERSON RIDDLE: Okay. Kevin has been waiting. Then Bea.

VICE CHAIRPERSON O'RELL: Well, I think that the problem is -- and I agree with George -- we have gone down the path on certain answers to questions only to find out that what we're recommending back to the NOP is just going to be kicked back because the OGC doesn't agree with it.

MEMBER KOENIG: Right. But in defense of the NOP, because I remember this early on and I fought it, but they have always advised us that we need to be
specific. And most of the things like the livestock, when things are vague because we, as a group, don't want to make a hard decision, that's when it gets kicked back.

VICE CHAIRPERSON O'RELL: I think it would be helpful up front if there are some legal boundaries or directionally -- and I don't know if analysis is the right word but I do think that there needs to be some -- it's a collaboration effort.

So up front we should be free to be able to at least discuss some of the direction that we might be going. And run it by the NOP and say, you know, do you foresee any pitfalls here from the legal side of it. And I don't know if it is a requirement for the NOP in terms of the direction or analysis that they give us, but as part of the collaboration, I think we're free to have a dialogue with the NOP.

MEMBER KOENIG: I'm not saying that we --

CHAIRPERSON RIDDLE: Rose, would you --

MEMBER KOENIG: I'm sorry.

CHAIRPERSON RIDDLE: -- please.

MEMBER OSTIGUY: I have a question of
privilege. Could the Chair please look in this direction on occasion?

CHAIRPERSON RIDDLE: I'm sorry.

MEMBER OSTIGUY: I have been trying to get your attention for a while.

CHAIRPERSON RIDDLE: Well, speak up. I'm sorry.

MEMBER OSTIGUY: Bea was next. You had called.

CHAIRPERSON RIDDLE: Yes, Bea is next. And then Nancy.

MEMBER JAMES: I was just going to say that we're -- are we still discussing a point that has already been seconded?

CHAIRPERSON RIDDLE: We are. We are on that point.

MEMBER JAMES: Okay. So I think what George is saying is that there just needs to be a friendly amendment to change point two so that when the NOP submits an issue for us to look at or a question, that they have fully taken into consideration that there is not going to be things
that are going to cause us to -- our time and effort
that is put into it won't end up going back to the
table because they didn't consider certain legal
issues that could cause it to be -- need to be
reconsidered.

So I think that's what George is say is
that the NOP, before they give us an issue, just needs
to fully really look at it and analyze it before
submitting it to us.

CHAIRPERSON RIDDLE: Nancy.

MEMBER OSTIGUY: I object to the insertion
because I think that what this whole process is
supposed to be is a collaborative one where we do
begin at the beginning and we come out, through the
conversations, with what the legal implications are.
And we go back and forth. And if we start at the
beginning, then we don't end up going down a pathway
that is worthless.

So if the input is going back and forth,
as this document is supposed to be outlining, we never
get very far before we find out oh, okay, that won't
work because Arthur doesn't let us do that.
So the whole document is doing what George is talking about. So I don’t think it is necessary. And the implication, by putting it in there, is that we aren’t going to get that unless we put that in. And I think we are. It is to the NOP’s advantage. It is to our advantage.

CHAIRPERSON RIDDLE: Hugh?

MEMBER KARREMAN: Just -- I agree with that. And I guess I was thinking specifically like the example of the two regulatory changes that the Livestock Committee made last February. Just maybe there ought to be some insertion or some kind of memorandum of understanding that timeliness is critical.

MEMBER OSTIGUY: Well, we’re just beginning this process.

MEMBER KARREMAN: Right. I just wanted to say that, that’s all.

CHAIRPERSON RIDDLE: Okay. Keith has a point here.

MR. JONES: Yes, I think what you need -- reassurance from the program is that we’re not going
to play hide the ball on you, okay? We don't play hide the ball on you, okay?

What we're trying to do is to learn almost with each passing day kind of one, what triggers Board involvement, and two, what is the level of information that you need when we begin to frame the issue so that you feel that there is -- that you have a comfort level that the information is full and complete. And then you can make a decision on that.

Now I think Nancy's point is a good one. And that is this is an evolutionary process. We are continuing to refine it. I think what we see is that the dialogue would begin very early on through the identification of an issue. Okay? And when that dialogue begins very early on, we have an opportunity to flag things that may be problematic, whether it is a legal issue, whether it simply is a broader policy question that has to be addressed.

I mean keep in mind that this is really a dialogue, okay? And I think what you need to be reassured, and it appears to me that the document gives you what you need, you just need some
reassurance that we're not going to play hide the ball, that information will be full and complete when you receive it.

And I think that's my message this morning is that is indeed the case and you have our assurance that it will be the case.

CHAIRPERSON RIDDLE: Yes. And after, you know, listening to the discussion, I guess my position is that by inserting, you know, a legal analysis or legal implications could actually hinder the collaborative process.

Yes, I understand the sentiment. We want to know the legal boundaries or implications. But at the same time, if we're saying the program should do that first, that's going to really limit their ability to engage with us. But -- so I guess -- yes, go ahead.

VICE CHAIRPERSON O'RELL: And I would support that. I think that the sentence we have there now with necessary information is sufficient because this is the start of a collaborative process. And I think that's where we get everything on the table.
And, Keith, what you said, you're not trying to hide anything from us. It's an open collaborative process. We'll discuss these pitfalls in the beginning and get it out in the open. I don't think we need to have the word legal.

CHAIRPERSON RIDDLE: Okay. George?

MEMBER SIEMON: I guess I'm going to disagree still. This is a broad policy statement where we're trying to paint a broad picture for future Boards to know the kind of things you might want. You, yourself, said this is just necessary information. Maybe they will this time. Maybe they won't. It says prior to. It says general procedure.

It's a very broad statement. This is what we're painting for the future group. Why wouldn't we want that in there? We just all agreed we need to have that sometime prior to discussions. Why wouldn't we want it in a broad group?

The second thing is I certainly think implications is a better word after listening to that.

So however we can do that.

CHAIRPERSON RIDDLE: Well, that would be...
to just accept that as a friendly amendment.

MEMBER SIEMON: I'd certainly accept that.

CHAIRPERSON RIDDLE: If the seconder accepts that, we'll change it to legal implications. And then we'll proceed to vote.

MEMBER SIEMON: Yes, let's call the question.

PARTICIPANT: The second was Nancy.

CHAIRPERSON RIDDLE: And the seconder was Nancy. But right now -- no --

PARTICIPANT: The seconder was Bea.

CHAIRPERSON RIDDLE: Yes, the seconder was Bea on the --

PARTICIPANT: Oh, I'm sorry.

CHAIRPERSON RIDDLE: -- Hugh -- I'm sorry -- on the amendment. Bea tried to. But Hugh got it.

I'm sorry. Never mind.

MEMBER SIEMON: Let's call the question.

CHAIRPERSON RIDDLE: Hugh was the seconder. Do you accept that -- implications instead of analysis --

MEMBER KARREMAN: Yes.
CHAIRPERSON RIDDLE: -- yes, as a friendly amendment.

MEMBER SIEMON: Let's call the question.

CHAIRPERSON RIDDLE: So let's vote on -- Bea?

MEMBER JAMES: Are we also inserting George's recommendation that we include some kind of a written draft?

MEMBER KARREMAN: No, no.

MEMBER JAMES: That we would like to have some kind of written draft from the NOP? So we're not including that?

CHAIRPERSON RIDDLE: No, right now this is very narrow. Just insert the words legal implications after research. So we'll proceed with roll call. And I have it set up to start with Gerald. Surprise.

MEMBER DAVIS: No.

CHAIRPERSON RIDDLE: Nancy?

MEMBER OSTIGUY: No.

CHAIRPERSON RIDDLE: Julie?

MEMBER WEISMAN: Yes.

CHAIRPERSON RIDDLE: Andrea?
MEMBER CAROE: No.

CHAIRPERSON RIDDLE: Goldie?

SECRETARY CAUGHLAN: I guess I will vote to retain the original. So I'm voting against this.

CHAIRPERSON RIDDLE: Okay. So that would be no.

Kevin?

VICE CHAIRPERSON O'RELL: No.

CHAIRPERSON RIDDLE: Dave?

MEMBER CARTER: No.

CHAIRPERSON RIDDLE: Rose?

MEMBER KOENIG: No.

CHAIRPERSON RIDDLE: George?

MEMBER SIEMON: Yes.

CHAIRPERSON RIDDLE: Bea?

MEMBER JAMES: Yes.

CHAIRPERSON RIDDLE: Hugh?

MEMBER KARREMAN: Yes.

CHAIRPERSON RIDDLE: Michael?

MEMBER LACY: No.

CHAIRPERSON RIDDLE: And the Chair votes no. So we have nine no and would that be four yes?
Four. So that is defeated.

So we stay with the original language.

Any further discussion?

MEMBER CAROE: Yes.

CHAIRPERSON RIDDLE: Andrea?

MEMBER CAROE: On page 18 under General Procedures, numbers three and numbers five, I suggest adding the word may. I make that motion. So it's the issue may be placed on the agenda. And NOSB may make a formal recommendation. These issues may not be at the level that they require either one of those things.

MEMBER OSTIGUY: Second.

CHAIRPERSON RIDDLE: Okay. Nancy seconds. Andrea moves. And Nancy seconds to change item three and five to include the words may and then the appropriate linguistic changes.

MEMBER CAROE: Yes. Thank you.

CHAIRPERSON RIDDLE: Okay. Any discussion of that amendment?

(No response.)

CHAIRPERSON RIDDLE: Hearing none, voice
vote. All in favor say aye.

(Chorus of ayes.)

CHAIRPERSON RIDDLE: Those opposed?

(Clares of ayes.)

CHAIRPERSON RIDDLE: All in favor say aye.

No response.

CHAIRPERSON RIDDLE: Those opposed?

(Clares of ayes.)
CHAIRPERSON RIDDLE: Yes, Nancy?

MEMBER OSTIGUY: On page 20, the fourth bullet that Bea talked about, the way she read that sentence, the last part of it read or will be given the authority to do research. We're missing the do in there. At least on the printed copy. Well, I'm just saying that that is how she read it. So I'm wondering if that was the intent.

CHAIRPERSON RIDDLE: Okay.

MEMBER OSTIGUY: And if so, we're missing that.

MEMBER CAROE: Is it research as a noun or as a verb? If it is as a verb, it's perfect the way it is. If it is a noun, it needs do.

MEMBER OSTIGUY: Well, it's --

MEMBER JAMES: It should be do. I think you are right, Nancy.

PARTICIPANT: Conduct research.

MEMBER OSTIGUY: Conduct, yes.

CHAIRPERSON RIDDLE: Oh, so we're inserting conduct as well?

MEMBER OSTIGUY: Instead.
MEMBER CAROÉ: Instead of do.

CHAIRPERSON RIDDLE: To conduct research.

MEMBER OSTIGUY: Yes.

CHAIRPERSON RIDDLE: Okay. That is on page 20. That's Item No. 3. And then the fourth bullet point down toward the end of that sentence to insert the word conduct so that it reads, "or will be given the authority to conduct research."

And, Bea, you accept that as a friendly amendment?

MEMBER JAMES: Yes, I do.

CHAIRPERSON RIDDLE: And Nancy you accept that?

MEMBER OSTIGUY: Yes.

CHAIRPERSON RIDDLE: Okay. So that -- we'll just go with that.

PARTICIPANT: Do we need a voice vote on that?

CHAIRPERSON RIDDLE: No, not if they accept it. And we could have done the same with may really but we didn't.

PARTICIPANT: You confuse me.
CHAIRPERSON RIDDLE: I'm sorry. We change the rules every time to keep your attention.
Okay. Anything else on the draft now as amended? This is pages 18 through 20 still. Hugh was getting excited.

Okay, well let's take it to a final vote then. So now we go with Nancy first?

MEMBER OSTIGUY: Yes.

CHAIRPERSON RIDDLE: Julie?

MEMBER WEISMAN: Yes.

CHAIRPERSON RIDDLE: Andrea?

MEMBER CAROE: Yes.

CHAIRPERSON RIDDLE: Goldie?

SECRETARY CAUGHLAN: Yes.

CHAIRPERSON RIDDLE: Kevin?

VICE CHAIRPERSON O'RELL: Yes.

CHAIRPERSON RIDDLE: Dave?

MEMBER CARTER: Yes.

CHAIRPERSON RIDDLE: Rose?

MEMBER KOENIG: Yes.

CHAIRPERSON RIDDLE: George?

MEMBER SIEMON: No.
CHAIRPERSON RIDDLE: Bea?

MEMBER JAMES: Yes.

CHAIRPERSON RIDDLE: Hugh?

MEMBER KARREMAN: Yes.

CHAIRPERSON RIDDLE: Michael?

MEMBER LACY: Yes.

CHAIRPERSON RIDDLE: Gerald?

MEMBER DAVIS: Yes.

CHAIRPERSON RIDDLE: And the Chair votes yes. So we have 12 yes, one no. So that's approved.

Thank you very much, Bea, for your work on that.

And thank Barbara and NOP staff for your engagement as well. It was a collaborative process to develop the collaborative document.

(Laughter.)

CHAIRPERSON RIDDLE: Okay. Now we also intended to vote on the Chem 101 on its own, correct?

MEMBER CARTER: That's correct.

CHAIRPERSON RIDDLE: As inclusion of --

MEMBER CARTER: And I would so move approval of that section please.
MEMBER OSTIGUY: Second.

CHAIRPERSON RIDDLE: That's towards the end.

MEMBER CARTER: It's on page --

CHAIRPERSON RIDDLE: Fifty-three, 53 through 57. Before we go to consideration of the rest of the document. So Dave moves and was it Nancy second? Approval of the basic chemistry section, pages 53 through 57. Any discussion?

Hugh?

MEMBER KARREMAN: Just from listening to Barbara yesterday, you know, mentioning the covalent bonds, the ionic forces, I'm not certain I read that in here. Could they be explained?

MEMBER JAMES: It is in there.

MEMBER KARREMAN: It is in there? I didn't see that but okay.

CHAIRPERSON RIDDLE: Good. Okay. Any other discussion?

(No response.)

CHAIRPERSON RIDDLE: Hearing none, we'll go to a vote. And Julie is up first. Julie?
MEMBER WEISMAN: Yes.

CHAIRPERSON RIDDLE: Andrea?

MEMBER CAROE: Yes.

CHAIRPERSON RIDDLE: Goldie?

SECRETARY CAUGHLAN: Yes.

CHAIRPERSON RIDDLE: Kevin?

VICE CHAIRPERSON O’RELL: Yes.

CHAIRPERSON RIDDLE: Dave?

MEMBER CARTER: Yes.

CHAIRPERSON RIDDLE: Rose?

MEMBER KOENIG: Yes.

CHAIRPERSON RIDDLE: George?

MEMBER SIEMON: No.

CHAIRPERSON RIDDLE: Bea?

MEMBER JAMES: Yes.

CHAIRPERSON RIDDLE: Hugh?

MEMBER KARREMAN: Yes.

CHAIRPERSON RIDDLE: Michael?

MEMBER LACY: Yes.

CHAIRPERSON RIDDLE: Gerald?

MEMBER DAVIS: Yes.

CHAIRPERSON RIDDLE: Nancy?
MEMBER OSTIGUY: Yes.

CHAIRPERSON RIDDLE: The Chair votes yes.

Unanimous, 13 yes, zero no.

Okay. Now I think the --

MEMBER CARTER: So, Mr. Chair, then I would move approval of the entire document as amended.

MEMBER OSTIGUY: Second.


Discussion?

Hugh?

MEMBER KARREMAN: Yes, on page 36, under Item B -- actually page 37 -- just flip the page over to No. 7 and 8, basically it's talking about the information that is supposed to be submitted by a TAP reviewer regarding the regulatory authority registration numbers and the CAS numbers and other product numbers of the substance.

PARTICIPANT: What point are you on?

MEMBER KARREMAN: I'm at No. 7 and 8. It's kind of both those sentences together. One thing
I've seen out in the field -- case in point, is the
TAP review for calcium borogluconate. That has been a
really difficult compound, in a sense, because there
are different ways to call calcium borogluconate but
they're not necessarily all registered as such with
CAS numbers. They may be. But at least in that TAP
review, I don't have that in front of me but there's
different ways to call calcium borogluconate the same
compound.

And also what I'd like to see in addition
here would be that the TAP reviewer on whatever the
generic item is if possible list all commonly known
available commercial products that contain that
ingredient.

I know it might be really difficult. But
when it comes down to these medicinals used for
livestock health, there's been some real problems at
the certification level with the farmers. And that
goes from Oregon to New York to Pennsylvania to Ohio.

I've talked with many certifiers to kind
of clarify what is calcium borogluconate. And, you
know, they'll have a trade name. They'll say well
this has calcium gluconate or whatever. And that's not right on the list.

So what I'm saying -- what I'm asking for is that a TAP review has an exhaustive listing of synonyms and other USP or national formulary-type names for a generic substance.

CHAIRPERSON RIDDLE: Okay. Arthur, you have a response?

MR. NEAL: Let Nancy go first.

CHAIRPERSON RIDDLE: Oh, okay. Nancy first.

MEMBER OSTIGUY: Part of the reason for requesting the CAS number, the chemical abstract service number is because it provides us with in essence a legally definable substance. And the common names, as you have described, are all over the map.

And so if a material in a product cannot be linked to that CAS number, that's a problem with the product. We're only approving that CAS number. That actually has been much more the intent in recent years so that we know exactly what material we have put on the list. And we have a CAS number associated
with it.

If you then list all the assorted common names that that CAS number might -- might be attributed to that CAS number, that common name may be attributed to multiple CAS numbers. And that we're not approving.

So it could actually increase the confusion because we're not approving the common name. We're approving only that CAS number if it exists.

CHAIRPERSON RIDDLE: And yes, I would just like to point out that, you know, this section -- well, it's taken -- it is verbatim the statement of work for our technical contractors. And the petition information will be revised. And I think when that comes up for revision is the time to address some of your concerns or your experience in the field.

But right now this is the existing language of the petition instructions. So I don't think it is appropriate to just change it in the Board Policy Manual. We'd have to change it first in the petition notice and then upgrade the Policy Manual to catch up with the revised petition instructions.
MEMBER KARREMAN: When may that occur?

Because it is really, truly a major obstacle out in the field.

CHAIRPERSON RIDDLE: Yes.

MEMBER KARREMAN: Major.

CHAIRPERSON RIDDLE: Arthur, do you have a response to that?

MR. NEAL: Concerning CAS numbers, all the dockets that you will see come out of NOP's office will have CAS numbers associated with each material to be amended on the national list. Because TAP -- the technical contractors are not required to search for brand products, they're only looking at the generic ingredient. And they are only looking at what was petitioned.

So if the petitioner petition calcium borogluconate with the specific CAS number, that's all they're looking at. They are looking at, you know, synonyms and common names. But particularly the petitioner who petitions the substance may have petitioned only one particular type.

Now calcium borogluconate raises a
question because that's one of the substances that is in the livestock docket. So you may want to think about that one, too.

MEMBER KARREMAN: Well, I'm just saying --

CHAIRPERSON RIDDLE: Hugh?

MEMBER KARREMAN: -- that when we get to it at some point, I'd like to bring that up again at the appropriate time. I thought it was now. I apologize.

CHAIRPERSON RIDDLE: Yes, Rose?

MEMBER KOENIG: I know she posed that question and somebody answered it quickly on the covalent bonds. But I went through that document and I did not address those because that's not the route I took. I was just describing, you know, chemical reactions.

You know talking about all different chemical bonds, I mean then you are getting into a whole other area, you know, another chapter in the chemistry book. So that wasn't the purpose originally of that document.

I don't -- the document could remain in
there if there would -- you know as is and then if we want to make additions to it, we could always add sections on bonds if people really need it. But -- so it's not that the document is wrong or inaccurate.

I just want to point out that -- well, there are disulfide bonds that are talked about. I couldn't find anything that described it. So I just didn't want to be accurate because I know we passed that really quickly and I just went through it.

Nancy?

MEMBER OSTIGUY: Yes, and what I was implying was that the covalent bonds were described and discussed. Not necessary that the word was used because we actually purposely dropped --

MEMBER KOENIG: Right.

MEMBER OSTIGUY: -- most of the chemistry words because that tends to get in the way of understanding on occasion.

Now just as general information, and I mentioned this to Barbara yesterday, for those that are unfamiliar with chemistry terms and would like just an incredibly well done, very basic non-textbook,
there's what is called a Cartoon Guide to Chemistry.
And they are very effective for the lay person.
So if you are unfamiliar with the terms,
want to get a very quick read background, the Cartoon
Guide to Chemistry.

CHAIRPERSON RIDDLE: All right. We might
consider that in the future.

PARTICIPANT: Is that a friendly
amendment?

CHAIRPERSON RIDDLE: Barbara signs up.

PARTICIPANT: We'd have to copyright it to
put it in.

CHAIRPERSON RIDDLE: Okay.

MEMBER OSTIGUY: Yes, I can bring a copy
to the next meeting because I have it.

CHAIRPERSON RIDDLE: Sure. Okay.

Further discussion on the entire document
as amended? I have one question. And Bea, when you
were making your introduction, I was a little
distracted getting my voting forms. So I have a
question.

You said something about those flow charts
for this --

MEMBER JAMES: The decision tree?

CHAIRPERSON RIDDLE: Yes, decision trees on synthetic. And those are not included, correct?

MEMBER JAMES: Right. We had -- originally we had put those in.

CHAIRPERSON RIDDLE: Right.

MEMBER JAMES: But the committee decided to take them out and leave it as a discussion point for today.

CHAIRPERSON RIDDLE: Right, right, yes.

It would really need to be part of the whole synthetics. And then that could be transferred in in the next edition of the manual.


MEMBER CARTER: This is indeed a living document.

CHAIRPERSON RIDDLE: Right.

MEMBER OSTIGUY: I have a question. Does any part of it ever die?

(Laughter.)

CHAIRPERSON RIDDLE: We remove parts.
PARTICIPANT: We don't want to go there.

CHAIRPERSON RIDDLE: We had a whole peer review section in there that died in the past. So anything else? Discussion on the document?

MEMBER JAMES: So are we going to talk about the decision tree to be --

CHAIRPERSON RIDDLE: As part of the --

MEMBER JAMES: Future document.

CHAIRPERSON RIDDLE: -- material? Well, isn't it part of your draft for the synthetics?

VICE CHAIRPERSON O'RELL: Yes. It's going to be part of the discussion when we take the non-synthetic synthetic and the ag-non-ag. But it's not appropriate at this time.

MEMBER CARTER: Yes, it's not germane to this.

VICE CHAIRPERSON O'RELL: Yes.

CHAIRPERSON RIDDLE: Anything else that is germane?

(NO RESPONSE.)

CHAIRPERSON RIDDLE: Seeing nothing, we're going to start the vote. And we go to Andrea.
MEMBER CAROE: Yes.
CHAIRPERSON RIDDLE: Goldie?
SECRETARY CAUGHLAN: Yes.
CHAIRPERSON RIDDLE: Kevin?
VICE CHAIRPERSON O'RELL: Yes.
CHAIRPERSON RIDDLE: Dave?
MEMBER CARTER: Yes.
CHAIRPERSON RIDDLE: Rose?
MEMBER KOENIG: Yes.
CHAIRPERSON RIDDLE: George?
MEMBER SIEMON: Yes.
CHAIRPERSON RIDDLE: Bea?
MEMBER JAMES: Yes.
CHAIRPERSON RIDDLE: Hugh?
MEMBER KARREMAN: Yes.
CHAIRPERSON RIDDLE: Michael?
MEMBER LACY: Yes.
CHAIRPERSON RIDDLE: Gerald?
MEMBER DAVIS: Yes.
CHAIRPERSON RIDDLE: Nancy?
MEMBER OSTIGUY: Yes.
CHAIRPERSON RIDDLE: Julie?
MEMBER WEISMAN: Yes.

CHAIRPERSON RIDDLE: The Chair votes yes.

We have unanimity, 13 yes, zero no.

And once again, I really want to thank Bea for taking this on. It is the best manual we've ever had. It just keeps getting better. And I'm glad that someone has adopted it to keep it alive.

(Laughter.)

CHAIRPERSON RIDDLE: Yes, we put it up for adoption.

Okay, Dave, back to you. Is there anything else from your committee?

MEMBER CARTER: No, that is the only action item that we had on the agenda.

CHAIRPERSON RIDDLE: Okay. All right. Well, let's try and move on before break here if that is okay with the Board. It is nine-thirty.

And so it goes to Andrea of the Accreditation Committee.

MEMBER CAROE: As long as we get a break after this.

CHAIRPERSON RIDDLE: Yes.
MEMBER CAROE: All right.

CHAIRPERSON RIDDLE: If we can move through it.

MEMBER CAROE: Okay.

CHAIRPERSON RIDDLE: At least we can get one or two items done before a break.

MEMBER CAROE: Well, that's all we've got. Okay, well we have a discussion item. The first item is a discussion item. Do you want to do that? Or do you just want to do vote items at this point?

CHAIRPERSON RIDDLE: Well, I -- just a little summary of where that is at, I think.

MEMBER CAROE: Okay.

CHAIRPERSON RIDDLE: Why we're not voting on it today.

MEMBER CAROE: All right. Well, the first item on our agenda is a peer review panel procedure recommendation that we have in a working document at this time. And that document was initiated by or worked on by Michael. So I'm going to ask Michael to do that presentation. With a significant amount of
input from the committee and from Jim in particular, put this document together. So, Michael, if you can summarize?

MEMBER LACY: Thank you. I'll try to be very brief. We've been batting this peer review panel thing back and forth I guess for a number of years before I came on the Board. And with Jim's help and really good input from Keith, Andrea, others, I think that we're coming close to something that we think that will work for this peer review requirement that is part of the OFPA and the organic rule.

Just to sort of tell you where we are and where we're going with it, we are trying to come up with a review process that is thorough and meaningful and that gives NOP and NOSB time to react and make thoughtful changes based on a very thorough review process.

We're very pleased with the way that the ANSI review worked. We think that that's the way that we want to head and have an agency, an organization that is familiar with and expert at conducting audits, do the actual audit.
Then we would have -- we've debated back and forth whether that should be on a one-year basis, two-year basis, three-year basis. Going back to the idea of a very thorough review and a very thoughtful response and action to that review, I think we are thinking a thorough review less often, probably on a three-year basis, rather than on an annual basis where you just go from one audit to another and don't have a chance to really make substantive changes based on thoughtful thinking on the results of the audit.

The last thing, and probably the most important thing, on the direction that we're heading with this audit process is that we really want to make the audit process an opportunity to have collaborative discussion between NOP and NOSB.

And with Keith's help and encouragement, I think we've come up with a process that will improve communication between NOP and NOSB as a result of the audits, which is a goal that NOSB and NOP both are desiring.

As Andrea said, we are not going to take action on this right now. We think we do have a good
draft. We've gotten some good comments that were part of the public comments yesterday. And we'd like to take those into account before we come up with our final draft.

But essentially, just to summarize, we'd like to have an outside organization that is an expert at doing audits conduct the audit. We would like for the results of the audit to be something that is meaningful, that there is time given in to making changes to respond to the audit, and the last thing is that we would like for this to be -- the result of the audit to be an opportunity to engage in very constructive and positive communication between NOP and NOSB.

Thank you.

MEMBER CAROE: Thanks, Michael.

Again, to reiterate what Michael had said, we did receive some very pointed comments in writing, which was wonderful, and they were well supported by the community, so we do want to consider all of those.

Also, the end part of this process is we are working very closely with the program to make sure
that these comments -- and this recommendation, I should say, is a recommendation for a procedure that is meaningful and can be used by the program. And put it into place immediately.

So that's where we're at in the process. We're just smoothing that out and polishing that with the program to make sure that this is a procedure that will be used -- can be used and will be used.

So I think we'll have action to vote on this in the next meeting. But it would have been premature at this point. We did want the organic community to understand though that we are working on this. This is important. We're moving forward with it.

Okay. So --

CHAIRPERSON RIDDLE: All right. Thanks Andrea and Michael for that.

MEMBER CAROE: Okay. The next action -- we do have an action item on the next item on the agenda. And that is the NOSB response to the NOP response to the ANSI Report. And this primarily was worked on by Chairman Riddle. So I'm going to ask him
to present that document. And we are prepared to vote on this document during today's meeting.

CHAIRPERSON RIDDLE: Okay. Well, first as Chair of the Board, I would ask that it be moved before consideration. So --

MEMBER CAROE: Well, I will move to adopt the recommendation for the response to the response to the ANSI Report.

CHAIRPERSON RIDDLE: Okay.

MEMBER OSTIGUY: Second.

CHAIRPERSON RIDDLE: All right. Andrea moves and Nancy seconds adoption of the NOSB response. Okay?

And then I'll just summarize here. This really is a first stab at kind of closure of the audit process where, you know, a professional auditing agency, American National Standards Institute, conducted an audit of the accreditation program. And the NOP did line by line response to the, you know, corrective actions or the deficiencies that were identified in that report.

And then the Board was asked to evaluate
those responses and give some feedback. And as we continue work on the peer review procedures, you know this certainly could be a model for how they function in the future.

But we were encouraged to go ahead and issue a response. And so I will just focus on the recommendations. And there are eight recommendations that are on pages two and three of that document. This is found after your ANSI Audit Report tab in your meeting book.

So Recommendation No. 1, the next audit should explicitly verify assessment of the NOP’s adherence to accreditation procedures in Subpart F of the final rule and evaluate NOP’s accreditation decisions in addition to adherence with ISO Guide 61 in order to demonstrate that the audit meets the requirements of 205.509.

And just a little background, in the section of the ANSI Report where they discuss scope, they really focused their audit on the ISO 61 requirements. And it was not clear that it covered the rest of the requirements of 205.509. So just
recommending that future audits make sure and cover
off all of those requirements.

Yes?

MEMBER CAROE: Jim, is this appropriate to
put the new number in for the ISO document at this
point? Or since this is historic and already
happened, is 61 appropriate here?

CHAIRPERSON RIDDLE: Yes. That is. It is
appropriate to keep it the way it is. The 61 is what
is mentioned in the rule. That's what the audit was
carried out to. So that's what our response is directed
to.

I think in the procedures --

MEMBER CAROE: In the next one --

CHAIRPERSON RIDDLE: -- document, we
should mention that the ISO Guide 61 has a new number.
It has been revised, yes. But right now, it is
appropriate to leave it the way it is.

MEMBER CAROE: Okay.

CHAIRPERSON RIDDLE: Recommendation No. 2,
NOP should address the need for a quality manual and
follow a quality system that fully documents all
accreditation functions, policies, and procedures.

This information may be in a quality manual or the quality manual may reference information contained in separate policy and standards manuals.

And this is all something that is underway. This is not new insight at all. But it is just reinforcing work that is already ongoing.

Number three, NOP should document that explanations to the regulation are developed by impartial persons or committees who possess necessary technical competence in the requisite subject matter.

And that was a finding that ANSI noted.

And, once again, this is not new information. We are just reinforcing that need.

Number four, NOP should demonstrate how it has established a clear wall described in the quality manual between its accreditation activities and other certification-related functions specified in the rule, including how it handles suspensions, revocations, complaints, appeals, and enforcement actions.

Once again, it is a reinforcement of what is already happening.
The next one is truly a reinforcement where NOSB endorses the NOP's responses that are listed above in Items A through G. And encourages the Secretary to provide adequate support to accomplish the tasks listed above in a timely manner.

Okay, number six, NOP should establish or clearly demonstrate the existence of job descriptions with minimal qualification requirements for auditors and technical experts who provide advice on or verify compliance with organic regulations.

This is just another point from the ANSI audit that we are reinforcing.

In preparation for the next -- number seven -- in preparation for the next audit, the NOP should demonstrate that the document and data management system being implemented fully complies with the requirements of ISO Guide 61.

And number eight, NOSB acknowledges that NOP and ISO Guide 65 requirements are not identical, which restricts access to international markets and results in increased costs and bureaucracy to certified operators and certifying agents.
So it's more just an acknowledgment there. We're not saying what should be done about it. But it was pointed out in the ANSI Report.

And then in conclusion, we certainly commend NOP for contracting with ANSI to conduct the review and providing thoughtful responses to the findings in the report. And we also understand the creation and operation of the accreditation program are huge undertakings. And we stand ready to continue to collaborate and cooperate.

So, there's a motion on the floor. And it's been seconded. Is there a discussion? Andrea?

MEMBER CAROE: Well, I'd like to further discuss this. I want to also let everybody know that this document was created by the committee but it was vetted with collaboration with the program because we, again, want this to move forward. We want this to be meaningful and it was a good effort.

And I commend Jim for working on it. And, you know, the programs for helping us out with this. I understand Mark was the one that really vetted this with us.
CHAIRPERSON RIDDLE: Mark and Keith, yes.

MEMBER CAROE: Mark and Keith. And so I appreciate that. And we'll move forward in this way on future audits and working with the program. That's really --

CHAIRPERSON RIDDLE: Okay.

MEMBER CAROE: -- really any questions from the Board on this?

CHAIRPERSON RIDDLE: I have Nancy next. And then I think Mark has a question.

MEMBER OSTIGUY: Yes, I have a question that relates to what Andrea asked earlier about the ISO 61 because we are referring here into the future. Do we want -- does that number need to be changed? Or something that denotes that?

MEMBER CAROE: It is in one of the other recommendations that they be prepared for 61. So should we change that language to what is it -- 17011?

CHAIRPERSON RIDDLE: We'd have to look in Lynn Coody's comments.

MEMBER CAROE: It would seem to make sense just to footnote it at least.
SECRETARY CAUGHLAN: She acknowledges it.

CHAIRPERSON RIDDLE: Okay, Mark, do you --

MR. BRADLEY: For the sake of the contract that we worked on with ANSI is that we will close all these audit findings according to the original numbers in ISO 61. But all the new documents that we're developing are to the 17011 document.

PARTICIPANT: And it is footnoted.

MR. BRADLEY: So we're making that transition at that point.

MEMBER CAROE: It is footnoted? Okay. I didn't see that.

CHAIRPERSON RIDDLE: Yes, there is a footnote at the bottom of page two already making a reference --

MEMBER CAROE: You expect me to see that size?

CHAIRPERSON RIDDLE: -- so that would apply to the other point as well. Okay?

Bea, did you have a --

MEMBER JAMES: Yes.

CHAIRPERSON RIDDLE: Yes, Mark made his
point. Or do you have additional input first?

MR. BRADLEY: I do have kind of a response --

CHAIRPERSON RIDDLE: Yes, sure.

MR. BRADLEY: -- to your response to our response.

(Laughter.)

MR. BRADLEY: If I may. We're doing a lot of work at the program level right now. And, in fact, September 30th is the deadline that we've imposed or are working with on some other issues.

And in order to make that response as timely as possible and to get the ball rolling on all this and get some final documents out, we've already, you know, created some final internal working procedures that effect the certifiers directly. Those have been very well received to whatever extent, you know, they have been implemented.

Some of the things that we're having to create, though, for the accreditation program are going to be very invasive as far as accept or reject criteria for certifiers or for the inspectors

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themselves. And this is not something that we want the program to impose without direct participation by the Board.

So even though we may, you know, for the sake of responding in time to these audit findings, we may create some draft documents and this is going to go right to what George was talking about. We're going to create some things and let you comment on them.

We won't implement them until, you know, they've been thoroughly vetted through the Board. Whatever changes, you know, are appropriate, that the Board and the certifier communities think are appropriate. But they are going to be very -- they need to be responded to and implemented and finalized before we go into the next round of accreditations.

And that's where this is really going to hit the road. We've got -- have we got 100 yet? A 100 certifiers actively providing service to the organic community around the world. And when those come up for reevaluation, it's going to be a complete review process. And we'll want to have all these
changes completely finalized by that time.

So all I'm saying is that we're going to have some things that are going to look very final and invasive that you have not seen by the time that we have -- when we have the next meeting, we'll make sure that these get in front of the conformity assessment committees and --

CHAIRPERSON RIDDLE: Yes, well I have a question then, Mark. You are under a timeline, a deadline.

MR. BRADLEY: Yes.

CHAIRPERSON RIDDLE: It is self-imposed but it is real.

MR. BRADLEY: Well, it's -- yes.

CHAIRPERSON RIDDLE: Yes.

MR. BRADLEY: We agreed to it so I guess it is self-imposed.

CHAIRPERSON RIDDLE: So -- but you are wanting some feedback -- input from the Board, specifically the accreditation committee, I would think, on some of those drafts by September 30th.

MR. BRADLEY: No. What I'm saying is that
we'll go ahead and create the drafts to meet the September 30th deadline.

CHAIRPERSON RIDDLE: Oh, okay.

MR. BRADLEY: We won’t be implementing any of them.

CHAIRPERSON RIDDLE: Okay. All right.

MR. BRADLEY: So we’ll begin that process.

But like George was saying, he’s going to get to see some stuff that we’ve already done the work on.

CHAIRPERSON RIDDLE: Yes, okay.

MR. BRADLEY: ANSI asked the questions, provided what we think is going to be a good answer.

CHAIRPERSON RIDDLE: Yes.

MR. BRADLEY: But there will be a lot of work -- a lot of comments that we’ll need to have from the Board on this.

CHAIRPERSON RIDDLE: Okay. Great. I’m really encouraged to hear that. And look forward to being engaged in that. And it sounds like we will have time to give consideration. I was just thinking about September 30th. We’re not going to have a meeting by then. How are we going to comment. But I
was confused.

MEMBER CAROE: And let me ask --

CHAIRPERSON RIDDLE: Andrea?

MEMBER CAROE: Just a point of procedure.

CHAIRPERSON RIDDLE: Yes, we'll stick on this.

MEMBER CAROE: Those comments will come to the committee and the committee will make recommendation. We can vote on that at Executive Committee. We don't have to come to full Board to respond to something like that, do we? I mean I don't see the reason to take this to full Board.

CHAIRPERSON RIDDLE: Well, I wish I could agree. But this would be --

MR. BRADLEY: Wait until you see some of this stuff.

MEMBER CAROE: If that's the case --

CHAIRPERSON RIDDLE: -- we can give preliminary --

MEMBER CAROE: -- then it is going to be very taxing. If they are coming with all of these procedures for Board approval --
MR. BRADLEY: No.

CHAIRPERSON RIDDLE: I understand. But we certainly can give preliminary feedback from the committee. But as far as official advice to the Secretary, that does have to happen at an NOSB meeting.

So even though we've provided input to the program, I would ask that it be ratified by the full Board and posted for public input to follow --

MEMBER CAROE: I'm not saying coming out of committee. I'm saying coming out of the Executive Committee.

CHAIRPERSON RIDDLE: Yes. But the Executive Committee cannot make official actions to the Secretary either. That's my understanding.

MEMBER CAROE: We'll work it out.

MR. BRADLEY: We'll work it out.

CHAIRPERSON RIDDLE: We'll figure it out.

MEMBER CAROE: Okay.

CHAIRPERSON RIDDLE: We'll provide advice.

And it will definitely go in front of the public.

MS. ROBINSON: Not necessarily.
CHAIRPERSON RIDDLE: Okay.

MS. ROBINSON: Not necessarily. We are not going to necessarily tell the regular community here's how we intend to do investigative procedures for example. Not everything will be given to the public.

CHAIRPERSON RIDDLE: I see.

MR. BRADLEY: There are just some things that directly effect the certifiers that as far as accept or reject criteria, where the bar is set for these that you will need to comment on.

CHAIRPERSON RIDDLE: Okay.

MR. BRADLEY: But you won't have to go through the whole manual. That's -- most of it is just work instruction, those types of things.

CHAIRPERSON RIDDLE: Okay.

MR. BRADLEY: But we will let you know exactly where we need your comments on this.

CHAIRPERSON RIDDLE: All right.

MR. BRADLEY: And we'll frame that and pose questions to the committee.

CHAIRPERSON RIDDLE: All right, good.
Thanks, Mark.

MEMBER CAROE: Is there any more comments on this document though at this point?

CHAIRPERSON RIDDLE: I think Bea has been waiting. Did you --

MEMBER JAMES: No, actually --

CHAIRPERSON RIDDLE: Okay.

MEMBER JAMES: -- Mark answered my question by saying September 30th.

CHAIRPERSON RIDDLE: Okay.

MEMBER JAMES: And the only other question I had -- it's the quality manual? That's something that the NOP is working on?

MR. BRADLEY: Yes.

MEMBER JAMES: Okay.

MEMBER CAROE: It's their document.

CHAIRPERSON RIDDLE: Not us.

MEMBER CAROE: Should we call the questions?

CHAIRPERSON RIDDLE: Yes, I think we've had enough discussion on this draft. And so let me get back -- this is the NOSB response -- just a second
-- and we start with Goldie.

SECRETARY CAUGHLAN: Yes.
CHAIRPERSON RIDDLE: Kevin?
VICE CHAIRPERSON O'RELL: Yes.
CHAIRPERSON RIDDLE: Dave?
MEMBER CARTER: Yes.
CHAIRPERSON RIDDLE: Rose?
MEMBER KOENIG: Yes.
CHAIRPERSON RIDDLE: George?
MEMBER SIEMON: Yes.
CHAIRPERSON RIDDLE: Bea?
MEMBER JAMES: Yes.
CHAIRPERSON RIDDLE: Hugh?
MEMBER KARREMAN: Yes.
CHAIRPERSON RIDDLE: Michael?
MEMBER LACY: Yes.
CHAIRPERSON RIDDLE: Gerald?
MEMBER DAVIS: Yes.
CHAIRPERSON RIDDLE: Nancy.
MEMBER OSTIGUY: Yes.
CHAIRPERSON RIDDLE: Julie?
MEMBER WEISMAN: Yes.
CHAIRPERSON RIDDLE: Andrea?

MEMBER CAROE: Yes.

CHAIRPERSON RIDDLE: Jim? Yes. Thirteen yes, zero no.

MEMBER CAROE: Thank you. Thank you, Jim, for your work on that.

Okay. And then the last item for this committee is the Q&As for retail and private label. And like I said in my early introduction, this received no comment.

Actually, I'll take a step back. This document originally started in the Handling Committee and was presented at the February meeting. And there was a tremendous amount of public comment on this. And a little bit of panic.

So this was taken back. Handling had many issues and this really was more pointed at Accreditation and Certification. So it came to this committee and we worked on it. And then provided it to Handling for their comment if they had any.

The issue -- the questions that were presented were -- had all kinds of hidden issues
within them. The question is -- specifically they were in regards to which certifier is presented on a private label for a retail firm. And the questions that were hidden within that is what are the implications of a voluntary certification for a retailer who is exempt? That was one of the issues.

And the other issues were related to private labelers. And at what point are you a manufacturer? And at what point are you not? And when do you have responsibility?

So the answer to these questions required a tremendous amount of teasing out of those issues and then answering the questions so that those answers are more pertinent.

Last night after the meeting adjourned, I did receive some concerns from an ACA on this issue. And some dialogue with a private labeler, retail labeler. And, unfortunately, those comments aren't in writing. And they don't have some language suggestions. So it was very difficult to do anything with that.

I say this because moving forward, if you
see something in any of our recommendations, it really is very helpful to the committees if it is provided with substitute language so that we can really vet it through and make those changes. Because we are prepared to vote on this at this time.

The questions that I heard yesterday, and I'll just point them out to you, is in regards to -- on page three, under the Recommendations section, creation of labels. Otherwise manufacturing, which is part of the handling definition, we considered it to be those aspects that are regulated by the regulation. All of those issues related to the creation of this product that are restricted or under the authority of this regulation.

Included in that is labeling requirements. You know is you're making the made with label, the size and text of that declaration, information as far as naming your certifier, the information panel information as far as the ingredients, right. I'm sorry. So there are implications on the label that are regulated within the Part 205.

So creation of the label, this was to
capture those organizations that actually put together a label and are responsible for what is the test and how that is presented. They put themselves into a manufacturing role when they do that because they are participating in these things that are within the regulation.

So that's what we were trying to capture. Apparently that language is concerning to some. We definitely didn't mean the retail organization that asks for an organic manufacturer to make canned tomatoes -- and by the way, make the label purple. That's not creating a label. That is, you know, they are purchasing a finished product and simply selling it. And they are completely in a retail role.

But this would be for a manufacturer that may participate deeper into the process and provide that label that says, you know, super organic tomatoes, you know, or whatever they would put on that label. Then they become responsible for those claims.

I just like -- hopefully the Board has read this recommendation. And I would just like to take questions at this time from the Board.
CHAIRPERSON RIDDLE: It actually needs to be moved.

VICE CHAIRPERSON O'RELL: So moved.

CHAIRPERSON RIDDLE: Kevin moves.

SECRETARY CAUGHLAN: Second.

CHAIRPERSON RIDDLE: Goldie seconds adoption of the recommendation.

Now, discussion? Yes, George?

MEMBER SIEMON: I need one clarification. When we go into the recommendation, it says recommendations at the end of the document with the question/answers. But then it also has the Committee recommends the following clarification regarding otherwise manufacturing. So we're voting on the whole thing?

MEMBER CAROE: The entire document.

MEMBER SIEMON: Okay. So, Andrea, I'm kind of confused by what you just said about a retailer that wants to have a private-label item. They find somebody that manufactures it -- somebody offers it to them. In the long run, no matter what you say, they are responsible for what is on the label
for not only the organic rules but all rules. Because their name is on the label, they are responsible.

So you just said to examples where there was a difference. And I didn't see the difference there. The one where they said I want a purple label -- either way, their name is on the label. They are responsible for what is on the label.

I don't think that means they are responsible -- that they are the ones that are managing the certification or the manufacturing plant. That's a whole other issue. Who is responsible for managing the manufacturer? And the certification of the manufacturing. That's a different process than the retail label responsibility because that's very broad, bigger than organics.

MEMBER CAROE: Well, when I speak of responsibility, I'm speaking specifically of responsibility to meeting the requirements of the regulation. Not responsibility to food and safety, you know, none of those issues. Just specifically who is responsible for meeting the requirements to sell an organic product under this regulation.
MEMBER SIEMON: They are. There is no doubt about it. But why does that mean they have to be considered a handler? Or a certifier?

MEMBER CAROE: I think I'm misunderstanding what you are saying, George. If a retailer buys a product that is not labeled for them and sells it, they are a retailer. They are not responsible -- under this regulation, they are exempt from the responsibility of certification and the responsibility --

MEMBER SIEMON: Sure, of course, yes.

MEMBER CAROE: -- okay. Some situations, private labels act that way. They are purchasing a product that is labeled for them but they are not creating that label.

MEMBER SIEMON: Well, it has got their name on them, so they are putting their name on it. They are taking the liability of that label no matter how they purchase the private label, they are responsible for that label. That doesn't mean they have to be certified. There are two different issues. The responsibility of the legal label and the
responsibility for the handling and manufacturing.
Those are two different -- I'm seeing a -- I don't see
the difference that you are saying here. And I've
read this and I've got real concerns with the way this
goes and defines otherwise manufacturing.

I'm pretty familiar with what retailers
want and what their responsibility is so I've got some
concerns.

CHAIRPERSON RIDDLE: I've got Bea, Gerald,
and then Kevin.

MEMBER JAMES: Well, I guess I have
concerns with the creation of labels being in there at all. I think that it is confusing in that it is not
well defined. And that it does lead to the assumption
that if you are involved with label making that you
have to be certified.

And from the person that spoke yesterday
who mentioned that, I think that it reads that way.
And that that needs to be better defined.

I also think that -- I get the feeling
that we are trying to answer this question by finding
a loophole through defining otherwise manufacture.
Because the real issue is that there is not -- and I know that that is stated in here -- that there is not guidance for retailer certification. There is no documentation or anything that really defines what a retailer's position is as a -- when they become certified.

So that is the crux of really the issue and being able to answer the question. And so I feel like that is really what needs to be addressed in order to answer the question.

CHAIRPERSON RIDDLE: Gerald?

MEMBER DAVIS: My comment is for George to help me understand your objection. I'm thinking of a scenario where a retailer puts their own private label on a product certified by the producer/manufacturer. Everything is done except for the private label they put on the end.

Are you saying that that end private label holder is responsible to make sure that that truly is certified properly? They can't say well, they told it was certified and all that stuff? So is that the responsibility level you are saying that they have?
That they are responsible to make sure --

MEMBER SIEMON: They are responsible for every aspect of that label is truthful. Every aspect. Organic -- every angle. That doesn't mean that they are the certified handler.

MEMBER DAVIS: Right.

MEMBER SIEMON: And it doesn't mean just because they buy a private label that they should be certified because they are responsible.

MEMBER DAVIS: If there is any problem with that certification that maybe it says it is certified on the label but it really wasn't, that the manufacturer didn't mind their Ps and Qs and there is some problem with it, they become responsible for it.

MEMBER SIEMON: But you are saying the manufacturer is the one that was certified.

MEMBER DAVIS: Right.

MEMBER SIEMON: And I agree with that.

There is a dual responsibility there. The manufacturer got certified. They are producing a certified product. They are providing the basis to the retailer who then approves the label and puts it
out there. There is a dual responsibility there.

MEMBER DAVIS: Right.

MEMBER SIEMON: Now we're talking about whose certification covers the plant. And in that case, it is the manufacturer's certification. They are the ones responsible for all the things -- the integrity of the product all the way through. They are the certificate that counts, you know.

The certifier is not the one responsible for the manufacturing and the process. I mean I think that otherwise processing, you are taking a section that defines processing as an action, cooking, baking. All of a sudden you jump in there and have creation of labels.

It is a real stretch to me the lumping together of what was a physical act of manufacturing to going beyond that to labels and formulations. To me that's a whole other input level. I think you've stretched pretty far on that myself.

CHAIRPERSON RIDDLE: And I'd ask people to stay in order. So --

MEMBER SIEMON: Was I out of order? I was
asked a question.

CHAIRPERSON RIDDLE: -- Kevin. And I think Nancy did you have a -- okay. Then we'll go to Andrea.

VICE CHAIRPERSON O'RELL: George I'm trying to understand your position is that the retailer -- you don't want to have the option of the retailer to be able to be certified as a handler if they feel that they have input in terms of sourcing raw materials, speaking quality?

MEMBER SIEMON: You are talking about voluntarily?

VICE CHAIRPERSON O'RELL: Yes.

MEMBER SIEMON: Oh, I think absolutely they should have the option voluntarily. But I'm not reading that through this document. I'm reading otherwise manufacturing. And I'm seeing that all retailers could get ensnared by that.

I really agree with the third paragraph under number one that speaks to it very well. It says if they volunteer to, they can. And if they do not volunteer, then certifier is responsible. The one --
the handler. To me that is a great answer.

The first two paragraphs I have issues with. But the third one, which is kind of the summary, that answer I agree with. It is a voluntary responsible that retailers take on.

MEMBER DAVIS: Right. Okay.

MEMBER SIEMON: I agree with that wholeheartedly.

MEMBER DAVIS: Okay.

MEMBER SIEMON: But it is not a required one. But if I go to otherwise manufacturing, I see that anyone that is creating the label, which retailer has to be, now gets ensnared in a certification scenario.

CHAIRPERSON RIDDLE: Okay. Back to Andrea. And then to Arthur or someone from the program.

MEMBER CAROE: I just want to ask a question to the program. An enforcement. If there is a situation where a store private label product is not in compliance and the store private label -- the store -- the retailer is not certified, who is enforcement
going to fine for the product?

MR. NEAL:  I'm going to answer your question. Before I answer it, I'm going to go back to the original question.

When we framed this question, we framed the question which certifying agent is required to be on the final product -- required to be on the final product. And what the regs say is that it is the certifying agent of the final handler of the product.

Now that took us to otherwise manufacture. And what we -- we communicated our concerns about otherwise manufacture, the way that it is being expressed in this document is that you'd have to change the regulations to define otherwise manufacture as contracting and labeling so that everybody is aware of that.

Because what happens is that then would require retailers to be certified as handlers when the act expressly -- no -- when the act expressly exempts them. And the definition of handler exempts retailers from certification.

But for them to be captured as an
operation that has to be certified, you are going to have to define otherwise manufacture to say labeling, contracting, and all of these other things. But that then -- it contradicts the act, OFPA, and the definition of handler.

So these were the concerns that we've expressed. Now the original recommendation that came from the Board last February I think reflected our concerns. This was just a tad different. And there is nothing wrong with the thought process.

But we want to share with you the legal implications of it. And the legal implications is that there is going to be, you know, a downward ripple concerning the impact that it is going to have on all retailers who contract for private labeling.

And then what that would then do is put the burden of ensuring that the product was produced according to the regulations on the retailer just as it would the final handler. If they manufacture the product, the burden is going to be on that retailer as being the manufacturer of the product.

MEMBER CAROE: You didn't answer my
question.

MR. NEAL: And the compliance actions would be directed at them.

MEMBER CAROE: At who?

MR. NEAL: The retailer.

MEMBER CAROE: The retailer?

MR. NEAL: Yes.

MEMBER CAROE: Even if they are not certified?

MR. NEAL: If they are going to be -- no.

Oh, if they are not certified, it's the final handler. The final handler.

MEMBER CAROE: Even if it is the co-packer.

MR. NEAL: Right. Whoever is the final -- that's why we said required because the regulation says place the certifying agent of the final handler on the label.

CHAIRPERSON RIDDLE: Yes, Keith?

MR. JONES: Jim, I think what we'd like to do on this is this has been a very difficult issue for everybody. This is a very well thought out document,
notwithstanding some of our concerns. I think what we'd like to see is to get this where we could really wrestle with it.

And the only way that we can really wrestle with it is to get it to us in a recommendation. Then we can really then begin to ascertain the implications of what you've got here.

So I think what we'd like to see is that this recommendation go ahead and come to us. It keeps the process moving. We can look at the language -- not that we haven't and not that we don't have some concerns with it. But we may be -- as really focusing on this, we may be in a better position then to come back to you and say we've examined your recommendations. We have these specific concerns.

It may that you don't want to hang your hat on otherwise manufacturing. There may be some other language in here that you can hang your hat on.

But we're going to need some time to really just examine this down at a very minute level.

This is a difficult issue. So --

CHAIRPERSON RIDDLE: Thanks for that.
That's quite helpful.

MS. ROBINSON: Also, I want to add one more thing here.

CHAIRPERSON RIDDLE: Barbara?

MS. ROBINSON: One thing that keeps coming back to me in this is the hang up between the fact that retailers are exempt from -- well, I don't even quite know how to articulate this.

The fact that somebody is exempt and then the fact that someone may get certified. I mean there is this confusion that keeps popping up. Okay, they're exempt. Well, so are small farmers. But then somebody may get certified.

Set aside that you are exempt. That never enters into the picture again. Once you become certified, now you are subject to the requirements of the regulations, okay?

If you chose to become certified, now you are playing by all the rules. So if I was looking at this question, I would first say okay, you know, are we saying -- are we forcing someone to become certified? No, we were not. The question didn't
hinge on did you have to become certified. We already know what the rules say about that.

But if in this case the company chose to become certified, then the question is what is it they are doing? And, you know, then what must they do to comply with the regs? And then, you know, go on with the rest of the question.

But don't confuse this who is exempt from the parts of the regulation with then what do they have to do. Let's get -- those are separate issues.

CHAIRPERSON RIDDLE: Okay. Last comment.

MR. NEAL: And I think the thing that is confusing that issue, Barbara, and for the Committee as well, is that the definition of handler says that any person engaged in the business of handling agricultural products, including producers who handle crops or livestock of their own production except such terms shall not include final retailers of agricultural products that do not process.

And so they are trying to capture the retailers under the handler definition.

MS. ROBINSON: Once you chose to become
certified, the rules begin to change. Once he chose
to become certified, he accepted the responsibility of
the regulation in its entirety. And from that point
on, now you answer the questions is my point.

CHAIRPERSON RIDDLE: Okay. Well --

MR. JONES: Well, I think you can tell
there is a robust dialogue at NOP on this issue.

CHAIRPERSON RIDDLE: We're engaging in NOP
work now.

MR. JONES: That's right. Which is why we
would like to have the recommendation fully come to us
so that we can really wrestle with it.

CHAIRPERSON RIDDLE: Okay. Bea? Well,
Bea has had her hand up. And then I would like to
move to a vote.

Bea?

MEMBER JAMES: I have two comments.

CHAIRPERSON RIDDLE: Yes.

MEMBER JAMES: First of all, I'm not
comfortable giving -- I'm not comfortable having this
document go to the NOP so they can fix it. I think
that we need to do a good job of writing this document
out so that it makes sense what we're saying about labeling, what we're saying about otherwise manufacture. I think it is unclear. So --

And then the second question I have is so from what -- Barbara, what you just said, what I'm understanding then is if I am a retailer and I want to do a private label grocery item, as long as I'm not certified, then I don't have to worry about any liability with that product.

But if I become certified in the grocery area, then I am responsible for the liability of that private label organic product. Is that correct?

MS. ROBINSON: I don't know, Bea. You just told me you didn't trust me to answer the question.

MEMBER JAMES: No, I didn't.

MS. ROBINSON: Yes, you did.

MEMBER JAMES: No, I didn't. I'm asking - -

MS. ROBINSON: Didn't we decide that we would like to go back and have a further discussion?

MEMBER JAMES: I would like to understand
how that got interpreted that I don't trust you to
answer the question.

MS. ROBINSON: You just said you're not
comfortable submitting this back to the NOP.

MEMBER KOENIG: No, she said that we
aren't comfortable on voting on it as a Board, as our
recommendation.

MEMBER JAMES: That's what I meant.

MS. ROBINSON: Well, what I said was I
think that once a handler becomes certified, that once
an entity, any entity, whether it is -- anybody that
we have said is exempt, once they choose not to become
exempt, they decide to become certified, it seems to
me that then they become subject to all of the
requirements of 7 CFR 205.

Now it is true that even when you are
exempt as a retailer, you are still subject to various
parts of this regulation. We know that. But once you
accept certification, you accept a whole lot more of
this.

So, yes, I guess I'm saying if you are a
grocery retailer and you are not doing anything, you
don't have that liability. You are buying all these products. They have been certified by other companies. They bear ACA's logos. They are, you know, Horizon's products, Organic Valley Products, Sensibility Soaps. You name it. You don't have -- what, you don't like that example?

(Laughter.)

CHAIRPERSON RIDDLE: Let's scrub the record.

(Laughter.)

MS. ROBINSON: They are certified organic products, I didn't say they have a seal on them. But they are certified organic. But you, as the retailer selling those products, are only subject to the requirements in the act, in the regs that say, you know, commingling recordkeeping, those sorts of things.

No, you don't bear the liability for the content of those products. But if you, instead, my interpretation is if you instead say I'm Acme grocer and I am going to go out and put my label on every product in my store, then I have assumed all of the --
and I'm going to get certified -- then I've assumed all the liability because my name is on every single product in that store.

Then my certifying agent and I now assume the liability for the content and for the processes.

And what difference is that then if I say I'm Swansons. I make a TV dinner. And I buy chicken from this company, mashed potatoes, mixed vegetables. I put them all in there. And now I'm going to call it the organic Swanson TV dinner.

Now I bought my chicken from Perdue. I bought my mixed vegetables from Birdseye. And I bought my mashed potatoes from Idaho. And they were all certified organic by those companies. You know but I am assembling them. Whose ACA goes on them?

CHAIRPERSON RIDDLE: Okay.

PARTICIPANT: You are handling them.

CHAIRPERSON RIDDLE: I've had Andrea waiting in line. And Rose. I'm sorry. George? Andrea?

MEMBER CAROE: I am going to offer a friendly amendment to drop the words creation of
labels from the recommendation, leaving only formulation of product and procurement of ingredients.

PARTICIPANT: I second.

MEMBER CAROE: Well, it has to be accepted by the motion which --

CHAIRPERSON RIDDLE: Well, it still would need seconded first. But I don't know that it is friendly because it changes the intent.

MEMBER CAROE: Kevin?

CHAIRPERSON RIDDLE: Kevin?

VICE CHAIRPERSON O'RELL: I would agree.

I think we need -- it's substantive, too.

CHAIRPERSON RIDDLE: It's substantive. Do you still want to offer it?

MEMBER CAROE: Okay. I motion it.

CHAIRPERSON RIDDLE: Okay. She moves.

VICE CHAIRPERSON O'RELL: I would second.

CHAIRPERSON RIDDLE: Okay. Then, yes, I think it is good to have a clear vote on that because it does change the intent.

Okay, there has been a motion to amend made by Andrea, seconded by Kevin to strike the words
creation of labels in the first paragraph under Recommendations on page three.

Discussion of that point?

Rose, on that point. And we'll get back to your general comment if you have one later. But on that point.

MEMBER CAROE: Let's call the question.

CHAIRPERSON RIDDLE: Well, I guess I have a concern with that myself. I think it is a very substantive issue that should remain in this draft that we submit to NOP. And if there are problems with it, let them wrestle with it and get back to us.

But if we don't include it now, then we're not asking them to look into it. So I would like it to be retained as my own position.

Rose? On this point.

MEMBER KOENIG: Okay. And maybe -- well, it is sort of this point because I think part of the thing that I'm struggling with -- and it is part of the collaborative, new collaborative process, but this document sounds like it's not going to be a final draft that we're presenting. That we're acknowledging
that it needs work.

Is there something -- can we call it an interim draft? I don't know. Something that's a final --

MEMBER CAROE: It's a recommendation. It's just not implemented yet.

CHAIRPERSON RIDDLE: Yes. They may send it back to us. That's part of the process. But for now, this is the work product we're giving them as a recommendation to consider.

MEMBER KOENIG: But if there are work products -- what I'm hearing is that there may be work products that people don't feel are complete. Yet they feel that it's not really -- the Committee can do nothing more with.

MEMBER CAROE: It's still a --

MEMBER KOENIG: I'm just afraid --

MEMBER CAROE: -- recommendation out of this Board.

MEMBER KOENIG: Okay. But if a recommendation goes and it is totally accepted but you feel that it is not complete, how can you vote on it
MEMBER CAROE: I think it is our complete work. I don't think we could do any more with it until we get the feedback -- further feedback.

MEMBER KOENIG: Okay. Because there may be other documents that we're faced with that.

CHAIRPERSON RIDDLE: Sure. That's always the case.

MEMBER KOENIG: Okay. If that's the understanding.

CHAIRPERSON RIDDLE: Yes. Okay. Anything else on this amendment to strike the words creation of labels? George?

MEMBER SIEMON: I think that refers strictly to the top of page two where it says otherwise manufacturing?

MEMBER CAROE: Yes.

MEMBER SIEMON: And I'd like to ask in Recommendations under question one, it also relates to that. So I'm a little worried, you know, is there other parts, you know, I want to make -- is there
other parts where it needs to be included that concern? Like in paragraph one or two after number one? The retailer provides the labels used. Is that not related to this or not? I just need to make sure.

CHAIRPERSON RIDDLE: I think that is a good point. I think it was written in relation to that phrase being included in the first paragraph.

MEMBER SIEMON: So I'm just trying to see what is this motion changing. Just that one section? Or is the last sentence in number one or sooner or later it's going to get --

MEMBER OSTIGUY: Can you call the question?

CHAIRPERSON RIDDLE: Yes. Okay. We will vote. Just on deletion of creation of labels.

MEMBER JAMES: On page three?

CHAIRPERSON RIDDLE: And we --

MEMBER SIEMON: On page two only.

MEMBER CAROE: And page two.

CHAIRPERSON RIDDLE: It's true.

MEMBER SIEMON: All right. Point specifically where we're voting please.

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CHAIRPERSON RIDDLE: Yes. At the top of -
very top of page two, second line down.
MEMBER SIEMON: Right.
CHAIRPERSON RIDDLE: And then again on
page three right after Recommendations. So it would
be deleted in two places.
All right. And I've got Kevin up first.
VICE CHAIRPERSON O'RELL: Actually, Jim,
you convinced me. So I'm going to say no.
CHAIRPERSON RIDDLE: Okay, Dave?
MEMBER CARTER: No.
CHAIRPERSON RIDDLE: Rose?
MEMBER KOENIG: I want to abstain.
CHAIRPERSON RIDDLE: George?
MEMBER SIEMON: Yes.
CHAIRPERSON RIDDLE: Bea?
MEMBER JAMES: Reluctantly yes.
CHAIRPERSON RIDDLE: And yes is to delete.
Hugh?
MEMBER KARREMAN: It's only to delete.
It's not to send it up to the NOP?
CHAIRPERSON RIDDLE: No, this is just on
this point of deleting this from the draft.

MEMBER KARREMAN: Yes.

CHAIRPERSON RIDDLE: Michael?

MEMBER LACY: No.

CHAIRPERSON RIDDLE: Gerald?

MEMBER DAVIS: No.

CHAIRPERSON RIDDLE: Nancy?

MEMBER OSTIGUY: No.

CHAIRPERSON RIDDLE: Julie?

MEMBER WEISMAN: Yes.

CHAIRPERSON RIDDLE: Andrea?

MEMBER CAROE: Yes.

CHAIRPERSON RIDDLE: Goldie?

SECRETARY CAUGHLAN: No.

CHAIRPERSON RIDDLE: And Chair votes no.

MEMBER CAROE: So it fails, 7-4-1.

CHAIRPERSON RIDDLE: Thank you.

MEMBER CAROE: Oh, 4-7-1, sorry. Oh, 5-7-1, sorry, 5-7-1.

CHAIRPERSON RIDDLE: So we have five yes, seven no, one abstention which then would count with the majority. It fails.
MEMBER OSTIGUY: Call the question.

CHAIRPERSON RIDDLE: So it is retained.

So we have no changes then to the draft. And so we'll vote on the draft as presented by committee.

So now we will start with Dave.

MEMBER CARTER: Yes.

CHAIRPERSON RIDDLE: Rose?

MEMBER KOENIG: I want to abstain.

CHAIRPERSON RIDDLE: All right. George?

MEMBER SIEMON: No.

CHAIRPERSON RIDDLE: Bea?

MEMBER JAMES: No.

CHAIRPERSON RIDDLE: Hugh?

MEMBER KARREMAN: Abstain.

CHAIRPERSON RIDDLE: Michael?

MEMBER LACY: Yes.

CHAIRPERSON RIDDLE: Gerald?

MEMBER DAVIS: Yes.

CHAIRPERSON RIDDLE: Nancy?

MEMBER OSTIGUY: Yes.

CHAIRPERSON RIDDLE: Julie?

MEMBER WEISMAN: No.
CHAIRPERSON RIDDLE: Andrea?
MEMBER CAROE: Yes.
CHAIRPERSON RIDDLE: Goldie?
SECRETARY CAUGHLAN: Yes.
CHAIRPERSON RIDDLE: Kevin?
VICE CHAIRPERSON O'RELL: Yes.
CHAIRPERSON RIDDLE: Chair votes yes.
MEMBER CAROE: Eight-three-two.
CHAIRPERSON RIDDLE: Eight yes, three no, and two abstentions. So that does carry. Okay.
MEMBER CAROE: That concludes action for this committee.
CHAIRPERSON RIDDLE: Very good, Andrea. Thanks so much. Thanks for the spirited debate. And we'll look forward to hearing back from the program on this. I'd love to be a fly on the wall.
(Laughter.)
CHAIRPERSON RIDDLE: So we will -- yes, okay. Just a second before we take a break. George has asked Livestock Committee to come over and also I need to talk to Rose, too.
So, Andrea, let's take a 15-minute break.
Be ready to start promptly at a quarter until eleven.

(Whereupon, the foregoing matter went off the record at 10:31 a.m. and went back on the record at 10:50 a.m.)

CHAIRPERSON RIDDLE: All right. So we're making progress. We're catching up with ourselves. So now we'll go to Livestock Committee. George?

MEMBER SIEMON: All right. Well, we are ready to go ahead with the material discussion. But we were going to ask if we could -- and I've already asked Jim if we could delay the pasture until right after dinner -- lunch --

CHAIRPERSON RIDDLE: Fine.

MEMBER SIEMON: -- at one o'clock.

CHAIRPERSON RIDDLE: Okay.

MEMBER SIEMON: And you agreed to that because we got some last-minute inputs that we never got a chance due to public comment last night going so long to review the comments we had. So we'd like to delay the pasture right now.

CHAIRPERSON RIDDLE: Yes. And I've asked
Rose to be prepared on her Item No. 1, National List Categories, if we have time here before lunch.

MEMBER SIEMON: And so that --

CHAIRPERSON RIDDLE: And she agreed.

MEMBER SIEMON: So I'd like to just move into the sucrose material discussion. And Nancy has lead us through that. And I believe Nancy will lead us through that discussion now.

MEMBER OSTIGUY: Okay. The material that we are looking at is sucrose octanoate esters. The committee's recommendation is to approve sucrose octanoate esters for listing on the national list with an annotation of only for use as a miticide in apiculture. And that's the motion.

MEMBER KARREMAN: I second it.

MEMBER OSTIGUY: I'd like to make an amendment --

CHAIRPERSON RIDDLE: Okay. Nancy moved -- just a second -- Nancy moved and Hugh seconded just to be clear on the record. Okay.

MEMBER OSTIGUY: I'd like to make an amendment to delete the annotation, only for use as a
miticide in apiculture.

MEMBER KARREMAN: I second it.

CHAIRPERSON RIDDLE: Okay. So now there is a motion to amend the original motion that was posted, to remove the annotation. So there would be no annotation, correct?

MEMBER OSTIGUY: Correct. The reason that I am recommending -- or made the motion is that -- well, a couplefold -- EPA already -- currently the only approved uses for this material are on mites. The material is unlikely to ever to be able to be used on anything but mites, mites are soft-bodied. The material can go through a mite.

Virtually any other insect, it would be very difficult to get enough of the material into the organism to kill it. So the likelihood that we would ever -- that we will see large-scale use is very small, not allowed at the moment because EPA does not allow it, the use in specifically for livestock would be very unlikely because of the nature of the material.

So it would have to be FDA approved
anyway. Now in this case, it does not have to be FDA approved. These are under EPA. But all other livestock are under FDA.

CHAIRPERSON RIDDLE: Okay. My concern with this with removing the annotation is placing the substance on the livestock list could certainly lead livestock producers astray if it doesn't have the annotation that matches up with the EPA restriction on the label in thinking that the substance is approved by this Board for general use in livestock production.

And, yes, they would be violating the EPA label in doing so. But I just don't want us to give any kind of incorrect or misleading information in how the substance is listed.

And I don't know if someone might use it for flea control or lice. Or attempt to use it even though that is a label violation in doing so. But without the annotation --

MEMBER OSTIGUY: But it has to be in their organic plan.

CHAIRPERSON RIDDLE: I understand.

MEMBER OSTIGUY: And it is not approved
for use in those.

CHAIRPERSON RIDDLE: Well, in reviewing an
organic plan, a certifier or inspector typically would
look at the organic regulation. They wouldn't
necessarily look at all the EPA registration of a
substance. They are --

MEMBER OSTIGUY: They would never look at
the label?

CHAIRPERSON RIDDLE: I'm not saying they
would never. I'm saying they definitely would look at
the organic regulation. And if it is on there for any
use, it could be misleading. That's just my concern.
And it was petitioned for this use.

MEMBER OSTIGUY: Yet --

CHAIRPERSON RIDDLE: And that's all it is
registered for at this time.

MEMBER OSTIGUY: -- yet at the same time,
we don't put these kinds of annotations on other
materials that we have put on livestock, that it only
can be used in sheep, only can be used in cows. We
haven't done that.

CHAIRPERSON RIDDLE: Arthur? And then
some other.

MR. NEAL: We could look at saying to be used only as prescribed in the approved label for the use of the substance -- the approved label. So that means that the substance has an approved label. And if the approved label only restricts it to use in mites and an organic producer uses it other than what the approved label says, then they are in violation of the regs -- our regs -- including EPA's regs.

CHAIRPERSON RIDDLE: Yes. That's an option. But that would be an annotation. And a Board member -- it's a good suggestion. But a Board member would have to take that up as an amendment.

But Hugh?

MEMBER KARREMAN: I generally agree with what Arthur said, you know, to not keep it just -- like you are saying. We don't approve things for sheep or cows only. But, you know, have it used according to EPA label, that's all. Just have that as the annotation then perhaps.

MEMBER OSTIGUY: I could take that as a friendly amendment or we could put it as a substitute
amendment. I don't care.

CHAIRPERSON RIDDLE: Okay. Let's have a little discussion before you do so. I've got Rose here. And then we'll come back to you.

MEMBER KOENIG: Well, I mean I guess again, after five years on the Board, I'm starting to change my view on annotations these days. But I mean why do we use annotations? It's usually to restrict. But the label restricts. I think it is a redundancy personally.

And I mean we have to have some assumptions here. There are other laws, you know, EPA is a law. And it's not our -- you know, if there is a violation, if they're not clear, they're violating a whole other federal agency's law where we have no jurisdiction.

So in the case of pesticides, I think it is just safer to just -- to list it unless you are limiting it from a label. But in this case, it sounds like the label, if you are 100 percent correct it's only for bees and mites at this point --

MEMBER OSTIGUY: Yes.
MEMBER KOENIG: -- I think we're safe on this. The only precaution would be if other uses came up, if we didn't have that list, you know, that in there. And so it may make sense to just keep the original one if we're doing it precautionary.

Because in the future, you could always add perhaps other uses. And then if we don't specify for honey bees, we wouldn't be covered.

MEMBER OSTIGUY: Yes.

MEMBER KOENIG: And if we just had by label, that we would be actually acknowledging all uses. So it's really up to the Board. I think Nancy's is appropriate for an annotation if you want to make sure that, you know, even with a potential label change by a company, you are restricting it. But right now it is redundant.

MEMBER OSTIGUY: Yes.

MEMBER KOENIG: But, you know, maybe that's -- you know that's something we can't address in sunset so maybe we'd better restrict it now.

CHAIRPERSON RIDDLE: Okay. I'm clear on where you stand.
(Laughter.)

CHAIRPERSON RIDDLE: We've got -- back to Nancy. Did you have a comment first? Then Gerald, then Hugh.

MEMBER DAVIS: The material itself, are we -- as new potential uses come up and are added to said label, is there something we would have a problem with that material on crops, for example?

MEMBER OSTIGUY: Well, it's being petitioned for crops.

CHAIRPERSON RIDDLE: Yes. That's a separate discussion. Right now it would be its uses in livestock.

MEMBER CARTER: Okay.

CHAIRPERSON RIDDLE: And it wasn't considered for other uses by the committee I don't believe. Was it? It was considered as petitioned.

MEMBER OSTIGUY: It was considered as petitioned. But the answers are not going to change. It will become obvious when we look at its petitioned use for crops. The answers don't change.

The material and this -- so I would still
argue for no annotation because the material is sufficiently innocuous -- it is naturally occurring but not in the quantity enough to be able to use it so it is synthetically created in this instance. It is a naturally-occurring material. It's basically a soap, you know.

I wouldn't drink it because I don't want to clean my organs out too much like that. But, you know, it's a soap.

CHAIRPERSON RIDDLE: Yes. All right, Hugh? Well, no, I had already recognized Hugh would be next.

MEMBER KARREMAN: I mean I can understand your concern that you were saying for a certifier or an inspector to see it on a shelf or something and it shouldn't be there. But if it is really clearly labeled and the laws are in place already, then maybe we don't need any annotation.

CHAIRPERSON RIDDLE: Yes. And I'm thinking about clarity to farmers. They look at this list. And this list is all the things they can use. This doesn't say if there is no annotation only for
apiculture, for one. And then only as a miticide in
apiculture, two.

So a livestock producer could look at this
list and just think oh, here's another tool for my
toolbox.

PARTICIPANT: That is true.

CHAIRPERSON RIDDLE: So, okay.

MEMBER OSTIGUY: But it's on the label.

CHAIRPERSON RIDDLE: I understand.

MEMBER OSTIGUY: They are supposed to
follow the label.

CHAIRPERSON RIDDLE: I understand. I
understand. I think we've had a good discussion.
We'll see where the votes fall.

And that is on removing the annotation
right now. So let me regroup my own --

MEMBER KARREMAN: It's the annotation
which is printed right now?

CHAIRPERSON RIDDLE: Yes. To remove the
annotation which currently reads only for use as a
miticide in apiculture. So it would be to remove that
and have no annotation unless another one is offered
as another amendment. But right now it would be to remove.

And let's see. We start with Rose, right? Dave, did you get your chance first?

MEMBER CARTER: Yes, I did.

CHAIRPERSON RIDDLE: Okay.

MEMBER CARTER: I'm just proud to be the lead off person.

CHAIRPERSON RIDDLE: Okay. Thank you, Dave.

All right, Rose?

MEMBER KOENIG: Yes.

CHAIRPERSON RIDDLE: Okay, yes. I have Rose.

Okay, George?

MEMBER SIEMON: Yes.

CHAIRPERSON RIDDLE: Bea?

MEMBER JAMES: Yes.

CHAIRPERSON RIDDLE: Hugh?

MEMBER KARREMAN: Actually no.

CHAIRPERSON RIDDLE: Michael?

MEMBER LACY: Yes.
CHAIRPERSON RIDDLE: Gerald?
MEMBER DAVIS: Yes.
CHAIRPERSON RIDDLE: Nancy?
MEMBER OSTIGUY: Yes.
CHAIRPERSON RIDDLE: Julie?
MEMBER WEISMAN: Yes.
CHAIRPERSON RIDDLE: Andrea? Absent.
Goldie?
SECRETARY CAUGHLAN: No.
CHAIRPERSON RIDDLE: Kevin?
VICE CHAIRPERSON O’RELL: Yes.
CHAIRPERSON RIDDLE: Dave?
MEMBER CARTER: Yes.
CHAIRPERSON RIDDLE: Chair votes no in a losing cause I think.
(Laughter.)
CHAIRPERSON RIDDLE: So we have nine yes, three no, and one absent. So the annotation is removed.
So now we go back to the original material as amended, which is with no annotation currently.
MEMBER OSTIGUY: Yes.
CHAIRPERSON RIDDLE: So any further discussion?

(No response.)

CHAIRPERSON RIDDLE: Seeing none, we will start with George. And this is to add sucrose octanoate esters to the national list for livestock use.

MEMBER SIEMON: Yes.

CHAIRPERSON RIDDLE: Bea?

MEMBER JAMES: Yes.

CHAIRPERSON RIDDLE: Hugh?

MEMBER KARREMAN: Yes.

CHAIRPERSON RIDDLE: Michael?

MEMBER LACY: Yes.

CHAIRPERSON RIDDLE: Gerald?

MEMBER DAVIS: Yes.

CHAIRPERSON RIDDLE: Nancy?

MEMBER OSTIGUY: Yes.

CHAIRPERSON RIDDLE: Julie?

MEMBER WEISMAN: Yes.

CHAIRPERSON RIDDLE: Andrea? Absent.

Goldie?
SECRETARY CAUGHLAN: Yes.

CHAIRPERSON RIDDLE: Kevin?

VICE CHAIRPERSON O’RELL: Yes.

CHAIRPERSON RIDDLE: Dave?

MEMBER CARTER: Yes.

CHAIRPERSON RIDDLE: Rose?

MEMBER KOENIG: Yes.

CHAIRPERSON RIDDLE: Chair votes yes. We have 13 yes, zero no, and one absent.

MEMBER OSTIGUY: And now we finally have something to use in apiculture.

(Laughter.)

CHAIRPERSON RIDDLE: Even though we don’t have standards.

(Laughter.)

CHAIRPERSON RIDDLE: I’m sorry.

MEMBER OSTIGUY: Well, but they are supposed to be -- right now they function under livestock.

CHAIRPERSON RIDDLE: I understand.

MEMBER OSTIGUY: And that’s how they’re being approved.
CHAIRPERSON RIDDLE: That was a poor comment. Strike that from the record. Chair is getting irreverent.

MEMBER DAVIS: Should it be 13 yes or 12 yes? With one absent.

CHAIRPERSON RIDDLE: Andrea is absent.

MEMBER DAVIS: I think you said 13 yes.

But just to --

CHAIRPERSON RIDDLE: Yes.

MEMBER OSTIGUY: Yes, it should be 12. Andrea is not here.

MEMBER KOENIG: Yes, because we're missing two.

CHAIRPERSON RIDDLE: Oh, right. I'm sorry. Boy better check the math on some of these others. All right. Okay.

We're going to suspend the Livestock Committee consideration now and go to Rose in Materials and revision of national list categories.

Rose?

MEMBER KOENIG: Okay. This document came forth before actually even the new Board. It was in
February we presented it as kind of a discussion draft.

And we're bringing it back with a couple of changes. The need for kind of at least an analysis of perhaps reviewing the -- rearranging the national list for clarity was posed to the Materials Committee by the NOP so that we could check to see about the consistency of the materials that are on the list and whether they fall in the categories as designated by the Organic Foods Production Act.

And so that was the basic exercise that we were assigned -- to look both through the livestock and the crops lists to see if, in fact, we've been putting things on that are in line with the OFPA categories that were spelled out in the act.

So that was presented for the crops during the last meeting. And I went through the livestock list as an exercise. And present that to you as one of the appendices on -- I guess it is Appendix Two. I took it through the livestock materials.

And, in fact, livestock did better than crops in terms of fitting well with the categories...
that were specified. The big problem with livestock is, you know, it is not likely that, unless I'm wrong, like horticultural oils or treated seed would be used in livestock production. So a lot of the categories are just not appropriate to livestock. And there is not a whole lot of categories they fit in.

But all the substances that are on the list that, at least up to the -- I just went through the -- I'm trying to remember if I did the final rule and I think some of the things that were added on -- but, of course, I couldn't do some of the things that are in the pipeline that are --

MEMBER SIEMON: Did you say Addendum Two?

MEMBER KOENIG: It's Appendix Two.

CHAIRPERSON RIDDLE: Yes, just -- excuse me, Rose, just for a second. So everybody is on the same page, it's under Materials Committee. And then NL Categories tab.

PARTICIPANT: Thank you, Jim.

CHAIRPERSON RIDDLE: I had a feeling we weren't all on the same page just yet.

MEMBER KOENIG: All right.
CHAIRPERSON RIDDLE: Okay.

MEMBER KOENIG: Is everybody there? Okay.

So that is one change. I did go through the livestock.

I’ve asked Arthur to kind of consult with legal counsel about this kind of proposal that is on the table because one of the ways of getting the materials that we have approved to get within the OFPA categories is to be able to broaden the production aids category as it exists in the OFPA.

Now in OFPA, it says including and it gives examples for what including includes. And it says netting, tree wraps and seals, insect traps, sticky barriers, row covers, and equipment cleaners are what is listed. So our first question was posed was does including mean that we’re stuck with just those? Or can we expand them?

And the assumption that this document was written was that there was room for an expansion. And that the production aid category is appropriate for substances that are active in, you know, usually manufactured products like pH adjusters or adjuvants.
But they may not specifically be spelled out in OFPA.
But the industry needs those to form an active role
in a manufactured product.

So I'd like to actually perhaps turn --
well, certainly if the Board has any questions on this
and then maybe we can have the NOP address the
questions regarding the document. Because I had asked
to legally look it over.

CHAIRPERSON RIDDLE: Well, first would you
or someone else move for its adoption?

MEMBER KOENIG: Well, I'll move for the
adoption of the document.

MEMBER SIEMON: And I'll second.

CHAIRPERSON RIDDLE: Okay. George
seconds. Rose moves and George seconds adoption of
the national list category recommendation.

Now, discussion? Yes, Gerald?

MEMBER DAVIS: Right along with what you
asked Arthur to evaluate for legal implications and so
forth is to me when you look at the production aid
category, not one example listed touches the crop.
And I see that as a potential problem equating these
other materials, the adjuvants, pH adjusters, and so
on and so forth, that will actually touch the crop,
contact the crop, being put in this.

I mean I don't disagree that we need this
but I see that as I wonder what the answer is going to be about the legal implication.

MEMBER KOENIG: I spoke to one lawyer and,
you know, and again, you know, there is going to be legal determinations. And that lawyer did not have,
you know, references in front of that person to give me the exact answer. But in general, they felt that it could be expanded. But maybe Arthur can shed some light on it.

CHAIRPERSON RIDDLE: Arthur?

MR. NEAL: We will commit to taking this document and getting legal input from OGC. We've already begun drafting a document that addresses some of the concerns that NOP has.

Some of the concerns we expressed on the call last week. What is an active ingredient because the OFPA Section 6517 pretty much limits it to active ingredients used in production. Before -- then the
next paragraph it goes to EPA inert. So it doesn't get into non-active ingredients.

MEMBER KOENIG: Yes but in OFPA, and I'll bring it up to you, there are sections of OFPA that state that all ingredients would have to be listed.

MR. NEAL: Right.

MEMBER KOENIG: So there's conflicts within OFPA.

MR. NEAL: We concur. However, there is one section that carves out or creates exemption categories although OFPA says all ingredients must be approved. So the question then how do you get other ingredients on to the list when it does not expressly create an exemption category for such types of substances that are not active? But these are questions that we have to get answered by OGC.

Another question that we're going to have concerning this, too, is some of the substances that have been linked or are included on the production aid category are used in -- sort of natural substances used as fertilizers. And the OFPA has a blanket restriction on fertilizers that contain synthetic
ingredients. So that's another question we've got to have answered.

So there are a lot of questions that have to be answered concerning this draft. But we thank you for the work.

So we're going to move forward with getting clarification from the lawyers.

CHAIRPERSON RIDDLE: And my concern was what you just raised there about the fertilizer language in OFPA. And that's not reflected in this draft. But it is certainly on your radar screen so to speak.

Andrea?

MEMBER CAROE: Well, I just have a question, Rosie, on two things that are listed in there: aquatic plant extracts and fish emulsions. All the rest in that list seem to be things that don't have a function on the crop. But if you could explain how those aquatic plant extracts and fish emulsions are used, I thought they had a direct --

MEMBER KOENIG: Well, wait. There is a category. I put them in two -- well, let's see what I
did. I'm not sure what you are --

MEMBER CAROE: I'm looking at the -- well, these aren't page numbered but the page that has the footnotes four, five, and six. And the paragraph just above it -- the text where you state all the production aid category. And you have aquatic plant extract and fish emulsions listed there.

The rest of them I kind of understand. They really don't have a function on the crop. They have a function on something that is used on the crop. But those two, unless I misunderstand how they're used, they appear to be --

MEMBER KOENIG: Well, what I'm saying is that right now -- and this is part of the confusion, I think, and this is my opinion and, you know, based on going through the minutes from past Boards -- and actually, Richard may be appropriate to bring up because there are folks that were involved in materials decision at that time.

But what I understood is when things were placed on, and there was annotations, that those annotations didn't specifically mean that all
manufacturing processes were allowed. They may have limited it to a certain pH adjuster. But that didn't mean that anything else that would be synthetic was all allowed.

My sense is that anything that was in a -- and, again, a lot of the problem comes into these like fish emulsions that, in fact, most of them are these extracted naturals and that's why we went back to that definition of synthetic. Because they are on the list as synthetics because of the way they are extracted. And what can be left in the presence of that liquid, you know.

And there may be some products that are natural and I'm not meaning those. I am saying those that where the extraction methods left either buffers or pH adjusters so that it could be a usable product on the farm, those were deemed synthetic. And in many cases, they were annotated to limit the types of, you know, pH adjusters that might be in there.

But in reality, if you had a production aids category -- and, you know, I'm not proposing this as this is our process, but what appears to be unclear
is that when those annotations are there, the NOP is interpreting them one way -- that it allows everything else but limits the way the pH can be adjusted.

And that's specified, I think, in the document where some of the confusion is on how the list has been interpreted in the past. So that's why it was in there because there may be production aids in -- okay, so actually the plant -- the aquatic plant extracts and fish emulsions are not processing aids but they may include processing aids which are pH adjusters, stabilizers, buffers --

MEMBER CAROE: Right.

MEMBER KOENIG: blah, blah, blah. And I just want to make it -- the only reason why aquatic plant extracts, you know, some of these I had to be a little bit creative because OFPA says fish emulsion. Aquatic plant extracts -- it is my understanding that they are not fish emulsions. They are aquatic plants.

So that's what I'm saying. I had to even stretch that category to include that. It doesn't fit.

MR. NEAL: And I think at one of the
meetings that we had last year or maybe the year before last, we had all come to concur that the way that some of the substances have been included on the list are wrong. And that aquatic plant extracts probably should not have been included on the list as a synthetic.

But the things that were included in aquatic plant extracts should have been on the list. And that's where the confusion arose. So -- but as a result of that listing and the questions that were coming from petitioners, we had to dig deeper in that now you have other questions concerning soil amendments and fertilizers whether or not they can even contain fillers.

And some of the, you know, some of these areas are lignin sulfonates. Where is the OFPA exemption category for floating agents and post-harvest handling? Plant growth regulators? So there are a lot of things that now, as the result of the questions, are going to have to be looked at very closely against the OFPA exemption category.

So it could have an impact on the current
listing of the national list. But we're going to go back, like we said, to the lawyers to get some input from them.

CHAIRPERSON RIDDLE: Okay. Did we receive any public comments on this? Do you know? Did you make note of any? Pardon?

MEMBER KOENIG: No, I think there was other -- oh, yes, actually Emily did.

PARTICIPANT: No, I didn't actually.

CHAIRPERSON RIDDLE: We had one comment as part of OTA's package of comments in support of the draft?

MEMBER KOENIG: That they supported the general --

CHAIRPERSON RIDDLE: Okay.

MEMBER KOENIG: -- I guess the draft. I mean the reorganization is for two purposes.

One, if it is reorganized this way, I think it will be less likely that the NOSB would get into trouble placing things incorrectly because it only allows you to place it under the OFPA category. And then you create these subcategories that spell out

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what the uses are. And it should also eliminate some of the annotations perhaps.

CHAIRPERSON RIDDLE: Andrea?

MEMBER CAROE: Just one more question, Rosie. Do you envision then that these items would show up under this new section with an annotation to what they can be used for so sulfuric acid for the pH adjustment of aquatic plant extracts? Or is it going to be open ended that they can use that?

MEMBER KOENIG: Yes. And what I think would be easier and better for the industry, although again we'd have to do an analysis and probably want a technical review, but it seems to me that certain acids or pH adjusters could be broadly put in and listed. And then if there was some specific objection, you would annotate that.

But the idea of going through every single thing and figuring out if this pH adjuster -- I mean you know there may be certain reasons why a certain substance you wouldn't want to use as a pH adjuster in some kind of a product, you know, or maybe like one of the things that has come out was phosphoric acid
because it could act as a synthetic nutrient. But those are some of the controversies out there.

But I think in general it would be a lot easier just to have these are general -- these are things that you can use to adjust the pH so that we don't have those annotations on naturally occurring.

CHAIRPERSON RIDDLE: Okay. I do have one more question. I think it is probably for Arthur. And that is, you know, if we adopt this and you'll certainly do the legal review of it and it moves forward, could this be incorporated in the revisions as part of the sunset? Or, you know, would this be a separate -- I mean this clearly would be a separate rule change. But could it happen at that time? Or would that complicate things?

What would you envision for moving it forward?

MR. NEAL: We will have to really consult with OGC on it. This is a pretty complicated matter.

CHAIRPERSON RIDDLE: Right.

MR. NEAL: And just like the moxydectin or well, whatever the substance is, I can't remember
which one it is. We find out that it is an antibiotic by structure. In the process, we're going to have to consult with OGC, you know, what do we do about it now considering that we've got this position concerning the use of antibiotics?

And now we've got the OFPA categories that we have to look at in light of sunset. So we have to consult with OGC.

CHAIRPERSON RIDDLE: Yes, okay. I understand.

Rose?

MEMBER KOENIG: I guess I have one fear. And maybe you've already thought about this but what I don't want you -- I would rather you present the question about production aids category to the lawyers first. And not say we've got these lists and they don't conform, you know because really if those production aids category do not work, then in terms of sunset, it really is not truthful for the Board to renew those as I can see it.

And that's the dilemma because if we are acknowledging that --
MR. NEAL: I wouldn't take this document and say to them let's use this to assess the situation that we are in. We're going to look at OFPA and we'll look at the categories. And then we're going to ask OGC what are our boundaries.

I don't know what their response may be. They may let us go through sunset and deal with this after the fact. They may not. I'm not sure. But we've really got to look at this. This is a pretty serious issue.

MEMBER KOENIG: And will we have -- because we may be considering -- because some of these substances may be one that technically there is no reason why we wouldn't expedite those. So it sounds like no matter how we vote in November, ultimately that's going to be decided.

I just don't know how we should deal with those in committee. Do you want us to identify those? Should we set those aside? What should we do?

MR. NEAL: What we were just talking about is that on those substances that are real clear cut -- and I think you already of that mind -- is that you go
ahead and you make your recommendations on those for sunset.

For those that there are considerable concerns about, you know, we just have to deal with those in the most expedient manner possible to make sure that we make the date. But we have to work closely together.

That will entail, you know, more conversations with particularly you and I, Rose, with these substances in the production aid category. Primarily the ones that you have identified here.

MEMBER KOENIG: Well, the ones I identified in the last document, I creatively kind of got them in on this one. So I will go back and take a very conservative approach, if somebody was to really just look at those categories as written, and I'll present the ones that I think don't fit with that very conservative approach.

MR. JONES: Yes, Rose. I think that would be a useful exercise. The point that Gerald raised earlier in this discussion is a valid one. And that is when you look at statutory construction, you have
to look at the context in which that list appears. And what we don't know is how far the term production aids can be interpreted, how expansive that term can be interpreted, given the context of the paragraph itself and what appears to be some clear limitations on the phrases that follow including, okay?

So the point that Gerald raised is valid. That's the kind of questioning that we are going to go to OGC with. It is, you know, really what are the limits of this term production aids given the context of its usage as seemingly an active synthetic ingredient.

I mean that seems to be the context that it flows out of. And then the limitations that Gerald has identified. So it's -- Arthur said it very well. It's a very complicated issue.

CHAIRPERSON RIDDLE: And just a final point, you know, in looking at the examples, though, of production aids, those are not necessarily active synthetic substance. You know tree wraps, netting, row covers. So it's got to be in the context, I think, of the examples given.
MR. JONES: Yes, one of the things I think you need to realize though, Jim, is that if you look at the context of the paragraph, it is a natural -- it is a very logical conclusion that all of those things that are listed contain active synthetic ingredients. In other words, a pheromone could be -- okay? So that's what I'm saying is that you can't ignore the context in which those exemptions get talked about because what you've got is an absolutely prohibition.

Then you've got what we call at the program doors being opened -- certain doors being opened. And you can't ignore the context in which those doors get opened, okay?

CHAIRPERSON RIDDLE: Okay. Andrea?

MEMBER CAROE: Just a quick question. Maybe I missed it in here but are you suggesting that a definition for production aid to be put into the regulation as well?

MEMBER KOENIG: No. It's in -- I'm not -- I mean it is OFPA. We're not -- we're seeking clarification on what is already in OFPA.

MEMBER CAROE: The definition for
MEMBER KOENIG: Well, not the definition but it says including blah, blah, blah, blah, blah, blah, blah, blah, blah. And that's the question. What is the legal ramifications of how that is written? How it appears in OFPA.

MEMBER CAROE: So are you opposed to creating a definition for production aid?

MEMBER KOENIG: I don't think we -- I'm not sure that's the next step. I mean what we're hoping to find out is the legal -- you know what the legal entities would say about that. I don't -- I mean -- you know and I hate to say it but as writing it, I realized that what we're creating is a catch all category in production aids.

But that's really up to the industry. I mean you know if there are restrictions in crops and in livestock with just the actives of those that are listed in OFPA, there are some real -- well, I don't want to say there's some real problems because there aren't that many that don't conform.

But I'm saying it does certainly limit
what types of materials that are potentially available. Now, for example, today the materials that have been posed to the Board fit into soaps. So I'm not saying -- I think that that is really the question. How far do you want to stretch production aids?

And I, in this exercise, there are disease control materials in crops such as like baking soda, I think it is sodium bicarbonate that don't -- well, actually I think I put that under a mineral. So I got it in.

But I'm just saying you have to do a lot of creative figuring. Sort of the way methionine was put under sulphur. It's the same thing. And I think that also may be stretching the intent. So it's a legal issue.

MR. NEAL: One more comment?

CHAIRPERSON RIDDLE: Yes, Arthur?

MR. NEAL: To show you how complex this is, for the longest, the industry has been of the mindset that the national list is not for formulated substances. And just to show you, if you turn to OFPA
6517, paragraph (C)(a)(b)(I) --

MEMBER KOENIG: Hold on a moment.

PARTICIPANT: Can you give that reference again?

MR. NEAL: 6517(C)(1)(b)(I) -- it says, and I'm not saying that you are wrong, but these are the questions that we've got to wrestle with. For the exemption categories it says these substance is used in production and contains an active synthetic ingredient in the following categories. So we've actually got a substance that we're looking at that contains an active synthetic ingredient in the following category.

So to me, it's depicting that -- I'm not saying that the substance is an active synthetic ingredient. But the substance contains an active synthetic ingredient.

So these are questions that we have got to wrestle with. Have we been doing it right or wrong?

CHAIRPERSON RIDDLE: Okay. Any further discussion?

(No response.)
CHAIRPERSON RIDDLE: Seeing none, we'll move to a vote. There have been no amendments to it so it is as presented by the committee and by Rose. So I have Bea up first.

MEMBER JAMES: Yes.

CHAIRPERSON RIDDLE: Hugh?

MEMBER KARREMAN: Yes.

CHAIRPERSON RIDDLE: Michael?

MEMBER LACY: Yes.

CHAIRPERSON RIDDLE: Gerald?

MEMBER DAVIS: Could you clarify for me what the vote is?

CHAIRPERSON RIDDLE: Yes. Well, the vote is to submit the document as a recommendation to the program for the restructuring of the national list. I mean it's at the end of the narrative what the recommendation paragraph.

MEMBER DAVIS: Yes.

CHAIRPERSON RIDDLE: Okay. Was that an over-explanation. Okay, yes.

Nancy?

MEMBER OSTIGUY: Yes.
CHAIRPERSON RIDDLE: Julie?
MEMBER WEISMAN: Yes.

CHAIRPERSON RIDDLE: Andrea?
MEMBER CAROE: Yes.

CHAIRPERSON RIDDLE: Goldie?
SECRETARY CAUGHLAN: Yes.

CHAIRPERSON RIDDLE: Kevin?
VICE CHAIRPERSON O'RELL: Yes.

CHAIRPERSON RIDDLE: Dave?
MEMBER CARTER: Yes.

CHAIRPERSON RIDDLE: Rose?
MEMBER KOENIG: Yes.

CHAIRPERSON RIDDLE: George?
MEMBER SIEMON: Yes.

CHAIRPERSON RIDDLE: Chair votes yes. So we have 13 yes, zero no. And everyone is here.

And I really want to thank you. And Rose, I want to thank you for the work you did on this. You really took it on. That's a lot of time that is reflected in the document. And I think it certainly gives the program something to work with.

MEMBER KOENIG: You are welcome.
CHAIRPERSON RIDDLE: So thank you.

SECRETARY CAUGHLAN: And you have not had enough to do.

(Laughter.)

CHAIRPERSON RIDDLE: Well, you can check this off your list.

SECRETARY CAUGHLAN: It keeps you out of mischief.

CHAIRPERSON RIDDLE: Okay. It is eleven-thirty. And I've asked Nancy if she would be prepared to move a Crop Committee recommendation forward before lunch at her discretion.

So what have you come up with, Nancy? She agreed to do this.

MEMBER OSTIGUY: We have plenty of time. Let's see.

CHAIRPERSON RIDDLE: Let's do something that we can wrap up that's fairly noncontroversial. Let Nancy --

MEMBER OSTIGUY: Let's go ahead and do the sucrose octanoate ester just because we've already done it once. And we might as well look to see what
we have again.

The petitioner --

CHAIRPERSON RIDDLE: Okay. Let's make sure everybody gets on the same page. Let's give us a chance since we're shifting gears so under Crops --

MEMBER OSTIGUY: Yes, CC-SOE Eval is the tab you are looking for.

CHAIRPERSON RIDDLE: Eval, right. Okay. Do you want to give a little background? Or you want to just move it and then --

MEMBER OSTIGUY: Well, I'll move it and then we can talk.

CHAIRPERSON RIDDLE: Okay.

MEMBER OSTIGUY: The motion is to approve sucrose octanoate esters for use in crops.

CHAIRPERSON RIDDLE: Is there a second?

MEMBER CAROE: I'll second.

CHAIRPERSON RIDDLE: Andrea seconds.

Nancy moves, Andrea seconds to approve SOE for crops.

No annotation recommended by committee, correct?

MEMBER OSTIGUY: No annotation.

CHAIRPERSON RIDDLE: Okay.
MEMBER OSTIGUY: The evaluation of the material is very similar to what we did for livestock. As I indicated, the material basically acts as a soap as much as we understand it, has no toxic breakdown products, is effective on soft-bodied insects, is on the rather innocuous side. But that, of course, is my opinion.

CHAIRPERSON RIDDLE: Okay. Any -- can you provide just a little background? The summary of the EPA registration for this use?

MEMBER OSTIGUY: EPA registration currently is for mites.

CHAIRPERSON RIDDLE: So it's the -- okay.

MEMBER OSTIGUY: And, you know, one of the other important EPA items which is sort of amusing to bring up is it is non-toxic to bees which is, of course, important if you are going to be applying any material to a crop.

CHAIRPERSON RIDDLE: Okay.

MEMBER OSTIGUY: It actually biodegrades rapidly, photo-biodegrades usually within one to two days.
CHAIRPERSON RIDDLE: Okay, any -- yes, Andrea?

MEMBER CAROE: It is registered in a wide range of crops?

MEMBER OSTIGUY: Yes. I don't remember right now all of the crops.

CHAIRPERSON RIDDLE: We might ask --

MEMBER OSTIGUY: The representative is here.

CHAIRPERSON RIDDLE: Petitioner is here.

MEMBER OSTIGUY: We can ask.

CHAIRPERSON RIDDLE: If you'd approach the --

MEMBER OSTIGUY: Tony?

CHAIRPERSON RIDDLE: Mike and identify yourself. And then the question is what crops is it registered for?

MR. BARRINGTON: Thank you. Tony Barrington, the principle of AVA Chemical Ventures, the registrant. It's registered for -- I can't -- I'm not going to give you the whole list off the top of my head but a wide range of crops, fruit trees,
vegetables are the primary ones.

It's also got an exemption from tolerance for use on all food commodities. And it is also registered for mushrooms separately from crops based on the way EPA classifies registrations.

Offhand, I would say the crop list, there are about certainly 20 to 30 crops listed on the label as we speak, which I'm sure will add more.

MEMBER OSTIGUY: And one that is actually very difficult to work with is the thrips that it is effective on. In greenhouse situations, thrips can wipe out everything.

CHAIRPERSON RIDDLE: Okay. So it's not limited to mites?

MEMBER OSTIGUY: No, not limited to mites.

MR. BARRINGTON: I can clarify that. It's --

MEMBER OSTIGUY: Soft-bodied insects.

MR. BARRINGTON: -- soft-bodied insects including white flies, aphids, thrips, and a number of others.

CHAIRPERSON RIDDLE: Yes.
MR. BARRINGTON: So it is a fairly broad spectrum of insects and a large list of -- long list of crops on the current crop label.

CHAIRPERSON RIDDLE: Right. Thanks.

MR. BARRINGTON: Thank you.

CHAIRPERSON RIDDLE: Any other discussion?

Yes, Rose?

MEMBER KOENIG: I just wanted to point out for the audience because I didn't -- I realized with this and the others that in past meetings, we've had more debate and, you know, conversation about materials. And one of the reasons that I think we've had a really smooth process was that the new contractors -- this is an example of some of the technical reviews that the new contractors are producing.

And I would like to say for both materials, they did an excellent job. The process really worked. There were some concerns that -- through the committees we voiced with the contractor who got us the information. So the process worked really well.
And the lack of discussion is not because we're complacent now and we're just adding things to the list. It's because we actually have gotten good products from our contractors.

And, you know, I'd like to commend NOP on really kind of getting that process right and making the process better.

MEMBER OSTIGUY: And on that same note, I'd like to commend the NOP on our evaluation document because it really does smooth this process. It gets all of the questions asked in advance.

And so then when we post the information for public comment, you have our responses to what we have to answer in order to be able to say yes or no, this material belongs on the list.

CHAIRPERSON RIDDLE: And while we're at it, I'd like to commend Nancy for taking the lead in filling out those forms for both of the committees on this substance, truly.

Any other comments?

MEMBER OSTIGUY: Thank you.

CHAIRPERSON RIDDLE: Any other thank yous
while our arms are bent backwards?

(No response.)

CHAIRPERSON RIDDLE: Okay. Seeing none, proceed to vote. And this is to approve SOE for crop use with no annotation.

Hugh is first.

MEMBER KARREMAN: Yes.

CHAIRPERSON RIDDLE: Michael?

MEMBER LACY: Yes.

CHAIRPERSON RIDDLE: Gerald?

MEMBER DAVIS: Yes.

CHAIRPERSON RIDDLE: Nancy?

MEMBER OSTIGUY: Yes.

CHAIRPERSON RIDDLE: Julie?

MEMBER WEISMAN: Yes.

CHAIRPERSON RIDDLE: Andrea?

MEMBER CAROE: Yes.

CHAIRPERSON RIDDLE: Goldie?

SECRETARY CAUGHLAN: Yes.

CHAIRPERSON RIDDLE: Kevin?

VICE CHAIRPERSON O'RELL: Yes.

CHAIRPERSON RIDDLE: Dave?
MEMBER CARTER: Yes.

CHAIRPERSON RIDDLE: Rose?

MEMBER KOENIG: Yes.

CHAIRPERSON RIDDLE: George?

MEMBER SIEMON: Yes.

CHAIRPERSON RIDDLE: Bea?

MEMBER JAMES: Yes.

CHAIRPERSON RIDDLE: Chair votes yes. We have 13 yes, zero no. And really one absence for the entire meeting. I stand technically corrected.

MEMBER OSTIGUY: Okay.

CHAIRPERSON RIDDLE: Well, we have some time. Is there another item--

MR. NEAL: Question, Jim.

CHAIRPERSON RIDDLE: -- that you'd like to bring forward before lunch?

MR. NEAL: Jim, I've got a question.

CHAIRPERSON RIDDLE: Yes?

MR. NEAL: A question on this substance.

CHAIRPERSON RIDDLE: Yes.

MR. NEAL: Considering that the crops list includes insecticidal soaps, do we want to list
sucrose octanoate esters on the national list positively? Or do we want to consider it already covered under the category insecticidal soaps? That's a question.

MEMBER KOENIG: What do you mean? It has to be on both, livestock and --

MEMBER OSTIGUY: Well, it already has to be livestock but the question really is on crops. Do we want to list it separately?

MR. JONES: Right. We've got a broad heading for insecticidal soaps.

MR. NEAL: That's the question.

CHAIRPERSON RIDDLE: Right. Well, my response is that for clarity of producers and certifiers, it certainly is better to list this particular item. It was petitioned. It has an EPA registration.

Emily has -- I recognize you from the audience, but please approach the mike and identify yourself.

MS. ROSEN: This is a new material. And I would recommend --
PARTICIPANT: Please identify yourself.

MS. ROSEN: Oh, sorry. Emily Brown Rosen, Organic Research Associates. This is a new material and it is kind of a hybrid soap oil. And I mean we actually reviewed it in an upcoming publication I have. It's very promising for white flies and other soft-bodied insects.

But since it is a sucrose ester-type of soap and the previous soaps that were reviewed in your previous TAP were all fatty acid -- potassium salts of fatty acids, they're really a different kind of soap.

And I think it would be beneficial to list them so we know we're not only talking about the old soaps.

MEMBER OSTIGUY: Yes. And I would agree with that because of its oil properties.

MS. ROSEN: Yes.

MEMBER OSTIGUY: It's hard to tell on some of the insects --

MS. ROSEN: Sometimes they are sold as oil --

MEMBER OSTIGUY: -- which one is working.
MS. ROSEN: -- soaps. They sort of categorize them as that. So --

CHAIRPERSON RIDDLE: Thanks for your input. Okay.

MEMBER OSTIGUY: Okay. Then let's go to the previous material, chitosan, also known as poly-D-glucosamine. And some of us may know of glucosamine from other activities since people do take it for arthritis.

The committee's recommendation was to add poly-D-glucosamine with the national list with no annotation.

CHAIRPERSON RIDDLE: Okay. Would you like to make that as a --

MEMBER OSTIGUY: That is a recommendation.

CHAIRPERSON RIDDLE: -- motion.

MEMBER OSTIGUY: Yes, motion. Excuse me.

MEMBER KOENIG: I'll second.

CHAIRPERSON RIDDLE: Okay. Nancy moves and Rose seconds.

MEMBER OSTIGUY: Oh, excuse me. There is an annotation. It wasn't written in two places. I'm
CHAIRPERSON RIDDLE: Okay. So the complete motion is to approve chitosan to be placed on the national list for crop use with an annotation to read as an adjuvant only.

MEMBER OSTIGUY: Yes.

CHAIRPERSON RIDDLE: Okay. And that was moved by Nancy and seconded by Rose.

Discussion? Gerald?

MEMBER DAVIS: In the TAP review, it talked about the differences in rates of use as an adjuvant versus other uses, EPA-registered uses that non-organic crop practitioners would use this material as.

When we say that we're approving it as an adjuvant only, does that automatically restrict to only that low rate? Is that set in stone with label considerations? Or how do we ascertain whether that is truly the case?

CHAIRPERSON RIDDLE: Good question.

George?

MEMBER SIEMON: Same question. Can
someone support why there was an annotation versus none? Why the annotation?

MEMBER OSTIGUY: The annotation is because we did not want it to be used as an insecticide itself. So it's current -- excuse me -- yes, I'm sorry, it's a plant growth regulator. We did not want it to be used as a plant growth regulator, which it is in high quantities. But it is not in low quantities.

And so as an adjuvant, you would only use as much as necessary, which then necessitates that it is a small quantity that is not a plant growth regulator.

So that is how we were restricting quantity was for its use as an adjuvant produces that result.

MEMBER SIEMON: In my reading, it has antifungal, antibacterial functions. It is actually an approved feed additive. We can feed it to our animals. It's approved for human use. So when you eliminated the antifungal and antibacterial as well.

MEMBER OSTIGUY: Yes.

MEMBER SIEMON: Was that your intent?
MEMBER OSTIGUY: Yes.

MEMBER SIEMON: Because that's not a
growth regulator, is it?

MEMBER OSTIGUY: No. No it is not. Well, yes, there are things -- it actually works as an
antifungal because of its growth regulating ability.

CHAIRPERSON RIDDLE: Okay. We'll have Andrea and then back to you.

MEMBER CAROE: Just I have a question. In category two, number seven on the second page of the committee report, it seems like you are addressing alternative practices for those functional uses, not as an adjuvant. Because you talk about IPM practices. IPM practices wouldn't have anything to do with this as an adjuvant.

MEMBER OSTIGUY: Correct.

MEMBER CAROE: So I would suggest a correction to this report to reflect that yes or no, is there practices that would -- I think that was confusing to me because I looked at this and tried to figure out what we were considering this for. That indicates to me we are considering it for more of a
functional use other than as an adjuvant.

CHAIRPERSON RIDDLE: Okay. Could everybody -- could you point out exactly where you are at?

MEMBER CAROE: Category two, number seven.

CHAIRPERSON RIDDLE: Category two, number seven. And then to mark both yes and no. Is that what I'm hearing? I just want to hear what is being proposed. Is that correct?

MEMBER CAROE: Well, I am just looking for a correct because the comment section in there indicates alternative practices for functional uses it is not being considered for. Correct?

MEMBER KOENIG: Yes, but the thing is, again, it is inactive as an adjuvant. That's why we are suggesting it is in the production aids. But adjuvants are used in formulations to stick.

So the reason why we gave that as the alternatives was because IPM practices are alternatives to applying a pesticide. So the assumption is that the adjuvant is not going to be used in and of itself. It's used in a, you know,
formulated product as an adjuvant.

MEMBER CAROE: Right. I understand what you are saying. But I don't think that this question is reflected on the use of those functional ingredients. It's only in use of this product as an adjuvant.

So I think you've taken it one step further by talking about the use of the materials that it is included with. I mean I think specifically here we should be talking about is there -- are there practices -- could you apply these things without an adjuvant is, you know, would there be a reason why you wouldn't need to use this product?

MEMBER KOENIG: I mean it is more effective if you use an adjuvant.

MEMBER CAROE: Right. So there is no alternative. So what I'm suggesting is that this answer is no because it would not -- you don't have another way of applying the materials.

MEMBER OSTIGUY: But you might be able to use another adjuvant.

MEMBER CAROE: But this is about
practices. This one is about practices. This is not a substitute material. This is about practices instead of using the material. That's what the question says.

You know it would like if this was something that allowed for pelletizing a material and the answer is well, you don't have to pelletize it. You can apply it as a dust. Or you can apply it as a liquid.

MEMBER KOENIG: You're saying -- I see what you are saying. So if there is a way through physical force that you could spray a chemical on and stick it to a plant, that would be your alternate --

MEMBER CAROE: Right. So that's what this question should address. I mean it's not a change to --

MEMBER KOENIG: Right.

MEMBER CAROE: -- it's more of a procedural --

MEMBER KOENIG: So you're talking about --

MEMBER CAROE: -- change to how this document was filled out.
MEMBER KOENIG: Because we were looking at its secondary -- I mean there's -- you know we were looking at it more generally rather than specifically.

CHAIRPERSON RIDDLE: So an alternative practice would be to adjust the rate of spray or the nozzle?

MEMBER CAROE: I don't know the technical aspects of this material and how it is used.

CHAIRPERSON RIDDLE: But it would be to accomplish the function without the adjuvant --

MEMBER CAROE: Exactly, exactly.

CHAIRPERSON RIDDLE: Yes. That would be the practice.

MEMBER KOENIG: Well, there are definitely alternative adjuvants to this.

CHAIRPERSON RIDDLE: Yes. And that's under number four above. And that actually is a point I wanted to make is there are wholly natural substitutes available. And some of those are listed here. Why should we add this when there already are natural adjuvants available?

MEMBER DAVIS: What -- where are you
referring to?

CHAIRPERSON RIDDLE: Okay. Also on category two, item four.

MEMBER KOENIG: Is it possible -- can I make a motion to defer this until after lunch because I wasn't ready. I was going to look over -- I mean we made decisions and if you're going to start asking -- if people are getting into details, I think we need to --

MEMBER DAVIS: It is more complicated.

MEMBER KOENIG: -- I think we need to go back. I don't want to --

CHAIRPERSON RIDDLE: Sure.

MEMBER KOENIG: -- put the wrong answer out.

CHAIRPERSON RIDDLE: Okay. How to best handle this?

MEMBER KOENIG: Can we table it?

CHAIRPERSON RIDDLE: Yes.

PARTICIPANT: Does there have to be a motion on the floor?

CHAIRPERSON RIDDLE: There could be two
ways of approaching this as I see it. One is for the
time being, for the makers of the original motion is
just withdraw that. And then re-propose later when we
bring it up. That would be the simplest.

   MEMBER OSTIGUY: I withdraw the motion.

   CHAIRPERSON RIDDLE: And the seconder was
   -- and you seconded it. And that's fine. Okay. So
   then we don't have to vote. You'll just bring it back
   up again.

   So maybe that is a sign that it is lunch
time. Good effort.

   MEMBER WEISMAN: Question.

   CHAIRPERSON RIDDLE: Yes, sorry.

   MEMBER WEISMAN: So do we come back to
   this after lunch? Or do we go to --

   CHAIRPERSON RIDDLE: Either way is fine.

   Okay. That's good to get that clear. Thanks.

   MEMBER WEISMAN: Will that work for you
   two?

   VICE CHAIRPERSON O'ReLL: Can I ask for
   the Handling Committee to stay here for five minutes?

   CHAIRPERSON RIDDLE: Okay. Kevin asks the
members of the Handling Committee to stay here for five minutes right now. And Livestock, we're going to eat together, okay, at the café upstairs.

All right. So we will reconvene at 1:00 p.m. and we'll start off with chitosan again.

(Whereupon, the foregoing matter went off the record at 11:52 a.m. to be reconvened in the afternoon at 1:11 p.m.)

CHAIRPERSON RIDDLE: Yes, we'll resume our discussion of chitosan. And we did withdraw the motion. So I guess if you would reintroduce, just to be official here. Just a second, Nancy.

Could you take your seats please? Thanks.

Okay, Nancy. Oh, and okay -- while they're talking -- I was asked to make an announcement. There will be an Accredited Certifier Association meeting immediately following the NOSB meeting today in the lobby lounge. And non-ACA members who are interested in joining may attend. That's it. Okay.

Yes, so if you could turn your tabs back to the chitosan again and you'll be ready. And
Nancy's ready. Ready now?

MEMBER OSTIGUY: Yes.

CHAIRPERSON RIDDLE: Okay. Go ahead.

MEMBER OSTIGUY: The Crops Committee recommends, and I move, that chitosan be added to the national list with the proposed annotation of as an adjuvant only.

CHAIRPERSON RIDDLE: Okay. Is there a second again?

SECRETARY CAUGHLAN: Yes, I'll second it.

CHAIRPERSON RIDDLE: Okay, Goldie, thank you.

Okay, Nancy moves, Goldie seconds to add chitosan to the national list in the crop section with the annotation as an adjuvant only.

Nancy?

MEMBER OSTIGUY: Okay. Back to the question about wholly natural substitute products. At least -- is Brian in the room?

CHAIRPERSON RIDDLE: Brian Baker?

MEMBER OSTIGUY: Yes. There he is.

CHAIRPERSON RIDDLE: Yes, he is around.
MEMBER OSTIGUY: I'll start with this. The first adjuvant that's listed as a wholly natural substitute, the lactose bentonite encasing, that is available.

And Brian could you tell us what is going on with the pine based? And any -- you know, help inform us?

CHAIRPERSON RIDDLE: And your name, for the record?


MEMBER OSTIGUY: Or is this something that you can't speak of?

MR. BAKER: Oh, yes, well, that hasn't stopped me before has it? So anyway, the pine tar derivatives are an example of why we needed the synthetic/non-synthetic guidance long ago. We thought heck, the stuff comes out of a pine tree. It just, you know, gets bubbled around and spit out. It's natural, right?

We made that decision in 1986 or 1987 when Lou Falcon of the University of California, Berkeley
approached California Certified Organic Farmers for a research variance to do with Codling Moth Granulosis Virus. It was the best ultraviolet inhibitor he had found.

So we said it's natural. It's okay under California Organic Foods Act. And we went on the next 10, 15 years not knowing about the polymerization steps that took place. Don't want to go into too much detail but they are clearly synthetic under the guidance that's out there.

And, you know, we were in communication with the company and communication with the EPA. The other thing is that these pine tar derivatives are not all on list four. They are in the process of being reclassified. The person you need to talk to at EPA about that is Kathy Boyle.

Four different pinane derivatives have been reclassified from list three to list four in the past month. CAS numbers were published in the Federal Register. Whether or not those match commercial products that are currently on the market and have been accepted for a long time in organic production, I
can't say.

MEMBER OSTIGUY:  So what we have then is actually only one wholly natural material that is available because the pine-based functional agents are not.

CHAIRPERSON RIDDLE:  But you listed three others.

MEMBER OSTIGUY:  No, that's all one.

MEMBER DAVIS:  That's one product. It's a mixture.

MEMBER OSTIGUY:  It's a mixture.

CHAIRPERSON RIDDLE:  Oh.

MEMBER DAVIS:  Yes, it's one product that is a mixture of three.

CHAIRPERSON RIDDLE:  I see.

MEMBER DAVIS:  I mean I can say the name of it if you want it. But, you know --

CHAIRPERSON RIDDLE:  No need. Then I do have another question. And that is are inerts -- list four inerts available to use as adjuvants? They would still have to be on the list for that use. I mean on our national list to be used as an adjuvant because
that would not be --

MEMBER OSTIGUY: Correct.

CHAIRPERSON RIDDLE: -- being used as an inert in a pesticide formulation, right?

MEMBER OSTIGUY: Yes. So that is -- yes, that's my assumption also is that if it is a list four but not being used as an inert in a pesticide, then we would have to list it as a synthetic if it was, et cetera.

CHAIRPERSON RIDDLE: And Brian, you have -

MR. BAKER: All right. Again, speaking when maybe I should keep my mouth shut, historically tank mixes that have been made by operators, by pest control operators and by farmers, they have been viewed -- when tank mixes of EPA-registered actives are mixed with adjuvants that are on list four, that's been considered consistent with the list for inerts that is currently on the list.

That's been one way that we've been able to deal with all of these formulated products that have all list threes instead of buying -- you know,
the option for the farmers was to either go without something that was already being used but had a list three inert or to buy the technical and formulate one's own products on the farm that have all minimum risk inert.

CHAIRPERSON RIDDLE: So I just want to make sure I'm clear, you said some of these pine tar derivatives have now been classified as EPA as list four inert. And list fours have been allowed in tank mixes as adjuvants.

MR. BAKER: That's right. Our understanding from talking with our subscribing certifiers is that they have allowed the use of those adjuvants that are on EPA list four for farmers to make their own formulations on the farm using technicals that are either non-synthetic or synthetic and on the national list. And then EPA list four adjuvants.

CHAIRPERSON RIDDLE: Okay. And this is not on list four, the chitosan?

MR. BAKER: I don't know. I talked with the petitioner at break. I would defer to what he
said so you get it directly from him.

CHAIRPERSON RIDDLE: Is the petitioner in the room? Gerald?

MEMBER DAVIS: These pine-based materials, the list four thing is an issue but it comes back to if it is determined for organic certification purposes, if they are synthetic, then they would have to be re-petitioned wouldn't they? Because now they are allowed -- that would be an example of good material that has to be sunsetted out as it stands now and re-petitioned? Because it's not a natural anymore.

MEMBER KOENIG: I'm sorry. What was the question?

MEMBER DAVIS: The pine-based adjuvants, which would be an option supposedly to this chitosan that we're considering, before they could be used again now that it has been determined, you know, probably that they are synthetic, they would have to - - they were added to the list before because they were assumed to be a natural, but now that they are a synthetic, they would have to be re-petitioned or
something to get on the list, wouldn't they?

MEMBER KOENIG: I mean I guess the way I looked at maybe Brian, adjuvants have to be specific. They are registered with EPA, correct? If it is labeled an adjuvant?

MR. BAKER: No, they're not. Adjuvants are not registered with U.S. EPA. They are registered with Cal. EPA and also the State of Florida requires registration of adjuvants. But they are regulated at the state level and generally most states leave them unregulated.

MEMBER KOENIG: Okay. So -- and then you are saying that EPA, if they formulate -- if they are on list four, they are within formulations that already exist in pesticides. So they would, in a pesticide formulation according to the reg, they would be allowed as inerts.

MR. BAKER: That's correct.

MEMBER KOENIG: But -- and what were you saying? I wasn't sure. What EPA's view of it is that if they are on list four, they can be used as adjuvants? I didn't understand that part.
MR. BAKER: It's OMRI's opinion and it is an opinion shared by a number of certifiers out there, we have provided our generic materials list to the National Organic Program and this is one of many other issues that we've presented to the NOP for discussion.

The question of whether for use with an EPA-registered pesticide, it's not necessarily limited to formulated products only. And so one could take a technical-grade active that is NOP compliant and is also EPA registered and blend with it, on the farm, a list four adjuvant.

And one would be using with an active that is NOP compliant an inert ingredient that is prepared there right on the farm.

CHAIRPERSON RIDDLE: Regardless of whether it is synthetic or natural?

MR. BAKER: That's correct.

CHAIRPERSON RIDDLE: Right.

MR. BAKER: Yes. And so it doesn't seem to differentiate whether that mixing is done at an EPA-registered facility or it is done on the farm. But it has to be with an EPA-registered active
MEMBER KOENIG: If the petitioner --

CHAIRPERSON RIDDLE: I asked if the petitioner is in the room and --

MEMBER KOENIG: There are a few extra people.

CHAIRPERSON RIDDLE: -- and no response.

Arthur has a comment?

MR. NEAL: I don't know if I'm clear on all the issues. Based on the information that I think I recall, this particular substance poly-D-glucosamine is considered an active ingredient by EPA, right? As a result, under our regulations, it would not allow it to be considered an inert. Therefore, it would have to be on the national list to be used in combination with another active. Am I right?

MEMBER KOENIG: Although we still have it listed as production aid category. But what I hear you saying is that the active role is as an adjuvant.

MR. NEAL: Right. I'm asking for clarification.

MEMBER KOENIG: Oh, all right. I thought
you were making a statement.

MR. NEAL: I mean I think -- I'm just trying to think through the regs as they are set up. And inerts, EPA list four is set up as inerts to be used in conjunction with a non-synthetic or synthetic active that is on the national list.

And if this is not considered to be an inert in the capacity that it is going to be used, and it is an active, then we have to treat it as an active as it was petitioned.

MEMBER OSTIGUY: Arthur, I have a question.

MR. NEAL: Yes?

MEMBER OSTIGUY: A good number of the inerts are actually active. And it is only the circumstances of the formulation that classifies that material as an inactive.

MR. NEAL: Yes.

MEMBER OSTIGUY: And I don't know if we can hang our hat on that definition then because inerts aren't always inert.

MR. NEAL: True. But in this capacity,
MEMBER OSTIGUY: Well, no, no. I'm talking generically.

MR. NEAL: No, generically we do understand that the circumstances impact the performance of a substance. And all inerts that appear on EPA's list four are not always active in a non-active capacity.

MEMBER OSTIGUY: Okay. So then if we were going to be evaluating a material that its use was going to be as an inert, then we would not have to evaluate it if it was a list four? Okay. I'm just trying to clarify how we handle this.

MR. NEAL: And if I'm not mistaken, this particular petitioned use has an EPA-registered active ingredient use.

MEMBER OSTIGUY: Oh, yes.

CHAIRPERSON RIDDLE: Myself, the other problem I see with the annotation is kind of an inspector's nightmare. When it is a registered active under EPA but we are putting a restriction only as an adjuvant, so if it gets approved, then it is okay to
have on the farm and have listed in the plan and what
the inspector then has to verify is rate of
application on every use to verify that it is only
being used as a adjuvant.

MR. BAKER: That's a problem because
that's different than just checking that the substance
is approved but you also have to check its use when it
could easily be abused, I guess. So in other words,
they could be used on a farm that has multiple crops.
They could not use it on most of the crops and be
putting on way too high of a concentration to get the
other benefits of the active. And the inspector would
have no way to really determine that unless --

CHAIRPERSON RIDDLE: Yes. I mean what
level constitutes use as an adjuvant versus use as an
active? Is there a threshold? And is it dependent
upon crop, insect, weather, all the variables?

Nancy?

MEMBER OSTIGUY: I'm going to make a
motion to delete the annotation.

CHAIRPERSON RIDDLE: Is there a second?

(No response.)
CHAIRPERSON RIDDLE: Hearing none -- good try. No.

Andrea, and then Julie.

MEMBER CAROE: I hear what you are saying but we're dealing with split operations, too. And they're going to have a multitude of things that they'll use on conventional crops. So I mean I don't understand. I mean it's not like we're going to solve that problem. This product could already be there. A lot of these farms are not fully organic.

So, you know, it may take the edge off but it is not going to solve the problem if we worry about that issue with the inspector. Because products that are prohibited in organic production very well may end up in the storage shed of an operation that is doing split operation work.

CHAIRPERSON RIDDLE: I understand that.

MEMBER CAROE: I'm just pointing out that, you know, you have to open your mind to the fact that -- it is an issue but it is not an issue that can completely be solved anyway.

CHAIRPERSON RIDDLE: Yes. But it is
actually an issue that is being created as a problem. I mean it is a new problem that is being added. But that's just my simple way of looking at it.

Julie?

MEMBER WEISMAN: What is the worst case scenario if the annotation is removed and people can use it at whatever rate they want? Do we know like --

CHAIRPERSON RIDDLE: Okay, Rose respond.

MEMBER KOENIG: Well, because specifically the TAP dealt with the specific uses as an adjuvant. And because it is a registered pesticide that is used as a plant growth enhancer and a plant defense booster, we really didn't have the technical information provided. I mean that was not -- but -- so basically that's it.

I mean the one thing that I did want to point out in the petition that according to the TAP is they wanted to use this in a mixture with just copper to really see the effectiveness on late blight in potatoes. So they have a really -- and I -- which was not clear to me as if was -- it almost sounded like they wanted to test it to see if it would work in
You know if the petitioner was here, we could find out was it their intent down the road to look at other applications. But it was pretty specific. So --

CHAIRPERSON RIDDLE: Arthur, did you have a comment? I saw your hand a moment ago.

MR. NEAL: No, I pretty much had a question. And that was whether or not the other registered -- was it registered for other uses? I can't remember -- I can't recall if EPA had it registered for uses other than an adjuvant.

MEMBER KOENIG: Yes, that's what I just said. Yes.

MR. NEAL: It is registered for use --

MEMBER KOENIG: Well, it says it in the TAP that it is a registered pesticide that is used in crop production as a plant growth enhancer and a plant defense booster.

Target tests included early and late blight, downy and parity mildew and grain mold. They're all fungal. So it's pretty much a fungicide.
CHAIRPERSON RIDDLE: Okay. And, you know, I just want to be clear that in my line of questioning, I'm not opposed to it. I just see some problems verifying compliance with the annotation. And I'm always leery about adding a synthetic when we already have naturals available to us. So --

Jerry?

MEMBER DAVIS: We have -- this TAP -- we have -- or actually on the only product that is listed as a sticker is a combination of the bentonite casing and lactose, which is a white powder that renders it impossible to use on any crops that can't tolerate a white residue.

Our farm has tested this material and it is problematic. It's not something we could use because it sticks and it stays. And it's white. It is innocuous materials but you don't want that on vegetables --

CHAIRPERSON RIDDLE: Sure.

MEMBER DAVIS: -- for example.

CHAIRPERSON RIDDLE: Andrea?

MEMBER CAROE: Well, I mean I think that
should be noted in the report then because then it is
--- there isn't a substitute. There's only a
substitute for some uses and not all uses. It's
apparently not available for all crops. And I don't
know if this is consistent with all materials -- all
actives it might be used with, the alternative I mean.
If that is included, I mean I think we can
move ahead pretty confidently that this is a material
that is needed. And then based on the other criteria
that we've reviewed, that it is consistent with
organic practices. And vote on it.

CHAIRPERSON RIDDLE: Okay. Jerry?
MEMBER DAVIS: From my point of view,
using this as an adjuvant, the only other option is
the one material that for many crops is not an option.
It doesn't matter on citrus or something where
eventually it would probably be able to be washed off
and things like that. Or portions of the crop where
you don't sell the part of the plant that has had this
material applied to it.

So for many crops, the casing and
bentonite combination material is not an option. And
the pine-based materials, it looks like they're going to be determined as synthetics. And they are in the same category as this.

There are effectively no naturals other than the one that is rendered ineffective because of its residue nature.

CHAIRPERSON RIDDLE: So I think that is valuable information. And you'll amend the report before it is submitted to reflect that? Thanks, Nancy.

Okay. Any other comments? Oh, Bea?

MEMBER JAMES: A friendly amendment to category three, point number two, third sentence, removal of the word if. I think it doesn't need to be in there. It got in there by mistake.

CHAIRPERSON RIDDLE: Pardon? Oh, yes. Okay. So you're saying that sentence as an adjuvant, it is expected to reduce the number if and quantity --

MEMBER JAMES: Remove the word if, yes.

CHAIRPERSON RIDDLE: Yes -- number and quantity by application of copper sulfate. I think maybe it is number of, isn't it?
MEMBER OSTIGUY: I'm still not seeing that.

CHAIRPERSON RIDDLE: Okay. Category three, item two --

MEMBER OSTIGUY: Third sentence? Documentation?

CHAIRPERSON RIDDLE: Under Documentation. Can you find the sentence?

MEMBER OSTIGUY: Number of.

CHAIRPERSON RIDDLE: Number of, yes. Okay.

All right. Anything else on this?

MEMBER OSTIGUY: You accepted the amendment, right?

CHAIRPERSON RIDDLE: Yes. That was just a typo.

Okay. We're ready to vote. And this is to approve chitosan for addition to the national list in the crop section with the annotation as an adjuvant only. So we will start -- is there a question? Confusion? Nothing? Good.

PARTICIPANT: Always confusion.

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CHAIRPERSON RIDDLE: That's not a good question to ask.

(Laughter.)

CHAIRPERSON RIDDLE: We will start with Michael.

MEMBER LACY: Yes.

CHAIRPERSON RIDDLE: Gerald?

MEMBER DAVIS: Yes.

CHAIRPERSON RIDDLE: Nancy?

MEMBER OSTIGUY: Yes.

CHAIRPERSON RIDDLE: Julie?

MEMBER WEISMAN: Yes.

CHAIRPERSON RIDDLE: Goldie? I mean Andrea?

MEMBER CAROE: Yes.

CHAIRPERSON RIDDLE: Goldie?

SECRETARY CAUGHLAN: Yes.

CHAIRPERSON RIDDLE: Kevin?

VICE CHAIRPERSON O'RELL: Yes.

CHAIRPERSON RIDDLE: Dave?

MEMBER CARTER: Yes.

CHAIRPERSON RIDDLE: Rose?
MEMBER KOENIG: Yes.

CHAIRPERSON RIDDLE: George?

MEMBER SIEMON: Yes.

CHAIRPERSON RIDDLE: Bea?

MEMBER JAMES: Yes.

CHAIRPERSON RIDDLE: Hugh?

MEMBER KARREMAN: Yes.

CHAIRPERSON RIDDLE: Chair votes yes. So we have 13 yes, zero no. And one absent.

Okay. Thanks for filling in there Nancy with the Crops. And we'll go back to Livestock now. Are you ready George?

MEMBER SIEMON: Yes, I'm ready.

CHAIRPERSON RIDDLE: All right.

MEMBER SIEMON: First of all, I'm going to try to use the PowerPoint now for some small changes we have in the guidance document. So I'm going to set that up. But we have been having some discussions about the rule changes. And Hugh was going to lead that while I set this up I hope.

MEMBER KARREMAN: Yes. Since the Livestock Committee needs to rework the two rule
changes we submitted back in March -- that's what
Keith mentioned we have to do -- it's coming back to
us to work on. And taking into account the public
comment and input, the Livestock Committee is
proposing a rule change at 205.239(a)(2), not to be
voted on today. It's just we're going to be working
on it back and forth with the NOP.

But at 205.239(a)(2), to reflect the
public input, it seems that raising is a prominent and
one of the most distinctive visible features of
organic dairy farming -- 205.239(a)(2), we would
propose that it should say ruminants over six months
of age shall graze growing pasture no less than 120
days per year.

And we're going to be working on that, I
guess, in conference calls and whatnot with the NOP
and hopefully have some action item at our -- probably
meeting in March I guess it would be. Unless November
but whatever. That's what I wanted to say.

CHAIRPERSON RIDDLE: Yes. And wouldn't
the committee also be considering the additional text
that was sent back to us, the stage of life change --
MEMBER KARREMAN: Right.

CHAIRPERSON RIDDLE: -- as part of the package?

MEMBER KARREMAN: Right. Absolutely. The stage of life we have to reconsider. But --

CHAIRPERSON RIDDLE: Yes.

MEMBER KARREMAN: -- right at that 205.239(a)(2), that was what was sent back to us also.

CHAIRPERSON RIDDLE: Yes.

MEMBER KARREMAN: That was one of the two points.

CHAIRPERSON RIDDLE: Yes. Okay. Thanks for that briefing there.

And now George, are you ready for what we are actually considering as an action item?

MEMBER SIEMON: Exactly. So unfortunately I put up there -- my computer is stupid. Instead of tracking changes, it adds all those boxes to the side. So I've elected to make the blue what we're deleting. So I apologize. I couldn't get the strikethrough. And the red is what we're replacing it with.

More or less what we've done is replace
all the shalls with should. There was four shalls.
We put should in.

PARTICIPANT: You missed one.

MEMBER SIEMON: Well, I could have missed one.

(Laughter.)

MEMBER SIEMON: Where at? All right. There I missed one. That's fine. Just take it out. Anyway, I'm sorry the track changes didn't work.

And then we took from the input we got, we added the significant portion of the -- sorry, I hate those little boxes -- anyway, let's keep to the gist of it. A significant portion of the last feeding requirements, which we had originally and we replaced with the 30 percent, putting in there just reemphasizing the 30 percent. And the committee agreed to the input we got there.

So it says both significant portion and not less than 30 percent now. And then added per year after 120 days, which is a little bit redundant but it was felt that that was needed to make sure people didn't read it on some other context of the growing
season, which is a year -- one growing season to me.

But anyway, that is the other addition.

So --

CHAIRPERSON RIDDLE: Yes.

MEMBER SIEMON: -- I think those -- and then we made maximize into optimize, which we had talked about before. And we couldn't remember why we didn't have optimize in the final draft because we thought that was what our objective was.

So those are the changes here. Now I have some more changes in the next paragraph but let see if there is any discussion on these before we move forward.

CHAIRPERSON RIDDLE: Sure.

MEMBER SIEMON: Or do we need to make a motion?

CHAIRPERSON RIDDLE: Yes, that would be good. Yes, we don't even have it on the floor yet.

MEMBER SIEMON: I'm sorry.

CHAIRPERSON RIDDLE: So --

MEMBER SIEMON: I would like to move that we adopt this.
CHAIRPERSON RIDDLE: Okay.

MEMBER KARREMAN: I second that.

CHAIRPERSON RIDDLE: Okay. George moves and Hugh seconds to adopt the pasture guidance recommendation, as amended --

MEMBER SIEMON: As amended.

CHAIRPERSON RIDDLE: -- brought forth by the Livestock Committee.

MEMBER SIEMON: Right.

CHAIRPERSON RIDDLE: Okay.

MEMBER SIEMON: So should and shall was related to the guidance versus a requirement.

CHAIRPERSON RIDDLE: Yes.

MEMBER SIEMON: And the other things are just refinements, you know maximize -- some were feared that everybody would have to put all their land in pasture. So optimize means, of course, in relationship to the number of animals you have, et cetera, et cetera. So I think they are all pretty small adjustments.

CHAIRPERSON RIDDLE: Any other discussion from Board members? Questions? Concerns? Comments?
Chairperson Riddle: I think it's pretty clear. Oh, Jerry?

Member Davis: I wasn't quite sure yet, does that allow an operator to not follow these guidelines with no penalty?

Member Siemon: The guidelines are a map to where we -- kind of the path we think you should go on. They're not a requirement. You could go on a different path. And that's why should and shall -- should seemed to be the better approach.

Chairperson Riddle: Yes. And a penalty would really apply if you violate the standards. This is a way to achieve compliance with the standards but there may be alternative ways as typical for guidance.

And I think, you know, the Committee will be proposing some enforceable rule change at a future meeting.

Member Siemon: Okay.

Chairperson Riddle: Hugh?

Member Karreman: To answer your question, Gerald, the rule change that I had mentioned when
George was setting up, that will be the regulation in black and white. This kind of colors it in, okay? So you can't have a guidance without a regulation for it. Isn't that correct? That's what I'm understanding.

CHAIRPERSON RIDDLE: Well, right. But this is also just guidance on our understanding of the existing regulation.

MEMBER KARREMAN: Absolutely.

CHAIRPERSON RIDDLE: Right.

MEMBER KARREMAN: Right.

CHAIRPERSON RIDDLE: But it in and of itself is not enforceable.

MEMBER KARREMAN: Right.

CHAIRPERSON RIDDLE: We're looking to propose recommendations to strengthen the enforceability of the regulation, too.

MEMBER KARREMAN: Yes.

CHAIRPERSON RIDDLE: Andrea?

MEMBER CAROE: My question on this -- it is very specific with, you know, 30 percent dry matter and 120 days. Based on the fact that certifiers can only ask questions as they relate to the standard and
this is not the standard, are they going to be able to
ask for this information?

This is not part of the regulation. This
is guidance. So certifiers legitimately under their
operation can't ask for this information. It can be
provided but --

MEMBER SIEMON: They need to see that they
are reaching to the same goal that this points to.
Whether it is asking these questions or different
questions --

MEMBER CAROE: Right.

MEMBER SIEMON: -- this is the goal. This
is the path that we're saying --

MEMBER CAROE: I understand that. But you
can't use these as -- if somebody is not meeting 30
percent, a certifier cannot not certify them because
this is --

MEMBER SIEMON: Right.

MEMBER CAROE: And they can't make it part
of their criteria for certification.

MEMBER SIEMON: But they need to find like
criteria that defines pasture like this. That's what
the guidance documents are. This is one path to get
there. You can use another path to get there.

MEMBER CAROE: They can ask questions
about pasture but not these specific. Is --

PARTICIPANT: They could.

MEMBER SIEMON: They could.

MEMBER CAROE: I ask for the program to
answer this because I'm not sure whether the
certifiers can ask for this specific information or
not.

CHAIRPERSON RIDDLE: Is there a response
yet?

MEMBER CAROE: Based on where it is, where
it sits. And what kind of --

CHAIRPERSON RIDDLE: Just to clarify your
question, you're really talking about those five items
that the organic system plan should describe.

MEMBER CAROE: Right, right.

CHAIRPERSON RIDDLE: The amount of pasture
per animal, the amount of time, et cetera.

MEMBER CAROE: Yes, this shouldn't be on a
certifier's checklist to go out there and look for
these items --

CHAIRPERSON RIDDLE: No.

MEMBER CAROE: -- because it is not part of the regulation. It's guidance.

Now this is great guidance for a producer to meet the requirements for a pasture. But it is not the requirements for pasture.

CHAIRPERSON RIDDLE: Right. But as far as the information requested by a certifier on an organic system plan, I look at those five items and those are all relevant pieces of information for compliance with the existing standard --

MEMBER SIEMON: Yes.

CHAIRPERSON RIDDLE: -- that allows a certifier to assess compliance once you know how many animals, how much pasture per animal, the amount of time, what criteria for temporary confinement, etcetera. Those are already relevant for assessing compliance.

MEMBER SIEMON: I would agree with that, too.

CHAIRPERSON RIDDLE: Yes. Okay. Thanks.
That makes us all feel cooler for the moment.

Okay, Nancy?

MEMBER OSTIT GUY: Andrea, I think -- well first off, this is guidance. So no, they cannot hold an operator to these exact questions. But it does provide information that the certifier might use. They might use something different. That's all it is for.

MEMBER CAROE: I'm just making that point, you know, because we've been talking about the inspectors going out and verifying these amounts. But it can't be part of the criteria for the certifier because it's not in the reg.

CHAIRPERSON RIDDLE: Okay. Any other comments?

(No response.)

CHAIRPERSON RIDDLE: All right. If we can scroll on down.

MEMBER SIEMON: And then we look at temporary confinement, we got some feedback looking for more specificity -- a word I can't say -- so we looked through this and the only changes we made were
to make the lead line, instead of being a plural into a singular line. So instead of when ruminant livestock are denied to when a ruminant is denied pasture.

So, again, we were trying to get this to be individual livestock -- individual animal and not something you would do, for example, on a stage of production. Oh, I'll keep this whole group in at this stage. This is more so that each -- temporary confinement relates to each individual animal.

And then the last piece was because it was a guidance document, the committee felt that the word only was too prescriptive and should be broader than that. So they wanted to take the word only out.

Is that correct?

CHAIRPERSON RIDDLE: That's correct, yes.

And actually there is one more shall in the paragraph --

MEMBER SIEMON: There it is.

CHAIRPERSON RIDDLE: -- the top paragraph, the second to last line -- all instances --

MEMBER SIEMON: The three shalls, oh boy.
CHAIRPERSON RIDDLE: Yes, should be --

MEMBER SIEMON: Nobody mentioned those shalls, all right.

CHAIRPERSON RIDDLE: Oh, there's more than one? Oh, yes. There's another one.

MEMBER SIEMON: I see two so far.

PARTICIPANT: There are three of them.

MEMBER SIEMON: Three?

CHAIRPERSON RIDDLE: You should have done a word search.

MEMBER SIEMON: Yes, word search.

PARTICIPANT: Second to last.

PARTICIPANT: In no case should --

MEMBER SIEMON: Yes, there's three. Okay, that's the end of the changes we made. Otherwise, the document stands as it was put forward. Sorry about the -- okay.

CHAIRPERSON RIDDLE: So any further discussion?

(No response.)

CHAIRPERSON RIDDLE: Did you catch all those shalls to shoulds or? Yes.
MEMBER SIEMON: Everybody has got it.

CHAIRPERSON RIDDLE: All right. I think people get the drift anyway just to be clear what we will be voting on here. Okay?

MEMBER SIEMON: Okay. Any other discussion?

(No response.)

CHAIRPERSON RIDDLE: No other discussion.

MEMBER SIEMON: Well, then I'd say we call the question.

CHAIRPERSON RIDDLE: Yes. We're starting at the top here again. And that would be Jerry.

MEMBER DAVIS: Yes.

CHAIRPERSON RIDDLE: Nancy?

MEMBER OSTIGUY: Yes.

CHAIRPERSON RIDDLE: Julie?

MEMBER WEISMAN: Yes.

CHAIRPERSON RIDDLE: Andrea?

MEMBER CAROE: Yes.

CHAIRPERSON RIDDLE: Goldie?

SECRETARY CAUGHLAN: Yes.

CHAIRPERSON RIDDLE: Kevin?
VICE CHAIRPERSON O'RELL: Yes.

CHAIRPERSON RIDDLE: Dave?

MEMBER CARTER: Yes.

CHAIRPERSON RIDDLE: Rose?

MEMBER KOENIG: Yes.

CHAIRPERSON RIDDLE: George?

MEMBER SIEMON: Yes.

CHAIRPERSON RIDDLE: Bea?

MEMBER JAMES: Yes.

CHAIRPERSON RIDDLE: Hugh?

MEMBER KARREMAN: Yes.

CHAIRPERSON RIDDLE: Michael?

MEMBER LACY: Yes.

CHAIRPERSON RIDDLE: And I vote yes. So we have 13 yes, zero no, one absent.

MEMBER SIEMON: And that's all that I had.

CHAIRPERSON RIDDLE: Okay.

MEMBER SIEMON: I'm done with the Livestock Committee.

CHAIRPERSON RIDDLE: Well, thank you.

Where are we? Back to Materials. And so --
MEMBER SIEMON: Synthetic versus Non-Synthetic.

CHAIRPERSON RIDDLE: Okay. Synthetic versus Non-Synthetic.

MEMBER SIEMON: We did the national list category, right?

CHAIRPERSON RIDDLE: Yes.

MEMBER SIEMON: We completed that.

CHAIRPERSON RIDDLE: We did the national list category.

So, Rose, are you ready to -- if you need to have a conversation, if you could please take it outside or give it just a moment for the rumble to die down.

MEMBER KOENIG: Okay. On the document on page two, I would -- do you want me just to --

CHAIRPERSON RIDDLE: Okay. Let help us find it again.

MEMBER KOENIG: Oh, I'm sorry. Tab --

CHAIRPERSON RIDDLE: Materials Committee.

MEMBER KOENIG: -- Syn versus Non-Syn.

CHAIRPERSON RIDDLE: Syn, Non-Syn.
MEMBER KOENIG: Okay. I couldn't get the two committees together that were the original ones --

CHAIRPERSON RIDDLE: I'm sorry. I can't hear you.

MEMBER KOENIG: Syn versus Non-Syn.

CHAIRPERSON RIDDLE: Yes.

MEMBER KOENIG: Okay.

(Laughter.)

CHAIRPERSON RIDDLE: Would you say that again? I really like it when you say that.

(Laughter.)

MEMBER KOENIG: Okay. So I couldn't get both -- since it really was a document by both committees and people were kind of in and out of different meetings, we did not get a chance to meet on, you know, this draft.

I have a couple of friendly amendments to add. And then --

CHAIRPERSON RIDDLE: Okay.

MEMBER KOENIG: -- so I'd like to just modify it with a couple of friendly amendments and then maybe move it to the floor.
PARTICIPANT: Don't we need to get it on the floor?

MEMBER KOENIG: Yes.

CHAIRPERSON RIDDLE: Yes, you should.

MEMBER KOENIG: Okay. All right. I'll submit it as a recommendation.

CHAIRPERSON RIDDLE: Okay. Rose moves.

VICE CHAIRPERSON O'Rell: Second.

CHAIRPERSON RIDDLE: Kevin seconds. Since it is a joint committee, we'll get the chairs of both on record. Kevin seconds approval of the synthetic, non-synthetic recommendation. Okay?

MEMBER KOENIG: Okay. So what I'd like to -- on page two under formulation or manufacturing shall be understood to mean, I'd like to accept the recommendations of the OTA document where -- I guess it's one, two, three, four, the fifth sentence. Basically wherever it says of food in these two sections, these two paragraphs, the intent is to change that to of an agricultural product by handling operation or food.

So in other words -- and their comment was
saying that food was not defined in the regs but agricultural products are. And handling are.

So it just adds a reference to the reg.

So basically keeping food in but describing it a little bit more.

CHAIRPERSON RIDDLE: Okay. So could you be precise since we don’t have it up on the screen?

MEMBER KOENIG: Okay. Formulation or manufacturing as defined in this section is not intended to address the processing of an agricultural product by a handling operation or food.

It doesn’t change the intent. It just clarifies that.

Okay and then in the next paragraph in the second sentence --


MEMBER KOENIG: Okay.

CHAIRPERSON RIDDLE: I just want to make sure everybody has it right now. And you would be inserting an agricultural product by a handling operation between processing and food.
MEMBER KOENIG: Yes, right. And then or food.

CHAIRPERSON RIDDLE: What?

MEMBER KOENIG: Or food.

PARTICIPANT: Say it again.

PARTICIPANT: Say it again.

MEMBER KOENIG: Okay. After the of, okay, an agricultural product by a handling operation or food.

CHAIRPERSON RIDDLE: Okay. All right.

Everyone have that? Does Kevin accept that as the seconder?

VICE CHAIRPERSON O’RELL: I’ll accept it now for discussion.

CHAIRPERSON RIDDLE: Okay. All right.

Okay. I think we’re all caught up now.

Rose?

MEMBER KOENIG: Okay. And the same thing, in the second paragraph, the second sentence after the 205.601-606 reference, processing of an agricultural product by a handling operation or food.

And let me know when you are ready again.
CHAIRPERSON RIDDLE: Okay.

MEMBER CARTER: Just grammatically, it would read better if we said processing of food or an agricultural product by handling operation.

MEMBER KOENIG: Okay.

MEMBER CARTER: Because the way it's in there, it sounds like you are processing an agricultural product by food.

MEMBER KOENIG: Okay. Well, that is what their -- I mean I didn't have time -- I looked at kind of what -- I mean the intent that I understand but I guess it should have been proposed as -- that's a --

CHAIRPERSON RIDDLE: Okay.

PARTICIPANT: Can you say that again, Dave?

MEMBER KOENIG: Yes, why don't you?

MEMBER CARTER: Well, just it should be processing of food or an agricultural product by a handling operation.

MEMBER KOENIG: Yes.

CHAIRPERSON RIDDLE: Okay. I'm glad we've got someone with a journalism degree.
MEMBER CARTER: Finally it comes in handy.

(Laughter.)

CHAIRPERSON RIDDLE: An English major.

MEMBER KOENIG: Okay. So then --

CHAIRPERSON RIDDLE: Okay.

MEMBER KOENIG: -- all right so that would be -- so we all understand that that would be that first and second correction.

CHAIRPERSON RIDDLE: Yes.

MEMBER KOENIG: And then finally the third would be the sixth sentence starting with below is the section. If you go to the last -- again, we're processing a food. It's the end of that sentence. And it would say processing of food or an agricultural product by a handling operation.

CHAIRPERSON RIDDLE: Okay. Everybody follow that? Catch that?

All right. Kevin accepts that. Okay.

MEMBER KOENIG: And that --

CHAIRPERSON RIDDLE: Okay. Do you see the sentence that begins below is the section? And go all the way to the end of that line and you see in the
processing of food. And then you just insert or an agricultural product by a handling operation. Okay?

All right. Rose?

MEMBER KOENIG: And that's the only changes I see --

CHAIRPERSON RIDDLE: Okay.

MEMBER KOENIG: -- that I'd like to offer.

CHAIRPERSON RIDDLE: All right. So it's been moved, seconded, and amended. Now any discussion?

MEMBER WEISMAN: I have one.

CHAIRPERSON RIDDLE: Okay. Julie?

MEMBER WEISMAN: I have a concern about the fact that extraction is mentioned separately. And that it would benefit from having the same clarification as in the second section. That we're not talking about extraction that occurs as part of handling an agricultural -- extract -- is everybody --

CHAIRPERSON RIDDLE: Okay. You are back to page one?

MEMBER WEISMAN: I'm back to page one.
CHAIRPERSON RIDDLE: All right.

MEMBER WEISMAN: First thing under the recommendation is extraction shall be understood to mean. And I feel like this would benefit from the same kind of clarification that we just put in to formulation or manufacturing.

CHAIRPERSON RIDDLE: Okay.

MEMBER WEISMAN: In other words, that we're not talking about extraction that is the processing an agricultural product --

CHAIRPERSON RIDDLE: During handling.

MEMBER WEISMAN: -- during handling.

CHAIRPERSON RIDDLE: Okay. Do you have language to propose to capture that?

MEMBER KOENIG: It's in -- excuse me.

CHAIRPERSON RIDDLE: Okay. Rose?

MEMBER KOENIG: I don't know if it covers it, Julie, but under processing, extracting is listed.

MEMBER WEISMAN: I had comments not during session where concern was expressed. Why is extraction being singled out in this document.

MEMBER KOENIG: Because that's -- if you
go back to the original definition of chemical change, extraction is in that definition. So we were trying to define -- see the substance -- synthetic is a substance that is formulated -- all right, a substance is formulated or manufactured by a chemical process or by a process that chemically changes the substance extracted from a naturally occurring.

And because many of the substances that create, you know, some controversy is the extraction methodology. So we wanted to be specific in that definition that we understood that, you know, that clarification from extraction, again, it has nothing to do with the processing of food but the extraction during the taking it out of a biological.

CHAIRPERSON RIDDLE: The manufacturing.

MEMBER KOENIG: The manufacturing of substances for the list.

MEMBER WEISMAN: Right. Could we note that at the end of that paragraph by just simply stating this does not refer to extraction that occurs in the processing of food or an agricultural product handled by a handling operation. Can we tack that in

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there one more time?

CHAIRPERSON RIDDLE: Would you like to make a motion to amend?

MEMBER WEISMAN: I make a motion to amend recommendation one to include after the word national list at the end of the paragraph, extraction here does not refer to extraction that is -- how does this read -- used in the processing of food or an agricultural product by a handling operation.

VICE CHAIRPERSON O’RELL: Julie, would you accept a little help in that?

MEMBER WEISMAN: Sure.

VICE CHAIRPERSON O’RELL: I wonder if we say extraction for substances petitioned for addition or prohibition to the national list?

MEMBER WEISMAN: What? Say it again.

VICE CHAIRPERSON O’RELL: If we say extraction for substances petitioned for addition or prohibition to the national list shall be understood to mean, would that --

MEMBER WEISMAN: Well --

VICE CHAIRPERSON O’RELL: I understand the
sensitivity for clarification in that from the processing side.

MEMBER KOENIG: I guess that what I don't understand is -- and you can educate me, Julie, on this one. If you're -- this is stating that -- because the definition extraction -- in the definition of synthetic, extraction deals with naturally-occurring plants, animals, okay.

So if you are extracting something from a plant, it would -- the definition would apply.

MEMBER WEISMAN: Yes. But my concern is that when you extract say vanilla beans in an approved solvent, an organic ethyl alcohol, you have -- the extracteds contain about 250 to 300 aromatic compounds --

MEMBER KOENIG: Right.

MEMBER WEISMAN: -- that will react and change during that process.

MEMBER KOENIG: Right.

MEMBER WEISMAN: Now as long as we're talking -- so I have a concern that anywhere in this rule will be language that says the change -- chemical
changes that occur during the extraction process will make the product synthetic.

MEMBER KOENIG: But it acknowledges here that extraction -- you know it acknowledges that changes can be made as long as the final -- provide that any substance used in the extraction process does not remain in the final product above insignificant levels and so not have a technical functional effect.

MEMBER WEISMAN: What is insignificant?

PARTICIPANT: What reference were you reading?

MEMBER KOENIG: Okay. Go back to page one, I'm sorry, under extraction.

MEMBER WEISMAN: I'm not talking about the solvent that remains. In fact, that solvent has to stay there because of 21 CFR which is the FDA. That alcohol --

MEMBER KOENIG: Okay.

MEMBER WEISMAN: I'm talking about the compounds, many of which are not even identified that do undergo -- they do react with each other under heat.
CHAIRPERSON RIDDLE: Yes. I just want to step back a moment. You made a motion and Kevin offered some changes to it but it was not seconded yet. So I'd like --

MEMBER WEISMAN: Kevin, could you repeat your recommendation?

CHAIRPERSON RIDDLE: I'd like to know if we have a motion to amend here.

VICE CHAIRPERSON O'RELL: I just suggested after extraction in that line extraction or substances petitioned for addition or prohibition to the national list shall be understood to mean so that it is specific to substances.

MEMBER WEISMAN: I would accept that.

MEMBER CAROE: I'll second if you don't have a second on the floor.

CHAIRPERSON RIDDLE: Okay. We didn't. Thank you.

MEMBER CAROE: Well, then I'll second it and I'll accept the amendment. And we're all square?

CHAIRPERSON RIDDLE: Well, I don't know that. That's jumping to conclusions. I think we
still need to get the exact text down but it has been moved and seconded.

And, Arthur, have you captured it? Or no?

MR. NEAL: No. I can't.

CHAIRPERSON RIDDLE: Okay. Comment?

Whatever? Arthur?

MR. NEAL: I understand if we want to limit it to petitioned substances. The only problem with that is that there are naturals that are not on the national list that go through extraction processes. And however we characterize extraction in this document impacts all other materials that are going to be used in organic production and handling, regardless if it is petitioned or not.

As we talked yesterday, the way that we're looking at this list, there are a lot of things that are going to shake out. Things that have been considered natural probably won't be natural any more after this document is done.

MEMBER KOENIG: I don't -- again, I mean we can go through that analysis. But the -- as long as those -- basically what it is saying is that at the
end, as long as there's not -- if you are extracting a specific chemical out of your plant, you know, one specific chemical in your extraction process, when you finish that extraction, you can use solvents.

If that is not chemically changed -- now you may have isolated it but the question is have you chemically changed it. And that's where the fish comes in. Okay? It's extracted. The aquatic plants haven't -- the extraction hasn't changed the -- the plant material hasn't changed. But because of the buffer, it falls within a chemical change because of the way that we've defined -- you know the buffer is in there at significant levels. It's present.

MR. NEAL: The best thing for you to -- I guess the best example to use is a soy protein.

PARTICIPANT: I'm having trouble hearing you. You're speaking very low.

MR. NEAL: The best example for you probably to use is a soy protein isolate.

MEMBER KOENIG: Okay. Right.

MR. NEAL: Because what you're doing is you are isolating a protein and at the end of the
extraction -- I mean you start out with a soy bean but you want the protein in the bean. So you'd use a solvent to extract the protein.

MEMBER KOENIG: Right. And that wouldn't --

MR. NEAL: Right.

MEMBER KOENIG: Right.

MR. NEAL: The question is is after the extraction taken place, has the protein been changed?

MEMBER KOENIG: The thing is, Arthur, on that, the extraction procedure -- this is going to take me a little bit -- the extraction itself -- let me go back to what soy protein isolate is because I know it pretty well in my head.

The extraction procedure doesn't change -- well, if you consider the -- you can extract the protein and that's what is done in soy processing. We had the big flowchart. And I used soy as an example when I was writing this document. This document was triggered by soy protein isolate, which is in our packet, which we're deferring because we have to figure this thing out first.
And I don't know if that flowchart is still available and it might be instructive for people to look at. Was that included in our --

PARTICIPANT: Yes.

MEMBER KOENIG: Okay.

MR. NEAL: You want to look at it?

MEMBER KOENIG: Yes, what page is that on?

Oh, is it under --

PARTICIPANT: Page nine or page ten.

MEMBER KOENIG: Hold on, I've just got to figure out where it is in my -- what color is it?

PARTICIPANT: (Speaking from unmiked location.)

MEMBER KOENIG: Right. Okay. So if everybody can turn to page nine of the flowchart on the soy protein isolate.


MEMBER KOENIG: So when I looked at the definition of extraction and the chemical processes that we would call synthetic, when you go through those things, the spelt flakes away even though you
are using buffers, basically it is a series of bases and then acids and centrifugations.

But basically you're just isolating different components of the soy. You are fractionating. And the soy protein isolate is the last stop of this whole chain where it says soy protein isolate, 90 percent protein, okay?

So all the other forms of soy that typically would be used in food like the whey and the spelt flakes and also like soy bean meal that you use in crops, all that would be considered non-synthetic based on -- I'm talking about now the chemical reaction part of this document which talks about the chemistry.

So that extraction doesn't change those proteins until you come to the last part of this, the soy protein isolate. And what makes soy protein isolate chemically changed is if you go into the chemical reactions part of our document, which I'm going to have to get to --

CHAIRPERSON RIDDLE: In which document now?
MEMBER KOENIG: Now back to the synthetic/non-synthetic document, if you look at the chemical reactions, number four is a protein configuration changes as the result of a physical association of an added substance. Okay?

And I've been telling everyone that all along. The most controversial part of this document, as far as what food technologists should consider, and I brought this up on the phone call for those in Handling who were in it, that some of these really highly processed proteins would probably be impacted.

So most of the soy that we're dealing with -- and when I talked to the soy expert when we were looking at the review of soy protein isolate, the common use of that isolate is actually in creamers, soy creamers because it is a -- there is a -- there's actually a base. Even though it is not on this diagram, clearly that base stays in association with the protein.

And it basically changes the configuration from the native protein. If that base was not there, that protein wouldn't look the same. So it's what
they consider a physical change in the protein.

And that's why when I went through the description, I said proteins are in a lot of way different. And that's in our document if you read it.

And these are the ways that proteins change. They can be denatured. And we're not, you know, denaturing is fine. But I said well, I'm going to propose that we consider physical changes because of association of other things in a product, like buffer agents, because to me that is in contradiction to this concept of insignificant levels because now you have something that is impacting the chemical physical structure of that protein.

CHAIRPERSON RIDDLE: Okay.

MEMBER KOENIG: So I think in your case, Julie, you know, and that's why you have this document, you know I was hoping that maybe you would be able to show it to some of your chemists there. And, you know, I think the extraction is fine on these other naturals.

MR. NEAL: The only other question, too, that you're going to have to wrestle with is the
language -- I'm not sure of the page -- page one --

CHAIRPERSON RIDDLE: Okay.

MR. NEAL: -- it's going to Julie's issue.

CHAIRPERSON RIDDLE: Okay.

MR. NEAL: Any synthetic substance used in the extraction process that remains in the final extract above insignificant levels and any synthetic substance that has a technical or functional effect must be on the national list.

Okay. Because you were saying that what it was extracted with, there were some levels left over.

MEMBER WEISMAN: Right. But my only concern is the things that --

CHAIRPERSON RIDDLE: Yes, speak into the mike. We can't hear you.

MEMBER WEISMAN: Okay. My concern was the reaction that happened between the things that are naturally occurring in that agricultural product. If something synthetic has been used to process and that remains behind, that should be petitioned. That should be on the national list. I don't see that as a
problem.

CHAIRPERSON RIDDLE: Okay. Now I'd like
to get us back to the amendment and act on that.
We've had far-ranging discussion that is relevant to
it. But I'd like to get a narrower focus here.

So I didn't capture the exact language of
the amendment. Does anyone?

VICE CHAIRPERSON O'RELL: Well, in
discussion Arthur did bring up a point that what we
discussed would have been specific only for those
materials that are petitioned for the national list
and so --

MR. NEAL: They would have an impact
beyond those materials --

VICE CHAIRPERSON O'RELL: They would. It
would.

MR. NEAL: -- in the petition.

VICE CHAIRPERSON O'RELL: This would have
an impact beyond.

CHAIRPERSON RIDDLE: So do you withdraw
the amendment?

MEMBER CAROE: No, I would like to offer
that we change this to say -- instead of a positive when it is used, let's do the negative and say except for processes included in an organic handling operation. Exclude it from that and then you include all the naturals and those materials coming out to the list.

MR. NEAL: The question is what is a soy bean -- a company that handles soy beans for the purpose of making soy bean meal, they use an extraction.

MEMBER KOENIG: Right. And that's fine.

MR. NEAL: Okay.

MEMBER KOENIG: That's what I'm saying. When the soy --

MR. NEAL: So for a company that uses soy beans to extract soy protein isolate for coffee creamer as a food, that's fine, too.

MEMBER KOENIG: No, but I'm saying is that final -- if you take our definition of chemical reactions in combination with extraction, extraction is not -- the protein comes out at the end, okay?

The problem with soy protein isolate is
not the fact that -- well, it is an extraction problem in the sense that within that isolate, one of the buffers is there in a significant enough level that it changes the configuration of that protein.

MEMBER OSTIGUY: But it's not there in previous soy proteins.

MEMBER KOENIG: Yes so all the other soy proteins -- and it is because soy protein isolate is the most highly processed part of the soy bean. And if we can't acknowledge -- okay -- that there may be manufacturing of some foods, you know soys or whatever, there may come a point where you have to process it so highly, you know, as an ingredient -- the problem is that they are petitioning it as an ingredient.

MR. NEAL: For fertilizer.

MEMBER KOENIG: For fertilizer.

CHAIRPERSON RIDDLE: Okay. I've got Barbara and then Bea. Microphone.

MS. ROBINSON: You only want this to be referring to materials related to crop and livestock production?
CHAIRPERSON RIDDLE: No, it's petitioned substances.

MS. ROBINSON: All right. Extraction for substances being considered for use in organic operations -- in organic crop, livestock, and handling operations?

MEMBER WEISMAN: Can you repeat that Barbara? I'm sorry.

MS. ROBINSON: Extraction, for substances being considered for use in organic crop, livestock, and handling operations.

CHAIRPERSON RIDDLE: To me that's too broad because that could include ingredients being used. I guess petitioned to be placed on the national list.

MS. ROBINSON: Being considered for use.

CHAIRPERSON RIDDLE: Yes, I've got Bea. And then back to Julie.

MEMBER JAMES: Okay. I'm wondering if we looked at the submission from the OTA on extraction. They did a further clarification to your document, Rose.
Extraction, according to NOSB 1995, Austin, Texas, the concentration, separation, and removal of substance from a plant, animal, microbiological, or mineral source, minerals used in a plant, crop, and animal production may be extracted in a way that does not result in synthetic reaction as defined in 20103.1. The products of any other methods of extraction shall be considered on a case-by-case basis and reviewed for compatibility under OFPA Section 2119(M)(1-7).

CHAIRPERSON RIDDLE: That's the footnote.
VICE CHAIRPERSON O'ReLL: That's the footnote to our draft.
CHAIRPERSON RIDDLE: On page one.
VICE CHAIRPERSON O'RELL: On page one of our draft.
CHAIRPERSON RIDDLE: But I guess -- it's Julie -- I'm trying to keep --
MEMBER WEISMAN: Okay. Are you asking or am I coming after Bea now?
CHAIRPERSON RIDDLE: Yes.
MEMBER WEISMAN: Okay.
CHAIRPERSON RIDDLE: If you'd like.

MEMBER WEISMAN: My needs would be completely taken care of if at the end we just added a sentence that says extraction as defined in this section is not intended to address the processing of food or agricultural products by a handling operation. That would do it.

VICE CHAIRPERSON O'RELL: Do you want to withdraw your other motion and make a new motion?

CHAIRPERSON RIDDLE: Substitute.

MEMBER WEISMAN: Oh, I'll get used to this Roberts stuff. Sorry.

Okay. I would like to make a motion --

CHAIRPERSON RIDDLE: You'd like to withdraw --

MEMBER WEISMAN: I would like to withdraw --

CHAIRPERSON RIDDLE: -- and offer a substitute.

MEMBER WEISMAN: -- I would like to withdraw -- I forget what I'm even calling it now --

CHAIRPERSON RIDDLE: Your previous motion.
MEMBER WEISMAN: -- my previous motion and I would like to substitute it with the following motion. That at the end of this paragraph on extraction, after the word national list, we add a sentence that says extraction as defined in this section is not intended to address the processing of food or agricultural products by a handling operation.

VICE CHAIRPERSON O'RELL: I would second that.

MEMBER KOENIG: Can I get it -- because I was talking to George for a second.

CHAIRPERSON RIDDLE: Yes, just read back through it slowly. I think we're getting there.

Extraction as defined --

MEMBER WEISMAN: Extraction as defined in this section is not intended to address the processing of food or agricultural products by a handling operation.

PARTICIPANT: One more time.

MEMBER WEISMAN: Okay. Extraction as defined in this section is not intended to address the processing of food or agricultural products by a
handling operation.

CHAIRPERSON RIDDLE: Okay. Julie moves, Kevin seconds, with a new substitute language. Is there further discussion on just that language?

MR. NEAL: Question.

CHAIRPERSON RIDDLE: Arthur?

MR. NEAL: Give me an example of what that would include.

MEMBER WEISMAN: Well, I gave the example of extracting -- making vanilla extract from vanilla beans where the extractives contain between 250 and 300 aromatic compounds that can react with each other under heat but should not render vanilla extract synthetic.

It's not much different than when you pasteurize a multi-ingredient dairy product and changes occur during that process.

MR. NEAL: I'm just trying to differentiate between that type of process from a vanilla bean and the type of process from a soy bean.

MEMBER WEISMAN: It's a one-step process.

And the process that Rose is describing for soy bean
isolate sounds like there is extraction and then there is fractional distillation. I mean it gets --

CHAIRPERSON RIDDLE: The big difference is that is in the manufacture of a petitioned substance. This is in the manufacture of --

MEMBER WEISMAN: Manufacturing of a food.

CHAIRPERSON RIDDLE: -- a food item that's allowed.

MR. NEAL: Because you can use that same product in a food.

MEMBER KOENIG: Yes, I think I figured -- I know where you are getting at, Arthur, and the conflict -- what Arthur is saying and I understand what he is saying, is that -- because something like soy -- you know, soy is a unique case because unfortunately it is a food ingredient that somebody wants to apply to a crop. Okay?

And what he's saying is that if we're saying that we are excluding them in the extraction process, okay, we're saying that you are allowed to handle food any way you want, you know, once it hits the processing mode, as long as you are in compliance
with synthetics or whatever is on the list.

MR. NEAL: Everything is captured.

MEMBER KOENIG: But just answer this one question, okay? Because I can't -- I'm not in the food industry so I'm not sure how the list is always applied to processing. But in the food industry, if you were extracting something, you have your extracting.

If then you were adding the buffer, would the buffer have to be on the list?

MEMBER WEISMAN: Yes.

MEMBER KOENIG: Okay. So we're covered with soy, okay, because the buffer is a synthetic that has to be usually on the list. So there is an acknowledgment that that buffer has now made that soy -- not made the soy but the buffer is the synthetic.

You know in our case, we're saying the soy is okay but it's that buffer that was present in a significant level -- we're not saying that the protein is.

MR. NEAL: What you're saying is just like we've clarified with aquatic plant extracts --
MEMBER KOENIG: Exactly.

MR. NEAL: -- fish emulsions that -- it's a natural.

MEMBER KOENIG: Right.

MR. NEAL: But if a synthetic is going to be added to it, it's got to be on the list.

MEMBER KOENIG: Right.

MR. NEAL: So that's a huge clarification from this document. Because right now it's saying that it's synthetic. So I think what we're saying is that everything is covered, everything is captured by this document. The extraction process is allowed for agricultural products.

When you get further down into the document, you'll then have to talk about reactions.

MEMBER KOENIG: Okay.

MR. NEAL: But if something is going to be added to the substance, the extracted substance to adjust anything, that synthetic has to be on the national list.

MEMBER KOENIG: Right.

MR. NEAL: Okay.
MEMBER KOENIG: Or because in the case of these weird natural things that can be applied to plants, that -- and the same thing -- that's why our annotation for aquatic plants, we're not questioning that the plants are not natural, it's the manufacturing of it because of the presence of that. And that's why the annotation is for the buffer.

MR. NEAL: Right. But we didn't have the understanding then that we have now.

MEMBER KOENIG: Okay. Got you. All right.

CHAIRPERSON RIDDLE: All right? So let's get back to the motion to add in the language that Julie presented. Should I read it again or does everyone have it? I'll read it.

Okay. And this is to add at the end of the paragraph about extraction the following sentence. Extraction as defined in this section is not intended to address the processing of agricultural products by a handling operation. Correct?

MEMBER WEISMAN: I had of food or --

CHAIRPERSON RIDDLE: Oh.

MEMBER WEISMAN: To be consistent with the
rest of what we just did.

CHAIRPERSON RIDDLE: Food or --

MEMBER WEISMAN: Food or agricultural products.

CHAIRPERSON RIDDLE: Okay. Thanks. I'm glad I read it. All right. So we'll go ahead and vote on that amendment. Just a minute.

PARTICIPANT: Mr. Chair?

CHAIRPERSON RIDDLE: Yes?

PARTICIPANT: Point of order. Just to protect the Board and to protect Julie if there is a conflict of interest --

CHAIRPERSON RIDDLE: Oh, that's -- yes, I've been remiss. The point is that I should have all along on each item as they come up be asking if anyone has any conflicts. And if so, to please declare them and we can determine whether they are sufficient to, you know, warrant recusal.

So on this topic, does anyone have any conflicts to declare? Or interests to declare, I guess.

MEMBER WEISMAN: I'm a manufacturer of
extracts.

CHAIRPERSON RIDDLE: All right.

PARTICIPANT: Should she recuse herself?

CHAIRPERSON RIDDLE: Well, no, she shouldn't have moved. It's up to us to determine. Are you in a unique position to benefit from this at all? We understand that you are a manufacturer of flavors and extracts.

Board members, do you feel that --

MEMBER KOENIG: On this particular section of it, yes. Not on the entire document. I just think it would be cleaner.

SECRETARY CAUGHLAN: I think it would be much better if you would recuse.

MEMBER WEISMAN: I recuse myself.

CHAIRPERSON RIDDLE: Okay.

MEMBER CAROE: And I'll make the motion.

CHAIRPERSON RIDDLE: Then let's step back and the motion previously made by Julie has now been taken off the floor and is substituted by the same language, moved by Andrea. Is there a second?

VICE CHAIRPERSON O'RELL: Second.
CHAIRPERSON RIDDLE: Still Kevin seconds.
Thanks for that reminder. I will try and keep that front and center as we move on.
Okay, back to the text. And Julie will be recusing when we vote.

MEMBER JAMES: Jim, I have a question.
CHAIRPERSON RIDDLE: That's fine.
MEMBER JAMES: If the public wants to make comment on this issue and they've been asking -- raising their hand or whatever to make comment, can we allow them to do that?
CHAIRPERSON RIDDLE: It's really at the discretion of the Chair. So yes, we can.
MEMBER JAMES: Okay.
CHAIRPERSON RIDDLE: I know and I've been trying to say when she really needed to. And when she needed to, it wasn't time. And then when it was time, she didn't need to.

(Laughter.)
MEMBER JAMES: We must be doing our job.
CHAIRPERSON RIDDLE: Anyhow, so I'm tuning in. Yes, I'm sorry. Okay, so this is on the -- just
on that amendment that is now offered by Andrea. And we start off with Nancy.

MEMBER OSTIGUY: Yes.

PARTICIPANT: Did you read Andrea's?

CHAIRPERSON RIDDLE: It's the same language.

PARTICIPANT: Okay. It's the same language.

CHAIRPERSON RIDDLE: Yes, it's just a --

MEMBER CAROE: Different voice.

CHAIRPERSON RIDDLE: -- voice, motion.

Okay, so all right, Nancy?

MEMBER OSTIGUY: Yes.

CHAIRPERSON RIDDLE: Julie recuse.

Andrea?

MEMBER CAROE: Yes.

CHAIRPERSON RIDDLE: Goldie?

SECRETARY CAUGHLAN: Yes.

CHAIRPERSON RIDDLE: Kevin?

VICE CHAIRPERSON O'RELL: Yes.

CHAIRPERSON RIDDLE: Dave?

MEMBER CARTER: Yes.

CHAIRPERSON RIDDLE: Rose?

MEMBER KOENIG: Yes.
CHAIRPERSON RIDDLE: George? Absent.

Bea?

MEMBER JAMES: Abstain.

CHAIRPERSON RIDDLE: Abstained.

Hugh?

MEMBER KARREMAN: Yes.

CHAIRPERSON RIDDLE: Michael?

MEMBER LACY: Yes.

CHAIRPERSON RIDDLE: Gerald?

MEMBER DAVIS: Yes.

CHAIRPERSON RIDDLE: Chair votes yes. So we have -- okay, 10 yes, zero no, two abstentions -- no, one absent, one abstention, and one recusal.

PARTICIPANT: Do you go with the majority?

Or is it nonexistent?

CHAIRPERSON RIDDLE: It's nonexistent but it needs to be recorded.

PARTICIPANT: Arthur?

CHAIRPERSON RIDDLE: So, okay, back to Arthur.

MR. NEAL: I know that you voted.

CHAIRPERSON RIDDLE: Yes. We can't hear
you.

MR. NEAL: I know that you voted. But I'm going to let you know right now that everything is captured by this extraction if it is agricultural products regardless if it is handled by a handling operation or a producer.

MEMBER WEISMAN: What do you mean now?

MR. NEAL: If you go to the definition, naturally occurring plant, animal, mineral sources. It doesn't differentiate between the production or handling operation.

CHAIRPERSON RIDDLE: Julie?

MEMBER WEISMAN: Then what about the part of OFPA and the rule that for organic handling operations, the mechanical or biological methods, including but not limited to -- and there is the whole list there, cooking, baking, curing, and extractions is on that list.

MR. NEAL: What about it? That's a processing function.

MEMBER WEISMAN: Maybe I misunderstood the point that you were making.
MR. NEAL: We're talking about natural versus synthetic.

MEMBER WEISMAN: Right.

MR. NEAL: Okay. And let's take that point. Extraction is included in the definition of process. Okay? So I guess the question is now at what point does extraction become handling? At what point would it ever be captured under OFPA to be excluded by the regulations for the processing function?

CHAIRPERSON RIDDLE: Kim? And your name for the record?

MS. DIETZ: Okay, Kim Dietz. And thank you all for taking your time with this one. Look at apple juice. You know apple juice is extracted from a naturally-occurring plant, so to speak. Or even botanics are extracted. You have a steam extraction. You have heat extraction. You have centrifusion.

And, Arthur, all we're trying to protect is if you take this back to the chemical change, that does cause a chemical change. But is that synthetic in a handling operation? And no, it would not be
based on what they just passed.

So a handling operation deals with food and agricultural products. It does not necessarily deal with inputs that need to be petitioned for the national list. They're not a certified entity to make ascorbic acid or to make something that is non-organic on the national list. So they're not a certified entity.

Okay? So it's not a certified handler. It's not a certified handling operation. So really all the recommendation did was say if you are a certified handling operation and you use extraction as a method of processing, it does not turn it -- it does not mean it is synthetic if you use an approved processing method.

MEMBER KOENIG: All we're saying is that we're differentiating between -- just like in the other section where we were talking about formulating in manufacturing, we're talking about the inputs that are in the system. We're not talking about -- that handling is allowed, processing is allowed. And we're acknowledging that.
CHAIRPERSON RIDDLE: Arthur?

MR. NEAL: But do you understand that everybody -- every operation that extracts is a processor. So that means that no one that extracts would be covered by this document?

MEMBER KOENIG: No, I don't understand what you're saying. So you're going to have to say it in a language that --

MR. NEAL: What example then -- what example would be captured by this document provided on the motion that you just passed?

MEMBER KOENIG: Just what we said in terms of the soy protein isolate.

MR. NEAL: Why? If I'm using it in food?

MEMBER KOENIG: What do you mean why? I don't understand. We're saying that if you take that soy and use it -- use soy bean as an ingredient and you make soy protein isolate. It's a food. You can use it.

MR. NEAL: What if I use the same soy in baby food?

PARTICIPANT: (Speaking from unmiked}
CHAIRPERSON RIDDLE: And I'd just like to suggest maybe we should add the word organic so it is an organic handling operation. Terms which are defined by the rule makes it clear what it doesn't apply to. Just an idea.

MEMBER CAROE: I think I know what Arthur is trying to get it.

CHAIRPERSON RIDDLE: Andrea?

MEMBER CAROE: I think I know what Arthur is trying to get at. What Arthur is trying to get at is if you are making an ingredient, a non-organic ingredient, that is allowed. If you're extracting benzaldehyde for a natural flavor, whether you are doing it there inside or outside the handling facility, if I'm making cherry-flavored yogurt and I'm extracting my own benzaldehyde in my operation, it should be held to the same degree as if somebody else is extracting benzaldehyde.

The way that we have it covered right now puts -- gives a benefit to the operations that do more of the processing of their ingredients than those that
procure ingredients. Is that what you're trying to
get at Arthur?

MR. NEAL: That's part of it. You've got to
treat everybody the same.

PARTICIPANT: What?

MR. NEAL: You have to treat everybody the
same. There's no -- I mean you look at a non-organic
ingredient. You've got a category that says naturals.
But now if I don't do it on an organic operation, if
somebody is doing it organically, then they're not
covered here under this document.

But if I'm doing it for sale as a non-
organic ingredient, then mine could potentially be
synthetic.

CHAIRPERSON RIDDLE: Kevin and then Kim.

VICE CHAIRPERSON O'RELL: I guess I wonder
if we're trying to go too far to protect because I
know what the intent is, that we don't want a handling
facility in the processing of an organic product to be
labeled as a synthetic because we have a chemical
change through extraction.

And maybe we're going to far. And with the
addition of these, now we're carving it out and actually opening the door.

So are we not covered just by stating in the processing as we had it originally that extraction is a method that is allowed by OFPA.

MR. NEAL: It's allowed. Bottom line, it's allowed. And after the extraction process, it can still be considered a natural ingredient.

MEMBER KOENIG: Well, that's what I said first. But I was convinced.

MR. NEAL: But the additional "clarification" then creates a distinction that doesn't need to be created.

MEMBER KOENIG: Can we take a break, Jim, because I need to go to the bathroom?

MEMBER OSTIGUY: Not yet. Don't break when we're right at -- I'd like to move that we delete the most recent addition, extraction as defined, et cetera.

MEMBER KOENIG: Could we hear from Kim first?

CHAIRPERSON RIDDLE: Yes.
MS. DIETZ: You know remember you are trying to help yourselves define synthetic. And extraction is a manufacturing process but, again, what Bea had read -- you're going to be reviewing things on a case-by-case basis. And clearly there is going to be a simple extraction like manufacturing of a juice or a very complicated extraction process that has all these different inputs. And you're going to have to determine whether something is synthetic or not.

By taking that language out, you know, it's my belief that, again, extraction is covered under an allowed process. But if you have heat and a chemical change in the extraction, you're going to go the other way and truly cause something to be synthetic that really shouldn't be.

So I think what you're doing is you're trying to -- you know I also see from the audience, you're trying to pinpoint a soy protein -- you're trying to review a material at the same time you're trying to make a recommendation. And it's kind of confusing out there. But as an example --

PARTICIPANT: When we're using vanilla as an
example --

MS. DIETZ: Right. Right.

CHAIRPERSON RIDDLE: Okay. Board members?

Andrea?

MEMBER CAROE: Well, my question is actually directed at Kim.

CHAIRPERSON RIDDLE: Okay.

MEMBER CAROE: Kim, if there are processes -- extraction processes that happen in handling operations that change chemically the extracted material, why would that be considered differently than products on the outside? Why would you --

MS. DIETZ: Well, you -- then you're going back to a definition of the chemical change. And heat is a chemical change. So --

MEMBER CAROE: Well, that's where I think maybe lies the problem is that we do allow chemical changes.

MS. DIETZ: Right.

MEMBER CAROE: And we should allow them perhaps in the consideration of whether a material is synthetic or non-synthetic that are presented for
petition in that same way. So perhaps heat is an allowed treatment of a material and still keep it as non-synthetic. Maybe that's where our problem lies is that we're not being -- we're being too aggressive on those materials in considering them synthetic.

MEMBER KOENIG: You know the heat --
CHAIRPERSON RIDDLE: Rose?
MEMBER KOENIG: Sorry. I don't want to get mixed up with heat because even with proteins, you can use heat. It denatures it. If it comes back together, it's not synthetic. You know so heat is just a -- you know, it's like a buffer, you know it could be like one of these acids or, you know, certain things can take things away.

We're showing that in those -- that's why you can't -- in a way, you have to look at the document in its entirety. These were definitions. But they're also based on those -- to help understand those chemical reactions. But sometimes when you start picking apart, you know talking about chemical reactions and extractions, we're getting mixed up.

We're not saying that heat isn't allowed.
You know we're not saying that.

MEMBER CAROE: What is on the table at this time? Are we voting on --

CHAIRPERSON RIDDLE: Well, the entire motion as amended is what's on the table.

MEMBER CAROE: Okay. Well, I have another issue with this and I don't even know if this is the appropriate time to bring it up because we seem like we're revisiting the last motion.

PARTICIPANT: You need to be on the mike.

CHAIRPERSON RIDDLE: Well, no. Yes, right now what's on the table is the --

MEMBER CAROE: The entire document.

CHAIRPERSON RIDDLE: -- the entire document as amended.

MEMBER CAROE: Okay. Well then I have another.

CHAIRPERSON RIDDLE: Okay.

MEMBER CAROE: In that same section on extraction, the sentence that is any synthetic substance used, that sentence may not be appropriate if we're talking about crop extractions where you have
allowed synthetic extract solvents.

PARTICIPANT: What?

MEMBER CAROE: If you have a solvent that is allowed as a synthetic.

PARTICIPANT: Right.

MEMBER CAROE: So this says any synthetics. It doesn't say any prohibited synthetics. It says any synthetics. If they're --

CHAIRPERSON RIDDLE: I see what you're saying.

MEMBER CAROE: So all I would like is the addition of the word prohibited.

CHAIRPERSON RIDDLE: Okay. Would you so move?

MEMBER CAROE: I move.

CHAIRPERSON RIDDLE: Okay. Is there a second?

PARTICIPANT: Could you show me and read the sentence there?

CHAIRPERSON RIDDLE: Okay. It's the last sentence in the extraction paragraph. And Andrea is proposing adding the word prohibited right after the
first word any. So it would be any prohibited
synthetic substance to make it clear that if it is an
allowed synthetic, it's okay to remain in the product.

So is there a second to her motion?

MEMBER CAROE: Julie seconds.

MEMBER WEISMAN: I second.

CHAIRPERSON RIDDLE: Okay. Julie seconds.

Well, the only thing so far the Board determined that
she had a direct conflict was on that sentence she
proposed which really was relevant to her business.
This is a general topic as I see it unless someone
challenges that.

MEMBER KOENIG: Yes. And I understand where
Nancy is coming from. Yes, I do.

CHAIRPERSON RIDDLE: Pardon?

MEMBER KOENIG: Are we challenging the
motion or are we discussing the motion?

CHAIRPERSON RIDDLE: Well, neither. We're
just establishing whether Julie can second the motion.

MEMBER KOENIG: Oh, I'm sorry.

CHAIRPERSON RIDDLE: Okay. No one
challenges that. Julie can second. And we're going
to now discuss inserting the word prohibited.

Nancy?

MEMBER OSTIGUY: I think it is redundant because we're -- it has to be on the national list. It wouldn't be on the national list if it wasn't prohibited if it was on the national list. It's circular.

MEMBER CAROE: No, it's not.

MEMBER OSTIGUY: It is.

MEMBER CAROE: We're talking about the solvent.

CHAIRPERSON RIDDLE: Okay. One at a time.

MEMBER OSTIGUY: Great. But the solvent has to be on the national list. If it is synthetic, it has to be on the national list to be able to use it.

MEMBER CAROE: No, it doesn't.

MEMBER KOENIG: But that means remains the same.

MEMBER OSTIGUY: Right. If it remains. This doesn't remain. It says that remains in.

MEMBER CAROE: What I'm saying is that by saying prohibited, you're going back to what we just
said in the beginning that nothing is prohibited as long as it doesn't remain.

MEMBER OSTIGUY: Yes.

MEMBER CAROE: Okay. We just stated in the first thing that go ahead, guys, use whatever you want as long as you don't change the chemistry and it's not in the final product in significant levels.

MEMBER OSTIGUY: Then it's okay.

CHAIRPERSON RIDDLE: Okay. Andrea?

MEMBER CAROE: So what I'm trying to establish is that allowed synthetics may remain. And right now the way it is written, any synthetics may not remain.

MEMBER KOENIG: No, no. Let me explain.

CHAIRPERSON RIDDLE: Okay. Rose?

MEMBER KOENIG: The ones that are on the list are on the list because they have remained. Okay? Those that are listed is because they have remained and they, therefore, have made the substance synthetic.

CHAIRPERSON RIDDLE: Yes, anyone else? Nancy? And Jerry?
MEMBER DAVIS: Well, I agree with Nancy that Andrea's problem with this in saying you would need to put any prohibited synthetic, you don't need that. When you read the end of the sentence, it says if that synthetic remains, it must be on the national list.

MEMBER OSTIGUY: Right.

CHAIRPERSON RIDDLE: Yes.

MEMBER KOENIG: Do you understand, Andrea?

MEMBER DAVIS: It takes care of the problem.

MEMBER CAROE: I withdraw the motion.


Okay, so we're back to the full document as amended. Any further discussion? Concerns?

Rose?

MEMBER KOENIG: I just wasn't quite sure where we were on what we voted on. We never changed our vote.

CHAIRPERSON RIDDLE: There's been one amendment accepted and that's the sentence at the end of the extraction section.

MEMBER WEisman: And what about the
amendments to Section Two?

CHAIRPERSON RIDDLE: Oh, well, the ones that
-- those were already -- yes, I'm sorry -- so, yes,
those were friendly presented by the presenter.

PARTICIPANT: This is guidance, correct?

CHAIRPERSON RIDDLE: Yes, this is guidance
to the Board and TAP and petitioners probably. Right.

Okay. Bea?

MEMBER JAMES: I guess I'm just wondering if
we really fully addressed Arthur's concern. I'm not
sure if we did.

MR. NEAL: I think -- get me if I'm wrong --
we all agreed that extraction is allowed whether it be
a handling operation -- really extraction is a
handling function so all of them -- anybody who
performs an extraction is going to be a handler. So
there's no need to create a distinction between
handlers who do extracting because all of them are
handlers. All extractors are handlers.

So we can't create a distinction that says
handling operations that extract food ingredients,
this document does not cover them because anybody who
is going to be performing an extraction is going to be a handler.

And just because they're extracting -- I mean they're extracting an agricultural product so they're going to be covered by this document regardless if you create a distinction or not legally.

So I'm just saying I know that you voted but we won't be able to do much with what you've amended.

CHAIRPERSON RIDDLE: With that sentence.

MR. NEAL: Right.

CHAIRPERSON RIDDLE: Okay, Jerry?

MEMBER DAVIS: I would make a motion then that upon clarification from Arthur that we remove the inserted language in that last sentence.

MEMBER OSTIGUY: Second.

CHAIRPERSON RIDDLE: Okay. There's now a motion to -- we've got the second already -- that's Nancy, yes. So motion to remove the sentence we just added. And Nancy seconded.

Any further discussion of that? Rose? And then Kevin.

MEMBER KOENIG: I mean since I've written
this document and I don't understand it, I still -- I really need somebody to -- I just don't -- I don't get it, Goldie. I just don't understand what you're implying. If you could explain it because -- you know, and again, I'm not taking it to the level you are. And I know that's why I can't figure it out.

But this was meant to state that for substances that would be petitioned to the list, that they could be extracted, you know, in any manner, blah, blah, blah. Whether they're used on the crops list, the handling list, and the livestock list, okay?

CHAIRPERSON RIDDLE: Arthur, a response?

MEMBER KOENIG: Now --

MR. NEAL: Well, the problem isn't with the document. The problem was with the amendment to your document.

MEMBER KOENIG: Okay. Now I understand -- how does that amendment impact it? That's what I don't understand. That amendment, what does it actually do? Because I can't understand the baby food thing.

MR. NEAL: The amendment attempts to create
an exclusion for people who only extract food ingredients. And food ingredients are agricultural products. Am I right?

So if the definition in OFPA says that synthetic is a substance that is formulated or manufactured by a chemical process or by a process that chemically changes a substance extracted from a naturally-occurring plant, animal, or mineral source, how can I then create an exclusion through a document for an operation who is extracting a food ingredient from a naturally-occurring plant or animal or mineral source just because they desire to use it food? I can't.

CHAIRPERSON RIDDLE: Okay. I'd like us to - - Kevin, did you have a comment?

VICE CHAIRPERSON O'RELL: Arthur, do we have the same scenario with number two where we have formulation and manufacturing. And we also say formulation or manufacturing as defined in this section is not intended to address the processing of food? I'm trying to understand the distinction between that phrase there and having it in the
extraction section as well.

MR. NEAL: What paragraph?

CHAIRPERSON RIDDLE: Page two, item two, first paragraph.

MR. NEAL: Right here?

CHAIRPERSON RIDDLE: Middle of the paragraph.

VICE CHAIRPERSON O'RELL: It was added. Formulation or manufacturing as defined in this section is not intended to address the processing of food or an agricultural product by handling operation.

MR. NEAL: I'm not sure if that --

VICE CHAIRPERSON O'RELL: And, again, we're talking about to produce agricultural or handling inputs. So I'm just trying to get the clarification if we have the same issue with extraction. Is this also an issue in your mind?

MR. NEAL: Yes.

VICE CHAIRPERSON O'RELL: I mean.

MR. NEAL: It is but I'm thinking, too, that the sentence right behind it contradicts it as well. This definition applies only to the individual inputs
used in crop handling and livestock operations because the sentence right above it, formulation or manufacturing as defined in this section is not intended to address processing of food. So it's a double -- it's a contradiction.

What I think you're trying to do is you are trying to prevent the processing of food from being considered synthetic.

VICE CHAIRPERSON O'RELL: Or the outcome of processing --

MR. NEAL: The outcome.

VICE CHAIRPERSON O'RELL: -- to be conceived as synthetic --

MR. NEAL: Right, so --

VICE CHAIRPERSON O'RELL: -- because of a chemical reaction that may --

MR. NEAL: -- so from pasteurizing apple juice, from pasteurizing milk --

VICE CHAIRPERSON O'RELL: Pasteurizing milk --

MR. NEAL: -- it would not become --

MR. JONES: -- denaturation of milk
protein, it's not synthetic.

MR. NEAL: Right. That gets into the processing section. Number three. And it gets into the chemical reaction sections. And I think that's where some of the other elements that are really of concern have to be worked out.

It's not necessarily -- I think that we all agree, like I said earlier, that extraction is allowed. And that once I extract something, as long as I haven't changed what I intended to extract, I'm non-synthetic.

What I do with it after that is where the rubber then meets the road. So if I'm talking about through the extraction process I'm trying to extract soy protein but when I extract it, I really -- I've got another substance. I don't have soy protein.

I have got something different than what I intended to extract from the bean. Then I've got -- I've violated OFPA's definition of synthetic. Or I've now made a synthetic substance because I've created a chemical change through the extraction.

We agreed that if I'm going to add something
else to the ingredient that I've extracted, it's got to be on the national list. It's as simple as that.

It doesn't get you into synthetic or non-synthetic. It's just simply I've got to put the substance on the list.

Now for processing, I would suggest we continue to go through the document because I think, just like with apple juice, if I'm going to add anything to it, it's got to be on the list. If I'm going to extracts, it's got to be on the list.

So let's continue to move. But extraction is allowed. Anything you add to the extracted substance has to be on the list. It doesn't make it a synthetic. But it just means that the synthetic substance that has been added to it has to be on the national list.

CHAIRPERSON RIDDLE: Okay. Well, we have a motion to remove that sentence on the floor. So I'd like to proceed with the vote. And since Julie recused on adding the sentence, she should recuse on removing the sentence as well. And you were going to be the first in line.
MEMBER WEISMAN: Do I have to say I recuse? Is that important?

CHAIRPERSON RIDDLE: It wouldn't hurt.

MEMBER WEISMAN: I recuse.

CHAIRPERSON RIDDLE: Okay.

Andrea?

MEMBER CAROE: Now the motion is for the removal, so I say yes.

CHAIRPERSON RIDDLE: That's true. Yes means remove.

Goldie?

SECRETARY CAUGHLAN: Yes.

CHAIRPERSON RIDDLE: Kevin?

VICE CHAIRPERSON O'RELL: Yes.

CHAIRPERSON RIDDLE: Dave?

MEMBER CARTER: Yes.

CHAIRPERSON RIDDLE: Rose?

MEMBER KOENIG: Yes.

CHAIRPERSON RIDDLE: George?

MEMBER SIEMON: Yes.

CHAIRPERSON RIDDLE: Bea?

MEMBER JAMES: Yes.
CHAIRPERSON RIDDLE: Hugh?
MEMBER KARREMAN: Yes.
CHAIRPERSON RIDDLE: Michael?
MEMBER LACY: Yes.
CHAIRPERSON RIDDLE: Gerald?
MEMBER DAVIS: Yes.
CHAIRPERSON RIDDLE: Nancy?
MEMBER OSTIGUY: Yes.
CHAIRPERSON RIDDLE: The Chair yes. So now we've got 12 yes, and zero no, well, one absent, and one recusal.
Okay. So we're really back with the original document.
(Laughter.)
CHAIRPERSON RIDDLE: But as amended with those friendly amendments that Rose presented in the beginning. So we've extracted -- we've added and extracted and subtracted.
PARTICIPANT: Have we made a chemical change though?
CHAIRPERSON RIDDLE: We're going to if we don't get a break. We're going to make some physical
changes.

   Yes, okay. Can we move to a vote on -- okay. Nancy?

MEMBER OSTIGUY: Do we still need to -- we still need to so something with the remainder of it before we move on.

MR. NEAL: I thought you were working section by section.

MEMBER CAROE: Yes, we're working section by section.

PARTICIPANT: So are we just going to take a ten minute?

CHAIRPERSON RIDDLE: Well, okay. Are there more significant concerns that it is going to take a lengthy discussion you think? You never know.

MEMBER KOENIG: Well, I think four is -- I mean we need to go over four.

CHAIRPERSON RIDDLE: I hate to take a break in the middle of discussion.

MEMBER KOENIG: Well, like I said, we're going to see some chemical reactions on the floor.

CHAIRPERSON RIDDLE: It sounds like we need
MEMBER KOENIG: I need to.

CHAIRPERSON RIDDLE: All right.

MEMBER KOENIG: I drank too much iced tea.

CHAIRPERSON RIDDLE: I feel the pressure also. All right. We will take a 15-minute break and then resume our discussion. So ten after three please.

(Whereupon, the foregoing matter went off the record at 2:58 p.m. and went back on the record at 3:17 p.m.)

CHAIRPERSON RIDDLE: All right. Let's resume consideration of the synthetics, non-synthetics document. And right now it is as presented by Rose with those few amendments that she presented. And that's it.

So what additional concerns or comments are there? We took a break and we were just reconvening. There is nothing new. That was defeated or removed.

PARTICIPANT: What paragraph are we --

CHAIRPERSON RIDDLE: Well, we would be, I believe, at number two or three -- three, good.
That's better than two. Three. What's that? So three is really restating what is in the rule. I don't know if there are any concerns with that? That's just to reinforce that approved processing methods are allowed by organic handling operations.

Okay, number four, the chemical reaction or chemical change shall be understood to mean -- any concerns with that paragraph? Arthur?

MR. NEAL: Based on our previous discussions, I think that we need to talk about ionic transfers with respect to chemical reaction from the extracted substance. Because if we're talking about allowing extraction and agreeing that synthetics can be added to it after the fact but the synthetic has to be on the national list, then it is an okay process.

So we don't want to get into the situation that any agricultural ingredient that is extracted that has a synthetic added to it now becomes a synthetic substance. That gets into your food ingredients.

Any food ingredient that is extracted but has a synthetic added to it would become a synthetic
substance. That's why I think a lot of attention was focused on trying to protect processing because processing, you know, you take agricultural ingredients but you add additives that are on the national list, you may add, you know, some other things.

And that would get you into chemical reactions. But if you look at the definition of synthetic in the act, that's two tiered. The first one talks about -- let's go here real quick -- a substance that is formulated or manufactured by a chemical process.

And I think purely that's talking about you starting out with chemicals. And you're creating a substance using chemicals.

Then you've got the second tier that talks about or by a process that chemically changes a substance extracted from a naturally-occurring plant, animal, or mineral source.

The act allow for extraction but it wouldn't be feasible for the act to allow for extraction of an agricultural naturally-occurring product but then say
if you add a synthetic to it, now it is synthetic as well. It wouldn't make sense for you to even allow extraction. But you can't combine the extracted substance with anything that is synthetic.

PARTICIPANT: Come again?

MR. NEAL: Comment?

CHAIRPERSON RIDDLE: Nancy?

MEMBER OSTIGUY: Yes. That ends up opening up the door to too many things. Well, we'll use our protein isolate as an example again. The extractant material, the base which reacts then with the protein chemically changes that protein. As long as that base was on the national list, it could be used and the product of that reaction would be non-synthetic by what Arthur is describing.

And the difficulty with that is there is a point where if you take a non-synthetic, react it with a food, it's not non-synthetic any more.

MR. NEAL: Okay. And I'm talking here -- if you are using soy protein as an example --

MEMBER OSTIGUY: Well, and that's not the one that I'm necessarily concerned about at all.
MR. NEAL: Okay. So let's look at then -- and this gets the industry into its issue of chemical reaction because cake goes through chemical reaction. Bread goes through chemical reaction.

And just as processing is allowed in the definition -- I mean extraction is allowed in the definition of processing in the regulation, so is baking.

MEMBER OSTIGUY: Correct.

MR. NEAL: And heating.

MEMBER OSTIGUY: Correct.

MR. NEAL: And those are allowed in the act. So now we're back in the dilemma of cooking food and food becoming a synthetic substance. They are in the act, right. So it's hard to create a distinction between extraction for the purposes of petitioning a substance for inclusion on the national list and extracting just in day-to-day handling functions.

MEMBER KOENIG: Why? Because specifically they're two different sections.

CHAIRPERSON RIDDLE: Can you speak into the microphone?
MEMBER KOENIG: Oh, sorry. Even though they are both in the act, they are in two different, separate sections, one dealing with -- well, I'd have to go back -- I don't know the act inside and out but if I recall, one deals with materials. The other specifically deals in the section of handling.

And the act, as I understand it, you either -- you know you're talking about handling or you're talking about materials or you're talking about crops. Just because something is allowed in crops doesn't mean that it is allowed in -- you know even your standards, you know, standards -- those sections are for specific uses.

So what you are implying is that anything that is written there is fine in any application within your act. I don't think the act is written that way. But I'm not a lawyer.

MR. NEAL: No. I'm talking about processes right now from the standpoint of the same ingredient that a handling operation would process in the handling facility could be used as a food ingredient and it could be used as a crop amendment or it could
be used feed ingredient. But the process is the same.

So what we have to do is make sure that our 
thinking and logic concerning chemical change is 
consistent as well because the same way a chemical 
change takes place in creating a substance for crops, 
the same way a chemical change takes place in baking 
food or creating a substance for livestock.

So you have to apply chemical change 
consistent across the board.

MEMBER KOENIG: No, you don't.

MR. NEAL: Well, what we're trying to do 
right now is acknowledge the fact that extraction is 
allowed. And what Nancy brought up was that just 
because a substance is extracted, it does not 
automatically mean that a synthetic can be added to it 
and that's okay.

MEMBER OSTIGUY: No. If you extract a 
substance with a synthetic, you were saying that that 
-- an extracted non-synthetic is extracted with a 
synthetic, the product, you were saying, is still non-
synthetic even though that synthetic extractant 
remains chemically bound to the material that now is
the product.

MR. NEAL: If it has been extracted and has undergone a chemical change just through the extraction process, it would then violate the definition of synthetic. But if I've extracted the substance -- if I've extracted a substance and I still have that same substance, it's okay.

But if I've added something to it after I've extracted it, it doesn't mean that the substance now is synthetic. It means that the substance that I've added to it may be synthetic and has to be on the national list.

MEMBER OSTIGUY: Right, right. So that's what I'm saying. That you have a substance that is used as the extractant that is on the national list. You extract a food product. So you're starting with a food, you extract --

MEMBER KOENIG: I know what you're getting at.

MEMBER OSTIGUY: Well, then you explain it to him.

MEMBER KOENIG: Well, I think what you are
specifically talking about was -- and correct me if I'm wrong. I don't want to bring it up if we don't want to talk about it. But it is the sodium lactate concept and the way you interpreted that, is that what you're trying to get at?

MR. NEAL: That's a different issue.

MEMBER KOENIG: Okay. All right. Another issue. Okay, so all right. Then I don't know what you're talking about with this issue.

MEMBER OSTIGUY: Okay. We start with a food product and we want to extract it. That is non-synthetic. We then take a synthetic that is on the national list because it has to be because it is going to be in the product of that extraction. So there has been during that extraction a chemical reaction that has occurred that has embedded that solvent, the extractant, into the original food item.

And you're saying that that's then a non-synthetic?

MR. NEAL: No. If it has not been attached to anything -- if you don't have any of that solvent --
MEMBER OSTIGUY: Okay.

MR. NEAL: -- in the extracted material. Let's say I've only got the extracted material.

MEMBER OSTIGUY: Okay. So what you're doing --

MEMBER KOENIG: I know what you're saying now.

MEMBER OSTIGUY: So what you're doing --

MEMBER KOENIG: There are some -- okay, sorry.

MEMBER OSTIGUY: What you are doing is you are taking then a non-synthetic, using a synthetic on the list as the extractant. There is a chemical reaction that happens but the end product in that molecule of the end product, the natural still remains a natural.

MR. NEAL: Intact.

MEMBER OSTIGUY: It has nothing from the solvent itself.

MR. NEAL: Right.

MEMBER OSTIGUY: Okay.

MR. NEAL: Now, the second part is this.
I've extracted it. The extracted substance is still intact. Now I add something to it.

MEMBER KOENIG: Right.

MR. NEAL: Now, chemical reaction should not be associated with the adding something to --

MEMBER KOENIG: Right.

MR. NEAL: -- the extracted substance. It should be considered that I'm adding a synthetic substance to the extracting material. And that added synthetic substance has to be on the national list.

Because if you don't look at it that way, that means that I've got flour and I'm adding I guess you could say milk to it. I've got a mixture. Then I bake it. It's going through a process that is now having a chemical reaction.

So now I'm calling bread synthetic.

MEMBER KOENIG: No, no, no.

MR. NEAL: No?

MEMBER OSTIGUY: No.

MEMBER KOENIG: I think we have a multi-step process.

MEMBER OSTIGUY: No. I think what we have -
CHAIRPERSON RIDDLE: One at a time. Nancy?

MEMBER OSTIGUY: Yes, I think I finally understand.

We have several processes now. Okay if we start with the original. For simplicity's sake, the soy protein isolate. We have a non-synthetic that we add a synthetic material to it. There is a chemical reaction.

And that chemical reaction then results in the non-synthetic being bound to the non-synthetic. That end product then would be synthetic. If you start then -- that's number one.

If you start with a synthetic -- non-synthetic food. So we're taking your bread and milk idea -- or, excuse me -- wheat and milk idea. So if you add wheat to milk and you get bread, yes, there's a chemical reaction. But both of your precursors are naturals --

MEMBER KOENIG: And allowed.

MEMBER OSTIGUY: Yes, and the baking is one of the approved things that are allowed to do.
MEMBER KOENIG: In processing.

MEMBER OSTIGUY: And then the one that I think is in question is if you take then a non-synthetic, let's say again flour, and you are going to be using a synthetic. You're deciding that you are going to use baking soda -- not baking soda, excuse me, baking powder.

PARTICIPANT: Say you bleach the flour.

MEMBER OSTIGUY: Okay, okay, bleach the flour. So you do have a chemical reaction that is happening there because the bleaching process is a chemical reaction. Then the question is is that product, which is just bleached flour, is that a synthetic and, therefore, has to be on the list in order for us to --

MEMBER KOENIG: No, it doesn't. The bleach has to be on the list.

PARTICIPANT: How was it bleached? How was it bleached?

MEMBER KOENIG: The bleach does, not the --

MEMBER OSTIGUY: The bleach, right.

MEMBER KOENIG: That's consistent with what
we're doing. So what's the issue though in that chemical reaction.

CHAIRPERSON RIDDLE: Use your microphone, Rose.

MEMBER KOENIG: I follow what you're saying. But so where is there conflict? I don't understand where the conflict is in our --

MR. NEAL: There wasn't necessarily a conflict. But we need to clarify because here in number four, the last sentence talks about protein configuration changes as the result of physical association of an added substance.

MEMBER KOENIG: Right.

MR. NEAL: This needs to probably be stricken due to the fact that we acknowledge that a synthetic can be added to an extracted substance. But the synthetic would have to be on the national list. But if we consider it to be a chemical reaction, then it makes the extracted substance a synthetic substance just because I've added a synthetic to the extracted substance.

CHAIRPERSON RIDDLE: We, I'm sure, aren't
catching this on the transcript. I'm sorry.

PARTICIPANT: Can't hear you.

MR. NEAL: Barbara said then we would be making the flour a synthetic substance because I've added bleach to the flour and caused a chemical reaction.

MEMBER KOENIG: No, because with the --

CHAIRPERSON RIDDLE: Rose?

MEMBER KOENIG: Well, because you were bringing up protein isolate and that's the example for this, the physical changes.

MR. NEAL: But the principle still should be applied across the board.

MEMBER KOENIG: Right. But the difference is that in the protein isolate, okay, what we're saying is that the isolate, the thing that we're extracting, the last stage is, in fact, chemically changed. That the buffer isn't coming in after. We're not adding something after.

It's the presence of that buffer that has changed that protein. It has changed as an isolate. That particular extraction product has chemically
changed if you agree with number four.

MR. NEAL: Well, then one of the things that would have to be clarified then what is the level of insignificant? What is the insignificant level? And the technical or functional effect?

MEMBER KOENIG: Okay.

MR. NEAL: Because that has to be applied consistently as well.

MEMBER OSTIGUY: I would actually argue that the chemical reaction that has occurred is number one. Not the protein configuration for the soy protein isolate because we have added --

MEMBER KOENIG: No, but they're not -- well --

MEMBER OSTIGUY: You know yes, the protein configuration has changed. But what makes the difference between a protein configuration change that is acceptable and a protein configuration change that is not acceptable is, you know, cooking an egg, frying an egg changes the protein configuration.

MEMBER KOENIG: Yes, it is an added substance. You're saying --
MEMBER OSTIGUY: It's the added substance. Not the protein configuration.

MEMBER KOENIG: Right.

MEMBER OSTIGUY: So I suppose we could delete --

MEMBER KOENIG: But it's from --

MEMBER OSTIGUY: -- protein configuration and we still would -- we would get to our intent without, I hope, messing up making bread.

MEMBER KOENIG: But the thing with the protein, it's not really -- it's an ionic reaction. Okay, that's fine. It would be covered.

MEMBER OSTIGUY: Does it work?

MEMBER KOENIG: Well, I think so.

MEMBER OSTIGUY: Okay.

MEMBER KOENIG: I mean you'd have to argue that it's an addition --

MEMBER OSTIGUY: Right. It is.

MEMBER KOENIG: -- reaction to that protein. And that ion. It's an ionic charge that is causing the protein configuration.

MEMBER OSTIGUY: Yes.
MEMBER KOENIG: All right.

CHAIRPERSON RIDDLE: So do you have some changes to the language to propose?

MEMBER OSTIGUY: I would move that we delete and for protein configuration changes as the result of a physical association of an added substance. And that's, in essence, repetitive is my argument.

MEMBER KOENIG: Let me just check one -- I need to look at one thing though before we -- I've got to go back to my Chemistry 101.

(Laughter.)

CHAIRPERSON RIDDLE: Good thing we have it. It's actually right there at that document.

Okay. So there's a motion and a second. Moved by Nancy. Second by Julie to strike and for protein configuration changes as the result of a physical association of an added substance.

MEMBER OSTIGUY: And I would argue --

CHAIRPERSON RIDDLE: I assume we would move the and in front of three as a part of that.

MEMBER OSTIGUY: Oh, we actually put an and after -- or before three. So we'd have one, two, and
three. So there is going to be an and inserted before the number three.

CHAIRPERSON RIDDLE: Yes.

MEMBER OSTIGUY: And a period after the parenthesis.

I would argue that protein configuration changes -- well, the way that this sentence is written, the added substance is covered under number one because you are either adding or combining reactions. Actually it would also include deletion reactions.

CHAIRPERSON RIDDLE: Okay. So we have the motion and a second. Is there further discussion?

MEMBER KOENIG: Yes, I just have a --

CHAIRPERSON RIDDLE: Rose?

MEMBER KOENIG: Something we just have to think about. You know -- and again, I don't have a vested interest in protein isolate. We just brought it up.

CHAIRPERSON RIDDLE: Rose, it's hard to hear.

MEMBER KOENIG: Oh, sorry. I'm sorry that
these things are kind of far. Denaturation is really
the -- in proteins is really where you get the change.

MEMBER OSTIGUY: Yes.

MEMBER KOENIG: It's where you lose
activity.

MEMBER OSTIGUY: Yes.

MEMBER KOENIG: What that last one, four,
did was say that you can -- you don't have to
necessarily denature a protein. You can just change
the configuration, which actually changes its physical
properties.

MEMBER OSTIGUY: Yes.

MEMBER KOENIG: Okay. And that's what
happens to soy protein isolate. You are changing the
physical solubility of that protein with association
of those ions, okay? And that's why four is in there
because we can all see that denaturation causes it.

And you're right. In a lot of the
denaturation reactions, it might be with things that
actually cause a chemical change as in these other --
and the reason why -- like true denaturation could
come in by addition and combination, I guess,
decomposition. There may be a lot of ways that protein changes.

MEMBER OSTIGUY: Yes.

MEMBER KOENIG: That fourth one was to show that there can be physical changes. And that's why I said it's controversial. Some chemists feel that chemical changes are, in fact, chemical changes.

MEMBER OSTIGUY: Yes.

MEMBER KOENIG: Where some chemists say that physical changes are not chemical changes.

MEMBER OSTIGUY: Right.

MEMBER KOENIG: And that's why I said that last one is the most contentious. And that is what we have to -- that's where if there's going to be a fight in this document, that's where -- the only argument I see.

MR. NEAL: The principle, though, impacts everything else.

MEMBER KOENIG: Right.

MR. NEAL: Yes. The principle of it impacts everything else. So I wouldn't want to take this down the road of going there because it's not worth it.
MEMBER KOENIG: What do you mean you wouldn't take it down?

CHAIRPERSON RIDDLE: Nancy and Julie had their hands up.

MEMBER KOENIG: I'm sorry.

MEMBER OSTIGUY: Okay. I'll give an example --

CHAIRPERSON RIDDLE: Andrea, I'm sorry.

MEMBER OSTIGUY: I'll give an example of just a configuration change that is significant and why I would actually agree with the chemists that argue that a configuration change is important.

Hormonal activity. You still have exactly the same components. All the carbon, all the hydrogen, et cetera, is identical. And if you change that configuration at all, it's no longer active. So configuration alone can determine activity.

Now it may not be important for what we want to do. I don't know.

CHAIRPERSON RIDDLE: Okay. Andrea?

MEMBER CAROE: My question is a little bit broader than just the motion on the table. But it
impacts the motion on the table.

CHAIRPERSON RIDDLE: Thanks for the warning.

MEMBER CAROE: I'm just warning you. Okay.

So I have some understanding of chemistry but not food and food processing to this degree. But if you caramelize onions, are you not chemically changing and developing sugars when you do that?

MEMBER KOENIG: But we're not talking about --

MEMBER CAROE: No, no, no.

MEMBER KOENIG: All right.

MEMBER CAROE: What I'm getting at is these definitions, would that become a synthetic because you are chemically changing --

MEMBER KOENIG: We're not talking about --

MEMBER CAROE: But cooking, you know, you can say --

MEMBER KOENIG: What I'm saying --

MEMBER CAROE: -- adding heat in a laboratory is cooking.

MEMBER KOENIG: Yes, but what I'm saying is in the case of -- we're talking about, again,
extracted substances. And what I'm saying is why -- you know and why I'm using soy protein isolate as an example is because it is before its -- like Arthur said, we can all agree, once it is extracted, you can do -- you can, you know, process it in food.

But what I'm saying, in the case of some of these proteins, we're talking about as the extraction goes on, there may be a chemical change in proteins called -- you know, that are result of a physical association with a buffer.

MEMBER CAROE: Okay. Then I would suggest that this section four is actually a subsection under section one because it only applies to extraction. It does not apply to synthetics in general. It is only applying to extracted materials.

Because right now the way it is formatted, it's talking about any chemical reaction forms a synthetic.

MEMBER KOENIG: No because the preamble says what the purpose of it is. And we're defining it based on that definition. I mean it could be -- I'm not opposed to -- if people think they want to
reorganize it. But I don't think it's -- I think the
document tells you what it's trying to do.

CHAIRPERSON RIDDLE: So we have -- you made
a motion to delete number four. You still want that
to be deleted?

MEMBER KOENIG: Yes.

CHAIRPERSON RIDDLE: Okay. Yes?

MEMBER OSTIGUY: What we're actually
discussing is part two of the synthetic definition.
So the first part is the substances formulated or
manufactured by a chemical process. It's the second
part that is hanging us up because we're taking
materials, substances, from plants, animals, or
mineral sources. So that gets us messed up in
processing.

So -- and extracted deals with that second
one, not with the first one. So if removing four from
number four helps us not interfere with processing, I
don't think it is going to substantially change our
overall intent with materials. I think we're still
going to be able to capture the things that we should
be able to capture.
CHAIRPERSON RIDDLE: Okay. Any other discussion on the motion to delete number four? Rose?

MEMBER KOENIG: Well, just to -- I don't personally have a problem with it. I mean I'd rather get resolution on protein. The only thing that I wouldn't mind if anyone out -- because I know there are a few chemists out there because I'm not sure of the implications of it. I mean keeping it in is safer because it just gives you -- I don't know. Is there anybody in there that has come forth?

CHAIRPERSON RIDDLE: And you'll be doing --

MEMBER KOENIG: I'll put it out to the audience.

CHAIRPERSON RIDDLE: -- a detailed response. I really appreciate your engagement in this. But he'll be looking at it again, I hate to say.

MR. NEAL: Yes. And it will be important because the question is going to be at what point in the extraction process of a natural process has a chemical change taken place.

CHAIRPERSON RIDDLE: Right.

MR. NEAL: So it will still be important
because if I'm extracting protein and I've still got the same protein that I've extracted, we'll have to identify at what point will a change have taken place if we're trying to clarify the definition of synthetic in OFPA.

CHAIRPERSON RIDDEL: Yes.

MR. NEAL: A change takes place when the protein has an ion added to it. A chemical change takes place if the protein is attached to the solvent. That's going to have to be clarified.

MEMBER KOENIG: Well, see attachment -- well --

MR. NEAL: Or the solvent is attached to the protein.

MEMBER KOENIG: Can I?

CHAIRPERSON RIDDEL: Yes.

MEMBER KOENIG: The only thing is that as long as I guess -- and that comes back to the -- see, that's the whole thing is I just think that four, in some ways, has to be in there based on that presence of a solvent that makes -- see, I still think whether it's there or not, I think protein -- something like
soy protein isolate, based on our definition, still becomes synthetic because it does have a functional effect. But --

CHAIRPERSON RIDDLE: Nancy? And then I would like to vote on this.

MEMBER OSTIGUY: Yes. I know I made the motion. I'll give you another example of a situation where you change the protein configuration and you don't have a chemical reaction as far as we know.

There are macromolecules that can insert themselves into DNA so that you read the DNA improperly. So it structurally changes the DNA molecule so that it is not readable, you know. You get a mutation.

MR. NEAL: And it may just need to be looked at closer.

MEMBER OSTIGUY: Yes.

CHAIRPERSON RIDDLE: Now what's that?

MR. NEAL: It may need to be looked at closer.

CHAIRPERSON RIDDLE: Well, right. And by keeping it in there, it stimulates a closer look.
So we still want to take a vote on removing it?

MEMBER OSTIGUY: You really don't have to.

CHAIRPERSON RIDDLE: Well, we don't have to if you withdrew.

MEMBER OSTIGUY: Oh.

CHAIRPERSON RIDDLE: But that's fine. We will. We will vote. Okay. So the motion is to remove that item -- sentence number four at the end of section number four on chemical reaction. So everyone is clear on that.

And we start with Andrea. So to vote yes is to remove.

MEMBER CAROE: I'll abstain.

CHAIRPERSON RIDDLE: Abstain.

Goldie?

SECRETARY CAUGHLAN: I just don't have enough information. I will abstain.

CHAIRPERSON RIDDLE: Okay.

Kevin?

VICE CHAIRPERSON O'RELL: I'll go yes.

CHAIRPERSON RIDDLE: Yes to remove?
VICE CHAIRPERSON O'RELL: Yes.

CHAIRPERSON RIDDLE: Okay. Just wanted to be clear.

Okay, Dave?

MEMBER CARTER: I'm going to abstain.

CHAIRPERSON RIDDLE: Rose?

MEMBER KOENIG: No.

CHAIRPERSON RIDDLE: No.

George?

MEMBER SIEMON: No.

CHAIRPERSON RIDDLE: Bea?

MEMBER JAMES: Abstain.

CHAIRPERSON RIDDLE: Hugh?

MEMBER KARREMAN: I decided a little while ago to abstain.

CHAIRPERSON RIDDLE: Oh, yes. You're not just joining the trend.

(Laughter.)

CHAIRPERSON RIDDLE: Okay, Michael?

MEMBER LACY: No.

CHAIRPERSON RIDDLE: No.

Gerald?
MEMBER DAVIS: No.

CHAIRPERSON RIDDLE: Nancy?

MEMBER OSTIGUY: No.

CHAIRPERSON RIDDLE: On her own motion.

(Laughter.)

CHAIRPERSON RIDDLE: That's okay.

Julie?

MEMBER WEISMAN: Yes.

CHAIRPERSON RIDDLE: Julie sticks with it there. Oh, boy. This is -- I mean it is defeated. The language is retained.

Oh, the Chair votes no. I'm sorry.

So that's one, two, three, four, five, six - whoops, I did the nos first. One, two yes. Six nos. Five abstentions. And one absent.

PARTICIPANT: How do the abstentions go?

CHAIRPERSON RIDDLE: They go with the majority. And the majority is no. The motion fails and so we're back with the language as presented.

Okay. Anything else on number four?

(No response.)

CHAIRPERSON RIDDLE: Moving on, number five,
substance. Any problems with that? Concerns?
Comments?
(No response.)

CHAIRPERSON RIDDLE: Seeing none, six? The substances created by naturally-occurring biological processes. Comments on that? Rose?

MEMBER KOENIG: Yes. I just wanted, I guess, to make it clear that we're -- what's allowed is that direct product from the natural substance. It's not a combination of natural substances that then produce another product. So we're saying, you know, the direct byproduct, you know substance created by natural process is allowed.

But that doesn't mean that by -- if you had somebody that came up with a substance that was a combination of all these things, that's a different identity. And I think it's understood. But I just want to make that statement.

CHAIRPERSON RIDDLE: Okay.

MR. NEAL: That's the issue.

CHAIRPERSON RIDDLE: Arthur?

MR. NEAL: One of the questions that is
going to have to be answered, where is that prohibited in the regulations or the act?

MEMBER KOENIG: It really would be a separate INS number. That goes back to the sodium lactate.

MR. NEAL: But where is tank mixing prohibited in the regulations or the act if all ingredients are approved for use in that production category? Say crops, for instances, all of the ingredients are allowed for use. Tell me how can USDA tell a producer that they cannot tank mix those ingredients if they are mixed.

MEMBER KOENIG: But I agree in crops and in livestock, it is somewhat an exception in food because of the fact that everything has to be petitioned. Any new substance, any new synthetic.

MR. NEAL: I understand.

MEMBER KOENIG: And so that is your case right there because it does have a separate chemical abstract, you know.

MR. NEAL: That's not recognized in the regulations or the act.
MEMBER KOENIG: Yes, it is because it said every substance must be petitioned. And because you - that's what I'm saying, you know you have one substance and you have another substance. It's true if it was processed, you know we'll go back to processing versus an ingredient, okay.

We're acknowledging that the process aspect of handling allows the cooking. And those things can happen. But when you combine Ingredient A, B, C, and D, each one of those ingredients have to be on the list because you're not --

MR. NEAL: They're on the list.

MEMBER KOENIG: -- when you combine -- if you combine A and B, okay, and they make that reaction in your plant through your processing, it's okay.

But if you buy it already made as a separate substance that now you are adding, that has to be petitioned.

CHAIRPERSON RIDDLE: Yes, that's a new substance.

MEMBER KOENIG: It's a new substance.

MR. NEAL: I understand what you're saying.
If you take that to the court, it's the same product. Ingredients are individually listed on the national list. And the regulations do not prohibit it. I'm just trying to be real with you here.

I understand the concept and the philosophy. I do. Legally, I don't see how you prevent it.

CHAIRPERSON RIDDLE: Keith?

MR. JONES: You know I think what Arthur is really getting at is that when you're out in the field and you have this regulation in front of you and you have substances that are on the list, as he said, there is no legal prohibition against tank mixing those substances.

Whether or not once tank mixed those substances create an additional synthetic material is beyond the knowledge base of the user of this regulation. Okay. You just don't know, okay?

MEMBER KOENIG: Agreed.

MR. JONES: And you wouldn't know.

MEMBER KOENIG: Agreed.

MR. JONES: And so because you don't know and because there is not a prohibition, then it is an
allowed practice to use those substances, tank mix them, and be in compliance.

MEMBER KOENIG: I don't disagree with that. But what we're saying is -- what I'm saying, Keith, I totally agree with you. We're in agreement on that.

But what I'm saying is that so -- and that's what I'm saying, if somebody was making Product A, okay, and they took individual things on the list that were approved and, you know, mixed them and created either a spray for their crop or a food, it would be okay.

But if they went and purchased them already mixed together in a formulated substance that wasn't those original two, it's a whole different substance. It's -- because -- it is, Barbara -- it's just -- that's -- you know, there's --

MR. JONES: Yes, I think our response to that, Rose, is that's an interesting argument. It probably, though, wouldn't hold up, okay? Because you're allowing -- I mean the flaw in the argument is that you are allowing the practice to go essentially within a facility. I step off the facility and I
can't do it? That -- you got a problem there, okay?

MEMBER KOENIG: No. All right. This one just seems -- I would beg to disagree and I think that it's pretty straightforward in that how can something -- if chemistry -- if chemists and the way chemists classify their own chemicals acknowledge that, you know, sodium lactate, that one thing is separate and another thing is separate.

I'm saying that as long as those two separate things are placed as ingredients, we acknowledge that we're allowing processing and it's being processed. That if through that processing you have changes, that's okay.

But I'm saying if you started with that ingredient as a separate ingredient, it is not lactic acid as you are adding it. And it is not -- well, whatever the other one was. It's sodium lactate, which is totally different. It's not on the list.

MR. NEAL: This is where the problem comes in to play. The petition process states in the Federal Register that I cannot petition a formulated substance. It says that I must only petition
individual ingredients, individual active ingredients.

If my individual active ingredients are on the national list and the petition process says that this is not for the review of formulated substances, we're sending that message that if the individual ingredients are already looked at and approved, and you buy a product that contains all approved active ingredients, you are okay.

MEMBER KOENIG: No, but what I'm --

CHAIRPERSON RIDDLE: Yes, if I can say something.

MEMBER KOENIG: Okay.

CHAIRPERSON RIDDLE: I mean these are chemical compounds. These are not formulated substances.

MEMBER KOENIG: Right.

CHAIRPERSON RIDDLE: And there are numerous chemical compounds on the national list. They aren't single elements. And, you know --

MR. JONES: The point that Arthur is trying to make is that if I had -- if Compounds A, B, and C are on the national list and I go buy a commercially-
available product that contains Compounds A, B, and C

MR. NEAL: It's been formulated.

MR. JONES: -- and nothing more, in other
words, nothing more --

MEMBER KOENIG: Right. I agree with you.

MR. JONES: -- no violative inerts, okay.

We would not be able to take an enforcement action
against that individual. That is just a straight up
and down fact, okay?

CHAIRPERSON RIDDLE: Yes, Nancy?

MEMBER OSTIGUY: I agree. But you are
talking about different things. If what you have
purchased is A, B, and C, and it's A, B, and C in that
bottle, absolutely.

MEMBER KOENIG: Right.

MEMBER OSTIGUY: That is --

MEMBER KOENIG: We're in agreement.

MEMBER OSTIGUY: -- okay.

MEMBER KOENIG: We agree.

MEMBER OSTIGUY: But if you've purchased A,
B, and C and they've reacted to make Q, Q is a new
molecule.

MEMBER KOENIG: Yes.

MEMBER OSTIGUY: It's a new substance. So -

MEMBER KOENIG: And that's our point.

MEMBER OSTIGUY: -- and we can argue about this but no chemist is going to say that if you've reacted them that it is not Q.

CHAIRPERSON RIDDLE: Kim?

MS. DIETZ: Okay. We've done this before. We've talked about CAS numbers. And if you're talking about --

MEMBER KOENIG: Right. That's what I'm saying.

MS. DIETZ: -- right. If it has a new CAS number, then past Boards and this Board has agreed that it needs to be petitioned because it is a new substance.

MEMBER KOENIG: Right.

MS. DIETZ: And we've tried to incorporate that into the petition process but if A, B, and C is on the list but it produces a new CAS number because
that's a recognized chemical, it has its own MSDS sheet, it has its own chemical abstract number, then that material does need to be petitioned.

It doesn't mean -- it doesn't prevent you from making that in your plant by using A, B, and C. I could make it and not have to petition it.

MEMBER KOENIG: In your product.

MS. DIETZ: But --

MEMBER KOENIG: In your product.

MS. DIETZ: -- in my plant in my product, right.

MEMBER KOENIG: In your product.

MS. DIETZ: Right. Correct. But if I bought that from a supplier, it has a separate entity because it has a separate MSDS sheet.

CHAIRPERSON RIDDLE: I've got Andrea then Kevin.

PARTICIPANT: So why are okay to make it but not okay to buy it?

MS. DIETZ: Because I'm not buying it as a finished product. I'm buying it as individual -- I am buying A, B, and C individually. Let's -- I mean --
MS. ROBINSON: And you are making Q?

MS. DIETZ: Yes.

MS. ROBINSON: Okay. So why are you okay when you make Q but I've violated the regs when I bought Q?

MS. DIETZ: When I buy A, B, and C, I receive MSDS sheets from my chemical supplier.

MS. ROBINSON: No, no, no, no, no. Kim, you make Q.

MS. DIETZ: Right. But I'm not selling Q. I'm using Q in my plant.

MS. ROBINSON: I don't care. It doesn't matter.

MS. DIETZ: Okay.

MS. ROBINSON: This program isn't about selling or buying.

MS. DIETZ: Okay.

MS. ROBINSON: You're talking about the end result of something. And we both got to the same end result. The only difference is I went and bought Q. You made Q.

MS. DIETZ: Yes.
MS. ROBINSON: You said that by making Q, you're all right.

MS. DIETZ: Right.

MS. ROBINSON: When I went and bought Q, I violated the rules. How?

MEMBER KOENIG: I'll tell you that. Okay.

CHAIRPERSON RIDDLE: Well, okay, actually I'll let you answer that if it is just limited to that.

MEMBER KOENIG: Well, I'm trying to answer that.

CHAIRPERSON RIDDLE: But then I have Andrea and Kevin waiting.

MEMBER KOENIG: Okay. Because if Kim is making -- if she's just doing A and B with no food involved, if she's a chemical manufacturer and making it, no, she is in violation.

But what Kim is trying to say is that she's got an ag product, you know --

CHAIRPERSON RIDDLE: An organic product.

MEMBER KOENIG: An organic ag product and she's adding A and she's adding B. And in the
processing, because processing is allowed, if those happen to combine as you are processing to form Q, that's okay. But if you're purchasing that ingredient as Q, Q has to be on the national list.

MS. ROBINSON: You changed my question.

MEMBER KOENIG: No. You asked what Kim --

CHAIRPERSON RIDDLE: Okay. We've got Andrea. I'm sorry. Maybe we'll regroup.

MEMBER CAROE: Okay. Well, let me just -- I know exactly where Barbara is coming from.

CHAIRPERSON RIDDLE: All right.

MEMBER CAROE: So if I'm a small operation and I'm only making the end product, I'm a two-person operation and I have to buy pre-prepared ingredients, I'm held to a different standard than the larger operation that has the capacity to make their ingredients.

MS. ROBINSON: You are?

MEMBER CAROE: If I am a small operation and I cannot combine A, B, and C and make Q and I'm forced to purchase Q, I can't do it. But if I'm a large operation with the resources to do that on my
facility, then I can.

CHAIRPERSON RIDDLE: Kevin?

VICE CHAIRPERSON O'RELL: Well --

MS. DIETZ: Look at CO2 as an example. If I
buy CO2 -- I'm sorry, if I buy CO2, it's on the
national list and it has to be on the national list
because it is a substance and it has a CAS number. If
I make CO2 in my plant, if I combine ingredients to
make CO2, I don't have -- it does not -- and those two
things are allowed, they're naturals, then I don't
have to have that on the national list. It's the same
substance.

PARTICIPANT: Good question.

MS. ROBINSON: Again, I think you've
confused my question.

MS. DIETZ: Okay.

MS. ROBINSON: My question is you are
hinging this -- the question that I believe I asked
because the question -- the issue you posed, A, B, and
C are all on the national list, agreed?

MS. DIETZ: Right.

MS. ROBINSON: A, B, and C are approved.
MS. DIETZ: Agreed.

MS. ROBINSON: Keith makes A, B, and C in his plant together and comes up with viola -- Q.
I am very poor. I can't put A, B, and C together in a tank because I don't have the tank. I go down to Walmart and buy Q. It contains A, B, and C, all on the national list.

Now you think the certifying agent should come after me. But because he has the tank and he can mix it, we both have Q. We both actually --

All right. Let me just do this differently.

Now I'll be the mathematician. Q equals A, B, and C.

MEMBER KOENIG: Right.

MS. ROBINSON: Wait, Rose. If Q equals A, B, and C and A, B, and C are on the list, then by definition Q is also on the list. I'm sorry, folks. But take me to court over this. And I think I'll win if I just bought Q. And I don't think you're going to prevail in that. I think that's the bottom line.

Come at this another way then.

MS. DIETZ: As a handler, we do that all the time. If they're on the national list and you make
it, you justify why you did what you did. And those materials on are on the national list.

CHAIRPERSON RIDDLE: Kevin? You've been very patient.

VICE CHAIRPERSON O'RELL: Actually I've been waiting so long to say this but Barbara actually said what I was going to say. I mean I don't see the distinction from a compliance issue. I mean I understand we're trying to chemically say that it is a different component. We all agree that it is a different component.

But when somebody can do it in a plant and they have a two-step process in their plant and they have a tank here and Tank A and B, and they mix those components and then pump that over into the next tank -- they pump Q over from putting A, B, and C -- from a compliance -- I get it from a compliance side. I don't know how you can differentiate that.

CHAIRPERSON RIDDLE: Rose?

MEMBER KOENIG: The only thing is that -- and again I think it is similar to the way annotations are on the list, I don't think when people add -- when
we ask for petitions on the list, okay, they're usually for a specific purpose, okay, for leavening of bread.

And so some of those with annotations would mean that the use would only be in bread. That you couldn't take now sodium bicarbonate -- you know, they're not all -- everything is not equal.

So what you are basically saying is -- because what I'm hearing and I don't think that was how people added things to the list -- but you are basically saying if you want to limit ingredients on that list to specific purposes and you have to annotate it -- just like the fellow -- he probably did us a favor with annotating it for us when he came up with those annotations of what they were for but you're saying if we want to control how something is utilized in processing for specific uses, we have to annotate it for those specific uses.

Or they can be combined to make anything.

MS. ROBINSON: That's correct, Rose.

MEMBER KOENIG: Okay.

MS. ROBINSON: I think you are right. I
think that's where you would have to go. If you don't want to see A, B, and C combined in any kind of way because you've got concerns about C -- A and B are perfectly fine with you. You don't care if people roll them, smack them, burn them, you know, whatever. But C is the one that gives you heartburn, then you annotate that C cannot be combined with any other this or that.

But that's what you do is you do it through your annotations or something like that. But you can't just blindly put things on the list and then come back and say hey, wait a second. Because we can't -- we just can't enforce on that basis.

MEMBER KOENIG: So we have come -- sorry.

CHAIRPERSON RIDDLE: Goldie?

SECRETARY CAUGHLAN: We've come pretty well full circle. We're now being advised to indulge in a lot of annotating where as we have been told by NOP, and I'm not being sarcastic, I'm simply saying maybe this is a joint learning.

But four years, five years, we've gone down the road of being told to severely limit all of our
annotations. We've had them cut from many of the things that we've passed on.

MR. NEAL: And I don't think that's Barbara's intent.

SECRETARY CAUGHLAN: I said I wasn't trying to be sarcastic. I'm asking --

MR. NEAL: No, I understand.

SECRETARY CAUGHLAN: -- if we --

MR. NEAL: I understand.

SECRETARY CAUGHLAN: -- base this, that's true.

MR. NEAL: Right. But it is impossible to do anyway because there is no technical evaluator out there that can possibly imagine all combinations that exist. There's no way you could do it.

MEMBER KOENIG: Yes, but's why --

CHAIRPERSON RIDDLE: Rose?

MEMBER KOENIG: -- that's why we'll have to change the petition process because the only way you can get around that is by petitioning for a specific use. Period. If it is so discomforting to the industry, that's the only solution which means it has
to be annotated. There's no way -- or, you're going
to have to do an extensive review of any combination
that could possibly use. And that's impossible.

CHAIRPERSON RIDDLE: Okay. Nancy? You
okay?

All right. So I take it we were talking
about number five there, substance.

MEMBER OSTIGUY: No, six.

CHAIRPERSON RIDDLE: Six? To me it's really
relevant to number five.

MR. NEAL: We're talking about six but it
was relevant to number five.

CHAIRPERSON RIDDLE: Yes, yes. The use of
separate identities of substances in order to be used.

MEMBER OSTIGUY: But we've been talking
about six is what I'm saying.

CHAIRPERSON RIDDLE: Yes, I know. But I did
have a comment on number five once I reread it. And
wonder if there is an oversight at the very end where
it says must be separately listed for use in organic
production or handling. Shouldn't that -- and it's
not limited to production here.
We're talking about either kind of substance -- or substances used in production or handling. Correct?

MEMBER OSTIGUY: Number six you're saying?

CHAIRPERSON RIDDLE: No, number five. The very end of the paragraph just -- shouldn't the words or handling be included there?

MEMBER KOENIG: Yes.

CHAIRPERSON RIDDLE: Okay. If you'd -- I can't make that as a motion. But if you would just suggest it as an addition to you --

MEMBER KOENIG: Yes, I'll suggest to add --

CHAIRPERSON RIDDLE: -- original --

MEMBER KOENIG: -- or handling to number five.

CHAIRPERSON RIDDLE: Okay. And Kevin accepts that?

VICE CHAIRPERSON O'RELL: Yes.

CHAIRPERSON RIDDLE: Okay. All right. Arthur, back to you.

MR. NEAL: Unfortunately, on number five, if you go to 6517 and you look at that particular
characterization in light of 6517(C)(1)(b)(I), it says
the substance contains an active synthetic ingredient.

PARTICIPANT: (Speaking from unmiked
location.)

MR. NEAL: Right. But even Barbara was
saying the synthetic substances are impacted by
Harvey. But still even for made with products in
crops and in livestock, it still is a relevant issue.

And we're going to try to get clarification
from OGC on that.

CHAIRPERSON RIDDLE: Yes. And I agree that
the words active synthetic apply to crops and
livestock.

MR. NEAL: It's the substance contains.

CHAIRPERSON RIDDLE: Yes, contains, okay.

Yes but this still captures it. I mean --

MR. NEAL: Well, no.

CHAIRPERSON RIDDLE: -- it needs to be
broader, doesn't it?

MR. NEAL: This says --

CHAIRPERSON RIDDLE: Because it applies to
the processing.
MR. NEAL: This narrows it. This is saying that a substance -- well, it says includes compounds and elements.

CHAIRPERSON RIDDLE: Right.

MR. NEAL: But it doesn't limit it to compounds and elements, okay.

CHAIRPERSON RIDDLE: So --

MR. NEAL: You're okay?

CHAIRPERSON RIDDLE: -- you're okay?

MR. NEAL: Yes.

CHAIRPERSON RIDDLE: We're okay? Okay. All right.

So there was no change to number six? We had a robust discussion but no change. Okay.

And number seven, non-synthetic. And that's taken directly out of the rule, correct?

MEMBER KOENIG: Correct.

CHAIRPERSON RIDDLE: Any discussion of that?

(No response.)

CHAIRPERSON RIDDLE: Seeing none, any further discussion of either the conclusion or the document as amended? Diane?
MS. GOODMAN: If you don't mind. Thank you.

And I really --

CHAIRPERSON RIDDLE: Approach the mike and state your name for the record.

MS. GOODMAN: I'm Diane Goodman. I'm a consultant to the industry. And I appreciate your taking my question all of you.

I have a concern about the public comments that were submitted to you by the OTA and other commenters that added substantial suggestions for changes.

And I know that you said, Rose, your committee hasn't had an opportunity to meet yet. But before this Board votes on this particular document, I have a genuine concern from the industry's perspective that you may all not have a handle on what's in this document. You know?

And I feel like even though the comments that may have been submitted, they may not be right on but there were substantial comments and time and energy put into all those comments.

And I would request that you either table
the vote on the entire document until the committee has had an opportunity to meet or even if you think it might be appropriate to call in an expert to help you understand and get your hands around some of this stuff.

So I just wanted to bring that up.

CHAIRPERSON RIDDLE: Okay. Thanks for the reminder.

MS. GOODMAN: Thank you.

CHAIRPERSON RIDDLE: Rose?

MEMBER KOENIG: I just want to say that those comments -- some of those comments and I didn't look through the documents to see if they were the exact same comments but OTA had submitted similar documentation because this is the second time we're looking at it. We were looking at it -- February we got those comments with similar suggestions.

PARTICIPANT: (Speaking from an unmiked location.)

MEMBER KOENIG: Well, I mean I personally looked them over and it goes in a total different direction than -- well, but it's not consistent with
the way that the Board has been functioning since the inception of materials. And I'm not saying this is 100 percent consistent because, you know, there may be some analysis.

But that, like I said, would drop so much stuff off of crops and livestock. I mean essentially large groups would go away because you are looking at bonds now. You're not even looking at chemical reactions.

I mean I'm not saying that bonds aren't involved but --

CHAIRPERSON RIDDLE: So I'm hearing that those comments were taken into consideration. And yes, they are different, but this is the draft that is before us. But thanks.

Nancy?

MEMBER OSTIGUY: On that same topic, Rose was not the only one --

CHAIRPERSON RIDDLE: Your mike is not working or something. Can you speak up? You've got to get closer.

MEMBER OSTIGUY: Rose wasn't the only one
that looked them over. So it's not that the committee didn't look at them. But for where we were going --

MEMBER KOENIG: They don't take us there.

MEMBER OSTIGUY: -- they didn't take us there.

CHAIRPERSON RIDDLE: Okay. Thanks. Thanks for the response.

Okay. George?

MEMBER SIEMON: How many changes did we make?

CHAIRPERSON RIDDLE: Pardon?

MEMBER SIEMON: How many changes did we make?

(Laughter.)

MEMBER SIEMON: Who has kept track of this?

CHAIRPERSON RIDDLE: Well --

MEMBER SIEMON: And I just wanted to ask -- nine people, so both committees voted for this draft and put forward?

CHAIRPERSON RIDDLE: Yes.

MEMBER SIEMON: And there was nine people on the Board that supported this draft?
CHAIRPERSON RIDDLE: Right.

MEMBER SIEMON: We've just got to be clear on this.

CHAIRPERSON RIDDLE: Right. And the only changes that have been made have been quite minor.

MEMBER SIEMON: Quite minor?

CHAIRPERSON RIDDLE: Yes.

PARTICIPANT: Can you review those for us?

CHAIRPERSON RIDDLE: Sure, what I have -- and make sure that I have them, there ended up no changes on page 1. Right?

And then really three changes at the top two paragraphs of page 2, inserting the words or an agricultural product by a handling operation in three different places. Do I need to point out exactly where? It was after the word food each time. Okay?

And then the only other change was on number five at the end of the paragraph to add the words or handling.

We voted on others but they were rejected. So those are the only -- those are the amendments that have been accepted.
Yes? Bea?

MEMBER JAMES: Before we vote, I wanted to ask the NOP if they are comfortable with this document as it is now?

MR. NEAL: Is it useful --

CHAIRPERSON RIDDLE: Well, they're not -- they're busy right now.

MEMBER JAMES: It's a question for Arthur.

CHAIRPERSON RIDDLE: Yes. Arthur, there is a question for you. If you are comfortable with us voting to submit this to you as it has been amended slightly?

MR. NEAL: It's still probably going to generate some dialogue from our end.

CHAIRPERSON RIDDLE: Yes.

MR. NEAL: Yes, I mean if you submit it, we probably won't accept it from the standpoint of adopting it. We're going to come back to you with more questions.

CHAIRPERSON RIDDLE: Right. This isn't the end of the story. But you have no problem with us voting on it --
MR. NEAL: Nope.

CHAIRPERSON RIDDLE: -- recommending it to you at this point?

MR. NEAL: Collaboration.

CHAIRPERSON RIDDLE: Right.

Kevin, were you trying to get my attention?

Okay. Yes.

Okay. We will vote on the amended synthetic/non-synthetic draft as presented by the Materials and Handling Committees. And on this, as a whole document, we have no one with interests to recuse. Is that correct? If so please speak up.

(No response.)

CHAIRPERSON RIDDLE: Hearing none, we'll proceed.

And the first up is Kevin.

VICE CHAIRPERSON O'RELL: Yes.

CHAIRPERSON RIDDLE: Dave?

MEMBER CARTER: Yes.

CHAIRPERSON RIDDLE: Rose?

MEMBER KOENIG: Yes.

CHAIRPERSON RIDDLE: George?
MEMBER SIEMON: Yes.

CHAIRPERSON RIDDLE: Bea?

MEMBER JAMES: Yes.

CHAIRPERSON RIDDLE: Hugh?

MEMBER KARREMAN: Yes.

CHAIRPERSON RIDDLE: Michael?

MEMBER LACY: Yes.

CHAIRPERSON RIDDLE: Gerald?

MEMBER DAVIS: Yes.

CHAIRPERSON RIDDLE: Nancy?

MEMBER OSTIGUY: Yes.

CHAIRPERSON RIDDLE: Julie?

MEMBER WEISMAN: Yes.

CHAIRPERSON RIDDLE: Andrea?

MEMBER CAROE: No.

CHAIRPERSON RIDDLE: Goldie?

SECRETARY CAUGHLAN: Yes.

CHAIRPERSON RIDDLE: The Chair votes yes.

So we have 12 yes, one no, and one absent.

Okay. And that was --

MEMBER SIEMON: Let's do something simple like Ag versus Non-Ag.
MEMBER SIEMON: Let's do something simple.

CHAIRPERSON RIDDLE: Well, that is next.

PARTICIPANT: Do you want to check the audience and see if there are any tomatoes out there or anything?

CHAIRPERSON RIDDLE: And before we start, and this really is what I prefer to do is ask if there are any interests to declare before we start on something? Any particular interest relevant to this draft? Ag, non-ag from the -- we're shifting to the Handling Committee.

PARTICIPANT: Jim, will that get posted, every written draft of your recommendations?

CHAIRPERSON RIDDLE: Yes.

PARTICIPANT: Arthur said yes.

CHAIRPERSON RIDDLE: The question is will the revised draft of the synthetic/non-synthetic be posted. And yes, I don't know exactly when. But after every meeting now, the committee chairs submit to me and there is an official cover sheet that goes in. And then once that's happened, then they get
posted.

Okay. So we are to the Handling Committee. And it's ag/non-ag. And before Kevin introduces it, I'll just ask if there are any interests to declare.

PARTICIPANT: You already did.

CHAIRPERSON RIDDLE: Well, I didn't. I got interrupted. I didn't get a look around and sense if there were. Okay. I see none.

All right. Kevin, please proceed.

VICE CHAIRPERSON O'ReLL: Okay. If we thought we had a lot of fun on syn versus non-syn, I think this is a great segue into ag versus non-ag. So we're prepared for a lot of lively debate and discussion, which is good.

The Handling Committee was asked to take a look at the agricultural/non-agricultural definitions for substance. It was found, for some background information, that in regards to the determination and classification of substances as agricultural/non-agricultural, it was felt that the definitions found that in the National Organic Program final rule were sometimes vague and there were conflicts.
And one missing area was that there was really no rule or guidance for the definition of what is and what makes a product agricultural. What is agriculture?

The definition of an agricultural product in OFPA and in the NOP rule is consistent, 7 CFR Part 205, Section 205.2, Terms Defined, Agricultural Product. Any agricultural commodity or product, whether raw or processed, including any commodity or product derived from livestock that is marketed in the United States for human or livestock consumption. And this is consistent both in OFPA and the rule.

However, OFPA did not define non-agricultural. The rule defines non-agricultural substances, again, in the same Terms Defined, Non-Agricultural substance is a substance that is not a product of agriculture such as a mineral or bacterial culture that is used as an ingredient in an agricultural product.

For the purposes of this part, an agricultural ingredient also includes any substance such as gum, citric acid, or pectin that is extracted
from, isolated from, or a fraction of an agricultural product so that the identity of the agricultural product is unrecognizable in the extract, isolate, or fraction.

It was felt that this definition of non-agricultural products was conflicting because there are many processed agricultural products which have been extracted, isolated, or fractioned during processing to a point where they no longer resemble the starting agricultural material.

Example, evaporated cane juice. The evaporated cane juice, organic sugar doesn't resemble sugar cane. And by that definition would appear not to be agricultural.

The Handling Committee had many meetings and discussions around these issues. One discussion centered around the removal of the non-agricultural definition. But we came around full circle to deciding the best thing to do was to recommend a change for the definition of non-agricultural substance.

That definition that was proposed is a
substance that is not a product of agriculture such as mineral or bacterial culture, period, striking the remaining portion of that definition, making it more simple and adding clarification.

The Handling Committee made three recommendations. The first recommendation is the adoption of a guidance document for defining agriculture as it applies to agricultural products.

We felt this was necessary to get some definition and we wanted to look at historical decisions that were made by past Boards in drawing the lines and determining existing substances and where they were placed on the national list. And coming up with a definition that would accommodate the past history.

The second recommendation was for a rule change to the current definition of non-agricultural substance which is, as I previously mentioned, was a shortened version of the existing non-agricultural substance definition.

The third recommendation, the Handling Committee recommended was the adoption of a decision...
tree as guidance in determining a substance's agricultural or non-agricultural status. And this went hand and hand with the recommendation number one in terms of the guidance document.

We heard a lot of public comment, mostly centering around yeast. And we understand that there is a lot of passion for yeast being non-organic.

In the public comment, most of all of the commenters talked about a process in defining organic yeast. And they take yeast, and then using organic inputs, come out with a product that is more along the handling guidelines.

Our concern was, and the commenters who were in favor of yeast being agricultural, didn't really address our issues in their comments in terms of how do we classify yeast? If we say it is agricultural, how does it fit in with the current standards guidelines. How do you do an organic systems plan for yeast?

There have been previous questions, two commenters saying that they feel that they can provide this information. And certainly in our discussion, we
want to take all of that public comment into consideration for the full Board discussion here.

Rose, I don't know if you want to walk through just a brief explanation of the guidance document as we -- do you mind taking us through that for kind of a background of how we got --

MEMBER KOENIG: Well --

CHAIRPERSON RIDDLE: Before you get started, Rose, I do have a question for Kevin.

VICE CHAIRPERSON O'RELL: Yes?

CHAIRPERSON RIDDLE: And that is is your intent here to move this for a vote? Or are we just having a discussion?

VICE CHAIRPERSON O'RELL: Actually our intent, and we talked to the committee before this session, and we decided that we would like to move to put this on the floor for a vote for the full Board to be able to have dialogue. The public is here. They've expressed their comments.

So -- and although we voted on this document and it was a five yes to zero nos, I'm sure that there are some people who voted yes for this, thinking maybe
differently based on some public comment. So I think it is proper for us to put it up for debate.

CHAIRPERSON RIDDLE: Okay.

MEMBER SIEMON: Just for clarification. Does that mean we expect it to come back? Or do we expect this to be the final day?

VICE CHAIRPERSON O'RELL: If we can come to an outcome --

MEMBER SIEMON: Okay.

VICE CHAIRPERSON O'RELL: -- we would hope to come -- to get there. If we have to table it and take it back based on discussion of the Board, we'll go that route.

MEMBER SIEMON: Okay. Well, sometimes we passed -- like we passed the pasture guidance last time just to get it out in the public and get feedback --

VICE CHAIRPERSON O'RELL: Well --

MEMBER SIEMON: -- because we had made some changes. So I'm just trying to clarify this. We're not doing it just to get more feedback. We're doing it to send it forward today.
VICE CHAIRPERSON O'RELL: We may decide that we've changed the document enough that --

MEMBER SIEMON: But we're not done changing it. Oh, I get it.

VICE CHAIRPERSON O'RELL: We might take that approach, George.

MEMBER SIEMON: Okay. Yes.

CHAIRPERSON RIDDLE: But right now, you are just presenting it.

VICE CHAIRPERSON O'RELL: We're just presenting it.

CHAIRPERSON RIDDLE: And then once Rose is finished --

VICE CHAIRPERSON O'RELL: We're just presenting it and then we'll make a motion to move to --

CHAIRPERSON RIDDLE: Okay. Yes? Andrea?

MEMBER CAROE: Based on that fact, I think it might be prudent to set a time limit for a discussion on this. And at the end of the time limit, make a decision on whether we're going to move it for vote or --
CHAIRPERSON RIDDLE: Yes.

MEMBER CAROE: -- or actually vote or table.

VICE CHAIRPERSON O'RELL: Sure. I think that would be good.

CHAIRPERSON RIDDLE: But if you just finish presenting it --

VICE CHAIRPERSON O'RELL: And then we'll make a motion.

CHAIRPERSON RIDDLE: Yes.

VICE CHAIRPERSON O'RELL: Rose, if you'd just give some background on the --

MEMBER KOENIG: Okay. So I was asked to come into the process to help in the definition because when the committee was going to source various definitions, none of them seemed to be complete. Because if you look at ag, in an ag Department, they tend to look at major commodities and they miss out things like mizzuna and bok choy and, you know, all the little weird things.

So, you know, by simply, if you started listing every single agricultural product, you are bound to miss some, okay? So I was striving to take
an approach that would be not biased and arbitrary basically.

And the only other way that I know, you know, having a plant background and background in taxonomy is using the way that taxonomists, whether they are classifying animals or plants, I mean there is a system of classification that exists out there in science that is based on traits. Or different characteristics that distinguish among, you know, different entities, whether they are within a species or not.

So anyway, I thought well, why don’t we take this approach. Maybe we could grasp these broad groups and use, you know, again, the scientific classification so it is very clear what groups we’re talking about.

It was quite easy and I think, you know, we all would agree on them. And that is what this documents is basically saying, that historically in agriculture, people have harvested plants and animals for sure. I don't think there is a debate on that.

And the reason why plants are harvested and
utilized by people is because they go through photosynthesis. They are capable of producing their own energy.

So then I looked at other kingdoms where organisms have the ability to produce their own energy, okay? And that's where -- and then I started looking at those and saying well, which one of these produce things that would be considered, you know, either raised or managed or farmed and that have historically been certified, you know, by certifiers.

And, in fact -- so what I was afraid to miss out would be things like spirulina because we had already put cyanobacteria on our materials list for a particular material. Of course, that meant that we were in agreement that these were certifiable types of organisms.

So the plant kingdom -- so the definition reads that the plant kingdom is allowed, the cyanobacteria -- and those are in a kingdom and they're specific because there are others in that kingdom but those are the only ones that photosynthesize. Okay? So that's the distinction.
That's the characteristic.

The same with the multi-cellular algae. The kingdom Protista, you know, there are single-celled algae. But the multi-cellular algae are the ones that typically are harvested, the ones that have been recognized on the list as agricultural, as byproducts or agriculture ingredients, or, you know, the noris and the stuff that you might eat in sushi. Those cover those.

Then you come to the animal kingdom. And, again, we have livestock standards. So obviously the animal kingdom is allowed.

And then you come to the fungi which are similar, you know, they're problematic because fungi are similar to animals in the type of the way that they get their energy. They absorb their energy just like you absorb food in your gut, you know. Fungi absorb energy. They're non-photosynthesis -- they don't photosynthesize. Okay?

So one of the issues you have, you know when you look at the fungi is okay, are they plants or crops? Or are they animals? What standard have you
used? So when I looked at those, since many folks have come up and said we need mushroom standards, they're talking about edible mushrooms, mushrooms have historically been certified.

And they fit because as in the definition, they have fruiting bodies, ascocarps and basidiocarps, which are multicellular, that you can pick up, you can harvest. You know you can see them with your eyes. They're not microscopic. They have to utilize compost and they can be incorporated in a farming system.

So that was -- the reason why they were included was because of their higher fungi. Mushrooms have a distinct name, you know it's a common name for the edible fungi. And the ascocarp and the basidiocarp are the things -- the fruiting bodies similar to an eggplant that you pick or harvest, okay?

Now when we looked at other areas of the fungi, and we had folks presenting that they wanted yeast to become agricultural, I looked at the classification system and tried to figure out, you know, how are they harvested? How could -- you know is there a way that fits kind of in the concept of
Well, presently on the list, again I was looking at the historical perspective, you know if they are in existence in the program, where do they lie? Well, they happen to lie as a non-agricultural ingredient.

So that was one of the impetus of this document was to kind of figure out -- it wasn't to necessarily change things but it was to present a justification as to why past Boards have decided that they were non-agricultural.

And some of the reasons they're non-agricultural, in my opinion if you use this system of division, was because they tend to be, you know they tend to be single cell. You know they don't have mycelium. They do not produce -- they produce ascus, which one of the mycologists came up with.

And, again, my intention in this document was not to go through yeast biology. It was to try to simplify the matter as much as I could. But they don't produce ascocarps or basidiocarps which are actually the fruiting bodies.
Instead, they are manufactured. The spores are generated. They're grown in vats. They're usually centrifuged. They produce colonies in a day or two. And they don't photosynthesize. You have to give them all their food. So that was the basis of trying to take existing regulation and grouping things so that we could be consistent with our definition as it stood in the present regulation.

VICE CHAIRPERSON O'RELL: Okay. Thank you, Rose.

Since we have with this full recommendation from the Handling Committee to the Board, we have three separate recommendations. It's probably going to be easiest if we take this as three separate recommendations for voting.

So the first recommendation -- I would so move that the first recommendation from the Handling Committee for adoption of the attached guidance document for defining agriculture as it applies to agricultural products that Rose was explaining.

MEMBER SIEMON: I'll second.
CHAIRPERSON RIDDLE: Okay. Kevin moves adoption of recommendation number one. George seconds.

All right. Discussion? George?

MEMBER SIEMON: Yes. Kevin, I'm just concerned that your first recommendation is the guidance to define agriculture.

Your second recommendation is a rule change to change non-agriculture. And I'm just concerned that you are relying on a guidance to define -- you're saying since non-ag is so hard to define, let's define ag in the guidance. But it's in the guidance and the non-ag is in the rule.

And, of course, there is a definition of agriculture in the definitions of the present rule, which you all referred to that's quite -- so I'm just concerned about the layout if this guidance would help us with the rule. I'm just concerned about the way you've laid this out.

VICE CHAIRPERSON O'RELL: Well, okay. The guidance document as it was laid out, the first question that kept coming up to the committee was we
have a definition for agricultural substances. We

don't have a definition for agriculture.

MEMBER SIEMON: It's agricultural product is

what the definition is.

VICE CHAIRPERSON O'RELL: Yes, agricultural

products, yes. But we use the word agricultural as

part of that definition. And that was problematic.

If you look at the definition of

agricultural product, it says any agricultural

commodity. So you're back to defining --

PARTICIPANT: Or product.

VICE CHAIRPERSON O'RELL: Yes.

MEMBER SIEMON: So it's defined itself.

VICE CHAIRPERSON O'RELL: It's defined

itself. And so that's where we felt we needed

guidance first on where we draw the lines for

agriculture.

Okay. So the second recommendation, which

were not going to get into now but just a quick

explanation is just to give some clarification for

what a non-agricultural substance is.

CHAIRPERSON RIDDLE: Jerry?
MEMBER DAVIS: I'm trying to understand what you just said. In other words, the agricultural definition is just kind of there. We have to deal with it. It's defined itself, you know agriculture is defined as production of an agricultural product. So we can't really change that because that's in the industry. It's nomenclature. We can't deal with it?

VICE CHAIRPERSON O'RELL: That's --

MEMBER DAVIS: So we're going to work on non-ag instead?

VICE CHAIRPERSON O'RELL: That's the -- it's both in the law and the rule.

MEMBER DAVIS: Right.

VICE CHAIRPERSON O'RELL: For -- well, non-agricultural substance is not in the law. It's just in the rule. But yes, the agricultural product definition is in both the rule and the law. And any agricultural commodity or product.

So it's using the word agricultural to define itself, which is why we went down the route of trying to get some kind of guidelines as to what is agriculture. What defines agriculture with organic
handling.

MEMBER DAVIS: Okay. And you also mention in here non-agricultural substance --

CHAIRPERSON RIDDLE: Speak into the mike a little more.

MEMBER DAVIS: -- you mentioned bacterial cultures. Is the problem perceived about yeast not being agricultural because it's too much like a bacterial culture? And we don't want to go there as far as making bacterial cultures agriculture also?

VICE CHAIRPERSON O'RELL: Well, there were a couple of reasons. One, historically the past Boards had voted that yeast, by putting in 205.605(A) was a non-synthetic, non-agricultural product. So it was the placement of yeast currently on the list.

And two, is that bacteria is carved out in the definition of a non-agricultural substance and bacteria is a single-cell microorganism as is yeast.

CHAIRPERSON RIDDLE: Andrea?

MEMBER CAROE: I just wanted to clarify, too, one of the reasons why we eliminated language on non-agriculture is because we were trying to avoid a
conflict where something didn't fit in either
category. The present -- the proposed definition for
non-agriculture, as it exists now, is kind of when
it's not -- when it doesn't meet agriculture, it
becomes non-agricultural. So that we didn't get
something that didn't fit into either category.

CHAIRPERSON RIDDLE: Dave?

MEMBER CAROE: Which is why we were
considering eliminating it completely.

CHAIRPERSON RIDDLE: Dave?

MEMBER CARTER: I've been dazed and confused
on a great many issues that have come before this
Board before but nothing to this level.

(Laughter.)

MEMBER CARTER: Because trying to draw this
line and, you know, everything that we do is we're
trying to create a threshold of what falls in on one
side and on the other.

And I really, in trying to go through all of
this, part of this number one is definitions based
upon the past Board action is always a good indicator.

But a lot of the folks that have filed comments are
noting that production practices and the ways of making yeast have changed since a lot of that was
developed.

CHAIRPERSON RIDDLE: I think Rose disagrees.

(Laughter.)

MEMBER CARTER: Okay.

MEMBER KOENIG: No, that's not what they're saying. I mean yeast -- production of yeast has not changed that -- I mean there's different ways you can produce it.

MEMBER CARTER: Practices, no that shouldn't --

MEMBER KOENIG: No, but the practices haven't changed. What they're saying is that they believe the practices of essentially industrial manufacturing are agricultural.

Now I'm not saying that there couldn't be some folks out there that are harvesting, you know, opening their bread and, you know, natural stuff is falling from the air. But that's not what we're talking about. We're talking about, you know, industrial production in usually zoned industrially
areas, not in -- you know you're not going to get an ag exemption for a yeast facility, okay?

MEMBER CARTER: So if we develop access to pasture for yeast --

(Laughter.)

MEMBER CARTER: Okay. Then the other aspect is that -- in one of the comments here that -- let me find it -- from Paul Stamets is talking about certain ones --

MEMBER KOENIG: Coreopsis?

MEMBER CARTER: -- coreopsis --

MEMBER KOENIG: Coreopsis, yes.

MEMBER CARTER: -- that exist in both a fungi or a mushroom form and in a yeast form.

MEMBER KOENIG: Well, what he's saying is that some, you know fungi before they produce those basidiocarps, you know some fungi, you know, that are higher fungi can do -- they can have different life cycles. Some life cycles can be yeast-like but when -- it's the life cycle when they go into that sexual phase -- getting warm --

(Laughter.)
MEMBER KOENIG: All of a sudden everybody is interested. Get that in there. No, but when they get into their sexual phase, which is the fruiting body, that sexual phase is not a yeast anymore. The sexual phase is actually a fruiting body.

And like I say, there was science out there -- I'm not disputing the science, you know, necessarily that was presented. But it wasn't -- they did not challenge the ascocarp/basidiocarp definition which, you know, I don't dispute that there -- you know that some things can have yeast-like lifestyles and also can produce an ascocarp.

But what I'm saying is if they produce an edible ascocarp, then hey they could be -- and you could raise them in compost and you could pick them, then yes, I think the industry has always identified that type as an agricultural product.

But that yeast-like form, if they were doing it in a laboratory and making single cells, I don't think that's the way most folks have been historically thinking of as an agricultural product. And that's the distinction.
CHAIRPERSON RIDDLE: Okay. Hugh? You've got Dave straightened so --

MEMBER CARTER: Well, yes, Dave is still shaking his head. Dave is still dazed and confused.

CHAIRPERSON RIDDLE: Okay. All right.

Well, you think about it while Hugh --

MEMBER CARTER: Yes.

CHAIRPERSON RIDDLE: All right.

MEMBER KARREMAN: Just a question on the cultural practices on how yeast or bacteria -- just wondering if there are different cultural practices in how the yeast is reared. If it is in asexual or sexual reproduction?

And would that determine anything? I mean like if it is stressed, it is under asexual production? Or if it is cultivated, well, you know, then it is in sexual reproduction. You get the fruiting bodies and all that. I don't know.

SECRETARY CAUGHLAN: We need humane treatment.

MEMBER KARREMAN: You need humane treatment of yeast.
(Laughter.)

MEMBER KARREMAN: But are there stressors that make go one way or the other?

MEMBER KOENIG: Well, I mean -- well, if once they go in and they form an ascus, which is their sexual phase, they are -- and, you know, people said are they -- they go through sexual reproduction. I'm not doubting that. But they produce an ascus which is just a structure that has asco spores.

You know these are all microscopic things that, you know, I can't show you a single yeast cell without giving you a microscope, okay? But I can show you an ascocarp because it is visual. You know you can't individually harvest, you know, a yeast cell by hand but you can pick a mushroom, okay?

CHAIRPERSON RIDDLE: Okay. Kevin?

VICE CHAIRPERSON O'ReLL: You know I think that the commenters that were talking about organic yeast and wanting yeast to be agricultural so it could be organic describe mostly an organic systems handling plan of taking yeast and raising it or growing it on organic substrates, which is great.
But it doesn't draw the line of distinction of the yeast itself being agricultural. And that's where we struggled with it. And we're looking for help and comments from the Board as to, you know, what is the direction people feel we should go.

CHAIRPERSON RIDDLE: George?

MEMBER SIEMON: Yes I guess that's the part I'm a little confused about. I don't know anything about this. But if you raising anything in confinement, you've got to have a disease program. You've got to have a pest program. You've got to have nutrients.

So I don't know that I understand why it's more like a handler versus a farm plan. It seems to me they've got to deal with all the same components that you would in a farm plan. You've got to feed it. You've got to water it.

MEMBER KOENIG: No, no.

MEMBER SIEMON: You've got to have the right conditions.

PARTICIPANT: You've got to have the substrate part.
MEMBER SIEMON: You've got to have the substrate. You got -- there's disease. I just don't --

CHAIRPERSON RIDDLE: We have Goldie next.

MEMBER SIEMON: Yes.

CHAIRPERSON RIDDLE: Goldie?

SECRETARY CAUGHLAN: And by -- in the proposed guidance, it talks about, Rose, that one component of designating it as being an agricultural product then is that it is managed by humans. The intentional act of gathering, producing, raising, or growing.

And I would submit that it's not, you know, to me it fits there then that these are very much -- can be accommodated under the -- they are coming from a wild source originally. They can be produced and managed domestically as it indicates.

I mean this has troubled me a great deal since we first talked about it. But as we began to get the comments, I wasn't being swayed because somebody wants to have a product out there that is certified organic. That's not the issue.
To me I think that we are closing ourselves off in a very -- we're narrowing the whole awareness of what is a living organism that has historically -- several of these types of living organisms, including the cultures that go into dairy to make beneficial substances that we take in like acidophilus or things like the cheese-making.

I mean to me there is a continuum or certainly a relationship there that if we begin talking about things as not -- I don't know. This narrowing of the framework that we've come up here with that's making me more and more feel that this is not the direction to go.

CHAIRPERSON RIDDLE: Rose?

MEMBER KOENIG: Okay. I just want to say that first of all, you know, another useful document is the Principles of Organic Farming because whether you're growing yeast or you are growing plants, if it is truly an agricultural product, it should meet the principles of organic farming, okay?

Now not everything is going to meet it to a T, okay? But it doesn't -- Goldie, when they take a
spore, okay, and you put it in a substrate, you first
-- you know what an autoclave is?

SECRETARY CAUGHLAN: Yes.

MEMBER KOENIG: Okay. The substrate is
autoclaved, okay? And basically you essentially kill
any of the biodiversity that might exist in the air,
you know. And in a lot of cases in regular yeast
production -- and, again, a TAP review would be nice.
Maybe we want to prohibit antibiotics and such. But
a lot of times they use antibiotics in that substrate
so that only those particular strains of yeast grow.

SECRETARY CAUGHLAN: I'm suggesting that
it's the classification of saying that these things
are beyond the scope of what we should be granting any
kind of status here that is really what's troubling me
on a much more generic basis.

I would, you know, if I take -- going back
to the wild -- gathering of your wild yeast, any time
a baker who bakes consistently bakes, the wild yeast
come. And you culture them. And you continue to feed
them. You feed them every week. You give them more
flour. You give them more water. And they do the
rest.

So there's all kinds of levels of intentional producing. And, of course, different kinds of levels of that need to be examined and looked at in this regard just like everything else in the realm of what we're here to talk about.

MEMBER CAROE: Rose?

CHAIRPERSON RIDDLE: Andrea?

MEMBER CAROE: Rose, I hear your argument. And I know you are very passionate and very --

MEMBER KOENIG: I'm not -- I'm passionate about agriculture.

MEMBER CAROE: Okay.

MEMBER KOENIG: I'm not -- I mean --

CHAIRPERSON RIDDLE: Okay.

MEMBER KOENIG: -- I'm not passionate about microorganisms.

CHAIRPERSON RIDDLE: Andrea has the floor.

MEMBER CAROE: But my question to you is show me -- cite to me where in the regulation or in OFPA it prevents these practices that you are opposed to because I don't see it.
MEMBER KOENIG: Exactly. Because there are no standards for microorganisms.

MEMBER CAROE: But it doesn't prohibit it.

MEMBER KOENIG: Well, this --

MEMBER CAROE: And this -- hold on one second -- by allowing these practices to be considered as agricultural, we allow those practices to be defined by further regulations and rulemaking.

MEMBER KOENIG: Which is my point.

MEMBER CAROE: We do not -- we don't have any premise to not allow this in the regulation and in the statute.

CHAIRPERSON RIDDLE: Nancy? And then Kevin.

MEMBER OSTIGUY: Does anyone know the original reason for excluding -- this is not working.

CHAIRPERSON RIDDLE: You've got to really get closer.

MEMBER OSTIGUY: I just don't think it is live.

MEMBER KOENIG: I don't know why.

PARTICIPANT: Tap it and see if it works.
MEMBER OSTIGUY: Does anyone -- it's not working. No, it's off.

CHAIRPERSON RIDDLE: Okay.

MEMBER OSTIGUY: So there it goes.

CHAIRPERSON RIDDLE: Okay.

MEMBER SIEMON: Does anybody know why it originally was -- well, I think Rich Stuart might be able to answer that.

MEMBER OSTIGUY: Why were yeast originally excluded?

MEMBER KOENIG: Not excluded. Classified as non-agricultural.

MEMBER SIEMON: I'll just take a stab at it because organic yeast weren't allowed. And they were trying to find a way to have yeast allowed. That's a --

MEMBER OSTIGUY: Organic --

MEMBER SIEMON: -- organic yeast was not available.

VICE CHAIRPERSON O'ReLL: Was nonexistent.

MEMBER SIEMON: But then it did not exist.

CHAIRPERSON RIDDLE: Bea, just on this
MEMBER SIEMON: And we heard testimony that commercial yeast uses synthetics in its process to make it available and, therefore, I know that doesn't help because it is not in the synthetic section. It's called a non-synthetic.

CHAIRPERSON RIDDLE: Just on this --


The petition and the petitioners said that it was non-agricultural. And the NOSB concurred.

MEMBER KOENIG: Thank you.

CHAIRPERSON RIDDLE: Okay.

SECRETARY CAUGHLAN: And Brian, do you have any recollection of a TAP? What was the TAP? What was the quality of it?

MR. BAKER: It was not very well developed. But we went mainly into various substrates. And we looked at substrates from a negative rather than a positive perspective. Rather than requiring organic, we prohibited various petrochemicals and synthetic sources. And that is contained in the annotation in
the current NOP rule.

MEMBER KOENIG: Exactly.

CHAIRPERSON RIDDLE: All right.

MEMBER KOENIG: Thank you.

CHAIRPERSON RIDDLE: All right, Bea?

MEMBER JAMES: Did that TAP review talk about production methods or different ways to culture microorganisms?

MR. BAKER: In a very broad brush sense.

VICE CHAIRPERSON O'RELL: I have them here.

MR. BAKER: You do? Yes. And it's not in any great depth.

VICE CHAIRPERSON O'RELL: No, no.

CHAIRPERSON RIDDLE: Bea, continue?

MEMBER JAMES: Well, it just seems like that is vital information to be able to make a decision about microorganisms being agricultural or non-agricultural is to have information on how they're -- all the different varieties and ways that they are cultured.

CHAIRPERSON RIDDLE: Kevin?

VICE CHAIRPERSON O'RELL: I would have to
say going back to the 1995 TAP, that information would not be helpful in getting us to that point. And if we needed to do that, that's a direction we could go.

Just one -- I guess for me, I'd just like to know the people who support yeast. Then where do we draw the line? Do we go to bacteria because they are single cell. And even though the definition explicitly carves out bacterial culture as an example of a substance that is not a non-agricultural substance, if you include yeast, a lot of the same production methods are going to be applied to bacteria.

And I'm not opposed to saying that if we go that direction, we're going to have to handle it and develop standards. But --

CHAIRPERSON RIDDLE: And I've got Dave next.

Did you have your hand up?

MEMBER CARTER: Yes.

CHAIRPERSON RIDDLE: But first I'm going to organize myself because I do just want to remind the Board that we did have a petition and a TAP on microorganisms within the last two years. Right?
VICE CHAIRPERSON O'RELL: Yes.

CHAIRPERSON RIDDLE: And those were seen as non-synthetic, non-agricultural.

VICE CHAIRPERSON O'RELL: Correct.

CHAIRPERSON RIDDLE: So just -- and there was an in depth TAP on the microorganisms there.

MEMBER KOENIG: From what year?

PARTICIPANT: Look at your book.

MEMBER OSTIGUY: You were on the Board as I recall.

MEMBER KOENIG: Yes.

MEMBER OSTIGUY: Microorganisms.

CHAIRPERSON RIDDLE: It was probably 2003 would be my recollection.

MEMBER KOENIG: Okay.

CHAIRPERSON RIDDLE: Dave?

MEMBER CARTER: Well, that's -- I guess that's where I struggle is, you know, if you draw the line here or if you erase the line here, where do you go? And I always look for -- and, again, you know, using my vast knowledge of food science based upon training in journalism --
(Laughter.)

MEMBER CARTER: -- you know, it just -- there's certain logical points that if it is a living organism, there's a big distinction between non-living and living organisms. And that's a pretty easy threshold. And when you cross that threshold and you get on the side of living organisms, then you can discuss and debate the nuances of production systems and all of that.

It's a lot easier for me to understand that distinction than it is between fruiting bodies and non-fruiting bodies and single cell, you know? So that's why I'm struggling with this.

CHAIRPERSON RIDDLE: George? And then Jerry.

MEMBER SIEMON: It's just so -- if yeast was removed from the list, just to go the other way around because we're talking a lot about yeast, then organic would be required? Or not? I guess -- no, it wouldn't, would it? I heard that said.

MEMBER KOENIG: Say that again.

MEMBER SIEMON: If yeast was removed from
the national list --

CHAIRPERSON RIDDLE: As a non-synthetic --

MEMBER SIEMON: -- then it would be required
on a commercially available basis.

MEMBER KOENIG: Right.

MEMBER SIEMON: Is that correct?

CHAIRPERSON RIDDLE: Right. It would have
to be organic unless it gets petitioned to add to 606.

MEMBER SIEMON: So there is another way to
go at this specifically -- yeast -- you know because I
mean it does seem like it is a real hard subject to
get clear.

CHAIRPERSON RIDDLE: I got Jerry next. Then
Andrea.

MEMBER DAVIS: I'd like to kind of reiterate
in a different way what David just said. It seems to
me the distinction between mushrooms and yeast is
fairly arbitrary based on size mainly. Yes, they are
more multicellular but I think that's pretty arbitrary
to say well single cell is less important or living
than something that has a few more cells.

CHAIRPERSON RIDDLE: Andrea, then Rose.
MEMBER CAROE: I just wanted to speak on George's point about removing it from the national list.

It doesn't really correct the problem if you remove it because if we threw this -- carve it out as non-agricultural, it will remain non-agricultural. You can't consider it agricultural just because it's off the list. I mean this codifies that position on the list.

PARTICIPANT: And conversely.

MEMBER CAROE: And conversely if we take it -- if we amend this to allow yeast to be included, then its position on the present list is in conflict and it will have to be removed.

MEMBER SIEMON: I agree with you. That's why I was asking. I was told there was another solution. There is no other solution then?

PARTICIPANT: Yes, there is.

CHAIRPERSON RIDDLE: And Rose, would you like to explain?

MEMBER KOENIG: I just want --

MEMBER SIEMON: Okay.
MEMBER KOENIG: -- to go back to Gerald's comment.

CHAIRPERSON RIDDLE: Oh.

MEMBER KOENIG: That is not an arbitrary distinction. That's why we use taxonomy. Those --

MEMBER SIEMON: I'm not --

MEMBER KOENIG: -- I'm just saying that that's -- if you think that you are as similar as, you know, yeast are further from edible mushrooms as humans are to dogs. I mean it is the same analogy.

MEMBER SIEMON: Right. I understand.

MEMBER KOENIG: So they are very different. They're not even in the same genus or species.

MEMBER SIEMON: I understand. I know the biology really well. That was my training --

MEMBER KOENIG: Okay.

MEMBER SIEMON: -- in school. I guess what I'm saying I support what David says as far as living versus non-living. I think that's an appropriate thing to consider as the dividing.

CHAIRPERSON RIDDLE: Kevin?

VICE CHAIRPERSON O'RELL: So, Gerald, just -
- so then you would include bacteria? It's living.

MEMBER DAVIS: One of my initial comments when we first started, I think that's the problem that we're grappling with is this opens up things we're not really -- that's going to cause problems -- opening up the bacteria to --

CHAIRPERSON RIDDLE: Goldie. Then Andrea.
Okay. Then Andrea.

MEMBER CAROE: I'm not quite sure it does cause us problems. It changes the landscape. But it does not necessary cause problems. I mean just think about what you're doing. Even if -- I don't even know where bacteria would be used but even if bacteria became allowed -- considered agricultural and was allowed to be organic, it allows for organic bacteria. It allows for that in processing.
It's a different thing. But I don't think it is necessarily all to the detriment. There are benefits.

MEMBER DAVIS: I wouldn't disagree with that. I didn't mean to say -- to use the word problem. It does change things greatly. But not
necessarily problems.

CHAIRPERSON RIDDLE: Yes, Kevin?

VICE CHAIRPERSON O'RELL: You know one of the areas that we have to consider if we draw the line and go in and like I say, maybe that's a landscape we want to go to with microorganisms. But we have to be very careful because we're saying that yeast is available grown on organic substrates and can meet -- there is certified organic yeast in Europe by European standards. But as far as I know, there is no certified organic bacteria in Europe.

So we have dairy cultures. We use cultures that are approved in a lot of the processes that we have today. And if we all of a sudden say they are agricultural, then we're going to have organic bacteria. And I don't see where that exists anywhere else.

CHAIRPERSON RIDDLE: Rose?

MEMBER KOENIG: Okay. If we go back to the -- if you go into your policy manual under our principles of organic production and handling that we've adopted, the first principle is organic
agriculture is an ecological production management system that promotes and enhances biodiversity, biological cycles, and soil biological activity. It emphasizes the use of management practices in preference to the use of off-farm inputs, taking into account the regional conditions require locally-adapted systems.

These goals are met where possible through the use of cultural, biological, and mechanical methods as opposed to using synthetic materials to fulfil specific functions within the system.

Okay? Can we all get by -- and then that is referring to a farm. Okay? Do we agree that the principles are based on farm-based systems?

PARTICIPANT: That sounds like a farm to me.

MEMBER KOENIG: Okay. Can we at least go there? That our principles are that agricultural products are produced on a farm? Okay.

MEMBER CAROE: Jim? I --

MEMBER KOENIG: Now I'm not denying that --

MEMBER CAROE: I don't agree. I don't think that that is solely what it says. It talks about
practices. It talks about the use of systems that don't rely on synthetics.

I mean I still think that you can be consistent with that with a process such as the production of spirulina or the production of yeast. But I can see a spirulina farm. I'm ready to -- I give that concession, okay? I cannot see a yeast farm. You cannot have a yeast farm, okay? You can't have it.

You can have a yeast industrial production facility. You can grow it in autoclaves. I mean you can autoclave it. You can grow it in vats. You can centrifuge it. You can handle it. I'm not saying that.

But fundamentally, organic agriculture has to have some connection to a farm to be classified as agricultural.

CHAIRPERSON RIDDLE: Okay. We're going to wrap up this discussion.

MEMBER CAROE: Just one more.

CHAIRPERSON RIDDLE: Yes, Andrea?

MEMBER CAROE: One more. Enoki --
CHAIRPERSON RIDDLE: You wanted to set a time limit.

MEMBER CAROE: I know. Enoki mushrooms are not grown on a farm. We recognize them as agricultural. They are grown in jars. There's nothing in the rule that says you can't use autoclave. I think the argument is completely emotional. I don't think it is based on statute. I don't think there is statute.

CHAIRPERSON RIDDLE: Well, there have been no motions to amend the draft. There's been a very lively debate. And I guess I would like to see us move to a vote if that's still the will of the Handling Committee Chair.

MEMBER OSTIGUY: I move to defer.

VICE CHAIRPERSON O'RELL: I would move to table this.

MEMBER OSTIGUY: Well, can we defer because it's easier parliamentarily?

VICE CHAIRPERSON O'RELL: Okay.

MEMBER CARTER: Yes. And I second Nancy's motion.
CHAIRPERSON RIDDLE: Okay. So there is a motion to defer and essentially hold the item at committee is what would be the function. It doesn't reject it. So -- and Dave seconds.

Let me see where we're at. And so everyone is clear, this is a motion to defer recommendation number one. Or would we defer the entire thing? Kevin?

Nancy is clarifying that the motion is to defer the entire document.

VICE CHAIRPERSON O'RELL: Yes. Yes.

CHAIRPERSON RIDDLE: Okay. And Dave accepts that.

MEMBER CARTER: Yes.

CHAIRPERSON RIDDLE: Okay. So everybody is clear, motion is to defer the entire draft as presented.

Dave is first.

MEMBER CARTER: Yes.

CHAIRPERSON RIDDLE: Rose?

MEMBER KOENIG: Yes.

CHAIRPERSON RIDDLE: George?
MEMBER SIEMON: Yes.
CHAIRPERSON RIDDLE: Bea?
MEMBER JAMES: Yes.
CHAIRPERSON RIDDLE: Hugh?
MEMBER KARREMAN: Yes.
CHAIRPERSON RIDDLE: Mike?
MEMBER LACY: Yes.
CHAIRPERSON RIDDLE: Gerald?
MEMBER DAVIS: Yes.
CHAIRPERSON RIDDLE: Nancy?
MEMBER OSTIGUY: Yes.
CHAIRPERSON RIDDLE: Julie?
MEMBER WEISMAN: Yes.
CHAIRPERSON RIDDLE: Andrea?
MEMBER CAROE: No.
CHAIRPERSON RIDDLE: Goldie?
SECRETARY CAUGHLAN: Yes.
CHAIRPERSON RIDDLE: Kevin?
VICE CHAIRPERSON O'RELL: Yes.
CHAIRPERSON RIDDLE: Chair is yes so we have 12 yes, one no, and one absent.
I want to acknowledge all of the effort that
has gone into creating that document. It is quite
tought provoking obviously. And it is obviously not
the last time we'll hear it either or see it.

That concludes for the Handling, right?

And so we have three items still from Crops,
correct? The two materials at the top of the list,
soy protein isolate and ammonium bicarbonate are being
continued to be deferred. Is that --

MEMBER OSTIGUY: Yes, both soy protein
isolate and ammonium bicarbonate --

CHAIRPERSON RIDDLE: Microphone.

MEMBER OSTIGUY: -- are deferred waiting for
the decision on synthetics.

And then we are -- the next three items are
compost tea -- the next one is compost tea. The
committee wishes to take this back to incorporate
comments and to hopefully increase the amount of
agreement that we have on the topic. So we actually
would like to defer this in addition.

CHAIRPERSON RIDDLE: Okay. So item number
five, the compost and compost tea is being held at
committee.
MEMBER OSTIGUY: Correct.

CHAIRPERSON RIDDLE: Okay.

MEMBER OSTIGUY: Then guidance on the commercial availability of organic seed requirements, I'm trying to remember what we decided.

CHAIRPERSON RIDDLE: We met yesterday and made an amendment to it to bring it forward with the amendment.

MEMBER OSTIGUY: Okay. Yes. Let me find -- if you look at the current -- what is in the Board handbook, the committee first voted to change a couple of things. I have to remember what we were doing.

CHAIRPERSON RIDDLE: Do we need a little break for you to get reorganized? I hate to let people out.

MEMBER KOENIG: I can -- Nancy, I'll start.

MEMBER OSTIGUY: Sure.

MEMBER KOENIG: Then if you want to add -- the document was similar to the document that you saw on the last meeting except some of the comments -- well, comments that came in were incorporated into the document. D was -- we put in -- they are in bold.
In the first section, if you go under -- everything is the same on page one as what we saw in February. There were no comments that came in on the first part of the recommendation.

Under three, D, wherever you see bold, an and was incorporated and an or was incorporated. I don't remember what the original changes were.

And then D, a written description of research comparing organic and non-organic seeds or planting stock if such information is available.

And what the change was that in other words, I think -- we just said research provided should be conducted using scientific methods. We basically beefed up that section to say that if you're going to do research, it has to be done in a way that reflects real research, you know, using scientific methods.

And say that you are providing proper controls in replications. Research supporting the justification of using non-organic seeds should address the form, quality, and genetic attributes of specific varieties.

When a producer makes a claim that the
varieties of organic seed are not equivalent to a non-organic seed that producer prefers to use, supporting documentation must be provided to the certifying agent. And documentation of on-farm trials should be recorded in the operations organic farms systems plan.

In other words, if you were going to use research for verification of that, we wanted to make sure that it was, in fact, research that was replicated and done via the scientific method. You couldn't just put a thing out and say well, I tried this. I'm doing research because I'm growing three plants. Therefore, I don't have to use organic. So that was the change in that section.

And we didn't get any comments on this new round about changing any of that.

The comments that came in, we deleted sections (c) and (e) from the original document. And that was the comments that -- that was based on comments actually generated from one of the commenters last time.

And we now -- we're considering some of the additional comments that came in after the initial
incorporation. And those were to -- as stated yesterday, to bring back the language in those two sections.

So, Nancy, are you ready to --

MEMBER OSTIGUY: Yes.

MEMBER KOENIG: Okay.

MEMBER OSTIGUY: Okay. So what the -- when the committee met yesterday, what we discussed was -- and voted on was reinserting what was (c) previously in the old version. And the insertion, which would now be (d) is maintain and annually submit to the National Organic Program an up-to-date list of specific non-organic crop varieties permitted by each agency.

So the idea was that then each certifier would have the opportunity to basically collect the information in an organized fashion such that if there was one producer who had diligently searched for organic seed source, didn't find one, but a second producer had been able to, you'd be able to cross reference that information.

Whereas that may not be as easily seen if
you didn't assemble the information. So that was the
goal there.

CHAIRPERSON RIDDLE: And this would not be
the names of the operators or the names of the
companies. It would be a general list of the
varieties. --

MEMBER OSTIGUY: The idea would be --

CHAIRPERSON RIDDLE: -- the specific
varieties.

MEMBER OSTIGUY: -- the varieties, yes.

CHAIRPERSON RIDDLE: Yes. Okay.

PARTICIPANT: Do we have a motion?

MEMBER OSTIGUY: Yes, that was a motion to
insert that.

CHAIRPERSON RIDDLE: Nancy was still
presenting it so now is there a motion to adopt the
amended recommendation from the committee?

PARTICIPANT: Who seconded it?

MEMBER OSTIGUY: Nobody has.

CHAIRPERSON RIDDLE: No, I'm asking is there
a motion?

MEMBER OSTIGUY: Yes.
CHAIRPERSON RIDDLE: Okay. Nancy moves. Is there a second?

MEMBER KOENIG: I second.

CHAIRPERSON RIDDLE: Rose seconds. Okay. It's on the floor, open for discussion.

Andrea?

MEMBER CAROE: Is there any way of capturing geographic feasibility? So -- I mean say there is a particular corn seed available organically in, you know, someplace that is very -- you know, I mean this could be grown in Mexico. And if, you know, the grower is actually in Wisconsin or something like that --

MEMBER OSTIGUY: It's not an applicable corn variety actually in that case because you don't necessarily grow corn -- but I know what you mean. But --

MEMBER CAROE: Yes, don't use my example because I don't know the technical aspects of this. But I'm just thinking, you know, you are talking about anonymity when you're listing these and so you may -- it would show up as there is organic seed available
but it doesn't necessarily mean seed that I can get
because --

MEMBER OSTIGUY: Okay. I'm not requiring --
this statement does not require anonymity per se. It
doesn't require that you keep track of that.

Now depending on the usefulness that you
wish to make of it, you might want to keep track of
region. Something so that you could deal with
legitimate concerns of that sort.

Because yes, you are right. What is okay in
Maine isn't okay in Florida in terms of varieties of
tomatoes that can be grown.

MEMBER CAROE: Well, I'm not even just
talking about varieties. I'm just talking about
logistics of getting that seed, you know.

MEMBER OSTIGUY: Oh, sure, even logistics.
But, you know, all of that because that is -- part of
commercial availability is being able to obtain it.

But --

CHAIRPERSON RIDDLE: The form, quality,
quantity, and equivalent variety. And so we provide
some guidance on equivalent variety, meeting the
operations required, site specific, agronomic, and marketing characteristics.

Goldie?

SECRETARY CAUGHLAN: Did you say -- were you intending this to be mandatory or voluntary? I didn't catch it when it went by.

MEMBER OSTIGUY: This would be mandatory to collect this list.

SECRETARY CAUGHLAN: And zone? I mean I think the word was zone, whatever -- or there must be nomenclature that are preferred within the seed industry as to capturing information.

MEMBER OSTIGUY: We did not specify nor did the recommendation that came from public comment specify exactly what data would be most useful.

CHAIRPERSON RIDDLE: I think they used the same terms variety, not zone or anything like that.

MEMBER OSTIGUY: Yes.

CHAIRPERSON RIDDLE: Rose?

MEMBER KOENIG: And the reason why it was taken out and now reconsidered to put in -- and it's, you know, the benefits -- well, the problems with it
is it puts extra work on the certifiers. The

certifiers are actually the ones that are required to
compile the list from all of their certified entities,
okay?

And then -- so we want to limit that work
yet kind of provide some substantial information. So
what Nancy was referring as far as other data can be
collected, so in house a certifier may want to use the
names or keep track so that they can kind of check the
way they do business.

But what would be forwarded would solely be
lists of what varieties were non-organic that growers
used, which ones were organic. It's simply a
qualitative kind of a list that doesn't give numbers.
It just is a description of varieties.

And then the only thing this says is it goes
to NOP. It doesn't say NOP is required to make a
database. It doesn't tell NOP what to do with that
data. But it does require the information to go to
NOP.

CHAIRPERSON RIDDLE: And information on the
varieties are records that are required to be kept at
this time. They're just not then compiled and forwarded on to NOP.

MEMBER JAMES: Since this a guidance, how would that be regulated or mandated at the certification level?

CHAIRPERSON RIDDLE: Well, I think that's -- I think we'll receive some feedback from NOP if we forward this recommendation to them. There are annual reporting requirements already for all accredited certifiers. And this, you know, hopefully could be rolled into those. But we'll see.

MEMBER OSTIGUY: Jim?

CHAIRPERSON RIDDLE: Yes?

MEMBER OSTIGUY: One of the original recommendations on the change to this was to make the reporting even as often as monthly.

CHAIRPERSON RIDDLE: Right.

MEMBER OSTIGUY: And that was way too excessive. You know yes, there's going to be a lag time as a result. You'll have last year's data now. But at least you have the opportunity to possibly have that data.
CHAIRPERSON RIDDLE: Yes.

MEMBER KOENIG: And I guess what I was alluding to in my comment was that we may -- unless the information is used for some purpose -- that's why I'm saying the purpose hopefully because you're putting the certifiers to work is going to be within office. It's going to be useful so they can record keep.

But we're not guaranteeing any release of that information from NOP. So it may not create the purpose that the commenters have suggested.

So I just want you to realize that we're not suggesting it to go any further, to be used for any other purpose. So to me, it has a very limited application. But I may not be seeing the -- you know, the extreme usefulness. But we decided that -- it was asked and it seemed reasonable.

CHAIRPERSON RIDDLE: Yes. And I can certainly see how it has usefulness to the accreditation process to ensure that this information is being tracked and help bring consistency to the enforcement or compliance with this requirement.
Any other comments on the draft as proposed or as presented?

Hugh? Then George.

MEMBER KARREMAN: On 3A, it says, you know, where an organic producer can receive an allowance to use non-organic seed. And you have to provide written evidence of that for us to locate the source of organic seed. Should there be some kind of -- at least in my experience from the farmers I work with, you know, sometimes they'll just wait too long to look for organic seed. And it's all gone.

And then I think sometimes they're almost planning on that.

(Laughter.)

MEMBER KARREMAN: Sorry, but, you know, and then it might become a problem with the certifier later on. So I'm just wondering should there be some temporal type notation in here that they need to be trying at some point, you know, early in the season or whatever. Something like that. It's not a big thing but I know it happens.

CHAIRPERSON RIDDLE: Response to that?
Because otherwise I have George in line.

MEMBER CAROE: Oh, my response to that is that sometimes the growers don't know what they're going to be planting until the last minute. I mean it's not always that far in advance.

CHAIRPERSON RIDDLE: Right.

MEMBER CAROE: So, you know, there are legitimate situations where, you know, they're going to have trouble sourcing the seed because they're dealing with, you know, a food processor that's buying their crop. And so they're waiting to find out what they're going to plant from the processor, what they want.

And so, you know, I hear what you are saying. And you are absolutely right. I've seen it happen, too. But there are legitimate reasons why they wait to the last minute as well.

MEMBER KARREMAN: Can I respond to that just quickly?

CHAIRPERSON RIDDLE: Yes.

MEMBER KARREMAN: I mean I'm thinking for dairy farmers that have a crop rotation over seven
years or whatever. And they know what they're probably going to be planting.

CHAIRPERSON RIDDLE: That's true but this isn't standard, you know.

MEMBER KARREMAN: Yes, right.

CHAIRPERSON RIDDLE: It encompasses all kinds of production zones, too.

George. And then Julie.

MEMBER SIEMON: Well, I'll just respond to that. The truth is you buy enough seed for what you have. And you may plow a little more land. It's the day you are planting you are out of seed often.

So people have to overbuy is the bottom line. And that's not easy to do always because then the day you are needing it, your written evidence gets right down to desperate phone calls. So that's a whole other issue.

But I was concerned about (D). It seems that, you know, your average farmer is going to try a new type of broccoli. They're going to get some of the organic seed available. See how it works. If it doesn't work, they're going to stick with their old
variety.

To me, this written description with controls and replications, that's not what -- I mean it just sounds awful scientific compared to I'm going to plant a row of this and see how it goes this year.

Is it going to be satisfactory to plant a row of it and see how it goes this year? It's right next to the other. That's the right control replications?

Because that's what people are saying is they just can't get the quality of seed for this quality of end product. And I know there are people who are cheating or whatever you want to call it -- fudging. But --

So I'm concerned about (D) being too -- is it too scientific? Or is it okay? I mean you all have thought about this obviously. And that's what you're trying to say there. You've got to try some of these seeds. Don't just say they don't work. Try them.

I mean I agree with the purpose. I'm just worried it's wordy or too scientific.

CHAIRPERSON RIDDLE: Yes. I've got Julie
next. And then I'd like to comment.

MEMBER WEISMAN: Now I have a response to Hugh and to George. Am I allowed to do that?

CHAIRPERSON RIDDLE: Yes, you've got the floor.

MEMBER WEISMAN: All right. For Hugh, if a farmer, by waiting long enough intentionally, is not going to have organic seed available, it seems like a moot point to me because if he bought earlier in the season, then some other farmer -- I mean if there is not enough for everybody, there's not enough for everybody.

You know someone is going to get that -- you know, someone is going to get that letter. Someone is going to get that approval from their certifier. And that still points to the need that more needs to be available. And we do need to keep track of that.

Now, I'm forgetting --

CHAIRPERSON RIDDLE: George's comment about the on-farm research.

MEMBER WEISMAN: Oh, yes. In Handling, in manufactured food products where it often comes up
with flavors the issue that well, you know, there is an organic flavor available but it doesn't quite, you know, taste the same. And it's not codified.

But I know that there are certain -- many, many -- there are customers who I know are required by their certifiers to conduct panel tests with consumers and show research that consumers could taste the difference.

And, you know, if those panels don't prove that out, then they are required to use the organic.

CHAIRPERSON RIDDLE: Yes, and I just -- I don't have a copy of the previous draft. Jerry, do you have that? Or Nancy?

MEMBER OSTIGUY: Yes.

CHAIRPERSON RIDDLE: Because I share George's concern on the strengthening of the research requirements to determine what works on the farm. And didn't our previous language allow more flexibility? Or did we -- we did have language addressing on-farm research.

MEMBER OSTIGUY: Yes. The old wording was written descriptions of trials comparing organic and
non-organic seeds or planting stock. If the producer makes a claim that the varieties of organic seed are not equivalent to non-organic seed that the producer prefers to use, supporting documentation must be provided to the certifying agency.

Then in parenthesis, certifiers may grant an allowance from the organic seed requirement if an applicant or operator conducts on-farm trials comparing organic and non-organic seed varieties. If so, documentation of on-farm trials should be recorded in the operator's organic system plan.

CHAIRPERSON RIDDLE: Okay, so --

MEMBER OSTIGUY: It's basically the same thing.

CHAIRPERSON RIDDLE: Yes, it's not significantly different. It's just reordered and put in bold.

MEMBER OSTIGUY: Yes.

CHAIRPERSON RIDDLE: But, yes, Rose?

MEMBER KOENIG: The thing that this states, and that's what I was trying to just -- when you're doing the trial -- when somebody is doing research for
the -- when you're doing -- let's assume there's availability but you are claiming an exemption because you say it's not the right function or quality or, you know, it's a measurable difference that you can see.

Okay? And you're going to prove it because you've measured -- you can prove that. That's what I'm saying, to me that brings you in a higher -- that means you're actually conducting sort of the panels or the research.

When you say research in that sense where you're trying to actually say this one has produced -- you know, this reason, you know, you're doing numerical values, then you have to do replicated research with proper controls. It's beyond just a -- this one looked good so, therefore, I think it's better.

Because, you know, if you don't have that in -- and I believe that most farmers -- I'm not saying the farmers have to do it. Maybe they may have to find an extension person or somebody to help them set those things up, but if you're going to say -- you're allowing them to conduct research and you're going to
give them an exemption on the research, then I feel it has to have -- set up like a research plot.

MEMBER SIEMON: But they're not -- they're using organic seed. So there's no exemption. Well, if you're going to use that it didn't work --

MEMBER KOENIG: Here's they're using -- I'm saying the example where the organic seed is available --

MEMBER SIEMON: And they try it.

MEMBER KOENIG: -- there's plenty of supply and they're saying I don't like it because I didn't get good germination, okay? Then they would have had to have done germination tests in a way that they had proper replications and --

MEMBER SIEMON: And not hearsay.

MEMBER KOENIG: -- standard conditions to show that. It couldn't be okay, well, I threw -- you know, I think I put out like 50 seeds and I think 20, you know, it can't be that way. It's got to be scientific, replicated, with controls research.

CHAIRPERSON RIDDLE: Or if they just look at the germination results on that package and the
organic seed is germinating at 80 percent --

MEMBER KOENIG: Right, then somebody else provided that research documentation.

CHAIRPERSON RIDDLE: Right, right.

Andrea?

MEMBER CAROE: So would this allow them to accept somebody else's research?

MEMBER KOENIG: Yes.

MEMBER CAROE: A neighboring farm did this work?

MEMBER KOENIG: As long as that was conducted as research replicated but it doesn't have to --

CHAIRPERSON RIDDLE: No, the first sentence really covers that. So that just limits their own.

Bea?

MEMBER JAMES: Friendly amendment to 3(A).

CHAIRPERSON RIDDLE: 3(A).

MEMBER JAMES: Written evidence of efforts, I think that should be work or labor instead of efforts. I don't think efforts is direct or strong enough. To locate and source organic seed, blah,
blah, blah, blah, and then written evidence many include -- that's a typo. It should be written -- I'm proposing that we change it to written evidence includes, comma, but is not limited to, comma, letters, faxes, e-mail correspondence, and phone calls.

CHAIRPERSON RIDDLE: You lost me.

MEMBER JAMES: Okay. You see where it says --

CHAIRPERSON RIDDLE: Let's start one at a time.

MEMBER JAMES: Okay.

CHAIRPERSON RIDDLE: You started at the beginning.

MEMBER JAMES: (A) Written evidence of efforts -- I'm proposing that we change the word efforts to work or labor because --

CHAIRPERSON RIDDLE: How about attempts?

MEMBER JAMES: Attempts?

CHAIRPERSON RIDDLE: I mean work or labor don't work for me. I prefer efforts. I'm not the maker of the motion.
MEMBER JAMES: Efforts made or attempts. Effort doesn't seem strong enough. It seems optional. It seems like it should be --

MEMBER DAVIS: Does attempt sound more like you actually did something rather than just think about it?

CHAIRPERSON RIDDLE: I think those are -- attempts works.

MEMBER JAMES: Well, those pretty much mean the same thing. So if we're not going to make that change, then we can just leave it as it is.

CHAIRPERSON RIDDLE: Okay.

MEMBER JAMES: And then where there is a dash after organic seed, it says written evidence many include.

CHAIRPERSON RIDDLE: Yes, got that. That should be may.

MEMBER JAMES: Okay. It could be may or you could strike many. And it could be includes comma but is not limited to comma and then go on with the list.

MEMBER OSTIGUY: Yes. I think those are friendly.
CHAIRPERSON RIDDLE: Okay. So it would be strike many and --

MEMBER OSTIGUY: Put the S in there.

CHAIRPERSON RIDDLE: -- written evidence includes comma --

MEMBER JAMES: But is not limited to comma and then your --

CHAIRPERSON RIDDLE: -- but not limited to and then remain the same. Does Nancy accept that?

MEMBER OSTIGUY: Yes.

CHAIRPERSON RIDDLE: Rose?

MEMBER KOENIG: It's fine either way.

CHAIRPERSON RIDDLE: All right. Okay. So it's amended in a friendly manner.

Any other comments? Discussion? Yes, Jerry?

MEMBER DAVIS: Section four, buyer's organic agricultural products that contractually requires organic growers to grow selected varieties should require or provide organic seed or planting stock. Again, that's a should so it's not mandatory.

And -- but at the end, it says if they don't
do that -- if they can't find organic seed or it does not work, the producer must receive written documentation from the buyer describing. So that effectively -- it does bring the buyer in and get them involved. And gives them extra work to do instead of laying it all on the grower.

And I reading that correct?

CHAIRPERSON RIDDLE: Yes, that's the intent. I mean you've picked up on a must versus should there in the same paragraph. But the intent of that is to kind of hold the buyers who contract -- to hold them accountable. Because the grower, it's out of their hands here.

But that buyer typically is also certified and so the certifier could be checking those attempts of the buyer who is actually sourcing the seed.

But we could change both of those to should to be consistent.

MEMBER DAVIS: I don't have a problem with that. I'm just trying to picture the reality of what would happen in the real world if this is put in place.
What avenue would it be documented -- I'm trying to think this through -- on the buyer end that they are actually fulfilling this must?

CHAIRPERSON RIDDLE: That would be in their certification, their organic plan that they are documenting their efforts to source organic seed for their growers.

MEMBER DAVIS: So it essentially just bumps it up to a different level and the grower is no longer the only one on the hook then.

CHAIRPERSON RIDDLE: Right.

MEMBER DAVIS: Okay. So both of them are going to have to be documenting the same --

CHAIRPERSON RIDDLE: Well here the grower has nothing to do with the selection of seed. It's just provided to them. So they wouldn't have to --

MEMBER DAVIS: All right. This is the if the buyer requires something --

CHAIRPERSON RIDDLE: Yes. When it's contracted --

MEMBER DAVIS: Okay.

CHAIRPERSON RIDDLE: -- and the buyer is
supplying the seed, the grower has no choice, then
somebody needs to still be attempting to source
organic.

MEMBER DAVIS: Okay.

CHAIRPERSON RIDDLE: And that is a real life
problem out there right now.

MEMBER DAVIS: Oh, no, I understand.

CHAIRPERSON RIDDLE: All right. Anything
else on this document?

Yes, Julie?

MEMBER WEISMAN: Can someone just remind me
where we went -- we talked before about the original
(C) of this section in terms of the requirements of
certifiers to give back that information -- to report
that information to the NOP. But there was no motion
ever made to restore that, right? To its original
form?

CHAIRPERSON RIDDLE: That's actually part of
the motion from the committee.

MEMBER WEISMAN: Okay. Right. Okay, good.

CHAIRPERSON RIDDLE: It includes the
restored paragraph --
MEMBER WEISMAN: Okay. I just wanted to make sure. I think that should cover it.

CHAIRPERSON RIDDLE: -- that Nancy read.

MEMBER WEISMAN: Good. Okay.

CHAIRPERSON RIDDLE: Okay? Any other discussion?

PARTICIPANT: I'm looking for the comments.

CHAIRPERSON RIDDLE: Well, yes, I think the comments we received were those from eight seed companies presented by Dick --

MEMBER KOENIG: Yes, the only thing that we didn't add -- I mean (C) we amended, (E) we decided not to include --

CHAIRPERSON RIDDLE: Yes, because it was redundant.

MEMBER OSTIGUY: Right. The only other comment that came in during yesterday's public testimony was requesting that we, in essence, put back (E), which was require that operations not meeting commercial availability requirements not be certified organic and that products produced by such operations not be sold or labeled as organic.
The decision by the committee was that that was redundant because that is already the case.

CHAIRPERSON RIDDLE: Okay. So we proceed to vote. And we've got Rose. We're voting --

MEMBER KOENIG: Yes.

CHAIRPERSON RIDDLE: -- on -- all right.

George?

MEMBER SIEMON: Yes.

CHAIRPERSON RIDDLE: Bea?

MEMBER JAMES: Yes.

CHAIRPERSON RIDDLE: Hugh?

MEMBER KARREMAN: Yes.

CHAIRPERSON RIDDLE: Michael?

MEMBER LACY: Yes.

CHAIRPERSON RIDDLE: Gerald?

MEMBER DAVIS: Yes.

CHAIRPERSON RIDDLE: Nancy?

MEMBER OSTIGUY: Yes.

CHAIRPERSON RIDDLE: Julie?

SECRETARY CAUGHLAN: Yes.

CHAIRPERSON RIDDLE: Andrea?

MEMBER CAROE: Yes.
CHAIRPERSON RIDDLE: Goldie?
SECRETARY CAUGHLAN: Yes.
CHAIRPERSON RIDDLE: Kevin?
VICE CHAIRPERSON O'RELL: Yes.
CHAIRPERSON RIDDLE: Dave?
MEMBER CARTER: Yes.
CHAIRPERSON RIDDLE: Chair votes yes. And we've got 13 yes, zero no, one absent.
Okay. I think there is one more item for consideration.
MEMBER OSTIGUY: Yes.
CHAIRPERSON RIDDLE: And we're only five minutes after five-thirty.
(Laughter.)
MEMBER OSTIGUY: This item is, in essence, a carryover from February where we agreed in principle to delineate the natural resource component of the organic system plan on biodiversity management to expand that.
Now I'm not going to remember all the people that helped. Can you help me remember the people that helped us put this together.
CHAIRPERSON RIDDLE: Well --

MEMBER OSTIGUY: Oh, I'm sorry. It's there. It's there.

CHAIRPERSON RIDDLE: You got it?

MEMBER OSTIGUY: The work, the primary work that was done in order to get this to us was done by the Wild Farm Alliance and the National Center for Appropriate Technology. So credit really does need to go to them.

Lots of iteration. Lots of public comment in order to get it to this point. The decision was made fairly early on last spring to go for check boxes because what was found was that the farmers understood more clearly what the goals were.

And part of the reasoning is if the question was asked without the check boxes, the farmers didn't necessarily recognize initially what they were doing.

So not only did the check boxes, as currently structured, improve the reporting of what is being done, but it also, of course, provides additional items that they might consider doing.

So it has both the educational aspect of
what else one can do to increase farm biodiversity.
But also makes sure -- increases the chance that the farmer is going to get credit for what he or she is actually doing already.

So I'd like to move that we accept these additions to Part D of the Organic System Plan on Natural Resources on Biodiversity Management.

MEMBER SIEMON: I second the motion.

CHAIRPERSON RIDDLE: Okay. Nancy moves. And George seconds to adopt the biodiversity amendments to the Model Organic System Plan.

Discussion? George?

MEMBER SIEMON: I guess maybe a dumb question. It says recommend requirements be added to organic system template?

MEMBER OSTIGUY: That is -- the template is what we --

MEMBER SIEMON: But is there such a thing?

CHAIRPERSON RIDDLE: Yes, yes. We adopted that several years ago.

MEMBER SIEMON: Okay.

CHAIRPERSON RIDDLE: And those are posted on
the ATTRA website, among others, and many certifiers have adopted them and put their own logos and modified them slightly.

MEMBER SIEMON: But the farmers -- the certifiers who have not, how will this get out to them is what I'm trying to -- because if it is not in common use, I mean how will this get to all the farmers evenly?

CHAIRPERSON RIDDLE: Well, that is a good question with organic system plans in general. This will be available to any certifier to work from to use to upgrade how they're addressing biodiversity requirements.

MEMBER SIEMON: Yes.

CHAIRPERSON RIDDLE: But they aren't mandatory. And they're --

MEMBER SIEMON: The farm plan is not mandatory.

CHAIRPERSON RIDDLE: Right. The farm plan is mandatory but the model is not.

MEMBER SIEMON: Their template is not.

CHAIRPERSON RIDDLE: Yes, right.
MEMBER SIEMON: All right.

CHAIRPERSON RIDDLE: And we did, just to point out, as Nancy indicated, we received a lot of comments on this from quite a few different groups. And they are in your folder. And all were in support. And none suggested any amendments.

MEMBER OSTIGUY: And it wasn't just groups. It was also a lot of farmers.

CHAIRPERSON RIDDLE: That's true.

Goldie?

SECRETARY CAUGHLAN: Would it not be possible to actually just go ahead also and publish it prominently? I know it's not necessarily for -- you're not asking for -- it's not okay, here's the recommendation. But in some way put it up on the web?

MR. JONES: Yes, the problem, Goldie, is that these are not our documents. They are the Board documents that have been presented to ATTRA. ATTRA has taken them and posted them on their website as examples of farm plans that at least contain all of the elements.

SECRETARY CAUGHLAN: If we endorse this,
could it not be placed on our portion of the website?

MR. JONES: We don't have any way to force -
- to require its use, okay?

SECRETARY CAUGHLAN: No. But for
information, for education, or dissemination --

MR. JONES: Well, I think the problem is,
and as you know yesterday we had a similar
recommendation that came to us where our response to
you was that -- essentially there was no response
because this was directed to a non-USDA agency. Okay?

I suppose we could put it on our website. I
don't think we'd have a problem with that. But you
need to understand that it is there, you know, for
information purposes. And that's about as far as it -

SECRETARY CAUGHLAN: It could state so. It
could state so. My point is -- another thing, Keith,
is because just as during our collaboration and just
as the two audits and so forth on NOP have, I think,
sort of underscored is that there needs to be, I
think, creative ways of communicating information that
is helpful, that is maybe -- maybe somebody comes
there and looks at something that is not going to go
to these other sites.

But they go there seeking more information
about the Board, about the role, about -- and if that
is a way to do it, then that maybe is a good thing to
consider in your overall re-looking at your website --

MR. JONES: Yes, we --

SECRETARY CAUGHLAN: -- because I know that
that needs --

MR. JONES: Yes, we wouldn't have any
problem with posting the information. It would have
to go up with a disclaimer saying this is an example.
It is not binding.

SECRETARY CAUGHLAN: The Board has endorsed
this and blah, blah, blah. And you could even --

MR. JONES: Yes.

SECRETARY CAUGHLAN: -- say this is not, you
know --

MR. JONES: One of the things that we've run
into, Goldie, though -- I mean it's been a problem in
terms of the uniform application of -- when a Board
makes a recommendation such as this and it goes up on
our website, it is seen in many cases by certifiers as binding.

And we've had situations where certifiers would use certain recommendations as a binding requirement. And we'd have to go back and say no, that's not, you know that not the case.

My suggestion would be to get the recommendation to us. I think one of the questions we do have is when the recommendation is really directed to an non-USDA agency such as ATTRA like we talked about, whose responsibility is it to get the recommendation to the non-USDA agency?

Are you expecting us to do that?

SECRETARY CAUGHLAN: I'm only personally speaking about this because I see it --

MR. JONES: No, I understand.

SECRETARY CAUGHLAN: -- as a way to reflect the Board's thinking. Simply that.

MR. JONES: Yes but it does raise a larger question as to is the recommendation actually coming to the Secretary? Or is the recommendation simply going to another non-USDA agency that you have a
relationship with? Okay?

SECRETARY CAUGHLAN: It's a bulletin board. It's a community bulletin board. There should be a section for that, it seems to me, in one of the friendly ways of letting the public know what is happening. I don't know. That's just my thinking. And it's what I've thought for quite some time.

MR. JONES: Okay. Well, your point is well taken. We're not opposed to it. It is not quite as simple as --

SECRETARY CAUGHLAN: It never is.

MR. JONES: Yes. So --

CHAIRPERSON RIDDLE: And at any rate --

SECRETARY CAUGHLAN: I appreciate your consideration.

CHAIRPERSON RIDDLE: -- if we adopt this, it will be submitted to the program as a final recommendation of the Board and appear on the website as a final recommendation of the Board. And other groups can access it from there. And work further with it.

And I do anticipate continuing to be engaged
with ATTRA and Wild Farm to, you know, if this is adopted, to then actually insert it in the existing model so that it is a full package.

So it is re-posted on their websites and can be submitted back to the program because both things have been adopted by the Board. And you can do with it as you may basically.

Andrea, did you --

MEMBER CAROE: Yes, I did.

CHAIRPERSON RIDDLE: Okay.

MEMBER CAROE: I'm just a little unclear on the purpose of this document in that, you know, what constitutes compliance? And is there -- I mean what is this used for by certifiers? And, you know, if a grower fills this out and does all the check marks, is there a pass or fail on the requirements of the regulation? I mean what does this do? I don't understand.

I mean this obviously gives more information. But it is not clear what you do with that information.

CHAIRPERSON RIDDLE: Yes. Well, the
regulation, as it states in that under (D) on page 1 at the bottom there --

MEMBER CAROE: Right.

CHAIRPERSON RIDDLE: -- a couple sections require that producers maintain or improve natural resources of the operation. And --

MEMBER CAROE: Right. I just don't know how this connects to this.

CHAIRPERSON RIDDLE: Right. This gathers the information during the organic planning process that then a producer can document how they complied with those existing requirements. And then the inspector has the information in hand to go to the farm and assess their compliance and file their report.

So it's, you know, a tool for the producers to document their compliance. And it's a tool for the inspector and certifier to assess the compliance with those existing requirements.

MEMBER CAROE: I mean I understand this is a tool for the producers. And I think it is a very valuable tool because it does guide them to those
practices that are positive.

But what I don't understand is how is this consistently applied? I mean if a grower only checks off one practice on this whole sheet that they do, are they in compliance or not? And if they are with one certifier, are they with another one? I mean what does that all mean?

You know this is information. But what you do with the information is not defined. It's not, you know, being a tool for growers, I appreciate that. And I think that is valuable in itself.

But using this as a tool for assessment, I think is a bit of a stretch.

CHAIRPERSON RIDDLE: Well, unfortunately, I think there is inconsistency on a whole lot more program requirements than just this one. But this is a step to bring consistency just like the model plan was a step to bring consistency in how that is being assessed.

You know right now they are all over the map if not ignoring this requirement. So I think this has raised the visibility of the existing requirement.
And is a step towards more consistency.

George?

MEMBER SIEMON: It is a farm plan tool that
--

MEMBER CAROE: I appreciate it in that way.

MEMBER SIEMON: That's what it is all about.

CHAIRPERSON RIDDLE: Any further --

SECRETARY CAUGHLAN: Well, hopefully it will
stimulate discussion among the farmers, among the
certifiers themselves. And be something that could
become part of a continuing ed workshop thing, for
example, that goes on at some of those educational
bodies.

MEMBER CAROE: I just --

SECRETARY CAUGHLAN: I see a lot of
opportunities.

CHAIRPERSON RIDDLE: Okay. Andrea?

MEMBER CAROE: I just see if a farmer only
does one of these practices and a certifier says
you're not complying with that, I think they have a
reason to appeal the decision because it is not
defined. There is no guidance that suggests that you
must, you know, participate at some level.

SECRETARY CAUGHLAN: It doesn’t say 10 points or 10 of 30 or something. But then that would be too proscriptive and restrictive. And people would have a hissy fit over that. I think this is a start.

MEMBER CAROE: Okay.

SECRETARY CAUGHLAN: Call the vote.

CHAIRPERSON RIDDLE: Well, we’ve got a comment from Hugh?

MEMBER KARREMAN: I like the document. And it would make a farmer look to see how he could improve his operation just as kind of a philosophical --

MEMBER CAROE: And, again, I appreciate it for that.

MEMBER KARREMAN: -- self, you know, report.

MEMBER CAROE: I do appreciate it for that quality.

MEMBER KARREMAN: I don’t see it as any kind of a thing from certifier that you are going to be out of compliance with this. It’s kind of more philosophical, I think, than it is a regulatory thing.
SECRETARY CAUGHLAN: Well, no, there are real --

CHAIRPERSON RIDDLE: Yes, there are requirements. But yes, it usually would be in combination with other violations in my experience.

MEMBER KARREMAN: It's like a self-assessment guide. That's the way I see it. And how can you become better at these questions if you only have a few checks? It's part of the organic system plan, I guess.

CHAIRPERSON RIDDLE: Okay. I've heard no amendments to change it. And we've had a nice discussion of it. Let's move to the vote. And George is up.

MEMBER SIEMON: Yes.

CHAIRPERSON RIDDLE: Bea?

MEMBER JAMES: Yes.

CHAIRPERSON RIDDLE: Hugh?

MEMBER KARREMAN: Yes.

CHAIRPERSON RIDDLE: Michael?

MEMBER LACY: Yes.

CHAIRPERSON RIDDLE: Gerald?
MEMBER DAVIS: Yes.
CHAIRPERSON RIDDLE: Nancy?
MEMBER OSTIGUY: Yes.
CHAIRPERSON RIDDLE: Julie?
MEMBER WEISMAN: Yes.
CHAIRPERSON RIDDLE: Andrea?
MEMBER CAROE: Yes.
CHAIRPERSON RIDDLE: Goldie?
SECRETARY CAUGHLAN: Yes.
CHAIRPERSON RIDDLE: Kevin?
VICE CHAIRPERSON O'ReLL: Yes.
CHAIRPERSON RIDDLE: Dave?
MEMBER CARTER: Yes.
CHAIRPERSON RIDDLE: Rose?
MEMBER KOENIG: Yes.
CHAIRPERSON RIDDLE: Chair is yes. So we're
ending the day on a unanimous, positive note.
Thirteen yes, zero no, one absent.

So before we close for the day, committee
chairs are encouraged to put your work plans together
before tomorrow morning. And let's just look at the
agenda here quickly for tomorrow.
We're actually caught up and only a little late.

So we start off the day with public comment at 8:00 a.m. So if you want to comment and have not signed up, you could do it before you leave or you can -- it will be out there again in the morning. But that will be first thing up.

And then when that concludes, we'll move on to the discussion of committee work plans and timelines. And meeting dates, et cetera. So --

MEMBER JAMES: Has there been any --

CHAIRPERSON RIDDLE: Quiet please. We're still in session.

Bea?

MEMBER JAMES: On the committee -- discussion of committee work plans, if we have things that we want to propose that are in addition to what we already have on our work plans, should we discuss that with the chair of the committee? Or can we propose it --

CHAIRPERSON RIDDLE: Yes.

MEMBER JAMES: Okay.
CHAIRPERSON RIDDLE: Yes, pull the chair aside and help them think through their planning. And if you are a new chair coming on to committee, talk with the old chair and kind of pass the baton on on work plans as well.

Anything else?

PARTICIPANT: We don't have a new chair.

CHAIRPERSON RIDDLE: Well, there's -- yes, I think Michael is taking over Livestock. That was the plan coming out of here.

SECRETARY CAUGHLAN: Are we going to call a meeting? And if not, are they going to be here?

CHAIRPERSON RIDDLE: Okay, okay. I'll just ask them afterwards instead of yelling.

Okay, we recess for today. Thank you.

(Whereupon, the above-entitled meeting was concluded at 5:53 p.m.)
UNITED STATES DEPARTMENT OF AGRICULTURE

NATIONAL ORGANIC STANDARDS BOARD

WEDNESDAY,
AUGUST 17, 2005

The above-entitled matter convened at 8:00 a.m., in Oriental Ballroom C of the Mandarin Oriental Hotel, 1330 Maryland Avenue, S.W., Washington, D.C., James A. Riddle, Chairperson, presiding.

NOSB MEMBERS PRESENT:

JAMES RIDDLE                Chairperson
KEVIN R. O'RELL             Vice Chairperson
GOLDIE CAUGHLAN             Secretary
ANDREA CAROE                Member
DAVID CARTER                Member
GERALD DAVIS                Member
BEA E. JAMES                Member
HUBERT J. KARREMAN          Member
ROSSIE KOENIG               Member
GEORGE SIEMON               Member
JULIE S. WEISMAN            Member

NOP STAFF PRESENT:

KATHERINE BENHAM
MARK BRADLEY
KEITH JONES
ARTHUR NEAL
BARBARA C. ROBINSON

NEAL R. GROSS
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AGENDA

I. Public Comment Session

II. Presentation and Discussion of Committee Work Plans and Timelines

III. Set Next Meeting Date

IV. Closing Remarks - James Riddle, Chair

V. Adjourn
PROCEEDINGS

(8:09 a.m.)

CHAIRPERSON RIDDLE: If people could take their seats, it's time for public comment. I suppose I need to read the rules again.

As stated on the agenda and in the Federal Register notice, we'll start our day today with another round of public comments. And for your information, I have 17 people so far that have signed up to provide comments. The book is still out on the back table, if you so choose, if you haven't signed up yet.

Once again, if there are any new faces in the crowd that didn't hear the policy for public comments, I'll just briefly go through that before we start. In order to offer public comments, you must sign up in advance, and we'll follow the order that people have signed up.

If I call your name and you're not present, we'll go ahead and move on. But then I'll call your name at the end if you're there, but you'll bounce to the end if you're not present at the time.
when I call your name.

You'll have five minutes to speak. You could carry a proxy and have an additional five. If that is the case, please state that at the very beginning, so that Goldie knows. And Goldie will be keeping time and has a one-minute warning sign somewhere that she'll hold up when you have one minute left. But like I said on Monday, if you don't see that sign, that's not her problem. It's just a courtesy to you.

But when the timer rings, I'll allow you to conclude your remarks, conclude that thought, if members of the Board have questions, and there could be additional remarks in response to questions.

And then, the final rule, individuals providing public comment will refrain from any personal attacks and remarks that otherwise impugn the character of any individual, or company for that matter. And as I said, we certainly don't mind passion, but we don't want any personal attacks.

And the comments on Monday were just excellent, a lot of passion and no offensive remarks,
unless you mind a little swearing.

(Laughter.)

But it was not directed at anyone, just the whole Board and everyone in general.

(Laughter.)

PARTICIPANT: Compliments and jokes are accepted.

CHAIRPERSON RIDDLE: Yes. Well, compliments could impugn on the character of an individual as well. Anyway, we will go ahead and get started, and I'll read the name of the person up, and also the person on deck. So first up is Mark Kastel, with Tony Azevedo on deck.

MR. KASTEL: Good morning. My name is Mark Kastel, K-A-S-T-E-L, and I'm here today representing the Cornucopia Institute based in Cornucopia, Wisconsin.

Goldie, I have a proxy not from Henry Perkins, but once again from Maury Johnson. So you're safe, Jim.

(Laughter.)

Okay. First, the good news. We want to
convey our thanks to the NOSB.

(Laughter.)

One person has to do this at every meeting. I don't know why it had to be me.

First of all, thank you very much for passing the guidance document on pasture that you did yesterday in support of protecting the organic dairy brand. And we appreciate the hard work, long hours, and especially listening to the diverse stakeholders in the issue.

We also want to convey our thanks to the Livestock Committee for renewing your efforts to pass a substantive rule change with teeth.

And now a note to the NOP. Get the gavel ready. You asked the Board specifically to revisit the pasture guidance document that was passed unanimously in 2001, and went unaddressed by the Department, languishing until this January when this hot button issue again caught fire.

The dairy producers now ask you -- you asked for this in January. We now ask you to please post this document, send it to all certifiers on an
immediate basis, without delay.

Okay. That's all the good news. Now, let's talk about the bad news. There won't be any flowery prose, and there won't be any swearing, and there won't be any disrespect. But in the words of my favorite philosopher, Rosanna Anna Danna --

(Laughter.)

-- I keep getting more and more cynical all the time. I just can't keep up.

I don't understand. We have some really good people working at the National Organic Program. When you put this rule back, when you turned it back to the Board and said you don't understand, I don't understand. What part of access to pasture do you folks not get? This has been a Board agenda item since 2000.

The delay has allowed a number of industrial farms, with allegedly almost exclusive confinement conditions, to operate. Farmers have spent thousands of dollars and hundreds of hours to participate in this process and feel disrespected.

Sending the NOSB-endorsed rule on pasture
back to this Board the way you did was just plain wrong. The question was about regulatory intent. In the 2001 document, which is on record, endorsed by this Board, there was a paragraph entitled "Intent." It's clear to everyone in this room what the intent of that process was, I think.

You could have, optionally, talked to the Board before you caught them flat-footed and us flat-footed, and engaged in a dialogue if you thought there was something deficient in the language that they crafted. Better yet, from a timing standpoint, the NOP could have crafted alternative language.

If you said, "Look, let's maintain the spirit of what the Board crafted, but we think the language isn't compatible with the regulations, or it isn't in the right legalese," or whatever the excuses were, I don't understand. But you could have crafted that language and presented it back to the Board on Monday and said, "Look, we think this is the good wording. We'd like you to bless it. If you will pass it today, we will then take it and post it on the Federal Register."
We're talking about years until enforcement can take place at this point. We have to revisit this at the Board. You folks have to review this again. It has to be posted, comments, and then once -- once it's passed, we're going to give farms that aren't in compliance some amount of time to file a new plan and come into compliance. We feel bad about this.

If we're talking about a participatory democratic system, which is what this organic movement was founded on, this is disrespectful. And I want to mention two other things that we're very concerned about.

One is you folks solicited public comments that were due in May. You took those into consideration. We were appalled to find that about a month after the deadline of May 20th passed, before the Livestock Committee met, that about a third of the comments had not been passed to the Board members or posted on the NOP website.

This was not a casual dialogue with stakeholders. This was a formal public comment period.
to benefit Board decisionmaking. That was just unacceptable.

The fact that there were 11 institutional comments that were listed by -- under the submitter's name -- Cornucopia's was listed under my colleague, W. Fantle's name. A lot of folks in the organic community would not recognize M. Kastel or W. Fantle. They might not recognize P. Odek as being the CEO of Wild Oats.

And to create a dialogue, rank and file farmers, consumers, and other NGOs would like to see the comments and the thoughts of other learned people in the industry. We need to do a better job on the democratic dialogue.

And, finally, and it might seem trivial, but this type of hotel is not conducive, and this location in Washington, D.C. in August is not conducive for public participation. Farmers who got the great deal and paid $30 a night for parking, paid $200 -- over $200 a night for accommodations, we -- if you didn't get in on that deal, it was over $300 a night. Breakfast, $19.
I talked to a farm couple yesterday who said, "Well, we didn't want to pay $19 for breakfast, so we opted for the $6 bagel." And the wife corrected him and said, "No, honey, that was the $7 bagel. You went for the optional cream cheese."

(Laughter.)

Lunch, we wanted to have a farmer lunch on Monday -- $40 in our $700 rented meeting room. Listen, for a lot less in the aggregate, we could meet again in LaCrosse, Wisconsin. We'd welcome you there. Farmers could find $50 hotel rooms, and, you know, $8 breakfast, and we'd treat you guys.

So as un-PC as this might sound, we will continue to bang the drum for democracy in this process. We love the organic food and farming movement. I mean, that's what -- the reason most of us are enduring these long meetings, especially you folks.

We love the energy and the collaborative environment that this community was founded on, and we refuse to give up this lucrative market that is now created -- some people will call it an industry -- to
those who just care about crap.

And we -- we want to -- we want to engage with the Department on good governance. And I think you folks as individuals -- I see you shaking your head, Mark -- are good folks, and you want to also. I don't get it. I don't know if it's coming from the Secretary's office, where this, you know, block we have is taking place.

But last year when those guidance documents were issued by the NOP, without collaborating with anyone, you guys got a very critical, you know, set of instructions from then-Secretary Veneman about collaborating. And then, we have this rule come back without collaborating. So you can issue edicts, or you can, you know, kind of through neglect maybe make decisions, but we need to have a dialogue.

So lastly, a message to the investors who own the industrial firms.

Thank you, Goldie.

And this isn't the first time I've given this message. The organic community has spoken. It's
very, very clear what the consensus is in terms of expecting dairy cattle to graze, not have access to 15,000 acres in the desert, not have, you know, temporary confinement for 305 days worth of lactation.

None of this might carry the weight of law today. But you know what? The regulations are in force. Most dairy producers understand that. And if you want to continue down the road of investing millions in these confinement operations, you're doing so at your risk and the risk of your investors. And, by God, we still have a Securities and Exchange Commission that requires disclosure, and you'd better be telling those investors how off the path you are.

That's the end of my comments, and thanks for enduring that, and thanks for not gaveling me down.

(Laughter.)

CHAIRPERSON RIDDLE: Thanks, Mark, for your pointed comments. I do have a comment myself. I won't have a question, but I do just want to clarify. On that pasture rule change draft, Keith had contacted me and other members of the Livestock
Committee that there were some problems with that
draft, and there was a dialogue occurring to try and
clarify our intent.

And I think -- you know, I don't know, and
I can't speak for Keith on this, but I know there's a
lot of other items on their work schedules. And it
certainly is possible that it could -- and you don't
need to respond, I'm not --

MR. KASTEL: Well, I --

CHAIRPERSON RIDDLE: Please do not.
Please do not. So there was a dialogue underway, and,
yes, it did catch us flat-footed as you say to have it
thrown back. And, yes, I would have appreciated --
and I know other members of the Board would have
appreciated -- kind of a conclusion to that dialogue
that we were engaged in, giving us a warning that it
was coming back.

But there was a dialogue underway, and I
guess I see more progress than we've ever had in the
feedback loop that's now occurring. And we've set a
precedent at this meeting that I hope can continue
into the future, where we hear a line-by-line report
on our recommendations and how they're being received by the program.

And as an Advisory Board, you know, we can't expect to have every one of our recommendations adopted, especially in a three-month time period. But we do deserve to know where the program stands, and that is exactly what's happening. And when it's appropriate, it's a lot better to have those recommendations given back to us for further work than to just be rejected out of hand, or ignored and that was the case for a number of years.

So you may get more cynical as time goes on, but I see progress in very small steps. So it's just a different perspective.

That's okay. We'll move on. I appreciate your comments.

Tony Azevedo, and then Diane Goodman.

MR. AZEVEDO: I'm back.

(Laughter.)

That's Tony Azevedo, A-Z-E-V-E-D-O. I have a proxy from some very good friends. My dairy is in California. These dairy folks --
CHAIRPERSON RIDDLE: So you'll have 10 --

MS. CAUGHLAN: Are you doing a 10-
minute --

MR. AZEVEDO: I hope not. I can wrap this
up really fast.

CHAIRPERSON RIDDLE: Okay. You do have a
proxy.

MR. AZEVEDO: Yes. Do you want it?

CHAIRPERSON RIDDLE: No, that's fine.

MR. SIEMON: Who is it?

MR. AZEVEDO: The proxy? It's Tom and
Sally Brown from Groton, New York. And they signed
up. So they're --

MS. CAUGHLAN: That's fine.

MR. AZEVEDO: I'll read this letter that
they had me read. They were here, but they had to
leave early.

"My husband and I have been farming for 27
years. We are the third generation farm and a few
years short of having a 100-year farm. If we had not
started farming organically, we would have been forced
out of business with nothing to show for 27 years of"
labor.

"We milk 100 cows. Farms of this size are close to being an endangered species. With exception, most will go out of business. We're losing more and more of the rapidly-disappearing family farms on the American landscape.

"Support of the pasture ruling will allow many of these farms to continue. Also, as the average age of the American farmer is 55, in 10 years there will be a serious need for young farmers.

"Thank you very much."

The only thing I'd like to add to that is obviously you folks probably caught the fact that I was very disappointed with not accepting the rule. But the guidance document was kind of a ray of light.

It's very important that we do have some guidance in the west, because we have many farmers that want to get into organics, and we want to bring them in. And these are young farmers, and in the west many of these young farmers suffer from an affliction called productitis. And that's where you finish four years of an agricultural college, which they basically
teach you three things -- produce, produce, produce --
and now they'd like to get into organics, and they
need to know, you know, where they stand.

And by having some kind of rule, guidance
-- and the guidance document is going to help a lot.
But it -- prolonging this is going to make a larger
problem. And I know there's a possibility of having a
meeting in November.

And if the Livestock Committee could just
come up with a simple statement that the NOP could get
behind -- and when I say a "simple statement" it's
going to be kind of an ongoing work, but a statement,
zero pasture for a lactating cow does not constitute
organic.

Now, that's something that's simple. You
couple it up with the guidance document, and a lot of
these young farmers can get on their way. And it's
not completely clear, but it's something. But to
prolong this year after year is going to be very
damaging.

So I was hoping that possibly the NOSB
would consider, while we're putting this thing
together, to get NOP to at least come up with a statement that young people from the west in my area realize, well, a statement like that, coupled up with a guidance document, at least they have somewhere to go and kind of formulate their dairy setups.

And these are young people that are coming -- their parents are -- have large conventional farms, and they want to do the right thing. They really don't like what their parents are doing, and so they want to do something different. They want to do something new.

But all the institutions in the west have not taught them anything about organics, which we know that. So they're looking at -- at groups like this, and at kind of old dogs like me, to tell them what to do. And I don't -- I don't want to misguide them.

I don't want to say, "No, no, you've got to do this, this, and this," which I do that a lot, but, I mean, I don't want to do that and come out wrong. You know? So perhaps you could consider in November when you do meet to at least come out with a statement that would kind of clarify, you know, zero
pasture for a lactating cow does not constitute organic. That's pretty clear. That's pretty clear. And coupled up with the guidance document I think it will work.

I'm not recommending that be the rule. There's a lot more to it than that, but at least it would give these young people an avenue to go down, so they can continue with getting into agriculture, because we are very short of organic milk. And we have a lot of folks that want to get in it but are just, gee, where are we going with this?

Other than any questions, I want to thank everybody. Are there any questions?

CHAIRPERSON RIDDLE: I've got Hugh.

MR. KARREMAN: Tony, thank you for that rule proposal, zero pasture does not constitute organic production.

MR. AZEVEDO: Well, please don't look at that as a rule.

MR. KARREMAN: Well --

MR. AZEVEDO: This is just something, you know --
MR. KARREMAN: Right. I wanted to ask, though, what do you think about the work in progress of what I had mentioned from the Livestock Committee -- was it yesterday? -- about, you know, ruminant animals over six months of age shall graze growing pasture at least 120 days per year.

MR. AZEVEDO: Excellent. Excellent.

MR. KARREMAN: That's a positive statement.

MR. AZEVEDO: Yes, but if --

MR. KARREMAN: I mean, we can go even --

MR. AZEVEDO: -- if somebody forgot to dot the i, or the shall wasn't in the should, or -- do you understand what I'm saying? If something goes awry, we're set back another year and a half. Do you see what I mean? We need something now that would -- that would give us some kind of guidance that we can move forward with all these farmers that want to get into organic, and 99 percent of them are pure of heart. They want to do it right.

But what you came up with, that's --

Mr. Azevedo: (Continued)
MR. KARREMAN: Well, we'll try to work on that.

CHAIRPERSON RIDDLE: Okay. Well, thanks, Tony, and thanks for coming back.

All right. I have Diane Goodman, but then it says time given to Steve Clarke. Steve is going to take it. And then, next up will be Michael McGuffin.

MR. CLARKE: Good morning. Steve Clarke with Florida Crystals Corporation. This is going to be very brief.

This is my first NOSB meeting. It's been interesting, and at the same time confusing and illuminating, so I understand more. On behalf of Florida Crystals, we agree very much with the mission of NOSB. We find it rather odd to be rebuked for suggesting another approach, some think because it's not been done way before, especially in the issue of the synthetic/non-synthetic confusion.

On this matter, I think at least the OTA decision tree should be incorporated in the documents from the NOSB. It's clear to me that there's some lack of chemical expertise on the Board. When a
A cartoon guide to chemistry is proposed as a useful source of information, I wonder whether a cartoon guide to law or auditing should also be proposed.

It would probably be a conflict of interest for me to offer my services, but I have no doubt that good expertise is available.

Finally, and more seriously, there are many operations abroad that supply organic products to the USA. The major impact of these operations has been in the field. Many farmers in South/Central America have gone over to organic, and this is wonderful.

But the confusion in the classification of synthetic/non-synthetic could, in a minor processing aid -- in the processing operations could jeopardize a large amount of this. And I think we need to bear in mind that what we are trying to do, from my perspective, is to change the way agriculture works. And this is being done in large part.

I was in an operation in Paraguay last week, which has a very large organic operation with many, many different farmers involved. But they are
concerned that they will not be able to continue in operation if this synthetic/non-synthetic issue is not resolved.

Thank you.

CHAIRPERSON RIDDLE: Thanks, Steve.

MR. CLARKE: Okay.

CHAIRPERSON RIDDLE: Michael McGuffin, and next up Mark Cox.

MR. McGUFFIN: Good morning. My name is Michael McGuffin. I'm with the American Herbal Products Association, or AHPA. And I'm here today to discuss exactly what I discussed last time I was here. We need your support in clarifying that herbal dietary supplements are clearly within the scope of the NOP.

I want to review first what NOP has said on this matter to date. In the Federal Register of December 2000, they said, "Producers and handlers of agricultural products used as ingredients in cosmetics, body care products, and dietary supplements could be certified under these regulations. The ultimate labeling of cosmetics, body care products,
and dietary supplements, however, is outside the scope of these regulations."

Then, in May 2002, they reversed themselves, stated that because these products contain agricultural products, the producers and handlers of such products are eligible to seek certification. They reverted to their original position in April 2004, stating that dietary supplements are not eligible to seek certification. They gave two reasons.

These products are under the labeling and regulatory jurisdiction of FDA, and OFPA does not extend to non-agricultural products. And then, of course, the most recent statement from NOP, just to clarify everything, "Regarding dietary supplements, no determination has been made at this time concerning their labeling." Confused? Me, too. My members, too, and my members want to sell organic dietary supplements.

So I want to look at these two issues. And, first, related to the fact that labeling and regulation and dietary supplements are under the
jurisdiction of FDA, this is also true of foods.

Here's a can of soup. It's labeled according to FDA regulations. It's got these nutrient content claims. If you don't make them right, they'll seize your product. It says, "An excellent source of fiber." If it doesn't have 20 percent fiber, your product comes off the shelf, and it's got a USDA organic seal.

This company figured out how to have its product clearly under the jurisdiction of both FDA and USDA.

Now, here's a peppermint spirit sold as a dietary supplement, an herbal dietary supplement. There's nothing in here except extracted peppermint, certified organically grown, peppermint oil extracted from that same peppermint, and organic alcohol. Dietary supplement, can't put the word "organic" on it, can't put the USDA seal.

Peppermint flavor, a food, exactly the same ingredients. Actually, this one has alcohol, this one has a scent -- or sunflower oil I think it is, an organic vegetable oil. But there are organic
peppermint with an organic carrier, supporting organic agriculture. This one can be labeled as organic. This one can be -- cannot be under USDA's/NOP's restrictive reading -- the messages that we get every other time.

It's absolutely clear that the intention of OFPA is to allow both of these products, and it's a red herring to say that the fact that FDA has jurisdiction over the label somehow makes it impossible for us. It's not unless the organic seal is to be relegated only to the produce department, which was not the intention of the Organic Foods Production Act.

With regard to this idea that this is not an agricultural commodity, which is the other point, you know, here is what OFPA says. I'm going to quote the definition of an agricultural product is "any agricultural product -- commodity or product, whether raw or processed, including commodity produced or derived from livestock, marketed in the United States for human or livestock consumption."

This is clearly an agricultural product.
It's peppermint. It's extracted. It's processed. And it is for human consumption. In fact, the law requires us -- we're not allowed to sell dietary supplements to rub on your arm. The only way we can consume dietary supplements is by oral ingestion.

Again, I just think these are both excuses to not get this done. I believe this is a simple matter. And if I had another five minutes, I would also discuss that our industry does support organic labeling of cosmetic products and body care products, but we've really tried to separate those issues, because this one is simple.

We are putting it in our mouths. There is no question as to whether this is consumed. I understand -- is a body care product consumed? I can argue that it is. I'm not really here today to take on that issue.

I think this is a simple issue. It's not complicated like synthetic versus natural. It's just -- all I can ask you guys to do I think is to exert whatever influence you can to convince NOP to take the -- I think it's 30 minutes, maybe it's a half a day,
to issue a very clear rule that these are clearly allowed under NOP.

Thanks very much.

CHAIRPERSON RIDDLE: Thanks, Michael.

Gerry?

MR. DAVIS: It seems to me that part of the problem why diet -- you know, the herbal supplements, their intermingling with mineral supplements causes the problem for them of jurisdiction. Is it possible to separate herbal supplements to bring them under the organic program and to avoid -- I just wonder if that's the sticking point, because they're all lumped together with the minerals, which are not organic. They're not possible to call those organic.

MR. McGUFFIN: I'd love to respond. There are -- you're correct. There are four or five categories of ingredients. We would not propose that if this company wanted to sell peppermint spirits and a multivitamin, this would be the only one that they could market as organic, because this is the only one that's an agricultural product.
So we’re not proposing that the non-agricultural dietary supplements would come under. You know, clearly the first decision that would have to be made is, yes or no, is it an agricultural product? If it’s from an herb, clearly it is. So you’re right, it’s the herbal dietary supplements that we’re asking for.

But the fact that there are other dietary supplements should not complicate the route to the organic market for the herbal products.

Does that help, Gerald?

MR. DAVIS: Well, I guess my question is directed more to the Board on is -- is this the problem for solving their dilemma? Because we have in -- as a general category, they’re all lumped together versus being distinctly separate -- you know, mineral supplements versus herbal supplements.

CHAIRPERSON RIDDLE: Yes. Well, my response would be you’re right on there, that it -- and so is Michael, that our focus can only be the agricultural products or the supplements and other herbal products that are derived from agricultural
ingredients.

As far as what the Board can do, I might ask the Policy Committee to take this under advisement as well as the comments we received Monday on the personal care products, and consider recommendation or further statement to the program at the very least.

MR. McGUFFIN: And we did in our -- as part of our last comments, we provided you with a markup, I think a redline, of your earlier draft on this issue. And I can redistribute that if it's at all helpful, because we think that we've got some pretty close language in that document that you are already working on, Dave.

CHAIRPERSON RIDDLE: Any further -- yes, Hugh?

MR. KARREMAN: I know in the herbal tinctures and extracts I get from my herbal supplier for working with livestock he has been told by the FDA he needs to put on those -- like on the can there. So wouldn't even very small print -- couldn't you get that kind of information like is on the can onto that little tincture bottle? And then cross both --
MR. McGUFFIN: Yes.

MR. KARREMAN: -- bridge both things.

MR. McGUFFIN: Yes, right.

MR. KARREMAN: Okay. So --

MR. McGUFFIN: And that's what my members want to do.

MR. KARREMAN: Right.

MR. McGUFFIN: They want to put all of the information required by FDA --

MR. KARREMAN: Right.

MR. McGUFFIN: -- and the USDA --

MR. KARREMAN: Exactly. That's --

MR. McGUFFIN: Yes.

CHAIRPERSON RIDDLE: Bea?

MS. JAMES: I understand exactly what you're saying. But I -- I really think that even though you have two products there that both come from a plant source and agricultural source, one is used as a food ingredient, and the other one is used for medicinal purposes. Products that are medicinal are regulated by the FDA.

MR. McGUFFIN: Right, as are products that...
are food regulated by the Food and Drug Administration.

MS. JAMES: Right, right.

MR. McGUFFIN: And, in fact, if I make a medicinal claim for this, it becomes a drug. It's actually not medicinal. It's a supplement, which is federally defined under foods. This is a food. Even though it's a food supplement, it is federally defined as a food and not as a drug.

MS. JAMES: That's under DSHEA.

MR. McGUFFIN: Under the Dietary Supplement Health and Education Act. You need -- I mean, I can get you a copy of that if it helps. There's some additional --

MS. JAMES: No. No, I understand what you're saying.

MR. McGUFFIN: -- information.

MS. JAMES: I'm just --

MR. McGUFFIN: The fact that you can make a claim -- you're right, we can make a claim. So can this SOOP. It made a claim. It's a different kind of claim. Although we can -- we can pretty much make the
same claims anymore. They can make a -- we can both
make health claims. We're the only ones that can make
what's called a structure/function claim.

But we can't make a medicinal claim,
although I could argue that there's nothing that says
that a drug from organic herbs shouldn't be able to be
labeled as organic. But I'm not here to argue that
today. I'll come back. I'll come back --

CHAIRPERSON RIDDLE: I'm glad to hear
that, Michael.

(Laughter.)

Thanks for your input --

MR. McGUFFIN: Appreciate it.

CHAIRPERSON RIDDLE: -- and your patience
in coming back and working with us.

MR. McGUFFIN: Well, I know you guys have
a lot going on. My main point probably is I think
this one is simple. It's not weeks and months and
years, and we'd love to get it done. Thanks a lot.

CHAIRPERSON RIDDLE: Thank you. And we've
thought other things are simple before.

(Laughter.)
MR. CARTER: Simple for the NOSB is weeks and months and years.

(Laughter.)


Is Urvashi Rangan here? Okay. Take your time, since I didn't give you any warning. Next up will be Mark Retzloff. Is Mark here? So if Mark is not here, then Kathy Seus would be next, just to try and give you some warning.

Okay. Urvashi, thanks.

MS. RANGAN: Okay. Good morning. I also want to -- my name is Urvashi Rangan. I'm an environmental health scientist with Consumers Union, publisher of Consumer Reports. I want to thank this Board for the painful efforts of getting through the synthetics document yesterday and the guidance.

I would disagree with some previous speakers. I think you all have a lot of -- you've spent a lot of time and effort in trying to understand
Chemistry 101, and it is Chemistry 101. This isn't advanced doctoral chemistry. This is Chemistry 101, and it takes a little time to get familiar with the terms, but that's all that's really required to figure out the differences. So we really appreciate your time and your effort, and we strongly support your actions yesterday.

I'm going to talk today a little bit about looking forward, and I want to talk about labeling in general and a little bit about fish, because consumers are awfully confused out there. And while we appreciate the fact that the NOP has reconsidered how certain products are regulated in terms of do they have standards, don't they, do the standards fit under another category, don't they, and those things are perfectly legitimate in terms of fine-tuning this program and making sure that, you know, aquaculture really does need its own standards. It's not a cow. Fish are not cows.

And that we do need the time to create those standards, and we very much appreciate the fact that task forces have been set up to do that.
Unfortunately, there's an awful lot of organic fish product that's on the market right now. And while we talk about the USDA seal and surmise that that's the only thing consumers are looking for, that is not the only thing consumers are looking for.

They look at the front of the package, and if they see the word "organic" on it they assume it is as credible as other organic products that they are buying on the market. And it has been a very tedious task for us at Consumers Union to go through and constantly reexplain, no, organic fish that you're seeing on the market right now does not meet the same standards. It is not the same thing.

We really urge this Board and the NOP to reconsider whether or not that label should stay on organic fish right now while the standards are being made. It really does a disservice to consumers. It does a disservice to the industries that -- or the companies that are trying to do a good job and coming up with standards on their own.

Recently, we -- or I should say at the last meeting, I think last summer, the NOP stated to
us that no USDA seal would be found on an organic fish product. And yet a couple of months ago it came to our attention that certain companies were using the USDA organic seal on their fish and claiming to be the first USDA-certified company to be certified to livestock standards.

That was such in contradiction to what we were told at the last meeting, so Consumers Union called the Public Affairs Office at USDA and asked repeatedly and reexplained and sent the news stories, and we never got an adequate answer about why this was being allowed and whether it was going to be stopped.

We were told we would hear from the Compliance Office. We never did hear from the Compliance Office. Who we heard from was a reporter from Business Week Television who took this up, went to the USDA, interviewed them, and then finally we were told by that reporter that USDA told these companies to stop doing it.

And yet up until just yesterday there are materials on the website that say these companies are certified to USDA livestock standards. This is
awfully confusing, and we really would appreciate it if we could just ban the use of the organic label on these fish and seafood products until the standards are created.

And I very much urge those of you who are on the agriculture task forces to please strongly consider that as one of your main missions, and please to consider contaminant issues like mercury and PCBs. We do not want consumers in California, for example, who will see a Prop-65 label indicating that there's a carcinogen in their fish to also have an organic label slapped on top of that. Consumers will not be able to make sense of what that means.

Thank you.

CHAIRPERSON RIDDLE: Thanks, Urvashi.

Okay. Is Mark Kastel -- I mean, not Mark Kastel, Mark Retzloff --

(Laughter.)

It's like confusing Arthur --

(Laughter.)

Okay. I don't see Mark Retzloff in the audience. So Kathy Seus, and then Joe Mendelson.
MS. SEUS: My name is Kathy Seus. I'm here on behalf of Food Animal Concerns Trust, FACT, in Chicago, Illinois. I just want to give a little bit of background on how I got involved in this whole organic process. My first NOSB meeting was the Chicago meeting a couple of years ago. And for anyone that attended that meeting, I think we would all agree that it was lively, to say the least.

And it became fairly apparent during that meeting that there was truly a lack of cooperation and collaboration between the NOP and the NOSB. In the past couple of years, it does seem like we've sort of taken a step forward, that in some respects there has been a little bit more cooperation.

However, what happened on Monday with the rejection -- the way the rejection of the pasture suggestions were handled, sort of felt like two steps back. That said, I'm going to acknowledge Chairman Riddle's comments earlier today that he does feel that there's a spirit of cooperation, a collaboration, that's -- you know, the precedent is being set today. I'd just like to say -- I mean, I'm going to put the
past behind and let's say let's just move forward on that, and let's keep that going.

We'd like to see these regulation changes on pasture move forward. I'm asking that the NOP and the NOSB continue this precedent that's been set of collaboration and cooperation and move forward on this thing. I think it's possible, and I'm going to sort of take a positive spin on this and -- and say that that happens, and it happens quickly.

I didn't say this earlier, I apologize. I also have a proxy from Kathie Arnold, and I'd like to read her comments.

"I do want to express my disappointment that the pasture rule changes have been sent back to the NOSB. I retain optimism that this is truly due to something lacking rather than due to pressure applied to the NOP by commercial and/or political interests. I retain hope that the NOP has or will clearly articulate to the Livestock Committee what specifics were missing in these NOSB-approved rule changes, so that the process continues as expeditiously as possible."
"Thanks to the Livestock Committee for working on modifications already. And I encourage posting of a draft rule change as soon as possible to allow public comment, to enable a vote at the fall NOSB meeting, if it happens.

"Great thanks to the NOSB for passing the pasture guidance document yesterday. I appreciate all the hard work involved, and the willingness to incorporate public comment. I ask that the NOP accept and post this guidance document as soon as possible."

That's it.

CHAIRPERSON RIDDLE: Thanks, Kathy. And just to clarify once again that the NOP did not reject our pasture rule change recommendation. They referred it back to us for further work. There's a significant difference in the two. And referring back to us is part of a collaboration. They need something that really works for them, and that can be enforceable and can move forward in the rule-writing process with sufficient justification.

So please have patience, and we all just need to stay focused on that.
Any other -- okay. Moving on, we have Joe Mendelson, and next up Liana Hoodes.

MR. MENDELSON: Good morning. I'm Joe Mendelson. I'm the Legal Director for the Center for Food Safety. I want to thank the Board and the program for all their hard work over the last several days.

Two brief comments. The first is more of a response to some comments that were made earlier in the week, and that to paraphrase those comments that the goal of the Board and the program should be to -- an almost undue speed in -- in a promotion sense you get to a point of 20 percent acreage for organic production, and we shall be striving to that, and that's the main goal.

And certainly the Center for Food Safety wants to see as much acreage as possible under organic production. But I just want to remind the Board and others that the goal, and specifically the legislative history of the Board, is to set standards, and to make sure when we get to 20 percent there's a road map on how to get there.
You know, percentage of acreage doesn't mean anything if the standards don't mean anything. And to suggest that folks in certain communities who are trying to make sure that the standards maintain what they feel their constituents -- consumers and environmental advocates -- have substance that those constituencies want to see doesn't mean we're trying to hinder in any way the expansion of organic.

On the contrary, we want to make sure that organic expands, but it also means something because that's the goal is to have organic mean something.

The second is to follow up on the comments of Urvashi Rangan from Consumers Union on the enforcement issue. I believe I commented a couple of Board meetings ago, and still am working on a paper I promised the Board, but we do have this -- this issue of enforcement that I don't think is resolved.

I mean, there was some suggestion this week that folks dealing with personal care products, while I'm not making any comment on whether they should be within the program or not -- and I certainly sympathize with some of the folks who had earlier
testimony on that -- but the idea was that if the personal care products aren't under the scope of the program, they can still go to an organic certifier to get certified, they just can't have the USDA seal.

And I think we -- if that's the road we want to go down, that folks can use the term "organic" without representation or without standards through this process for agricultural products. We're creating a two-tiered system. And as Urvashi mentioned, it is happening in fish, and it would happen in -- in personal care products.

And that is that people are out claiming that they're organic, implying that they meet USDA standards, whether they use the USDA seal or not, when, in fact, both the program and this Board have not made substantive findings as to what those standards are.

And it's very clear that the -- the law, 6519(a), says, "Any person who knowingly sells or labels a product as organic, not with a USDA seal, except in accordance with this chapter, shall be subject to civil penalties not more than $10,000."
I don't think we want to endorse or create a system by which people are out there using the term "organic" when we don't have substantive standards. And that term, as Urvashi mentioned, does imply, whether the seal or not, to consumers that it's meeting some type of USDA endorsement.

That may be very unfortunate to people who, if the program and the Board decide that personal care is not within the scope -- and I can sympathize with that -- but the fact of the matter is to -- to have -- the solution isn't to have product out there labeled organic, and have consumers misled on -- on -- and I would hope we would try and come to some resolution.

I don't think we're -- we've really gotten -- we've talked about scope, but we don't talk about how the program is enforcing. And I don't think enforcement of just pulling the seal is enough. I think it's the term "organic" that really is the heart of the matter.

Thank you.

CHAIRPERSON RIDDLE: Thanks, Joe.
Okay. Liana Hoodes, and Lisa Hummon.

MS. HOODES: Good morning. I'm Liana Hoodes. I'm going to read comments verbatim from Michael Sligh.

MS. CAUGHLAN: Do you have a proxy? I mean, are you taking five and five?

MS. HOODES: No.

MS. CAUGHLAN: That's fine.

MS. HOODES: No. Michael Sligh is -- "I am Michael Sligh" --

(Laughter.)

-- "founding Chair of this Board, Co-Chair of the National Campaign for Sustainable Agriculture Organic Committee, and Policy Director for Rural Advancement Foundation International USA.

"Please let me start by thanking all of you for your perseverance and continued dedication to the advancement of organic agriculture. We may not always agree on everything, but the fact that we are all still here speaks volumes of our shared commitment."

"I send special thanks to the upcoming
NOSB retirees. I know well of your sacrifice, and welcome and many thanks to the new Board members for your willingness to answer the call to serve organic agriculture. I look forward to getting to know each of you better.

"I wish to use my time to strongly support several key points. First, I strongly support the inclusion of biodiversity language into the guidance template for certifiers. This is an essential element of organic agriculture and should be much more strongly visible in our verification documents."

"On a related point concerning how strongly -- how to strongly require organic seeds, I again remind the Board that since this program has a global reach, and especially because of this, it can have unintended impacts on program participants in the global centers of biodiversity.

"We must be very aware that forcing this requirement too quickly, or so strictly, will have extremely negative impacts on local seed biodiversity and farmer choices. Locally-adapted varieties, which have been proven winners over the centuries, must
always be supported over imported seeds, organic or not, which can have a narrower genetic base, be an inappropriate variety, and/or be of unproven local adaptability.

"I caution you about this and offer support in the development of appropriate steps to support the growth of organic seeds without undermining already vulnerable locally-adapted seed biodiversity.

"Secondly, I am very disappointed that the very solid work by family-sized organic dairy farmers to clarify the pasture guidance requirements has been delayed. A lack of greater specificity is critically needed to guide certifiers to make consistent decisions and to avoid loss of consumer confidence, not to mention ensuring the welfare and natural behavioral needs of the animals.

"However, we cannot have it both ways. We have asked, and the Inspector General of USDA has required, the NOP to demonstrate cooperation with the NOSB and to provide responses to the many previously unanswered NOSB recommendations. They have actually
responded to this issue.

"To expedite this critical issue, we need to request that NOP/USDA response be much more specific and that it be put in writing if further delayed. My suggestion is for you and the NOP to roll up your sleeves and fix this matter at this meeting. Failing this, I strongly urge an additional meeting before the end of this year, and for the meeting to be held out in the dairy country to facilitate greater farmer access to this timely matter.

"Please do not leave this matter hanging. It has very large implications. Some additional specifics are better than the current void.

"Finally, I rise to make critical comments regarding the sunset provisions. It is very important that NOSB exercise your full statutory responsibilities. You were very consciously awarded these responsibilities as a duly-appointed citizen board. Your actions should be consistent with and provide solid continuity from past NOSB decisions. It must also be rigorous and fully transparent.

"When the founding Board voted on the
original list of materials prior to the organic rule, we based our vote on several very important caveats. One, the sunset process meant that all materials were required to be rereviewed within the five-year requirements. Many of the votes were very close, controversial, and lacked clear consensus. Many of the materials would not be on the list at all if this caveat had not been clearly understood.

"Two, in fact, we also understood that if the material was not rereviewed within this timeframe it automatically went off the list. This is very important.

"Three, synthetics in processed foods labeled as organic were clearly understood by many on the NOSB to be not allowed by OFPA. We remanded USDA that they must be resolved in the rulemaking process, or that those materials voted as allowed synthetics for processed foods would be in violation of OFPA. Our votes were made based on that understanding.

"Four, many materials votes required additional caveats, such as accelerated reviewed, annotations, and narrow use requirements, to win Board
support, et al., especially regarding the use of synthetics in processed foods. It is incumbent upon this Board to ensure that the sunset process adhere to the legislative intent, the law, honors the original caveats, and does not set expedient precedents that will allow for unwarranted discretion and special interests to hold sway over organic integrity.

"Please feel free to contact me if I can be of additional help, clarification, or support. And thank you for your -- for this opportunity and for your continued dedication to organic."

Thanks.

CHAIRPERSON RIDDLE: Thanks, Liana and Michael. Oh, a question?

MR. DAVIS: Concerning Michael's comments, there was a lot of meat there that -- how do I get a copy of that, for example?

MS. HOODES: I actually have one copy, and I can probably make more here, too, so --

CHAIRPERSON RIDDLE: If you could make more to distribute, that would be great. And make sure that Katherine has a copy as well.
MS. HOODES: Okay. Very good.

CHAIRPERSON RIDDLE: All right. Thanks Gerry.

Okay. It's Lisa Hummon, and then Brian Baker.

MS. HUMMON: Good morning. I'm Lisa Hummon with Defenders of Wildlife. And that's spelled H-U-M-M-O-N.

Defenders of Wildlife is a national 501(c)(3) nonprofit conservation organization with over 490,000 members dedicated to the protection of native wild animals and plants in their natural communities. Defenders has been actively involved in supporting and strengthening sustainable agriculture and conservation working landscapes for more than 20 years.

We would like to thank the Board for passing the biodiversity amendments to the organic system plan. We helped provide input in the development of the amendments, and we would like to thank the Wild Farm Alliance and ATTRA for their leadership.
We believe that working lands can and are doing much to conserve biodiversity. With 40 percent of plant and animal species listed as threatened or endangered, found only on private and state lands, as well as 60 percent of at-risk species, it is extremely important that we continue to encourage biodiversity conservation and agricultural landscapes.

By eliminating the use of harmful pesticides and promoting ecologically sound practices, organic agriculture has great benefits for biodiversity and at-risk species. And by adopting these biodiversity amendments to the organic system plan, the organic label will clearly define what it means to conserve biodiversity on an organic farm or ranch, as well as the surrounding landscape.

By rewarding these ecologically beneficial practices, the organic program will further implement the goals of fish and wildlife and habitat conservation, sustaining rural communities and providing a trusted label for consumers.

We encourage the NOSB and the NOP to implement this revised OSP by providing it to
certifying agencies, putting it on appropriate websites, and any other means you can find possible. And Defenders will do what we can to get the word out about these as well.

We would also like to thank the Board for approving the guidance for organic pasture requirements. This is a good step in the right direction to ensure that consumers have confidence that the organic milk and other products that they buy have been produced in an environmentally sustainable manner, and that farmers who are using these good practices and being good stewards of the land are rewarded properly and fairly in the marketplace.

This will also help protect the food systems that provide health and nutrition benefits to humans and ecological benefits to wildlife.

We encourage the NOSB and the NOP to continue to work together to revise the proposed rule change, post it for public comment, and bring it to a vote at the next NOSB meeting.

Thank you.

CHAIRPERSON RIDDLE: Thanks, Lisa.
Brian Baker, and then Joe Smillie.

MR. BAKER: Brian Baker, Research Director, Organic Materials Review Institute. And I'd like to start by recognizing and honoring your practical expertise and your experience and all of the work that you've done.

I really also want to specifically thank you for passing the synthetic/non-synthetic clarification recommendation. And I think that having this clear guidance will help us move ahead with our mission to independently and transparently review inputs for use in organic production and processing and handling.

When I came in the room yesterday while you were discussing it -- I apologize, I was out of the room, I came in late, and I sat down next to Pat Kane and I asked her how long the discussion was going on. She said about 20 years.

(Laughter.)

But, really, it's been more -- it's been over 30. Our -- we've been dealing with this question of synthetic and non-synthetic since the passage of
the California Organic Foods Act in 1979, or the first Rodale standards in 1972. It's not like we just came up with this yesterday.

And we've been grappling with these issues. They're difficult. But I think it's not rocket science, and, you know, it's -- it is -- there are some pretty fundamental guideposts that we have.

We're also not arguing about the vast majority of things out there. The vast majority of inputs used in agriculture and in processing are prohibited. There's no question about that. There are only a few things that are allowed in organic, and it's those gray areas where we're having all of the discussion, really.

So we've had experts on the NOSB and on the Technical Advisory Panel look this over, and, you know, reasonable people can disagree. But the disagreements, if you look at the record, are very few. And, you know, yes, they're contentious, they're passionately argued, but we're really only talking about a few things where we have deep-seated disagreements.
OMRI wants to work with all parties and the public, with the NOP and the NOSB, to help bring about an understanding, and to have a dialogue on these -- on these issues where we have -- have worked with decisionmaking, looking at different formulations, different mixes, and we realize that synthetic reactions don't always take place when you put a bunch of things in a bottle and shake it up.

But sometimes they do, and, you know, these side reactions do occur, you know, and to understand, you know, these -- these reactions run downhill, you know, and there are certain conditions where they'll take place, certain conditions where they won't. We need to have -- we need to look at that and have a better understanding.

The other thing is that all substances are active. Everything out there is used for a purpose. There are a few exceptions that are in federal statutes, such as EPA registered pesticides and FDA registered animal drugs. Those are specific exceptions. But everything put in a fertilizer bag, or everything put in a vitamin pack, is in there for a
reason.

So at the end of the day, you know, organic is a labeling law. And, you know, it's looking at the different ingredients that are on the bag or on the box, and I want to throw in as far as scope goes, also don't forget fertilizer and the way fertilizer inputs are labeled.

But, you know, it's our take that if it's on the -- if it's on the bag label, and it's synthetic, and it's not on the national list, it's not allowed. And I'd like to have, you know, clarity on that, because that's not -- if that's not going to be followed, that's a huge change from what we've been doing for the past 30 years or so.

And one minute left, I'd like to switch to the other thing I'd like to talk about. I talked about pathogens on Monday. I'd like to talk about another contaminant, and that's heavy metals. And, you know, we've been -- we also published a study on heavy metals found in organic inputs, and we are suggesting -- we are hoping that the NOSB will work with the NOP to clarify what it means to not
contribute to the contamination of crops, livestock -- crops, soil, and water, with heavy metals.

And we're looking at a no net degradation standard. We believe that this is the most protective and precautionary way to -- to deal with it. We also recognize that arsenic and lead are on the prohibited non-synthetics list, and we'd like to know what thresholds of arsenic and lead are acceptable.

Is that time?

CHAIRPERSON RIDDLE: That is time.

MR. BAKER: Okay.

CHAIRPERSON RIDDLE: And I think you actually finished your -- there's a question. Go ahead. I'm sorry. Yes. I had looked there first, but --

PARTICIPANT: A blind spot.

CHAIRPERSON RIDDLE: Yes, right.

MS. OSTIGUY: Brian, the Crops Committee is looking at contaminants in fertilizer specifically at the moment. Could I get a copy of that report? Is it done?

MR. BAKER: Yes, you can. I don't have it
with me. It is on our website.

MS. OSTIGUY: Okay.

MR. BAKER: It's on the Advisory Council section. I can send you the link, or I can send you --

MS. OSTIGUY: That would be great.

MR. BAKER: -- a hard copy.

MS. OSTIGUY: Just send me a link. That would be great.

MR. BAKER: Okay.

CHAIRPERSON RIDDLE: Gerry?

MR. DAVIS: Is George still next or --

CHAIRPERSON RIDDLE: No, he was just getting my attention.

MR. DAVIS: A comment about no net degradation principle for heavy metals in the environment, and so forth. Elaborate on that a little bit, please.

MR. BAKER: Well, you don't want the levels to trend up over time. So a no net degradation would mean if we've got, say, 10 parts per million of arsenic in the soil today, we want it to be no more
than 10 parts per million, you know, 10 years, 20
years, 100 years from now. And if we have -- if it
goes from 10 to 20, we have degradation.

MR. DAVIS: So that would be -- going from
10 to 20 would be based on a site-specific level, or
are you talking about an average for the country or --

MR. BAKER: That's a very good point, and
I would -- the suggestion is to make it an average for
the country, a national average, because what you have
if you make it site-specific is that the more polluted
areas receive more pollutants. The less polluted
areas receive less pollutants. And if you make it a
national average, then it averages out.

CHAIRPERSON RIDDLE: I have a comment, and
then back to Nancy. I really appreciate you bringing
this up, and it's been on my mind as well. And I see
that it relates to the whole term used in the
regulation, and even defined, of unavoidable residual
environmental contaminants, or UREC.

And in the preamble it discusses that the
Secretary will be establishing UREC levels. And to my
knowledge, the Board and the program has not taken
this up, and, you know, I -- there certainly are other priorities to be working on, but we can't ignore this one forever.

So I truly appreciate your bringing it up and providing some further information to the Board to consider.

Nancy?

MS. OSTIGUY: The national level, standard, whatever, would make -- I can see the logic of that. How would we deal, though, or has OMRI thought about how we would deal with materials or substances like selenium, which have very widely different levels in the country?

MR. BAKER: That's a good question, and I would suggest, you know, to echo what Jim says, I know that you have many things to deal with. And to make it tractable, to make it possible to deal with, I would suggest you prioritize certain metals starting with, of course, arsenic and lead, because they are on the prohibited national list, and they're referred to in the statute.

But then, also looking at -- I would
suggest that the next priority after that be cadmium, because it appears in so many different amendments used in organic production, and because of its mobility and toxicity.

CHAIRPERSON RIDDLE: Thanks, Brian.

MR. BAKER: Thank you.

CHAIRPERSON RIDDLE: Okay. We have Joe Smillie, and then Leslie Zuck. And before you start, Joe, if I could have someone check the list, sign-up list, see if there are any additional names, because we're getting down to the end. I want to make sure everybody gets their chance.

All right. Thanks, Joe.

MR. SMILLIE: Joe Smillie, that's S-M-I-L-L-I-E. I work for Quality Assurance International, and I'd like to speak today on behalf of that agency and also as an organic consumer.

Thank you for having this meeting. Thank you for allowing everyone to speak. As a certification agent, we deal with the issues that you're talking about every day. We have a policy meeting every Tuesday morning that lasts for two
hours.

We call our group Deep Gray, and we deal with this stuff all the time, so it's really refreshing to come here and hear fellow colleagues deal with the same issues, because they're tricky. And as Brian pointed out, we have general agreement on most things. It's the middle ones that we have trouble with.

I'd specifically like to thank the NOSB from the bottom of my heart for clarifying and coming back with a new recommendation on listing of certification agents on packaged product. That was really disturbing. The report last time we asked you to reconsider it. You did. You came up with what I think is an excellent recommendation, and hopefully the NOP, it sounds like, will adopt parts of it.

I've heard Barbara specifically talk about voluntary certification and the recognition of voluntary certification for retailers who accept the certification as a final handler. And that's very important, and I look forward to seeing that enshrined.
The issue about mandatory certification for retailers or others who go the private label route is complicated. And as you've discovered yourself, where do you draw the line between just having something made for you, and then also -- we also have clients who have co-packers, but basically they're running that co-packing facility.

I mean, they're filling out the application forms, the organic compliance plan, the specifications, ordering the agreements -- you know, they should be certified. But it's a tricky issue and one which I know that you'll deal with, and it will take some time to figure out where you would stand on mandatory certification of companies that commission private labels but are really much more involved in it. I look forward to that dialogue and hope to participate in it.

On the second issue, it's a mix of personal and professional concerns, and that's the whole idea of the yeast issue, which talks about a lot of living organisms. I especially liked the conversation. I loved Dave's very simple analysis --
living and non-living. I know it has its limitations, but I like it.

I loved Goldie's supportive culture, because we're talking about cultures that can be handed down from generation to generation that are cared and nurtured for in the -- and are truly organic.

I think Andrea's point on the regulatory that nothing forbids it, if you can come up with an organic compliance plan to justify the raising and culturing of these wonderful cultures, and that's a reasonable compliance plan, I think you'll see a great difference between the way conventional bacteria are produced and others.

And with the GMO threat to enzymes and that, I think we'd better start looking at organic culture of cultures.

On a personal note, I eat large amounts of miso, tempe, shoyu, and tamari. And these were -- some of these products were some of the original organic products in the organic industry, and it would just be more than a crying shame -- I can live with an
organic Twinkie, but I can't live without organic shoyu and miso. And I would hate to see those products eliminated because of a strict, rigorous, scientific interpretation about Koji cultures.

I've been to -- koji is, and I'm getting my, you know, cartoon book of Guide to Chemistry for sure, but aspergillus oryzae -- or, no, ryzobis -- ryzobis -- no, ryzobis is tempe, aspergillus oryzae is miso and shoyu and that. And I visited some of these cultures, and let me tell you, it's an agricultural culture.

I mean, the way that koji is raised is phenomenal, and you just need to go to South River Miso in Conway, Massachusetts, if you want to see organic culture raising. It's fabulous.

On that issue, you know, don't take away my miso and shoyu --

(Laughter.)

-- as organic. It really will get ugly, then, and betray my last name.

On the third issue, I really support --

and I thought Michael McGuffin really laid it out very
clearly for you. I think it's just really obvious, and I think we just need to deal with it. I don't think that's a complicated issue, as I carefully pointed out myself.

And I think we need, as a certification agent -- you know, we're tied. Joe Mendelson made some comments about having, you know, certifier seal up there without the USDA rule. And that's a problem for us, because when you get down to the logistics of what certificate do we issue, yes, there's no USDA seal, but what certificate do we, as an ACA, cut for a product that we clearly see as organic, we clearly see their right to do it, but we've got this jurisdictional issue.

So let -- I think that's solvable, and I think if we applied political pressure and allow the NOP to make the right decision, I think that's the route we should take on that.

So, once again, I thank the NOP for their great work, you for your great work, and I really enjoy these meetings. Some people find them tedious and boring, but for those of us who live every day in
these issues it's just fun to see other people have to suffer the same fate.

(Laughter.)

Thanks.

CHAIRPERSON RIDDLE: Thanks, Joe, and it's good to see you here.

Leslie Zuck, and then Marty Mesh.

MS. ZUCK: Good morning. I'm Leslie Zuck, Executive Director of Pennsylvania Certified Organic. In regard to the Board's recommendation on commercial availability of seed, I would like to say that we have farmers who often ask us if they -- "Do I have to purchase organic seed? I've never heard of this supplier before. They may be in California or New Mexico, and I'm used to buying my seed from my local dealer." And they really are reluctant.

It may be a vegetable grower who really needs to meet their customer satisfaction and demands for the quality of their vegetables, or it could just be an organic dairy farmer that doesn't want to risk their entire corn crop to some unknown variety of seed.
So we -- we tell them, you know, that -- I mean, these are also farmers who are very dedicated to organic, and they do want to do what the right thing is to do. They're not trying to wiggle out of it, but they've got -- their farm is their main -- their main concern.

So we tell them they have to make a good faith effort to use the organic seed, and in this case that they should try some of the seed, get some of it, try it, see how it works for them, see how they like it, and that's what it really boils down to. If the farmer likes it and it works for them, and it works for their customers, they're going to grow it.

And you know, I've seen this happen. You know, I have to say, I would be a bit embarrassed to have to tell the farmer, "Well, you know, you could try some, but you've got to use scientific methods and replicated trials." I mean, the farmer doesn't know how to do that, and I don't know how to do that. So that's -- that's the one issue I have.

And some farmers have actually done these trials and have been disappointed in the quality of
the organic seed. On the other hand, many produce
growers, particularly tomato growers of heirloom
tomatoes, have been happy to be able to switch to
organic seed because of the more availability of the
quality seed.

Personally, I had an entire year of total crop failure the first year I purchased all
organic potato seed, and I wouldn't buy those spuds again, scientific methods or not.

PCO also does not have a database or a list of the non-organic seeds that our clients are
growing on hundreds of farms in Pennsylvania. So the reporting requirement would impose an additional
paperwork burden on the farmers as well as this particular certifier to come up with that list.

I'm just really reluctant to impose more paperwork burdens on my clients without, you know, some strong justification that I can say that this information and data is useful somehow. And I guess I'm not feeling that way at this point, that the information will be used for something that would be useful for the industry.
Regarding the labeling of organic products by non-certified retailers -- different subject, sorry -- this is a major problem. The retailer's exemption was intended to exempt grocery stores from certification, allowing them to buy and resell organic products in their stores without having to be certified.

However, the problem is once a retailer starts putting its own products out there in the huge supermarket stream of commerce, it should be required to submit to the same organic certification requirements that, you know, other brand owners who have identical organic products that are competing with these store brands have to -- have to submit to.

You know, I'm also extremely uncomfortable with having the PCO seal and the USDA seal on millions of packages sold by a company that PCO does not certify. PCO is responsible for the organic certification of those products, yet does not have the right to inspect the premises or the records of the company that's selling them to the customers or consumers, nor does the company have -- that company
doesn't have to submit sales records to us, it doesn't have to pay certification fees, it gives them an unfair marketing advantage over identical products branded by certified entities, you know, which in most cases the store also sells those products and is making a profit on them as well.

So I feel like if they want the benefits of certification, and they want to use the USDA seal, that the retail operation should have to pay the price and submit an organic system plan and be inspected.

We've already run into problems with this following up on consumer complaints about products carrying the PCO seal, but branded by a company we don't certify. We also have a situation where our client's label, complete with the PCO seal, was being placed by a retailer on a product our client did not produce.

This product was then distributed throughout the east coast, and to this day I don't know if it was organic. But that's been resolved.

I support the recommendation that labeling products with store brand -- with the store brand
becomes processing and requires the store to obtain certification for that product. Not necessarily the entire store would have to be certified, but the production of that product should have to be certified, and I hope that this issue can resolve -- be resolved within the constraints of OFPA.

And one last thing -- two sentences -- honey standards are desperately needed. Organic honey is being marketed in the U.S., accompanied by certificates issued by USDA-accredited certifiers, which state that the honey complies with the NOP standards. And it's difficult for me to explain to potential clients why we can't certify honey producers when their competitors in foreign countries are being certified.

CHAIRPERSON RIDDLE: Okay. Yes, Hugh, then George.

MR. KARREMAN: Leslie, how is it that, if I understood you right, some of these -- some products are out there with the PCO label if you didn't give it? How is that?

MS. ZUCK: Good question. Originally, the
retailer was -- had a private label agreement with one of our clients, and had a label produced for that client and packaged -- the products were packaged and put in the stream of commerce. Our client was certified private label, no problem.

But then they ended their agreement, and the store found another supplier of the product, and used the labels and put it on the other product produced by another place.

MR. KARREMAN: So they had spare labels.

MS. ZUCK: They didn't. They actually -- from what I understand, they actually went and had them xerox copied and made the same way that the old ones were.

MR. KARREMAN: That would sound illegal, but I don't know what the statutes say on that.

CHAIRPERSON RIDDLE: Are they also using the USDA seal?

MS. ZUCK: Oh, yes. The seal was -- the seal was --

CHAIRPERSON RIDDLE: So both your seal and USDA.
MS. ZUCK: The label was identical to the one we approved. It went through the certification process, was approved by the certifier, had our certification on it, and they didn't think they were doing anything wrong. It was not -- I don't believe it was intentional.

CHAIRPERSON RIDDLE: We have George and then Gerry.

MR. SIEMON: But that's -- this is fraud. You know --

(Laughter.)

-- please don't confuse policy with fraud.

Please. Okay?

MS. ZUCK: They really -- I think it was totally an honest mistake. Sorry.

CHAIRPERSON RIDDLE: Okay. George, continue.

MR. SIEMON: You first said that there's places you did certify, and where you certified the plant, you certified the processing, you certified the ingredients. It's got your seal on it. You said that you still felt uncomfortable that the retailer was
selling that.

I don't understand that. You're responsible -- your seal -- for the integrity of that product when it's sealed. Why do you care what the certifier and private label -- I mean, the retailer's -- there's no difference between that or a brand and once it leaves the plant.

Why is it a concern to you about their certification when you're responsible for putting it in the container and sealing it? So I'm confused with what you said earlier. You said you were -- that it wasn't right. I disagree.

MS. ZUCK: Well, I --

MR. SIEMON: Or I didn't understand your point.

MS. ZUCK: It makes it really difficult for the certifier to follow up on any consumer complaints about a product that they purchased somewhere. We can't -- the situation that I just talked about would not have occurred had we been, you know, inspecting and looking at the records, and that the retailer, as a certified entity, would understand
what's required of them, what's not allowed to be
done, what is required as far as labeling, would not
have occurred had we certified that plant.

We had to spend a lot of time and effort
following up on this complaint. It was very
difficult. It happened in a state -- you know, five
states away, you know, somewhere else, that has our
name on it. So we're required to follow up on
complaints by -- you know, according to our
accreditation requirements, and, you know --

MR. SIEMON: But that seal was wrongly
applied. It was fraudulent behavior. You know,
you're always going to -- fraudulent is going to cause
a lot of trouble for all of us to follow up on the
research.

CHAIRPERSON RIDDLE: I have a comment, and
then we'll go to Gerry and Hugh. And that is in
response to your questions about value of seed lists.

Well, first, I'd just, you know, like to point out as
you well know that records are mandatory to
demonstrate compliance and to record transactions, and
that's inputs as well as sales.
And so, you know, and certainly something like records of seed purchases do need to be recorded by the operator and reviewed by the inspector. So it's not like the information does not exist. It should exist to comply with the regulation to begin with, but you -- yes, it's true that this would be an additional collection, and then submission of that information that already exists.

And why is that valuable? I guess to a certifier, if you do have a database where that's feeding in from different inspectors and different reviewers, you have a better tool for compliance between all of the operations you certify to make sure you're making consistent decisions, you know, and so that one operator isn't telling one inspector a certain story when those seeds are clearly available in an organic form, even in that variety.

So it can help with -- you know, with your own enforcement, but then also to bring consistency between certifiers in the accreditation process, so that you're on a level playing field with all other certifiers. So those coming into NOP certainly could
help bring consistency with that enforcement.

And then, finally, having that information come in in a generic form, not lists of names of the companies or the operators, but just the varieties, can certainly help advance the whole development of organic seeds and the availability, so that operators can better comply with the organic seed requirements. And maybe that wasn't spelled out clearly in our discussion yesterday.

MS. ZUCK: Yes. Generally and philosophically, I see that, but I guess my concern was all this data going to someplace and, you know, being collected but not necessarily being available for any useful purpose. I mean, I don't want to just send it and then have it be --

CHAIRPERSON RIDDLE: And for now, we've made our recommendation. I'm sure we'll hear back about it. And, once again, it's not the end, it's just the beginning of the story.

MS. ZUCK: Our clients do keep, you know, records. Those records are kept at the farm, and inspectors do review them. We just don't collect them
at the office.

CHAIRPERSON RIDDLE: Right. I understand.

Gerry, did you still --

MR. DAVIS: You covered most of it, Jim.

On the organic seed, the main thing is that -- I want to express to Leslie is that we're trying to make some progress toward further development of the organic seed industry, which several commenters have pointed out to us that it's stagnant, there's not progress being made towards fulfilling the requirements of growers using organic seed that's available, and the market is not developing to make that seed available because of the way we do things right now. And so we're stuck, and that's the --

MS. ZUCK: Ultimately, it will benefit the farmers to have more availability of organic seed, but I think there may be other ways to do it.

CHAIRPERSON RIDDLE: Any other - Hugh, and then Bea.

MS. ZUCK: Surveys.

CHAIRPERSON RIDDLE: Okay. You had -- hold my chain here.
MS. ZUCK: I think the USDA should have a -- send a survey to farmers or some other way to do it, or seed production companies, you know, some -- it doesn't really need to be the purpose of this Board or this -- or the farmers to come up with that.

CHAIRPERSON RIDDLE: No. But compliance with the existing regulations certainly is --

MS. ZUCK: Yes, we can --

CHAIRPERSON RIDDLE: -- fair game. Hugh?

MR. KARREMAN: You mentioned about the honey coming in from wherever it is, and that, again --

MS. ZUCK: Foreign countries.

MR. KARREMAN: -- it's a labeling issue. But your -- what is it -- you have to put on your seal? Or they're coming in with USDA approval and --

MS. ZUCK: Well, if a client -- yes. If a client has a product that contains honey, then we review that product and we determine that every ingredient in that product has a certificate accompanying it stating that it's USDA -- certified by a USDA-accredited certifier.
So we get this certified organic honey, and it comes with a certificate that says that it’s certified to the NOP standards by a USDA-accredited certifier. So in -- I then did -- investigated and looked at the standards to -- under which it was certified, and they are not USDA. I mean, they are not in the standards because there are no honey standards, so they are just sort of these other standards for honey production that this certifier uses.

MR. KARREMAN: So then you probably shouldn't be certifying that or putting a PCO label on it.

MS. ZUCK: Well, the way I understand it, that if -- you know, I can't really look behind the USDA certificate that states that. I mean, my job is to make sure the certificate is valid, which it is, and I can't really go past that and check to see at the farm level that it was done properly. If I did that with everything, I don't think that I'd really be allowed to do that even -- question other certifier's certificates.
CHAIRPERSON RIDDLE: Andrea, then Bea.

MS. CAROE: Just a quick question. Leslie, could you disclose to us how you found out that the label problem was happening? Was that through enforcement that you found out, or was that your own monitoring surveillance and --

MS. ZUCK: Our client had a regional distributor that found it in the stores and --

MS. CAROE: So it was reported back to you --

MS. ZUCK: By the client.

MS. CAROE: -- by private industry.

MS. ZUCK: By the client.

MS. CAROE: Okay. Thank you. I just was curious.

MS. ZUCK: No one would have known there was anything wrong with it.

CHAIRPERSON RIDDLE: Okay. Bea?

MS. JAMES: I have just some -- you know, a series of questions to help me understand exactly why you think it's important for a retailer to be certified in order to sell a private label product.
So bear with me, okay?

If a retailer -- if a retailer is certified, say, in the grocery department, what are just like the basic things that they have to do to be in compliance for that certification? And I think I know, but I just -- I'd like to hear from you.

MS. ZUCK: In the grocery as in the -- their store? We don't certify any retailers, so you might be asking the wrong person.

MS. JAMES: Okay.

MS. ZUCK: What we do is we certify branded products --

MS. JAMES: Okay. Okay.

MS. ZUCK: -- that are -- you know, we looked at the ingredients, and, you know, we -- mainly we checked the label to make sure the label is proper and the, you know, amounts of labels that are used matches the amounts of product --

MS. JAMES: Okay.

MS. ZUCK: -- that was produced, that sort of thing.

MS. JAMES: So it's my understanding that
if you're certified in the grocery department, that
that means that you have to make sure that you're
handling and receiving and that you're -- you're not
commingling, even though that's difficult to do,
because a lot of those packages are packaged anyway.
Correct?

MS. ZUCK: Yes.

MS. JAMES: Okay. So that's kind of like
the basic cartoon version of retail --

MS. ZUCK: I'm sure it's pretty simple
with packaged products, yes.

MS. JAMES: So I'm trying to figure out --
how does that help quality control, for a retailer to
be certified in the grocery department, if they want
to sell private label organic pasta sauce? How does
that help you monitor your quality control, and really
their -- they are -- are being certified to make sure
that their handling and receiving and commingling and
store operational level of organic compliance is done
at that level?

But if, say, a retailer is just
contracting out to have pasta sauce with their label
on it, that they don't manufacturer, they don't have any involvement whatsoever except to say, "Here's the artwork for our brand logo, and can you please make sure that that's a part of this," you know, that's on -- that's on this package.

MS. ZUCK: There's a couple of things that can happen. You know, we are only certifying the plant that makes that soup or that canned good, or whatever it might be, and we -- we know how much they make, what they put into it, how many labels they put, and how much they shipped.

But if the store is putting, you know, other -- having contracted with another certified producer to put it on -- to make it as well, it is not certified by us, we don't know that, we -- you know, it's --

MS. JAMES: I'm not sure I follow you, because if you certify a plant to produce -- to make pasta sauce, and that retailer contracts with them to put their label on something that the plant is fully responsible for for making sure that they're in compliance with the organic regulations for
manufacturing and handling, I just don't see the connection for -- for making sure that that grocery retailer is certified at the retail level.

And the only reason I -- I bring this up is because I think that it would actually hurt a lot of manufacturers if that stipulation was put on a retailer in order to sell an organic product. I think there is an exception. I think there are some retailers that definitely go above and beyond and want to have more involvement and want to be to use that seal, and that's fine.

But because of the exemption, I think that the real -- and tell me if I'm wrong here, but, I mean, how can we continue to drive retail certification when there's not clear, concise retail certification guidelines that we have. And why would we -- why would we press that issue in the retail level when, really, the bigger issue has to do with the fact that there is no guidelines for retailers. They're being certified as a handler.

CHAIRPERSON RIDDLE: Comment from Barbara Robinson, AMS.
MS. ROBINSON: Leslie, I'm -- let me try to help answer Bea by asking you -- I think isn't -- isn't what you're trying to say is the fact that you have -- if you had a relationship with this retailer whereby, based on what I heard you say, you had access to records, you had access to records about the product itself, so that you can trace back beyond just what is on that label, you have some -- you have some access to the traceability that gives you this comfort level about what's behind the label on that product, that you do have more of a comfort level about your logo on that private label.

And that's what's discomforting to you is a private label that just may say "PCO certified" on the label. Okay, fine, but you don't know really what was in the -- it's -- okay, let's just take, you know, vegetable soup. You have nothing -- you don't know anything about what's in that can of vegetable soup because it was co-packed someplace else.

But if you have an agreement with the store, and so you've got access to those records, whereby you can go in and see, okay, are all the
contents of that vegetable soup actually produced to
NOP standards that then -- then you've got a better --
you've got a better relationship and --

MS. ZUCK: Well, as Bea has said, I've
done that already at the production level. And to
explain it one step further, from -- I'll just tell you
in real life what it cuts down to is these are not
processed products that were -- I'm talking about with
PCO. They are large quantities of mushrooms and large
quantities of eggs. Okay?

So these products can -- you know, are
just basically sent to the store, overwrapped, and
gone, or they're done at the plant and gone. So, you
know, the -- you know, the idea that we don't -- we
can't follow up with any of that is -- is really, you
know --

MS. JAMES: Is that the retailers' fault,
or is that the person that you certified, the plant
that you certified?

MS. ZUCK: Well, it is, but, you know --
and there's also repacking of produce like oranges and
things that, you know, say certified organic by PCO.
And we're in Pennsylvania, so that's kind of odd. But we get a lot of people calling us up and saying -- you know, they have a complaint about the eggs, and we -- and it's, you know, in a carton with the store brand up in Connecticut or something, and we don't know how -- you know, we really don't know much about how they got there from the distributor.

I mean, they go to the distributor and they go -- you know, these retail distributors are huge, and then they go to all these stores.

I feel like I'm taking a lot of time.

We don't have any traceability once it goes to the distributorship, and then it goes to 50 million stores, and, you know, I --

CHAIRPERSON RIDDLE: I have George, Julie, and Andrea. But I'd like to remind the Board that there's only 15 minutes left in public comment, and we still have five people signed up, so -- George?

MR. SIEMON: What's the difference between somebody out there putting your seal on their package and somebody moving from a certified plant to a non-certified plant and putting a private label or a
branded? What's the difference? Someone has illegally applied your seal to a product that was not certified by you. What's the difference between private label and branded in that illegal incident?

MS. ZUCK: I'm going to say one more thing and then I will -- the way it really happens is there are these producers of mushrooms or eggs, and they're farmers, and they don't have a really huge operation. Like, in Pennsylvania, they're not as big as maybe in the Midwest. And this big supermarket comes to them and says, "We want to market organic eggs under our store label."

And the farmer gets really excited, "My gosh, Giant is going to buy my eggs, and this is so exciting." And so they call us up and they say, "What do we want to do? Giant wants to put, you know, our eggs in their cartons and call them organic. And don't they have to identify a certifier?"

And, yes, they have to identify a certifier, which is PCO. So, and then we tell them we have to have a private label agreement with this, so we can like -- if there's a customer complaint, we can
go inspect the premises, or we can at least call them up and they'll tell us something and they'll talk to us about it, you know?

And they're like, oh gosh, I don't know if they're going to do that, you know? Well, you know, if they want to get certified -- if they want to get organic eggs, we have to do that.

MR. SIEMON: I'm asking about the plant who has illegally applied your label. It's their responsibility to put the seal on there. That plant has done the illegal activity, putting a seal on there that was not who they were certified by.

MS. ZUCK: Yes. Well, we're trying to prevent more of these, you know, problems from happening. Illegal --

CHAIRPERSON RIDDLE: Well, we're not going to resolve that today. Andrea has a very quick point, she promises.

MS. CAROE: Just one quick point, and everybody should remember that when you're talking about store private labels, the only one that has control over that label is the retailer. And the
gross assumption you cannot make is that the co-packer we're aware of is the only one that's applying that label.

MS. ZUCK: Yes.

MS. CAROE: You can't make that assumption. This is not the first time we've heard of this. It has happened before. And the only way that we'll work this out is to be able to understand what happens in that retail operation when they're applying a label that they own.

MS. ZUCK: And the stores often refuse to sign these contracts because they don't want anybody inspecting their store.

CHAIRPERSON RIDDLE: All right. Thanks, Leslie.

MS. ZUCK: Sorry.

CHAIRPERSON RIDDLE: That's fine. It wasn't your fault people asked questions.

(Laughter.)

We have Marty Mesh.

PARTICIPANT: He's coming. He--

CHAIRPERSON RIDDLE: Well, he may have
missed his --

PARTICIPANT: He's right here.

CHAIRPERSON RIDDLE: Okay. In the nick of time, and then -- and Julia Sabin is next.

And, Marty, do you have a proxy?

MR. MESH: I do. Steve Walker.

CHAIRPERSON RIDDLE: Okay. Steve Walker.

MR. MESH: Well, you've heard the articulate, and you've heard the succinct. Now for a change.

I want to thank the -- my name is Marty Mesh, M-E-S-H, the Executive Director of Florida Organic Growers Quality Certification Services, and as is usual, a member of the Board of Directors of the Organic Trade Association, although my comments do not represent the official position of the OTA.

CHAIRPERSON RIDDLE: Please speak into the mike. Get a little closer.

MR. MESH: I wanted to thank Board members for your efforts over the last few days. Thanks to Tony and USDA for making the hotel available.

In relation to Mark's comments, there's
lots of other hotels available. The metro system has worked well for -- for me, and I would be willing to take any farmer under my wing and show them how to save money in Washington, D.C. by --

(Laughter.)

-- finding alternative living arrangements.

It does bring up the point about having meetings outside of D.C., though, and I think that that point deserves to be considered. Again, the meetings used to be outside of D.C.

I believe the NOSB, a group of committed volunteers from different stakeholder groups needs to have increased resources in order to do what's being expected of them, including adequate scientific help accessible for them, and I think it would make your job easier.

I think you're being held to -- to -- I think your job description has grown, and the expectation is that maybe even the program staff -- is putting on you are not workable given the resources that you have.
I, too, have a concern about what I thought about was unfunded mandates of certifiers. You know, annotation has always kind of caused concerns, but if carried out will only translate to increased costs for certified entities.

Michael Sligh's comments articulated well the potential unintended consequences of the organic seed requirements affecting local seed viability. The seed-gathering discussion, while from a macro conceptual point includes admirable reasons, the implementation and suitability in variance and regional specificity of plant varieties, the likelihood that the data, if gathered, and if turned in, is misinterpreted for private corporate gain, private profit, or not available in a timely manner, is very high as well as the effects on internationally/locally adapted seed varieties that are typically and historically used in organic seed production.

After all, it brings -- it brought the memory back of the certificate discussion. We, as certifiers, always wanted dates on the certificates,
that as certifiers the industry and consumers raised numerous concerns. What we were promised by the national organic program staff was a national database -- was held up as the solution. And years later the situation remains the same, where dates on certificates would be helpful in the field.

The database is yet to be implemented, and it's not due to the program staffs, you know, not caring about things. It's just other priorities have taken -- have taken their attention, I assume, or the resources haven't been there.

Speaking of resources, this brings me to the -- to the proposal which I brought forward, and which was brought forward by others as well years ago, for which there was lukewarm reception, and, no, it wasn't for compensating farmers for government-mandated spray programs, which that concern still is out there in the case of citrus growers growing Valencia oranges.

Under the current program, they can still lose access to the organically-grown label for two years without any compensation for the increased cost.
of farming in a more sustainable manner, and the
public benefits which accompany that. Those public
benefits, while becoming more well-known, have not
been espoused with U.S. Government help as the
purported benefits of biotech have enjoyed through the
years.

But concerning unfunded mandates and lack
of resources for this industry to grow, I, once again,
bring up the idea of a simple one percent retail
check-off. Yes, years ago it was a half of one
percent retail check-off -- which would mean a 99-cent
yellow squash would sell on the retail level for one
dollar.

The retail sector, where a large amount of
the money -- a disproportionate amount of the money is
which -- that price captures the whole supply chain,
on the U.S. national retail sales now exceeds $7- to
$8 billion. And so for the sake of easy math, I used
$10 billion, given the continued growth of the
industry. One percent is $100 million.

Certification could be free. I'd be more
than happy to gather seed data and turn it all in to
the U.S. Government with some additional resources on
the certification end.

Certifiers -- the $50 million that we
advocated for for organic research would be there.
Money to do research education would be available in a
painless -- in a more painless way, funded on the back
end, not the front end, at the farm gate level or the
source.

An organic producer in Florida who was
devastated by the 2004 hurricane season, crop disaster
payment, e-mails, there's a lot of work to do at the
USDA. I'll just read this one line into the record
As she -- as they were still trying to get
hurricane disaster benefits, which I'm not sure how
the use of methyl bromide, you know, keeps a hurricane
from affecting you, but it -- this talks about their
-- their application for assistance is denied because
fumigation is a requirement for aquaculture practices.
There is no authority to implement provisions
differently than contained in the regulation.
The idea that -- that organic producers
can't take advantage of other USDA program disasters
because of the bias still held to organic is troubling and remains so.

And then, I need to comment about organic fish. The National Organic Program Director came to Florida in a public setting, spoke about if you can produce a fish in -- you know, under this program by feeding all organic feed, then by God you can sell it and you can put a USDA logo on it.

Companies took the U.S. National Organic Program Director at his word, invested several hundred thousands of dollars into, you know, designing a production system, implementing a production system, carrying it out, certifying it, have been feeding at great cost -- I mean, if there's any livestock producers in here that know the difference between sourcing conventional feed and sourcing certified organic feed, and feeding livestock, the cost is considerable.

And they've been doing that. They have been feeding 100 percent certified organic feed to shrimp. And, yes, they put the USDA logo on it. We have, as their certifier, asked and requested, and I
thought they had removed it and taken it off, but, you
know, we also, on behalf of our certified entities,
petitioned the USDA quite some time ago to engage in
expedited rulemaking -- I believe is the phrase that I
used -- in relation to aquaculture.

And, you know, these producers are trying
to hang on by a thread, competing against shrimp that
isn't fed organic feed, but yet carries organic shrimp
on it. I would think that my colleagues from
Consumers Union and the Center for Food Safety would
be more concerned about shrimp that's not fed organic
feed than shrimp that is fed 100 percent organic feed.

And I understand the consumer -- the
consumer confusion, and that's why we asked for and
requested expedited rulemaking.

I have five more minutes, I thought,
Goldie.

CHAIRPERSON RIDDLE: No.

MS. CAUGHLAN: You have used up nine.

MR. MESH: Oh.

(Laughter.)

Damn. All right. Well, then, I would
like to clarify the private label issue. This is the same -- not the same jar, but the same product that I used for Keith in Atlanta at the accreditation training to try to illustrate the idea of private labeling with the concern.

This is coffee, obviously, that's grown in various countries, a blend of coffees. You know, packed in Germany in probably a certified facility, packed for a distributor in New Jersey. The point that certifiers have or the concern that certifiers have, if the distributor -- if the private label isn't certified, nobody has access to know how many -- how many --

CHAIRPERSON RIDDLE: Finish your thought.

MR. MESH: -- jars of coffee there are, and how many plants throughout the world are actually producing this jar with these labels. You know, if -- if you go to one facility, you can audit how much coffee came in and how many jars went out. You don't know if there's more jars, more factories in other countries producing the same jar.

This jar is in every store there is.
There is a lot of organic instant, you know, coffee that, believe me, people are paying a premium price for being sold. And so that's the concern, at least from my point of view, of certifiers not having access to those records. You know, who has those records, who has access to them, and can we vouch for the integrity of the product.

CHAIRPERSON RIDDLE: Thanks, Marty.

MR. MESH: Questions on shrimp or other produce?

MS. KOENIG: My question is -- well, no, my statement -- and it -- you know, it has to do with Michael Sligh's comment, and you also said it, and I think that there's confusion. And maybe I'm confused as to the way we propose this organic seed under three -- you know, in terms of land races and -- and, you know, developing countries and subsistence farmers trying to get into organic --

MR. MESH: Or Florida farmers.

MS. KOENIG: Well, but if you look at -- it's A, B, and C, or the research. Okay? So, in other words, you know, if they can justify non-organic
seed based on the attributes -- you know, it's a land
race, it's adapted to the specific geographical
region, our policy I don't think is different than
what has been sort of the commercial availability
clause.

But, you know, or, if you're going to say
"research," you know, if you're going to use the
research and say, "Well, no, the research doesn't
prove it," if you're just going to use that, it says
that if you do research to prove it, then you have to
do, you know, evaluative research. And maybe -- and
that's how I understand "or." It's not "and, and,
and."

So I don't know, we can maybe try to get a
clarification of that.

CHAIRPERSON RIDDLE: Thanks for that, Rose. Thanks, Marty.

Okay. Julia Sabin, and then Aaron Zeis. Julia?

MS. SABIN: My name is Julia Sabin, General Manager of Smucker Quality Beverages. Good morning, National Organic Standards Board, National
Organic Program, and interested members of the organic community.

SQB procures organic ingredients, manufactures and markets a number of organic products under our brands of R.W. Knudsen, After the Fall, and Natural Brew, as well as our all-organic brand of Santa Cruz Organic.

SQB has submitted a list of materials to the National Organic Program and the National Organic Standards Board that we believe are essential for the continued use in our handling operation, and those of the farmers and ingredient suppliers.

We encourage the NOSB and the Secretary of Agriculture to keep those materials on the national list. We thank you for the timely posting of sunset review comments and encourage the NOP to continue to post all comments and Board recommendations for transparency.

Any documents that the Board utilizes as information to assist them in materials review should also be timely placed on the NOP website for the public to view.
In closing, we encourage the NOSB and NOP to work in conjunction with the organic industry on reclassifying materials and clarifying definitions. It is critical that recommendations made by this Board take public comment into consideration, are consistent with OFPA and with past board recommendations.

As always, we continue to fully support the NOP and the NOSB and thank you for all your tremendous work and dedication.

Thank you.

CHAIRPERSON RIDDLE: Thanks, Julia.

Aaron Zeis? And then next up is Emily Brown Rosen. And before you start, Aaron, I just want to know if Mark Cox or Christine Cox are here, or Mark Retzloff. Okay. So Aaron, and then Emily.

MR. ZEIS: My name is Aaron Zeis.

CHAIRPERSON RIDDLE: Zeis, I'm sorry.

MR. ZEIS: That's quite all right. Z-E-I-S. And I am a farmer of three acres of mixed produce and I serve as Administrative Director for Indiana Certified Organic.

Good morning, members of the Board and NOP
and guests. I would like to thank you for the opportunity to share my views with you.

Today I'm here representing my opinions as an organic farmer and consumer. I have just a couple of items I would like to briefly address. The first is with regards to the USDA NOP certification of personal care products. I do believe there is a huge demand for personal care items that consumers can trust to be free of chemicals and synthetic ingredients.

I do understand that the authority with regards to personal care items is the FDA. However, many of -- many consumers are requesting more regulation and oversight on these items than the FDA is already providing. I do not have the perfect solution. However, I am aware of the cooperation and collaboration with other governmental agencies in the NOP, such as the EPA, with regard to pesticide reviews to NOP standards and the FSIS reviews of organic meat labels, TTB reviews of organic alcohol labels, and even the FDA with regard to livestock supplements.

I would hope there could be some point of
FDA review or cooperation with NOP to ensure the concerned public is not exposed to harmful chemicals such as thalades, aluminum compounds, or sodium laurel sulfate.

My second item is in reference to the guidance on the commercial availability of organic seed. I would like to thank the Board for addressing this item, as I believe it to be a major problem in the organic industry and a loophole that some farmers may choose to fudge.

I understand there is a large quantity of organic seed that is not being purchased due to this very problem.

I would like to approach the topic first from the vantage point of an organic farmer who grows over 75 varieties of produce, which is really not all that uncommon among diversified produce growers. The concepts of research and replications for all varieties is a completely impossible task. Jim and I spend many hours each year searching for organic seed and documenting my attempt when the particular variety of tomato or lettuce suited by my climate is not
commercially available.

There are thousands of tomato varieties, and many of the same varieties with different names by different seed companies. So hopefully you can see some of the confusion that may arise.

As a certifier, to document the nomenclature of all seed which is reported to be commercially unavailable and cross-reference this to which is available and report this annually, monthly, or daily to the NOP is something beyond comprehension.

Crop failures, weather difficulties, and other factors may leave a farmer without many choices late in the season. How can we really distinguish this with those who are trying to find the cheaper route?

This is a task which can be -- which -- this is a task which would place an overwhelming burden on the certifier, with an increase of labor requirements for all certifiers across the board, therefore likely affecting certification costs and paperwork for farmers.

I believe the commercially-available

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loophole is a problem and needs attention, and I appreciate the work that the Board has put into this recommendation. However, I believe it has not been addressed from the viewpoint of farmers and certifiers.

I am aware of the organic seed list available through ATTRA and other certification agencies, and maybe there could be a list created in which all seed companies may post varieties available on perhaps the NOP website.

I once again realize that I may not have the perfect solution, but I believe the proposed recommendation to be unreasonable.

I would like to thank the NOP and the NOSB -- well, I'd like to thank the NOSB for passing the pasture recommendation yesterday, and I would like to thank you all for all of your hard work.

Thank you.

CHAIRPERSON RIDDLE: Thanks, Aaron.

Okay. Emily Brown Rosen is the last commenter signed up.

MS. ROSEN: Thanks. Emily Brown Rosen,
Organic Research Associates. I just will be very brief and -- I don't want to drag this out, but looking forward on the sunset process, I just had a couple of points to make here, since that's your next big job here.

I support -- I'm glad you gave that review of items that you think are obviously in need of review. I think those were all good choices. I'd just like to point out a couple more.

The NOSB originally reviewed and recommended a two-year sunset on a couple of specific items back in 1995. So considering that it's 10 years later, I think it's probably a good idea now.

One of them was chlorine, and chlorine I know you worked on, you know, trying to change the annotation two years ago. We still haven't got that annotation anywhere achieved, and it is a very widely misinterpreted substance on the list. I believe it's being used at all different rates with all different justification. It's kind of hard for -- you know, it's just not consistent.

And I would like to point your attention
to a comment that has been already posted by Bob Sanderson from Jonathan Sprouts that's on the processing list. He wrote a very good comment about the use of chlorine in sprout treatment, which is a real concern. You know, he claims that it's being allowed at 20,000 parts per million, which is an FDA guideline for sprout safety at this point in organic production, and that the residues can be up to 16,000 parts per million, which is -- this is not an organic product.

You know, I don't think if consumers knew there was that much chlorine residue in the product they would think it was organic. So we need to look at that. I mean, he -- and he has an alternate method for doing it that involves a lot of testing and good HACCP management. So it's something that should be addressed.

The other item that was a two-year sunset was in crops -- streptomycin and tetracycline as antibiotics for use in bacterial disease control. I think there are alternatives out there. They might not be totally satisfactory, but it's time to revisit
that and let people come to the floor to say, you know, we do or we don't need that.

But I think it's -- it was questionable at the time, and with the concern about antibiotics in general being applied in the environment I think that would be a good one.

The other thing I wanted to say was that I was very impressed with your new TAP reviewers from Virginia who did the sucrose octanoate ester and the chitosan reviews. I think they're a good resource, and that when you -- they seem to be particularly well informed as far as regulatory status and FDA status of different items, because that's not always easy to figure out. I know from having to dig it up in the past.

So as we go forward, one other item, then, would be nutrient vitamins and minerals in food processing. Depending on how the Harvey thing shakes out, there is going to be a need to determine which nutrients are really required by law, you know, if they're going to be -- continue to be allowed in organic food. And I think that could be a helpful
Looking through that and making sure that we get a real good clarification, it's not all of them, it's -- you know, there's certain ones, and it's, you know, lots of different conflicting regulations there. So just a heads up.

Thanks very much, and you did a great job this time. There was a lot of hard work, so good luck.

CHAIRPERSON RIDDLE: Thanks, Emily.

And we will take a 15-minute break, and then come back with the committee chair work plan reports. And before you do that, as you give it thought over break, one of the first items that each committee chair needs to do is finalize recommendations from this meeting, feed them back into me to submit to the program. So keep that in mind.

All right. Fifteen-minute break. Be back at, let's say, 25 after. That's even a little longer than 15.

(Whereupon, the proceedings in the foregoing matter went off the record at
10:10 a.m., and went back on the record at 10:30 a.m.)

CHAIRPERSON RIDDLE: Please take your seats, and we'll resume business with the committee chair reports on future work plan items. And as we have done in the past couple meetings now, you know, we can have a very brief and focused discussion of those if other members of the Board have any questions to clarify or if NOP has any input on those proposals, and also if you would kind of prioritize and a little timeline so that we can project what's coming up when.

So -- I'm sorry, can't think of everything. So, who would like to go first? Kevin, are you prepared for Handling Committee?

VICE CHAIRPERSON O'RELL: The Handling Committee work plan -- the first item, high priority is the -- will be taking the issue on the ag/non-ag that was deferred after a very spirited debate. At this meeting we'll be requesting an expedited TAP review, full TAP review, for yeast, so we can get some information on the manufacturing process, both conventional and organic, at least in Europe. We'll
be looking at the public comment, and we'll be proposing a new recommendation.

Sunset material review process -- of course, we'll be reviewing the public comments and moving forward on those materials that we marked as a priority -- colors, flavors, and yeast -- as well as looking at other materials on that list to see if any ones are highlighted as being needed to move up on the priority list.

Pet Food Task Force -- we'll continue to be an observer/participant in the Pet Food Task Force as it moves forward towards its recommendation to the Board. And then we'll be reviewing any petitioned substance -- substances as -- as required. We'll also be working on the determination of a commercial availability criteria in cooperation with the Policy Development Committee.

That's what we have on our plan currently.

CHAIRPERSON RIDDLE: Okay. Any questions from Board members, comments? George?

MR. SIEMON: Generally commercially available for which parts, the ingredients, the 605 --
I mean --

VICE CHAIRPERSON O'ReLL: Six. Yes, 606.

MR. SIEMON: 606, I'm sorry. That section.

CHAIRPERSON RIDDLE: Substances that are petitioned to place on 606, both the criteria and procedures for those reviews, right?

VICE CHAIRPERSON O'ReLL: Yes.

CHAIRPERSON RIDDLE: Okay. Any other comments? All right. Thanks, Kevin.

Dave, are you ready?

MR. CARTER: Yes. The Police Committee, we really have six things on our plate right now. First of all, as Kevin mentioned, we'll be working with the Handling Committee on the determination of the commercial availability under 205.606.

Secondly, is to obtain the public comments and then to develop the final recommendation on the temporary variances for research document.

Third is the continuing saga, the never-ending saga of Board policy manual revisions, as that goes on.
Fourth is the completion of the -- what we're affectionately calling the Board Member 101 document, which is essentially the orientation and overview for the new Board members that Bea and Rigo have been working on.

Fifth, the new item that got assigned to us this morning was the review of potential separation of mineral source supplements from ag source supplements, and going through some of those materials and seeing how we might move forward.

And then, six is just an analysis of the issues relating to the remediation of the court order based upon the document that NOP provided us is how we might feed back then on NOSB and the collaboration and in working forward to address those issues.

And then, the final thing we have on the work plan is the Policy Committee is in charge of planning the graduation party for the class of 2006.

(Laughter.)

Which class has gotten through without any drop-outs or any flunk-outs. We've gone through intact, so --
CHAIRPERSON RIDDLE: Was that the highest priority?

(Laughter.)

Any questions, comments, members of the Board first? And I do have -- I would just like to have a little bit more discussion about this input on the court ruling. When Barbara spoke with us on Monday, the Board was invited to provide our ideas and input, and that needs to happen in a timely manner to have any, you know, value to the program is my understanding.

And so I have spoken with Bea about this, and Bea has offered to serve as kind of a clearinghouse to help consolidate ideas from Board members.

And then, so I ask that all Board members submit your ideas on all or any part of the court ruling and how the rule can be changed to come into compliance, and then Bea and I will work together to construct a letter to the Secretary essentially, as this will not be, you know, a Board recommendation that waits for the next meeting, but rather a letter
from the Chair on behalf of the Board.

So once Bea and I have a draft, then it will be circulated for your sign-on, your concurrence with that. So that's the plan.

Bea, do you have --

MS. JAMES: Well, are we looking for a particular date to try to have all the information? Because it will take a while to make that into a --

CHAIRPERSON RIDDLE: Right.

MS. JAMES: -- a presentable letter.

CHAIRPERSON RIDDLE: Yes. And we didn't talk about that. You know, if members have -- what is reasonable? I mean, a month is reasonable, but two weeks is ideal.

Andrea?

MS. CAROE: I'm a little bit unclear on what we are doing. I mean, I saw our role with this court order remediation to be one of in collaboration assisting the program with implementing necessary changes. I didn't see our role as determining what the remediation changes are, so I -- I'm not quite sure what this clearinghouse is. This is the first
I've heard of it.

And what kind of letter we're sending to the Secretary, I'm very concerned about -- about this action. It doesn't seem appropriate to me for this Board.

CHAIRPERSON RIDDLE: We were invited to provide our ideas.

MS. CAROE: To the Secretary or to the program?

CHAIRPERSON RIDDLE: Well, I use those interchangeably. The Secretary is the program, or the program -- I mean, to the program but, I mean, it's -- yes, it's to the program.

MS. CAROE: To the program. That's -- I think that's more --

CHAIRPERSON RIDDLE: Right. I mean, we exist to provide advice to the Secretary under statute, but it is the program in reality.

MS. CAROE: Well, it --

CHAIRPERSON RIDDLE: At any rate, we were invited to provide our ideas up front, and then once the proposed -- and then, there will be a time period
where we're not engaged, where the rule-writing is occurring --

MS. CAROE: Right.

CHAIRPERSON RIDDLE: -- and then, once the proposed rule comes out, then we would provide advice, or I may not be on the Board by that time, who knows, but, you know, the Board would provide a response as a commenter to the proposed rule. But we were invited to provide input, ideas, and to be considered.

MS. CAROE: Okay. Well, this seems like duplicative of what Dave has just presented on the Policy Committee as doing, and that's opening that dialogue.

MR. CARTER: I think this is in -- in accordance with the Policy Committee. I mean, just a member of the Policy Committee, Bea is going to serve as the primary person on the Policy Committee to coordinate that material. We will continue to run that through the Policy Committee.

CHAIRPERSON RIDDLE: Right, yes. That was just --

MS. KOENIG: I guess I just had a question
on the process. So we'll all -- will the -- will they be discussed -- like the different ideas, is it just a long list of some of our potential solutions, or are they actually going to be judged and weighed by the entire Board, and then -- which is very different. I mean, I don't mind -- instead of individually going in with our ideas, if we want to compile all our ideas and saying this was not voted on, these are just our ideas, that's very different than -- because I don't think we have the time and really the process to do that in a recommendation.

CHAIRPERSON RIDDLE: Right. I agree. And that would be a collection of ideas.

MS. KOENIG: Okay.

CHAIRPERSON RIDDLE: And I think that could be the most valuable to the program. There may be some things, you know, that we come up with that have no value. There may be some new ideas that --

MS. JAMES: I think the input is to help the NOP. I mean, it's ideas and feedback and thoughts and that -- that revolve around this particular issue that we will present to them to help them make sure
that they've looked at all different kinds of possibilities.

CHAIRPERSON RIDDLE: And as much as we can, you know, pros and cons, potential impacts as well, and that's what Barbara was saying.

MS. JAMES: It's not necessarily taking a position on anything.

CHAIRPERSON RIDDLE: Right.

MS. KOENIG: What I would just suggest is that, then, if somebody -- you know, of course, if people don't have time, they can just come up with an idea. If somebody wants to go in individually and give the pros and cons, I just don't want to see some analysis of individual ideas. I don't think that's our role.

You know, if you personally want to do an analysis, that's fine. But what I'm saying is I don't want the committee to take all of our ideas and then do some microanalysis and say --

CHAIRPERSON RIDDLE: No. I think we're all --

MS. KOENIG: That's fine.
CHAIRPERSON RIDDLE: -- on the same page.

MS. KOENIG: Okay.

CHAIRPERSON RIDDLE: If you submit an idea, and you look at it from both sides, pros and cons, great.

MS. KOENIG: Okay.

CHAIRPERSON RIDDLE: We'll see what we get. But as far as your timeline, what should we say? Would you like to suggest something?

MS. JAMES: I think if -- I think if the committee has a month to do that, and to get that back to me, and then I'll try to construct it and send that to you. And I don't think that we should submit anything without the whole Board getting a chance to look at it also.

CHAIRPERSON RIDDLE: Yes, definitely. So a month being for members to submit something to you?

MS. JAMES: Yes. Yes.

CHAIRPERSON RIDDLE: Okay. And then, we'll try and turn it around in a week's time hopefully, but whatever -- you know, within two weeks.

Let's set ourselves two weeks --
MS. JAMES: Within two weeks.

CHAIRPERSON RIDDLE: -- after that, and then it will be circulated to the Board, and at that time I'll set a deadline for you to respond, and once we have something out to you. It'll probably be about a week at that stage. So it's going to keep getting narrower.

Okay. Thanks. I'm glad we had that discussion.

All right. Nancy, are you ready for Crops?

MS. OSTIGUY: We are going to be revising the compost and compost tea recommendations based upon the input that we've been getting, write Q&As for compost and compost tea to accompany that recommendation, then sunset review with the materials that we are going to need to be looking at, and then the three that have come up in -- during the meeting for streptomycin and tetracycline.

Contaminants in fertilizer, so try to delineate the issue so that we can begin to get to a point where we may have a recommendation.
CHAIRPERSON RIDDLE: I'm sorry. Could you repeat that?

MS. OSTIGUY: Contaminants in fertilizers.

Then, because we have continued to get comments on the commercial availability of organic seeds, to look at those to assess what the impact is going to be on -- you know, to look at that and assess the impacts based upon the input that we have received.

There may be things that we didn't recognize is what I'm -- I'm not saying we're necessarily going to revisit it, but to make sure that we have taken into account public comment and see if what we view -- what we view that impact might be, if it's something that we might need to address or not.

CHAIRPERSON RIDDLE: Okay. So even though the Board adopted it -- I just want to be clear -- are you suggesting we hold that at committee before submitting it to the program, or --

MS. OSTIGUY: No. I'm not even saying that there's necessarily anything to change.

CHAIRPERSON RIDDLE: Yes.

MS. OSTIGUY: But I don't think we should
ignore the public comment that has come in.

CHAIRPERSON RIDDLE: No, no.

MS. OSTIGUY: That is -- really, it's to
look at that public comment to see whether or not
those items are potentially going to be problematic.

CHAIRPERSON RIDDLE: Okay. And is that
something that can happen along with a recommendation
when we submit it to the program?

MS. OSTIGUY: Sure. Sure.

CHAIRPERSON RIDDLE: So that they have a
little analysis of those comments and how it relates.

Okay. Thanks. Anything else?

MS. OSTIGUY: The goal is not to hold back
that.

CHAIRPERSON RIDDLE: Okay.

MS. OSTIGUY: No, that's -- let's see.

Obviously, all the decision sheets need to be done at
some point or another. It's on our agenda. I don't
believe it will be done by the next meeting, or the
materials -- soy protein isolate and ammonia
bicarbonate -- no, we did finish synthetic, didn't we?

No.
CHAIRPERSON RIDDLE: The synthetic/non-synthetic, yes.

MS. OSTIGUY: Okay.

CHAIRPERSON RIDDLE: The recommendation, and then you have --

MS. OSTIGUY: Now we can do -- yes, so we'll be looking at the two materials -- soy protein isolate and ammonia bicarbonate -- to bring those up to -- for Board recommendation. Well, we have the recommendation.

And then, last but not least, hydroponics, the guidance document.

CHAIRPERSON RIDDLE: No. No, it's continued on the work plan. There was some early drafting, and it has never been --

MS. OSTIGUY: It has never gotten anywhere.

CHAIRPERSON RIDDLE: -- never moved forward. Any comments, questions, for Nancy?

Okay. Andrea, are you ready?

MS. CAROE: Yes.

CHAIRPERSON RIDDLE: Okay.
MS. CAROE: We will submit the retailer Q&A. That passed without changes, so it's just going to put in the Board vote on that.

We will also submit the NOP -- the response to the NOP response to the ANSI report document, with the changes that were noted during the meeting. We'll further work on the peer review panel recommendation, again implementing or including as much of the public comment as seems warranted. And also, working in collaboration a little bit further with the program to make sure that that document is sound and has some -- some legs to move with.

And then, the last thing is kind of an open-ended thing, and I ask for some flexibility in the committee. Since we were told at this meeting that as those ANSI response items are being generated, they will be run through this committee, I want to keep the plate somewhere clear so that we can respond to those quickly.

So I've kind of got an open item that I can't really detail at this time, but that's it for this committee.
CHAIRPERSON RIDDLE: Okay. Sounds good. Any questions, comments?

All right. Livestock? Michael, you are prepared to take over as Chair and give the report here, correct?

MR. LACY: I am totally unprepared to take over as Chair.

CHAIRPERSON RIDDLE: But you are prepared to give the report.

MR. LACY: Maybe.

(Laughter.)

George and I are transitioning the Chair responsibilities, and I do want to thank George on behalf of the Livestock Committee for the dedicated leadership he has provided to the Livestock Committee. We really do appreciate it, George.

I have only half-jokingly told him that George Pierce will have to come to work for me for the next --

PARTICIPANT: Jim Pierce.

MR. LACY: -- Jim Pierce, excuse me, will have to come to work for me for the next year, and
George has agreed to that.

(Laughter.)

We obviously have some work to continue to do on the pasture requirement, and we will work expeditiously with NOP to develop the clear rationale for the proposed rule change and guidance. In defense of NOP, the Livestock Committee, and I think the NOSB Board, we do appreciate the NOP being cautious on this.

We do understand that we need to get this right, and we appreciate their help in making sure that we do get it right.

We will continue to work with Nancy on development of standards for organic honey. On the materials side, we have work to do on the ivermectin and moxidectin issues, and we'll look at any other materials that need to be examined in regard to the sunset.

We'll continue to work with NOP on the impact of the court ruling and how that impacts livestock. We'll continue to monitor the avian influenza situation and how that might impact the
organic poultry sector.

We would like to -- we feel like we've got to be proactive on this serious issue. Nancy and I will work on a statement of how the organic poultry -- or how organic poultry production should respond to this animal and human health threat.

Aquaculture issue remains on our plate. We'll monitor and assist the working groups, as appropriate. And as I mentioned, George and I are trying to work together to make sure nothing drops through the crack during the transition. But please let me know if there is anything that you think the Livestock Committee needs to address.

CHAIRPERSON RIDDLE: No, pet food is under Handling. But there is the aquaculture task -- or the aquatic species task force. Yes, you mentioned that. And Kevin did mention pet food, right?

VICE CHAIRPERSON O'RELL: Right, yes.

CHAIRPERSON RIDDLE: We've got them all covered.

Yes, Andrea?

MS. CAROE: Just a question for you,
Michael. I mean, I believe, George, you've been on
the task force, listening in on the task force.

MR. SIEMON: Unfortunately, I missed the
first two calls, but I'm going to try to be on the
third one.

MS. CAROE: Okay. Well, I have been on
it, but is that something that's going to transition
over to Michael as well? Or are you going to --

MR. SIEMON: We hadn't talked about that.
I had hoped to keep doing that, but we haven't talked
about that, so --

MS. CAROE: Okay.

MR. SIEMON: But since I missed the first
two calls, I'm off to a rough start here, I must
admit.

MS. OSTIGUY: I'm on that -- are you
talking about the --

MS. CAROE: I know you're on it as well,
but I -- I thought George was, and I didn't know if
that was -- okay.

CHAIRPERSON RIDDLE: So, yes, we
definitely have -- still have someone from Livestock
Okay. Is there any committee I missed?

MS. KOENIG: Me.

CHAIRPERSON RIDDLE: I'm so sorry.

Materials.

(Laughter.)

I don't know how that could happen.

MS. KOENIG: Well, actually, you know, other than sunset, you know, I'm happy to say that there's not that much going on. Yes, that is good.

No, but the big thing is in the short term, and it sounds like the committees are aware of it, that there are some materials that have come up during this meeting that we need to consider if we want to request a TAP on.

And with that, although you guys have provided a request for a TAP, what I need specifically is if you really mean a full TAP, or do you have specific questions, because as Arthur tries to deal with the contractor -- and we've got a lot of materials -- if there's only things that you have like a specific question on, maybe like the -- these anti
-- you know, antibiotics, and you specifically want them to go in depth on whether they're not -- you know, some of that information on the ivermectin or those kinds of things, because we do have some that have sufficient information.

So that's up to the committees, just provide either the -- saying you want a full TAP, or we don't need a full TAP, we need specifically these areas. So that's -- or, for example, if there's alternatives, and you want them to concentrate on alternatives, let us know.

And then, when it comes to the national sunset process, I want to get hard copies of all of the comments from Arthur. He's going to mail them to me, and then he will mail them to each of the department chairs. And I hope to help, you know, get on your tails and send e-mails and find out -- kind of record-keep to make sure things are on task.

So it's not that I'm going to be a pest, but I am going to be a pest.

CHAIRPERSON RIDDLE: Good.

MS. KOENIG: So, you know, and that's all
I see myself as being an annoyance in the next few months.

(Laughter.)

If I'm not enough of an annoyance, I'll call my committee members, and they can start being an annoyance to other people, too. Other than that, we do -- we have sent two important documents to the NOP, hopefully for concurrence.

So I'll just be in contact with them if they have any questions or just to try to get an idea of where their -- you know, if we're getting concurrence on our procedures as far as the synthetic/non-synthetic and the legal aspects of that reorganization of the national list.

CHAIRPERSON RIDDLE: And, Rose, I think it was yesterday you mentioned a form for committees to use.

MS. KOENIG: Yes. Well, I'll send what we have, the process that we have outlined. And it wasn't a -- it was kind of a generalized form. So I'll take a look at that, and I'll send it to the committees. If they feel that that's not useable --
as far as -- if we have technical reviews -- if we're basing them on actual TAPs, other than comments, you certainly can fill out our TAP process, our materials process, you know, using those sheets.

CHAIRPERSON RIDDLE: The evaluation forms that --

MS. KOENIG: On the evaluation forms for --

CHAIRPERSON RIDDLE: For each substance. You know, we need to just be clear what you need from us.

MS. KOENIG: The way -- could I just say the way I'm understanding it is on things that either the public has determined that it needs to be reviewed fully, you know, things that have been pinpointed by public comment, or things that we have, we will request a TAP -- a formal technical paper on that. and I would like you to fill out the same forms as if you're looking at a new material.

For those substances that the committee looks at, where you haven't -- where you have only received positive comment, I would like you to review
-- Arthur says there's archives now on the website of every -- all of the materials and information they have on the materials. It's maybe not complete, so each committee should go in and review the technical information that's available.

And certainly fill out the forms that we requested -- the descriptive information that we presented at the last meeting. And I guess we're going to have to determine on -- you know, it would be a lot of -- a lot of work we have to do, forms on every single material. But Arthur --

CHAIRPERSON RIDDLE: Arthur?

MR. NEAL: It will be very difficult for you to take -- we've placed the TAPs that were done in '95 through, what, '97 on the website, and it would be very difficult for you to fill out the evaluation forms with that information.

That's one of the reasons why sunset was set up with public comment in play -- to express the continued need for the substance. There's not much question concerning the use of the substance. Then, obviously, there's not a great concern about it.
Now, for those that people have expressed a concern for, to take it off, we don't want it anymore, those may be the ones that you -- you have time to really evaluate in depth, because for you to fill out evaluation forms for over 160 plus materials would take you from now until next year.

MS. KOENIG: So that was why the -- the forms that we set up for the review process were based on kind of a descriptive evaluation, and a description of the comments that come in, to justify those that would be simple.

CHAIRPERSON RIDDLE: Can I ask you, Rose, to work with Arthur just to make sure you've got a tool that's useable to committees and meets their needs before it's distributed?

MS. KOENIG: Okay. Well, we approved it, so we'll go over and look at it.

CHAIRPERSON RIDDLE: I understand we approved kind of the content of it, but if it could be in something really useable for committees to make it painless, but yet it's thorough.

CHAIRPERSON RIDDLE: Okay.
MR. NEAL: One of the things that I want to comment on, I'd like for the committee chairs to submit those substances for Rose to send to us for additional clarification, that you really work with her to pinpoint the questions that you want addressed by contractors, because we're going to try to go to them this week or mid next week with those requests, because we don't want to waste time. Time is valuable now.

And they are already aware that they are going to be receiving them, but we need to give them clear instructions on what we want them to do with those substances. Particularly, we've got flavors and you've got --

MS. KOENIG: Colors.

MR. NEAL: -- and what we want them to look at, do we want them to look at manufacturing process, availability, because some things they may not be able to address. So we need to be kind of clear on what we -- what we want from them.

VICE CHAIRPERSON O'RELL: We're going to want a pretty full review on those items, because we
haven't had any TAPs in the past. So, but we can --
we can put together a list of some ideas and direction
for that.

MR. NEAL: Please do, because
manufacturing process is going to be important.

CHAIRPERSON RIDDLE: Okay. Any other
questions, comments?

MS. KOENIG: The only other comment is
when the chairpersons get your comments, if the first
-- your first committee meeting when you compile kind
of the information, if you could -- if there are
things where you're getting "we need a review, we need
a review, we need a review," those quickly again -- I
mean, because this first set of requests are those
that we've requested based on our own knowledge. The
second set of requests for any kind of technical
review is going to come from public comment.

But, again, as Arthur says, we need to get
that as soon as possible. Once you guys determine
that, then you can set up other committee meetings to
go through the ones where you -- where you have not
received any negative "pull off the list" comments.
CHAIRPERSON RIDDLE: Yes. Gerry?

MR. DAVIS: The materials that Arthur was referring to that we need to get our comments to him next week, obviously those aren't -- that's the ones we've already pre-identified that he's referring to.

MS. KOENIG: Those, plus we may have additional ones that, like Nancy mentioned, and generated from public comment today or during this meeting --

MR. DAVIS: But not what has come in.

MS. KOENIG: Yes.

MR. DAVIS: We don't get that in time to fulfill --

MS. KOENIG: Well, that's what I'm saying. That's what -- that's the next set. And as soon as the chairpersons get hard copies -- and I'll try the best I can to kind of go through them and help you guys along, but that's the next immediate group that we need to know about.

VICE CHAIRPERSON O'RELL: Or when you start looking at them on the website to see if there are any, because I don't --
MS. KOENIG: Chairs will get hard copies of all --

VICE CHAIRPERSON O’RELL: What’s the time table for us getting hard copies?

MS. KOENIG: Like this week is --

MR. NEAL: We’ll try to mail those out to you, if not the end of this week, the beginning of next week, because I’ve been here, so I’m sure that there are more comments that’s been coming in.

VICE CHAIRPERSON O’RELL: Okay. good.

CHAIRPERSON RIDDLE: Okay. Everyone clear on that? All right. Thanks, Rose.

As Board Chair, I have a few things to report as far as work plan type items as well. And that is coming out of this meeting, I do need to submit the final recommendations from this meeting.

So before I can do that, I need the committee chairs to funnel those in to me, and then I need to review those and then complete that cover sheet that has now been created and sign off on that.

So I do need your timely cooperation, assistance, to get that done.
And then, I would like to, as I did after the last meeting, write a brief report of the meeting in a letter to the Secretary that just itemizes what we -- what we accomplished at this meeting and then also summarizes some of our future work plan items, just to keep it -- the attention there, that we are fulfilling our mandate under OFPA. So just to let you know that.

And then, there's one other item that we haven't discussed, and that is the role of the Board in the review of applicants for the Executive Director position. And Barbara and I I think really need to talk and come up with a plan for how we will be engaged in that.

You know, the last we know, the job description has gone to the Personnel Division, but it hasn't come back out yet. So we haven't seen the final job description, but we do need to have a plan and kind of form a subcommittee, kind of a personnel subcommittee I think, to be directly engaged in that process.

So I'll just need to work with Barbara and
come up with that, and then report on that at the next Executive Committee meeting.

So those were my three items that I wanted to mention. Any questions for me? Gerry?

MR. DAVIS: The subcommittee you mentioned, would you envision that be some outgoing Board members and some new?

CHAIRPERSON RIDDLE: Yes, definitely. But not the full executive -- I would imagine three people probably. You don't want to get it too big. So I guess, once again, if you're interested in that, please let me know to begin with.

Yes, Nancy. I don't mean right now, but --

MS. OSTIGUY: My proximity to D.C. makes that a possibility, that I could help out on that.

CHAIRPERSON RIDDLE: Okay. Thanks.

Okay. Now, the next item on our agenda is to talk about our next meeting date. And let's -- where that stands, does someone from the program have some information for us?

MR. NEAL: That rests with Barbara. But
the potential dates I think you all know is that week before Thanksgiving, the 14th through the 17th. Those are the dates. Barbara, I think she said on Monday, would let you know whether or not it's going to happen.

CHAIRPERSON RIDDLE: Right. Yes, she said by the end of the week, and I didn't know if she meant by the week ending on Wednesday or Friday.

MR. NEAL: I don't --

CHAIRPERSON RIDDLE: I was hoping that we would have something by the end of this meeting.

MR. NEAL: I don't have the information.

MS. CAUGHLAN: Barbara left?

MR. NEAL: She's not in the room. She's still in the hotel.

MS. JAMES: She had originally said the 14th/15th or 21st/22nd.

MR. NEAL: It's just the week of the 14th.

MS. CAUGHLAN: So it's maybe better.

PARTICIPANT: It's worse for me.

VICE CHAIRPERSON O'RELL: I won't be there.
PARTICIPANT: I'm going to be out of the country.

MR. SIEMON: Which days?

CHAIRPERSON RIDDLE: The 21st -- or 20th/21st sounds bad for Kevin and Dave right away. And I really -- we aren't going to decide this. I really don't want to engage much time.

MR. SIEMON: I'm sorry. But we have put away three days, haven't we?

CHAIRPERSON RIDDLE: Yes. In pencil on your calendar, the 14th through 17th, with the primary focus being the sunset review, and then election of officers. Those are two things that really have to happen, unless you want me to be Chair for life.

PARTICIPANT: Sure.

MR. NEAL: And we just -- and what she has conveyed, that there would be a two-day meeting, no more than a two-day meeting. So, but those are the range --

CHAIRPERSON RIDDLE: Yes, the range. Thanks. Yes, so it could be the 15th through 17th or 14th -- or 14th and 15th, 15th -- yes, it could be --
two days within that range. All right.

Okay. I guess that's all we can decide on
that. And I do have some closing remarks. I see the
agenda has me down for a half hour.

(Laughter.)

I will be brief, but I do have some
substantive remarks. I'd appreciate your continued
patience and attention.

Well, first, I would just like to thank
the USDA in general for the opportunity to serve, to
provide advice and to serve. But in specific, I'd
like to thank the staff, you know, for the work it
takes to organize the meeting. And regardless of
where the meeting is held, it's never perfect for
everyone, and you're always going to receive some
criticism.

But I want you to also receive appropriate
thanks and acknowledgement for the work, not just in
the logistics of the hotel, but all the copies, all
the posting, all the assistance and the engagement, so
that we can function as a Board.

And I also, as I said earlier in response
to one of the commenters, am very encouraged by what I see is a manifestation of collaboration occurring. And in particular, the precedent of the line-by-line responses to the past meetings' recommendations I think that is very healthy, and for us to know where you stand on our recommendations.

And we do provide advice. We love it when that advice is taken. But there are times when it does need further work, and we appreciate having things sent back to us. And there might come a time when our advice is rejected, but we like to know if that's the case, too. But hopefully, if we're working together, we won't reach that point in the future, or the Board won't reach that in the future.

And I think this climate of engagement and collaboration is really critical for the rule changes that we face, in response to the court ruling but also some of these other significant issues on the table.

I do remain baffled and concerned by some of the positions that were taken yesterday in the discussion on the synthetics and substances not appearing on the list being allowed for use, the whole
A plus B plus C equals Q. I do question the legal basis for that interpretation in OFPA, especially in light of the court ruling. So I do have ongoing concerns about that equation.

I'd like to acknowledge some of my own shortcomings here in this meeting -- not looking to the left often enough. I rarely --

(Laughter.)

But I also, more importantly than that, is I did err in not asking for any interests on topics before they came up for discussion. And this isn't just a materials issue, but other topics as well. And I have reviewed the actions that we've taken at this meeting, and from what I know of Board members' interests, I find no interests that deserve recusal in any of the actions that we have taken at this meeting.

If you have any to correct, you know, please do so. But that's my analysis of the actions taken at this meeting.

I'd like to thank all of you, and there are still quite a few of you out there, who have come to this meeting. The room was packed to start the
public comment on Monday. People said holding an NOSB meeting in D.C. in the middle of August, who would come?

Well, people did, and that just shows me, once again, what an engaged community it is, and the importance of your continued involvement and input. It's just so valuable to us, and I think you see that in the comments and questions after each of you have submitted your comments. They are taken very seriously, and empower and inform us to do a good job.

I am pleased by the progress of the two task forces that we have going on right now. I think they are making serious deliberations and considering different angles on both the aquaculture and pet food issues, and I think we'll have some valuable reports coming out of that process.

I really am pleased with the new members, how engaged you all have been. It's like you've been here, you know, longer than just one meeting now. So you definitely have lost any shyness and are fully engaged. So I appreciate that and really also want to thank all the veteran members for your continued
leadership and vision, commitment to this process. It's a tremendous amount of work.

Oh, I did have a comment about the whole notion of any life form being seen as agricultural. I -- that certainly is not consistent with the history of organic regulations, in this country or internationally. And I look at, where do you draw the line? And organic is about drawing the line when it comes to regulations.

You know, three years is no magical number, but we draw a line in the sand to qualify for transition of land. We do need to draw lines on this definition eventually, one way or another, and there may be some winners and losers, some people who disagree with that final outcome. But I look, you know, at earthworms, can we raise organic earthworms. Well, what about nematodes? What about amoebas? I mean, what about viruses?

And are prions life forms or not? I mean, we do need a line, and it can't just be all life forms qualify. And maybe we need to look in the, you know, Oxford or Webster Dictionary at agriculture, or look
at the Latin roots, and not just taxonomy, to help clarify this situation.

I encourage the Board as we move forward, as much as we can, to prioritize and keep a narrow focus. I think whenever we do we accomplish things well. When we get too scattered, it confuses the public and isn't helpful for the program.

I just have tremendous respect and awe for this process, and just the engagement of this Board and the members of the public, and it's just an honor to be a part of it.

So I would entertain a motion to adjourn.

VICE CHAIRPERSON O'RELL: So moved.

MS. OSTIGUY: Second.

CHAIRPERSON RIDDLE: Kevin moved to adjourn. Nancy seconds. All in favor, say aye.

(Chorus of ayes.)

Those opposed?

(No response.)

Thank you very much.

(Whereupon, at 11:14 a.m., the proceedings in the foregoing matter were adjourned.)
UNITED STATES DEPARTMENT OF AGRICULTURE
NATIONAL ORGANIC STANDARDS BOARD
MEETING
WEDNESDAY
NOVEMBER 16, 2005

The Board met in the Captain's Room in the Channel Inn Hotel, 650 Water Street, S.W., Washington, D.C., at 9:00 a.m., James Riddle, Chairman, presiding.

PRESENT
JAMES RIDDLE Chairman
ANDREA CAROE Member
DAVID CARTER Member
GOLDIE CAUGHLAN Member
GERALD A. DAVIS Member
RIGOBERTO I. DELGADO Member
BEA E. JAMES Member
HUBERT J. KARREMAN Member
ROSALIE L. KOENIG Member
MICHAEL P. LACY Member
KEVIN O'RELL Member
NANCY OSTIGUY Member
GEORGE SIEMON Member
JULIE S. WEISMAN Member

ALSO PRESENT:
BARBARA ROBINSON,
   Deputy Administrator for Transportation and Marketing Programs
MARK BRADLEY
   Associate Deputy Administrator for Transportation and Marketing Programs

STAFF PRESENT:
BOB POOLER
ARTHUR NEAL
# Agenda

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CHAIRMAN RIDDLE: Okay. I'd like to call the meeting to order. I guess I don't have to get too close to these mikes, especially in this room. And we still have one Board member not at the table, but George is here. He got in late last night, was just eating breakfast. So he will be joining us shortly.

I would like to thank you all for being here again. And good to see a full crowd, as usual. Continues to be interest in this program.

And I'd like to begin just with introductions of the Board members. And if you'd just tell a little bit about yourself and maybe something we don't know, something interesting anyway besides just name and rank and serial number and what sector you represent.

So, Goldie, would you like to start, please.

MEMBER CAUGHLAN: No.

CHAIRMAN RIDDLE: You don't have to. Just try to things interesting.
MEMBER CAUGHLAN: I guess I'm looking forward to putting a lot more time. My name is Goldie Caughlin. I'm from Seattle. I work with PCC Natural Markets, but I do not represent the retail sector. We are a food cooperative. But I'm one of the three positions that is available in some of the Boards for consumer rep. And I've done a lot of consumer work for the last 30 years in the state of Washington.

And I look forward to going back. I'm now going to be working with the Food Producers Board as well as in the state of Washington we have a joint small farm -- there's a small farm program as Washington State University and also a small farm direct marketing program with the Washington State Department of Ag. And we have formed a couple of years ago and it has solidified a joint board. And I'll be very pleased to work in regard to that board.

So I guess I'm still going to be a bored board -- no, anything but bored. I think that what's happening in our state I'm very pleased about some of the directions in terms of the organic -- the bioag, bio intensive and organic ag program which is going
straight ahead in Washington state. And we're all
working on that.

CHAIRMAN RIDDLE: Thanks.

Hugh?

MEMBER KARREMAN: My name is Hubert
Karreman. I'm a dairy veterinarian in Pennsylvania. I
sit here at this seat representing the environmental
and resource conservation contingent. My background
was in resource economics and soil science, but for
the last 10 or 15 years, 15 years, I've been working
with dairy cows in the organic sector.

And most everybody that knows me knows
where I stand on things. I'm very transparent as far
as what I say and have my opinions, of course.

One of my main things that I hope to do in
the future is educate other veterinarians across the
country, livestock veterinarians about the organic
sector. And that's kind of my focus from this time on.

CHAIRMAN RIDDLE: Thanks.

MEMBER JAMES: My name is Bea James. And
I'm from Minneapolis, Minnesota, Director of National
and Organic and HPC for a 20 store chain, upscale
mainstream grocery chain. And I represent the retailer position here on the NOSB.

Everybody's giving industry news on their one unique thing. I'll just say my one unique thing is that I may dress in a tie, but I got two kids at home, one of them's name is Harvest and the other one's name is Forest. And so I do live the lifestyle.

CHAIRMAN RIDDLE: Rigo?

MEMBER DELGADO: Harvest and Forest.

Well, I also have an interesting name, it's quite an icebreaker when you try to start a conversation. It's Rigoberto Delgado, but the user friendly version is Rigo.

I am a producer on the west side of Texas. Been producing cotton for a number of years and now I'm going into production of chickens. And I've been quite successful producing eggs. So that's the latest result from my experiment.

I'm an ageconomist by training and I have a master's in business administration. And, yes, I've done a lot of work in the corporate life but underneath in the bottom I am an organic friendly
person and I am very interested in working with other
groups of farmers there where we have our farm in west
Texas. We're starting to work with other smaller
producers in trying to get up a coop going. So,
that's the latest news in the front.

And in terms of interesting items, I did
start playing vegetarian until my children decided to
stop that. I think my wife agree with them, I'm
afraid.

MEMBER CARTER: Dave Carter, part of the
graduating class of 2006. Actually serve as the
consumer rep. What I do is half time I'm Director of
the of the National Bison Association, half time i'm
founder, one of the founders of a pet food company
called Pet Promise and half time do itinerate
consulting.

MEMBER CAUGHLAN: That's time and a half,
isn't it?

MEMBER CARTER: And so the unique thing I
guess about me is I happen to be married to the most
patient woman in the world, who is actually sitting in
the back of the room, my wife Sue today. Who a few
years ago I left one job because I was traveling too much and now I'm traveling about 70 percent of the time.

I guess the other unique thing is that we have some bison heifers down in Taos, New Mexico which we would like to expand and eventually get started.

MEMBER DAVIS: Hi. My name is Gerald Davis. I'm on the Board as a grower representative. I have worked in organic agriculture in vegetable farming and tree fruit production for 13 years.

And I'm kind of excited about the growth in the industry and what I see going on. I work at this time for a large organic vegetable farm called Cal-Organic as an ergonomist and a pest control advisor.

And I guess a new thing that would be nice to mention would be that the farm I work for is now owned by a larger conventional carrot farm that just this year the organic portion of it took back 1200 acres of land from them because we have too much demand for organic carrots and vegetables. And it used to be the other way, and I'm glad to see that.
MEMBER OSTIGUY: My name is Nancy Ostiguy. I work in the Entomology department in Penn State.

I don't know if there's really anything unique to say, probably most of you have noticed that I have played around with my hands up here. I quilt, and so there will be pieces of quilts being done while I'm here.

The other thing I do is I do research on honey bees. And we're having a lot of fun right now, run sort of in the scientific sense of looking at the viruses that impact honey bees. And we think we may have found a virus that actually increases or can impact the level of aggression in honey bees. So my next thing is to try and find out whether or not that virus is more prevalent in the Africanized bees. And if so, we may have a way to deal with Africanized bees so that they can be gentler.

CHAIRMAN RIDDLE: That's unique information.

I'm Jim Riddle, organic inspector and educator and certifier rep from Winnona, Minnesota.

And I'm really honored that my wife, Joyce
Ford, is here today. And Joyce has been tremendous support, help, inspiration and at times moderating influence on me and other times she actually incites me, and I have to moderate, believe it or not.

But some of you know that Joyce and I live off the grid. We are not hooked to the electric grid, produce all of our own power, solar and wind. And my latest involvement as a volunteer in life is in my home county, Winnona County, Minnesota has formed an economic development authority and two of the projects we're pursuing is putting up a big two megawatt community owned wind generator, and then also building local food systems. So I'm looking forward to some local focus here in the coming years as well as continuing national and other activities.

MEMBER O'RELL: My name is Kevin O'Rell. And this is my fourth year on the Board representing the handlers, processors in the industry. And I've been involved in organic for the last ten years and product development consulting and regulatory. I work for a company that produces organic soy and organic dairy products.
I guess in my personal life my daughter just turned 14 last week and my son turns 13 next week. So he wants a guitar. So, Rigo, I think I'll send him over your way for guitar lessons. But I think my life's about to change drastically at home.

MEMBER KOENIG: Hi. My name is Rose Koenig. I'm a producer in Gainsville, Florida. And my husband isn't here because I am a true producer in the sense it's a one-woman and a couple of interns show. Although Barbara always writes to me and says do you really -- yes. When I come in from the field I always have time to kind of write off some interesting things because it gives me a lot of time to think. So I spend my time doing manual labor and letting my mind wandering a lot of the time.

This is my last meeting, I think, officially unless we hear something different, forever and forever. So I've been thinking about that. And it's been an interesting thing.

I have also two children, one turning 8 and one turning 10. And when I think about that the 8 year old was turning 3 when I just started the Board,
it's pretty amazing to think. You know, sometimes you look back and you think it's difficult now, but how did I take off back then and leave my husband on the farm and the two kids. Anyway, that's the information.

MEMBER SIEMON: I'm George Siemon. I'm here as a farmer rep. And I work with Organic Valley, so I don't have much of a personal life anymore. I guess at this age you live through your children, and so the only thing I can say that's unique is my son's been down at Cleveland, Mississippi feeding people for 70 days, about 1500 people a day. I'm going to get to go down there next week and be there for Thanksgiving. And then the Saturday after that, the local community are going to have a thanks for giving celebration on Saturday. So I've really been living through that experience a little bit to see that Organic Valley has been sending a lot of food. So it's been a very exciting to be part of.

MEMBER CAUGHLAN: How old is that son?

MEMBER SIEMON: Twenty-five. Old.

CHAIRMAN RIDDLE: Spoken like a true dad.
MEMBER CAROE: Hi. I'm Andrea Caroe. And I'm environmental rep. And I work for a company called Protected Harvest. I'm the Certification Director. We certify farms to bio IPM practices. They're not organic. We're trying to raise the bar of conventional growers.

Let's see, interesting facts about me. I think everybody knows me. I've been around the industry for a while. I met Jim many moons ago in Marquerita Hot Springs as I was training to become an organic --

MEMBER SIEMON: That was the inspector training.

MEMBER CAROE: I have two children as well. I have a 13 year old son and a 16 year old daughter. And those of you that haven't reached kids of age 16, I could tell you some stories after a couple of drinks. But life has changed for us with the driver's license.

Anyway, I don't have any other interesting facts.

MEMBER WEISMAN: My name is Julie Weisman
from Tenafly, New Jersey. This is getting towards the end of my first year on the Board. I hold one of the handler positions on the Board.

My family's business is a food ingredient business. When I joined it ten years ago I brought organic into it. One of our big products is organic vanilla and other organic flavors. Most of our business up until now has been on the conventional side, and I am proud to say that there were two days last month where organic shipped than conventional.

And I have two daughters 13 and 6. So, yes, life has changed. I heard Kevin and I was like, oh yes, I know where that is.

An interesting thing about me is that I actually, my master's degree is in social work. I was a psychiatric social worker before I was in the food business.

CHAIRMAN RIDDLE: That will help you.

MEMBER CAUGHLAN: It'll help a lot.

CHAIRMAN RIDDLE: Thanks, Julie.

MEMBER LACY: I'm Mike Lacy from Athens, Georgia. I work at the University of Georgia in the
poultry science department. I'm the science rep on the Board.

Had big news in my family from a children perspective. I have one daughter that was married on the 1st of October.

MEMBER CAUGHLAN: Ah, congratulations.

MEMBER LACY: And I survived. I have not recovered.

CHAIRMAN RIDDLE: All right. Thanks. Thanks to all of you for being good sports, too.

Announcements, are there any Board members that have any announcements to share at this time? Dave?

MEMBER CARTER: Just to let you know, I will be leaving at about 11:15. I have a meeting up at USDA at 11:30. So I'll be excusing myself for as quick as I can to come back.

CHAIRMAN RIDDLE: All right. Thank you.

MEMBER CAUGHLAN: Will it involve a buffalo? Will it involve a bison?

MEMBER CARTER: It will involve bison, but not a live bison this time.
CHAIRMAN RIDDLE: Not a live bison on the mall this time. Okay.

Any other announcements?

Yes. I would like to let everyone know that there will be two public comment sessions. One today focused primarily on the Sunset Review and the Committee's recommendation. And then tomorrow afternoon on pasture. And if you haven't signed up, there are separate sign-up books in the back of the room. So you still can sign up.

And if you haven't just signed in for attending the meeting here, please do so during a break or at your convenience.

It says here on the agenda Chair's Report and some comments. I guess I would like to make a few comments before we get under way.

And one thing is just on a personal note, it's been truly an honor to serve on the NOSB, and especially an honor to serve with all of you. I think that we have always operated with respect for one another, even when there have been disagreements that we have the ability to have open discussions. And I
really appreciate all of the knowledge that all of you bring to the table. So it's been an honor to serve with all of you.

   And looking back, I don't know of another class, you know, of five appointees that have all stuck it out all five years. There may have been. Otherwise, usually somebody resigns for one reason or another. So it's been extra special to be a part of this group.

   And, you know, we have faced various challenges during the five years that we all have served. But this past year has been especially challenging, not for the Board and our function and our functioning back and forth with USDA. I think that that actually is better than it's been during the previous times. That continues to improve, and that's very encouraging. But outside of the Board has certainly been a difficult and challenging year. You know, first with the lawsuit and then the clarifications to that lawsuit, and then draft rule changes looking at minimizing disruption from the lawsuit. And those could only go so far; not far
enough for a lot of the sector's needs so that amendments going through but not with full support or not going unified to Congress. And that certainly has left us in a very challenging position.

The one thing, you know, I think we just have a lot of healing to do as a community and, hopefully, people will commit to that. I mean the law has been changed. We do have to learn a lot yet what the ramifications of those law changes are, but there will need to be new rules written to implement those changes. And I trust that the Board will be involved, that the public will be involved. There will be proposed rules. There will be opportunities to comment and be engaged. And, you know we have an opportunity to refocus now and make sure that those rule changes really protect organic integrity and incorporate the ongoing role of the Board in that.

But one common theme that's been encouraging despite all of the rhetoric flying back and forth, one common theme in both industry and public interest group positions has been to protect and preserve the authority of this Board and to defend
the recommendations of this Board that have gone through the process we followed. And so I think we need to, and this Board needs to continue to live up to that responsibility.

And I look back during the five years. You know, the rule was implemented, but that was on track to be implemented when we were appointed. You know, it was already out and so we just happened to be on the Board at that time. But we have done a lot of work ourselves. And among those accomplishments I think having a Board policy manual in place certainly guides the work of this Board on into the future, and it a foundation document as well as the principles of organic production and handling, having those down. And the compatibility criteria that we worked hard on, took a lot of public comments, as well as the new synthetic and nonsynthetic draft. I think those are some foundation pieces that we've put in place in our time on the Board, as well as really solidify the materials review process, the evaluation documents, the statement of work for the contracts. I think those are very solid pieces. Have been developed in
cooperation with the program. And we've reviewed our share of materials. Recommended some for approval and others rejected.

But we also have put draft recommendations for standards, apple culture, mushrooms, greenhouses, have very good chlorine task force report. And some of those things still need to be implemented, but they should not be discarded or forgotten by this Board or by the program.

And we've got Sunset well underway. But a lot of the difficult work is yet to do. In a way, we've picked the low hanging fruit, so to speak, for this meeting, the noncontroversial materials. But the challenge is going to be in the coming year dealing with the materials that are being deferred at this time.

I'll just close by saying that one thing that I have seen as a responsibility as a Board member, and I think the Board has taken this up, is the Board needs to be an independent voice. Yes, we work hand-in-hand with the program but we also need to bring a perspective from the community, from the
public to USDA to have a balance there. And so I just encourage the Board on into the future to always maintain an independent voice as needed and to stand up for the principles. Work together as a group and work together with the program, but don't be afraid to take a stand as needed.

So with that, I'll move on the Secretary's Report and Goldie is up. Just by way of introduction, in our books for this meeting we do not have the minutes meeting summary from the August meeting yet. I imagine there have been a few other things going on at the program and it's been a short time between meetings. So I would just like the transcript from this meeting to reflect that we have not yet addressed or considered the minutes from the August 2005 meeting. Those will need to be reviewed and adopted at the next meeting.

Goldie?

MEMBER CAUGHLAN: Well, I think the only thing I would add is that I apologize, but I have not transcribed the executive minutes from September. Sorry. That will be getting done before I caught up
in the Sunset.

By the way, I just have to come back in here and talk about my kids and my grandkids.

I have been spending more time with my grandchildren, certainly, because in the time that I've been on this Board I've added two more to the crew. I now I have six incredible grandkids from 3 months to 10 years. They're pretty much under foot a great deal of the time, and that's wonderful. That's the way I like it, too. So, thank you.

CHAIRMAN RIDDLE: Okay.

MEMBER CAUGHLAN: I'm the Secretary, and that's the report.

CHAIRMAN RIDDLE: And you're sticking to it.

MEMBER CAUGHLAN: And I'm sticking to it.

CHAIRMAN RIDDLE: But we do have minutes from Executive Committee call from October 14th. I think Dave and Bea worked together to capture those minutes. And I guess I would like to ask if the Executive Committee members to consider approval of those minutes, since they're in the book at this time.
Julie?

MEMBER WEISMAN: I just wondered if the minutes could be amended to reflect the fact that I was also on that call?

CHAIRMAN RIDDLE: Okay. And so we'll need to revise those and resubmit an electronic copy.

Any other changes to those draft minutes? Hearing none, is there a motion to approve, and this would be a vote by the Executive Committee members?

MEMBER CAROE: I'll motion to approve.

CHAIRMAN RIDDLE: Andrea move to approve.

MEMBER OSTIGUY: Second.

CHAIRMAN RIDDLE: Nancy seconds.

Further discussion? Hearing none, all in favor say aye.

EXECUTIVE COMMITTEE MEMBERS: Aye.

CHAIRMAN RIDDLE: Those opposed? All right. Thanks. We have those approved. So we still need to come back at the next Executive meeting, hopefully, and consider the minutes from September Exec meeting. Okay.

Next up we have the NOP report. And I'm
not sure who is going to go first. Barbara. And once
again, if you'll introduce yourself for the record,
please?

DEPUTY ADMINISTRATOR ROBINSON: Barbara
Robinson, Deputy Administrator for Transportation and
Marketing Programs for the Ag Marketing Service.

And welcome, everybody.

As part of the update but before we get
started, I have just a couple of housekeeping things,
well one housekeeping announcement and one rather sad
announcement.

First of all, the reason you don't see
Katherine here, her niece was killed in an automobile
accident last Friday, and this is a niece who is very
near and dear to her and her family. And Katherine
just couldn't be here. I don't really even want to go
into the details, but she had to go and take care of
arrangements for the family. So she just couldn't be
with us here today and sends her regrets.

Just as a matter of housekeeping if you
hear a lot of planes and a lot of noise, because we
are on the river, the next couple of days NORAD is
conducting exercises to mimic the post-9/11. So don't get nervous if you hear and see a lot of planes when you go outside. They're just trying to protect us, I guess, or something. So just thought I'd like you know that for people who are out-of-towners. Those of us who are here sort of get used to that stuff.

Now, I'm going to turn this back to Jim very briefly and then he's going to come right back to me, but Jim has an announcement to make because the first on the matter of update that I want to discuss deals with dairy pasture. Jim and I, and I've had several conversations with several of you on the Board but Jim is the Chair, and so in deference to the Chair and what the Department has agreed to do, it asked Jim to go ahead and make the announcement. So, Jim?

CHAIRMAN RIDDLE: Yes. Okay. Thanks, Barbara.

You know, we are having a public comment period tomorrow on the pasture issue and the program posted a request for comments for tomorrow's public input session. But the Livestock Committee will be considering a new draft that I have compiled that
really pulls together all previous existing NOSB recommendations on pasture, and they date back to 2000, and then 2001 and then we've had some earlier this year. And so there will be a Livestock Committee meeting after we recess today to consider that new draft. And then that will be presented tomorrow morning during Committee Chair reports on ongoing work plan items. But we will not be moving for a final vote by the Board because even though this doesn't contain new concepts, the draft itself has not been posted for a round of public comments. And that's something that I'm always committed to is a public comment because very soon I'll be on the other side of this microphone. But I just believe that that is also part of our responsibility.

But there is a new draft and it was circulated fairly widely so a number of people and all Board members have seen that. And there's a copy of that draft in addition to your meeting book.

So that's kind of where the Board action. And in discussions back and forth with Barbara my understanding is the program is committing to move
forward with an advanced notice of proposed rulemaking, or ANPR. Hopefully to be out by the end of January, but that's just a target. But it will be based on the existing recommendations of the Board and drawing from this draft, which really compiles all of those as well as the public comments that we've received and will receive tomorrow.

It's anticipated that there will be a 60 day public comment period on that ANPR. And during that time the program and the Board hope to organize a symposium or listening session somewhere in either upstate New York or Pennsylvania, or in dairy country to hear from dairy nutritionists, dairy producers, veterinarians on the importance of pasture for ruminant animals and directly in response to what is in that ANPR.

So I think we are making progress. It certainly has to be a thoughtful process to change the rules. But I see that progress is being made or there is a commitment to move forward based on existing recommendations.

DEPUTY ADMINISTRATOR ROBINSON: Right.
Thanks.

CHAIRMAN RIDDLE: Yes.

DEPUTY ADMINISTRATOR ROBINSON: I want to get through all these rapidly because this is your Sunset meeting.

We have completed the interviews for the Executive Director position and we'll be getting back to you. We asked all of the questions that you submitted to us. And we want to put all the answers together on some kind of a spreadsheet so we can get back to you with those and give you our feedback, and then get your reaction to the candidates. And we want to get that done as soon as possible.

I'm not going to be here all next week. I haven't had a day off, literally not one day off, since the hurricanes hit. So I'm taking a day off next week. In fact, I'm taking all of them off.

CHAIRMAN RIDDLE: Can you leave your cell phone number?

DEPUTY DIRECTOR ROBINSON: No. No. But we'll get something to you, hopefully, next week. I don't know how fast we can get that spreadsheet put
together, Mark. I can tell you personally who I would recommend, and I think you'd be pleased with that. But, at any rate.

On the NOSB nominees, the package is across the street with the Secretary. And just for information because I hear this all the time, we get letters from folks, I thought I would just like to tell you -- where are my notes? What kind of, what we do. We received over 50 nominations from people. We went out with 11,000 solicitations. We sent postcards and solicitations to every certifying agent. Here we go. Every single certifying agent in the United States, every organic producer and handler, all of the 1862 land grant colleges, all the historically black land grant institution in Tuskegee University, the entire National Directory of Farmers Market and Direct Marketing Associations, NRCS, California Federation of Certified Farmers Markets, the North America Farmers Direct Marketing Association, Farmers Market Online, National Association of Farmers Markets, Southland Farmers Market Association, Pacific Coast Farmers Market Association, Washington State Farmers Market

We solicited USDA's Farm Services Agency outreach programs, which consist of African-American, Asian Pacific Islanders, Hispanic Americans, American Agro Women Affiliates, Women Watch Group, Women in Agriculture, Women's Agricultural Network, Women's Food and Agricultural Network, Rural Womens Network and Women's Food and Agricultural Network.

So it's not like we just, you know, posted in the Federal Register. I want you to know that we really do try to get out there and canvas everywhere. And we did get over 50 nominations.

And I think we got a good selection of candidates. And when we forward the package across the street to the Secretary, we don't leave anything out. Everything we get goes to him. Absolutely everything. Everything that everybody sends in along with every single of recommendation. He gets it all, every bit of it. We don't hold anything back. So the package that went to the Secretary was about two
feet think.

Because we had a resignation, a vacancy, he has to select all three consumer representatives, the certifying agent representative and two producer representatives. So we'll hopeful that he'll make that selection soon so that we can seat the new Board members quickly as they need to be seated.

MEMBER CAUGHLAN: Barbara, excuse me?

DEPUTY DIRECTOR ROBINSON: Yes.

MEMBER CAUGHLAN: In the past -- it's Goldie.

DEPUTY DIRECTOR ROBINSON: Oh, there you are. Okay.

MEMBER CAUGHLAN: Right. Respectfully I would say that in the past two or three rounds we have been taken into consultation on a short list for responses from two regarding appointments. Is that not to be the case this time?

DEPUTY DIRECTOR ROBINSON: That's always the Secretary's prerogative, Goldie.

MEMBER CAUGHLAN: Right.

DEPUTY DIRECTOR ROBINSON: I don't have
any say over it.

MEMBER CAUGHLAN: I see.

DEPUTY DIRECTOR ROBINSON: And so every Administration or every Secretary chooses whether or not to do that. And this Secretary has not elected to. And the previous Secretary did not elect to. So I just, you know, I can't say to them now you really need to do this. Call it what you will, I just don't quite have the nerve to go to the Secretary and say you really out to post all these. So that's just simply their prerogative to do.

MEMBER CAUGHLAN: No indication that that's going to happen then? Thank you.

DEPUTY DIRECTOR ROBINSON: No.

Let's see, oh, obviously since we last met I have hard Mark Bradley as the Associate Deputy Administrator.

(Applause).

DEPUTY DIRECTOR ROBINSON: Mark has already discovered a phrase that I decided I hate. He continues to insist that this job is fun. And if he says it one more time, I'll smack him.
MEMBER OSTIGUY: Barbara?

DEPUTY DIRECTOR ROBINSON: But as long as he thinks it's fun, that's good.

MEMBER OSTIGUY: Barbara?

DEPUTY DIRECTOR ROBINSON: What?

MEMBER OSTIGUY: It's better than the alternative.

DEPUTY DIRECTOR ROBINSON: This is true. This is true. But Mark does bring a wealth of experience, as many of you know, to this job. And I'm very, very pleased for him to have assumed this position and look forward to working with him. He's got a lot of good ideas. I think he's going to do a lot of the things that this Board has wanted for a very long time. And has already put in place a lot of the procedures that you have asked for. And so I think you'll be happier as a Board and we certainly will be happy, too.

In fact, after I'm done I'm going to turn this over to Mark.

Now just very quickly, and I do mean quickly because we're in a state of flux about this,
we had a long discussion in August about sort of where we were on the lawsuit. Now Congress has come along and they've passed H.R. 2744, the appropriations for the fiscal year 2006, which has been signed in the last week by the President. And that appropriations bill did contain the rider which changed the Organic Foods Production Act.

Now, what does that mean? We are still looking at that. But the bottom line is we still do have some rulemaking to do to comply with the court order that we were bound by as a result of the Harvey lawsuit. For example, Congress did not do anything with the 8020 feed provision and the court still said that that was illegal. So we are in contact with the U.S. Attorney in Maine and he still our legal counsel through the Department of Justice. And so we are bound to reply to the court by June 2006. We can't just say oh well Congress passed a law so I guess we can just ignore the court. We can't do that. We still have to in effect closeout our dealings with the District Court of Maine and our U.S. Attorney will advise us how best to do that.
My guess is, and again like I told you in August I'm not a lawyer, my guess is that a lawyer will say we'll have to comply with whatever Congress didn't touch and that where Congress monkeyed somewhat with what the court did, we may have to go back to the court and petition for some sort of relief or something and reconcile where there is a conflict between what the court told us to do and then what Congress came along and kind of undid or contradicted in some fashion.

The bottom line to all of that is for USDA we have rulemaking to do regardless. The question is in what time frame will we have to complete this rulemaking. Obviously, since Congress may have overridden what the court has done, we won't have to do rulemaking by 2006. The bottom line for industry is it's back to business as usual for industry with respect to the National List. That has been restored to the current state for the 38 materials, or depending on how you count, I mean I've seen 36, 27 and 38 materials counted on that list. But the National List is the National List. And everybody had
until June 2007 anyway before life changed.

So if anybody came to me and said what should I do, I would say go on about your business and wait for the Department. The Department needs to issue a statement. We have not done that yet because we are waiting for good legal counsel to tell us how we have to proceed and what our determinate deadlines are. And as soon as we get that we will be, I'm sure, required by the Secretary and by legal counsel to issue a statement publicly. Something that goes on our website and something that is cleared and either issued by the Secretary himself or his office, but we will have to issue a statement publicly. And my advise to my superiors will be the sooner we issue something, the better.

So we are in the process right now of preparing the factual talking points. Putting something together that ready for clearance. So as soon as our legal counsel tells us here's what you're going to have to do, we've got all of the guts of it ready to go and all we need to do is insert the deadlines.
The one thing that Jim made a point at the beginning in his remarks and the one thing that I think we can definitely agree on from the Department's point of view, you know whatever our statement contains, I can tell you this: It will be a statement for the facts, here's what Congress did, here's how Congress may have changed the law and how it may be different from what the court did. We'll leave the political pundits of who did what to whom and misconceptions out there to other people. That's not our job. However, the one thing that we will reiterate, as Jim said, is the role of this Board. And the role of this Board was not changed either by the court or by Congress. The Secretary has no authority to put a synthetic on the National List. And that is one thing I want to clear up right here and now.

I've heard this. I've heard this I don't know how many times in different times. Congress did not give the Secretary any authority to put a synthetic on the National List anywhere. Not anywhere. So I've never heard a Board member say that, by the way. I'm certainly not saying that. But
I've heard it in the press. I've heard people say it. That's not true. That is absolutely not the case.

And by the way, another statement that I heard Jim make that I fully agree with, any rulemaking that will be done will be done collaboratively with the Board and with the public. We don't do rulemaking without going through a public notice and comment process. That is illegal. And I, for one, personally as long as I'm the Deputy Administrator, ain't going there. So we're going to have an open above board transparent discuss it, very collaborative process. Not just with you on the Board but with the public. It's not worth anything else. So, that's what we're going to do.

It's just a matter of getting our ducks in a row, finding the time line and getting there. But your role has not changed.

Now I'm going to go to Mark and he can update.

ASSOC. DEPUTY ADMINISTRATOR BRADLEY: BoY.

Thank you, Barbara. And thank you for this job. It's fun.
CHAIRMAN RIDDLE: Your name for the record, please?

ASSOC. DEPUTY ADMINISTRATOR BRADLEY: My name is Mark Bradley. I'm the Associate Deputy Administrator?

DEPUTY DIRECTOR ROBINSON: Yes.

ASSOC. DEPUTY ADMINISTRATOR BRADLEY: Got a little title creep going on in D.C. I used to be the Program Manager, but I think they've changed all that and this title is much more vague and less descriptive, but it sounds important. But really all I still do is manage the staff and try to keep work going through the NOP. Trying to make sure that everything gets done that needs to get done, and try to set up some kind of a management strategy that will have to be my own. Each of my predecessors, Keith one of them, Rich Matthews has had their own style about how they dealt with people and programs and progress through the NOP. And I'm looking forward to putting my own little spin on that.

And, as Barbara said, there are some things that the Board has been pushing for that I will
be pressing for myself. You may know, I come from a long line of quality system audits and background especially with the ISO 65 program. So I’ll be looking to inject a lot of that management strategy into how the NOP is handled, how we get some kind of a cycle of continuous improvement, transparency in processes, accountability, record keeping. Those are the kind of things when you're trying to implement a new rule, as you know we've been trying to do for the last few years, sometimes in the process of just getting everyone accredited and getting things settled down and implemented, we have a little bit more of a luxury now having gone through the work that this Board, especially the graduating class of 2006, has done. It's settled a lot of the issues that we can start getting down to some work as far as quality systems management and establishing a routine that people know what to expect. Board meetings at regular times, you know, addressing regular issues. Planned well advance. I think this is the rose colored glasses that Barbara was telling you I was looking through, but I'm looking forward to doing all that.
And thanks for -- I hope I can live up to her expectations of me.

The first thing before I get into the report, Barbara mentioned that we just had a nice round of interviews with candidates for the Executive Director's position. It was a lot of fun and it was fun -- oh, I didn't say that, did I? I love this job. That's the other one. The other one you may hear on occasion is all I ever really wanted to do is sell vegetables by the side of the road. Somebody I'm going to be able to do that, too.

MEMBER KOENIG: I'll hire you if you resign.

ASSOC. DEPUTY ADMINISTRATOR BRADLEY: Thank you, Rosie.

But the questions that the Board put together on very, very short notice; thoughtful, they were interesting. I think the people that were interviewed enjoyed answering them. They gave a lot of detailed insight. They were the primary questions that we used. There were six questions. We kept very copious notes. And I think the product is something
that you're going to be interested in, perhaps, perpetuating.

That level of involvement was a good level for the Board, too. It could have got cumbersome if, you know, you had wanted to seat a panel and had to be sworn to secrecy and drug the process out. But that allowed us to maintain some privacy for the candidates. There were some folks there that, you know, when you apply for a job and you interview you take a little bit of a chance that those that don't get selected have to go back and work for whoever they were working for. So they were able to maintain some privacy. But I think you will be pleased with the product that you'll have a chance to look at and comment on, and we'll consider that.

I know that you're familiar with the folks that normally sit at the table up here. Bob Pooler and Keith Jones, Arthur Neal, Merideth Wilson up here. There are a few folks that are new on the staff.

J.D. Melvin in the back. If you could stand up, J.D.? Any certifiers that are calling in, don't call me anymore, call J.D. You're welcome to
call me anytime, but J.D. will be handling a lot of the traffic that comes through. He and Mary Lou Lusby will be contacts for the accreditation staff. Those are functions that I held in a former life, and hopefully can move on. J.D. is very highly qualified. He has about 20 years in government service working with commodities certification type programs. And he will be a good person to groom into that position, and he is functioning in there now. Has really picked up the ball.

Mary Lou Lusby handles the record keeping, the movement of documents. Is very meticulous. Has set up tracking systems where we can do a very good job keeping track of who is sending in updates and the materials that have to come through the program on a regular basis.

We have a new writer editor, I didn't know if you wanted to introduce him. Mike Smith.

DEPUTY DIRECTOR ROBINSON: Mike Smith is here.

ASSOC. DEPUTY ADMINISTRATOR BRADLEY: He's the newest person on the staff up here. And he doesn't
work for me, he works for Barbara. But we're looking forward to having him putting some policy on our documents and really I know he's going to be a big asset for Barbara in their shop.

Jim has asked specifically for an update on the state cost share programs. I don't know if that usually happens at this meeting, but I was glad to provide that. Bob Pooler, who is our state person, and he put together some talking points.

There are two programs for the cost share program. The AMA program, the Agriculture Marketing Assistant program was targeting 15 states and it's part of the Federal Crop Insurance Act. And there were 15 states that were historically had not participated as much with the Federal Crop Insurance program. So there was a million dollars obligated annually to support this program.

Thirteen of the 15 states routinely participate. The other two states, Delaware and Rhode Island participation, lack of producer participation is reason that they're not participating in it, although they could. The funds for that, since 2001,
they've had an average $373 provided to 1150 producers who have participated in the program. A total average dispersement of $430,000.

Now the other program, the national program is geared toward, it's a one time allocation. And all the funds for that have been finally distributed or obligated, rather. In March of 2005 the final $2.1 million had been obligated on that. As of that date the funds that had been used by 6100 producers for an average benefit provided $475.41.

Is that the level of information you needed on that, Jim? Does that help. Much detail?

CHAIRMAN RIDDLE: Yes. And then the other part is remaining funds in the national -- I understand you said they've been obligated.

ASSOC. DEPUTY ADMINISTRATOR BRADLEY: Yes.

CHAIRMAN RIDDLE: Do you have a handle on what's still in the account as a total?

ASSOC. DEPUTY ADMINISTRATOR BRADLEY: The funds have been obligated. We haven't, I don't think, heard back as far as those were actually used and dispersed. And the figures that we have are as of
March 2005.

CHAIRMAN RIDDLE: Okay. And then if a state has used all of their funds, is there a possibility to request a reallocation of some remaining funds that may not have been used by other states?

ASSOC. DEPUTY ADMINISTRATOR BRADLEY: I don't know if that --

MR. POOLER: That can only occur if states don't utilize their funds.

This is Bob Pooler. We're getting reports back about how states are utilizing the funds. If states are showing or exhibiting the fact that they're not using funds, we will request funds back from that state so another state that is in need of funds can use it. But we're not at that level yet. We're now getting reports as to what their activity is. So I imagine sometime early in the spring we may know more information.

CHAIRMAN RIDDLE: Okay.

ASSOC. DEPUTY ADMINISTRATOR BRADLEY: All right?
CHAIRMAN RIDDLE: Yes. Thanks. Got that.

MR. NEAL: Now for those of you who can focus your attentions to the west --

CHAIRMAN RIDDLE: And you are?

MR. NEAL: Arthur Neal. We'll begin to see the sunset on the NOP report.

I just want to update you on materials. With respect to Sunset requests or requests for technical evaluations, we have received the reports for flavors, spices and oxytocin. You will be receiving them as soon as get back to the office, probably tomorrow. After the meeting I'll email these out to all of you. So by the time you get home, you'll have them to review.

The requests for newspaper aquatic plant extracts, humic acid and fish emulsions, we had received. They needed some more work. So additional work will be done on those. Once we receive them, you'll get them back. They weren't in shape to send forward to you.

CHAIRMAN RIDDLE: Just a question on that to be clear. Does the Board need to do more work in
clarifying that or --

MR. NEAL: You will have an opportunity to do that.

CHAIRMAN RIDDLE: Yes.

MR. NEAL: But it didn't meet our standard of even sending it forward to you.

CHAIRMAN RIDDLE: Okay. Okay.

MEMBER KOENIG: Okay. So are we doing that same process then with these? You give us a week to evaluate to see if they're technically okay.

MR. NEAL: Right.

MEMBER KOENIG: We give you the okay.

MR. NEAL: You got 21 days.

MEMBER KOENIG: Okay.

MR. NEAL: Twenty-one days to see what extra questions you have. If it meets the standard. If you want to see something in addition, you can make another request and we send it back out. But before we got to that point for the four that we sent back, we didn't think that they were even ready for you to make that type of decision.

CHAIRMAN RIDDLE: Okay.
MR. NEAL: Okay.

CHAIRMAN RIDDLE: All right. Thank you.

MR. NEAL: We have sent forward a request for chlorine materials for crops processing and livestock.

We have sent forward a request for -- no, we have not sent forward a request. There were two more substances, streptomycin.

DEPUTY DIRECTOR ROBINSON: Yes. And tetracycline.

MR. NEAL: And tetracycline. They have been sent forward. But they got so much on their plate, we may end up transferring that request to another contractor.

There's been a lot of talk about NOP as behind in petitions. We are. We do have a backlog of petitions, but it's not as great as many people believe. The only reason why we haven't moved a lot of petitions for it is because we've got the contractors working on Sunset technical evaluations. So it's hard for them to do all of them at the exact same time.
So, just an update. We have a petition for sulfuric acid as a pH adjuster in the processing of manure. That petition has been moved forward for technical evaluation, so we hope to receive a report by the technical contracts by mid to late January, although with the reports for Sunset.

Propionic acid has been petitioned for use as a feed preservative. We're sending that forward.

Gellan gum has been petitioned for use in processing. We're sending that forward.

Lime mud was one that was petitioned back in the fall. We have the report on that and we have sent that report out to Committee members last year. We'll send it back out again because I know there's a lot that's transpired since then. And we'll still need to hear feedback whether or not if the report meets the standard.

We've received a petition for sodium laurel sulfate for use in crop production. The Committee and I had talked last year about this particular substance. And the Committee said it's already approved for use on the list as herbicidal
soap, but there's a restriction on it. This petition wants the restriction to be modified. So we're going to move that forward.

In the recent months we have received three petitions for 606 items, spices, lecithin and pectin. These are all on hold until we can work out criteria for how to evaluate the additional removal of an item on 606.

We've also received a petition of sea salt onto the National List and pelargonic acid.

MEMBER CAUGHLAN: What.

MR. NEAL: Bob may have to help me on this one. I think it's P-E-L-A-R-G-O-N-I-C. Is that right, Bob? Yes. Short chain fatty acids.

And that's a short update on where we are with respect to materials. Okay.

CHAIRMAN RIDDLE: Rose?

MEMBER KOENIG: Where is the status of the -- because one of the reasons like with the soy protein isolate that you didn't mention that's been on hold has been -- and even for most of these, the synthetic/nonsynthetic document, what's the status of
that?

MR. NEAL: Good question.

MEMBER KOENIG: Because it's going to be tying us up on any of these technical reviews until we can really do the job we want to do and make sure we're consistent.

MR. NEAL: Good question. The document is still under review. The nonsynthetic/synthetic document is still under review by the Department by the program. We hope to have a response by early spring on that document. So you'll have it well enough in time to review those materials for recommendation. That's the goal.

It's not a simple thing in reviewing the document. What we're finding is that some of the terms that were even used don't even match up to other federal regulations, like substance. The definition of substance that's in that document doesn't include food. FDA has a definition of substance that it includes food. So there's some things that we have to work out. Because whatever we do, it has to be universal that we can apply it across the board.
CHAIRMAN RIDDLE: Hugh?

MEMBER KARREMAN: Question what my question will be, Arthur?

MR. NEAL: Yes, sir.

MEMBER KARREMAN: About the livestock materials, any updates on that?

MR. NEAL: Thanks for reminding me, Hugh?

MEMBER KARREMAN: Have they come from FDA and all that?

MR. NEAL: Yes. I've left off the dockets altogether.

Comment period closed for the crops and processing docket on yesterday. There have been comments posted to the website.

The livestock docket, unfortunately, has come back to NOP once again for additional work. We thought that it was wrapped up. We just got it back. And so we'll start working on it at the close of the meeting to get back into Agency review to get through the lawyers.

Yes, sir?

MEMBER KARREMAN: Could you let us know
what's wrong at this point that they're looking for?

MR. NEAL: They've got questions concerning -- you have the applications of FDAs, AMDUCA, which is the Animal Medicinal --

MEMBER KARREMAN: Drug Use Clarification Act.

MR. NEAL: Right. And one of the issues is that there are a number of substances that were recommended by the Board that had no approved livestock use but were only approved for use in humans. And so, yes, they were --

MEMBER KARREMAN: They're technically approved for, let's say, equine or non-lactating dairy cows but they are approved for livestock?

MR. NEAL: Right. But at the same time there's a restriction on FDA on some of those materials. It says for use in non-food animals.

MEMBER KARREMAN: That's correct, but that's where the AMDUCA would kick in.

MR. NEAL: Right.

MEMBER KARREMAN: Right.

MR. NEAL: But what our lawyers want us to
do is to get clarification that there is no approved animal drug that could complete the same task that the one that you all have recommended. And AMDUCA requires that.

MEMBER KARREMAN: I realize there's a algorithm for that. And if you need any help, I'm happy to help you with that.

MR. NEAL: Well, we'll be in contact because this is something that we just got back. And these are the hoops that we got to jump through to make sure that everybody understands that what we'll doing is legal. Because if the average consumer says well this thing isn't approved by FDA for use in animals, in food producing animals, but they're recommending it when it's only approved in use for humans?

MEMBER KARREMAN: Some of them are approved for, let's say, ruminant livestock less than 20 months of age.

MR. NEAL: Yes.

MEMBER KARREMAN: I realize what you're saying, but it's not really a human verse animal
thing. I think it's more the annotation on the label of the medicine itself. I think there's a little more leeway than perhaps --

MR. NEAL: There may be from a veterinarians perspective. But when you go to FDA regulations and how they have approved the drug, especially like this new substance -- how do you pronounce it? That's not an FDA animal approved drug.

That's --

MEMBER KARREMAN: Okay.

MR. NEAL: But we don't want to get into a discussion during this period.

CHAIRMAN RIDDLE: There will be a discussion back and forth.

MR. NEAL: Correct. Unfortunately.

CHAIRMAN RIDDLE: But not today.

MR. NEAL: Right.

MEMBER KARREMAN: It's been a while.

MR. NEAL: Yes, I know.

CHAIRMAN RIDDLE: I'm glad you brought it up.

MR. NEAL: Methionine has been added back
onto the National List.

CHAIRMAN RIDDLE: That's final rule.

MR. NEAL: As a final rule.

CHAIRMAN RIDDLE: For three more years, right?


MR. NEAL: Yes, ma'am?

MEMBER KOENIG: The other document, I don't know if you've considered it or you're reviewing it, but reorganization of the list by the OFPA categories. I don't know if you've done any analysis on that. And then, I mean, we can hold off this question for Sunset, you know, in terms of your answer but I'll ask during that little Sunset review section after lunch. But I'll let you think about it now. Is the question we had whether or not things that might not be approved for Sunset if we have a technical report, can we go ahead and -- if we needed a change in annotation, I'm talking about materials where the question is maybe in an inappropriate annotation, we had asked that at a Executive Committee call whether
if we have the technical report, if we could go ahead and leave it until 2007, not approve it for Sunset. But then relist it with a different annotation.

MR. NEAL: Let's talk later, because I'm not clear on the question.

MEMBER KOENIG: Okay. Okay. And then the OFPA category, too.

MR. NEAL: Right. OFPA categories is also under review by the lawyers as well. It's the language issue. What's considered a production aid, can that production aid category be extended to mean anything. And one of the things that you have to take into consideration is if production aid -- if the category production aids is a catch-all category, that means that synthetic fertilizer now could probably be on the National List with no problem. So, there's some questions that you got to think about legally, and we need guidance on it. We can't answer it, say, what does this production aid category mean. Does it wipe out all of the other prohibitions in OFPA? And I can't give you that answer. So it's under review. And we hope to have a response for you by the spring.
For those things that you recommended at the last meeting, we really hope to have responses by the spring meeting. And we'll be on consultation with you prior to the meeting, well enough in advance so that no one will be caught off guard.

MEMBER KOENIG: Because a lot of those documents we're finishing up and we're going officially off the Board, how do you expect to handle the wrapping up of those documents? I know we won't vote on it because we wouldn't be members. But we would be consulted?

I guess my great fear is that, you know, you get five new people on and these documents that have been in the pipe for a while, just losing that consistency.

MR. NEAL: Well, this is my vision. The new members probably won't be appointed -- they probably will be appointed before the next meeting, hopefully. However, in the interim you're still going to have to work on the documents prior to the meeting. You may not vote at the meeting, but you'll have great input before the meeting. And because of the
complexity of many of the issues being dealt with in the documents, we look for many of you to still be engaged in the discussions. And there's nothing wrong with that. You just may not have the vote. That's it.

CHAIRMAN RIDDLE: Okay. Thanks.

Any other questions?

MR. NEAL: Oh, Mark's got one more update.

CHAIRMAN RIDDLE: Okay. Well, thanks, Arthur.

Mark?

ASSOC. DEPUTY ADMINISTRATOR BRADLEY: Just one other thing that I wanted to add in, Jim. As part of the new management cycle I was alluding to, we're setting up a regular training period during January and February. And we're going to try to scatter these out around the country. I don't know what kind of international training we're going to get to do this year. But for the U.S. we've got training locations being set up for California, Colorado, Wisconsin in the northeast somewhere.

The two events that we're firm on right now in conjunction with the EcoFarm Conference at
Asilomar, we're going to be training on January 25th. And that is the day before the kick-off happens in the evening on that event. So we're having some training out there. And that's firm.

And also in Wisconsin on February 23rd in LaCrosse at the Upper Midwest Organic Farming Conference.

Those two events are firm and then we're working on the events possibly one in Denver in cooperation with Colorado Department of Agriculture and also in the northeast somewhere.

MEMBER JAMES: Mark, could you elaborate a little bit on exactly what the content of the training is going to be focused on?

CHAIRMAN RIDDLE: And these are accredited certifying agent trainings.

ASSOC. DEPUTY ADMINISTRATOR BRADLEY: Yes, for accredited certifiers.

Every year as part of our quality management system we do an analysis of all the nonconformances that we've identified for certifiers through the course of the year. The audit review and
compliance staff conducts their audits worldwide now. And we analyze what they're finding to identify a need for training. It's part of the regular ISO system.

So what we've identified this year, we have identified key processes that need to have attention paid to them. First is going to be the certification process in general, the sequence of events and make sure everyone's clear on how the regulations read and what the standard for applying that is.

We're seeing a need for materials evaluation to make sure that when they have authority to address a material issues or when they needed to refer something to the Board. We don't want to overload the Board with questions, but they do need to know where they need to draw the line and defer to the Board for review.

The compliance process, the definition. There needs to be some clarification as far as nonconformances, whether or not they call them nonconformances. The regs refer them to -- compliance, rather. Monitor noncompliance. If they are issuing
certifications just based on conditions and not calling them a noncompliance. We want to make sure that there's a clear understanding as to what has to be reported to AMS compliance so that they can open the sequence of events that happens from notice of noncompliance, proposed suspension to revocation and revocation with the appeals process in there.

It's important that we receive initial reports on the noncompliances so that they can create the entire picture to make sure that the process is served. So that certified operations aren't just dismissed or decertified or revoked or suspended without having the process that's due to them.

Label evaluations will be touched on briefly.

And then we're getting ready for the first round of reaccreditation. Those announcements will start going out in April of 2006 to give them a year's notice. So we're going to tell them how that process is going to work. It's going to be just pretty much a repeat of what they did last year, or the last time when they first implemented it. But we're looking for
a little bit more information about certifier qualifications. The regs are not specific about what it takes, what the critical mass for an accredited certifier is, so we want them to tell us in terms of qualifications, experience, education, training; paint us a complete picture so that the Accreditation Committee can look at this and make sure that people are fully qualified and that they define those qualifications. They're not just saying we're qualified because we say we're qualified.

And we'll be working with the Board on those issues. That's one of the things that I would like to get in front of the Board for discussion, comments, maybe a recommendation. I don't know if it would cause any reg work, but something we can look at.

Bea?

MEMBER JAMES: One more question. Will the locations, dates, times, content of the training be posted on the website?

ASSOC. DEPUTY ADMINISTRATOR BRADLEY: They will.
MEMBER JAMES: Okay.

ASSOC. DEPUTY ADMINISTRATOR BRADLEY: Bob is working on the training syllabus right now. We're working on that together.

The dates have just been firmed up within the last week. We knew that we wanted to work with these events, but Asilomar and the Upper Midwest Conference were pretty much established. The trainings that we're looking at in Colorado and the northeast are things that we're having to design and try to key them in with other events. So as other events are identified that we can kind of catch people that are gathering up anyway, we'll tag them in with those. But, yes, we will post them on the website.

Thanks.

CHAIRMAN RIDDLE: All right. Thanks. And, Mark, I just wanted to remind you that the Board has adopted a compliance guidance document which was quite detailed. And hopefully, that will be helpful. And if it was off base, I'd certainly like the Board to be informed of that.

ASSOC. DEPUTY ADMINISTRATOR BRADLEY:
Absolutely.

CHAIRMAN RIDDLE: Okay. Well, thanks, Barbara, Arthur, Mark for your comprehensive report.

We're scheduled now to begin public comments, but we also by the clock would have a break coming up very soon. So I think why don't I give the names of the first two people to comment once we come back from break, and read the rules now for commenting. And then we will try to take a break.

So first the rules and the names to hold your interest.

In our Board policy manual we have an established policy for public comments. And those are:

All persons wishing to comment must sign-up in advance, and that has happened.

And you'll be called on in the order to speak. If you're not present when your name is called, I'll make a note of that, come back at the end of the list and I'll give you one more chance. If you're not present then, well then you've forfeited your opportunity.
You'll be given five minutes to comment.

And you're asked to give your name and affiliation when you begin your comments.

You may carry a proxy so long as that has been submitted in advance. And if you do have a proxy, please mention that at the beginning of your comments because you can be given an additional five minutes for a total of no more than 10.

And all persons providing comment will refrain from any personal attacks or remarks that otherwise impugn on the character of any individual or company.

So with that, when we come back from a 15 minute break at 10:45, Joe Smiley will be first and Cayce Warf on deck.

MEMBER CAUGHLAN: How many do we have?

CHAIRMAN RIDDLE: There's 20 people signed up for comment on --

MEMBER CAUGHLAN: We were to have started this earlier, so I was wondering.

CHAIRMAN RIDDLE: Right. We're running a little late, but I think it's been time well spent.
And we will get all the Sunset comments in before we then move on to the Committee reports and actions. So 10:45. Please be prompt.

(Whereupon, at 10:29 a.m. a recess until 10:45 a.m.)

CHAIRMAN RIDDLE: And today's public comment session, we're asking commenters to primarily focus on the Sunset Review. And there have recommendations from each of the three committees posted for about the last three weeks. And the most helpful comments will be comments that focus on those recommendations, especially if there are substances recommended for deferral at this time that you feel should not be deferred or there's no adequate grounds, or if there are substances that have been recommended for renewal that you feel the Committee has erred and they should be deferred for further study. But this is really not a time to debate the substances that are commended for deferral. Those we'll be taking a very close look at in the coming year, in the coming months and year.

So, at any rate, if you can focus your
comments on the Sunset recommendations, those would be extremely helpful to the Board at this time.

And first up we have Joe Smiley. You're heading the wrong direction, Joe.

And Goldie is not in the room. Goldie is the timekeeper typically. Is she prepared. Do you know how to work that? Yes, you can test that. Okay.

Bea? Well Goldie knows.

Two quick things before you start, Joe. As I was saying, Goldie is the timekeeper and you'll have five minutes. And she will hold up a sign giving you a one minute warning. But if you don't see the sign, that's really not her problem. The time will keep ticking.

And there may be a problem, however, that some people emailed to Katherine Benham in the last day and half, and she was out of the office. So if you requested to make comments in the last day and a half by email, your name is not probably on this list. So if you've just did it here at the last minute, make sure and check and we'll get you in if that's your situation.
Okay. With that, Joe Smiley.

MR. SMILEY: Right. Well, thank you very much. Joe Smiley, Quality Assurance International. Not Neal Young doing the well tour.

But I'd like to thank the NOSB for all their work. I'd like to especially thank the graduating class of 2006 for all of their great work. I mean, we've got a lot of work to do. We've seen it and I think that NOSB is in a good position to do that work. And I think that everything that's been said over the last couple of years about the growing cooperation between NOP and NOSB is well founded, and we look forward to that.

When Mark was in here, I was going to congratulate him on his new job. He said that job description was more vague and less description, and we all know that's not how Mark works. So looking forward to working with Mark and getting precise about a lot of the terms that we use. Especially these days because a lot of the issues that we're now going to be faced with are going to really require precision and accuracy, consistency and clarity.
I also appreciate Jim's and Barbara's comments on the recent congressional action. I think once the blogs, the Senates the media dies down and we get the facts the table, I think that we're all going to be able to work together and move forward to do what we're here to do, which is to keep the integrity in organics and to convert U.S. agriculture to methodologies. Those are both noble aims and I think both can be accomplished. I don't think there's a dichotomy between them.

I'd like to get to the point and endorse the NOSB recommendations. It's obviously a good start, as Jim said. Using a favorite industry expression, "You've picked the low hanging fruit," which is good; the low hanging fruit has to be picked. And so that's solid. We support it.

I especially support the deferral of lecithin. I think it's one of those perfect examples of how this rule really evolves and works that lecithin shouldn't be on the list that we are seeing moving in to start to provide organic materials. And I think we see that across the board.
I know as a certifier we are not supposed
to -- Mark's not here for my little plug. But we're
not supposed to advocate one way or the other, which
we don't. We're there to enforce. And let me tell
you, our job is tough without clarity and consistency.

We as certifiers have to make decisions all the time
on what's allowed and what's not allowed, commercial
availability and the Sunset. And your work really
helps us do our work. And we look forward to a lot
more clarity and consistency in the rule.

As you know, we've got a lot of issues
coming up. Sunsetting is just the beginning. The 606
issues, all the materials issues are going to be

In working with new companies that are new
to our organic that apply for certification and bring
to us their IPPs, their individual product profiles,
all of their list of materials it really is getting
complicated. It's really getting difficult to make
decisions. And, again, we're not an accredited
certification agency making decisions for multimillion
dollar, multinational companies with products that are
extremely complicated. And so for us we need the support of the NOSB and the NOP and really being clear so that we have consistency across the board in our examination and in our acceptance or denial of the materials.

And so I know that's the job of the NOSB. I appreciate what you've done to date.

Mark, you missed my comments. Too bad. But you love your job anyhow.

But we'll do what we can to make it work. And we appreciate your work. But I do want to stress, and I know you've heard it a million times, we can't just keep on waiting and waiting and waiting for some of these things. We've got to get answers. And quite frankly, as a company, we don't really mind what the answer is as long as we get an answer and we are allowed to enforce it.

So again, God speed. And hopefully we'll start to get clarity and consistency quicker and quicker as we go along.

Thanks.

CHAIRMAN RIDDLE: Okay, Joe.
Kevin, question of Joe?

MEMBER O'RELL: Well, actually, it's just a point of clarification as opposed to a question. Joe, because you brought up the lecithin issue on the deferral. And I just wanted to make sure that the public was clear on that.

When the Committee had gone into the discussion on 205.606 item that's really where we had our broad based discussion regarding lecithin. And had agreed at that time then to defer lecithin for some additional background information. Then the point was raised that on 205.605(b) on the synthetics lecithin unbleached, we had passed that or put a recommendation to pass lecithin bleach on 205.605(b).

But after the discussion on 606 we went back and the Committee put together a motion and second recommendation for which we were going to defer lecithin bleach on 206.605(b).

Now that's what's published in our handbook here today. It may not have gotten published; I didn't check to see if it got on the website on time for everybody to see that. But I wanted to make that...
point very clear that the recommendation for deferral both on 606 and the beach lecithin on 605(b)

MR. SMILEY: Well, that make sense. That makes sense.

CHAIRMAN RIDDLE: Thanks, Kevin.

Okay. Cayce Warf and then Mark Kastal.

MR. WARF: Good morning. My name is Cayce, two syllables.

CHAIRMAN RIDDLE: I'm sorry.

MR. WARF: Thank you. Cayce Warf, Director of R&D for Alcide and EcoLab. And I support the approval for the NOSP Handling Committee's recommendation on the Sunset Review List 205.605(a) and (b).

Furthermore, I would like to take this opportunity to comment and seek clarify relative to past and future materials relative to this Sunset Review process. Specifically, the category of antimicrobial rinses.

If you look at the NOP you don't find antimicrobial rinses listed there. It should be. These rinses include acidified sodium chlorite, which
I will call ASC for brevity, and peracetic acid solutions, which I will call POAA.

As a preface to my comments and the request I want to place before the Committee, I want to offer a couple of background comments.

First, I think very strongly that ruling on the acceptance or nonacceptance of materials in organic processing should be guided by environmental soundness, not synthetic versus nonsynthetic. Because there are organics that are not very environmentally sound, but are approved. Conversely, there are synthetics that are really environmentally sound but not acceptable to many in the organic community.

Second, I offer this quote for the Board's consideration. "The NOP is a marketing program that offers consumers an alternative choice and is based on sustainable practices. It is neither a food safety nor health program and by law cannot supersede any regulation promulgated by FDA, EPA, FSIS or APHIS or any other regulatory agencies charged with overseeing safety in food and/or in agriculture or the environment." That is a quote from Barbara Robinson in
a letter stamped January 4, 2003, which a copy is attached to my comments here.

I want to focus on two of the best food antimicrobial products that are commercially used right now; peracetic acid and also ASC. Both compounds are strong, broad spectrum, oxidative antimicrobials. Microbes cannot develop resistance to either of these compounds. And the reaction products of both are benign.

For peracetic acid, for example, the reaction products are acetic acid, which is vinegar and water.

Now let me take a few minutes about ASC, acidified sodium chlorite. It breaks down into citric acid and water in common table salt, all of which occur in the agri-eco system.

ASC solutions do not chlorinate organics as does chlorine or bleach. Acidified sodium chlorite solutions are mixed of sodium chlorite, which is a salt and citric acid. Citric acid, as you know, is a principal component of lemon juice. Sodium chlorite is used in drinking water, is
a precursor for making cornoxide, which by way is the NOP.

Recently one certifying agency has declined to certify a processor if that processor uses ASC to control salmonella incidents on organic poultry carcasses. We need consistency from all USDA accredited certifiers on this particular issue here.

I will say that ASC is not an ingredient. And in my comments I've given you chapter and verse on that. It is a food contact substance, and therefore should be outside the purview of the NOP.

Again, in the letter that attached that is the opinion that was voiced by Dr. Robinson in 2003.

Thank you. Any questions?

CHAIRMAN RIDDLE: Jim?

MEMBER KARREMAN: So you're saying it's food safe to issue using this goal to enhance food safety?

MR. WARF: Yes, it will.

MEMBER KARREMAN: And isn't APHIS in charge of that, or Food Safety Inspection Service?

FSIS or APHIS?
MR. WARF: Oh, yes. ASC, for example, has been used to treat 9 billion pounds of chicken in the United States. That's a third of all the chicken in the United States has been treated or is being treated with sodium chlorite as for a salmonella reduction intervention.

CHAIRMAN RIDDLE: I just would like to point out that peracetic acid has been petitioned and recommended --

MR. WARF: Yes.

CHAIRMAN RIDDLE: -- for addition to the National List. Have you petitioned for consideration of ASC?

MR. WARF: Three years ago we put a petition in and then we got a letter from Dr. Robinson that in our mind took it out of a need to put on the list because it was a food contact substance. And, again, that letter is attached to this. And that is outside the purview of the NOP because the residues are of no consequence, and therefore it's not an agreement into the final product.

CHAIRMAN RIDDLE: Yes, I understand that.
I don't know if you understand, though, that the whole food contact substance issue is certainly controversial. And the way to have clarity on use of the substance is to petition. There are numerous other processing aids, similar substances that have been petitioned and reviewed by the Board. And gets gives clarity in a public process and whether it's appropriate for use in organic. So I encourage you to resubmit that petition.

MR. WARF: All right. And I would encourage the Board also to look at calling this as a food contact substance that does not need the List, but I understand that it would be good for the public to have it on a list, one way or the other.

Thank you.

CHAIRMAN RIDDLE: Thank you.

Mark Kastel and then Emily Brown Rosen.

MR. ROSEN: Good morning, all. My name is Mark Kastel, I'm the Senior Foreign Policy Analyst with the Cornucopia Institute.

And dispel any nasty rumors that have been going around, this life threatening injury to this ear...
was not caused by a hit man in Chicago contracted with a large agribusiness firm. One of my buddy's hockey sticks last Friday night went in the wrong place.

At any rate, we'd first like to take this opportunity to welcome the Associate Deputy Administrator to his new position. Mark, you've treated me and other staff members at the Cornucopia Institute with courtesy and respect, and we really appreciate that. We look forward to working with you. Much luck in your new position.

And all these comments will be brief concerning materials. I want to thank the Board. This is not easy work. It's dense and there are probably more fun things to do with your volunteer time. But you've done a wonderful job I think reviewing all these materials. The only ones we're going to comment on the record concerning our livestock materials because of our areas of expertise.

First of all, we support the recommendations of the Board. Further, we wanted to comment on the therapeutic hormone treatment using oxytocin and the parasiticide Ivermectin. We think
it's very appropriate to defer those. We will be submitting survey results, which we're just completely, where we've interviewed the practices et.al. organic dairy marketers in the United States on a number of issues, one of them being therapeutic hormone use. And there's a very large percentage of those respondents indicating that they do not allow their producers to use oxytocin. So I think a record will show that it's not universally believed that it's necessary.

We're not on the record making that statement today. We want to review these surveys and we will submit them.

I want to take just a couple of minutes to talk, not about pasture policy, but about the process that this Board is going to engage in the next day with your Livestock Committee meeting. I want to emphasize that we really want you to take the most aggressive action that you feel which is within your purview this meeting. I want to make sure that you're aware of the fact that somewhere between 30,000 and 40,000 written comments were submitted to the
Secretary's office within the last few weeks asking:

(1) That this Board be allowed to address
as an action item the pasture document that you're
going to be reviewing, and that;

(2) Asking the Secretary to open up the
nomination process for this body for public comment.

There's a lot at stake here in the future.

We want to make sure that the appointees are the most
qualified. There's no one who has a better handle on
that then the folks around this table and the folks in
this room, and the people they represent. And we'd
certainly like the Secretary to have the benefit of
that.

Just in a perspective, those 30,000 to
40,000, there were 50 comments to HHS concerning avian
flu after they posted a Federal Register notice. There
were 2268 comments to the FDA after they posted a
Federal Register notice concerning the morning after
pill or plan B.

Thank you, Goldie.

So this is an overwhelming response from
consumers. There's been five years of public input.
The material you're going to be reviewing has all been vetted by this Board and voted on by this Board.

You'll notice there isn't a lot of farmers here today, and I only know of a couple who be here to testify tomorrow. So how long will we continue down this road when this started, as Jim said, there was one CAFO producing organic milk that it caused this concern. There are eight either operating or intransitional plans right now. And this spiraling out of control and we really ask you to step up and be as aggressive and timely in your response as possible.

And I thank you for this opportunity.

CHAIRMAN RIDDLel: Thanks, Mark.

Hugh and then Dave.

MEMBER KARREMAN: A question on your survey you're doing for the oxytocin. Did you say you're surveying the marketing processes or are you surveying the actual farmers that find the --

MR. KASTEL: Yes. Thank you, Hugh.

We are just completing a survey, a ten month study of the management practices at every branded organic dairy product in the United States and
some private labels who have chosen to participate, though the percentage of that participation is pretty low.

Our principal interest was what practices in terms of pasture their producers are utilizing, but we also interviewed them concerning replacement cattle practices. And one of the questions how they monitor their farmers if they do place restrictive prescriptions than the NOP implements. And one of the questions was concerning therapeutic hormone use as a variable in a group of about a dozen questions.

In some cases these marketers said well we just defer to NOP regulations. We don't do anything more than that. If they say, they're certified, we don't look any further. There are some that have field people and do extensive interviews and checking on their own so that if they make labeling claims; for instance if they make a claim no hormones on their label, someone else might make no milk producing hormones on their label. Then they could not violating the label integrity use oxytocin. So we want to make sure those labels are truthful and of
value to the consumers.

And we will be rating on all these issues. In addition to our narrative report we will be issuing a rating of every dairy brand in the United States to empower consumers and wholesale buyers to make good purchasing decisions based on the management practices on the farm.

CHAIRMAN RIDDLE: David and then Nancy.

I'd like to remind us we need to keep moving.

MEMBER CARTER: Just a real quick question. Did you include anything on this survey in terms of parasiticides?

MR. KASTEL: No, we didn't. Sorry, Dave.

CHAIRMAN RIDDLE: Nancy?

MEMBER OSTIGUY: And when you publish this, will you publish the questions specifically that you asked?

MR. KASTEL: Yes, absolutely. Yes. Yes.

CHAIRMAN RIDDLE: Thank you. Thank you, Mark.

MEMBER CAUGHLAN: And when is that due?
MR. KASTEL: About two months ago. If I wasn't here, maybe it would be out. But we really, really hope that within the next 30 days it will be published.

MEMBER CAUGHLAN: Thank you.

MR. KASTEL: Thank you.

CHAIRMAN RIDDLE: Okay. Emily Brown Rosen and then Tom Harding.

MS. BROWN ROSEN: Hi. Good morning. My name is Emily Brown Rosen. I'm a consultant. My company is called Organic Research Associates. And I'm also working for Pennsylvania Certified Organic as their materials manager twice a month product review for organic farmers.

I'd like to thank you for the careful review of the comments that were all filed on the Sunset docket. There was a lot of comments filed, and it looks like that NOSB carefully look at all of them, which I'm sure wasn't easy. But I do have a couple of comments on some of them.

One was about chlorine, and I understand from the discussion earlier that there are already --
because from reading your docket from the Handling and Livestock Committee that chlorine was mentioned there. But it sounds like you are doing a TAP review on chlorine anyway for those. Okay. So I spend a lot of time. The main part of my comment was that it needed to be done for all three. So that wasn't clear. So I will skip over that.

I do have references in here on some of the uses in livestock and handling production that should be taken into consideration. But the main problem is it's been very inconsistently applied, the chlorine annotation across the board. Certifiers are going by all different policies. So some people are allowing any amount of chlorine to be in contact with food, if the waste water is only four parts per million, some are requiring any amount used followed by a rinse in contact with the food, some have set more in between standards. So we need to figure out what is appropriate for organic and get something workable and enforceable that can be uniform.

In the crops paper you talked about deferring hydrogen peroxide because it might not be
essential. And new information in putting its use in the environment and residue, at least as a sanitizer.

Hydrogen peroxide is formed from hydrogen and oxygen breaks it down and those are the two end products. So I don't think residue is an issue. And this is discussed in the TAP review on peracetic acid. You might want to check into that, the references there may be useful in your question answering as far as uses.

I would say it's also used in greenhouse production of the sanitizer. It's recognized by FDA for pathogen reduction in sprouts that are infiltrated into the water in a sprout growing situation.

And it may also be used in organic potato production to stop sprouting.

So there are definitely uses and I have some references on that. And I don't know if you really need to defer it or not, but you can look at that.

Then the question of off the categories for hydrated lime and hydrogen peroxide. I want to say that originally the NOSB recommendation was that
Bordeaux mixes (copper sulfate and hydrated lime) would be allowed as a fungicide. And that was back in 1995. When the rule got published, the Bordeaux mix is not on the list but copper sulfate and hydrates lime are separate.

Copper is an off the category. Lime may be sometimes without copper. We have lime sulfur. Sulfur isn't off the category. But in general lime is a mineral, so minerals are off the category. So I would think between being used a fungicide in combination and being mineral that it would meet the general category.

Hydrogen peroxide, I just want to remind you of your own recommendation that you adopted in August of '05 about product aids. And I know Arthur addressed this, but I think you agreed on defining aid that should also include active substances using pest control disease, weed insect and nematodes. And you stated clearly it was the intent to include other pest control options in this category because of the specific listings of sticky barriers, tree wraps and seals, insect traps, roll covers, etcetera. So I
think that's a very good basis for your definition, and I hope you can operate on that basis of that definition. Because we have a number of substitutes for pest control potassium -- well, I guess potassium bicarbonate is a mineral, but there's a number of very benign materials that are much better than copper for disease control. So, I think you've got an option there.

I forgot to say I have a proxy from Leslie Zook. Can we add that on? I don't expect to go over too much.

MEMBER CAUGHLAN: I'll add it one when you're through.

MS. BROWN ROSEN: Okay.

Okay. On the handling substances, again, I appreciate that you're doing the TAP review. Inspector Warf has mentioned this is an issue on, especially on poultry rinsing.

I checked on the website. There were two petitions filed in 2002 and it's just never been done. It needs to be done and so we can clear up the confusion on that issue.
In the livestock uses, chlorine is also very commonly used as a sanitizer, clean in place dairy lines. It is required at certain levels on egg washing for processing eggs that are broken for processing. So we need to look at it in context of other rules, other regulations.

And it's also implanting in a lot of TTSPPs. So it's in more places than you think.

Okay. So I just wanted to make one little comment about the docket. Coming from the docket that were due yesterday on the proposed docket. And I'm sure there were a lot of -- or I hope there were a lot of comments posted. But, you know, there's a lot of confusion over the synthetics because they were all listed only with made with organic annotations and now, obviously, that's going to be changed. Although we're not sure exactly how. But two points there.

Especially there's two materials that are on the list which I'm not in support of at least in their present form, is tetrasodium pyrophosphate and sodium acid pyrophosphate.

When I went to review the background
information on TAP, SAPP, there was no TAP review posted, there was no evaluation posted. In the minutes you can find records of the discussion of the supplemental TAP review but it's never been available publicly. So I think that should be deferred from the final rule until all this information can be public and we can make public comments on it.

I think in light of a lot of the discussion about synthetics and processing, this might be a good candidate for maybe an organic classification, and I'd like to see all of the background information before that goes final. And the same thing with TTSP. The petition and the review criteria and I couldn't find the TAP review, and I looked. So it's not all there. It's not well documented. And I think it needs more considering all the public concern about adding more synthetics at this point, these two are not well documented and we need to be really firm on this before they get out and for what category.

So, any questions?

CHAIRMAN RIDDLE: Thanks, Emily.
Tom Harding representing no proxy. And then John Wood on deck.

Tom?

MR. HARDING: Good morning, everyone. And I do want to add my special thank you for all of you new coming Board members, the old ones leaving. I'm sure you feel a little older now.

And I certainly want to thank the NOP and the staff for their good work as well.

I think we've had a lot of criticisms and I think we've come a long way, and I was pretty impressed with this morning. I think it's really important that we continue to work together. This is our rule, not anyone else's. And that we need to work hard at it.

But I really want to thank those who are leaving the Board. You've done an enormous amount of work.

I do want to follow up on one thing. I think synthetic and nonsynthetic issues have to be resolved as quickly as possible and not later. It's an issue that I think will effect everything you're
reviewing now on the Sunset issues, and also
everything that you're going to be reviewing in the
future. So it's a really important issue.

Also the agriculture versus the
nonagriculture issues.

Anyway, I'm here this morning. Tom
Harding. I represent Agrisystems International. We
work with a number of producers and coops and value
added producers in this country and around the world.

And we've done that for nearly 30 years.

I want to talk first of all about the
issues of your recommendations. I think it's really
important that we move forward your recommendation,
both on the Handling from the Livestock and the Crops
Committee. And I think you've done a fairly good job
of looking at those things that are problematic on
those lists, and that includes all of the materials
list.

I do think that we need to be clear about
a couple of things, and that's where I want to get
into my comment next. And that is the issue of food
contact substances.
When the proposed rule came out recently, we speak of TMD 0401 or TM 0401, whichever it may be, specifically about peracetic acid. I mean that material, with a number of other materials, was petitioned on the basis with use for organic products. And the language came out for use with made with. And I understand why that took place. I think it's very important and I want to encourage you to move it back where it belongs. That's one issue. And that's for the handling side in 205.605(b).

The other issue is peracetic acid relative to livestock. I presume now from what I heard earlier, that that's going to come out in a separate proposed rule, and we'll be hearing about that soon. But I would encourage you, because it's a valuable material, it's a very benign material. It's really important that we look at under 205.603(a).

The big issue for me, though, and those minor definitions that we have in there, they're pretty clear, they were your recommendations and I supported them basically, and we do. And we have a number of letters that's already been filed on behalf
of these materials and Crops, Livestock and Handling.

Now you remember that peracetic acid is already in two different places in crops. You've already approved it, it's already been made, it's already on the list.

I think it's really important we take materials like this and move them forward in a very productive way. But for me, anyway, it's clear that we move them back where they belong. That we recommend that they be for the use of organic and not made with organic.

The other thing that's really important, and that was the issue that was alluded to earlier, both by Dr. Warf and Emily, and that's the issue of include contact substances in general. I think it's really important that we pay fundamental attention to getting that clarity extremely clear. And I'm going to read the issue from the standpoint that it's really important to us. I work with a lot of different certifiers. And even though it's under the same rule, sometimes it's not the same results. And it's not their fault, it's our fault. We haven't clarified this issue for them. So I want to make it very clear. This is not dumping on the certifier, because they
have enough work to do as it is.

I also want to remind that for livestock, anyway, the European Union and the UK have already approved these materials. So it's really important that we understand.

This is important to us from the standpoint of those of us who support trade that we have these kinds of materials in the trade system.

The other thing is I want to speak specifically about the issue of food conduct. Finally, and it is absolutely essential to the organic industry, and especially to the USDA credited certifiers that the NOP in conjunction with the established review, evaluation and recommendations process of the NOSB provide a clear, legally enforceable interpretation and an administrative policy that eliminates the confusion and inconsistent interpretation of the use of food contact substances in or on products labeled 100 percent organic, organic and made with organic.

We look forward to your positive and timely action on this. And I thank you for that.
And I want to just say this: It's not about whether we should or should not petition, Jim. You made a very important point. We don't know whether we should petition or not. And I think it's really important that if we have good materials, that we move them forward. If not, we vote to send them back and we put them to asleep. But we do need clear guidance. I would say all certifiers would echo that.

And I want to thank you again for your hard work, all of you. And welcome aboard, Mark.

CHAIRMAN RIDDLE: Thanks, Tom.

And I do want just point out that on the issue of the annotation being added in the Federal Register notice of proposed rule for peracetic acid and those other substances, on behalf of the Board and with Andrea's input, we did submit comments to the program earlier this week consistent with that same message; the things we recommended for organic use, that that's the annotation that should appear.

MR. HARDING: Well, you're always ahead of us, and I thank you very much for that. Any other questions. Okay. Thank you very much.
CHAIRMAN RIDDLE:  Thanks, Tom.

Okay. John Wood and then Tom Hutcheson.

MR. WOOD:  Thank you. I appreciate the opportunity to provide my comments to you this morning. My name is John Wood. I'm Director of Product Registration and Compliance for EcoLab Incorporated. We're based in St. Paul, Minnesota.

EcoLab is a leading manufacturer of industrial and institutional sanitizing cleaning and laundry products. In that portfolio EcoLab markets antimicrobially interventions which are secondary direct food additives that are cleared through 21 CFR 173 to reduce food borne illness, pathogen contamination on the surfaces of fruits and vegetables, poultry, red meat and seafood.

As I said, these additives are classified as secondary directs and they meet FDA's classification as processing aid based on the Agency's definition at 21 CFR 10.100(a)(3).

In the letter or the copy of my comments you will see that I have provided the clearances for peroxy acids for the treatment of red meat and
poultry, the use of acidified sodium chloride
solutions for the treatment of red meat, poultry,
fruits and vegetables and seafood and peracetic acid
solution as an intervention for our fruits and
vegetables.

EcoLab supports the NOSB and the NOP to
approve the NOSB Handling Committee recommendations
Sunset Review List 205.605(a) and (b).

Furthermore, I would like to address this
morning some of the other presenters have already
touched on this, the confusion that seems to be out
there as to secondary direct additives in 21 CFR by
some certifiers may think that those do not meet FDA's
definition of a food contact substance. As you know,
NOP defines still present those ingredients regulated
by the FDA as food additives permitted for direct
application to food for human consumption under 21 CFR
173, except that substances that FDA has classed as
food contact substances.

In 1997 through FDAMA, which amended the
federal Food Drug and Cosmetic Act, FDA provided a
notification process for food contact substances. And
a food contact substance as any substance is defined as any substance that's intended for use as a component of materials used in manufacturing, packaging, transporting or holding of food if such use is not intended to have a technical effect in the food.

This notification was intended to replace the lengthy food additive petition process. And this notification process was preserved for those additives where the agency could make a safety determination in 120 days or less. So FDA has a website, FSIS has a website now and you find on that website a list of approved food contact notifications. But the food contact notification process was not really fully implemented until the year 2000. So consequently, and as you know, we have materials, there are materials in 21 CFR 173 that meet the definition of a food contact substance. And this has led to some confusion that if a material is not on that list, then it's not a food contact substance.

I've provided to you as documentation some of the letters regarding peroxy acids and acidified
sodium chloride solutions, letters from USDA or FSIS stating that these are processing aids that do not have an ongoing intended technical effect and therefore, processor incidental adding labeling is not required.

So in closing, I think it's critical from what I've seen, and I've been dealing with this on a limited data. I just drawn into it recently. That there is confusion out there as to what is a food contact substance. And your help in putting forth a legal clarification to that I think would be extremely helpful to both the manufactures, the certifiers and everyone.

Thank you. Any questions?

CHAIRMAN RIDDLE: Thank you, Mr. Wood.

I do have one comment. That food contact substance list, I believe, is over 540 items now at this point and it continues to grow pretty rapidly. And the statement you quoted from the NOP website just to make it clear that in the Harvey case, the USDA in their filing said that that was a draft for discussion purposes.
MR. WOOD: Okay.

CHAIRMAN RIDDLE: So as the previous speaker pointed out, this is a big issue. The law has been changed. The program working with the Board and the public really does have to sort this out. So just a further background.

MR. WOOD: Okay. Thank you.

CHAIRMAN RIDDLE: Thanks.

Okay. We have Tom Hutcheson then Jim Pierce.

MR. HUTCHESON: Hi. Tom Hutcheson with the Organic Trade Association.

CHAIRMAN RIDDLE: Speak up, Tom.

MR. HUTCHESON: Sorry. I'm recovering from the Greenfield Bird flu.

I would like to add OTA's great thanks to the retiring Board members. Goldie and Dave, whose not here and Jim, Rose, George; all of you have been real work horses. And echoing what Jim said earlier, got an incredible amount done since the final rule was published. This is -- you've probably seen the span of the most change that any NOSB will be see and the
contributions you've made have laid the foundation for pretty much all future work that the Board is going to do, the Board manual in particular is an extremely useful document for everyone.

Also wishing to welcome Mark Bradley into the job he loves so well. And we love having you there, Mark. It's just -- I know especially the certifiers and people working in quality verification systems will appreciate your expertise in that area.

I'd also like to endorse the recommendations in general. Obviously, a great deal of work went into them. A lot of thought, careful thought into what needed more review.

The one thing that I would suggest is that when you do defer on material, the more information about why it was deferred, the better people will be able to give comments and speed the process along so that your statement of work to the TAP reviewers can include all of the necessary parameters so that it doesn't get further hung up. I realize there was some of which TAP reviews just weren't done, which is a very general reason. But if there were specific
reasons that came up as to why it was deferred, it
would be helpful to have all of those. And some of
them were. But the more information in that part of
it, the better for future reference. So I guess
people in general won't be around for the next Sunset
Review, but you can only hope so, right?

You'll be making comments and you'll want
the NOSB to include as much information as possible.

Pretty much just a heads up on a looming
issue, 606. Everyone has managed to avoid a number of
potential train wrecks over the last two years. I
think we need to think about 606 not as major a train
wreck as some of the past ones have threatened, but it
is a new idea for a lot of people. Of course, the
proposed rule said naturals are allowed unless they're
prohibited and the preamble to the final rule said
pretty much the same thing in those words.

Now we have a new situation. The process
has, reading now, "Until now it's been the
responsibility of certifiers and OTA expects that any
new rule will mandate that manufacturers demonstrate
not only that they're certifiers, but also to USDA
through the NOSB that a product is not commercially available in an organic form. OTA notes that this strengthens rather than weakens the existing rule."

That's supposed to be the good news.

The bad news is that OTA anticipates that upward of 1500 ingredients could be petitioned unless some degree of categorization of ingredients is allowed, in which case perhaps 50 to 100 would be petitioned, which is an order of magnitude pretty much.

The longer list includes various steam distilled essential oils, Co₂ extracts, alcoholic extracted botanticals and derivatives of all three as well as spices. OTA would like to support the broadest categories possible that will be legally acceptable as identifying ingredients in order to mean something close to the range of organic product options, and therefore demand for raw agricultural product that the trade currently has.

Just that and a quick note that any work on smoothing a reclassification of any items from 605(b) to 605(a) if there are now natural alternatives
available would be helpful particularly recommendations specifically in support of the simultaneous petition to remove and approve, and any issues that may arise from that.

CHAIRMAN RIDDLE: Thanks, Tom.

George?

MEMBER SIEMON: Just so I understand your blocking together, there would be approval of them as a group?

MR. HUTCHESON: No.

MEMBER SIEMON: There's 1500 individual ingredients and if you break them down to 50 or 100 groups. I didn't understand.

MR. HUTCHESON: No, no. It's 50 or 100 items if you included, say, flavors that were made by a particular process that the only difference is the natural flavor rather than that you would say natural flavors using this process that include this particular one item in each of these things that's different. That is, if something -- if one flavor was the same as another flavor except for one was raspberry and one was blueberry, then you could say
raspberry and blueberry and whatever that were made by this process. And that might help lessen that sort of thing. Because a lot of these are, if not standard formulations, at least similar. And I don't know the technical details of that, but it's one way to start thinking about some of what's actually out there.

We have a task force going on it. These are some of the issues we've begun to identify. This is just a heads up that this may be bigger than anybody expected, that's all.

CHAIRMAN RIDDLE: Yes. Thanks for that. And once again, we have to keep moving. But Andrea?

MEMBER CAROE: Well, I just wanted to ask you a quick question about categories of things between 606 like spices. My concern, and I'm talking of other members of the Board, is that by doing that spices that could become available won't. There's not going to be incentive to get those products on the market because they're lumped into a broader category. So if you put spices on the list because organic saffron is not available or organic cumin and maybe a couple of other things, but organic pepper is widely
available, now it's on the list and processors won't have to purchase the maybe more expensive organic black pepper instead of conventional.

The worry is by listing these things that we'll lose the incentive for producers to start making these organic products, these minor ingredients available. And has your task force worked on that at all and thought about that issue?

MR. HUTCHESON: Well, the common understanding before materials had to be listed individually on 606 was that when they become commercially available, the manufacturers had to use them. And I think that's a separate question of how commercial availability is treated. And, again, the Board's work on this is great, let's hope it moves forward expeditiously.

So the situation really isn't any worse than it was to begin with when all naturals were allowed unless there was an organic alternative available. Obviously, keeping a list of what certifiers are letting be used as not available in an organic form would be useful. So that you know a
posting, as I know NOSB is considering, for 30 days to have anyone say wait a minute you shouldn't accept that because it is commercially available or here's what is commercially available, are they really asking for something different from that.

So it's certainly not any worse than it was. And the degree of categorization is what we're asking some consideration of. And, of course, you're free to exempt anything from that within those that if you think, oh you know, forget it. Pepper is never going to be not available as organic, let's exempt that from this category, that's another route you could go as well.

CHAIRMAN RIDDLE: Thanks. Thanks, Tom, and I do just want to give a reminder that we won't be acting on commercial availability at this meeting. It's good information, but we will be acting on the Sunset recommendations. So as I ask commenters to focus on those as much as possible.

Thanks, Tom.

MR. HUTCHESON: Just a heads up.

CHAIRMAN RIDDLE: Yes. That's no problem.
Always appreciate it.

Jim Pierce. I know Marty Mesh is not here.

He was next. Franz Wielemaker.

MR. PIERCE: Good morning, Mr. Chairman.

NOSB, NOP staff, ladies and gentlemen of this rather snub gallery, I'm Jim Pierce self-appointed certifications czar at Organic Valley Cooperative.

Since I missed addressing you all last August, I thought it's appropriate to refresh you with the company disclaimer. The cooperative that I work for includes over 700 organic family farms in 17 states. The cooperative produces refrigerated dairy products, eggs, juice, produce and meats, every bit of which is certified organic.

Among the goals of the cooperative is to provide certified organic products, support family farms, promote humane treatment of farm animals, sustainable agricultural production and environmental protection.

Mark, I love this job.

The role of the NOSB as the USDA appointed Advisory Committee has been debated since its
inception. But beyond reproach is the premise that the NOSB deals with materials and the NOSB works in compliment with the NOP. As simple as that rolls off the tongue, it's a task that has been more complex than string theory.

Ladies and gentlemen, pat yourselves on the back. This is good work well done. You are the Board that first plowed through the quagmire of the Sunset clause, and you're about to greet the new dawn not only in tact, but as wiser seasoned veterans having blazed trail for further Board members to follow.

Good job particularly of shifting through a multitude of comments, many of which missed the mark considerable.

Good job remaining focused, not dealing with annotations, recategorizations and other temptations to meddle beyond your purview.

Good job working with the NOP on presentation and format. Good job NOP for assisting. Your guidance in accurately setting the course is obvious and appreciated.
Now, as I mentioned, I missed the August meeting so I've only addressed you five freshmen, soon to be sophomore members once. But veteran members know they don't get off without some criticism, always constructive and well meaning, of course. So pay attention and this won't hurt too bad, as mom used to say.

The only actual criticism I have is that a score card summary of all of this would be very helpful. Go back to the list and say which ones are going to be recategorized, which ones are going to be deferred. There's a lot of paper and I think we're going to find ourselves shuffling back and forth through a lot of paper this afternoon.

Other than that I have more questions than criticism, actually, since you really seem to be on the right track. And I hope the answers will become obvious as this meeting proceeds. Among what I hope to be enlightened on, how much of the precious time and resources available to materials review will be used? Hopefully, there will still be room for new petitions, not to mention the development of
commercial availability criteria and subsequent reviews.

What exactly are you expecting when you refer to "further technical information?" Hopefully, it will be specific, clear and cheap, an abstract concept in Washington, D.C., I realize.

Will you be leaving too much work for the next Board? God knows their plat will be full. And I guess I just hope to come away from this meeting with the assurance that farmers and processors will not find themselves in limbo during the review of these previously approved materials, which now find themselves on the bubble. This is quite a list, after all. The list of deferred livestock materials grew from two to four. The processing list also grew from two to four. And the crop list grew to 15 -- 15, seven of which were added not based on comments. I'm certainly going to do my very best to keep my eyes from glazing over while you educate me on this.

I gather from the recommendations that some of these materials were not technically listed correctly, in which case they say onward organic
soldiers. By all means, list them all and then fix them all.

Now Jim Riddle yesterday gave me a caveat that I said I could use, so I thought I'd better use it. Address annotations for technical corrections only, not for expanding or restricting use. Is that close? Thank you.

In closing, let me close by coaching you to be conscious of the lessons learned from the Harvey lawsuit. Be careful that your decisions that you make don't cut the hands off of well meaning organic farmers and producers. Minimize the disruption at the same time as you rachet up the old organic bar. Remember that as Sunset trailblazers you are repairing past oversights and setting precedents for future Board members. Do it right, do it just and do it so you can be proud of what you've done.

Thank you.

CHAIRMAN RIDDLE: Thanks, Jim.

We have Franz and Brian Baker.

MR. WIELEMAKER: Well, it's very hard to follow this very versed speaker. I'll make it brief.
I'm a new kid on the block in these kinds of meetings. I represent the Dole Fresh Food Company in Central America and South America. My name is Franz Wielemaker. And I'm charge of the organic program with that company. And I work with a lot of organic banana and pineapple growers in Central and South America over the last ten years.

What I would like to address is the use of ethylene in 605(b)(10). Ethylene allowed for post-harvesting ripening of tropical fruit and the degreening of citrus. And later on I'll talk about 601(k) where ethylene is mentioned for regulation of pineapple flowering.

As it is in the review committee, ethylene was deferred because further technical information had to be obtained or needs to be obtained. This is rather worrisome for a lot of the organic banana growers in Central and South America because it will give a lot of insecurity of what is going to happen in the near future. So I would like to see why or I wanted to find out why this was deferred. Because if it's about a technical information that is missing, it
might have been in some kind of comment that was made to NOP. And I went through the whole list of all the comments that were made. I only found one addressing ethylene. And in that comment they say that ethylene increases yields and decreases labor.

In the TAP review, for which exists, it is also said by reviewer three that ethylene would increase yield synthetically increase yield. I've seen in my 27 years of experience in banana research, I fail to see why or how ethylene applied post-harvest can increase yield. So I need a clarification for this.

And also how can it reduce labor if by all means are now able to produce an organic banana crop?

So if we can deferral changed and get ethylene for banana ripening approved this week, then I would also like to mention that I think for pineapple flowering in 601(k), I would like to add the flowering of pineapple in that section. Because just as with citrus, we do need to degreen pineapples for the market.

There exists TAP reviews for both of these
comments for both uses of ethylene, like mentioned. These are rather recent. They're quite complete. And the EPA here rules that an environmental phase studies for ethylene are not required. That's a statement by the EPA.

And also ethylene is exempt from tolerance requirements because ethylene poses no dietary risk.

So it's beyond my comprehension at this stage why ethylene should be deferred.

I thank you all for your attention. And you're all doing a great job, and I hope I brought my point across. I would like to hear some comments.

CHAIRMAN RIDDLE: Thanks, Franz.

Kevin?

MEMBER O'RELL: Yes. And we'll go into a little more detail in the presentation of the Handling Committee report. But just to kind of set the framework of under the gun under pressure to get as much on the plate as we could, as we said the low hanging fruit, which I realize you're using it for fruit but I apologize. That wasn't one of the low hanging fruit.
We chose to defer it because when we read the initial TAP review on ethylene, there were some questions there that we felt needed further review. And given the time constraints, we wanted to get through with those materials that seemed not to have a contentious position. So it's under review, we'll certainly have questions for it. And we'll make those questions known to the public as we go through the process.

MR. WIELEMAKER: The thing is by deferring it you're creating a lot of uncertainty under the growers in Central and South America. So I would say if you need clarifications on the TAP review, we can do that in the meantime. But the only negative comment that I can find in any of the two TAP reviews is by one reviewer. His comments never get reviewed. That's the end of the TAP review. So --

CHAIRMAN RIDDLE: Rose?

MEMBER KOENIG: I just want to make you aware of the kind of philosophy, I guess, that we took and I proposed. We had a lot of comments. We had a lot of materials that we had to review in a very short
period of time between the closing of the comments and when we would have to post it on the web for prior to review.

Deferral, you know I know it's not a comforting feeling for things that people depend on. But what people are assuming, and I think it's a wrong assumption, is basically we could be -- it's further technical information, some of which has already been recanted by the Board, and as Art has stated, we have some of that information back from the contractors.

You'll be involved in the process. Anything that gets deferred will be voted upon probably at the next meeting. And some of it may not even be that much technical information. Maybe the Committee was not at the point to make a decision. So provide that information in your comment I think is really helpful. And I understand there's uncertainty. But don't --

MR. WIELEMAKER: Do you know any of the technical issues that were at stake or that are missing.

MEMBER KOENIG: Well, we'll discuss it and
just listen to the comments. You certainly, just like this -- from Livestock, you know after you hear the Committee's discussion as we go through those things and you still have maybe a comment or so that you want to provide to the Board, I don't think there's anything that's stopping people from coming tomorrow on issues.

CHAIRMAN RIDDLE: Only me.

MEMBER KOENIG: Yes. And, hopefully, if we have time periods, certainly we want the Livestock issue to be discussed tomorrow. But certainly if there opportunity, you can always submit comments in writing.

MR. WIELEMAKER: Okay. And then another issue was the addition of degreening for pineapples in 601.

CHAIRMAN RIDDLE: And it does say tropical fruits already.

MR. WIELEMAKER: Yes. But it's in 605, which is after harvest. And in pineapples it's done--

CHAIRMAN RIDDLE: In the field?

MR. WIELEMAKER: In the field.
CHAIRMAN RIDDLE: Yes. Yes, and I don't know if you caught earlier the discussion about not adding or restricting uses in the Sunset process and changing annotations. So really the most appropriate action there would be for you to file a petition to add that as an additional approved use on that particular topic.

MR. WIELEMAKER: Which I did.

CHAIRMAN RIDDLE: The other I think the Board is certainly hearing the need, even if we do defer it for timely action, so that it's clear what its regulatory status is. But it clearly is on the list as approved through October 2007. No changes there at all. That's the Sunset.

Thanks.

Brian Baker then Harriet Behar.

MR. BAKER: Thank you, Mr. Chair. Thank you members of the National Organic Standards Board, the National Organic Program.

I very much appreciate all the work that you've been doing, and in particular applaud the class of 2006. But above all I want to recognize one member.
I'd like to respect and honor Rose Koenig for all the hard work she's done on the Materials Committee.

(Applause).

MR. BAKER: Just a tremendous amount and body of work that she's left. And I hope that future NOSBs can build upon that and the synthetic/nonsynthetic work that she to clarify and to define those, not to mention her work on the Sunset and to bring reason and organization to how the National List is presented.

I'm Brian Baker, Organic Materials Review Institute, Research Director.

MEMBER KOENIG: I thought you might have been my husband or my brothers.

MR. BAKER: Well, they're lucky men, I assure you.

The Organic Materials Institute sees Sunset as an integral part of the materials review process, just as integral as the petitioning, the TAP review, the NOSB recommendations, the public comment. We have to reevaluate these materials. Time does not stand still. We have to go back to the original TAP
reviews. Having been a reviewer in those early days, I can tell you from personal experience there were things I did not know then that I know now. There were references that were not covered. There were TAP reviews that were not even done. And new information comes through every day. A lot's happened in the past week or two, not to mention what's happened over the past ten years. Science continues to make new discoveries, there's no technology.

We have seem materials that were classified as synthetic become available from organic agricultural sources. This blurs the distinction in categories between 605 and 606, to use the regulatory jargon. So the purpose of the Sunset was to not put so much of a burden on those who have taken the time to develop the new technologies, to source the organic alternatives, but to give some avenue for these things to enter into the discussion without requiring a repetition to remove.

So having said that, we also want there to be a minimum amount of disruption and a good process for those who have an economic stake on what's now on
the list to have their voice heard and to take into account what's happening there. There needs to be a time line to remove those substances. There needs to be adequate notice for those who formulate with substances that are being removed to reformulate, or address it some other way.

We're doing our share. We've emailed all of our listed suppliers, we emailed all of our subscribing certifiers. There was a lot of confusion with that email about -- and we don't want to be sending mixed messages. So we have to refer people to the Department and to tell them to come to these meetings. Obviously, there are people who hear the word deferral and they think the word denial. They're not the same. We're not advocating the removal of any substance. We're not advocating the retention of any substance. But we do want to see some consistency in how they're addressed.

And in particular I would like to mention one category of materials that appears in both the Livestock and Processing section, nutrient vitamins and minerals. These were not properly reviewed by the
technical advisory panel. They were given a two year period for reconsideration in 1995. And there remains confusion in both cases. I sent comments about that. And in order for expediency, I ask you to read those or ask questions if you have any at this time, rather than repeat what I wrote.

And briefly on commercial availability, it is a Sunset issue, but also a broader issue.

Thank you.

CHAIRMAN RIDDLE: Brian, I just want to be clear that on the nutrient and vitamin listings, you are encouraging the Board to defer those at this time?

MR. BAKER: That is correct.

CHAIRMAN RIDDLE: Okay. Thanks.

MR. BAKER: Thank you.

CHAIRMAN RIDDLE: We'll have one more. It's noon right now. We still have it looks like 11 people signed up to comment, which would be another hour of comments after lunch. But you're on now. And then first after lunch is David Cox, then Zea Sonnabend.

So, Harriett?
MS. BEHAR: My name is Harriett Behar. And I live in Wisconsin. I'm a full time organic inspector, educator and enthusiastic organic consumer. My husband and I operate a certified green house, grow organic vegetables and herbs, as well as having an organic processing operation where we dry vegetables and herbs.

I want to thank the NOSB, both the outgoing members and the continuing members of this Board for their diligence and persistence in some cases in maintaining a transparent process in their review of materials allowed in organic production. I appreciate both the opportunity to comment and bring my unique perspective and experience to this process, as well as hearing the opinions and expertise of others.

There are many stakeholders in the organic community. And through open discussion and common sense compromise, the NOSB has been able to maintain organic integrity by using the OFPA criteria when making decisions. Even though at times the end of the discussion may never seem in sight, either based in
insufficient information or lack of agreement among the stakeholders, I encourage this Board to continue with the sometimes argues process.

In review of the Sunset documents put forth by the various NOSB Committees, I agree with these recommendations overall. I would like to see the Handling Committee review the annotation currently in place for chlorine to be further clarified to allow more than four parts per million of this synthetic to be present when the solution is in contact with the organic products. The current annotation is not clear, and in my organic experience this is inconsistently regulated.

My main comment here is also concerning annotations. While I understand that these statements in the National List are in place to limit these materials to a specific use, I see misunderstanding by both farmers and processors of the annotations when out there in the field. I have seen lidocaine and procaine be used in cattle without the complete withhold time of seven days for dairy and 90 days for slaughter. I have also seen a lot of confusion
concerning the annotation present on sodium nitrate with some fertilizer companies selling this product bundled into a fertilizer blend as an approved material. Both the farmer and the certification agency have difficulty in determining how much of the nitrogen in the fertilizer blend is obtained from this restricted product.

While I do not have a specific recommendation -- sorry Bea -- to change these annotations, I caution this Board to be very careful when crafting annotations to prevent confusion and abuse.

There's a variety of materials that were deferred by the various committees. And I welcome the opportunity to comment on these materials such as oxytocin, potassium chloride, streptomycin and tetracycline when these go through the transparent process of TAP reviews and NOSB debate.

Lastly, due to the recent changes by Congress of the OFPA, I would request the most recent docket put out by the NOP with the synthetic materials in the handling category listed only in the made with
organic category be rewritten and reopened for public comment based on the OFPA changes.

In light of this change to the OFPA, I strongly urge the NOP to work even more closely with the NOSB and public when writing the rules concerning synthetics used in and on organic products, as well as the decision making process when determining noncommercial availability. The NOSB was put in place to bring a variety opinions and expertise to the table when making these important decisions. An organic label has strong integrity and consumer trust based on the transparent and inclusive NOSB process. I urge the NOSB and the public to be vigilant in the production of our organic label as we move forward with the rulemaking based on this OFPA change.

Organic production is not a black and white process. There are many gray areas that need to be discussed in the light of day with a decision making process that recognizes organic production as a holistic system and not a linear one using the experience, wisdom and common sense of all stakeholders. Organic consumers, farms and processors
deserve no less.

And with the methionine, just one other comment. Two meetings ago I suggested that the NOP or the NOSB put some money towards a task force to actually try to find the alternative to methionine. We now have three more years. I'd rather not just see the product keep moving forward. I would like to see an actual process to try to find the alternative.

Thank you.

CHAIRMAN RIDDLE: Thank you, Harriett.

Gerald?

MEMBER DAVIS: Harriett, in reference to a comment you made about sodium nitrate, there really is a simple way to, as a certifier, when it is included in a blend of blended fertilizer to document that and keep track of it in the certification, audit trail and so trail. And if you're willing to speak with me after, a break or something, I could share with you.

MS. BEHAR: Yes. As an inspector I know that I'm just saying this. It's difficult. The farmers are using it, it's being presented as an approved substance without then the farmer truly understanding
that they have to have this 20 percent of the nitrogen needs of the plant to be proved. And when it's hidden in the fertilizer, it just makes a lot of back and forth with the certifier. There's just a lot of extra paperwork and confusion out there.

MEMBER DAVIS: Well, we can talk about it afterwards.

MS. BEHAR: Yes, I know people can track it. But I'm saying practically it's not being done as easily as it could be.

CHAIRMAN RIDDLE: Hugh?

MEMBER KARREMAN: Harriett, just a question on the lidocaine. So what are you saying that the annotation needs to be more published? Or what are you seeing out there, first of all, because I'm out there in the trenches, but you're in Wisconsin. And what do you think --

MS. BEHAR: Well, I'm in the hills and you're in the trenches.

MEMBER KARREMAN: And what do you think it should be? I mean, you know, to make it clear.

MS. BEHAR: Like I said, I think that
there's a problem that a lot of times the annotations are not taken -- people just see the material. And for some reason they don't read the rest of that sentence. I just see a lot of that being a problem. So even though I bring up the annotation when I'm doing the inspection, I think we have to be careful about annotations because they just don't seem to be taken seriously as the product.

I see veterinarians being told that lidocaine and procaine are allowed, end of sentence. And so they come and they give that to the animal and the farmer doesn't say, oh oh, wait a minute, oh I got to pay attention to the rest. They just see it as an approved material.

CHAIRMAN RIDDLE: All right. Thanks. And we'll break for lunch. Try to be back at 1:00 is what the agenda says we'll start. So please be here. We'll continue public comment at that time.

(Whereupon, the meeting was adjourned at 12:07 p.m., to reconvene this same day at 1:24 p.m.)
A-F-T-E-R-N-O-O-N  S-E-S-S-I-O-N

1:24 P.M.

CHAIRMAN RIDDLE: Let's reconvene. We have most of the Board here. We still have people waiting to comment.

Mark Castel, you just dropped some papers.

David Cox or is it Gary, did you want to defer for now and come back later?

MR. COX: That's fine if I can get back on the agenda.

CHAIRMAN RIDDLE: You'll still be on the list, but if you prefer to pass for now and that way Lynn has a plane to catch, and he had kind of fallen off the email list, so move Lynn Clarkson up next and then we'll fit you back in. Thanks. But then Zea will be next after Lynn.

MR. CLARKSON: Good afternoon. My name is Lynn Clarkson. I'm managing director of Clarkson Soy Products. We make, we process 100 percent soy lecithin. I thought it might be helpful to you to have a processor on the public record, providing you some information about availability, functionality,
those issues and expose to any questions you might have.

In your packets you will have a one and a half page presentation on availability. You've got a one pager that's more or less scientific data on the definition of what lecithin is. You have a production spec sheet on what we're offering. And you have one page of commercial propaganda or what, what we're using. You can read better than I can speak, so I will distill that page and a half.

We have been making organic lecithin for about four years. The first two years, we were writing the learning curve and falling off and then climbing back on if we learned more on how to do it. There's some trade secrets involved. We've been making world-class lecithin since January of 2004.

That lecithin is currently used in baby food in Korea, baby food in the United States, chocolate, cookies, power bars, tofu and some beverages. It is a test of functionality that we have passed and done well.

Further tests of functionality, we will be
happy to cooperate with any tests required by any one
and we've tried to find a lecithin guru, a retired
gentleman who writes the book on lecithin or if he
doesn't write it, he is the editor of the book on
lecithin. We would like for him to propose whatever
he thinks is reasonable and submit ourselves to that.

You need to know that lecithin is not a
mono product. One of the best conventional providers
of lecithin has 165 standardized versions. There is
no way that we can commercially make available right
now with the size of the organic market, 165
standardized versions, so we have selected roughly
deep or four that have the most usage and those are
available.

I want you to know that we are quite
capable of making an organic bleached lecithin. We
are capable of making a granulated lecithin. But at
this time, we don't see enough demand to put that out
commercially.

Commercial availability, we have met all
offers or all requests for supply. We have surplus
capacity. We have in place a plan within six months
to double the supply and continue to increase it beyond that if there's enough demand in the marketplace. We simply don't know what's there right now.

I will tell you about one processor, one certifier that has a policy that we like. The certifier has decided we have carried the burden of persuasion meaning that we have met their standards for commercial availability and functionality that has transferred the burden to a user. If there's a user certifying a product that carries the lecithin under that seal, under that certifier, they have to show that the organic lecithin would not work for them.

We have no interest in pushing people to use something that doesn't work for them. It is a client relationship. We wish happy clients. So we like that procedure. We think that meets all of our needs.

Having said that, before I run away, I want to change hats and tell you that. I have a personal comment to make as one of the directors of the Organic Trade Association. I'm not speaking for
the trade association. I'm not speaking for the other directors. The Harvey and the legislative action that was taken has come up before you. I know that many of you have been keenly involved in it.

What I saw in the Harvey case as a director, with responsibility for guarding and encouraging the trade in organic materials, organic foods, was in my mind a serious threat to the foundation of the industry.

The options of dealing with that were extremely limited and had some time lines. As a handler and a processor, I am typically working 18 to 24 months in the future. Other processors making food products are working sometimes 24 to 36 months in the future. I felt it was absolutely critical to address that challenge to the process sector. As I said, we were limited on our options to do so.

I supported the political legislative strategy. I wanted it to do the least disruption possible. I wanted to address the loss of the minor synthetic ingredients that had been vetted through conversations or a significant period of time.
I have absolutely no disrespect and lots of respect for the challenges to the OTA during this procedure. I am happy with the result. I think you will see that the OTA is once again open for communication. I think it wishes to embrace the community and develop consensus on how we proceed and the protocols we use in the future to change things.

Thank you very much.

CHAIRMAN RIDDLE: Kevin?

MEMBER O'RELL: Lynn, you had mentioned that some of the convention suppliers of lecithin have 165 different varieties of lecithin in the marketplace. And you concentrated on three or four versions.

Do you see any major product categories or applications that would fall through the cracks and not be able to use your product because of the road that you took to have three or four? I realize 165 is a lot of products. But is there the danger of somebody with a legitimate concern about functionality for their product, you not being able to respond?

MR. CLARKSON: I would have to say I step
right into my area of ignorance. There may be some needs there that I'm not aware of. I cannot say that we can meet everybody's needs. I can say we can meet most of their needs out in the marketplace and we would be happy to submit ourselves to testing for anybody.

MEMBER O'RELL: In terms of form, you had indicated you have a granule form that is available now or could be available?

MR. CLARKSON: We have the ability to make it. We have the ability to provide it and we haven't seen enough demand to justify creating the supply line.

MEMBER O'RELL: So if somebody was using a dry version, but not powdered and not driving the demand feasible for your production, you wouldn't be able to meet that form?

MR. CLARKSON: We would welcome a discussion with anyone and based on their needs we could possibly do it. It would depend on the supply, how often they needed it replenished, issues like that.
MEMBER O'ReLL: Thank you.

CHAIRMAN RIDDLE: Rose?

MEMBER KOENIG: It has been a while. I actually started when the paneling committee was looking at the substance. I did a little bit of research. One of the reasons why we're calling for TAP is that it seemed like it was much more complicated than what first seemed a relatively simple substance.

It seems to me from the information that I gleaned from websites is that -- I don't know, but there's a little thing that was sitting on my shoulder that was telling me those 165 types perhaps are not all natural, that there could be other substances are added to change the properties of that and that's what I was concerned with because right now the way it's listed, only the bleached form is considered synthetic.

So I was hoping with the technical information that we will obtain from our contractor to actually get a better understanding, but can you glean any information of these 165 forms, are they all just
-- after the extraction of it, if there were things that were added to the formulation that would change the chemisitry of the lecithin is perhaps is not a nonsynthetic.

I think we may be opening up a larger --

MR. CLARKSON: Yes, you may be and you will probably test the limits of my knowledge about that. I think you will find in some powdered versions there may be some real issues. We have learned how to make a powdered version that meets all the organic standards. What kind of demand is there, I don't know because supply and demand have to have some sort of correlation here and that's a balancing act for us, but technically we can do that even in the powdered version. But I'm not cognizant of all the formulations and there are a myriad of formulations out there.

MEMBER SIEMON: Being specific about this lecithin bleach, what is your position on what we should do with that, the bleached lecithin? Is to defer it now and that's in your opinion of that? How does the supply and demand pushing for it apply? I
want the demand to pool the price through the marketplace and you seem to be agreeable to do that.

MR. CLARKSON: If we had demand there, the supply would be right behind it. We are capable of it today. There may be formulations that we can't meet. I'm quite pleased, leaving you with certifiers to come to us and say is it available and then work with us the way I mentioned without naming names of the certifier has been.

I think we could meet that market tomorrow, George, but I don't know the size, so I don't know whether it would fit.

MEMBER SIEMON: But the certifier methodology has really not been working, has it, because some certifiers have not been?

MR. CLARKSON: It hasn't been working, but one of the salutary issues coming from the Harvey is it's sensitized people to a lot of things. It's working much better.

(Laughter.)

MEMBER O'RELL: Lynn, just so you understand because I know you flinched a couple of
times about certifiers being able to follow anything.

If there were criteria given to certifiers to follow for items that were on 606, how would you feel about lecithin still remaining on 606 and having criteria come out for certifiers to follow to see if it meets going through the test of functionality? Because I think if I hear you right you're saying that if it comes off 606, there may be some specific applications that you might not be able to cover.

Mr. Clarkson: That's correct. And I don't have a right answer for this. I think I could live with either of the answers you proposed. I would like to see a general acknowledgement that is generally available, but I can tell you there are going to be some instances in which conventional may be the only thing that works.

Chairman Riddle: I just add that even when it's on 606, well, when it's on 606 that's when the certifier does that commercial availability on a case-by-case basis for every operator they certify. So that still applies.

Thanks. Go ahead.
MR. CLARKSON: I just want to underline that any testing that anybody wants done, we are quite happy to participate in.

CHAIRMAN RIDDLE: Okay, we have Zea Sonnabend, then David Cox.

MS. SONNABEND: Hi. I'm Zea Sonnabend, representing California Certified Organic Farmers, Inc., also known sometimes as the Materials Girl, because I think I can safely say I've been around since the beginning of any materials review process for organic. And I worked for the USDA as a contractor, the original TAP contractor from 1994 to 1996 in preparing the original materials for the National List. Was at all the NOSB meetings at that time, so it's sort of dear to my interest to comment on the sunset review, five years later.

I think the NOSB has really done a great body of work and I definitely want to thank the outgoing Members as many other people have because you've come a really long way in the ability to do the materials work that is so necessary to this Board and it's such a relief to me to not have to do it all
myself all the time and really keep close eyes on you for what you're doing every second.

I agree with most of the comments concerning the sunset and the renewals and deferrals, but I have a few points I want to bring out and I also want to say, in particular, that I really like the proposal to restructure the National List from August.

I proposed something almost exactly the same myself in response to the first rule for restructuring it by categories.

A few other particular comments: hydrogen peroxide as Emily brought up, there are two things on there that are mistakes from the very first way the National List was set up. Hydrogen peroxide is not really a disease control, but it was put on as disease control because of the way the EPA lists the label for the products for it. It's really a crop production aid. Now it is used as a sanitizer. That's a separate use, but it's a crop production aid, very similar to a carrier because it's used with sprayed-on materials to help the plants absorb them better, an oxygenator material.
So this is also similar to the way lignin sulfinates are used. With micronutrients, the hydrogen peroxide can be used with micronutrients with kelp, with other things to help the plants take them up better, so I would put it as crop production aid.

Also, hydrated lime was a mistake in the original. Emily pointed out why, but it was reviewed as part of Bordeaux mix. The annotation that was approved by the NOSB and should have been in the list was for use only with copper sulphate as part of Bordeaux mix. That did not happen and there's been no way to comment on that until now because they couldn't change the National List the way it was.

So I do recommend that you figure out a way to put it back on as copper and fix the old mistake so that it's part of Bordeaux mix.

You may wish to additionally review its uses as an insecticide because it can be used for that.

Okay, I was a little curious about the call for re-review for lignin sulfinates in antibiotics. I would like to emphasize to you that
lignin sulfinate has many, many different uses and although it will just say chelating agent, that covers like a really large range of different types of things it can be used for.

Also, it's primarily a carrier in these things, but I really strongly in your review, to look at all the possible uses because we see this product all the time and it could actually be listed as a sulphur compound since sulphur is a key part of it, if you do restructure the list.

Antibiotics, I had a question concerning the statement in your document, the use of antibiotics and organic production for therapeutic purposes, not growth enhancements needs to be clarified. I have a very large file at home on antibiotics and on lignin sulfinates and I'm happy to offer them. I have copies of the original TAP reviews, many of which are lost from the USDA office. I'm happy to offer them.

And then we want to make sure, as growers, and I think I can safely say this for all growers. Growers want no interruption in their ability to use things and plenty of notice that something is going to
change status. So I'm sure you all know this, but I just can't -- it needs to be repeated time and time again. Transparent review, then plenty of notice for change.

And lastly, I have to throw in one thing about the organic seed document. We liked the whole thing up until the very last statement that certifiers have to maintain and annually submit to NOP an up-to-date list of specific nonorganic crop varieties permitted for each agency. We keep this in growers' files. We don't transcribe it into the computer. This is hours and hours and hours of work that you're asking certifiers to do extra for what purpose?

That's all, except spirulina, if anyone wants to ask me.

MEMBER OSTIGUY: What about spirulina?

(Laughter.)

MS. SONNABEND: Thank you. I didn't understand the point in the document concerning, it said we want to renew sodium nitrate for spirulina, but for use only until October 21, 2005. It's not clear that -- because renew, it's not going to be
finished by October 21, 2005, so I think you need to add a sentence "if this is expiring" if that's your plan.

And I'm passing out some documents from CCF Grower and his affiliated companies for you to all look at.

MEMBER KOENIG: I'll have a look at it, but I think there is a label for -- I think it's oxidated. It wasn't a different brand name, but I think that's a hydrogen peroxide.

MS. SONNABEND: No, it is. And the EPA requires a pesticide label.

MEMBER KOENIG: Right.

MS. SONNABEND: But that's not, in effect, how it's used.

CHAIRMAN RIDDLE: Okay, thanks. David Cox.

MR. COX: Thank you, Mr. Chairman. For the record, David G. Cox. I'm a lawyer with the firm of Lane, Alton and Horst in Columbus, Ohio, speaking today on behalf of the Cornucopia Institute.

In a former life, I was a Senior Assistant
Attorney General for the Ohio Attorney General's Office. I prosecuted polluters for 14 years under the Clean Water Act, RCRA, CERCLA, hazardous waste violations. I did civil, criminal and administrative enforcement. So I know a little bit about how government works and how the administrative regulations are promulgated, how those rules should be enforced and implemented by USDA.

And in another former life I was actually a certified organic farmer for a couple of years, raising vegetables, selling them at farmer's markets, grocery stores, restaurants and actually operated a small SCA as well. So I know a little bit about the National Organic Program. I'm familiar with the regulations and the NFPA.

There's been a lot of talk today about certifiers facing confusion over how to certify somebody. There's been talk about consistency with the rules and the regs. Conspicuously absent, however, is any reference to enforcement of the program.

I apologize to the Board right now. I
have to take my comments out of order. I believe I have permission from USDA to discuss the pasture rule because I'm not going to be here tomorrow for the meeting. But I believe I've cleared this with Mr. Neal.

With respect to the pasture rule, it's my understanding that there have been some complaints filed with USDA pertaining to a particular dairy operation out in the West that isn't complying with the -- certainly the spirit or necessarily the letter of the organic regulations as it pertains to pasture. The cows are being confined. They don't have any meaningful access to pasture. They don't freely graze actually. The calves are in hutches out there. Some of the feeder calves come from a facility that's not even certified organic. There's synthetics in the grain. It's my understanding that these complaints lodged with USDA were basically closed without any investigation being done.

So the concern I have is that USDA needs to actually institute and implement an enforcement program at the national level in order to make sure
that this little green label that we have on all these, for instance, milk containers, actually means something.

With respect to complaints that are lodged with USDA, USDA has an obligation to actually investigate the complaint. They need to determine if there's a violation of law being conducted, if there will be a violation of the law, that will be occurring, or if past violations have occurred.

If that's the case, USDA needs to take appropriate enforcement action, issue administrative findings and orders, issue warning letters to the entity, actually issue cease and desist orders, notify the public of these entities, noncompliance with the laws, and engage in a process, not only with the Board, but also members of the public, with respect to the transparency of the results of the investigation. Public records need to be made available and USDA actually needs to cooperate with the Board in adopting the recommendations by the Board.

Again, my whole purpose today is to speak of some complaints that have been filed and USDA's
action or inaction does have some consequences. Some of these actions or inactions on the part of USDA can actually be challenged either through the Administrative Procedure Act or certain other USDA statutes that apply.

There's been a lot of work by the organic industry over the last now 15 years. It was a success to even have Congress enact the NFPA in 1990. That was -- to me, that's like on a par with Congress enacting the Clean Air Act, Clean Water Act, RCRA and all these environmental laws.

Now we've got some organic laws that are in place and I think it's important to actually honor the spirit and intent, not only of the statute, but also the regulations that have been adopted so that the little green label that's out there, that consumers have placed their trust in, actually means something and it's not a fictitious label.

Thank you.

CHAIRMAN RIDDLE: Thank you. We have Carol King, then Steven Clark. I'm sorry, I didn't give Carol a warning. Oh, you aren't signed up for
today. We won't make you speak then.

(Laughter.)

I'll check the list, I think it's in the back of the room. Check the list, make sure you're on for tomorrow.

Steven Clark, Diane Goodman is offering comments on behalf of and Gaye Timmons, but Gaye isn't here.

MS. KING: That was the letter I passed out.

CHAIRMAN RIDDLE: But it wasn't a proxy, you could have kept going on.

(Laughter.)

Then David Hilts will be next after Diane and Steven.

MS. GOODMAN: On behalf of myself and I'm Diane Goodman for the record. I'm a consultant to the organic industry and I want to express my deep appreciation and gratitude to every one of you through the last few months and especially to those of you who are leaving, to Goldie and Dave and Jim and Rose and George for the years that you have spent in this
process because I have been with you the whole time and know how much it's taken. So it's really with deep appreciation for your work.

On behalf of Steven Clark, Steven is PHD Director of Research and Industrial Development for Florida Crystals Food Corporation and this is now Steven speaking.

Good afternoon and thank you for the opportunity to make this comment. Florida Crystals recognizes the huge commitment of time and effort the Board has made to make the process of the sunset review efficient, comprehensive and accurate and we appreciate your work.

We agree with the Committee recommendations for determination of review for substances currently on the National List, is posted for comment, and urge you to vote your support, vote to support your Committee recommendations.

We continue to rely on substances in National List Sections 205.605(a) and (b), particularly enzymes, ascorbic acid, calcium hydroxide and calcium dioxide for the production of organic
sugar and rice and trust that your vote will guarantee those substances will remain viable after the sunset of the list.

We would also like to urge you to make your continued work with National Organic Program to clarify the definitions of synthetic and nonsynthetic, a priority in the work plans. We strongly recommend that together the Board and the NOP staff seek both scientific expertise and legal interpretation of OFPA for the most objective, compelling and valid definition that is scientifically substantiated.

I offer you, meaning Steven, offers you his expertise and knowledge about this subject and invite you to call on him to assist you in any way that he can.

We also support the Board in its upcoming role, advising NOP as rulemaking is developed to follow recently legislative action to create an expedited petition process for substances not available commercially, excuse me, not commercially available organically.

As a related note, we have many customers
who use products that will now need to be included in 17 CFR 205.606, based on the *Federal Register* notice of July 1st which limits those nonorganic agricultural substances to the five currently listed. We suggest the Board work collaboratively with your trade association which has a task force already in place, working on questions, considerations and criteria as well as members of the industry to best help certifiers determine commercial availability and help producers and handlers comply with new regulatory interpretation and rulemaking.

Florida Crystals would also like to take this opportunity to recognize Jim, Dave, George, Goldie and Rose for their years of dedication and service to the Board, to the organic industry and we wish you all well in your future endeavors. Thank you for your time and consideration of our cause.

Questions?

MEMBER DAVIS: Thanks, Diane. David Hilts and then we'll have Tom Harding speaking on behalf of Dennis Stiffler.

David?
MR. HILTS: Good afternoon, everybody. Thanks again, I want to thank the NOP and the NOSB for their continued hard work in this area and also providing the opportunity for public comment into the decisions for organic agriculture.

My name is Dave Hilts. I'm a research scientist, a biochemist with Acadian Seaplants which one of the world's largest manufacturers of aquatic plant extracts. We're located in Nova Scotia, Canada, the east coast of Canada. And I'm here today just to provide some public comment on the on-going sunset review, specifically, the decision on the Materials Review Committee to defer recommendation of the renewal of aquatic plant extracts as they are currently outlined in 205.601(j) on the National List, until technical information is obtained.

Acadian Seaplants has supplied aquatic plant extracts to organic growers for the past 15 years and we hope to continue to supply aquatic plant extracts beyond 2007 as the benefits of using our products in agriculture have been well documented over the last 40 years, both from our products and aquatic
plant extracts that are produced by a variety of companies around the world.

Our products, just for some background, are produced from freshly harvested marine algae and we do use an alkaline extraction process, that is we add a small amount of potassium hydroxide during the extraction to help rupture the cell walls of the algae and thus allowing the beneficial compounds like plant growth hormones, organic acids, carbohydrates, micronutrients, etcetera, to be released into the liquid phase. We then remove cellular debris and are left with a 100 percent, water soluble marine plant extract.

There have been some comments or some questions from some in the organic community that manufacturers of aquatic plant extracts like Acadian Seaplants could potentially add excess alkali to our products to fortify it with potassium. And I can't speak for the entire industry, but certainly in our company's situation that is not the case.

We use only a minimum amount required to produce a quality extract and our recipe that we use
for the extraction process was developed in conjunction with the National Research Council of Canada and is very sensitive to the actual amount of alkali that we do add. If we add excess or minimum -- excess or too little alkali, it leads to major manufacturing problems for us. It leads to major stability problems with the product. So that's something we certainly don't have advocate and we can't do.

There's also been some question that we may have petitioned the National Organic Program for the use of phosphoric acid as a pH adjuster as simply a way to fortify our products and synthetic phosphorous. And again, that's not the case. Our product is a complex, organic mixture when it's done, as I mentioned earlier, and it is susceptible to microbial spoilage with bacteria and molds which will then degrade the product.

And prior to the final rule being implemented in 2002, we used a synthetic preservative which was found in the U.S. EPA's Inerts List which is a list for inert, but once the final rule came into
effect, we were no longer permitted to do that. And rather than petition the NOP for the use of that synthetic preservative, we looked at the current regulations that were in effect for other products in our group and simply asked that the same annotation that was extended to another biological mixture in the category, namely the liquid fish products, be allowed to us as well, that is, using pH adjustment to stabilize the product.

We tried using citric acid which is one of the organic acids that was listed under the annotation and in our product, we simply cannot achieve the pH required to stabilize the product which is down below 4, using citric acid. That left only phosphoric and sulfuric and phosphoric was the choice that we pushed for, simply because it's triprotic acid which means you use the minimum of that.

One other issue, even if -- the use of potassium hydroxide and phosphoric acid in aquatic plant extracts, it just doesn't lead to agronomically significant quantities of these macronutrients in the final products. Given our application guidelines and
the NPK analysis for aquatic plant extracts, much less than 1 percent of the required nutrient requirements for our crop in any given year could be used, or could be supplied by applying our product.

And there's no way, both from an economic fact and from the fact that the residual salt that comes out the aquatic plant in our product, there's no way you could over-apply a product. A producer could not use our product at a thousand times the application guideline and try to reap these things.

If the current annotation is not renewed, that would leave only hydrolyzed extracts under the definition that's currently in there and the NOSB under my understanding has interpreted this to mean only reactions with water, and therefore you'd only have a water-algal suspension that would be available out there for producers' use. And we have a pretty good market penetration and I'm not aware of any simple mixtures of just algae and water that are out there and primarily I would suspect we would come back to still being the fact that there are no -- there's no way to stabilize that product.
So just in closing, we request the National Organics Standard Board and the NOP to continue to work together to find a path by which aquatic plant extracts containing minor levels of synthetic processing aids remain a viable source for growers in organic markets and certainly if Acadian Seaplants can provide any information, technical information, we'd be more than happy to do so.

CHAIRMAN RIDDLE: Thanks, Dave. George?

MEMBER SIEMON: The one percent was of what mineral?

MR. HILTS: Sodium.

MEMBER SIEMON: The one percent --

MR. HILTS: It would be the potassium phosphorous that we would be adding and if you look at the actual analysis of our product and look at the proper requirement for those things, the application outline, it would be one percent.

Thank you all for your time.

CHAIRMAN RIDDLE: Okay, we have Tom Harding speaking on behalf of Dennis Stiffler. And then Kim Dietz. I don't think Kim -- is she -- hi,
Kim. Sorry, didn't see you back there.

Okay, Tom, again.

MR. HARDING: Thanks, Jim. Good afternoon. I'm Tom Harding speaking on behalf of Dr. Dennis Stiffler.

And Dennis is the Executive Vice President of Food Safety for Coleman Natural Foods and NBC Natural Foods.

It's along the same subjects that we've talked about, but first of all I wanted to mention that Coleman is in support of the work of the NOSB and the recommendations that have come forward with regards to materials, by and large, and certainly in principle. And certainly encourages that measure to go forward under the sunset review process.

As a brief matter of introduction, we all know that Coleman has been around, one of the pioneers in this business. And I'll just give you some background real quickly.

Coleman Natural Foods represents a collection of premiere entrepreneurial founding companies, natural in scope, specializing in the
raising, the growing of natural and organic protein products, all of them in the organic category that are certified under the NOP.

Livestock systems include fully integrated production systems, poultry to pre-approved ranch and farm source verification; pork, lamb, bison and affidavit documentation support.

The majority of the harvesting and processing of the poultry, fresh prepared foods and controlled company owned are handled in controlled company owned facilities.

Outsource harvesting and processing is conducted for pork, lamb, bison, and fully-cooked prepared foods.

The marketing brands, just to mention a few, the Coleman Purely Natural, the Rocky Mountain Range, Rose, the Organic Chicken and then we can go on with red meat division. Again, Coleman Natural B3R. The Poultry Division, Pataluma Poultry Processors, certified entity as well, and the Prepared Foods Division.

The purpose of this testimony and public
comment is to address the use of oxidated antimicrobial decontamination interventions to control pathogens in red meat, poultry and prepared foods and to ensure consumers of the most food safe products possible.

The prospective: the general consumer associates organic food products with health, wellness and quality and of course, food safety. Producers and the processors of organic products are vigilant in their efforts to produce crops and raise animals and process products to deliver quality and food safe products to ensure consumers of the safest product possible using processing aids and food contact substances that do not change the very nature of the product that result in residues, and are compliant with the core values of organic production: enhancement of the environment, reducing the amount of chemicals and sustainable practices and methods. And that does not fundamentally change the definition of the organic food or for that matter, the finished product.

The potential pathogens are there and
consumers know that and they expect us to rid the
product of pathogens.

These pathogens are ubiquitous in the
environment. They are found in the fruits, the
vegetables, the water, the meat and meat products and
in fact, almost everything we eat.

The research data -- I'm not going to go
into it because it's endless and fairly well
substantiated and I just want to say that Coleman is a
valuable resource. I hope that you will turn to them
as we start to consider these other issues and I'm
going to get right into the recommendations and the
summary.

Oxidative antimicrobial decontamination
products that are consistent with FDA's definition of
secondary direct food contact additives, 21 CFR
173.325, and considered either a food contact
substance of a processing aid, 21 CFR 101.100(a) and
(3) thus not subject to labeling, should be readily
available to organic food processors.

I want to insert something here because
I've already heard it and I want to be very clear. No
one and Jim raised that point and we appreciated it, no one is asking for the whole list to be approved. We're talking about the very specific, targeted expectations of materials. We're first of all not that crazy and secondly, it's an impossible task. So I want to be very clear about that.

It's really important that we look at it in the broader sense. There are only a momentary technical effect on the treatment, but not lasting functional effect and there is a low probability of any significant residue on the finished product.

NOP regulations suggest that all non-organic substances including processing aids are to be included in the National List, 7 CFR 205.105(c).

USDA has stated that these substances do not need to undergo the normal review and submission of material by manufacturers, other than ingredients, additives need to under January 2003 letter and we cite Dr. Robinson again.

Inconsistencies do exist in the interpretation in the approval of processing agents through contacts, substances among certain third party
certifying agents. And that point there is that there is an inconsistency and it does not follow the certifier and we need to correct that problem because of the lack of clarity on this issue.

Summary: consumers should come first and be protected, not exposed or do an interpretation of a technical matter that is not clear that affects food safety, ultimately accepting and rejecting an organic product will come from consumers. Oxidated antimicrobials that do not resolve in product technical effect and greatly enhance the food safety of the organic products should be allowed and used. And the matter needs to be clarified and I thank you very much.

MEMBER KOENIG: A technical question, and you might be able to clarify it. It's a question of ignorance, I think.

So there is a distinction between that and a preservative. So you're saying preservatives have an attainable effect. These have a -- there's a --

MR. HARDING: Momentary.

MEMBER KOENIG: There's a momentary --
CHAIRMAN RIDDLE: Does it extend the shelf life?

MR. HARDING: It doesn't extend shelf life. What it does it extends food safety and I won't get into the shelf life discussion because I'm not the person to answer that question. It's a point.

MEMBER KOENIG: It's it a fine distinction? It is a defined distinction that we can access somehow? I look at those and say preservative -- preservatives have the same -- microbial -- but what you're saying is first, it's rinsed, it kills, but it doesn't stay in a functional effect in the product.

MR. HARDING: And we would be challenged to find that on the surface, after treated and properly handled. And we're talking about water and vinegar, technical speaking, and most of these materials are sodium chloride.

MEMBER KOENIG: And just a clarification, ozone is on our list. What is it used for? Is it similar?

MR. HARDING: Thank you for that question.
No, we're not talking about ozone.

MEMBER KOENIG: As far as I know, ozone is sort of that same function and I mean it's there. I'm not sure who petitioned, when it was petitioned. Maybe we can ask Zea. Zea may be able to help us with that.

MS. SONNABEND: Ozone is used more as an alternative to chlorine for use in water-based systems like hydro -- like in your hot tub. It's not used for cleaning equipment or like that.

MR. HARDING: And we are speaking specifically of periacetic acid and acidified sodium chloride.

CHAIRMAN RIDDLE: Thanks, Jim. Thank you, Rose.

Kim Dietz is the last commenter who signed up.

MS. DIETZ: Kim Dietz. I just want to go on the record. These are my personal comments and don't reflect the Smucker Company.

I wasn't going to say anything, but I do want to say thank you to this entire Board and all the
outgoing Members. I've had the privilege of working with you guys for the four years previous to this and I know that your hearts and souls and dedication are certainly to the organic industry and I appreciate that. So for all of you, those are my kind words.

I support the Federal Register docket to move materials to the organic label, the handling materials that were recommended. This Board recommended them to go into the organic label. I also support that.

I support the Handling Committee sunset recommendations. Good job, you guys. I was scared to death that this day would never come and it has, so you've done a great job with that.

I also support the deferral on flavors. I believe that I was part of the Handling Committee when we originally chose flavors and colors to be deferred. We know it's a contentious area. It's going to be. Let's just get down to it.

I have a couple of comments on that. I suggest that when we do look at flavors, let's go back and look at the minutes from the 1995 recommendations,
pour through those minutes -- I looked through those minutes last week. I think there's a lot of information in there that we need to consider. And, to me, I think the biggest issue that we need to look at is commercial availability on organic flavors and natural flavors. There's a lot of people that have converted to organic. There's a lot of people that haven't. And I think that, as the Board's role, you should look at commercial availability and somehow try to put that in the mix of the decision.

I do not support any annotation changes during the sunset review. I'm not sure, I thought I heard you say that, Rose. I just wanted to make sure that -- There's a process for that. It's called the petition process. You can add or remove a material or you can recommend a change in annotations and I believe that that's the way that process should work.

And, other than that, that's it.

So, good job. I look forward to five new Board Members. And I hope that all of you stay in the industry and continue your good work because we certainly need you.
CHAIRMAN RIDDLE: Thanks Kim. We will be having six new board members. I see Andrea, and then Kevin. Andrea?

MEMBER CAROE: Kim, really quickly. You were talking about commercial availability as it relates to flavors. Could you elaborate on that a little bit? I'm not quite sure what you were --

MS. DIETZ: Well, for example, I believe in 1995, when flavors were put on the National List, there were no organic flavors. The company that I work for was actually the first company to commission a flavor house and you see that in the Smucker comments. We commissioned a flavor house. Since then, there's a lot of organic flavors out there. I don't believe that companies, one, are using them the way they should. That's my personal belief. And, two, that they're not available to match -- the organic flavors are not available in the same form and function as natural flavors. So, we're not there all the way yet. We're partially there. We're probably fifty, sixty, seventy percent there. But we're not all the way there.
MEMBER CAROE: Just picking your brain, though --

MS. DIETZ: Yes.

MEMBER CAROE: -- as the expert on materials here --

(Laughter).

MEMBER CAROE: I'm not an expert. Now, as we look at, I mean, flavors is one of those broad categories and we have some that are widely-available organic and others that are not. So, logistically, I'm trying to figure out -- I mean, we're in a sunset process here, so it's accept or reject. So, what are you thinking. Are you --

MS. DIETZ: I think you need to, I mean, you need to seek industry input. I think you need to find out what people are using. Why they're not using organic. They're supposed to be, I would think that if they're available, companies should be using them, although they don't have to because they're on the National List. So, that's an issue.

I don't know what the recommendation -- logistically, you know, I believe they need to stay
on, because you don't have organics in all functions and forms yet. I hope there's a day that they can come off. We're just not quite there with technology.

MEMBER O'RELL: Thanks for your comments, Kim. And my comment was kind of along the lines of what Andrea said. It really relates to the commercial availability and I think we all share your concerns. But, knowing that the sunset process is not the process that we deal with commercial availability of these items. We have to make the determination as you know, whether they stay on the list or off the list. But, certainly, we share your concerns on --

MS. DIETZ: Right, but, you know, I mean ideally somebody should petition to change the annotation and add something in there that you must use organic flavors when available. And I don't know how to go about that. We've never tackled that beast yet, when they're both -- when some are available and some aren't --

MEMBER O'RELL: Right

MS. DIETZ: Flavors are one of those --

CHAIRMAN RIDDLE: Yes. I have a question,
and then, Rose -- yes, I see you. I do, but not when I talk.

(Laughter.)

CHAIRMAN RIDDLE: The question I have is, are there natural flavors that would be non-agricultural, or are they agricultural and therefore more appropriate to be moved to 606. Because that would drive that --

MS. DIETZ: Yes.

CHAIRMAN RIDDLE: -- development.

MS. DIETZ: Yes. I mean I think that's what you're looking for in the TAP. That's the technical information that we're seeking. In my mind, they're twofold. First, commercial availability and really, are they, could they be moved to 606? And that's, as we review these, this material, or these materials, that's some of the questions that we're going to have to answer.

CHAIRMAN RIDDLE: Rose?

MEMBER KOENIG: Again, some of the things that can be deferred -- it's not necessarily event the technical issue. You know, one of the problems is
that -- and this is what popped up with lecithin --
there's no way you can have one group that's not
agriculture, the other form is agricultural. It goes
back to that definition of non-ag and ag. So, flavors
are agricultural, they don't belong on 205.605 period.
So that, you know, we had some things that are, I
don't know why categorically, they were placed on the
list, but if there's something that's agriculture, it
can't be --

MS. DIETZ: Right, and I don't know if
this Board can move things. Again, it's the petition
process. We should have repetitioned or done
something with flavors before this point, before you
have to add or remove --

MEMBER KOENIG: Well --

MS. DIETZ: -- or maybe that's something
that's going to come up --

MEMBER KOENIG: -- hopefully, Arthur will
be here to discuss. We may not be able to come to the
conclusion on these, and we don't necessarily have to.
Things that have been deferred, we're not even voting
on.
But we need to get that discussion started so that you know during the next meeting what our process is going to be.

MS. DIETZ: And I know, I think this will be the hottest issue and the sunset is in 2007 and you have a whole industry relying on flavors right now, so that's why I'm encouraging you to act as fast as you can, start seeking the input that you need on commercial availability and whether they're natural or it should be on 605 or 606. And then make those recommendations fast.

As fast as possible. We don't want 2007 to roll around.

CHAIRMAN RIDDLE: Thank all of the commenters today. It's been some very valuable information. Thanks for taking for your time and coming before the Board.

Okay, we're going to go then to Rose, right, with an overview of the sunset review process. Kind of where we got to where we are today.

MEMBER KOENIG: And for the sake of time I'm just going to verbally go through it and then I
guess if any Board Members has specific questions, you all have been through this, so you all have been through the process.

CHAIRMAN RIDDLE: And there is not a handout in our book.

MEMBER KOENIG: The first thing I would like to do is thank all the commenters who came out because if we did not have material to work with, we would have been in trouble.

We had some comments. Those we had to deal with the best we could, but there were many thoughtful comments, very specific to the best of people's ability. They gave us some information that we could really think about and I will tell you that the Committees did read each and every comment. I read all the comments as well as the chairs of the Committees and the Committees Members, for those groups.

Some individual members may be relying on the recommendations of committees, but it has -- those comments have been viewed by multiple members, especially when they were voting on the recommendation
at the committee level.

   Basically, we proposed a working document for sunset -- I can't remember if Kim or I was chair at that time. That's how long it seems like it's been that we've been talking about those procedures.

   The NOP had a Federal Register notice that went out that explained this process and what was required based on comments and what really sunset was intended to mean in terms or what our jobs and obligations were as a Board.

   And it was correctly stated that we are -- as a sunset procedure, we're either voting things to continue as they exist on the list of they discontinue. That is what sunset is. There's no changing. That's part of that process in terms of annotation.

   But I would like to discuss and we'll talk about this after I've gone through this brief overview are the other options that we can do outside of the sunset process, but clearly sunset and what you're going to see here is either we're accepting the materials and their present annotation or we're
rejecting them and that means in 2007, they would not be renewed, but things are status quo until that time. Do not get delisted after this meeting. It's until the end of 2007.

So based upon that proposed working documents, I guess to the naive notions of our committee, we have thought that there would be this great database that was going to be organized and things would be categorized and there would be a lot of forward work that could be accomplished. But unfortunately there was one due date for all the comments and then we have this meeting scheduled a few months down the road, but we have to have our comments out to the public a month prior to the meeting. So we essentially had about 8 weeks or 10 weeks go to through all those comments.

So the approach we took as many folks have noticed is kind of doing the easiest groups first. Easiest in the sense that there were just positive that we need this. There was no indication from any of the commenters that it was no longer needed or there was any kind of inconsistencies with the OFPA
criteria.

And those, the great body of the recommendations that we're making today that we'll be reviewing are those, in fact, those materials. I asked Arthur earlier, there's about 167 materials that were put forth in the Federal Register notice that have come forth during this process.

A number of them, however, are in multiple different use categories so it's not 167 different substances, but if you base them on categorical use, that's how it's reflected.

So you'll see, you know, chlorine materials on livestock and crops and handling, although you know, in terms of maybe a deferral or review, you only have to kind of do one technical review for those multiple uses.

But -- so we have quite a large slate of materials that we're going to go through and hopefully it won't look like we're just kind of rubber stamping these materials. What we did is after we received all those comments, Arthur gave a hired copy and mailed them to myself as chair of the Materials Committee and
each of the chairs of the Committee received hard
copies so that would facilitate their work in terms of
organizing their Committees.

    And then additionally, every Committee
Member had access to the web so that they could review
the comments from all the individual commenters and
the public, also could review those, as you prepared
for the meeting.

    Our first initial Committee meetings kind
of set of the procedures. We asked the NOP, there was
good collaborative relationship trying to determine
how to proceed, what information does the NOP need
from the Committees in terms of eventually writing a
Federal Register notice for these materials.

    And basically, based on that feedback and
the back and forth between the various Committees, we
came up with a format that was used with the livestock
and crops committees specifically because of the use
categories and all of those lists. So we decided to
kind of break the lists apart and have separate
recommendations for each category and you'll see as we
go through the process that's how we're going to
handle materials.

And then the Handling Committee just kind of had a slight -- same kind of format, just a slight variation of that because it's just one kind of master list.

So the one thing that I'd like to also state is that as the Committees and most Committees had two to three different conference calls on materials, where the discussed the materials and actually took votes, there was a great effort to make sure that people did not have conflicts of interest and it was asked of Committee members to state if there was any conflict of interest and then the Committee voted to determine whether they felt that this person should or should not vote. And we'll be following that procedure today. I want Committee members to disclose if they do have any kind of conflict of interest, either the company has provided a public comment, let the rest of the Board determine whether that individual should vote or not vote on those materials.

And I think that's basically my comments,
CHAIRMAN RIDDLE: Thanks, Rose. Thanks for reading through all those comments and then screening the drafts from all the Committees and continuing to give comments. Rose?

MEMBER KOENIG: That was the sunset procedure. The question that I have for NOP and they can think on and we can think on as far as these deferred materials, as I stated, that some things were pulled because of inconsistency with often the sense that there isn't truly a category, especially in crops that specifically is outlined for particular materials. That might have kind of caused the deferral. Certainly comments provided by the public triggered deferrals and you can see some of the reasoning in the documents, why there were deferrals.

As I stated, we know that sunset is not the opportunity to change annotations, but many of the substances that have been deferred have issues that could involve annotations or could involve that it's not just on the list where it should be. In other words, it's going to change.
So the question that I would like to pose and again, it's not going to impact the materials now, but one idea is that we would vote yea or nay in terms of the continuance, but if there are materials that we have received technical evaluations on because we're getting technical -- we're using our TAP contractors similarly to the way we use them somebody petitions something.

If we can, in a separate process, as we evaluate these substances and relist them, so that when say we vote on them in March, if that's when a meeting is, they would be going through a separate Federal Register notice as a new listing, a proper listing, a corrected listing and we would at the same time, as we submit our sunset document, those would be ones that would not be furthered after 207.

So what we're hoping could happen would be that it would be a simultaneous adding and actually kind of taking off of the list something, but through two separate processes.

CHAIRMAN RIDDLE: I don't know if that -- if everyone understood or followed that, but my
understanding, I'll just try and paraphrase it and then take comments, would be that if we find through the additional review that a deferred material, something that would be deferred today, we wouldn't be making any of these decisions now, if they could be deferred today, but then the review occurs and it's found that the annotation really is inappropriate.

We can't correct the annotation in the sunset process, so instead, that listing would expire. It would truly sunset. But because we got a new review, a new TAP, we have the information to make a recommendation that there be essentially a new listing be added to replace the one that expires. So there's continuity there. Producers aren't left in the lurch, but that's a plan and I think Arthur is still checking to see if that is really a workable approach to this.

Andrea, then Julie.

MEMBER CAROE: I would propose a different procedure and I would propose that we do the yea or nay vote on these materials and if they are material that may need an annotation change, that we vote to keep it on and allow the petition process to happen
afterwards to change that.

However, we've posted these as if -- after this recommendation tomorrow happens, we'll have posted what materials are deferred. We can accept petitions and as these are sent to TAP reviewers, let them know that there is a petition for these to be added in some other form. The TAP reviewer could do double work at that time.

But I still think we need a yea or nay vote on it and if it is something that we feel may need a change, I would propose that we vote to allow it to stay on the list and deal with the changes afterwards so that inaction on the second step of that would keep it on the list and keep it in the hands of growers because if it does -- if we try to do the switch over and something happens with that second step, it's off the list and I think that's dangerous. I'd rather keep it on and work the change afterwards.

CHAIRMAN RIDDLE: We aren't going to decide this today.

MEMBER KOENIG: And I agree, if we can't get guarantees that that it couldn't happen
simultaneous.

CHAIRMAN RIDDLE: So I think that's another good idea to consider, another structure.

Julie?

MEMBER WEISMAN: I have a procedural question in regard to this and I ask for your patience because I'm still in my learning curve.

Who is initiating that petition? Everything that I've been exposed to up until now, petitions have been initiated by folks out there. And that's the question that I was posing to Arthur.

MEMBER KOENIG: The NOSB certainly has the authority to have the national list, okay? Now in normal cases, things that are brought forth are sort of the mechanism of a petition is out there so that the public can say hey, we need this. And essentially, we take that petition and do a technical review. Our vote is based on that technical review. It's -- we don't necessarily -- the reviewer may glean information from the petition, but basically we look at the TAP and sometimes we do look at the petition to augment that information.
And that's the question I had procedurally myself to Arthur. Essentially, it's not that we're pulling something out. We're going to have technical information, we would fill out the same sheets and have to go through the same procedure and look at the same criteria. It's just -- it's true, it would be a process where the call is initiating from the Board, rather than -- so that's -- so those are some of the issues that have to be discussed.

Can I state one more comment? The only thing that disturbs me with the concept and I know for facilitating things and I'm willing -- I'm certainly a compromiser, but you're going to have to convince me. I think in the spirit of the sunset procedure, if we knowingly are aware of a problem, and we just sort of ignore it by saying okay, well, let's automatically renew it even though we know some things, then what the heck is sunset all about if we're going to just rubber stamp practically everything? That's just -- I just put that out there.

MEMBER CAROE: Just a response to that.

If we know there's a problem with material, we don't
renew it, period. We don't renew a material if there's a problem with it.

If the annotation isn't exactly the way we want it or the community wants it -- there's a petition process for that, Rose. I mean we need to be very receptive to that and pay attention to those petitions as they come in, like any other petition. I mean there may be materials that aren't up for sunset would be the same thing.

CHAIRMAN RIDDLE: Arthur and then Bea.

MR. NEAL: I'll be quick. We agreed upon early in the process no change in annotations. And with this particular process, what we have we've got substances that have been on the list for five years and people had five years to petition. Now we get to sunset and we want to do it through the Board which complicates everything because we've got other people in the audience that want to have annotations modified as well.

So you've got the question is will the Board entertain those requests too? So either we keep it on or we take it off. That's what sunset is about.
The continued use of a prohibition or allow a
substance.

CHAIRMAN RIDDLE: Bea and then Goldie.

MEMBER JAMES: I just was going to make
comment about adding in another process at this stage
in the game, especially with the consideration that
we're going through a big transition here on the Board
and that to leave behind a new process it's just -- I
just feel like we need to make the votes today on the
items and then if we have a new process that we want
to implement, that we need to formulate that before we
just go ahead and say okay, we're going to do this on
these items. Because I don't feel comfortable knowing
that you're not going to be here next time and there's
this new process that we're trying to implement.

MEMBER KOENIG: And again, it's not --
what we're discussing here is not -- the sunset
procedure is the sunset procedure. I'm not saying
that we're changing that. I think we're all on the
same table. Nothing can change annotation-wise.
We're either keeping what we have or removing
something that -- you know.
What I'm saying is that it's not on the materials that I think that we're dealing with today, so we're trying to be proactive of what's coming up. I'm saying that there may be things that the Board just cannot live with in terms of -- then they take it off. But I'm saying if we have the technical information in hand, we have TAP reports. We just spent X amount of dollars from our contractor, if we have the technical information and we want to reconsider it, can we at that time reconsider it, not for sunset, but as adding something to the list.

CHAIRMAN RIDDLE: Arthur or Barbara?

MS. ROBINSON: I strongly recommend that you keep the sunset process as clean as possible. The more you complicate this thing, the worse it's going to get. I mean Bea is making a good point, but that point is valid whether Members are going on and off the Board regardless. But you know, the more things that you say well, maybe this is an opportune time to reconsider this or that is just going to make this thing grow exponentially and get more and more complicated and you will -- trust me on this.
have tried to say well, while we're at it why don't we
do this, it opens doors and --

(Laughter.)

You wouldn't believe what starts falling
through the doors. In fact, you know what happens
when we do that.

The petition process is an on-going
process that exists all the time. It is open to
anybody all the time. And as we've had this
discussion for I don't know how many years,
annotations have been a problem all the time.

So in one respect, we could all say well,
maybe this is the time to learn now that careful
annotations are probably better. This is a good time
to take advantage of hindsight and say let's be
careful how we annotate in the future. But if you
feel that strongly that something is so badly
annotated or the information that you're now getting
from a review says we don't like this material, I
really -- take it off, you know?

If an annotation alone can correct the way
it's being used, why do you feel that badly about it?
Keep sunset simple. It is a complicated enough process as it is. Annotation should not be the trap door by which you either put a material on this list or take it off. The petition process is for that.

CHAIRMAN RIDDLE: Thanks, Barbara. And I anticipate that once some of these deferred materials come back from Committees with recommendations to remove which may happen on some, if it's still necessary, the Board is going to hear about it and that could stimulate a petition.

We got a lot of interest just by recommending to defer some things at this meeting, just for further study and there's nothing that will gather interest like recommending to remove something. I guarantee that.

Before we -- yes, I'm sorry, Goldie. I think I have you on the list.

MEMBER CAUGHLIN: I guess what troubles me is that a lot of things would not have been approved had they not been annotated as we annotated them, number one. And there is no separating of the annotation from the appropriateness of that product.
They are inextricably tied together. So it is a separate issue, no matter how safe that product is, we saw fit at the time we put it on there, or another Board did, that it was annotated because we didn't feel comfortable giving it a blanket type of thing.

And I think what we heard here today about the lidocaine and some of the other things is a good reminder that maybe users and certifiers also have to have a wake-up call. They jolly well are responsible for the reading of the proper use of those products with annotation. If it means that we have to come up with clarity in how they are listed on labels or whatever, the annotation is tied to it. It is not something that is just ho hum. And I think that's very appropriate that this is the time for that wake up call. Like you say, it isn't just things that we're looking at right at this moment.

When we first started five years ago, there was a great deal of discouragement to the Board, do not annotate, do not annotate, do not annotate. Well, it became too damn difficult. The fact of the matter was it was ridiculous. We had to in good
faith, in good workmanship frequently find that those products were something that we felt appropriate to approve, but they had to be annotated as specifically as they were. So we did cross a threshold somewhere along the line where it became more common to annotate. And I don't think that is wrong. I just think that we have to find a way to deal with it once it's there.

MEMBER KOENIG: I don't think the annotations, it's not that all the annotations don't work. The annotations that we're having the most difficulty with are annotations that limit formulations, that in the annotation, in and of itself, specifies -- either it's aquatic plant extracts is a good example -- it's listed wrong. If it's a certain pH adjuster or an extraction buffer, then that buffer should be listed.

So the problem is do you want us to perpetuate a bad listing or do you want us -- that's what I'm saying, how do we fix -- you know if you're going to say you'll work to fix it some other way and for us to proceed and don't worry about fixing things
with this process, that's fine, but we need to know that we're not kind of rubber stamping a bad listing.

MR. NEAL: Barbara said what I was about to say. We fix it outside of sunset through petition.

MEMBER WEISMAN: If that is true, then I just want to have some clarification. Does that mean that we're just doing sunset. Sunset is sunset and that there will be no consideration of petitions until after October 21, 2007.

MEMBER CAUGHLIN: It doesn't mean that at all.

MS. ROBINSON: Someone could be before this Board today, except it's not on your agenda. Someone could have brought a petition before this Board today.

MR. NEAL: There will be petitions considered at the next spring meeting in addition to sunset.

CHAIRMAN RIDDLE: George?

MEMBER SIEMON: So of course, I can say a lot, but I'm trying to play within the game rules and obviously somewhere we established a policy that we
were not going to do annotations just to go back in
time. That was our own internal policy we adapted?

CHAIRMAN RIDDLE: No, the Federal
Register, as I recall, did not say that. It was more
that the Board and the Program agreed that annotations
were not to be changed and really, the intent was not
to add or restrict use through the sunset process by
changing its annotation.

The technical correction of an annotation
that's just plain wrong should be a separate issue,
but it may not be.

MEMBER SIEMON: So what Rose is saying in
part is dealing with our work load. Where we got
this, it's all fresh in our mind, so I understand
totally where she's going from the work load. So what
if somebody petitions on a deferred item between now
and the next meeting to deal with these kind of
issues, where would it go? Would we deal with it at
that time, since we're in the work load mode? Or
would we not?

CHAIRMAN RIDDLE: I think that would
trigger the process.
MEMBER SIEMON: So therefore the message is if there's any annotation issues on the deferred ones, now is a good time for someone to petition, is that right?

Then we would be dealing with annotations through that process. You asked what process could happen? There it is. We need someone in the public to petition on those items because I agree about the work load. We're going to have the TAPs in our hands. We're going to refreshed on these issues. Then is the time to do it.

CHAIRMAN RIDDLE: Rose?

MEMBER KOENIG: We are in agreement. I concur with that idea. See, I look at some of these issues, it's a programmatic issue. If something is, for whatever reason, is not consistent with OFPA, and it's on there, or if something is an agriculture product that's listed under a title that says nonagricultural, that's a programmatic problem. I don't see why anyone in the public and no one's best interest or self-interest if something is listed wrong. It's your job, not our job.
MR. NEAL: Imagine NOP making an ad hoc decision on yeast.

(Laughter.)

That's not a programmatic decision.

(Laughter.)

Some say it's listed wrong.

MEMBER CAUGHLIN: It's suicide.

MEMBER KOENIG: That's a good point. So you aren't going to do anything, okay.

(Laughter.)

Good thing I'm getting off the Board. I guess I can start the petition.

(Laughter.)

CHAIRMAN RIDDLE: Okay. Now before we start the first presentation and first on the agenda will be Livestock Committee. I have a few things I would just like to get clear. One is Rose already mentioned that if any of you have a unique interest in a substance that's coming up before us, I'm going to leave the burden on you to bring that up and reveal it. I'm not going to repeat it every single time that something comes up.
So we'll rely on you to bring it up at that time hopefully. So that's one thing.

The other is the whole concept of dealing with something while it's fresh in our minds is something that I've tried to do as Chair and that is vote on a topic when it's being discussed, when we've reached conclusion of debate. And right now the agenda says voting tomorrow which would mean revisiting everything tomorrow. I'd rather we, if we reach conclusion on a specific Committee recommendation or a section of a Committee recommendation, I'd like to go to a vote, unless there's a reason that the Committee needs to meet and change and we need to bring it back up again tomorrow.

So that's how I would propose, unless we discuss on Executive Committee call in October and agree that that would be the best way to proceed. So does anyone have objection or concern with that plan?

MEMBER KARREMAN: So you're saying we're actually voting today on these things?

CHAIRMAN RIDDLE: Right, each of the ones that are ready to a vote, unless they're being changed
by a Committee, I would like to be able to vote as we go along instead of having to revisit everything again tomorrow, despite how much fun that could be.

(Laughter.)

MEMBER KARREMAN: That's fine. I mean it's just not on the agenda that way.

CHAIRMAN RIDDLE: I understand that.

MEMBER KARREMAN: You might want to check with NOP. I don't know.

CHAIRMAN RIDDLE: Well --

MEMBER KARREMAN: Fine. I don't care.

MS. ROBINSON: You set an agenda and notify the public. So how are you going to vote? People may be coming specifically to hear votes at certain times. I know it's more convenient to do it the way you want to do it, but people have signed up to come tomorrow and to hear votes on certain things. I would feel a little more comfortable if you kind of stick to it the way it's already set up.

CHAIRMAN RIDDLE: Okay, I am hearing objections. Overruled. No, I'm overruled. Not you. That's fine. It's just sometimes I like common
sense.

MS. ROBINSON: In the future, just for the record, I would prefer you do that.

CHAIRMAN RIDDLE: That is what we have in the year I have been Chair. This kind of fell through the cracks in how the agenda got structured. Anything else? That's how we'll do it. We'll only talk today and we'll vote tomorrow and hopefully we won't forget about what we talked about between now and then.

MEMBER O'RELL: I think it would certainly be helpful if we take this to the point of discussion at least for those recommendations that we can, if we can get to total agreement and kind of just leave it there and say okay, we're here ready to vote, but because the way the agenda is published, we will vote tomorrow so that we don't have to go through a total repeat.

CHAIRMAN RIDDLE: Yes. So we will be identifying, if there are any outstanding issues or changes to the drafts today.

Okay, thanks for that.

(Laughter.)
So Mike, are you ready to begin the Livestock Committee presentation?

MEMBER LACY: Jim, I do want to first of all thank the entire Livestock Committee for their hard work on the recommendations. In particular, I want to thank Nancy for putting together the drafts; Rose, for her help and advice to the Committee getting their recommendations together; and also to Arthur, for his able assistance. We couldn't have done any of this without a lot of people's help.

On the very first one, I'm just going to read the Committee recommendation. Ours are pretty straight forward, but we would be, the Committee would be glad to answer any questions or give any rationale that we can give, but in the interest of time, I'll just stick with the recommendations and then we'll answer any questions that you have.

Just as a clarification edit, I think right above where it says Committee recommendation we've got four lines there that are sort of -- some input from Rose and we need to delete that.

We had deleted what she was questioning.
That no longer is in there and we just need to delete her aside.

So to begin with, the Livestock Committee recommends the renewal of the following substance in use category: alcohol, that would be ethanol, isopropanol, then aspirin, biologics, chlorhexadine, chlorine materials, electrolytes, glucose, glycerin, hydrogen peroxide, iodine, magnesium sulfate and phosphoric acid.

The Livestock Committee recommends deferring the vote on oxytocin and parasiticides. And the vote on that was 5 yes, 0 no, 0 abstained.

CHAIRMAN RIDDLE: Nancy?

MEMBER OSTIGUY: I don't remember at this point all of this, the discussion, but to be consistent with the recommendations of the other two Committees, I would like to see chlorine materials moved to deferred and that way we'll look at chlorine materials as a group for all purposes, rather than splitting it off as we have it now.

CHAIRMAN RIDDLE: And that was consistent with my understanding from earlier today that the
reports are in and it applies to all three categories. So if the Committee would consider that before bringing it back up for a vote tomorrow. Any other comments on -- Julie?

MEMBER WEISMAN: I had a question about ethanol being on the list. Is there a reason why organic alcohol can't be used for this purpose?

MEMBER LACY: I don't know. Can anybody help me out with that?

MEMBER KARREMAN: I think in veterinary procedures, if I use ethanol, I think other veterinarians out there in practice may not really have any need to get organic alcohol except for maybe one farm. So I would take that into consideration if it's for veterinary use, but maybe from farmers' point of view, I don't know. I won't answer for that.

CHAIRMAN RIDDLE: Rose?

MEMBER KOENIG: If it's listed, it's considered synthetic.

If it's not for food use, organic is not a requirement. I mean once a substance is on there, except in the area of handling and commercial
availability, there's -- I don't know if that answers.

MEMBER CAROE: My question with the alcohol, is it perhaps being used as a solvent with some other listed material for application purposes? I don't know. It's a pretty universal solvent, alcohol. I don't know if something is dissolved in it for using topically or is that happening? Because that mixing may happen at a pharmaceutical or something.

MEMBER KARREMAN: Yes, absolutely. There's -- first of all, you have the alcohol prep pad, so if you want to give an injection to an animal, it's always wise to use an alcohol prep pad or you know, douse them with a bottle of alcohol. That would not be organically available, easily, for practitioners, let's say. But also, there's botanical tinctures that definitely have alcohol base, but there's more and more that do have organic alcohol in them for sure. And I source them and some other veterinarians do as well. But I don't think you can split that out here.

MEMBER KOENIG: Are you questioning
whether it's synthetic or not?

MEMBER KARREMAN: Commercial availability.

MEMBER KOENIG: Even if it wasn't -- on the handling side, even -- the issue wouldn't be synthetic. The issue is organic and nonorganic. But I understand the -- you know, it's a different. There are pharmaceutical issues and it's not a food, it's not an ingredient. It's not a food.

MEMBER WEISMAN: What you're saying is valid. The organic is not valid. We don't even need to go there on this, because if it's on the list, that means that it's considered synthetic, okay?

MEMBER KOENIG: My only question is is there a reason why organic alcohol can't be used --

MEMBER WEISMAN: Forget the organic because it's either synthetic -- so you're saying there's ethanol out there that you believe is not --

MEMBER KOENIG: There's organic alcohol that's highly commercially available which I know it was not when this list was created. So I mean I think that's a legitimate sunset.

MEMBER KARREMAN: I don't see that
commercially available, organic alcohol. I don't see sourcing my veterinary supplies.

MEMBER KOENIG: Let me go back to that. Get rid of the organic, okay? On the livestock material, this list is either -- these materials are synthetic. That's why they're there. If you know that there's an alcohol that's produced that you can use in veterinary medicine that is not considered a synthetic based on our -- we have a somewhat working document on this definition synthetic, then we shouldn't list ethanol.

The reason why it's there says that any form of ethanol can be used because we're acknowledging that there's not a natural form out there, so I think your question is valid. Your organic, that doesn't matter a hill of beans, okay? It's whether it's natural, nonsynthetic or synthetic.

CHAIRMAN RIDDLE: Arthur and then Nancy.

MR. NEAL: Just to kind of clarify what Rose is saying, the organic commercial availability issue only relates to food processing. So the only thing that really matters here -- are there
alternatives? That's something that should be considered before placing it on the list.

MEMBER KOENIG: Can I call up Zea perhaps or someone in the audience who might have historically been there when this was reviewed? Or Emily?

CHAIRMAN RIDDLE: Emily is raising her hand.

MEMBER KOENIG: Brian?

MR. BAKER: Brian Baker. Organic Materials Review Institute and Technical Advisory Panel reviewer in the 1995-1996 and I don't think I was representative to certify a representative on the NOSB at the meeting where it was discussed, but I was certainly present at that meeting.

What Rose said is much the basis for the recommendation to add it to the National List. Ethanol can come from the fermentation of sugars, but it can also be synthesized by the reaction of ethylene. And there was a recognition that pharmaceutical grade ethanol is at times from synthetic sources and that in any event, just to be on the safe side so that certifiers' hands weren't tied
and they didn't have to go through an additional process of reviewing the ethanol being used for the applications described by Hugh as a matter of expediency, ethanol was put on the National List as a convenience.

CHAIRMAN RIDDLE: Thanks, Brian. Nancy?

MEMBER OSTIGUY: I would also then like to move ethanol to the deferred list and we can explore this issue.

MEMBER KOENIG: If we are discussing it, I'm not in favor of that. I think that provided the explanation, because I just don't think it's a practical thing to spend our resources on because the veterinary-grade stuff is just probably not going to be the same. It still goes back to the FDA, stuff you can use on animals is a stricter code than we can use ourselves.

(Laughter.)

CHAIRMAN RIDDLE: Okay. Bea? Dave?

MEMBER CARTER: I also oppose deferring because I think there's a difference between synthetic and nonsynthetic and organic and this whole
discussion. Unless you want to make the case that using an alcohol prep on beef cattle is a food contact surface.

(Laughter.)

MEMBER CAROE: Could you go over the two materials that were put on the list to defer and what -- I didn't see any comments on those materials, but maybe I missed them. Were those items that were identified by the Committee as needing more information or were they -- did you receive comments?

MEMBER LACY: We received comments. There were comments on those two.

CHAIRMAN RIDDLE: There is discussion of it in the Committee Summary.

MEMBER OSTIGUY: Several commentators stated that chlorhexadrine, chlorine materials, oxytocin, ivermectin and hydrogen peroxide should be removed from the list.

MEMBER JAMES: I have a question, Nancy. You mentioned that you wanted to move the chlorine materials to deferral to match up with what some of the other Committees are proposing and 205.605 has it
as a renewal and 205.601 has it as a deferral and I just -- I'm a little confused as to exactly what and why we are moving chlorine materials to a deferral in two areas and not in the other and I'm also wondering why we would defer chlorine materials, in general, as a disinfectant for equipment and surfaces.

MEMBER OSTIGUY: I was going to recommend that we move for deferral the chlorine materials under 205.605(b) anyway. And the reasoning is based upon some of the comments from reviewers having to do with chlorine reactivity, etcetera. And doesn't mean that it wouldn't be renewed. It's just a matter of looking at more recent data because it happened. There's studies that are out that we've not considered previously.

MEMBER JAMES: Right, and I heard one of the lobbyists talk about how we're not consistent with our solutions, but I just have a little bit of concern about that.

MEMBER OSTIGUY: It is not that I am necessarily predisposed that they're going to come off the list. I just feel that we should evaluate the
current data.

MEMBER KARREMAN: I am a little hesitant with deferring chlorine, actually, because it's such a vitally basic major compound for hygiene in the milk cows by state regulations and what not, cleaning dairy equipment and I don't think there's any alternatives, maybe there are some coming out, but I think it has to be kept in mind.

MEMBER LACY: Pardon me, the way I understand it, Jim has just suggested that we consider that which we will do at our meeting this afternoon and the Livestock Committee will decide whether to defer or not.

MEMBER CAROE: It would just make sense if we defer this material for any of the list, all that means is that we've requested more information on it. It doesn't make any sense to vote on it if we know we have more information coming in on it. We can approve it now or we can approve it later, if it's a good material. But if we've got more information coming in, why not just wait?

MEMBER JAMES: Is there a TAP review being
MEMBER CAROE: Yes.

MEMBER LACY: That has already been commissioned.

CHAIRMAN RIDDLE: Anything else on this section?

MEMBER LACY: On 603(a)?

MEMBER OSTIGUY: I have a comment that I want to make. We need to keep in mind that the goal is is that everything that we are renewing or saying will go off the list, that's all going to happen at the same time. So we're not going to end up in a situation where we won't have gotten around the chlorine and it ends up going off the list because we just haven't got there yet. That's not in the projections.

MEMBER LACY: Okay, let's go on to 603(b) and again, I don't think I prefaced it last time, but these recommendations are made based on comments received. The Livestock Committee recommends the renewal of the following substances in this use category: copper sulfate, iodine, lidocaine, mineral
oil, and procaine.

We recommend deferring the vote on hydrated lime. And again the Committee vote was 5 yes, 0 no, 0 abstained.

Any questions?

(Pause.)

Then we will proceed to 603(c). Recommendations made based on comments received.

Livestock Committee did not have -- there were no substances in the category of recommending for renewal. We did recommend deferring the vote on milk replacers and again the vote on that was 5, yes; 0, no; 0, abstained.

MR. NEAL: Two comments. One, just an update on lime hydrate. We have asked for a TAP on that. So we'll probably need to be in touch with you about what information you're looking for and with milk replacers, one of the questions is probably going to be is that a synthetic or is the issue a nonorganic milk replacer, because it may be listed wrong and that's something we have to think about.

MEMBER SIEMON: I was going to ask did the
Committee define what technical information they wanted to know for milk replacers? It's kind of the same question.

CHAIRMAN RIDDLE: And this was one that the Committee had already red flagged and I don't know if we had come up with a list of questions yet. But it's certainly something the Committee did do.

MEMBER SIEMON: I think we wanted to know how to define emergency as well. That was part of this. I just didn't know if there had been some more technical --

MEMBER LACY: It seems like it was a question of whether there were organic substances available.

Any other questions on 603(c)? Then proceeding on to 603(d), recommendations made that are based on comments received, the Livestock Committee recommends a renewal of the following substances in this use category: trace minerals and vitamins.

There were no other recommendations and again the vote on that was 5 yes, 0 no, 0 abstained.

MEMBER KOENIG: I just wanted to ask the
Committee to consider the comment that came about on the fact that both of those materials were added, again, historical data without a review and it was sort of they would just be placed on temporarily to get them on there. I don't know if we considered that.

MEMBER LACY: I don't think any of us were aware of that.

MEMBER SIEMON: Didn't we clarify this in 2000? This wasn't just in 1995.

MEMBER LACY: That's what I was thinking.

MEMBER SIEMON: It was the first meeting you were at.

MEMBER LACY: Yes.

MEMBER SIEMON: This talks about it being '95, but it was in 2000 that we endorsed this to this degree.

CHAIRMAN RIDDLE: Since 2000, yes, in recent history.

MEMBER KOENIG: That was one there was a TAP on it?

MEMBER SIEMON: There was no TAP in 2000.
MEMBER KOENIG: Could you approach and get it on the record?

MEMBER SIEMON: I didn't say there was a TAP. I'm just saying it wasn't something we did in 1995. It was something we did consciously in 2000, knowing there was a TAP, as compared to what was said in 1995.

CHAIRMAN RIDDLE: Brian?

MR. BAKER: Right and OMRI's comment there's been no TAP review. There remains confusion about the standard of identity and it's not clear what's being discussed here. It's not clear what limitations, what restrictions apply, particularly with other regulatory language and in other contexts and OMRI respectfully requests that a TAP review be conducted on these substances.

MEMBER SIEMON: On every one of these, for example, your list here, all these is what you're saying?

MR. BAKER: First decide whether the categories are appropriate and whether a case-by-case review is involved. Some of these are available from
organic sources. Some of these are available from nonsynthetic sources. Some of these are from genetically modified sources. It is very difficulty to distinguish between all of these different sources. Some of them are on the Food and Drug Administration's 21 CFR list. Some of them are approved the Association of American Feed Control officials and are not on 21 CFR.

So there is confusion there as to what FDA approval means. Of course, we recognize that the NOSB made its recommendation in 2000 and we are using that recommendation as guidance, but I can assure you that not everyone is clear or consistent on what that guidance means or how it is being implemented.

CHAIRMAN RIDDLE: Do you still have something to add, Arthur?

MR. NEAL: It is kind of directed at Brian's request and concern. It sounds like Brian's concern is more of a clarification that he seeks which could be restricting or it could be expansive which is not necessarily part of sunset, but a part of reviewing those materials for further changes.
We're very aware of the issue that you're discussing, some people want to know about and I think you're probably talking about proteinated chelates which the Board has already addressed in a recent meeting that proteinated chelates are already approved for use through this listing. But if you want to go further and you want to open that back up again, I don't think the sunset is the place to do it.

CHAIRMAN RIDDLE: George?

MEMBER SIEMON: Just the way we left it was we approved them, but then we identified the ones with concerns and then we TAP reviewed them, so we kind of went at it the opposite way, acknowledging that some of these need to go off. So we need petitions on these to take them off, rather than go through the whole list. That's just the way we did it, right or wrong. And that's why we looked at proteinated chelates and the other ones. We identified the ones and we did TAPs on them, just to get a listing.

CHAIRMAN RIDDLE: And then I have Kim and Zea to offer some further background.
MS. DIETZ: A point of confusion, now that I'm out here.

The sunset process, we agreed on a process. The Committees were charged with recommending materials that should be deferred, based on contentious areas, whether there were not, a public notice went out. You were supposed to receive comments and based on those comments, recommend to --

CHAIRMAN RIDDLE: For the record, who are you?

MS. DIETZ: Kim Dietz. Recommend to continue to allow or remove. And what I'm seeing now is that you're actually up here deferring materials that didn't go through that public process and I'm questioning the process because what's going to happen is if you defer materials now, how is the public going to know you deferred and have an opportunity to give public comment on them?

So it's just a little bit confusing. I don't really know if there's a problem with that, but you've made a recommendation to allow the chlorine issue just because the other Committees deferring, you
want to defer handling and the others, I'm not sure that's consistent if you've got no negative comments from the public on those materials.

Out here, it seems a little jumbled.

MEMBER KARREMAN: In livestock, there was one person and said synthetics should be off the list for each and every product that we have to address that.

MS. DIETZ: But people had 30 days to comment on the recommendation and you heard no comments until today's public comment about taking something off or deferring it, so just make sure however you continue that you give people the opportunity to say what they want to say on it.

MEMBER OSTIGUY: There were comments to defer chlorine that came in for all uses.

CHAIRMAN RIDDLE: And the Board, ourselves, have made a recommendation on this. And I have Zea and then Rose.

MS. SONNABEND: Zea Sonnabend, former TAP contractor. We did in 1995 or 1994, start reviewing some of the livestock minerals, particularly. Like I
can remember setting our reviews for cobalt or manganese or some of these individual things. But what we found and what you have from Brian is although it came in to us to review as cobalt, when you start looking into where it comes from, it's cobalt acetate, cobalt carbonate, cobalt sulfate, and like 12 different forms of just cobalt. And so if cobalt is just one of the many vitamins and minerals that you're talking about, that's where the NOSB got into a quandary and went well, how do we know whether cobalt carbonate is better than carbonate manganate, you know, like that. And so that's when it was decided to group them all together which led to the 2000 decision.

But there are some old -- I have some documents about several of the minerals back at home, however you decide to re-review them.

CHAIRMAN RIDDLE: Rose?

MEMBER KOENIG: Yes, I would just like to address both Kim and -- as far as the chlorine stands, we have new information. I think it's a conservative approach because we've already paid money to get the
second for information, look at it before we make a
decision and then have to go back. So again, deferral
is not denying. It's basically saying hold off, we're
getting new information, why rush into decision. We're
looking at the same material in three years.

As far as comments, at all times we look
at comments from the public. We would like it to be
the form of a Federal Register, but we were even told
by Barbara, it's not that we don't consider comments
after that time, it just certainly improves the
process if we can get them as we're going through it
procedurally.

So I think that accepting public comment
regarding materials, whether it's new information or
not, it's our responsibility to consider that
information and that's what we're doing. We're not
obligated to necessarily follow the comments, but we
certainly want to consider that information. And
that's all I'm saying is that in terms of the
minerals, we've heard some discussion. We certainly
can discuss it more, but this may be one that
Commitees would like to discuss a little bit more

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before we finally vote on them tomorrow.

CHAIRMAN RIDDLE: Bea?

MEMBER JAMES: I was just going to say I think part of the confusion that came about earlier when we were listening to one of the lobbyists talk about a material that he was concerned about because it was deferred and I think in the public's eye deferral is kind of a red flag. And I don't think we've ever really documented anywhere, I just checked in the Foreign Policy Manual. We haven't really documented what deferral means. And what is going to happen to that material when it is in deferral. We probably need to do that so that going forward, there's not going to be this confusion around deferred products still can be used. It just depends on how -- what happens once you get more information.

CHAIRMAN RIDDLE: Yeah, and I'd like to respond because nothing happens to the material. It's still on the list. It's just giving the Board time to perform due diligence, thoughtful process, gather the information we need to have a solid recommendation.

MEMBER JAMES: Sure and I understand that
now. But I don't know that a lot of people who have been making comment fully understand what deferral means, because it seems like they're still trying to defend and rightfully so, you want to give information and feedback and defend your item, but I just think that we need to make sure that we are clear about what we mean about deferral going forward. So maybe that's something we need to, at some point, look at in the Board Policy Manual.

MEMBER KOENIG: I just want to say that I think the sunset policy is clear. It should be clear to people to understand that. And I think within our documents when people voted, we didn't say these are being deferred, but it's in that Committee summary that some of it will say additional, technical information. And if people don't understand it, that means a deferral, those are the ones that get voted for deferral. So it's in the documentation. And then whether people can't understand, that's a whole other issue, but I don't think it has to be a --

MEMBER CAROE: I just have a question and maybe Kim, you can answer this. When chlorine was put
on the list or maybe Brian or Emily, when chlorine was put on the three lists that it's on, was it one petition that put it in those three places or was it separate petitions?

The reason I ask that is it makes perfect sense, what you say Kim about getting public comment, but if we're saying that we need more information on this material on one list, then it would be inconsistent for us not to say we need it in the other lists. So I see both sides of it and I don't know which the Board wants to go with, but it seems to me this was one petition and it was put on all three lists. And if it was one petition put on all three lists, I think it should be looked at for all three together as well in the sunset.

MS. SONNABEND: Zea Sonnabend. It was. As it came into the process from the different Committees, it was three requests to have a TAP review for all three Committees for chlorine, but only one TAP review was done because the issues are substantially similar. And it was discussed all at one time and voted on all at one time.
CHAIRMAN RIDDLE: Mike?

MEMBER LACY: We will go on to 603(e). Recommendations made that are based upon comments received. The Livestock Committee recommends the renewal of the following substances in this use category: EPA list for inerts of minimal concern. And there were no other recommendations deferring or not renewing. The Committee vote was 5 yes, 0 no, 0 abstain.

CHAIRMAN RIDDLE: 604 and then I think it's time for a break.

MEMBER LACY: 205.604, Committee recommendation based on comments received, the Livestock Committee recommend prohibiting the use, continue prohibiting the use of strychnine. No other recommendations in this category. The vote was 5 yes, 0 no, 0 abstain.

CHAIRMAN RIDDLE: Okay, any other comments, questions? Hearing none, thanks, Mike, for the presentation and discussion and let's --

MEMBER CAUGHLIN: Where did we leave the issue of the minerals and the vitamins? Is it going
to be discussed in meeting or just left?

MEMBER LACY: The Livestock Committee I'm sure will discuss it again. As it stands now, I think we are going to stand with our recommendation of leaving it on the list.

CHAIRMAN RIDDLE: As a Committee member I'd like to review the comments we have received again and at least consider those seriously here this afternoon.

Okay, well, let's take a 15-minute break, so to 3:35.

(Off the record.)

CHAIRMAN RIDDLE: If people could take your seats, please, I'd like to resume business.

(Pause.)

CHAIRMAN RIDDLE: Okay, next up is the Handling Committee and so Kevin, would you please present your Committee's draft recommendation.

MEMBER DELGADO: Mr. Chairman, may I ask a question?

CHAIRMAN RIDDLE: Yes.

MEMBER DELGADO: I want to make sure that
I understand the whole situation. So if a material is deferred, does that mean we can sit on it for eternity or does the clock keep ticking on? What's the answer?

CHAIRMAN RIDDLE: The clock continues to tick for its sunset which will be October 21, 2007, so the pressure is still on the Board to deal with the substance and I would anticipate that six months is about the max that a substance -- a decision would need to be made by that time in order to go through the federal notice, the rulemaking process after the Board's recommendation.

So about six months from now or a year out from October of 2007, so by October of '06, all action should be done on these deferred materials.

MEMBER DELGADO: Thank you.

MEMBER O'ReLL: 205.605(a) first recommendation coming from the Handling Committee for nonsynthetics allowed. The Committee summary is brief. There were certainly many comments that were made as broad categories for keeping all materials on 205.605(a). In addition, each of the substances that were listed on 205(a) received many specific comments
recommending their continued allowance and organic handling.

One substance, yeast, had several comments supporting the continued use of this material, however, there were a few comments objecting to its continued use.

There were also comments that were submitted, just to address those that were supporting the continued use of agar agar and tartaric acid. Both of these materials were inappropriately listed in the ANPR sunset review in the Federal Register, but because these materials were not on the December 21, 2000 list, they're not to be considered as a part of this sunset review. So --

CHAIRMAN RIDDLE: If I could just add to that, if people don't -- they were added to the National List later, so they're on a different sunset track, but not relevant at this time.

MEMBER O'RELL: Correct. The Committee's recommendation was for the renewal of the following substances in this use category as they are published in the final rule. Do I need to read through all of
those? Yes.

CHAIRMAN RIDDLE: Since we are going to vote, you might as well.

MEMBER O'RELL: I saw he set that precedent, but he had shorter lists.

I won't read the annotations. The annotations are the ones as listed in the final rule.

Acids, bentonite, calcium carbonate, calcium chloride, carrageenan, daily cultures, diatomaceous earth, enzymes, kaolin, magnesium sulfate, nitrogen, oxygen, perlite, potassium chloride, potassium iodide, sodium bicarbonate, sodium carbonate, waxes, nonsynthetic, and yeast.

There were several comments about yeast. The comments that came in for yeast in terms of against it continuing on the list of 205.605(a) really were indicating that it should be moved to another list or that it was no longer agriculture, that it should go to 606, but as we've heard before, our role in the material, sunset material review process is not to make assessments and evaluations of the list, if it should be classified in another section of that list,
nor can we make determinations on agriculture or non-agriculture. That's still an issue is in the process of being determined and it's not part of sunset review. Therefore, the Handling Committee recommended the continued use of this material.

The Handling Committee voted to defer the following materials until either additional technical information could be attained or additional further reviews were done of historical information, particularly for flavors.

The two materials we're talking about deferring were for colors and flavors and there has been, as Arthur said earlier, a TAP review that has come back now on the flavors section that we'll be addressing.

Go ahead, Arthur.

MR. NEAL: Just to let you know, a preview of that -- of those reviews is real general information, just about what those categories are, what they contain. So when you all have an opportunity to review them, we'll be interested in seeing how you feel that they fit your needs.
MEMBER O'RELL: And on flavors, it was also pointed out in a comment that in 1995, there was significant discussion in the 1995 NOSB meeting around flavors and we want to be able to review that historical perspective as well.

There were no substances in this category that at this time we are recommending for not renewing and the vote for this recommendation was 4 yes, 0 no, no abstentions, one absent.

Any questions or discussion?

MEMBER SIEMON: Just a couple of questions. First on the flavors. Is the TAP review going to look at -- there's annotation about they can't use synthetic, but are they going to look at the whole issue that are there nonsynthetic ones, basically? It's not just these things, acetic salts, solvents, there might be other things that are used in there that make them synthetic.

Has that also been addressed?

MEMBER O'RELL: This is flavors for nonsynthetic sources only.

MEMBER SIEMON: But I'm asking are they
addressing that they are truly nonsynthetic?

MR. NEAL: If memory serves me correct --

MEMBER SIEMON: That's the issue. That was '74 and now we're doing a TAP review.

MR. NEAL: This looks at flavors, in general. There are nonsynthetic flavors. There are synthetic flavors. There are hundreds and hundreds of flavors out there and what this report does is give more information about the category of flavors.

What the Board has to wrestle with is how does it want to renew flavors on the National List because we know that there are organic flavors out there and by flavors being listed on 205.605(a), that could cause some confusion. We've got an ag versus non-ag issue of synthetic versus non-synthetic issue.

MEMBER SIEMON: Right.

MR. NEAL: So there are a lot of things. But this report only gets at general information about flavors and some technical information about their listings and categorizations.

MEMBER O'RELL: But again, in the process of getting that technical information and looking at
it, as I understand it, it's our charge to look at the
category use and the annotation that exists today and
make a decision going forward as to whether the
material continues or comes off the list, because I
agree with you, Arthur, we know that there are some
organic flavors which those come specifically from an
agricultural source. But there are also natural
flavors that do not come from agricultural sources,
but nonsynthetic sources.

MR. NEAL: Correct, and like I said, once
you receive the report that will have to be wrestled
with because it didn't get into commercial
availability or a lot of alternatives, how many
flavors are produced that are natural? How many
flavors are produced that are synthetic? It doesn't
get into that type of detail.

So the continued listing of it, like I
said, is going to have to be wrestled with.

MEMBER SIEMON: Then I just wanted to ask
about yeast. Here's the place where we could have
changed the annotation, be based on an organic
substrate or something like that and one way we could
have dealt with that. So here's a place where somebody could petition to change annotation to be organic substrate or whatever because we deal specifically with a substrate here. So that would be one of the --

MEMBER O'RELL: Somebody could absolutely petition for using organic substrates only in the fermentation. That could be one annotation or somebody could petition to have it removed from 605(a) and be considered for 606 as an agricultural product.

CHAIRMAN RIDDLE: Andrea?

MEMBER CAROE: That is the key. The comments that we received on yeast were really not related to the annotation or an inappropriate annotation, but the whole question of the ag versus non-ag that we've been wrestling with. So it's a separate issue that we are dealing with. It's not part of the sunset process.

MEMBER SIEMON: I just -- I did look through the four inches of comments, but in your summary here, was there people who spoke specifically against some of these that you're recommending to
renew?

I don't see any comments besides for yeast that would have said --

MEMBER O'RELL: No, there were --

MEMBER SIEMON: Against these. Was there any sense of that?

MEMBER O'RELL: From the analysis that we did in looking at all of the comments, we found no other comments. The only comments that were against items were yeast.

MEMBER SIEMON: Okay, that's what I asked, thank you.

MEMBER O'RELL: And even the ones that we're deferring, even the flavors and the colors received considerable amount of support and letters for their continued use, but no opposition for any other items.

MEMBER SIEMON: Thank you.

CHAIRMAN RIDDLE: Okay, moving on, Kevin.

MEMBER O'RELL: 205.605(b) synthetics allowed, again, in the Committee summary there were many comments just across the board for all of the
materials in 205.605(a) and (b). In addition, many of the substances on 205.605(b) continue -- had comments recommending their continued allowance in organic handling.

Many commenters supported the continued use of lecithin bleached, however one commenter did object to that based on the fact that there is an organic version of lecithin and as we heard today, even for an organic version of lecithin bleached.

We felt at the time, that there was not enough evidence supplied with that comment to support removal of lecithin bleached from the list, based on questions of functionality, form and quality. But we did feel that it was something that the Committee needed more time to investigate and to review and as such, the Committee recommended deferring this substance until additional information could be obtained.

Again, ethylene, there was in the same scenario there were many comments that supported the continued use of ethylene, however, there was one commenter who objected to its continued -- to the
continued use of ethylene.

And the Handling Committee wanted to conduct a further review of historical documents and there was a TAP that was done on ethylene, but the Committee received it pretty late in the game and as Rose had indicated, we were trying to get our public, our recommendations published for the public 30 days prior to the meeting, so at that point in time, in order to move the recommendation through, we agreed to defer ethylene.

There was also potassium tartrate made from tartaric acid. There were a number of people who supported the continued use of that, but as one commenter had indicated, that it was really a duplication in the list that potassium tartrate was the same as potassium tartrate made from tartaric acid. And it was redundant, so we are recommending to not renew potassium tartrate made from tartaric acid.

Then again, there were numerous comments in terms of change of classification of items, and/or annotation. These included glycerin, xanthan gum, tocopherols. Again, the classified information
reviewed these comments and felt that they are not part of the sunset review process and moved forward to continue them on the list.

The Committee recommendations, the Handling Committee recommendations for the renewal of the following substance in this use category as they are published in the final rule and I'm not going to read the annotations. Alginates, ammonium bicarbonate, ammonium carbonate, ascorbic acid, calcium citrate, calcium hydroxide, calcium phosphates, carbon dioxide. Now we did list chlorine materials in this. We can discuss this when I get done with the list in terms of what was brought out before with one TAP review that covered several use categories. We may want to consider deferring that item.

Ferrous sulfate, glycerides, glycerin, hydrogen peroxide, magnesium carbonate, magnesium chloride, magnesium stearate, nutrient vitamins and minerals, ozone, pectin, low-methoxy, phosphoric acid, potassium acid cartrate, potassium carbonate, potassium citrate, potassium hydroxide, potassium
iodide, potassium phosphates, silicon dioxide, sodium citrate, sodium hydroxide, sodium phosphate, sulfur dioxide, tartaric acid, tocopherals and xanthan gum.

For deferral, the Committee recommended deferring ethylene and lecithin bleached. The lecithin bleached discussion came up after review on the 606 list. When we got into further information about potential commercial availability of organic lecithin and also an organic lecithin bleached, we went back and revised our original recommendation to take lecithin bleached from the renewal list and put it on the deferred list.

And then the Handling Committee had recommended for not reviewing potassium tartrate made from tartaric acid because it is redundant.

And that vote was -- the original vote was 5 to 0, with no abstentions. Then we had a motion brought to the table to relook at the lecithin situation. That vote was 4 yes, 0 no, 1 absent.

Discussion? Questions?

MEMBER DAVIS: Ascorbic acid. Is that a misspelling on that list?
MEMBER O'RELL: That is a typo. So many eyes see this.

MEMBER SIEMON: You had said something came out about chlorine just now? I didn't hear what -- would you repeat what you just said about chlorine? There was some issues raised. I thought I heard you say that.

MEMBER O'RELL: I was just stating that the earlier, previous discussions surrounding chlorine and the fact that we have a TAP review coming in to cover the whole subject area of chlorine across crops, livestock and handling, that it -- we would need to discuss among the Committee, but it might be the Committee's recommendation to defer chlorine in light of that upcoming TAP.

MEMBER SIEMON: And will that happen by tomorrow then?

MEMBER O'RELL: We are meeting tomorrow morning. We have a joint meeting tomorrow morning with the Policy Development Committee. I think this discussion would probably take two minutes and to come to agreement.
MEMBER SIEMON: The other one is a food contact definition and food contact where it's not -- you have very clear -- about food contact services there, but I don't know if it's true or not, but I've heard that chlorine is used in rinsing vegetables. That would fall under this bigger category as far as I understand and I know it gets to the heart of the food contact thing, but I would look at this and say that it wouldn't be allowed for that purpose, the way this is read here.

CHAIRMAN RIDDLE: I would agree. This annotation doesn't allow that use, but the annotation in the crops list is for post-harvest.

MEMBER SIEMON: Is that where it would be?

CHAIRMAN RIDDLE: It could apply.

MEMBER SIEMON: Post-harvest? Would it be under crop though?

CHAIRMAN RIDDLE: I believe how that's being allowed.

MEMBER SIEMON: Then with the ethylene, is there any chance, I know you all have reviewed the TAP. Any chance that you're ready to move that into
the recommended for renewal?

MEMBER JAMES: I have a comment.

MEMBER O'RELL: Let me just answer the question. Is the comment related to ethylene?

MEMBER JAMES: I don't want to make that decision until we're done with our discussion.

MEMBER O'RELL: I guess what I would say is, George, we deferred it for a reason. We deferred it so we would have the time to be able to have proper discussion and due diligence on this issue. And to review the prior TAP to see if we may even want to request additional or updated TAP. So my feeling is no, it's going to be deferred.

MEMBER SIEMON: All right.

MEMBER JAMES: I reviewed all of the handling comments that were submitted and I don't remember seeing anything in there about chlorine materials. Now Nancy says that they were referred in every section and --

MEMBER O'RELL: If somebody made a blanket one and maybe somebody has that reference because I have the same list, Bea. I've gone through and I
haven't seen anybody --

MEMBER CAROE: We do have a blanket.

MEMBER O'RELL: There's a blanket one.

MEMBER CAROE: And I can pull it out, but I mean that means we could be deferring every single - -

MEMBER KOENIG: There was one and again, that would be an interpretation whether you would consider sprouts a handling issue or a farm, post-harvest. But specifically, there was a long comment that was presented on the use of chlorine and sprouts, post-harvest.

MEMBER CAROE: It might have been in the category of crops then.

MEMBER KOENIG: Again, some of the comments just by the nature, there were three groups and then there was a group that overlapped where it was pertinent to that and hopefully people looked in that group also because there was some that was -- multipurpose, yes.

MEMBER OSTIGUY: And my memory is that it was in the multipurpose group.
MEMBER JAMES: Well, I just think that we also need to take into consideration and I don't have everything memorized well enough to be able to go in here and say okay, under such and such, but I know it's in here somewhere that when you're dealing with food safety, that there are allowances for certain things and I think that this is one of those ingredients and I understand that we have a problem with the dilution of the dilution not being regulated closely enough, but I just -- I have concerns about just making this blanket deferral across all categories, without there being --

CHAIRMAN RIDDLE: Nancy.

MEMBER OSTIGUY: The deferral is not at all in my view a prelude to nonrenewal.

MEMBER JAMES: I understand that.

MEMBER OSTIGUY: And one of the comments that was made was that there are alternative products for disinfection and my personal reaction is that we need to consider that. If there are disinfectant processes that don't require chlorine, it is incumbent upon us to look at those. And if they're not
effective, okay, then that's a decision to say that chlorine still is just fine.

MEMBER JAMES: Okay, and I understand that. I just want to make sure that when we decide to do a blanket deferral the way we've done here that that -- I don't really understand that process and it concerns me a little bit because I don't necessarily agree that deferral in one category means that it should be deferred across all. So that's my concern.

MEMBER KOENIG: Again, it is a conservative approach. We've paid X amount of dollars to do a TAP, okay?

By all means, if somebody wants to make a motion tomorrow and without looking at that TAP or considering that information, by God, do it, you know? I may not vote for it, but go ahead and do it, but all I'm suggesting is that there's nothing wrong with looking, if you got the information, let's look at it and that's all we're saying.

MEMBER JAMES: Absolutely and I just would like to also just for the record say that if there are other ingredients out there that are more friendly
towards organic production, that are similar in sterilizing as chlorine, that we would also look at the possible misuse of those dilutions and what that would result in.

CHAIRMAN RIDDLE: Kevin, then Nancy.

MEMBER O’RELL: Actually, Rose has covered what I said. I just think it’s part of our due diligence because we know it's there. As far as alternatives being for chlorine, that's fine, really true, that's great. But as far as like disinfection for milkhouse-type hygiene for public health, you know, I hope we're not kind of basing an up or down vote on chlorine based on one study of an alternative. There better be a bunch.

CHAIRMAN RIDDLE: Is Nancy still in line here?

MEMBER OSTIGUY: First, my recommendation to pull this to deferral was not a blanket across all. It was based upon the individual categories and the uses within those categories.

There are alternatives to chlorine for disinfection. It depends on particular situations,
whether or not they meet the criteria in whatever situation you're after. And that's what has to be considered.

MEMBER KOENIG: I was just going to say just to remind people and it's probably more to educate the new Board Members because you haven't seen many of the TAPs that have come back and the contractors that we are using, they're basically in this case would be doing a full TAP where they are going to particularly look at alternatives and if you look at that, Hugh, you don't feel that there's sufficient studies or they haven't done a complete job, you have that 21 days to kind of ask specific questions.

So you should pay particular attention to those things, same with your -- so all of this is good process and what I'm saying is just remember it when it comes to our -- to the point where you've got that 21 days to get the answers to your questions because that's the opportunity that will be presented to you. So take advantage of it.

CHAIRMAN RIDDLE: And for new Members on
the Board, I just point out that we did have a Chlorine Task Force report which provided a lot of background which also warranted or we recommended re-review in accepting that report and I'll send that around to everybody as well for further background.

Anything else on that?

MEMBER O'RELL: On 605(b)? Seeing none, we're going to go to 205.606 and July is going to take us through the lead on 606.

MEMBER WEISMAN: I will read the Committee's summary for non-organically produced agricultural products allowed as ingredients in or on processed products labeled as organic or made with organic in whatever specified ingredients or food groups. Many comments were received supporting the retention of all five substances on 205.606.

In addition, comments were received opposing the relisting of all the substances on 205.606. These comments did not include adequate information supporting the removal of substances from the list as specified in the Federal Register notice regarding the sunset of materials on the National
List. And so the Committee felt that it did not have data or evidence to support the position to remove any of the substances listed in 205.606.

Four of the five materials on the list received a substantial number of comments in favor of their continued need in organic handling. Several commenters cited that some substances were available in organic form such as soy lecithin and had concerns that there won't be a market for the organically-produced substance if the non-organically-produced substance remained on the list.

However, there were other commenters who noted that the organic form was either not sufficient in quantity, which may be we already have additional information or inadequate in form which I don't know that we've heard anything yet that removes that concern.

No comments at the time that we were evaluating the comments provided adequate data to support their position.

And I will say a little bit more. We gave a little more consideration. Soy lecithin received
conflicting comments regarding its availability in a sufficient form. There was a TAP review of soy lecithin in 1995 that we looked at. It didn't really provide adequate information to help the Committee to make a determination for removing or continuing. And in light of that, the Committee recommended that this substance be deferred until further information could be obtained. I think some of which we heard this morning.

Comments specifically opposing the continued use of corn starch, gums, water-extracted only and kelp were based on the commenters' assertion that these items are now commercially available in organic form. But the information, again, such as supply source, supply quantity, functionality, performance, test data and name and address of producers who have used this material under similar circumstances, similar conditions was not supplied by those commenters for the Board to be able to make a decision to discontinue the use of these materials under 606.

In addition to that, along the same lines,
there also were no comments received from manufacturers or supplies of those substances regarding their availability in appropriate form, quality or quantity. And again, because such information was not provided among the comments that we received, the Handling Committee recommends the continued use of these materials.

There were no comments specifically opposing the continued use of pectin high-methoxy.

Therefore, the Handling Committee recommends the renewal of the following substances in this use category and I won't read -- for consistency sake I won't read the annotations. Corn starch, gums, kelp, pectin. The Handling Committee recommends deferring the vote on the following materials and that would be lecithin unbleached and there were no materials in the category to discontinue being listed.

The Committee vote was 4 in favor, none opposed, one absent.

Any questions? Wow.

CHAIRMAN RIDDLE: You covered it, I guess.

Okay, so that concludes the Handling Committee's
presentation of draft recommendations. So we will move on to Crops and Nancy, will you be taking the lead here? Okay.

MEMBER OSTIGUY: Okay, starting with 205.601, synthetic substances allowed for use in organic crop production, category use A as algaecides, disinfectants and sanitizers including irrigation systems and cleaning systems. The Crops Committee recommends the renewal of the following substances: alcohol, ethanol, isopropanol, ozone gas, periacetic acid, soap-based algaecides and demossers. The Crops Committee recommends deferral on the vote of the following: chlorine materials and hydrogen peroxide.

Any comments?

MEMBER CARTER: I am easily confused, but I'm wondering now, first of all, the number of ozone, going through here, what's the significance of enumerating the labeling?

MEMBER OSTIGUY: It is the number on the current list, so the current National List.

CHAIRMAN RIDDLE: What happened to three?

MEMBER OSTIGUY: I forget, but that's
where I pulled it from.

CHAIRMAN RIDDLE: I'll check it out.

MEMBER OSTIGUY: Oh, well, the things that are -- I think something got put in there though.

CHAIRMAN RIDDLE: That wasn't on the original --

MEMBER OSTIGUY: Correct. So it's not one of the sunset items, if I remember correctly.

CHAIRMAN RIDDLE: George?

MEMBER SIEMON: I need to understand why hydrogen peroxide is being deferred?

MEMBER OSTIGUY: For the same reason that chlorine materials are being deferred. There were a couple of comments by the public concerning hydrogen peroxide being very reactive and whether or not it was appropriate to have it on the national list. And so purely for the reason of being able to fully consider public comments is the reason why it's been deferred, not because there's any expectation that it ultimately would not be removed.

MEMBER SIEMON: But what technical information are you going to ask then on hydrogen
peroxide?

MEMBER OSTIGUY: I couldn't tell you right now.

MEMBER SIEMON: It seems good with respect to the public, but if they don't have any kind of question or there's really any doubt in the Committee, I don't understand why we defer it.

CHAIRMAN RIDDLE: Rose, then Dave.

MEMBER KOENIG: I mean in case of hydrogen peroxide when we know specifically there may be this one comment, the Committee may be able -- we don't necessarily have to engage our TAP contractors. Nancy, myself may be able to simply answer that question. It's just we didn't have enough time to get this job done, plus answer those technical questions. And we just want to address it. It doesn't mean -- it just means we need to gather a little bit more information.

MEMBER OSTIGUY: In fact, I don't believe we need to send hydrogen peroxide out for a TAP. I don't think that that was ever part of the discussion within the Crops Committee. But we just did not have
time to document why -- what our position would be to recommend either a renewal or removal. We need that justification for the NOP and since we didn't have time to do that, it's on the deferred list.

MEMBER CARTER: Again, a point of confusion about this. This -- Zea was talking about hydrogen peroxide being in the wrong place on the list. Is this the area?

MEMBER OSTIGUY: No.

CHAIRMAN RIDDLE: Rose.

MEMBER KOENIG: Again, this is just us doing the due diligence needed on these materials. We took the comments very seriously. If we felt that there was some merit to the comment, but didn't have the time to do the conversation, we just put it in deferral, especially in crops, because there are so many materials we have to file through. Middle hanging fruit was the suggestion.

CHAIRMAN RIDDLE: Moving on.

MEMBER OSTIGUY: Category use (b) as herbicides, weed barriers as applicable. The Crops Committee recommends the renewal of the following use
categories: herbicides, soap-based; mulches and we recommend the deferral of mulches -- I need to do the secondary parts of this.

The Crops Committee recommends the renewal of herbicide soap-based and mulches, plastic mulch and covers, number two on the list and then the deferral of mulches, newspaper or other recycled paper without glossy or colored inks.

And again, the reasoning for the deferral is similar. We have information on this. We did not have time to review it before things needed to be posted on the web.

CHAIRMAN RIDDLE: Carry on.

MEMBER OSTIGUY: Okay, as compost feed stock, the Crops Committee does not have -- recommends renewing the following substances in this use category. Actually, we are sort of contradictory here. As compost feed stock, newspaper or other recycled paper without glossy or colored inks. And we have no deferral items in this category.

CHAIRMAN RIDDLE: And there, I guess if there is going to be some further review of newspaper
and colored inks where they're used as mulches, why
not also defer as compost feed stock.

MEMBER OSTIGUY: Yes.

MEMBER CAUGHLIN: Were the comments that
were received just in --

MEMBER OSTIGUY: No. I believe I
corrected this, but the right version did not end up
going where it needed to go.

CHAIRMAN RIDDLE: So that is likely to
change before tomorrow.

MEMBER OSTIGUY: Before tomorrow, yes.

The Crops Committee will have to talk for a moment or
two.

CHAIRMAN RIDDLE: Andrea?

MEMBER CAROE: I am sorry, I need to go
back to the last recommendation because on the first
page of the last recommendation it says you're
deferring no materials, none in this category --

MEMBER OSTIGUY: You have to look at --

there's another subheader, recommendations based upon
comments received and then recommendations based not
on comments received.
MEMBER CAROE: Thank you.

MEMBER OSTIGUY: As animal repellents, the Crops Committee recommends the renewal of soaps, ammonia and there are no items that are being recommended for deferral or nonrenewal.

CHAIRMAN RIDDLE: Continue.

MEMBER OSTIGUY: As insecticides, including kerocides or mite control, the Crops Committee recommends the renewal of the following: ammonium carbonate, boric acid, elemental sulfur, lime sulfur, soaps insecticidal, sticky trap barriers. The Crops Committee is recommending deferral on oils horticultural.

CHAIRMAN RIDDLE: George?

MEMBER SIEMON: What happened to copper sulfate? Is that because it was not put --

CHAIRMAN RIDDLE: That was added later.

MEMBER OSTIGUY: As insect management, the Crops Committee recommends renewal of pheromones. There are no items recommended for deferral or nonrenewal in this category.

Moving on, as rodenticides, the Crops
Committee recommends the renewal of sulfur dioxide, Vitamin D3. There are no materials that are being recommended for deferral or nonrenewal. Going on, as slug or snail bait, the Crops Committee doesn't have any recommendations in this category because there aren't any. As plant disease control, the Crops Committee recommends the renewal of the following: copper fixed, copper sulfate, lime sulfur, periacetic acid, potassium bicarbonate, elemental sulfur, recommending the deferral of oils horticultural and no materials are being recommended for nonrenewal. We're also recommending based upon inconsistencies with OFPA, deferral of the following materials: hydrated lime, hydrogen peroxide, streptomycin and tetracycline.

CHAIRMAN RIDDLE: George?

MEMBER SIEMON: To the inconsistency is not fitting into the 10 categories or --

MEMBER KOENIG: Basically, the -- that was based on that document when I went through and again, we just have to do a little bit more evaluation of it.
That in disease control, the coppers were specifically listed under the OFPA categories, but there really isn't any other category, so if there's an agreement in terms of the interpretation of those categories, then we probably can find a place for hydrogen peroxide and hydrated lime.

Or as somebody suggested, the way it was — I guess with the Bordeaux mixture, just kind of confusion. So there are things that we've got to analyze on those two and then streptomycin and tetracycline, they're basically antibiotics because those are bacterial diseases.

MEMBER OSTIGUY: And while OFPA doesn't make a specific prohibition on antibiotics -- we don't have a category. And the Board did make a statement, so we need to remedy that.

MEMBER KOENIG: And there is no OFPA category for antibiotics.

MEMBER OSTIGUY: But it is plant disease control.

Tocsin is not an antibiotic. A tocsin is a product that is made by an organism. There is a
MEMBER KOENIG: The mode of action is different.

CHAIRMAN RIDDLE: Andrea.

MEMBER CAROE: I just question these inconsistencies, are they part of the scope of sunset? Are we looking at -- should these materials be listed or not? Not the categories, not -- I mean if it's inconsistent with OFPA because it's prohibited, I understand that. If we -- if OFPA specifically says you can't have antibiotics and there are antibiotics that for sure is an issue to be deferred and ultimately should be recommended and not to be renewed, but the inconsistencies of where they're listed, I just feel that that should be a separate action.

MEMBER KOENIG: Agreed. We just need to discuss it and we're acknowledging that's the issue. We're deferring it so that we can rectify the issue and bring it forth back. You know, but at the point where the Committee was, we were trying to facilitate the ones where there were no issues. Again, I think
we're going to be in consultation with the NOP on this and figure out what is the correct process. And you could be 100 percent right. The conclusion may be just go ahead with sunset and we'll deal with it in some other function. But we want to make sure that we know clearly where we want to go on those.

MEMBER OSTIGUY: The Committee will be looking at this before tomorrow.

CHAIRMAN RIDDLE: Are you asking for a Crops Committee meeting?

MEMBER OSTIGUY: We already said we were going to.

CHAIRMAN RIDDLE: Okay, well, then we need to set that before we recess for the day here.

MEMBER OSTIGUY: To continue on, assuming that we are finished with as plant disease control, as plant or soil amendment, the Crops Committee is recommending the renewal of elemental sulfur, magnesium sulfate, micronutrients and vitamins B1, C and E. We're deferring until later lignin sulfinate and there are no materials not -- there are no materials recommended for nonrenewal.
We also have recommendations that were not based upon comments received and we're recommending a deferral of aquatic plant extracts, humic acid and liquid fish products.

CHAIRMAN RIDDLE: Could you or Rose explain a little bit more why the Committee recommended deferral of those three just again? Not to go into great detail, but just to refresh. Rose?

MEMBER KOENIG: Well, basically on the lignin sulfinate, one commenter said that it shouldn't be on the National List because nonsynthetic alternatives exist for the substance which were aeration, bubblers or other gentle agitation.

Additionally, the commenter stated that if the material is allowed, no residue should be allowed on the product. And then we, in general, wanted to review these extraction -- these materials, humic acid, liquid fish products and aquatic plant extracts, just in terms of -- as one of the commenters stated coming up that the annotations on them seem to have a lot of confusion to the industry and if you look into
the historical notes on them, at one time on aquatic plant extracts, other than hydrolyzed was the acknowledgement that there were natural forms of that.

We want to make sure that as a commenter did provide some information that he wasn't aware of any manufacturers of natural products that were being marketed, but we need to make sure that number one, if there is a natural alternative out there, that the information is still current on that, in general, and that is true of a lot of those three issues. They all have to do with extractions and we thought it would be wise to kind of get an overview.

MEMBER CAUGHLIN: This does indicate that these were based not on comments received, but you're saying that not directly from a comment, but because of a -- these were ones that remember, initially, the Committees have the option to kind of earmark those substances that they felt were --

MEMBER KOENIG: I understand that you were referring to comments.

MEMBER CAUGHLIN: Well, the lignin sulfate, I read that one because that was generated,
but the comments that I was speaking of was the public comment that Mr. Hilts --

MEMBER KOENIG: Right, I was thinking about that.

CHAIRMAN RIDDLE: Okay.

MEMBER OSTIGUY: As plant growth regulator, the Crops Committee recommends the renewal of ethylene gas for the regulation of pineapple flowering and there are no deferrals or nonrenewals recommended.

CHAIRMAN RIDDLE: Andrea?

MEMBER CAROE: Ethylene gas is one of the materials that is going to be looked at, is it appropriate to defer it here as well?

It will be looked at for handling.

MEMBER OSTIGUY: I can go either way.

MEMBER CAROE: I don't know. I don't know if it's appropriate for us to do that or not, but we are going to be looking further material.

MEMBER KOENIG: What I would suggest is it sounded like that was one that you guys were going to discuss in Committee and that you had already gathered
some information on, so maybe you guys can just --
when you do that brief overview, we can make that
determination.

It sounds like they may have sufficient
information to make a determination and not have to do
that review. Certainly, if you all decide to do a
TAP, we may want to reconsider that. So it's
something to put a little mark by and we'll determine
that probably tomorrow.

MEMBER O'RELL: We're not going to have an
answer from the Handling Committee tomorrow on that.
We are going to review that information, but not here.
I don't think we have the time so there won't be an
answer from the Handling Committee on ethylene
tomorrow. We would still -- except to defer it for
the additional review, yes.

MEMBER JAMES: Even if the TAP review on
ethylene comes back and it would impact reviewing it
in this category, we could still do that even though
it's not deferred here, correct? If we decide not to
defer it?

MEMBER CAUGHLIN: If we renew it, it's
renewed.

CHAIRMAN RIDDLE: The Board can reconsider a vote.

MEMBER JAMES: Isn't it cleaner to simply --

MEMBER OSTIGUY: The Committee will look at this also to see whether or not we will change the recommendation for tomorrow morning.

MEMBER CAROE: If we are recommending to put it on the list, it's on the list. I don't think we should plan on going back and changing our vote.

CHAIRMAN RIDDLE: You should never plan on that.

MEMBER CAROE: That's kind of what I was getting at is that we could go back and do that. I think that's not an option we should even consider.

CHAIRMAN RIDDLE: Okay.

MEMBER OSTIGUY: Floating agents in post-harvest handling. There are two items in this category, both are being recommended for deferral, lignin sulfinate and sodium silicate.

One commenter stated that sodium silicate
is unnecessary, that they've never encountered a tree producer who has ever used it or requested to use it. And then lignin sulfate was that there were alternatives. So we wanted to investigate both of those.

If there are no more comments on that, going on to category M, synthetic or inert ingredients as classified by the Environmental Protection Agency for use with nonsynthetic substances or synthetic substances listed in this section and used as an active pesticide ingredient and in accordance with any limitations on the use of such substance. The Committee recommends materials in EPA List 4, inerts of minimal concern.

There are no deferrals or recommendations for nonrenewal.

CHAIRMAN RIDDLE: Hugh, did you have a comment?

MEMBER KARREMAN: No.

CHAIRMAN RIDDLE: Okay.

MEMBER OSTIGUY: In that case we finally finished with 205.601. 205.602, nonsynthetic
substances prohibited for use in organic crop production. The Committee recommends the renewed listing of the following substances: ash from manure burning, arsenic, lead salts, sodium fluoraluminates, strychnine, sodium nitrate, and tobacco dust. There are no materials recommended for nonrenewal and one is recommended for deferral, potassium chloride.

CHAIRMAN RIDDLE: And we did receive comment, a question this morning about the status of sodium nitrate for spirulina and when the Committee voted it was before October 21st, but now and we did, the Committee did discuss the status for spirulina and it's our understanding that after that date, it is no longer on the list. It is prohibited.

MEMBER OSTIGUY: And that is what the Committee intended, is that the sunset of October 21, 2005 is status quo.

Arthur?

MR. NEAL: This is a general comment for all Committees. There are a number of substances that have been deferred. We just ask that if there's technical information that you're seeking, the
technical contractors to review, will you make sure you let us know because at the next meeting, it's the last meeting we're going to be able to take recommendations for sunset.

CHAIRMAN RIDDLE: Rose?

MEMBER KOENIG: I was speaking at the break with Kim and Julie, we were speaking and we were thinking it may behoove the Board to as we're putting those questions out to our technical contractors to somehow post it on the website so that the public is aware of the kinds of questions that we're asking so that they might be able to provide some additional technical information.

So I just ask you to kind of give us feedback in which would be the most appropriate and best process to do that, but I do think that it does make a lot of sense to give the public the opportunity on all these deferred comments, to provide us with additional technical information, both for the technical contractors as they're evaluating materials and for the Board, in addition to certainly public comment once the reports are out and our
recommendations are made.

MR. NEAL: I think that that's a great idea. I think that you'll have to be very clear with your questions. I think that going out to the public for responses is more cost-effective than going to the contractors because some of these things may not even need full TAPs. But that's a decision you'll have to make as Committees.

MEMBER KOENIG: What I'm thinking is that we will, some of them may be just for public comment, but what I was envisioning is even some of these single questions, now if we have to pay $4,000 to get a single question answered, I'll do the search on the internet, okay? And if that's the choice and I'll charge only $2,000.

(Laughter.)

Until January, you've got my time for free. No, but that's fine. Give us the economics of that because I certainly don't want to be putting resources out to answer questions that we could probably figure out on our own. So if have to pay the full price, we certainly can research that.
MR. NEAL: It may not be for the full price, but depending on how specific you are with your questions, if it's a broad question, they've got to do hours of research and they don't know exactly which way to go, it can add up. That's what I'm saying. It depends.

CHAIRMAN RIDDLE: Andrea?

MEMBER CAROE: I guess with these deferred materials and hearing the ones that were deferred by Committee, not by comment, a lot of them are based on some ambiguous annotations or some confusion about were they appropriate? I don't know what you want the TAP reviewers to tell you. What information are you looking for and who is the best to provide that if you think an annotation may be misunderstood.

The deferral to me was an opportunity to get more technical information, but --

MEMBER KOENIG: It's clear on the ones that we've put out there as Committees that we wanted full TAPs.

MEMBER CAROE: So you want a full TAP on aquatic plant extracts?
MEMBER KOENIG: Yes.

CHAIRMAN RIDDLE: George, then Julie.

MEMBER SIEMON: A couple points. Arthur, if we wanted to go to the bigger community, does that mean we'd somehow post the questions we have before the next meeting and say give input on these, we'd get input from the community?

MR. NEAL: Right, if you want additional information, one of the things I can't be clear enough on is you've got to be specific in what you want. The last couple of requests that we've put forward have been just give me a technical evaluation.

And with colors and flavors, it was tough, because you can't prescribe a manufacturing process because you don't have a petition. And because there are so many, the only thing you can do is be general. So like I said, I don't know how effective the reviewer is going to be for you, so if you're going to ask for additional information, you've got to be specific because you still may not get what you want.

MEMBER SIEMON: I'm concerned about how we engage the community out there because we'd have to
post it before they make the next recommendation for the next meeting, so there would have to be some mid-posting that these are the questions we want to have answered. Please send your --

MR. NEAL: Right. A couple of weeks after this meeting, you'll have to go out with the posting to have something before January or by January.

MEMBER SIEMON: Then I had a question about potassium chloride. I see that a commenter spoke against it and now you are all deferring it which means it might be allowed.

MEMBER KOENIG: No, what it's saying is that they're requesting -- the annotation allows you to use it with that specific use and what they're saying is it shouldn't be allowed in any form. Again, that's a change of annotation.

MEMBER SIEMON: It's a change of annotation.

CHAIRMAN RIDDLE: It would be to remove it from the list. It's a prohibited natural.

MEMBER KOENIG: So removing it as a prohibited natural allows it.
MEMBER SIEMON: No.

MEMBER KOENIG: Yes.

CHAIRMAN RIDDLE: If it's a natural.

MEMBER SIEMON: No, then it's flat prohibited.

CHAIRMAN RIDDLE: A natural. The listing is a bit redundant because the natural, it's a reverse --

MEMBER CAROE: If you're removing it, you're allowing it.

MEMBER SIEMON: So what was the Committee's intent by putting this defer in?

MEMBER KOENIG: Actually, in this case, in this case I think that this is a contradiction to our policy on the annotations because the annotation specifically, unlike all the other lists, and all the other substances, this annotation actually narrows -- do you understand what the problem is with this one?

MEMBER CAROE: It's the same thing. Keep it on the list and then afterwards, fix the annotation. It's a simple process.

MEMBER KOENIG: Okay, I guess you're
right.

CHAIRMAN RIDDLE: Julie, did you have anything?

MEMBER WEISMAN: Actually, I think it was addressed. Just a little bit of work to be done.

CHAIRMAN RIDDLE: Again, for the record, I want to correct something I said about the spirulina. I said after that date, it's prohibited for use in spirulina and that would not be accurate for spirulina. It would be still the same limitation as any other crop of 20 percent of nitrogen. I just wanted to correct that for the record.

Okay, that concludes the Crops Committee's report and we --

MEMBER SIEMON: Can we set up for our Committee meetings?

CHAIRMAN RIDDLE: Yes. So Livestock Committee and it sounds like Crops also and then Handling, you think you can handle that when you meet in the morning, it's already scheduled at 8 a.m. in the lobby is where we'll meet and then we'll go from there. Handling and Policy Committees, 8 a.m. in the
morning.

MEMBER OSTIGUY: I'd like the Crops to meet right now if we could.

MEMBER KOENIG: Fine with me.

MEMBER OSTIGUY: We're not going to have time in the morning.

CHAIRMAN RIDDLE: I know. The Livestock is planning on right now. So could we say Crops in a half hour and that's right now enough?

MEMBER KOENIG: 5:15 is fine.

CHAIRMAN RIDDLE: That keeps the pressure on Livestock to get everything done in a half hour.

So is that all right? Livestock, we'll just meet here, right away, and then Crops in a half hour.

Thanks. All right, we'll recess for the day we reconvene at 9 a.m. tomorrow as a full Board.

(Whereupon, at 4:43 p.m., the meeting was adjourned, to reconvene tomorrow, November 17, 2005 at 9 a.m.)
UNITED STATES DEPARTMENT OF AGRICULTURE

NATIONAL ORGANIC STANDARDS BOARD

MEETING

THURSDAY
NOVEMBER 17, 2005

The Board met in the Captain's Room in the Channel Inn Hotel, 650 Water Street, S.W., Washington, D.C., at 9:00 a.m., James Riddle, Chairman, presiding.

PRESENT
JAMES RIDDLE Chairman
ANDREA CAROE Member
DAVID CARTER Member
GOLDIE CAUGHLAN Member
GERALD A. DAVIS Member
RIGOBERTO I. DELGADO Member
BEA E. JAMES Member
HUBERT J. KARREMAN Member
ROSALIE L. KOENIG Member
MICHAEL P. LACY Member
KEVIN O'RELL Member
NANCY OSTIGUY Member
GEORGE SIEMON Member
JULIE S. WEISMAN Member
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9:15 a.m.

CHAIRMAN RIDDLE: If people could take your seats. I'd like to call the meeting back to order. Okay.

Good morning. Looking at the agenda today, I was given 15 minutes to call the meeting to order. So, I wait until the very end.

So, now, we're right on schedule to begin with committee reports on pending work plan items and I'm aware of four items to come up during this time. One from the Livestock Committee, one report from Policy and Handling Committee and then reports from Aquaculture Task Force and Pet Food Task Force which are under the Handling Committee. The Pet Food is under Handling and the Aquaculture under Livestock Committee.

So, who's prepared to go first. We -- I haven't lined that out.

Dave, would you like to just give us a brief report on --
MEMBER CARTER: Yes, the -- the Policy Committee -- the Policy Committee and the Handling Committee have been working to develop a draft for commercial availability criteria. We met by conference call a couple of weeks ago.

Bea James agreed to take the -- the lead in compiling some of the historic information and developing an initial draft document with a -- with some input from some of the folks outside the Board helping to compile some of this information and we sat down this morning to review that with a joint meeting of -- of both committees, Policy and Handling, and went through the draft at least the best we could in a noisy restaurant and what we're -- where we're at then is -- now is that the committees are going to revise the draft that is on the -- that we began to work through with the goal of having something available for posting by the end of the year for public comment.

So.

CHAIRMAN RIDDLE: Okay. And this is really establishing the criteria for making these
determinations which aren't currently in the rule or the law as well as the procedures and also what the certifiers and operators need to do. Once something is on the list, then they still have to prove due diligence. So, it'll include all of that. Correct?

MEMBER CARTER: Exactly what I would have said.

CHAIRMAN RIDDLE: All right. And is there a timeline for having a draft posted?

MEMBER CARTER: Well, what we said was before the end of the year to have it posted.

CHAIRMAN RIDDLE: Okay.

MEMBER CARTER: We're going to have our follow-up meeting probably the first week in December and -- and --

MEMBER O'RELL: Right.

MEMBER CARTER: -- work this through. So, Kevin.

MEMBER O'RELL: Right. No, that's -- that's our plan.

CHAIRMAN RIDDLE: Okay. So -- so, by the
end of December to get a committee draft in to NOP for posting for public comment.

MEMBER O'RELL: Right. I think we're far enough along.

MEMBER CARTER: Now, we -- and it's a little bit disjointed because Bea did a great job of drafting up a document that had recommendation number one and recommendation number two and we didn't talk about either of those this morning or at least half of the committee meeting didn't talk about that. They were talking about a separate process. So, we're trying to pull it all together right now.

CHAIRMAN RIDDLE: Okay. Thanks. Michael, the Livestock Committee has done some further work on the pasture recommendation. Would you like to update us?

MEMBER LACY: And do you want us to also update you on our discussions last night about the chlorine sunset?

CHAIRMAN RIDDLE: No, when we come to those --
MEMBER LACY: Okay. We'll cover that later?

CHAIRMAN RIDDLE: Yes.

MEMBER LACY: Thank you.

CHAIRMAN RIDDLE: Um-hum.

MEMBER LACY: The Livestock Committee did meet last night and Jim has brought another draft dairy pasture recommendation to the committee. It was approved by the Livestock Committee last night.

Jim, do you want me to read this? Do you want to just cover the differences from our previous draft?

MEMBER SIEMON: We handed it out. So, let's just cover the differences.

CHAIRMAN RIDDLE: Yes, and -- and all the Board Members have a copy of the page that was changed which is the recommendation page and there are some extra copies on the back table if you're in the audience.

MEMBER LACY: I wasn't aware of that. Thank you.
CHAIRMAN RIDDLE: Yes. Sure. Yes. And all of the NOP have a copy in front of them as well.

MEMBER LACY: Thank you. I -- I appreciate that.

Then just very, very briefly. Since people do have access to it, can read it, the -- the changes are ruminants shall graze for at least 120 days per year except during the following stages of life: birthing, dairy animals up to six months of age or beef animals during a final finishing stage not to exceed 120 days.

Then there are a couple of strikeouts lower on where we've changed stage of production to stage of life and again, animal stage of production to stage of life and then a final addition number seven at the bottom. Prevent dairy animals from grazing pasture during lactation except as allowed under 205.239(b).

MEMBER SIEMON: So, this is more or less the same draft that we sent forward two meetings ago as a group and the only addition is that we've now put
in the specific 120 days in the rule instead it was
before in the guidance. So, now, it would be both in
the guidance and in the rule because there's been the
question of specificity the whole time here and so,
the public comment now has been about answering these
questions that were -- you know, that's what we're
getting and -- and so, it was just felt that the 120
days needed to be added to the rule.

Otherwise, everything is what we've
already as a Board voted on as far as --

MEMBER LACY: Yes, it's just been --
MEMBER SIEMON: Reformatted is all at the
most.

MEMBER LACY: Yes.

CHAIRMAN RIDDLE: Yes, the other change in
formatting is previously the recommendation we adopted
had the language about preventing grazing during
lactation as a note. It really didn't have a place in
-- where it fit in the rule and under the livestock
feed section of the rule, currently, there's a list
prohibited, you know, materials and practices and so,
this draft puts that language in the list of prohibited livestock feed practices.

MEMBER SIEMON: And our concern was if we're going to go into this rule-making process that we ought to put our best proposal forward now and we've worked on this a long time and we've heard that we need something more specific than vague. So, putting 120 days there kind of takes care of a lot of the questions that have been brought up about what are you talking about or what's the time or pasture's already defined the rule.

CHAIRMAN RIDDLE: Okay. Kevin.

MEMBER O'RELL: Yes, Michael, can I ask a question. I see there was one no vote. What was the minority opinion?

MEMBER LACY: The minority opinion was a concern about process.

MEMBER SIEMON: Also, the vote also didn't it go down to whether we were going to do the stand-alone rule proposal or the stand-alone rule proposal with the attached ten pages? I thought the ten pages
attaching that was really a part of it, too. Maybe not. Wasn't it?

CHAIRMAN RIDDLE: Well, I think Mike had some concerns about some of the rationale or explanation, but we didn't make those changes as well.

So, it's my understanding that was another one of your concerns, but as presented this morning on the single sheet, these were the changes that were discussed and adopted and then voted on by the committee. The rest of the document wasn't changed. It does provide some of the regulatory objective, the rationale for why this is needed and then it does have all previous recommendations compiled into one document and then a list of scientific studies concerning pasture.

So -- so, it's really the entire package that was adopted by the committee, but the only sheet that was -- I passed out was where the changes were made.

Rose, I think you were --

MEMBER KOENIG: I had a question on the --
you know, I -- I'm not a -- a dairy producer. So, I'm not -- I may be a little naive again on these areas, but I looked at the information provided by the public I guess, I don't know, the pictures on that lawsuit and I didn't know that we had gotten in the mail and I didn't know if the issue was with those little looked like igloo plastic houses. I mean there was a photo of that and I didn't know if that was part of the issue.

I see the access to outdoor shade, shelter, exercise areas, fresh air and direct. So, did you guys discuss that aspect of the regulation. Was -- was there a concern by producers about the access to the outdoors? I couldn't glean that from the -- the complaint that we received in the mail.

CHAIRMAN RIDDLE: Well, Hugh, would you like to --

MEMBER KARREMAN: Well, just as -- as far as those, they're called hutches. Is that why you're -- you wanted to know about them in relation to
dairying.

MEMBER KOENIG: Well, I just wanted to know if that -- was that something that would be permitted in this? I mean I didn't understand.

MEMBER KARREMAN: Those calves -- that's very standard practice across the industry organic and conventional. Having calves in hutches. As a matter of fact, it's probably the preferred method to raise calves that are young, before they're weaned to prevent pneumonia. The ones you saw in the picture obviously were a massive amount of them, but a lot of my farmers with 40 cows will have three to five of those hutches outside the main barn for the health of the calves.

So, and those calves are -- before six months of age, they're usually kept in those hutches for health purposes up to about two to three months old at most.

MEMBER KOENIG: So, there's no -- we have not heard from the public any issues regarding necessarily the access to outdoors for ruminants. I
know it's been an issue for poultry that folks have stated, but that's just a question.

MEMBER SIEMON: That -- that -- that would be under the temporary confinement part and not under this pasture. So, they're really two different subjects, but the six months allows that kind of activity to go on recognizing there's a lot of different ways to raise calves.

MEMBER KOENIG: Okay.

MEMBER SIEMON: By the way, those calves mostly do have access to outdoors. They have a fence around the outside and so, they're -- they are able to go outside and in. So, mostly, that's an accepted humane process.

CHAIRMAN RIDDLE: And -- and I would like to, you know, respond to the concerns about process. Because I -- I am the one who introduced this revised recommendation to the committee and in doing so, it -- it stimulated the conversation that -- with Barbara in particular, but NOP and in this instance, it was the Board or a Board Member taking the initiative to, you
know, put something on the table. But, it has stimulated what I consider a very collaborative situation at this point and I haven't received feedback that -- that this -- I mean well, in fact, the feedback I have received is that this draft helps move that along.

So, even though, you know, I took initiative, it wasn't collaborative. In the outset, it's led to collaboration of where we're at today. That's -- that's -- and it's a shame Barbara is not here because I think as I described yesterday moving forward with this ANPR, this is a piece that helps move that forward. It's not something that obstructs or detracts from that process.

MEMBER SIEMON: But, do I understand with ANPR that we're -- kind of this is the end of our involvement.

CHAIRMAN RIDDLE: No.

MEMBER SIEMON: It's not going into the NOP rule-making public process and -- and our -- this is our last -- last recommendation.
CHAIRMAN RIDDLE: Well, no, I would never say that.

MEMBER SIEMON: Well, I know you wouldn't.

CHAIRMAN RIDDLE: But, it probably is mine. It's probably yours and mine. But, the Board -- now, the Board will continue to be engaged and if this gets posted for comment either as a Livestock Committee draft which it already has been adopted now at that status or as a Board draft, either way it's going -- the -- you know, the public will have a chance to give comment back to the Board. So, the Board will continue to have this on the agenda as a work plan item.

But, the Board also will be engaged, it's my understanding, in responding to that ANPR. So, we'll have to see what language the program puts on the table now and the Board, as always, will have a chance to comment on the ANPR or our proposed rule as well.

So, no, unfortunately, the Board's not done with this.
MEMBER O'RELL: Jim --

CHAIRMAN RIDDLE: Kevin, go ahead.

MEMBER O'RELL: Jim, this is a recommendation from the Livestock Committee for posting for public comment?

CHAIRMAN RIDDLE: Right. At this stage, yes.

MEMBER O'RELL: I want to be clear.

CHAIRMAN RIDDLE: Um-hum. Hugh.

MEMBER KARREMAN: Yes, I think as part of the process, you know, the public input has to be taken in and, you know, we've had public input. That's in our meeting agenda book. You know, specifically answering or trying to answer what the NOP has listed as those questions that was put out back, I don't know, a month or two ago and then so, you know, really I -- I -- I don't know how all the process goes, but I -- I do think this should go out for public comment, this draft, as a Board draft. Okay. Not a final recommendation, but as a draft to get public comment from outside and then have it work
into the ANPR process.

So, you know, I -- I would like to move that this recommendation becomes a Board draft that we send out for public comment.

MEMBER CARTER: I'll second that.

CHAIRMAN RIDDLE: Okay. Is there discussion on that? It's been moved and seconded that this recommendation from the Livestock Committee be posted as a Board draft. Either way, it's a draft.

MEMBER KARREMAN: It's a draft.

MEMBER SIEMON: I just want to clarify again. This is the same intent in wording as the previous Board draft except for where we've added 120 days. So, just so, we narrow it right down to moving the 120 -- duplicating the 120, the guidance into the rule now is the truly only intent difference to what we voted on two meetings ago.

CHAIRMAN RIDDLE: Well, right, but the Board did adopt that 120 days in the guidance statement.

MEMBER SIEMON: In the guidance.
CHAIRMAN RIDDLE: Yes.

MEMBER SIEMON: But, I'm saying --

CHAIRMAN RIDDLE: But, the change is to propose it as a rule change.

MEMBER SIEMON: We've already -- this is --

CHAIRMAN RIDDLE: Yes.

MEMBER SIEMON: It's -- there is formatting issues, but our job is intent and clear messaging. This is the clear message the draft board said except for the 120 days. I just want to make sure everybody understands what we're voting on.

CHAIRMAN RIDDLE: Yes.

MEMBER SIEMON: Is -- is only this one change.

MEMBER KARREMAN: And reason for the 120 days is that it's black and white. It's calendar days. It's good across the country. It's objective. It's enforceable.

CHAIRMAN RIDDLE: Yes. Un-hum. Rose.

MEMBER KOENIG: Again, I just -- we've
seen these documents. I just have a question. Is it a -- it's just something you guys might have done the analysis. When you say ruminants shall graze for at least 120 days, does that mean that legally that it's a full day? Like you can't just put a dairy animal out there for an hour and bring him back into the barn. I don't know.

MEMBER KARREMAN: I -- I -- right. This is just a draft. I think it's a starting point and we need to clarify that kind of thing in the ANPR process and hopefully, there is a meeting to discuss pasture for a whole day or two and get all that kind of input to make sure that, you know, 50 cows out of a thousand aren't the only ones going out grazing and that's being called grazing. We -- you're right. We have to make sure that we have -- it's a start. It's a draft. I don't know how else to put it right now.

MEMBER SIEMON: It defines the universe and then we -- I meant he bigger world. Now, we have to get down. Rules shouldn't go to that specificity.

MEMBER KARREMAN: Right.
MEMBER SIEMON: This -- this is -- it's unfortunate we got to keep diving down and now, we're down to how many hours per cow. I mean that's -- sooner or later, we're going to get to implementing a standard.

CHAIRMAN RIDDLE: But, Rose makes a very good points.

MEMBER KOENIG: I don't know. I mean I --

CHAIRMAN RIDDLE: I mean that's an excellent point.

MEMBER KOENIG: -- I mean I'm not a dairy person, but --

MEMBER SIEMON: All right. How long is a day?

CHAIRMAN RIDDLE: Right.

MEMBER SIEMON: Some days sort of longer that others.

MEMBER KOENIG: I -- I mean you -- as long as 120 day, I mean you said at least.

MEMBER SIEMON: Like when you're here.

CHAIRMAN RIDDLE: Yes. Dave.
MEMBER CARTER: Yes, I mean and I agree. I -- you know, we need to be conscious about how --

CHAIRMAN RIDDLE: Absolutely.

MEMBER CARTER: -- you know, down to the level and obviously, you write the rules for the folks that are always trying to break them as -- as opposed to those that have the intent of upholding them, but, you know, there's a certain point that a lot of this gets down to management. I mean how much management time are you going to spend running cows out for an hour and bringing them back in. You know, I mean there's just -- some of those things are guiding. So, you know, I think that 120 days is a good starting point. I gives a good intent of what we're after and, you know, if somebody wants to spend all that time and labor and everything to run cows in -- in and out of barns, I guess then we can address it at -- you know, as we go forward.

MEMBER KARREMAN: We will address that. It's -- this is a starting point. It's a very valid point, Rose. It's -- I think it's better than say...
just that cows have access to pasture. That's really weak.

MEMBER LACY: Jim, I -- I know you didn't mean this and I just want to come to the defense of the members of the Livestock Committee. We had been taking initiative on the pasture issue. We had expressed at our last, you know, SB meeting in our plan of work and in executive committee calls that we were working with NOP on addressing the regulatory concerns that they had. So, I just want to go on record that the Livestock Committee members were taking the initiative on this issue.

CHAIRMAN RIDDLE: Yes, and I stand corrected. When I mean initiative, I just mean a draft back on the table. Not -- not that it was being ignored by any means. There was ongoing discussions.

Any other comments?

Seeing none, we'll move to a vote and the motion is to adopt the Livestock Committee's pasture recommendation as a Board draft for posting for public comment and if it's all right with you, Goldie, we'll
start with you.

MEMBER CAUGHLAN: Gratefully, yes.

CHAIRMAN RIDDLE: Grateful. Hugh.

MEMBER KARREMAN: Yes.

CHAIRMAN RIDDLE: Bea.

MEMBER JAMES: Yes.

CHAIRMAN RIDDLE: Dave.

MEMBER CARTER: Yes.

CHAIRMAN RIDDLE: I'm sorry. I didn't look up. Rigo.

MEMBER DELGADO: Yes.

CHAIRMAN RIDDLE: Dave.

MEMBER CARTER: Still yes.

CHAIRMAN RIDDLE: But, still it's only one vote. Gerald.

MEMBER DAVIS: Yes.

CHAIRMAN RIDDLE: Nancy.

MEMBER OSTIGUY: Yes.

CHAIRMAN RIDDLE: Kevin.

MEMBER O'RELL: Yes.

CHAIRMAN RIDDLE: Rose.
MEMBER KOENIG: I'm going to abstain.

CHAIRMAN RIDDLE: George.

MEMBER SIEMON: Yes.

CHAIRMAN RIDDLE: Andrea.

MEMBER CAROE: Yes.

CHAIRMAN RIDDLE: Julie.

MEMBER WEISMAN: Yes.

CHAIRMAN RIDDLE: Mike.

MEMBER LACY: No.

CHAIRMAN RIDDLE: And Chair votes yes.

So, we have 12 yes, one no, one abstention. So, I think I have the current revised draft on my computer and I will submit that to the program for posting for public comment and -- and then that can feed into the whole preparation for ANPR.

Okay. Thanks.

Next, we go to -- go fishing. Have the Aquaculture Task Force Report and the Chair of that George Lockwood has submitted written and I think all of you have a copy of that in front of you.
So, Keith's going to present that on behalf of the Aquaculture Task Force. Keith.

MR. JONES: Thank you, Jim. Well, I don't know if this is on. Is this on? Is this on? All right. There it is.

Thank you, Jim.

The Aquaculture report was distributed to you earlier this morning. Each of you should have a copy of that report respectfully submitted to the Board by George Lockwood. I'm not going to read that report to you. I'm simply going to comment on how pleased I am with the progress of both the -- the Pet Food Task Force and the Aquaculture Working Group.

Emily Brown Rosen will bring you the update on the Pet Food Task Force here in a few minutes.

The Aquaculture Task Force or Aquaculture Working Group has gone through eight sections of regulatory language and they're -- they've really done a marvelous job in hammering out some very difficult issues. They are now working with the feed issue. As
many of you have known, this is a very thorny issue, a very difficult issue. But, there's really been a lot of goodwill on all of the part of the members and they've -- they're really coming to what I think are some fairly innovative solutions to -- to the -- to the problems that's confronted us with -- with regard to organic feed for aquaculture products.

George anticipates as he said in his report that he hopes to have a full recommendation to the Board within 60 days. I think that is going to be dependent on how well this -- this discussion on the feed gets wrapped up over the next couple of weeks, but all in all, it's been a pleasure in working with both the Aquaculture Group and the -- and the Pet Food folks. They're really doing a Board an enormous service. There's a tremendous amount of expertise on both of these -- both of these groups and I think you'll be well pleased when the -- when the recommendations finally come to you.

Thank you.

CHAIRMAN RIDDLE: Thanks, Keith. Goldie.
Then Dave.

MEMBER CAUGHLAN: Well, I guess you would answer or Keith would answer. Are you, Jim, going to continue on this if it extends past our tenure? Are you going to continue on the task force if it extends past Board tenure?

CHAIRMAN RIDDLE: Well, that's a good question. You know, certainly we'll continue --

MEMBER CAUGHLAN: For continuity, I would hope so.

CHAIRMAN RIDDLE: -- yes, through the end of January as Board Liaison. Unless there's any objection, I would continue to make myself available after that as a -- you know, to sit in on conference calls.

MR. JONES: I guess what I would see, Goldie, is that Jim would -- would certainly be seen as a resource. As a courtesy to the new Board members, we would want them to become involved as quick as -- as quick as possible, you know. So, I think that's the way we'd see if happening.
CHAIRMAN RIDDLE: So, I would be welcome on conference calls.

MEMBER CAUGHLAN: I guess I would see that with two -- I would see that with the two continuing Board members that is might be better policy to have the continuity if you were willing for you to continue. It's just an observation that I think I'd like to see that continuity in any event.

CHAIRMAN RIDDLE: Well, thanks. Yes, and I'm willing to do that and -- and I've made probably about half of the conference calls and I do monitor that conversations back and forth on the e-mail and -- and -- but, I'm not a voting member anyway of the working group.

MEMBER CAUGHLAN: Yes, I understand.

CHAIRMAN RIDDLE: But, I'm certainly willing to continue with that relationship.

Dave and then Kevin.

MEMBER CARTER: Yes, I'm just -- I'm trying to remember now. There's the Aquaculture and then the Wild Fish. So, what's the status of the
MEMBER CAUGHLAN: What's the status of that? Right.

MR. JONES: Well, that's a great question.

MEMBER CAUGHLAN: Hope you have a great answer.

MR. JONES: We -- we have struggled with -- with Wild Harvest for years and I think as I've shared with you at the last Board meeting, we went out for -- for request for participation in -- in the Wild Harvest Working Group.

We got responses back for that, Dave, but they really weren't diverse enough in terms of where they were coming down on the issue to allow what we felt would be a really full and -- and open debate.

What you need to understand is that this discussion is going on around the world. I had a long discussion with an individual from the UK who's -- who's involved in -- in certification services in -- in the UK. Europeans are wrestling with whether or not Wild Harvest is an appropriate methodology to
attached an organic label to.

I think it's our desire to continue to look at the issue. It's our desire to assemble a -- a working group, but we want to make sure that the representation on that working group is such that there can be a really good discussion on the issue. That it's not just either one side or the other. Yes, let's do it or no, let's don't do it and that's what was -- that's what really happen with the pool of people that we had. It was really going to be kind of a predetermined outcome just because of -- of who the people were signed up.

CHAIRMAN RIDDLE: And I appreciate the -- the update and the -- the attention to that process.

And I have a follow up question. Do you anticipate then another call for nominees at some point in the future or --

MR. JONES: Well, that decision hasn't been made yet. Obviously, NOP has -- has an enormous amount of work on its -- on its plate right now and I think what we want to do is get Pet Food pinned down,
get Aquaculture pinned down. Then let us get -- get some time under our belts here to look at the -- at the Wild Harvest.

My sense, Jim, in -- in talking to some of the colleagues around the world is that there may be some sort of coming together of the minds globally in terms of the whole appropriateness of Wild Harvest and so, there may be some opportunities to have a -- a larger dialogue worldwide on this issue before we do anything here in the -- in the states.

We continue to get a lot of interest in the product. We continue to get calls from people saying, you know, what's -- what's the status and -- and that kind of thing. So, if you -- if you get those calls, at least now you're -- you're informed so.

CHAIRMAN RIDDLE: Okay. Thanks. That's helpful. Anything else on this? Seeing none, Emily Brown Rosen who's Secretary of the Pet Food Task Force will present a report.

MS. ROSEN: Hi, I'm Emily Brown Rosen,
Secretary of the Pet Food Task Force.

Just briefly report what we've doing since August. I think we've had two more meetings, phone meetings and we're having another one tomorrow. We've -- we've come quite well along. We -- you know, we have more work to do. I think we're getting there. We have -- at this point, there's two main areas that they're working on and one is what adjustments to NOP rules do we need to facilitate pet food certification and that second area is labeling. How to handle labeling under the organic rules and also to mesh that or overlay it with the state regulations that already exist for pet food labeling.

So, we have a draft on rule changes and that's -- that we need to get that through. I think my focus will be to try and get that done first on the NOP rule area and then because the discussion about interacting with states and how that all settles out going to take longer and then we can -- you know, we can go further with the AFCO people.

But, our group is pretty diverse. We have
quite a few pet food -- organic pet food manufacturers at the table and then we have several officials from AFCO and from the conventional pet food world there also.

So, there's been a bit of getting to understand each others world view and positions and how these two things interact. So, the labeling thing is really tricky and the Chair Nancy Cook has called, you know, really urging a face-to-face meeting because -- so we can just sit there and go through it and -- and it's kind of hard to do that on an hour phone call and figure out how the interaction's going to be.

I mean the ideal thing would be our NOP rules and the state pet food labeling rules will both apply to the manufacturers and what we need to do is figure out where if any -- if there's any conflict and how we need to resolve that. But, so far, there doesn't seem to be a whole lot of conflict. We're -- we're -- it looks like we're -- we're pretty close. So -- so, that's where we're at.

Yes, so, there's -- there is general
consensus though I'd have to say about -- initially, we had to talk about where we're headed with the rules and the -- and the general consensus is, you know, organic pet food can't be a weakening of the standard. It has to be, you know, a strong representation to consumers the same as organic food and what we're basically looking at is like the livestock-type rules for pet food but with labeling as per handling. So, you can have your 95, 70 and 100 percent categories.

So -- so, that's where we're headed.

Any questions about that? Okay.

CHAIRMAN RIDDLE: All right. Yes, and on behalf of the Board, I -- I want to just follow up on what Keith was saying for both of these that were Aquaculture Working Group and Pet Food Task Force. I -- I really appreciate the work that they've done to date. There's been a robust exchange of ideas and very in-depth discussions both in person, on conference calls and back and forth by e-mail. So, I -- I think this -- it's a good process. It's -- it is taking some time, but I think there are going to be
some very thoughtful recommendations coming out of both of these. So, I just wanted to while I'm still behind the mike get to be able to thank the task forces for their work on this so far.

Okay. Are there any other committees that have pending work plan items that haven't been addressed. Later in the afternoon, we'll go back to kind of the presentation of what's next for the committees, but is there anything else at this time that needs to come up? Okay.

Dave.

MEMBER CARTER: You know, I just wanted to say I -- is -- is -- on behalf of the Policy Development Committee, I really appreciate the -- the process that we went through in -- in working with the program and in drafting up the questions to be used as a part of the evaluation process for the executive director and I know we were on a short time hook and -- and the like, but the -- the way that the process worked I thought was -- was very constructive and -- and we're looking forward to seeing the ultimate
outcome of that.

CHAIRMAN RIDDLE: Yes, and maybe now would be a good time to just talk about our plan. I talked about it with Barbara and with Mark since we recessed yesterday and I think Mark mentioned he's putting all of the answers to those questions into a database so we can see each of those and -- and it's going to be anonymous. You know, each of the applicants will be given a number. We won't know their identity.

The -- the plan that I would propose is -- is this. Because we really -- we want to respond timely again as in a little over a week to have a recommendation back in and so, Mark is proposing to get that database out to the Board -- all the Board members by Monday. Correct? Yes, of next week.

And, you know, we've talked about forming a committee, but I definitely want all Board members to be able to have input if you want to. To have the opportunity to provide your scores.

So, I don't know that really a committee is needed if by the end of next week, that would be
close of Friday, if all of your scores come to me. I will commit over the weekend then to compile those into one score sheet and essentially ask you to rank. I think there's seven applicants. To rank your preference from one to seven on each of them and then I'll simply do the math and come up with a composite score and then submit back to the program the following Monday.

Does that sound like a plan?

MEMBER CARTER: Yes, and -- and we had talked this morning with Mark about the format of that and -- and what I like. Because he was going to -- he said he could either list each one, you know, with their answers down or he could put it on a sheet so you had the questioning all the way across which I think the spreadsheet is the preferable method for me to -- to evaluate. So, I think that will be very helpful for us.

CHAIRMAN RIDDLE: Andrea.

MEMBER CAROE: So -- so, we're looking at responses to these questions which could be like a
paragraph or so. Right? I mean.

CHAIRMAN RIDDLE: Yes, a paragraph.

MEMBER CARTER: So, six times 742.

CHAIRMAN RIDDLE: Yes.

MEMBER CAROE: Very good.

CHAIRMAN RIDDLE: But, you won't have to score each question. Please do not score each response to each question because we can't come up with a composite person. We'd like the answer to number two on question number six. No.

MEMBER CARTER: Can you hire number two to do this --

CHAIRMAN RIDDLE: So, have --

MEMBER CARTER: -- and number four to do -- yes.

CHAIRMAN RIDDLE: Yes. Right. No, so, after you reviewed them all, we need candidates scored per candidate and then I'll simply do the math and turn it back around.

MEMBER CAROE: And -- and --

CHAIRMAN RIDDLE: Yes.
MEMBER CAROE: -- just a suggestion. Instead of ranking them one to seven --

CHAIRMAN RIDDLE: Yes.

MEMBER CAROE: -- we should maybe give them a number between like one and a hundred. Otherwise, you're going to end up with ties I think. I really -- when you do the math, it's going to average out and you're going to get some close. You might want to, you know, broaden the numbers a little bit so it doesn't happen. Just a suggestion.

CHAIRMAN RIDDLE: Yes. Yes.

MEMBER CAROE: It'll make it too complicated.

CHAIRMAN RIDDLE: Yes.

MEMBER CAROE: I don't think it will make it more complicated. I just think it'll make the number a little bit --

CHAIRMAN RIDDLE: Well. Pardon.

MEMBER JAMES: If there -- if there is a tie, then that just means there's two really good
candidates.

CHAIRMAN RIDDLE: Right.

MEMBER CAROE: And then we should consider it separately.

CHAIRMAN RIDDLE: Yes, and that's fine with him. I -- I -- I would keep it as simple as we can and there's going to be -- once we divide by the 14 members of the Board or however many number submit commits, contribute to the process is what I'll divide by and so, they'll all appear as fractions. Then there's a possibility of a tie, but yes, that's not a problem.

I got Kevin. Then Rose.

MEMBER O'RELL: Just, you know, if we -- I guess your expectation is we just rank these from top to bottom.

CHAIRMAN RIDDLE: Yes.

MEMBER O'RELL: No comments in terms of maybe the top one or two as to what -- because if it comes down to a tie with those top one or two, maybe some comments could be linked to that individual if he
had a strong -- for what strengths or whatever you believe. I -- I think -- for maybe the top two or three you give some comments. Not for all of the bottom ones.

CHAIRMAN RIDDLE: If you want. If you want. Yes, let's leave that open. Yes, Mark.

MR. BRADLEY: Actually, I -- I would encourage you if you want to -- to put brief comments in there that -- that reflect your priorities and the things that you see that are valuable in one candidate over another. Anything that you want to throw in there that -- that would help us with our evaluation is fine.

CHAIRMAN RIDDLE: Okay.

MR. BRADLEY: That's okay.

CHAIRMAN RIDDLE: Yes, and I'll -- I'll transfer those comments, but I'll also turn around the raw reviews from all the Board members just for your official record, but I'm willing to do that work of compiling it into one Board recommendation.
I got Rose. Then Julie.

MEMBER KOENIG: I -- I guess, you know, this process has been kind of interesting, you know, but the -- so, the assumption though on the Board as far as the NOP is we're passing that on. This is information, you know, that they're going to use in part to make their decision. We're not going to come back and say by the way, did you ever pick the -- you know, they could end up picking number six. Okay. So, we're not ever going to ask again. This is just our input. So, I just wanted to make that clear because I can see how it could be divisive if -- if we started asking questions like but was X our third candidate or was he our fourth choice. You know, what I mean? So, there's an assumption that -- they're -- this -- they're honoring our information and they're using it in their decision-making process, but it's not -- it may not be the deal breaker.

CHAIRMAN RIDDLE: No, it's -- it's our recommendation. It's not binding.

MEMBER CARTER: Rose, I think we've been
very clear on that.

MEMBER KOENIG: Okay.

MEMBER CARTER: I mean it's always been
that this is part of the evaluation process. This is
not the universe of the evaluation process. So, I
think that's been very clear from the outset.

MEMBER KOENIG: All right.

CHAIRMAN RIDDLE: All right. Julie.

MEMBER WEISMAN: Only kind of a -- a
housekeeping issue. Did I hear you say that you were
going to do this by the end of next week? By the end
of the week? Because it's --

CHAIRMAN RIDDLE: No.

MEMBER WEISMAN: -- it's a three-day week.

CHAIRMAN RIDDLE: I understand that
Thanksgiving's in there and I have other commitments
myself, but --

MEMBER WEISMAN: Four-day week.

CHAIRMAN RIDDLE: Yes, we got the turkey
which actually is -- will be passed on to the next
Board chair.

MEMBER WEISMAN: Okay. That's all.

MEMBER CARTER: This is a good family activity during half-time of a football game on Thursday. Okay.

CHAIRMAN RIDDLE: No, I want them back from all of you by Friday, by the end of Friday after Thanksgiving. So, yes, you may take some time during your holiday or get it done before, but then I'll take some time Saturday and Sunday to score them and get them in Monday or I'll take the time on Monday. But, it'll be -- by the end of Monday, they'll have the recommendation.

Bea.

MEMBER JAMES: I know this is also -- it's not mandatory that every member actually contribute and fill the survey out. However, I think it's important that at least half of the Board does give feedback.

So, if only three people submit feedback, I think that we need to somehow solicit more -- more
contributions to be able to have a better broader, you
know, what we -- what we got to the NOP. Because I
don't think that -- it's got to be at least half of
the people or else it's not the consensus. It's not
anywhere near the consensus of the Board.

MEMBER CAUGHLAN: Well, I think it has to
be self-initiated fortunately or unfortunately.

MEMBER JAMES: That's right and I know --
and I realize that, but I'm just saying that I -- I --
I -- I hope that we can agree that at least half of
the Board needs to contribute.

CHAIRMAN RIDDLE: That's I think a good
reminder and pressure's on. Yes.

MEMBER JAMES: Otherwise George could be
making the decision for all of us. I meant that in a
positive way.

CHAIRMAN RIDDLE: Okay. So, we have a
plan. All right. Good. Anything else from any other
committee at this time? I'm glad you brought that
back up, Dave. Yes, Hugh.

MEMBER KARREMAN: I just wanted to -- on
-- for Livestock, I hope that maybe next meeting, it's not pasture, don't worry, I mean that we address the avian influenza topic again next -- next meeting because we really need to. We've talked about it before, but hopefully, we can have that on the agenda somehow or another.

CHAIRMAN RIDDLE: Yes, and -- and I do encourage the committee chairs to be thinking about your work plan items because that'll come back up about 1:45 is what it's scheduled on the agenda. But, sometime this afternoon, we'll have that kind of laundry list of work-plan items.

Okay. Hearing and seeing nothing more, it says 10:15 to vote -- to start the vote on those national lists. I don't know if they'll be any planes landing between -- in the next 15 minutes, people wanting to come to see the votes, but we could -- we could take the break now and that way we stick to the agenda of 10:15. So, let's see. We'll start with the Livestock Committee again. So, be prepared in 15 minutes to move to voting on those items.
All right. So, let's take a -- a short break.

(Whereupon, at 10:00 a.m. off the record until 10:22 a.m.)

CHAIRMAN RIDDLE: Let's take our seats and as I said, the first group of Sunset recommendations that will come to a vote will be from the Livestock Committee, but before we do that, I would like to propose a plan for expedited voting and what I would propose is that after each subsection has been presented and moved that -- that the -- the chair will make a motion and get a second to put it on the floor and then if there's any discussion, we'll have the discussion and then when we vote, I would call first for a voice vote. If it's unanimous, then that's obvious. I will also ask if there are any recusals or abstentions even if it is unanimous and well, also on the issue of recusals, I'd appreciate after that motion has been made if you do need to recuse yourself, you mention it at that time before there's any discussion and we know that going into a vote.
But, once we vote, first I would call for voice vote. If it's unanimous, then that's done. We move on. If there is any division even if it's only one voice in the wilderness that I might hear, then we will go to a roll call vote, but if it's unanimous, I hate to take the time just to go through a roll call.

So, does anyone have any concerns? Of course, it's legal. We have to have a -- a two-third, I'm sorry, a two-thirds vote in favor. If it's unanimous, that clearly exceeds, but yes, there's nothing saying there has to be a roll call vote on every item either on --

MEMBER JAMES: Are you going to do a showing of hands? Is that what you wanted to do or just --

CHAIRMAN RIDDLE: Well, I was just going to do voice votes. All in favor say aye.

MEMBER SIEMON: Hear a no.

CHAIRMAN RIDDLE: If I hear a no, then -- then -- then we'll do a roll call. So, and I don't -- in anyway, if anyone feels that they would -- well, I
guess either way you're being put on the spot how you vote. So, that you have to own your vote either way.

Yes, Kevin.

MEMBER O'RELL: Jim, just a question about -- you mentioned recusal, but --

CHAIRMAN RIDDLE: Yes.

MEMBER O'RELL: -- there may be people who according to our Board policy manual that you don't necessarily feel you can -- your recusal, but in transparency to declare that --

CHAIRMAN RIDDLE: Yes, if you have any interest to declare.

MEMBER O'RELL: Interest. Yes.

CHAIRMAN RIDDLE: Thank you.

MEMBER O'RELL: Okay.

CHAIRMAN RIDDLE: And then -- and we'll decide whether it warrants recusal or not. Yes. All right. Rose.

MEMBER KOENIG: You know, I know you're trying to save time, but I -- I -- I mean it sounds kind of probably stupid, but, you know, every vote
we're taking, we -- we do a name call. I think just for record keeping and making sure that there's no misunderstanding in terms of votes, if we do it by section, you're talking about, you know, ten votes. I just think just in terms of process, it probably makes sense to -- to record that way.

CHAIRMAN RIDDLE: That's fine. One objection and we'll go with a roll call every time. That's fine. I'm not going to spend more time discussing how to save time.

All right. So, now, we're going to do a roll call after each one. So, Mike and tell us where you're at in the book please.

MEMBER SIEMON: And that's for each letter, we're going to do a vote?

PARTICIPANT: Can you do a voice vote for each item?

CHAIRMAN RIDDLE: No, Rose would like us and that's fine. To do a -- we're going to do a roll call vote. That was -- but, by -- by section as presented yesterday.
MEMBER LACY: In my book, we're under the purple tab 6 and under the orange tab 205.603 and 604.

CHAIRMAN RIDDLE: Okay.

MEMBER LACY: This is list 205.603(a).
The Livestock Committee based on comments received recommends the renewal of the following substances in this use category, alcohol, aspirin, biologics, chlorhexidine.

The next one chlorine materials, the Livestock Committee is going to move that to the deferred list. So, you can strike that from -- from that. The Livestock Committee has not changed its mind that it thinks that that should be continued at this time, but since had gone out to get TAP review on or get more information on that, we will deferred it until that additional information comes in. So, strike chlorine materials.

Electrolytes, glucose, glycerin, hydrogen peroxide, iodine, magnesium sulfate, phosphoric acid.

The committee recommends deferring the vote on the following materials until further
technical information is obtains: oxytocin, parasitacides and chlorine materials.

MEMBER OSTIGUY: Second.

MEMBER SIEMON: But -- but, now we add chlorine to that list of two.

CHAIRMAN RIDDLE: Yes.

MEMBER SIEMON: I didn't hear that.

CHAIRMAN RIDDLE: He mentioned it above, but yes, it -- it would be transferred down to the lower list. So, that's the motion that's been made and seconded. Made by Mike. Seconded by Nancy.

Discussion. All right.

MEMBER LACY: Jim, just -- just to be sure we're clear on it. The Livestock Committee recommends not renewing the following substances and we have none in that category.

CHAIRMAN RIDDLE: Okay. Thanks. And also on the draft, you did delete that paragraph on page one and the explanation that was a technical error.

MEMBER LACY: Correct. We did. Yes. We did that yesterday. Right.
CHAIRMAN RIDDLE: Yes. Uh-huh. Okay.

Just to be clear.

Was that your point, Andrea?

MEMBER CAROE: Yes.

CHAIRMAN RIDDLE: Yes.

MEMBER CAROE: I just wanted to make sure.

CHAIRMAN RIDDLE: Okay. Any interest to declare in particular, specific. Okay. Seeing none.

I need discussion on this motion. Okay. Seeing none. We'll go to a roll call vote and this is on the 603(a) recommendation. Hugh.

MEMBER KARREMAN: Yes.

CHAIRMAN RIDDLE: Bea.

MEMBER JAMES: Yes.

CHAIRMAN RIDDLE: Rigo.

MEMBER DELGADO: Yes.

CHAIRMAN RIDDLE: Dave.

MEMBER CARTER: Yes.

CHAIRMAN RIDDLE: Gerald.

MEMBER DAVIS: Yes.

CHAIRMAN RIDDLE: Nancy.
MEMBER OSTIGUY: Yes.

CHAIRMAN RIDDLE: Kevin.

MEMBER O'RELL: Yes.

CHAIRMAN RIDDLE: Rose.

MEMBER KOENIG: Yes.

CHAIRMAN RIDDLE: George.

MEMBER SIEMON: Yes.

CHAIRMAN RIDDLE: Andrea.

MEMBER CAROE: Yes.

CHAIRMAN RIDDLE: Julie.

MEMBER WEISMAN: Yes.

CHAIRMAN RIDDLE: Mike.

MEMBER LACY: Yes.

CHAIRMAN RIDDLE: Chair yes. So, we have

-- Goldie.

MEMBER CAUGHLAN: Yes.

CHAIRMAN RIDDLE: I'm sorry.

MEMBER CAUGHLAN: I wouldn't let you get

away with that.

CHAIRMAN RIDDLE: And the Chair votes yes.

We have 14 yes, zero no, zero abstentions, et cetera.
Okay. Mike.

MEMBER LACY: Jim, we -- we have recommendations made that are not based upon comments received, none in this category. Do you want to vote on that?

CHAIRMAN RIDDLE: No.

MEMBER LACY: I -- I agree. I just -- just want to make sure it's okay with Rose.

MEMBER KOENIG: Yes.

MEMBER LACY: Synthetic substance allowed for use in -- this is 205.603(b). It's topical treatment and recommendations made based on comments received. The Livestock Committee recommends renewal of copper sulfate, iodine, lidocaine, mineral oil and procaine. We recommend deferring the vote on hydrated lime and we did not have anything that we did not recommend renewal on this time.

CHAIRMAN RIDDLE: And the same thing.

MEMBER OSTIGUY: Second.

CHAIRMAN RIDDLE: Second and there was also that paragraph on the following page.
MEMBER LACY: Right.

CHAIRMAN RIDDLE: Yes.

MEMBER LACY: Recommendation -- we had no recommendations not based on public comment.


MEMBER JAMES: Yes.

CHAIRMAN RIDDLE: Rigo.

MEMBER DELGADO: Yes.

CHAIRMAN RIDDLE: Dave.

MEMBER CARTER: Yes.

CHAIRMAN RIDDLE: Gerald.

MEMBER DAVIS: Yes.

CHAIRMAN RIDDLE: Nancy.

MEMBER OSTIGUY: Yes.

CHAIRMAN RIDDLE: Kevin.

MEMBER O'ReLL: Yes.

CHAIRMAN RIDDLE: Rose.

MEMBER KOENIG: Yes.
CHAIRMAN RIDDLE: George.

MEMBER SIEMON: Yes.

CHAIRMAN RIDDLE: Andrea.

MEMBER CAROE: Yes.

CHAIRMAN RIDDLE: Julie.

MEMBER WEISMAN: Yes.

CHAIRMAN RIDDLE: Mike.

MEMBER LACY: Yes.

CHAIRMAN RIDDLE: Goldie.

MEMBER CAUGHLAN: Yes.

CHAIRMAN RIDDLE: Hugh.

MEMBER KARREMAN: Yes.

CHAIRMAN RIDDLE: Chair votes yes.

Fourteen yes. Zero no.

MEMBER LACY: 205.603(c), Livestock Committee recommends based on comments received. We had no substances in the renewal category. We recommend deferring the vote on milk replacers. We had not items that we did not recommend for renewal and again, no recommendations made based on not receiving comments.
MEMBER OSTIGUY: Second.

MEMBER LACY: Thank you, Nancy.

CHAIRMAN RIDDLE: Okay. Moved by Mike. Seconded by Nancy. The 603(c) recommendation, any interest to declare? Any discussion? And -- and on this, the committee did talk about and identifying some questions for either public comment or the contractors. So, we did do a little work identifying that. All right.

So, we start with Rigo.

MEMBER DELGADO: Yes.

CHAIRMAN RIDDLE: Dave.

MEMBER CARTER: Yes.

CHAIRMAN RIDDLE: Gerald.

MEMBER DAVIS: Yes.

CHAIRMAN RIDDLE: Nancy.

MEMBER OSTIGUY: Yes.

CHAIRMAN RIDDLE: Kevin.

MEMBER O'ReLL: Yes.

CHAIRMAN RIDDLE: Rose.

MEMBER KOENIG: Yes.
CHAIRMAN RIDDLE:  George.

MEMBER SIEMON:  Yes.

CHAIRMAN RIDDLE:  Andrea.

MEMBER CAROE:  Yes.

CHAIRMAN RIDDLE:  Julie.

MEMBER WEISMAN:  Yes.

CHAIRMAN RIDDLE:  Mike.

MEMBER LACY:  Yes.

CHAIRMAN RIDDLE:  Goldie.

MEMBER CAUGHLAN:  Yes.

CHAIRMAN RIDDLE:  Hugh.

MEMBER KARREMAN:  Yes.

CHAIRMAN RIDDLE:  Bea.

MEMBER JAMES:  Yes.

CHAIRMAN RIDDLE:  Chair yes. Fourteen yes. Zero no.

MEMBER SIEMON:  We're on a roll.

CHAIRMAN RIDDLE:  Okay. Mike.

MEMBER LACY:  205.603(d), feed additives.

The Livestock Committee recommends the renewal of the following substances: trace minerals, vitamins. We
had no -- no substances to defer. None to not recommend and no recommendations based on not receiving comments.

MEMBER OSTIGUY: Second.


MEMBER CARTER: Yes.

CHAIRMAN RIDDLE: Gerald.

MEMBER DAVIS: Yes.

CHAIRMAN RIDDLE: Nancy.

MEMBER OSTIGUY: Yes.

CHAIRMAN RIDDLE: Kevin.

MEMBER O'RELL: Yes.

CHAIRMAN RIDDLE: Rose.

MEMBER KOENIG: Yes.

CHAIRMAN RIDDLE: George.

MEMBER SIEMON: Yes.

CHAIRMAN RIDDLE: Andrea.

MEMBER CAROE: Yes.
CHAIRMAN RIDDLE: Julie.

MEMBER WEISMAN: Yes.

CHAIRMAN RIDDLE: Mike.

MEMBER LACY: Yes.

CHAIRMAN RIDDLE: Bea.

MEMBER JAMES: Yes.

CHAIRMAN RIDDLE: I mean Goldie.

MEMBER CAUGHLAN: Yes.

CHAIRMAN RIDDLE: Hugh.

MEMBER KARREMAN: Yes.

CHAIRMAN RIDDLE: Bea.

MEMBER JAMES: Yes.

CHAIRMAN RIDDLE: Rigo.

MEMBER DELGADO: Yes.

CHAIRMAN RIDDLE: Chair votes yes.


MEMBER LACY: 205.603(e), Livestock Committee recommends on comments received renewal of EPA list for inerts. We had no deferrals, no substances not to -- that we're recommending not for renewals and no recommendations made not based on
comments received.

    MEMBER OSTIGUY: Second.

    CHAIRMAN RIDDLE: Moved by Mike. Seconded by Nancy. The recommendation on 603(e). Any interest to declare about inert? Any inert interest to declare? Seeing none. Any inert discussion? Seeing none. We'll start with Gerald.

    MEMBER DAVIS: Yes.

    CHAIRMAN RIDDLE: Nancy.

    MEMBER OSTIGUY: Yes.

    CHAIRMAN RIDDLE: Kevin.

    MEMBER O'RELL: Yes.

    CHAIRMAN RIDDLE: Rose.

    MEMBER KOENIG: Yes.

    CHAIRMAN RIDDLE: George.

    MEMBER SIEMON: Yes.

    CHAIRMAN RIDDLE: Andrea.

    MEMBER CAROE: Yes.

    CHAIRMAN RIDDLE: Julie.

    MEMBER WEISMAN: Yes.

    CHAIRMAN RIDDLE: Mike.
MEMBER LACY: Yes.

CHAIRMAN RIDDLE: Goldie.

MEMBER CAUGHLAN: Yes.

CHAIRMAN RIDDLE: Hugh.

MEMBER KARREMAN: Yes.

CHAIRMAN RIDDLE: Bea.

MEMBER JAMES: Yes.

CHAIRMAN RIDDLE: Rigo.

MEMBER DELGADO: Yes.

CHAIRMAN RIDDLE: Dave.

MEMBER CARTER: Yes.

CHAIRMAN RIDDLE: Chair yes. Fourteen yes. Zero no.

MEMBER LACY: Okay. This is 205.604 and just so I won't get tongue-tied again as I did yesterday, these are non-synthetic substances provided for use in organic livestock production. The committee recommends the renewal of the following substance in this use category which means that this substance would continue to be prohibited: strychnine. The Livestock Committee has no substances
to defer, none to recommend for -- for non-renewal in this category and no recommendations made not based on comments received.

MEMBER OSTIGUY: Second.


Nancy.

MEMBER OSTIGUY: Yes.

CHAIRMAN RIDDLE: Kevin.

MEMBER O’RELL: Yes.

CHAIRMAN RIDDLE: Rose.

MEMBER KOENIG: Yes.

CHAIRMAN RIDDLE: George.

MEMBER SIEMON: Yes.

CHAIRMAN RIDDLE: Andrea.

MEMBER CAROE: Yes.

CHAIRMAN RIDDLE: Julie.

MEMBER WEISMAN: Yes.

CHAIRMAN RIDDLE: Mike.
MEMBER LACY: Yes.

CHAIRMAN RIDDLE: Goldie.

MEMBER CAUGHLAN: Yes.

CHAIRMAN RIDDLE: Hugh.

MEMBER KARREMAN: Yes.

CHAIRMAN RIDDLE: Bea.

MEMBER JAMES: Abstain.

CHAIRMAN RIDDLE: Now, that threw me.

Rigo.

MEMBER DELGADO: Yes.

CHAIRMAN RIDDLE: Dave.

MEMBER CARTER: Yes.

CHAIRMAN RIDDLE: Gerald.

MEMBER DAVIS: Yes.

CHAIRMAN RIDDLE: Chair vote yes. So, we have 13 yes. Zero no. One abstention.

MEMBER SIEMON: And throughout these, we all know there's this typo in here about the number. Right. That's noted about the numbers here.

CHAIRMAN RIDDLE: I'm sorry. Could you point --
MEMBER SIEMON: On all these out -- like this one say 601(e).

CHAIRMAN RIDDLE: Oh.

MEMBER SIEMON: They all have not corresponded with the top I. So, I -- I'm -- just a technical thing.

CHAIRMAN RIDDLE: Okay.

MEMBER SIEMON: All the way through, they've been mislabeled.

MEMBER LACY: That will be corrected in the final version.

CHAIRMAN RIDDLE: Thanks, George, because I hadn't caught that.

MEMBER SIEMON: Yes.

CHAIRMAN RIDDLE: So, yes, I'd ask the committee to correct that for the final versions that are submitted to the program.

Okay. Right here and -- and again here. Right. You just need to double check and make sure they match up to that particular --
MEMBER SIEMON: The -- the top one's right.

CHAIRMAN RIDDLE: Yes. It's just the wonders of copy and paste. Yes. Right. So, just double check that. Okay. That's it for the Livestock material Sunset reviews for this round. Thanks, Mike. Thanks, Nancy. For all your work in preparing this and -- and the rest of the committee.

Okay. We go to Handling.

MEMBER O'RELL: Handling 205.605(a) for non-synthetics allowed, I move that the Board would accept the Handling Committee recommendation for the following substances to continue use as published in the final rule. Do I need to read all these?

MEMBER DELGADO: Yes.

CHAIRMAN RIDDLE: I guess so.

MEMBER O'RELL: I guess so. Acids, bentonite, calcium carbonate, calcium chloride, carageenan, daily cultures, diatomaceous earth, enzymes, kaolin, magnesium sulfate, nitrogen, oxygen, perlite, potassium chloride, potassium iodide, sodium
bicarbonate, sodium carbonate, waxes, non-synthetic yeast.

The Handling Committee also recommends deferring vote on the following materials: colors and flavors.

The Handling Committee recommends no substances for non-renewal.

Is there a second?

CHAIRMAN RIDDLE: Is there a second?

MEMBER SIEMON: I'll second.

CHAIRMAN RIDDLE: George seconds. Moved by Kevin. Seconded by George. The committee's recommendation on 605(a). Are there any interests to declare?

MEMBER WEISMAN: Yes.

CHAIRMAN RIDDLE: Goldie. I mean Julie.

MEMBER WEISMAN: Okay. I -- my company's involved in making favors non-synthetic and as well as organic flavors. So, I just -- both. So, I don't -- I need some advice from the Board as to whether you feel I should recuse myself.
MEMBER CAUGHLAN: I see no need for you to recuse.

CHAIRMAN RIDDLE: Rose.

MEMBER KOENIG: Since we're not really voting on them other than a deferral, I would say it would be fine, but you should disclose that next time when we're actually taking a note and --

MEMBER WEISMAN: Right.

MEMBER KOENIG: -- and the committee may change. Um-hum.

MEMBER WEISMAN: Thank you.

CHAIRMAN RIDDLE: Kevin.

MEMBER O'RELL: Just -- are we done with them?

CHAIRMAN RIDDLE: No. I -- yes, I'll -- I'll -- so, does anyone -- it's suggested that especially since the vote today is on deferral that that is -- there doesn't rise to the need to recuse, but to just please bring it back up again for the final vote on its renewal. Okay. Now.

MEMBER O'RELL: In -- in terms of interest
to declare, I work for a company that utilizes a number of these materials and -- and products.

CHAIRMAN RIDDLE: Okay. Does anyone have a -- is there a unique interest here?

MEMBER SIEMON: I could say the same thing.

CHAIRMAN RIDDLE: Okay. Would you?

MEMBER SIEMON: But, using them is not the same having in my opinion, but I'm in the same position.

CHAIRMAN RIDDLE: Okay. All right. Does anyone feel that represents a unique interest that rises to the need for recusal? Rose.

MEMBER KOENIG: I just wanted it clear. None of your companies manufacture any of them. You're just utilizing them. So, you're not gaining any economic benefits.

MEMBER O'RELL: Correct. Correct.

CHAIRMAN RIDDLE: Okay. Thank you.

MEMBER O'RELL: And that will be the same for 605(b) and 606.
CHAIRMAN RIDDLE: Right. We'll get to that unfortunately when we --

MEMBER O'RELL: Well, I'd like to get -- can't we just cover it in one blanket exemption.

CHAIRMAN RIDDLE: I think so. I mean on -- on this particular issue, yes. I think that. I appreciate you bringing that up and I assume that's the same for George.

MEMBER SIEMON: Yes.

CHAIRMAN RIDDLE: Okay.

MEMBER KARREMAN: I -- I don't have any interest in it, but Kevin mis-spoke on one of those going down the list. He said non-synthetic yeast and it's listed as yeast and then the annotation.

CHAIRMAN RIDDLE: I was -- I thought he was saying waxes and then said non-synthetic and yeast and then kind of -- I didn't know where the non-synthetic --

MEMBER KARREMAN: We're not -- we're not talking annotations at all. So --
CHAIRMAN RIDDLE: No. No. No, for clarity.

MEMBER O'RELL: It's -- yes, wax is non-synthetic. Wax is non-synthetic. Yes.

MEMBER KARREMAN: Yeast. Oh, that's the actual.

CHAIRMAN RIDDLE: It's a description of --

MEMBER O'RELL: It's a description of -- it's the annotation that is listed under 605(a).

CHAIRMAN RIDDLE: All right. No further discussion. We'll vote on recommendation on 605(a) and we start with Kevin.

MEMBER O'RELL: Yes.

CHAIRMAN RIDDLE: Rose.

MEMBER KOENIG: Yes.

CHAIRMAN RIDDLE: George.

MEMBER SIEMON: Yes.

CHAIRMAN RIDDLE: Andrea.

MEMBER CAROE: Yes.

CHAIRMAN RIDDLE: Julie.

MEMBER WEISMAN: Yes.
CHAIRMAN RIDDLE: Mike.

MEMBER LACY: Yes.

CHAIRMAN RIDDLE: Goldie.

MEMBER CAUGHLAN: Yes.

CHAIRMAN RIDDLE: Hugh.

MEMBER KARREMAN: Yes.

CHAIRMAN RIDDLE: Bea.

MEMBER JAMES: Yes.

CHAIRMAN RIDDLE: Rigo.

MEMBER DELGADO: Yes.

CHAIRMAN RIDDLE: Dave.

MEMBER CARTER: Yes.

CHAIRMAN RIDDLE: Gerald.

MEMBER DAVIS: Yes.

CHAIRMAN RIDDLE: Nancy.

MEMBER OSTIGUY: Yes.


MEMBER O'RELL: 605(b), before I make the motion, I just wanted to point out a couple of changes
that the committee has discussed and because we haven't completed a draft for everybody to see so that you can follow what's been changed, under committee recommendations, chlorine materials, it was felt by the committee in order to be consistent with other committee recommendations and the fact that a TAP review on chlorine is coming, that we would agree to move that to a deferred material.

We also had a meeting this morning and discussed and reviewed ethylene. We looked at the comment that was made -- the one comment that was made for not renewing ethylene.

CHAIRMAN RIDDLE: Not deferring.

MEMBER O'RELL: Not deferring. Thank you.

Not deferring ethylene and realized that that comment and information is not new information and it was the same going back into the TAP which is a recent and it's a well-done TAP from 1999. That issue was addressed in the TAP and covered at that time and the Board voted to pass this material. So, we are changing our recommendation and moving ethylene from
the deferred to renewal status.

    So, with that, I will read through the
motion.

CHAIRMAN RIDDLE: Excuse, Kevin. And the
committee voted on that?

MEMBER O'ReLL: And the committee voted on
that.

CHAIRMAN RIDDLE: And what was the result
of the vote?

MEMBER O'ReLL: It was four to nothing,
one absent.

CHAIRMAN RIDDLE: Okay. Thanks.

MEMBER CAROE: He also had a typo.

CHAIRMAN RIDDLE: Oh, yes, the ascorbic
acid.

MEMBER O'ReLL: Ascorbic acid typo and
that -- thank you, Andrea. And all that will be
corrected in the final version that gets submitted.

CHAIRMAN RIDDLE: Okay.

MEMBER O'ReLL: So, with -- with that
discussion, I would move that the Board accept the
Handling Committee's recommendation for --

MEMBER SIEMON: I would second. Go ahead.

Sorry.

MEMBER O'RELL: I like that process, George, but --

MEMBER SIEMON: Right.

MEMBER O'RELL: -- a blanket. For the renewal of the following substances in this use category which is 205, 605(b) as published in the final rule: alginates, ammonium bicarbonate, ammonium carbonate, ascorbic acid corrected, calcium citrate, calcium hydroxide, calcium phosphates, carbon dioxide, ferrous sulfate, ethylene, glycerides, glycerin, hydrogen peroxide, magnesium carbonate, magnesium chloride, magnesium stearate, nutrients, vitamin and minerals, ozone, pectin, phosphoric acid, potassium acid tartrate, potassium carbonate, potassium citrate, potassium hydroxide, potassium iodide, potassium phosphate, silicon dioxide, sodium citrate, sodium hydroxide, sodium phosphates, sulfur dioxide, tartaric acid, tocopherols, xanthan gum.
Further, the Handling Committee would recommend deferring the vote on the following materials: chlorine materials and lecithin bleach and the Handling Committee would recommend not renewing the following substance: potassium tartrate made from tartaric acid.

CHAIRMAN RIDDLE: Okay. Is there a second?

MEMBER CAROE: Second.

CHAIRMAN RIDDLE: Andrea.

MEMBER CAROE: Second.

CHAIRMAN RIDDLE: Andrea second. All right. Okay. And it's moved and seconded. Are there any interest to declare other than ones already stated by George and Kevin.

MEMBER JAMES: Yes.

CHAIRMAN RIDDLE: Bea.

MEMBER JAMES: Our facility has ethylene ripening rooms. So, don't know if that's a -- you know, would require recusing or not.
CHAIRMAN RIDDLE: Are you the only the facility that has them?

MEMBER JAMES: In --

CHAIRMAN RIDDLE: That you know of.

MEMBER JAMES: No.

CHAIRMAN RIDDLE: That's a trick question.

So, you're not in a unique position. Are there any members that feel that is grounds for any refusal? Appreciate you bringing that up.

Anyone else? Good. Any discussion?

Seeing none. Oh, yes, sorry, Gerry.

MEMBER DAVIS: On the items such as magnesium carbonate, magnesium stearate where it has that disclaimer next to it on the made with organic versus organic, does that still exist? Is what we're voting on? As it --

CHAIRMAN RIDDLE: Right. That's part of the annotation.

MEMBER O'RELL: Part of the current annotation.

MEMBER DAVIS: At the moment, that's the
way it still is?

MEMBER O'RELL: That's -- that is the annotation in the listing.

CHAIRMAN RIDDLE: Right. Rigo.

MEMBER DELGADO: I have a question. What was the information that you found at the TAP that made you decide to renew ethylene? I was wondering.

MEMBER O'RELL: The -- the comment that came from the objector to renewal of ethylene pointed out that it was not consistent with organic agriculture and that going back into TAP was discussed and addressed and the Board vote at that time felt that it was consistent and we are trying to be consistent with the upcoming crops vote who also had the same objection for their material for ethylene for use in pineapple flowering.

MEMBER DELGADO: Okay. Thank you.

CHAIRMAN RIDDLE: Okay. Any other discussion? Andrea.

MEMBER CAROE: Just a point of information. You know, this Board should respect the
previous decisions of other Boards and that -- since there's no information, it's a matter of we're not going to overrule what a previous Board decision was concerning ethylene.

MEMBER KOENIG: I -- I -- that's not 100 percent accurate. What's accurate is and was in fact there's -- there's no new information -- that -- that statement was not one of the types of information that was -- that would change a decision.

There -- in the Federal Register notice, you had to show either alternatives or you had to show availability of organic forms, you know, in terms of handling.

Like I said to -- to -- to Kevin, I mean I'm not going to sit here and argue. I think, you know, that's a philosophical issue. That issue is dealt with in the first Board and they made that decision and I agree that was something that we don't go back on although we acknowledge that -- that everybody has a right to own philosophy.

The Sunset in particular, the changes that could
be made in Sunset had to do with those specified in
the Federal Register notice and, you know, we should
be consistent. The ones that we're pulling, the
information we're gathering is inconsistence either
with OFPA or alternative we're going to explore that
may now be available that weren't available. Organic
forms that are now available that weren't available.

MEMBER CAROE: Agreed, but that would be
new information. There's no new information. We're
introducing absolutely no new information --

MEMBER KOENIG: Right.

MEMBER CAROE: -- that wasn't looked at by
that Board that originally put this on the list.

MEMBER KOENIG: Right.

MEMBER CAROE: So, their decision stands.

MEMBER KOENIG: Right. Yes, I agree. I
just -- I didn't want -- I'm saying, but even if
they're -- no matter how many people said that, we
can't consider that information as an argument because
it wasn't one that was considered in that Federal
Register notice.
MEMBER O'RELL: I think the point is there was nothing new brought out by the comment that hadn't been previously addressed by the past Board's decision.

MEMBER DELGADO: And I would expect that if there's new --

CHAIRMAN RIDDLE: Speak up.

MEMBER DELGADO: I would expect that if there's new information to prove that a substance should be eliminated from that list, we will be using that information to get rid of that.

MEMBER KOENIG: Yes.

CHAIRMAN RIDDLE: Yes.

MEMBER O'RELL: If there was new information, we most likely would have deferred to study that new information to see if it's relevant.

MEMBER DELGADO: Thank you.

CHAIRMAN RIDDLE: Okay. Discussion? See if that's the end. Okay. We will vote and we have Rose.

MEMBER KOENIG: Yes.
CHAIRMAN RIDDLE: George.
MEMBER SIEMON: Yes.

CHAIRMAN RIDDLE: Andrea.
MEMBER CAROE: Yes.

CHAIRMAN RIDDLE: Julie.
MEMBER WEISMAN: Yes.

CHAIRMAN RIDDLE: Mike.
MEMBER LACY: Yes.

CHAIRMAN RIDDLE: Goldie.
MEMBER CAUGHLAN: Yes.

CHAIRMAN RIDDLE: Hugh.
MEMBER KARREMAN: Yes.

CHAIRMAN RIDDLE: Bea.
MEMBER JAMES: Yes.

CHAIRMAN RIDDLE: Rigo.
MEMBER DELGADO: Yes.

CHAIRMAN RIDDLE: Dave.
MEMBER CARTER: Yes.

CHAIRMAN RIDDLE: Gerald.
MEMBER DAVIS: Yes.

CHAIRMAN RIDDLE: Nancy.
MEMBER OSTIGUY: Yes.

CHAIRMAN RIDDLE: Kevin.

MEMBER O'RELL: Yes.

CHAIRMAN RIDDLE: Chair vote yes and so we have 14 yes. Zero no.

MEMBER O'RELL: Moving on to 606. Julie led our discussion yesterday. I -- I would move that the Board would accept the Handling Committee recommendation that recommends for the renewal of the following substances in this use category: cornstarch, gums, kelp and pectin.

Further, the Handling Committee recommends deferring the vote on lecithin unbleached and further, there are no substances in this category that are not being renewed with this vote.

MEMBER OSTIGUY: Second.

CHAIRMAN RIDDLE: Okay. Moved and seconded the committee recommendation on 606. Any interest to declare beyond those George and Kevin have already stated? They use some of these things.

Julie.
MEMBER WEISMAN: I -- I'm in the same category as -- as Kevin and George.

CHAIRMAN RIDDLE: Okay. But, you're not a manufacturer of these items?

MEMBER WEISMAN: No. No, I use them.

CHAIRMAN RIDDLE: Okay. Your company uses them. All right.

Any discussion of the recommendation?

MEMBER SIEMON: Yes.

CHAIRMAN RIDDLE: George.

MEMBER SIEMON: Kind of going back to the previous discussions. You know, this whole overall process we're relying on the public to give us new input. So, like is there, you know, available cornstarch. You know, I read the front page that there was no information about supply. So, we're -- we're really relying on the public to inform us as much as -- versus our own -- it goes back to our previous -- versus our own research and, you know, support by NOP. We're -- we're really relying on the
community to tell us what's up. What do you think?

Because --

CHAIRMAN RIDDLE: Yes.

MEMBER SIEMON: -- you know, I mean I don't know if there's organic cornstarch or not at this time.

CHAIRMAN RIDDLE: Okay. And yes, I have a comment. Then Nancy and then Kevin.

And I just want to remind everyone that this whole process, the next step once we finish our recommendations will be proposed rule. So, there still will be an opportunity for the public to comment to the program or to the department not to the Board again, but yes, the burden is on the public to comment if they have information.

Nancy.

MEMBER OSTIGUY: The way that I have viewed this is that we start with the Board's information. That's how we selected some items that we wanted to look at in greater detail was based upon Board knowledge, but in case we don't know something,
we didn't want to restrict it to that and that's when it went out to the public and relying then on public knowledge.

So, it was to make sure that we were the most inclusive that we could be.

CHAIRMAN RIDDLE: Kevin, any --

MEMBER O'RELL: Right.

CHAIRMAN RIDDLE: You want add.

MEMBER O'RELL: Well, I guess -- and -- and specifically in these terms on some of these materials, we didn't hear from any manufacturers or suppliers of these ingredients coming -- yes.

MEMBER SIEMON: So, there's kind of self-interested.

MEMBER OSTIGUY: Right.

MEMBER SIEMON: People should have served if there was available.

MEMBER O'RELL: Absolutely.

CHAIRMAN RIDDLE: Rose.

MEMBER KOENIG: That's not to say that there were statements stating that. There were some
gums that were commercially available. The difference between the lecithin and the comments on gums and I think cornstarch also was that manufacturer actually said yes, I can produce it. I have it in ample quantity and quality. Were the others were just -- just general information. We know it's being -- we know it's out there, but without a manufacturer saying I have the quantity, we just couldn't really go there on those other products.

CHAIRMAN RIDDLE: Okay. Anymore discussion? Seeing none. We'll start with the vote and this is on 606 recommendation from the committee.

George.

MEMBER SIEMON: Oh, boy. I'm going to abstain.

CHAIRMAN RIDDLE: Abstain. Andrea.

MEMBER CAROE: Yes.

CHAIRMAN RIDDLE: Julie.

MEMBER WEISMAN: Yes.

CHAIRMAN RIDDLE: Mike.

MEMBER LACY: Yes.
CHAIRMAN RIDDLE: Goldie.
MEMBER CAUGHLAN: Yes.

CHAIRMAN RIDDLE: Hugh.
MEMBER KARREMAN: Yes.

CHAIRMAN RIDDLE: Bea.
MEMBER JAMES: Yes.

CHAIRMAN RIDDLE: Rigo.
MEMBER DELGADO: Yes.

CHAIRMAN RIDDLE: Dave.
MEMBER CARTER: Yes.

CHAIRMAN RIDDLE: Gerald.
MEMBER DAVIS: Yes.

CHAIRMAN RIDDLE: Nancy.
MEMBER OSTIGUY: Yes.

CHAIRMAN RIDDLE: Kevin.
MEMBER O'RELL: Yes.

CHAIRMAN RIDDLE: Rose.
MEMBER KOENIG: Yes.

CHAIRMAN RIDDLE: Chair yes and so we have


Okay. That concludes it for the Handling
Committee and once again, I thank Kevin and members of
the Handling Committee for your excellent preparation
there. Facilitate a good discussion and good vote.

Okay. We'll go to the Crops Committee.

MEMBER OSTIGUY: Okay. I'm handing around
revisions because there were a fair number of them.
There aren't enough actually for everybody to have
one. There are eight total that are going on both
sides of me. So, somebody is going to have to share.

MEMBER CARTER: Rigo and I can share.

MEMBER OSTIGUY: There are two pages. One
page is back-to-back. The second page is by itself.
601 is the first page. Okay.

CHAIRMAN RIDDLE: All right. Have order
again please?

MEMBER OSTIGUY: What I'd done because
there are revisions, I redid all the categories. So,
all of them are there, but the ones that we moved are
in bold so people notice what we've done.

Okay. Starting with 205.601(a) as
algicides, disinfectants and sanitizers including irrigation system cleaning systems, the Crops Committee recommends the renewal of the following substances: alcohol, ozone gas, periacetic acid, soap-based algicides and delousers. The Crops Committee also recommends the deferral of vote on chlorine materials, hydrogen peroxide and there are no recommendations for not renewing a substance.

CHAIRMAN RIDDLE: Okay. That's a motion. Is there a second?

MEMBER DAVIS: Second.


MEMBER KOENIG: Just a typo. In the committee summary, the committee agrees. Not in your thing, but in the original recommendation. Just -- just to note it so we'll fix it. It says the -- the committee agrees. Agress.

CHAIRMAN RIDDLE: Oh. I see. Okay. Right. Right there. All right. George.
MEMBER SIEMON: I asked this question yesterday. I didn't take very good notes. Why -- why hydrogen peroxide?

MEMBER OSTIGUY: What -- there was mentioned in the -- some of the comments that there is new data available concerning environmental impacts, health effects and most especially potential alternatives and those are the -- those are the questions that we need to address.

The committee is erring on the side of checking to make sure that there's no new information that would alter our decision. It's not in anyway, shape or form an expectation that we will alter it, but we did not have any time to be able to start looking at these things in any kind of detail.

CHAIRMAN RIDDLE: Okay. Any other discussion on this? Seeing none. We'll vote on the committee's recommendation on 601(a) and we will begin with Andrea.

MEMBER CAROE: Yes.

CHAIRMAN RIDDLE: Julie.
MEMBER WEISMAN: Yes.

CHAIRMAN RIDDLE: Mike.

MEMBER LACY: Yes.

CHAIRMAN RIDDLE: Goldie.

MEMBER CAUGHLAN: Yes.

CHAIRMAN RIDDLE: Hugh.

MEMBER KARREMAN: Yes.

CHAIRMAN RIDDLE: Bea.

MEMBER JAMES: Abstain.

CHAIRMAN RIDDLE: Rigo.

MEMBER DELGADO: Yes.

CHAIRMAN RIDDLE: Dave.

MEMBER CARTER: Yes.

CHAIRMAN RIDDLE: Gerald.

MEMBER DAVIS: Yes.

CHAIRMAN RIDDLE: Nancy.

MEMBER OSTIGUY: Yes.

CHAIRMAN RIDDLE: Kevin.

MEMBER O'RELL: Yes.

CHAIRMAN RIDDLE: Rose.

MEMBER KOENIG: Yes.
CHAIRMAN RIDDLE: George.

MEMBER SIEMON: Yes.

CHAIRMAN RIDDLE: Chair yes. So we have 13 yes. Zero no. One abstention.

Nancy.

MEMBER OSTIGUY: Okay. The committee moves under Section 205.601(b) as herbicides, weed barriers as applicable, we recommend the renewal of the following substances: herbicides soap-based, mulches, newspaper, other recycled paper and plastic mulch and covers. There are no materials that are being recommended for deferral or for non-renewal.

CHAIRMAN RIDDLE: Okay. Is there a second?

MEMBER DAVIS: Second.


MEMBER KOENIG: I use plastic mulch. I'm sure, Gerald, do you use it?
CHAIRMAN RIDDLE: And so does Gerald.

MEMBER DAVIS: Our farm uses some plastic mulch.

CHAIRMAN RIDDLE: Okay. So, you're obviously not the only ones. So, it's not a unique interest.

MEMBER CAUGHLAN: Question.

CHAIRMAN RIDDLE: Goldie.

MEMBER CAUGHLAN: You -- you say plastic mulch and covers, but you didn't --

MEMBER OSTIGUY: I -- I did not write down all of the annotations.

MEMBER CAUGHLAN: So, this is the shorthand. Okay.

MEMBER OSTIGUY: Yes, this is the short one. I had to type from scratch to -- to get this ready for us.

MEMBER CAUGHLAN: All right. As long as there's not any intent to change any --

MEMBER CAUGHLAN: Couldn't be. Yes.

Well, good.

CHAIRMAN RIDDLE: And -- and -- and -- yes, and I -- I -- just to follow up on that, a request that -- that the changes that are being adopted will be inserted in the comprehensive.

MEMBER OSTIGUY: Obviously.

CHAIRMAN RIDDLE: Yes, and also Kevin had asked me about this and -- and the process will follow. Will be the committee chairs polish these up and submit them to me as the chair of record for this meeting and then I will review them and put them on those official committee or Board recommendation forms and submit them to the program. So, I ask each of the chairs to get those back in to me first and then I'll turn them into the program. Okay.

So, we're back to 601(b) recommendation.

Any other discussion?

MEMBER CAROE: Just --

CHAIRMAN RIDDLE: Andrea.

MEMBER CAROE: -- just want to -- just
want to clarify the change that was made was the newspaper which was on the deferred based on -- not on comment is now for renewal, for relist.

MEMBER OSTIGUY: Correct. That's why it's in bold.

MEMBER CAROE: Okay. Well, I just want to --

CHAIRMAN RIDDLE: Hugh.

MEMBER KARREMAN: Whatever happened with -- I don't know where it is, but the newspaper with glossy or colored inks? I mean, you know, that's out there. Sorry to bring that in.

MEMBER OSTIGUY: But, we can't use it.

MEMBER KARREMAN: It's just prohibited.

MEMBER OSTIGUY: Right and the original reasoning was the materials that are used -- were used to make the inks.

MEMBER KARREMAN: Back then.

MEMBER OSTIGUY: It may not be applicable anymore because of soy-based inks, but we are not -- we're not dealing with annotations at this time.
So, newspaper and other paper would still need to be on the list because of potentially how it's manufactured, but we might not need that annotation because of the soy-based inks. There's a lot of papers that are available that are soy-based inks.

MEMBER KARREMAN: Standard Sunday papers are that way now?

MEMBER OSTIGUY: Excuse me.

MEMBER KARREMAN: Your standard Sunday papers are that way now?

MEMBER OSTIGUY: Yes.

CHAIRMAN RIDDLE: But, it would take a petition to drive a change to the annotation.


Okay.

CHAIRMAN RIDDLE: Okay. Any other discussion?

MEMBER SIEMON: Call the question.

CHAIRMAN RIDDLE: Okay. We have a committee recommendation on 601(b) and we will vote beginning with Julie.
CHAIRMAN RIDDLE: Julie.

MEMBER WEISMAN: Yes.

CHAIRMAN RIDDLE: Mike.

MEMBER LACY: Yes.

CHAIRMAN RIDDLE: Goldie.

MEMBER CAUGHLAN: Yes.

CHAIRMAN RIDDLE: Hugh.

MEMBER KARREMAN: Yes.

CHAIRMAN RIDDLE: Bea.

MEMBER JAMES: Yes.

CHAIRMAN RIDDLE: Rigo.

MEMBER DELGADO: Yes.

CHAIRMAN RIDDLE: Dave.

MEMBER CARTER: Yes.

CHAIRMAN RIDDLE: Gerald.

MEMBER DAVIS: Yes.

CHAIRMAN RIDDLE: Nancy.

MEMBER OSTIGUY: Yes.

CHAIRMAN RIDDLE: Kevin.

MEMBER O'RELL: Yes.

CHAIRMAN RIDDLE: Rose.
MEMBER KOENIG: Yes.

CHAIRMAN RIDDLE: George.

MEMBER SIEMON: Yes.

CHAIRMAN RIDDLE: Andrea.

MEMBER CAROE: Yes.

CHAIRMAN RIDDLE: Chair votes yes. So we have 14 yes. Zero no.

Okay. Nancy.

MEMBER OSTIGUY: 205.601 as compost feed stocks, the Crops Committee recommends the renewing of newspaper and/or other recycled paper without glossy or colored inks. The Crops Committee has no materials recommended for deferral or non-renewal in this category.

CHAIRMAN RIDDLE: Okay. Second.

MEMBER DAVIS: Second.

CHAIRMAN RIDDLE: Okay. Moved by Nancy. Seconded by Gerald. It's the 601(c) recommendation. Any interest to declare? Seeing none. Any discussion? Seeing none. We'll start the vote with Mike.
MEMBER LACY: Yes.

CHAIRMAN RIDDLE: Goldie.

MEMBER CAUGHLAN: Yes.

CHAIRMAN RIDDLE: Hugh.

MEMBER KARREMAN: Yes.

CHAIRMAN RIDDLE: Bea.

MEMBER JAMES: Yes.

CHAIRMAN RIDDLE: Rigo.

MEMBER DELGADO: Yes.

CHAIRMAN RIDDLE: Dave.

MEMBER CARTER: Yes.

CHAIRMAN RIDDLE: Gerald.

MEMBER DAVIS: Yes.

CHAIRMAN RIDDLE: Nancy.

MEMBER OSTIGUY: Yes.

CHAIRMAN RIDDLE: Kevin.

MEMBER O'RELL: Yes.

CHAIRMAN RIDDLE: Rose.

MEMBER KOENIG: Yes.

CHAIRMAN RIDDLE: George.

MEMBER SIEMON: Yes.
CHAIRMAN RIDDLE: Andrea.

MEMBER CAROE: Yes.

CHAIRMAN RIDDLE: Julie.

MEMBER WEISMAN: Yes.

CHAIRMAN RIDDLE: Chair's yes. Fourteen yes. Zero no.

MEMBER OSTIGUY: Okay. 205.601(d) as animal repellents. The Crops Committee recommends the renewal of soaps ammonium. There are no materials recommended for deferral or non-renewal.

MEMBER DAVIS: Second.


MEMBER CAUGHLAN: Yes.

CHAIRMAN RIDDLE: Hugh.

MEMBER KARREMAN: Yes.

CHAIRMAN RIDDLE: Bea.
MEMBER JAMES: Yes.
CHAIRMAN RIDDLE: Rigo.
MEMBER DELGADO: Yes.
CHAIRMAN RIDDLE: Dave.
MEMBER CARTER: Yes.
CHAIRMAN RIDDLE: Gerald.
MEMBER DAVIS: Yes.
CHAIRMAN RIDDLE: Nancy.
MEMBER OSTIGUY: Yes.
CHAIRMAN RIDDLE: Kevin.
MEMBER O'RELL: Yes.
CHAIRMAN RIDDLE: Rose.
MEMBER KOENIG: Yes.
CHAIRMAN RIDDLE: George.
MEMBER SIEMON: Yes.
CHAIRMAN RIDDLE: Andrea.
MEMBER CAROE: Yes.
CHAIRMAN RIDDLE: Julie.
MEMBER WEISMAN: Yes.
CHAIRMAN RIDDLE: Mike.
MEMBER LACY: Yes.
CHAIRMAN RIDDLE: Chair's yes. Fourteen yes. Zero no.

All right. Next, Nancy.

MEMBER OSTIGUY: 205.601(e) as insecticides. The Crops Committee recommends the renewal of ammonium carbonate, boric acid, elemental sulfur, lime sulfur, soaps insecticidal, sticky traps barriers.

The committee recommends deferral on horticultural oils.

There are no materials being recommended for non-renewal.

CHAIRMAN RIDDLE: Okay.

MEMBER DAVIS: Second.


MEMBER JAMES: I just have a question. I'm -- okay. I'm looking at the -- the updated draft and the -- the updated recommendation is suppose to be
the final. Right? And then what's in here -- this is
going to be merged into this draft. Well, it -- you
mentioned lime sulfur, but it doesn't say lime sulfur
on the page that was -- that was --

MEMBER OSTIGUY: That -- that is a
mistake. It should be on there.

MEMBER JAMES: Okay.

MEMBER OSTIGUY: It's just I left it
off --

MEMBER JAMES: Okay.

MEMBER OSTIGUY: -- inadvertently. So,
yes, lime sulfur is part of that list.

MEMBER JAMES: All right. And I -- I
guess I just -- it's -- it's a little difficult to
follow all of this with the changes and I appreciate
and I understand that sometimes last minute things
happen, but I -- I mean I just -- I don't think that
should be --

MEMBER SIEMON: But, there's only two
changes throughout this. That's the bold.
MEMBER OSTIGUY: That's right.

MEMBER SIEMON: There's only two changes.

CHAIRMAN RIDDLE: Yes.

MEMBER SIEMON: B and then that --

MEMBER JAMES: No, there's three. No, the very next page has the next one J.

CHAIRMAN RIDDLE: Yes, there's three.

MEMBER SIEMON: Oh, I'm sorry. I didn't see that. Yes. Maybe it would be better if you just had those three only and not the other ones. Might have been better, but I -- I --

MEMBER OSTIGUY: And -- and in the past, then I -- then people have wanted the whole thing. So, it's six of one.

MEMBER SIEMON: Appreciate.

CHAIRMAN RIDDLE: All right. But, good catch on the lime sulfur. All right. Any further discussion? Andrea, I'm sorry.

MEMBER CAROE: Could you just restate the -- the comments in the -- that -- that put the oil on the deferred list? What was the concern?
MEMBER OSTIGUY: There were no concerns expressed. What was indicated is that there are now non-synthetic alternatives and so, that's what we want to explore.

MEMBER DAVIS: Mainly efficacious vegetable oils that will do the same thing that are not synthetic.

MEMBER CAROE: Okay. Thank you.

CHAIRMAN RIDDLE: Okay. Any other discussion? All right. Seeing none. We'll go to a vote and we start with Hugh and this is on the committee's recommendation on 601(c).

MEMBER CAUGHLAN: He's absent for a moment.

CHAIRMAN RIDDLE: Absent for a moment. See if he's back by the time we're done.

Then Bea.

MEMBER JAMES: Yes.

CHAIRMAN RIDDLE: Rigo.

MEMBER DELGADO: Yes.

CHAIRMAN RIDDLE: Dave.
MEMBER CARTER: Yes.

CHAIRMAN RIDDLE: Gerald.

MEMBER DAVIS: Yes.

CHAIRMAN RIDDLE: Nancy.

MEMBER OSTIGUY: Yes.

CHAIRMAN RIDDLE: Kevin.

MEMBER O'RELL: Yes.

CHAIRMAN RIDDLE: Rose.

MEMBER KOENIG: Yes.

CHAIRMAN RIDDLE: George.

MEMBER SIEMON: Yes.

CHAIRMAN RIDDLE: Andrea.

MEMBER CAROE: Yes.

CHAIRMAN RIDDLE: Julie.

MEMBER WEISMAN: Yes.

CHAIRMAN RIDDLE: Mike.

MEMBER LACY: Yes.

CHAIRMAN RIDDLE: Goldie.

MEMBER CAUGHLAN: Yes.

CHAIRMAN RIDDLE: Hugh's still absent.

Chair votes yes. So, we have 13 yes. Zero no. One
absent.

All right. Nancy, back to you.

MEMBER OSTIGUY: 205.601(f) as insect management. The Crops Committee recommends the renewal of pheromones. There are no materials recommended for deferral or non-renewal.

MEMBER DAVIS: Second.

CHAIRMAN RIDDLE: Okay. Committee recommendation moved by Nancy, seconded by Gerald on 601(f). Any interest to declare? Discussion? Seeing none. We'll go to the vote and we start with Bea.

MEMBER JAMES: Yes.

CHAIRMAN RIDDLE: Rigo.

MEMBER DELGADO: Yes.

CHAIRMAN RIDDLE: Dave.

MEMBER CARTER: Yes.

CHAIRMAN RIDDLE: Gerald.

MEMBER DAVIS: Yes.

CHAIRMAN RIDDLE: Nancy.

MEMBER OSTIGUY: Yes.
CHAIRMAN RIDDLE: Kevin.

MEMBER O'RELL: Yes.

CHAIRMAN RIDDLE: Rose.

MEMBER KOENIG: Yes.

CHAIRMAN RIDDLE: George.

MEMBER SIEMON: Yes.

CHAIRMAN RIDDLE: Andrea.

MEMBER CAROE: Yes.

CHAIRMAN RIDDLE: Julie.

MEMBER WEISMAN: Yes.

CHAIRMAN RIDDLE: Mike.

MEMBER LACY: Yes.

CHAIRMAN RIDDLE: Goldie.

MEMBER CAUGHLAN: Yes.


All right. All right. Nancy.

MEMBER OSTIGUY: 205.601(g) as rodenticides. The Crops Committee recommends the
renewal of sulfur dioxide and vitamin D3. There are no materials being recommended for deferral or for non-renewal.

MEMBER DAVIS: Second.

CHAIRMAN RIDDLE: Okay. Moved by Nancy. Seconded by Gerald. The committee's recommendation on 601(g). Any interest to declare? Any discussion? Okay. Seeing none. We'll go to the vote and we start with Rigo.

MEMBER DELGADO: Yes.

CHAIRMAN RIDDLE: Dave.

MEMBER CARTER: Yes.

CHAIRMAN RIDDLE: Gerald.

MEMBER DAVIS: Yes.

CHAIRMAN RIDDLE: Nancy.

MEMBER OSTIGUy: Yes.

CHAIRMAN RIDDLE: Kevin.

MEMBER O'RELL: Yes.

CHAIRMAN RIDDLE: Rose.

MEMBER KOENIG: Yes.

CHAIRMAN RIDDLE: George.
MEMBER SIEMON: Yes.

CHAIRMAN RIDDLE: Andrea.

MEMBER CAROE: Yes.

CHAIRMAN RIDDLE: Julie.

MEMBER WEISMAN: Yes.

CHAIRMAN RIDDLE: Mike.

MEMBER LACY: Yes.

CHAIRMAN RIDDLE: Goldie.

MEMBER CAUGHLAN: Yes.

CHAIRMAN RIDDLE: Hugh.

MEMBER KARREMAN: Yes.

CHAIRMAN RIDDLE: Bea.

MEMBER JAMES: Yes.

CHAIRMAN RIDDLE: Chair's yes. So, 14 yes. Zero no.

MEMBER OSTIGUY: Okay. 205.601(h) has no materials. So, we have no vote.

205.601(h) as plant disease control.

There are --

MEMBER KARREMAN: I.

MEMBER OSTIGUY: Excuse me. I. It says
(i). I just reread it.

CHAIRMAN RIDDLE: Yes, that's right. There's one in the transcript to be correct.

MEMBER OSTIGUY: The Crops Committee recommends the renewal of copper fixed, copper sulfate, lime sulfur, periacetic acid, potassium bicarbonate and elemental sulfur.

The Crops Committee recommends deferring horticultural oils and then also recommends deferring based upon inconsistencies with OFPA, hydrated lime, hydrogen peroxide, streptomycin and tetracycline or tetracycline.

MEMBER DAVIS: So, the periacetic acid is -- is --

MEMBER OSTIGUY: That's -- it's currently not moved.

MEMBER DAVIS: Okay.

MEMBER OSTIGUY: Did I -- did I make a mistake?

MEMBER WEISMAN: No.

MEMBER OSTIGUY: Go ahead.
MEMBER WEISMAN: I'm sorry.

CHAIRMAN RIDDLE: Okay. Yes, we -- we got a motion. Is there a second first before discussion?


CHAIRMAN RIDDLE: Well, right now the only thing that's germane would be --

MEMBER LACY: Second.

CHAIRMAN RIDDLE: Okay. Mike seconds. Thank you.

MEMBER WEISMAN: All right. Sorry.

CHAIRMAN RIDDLE: All right.

MEMBER WEISMAN: All right. I didn't understand the order.

CHAIRMAN RIDDLE: Yes. All right. Julie and then Rose.

MEMBER WEISMAN: On the list that I have in front of me where nothing is in bold is different than what Nancy just read. Could -- could I get some clarification on where periacetic acid was yesterday and where it's suppose to be today?
MEMBER OSTIGUY: Oh, periacetic acid is in the same place that it was yesterday.

MEMBER WEISMAN: Okay. You read it as --

MEMBER OSTIGUY: It's in the same place as yesterday.

MEMBER WEISMAN: But, you read it in the list of things to renew.

MEMBER OSTIGUY: Correct and what I'm getting now from the -- from nods from the committee is that I do have it in the wrong place. It belongs over with the list of hydrated lime, hydrogen peroxide, streptomycin and teracycline.

So, I'll -- I'll reread it so that it's clear.

MEMBER WEISMAN: Please. Thank you.

MEMBER OSTIGUY: We are recommending the renewal of copper fixed, copper sulfate, lime sulfur, potassium bicarbonate, elemental sulfur.

Deferral for more information is horticultural oils. Deferral because of inconsistency with OFPA would be hydrated lime, hydrogen peroxide,
periacetic acid, streptomycin and tetracycline.

CHAIRMAN RIDDLE: Okay. Barbara.

MS. ROBINSON: Yesterday, recommended to renew periacetic acid. Today, you've changed.

MEMBER OSTIGUY: It's in two different places. We recommended for disinfectant. That's consistent. That's on (a). Now, we're on (i).

CHAIRMAN RIDDLE: I had Rose. Do you still -- yes, you're in the queue and then Andrea. Okay. Rose.

MEMBER KOENIG: I mean I'll offer an explanation. Is that okay?

Okay. The explanation on horticulture oils is similar to the ones prior to with -- with one comment or also wanting us to look into the alternatives of vegetable oils which we can do by kind of a single question to the TAP contractor.

The other group hydrated lime, hydrogen peroxide, periacetic acid, streptomycin, tetracycline, by the interpretation -- we were given the charge as we understood as finding materials that are not
consistent with OFPA and in this group, these were the ones that we have identified.

So, it's basically we need to talk to NOP and see if that still is our charge in terms of trying to make the list consistent with OFPA and we acknowledge that streptomycin and tetracycline if -- if there's an agreement that toxins from bacteria include antibiotics and that won't -- those two probably could fit within that, but we wanted to discuss that with the NOP before moving forward.

MR. NEAL: Periacetic acid should be -- should be stricken because it was added onto the list in 2003.

CHAIRMAN RIDDLE: Okay.

MR. NEAL: Periacetic acid in general was added in 2003 if I'm not mistaken.

MEMBER OSTIGUY: Then we -- we missed that particular one. There were others that people commented on that also were not under review and this one we happened to miss that didn't belong there.

CHAIRMAN RIDDLE: So --
MEMBER OSTIGUY: So, peracetic acid is removed completely. It is not under -- it's a five-year review. It's listing remains unchanged.

CHAIRMAN RIDDLE: And for the record, that also applies to 205.601(a) listing of peracetic acid and so, the final version of the committee report will reflect that. Okay. On both of those listings. Right?

Now, back to the motion on the floor which is 601(i).

MEMBER CAROE: Discussion.

CHAIRMAN RIDDLE: Yes. Discussion.

Andrea.

MEMBER CAROE: I -- I -- you know, in the spirit of Sunset, we're looking for new information to -- that needs to be considered in the evaluation of these materials. I -- I disagree with looking and trying to fix the list and going against the previous Board's decision to have these materials on other than if there's new information. So, I -- I don't agree with these -- these four materials now that appear as
deferred based on inconsistencies with OFPA.

CHAIRMAN RIDDLE: Nancy.

MEMBER OSTIGUY: My understanding was that we were asked when we were doing the five-year review to look for inconsistencies also.

Now, if that has changed, this may be removed because of that, but we needed to -- to still talk with NOP. So, it may only be sitting there temporarily until we have the conversation. I don't know, but we were asked originally by NOP to look for these.

MEMBER CAROE: Well --

CHAIRMAN RIDDLE: Andrea.

MEMBER CAROE: I agree with that, Nancy. I really do, but I -- I feel it's a separate process. I mean identifying them and dealing with them after Sunset is appropriate, but I don't think it's part of the Sunset --

MEMBER OSTIGUY: Well, and that may be what we do.

MEMBER CAROE: But, I think right now we
should be recommending to -- to relist these materials and dealing with --

CHAIRMAN RIDDLE: And you have the right to that position. Rose and then Arthur, too. Okay. Or first. Arthur.

MR. NEAL: Real brief. I think if I'm not mistaken the committees have streptomycin and tetracycline down because of the whole antibiotic issue and for that, I think that -- that does fall under Sunset as well as the -- not oxytocin, ivermectin issue. Because there -- there wouldn't be a need to renew if we're going to have a general ban on antibiotics in the program. Yes.

CHAIRMAN RIDDLE: So, it's just a discussion that needs some further --

MR. NEAL: Right.

CHAIRMAN RIDDLE: Yes. Information on that.

MEMBER KOENIG: What about --

CHAIRMAN RIDDLE: Rose.

MEMBER KOENIG: I'm sorry.
CHAIRMAN RIDDLE: Speak into the mike.

MEMBER KOENIG: I mean again maybe I misunderstood our charge, but is the program -- you know, are we consistent with the program's desires in terms of finding substances that are not consistent with OFPA categories?

MEMBER OSTIGUY: Yes.

MEMBER KOENIG: Okay. In this process.

MEMBER OSTIGUY: Um-hum.

CHAIRMAN RIDDLE: Okay.

MEMBER CAUGHLAN: It would make a mockery of it if it were not.

CHAIRMAN RIDDLE: Goldie.

MEMBER CAUGHLAN: I just think it would make a mockery of it if we were not including that as part of our --

CHAIRMAN RIDDLE: Okay. Any other --

Andrea.

MEMBER CAROE: So -- so, for the record, this Board thinks that the previous Board did things against OFPA?
CHAIRMAN RIDDLE: Maybe.

MEMBER CAROE: Maybe.

MEMBER KOENIG: Yes.

CHAIRMAN RIDDLE: And we have to correct it.

MEMBER KOENIG: I just think it was ignorance. I don't think it was malicious.

CHAIRMAN RIDDLE: Right.

MEMBER KOENIG: Jim.

CHAIRMAN RIDDLE: Yes. Rose.

MEMBER KOENIG: That was one of the foundations of reorganizing the list to OFPA categories. I don't think it had anything to do with people, you know, consciously making a mistake. It's just when things were categorized by category use rather than OFPA category, it tended people not to think -- go back to that OFPA document and -- and recognize that.

CHAIRMAN RIDDLE: Bea.

MEMBER JAMES: If we know that tetracycline and streptomycin go against OFPA, why are
we deferring them? Why don't we just take them off?

MEMBER OSTIGUY: We don't have that. We don't have that information yet. There's still a discussion going on.

CHAIRMAN RIDDLE: Right. Just a need for the discussion is the reason for deferral. All right. Seeing no further discussion at this time. We'll go with the vote and this is on the committee's recommendation on 601(i) and we start with Dave.

MEMBER CARTER: Aye or yes.


MEMBER DAVIS: Yes.

CHAIRMAN RIDDLE: Nancy.

MEMBER OSTIGUY: Yes.

CHAIRMAN RIDDLE: Kevin.

MEMBER O'ReLL: Yes.

CHAIRMAN RIDDLE: Rose.

MEMBER KOENIG: Yes.

CHAIRMAN RIDDLE: Goldie. I mean George.

MEMBER SIEMON: Abstain.
CHAIRMAN RIDDLE: Andrea.
MEMBER CAROE: No.
CHAIRMAN RIDDLE: Julie.
MEMBER WEISMAN: No.
CHAIRMAN RIDDLE: Mike.
MEMBER LACY: Yes.
CHAIRMAN RIDDLE: Goldie.
MEMBER CAUGHLAN: Yes.
CHAIRMAN RIDDLE: Hugh.
MEMBER KARREMAN: Yes.
CHAIRMAN RIDDLE: Bea.
MEMBER JAMES: Abstain.
CHAIRMAN RIDDLE: Rigo.
MEMBER DELGADO: Yes.
CHAIRMAN RIDDLE: The Chair votes yes.
So, we have what? Eleven -- no ten yes. Two no. Two abstentions. So, the motion carries with the required two-thirds. Okay.
Nancy.
MEMBER OSTIGUY: 205.601(j) as plant soil amendments. The committee did change its
recommendation on this one just to point it out before I do the -- the motion. Liquid fish products has been moved from being deferred over to renewal.

So, the Crops Committee recommends the renewal of elemental sulfur, magnesium sulfate, micronutrients, vitamins B1, C and E, liquid fish products.

The committee recommends the deferral -- deferring the vote on lignin sulfate and then we have recommendations that were not based upon comments received that we are recommending for deferral and that is aquatic plant extracts and humic acid.

MEMBER DAVIS: Second.


MEMBER O'RELL: Nancy, could you explain what went into your thinking for moving liquid fish products from deferred to renewal?

MEMBER DAVIS: Because we -- it was our understanding that the only change that we were
considering that might -- we might want to be talking about was the annotation change. So, it didn't apply to this process of Sunset.

CHAIRMAN RIDDLE: Rose.

MEMBER KOENIG: OFPA prohibits synthetic fertilizers. The exception is they list fish emulsions as an OFPA category. Okay. So, fish emulsions are on the table you know as far as being allowed by OFPA specifically and so, then really all we have is the annotations and we can't change it via this process. So, if there's a disagreement based on any of this acids, it has to come through the regular petition process. But, that is distinct from aquatic plant extracts which are synthetic. Basically, other than hydrolyzed would be synthetic fertilizers and additionally, we want to get more information to see if that -- other than hydrolyzed. You know, it appears that there's some -- perhaps there's natural forms of that, but those are the kinds of questions that we're going to ask. That's the distinction between aquatic plant extracts and fish emulsion.
CHAIRMAN RIDDLE: Okay. Andrea.

MEMBER CAROE: The other two committee deferred items, aquatic plant extracts and humic acid, I have in my notes from yesterday's discussion that those were based on confusing annotations as well. Is that still the case?

MEMBER OSTIGUY: No, what -- not just on confusing annotations because we're not doing annotations, but with humic acid, there is at this time at least it's our understanding we need to -- to verify this information that there are large quantities of humic acid that are water extracted. What the annotation does is it -- it restricts to water and alkali. Water would be acceptable no matter what. So, the reason for even having it on the list really is because it would also be okay if it was alkali and the question is now are there sufficient non-synthetic alternatives, the water extracted, that we no longer need the material at all on the list. So.

MEMBER CAROE: And -- and the aquatic
MEMBER OSTIGUY: And then the aquatic plant extract is again a question of what materials are used in the processing. Do they then render the material synthetic or not? Have we changed the materials that are being used in processing such that they would have been synthetic in the past and it's not now. Rose probably has --

MEMBER KOENIG: Well, basically, I -- I thought I had explained that. That -- that within the -- with OFPA, synthetic fertilizers are prohibited.

Aquatic plant extracts if used as fertilizers -- now, I've been told that they can be used for their growth enhancement like natural cytokinins and such. That would put it in a -- a different -- well, it would be -- again, it depends on our OFPA categories. It could theoretically go into production aids if that was a larger category, but -- so, there's two questions. One is checking with the NOP again with -- with consistency with OFPA, but hydrolyzed is a non-synthetic way of dealing with
aquatic plant extract. So, there is a natural alternative.

So, those are the two major issues that we have to clarify on that. Yes.

CHAIRMAN RIDDLE: Okay. George.

MEMBER SIEMON: Yes, I'm a little confused here. First off, so, you're doing this deferred basically because you don't think it's authorized by OFPA.

MEMBER OSTIGUY: No, we don't know. We -- we need to determine that.

MEMBER SIEMON: Okay.

MEMBER OSTIGUY: We believe there's a --

MEMBER SIEMON: But, if that's the case, then why wouldn't you all -- a lot of these over here in the renewal are also being used as fertilizers and they're synthetic. So, micronutrients, soil division must be documented. It seems like if you're going to have -- the previous said inconsistency with OFPA. If that's your logic here, then I -- I like to see the -- yes, I'm -- I'm not comfortable with this -- the way
this is presented.

MEMBER DAVIS: George.

MEMBER SIEMON: Yes.

MEMBER DAVIS: Your reference to the renewed materials that each of those corresponds to an OFPA category that is specifically mentioned in the legislation.

MEMBER KOENIG: Minerals are --

MEMBER DAVIS: Isn't that true?

MEMBER KOENIG: Mineral. Yes, because minerals are allowed like synthetic micronutrients. You know, so --

MEMBER SIEMON: Synthetic ones.

MEMBER KOENIG: Well, right here you have micronutrients. It's on the list of synthetics.

MEMBER SIEMON: That's right.

MEMBER KOENIG: Yes. But, I'm saying minerals is an OFPA category. Right. Okay.

CHAIRMAN RIDDLE: Mineral fertilizers are allowed or to be considered under OFPA.

MEMBER SIEMON: Okay. Okay. But, still
the -- it's just a little technical. You don't know, but still it's about OFPA is why these are over here, one and two. These --

MEMBER OSTIGUY: Not completely.

MEMBER SIEMON: Not completely. Okay.

MEMBER OSTIGUY: It also has to do with whether or not there are now not synthetics available.

MEMBER CAROE: Let me just -- I just really want to be clear on this before I vote on it.

You're saying that potentially these items don't even need to be on the list because they're informed that they don't have to be listed. They're water extracted. They're ready to go. You don't -- you don't even need them on the list. So, that's why they're being considered.

MEMBER OSTIGUY: That's -- that's -- that's one. Well, both of them.

MEMBER CAROE: An -- an aquatic plant.

MEMBER OSTIGUY: Right.

MEMBER CAROE: Yes.

MEMBER OSTIGUY: Because it can be
MEMBER CAROE: So -- so, both of those materials, it's not a matter of taking them off the list and preventing growers from using them, but they may not need to be on the list anymore because now the way that they're produced is in a way that's --

MEMBER OSTIGUY: Acceptable.

MEMBER CAROE: -- acceptable without --

MEMBER OSTIGUY: Yes, which is -- which is our ultimate goal.

MEMBER CAROE: It's not an aqua thing. It's new information.

MEMBER OSTIGUY: Yes, it is. It can be.

MEMBER CAROE: Two issues. There's two issues.

MEMBER OSTIGUY: It could be. If --

MEMBER CAROE: It seems like there's a change of availability of -- of a material that's an alternative. Instead of having one that's meant to be alkaline extracted, you have one now that's water extracted and availability -- it changes this listing.
It changes this --

MEMBER OSTIGUY: That is true, but in addition to the availability issue, is -- if it is still a synthetic, then there's the question of whether or not there's an off the category under which it fits. We don't know the answer to that.

We know that mineral additions are acceptable. We're not sure if these fit someplace appropriately under OFPA. They may. We need to discuss that with NOP.

CHAIRMAN RIDDLE: Rose. Then George.

MEMBER KOENIG: The -- the -- the way previous Boards have viewed aquatic plant extracts, the -- the way that the annotation reads other than hydrolyzed means that hydrolyzed forms are considered non-synthetic. Okay.

What makes them synthetic based on this definition is that extraction process. Likely, because the -- that -- the solvent for the extraction is still left in the final product. Okay.

Now, again, we need to get this
clarification from the NOP on our OFPA categories and once we understand that we're going to be better able to deal with this, because in reality, the plant extracts aren't synthetic. It's what's used to either make them -- you know, to -- to -- to extract them or to pH adjust them.

So, again, it's -- it's just something we want to get more information on before we just continue this. It doesn't -- it just means that we need to further work on the --

CHAIRMAN RIDDLE: Arthur, do you have a comment?

MR. NEAL: Real quickly. The document that these really will fall under would be that whole OFPA category document.

I don't know if there's going to be a whole lot that's going help you make a decision on Sunset concerning these two. Because the real question is how should it be listed on the national list and we talked about, you know, we got aquatic plant which is a natural aqua allows for extraction.
The question is is it synthetic, is it non-synthetic.

So, that's another issue.

So, I don't know if it's the listing of it. It's just the timing of how you want to really deal with the true issue of it.

CHAIRMAN RIDDLE: Um-hum. So, we aren't going to resolve it today. Obviously, there's a need for some further discussion on it.

George, did you still have anything?

MEMBER SIEMON: I'm still confused. I will pass.

CHAIRMAN RIDDLE: Always a wise decision when confused. Any other discussion? Seeing none.

We have committee recommendation on 601(j) and we start with Gerald.

MEMBER DAVIS: Yes.

CHAIRMAN RIDDLE: Nancy.

MEMBER OSTIGUY: Yes.

CHAIRMAN RIDDLE: Kevin.

MEMBER O'RELL: Yes.

CHAIRMAN RIDDLE: Rose.
MEMBER KOENIG: Yes.

CHAIRMAN RIDDLE: George.

MEMBER SIEMON: Abstain.

CHAIRMAN RIDDLE: Andrea.

MEMBER CAROE: Yes.

CHAIRMAN RIDDLE: Julie.

MEMBER WEISMAN: Yes.

CHAIRMAN RIDDLE: Mike.

MEMBER LACY: Yes.

CHAIRMAN RIDDLE: Goldie.

MEMBER CAUGHLAN: Abstain.

CHAIRMAN RIDDLE: Hugh.

MEMBER KARREMAN: Yes.

CHAIRMAN RIDDLE: Bea.

MEMBER JAMES: Yes.

CHAIRMAN RIDDLE: Rigo.

MEMBER DELGADO: Yes.

CHAIRMAN RIDDLE: Dave.

MEMBER CARTER: Yes.

CHAIRMAN RIDDLE: Chair votes yes. So, we
have 12 yes. Two abstentions. Zero no. Two abstentions. Okay.

Nancy.

MEMBER OSTIGUY: 205.601(k) as plant growth regulators. The Crops Committee recommends the renewal of ethylene gas. There are no materials recommended for deferral or non-renewal.

CHAIRMAN RIDDLE: Is there a second?

MEMBER DAVIS: Second.


Are there any interest to declare?

MEMBER JAMES: One.

CHAIRMAN RIDDLE: Well, you're probably not using it for regulating growth. Are you?

MEMBER JAMES: No, ripening.

CHAIRMAN RIDDLE: Ripening.

MEMBER SIEMON: That pineapple farm.

MEMBER JAMES: We don't have a farm in our --

CHAIRMAN RIDDLE: In Minnesota, right.
Okay. Any discussion? Seeing none. We will vote on
the committee's recommendation on 601(k) and that
begins with Nancy.

    MEMBER OSTIGUY: Yes.

    CHAIRMAN RIDDLE: Kevin.

    MEMBER O'RELL: Yes.

    CHAIRMAN RIDDLE: Rose.

    MEMBER KOENIG: Yes.

    CHAIRMAN RIDDLE: George.

    MEMBER SIEMON: No.

    CHAIRMAN RIDDLE: Andrea.

    MEMBER CAROE: Yes.

    CHAIRMAN RIDDLE: Julie.

    MEMBER WEISMAN: Yes.

    CHAIRMAN RIDDLE: Mike.

    MEMBER LACY: Yes.

    CHAIRMAN RIDDLE: Goldie.

    MEMBER CAUGHLAN: Yes.

    CHAIRMAN RIDDLE: Hugh.

    MEMBER KARREMAN: Yes.

    CHAIRMAN RIDDLE: Bea.
MEMBER JAMES: Yes.

CHAIRMAN RIDDLE: Rigo.

MEMBER DELGADO: Yes.

CHAIRMAN RIDDLE: Dave.

MEMBER CARTER: No.

CHAIRMAN RIDDLE: Gerald.

MEMBER DAVIS: Yes.

CHAIRMAN RIDDLE: Chair votes yes. So, we have 12 yes. Two no. Zero abstentions. All right. Nancy.

MEMBER OSTIGUY: 205.601(l) as floating agents in post-harvest handling. The Crops Committee has no materials recommended for renewal at this time. We are recommending for deferral lignin sulfinate and sodium silicate. There are no materials recommended for non-renewal.

MEMBER DAVIS: Second.

CHAIRMAN RIDDLE: Okay. Nancy moves and Gerald seconds. The committee's recommendation on 601(l). Any interests to declare? Any discussion? Seeing none. We will vote and we being with Kevin.
MEMBER O’RELL: Yes.
CHAIRMAN RIDDLE: Rose.
MEMBER KOENIG: Yes.
CHAIRMAN RIDDLE: George.
MEMBER SIEMON: Yes.
CHAIRMAN RIDDLE: Andrea.
MEMBER CAROE: Yes.
CHAIRMAN RIDDLE: Julie.
MEMBER WEISMAN: Yes.
CHAIRMAN RIDDLE: Mike.
MEMBER LACY: Yes.
CHAIRMAN RIDDLE: Goldie.
MEMBER CAUGHLAN: Yes.
CHAIRMAN RIDDLE: Hugh.
MEMBER KARREMAN: Yes.
CHAIRMAN RIDDLE: Bea.
MEMBER JAMES: Yes.
CHAIRMAN RIDDLE: Rigo.
MEMBER DELGADO: Yes.
CHAIRMAN RIDDLE: Dave.
MEMBER CARTER: Yes.
CHAIRMAN RIDDLE: Gerald.

MEMBER DAVIS: Yes.

CHAIRMAN RIDDLE: Nancy.

MEMBER OSTIGUY: Yes.

CHAIRMAN RIDDLE: Chair is yes. Fourteen yes. Zero no.

Nancy.

MEMBER OSTIGUY: 205.601(m) as synthetics inerts as classified by the EPA. The Crops Committee recommends the renewal of EPA list for inerts of minimal concerns. The Crops Committee has no recommendations for materials to defer or non-renewal.

CHAIRMAN RIDDLE: Any interests? Any discussion? Seeing none. A vote on the committee's recommendation on 601(m) and we start with Rose.

MEMBER KOENIG: Yes.

CHAIRMAN RIDDLE: George.

MEMBER SIEMON: Yes.

CHAIRMAN RIDDLE: Andrea.

MEMBER CAROE: Yes.
CHAIRMAN RIDDLE: Julie.

MEMBER WEISMAN: Yes.

CHAIRMAN RIDDLE: Mike.

MEMBER LACY: Yes.

CHAIRMAN RIDDLE: Goldie.

MEMBER CAUGHLAN: Yes.

CHAIRMAN RIDDLE: Hugh.

MEMBER KARREMAN: Yes.

CHAIRMAN RIDDLE: Bea.

MEMBER JAMES: Yes.

CHAIRMAN RIDDLE: Rigo.

MEMBER DELGADO: Yes.

CHAIRMAN RIDDLE: Dave.

MEMBER CARTER: Yes.

CHAIRMAN RIDDLE: Gerald.

MEMBER DAVIS: Yes.

CHAIRMAN RIDDLE: Nancy.

MEMBER OSTIGUY: Yes.

CHAIRMAN RIDDLE: Kevin.

MEMBER O'RELL: Yes.

CHAIRMAN RIDDLE: Chair votes yes.
Fourteen yes. Zero no.

Nancy.

MEMBER OSTIGUY: 205.602 non-synthetic substances prohibited for use in organic crop production. We have one change from the recommendation that was described yesterday. Potassium chloride is being moved to the renewal list. So, I'll read the recommendation now.

The Crops Committee recommends the renewal of ash from manure burning, arsenic, lead salts, sodium fluoaluminate, strychnine, sodium nitrate, tobacco dust and potassium chloride.

There are no materials recommended for deferral or non-renewal.

CHAIRMAN RIDDLE: Okay. There's a motion. Is there a second?

MEMBER DAVIS: Second.

CHAIRMAN RIDDLE: Moved by Nancy. Seconded by Gerald. Interest to declare?

MEMBER DAVIS: My farms uses some of these --
CHAIRMAN RIDDLE: Gerald.

MEMBER DAVIS: Sodium nitrate.

CHAIRMAN RIDDLE: Okay.

MEMBER DAVIS: The -- the -- what's the word for the --

CHAIRMAN RIDDLE: Annotation.

MEMBER DAVIS: Annotation. That's the word.

CHAIRMAN RIDDLE: By following the annotation.

MEMBER DAVIS: Yes.

CHAIRMAN RIDDLE: You're not a manufacturer. You don't have a sodium nitrate mine.

MEMBER DAVIS: No, have no specific --

CHAIRMAN RIDDLE: Interest. Commercial interest and don't have a unique advantage.

MEMBER DAVIS: Do not.

CHAIRMAN RIDDLE: Okay. Any discussion?

All right. Yes, Hugh.

MEMBER KARREMAN: Your tobacco dust there and it says nicotine sulfate. Nicotine sulfate is a
specific ingredient of tobacco dust. Your -- why do you have both there? Just wondering why has that been listed? Just always have been?

MEMBER OSTIGUY: I couldn't tell you.

Yes.

MEMBER KARREMAN: Okay. All right. I mean they're -- I mean I have a bottle of nicotine sulfate in my office which is not tobacco dust, but --

CHAIRMAN RIDDLE: Right.

MEMBER KARREMAN: You know, there --

there's --

MEMBER OSTIGUY: My -- my guess and I was not on the Board when this was put on. My guess was that they wanted to include the extract and tobacco dust.

MEMBER KARREMAN: The actual leaves. The -- okay.

MEMBER OSTIGUY: Yes.

MEMBER KARREMAN: Yes.

CHAIRMAN RIDDLE: And would you explain why the committee has recommended changing -- not
deferring potassium chloride just briefly?

MEMBER OSTIGUY: Because -- the reason --
initial reason for deferral was based upon the
annotation and we are not doing any changes in
annotation.

CHAIRMAN RIDDLE: There was no new
information then about its status?

MEMBER OSTIGUY: No.

CHAIRMAN RIDDLE: Okay. Okay. Any other
discussion? Seeing none. We'll vote on committee's
recommendation 205.602 and George.

MEMBER SIEMON: Yes.

CHAIRMAN RIDDLE: Andrea.

MEMBER CAROE: Yes.

CHAIRMAN RIDDLE: Julie.

MEMBER WEISMAN: Yes.

CHAIRMAN RIDDLE: Mike.

MEMBER LACY: Yes.

CHAIRMAN RIDDLE: Goldie.

MEMBER CAUGHLAN: Yes.

CHAIRMAN RIDDLE: Hugh.
MEMBER KARREMAN: Yes.

CHAIRMAN RIDDLE: Bea.

MEMBER JAMES: Yes.

CHAIRMAN RIDDLE: Rigo.

MEMBER DELGADO: Yes.

CHAIRMAN RIDDLE: Dave.

MEMBER CARTER: Yes.

CHAIRMAN RIDDLE: Gerald.

MEMBER DAVIS: Yes.

CHAIRMAN RIDDLE: Nancy.

MEMBER OSTIGUY: Yes.

CHAIRMAN RIDDLE: Kevin.

MEMBER O'RELL: Yes.

CHAIRMAN RIDDLE: Rose.

MEMBER KOENIG: Yes.

CHAIRMAN RIDDLE: Chair votes yes. We have fourteen yes. Zero no.

And I would like to once again thank the Crops Committee, Nancy, members of the committee for taking into consideration the comments yesterday and working and revising your recommendation and
presenting it to us as well as the content of the original recommendation. So, thanks for your good work on that once again.

All right. Believe it or not, we're ahead of schedule on the agenda.

I do have a question for the program. If we stay ahead of schedule, is there a problem with beginning the public comment period before 3:00 p.m. as far as you know? We did publish it at 3:00 p.m. We certainly will be taking public comments, but can we begin before that without any problems?

MR. NEAL: The difficulty in doing that is that people may have been planning to arrive at 3:00 p.m. for public comment.

CHAIRMAN RIDDLE: To listen.

MR. NEAL: To listen and to comment.

CHAIRMAN RIDDLE: Yes.

MR. NEAL: They may not.

CHAIRMAN RIDDLE: The commenting won't be a problem. They -- we still will be commenting.

MR. NEAL: Right.
CHAIRMAN RIDDLE: But, the listening, yes.

MR. NEAL: Right. Both.

CHAIRMAN RIDDLE: Yes.

MR. NEAL: So -- so, we need to at 3:00 --

3:00 p.m.

CHAIRMAN RIDDLE: So. Okay. We'll stick
to that. Just wanted -- wanted your opinion on that.

MR. NEAL: And a --

MEMBER DELGADO: Can we allow more people
to comment if we have extra time?

CHAIRMAN RIDDLE: Things don't look good
there. We already have about 20 signed up which is
going to fill the time especially if there are any
questions.

That's why I was just checking. Seems
like that wouldn't be a good idea. George.

MEMBER SIEMON: Well, if that's the case,
then we could just do the schedule next meeting date
before the break.

CHAIRMAN RIDDLE: Yes.

MEMBER SIEMON: And then take a longer
Chairman Riddle: Yes, we'll -- we'll figure that out when it comes. We'll get everything done before the comment period that we can.

Okay. Anything else now?

Member James: I just have one other. It's kind of a little housekeeping issue. A lot of my pages were out of order or missing and the same with Rigo and so, I would like to have all of the submissions resent to me. I don't know about anybody else if their books were out of order, but --

Member Karreman: I have some duplicate pages here also. I mean the same page twice.

Chairman Riddle: Okay. You will be getting the final versions sent to you. Will that be good enough?

Member James: Yes, I think I have an extra book. I have an extra book also.

Chairman Riddle: George.

Member Siemon: I think it would be healthy if we have extra time to kind of discuss the
Sunset process myself. Especially since some of us will be the last time. I think it would be healthy to review the policy and the process. It will --

MEMBER JAMES: I agree.

MEMBER SIEMON: Not to change midstream, but now that we've done this, I think it would be healthy to discuss it.

CHAIRMAN RIDDLE: Okay.

MEMBER SIEMON: That -- I think -- I was -- I was thinking that would fall under the committee work plans anyway.

CHAIRMAN RIDDLE: Yes.

MEMBER SIEMON: I had some comments that -- so, I think it would be good for all of us to think about if we have time to have a good discussion around that.

CHAIRMAN RIDDLE: Yes, because the -- yes, certainly our Sunset process or the Board's Sunset process continues.

MEMBER SIEMON: Yes.

CHAIRMAN RIDDLE: So, that would be
appropriate at that time. All right. Anything else?

We have a choice. We have a little time
before lunch or we could just stop for lunch now.

The agenda has us coming back at 1:30.

Would you like to come back at 1:00?

MEMBER CAUGHLAN: I doubt that we could.

CHAIRMAN RIDDLE: Well, yesterday, we
stopped late and we only had an hour. Today we will
have one hour and 40 minutes for lunch.

Can we have agreement on 1:15? It looks
like -- well, I want an agreement. So.

MEMBER SIEMON: Yes, let's decide.

CHAIRMAN RIDDLE: Sounds like 1:30. Stick
with it the way it is and we may be here --

(Whereupon, the meeting was recessed at
11:49 a.m. to reconvene at 1:30 p.m. this same day.)
CHAIRMAN RIDDLE: Okay. You people in the audience are having too much fun. Ready to reconvene.
All right.

So, back to our agenda if we can have attention please. Next item on the agenda is the election of officers and selection of committee chairs.

So, we'll begin with the election officers and start off with the election of Board Chair. We have three elected officers, chair, vice chair and secretary. So, we'll start with the election of chair.

Are there any nominees for chair? Dave.

MEMBER CARTER: Yes, I would like to put in nomination the name of Kevin O'Rell.

MEMBER CAROE: I'll second.

CHAIRMAN RIDDLE: Okay. Kevin has been nominated and seconded. Actually, I don't think a nomination needs to be seconded, but it's fine to have -- yes, election follows some different rules than a motion.

But, are there other nominees? Then I'll ask one more time. Are there any other nominees?
Hearing none.

I would entertain a motion.

MEMBER CARTER: Mr. Chair, I would move the nominations cease and that the secretary be directed to cast a unanimous ballot for Kevin O'Rell.

MEMBER LACY: Second.

CHAIRMAN RIDDLE: And that does take a second. Thank you, Mike.

Okay. It's moved by Dave, seconded by Mike a unanimous ballot be cast for Kevin as chair.

All in favor say aye.

(Ayes.)

CHAIRMAN RIDDLE: Those opposed? Okay.

Thank you and Kevin, I'll had over the turkey now and that's a stress turkey, a USDA product with the official USDA seal but not the organic seal.

But, if -- if it's okay with you, I'll continue to chair out this meeting.

MEMBER O'RELL: That's -- that's fine and if it's a stress turkey, why isn't it -- it's been pretty -- doesn't look like it's gone through a lot of
stress. I -- I will use it. I will use the --

CHAIRMAN RIDDLE: Okay. So, the floor is
now open for nominees for vice chair. Bea.

MEMBER JAMES: I would like to nominate
Andrea Caroe.

CHAIRMAN RIDDLE: Okay.

MEMBER WEISMAN: I'll second.

CHAIRMAN RIDDLE: All right. Andrea Caroe
has been nominated. Are there any -- Dave.

MEMBER CARTER: I would like to nominate
Nancy Ostiguy.

MEMBER OSTIGUY: Decline.

CHAIRMAN RIDDLE: Okay. Are there any
other nominees? One more time, any other nominees?

Dave, well, I thought I -- would you like to --

MEMBER CARTER: Okay. I will move that
the nominations cease and that the secretary be
directed to cast a unanimous ballot for Andrea Caroe.

MEMBER LACY: Second.

CHAIRMAN RIDDLE: Okay. Dave moves and
Mike seconds a unanimous ballot for Andrea Caroe as
vice chair.

    All in favor say aye.

    (Ayes.)

CHAIRMAN RIDDLE: Those opposed? Okay.

Thank you and the floor's open for nominations for secretary.

MEMBER CAUGHLAN: I --

CHAIRMAN RIDDLE: Goldie.

MEMBER CAUGHLAN: -- I would like to place the name of Bea James --

CHAIRMAN RIDDLE: Okay.

MEMBER CAUGHLAN: -- for secretary.

CHAIRMAN RIDDLE: Okay. Bea has been nominated for secretary. Are there any other nominations? Any other nominations? Hearing none. Dave.

MEMBER CARTER: Mr. Chair, I would move that the nominations cease and that the secretary be directed to cast a unanimous ballot for Bea James.

MEMBER LACY: Second.

CHAIRMAN RIDDLE: Okay. Dave moves, Mike
seconds a unanimous ballot for Bea James as secretary. Those in favor?

(Ayes.)

CHAIRMAN RIDDLE: Those opposed? Okay. Thank you. And good luck to the new officers.

And the committee chair, we have six standing committees of the Board and Livestock is already filled. Andrea and Mike Lacy is Livestock Committee Chair. You're willing to continue in that.

MEMBER CAROE: Am I chair?

CHAIRMAN RIDDLE: No, I -- I was finishing my sentence, but I inserted your name in the middle of my sentence.

MEMBER CAROE: Not even on that committee.

CHAIRMAN RIDDLE: I just realized I wanted to confirm with Mike that and Andrea, you're currently the Certification and Accreditation Compliance Committee Chair. Are you willing to continue in that? Okay. Thanks.

And let's see. Policy Development, Dave, you --
MEMBER CARTER: Yes, we -- Rigo has graciously accepted to step up as Chair of the Policy Development Committee.

CHAIRMAN RIDDLE: Okay.

MEMBER DELGADO: Yes, I do.

CHAIRMAN RIDDLE: You -- you agree to that?

MEMBER DELGADO: I agree.

CHAIRMAN RIDDLE: Okay. Thanks, Rigo. All right. And then Crops. Nancy has been chairing and Gerry, are you -- are you willing to --

MEMBER DAVIS: Yes, I'm willing to -- to be the Chair of the Crops Committee.

CHAIRMAN RIDDLE: Okay. You've been vice chair. All right.

And then we have Handling and your Board Chair but now, Julie, you're willing to take over Chair of the Handling Committee.

MEMBER WEISMAN: Yes.

CHAIRMAN RIDDLE: All right. Thanks. And
Materials. Rose.

MEMBER KOENIG: Nancy.

CHAIRMAN RIDDLE: And, Nancy, are you willing to share the Materials.

MEMBER OSTIGUY: Yes.

CHAIRMAN RIDDLE: Thank you. Okay. Well, it's good to -- is that all? Thank you.

Okay. That's -- that concludes that item and now, we go to the discussion of committee work plans. I hope those committee chair, especially the new ones, no, I -- I think there are, you know, some continuing items on the work plans. So, if you are newly taking over a committee, I fully understand if you, you know, don't have that all lined up right at the moment, but for those of you who do, I'd just like to -- I give you an opportunity to describe what you have planned and, you know, a little estimate of time line or priorities for the things that you got on your work plans.

So, who would like to go first. Mike.

MEMBER LACY: Be glad to. The Livestock
Committee will continue working on the deferred substances under Sunset and bring recommendations forward at the appropriate time.

We will continue to work with NOP in finalizing thoughtful, fair and dependable pasture guidance document and/or rule change and by our next meeting, the Livestock Committee will present a statement on the way that we would recommend that organic poultry respond to the threat avian influenza in the U.S.


We'll move onto -- okay. All right. We'll defer Handling for a moment.

Andrea, are you --

MEMBER CAROE: Oh, sure. The Certification, Accreditation and Compliance Committee has two recommendations that were made at the last meeting that we'll follow through with. One is the
retailer Q&A which we have to -- we'll -- we'll work
with NOP before the next meeting. I think that was
the time line for them responding on those
recommendations.

And secondly, continue to work with NOP on
the comments that the NOSB made in regards to the ANSI
audit or their response to the ANSI audit. So, we'll
continue to work with them based on their time line
there.

We have an open item which is a procedure
for processing peer review and now that we've gone
through the Sunset process and Mike who had taken the
lead on that is -- maybe finds himself with a little
bit more time will continue to work with that item.

And then lastly, the only other item we
have is to work with an NOP staff as they are
attempting to comply with remediation items from the
ANSI report and that will just continue to be as
needed as they -- and I've reiterated that with Mark
Bradley that we are available to assist.

All that's on our plate.
CHAIRMAN RIDDLE: Okay. Any comments from other Board members, questions about that?

Just one other thing that comes to my mind, I know Mark and Bob have a plan for some certifier training. I -- I don't know if -- if there would be an opportunity there or a need for the committee to kind of review anything, but just to keep that open as a possibility to input, be available on the certifier training.

MEMBER CAROE: All right. I'll put that on.

CHAIRMAN RIDDLE: Okay. Rigo, ready. I think you've been handed Dave's computer along with the committee chair.

MEMBER JAMES: And the family pictures.

MEMBER DELGADO: Oh, thank you very much, Mr. Chairman. I would -- would like to appreciate Dave's mentorship and example and I only wish to express that I decided to become only a tenth of what -- the person he is when I grow old. I mean -- nothing to do with --
CHAIRMAN RIDDLE: Is that a committee action? All right.

MEMBER DELGADO: We have four targets to deal with. The first one is to continue working with the Handling Committee to prepare a draft document for the termination of commercial availability criteria under 205.606 --

CHAIRMAN RIDDLE: You got to speak up.

MEMBER DELGADO: -- with a goal of having a committee document ready for posting by December 31st, 2005.

Point number two will be to develop a final recommendation on temporary variances for research and we don't have a date for that yet. So, I'll get back to you with that.

The third item will be revisions to the Board Manual Policy and that would include clarification of deferral.

And the fourth item will be completing the document that we've been calling the Board Member 101.
You know, a document that we want to use to provide better orientation to the new members of the -- of the Board that are coming.

The two items that I haven't mentioned so far include recruiting members to the committee. We are losing two valuable members, like you know. So, the minute we know who -- who's coming aboard, we'll try to recruit them to become part of this committee.

And the last item that I would like to explore with feedback from the committee will be to develop a -- and working with NOP to develop a -- a database that is hosted, word -- password protected that allow us to handle better comments from -- from the public. It's a technical issue if you will, but I think it -- there's the opportunity for us to play with that data better and use it -- and use that database as a reference for discussions and so forth.

Okay. Again, that's an exploratory item.


MEMBER JAMES: So, Rigo, when you -- the
last -- last item that you mentioned --

MEMBER DELGADO: Yes.

MEMBER JAMES: -- that's not actually on
the --

MEMBER DELGADO: Now, it's not.

MEMBER JAMES: --- the working plan? So,
you're proposing that that's something that we add to
the working plan?

MEMBER DELGADO: Yes. Discussion of that.

MEMBER JAMES: Discussion of that.

MEMBER DELGADO: Yes.

MEMBER JAMES: Okay. Okay.

CHAIRMAN RIDDLE: All right.

MEMBER DELGADO: Discuss the technical
feasibility of that.

MEMBER JAMES: Do --

CHAIRMAN RIDDLE: Um-hum.

MEMBER JAMES: -- and also, do we need to
maybe clarify the date that the draft is going to be
ready? Are we -- are we all agreeing that December
31st is for -- for posting on the website or for -- I mean I'm sorry for commercial availability.

CHAIRMAN RIDDLE: Yes, as a target?

MEMBER JAMES: As a target day that -- does everyone agree with that date or are we --

CHAIRMAN RIDDLE: Well, I would hope even before that that a draft would be ready, but Barbara.

MS. ROBINSON: What is it you plan to have by December 31st on commercial availability?

CHAIRMAN RIDDLE: A -- a committee draft for criteria and procedures for the Board's determinations of commercial availability for placement on 606 of petitioned substances.

MS. ROBINSON: Well, I guess what -- what -- I don't -- I don't have any problem with that, but I mean recognize now Congress just changed the law. So -- so, I guess I'm just sort of thinking out loud here. We're going to have to -- we're going to have to do rule making probably to -- to deal with this. I mean we're all going to have to sort of sit down and have a discussion about this. I mean obviously we've
dodged this one for a pretty long time and now, it's landed in our laps and there's not going to be anymore dodging just what is commercial availability.

So, I -- I guess all I'm trying to say is while I don't have any problem with you meeting some December 31st deadline and coming up with something, I don't -- I also don't want you to think and I don't -- I don't want you getting your hopes up that okay, fine, by December 31st, you've gotten some document done and it's posted on the web and you say good, we've got this all figured out. We've done commercial availability and then, you know, we get down the road and we've got to do some rule making --

CHAIRMAN RIDDLE: Right.

MS. ROBINSON: -- and you say oh, no, we already took care of that because we do have to sort of address this and I would hope that this is going to be an NOP/NOSB collaborative deal --

CHAIRMAN RIDDLE: Yes, and I --

MS. ROBINSON: -- and then, you know, to
the extent that rule making is involved, the public is
going to get involved, too and there will be comments
taken and that sort of thing.

CHAIRMAN RIDDLE: Um-hum. Yes, I guess --

MS. ROBINSON: Okay.

CHAIRMAN RIDDLE: -- I -- I -- I think
instead of as you presented it posting to the web by
December 31st to have a draft criteria submitted to
NOP for feedback, for the conversation, for the -- you
know, just --

MS. ROBINSON: That -- that -- that would
be fine. I just -- I just don't want the Board
thinking that once you do this that it's the end of
the conversation.

CHAIRMAN RIDDLE: No. No, not at all.

MS. ROBINSON: Maybe -- maybe the better
way to think of it is great, you've taken the first
step and -- and then we, you know --

MEMBER CARTER: And I -- I think, Mr.
Chair, I think that's exactly where we're at is
realizing now with the court case and the legislative,
I mean we need to take a first step to -- to try and -- and define some things, but it's got to be a collaborative process and that was part of the discussion this morning with -- I mean Bea did a great job in -- in putting together an initial draft that pulls together a lot of the background and -- and stuff that's been done to date.

Arthur was posing a lot of challenging questions this morning and so, we just kind of want to work that forward.

CHAIRMAN RIDDLE: Rose and then George.

MEMBER KOENIG: Just, you know, we had that initial meeting this morning and, you know, I definitely think you should also include the materials, at least the Chair in those conversations because there is overlap between Policy, Handling and certainly Materials because ultimately it has to kind of come into that process.

But, I just wanted to -- you know, after kind of going through this and I've been thinking quite a bit about it, I think you need to maintain...
that perspective that at least for the people that have been on the Board for five years, look how much the Materials process has evolved in five years. Okay. And this is a great challenge. I mean it -- it seems there's just a lot of different issues here and just realize that I just -- it's going to take awhile to figure out how to mechanically get the pieces together, you know, given a certain time constraint, you know, so.

CHAIRMAN RIDDLE: Yes, but at the same time recognizing that substances are being petitioned now.

MEMBER KOENIG: Yes, no, but -- but be fluid and be creative and --

CHAIRMAN RIDDLE: Um-hum.

MEMBER KOENIG: -- you know, we definitely did that at the first meeting.

MEMBER JAMES: So, I would like to -- I don't know if you made those changes. Make them -- you know, make a change to the policy work plan that -- that is not actually a deadline of December 31st...
for the website, but for beginning --

MEMBER CARTER: Here's -- here's -- here's what -- here's what we crafted here was continue to work with the Handling Committee and the Materials Committee Chair to prepare a draft document for determination of commercial availability criteria under 205.606 with the goal of having a committee document ready to -- ready to submit to NOP for feedback by December 31st.


MEMBER SIEMON: I guess I do have a concern. I mean if that's okay with NOP, that's fine, but this is a perfect place to merge NOP and NOSB's work plans and I just don't want us to get out ahead of their -- their input and boundaries.

I think this is a perfect place to work together. It's like a clean sheet of paper timing-wise. So, I don't want to get us ahead and then you -- you had just purely NOSB delivering to NOP. Your wording doesn't sound very collaborative honestly.
MEMBER JAMES: I think that we should probably -- I mean --

CHAIRMAN RIDDLE: Go ahead. Bea.

MEMBER JAMES: I -- I would like to recommend that we perhaps put together some kind of a -- a time line. The Policy Committee will put together some kind of a time line so that we can get collaboration discussions going on over the phone with the two committees. I also thing that Accreditation -- Andrea's on the Accreditation. I mean she's the Chair of that committee, but that's an important component as well, too, because it does involves certifiers.

CHAIRMAN RIDDLE: Yes.

MEMBER JAMES: So, I agree with you, George. I think that everybody needs to be involved in those discussions and I don't think it's going to be, you know, the Policy Committee and the Handling Committee submitting something without the entire Board looking at it and having discussions on it.

CHAIRMAN RIDDLE: Yes, but I think
George's point is that it be done hand-in-hand with NOP and -- and --

MEMBER JAMES: Right. Exactly.

CHAIRMAN RIDDLE: Yes, so, just inserting work with NOP early on in the sentence. Something like that. Yes.

MEMBER SIEMON: NOP. That's what I've gotten.

CHAIRMAN RIDDLE: Yes. All right. Rose.

MEMBER KOENIG: I would also suggest that the committees consider, well, two possible actions with that and one is to put out at least on the maybe website just soliciting voluntarily ingredients that companies are now using that they feel would -- minor ingredients that would have to be on the list so that the committees have a better idea of -- we've heard -- Tom gave us some ideas of -- what did you say? Fifteen hundred. You know, we need actual names so that we can see if there's general categories. So, I think putting that out to the public as soon as possible would be a good amount of data to collect.
prior to getting too involved in this.

And then additionally, I mean maybe Julie can supply that because she's got some handling-types of experience, but not just a limit to the Board. There's issues in terms of -- there's a lot of issues out there, constraints in terms of time and I think if we could just maybe ask that general question what are the -- what is the major issue or something that -- that if you're a handler that you think that we should consider or just so that we kind of up front field some questions to get an idea of the entirety of the issue because I think it's a much larger issue than we -- at least that I can imagine.

CHAIRMAN RIDDLE: Yes, and I -- we are aware that OTA has a task force that has been working on this and gathering -- identifying some of the substances and I hope doing some work on the ideas for criteria and procedures as well. They're not the only people that are also concerned. I think there's others in the public and so, I -- I -- I think it's a point well taken.
Bea.

MEMBER JAMES: Rose, are you proposing that the Handling Committee put something out for that kind of feedback? That they -- or the Materials --

MEMBER KOENIG: You know, either the NOSB/NOP joint. You know, somewhere on the website where sort of like -- where you had new items or --

MEMBER JAMES: Yes, somebody's got to draft up the --

MEMBER KOENIG: Yes.

CHAIRMAN RIDDLE: Yes, and this is getting to the level of committee work at this point.

MEMBER KOENIG: Okay. I'm sorry.

CHAIRMAN RIDDLE: That's fine. Yes.

MEMBER WEISMAN: I just -- I just -- there were one and possibly two people -- can't do it?

CHAIRMAN RIDDLE: No, you go ahead. No. No, Julie. Yes, this is Board work plan discussion. Yes. Thank you.

MEMBER WEISMAN: Okay. I -- I may ask for
some time in a second. Can I do that?

CHAIRMAN RIDDLE: What?

MEMBER WEISMAN: I -- I -- can I confer with someone?

CHAIRMAN RIDDLE: Oh, yes.

MEMBER WEISMAN: And then come back and ask for time?

CHAIRMAN RIDDLE: Or you can -- you can ask that Diane make a -- provide --

MEMBER WEISMAN: Can I -- oh, I can. I thought you were telling me that I'm not allowed.

CHAIRMAN RIDDLE: Yes. No. No. No.

MEMBER WEISMAN: I would like -- I --

CHAIRMAN RIDDLE: I just wasn't recognizing her myself.

MEMBER WEISMAN: -- I -- I would like the Chair to recognize Diane Joy Goodman who --

CHAIRMAN RIDDLE: That's okay.

MEMBER WEISMAN: -- who has something --

CHAIRMAN RIDDLE: Yes, that's fine.
MEMBER WEISMAN: -- pertinent to say about this matter.

CHAIRMAN RIDDLE: Okay. But, I don't want to get into details of actual committee work, but yes, Diane, please approach the mike, identify yourself.

MS. GOODMAN: But, it's important. This is Diane Joy Goodman and I'm Co-chair of the OTA 606 Task Force.

We have had an effort going for the last number of months to try to -- to get information from the industry using the available tools that we have, the OTA flash and frankly, we've gotten very little response. We've had five or six companies respond out of the entire OTA membership to let us know what substances they're currently using that are on 606. Many companies seem to feel that well, they're not using them or they're not taking the question down to their ingredient suppliers.

So, I wanted you to know what we've been up against in thinking about this so that you can take it to your committee work and try to find ways to make
this solicitation much more visible to the industry.

    Thank you.

CHAIRMAN RIDDLE: Thanks. Okay. Let's move on to Crops. Do you have --

MEMBER DAVIS: The Crops Committee on their work plan will be to finish considerations on the Sunset materials that were deferred as far as the vote -- this meeting. Continue working on that as well as any -- the new petitions that are on the slate coming our way and also to continue working on the organic seed availability recommendation to -- to polish that recommendation and perhaps bring it back to the Board again and hopefully start on hydroponics and also work with the Policy Development Committee on the recommendation for temporary research variances.

CHAIRMAN RIDDLE: Any questions, discussion of those? Yes, Rose.

MEMBER KOENIG: Just had a question on the -- because we had passed that commercial availability of seed. Is there new information or re-solicitation that came about? That -- that -- I just wasn't -- I
was just curious that -- I thought we had passed that.

MEMBER OSTIGUY: We did.

CHAIRMAN RIDDLE: We did.

MEMBER KOENIG: Okay. But, there's more.

MEMBER OSTIGUY: There was information submitted that I felt the Crops Committee should consider.

MEMBER KOENIG: Okay. Okay.

MEMBER OSTIGUY: See whether or not it should come back to the Board or not.

MEMBER KOENIG: Okay. Good.

CHAIRMAN RIDDLE: So -- so, just so the program understands. Even though the final recommendation was submitted from our last meeting. Sounds like the committee wants to do some more work on that. So, don't implement it the rule right away. Andrea.

MEMBER CAROE: Could you elaborate on what -- what -- what are you doing with hydroponics? Is it just a --

CHAIRMAN RIDDLE: All right.
MEMBER CAROE: Are we looking at rule change for hydroponic standards or -- I mean or -- or a guidance on how hydroponics are handled or --

MEMBER DAVIS: Help me on this, Nancy.

MEMBER OSTIGUY: Yes, hydroponics has been on the Crops Committee work plan five years. I think the original idea was -- was originally rule change. It might be guidance now. I couldn't tell you.

There was an interest in trying to see how hydroponics meshes with the rule and if there was anything in particular that was needed in order to make it mesh.

But, the committee has not touched it in at least three years. So, it's hard to find exactly where anything would go at this point.

CHAIRMAN RIDDLE: Rose.

MEMBER KOENIG: I mean and again, I'm -- I'm leaving. So, that's kind of good, but -- but I was -- in the beginning and this thing is like over five years.

CHAIRMAN RIDDLE: Okay. Just five years
ago.

MEMBER KOENIG: It's like -- it's like me.

Five years ago. It's like what Nancy said. This thing has been on the work plan. Obviously, I know there is hydroponic operations that are being certified. So, I ask the question.

MEMBER CAUGHLAN: What? What?

MEMBER KOENIG: Yes. Yes. So, I ask the question --

MS. ROBINSON: Names. We want names right now. Give us their names.

MEMBER KOENIG: I'll do it later. I'll write a formal complaint when I get off the Board.

CHAIRMAN RIDDLE: Well --

MEMBER KOENIG: No, but I know there are operations at least that I'm familiar with. Now, I haven't looked at their certificate. I'm not a -- but, anyway I -- I -- I am of the understanding which means somebody out there is already certifying them to the existing reg.

CHAIRMAN RIDDLE: Well, so, it would be
good to contract those certifiers and find out how they are understanding the regulations.

MEMBER KOENIG: Well -- well, and that's what we need to first determine do -- is there really a necessity. Right. So --

CHAIRMAN RIDDLE: Um-hum.

MEMBER KOENIG: -- so, I guess that's the -- I would -- if you guys could figure that out, I think that would be the first step rather than having -- that would be --

MEMBER DAVIS: Is there a necessity to --

MEMBER KOENIG: -- just -- to -- you know, just trying to get the information is are there operations that are being certified and how -- how -- how are meeting the reg. That would be just a great basic question to ask before you even get involved in --

MEMBER DAVIS: And is that proper in the first place would be the question --

MEMBER KOENIG: Well, I wouldn't even ask that. Yes, how are they meeting the regs? Just --
just do kind of a survey and a -- a report back on that. Because, you know, we've had things proposed, but nothing's ever gone anywhere. So, I just see this as one of those issues that just keeps on.

CHAIRMAN RIDDLE: Yes. Okay.

MEMBER DAVIS: Rose, I would welcome any contacts you could -- as far as certifiers that I could ask about this. If you know who was certifying these people as a start.

MEMBER KOENIG: Yes.

CHAIRMAN RIDDLE: Yes, and maybe we could approach the ACA Group or NASOP to see if any of their members would have information. Gerry. Yes, it would also be probably a good idea to contact the ACA, the Accredited Certifier Association and NASOP, the state organic programs to see if any of their members could help provide information on that.


MEMBER OSTIGUY: As far as I know, it's
the five-year review process and any materials that come into be petitioned and then --

CHAIRMAN RIDDLE: So, they're -- I think they're -- yes, when Arthur mentioned the other day kind of the list of things that have come in and then also the Materials has that first crack at reviewing the contractors' reports. Right? The draft. You've had responsibility. That's an ongoing responsibility. Yes.

MEMBER KOENIG: And then just a -- we need to make sure that we get follow-up to the synthetic/non-synthetic document and then make any kind of adjustments and also pending is the OFPA category document and that's really the major. I mean I -- I would -- I'm going to try to write one more thing before I leave.

CHAIRMAN RIDDLE: Oh.

MEMBER KOENIG: So --

CHAIRMAN RIDDLE: Can you be more specific?

MEMBER KOENIG: Well, I -- I -- I still --
I -- I had told Arthur I would do this analysis and we got stuck in Sunset and I couldn't really do it and I started farming again, but there was -- if people remember last -- last meeting, the way that I understood the NOP interprets the national list is that not only the substance is on the list, but it's any combination of those substances and I think that has to be -- yes, and I just think that that has to be really thought out and -- and -- and discussed and it's sort of just a -- more of just a piece of information.

CHAIRMAN RIDDLE: I -- yes.

MEMBER KOENIG: So, that -- I mean I'd be willing to do that if I can. If not, I'll -- when I get off the Board, I'll submit it as public comment.


Kim, the Materials work plan comment.

MS. DIETZ: Kim Dietz. I didn't hear any
of the Chairs put the deferred materials on your work plans and if --

CHAIRMAN RIDDLE: Oh, yes. Yes.

MS. DIETZ: I know, but if you could follow up with the public on any information you're seeking on those materials. Perhaps post on the website questions so that you can start getting industry input.

CHAIRMAN RIDDLE: Yes, that's a good point. Yes, I -- that was the number one item I've heard so far from the committee chairs. Yes, sorry. I'll talk louder. I'm not the one. Andrea.

MEMBER CAROE: Those -- those --

CHAIRMAN RIDDLE: Yes, please use your mikes.

MEMBER CAROE: They're on.

CHAIRMAN RIDDLE: They're not really --

MEMBER CAROE: They're on, but the deferred materials really need to -- to be posted with the rationale of the committee of why those materials were deferred and explaining the -- the information
Chairman Riddle: Um-hum. Yes, right now, you know, they're -- they're going to be coming in in -- kind of buried in each of the committees' recommendations. What I'm hearing you suggest then is the Materials Committee take those and just put them in one document or someone take them in one document.

Member Caroe: I mean that's not what I was suggesting.

Chairman Riddle: No.

Member Caroe: I'm not saying that's a bad idea. I'm just -- I'm just saying that right now the way the recommendations are written, it -- it's clear that when there was comments and -- and received, but it -- I think we got a lot more information here in committees' discussion --

Chairman Riddle: Um-hum.

Member Caroe: -- that would be valuable to -- to make sure is included when those go out. Why those materials were deferred.
CHAIRMAN RIDDLE: Um-hum. Kevin.

MEMBER O'RELL: Well, I think certainly the committees themselves from some of the public comments that have been received and -- and the questions that we have, I mean just would encourage them to reach out to those resources in the industry where they know we can get answers for some of these questions as well as opposed to waiting for -- for input.

CHAIRMAN RIDDLE: George. Rose.

MEMBER KOENIG: Well, what I would suggest is a step further. If people will submit the documents as we voted on them, okay, with our changes and --

CHAIRMAN RIDDLE: Right.

MEMBER KOENIG: -- then what I would like to see is that the committees get together and have an addendum to that. Because that will get posted. All of our recommendations. Correct? Right?

CHAIRMAN RIDDLE: Yes.

MEMBER KOENIG: So, within the addendum,
the addendum will include the list of either -- I mean
if you're going for a full TAP which very few of these
are, you could just write full technical evaluation
based on the stuff, but if there's specific questions
on the material, just put that in the addendum and
then this way folks in the audience can -- you know,
it'll be under the -- the -- the Sunset and then
you'll have the addendum so that you can see the --
the same questions that'll be submitted to the NOP
will be there. So, you'll know what the committees
are asking.

CHAIRMAN RIDDLE: George.

MEMBER SIEMON: Well, it's real important
for me to understand this because this is really a
second step to this whole process is to send out to
the committee what we need. So, is that the way it's
going to happen and what is the timeline? Because
we're -- I had heard yesterday we were going to try to
get this information between now and the next meeting
so we can finalize our decision for the next meeting.

So, there needs to be a pretty -- pretty
tight time line in here. So.

And -- and one of my biggest concerns is -- is how we're finding out about alternatives and so, I really like to see that the question be asked specifically about alternatives for these projects. Since you've chosen to defer them to me, that means the more important ones probably to ask are there alternatives. Because I -- that's part of what I see as missing here is the research and the alternative. So, I'd like to see that asked.

CHAIRMAN RIDDLE: Rose and then --

MEMBER KOENIG: Well, it's just that a number of them were specifically mentioned for the alternatives like the narrow range horticultural oils was an example and as Barbara stated that if we have a -- certainly, that's a very appropriate question to ask the public. That we probably will receive a lot of public input. That probably is appropriate and specific enough to go to the TAP contractors because it could be, you know, maybe researched quickly and get some non-bias, you know, evaluation.
So, those are the two mechanisms that we would use to specifically get those answers.

CHAIRMAN RIDDLE: Okay. Has -- do we have a plan? I'm not sure. We have a need and we have some ideas identified, but I don't know quite yet -- is -- Nancy, is this something -- I know you already did it on the Crops Committee where you've got the questions there. As Materials Chair now, would -- would that be something that your committee would put together, pull from -- from those drafts or should I do it as they come into me? Essentially, what I'm hearing is we just want to identify those substances and those questions and somehow work with NOP to get those posted without somebody having to go through and find them. There should be one consolidated place.

For the -- the -- the deferred materials, but the questions that are being asked. Especially the questions where we need the information from the public and like George was saying about available alternatives for instance.

MS. ROBINSON: Well, it seems as though --
for of all, I mean it's -- it's our experience that
you don't want to overwhelm the public with, you know,
52 questions. A short list of questions. The same
questions it would seem to me -- if -- if it was me
and I was doing it and I'm not going to do it, but if
it was me, I would think of a list and you could all
do this. You could just -- everybody just think of
one question, but I would think of a -- a few
questions and then have the same set of questions, you
know, three, four or five questions for all of the
materials. Why wouldn't you ask the same question for
all of the materials?

Because you're -- you know, maybe the --
okay, maybe there are some particular unique things
about some of them and maybe -- maybe you could do
that, you know, if you -- if there is something unique
about one of them because it's Crops or Livestock or
something like that, but -- but for the most part, you
know, you're going to have the same kind of questions
for all of them. You know, alternatives, something
safer, something like that.
So, you know, but keep them short and keep them fairly simple. The more complicated you make it, the less feedback you're going to get.


MR. NEAL: And I think it'll be better if there is one consolidated document that addresses all of them. I think I wrote them down. There are eight deferred substances and well, some of those don't include the ones that we have already sent TAPs.

The ones that I have listed here that were not identified prior to this meeting is hydrated lime, milk replacers, lecithin bleached, hydrogen peroxide, horticultural oils, lignin sulfinate and sodium silicate. So, we've not request TAPs on those.

And we've not requested a TAP on lecithin unbleached because what has to first happen, committees have to identify, okay, why are we deferring it. What are -- what are the issues we have with these? Is it an alternative issue? Is it a safety issue?

This has got to be thought through first.
CHAIRMAN RIDDLE: Um-hum.

MR. NEAL: Once that's been figured out, you put your document together. Then we can go out to the public with some general questions. I'm assuming most of these deal with alternatives though. Are there alternatives for these substances? So, that's fairly simple.

Even with the chlorine materials, I think it's probably an alternative issue because these things are pretty much regulated as grass materials if I'm not mistaken.

CHAIRMAN RIDDLE: Nancy. Then Bea.

MEMBER OSTIGUY: What I would like and what I'm willing to do as Materials Chair is if each of the chairs of the committees can get me what they're questions are for the materials, I will consolidate it all and hopefully be able to consolidate it into a couple of questions, but I don't necessarily know why the committee wrote or pulled particular things out. So, I don't want to
misrepresent what the committee was doing, but if you get me that information, I will put it together in a document, send it out to everybody, send it back to you to make sure that I haven't misrepresented something that the committee was doing and then I'll be able to send it to NOP.


MEMBER JAMES: What if the response back from the public on the questions is not sufficient enough to be able to make any kind of determination on --

CHAIRMAN RIDDLE: Oh, that's kind of -- okay. Nancy.

MEMBER OSTIGUY: What I envision is that some -- some materials will get responses and some will not. The materials that do not get any response as long as it's a small list, I'll take care of it. I'll try to answer those questions because we can't go out to TAP for everything.

MEMBER KOENIG: But, we can ask them
single questions.

MEMBER OSTIGUY: It -- it depends on the response back. So, if we can do -- if we can do that, that's what we'll do, but I can also do some looking.

But, if you don't want to just work with what I find, I would highly recommend sending us stuff.

CHAIRMAN RIDDLE: Um-hum.

MEMBER OSTIGUY: Because, you know, what I can find might not be what everybody else can find. So, it is better if we get responses from the public.

MEMBER KARREMAN: Jim.

CHAIRMAN RIDDLE: Yes, Hugh.

MEMBER KARREMAN: As far as when the alternatives are listed from the public or whoever, could -- could there be some documentation of functionality or efficacy of those alternatives?

MEMBER OSTIGUY: That would -- that would be a necessary part of it.

MEMBER KARREMAN: For chlorine let's just say because -- okay.
MEMBER OSTIGUY: That would be a necessary part.

CHAIRMAN RIDDLE: Rose.

MEMBER KOENIG: I -- I truly -- you know, and -- and it's not that -- I mean I think it's gracious that -- that Nancy has offered those services, but I mean I think we -- we have the contractors. I think we have the funds. I mean these are -- these are pretty minimal questions and there's not a whole lot of substances. So, I think we should go ahead and have NOP -- hire them to get that information and then Nancy -- I mean once we get that information, we determine it's not sufficient, certainly, the committees need to work and -- and maybe get additional information, but utilize that resource because you have other things on your plate.

CHAIRMAN RIDDLE: Arthur.

MR. NEAL: We talked about the questions. Just an example. I don't know what all lecithin is used for, but if you decide to go to a TAP contractor for a review on lecithin without being specific, you
could have multiple uses for lecithin and TAP contractor not being able to narrow in on what you really want. Right. Multiple forms, multiple practices of manufacturing and stuff. So, you just got to be dead on on what you want because we're wasting time and we're wasting money.

CHAIRMAN RIDDLE: Okay. Point well taken.

Handling.

MEMBER O'RELL: Handling. I'll -- I'll take Handling until I transfer my list over to Julie.

First on Sunset material review process as we've all discussed and move forward on the materials that were deferred from this meeting, evaluate public comments, additional TAP updates, past historical discussions from the Board and present list of any questions that need to be further answered.

Second one is the agriculture/non-agricultural guidelines to continue work on the deferred recommendation from our last meeting and request an expedited full TAP for yeast review as part of this recommendation. Review and consider public
comments and come back with a new recommendation for
the next Board meeting.

Continue to participate in the Pet Food
Task Force meetings. Then in conjunction with the
Policy Development Committee and I'll make sure we get
dave's words, but prepare a draft recommendation on
the determination of commercial availability under
205.606 in cooperation with the Policy Development
Committee, Materials Committee and in collaboration
with the NOP.

New committee members, recruit new
committee members for the committee and an appointment
of a vice chair.

Review petition substances as needed. I
think there are some petitions that are going to be
coming to us and then I put this on here, food contact
substances, somehow get clarity around the issue of
food contact substances and that certainly will be
working in collaboration with -- with the NOP.

CHAIRMAN RIDDLE: Okay. Any comments,
questions on that?
It did remind me of one thing for the Livestock Committee, Mike, and that'll be the Aquaculture Task Force report will be coming to your committee first off. So, you'll need to be prepared to deal with that one way or another.

Anything else for Handling? Okay. Well.

MEMBER KARREMAN: Not on Handling, but something I want to bring up. At least, hopefully, the Livestock chair will agree that we should have input on the research variance that are being developed. Crops Committee said they're specifically going to do that. I think Livestock Committee should, too, if that's okay.

CHAIRMAN RIDDLE: And yes, Rigo's chair of the committee taking the lead and he's on the Livestock Committee and the Crops Committee.

MEMBER DELGADO: That's correct. All three of them. So, either way we'll get it.

CHAIRMAN RIDDLE: So, there's some crossover there, but yes, certainly as it affects livestock research and even in the rule, the variance
mentions handling as well. So, there may be some handling research issues. So. Okay.

The next item on our agenda is -- I mean it did say break, but I think I'd rather finish up the next meeting date discussion and then take the break before public comment.

Barbara.

MS. ROBINSON: Jim, I would actually like to suggest that you not try and schedule the next meeting at this meeting. Since we are going to go out with an ANPR and try and schedule the symposium or the -- you know, the -- the panel of experts to discuss dairy pasture, one of the things we've thought about doing is -- what would be ideal is trying to schedule the first Board meeting with the new members during that time and since we're going to seat six new Board members, we'll have to schedule -- we'll have to also work with their schedules as well.

So, what I -- rather than you guys trying to fix a date at this time, you know, the -- better -- why don't we just do what we've been doing in the past
which is, you know, I send around that electronic calendar and you guys always send it back and say here's when I'm absolutely not available.

We know that -- that the upper-midwest conference will take place -- when did you tell me? The last week in February, Jim?

CHAIRMAN RIDDLE: Yes, February 23rd through 25th.

MS. ROBINSON: Right. So, that week is out as is the week or two leading up to it and we couldn't put together a meeting by then anyway.

CHAIRMAN RIDDLE: Yes.

MS. ROBINSON: So, we're thinking something more like late March probably because we'd like the symposium to occur during the comment period and so, why don't we just do that?

CHAIRMAN RIDDLE: Um-hum.

MS. ROBINSON: Try that and yes.

CHAIRMAN RIDDLE: I got Julie --

MS. ROBINSON: Right and we have -- and Arthur's reminding me. We want to make sure that we
have materials ready --

CHAIRMAN RIDDLE: Right.

MS. ROBINSON: -- because what's the point in having a meeting --

CHAIRMAN RIDDLE: Um-hum.

MS. ROBINSON: -- if we don't have the TAPs back.

CHAIRMAN RIDDLE: And I also -- also assume that it will need a -- allow time for orientation of the new Board members as well.

MS. ROBINSON: Correct. Correct. So, we'd like to be able to do that.

CHAIRMAN RIDDLE: Um-hum.

MS. ROBINSON: And so.

CHAIRMAN RIDDLE: Okay. Julie, did you still want --

MEMBER WEISMAN: I don't know if this is the type of thing that gets taken into consideration, but the Natural Products Expo is in the end of March as well. Once upon a time, these meetings got piggybacked onto that. I know that hasn't be done in
a while. So, either as something to use or something to avoid. I just wanted to throw that out.

CHAIRMAN RIDDLE: Yes.

MEMBER WEISMAN: Yes, the 23rd -- the 23rd through the 26th of March.

CHAIRMAN RIDDLE: And it will be in?

MEMBER WEISMAN: In Anaheim, California.


MEMBER KARREMAN: Yes, as far as when -- when the meeting takes place so that it's within the public comment period, Barbara?

MS. ROBINSON: Um-hum.

MEMBER KARREMAN: I would hope that that symposium teach and listening session takes place kind of -- somewhat earlier in the public comment period than near the end just so people can weigh in, you know, what they've heard and -- and make comment from that and also, I know that when we came on the Board, we didn't have much say in the dates of the meeting. The five of us. So, I think just you got to set it up and --
MS. ROBINSON: I understand that, Hugh, but -- but I also don't want to schedule a meeting and six people can't show up, you know, so and while I realize that we have members going off the Board and it's very common for old members to come back to that first new meeting, it is more or a courtesy. It's certainly not obligatory for the -- for the exiting members to come to the first meeting and they can't vote. So, you know, 14 minus five leaves nine plus or minus six new ones means no vote's going to take place if we don't have a quorum. So, we got to do something. So, I hear you. You're right. We'll drag them in there. Go and get them and --

MEMBER KARREMAN: You got to do that.

MS. ROBINSON: Right. That's right.

CHAIRMAN RIDDLE: All right. I got Gerry. Then Julie.

MEMBER DAVIS: If your question's more pertinent to what they're talking about right now, go ahead.

MEMBER WEISMAN: Okay. Just as a
reminder, there were five seats filled this year and I think all five members had -- were able -- there was no problem with new members attending the meeting.

MEMBER KARREMAN: I think new members are going to attend. I mean because it's their first meeting, they're going to try to be there.

CHAIRMAN RIDDLE: Well, let's -- we don't need to get into details of this. Gerry. Then Andrea.

MEMBER DAVIS: Barbara, I had a question for -- concerning how long it's been since we've had a meeting outside of Washington, D.C., what is the NOP's current thought on when we will schedule something in a location further west for the benefit of the people who live out there?

MS. ROBINSON: Never. Just kidding. I'm just kidding. The reason we have been scheduling meetings in Washington is not to be disagreeable, but because of -- frankly just out of budget constraints. That -- because you see how many people from NOP are here and that even though it is expensive to flight
all of you to Washington and I realize it is expensive
for people to come to Washington, then when you add
all of us to boot and we have to be flown someplace,
you know, it just adds more costs. That's the biggest
reason that we have been having the meetings in
Washington. It really wasn't to just, you know, force
you to spend $8 for a bagel and -- but -- but, I -- I
do hear you. I mean that's one of the reasons that we
want to have the next meeting in, you know, the
northeast, in dairy country and, you know, we'll --
we'll try to have meetings in -- in -- in -- in other
locations.

But, I have to tell you, the fiscal year
2006 budget was flat and then Congress will rescind
our budget by 2 percent, but Congress also gave us a
pay raise which while my staff likes that very much,
they do, they -- they think that's -- yes, they think
-- yes, they all individually think it's very nice,
that pay cost comes right out of the budget. In other
words, it means less money for travel. It means less
money for TAP contracts. It means less money for
other things.

So, and then Congress turns around and takes back another 2 percent. So, in effect, there is a 5.44 percent budget cut in NOP in discretionary spending. That's the way it goes. So.


MEMBER CAROE: Instead of setting a meeting, could we at least attempt to identify a favorable week just because the -- the faster I get it on my calendar, the better chance. I mean not set the meeting necessarily, but tentatively set it.

CHAIRMAN RIDDLE: Well, I think Barbara had a plan for sending out the calendar for you to identify all the dates you're not available. Isn't that enough for now to leave it?

MEMBER CAROE: Are we waiting for the new members before we do that because like too much notice --

CHAIRMAN RIDDLE: So, instead of doing it
now --

MS. ROBINSON: Can you -- if I send something out, can -- that says when are you available for like from mid-March through the end of April, can you -- can you deal with that? Is that what --

MEMBER CAROE: Yes, it'll change. It'll change weekly. That's the thing. I just want to get something on the calendar if I could, but if that's not possible I'll --

CHAIRMAN RIDDLE: Yes, not -- not right now please. I mean --

MEMBER CAROE: Okay.

CHAIRMAN RIDDLE: Sorry.

MS. ROBINSON: Try to block something out as soon as we can.

MEMBER CAROE: Great.

CHAIRMAN RIDDLE: George.

MEMBER SIEMON: So, I'm a little unclear. Is the next NOSB meeting going to be connected to the dairy pasture thing and does that mean it won't be in D.C.?
CHAIRMAN RIDDLE: That's the plan.

MEMBER SIEMON: That's the plan. Great.

Wait until I get off to leave.

CHAIRMAN RIDDLE: You're invited back with expenses. Right?

MEMBER SIEMON: Right.

MEMBER CARTER: Well, I would -- I would think any employee that really loved their job would contribute any pay increase back to help.

CHAIRMAN RIDDLE: Okay. Okay. But, what's that?

PARTICIPANT: I don't -- I don't get the pay increase. I just want you to know that.

CHAIRMAN RIDDLE: Okay. And Kevin, as far as the next executive committee call, you'll just handle that schedule by e-mail?

MEMBER O'RELL: Yes.

CHAIRMAN RIDDLE: Okay. So, committee chairs, you're not aware, as a committee chair, you're now on the executive committee. Okay.

Well, we're at about 2:35 or so and the
next item then is the public comment session and so, we'll have a break until 3:00 I guess.

Is there anything else we need to cover?

Yes, that's a good point. Nancy just said if we're back here in our seats at five until 3:00, then at 3:00, we can start the public comment. Let's not start coming back at 3:00. Let's be in our seats ready to go a little before 3:00.

Okay. Break.

(Whereupon, at 2:34 p.m. off the record until 3:00 p.m.)

CHAIRMAN RIDDLE: I didn't give a warning to who would be up first. So, what I have on the list here is Dr. Juan Velez. I haven't Dr. Velez. Is -- are you here? I haven't either. Okay.

So, then Matt Van Baale or Van Baale. Not here either.

Joe Smille's here, but he switched with Harriet Behar. Okay. So, you will be first. But, take your time because I do want to read through quickly the policy for public comments once again
because there are some people who weren't here for the comment period yesterday.

You must sign up in advance. People have done that. You'll be called on in the order you speak, but if you're not here when your name's called, I'll go back at the end and give you another chance if -- if you're here later.

You'll have five minutes to speak. If you're carrying a proxy or you are using someone else's time, you can have up to ten minutes, but please inform us of that when you start so the timekeeper can set the time accordingly and Goldie will be the timekeeper and she'll hold up a one-minute warning sign, but like I said yesterday, if you don't see it, that's not her problem. So, the -- the clock keeps ticking.

You give your name and affiliation for the record and individuals providing public comment will refrain from any personal attacks or remarks that otherwise impugn on the character of any individual or company.
So, good, respectful, healthy criticism not a problem. No personal attacks.

So, with that, we'll go ahead and just a second. George.

MEMBER SIEMON: Yes, having sat through a lot of sessions to get to the faith about pasture, I'd like to make sure that -- maybe we should read what specifically we've asked for feedback. Because I'd really like to get feedback on those questions. So, I just think it might be healthy for us to read those.

CHAIRMAN RIDDLE: Okay. That was in the NOP request --

MEMBER SIEMON: Specifically -- yes.

CHAIRMAN RIDDLE: -- for this meeting.

MEMBER SIEMON: Because part of our holdback has been to get those answers -- those questions answered. So, I want to be sure we hear testimony that --

CHAIRMAN RIDDLE: Okay.

MEMBER SIEMON: -- and not just that pasture cures everything.
CHAIRMAN RIDDLE: All right. Sure. Would you like to summarize that? What?

MEMBER JAMES: Is -- is that fair to do that during the comment period?

CHAIRMAN RIDDLE: Well, yes, if you'll remember yesterday when I was asking for, you know, what comments are most helpful, those on the Sunset and specifically the deferred blah, blah, blah. Some instructions prior to comment when we have a focused comment which once again the focus of this is pasture. You know, other topics may come up, but we certainly appreciate people to address pasture issues and there were some questions posted. So, George is going to summarize those.

MEMBER SIEMON: And I'm going to read them.

CHAIRMAN RIDDLE: Read them.

MEMBER SIEMON: Specifically, USDA would like to hear public comment on the following topics: growing season, birthing, stage of life versus production, economic implications of imposing further
restrictions on -- on dairy farmers under NOP through specific pasture requirements, how variation, geographic and climate conditions of the United States and other parts of the world that wish to comply with NOP requirements should be accounted for and contemplating changes to access to pasture for dairy animals and whether this change should be imposed on all ruminant livestock not just dairy.

Thank you.

CHAIRMAN RIDDLE: Okay. Thanks, George, and so, Harriett is up and on deck, Dennis Stiffler. Is Dennis here?

MS. BEHAR: I don't know. I just wondered if the other people who had signed up came in first. Yet or -- who were the other two people?

CHAIRMAN RIDDLE: What?

MS. BEHAR: Who are before me?

MS. BEHAR: Thank you, Joe -- Joe Smille for -- for --

CHAIRMAN RIDDLE: Keeper, are you ready?

MS. BEHAR: -- switching with me so I could do this now.

I am Harriett Behar an organic inspector from Wisconsin. I comment Jim for the research and addendums provided with the Livestock Committee recommendation for the NOP rule change detailing the positive environmental, animal and human health effects resulting from the pasturing of ruminant animals.

It is clear that the NOP rule has been lacking in clarity for years and the NOSB has addressed this issue on numerous occasions. I believe the rule change as presented would solve many of the problems. However, I'd like to make this small improvement.

Ruminants over six months of age shall graze pasture at my improvement now providing significant value for at least 120 days per years and
also in the prohibited section adding that significant feed value statement.

The definition of pasture has not been offered as a rule change. So, I add this previously NOSB recommended statement to give a clearer meaning to the word pasture. I have seen the farmers provide insufficient grabs or forbs to offer the significant feed value from grazing that I believe the NOB/NOSB would wish to see the animals receive.

In addition, I have seen farmers allow access to pasture for only an hour or so per day, but if significant feed value were to be provided and mandated, the animals would need to be out on the land for more than just a couple of hours.

As an organic inspector in the dairy state of Wisconsin, I have had the pleasure to visit many organic dairy farms and verify their compliance to the NOP rule. The vast majority of the farms I have visited already meet the rule changes recommended by the Livestock Committee and I believe would welcome these changes.
The farms I have visited that do not currently meet these proposed rule changes in my opinion would not have a significant economic burden put upon them to meet these rules.

It is true the farmers would need to modify their production systems, but this is the case for any operation that would be transitioned from a conventional farming system to organic.

I have heard many reasons for not providing pasture to the -- to organic ruminants. One, the desire to use land close to animal housing for the production of crops and not for grazing. Two, not enough acreage mandated by the farmer to -- managed by the farmer to provide sufficient pasture land for all ruminants over the age of six months. Provision of grain-based diet versus pasture-based diet typically results in higher milk volume per animal in a specific year. Concerns about cost and time to put in a quality fencing and alleyway system to provide cows access to the pasture lands. There could also be more labor to gather cattle twice per
day and bring them to the milking area from the pasture as well as the labor needed to move fences or cattle to various paddocks in an intensive rotational grazing system. Six, the belief that cattle prefer a prepared mix ration and do not like to graze. Seven, healthier, stockier looking animals are raised in a confinement situation.

My responses, but if pasture is made a priority by the farmer, I believe they could develop systems such as rotating pasture with their row crop and hay production, developing intensive rotational grazing systems that provide more forage per acre than permanent pasture situations and match their livestock numbers to their acreage. When the cattle are allowed to feed themselves, this would free up the farmer from preparation and delivering feeds, that the time would be spent working with the pastured cattle.

While grain-based diets can result in higher milk productions, dairy cows who are fed and exercised on pasture tend to live longer. Instead of seeing how many pounds of milk a cow produces for each
lactation to judge the economic viability of an operation, we could judge how many pounds of milk the cow produces over her lifetime.

Confinement animals tend to be culled due to health problems after one or two lactations. While pastured animals, in my experience, tend to average five to eight lactations or more.

It is true that pastured animals may be a little thinner than confined animals, but I have not seen proof that they are not as healthy and the longevity of these pastured animals illustrate that they are.

The only time I have seen cattle not graze pasture when available is when they are offered a ground ration or silage at all time. So, they choose the easier food rather than walking out and eating pasture.

The wording I suggest for significant feed value from pasture would mandate the farmer modify his feeding schedule so the cows would go out on pasture. When they are aware that fresh grass awaits them, I
have seen pastured cattle enthusiastically run to these paddocks.

Lastly, if the land cannot support dairy animals who receive significant feed value from pasture, then perhaps this region is not the best place to site an organic dairy. After all, we do not grow avocados in Wisconsin.

CHAIRMAN RIDDLE: Okay. Thanks.

MS. BEHAR: And I got that 846 words.

CHAIRMAN RIDDLE: I have one comment and then I think Bea has a question.

Yes, I just want to point out you referred to the Livestock Committee recommendation. I just wanted to be clear that even though the Board voted on it, it's a draft.

MS. BEHAR: Yes.

CHAIRMAN RIDDLE: It's a draft recommendation. So, for you or any other commentors, please keep in mind, refer to it in print draft recommendation.

MS. BEHAR: Yes. Okay. It is a draft.
CHAIRMAN RIDDLE: No problem. Yes, and your comments I think would be perfectly appropriate once it gets posted to submit back to us some of the details on how you think it should be changed. So.

MS. BEHAR: Okay. Thank you.

CHAIRMAN RIDDLE: All right. Thanks. All right. Thanks, Harriett. Mark Kastel and then Tom Harding.

MR. KASTEL: You better take Tom before.

Jim, I'm -- I'm sorry. I thought there were a bunch of people before me. Can you take Tom and then I'll come up?

CHAIRMAN RIDDLE: Tom, are you willing to switch there? Thanks, Tom.

MR. HARDING: Musical chairs, I. Good afternoon. Tom Harding, AgriSystems International and I won't repeat everything that I said yesterday that we work with a great number of small, larger and cooperative producers and value-added processors.

Before the new draft using Jim's words came about today, we were prepared and we solicited
all them. You have documents that have been submitted independently supporting our position that we supported the recommendations on the guidance document and we felt that overall it was a -- a good beginning as a guidance document.

Now, that we've seen the new draft and I had managed to call a few of them, they support the new draft in principal with 120 days and there's one concern that a couple of them raised and I put that in my notes and that was the issue of any prescribed percentages of dry matter intake, that we don't get too prescriptive in that area and clearly define what feed value is and that we take it under a serious consideration the ability to analyze anything that looks like prescriptions other than 120 days.

The other thing that was very important is that all of them wanted to make sure we were aware of the geoclimatic differences that are availed in this vast country called the United States of America and that we consider regardless of where those farms are today, they've been there for a long time, and in
deference to my friend who just spoke, some of those farms have been there a long, long time and are very dependent on that region and I say that we have to listen to everybody and make sure we get total input for all geoclimatic conditions.

The other thing that's important to us is that with regards to the issue of how fast we're going to move forward with this document, we encourage you to move as quickly as possible from the draft stage into the -- maybe the advanced proposed rule stage and to get some clarity here.

One of the things that's very concerning to a number of them is the issue of certification. I can promise you that there are a number of certifiers that are quite different when they look at these documents and they actually certify a farm based on records that verify either access to pasture or percentage of pasture time, et cetera, et cetera, et cetera.

I don't think that's the certifier's fault. Again, I think it's the last of clarity in the
whole issue of what really is access to pasture.

   So, the 120 days is a very important
start. It's very important that we take under
consideration that these farmers have been there for a
long time. I'm repeating myself and that we pay
particular attention to moving very quickly and to
getting some clarity for our certification community,
for our producers and for our marketplace because it's
quite confused out there.

   Since I have a couple more minutes, I want
to mention something about TSPP which is tetrasodium
pyrophosphate. Because it was mentioned yesterday
that there was not a ample petition and that it was
not an ample TAP. I don't know where that was coming
from, but I just want to tell you that being part of
that original petition for a client, we did submit a
petition. We felt that it was adequate at the time
and we also felt that there were adequate TAP reviews
on it and that there were two independent Board votes
on that and we encourage you as a Board and as an NOP
to put it back where it belonged and that is the
recommendation that it be for organic products and not just with made as proposed in the most recent rule.

The last point was on wild fish and I'm sorry that Keith is not here.

I work with a number of coastal villages in Alaska and other places. I'm not suggesting and neither are they that fish be -- wild fish be organic. Frankly, in my opinion, it's the only fish that will ever really be organic. But, we're suggesting that wild fish need to be considered and that we need to have that task force put in place and we are ready to submit a number of names that would certainly qualify to give you adequate input on that.

And the last point I want to make is I really appreciated this process this time. I think it's a really important process. The more transparent, the more open, the more dialogue we have, the better it's going to be, but the one thing that I'm walking away with here that I'm a little concerned about is the deference, these materials that you deferred and all the activity that you're going to try
to come to some determination here real quickly.

I think I agree with what I thought George was trying to propose and that's the issue that those who are supporting the continuance of the materials should be the ones defending it and not those who are in the opposite position. So, I think it's really important you consider that as a Board in the future.

I want to thank you and I want to thank you for your good work and Jim and all the rest of you who are leaving the Board, again, I want to thank you for your hard work and I want to thank the NOP, too. Thank you very much.

CHAIRMAN RIDDLE: Thanks, Tom. Okay. Mark, you ready now? And then Gouiri Koneswaran. Is there such a -- okay. Thank you and you'll tell me how it's pronounced later. Okay. Mark.


Hi, my name is Mark Kastel. I am in the senior -- senior farm policy analyst for the Cornucopia Institute based in Cornucopia, Wisconsin.
And I have a proxy here from certified organic crop producer Steve Gells from Gill, Colorado and I'm going to start by reading his brief statement.

You all saw the complaint that we filed based on his testimony in part.

And Steve writes: "I find the issue of organic dairy cows running on grass to be a simple one. For the organic dairyman who have found their nitch in a difficult market, accessing their cattle to grass is their only edge. It was be logistically impossible for a large corporate organic dairy farm to do the same. If you allow the rules to be different for large organic dairies, not -- not only will the term organic become somewhat generic, but also hundreds of small organic dairies won't be able to compete. Since consumer confidence in agriculture is top priority especially in the organic industry, the rules must be the same for everyone."

And he says that he would be happy to field questions from the Board. Will supply his contact information if anybody asks.
Number one, it's very simple. We've been working on this together for five years to close loopholes on a handful of industrial scale farms masquerading as organic. We received a quote from a principal of one of the firms that we filed complaints against. It came in from a member of the press today and again, I'll be willing to share this with members of the Board and maintaining the anonymity of the -- the reporter, but it said one, there's no rule adoption imminent is what this gentleman told the --

Does he know something that you folks don't know? The other thing he said is the guidance is only that. We don't have to -- he didn't use these terms. We don't have to follow. No basis in law. The guidance that was adopted. That's the quote. That's what we're hearing from this "organic producer." That's not what I hear from organic producers I work with. They're gaming the system.

The present rule is enforceable. You heard from our lawyer the other day. If the NOP
doesn't take action on our current complaint and revisit the former complaints, we'll look to a judge to ask them politely to enforce the law. One plus one is three.

Animals must be -- we must promote the natural instinctive behavior of our livestock. Animals must have access to the outdoors. Ruminants have pasture and there's a very sharp definition for pasture there.

I don't know what you folks don't understand. The vast majority of all organic dairy producers understand the way it's written and the vast majority of certifiers understand the way it's written. We're doing all this work over the last five years for a few scofflaws and we can't get the Department funded through our tax dollars to take action. I don't understand.

Based on the astute comments of Hugh, Dave and Rosie, we do need the term growing season in the -- in the -- in the document and we do need a number that you've already adopted in the guidance 30
percent. Otherwise, what we're risking is that these farms that milk three and four times a day, I -- I visited the largest organic dairy farm in Wisconsin, 500 cows. Beautiful pasture, permanent paddocks, waterers. This guy was a great manager.

I said how far is the farthest that your cows have to walk from the barn to get to fresh grass? Five hundred cows, a mile and half. How far are they going to have to walk with 4,000 or 5,000 cows? Or are we going to allow them to just graze a couple of hours a day so that they instead of having the necessary land mass which through our survey is an acre or two -- a cow or two per acre on most organic farms, are they going to have a population density that's much higher because they rotate their cattle during -- in between each milking out there? That would be wrong and it would put family scale farmers at a competitive disadvantage. We can't leave those loopholes open.

Number two, comments directed to the NOP questions. First, we really strongly object to the
development of those questions without consulting the Board. The Chairman of the Board also issued some questions. You folks could have gotten together and come up with one list. I don't know why this communication doesn't take place, but the Inspector General said this is a -- a defect. Mark, we're looking to you as the new leadership here, I know some of this happened before you took over, to really inject a little bit different kind of process.

MEMBER CAUGHLAN: You had a proxy.

MR. KASTEL: Yes, I have a proxy.

MEMBER CAUGHLAN: I'm going to reset it.

MR. KASTEL: Okay. Thank you.

MEMBER CAUGHLAN: Reset it.

MR. KASTEL: Thank you, Goldie. So, growing season, it's simple when forage is available, but this is the operative aspect for these farms in the west. If they spend their money to irrigate cropland, that's the definition of a growing season. That irrigated crop. None of this, well, we're in a drought now because we don't get any rain during these
months of the year. If they irrigate, if they irrigate crops, they should be obligated to irrigate pasture if they're in that kind of environment and can't provide a minimum of 120 days. Minimum of 120 days.

Economic impact of imposing further restrictions, not. There's nothing that changes the dynamic for most dairy producers if this rule's presented. They're not going to change. There are some as Harriett said that might have change management. That's the minority.

I don't understand and we take a great exception to why the NOP didn't promulgate a question that asked what is the economic implications of not enforcing the current regulations on the family farmers who are doing the job now and following the rule. They are at a competitive disadvantage. Already one company has a 55 percent market share. Add in the -- add in Aurora Dairy which is now converting two additional farms that might have five CAFOs within a near short-term period of time. We
know what happens. In every other commodity area of agriculture when one, two or three companies dominate the -- the -- the marketplace, farmers lose. There's -- there's great evidence for that and these family producers built the business.

Variations in geographic climate. A month and a half ago, I visited the Aurora Farm. On one side of their farm, they had 50 late lactation cattle on pasture. They quit milking them three times a day. They were milking them twice a day. They could afford to give up that production on 1 percent or so of their cattle.

On the other side of the highway were 70 dry cows. The land's for sale. I don't know how long they'll have access to that. That was the total amount of cows on pasture out of about 6,000 they control in the Colorado area.

I drove a short distance to the only other certified, maybe I use the word loosely, certified organic dairy producer in Colorado, Meg Kattel who farms with her husband Arlon. They're both
veterinarians. Four hundred cows, irrigated pasture, beautiful grass. Their cows, 100 percent of their cows were out. All of them unless they were calves were out on pasture. They can do it. They can do it in that climate. No one should get a bye here.

And now a couple additional comments directed at -- at Chair Riddle's questions. Do you provide lactation -- lactating animals access to pasture was a question to dairy producers. The answer, Jim, yes.

Our survey which we shared with you at the last meeting said 93 percent right now have no problem with 120 days and -- and -- and 30 percent or they could make minor adjustments. Only 1 percent of dairy producers responding to our survey said that they philosophically objected to what was going on. They are providing grass right now.

How many days per year? All of them over 120 days. We found one -- one very credible organization in Colorado that is at about 90 days. I talked to those folks last week, but they aren't
managing their pasture. It's unmanaged pasture. So, the conjecture is -- in our discussions, the question was if they rotationally grazed, if they added any kind of irrigation, would they be able to meet that?

Thank you, Goldie.

So, I guess in closing, let me just say this is time critical. There's no doubt that there's overwhelming support and I'm just going to read from a letter from the National Association of State Organic Programs. It said this issue is of paramount concern.

I'm excerpting this. Groups have overwhelming supported the recommendations for a rule change and the NASOP hopes that the NOP recognizes the need to clarify the organic pasture rule for ruminants -- for ruminant animals as soon as possible.

So, we applaud the fact that you adopted this. We'd like to make it tighter. If we leave any of those loopholes in -- in there for -- for growing season or no -- no baseline for dry matter intake and the people who are truly grass based, doing rotational grazing are at 80 to 100 percent during the growing
season -- some people are at no grain. We're not trying to turn them into no grain, but if we leave those loopholes open, all the work we've all done in five years will be for naught because they'll seek those out.

CHAIRMAN RIDDLE: Thank you, Mark.

MR. KASTEL: Thank you.

CHAIRMAN RIDDLE: Okay. Gouiri.

MS. KONESWARAN: (Off microphone.) I didn't anticipate for like oral comments today. I've submitted written comments.

CHAIRMAN RIDDLE: Okay.

MS. KONESWARAN: (Off microphone.)

CHAIRMAN RIDDLE: Oh, they're in our book. Yes. Okay. And how -- how do you pronounce your name?

MS. KONESWARAN: (Off microphone.)

CHAIRMAN RIDDLE: Thank you. Thanks for being here and submitting written comments.

Okay. Kelly Shea and then Joe Smille.

MS. SHEA: Hello. My name is Kelly Shea
and I'm with Horizon Organic Dairy.

Horizon Organic has been the leader in organic dairy production since our inception nearly 15 years ago. We were the first national organic brand and we're proud to have helped create today's growing organic dairy marketplace.

I think I'm going to give you a copy of my comments and just read part of them for time.

Our founders worked hand-in-hand with many of you to help establish the national organic standards and the organic seal. The organic standards in the U.S. today are the strictest and most rigorous organic standards in the world, but these standards must improve and evolve as our industry improves and evolves. That's why we at Horizon Organic actively support changes to the organic regulations, clarifying that the requirements for pasture apply to all ruminants including lactating animals.

We also fully support a change that would require active grazing for at least 120 days during the growing season.
It is critical that all organic farmers, including those in the process of transitioning to organic, have certainty versus ambiguity whenever possible.

Having reiterated again our support for rule changes, I just want to take a second to express our growing concern about the tone and tenor of the dialogue that has surrounded this debate. We need to step back and remind ourselves that we share a common vision and that we're all working to support the core values of the organic community of which clarification of the organic standards is clearly a critical component. If we allow this negative dialogue to continue and even worsen, those most responsible for the success of the industry and that's the farmers and the consumers, in my opinion, will end up suffering the consequences. Unless we can find a way to engage in constructive dialogue on the issues that face our organic community, we put its future at risk.

Only our collective success will allow us to continue to grow the industry to support family
farmers, to promote the humane treatment of animals and to improve the local environments in which we all live and work.

I want to thank all of you in this room for your efforts to help the organic community achieve consensus on such an important facet of organic dairy farming and we want to give a special thank you to the members of the Board that are leaving after five years. We really appreciate the time away from your families and your home to do this work on behalf of all of us.

Thank you very much.

CHAIRMAN RIDDLE: Thanks, Kelly. Joe Smille. Then Wendy Swann. Wendy here?

MR. SMILLE: I'm Joe Smille, QAI and some of my staff gave me comments. I'm not that skilled or knowledgeable in -- in dairy and livestock, but I'm definitely familiar with the topic and, of course, as a certification agent, we have a number of concerns here and again, it goes -- harkens back to the same thing I mentioned yesterday. Is -- clarity and
consistency in rule interpretation is essential to industry.

There's been a number of comments made today about different certification agencies having different interpretations and we all agree that we all have to come to that same thing.

In -- in that sense, I -- I -- I understand that you have a very delicate balancing act that you've got to do between providing specific requirements and clarity for, and I'm again speaking just for the certifier not necessarily for the farmer here, but a definite balancing act between specific requirements and going too far into prescriptive regulations. Because going back to the early days of organic, you don't want to tell farmers how to farm and we run that danger as we head into this area and I know you realize it, but again, it's a balancing act and we need to find that balance.

Specifically, we need definitions of feed value. We need specific requirements on exactly what we mean by feed value. I think that as a
certification agent we've got to be clear when you say
that word in a regulation or, I'm sorry, a draft
recommendation that it's backed up.

We also need a -- a change to the terms
defined section and I think we need just a -- a better
definition than we currently have on grazing. Again,
from a certification agent's perspective, I think we
need a better definition there.

Specific numbers regarding the percentage
of diet should be based on research by -- by region
probably and -- and before, you know, we make
decisions on those issues, again, everybody wants to
get speedy clarity -- I mean get clarity to this issue
really quickly, but also I think there still needs to
be more research done to -- to find out what we mean
on the percentage of diets.

A hundred and twenty days, I think is very
doable. I think it's a good one. I think we can go
with that. But, when you get into a percentage of
diet, I think that that needs a bit more work.

So, in spite of the pressure to get this
done quickly, I think we definitely still need some --
some research and some definitions.

Let me stretch a point and talk about fish
pasture for a section. There's not an issue.
Aquaculture allows for the constraint pasturing of the
fish as they graze in their world.

We have a couple of issues. I'm sorry.
It is a joke, but I'm -- I -- my -- my serious point
is that we really need some quick actions on this.
Because as you know, fish oil products are becoming
much more -- more prominent in the food issues and as
a certifier, we really need some clarity and some
direction on how we look at fish oils as they come
into food products and how we -- we -- we deal with
that issue which I don't think I've heard anybody
really talk about and we've ransacked the regulations
to try to figure out how we deal with that issue. So,
just perhaps for a future agenda.

CHAIRMAN RIDDLE: Thanks, Joe. First I
see Barbara. Then Dave.

MS. ROBINSON: Joe, I -- I just had a
question. You -- you mentioned percent of diet --

MR. SMILLE: Right.

MS. ROBINSON: -- related to region of the country. What do you mean by that?

MR. SMILLE: That's what my staff told me to say.

MS. ROBINSON: I was afraid of that.

MR. SMILLE: What -- what is the total percentage of the diet received from pasture? In other words, basically, they're looking for more specific things --

MS. ROBINSON: Okay.

MR. SMILLE: -- on percentage diet related to --

MS. ROBINSON: Okay. For pasture.

MR. SMILLE: -- from the pasture.

MS. ROBINSON: All right.

MR. SMILLE: I'm sorry. Did I not say pasture? Sorry. Pasture.

CHAIRMAN RIDDLE: Now, I'm confused, but it's Dave's turn to be confused first.
MEMBER CARTER: Yes, well, I'm confused a little bit more because -- well, I had two questions. Number one was along that same line. I mean are you talking about carrying capacity in various regions?

MR. SMILLE: No, not carrying capacity. I'm talking about percentage of diet coming from grazing --

MEMBER CARTER: Okay.

MR. SMILLE: -- in various regions.

MEMBER CARTER: Okay.

MR. SMILLE: My staff feels that that, you know, is going to be different.

MEMBER CARTER: Yes.

MR. SMILLE: Rainfall, irrigation, you know, it's --

MEMBER CARTER: Well, see I guess my -- my point would be --

MR. SMILLE: Because there's pasturing and then there's grazing.

MEMBER CARTER: Yes.

MR. SMILLE: You know, they're not
necessarily synonymous.

MEMBER CARTER: Well, there's -- I guess where I'm having trouble with this is you get your percentage is the same, but in some parts of the country, it's two animals per acre. In other parts of the country, it's one animal for every 50 acres. So, you know --

MR. SMILLE: Right.

MEMBER CARTER: -- that's -- that's where I think in -- in looking at this, we'd tend to look at some of the NRCS information on that --

MR. SMILLE: Good.

MEMBER CARTER: -- to -- to bring that in as guidance. So, that's --

MR. SMILLE: Absolutely.

MEMBER CARTER: Okay. That's part of it.

MR. SMILLE: Because remember what -- what sometimes is clear. Like we all thought when we got the -- the law, it was clear. Then we got the regulation. We thought it was clear.

MEMBER CARTER: Right.
MR. SMILLE: Then we got, you know. This is a new one and you're going to ask us to interpret it, all of the certifiers out there and I think I speak for all the certifiers in saying that we've got to sit down and -- and figure out how to do it and from our experience, you know, the -- the clearer it is, the more consistency we can get across the board. So, I just want you to keep us in mind as you start -- as you move through these draft regulations and I know Jim is very skilled and Andrea very skilled at doing that. So, just --

MEMBER CARTER: And then one -- one other -- one other thing and I -- I agree with you completely, Joe, on -- as far as some of the things, definitions, feed value and the like, but I'm --

MR. SMILLE: Right.

MEMBER CARTER: -- wondering if some of that isn't already addressed in AAFCO if there are -- you know, and I don't know the AAFCO book well enough to know if that's the case, but if they have some standardized definitions in there of that or not.
MEMBER KARREMAN: I -- I think that would be the NRC or CAAFCO -- NRC is more agriculturally based.

MEMBER CARTER: Okay.

CHAIRMAN RIDDLE: And I have a -- a comment or question and then Nancy.

I just wanted to point out that that reference to feed value is actually in the definition of pasture. So, that -- you said something about that being in our draft, but that's something that only appears in our draft because the draft contains the existing regulatory definition of pasture.

But, I hear what you're saying as far as providing more guidance on the meaning of feed value, but I am confused about what you're staff told you to say and that is if they're encouraging something like 30 percent or defining the -- okay. So, they're not.

MR. SMILLE: We're not -- we're not --

CHAIRMAN RIDDLE: But, if it's going to be --

MR. SMILLE: -- encouraging or advocating
anything. We're just saying well, whatever you decide we --

CHAIRMAN RIDDLE: It needs to be clear, enforceable --

MR. SMILLE: -- have -- we have to -- we have to enforce it.


MR. SMILLE: Not advocating. We're not -- we're not allowed to do that I don't think.

CHAIRMAN RIDDLE: Well.

MR. SMILLE: That's our interpretation anyhow.

MEMBER OSTIGUY: Could you repeat the words about the feed value that you're staff told you to say so that I get this -- my question clear?

MR. SMILLE: Definition. What is the total percentage of diet received from pasture?

MEMBER OSTIGUY: But, you -- there was something that was said about it being --

MR. SMILLE: Definition of grazing is
needed in the change to the terms defined section. This might answer questions on what is the total percentage of diet received from pasture.

MEMBER OSTIGUY: But, you said something about it being different in different places. Where was the -- the variation?

MR. SMILLE: Yes, specific numbers related to percentage of diet is based -- should be based on research for each region before arbitrarily deciding on the numbers. It has to be fair for all regions.

MEMBER OSTIGUY: So, is your staff stating that depending on what region the animals are in, they will graze different amounts of time?

MR. SMILLE: I think that is their feeling.

MEMBER OSTIGUY: Okay.

MR. SMILLE: Not -- graze -- the value of the pasture in the diet will vary by region. I think that's what they're getting at. I'm not sure. You could probably answer that better than I can.
MEMBER KARREMAN: I think you're going to have different agronomic species out there to graze, but it doesn't mean that they're going to graze any less or more if it's out there for them. Depending how much is out there for them. It might be different plants.

MR. SMILLE: Exactly. Yes.

CHAIRMAN RIDDLE: We aren't going to -- we aren't going to resolve this today.

MR. SMILLE: Oh, no. No, I'm just saying that looking for that kind of specificity without being overly prescriptive. Not going to tell the -- you're not going to tell the farmer what the pasture legume lay mix is going to be, you know. You can't do that.

CHAIRMAN RIDDLE: Without advocating. Okay. George and --

MR. SMILLE: Walking that narrow -- we walk that -- we walk that narrow line ourselves.

CHAIRMAN RIDDLE: George and then if we can wrap. Okay.
MEMBER SIEMON: Since you've gone this far, Joey, I -- you know, I'm not into real specifics a lot, but, you know --

MR. SMILLE: Okay.

MEMBER SIEMON: -- the present definition says that pasture should maintain or improve soil, water and vegetative resources. Now, to me as a certifier, that's pretty clear. You can have a pasture that's terribly overgrazed and say that you're maintaining or improving vegetative resources.

Personally, I think that's something that a certifier ought to be able to go and see and look at the pasture. So --

MR. SMILLE: In that sense, yes.

MEMBER SIEMON: -- I -- I don't know what we're going to do that's going to be any -- so specific that a certifier still shouldn't be able to go out there and see. Pasture is defined. So, I don't know what to do next honestly to answer some of those things. Because we don't support the 30 percent either in the rule, you know, so far.
MR. SMILLE: Okay.

MEMBER SIEMON: But, we need certifiers to do something.

MR. SMILLE: Well, we're worried about the 30 -- we're not worried about the 120 days.

MEMBER SIEMON: Look at this definition.

MR. SMILLE: We're worried about the 30 percent.

MEMBER SIEMON: I know, but with this definition, there's this --

MR. SMILLE: Yes.

MEMBER SIEMON: -- built-in mechanism that is you can look at the pasture and see if you're doing the job right. I don't know what else we need to do for -- for you all to be able to look and see what pasture is. The 30 percent is like throwing a police guard on you to make sure you're doing your job versus to me reading this definition and implementing it.

MR. SMILLE: Yes, well, I have no issue with that.

MEMBER SIEMON: Okay.
MEMBER KARREMAN: The only problem -- the only problem that will happen, I'm sorry, is that, you know, when is the inspector out there? Is it February? Is it May? You know, got to keep that in mind, too.

CHAIRMAN RIDDLE: In the rule, it has language about that, too, when the operation will be observed.

MR. SMILLE: Yes, we don't -- we don't check Vermont pastures in -- in February.

CHAIRMAN RIDDLE: Okay. Thanks, Joe.

MR. SMILLE: Okay.

CHAIRMAN RIDDLE: So, Wendy Swann and then Steve Morrison.

MS. SWANN: Good afternoon. I represent the Animal Welfare Institute, a nonprofit educational organization founded in 1951 to minimize the sum total of pain and fear inflicted on animals by humans and I thank you for the opportunity to speak today.

AWI appreciates the initiative the National Organic Standards Board has taken to insure
integrity of organic production by closing loopholes currently exploited by factory farms that confine thousands of milking animals to small dry lots. We also strongly support the NOSB's formal recommendation to the National Organic Program staff regarding pasture requirements including the tightening of regulatory language and the mandate that ruminant livestock including lactating cows have the opportunity to actually graze pasture.

As we suggested previously to the NOSB on March 3rd and May 20th of this year, AWI continues to respectfully request the Board include the following language in pasture requirements. Doing so will maintain the integrity of organic production and prevent unscrupulous business from undermining the organic program.

First, a few comments about the organic system plan requirements. In order to perform behaviors essential to physiological and psychological health and well being, each animal must have substantial access to pasture she can graze throughout
her lifetime in season and be allowed to graze and
ruminate whenever her physiological condition and
weather conditions and the state of the ground are
suitable.

At all times, access to the outdoors must
be provided as well as significant and consistent
roughage component in the diet through all stages of
an animal's life to ensure and maintain proper
ruminant function. The minimal requirement should be
70 percent long fiber roughage on a dry matter basis.

Breeds adapted to the pasture environment
and a farm's specific climate should be used. Cattle
that have been properly selected for the specific
climate conditions will be voluntarily choose to go
outdoors in all but the most extreme weather
conditions.

To ensure quality grazing, stocking
density per acre must not exceed three lactating dairy
cows and may need to be less as appropriate for soil
and climate.

AWI suggests a modified definition of
pasture. That it mean land managed to maintain or improve soil, water and vegetative resources and provide minimum feed value for -- by growing suitable, edible, nutritious grasses and other forages appropriate to the species from which animals graze plant materials still connected to its roots.

As we had previously submitted, we have some comments on temporary confinement which you see there in front of you. For lack of time, I won't go through all of those and we also have some comments that we've -- we've mentioned in the past on appropriate pasture conditions.

In conclusion, these practical and humane recommendations will help insure the integrity of the pasture requirement for livestock and the organic program in general.

Thank you again for your work and your consideration of these comments.

CHAIRMAN RIDDLE: I just wanted to once again remind you that our draft will be posted for public comments and we look forward to your
Some very thought-out points you have here and then also there will be the ANPR coming out sometime next year. So.

MS. SWANN: Okay.

CHAIRMAN RIDDLE: Thanks.

MS. SWANN: Thank you.

CHAIRMAN RIDDLE: Okay. Steve Morrison and it looks like Kathy Arnold is getting up and I assume that you're carrying a proxy from Steve. So, then Jim --

MS. ARNOLD: Well, I better cut my hair.

CHAIRMAN RIDDLE: -- and Jim Pierce would be next on deck then.

MS. ARNOLD: I'm Kathy Arnold. I'm an organic dairy producer and I'm also here to represent the Northeast Organic Dairy Producers Alliance.

And to begin with, I want to specifically talk about the questions that the NOP asked for feedback on.

Growing season, the growing season is the period of each year -- and this -- what I'm reading
now is the statement from NODPA. The growing season is the period of each year during which plant growth takes place. In reference to pasture, it is the time period or periods when grazable plants will grow in a geographic area because the air temperature is such to allow growth.

Pasture in no way should be viewed as just what happens to grow in a field without any management or input anymore than a crop field should be viewed this way. If a fair site is so arid that irrigation is required to grow machine harvested or stored crops, then irrigation must also be used for growing pasture.

Lack of naturally occurring good quality pasture is no excuse for not providing pasture.

Just as management and inputs are required to grow stored crops, so, too, management and inputs are needed to grow and supply pasture. Pasture is one of the highest if not the highest value crop grown on a dairy farm and must not be relegated to inferior status.

Birthing is the nature process that most
often can happen without human intervention and a
pasture setting is usually the healthiest place for
birthing to occur. However, some farms do have health
issues such as Johne's disease which requires the
immediate separation of the offspring from the mother
to prevent transmission to the newborn. Also, a small
percentage of animals may need human assistance during
birthing and thus temporary confinement for birthing
is a legitimate exemption to a grazing requirement.

Stage of live versus production, NODPA can
support limited stage of exemption to pasture such as
for birthing and the first six months of life, but
sees no -- absolutely no grounds for stage of
production exemptions. The dairy cow as all ruminants
was meant by nature to graze and the fact that a cow
is lactating has no legitimate basis for exemption
from a pasture requirement. Denying pasture to
lactating cows denies the cows multiple health
benefits and denies the consumer of organic milk the
extra nutritional benefits conveyed to milk by fresh
pasture intake.
As far as economic implementations, the economics of requiring pasture is not a relevant question in regards to setting organic standards including clarifying what was intended in the NOP standards by access to pasture. If it was, we should all be feeding conventional grain because it would be so much more economical.

Standards are the specific delineation of the organic production paradigm and are not to be defined by bottom-line economics. That's what convention agriculture's all about.

If the economic implications of having a modest amount of pasture for their livestock are severe for a certain farm, then maybe that farm isn't suited for organic production. Organic certification is a privilege not a right and operations need to make the necessary adjustments on their farms in order to meet the standards not try to bend the standards to fit their operation.

As far as variations in geographic climate, if crops can be grown in a geographic area to
feed stored feeds to dairy animals, then grazing can occur. Virtually any crop that can be grown and harvested as a stored feed crop can be used as a pasture crop including grass, alfalfa, clover and other legumes, corn, small grains, sorghum, et cetera.

If a climate is so harsh that no feeds can be grown for dairy animals and all feed must be imported, then that site is totally inappropriate for organic dairy production. Such a site fails the test of integration of animals and land that is the basis of the organic paradigm.

Whether this change should be imposed on ruminant livestock not just dairy, yes, all ruminants should meet minimum pasture requirements. Pasture in the biologically natural food source for all ruminants and has positive benefits for sheet, goats, beef and other ruminants just as it does for dairy animals in terms of animal health, soil and environment and the food safety and nutritional composition of their food products.

Then Chairman Riddle also asked for a few
questions to be answered by producers and I got responses back from seven of the NODPA Board members and state reps. They all answered positively that they're organic dairy producers.

They all provide lactating dairy animals access to pasture throughout the growing season. They all -- their pasture does all meet the following definition and as far as how many days per year does the average milking in your herd spend on pasture and what part of the country are you located in, two from Maine average 150 to 190 days of grazing a year. One from Vermont averages 180 to 210 days. Two from New York average 150 to 180 days. One from Connecticut averages 180 to 200 days and one from north central PA averages 180 days of grazing on pasture although he also says that he actually keeps his cows on pasture for 350 days a year, but some of those days it's with supplemented feed.

As far as the average number of lactations per cow on your operation, the seven farms range from 4.8 lactations to eight lactations per cow with
average being 5.7 lactations.

I also would like to read just a little bit of a public statement that the NODPA Board issued on October 20th. The Northeast Organic Dairy Producers Alliance supports strong organic dairy standards. We are dedicated to bringing a superior product to the market for the benefit of consumers. The NODPA Board reaffirms our commitment to supplying organic dairy products produced by cows on quality pasture during the growing season, our commitment to requiring that all organic dairy replacement animals be organic from the last third of gestation and our commitment that any animals with life-threatening conditions must be treated with antibiotics or other prohibited medications, but then be removed from organic production.

We are mindful of consumers willingness to pay a premium price for our products and we are willing to uphold and follow the strong standards that they desire.

And then personally, I would like to thank
the NOSB for all your work and effort on the pasture issue and I'm very pleased to hear that the NOP will be issuing an advance notice of proposed rule making on pasture early in 2006 based on the work of the NOSB.

Steps toward concrete progress on this issue are very much appreciated.

I would also like to emphasize the importance of including the requirement that all dairy replacement animals be organic from the last third of gestation when rule rewriting is done in the near future. Allowing young stock to be raised conventionally on an organic dairy farm is contrary to the organic model and is prohibited by the requirement that if an organic animal is removed from organic management, they can never be organic again.

All purchased replacements must also be required to be organic from the last third of gestation. There must be one consistent standard for all dairy replacement animals whether on-farm raised or purchased.
The rule rewriting necessitated by the Harvey Court Ruling and the OFPA amendment is the perfect opportunity to clear up this inconsistency that has existed in regards to dairy replacements and I have heard the concern expressed that organic replacement animals are too expensive, but again economics should not be the point of judgment for setting standards and secondly, here in the east anyway, there has not been much if any premium price on organic animals over conventional and, in fact, I know many organic animals from calves to whole herds have been sold to the conventional market and if there truly were a higher market price for organic animals, that would not be happening.

So, again, thanks for all your work.

CHAIRMAN RIDDLE: Thanks, Kathy. Bea.

MEMBER JAMES: I have a question for you. When you said if a climate is so harsh that no feeds can be grown for dairy animals and all feeds must be imported, then this site is totally inappropriate for organic dairy production, are you suggesting that
dairy cows -- that those farms be limited to areas where the climate is conducive only?

MS. ARNOLD: Well, I just feel that the -- or NODPA feels and the basis of organic production is there should be a good ecological fit for organic operations. If Alaska -- northern Alaska has zero days where they can grow feed for their animals and they have to import all their animal -- all their feed from Washington state up to northern Alaska for 2,000 cows, that makes total no sense for the organic paradigm in terms of sustainability and a fit between the land and the animals.

So, I'm just saying that if an -- if a farm can grow their feeds in the geographic area for their animals, then however they grow their stored feeds that same method can be used for grow their pasture and if no feeds can be grown in an area to feed those animals, then it just doesn't make sense that there be a farm there.

MEMBER JAMES: Okay. Thank you. I -- I -- I mean global -- global climates are subject to
change.

MS. ARNOLD: Unfortunately, yes.

MEMBER JAMES: I had one other question for you.

MS. ARNOLD: Okay.

MEMBER JAMES: And this is just my -- I -- I'm not a dairy farmer. So, it's just a question I have. On this disease that you mentioned that where the separation of the offspring from the mother to prevent transmission to the newborn, are those documented by a veterinarian and kept on file at the farm?

MS. ARNOLD: Well, Johne's -- I -- any well managed farm should know if they Johne's and what animals have it, but I -- I don't know that all farms because it's an expensive -- an expense to test all their animals, you know, not all farms do and I don't know that there is a protocol, but if -- if you're under -- if the farm's being well managed, their animals should all be tested so that they should know what animals are Johne's positive.
Unfortunately, Johne's does not show off until -- an animal has to be at least two years of age to be able to show on a test. So, there's going to be animals that you don't know whether or not -- if you -- if a farm has a Johne's positive herd, you're not going to know for sure until the animals are two years of age or older whether or not they're carrying it. That you have to make sure that that calf does not drink the milk of its mother.

MEMBER JAMES: Sure. I -- I -- I was just inquiring for -- during inspections if --

MS. ARNOLD: As far as organically, I don't think -- there -- there's nothing being asked about Johne's or other diseases like that.

CHAIRMAN RIDDLE: Hugh.

MEMBER KARREMAN: Just in relation to the Johne's, now, I don't want to get in a whole disease aspect of Johne's. You did very well.

MS. ARNOLD: Thanks.

MEMBER KARREMAN: Just that if you're going -- you can still have cows calve on pasture.
Just have two different paddocks. Like you dedicate one paddock for a pasture where the Johne's positive cows would calf in.

MS. ARNOLD: Yes, but then you still do not -- then somebody would have to be there when every birth happens so that the calf did not nurse. Even in confinement, somebody's got to be there to remove the calf from the cow to --

MEMBER KARREMAN: Absolutely. But, then you don't have the box stalls accumulating with the Johne organism.

CHAIRMAN RIDDLE: All right. Thanks. Thanks, Kathy.

MS. ARNOLD: You're welcome.

CHAIRMAN RIDDLE: Okay. Jim Pierce and David Cox, but there's an X next to David's name. Has David left? Okay. And covered his comments then. Okay. Thanks.


MR. PIERCE: I have material to
distribute, but it's not what I'm reading. So, I'll
hand it out at the end here.

Hello again. For the record since I
suspect most of you know this, I'm Jim Pierce, self
appointed certification czar of Organic Valley Crop
Cooperative.

When the notice of public comment of this
meeting went up on the NOP website on September 30th,
my initial reaction along with that of many of my
organic livestock standards policy contemporaries was
disbelief. As in, not again. Haven't we been through
this? Aren't these people listening?

Then I read it again and discovered
something that intrigued me more -- the more I thought
about it. It said "Specifically, USDA would like to
hear public comment on the following topics." This is
new.

As a regular suspect at these meetings, I
have addressed the NOSB nearly a score of times, but
never the NOP directly. I am pleased and honored to
do so now.
You folks sit back and relax. I have no doubt were you as the advisory board stand on the issue of pasture. In fact, it is obvious by looking at several of you now that you'd rather be on pasture with all the outdoor access.

Your position on the other hand -- your intent and position are more opaque however. So, it is well that you request this public comment and it is also wise that you compile testimony. The vast majority of which will be in favor of mandating pasture for ruminants either through existing regulations or through stricter rules.

On record already are the 40 to 50 organic dairy farmer comments presented at the February 2005 meeting. Testimony that day addressed the concerns outlined in your notice. Particularly memorable for me that day were New England dairyman Jack Laser looking for all the world like a hermit logger as he pointed to a two-foot stack of books on pasture and said there's your scientific documentation and Tony Alcevido, California dairyman as he said I'm sure glad
I don't have your job. It's hard.

Your job is hard, but it's your job and do it you must.

205.605, 205 pasture has been defined. In the preamble on page 80571, pasture is intended. In 205.237, pasture is mandated. The October 2001 recommendation by NOSB to require pasture has history.

As Jack Laser so gruffly pointed out in February, the benefits of pasture are documented. What pasture for organic ruminants needs now is to be implemented and enforced.

As a result of the NOSB action at the August 2005 meeting, there is now a pasture guidance document which will be of great value to producers and certifiers once there's regulation in place to shore it up.

For the record and for future reference, I am submitting written comments from Organic Valley Crop Cooperative. On behalf of this 725 member growers, we would like to go on record stating that the inclusion of growing season will create a scale
neutral framework for a pasture standard. That stage
of life applies to pasture better than stage of
production. That the most dramatic economic
implication of the USDA is if they do not enforce
pasture recommendations and the fact that it -- that
-- and the fact that certain geographic regions are
not well suited to the production of organic
ruminants.

In addition to this collective response,
we put the request of the NOP into a questionnaire
form and sent it to our producers. The first 15 or 20
returned responses are in the meeting book for future
reference. Hopefully, additional responses will be
considered as well.

For the record also, it should be noted
that Organic Valley has adopted the NOSB pasture
guidance policy as our cooperatives pasture guidance
policy. All 560 of our organic dairy producers are
either in compliance or working to come into
compliance with that policy. When access to pasture
becomes implemented and enforced, it's adoption by our
client farmers will be seamless.

The Livestock Committee has done the yeoman's work of drafting another draft -- drafting another draft recommendation which is enforced by the Board this morning as a draft. For your part, you have established a plan and timeline to move the process forward and I am confident that you will. That together we will in about a year have implemented enforceable pulpit-pounding pastor regulation.

It is unfortunate that it has taken so long since the delay is unfair to organic consumers and compliant farmers, but particularly for non-compliant producers. Hopefully, the writing on the wall is clear even now. When NOSB says pasture, they mean it.

Thanks to you all for your patience and perseverance that you devoted to this important issue and as usual and in particular to you Jim, Goldie, Rose, Dave and George, the graduating class of 2006, God bless and Godspeed.

Thank you.
CHAIRMAN RIDDLE: Thanks, Jim. Okay. Lisa Engelbert, it looks like Carol King has the proxy. Yes, well, you got three in a row here, but you can only add up to two. There's Lisa, then Kevin Engelbert and then yourself. Oh, you're going to carry one of those. Okay. So, yes, Carol.

MS. KING: I'm speaking on behalf of Open Air Certified Organic LLC. Oh, and I'm Carol King, co-administrator for Open Air Certified Organic LLC and I'm working with a proxy of Lisa Engelbert our other co-administrator.

Currently, Open Air Certified Organic is working with over 125 dairy farms including 18 farms in transition and the question is can you pasture for 120 days? Is it economic viable?

Currently, a majority of our farms have their cows on pasture from April through November. Many of these farms do after-grazing and practice intensive rotational grazing.

They -- many of these farms are also up in our north country which is right on the Canadian
border. So, they have a growing season from about end
of April to the end of August. So, they are
succeeding at that.

Also, someone earlier had mentioned
whether agency's actually look at pasture acreage. We
had done that and we do currently do that. Our
inspectors go out and look at acreage as they are
inspecting the farms and it's also part of our
inspection report.

We also have a guidance of .75 acres per a
thousand pound animal. That's not a realistic number,
but we use it as an estimate.

Pasture is a very important part of
organic dairy farming as has been stated in previous
recommendations. It improves health problems in the
animal and in the herds and I find it very interesting
when I talk to many of our farms that have
transitioned from conventional to organic. A year
after they have transitioned, they have found their
herd -- herd health bills have gone down and their
herds are much healthier. They are not have problems
with foot problems, mastitis. We have one herd that had Johne's. But, the herd health has improved. So, pasture does benefit the animal and the farmer.

And we would like to support and commend the Board's efforts to strengthen the pasture requirement wordings in the standards to eliminate loopholes.

Now, I'd also like to discuss the dairy transition rule. With the recent lawsuit and other changes to the law and regulations, it appears that the last third of gestation clause for dairy replacement animals will be eliminated. It is our opinion that once a dairy farm has completed their one-year transition and becomes certified no matter what transition rules they followed, all animals should be managed organically from the last third of gestation. This creates a closed organic system that is easily monitored.

We as a certifier experience the increasing pressure from many farms trying to use the two-track process. This creates inconsistency and
ties our hands. We have one farm down the road that is, you know, growing -- or raising their own animals or purchasing organic livestock and then have another farm down here that says oh, well, I transitioned before the rule went into effect. So, I can purchase conventional animals. It's not a fair process and it also creates problems as a certifier for documentation and tracking.

A continual state of transition completely invalidates the intent of the rule. It will open up a loophole that will potentially allow the use of prohibited substances and possibly non-organic feed including GMO feed on young stock.

We would like to encourage the Board to look at that aspect of the rule as well and to move forward with proposed lawmaking for the NOSB for replacement animals.

Thirdly, we'd like to discuss the use of antibiotics. The use of antibiotics should be limited to be administered by a licensed veterinarian to save an animal's life, but the treated animal must leave
the farm. We don't find it acceptable for the producer to have the antibiotics on hand because it's too easy to just go ahead and take it. Throw it in there and when our inspector walks in the barn and sees an antibiotic sitting on the shelf, it raises a lot of questions in our committee's minds.

Organic consumers are willing to pay a premium price for organic products and thus expect the product to be produced with no antibiotics or hormones.

An organic production's an integrity-based business. While most organic producers are of the highest integrity which we believe most of our producers are, there are some who aren't. The more cut and dry the standards are, the easier it is for certifiers to enforce them.

These are tough issues facing the NOSB, but it is imperative for the future of organic agriculture in this country to maintain strict enforceable standards and we appreciate all your efforts.
Thank you.

CHAIRMAN RIDDLE: Thanks, Carol. And I --
I'd just like to point out on the last third of
gestation issue and Kathy brought this up as well that
the Board already has adopted a recommendation on that
that the last third be required for all operations
regardless of how they converted to organic. So.

MS. KING: Where -- where --

CHAIRMAN RIDDLE: We don't have a draft on
that because we've already adopted it.

MS. KING: Right.

CHAIRMAN RIDDLE: Yes.

MS. KING: We're looking for it to come --

CHAIRMAN RIDDLE: Yes.

MS. KING: -- through on the lawmaking
process.

CHAIRMAN RIDDLE: The rule making. We
don't want to go to Congress for that. Okay. Yes,
Dave.

MEMBER CARTER: Just -- and I appreciate
your comment on the antibiotics and -- and
philosophically I'm with you on that. It's a little a
difficult. In some instances, the regulation has gone
beyond OFPA where it is right now because OFPA just
disallows sub-therapeutic uses of antibiotics. The
regulation talks about no use of antibiotics and just
making sure, but you're actually wanting to take it
completely off the farm if there's a use. You just
can't put into if you have a split operation?

MS. KING: Right. Right. Well, we have
-- we have split operations. We actually have a lot
of Amish farmers that'll keep it on hand for their
horses.

It just -- it's very hard. Our -- our
certification decisions are made by volunteer
committees and they are -- they are certified dairy
producers themselves whether they're certified by our
agency or other agencies. There -- there is actually
some that are certified by other agencies and -- and
they hold the integrity. They takes these files and
they go through them piece by piece by piece and we've
had auditors, USDA auditors come into our office and
go could you possibly have anymore paperwork. But, we find that it helps in the decision-making process and we've actually had producers come to us and -- and if they were using these antibiotics for their -- their horses or if they're raising pigs for their home use and we said you know what? Get rid of the antibiotics because it's too easy.

We can't enforce that and we know that. Okay. But, they've done it and they come to us and said, you know, we -- we've moved our organic practices onto the rest of our farm.

I think it's really funny when an organic dairy farm comes in. A lot of them are coming in for the -- the -- the bottom-line price on the milk. They come in. They transition. So, they have a little vegetable garden off to the side.

Now, I'll talk to them on the phone and they're scared to take that first step, but when I sit there and tell them, you know, all the success stories that we've had, they take the step and I talk to them a year later or, you know, throughout the course of
things and they say oh, you know, I -- I'm buying organic feed for pigs and all of a sudden, they're adding another production type and they stopped using the Round-Up on the weeds in their driveway. So.

MEMBER CARTER: Well, I -- just I understand what you're saying. We've gone through an experience though where somebody has sued because the regulations were out of compliance in -- in terms of OFPA, in terms of not being strong enough.

I would hate to see us go so strong with antibiotic it would raise somebody to say hey, I'm going to sue --

MS. KING: Another lawsuit.

MEMBER CARTER: -- because OFPA really only disallows sub-therapeutic use. So --

MS. KING: Yes.

MEMBER CARTER: -- a little hesitant to -- to stir the pot.

MS. KING: I understand. Thank you.

CHAIRMAN RIDDLE: All right. Thanks.

Kevin Engelbert. Yes. You have his proxy.
MR. SEGELL: I've got Kevin's. Yes.

MEMBER JAMES: So, you have a proxy.

MR. SEGELL: I have his proxy.

MEMBER JAMES: You do have a proxy.

MR. SEGELL: Yes.

MEMBER JAMES: Correct.

CHAIRMAN RIDDLE: And your name?

MR. SEGELL: I'm -- I'm Rick Segell.

CHAIRMAN RIDDLE: But, you're -- you're not signed up on your --

MR. SEGELL: I didn't sign up.

CHAIRMAN RIDDLE: Okay.

MR. SEGELL: It was e-mailed in, but --

CHAIRMAN RIDDLE: Yes, so, it's five --

MR. SEGELL: -- never got there. Okay.

CHAIRMAN RIDDLE: -- five minutes.

MR. SEGELL: This is for --

CHAIRMAN RIDDLE: Because his name -- his own name isn't on the list. Okay.

MR. SEGELL: This is for Kevin. He says I'd to thank NOP for allowing public comment. I'm
just reading.

CHAIRMAN RIDDLE: Okay. I'm sorry. I just want to be clear.

MEMBER SIEMON: You want to make your own testimony, too, once you do Kevin's. Don't you?

MR. SEGELL: I'd like to.

CHAIRMAN RIDDLE: Okay. And you sent an e-mail?

MR. SEGELL: I can give you the answers to the questions if that's what you'd like.

CHAIRMAN RIDDLE: Yes, and -- yes, I'm -- I was just confused. You did submit an e-mail, but Katherine Benham had been out of the office. So, there were some lost e-mails. So, yes --

MR. SEGELL: Okay.

CHAIRMAN RIDDLE: -- you'd have ten minutes.

MEMBER SIEMON: We'll give you ten minutes. Two -- two in row here.

CHAIRMAN RIDDLE: Your name again for the record.
MR. SEGELL: Rick Segell.

CHAIRMAN RIDDLE: Thank you.

MR. SEGELL: I'd like to quote a statement made by Richard Matthews, former NOP employee during the debate on pasture, February/March 2005 NOSB meeting.

Temporary confinement is still a problem. You have people out there who undoubtedly are taking advantage of the wording of this. For example, the broiler chickens never see the light of day.

I know you don't want that to happen, but it's happening and so, at some point down the road, we need to go back to the issues and look at all angles and try to come up with something that lends more to the concreteness of the issue. So, that -- so, we can eliminate what people are using for loopholes.

Unfortunately, for personal actions, you always write personal rules for the bad guys and all the rest of us suffer for it, but I see that this is being the kind of situation here where you have to write your regulations to prevent the bad guys from
taking advantage of it and it's -- and I'm taking the
turns of just dairy. I'm -- I'm taking the turns of
all animals that are suppose to be provided with
access to the outdoors and pasture.

There's 101 reasons probably even more why
I can't put my animals out today. The NOSB has done
-- done just that. I applaud their efforts. They
have come up with concrete rules and no subject to
interpretations eliminate the loopholes that Mr.
Matthews spoke of once and for all.

To allow the issue to be sidestep any
longer risks its damage to the integrity of organic
agriculture. There cannot be two sets of organic
standards. One which is less restrictive for those
who choose not to meet the original requirements of
organic production. All the organic farmers and
consumers must find function in this -- within the
same rules.

I strongly encourage NOP to join NOSB in
keeping the rules at least as strict as they were
originally intended. USDA organic label has come to
be held in high esteem by organic farmers and consumers alike. To -- to maintain the strict standards will -- not to maintain the strict standards will jeopardize the lawfully position.

Thank you very much, Kevin K. Engelbert.

Going through the -- the questionnaire and I currently have about 115 milk cows totally with dry cows. I have about 160 acres of pasture, about 300 acres of cropland. My cows average around five maybe six lactations. I have some that are over ten.

My pasture -- I put them on pasture in beginning of May and they're still out on pasture now. There's not much there, but they -- they still go out and they -- they eat and -- and they'll have access during the winter daily let-out during -- during the day in the wintertime just to go out and exercise. So, yes, I do allow pasture 180 to 200 days.

How do I find pasture? Adequate vegetation so the cows can get 30 to 35 percent of their dry matter. There are times when I first put
the animals out in the spring of the year they're getting over 50 percent and then there's probably a few days in July where they're -- they're not getting quit 30 percent, but it -- it still averages well over 30 to 35 percent.

Do I confine my calves from birthing? Actually, I have a -- a lot in the summertime that I put my dry cows in that are going to calve which is -- it's a pasture. About a two and half/three acre pasture. I put the close up ones in and their calves -- they're right there. They're right next to the house. So, we -- we're across the barn. So, we can see where they are, but they do -- they're out on pasture for that.

Do I consider lactation a stage of life they should be confined? No. My -- my milk cows I think it's more important for them to be on pasture than the dry cows.

My somatic cell count is down under a 100,000 which is real low.

I used -- I used to be conventional and I
-- I used to spend $700/$800 a month treating cows with mastitis. Now, they're on pasture. I don't see that.

It -- it -- and as far as antibiotics, I haven't used any. I don't really have sick cows. I call for production and just to get the numbers down so that I'm not over populating the pastures.

My growing season, well, it -- like I say, the first frost is -- or the last frost of the -- in the spring is about the 15th of May and the first frost is usually around the first of October. Sometimes before and sometimes like this year was like the end of October.

I think all -- I think all ruminants should be out on pasture. I mean that -- that's the way they were designed and will I have further comments, yes, I hear rumors that Congress is trying to change rules for us and I don't think we should let them do it and I think these boys over here got to go back and rattle a few chains and tell them that ain't going to happen.
CHAIRMAN RIDDLE: Okay. Thanks, Rick.
Bea and then Nancy.

MEMBER JAMES: I just wanted to -- to thank you for taking the precious time off of your farm to come here to lobby so you can continue to do a good job. Thank you.

MR. SEGELL: Well, it gave me a chance to stop off and see my daughter along the way. She lives in Philly. I stayed there last night and I get out of here tonight, I'll stay there tonight and we'll go out to dinner. So.

MEMBER JAMES: Oh, you -- you should have gone with it. You could have made everybody think you came just for that.

CHAIRMAN RIDDLE: All right. One more. Nancy.

MEMBER OSTIGUY: Yes, thank you very much for coming. Your -- your comments I'm assuming to the NOP about convincing Congress to not do something, they really can't do that and we can't as Board...
members. We can do that as individuals.

MR. SEGELL: Yes, but --

MEMBER OSTIGUY: But, the administrative branch --

MR. SEGELL: -- but haven't they tried to pass an amendment or something?

MEMBER SIEMON: Not on pasture.

MEMBER OSTIGUY: No, not on pasture.

MEMBER SIEMON: Not on pasture.

MEMBER OSTIGUY: Not on pasture.

MR. SEGELL: Well.

MEMBER OSTIGUY: And even if they do, it's as members of the public we can say things, but --

MR. SEGELL: Well, I'm sure -- I'm sure the consumers and the --

MEMBER OSTIGUY: -- but the administrative branch can't.

MR. SEGELL: -- dairy farmers will. Thank you.

MEMBER OSTIGUY: Okay.

CHAIRMAN RIDDLE: Thanks so much for
coming. Dave Engel, I think you have Lesley Zook's
time. You traded with her. I'm sorry. I forgot to
give you a warning, but you're next if you're ready.

MR. ENGEL: Yes.

CHAIRMAN RIDDLE: Okay. Good.

MR. ENGEL: I don't have a time.

CHAIRMAN RIDDLE: I just --

MR. ENGEL: It's five minutes for me, too.

CHAIRMAN RIDDLE: I'm sorry. I'm really

losing it. Then Joe Mendelson would be next and then

Emily Brown Rosen and that's it.

MR. ENGEL: Good afternoon. My name is

David Engel. I'm a dairy farmer from Wisconsin.

I've milked cows since 1981. I was one of

the original Crop dairy farmers that started Crop in

1988. I also have been intimately involved with the
dairy standards -- the organic dairy standards and I
too would like to since 1988 -- 1989 actually was when

we took them to OCIA and got them going.

And I too would like to acknowledge
greatly the -- the work of everybody in this room, the
NOP, the NOSB and members of the community that show up.

My main concern as in the past continues to be the numbers. At this point today -- well, let's -- let's back up half a step. Coming from the last meeting in August, there were numbers being put forth, the 120 days, 30 percent into the guidelines. Today, there -- the 120 days has made its way into a proposed draft for the rule.

And I also have worked with the dairy standards as a certifier for 17 years and if you look at the rule, there are a number of numbers in the rule, but there are only six that deal with production. For example, the compost numbers which were problematic. They came out and they raised a huge concern. It was addressed by a task force and basically that task force ended up saying there are other ways to make compost.

Other numbers that are there that have been problematic or are just lines in the sand like the 70 percent, 95 percent, 100 percent. I mean
that's the one year for the dairy, the three years for the land. Those are numbers that are not -- you know, they're appropriate numbers, but when you get down to a crop rotation or a management style on a dairy or square feet for animals in the building, those are not numbers that you want to put in a rule. I cannot stress that enough.

In listening to the public comments today and in the past, they kind of go back and forth, but the one thing that comes out is that they want pasture and I don't think that that's an issue. We all want pasture, but I can tell you from experience, my own experience of milking cows that numbers is not what I want to wake up to during the day, everyday and try to figure out oh, where am I at? This 119 days. Am I at 89 days? It just -- there's -- there's two things happening here. There's two dynamics happening here and the numbers are not in the spirit of the rule and we all -- we -- I mean I've talked with a lot of the farmers that have come here and they -- they admit that it's -- it's a pass that we've come to.
Mr. Segell put it eloquently. I guess he was quoting Kevin Engelbert that we just want the standards to be enforced and that's really the bottom line is enforcement.

It first starts out with a certifier identifying via a farm plan where things are at. They make a decision. I don't know if Joe is still here or not, but there have been several comments concerning interpretation. We just want to be clear what we have to do. Well, every rule regardless of whether it has numbers or not will have to be interpreted and the interpretation is going to vary. It's -- it's inevitable.

You had an exchange, Dave, with the NRCS. That was something that came up at the last -- not the last meeting, the meeting in March I believe and it seems to have faded away, but, you know, there's tools out there to use. We -- I just would really, really caution putting a number in the rule because at that point it's a whole another ball game regulatorily with the certifier. They're going to have to issue a
noncompliance. At that point, it's out of their hands.

You know, another point that I would to Mr. Segell's comments and I'm not sure where he's at on this, but, you know, he admitted that it's a lot easier to put the cows out on pasture than it is the dry cows and you're talking about everything after six months. There's a lot of -- of complexity to a dairy.

CHAIRMAN RIDDLE: That was it.

MR. ENGEL: Okay.

CHAIRMAN RIDDLE: All right. Thanks, Dave.

MR. ENGEL: Thank you.

CHAIRMAN RIDDLE: Joe Mendelson. Then Emily Brown Rosen and then I will call the names of the people from earlier and see if they've arrived.

MR. MENDELSON: No. No, I don't. All set. Good afternoon. My name's Joe Mendelson. I'm with the Center for Food Safety, a nonprofit organization here in Washington, D.C. and with offices also out in San Francisco, California.
Oh, better. That's what you get when you're short. You know, you got to move the microphone.

Again, my name is Joe Mendelson. I'm with the Center for Food Safety. We're a nonprofit organization based here in Washington, D.C.

This is the first time I was able to address the Board at this meeting. I want to thank you again for your hard work and thank the five outgoing members for all their hard work in the program as well.

Just in general, the Center for Food Safety supports the recommendation that you voted out. The draft recommendation you voted out today.

I do want to say a bit on consumer expectation. You know, as an organization that represents mainly consumers, you know, when they purchase an organic product specifically milk, they expect that -- that by purchasing that product they're contributing to the animals ability to enjoy natural behavior. That they are making a significant
contribution to the better welfare treatment of that animal and that means that they would like very clearly a mandatory requirement for access to pasture and to have that clarified to know what they are purchasing. Essentially, what they are supporting.

Without question, I would add that that consumer attitude has been reinforced by the marketing of organic milk. This morning when I got milk, it was -- I believe a Safeway brand organic milk. It was a nice picture of cows and a superimposed photograph of cows out in pasture and I wanted to bring the carton. So, I kept forcing my kids to try and have more cereal to get the milk done, but that didn't quite work. But, you know, you know, you can't have it both ways. If you're marketing an imagine of pasture and you further an expectation of consumer -- of -- of the -- the -- you further an expectation in consumers and you better met that expectation.

I would also just add briefly that there's no question that the -- the word pasture is being
abused. Joe Smille made sort of an offhanded comment, but I have a Washington Post advertisement from the grocery store that advertises a sale for organic shrimp that says pastured in artisan water. So, you know, not only do we need clarity on what it defines, we need enforcement of what it means.

I'm glad to hear, of course, the programs going to an ANPRM that we're going to have a regulation we support as prescriptive a standard in a regulation that's binding not in guidance and I just hope after the ANPRM that we move diligently to a proposed rule and a final rule.

Specifically on the draft, I had a couple of comments. I was looking at the -- the first draft before the Board put it out. Just a couple of things on global warming and climate change were alluded to in that draft. To set the record straight, ammonia is not a -- ammonium is not a greenhouse gas. It's an air pollutant, but it's not a greenhouse gas and sulfite I think was also suggested to be a greenhouse gas. I think it's sulfur dioxide are the greenhouse
gases. But, certainly the diet of any cow affects the
methane emissions and methane is clearly a greenhouse
gas and there's a -- a huge store of literature on the
benefits of carbon dioxide sequestration in pasture of
grasslands and in effect, numerous USDA programs to
promote carbon sequestration through things like
managed pasture.

Okay. Stage of life, I'm not sure what
that means. I turned 40 in February. Some people say
I'm going to be entering a mid-life crisis. That's
certainly a stage of life. I'm not sure if it's more
prescriptive, but certainly, I think what you did is
far as listing in 239(a)(2)1, 2 and 3 is a good step
forward.

As -- as far as 120 days, we support.
Actual numbers I think reference to growing season as
well could be added. We want to see those 120 days
clearly as a minimum and a basement not as the
standard that you'd want.

As far as the dietary feed issue and
number, you know, as a consumer organization, we don't
have the expertise in that. I will say that citing issues because organic has been told to us be an environmental standard, citing issues are well within the realm to consider.

And lastly, on the economic considerations, I -- I do have to agree on that I felt the USDA questioned skewed -- was only half a loaf I should say. I mean there should be consideration to what was the ultimate economic effect if we do not put in these strict standards and how will that affect consumer attitude, hence the market and then farmers.

Thank you.

CHAIRMAN RIDDLE: Thanks, Joe. Emily Brown Rosen and then like I said I'll -- I'll call as she's coming up. Is Dr. Juan Velez? Matt Van Baale? Dennis Stiffler? Okay. None have come.

Emily, you get the last word.

MS. ROSEN: Okay and this is not my word. I'm reading this for Marty Mesh who sent this in. He regrets that due to a family emergency he's not able to be here in person.
So, I just have one thought here and okay.
So, I'm just going to read it. So, it's not me.
Think of Marty. Okay.

CHAIRMAN RIDDLE: Think of Marty.

MS. ROSEN: Okay. Okay. As always these comments are my own and do reflect the official position of any organization that I serve on the board of, but may reflect the position of Florida Organic Growers and our certification program quality of services -- certification services. Okay.

Since the subject of pasture needs to be in my comments, let me request that NOSB and NOP move expeditiously to clarify the issue of pasture requirements. This is needed to maintain consumer confidence and insure consistency in the implementation of the regulation.

The issue has been discussed at length and it is past time for this Board and the NOP to move forward and put to rest the chatter that tries to analyze whether the inaction is a corporate conspiracy or incompetence.
That's Marty.

I want to thank the USDA for their hard work, responsiveness and a renewed commitment to moving the program forward. I would like to know the status of the Aquaculture Task Force given that we've petitioned for expedited rule making approximately 18 months ago. We still stand ready to be part of the task force or aid in moving the process forward toward a proposed rule for pond-raised organic shrimp and talipia.

We hope that the final rule from the September proposed rule will correctly allow the materials to be used in organic -- oh, he means that docket, Federal Register docket. That the final rule that comes out of that will allow the materials to be used in organic products as they were recommended by the Board as opposed to the made-with limitation.

However, the main point I wish to express and I'm saddened that I can't be there in person to make is to say thank you to Jim, Dave, Goldie, George and Rose for the many years of hard work and service.
You have each brought not only your passion to the Board, but considerable competence and integrity.

Rose, I know my credibility may have suffered in your eyes, but just as I told you oh, so many years ago that you would be great for the NOSB and yes, there are a few to attend and well, maybe a little work to do between those meetings, now, that you have some spare time, I have another idea we can talk about when you get home. Really this won't be much work and you're perfect for it. Trust me. Okay.

Seriously, I wish each of you the best of luck in the future and look forward to someone telling each of you that you're time is up for your public comment in the future.

In honor of all your patience and hard work, I give the rest of my time for you to divide up and utilize in the future.

Thank you, Marty.

CHAIRMAN RIDDLE: We won't save it for him.

MS. ROSEN: All right. And I'd like to
express my thanks also personally to all of -- all of you, especially you that are leaving for the really hard work and -- and the incredible dedication and time you've put into it. It's been -- it's been very good.

CHAIRMAN RIDDLE: Okay. Thanks, Emily and thanks to all of you who commented and all of the rest of you who have stuck with us. Yes.

MEMBER O'RELL: If I may.

CHAIRMAN RIDDLE: Yes. We have a few comments. If you're leaving, please do so quietly. We're still in session. So, Kevin and then Barbara.

MEMBER O'RELL: Just before we -- we do wrap things up and -- and close, I just want to say and I know everybody on this Board knows how much hard work is involved in this Board and we have a group that came on together and all five of them have gone through the five years. It's a tremendous amount of work that they have put forth on this Board. I've served with them for four of those five years and it's
just been a -- a good exciting time and a learning experience.

To George, Rosie, Goldie, Dave and Jim, I just want to express on behalf of the full Board thank you so much for all your dedication work and it's a hard act to follow, but we'll keep the ball moving. So, thank you.

MS. ROBINSON: Well, you sort of stole my --

MEMBER O'RELL: I'm sorry, Barbara.

MS. ROBINSON: But, actually, that's all right. Just the applause part. I guess I should identify myself for the record. Barbara Robinson, USDA.

But, Jim, Rose, George, Dave and Goldie, on behalf of USDA and on behalf of the Secretary of Agriculture, but also on behalf of myself and my staff, I want to thank all of you very much for all of your hard work, for your dedication. I know that it's been -- I know how much hard work is involved and you do it without pay. You do it for the passion that you
feel for this industry and for the people in this industry. We know that. We appreciate it and we thank you very, very much for all that you have done.

I started to say especially you, Jim, but I'm not giving you that one.

Anyway, I will say especially you, Jim, because you have probably taught me more than anybody on this Board and it has been quite a learning experience.

CHAIRMAN RIDDLE: Thank you, Barbara. Dave still has something to say.

MEMBER CARTER: Well, I just -- I don't want to go into long swan songs here. I do want to thank Jim for the work that he has given this last year as our chair in addition to all of the four years previous, all of the heavy lifting. Because I think the rest of the class here would say Jim has been the person that has probably rolled up his sleeves and done more work than -- than all of us combined and -- and we appreciate that.

I just want to say I've -- through the
years I had a number of folks ask how the heck did you ever get on the NOSB to me and this is time for true confession. Is that several years ago Farmer's Union decided they wanted to have somebody, a representative on the NOSB. I was working for them at the time. So, they called me up and they said Dave, can you find a farmer to be on there and I called up Paul New down in the San Louise Valley and asked him and he said my Lord, you'd have to be an idiot to want to be on the NOSB and -- and then I called up Andy Grant and he said you'd have to be nuts to be on the NOSB and then I called Pam Roy down in New Mexico and she said you'd have to be crazy to be on the NOSB and so, I asked them to get together and find a consensus candidate and they called back and they said we agreed you'd be the best person to be on there and it's nice to know that sometimes I haven't failed their expectations.

So, anyway, you know, we've thanked -- we've thanked the program and the folks, but I -- I think I'm the class of five here, too. I'd to thank all of you that come to the meetings and have helped
teach all of us and keep us straight as we've gone along.

So, this is a great community and as we transition into different phases of it, we look at still being an active part of the community and as being on the other side of the microphone.

CHAIRMAN RIDDLE: Anyone else? No. Okay. Well, I -- I want to give my own thanks. I guess first to the rest of this class for all of your work and just the spirit, the -- the respect, the honesty that you all bring and the expertise that you lend.

To all the Board and -- and the people I have served with whose terms have already ended, it has taught me a great deal, but the thing that I most am encouraged by is just the attitude of cooperation, collaboration, the engagement that we have with the program now that was absent. I mean it was the opposite of cooperation for awhile there and I see that as the -- the greatest accomplishment that -- that we have made despite, you know, beyond any of the documents, but it's just the -- the attitude.
So, I really appreciate all of you at the program rising to the occasion and just your patience in working with me and -- and tolerating my style. Because it's not probably something you see in the hallways at USDA everyday. So. Okay.

So, with that, I won't go on. Is there a -- a motion --

MEMBER O'RELL: So moved.

CHAIRMAN RIDDLE: -- to adjourn?

MEMBER CARTER: We adjourn.

CHAIRMAN RIDDLE: Okay. Kevin moves we adjourn. Dave seconds. All in favor say aye.

(Ayes.)

CHAIRMAN RIDDLE: All right. Thank you very much.

(Whereupon, the meeting was concluded at 4:42 p.m.)
UNITED STATES DEPARTMENT
OF AGRICULTURE

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NATIONAL ORGANIC STANDARDS BOARD
SYMPOSIUM

+ + + + +

Tuesday, April 18, 2006

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The symposium met in the Ramada Conference Center, 1450 South Atherton Street, State College, PA, at 1:00 p.m., Robert Anderson, Facilitator, presiding.

PANEL MEMBERS PRESENT:

ROBERT ANDERSON, Facilitator
JAMES B. CROPPER, USDA Natural Resources Conservation Service
GEORGE KUEPPER, NCAT, ATTRA
CARL POLAN, Dairy Science Department, Virginia Tech
KATHY J. SODER, USDA Agricultural Research Service
LINDA TIKOFSKY, DVM, Cornell University
ANN WELLS, DVM, Springpond Holistic Animal Health
BOARD MEMBERS PRESENT:

KEVIN O'RELL Chair
ANDREA CAROE Vice-Chair
BEA JAMES Secretary
GERALD DAVIS Member
RIGOBERTO DELGADO Member
KEVIN ENGELBERT Member
DAN GIACOMINI Member
JENNIFER HALL Member
HUBERT KARREMAN Member
JEFF MOYER Member
NANCY OSTIGUY Member
JOE SMILLIE Member
JULIE WEISMAN Member

STAFF PRESENT:

BARBARA ROBINSON
MARK BRADLEY
VALERIE FRANCES
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(1:08 p.m.)

FACILITATOR ANDERSON:  It is my pleasure to introduce Barbara Robinson.

MS. ROBINSON:  Good afternoon.

All right, that will be the last time you do that.

(Laughter.)

MS. ROBINSON:  I want to welcome everybody to Pennsylvania and to this Dairy Symposium. I'm glad to see that we have managed to get this all organized, but it is in no small way thanks to the National Organic Standards Board, in particular the Livestock Committee and Mike Lacey, who couldn't be here today, the chair, but in his absence, Hugh Karreman is the acting chair of the Livestock Committee, and so without further ado, I want to introduce Hugh to you, so go ahead Hugh.

MEMBER KARREMAN:  Thank you, Barbara. I don't want to take any extra time than needed, but I would certainly like to
introduce Bob Anderson, our moderator for the afternoon, and it is honestly a high honor to introduce Bob.

As a matter of fact, probably my very first contact with organic agriculture was when I was a little suburban kid outside of Philly, and we went up to Walnut Acres back in the late seventies, and I imagine Bob was up there, so I think you have been part of my path in this organic stream, here.

So, in any event, I would like to give a little biographical sketch of Bob Anderson right now. He has been, for over 35 years, hands-on experience in all facets of organic agriculture, organic food production, processing, marketing, and retailing, as well as leadership experience in the development of national organic policy standards and organic certification.

He is the founder of Sustainable Strategies, advisors in food and agriculture, and currently is a strategic advisor to
organic agricultural initiatives and organic industry projects, as well as a USDA farm agricultural service in the United States Department of State.

Until 2002, he was president of Walnut Acres Organic Farms, one of the founding and most respected organic food businesses in the United States. Bob's co-developed a food security program that guides food processors, handlers, and producers through the development of comprehensive food security plans that focuses on crisis prevention, preparation, and protection in the era of international trade and bio-terrorism.

He is a recognized authority on organic farming, organic processing, organic foods, organic certification, and international trade. He served as the United States Secretary of Agriculture as an advisor for organic agriculture and international trade and served as a chairman of the National Organic Standards Board.
Bob is the first organic industry representative appointed to the Foreign Agricultural Service Agriculture Trade Advisory committee and was recently reappointed to the food processing ATAC. He is a former director and past president of the Organic Trade Association.

During the comment periods for the proposed National Organic Rules, he was a primary spokesman for the National Organic Standards board and the organic industry, and I think at that, I will let Bob take the mic.

FACILITATOR ANDERSON: Thank you.

Before I say anything else, that Blackberry -- that Blackberry is not mine. It is one that was found out in the hall, so if somebody is missing their life link, we have it.

(Laughter.)

FACILITATOR ANDERSON: Well, welcome to springtime in Pennsylvania. It doesn't get any more beautiful than today, here, and it is our pleasure to be the hosts
for this Dairy Symposium. It is also very fitting that this symposium is being held here in Pennsylvania.

Pennsylvania is the home to a lot of organic production, especially dairy, and Pennsylvania ranks third in the nation in organic dairy production. This highly-regarded -- this -- and the foundations of U.S. organic agriculture had their beginnings in their rolling valleys with both Rodale and Walnut Acres pioneering the way.

And welcome. I want to welcome you, too, to Penn State, the domain of the Nittany Lion, Joe Paterno, and Penn State University. This highly-regarded land grant university is home to a premier college of agriculture, and Penn State Cooperative Extension is recognized worldwide for its work in agriculture.

I was just recently in Armenia, and I met no less than four Penn State extension agents working there in one way or
another. It is my pleasure to introduce you to Daney Jackson, the director of Penn State University's cooperative extension. Daney?

MR. JACKSON: Thank you, Bob. It's my pleasure to welcome you to Happy Valley. This is, as Bob said, this is a beautiful time of the year in the Happy Valley area, and it is especially great after having a successful football season last fall.

This is my -- I started my fourth year at Penn State, and the first couple of years were not quite as fun in the fall as they were this year, but they have been great this year, and I really learned what it is like to have Nittany Lion pride. I encourage you to get by our campus, visit our campus. It's a beautiful time of year.

There are a lot of things going on with students right now. It's the culmination of the academic year, so we are heading into stressful times for some of them, but it's also a lot of fun times. I encourage you to
go by and visit our creamery, another thing which we are pretty famous for, so I encourage you to get by there.

I want to welcome you here. We are really glad to have you here. We are really glad to have all of you, especially the NOSB. We're glad to have you in the state college area and looking at some of the issues facing organic agriculture in Pennsylvania. We believe that organic agriculture, in particular, is a growth area for Pennsylvania agriculture.

It is an area where we see great promise. We think there is going to be significant growth in the market of opportunities, and also some challenges we have to overcome, but also there is going to be a lot of opportunities there for us when we are innovative and can come up with the answers to some questions that you may have through our research programs and help with our education programs.
We are encouraging our faculty and staff to get educated, to get involved in some of the programs related to organic agriculture as well as other types of -- and value-added programs, looking at community agriculture, community-based agriculture.

We are looking at opportunities for making some investments. It is a difficult time for us to be making investments in new programs, but we do believe that this is an area that we need to be investing in. We have put some investments into the programs over the last few years at a time when we have declining resources and have actually eliminated almost 20% of our permanent workforce over the last five years, so we are challenged, but we are trying to meet some of the challenges.

We have dedicated some of our land resources to some projects. We don't have anything, to my knowledge -- Barry, you may tell me, in organic dairy at all, do we?
Hopefully, that will change sometime soon.

Your support and encouragement for our programs and our faculty to get involved and stay involved in programs that are important to you are very helpful to us in administration to encourage growth in that area, so we encourage you to get involved with our programs and stay engaged and talk about the things that are important to you so that our faculty and our educators do get involved.

We think that there are some great opportunities in the future here. We would like to see that growth in the programs, and hopefully, we want Penn State to be an emerging leader in the area. Bob said we are third in organic dairy, so hopefully we will be number one in organic dairy real soon, so -- and hopefully that will be some great increases in milk production and products for families in Pennsylvania.

So, I want to welcome you here. I apologize for having to leave pretty soon. I
have a -- I'm serving actually on a panel across town of another meeting in a few minutes, with the Ag Bankers Association. I'm not sure why they wanted me on the panel, but I guess I'll find out real soon.

So, welcome to Pennsylvania, welcome to the Happy Valley area, and I hope you have an opportunity to visit our campus. We're excited to have you here, and I hope you have a very fruitful and productive meeting over the next couple of days. Thank you.

FACILITATOR ANDERSON: Thank you, Daney. We will be looking forward to the ribbon-cutting on the organic dairy project. Well, this is the Dairy Symposium. It is two days, and it is a little bit like deja-vu for me, you know, I've been to a lot of these meetings for many, many years, and I think this is one of the more important seminars we've had in a long, long time, and it will be on organic dairy production and the role of pasture for organic livestock, particularly
ruminants, and especially dairy cows.

As you know, USDA has issued and announced an advanced notice of proposed rule-making, which openly asks for information and guidance on many important issues regarding organic dairy. We are here today as part of an information-gathering process, and at the beginning, very much at the beginning of the process.

Today, we will focus on the big picture of pasture and resource-management and livestock health. We've got a table of people very, very experienced, with lots of expertise. The purpose of all of these meetings is to provide the NOSB and the national organic program with information as they consider the issues that are facing us today.

Tomorrow, we will begin with, in the morning, at eight o'clock sharp, with people who are actually working the land, working their farms, herds, and making and
processing organic dairy products. We will follow by certifiers, who are charged with auditing and verifying organic dairy products and practices, and we will conclude with presentations on consumer expectations and perceptions.

It's a little bit about the process so that we are all comfortable with how this is going and how we will go. Under all of this lies the importance of understanding the implications and the impact of pasture regulations on resources, dairy animals, producers, processors, certifiers, and ultimately, the consumer.

We have lots of informed presenters here to address the questions raised in the ANPR. NOSB and NOP are here to listen and broaden their understanding as they weigh the issues and develop recommendations for the Secretary of Agriculture.

This is primarily an NOSB/NOP meeting, so the symposium will occur very much
like an NOSB meeting, with comments and questions coming primarily from the board. However, public input is very important to this whole process, and so, we will -- and the ANPR clearly encourages public comment.

So there are three ways -- we will -- as the -- after the presentations in groups, the board and NOP will have the opportunity to question the and comment to the presenters, and as time permits, we will take questions on written cards, and those will be -- come to queue in the livestock committee, and we will go through that, and they will bring those questions to me.

We will answer as many of those as possible, but I assure you that if -- we will read as many, and if we can't address all the questions, we will read as many as possible, and if we can't answer all of those or address all of those, they will be scanned into the public record. So every question will be a matter of public document.
The other is that it is very important to understand that there is a public input session at the beginning of the National Organic Standards Board meeting tomorrow, and I understand that already, six and a half hours of testimony or presentations are already lined up for tomorrow, and at five minutes a piece, I didn't do the math, but that's a lot of people.

So, it's great that everyone is here and having input. And finally, there is the opportunity to make written comments, and all comments, whether they are written, whether they are oral, whether they are read in, will be a part of the public record, and they will all be weight equally. So, however, we ultimately make our presentations. We will be heard.

Written comments, as a note, on the ANPR, are due on June 12th. However, that is just the beginning of the process because this is the proposed rule-making process, but
if you want to comment on this particular phase of the ANPR, then it is June 12th is the deadline.

And once again, I do want to say that all comments will be weighed equally, no matter how you make that presentation. Ultimately, we are going to focus on three questions, and they come from the scope of the ANPR. And the first question, the USDA is seeking input on the following issues, and I will read these.

Is the current role of pasture in the NOP regulation adequate for dairy livestock under principles of organic livestock management and production? Is the role of pasture adequate for other types of organic livestock? That's question number one.

Number two. If the current rule of pasture as it is described in the NOP regulation is not adequate, in your opinion, explain what factors should be considered to
improve the role of pasture within the NOP regulation. And please provide any available evidence that supports your view.

And three. Which parts of the NOP regulation should be changed to address the role of pasture in organic livestock management? And I won't read the whole thing, but it -- the various sections are cited where those occur, including production, handling, feed, and health care and living condition.

And ultimately, should the organic system plan requirements be changed to introduce a specific means to measure and evaluate compliance with pasture requirements for all producers of dairy or other livestock operation, or should a new standard be developed just for pasture alone?

So those are the overriding questions that we will all be grappling with, but we will start with our presentation. It is really my pleasure to be here, and we are going to first talk about pasture and pasture
as a resource-management, and we have three panelists here now.

George Cooper is the -- has an MS in Agronomy from the University of Wisconsin. He's got -- has over 25 years of experience in sustainable and organic agriculture. His work as a farm manager, research, and educator, primarily in the non-profit sector, and he is currently a program specialist for the National Center for Appropriate Technology, on the ATTRA project and has developed educational and compliance materials for the National Organic Program. George?

PANELIST KUEPPER: Okay. I guess we are supposed to use the microphone, right?

Okay, next slide. Okay. People can hear me, huh? Okay, great. It's a real pleasure to be here. I thought by way of clarification, I am with the National Center for Appropriate Technology, and not many people hear about that, but you do hear about the ATTRA project quite a bit.
ATTRA is a federally-funded project. We are called the National Sustainable Agriculture Information Service, which really defines what we do. We develop and distribute information on sustainable farming, and the organic community is a big consumer of materials that we produce and distribute.

In terms of my presentation today, I mean, I am really a row -- pardon me, a row crops agronomist, and I am going to stick to something, you know, I know a little bit more about, and that is the role of forages, you know, pasture or hay, within the traditional organic system.

To sort of give a little bit of background on that, a little bit of history, if we were looking for kind of a consistent management philosophy for organics that is carried through from the beginning, we would be looking at something called Humus farming, which is an approach to farming that really
coalesced as a single idea around the 19-teens.

It's focused on this idea of returning organic matter to the soil, of building the organic content of the soil and all the organisms and everything that work to make the soil a living organism. That's the basis of fertility.

Around the 1940s, Humus farming in the vernacular became organic farming. That's when Robert Rodale, I mean J.I. Rodale and a few others sort of coined that term and put it into use. The first real study of Humus farming become organic farming was done in the mid-seventies out of Washington University, and one of the former NOSB members here, Willy Lockevetz, was the director of that study, and, you know, I was real fortunate. I happened to be on that team, got hired on there, you know, and it was sort of the high point of my otherwise misspent youth.

(Laughter.)
PANELIST KUEPPER: But yes, it was a great study, ran for about five years. At the time, a million dollars bought a whole lot more than it does today, but we covered a lot of ground. The economic findings were probably the most significant part of this study. Just finding that there was commercial agronomic crop production in the corn belt was a significant finding.

But what really kind of shook everybody was how well these farmers were doing economically. They were doing about as well as their conventional peers, and that was sewing into the conventional market because at that time, the organic market really didn't exist in the mid-west. That was to come later.

You'll note -- I footnoted it there, I'm referring to a study now the results of which are 25 to 30 years old, but I find as new studies of organics are done that basically, they are just confirming the
findings that we had way the heck back, and another reason I refer to the study is it's been the only one that covers as much ground as I hope to cover here.

I want to talk mainly about the environmental impacts of this type of organic system. When we studied it, we found reduced energy consumption. I believe it was two-fifths the amount of fossil fuel energy was used in organic crop productions as used in conventional production.

There was a third less erosion on organic farms, and that was based on the crop mix alone. When we studied those farms, and this is a little bit of a side note, all the organic farms that I visited were using some form of conservation tillage at the time. Either mulch tillage or ridge tillage, and this was almost unseen through the rest of the corn belt.

So really, you know, and to hear the debate these days of no-till versus
organic. Organic is sorely mischaracterized in that debate. I think that's an important thing for people to realize.

Higher carbon sequestration. You know, definitely an issue related to global warming. No depletion of fertility. Again, one of the criticisms of organics is that it mines soil nutrients. Well, we did not find that, and subsequent studies like the ones done by Davis, here -- we are finding this is a regenerative approach to agriculture. That it actually is building soil fertility.

You know, Robert Rodale, I think it was, tried to coin the term "regenerative agriculture." It just didn't catch on, but -- and I'm sorry that it didn't because it really did apply. And another, speaking of Rodale, one that I site up here is the long-term Rodale study.

One of the things that they did that we didn't do is look at nutrient leaching, and again, under an organic system,
you find a lot less nutrient leaching. Again, related to all the ground water contamination issues, and the leach nitrate is the big problem. The Gulf of Mexico Dead Zone, related to this same issue.

I will mention one back thing on that slide. All those environmental benefits for organics, notice that it didn't even mention pesticides yet? We are talking about everything but. What I wanted to tie this to, one of the things that we were asked to reference as speakers, is, you know, what do consumers expect?

Well, they do expect environmental friendliness, and this is something that obviously organic agriculture is capable of delivering on. You know, we are working on something really good the consumers really do want.

Tying that into forages and animals, what I am basically going to say and what the thrust of what I am going to talk
about is that the forages in an organic system are the primary aspect that delivers on these environmental benefits.

This is a real typical rotation. If you are not used to looking at crop rotations, this is the kind that we saw in the corn belt back in the seventies, and it still exists, and they are still very workable today. If you have not looked at them before, imagine a farm with six fields, and one of these crops or crop stages is on each of those fields, and over time, every year, that sequence changes, okay?

Up here I show alfalfa as the forage crop. That could be clover. It could be clover and grass, alfalfa and grass, lespedeza, any mix of legumes and grass. Just think forage where you see alfalfa. In this system, what really drives the system or makes the system work is nitrogen.

Nitrogen is the limiting nutrient in organic systems, just like it is in
conventional systems, only in an organic system, you grow the nitrogen rather than bringing it in as in hydrous ammonia or some derivative of an hydrous. That nitrogen is fixed mostly in that phase, the phase where the forages are out there.

It is the legumes that fix nitrogen in symbiotic relationship with bacteria. That nitrogen then carries over, feeds the corn, even some of the soybeans. You know, soybeans are a legume too. However, in harvest, you remove more nitrogen than you actually fix on a soybean crop, so it does its part in the system, but it's a much smaller part than most people understand.

Livestock here, livestock manure, yes, there is nitrogen in the manure, but where did it come from in the first place? It was fixed over here by the forages. Possibly it went into the corn, and then it went into the livestock, but that -- the livestock are really just recyclers in the system.
I make that point because from here now, we are going to what the environmental benefits actually are, and what the forages contribute. And that starts with the factor of nitrogen and that fixation. When we did the energy analysis on organic farms, if you looked at field consumption, tracked field consumption, organic farms tend to consume more.

The main energy savings comes from the lack of nitrogen fertilizer and the fact that they are growing an enormous amount of fossil fuel energy in the form of natural gas that goes into producing nitrogen fertilizer. That is where the main benefits are coming out. In terms of carbon sequestration, it is during that period of time when you have perennial forages on the field that you are building most of your carbon.

In part because of the longer photosynthetic period, but also because of not tilling it up and burning the carbon out of
the soil. Increased nutrient bio-
availability. Perennial forages, particularly
the taproot of legumes, are drawing nutrients
from the subsoil, bringing it up, making it
more bio-available to subsequent crops.

Reduced erosion. Again, you are
not tilling during this period of time.
That's where most of that benefit comes from.
And reduced leaching. And this is exciting
to me. Perennial crops, just generally, but
particularly in forages, are like an ongoing
catch crop, preventing nutrients from
leaching.

You look at Giles Randall's work,
out of southern Minnesota. When you compare
row crops with perennial crops, he was finding
thirty to fifty times as much leaching of
nitrogen under row crops as under your
perennial forages. That's thirty to fifty
times. That's significant. It makes a lot of
difference.

It kind of goes without saying
that forages and livestock, you know, kind of co-exist. You can see where corn, soybeans, small grains can be grown as food crops or for other purposes, but generally when you are growing forage, you know, with the exception of alfalfa tablets or something like that, you are pretty much growing something that is going to be feed for livestock.

If you take livestock out of this system, the motivation for keeping perennial forages to the degree that we have here, where they are actually part of three seasons on a field, that motivation is reduced, and what I see on farms that are stockless is a tendency to reduce the amount of perennial forage that they have in systems, increased reliance on inputs or annual cover crops, you know, annual legume crops for nitrogen.

And I'm not saying that stockless farms can't be made sustainable and work just fine, but their ability to be as sustainable, to contribute the same degree of environmental
benefit that we brag on is going to be limited. Yes, basically, that is the point that I was trying to get to is this tie between the environmental benefits of organics and the forages in the system.

Seeing it on the farm level, where the crops are produced, probably the issues are not as great as they are where that feed ends up. In concentrated livestock feeding, there are the issues, of course, of manure concentration and all of that. That's not where I was going to go on my presentation, anyway.

I was given the two minute sign. I just want to point out that, on the whole within the ATTRA project, we keep a lot of information on hand. Updated information on forage systems. We consider them among the most sustainable systems, and I'm down to one minute.

And just like, you know, vodka isn't just for breakfast anymore, grazing
isn't just for your ruminants. We have a lot of information on pastured poultry. Our livestock workbook that we developed with NOP funds. First thirty pages of that focuses on pasture because we wanted to keep that tied to livestock production. And on that, I'll conclude. Thank you.

FACILITATOR ANDERSON: Thank you, George. We will just, as a note of housekeeping, there are cards throughout the audience, so as you have them and you have a question, then by all means, hold it up, and Valerie will pick it up.

MS. ROBINSON: I'm the runner, so if you've got questions, if you've got them on your cards, put your hand up and I or someone will walk up and down -- and make sure to gather them up. So -- am I speaking loud enough? Probably not.

I'm the runner for cards. So I passed them out. There's more. If you've got cards you want to make sure get up here, the
livestock committee is going to be processing them. I'll be gathering them. So, you know, make sure I know you've got a card or pass them up to the ends. That will help too.

FACILITATOR ANDERSON: Next speaker is Lisa McCrory. Lisa is from Vermont, NOFA Vermont, and she has been there since 1995, working as an organic dairy and livestock advisor. She has been providing workshops and conferences and actual on-farm technical assistance to farmers interested in organic agriculture and grazing.

So, she helps producers develop or intensify those practices, and prior to her work with NOFA, she was at the University of Vermont and a pasture-management consultant with Pasture Research and Technicians. So Lisa, in addition to being an academic and a student and a teacher, also operates a farm with her husband Carl Russell, where they use draft animals for logging and field work and raise meat and milk products using primarily
pasture and harvested porridge. Lisa?

PANELIST McCORY: So, it's great to be here. I'm going to -- I do not have a Powerpoint presentation. I am not that technologically advanced. This year, though, I promise. I have a visual, though, that will help, and I have a couple of copies of my -- I answered all -- I was given -- all of us were given a bunch of the draft of -- the advance notice of proposed rule-making was passed onto all of us who are speakers, and I decided that I would take it upon myself and answer every single pointed question through the document for good practice.

But, in summary, there are three key questions that they did ask, and so I thought I would just read that out loud so you can know where I'm coming from as a grazing consultant, as somebody who works out of NOFA Vermont with our Vermont producers, based on my experience.

I've worked with organic producers
throughout the northeast and kind of spreading into the west as I've been or was initially very involved with NOFA when it was getting off the ground. So I feel like I'm hearing from a lot of producers, and I sat in on a session this morning and yesterday, really getting feedback from producers to just get a sense of what the realities are within what the National Organic Program should be enforcing.

So the first question about the current role of pasture in the NOP regulations -- is it adequate for dairy and livestock under the principles of the organic livestock management and production. Is the role of pasture adequate for other types of organic livestock?

And I would say no, it's not adequate. At this point, the current role of pasture in the NOP regulations is not adequate for dairy and livestock. The role of pasture needs to be more clearly defined for beef and
The recommendations that I would put forth -- first, I would like to say that I fully support the recommendations that have been submitted by the National Organic Standards Board. They presented a draft document in November of 2005 which was really a compilation of all the recommendations that they have been submitting since 2001 on pasture recommendations.

And my, you know, I was reading all of this information as I was preparing, and the question that just kept hitting me over and over again was we've been giving feedback to the National Organic Program for five years, now, and still nothing has been implemented, so a lot of this is all repetitive.

There are a lot of resources, even within the National Organic Standards Board's draft documentation, there are a lot of references of research documentation as well.
as just good material on the nutritional benefits, the environmental benefits, grazing strategies, the possibilities, and also consumer assurance. What do the people that buy organic milk, what are they expecting when they purchase a carton of milk?

I was seeing some example cartons that have been passed around today and was kind of horrified to see what their testimonial is on the carton, knowing where that milk is coming from, and personally, I would like to see some level of standard guidelines that everybody abides to that can assure the consumer what they are purchasing and allow for a strong integrity to the National Organic Program.

So, today is such an important day. My recommendation is I support the NOSB's recommendations, which are saying that there should be a minimum of 120 days per year that ruminants should be grazing on pasture, and within those 120 days when they are
grazing on pasture, they should be consuming a minimum of 30% of their dry matter needs on pasture. That's just a minimum, and that's for all ruminant stock six months of age and over.

There's been so much evidence to support the need for stricter pasture standards and its associated benefits, soil health, livestock health, energy usage, consumer confidence and assurance, nutritional benefits, that it seems redundant to continue feeding a lot of additional resources and references.

What I'm getting at is I've included within my handout a lot of recommended readings to substantiate the benefits of pasture, but I think all of those recommended readings that I have put forth also was in the NOSB document. There are so many things, and it was great to hear what George had to share with us as well.

So the big thing that we were
talking about is if we are going to recommend a minimum dry matter intake, it needs to be -- in some way, we need to demonstrate that this is do-able. But I think without having a minimum amount of dry matter intake on-pasture, it is going to be really hard, without some sort of measurable thing, the words like "significant."

There are a lot of ambiguous words within the language that we need to replace with a measurable, so my feeling, from my experience as a grazing consultant and a resource person for NOFA has been that the 30% dry matter intake is a measurable and a do-able that we can write into the Organic Systems Program guidelines.

So what I did, with the help of Sara Flack -- I want to make sure that everybody can see this. But we wanted to make an example format that people could start to use if they wanted to estimate the dry matter needs on their farm.
So, this is just one example of how we do it when we're on farms, where, for example, I'm using, for example, a thousand-pound cow producing about fifty pounds of milk. Her average dry matter intake needs are going to be about three percent, and this is based on some literature guidelines that we had, so I'm keeping it nice and simple.

But if this thousand pound animal needed three percent of her -- was consuming three percent of her body weight, simple mass says that she's eating thirty pounds of dry matter a day. Now, out of that thirty pounds a day, we are asking our organic producers to make sure that 30% of that thirty pounds is harvested -- is received by harvesting grass on-pasture.

Do the math, that's nine pounds a cow a day. As fresh pasture, that's more like -- it's four times that number, on average, so you are asking about -- for every animal to eat on average about 36 pounds of grass on-
pasture. So, that's a way to make a simple calculation on a farm to help them estimate.

You know, you figure out how much do their cows weigh, on average, percent of their body weight is such-and-such, and you calculate down. Now, there is another way to make this calculation. We can go backwards, and this is a worksheet that NOFA New York actually has on hand.

Dry matter intake by subtraction, where we would go work with the producer, find out what are you feeding in the wintertime when your animals are in confinement. We convert everything on a dry matter basis and get the total, and then we figure out what are your cows getting when they are on pasture, what is the feed that you are giving in the barn.

We are getting the total from that, and we are subtracting one from the other, and you are going to get the amount of dry matter that they are actually harvesting,
from pasture. So there's two different ways that we could quickly come up with, as a system, that farmers can use as a way of documenting how they are harvesting their dry matter off their pasture.

I know that these are just two simple examples. I think it's really possible for us to create a formula or a worksheet that is included within an inspection manual or within the inspector's report or certification application -- time? I don't have any other flip charts. Those are the only two.

So, I wanted to at least provide that to the audience and to the producers to look at a couple of examples to give us a starting point to create some efficient worksheets so that documentation can take place. And I know there are many resources within our states. Our NRCS agents, our extension agents, the different educational branches of the NOFA's PCO, NOFA Vermont, NOFA New York, Oregon Tilth, MOSA.
I think that we can all work together and find out how we can figure this out with our producers. I think that is within the organic system plan, and within our certification application forms, we are collecting almost all of this information already.

Everything that we're -- we're collecting everything except for asking percent dry matter within our current record-keeping system, so we really aren't asking for much more than what is already -- what already exists in the program, so I just wanted to point that out too.

And I think that is what I have to share. I have more in writing, obviously, and I'm open to receiving questions. I guess one more little thing that I wanted to say is NOFA Vermont, when we started certifying dairies, we started back in the late eighties, and our step into the organic dairy realm was from grass-based farms trying to grapple and get a
premium product, create a premium product that the market was demanding.

We were already coming from a pasture background. Our producers in Vermont are grazing their animals for at least 150 days during the growing season. That's a minimum. And the amount of dry matter that our producers are harvesting off pasture is about 70 pounds of dry matter per day, on average.

So, agreeing to 30% dry matter is really -- we're realizing that not everybody is set up like a lot of the producers in Vermont, that seasons are different from one state to another, precipitation is going to vary from one place to another. We can do 70%, I know producers that do more than that, but not everybody is going to be able to do that.

Thirty percent, I think, is a realistic figure to shoot for that I think can encompass almost any producer within a
reasonable area. And if they get to the point where they are drawing their water sources out of an aquifer, if they are getting to a point where they -- the precipitation falling on their land is less than adequate, then I question whether or not we should be supporting organic systems in those areas.

That does not sound environmentally friendly to me, and it doesn't sound like something that our consumers would support if they were fully informed, which I know, down the road -- they are getting more informed and wanting to know more all the time.

So, we need to let them know that they are supporting something that is moving us in the right direction, and this standard would also help make that happen. So, thank you.

FACILITATOR ANDERSON: Thank you, Lisa. Jim Cropper is a 4-H management specialist with the NRCS, and it is the East
National Technical Center in Greensboro, North Carolina. Jim?

PANELIST CROPPER: Thank you, Bob.

One of the things I wanted to talk about today is the prescribed grazing standard that the NRCS writes. Right now, we have the 2003 wording of the prescribed grazing standard, and since that was incorporated into some of the rules in the rule process of the National Organic Standards Board, I thought I would talk about that specifically and then show some ways that that can be used to document the fact that you are meeting whatever standards you set on how much of the forage or feed that the dairy cow is consuming is as pasture.

I won't make any position on what that percentage ought to be. I think that ought to come from the people that are directly involved in that. As a national agency where we work with all farmers, regardless of whether they are organic or...
national, we have to write our standards in a very broad way so that everybody can be under that umbrella of that particular standard.

Since we are not a regulatory agency but we work with people to better their protection of the natural resources on their farms and ranches, that means also that we don't dictate policy or we don't dictate certain things to happen. We try to work very cooperatively with those people, making them understand that when they take some actions how that impacts their forage supply and how that impacts their animals, the farm resources that are there.

The prescribed grazing standard, we have a national one. Like I said, it was last revised in 2003. When we started working with the Conservation Security Program, we noticed that we had a couple of very key items that we left out of it, and we are currently now revising that standard in 2006. Probably sometime towards the end of the year, the new
One thing I wanted to make clear, in some of the writings of the rules, there was mention of a regional prescribed grazing standard. There is no regional one, only state supplements. That -- those state supplements take the national standards and make them very more specific to the locale of that state, whether it be California, Maine, or Florida.

That's why, on a national level, national standard has to be very broad because we cannot get very specific without being wrong in one part of the country of another. So that's why it starts out very general and then gets more specific as you get down to the state level.

Okay. One of the key elements of the grazing practice I think that come from the standpoint of what you are dealing with today is that when we do a grazing plan for a farm, it is -- we need to take a look at what
those resources are on the place. We have to look at the climate, what do we get for rainfall, how cold does it get in the wintertime, how hot does it get to the summer. That has a big impact on what you are going to be doing in a dairy operation.

The soils, what do we have for soils? How steep are they, what is their water-holding capacity, that is the pH of the soil, a number of things like that that is going to drive that forage production there.

The other thing, then, we need to inventory is the livestock. Do we have adequate land to support that herd of livestock? If we don't, are there ways that we can overcome that, either by increasing the production on the farm, or do we have to go off-site for some additional forage supplies?

That tends to be quite different in some parts of the country than others. Here in the eastern United States, where sometimes you have to have at least the
economy of scale so that you can support your family, unless you work off the farm or something of that sort. So that sometimes becomes an issue.

You have to have a certain number of livestock to make it a good, viable enterprise, yet on the other hand, perhaps you are land-poor. So these things have to -- there are tradeoffs involved when you get into that situation.

Then the other thing we have to look at, then, okay, what forage supplies do we have on the farm? How can we improve them? In some cases, it may mean converting crop land to pasture, and we've had several producers who have converted all of their crop land to pasture. And, in that case, they are able to maximize their herd size, and then they either buy additional feed stuffs and bring it in, or they are able to rent maybe adjacent farms or something like that for their stored forage supplies.
One of the key things in the grazing plan is that forage/livestock balance, and this will be a key point that I will talk about a little bit further in another slide. The grazing plan itself -- what about a drought plan? Do you have a contingency plan if things do dry off, you don't have the feed or pasture, perhaps, out there to feed those animals. We have to consider what we are going to do in that situation.

And then the last thing is the grazing records. Lisa just mentioned a couple of different ways that you can kind of predict what you might need in the way of pasture and how much pasture that would be. Then we also have to have some records that demonstrate that that is actually what is taking place.

Okay, if we talk about that forage/animal balance, a lot of times those lactating dairy cows are supplemental-fed, and there is a big, raging controversy over that; whether it all should come from pasture or a
smaller percentage of it, whether they should feed grain, whether they should feed maybe some dry hay, maybe a partial total mixed ration, a whole number of things in that way.

Again, we don't take positions on that. We help with the farmers to decide if they are going to feed grain, then how much pasture do we need, then, to feed those animals if a certain amount of grain is going to be fed or a certain part of a partial total mixed ration being fed.

That is their ultimate decision. What we do then is try to decide, okay, if you are feeding that much supplemental feed, how much do we need to get from pasture until that grazing plan is then centered around that remainder that is going to be fed as pasture.

There are a lot of different reasons why they are supplemented. Some of it has to do with the fact that, especially in the spring of the year, standing forages are often very low in effective fiber. You can
get a test back from a forage lab, and it's going to say ADF and NDF are high, and yet the animal doesn't know that, but the grass passes through their digestive system too quickly, and sometimes you don't get the nutrients that you thought you were going to based on that.

The other thing is it's also to balance the protein, along with the carbohydrates. A lot of our -- and grass pastures tend to be very high in protein, and if there isn't more of a carbohydrate source there, that will create an imbalance. A lot of that protein will go into the room and not be converted to milk. Instead, it will be urinated instead, and then you can create hot spots in your pasture just from simply having way too much nitrogen versus the carbohydrates in their diet.

So as a result, that forage/animal balance needs to account for all those other feed stuffs before we have a good idea of how much is actually coming from pasture. And we
need to make sure that when we do that, we can calculate, then, just how much pasture will need to be allocated every day.

Okay, so if the percentage of dry matter intake of the total ration from pasture becomes a part of the NOSB final rule, then the forage/livestock balance sheet will be a good way to show what is being planned for consumption from pasture. That can be easy to calculate.

It looks kind of similar to what Lisa was talking about earlier, where we know there is so much grain being fed, maybe a little bit of hay, a little bit of corn silage, something like that. Those get subtracted off, and then the remainder becomes what is going to be the forage that is coming from pasture.

So now we know what is planned. And then, when we are done that, then the grazing records then can confirm what was actually applied. How much pasture did they
consume? One way to do that is to measure that in our rotation of pastures.

When we take -- we are going to take some animals out to a paddock, we measure how much forage is there before they return in. And that can be done either very easily with a rising plate meter, even a pasture stick if it has been properly calibrated to the pasture -- to the species that you have in that pasture.

That's simply nothing more than a yard stick, and then what you do if you don't know for sure whether it has been calibrated for your area of the country, you simply clip a square frame, convert that to pounds to acres, and then you see how many inches that was and record that on a number of occasions until you get a pretty good idea, especially if -- a pasture consultant could do that for you -- determine what an inch of forage being produced out in that pasture, how many pounds does that equate to in acre of ground.
So then, you have that way of doing that record keeping. And then, once the animals are pulled off of that paddock and go to another one, you measure what residual forage is still left out there. There may be an average of two or three inches. Again, you can measure that and get an idea of how much was left behind.

And that difference, the difference between what it was when they returned in and when they were pulled out of that paddock is going to be the amount of forage that they consumed. Then you have a real good hard number to work with. It's not so much guess-work anymore at that point.

Again, it's still an estimate because pastures do vary a lot in their composition and in their thickness of their stand from one area to another, so there might be a little error in that, but it's a lot less error than just trying to wing it based on maybe what they ate in the barn, and you are
just kind of hypothetical thinking, well, maybe they consumed thirty pounds or maybe they consumed forty pounds. Well, you don't know for sure and not quite as much as you do if you measure directly in the field.

I think that last statement is one thing that doesn't have to be overly rigorous, but it does have to be pretty representative of that paddock that you were in. So, that is -- I thought I would directly answer some of the questions based on the prescribed grazing standards, and I would be glad to take some questions when we're done here with the panel.

FACILITATOR ANDERSON: I would just like to open this up to the NOSB and the NOP.

MEMBER KARREMAN: Are we done one panel?

FACILITATOR ANDERSON: Yes, we're done.

MEMBER CAROE: I have a couple of questions for you, Lisa. First off, I was
just wondering how you deal with expansion and
reduction in the herd over a season, and
typically, how much of that -- I mean, what is
the effect. I mean, can you have a 20% increase in the size of a herd, and how does
that affect your calculations?

And also, going further with that,
you average the pounds of forage per cow per
day, but what period of time is that? Is that
over the entire pasturing season, or is that
done for a month, or, you know, what period
are you actually looking at? Because in order
to apply something consistently, you know, we
have to talk about some of those terms as
well.

PANELIST McCRORY: Okay, so I will
-- am I on? I will answer the second question
first. My recommendation is that, when
calculations are made and represented, that it
is on a per-cow, per-day basis, so the amount
of dry matter per cow per day. Does that
answer?
MEMBER CAROE: Yes, but you are not actually measuring how much feed other than forage they are taking in every day, individually, and calculating per day, you are taking it over a period of time, I would imagine. I would imagine that you look at the amount of outside forage -- I mean, outside feed that the herd is taking in over a couple of months as opposed to the same type of period over the winter and subtracting it out and then averaging it per day. You are not doing it every day -- you're not -- farmers aren't calculating every day.

PANELIST McCORY: The farmers aren't calculating every day. They do know that if they've got their group of animals, they -- just like they are creating a feed ration in the wintertime, they are creating more or less a set ration that is going to meet their livestock needs when they are out on pasture, and that might change a little bit if their overall production is -- if they are,
you know, say the average stage of lactation for their herd, say that goes up during the grazing season, they might calibrate that and make sure that they are giving them a little extra pasture to meet those individual needs.

Now, to say that -- just like in the wintertime, farmers are not calculating on a daily basis what each individual cow is getting, but they could tell you what each individual cow is getting, and that's the same routine that they would be doing when they are out on pasture.

MEMBER CAROE: Right. I guess I'm not being very clear, and I apologize, but as I look at your calculations, they make perfect sense to me. I love the fact that they are very quantifiable. However, when you are talking about the subtraction, where you have what you are feeding the cows during the winter months when they are off-pasture, and what you are feeding them outside of pasture and subtracting that off -- I'm trying to
figure out the length of the period that you are calculating.

So, for the winter months, say there are three months that they are indoors for winter, you are looking at all of the feed that you feed them over three months and then calculating them down to a per day basis, correct?

PANELIST McCORY: Right.

MEMBER CAROE: And then you are doing it for the entire season? So you are only really calculating once per season to get that average per day? Is that correct?

PANELIST McCORY: Sure. You could calculate it just once, but like I was saying, if a farmer is going to -- you know, and the goal is that we are trying to demonstrate what the animals are going to get on-pasture for a minimum of 120 days during the growing season.

MEMBER CAROE: So you are looking at a 120-day period?
PANELIST McCORY: Minimum.

MEMBER CAROE: Okay. That's what I needed, that's what I wanted to know. Thank you.

PANELIST McCORY: Okay. And you had a first question.

MEMBER CAROE: It's about the fluctuation in a herd's size. So if a producer has 50 cows and then doubles their herd. You know, brings in a lot of replacement animals and doubles their herd, how do you account for that?

PANELIST McCORY: They would have to calculate the additional dry matter needs and make sure that they have adequate pasture to meet that additional number of animals. And I will say that it's not -- at least in Vermont, I haven't seen that happen all the time. There might be one or two rare occasions when that happens, and we will help them figure out what their pasture needs are and move from there.
And like I said, in Vermont, it's -- we rarely come across situations where the animals are nearing the edge of that 30%, you know, dry matter. They are usually way above 30% dry matter from pasture, and so most of the farms, if they are adding on ten cows, fifteen cows, they've got adequate pasture to stay above that 30% dry matter intake, minimum, for those 120 days.

PANELIST CROPPER: The greatest fluctuation you might get, actually, is, depending on how the cows are freshening -- usually the lactating herd would be separate from the dry cows. And then you could get some fluctuation there, but generally, that's not really very huge.

PANELIST McCORRY: Percentage-wise, you're looking at what? Five percent?

PANELIST CROPPER: Yes. Maybe something like that --

PANELIST McCORRY: Just to give --

I mean, I'm completely --
PANELIST CROPPER: -- if they are freshening a few every month, there might be some bigger fluctuations if they are stressing maybe spring calving or they are stressing fall calving, there may be a much bigger fluctuation than that. It kind of depends on the operation and how they deal with that. Seasonal calving, they are all going to dry off at once, and that is usually at a time of year they are not going to be on-pasture in most cases.

FACILITATOR ANDERSON: Just one comment. As you ask a question, would you please identify yourself for the record? That was Andrea Caroe. Barbara?

MS. ROBINSON: Are the mics on? Barbara Robinson, USDA. I actually have three questions. Two -- Lisa, I lost a number somewhere. You were talking about the 30 pounds per day dry matter, 30% of 30 pounds, roughly nine pounds. Then you got to 36 pounds in total. What -- I missed something
there.

PANELIST McCORY: That's --
that's -- it's nine pounds of pasture on a dry
matter intake basis.

MS. ROBINSON: Right.

PANELIST McCORY: And pasture is
about 80% water, so if you multiply nine by
four, you would get the as-fed -- the actual
weight of the grass that they are harvesting.

MS. ROBINSON: Why am I
multiplying nine by four?

PANELIST McCORY: Nine times four
-- you are adding the -- on a dry-matter
basis, pasture is actually four times heavier
than its dry matter weight.

MS. ROBINSON: Oh, okay. And
then, secondly, you said that in NOFA Vermont,
you are already asking for this information
from your farmers.

PANELIST McCORY: We are
recommending -- we are encouraging farmers to
-- letting them know what the NOSB
recommendations are, and we are encouraging
them to monitor their pasture dry-matter
intake on-pasture to see how that compares
with the NOSB recommendations.

MS. ROBINSON: So do most of them,
would you say -- so they are incorporating
this into their organic systems plan?

PANELIST McCORRY: I would have to
-- when I go onto farms, I'm -- I provide the
education, so I'm not actually an inspector.
I would have to defer to Nicole to see if
that's actually in the inspection form. But
what I do is I help them figure out what they
are feeding their livestock now, what do their
pastures look like, and how much pasture do
they have available for their livestock.

And I help them make -- I help
them make calculations based on the
recommended dry-matter intake on-pasture. So
I would have to defer to Nicole, our
certification administrator, to know whether
or not that is actually in the application
form. I don't think it is.

MS. ROBINSON: Most of your dairy farmers, you believe, are doing this?

PANELIST McCORY: They are. They are way beyond 30%, on average.

MS. ROBINSON: My other question was, Jim, you said the NRCS standard, and I understand this, is a national standard, and there are no regional standards, but then you mentioned that there are state --

PANELIST CROPPER: Yes. Each NRCS state office generally drafts a more specific state standard to be followed in that state.

MS. ROBINSON: Based upon -- they take the national standard --

PANELIST CROPPER: Right. And generally draw it more specific standards within -- they are more -- criteria. They may include tables, for instance, that have the different grasses and legumes that grow in that state and the recommendations on stubble height that should be left once the animals
are taken off that particular pasture and put into another one.

And some -- those things are very specific to that state. They may cross some state boundaries, but as you get into further regions away from that state -- let's say, for interest, Pennsylvania versus Arizona -- you are going to have totally different species and things of that sort, and different requirements for their protection when they are being grazed.

MS. ROBINSON: We have heard in the past that a complaint of the NRCS was that it was based -- it was a standard developed for beef cattle, but I didn't hear you mention anything like that.

PANELIST CROPPER: No, no. In this particular instance, like I said, the national standard is drawn at a very kind of an over-arching way so that it doesn't get specific about any particular animal, and so it'll work with any livestock enterprise that
you have. It's just that you have to get down
to the state level to get into more specifics
than you can at a national level.

MS. ROBINSON: Okay.

PANELIST CROPPER: And again, that
that would be more directed towards the forage
species, what would be needed to keep them
surviving in a pasture setting so that you are
not over-grazing them and then damaging the
soil resource and perhaps the water-quality
resource at the same time.

MS. ROBINSON: Are those all
downloadable from NRCS's website?

PANELIST CROPPER: Yes. They are
actually on the NRCS website, and you can go
and click on the specific state that you are
interested in and get that as a pdf file or an
Adobe Acrobat file.

MS. ROBINSON: When you revised
the 2000 -- when you revised the national
standard for 2006 --

PANELIST CROPPER: Right.
MS. ROBINSON: -- what will that do to the state?

PANELIST CROPPER: Then they will go back and look at it again and have to revise their standard as well, if there is something in there that they don't cover specifically. And the one thing that we would like to include in there, it's one of the shortcomings we found out when we got involved with the Conservation Security Program, is that we don't specifically mention that there should be grazing records kept, and so that will be in the new revision. It was an oversight, basically. Because when it came to program implementation, we have to have some grazing records. It's similar to what you are embarking on --

MS. ROBINSON: Right.

PANELIST CROPPER: -- that you need record keeping to be able to make sure that what is being specified in the rules actually takes place, and so that's why we
found out when we got involved with a program like the Conservation Security Program that we needed to do the same thing. Otherwise, there is no way of knowing whether they are doing a good job.

MS. ROBINSON: Whether there is compliance, right. Do you provide any sample worksheets in there for records?

PANELIST CROPPER: Actually, Pennsylvania's got some little pocket-sized books that do have a suggested one for dairy and also, in particular, they have one for dairy animals, and they have another one that is for beef cattle and sheep and things of that sort. So, they are slightly different in the way they are formatted.

MS. ROBINSON: Thank you.

FACILITATOR ANDERSON: Bea?

MEMBER JAMES: Bea James. I have two questions, and I will give Lisa a break and go to George first. George, what would happen in agriculture if pasture-based lands
for dairy farms were not required to grow feed, and doesn't the grazing matter also act as a natural filter for the land and the wildlife or groundwater inhabiting that land?

PANELIST KUEPPER: I'll start with the last question. Yes, the presence of forages does an amazing number of things. You talk about the filtering effect. That capture of nitrate, I mean, is one example of that filtration. Yes, it does capture a lot, and the environmental benefits, as I was trying to point out, are enormous.

In terms -- did I get your first question right? You're saying what would be the likely trend if organic farms were not growing the --

MEMBER JAMES: Right.

PANELIST KUEPPER: -- grazing land or livestock? Basically, it would have to be, you know, brought in in some form. Now, I'm not a specialist in livestock feeding, but, you know, my understanding is that there would
be definite nutrient issues. As you start shifting, take that example that I showed, that location example.

If you are also shipping that hay off, say, to a distant place, that manure is not likely to be coming back to that land, and that raises sustainability issues. You know, to keep that land regenerative, keep that system regenerative, they are either going to have to bring in some other type of input, either a local source, say, of local CAFO manures or something of that nature, or rock minerals. You know, something that, again, would meet the standard.

So it is going to make the system more dependent on outside inputs, and that will definitely change. In terms of what happens actually at the feeding site, I mean - do those animals get enough forage? I would assume that, you know, a good plan feeding system would allow for that, but it does mess with where the nutrients go in the cycle. It
messes with the sustainability of an organic system.

MEMBER JAMES: Great, thank you. And Lisa, I wanted to ask you -- the model that you showed, the DMI by subtraction?

PANELIST McCRORY: Right.

MEMBER JAMES: Do you have any farms that are currently using that model?

PANELIST McCRORY: That model I actually stole from NOFA New York this morning, and they use it regularly with all of their producers.

MEMBER JAMES: Oh.

PANELIST McCRORY: And from what I've heard, there have been no complaints about doing that. It's been useful. When -- and then, as an individual, when I go on a farm or to co-workers that also do dairy farm visits, we will use that system regularly in helping farmers calculate what they are feeding on pasture, or what the potential that they could feed on pasture could be.
And I'll go -- I'll use one model or the other depending on which concept they are more open to.

MEMBER JAMES: Okay. So that would have to be logged, then, for each cow, as you increase and decrease the herd?

PANELIST McCORY: Right, yes.

MEMBER JAMES: So, how large are the farms that are currently using that system?

PANELIST McCORY: Anywhere from 30 cows to 200 cows, in Vermont. And I guess I would have to defer to NOFA New York to find out what range of livestock farms' sizes are using that current system too. I'm not sure.

MEMBER JAMES: Do you have an estimate? Say, if you have a 500-cow farm, approximately --

PANELIST McCORY: I think this calculation sheet can be used for any number of farms -- for any livestock-size farm. So, whether it is 500, 5,000, or 20, the
calculation sheet should work just as effectively.

MEMBER JAMES: Okay. Thank you.

PANELIST CROPPER: I might add, there is actually a farm in Wisconsin, near Mineral Point, that they've run approximately 1,200 to 1,300 head of cattle on pasture for several years. I don't know that they are organic; I don't think they are, but even so, whether it is organic or not, that's a pretty substantial herd size to run on pasture, and they've been pretty successful.

FACILITATOR ANDERSON: Dan?

MEMBER GIACOMINI: Dan Giacomini, NOSB. A couple of questions. First of all, for George. Can you explain the advantage we have of the cow harvesting the forage and depositing her own nutrients back, recycling, versus man harvesting and man depositing them back in a self-contained facility where the manure and urine would be going back on the farm? And then I have some other number of
PANELIST KUEPPER: Yes, in fact, I had thought about talking a little bit about that because, you know, in theory, yes, you can do that in an operation. It's often done with non-ruminate stock, where all the harvesting is done. Everything is taken, fed, the manure is captured, and it is returned to the land.

In terms of nutrient flows, that's perfectly fine, and in some cases, I could conceive of where it might work better for the system, if you were looking solely at nutrient flows.

I think this is where a lot of the animal health issues come into play of whether, you know, animals are more healthy in a pasture environment, which I tend to believe they are. Again, I'm not the expert in that area.

I think there are also issues of, you know, since we talked about, you know, the
whole range of environmental issues, you know, there are certainly energy issues involved in a system that is dependent entirely upon mechanical harvest and feeding as opposed to animals that, you know, have four legs and can walk out there and harvest a big chunk of it themselves.

So, you know, I think taking the whole picture into account, any degree to which you can turn the system over to a grazing system increases the overall sustainability and benefit environmentally, and I feel, you know, in terms of the health of the animals, that there is definitely a benefit to that. And certainly, my interpretation of standard is more consistent with that.

MEMBER GIACOMINI: Thank you. My second question. Mainly to Lisa and somewhat to Jim. The numbers that you used over in your equations, and mainly in your first example there, I'm interested in the
assumptions you make and the implications of those.

You list 3% dry matter -- 3% of body weight is dry matter intake. There is a tremendous amount -- a tremendous amount of factors that go into dry matter intake, from age of the animal, lactation number, body weight, milk production, stage of lactation, a number of factors in the nutrient requirements for dairy cattle -- dry matter intake is not simply one sentence of 3% of 4% or 4 and a half percent, it's nine pages.

Also, on pasture, I've seen pasture book values anywhere from 18 to 25 percent dry matter. Do you propose that we just use a certain number of set book values, or do you really expect that we or should we actually be working on the individual dairy numbers, where in some cases, for instance, with a large dairy, they have multiple strings.

High-producing string may be
closer to fifty pounds of dry matter, and depending on the dry matter intake pasture, it could be pushing 100 pounds of grass per day. Can you talk a little bit about that -- that kind of an implication and what you see that we should be doing, and sort of, if -- you know, I mean, if somebody is at 4% and we are figuring three, or the other way around, and they end up at 25% instead of 30 of intake, then what do we do to them?

PANELIST McCORY: Well, what I gave on the first flip chart was just an example of one group of animals at an average of 50 pounds of milk production per cow, and I think -- I'm just throwing out some ideas. I know that there are definitely worksheets available so that people can actually calculate, if they have a higher-production herd or if they are grazing their high group -- early lactation cows in one group and their mid-lactation cows might be grazing in another paddock, they can manage their groups in such
a way.

But we could have a chart that producers could utilize to, you know, based on the butterfat, based on the pounds milked, based on the average, you know, body weight of their herd. They might fall under a different percent body weight total percent dry matter — or total dry matter intake based on a different percent of their body weight, based on those factors.

And there are some very handy charts and tables to help people make those calculations. Whether we have, you know, low, medium, high or whether we actually use tables and charts where farmers get more accurate in their total dry matter intake requirements, I'm not sure how detailed we should go with that.

I wanted to at least start off with a baseline, and we can determine what level of record-keeping we would want to enforce for measurable dry matter. But I
think down the line it is ultimately going to be -- I wouldn't expect that it would be totally precise, but I think it would be good. It would be better than where we are today, which doesn't have anything.

MEMBER GIACOMINI: I had one for Jim, but I forget, so.

MEMBER ENGELBERT: Kevin Engelbert. Mr. Kuepper, you spoke about the increased efficiencies of an organic operation versus a conventional, and do you have any figures based on a pasture-based system versus one where the feed is mechanically harvested?

PANELIST KUEPPER: I personally don't at this point in time, no. I have not managed to put that together, but Ann, would you happen to know if they have that at ATTRA, that we can dig that out? Do you remember?

PANELIST WELLS: I'm sure they probably do somewhere, but whether it still exists, I don't know.

PANELIST KUEPPER: Okay, yes. I'm
sorry, I don't have that at this point in time, but it's something that we should be pulling together. I agree on that.

MEMBER KARREMAN: Mr. Karreman -- saying regarding -- I think you were saying you are not sure how the animal health increases or whatnot with the pasture, and a peer review journal article --

(Whereupon, the speaker's microphone cuts out and is restored back to working order.)

MEMBER KARREMAN: Mr. Karreman, I wanted to add onto what George, here, was saying about the health benefits possibly of pasture -- is it picking up? -- in a study I did during veterinary school in the Netherlands, we were checking inflammatory reactions in cattle and seeing if we could come up with a quick test to differentiate cattle that had inflammation or not, and as one of the findings we didn't originally look for, but we found it in the data set, there
was significantly less inflammatory reactions
with cows on pasture compared to cows that
were confined, with P less than .105, and that
was in the veterinary record in 2000, so
that's a published peer review journal.

I just wanted to help you answer
that question. I don't know of any other
journal articles like that yet. Hopefully,
there will be, and I do have a question for
Lisa. You mentioned the issue of
sustainability in that realm and irrigation.

I would imagine, and I think you
were kind of questioning the sustainability of
irrigated organic dairies, if they need that --
correct me if I'm wrong -- but in
California, I would imagine there is a lot of
organic row crop farms that do use irrigation,
so how do we -- I know the irrigation issue is
somewhat embedded in this whole discussion, so
if there is row crop farms that are organic
using irrigation, wouldn't that be okay for
organic dairies, or not, or why not?
Whatever.

PANELIST McCORORY: I am not opposed to irrigation. The times when I start to get concerned is -- it depends on the volume of water being used for different things, and I just think that there -- we need to have a monitoring system in place so that we can have a better sense of how much of our water resources are being used for different practices and put some sort of a limit relative to sustainability on those practices.

I don't think that that would exclude irrigation, but it might exclude the use of irrigation or excessive irrigation in certain areas, and I think it would be worth having some sort of way to monitor that because I think water is quickly going to become a resource that is not that renewable.

It's the next one after peak oil, I think. And we just need to stay on top of that and be able to monitor it.

MEMBER KARREMAN: Just as a
follow-up, I guess, on that and from what George was saying, and I think we all realize that if the cows are out on pasture, they are urinating and they are manuring out on the pasture -- they are kind of returning some of the water back to the pasture. Maybe you might want to answer that or would that ameliorate some of the irrigation unsustainability?

PANELIST McCORY: Well, I've heard that argument that because the animals are out on pasture spreading their own manure and actually urinating that they are, in a sense, doing some level of irrigation that has a value in pasture regrowth, and there is definitely research to document that. And I think that is a valuable point to make on good, well-managed pasture.

FACILITATOR ANDERSON: And if I could just add to that, that is a question outside of organic -- I mean, it's for all agriculture, right. It's not unique to
organic for consideration.

MEMBER KARREMAN: But, Bob, actually, I mean, the issue of sustainability is central to organic, so that does play in, I think.

FACILITATOR ANDERSON: Joe?

MEMBER SMILLIE: Most of my questions were covered, but I would like to give the panel the opportunity to answer one of the issues that was raised in the ANPR, which is should specific animal unit stocking rates per acre be considered? No one addressed -- no one from this panel addressed that, and I wouldn't mind having input because, having some experience with the European regulations and others, that's one of the criteria or points that they have used. I just wondered what the input of the panel is on that specific question. I'm sorry. Joe Smillie, NOSB.

PANELIST CROPPER: I'll take a crack at that. Basically, I don't like the
use of stocking rate. One of the reasons why
I don't, and the major reason, is that you
have to know what the yield is of that forage
crop that is growing on that acre of ground,
and that can vary anywhere from maybe a ton to
six tons, so stocking rate is -- generally,
the way it's given, it's usually just an
animal per unit of area, and that's not a very
adequate way of determining because it is all
going to vary so tremendously on what that
forage production is on that same unit of
area.

PANELIST McCORRY: My two cents is
I personally didn't think that stocking rate
is going to be an effective way of measuring,
as well, because that's going to vary so much
all over the United States. But we could work
with a measurement of dry matter. I thought
that that would be a little easier thing to
account for.

MEMBER KARREMAN: I have a
question regarding the stocking rate or --
last year when we were going over the guidance document, we did play with the idea of three cows per acre as a maximum, and, you know, I guess that's not exactly stocking rate.

Maybe that's density, or -- no, that's stocking rate, but with what everything else is describing within the regulations already and the guidance document, wouldn't that, if we had let's say X amount of cows per acre, aren't we or isn't it already embedded in the guidance and the regulations how that pasture should be growing and whatnot? So couldn't it work, actually? Maybe that's more of a question for the board later on.

PANELIST McCORY: I'll say that if stocking rate was there to compliment dry matter intake measurement, I would be okay with that, but stocking rate alone I don't think it going to hold as much water --

(Laughter.)

PANELIST McCORY: I didn't even plan that!
FACILITATOR ANDERSON: Are there any other questions from NOSB/NOP?

PANELIST McCRORY: Can I make a quick clarification or just add a little for one of the previous questions? You were asking about the first page of that determining dry matter intake, and if that proves to be a more challenging one to do, and people are contentious about -- there's different percents of body weight to determine dry matter depending on the size of the cow, the breed, the stage of lactation, et cetera -- that the back calculation method could, I think, be very effective and easy to do, which is why I gave a couple of examples.

And maybe we are just going to be adopting one methodology, but I also -- we have a couple of ways of doing it, also, because some producers lean -- it's easier for them to wrap their brain around one version versus the other, and that's why we've managed to use one or the other when we work with
producers.

But for the sake of some sort of accountability within the National Organic Program, I would recommend that you just look carefully at both and decide which one would be the easiest or the more effective one to document, and I would assume that the subtraction method would probably be the best one of the two.

PANELIST POLAN: Is it proper for me to come in here?

FACILITATOR ANDERSON: Sure.

PANELIST POLAN: All right. Is this on?

FACILITATOR ANDERSON: Yes.

PANELIST POLAN: Okay, regarding -

FACILITATOR ANDERSON: Say your name?

PANELIST POLAN: For the reporter, Carl Polan speaking, here. Your comment -- you asked her the question about the three
percent; I think that's what your question was. That's sort of a ballpark figure, you know? A reasonable figure, but we know that smaller animals -- and she used a thousand-pound animal. I'll put that in the more or less smaller category -- might even consume more than that. Holsteins will probably consume that.

So, you know, it depends a little bit on that. But on the other hand, you can't be very precise on the intake anyway, and so to use what is a good reasonable estimate for her beginning calculation is probably okay because -- well, you know, for example, if tomorrow is hot and humid, the cow's not going to eat as much.

You know, it varies so much from day to day, so it's very difficult to do that.

One other thing, Lisa, I wanted to ask you -- I don't know if I found a little bit of a flaw in your conversions or not. Did you assume 20% or 20% dry matter in the forage in that
last step of your calculation to come up with
the actual amount of forage consumed?

PANELIST McCORY: Oh, to
determine like the value of the pasture? How
much dry matter is in the grass?

PANELIST POLAN: Yes, in your
conversion into the actual intake of grass.

PANELIST McCORY: I was assuming
that pasture is about 20% dry matter, which I
know is a ballpark as well.

PANELIST POLAN: So, if it is 20%
dry matter, to go back to the actual intake,
you would have to multiply by five, because
twenty percent --

PANELIST McCORY: You're right.

PANELIST POLAN: -- is the dry
weight, and 80% is the wet weight, so you
would have to multiply by five instead of
four. Instead of being 36 --

PANELIST McCORY: It would be --

PANELIST POLAN: -- as you
indicated, that would be 45.
PANELIST McCORY: Thank you.

PANELIST POLAN: That may be unimportant because the total dry matter is what you are looking at anyway, but it seemed like there was a little something wrong there to me.

FACILITATOR ANDERSON: Jim appears to be the -- have a lot of questions that relate to the NRCS standard, and I'm going to try to lump a bunch of them together, Jim, because some of them are related. We've actually got about six questions that relate to this, and first is, "How many states have NRCS supplements or supplemental tables?"

PANELIST CROPPER: Just about every state in the union has got a state supplement. There may be about two or three, maybe four, that do not because they don't have a lot of pasture left in their state. They would be the more urban states, and possibly -- and that would be the reason why they probably haven't bothered to do a state
supplement.

FACILITATOR ANDERSON: Okay, and this -- I'm going to kind of put a couple of things together. First, with regard to your discussions here today, that it is clear -- or would you confirm that this is not a recommendation solely for organic farms but also for traditional farms as well, and in the -- and if so, how do you evaluate based on what the farmer may want to start -- the farmer's prescribed rates and their intentions and their intentions to supplement.

PANELIST CROPPER: Okay, in a situation like that, generally what we are doing is we are hoping that both people have reasonable expectations of what they can get off the land that they own. There are some instances where we may come upon a scene where they have actually way overstocked, and then it is a matter of trying to work with that landowner to see, yes, I am overstocked, and I need to do something about that.
But this is all in the art of friendly persuasion. We try to work with that landowner as much as we can. If there gets to a point in time where we are just not seeing eye to eye on things, sometimes you just have to walk away from a situation like that.

FACILITATOR ANDERSON: There is a recurring theme in all of these questions, and part of it is -- do you believe that NRCS could or should produce a regional standard as opposed to so specific a state scale?

PANELIST CROPPER: That probably will not happen. The agency is -- the way it is set up, we do have a national headquarters in Washington, D.C., but each state -- each state conservationist that is appointed there answer to their congressional delegation, as well as the NRCS chief of the agency.

And as a result, they do have considerable power at that level, and the regional offices, which we really do not have anymore -- that's why we're called the
national office, even though we cover a region of the country -- that was the reason why the agency was reorganized the first time out was that they thought that the four offices, at that time, dictated too much of what the standards ought to be.

So that's why it is now left to the states to do state supplements within the agency.

FACILITATOR ANDERSON: If I didn't do anybody's question justice, it will be scanned in as it was actually written. In terms of calculating this, we might -- both Lisa and Jim -- the 30% value, and some of this will probably come up in the next round in terms of nutrition and all. Given the standard deviation that can occur and what those -- I don't know what they are -- does it make it difficult to prove that amount of productivity or DMI you are getting from the grazing?

PANELIST CROPPER: I wouldn't
think so ordinarily. One of the things I thought maybe possibly a little bit of rewording might be needed is the one statement that says the OSP shall have a goal of providing grazed feed greater than 30% of total dry matter intake.

Here's where I would change it. On an average daily basis, not -- right now it says on a daily basis, and I think there was something mentioned earlier about the fact that it might -- yeah, Carl made the comment that it might be too humid, and they just might go off feed, and that particular day, maybe they stayed back in the shade, maybe they stayed back -- depending on how your farm is set up, maybe they stayed back at the barn.

And you thought it was a good idea to get them out of the heat and the humidity. That day you might feed mostly stored feed, possibly. When you get into especially more southern climates, that gets to be a big concern.
FACILITATOR ANDERSON: And in calculating these or doing any of these calculations, there are several that allude to the fact that there are so many variables and, as you have expressed, but also the need to understand the amount of time that actually goes into milking cows and raising livestock as opposed to keeping records.

So, I think there is a general concern here about that, and if you guys could address that a little bit, it would be helpful.

PANELIST McCORY: Well, I think that any time we are trying to get precise records of what the cows are actually consuming, we are doing our best effort to make good calculations, but I can't say that they are ever precise.

I would like to see this as -- I like the average daily basis. I would like to make sure that it is always as close to the minimum 30% dry matter during those 120 days,
so sure, if a farm on one day is at 25% and another day, they are at 30%, I'm not -- that's not worrying me.

As I was hearing a producer talk this morning, I think the bottom line is that we are getting animals out, and they are having access to pasture, and they are actually able to graze, and we are representing this organic dairy market the way it is intended and the way the consumers are expecting it to be done.

And by having something that is measurable to some degree, without exact precision, I think it's where we need to be.

FACILITATOR ANDERSON: This is a question from the ANPR, and that is -- then what about that other 245 days? Is there -- what's the -- where do we go with that? How do we help create some framework around it?

PANELIST CROPPER: I'm not sure that necessarily -- I'm not sure how much farther you could go with the rules, but
ordinarily, if the person is committed to pasture, they are going to pasture those animals as long as they can.

And in some cases, they even extend the grazing season by planting some cool-season crops like brassicas and winter wheat and things of that sort that they can -- or even annual rye grass and things of that sort that they can graze while past the time that maybe the perennial forage crops that they had were available.

MEMBER KARREMAN: May I ask something? Having read those cards before we sent them over to you, on the dry matter intake -- and a few of them asked, I think, about, like, you know, taking into account the part of lactation, body condition, and whatnot, you know, different kind of parts of lactation the cows are in.

There is nothing -- and now, you know, it might be a little difficult to nail down exact numbers like you had mentioned, you
know, given certain variabilities in each day -- there is nothing in the organic rule, I don't think, that says we have to maximize milk production and feed the cow to maximize it.

We need to optimize -- we can optimize it by using grazing, but we don't have to maximize it. So if we are going to really nitpick the numbers down to making sure that every cow gets its maximum dry matter intake and everything else with it, I'm not sure we actually have to do that. We just need to optimize the conditions for the cows and let them respond to the environment that they are in.

FACILITATOR ANDERSON: George, as far as sustainability and environmental conservation, does it make any difference if -- and you may have already answered this, but it's asked in a different way -- if the forage is harvested or grazed?

PANELIST KUEPPER: Yes, I did deal
with that with a question that a gentleman on the board here asked a few minutes ago. Basically, in terms of nutrient flows, it probably doesn't make a whole lot of difference if you've got a good system for capturing and returning the nutrients. In a system where, you know, all the forages and everything are harvested and fed.

However, that raises the other issues. The energy involved in making a system like that work because it is much more mechanized. Also, the issues of animal health -- having animals that are not out and on pasture; it's -- I'm trying to remember the terms that we referred to. Sort of the natural actions or whatever of animals are really not -- the animals are not being able to exhibit their natural behavior when they are in a highly confined situation.

And that does have implications, as Hugh pointed out, you know, for animal health. That they are a lot more stressed
under that type of environment. So, it's not a matter there so much of nutrients but of those other factors. And I will point out again, going back to the experience that we had back in the seventies, where we were first evaluating farms, organic farms, and it was kind of a unique point in time because the circumstances were not muddied by farmers trying to extract market premiums.

This was before market premiums existed in the Midwest, so they were farming for other reasons. Farming organically for other reasons. And one of the reasons I most often heard cited by farmers, I remember this until today, is that their vet bills dropped like crazy when they fully transitioned to organic systems.

And, you know, that stuck with me, and I was always so sorry at that point in time we weren't able to come up with the funds to pursue that particular issue and get a measure at that point in time, but, you know,
we weren't really talking about these grazing issues at that time, we were talking, you know, impact of organic feed.

    And, you know, not putting these high demands on the producing animals, and that was imparting a lot of help.

    FACILITATOR ANDERSON: We're running -- we're pushing up against three o'clock, and I would ask that there -- I have three questions that I think are very short answers, so if we could just cut right to the core. One of them is whether it's -- the weekly amount of rainfall or the daily amount of rainfall or what happens, too much rain and not enough rain, those kinds of things, over a unique season, and I do recall that you asked for a drought plan.

    But what, if you talk about the 120 days, what does that mean for more temperate climates. What does that mean if it's raining too much, what does it mean if it is not raining enough in any given year
wherever you are.

PANELIST McCORY: Well, within
the -- there is already an allowance for
temporary confinement, which is permitted
during periods of inclement weather such as
severe weather occurring during a period of a
couple of days during the grazing season, conditions
under which the health, safety, or well-being
of an individual animal could be jeopardized,
et cetera.

So I think within the National
Organic Program, we already have something set
up in the case of drought or flooding where a
producer would be able to pull their animals
off the pasture for a limited period of time.

FACILITATOR ANDERSON: Great,
thank you. Yes, Bea?

MEMBER JAMES: Bea James, NOSB. I
need a clarification from Jim on a question
because before we get away from this, I think
it is an important clarification. Somebody
had asked about -- what about the other 145
days. I'm sorry -- 245. And you said, well, once people -- once a farmer starts to pasture, then they are just going to want to pasture all the time.

What about the people who don't want to pasture and want to be able to just utilize that 120 days and only 120 days? So how would that -- what -- how -- I guess I'm asking you to think about the question in terms of not assuming that people want to pasture.

PANELIST CROPPER: Well, if they want to do the bare minimum, I guess that's what they would choose to do. That shouldn't be a problem, necessarily, I just think that if they make the commitment and have enough pasture that they find out that maybe this is easier than hauling manure and feeding a total mixed ration every day. They might decide that maybe they ought to do a little more pasture, and that's -- a lot of times that happens.
Now, if the land base is such that they are going to be really pushed, now that's the instance that you might find a lot of situations, they might be able just to meet that 120 days because that is all the land base that they've got to work with that they can pasture animals on.

In that situation, then you've got a situation where they just can't do any more than what they are doing, and that's -- that could happen in some situations. That could be because maybe they don't have a way to get to some of the farmland that they have under their control.

The dairy barn is situated in such a fashion that you can only do the pasture that's close to the barn. It might be a busy highway they don't have any means of going across it without stopping all the traffic, and they are probably not going to be able to do that. There might be a big river or some other sort of impediment that they just can't
get to some of the land to create as much pasture as they might like to, so those situations arise from time to time.

PANELIST McCRORY: And I just add that for those remaining 245 days, what is typically required right now is that on a daily basis, the animals have turned-out access to -- so they have freedom of movement, access to sunlight. It would be that kind of management that I think would be at least a minimum for those remaining 245 days.

PANELIST CROPPER: Yes, that might be something like a rotational loafing lot. That's something that was kind of developed in Virginia, for instance. An extension agent down there promoted that idea, and that, at least, got them out of the mud. Some of these loafing lots, they are not paved, they don't have a -- maybe a free-stall barn.

They are just kind of out there, and it's okay as long as the weather is reasonably dry, but if it gets very wet and
stays wet for a long period of time, these rotational loafing lots are made so that they are usually planted with something like tall fescue. That's something a dairy cow likes, but at least it gets them out on grass and out of the mud in the winter.

MEMBER JAMES: Okay, thank you. So what I hear you saying is that if a farm sticks to the 120 days, that those other 245 days, that you are suggesting that they should definitely be outside --

PANELIST CROPPER: As long as it is not extremely cold or extremely hot --

MEMBER JAMES: That they shouldn't be in confinement just -- okay, thank you.

FACILITATOR ANDERSON: A few very brief questions for Lisa. How many farms does NOFA Vermont certify?

PANELIST McCORY: We have over 260 producers, but of that, 106 are dairy farmers.

FACILITATOR ANDERSON: Can
certifiers be trained to enforce and implement all aspects of the NRCS document?

   PANELIST McCORORY: I'm not really sure if I can answer that question. I don't have the NRCS document right in front of me. I do know that, through NOFA Vermont, we are working with NRCS, helping them implement grazing plans in Vermont, and I think that has been a really useful tool to help them actually use their templates and see how effective they can -- actual work -- how they can work actually in the trenches, creating grazing plans.

   But this is our first year of actually putting that template to work. So, we're still figuring that out.

   FACILITATOR ANDERSON: Great. And my favorite question of all is -- and it gets right down to the really practical side -- how long does it take a cow to eat 45 pounds of grass in a day?

   (Laughter.)
PANELIST McCORY: Well, how many licks does it take --

PANELIST SODER: Hold that question.

FACILITATOR ANDERSON: All right, okay. This one goes to Kathie.

PANELIST CROPPER: I might just let the audience know that I do have copies of the pasture -- Pennsylvania prescribed grazing standard, here, and that will give you at least an idea of what the state supplemented prescribed grazing standard looks like, and if need be, I can get some more copies run off too.

FACILITATOR ANDERSON: Great. Well, thank you very much. This has been very informative. We are going to break for ten minutes. We will be back at twenty after.

(Whereupon, the matter went off the record briefly.)

FACILITATOR ANDERSON: After all that and all that urging, I can't find my
notes. But we are going to start with herd health, and Ann Wells is going to lead. Ann is a holistic animal health specialist. She has Springpond Holistic Animal Health and is doing a lot of work on pasture and work with animals and also is involved with Heifer International, so Ann?

PANELIST WELLS: Thank you, Bob. I appreciate the opportunity to be here. Ever since raising organic livestock and working with a small Missouri, Arkansas, organic growers association in the mid-eighties, I have been intrigued with how to raise livestock in ways that prevent disease.

I had reached the point in my career that I did not want to treat sick animals anymore, and so in order to do that, I had to figure out how to keep them healthy. I quickly came to the conclusion that nutrition was the key, but while I was raising my livestock on-pasture, I was still feeding them organic hay and grain, and this was not the
solution I was seeking.

In the early nineties, I discovered the research that Jim Garish and Ron Marrow were conducting in Missouri on the use of controlled rotational grazing, and I should just say right here, there are a lot of different terms that you will hear -- controlled rotational grazing, management intensive grazing, prescribed grazing, but they all are talking about the same grazing system plan.

This was the answer that I was looking for. I've spent the last 15 years studying and implementing controlled grazing on my own farm as well as other farms for the purpose of achieving and maintaining the health of ruminants. I was very excited to see that the final rule had access to pasture as a requirement for organic ruminant production.

Naively, I thought that this would increase the number of organic grazers. It
has been my observation that a high availability of quality forage to graze and live on is the best medicine for ruminants. Access to pasture is not adequate, I now realize. There needs to be a controlled rotational grazing component within the OSP.

Even though the definition of pasture -- land used for livestock grazing that is managed to provide feed value and maintain or improve soil, water, and vegetative resources -- implies this, the regulations don't adequately describe how this is to be done.

Access to pasture without a grazing plan too often become access to an over-grazed, wheat-infested, dry or mud lot. This does little to promote animal health. It's very hard for me to pull out animal health from the overall farm system.

This is a slide that I show to all farmers that I speak to. This is their farm, and each part of their farm affects every
other part of the farm. I always start with the animals because I am talking to livestock producers, after all. The animals manure and the urine feeds the soil.

The soil feeds the forages. The forages feed the animals. And the weather is an overriding factor in many cases. And so we have the entire system right here, and animal health is a component of that, but you can't separate it out from all the rest of them.

These are animal wellness goals that I want all of my clients to have. And the first one is to manage the system to keep the animals healthy. This requires a holistic approach or, in other words, looking at the animals and the environment together.

And then the second wellness goal that I want them to have is that to change one part of the system to improve all parts of the system. And oftentimes, that means implementing a grazing plan because as they do that, then all parts of the system will
change, and the health of the whole system will improve.

So once again, pasture is the best medicine, but it requires this high availability of quality forage to graze and live on. Preventive health includes a lot of different things that are different from what many livestock producers tend to think about.

It starts with good animal husbandry practices. Just those common sense things of how do you raise a productive, healthy animal. Sanitation, observation. I spend a lot of time working with producers to teach them how to observe, first of all, what is going on in their farm, and then, what do those observations mean.

And what I have found is that even though we can observe certain things going on in our farm, we still tend to do the same thing as a result or sometimes in spite of the result. So I think that we oftentimes intervene too much with a lot of inputs,
whereas if we just changed our pasture management a little bit, if we just did a little more careful observation and thinking about those observations, we wouldn't be worrying about what can we use to treat a particular disease.

Vaccinations, naturally, are a part of it, and finally, managing that pasture to provide the nutrients as well as animal well-being. We need to remember animal well-being. It's part of the National Organic Program, and pasture management plays a big role in animal well-being.

Herbal leys is a term that was coined back in the early 1900s in the UK. It kind of fell out of favor. It is being revived, not only in the UK but in the United States. This is a mixture of grasses, legumes, and forage that have nutritional and medicinal benefits.

There is a problem with these. They have to be managed carefully because the
forbes, particularly, do not persist unless they are given a long rest period. So a lot of these pastures that a lot of farmers will go, "It's full of weeds," has got a lot of really healthy plants in it.

And these two compounds that I have on this slide, the phenols and the terpines, they have anti-parasite properties to them, and so particularly for organic livestock producers, especially small ruminant producers, these are important compounds to keep in mind and the plants that have those in them.

And this right here is just some data that was gathered in the UK in 2003 showing what some of these forbs, or what a lot of people consider weeds, have in them in the way of mineral content. So you can see that when you have a diverse pasture, and those animals are out there grazing on it, they are going to get a lot of nutrients and minerals that they wouldn't otherwise get if
they weren't out on those pastures without a lot of mineral supplementation.

So what I like my producers to do is to observe the animal and their environment. It all goes together. They've got to anticipate and plan for stresses. That, to me, is the beauty of rotational grazing. It gets these animals outside, it gets them in the fresh air, the sunlight, they are able to handle stress a lot better as a result of that.

Prevention, prevention, prevention. We don't want them treating sick animals. We don't want them to have to think about it, so they've got to prevent it, and that goes back to that list that I talked about earlier. And finally, they must improve their nutritional status through good grazing management.

Because once they do that, then a lot of their health problems just naturally go away. Transitioning does require a certain
time period. The producer has to learn it, and the soil and the plants have to recover, rejuvenate, and become sustainable again.

That can take a period of time. Usually, we consider it about three years. The cattle, on the other hand, are going to change very quickly. They go out there, they have a lot more grass to graze, they've got a lot more forages to eat on, and they are a lot happier, and they improve immensely very quickly.

Oftentimes, we find that it's just the mind set of the producer that is the hardest to change. And so what I like for producers to think about is they've got to be looking at these two things on the bottom of this pyramid. The soil life and balance and the pastures and the grazing management.

I've had the great opportunity of visiting farmers all over the country and speaking with them. I also get calls from farmers all over the country who say, "I'm
thinking about transitioning to organic livestock production. What can I use instead of antibiotics?" And I always tell them that's the last thing they need to be thinking about.

They've got to be thinking about this first. They've got to be thinking about their feeding program. Because antibiotics or any other kinds of treatment -- and it doesn't matter whether it is a conventional treatment or it's an alternative therapy -- it a Band-Aid.

And, in fact, I oftentimes say that once you get beyond water, all of these things are Band-Aids. We do a lot of changing around with these things to try to fix things. And if we spent our time fixing these things right here, we wouldn't have to worry about all of these other things.

Different parts of the country will obviously be dealing with a grazing system in different ways. We have the
different geographic regions, and that's what I just really like about NRCS's prescribed grazing plan. They've got a general federal guideline, and then they have more specific state guidelines.

So every region is going to be different. In Arkansas, there have been years that we could graze 365 days out of the year. That certainly hasn't happened though in the last year. We are in the 13th month of a historic drought. We have only been able to graze 180 in the last 12 months.

However, our animals have been out on pasture, and we have continued to rotate them around. True, there has not been much in some months. We are getting some spring growth now; certainly nothing like we have been in the past, but we are still out there rotating them around so that they get the benefit of being outside.

So, I feel that the areas of the country that can graze the majority of the
year have a big advantage because of the cost savings from feed that goes into this. And that can range anywhere from a dollar per day per cow on a -- as a veterinarian, I know that ruminants that are grazing out there on pasture are going to be healthier.

So therefore, that's also a cost savings. I believe it was George that was talking about how the vet bills go down. The vet bills go down of every person I've ever talked to who does a grazing operation. I've never talked to one who didn't say that happened.

And then, as a consumer, I want my organic milk to have come from cows that have been grazed on pasture. Thank you.

FACILITATOR ANDERSON: Our next speaker is Linda Tikofsky. She is a senior extension veterinarian at Cornell's College of Veterinary Medicine -- great, can you hear me? Linda Tikofsky is a senior extension veterinarian at Cornell's College of
Veterinary Medicine. She works with the Northeast Dairy Farms on issues of udder health and milk quality.

Her research focuses on herd health as it is impacted by the transition from conventional to organic dairying. Linda?

PANELIST TIKOFSKY: Thank you very much, and thank you for inviting me here. I have to say I have one of the best jobs in the world. I get to visit hundreds of dairy farms over the course of the year, at least consult with them, and I don't just deal with organic dairy farms. I deal with them as whatever farm comes into the office in New York, so we can be dealing with a 15-cow organic dairy, we can be dealing with a 60-cow grazing dairy, we can be dealing with a 5,000-cow confined, conventional dairy.

So I get to see kind of the good and the bad of both sides of the coin, and over the past seven or eight years that I have been at Cornell and working at my job, I've
gained an appreciation for the impact of pasture on animal health.

And I would like to just present some of this stuff to you. I have kind of a little literature review that looks at some of our peer-reviewed publications that have come back because -- for those of you who have heard me talk before, Cornell is not really the icon of organic agriculture, at least not as far as the vet school does, so every time I come back and say somebody is healthier on this organic farm, the feed are better on this organic farm, they say show me. So I'm going to show you.

So, just -- I broke this down into just a couple of brief categories. We are going to look at pasture access and its relationship to lameness, mastitis and milk quality, reproduction, young stock health, and also behavior, so I'm just going to touch on these. We're not going to dwell on -- it's not every piece that has ever been published,
but I tried to pull really the best information that is out there and probably the most reliable. It would stand up to the scrutiny of any scientific analysis.

For those of you that, you know, aren't familiar with dairy cattle or what ails them, lameness is one of the biggest problems affecting dairy cattle. It decreases their efficiency of production. It decreases the milk, it decreases their reproductive performance, it causes them pain, it increases treatment, it increases culling, and probably as far as the consumer go, this is the most recognizable animal illness if a farmer was to walk onto a farm.

They may not understand a retained placenta, or they may not understand mastitis, but when they see that cow go limping by, that makes an impact on them, so the next couple of slides will address the impact of pasture and lameness.

Couple of studies. One was done
in Switzerland by Regula in 2004, and they looked at 134 herds with varying amounts of confinement and outdoor exercise. They had tie stalls -- tie stall herds that were allowed out only in the summertime. There were tie stall herds that had outdoor access to pasture and yards year round, and then there were loose housing-type setups that also had year-round access to the outdoors and pasture.

And what they found was that the risk of a cow being lame increased as their exposure to the outdoor. So, the more cows kept inside on hard surfaces, the more lameness we're going to have.

Another group from Chile looked at the incidence of papillomatous digital dermatitis, which is one of our most common foot diseases in dairies and particularly in confinement dairies. A lot of factors go into it from nutrition to cleanliness to other treatments, and they found that cows in loose
housing were about seven times more likely to have digital dermatitis, and cows in free stalls were about three times more likely.

Loose housing was bedded packs kept inside, but as cows went out to pasture, those issues really dropped down. Summers also looked at digital dermatitis in 2,000 -- about 2,000 pastured cows and almost 3,000 confined cows, and they found a similar thing. Cows that had restricted access to pasture were almost twice as likely to have digital dermatitis than pastured cows.

And they were more likely -- they actually found a preventive effect. That if they were out on pasture, cows that, when they were brought in during the winter season, actually were kind of protected against digital dermatitis rather than those that stayed in all year long.

A relatively new study is coming out, and they looked at hock lesions. When cows lie down or get up, they tend to bang
their ankles and all their bony parts that stick out, and so they looked at exercise frequency and duration on the amount of lesions these cows were developing on their ankles and legs.

And cows that had extended exercise period out on pasture and yards had fewer hock lesions, and one of the things they compared it to was they had totally indoor cows, they had cows that went out for an hour a day and just kind of wandered around, and then they had cows that went out and lay down in pasture, and so.

And they actually found that the hock lesions and the ones that went in and out and milled around a little bit for an hour actually had more problems than either the ones that stayed inside or the ones that were going out.

So, just letting them out for an hour to kind of tramp around may not be the most beneficial thing either. It's duration
of time they spend out on pasture. Quickly, just to look at mastitis and milk quality, this is my big thing. We measure that on farms as somatic cell counts that kind of gives us the number of infected udders we might have in a farm.

We look at the bacteria counts in milk before pasteurization and after pasteurization and a couple of tests in between, and then we measure it in terms of clinical mastitis. Clinical mastitis is when a cow has a mammary infection, and we see symptoms of it.

We have swelling, we have redness, we may have abnormal milk. So that's one of the things the farmers can see on a daily basis. They do the milking, and it gives us an idea of what's happening. Much of the mastitis we deal with comes from environmental bacteria that work their way up into the teat and create mastitis.

So the more bacteria we have
presented to the udder and to the teat end, the greater the likelihood that one of those bacteria or a few of them is going to get up there, gain access, and create an infection. That's kind of the five-minute scoop on what is mastitis.

There was a great study done in North Carolina by Steve Washburn and groups, and they actually looked at over four years of study of Holsteins and Jerseys that were out on pasture or out in confinement systems. And the cow -- confinement cows had more clinical mastitis, more mastitis that we saw, than the cows that were out on pasture.

And this is something that I see on a regular basis in my practice. Another group in Norway compared 4,000 first lactations, heifers that had mastitis with 67 that didn't, looked at what is the difference between the management between this heifer with mastitis and this that doesn't that made this one have mastitis.
And they found that heifers that were kept on pasture were at much lower risk for developing udder infections than heifers that were confined and didn't graze. We had another one that was published in the Journal of Dairy Science by Goldberg, and he just looked at the bacteria in bulk milk.

When we milk cows, all the milk goes into a central collecting tank, where it is kept chilled until the milk truck comes and picks it up, and so we look at the bacteria in that as a measure of quality. The less bacteria you have in the milk, the better.

It can be the bacteria that are killed by pasteurization, but we can also have manure-laden bacteria or things that come from that may cause some of the food-borne illnesses: salmonella, e. coli, listeria. So that's another big concern when we do bacteria counts.

Goldberg found that grazed herds had total lower bacteria counts than confined
herds during the grazing season. And they also, although it wasn't significant, the grazing herds had a trend towards better udder health. Less edema, less mastitis, lower cell counts.

Another group compared bulk milk bacteria and somatic cell counts from intensive grazing, those would be the ones that are rotationally grazing and really managed grazing, traditional grazing, where they went out on pasture -- they may not have been getting most of their nutrition from it, but they were out on a wide open space -- and zero grazing herds, where the cows were inside a hundred percent of the time.

They found lower bacteria counts, which we measure as a standard plate count, in the grazing herds, and again, they saw the trend too, that there was better udder health and fewer injuries to udders in the herds that grazed.

This is just a little data we've
collected. We've started kind of playing around with some of our records here at Quality Milk, and we look at the percentage of cows that might have mastitis after they have a calf. And we broke this down by months.

So, we have a year's worth of data up here. Cows that have cell counts greater then 300,000 are more likely -- are statistically more probable of having an intra-mammary infection. And what we can see is during our winter months -- I'll just kind of put -- these are kind of the benchmarks for New York, when we kind of get cows out on pasture. Somewhere at the end of April, beginning of May, and then they come in, depending on the season, October, November.

But if we look at cows that -- this gets kind of complicated, but if we look at cows who were kept inside during their -- the last of their pregnancy, when they are in their rest phase, when they are not milking, that's a high-risk period for getting a new
udder infection. We're not dipping, we're not flushing the teats out by the milking procedure.

So cows that actually were sent into this dry period during the winter months and kept inside, those cows will then have a calf two months later, and the ones that actually calve during the wintertime come in with more intra-mammary infections or more udder infections than the ones that get out there and are calving on-pasture. When they are out in the sun and the fresh air, the chances of them having a mammary infection after calving is much lower.

This is about 500 cows that we've looked at. As far as reproduction, the Washburn study again found that there was no difference, and one thing we hear is that cows out on pasture have lower body condition scores. They are thinner than cows that are kept indoors. They may be more muscle or fit tissue, but one time -- sometimes we use that
as a measure of, you know, what -- how will that impact reproduction on that farm.

And they found that there was no difference in those cows getting pregnant again, even though they had lower -- in the pasture herds -- even though they were thinner than the confinement herds. Another group in the Czech Republic followed herds on two farms, and each herd was split into grazing and then confinement cows, and the fertility on their pasture group, the cows that were out and not confined to the barn, had better fertility by ten percent, and that their calving interval -- the time between having calves -- what we want to aim for is that a cow has a calf every year, so that we keep the milk production up, and so they found that we could reduce the time to getting her pregnant and having another calf again by 15 days.

And finally, another group in Denmark looked at the rate of udder infection -- or uterine infections in dairy herds, and
they found that the larger breed milking herds
that calved in November and April and that
didn't graze had a higher probability of
getting a uterine infection. It probably goes
down to fitness and ease of calving and
potential problems around that.

When we are looking at longevity
and culling, just the little factors, the
average lactation, those are the number of
years that a cow produces milk on a dairy, in
our conventional confinement free stall dairy,
those cows last 2.8 lactations, so maybe 2.8
years, and you've got two years of investment
before you actually start milking that cow
before she actually becomes profitable.

We don't have this data collected
scientifically for organic or grazing herds,
but my suspicion is that our average lactation
on organic herds are probably four or five.
That'll be something interesting to look into.

But, White, who did kind of a
corollary to the Washburn, used some of the
Washburn data, found that culling and death losses were higher in confined herds than in pasture. So the cows were either removed from the herd because they were ill or not profitable, or they died, and those numbers were greater in confined herds.

And they found that Holsteins kind of are lean mean dairy machine kind of cow that, you know, typically we don't think as the premium grazing cow, but cows -- Holsteins that were raised on pasture lived longer than the confined Holsteins.

Little data from Cornell. They do a Cornell dairy farm business summary. Farms voluntarily provide their records for analysis, and they found that, for grazing herds, the cull rate was 22%. For a non-grazing comparably-sized herd, the cull rate for those herds was 29%. Higher is worse.

And also, in a seven-year study that they also did, looking at veterinary and medical expenses across a time, for herds that
grazed, medical -- veterinary expenses were $61 per cow per year. For herds that didn't graze, they were $77 per cow per year.

Young stock pasture, they looked at calves that didn't have colostrum and were raised either inside or on pasture, and the pasture group had a 40% lower mortality and a greater weight gain after weaning. Probably Kathy will talk about behavior, so I'll move past that.

We see a lower incidents of food-borne pathogens and digestive diseases in cows that are on pasture versus confinement. You know, and there's always the question, the flip side, can pasture be detrimental?

We -- I haven't found any studies that actually really address the hazards of pasture. Concerns are fly control, concerns are internal parasites in young stock. We've addressed the issue of inclement weather already. Inadequate nutrition. But I think these issues are things that should be
addressed in the organic system plan and should not preclude cows from going out on pasture.

Thank you.

FACILITATOR ANDERSON: Carl Polan is from Virginia Tech. He is a dairy science specialist and has done a lot of work on animal nutrition, and so, Carl?

PANELIST POLAN: Thank you very much. It was true of some of the others. I'm pleased to be here. I don't have a long tradition with organic products or organic milk. I have a much longer experience with grazing and grazing versus confinement and that sort of thing.

Incidentally, I thought I heard confinement versus pasture here sometimes, and that's probably not a very good term, I guess, because confinement is confinement is not confinement. There is a lot of variation in how animals are dealt with in confinement, so you're kind of generalizing if you are saying
confinement versus pasture, I suppose.

My experience with pasture goes back a long ways, and it has a spotted history. A long ways because I'm getting old, I guess, and she talked about her job being the best, and mine is probably the best. I got retired.

(Laughter.)

PANELIST POLAN: But I've had very limited experience, as I said, with organic milk. As a teenager in the forties, our family produced organic milk. We didn't call it that. And we produced it until the county bought a sprayer and brought in to spray our cows with DDT to eradicate the flies.

Now, when they did that, they sprayed me and everybody else. I had no trouble with pests the rest of that season.

(Laughter.)

PANELIST POLAN: But that was the end of organic standards for us. I have other varied experiences with grazing in the fifties.
as a student working university farms and later as a herd manager before I went on and got some advanced degrees.

I joined Virginia Tech in 1965, and as I look back at that time, some work was published in the mid-sixties about grazing in the Journal of Dairy Science, but little if any was published. There was a big long dry spell until we published an article in 1986, and it was a compilation of studies of eight grazing seasons that we started work with in 1975.

That was a fun thing for me. It wasn't my main line of research, and honestly, there is very little incentive in most universities to do any grazing research. The incentive is not there. The university is run more and more like a business anymore, and let me know where you get funding to do much grazing research outside of what little bit you can scratch up in the university.

I surveyed the Journal of Dairy
Science, what was online, because that's what was easy, and that was probably enough from 1980 on up to the current time, to get a view of what's been done with pasture. And it was very little, actually.

What I looked at was all the papers that mentioned pasture anywhere in them, to get an indication of what I am about to give you here. In 1990, there was one paper. 1995 there was one. 2000, there was ten. And in 2005, there were 67. Now, that one in the main line in the subject, here, you know, that's just somehow in passing, they related to pasture or talking about pasture. Some of them were directly related to pasture.

But however, that shows that there has been some more interest in recent times, and more work has been done in recent times than previously, until you go way back into the fifties and beyond. But a lot of the questions that are asked here today are hard to really document with hard studies.
Now, I appreciate what Linda did here in terms of some of the papers she picked up, because it's pretty good documentation of what she has as far as the mastitis and lameness and so on is concerned. But much of the information we have is not documented but experienced in other ways of realizing and knowing that something is probably true but not being able to document it.

Now, I've got a title here, Pasture Versus Confinement myself, so I already criticized that word. Personally, I prefer grazing as an individual in season for animals if at all possible to be used as much as possible.

It's natural for the animals. The cows -- I heard the word happy. I don't know how you know when a cow is happy, but they seem to do well with it. And it's aesthetically pleasing. We like to see it. You like -- I like to see it. I think most of you like to see it, anyway.
There's enough survey and anecdotal evidence to be convincing that cows produce more lactations when grazed. There's not much -- when they are on that. Grazed cows have less mastitis, that's been documented, and better udder health than confined cows.

It is conceded that less feet and leg problems occur in grazed cows. I think feet and leg problems begin to increase when we did confine cows. If you go back when we first -- in the sixties is when largely, we were moved into more confined situations, some before that, but it really picked up in that period of time, and, you know, it wasn't near so much of a problem.

Over time, we have no doubt bred a different cow. No doubt, we have pushed the cow differently. We know a lot more about nutrition, but we do so much with nutrition sometimes that we probably create problems with nutrition under the circumstances that we
have there.

So, okay, either these -- either foot problems, mastitis problems -- either of these may at times be the result of what is termed hotter rations. Instead of always being in confinement, maybe it's just the ration or the hotter ration that the animal may have.

And fatter cows, a lot of them get fatter in between times. They create health problems around -- or in lactation, so that's a problem that comes up as a result of that.

The milkfat content of grazed cows contains about two-fold levels of conjugated linoleic acid, and that's been documented enough times. I've got some reference in the paper I handed out -- which is considered to be a healthful fatty acid.

That's a plus for milkfat in a grazing animal, but many people consume lower fat milk anyway so it reduces the consumption, probably, when they go that route. On the
other hand, cows on pasture usually have higher urea and nitrogen in the milk and in the blood, and the latter I heard it alluded to earlier, the latter is a cost factor that adversely affects milk production.

Another -- you know, if you don't somehow neutralize some of that nitrogen and it comes from high-protein pasture, it might even cost, you know, three to four pounds of milk and can adversely affect reproduction.

In any event, it utilized the cow's energy resources to get rid of that material rather than to use it for some productive purpose. Often, production in concentrations of milkfat and proteins are less, and if pastures are a big part of the diet, cows become thin, and I've got a little statement here that says that may be healthful. At least in most every animal, being a little thinner is a little healthier, usually. Even with rats, the experiments have been done and that's been shown.
So that may be healthful. Some grazers and some of you know them and some of you are grazers, tend to refer to them as more athletic or cows that are in better shape, and they certainly do appear to be that.

Time on pasture. What scientific evidence is available to indicate the amount of time cows should be on pasture? The evidence doesn't exist in my judgment. I don't think we can document it. We can talk about the anecdotal evidence, but to put a number on time or amount of hours or whatever or how much the animal might consume is a bit of a question, and I'll get to consumption later.

Experiments would have to be designed for that purpose, and I told you there is little incentive for that. They would be large and long. They would involve large numbers of animals, and they would be costly, so they are not likely to get done. Cows are very flexible, in my opinion, and
they can do well under confinement, under the right circumstances.

Pasture and switching from one to the other -- in part of the paper I pulled that's in 1986 showed that animals producing at the levels that we had in those particular studies, it wasn't a problem going from one to the other. The better question may be what is expected by the organic dairy consumer.

To me, that is the bottom line. They may be more concerned about antibiotics, hormones, or herbicide/pesticide residues than the percentage of pasture -- however, at the end of last week, I brought this subject up among graduate students, and one of them told me in no uncertain terms that her mother-in-law bought organic milk because she knew the cows were grazing on pasture.

(Applause.)

PANELIST POLAN: Well, if that's the case -- I really wondered about that, but that's what I learned, right there, you see,
from her, so if that's the case, if that's what's required and that's the market you're looking for, then that's what has to happen, in my opinion. It doesn't matter so much whether I think it makes a difference or don't make a difference in the cow.

On pasture 120 days -- what counts as a day? I think we've partly defined that as we've gone through here today. My judgment is that if a meaningful amount of pasture has been consumed, that would count as a day. Now, if that should be 30%, if somebody decides that should be 30% -- I don't know if it should be 20%, 30%, 40%, or 50%. I can tell you I don't know the answer to that. But if it should be 30%, the producers should strive for it in season.

I was partly confused when I read that and thought maybe 30% of the cows' annual intake for pasture is expected, but that would be far more difficult for the whole year because we've got the problem of all the grain
and stored feed that must be fed the rest of the year, so I'm glad to hear that season will be focused on 120 days, 30% during those 120 days.

Now, of course, we have more difficulty when we talk about the potential of drought and natural disasters. It seems that there would have to be some leniency requirements for such occurrences, and except for very large herds, economic winters, in my opinion -- I've looked at a lot of numbers on this that people have switched from what we are terming here today as confined feeding or conventional feeding to pasture -- that they are, by using their pasture resource as fully as possible, they are coming out of economic winters because it could be the little -- source of protein and other important nutrients.

So I believe that without question. A person could run an exception to that maybe if you get in a situation where it
is hard to get to pasture, but in a situation where pasture can be grown well and cows can do it, I think the economics would surely weigh out in that direction.

How to measure or document intake from pasture. Now, I think part of that, we talked about that a little bit here. Part of that depends on the precision you desire. I'm going to talk about that a little bit. I saw earlier a similar kind of sheet to the one Lisa showed here where you calculate, and I think that's, you know, for practical purposes, that may be a pretty reasonable approach to go that way.

Researchers, people like I and others, have tried a number of techniques to get a measure of pasture intake, but we have had limited success. We're not very good at it at all. Some of these techniques are pretty sophisticated. They require the use of indigestible markers or chemical markers that would not be acceptable for organic milk.
production at all.

Also, they require intense methods and are very costly, so they would not be useful for the purpose that we are talking about here. There are some similar yet cumbersome ways to get estimates of pasture intake. In rotational system, it was mentioned earlier estimating herd -- before and after grazing can do a reasonable job of getting an estimate.

But along with that, that requires a little bit of training. It requires some record-keeping if you want to keep -- if you want to document it. And it requires, depending on how you do that, maybe some calibration of instruments that may be needed.

There may be -- well, I'm going to say I don't know if I'd want to do that. Most people wouldn't want to do that. Maybe. I'm not certain. Another method that might prove easier with the help of maybe a certifying agent or some other qualified person or maybe
the people already know is to estimate feed intake from the energy requirements for production and maintenance.

In other words, what goes in equals what comes out, one way or the other, and in terms of energy or utilizable energy, if you know if a producer records the intake of solid in concentrate for a herd that is being grazed, the calculated energy required for maintenance and production minus the energy supplied by the solid in concentrate equals the energy supplied by pasture.

In other words, by a difference, you can find out eventually -- you can't do it in a given day because you've got weight losses and other things involved. But over time, you could find out if it was happening. This can be converted to estimated feed intake.

Is it worth it? Maybe not, I don't know. Maybe the shortcut version is better for all practical purposes. Those --
the certifying agent certainly is going to know those producers that rely heavily on pasture, because they -- okay, thank you -- because they observe the grain intake and pasture management practices.

Those producers are relying more heavily on storage forages would be the ones that would have more concern about. The factors that affect pasture intake -- some of that has come out already. You know, we certainly want to have it accurately -- and that varies with whether it is a cool season, whether it is alfalfa, whether the sorgum -- or whether it's some cereal grains.

But pasture intake is going to be less on lesser quality pastures. Intake is affected by whether or not these are consumed before feeding, humidity and other things. Should it include forage quality factors? It would certainly help define what's there, but for the purposes of what we have, if a pasture is reasonable, I doubt if forage factors are
worth that much in the overall evaluation.

Would it improve the definition of organic milk is my question. I doubt if it would. So I'm here as dairy cow nutrition with long research interests in confined feeding as well as grazing.

Because of the increased longevity of grazed cows, I have to conclude they must be healthier. What -- which may be due to a number of reasons. Space, concentration and contaminants, and she says thank you, and I thank you.

FACILITATOR ANDERSON: Thank you, Carl. Kathy Soder has 15 years of research and production experience with grazing systems. She is currently a research animal scientist with the USDA agricultural research service here in University Park, Pennsylvania.

Her research involves nutrition and grazing - nutrition and grazing behavior of pasture-based dairy and livestock systems, and Kathy is going to give us the answer to how long it
takes a cow to eat 45 pounds of milk.

PANELIST SODER: You made me sit there and calculate a little bit, so I was doing some calculations. Yes, as I said, I am with the Pasture Systems and Watershed Management Research Unit at University Park located here on the Penn State campus.

We aren't Penn State; we're a USDA facility, and although we don't do direct organic research, we do work with interdisciplinary research and pasture-based dairy and livestock systems, so certainly a lot of what we are doing applies to organic systems.

So we've kind of been skirting the edge of the organic issues, you know, getting pulled in, getting pulled out, so we're kind of on the edge of that but certainly working with a lot of that.

Some of the challenges I've seen, a lot of what I hear you may have heard earlier today, so I may skim over some of it,
but it's good that we are repeating ourselves here because at least we know we are thinking along the same lines and maybe some common threads will come through that may be applied to the revamping of the standard.

But I think some of the challenges in adapting a pasture requirement is, one, the scientific -- sufficient scientific proof. We've all kind of said that, and that's what I was charged with. As a research scientist, I tried to come in with scientific backing for some of these questions that we are asked.

Some of them don't have -- some of them aren't answerable in science. You know, spirit and intent. We can't answer that within science. But some of the other issues, we can get at, and from what limited literature is there, I am going to try to approach some of that from that aspect.

Application of a national standard to all portions of the country, that's been brought out again and again today. That's
going to be a real challenge to put one standard for the entire country. It's going to be a huge challenge.

Enforcability. If we say 30% dry matter, how do we know that they are getting 30% dry matter. I'm going to talk about that a little later on in my talk. Along with that, objectively measuring days on pasture or pasture intake. We've done a lot of discussions of that today as well.

And then I'm going to talk a little bit -- there hasn't been much on milk quality issues. A little bit with mastitis but more of the fatty acids. I have not my data, but I gathered some data on CLAs and some other fatty acids that may be of interest in this discussion.

I am going to skim over this because we've talked about factors affecting dry matter intake. It boils down to the animal, the forage, and the environment. From the animal standpoint, time spent grazing.
The time spent grazing is limited in animals. Not going to eat 24 hours a day.

What limits it? Well, gut fill can limit intake. Usually not an issue on a high-quality pasture. It's usually not gut fill that fills the animal up first. It's usually more physiological indicators or meeting a nutrient requirement, and they are shutting down.

But an animal really, if it is on full pasture, meaning that the animal is consuming pasture and does not get any concentrate in the barn or any other feeds, eight to nine hours is optimum. And they are only going to eat, graze, up to 12 or 13 hours, even if they are not full, even if they have not met their requirements, they are going to shut down.

They've got other things they've got to do during the day. They've got to rest. They've got to ruminate, and they are going to do both of those about eight hours a
day. If you look at some of the behavior data, they prefer to graze eight hours, rest eight hours, ruminate eight hours.

And they do that, you know, in little meals and little bouts throughout the day. And there's other things they do. They have to go drink water, they have to wander around, go look at the neighbor, go socialize.

There's other things that an animal does too that we don't always think about.

So an animal is not going to graze 24 hours a day, and we have to consider that when we are looking as pasture standards as well. And if we look at grazing patterns of an animal, they are going to consume about three to five major meals a day.

Two of the big meals are at dawn and at dusk. So, if we are talking about how we are trying to get -- let's just say 30%, we've been throwing 30% out there -- of their dry matter intake, we can really influence how much those animals consume by the time of day
we turn them out.

    If we turn them out first thing in
the morning, they are hungry, they're going to
go chow. If we turn them out ten o'clock in
the morning, what do they want to go do? They
want to go shade up somewhere and ruminate for
a while, so we can really affect grazing
patterns by the time of day that we turn them
out.

    Here is where you made me do my
calculating. Some of the research has been
done. Some of the studies were -- a lot of
studies have been done in England. I've been
working with a group in England that's done a
lot of grazing behavior research for the last
ten or fifteen years, and some data out of
Penn State and some data that we did on a two-
year grazing study with lactating dairy cows
looking at grazing behavior.

    We have these neat little
recorders that monitor the jaw movement, and
we can distinguish ruminations, grazing; they
can even tell mooing. I can't figure that one out, but they can tell when a cow moos. But anyway, what we look at is it looks at bite rate and time spent grazing or time spent in whichever activity it is.

And then, using these boxes, we can let an animal in -- just to show you how some of this research is done, we can let an animal go -- we weigh the box, let the animal take fifty bites, take the animal out, weigh back the box, divide it by 50, and that's the bite mass.

So that's the way we get that sum of this grazing research because we have no good way of measuring pasture intake, so we have to do it in indirect measures. But an animal, a grazing dairy cow, a lactating dairy cow, will consume about half a gram per bite. And they can take about 45 to 60 bites per minute.

That's going to vary, you know, bigger bites, slower rate, because they have
to chew it more, so it depends on the pasture, the sward availability and the sward structure, and most of this data is showing these cows will consume about 13 to 15 kilos, or about -- what is that, 30 to 35 pounds of dry matter from pasture per day. That would be on an all pasture diet, some of these higher levels. Some of this data is all pasture, some of it is not.

But these cows are taking about 40,000 plus, 40, 45,000 bites a day. Whether that is pasture or whether that is concentrate, so they are taking a lot of bites. And it can be affected by forage.

So the question earlier, what was your question? About how long it would take? Okay, I did a quick calculation taking a half a gram per bite, so right down the middle, times 50 bites per minute, which is 25 grams per minute, times 60 minutes is 1,500 grams per hour, or about three and a third pounds of dry matter per hour.
So in three to three and a half hours, assuming they graze constantly, which they are not -- they are going to chew, they are going to bite, they are going to search, they are going to look up at the neighbor -- three to three and a half hours, minimum, they could consume, potentially, hypothetically consume about ten pounds.

Now, I would recommend leaving them out for that minimum because, like I said, they are going to do some searching, especially as they get fuller. They are going to start looking for the better patches and the forages they prefer. But you asked how long it could take to consume ten pounds of forage, there is your answer.

(Laughter.)

PANELIST SODER: You know, we were talking a lot about this 120-day minimum, and how will a day be defined. You know, that's one way to get at it. Another way is -- grazing until the animals are full, but we can
influence that a lot by what we feed them in the barn before we turn them out.

If we fill them up on TMR and turn them out, they are not going to graze much. If we turn them straight out of the parlor, they are going to go out and eat quite a bit, so we can influence that quite a bit.

A minimum number of hours, we were, you know, shooting there three to four minimum. I would probably put a little bit of fudge factor in there for those other activities that those cows are going to be doing, and especially if pasture quality is lower. If availability -- if it is a short pasture, if it is a sparse pasture, it is going to take them longer to get that ten pounds than it is if it is a very dense, very lush pasture.

And then, you are going -- 30%. If there is a minimum daily intake requirement. Do we set the 120 days, if they meet that 30%? Is that how you do it? I'm
just throwing questions out there. I don't have an answer for it, but some of the things that went through my mind when I saw that requirement -- how do we answer that question.

Other factors that are going to affect pasture dry matter intake, again, are stage of lactation, milk production, body size and condition -- I just wanted to mention these, just for those who may not be quite familiar with how many variables we are dealing with.

We are talking about especially a pastured animal that has a lot of choices out there. When you feed a cow TMR in the barn, they can do some sorting, but they've got a TMR in front of them. We send them out on a pasture, we don't -- we're learning more and more about how many choices there really are for that animal, and that's where a lot of our research is taking us now, with this grazing behavior.

Jim and some others have hit on
this -- the forage factors that can affect dry
matter intake are quality, quantity, how much
is there, how good is it, digestibility can
affect passage rates and gut fills. There's a
lot of factors from the forage standpoint, and
environment. We've talked about these today
as well.

Temperature, humidity, sun
certainly have an effect on how and why an
animal will graze. Time of day,
supplementation -- I've already mentioned
that. When we feed it, how we feed it, what
we are feeding, if we are feeding a high
protein versus low protein supplement, that
can have an effect on grazing behavior and how
those animals perform on pasture.

So pasture dry matter intake is a
complex issue, and I think most people
recognize that, and it is very difficult to
quantify from a research standpoint. So, you
know, we hear different terms thrown around
when we talk about dry matter intake from
pasture. Right now, we can't measure it. We can't truly measure it.

It's not like in the barn where I can dump a garbage can full of whey, a garbage can full of feed, dump it in front of the cow and weigh it back and know how much she ate. We're only doing estimates.

Carl talked about some ways that we do that with indigestible markers, total fecal collections -- it's still only an estimate. We really don't have a good way to measure it, and it can be very subjective and very variable from day to day or depending on what the animal eats.

The best way or actually the most practical way most producers do it on their farm is looking at pre-imposed grazing heights or the rising plate meters, and we discussed them already today.

And one thing that came across to me, and I just kind of stayed quiet until I had my turn here is talking about what -- I'm
sorry, Lisa, with her equations here and Jim's measurements, and you are looking from the pasture standpoint with the pre-imposed grazing, combining those two methods to confirm one versus the other.

If we are saying here that they are eating ten pounds in the pasture, what is it saying out here in the pasture when we measure pre-imposed heights. Is it similar? We don't expect them to be identical. They are not going to be identical. Are they similar?

If one is saying ten and one is saying twenty, which one do we believe? So it's just something to put across to you about it, and, you know, is it enforceable with it being so variable and with an estimate.

You know, I originally asked is it enforceable, but maybe combining some of these methods may be a way to put this across if the pasture requirement is put in place.

Talking about the 30% dry matter
intake from pasture, at face value to say is it feasible for cows to consume 30% dry matter from pasture and produce not maximally but to their optimum, sure. Sure, it is. The research will show that. I am going to talk about -- just mention some here in a minute.

And I had asked -- some of this stuff has been answered for me today already. It was of the average over the grazing season or an absolute daily minimum, and it seems to be the latter that is coming through to me today.

And how to account for drought and weather. You know, I think there does need to be some leniency there for conditions, whether it's, you know, a drought watch is put in, you know, there's way that maybe it could be enforceable to say, okay, this region is in a drought. We are going to have to back off on the restrictions because of this because we can't expect these people to put their cows out there, and they are not going to be able
to consume 30% dry matter. I think then you run into more health problems than you wish for.

So, again, just the drought and the wet weather. Research -- the study that I did a couple of years ago as well as some others from Penn State -- we fed mainly a concentrate pellet. It had some non-forage fiber sources, some citrus pulp and some others in it, but we were getting about 50 to 60% pasture dry matter intake that maintained about 70, 80 pounds of milk.

So, your 30% certainly isn't a maximum. It's not unfeasible, it's not out of this realm. I wouldn't recommend setting it this high; I'm just showing you what we've shown in the research as an example of what we've been able to do. But these were short-term studies, you know, over several three months.

It's not a long-term over the year, what effect does that have on
reproduction and animal health and longevity of the cow. So we do have to consider those factors when we are looking at pasture requirements.

And I keep hammering on type of supplement, but I think there are so many things we don't know about supplementation in grazing and how we can influence grazing behavior, and that's one area that we are headed towards in looking at what type and how we should be supplementing these grazing cows to optimize pasture utilization.

And typically pasture -- we're not really dealing with supplementation today, but pasture dry matter intake tends to be lower with TMR supplementation than with concentrate, but again, that depends on the type and amount that's being fed, and there's a lot of variation out there in that.

And then, milk components, supplementation can help maintain milk components. We want to certainly incorporate
that and utilize that. Linda talked about the Washburn study, so I'm just going to mention that real briefly, but what Steve Washburn showed lower instances of mastitis in pastured cows in North Carolina.

Another -- a couple of other studies that I've picked up, one in Vermont and one in Hungary, showed lower somatic cells on pasture as well, but there are other studies that have shown no difference. You know, it might have been both well-managed herds, confined and pasture. You know, we can't always say pasture good, confinement bad. You could get a really good confined herd and a bad pastured herd. We can fudge the data whichever way you want depending on what you pick up, but it, you know, it's not always a matter of pasture is better.

I just got the two-minute warning, so I've got to speed up a little bit. Usually, total milkfat production decreases on pasture. A study out of North Carolina, Steve
Washburn student, did this study that showed how milkfat decreased, but what I want to emphasize is the CLAs and the Omega-3 and -6's just a little bit.

Factors can affect CLA. We know pasture can increase CLA, but we can increase CLA in the barn too. We can do it through feeding different fatty acids and stuff, so it's not something that's unique to pasture. We just need to keep that in mind.

A study by Tilak Dhiman in Utah State, where he had a controlled, confined herd, a third pasture, two-thirds on total pasture, 100% pasture, and you can see what happened to the CLA. This is compared -- increased compared to the control. So, we doubled the CLA whenever they were consuming a third-pasture. 350% when they were two-thirds, but he had a 500% increase when they were on full pasture. No supplementation, full pasture.

But the other side to this coin is
that what happens whenever those cows went on pasture. The study was also done at Utah State. The cows went on pasture, CLA started to increase, and it took about 25 days to reach the high level. Cows were taken off pasture right here. Look what happened real quick. So consider that 245 period. We lose that benefit real quick.

Something else Tilak -- I found this quote just this morning on the internet and couldn't find the study to substantiate it, but he says, "Older cows produce more CLA than younger cows. Specifically, a cow that has gone through four lactations produces more CLA than she did when she was younger. So there's something to say about, if we have longer longevity in these cows, and we are trying to increase CLA, you guys can add up the fact there.

Omega-3 and Omega-6 really quick.

Again, Tilak Dhiman, a third, two-thirds, and full pasture. Omega-6's were very high when
they were fed a third pasture. If you look at some of the CDC data in that, they want to see about a one-to-one ratio of Omega-3's and Omega-6's in the total diet. Well, that was on a full pasture diet. No supplementation.

Probably not economical, probably not environmentally sound in our system. New Zealand has been doing it, but not necessarily the best for our system, but I don't know if we can necessarily say it's a whole lot better whenever we are feeding if we are doing a third pasture, thirty percent pasture. Omega-6's are pretty darn high, and that's the one that's the bad fat compared to the other two.

So, to sum up real quick here, my last slide, factors to consider. Regulations need to be measurable and enforceable. You know, we can get a lot of subject in measurements, especially when it comes to pasture, but we just need to do it and make sure it's worded properly. Measure versus intake and some of these other things that
we've mentioned today.

We want to make sure stricter regulations don't exclude too much of the population. I know there's a lot of things we want to include, but just make sure that we can maintain that population base to maintain a viable market. And if it is decided that you can't put that in, for some reason, sub-market pasture raised within the organic standard.

I know there are people doing that now, but it's just another thought to throw out there. If it's not across the nation, you know, there are certainly groups that get together, co-ops and market specialty products. There's -- I know there's some co-ops out there doing that already.

And again, we just have to consider what's happening during that non-grazing season, and especially with the CLAs and some of the data and showed. And I'm getting the hi sign over here, so I'm going to
be quiet and sit down. Thank you.

MEMBER GIACOMINI: Dan Giacomini, NOSB. I have a number of questions, and I will try and be as succinct as possible, so how long this will take will depend on you guys, I guess. Can any of you address where the 120/30% came from? Can anyone address where the 120 days/30% came from?

PANELIST SODER: The first I saw it was in this document when it was sent to me, so I don't know.

MEMBER GIACOMINI: Let me see. Linda, if a large part of the country would have to really push to reach the 120 day/30%, would we be increasing the amount of detrimental effects that we see on cows on pasture in those situations?

PANELIST TIKOFSKY: I guess I don't understand your question.

MEMBER GIACOMINI: In the areas of the country --

PANELIST TIKOFSKY: Right.
MEMBER GIACOMINI: -- that would have to really be pushing to achieve 120 days/30% intakes, would we see an increase in the detrimental effects of excessive pasture in those situations? Would we see more cows with really bad body condition? Would we see more cows with low production and reproduction problems?

PANELIST TIKOFSKY: I can't answer that. I'm not a nutritionist, but I think -- I have to tend to agree with Lisa, somewhat, as we have to think about the sustainability of the whole system and what those areas of the country are best suited for. I don't think -- I would like to see cows on pasture, and since I'm not a nutritionist, but I seem to get a sense that 30% is probably doable in most parts of the United States.

You know, I would not be averse to some of the supplementation on pasture. I would like to see cows outside and get the benefits of being, you know, on pasture and in
the fresh air and the sunlight. So, I can't
say if we would see detriment.

PANELIST SODER: Can I jump in on
that, just real briefly?

PANELIST TIKOFSKY: Sure.

PANELIST SODER: Obviously, if
they can't make the 30%, if it's a time of the
year or if it's a drought situation, they are
going to be supplemented. They are going to
be bringing out some stored feeds and feeding
them, and they may not make their 120, but,
you know, nobody is going to starve their cows
to make that 30 -- well, I shouldn't say
nobody. Good managers are not going to starve
their cows to make that 30%.

You know, if that means they don't
make it, they don't make it, but they've got
to look at the animal first, and then the
sustainability of the system as well, but, you
know, unless I misunderstood your question,
you know, people -- if there is no pasture
available, obviously, you are pulling out
stored feed to keep those animals fed.

MEMBER GIACOMINI: Yes, the problem with that is that what is the definition of a minimum requirement for certification, then? That's one of the things we're having to address in passing on to the NOP.

PANELIST POLAN: One comment on that. Obviously, you are going to have to feed cows, and, you know, that may be supplemental hay or supplemental silage, but if they are out on the pasture, out on the open field, it doesn't matter if there is any grass out there or not, they are going to graze and make their rounds. They'll do it. And to me, they almost seem as happy doing that and making that round as if they was eating a lot of grass sometimes, you know? They do do that.

I have some animals of my own. I watch them every day, and, you know, unless there's snow on the ground, even though you've
got a bale of hay out there, and that's really the only feed they have, they still graze that field for whatever it's worth.

MEMBER GIACOMINI: Two real quick ones. Linda, as someone who also works with this on these things every day, I would just like to make the comment that I don't believe that it is always a case where the lower cull rate is better. When you pencil out the numbers on a 100-cow herd, you should be having 135 to 140 calvings a year, and if you are only at a 20% cull rate, I think you need to possibly be looking at reproduction or calf raising problems in those kind of situations, so I think in most cases, I agree with you, but I think there are also other situations.

Also, finally, one of the reasons we are here is because of the situations that everyone considers the abuses of this system. In any of your opinion, even in the first panel, is there a way that we could address this issue differently from what you've
discussed before to eliminate the abuses without maybe setting the benchmark so high in what some areas of the country would be considered too high but are considered viable, good, organic environments?

   PANELLIST SODER: Obviously, you've asked a tough question. It's one that I don't have an answer for. I mean, you are going to have cheaters no matter what. Cheaters or those who stretch the limits, whichever way it turns or both, in any system, and, you know, that's where I kind of struggle with a national standard for the whole country because there is so much variation.

   A lot of these standards seem to be set for northeast Wisconsin, those types of regions. What do we do with the rest of the country, whether it be the deep south, the arid regions? You know, obviously, some of them are not going to be able to make these standards. So how do, if you do accommodate those areas of the country into the National
Organic Standard -- I don't have that answer for you, but it's a question that keeps going around in my mind ever since I started looking at these regulations and the potential changes.

PANELIST CROPPER: I'll just make one comment at least concerning the amount of forage that is actually consumed. I still think you are going to need to somehow come up with a system where it is actually measured in the field. That's harder to cheat. If you've got a two-inch stubble height out there, and that's when they are getting turned in, there's no way they are going to have the capability of consuming 30% of their diet from that pasture that's that short.

They will be taking little, bitty bites, like Kathy talked about earlier. It's not going to be anywhere near what the maximum intake rate, and then they are going to get tired of that because they can't get that much to begin with, and they will do their time,
and once the time is up and they are tired of trying to get what they can out of that pasture, then they are going to have to resort to some other feed, and that's probably back at the barn or feed box.

PANELIST McCRORY: I'll just comment. The 30% dry matter was, to my understanding, was a measurement that was figured out through lots and lots of time discussing, deliberating, between the National Organic Standards Board livestock committee and numerous organic dairy organizations throughout the United States.

There has been talk going on for the last five years. People have chewed it out over and over again. It started off at 50% dry matter minimum. Now it's down to 30%.

I think -- and if you listened at all to the press conference prior to this meeting, you could have heard from a lot of different producers from throughout the United States sharing their input, and I think that 30% has
been a consensus that has been determined by
the producers discussing to the NOSB and
coming to a consensus that seemed reasonable.

So, I think that we should be
listening to our producers, who are also
talking to their consumers, and I'd like to
hold on that number. I think that's a pretty
legitimate number.

MEMBER JAMES: Bea James, NOSB. I
have several questions, and I think to just
tag off of what Lisa commented, my first
question is for Kathy. You talked a lot about
lack of scientific research. Would you
consider the farmer testimony adequate
scientific research or proof?

PANELIST SODER: I couldn't get it
published for that. To be honest with you,
I'll tell you what, it's getting more and more
difficult for me to publish our grazing-based
dairy data in U.S. journals. In the
mainstream U.S. dairy journals. We're having
quite a challenge with that.
We're actually having to go to Europe with some of this. I think the testimonials are great. The problem, from a scientific standpoint, there is so much variation from farm to farm to farm to farm that we don't have a control to say, well, okay, he said this, and this works on his farm, but will it work anywhere else in the world? We don't know.

You know, to go up against it, and the scientist in me says no. It's not -- on a national basis, it's not.

MEMBER JAMES: So in order to have adequate proof, do you look for the science in this particular area, or do you look to the farmer who is actually working in the field and experiencing this particular topic?

PANELIST SODER: I think the science needs to go to the farmer and get farmers to cooperate. You know, I'm not saying they don't, but to find cooperative farmers doing these things because we're not
going to have it happen at the universities. There may be a smattering here and there, a little bit is, but getting the funding for it at the university level and getting someone interested in it at the university level is a real challenge these days.

And I know Carl and I have talked about that, but, you know, there is the possibility of okay, well, we can't designate a dairy herd on this farm to conduct organic research just to set up. The farm as a big obstacle, if there isn't an organic farm available.

But there is no reason we can't go to the farm, the production agriculture, and do our research there. We've done some of that. It's a big challenge, but we can do that, and I think we need to do more of that to get more of these answers.

MEMBER JAMES: Okay, great.

PANELIST TIKOFSKY: Can I make a comment? I think we will start seeing more of
these initiatives and more research coming out. University of New Hampshire has an initiative to start an organic dairy for research for the northeast. State University of New York at Alfred, one of our campuses in western New York, is recently launching an initiative to have an organic dairy along with a regular, conventional dairy so that they can do some comparison studies between those.

College Alfred, which is in Ontario, eastern Ontario, near Montréal, is converting their 50-cow dairy herd to organic production, and actually, they are dedicating the mission of that university to sustainable agriculture. So we may not have it right now, but I think we will be having it very soon in the future.

MEMBER JAMES: Okay. Well, that ties in nicely to my next question, which is for you, Linda. If pasture decreases lameness, decreases digital dermatitis, aids fewer hock lesions, decreases mastitis,
decreases bacteria, and longers lactation periods, and you have actual study of that, what other additional scientific information is needed to reinforce pasture in organic dairy?

PANELIST TIKOFSKY: I think a lot of this was done in, you know, a lot of these studies were done in Europe. We don't have a lot of U.S. studies, and U.S. systems differ from the European, so to have things done here in this country, in our climates and in our environments and our milk regulations, I think is of value.

I don't think -- I think there is enough research that certainly points us in this direction, but like Kathy is, I'm a scientist. I want to see some confirmation. I don't want to rely on one or two studies. I want increased proof. I think we still have to ask those questions.

MEMBER JAMES: Okay. My next question is for Ann. You mentioned that you
think we intervene too much, and that we, "change pasture management. If we change pasture management, we could easily improve the health of the animal." Could you elaborate on what you mean by "change pasture management"?

PANELIST WELLS: I kind of threw that out. A lot of times, it's more -- pasture management is just one aspect of it. But it's management overall. A lot of times, when we have animals that are what we consider not doing as well as we would like them to, then we want to jump in and give them something.

And what I'm saying is that what I'm seeing is that when farmers stop and take a look at these animals and figure out what they can change either in their rotational grazing system, changing their nutrition. Sometimes it does mean additional supplementation beyond pasture. Or doing something that is a management technique
rather than giving them something, these animals improve with that alone.

MEMBER JAMES: Okay, thank you. And that's all the questions that I have, and I just want to make one comment that I really appreciate all of your expertise. It's been very useful and helpful.

(Applause.)

MEMBER KARREMAN: I just want to add on to what Ann was saying, that I find, as a veterinarian that works with grazing herds all the time, that when they are out on pasture, they are not pushed as hard. I mean, their milk production is lower when they are on pasture. I did a study, and it is statistically less. But that when they do get sick, they tend to rebound better with natural treatments that are allowed per the organic program.

And so, you know, getting all that right, you don't need all those Band-Aids, but when you do need a true Band-Aid, you know, to
help heal a sick cow, they tend to work very well because they are not pushed as hard, in general.

The other thing is that you were mentioning, Linda, about cull rates. Another study I did with Lancaster Extension, we did find, actually, significant difference in cull rates from certified organic herds that were grazing versus confinement herds in Lancaster County.

I guess one -- and also, I was -- I drew bulk tank samples from my farmers' herds two years ago by now, and the CLAs were all way high on the grazing herds in May compared to the shelf milk, so I really enjoyed your presentation, Kathy.

One question I guess, in general, is if we are going to be measuring pasture, or whatever we come up with, either with a fleximeter or fat calculations or whatever, let's say we actually go to the field and measure it; how often do we have to measure...
it? Maybe you already answered this, but how often and how many -- what percentage of the paddocks during the year? Can you get some kind of baseline data for years ahead in your pastures?

I mean, how -- I know it's highly variable almost every day every week, but how often should a farmer be checking their pasture intake for the cows if we go to some percent intake or biomass intake?

PANELIST CROPPER: That depends, I guess a lot on how closely you want to manage your operation. Ideally, it should be done at least once a week. Measuring actually not only the paddock that they are currently in, for instance, but also measuring further down the line to get an idea of, okay, what is the growth rate out there right now? How many paddocks am I going to need maybe two weeks from now?

So there are some good reasons to do this just from being a really good manager.
so that you know that maybe at the end of two weeks, I am going to need twenty paddocks, and I've only got maybe ten right now that are there. So now what am I going to do? Well, that either means that I'm going to have to increase, maybe, the level of supplementation in that case.

Maybe bring another field in line.

Maybe I've got a second growth hayfield over here that I could use that as pasture because maybe I don't need this much stored feed now that I've gone to the pasture system, so that you've got some -- you have some idea of where you are going with this thing.

Because a lot of the times, what happens in rotational pastures, we have this thing that we call train wrecks, and that's just not looking ahead, not measuring that forage enough in advance to know that, well, I'm coming to the end of the railroad tracks, and I don't have any way to get out of it now, so what do I do?
MEMBER KARREMAN: Do you think that's -- can you translate that or apply that year to year, or do you really -- because I'm thinking of like, you know, whatever comes out of all this, there is going to be an inspector there once a year. There's, you know, the certifier has got to verify it, so are we going to ask the farmers to do weekly measurements? Because that will drive them nuts.

PANELIST CROPPER: Yes. It could.

(Laughter.)

PANELIST CROPPER: Again, like I said, it depends a lot on the manager and what they are willing to do, and that is probably ultimately going to be a decision on just how much paperwork you want to have involved in this project.

If you say once a month, that will become probably what will happen, and I'm not so sure if that's a good way to manage pastures. I think you really should be doing
it on a more frequent basis just for your own
-- just for your own management and your own
edification of where you're going.

I guess I just have to leave it at
that.

PANELIST POLAN: Yes, I'd like to
comment there a little. I think, ideally,
what he says is right. I wouldn't want to
measure my pasture very often, though. I
think once you do this, and you get
experienced, you know how much pasture is out
there.

Now, if you, say, take a scheme
like this from over here on the chart, and you
feed an animal so much silage, if that's what
you are feeding, and so much grain, and that
provides 65 or 70% of what they need to
produce that milk that day and put them out
there, aren't you going to be sure there is
enough pasture out there for them?

I think you will, if you want to
sell any milk. If you want to produce any
milk. So, if you honestly put that value down and make sure the pasture is there, whether you do it by measuring method or whether you do it by the pole and eyeball method with enough area, you make sure there is enough there. Otherwise, you are going to suffer in the milking parlor.

PANELIST SODER: I also think it's really critical for the farms that are running right on that 30% are limited land base. They may not have that extra hay field, or they don't have that extra, or if they are feeding at 50% pasture, they can cut back to 30 if they need to feed some extra silage or something to get through a low production period.

Especially for new grazers and those running real tight, running right at 30%, really need to watch, budget, their forage. You know, I think what Jim says is probably what somebody needs to do to get that pole and eye before they get started.
PANELIST McCORY: I would also add that, you know, inspections have been once a year, and they don't always happen during the actual growing season. You could be inspecting a dairy farm, and there is snow on the ground, and you are not going to see any regrowth.

So, I think some sort of calculation to verify how they are figuring out the amount of pasture that they need and whether or not it is available -- there could be some sort of check sheet format that a producer could fill out to just kind of verify any changes in ration over the growing season that could be, then, looked at by the inspector as part of the paperwork requirements.

MEMBER CAROE: Andrea Caroe, NOSB.

I have many questions, but I will hold them to two. My first question, and I would like you to elaborate on something that you said regarding it may take three years before the
pasture is truly efficient, or -- I don't want to put words in your mouth. I caught the three-year mark, and I wanted to know what you see happening in that three years in order to reach that optimum point.

PANELIST WELLS: Jim and Carl may want to chime in here because they are more the experts in that area, but what I've seen is that when someone starts dividing up pastures, rotating their animals around and resting the pastures, that first year they just see this explosion of grass growth. And almost everybody says, oh my gosh, I need twice as many animals because I can't keep up with all the grass.

The second year, because they have really started cleaning out some of the less desirable plants because the animals are eating all of them, they tend to open up pastures. You end up having bare areas -- or, I shouldn't say bare areas, but you have a more open pasture because the animals are
grazing everything off.

And so, you get a lot of weeds in there, and the pastures look really rough, they are harder to manage, and a lot of producers go, this isn't worth it. But then, if they will continue on to that third year, then they start to see that pasture stabilize.

They begin to get a lot more desirable plants in there. They will tend to get more clovers in there, they will get more grasses, and it becomes easier to manage. And so, by the time that third year comes, then the pasture tends to have stabilized and is much easier to manage.

But they have to get through that second year, which can be the tough year.

MEMBER CAROE: Well, then, part B of that question, not my second question, but part B of that is, then, is there an opportunity that organic growers may have a hard time meeting a new requirement if it is going to take them three years? Will there be
an economic disadvantage to them implementing pasture for several years?

PANELIST WELLS: Well, I would hope that any current organic farmer right now already is doing at least some limited grazing, at least has some access to pasture, so they are already part-way there.

The beauty of all of this is that for somebody who is transitioning in, if their land has to go through that three-year period, then they are going through everything all at once, because not only are they having to lay off the prohibited substances on the land for three years, it takes three years for that land to stabilize, and it also takes about three years for a person to really learn how to manage a grazing system.

MEMBER CAROE: Okay, then my second question is for anybody on the panel that wants to answer. We are, right now, looking at a minimum of 30% dry matter intake with a minimum of 120 days of pasture. Could
you tell me, is there an advantage of that
over a ten percent dry matter intake over a
total calendar year, on average? And allowing
producers to, you know, give them incentive
for efficient pastures so that they get that
dry matter intake.

PANELIST WELLS: My concern with
the ten percent across the calendar year and
not on a day-by-day is that that rule could be
abused.

MEMBER CAROE: How so? Explain
that. I mean, I'm not advocating one way or
another, but I just want to know how that
could be abused because, you know, 30% over a
third of the year or ten percent over the
entire year -- isn't it a wash?

PANELIST McCRORY: No, I think
that it needs to be clearly defined that it is
30% dry matter per animal per day so that we
know that the management is happening for a
minimum amount of days with a management that
we can all support and understand.
And if it is, say, ten percent over the whole calendar year, ten percent, then there could be, you know, certain batches of the livestock herd that are going to be on 100% pasture where others are going to remain in total confinement, and over the average, it's ten percent or whatever that percentage is.

Now, if you are just saying, you know, ten percent across -- over the year, and still requiring it on an animal by animal basis, I still think that there could be -- that it wouldn't be as -- I think that there are still opportunities where it wouldn't come out as nicely as the day by day management, and I still -- I just think that the 30% dry matter per day is so doable, and if it is ten percent over the whole calendar year -- I don't know, I'm going to have to think about that a little bit more to make some -- to chime in. If anybody has any other comments.

PANELIST SODER: I think in a lot
of areas, particularly here in the north, you
are going to adversely affect animal welfare
if you have those cows out in December or
January. You know, even if it is for a couple
of hours, ten percent -- if you are talking
throughout the calendar year --

MEMBER CAROE: Let me clarify.

PANELIST SODER: Okay.

MEMBER CAROE: What I am saying is
that the producer can determine if 120 days or
150 days --

PANELIST SODER: Okay, I see.

MEMBER CAROE: -- or 180 days,
whatever it takes for them over the year to
get a minimum of ten percent.

PANELIST SODER: An average across
-- an average across an --

MEMBER CAROE: Right. I'm not
suggesting that you turn cows out in January
in Maine.

PANELIST SODER: Okay.

MEMBER CAROE: I mean -- yes, I
can't see -- but, you know, I know that there are going to be some areas that are going to be challenged, or -- again, I claim a little bit of ignorance in this, but it seems that some areas are going to be challenged to get the efficient pasture, and a producer may opt to prolong the pasturing in order to get that ten percent over the year.

It seems to me that there may be a positive on that side, and I may not -- I'm asking because I'm not seeing the negatives, and I'm trying to figure out what those could be.

PANELIST SODER: Okay.

PANELIST POLAN: It seems to me like -- I don't have -- let me first say, you know, I'm not stating one preference over the other, but if you want to control the situation, if you want the control and you want good documentation, I think that the number of days with the number of percent per day is more -- is more worthwhile in terms of
having documentation control over it for the total herd.

PANELIST CROPPER: To me, I think it would be probably easier to document a shorter period of time and have that percentage, whatever it might be. It would seem to me to be much easier to keep track of that than to try to do the average over the whole year. That's just kind of my impression. It just seems like it would be a lot easier for monitoring and actually calculate --

FACILITATOR ANDERSON: What about in terms of the animal's health?

PANELIST CROPPER: I will defer to an animal scientist.

PANELIST SODER: It's going to depend on the management. I mean, you could do it well both ways, and you could do it poorly both ways. I don't think you can answer it that way. I mean --

PANELIST CROPPER: I don't have a
MEMBER KARREMAN: I have a question. Maybe for the two veterinarians. We are talking about how to get the cows out on the pasture and how much and everything, but what specific instances would you think that cows or animals should be allowed to be not on pasture -- not talking about, like, environmental storms and all that -- but within the own -- anyone can answer it, but, you know, for the animals -- the animal itself, its well-being.

When would it be okay for it not to be on pasture? Because there will be exemptions for certain things, and I think we wanted -- one of the main sticking points right now is the perceived loophole that stage of production can be an exemption for being out on pasture, and one thing that we did with the guidance document last year is to change the stage of production exemption to be stage of life.
But I am starting to get the feeling that that's a pretty nebulous term, stage of life. So I'm wondering, you know, when could an animal be kept off pasture for its own good?

PANELIST TIKOFSKY: I think, certainly, in periods of illness, you know, where that animal needs to be observed more closely or treated more frequently. Illness has something to do with it. I do have some concerns, you know, about -- we don't know a lot about yoni's prevalence in organic herds. We certainly know a lot about it in the rest of the world.

But if we have an organic or grazing herd with a high level of yonies that's on a -- you know, that has a management plan that has decided that they are going to enroll in New York State Cattle Health Insurance or have a voluntary yonies control program, perhaps those high-shedder cows, those -- shedder cows should be at least
separated to one area of the pasture or not be allowed to mix, you know, with the general population and have a more limited confinement so that we're not contaminating pasture or young stock or that sort of stuff.

So, I think there may be certain disease states that we have to look at on a case-by-case basis to make that determination.

FACILITATOR ANDERSON: So basically, illness?

PANELIST TIKOFSKY: Yes.

FACILITATOR ANDERSON: Of various shades. Okay.

FACILITATOR ANDERSON: I have a question maybe of Jim but of everybody, and that is -- the one example you gave is, well, you know, there might be a river or a highway or something running through the farm, and if we take out the manure issues of concentration because it goes -- you can run a truck across the highway or the spreader across the highway, is there a difference in CLAs or is
it important that the animals are grazing, not
feed lotted, but could they be in a green
paddock, as it were, and be getting green chop
as opposed to raising?

PANELIST SODER: I just had this
discussion with Larry Muller last week. We
haven't seen evidence of it, but it is the
fresh green forage that is increasing the
CLAs. So if you bring it to the cow or let
the cow go at it, it shouldn't make a
difference from that respect.

FACILITATOR ANDERSON: This is a
question from the audience that says, "Do
dairy cows that graze pastures with soils that
are well balanced have the same problems with
milk urea nitrogen as non-organic grazers just
using urea to grow the grass?" And it goes on
to talk about the management using artificial
-- is there a difference in pastured animals,
the milk urea nitrogen, on a well-balanced
soil as opposed to --

PANELIST POLAN: It totally
depends on the protein level. It doesn't matter which source it would be, it would totally depend on the protein level in the first pasture. Now, protein in dried materials is different than protein in first pasture, but the protein in first pasture is rapidly and readily degraded and ruined, and the ammonia goes in the blood stream very rapidly, and the animal then, when it gets to the liver, converts it to urea, and that's a little bit of what I referred to earlier. And, of course, that ends up being in the milk as a water reservoir, the kidneys as a water reservoir, so it equalizes in the milk until the kidneys empties what it's going to do.

FACILITATOR ANDERSON: Okay, sort of a follow-up on that is it -- to anyone. Is there a breed -- or not a breed, but is there -- are there flavor factors that are going into milk on pastures as opposed to those not on pasture?
PANELIST SODER: I ran into a couple of studies on that, and they were mixed. Some said yes, some said no. I mean, I think if animals get into certain plants, if they get into garlic or something, it's going to impart flavors, but from the basic forage species that seem -- preference tested, and it didn't seem to show a whole lot unless an animal was into something really aromatic.

FACILITATOR ANDERSON: Are there any useful metrics for flavor evaluation? Especially the person on the ground?

PANELIST TIKOFSKY: I think we need a food scientist up here for that.

PANELIST POLAN: We need the man -- what was his name? At Penn State that left a long time ago. He kept up with all of that.

FACILITATOR ANDERSON: There have been many questions, many times people have commented about -- not here, but overall, that Holsteins may not be genetically the most fit for grazing. A, is that true, and B, are
there breeds that are better suited to grazing than that?

PANELIST SODER: From a scientific standpoint, we don't know yet. I mean, I think through genetic selection, you could make any breed more efficient. Now, I'm not going to relate them, you know, one breed to another, but within a breed, I think you could genetically select, and through behavior.

Someone was mentioning it this morning at the press conference about grazing their calves with their -- their newborn calves with their -- the dams. Well, there's a lot of research, most of it is in sheep, but it would certainly apply to cows, from Utah State showing how much that calf or that youngster learns from the dam.

Where to go, what to graze, what to stay away from, how to balance the diet from toxins and secondary compounds. You know, I think there is a lot to be said for that, and if you are buying your heifers out
of a dry lot somewhere, they don't know how to graze.

PANELIST TIKOFSKY: And I think in the Washburn study, if we look at that because they compared the Holsteins to the Jerseys, and the Jerseys were actually more efficient grazers in that particular study. So I think, you know, maybe legs, feet and legs, I think, have a whole lot to do with it.

PANELIST CROPPER: I'll just make one comment on that. I had an opportunity to go to Ireland, and they graze all their dairy cows, and they are probably about 90% Holstein. So, I don't know. It's kind of -- that's kind of some anecdotal evidence that would show that, evidently, they've got Holsteins that know how to graze pretty well.

FACILITATOR ANDERSON: The NOP regulation requires that organic producers accommodate the natural behavior of the animals. What are the natural behaviors of ruminant animals? I think we talked about
them, but if somebody could summarize those quickly?

PANELIST SODER: Natural behaviors that they are going to spend -- they are going to split their day up, given the limitations. I mean, if you don't limit them and make them search for their food real hard, they are going to consume their feed about eight hours a day, whether that's grazing or in confinement.

They are going to rest about -- rest/sleep about eight hours, and they are going to ruminate about eight hours. And there are other activities in there. They have to go drink water, they have to go check out the fence line, they -- there are studies out there coming out looking at socialization within the herd.

You know, they socialize just like we do, so, you know, that's a natural behavior to them, whether it is to go pick on the one at the bottom of the pecking order, or whether
to go try to become top cow or --

(Laughter.)

PANELIST SODER: -- they spend time doing that, so.

FACILITATOR ANDERSON: If consumer expectations can be changed, why regulate according to the current expectation? Rather, why not regulate to the environmental health benefits that may be -- I'm having trouble with this question a little bit. You may have to help me. But -- that may be relatively fixed, and perhaps these outcomes, the health outcomes, should be more the basis for it rather than consumer expectation.

PANELIST POLAN: Health outcomes of what?

FACILITATOR ANDERSON: The health outcome -- the impact on the animal rather than the consumer expectation.

MEMBER KARREMAN: I think that's right. I would say that's how I wrote it.

PANELIST TIKOFSKY: Yes, I think
that -- I think, you know, certainly -- I'm a consumer, you know, and I want my cows on pasture from that standpoint, but animal health and animal welfare is probably overrided.

And then if you look at, you know, if you look at other countries' regulations or so in Denmark, they take animal welfare in a whole different light than we do in the United States, as far as the organic or farming rules go.

I think health should be first in animal welfare. And we will have, you know, that's, you know, that's what the consumer expects, but isn't that just right?

MEMBER HALL: This is a little out of the box, but as I'm thinking about the geographic variation that we've talked about and the ability of producers and talking about this a lot from the producer perspective, I come back to what's on the label and what we're actually able to commit to a consumer
and how that translates, and with -- if we had different state, you know, minimums, based on regional variants, what does a consumer actually -- what can we commit to them? What's their pasture minimum?

And is there an opportunity to maybe use some of the structure that we've set up with dry goods and do an organic and a made with organic and two different grades of it based on what you are able to meet in your area?

PANELIST SODER: I guess the question that raises in my mind -- is the consumer expectation in Arizona the same as that in Florida, the same as that in New York? I don't know. I mean, maybe, say, in Arizona that's not expected, and it's a regional-type label may be applicable. I don't know, but you just thinking, you know, kind of to turn that back. What is -- does the consumer expectation change across the country?
actually, a question that came out of the audience on that is very related. If -- and the gist of this is why don't organic dairy companies market organic pasture-based milk period, and/or seasonally? That's a -- almost a rhetorical question to everyone, but I think it is an important one.

MEMBER KARREMAN: Or the flip-side would be on to what you are saying, Jennifer, would be if there is going to be two different grades, let's just say, that, you know, the one that is not pastured would have to be declared versus the one that is being pastured.

MEMBER JAMES: If I could make a comment on that, also. Bea James, NOSB. I think that without directly saying "pasture-fed milk" on the label, it is implied with the brand of, you know, artwork on the label? So, speaking in pictures but not necessarily in words. And that's one of the reasons why we're all here today.
FACILITATOR ANDERSON: Why are we stuck on a minimum of 120 days compared to 200 days of grazing?

PANELIST SODER: Thinking back to what somebody asked about the standards, again, talking to a couple of folks, it seems to me, and someone correct me if I'm wrong, that the minimum of 120 days was set based on New England grazing seasons? No, it's not? Okay, then I don't know.

PANELIST McCORY: I can answer to that. The minimum 120 days was realistic based on the climate throughout the United States, and the 120 days would be when the pasture is in full season, and the animal can actually get the allotted amount of feed, which was determined to be 30% dry matter. At what point in that growing season can they start getting that ration on a regular basis, and what is the length of time that that will last.

Well, like I said, in Vermont, we
go, you know, it's averaged 150 days and beyond, but it's not that long in some other areas, so the consensus was that everybody could live with 120 days. More than that was too hard for some areas because the season can be variable. Less than that didn't seem like it was the right way to go.

CHAIRMAN O'RELL: Kevin O'Rell, NOSB. You know, just something to consider and ponder, and I don't know the answer to this, but -- and maybe the panel on the consumer retail side of it might be more suited for this response, but as we build up an organic perception for milk with the consumer of all pasture-based, and we are talking about 120 to 150 days, and you do that, and consumers realize there's 215 to 245 days -- what are they doing?

And we have these pictures of cows on green pasture on our cartons 365 days a year. I'm just wondering what is the backlash of that?
PANELIST McCORRY: I think when consumers are traveling to Vermont to see cows on pasture, they are doing it during the growing season, so they are realistically knowing that in the wintertime, there is not much grass to eat, and they are going to be -- the feed is going to be brought to them.

But I think a lot of producers really, you know, the forage is still organically managed, and it is brought to the animals. They are being managed in a certain way that meets the standards. Consumers are buying into not just the grass, but I think consumers -- we can't assume that they are -- we've got to assume that they've got some intelligence to them too and can realistically look at the number of viable days that an animal can be out there grazing.

And 120 is a minimum, you know. Many producers are grazing, have their animals out on pasture, for over 200 days, easily. That's in Vermont. In Pennsylvania, somebody
was saying 225, 250 days. You know, they are
going way beyond. But we are at least setting
a minimum standard, that's all we're doing.

FACILITATOR ANDERSON: And one of
the questions, Kevin, that is a follow-up on
that from the last time that we didn't quite
get to, but what does that really mean for
more temperate climates, and is it doable?

CHAIRMAN O'RELL: Yes, I agree
with what you are saying, it's just -- even if
it's 120-day minimum, that's what I'm getting
to. That's the minimum you can achieve that,
and I think it just raises more awareness with
the consumer that, okay, it's only 120 days,
and I've got this 245 days.

FACILITATOR ANDERSON: If cull
rates on pasture are 20 to 25% and calf loss
is not an issue, why don't we have increasing
herd size in organics?

PANELIST TIKOFSKY: Well, I think
in my well-managed organic herds, they do have
-- well, they have a limit of what they want
to be, what their land base can hold, and what
their barn can house, but we do have -- we may
-- if they were to keep all the calves or all
the heifers, they would have increasing heifer
size, but they have yet another means of
economic opportunity. Because they are well
managed, they have heifers to sell to people
who want organic cows.

FACILITATOR ANDERSON: And one of
the things that really didn't get asked in
this is the economics of converting to pasture
and, you know, is it actually economically an
opportunity, or is it a challenge to be
pasture-based?

PANELIST CROPPER: Well, I think
Linda had mentioned earlier about the Cornell
studies. There's also the Center for Dairy
Profitability at the University of Wisconsin.
Tom Kreigl has done a lot of work looking at
both I think he said confinement, it might be
conventional, but anyway, the difference
between them and grazing farms.
And there is quite a body of work there. That would be -- if that is of interest, I would very highly recommend that you look at his work. There's, oh gosh, at least three to four years of work, and it's not just from Wisconsin, but from a lot of the Great Lakes states.

The farmers -- these are actual records. This is not some scientific model that is going off a number of assumptions. This is actual farm data that is being used to generate them. He shows quite consistently that the grazing farms are much more profitable than the confinement farms.

PANELIST POLAN: The opportunity is there, but it's not going to happen automatically. And some people go into it thinking it will go automatically, but they are not managers for that kind of situation. The ones that have been managers and have been properly dealt with -- Jerry Swisher in Virginia has worked on several, a number of
conversions, and he's got numbers to show the remarkable increase in profitability that has occurred there.

But, I can also give you some examples of people that converted to get themselves out of economic trouble, and they are still in economic trouble.

PANELIST McCORY: And in Vermont and Maine, we are on our second year of collecting economic figures on the costs of organic dairy production, so we're doing a lot of interviews on a lot of farms collecting information that is going to be in peer-reviewed articles, and what we are finding is a lot of producers, you know, once they get established in organic production find that they raise a lot more replacements than they actually need for their farm and develop a second market.

Or, should they choose to grow, some of them are doing that as well, but I could say that a lot of the producers are
happy with the size herds that they have, and oftentimes are just maintaining that herd size. But when we are asking about cull rate, we are actually making sure we're asking about voluntary versus involuntary culls, as well as livestock that are sold for dairy replacements, or as dairy stock.

So, I'm hoping that that information will prove itself to be useful to you guys.

MEMBER ENGELBERT: Kevin Engelbert. I'd like to go back very quickly to the question of the natural behavior of a ruminant. I took that question somewhat differently. I think what the questioner may have been after is what do you think the natural behavior would be, grazing or standing at a feed bunk and consuming forage?

PANELIST SODER: I think that a ruminant was designed to graze, but there is also a lot to do with how that animal was raised and what that animal knows. Because if
you take a confinement herd and open the gate to the pasture, what do they do? They stand at the gate and wait to go back in the barn, at least the first few days or the first year or the first two years.

So, I think there's two sides to that too. I mean, what is instinctive and what -- I mean, any animal knows how to go out and drop its head and sniff around, but if you watch animals, it is a learned behavior as well. And so there's two sides to that coin as well.

MEMBER ENGELBERT: I agree, but eating at a bunk is also a learned behavior, and if an animal, a calf is with its mother out at pasture, it would have to be taught to eat at a bunk.

PANELIST SODER: Sure.

MEMBER ENGELBERT: So, I'm just making the point what do you think is the natural behavior of a ruminant? Which of those two scenarios?
PANELIST SODER: The mouth and rumen were designed to consume forage and graze.

(Applause.)

FACILITATOR ANDERSON: One last question for Kathy and Linda. Given a cow takes 40,000 bites per day, should certifiers be monitoring their dental hygiene?

(Laughter.)

PANELIST TIKOFSKY: It probably depends on the fiber in the grass and how much flossing effect it has.

(Laughter.)

PANELIST SODER: Anybody want to get started on orthodontics for cows? I've seen a lot of them with bad mouths, so.

FACILITATOR ANDERSON: How about a round for this great panel. We will be starting tomorrow morning, eight o'clock sharp, and we are going to separate the morning sessions into three parts. First, growers. Second, certifiers, and third,
consumers.

(Whereupon, at 5:18 p.m., the
foregoing matter was adjourned.)
UNITED STATES DEPARTMENT OF AGRICULTURE

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NATIONAL ORGANIC STANDARDS BOARD
SYMPOSIUM
+ + + + +

WEDNESDAY,
APRIL 19, 2006
+ + + + +

The symposium met in the Ramada
Conference Center, 1450 South Atherton
Street, State College, PA, at 8:00 a.m.,
Robert Anderson, Facilitator, presiding.

PANEL MEMBERS PRESENT:

ROBERT ANDERSON Facilitator
BLAKE ALEXANDRE Humboldt Creamery
KATHIE ARNOLD H.P. Hood
JON BANSEN Organic Valley
BRIAN McELROY CCOF
MARYELLEN MOLYNEAUX NMI Solutions
JOHN STALLEY Oregon Tilth
ROMAN STOLTZFOOS Natural by Nature
ALBERT STRAUS Straus Family Creamery
JUAN S. VELEZ Aurora Organic Dairy
MARGARET WITTEBURG Whole Foods
ED ZIMBA Horizon Organic Dairy
LESLIE ZUCK PA Certified Organic
BOARD MEMBERS PRESENT:

KEVIN O’RELL Chair
ANDREA CAROE Vice Chair
BEA JAMES Secretary
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JOE SMILLIE Member
JULIE WEISMAN Member

STAFF:

MARK BRADLEY
BARBARA ROBINSON
VALERIE FRANCES
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FACILITATOR ANDERSON: Okay. We will get started momentarily. Good morning. Good morning, everyone and welcome to day two of the dairy symposium. We've got some funny feedback here. Is that okay? And this morning especially I think is a great time for us, because we're going to hear from the people who are actually on the land raising the animals, milking the cows, making the products and ultimately the folks who will be most impacted by whatever decisions are made here today.

So I would like to announce an agenda change. We are planning to -- it seemed that these folks many of them traveled halfway or all the way across the country and to have just five minutes just didn't seem right. Now, we don't have an awful lot of time, extra time, but I have modified the agenda a bit this morning. So from 8:00 to
9:15, including questions, will be the farmer presentations.

At 9:15, we will swap. The certifiers will come up from 9:15 to 10:15, including questions. We will take a break, 15 minute break. And then we will come back 10:30 to 11:30 with the consumer section. And at 11:30 to 12:00, we'll just have a wrap-up.

So I can't tell from where I am if you guys can hear me well or not. Okay. Good. Okay.

Well, then without further ado, we have an order here to the agenda and I would like to start with Jon Bansen from Organic Valley.

PANELIST BANSEN: I appreciate the chance to give the farmer point of view on all of the pasture issues. Just a little background on myself. I'm a third generation dairy farmer and a third generation grazer. I would like to say that I'm an organic dairy farmer, because I graze. That's an important part is I'm an organic dairy farm, because I
graze. Not the other way around.

What grazing does is it gives great health benefits for our cows in hoof health, breeding health, reproductive health, low death rate and cull rate. And, you know, I would just like to go on the record to say that I believe that a low cull rate is absolutely vital to what we do. Low cull rate means you have a health bunch of cows and that's what we're in the business to provide a healthy product for healthy consumers. And I fully believe that the healthier cow is going to give you better quality milk.

We rotationally graze 180 to 210 cows over the grazing season. We get six months of full graze where it provides about 75 percent of the cows diet and two other months of the year we get, approximately, 50 percent of the cows diet off of that grazing. We rotate our cows. They are on a 16 day round, so every 16 days it's management intensive grazing, and that's also another
important aspect in grazing is to manage the grass.

You heard talk yesterday about the quality of grass and stubble heights and all that, you know. It's all about the quality of the grass as far as going into those cows keeping those cows healthy. It needs to be vegetative grass, not just grass out there in any various stage.

One of the great benefits we have from the grazing is we always have extra animals to sell off our herd and that in turn aids the bottom line of our farm and this is really all about sustainability and that means economic sustainability as well. And that's a big part of our organic dairy farm.

What has been going on in the pasture issue with organics is a little bit like the duck that walks in to the grocery store and goes up to the clerk and he says you got any duck food? And the clerk looks at him and says no, I don't have any duck food and we
don't serve ducks. Get out of here. And so the next day the same duck in the store he comes. He looks up at the same clerk and says you got any duck food? And the clerk says I told you yesterday we don't have any duck food. We don't serve ducks. Get out of here and if you show up again I'm going to nail your darn little feet to the floor.

Well, the third day the duck shows back up again, looks up at the clerk and says you got any nails? The clerk says no. He says you got any duck food? And you know, really right now, the certifiers don't have any nails, you know, that's what it comes down to. You know, people do not have to dairy -- do not have organic dairy with their cows grazing, because the certifiers do not have nails in their little bag.

It all comes down to intent. You know, intent is the key word here. We all do know what a dairy looks like that grazes their cows. It takes five minutes for any one of us
farmers to walk onto a farm to understand that it's a grass-based dairy and that's a very important aspect. You know, it's about integrity for our consumers, to our consumers, so they understand where their milk is coming from, that it is coming off of a grass-based area and that it is an important factor with the consumers of our products.

It's also about compliance and intent of the dairy farmer. And I hope if you come back with one word from what I say here, the word is intent, because that's what it's really all about. This is not about size. It's not a discussion about scale. I've seen a 6,000 cow dairy before where they had it broken into three 2,000 cow units, each with their own milking parlor where they grazed and grazed heavily.

It's also not about regions. This isn't about hitting east versus west. It's not about irrigation versus non-irrigation. We irrigate on our farm. We irrigate for
about four months out of the year. This also comes to the intent part, because if you live in west of the Rockies, in the arid part, summer arid part of the country, you must have irrigation if you're going to be a grazer.

And if you are going to be an organic dairy farmer and you need to graze, you better have irrigation. That's intent to set up a dairy farm on the west side of the Rockies without irrigation, the intent is not there to be a grazer.

Organic Valley fully supports NOSB recommendations, full supports them, and we would like some clarification on the wording on the stage of production. You know, what's there would really work if it just gave the certifiers some nails. Organic Valley has 568 farmers in 22 states and we feel, every region feels, that we can easily meet those guidelines of the 30 percent in 120 days.

And let me say that 30 percent in 120 days should be a guideline, a minimum
guideline, minimum. You know, once a person has the intent to graze, they will graze more than 120 days. If the intent is there, that's the fuel that fires most all of the organic dairy farms that I know that are successful.

The clarification must be common sense and as simple as possible to be implemented. Certifiers are people too and dairy farmers are people too and if it's too darn difficult, it becomes really a nightmare. We support the three cow maximum per acre and that would be a good way to keep abuses from happening. As we heard yesterday, as far as putting 100 cows on 10 acres, that would be that nail.

I'm not so sure we need the 30 percent and have to do the math every day as far as what our dry matter intake is, because again it's all about intent. I really don't care so much about whether it is 28 percent or 75 percent. We all know what a dairy farm looks like that grazes. If it has feathers,
if it walks like a duck, if it quacks like a duck, it probably is a duck.

And just to finish up, I was going through the airport on my way here, an airport screener said when she say my Organic Valley shirt we struck up a conversation, she said she had seen the article in the newspaper the day before about this issue. Without me prompting, without me saying what I do on my farm, she said she really hoped that the USDA would clarify and tighten the pasture rule. Thank you very much.

(Applause)

FACILITATOR ANDERSON: Jon, where is your farm? Where is your farm? Where is your farm?

PANELIST BANSEN: Oh, my farm is located in Monmouth, Oregon, which is about an hour south of Portland.

FACILITATOR ANDERSON: Great.

Thank you. Next up, Blake Alexandre, Humboldt Creamery.
PANELIST ALEXANDRE: Than you.

First of all, I want to thank everybody. I want to thank whoever asked me to be here. I consider it an honor and a privilege to be here today and to talk to you and be able to talk about what we do and to talk about Humboldt Creamery does. And we have prepared some slides. My wife prepared some slides, so I'm going to go through them with you.

Up there is basically the label that we use at Humboldt Creamery. Humboldt Creamery is in extreme northern California, right on the coast, and that's where I grew up and that's where we dairy. And that picture is generally what we put on all of our organic products, whether it's ice cream or bottled milk or the cartons, but that's the logo, that's the look and that's the image that is very common throughout all natural food stores in the United States. You all know what I'm talking about and you all know that's, I believe, why we're here.
We're going to move on to our dairy. Our dairy is, what we call Alexandre Family Ecodairy Farms, really owned by Stephanie and I, my wife and I and our kids. I've got a background in Ferndale, but we started up north, about 100 miles north in Crescent City or Del Norte County and so we actually dairy in two counties. That's a picture of our cows. We have a mixed herd of cows.

We're going to -- I'm going to give you some statistics, basically, on our herd. We have 4,500 acres of usable organic certified pasture and when I say usable, that's the net acres that we use. Of that, about 3,800 is irrigated and so we generally irrigate everything we have out there. We get a lot of rainfall, but it doesn't come in equal amounts throughout the year. We get it all in the winter and we're over 100 inches already.

We have 3,300 mature organic cows,
counting milking cows and dry cows, and we milk those at three locations or in three barns in the two counties and it tends to work. Of those cows, we take good care of them. We test every cow every year for Johne's. Years ago when we started, we had 4 percent Johne's infection rate and we're at less than a half a percent now.

I'm going to just keep working through this and we have 3,600 organic young stock right now and growing. The reason we have a lot of young stock is because we intend to milk more cows. I don't know how many more, but we're going to get a little larger. There is still a lot of opportunity out there. There is a heck of a milk market and there is a demand for it.

We milk two times a day, because we have learned that three times a day doesn't work with grazing. It's really difficult to get large groups of cows in and out of the pastures. They just don't have time to go to
and from the barn three times a day and to
graze and to socialize and eat and do all
those things they need to do.

We graze on pasture 300 days a
year, approximately. So we are fortunate, we
are blessed with good weather, extremely wet
seasons. This year has been particularly wet
in the winter, but we are in and out all the
time. In terms of our cows go out if it gets
real stormy, we lock them in and we supplement
feed them with grass silage that we have
harvested the year before.

We started last week grazing twice
a day, so we will graze twice a day now for
the next eight months. Of course, the day we
started it rained three inches, so we stopped
the next day. But generally, we depend on
grass. I looked back at what we used to do
and the three X milking, for instance. I went
to college to learn how to be a dairyman and I
went to Cal Poly where they teach us to be a
herdsmen on a large California dairy with an
endless supply of money.

And so I went home and tried to apply those principles and we milked three times a day and we used BST and we did all the high yield production agriculture that we were taught to do. And I have shifted gears from there. About eight years ago I was enlightened and I went a different direction, because that system was going nowhere and I've got a bunch of kids and I want my kids to grow up on a farm in our neighborhood that is a viable option. So when they go away to college and meet their spouse, that coming home to our neighborhood is truly a viable option.

And for me and Stephanie, that's what this is all about. It was really trying to mold our life and our dairy into something that would compete, I guess, with the rest of the dairy industry in the United States, because that's what we're up against. So organic marketing that niche is what we chose
and that's the path that we're on and that's exactly why we're on it.

When I look back at our numbers last year, the 65 -- the 0 to 65 percent, this is how I calculate what we do on our large scale basis and I think I'm within a percent or two and I just did the numbers real quickly. I looked at every -- all the hay we bought last year and all the purchased grain or total purchased feed last year and minerals and did a little math. And what I learned was that we averaged 32 percent for the year on 365 days now of our forage came from pasture and that ranged from 0 to 65 percent. So that's what those numbers are showing us up there.

Last year, we sold or only sold 46 pounds of milk per cow per day. We raised a lot of calves and the calves drink a lot of that milk, so we're short there. We had some low quality silage. Cull rates less that 25 percent. Cull rate is just the cows that have
to leave the herd that I don't want to leave
the herd and they move -- we need to move on.
We're going to run out of time.

The next slide. Humboldt
Creamery, we decided that we support the 120
days pasture minimum. We support the 30
percent dry matter intake and we would also
support some sort of cows per acre parameter
if that's what needs to be.

In simple terms, I would like to
say that we support the rules and the efforts
that have already been made. And, you know,
the guidelines that were set forth last year
in the March meeting in Washington, D.C. are
totally adequate if we could just get the
certifiers to, you know, use the nails and put
them in there. And it's unfortunately that
it's not happening.

Could we go forward? This is a
picture of the Ferndale Valley. I would like
to point that out. That's -- the dairy right
in the center is the dairy that we graze cows
on. My family has for over 80 years and that's our background. That was started by my great grandfather. I'm fourth generation. I own that place and run cows there and we're the first ones to do it organically. And we've been doing management intensive grazing there now for 15 years. And that's the key.

That's -- the key is we've got to manage our soils. To me, when we got into this organic and when I first learned about organics, it's all about the soils. It's mineralizing the soils. It's knowing your biology in the soils and it is working with the biology and it's doing things that support that biology and that life in the soil, because those are the little guys, the little armies out there working for us every day that are taking the nutrients to the plant to grow nutrient dense food, to grow -- to feed to our cows that make better cow health and that, you know, in turn makes better food for us, so that we have better human health.
Let's jump through these slides real quick. Pasture and human health. There's all kinds of statistics. I have attached to the handout that I gave you the supporting data for why milk is better for you in terms of the CLA content, beta-carotene, which I haven't heard mentioned yet yesterday, vitamins A, B12, vitamins E, trans-vaccenic acid, the omega-3s, lutein and cows on grass are actually cleaner and probably freer from E. Coli and there is supporting data in there.

We're going to move on. We need to be in balance with nature. We need to be in balance with our environment and what we have done at our dairy is a lot of work with the wildlife. We've got 20,000 geese that we have been feeding for months and they eat a lot of feed. We've got one more slide I need to get through here.

My favorite saying of this whole talk consumers -- let's move on. The consumers, what rights do they really have
here? Well, I came up with a thought when I was preparing this. The consumers have a right to get what they think they are getting. I think I would sum it up with that. And it's up to us here, it's up to you folks, it's up to you folks over on the left from the NOP to enforce and to give the consumers, you know, the product that they want and the product that they think they are getting.

We have already done the marketing and we just need to support that and follow through with our rules and the enforcement of our rules and those nails that we use to hold their feet to the floor. And final here, I've got that slide there. It's kind of a little famous picture my son took a year ago last February. And that's an example of we can't get them to do everything right. Well, that's not a perfect pasture. It's full of weeds and I couldn't get them to eat those weeds no matter how hungry we got them.

But anyhow, that's just kind of a
neat picture we end with. So thank you very much.

(Applause)

FACILITATOR ANDERSON: Thank you, Blake. Juan Velez.

MS. FRANCES: I just want to remind folks about the cards for asking questions. I passed out white cards today. I meant to mention this earlier. For dairy, for milk and just encourage you to submit your questions and answers and, you know, put your hand up and I'll come running. I enjoy doing it, so, please, ask your questions.

FACILITATOR ANDERSON: Juan is from Aurora Organic Dairy.

PANELIST VELEZ: Thank you. Good morning, I'm Juan Velez, not to be confused with my relative Juan Velez from Columbia, and I want to talk a little bit about the role of organic pasture in animal welfare. What creates animal welfare? We strongly believe that animal welfare is created by the holistic
management of the entire dairy herd, especially across five key areas. Those key areas are the diet and the nutrition, overall cow comfort, the prevention of diseases, and the management skills in animal husbandry of the people interacting with the cows and that beneficial interaction of humans and animals, that over the entire year, 24/7, 365 days.

So a balanced nutrition is key not only during a period of time, but during the entire lactation and dry period of that cow. And a balanced nutrition, a very key factor on the balanced nutrition is the forage content of that diet and that forage can come from several sources, pasture being one of them, alfalfa hay, grass hay, silages, haylages, depending on the area of the country we can have a lot of variation.

But during those periods of time where the forage is not optimum, is not perfect, where the grass is not the most adequate, where we have to balance the total
ration for that animal, according to the different stages of lactation, we have to balance it then for energy, protein, vitamins and minerals and again make sure that there is enough total fiber in the rations of the animal as a ruminant can function correctly.

It's also very important that we take into consideration the total dry matter intake of that animal. The diet could be well balanced, it could have a lot of grass or a lot of forage, but if the animal doesn't like it, if it's not palatable, if you change the moisture content too much, you will not provide it at the right time after milking, etcetera, she may not get enough of the dry matter.

So we look at this slide for a little while. This is just a recent review of the literature by Jesse Goff, Dr. Jesse Goff from the USDA Animal Disease Center in Ames, Iowa. Very, very nice slide of the review of how complicated animal nutrition, especially
dairy nutrition has become. Now, we have asked that cow to do a lot of things that we didn't ask before. The minute that we domesticated that cow and took that calf away from her and started milking her, we changed the whole aspect of how she uses nutrients.

So if we look at the increase in the dry matter intake, especially around calving, it could create a whole cascade of events that jeopardize the well-being of that animal. You know, positive energy balance is going to decrease. A negative energy balance is going to decrease the immune system, is going to lead to mastitis, mastitis is going to decrease dry matter intake even farther.

If we have a lame cow, it's going to eat less, so the interrelationship between all these factors and these balanced nutrients is huge if we want to really think about the well-being of the animal during 365 days a year, not during a short period of time.

So I want to talk about, you know,
how can we measure animal welfare? How measurable is animal welfare? How can we quantify that, especially for area that have been very well documented and have been proposed to be key factors in animal welfare, especially by, you know, Dr. Temple Grandin, body condition score being one of them, locomotion score from a scale of 1 to 5, 1 being normal and 5 being a cow that cannot even walk at all.

The cow comfort looking at the facilities especially we talked about yesterday the way that the cow budget their time during the day as providing the environment for that cow to lay down and chew her cud, ruminate so that she feels comfortable so that we can accommodate also according to the climate. You know, we're in the middle of August in Texas or in the middle of February in Canada, we got to help that cow be comfortable, so that she can perform those functions that we were talking about.
yesterday.

And, of course, somatic cell count. So measures of animal welfare are quantifiable and they can lead to very clear enforceable organic production standards. Aurora Organic Dairy relies on third-party independent audits of animal welfare measurements for our farms and these are done by USDA process verified auditors and ISO approved auditors as well.

Aurora Organic Dairy supports similar metrics and audits for the NOP animal welfare standards across the entire year. How is this done? Create a list of parameters that we believe are very important on -- to measure animal welfare across the board. And the producer could receive numerical scores in every of these key areas and uses those results to monitor ongoing audits and improve the operation and the animal well-being.

The NOP should conduct similar fact-based audits of animal welfare to ensure
certifiability, verification of ongoing compliance and the enforceability of those rules. Obviously, we have heard yesterday, we have heard today, I agree 100 percent that pasture is one of the many important elements contributing to animal welfare and it should be taken into account that a federal production standard must accommodate that viability between farms, geography, climate and also the variability in the pasture and the pasture composition and the quality. A lot of talk about that yesterday. The variation is humongous across -- even across different pastures on the same farm.

So the organic -- the role of the Organic System Plan is unique to each organic operation. We know that there is a need for critical -- the need for those critical decisions about pasture and animal welfare need to be made at the farm level by the farm man and the certifier with the Organic System Plan specifically for that farm.
So pasture, obviously, helps create good animal welfare as one part of the entire Holistic Management Plan. Pasture must be managed for a long-term sustainability in each geography and climate. In summary, I want to say that Aurora Organic Dairy supports an NOP pasture rule in which animal welfare is the highest priority. Measurable indicators are needed to improve verification, enforceability and ensure continual improvement on animal welfare during 365 days a year.

What consumers expect is to know that organic operations raise our animal with high standards of animal care and welfare with pasture being one of the several contributors. In my opinion, that's what really will separate us from -- one other issue that will completely separate us from conventional is making sure that we got certification that are animals are well being taken care of during 365 days a year.
And muchos gracias. I'm very, very, very proud to have been invited to this symposium. I think it is the beginning of a very scientific future for organic agriculture. Thank you.

(Applause)

FACILITATOR ANDERSON: Juan, you're in Colorado, correct? Kathie Arnold from H. P. Hood and New York State.

PANELIST ARNOLD: Hello. First, I would just like to say thank you to Barbara and Mark and all of the NOP staff for issuing the ANPR and for all the work that that entails and for putting on this wonderful symposium, because I know it's a tremendous amount of work and it's just very gratifying to know that with the ANPR out there, that that is a concrete step to move us to rule change relative to pastures. So thank you very much.

And before I start to actually talk about our own operation in central New
York about just a little over four hours northeast of here, I want to address some of the questions that were floating around yesterday that didn't really seem to be fully answered and I'll just attempt to answer them in the way I can.

One is the question about this call for scientific evidence regarding pasture. We must remember that the National Organic Program is not under the wing of the National Academy of Sciences. It's under the auspices of the Agricultural Marketing Services. It's not a science-based program, although many of the standards do indeed have scientific validity, but it's a marketing program. And to be a savvy marketing program, we need to be listening to the wants and desires of our consumers.

Yesterday, George Kuepper's chart that he had listing what organic consumers want showed that rated above environmental concerns was helpfulness at an 80 percent
rating. With pasture-based organic milk products consumers will be getting a more helpful nutritious product.

And in terms of H. P. Hood and the Stonyfield milk, there is an 800 number on the side of the carton and just so far in 2006, 50 of the calls that they have received have had questions or something, comments relative to pasture or grass fed.

And then I also do want to highlight the two nationally representative and independent surveys that just were reported on last week. A survey of 1,011 U.S. adults commissioned by the Center for Food Safety found that 6 out of 10 women who buy organic milk and 5 out of 10 of all organic milk purchasers would no longer do so if they knew that many organic cows were confined to fenced in feed lots and did not graze on pasture for most of their lives.

Second, more than two-thirds of all consumers and 75 percent of women in the
Consumers' Union survey, of 1,485 U.S. online adults, said that the national organic standards should require that animals graze outdoors. And lastly, when asked specifically in the Consumers' Union survey if they would still pay a premium price for organic milk that came from cows that were confined indoors and did not graze, 60 percent said they would not.

There was a reference yesterday to milk urea nitrogen levels being too high in pastured cows and we have tested for that before and our nutritionist found that that was not a case in our herd, even though we use large amounts of pasture in our herds' diet. And it has to be remembered that with the minimum 30 percent requirement, that still allows up to 70 percent feeding of forages and grains other than pasture. If someone can't balance a ration with that kind of allowance for other supplemental feeds, then apparently they don't have the experience and knowledge.
of how to do it, because it is being done time
and time again all across the U.S. with
healthy cows and over one year after another.

A question kept popping up
yesterday about what about the other 245 days?

The suggested requirement for 120 days, like
Jon said, it's a minimum. The NOSB's
recommended guidance on pasture stated that
the 30 percent dry matter intake be for the
growing season, but not less than 120 days.
Our cows on our farm are on pasture for a
minimum of 180 days and often up to 200 or 210
days a year.

The question of geographic
variation came up and whether these minimums
are achievable around the country. I would
like to read this statement from David and
Kayla Roberts from Preston, Idaho. "We are
strongly in favor of maximizing the time and
nutrition that organic cows get on pasture.
Grazing is integral to organic and not just an
optional management practice to be implemented
when there are favorable conditions.

My family and I milk about 170 dairy cows, 200 including dry cows, in southeastern Idaho. Since 1992, our milking cows, dry cows and replacement heifers have been rotationally grazed on, approximately, 300 acres of pasture. In a typical year, we are able to graze our milking herd from mid-April through the first part of November. Other than a two week transition at the beginning and ending of our pasture season when we feed some dry hay, our cows receive 100 percent of their forage from pastures during the growing season.

Before we started pasturing our cows in 1992, they were confined in a free stall facility year round. Our cows are healthier and live much longer than our cows did in confinement. We believe there is enough of an advantage for our cows that we take extra measures to let them access pasture for as much of their lives as we can.
For example, during the growing season, we milk cows in two separate milk barns so we can have enough pasture for every cow for the entire season. This is inefficient from the labor and facility standpoint, but the benefit to the cows makes it worth it for us. Also, our cows per acre ratio is intentionally designed so that all of our cows are able to meet their forage needs during the slowest grass growing times of the year.

We harvest excess grass during the other times. This allows us to have the cows on grass for more days each year. We definitely believe our area of the country is a great place to pasture cows, even though large confinement operations are multiplying rapidly. We also believe that the confusion and lack of clarity about access to pasture had a big opportunity cost for our family dairy. Only recently were we able to secure a market for organic milk for our dairy after
seeking a market for several years.

Lacking the capital to create our own market, we were patient, but often frustrated hearing about growing demand for organic milk being filled in part by some cows without real access to pasture. We believe that specific requirements for pasturing organic dairy cows may prevent the situation from happening to others.” And again, David and Kayla Roberts, Preston, Idaho.

As to the question of whether there does need to be more specificity concerning pasture in the rule, absolutely. The fact that there are now herds of organic cows who do not graze routinely during the growing season shows that the current rule wording is inadequate. But 120 days is not enough. Stocking rate is very variable and difficult to use. It’s variable from season to season, from spring to fall, from farm to farm and even within a farm.

I know on our own farm we have
some land we can get twice as much yield as our poorest land. The only means that seems to me that would work across the board to provide a base level is minimum dry matter intake. As to our own farm, we had two years of confinement in the early '90s and, at that point, we were at a 22,000 pound herd average. We went to management intensive grazing and the four year average we had changed to that production system, we were still at 22,000. So there's no means that grazing is going to reduce your production.

So I had more about my own specific farm, but I thank you very much for your time.

(Applause)

FACILITATOR ANDERSON: Thank you, Kathie.

PANELIST ARNOLD: You're welcome.

FACILITATOR ANDERSON: Now, I'll call on Roman Stoltzfoos, Natural by Nature, Pennsylvania Farming.
PANELIST STOLTZFOOS: Good morning. I thank you for inviting me and I would like to speak on behalf of Natural by Nature, which gets their milk supply from Lancaster Organic Farmers Co-op, of which I'm a member. For myself, we milk 140 cows, my wife and I, and there's 10 children still at home, so we have a pretty good labor supply. We keep and feed 80 heifers and do 8,000 organic turkeys and some laying hens. Everything on the farm is organic.

There is 400 plus acres in the operation. It's definitely a family farm. When we started doing organic milk in 1995, the price was $17 we were getting paid and the regular milk price was $13 to $14.50, in that neighborhood. So you can see the advantage that we enjoy today over the regular milk price is, I believe, because of the perception that the consumer has about organic milk being grass fed.

And we have a motto on our farm
that goes something like this. You give the consumer what they want and they will give you what you want and that's a fair price for the product. And in our co-op discussion my recent price for organic milk was over $31, that's all inclusive, and even at that, you know, costs have gone up dramatically in the last few years, so we are just slightly better than we were back in 1995 with milk at $17 or $18.

But we believe that the organic milk got that way because it was very much in opposition to the conventional supply which had cows on confinement. They were fed all diets and stored feed and other things that a lot of consumers did not trust and I'm concerned that we keep the image that grazing has earned and organic has earned through requiring grazing and I really believe that the 30 percent dry matter and the 120 days is maybe not perfect, but it is somewhere we can start and it's easily doable.
Our cows are on pasture over 340
days a year. I mean, there is only a few days
that they are in and then about two months we
keep them in at night. Most times the gate is
open, they can come in, and you would be
surprised at what kind of weather it takes to
keep them in. I mean, if the gate is open,
they will generally go out sometime during the
day, almost no matter what the weather is.

So and what was said about cull
rates and the science needed, I feel like how
many farmers are good science? I mean, there
is 500 plus farmers in America that have seen
the benefits of organic milk. My veterinarian
is sitting here on the NOSB, Hugh Karreman,
and he could testify that making a living on
cows fed grass is tough, because they are not
sick enough to keep a veterinarian busy.

(Appplause)

PANELIST STOLTZFOOS: So all the
hoopla about animal welfare is that much if
you graze your cows. It depends on what you
need. If you've got them out in pasture, what
better welfare could you offer your cows? If
that's where they want to be and that's what
they do naturally, I can't imagine how you
could improve on that, but I do know that
Whole Foods and some of the larger retailers
are now requiring something that organic
hasn't asked for.

I mean, they want to know exactly
what is being done and how it is being done.
And I'm selling some turkeys to them to this
coming year and you would be interested to
hear some of the questions they ask about
that. And I think it's coming for dairy, too,
so we can stay ahead of them if we keep doing
what we were doing and apply it consistently.

And that's my message. I thank the NOP for
considering this.

(Applause)

FACILITATOR ANDERSON: Thank you,
Roman. Albert Straus, Straus Family Creamery.

PANELIST STRAUS: Thank you. I
just want to talk first, I'm from Marshall, California, which is on the west coast on Highway 1 above San Francisco. I just want to give you a little bit of history. We have -- my father started the farm in 1941. We were the first -- I transitioned the dairy to organic in 1993 and we were the first certified organic dairy and creamery in the western United States.

I feel dwarfed by all the -- my competition. I'm the smallest company represented here. We have three dairies that supply us our own, plus two others, and so compared to the 500 plus dairies and what most of these other people do, and we are 100 percent organic.

We do have tours of our dairy throughout the spring and summer and fall and we have done that probably for 20 or 25 years and we have been very environmentally active to preserve farming in our county. My mother started the first Agricultural Land Trust in
the nation and we preserved about 40,000 acres in perpetuity, they will say in agriculture. Now, we're working on keeping it in productive agriculture and we're having a lot of interest in going organic, and so I think it's a hopeful time.

So anyway, I want to go into my prepared text. I wanted to thank all the NOSB and the NOP for their hard work on this issue and I appreciate my ability to voice my comments on the issue. I'm an organic dairy farmer on the north coast of California. Our farm became certified -- some repetitive. We became certified organic in 1993 and we began processing organic dairy products from the farm in 1994. We have, approximately, 300 cows on 660 acres.

We agree that pasture is an important aspect of dairy nutrition and that dairy animals should have regular access to nutritional pasture and the outdoors, including pasture land that is not productive.
We feel that pasture is not only a nutritional source, but also important for sunlight and exercise in reducing stress in dairy cows.

Even though our farms are green until summer, early summer, our cows have access to them year round, except after heavy rains and when it would cause erosion of the soil. We support the use of the National Resources Conservation Service conservation practice standards for prescribing grazing for proper conservation methods.

Our main concern is in the regards of the text in the NOSB guidance for interpretation of 205.239(a), Organic System Plan. The Organic System Plan shall have the goal of providing grazing feed greater than 30 percent dry matter intake on a daily basis during the growing season, but not less than 120 days. We are concerned that these suggested guidelines for dry matter have not come from on-farmed research, from the very
regions across the country.

For example, on our farm, our area gets, approximately, three to four months of productive pasture each year. The pasture builds, peaks and then drops off by June. We do not irrigate and could not if we wanted to, as our water supply could not sustain it.

NOSB suggested dry matter requirements bring up issues that which must be considered:

1) The amount of suggested dry matter figures are hard to obtain and verify. Different grasses have varied amounts of moisture. Different fields will contain different grasses and different moisture levels, often changing daily with the weather. The amount of rain in each region also affects the amount of grass available. Dry matter contained in each variation is difficult to verify. Suggested calculations on stored feed use per year may not accurate convey dry matter values in pasture.

2) The suggested amounts are not
based on actual nutritional realities or needs of the animal. We need to base these guidelines from on-farm research and real numbers, rather than arbitrate figures based on a single region. We suggest we work on research together with farmers and bovine nutritionists.

3) Be careful that requirements are not counterproductive. The only way to meet pasture requirements in some regions is to irrigate. We would then be supporting an unsustainable system that overuses a limited water resource. We should be careful not to defeat the purpose of having a sustainable agricultural system.

To be able to verify that pasture is a significant part of an organic cows diet, I am suggesting the following: I would have a license or practicing nutritionist balance a rationale for each dairy by groups of cows. We can verify the quantities of feed by requiring an inventory of those feeds grown on
the farm and by those purchased off-farm. In this way, a certifier can verify the amount of pasture that the cows are eating. A certifier will need to determine what a significant amount of pasture is by region.

It is my opinion that a system of feed and pasture accounting will create a workable system. We appreciate the move to clarify the guidelines of pasture and believe this is a positive step. We should just be careful to work logically and not emotionally to create regulations that make sense. Thank you.

(Applause)


PANELIST ZIMBA: Thank you. My name is Ed Zimba and I am an organic dairy and cash crop farmer. And my pasture acres of -- even on being a cash crop farmer as my most profitable acres that we farm on our farm and I also would like to express my appreciation
to the NOSB Board for the time and volunteer
time that you guys put on an effort to
sacrifice to obtain high integrity levels of
this organic industry.

I also would like to thank the NOP
and the USDA for giving us the opportunity
here to come. I would like to thank Horizon
Organic for putting me on this board. I
appreciate that very much.

I've been farming for 25 years. I
got 25 years experience in applied research,
which is better than any Government, college
or scientific research that I come -- I come
from the school of common sense and hard
knocks. Obviously, I'm nervous here. I would
like to say thank you, too, for all the panels
yesterday. I thought they were very good and
they support what we farmers have always been
saying and all the colleges are coming to us
and asking us for information on how to farm
organic and do this thing right.

I heard averages 21,800 pounds.
We done it the other way. Another way don't work. We done it both ways and I think the thing that's missing in this doctrine has never been asked is we got almost twice the age life out of our cows, since we went to grazing and doing everything right. And that's what the consumers are asking for.

I want to -- like I said, I appreciate the document and I kind of want to bring the Board up to-- the new NOSB Board Members up to date here and I also feel the document gives the impression that what would happen if we required pasture? And then some of the questions -- some of the answers, you know, even out of the Board yesterday said well, what do we do here if we allow these farmers to graze?

The definition of pasture in the Western Dictionary it says "Grass, it's pasture grass or other growing plants used as food by grazing animals. Ground suitable for grazing set aside for this. Pasture, put
cattle to graze on pasture; to graze on grass; to provide with pasture; to feed on growing grass."

There has been -- we have been -- that's what we've done our whole life. This is what the organic thing has been all about and now we're sitting here like we're starting all over from ground zero. We're not starting over from ground zero. We've been doing this and this is how this whole thing started and that's what the organic consumers want. In one of your regulations Section 205.237, "The producers of organic livestock operation must provide livestock with a total feed ratio composed of agricultural products, including pasture."

Section 205.238, "The producer must establish and maintain the livestock health care practice, including establishment of appropriate housing pasture conditions."

Section 205.239, "The producer of organic livestock operation must establish and
maintain livestock living condition which accommodate the health and natural behavior of animal, including access to the outdoors and access to pasture."

Section 205.2, "Land use for livestock grazing that has managed to provide feed value maintain improved soil." It says "livestock grazing." This is what it's all about, guys, women, everything.

Okay. Now, to the document.

(Applause)

PANELIST ZIMBA: To the document, are these markets based on other types of research to sustain an exception of consumers that organic milk comes from dairy cows raised on pasture. Look at all the milk cartons out there. The consumers that's what they want and that's what we got to keep giving to them.

And it's sad that we have -- we got a good -- we got a lot of good apples in this whole organic industry, but then we get one or two or whatever it is, we got some bad apples.
And it's very disheartening to all of us, all of my colleagues here, organic dairy farmers, family farms and out there and you got -- and there's these companies out there that are not grazing, and they take us, they take what we stand for and they put their -- our picture on their farms and sell their milk.

If they want to do that, then they should say well, let's let them put their own picture of their farm on their cartons and let's say almost organic. Because the rules have always been there for pasture and the NOSB has always for the last I don't know how many years has been telling the NOP get the job done. It ain't getting done. I appreciate what you guys are doing. Don't get me wrong. And I appreciate you new on the Board and I feel you are going to get it done.

And we need you guys to get it done, because we are here --

(Applause)
PANELIST ZIMBA: -- and every year we come here, but it ain't getting enforced. And if it would have been enforced from the beginning and done right, we wouldn't be here. So now, we're here. Now, we are here and we're trying to -- it's like my colleague and friend, Jim Gardiner, and the rest of my colleagues out here, we are here and now we've got to put speed limit signs up for going down the road, because there's some bad apples in this whole bunch, and we got to tell them, okay, here is the speed limit sign. We can only go so fast.

Okay. So now, we're sitting here trying to say okay, well, the cows can only get this much grass, so many cows per acre, yada de yada da. And then there was questions from the Board yesterday, well, what are you going to do about the consumers if you only tell them you're giving 30 percent dry matter intake? If the law was done right and everybody abide by it and the integrity level,
we wouldn't be here. So we can go through all of this again and we can do all of this again, but if we don't get no action out of it, we're all in the same boat again.

Back to the document. Is this achieve -- is the 30 percent an achievable goal, they are asking. I'm going to read from Dr. Marguerita B. Cattell, D.V.M., and a Dr. Adren J. Nelson, D.V.M., from Windsor, Colorado. We run a 500 organic dairy in an area high plain just east of the Rocky Mountains halfway between the Denver, Colorado and Wyoming border. Our cows graze irrigated pastures, 750 acre adjustment to our farm at a second dairy facility, which release plants and fenced to meet organic certification requirements. We have always believed that the NOP has an enforceable pasture rule and we believe in the following rules in all that we do.

All of the acres are flood irrigation and all are in pasture. Without
irrigation, pasture would be productive for short times each spring. Our cows graze between April 15th and October 15th each year. Mid-1995, NOSB suggested pasture consumption of 30 percent dry matter intake for four months has been our minimum goal. This is very -- in our location we believe anywhere in the country that grows dairy cattle and feed.

During in the low rain fall area that we do -- and low fire that we do, there's no excuse for not having pasture. If you can grow -- if you can grow crops such as vegetables, sugar, beets, beans, sweet corn, grain, alfalfa, you can grow pastures. Colorado farmers grow all these and more in excellent soil, excellent altitude and excellent -- in the front range area of Colorado. All that is needed is good management. Water can grow anything one desires to put in pasture.

As dairy health and nutrition -- there are also dairy health and nutrition
consultants. We have worked around the
country to provide the service to dairy
producers of all sizes currently from 50 cows
to 3,000. It is our intention that any state
in the union with the facility selected design
and managed to meet the organic requirement
can graze to minimum standard. The facility
must be designed to meet the rule not vice-
versa.

What also is missing in this
document is also the pasture -- cows life is
considered. We get-- if you are grazing, your
cows live almost twice as long than anything
else. And to finish up, pasture truly is the
cornerstone of organic dairy farming. And my
Heavenly Father is the cornerstone of my life
and I thank you guys very much.

(Applause)

FACILITATOR ANDERSON: That gets
the speed presentation award. Thank you, Ed.

What we didn't say is Ed's farm is in
Michigan as well. So I want to point out that
on this panel, we have Michigan, Oregon, New
York, Colorado, Pennsylvania, California and
Idaho represented, so we have a cross section
of the country here today.

(Applause)

FACILITATOR ANDERSON: And I would
like to open this up to questions of the NOSB.

Joe?

MEMBER SMILLIE: I'm a newcomer on
the NOSB and I'm not on the Livestock
Committee, so I'm not totally up to speed on
all the issues, but I have heard very clearly
and in my own mind there is very little debate
about the need for -- what? Oh, I'm sorry.

Joe Smillie, NOSB.

I've heard very clearly the need
for specificity in pasture regulations and as
a certifier, specificity is very necessary for
us. The nails argument is a tough one. You
have to make sure you've got a good swing and
a good hammer and make sure you put the nail
in the right place, because if you put it in
the wrong place, it can hurt people.

And I hate to single you out, Albert, but I really have to ask the question. If we adopted what's currently the proposal in front of us, the ANPR of the 30 percent and the 120 days, would you still be able to stay in business with the farm that you are currently operating or what changes would you -- could you be able to make to be in compliance if that became the regulation?

PANELIST STRAUS: You want to put up that spreadsheet?

MEMBER SMILLIE: Yes.

PANELIST STRAUS: Well, I want to address one thing. I have by now, thousands of people, consumers that we have tours and we tell them exactly what we do. They are there when it's dry, when it's wet. Our sales have gone 15-fold since I started. And so I debate that consumers know that 30 percent or they want to have that you are doing a humane treatment of animals. I have more questions
on what happens to bull calves, what happens to the cows when they are not milking any more and how we treat the animals, then how much they are getting off their pasture.

I don't want to belittle pasture as an integral part of organic operation. I think 30 percent -- when I was asked this before, I kind of put thoughts to it and tried to figure out how much dry matter our cows take in. We have two production herds, a high string, a low string. The high string takes in 51 pounds of dry matter a day. I have -- I can document that daily. Actually, I can go on the computer right now and see what the cows are eating on a balanced diet.

What I've done is to see how many days I can do. It would be pushing it, it would be really pushing it and, especially like this year, we have had an extra almost, well, at least 45 or 50 days. We had the wettest March on record. Two years ago we had a very hot spell that dried everything up.
early. I doubt if we're going to even get the four months of pasture this year, productive pasture.

They will be out until November until it rains, but to get this, 30 percent is not going to be feasible in our area. We do not have water to irrigate like all these other people do or summer rains. We do not have that. We're on the coast in California. It's a different climate. And, I mean, even compared to Blake. Does that answer you?

MEMBER SMILLIE: Yes.

FACILITATOR ANDERSON: Gerald?

MEMBER DAVIS: Gerald Davis, NOSB.

Mr. Straus, I'm from California and I follow the weather exhaustively in the line of work that I work in, in farming. In your location, it seems to me that you would typically have a four month period, minimum, of rain fall in pasture, green pasture that would be green. Is that not true?

PANELIST STRAUS: Rains are from
November until usually end of February, middle to end of February where it is dry enough to get on pasture. Right now, we can't put them out at all. We just -- maybe if it stays dry for a few more days, we'll be able to put them out in pasture without destroying the pasture.

MEMBER DAVIS: So you're saying but sometimes you can't put them out on pasture, because it's too wet when the rains do come? Is that correct?

PANELIST STRAUS: Normal years, it dries up in March. We might have a few showers through March and April, but these haven't been typical years. It has been either wet, too wet or too dry. But normal, in our area, we have pasture usually from sometime in February, sometimes beginning March until into June, that's it.

MEMBER DAVIS: So what you are saying is that some years a 120 day period with that amount of dry matter intake would be feasible in the drought years? Where the
rains are a shorter period or too much rain like this year, you might have some difficulty from --

PANELIST STRAUD: I'm saying we have about 120 days optimum of pasture. It's not -- and if we optimize it totally and it was a very optimum year, we might be able to make the 30 percent. It's not a minimum, you know. And, you know, my concern is where this figure comes from. It's not -- I'm doing it -- I'm not driven by market conditions. I'm driven by best management practices on our farm.

What I have heard everybody saying is this is coming from consumers. Consumers have never stated this to me and, you know, I have big problems with -- it's more driven that it seems to be regional preference and not trying to support the industry.

MEMBER DAVIS: Thank you.

MEMBER MOYER: Jeff Moyer, NOSB.

My question is for Juan. Juan, you seemed to
be, like Albert just was, shifting the
discussion a little bit away from pasture and
more towards animal welfare, specifically
aside from pasture. And I was just wondering
on your particular farm how much pasture do
your animals get and then if you could follow-
up with some other answers on what's the
average age of your cows, how many lactations
do you get out of them and what's your cull
rate on your particular herd?

PANELIST VELEZ: Thank you for the
question. The shifting towards animal
welfare, in my opinion, is very critical
because I think we tie it in with consumer
perception of how well we take care of our
animals as a holistic system not only during
the time of their grazing. Also, because
there was a lot of comparisons yesterday about
how much better the animals in grass are.
Nobody argues that animal grazing has better
chance of having better well-being during the
time that they are grazing.
And comparisons were being done between inside, indoors, poor ventilation confinements versus operations with loose housing, where the animal has got access to exercise, sunlight, grooming and social interaction. So the comparisons are very, very specific to two completely extreme systems of management. I bring up the animal welfare issue, because I think that needs to be considered on 365 days a year.

I think that it was brought up yesterday that very well-managed grazing operations, obviously, like the ones that we have represented here have outstanding animal welfare. There's no question about it. But there is many, many others out there that we know of, that everybody knows of that graze 120 days, maybe 50 percent dry matter intake, but also take terrible care of their animal during the wintertime, because they don't have the facilities they should, etcetera, etcetera.
So my point is as a holistic system animal welfare becomes a better point for the organic industry, a better message to deliver to the consumer as a holistic system. I think that what Albert has brought out of his -- the people that he brings on his farm to tour, the question that they ask is the same questions that we have asked. And it may be a very regional thing where the people are -- the tourists are more concerned about other aspects. How do you breed your cows? What do you do with the newborn babies? Where is the bull calves going, et cetera, et cetera.

The specific questions about the farms, how many acres? Depending on the stage of lactation and depending on the farm, we're talking a lot of difference between our Texas location, our Colorado location as far as number of animals that graze per year. During the entire lactation cycle, all of our animals do grazing. I believe that is the documentation on the benefits of grazing
during the dry period and prior to part/region are very, very well-documented.

Not only on the grazing aspect, but on the exercise, because of the beautiful work done in Michigan done by Dr. Dave Biddy where he shows that the cow that exercise more during the dry period have much better metabolic problems at calving. And we believe very strongly on that. During the entire cycle all our cows have access to pasture.

MEMBER MOYER: Are you saying then that while your cows are being milked, they are not on pasture, but when they are dry, they are on pasture?

PANELIST VELEZ: Oh, absolutely all of them when they are dry are on pasture. And many, many of our milking herds are on pasture. Not all of them, many of them are.

MEMBER MOYER: And can you also tell us about your cull rate and your lactation periods? How many lactations do you get out of a cow? What's your average age of
your cow? And what are your cull rates?

PANELIST VELEZ: There is many aspects to take into consideration on the cull rate and one of them is how young the whole herd is. When do you start your herd? What are you bringing in as your start up animal? Do you raise all your replacements or you bought some replacements? That whole thing could shift your cull rate, but I can give you specific numbers right now. Our Texas location has a 27 percent cull rate. Our Colorado location has 26 percent cull rate on a yearly basis.

FACILITATOR ANDERSON: Mark and then Kevin.

MR. BRADLEY: Is that better? Can you hear that? Oh, Mark Bradley, National Organic Program. Some very good discussion coming out here and each of you is bringing up some aspects that are very important to this discussion. I want to thank this panel in particular, because as dairymen, I know that
it's one of the most demanding occupations in 
agriculture and you're taking some time away 
from your farms and your families right now. 
I know this crowd particularly appreciates 
what you are doing here. 

I would also like to thank the 
folks that are staying back home that are 
taking care of the farm, because somebody is 
having to milk the girls today, so we 
appreciate you. 

(Applause) 

MR. BRADLEY: Roman brought up 
some excellent points about full access saying 
that the cows, you know, have needs, too, you 
know, from natural behaviors, you know, and 
I'm sorry that he is going to be going out of 
business, because the cows are going to be so 
healthy. But Carl Polan yesterday said that - 
- he kind of said it best that confinement is 
confinement is not confinement. It's not all 
the same. There is different levels of 
confinement and that's what the access to
pasture is just part of a very complicated scenario that is linked to many parts of the rule that adds, so you'll very aptly point this out.

The one in particular that comes to my mind and it goes straight to the 245 days, you know, the other part of the standard that's not being addressed with this discussion is that cows are to be provided access to outdoors, including access to pasture. And I would like -- I guess I would direct this to Ed. How can the program, the NOP, assure that once someone has met the 120 day, you know, proposed guideline that's being discussed here, how can we be sure that the cows are -- it's not going to be so closely linked to the 120 days that they will still have access to the outdoors, there will still be freedom of movement?

We need to make sure that that part of the reg is not linked. And how would NOP build this into a regulation, so that that
part of the standard is preserved without making the limiting effects of 120 days? In other words, when they are not on pasture, what can we do to make sure that there is freedom of movement, freedom for natural behaviors and those types of things? Can you address that?

PANELIST ZIMBA: Yes. Is this on?

Good. I think it goes back to like what we was saying, if it looks like a duck, it walks like a duck, it's a duck. And the certifying inspector has either got to be educated a little bit more about the data, because I could walk in on any one of these farms out here and tell you what they are doing and that's just a matter of education and how you guys are going to go about that, I don't know.

I don't want to backtrack here, but it seems like we're just -- keep hammering this away and what it is going to take it's just the matter of these certifiers got to have the authority go on these farms and look
things over thoroughly and do what has to be done. And they got to have the power to do that. And you guys got to give them the power.

MR. BRADLEY: What I'm asking is when there is confinement like Dr. Polan was alluding to, should there be prohibitions or something built in the regulations that prohibit confinement to tie stalls or tethering outdoors or something that accounts, you know, or protects the natural behaviors and access to the outdoors when they are not on pasture. I mean, should there be access to loping lots when the pasture is not suitable and it's too wet for cows to go out on it or there is not enough usable forage for them to be out there and it would be damaging to the pasture to run cows on it? Should there be access to loping lots? Should there -- require free stall barns in lieu of tie stalls?

PANELIST ZIMBA: Okay. I think we
have hashed, you know, this out as far as phone conference calls from the east to the west. We lowered our standards down as low as we can do them at 120 days and we feel across the whole nation, the whole United States nation there, everybody should be able to comply to that 120 days and meet that 30 percent dry matter intake, which is only 10 percent of the cows diet for the year.

I just don't see how somebody cannot make that happen. I know we had enough phone conference calls during this thing until we're silly about talking about it. And that's -- these are the rules that we have to come up with in order to make this happen. We're not going to -- I can't wave from that, because we've talked to too many farmers that can do it. And if you've got somebody that can do it, then across the road they can't do it, something just ain't right. And I guess all I can say is 120 days and everybody should be able to comply to it.
PANELIST ALEXANDRE: I would like to step in on this, if I could, please. This is Blake Alexandre. We need to remember here -- I like what everybody said by the way, but Kathie's point earlier about this isn't a science and we've got to quit trying to micromanage this particular rule and this concept. The duck that walked in and asked for duck food, last year I was in Washington, D.C. and the large -- I've got a friend from California, from the Conventional Confinement Herd, who walked in and said gee, USDA. Are you still allowing confinement herds to sell organic milk?

And the answer was not really. So he went home and he didn't build his organic area that he wanted to build. And I consult with these kind of guys all the time, because they know we're one of the larger herds. We are perceived as doing it right and they want to know. And there is a lot of people in this room and a lot of people out there watching
and waiting for this answer.

And what we're trying to do, Mark, is come up with a bare minimum. Let's not worry about what happens beyond this. What we're trying to do is stop zero percent of pasture. We're trying to get off of zero. And I don't really particularly care if the number is 5 percent, 10 percent, 15, all the way up to 30. I really don't care. What we're trying to do is get off of zero.

And Albert has got really good points. I knew that he was a little fuzzy on this issue. Honestly, and I --

FACILITATOR ANDERSON: Fuzzy might not be the word.

PANELIST ALEXANDRE: But Albert has got a situation where his consumers can define that he is not at zero. And his consumers are content and his tours, the people that come out to his ranch are happy. And so that situation works. There is no issues there. You don't need to get involved
in regulating what Albert is doing. That's not what the mission is here. The mission is to get off of zero.

PANELIST STRAUS: Well, since I've been addressed, this is Albert. Well, I do feel threatened by the 30 percent and I -- you know, my reaction is what about all the other practices? And you bring up issues about how we -- you mainly treat the animals the other part of the year. And I think that sort of everybody can have documentation as to which cows are treated which way for the remaining part and have some kind of form that people put together, so that the certifiers can actually see what they are doing, because they're only there one day a year, so it's hard.

You know, I'm sure there are going to be abuses, but I think that there should be a minimum standard for that as well. Yes, I agree.

PANELIST ARNOLD: Can I jump in
here, too, please? To address Mark's question, I mean, the rule does already state that there should be daily outdoor access for all animals over six months of age. And if it comes to light that that is being abused, too, then I think we would all be for more specificity there as well. You know, that isn't something that we organic dairy producers across the country have discussed yet, but if it's something you would like us to discuss, we can put that on the agenda next.

But, you know, we -- I think we all do see welfare standards across the whole year as being of prime importance, not just when they are on grass, but through the whole year. And I would say that there are an awful lot of organic dairy farms that do not just have tie stall facilities for their herds. They have greenhouse barns. They have free stall barns. They have bed pack barns or they may have a combination of a tie stall.
In our situation, we have a combination of a tie stall and free stall. So half the cows are in the tie stall for the day and they are out in the free stall at night and every day they all have access to free roaming in the barnyard. And all of our heifers and dry cows have free access to outdoors/indoors. They can choose when they want to be in, when they want to be out just like Roman's. And I think most organic dairy herds have situations like that. And if they don't, if they are not providing outdoor access, then the certifier ought to come down on them, because that's part of the rule and they should be meeting it.

FACILITATOR ANDERSON: Kevin?

MEMBER ENGELBERT: I have pages of questions. Kevin Engelbert, NOSB. But in the interest of time, I'm going to restrict it to just three and I'll ask them all at once and then they can respond.

Albert or Mr. Straus, if you had
fewer cows or more acres devoted to pasture, could you more easily meet the 30 percent, 120?

Kathie, could you explain one last time for the record how those figures were obtained?

And, Mr. Velez, would you give a little bit more detail on your feeding program and how much pasture you actually feed your lactating animals?

PANELIST STRAUS: I guess I'm first. My mind just went blank. Can you repeat it? I'm sorry.

MEMBER ENGELBERT: Yes. If you had --

PANELIST STRAUS: Oh, had fewer animals. Now, I remember.

MEMBER ENGELBERT: Okay.

PANELIST STRAUS: My quick answer is probably not, because of the length of the growing season. We probably -- I mean, each dairy farm is a different situation, so I
think that, you know, personally I have to be, as an economic model, a certain size and a certain thing, but besides that, I think it's very limited. I mean, as a minimum I think it's going to be very difficult to get anywhere close to 30 percent, you know, for a consistent basis. I mean, every year if you want to make exceptions, you know, as a goal it might be good, but I don't think I can do that at this point.

MEMBER ENGELBERT: I'm just wondering how many cows you have, how many acres of pasture, and if those numbers were different.

PANELIST STRAUS: As I stated --

MEMBER ENGELBERT: And has that changed the ability to meet that minimum.

PANELIST STRAUS: As I stated, we have, approximately, 300 cows on 660 acres.

MEMBER ENGELBERT: So, for example, 100 cows on 660 acres, still for that length of time you couldn't feed them?
PANELIST STRAUS: If I wasn't in business I wouldn't have to worry about it.

MEMBER ENGELBERT: Well, but I think that --

PANELIST STRAUS: No, I'm being facetious, but it's -- if I was a small dairy, I wouldn't be in business. I just -- you know, I have maximized the amount of pasture I can do for our area and for my particular situation. Other dairies that I buy from utilize pastures as much and they maximize the pasture. They don't have any silage. They don't. They just feed alfalfa hay and grain in the barn and they, at most years, have a hard time getting 120 days, I would say.

FACILITATOR ANDERSON: If I could jump in for one second. What I heard was it isn't the number of cows or the amount the pasture, but rather it is the length of your growing season and the variability of it that is your challenge. Is that --
PANELIST STRAUS: The length of the growing season.

FACILITATOR ANDERSON: I'm saying the pasture season because of --

PANELIST STRAUS: I mean, to get the 30 percent over our growing season is very difficult to get.

PANELIST ARNOLD: Okay. Is it on to me? Where does the 30 percent for 120 days come from? Yes, basically, it came from discussions for years over dairy producers, organic dairy producers across the country.

The first I heard about it was, I believe, some farms in Organic Valley came up with that back in 2001, I believe, as a base price or as a base amount that everybody should be able to make and we have just discussed it and discussed it and discussed it. And that is just something that we feel should be achievable everywhere. Is that all you wanted me -- okay.

PANELIST VELEZ: And talk about
our feeding program, I'm going to talk a little bit about the housing condition of the animals for the most part and they are loose housing, access to fresh air, sunlight and expression of natural behaviors by grooming during the entire year, and the cows in the maternity group are brought in so that we can monitor the calving. The fresh cows stayed on one of those loose housing areas where they get a TMR. At, approximately, mid-lactation several of those groups start going out on pasture.

We calculated. Last year we calculated, guesstimated, that our dry matter consumption for some of the lactating cows was around 5 percent in our Texas herd and between 3 and 5 percent in our Colorado herd during the lactating period.

MEMBER KARREMAN: Thanks, Juan. Hugh Karreman, NOSB. Back on the animal welfare issue. Since I'm a veterinarian and that's near and dear to me all the time, I
would say that the issues of animal welfare
and a checklist or something like you
mentioned, Juan, are probably needed and I
think there are some private companies
starting to do that or private kind of extra
certifiers doing that.

But I think that the main -- it
kind of gets back to what Mark was asking
about, what about the rest of the time when
they are not on pasture, and I think we need
to look at that, but I think our main topic
for this conference is pasture and we need to
concentrate on that, but we do need to look at
the other dates.

In my particular area, down in
Lancaster County just a couple of hours south
of here, we do have a lot of tie stall barns
and I would definitely be open to entertaining
the welfare issues of letting the cows out in
the wintertime from the tie stalls so they are
not tied in as long, okay, but that's on a
different day.
And the other thing with the animal welfare part of it, since we're here for pasture, primarily to define what pasture is and what it shall be in at least the minimum somehow or another, when it gets down to the animal welfare it's not just the ruminants, but we have to also look at the hogs and the poultry, so just to keep that separated.

MEMBER GIACOMINI: Dan Giacomini, NOSB. First of all, I just needed to say for full disclosure, as Hugh is the veterinarian for one of our panels, I am the nutritionist at Albert Straus Dairy and I have worked with a number of organic and conventional dairies in the area that Albert is and the area that Blake is.

And as difficult as it would be for Albert to do this, it is very interesting that I was recently at a talk with a major retailer of natural products and organic products and I would be very, very surprised
if the majority of the pasture pictures that were in that talk were not from Albert's geographical area.

The question I had is for Jon and I'm more comfortable asking this after Mark's question. I'm not asking you to become a regulator. Can you give us some ideas on possible terminology and possible points that we can use to put into regulatory terms what a grass-based dairy looks like?

PANELIST BANSEN: Okay. Well, you know, a grass-based dairy is going to have a structure. If you drive onto the yard, in the yard, and there is no fences up or no lanes up, you know that's not a pasture dairy already. You know, it's really not a highly difficult thing to see what a pasture dairy is. It should have terminology like structure, the infrastructure set up for grazing, which means fences and lanes.

You know, we have a very wet weather pattern ourselves where we're at and I
took a page out of my grandfather's book. He
grew up or my grandfather dairied right where
Blake -- down where Blake dairies right now,
and my grandpa poured a cement lane to get his
cows out to the grass and this was 60 years
ago, 70 years ago, something like that.

Growing up as a little kid down
there in Ferndale, I remember walking down to
get the cows down that little skinny cement
lane and then, once we moved up to Oregon and
I bought my own farm and I was having trouble
getting the cows in and out to the grass,
because it's so darn wet there, you know, an
old light came on. I remembered what my
grandpa did and we poured cement lanes.

We have about two miles of lanes,
some cement and some with fabric and rock on
top, so we can get the cows back and forth and
that is really the part about intent. You
know, if you walk onto a dairy and there is no
lanes and there is no fences, you know they
are not a grass-based dairy.
So I really think in the terminology you need something about the infrastructure, so the infrastructure is there, and as well as vegetative pasture. You know, if you have a huge area fenced in that is a rock pile, probably not vegetative pasture. If you have a fenced in green stuff that the cows can graze, probably pasture.

It's really not rocket science here and, you know, this really has to have a common sense approach to it. This is not -- it's not tough to go in a yard and see what they are doing on the farm.

MEMBER DELGADO: Is this on? Yes.

Rigoberto Delgado with NAOS -- NOSB. I always have problems there. A question for Albert. If you were to introduce irrigation to your farm so you can -- assuming it's possible, would you do it and you said no or because it will be a detriment of your ecology and so forth.

But would that put you out of
business or that would -- what would be the economic implications of bringing irrigation to your facility?

PANELIST STRAUS: Irrigation.

MEMBER DELGADO: And allowing to comply with the 30 percent?

PANELIST STRAUS: I understand. We live on a body of water, the Pacific Ocean, in Tomales Bay that is a lot of salt water and if you gave me millions of dollars to do desalinization, I could probably do it. We have drilled wells. In the '76 drought we finally found some water for the dairy after hauling water for nine months. And this year we drilled two more wells and they were dry. There is no water, so I don't have that option. Plain and simple. It's not environmental. It's not anything. I don't have water.

MEMBER DELGADO: My second question is for Jon and Kathie and the rest of you. In the case of Albert, and I know a
number of farmers in Texas and so forth, they have all the intent of allowing to comply with that 30 percent, but they can't.

Does that satisfy, in your perspective, the intent of the 30 percent and access to pasture if people like Albert and people in west Texas or whatever are not able to meet it according to the standards and the possibilities that you have here in this very green and large area of the country?

PANELIST BANSEN: Well, you know -

MEMBER DELGADO: Or should we stop thinking of being organic dairy farmers in west Texas or what is your opinion?

PANELIST BANSEN: Well, you know, like the Billy Joel song says, it's shades of gray. You know, nothing is black and white here. It's all shades of gray. I think what Albert is doing is a whole lot different than the folks that we're here to really discuss, you know, the zero percenters or the 2 or 5
percenters.

You know, that is -- Albert, you know, he has the intent there. You know, he says he usually has four months. You know, I think it's different in a region. If you set up a dairy in a region where you know you have no irrigation and you know the growing season is one month, there is no intent there to meet the pasture. You know, Albert has a dairy where he says on the average year he has four months. That's the 120 days. Seems like the intent is there.

So, you know, we need to make sure exactly what that intent is when you set up the dairy, and that's why it's important to have specific wording in this language to talk about intent, you know, about pasture infrastructure and about what needs to be there, so when new dairies do want to come on to this organic program they know, you know, do they meet that intent or don't they meet that intent. You know, do they need to look
for a different area where they can meet that intent or not?

   PANELIST ARNOLD: Okay. I would just sort of second that and just the fact that in the rules or the way it's considered being written is an allowance for temporary confinement based on weather, on flooding, too much rain, drought. So if Albert says that in a normal year they can meet 120 days, they have got the four months, but he has just had a succession here of very abnormal years, so I would assume that these very abnormal years would meet that exemption requirement.

   And in terms of the 30 percent intake, that is all based on balancing numbers of animals with your land base and in some cases, there will just have to be perhaps a decrease in herd size to make that balance between animal numbers and that pasture land base. And people are doing it all across the country.

   I mean, the number of pasture
acres we have, if, you know, we're at a good number, a good fit now for doing what we want, you know, we can milk 1,000 cows, but, you know, then I could no longer make that 30 percent dry matter intake and you have to balance your cow numbers with your acreage available.

PANELIST VELEZ: I would like to jump in and especially talk about the intent. As you know, the drought, the longest drought, one of the longest droughts in history has been in Texas until recently. Obviously, our intent at that particular farm was based on the land base to graze a lot more and get a lot more dry matter intake than what we actually got.

Also, I want to point out that continuously the plan is evolving towards more and more access to more of the animals around any of the locations that we want to be in, and the new products are designed with a lot more access with a lot more -- with a goal of
having a lot more grazing going on. The intent is -- so I don't think that anybody's intending purposefully not to do it.

Therefore, I want to make sure that everybody understands that the whole program is evolving and that this symposium, that I have learned a lot about a lot of things that can be done and cannot be done. I think that this symposium is the beginning of an evolving process for everybody's intent to grow on several aspects, and I include welfare during the winter months as one of those things that need to be evolving in the whole organic program.

PANELIST ALEXANDRE: I would like to answer to that real quickly. Two things though. First, there is the Animal Humane Association that certifies dairies and when you get certified, you can use the Free Farmed logo and we do that at Humboldt Creamery. Every dairy out there is certified by that for whatever that is worth.
In regards to your specific question about Texas, I have been involved at a dairy in Texas and I own a percentage of an organic dairy farm in Texas that I have helped set up from the beginning, and we pump water that is way down deep and we irrigate in circles underneath the irrigation and it works. And we're only in our second year out there, but it's working real well.

FACILITATOR ANDERSON: There are more questions from the Board and I would ask a question of the Board in general, because I'm charged with the time keeping here. There are also a lot of questions from the Board. Would you like to ask a question? Could I go to some of the public questions or how would you like to proceed?

PARTICIPANT: Are you asking me?

FACILITATOR ANDERSON: Well, I'm asking Bea and Gerald particularly.

MEMBER JAMES: Kevin, do you want to address that?
CHAIRMAN O'RELL: Well, I think we do want to get to some of the public comments and, I think in light of that, I know the Board, if you have a specific question quickly that can be answered, but we do need to move -
-
FACILITATOR ANDERSON: Here's another question. How about if we ask the public questions. If those don't address your questions, we'll come back to you.

MEMBER JAMES: No.

FACILITATOR ANDERSON: Bea? Okay.

MEMBER JAMES: Well, I guess from the communication that we received from the NOP that this is really a symposium for the public, but it's also to really help make sure that the NOSB understands and asks their questions, so that we can get to a conclusion.

So I would say that if there are pressing questions from the NOSB that we can, hopefully, summarize those quickly and then move on to the public questions and if
everyone is okay with that. Sound right, Mark, Barbara?

MS. ROBINSON: Yes, yes, this is -

MEMBER JAMES: Okay. First, thank you, farmers, for coming. I really appreciate the time that you're taking away. Ed, thank you for not passing out when you gave your last part of the speech.

I am going to just like jump to let's say that we instill this regulation, that we have pasture, that we don't sit here and talk about whether or not yes pasture, no pasture, 120 days, 30 percent, that we just make this assumption that we are -- from what I'm hearing, that we want pasture. We're going to figure out how to make this work for farmers.

Pasture means, from what I'm hearing and what I read in the regulation, it doesn't -- it means not just one thing. It means grazing. It means sunlight. It means
fresh air. It means free roaming. It means allowing the animal to express its natural behavior. So it's not just one component of that. It's all of those components.

So I would like to throw out this scenario and ask for your opinion. In the Organic Regulation we have three tiers. We have 100 percent, 95 percent, 70 percent. What would be your opinion if we were to find a way to craft this regulation to meet the diverse type of farming that's going on? We have farmers that are able to have very strong pasture for their farms. We have other farms that have regional weather problems. We have farms that are not complying to the regulations and that need to comply to the regulations.

So with that, I would ask you as farmers to tell me what your thoughts are on having a regulation that would be tiered pasture access for the labeling of organic milk.
PANELIST BANSEN: Well, I just may -- I might be concerned that that might lead to confusion in the consumer market as far as what organic milk is and, you know, they come and there's three different labels and, you know, what does that mean and I'm afraid that might just lead to some consumer confusion.

MEMBER JAMES: But we have three tiers already.

PANELIST BANSEN: Correct. I understand that. When you come to your dairy case, I just -- I think it's a little different than your dry products and those. You know, you come to the dairy case, it's the dairy case and I'm afraid there might be confusion there.

PANELIST ALEXANDRE: The problem I see with that is now you have gotten specific on pastures if that's the only thing that really counts and it's not. It's organic pasture.

So the consumer would immediately
get confused with the conventional pasture label that is coming and that is a huge problem, because this organic pasture is back to the biology of the soil and it's the total package and it's a nutrient-dense package of food that we're trying to get to the consumer. That is why they want pasture, not because it makes them feel good.

MEMBER JAMES: Okay.

PANELIST STRAUS: This is Albert.

MEMBER JAMES: Yes.

PANELIST STRAUS: I just -- I don't see. We have already products that are made with, you know, the different amounts of organic. You're going to explain that it's 75 percent, because it only has so much pasture?

MEMBER JAMES: I'm not necessarily saying that this tier would be exactly the way that it currently exists, that maybe there would be a tier that would be crafted specifically for dairy to help meet the needs of somebody like yourself and still allow you
to be able to sell your milk as organic, but not necessarily -- I think we need to be honest and we need to communicate to the consumers what they are purchasing.

When I buy orange juice that has oranges on the package, I expect there to be orange juice in the package. When I buy milk that has cows on pasture on the label, I expect that that's what I'm purchasing. And so if we find a way to be able to provide the consumer with the different variations that are currently out there, and I'm not saying that there should be a tier that does not allow pasture, I'm just saying that I think that we need to be cognizant of the fact that not every single region is going to have an easy time adhering to 120 days, 30 percent.

PANELIST STRAUS: You know, I market products that don't have additives in it. I don't homogenize. You know, if I don't have as much pasture as these other guys, am I not as organic as them?
MEMBER JAMES: Well --

PANELIST STRAUS: I'm asking. Is that what you're trying to -- you're painting me into a spot that I -- I'm asking, you know.

MEMBER JAMES: I think that's the topic of this whole symposium.

PANELIST STRAUS: Okay. Well, I take offense at it. You know, it's -- I helped develop standards for the last 15 years. I have -- I am a step ahead of almost everything that is out there and we do our best to come up with a clean, 100 percent organic product that we don't -- you know, we have a survey that we put out that had 5,000 consumers of which we got a 22 percent return rate that their concern was additives. Over 90 percent of them were concerned with additives and preservatives in organic foods. It wasn't how much pasture there was.

You know, if this is from the consumers' perspective, we are totally straightforward. You know, we tell exactly
what's in our product. We educate people as to what we're doing and what the message about sustainable farming is, and that is who our consumer is. They aren't saying, oh, you're not as organic as the other guy. You know, so that's my reaction.

PANELIST ARNOLD: I guess it's a whole new idea and it's hard to respond right off the top without having thought about it for awhile but, I mean, I like the idea from a producer's side in that it is going to provide a real incentive for maximizing pasture and it may provide that economic return for reducing cow numbers in a situation where there is a limit to the amount of acres.

So if there was a little bit of premium price attached to a product that had a higher level of grass fed basis, then that premium could go to provide that farm with the economic means to provide that higher pasture base.

PANELIST BANSEN: And I would just
like to reiterate real quick that as Kathie stated before, this 30 percent, 120 day issue really, I do believe it did originate in our Dairy Executive Committee, which has representatives at Organic Valley from all across the nation. You know, we have 568 farmers in 22 regions and it was the consensus after hours and hours meeting and meeting with all the DEC representatives at Organic Valley, all regions can meet this.

You know, we had no input from any of the other -- of any of the regions across the country that couldn't meet this and that is really where that 30 percent really started out to begin with.

PANELIST STRAUS: I'm not in Organic Valley.

PANELIST ALEXANDRE: Albert, I think you have neighbors in your region that say they can meet it.

PANELIST STRAUS: Organic Valley or --
PANELIST ALEXANDRE: No, you have neighboring dairymen in your region that ship milk to --

PANELIST STRAUS: Okay.

PANELIST ALEXANDRE: -- other processors that believe they can meet the regulation.

PANELIST STRAUS: Let's put it down on paper.

(Applause)

MEMBER DAVIS: Robert, Gerald Davis. My question I will save for the certifiers section.

FACILITATOR ANDERSON: Okay. Great.

PARTICIPANT: I have one. Oh, I'm sorry.

MEMBER OSTIGUY: This is a question for Dr. Velez. I'm sorry. This is Nancy Ostiguy from NOSB. How many hours a day are your cows, your milking cows, outside not
free walking inside, but physically outdoors?

PANELIST VELEZ: 24/7.

FACILITATOR ANDERSON: Any more questions from the NOSB? I should have stated early this morning what I said at the beginning of yesterday, and that is that this is primarily a symposium for NOSB and NOP and that while we will entertain public questions that --

MEMBER OSTIGUY: I need to follow-up on that question.

FACILITATOR ANDERSON: I'm sorry, I didn't realize.

MEMBER OSTIGUY: What do you mean by 24/7?

PANELIST VELEZ: I'm sorry?

MEMBER OSTIGUY: How are they outdoors 24 hours a day? Are they inside of a facility that has a roof, but open portions of the wall? I want to know when they don't have any walls surrounding them, when they don't have roofs.
PANELIST VELEZ: Okay. I apologize for my short answer. Our cows are housed in what we call loose housing. There is no walls, that only on one portion of the very large pen where they can walk. They can groom. They have direct sunlight, access to sunlight, fresh air. They have an open shed in which they can select whether to go in if the weather is inclement or stay out if the weather is nice, which is most, around 300 days of the year in the area of Colorado, one of the dairies I'm talking about.

The other one is very similar. I'm talking in general about both of them. It's very similar. The cows can express their natural behavior during all -- during the entire day unless they themselves select to be inside a shed that is well-bedded to protect themselves from the inclement weather. They can express their natural behavior.

MEMBER OSTIGUY: You still haven't answered my question. Do they have a roof
over their head?

PANELIST VELEZ: No, ma'am, only if they choose to go under the shed they have a roof on their head. If not, they don't. Yes?

MEMBER OSTIGUY: They are walking on cement, they are walking on dirt, they are walking on grass?

PANELIST VELEZ: They are walking. When they are not grazing, they are walking on a panel of dirt. There is dirt around it. Yes, ma'am.

FACILITATOR ANDERSON: Any more questions? Yesterday I commented at the beginning that this is primarily a forum for the NOSB and the NOP. I have lots and lots of public questions here and we're not going to be able to address all of them. I want everyone to be aware though that every one of these questions will be scanned into the public record. There is a comment period at the beginning of the National Organic Board
Meeting, Standards Board Meeting today.

There are already six and a half hours of comment there for that and, also, there is the opportunity for written comment to this by June 12th of this year, but that's only on the ANPR. That is not on what will ultimately happen if regulations come.

There is only one question that I would like to -- and not necessarily ask for answers to, but I think that what is being talked about here is getting around the issue and there are recurring questions here about confinement and what is confinement. What is confinement from the standpoint of are the animals indoors or are they outdoors? Are they tied part of the day, none of the day? Are they outside in indoor confinement?

And it really breaks down to indoor confinement with no outside access, indoor confinement in stalls, indoor confinement with free roaming or outdoor access to grass pasture, dirt or whatever.
And it's sort of the underlying issue here that I'm not exactly sure how we even begin to address, but confinement is what we're really -- as we're seeking access to pasture, we're talking about confinement and what we don't --

PANELIST ALEXANDRE: Comments?

FACILITATOR ANDERSON: Sure.

PANELIST ALEXANDRE: My simple answer to that is, again, this is a pasture symposium. We're here talking about access to pasture. The first question that was asked yesterday, is this a current role of the NOP, is the current position on pasture adequate? The answer is no. Everybody has said no, no, no, no. It is pretty much unanimous the way I feel it.

We have got issues where we have rolled into this 30 percent, but again I'm going to remind everybody what is confinement? We're not here to define confinement. Confinement is zero access to pasture. It doesn't matter whether it's Juan's confinement
or something that is happening out here in Pennsylvania or anywhere else in the country. Confinement means no access to pasture and that's why we're here today. So it's really clear in my mind.

(Applause)

FACILITATOR ANDERSON: I believe that -- I want to say one more time, every question that is here, and there are many really good questions, will be scanned into the public record. There is the comment period preceding the NOSB meeting and there is the opportunity to provide written comment by June 10th or June 12th on this ANPR.

I will call for a short break and we'll bring the certifiers up, so that we can talk about whether or not we can put nails in the intent and whether we can -- and what we have to do in terms of regulating. Thank you.

And I would like to especially -- please, everybody, these guys have taken an incredible amount of time.
(Applause)

(Whereupon, at 10:02 a.m. a recess until 10:21 a.m.)

FACILITATOR ANDERSON: We will reconvene this session and we have approached the enforcement, measurement and compliance part of this in a little bit different way, because there were five questions posed directly in the ANPR that were asked of the accredited certifying agents.

So what we're going to do is have one person, one of the certifiers, address each of the questions and then provide an opportunity for the other two certifiers to comment on anything that wasn't added or reinforce that. So we're going to take a total of six minutes for five questions and leaving half an hour of questioning for the NOSB.

So I will just start by saying that we are privileged to have with us Brian McElroy from CCOF, Leslie Zuck from
Pennsylvania Certified Organic and John Stalley from Oregon Tilth.

So I will start first with the question how should an accredited certifying agent measure compliance with specific measures adopted to change the role of pasture? And, for example, if dry matter intake is used as a benchmark, should it be measured as the average or such as a calendar year over 12 months or a week or a day or an hour? Leslie?

PANELIST ZUCK: Is this on?
FACILITATOR ANDERSON: Sure.

PANELIST ZUCK: Can you hear me?
FACILITATOR ANDERSON: Yes.

PANELIST ZUCK: Okay. Well, there are a variety of ways that certifiers can verify compliance and it's one area of the rule where they don't spell out how. They tell us we have to verify compliance with the regulations, but they don't really spell out specifically how to do that, so we have
discretion in that area.

And the types of records that
farmers keep vary greatly, as well. I mean,
they start out as none. That would be the
preferred format for most farmers and we
actually get this. They will say, well, it's
all in my head, you know, I have the records,
but they are all in my head. So that is, you
know, one area that you will find.

Then you have the farmer that
gives you this sophisticated computer
spreadsheet so, you know, it runs the gamut.
And I will say that, you know, it seems that
the best farmers do keep the best records, but
just like the weather they all complain about
it every chance they get. And I think most of
the farmers we certify would rather have all
their teeth pulled out than fill out the
records that we require them to fill out.

But, you know, as far as what you
have to understand from our point of view is
the burden is always on the producer to verify
their compliance and then, in turn, the certifier has to have adequate records in our office and in our files to demonstrate compliance to the NOP auditors. So that is kind of how the chain works.

And with the dry matter intake situation, which is the example in the question in the ANPR, that would be something we would calculate seasonally. Most farmers have their rations kind of figured out different per season. So during the winter season they have a certain ration. During the early spring season they will change the ration as the cows are starting to go out on pasture. During the pasture season it's going to be way different than it would be, you know, during the winter season.

So if we were going to be having to calculate that, it would have to be tied into what is the definition of the growing season and whether it's 120 days or whatever it is that we decide, that's how it will be.
connected with that. And I don't think that, you know, those records would not be difficult.

I mean, in some cases the inspector just goes and has -- great, we have a timekeeper. In some cases we require the farmer to keep records on the farm or another way to do it is when the inspector goes to the farm, they can ask the farmer how do you do this or how many hours are your cows on pasture, you know, tell me what your ration is that you're feeding during the pasture season, and the inspector can write all that down and into the inspection report and it becomes part of the record that way. So there are a variety of ways that we can do that.

FACILITATOR ANDERSON: Brian, same issue.

PANELIST McELROY: What happened there?

FACILITATOR ANDERSON: Same issue. Would you like to comment on that
measurement?

PANELIST McELROY: No, I have nothing to add.

FACILITATOR ANDERSON: Well, then the second question is, and this is to Brian, how should producers and certifying agents verify compliance over time for a herd of cows that are at various stages of growth or have varying states of nutritional needs? Can the producer and certifying agent determine this in the Organic System Plan?

PANELIST McELROY: So I will go backwards through the question. Yes, the certified party can include this in the Organic System Plan, should include it in the Organic System Plan and I think that the certifier should verify it's in the plan.

And I think that, you know, the National Organic Standards Board, one of the things you should take a look at is what do the various Organic System Plans offered by the accredited certification programs look
like, what questions are they are asking, what kind of documentation are they asking, because in the first round of accreditation we have seen a huge variation in what an Organic System Plan looks like.

It goes all the way from a checklist all the way through to, you know, fill in the blank and check the box to very freeform paragraph essays, and these Organic System Plans are extremely varied and I think that can make it hard sometimes at the enforcement level to try to ensure enforcement of the standard.

So the first part of the question then is how should producers and certifying agents verify compliance over time for a herd of cows at various stages of growth and various states of nutritional need and, obviously, we're in here talking about pasture so let's not get distracted about all the other various nutritional issues.

But from what I have seen in
certified operations, the only consistent place that I have seen an operation deny access to pasture to animals for a stage of production that seems justified to me is at the very young stage, various stages of the calf and its maturity, and that denial of access to pasture for those calving stations, in my experience, is pretty short. We're talking about a matter of, you know, weeks to months and that is the only place I have seen a consistent denial of access to pasture that seems reasonably justified.

PANELIST ZUCK: I would agree with that.

FACILITATOR ANDERSON: John?

PANELIST STALLEY: I would also agree with that and I agree with Brian that the System Plan has pretty much everything in it or it should have everything in it that you need to verify compliance and could be used for the 30 percent as well. All that information should be in the plan and it's a
matter of the inspector going out to the farm
and verifying what is in that plan.

FACILITATOR ANDERSON: This
question is to John. What flexibility should
producers have in working with their
certifying agents to verify they have
accomplished the goals of an increased pasture
for livestock?

PANELIST STALLEY: Okay. I was
going to take this in two parts. First of
all, things that I think should be flexible
and I'm going to read what we have put
together as a staff. We met as a staff and
decided.

It has changed since I came to
this meeting, so by listening to everybody, I
came here with an open mind. My heels were
not dug in the sand and I really -- I have
changed our position since I got here. I was
unclear when I got here and I feel like I'm a
little bit clearer, but I'm still pretty
unclear. I don't know how everybody else
feels, but that's how I feel.

And so I'm going to read what we came up with. I will talk pretty quick because I know we're limited for time. "While some had wanted to focus this discussion on the scale or the size of the operation and/or geographic location, Oregon Tilth believes focus is on the integrity and intent of the regulations. The task at hand is to clarify the intent and expectations established in the regulations for organic dairy operations."

Upon providing such clarification, we should allow operations, regardless of their size or location," that is not a factor, "to determine how and if they can comply. The Farm Plan contains information about the location, crops and acreage and pasture and other forage that will be fed. The inspector verifies what has been written in the Farm Plan, so the Reviewing Committee can help the certifier make an assessment of compliance. A complete Farm Plan contains all this necessary
information.

Things that are not flexible. The rule as currently written," and I think we can all agree on this, "has not been sufficient to maintain the original intent of the regulations. Greater consistency is needed among NOP-accredited certifiers," these two others. I think that's very important. Consistency is very important. I think that is something that all of us certifiers need to work on.

One minute. "Oregon Tilth also supports the NOSB's proposed exceptions to the general requirement for pasturing ruminants, for birthing, for dairy animals and up to 6 months of age and for beef animals in the final finishing stage, as well as the NOSB clarification that lactation of dairy animals is not a stage of life that may be used to deny pasture for grazing." That is my favorite sentence right there.

"However, we believe the
clarifying language should be in 205.239(b)," which is a different section, but that is regarding organic livestock operation. That is contemporary confinement. "Also, we support the language that ruminant animals grazing on pasture during the growing season."

I think that's very well-written and that was well thought out. "And by specifying that ruminant animals will be grazing pasture during the growing season, you can accommodate for regional differences." Thank you.

FACILITATOR ANDERSON: Leslie?

PANELIST ZUCK: That sounded like great policy to me. I feel like one of the things that we have discussed is that with us closing those two loopholes, the temporary confinement based on stage of production being changed to stage of life and also requiring the access to pasture be changed to grazing pasture during the growing season, will really go a long way toward our goal of compliance with the intent of pasture, because, you know,
some of the farms that are using those clauses in the rule and interpreting them a little differently than some of the other certification agencies are allowing the interpretation to be -- they do have pasture on their farms and they are pasturing some of their animals.

They are just not pasturing their lactating animals, so they know what pasture is and I feel like at least those two steps would help our compliance problem immensely.

PANELIST McELROY: Yes. You know, somebody who is not here today that had a great quote about the organic community is Keith Jones, whom you all know, and he once said to me, he said, my God, you people can argue about what the meaning of is is. And, you know, it's really true. The regulation is really clear. Organic animals should be consuming pasture during all stages of production.

But somehow through this passive
voice construction of access to pasture, the whole thing has slipped through our fingers and it's really unfortunate and I think really clear, simple terminology, grazing at all stages of production, these things I think can, hopefully, help us go back and enforce. I mean, I am all for whatever gets passed in the regs, what we're going to go enforce. If it's 30 percent dry matter intake, fine, that's where we're going to go.

But things like 30 percent dry matter intake are going to be difficult. It's going to be hard and do you want me to issue a notice of proposed suspension to a dairy on day 199 that they take the animals back in the barn? Do I issue a notice of proposed suspension on 29.5 percent of dry matter intake? Numbers are great. We can all verify them, except I don't know. Dry matter intake, verifying that is going to be a statistical challenge. We're going to end up getting some numerologists in here.
So I think we need to go for the intent and we need to have the intent clear enough that we know we have got the enforcement and, you know, we have to work in unison here. We need an Organic System Plan that lays it out transparently, a rule that we can enforce, and then we need to go to a court for a day and get the interpretation. Thank you. Thanks.

FACILITATOR ANDERSON: Thank you.

Leslie, should the Organic System Plan be the focus of introducing regulatory changes? In other words, should specific requirements for a larger role for pasture be introduced and required in livestock producers’ Organic System Plans, as was suggested by the NOSB in its guidance recommendation?

(Audio loss)

FACILITATOR ANDERSON: Okay. So did you get my question, the question to Leslie?

PANELIST ZUCK: Yes. Could you
just repeat the end of it?

FACILITATOR ANDERSON: It really says should the change occur at the Organic Systems Plan? Should the regulations address it at the Organic Systems Plan and should specific requirements for a larger role for pasture be introduced and required in livestock producers' Organic Systems Plans, as was suggested by the NOSB in its guidance recommendation?

PANELIST McELROY: Well, if your --

PANELIST ZUCK: I'll take -- I'll defer to Brian.

PANELIST McELROY: Well, I guess my answer would be I don't think so. I don't think we can do it here. The regulation says that the Organic System Plan can look like anything, it can be done in any way, shape or form you want to do it. It just has to comply with the regs. The Organic System Plan, all the wording in the regulation about what the
Organic System Plan looks like and how we enforce with it, is pretty soft.

And, you know, Valerie, I hate to make work for you, but I really think the NOSB would do well to have five or six very widely formatted Organic System Plans in front of them so they can see how extremely broad the interpretation of what an Organic System Plan is and what it looks like.

And that is why I don't think the Organic System Plan is the way to try to enforce something like this where it's clear we need some real regulatory backbone, because we shouldn't be here today, but we are, and that points out that this thing is going to be hard and it has got to be specific and it has got to be tough and that is not going to happen in the OSP as far as regulatory.

FACILITATOR ANDERSON: Leslie?

PANELIST ZUCK: I read this question as -- I'm not sure exactly. I wasn't sure exactly what they were asking at first,
but going from there to the next question, I thought maybe they were wondering whether this regulatory change for increased pasture restrictions should be in the part of the rule where it tells you what has to be in an Organic System Plan and/or should it also be a separate standard somewhere else in the regulation that we have to follow.

So I thought that was maybe part of what they were asking here and I don't think it really matters. I think that Brian's point is a good one. Whatever it is, we have to be consistent so that we are going to be verifying compliance with the information that we need. And I think his point was that we should take a look at the Organic System Plans that are out there and how different certifiers are gathering that information.

PANELIST STALLEY: And I would just like to say an important element of the System Plan that hasn't been mentioned is that is the producer's plan. He comes up with that
or she and they decide how they are going to meet the regulations, not the certifier, not the NOP. A producer decides how they are going to comply.

Enforcement at that level, there could be some enforcement at that level. If you look at that System Plan and you review it before you go to an inspection, as you should, some of those issues may be able to be dealt with before the inspection. And then on inspection is another level of enforcement. The inspector is out there to make sure that plan is accurate and everything that they see here and so on is consistent with the plan.

FACILITATOR ANDERSON: Did you want to --

PANELIST ZUCK: I think maybe I would like to give an example that will maybe help people understand it. When we ask people to fill out their forms that actually constitute their Organic System Plans, you know, we could ask them do your cows receive a
minimum of 30 percent dry matter intake from pasture?

We could ask that and the farmer may say yes, then that could be it. And we're like, okay, they do. Okay. Wait, we'll verify it when we get on the farm or they might say I have no idea how to calculate dry matter intake. You know, and that's probably what most of them are going to say, I don't know, or some people do know how to calculate that or what we could do is ask on the Organic System Plan all the information we need in order to calculate that, and that's what most certifiers, I believe, do at this point.

They ask what are your rations, how much have you rationed, how often are your cows out on pasture, how many hours do they go out on pasture, you know, what seasons of the year are they pastured and, you know, ask enough questions about their ration, specific questions, so that then when those forms come into our office, we can make that calculation
and verify it.

So that would be an example of a broad range. The question could be do you do this and the farmer says yes or, you know, give us the information and we'll determine whether you do it.

FACILITATOR ANDERSON: Last question. Should a new standard be developed devoted to addressing a unique role of optimizing pasture in organic ruminant animal production systems?

PANELIST McELROY: Yes, yes. The slight qualification is I don't know if we're -- if optimizing pastures is really what consumers and the constituents to this body want, great, then let's -- we'll go out and enforce the optimizing pasture. But I think we need to get through the first step, which is just we all know the intent of the rule is that organic production systems should include pasture.

It should include pasture at all
stages of production, and so let's just try to get there. Let's just get on that step first and then is optimizing 30 percent, is optimizing 10 percent, is optimizing 100 percent? I don't know. So the optimizing word is the only part of this that causes me a little bit of hesitation.

But it is unfortunate that we're here, because I think the process that we went through 10 years ago and from there until now made it very clear what we were all trying to do, and so I would like to get there.

PANELIST ZUCK: I'm going to agree with that.

PANELIST STALLEY: Yes. And I would just like to say in addition we support those NOSB-proposed rulemaking changes. However, I think there needs to be -- and my question was flexibility, so I'm going to continue on the flexibility issue and I'm primarily addressing the NOP here in that we would need some kind of flexibility and some
kind of time frame for operations who are not currently meeting that.

I think Albert is a good example.

I think it's clear that Albert has the intent. His intent is correct. However, his region can't meet that and in all fairness to him and all the other producers in that position, there should be some period of time where they can bring themselves into compliance. I don't know what that time period should be.

I don't think -- like Brian was saying, do we issue them a notice of proposed suspension? I say no. I say give them a chance to comply.

PANELIST ZUCK: And I will add to that as far as the standard goes, if we were going to be writing, writing a standard for pasture. We need to consider taking a look at the temporary confinement allowance, as well, because certifiers have complete discretion in that area as to determining what is and what
is not temporary confinement, and how temporary is temporary. And, you know, we did get one of those policy statements a number of years ago that says temporary means temporary and so that was a great help.

I have to say though in all seriousness that we have this problem now, and the flexibility that I -- that's the area where we can find the flexibility in the rule.

So that if there is a situation where the farmer can only make 119 days instead of 120 days, and it may be based on some of those factors that's in the temporary confinement section of the rule, but we also need to make sure that it's clear.

And I would like to have something like this added to the temporary confinement section that, you know, something has to happen, that the temporary confinement is only for a period of time that is measured by another factor that you can measure happening, such as if it is because of flood, then at
what point, you know, do the cows have to go out again because what we have seen are animals being allowed to be confined temporarily, but with no end in sight, so to speak.

So we do need to take a look at that. It's going to be really important when we put in these, if we do put in these restrictions, and then say okay, well, you know, you had a problem or it might have been a disease outbreak in your area. You had to confine them. You didn't make your 120 days. You didn't make your 30 percent dry matter. The certifier says that's okay. But, you know, there has got to be some oversight there.

FACILITATOR ANDERSON: Mark, these have been addressed to you. Would you like to comment?

MR. BRADLEY: I would. Mark Bradley, National Organic Program.

I would like to thank you three
particularly for coming in and getting up in
front of this crowd and me of all people, too.

The order of business here is just incredibly
well thought out. It wasn't by me, but to
have all these producers in here coming in and
saying we can do this, we can do this, we can
do this and then to have the certifiers
getting up there saying we see problems, you
know, I tell you, it's very well-taken.

First, Brian, we have had a lot of
people coming in, you know, experts talking,
farmers talking that these programs, these
production systems can be developed in a
sustainable manner that are -- with
sustainability demonstrated in the Organic
Systems Plan using any variety of methods, you
know, NRCS guidelines, proven carrying
capacity of the ground, chews per day.

There is all kinds of ways that
you can get from here to there on an Organic
Systems Plan, setting it up in writing without
ever having to go out and do the certification
work. You know, that downside audit is to verify that. So you're looking at two different strategies here or two different steps and it's just the same thing that you have been doing all along. They have to have an OSP.

Now, are you saying in your comments that you can't, you know, because of the variety of operations and the variety of OSPs, come up with something that demonstrates compliance with that ground or as certifiers, and any of you can answer this, would you prefer to be very flexible on the Organic Systems Plans and then have certified operations keeping copious notes on how many days they keep things out there or how do you propose to verify compliance?

PANELIST McELROY: I got a little lost on the first question, Mark, sorry.

MR. BRADLEY: I did, too.

PANELIST McELROY: Were you addressing specifically the concept of 30
percent dry matter intake or were you talking more about the current system right now, why are we finding it hard to enforce access to pasture during lactation?

MR. BRADLEY: Well, I'm looking more at it as a "to be" scenario because we all know what we have right now.

PANELIST McELROY: Right.

MR. BRADLEY: But they are talking about 30 percent DMI.

PANELIST McELROY: Right.

MR. BRADLEY: 120 days on pasture as a minimum.

PANELIST McELROY: Yes. I mean, we can go out and we can get people to lay out here is my feed rations, here is my plans, here is when they are in the field and we can get them to estimate what the dry matter intake is going to be, and we'll go back out and when the inspector is there -- I mean, we already do audits, how much organic hay did you buy, how much grain did you buy, you know,
what is the rest from pasture, yes, when are they out. We can see that. They can keep logs.

So we can get there, but where it's going to get really crazy is, okay, the dry matter intake of this grass, my pasture, is X during the spring and then it goes to Y during the winter and then we have got three months in the fall where it has gone to X minus.

And, you know, I think from the nutritionists' point of view, this dry matter intake isn't just an off the cuff average calculation. The nutritionists are looking at this as really serious, you know, get down to the specifics and really try to get it right and, you know, varying conditions of pasture.

This guy is letting it get this long and his strategy is to quit here because he avoids parasites. Other guys, you know, we see it all the way down to the last inch and they are back out there every time it grows another
inch.

And so, you know, it's just going to be hard. When somebody wants to take that dry matter intake calculation down to a level of detail, it's going to be really time consuming.

PANELIST ZUCK: May I? Well, I'm pretty sure at PCO we wouldn't probably ask our farmers to count how many bites per minute their cows are getting.

PANELIST McELROY: Yes.

PANELIST ZUCK: We could do that, but we rely very heavily on our inspectors when they go out to a farm and they look at the farm as a whole system and they see the grass, they see the cows, they see the condition of the cows, they see the quality of the feed. You know, they are out there and they see the pastures. They see that there is cow paddies in the pastures and that there are fences in the farm, that the cows are out.

And I believe that, you know, this
will be one suggested way to do it. I'm not going to say we would do it this way, but the inspector would go out there and they could, you know, determine whether this farm appears to be meeting that standard.

And in the situation where there was a question or a borderline case or a very, very minimal overgrazed pasture, then we could require the farmer to keep specific records and make those changes to their plan, you know, their plan to improve their pasture or to require the animals to go out on pasture or a situation where there aren't -- it appears that they are not putting the animals out on pasture, we could require very specific records in their Compliance Plan to prove that they are meeting the standard.

But, you know, in 99 percent of the cases the inspectors are going to go out to Pennsylvania Certified Organic Farms and see these cows out on pasture, know that they are out 365 days a year, know that -- you guys
driving around here, you see there is green
green grass out there and they are not really going
to feel compelled to make the farmer prove it.

PANELIST McELROY: Yes, so why get
out the calculator?

PANELIST ZUCK: Right.

PANELIST McELROY: Yes.

MR. BRADLEY: So you're saying
that you could, when setting up an initial
operation, verify that this farm is capable of
maintaining a sustainable system that meets
the standard without having to keep tons and
tons of, you know, burdensome notes by the
farmer?

PANELIST ZUCK: Yes, sort of. The
third leg to that would be when we have a new
applicant, that's a little different because
when the new applicant fills out their first
Organic System Plan forms, we want to know
beforehand if their plan is going to meet the
requirements.

We want to approve that plan in
our office, so we need the information and the
statistical information at some point before
sending an inspector out there, because we
usually do an approval process before they go
out. But on an ongoing basis, the inspector
would be the first line of compliance. That's
just a suggestion. Don't hold me to it.

MS. ROBINSON: I don't know
whether you do this now or whether you would
consider doing it, but when you're about to
certify a livestock producer, not just a dairy
producer but any livestock producer, is it a
matter of course that all livestock producers
in their OSP have a Pasture Plan and they have
to demonstrate that to you, a defined Pasture
Plan?

PANELIST ZUCK: No, not a defined.

PANELIST McELROY: Yes. No, not a
defined Pasture Plan. We get a lot of
information, but we don't really have a
defined Pasture Plan.

MS. ROBINSON: What about
considering that as, you know, just something --

PANELIST ZUCK: I think the pieces are there in most cases and it could be redeveloped to actually call it that. I mean, we do ask how many acres of pasture do they have, you know, how many hours are the cows out on the pasture, how many hours are they inside. So, I mean, there are pieces of it there.

PANELIST McELROY: Right.

MS. ROBINSON: Right, right.

PANELIST STALLEY: In what level of detail are you thinking? I mean, if you're talking about full implementation of an NRCS Grazing Program, I think that might be overwhelming.

MS. ROBINSON: Well, I'm thinking, obviously if you're a livestock producer, according to this regulation, if you are a livestock producer, you better have pasture, right?
PANELIST STALLEY: Yes.

PANELIST ZUCK: Oh, yes.

PANELIST STALLEY: That should be in the plan.

PANELIST ZUCK: That's already in the reg.

PANELIST STALLEY: That's in the plan.

MS. ROBINSON: That's in? Okay. It's in the reg?

PANELIST ZUCK: Yes.

MS. ROBINSON: And the OSP is a farmer's business plan, correct? Every farmer who wants to be organic has to have an Organic Systems Plan. That is his elemental business plan for how he is going to -- and it has six elements and he or she has to have that that says how they propose to, basically, abide by this regulation, manage their operation, whether they are a producer or a processor, how they are going to meet the regulations, how they are going to monitor their operation,
their goals, their objectives, you know, all
the quantitative whatever. I know, Brian,
some of them are loose and pretty --

PANELIST McELROY: Yes. That's not what I have seen in the Organic System Plans.

MS. ROBINSON: I know, I know.

PANELIST McELROY: Yes.

MS. ROBINSON: But suppose if you're a livestock producer, it would seem to me you could and you should have a managed Pasture Plan within that Organic Systems Plan.

I mean, you have livestock. Therefore, you should also have a Pasture Plan that also says here is how I intend to manage the pasture, its physical description and then how I'm going to manage it to accomplish the standards in the regulation, and so how I would accomplish the goals of grazing my livestock and meeting the access to pasture, meeting all of the parts that are already in the regulation, right?
PANELIST McELROY: It's not the way --

MS. ROBINSON: I guess that's too idealistic, right?

PANELIST McELROY: -- the accreditation implementation has gone.

MS. ROBINSON: But there is an idea. You know, I hear a lot about intent.

PANELIST McELROY: The --

MS. ROBINSON: We can't regulate intent, but we could regulate -- I mean, that's concrete and that would give you something to enforce. You don't have a Pasture Plan, you don't get certified.

PANELIST McELROY: Yes. So then do you have to define what the Pasture Plan looks like? Does the regulatory -- does the USDA then have to lay out here is the 10 questions in the Pasture Plan?

MS. ROBINSON: Well, I don't define what the OSP looks like. I would assume that the farmer comes to you with an
OSP and you say this doesn't cut the mustard or it does cut the mustard.

PANELIST McELROY: Right, but now you have got -- well, we have got 96 accredited certifiers. You have got 96 Organic System Plans that you have got to get in the same format and --

MS. ROBINSON: No, no.

PANELIST McELROY: No?

MS. ROBINSON: No. I mean, that's where your flexibility comes in but, you know, you know the reg. You look at it, but you also say for a livestock producer that comes to you, where is your Pasture Plan? How are you going to meet the regulation?

PANELIST STALLEY: I think a Pasture Plan should be part of an inspection as well. I think a lot of that could be verified on inspection. When the producer fills out their plan, they tell us how many acres of pasture they have. They tell us how many cows they have at each stage of
production. And I think if you look at that, you can see if they are within a ballpark where they can meet that.

And then as far as how they are specifically meeting it, I think a good inspector should, if they are doing their job right, find that out for you and put that in their report and that is almost always the case.

And I think rather than trying to figure out what a producer is going to be doing with his farm for a whole entire another year -- because keep in mind that Farm Plan is for the whole year and I have been on enough farms to know that things go in and out the window as the year goes along and plans change. So I really think that will be something better to be incorporated into the inspection report.

PANELIST McELROY: So can I ask a question based on that? If the Organic System Plan has the Pasture Plan and there is no
change in the reg, it's only enforced through
the Organic System Plan, does the USDA
National Organic Program feel like they have
enough regulation to be able to enforce, you
know, grazing on pasture during lactation?

MS. ROBINSON: Yes. What I hear
you saying basically is enforce --

COURT REPORTER: Microphone,
please. I'm sorry.

MS. ROBINSON: I'm sorry. What I
hear you saying is enforce the regulation.

PANELIST McELROY: Well, yes,
okay.

(Applause)

MR. BRADLEY: What you're saying
is the reason we're here is to see how much
pasture is enough and with the 120 days, we
can enforce 120 days with or without the DMI
requirement. We can enforce a DMI requirement
for as many days as they are out on pasture,
but with a number you can do that. Right now
they have access to pasture and that's the
whole problem. I mean, you can say access to
apasture when they open the door at midnight
and I don't think that reflects the spirit of
the rule.

PANELIST McELROY: Right.

MR. BRADLEY: But with a number
you can do that. 120 days, DMI, those kind of
things, yes. And then, at that point, you can
use all the tools that we have been presented
with today, over the past couple of days, as
to how you're going to get from Point A to
Point B in 100 different combinations of ways
without being too restrictive on the amount of
records that they have to keep, but
demonstrate that they have a sustainable plan
that they are clearly a pasture-based system.

You can do that, but the Organic
Systems Plan is where it has to be. Before
you ever go out there on-site, you have to
have a game plan to do that. You have to have
a business plan and, like John said, you can
look at it and see, tell whether or not it's a
real deal, whether it's sustainable.

I mean, you can work the numbers to demonstrate at least a minimum compliance.

And what I'm hearing from all the farmers that are here, that they go way beyond that. For the most part, the people that have adequate access to pasture are going beyond the DMI requirements, the 120 days. Those are minimum.

MEMBER KARREMAN: Can I ask a question? Hugh Karreman, NOSB. With the OSP, that's kind of like the overarching thing and I'm glad if that's possibly enforceable, but we do have to have some, I think, minimums and that is more in the regulation then, right, where we would insert that.

But I know some people that are pretty well-versed in the industry would say that if we took out that access to pasture and we changed it to shall graze during the growing season or whatever the active verb would be, and we take out the exemption for
stage of production and change it to a specific, like they were saying yesterday, sick cows can be off the pasture or very young stock, would that -- taking those two loopholes out, would we be where we want to be for the certifiers to enforce what we're trying to accomplish here in this symposium?

That is my first question. I have another, but so if we take out those two loopholes and add in the Organic Systems Plan, intent and everything, is that going to be enforceable in a court of law?

PANELIST ZUCK: I would say most certifiers I know are enforcing the pasture standard now.

MEMBER KARREMAN: Then how are some not?

PANELIST ZUCK: Because of the -- it isn't being forced against the certifiers.

PARTICIPANT: That's an NOP question.

PANELIST STALLEY: Yes, that
really is an NOP question, I believe.

MEMBER KARREMAN: Then how is it then that some are not enforcing it? How are some certifiers not enforcing it? Is it because of those two supposed loopholes? I'm just wondering. I want to know.

MR. BRADLEY: Mark Bradley, National Organic Program. The problem comes in when they are interpreting the rules, when they are saying what is access. That is where, you know, the flexibility in their mind comes in. So getting a number would get us to having that.

What you're saying about grazing during the growing season, you may run into problems when you have, you know, very arid climates that, you know, there won't be a real grazing season. They are having to operate strictly on irrigated ground, bringing in fjords, those types of things. And that gets to, you know, what do the people want? What do they want that standard to reflect? And if
it's minimum 120 days, then we can work with that number.

MEMBER KARREMAN: And that kind of goes to the second question. There is a lot of factors or variables we can look at, 120 days, 30 percent. We heard three cows per acre. I tossed out eight hours per day during some deliberations in the Livestock Committee meeting and someone else has mentioned percent biomass to do clippings occasionally.

Now, okay, so that's five factors, that perhaps to take into account different geography of the country that could the certifiers or the NOP allow that if there is like two out of the five or three out of the five that are met, depending on your geography and whatnot, would that be okay or would that be giving loopholes?

So let's say you could make 120 days, eight hours a day, three cows per acre, let's just say three of the five factors I have mentioned here that have been tossed
around, would that be enforceable and would that, you know, ensure customer, you know, assurance that the milk is from cows out on pasture? Do you understand what I'm saying?

Options. That's what I'm asking then. Can there be options to choose from?

PANELIST ZUCK: Well, there's a couple of levels. You're asking about whether something is enforceable and the certifier's role is to verify compliance with that. You know, we would verify compliance with those factors, you know, and whether it is then enforceable comes down to whether that -- if that client were to appeal because we denied certification, then it shifts over to the enforcement arm of this reg, which is over there.

MEMBER KARREMAN: Right. I apologize. I probably should have asked the former group, but I did want to ask it at some point during the symposium. But, you know, basically, can you have two out of five
options, three out of five and make it to be certified an organic dairy?

PANELIST STALLEY: I think that's going to complicate the matter, personally. Who gets certified, the guy that makes two out of five, the guy that makes three out of five?

MEMBER KARREMAN: Oh, no, no, no. You say it's going to be three out of five. You got to meet three of these five things at least.

PANELIST STALLEY: I would rather see where you have to meet all of them.

(Applause)

MEMBER KARREMAN: I mean, it would take into account geographic variability is what I'm trying to help you --

PANELIST ZUCK: Well, also, I think that that is a good point because if there is a pasture standard, there would be a list of factors that the certifier uses to demonstrate compliance to determine whether there is adequate pasture and those things
would be listed there, and the goal should be
to meet them all.

And if we do have a producer who
isn't meeting all of them and there is nine
and they are meeting eight, then that is a
noncompliance and they work toward meeting
that other one in the next round of
certification, the next year or the next three
months or whatever period of time we would
allow them to do that.

I mean, that would be one way that
that could happen, essentially require
compliance with all of those factors that you
named but, you know, at least be able to
certify them if, you know, they have
demonstrated the ability to meet those
requirements even if they are not meeting them
right now.

MEMBER KARREMAN: I guess what I'm
thinking about, let's say like Albert where
his intent is fully there. Everyone is saying
that, right? Okay. Okay. But he is going to
get snagged, let's say, or someone like him
by, you know, just if we look at two factors,
that's it.

Whereas, if there were, you know,
four or five to choose from, he may well make
it and he has the full intent there in the
spirit of law and whatnot, but because of
where he is located, it's a little more
difficult. But, gee whiz, you know, he has
got the intent.

PANELIST ZUCK: I did hear some of
the farmers saying -- I brought that up at one
of the meetings we had, you know, whether we
could do either/or, you know? Some farmers,
it might be easier for them to keep track of
the 120 days, so many hours.

Other farmers might prefer to keep
track of the dry matter intake since it seemed
to me that they were tied together, one sort
of equaled the other, and it was brought up
that, well, you know, you could have 120 days
on pasture and not get anywhere near that
percentage dry matter intake.

You know, so that's not my opinion. That was just something that the farmers felt that they had a serious concern that that might be unfair because it would lower the minimum.

MEMBER KARREMAN: Okay. I will finish on this, but this would be assuming that the current descriptions of the pasture, giving nutritive, you know, value to the cows and whatnot, all the soil erosion stuff and whatnot, are still in place.

PANELIST ZUCK: Right. Oh, yes.

MEMBER KARREMAN: Sorry if I didn't mention that.

PANELIST ZUCK: Yes, and I agree with that, yes. I feel that we could manage with an either/or situation.

MEMBER KARREMAN: Okay.

PANELIST ZUCK: Brian?

MEMBER KARREMAN: I don't know if it goes over there.
MEMBER GIACOMINI: Dan Giacomini, NOSB. In regards to the dry matter intake, I work with this on a daily basis and sometimes it takes me months to determine what dry matter intake is. When you're dealing with a situation of someone saying well, no, my cows aren't 1,000 pound body weight, they are 1,100, no, it's not 3 percent, it's 4 percent, my grass is 18 percent not 20, how do you verify that within the time frame of one inspection?

PANELIST McELROY: No, I don't.

PANELIST ZUCK: Yes.

PANELIST McELROY: I don't. I don't want to. I can't. I'm not qualified. You win.

PARTICIPANT: You can't do that.

PANELIST McELROY: Yes, I know. I mean, I hear you. I mean, I have worked with Dan and I have worked with some of the other nutritionists in the region and they have all come to me with some pretty complex scenarios.
PANELIST ZUCK: Yes, I mean, and if there is a standard and we're asked to verify compliance with that standard and we're told how to verify compliance, we'll do it.

MEMBER MOYER: Jeff Moyer, NOSB. In that same vein of thought, would it -- and that is why Hugh just mentioned the idea of biomass cuts. Would it be possible for producers to take cuts every -- even if it's only every 30 days, so you have some idea of what the cows were in. You would have the number of days they are standing out there. At least you would have some idea of whether they are standing on dirt or whether they are standing on grazable pasture.

PANELIST McELROY: I think we can figure out whether they are standing on dirt or grazable pasture without taking biomass every three months.

MEMBER MOYER: But without some sort of documentable number, we are back where we are today.
PANELIST ZUCK: Well, I --

MEMBER MOYER: Unless you can document that they are standing on something that is grazable and how do you measure that and document it, I don't know.

PANELIST ZUCK: I don't really know much about biomass cuts. I imagine somebody has to do it and analyze it and pay for it and all that, but I do say that, you know, still it would be unfair to the 125 certified organic dairy farmers that clearly have pasture, there's no question about it that those cows are grazing pasture higher, 60, 70 percent dry matter intake for pasture, and be asking them to do those sort of tests to prove it. I don't think that would be fair.

PANELIST STALLEY: I would like to take the middle road here if I may. I think the calculation is doable. I think it could be done in the Farm Plan by the producer. I saw the formula yesterday. Is it still out
there? But it's not that hard to calculate it once for the whole year. You have already got all that information. Throw it into the formula, see where it comes out.

And I wouldn't argue with anybody that that's full of holes and there's all kinds of problems with that. Yes, there is lots of problems with that. There is lots of variables in this, but we need something, some kind of teeth or something, that we can do to make sure that -- and, yes, that is very oversimplifying pasture management, but maybe it's a number. It's better than no number.

And it has got to be something that the producer -- we have got to keep in mind dairy farmers need to -- we need to implement something they can do. They already have trouble with the paperwork. Let's not make it harder for them.

PANELIST ZUCK: And we did have farmers concerned that they really didn't know. They were concerned like they are
certified, they are going through their year and then this pasture standard is going to come up to them and they are not going to even know if they have met it throughout the year. They are nervous about that. They want to comply. They want to make sure they can comply and they don't know if they do. We have to keep their point of view in mind as well.

MEMBER SMILLIE: Following up on the easy tool, and I hate to beat the poor cow to death, but would it be fair to say that what I heard from you guys earlier that a clarification, a definition and a stiffening of temporary confinement and the same thing, clarification, stiffening and defining of grazing pasture at all stages of production, is that the route that you three would prefer to go rather than, let's say, the combination of five factors including the 30 percent and the 120 days?

PANELIST McELROY: You know, we'll
go out and we'll enforce whatever gets passed by law and by regulation.

MEMBER SMILLIE: That's clear. That's clear that you'll -- you know, that's our job.

PANELIST McELROY: Yes.

MEMBER SMILLIE: We enforce regulations, but do you think that we would achieve the intent of the law and the intent of what we have heard for the last two days and for the three years, five years, 10 years previously? Do you think that we could do that, enforce compliance to the intent of the law by cleaning up and stiffening those two sections, temporary confinement and grazing pasture at all stages of production?

PANELIST McELROY: I guess --

PANELIST ZUCK: I think it will help.

PANELIST McELROY: Yes.

PANELIST ZUCK: But it's not going to satisfy the needs of, I think, the farmers
in this room and the consumers who are mostly not in this room. I think it would help greatly and it would get us a huge step forward from where we are, but it's probably not where we want to be yet.

PANELIST STALLEY: And I would just like to say that I really think the language needs to be changed. It's not working the way it is now. You know, just set all that other stuff aside. It needs to be changed.

MEMBER CAROE: Andrea Caroe, NOSB.

My questions -- actually, I would like you to comment on something that I see happening. I see that there is actually two factors at work here. One, we have intent which is reflected in plans or the Organic Systems Plan, but then the other part of this is how you implement the plan, which is what certifiers verify. Is it being implemented and is it working?

And so in your role in verifying that plan, in verifying that it is effective,
what tools or what metrics wouldn't be necessary for you to be able to quantify whether that is effective or not and are you concerned? And I think I heard this from you, Brian, that you're concerned with setting those numbers and really being able to be comfortable with somebody that falls below that benchmark and saying, I'm sorry, you're not certifiable.

PANELIST McELROY: Yes. It is much easier to deal with things like fungicide treated seed. It is prohibited. It's a lot harder to deal with 10 percent fungicide treated seed as allowed. You know, it's -- it would, in my mind, and it is a lot easier to deal with cows will graze. They must graze at all stages of production during the growing season. It seems to me that that is a standard and I think we can enforce it.

But I am concerned with a number that individuals can't meet for some regional issue or some specific thing and, you know, do
we start causing people harm at 25 percent dry
matter intake or 35 percent dry matter intake?
So maybe dry matter intake is a range, you
know. Do you want to give us a range? That's
something that's a little easier to enforce
in. I don't know.

Hitting a specific target, you
know, totally off the topic, I think, the
uniform reg was the biggest mistake we ever
made, because we all have to put on the same
jacket. We all have to get inside the box. A
baseline everybody has to get on the baseline,
it's much easier to enforce. Now, if people
want to go above, to the side, below, fine,
let them go, but everybody gets on the floor.

But because we have got this
uniform reg, if you put a number on it, if you
put a number on a uniform reg, everybody has
got to be there and that's a problem.

PANELIST ZUCK: And the tools that
you were speaking or asking about, Andrea, I
have to continue to say that our biggest and
best tool are the eyes of our inspectors.
They are going out to these farms and they --
there is really no question about compliance
on the huge percentage of the farms. And
where there is questionable is where we would
need to have the numbers. And that's why the
farmers are pushing for it, because we need it
for the questionable areas.

PANELIST McELROY: I mean, Andrea
and Joe, you guys are in certification, too.
You've been involved in certification, so you
are as aware as we are of how did we get here.
I mean, this is a public/private
partnership. The public agrees to be
regulated and the regulation is established
for the public interest. If we all figure out
how to make the regulation not quite work,
because we want to weasel word this or figure
out that, then we go back and we apply more
regulation and the public doesn't like being
over regulated.

So the public/private partnership
here is that if we're going to continue to push the limits of the regulation to get whatever we want whatever way we can, then we're going to get ourselves more regulation that we may or may not want. So, you know, there is 90 percent of the milk going through about five marketing points and, you know, those parties are in control of this thing. And if they want to avoid additional regulation, then they can pretty much solve this problem overnight.

(Applause)

MEMBER JAMES: I know we're running close on time, so I'll just skip to one question, even though I have several. First, thank you for your certification expertise and your presentations. I know you are speaking on behalf of a lot of other certifiers out there who may not necessarily adhere to the same principles that your organization stands for.

I want to go back to the comment
about that John you made regarding the regulations not being quite clear enough and I wanted to just read this 205.237(a), "The producer of an organic livestock operation must provide livestock with a total feed ration composed of agricultural products, including pasture." And so even though I understand that you are saying that the NOP should be responsible for reinforcement, I say that this is ultimately going to be a huge issue for certifiers, no matter how it comes out.

And how did we get to the point where with this being very clear, I mean, you know, I'm not a certifier, but it seems very clear to me that there are operations currently not adhering to this, that's why we're here, so how is it that a certifier would not interpret this and look at the Organic System Plan to be held to this regulation that's documented.

PANELIST STALLEY: That's a very
good question and as far as -- I think it comes down to interpretations and there are some interpretations that when I hear them, I can't believe what I'm hearing, seriously.

Access to pasture. Okay. I cut the hay and I brought it across the road and I threw it -- I gave it to the livestock. I fed it to the livestock. They have access to that pasture.

I'm bringing it to them. Now, that's not the intent. But that's a real life scenario from what I understand.

MEMBER JAMES: Okay. Cell phones that go off, you have to buy everybody a drink.

PARTICIPANT: I'm sorry.

(Applause)

PARTICIPANT: That's his reminder that he has to be on a plane.

PARTICIPANT: I have to get on a plane in about 10 minutes, so I have to keep my clock going. I'm sorry.

MEMBER JAMES: Okay. You know, I
raise this because I think it's really a very, very important question to this particular issue and that we will be going around this gerbil cage forever until we figure out how in the world can we get the certifiers to help adhere to obvious --

PANELIST STALLEY: No, I agree and I've been there. I've gone through it and I feel stupid as hell for it. But it boils down to okay, so I gave them access to pasture. Here it is. You never told me it had to be this much or this big or this tall. Yes, that's right. Okay. You gave them access to pasture, but, you know, I think there could be continuous improvement.

Well, how long are you going to just poke me in the side and tell me continuous improvement? Tell me what I got to do. How many acres do you want? How many cows on how many acres? And, you know, looking through the rule, I don't have it. I can't tell you. Well, then I did it. I'm
done. You know, and I don't feel good about it, but there is how we end up in those situations.

Access to pasture, total feed ration. Is the total feed ration average for the year? Yes, generally, in the Organic System Plan we're talking about a total feed ration description that descriptive of the operation, not just today and not just tomorrow, but through the whole year. So we end up with a total feed ration that describes access to pasture, but then you start digging in to it and you find out the dry cows have a lot of access to pasture, that's through the stage of production of becoming a mature animal that can be pregnant, that can be milked. That's all pasture.

You know, there is great pockets. The system as a whole has great pasture access, but then there are these pockets. There is just none any more. And that's how we end up in these things.
MEMBER JAMES: Would it be helpful if the certifiers, all certifiers had a general outline for the OSP that would basically make it very clear what is expected for the Organic System Plan?

PANELIST STALLEY: Yes, I think a general outline on the Organic System Plan all the way from, you know, identifying the parcels all the way through to the end of the materials you use for growing livestock, production and handling and that's, you know, why I have asked that the National Organic Standards Board at some point just survey some of the OSPs that are being used by the Accredited Certification Programs and ask yourself if that tool is really working the way everybody expects it to work. Because my expectation is no it's not working the way you think it works.

MEMBER JAMES: Okay. And I will just add to the access to pasture example that the enforcement depends on the interpretation
of the program, the program's ability to
enforce that. So in other words, if this
producer comes to us and says what John -- the
scenario that John gave where they are just
clipping the pasture and bringing it over and
we deny certification, we say oh, gosh, that
doesn't wash with PCO, that ain't pasture and
they appeal it, then it's up to them to decide
whether they can go forward with that based on
what's in the rule and what, you know, they
have in their tool box. Am I right?

FACILITATOR ANDERSON: Do you have
a question? I do have one question from the
audience and I remind everyone that all these
questions will be scanned. Sorry. I do have
one question from the audience that I would
like to throw in, because I think it's no less
or no more important than others, but we don't
have time for all of them. And all of these
questions will be scanned into the record.

But the question is do we have any
idea of how many farms operations or whatever
they are operating without meaningful access to pasture? Well, that's the back. That is the back. I mean, the original question was does anyone know who prior to OFPA was certifying dairy without access to pasture and the second part is do we know now how many dairies that don't have pasture being certified?

PANELIST McELROY: Well, prior to OFPA, I do not believe that CCOF standards had a very detailed access to pasture. I think it was a very detailed Pasture Program. It was 100 percent organic feed. That was the real focus of and it's why CCOF didn't certify any dairy until the National Organic Program was implemented. But, no, we did not have a Pasture Program prior to the NOP.

PANELIST ZUCK: No, the same answer.

PARTICIPANT: I can't answer that.

FACILITATOR ANDERSON: And I would add the historical perspective to this is that
all of us who were producing and sitting at
the NOSB in the '90s had no access to organic
labeling in dairy or livestock. And so one of
the reasons we are in the dilemma today is
that this is an evolving process where most of
us didn't have experience. I mean, we had our
own experiences and we knew what we were
doing, but it was -- it is an imperfect
process and it's a perfect process, because
it's always going to be evolving and that's
where we are today.

I would like to take just about a
two minute break to change from regulation --
from certifiers to the consumer and thank
these guys very much for coming up.

(Applause)

FACILITATOR ANDERSON: Order or
there will be no lunches. So those of you who
are interested in having lunch, please, take
your seats. If you are not, please, leave the
room.

(Whereupon, at 11:24 a.m. a recess
until 11:33 a.m.)

FACILITATOR ANDERSON: We're now beginning the session marketing expectations and consumer perceptions. We're going to begin with Margaret Wittenburg from Whole Foods Market.

MS. FRANCES: And just a quick comment, yellow cards for market questions. I'll be passing those out.

PANELIST WITTENBURG: All right. Thank you. It has been great being able to be here with you today. I'm a former NOSB member and have a lot of heartfelt thanks for all of you here. I know how much work it is, but it's very gratifying work and a very much pleasure to be part of the audience as well in this really important symposium.

So what I'm going to talk about is the market expectations perceptions. I mean, obviously, you do all this work, all the farmers do the work to get the product according to the organic standards and then...
you have to sell it and that's where the retailers come in. And I am from Whole Foods Market. I've been with the company for 25 years and had my own store in Wisconsin before that for four years. So this is near and dear to my heart and near and dear to the people that work at Whole Foods Market. Many of us have been here in the industry for 20 plus years.

Okay. So what I'm going be talking about are these three main questions. What are consumer perceptions and expectations about organic? What are consumer perceptions and expectations about organic dairy and pasture? And what are Whole Foods Market's expectations as a retailer regarding pasture and organic dairy?

Okay. Well, for several years Whole Foods Market has done its own organic trend tracker. We check about 1,000 customers who represent the American population each year and asked them about their consumption of
organic and things of change and so forth. This past year, this is the fall of 2005, nearly two-thirds of Americans have tried organic foods and beverages and this is certainly a jump from the last two prior years and from just over half.

In 2005, people were saying that 10 percent of them consumed organic foods several times a week, this up from 7 percent in 2004. And 27 percent said that the consume more organic foods and beverages than they did in 2004.

Now, the awareness of the Organic Seal, many of us were anxious to have the Organic Seal, because that was going to be the demarkation for the consumers that they knew that there were consistent standards throughout the country. And we find that there definitely is an awareness of the USDA's Organic Seal, especially among organic users, but even the general public, the GP means general public, even they are aware of the
organic seal.

The impact has definitely had a positive impact on organic users that has increased their purchases, again, that consistency of knowing that the standards are real and make sense throughout all the country. Now, the perceptions of the term organic, you've probably seen this chart quite a few times and, you know, when people are asking consumers about what they think about organic, these are the typical things that come up: No chemical pesticides, no chemicals, natural ingredients, no additives, no preservatives, artificial flavors, artificial colors, not highly processed, better for the environment and so forth and so on.

I think it's interesting that for the general public the organic consumers and the non-users all are pretty much in sync with this. Different percentages, but as far as what's the most important to them, it goes
down the line. And we have also found that there is a real progression of people going from kind of expanding the organic horizons of what they get into.

Stage 1, dairy is definitely that. People who don't even know much about organic know that there is something different about organic dairy milk and we will get into that and find that is one of the first stages of getting into the buying more organic food. But we found that with the organic dairy demanding growing, there is certainly a lot more outlets and a lot more channels that consumers are able to get into.

So now, supply is very short. The current growth demand per year we're finding is 25 to 30 percent. The projected growth with our new supply of organic milk is 15 to 20 percent giving us a projected shortfall of 10 to 15 percent. And we figured this equals about 100,000 cows per year needing to get into dairy each year. And this isn't even
looking at organic dairy ingredients, such as cheese, milk powder, etcetera.

And the organic price premium is real. This is something we did price check in San Rafael in February of this year and you're looking at quite a significant price premium. Consumers are willing to pay that, because they feel that they are getting something special.

Okay. We know that. We know what organic people are looking for in general about organic, but what about pasture? It's a question that people haven't specifically asked and we felt was really important to ask. Within that, we have the -- you know, consumers' concerns are really growing about their food. Food safety, we know about pesticides, antibiotics and hormones. People are very concerned about that.

Animal welfare is definitely an issue, especially with Whole Foods Market consumers and our Whole Foods Market
leadership. Transparency, the source, people want to know about where their food comes from. It's very important to them to have that connection. And then land management and environmental standards is very important as well, looking at land stewardship and sustainability.

There has been a lot of media on organic in general. And just a snippet on organic dairy and I think this is one of the most interesting ones that was in the New York Times in November and they were saying that the ethos of organic milk, one that has cartons reinforced conjures lush pastures and so forth and so on, things that have been brought up before in these past couple of days.

But I think this was an interesting quote that they said, "But choosing organic milk doesn't guarantee much beyond this. It comes from a cow whose milk production was not prompted by an artificial
growth hormone, whose feed was not grown on pesticides and which had access to pasture, a term so vague it could mean that a cow might spend most of its milk-producing life confined to a feed lot eating grain and not grass." So the question that was out there to the consumers, is what is being portrayed, is that really happening?

So we thought let's ask our consumers. Again, how many people have actually been asked specifically about pasture? We felt let's ask. We have a Fl@vors email newsletter that people can opt into. We have many, many, many thousands of people who have opted into that in our 183 stores that we have.

And so what we did is we can send out a survey to our customers, and we did this on just April 12th, this is quite recent, and here is a question that we asked. We said "When choosing organic milk and choosing other dairy products, what is important to you about
the conditions in which the organic dairy cattle are raised? Check all that apply. Spend more time outdoors than indoors; most of their food is from pasture; have access only to the area outside of the barn; have access to the outdoors only on nice days; raised on pasture all year round; have access to the outdoors when they choose; and have access to pasture a couple hours a day."

So the results, in one day we had 18,450 responses. This is an important issue for people and I haven't read what are the highest answers there. Spend more time outdoors than indoors, 60 percent of these people, most of their food is from pasture, 69 percent, raised on pasture all year round, 42 percent, have access to the outdoors when they choose, 51 percent. These are consumers of organic dairy at Whole Foods Market and giving their opinion, and this is just in a chart form where you can see how all that played out.
So we thought, well, let's ask people who are not our customers, so we did the same question in the same week to 1,000 respondents representative of the U.S. adult population, did this online, and interestingly enough the same issues were highlighted. You know, the percentages were different because these weren't organic consumers, but, again, spend more time outdoors than indoors, most of their food is from pasture, raised on pasture all year round, have access to outdoors when they choose. Those were the highest assumptions of people of what organic milk should be and is.

So bottom line for consumers. Organic dairy is considered the gold standard with high expectations. They are paying a lot. They are expecting a lot. Pasture-based year round not simply access to pasture for animals raised organically along with the pasture supplying much of the animals' nutrition is assumed by most Whole Foods
Market and general public as status quo and few can fathom animals from whom our derived certified organic products would have anything less.

Okay. So now, how about as a retailer, what do we or how do we feel about it? Well, we have been real clear about it. In March of last year we gave testimony to the National Organic Standards Board, said Whole Foods Market supports a national organic standard which requires that all ruminant livestock be grazed on pasture in order to allow that livestock to fulfill its natural behavior as closely as possible and to respect the expectations of organic consumers.

September 2005, we put all of our producers on notice and said we believe that organic consumers expect that organic milk comes from cows which are given access to pasture. We fully expect our organic dairy vendors to meet or exceed the recommendations made by the NOSB with regard to the amount of
pasture provided for animals, percent of dry matter intake from pasture and the percentage of time per animal spent on pasture.

Now, within Whole Foods Market the animal welfare is so important to us, we felt we wanted to highlight the producers who are really doing an outstanding job and really focusing on the animal, and also to push the industry knowing that, one, there was a market for this and also just to really encourage innovation to get this moving a little faster.

So we created our own animal compassionate standards, started this in November of 2004, and it is a further enhancement of our already very strict natural animal standards. And one of the prior folks who was giving his talk here kind of referenced that it’s not very easy getting meat in at Whole Foods Market. My team looks at it. We’re on the farm. We’re in slaughterhouses. We’re really looking and we’re asking some very, very pointed
questions.

And my team goes out there and checks to see what they have written us on their verification form actually is true, so we check it out. So, anyway, we have the natural standards and we also wanted to highlight meat that is even that step above. So we will have animal compassion meat as our producers are able to meet those high standards.

You can look on our website, wholefoodsmarket.com, and you can see the current, the ones that we have already done, which is beef cattle, ducks, pigs, sheep. We're almost done with broiler chickens. We're near completion with turkeys and chicken egg layers and dairy cattle are starting -- are going to be done this year. And we know dairy cattle is going to be a tough one, but we know it can be done and I think a lot of the producers today have said that it can be done.
But what's real important for you
to know that on these -- on all the species
specific standards, pasture-based production
is a given. And it's based on what a clear
definition of what constitutes a pasture.
Barns are considered as places to visit for
temporary shelters.

So our guiding principles, when we
create these animal compassion standards, Goal
A is to maximize the welfare of the animal.
Goal B is to minimize cost and maximize
efficiencies. We know that Goal B cannot be
ignored. You have to have people that are
still in business, but we're making it
subordinate to Goal A.

And the biggest tenets that we
have it's animals can practice their natural
behaviors and maintain highest health in
pasture-based systems. We have what we call
the five people in the airport test. We've
got this from Temple Grandin, who we work with
quite a lot, and she says, and I know Temple
does this, when she is on a plane she has got her pictures and she will say to the people next to her on the plane what is this -- does this look like something that you expect? Is this how you think animals should be raised? And she will show them pictures, all, you know, types of pictures.

And we felt that was a really good way of perception is this what our customers are expecting is happening. So we often refer to that as five people in the airport test when we are creating our standards. And these standards, by the way, are multi-stakeholder group. We have animal advocate groups. There we have the producers, our producers of that particular species we deal with. We have animal welfare scientists, literally from all around the world, and many of us in leadership who are very much involved in this.

Then we also created an animal compassion foundation, because we realized that there is a lot of education and a lot of
sharing of information that needs to be done
and that a lot of producers want to do it, but
really don't know how to do it. So we created
this network to be as a portal and also we are
funding a lot of studies on animal welfare
systems and experiments that people can't get
funding for other places.

So for us the big picture, demand exceeds supply. The market opportunity is
growing. Dairy is definitely a key crossover
item for the organic consumers. The organic
consumer expectations continue to grow
including marketing transparency and most
organic dairy producers now are already
pasture-based. And I think we've got to
remember that.

So what is -- our hope is it's
market bottom line. The integrity of organic
dairy standards including a pasture-based
system as requirement is more important than
watering them down to increase supply or keep
prices down.
(Applause)

PANELIST WITTENBURG: The National Organic Standard should ensure that all our farmers provide optimum conditions for their cows, including a standard for pasture be clearly stated in order to assure consumers that their expectations for organic or dairy are being met. A level playing field benefits farmers and consumers. Anything less will diminish the value of organic.

(Applause)

PANELIST WITTENBURG: So the next step as we see it, really support this public/private partnership with the National Organic Standards Board. You know, again, as being a former member and as our company being a strong supporter, the NOSB is similar to us at Whole Foods Market where we look at our consumers. NOSB is for the USDA to really get that pulse of what the country is looking for for organic and should be listened to.

The USDA's pasture advanced notice
of rulemaking and this symposium is fabulous. It is providing the opportunity for all voices to be heard. We need to keep the process moving and have a defined date for completion.

And then, lastly, we should support an approach to livestock rearing standards, including pasture access, that focuses on the animal and then balances consumer expectations regarding organic integrity with workable standards for farmers.

Thank you.

(Applause)

FACILITATOR ANDERSON: Thank you. Thank you, Margaret. It's my pleasure to welcome Maryellen Molyneaux here. Maryellen is the President of Natural Marketing Institute.

PANELIST MOLYNEAUX: Good morning and thank you for the opportunity to address the symposium. I was asked to do some very specific research around these issues that I'm
going to present this morning, just a little bit of background on the Natural Marketing Institute for those of you who are not familiar with us.

We're a strategic business consulting firm and market research company that specializes in health, wellness and sustainability. What truly differentiates us is our databases. We now have over 300,000 consumers in our databases with very comprehensive information on what they want, what they do, why they act, why they don't, what their needs are, etcetera, within all areas of health and wellness and this one was a particular one that we wanted to go into a little bit deeper after some discussions with USDA and Bob Anderson.

Just to talk about the research itself, which I think is very important to give you a perspective on this this morning, because we have heard a lot of comments about what consumers want and we have seen a little
bit of real research from Whole Foods. And I want to start by saying what the objectives were, to really understand from consumers what their usage levels were of specific organic products and specific organic dairy, what their reasons for use are and what the relative importance of the pasture issues are to consumers.

And I do mean the relative importance. And one of the things that we spent a lot of time in trying to delineate, both with my team, my writers, RPHDs that did the analysis and with USDA, was to have an unbiased survey. This is extremely important because you could do qualitative research in this issue.

Go talk one-on-one with consumers, go do focus groups, go talk to them just without any aided questions, without any multiple choice lists and so forth and ask them why they use organic dairy. And I can tell you that I have done before we started
this and I continue to do it. I have done about 50 one-on-one interviews in the process over the last month. Never once, never once did a consumer address the issue of pasture with me until I brought it up.

Their issue atop of mine in qualitative research were antibiotics and hormones. What we tried to do in this research though was to quantify some of these things, because that is really important. You need to have an unbiased survey that is nationally projectable that is going to give you some numbers. So we started with 1,000 U.S. adult population balanced to Census. We included within the survey the identification of organic product users, their frequency of use and specifically organic milk and other organic dairy products.

It was an online methodology conducted between March 23rd and March 26th of this year. And, as I mentioned before, we wanted to get at the relative importance of
pasture, so we used advanced regression analysis in a classification and regression tree to determine the true drivers of frequent usage and I'm going to show you some of that this morning.

So the data that you're looking at at the 95 percent confidence level is accurate to plus or minus 3 percent. Please, remember the plus or minus 3 percent, as I go through the presentation, I'm going to refer you to this so you can see where the different levels of importance are and how different they truly are.

First of all, when we asked consumers what they use, we went across six different categories and the results of this very much agreed with our national survey and our health and wellness trends data. The fresh fruits and vegetables, 44 percent of the population said that they have used them in the past six months. Packaged foods drops to 28. Dairy and milk, organic dairy milk
products, about one fourth of the population, 24 percent. That is in comparison to the 96 percent of the general population that use any kind of dairy products.

Organic personal care drops to 21. Beverages beyond milk, 20 percent, and clothing and linens in a very emerging category at 7 percent. You net any usage and over half the population, about 53 percent of consumers, have used at least one of these organic product categories within the past six months.

When we look at the specific users of organic dairy other than milk and users of organic milk within the survey, we wanted to see what their usage was and what the cross usage of categories is, because we have seen from our other research that these two categories are very important to all organic categories. So you see the general population usage here in the second column, which is the numbers I just showed you on the previous
chart, and then see the difference on the percentage of users from organic dairy users, organic milk users.

Organic dairy and milk users are significant users of other organic categories. It's extremely important what you're doing here today because these are integrated consumers that can affect the rest of the organic industry. And I may get on my soapbox this morning and I'm going to ask you to excuse me, but I get very upset at emails that go around asking for boycotts. It's ridiculous because it will affect the entire organic industry, not two companies. Be aware of how much they use.

(Applause)

PANELIST MOLYNEAUX: These two groups are significant users of all other organic categories. 88 percent, 89 percent use organic produce. Three-quarters use organic packaged foods. Two-thirds use other beverages. 70 percent of organic dairy users
also use organic milk. The same, three-quarters of organic milk users, the 74 percent use other organic dairy.

Over 50 percent of them use organic personal care and almost a quarter of them use organic clothing and linens. They are two to four times more likely to use all organic categories. It's extremely important that you address their concerns and address them correctly and responsibly.

When we look at the users of all the categories that are here, those two columns in yellow are the ones that I just reviewed with you, you can see that we do have some very high usage, cross usage, across categories. So you have category users going across here. So users of organic produce, about 57 percent of them used packaged foods, about a third of them use organic milk. Okay.

The produce user, about a third of them, 36 percent using organic milk, 38 percent using other organic dairy. As you
look again at these two consumer groups in comparison to other consumers, you have got very high usage in comparison and the only other ones that might be more integrated might be users of organic clothing and linen. New emerging categories will present that way.

We clearly see as we look across here produce as an entry category and then packaged foods, and you can see milk really coming down a little bit. But, again, these consumers that use these categories are integrated users of all.

When we look at their frequency of usage, you can see here that users of organic milk and other organic dairy right in the middle there in the white and that light yellow column, have a frequency of about almost 50 percent that use more than once per week.

So in comparison to personal care, clothing and linens, they use them higher, but that makes sense when you think about the
category. If they are going to buy those products, they are the type of products that they will use every day. But organic dairy products are used more than organic packaged foods and slightly more than fresh fruits and vegetables. So, again, it's an important category that is getting frequent usage.

When we look at the general public, and I'm going to show you information by general population and I'm going to show you the same information by organic users, organic dairy users, and then I'm going to show you information by other organic users that don't use organic dairy so you can see the comparisons.

The first thing that is important here as we look at the charts, this is what is important to them. We asked consumers and gave them a long list of attributes to find out what was important when they thought about organic milk and organic dairy products, what attributes were important. So this is top two
box, extremely, somewhat, out of 5. So out of five levels, these are the top two boxes.

The most important thing were no additives, no artificial ingredients. Next was hormones. Next was humane treatment followed by antibiotics. What I want you to see in the yellow bars is that pasture is here at 55 percent. Yes, it's important, but significantly less important than the issues of ingredients and humane treatment.

So as we asked consumers what is important to them, this is the general population. So just note the ranking here and remember that plus or minus 3 percent difference. That's why I'm showing you that these yellow bars at the top are significantly more important to consumers than these two at the bottom.

When we look at organic dairy users you see the same break. Notice the jump in the percentages. You went from 60 percentiles at the top to 87 percents at the
top. This is among organic dairy users. 87 percent say contain no hormones is important. Then it's about artificial additives. Organic feed is extremely important at 84 percent. Same for no antibiotics and 80 percent that the animals have been treated humanely.

That dotted line break is there for you to see the significant difference break. The two items below, pasture and exercise, are of significantly less importance to these consumers than the rest of it. It doesn't mean it's not important to them. It just means that it's less important. So you have 72 percent of organic dairy users that say that grazing in a pasture is important, but remember 87 said hormones and antibiotics and humane treatment.

When we look at these same numbers, and we're going to separate them now by ingredient issues and treatment of animal issues, and I broke this chart, it may be a
little hard to read in the back of the room, but you have got in the green chart -- in the green bar are organic dairy users. In the yellow bar are users of all other organic products who don't currently use organic dairy.

What you see first is that pretty much they think the same with less intensity, the only difference being where you see this little dotted box on those three measures, additives, antibiotics and organic feed. That is where organic dairy users are significantly different from non-users. So these are consumers that are in the category, in the general organic category, but not using organic dairy.

So we have got -- definitely, as we look at the ranking of numbers, we can see that ingredient issues are more important to consumers than treatment of animals and we have seen this pretty consistently. And, again, it's not to say that it's not important
because you could look at the numbers that are at the bottom, 66 to 75 percent even among non-users, and say, well, that's still a significant number to address. But as we look at where these things lie, what we wanted to try and connect within the regression analysis that you're going to see is what truly drives frequent usage.

We looked at those, their frequency of usage, and broke out three groups, the super-heavy dailies, these are the consumers that drink or use organic dairy more than once a day, heavy users that are using one time a week or more, and light users that are less than once a week, and broke out the attributes by ingredients and also by treatment of animals.

As you look at the super-heavy users and the heavy users you can see much higher numbers, first of all, than the light users, which you would expect. You would expect that heavy users have more knowledge,
which they appear to do. Where you see a small capital letter there, that indicates a significant difference. So amongst the heaviest users, they are more concerned about ingredients, additives, anything artificial being added to organic dairy and much more so than the other two groups.

When we look at pasture specifically, both of the heavy groups, the super-heavy dailies and the heavy users, more than once a week, are more concerned, significantly more concerned, and it's easy to see in that number here, than light users, 81 and 79 compared to 55.

But, again, this high number, 93, was really the most concern and that was about additives, any kind of artificial additives, and these would be concerned with organic dairy such as cheeses and things where they might be concerned about someone using an artificial color or flavor, something like that.
As we again took a look at those numbers and we did some regression analysis against frequency of usage, what was determined in the card analysis -- and you look at this as a relative score. It's not a percentage. It's a relative score. So relative to other measures, antibiotics and organic feed are the most significant drivers of frequent usage of organic dairy products. I will say it again. Relative to other measures, antibiotics and organic feed are the most important predictors of frequent organic milk and dairy usage.

It drops off beyond that to hormones and pasture. They drop off in relative importance. They drop down about 16 percent. Again, it doesn't mean that it's not important, but relative to the frequent usage, and this confirmed for me what I heard in qualitative, that in one-on-one interviews it was about antibiotics and hormones and that consumers automatically think about organic
feed.

If you put the issues of pasture in front of them and start asking them a lot of questions about it and what it is and what it isn't, of course they are going to say that animal is to be treated humanely and that animal needs to be outside and that animal needs to have this and the animal needs to have that. We're all pet lovers in the U.S. today and it's a really strong movement.

However, to do it in an unbiased way you need to put it into perspective of other attributes and do the regression analysis to see what truly is pushing frequent usage. For example, what you see here, humane treatment was at a relative score of only 43. It was less than half as important as no antibiotics and organic feed.

That is a number that you can't argue with and you have to take the qualitative with it. And remember that when you talk to your consumers, you have to talk
to them in an unbiased manner to find out what is really on their mind and we can drive anything that we want. And I'll bet if I did this survey today, just because of the email that is being circulated about boycotts, I'm going to get some different answers. So we need to be responsible in what we're putting out there.

As we then took those consumers, the ones up here that said that pasture was important, had a top two box in score on pasture is important to these, to organic dairy, we asked them what it meant and, clearly, it means to be outside eating grass most days at least. 75 percent, 78 percent say outside every day or outside most days.

You can see that this really doesn't make sense to consumers as you ask it. This was the very last question that they got. It was filtered off only to those who answered that pasture was important. So then we asked them what does that mean, and then
you get a very clear answer that it does mean being outside.

So let's have some conclusions. Almost one-fourth of the population has used organic dairy products in the past year. Organic dairy users are significant users of other organic categories. Therefore, any changes to the rulings must be considered carefully to protect all organic categories not just organic dairy.

Almost half of organic dairy users use these products more than once per week. In general, ingredient issues and humane treatment are more important reasons for usage than grazing among organic dairy users. In general, grazing is more important to the daily and heavy users of organic dairy than to light users.

No antibiotics and the use of organic feed are the highest drivers of frequent use of organic dairy followed by no hormones and grazing. And among those who
thought grazing was important, it means to be outside eating grass.

And now I think we can take some questions. I'm going to stay here in case you want to see a chart. I have a feeling it will come up.

FACILITATOR ANDERSON: Andrea?
Andrea, Dan and Julie.

PARTICIPANT: I don't think it will reach.

MEMBER GIACOMINI: I'll go first, then we'll see if it gets down to Andrea. Dan Giacomini, NOSB, specifically to Margaret and Maryellen can comment, please. In your survey, your one question that you had a significant number on was majority of food from pasture.

Was that in the form of lettuce or de-hy or how much and how much confusion with the consumer do you think -- in our discussions being dry matter intake, as percentage of dry matter intake for the last
two days, where does that fit with your numbers?

PANELIST WITTENBURG: Can you hear me on-- is this working? All right. Okay. Consumers are expecting that pasture is the default, that they only go in when it's inclement weather like very bad weather or when they are being milked. So I think that is the key here, is that, you know, they are not thinking of specific percentages. It's just that the default for pasture, the default for the animal is that pasture would be their living conditions.

Does that tell you enough or did you need more clarification?

MEMBER GIACOMINI: I just wanted clarification on whether -- making sure we're talking apples and apples and not apples and oranges.

PANELIST WITTENBURG: Of what is on a pasture or what?

MEMBER GIACOMINI: As far as your
question of the majority of food from pasture, which is at much less of a feed intake rate for pasture than 30 percent dry matter.

PANELIST WITTENBURG: Like I said, the question to the consumer was asking them how they felt pasture worked within an organic dairy system. They weren't -- they were to consider dry matter intake or whatever. Again, their feeling that dairy cows should be on pasture, should be getting a lot of their nutrient value from pasture, it's not excluding supplemental feed. We didn't ask them that, but they are just saying that that's where they expect a dairy cow to be rather than inside.

MEMBER CAROE: Andrea Caroe, NOSB.

I have two questions. One, Maryellen, if you could just clarify. On one of the last charts that you showed, could you clarify that those drivers, those factors that the -- I think they were from your check all that apply on pasture, if you -- okay, those. Those, the
participants that were in that study, were only those that suggested pasture is important? It's on.

PANELIST MOLYNEAUX: The particular question is at the end of the survey and it's filtered off only to those consumers who thought that pasture was extremely or somewhat important.

MEMBER CAROE: So --

PANELIST MOLYNEAUX: What does that mean?

MEMBER CAROE: So do you have the percentage of the overall survey group then?

PANELIST MOLYNEAUX: I would have to go back and look at it. I don't know it offhand.

MEMBER CAROE: But it would be significantly less than this because it's only a small --

PANELIST MOLYNEAUX: Oh, it would be significantly less, yes.
MEMBER CAROE: Okay. So that was one clarification I just wanted to get. And then the other question I have, it appears from your data that unless pasture was put in front of the consumer, they just assumed that cows are pastured. I mean, I think that Joe and Mary Consumer's view is that cows are on pasture and unless you tell them otherwise, they are not going to bring up the issue.

PANELIST MOLYNEAUX: Unless you tell them otherwise, they don't bring up the issue. And, actually, even in many interviews, even when I was only getting antibiotics and hormones -- excuse me, I have a little bit of a cold. As we only got answers in the interviews that it was all about antibiotics and hormones, as we even took them deeper and said, well, what about the animals and how they were treated, the word pasture never came up.

It just -- you know, it was really about organic feed and just in general humane
treatment. Unless I really kept digging and digging and digging, I didn't get to the pasture issue. So while I think that they have some perception in the back of their mind of what these things are and what they see in advertising and so forth, it's not the real reason why they drink and use organic dairy products.

MEMBER CAROE: Okay. So just to clarify, I mean, I don't think this is -- I think this is across the board, organic or conventional, that folks believe that cows eat grass.

PANELIST MOLYNEAUX: They think that their product is healthier.

MEMBER CAROE: Okay.

PANELIST MOLYNEAUX: But when we ask them what that means, they talk about antibiotics and hormones.

MEMBER CAROE: Okay. Then going to that, I don't know if you have any data on this and I want to ask if you have asked this
question, I think consumers probably expect that when it's snowing out that the cows are inside. You know, I mean, the reason I ask this is California has got a campaign through the Milk Order where, you know, it's egregious to have the cows out in the snow and they all go to California.

I mean, it's a popular campaign because consumers don't like the idea of the cows. Did you ask the questions? Did you drill down a little bit and say if it's between pasture and being out in inclement weather, which would you prefer or if it's between depleting the water supply and having --

PANELIST MOLYNEAUX: That's the answer. That's the way we asked it.

MEMBER CAROE: Okay.

PANELIST MOLYNEAUX: Most days in season. We, in this particular research, did not take this any deeper than that.

MEMBER CAROE: I would be
interested to see.

PANELIST MOLYNEAUX: We can do that for anybody that is interested in paying for it. Big group here, you could all share it. Hey, by the way, you all need to say thank you to USDA because they just provided you some very valuable information.

(Applause)

MEMBER JAMES: Bea James, NOSB. Okay. My question is for you. Do you think that most consumers are educated enough to understand that organic should include pasture? With only 3 percent of the population consuming organic and natural foods, how can we make this assumption that 1,000 people is enough to be able to determine that pasture is not important?

PANELIST MOLYNEAUX: It's not 3 percent. That number is wrong. The number that are consuming organic products using is 56 percent that have used any in the past year and in this one it was 53 percent have used in
the past six months, and a quarter of them have used organic milk and dairy.

MEMBER JAMES: No. What I mean is the grocery industry is a $550 billion industry and of that industry about --

PANELIST MOLYNEAUX: About sales.

MEMBER JAMES: -- 3 percent of those people are consuming organic and natural foods, and your survey is only on --

PANELIST MOLYNEAUX: No, your number is wrong. It's 3 percent of sales not 3 percent of --

MEMBER JAMES: 3 percent of sales.

PANELIST MOLYNEAUX: It's 3 percent of sales, not 3 percent of consumers.

MEMBER JAMES: Okay. I apologize, 3 percent of sales. So with that, I guess I just -- my basic question is do you really feel that 1,000 people is enough to be able to make an assessment?

PANELIST MOLYNEAUX: Yes. The answer is yes, yes, yes, yes, yes. Let me
tell you.

(Applause)

PANELIST MOLYNEAUX: We do a survey of 50,000 consumers every quarter. I get the same answers on 50,000 that I get on 1,000 within the realm of accuracy, plus or minus 3 percent. It's plus or minus 3 percent. 50,000 is plus or minus .4 percent and we're within the same scale.

MEMBER JAMES: So you feel that consumers are --

PANELIST MOLYNEAUX: It absolutely is.

MEMBER JAMES: -- educated and they understand what organic means?

PANELIST MOLYNEAUX: I didn't say that. I can show you other research that we have that will show you where the information on consumers, where it's lacking. You can look at -- for example, we test within our health and wellness trend survey organic regulations and organic perceptions and
desires for products, and you can clearly see that the elements that are regulated still are not perceived correctly by everybody, even by heavy organic users. It's getting better.

That's the good news, that it is getting better. Understanding of what the term organic means is important, but let me give you an example of that. You can ask consumers what's important or not what's important, what they want, and they will answer I want foods that are grown or that are processed without chemical fertilizers, without pesticides, 69 percent.

Then you ask them, they don't want artificial additives and it drops into the 50 percent. And then you can ask them another organic regulation that drops into the 40 percent and then you can ask them do you want organically grown foods and it drops into the 30 percent. And the reason that there is such a difference is they don't connect what organically grown means to the regulated
statements. They don't quite get the connection.

And we have been pounding this for quite awhile and OTA gets upset with us now and then, but it is what it is. And you can look at it among organic devoteds, the heaviest users of the category, and all those numbers go up into the 90 percentile. And look at it among temperates or dabblers and it drops into the 50 and the 30s. So you're bringing people along and educating and that's going to be the same thing that is going to happen here.

MEMBER KARREMAN: Question. Hugh Karreman, NOSB. You have a sliding scale here. If you were to ask organic consumers, I mean, it's kind of like breathing. You don't think about it. You know, I mean, cows are out there. They are grazing. That's -- you have to bring it up. But if you were to say do you think organic cows should be on pasture, yes/no, do you think that would give
a different result here?

PANELIST MOLYNEAUX: This is in a ranked scale order. The question that is asked here is in a ranked scale order of what is important to them when they consider organic dairy products. There really isn't a better measure of ranked importance.

And probably, notice that the pasture number is 72 percent among organic users and hormones is at 87, more than likely you would get a similar answer about pasture. I don't think it's going to be a whole lot different than that and the only purpose here was to put it in perspective.

FACILITATOR ANDERSON: Julie?

MEMBER WEISMAN: This is Julie Weisman, NOSB. I wanted to look at the chart that has the regression analysis that puts them with the top being 100 and then working down.

Can you, please, review for me who does this include? Is this the general
population or are these organic users and if it's the organic users, are they the heavies, the moderates, the lights?

PANELIST MOLYNEAUX: This is among organic users and what regression analysis took into account was all of the attribute measures and how they related to frequency. So it's not just the heavy users, it's all organic. So what you do in the regression analysis, it's almost like it's coding one answer against one person and how frequent they are, one answer in one, and you have to put it through the regression to get to it, to get to the relative score and relative rankings.

MEMBER WEISMAN: Okay. And then I had another piece of question, which may be for the program. How can we have access to this information beyond today?

PANELIST MOLYNEAUX: This data will be posted on the website.

MEMBER WEISMAN: And what about
some --

PANELIST MOLYNEAUX:  Just so you all heard that answer?

FACILITATOR ANDERSON:  No, I didn't.

PANELIST MOLYNEAUX:  This data will be posted on the website.

MEMBER WEISMAN:  Thank you.

PANELIST MOLYNEAUX:  Right, all of it.  Say thank you again.

(Applause)

MEMBER ENGELBERT:  Kevin Engelbert, NOSB.  I would like to know why you differentiated between humane treatment of animals and pasture, because I believe consumers assume they are one and the same.

And I also would like you to comment again on the assumption that consumers have -- because every organic milk carton either states that the cows are pastured or it shows pictures of cows on pasture, that they have already made the assumption that that's
where the cows are and that's why they didn't bring it up.

PANELIST MOLYNEAUX: Again, asking relative importance to why you use organic milk and dairy products and why you consider them, we asked humane treatment and pasture and exercise separately because they were words that were being bantered about, phrases that are being bantered about that are important to consumers, and we wanted to see if there was any difference.

What you see in this particular chart among organic dairy users is that humane treatment overall is significantly more important than being in a pasture. Are they still both important? Yes. I will say it again. They are still both important, but humane treatment, no hormones, no antibiotics, organic feed were more important.

There is a lot of different ways to structure research. You could go back in and retest these consumers and ask a whole
other long slew, but USDA didn't have $50,000
to spend, so we did it as to what was really
important to get at and did the regression
against all these to really determine among
frequent users what was driving the frequent
usage.

It's the best way to get at it in
this type of methodology. Can you do it a lot
of different ways? Sure. I can ask consumers
100 different ways and, you know, on some
issues I'll get some different answers.

FACILITATOR ANDERSON: Joe?

PANELIST MOLYNEAUX: Have I --

MEMBER SMILLIE: Question for
Margaret. Joe Smillie, NOSB. What I want to
delve into a bit here is consumer expectations
in the regulation and, you know, as a veteran
of the Organic Twinkie debate, we can talk a
lot about consumer expectations and whether
they meet the regulation or whether the
regulation should try and meet consumer
expectations or that really a lot of the role
of what we need to do is consumer education.

Whole Foods is a leader in meeting consumer expectations and in educating the consumer and you have played that role very well. And I think on this issue I would like to find out, not only for yourself, but speaking for the retail community, how you would strive to affect that balance.

Again, I didn't want to confuse people about talking about the Organic Twinkie, but there's many consumers who do not feel that organic should be certifying alcohol, tobacco or white sugar or white flour and their expectation is that organic food as a consumer, you know, it's a healthy food. And, yet, the regulation, I think, is clearly based on an agricultural methodology, that it's the way you grew the sugarcane to create the white sugar, what the regulation is pinned on.

So in your position at Whole Foods and also your position as a spokesperson for a
retailer and a previous NOSB member, how would you see the retailing community, the balance between meeting consumer expectations, which may not be always accurate, and educating the consumer as to what organic really stands for in the sense of the regulation?

PANELIST WITTENBURG: Okay. Well, first of all, I think we all have to really remember the other big bottom line here of what is organic and I think, Joe, you said it, organic agriculture, the soil. You know, the soil is a really important part of this, the regeneration of the soil. That is the basis of organic and we can't lose that. And I think part of that is then educating consumers more about organic.

You know, we and all the other retailers, part of our job has been to tell people to really define more for them what does organic really mean and really educate them in all aspects of that. That is part of what we do. And what we don't want to have to
do is have to do our own certification work and go out there and make sure that this meets the standards of what we think the intent of organic should be.

I just loved in the previous, with the farmer/producer group, when they said the intent of organic, the intent of having a pasture is the -- at Whole Foods Market we call it the soul, you know, the soul of organic. It has to be there and that's what we're looking for, and I think that educating the consumers what that means is very, very important.

You know, certainly, you know, any marketing study that we have seen for years and years has shown that, you know, the organic consumer, it's all about me, you know, what is my health and all that, but you have to educate them here's what organic is really about. It's the soul of the soil and it's really important to understand that and then educate them about that.
And then part two on that. When you're getting an animal involved, an animal is not a piece of corn. It's a sentient animal, you know, and we really need to understand that. So we have both the soil and the welfare of the animal and really truly looking at the welfare of the animal. What is in their best interest? What would they do on a natural basis? You know, are they going to want pasture? Of course they are.

You know, so, you know, keeping that in consideration and educating our customers about that, too, that's part of our role as a retailer. I know, you know, there's several retailers of us in this room and would say the very same thing. That's part of what our role is. We don't just sell groceries. We also educate.

(Applause)

MEMBER MOYER: I have one quick question, if I could.

FACILITATOR ANDERSON: I think one
more from NOSB and we're going to have to --

MEMBER MOYER: This is going to be a very short question or a very short answer, I hope. in light of what we're discussing here, this question is to both of you.

For those responders to your surveys who did say pasture was an important issue, would the proposed rule change that we have on the table now satisfy them?

FACILITATOR ANDERSON: 120, 30, is that what you mean?

PANELIST MOLYNEAUX: The consumers --

MEMBER MOYER: Yes.

PANELIST MOLYNEAUX: The consumers in the survey do not understand 120 days.

MEMBER MOYER: Right, but would that --

PANELIST MOLYNEAUX: 30 percent. They don't. They really do not have an understanding of that and I would say, based on other research that we have done about
regulations and so forth, that it would take a long time for them to get it. It doesn't mean it shouldn't be done. It just means it's going to take a long time for consumers to understand it.

MEMBER MOYER: Sure.

PANELIST WITTENBURG: Right. I think there again, the expectation is that the pasture is the basis of the animals' living conditions and I think that's the key thing for the consumer. They don't get the percentages and this and that.

MEMBER MOYER: Sure, I understand that.

PANELIST WITTENBURG: They are just going to -- they are going to assume that that is the default and then expect their certifiers to be able to check to make sure that is being done. You know, I think that's the key.

MEMBER MOYER: Thank you.

FACILITATOR ANDERSON: I'm going
to actually call for a close of this, not because there are no -- there are really a lot of very, very good, excellent questions here, but in order to be able to start the National Organic Standards Board meeting on time at 1:00 and make it possible for as many consumer or public input as possible, I'm going to turn the meeting over the Mark for just a second.

MR. BRADLEY: Yes. We would just like to thank all the participants for the pasture symposium.

(Applause)

MR. BRADLEY: We need to be back here in this meeting room at 1:00, so that we can start some semblance of on time. It's going to make kind of a short lunch break, but we have a lot of public comment and we have just a few notes from NOP and the program to get covered.

FACILITATOR ANDERSON: Well, always being one who wants the last word, I do have a couple of comments and I would like to
-- if I could, just some closing remarks.

These have been really dynamic discussions and it has been an excellent process, and I really want to recognize NOP for having the courage and willingness to really come out and seek the answers. This is a long, deliberative process.

(Applause)

FACILITATOR ANDERSON: Remind everyone that actually NOP won't be the ultimate sole arbiter of what this rule looks like, because it will go to the organic, to the Office of the General Counsel. It will go to Office of Management and Budget. So there is a process way beyond even NOP.

And then, thirdly, I, too, want to thank the participants and particularly the farmers and some who traveled from all over the country. And I want to also mention that one of the farmers who is here, just to give you an idea of the passion and importance of this, traveled the shortest distance under the
hardest conditions and Roman and Lucy Stoltzfus are here and their barn burned down two months ago. So just to let you know this is a big, big issue and is very important to people on the land.

And, finally, I want to, to the NOSB, say thank you and to NOP for getting out of dodge and coming out in the countryside, so that there is access to -- so more people have access to these meetings and you have access to more people on the land, so I would encourage you to do it. We did it a lot in the early days. It was the best part of the process for us.

MR. BRADLEY: And, Bob, thank you very much for your role in this.

PARTICIPANT: Yes.

MR. BRADLEY: Excellent job.

(Appause)

FACILITATOR ANDERSON: Meeting adjourned.

(Whereupon, the symposium was...
concluded at 12:33 p.m.)
UNITED STATES DEPARTMENT OF
AGRICULTURE

NATIONAL ORGANIC STANDARDS BOARD

MEETING

WEDNESDAY
APRIL 19, 2006

The meeting came to order in the Ramada Conference Center, 1450 South Atnerton Street, State College, PA, at 1:00 p.m., Kevin O'Rell, Chairman, presiding.

BOARD MEMBERS PRESENT:
KEVIN O'RELL Chair
ANDREA CAROE Vice-Chair
BEA JAMES Secretary
GERALD DAVIS Member
RIGOBERTO PELGADO Member
KEVIN ENGELBERT Member
DAN GIACOMINI Member
JENNIFER HALL Member
HUBERT KARREMAN Member
JEFF MOYER Member
NANCY OSTIGUY Member
JOE SMILLIE Member
JULIE WEISMAN Member

NOP STAFF PRESENT:
MARK BRADLEY
VALERIE FRANCES
BARBARA ROBINSON
DEMARIS WILSON
ARTHUR NEAL
KATHERINE BENHAM
TONI STROTHERS
J.D. MELVIN
PRESENTERS:
EMILY BROWN-ROSEN
GEORGE LOCKWOOD

ALSO PRESENT:
RICHARD SIEGEL
ED MOLTBY
FRANS WIELEMAKER
DAVE MORRISON
CHARLES BLOOD
TOM HUTCHESON
MARK KASTEL
LIANA HOODES
DAVID DECOU
BRIAN BAKER
JIM GARDINER
GRACE MARROGUIN
JIM PIERCE
SALLY BROWN
ERIC SIDEMAN
JOSEPH KRACZYK
TOM KIMMONS
SARA FLACK
NICOLE DAHNE
JIM RIDDLE
LISA McCORORY
KIM DIETZ
LESLIE ZUCK
BLAKE ALEXANDRE
RICK SEGALLA
KATHIE ARNOLD
STEVE PECHACEK
ZEA SONNABEND
DIANE GOODMAN
JORGE GASKINS
RICHARD MARTIN
LYHNN CLARKSON
BECKY GOLDBURG
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PAUL STALLEY
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CONTINUATION OF PUBLIC COMMENT SESSION ....

NOSB DISCUSSION AND Q & A
CHAIR O'RELL: Okay. We would like to call the meeting to order, the NOSB 2006 meeting at 1:20 called to order. I would certainly like to welcome the public to the meeting and thank everybody for the good turnout. Certainly the Pasture Symposium I think everybody was very excited and thought that was well planned.

I thank the USDA and OP for planning that along with the Livestock Committee. Mike Lacey, who is not here today is chair of the Livestock Committee, did a lot with Hugh Karreman running the committee in preparation with the NOP for the symposium that we just had for the last two days so I thank them.

Just a reminder, everybody on cell phones if you have your cell phone, turn it off, please, or turn it on vibrate. Or if it goes off and you want to buy the Board a beer
or drink after the meeting, that would be fine, too.

We have two sign-up sessions for public comment. The public comment for today the sign-up sheet for that is closed. There is a sign-up sheet in the back of the room for Thursday's public comment period. If you did not make it on today's public comment sheet, you have the opportunity to sign up for Thursday.

We have 13 of our 14 members here today at the Board. As I had said, Mike Lacey due to a personal conflict is not available. I would like to welcome the five new members and we will do this formally because we have a little certificate to give them from the NOP so we will call your names out and give you a certificate in a minute.

I would also like to welcome Valerie Frances, our NOSB executive director. You can identify her. She was the card-runner during the symposium.
It's really nice to have Valerie in her position. She has been getting engaged in all of the committee calls and there has just been a deluge of work that has been put on her plate. I just complement her for the way that she has handled that.

I would like to thank the NOP staff for making all of the arrangement and preparing the meeting books. Particularly Katherine and Toni. Thank you very much.

We realize we have a long public comment period today. It could be six hours plus so we are going to try to move things along rather quickly. In terms of introductions, I would like to go around the table. Rigo, we'll start with you and just tell a little bit about who you are, who you represent, what segment you represent on the NOSB and where you're from.

I would ask maybe the new members to go into a little more detail. Give a little bit of background on your organic
experience since this is the first time that you will be coming through introducing from a Board position.

Rigo.

MEMBER DELGADO: Kevin. My name is Rigoberto Delgado. My user-friendly name is Rigo. I'm representing producers. I'm a small farmer in West Texas. We grow cotton, alfalfa, sorghum, and we are being extremely successful with goats lately. We also have some chickens. Thanks.

CHAIR O'RELL: Thank you, Rigo.

MEMBER MOYER: My name is Jeff Moyer. My full-time job is farm manager for the Rodale Institute here in Berks County, Pennsylvania so I didn't have to travel too far to get here. We raise a variety of crops. We are predominately a grain-producing farm and forage. We have no livestock on site. We also produce apples and vegetable crops.

I've been at the Rodale Institute for a little over 30 years now. Most of my
expertise is in weed management, cover cropping systems, and compost facilities. I also have a 17-acre farm at home. There it's mostly horses for my wife and daughter, beef cattle for my son and I, and a lot of work for all of us. It keeps me broke.

MEMBER OSTIGUY: My name is Nancy Ostiguy. I'm probably the person that traveled the shortest distance. I live all of maybe three miles from here. I'm in the entomology at Penn State doing research on honeybees. Some of my students may be running around here. I teach an environmental science course in the spring and they were told that they could get extra credit if they showed up. I told them that the public comment period would probably be the most interesting to them and I told them because I think it's the most interesting.

MEMBER SMILLIE: My name is Joe Smillie. I'm the Senior Vice President at Quality Assurance International which is an
accredited USDA certifier. My seat on the Board is to represent certification agencies. I look forward to doing that. Both private and state certification agencies and state organic programs.

My background, I was a back for the land farmer and I farmed in rural Quebec for 15 years until I went broke. Then I became a compost consultant and ran a small supply company selling liquid seaweed and working on compost. I got involved in organics as an inspector and help found the International Inspector's Association and worked as an inspector for a number of years.

I then got involved with the Organic Trade Association. I was a founder member of the Organic Trade Association and a past president until I became a full-time certification person. I also moved to the United States and live in Vermont and I'm a U.S. citizen. Immigration laws being what they are now I'm glad I'm a citizen now.
Basically my function on the Board is to look at things from the perspective of a certification agency.

The last two days, of course, today and yesterday, were very interesting in that regard as regulations often enforce things that sometimes we don't intend. I think one of my roles here is to really point out that regulations have ramifications and it's really important to think them through before we take them to the lawmaking process.

MEMBER JAMES: Bea James. I'm from Minneapolis, Minnesota and I hold the retailer's seat here on NOSB. The company that I currently work for is called Lunds-Byerly's. They are a gourmet upscale grocery chain.

I'm also currently my first meeting where I'm Acting Secretary and I have big beautiful shoes to fill from Goldie who was nice enough to come to this meeting and who was Secretary before me.
CHAIR O'RELL: I'm Kevin O'Rell and this is my fourth -- completing my fourth and into my fifth year on the Board. I represent the handlers from the seat side of the Board. I have been in the organic industry for over 10 years in product development and regulatory and operations. Recently I had a business change which left me a ski bum and I have spent a lot of time with my family for the last couple of months which has been really good, and doing a lot of NOSB work.

MEMBER CAROE: Hi. I'm Andrea Caroe. I hold the environmental seat. I've been on the Board since 2003 so I have two full years left. I am from San Diego and I am the Certification Director of Protected Harvest which is a best management practice labeling program for crop specific standards in conventional agriculture. I am presently Vice Chair and Chair of the Certification Accreditation and Compliance Committee.
MEMBER DAVIS: My name is Gerald Davis. I'm a grower representative from California. My background is working in organic vegetable production as well as tree fruit production in my past. Currently I work for a large family-owned care and organic vegetable producer in California. I started last year on the Board so I'm pretty new. I look forward to tackling some of these issues that we're working on.

MEMBER GIACOMINI: My name is Daniel Giacomini. This is my first year on the Board. I'm from California in the San Francisco Bay area and I'm on the Board as a consumer in the consumer position. I do work as a nutrition and management consultant for dairy farmers, mostly in northern California. I'm happy to be serving at the pleasure of the Secretary.

MEMBER ENGELBERT: Hi. My name is Kevin Engelbert. I'm from Nichols, New York. I operate a certified organic dairy farm. I
have been farming organically for over 25 years. I served on the NOFA Standards Board for a number of years.

I would like to go on record as thanking my three sons who have agreed to take over the workload necessary for me to be able to serve on this Board. Only those of you that run a dairy farm know just how much that represents. I am very grateful to them. I am very thankful to be appointed to the Board and I'm looking forward to it.

MEMBER KARREMAN: My name is Hubert Karreman, veterinarian down in Lancaster County, Pennsylvania. I'm glad we have three Pennsylvanians here on the Board at this meeting in State College. It will only happen here once. I work with certified organic dairy farmers down there in Lancaster, about 80 of them, and they ship to four different shippers, I think, or processors.

As Roman pointed out earlier, it is quite true that a lot of my herds are quite
healthy and so as my -- I have been in
practice 10 years and as my workload decreases
some, it helps me go out and teach a lot of
natural veterinary medicine to other groups.
I look forward to teaching veterinarians in
other areas of the country now more and more
and that is what I have been gearing up to do.

MEMBER HALL: Hello. I'm Jennifer
Hall. I am grateful to be a new member of the
Board. I serve as executive director for
Chefs Collaborative nationwide which is an
organization, a nonprofit that works with
restaurants to source local and organic
ingredients. I'm serving as a consumer rep
based on educating our population as well as
the diners.

We are interested in what is being
served to them. I've had the good fortune the
past few years to also serve on the advisory
board for Washington State Organic Program and
so have been with Miles and that crew and have
been educated through that process
fortunately. I did also participate in a processor handler certification training a couple of years ago to get myself more educated on the process.

CHAIR O'RELL: Thank you, Jennifer. Sorry, Julie.

MEMBER WEISMAN: No, my fault. I missed my cue. I'm Julie Weisman. This is my second year now on the Board. I am grateful to have survived my first. I have a handler position on the Board. I am the chair now this year of the Handling Committee. I'm from New Jersey where I'm involved in making organic vanilla and other organic flavors. I have been involved in the organic industry for 10 years now. I can't believe it.

CHAIR O'RELL: Thank you, Julie.

In the interest of time, I'm going to go rather quickly but I did want to just point out some -- oh, introductions of NOP for the record.

Introductions.
MS. ROBINSON: Barbara Robinson, Deputy Administrator for Transportation and Marketing Programs, USDA.

MS. WILSON: Demaris Wilson, Assistant Deputy Administrator for transportation and marketing programs, USDA.

MR. BRADLEY: I'm Mark Bradley, Associate Deputy Administrator, National Organic Program.

MR. NEAL: Arthur Neal, Director of Program Administration, National Organic Program.

MS. BENHAM: Katherine Benham, advisory board specialist, USDA.

MS. FRANCES: Valerie Frances, Executive Director, National Organic Standards Board.

MS. STROTHERS: Toni Strothers, Ag Marketing Specialist, USDA National Organic Program.

CHAIR O'RELL: Thank you.

MR. MELVIN: One more. J. D.
Melvin, National Organic Program, USDA.

CHAIR O'RELL: Behind the big computer I couldn't see it.

Just some brief comments on work of progress that the Board has completed since November of 2005 meeting. Certainly the Livestock Committee was very busy in working together to give recommendations, finding panelists, and moving those on recommendations to the NOP for selection for the panelists that you saw at the symposium for the last two days so their work was very busy.

The Board has completed the sunset review of all materials so at this meeting we will conclude and have recommendations, at least from committees going to the full board, of all materials that were needed to be sunset. We have met that timeline and I am sure there are some materials on there.

I know there will be some lively discussion and debate and we will hear from that in public comment. The committees will
have an opportunity after that to absorb that public comment before they make final recommendations to the full Board. That's the good news.

We have interim final report from the Aquaculture Working Group that will be presented, an update from the Pet Food Task Force. We have a recommendation on commercial availability as well as a couple of other discussion items, one along the lines of synthetic/nonsynthetic.

Before we get into the agenda are there any announcements by any other Board members? Okay. Hearing none, let's turn to in our books the agenda. In our agenda, before we have approval of the agenda, we do not have the Secretary's Report in there. That was overlooked so we are making a recommended change that just following this introduction period that we will go right into the Secretary's Report that will be given by Bea so that is a change to the posted agenda.
The only other proposed change but it's to accommodate some six hours of public comment that we have is we will try to stay on track and at 2:00 begin the opening session for public comment. We will take that to 4:00, have a brief break, come back at 4:15 which is the scheduled time for the presentation of the Aquaculture Working Group Report by George Lockwood, and then we'll have NOSB discussion and vote to accept that report. Then we will go into a brief presentation.

Emily Brown-Rosen will lead us through on a status report of the Pet Food Task Force. Then we will go back into finishing up public comments. We have to stick to some of the timelines that we have in the agenda, but yet we want to allow for the public commentors that have signed up. With those agenda changes, I would entertain a motion to approve the agenda.

MEMBER OSTIGUY: So moved.
MEMBER CAROE: I second.

CHAIR O'RELL: It's been moved and seconded. Any discussion? Hearing none, all those in favor aye.

ALL: Aye.

CHAIR O'RELL: Opposed? Okay. We officially accept it. The agenda for this meeting and the next item up then is Bea with the Secretary's Report.

MEMBER JAMES: The Transcripts from the last meeting, November 2005, and August 2005 are posted on the website. They have not been -- the minutes need to be formed from those transcripts for approval and we hope to have that accomplished so that we can officially vote on accepting the minutes for the October meeting.

Executive Committee conference call minutes have been posted and voted on by the Executive Committee for January 10, 2006, February 10, 2006. We have also posted the -- not posted March 11th but the Executive
Committee has voted and passed those minutes. We had Executive Committee call on April 14 and those minutes have not been posted or passed.

CHAIR O'Rell: And that's your report?

MEMBER JAMES: And that's my report.

CHAIR O'Rell: Okay. Thank you, Bea.

Next item on the agenda we would like to welcome the five new members. I think, Barbara, you have some certificates. I don't know how you want to do that, call out their names individually.

MS. ROBINSON: I thought I would recognize the outgoing Board members.

CHAIR O'Rell: Oh, outgoing. Well, I didn't know if you wanted to do in or out first. I'll let you make that decision.

MS. ROBINSON: The outgoing Board members are present. If you wouldn't mind...
coming up front. We have five Board members.

          CHAIR O'RELL: I know Jim was
          here. I saw him. Oh, there he is.

          MS. ROBINSON: So we have plaques.
          Each of them say, "Certificate of
          Appreciation presented to -- they don't all
          say Jim Riddle, by the way. Maybe in your
          case they should -- for five years of
          dedicated services as a member of the USDA's
          National Organic Standards Board, January 2001
          to January 2006."

          MR. RIDDLE: Thank you.

          MS. ROBINSON: Thank you very
          much.
          George, thank you very much. Goldie, thank
          you very much. And David, thank you. Take
          care. Thank you very much. We have one more
          for Rose but she couldn't make it. Oh, we get
          to retire your name plates. There you go.
          That's important. Okay. Thank you very much
          for your years of service.

          PARTICIPANT: It was a privilege.
CHAIR O'ReLL: And thank you from the Board as well. We have appreciated serving with you.

MS. ROBINSON: We have new members of the Board. Oh, the old new members. We have old new members and we have new members. This is a certificate of appointment presented to Rigoberto Delgado with appreciation for accepting the call to serve the nation and the United States Department of Agriculture as a member of the National Organic Standards. It's signed by Secretary of Agriculture Mike Johanns. That's your letter of appointment.

Julie, where are you?

CHAIR O'ReLL: We're a year behind in giving those.

MS. ROBINSON: We are a year behind in getting some of these. These are old new members -- I mean new old members or whatever you are. I'm sorry. Bea, where are you? Thank you very much. And Hugh. There
Now, for the most recent appointments to the Board.

CHAIR O'RELL: Now for the true new members.

MS. ROBINSON: The true new members. Again, with appreciation for accepting the call to serve the nation and the United States Department of Agriculture, Dan Giacomini. Thank you very much. Welcome to the ride of your life. Kevin, where are you? Thank you very much and welcome. Jeff Moyer, welcome aboard. Jennifer Hall. Joe Smillie, thank you very much. Okay. I won't take anymore of your time. You have a full day ahead of you.

CHAIR O'RELL: Thank you Mark and Barbara.

We are going to have a brief update from the NOP Program. I believe, Mark, you're --

MR. BRADLEY: Am I up to bat?
With so much going on we could go on for about 20 or 30 minutes or even a couple of hours about the activity that is happening with the NOP but there's just a few things that have been significant with the staff itself.

We have already done introductions but since there has been a bit of shuffling of activities and responsibilities for the NOP staff, I would like to kind of go down the line and explain who your contacts will be, who the people that will be responsible so that if you call into the program and you need some information or you have some information, you will know who to contact.

Shannon Nally with our Compliance staff was here earlier in the day. She just took off. She was on a pretty short time string but she came in and she was here for the Pasture Symposium. It's an excellent learning process for some of the compliance officers, although she is very knowledgeable in dairy anyway but to see the impact and the
nature of the comments that were taking place was good for her and we are trying to get more NOP staff into the field. That was one of our major focuses on trying to have this meeting outside the beltway to get out into the real world and see what was going on and giving you an opportunity to come in.

Down at the far end of the table, I'll start down on that end, J.D. Melvin, he has recently joined out staff from the Process Products Branch. J.D. has been acting as the accreditation manager and has been fully functional in that position since September. Most of the certifiers that are here have developed a good working relationship with J.D. He is very good at answering questions, very knowledgeable about the program already.

If any certifiers or potential certifiers have questions about what the process is for accreditation, what the status the status of their accreditation is. J.D. would be an appropriate contact on that.
these folks can be reached at the NOP's normal phone number in D.C. It's posted on the Internet.

Next to J.D. is Toni Strothers. Toni has taken on some recent responsibilities, primarily in charge of communications. There is a tremendous amount of reporting that has to be done to the program through the budget process. All of our appropriations reports have to be pretty much handled through a single person who is knowledgeable about the status of any particular part of the NOP activities.

Toni is our most senior person on the NOP staff. We are absolutely thrilled to be able to retain her for as long as we have. She would be a good contact if you have questions about anything concerning regulatory process. Anytime we have reg work that comes through the program she is responsible for putting it in -- checking over the format.

She works with clerical folks to
make sure that everything is in the right spot, that it goes through the right channels, that it gets out on time. Toni was recently recognized for her work in getting the Pasture ANPR out the door, through the process, and making sure everything was available for you to review before we came to this meeting so that was a great job on her part.

Next up to bat is Valerie Frances. Many of you have seen Valerie working around the meeting room. She is the new executive director of the National Organic Standards Board. Her arrival had been long awaited. We were just absolutely thrilled to have her come on the staff, to be able to get someone, steal them fair and square from the Maryland Department of Agriculture.

We specifically looked for someone who is involved in the organic community that had the experience, can relate well with certifiers, is an organic consumer herself. She is a true believer in organics and we are
looking forward to her taking on even more responsibilities and becoming deeply involved in the program so that the liaison between the Organic Standards Board and the program is very efficient and there is always a good place for them to camp their comments or to seek a collaborative effort with the program. She will be our person that is going to be responsible for a lot of the interaction between myself and Barbara and the rest of the program staff and the Board.

Second to my right is Katherine Benham. Most of you know Kat because she's been handling the Board meetings ever since I can remember. She has been doing a great job with them. She is responsible for us getting this great room. It's really proven to be -- her experience has really paid off for the program.

Valerie will be taking on a lot of her responsibilities as far as the coordination with the program. Katherine has
been recently promoted. She will be handling budget analysis for the program and she will be handling all NOSB finances. She is the money person. If anybody owe any money, she is kind of the person you can go to.

Next to my right is Arthur Neal. Arthur has been a mainstay in the program as far as working with the Board and having activities for making sure that the process is followed. Arthur's function for working with the Board will become less apparent as Valerie will be taking over a lot of those responsibilities.

Arthur is a primary contact for work with Codex Alimentarius Commission. He is going to be handling a lot of that with J.D. Melvin. J.D. will also be working with international. I'll be taking some of that responsibility as well so we will have a little bit more depth.

Keith Jones, who is on a temporary detail to Capitol Hill, worked with a
legislative fellows program and is not available to handle the international work for us right now. I know there has been a lot of concern in the organic community who is going to fill those big shoes. J.D. and I with the assistance of Arthur will be the primary contacts for that.

Demaris Wilson is the Associate Deputy Administrator and an indispensable part of the program. She keeps me out of more hot water than I even know I get into. A lot of the work that comes from Barbara comes to me through Demaris. I consider Demaris my boss as well as Barbara. Then there's Barbara.

MS. ROBINSON: Don't go there.

MR. BRADLEY: As far as the NOP update, the only thing of significance, I mean, we have all the regulatory work that's happening. You see that a couple of critical things have been posted. We have the Harvey reg work that is going to be posted as soon as we can get it through the lawyers. That will
be the first thing. Check it closely.

Comment once, comment often.
Actually, I think a lot of the comments that will be handled through the ANPR for pasture and for the Harvey rulemaking will be fairly straightforward. I think we've got a lot of good work that we can do based on the information that we are getting from this meeting and the clear direction we have from the courts on the Harvey regulatory changes and with the changes to OFPA. Those are the things that are right on our front burner.

Another thing that has been -- we have been approached by the program -- by the industry and for many of the certifiers is to start making public compliance actions. These would be final actions that have been through the process when someone has had their certification suspended or revoked and it has gone through the appeals. It's a done deal. At that point we are going to start making that information available to the public and
Another aspect of those types of actions would be certifier actions. We've had some certifiers that have left the fold. They've decided to -- I believe we've had four or five of them that have decided to voluntarily surrender their accreditation. Not so much because they were doing wrong but they were just not administratively able to handle it.

Those types of actions, of course, are available on the website. As for the website itself you will expect to see something probably within the next six weeks. The format changes will be complete for our website. Hopefully it will be more user friendly. I know our webmaster has worked closely with the program and has pursued me often and diligently as far as trying to nail me down to make the recommended changes.

Those are complete and as soon as that process is done for posting it, you will
be able to see a remarkable change in the website and hopefully it will be for the better. If you have any comments or questions from any of us, we will be available for the rest of the week.

One thing that will happen on Friday we are having a certifier meeting billed as a training session. That meeting is strictly for accredited certifiers or applicants for certification. We have also invited the Board members to attend that as part of their learning curve to try to jumpstart their understanding of how we are implementing the regulations. That's this Friday and, again, it's for certifiers only. If you have questions, we'll be floating around. Anything else? We're good. Thanks a lot.

CHAIR O'RELL: There's a couple of questions.

Hugh.

MEMBER KARREMAN: Yeah, I just
have my usual question for the National Organic Program. What is the status of the docket for the beloved troubled 12 livestock materials?

MR. BRADLEY: Those are -- we had some work done with those. We had to do some edits with them based on collaborating with EPA and FDA on that. Those went back to the attorneys. They will be available just anytime really.

MEMBER KARREMAN: Just one quick follow-up. Are they at the actual last stage?

MR. BRADLEY: The last stage of the last stage.

MEMBER KARREMAN: Okay.

MR. BRADLEY: They have been to OGC three or four times just trying to make sure that everything is exactly right with them. I think the notation is in there that we had collaborated both with the EPA and the FDA. We are the last changes that would need to be made.
CHAIR O'RELL: Julie.

MEMBER WEISMAN: I had a question along similar lines as chair of the Handling Committee. I was wondering if you could give us an update on the federal notice for parasitic acid and for activated carbon.

MR. NEAL: That particular docket is in a similar state due to the fact that we've had the ANPR for the past year ruling and we've got the Harvey document. We've got some serious timelines. As we expressed yesterday, we're not the only agency or program area that they are handling so we are hoping that after this meeting they can begin focusing on those dockets again.

MEMBER WEISMAN: Thank you.

CHAIR O'RELL: Any other questions? Thank you, Mark and Arthur. We are going to go into -- we are actually on time, two minutes early. We are going to start the public comment session. Before we do that, I'm going to read from the NOSB
policy manual, the policy for public comment
at NOSB meetings.

All persons wishing to comment at
NOSB meetings during public comment periods
must sign up in advance. Persons will be
called upon to speak in the order they sign
up. Unless otherwise indicated by the Chair,
each person will be given five minutes to
speak. If you are coming to speak for your
five minutes and you have a proxy, will you
please come and tell us you have a proxy at
that time so that Bea when she's keeping your
time can set you for 10 minutes.

Persons must give their names and
affiliations for the record. A person may
submit a written proxy to the NOP or NOSB
requesting that another person speak on his or
her behalf. No person will be allowed to
speak during the public comment period for
more than 10 minutes. Individuals providing
public comment will refrain from any personal
attacks and from remarks that otherwise impugn
the character of any individual.

We'll start off with Richard Siegel and on deck would be Ed Moltby.

MR. SEGALLA: I'm Rick Segalla from Connecticut.

CHAIR O'RELL: No, Richard Siegel. That was close. That was a good try, though.

MR. SIEGEL: At least he's not Steven Segal. I'd be in rough shape.

My name is -- good morning -- good afternoon, ladies and gentlemen. My name is Richard Siegel and I'm a lawyer in Washington, D.C. I have the pleasure of coming before this Board frequently. I'm especially happy to be here today because my hometown is only 30 miles from here, Lewistown, Pennsylvania in Mifflin County. This is a very happy coincidence that the Board is meeting here.

The paper that is being passed out today, and I'm just going to be very brief because it's a very brief paper. The Crops Committee made a recommendation at the August
2005 meeting for a number of measures whereby the program could increase the level of enforcement and scrutiny on organic seed.

As a result of these recommendations, the American Seed Trade Association, which is a 700-member association that represents the entire U.S. seed industry, has adopted a resolution commending and supporting the NOSB in its attempt to propose to the Department some very worthwhile measures for the organic seed requirement.

This is a brief letter which was sent to Mark Bradley on April 11th by the President and CEO of the American Seed Trade Association, Mr. Andrew Levine. I just wanted to make sure that each member of the Board saw this current development and to know that what you do here on organic seed has been recognized and commended and supported by the entire -- a group speaking for the entire seed industry of the United States. This is a very
brief letter. It speaks for itself and I do not have to take anymore of your time but I appreciate the opportunity to bring this to your attention. Thank you.

CHAIR O'ReLL: Thank you, Dick.

Ed Moltby and on deck is Frans Wielemaker. Ed, I believe you have a proxy so you have 10 minutes total.

MR. MOLTBY: My name is Ed Moltby. I'm the Executive Director of the Northeast Organic Dairy Producers Alliance. I would like to introduce the Vice President, Steve Johnson -- Dave Johnson to speak on behalf of Steve Morrison who can't be here because he's busy farming in Maine in some beautiful pasture.

MR. JOHNSON: Thank you, Chairman, Deputy Administrator of the USDA for the privilege of speaking today. My name is Dave Johnson. I'm not Steve Morrison but I am a dairy farmer, organic dairy farmer from here in Pennsylvania.
Steve apologizes for not being able to get all the ducks lined up to be able to get away from the farm and speak this morning. I guess I'll speak both on behalf of him as the President of Northeast Organic Dairy Producers Association of which I am also the Vice President so the second in line to give our official statement. I would also like to just speak as a dairy farmer in general and express some of the concerns and things that we see as important to our industry.

First of all, a little bit about the Northeast Organic Dairy Producers Association. We frequently refer to ourselves as NODPA. It represents about 500 organic dairy farms in the northeast. We also cooperate with some parallel organizations in the midwest and on the west coast.

Our primary purpose is to support consumers and producers who believe that organic milk comes from dairy cows that have
been organic since birth, that have access to quality pasture during the grazing season. We understand and strongly believe that milk that comes from cows that are not advertised as such really fail to fully meet the USDA certified organic standards.

We are aware that the dairy industry has been growing at record rates both in terms of supply and demand for the products. During this period of rapid expansion the National Organic Program was implemented and the USDA took oversight for the certification process. Of course, the thing that we had all hoped for and the goal of this nationalizing of the organic standards was to assure that consumers were getting what they paid for regardless of the state of origin of the product.

It was in an effort to level the playing field for producers and bring all farms up to the same basic standard level of what organicness means, if you will. I guess
in some ways it just hasn't quite worked the way we had envisioned. Otherwise, I don't suspect this symposium would be taking place some better than 10 years after the standards were first written.

Milk from all kinds of farms with and without pasture systems and with various replacement animal programs is being certified as organic and different certifying agencies are interpreting and applying the organic standard quite differently. Some are allowing producers to help keep milk cows in feed lots and replace them with heifers that are started and raised on conventional operations.

Other certifiers are requiring that animals have access to well-managed pasture for dairy cows, all replacement animals, and to be raised organically from trimester of birth. NODPA's primary responsibility is to out farmer members in the northeast and to our organic dairy farmers nationwide. As part of that we have a certain
obligation to deliver a quality product to consumers.

It is in all of our best interests to abide by and maintain the strong standards consumers have come to trust and are currently willing to pay a premium for it. You don't have to look too far on the organic milk labels to see what the consumers are looking for.

Any action that compromises the integrity of the standards or leads to a softening in consumer confidence will be to the long-term detriment of our industry and particularly to our farmers. I guess the tendency would be sort of a knee jerk reaction of an industry at times such as this when the demand is strong and supply is tight to try to remove or relax barriers so that a rapid increase in supply can be met.

It is unfortunate that we lost the 80/20 transition rule as a result of the Harvey lawsuit. However, relaxing the organic
standard with respect to grazing and replacement animals in order to have a counterbalance affect to the loss of the 80/20 rule would be a short-term fix with long-term negative impact for the industry as a whole.

NODPA has responded to a request by the NOP in 2005 for guidance in evaluating compliance with the access to pasture requirement in the organic standard. In the guidance proposed by NODPA access to pasture is quantified in terms of time and dry matter intake we propose a minimum 30 percent dry matter intake for pasture for at least 120 days.

NODPA producers -- I would have to say in our conferences with producers from across the country in the midwest and the west are overwhelmingly supportive of the requirement that once a farm has gone through its one-time transitioning to organic, all dairy animals born and brought into that operation must be raised organically from the
last third of her mother's gestation.

We as producers across the country have learned through doing it that cows can maintain high levels of production on pasture, maintain excellent health and we can achieve well beyond the 30 percent dry matter intake for 120 days even up here in the cold northeast part of the country while exhibiting excellent health and breedability.

We have also learned since 2002 when the national standards came into effect that we can raise all our replacements 100 percent organically from the last one-third of gestation. These practices fulfill the expectations of our organic consumers and NODPA asked the NOP and the NOSB to ensure their application on all organic dairy operations. Our consumers deserve no less.

To speak as a farmer in the northeast and maybe to help dispel some of the rumors or myths that this pasture issue is not attainable, I can typically feed my cows 70 to
80 percent pasture. I can do that for seven to eight, and usually nine months of the year in the area where I have 7,000 heating degree days, a very cold, fierce climate. It's possible to do that and the animals can be out all the time which my animals have access to and, in fact, they live outdoors 360 days of the year in the northeast. They are healthy and breed back very well.

I guess just sort of for an executive summary which I think we always like to hear, what we are really asking for is for some real measurable standards in the pasture requirements and in animal husbandry that can be consistently applied to give us a level playing field for the sake of the integrity of the organic milk market. Thank you.

CHAIR O'ReLL: No questions. Frans Wielemaker and on deck Steve Etka.

MR. WIELEMAKER: Good afternoon. My name is Frans Wielemaker. I traveled here from Costa Rica and Central America and I'm an
agronomist. I represent the Dole Fresh Fruit Company in Central America.

It is the interest of our company and the organic banana growers in Central and South America and the Caribbean to maintain horticultural oil as an approved substance to control diseases and pests in crops. It is important that we keep horticultural oil in the regulations as an approved substance because we need that to control certain diseases like Sigatoka Leaf Spot disease. This is a very serious disease. It affects all plantations. It's a wind-born disease. It comes from neighboring farms. You can't keep it off your plantation.

The horticultural oil actually functions just as a fungistatic. It reduces germination of the spores. It reduces the appressorium formation before the fungus penetrates the leaves. For insect control it controls or introduces the population of white flies, scales, mites, aphids and thrips on the
plantations which are diseases which can become quarantine problems and also transmit viruses.

Horticultural oils are considered safe when used appropriately according to the EPA and are listed on the EPA list No. 3 with the signal word caution. It is presently allowed under the NOP regulations. And also allowed under the Codex IFOAM and EU regulations. In fact, in the original OFPA Act they are expressly mentioned as being exempted from prohibition.

In order to find out what the comments were that the NOSB received to remove horticultural oil from the regulations, it's very hard to search the whole series of documents and find out who and why they had something opposing the use of horticultural oil. I think that's one of the changes that I would recommend in general to see if in the next review these comments could be ordered in a different way so that they can be accessed
with a database search.

In summary I support the NOSB Crops Committee recommendation for the continued use of horticultural oil for disease and insect control. It has been posted on the website so I hope tomorrow we can foresee the positive vote of the Board. Thank you.

CHAIR O'RELL: Thank you, Frans.

I would ask any of the speakers if you have written comments and you have not submitted them to the Board or to the NOP, if you would hand them over to Valerie at the NOP table and she will then have them in the record.

MR. WIELEMAKER: I sent them to Katherine Benham and I sent them to the whole Board.

CHAIR O'RELL: But there are some that aren't in the book so they have asked me if you have comments on you that you have not submitted, there is an opportunity to submit.

MR. WIELEMAKER: As of the day
before yesterday it wasn't listed yet but I hope that will be done.

   MS. BENHAM: But it is in the book.

   MR. WIELEMAKER: Questions?

   MEMBER SMILLIE: Frans, just a quick one. In your professional use do you see nonpetroleum horticultural oils appearing to be as effective or do you still think that development is a little ways away?

   MR. WIELEMAKER: As is explained in the document, we have done various experiments with all sorts of different vegetable oils to see if they would control Black Sigatoka but they really don't. They would function as a vehicle to have synthetic fungicides penetrate into the banana leaf. As a substance by itself vegetable oils do not control the disease.

   MEMBER KARREMAN: One question. Are there any other biological methods that you have been trying to use?
MR. WIELEMAKER: Yes. There is quite a search in fermentation products to see if they would control the disease. There is, of course, sanitation procedures in the farm but, as I explained, it's a wind-born disease. It's not something that you can keep off your plantation. Spores can travel various kilometers and land on your property.

MEMBER DELGADO: I have a question.

CHAIR O'RELL: Rigo.

MEMBER DELGADO: When you mention the label caution in the use of horticultural oils, what are they referring to?

MR. WIELEMAKER: It's on the EPA list No. 3 which has a caution label.

MEMBER DELGADO: Is it referring to the amount used or the way it's applied? What is it referring to specifically?

MR. WIELEMAKER: It's probably based on the reduced toxicity of the product itself. It shows the classification of the
toxicity so it's not a list one or two. It's not considered a very toxic product.

CHAIR O'RELL: Just a point. When we are speaking, Rigo, I think we need to use the microphones more. It's a larger room and they can't hear us in the back. Also the speakers that come up I encourage you to get as close as you can to the microphone because I'm getting the high signs back there so I don't think we are doing the people in the back justice.

MR. WIELEMAKER: In summary I'm trying to support the Crops Committee to keep horticultural oil as an approved substance.

CHAIR O'RELL: Thank you. No further questions? Thank you, Frans.

Steve Etka. On deck will be Troy Bishopp.

MR. ETKA: I have my own testimony but I also have a proxy I think perhaps listed as 14 on your list for Joe Mendelson for the Center for Food Safety so I'm happy to do that
at the same time or at 14, whichever.

CHAIR O'RELL: No, that's fine. If you want to do it now, we'll take it off the list at 14.

MR. ETKA: I'll pass that out as well.

CHAIR O'RELL: Okay.

MR. ETKA: My name is Steve Etka and I'm here representing the National Organic Coalition which is an organization based in Alexandria right outside of Washington, D.C. The National Organic Coalition is a national alliance of organizations working to provide a voice and federal policy for farmers, ranchers, environmentalists, consumers, and others involved in organic agriculture.

Although we are on the brink of adding several new member organizations, the current member organizations of NOC are the Center for Food Safety, the Rural Advancement Foundation International USA, the National Cooperative Grocer's Association, and the
Northeast Organic Farming Association
Interstate Council.

I wanted to welcome the new members of the Board and also to thank the retired members of the Board. As many of you all know, or will soon find out, this is a time-consuming project to be on this Board and often a thankless project so we wanted to thank on behalf of our members you all and to make sure you understand how much the organic community really appreciates your work on this Board.

I also wanted to say how pleased we are that we finally have an Executive Director for the National Organic Standards Board. This is something that our coalition has been pushing for several years because we have been concerned that without the adequate staff resources it is hard for this Board to fulfill its statutory obligations so we are really glad to see that happening as well.

The NOSB meetings have become the
avenue informed for many in the organic community to provide input into the workings of the National Organic Program. The NOSB has done a very good job over the years of listening to these comments from the public and turning those into formal policy recommendations in many cases.

However, one of the perennial frustrations of the organic community has been that the National Organic Program's lack of response and action on those recommendations. Many in the organic community feel that their concerns are not being heard.

Having said that, we are very pleased and encouraged by the new leadership at the NOP and take it as a good sign that the Department has issued an advance notice to the public for proposed rulemaking on the pasture issue for dairy. That is an issue that this Board has heard quite a bit about and has made at least six recommendations over the last five years. We hope the USDA will move
quickly toward a proposed rule on this topic. Five years is a long time.

One quick aside. I think the symposium we just listened to over the last couple days was very helpful. I learned a lot, particularly with regard to the last panel, the Consumer Perception Panel. I thought that Margaret and Mary Ellen did a great job at providing us new data.

One thing that I think would have been even a little more helpful in addition to what we already heard was if we had heard from a consumer group itself and if we had also heard from some of the co-op grocers as well to fully round out that panel because I think they have an important perspective as well.

With regard to some of the details, the members of the NOC, National Organic Coalition, do support rulemaking to create a pasture standard for organic ruminant operations specifying that after the age of six months a ruminant shall receive at least
30 percent of dry matter intake from pasture on a daily basis for at least 120 days a year. We believe that these requirements should be made in the form of a rulemaking so that there's no question at all about its enforceability.

Ultimately it does come down to enforcement because without enforcement of the pasture standard this process that we've all agreed to participate in many times becomes somewhat meaningless. Certainly there is a gray zone and we heard from the certifiers about what happens if you have 119 days or 29.5 percent DMI. I think we would all agree that there needs to be a lot of work and flexibility in trying to get those farmers into compliance.

But there is also a very bright line test when you have certifiers who are sitting down with potential organic dairies and looking at their farm plans and seeing that there is no
intent at all for meaningful pasture and still certifying them. I think those operations have no business being certified and those certifiers have no business certifying those operations and ultimately USDA has a role in accrediting those certifiers.

This is not only an issue of fairness for the overwhelming majority of organic dairy farmers that are providing access to pasture, but it also poses a problem for consumers as well. I think there is concern about loss of the trends that we've seen on increased purchases for organic dairy products.

You will hear later about some survey data from both Consumers Union and Center for Food Safety that have shown very clear evidence that consumers do care about the pasture issue and that many of them would reduce their purchases of organic dairy products if they knew that the milk was produced from cows that do not have access to
pasture. I won't belabor that point more because you'll hear about that from other testimony.

In addition, I do want to support on behalf of our coalition strong standards stating that after the initial conversion to organic all dairy farms raised or brought into an organic dairy farm must be certified as organic from the last third of the mother's gestation. There may also be a need to clarify this one-time conversion to organic should be done on an operation basis and not on a per-herd basis because of concerns about the vagueness of the term herd and how that may be abused by some.

Also, the members of our coalition want to support the NOSB Livestock Committee's recommendations for a rule change with regard to access to outdoors and temporary confinement, to use the term "state of life" as opposed to stage of production. We particularly appreciate the rule change
recommendation stating that the producer of an organic operation must not prevent dairy animals from grazing pasture during lactation except as allowed under 205.239(b).

Also, we agree with many of the statements made in the guidance recommendations by this Board regarding temporary confinement. I think, however, it's important to note while it makes a lot of sense to allow some temporary confinement to protect soil and water resources, we want to make sure that is not abused.

Certainly if there are unique circumstances where the livestock must be confined to protect unusual short-term circumstances, that is just common sense. However, it is important that this not be permitted to become a long-term excuse for livestock confinement on a land base that is not capable of meeting the pasture standard. A farm's land base is not generally capable of meeting that standard. It should not be
certified as an organic livestock operation.

Thanks for allowing me to provide those comments. My second set is on behalf of Joe Mendelson who is the Legal Director for the Center for Food Safety. One thing I just wanted to present here real quickly is the Center for Food Safety did undertake a survey on the question of pasture. The questions that were asked were, first, "How often do you purchase organic milk." Folks were given the chance to answer, frequently seldom, never, don't know, or refused.

The second one is, "If you knew that many organic cows were confined to fenced-in feed lots and did not graze on pasture for most of their lives, would you still purchase organic milk?" The results are that 19 percent of Americans purchase organic milk. The data also presents a clear picture of consumer expectations concerning the pasture requirements for organic milk production.
Some of the results were as follows. A majority of organic milk purchasers, 51 percent, said that they would no longer purchase organic milk if they knew that the organic cows were confined in fenced-in feed lots and did not graze on pasture for most of their lives. Maybe even more significantly almost half of the frequent organic milk purchasers would also alter their purchasing habits.

Forty-four percent of those who frequently purchase organic milk would no longer do so if they knew that many organic cows were confined to fenced-in feed lots and did not graze on pasture for most of their lives.

Moreover, women, the principal family food purchasers, are even more apt to change their organic purchasing habits. Sixty-one percent of women who purchase organic milk either frequently or seldomly would no longer do so if they knew that many
organic cows were confined to fenced-in feed
lots and did not graze.

Finally, the data show that if
organic milk producers hope to grow their
organic milk market by changing seldom
purchasers into frequent purchasers, a strong
pasture requirement should be put into place
because 58 percent of those said that they
would change their habits.

I'm out of time but I would like
to make sure that the full testimony does get
included in the record. Thank you.

CHAIR O'RELL: Thank you.

Questions for Steve?

MR. ETKA: I do have the full set
of data, one set of it that I can leave with
you all from the Center for Food Safety.

CHAIR O'RELL: That would be fine.

Give it to Valerie.

Troy Bishopp and next on deck is
Sam Zeller.

MR. BLOOD: I'm not Troy Bishopp.
I do have a proxy to read his information. My name is Charles Blood. I'm an organic dairy farmer in central New York.

"Dear ladies and gentlemen of the Committee, I apologize for not being present today as the constraints of farming have kept me home. My name is Troy Bishopp. My family, in particular my daughters, are the fifth generation to farm in our community of Deansboro, New York, a small hamlet of Mohawk Valley."

He is the New York Chairman of the Grazing Lands Conversation Initiative. He's a proud member of the Pennsylvania Association for Sustainable Ag and the Northeast Pasture Consortium in the Regional Food and Farm Project.

To sustain our farm over the many years we have always relied heavily on pasture for our animals, surrounding wildlife and our livelihood. At the moment we custom graze 100 percent grass-finished beef for our clients.
and supply meet to several northeast states. Consumers are driving this market towards pasture-based organic products. Supply for these essential foods are critical if we are to move our family farms and future generations forward.

Research has played an important role in substantiating the consumer's mindset for our products. Talik Dhamin from Utah State University, Joe Robinson, and Dr. Artemis Simopoulos of the Omega Diet, and Susan Duckett of the University of Georgia have all contributed greatly through their research and collaborating with the USDA ARS to discover the health benefits to humans of grass-fed animal products.

Can we afford to compromise the consumer's desire and perception of these products by not having a strong unified pasture standard? My comment on the continued use of pasture and the strengthening of the organic standard is quite simple. Ruminant
animals were designed to eat their own forage
and for that work they supply us with milk,
meat, and fiber period.

We as a society have somehow
determined that an animal is just a production
unit capable of turning all sorts of feed
stuffs into products for us to consume. A
significant growing segment of the population
is finding this unacceptable and is choosing a
different paradigm. A paradigm shift towards
organic will need strong leadership as the
conventional forces will want to adopt
practices to access the burgeoning market.

I would find it quite flattering
if we were copied and had all the animals out
grazing instead of on concrete or put in a
barn without access to sunlight. To carry out
this mission I would be comfortable saying a
start would be requiring a minimum of 30
percent dry matter intake for ruminants for at
least 120 days during the growing season.

Regions of the country could most
likely achieve more than this but we should have a minimum to protect the integrity of the industry. The countless research, papers, and projects throughout the country on prescribed grazing practices can easily substantiate the minimums.

The adoption of an increased pasture-based ideology for dairy could, in my opinion, give hope for the next generation. The Cornell Farm Business Summary has shown that from 1996 to 2003 good grazing farms are equal to or better off financially than conventional farms of the same size. Most of the advantage of pasture are on cow comfort, labor, energy, and feed cost during the grazing season.

The down side to the pasture-based farm is a mindset change from practices and a lack of support from the long-lived industries that would have to change also. There will be a keen need for support services for the successful transition to grass farming.
Another point in favor of adoption of stronger pasture standards is the increased benefit to the environment about the social aspects of farming. It brings many folks joy to see a newborn out in the field with its mom while out on a drive in the country or the hunting and fishing aspects that grazing increases.

I am a seasoned farmer with able common sense but I am afraid I may somewhat be naive on the difficult challenges that you all face in the decision making process. I trust you will get more guidance in the days ahead from folks more knowledgeable than I. Thank you for allowing me to comment and remember save gas, let them eat grass. Troy Bishopp."

CHAIR O'RELL: Sam Zeller. On deck was Kyle Stolz. No on both? Surprise. Tom Hutchinson. Surprise. You've just been moved up on the list. Mark Kastel is on deck.

MR. HUTCHESON: Thanks very much.

I'm Tom Hutchinson, Associate Policy Director
with the Organic Trade Association. Of course, first I would like to welcome all the new members who may have discovered over the last couple of days that you may have gotten more than you bargained for, in terms of paperwork anyway.

I would like to speak of several things, none of which is pasture oddly enough. The notes have to do with the commercial availability, definition of synthetic, and aquaculture. Very briefly I would just like to mention that we do have full written comments on each of those.

I'm going to be speaking more today about the commercial availability which is something that is more important that it might seem. It's one of those parts of the rule that you might skip over if you didn't make a special effort to get there. It's small and out of the way. Nonetheless, it's very important. It just had much greater importance put on it by the court ruling in
the Harvey case.

A little bit about the background of 606. The first proposed rule and the second proposed rule both said in that five percent of an organic product it doesn't have to be organic. It can have anything that's in the what's now 605(a) or (b), that's either a nonagricultural natural product or a synthetic product if it was on the list. But if it was an agricultural product, didn't need a TAP review, it could go right on to the -- it could be used.

Didn't have to go on the list. The court ruling changed that and I think you can understand that does represent a significant difference for makers of multi-ingredient products. Also for the growers of spices and other small what are called minor ingredients.

Let me just get myself to my notes now. One important way that the commercial availability clause, which is imbedded in 606,
it says, "You can use the agricultural ingredients so long as no organic sources are available." One of the things that helped tremendously was establishing organic sources of spices and the usual example is cinnamon.

After the majority of private certifiers adopted the commercial availability requirement in the early and mid-'90s sources of these so-called minor ingredients grew healthily to supply the needs of the trade.

I mention this because one of the things we don't want to do is stifle the development of new products which might use a hitherto unfamiliar plant not available yet in organic form but hot in the natural products market. Once tested in the organic market perhaps a new candidate for an organic success story like cinnamon.

NOSB has recommended to USDA criteria for certifiers to use in determining commercial availability or nonavailability. Of course, making this determination is up to
the certifier and the NOP is responsible for ensuring that certifiers make this determination knowledgeably. NOSB is responsible for placing items on the national list, which it should do if a petition makes a reasonable legitimate case that a necessary product may not be commercially available. I will note again with emphasis that this is not the same as determining that some product is commercially unavailable which is the certifier's job. Placing an ingredient on 606 protects product lines that use the minor ingredient from sudden disruption. Many organic minor ingredients are plentiful but we need to be able to develop new products and if they are successful, manufacturers will, as they do now, work to help producers attain certification.

This system works for everybody. Sometimes minor ingredients might not be exotic. One excellent current example if almonds from California which due to recent
weather may not be available for the organic market soon. For those products that use almonds or almond flavoring, trail mixes, etc., these products could completely crash along with the market for the 95 percent of that product that is organic if manufacturers can't avoid product reformulation, changing product lines when orders have already been placed, marketing on tested products, and relabeling, all very real products for food makers. Thank you.

MEMBER CAROE: Tom, just really quickly, are you agreeing or disagreeing with the recommendation that we have on commercial availability because I don't see any difference with what you're saying and what we have said.

MR. HUTCHESON: I want to be sure that the emphasis is on NOSB reviewing any petitions to make sure that they address the criteria for commercial availability that you have proposed for certifiers to use rather
than getting involved in seeing whether or not that petition has actually met those tests.

CHAIR O'RELL: That is the intent of the recommendation.

MR. HUTCHESON: There was some confusion between the earlier and the later draft.

CHAIR O'RELL: I understand.

MR. HUTCHESON: I just wanted to emphasize that this is a matter of great importance.

CHAIR O'RELL: We will try and correct that and get it posted. The current draft that is posted, what is your feeling?

MR. HUTCHESON: In general it's very good. I just want to be sure that it maintains the direction that it got with the new draft because these decisions have to be made sometimes in a very timely way and certifiers are equipped to do that, trained to do it, etc. NOSB should be focusing on whether or not a petition has addressed the...
questions of whether or not it may or may not
be commercially available and let the
certifiers make that determination when that
time comes.

CHAIR O'RELL: That is the intent.

We can discuss that to make sure that it's
perfectly clear but that was the Committee's
intent. Thank you, Tom.

MR. HUTCHESON: Thank you.

MR. KASTEL: Hello.

CHAIR O'RELL: Mark, one second.

MR. KASTEL: Sure.

CHAIR O'RELL: We are going to see
who's on deck. Urvashi Rangan is on deck.

Mark, thank you.

MR. KASTEL: Okay. Thank you.

Good afternoon to the Board. I do have a
proxy from Florence Gordon of Nevada City,
California. Again, good afternoon. My name
is Mark Kastel. I am here representing the
Cornucopia Institute and our 900 members, the
vast majority of whom are organic farmers and
the vast majority organic dairy producers.

Why are we here today? Why is this debate continuing after this Board came up with their first policy ruling in the year 2000? Why are probably upwards of 99 percent of organic dairy producers complying with the pasture requirements that are currently in the rule? They understand the law. Their certifiers understand the law. Why does it still appear that some folks don't understand the law?

Upton Sinclair once said, "It's very hard to convince a man of something when his paycheck depends on him not understanding it." The Pasture Symposium was of great value. Thank you. I think we all learned a lot. I do, however, want to point out to the Board a few areas that were less than perfectly balanced. The farmer panel, and our thanks to all the farmers who participated, very qualified spokespeople. I want to point out the fact that that body was 60 percent
western dairy producers. According to our analysis there are about 5 percent of the nation's organic dairy farmers in the west. 35 percent of that panel today and in their past submitted testimony did not support the predominant proposal that was adopted by this Board and is supported widely by dairy producers.

The last time we did a public testimony analysis in written comments last year to this panel it was 20 to 1 in support. Besides for Roman's 80 cows, the range of scale of operations that were represented were between 130 and 8,500 cows. The average dairy farm, again, according to our analysis, in the country is somewhere between 50 and 70 cows.

The certification panel and, once again, thanks for the knowledgeable presenters. We are at 66 percent western based, the largest certifier of organic dairy farms in this country MOSA based on Wisconsin.

Their executive director was here but not
invited to be on this panel. That's a little plug for the dairy state where we do have more organic farms, organic dairy farms.

And the Market and Expectations Panel. Thank you for very, very qualified presentations and well researched. It was retail and manufacturer driven. The survey was conducted, the last formal survey. We are still looking at those numbers. It was conducted by a firm that works for Agribusiness, Kraft, General Mills, the organics largest trade and lobby group.

My operative question here is where was the Consumers Union? Where was the Organic Consumer's Association? Like Steve I asked the question where was the National Cooperative Grocer's Association?

So our members want to know why it has taken five years? Why have five years gone by without enforcement by the USDA for what we seem in this community to understand?

Why are there just a few folks gaming the
system? Meanwhile there are now 10 to 12 factory farms operating with little or no pasture. Why are investors now spending millions of dollars to transition upwards of reports of 30,000 cows in western states? What do these highrollers know that we don't know?

So we decided to ask. When the USDA rejected the rulemaking language that this body passed last August when they rejected it in August without explanation other than they didn't like the language, we felt at that time they could have collaborated with this Board to change the language if they didn't disagree with the intent. So we have wiped the record clean. We have this new advanced rulemaking notice.

But last August we wanted to know who was the Board talking to. The citizens of this country have the right to ask those questions so we filed a Freedom of Information Request. By law the Department has 20 days to
respond. After numerous requests verbally and
e-mail and over the telephone after seven or
eight months we filed a federal lawsuit two
weeks ago asking for these documents that the
public has a right to scrutinize.

So here we are. That's what we
don't know. Here is what we do know. I'm
going to pass these cartons around. I do want
to get them back. These are organic milk
cartons. They talk about pasture and they
have pictures of cows on beautiful grass and
they talk about biodiversity. They're
beautiful.

The next thing I want to pass
around to the Board is a picture of the farm
they come from. You are going to be hard
pressed to make an adequate comparison there.

My colleague, Will Fantel, back in Wisconsin
says in terms of consumer perception these
marketers know exactly what consumers want,
Safeway and Costco and Woodstock brands, which
is United Natural Foods International. Forget
about that. That's what farmers think are in
organic milk because that's what is on the
label and there is a disconnect there between
that photograph.

So we also know that there is wide
support for the rulemaking that this Board has
historically been supportive of. I'm going to
give you the first installment but we have
hundreds of proxies from organic farms. I
don't have a count because most of them are
back in Wisconsin. They are just being
received now.

But probably the majority of dairy
producers in this country are on record. They
want judicious pasture enforcement. They want
a rule passed with teeth. They want the
existing rule to be enforced. There is little
doubt about that. They have been on the
record for five years now.

And I'm going hand out a sign-on
letter which has 100 institutions on it that
we circulated including the National Farmer's
Association -- National Farmer's Union. I'm sorry. Sierra Club, environmental groups, Eden's Foods, many food co-ops including PCC, the largest food cooperative in the United States, the Wedge Co-Op from Minneapolis, largest Singer store cooperative. These folks are saying the same thing. There is no doubt.

We think pasture is part of this thing and we want the USDA to take action but we are still talking.

Finally, I will bring back up to the front -- I couldn't carry it all -- and distribute the report we just released within recent weeks, "Maintaining the Integrity of Organic Milk" which reviewed all the milk brands, private label. 81 percent of folks participated and were highly rated in that study. There is higher authority than the USDA on this issue, the organic consumer.

So we need you folks to act now before the wheels fall off this thing. I am hearing an increasing buzz from farmers and
consumers and retailers saying, "What is the next label going to be? What is the 'beyond organic label' going to be called?" I have never been supportive of that initiative but I am hearing a lot more from the organic community about it. Our position is that this is worth fighting for so we are not done.

Just in closing I want to say last third of gestation in general real organic farmers don't buy replacement heifers. They sell excess heifers and calves because the health of the herd is so good that their call rates are low enough that is a profit center for them. It is gaining the system for these other large industrial dairies to sell some of them all their calves off at birth and buy one-year-old animals to forego the cost of feeding that expensive organic milk to their calves and feeding organic grains.

Consumers don't want artificial milk replacer in their organic calves that could have had BSE risk blood as a component.
They don't want GMO grains. They don't want antibiotic treated livestock. We owe them to maintain the integrity of the label that they think is inherent. I will pass a couple of these pictures around to the audience. Thank you very much.

CHAIR O'ReLL: Any questions?

MR. KASTEL: Thank you.

CHAIR O'ReLL: Thank you.

MEMBER JAMES: I have one question. Mark.

MR. KASTEL: Bea.

MEMBER JAMES: You mentioned that there are 10 to 12 factory farms operating without pasture reinforcements.

MR. KASTEL: Yeah. Let me actually qualify that and then I'll answer if you a further question. What I usually say is there are 10 to 12 operating right now in the final stages of development. Some of them are shipping. One I know is gearing up for thousands of cows. They are only shipping
from 800 right now while others are in transition. A couple of them are in Texas.

They are predominately out west. One thing is there was some comment from the farmer panel today and a testimony written or read, I think, by Ed from Meg Katel's farm. I visited that farm and I visited the Aurora farm. They are within very short driving distance.

The difference was there was 1 to 2 percent of cattle out on pasture on the Aurora farm the day I was there and there was 100 percent out on Meg Katel's farm which is 400 cows in a dry western state. This is not big farm against small farm. Those are both big farms. And it's not midwest or northeast against the west. This is organic integrity against factory farming. Does that answer your question?

MEMBER JAMES: Um-hum.

MR. KASTEL: Okay. Thank you.

CHAIR O'RELL: Next on deck again
will be Charles Blood.

MS. HOODES: I am not Urvashi Rangan. I'm Liana Hoodes. I have a proxy that I am going to read Urvashi Rangan's testimony.

CHAIR O'RELL: Are you also signed up?

MS. HOODES: I am.

CHAIR O'RELL: So you have 10 minutes.

MS. HOODES: I prefer just to do two separate ones because --

CHAIR O'RELL: Two separate ones?

MS. HOODES: Yeah, because if I run out of time.

CHAIR O'RELL: So five minutes now. Okay. Got it. Thank you.

MS. HOODES: Good afternoon and thank you for the opportunity to give public comment today on behalf of Consumers Union, nonprofit publisher of Consumer Reports magazine submitted by Urvashi Rangan, Ph.D.,
Senior Scientist and Policy Analyst. There are four separate issues that we would like to present. The first concerns the pasture access requirements set in the regulations.

We believe that consumer concerns and expectations are not being adequately addressed at this time. While we appreciate the range of expertise within the panels, there was no consumer representation. As a public program supported by taxpayer dollars, it is imperative that the consumer voice be taken into account. The OTA, retailers, and other industry-based groups do not speak with an independent voice for consumers. The hearing on market expectations only takes one component into account, the retailer and, again, not the consumers. Consumers Union has conducted a nationwide scientific survey of more than 1,400 U.S. consumers in February 2006 asking them directly about their expectations regarding pasture access. When asked specifically if they would still pay a
premium price for organic milk that came from cows that were confined indoors and did not graze outdoors, have access to pasture, only 14 percent agreed that they would. 60 percent disagreed while 25 percent remained neutral.

More than two-thirds of all consumers and 75 percent of women in the Consumers Union survey of 1,485 U.S. online adults said that the national organic standards should require that animals graze outdoors. This survey reflects the public sentiment regarding the expectation of pasture access that is required for organic animals.

While this sentiment has also been expressed over the past two years by the NOSB farmer certifiers and others the USDA and recently issued ANPR and pasture access actually questions the ability of doing so, but the regulations already require access to pasture.

Producers make claims about access and have pictures of cows grazing on grass and
dairy products. Retailers successfully sell these products and consumers buy them and pay more than conventional milk with the full expectation that pasture access is required.

USDA should be working to improve the specificity of this already established standard and make it enforceable. Without that they put the current and future organic milk and meat market in jeopardy. Our colleagues from the Center for Food Safety have also conducted another nationwide survey with the results that concur with these conclusions.

The next issues that we would like to address is the definition of synthetics. Rosy Koenig had submitted a strong document last year defining synthetic ingredients that we believe should be the recommendation of this Board. We strongly disagree with the Organic Trade Association's recent comments that are frankly written without any understanding of chemistry or science.
The notion that a natural ingredient obtained from an agricultural product without any chemical or molecular changes could somehow retain a natural status no matter what other chemical or molecular changes occur is absurd and leaves gaping loopholes for synthetic materials like partially hydrogenated oil to be used in organic food.

Consumers Union's March 2005 survey shows that 85 percent of consumers do not expect artificial synthetic ingredients in products labeled as organic. A weak definition of synthetic and one that is not scientifically founded along with a recent weakening of the law will only serve to further erode the integrity of the label.

We would like to specifically address the review of materials. Streptomycin and tetracycline are now up for review. It is important to keep in mind that consumers do not expect antibiotics to be used in organic
production systems. That includes the use of fruit trees.

Consumers Union strongly encourages the Board to retire these materials as they are not in line with other organic production systems and consumer expectations. We also understand that the Board is considering allowance of all colors without review.

Colors are food additives that should be carefully reviewed based on their origin, chemistry, and overall appropriateness for organic production. Blanket allowances of materials for use in organic production undermine consumer expectations and the statutory authority of the Board. Please do not allow colors to be exempt from NOSB review.

The last issue is the report from the Aquaculture Task Force. Fish stock should ideally be sourced from organic stocks. Only if organic fish stock is new to market and,
hence, not commercially available should producers be able to source nonorganically. Task force definition of organic production for fish beginning no later than 5 percent market weight is arbitrary and prone to loopholes including the use of prohibitive methods. While caught fish fall outside the scope of this task force report and should not be eligible to be labeled organic at this time.

I'll try to run through this. As for option B, consideration for contaminate levels is paramount importance in fish. We commend the task force for taking this into consideration but believe that more standards need to be in place so consumers will not be subject to contaminated organic fish. There's more but I'll leave it at that.

CHAIR O'RELL: Charles Blood and Dave DeCou is on deck.

MR. BLOOD: Good afternoon again.

I'm Charles Blood. One comment I would like
to make in regards to the last speaker was the whole panel and everybody that has been here today is a consumer so maybe they weren't represented as a specific group but they were represented.

One issue that keeps cropping up and part of the reason we're here is that 30 percent dry matter 120 days from pasture for all animals over six months of age I feel that you've got enough information and will probably get more on that today.

In regards to some comments from presentations, access to the outdoors is required and enforced under the NOP. Another issue that came up, and it bothers me that it's even an issue, is animal welfare. No farmer who is going to be profitable and sustainable in agriculture is going to mistreat his animals. He will not be in business so animal welfare to a farmer is number one.

Another point that we really need
and this is as important to me as all of the others put together. If the NOP does not enforce the rules that are in place, we might as well go home today because we have to have the violators prosecuted to the extent of the law so that they do not continue or manipulate the system and come back.

    Being that I was already up here before and expressed a lot of my views, I thank you for your time.

    CHAIR O'RELL:  Dave DeCou and on deck will be Brian Baker.

    MR. DECOU:  Thank you all for the opportunity to speak. My name is David DeCou.

    I'm the Executive Director of the Organic Materials Review Institute otherwise known as OMRI. My associate, Brian Baker, is handing out a copy of two of our publications that we put out on a regular basis. We consider ourselves as a resource to certifiers and producers of information on materials that they might use which may or may not be
appropriate to the organic standards.

There is a copy there of our generic materials list and of our organic products list. The generic materials list we will be updating soon but was last published in 2004 and will be updated on a regular basis as changes occur.

The organic products list is a list of products that we have reviewed against the standards and we provide them to people so that they can use them in their operation. They are divided up into livestock, processing, and crops categories with subcategories underneath that. That is for anybody to use. They obviously have to use it in conjunction with an organic system plan as was mentioned earlier today.

OMRI has a board of directors coming from a wide spectrum of the organic industry including manufacturers, certifiers, farmers. We use experts from widely around the industry to provide clarity on questions
that we have. One of the things that needs to
be emphasized, and those if you who have heard
me before have heard this, we are not a
certifier. We have been accused of that.
People say that what we do is certification
but we are not a certifier. They didn't
accredit us. We didn't ask. But we do review
inputs for organic systems to see if they
would be appropriate.

My comments today derive from the
issues that we have in our work of how do we
decide whether this thing is consistent with
the regulation or not. Usually that is pretty
straightforward. In fact, if it was all
really simple, OMRI wouldn't be needed.
Unfortunately, it's not.

The main issue I would like to
speak to is aquatic plant extracts. The
current recommendation of the Crops Committee
and the current listing in the national list
says that aquatic plant extracts other than
hydrolyzed extraction process is limited to
the use of potassium hydroxide or sodium hydroxide. Solvent amount used is limited to the amount necessary for extraction is allowed as a plant or soil amendment.

What has never been clear to anybody in OMRI is other than hydrolyzed. What does other than hydrolyzed mean? It isn't a clear word. We don't really understand it. The concept of extraction is a deep one. Aquatic plant extracts are normally identified as kelp. Kelp is considered by the American Association of Plant Food Control Officials, AAPFCO, as a pot-ash fertilizer. Potassium hydroxide is used in extraction.

At what point are they extracting and what point are they fortifying? Potassium hydroxide is also a pot-ash fertilizer, a synthetic post-ash fertilizer clearly prohibited in the regulations. We don't have a good way of defining that line where it is extraction and where it is considered fortification.
In fact, in the definition of synthetic that is being talked about later tomorrow, I believe, includes the concept of when you extract something most of the solvent is taken out of the system afterwards. Current information that we have indicates that aquatic plant extracts vary between 2.50 and 6.75 percent pot-ash, whereas the extracted ones, the nonsolvent extracted ones, are 4.50 to 20 percent pot-ash. Somewhere there's a problem.

Our recommendation would be if you can't figure anything else out to force the review of potassium hydroxide, potentially potassium carbonate which is in the queue potentially for being reviewed, although it hasn't come forward, and phosphoric acid which is sometimes associated with aquatic plant extracts because of a letter issued by the National Organic Program.

It does need to be reviewed for specific uses because currently they are
actually listed associated with aquatic plant extracts, not directly with. Thank you.

CHAIR O'RELL: Any questions?

MEMBER DAVIS: I have heard OMRI's position many times about the potassium hydroxide extraction, how much pot-ash it leaves in the product. I have never heard directly from you guys why would a farmer spend quadruple to quintuple the amount for a pot-ash fertilizer than just use potassium sulfate which is an allowed natural? The cost per unit of these aquatic plant extracts are very high if you are considering them a pot-ash fertilizer and are predominately not used as a pot-ash fertilizer no matter what AAPFCO says.

MR. DeCOU: I understand they are not used as a pot-ash fertilizer. They tried to explain that. I don't think it's necessarily understood why these kelp products work and, thus, if they work some and then another one works better, nobody knows quite
why or they suspect why.

My supposition might be that they might be working better because they are often applied and it's because of the pot-ash and not because of the other ingredients that come directly from the kelp. Thus, the manufacturer is getting more of a reaction to their product but if you don't understand why, you don't understand that you could have gotten it by using potassium sulfate.

It's a question of is the farmer understanding what's going on or not. Kelp is widely used, widely respected. When I was an organic farmer I used it but I don't think I understood why. There's a lot of literature about it that isn't scientific.

MEMBER DAVIS: Are you familiar with any relative amounts that potassium as a foliar feed? It's a major nutrient that requires massive amounts more potassium to nutrition a crop than you could ever apply through the foliage of leaves. Is that part
of your understanding and why you guys keep analyzing it this way?

MR. DeCOU: We keep having the question of where do you stop extraction and where do you start because it's probably a logarithmic curve. If you add more, you get a little more. At some point you add a whole lot more and you still get a tiny bit more. Where does extract stop and become fortification? That is really our question. I can't see where you can say where.

If you were to put a ton of potassium hydroxide out there with a pound of the original plant material, you would probably still get a little bit more out of the plant material but you are really not at that point. It's extreme. Where does that line come back to be reasonable? I don't know. That's what we're saying. We don't know and we run into this question over and over again.

MEMBER DAVIS: It seems like a
certifier would be able to spot abuses of that material if they are putting excess potassium hydroxide in intending it to be a fertilizer instead of an aquatic plant extract.

MR. DeCOU: How would the certifier know?

MEMBER DAVIS: Because they would see growers using it --

MR. DeCOU: Not at $6 a pound.

MEMBER DAVIS: -- instead of half a pound per acre.

MR. DeCOU: Oh, I understand but they wouldn't use it at $6 a pound. Typically this is used either early or late in the season when those kind of things make a big difference. They are not used in broad spectrum applications. Kelp almost never is. Although kelp is often an ingredient in some of the mixed fertilizers that we review to the point of significant pot-ash increase in that mixed fertilizer. Why? We can't make that judgment because we don't have any line to
draw the line on. That's really our question.

MEMBER DAVIS: Thank you.

MR. DeCOU: Thank you. Any other questions?

CHAIR O'RELL: Thank you, Dave.

Brian. Next on deck, Ed Zimba.

MR. BAKER: Thank you. Brian Baker, Research Director, OMRI. I'll skip over what Dave covered already about who we are and what we do. I would like to move on to talk about a couple of the proposals that you have before us. The first is the question of synthetic and nonsynthetic. We support the guidance and moving ahead. We think there's been some improvement with the document that the NOP has come back with.

We still see some rough edges that perhaps need a little smoothing but on the whole I think it's much better. It helps to clarify how these decisions can be made. We do see a few things and we have made a few suggestions that we hope you will consider
about reviewing natural sources, what's an input. We need to distinguish between generic materials and formulated products.

What farmers use is not a generic material usually. It's a formulated product. It's something that is a formulated input so just to be a little more clear about that. On the whole OMRI wants to offer its experience and expertise in this area and help the NOSB and look forward to working with you toward implementation.

I also wanted to talk a little bit about the sunset process. This sunset is a necessary part of the nationalist process. I applaud the hard work you've all done, both current and past NOSB, at meeting this tight schedule that you have. The first time through a process is always the hardest. We see some ways that things can be improved.

The sunset should be used as an opportunity to fix glitches that have been identified by members of the community. In
particular, I understand the reasons that
annotations weren't on the table this time.
In the future you might want to consider going
through the whole petition, what the NOSB
recommended, and possibly making adjustments
to annotations in future sunset periods.

We are only asking that one
substance be removed from the national list
and that is natural colors. There are five
reasons that natural colors should be removed
from the national list. They have to do with
there is no standard of identity for natural
colors; the procedural irregularities by which
they were put on the national list; the
difficulty in verifying the colors are, in
fact, nature; the agricultural origin of many
colors that are used; and some health
concerns.

Many of the colors can be produced
either naturally or synthetically. Each color
needs to be reviewed on a case-by-case basis
to see if it is, in fact, natural or
synthetic. The extractants, the solvents, the carriers, the adjuvents all need to be taken into account.

I won't dwell on the procedural irregularities but colors were in petitioned. They were not TAP reviewed. They were not recommended by the NOSB. There was not proper notification in putting them on the national list. This has been a source of confusion between we don't have any real record of what is a natural color.

OMRI has been on record since 2001 calling for a technical correction in having colors removed from the national list. We supported the deferral and hope that the TAP review would address some of the questions in the sunset review. However, unfortunately, the sunset review did not address those questions.

The substantive issues are of greater concern. Many of the colors out there come from agricultural crops that are
familiar, beets, carrots, cotton, grapes. Things that sound natural often aren't and amaranth is a coal-tar derivative for example.

Another is caramel. That comes from sugar.

Indigo can be synthesized or is plant derived.

Carmine has been -- it comes from insects.

It has been associated with allergies, anaphylactic shock, salmonella. There are a lot of unknown health affects. If these substances had received a proper TAP review we would know what those affects are, what they were but they are right now a big gray area. Thank you.

CHAIR O'RELL: Brian, let me just ask you a question. In terms of the synthetic/nonsynthetic document that we are working on, I appreciate, number one, OMRI's willingness to participate and help. I think from your perspective and from the Board's perspective that we both think that the response we got back from the NOP does have a lot of merit and I think it's a good place to
start so we appreciate your offer for guidance through that and will most likely take you up on that.

If that document existed today and was out in terms of the colors and certifiers then being able to have a tool to sort out those synthetic colors that might be on the market, do you think that would be a help?

MR. BAKER: It would help but it wouldn't solve the whole problem. It would get you part of the way there. It wouldn't address the health affects that were identified. It wouldn't address the agricultural/nonagricultural issue. I would like to say the synthetic/nonsynthetic process should be divided into two tracks, one for production and another for processing. The first step in processing should be determining whether its agricultural or nonagricultural. That could be fleshed out a little bit more in the synthetic/nonsynthetic document and perhaps with a case-by-case review of colors
could help with determining what colors are agricultural, what colors are synthetic, what colors are nonsynthetic and then splitting them three ways.

CHAIR O'RELL: As you know, we are working on the document as well for the agricultural/nonagricultural guidance so I think all of these kind of go together. The committee struggled over the recommendation of colors. The original sunset after the Federal Register process there were 30 people who responded in favor for continued use of colors. There were zero that went on record prior to our recommendation against colors.

MR. BAKER: We are on record now as against color. We were on record in 2001 as saying colors were not properly reviewed. We thought it was a technical error that could be corrected, quite frankly, and that appears to not be the case.

CHAIR O'RELL: Hopefully you will hear this is one that we know will have some
debate among the Board and I think it will be
good debate. When the time comes the way we
have public comment structured tomorrow is
that we will give those recommendations, have
an opportunity for public comment, and then be
able to have the committees go off yet for
still some time before final recommendation
back to the full Board. Maybe if you are
around during that time, you could make use of
your expertise.

MR. BAKER: Certainly. Thank you.

MEMBER KARREMAN: Kevin, tomorrow
we are voting on sunset materials. Aren't we?

CHAIR O'RELL: Yes.

MEMBER JAMES: There will be
discussion first.

CHAIR O'RELL: There will be
discussion first. There is a presentation of
the items. Because of the logistics with the
Pasture Symposium we couldn't do what we
normally do which is present them one day and
vote on them the next but we are doing it as
best we can to try to allow the public to comment on our discussions.

MEMBER KARREMAN: One quick question. Amaranth is a plant.

MR. BAKER: Right. Amaranth is a plant and red root was used 100 plus years ago. In 1880 they figured out how to make the same chemical from coal-tar and now it's red dye No. 2 which is banned in the United States but it has a natural sounding name and some people think it's natural.

CHAIR O'RELL: Okay. Thank you, Brian.

Ed Zimba and on deck Grace Marroquin.

MR. GARDINER: I have a proxy here from Ed Zimba. I don't know who I'm supposed to hand this to. My name is Jim Gardiner.

CHAIR O'RELL: Are you also listed as a speaker?

MR. GARDINER: I am not listed as a speaker.
CHAIR O'RELL: Okay. So you just start reading five minutes of comment from Ed Zimba.

MR. GARDINER: Correct.

CHAIR O'RELL: Okay.

MR. GARDINER: The first issue I would like to cover is on the sunset materials. As you pass through this countryside you have seen a lot of the different Amish farms around and a lot of the smaller farmers that are in organics also you will find that when they whitewash their barns for cleanliness it's basically a federal inspection.

Your barn is clean and white and the ingredients they use on that whitewashing material is hydrated lime. Our cows do have the ability after it's done when it's still loose and flaky they do rub up against it. I would like to see that stay in the rule if possible. I realize that is possibly one of the sunset materials that might be reviewed
coming up. It's also used as a topical application to help with pest control on animals. In a lot of cases it is very important in the use especially in dairy farming and other livestock as a preventative for the pests.

I do appreciate all your patience you folks have with being able to sit through all of what you've heard over the last few days. You've done quite a job. And with the people in the NOP also. The next thing I would like to touch on is the pasture.

With having four children that have in some way voiced an opinion of wanting to be in this industry at some point in time, they range in age from 23 on down to 12 years old, I really believe that the decisions that whatever comes out in the rules is going to have an affect on the next generations. It's not just about us and whether or not we can make a living for a short period of time.

It's about also the future of what
organics and organic dairying is about. 
Hopefully short-sightedness won't be employed 
in the rulemaking. When the rules are made, I 
think the emphasis that has been made for 
folks to be able to have the ability to 
enforce the rules and have the chance to have 
backup is very, very important. 

Like Ed, who I'm taking his place 
for, stated that if it was done in the first 
place, we wouldn't be here now talking about 
it and everybody would be enjoying it more 
instead of looking at the dollars. The green 
that seems to be in everybody's eyes now is 
not pasture, it's dollar bills. Thirty 
percent dry matter intake. 

I sat down with many, many farmers 
whether it be on the west coast, the middle of 
the country, or the east coast and shame on us 
if we can't come to that form of equation of 
around 30 percent. That basically equates to 
10 percent of our milk production in organics 
coming from pasture. That is very little. I
mean, if you scored 10 on a score of any kind of exam, I know if I had a surgeon working on me and he scored 10 on his final exams, I probably wouldn't want him to work on me. That does mean that the other 90 percent of what that animal is eating you get to have the ultimate choice to put whatever density you want to put into that animal.

Ten percent of their feed over a year is not a huge amount even in 120 days. We are always looking for the minimum but optimizing. Isn't that what organics is all about, is optimizing the health of this place we live in called earth.

MEMBER KARREMAN: Jim, one question. You just mentioned the 10 percent over the year. Yesterday I think we were asking a few of the panelists is there a difference between 30 percent for 120 days versus 10 percent over the whole year because isn't it all the same in the wash? I think Andrea asked that but it doesn't matter.
Comments?

MR. GARDINER: Sure. The 30 percent on 120 days I realize like even listening to Mr. Straus the implementation on his farm if the desire there to graze and to focus on instead of the benefits of one part of the operation, whoever the farmer may be, is to focus on the whole operation and the 10 percent of that.

Talking about spreading it over the year but when you meet people from Minnesota, say, for instance, and their grazing time, I've chatted with several of them on phone conferences and their concerns are that the 120 days for them is quite a maximum amount of time in their grazing ability. But they do realize that in that period of time there may be 30 days out of that, maybe 45 days of that time they could at 100 percent of their dry matter intake could come from pasture.

Averaged over that 120-day growing
season period they could absolutely meet that criteria going through a farm plan. Yeah, it may not be -- I take from what Mr. Straus said is that optimally on his farm he only had a 90-day to 120-day window to graze. We all shoot for optimal grazing on our farms because we want that.

I'm the first one that would love to have a great milk check every month. To have optimal grazing that doesn't happen all the time but it does happen some of the time. If I had 90 days of grazing optimally on my farm even here in the northeast where everything looks so beautiful like it does now, 90 days is huge.

Our grazing optimal generally runs May and June. After that you have to work at it and that's part of being in this organic industry that we are part of is not only just saying, "I can't do it," but it's looking for optimal even when it's not optimal and learning how to manage what you have.
MEMBER KARREMAN: I guess just the 10 percent over the year, how do you feel about that?

MR. GARDINER: Ten percent over a year? If it was incorporated into the rule, I think it may end up complicating things more because then people are going to start looking at the whole year. You have people who do have lots of snow in their area. If you look at their growing time, the growing season that they have whether they live in a desert or whether they live in Maine or upper Minnesota, that growing season allows them to define that 120 days.

Now, optimally if you live in the desert you should be irrigating and it would be fantastic. I have seen some great irrigation systems that are in areas where nothing grows outside of where they irrigate but when they irrigate they have tremendous abilities. I've had chats even here with folks from Texas that are looking forward to
doing irrigation and they are in an arid area.

That 10 percent I think could cause confusion if it's worded over the full year. I think sticking with a minimum growing season, that's what we find is the minimum growing season in our country in the toughest place not counting Alaska. I haven't interviewed anybody from Alaska but I'm talking northern regions and 120 days seems to be the minimum and then you optimize inside that.

CHAIR O'RELL: Grace Marroquin and then Lou Anderson.

MS. MARROQUIN: Hello, everybody.

My name is Grace Marroquin and I'm President of Marroquin International. My company is based in Santa Cruz, California. We import and distribute organic ingredients to the food industry. I'm here once again to request that the Board support the classification of yeast as an agricultural product.

Yeast is currently listed under
Section 205.605(a) as a nonsynthetic nonagricultural substance. It was nearly 21 months ago on July 30, 2004, that we filed our request with the Board that it recommended that yeast be transferred from 205.605(a) to 205.606 and be listed as an agricultural product. This request is still pending and I'm here again.

As a result of yeast being incorrectly classified as a nonagricultural substance we see processed food products labeled as organic that contain conventional yeast instead of organic yeast. This is because organic yeast cannot be officially recognized as an organic ingredient and be required in products with an organic label. Organic yeast cannot be officially recognized until it is considered an agricultural product so here I am again.

As we have stated in previous meetings, conventional yeast production is far from the standards of organic production in
several ways. It uses ammonia salts. It uses acid such as sulfuric. It uses caustic such as lye. It uses synthetic vitamins and growth substances and synthetic antifoaming agents and the conventional production creates waste water that is difficult and requires special handling.

In contrast organically produced yeast is bread in a wholly organic nutrient solution made from organic grains, pure spring water, and GMO free enzymes. This is done without chemicals and without creating hazardous waste water. In fact, the waste water is used further to make organic products.

Today we will present our most current position to support the reclassification of yeast as an agricultural product. We believe that we will present the Board a clear avenue to resolve this question, I hope, once and for all. Our position is quite simple and direct.
It is based on the legal definition of agricultural product that appears in the Organic Foods Production Act 7 USC 65021 and in the National Organic Regulations as 7 CFR 2052. This legal definition of agricultural product is identical in both the Act and the regulations.

Under this definition yeast qualifies as an agricultural product. The reason why yeast qualifies as an agricultural product is that the definition of agricultural product includes livestock. The definition of livestock appears in the Act as 7 USC 650211 and in regulation 7 CFR 205.2.

Under this definition yeast qualifies as a type of livestock. The definition of livestock in the Act is broad and it includes the following list of living organisms. Cattle, sheep, goats, swine, poultry, fish used for food, equine animals, wild or domesticated game, and finally, and most importantly, other nonplant life.
In the regulations the definition of livestock also extends the meaning of livestock to cover other nonplant life. Yeast is a form of nonplant life. This is why it comes under the definition of livestock.

Yeast is one of the fungi living micro-organisms that have a special category in biology because they are neither animal nor plant. Therefore, the plain wording of the Act and the regulations covers yeast within the definition of livestock.

Under these legal sources yeast qualifies as an agricultural product. These are the legal definitions that govern the operation of the National Organic Program. They are binding on the Department of Agriculture and they are binding on the Board. Yeast is entitled to be treated in all parts of the regulation as an agricultural product.

We said at the start that in the national list section of the regs yeast is listed as a nonagricultural substance in
205.605(a). Since yeast, like mushrooms, qualifies as an agricultural product under the definition in the Act and the definition in the regulations, this means that the existing national list is inconsistent with these definitions.

The national list portion of the regulation needs to be further corrected so that yeast will be listed in the national list as an agricultural product under 205.606. While yeast may be an unusual agricultural product as other fungi such as mushrooms, yeast producers that wish to seek organic certification should also have that opportunity. Thank you.

CHAIR O'RELL: I think there will be some questions, Grace.

Nancy.

MEMBER OSTIGUY: Grace, I have to admit that when we received the letter my first reaction was to laugh loud and rather long.
MS. MARROQUIN: Many people have howled over this idea.

MEMBER OSTIGUY: Yes, yes. It was actually, I though --

MS. MARROQUIN: A howler.

MEMBER OSTIGUY: It was a great way to relieve a whole lot of tension and just improve my day considerably so I thank you for that. But also when I --

MS. MARROQUIN: My pleasure.

MEMBER OSTIGUY: -- stopped laughing I thought, you know, my first reaction to the classification of honeybees as livestock was to laugh so maybe we can get there.

MS. MARROQUIN: That was our hope. That's why we presented it this way.

MEMBER OSTIGUY: So far in the discussion we are planning on looking at that. We have to make sure that we do it in such a way that it doesn't mess up other sorts of categories but, yes, it's worth the
consideration.

MS. MARROQUIN: I really appreciate that. I can understand and appreciate the deliberation that's been taking two years. I know that part of the concern has been how do we treat it because if yeast is considered an agricultural product, then it has its relationship to micro-organisms but it doesn't. I want to remind the Board that the NOP final rule specifically carves out a special status for bacteria cultures declaring that they are nonagricultural.

In fact, this is in the definition of nonagricultural. It's in the definition of a nonagricultural substance in regulation 7 CFR 2052. If you really look at the difference between a bacteria and -- I can never say these right -- eucariotes which is what animals are considered and yeast is considered.

Those are cells that have both a nucleus and a membrane-bounded structure,
whereas the procariotes, which is what bacterias are, they have neither a nucleus or an internal membrane-bounded structure. There are these differences. You have a way to work with that in how they are classified.

MEMBER OSTIGUY: Part of what I think is going to be very challenging and interesting is the access to outdoors.

MS. MARROQUIN: Yes.

MEMBER OSTIGUY: And pasture and I'm not sure but, you know --

MS. MARROQUIN: They get 120 days.

MEMBER OSTIGUY: We'll think about it.

MS. MARROQUIN: It's also part of a handling system, too. I think there are elements of both, the handling system and livestock system and that needs to be taken into consideration. Again, I really appreciate it.

CHAIR O'RELL: Grace, I know you have been very patient throughout this. I
think I have said that maybe two or three meetings before this. Your patience continues to grow.

MS. MARROQUIN: Tenacity, too.

CHAIR O'RELL: Yes. You have given us a very creative way to look at it. The committee has had a meeting on this and we see some substance here for us to work with and to put this to rest before the next meeting.

Joe.

MEMBER SMILLIE: Just a quick one. I'll resist the temptation to go into the livestock joke line but the organic compliance plan, I think what you stated was that the difference between an organic culturing of yeast and a conventional culturing of yeast is very clear and delineated. I think that is one of the key parts of the rule is that we need an organic compliance plan. I think what you presented is really good, too, but I think you could further help your cause by trying to
put an organic compliance plan together.

MS. MARROQUIN: We would gladly try to do that given some hope and some direction on this. That we can do. Thank you.

CHAIR O'ReLL: Thank you, Grace.

Lou Anderson and on deck is Jim Pierce.

MEMBER KARREMAN: I just saw Jim Pierce 10 seconds ago.

CHAIR O'RELL: Next on deck will be Sally Brown. Sally, are you ready? Yes, please. Thank you.

MS. BROWN: I'm actually here speaking for Tony Azevedo but, for those who know him, I definitely don't have a white hat and I'm definitely not from California.

I am an organic dairy farmer from central New York. My husband and I have been farming for 28 years, the last five being organic. I want to thank you and apologize at the same breath. For the few times that I've
been through this process it seems like you hear the same line over and over and over again. I thank you for your patience and apologize, as I said, at the same time.

I think the organic product and whole process is about integrity, commitment, courage to find a new way of doing things, trustworthiness, and mutual respect. That is for our consumers and that's for our animals and that's for the industry we are trying to represent.

I am in support -- as you have heard eloquently presented by many other people, I am definitely in support of the 30 percent dry matter and 120 days in the last third of gestation. I have a lot of frustration because I am a consumer. Going organic has changed our lives considerably. It has been a entire paradigm shift in the way that we live our lives.

I'm looking at the issues that we are dealing with in the product that I
produce, that being milk because of the influences that are coming against it and the progress that is not being made. When I go out to purchase other organic products that says USDA certified organic, I'm starting to really have a question mark. If I know there are issues with my own product, then where is the status on the rest of them? I have some serious questions.

Your mind can really go wild in thinking about all of these things like how much of these large corporation influences are affecting these rulings? There are 99 percent of us trying to do this correctly and giving it everything we've got to do this right. It seems like there's a small percentage with a huge percentage of our product trying to find loopholes to pad their own pockets to make sure that their shareholders get a profit.

This is my future. This is my livelihood. This is generations to come. I'm concerned. I'm very concerned. I know that
this Board has done the very best that it can do over the last five years. You have presented it as well as you can.

I guess I would say I know you all have jobs but if somebody was coming against your livelihood and the way you have committed your life and you are looking at your own financial security and future, wouldn't you be a little bit frustrated if time and time and time again it was presented and you haven't given the people, the certifiers, the meat to do their job wouldn't you be a little frustrated? I've done my job right. Please do yours.

CHAIR O'RELL: Jim, since you were technically only on deck, we are going to let you come back in so you can speak.

MR. PIERCE: There's a couple people not here to know where you are in the rotation.

CHAIR O'RELL: Your excitement is next on deck.
MR. PIERCE: Thank you. Good afternoon. For the record, I'm Jim Pierce, Certification Czar at the 750 farmer-owned organic valley crop cooperative, as well as reigning monarch at the Trout Palace, my family-owned rainbow trout farm. It's been my privilege for nearly seven years to offer precise solutions to NOSB members and NOP staff regardless of the complexity of the issue.

Have you read any good books lately? I have. Thanks to an extra-long layover in Detroit I had a chance to finish Organic, Inc. by Samuel Fromartz, who is here by the way. Without passing judgment, Mr. Fromartz does an admirable job of telling the story of the tumultuous development of the organic food movement.

The tone of each chapter is set with a quote from a great thinker, often someone pivotal to the success of organics. Following timeless nuggets of prophetic wisdom
from Sir Albert Howard, Wendell Barry, and Moses, I found this quote at the beginning of Chapter 6.

"Hard as I try I cannot think of another private sector group being regulated that continually demands tougher regulations being inflicted upon themselves." Isn't that well said? I wrote that. I delivered that line during public comment at May 2003 NOSB meeting in Austin, Texas in a speech I called, "The Cow with Three Little Eyes," a passionate plea to fix the misinterpretation of the post-transition dairy replacement regulation, an issue that is not only still current but even more urgent in light of the Harvey suit and the OFPA amendment that eliminates the 80/20 dairy transition language.

My comment that day also contained this quote, "This interpretation is wrong and needs to be corrected. This horse or cow, the cow with three little eyes as the case may be, is not dead, will not die. In fact, we are
going to beat it until you change this rule to reflect its original never-wavering intent."

Consumer backlash from allowing continuous transition will be worse than from lack of pasture. This allowance erroneously allows calves to be feed nonorganic feed including conventional milk replacer and GMO grain to be medicated with anything for any or for no reason and be exempted from organic living condition requirements and then eventually to be milked as organic.

In addition to domestic consumer backlash it will almost certainly generate criticism from foreign certifiers that the USDA is hypocritically allowing the very practices that they are being criticized for allowing, namely the use of nonorganic feed and antibiotics on an organic dairy.

The 1990 congressional report on OFPA, the American organic standards, comments to both proposed rules, preamble to the final rule, previous NOSB recommendations.
Countless commanders to you are all very clear. Once an entire distinct herd is transitioned, all animals must be managed organically from the last third of gestation.

On to another topic. As a quiet observer on the OTA's task force on commercial availability, I've studied the Materials Committee's recommendation and the OTA's response and endorse both. There has been criticism that this proposal overburdens the certifier. I disagree and think that the certifier is precisely the right person to manage this complex issue.

At Organic Valley we have always formulated products to minimize the reliance on nonorganic material and, thereby, support and encourage organic production. But despite our best efforts we have a short list of ingredients that cannot be sourced organically and so we'll petition items to be added to 606 before 607.

Regarding the pending
recommendations on sunset materials -- you got that. Good. Regarding the pending recommendations on sunset materials, hydrated lime has valuable use in organic fruit and livestock producers. Please don't remove it.

Milk replacer is a more complex issue. The Livestock Committee has proposed its removal but since there is no product that meets current use restriction, the impact appears minimal. However, there are some assumptions in the proposal that I urge you to reconsider before you forever remove milk replacer from the national list.

First is the definition itself. It has been suggested that milk replacer be understood to include milk that is not organic but would otherwise meet the annotated requirement. If so, then its removal will circumvent an otherwise variable tool for producers.

Second is the assumption that there are organic product available to fill
the void. It is not. Anecdotal feedback from Organic Valley producers is that these products are mostly unavailable and sometimes of substandard quality.

Thirdly, and to bring this comment full circle, there is a general consensus that conventional milk replacer with RBGH milk, tallow, blood, and a myriad of synthetic ingredients is inappropriate in an organic system. Yet, if the dairy replacement regulation is not -- the dairy replacement regulation not only allows put expands allowance of nonorganic management of replacements, this is exactly what is going to be fed to an ever-increasing number of organic replacements.

Ladies and gentlemen, there is an elephant in the room, or rather a cow with three little eyes that needs to be dealt with. On behalf of the OV member farmers, I give you our blessings to do so with God's speed. Thank you.
MEMBER KARREMAN: Thanks, Jim. As usual, great. On your milk replacer thing on point 1, could you read that once again because I was having some thoughts about that.

MR. PIERCE: If milk replacer is thought of in terms only of a sack of powder that's mixed with water and fed to calves, then maybe there is nothing right now that can be considered as suitable milk replacer but RBGH free, etc.

If milk replacer could be considered whole milk used in an emergency when there is nothing to be fed to these cows, milk from another farm, an RBGH-free farm, of course, then perhaps milk replacer is available and maybe we just need to broaden the definition of what is milk replacer. What replaces the cow's milk that a farmer would normally feed.

MEMBER KARREMAN: Okay. What if there was to be, just to throw out an idea, a milk replacer, is it always just powder in a
bag? Is it always powder in a bag with fortification or could it actually be natural whole milk? This is something I've thought about when I've been driving around.

What about, let's say, if an animal had been treated on an organic farm with a prohibited material and then she is still fed and managed organically but her milk can never go in the tank. We all know that, but what about having her milk be considered milk replacer for the young stock, the calves?

Then the farmer wouldn't lose total value on the cow for possibly treating that animal in the most humane way by using a prohibited material. The decision wouldn't be as hard to do for the farmer and the cow could still live with her herd mates in an organic way but her milk would be donated to the calves forever. What do you think about that?

MR. PIERCE: That is possible except the way I read the annotation to milk replacer that would only be appropriate in an
emergency and an emergency, I think, is more
dramatic than just having a cow that you can't
put into the tank supplement the other cows.
I'm going to encourage the Livestock Committee
and the NOSB to explore those possibilities
because that's the point of my comment.

If you remove milk replacer from
the national list, the door is closed. There
is nobody using milk replacer according to
that listing now so it's really odd to know if
we are losing anything because there is no
RBGH-free milk replacer. There is very seldom
a certifiable emergency on the farm where they
would want to use it. You could argue that
the only eradication is a suitable use but is
that an emergency? Welcome to the NOSB,
ladies and gentlemen. Enjoy your five-year
term, or sentence as George used to refer to
it.

MEMBER MOYER: Can I ask you a
question?

MEMBER KARREMAN: Yes.
MEMBER MOYER: What sort of emergency situation would arise on a dairy farm where they would not have any milk to feed their calf?

MEMBER KARREMAN: Well, I would say an emergency just as a clinician would be an unplanned event requiring immediate attention so, therefore, I would not think of Yoni's disease as an emergency. Definitely not. It's one of the most chronic diseases in the dairy industry. I would say maybe a barn fire, salmonella outbreak, the cow dies during calving, the calf lives, those kind of immediate --

MEMBER MOYER: But there would be no other milk on the farm at all is what you're saying? No other organic milk?

MEMBER KARREMAN: Well, there usually is. There is usually hospital milk, a very low quality that you wouldn't put in the tank. There would be that possibly. I mean, you know, there usually is but not always.
It's a confusing issue because when I was talking to dairy farmers across the country over the last few months, you know, we asked about the sunset of various products and the milk replacer one came up. Basically everyone was like it can go away.

CHAIR O'RELL: Just so we stay focused to questions specific for Jim and not get into discussions we can have later. Is there another question?

MEMBER JAMES: Jim, why doesn't Organic Valley then make organic milk replacer?

MR. PIERCE: It would be prohibitively expensive. That milk is too valuable as a commodity for human food. We have researched it a number of times. There is also some logistical challenges like to separate the lactose and the waste solids and to formulate a fully suitable milk replacer. What we have done on occasion is provided whole milk power to our producers.
Typically whole milk powder that was no longer sellable for whatever shelf life date was issued. Again, it's quite expensive to the producers. There is potential there. There's just some barriers that need to be ironed out. It's a great opportunity for somebody to fill that void. But an organic milk replacer, of course, would never have to be on the list.

It's organic feed. If it was synthetic milk replacer, nonorganic, it would still only be usable in emergencies in which case there is really no desire to develop that product. There's no buyer. Anybody else? Thank you very much.

CHAIR O'RELL: Thank you, Jim. We are running up against the time but, Eric, you're there so we are going to have you speak and then we are going to take a 15-minute break after Eric's comment.

MR. SIDEMAN: I'm Eric Sideman. I work for the Maine Organic Farmers and
Gardeners Association. I served on NOSB from 1997 to 2002. I served on the first Aquatic Animal Task Force in 2000 and 2001. That task force concluded that while aquatic animals do not reflect the degree of producer management or continuous oversight during production that are characteristic of organic systems so the NOP should not develop standards for wild caught animals.

On the other hand, we did recommend development of aquaculture standards. The new task force, the new Aquaculture Working Group, did a good job of drafting practice standards. I want to make some suggestions on some points of improvement to come up with final standards that are consistent with the high standards that are in the National Organic Program rule.

No. 1, the organic farm plan should designate a specific site, the need to know where the animals are, to know the effect of the surroundings on that animal, or to know
the effect of raising those animals in a particular site. I suggest that within the organic farm plan they designate a specific site for where the production of aquaculture is going to take place. That's not in the report now.

No. 2, in the report they often use the term minimize. I think that almost all aquaculture production facilities should be minimizing the affect on the environment. I'm hoping that in the final report you move up to the stronger language that's in the national rule on organic aquaculture now which is using language such as "does not contribute to contamination."

This is particularly important in the sections that deal with nutrients. A key to organic production that is also reflected in the final rule is the importance of conserving and recycling nutrients within a system. Recycling nutrients should be documented in the farm plan of an aquaculture
system.

No. 3 is feed and I think this is probably most important. The OFPA mandates organic livestock eat organic feed. I'm comfortable that this is possible in an aquaculture system because of the degree of oversight of the site of production by the producer. They know what feed they feed and they can monitor what feed comes into the site.

The NOP rule allows natural nonorganic materials to be feed as supplements in addition to feed to balance the feed. I think a clarification of this is needed. Since OFPA is very clear that feed must be organic, I stress that basic feed groups such as protein, fat, and carbohydrates come from organic feed. Natural supplements or additives may be used to nutritionally balance the feed but they should not be permitted to supply a significant portion of those feed groups.
The report is very fuzzy on this as it offers two different options with respect to feeding fish meal. If fish meal is from wild caught fish, it is not organic and should only be allowed as a supplement. I support option B presented in the report where they talk about not certifying wild caught fish and there needs to be a cap on the use of fish meal as a supplement.

I would like to turn to a different subject now and that is one of the deferred materials aquatic plant extracts. The NOSB and NOP need to reconsider the policy refusing to make changes and annotations during sunset review. Ill-worded or illogical annotations with mistakes need to be corrected and the sunset review period is an ideal time to do that because when the NOSB voted, they voted on the annotation and the material as a couple.

Aquatic plant extract annotation is ill-worded. It seems to state that only
potassium hydroxide or sodium hydroxide are permitted but some certifiers are permitting potassium carbonate. It is so inconsistent among certifiers that a major manufacturer petitioned potassium carbonate in 2002.

There are two major manufacturers of seaweed extraction in Maine who are using potassium carbonate and we as the certifier in Maine are not allowing these products. Furthermore, I want to support OMRI's comments that there is potential fortification using either potassium carbonate or potassium hydroxide because of the potassium being a fertilizer.

My last line, phosphoric acid has never been reviewed by the National Organic Standard Board for the material plant extracts and should not be permitted. Any questions?

MEMBER KARREMAN: Regarding the sunset process with the annotations, and you mentioned it, that material was voted on as the material in the annotation. We have been
told in clear terms that we are not to tinker with annotations during the sunset process. I'm just wondering to the more seasoned members of the Board can we do something within the statute within OFPA to perhaps tinker with annotations at the next sunset review or not? That's to the NOP, I would guess.

CHAIR O'RELL: I'm going to ask Arthur.

MR. NEAL: The issue with sunset is that this happens once every five years. We've got a petition process that is open every day of the year. If anybody wants to change an annotation they've got every day of the year to petition the Board to change an annotation.

Due to the number of materials that are up for review, particularly this sunset, you can have the potential of changing every annotation and then the Board having to justify the reason for why they changed every
annotation. You can have an industry turned upside down overnight because no one had a petition but someone felt like changing an annotation.

But the process is designed to assess the continued need for the use of substances. Why wait until five years before someone asks to change an annotation? That's the question.

MR. SIDEMAN: I support Arthur in that but I would also like to add that I think it's within the power of the NOSB to change an annotation without a petition since they were the drivers of those annotations to begin with. When one is known for five years now is not working in the market place and production arena of farmers, the NOSB has the responsibility to change it.

There is a petition for potassium carbonate submitted in 2002 and it's still sitting there with a little line under NOP review. We have been preventing the use of
two manufacturers in Maine from selling the products they make to certified organic farms in Maine because of the way we interpret the petition -- excuse me, the way we interpret the annotation.

CHAIR O'RELL: I saw Kim is a former Board member from last year. I know we invited the Board members back to make comments. Did you have a comment? Okay. Arthur.

MR. NEAL: One more quick comment. I think it was the August 2005 meeting the Board had recommended to restructure the national list. The NOP is going to take that under advisement. We are going to do that. That will help to resolve this issue concerning aquatic plant extracts because aquatic plant extracts really are naturals. It's the synthetics that are added to them or how it's extracted, the process of synthetic or nonsynthetic decision that is under review right now. The other issue is that the
potassium carbonate petition that you've addressed, I think I mentioned this over the phone, that company, I think, is out of business that submitted that original petition to us. The other issue is that petition is incomplete so we will have to deal with that at the staff level.

MR. SIDEMAN: I knew that already.

I'm not blaming NOP for not dealing with the petition but I think the NOSB has the responsibility because they recognized this as a problem to work with it. The problem is see -- and I don't know if I can go beyond a little bit here but the problem I see with addressing aquatic plant extracts has a natural, I think that may not be true if you adopt the decision tree that separates natural. I think it will fall into the synthetic category when you run it through there and then it will have to be listed.

CHAIR O'ReLL: Thank you.

MR. SIDEMAN: Okay. Thank you.
CHAIR O'RELL: We're going to take a break now for 15 minutes. I guess that like 4:22 we'll come back and we are going to have the presentation of the Aquaculture Working Group report at that time and pick up the agenda as it is posted. We will go through the NOSB agenda and we will pick up again with public comment as soon as we can wrap things up and we'll try to do that quickly for the NOSB business portion. Thank you.

(Whereupon, at 4:00 p.m. off the record until 4:27 p.m.)

CHAIR O'RELL: Board members, please take your seat so we have a quorum. Okay. We are going to convene the meeting. We have a quorum. There is a slight change. There was a little mixup in the public comment list on speakers and somebody got crossed out unintentionally. We have indicated that person. Liana, you will be able to address this. And then following this public comment
immediately into the aquaculture.

MS. HOODES: Kevin, thank you very much for this. I do have to leave before the next comment period. Ready?

My name is Liana Hoodes. I'm the Organic Policy Coordinator of the National Campaign for Substanable Agriculture. The National Campaign is a national network of hundreds of organizations and individuals working towards sustainable federal policy. The Organic Committee, which I head of the National Campaign, has worked since 1997 to advocate for higher organic standards in order to maintain the integrity of organic.

There are about somewhere around 150 members of the organic committee itself. The National Campaign would like to thank the National Organic Standards Board and the National Organic Program for your ongoing work in maintaining the integrity of organic. It's a really hard job. It's getting harder in this period of the sunset review and we thank
you for all this work.

    I would also like to welcome new members to the Board. It's great to have you.

    And welcome to Valerie. We love the NOP for filling this position and we are happy to have Valerie on board.

    For those of you who haven't heard me many times, I have often come up here and asked the Department time and again why aren't you moving the NOSB recommendations to regulations. It was a broken record often and so at this time I would like to thank the Department for beginning that process with the ANPR. It's a real big step and we really appreciate it.

    With regards to pasture, we have a few comments. The National Campaign Organic Committee supports the current regulations on pasture. Currently they require outdoor access. There is a requirement for pasture for ruminants and there is a requirement for living conditions that allow animals to
satisfy their natural behavior patterns.

We believe that the current standards in place are enforceable. To the extent that existing dairy operations provide only dry lot confined feed lots for their dairy animals, it's clear they are in violation of the existing regulations. These are operations that I'm talking about that provide no access to pasture.

We ask the NOP to enforce these existing regulations when it is so clear there is absolutely no pasture. Indeed, the demand for organic milk is high and the current industry is unable to meet it. We can only look to a bright future for organic farmers and future organic farmers if we grow the supply in a sustainable manner. That means keeping the high standards.

There is no question in the minds of consumers who buy organic milk at a premium price. Organic farmers and operators who have committed to the organic system, certifiers,
scientists, and anyone who has been involved in organic agriculture as to the importance of pasture in livestock management systems for virtually all animals in organic agriculture. It speaks to the heart of an agricultural system that seeks to replicate natural systems as closely as possible.

There is no question that a dry lot confined animal dairy feed lot is neither organic nor is in anyway pasture. To explain it away as a temporary situation or that it keeps to the letter of some part of the law is an affront to the meaning and intent of the organic agricultural system.

Yet, obviously it's clear there is somewhere in between that needs to be worked on and that's what we're doing. From the zero, no pasture, to whatever it is. We support the 120 days, 30 percent dry matter. We support the NOSB recommendations, all of them that they've made including changing the term stage of production to stage of life.
Also, we absolutely support the recommendation that after a dairy operation is converted to organic all new animals must be under organic management from the last third of the mother's gestation.

Okay, materials. The NOSB I think should be looking at annotations. I realize this is a hard one this first sunset but I think you need to look at them for the reasons given by Brian and others. Colors also should be reviewed as a class. The numbers from the NMI survey said 63.3 percent organic users find it is important that organic contains no artificial colors.

That's the point here. We don't know which are artificial and which are natural so please look at colors individually and so as a class remove them from the list. There are no clear definitions and OMRI again made the case. Please review them on a case-by-case basis.

Also, we would like more time for
the comments on materials. It's hard for us as advocates because we are not one business that has an interest in one material. We need to look at the whole list so it's really hard to have a short comment time. Very hard for us to follow all the materials.

We also would say once again if TAP reviews are not complete please reject them and defer the decision on the materials if they are not complete. Thank you very much for giving me this time right now.

CHAIR O'RELL: Thank you. Any questions? Okay. Next on the agenda we are going to have George Lockwood who is chairperson for the Aquaculture Working Group and he's going to present a final report from the group to the Board.

MR. LOCKWOOD: Thank you, Mr. Chairman. It is a pleasure to be before the National Organic Standards Board again. I want to express the appreciation I have and my colleagues have for your interest in advancing
It has been a distinct privilege for me to chair the Aquaculture Working Group of the Aquatic Animal Task Force. It truly was and is an outstanding group of people and a broad range of disciplines having to do with aquaculture. We also appreciate having in our work Jim Riddle and Andrea Caroe who contributed greatly as we moved along and Nancy Ostiguy when she was able to be with us. We also received a considerable amount of staff support from Keith Jones. Since Keith has left from Arthur Neal and we are looking forward to working with Valerie Frances in the future.

As a way of background, sir, the National Organic Standards Board first considered aquaculture standards in 1999. The ones that you were considering were not drawn up by people in the aquaculture community. We ask that the effort be stopped until the aquaculture community could get involved.
In the year 2000 we had a conference at the University of Minnesota, about 80 people with environmental and aquaculture backgrounds and organic backgrounds attended the conference. Shortly thereafter you appointed Margaret Wittenburg to head up a crew of about 15 of us to take our first crack at the development of aquaculture standards.

That work was basically around the livestock model as would be applied to fish and shellfish that are farmed. The Wittenburg Report was submitted in 2001 and immediately went to another committee, Aquatic Animal Task Force, that considered a parallel effort having to do with wild fish along with farm-grown fish. Bob Anderson who was here earlier today served as chair of that committee.

Sometime after that the National Organic Program invited the aquaculture community to make a proposal and based upon those two reports and international standards,
the group that called itself the National Organic Aquaculture Working Group, about 85 of us, put together a white paper that was submitted in the year 2000.

The NOAWG, as we call ourselves, basically use the livestock standards, the Wittenburg Report, the Anderson Report, and some 12 international standards. The white paper was then posted on the National Organic Program website and subsequent to that you appointed a new Aquaculture Working Group for another aquatic animal task force. Unfortunately, a wild group that was supposed to organize at the same time never did come to fruition.

As I said earlier, we have 12 outstanding members of our committee plus three overseers from your Board plus Keith Jones and now Arthur Neal and Valerie Frances.

In January of this year we submitted our interim final report. The reason for the term interim is that we did not
include shellfish. We are continuing to work on shellfish. Shellfish has its own set of complexities and, as a result, we didn't want to hold up the submission of the final report that you now have posted.

I would like to point out that our final report, our interim final report, has no minority report. We were able to work through every one of the issues that came up. When they came up and they looked like we were going to have a difficult time, we simply stopped what we were doing and we worked through the issues in good faith with each other and, as a result, we have avoided having a minority report.

In the report you will notice, and it has been commented on here earlier, in feed we have an option A and an option B and I would like to explain briefly the difference between the two. Option A includes the use or certification of wild fish to be used for the production of fish meal and fish oil to be
used in aquaculture.

Option B does not include the certification of wild fish. Because many of the species, perhaps most of the species, in aquaculture do require animal protein in their diets, it is necessary that if we can't use significant quantities of fish meal and fish oil that we may have to petition for synthetic amino acids, specifically methionine and lysine. Those are the basic differences. Option A would be the certification of wild fish by certain standards for use in producing fish meal and fish oil.

Now, there is a major advantage if you look at option A that I would like to point out. There is only one fishery in the world that would qualify at present and that is the Alaska Pollack fishery. Pollack is harvested for fish sticks and things like that.

Sixty percent of the weight of that animal is either thrown overboard if they
are in international waters or is reduced to fish meal and fish oil if on shore. The fish meal goes into the fish meal markets. The fish oil is mixed with fuel oil and burned in boilers or is mixed with diesel fuel and burned in engines.

That is very rich omega-3 fatty acids of which there is only a limited amount available in the world that virtually is being wasted. So as you consider option A we hope that you will consider that this is a wasted resource now and if option A is indeed your choice, the economics would drive the recovery.

There are four major issues that emerge from our work that are really organic issues across the board. I just mentioned wild fish used for producing fish meal and fish oil. There is also the issue of wild fish for producing for direct human consumption.

You have in the standards
provisions for wild game and, of course, you have honeybees that are producing honey that forage in the wild. So we are not adding anything new but this may be one more dimension to the complexities that the organic community has been wrestling with over the years.

A second issue is that of persistent organic compounds, PCBs and the like, that are in fish oil. They are also in other foods and we see this as being an organic issue for all food items, not just fish meal and fish oil and aquaculture.

At first we were going to recommend that we abide by whatever standards you adopt in this area, but we said no, let's go ahead and take the lead. So you have in our proposal standards having to do with minimization in fish oil of persistent organic contaminants.

There is also a section in our report having to do with humane slaughter. We
think we are far ahead of anybody in the world in what we are recommending for any animals in organic certification. We would hope that this would set a standard that might be applied across the board to other forms of livestock.

Finally, the issue of mammalian and poultry byproducts emerges. It has emerged. It is an item that we spent a lot of time talking about and considering because if fish meal isn't allowed, mammalian byproducts and poultry byproducts would allow the amino acids to come in by that route.

The livestock rule now prescribed the use of these meat products. We have gone along with that and we are recommending that they not be allowed. Nevertheless, I think this is a much larger issue that you are going to have to be wrestling with.

In wrapping this up, we have received 48 comments that have been posted on the National Organic website, the program
website. The quality of these comments is excellent. They are focusing on the issues. There is developing balance and we will take all of them very, very seriously.

Our work ahead is we do want to deal with the program and guiding through and digesting and synthesizing and commenting on the public comments. We need to complete if we can the very complex issues of bivalve shellfish. I might point out that there are foreign certified bivalve shellfish now in the United States market place so this puts a certain incentive on to get this very complex subject wrapped up. Finally, we will be working on the national list of compounds that the NOAWG report had a long list of but we think we can shorten it down.

I would be glad, Mr. Chairman, to answer any question if there are any.

CHAIR O'RELL: Are there any questions?

MEMBER SMILLIE: Yeah. In option
A you refer to certification. Currently the one that you mentioned, I think --

MR. LOCKWOOD: Marine Stewardship Council.

MEMBER SMILLIE: Yes, MSC.

MR. LOCKWOOD: What we are recommending is that in terms of sustainability that MSC or some equivalent organization certify the resources being sustainable. The case of Alaska Pollack that I mentioned, that is a resource they have certified as being sustainable.

MEMBER SMILLIE: I was under the impression that particular certification scheme was going fairly rapidly and accepted by a number of people in the seafood industry. I was surprised to hear there was only one fishery.

MR. LOCKWOOD: That we can use. That we can get fish oil and fish meal from.

MEMBER SMILLIE: I see.

MR. LOCKWOOD: When you consider
contaminants and all the criteria we have, it boils down right now there's just one fishery in the world that we can use that fit our criteria. MSC is certifying others.

MEMBER SMILLIE: But that is the only one that would be available.

MR. LOCKWOOD: Alaska Pollack fits our standards, our proposal.

MEMBER SMILLIE: The other question I had, being a real fish enthusiast, was that again some of the documents -- some of the proposed guidelines to become regulations, the comments I've heard is that it's an excellent report but it is species specific because apparently there's like one rule for all and there's quite a few differences. Again, do you see a compromise being reached without going to like 60 or more species specific regulations, but yet not putting all species under one?

MR. LOCKWOOD: We look very carefully whether we want to go species by
species or not. Right now we have about 15
pages of proposed regulations. The livestock
standard now has three pages. Our proposal
will add another 15. If we go species by
species we would easily double that. In the
livestock standards, these are broad
standards, in a few cases for dairy and for
poultry there are specific targeted standards.

We may be able to add something
there but to go species by species would be a
logistic nightmare. We've got five major
species in Commerce in the United States now
and another three that are coming up rapidly.
There's probably another 10 that are in the
development stage and you can't possibly go
through each one. The other thing we don't
want to do is limit innovation. If we write
standards so tight that if they are too tight,
they will limit innovation.

MEMBER JAMES: If I heard you
correctly your preference is for option A?

MR. LOCKWOOD: No. We are not
expressing any --

MEMBER JAMES: You're not expressing any preference?

MR. LOCKWOOD: What we are saying is here are two options. If you can go with the wild A works. If you are not going to go for wild for good reasons, I mean for many reasons, then B will have to do but being mindful that we probably will be knocking on your door for having synthetic amino acids on the national list.

MEMBER JAMES: If option B were to be enforced, how long would it take for organic certified fish in the meal to be ready for this program?

MR. LOCKWOOD: Well, in the case of salmon it's basically a 30-month growing period so it would be 30 months from the day the regulations are adopted and a farm plan is certified. In other species it's a much shorter period of time. Perhaps some less than a year.
MEMBER JAMES: Okay. Thank you.

MR. LOCKWOOD: Shrimp would be less than a year.

MEMBER DAVIS: I have a question. For plan B you mentioned the possible use of other animal by-product proteins but I didn't catch whether you mean that would be considered as part of plan B or just the synthetic methionines.

MR. LOCKWOOD: In plan B we proscribe the use of animal byproducts but that, as I indicated, is an issue that we debated and debated and it's really an organic program issue. Under the livestock standards you have proscribed it. There is also another factor here. Whole Foods, the largest potential customer for organic aquaculture, will not allow mammalian and avian products in their fish. Their customers don't want to have pork by way of salmon.

MEMBER DAVIS: I understand.

MR. LOCKWOOD: Whether that's good
science or not it's a consumer perception.

MEMBER DAVIS: Yeah, I just missed that part.

MEMBER JAMES: One other question for you. Under option A.b, "To the greatest practical extent cultured aquatic animals should be provided their natural foods as closely as possible." Could you explain that a little bit more?

MR. LOCKWOOD: Well, yes. You can take a fish, I'll use salmon as an example, and in nature they eat a lot of other fish including other salmon. They will eat small salmon and eggs. It's not inconceivable that we could grow salmon with an entirely grain-based diet with synthetic amino acids so they would be totally removed from their natural diet. What we are doing here is repeating our perception of organic philosophies that you stay as close to nature as you can.

MEMBER JAMES: Okay. Wording like that with everything that is going on right
now with pasture, we just have to be careful that we are really clear about our intent.

MR. LOCKWOOD: It's these kind of concerns that when we work with the Livestock Committee will come out so we can get good clarification. I must repeat the comments we have gotten from the public, all 48 of them, are really right on target. They are very helpful to us.

They are developing the data on these issues and they are allowing us to focus in where there are ambiguities and not clarity. I must also say that your members that were working on advising our committee all along kept raising red flags, "You've got to be careful how you say this so a certifier in the field can certify."

MEMBER JAMES: Sure. Well, I want to thank you for this work. I appreciate that the Committee crafted a document that isn't just single-minded, that there are options in here for us to think about.
MR. LOCKWOOD: Well, thank you. When Keith Jones was leaving he and I added up how many person hours were involved. It's probably over a 1,000 to get to this point.

MEMBER KARREMAN: So this is an interim report at this time still. Right?

MR. LOCKWOOD: That's right. It's interim because we are still working on shellfish and we hope we can do something there.

MEMBER KARREMAN: All right. I'm really glad there's no minority report. That's nice that you are in unison there. I guess I would like to just say that the Livestock Committee recommends that the full board officially receives the interim final report from the Aquaculture Working Group and the Aquaculture Working Group members are especially commended for the excellent work you have done preparing it.

The Livestock Committee and the NOSB will begin consideration of the
Aquaculture Working Group interim final report immediately and we will continue to be in contact with the group as needed for clarification, advice, and counsel. I would like to, if I may, make a motion to receive the interim report.

MEMBER SMILLIE: Second the motion.

CHAIR O'RELL: And a second. Jim, do I see your hand because I know you participated in this committee if you have a comment, please.

MR. RIDDLE: Do I have to go to the microphone?

CHAIR O'RELL: Yes, you do.

MR. RIDDLE: Jim Riddle. I guess I heard what George said and I want to complement George in the leadership that he showed in making this a very inclusive process, very thoughtful, but I don't want to go on about that too much.

My question is that 44 comments
were received before this. I think George was expressing a willingness for the task force maybe to continue to be engaged. I'm just wondering if the Board receives this does that conclude the work of the task force or do you still keep the task force working on reviewing the comments as well as work on mollusk standards and list of materials?

MEMBER KARREMAN: He still has to work on the bivalves, the shellfish. That's for sure.

CHAIR O'RELL: I think what the Livestock Committee is proposing is we accept this as an interim final report for the work done thus far and the Livestock Committee can begin working on it from their side but the working group is not disbanded as they continue on the shell fish and conserve as a resource for the livestock committee.

MR. RIDDLE: So they could review these comments and provide further input to the Livestock Committee?
CHAIR O'RELL: Absolutely. That's perfectly fine with the NOP so that would be the intent. Thank you, Jim, for clarifying that.

MR. RIDDLE: They're not off the hook.

MR. LOCKWOOD: We would be glad to continue to participate.

CHAIR O'RELL: So we have a motion on the floor to accept this interim report from the Aquaculture Working Group and a second. Is there any discussion? Hearing none, we'll take a vote and start with Rigo.

MEMBER DELGADO: Yes.

CHAIR O'RELL: Oh, thank you, Andrea. Our policy is we will ask first does anybody have any conflict of interest as outlined in our procedures and policy manual on this particular issue?

MEMBER KARREMAN: I'm not sure but my sister is a veterinarian for salmon farmers in Canada and she has shown interest in the
organic program down here.

CHAIR O'RELL: We appreciate you disclosing that. I don't see it as an interest or conflict for this vote. Okay. Rigo.

MEMBER DELGADO: Yes.

CHAIR O'RELL: Jeff.

MEMBER MOYER: Yes.

CHAIR O'RELL: Nancy.

MEMBER OSTIGUY: Yes.

CHAIR O'RELL: Julie.

MEMBER WEISMAN: Yes.

CHAIR O'RELL: Joe.

MEMBER SMILLIE: Yes.

CHAIR O'RELL: Bea.

MEMBER JAMES: Yes.

CHAIR O'RELL: Andrea.

MEMBER CAROE: Yes.

CHAIR O'RELL: Gerald.

MEMBER DAVIS: Yes.

CHAIR O'RELL: Dan.

MEMBER GIACOMINI: Yes.
CHAIR O'RELL:  Kevin E.

MEMBER ENGELBERT:  Yes.

CHAIR O'RELL:  Hugh.

MEMBER KARREMAN:  Yes.

CHAIR O'RELL:  And the Chair votes yes. Twelve yes and no zero and two absent.

Thank you, George.

Next we are going to move on to status report from the Pet Food Task Force. Emily Brown-Rosen is going to present to the Board the status report.

Thank you, Emily.

MS. BROWN-ROSEN:  Thanks, Kevin. It's great to be here. I am the Secretary of the Pet Food Task Force and we have been working since last May when we were appointed on the whole issue of what standards need to be for pet food. We recently posted this document, or got it posted on the agenda so it's been just up for the public look since the last two weeks or so. We just want to present it here today as a discussion item and
then have some feedback from you on how to proceed further with the next step of this.

I would also like to thank Keith Jones who is not here anymore but he was really instrumental in getting us on track and helping us get started, getting the group up and running, sort of giving us our mission statement and clarifying things as we initially met. He was really helpful. Our third, and now Valerie, have been helping us so that's been great, too.

Also a special thanks to Dr. Bill Burkholder who is at FDA who is not on the task force but has been at almost all the meetings. He is like the pet food guy at FDA so that has been really helpful to have someone right there to tell us whether we are doing things right or wrong.

Okay. So what I would like to do is kind of walk through the executive summary for those of you who probably didn't have time to read this since you've got so many other
things going on here. That is perfectly understandable. I think pet food is a lot easier than aquaculture to deal with at this point in time. It's a lot closer to livestock standards and food processing standards already. It's not so hard to put this together.

Although it was a lot of work, a lot of discussion, I think we pretty far along on making this go forward. As a kind of general opening point here, what we had on the task force was two different groups of people basically. We had people from -- well, actually three I should say, the conventional pet food industry, we had people from the organic pet food industry, we had the FDA and state regulatory officials, and then we had people like me, somewhere in the middle of all that.

What we are trying to do is reconcile two different world views. We have what I call two bibles. We have this bible
which is the official publication of the American Feed Control officials that they publish every year. It's got very detailed pet food regulations in here. Then we have our well-known friend here, the USDA Organic Standards with people who are really familiar with each of these sets of rules.

What we are trying to do is merge them so that they can both be applied to pet food that is going to be organic and legal for sale under all the state regulations and keep everybody happy. We had a lot to work with. We had a few conflicts but I think we did pretty well.

Basically NOSB asked to start the task force last year. Part of the issue was that we do have people making pet food and we do have people labeling pet food but there is sort of a variation on how they are interpreting the rules. It kind of fits under the livestock standards and it kind of fits under the human food standards. People kind
of treat their pets like people or kids. They want to feed them really well so actually the industry thought that was a reasonable thing to do.

The conventional industry regulates pet food as livestock feed so we made the determination that it's really a better fit in general in the livestock standards. What we have done in this proposal is graph on a labeling standard that is more similar to processing. What that does is give us the feed ingredient definitions, the allowance for natural materials that are allowed in livestock feed from the livestock standards. We have also set up the labeling classes of 100 percent, 95 percent, 70 percent just like in food processing for the labeling of organic pet food.

I got a little ahead of myself here. We spelled out how we would fit this in exactly to the regulation. We decided we have two tasks here. We did that part of it and
that's how far we've gotten. The next task
that we're going to keep working on is going
back to the AAFCO people and looking at these
regulations because they have whole labeling
guides there that do have some problems as far
as how you would interpret organic beef dog
dinner.

There is some conflict when they
call something with or when they call
something dinner they have these code words in
the pet food regulations that mean a certain
percentage of that adjective. We need to work
through some problems with them and probably
help them write guidance that adjust their
guidance.

That is something that is kind of
beyond the purview of the Board here but that
will continue and we can report back on that,
too. I think in the long run will be to have
some guidance available to organic pet food
producers so how they can meet both sets of
rules and not get in trouble basically.
This document is pretty ready to go. What we would like to discuss with you is the next step. It hasn't been out anywhere. We haven't circulated it amongst the various stakeholders at all. The idea is it really needs some public comment and some feedback. The task force is willing to continue to work on it some more.

If we post it for a certain amount of time, we are saying at least 60 days, then we would look at the comments and we could compile them and get back to you if we thought there needed to be changes. Of if you want to do that, you know, that's fine. You can take it to the next step, too.

We thought if we had a 60-day comment period, then we could wrap it all up and give it to you before the next meeting and then you could decide if it was ready to go or if you wanted to work on a further -- you could work on a recommendation before your next meeting. You talk about it and tell us
how you want us to handle it but we could go
either way on that.

So, with that said, I'll just give
you a couple of key points that are in here.
As I said, we are talking about the livestock
standards. We've added some new definitions.
We have tried to pin down better definitions
on slaughter products because this is an area
in the rule that is not very well defined.

We know slaughter byproducts are
not allowed for livestock feed but there is no
definition of that. Whereas the livestock
officials do have a lot of definitions related
to that so we put that in there to help
identify what are the meat products and what
are the slaughter byproducts so that becomes
more clear.

But we have -- as I say, we have
stuck with the labeling standards so that an
organic claim would have to have 95 percent
organic ingredients. The made with organic
would be 70 percent so that is very
consistent. There was really not much argument about that on the task force so I was happy that was -- I think everybody, even the conventional people, realized the high value of the organic label and they didn't want to see anything that would confuse consumers or make it different than the way food is regulated.

We have proposed a change so that we recognize there's a difference between feeding pets slaughter byproducts. They are allowed to eat mammalian and poultry slaughter products. We did this by just proposing some wording changes. The ones in the rule now that prohibit feeding mammalian or poultry slaughter products that's limited clearly to livestock and pets would not be subject to that. Cats and dogs and carnivores so would allowed to be fed the organic byproducts of the meat industry. That's actually a value added thing for the meat producers.

We do require that when you have
"made with organic products" -- we anticipate there would probably be a pretty big demand for "made with organic" kind of label in pet food but we did include a requirement that you cannot have the same ingredient in both organic and nonorganic form in the "made with organic" claim. This is consistent with what you recommended last year.

But the differences would be based on the actual ingredient name so that's where this AAFCO book is handy because they have exact definitions of what is allowed in feed and in pet food. They could have organic chicken in the product and they could claim it's organic chicken but they also could have nonorganic chicken meal which has a distinct identify of its own. As long as it's clearly identified in the label they could do that. The manufacturers were concerned about that because there's a limited source for some of these chicken meals or chicken products.

I think that's basically it. We
are asking for some comments. A few members of the task force were kind of wanting more feedback on whether nonorganic slaughter products should be allowed at all in organic pet food just out of general concern about nonorganic meat. We didn't include that in the proposal but we are certainly leaving that open for comments.

The discussion on that was if we required no nonorganic meat, that would be a stricter standard than the food organic standard and we didn't really have a good basis to go that far so that got talked out. If you have any questions about this, I think this is pretty ready to go as far as the regulation goes but, of course, whenever you are trying to write regulations, there's always little unintended things that pop up so we need more eyes looking at this for sure.

One other thing I want to point out is the definition of pet is really strict. AAFCO thinks that pet only means dog or cat.
Then they have specialty pets which are all the odd pets which are things that live in cages or tanks but not gerbils, hamsters, canaries, birds, etc. The one point is that it doesn't include things like wild birds.

It doesn't include rabbits. It doesn't include horses. Those animals are livestock and they do have to meet the livestock feed rules. It's easier and better just to follow their whole universe for defining things and then it makes it just real clear cut. Questions?

MEMBER KARREMAN: Just one. Thank you very much. I feel terrible that I haven't been in on the calls. I know I'm part of the committee but I'm overwhelmed with a lot of things. Just a minor clarification. I think horses -- I don't know if they are considered livestock by the USDA. They are not considered agricultural anymore and if they are not pets, I'm not --

MS. BROWN-ROSEN: They are
considered livestock by the state feed regulators.

MEMBER KARREMAN: Are they?

MS. BROWN-ROSEN: Yeah.

MEMBER KARREMAN: Okay. But not agricultural. Well, I don't know if that's going to play in at some point. I know --

MS. BROWN-ROSEN: Probably.

People do eat horses in some places in the world. Right?

MEMBER KARREMAN: Above the border.

MS. BROWN-ROSEN: Joe.

MEMBER SMILLIE: Yeah. I'm not up to speed on this again, Emily. I do apologize for that, but I know in our office and I've overheard a number of conversations at policy meetings that one of the things that I thought was a differentiation that AAFCO implied was the difference between pet food, which is very clearly defined, and a pet treat. Have you continued that or is that not --
MS. BROWN-ROSEN: They have different standards. They do distinguish between food and what can make a complete claim. That's a labeling issue. If they want to claim it's complete and balanced, you know, it has to meet their nutrient profiles. They have them spelled out pretty clearly for dogs and cats.

You can either use theirs or you can give your own proof of how you are meeting a complete diet but you can't call it a complete food if it doesn't meet the basic NRC requirements basically for the animal in question. But that wouldn't affect us because you can have organic pet treats. You wouldn't be able to call it complete and balanced, for example, unless it did meet the AAFCO requirements but if it's 95 percent you could still call it organic pet treats.

MEMBER SMILLIE: Right. So on threats we are moving ahead with our current interpretation. On pet food unless you meet
AAFCO's complete and balanced diet you can't call it organic pet food is my understanding.

MS. BROWN-ROSEN: Well, people are labeling organic pet food now. I think since last summer particularly they clarified after the Dr. Brownell lawsuit memorandum that it was in the scope if you could meet the standards. I think that is part of the issue now that some certifiers have slightly different interpretations of that.

I don't think AAFCO has turned people down. I mean, I know people are labeling. Maybe they haven't gotten to a point of looking at it yet as far as if they are complaining about it. A lot of pet food manufacturers really study this and know those rules very well. They could certainly -- it's just different terminology. You wouldn't call it a complete food. You would call it, you know --

MEMBER SMILLIE: A treat.

MS. BROWN-ROSEN: I think there's
in-between there, too. We can go through it later if you want.

MEMBER KARREMAN: Just wondering since you are referring to the AAFCO rules quite a bit when you are doing this, not all pet food -- I guess we'll just say pet food -- is subject to AAFCO testing. If an organic company wanted to make organic pet food, whatever comes up in the end, do they have to be under the AAFCO labeling?

MS. BROWN-ROSEN: Yeah, they do. I mean, they don't really do testing. What happens is people can put out a label and get it on the market and it might be a couple of years before they pay attention to the labeling requirements for AAFCO. Sooner or later someone will turn it into a feed control official and they will get a letter and they will get some enforcement action. You have to follow the rules for pet food.

MEMBER KARREMAN: But in conventional pet food I don't think all canned
dog food has AAFCO labeling on it.

MS. BROWN-ROSEN: The labeling doesn't say AAFCO on it. There are like certain requirements, you know. You have to have the type of product, you have to have the animal, you have to have the rates, you have to have guaranteed analysis. It's just a specific -- you know, it's nothing that would really jump out at you. In fact, I was very surprised to learn what some of their rules were because I didn't know platter meant 3 percent or dinner meant 25 percent. I mean, how would you know? That's the way it is.

CHAIR O'ReLL: So I have Kevin, Dan, and Jim.

MEMBER ENGELBERT: Would you clarify again why they make the distinction between a food and a treat, Emily?

MS. BROWN-ROSEN: Well, I can't really answer that question. I mean, I could look it up and talk to you later about it. It's one of those arcane rules. Nancy Cook if
she were here she could spell it all out for you. They have different standards as far as nutrient guarantees. They expect people feeding -- part of the reason pet food and livestock feed is more regulated in some ways than human food is that these animals don't have any choice.

They just have to eat what you give them. FDA set it up that we are not starving them. You know, people are going to feed them the same thing everyday out of the bag that they should be nutritionally balanced. Otherwise they can't sell it as a whole food because they are worried about the animals.

CHAIR O'RELL: Dan.

MEMBER GIACOMINI: Yes. On your appendix I believe you list materials for possible petition. How many of those various items do you really think are likely to come up under petition with most of them being synthetic amino acids?
MS. BROWN-ROSEN: Right.

MEMBER GIACOMINI: I know we have torine for cats which is an unusual physiological situation but how many do you think are legitimate possibilities?

MS. BROWN-ROSEN: Well, I mean, they are legitimate in the sense that members pulled these out of what they saw in existing pet food, not necessarily organic pet food but things they would like to use. The question is how many of these could be from natural sources so they would not have to be on the list. I don't know. I think probably three or four of these really.

I mean, I think torine is the No. 1 thing that they want because it's difficult for cats who can't use -- natural forms of torine really aren't available unless it's raw meat so once they process the meet apparently it loses its viability. But of these others there may be alternatives but this is sort of the wish list. I think I would stress to the
group that they would have to file a petition.

I mean, there's room for them on the list but we would have to file a petition.

We also added a section in the rule saying that -- additional piece of criteria for the 205.600 section so one of the criteria if you are evaluating a pet food substance is that it's a required nutrient in the animal profiles for pet food.

CHAIR O'RELL: Jim is former Chair and was the observer during the time of the Pet Food Task Force. I know you wanted to weigh in on a comment and then we need to move along.

MR. RIDDLE: I'll be very quick. I really just also wanted to complement Nancy Cook, the Chair of the task force for driving it forward, but especially Emily for doing the draft writing because it really brought it all together and gave people something to work from.

I did want to point out that under
the definition of livestock in both the rule and the law that equine animals are already included in the organic definition. What I am curious here is if the directive from the Board from this meeting is for the task force to remain intact and the comments that are coming in to go to the task force before they submit a final report that then the Handling Committee would post for comments.

CHAIR O'RELL: Yes, it was my understanding that this was just going to be kind of an update of status report from the task force and the task force then will take the public comments and go back and prepare a final report for the Board.

MR. RIDDLE: After my term on the Board ended I have continued to serve on this task force and am willing to continue to do that.

CHAIR O'RELL: Thank you, Jim. That has been blessed.

MS. BROWN-ROSEN: Good. We'll do
that for the next meeting and we'll just work with Valerie to make sure we get it posted appropriately.

CHAIR O'RELL: Thank you. Thank you for your hard work, Emily.

Okay. We are going to move back to public comment. I have been asked to read several names off and maybe we'll go like the next five names so that people know where they're at. Up first Joseph Krawczyk, Tom Kimmons, Emily Brown-Rosen, Lisa McCrory, Sara Flack, Nicole Dehne and then Lisa Zuck.

MR. KRAWCZYK: Good afternoon. My name is Joe Krawczyk. I am the owner of Field and Forest Products, Inc., in Peshtigo, Wisconsin. We are a supplier of certified organic mushroom spawn and a producer of certified organic shiitake. I am also on the Board of Directors for the Shiitake Growers Association of Wisconsin which currently has about 35 active growers in it.

For you people who are not
familiar with mushroom cultivation, I guess
I'm going to give you the Reader's Digest
version of the two different types of
cultivation methods that are followed for
growing certified organic shiitake in the
United States.

I guess you could say we have
livestock in a bag here. Shiitake is produced
in two different ways. This is the production
of shiitake -- oh, by the way, I do have a
proxy statement to read, too. Sorry.

We do have this bag here which is
certified organic mostly for the production of
shiitake mushrooms. What this is is sawdust
blended with certified organic wheat bran,
certified organic millet, and a mine source
gypsum. It's incubated in this plastic bag
for 40 to 160 days depending upon the
cultivation method being followed.

The traditional way of growing
shiitake mushrooms is based on hardwood logs.

These logs are generally harvested from
timber stand improvement cuts or from logs
gleaned from the tops of threes cut during
timber stand harvest. The input in this log
is certified organic mushroom spawn.

What brings me here today? This past spring one of our growers and customer was being certified as organic for growing shiitake mushrooms on logs. One inspector who was not familiar with this process brought up the question of the use of cheese wax as a sealant for keeping moisture in the spawn and preventing it was drying out.

Not knowing the answer to that question, they approached the program director for the agency and they went to the National Organic Program who came up with the opinion that because this was considered an input, the use of cheese wax being a synthetic could not be -- the process could not be certified organic.

Well, I asked what are the alternatives and we were given quite a list of
alternatives, some of which I will go through in detail here. It was suggested that we use styrofoam caps or plastic plugs to seal spawn into logs. To me that reeks of hypocrisy because it's a petroleum-based product also.

One of the reasons we use cheese wax, there are actually two reasons we use it.

It seals moisture in the logs and, more importantly, it's put on hot so it serves as a surface sterilant to kill any competing organisms that may have alighted on the spawn during inoculation. The alternative was beeswax which I'll discuss in detail in the proxy I have in front of me.

It was also suggested to us that we use wooden plugs to seal the spawn into the logs. Well, consider this. A four-inch diameter log 40 inches in length has approximately 50 holes drilled into it. Those spawn sites all need to be sealed. With wooden plugs currently wholesaling at $12.50 per thousand, then we have people inoculating
5,000 to 6,000 logs, the cost of that alternative would be strictly prohibitive.

It was suggested that we use carnauba wax which is a plant-derived wax. Carnauba wax has its own inherent set of problems. When a shiitake log is cut from the wood lot and eventually ends up in its laying yard, which is I guess in a way pasture because it's out in the forest for 365 days a year, it's handled eight times.

From the time it's cut to the time it's put out in the woods it's handled eight times. Carnauba wax, paraffin wax are too brittle to withstand the handling that is associated with log movement. As a result, wax falls off, spawn dries up, and we lose an inoculation site.

We would like the Board to take a common sense look at this process. Wax is an inert substance. We use a food-grade wax that fungus does not grow into. When a fungus decides to emerge from the log, it is pushing
the wax away. It is not residual on the mushroom. It is not absorbed by the mushroom.

One of the things that we find is that this ruling does affect really a small amount of people but in a very large way. Certified organic log-grown shiitake is something that is niche market. We have a handful of growers that a large part of their income is based on selling this product as certified organic.

We are right now facing intense competition in the fresh market by Chinese imports who are not certified organic. So as a result of this, we were given 90 days to come up with an alternative to cheese wax which, to me, is just way too short of a time frame because we need to get into the field and field test every one of these products to make sure it's going to work. We have been doing this now for over 23 years. We were one of the first cultivators in the state of Wisconsin. We have seen all the alternatives
being used and there is no better alternative.

One of the things that has been brought to my attention, and I would hope the Board would see this, this truly is not an input as much as this bag that holds this block together is not an input. It's part of the process. It has no impact whatsoever on how this mushroom grows. It is not fertilized. It is not pesticides and it has no nutritional value whatsoever.

Well, with that overview I would like to read a proxy letter that I have here from a grower in southern Missouri. This is from Persimmon Hill Farm. The author is Ernie Bohner who has been in this business now for over 20 some years. I'm going to cut it short here because we have lots of public comment.

To whom it may concern. We have been growing shiitake mushrooms in the southwest Missouri Ozarks for over 20 years. During that time the Ozark Organic Growers Association, the Missouri Department of
Agriculture, and most recently One Cert have organically certified us. We have always presented all of our cultural practice to the inspectors who have visited our farm for over those two decades.

None have ever had a concern over the cheese wax that we used in nearly every inoculation effort. Early in the '80s we used paraffin for a year or so. We specifically chose cheese wax as a sealant due to its inert qualities and its well-tested safety record as a food sealant for many years.

The use of cheese wax as an inoculation site sealant has always been analogous to using a plastic sheet on a seed bed to maintain moisture in the germination media. Its contact with growing tissue and especially the fruit of the plant fungus is minimal if at all. I believe that once there is an understanding of how cheese wax is utilized in shiitake cultivation, it will be clear that it should not be considered a
cultural input and, therefore, should be
classified as an allowable practice in
shiitake cultivation.

Suggested alternatives to cheese wax have proved to be either counterproductive
with regard to their purity as in the case of
beeswax, or not economically viable as in the
case of carnauba wax. One thing we have to
keep in mind is that alternatives are
generally running at four to eight times the
cost of cheese wax.

With regard to the purity of
beeswax honeybees are gathered to bring
materials back to the hive from a radius of
about three miles. In order to certify
beeswax as being organic, their entire forage
area would have to be organically certified.
Bees have been used as environmental sampling
techniques by taking samples of hive's pound
wax and other bees and analyzing them for
various substances to estimate their relative
levels of various pollutants within the hives
forage area.

An article published by the University of Montana relates the value of bees as a sentinel for the quality environment. A quote follows. "Using honeybees as environmental sentinels has received wide acceptance in both the scientific and regulatory communities. The National Research Council judged honeybees to be excellent monitors of air pollution and include that other fine insects might be useful."

EPA has classified the use of honeybees as class 1 off-the-shelf in-situ assessment method for monitoring exposures to aerial contaminants at hazardous waste sites. So bees provide integrated samples of three modes in which pollutants may be transported so beeswax is not a very viable alternative.

CHAIR O'RELL: Nancy.

MEMBER OSTIGUY: I will disagree.

We do certify organic honey production,
organic beekeeping. You can get certified organic beeswax.

MR. KRAWCZYK: Okay. At what cost?

MEMBER OSTIGUY: I couldn't tell you in cost. It's not something we are supposed to be considering. I'm sorry.

CHAIR O'RELL: Andrea.

MEMBER CAROE: Joe, I understand that there is another method for propagated shiitakes on composite logs that wouldn't require wax at all. Not in a bag like that but actual logs that are composite material, compressed logs. We have actually seen operations with this. I just wanted to know if you are familiar with it.

Once upon a time I actually, in fact, did a shiitake mushroom operation. Anyways, I would like you to consider that. But also the information that you have provided is the information that this Board considers in the petitioning process for an
allowed input. You may not feel that it's an
input but horticulture oils that are spread on
tree trunks are inputs, you know.

It seems to me that it's a pretty
clear input. The information that you
provided is favorable information for a
positive petition that would get a material
listed. However, this Board would consider
that during that petitioning process.

MR. KRAWCZYK: We do have a
petition written and I would hope that the
Board would consider it shortly because this
is something that is done every year. As a
farm we need to inoculate logs every year so
we need to have a clear decision by next
spring.

MEMBER CAROE: I think it's
appropriate that we consider that when that
petition comes through and this information
will be very helpful.

MR. KRAWCZYK: Okay.

MEMBER KARREMAN: If the oil is
sprayed on the tree and is on the final product perhaps and this cheese wax is not, doesn't that make a difference? You said it's not in the final product. It's more like a canopy or roof over its habitat until it pops through.

MR. KRAWCZYK: Exactly. It's a sealant.

MEMBER KARREMAN: That's the way I heard you saying it.

MEMBER SMILLIE: That's the way I feel, too. I mean, I haven't had any experience in this area but, to me, I would look really long and hard before I would call the covering wax. I thought the analogy of the plastic sheeting for vegetable production is as good as analogies go. I would seriously question whether it really is an input. I don't see it as an input. It's not in the final product so it should make a difference, shouldn't it?

MEMBER CAROE: There is the herd
oil that is on the tree trunk.

MEMBER SMILLIE: Yeah, but the herd oil is there for a specific purpose for smothering dormant insects or for actually active fungicidal issues. This is not being used in this context that I can see.

MEMBER CAROE: He just stated that he's putting on hot to kill competing organisms. That's a pesticide.

MEMBER SMILLIE: It's mechanical. It's not infifthra.

MR. KRAWCZYK: Well, I'll let you guys argue about split hairs.

CHAIR O'RELL: Before we just continue with the discussion, any other questions directed for Joe and his comments? Thank you.

MR. KRAWCZYK: You're welcome.


MR. KIMMONS: I have a proxy. Actually I have six proxies but I'll claim the
one for the time being.

CHAIR O'RELL: We are only going
to let you claim one.

MR. KIMMONS: My name is Tom
Kimmons. I'm here to represent myself, my
organization and place on the record six
proxies as samples of comments from a broad
section of shiitake farmers. I'm the Director
of the shiitake mushroom center in Arkansas
where we grow organically certified log-grown
shiitake on approximately 30,000 logs. It
would take a room of about four of these to
hold our logs.

We began this operation in 1988
and I've been certified organic over the years
by OSFVP, AOCIA, ACO, OCIA, ICO, and for the
past two years under the authority of the new
NOP. During this time I have been a staunch
advocate and promoter of organic certification
and, more importantly, the principles and
values surrounding organic practices and
methods.
I was a founder and original trustee of the Arkansas OCIA, president of Arkansas Certified Organic, as well as founder and trustee and president of the Ozark Shiitake Growers Association, the Arkansas Shiitake Growers Association, and others.

Over the past decade and a half my organization has trained over 600 small family farmers in the techniques and methods of growing organically certifiable mushrooms. To reemphasize Joe's point, these mushrooms here have been grown this way for over 2,000 years. This is an ancient Chinese method that was originally grown on the Shia tree which is very similar in molecular configuration to our White Oaks.

Shiitake is a lignicolous fungus which means it's a fungus that eats lignum have been grown and harvested from hardwood logs for over 2,000 years because the mushroom fruit naturally on fallen logs with no amendments or inputs needed. They do this in
nature, in the wild. When you go out in the
deer woods in the fall and you see all those
white fungi grow in those polypores it's the
same basic methodology. They are lignicolous
fungi that grow on wood.

Shiitake are among the easiest to
inspect and certify as organically grown.
Why? Because there's no inputs because they
grow that way in nature. In order to better
manage and expedite the natural fruiting and
fungal colonization of the hardwood logs a
series of holes are drilled one inch deep into
the log sap wood.

We have special drills that we
drill these holes in these logs. They average
about 30 holes per log. Shiitake spawn, which
is the seed, is then inserted into the hole
and heated cheese wax is painted or dabbed
over the hole in order to hold the moisture in
the inoculation site and to keep contaminants
and competing fungi out of the log.

One of our biggest problems in our
industry is to keep competing fungi out of the log because the locally competing fungi have been in this environment for 150 million years. Shiitake has been here for about 30 so the local fungi will win the battle for the log and that's why we have to protect that internal fungi by coating it. We hold the moisture in and we keep the competing fungi out.

In past generations mud cakes, wet vines, rags, beeswax, etc., were used to hold moisture in the log until colonization was complete. It takes about 10 months for that fungus to grow throughout the log. Once that's done the wax is of no value. I mean, it's not an input. It doesn't grow on the wax. It simply holds the moisture in.

Over the past 30 years in the USA cheese wax has become the moisture sealant of choice for natural shiitake growers because it is more efficient, more affordable, cleaner, and safer than other sealants. Styrofoam plug
Sealants used by some modern growers are scoffed at by organically certified log growers because styrofoam is unseemly, nonbiodegradable, and caustic when incinerated.

Beeswax presents multiple problems. First, it attracts bees and other insects who steal the beeswax from the holes and allow the spawn to dry out and die. Second, it has a low melting point and melts away easily in summer heat. Modern day beeswax contains myticides sprayed to control trachomats in bee populations.

It's also six to eight times more expensive than cheese wax and tends to shrink in extreme temperatures thus loosing effectiveness as a sealant. You can go online and find the most available organic beeswax from Australia. You're talking more like 15 to 20 bucks a pound, whereas cheese wax -- let me show you that.

CHAIR O'RELL: You have to speak
into the microphone.

MR. KIMMONS: This is a sample of the cheese wax we use which you will notice -- okay. I don't need to move anymore. You can see, I am passing right behind the cheese wax we use which is FDA approved for use on, around, and in cheese. I'm passing behind there some organically certified.

You will notice the organic label on there of a cheese that has been sealed in cheese wax. This is approved, OCI approved. Some cheese makers use plastic, some use cheese wax, some use both but this is an example of a cheese wax that has been used on cheese and you are going to eat that cheese. You are not going to eat this log unless you're hungrier than I am.

So cheese wax. Cheese wax has been around for centuries either by use or by design to seal moisture in various cheeses and/or to keep undesirable molds and fungi from growing on finished cheese. If you
didn't seal that cheese in that wax it would turn green very quickly.

The cheese wax used by modern shiitake growers is the same cheese wax used by cheese makers and essentially for the same reasons, namely, it is used in hold in moisture and keep out contaminants. Cheese wax is neither an input in cheese making, nor in log-grown shiitake making. Cheese milk doesn't grow on wax and shiitake spawn doesn't grow on wax. Wax is not an input in either cheese making or shiitake growing.

What I want to offer to the NOSB in this session are five reasons why food-grade cheese wax has been, is now, and should continue to be approved for use in growing organically certified log-grown shiitake.

One, virtually every certified log-grown shiitake producer that has grown shiitake in the USA since the early 1980s has used food-grade cheese wax to seal the inoculation sites. That's 25-plus years of
precedence for an accepted organic practice
and, as far as I know, without question.

There is a legal cannon in the
U.S. system of justice known as starry decises
which states that traditions matter to
societies and ways of doing things over time
and require respect and consideration because
they become a part of the fabric of civil
life. If new evidence comes forward to
challenge a tradition that shows it to be
harmful or dangerous to consumers, then it can
and should be challenged. The secondary use
of this wax is in chewing gum, FDA approved.

In that respect if the NOP or the
NOSB has analytical proof or new science that
shows the tradition of using food trade cheese
wax to be harmful, then it should be presented
in all petroleum-based products be they cheese
wax, plastic, or any petrol-based coatings for
shiitake logs, cheeses, wax-coated shipping
containers, polybag produced containers,
wrappings, etc. need be inspected and
potentially prohibited in organic production.

Two, existing rules. The most current published organic growers that we have a record of for growing the use of cheese wax, the using of cheese wax in organic shiitake production, not only allows cheese wax but requires cheese wax for sealing inoculation sites.

If you refer to my handout, my attachment No. 1, it's the fourth page, attachment No. 1, you will notice it says, "Organic Crop Improvement Association International Certification Standards 2003." These were the standards we've been given to live by and have lived by.

If you'll notice on the back side of that under shiitake and oyster mushrooms, log and spawn site coatings used to prevent moisture loss must be food-grade paraffin, cheese wax, mineral oil, or beeswax. Those were the laws we were given as the International Certification Standards by OCIA.
Three, the certification of the quality of food-grade cheese wax used by log-grown shiitake growers comes from the U.S. Food and Drug Administration. See attachment 2. If you will notice the attachment just behind there, the wax we use states, "This product meets the FDA requirements set forth in 21 CFR for use in nonfood articles in contact with food and 21 CFR 172 for use in the food."

I've been cut off so I'll be done.

Thank you.

CHAIR O'RELL: Thank you, Tom. Stick around. We've got some questions.

MEMBER MOYER: I have a question, Tom. So what you're saying is that this wax is currently used to wrap certified organic cheese.

MR. KIMMONS: Absolutely.

MEMBER MOYER: The difference is that in your instance it's being classified as an input as opposed to a --
MR. KIMMONS: It's not being classified. There are no rules and regulations. This judgment came out of NOP as an assertion, as a position stated. I don't think you all ever considered this. The only laws that we have governing our industry are what you just read there from the OCI standards.

MEMBER KARREMAN: Then why were you told you couldn't use it if it's right here in black and white?

MR. KIMMONS: I don't know the answer to that. My certification agent sent me a letter saying, "This has been questioned. It is up for review and you need to state why you have used it and why you want to use it and why you should use it." That's why I'm here.

MEMBER KARREMAN: So you don't use OCIA as your certification agent?

MR. KIMMONS: I changed. I used to. That's the law I was under for years and
years and years but I have a new certifier now.

MEMBER KARREMAN: Switch back.

MR. KIMMONS: A lot of people do.

MEMBER DELGADO: Have you appealed that decision?

MR. KIMMONS: What decision?

MEMBER DELGADO: Well, the fact that you are not allowed to have cheese wax?

MR. KIMMONS: That's basically what I'm doing today. I brought a petition with me.

MEMBER DELGADO: Give it to those guys.

MR. KIMMONS: I was told that you guys set the standards.

MEMBER KARREMAN: Yeah, but if you want to appeal something, you have to deal with the regulators.

MR. KIMMONS: Well, I've never received notice from NOP about anything. I received a notice from my certifier that this
has been questioned. I have a petition prepared and I will be glad to leave a copy for all of you all.

MEMBER SMILLIE: But your first step -- I'm really happy you brought it up and I'm sure you will get some action on it, but your first step is to appeal to the NOP that the decision made by your certification agent was out of line and your first step is to appeal to NOP.

MR. KIMMONS: Pardon me, I misstated. My certification agent never questioned this. My certification agent thinks we are perfectly within the law that we've been living under. It's another certification agency in another state and this was brought up because one inexperienced inspector questioned this, passed it on up. It went on up and it came back down that "you can't do this." This has not been done by any sort of protocol or any sort of rational order. This has been done by opinion and
innuendo as far as I know.

CHAIR O'RELL: Arthur.

MR. NEAL: I've not been involved in this particular situation but listening to the testimony that has been provided, it appears that it involves the use of a synthetic substance. Mushrooms are considered to be under crop production. The OFPA section 6517 requires that the National Organic Standards Board review these production aids so I think this is why he is before you right now. There may be some question that this is a synthetic substance used in crop production and the National Organics Standards Board has to look at synthetics in crop production.

CHAIR O'RELL: And, Tom, you indicated you have a petition that you are going to file?

MR. KIMMONS: Yes, I do. I thought --

CHAIR O'RELL: From the NOP website a petition?
MR. KIMMONS: Yes. I thought if I wasn't persuasive enough and you all just didn't agree with me --

CHAIR O'RELL: Unfortunately we have a process.

MR. KIMMONS: Okay.

CHAIR O'RELL: You've got a lot of nice props and we would really like to just say it's a good thing to do.

MR. KIMMONS: Yes, I have a petition.

CHAIR O'RELL: Yes. And that is the process so if you would file that petition with the NOP.

MR. KIMMONS: I appreciate that.

CHAIR O'RELL: That will come to this Board and will go to the appropriate committee.

MR. KIMMONS: And I have you a copy. Everything I have is written.

CHAIR O'RELL: Then the committee will act on it and bring it into the full
Board and a recommendation.

MR. KIMMONS: Please appreciate what Joe said. We are small farmers and when we do this work -- now, this is only one-fourth of the log but when we do this work, we do it every year. This is not something we do and then live on it for years. We have to go out in a pickup with a chainsaw and cut these trees, drill holes, inoculate them every January and I do like 5,000 a year so this is pressing. Plus, I already have all kinds of this cheese wax already on hand. I have 35,000 logs that are already part of the organic system so your decision affects more than just me. There's probably 5,000 small growers that use this method.

CHAIR O'RELL: I understand. We appreciate that. You are on the right road.

MR. KIMMONS: Okay.

CHAIR O'RELL: The petition process will get the system going.

MR. KIMMONS: Okay.
CHAIR O'RELL: Thank you.

MR. KIMMONS: I appreciate your comments, Mr. Smillie.

CHAIR O'RELL: Emily Brown-Rosen and next Lisa McCrory.

MS. BROWN-ROSEN: Hi. My name is Emily Brown-Rosen. I was just here. I think you remember. I'm here representing Pennsylvania Certified Organic. We are a USDA accredited certification agency right here in Center Hall, PA. My role here is as a materials review manager. So I'm going to talk about sunset here. Oh, I also have a proxy from Jess Greenplatt, one of the other PCO people signed up.

I have sent you some pretty detailed comments. I think they are in your books and I'm going to try to hit the highlights of those. I do want to comment a little bit about the process like a few others have. I really appreciate it. I know you had a huge amount of work on your place,
especially the new members who came in here and got handed all this stuff from the outgoing Board and we have a very short timeline here. Sunset has been a challenge and I recognize that.

I do hope that when the dust settles on this you can take a little time and evaluate how the process went and how we can work on it next time around and how we can get started on it a little sooner next time around because we had some stuff added to the list in 2003. That is going to be up in 2008 so the sooner we can get a Federal Register notice out and get those things out for comment, the sooner we can get started on this.

Part of the problem was last summer we had a 30-day comment on the whole list and the whole industry was scrambling and we didn't get some -- we got a lot of comments but not time to do thoughtful comments or dig up more research or do it in a way that would be better. Part of this is because we have
the big lump at once. The sooner the better and I hope we can keep improving this. I think there's lots of room.

I also feel that this policy of not changing annotations, I understand the time limit and maybe that made it really difficult to even look at that this time but I wouldn't rule it out in the future. I looked over the list and I commented on 10 of the materials and basically we supported all the other recommendations except for these 10. I don't know if I said that in here but that's what I meant.

Of the 10 that I commented on, basically all the problems are due to language of the annotations, some confusing interpretations that have been made about some of these categories of materials, and also some poorly worded language in the way it's listed itself. All these things are almost like technical fixes.

Some of them have been subject of
previous Board recommendations. You already
recommended to fix these things. It's like
how many more times do we have to kick this
down the road before we make these changes.
This would ideally be a good time to do that
so I just wouldn't rule it out in the future.

Okay. Getting to the list.
Starting with crops, aquatic plant extracts.
You've heard a couple of comments. This is a
really confusing listing. It has always been
a confusing listing. We've had a hard time
enforcing it. Now it's troubling because we
thought there were several petitions in the
works on extracting materials.

An issue had been raised about
what does it mean other than hydrolyzed. Then
also it says the process is limited to the use
of just these two solvents, potassium
hydroxide or sodium hydroxide. I don't know
what other than hydrolyzed means. I
understand that, you know, it wasn't exactly
what the NOSB thought.
It ended up in the minutes but no one really knows what it means. We have no guidance on what is necessary for extraction so we have products with no extractants on the market. We have products that end up with a 20 percent of potassium K2O guarantee on the label. Obviously for different products some is necessary and some is not. There are different obvious effects of these products but we don't have a good understanding of how to enforce this annotation.

And also a compounding problem is NOP has issued a letter saying that what they think this annotation means is not that only potassium hydroxide and sodium hydroxide are allowed but that anything else can be allowed as long as it's not mentioned as prohibited. They have interpreted to mean that any amount of phosphoric acid could be used in an aquatic plant product.

We have kelp manufacturers who are arguing that they can put phosphoric acid in
there because of this letter which is posted
on the petition substance database still. If
you don't do anything else, I would really
hope you could clarify what this annotation is
supposed to mean to us now because I think the
original Board had one idea what it means.
NOP isn't saying that this category listing
means that all kinds of things could be in
there as long as they are not spelled out.
It's just backwards. We need clarification
and this would be a real good time to do it.

Hydrated lime for crop disease
control. CCOF has filed some really good
comments on this. I think there is a lot of
use for hydrated lime in crop protection. We
don't have very many materials for use as
fungicides in crop protection. It is very
important to the tree fruit industry, to the
wine grape industry.

I don't really see a valid
justification for taking it off at this point.

You could call it a mineral as an off the
category. I don't think there is a real conflict with it being on the list. This was one that was kind of skewed up originally as listed. The original annotation said something about copper because originally the Board proposed this as being part of bordeaux mix so you could tank mix your own bordeaux mix which is hydrated lime plus copper sulfate.

   It was important to have both those elements on the list. I'm not sure why the committee wanted to take it off but I think it's really highly needed and you should check in with some of the tree fruit people about the lack of alternatives.

   Now, chlorine I have comments about on all three areas, in crops, livestock, and production. As I mentioned, there was a report done and a recommendation done in May 2003 where you have a detailed recommendation on chlorine. At this time the Board recognized that the language is confusing.
Words were left out in the original rule writing. It's not clear that water in contact with crops is supposed to be at this safe drinking water level and so the Board proposed this language. I don't see why now is not a good time to look at that to make that correction. You have already commissioned a TAP report. You already made the recommendation. I think you should take all that into advice.

Right now we have very widely inconsistent ways of applying the chlorine restriction by different certifiers. Some people because of NOP interpretation are testing the waste water that is going into the ground. Some people are testing the water that is going under the crops. The Board recommended they test the water after the final rinse so they could use chlorine but they would have to rinse it. Let's just get it standardized because it's really all over the map right now and I think this would be an
excellent time to do that.

I did recommend some adjustments under the livestock and processing section because we do have some conflicts with state laws on dairy sanitation where they can't rinse the chlorine after it's in a milk pipeline. I think there should be an exemption for when a state law requires that you can't rinse it and just leave it at that and that would make a lot -- basically I think certifiers are looking the other way now. People are not rinsing chlorine and dairy lines because they can't. There is a question whether those laws would preempt federal but let's just make this clear so people are doing the same thing.

Okay. Let's see. Next on the list would be moving onto livestock materials. I pointed out that iramecton you had also recommended a change in the annotation back in November of 2000 that was sort of lost in the midst of time but that was due to some
concerns that were brought up at the meeting after the material was originally recommended that the slow release formulations are persistent in the manure and the dung and that they would be harmful to the soil. Those type of slow release bolus formulations should be prohibited. That never got in.

Skipping on, hydrodated lime as an external treatment. We have PCO growers that are using hydrodated lime as a topical treatment for hoof rot and hairy heel wart. I've quoted some literature on that. I think this is a valid consideration. We have dairy farmers using it.

We also have reviewed a synthetic milk replacer that we found is compliant with the rules and recommend that it still be on the list. I agree that we can talk about what the emergencies are. It would be very rare that you would allow that use and we would require direct approval before we allow it but there are products out there.
It could use clarification of what synthetics are allowed in the milk replacer because we have made decisions that things like animal fats and amino acids wouldn't be allowed but if it had the normal types of electrolytes and other things allowed in organic, it would be allowed.

Okay, I talked about chlorine. Processing, flavors and colors. I support the OMRI statement and I also support what Gwendel Ward has written, some very good comments on flavors. The problem with colors as a certifier is if you just put it back on, we don't know what a color is, I mean, what a natural color is.

There is no definition. If we have to do a case-by-case review of every color and do a decision chart, it is extremely problematic. Also, the fact that it's on the list as a category is very problematic because NOP keeps saying that things there on is a category include everything that is used to
formulate them.

You know, under FDA definitions of these colors there's all kinds of solvents, extractants, etc., that are allowed in the formulation. We need more guidance on do you really want to allow all those solvents and carriers and synthetics in with the so-called natural colors? We don't know how to read that. We rely on the NOSB TAP reviews and decisions to help us identify what we are allowing and not allowing. My time is up.

Oh, one other thing. I'm going to hand in this comment from the National Lime Association who faxed this to me when they read my comments. They are in support of lime. Another point I would like to make from here is they point out that there is no EPA registration of hydrated lime as an external parasiticide so that is like a technical correction that should probably not be listed as an external parasiticide in the livestock section. Any questions?
CHAIR O'RELL: Andrea.

MEMBER CAROE: Well, I actually have a comment. I would kind of like to get a comment from the program. My understanding of sunsetting a regulation is considering it for continuation. Nowhere in my understanding of sunset does it consider any alterations of the regulation. Clearly I think what we had posted in the federal register was the sunsetting of these materials as is listed.

Also, I would like to consider if we were to make alterations to annotations at this time, I don't really feel like we are giving fair notice that is being done and we are not asking for any comments. If this Board were to consider tomorrow voting on an annotation change, we have not given any notice that is coming and that is not appropriate, I feel, in the regulatory world.

Maybe, Toni, you're the best one as a regulatory writer to address this.

However, the one thing I do want
to say is that anytime we can consider a petition for removal of a material, and they do have priority over adding a material, that is not a process that has ever gone.

MS. BROWN-ROSEN: I know there are several petitions in there on aquatic plant products. We would have thought they all would have been considered at this time but it didn't happen, you know.

MEMBER CAROE: It's not that it's not going to be considered. It's just not part of this sunset process. It's not that it shouldn't be considered. Yes, I understand and I agree with you completely that some of the annotations are poorly worded and could be better and maybe are antiquated. However, I don't feel that is part of sunset and I'm pretty vehement about that. In our process we are looking at the continuation of a regulation as it is written.

MS. BROWN-ROSEN: I read the Federal Register notice pretty carefully.
There is nothing in there that said annotations couldn't be addressed.

MEMBER CAROE: But it does say sunset and sunset implies that.

MS. BROWN-ROSEN: Sunset is described as a review by the NOSB of all exemptions and prohibitions as found on the national list. Now, I consider the whole listing as an exemption, you know. The exemption is not just chlorine. It's chlorine used in such and such and such and such. It was voted on together as a whole. The Board wouldn't have approved some of these things if they didn't have those restrictions.

If you are voting to review the exemption that allows something, you really need to look at the whole thing. Maybe there's various legal interpretations here. I understand now it's kind of late in the game but I just don't want to rule it out in the future.

CHAIR O'RELL: Arthur wanted to
respond and then Kim.

MR. NEAL: I'm referring back to the recommendation that the Board made concerning reordering or restructuring the national list. That is going to impact aquatic plant extracts allowed on the other list. To act on aquatic plant extracts, as I know some of the comments have stated, it really would be premature at this point, especially depending on what that particular recommendation is suggesting. It is suggesting listing individual synthetics that are used in the manufacturing of that product.

MS. BROWN-ROSEN: How about the chlorine where you already have a standing recommendation? I mean, there has been plenty of comment on that.

MR. NEAL: What will probably have to happen is NOP will have to respond because that particular -- the way the chlorine is listed in the final rule today it had actually gone through rulemaking, both proposals.
NOP's position had never changed throughout that rulemaking process.

The issue that people have expressed concerning is, I think, reducing the amount of chlorine that can come in contact with the food to four parts per million. That is addressing the preamble of the final rule so we are going to have to respond to that.

MS. BROWN-ROSEN: Okay. Thank you.

MEMBER GIACOMINI: Question, Mr. Chairman, a clarification for Arthur. Would it be possible in the structure, granted I'm new at this and I haven't seen even a full year's worth of the process of what goes on in the Board, but it seems like a tremendous amount of time and displacing of other work is done in the sunset process.

In the restructuring of the national list would it be possible to jockey to sort of break up the national list like we do in appointing Board members so that it
wouldn't be quite as much of one workload at one period of time?

MR. NEAL: That process will actually be handled by an OP because the recommendation has already come forth through the National Organics Standards Board as a recommendation to the Secretary. The program would have to take that recommendation and then begin drafting a proposed regulation to deal with it. We would probably consult with you as we are doing.

MS. DIETZ: Hi. I'm Kim Dietz. I serve as materials chair for three or four years. I'm a past NOSB member from 2000 to 2005. I was going to say this as part of my public comment but after Emily's passionate speech about annotations, this Board has a document out there somewhere. It's a material review process for the sunset and we spent at least two years on this document in collaboration with the NOP.

I believe it's about three or four
pages long and exactly what should happen and
shouldn't happen through the sunset process.
The issue of annotations was discussed many,
many, many times. As past materials chair
every time I got to open my mouth I would say
if people want to change an annotation they
need to petition to change it.

I think that this Board should
stay consistent with that message. There is a
process. You can do it at any time and
anybody can petition to change an annotation
or to move a material and it has been
discussed so I encourage you to pull out that
document, read it, alter it where necessary
but the issue of annotations shouldn't be
changed in the sense that you are going to bog
it down. It is a one-year process to move a
lot of materials through. If you start
looking at changing or moving them around,
it's just going to bog it down even more.

CHAIR O'RELL: Yes. Thank you,
Kim. Those past Board members and the current
ones that were on the Board at that time knows
we went through that debate and the rules of
engagement and had those discussions and it
was clear from the Board's perspective that we
were not dealing with changes of annotations
and we have encouraged the public at times
when they have these issues please file a
petition.

MEMBER KARREMAN:  Just one minor
thing. I think the slow release of the
ivormectin is no longer on the market so I
wouldn't worry about that too much, Emily.
Then just as far as the chlorine in the wash
water in the milk room for dairy, you know,
which would be the more strict law, the
federal one or the state one with the public
health implications?

MR. NEAL:  You're asking which
restriction is the most?

MEMBER KARREMAN:  Yes, because
doesn't it usually go whichever is the most
strict wins?
MR. NEAL: No.

MEMBER KARREMAN: I mean, a state law can be stricter than a federal law, right? It's something to think about.

MR. NEAL: Let's think about that offline.

CHAIR O'RELL: I would really like to get us to understand how many more -- we're halfway through our public comment period so we have a long ways to go. We are going to be here late at night so I would just encourage the Board let's get through public comment.

Let's ask specific relevant questions of the speakers. If we have debate within ourself for discussion, this is not the time and place so we really need to move forward. We are going to take a break here after a couple of speakers. It will be about two hours since we convened from the last break.

Lisa McCrory and then Sara Flack would be on deck.
MS. McCORY: Hi. My name is Lisa McCrory and I'm a dairy and livestock technical advisor with NOFA Vermont. I want to thank you for this opportunity to speak today. I want to thank the NOP and the NOSB for making this happen. I think the pasture symposium over the last day has been fantastic. It has been nice to hear all these wonderful speakers, resources coming all in one room and sharing their experience so thank you very much for giving us this opportunity.

I am a dairy and livestock technical advisor for NOFA Vermont representing a membership of 1,053 of which over 600 of these are farmers. I have been working with farmers for over 15 years helping them to develop and improve their grass-based systems providing technical assistance for those farms interested in transitioning to organic dairy production and providing ongoing technical support to existing organic dairy producers as they continually strive to
improve their systems.

NOFA Vermont fully supports the NOSB recommendation that states that all ruminants over six months of age should harvest or graze 30 percent of their dry matter needs from pasture for a minimum of 120 days per year.

The NOSB recommendation also clarifies that the producer of an organic operation may provide temporary confinement for an animal because the animal's stage of life and that the producer of an organic operation must not prevent dairy animals from grazing pasture during lactation. Is it possible for the NOP to implement a measurable minimum dry matter intake requirement from pasture?

The way that this minimum requirement is to be measured should be up to the certifiers, farmers, and other resource individuals in the field. We know how to do it. The NOP in its accreditation process can
verify that the dry matter intake requirement is being met.

The OFPA established the NOSB to provide guidance and recommendations regarding the implementation of the NOP rule and in evaluating substances for inclusion on the national list. Farmers in Vermont trust this 15-member Board because of their expertise and experience in organic farming. The NOSB continues to create reasonable guidance documents that are not acted on by the NOP.

As we have done in the past NOFA Vermont would like to restate our support for the NOSB's role in providing these guidance documents and ask the NOP to act on these recommendations in a timely manner.

I would like to read to you a few of the NOP final rule citations relevant to pasture supporting the fact that it has always been the intent of the NOP that organic dairy products should come from farms raising their cows in edible pasture.
205.2 pasture, land use for livestock grazing that has managed to provide feed value and maintain or improve soil, water, and vegetative resources. 205.203, soil fertility and crop nutrient management practice standard. (a) "The producer must select an implement tillage and cultivation practices that maintain or improve the physical, chemical, and biological condition of soil and minimize soil erosion."

205.237(a) under livestock feed, "The producer of an organic livestock operation must provide livestock with a total feed ration composed of agricultural products including pasture and forage that are organic produced and, if applicable, organically handled."

205.239 under livestock living conditions, (a), "The producer of an organic livestock operation must establish and maintain livestock living conditions which accommodate the health and natural behavior of
animals including Part 2, access to pasture for ruminants."

Lastly, the presentation Market Expectations and Perceptions by the Natural Marketing Institute was presented unfairly in reference to pasture and its importance to consumers of organic dairy products.

When one looks at most organic milk cartons, as Mark Kastel had passed around to everybody, in bold print one often sees statements saying, and I'm paraphrasing, contains milk from cows raised without hormones or antibiotics. Those are all big, bold words that we as human can remember that word and burp it right back.

The other thing that goes on the cartons are visual images of cows grazing on pasture. Now, if I was asked to repeat exactly what I saw, I don't have a word that immediately pops to mind because pictorially we are all going to have our own impressions.

As consumers what they are thinking they are
going to repeat what they read on the cartons, "No antibiotics, no hormones," blah, blah, blah.

But there is rarely any information that says, "raised on pasture," or "pasture raised." If there is anywhere in the carton, it's in very minute print. It doesn't compare so I think that was very unfairly represented. I feel that this representation of what is or is not done on an organic farm determines how this information is retained in the minds of our consumer audience.

For this reason, the fact that questions pertaining to pasture and its importance to organic milk production were not asked was a disservice to the USDA in its attempt to learn what is really important to its consumer market. Thank you.

MEMBER KARREMAN: One question. Is that okay?

CHAIR O'ReLL: Okay.

MEMBER KARREMAN: Regarding the
120 days, 30 percent, and then I brought up three other options that I asked the certifiers like to accommodate different geographic areas in the country. How do you feel about that like if you had to choose? Since there's two right now, you are going to have to use 120 and 30 percent, let's just say. What if there is a choice of two out of five just so it accommodates people in other areas of the country?

MS. McCORY: I don't understand what those two out of five would be.

MEMBER KARREMAN: Okay. The only one would be cows are out on pasture eight hours a day. The next one would be a percent biomass. The other one would be cows per acre. Okay? Now, so the question would be, you know, could people pick a minimum amount of them to fit their region because what if they have full intent but it's like really hard to get that 30 percent, let's just say?

MS. McCORY: Personally, I think
that unless everybody is following exactly the same thing, which is what we are telling our consumers and what the whole intention of the National Organic Program was, if we are saying pick two out of five, pick three out of five, but not everybody is following all five, then I think that misrepresents the intent of the standards.

I think we've got to keep it simple to the best of our abilities and it should be a standard that's measurable that everybody follows. These are minimum standards. Obviously you've heard from many people that are going way beyond the minimum threshold that we are recommending.

MEMBER KARREMAN: Thank you.

CHAIR O'RELL: Sara Flack. Next up Nicole Dehne.

MS. FLACK: Thank you for the opportunity to speak today. I'm Sara Flack with NOFA Vermont and speaking on behalf of over 1,000 members of NOFA Vermont. With our
NOFA Vermont's Organic Dairy Technical Assistance Program we work with over 110 -- it's actually approximately 110. They are certifying so fast it's hard to count.

As far as I know we have 110 certified organic dairies in the state right now and there are 30 who are in transition who will complete their transition by the end of this year. We are providing technical assistance to them as well as a whole lot more who are thinking about going organic.

I've got over 15 years of experience helping farmers set up grazing systems and transitioned organic and about 10 years of doing organic inspections.

So at this time with the rapidly increasing interest from farmers wanting to go organic and demand from processors, it is becoming really important for us to have clarity on two issues that I want to address today. One is the definition of pasture and the other is the origin of livestock on
organic dairy farms.

I'll address pasture first and if I have time, I'll get to the origin of livestock. NOFA Vermont supports the NOSB recommendation on all animals over 6 months being 120 days on pasture where they are getting 30 percent of their daily dry matter intake. I think this is a measurable and also minimal standard to be met.

Within this requirement I want to say additional clarity is needed that the lactation is not a stage of production. A large majority of organic dairy farms are already meeting this standard. Certainly everyone in Vermont is.

I think this standard of 30 percent of daily average dry matter intake on pasture during 120 days can easily be verified by an inspector using at least two different methods of calculations based on daily average dry matter intake for a group of animals. These methods of calculations are already
commonly in use and not just in Vermont.

In Vermont on our organic system plan that all of the farmers have to fill out, much of this information is already collected. VOF, the certifier in Vermont, now asks farmers for their field records which includes how much forage is harvested as well as purchased feed records for all of the grain and forage that's harvested.

Then also information on the average pounds of feed fed of each of these different types of feed during the winter months and during the summer months to the whole group. Sometimes it will be multiple groups but it's done on an average group basis.

So this is not a complex individual animal record keeping system for feeding. It's just average pounds of feed per day per cow to whole groups. There is not going to be a large additional record keeping burden for either the certifier or for the
farmer. This allows the inspector before they get to the farm to calculate the percent of dry matter from pasture during the summer just by using a simple subtraction method.

Then this can be confirmed by the inspector if they feel that they need to once they get to the farm if they feel like the farmer is not meeting the 30 percent during the 120 days. Then they can go to one of the additional methods which would be more complicated as part of the audit process.

So I'm going to quickly go to the second item that needs clarification which is on the origin of livestock. NOFA Vermont supports a clear requirement that all dairy animals need to be organic from the last third of gestation once the farm has completed its one-time whole herd conversion. And that the allowance for the conversion of nonorganic animals should be permitted only for that one initial per farm initial herd conversion, not for continuously bringing in transitioned
animals.

If farms are permitted to buy nonorganic animals, then the young stock may potentially be fed GMO feed or other materials that consumers will object to. In summary, at this time clarity on these two issues, both the definition of pasture and the origin of livestock, are really urgently needed and they are not currently provided in the National Organic Standards.

I think this clarification is needed in order to protect the continued growth of the organic dairy industry by maintaining consistency from certifier to certifier and assuring consumer trust and the integrity of organic foods. Thank you.

CHAIR O'ReLL: Thank you.

Questions?

MEMBER KARREMAN: Regarding the origin of livestock because that is the next hot issue right alongside with the pasture because of the Harvey case, there was a farmer
in Idaho. I think he just got certified with 200 or 300 cows. He had an idea and I just want to see what you think about this.

Everything has to be from last third gestation once you are certified organic, but to have just a little bit of flexibility but to keep the intent of the last third of gestation but to have some flexibility you could have, let’s say, five or 10 percent in a year coming from other cattle so they are managed for the last 12 months before they milk.

I thought that was kind of an interesting option because 90 or 95 percent would have to come from the last third but you would have that little room for genetic improvement or if you had some horrible disease outbreak you could replace animals quickly or more quickly. Any thought on that?

I just popped it on you.

MEMBER GIACOMINI: Just for a statement since we have a minute, I believe
that would be similar to what is listed in IFOAM where they have a maximum expansion standard.

MEMBER KARREMAN: Okay.

MS. FLACK: My official answer to that question is I'm really hesitant to create anymore kind of gray areas and loopholes in the standards. I feel like this one really needs to get cleared up right away. I think certainly in the northeast I'm not seeing a shortage of organic heifers or calves. I mean, it's quite the opposite.

They are all going out on the conventional market. I think if we can really hold to this rule that it may be tough for a few producers for a few years. I don't see it as a huge obstacle. I actually see what it will do is create a big market for all of these dairy farmers now who are selling really nice organic genetics who can't find a premium price for it to start getting a premium price for that. I think it will just help the
overall industry as a whole. I wouldn't support any sort of exclusion or loophole there.

CHAIR O'RELL: Thank you. Nicole and after Nicole speaks we're going to take a break and on deck Leslie Zuck is on deck, Blake Alexandre, Erin James. We are going to have a short break, I think, if the Board agrees, 10 minutes and then get back.

MS. DEHNE: Okay. Great. I want to thank the NOP and the NOSB for the opportunity to speak today. I am Nicole Dehne, the certification administrator for Vermont Organic Farmers, or VOF, which is a USDA accredited certification agency. I am speaking on behalf of 366 certified producers, 110 of whom are dairy producers and 56 of whom are livestock producers. There are several points I would like to comment on today.

The first is to reiterate what Lisa was saying, that the Organic Food Production Act established the NOSB to provide...
guidance and recommendations regarding the implementation of the NOP rule and in evaluating substances for inclusion on the national list.

Farmers in Vermont trust this 15-member Board because of their expertise and experience in organic farming and in the organic industry. The National Organic Standards Board continues to create reasonable guidance documents that are not acted on by the NOP. As we have done in the past VOF would like to restate our support for the NOSB's role in providing these guidance documents and ask the NOP to act on these recommendations in a timely manner.

The Court-ordered changes stemming from the Harvey vs. Veneman lawsuit have presented the organic community with an opportunity to clarify the NOP regulations concerning dairy herd conversion and origin of livestock. VOF believes that the allowance for conversion of nonorganic dairy animals
should be permitted only as a one-time whole-
herd transition. After the transition all
certified operations need to manage their
animals organically starting from the last
third of gestation.

Currently all of 110 certified
dairy farmers are abiding by the standard in
Vermont. The preamble to the rule clearly
states that this was the intent of the law.
If farms are permitted to buy inorganic young
stock or to continually transition in stock to
organic, this allows animals under 12 months
of age to potentially be fed GMO feed, feed
treated with hormones or antibiotics, or fed
slaughter byproducts. This is in, as you
know, direct contradiction to the NOP rule for
livestock fed and healthcare.

To clarify that, the NOP rule
requires that animals brought into a certified
operation must be raised organically starting
from the last third of gestation would provide
consistency among producers and certifiers.
It would not require a significant change in management as is currently the practice for a large majority of organic producers.

Lastly, I would like to comment on the role of pasture in the NOP rule. Additional clarity is needed on the definition of pasture. The NOSB recommendations provide this clarity and give producers and certifiers a clear and enforceable rule. VOF supports the NOSB recommendation that all dairy animals over six months of age need to meet a minimum requirement of 120 days on pasture and 30 percent dry matter intake per cow per day.

This recommendation as a minimum requirement is a standard that has been agreed upon by producers from around the country as we heard today.

Some of the certifiers on the panel today talked about the fact that they did not have dairy standards prior to the NOP. Vermont began certifying dairies in 1988 and our dairy standards included pasture
regulations that required ruminants including
dairy animals to harvest 50 percent of their
dry matter intake from pasture. That gives us
an historical context.

It is important to remember that
the flexibility to temporarily confine animals
from going out on pasture due to inclement
weather, stage of production, and health,
safety, or well being of the animal, a risk to
soil and water quality already exist in the
rural and provide producers with the leeway to
make management decisions about when to
confine.

However, it must be made clear
that lactation does not qualify as a stage of
production. The clarification of these issues
is urgently needed. By doing so the NOP will
establish consistency and fairness amongst
producers, strengthen the consumer trust in
the organic label, and return integrity to the
organic standards. Thank you.

CHAIR O'RELL: Thank you. Any
questions?

Leslie, we were going to -- oh.
Okay. It's timely? Okay. We can accept
that.

MS. ZUCK: Hello. I'm Leslie Zuck
and I'm -- try again? I'm Leslie Zuck,
Director of Pennsylvania Certified Organic and
I really want to officially welcome everyone
here and we are really honored to have you.
I'm going to defer my comments until tomorrow
but I did want to make an announcement that we
have a few activities going on out in the
lobby. Sam Fromartz is signing is book,
"Organic, Inc." and Jim Pierce is going to be there. He's quoted in the book. I'm not
going to tell you what his quote is. You will
have to read it. It's on page 188 but he's
going to be playing his guitar.

CHAIR O'RELL: He already read it.

He gave it to us.

MS. ZUCK: Oh, he read it? Okay.

I missed that part. Anyway, some of you are
in the book so you really ought to read it just to see what he said about you. Right now at the break we are going to lead -- since everybody has been sitting around all day people who aren't on the Board and can get away, we are going to lead a hike up Mt. Nittany and get some exercise. We are going to leave at 6:30 immediately after my announcement here from the lobby. Everybody is going to leave and you guys can stay. We could bring you some pizza back or something.

I just wanted to point out that we have this list of restaurants and local food places, places you can buy local organic food to eat to take home with you, souvenirs. It's on the desk outside in the lobby. Please make use of that and we are here to answer your questions or anything else you have need for.

Just let us know.

CHAIR O'RELL: When are you bringing the pizza?

MS. ZUCK: When we come back from
the hike. Thanks.

CHAIR O'RELL: Thank you, Leslie.

Okay. We'll take a break for 10 minutes and then let's get back and get going. We've got a lot to do.

(Whereupon, at 6:26 p.m. off the record until 6:43 p.m.)

CHAIR O'RELL: We have a quorum. We are back. Blake Alexandre. Probably not too many people are going to hear this because most people are still out there but what I was going to do is just ask people, plead with people that if there is any way they can kind of abbreviate their comments. We are not going to try to limit comments to three minutes but we would like if voluntarily you can make your point and help us out.

Otherwise, we are going to be here for a long period of time. If somebody else has already made comments very close to what you want to do, just give it support and if you can be concise, we would appreciate it...
because we do want to accommodate everybody.

Blake, Jim Riddle, Kathie Arnold are the next up. Blake.

MR. ALEXANDRE: Okay. Again, thank you. I will try to just cut to the chase here. I said most of my stuff this morning. The words and some terms I haven't heard today in regards to the pasture issue. Again, I'm speaking on behalf of the dairy and the pasture and supporting the 30 percent and supporting the 120 days.

I'm supporting it based on the organic principles and the original intent of what I believe organic is supposed to be. I mentioned it this morning and I want to reiterate that. And I look for something to some out of this. I started participating in this process a year ago in Washington, D.C.

I thought that we made headway there. I thought that the NOP responded, the Board responded. We ended up with some rules and some guidelines. I hope that's the path
that we're going down. I want to see those guidelines become rules that are enforceable.

The issue I want to bring up right now is in California where I'm from we've got issues where certifiers need to be backed up. We need to implement and enforce the rules that are currently on the books and those guidelines and we have discrepancies. I don't know the answer and I don't know the direction that we need to go but I think it's going to fall on the NOP.

I'm here to say that it is a problem out there. I function under a different set of rules than my neighbors do and the certifiers are going to the state of California or somebody is kind of coming in the back door and the state of California is allowing something that my certifier won't allow and my certifier's hands are kind of tied. Then there are other certifiers that are interpreting the rules differently and allowing other things to happen. It's a real
mess and I hope that we can get that resolved eventually.

Along those lines, Hugh, one of those comments you mentioned that the exemption for cattle coming into the herds, I'm certified under the IFOAM or international laws and we have a 10 percent loophole where we can bring in supplemental heifers. That already exist on that side. I don't know if I agree with it or not. It has worked for me to grow. I won't need it next year and it probably won't matter in the future. I don't know what to say about that. That is my personal opinion on it. Any questions?

CHAIR O'RELL: Thank you very much. Appreciate your comments.

Jim Riddle and then Rick Segalla. Let's see.

MR. RIDDLE: Yeah, Jim Riddle and Valerie has my written comments. There's two different documents that she'll be passing out. I do have a proxy. I am the Organic
Outreach Coordinator at the University of Minnesota. In that capacity I would like to invite you all to the first ever IFOAM international conference on animals and organic production. You will be getting a registration form in the things that are being passed out.

I have also officially invited Mark Bradley to be on a panel talking about standards. I am very excited. One of our keynote speakers is Dr. Temple Grandin who is just a dynamite speaker. Yesterday was the close of the abstracts being submitted and we have papers coming in from all over the world so it is really going to be truly a landmark event in August at the St. Paul campus.

I am a recent graduate of the NOSB. I really appreciate the opportunity to serve but it feels great to be on this side of the microphone. You all have something to look forward to in life even though some of you are just starting your term. The
remainder of my comments will reflect my own positions as well as those of Joyce Ford, my wife and President of the Board of the Midwest Organic and Sustainable Education Services.

I have already submitted written comments by e-mail on April 10th. Those should be in your packets. I'm not going to go through those but I will summarize those. In particular the issue of natural colors. I will try to be even briefer than what I have on paper because other people have mentioned it, but it is important to note that the Board never recommended natural colors be added to the list. There was never a petition, never a TAP review until this combined supplemental for the sunset process. The evaluation criteria even now have still not been completed and posted to show how natural colors comply with all of the criteria in the law and the rule and so I think this is not the proper process or procedures.

There is no standard of identity
for natural colors. As has been mentioned, they can contain any number of synthetic substances such as hexane and I encourage the Board to either defer the substance and fill out those evaluation criteria properly or reject it and let it be sunnetted.

On chlorine there's been quite a bit of talk about annotations being changed. I want to point out that the annotations currently in all of the listings, 601, 603, and 605, are different from those that were originally recommended by the Board. This has caused confusion and inconsistency and one of the purposes of the Act is to have a consistent standard and this is undermining that very purpose.

The Board, all of us, already voted in 2003 to correct those annotations. That was not a sunset, that was more of a sunrise recommendation because they just became official in October 2002 and we already in May of 2003 recommended to correct those.
I do think that is one item that is fair came for changing in this process because we already have a standing recommendation that needs to be responded to from the NOP.

We had never gotten an official response to that. On commercial availability I see that as the most significant item on your agenda for action at this meeting. I think your draft is good but it does still need to be improved.

In the information to be included in a petition, and I will read this, because your recommendation currently says that, "When petitioning for inclusion on the national list of nonorganically produced agricultural products, the petition must state why the product should be permitted in production or handling of an organic product.

Specifically the petition must include current industry information regarding availability of and history of nonavailability of an organic form of the product and all
factors that may present a challenge to a consistent organic supply. That's it. That's vague. If I'm a petitioner I don't know what that's asking for.

I think there should be a precise list of the information that you need to have submitted to you because it's this Board that makes the determination that something is eligible and should be placed on the 606 list. Yeah, you've got good recommendations about what the certifier has to do on a case-by-case basis and I support those but I do think more precise instructions are needed to petitioners on exactly what they have to submit.

The earlier draft and the comments I submitted by e-mail have a list of those. I think they are clear. They are not burdensome. Any petitioner should be able to follow those and submit that information to give you the kind of information you need to make an informed recommendation to the program.
Then I encourage just a small change in what the Board would need to do with that information, that you would validate the petitioner's information in part of your review. You are looking at the form, quality, and quantity but I would advise that while you are setting this up that you establish some criteria for what is meant by form, what is meant by quality, what is meant by quantity in your eyes so that you and all future Boards can make consistent predictable determinations that carryover from substance to substance and petitioner to petitioner.

On synthetic substances NOP has done a really good job of responding to the NOSB's previous draft on synthetic/nonsynthetics but there is one part in there that really bothers me and I think you need to respond to that. That is it states that a formulated substance is not synthetic if it contains only synthetic substances on the national list.
Now, I don't get that. I don't know how you can take synthetic substances and magically have them be nonsynthetic just because they are on the national list. I think that is mixing up the materials review process with the process of certification of a processed organic food. I think these are two totally different topics and that needs to be corrected so your nonsynthetics are only formed of nonsynthetics, not synthetics.

On future rulemaking issues there will be some new rulewriting in the short term coming out, especially from the court ruling and the change to OFPA last fall. On the issue of synthetic ingredients, you need to be aware that Section 6504 of OFPA requires that organic products shall have been produced and handled without the use of synthetic chemicals except as otherwise provided in this title.

Now the amendment allows the use of synthetic ingredients on the national list but not synthetic processing aids and other
synthetic substances. I think that's a bit of a problem because approximately half of the substances currently on 605(b) are processing aids, they are not ingredients. I think that has to be addressed.

In dairy conversion you'll have the last third transitional feed farm raised now being allowed but there needs to be a verification of transition of the status of that feed because now it will be fed to organic animals so it needs to be inspected and certified during that third year of transition so that needs to be accounted for.

You've already heard comments on the replacement stock. I think that also has to be addressed at this time. It's a huge issue and if you are allowing conventional replacement stock on a continuous basis, you are allowing young stock that have been fed GMOs, slaughter byproducts such as blood, serum, fats, may be treated with antibiotics and hormones.
As you saw on the marketing survey, antibiotics and hormones are at the top of the list of what people are buying organic dairy products from according to that one survey. It also undermines the market for organic young stock totally. Why would anybody raise organic young stock if there is no market?

Last, on the pasture requirements I want to thank NOP for putting up the ANPR and holding the pasture symposium. I think it's clear from the speakers that there are numerous health benefits for the animals and that grazing is the natural behavior of ruminants. These are both requirements of 205.239(a) of the regulation.

Pasture is a keystone issue when it comes to integrity, when it comes to confidence, and people buying other products. We don't want to kill the golden calf to mix metaphors here. You need to look at the principles of organic production and handling
that the Board has already adopted. The rule already has numerous quantifiable numbers so this would not be anything unique or unusual.

I give examples of that. I'm not going to repeat it. I just encourage it to be dealt with in a timely manner. Thank you.

CHAIR O'RELL: Thank you, Jim. I think we have a couple questions.

MR. RIDDLE: Okay.

CHAIR O'RELL: Andrea.

MEMBER CAROE: Just a quick comment on the commercial availability language that we propose. You need to look at the rest of that document because that information for petition also addresses petitions for other lists. That level of detail is consistent if not more detailed than the information that is requested for a material to be listed. In order to fit into that document, we propose language that is similar. We did have language that was a lot more detailed. It was not appropriate in that
MR. RIDDLE: I understand and I have done that. Some of it is redundant or it would have been redundant, kind of the name, rank, serial number type things. There are others in our earlier draft that are unique information for commercial availability determinations that I think the petitioner needs to know because other the Board in the future could be accused of making arbitrary and inconsistent decisions unless you've got better information feeding into the process.

MEMBER CAROE: My point is that when we are considering a material for crop input the level of information that is requested in that document, information for petitioning, is just as brief, yet we do consider a lot more information in the petition process.

That document has a very brief description of information to be provided. That does not mean that is all the information
we would look at. There may be a further-on
document that spells that out but it was not
appropriate in this document to lay all that
out when for other lists, which we look at
with the same level of scrutiny. It wasn't
laid out in that detail.

MR. RIDDLE: And the Board already
has made a recommendation to improve that
petition instruction document to get more
information and more consistent information
for all of these inputs.

MEMBER CAROE: At that time that
would be a good place and we have that
information.

MR. RIDDLE: I think now is the
time myself.

MEMBER CAROE: There's a lot going
on.

MR. RIDDLE: Now it is being
rewritten to be implemented and to me now is
the time to get it right.

CHAIR O'ReLL: Jim, thanks for
your comments. On the colors issue there was
the evaluation -- the evaluation forms, the
criteria forms, were completed. We are just
looking online. They are not posted.

MS. FRANCES: They are at the end
of sunset review. They are there.

CHAIR O'RELL: They are there.

MS. FRANCES: Actually they are
there right now.

CHAIR O'RELL: But they are at the
end. Okay. They are where?

MS. FRANCES: Because we didn't
have a special line for it in the agenda
because of the
way --

CHAIR O'RELL: They are at the end
of this document.

MS. FRANCES: They are at the end
of the actual technical review for colors.

MR. RIDDLE: Attached to that
supplemental tab?

MS. FRANCES: Yes. If you
continue on, it's there.

MR. RIDDLE: That's a unique place for them.

MS. FRANCES: It was because of the way --

MR. RIDDLE: I'm sorry then. I stand corrected.

MS. FRANCES: It's because of the way the agenda was done ahead of time and that wasn't included at that time. We couldn't just change it so we had to add it in somewhere.

MR. RIDDLE: Okay. Yeah, it would have been nice if they would have been somehow added to the recommendation.

CHAIR O'RELL: I agree they are a little obscure because we were looking here for ourselves to find them because we knew that they were filled in.

MR. RIDDLE: Okay. I would like to take a look at them.

CHAIR O'RELL: There were some
last-minute things that were being put together with the agenda to get them ready.

MR. RIDDLE: I know what it's like to do last-minute things for the NOSB meeting.

CHAIR O'RELL: I apologize for the confusion but, yes, they had been addressed. I know that doesn't fully address your concerns but at least during discussion here we will have that for a Board discussion to go through that criteria. I want to make sure that we have those at least printed out in our books for the Board.

Julie, we can talk about that when we break to make sure.

MS. FRANCES: I'm doing that right now.

CHAIR O'RELL: Thank you, Valerie.

MS. FRANCES: I'll have everything up on the screen tomorrow so I'm downloading everything right this minute. Everything will be on the screen.

CHAIR O'RELL: I want to make sure
that all the Board members have it and have seen it as well.

MS. FRANCES: I'm going to print out all that stuff to make sure that everybody has it.

CHAIR O'RELL: Thank you.

On the chlorine, I certainly think going back and reviewing and looking at the 2003 recommendation and I believe that recommendation is the correct recommendation. I think maybe we need to take that up as a work issue with the NOP as to why there hasn't been action on that recommendation as opposed to tying it up and trying to change an annotation on sunset.

MR. RIDDLE: Yeah. Like I said, it's a pre-sunset. It's more of a sunrise.

CHAIR O'RELL: Okay. Oh, I'm sorry. Bea was next.

MEMBER KARREMAN: Go right ahead.

MEMBER JAMES: Thank you, Jim, for your comments on so many different topics. We
appreciate that. I wanted to ask you since you are affiliated with IOIA your opinion as to why Mark Kastel mentioned that there were 10 to 12 farms that were currently not practicing pasture grazing. With 205.237 in place, how is it that an inspector could allow certification if they are not practicing grazing with pasture?

MR. RIDDLE: Yeah. Well, first, just to correct one thing, the inspector doesn't allow anything. The inspectors, the fact-finder reports.

MEMBER JAMES: Or not noticed.

MR. RIDDLE: Well, I don't know that the inspector did or did not report on the findings in the amount of pasture available and assessed whether that complies with the rule. Not all inspectors are IOIA members or attend IOIA training, especially a number of state employee inspectors because they work for a different hierarchy. I can't answer that.
I can offer, though, that whatever comes out of this pasture discussion, rule changes, that IOIA will be an active partner in helping train inspectors if they need to understand how to do 30 percent DMI calculations. That is quite doable, especially on an average annual basis.

Then I did have one other comment related to that and there was a discussion earlier today about standardized organic system plans. For the new members on the Board, you should know that the Board already has adopted standardized templates for OSPs for crops and processing. ATTRA has been commissioned and is in the final drafting of a standardized OSP for livestock that will be gathering the necessary information about pasture.

MEMBER JAMES: Thank you.

MEMBER KARREMAN: Just real briefly, Jim, when you mention that with the new rule for feeding livestock maybe in the
third year you said that the feed needs to be transitioned. The transitional feed needs to be verified because it's being fed to organic cattle.

MR. RIDDLE: Right. Right.

MEMBER KARREMAN: They are not organic yet.

MR. RIDDLE: Right.

MEMBER KARREMAN: There should be like a preinspection like a year beforehand?

MR. RIDDLE: I think that would be a very good practice. With this new change in the law that feed is going to be fed during that entire year and at the end of that year that milk will be qualified as organic and if those farms are getting that preinspection, there is going to be a lot more confidence that the operators following the rules during that third-year transitional time period.

MEMBER KARREMAN: That's a good idea. Good luck with your first IFOAM Congress.
MR. RIDDLE: Yeah. Hope you make it. Thanks.


MR. SEGALLA: My name is Rick Segalla. I'm a dairyman from Connecticut. I have approximately 100 certified milkers milking every day. I've been here before. I've spoke before you twice so far. Over the past few months I've taken the initiative to go across the country and I attended a meeting in Wisconsin and I went to the west coast to the Humboldt meeting. It was enlightening.

We listened to the certifiers out there and they had no clue how to really enforce the dairy pasture rule because somebody said they didn't have to do it. I think that's because of the fact that we have big dairies out there that aren't doing it and they are saying, "They're doing it and they are getting away with it and people know it and they are not enforcing it."
I really think that they should be given a letter of noncompliance as of now because, as you saw today, when Juan got up here all he did was skirt the issue of whether there was pasture provided for these animals. He came up with all kinds of excuses why they didn't have pasture but none to the fact that they were trying to work towards pasture. They have no intentions of doing the pasture unless they are forced to do it.

I listened to people coming around and stuff like that and they said, "Wait until the end of June. The rules are going to drop and you will be able to do this and be able to do that and the other thing that you can't do now." We are here to build a better system and not take down the one we have. I was amazed when I went out there and started to hear about this replacement issue.

I mean, coming from the northeast that is one of the basics for organic production. Once you start that transition,
every cow in your herd is in your herd and, yes, you are going to do 100 percent transition but animals in your herd are in your herd so when they turn a year of age they start doing the transition, too. It works right back to the calves. Those calves aren't going to be considered organic to start over until that mother is in the last third of gestation. I don't know where the confusion is on this. I mean, it's there. I mean, the northeast has read these rules and this is the way they have interpreted them. I come out here and everybody -- it isn't that the laws aren't there.

They are just finding loopholes to them. The lack of authority over here to give them a letter of noncompliance so they start working towards it. I mean, they can appeal the letter of noncompliance but they haven't even done that. You talk about integrity and there's none.

I mean, as I went around I could
see there was always this little loophole that they were trying to exploit. Those aren't the true organic producers. We talked about the Straus farm. He's got enough acres and touring around the country I saw a lot of creative ways to making the 30 percent of dry matter.

I think he could work towards it. Maybe he might get a letter of noncompliance for a year or two until he got the system worked out but he has to work towards it. I mean, you've got all these family farms that are dependent on the system to work. We can't let the ones with money that rule the roost here. Thank you.

CHAIR O'RELL: Nancy.

MEMBER OSTIGUY: I want to thank you for coming back again. I know you have been very discouraged with how slow this process is.

MR. SEGALLA: I'll be back again probably.
MEMBER OSTIGUY: That's good because, unfortunately, democracy is very messy but persistence wins. I think we're getting there. Thank you for coming again.

MR. SEGALLA: Thank you.

CHAIR O'RELL: I actually missed a name because it was crossed out and scribbled on the side so Kathie Arnold. I'm sorry and I apologize. Are you ready? Okay.

MS. ARNOLD: I carry a proxy for Gerald Snyder who actually is on the list probably sometime later but he had to leave so he left me a little bit of a statement.

My name is Kathie Arnold. I'm an organic dairy producer in central New York State and also the Policy Committee Chair for NODPA. I'm putting on my Gerald Snyder hat who is an organic dairy producer from Alfred, New York. He says, "I appreciate very much the attitudes and spirit of cooperation as well as a sense of humor that has been evident these past two days of interaction between the
NOSB, the NOP, and all people participating in
the symposium.

    Thank you to every person who has
made these two days possible. I support the
30 percent dry matter intake for 120 days per
year and want to see all dairy animals raised
organically from the last third of gestation."

    Gerald also wanted to point out
that on one of Mary Ellen charts up there
where it showed a concern with organic feed
was No. 2, he just wanted to remind people
that pasture is part of that organic feed.
That's at No. 2.

    I was also asked by -- okay,
Gerald Snyder off, Richard Swartzentruber on.
    He is the Co-Chair of the Northeast Pasture
Research and Extension Consortium. He asked
me to read a letter from the Consortium and
the Consortium is a public/private partnership
of Land Grant University Research and
Extension people, USDA Agriculture Research
Service, USDA/NRCS representatives, dairy
beef, sheep, goat, and horse producers, NGOs and agribusiness suppliers in the northeast. I won't read that letter but just say that basically they are supporting inclusion of specific numbers, 30 percent, 120 days in the rule.

Ned Arthur, statement from him. I'll just put it in the record. Then I personally would like to say ditto to all that's been heard about putting specific numbers in for pasture and the need for dairy replacements being organic from the last third of gestation.

I just want to clarify one thing a little bit more as to where the 30 percent, 120 day figure came from. Our discussion this morning on the panel may have left the impression that it was totally in Organic Valley initiative which is not the case. It may have originated with Organic Valley and their process, their nationwide process of farmers being involved in that decision.
In the fall of 2004 when H. P. Hood was readying to enter the organic milk market under the Stoneyfield Farms label, H. P. Hood's Vice President of Operations communicated that it would be very helpful to have guidance on what constitutes an appropriate base level of pasturing to require such for all their supplying farms, him knowing that pasture was an issue.

At that time NODPA started the extension discussion among farmers in the northeast and drew in NODPA and producers from the west as well. These producers were shipping across the spectrum of processors from Horizon, Humboldt, Organic Valley, H. P. Hood, and Natural by Nature out of which came the agreement that the 30 percent, 120 days was agreed to by the vast majority of farmers.

Then finally I would just like to say thanks to the NOP for commissioning and Mary Ellen Molyneux for doing the research on
pasture and organic dairy. What that highlighted to me was that organic dairy as in all organic production is a whole package. It's not just one or two traits. Thank goodness our sector has the top one or two concerns of antibiotics and hormones under our belt and down right and we don't have to work on those issues.

Even though pasture is a concern of organic dairy consumers was deemed statistically significantly lower in concern, still pasture being a concern of 72 percent of consumers in my book is a very significant majority of those consumers. Thank you.

CHAIR O'ReLL: Thank you, Kathie.

Any questions?


MR. PECHACEK: My name is Steve Pechacek. I am from Mondovia, Wisconsin and I
am President of the Midwest Organic Dairy Producer's Association, or MODPA. And also Organic Choice Milk Procurement which has more than 50 small certified organic dairy farms.

I would like to thank you for the opportunity to be here today. I would also like to thank you, the speakers, who spoke yesterday who basically confirmed what small certified organic dairy farmers who graze have known for years, and that is that cows are healthier in their natural environment and doing what they are created to do, graze pasture.

We have heard a lot about intent and intentions. I would just like to remind everyone of the old saying, "The road to hell is paved with good intentions." We have to be careful not to let individual who would take advantage of this privilege.

How will small family organic dairy farms who are legitimately grazing and following the standards continue to compete in
the future if new organic dairies are allowed
to say they have the intent to follow the
organic standards then choose or come from
regions of the country where it is well known
that a grass-space farm or pasture
requirements cannot be met.

In 1948 there were 148 thousand
dairy farms in Wisconsin. Today there are
about 15,000. For many small family dairy
farms organic farming is their last chance to
survive. It is truly unfair for farmers who
may have been on the land for five generations
to compete with new organic dairies not
following same standards that they have abided
by for years. We just want a level playing
field.

On behalf of the Midwest Dairy
Producers Association and Organic Choice Milk
Procurement we support and endorse cattle
grazing on a minimum of 120 days on grass
during the growing season and a minimum of 30
percent of their dry matter intake to come
from grass.

We also support all replacements being raised organic since the last third of gestation. This is being proposed as a minimal standard so that all regions of the country could comply. There has been a general consensus from NODPA, MODPA, and WODPA that the proposed is reasonable and possible.

Yesterday we heard calculated evidence from Kathy Sutter, Lisa McCrory, and others that said this proposal is achievable citing evidence of enough time in the day and even byte rates and byte mass. There are also other scientific reasons why we support these criteria.

The first reason is chlorophyll. Chlorophyll has been said to be the most powerful cleansing and purifying agent in nature. It detoxifies the liver in the bloodstream. Chlorophyll is known as concentrated sunlight. Because it is almost identical to blood, and I have submitted a molecular chart,
chlorophyll is also known as the blood of plants. The only difference between blood and chlorophyll is that the molecular structure of hemoglobin is centered around iron and chlorophyll is centered around magnesium.

Chlorophyll is the substance that fuels all life on earth and helps deliver more oxygen to the body. Without chlorophyll there would be no plants, no oxygen, or humans. We've all heard the expressions "grass green" or "green as grass." Grass contains one of the highest amounts of chlorophyll of all plant species. Chlorophyll also has the ability to buffer acidity and stabilize pH levels. Low pH or increased acidity in the blood and body is a contributing factor to many diseases in both cattle and humans.

There is a very well explained book called, "The Battle for Health is Over pH" by Greg Ciola and Gary Tunsky. Diets of dairy cattle that contain large amounts of grains, concentrates, or famedifids, or even
stress can make the body acid causing a breakdown of the immune system and disease.

There are reports from dairy farmers who graze that have individual cows living to 20 years of age. It was reported by a speaker yesterday that the average lactation for a cow in confinement is 2.8. Many cows in confinement today are like people and do not get enough exercise. With more exercise cattle are also better able to oxygenate their bodies. Oxygen is required for such things as healthy cell regeneration, assimilation of nutrients into the cells, metabolic function, immune function, hormone function, digestion, and respiration.

There are also other things in milk from grazing like conjugated lentil lake acid which is beneficial to human diet. This is why I feel most consumers are buying organic milk. We live in a world today controlled by governments and laws. If you break a law, you pay the price. Many people
forget that there are also laws of nature that cannot be compromised. Every time man tries to cheat the system of nature and thinks he can create something better or greater, there are serious repercussions.

I could go on but for the purpose of time I'll stop. Thank you.

CHAIR O'RELL: Thank you. Zea Sonnabend and next is Brian -- okay.

MS. SONNABEND: Hi. I'm Zea Sonnabend with California Certified Organic Farmers. We represent more than 1,200 growers, ranchers, and handlers mostly in California but throughout the country.

I am going to take Nancy comment to heart that persistence often wins and I'm going to try -- I'm sorry to have to give you technical comments so late in the day but I have been here many times before and I'm going to try and focus my comments on things that not everybody has commented on like CCOF does support pasture things and we support
commercial availability. I am going to stick with some things that haven't been brought up for my comments.

I was invited to come to the second NOSB meeting in 1992 to give an introductory primer to the new NOSB members about materials which we in California had already been reviewing for some years before there was any federal regulation.

At that time myself and Lynne Cody, who is here but not here right now, talked to the incoming members and we said this is a great start in OFPA but this synthetic definition needs a little more work still. We need to hear some more definitions to distinguish formulation from substance and to define extraction better and talk about the parameters that really comes with synthetics.

I have been persistent and I have been bringing this back up now since 1992 and I'm glad to see that you are still working on it because for a long time it just lapsed and
I'm glad it got brought back again. You have now what I think is a good start. I really like the way that Valerie and whoever helped restructure the document called "The Recommended Framework to Clarify Synthetic and Nonsynthetic."

I have a few suggestions and then this will sort of apply to a lot of my comments about the renewal of the sunset materials. I am very concerned with what has been commented on previously about the nonsynthetic substance being on the list with synthetic additives and, therefore, the original NOSB decided the chemical change had occurred to call it synthetic. Arthur is saying in restructuring the list these things like fish and aquatic plants are going to be reclassified as nonsynthetic.

Well, that raises a number of issues and, in particular, in your document that you are looking at, your framework in Section 3.3 where it deals with formulation,
it does state that a formulated substance can
be nonsynthetic if it contains a nonsynthetic
substance and any synthetic substance from the
national list.

This is not complete. It's saying
the synthetic substances on the national list
for that purpose of being added to the
nonsynthetic substance. Just because
phosphoric acid is on there as an
equipment cleaner and handling does not mean
that it can be used in an aquatic plant
product that is called nonsynthetic. There is
still work to be done on this. I would
suggest adding to 3.3 that the synthetic
substance on the list must be on there for the
purpose of being combined with a nonsynthetic
substance.

Another thing that came up in
previous NOSB deliberations was the issue of
combustion and whether combustion was a
natural or not natural process in the end
result. This is not dealt with at all in the
synthetic document right now. There is an old NOSB definition that includes combustion of minerals is considered to be a synthetic process.

We all pretty much would agree that combustion of plant residue, i.e., wood or things like that leading to ash is nonsynthetic. But when you do the same thing to limestone and your end result is calcium oxide or hydrated lime, that level of heat and combustion considered combustion of minerals is what classically we have determined to be synthetic, the difference between this natural mineral and the synthetic mineral.

I would like to see 3.6 used. In 3.6 of your document the combustion of minerals is one of the types of chemical changes that would be considered when you review synthetic and nonsynthetic determinations.

So that being said, we in California have worked really long and hard
with you. I was the original TAP contractor who helped get a lot of things on the list in the first place. In this course of doing so we always insisted on good process, good evidence, as good as we good have at the time which, granted, has improved over time a lot, and a transparent process.

Therefore, we were happy that the sunset provision gave the people the opportunity to bring forward new evidence of anything they wanted to have removed from the list. However, we are very concerned when something was recommended for removal from the list without having any such evidence presented to you of why it should be harmful.

Therefore, we are strongly opposed to removing hydralated lime from the list both in a crop use and a livestock use. We did not see any evidence come forward in public comment. We did not see any evidence in the posted recommendation from the committee of why the decision was made to not renew it.
The whole document started out stating how it was made and how it was considered and what they talked about. Then it just said, "Move to not renew," and no reason.

So in my written comments, which I have submitted and you all have in your notebook, I have given you some detailed reasoning about how growers are using hydrated lime, why they couldn't submit written comments to you themselves because of a two-and-a-half-week notice for written comment period when in California it's been raining every day. I tried to talk to a few of our growers and they said, "Please, members of the NOSB, call them on their cell phones. They are out in their field trying to keep the disease at bay on their sprayer because every day it rains and the disease is going wild. We are going to have a severe impact on organic fruit anyway, even with these materials this year. To remove them without allowing these growers the opportunity to
speak up about it they don't feel is very fair or a good process.

If there is something that you really are thinking about deferring, at least postpone your vote until the next meeting or something so that everyone would have a chance to weigh in on the meeting -- on the issue. Now, I'm not going to reiterate my detailed comments about how hydrated lime is used but I do encourage you to use them -- to read them in your notebooks.

I have with me similar type information for the antibiotic product streptomycin and terramycin. I got some of this originally for the NOP. I was very disappointed it didn't get into the TAP review because the information was there.

It talks a lot about resistance and how resistance is not likely to cure from plant applications of streptomycin because the resistant organism Erwinia, which is the flower blight organism, would have to
conjugate with the human pathogen organism to create a resistant strain in humans and the conditions that each thrive under are pretty much the exact opposite. That is fairly germane to the lack of any evidence so far that plant applied antibiotics have not led to any known cases of human resistance to antibiotics.

So, anyway, you are able in your discussions on some of the crops materials to call on people from the audience and, as I say, I have lots of the supplemental information with me on the antibiotics on the hydrated lime, on the lignosulphanate on the aquatic plant products. I'm happy to speak further on it so that I don't like bore you with all the absolute details tonight.

I have brought with me a few support letters from CCOF members in support of the hydrogen peroxide retention, the hydrated lime retention, and the streptomycin retention. We do hope that you
will consider these as time allows and thank
you very much.

CHAIR O'RELL: Thank you, Zea.

Any questions?

MS. SONNABEND: Everyone is glazed
over. I probably won't be around for the vote
for I will be around at least until about 2:30
tomorrow, 3:00 so I am happy to talk to anyone
about the details.

CHAIR O'RELL: Okay. Thank you
very much.

Diane Goodman. This is the one
you're speaking on for Stephen Clark? Jorge
Gaskins is up next on deck, please.

MS. GOODMAN: Okay. Hi, folks.

Thanks for --

CHAIR O'RELL: You're only five
minutes. Is that correct?

MS. GOODMAN: I'm five minutes.

This one is five minutes, yes. Okay. I'm
Stephen Clark right now. Thank you very much
for allowing me to speak on his behalf. I'm
sorry also that this is so late in the day and we are all a little glazed over.

Stephen Clark is Director of Industrial Research and Development for Florida Crystals Food Corporation. Good afternoon -- good evening. Florida Crystals offers a warm welcome to the new NOSB members and offers our support, experience, and input in anyway that will be of value to you during your years ahead on the Board. Thank you to the NOP and the full NOSB for the opportunity to comment today.

Our written comment goes into greater detail of what I will summarize and emphasize now and that's what you have in your hands. Our comment focuses on the effort to further clarify the definition of synthetic and nonsynthetic for defining substances placed on the national list. We sincerely appreciate the consulting that was sought by NOP for technical expertise to help the Board in this determination. My comments address
three substantial issues under consideration.

First, we notice the question is repeatedly asked about the NOSB's intent and purpose. This needs to be clearly explained for any definition to be considered in the proper context and must be addressed before any further deliberation should move forward.

We believe, and I can safely assume, that most of the organic industry and consumer market place agrees that there is no room in organic production or handling for petroleum derived toxic persistent chemicals.

The existing criteria for the evaluation of substances to be placed on the national list already qualifies many of those concerns. We trust the NOSB to use all necessary caution needed to avoid any jeopardy of organic integrity and to protect consumer expectations.

We strongly suggest that the NOSB consider any substances that are produced entirely from natural sources without any
prohibited materials, without the inclusion of any petroleum-based compounds, without any diversion from OFPA criteria whether by extraction, formulation, manufacturing, or by processes that are naturally biologically occurring or already permitted as processes to produce final products as food not be considered synthetic for the purposes of this definition.

The second point in response to the recommended definition of substance, we disagree that a substance be defined as a compound or element that has a distinct identity such as a separate CAS number. This is a little bit unusual but it was an observation that was made.

If you'll notice, the national list section 205.605(a) already lists three substances that are available in three separate forms each with a different CAS number. They are calcium sulphate and hydrous calcium sulphate, calcium sulphate,
hemihydrate, and calcium sulphate dihydrate. The same can be said of the three forms of magnesium sulfate and sodium carbonate, all on the (a) list and all available in three forms with separate CAS numbers.

This presents an obvious ambiguity in which the intended substance on the national list is a nonsynthetic which in another form could be a synthetic depending on its origin, form, and, if appropriate, method of manufacturing simply because it has a separate CAS number.

My third point is the relationship of the terms formulating, manufacturing, and processing as they relate to chemical change.

I want to point out that the process of formulation as a synonym for manufacturing cannot be solely related to the use of the term in the OFPA definition of synthetic since OFPA also references manufacturing in the definition of processing.

It reads, "Processing as defined
means cooking, baking, heating, drying, etc., or otherwise manufacturing." This leads to the interpretation that manufacturing, and it would follow formulation as well, would include the methods defined as processing in OFPA. So I'm going to wrap this up as fast as I can.

So if a processing method is allowed to manufacture ingredients into food, it reasonably cannot be disallowed for the manufacturing of the naturally occurring sources of those ingredients or processing aids that unlike ingredients do not even remain in the final product. We suggest that the new proposed definition of formulation (manufacturing) include the methods allowed for processing as defined in OFPA.

In closing, I'll just wrap this up, we want to briefly mention the support for our customers who may use nonorganic agricultural substances that now need to be placed on the national list Section 205.606.
and urge you to come to a clear and expeditious process for the approval of petitions for those substances, give clear guidance regarding commercial availability to the certifiers, and be as flexible as possible to an approval process that will avoid any disruption in the market place.

Thank you very much for your time and consideration.

CHAIR O'RELL: Thank you, Diane. Any questions for Diane?

MS. GOODMAN: Thank you.

CHAIR O'RELL: Jorge Gaskins. Do I have that correct?

MR. GASKINS: Yes.

CHAIR O'RELL: Next up is Richard Martin and then following is Michael McNichols. You have the proxy for Michael McNichols so 10 minutes.

MR. GASKINS: It will probably be shorter than that, sir.

CHAIR O'RELL: Thank you.
MR. GASKINS: Let me speak first for Michael McNichols who had to flee to catch a plane. I'll read his statement to you.

"My name is Michael McNichols and I am founder and managing director of Sustainable Seafoods, LLC. I'm a marketer of certified organic seafood since 2001. I thank the NOSB for accepting the report, the interim final report, and do exhort the livestock committee to move with all speed.

I confirm to you based on my actual experiences that there is a very strong market for organic seafood. The consumer is concerned about foreign substances in food and the consumer is concerned about fraudulent claims. This is supported by a report from the New Jersey Department of Agriculture and Rutgers University over the past three years where they compiled research of the U.S. market for organic seafood.

The top findings of this report included that 72 percent of consumers would
buy organic seafood if available. The largest concerns include chemicals, antibiotics, hormones, and the last concern was sustainability.

I urge the Board to move expeditiously in order to bring in to create credible U.S. standards that bring a halt to fraudulent claims that hasten consumer access to product that they clearly want and bring the United States in line with other parts of the world and allow U.S. producers to meet domestic demand with domestic product. Michael McNichols.

Good evening. Thank you also for the opportunity of speaking this evening. My name is Jorge Gaskins and I am President of the 8th Sea Organic Seafood Company which is a Puerto Rican corporation.

Our company has only dedicated to organic production systems operations and special agricultural feed rations and the production of the entire life cycle, all the
different stages of talapia fish from hatchery to harvest and the processing for local sales in Brazil and exports of both fresh and frozen products.

Briefly, our company's agricultural operations are located in Parana State in the southwestern part of Brazil, some two hours north of the great waterfalls of Iguazu along the Parana River which serves as a boundary between Brazil and Paraguay. Our production is fresh water, pond based, and certified by Natural Land of Germany and a pending application has been made to Quality Assurance International here in the United States.

8th Sea is also a founding member of the Organic Seafood Council. 8th Sea supports the acceptance of the interim final report of the Agricultural Working Group by the NOSB and we recognize and appreciate the hard work and thoughtful analysis that has gone into the report and all of the work that
has gone into agriculture and organic
standards previous to the last working group.

8th Sea believes that the report
is a good starting place in creating an NOP
standard for aquaculture. The production of
this standard is an effort that we commend,
support, and urge to be pushed forward as
quickly, yet as diligently as possible. 8th
Sea is proud of the NOSB and NOP disposition
and commitment that they show to tackle the
creation of an organic standard for the last
major food product category without one,
seafood.

Our company is now one of the
leading producers of talapia employing organic
methods in the world. Talapia is the most
cultivated fish in the world and from its Nile
origin talapia is now raised in different
cultivation systems in over 60 countries.

Talapia is a domesticated fish and
in the tombs of the pharaoh there are
depiction of talapia being raised both in
cages as well as being harvested by nets. So it's been around for a long time and it probably is as different from wild talapia as a broiler today would be to wild chickens or the original chickens in the South Pacific.

From our particular perspective in reviewing the interim final report, we recognize the need to be more specific in many of the subsections of the report and of the future standards, although we don't support a standard for each species which George Lockwood declared impossible.

We do recognize that the following classifications would be helpful in making the proposed standards to be more effective and measurable. Fresh water estuary zones in south water cultures are different and require different characteristics and facilities, citing, location, etc. Ponds, nets, cages, and stationary culture systems, herbivores, carnivores, and omnivorous, cold water, warm water, fin fish, crustations and mollusks are
all more specific classifications that would fit into the different subsections.

The OFPA and established organic practices are clear and expectations for preserving health and welfare of the aquatic animals under our care and the intent of providing for facilities and conditions and diet that supports the natural behavior of the aquatic animals.

The interim final report diligently outlines the framework of addressing these concerns. Again, we believe that by implementing more classification of aquatic species, this framework can be more meaningful. Specifically, 8th Sea supports the specific stocking densities being established by classification within the final standards to the total prohibition of hormone use as a growth enhancer or for sex reversal in both fish destined for human consumption as well as fish for brood stock. Three, the total prohibition of the use of antibiotics in
8th Sea supports the Organic Seafood Council's comments including the possible use of wild-caught fish from verifiable fisheries as a feed ration ingredient in order to better assure natural diets. We would support this for a sunset period of five years.

8th Sea is a producer of organic fish meal and fish oil. We recognize that overall production of fish meal and fish oil is far less than the emerging organic seafood industry would require at this moment in order to really launch itself into the world markets.

Five, we do not support the use of synthetic amino acids or poultry or meat byproducts in agricultural feed rations because we don't feel that the consumer is going to accept them. Many of the organic consumers eat seafood as their only nonvegetarian source and to eat poultry
byproducts via the seafood we think is shooting ourselves in the foot and shooting the industry in the foot.

I thank you for the opportunity of addressing you today. I thank you for your commitment to embark on yet another slippery slope of organic certification and standards writing. Courage. Onward.

CHAIR O'RELL: Questions.

MEMBER JAMES: I apologize, NOSB members, but I just have to ask this question.

Okay. In the proposal from the aquatics task force it says, "Aquaculture facilities shall be designed and operated to minimize the release of nutrients and waste into the environment. I understand that you operate pool ponds for the development of talapia. How do you -- how are you currently managing the waste from that?

MR. GASKINS: We operate almost 3,000 hectares of ponds both under our direct ownership under rental arrangements and under
supervision of third party associated growers so we have very many different systems operating. Basically they come down to two. One is the use of the solids in the pond. Talapia when you harvest you empty the pond. The pond is left empty between harvest for about two weeks and then it's filled again with water. That's an opportunity of removing organic solids at the bottom of the pond to be used for agricultural purposes which happens in our region quite a bit. I would say it's probably the No. 1 way of dealing with the solids left over from the production.

The second system is under the Parana state environmental laws in the state of Parana. Very good compared to many places in production of talapia around the world. A water reservoir wetland system is required. If the water itself is not going to be used for irrigation purposes. If it's going to be used for irrigation purposes, then you have to show that the application area is large enough
to take the organic matter suspended in the water.

For the reservoir systems artificial wetlands are created or wetlands are restored before the water can go back into the superficial water system which eventually will go back into the Parana river basin. They are very precise in measurements. The water quality is monitored not only by the grower but also the reports are monitored by the Environmental Protection Agency of the State of Parana.

MEMBER JAMES: Okay. Thank you. One other question.

MR. GASKINS: You know, there's many agricultural systems, of course, where that's not an issue because -- well, it's a different issue because if you are raising in net cages in a waterway, then the waste becomes part of the ecosystem where you are producing so that's a different type of system.
This is a beautiful illustration of why the final standards have to take into consideration the different culture systems because that is very important for talapia culture as far as the nutrient fluent control.

A net cage system is also very important but they are just two different types of systems.

MEMBER JAMES: Sure. Okay. One other question. You currently are practicing feed components that consist of soybean, corn, and millet. Correct?

MR. GASKINS: No. Soybean, corn, wheat, and sorghum.

MEMBER JAMES: Okay. I was just reading off of the bullet points from your website.

MR. GASKINS: That was probably true at one time.

MEMBER JAMES: What I want to ask you is that if you could purchase organic fish meal, would that be a preference?

MR. GASKINS: We're sitting on a
mountain of it ourselves at the moment, organic fish meal and organic fish oil as well. Unfortunately, we cannot use it for our own species which we think also is absurd. Mad fish is not an issue and talapia eats talapia. It's an omnivore.

Talapia eats larva and eggs as well so we feel that really there is not a reason why talapia fish meal cannot be used in talapia feed rations considering that we only use 5 percent of the total diet of the talapia as fish meal anyway and that is primarily so we do not use synthetic amino acids.

MEMBER JAMES: Okay. Thank you.

MEMBER SMILLIE: I won't apologize. I have a quick question.

MR. GASKINS: Don't apologize.

MEMBER SMILLIE: I'm not going to. I said I wasn't going to.

MR. GASKINS: Okay.

MEMBER SMILLIE: George said that you couldn't go into specie specific
standards. I certainly understand it. Yet, we can't have one size fits all as you have just illustrated. What was your -- what is a reasonable number? You started flashing a whole bunch of things like fresh water --

MR. GASKINS: The Organic --

MEMBER SMILLIE: How many?

MR. GASKINS: The Organic Seafood Council recommends, I think, we have 10 classifications. Some of them are based on type of -- you know, separating the crustations from the warm water and the cold water fin fish and the others are based on the culture systems, net cages versus ponds versus ponds and raceways put together. I think there are 10 on the comments that were posted. Something like that might be more manageable. Just some are more important under some subsections than others would be. Any other questions? Once again, I say courage. Onward.

CHAIR O'ReLL: Richard Martin,
Diane Goodman. Are you up as Diane Goodman?

MR. MARTIN: I'm Richard Martin. I'm President of Martin International Corporation. I'm involved, or have been involved, in the aquaculture world in production, sales, and marketing as an import/export company for 26 years encompassing four continents in 11 countries. At age 51 that is exactly over half of my life.

I'll be as quick in trying to get to the points as best I can. We support and encourage the acceptance of the interim final report as the basis of a final rule that contains modifications and adaptations to conform with the Organic Food Production Act that specifically addresses the biological requirements of aquatic species.

George Lockwood brought up a couple of points in the interim final report. I think there's a couple of keystone points that we all agree are essential to be
addressed. I noticed when George started talking about the feed issue, option A or option B, everyone kind of perked up and there was a noticeable concern on all your faces from my vantage point.

Areas of concern within the Organic Food Production Act in our estimation under the item 6506 in general requirements, "Farmer field area to be certified has distinct boundaries and a buffer zone separating the land being operated through the use of organic methods from land that is not being operated through the use of such methods can be applied in the aquaculture setting."

You can define, as we have. You've made the perfect slide here with the cattle out on the field a boundary which you also can do in aquaculture. In aquaculture aquatic species in open net pen structures and systems are raised with the intent to provide a system in which species are able to exhibit as natural behavior as possible within limits
of aquatic systems in the sea. The established organic rules provide for systems that maintain densities in environment conditions that are as close to those found in nature as possible.

People have a difficulty. Aquaculture intimidates for some reason because people aren't familiar with it. They are familiar with seeing a cattle farm. They are familiar with seeing a fence and a pasture but they are not familiar with seeing what happens in the sea. For some reason the atmosphere is not equivalent to the ocean and people can't draw those conclusions. I urge you to think about that and the parallels because they are more apparent than not.

The other item of concern, the organic food production act, is item 6509(c) No. 1, "Shall feed such livestock organically produced feed that meets requirements of this chapter." That is probably the keystone issue with an aquatic standard. Where that goes to
the interim report and they look at A or B, we recommend the adoption of A.

I want to remind you that in considering A what people get shaky about is when they talk about certifying a wild fish. Immediately right there everyone stops. You are certifying a feed and in the E model they have specific requirements for harvesting fish from biologically safe capture fisheries that is very well vetted out over the last 10 years. There's a lot of science behind it.

Then it has certain controls such as requirement for using awful trimmings as a protein base and taking 100 percent waste and converting that into consumable fish which would be a psalmody for example. They also have requirements on limiting PPTs. The feed input in an aquatic system can be measured, quantified, you know where it came from, and it's no less wild than the grass on the prairie and it can be certified if it's taken in the context of certifying the feed and not
the fish that is plucked from the sea.

    I think the differences are obvious but they are not insurmountable. The reason why we don't advise option B in the interim final report is that we are also trying to provide an animal in the end to the consumer that provides nutritional basis that the consumer is seeking.

    If we start to look at adding synthetic amino acids and vegetable matter to a carnivore, you are really getting into manipulation of a creature and in the end you may be even reducing the available nutritional content of that animal to a consumer. Having dealt with the consumer for almost 30 years I can tell you that their No. 1 issue is lack of chemicals, No. 2 what do they get food benefit-wise out of this animal, and then, down the road, environment and so forth.

    If you adopt option B and you ram soy protein into a salmon, for example, they will grow slowly but they will also counteract
any of your environmental benefit because they will pass much more waste into the sea as they dump the feed. Questions?

CHAIR O'ReLL: Questions?

MR. MARTIN: I may add one little tiny bit. We also approve of the sunset provision in coming up with a feed certification process.

MEMBER GIACOMINI: I have a question. Do you know if there is any data on whether the change in diet would change the fatty acid profile in the fish meal?

MR. MARTIN: I would probably go to the Harvard School of Public Health who has done a lot of fatty acid analysis. You can pretty much put anything into a salmon. You can put soybean protein and lard and the animal will use the lard as an energy basis and that will change the omega 3 fatty acid profile of that animal. I can't quote a scientific entry in that put I could certainly dig that up.
CHAIR O'RELL:  Rigo and then Nancy.

MEMBER DELGADO:  I have a question.  If you feed your fish chicken byproducts and so forth, would I get a chicken fish at the end of the day or am I dealing with a completely animal fish?

MR. MARTIN:  There's two parts.  There's consumer perception there which I think would really run afoul. The industry wouldn't benefit and the consumer would reject it if they knew that I believe. There is a good resource there that is unfortunately the case. There's a fantastic resource in taking children awful and making it into salmon feed or some other fish feed.

I think the other concern is how the fish bio-incorporates that. When you are thinking about the environmental impact that these fish have, and that is a major concern with those that don't want to see aquaculture expanded, if you start putting feed into the
animal that does not bio-incorporate efficiently, it ends up as waste.

If it's waste, it's environmental impact. If you give it the feed that it really biologically would go after or obtain in the wild, it's going to bio-incorporate that in a much more efficient manner. It's going to build muscle rather than making waste. I think there are potentially other options to explore and that is why we are asking for a sunset provision because we only have so many models now and there might be some other angles to take on this.

A carnivorous animal needs to do what it is supposed to do and the perception might run askew if you start putting other ingredients in. I know for example in the industry where in certain areas they use a lot of corn oil to boost protein or to mitigate expense. That ends up as being corn oil in the final product.

When you cook that product you can
see corn oil leach out of the product. You can also taste it. You don't taste corn and say, "This salmon taste like corn," but it does have a bitter aftertaste which is all attributed to corn. The U model tries to keep the feed that goes into -- the fish meal that goes into the feed as close to what that fish would find in nature even to the point of doing indigenous type of profiles for the feed in that region with the intent of that animal is being raised as close to what it would be if it wasn't in a cage.

CHAIR O'RELL: Nancy.

MEMBER OSTIGUY: Just real briefly. There's a lot of data about how the nutritional value of fish changes when they are not fed close to their natural feed. There is a tremendous amount of data about how the health changes.

MR. MARTIN: I don't think that would be a hard challenge to find that data. It's readily available.
MEMBER OSTIGUY: Oh, no. I have some of it. It's readily available.

CHAIR O'RELL: Thank you very much. Diane Goodman. Ten minutes.

MS. GOODMAN: I won't need that long.

CHAIR O'RELL: John Stalley is on board.

MS. GOODMAN: Okay. George first.

Thank you on behalf of George for his ability to comment to you. This is about commercial availability and proactive sourcing. This is a concept that George ran by a few of us the other day and thought it was worthwhile that he present it to you. Commercial availability is missing one component which is a proactive approach to either contract for an organic ingredient or commitment to the development of a new organic ingredient.

As a supplier of ingredients I have companies call me looking for organic ingredients that without a contract that
ingredient is not available. This scenario plays out every few months so the company can document that the ingredient is not available to the certifier. An exemption should be granted only if the company has a contract for further delivery of the exempted organic ingredient.

If a company knows an ingredient that they are formulating will require more of the specific ingredient than is currently available, the company should be required in their organic plan to show steps they are taking to make sure the ingredient will be produced for them during the next crop cycle taking into account worldwide sourcing.

We are seeing an upswing of companies moving to conventional ingredients as orders for their organic products increase rapidly. This emergency situation should not be used to replace organic ingredients permanently.

Creating an organic analog of
conventional ingredients is a vital step to increasing consumer confidence in organics and the intent of OFPA. Companies that use conventional ingredients in the five percent category should take steps to use products that contain organic ingredients in an effort to promote further development of these conventional alternatives.

As an example, there's baking powder that contains organic ingredients. Allowing the use of conventional baking powder without organic components serves to diminish the development of organic alternatives. If functionality is the same, then there should be a requirement for the use of these "made with" ingredients.

I have been told on more than one occasion that my suggestions are already part of the existing rule. If that is true, there needs to be a clarification to the organic community. However, if proactive sourcing is not specifically covered, then it should be
1 codified into the rule. Thank you very much for your consideration of this important issue. Sorry I wouldn't be able to answer any questions on behalf of George but I'm sure you can contact him and he will be glad to help you.

2 Now my comment. This is on my own. I'm just going to read it and I'm sorry I don't have it written out for you but I'll make sure it gets e-mailed to Valerie and she will distribute it to you for the record.

3 Welcome on my behalf to all of the new members of the NOSB. Anything you need that any of us can help you with, we are all here to help you. Thank you for the kind opportunity to comment today. As many of my comments have been made or will be made in other statements written and spoken, my intention is only to emphasize a few high points to jog your memory when they arise elsewhere.

4 First in your consideration of the
clarification for the definition of synthetic. Please keep in mind the clear intent and objective of any recommendation put forward by the Board and what it is this clarification will serve as it relates to consumer expectation of how organic processed food in particular is made.

A point was driven home during the dairy symposium that responding to consumer expectation that organic dairy animals should be paramount to science-based dairying, I found that was interesting that another comment on the issue of the definition of synthetic stresses the need for science. How does that relate then to consumer expectation about what should be allowed in organic foods. I hope you understand what that analogy was for me. It's kind of contradictory.

Please keep in mind also the need to avoid any further ambiguity in the use of the term synthetic that may come up in any new definition of the term substance and chemical
change. Finally on this point please note what appears to be the synonymous relationship between formulating, manufacturing, and processing.

Then regarding the relationship -- excuse me, the recommendation of the Joint Handling and Policy Development Committee on Commercial Availability. I point out that according to the language of the court order all nonorganic agricultural substances must be placed on the national list Section 205.606 and then determined by the certification body if based on the organic handling of plants submitted by a certified entity that the substance is, in fact, commercially unavailable in organic form.

I encourage you to provide clear and complete guidance to the ACAs to uniformly facilitate that determination. Furthermore, and this is a new suggestion not reiterated anywhere else, please consider approving petitions for similar substances such as all
dried leaves of green herbs. If all are produced identically, one petition may cover approval of dried oregano, dried sweet basil, dried marjoram, etc. This may close potential loopholes of categorical petitions, yet expedite approvals of very similar agricultural substances all produced identically.

Finally, in your consideration of acceptance of the Aquaculture Working Group interim final report, please give serious consideration of the need for any standard for aquaculture production to comply with OFPA, especially the requirement for all organic livestock including fish to be fed organic feed, the suggestion supported by the Organic Seafood Council to allow a five-year sunset period during which time organic aquaculture products may be fed some percentage of nonorganic feed will follow precedent implemented before in other instances such as the temporary allowance of methionine for
poultry. This will also give the aquaculture industry time to develop feed stocks that will comply with OFPA while providing a superior product in the market place and filling the ever-growing demand for organic products of all kinds.

Thank you very much for your consideration of my comments and I look forward to the rest of an exciting and productive meeting with you all.

CHAIR O'RELL: Thank you, Diane. Questions? Thank you.

John Stalley, on board Lynn Clarkson.

PARTICIPANT: He's not here.

CHAIR O'RELL: Okay. Lynn Clarkson, Becky Goldburg.

MR. CLARKSON: For those of you still awake, my name is Lynn Clarkson. I have a concise and personal applause for your Handling Committee on the subject of organic lecithin. I'm General Manager of a company
that has been making organic lecithin, 100 percent organic lecithin, and 95 percent organic lecithin for three years.

You have tackled a troubling area of organics and I think come out with a very good balanced policy. You have decided that bleached lecithin is really lecithin and an agricultural product that something has been done to later so you have removed that door that some people have been using.

You have not come up with a draconian policy forcing anybody to do anything but left certifiers, at least in your recommendation, in charge of deciding whether the organic product will meet anybody's needs. Now, of all the lecithins that are out in the world, which given the custom formulations probably run something like 180 versions, organic is today able to take care of 80 percent of the needs.

There will be a few that we don't know how to make. There will be a few that we
are not able to make yet but that, too, is an evolving process. I think you have a balanced situation here where you basically said the organic evolution has carried the burden of proof and now it's up to people who are putting organic labels on products and using conventional lessons to prove that organic won't work. Without that kind of push the evaluation of ingredients in organic will be awfully slow. This is the kind of push we need. To the best of my knowledge the National Organic Program is administering this rule already in keeping with what your recommendation to the full Board is.

Thank you very much. I'm a processor in this field. If you have any questions, I'll be happy to try and answer them.

CHAIR O'RELL: First, I want to thank you, Lynn, for staying around so late in the evening to give us some congratulations that we did something right. That's always
good to hear.

Jim.

MEMBER SMILLIE: Lynn, what is the percentage of bleached lecithin organic and, if you know, the conventional industry versus unbleached like usage wise?

MR. CLARKSON: In a conventional lecithin world it's probably no more than 10 percent. In the organic world it's almost zero. The only people that I know that have a serious interest in bleached lecithin for the conventional organic would be those fighting a color problem, those with white chocolate, for instance, that didn't want to have a collision between some other ingredients and wanted to have a particular color score. It is distinctly a minority product in the world of lecithin.

MEMBER SMILLIE: Thank you very much.

CHAIR O'RELL: Becky and then Kathie Arnold with a proxy. Or is that done?
Okay. Thank you. Kelly Shea is up on deck.
Becky.

MS. GOLDBURG: Okay. I'll start.

Thanks very much. My name is Becky Goldburg. I'm a biologist with Environmental Defense, a national nonprofit organization. I'm also a former member of the NOSB and a current member of the NOP's Aquaculture Working Group. I want to thank you very much for your endurance so that I can have my five minutes of fame up here.

I'm going to comment today on two matters. One is the interim report of the Aquaculture Working Group and the second is sunset reviews of streptomycin and tetracycline. First, I'm delighted that the interim report of the Aquaculture Working Group is being presented to the NOSB and that the Livestock Committee had recommended that the NOSB receive the report and that you did so.

I strongly support the
establishment of organic standards for wild fish and believe the report will be very helpful to the NOSB. Like others I want to draw the NOSB's attention to the two options in the report concerning feed. Standards for organic fish feed are controversial since many farm fish are naturally omnivorous or carnivores and are fed diets containing substantial quantities of fish meal and oil made from wild-caught fish.

The significant concerns about the ecological impacts of so-called reduction fisheries used for fish meal and fish oil, as well as the health affects of environmental contaminants such as PCVs and dioxin that are sometimes found in fish meal and oil at very high levels. Moreover, the use of wild fish as feed ingredients would result in feeds that are not 100 percent organic is now required for organic livestock.

As you have heard about the two options for feed, option A would allow the use
of wild fish and aquaculture feeds, while option B would maintain the current requirement for organic livestock that feed ingredients be 100 percent organic and thus prohibit the use of wild fish as feed ingredients.

Under option B, which I personally strongly favor, wild fish could still be used as a feed supplement presumably as a small fraction of a fish diet but to present essential nutrients. I believe it would be possible to create healthy feeds for many fish without the use of synthetic amino acids.

I also want to ask that the NOSB in coming months pay special attention to the inside's concerns and opinions about the draft aquaculture standards from others in the NGO community including those who work on marine conservation issues and have not in the past participated in NOSB deliberations. I was the only representative of an NGO, environmental or consumer, on the Aquaculture Working Group.
I simply wasn't capable of representing all my colleagues who have much to offer to the discussion. In the second part of my comments I would like to address the sunset reviews of streptomycin and tetracycline which, of course, are used to control bacterial blights on fruit trees. My comments in this case are made on behalf of the Keep the Antibiotics Working Coalition, a coalition of health, consumer, agriculture, environmental, humane, and other organizations including my own Environmental Defense that together have about 9 million members.

We have two distinct concerns about continued use of streptomycin and tetracycline in organic food production. First, as I detail in my written comments and won't go over right now, the use of antibiotics on fruit trees likely makes at least a small contribution to the growing crisis of antibiotic resistance in human
medicine.

Although the technical materials prepared for the Board dismiss this concern, you should know that it has been strongly echoed by health agencies and experts. For example, in 1994 a company applied to EPA to register another antibiotic, gentamicin, as a pesticide to control fire blight on apples and pears.

The Centers for Disease Control and Prevention, the Food and Drug Administration, and the American Society for Microbiology all express their strong disapproval of the proposed registration because gentamicin is an important human drug and they were concerned about the potential for gentamicin resistance as a major health problem.

The result was that the company withdrew its application for approval of gentamicin in 1999. Particular relevant CDC's comments to EPA on gentamicin, which are
attached to my comments, also argue that consideration should also be given to the reduction and eventual elimination of pesticidal use of oxytetracycline. In other words, CDC thinks that using these antibiotics as pesticides is probably pretty bad for human health.

Second, antibiotic use in organic food production is inconsistent with consumer expectations. We expect that organic consumers no more want apples or pears from antibiotic-treated trees than they want milk or hamburgers from antibiotic treated cows. The upshot is a continued use of streptomycin and tetracycline in organic food production is not compatible with principles of organic reduction or consumer expectation.

We recognize, however, that streptomycin and tetracycline are useful chemicals for fruit growers to control fire blight. The NOSB may wish to consider whether it can phase out use of these drugs if it
feels it would be an undue burden to end their use immediately. That said, we urge the NOSB not to give an unqualified approval to continued use of these antibiotics. Thanks a lot.

CHAIR O'RELL: Thank you, Becky. Any questions?

MEMBER JAMES: First of all, Rebecca, excellent. I am really glad that you stuck around and you gave this presentation. I just want to make sure that I summarize what you're saying about the antibiotic use. Basically what you're saying is that consumers do not feel comfortable in your opinion with the idea of using antibiotics in organic production in any form.

MS. GOLDBURG: I think so. I think most of them are entirely unaware that they are used on fruit trees but I expect that the same consumer who buy organic animal products without antibiotics does not want the organic apple to be treated with antibiotics.
MEMBER JAMES: Okay. Excellent.

Thank you.

CHAIR O'RELL: Gerald.

MEMBER DAVIS: Would you be willing to consider that the data that was presented about consumer concerns about pesticides, antibiotics in their food and so forth, they are more concerned about the antibiotic presence in the food they are consuming than the use of the antibiotics themselves.

MS. GOLDBURG: I have to confess I did not attend that presentation this morning. I think it is true that most consumers when they think of problems with antibiotics do think about residues but I think there are really two sets of concerns. One is residues but the other scientifically is antimicrobial resistance.

If you turn to anybody in the medical community and ask them what is one of the major public health crisis today, and the
Federal Government has used that term, public health crisis, they will say its antimicrobial resistance. That stems in part from use of antibiotics in agriculture. Obviously much more from use of antibiotics and conventional animal production than for anything to do with fruit production but fruit production probably makes a small contribution.

MEMBER DAVIS: Do you think that the technical reports characterization of the minimal impact of the use of antibiotics in this way at the timings that the fruit tree growers use them does pose a very minimal chance of causing microbial resistance?

MS. GOLDBURG: I wouldn't use the term minimal. I would say that the chance that in any one case, and this is in my comments, that if you spray a tree it's going to result in a resistant bug that reaches a human being is minimal. The fact is that bacteria are present in vast incomprehensible numbers in our environment and when it comes
to bacteria highly improbable events become quite likely simply because of the sheer numbers of the bugs. There probably is some contribution.

I must say that I found the technical reports overly dismissive of the concerns. I looked at them and the materials they dated were from 1992. That is well before the development of a lot of the molecular tools that are now commonly used to track resistance genes and various genetic constructs in the environment. I frankly think they are out of date.

CHAIR O'ReLL: Nancy.

MEMBER OSTIGUY: I want to thank you, Rebecca, for bringing this up because the public health concerns are actually quite important and we are interested in food safety on a variety of levels. As you have stated, bacteria are virtually everywhere and just because we are starting with a plant does not mean that it won't move between species.
We have mosquitoes that are infected by malaria and humans so we can jump species quite far. There is some work that we're doing where we believe there is a reasonable possibility that a virus that we are researching in honeybees originated from plants so it does jump.

MS. GOLDBURG: Genes move around.

MEMBER OSTIGUY: Thank you.

CHAIR O'RELL: Thank you, Rebecca.

Kelly Shea, Eric Bremer next on deck if he's here.

MS. SHEA: Hi, you guys. Kelly Shea with Horizon Organics. Since most of what I was going to say has already been said and in the interest of time, I'll probably just take about 30 seconds to touch on some material things, turn my comments in, and then Paul Stalley was much later on the list so I'll give the rest of my time to him to finish up in the interest of shortening things.

We want to go on the record again
reiterating that Horizon Organic has been and continues to be fully supportive of changes to the organic regulations that clarify that the requirements for pasture apply to all ruminants including lactating animals. It's really critical I think as we've heard today that organic farmers today and conventional farmers that are thinking about making the change to organic dairying really have certainty versus ambiguity whenever possible. So to that end we probably have only about 10 or 15 percent of the farmers that ship milk to us on the Internet so we were going to mail out about 500 copies of the ANPR with envelopes addressed to the USDA. Hopefully all those farmers will have a chance to get their comments in also.

As far as materials I want to echo what Zea and some other people had said about hydrated lime. That was in one of the materials that we had sent out to producers for comment because I think it kind of came up
late in the process. If the Board has found that there are other materials that work as well and have as great an efficacy, if you could let people know about that or at least defer it so you can get some more comments in on it.

We were also going to support the removal of milk replacers from the list. If you have a bulk tank of organic milk, it seems to serve the purpose. In view of some of my colleagues' comments feeling that it is still needed, I guess we would be willing to sit back and see what other people say and maybe you want to get some more information on that.

I pretty much figured that everyone was on the same place about being okay with it going but it sounds like not maybe.

I want to thank Arthur Neal for letting me attack him at breakfast this morning and try to figure out where the heck that livestock docket was that we have been waiting for for so long. Arthur in his very
articulate manner said we can expect it any day. When that comes I think there will be a petition coming in to remove ivermectin because we know moxidectin is a lot less harmful to dung beetles and other members of the insect and microbial world.

With that I will just turn this in and let Paul use the rest of my time.

CHAIR O'RELL: Thank you.

MR. STALLEY: Hello. My name is Paul Stalley. I am a bit nervous. I would much rather be back at home at the farm but I think this is an important issue to be here and I appreciate to have this chance to speak.

I'm an organic dairy farmer from Oregon. We ship our milk to Horizon Organic and have for about five years. I'm a third generation on our farm and some of my fondest memories are seeing my grandfather and helping him work on the farm feeding calves. We still have his 30/20 John Deere that is going strong every day. Not a lot of things have changed
since he was there.

We used to pasture the cows. That wasn't an intent of grazing but when we started -- we did stop pasturing the cows for a while and when we restarted it was nice to see how much happier and healthier the cows were.

I guess I'm here to say that I would like to see things on a level playing field. The regulations have to have a bite so that some people that are not pasturing will get the feeling. What I don't want to do is for some regulations you don't need to be a rocket scientist to figure some of these things out. I think we need flexibility in the regulations as I see it. Farming revolves around mother nature and sometimes mother nature can throw a curve ball that takes a little bit of waiting out.

We have about 320 cows on 320 acres and 120 of that we intensively graze. Our cows are on pasture the whole growing
season and we have lots of folks coming by to look at our cows out on the grass. People love to see the cows and we get lots of comments about that. I will say that no one has ever asked me how much grass the cows are eating and what their dry matter intake is.

I hope we can get done with this soon. It's not helping any of us to have the rules be unclear. I hope we can also get this done without a lot of mud slinging and I hope it's okay to disagree. Everybody has their own opinion but we are all in this together and we should act just that way. Thank you.

CHAIR O'RELL: Thank you. Eric Bremer. Before you get started, one of the Board members would like to address Paul.

MEMBER JAMES: Paul, you don't need to get up. I just wanted to thank you for coming all the way from Oregon to speak. I was going to give you another three minutes just because in all fairness I know you made a big trek to get here. Thank you.
CHAIR O'RELL: Thank you. Eric.

MR. BREMER: Okay. My name is Eric Bremer. I'm with the New Jersey Department of Agriculture and I'm before you tonight to make comment on the aquaculture interim final report. The New Jersey Department of Agriculture appreciates this opportunity to provide the following comments on the interim final report of the Aquaculture Working Group.

The first portion of these comments provides insights into consumer interest and the ability to purchase a certified organic seafood product. The second deals with considerations related to feed composition and appropriate systems.

In a recent study completed by the New Jersey Department of Agriculture and Rutgers University consumers expressed a strong desire to purchase organic aquatic products. Many consumers were concerned about the possible presence of antibiotics and
hormones in farm-raised fish and felt
strongly, 77 percent, that certified organic
aquatic products would be free of these
compounds.

50 percent of the respondents
expressed such a strong commitment to the
purchase of organic aquatic products that they
were willing to change their shopping location
to purchase them. Further information about
the survey can be found at
www.jerseyseafood.nj.gov.

Currently the USDA allows aquatic
products certified under standards separate
from the NOP regulation to be labeled as
organic and sold within the United States.
This is a competitive disadvantage for U.S.
producers who are working with certification
agents that do not have standards for organic
aquaculture certification.

Adding aquatic species
requirements to the NOP regulation would help
to level the playing field with other protein
choices and imported organic aquatic products entering the United States bearing markets from foreign certifiers.

Comments on 205.252 aquaculture feed. Use of a high-quality feed that allows for an efficient feed conversion ratio and does not result in the production of excess waste products that may result in environmental degradation should be a cornerstone of organic aquaculture standards.

From a farm management standpoint production of excessive waste would place stress on aquatic organisms that would result in poor growth and possible disease. For these reasons the appropriate feed composition will be species specific and should mimic as closely as possible the natural feed of the species under cultivation.

For pisciverous species a feed composition that allows for only 5 percent fish meal and oil may not be adequate. Use of plant protein substitutes in the production of
these species may result in a poor feed conversion ratio and the production of excess waste and stunted growth of the farmed animals.

In this report the task force proposed two feed options. Option A allows for the use of wild fish and other wild seafood to produce fish meal and fish oils for organic aquaculture livestock feeds provided the use of such wildfish and wild seafood cannot exceed one pound of wild fish harvested for every pound of aquatic organisms cultured.

This one-to-one ratio may be unrealistic for some species given the high water content of the harvested fish that is lost during the reduction process. Most often wild fish species such as menhaden are used in the production of fish meal do not have a high intrinsic value as human food.

The New Jersey Department of Agriculture believes that scraps from the processing of food fish intended for human
consumption should be allowed for the manufacture of fish meal and oil in feed for organic aquaculture because it maximizes the use of the resource reducing potential stresses on wild populations that may be used to make aquaculture feeds for organic production.

NOSB's option A proposes the requirement that levels of unavoided residual environmental contaminants in the resulting fish meals and oils be comparable to the lowest levels. Thank you. I'm going to skip ahead here then.

The language in option A that would allow for wild caught to be labeled as organic is problematic in that historically organic certification has been a certification of process and not of product. In the explanation section following the feed options in the aquaculture report it is proposed that option A be adopted in the final rule so the USDA establish that wild fish are an
appropriate source.

The New Jersey Department of Agriculture favors the use of wild fish and other wild seafood along with listed byproducts from processing human consumption fish and seafood. However, the Department does not agree that labeling wild fish or other wild seafood as organic is appropriate.

The interim report contains provisions for aquatic aquaculture in open waters. Certification of animals in open waters presents some of the same challenges as certifying wild-caught species. These concerns include verification of feed sources and lack of control over the species' environment which could lead to exposures to prohibited materials.

We hope that if open water allowances become a point of contention that would slow the development and inclusion of closed-system aquaculture into the National Organic Program that the allowance is left out
of any proposed recommendation from NOSB until the issue is resolved within the industry.

The full comments have been turned in. I hope you folks get a chance to read them. Thank you very much.


MEMBER SMILLIE: Eric, in your support for option A you didn't mention that the only wild fish stocks that would be able to be used under the proposal in option A are MSC certified. Do you support that or are you just looking --

MR. BREMER: I scratched that part out in the interest of time but, yes. Quickly let me read what my counterparts had to say at the Department. Give me one second here.

"Sustainability of wild fish and other wild aquatic stocks harvested in U.S. waters should be determined in cooperation with the National Oceanic and Atmospheric Administration Office of Sustainable Fisheries under Sustainable
Fisheries Act PL 104-297."

MEMBER SMILLIE: Is that a certification program?

MR. BREMER: I would be fibbing to you if I told you I could answer that question. I didn't know what the basis meant until I read the first draft.

MEMBER SMILLIE: George's report cites MSC but it says "or equivalent" so I presume we'll just --

MR. BREMER: I would presume that would be an equivalent, yes. I can say that the folks I work with at the Department felt strongly about including that cite of National Oceanic and Atmospheric Administration Office of Sustainable Fisheries under the Sustainable Fisheries Act. They wanted that in there. I'm assuming they had a very good reason for that and that they recognize that as a good benchmark to go with.

MEMBER GIACOMINI: Kevin.

CHAIR O'RELL: Dan.
MEMBER GIACOMINI: Yes. You may or may not be the right person to ask this question but you drew the short straw because I just thought of it. As a nutritional source for fish, is all fish meal fish meal? Is all of it essentially universally similar enough in its composition and nutrient values for various uses?

MR. BREMER: I'm sorry but I have nowhere near the background to be able to answer that with confidence.

MEMBER KARREMAN: If I may, I would just kind of liken it -- I don't know much about aquaculture but I would liken it that if you are feeding fish meal to carnivorous fish, that would be analogous to feeding grass to cows. It is appropriate for the species.

CHAIR O'RELL: Thank you, Eric.

The next name I have on the list I think he left, Tom Harding. I think he was going to sign up for tomorrow. I thought he
told me that but I didn't want to -- okay, he's gone.

Jacob Zuck.

PARTICIPANT: He's gone.

CHAIR O'ReLL: Okay. This one I'm going to slaughter the name so I apologize. Jeneke Dejong. I apologize.

MS. DEJONG: My name is Jeneke Dejong and I want to thank everybody for staying this late and this long. I thought only dairymen worked this hard but you guys do too. Thank you very much.

In the interest of time I'm going to be really short. My husband and I own and operate a dairy farm in Bonanza, eastern Oregon. I will submit my speech to Valerie so you can read all the details about our farm and our family later. I just want to get to the pasture part. We believe in pasture. Pasture is great. It belongs, it's important, and it's part of what makes organic for the consumer.
We don't believe, however, that the consumer is set on a certain percentage of intake from pasture and hard numbers like 30 percent intake are difficult to enforce. A certain amount of cows per acre for certain amount of days or during growing season could be a workable solution. Given the regional differences, details are going to be a dairy-by-dairy decision. That was the it of what I wanted to say. Thank you very much for the opportunity.

CHAIR O'RELL: Thank you very much for your comments. Thank you for staying.

Kim Dietz. On deck, I don't know if he's here, George Siemon.

PARTICIPANT: No, that's for tomorrow.

CHAIR O'RELL: Okay. George is gone. Kim Kietz, you are on twice. You have a proxy?

MS. DIETZ: No.

CHAIR O'RELL: Well, you're on
twice. GMA? Are you on with GMA? No, just one? We can take off the one with GMA. Thank you. George Wright would be on deck if he's here.

MS. DIETZ: Okay, NOSBers, this is a record meeting. I just want you to know that. It is. I can't quite remember going this late that often. This is not setting precedence, let's hope.

Okay. My name is Kim Dietz and I have been involved in the organic industry for many years. I served on the NOSB from 2000 to 2005 as handler representative and during my appointment chaired the Materials Committee and acted as Board secretary. I've also been actively involved in OTA and chaired numerous task forces and committees over the years.

I am currently employed by Smucker Quality Beverages for 22 years. They are the manufacturers of Knudson Juice, Santa Cruz Organic, and a couple of other brands.

Today I would like to share with
you my personal comments and not those of my employer. They reflect an historical perspective on the issues before this Board. Please feel free to ask me any questions -- not today, maybe tomorrow -- during my comments or anytime over the next few days. It's late.

Sunset materials, I was the materials girl. That's near and dear to my heart. It always will be. My comments reflect my opinion on that. I congratulate the current Board members, past Board members, and NOP staff for making the first sunset process a success.

A few years ago I was in your role voting on materials and spending endless hours in collaboration with the NOP and public drafting guidance documents for the future of this Board. One of those documents, the Sunset Review Process, provided the details of how the first sunset process should work. I encourage all of you to read that document,
follow its procedures, refine it where necessary, it's a working paper, and pass it on to future Board members.

The key point to remember, use the sunset review document for reference on how the process should work. We spent a lot of time and sweat into that document. Materials do not need to go through an entire review process to be recommended to remain on the national list. I'm going to ad hoc some of this. They do have to go through a pretty detailed process to be removed so remember that as you recommend materials for removal.

Anyone at anytime can petition the material -- and I'm going to add annotations into that -- to be removed from the national list. The sunset is not the place to change annotations or move things. I do not agree with prior public comment on that issue. You guys have a lot of hard work. You are going to have a lot of stuff in front of you and if you start changing the sunset right now, I
think you're in for trouble. Remember this is an annual event. Another one is coming right around the corner.

Key learnings and recommendations to the process. I put on here, "Do not defer materials." By that I mean initially we had the committees identify materials that we thought were going to be contentious in the process and we defer those on purpose. I think, in my opinion, we erred on that side. I believe that it slowed down the process and it resulted in inconsistent reviews of materials.

Let the public tell you in the future what materials need to be deferred and what materials need further work. I encourage the chair of the materials committee to take a look at that in the document, future materials. Let them go through the process. If there are negative comments, defer them and address those at that time but don't do it ahead of time.
Flavors. I'll be here tomorrow when you discuss flavors but, bottom line, I'll be the first one to petition to remove flavors when they are commercially available for use in the industry. There's hundreds of them out there that are being used right now but they are not readily available in all products so please feel free to make comments.

Finally, recommendation framework on the synthetic document. I have put a lot of comments in here. I'm just going to summarize it. I think the document is a well-written document. One of the major areas of concern I have is the term "functional properties," where this came from.

I can tell you that in the last five years of my term on the Board we never put functional properties anywhere in the definition of synthetic. Look at that. I think if it stays in there you're in trouble with synthetic. Also, it's not clear that all materials don't go through this process. If
you look at pasteurization right now and you put pasteurization through that flow chart, it would be deemed synthetic because it does change the functional properties of a finished product. I would suggest, and I know that OMRI also suggested, just striking that out. Otherwise, I have recommended some language on here. I think that's it. Oh, can I just finish real quick? Commercial availability. I agree that you guys have done a good job with that and the way that it's written.

MEMBER CAROE: You could only finished because you were complementing.

MS. DIETZ: Oh, thanks.

CHAIR O'RELL: Kim, just one question on flavors. I agree with your approach that at one point I think a petition needs to be filed for flavors.

MS. DIETZ: Are you talking colors or flavors?

CHAIR O'RELL: I'm going back to
flavors.

   MS. DIETZ: Okay.

CHAIR O'RELL: You're talking about the removal of flavors from the list but are you talking about the addition of flavors under 606?

   MS. DIETZ: I don't think it needs to go under 606. I think that there's going to be enough organic flavors out there in the very near future that it won't need to go in 606. We are very close to that time. I would petition to remove flavors from 605(a) and have them as an organic commodity. I think we are very close to that.

CHAIR O'RELL: Or to petition for 606 now since it's close.

   MS. DIETZ: Yes, you could do that.

CHAIR O'RELL: And let the industry --

   MS. DIETZ: But, then again, you've got individual flavors. Cherry flavor
is one of them. There's a handful of flavors out there. I know you will hear from flavor producers tomorrow that we can't make them. We are struggling with it.

MEMBER WEISMAN: I also don't -- I mean, partly depending on how things end up with the definition of synthetic and nonsynthetic, I personally find it unlikely that everything that is currently out there being used in the category of natural flavors can be defined as an agricultural product. I don't think it can just be taken from where it is and en mass be put under 606. It will need to be parsed out.

MS. DIETZ: And if somebody would like to ask me my opinion on colors, I'll tell you.

MEMBER WEISMAN: Kim, what's your opinion on colors?

MS. DIETZ: I wasn't going to comment but it seems to be the topic. From an historical perspective the NOSB at one time asked to have colors removed as a technical
correction. That is in your documents, I believe, that in 2002 we asked that they be removed so that should be considered by this Board.

I think probably what should happen with colors is that you defer that, once again I hate to say that, and somebody petition so that you have a complete package for review. There has been past precedence set where Board members have petitioned. You just have to recuse yourself.

That means you don't get to vote but you can petition. You recuse yourself and at least then you have the complete process together. I'm not sure that it's worth a fight in this industry right now to not have colors reviewed thoroughly. That is one of the only materials on the list.

It has been used for five years, I understand that, but also you can go back to all the minutes and see where I have been saying, "Somebody needs to petition colors
because they are going to come up on sunset," and nobody did. I think the industry is going to feel the pain because they haven't been proactive with colors.

CHAIR O'RELL: Kim, what is your thought on -- we've heard earlier comments in saying that colors as a group shouldn't be allowed to be petitioned but it should be those individual colors that want to be used.

MS. DIETZ: Colors are on the national list right now as a group. I think the only way that you can individualize them would be to let them fall off under sunset and let somebody petition individual colors. Right now if you want to salvage what you've got, you have the ability to defer and review colors as a group and let somebody petition to remove them if they feel they need to be removed and there is that process. That's my personal opinion.

MEMBER CAROE: You said defer and then petition to remove but if we don't
complete the sunset process by the deadline it's gone.

CHAIR O'RELL: They're gone.

MEMBER CAROE: It's off. No action means they're gone.

MS. DIETZ: Right, but you could vote the next meeting one way or the other on colors and have a recommendation out there before the 2007 deadline.

CHAIR O'RELL: And then see how long it takes to get into a docket to get approved and you do run the risk of having a period of time when colors would not be allowed.

MS. DIETZ: Hey, we've got materials from 2002 that still aren't on the national list that we voted on so I think that's one -- if you want the process to be thorough and you want it to go right, you probably should do that.


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And then, George, before you go we have reached the end of the list but there were four or five people that we called names earlier and they didn't respond so I'm not going to go back and read those names but if you are in this room and you were on the list, raise your hand after George is done. Otherwise, you run the risk then of missing your turn.

Thank you, George.

MR. WRIGHT: Thank you. I'm George Wright, an organic dairy farmer from upstate New York. I thought I was nuts but I see I have lots of company here tonight. I'm going to cut this short. Just wanted to let you know that I support the pasture policy. Everybody knows that.

Also the last-third of gestation rule. I think that needs to be a given. I would like to see any of the stuff that used in the dairy industry right now on the sunsetting list stay on the list for another
five years until there are better things out there to work with.

This thing about perception of the -- we touched on today the surveys the lady put on this morning about consumer perception on pasture. It's not just an organic perception. The reason why there is not a lot of discussion about it, I think personally, is all people, even in conventional America, everybody thinks cows are on pasture.

It's not necessarily an organic thing. I mean, everything that's advertised. There's pictures of cows in pasture. Look at all the happy cow commercial from California. That's one reason why it hasn't been a hot button issue with the consumers yet because they all just assume that they are all on pasture.

They don't know any different. But when they find out they are going to be pissed and I'm going to tell them. One of the biggest reasons I'm really pulling for this is
I'm a firm believer that the confinement dairy system is what has destroyed the conventional America.

I mean, look at the milk prices this year. Right in my county there has been 10 auctions already this month. We figure since the first of the year within a 50-mile radius of my farm there has been between 3,000 and 4,000 cows have left the area.

I mean, do we want to do the same thing to organic? We've got a chance to make something good here. Let's keep it good and not try to ruin it with all this confinement dairy and factory farming type stuff. You've just got to back off on it. Thank you.

CHAIR O'RELL: Thank you, George.

Questions of George? George, a question.

MEMBER OSTIGUY: That's fine. I just wanted to thank you for a comment about what public perception probably includes conventional as being out on pasture. I think the same thing is true about chickens. We
don't think that our conventional chickens are
in those little tiny cages.

MR. WRIGHT: It just dawned on me
this morning when I was seeing all these
surveys and I kind of got the impression they
had to ask people about pasture to get any
response from it. I just went through this
with my sister-in-law a month or so ago. She
came out and I took her to a confinement
dairy, some real good friends of mine and we
always talked about them all the time.

They do one hell of a job for a
confinement dairy. The call rate is like
minimum. Never buy replacements, never. They
have gone from 200 cows to 400 cows in the
last four years and never bought a
replacement. They've got it down pat. I was
showing her that and I've got a stanchion barn
and I'm proud of it. In the winter time we
have to keep them tied up most of the time
because the snow is too deep and we have ice
problems. Of course, 20 below zero and 50-
mile-an-hour wind.

But we were down there and she was walking around looking at that and she said, "Oh, I like this style of barn." She said, "It's a lot nicer than yours because the cows get to walk around and eat." I said, "Yeah. To be truthful with you, I like this type of barn, too." So we were leaving.

We had been there for a few hours and stuff. She turned to me --and this is the God's honest truth, no prompting or anything from me. She turned around to me and my wife and said, "Where do they go to pasture?" I said, "Honey, they live and they die right here. They don't ever go outdoors." She was really upset about that. True story.

CHAIR O'ReLL: Thank you, George.

Last call for anybody who may have been on this list and was missed earlier. If I don't see any hands, I'm going to ask for a motion to recess.

MEMBER OSTIGUY: Motion to recess.
MEMBER KARREMAN: I second.

CHAIR O'RELL: Seconded. All those in favor?

ALL: Aye.

CHAIR O'RELL: Okay. Until tomorrow at 8:00. Until tomorrow at 8:00. Thank you all for hanging with us.

(Whereupon, at 8:54 p.m. the hearing was adjourned.)
DEPARTMENT OF AGRICULTURE
NATIONAL ORGANIC STANDARDS BOARD

MEETING

THURSDAY, APRIL 20, 2006

The National Organic Standards Board convened in the Ramada Conference Center, 1450 South Atherton Street, State College, Pennsylvania, at 8:14 a.m., Kevin O'Rell, Chairman, presiding.

PRESENT:

KEVIN O'RELL Chair
ANDREA CAROE Vice Chair
BEA JAMES Member
GERALD DAVIS Member
RIGOBERTO DELGADO Member
KEVIN ENGELBERT Member
DAN GIACOMINI Member
HUBERT KARREMAN Member
JEFF MOYER Member
NANCY OSTIGUY Member
JOE SMILLIE Member
JULIE WEISMAN Member

NOP STAFF PRESENT:

MARK BRADLEY
VALERIE FRANCES
BARBARA ROBINSON
DEMARIS WILSON
ARTHUR NEAL
TONI STROTHERS
KATHERINE BENHAM
J.D. MELVIN
ALSO_PRESENT:

MARK_KASTEL
GEORGE_SIEMON
ALBERT_STRAUS
TONY_MOORE
BILL_CLYMER
KIM_DIETZ
DAVID_HILTZ
LOU_ANDERSON
CAYSE_WARF
GWENDOLYN_WYARD
TINA_ELLOR
EMILY_BROWN-ROSEN
TOM_HUTCHINSON
DIANE GOODMAN
MILES_MCEVOY
STEFFEN_SCHEIDE
DAVE_CARTER
RICK_SEGALLA
ADAM_EIDINGER
DAVE_ENGEL
DAVID_DECOU
BONNIE_WIDEMAN
ZEA_SONNEBAND
ERIC_SIDEMAN
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Adjournment
P-R-O-C-E-E-D-I-N-G-S

8:14 a.m.

CHAIRMAN O'RELL: Call to order the continuation of the NOSB meeting. If everybody would either take their seat or take their conversation outside, please.

Okay today, this morning, we're going to start off with the presentation of each committee of their action items and discussion items. Because of the logistical issue we had with the pastor symposium, we normally would do this one day and then the next day come back and vote on items.

What we wanted to do was to have an opportunity for public comment after our discussion prior to our votes. So we'll be going through each committee with the presentation and discussion items, and then we will go into public comment.

Then we have an extended break for lunch period, which is designed to give committee chairs a chance to get their
committees together if need be for any conversation, to discuss the public comment that may change any of the recommendations that have been presented in the morning.

Then we'll come back in the afternoon, and the committees will go through and re-present any updated or current recommendations, and then we will have discussion and vote.

So this morning, we're going to start off with the Crops Committee. Gerald?

Crops Committee Report

MEMBER DAVIS: Thank you. The Crops Committee had a long list of deferred sunset materials to go over, and it took an extensive amount of time to wade through the public comment and submitted information.

The first materials as a group would be the chlorine materials that are listed as calcium hypochloride, chlorine dioxide, sodium hypochloride. The category of uses, as algicides, disinfectants and
sanitizers.

I'll read part of this committee summary, because it's fairly extensive, and would probably eat up too much time to read the whole thing.

"Many public comments were received by the NOP supporting the continued allowance of the use of the chlorine materials in this category. The most common reason given for the continued use was for food safety concerns, over the potential contamination of organic produce by food-borne pathogens.

"A big concern is that the negative public reaction to potential outbreaks of illness associated with organically produced food would be catastrophic to the industry.

"Compliance with FDA and other health regulatory agency regulations and guidelines was another common concern.

"Some comments express concern about
the application of chlorine materials to organic product in excess of the NOP standard listed in the rule.

"These comments stated that chlorine concentrations well in excess of the NOP standard are used in some instances with the assumption that the material would be degraded or diluted at some later point in the handling process of the product, or at least before the produce reached the consumer.

Two of these comments, one from a vegetable sprout producer and a consumer association, specifically stated that the residual chlorine levels in solution must not exceed the NOP rule guideline, at the point at which the treatment solution is drained from the food being treated."

The Crops Committee agrees with the comments that more specific guidelines for the use of chlorine materials in organic crop applications are needed, but the committee also acknowledges that such a recommendation
to add further addenda to the regulation is not the purview of this sunset document.

We're told a petition addressing those addenda changes for these materials would be more appropriate.

One commenter proposed peroxyacetic acid, which is a hydrogen peroxide acetic acid combination as a safer alternative disinfectant to chlorine. This comment also acknowledged that peracetic acid is currently not an allowed replacement for some of the chlorine application uses.

One comment objected the use of any synthetics in organic crop production, but failed to demonstrate how it violated OFPA.

I'll skip over some of the review of the technical evaluation report. Probably the new information in that concerns THMs or trihalomethane contaminants that can be present on crop surfaces when chlorine is applied to them.

It's kind of a metabolite or
something, once you use chlorine and it comes in contact with organic materials that may be on the produce.

That's the new information that some of the commenters mentioned, and the technical evaluation report mentioned.

Although it was noted by some that if the addendum to the use of these materials was corrected, to make sure that there are guidelines to control the amount of chlorine being used and limit it to precisely what the guidelines say in the NOP regulations, then that would minimize the risk of those THMs being produced, because you'd be using the proper amount of chlorine.

Skipping down to some of the other substitute materials that were presented as alternatives to chlorine, thus stating the case why they are not needed any more, citric acid or other acids such as acetic or ascorbic were mentioned as wholly natural substitute products that could be substituted for
chlorine materials as irrigation line cleaners and equipment sanitizers.

No information on the effectiveness of these materials in crop wash water was offered in the report. One commentator offered an example of acetic acid use in the meat industry as a carcass wash for surface sanitation.

In that particular instance, the wash water is amended to pH-3 to attain surface sanitation. Extrapolating this information to crop wash water, maintaining this low of a pH would take substantial and continual additions of acid, which would be corrosive to the handling equipment, corrosive to the workers in the operation, and the crop as well in any cases.

Other allowed substitute materials listed in the report include hydrogen peroxide, ozone, peracetic acid, vitreous alcohols, copper sulfate and salt-based algicides. Steam sterilization and UV
radiation were mentioned as alternative practices that might make the use of chlorine materials unnecessary. In the opinion of the Crops Committee, of the materials, the peracetic acid appears to hold the most promise as a safer alternative to chlorine and crop wash water applications.

It requires at least 50-fold lower concentration than hydrogen peroxide for sanitation efficacy in crop wash water, and would eliminate the bleaching or oxidizer effect problem associated with hydrogen peroxide use as a crop wash.

Peracetic acid was recommended for approval for this purpose by a previous NOSB, but has not cleared the NOP rulemaking process as yet.

Ozone, as mentioned by the report, has a strong tendency to off-gas from wash water and causes serious headaches and health problems in workers exposed to it. UV light from special lamps has been shown to be
effective in some limited applications.

In conclusion, due to overriding food safety and regulatory issues, the Crops Committee recommends the renewal of these chlorine materials. Discussion?

MEMBER KARREMAN: I just think you guys really did a thorough checking into the alternatives here. I appreciate that.

MEMBER DAVIS: Thank you.

CHAIRMAN O'ReLL: Nancy?

MEMBER OSTIGUY: I don't think we have an alternative, but to approve this, because of food safety issues. I would like to go on record as encouraging continued research to find alternatives.

I haven't quite decided, purely because of that, whether or not I will vote in favor or against renewal, purely as a message that we need to work on alternatives.

But so I just wanted to -- whichever way I end up finally voting on this, we absolutely do need to continue to do research
on alternatives.

MEMBER DAVIS: Of the peroxyacetic or peracetic acid alternative, which has a much better profile with it as far as effects on the environment or possible negative environmental or health concerns.

I had a question for Arthur and the program. Arthur, on that NOSB recommendation that's been kind of hung up, I guess it was in FDA for a while and now it's at OGC; is that correct?

Is there -- do you see any, in your understanding of the process that you've watched so far, is there any reason to expect that it would not come through the process now that it's been there this long?

MR. NEAL: It should be okay.

MEMBER DAVIS: Okay. So maybe perhaps soon we'll be seeing some movement on that as a good alternative.

MEMBER OSTIGUY: Some alternatives.

Yes, and there's going to be a while, I would
assume, between alternatives coming up and our eventual ability to do something about chlorine.

We may never be able to remove it, because there will be some uses that we will need it for food safety. But alternatives are a grand goal.

MEMBER DAVIS: Okay. Moving on, the next category of use as plant disease control. No, I'm missing one. As insecticides and as plant disease control, the horticultural oils.

Pertaining to horticultural oils, comments were received saying that natural alternatives were available as replacements. Vegetable oils were mentioned as the natural product replacement, but were questioned to see if these are appropriate and effective.

According to a representative of one organic certifier, all the vegetable oil formulations for crop protection use have synthetic emulsifiers in them. Without the emulsifier, the oils would not work as a spray
material for crops.

I mean the oils would be oils, but they wouldn't be able to be mixed in a water solution to spray on a crop, to give the efficacy. It could be argued that these products would not be wholly natural substitutes.

Further comments were received, stating that multi-year grower comparative tests between vegetable oil products and the petroleum-derived oils showed that the vegetable oils did not control certain target pests adequately.

I want to thank Franz for your input of that written comments that you provided; they were helpful in showing us at least one example of where yes, we really would like to use vegetable oils if they would work for our disease in our situation.

Research data that could verify the claim that the vegetable oil alternatives are truly adequate as a replacement is needed.
The committee recommendation, based on comments received, we recommend that we renew this material in these categories of uses. Discussion?

CHAIRMAN O'RELL: Gerald, I see that the committee vote was 3 to 1. So there was one opposed?

MEMBER ENGELBERT: Yes. That was me.

CHAIRMAN O'RELL: Can we hear from the minority?

MEMBER ENGELBERT: Basically, it's the same logic that Nancy used with chlorine. I'm just going to vote no, because I think there needs to be a better alternative, not because I want to handicap any growers today, but just to make a statement.

CHAIRMAN O'RELL: Nancy.

MEMBER OSTIGUY: One of the things that I would like to encourage some specific research to be done on in this area is why the vegetable oils would not be as efficacious, if
it turns out that that's accurate.

   It's supposed to a suffocating kind of process for insects, and in that case, oils should be oil. I'm just curious why petroleum-based product would be better than the vegetable oil, if we're supposed to be covering that insect with oil to block its sphericals?

   It's just curious. Why doesn't it work, and if we understood why, then we may be able to come up with a more natural substance.

MEMBER DAVIS: Yes. The theory that they should work makes sense.

MEMBER MOYER: That's why they were tried.

MEMBER DAVIS: But I struggled to find data, research data that showed that -- to back that up.

MEMBER OSTIGUY: Right, and I'm not disagreeing that the data are not there to show that it works. But why, and then if we could figure out why, it's a research area.
Why is it not working to suffocate, because if it's covering the sphericals, that's where all the air comes from?

MEMBER MOYER: Well then there was also the question of the synthetic emulsifiers that are used in that process with the vegetable oils as well.

MEMBER OSTIGUY: Right.

MEMBER DAVIS: That's fairly problematic.

MEMBER MOYER: Right. We don't want to just trade one for the other.

MEMBER OSTIGUY: Uh-huh, uh-huh.

MEMBER DAVIS: Because they're all petroleum-derived.

MEMBER MOYER: Right.

MEMBER DAVIS: Emulsifiers. So we're not really taking any big step forward, other than maybe the amount of material you're putting on an emulsifier versus the oil itself.

MEMBER OSTIGUY: It has to do with
oil hitting $70 a barrel. We may have a lot of incentive for research for alternatives.

MEMBER MOYER: That's a good point.

MEMBER DAVIS: Any other discussion?

I'll move on to the next material. Hydrated lime as plant disease control. The renewal of hydrated lime was deferred for two reasons.

First, the Crops Committee thought that more information and public comment was needed. Second, because of concern that there was no OFPA category that specifically allows its use.

I think the second concern that there was no OFPA category that we could fit this into was really the main objection and reason for deferring it for further consideration.

Most people who are familiar with it know that if this is produced by heating, you know, regular ground limestone to very high temperatures and then adding water to make hydrated lime or calcium hydroxide.
It's been produced for a long time, and it's used on a lot of things. Some of the environmental concerns are listed in this committee summary. It just summarizes basically concerns about the manufacturer and mining of the material, more than environmental or health concerns based on the intended use.

Most of the public comments were in favor of keeping hydrated lime on the national list. Although not that many people specifically mentioned it, they just included it in their -- yes, we'd like this and their wish list of all the materials.

The manufacturer of lime sulphur, which many commentators said that they could not form organically without, requires the use of hydrated lime, as does the production of Bordeaux mixture, which is a copper-containing compound.

Lime sulphur is used to control fungus, mites and insects in apples, grapes,
blueberries, cherries and other tree and vine crops.

Some commentators made the point that lime sulphur has been used for many years with no recorded loss of effectiveness. One commentator stated that no synthetic substances should be allowed in organic, but failed to show how these materials violate OFPA.

In the opinion of this committee, hydrated lime should be considered a production aid insofar as it is vital to the production of two exempted sulphur or copper-containing materials, in order to make these materials more non-biotoxic to plants.

On a split vote, the committee recommended not renewing the material to the national list, mainly for the lack of an OFPA category for it. Discussion?

MEMBER WEISMAN: Yeah, Joe. We've already mentioned a couple of times that one of the tasks that we haven't accomplished yet
but that is on our work plans is realigning
the list to conform to OFPA categories.

If that were already accomplished,
would that have changed? Is it possible that
that might have changed your vote?

MEMBER DAVIS: Well, realigning the
list to match the -- to fit them into the
categories is that discussion and the stream
of thought is what brought up th problem in
the first place, that where do we put this
material?

It comes down to the suggested, the
best places that have been suggested. One
would be to lump it in the production aid
category, which personally I think is that
production aid category designation for
material sprayed to crops, is kind of a
slippery slope thing that we could enter into,
where all kinds of synthetic materials could
be suggested.

"Well, let's call them a production
aid and put them in there," although the
program NOP did mention that, you know, that
is a possible way of doing it, and could be
supported legally, from their opinion.

The other thing, one commenter
yesterday mentioned to me that it could fall
into that exemption category of vitamins or
minerals, because it is a calcium mineral,
which is great for the one use.

But for hydrated lime, it's more of
a problem because the use of it is for plant
disease control, and it's not being used as a
mineral. So it's a stretch either way in my
opinion, although in my opinion personally,
the material is really not a threat to an
environment as used.

It's very important to many growers.
I didn't realize that in our discussions with
the committee, that there were a tree fruit
growers that use the material straight.

MEMBER MOYER: Yeah. That didn't
really come out in our initial discussions.

MEMBER DAVIS: No. We didn't have
that information.

MEMBER MOYER: As follow-up discussions, you know, through these meetings and through e-mails, I think that that's become more apparent to the committee.

MEMBER DAVIS: So for the limited amount of materials that an organic tree fruit grower has to control diseases, it is perceived now that it would be a severe impact for those growers to remove this material, over something a simple as "Well, we don't have an OFPA category for it."

MEMBER WEISMAN: Can I also make one more comment about the lack of OFPA categories, which might make your dilemma feel a little less difficult.

The lack of -- there is no OFPA category for allowed naturals, or allowed agricultural products, but those categories do exist on the list. There is some precedent for their being categories.

MEMBER DAVIS: The allowed category
-- we summarize that when we say is there an OFPA category. It refers to exempted synthetics. Is there a category of exempted synthetics that this fits into, and that's where we're struggling.

Although, you know, I feel for the growers that, you know, I have tree fruit growing in my background, and I don't currently do that right now.

But I know that there's not a lot of material that they have to use to control fungus diseases and things like stone fruit, peaches and apricots.

This is one of their mainstays which we didn't realize as a committee, as part of our thinking process. That's only come to light now at this meeting in some of the comments that we received subsequent to the recommendation.

MEMBER OSTIGUY: One question that I would have, which will also come up a little bit later, I know more about that particular
item. Is there a way for the particular
diseases that they are attempting to control
with the hydrated lime, for that to be
addressed by species selection, variety
selection of the stone fruits?

You know, there are more and less
susceptible varieties. Sometimes that applies
for a particular product that we're using,
that if we selected a less susceptible variety
we'd be better off.

That is supposed to be something we
do up front, in order to reduce the need for
things like this, and that's actually my
question, is do we have any information about
whether or not variety selection could reduce
the need?

CHAIRMAN O'ReLL: Angie?

MEMBER CAROE: Well, the only
comment I would have about that is that we're
looking at sunset. We're looking at growers
that have trees in the ground. You're talking
about three years before a peach tree starts
producing again, a new tree is going to start producing.

So it's three years without our grade of peaches if we do that.

MEMBER OSTIGUY: I mean, I understand that, but if you're not -- you're not going to eliminate or even reduce the use of this material, if you just continue to renew it on the list.

MEMBER CAROE: My point is well, unless you were to get a petition and re-list it with an annotation or --

MEMBER OSTIGUY: But there are wholly natural alternatives. That's part of my point. If, and I'm not saying -- I don't know this. I don't know if there are varieties that can address this.

CHAIRMAN O'RELL: Jeff and then Joe.

MEMBER MOYER: Yes. In many cases, Nancy, there are varieties that are less susceptible. The committee talked about that, and as Andrea mentioned, there is this time
delay, particularly with perennial tree fruit
crops, where you have a three to five year
time delay between when you plant the tree and
when you can begin to harvest fruit.

But we also understood your dilemma
that, as long as this is on the list, it
discourages folks from seeking out either the
varieties that do exist or pursuing the
development of new varieties.

So that it is a difficult situation
for us, with these fruits that take so long to
come to fruition. And also with a lot of the
tree fruits, for better or for worse,
consumers tend to buy by name, and a lot of
the varieties that they're asking for are not
on the list of disease-resistant cultivars.

CHAIRMAN O'RELL: Joe?

MEMBER SMILLIE: Yeah, I've had a
lot of experience with scab-resistant apple
trees, and it takes years and years of
breeding and development, and then --

It takes years of breeding and
development, and then oftentimes you'll breed an apple tree that will be scab-resistant, which is a big, big problem on the East Coast for organic apples.

You'll get a scab-resistant tree. It will get out into trials, and they'll find out that well, it's more susceptible to cedar rust than it was to apple scabs. So it takes years and years of breeding and development, and then oftentimes other problems occur.

Fungus is a really difficult issue to deal with, especially in wet climates. I know East Coast growers are just -- that's a continual battle, to deal with the various different fungus problems.

Colorado, though, has got a better break. Usually California's doing well, but when it rains a lot in California, then they have the same problem.

It is a long-term solution to work for disease-resistant trees, but it's just that it takes a lot of time because of the
perennial nature and things like that.

I can tell you this: No tree fruit grower likes spraying this stuff. This is --
I mean, if they can find solutions, they will grab at them, because this is nasty stuff to live with. It corrodes your equipment. It's a real pain.

MEMBER MOYER: Well, not only that. There's no residuals, so you have to spray.

MEMBER SMILLIE: You've just got to be out there all th time.

CHAIRMAN O'RELL: You need to be recognized, because we have -- if you're going to speak, put your hand up, because otherwise we've got Arthur here and then we have Hugh would like to make a comment. So Arthur, Hugh and then Jeff, I'll come back to you if you want. Arthur?

MR. NEAL: Arthur Neal, National Organic Program. I also just want to remind everyone that as part of the Advanced Notice of Proposed Rulemaking for this sunset
process, one of the key items that we stressed we needed was economic impact data.

Because you've got an industry that used this for five years that's now relying on it. In order for us to get this rulemaking done in time, we have to know the impact that this is going to have on their particular sector that has used this material for the past five years.

This particular material has come through properly. The comments say "Let's renew it." We've got a recommendation to not renew it, but we don't have any data to support not renewing it.

So I just want to remind you that economic impact data was requested in that Advanced Notice of Proposed Rulemaking, because we have to justify every decision that we make thoroughly.

That's why this sunset process is so complex, because it entails other areas just - other than the technical side.
CHAIRMAN O'RELL: Hugh, then Kevin.

MEMBER KARREMAN: This hydrated lime is an interesting thing, because we're going to talk about it in livestock too when we get to it, but part of the problem in livestock, just momentarily, is that you cannot apply it to the ground, certified organic ground.

And yet now we're also considering applying it to trees for whatever the problem is. There's some inconsistency here.

CHAIRMAN O'RELL: Kevin?

MEMBER ENGELBERT: I agree, Hugh. That's another point that I was going to make.

But I also want to respond to Arthur. We looked for economic impact data, and like Jeff said, we found very little comment, very little information to go on.

It's just been a problem for us to know what to do with it. It's a mined substance, it's a mineral, but it's heated to a thousand degrees and processed. We're unsure about the heavy metal content of it,
and we just weren't sure what to do with it.

We didn't want to open up another can of worms by putting it some place it shouldn't be.

CHAIRMAN O'RELL: Gerald.

MEMBER DAVIS: In response to Nancy and your resistant variety question, now in every tree fruit variety I've ever seen, when they talk about resistance, it's never complete resistance. It's just a matter of degrees.

The other thing is that for peach and apricot, you know, stone fruit growers, they grow a multitude of varieties, from early to mid- to late-season varieties, to give them as long of a season as possible.

You know, it's a lot of varieties in some cases. So to find a variety that's resistant enough to resist the disease in all time slots, it gets pretty complicated to tell them "Well, just find the resistant varieties," when the resistance is not
complete anyway for things like brown rot, you
know, which basically either rots the blossoms
off before they ever make a fruit, or later
on, rots the fruit so it's unmarketable.

MEMBER OSTIGUY: Uh-huh, uh-huh.

CHAIRMAN O'RELL: Any other
comments?

MEMBER GIACOMINI: I was just
wondering if Gerald -- Gerald?

MEMBER DAVIS: Yes.

MEMBER GIACOMINI: Could you discuss
or do you have anything to say regarding
Hugh's statement on applying it on cropland?

MEMBER DAVIS: I'm not sure I
understand your question.

MEMBER GIACOMINI: The statement
that Hugh made regarding not being able to
apply hydrated lime on cropland. Is there any
implications in, that you could discuss on
that in this regard?

MEMBER DAVIS: The information
provided to us from some comments point out
information that pertains to that, Hugh, where
they mention that the use rates of hydrated
lime for plant disease control is typically
ten pounds per acre applied several times,
maybe three, four times, during the infection
periods for the disease.

They add up to only, you know, 30,
40 pounds per acre per season, whereas a soil
application rate, which is not allowed, would
be much -- many orders of magnitude greater
than that, to provide any change or economic
benefit to the grower.

MEMBER KARREMAN: Why is it not
allowed for soil amendment in general?

MEMBER DAVIS: Because of its
reactivity and synthetic nature, you know. It
has to be a specific reason for allowing it
for exempted reasons, and because it's a
synthetic and it is reactive in the soil
environment, it has too many things going
against it, I guess, for having it on the list
in general as a fertilizer. That would be my
opinion, at least.

CHAIRMAN O'RELL:  Gerald, did the committee, looking at the comments that came in from PCO and they had talked about the -- well one, that they said the removal of one of the very few limited options should not be made without further consideration and input from organic fruit growers.

They also addressed the concern that you had for the OFPA category, and did you read that comment there?

MEMBER DAVIS:  I had not read that yet.

CHAIRMAN O'RELL:  I would suggest that the committee certainly consider that, and have their point of view on the record.

MEMBER DAVIS:  CCOF, that certifier also provided an extensive comment on hydrated lime, that covers those areas too. But I didn't read this particular one.

CHAIRMAN O'RELL:  Okay. I guess my concern is that the majority of commenters
were in favor of continued use, and it seems to be that it's hung up in the committee, mostly because of categorizing from OFPA.

It seems to be that there is a recognized need out there, from what I'm hearing from public comments. So I'm concerned that do we have enough from the committee to justify not renewing this product?

MEMBER DAVIS: In my opinion, now that the additional input has come in, I don't think we have enough justification to not renew it. I haven't heard from you on that, Jeff, but --

MEMBER MOYER: No, I agree. If we were to have this vote today, this vote would not come out this way within our committee.

MEMBER KARREMAN: Are we having this vote today?

CHAIRMAN O'RELL: Well, we're going to have the vote this afternoon. So, and that's the purpose of the discussion. So am I
hearing now that there's a committee thought of changing the recommendation or a --

    MEMBER MOYER: I can only speak for myself, but in my -- as a member of that committee, I would vote to renew it today, having heard all those comments which weren't available to us when we did this.

    CHAIRMAN O'RELL: Okay, and that's all part of the process, which is good.

    MEMBER DAVIS: So we will need to, as a committee, convene to craft the changes in the recommendation, and see how the vote comes before the full board.

    You know, based on that recommendation, I think there's enough evidence that it's probably the more likely way it will turn out, is that it will be renewed rather than not renewed.

    Okay. Next substance category of uses, algicides, disinfectants and sanitizers, including irrigation system cleaners, and as plant disease control, hydrogen peroxide.
This is similar to the hydrated lime question. The biggest thing is where do we fit this in in a synthetic exemption category within OFPA, which is why it was deferred.

The technical evaluation report for hydrogen peroxide shows that the substance does not occur naturally, but poses no true threat to the environment because it easily breaks down into water and oxygen, or hydrogen and hydroxol (ph), depending on pH.

The potential uses of this material are many. The concentrated material is quite caustic to people handling it, but as used in the field and its effect in the environment, it's considered relatively innocuous material, because of its -- it breaks down to just totally natural materials very, very quickly.

There are no known cases of hydrogen peroxide causing environmental contamination.

All public comments except one were in favor of keeping hydrogen peroxide on the national list.
This was a lone dissenter that again was against synthetics in general, but didn't really justify their position and how it violated OFPA. Most commentators agree that there are no known adverse impacts on humans or the environment from either the use or manufacture of hydrogen peroxide.

Most of the commenters stated that there are no other similar products available that are more compatible with organic crop production practices, and that the availability of hydrogen peroxide probably lessens damage to the environment and harm to humans, by lowering the amount of toxic substances used as alternative measures.

Regarding whether the OFPA provides an exemption category that would permit hydrogen peroxide to be considered for inclusion on the national list, the NOP provided feedback to the NOSB that hydrogen peroxide could be considered a production aid under Section 6517 of the OFPA.
As a result, hydrogen peroxide would be eligible for continued use in organic production. The committee recommendation was to renew the material. Any discussion?

Kevin?

MEMBER ENGELBERT: I'd just like to go on record as saying I think it's one of the most underused, invaluable resources that organic farmers have, in not just crop production but also in livestock and sanitation.

MEMBER DAVIS: Okay. The next material, as plant disease control, streptomycin and oxytetracycline for fire blight control in apples and pears.

Several commenters were proponents of keeping the materials on the list. Upon subsequent Crops Committee contacts with these commentators, as well as several organic pear growers and crop consultants in Washington and California, is it clear that there is extensive support for the continuation of
these materials on the list.

The fire blight disease is deadly to pear trees, and all of the growers and consultants surveyed had tested the alternative materials listed in the technical evaluation report.

All had the opinion that the alternative materials mentioned were very much below the efficacy of streptomycin and tetracycline, and did not prevent fire blight to a high enough degree to keep trees from succumbing to the disease.

One commenter noted streptomycin and oxytetracycline for removal from the list, mentioning two of the alternative materials alluded to above, which would be Blight Ban or Serenade as viable control options.

Some commenters objected to any synthetics being used in organic production.

Reviewing the technical evaluation reports for these two materials shows that both materials are created by streptomyces
soil bacteria, through natural processes, and are produced in commercial quantities through a fermentation process, with subsequent chemical processes to isolate and purify the substance produced by the bacteria.

Tetracycline is presumed to undergo a chemical change from the natural oxytetracycline to calcium oxytetracycline. It was unclear to the reviewer if streptomycin undergoes a chemical change during the manufacturing process.

I won't read all the summary of the environmental effects, although the usual concern with this material involves the concern about this, these materials being sprayed in the environment on plants might have a crossover effect of causing cross resistance in bacteria that can be transferred to bacteria that infects humans, which would therefore render these antibiotics no longer useful for use in humans for disease prevention.
Some of the EPA data mentioned in the technical evaluation report pointed out that as far as human consumption of these antibiotics on fruit, that there has never been any detectable residues found. Probably they attribute that to the fact that it's always used during bloom, you know, many, many days pre-harvest, and not used throughout the season to where there could be a chance of residue left on the fruit.

In actual practice, you know, the pre-harvest intervals are 30 days on pears and 50 days on apples, as far as the EPA regulations, what they're allowed.

But in actual practice, in Washington state the usual interval between the last application at bloom time of oxytetracycline and calcium on organic pears, the usual interval is 90 plus days, depending on the variety.

The information provided in the report and subsequent information from
commenters gave ample documentation that the materials are in the environment very briefly, and degrade from UV light exposure very quickly, in the order of one to three days, depending on the material.

A wholly natural substitute product mentioned in the report is noted above, along with one other that was noted by a commenter. Other already-allowed substances that could be substituted are peracetic acid and copper materials, such as Bordeaux mix.

The tendency for fruit scarring and cracked from copper use on apples and pears, especially Bosque pear, is well-documented, and is avoided by growers by using it at pre-bloom only, whereas the bloom period is the usual time of fire blight infection.

No known crop label formulation of peracetic acid is available at this time.

The comments that I received, and I say "I" because I wrote the recommendation and gathered a lot of the information, but the
comments were submitted in writing subsequently from a couple of sources.

Talk about just how devastating it would be to the growers if we removed these materials, and there seems to be a lot of passion on both sides, as far as those who say antibiotics in organic production is a no-no, should never happen, and they have a philosophical position against it.

Whereas the economic impact to these growers would be extreme, and you know, as a former tree fruit grower myself, I can testify that I have watched trees die, my own trees die from this disease. It is dreadful, a dreadful, dreadful disease.

So I can appreciate the passion with which the growers come and try to support the continued use of it, because pears are -- particularly pears, but even apples, are very, very difficult to control this disease.

Discussion?

CHAIRMAN O'RELL: Bea?
MEMBER JAMES: First of all, thank you Crops Committee for all your work on all of these different substances. I just want to ask if you could elaborate a little bit, so that I can understand how there's a justifiable argument for the use of antibiotics in crops, when there is not a justifiable argument for the use of antibiotics in livestock?

MEMBER DAVIS: Some of the data that was given to us, and some of it just recently, just yesterday actually, point out two studies that talk about antibiotic use in livestock, you know, for meat production.

There has been documented cases of crossover contamination in the environment, however you call it, to where they can track antibiotic usage in livestock production to antibiotic resistance in humans, because of that use in livestock.

Because it's in the meat, it's consumed by humans and it's much more direct
contact to provide that change. I don't know. I'm losing the words. But in this case, used this way on plants, it is never been supported or documented that this is a way that is likely to happen.

MEMBER JAMES: The followup on that.

CHAIRMAN O'RELL: Followup, and then Nancy.

MEMBER JAMES: Okay. However, I think with just the spirit of organic, that the use of antibiotics, whether it's directly with animals or whether it's on soil, or in the air, I think that the concern that I've heard, especially from Rebecca yesterday, was that it goes against the basic fundamental principles of organic practices.

MEMBER DAVIS: A lot of -- one comment I had that I've noticed in this is a lot of this is in semantics and what we call these materials. On a technical basis, these materials have an OFPA exemption category as toxins derived from bacteria.
We call them antibiotics because they are used in animals, in humans, ingested and they provide systemic control of diseases in us.

This use is truly a topical application on apples, far removed from that whole environment of problems that are associated with antibiotic use in livestock and humans.

So it's because of the wording that's used, they're called antibiotics. In my opinion, these materials get lumped in a different category than some of the other biological materials we use already that are well-accepted, like BT materials, the other biological control materials, which are all toxins derived from bacteria.

Why we don't call those antibiotics is because they're not used in humans or livestock, and ingested for controlling diseases, in my opinion.

CHAIRMAN O'RELL: Nancy.
MEMBER OSTIGUY: I actually don't have a philosophical objection to the use of antibiotics in organics. What I do object to strongly is the prophylactic use of any antibiotic.

We don't allow any in animals because of the residue. Those residues that we know, you know, that are measurable, that we can do that tracking of antibiotics used in animals and then antibiotic resistance showing up in humans, is with prophylactic use, or use for growth promotion.

This particular use is prophylactic. It is used prior to disease demonstrating itself. When Zee and I were talking about this, she was saying "Well, if you had it last year, you're going to have it this year, but it hasn't shown up this year."

Disease, as we defined it, it has to have symptoms that are showing today, versus at subclinical levels. We all have in our bodies -- it would be very doubtful that it
would be impossible to extract from any one of us at any particular time anthrax spores.

But we don't have enough anthrax spores in us to cause disease. So the presence of the disease organism is not sufficient, in my mind, to say that we should use an antibiotic. So you don't use it until you have a disease.

Now I will fully grant you that in this particular instance, once the disease presents itself, it's too late. But philosophically, what we have going on here is the prophylactic use of an antibiotic, and in the same way that we can get antibiotic resistance as a result of the abuse of antibiotics in livestock animals, we can see the same kind of resistance occurring with bacteria because of the spread of this in the environment.

MEMBER DAVIS: Can I respond to her comment?

CHAIRMAN O'RELL: You respond, and
then I have Jeff.

MEMBER DAVIS: Growers and professionals working in the, you know, university and other professionals working in the tree fruit industry would challenge that it's a prophylactic use.

Prophylactic use would be to apply it every three days during the entire bloom period, to protect against the infection, whether it's going to happen or not. What they do is they use disease prediction models, various names in Maryland. I think it's called marablight, and in Washington I think they call it cougar blight.

They're very specific disease modeling prediction models that tell the grower the conditions are now right for infection; go spray.

So instead of 10 to 15 applications stretched out every three days to keep a prophylactic coverage, which they can't really afford to do anyway, they are able to limit
their sprays to, in comments I received, was
two to three in a usual year; in a bad year
maybe four to five.

It's all based on these prediction
models that say when there is potential,
because again, they cannot wait until they see
it. By then, it is in the tree.

It moves systemically and you have
varying degrees of damage; in some varieties
as much as complete tree death eventually. It
doesn't happen that year but it just continues
and continues until the branches wilt down and
die.

MEMBER OSTIGUY: I'd like to respond
to that.

CHAIRMAN O'RELL: Yes Nancy.

MEMBER OSTIGUY: I disagree with you
that that's not prophylactic use. That is
actually the definition of prophylactic use,
is you predict when you need it and you use it
before you see the symptoms.

I fully agree, that in this
situation, you can't wait to see the symptoms if you're going to actually have anything efficacious.

But it is still prophylactic use. You still have a situation where you are putting antibiotics out into the environment that are used to control human health diseases, and you can look at or you can get cross-resistance.

Then these particular, and we're having trouble with these two particular antibiotics with human diseases. We're unable to use them. The CDC has gone on record as opposing the use of streptomycin and oxytetracycline in conventional crop production. Why should we be different in organic crop production?

CHAIRMAN O'ReLL: Jeff?

MEMBER MOYER: Yes. I would say the issues that are coming up are exactly --

CHAIRMAN O'ReLL: Hugh, then Arthur.

MEMBER MOYER: --what we struggled
with on the committee. I mean there were many
of us, or several of us, that wished the
materials had never been on the list in the
first place.

But now that they are on there, you
know, the economic impact, the data that we
were getting from the growers was that they
could not survive at all without this. So
that's what we were responding to.

MEMBER KARREMAN: I'd just like go
on record as agreeing completely with Nancy
Ostiguy on this, and that on the whole topic
of antibiotic use in organic agriculture,
especially prophylactically, is prohibited.

How I wish we could use antibiotics
occasionally therapeutically in livestock. I
realize we're talking about crops, but you
know, if there's CDC data saying there's
cross-resistance or whatever, I just don't --

I just can't vote to allow it or to
continue to allow it, Because in livestock,
one of my main things, and I'm fascinated by
it, is to come up with natural treatments for
diseases in living creatures, so I don't have
to use an antibiotic.

I think that's a lot harder and a
lot more demanding than for crops, in a sense,
I mean for living creatures.

So I would think that if I'd been
challenged and I can come up to a point where
I hardly ever use an antibiotic for an animal
-- I will occasionally -- that animal has to
be removed.

I would think that in the Agronomy
Departments of all the land grants in this
country, they could come up with alternatives
to these two substances for use.

MEMBER DAVIS: But they haven't.

MEMBER KARREMAN: Well, they haven't
and you know, they haven't technically in
livestock either, but I'm trying, and I
imagine there would be good, you know, people
who have organic in their heart that will try
to find alternatives.
If this stays on the list, that is -- the incentive to find alternatives is not there. I have no alternatives for antibiotics. Therefore, the incentive is there for me to study and practice with natural treatments.

CHAIRMAN O'ReLL: Arthur, I think you wanted to make a comment, and then the --

MR. NEAL: I just wanted to add, for your own knowledge, that when you make these type of decisions, always try to make sure that we ground ourselves in OFPA as well, because if I'm not mistaken, OFPA mentions antibiotic use, Particularly in livestock production.

Not so with crop production, and even in its restriction of antibiotic use in livestock production, it references growth promotion and also some therapeutic use.

So I just wanted to add that to the record for your thoughts and consideration.

MEMBER DAVIS: Thank you, Arthur.
Bea?

MEMBER JAMES: Well, first of all, I just have to point out that yesterday we were talking about yeast as a form of livestock, so I think that it's pretty broad when we say that application to tree to deal with a fungus is, for some reason, a specialized case, as opposed to livestock.

Then also I wanted to say that my understanding of prophylactic use does not mean that it necessarily has to be a three-day application. The concentrations can be so significant that the application stays on for up to two weeks.

Therefore, you have your prophylactic application, according to your argument, Jerry. But I do -- I think that people also would be -- I mean we've talked a lot about consumer perception at this meeting, and I think that people, we have to take into consideration.

But if the public knew that we were
applying antibiotics to crops, that that would not be well-received.

MEMBER DAVIS: Can I respond to that?

CHAIRMAN O'RELL: Gerald can respond, and then Andrea and then Dan.

MEMBER DAVIS: The statement there about using high enough rates to make it last up to two weeks is not accurate. These growers are constrained to application rates at a certain rate, and they're only allowed to use that much, and it's very, very expensive material.

To just put it on at three to four X rates to make it last longer is illegal and prohibitively expensive. But I do have, within the comments handed to me at the meeting, a statement about the cross-resistance of antibiotics -- to antibiotics, from a Ph.D. plant pathologist.

If I could read it, it would be useful, I think. First, they point out that
there are 50 million pounds of antibiotics used annually in the U.S., according to this statement, used in humans and/or livestock.

Of that, the amount of antibiotic used on these plants is 0.1 percent of that 50 million pounds. "Resistance in three human pathogens -- campylobacter (ph), salmonella and e.coli has been directly linked to use of antibiotics in the production of animal products.

"Despite more than 30 years of use in plant agriculture, there has been no documentation of resistance development in pathogens of humans from plant use.

"The major concern regarding plant use of antibiotics is that organisms exposed to antibiotics in the orchard and field environment will transfer antibiotic resistance to pathogens of humans.

"However, it is well-known by microbiologists that for successful bacterial conjugation to take place, both species of
bacteria must successfully co-exist in a similar environment.

"Conjugation between bacterial species endemic in the outdoor ecosystem and human pathogens is unlikely. Because conditions suited to the survival of each species ensures the destruction of the other.

"Bacteria that live on fruit and vegetables surfaces are quickly destroyed in the gastric environment. Conversely, with the possible exception of some strains of salmonella in protected microenvironments, human pathogens are quickly destroyed when exposed to the outdoor environment.

"Additionally, antibiotics in the outdoor environment are quickly photo-oxidized. Efficacy of antibiotics against plant pathogens persist for less than 72 hours post-application, because of rapid degeneration in the field environment."

That is from Roberta Spitko, Ph.D., Plant Pathologist, New England Fruit
Consultants, Montague, Massachusetts. It was submitted to the program as comments in 2000, shortly after the materials were added to the list the last time.

CHAIRMAN O'RELL: Andrea.

MEMBER CAROE: I just want to point out in the TAP review it clearly states that there are no reason to believe that there's any antibiotic residues on the fruit. So it's not going to transfer.

It also clearly states that line 320 of the streptomycin that EPA has found no data indicating that streptomycin pesticide residues remaining in food supply would have a significant or even measurable potential for increasing resistance to that drug through oral exposure.

It goes on further to say that EPA recognizes that there's a potential risk to agricultural workers developing antibiotic resistance, but then goes on and says that this is lessened by the re-entry time on the
This is all according to label use, and organic growers are not exempt from label use requirements, and I want to reiterate, you know, my dealing with growers, and I do deal with growers on a daily basis, you know, smart growers that stay in business don't use these things unless they have to, because it's money out the door. It's the profit margin disappearing.

CHAIRMAN O'RELL: Okay. I have Dan, Kevin and then Nancy.

MEMBER GIACOMINI: In looking at these issues, and in looking at how I would evaluate them, two things that came to me was reasonableness and consistency.

On the reasonableness side, I am very conscious and aware of the implications to the growers to lose these items, and it would bother me very much to do that.

On the other hand, in spite of even the information that Andrea just read, on the
consistency side, when we look from the livestock perspective, if we're prohibited from giving a shot of antibiotics to a day-old calf on the perception that has some effect on the milk two years later, I have a hard time with the consistency, you know, in continuing to allow the product.

This will be -- I have no idea right now how I'm going to vote. This will certainly be something I will be ruminating on over lunch.

CHAIRMAN O'RELL: Kevin.

MEMBER ENGELBERT: I just wanted to add one other thing to the things that Nancy and Bea and Hugh and Jeff has said, that hasn't been mentioned.

One of the reasons that I was the "no" vote, I'm not convinced that even though the EPA said there's no detectable residues, that that is actually the case. The human body is sensitive to substances in levels of parts per trillion, and we are unable to
measure that.

I'm not convinced that these materials aren't absorbed by the tree, and do end in the fruit. I do have the philosophical problem with using antibiotics in organic production. A thorn by any other name is still a thorn.

CHAIRMAN O'ReLL: Thank you, Kevin. Nancy?

MEMBER OSTIGUY: Well, and I actually don't have that philosophical disagreement.

MEMBER ENGELBERT: I do.

MEMBER OSTIGUY: I fully agree that the EPA has not found and probably would not find antibiotic residues on the fruit. That is not my concern.

My concern is antibiotic resistance that develops within the environment, and we do have examples of that. The CDC has gone on record, that this is not a minor issue.

When we start -- unfortunately,
we're taking different disciplines' viewpoints and putting them -- and crossing over into fields where individuals have more and less information.

If we want to know about resistance that is going to show up to human pathogens, talking to a plant pathologist, with all due respect, that's not the group of people that we want to talk to.

We want to talk to physicians, public health people more importantly. Those are the ones that if we're looking at the resistance issue to human pathogens, that's where we go, and the CDC has gone on record being concerned about the use of tetracycline and streptomycin in conventional agriculture.

Using it in organic agriculture, in exactly the same way that we would use it in conventional agriculture, albeit a smaller use. Animals are the bigger issue. It's still a concern.

The CDC was specifically talking
about antibiotic use as a pesticide. They were not talking about it in animal use when they expressed their concern.

CHAIRMAN O'RELL: Could anybody with the access get something off the web, off of what their statement is?

MEMBER OSTIGUY: We actually have it.

CHAIRMAN O'RELL: Oh, we do.

MEMBER OSTIGUY: It's from the material that Rebecca gave us.

CHAIRMAN O'RELL: I've got Andrea and then to --

MEMBER KARREMAN: All right, that's fine. That's only a technicality.

CHAIRMAN O'RELL: Then Hugh. Andrea?

MEMBER CAROE: I just -- I agree Nancy, that if we were looking at this material for the first time, talking to CDC and considering that, that would be very important.
But this is sunset, and I think the plant path people have a lot to do with whether, what the impact is on taking this material off the list.

MEMBER OSTIGUY: And I agree with that. In terms of the impact, it's severe.

MEMBER CAROE: And that's, you know, I mean I think it takes a lot to handicap this part of the industry, and the plant path people, if they have no alternatives and this is death to stone fruit.

MEMBER KARREMAN: Yes, pears. Just a technicality here. It says that this -- to renew this on the committee report it has Kevin Engelbert moving to renew it, and it doesn't sound like you --

MEMBER ENGELBERT: No. I moved to vote.

MEMBER OSTIGUY: Yeah. That's different.

MEMBER KARREMAN: I'm sorry.

CHAIRMAN O'RELL: Okay. Bea?
MEMBER JAMES: Okay. This is just -- I just finished my first year on the board.

Just for clarification, is our role to be the gatekeepers of the organic integrity for the sake of organic integrity, or for the sake of the economy? Can somebody answer that question?

MEMBER DELGADO: I think it's both. It's a balancing act, and what I would like to suggest, if our mandate allows it, is to adopt an aggressive or an active position, to recommend to the research institutions around the country or the world, to develop specific alternatives for the items in the list that we think are the ones that are creating the most problems.

But I don't think we should eliminate these products right now, because we believe they're -- they have a certain degree of risk, just on those grounds. We have to weigh in the importance to the economy, and the benefit of the farmers in the short term.
In the long term, we should be looking for other options. I mean, how do we encourage those? That's my question.

CHAIRMAN O'RELL: Kevin.

MEMBER OSTIGUY: We do have a mechanism for that.

MEMBER ENGELBERT: I'd be responding to an earlier comment.

CHAIRMAN O'RELL: I have Andrea.

MEMBER CAROE: Okay. I just want to respond to you, Bea. I think the role is different in sunset. I really -- I think that acting on the concerns are much more important in sunset than they are in the initial consideration of a material.

So I don't feel that we're on the same ground as this board has looked at materials in the past. At this point, we have absolutely got to consider economic and availability of these products, and continue to keep them on the market, Because the effect is enormous.
So I don't feel it's a compromise to organic integrity, but it is a shift a bit, when we're considering continuation of a material on the list.

CHAIRMAN O'ReLL: Hugh?

MEMBER KARREMAN: To answer Rigo, I think we've already done that with methionine for poultry. There's been a kind of mandate set up by I forget what date, but there's active research going on because of what the NOSB has, you know, decided to ask the community to do.

CHAIRMAN O'ReLL: That was, you know, that during not a sunset, but that was during the approval of a petitioned substance in terms. If we are, as Andrea said, if we're -- it is different from sunset to reviewing a petition for a substance to be allowed or prohibited to the national list.

MEMBER OSTIGUY: But we don't need to tie it to the sunset, to say --

CHAIRMAN O'ReLL: Correct.
MEMBER OSTIGUY: --the board has a recommendation that we need to get more research done in this area.

CHAIRMAN O'RELL: Absolutely.

MEMBER OSTIGUY: And I think we probably should do that, at an absolute minimum.

CHAIRMAN O'RELL: We can go on record with that. Yes, I agree.

MEMBER SMILLIE: I agree with that, and I just checked with Miles McEvoy from Washington State, and their recommendation there, and they're one of the states with the most knowledge and experience with this.

The recommendation is to continue it, but they're actively looking at new biologicals, that hopefully we'll be able to replace it. So I think everybody's comments are coming to the same thing. We want to put a real tether on this one.

We're going to renew it for sunset, but we're going to serve serious notice that
it's on its way out and we need to develop the replacements for it.

CHAIRMAN O'RELL: Hugh and Bea.

MEMBER KARREMAN: Still -- okay.

CHAIRMAN O'RELL: I think he had you.

MEMBER KARREMAN: Yes. But the nature of the topic, that word "antibiotic," is a ball and chain to whatever substance is declared an antibiotic for whatever reason, even if it's a misnomer.

We saw all the charts yesterday up there, and the number one reason consumers buy organic is the lack of antibiotics used in assumably the system --

MEMBER SMILLIE: In the product.

MEMBER OSTIGUY: In the product.

(Simultaneous discussion.)

MEMBER KARREMAN: I'm just saying it's a loaded word.

CHAIRMAN O'RELL: And just a point.

I think that Hugh, if we were looking at
these items today as petitioned items to go on
the national list, all of those things would
be valid.

We have a substance that's been in
use for five years. We have concerns about
it, and those concerns should be stated in the
record and addressed. But we're hearing from
growers there is tremendous economic impact at
this time not to renew.

MEMBER KARREMAN: What if, though,
there were residues found upon the fruit in
the next two years?

CHAIRMAN O'RELL: That's different.

MEMBER KARREMAN: And we renew this.

CHAIRMAN O'RELL: Somebody can
petition with new evidence --

MEMBER KARREMAN: No, in media, in
the press, in the public, and we renew it now.

MEMBER OSTIGUY: What if you found
out that glycerine is a carcinogen?

CHAIRMAN O'RELL: Okay. Bea.

MEMBER JAMES: Okay. I guess my
concern is that yes, I understand that this is a part of sunset. Sunset comes around every five years. So we're renewing it for five years, and this is a question for the NOP.

Is it possible to put forth a recommendation that we would like to have it taken off of the list within two years?

MEMBER OSTIGUY: That's an annotation.

MEMBER SMILLIE: That's an annotation.

MEMBER OSTIGUY: Arthur.

MEMBER SMILLIE: We can't --

CHAIRMAN O'RELL: Arthur, do you know?

MR. NEAL: Okay. With any substance, you can renew for sunset and clarify, deal with later. Anybody can petition it the day after it's renewed, to get it off the list.

MEMBER JAMES: I think I would like -- I think that that needs to be written into
this recommendation.

    MR. NEAL: Well, the thing -- I mean the thing to clarify, you don't want to put it in the recommendation.

    The thing that we really want everybody to understand is that sunset, though it has the potential for the substance being on the list for five years, doesn't mean that it's going to stay on the list for five years.

    I mean the board may find an issue with it, and ask somebody to petition to have it removed. You know, it's a process of assessing the continued need for the use of a substance.

    CHAIRMAN O'ReLL: Is there any additional conversation, discussion along this line, or should we move on? I think we've --

    MEMBER OSTIGUY: Beat it to death?

    MEMBER DAVIS: I did have something I wanted to read as far as stating towards the economic impact.

    CHAIRMAN O'ReLL: Okay.
MEMBER DAVIS: Material that was submitted to the NOSB previously. This references some losses of trees and economic losses in recent history.

In 1998, apple and pear growers in Washington and Northern Oregon suffered an estimated $68 million in losses due to outbreaks of fire blight caused by the organism.

Since 1997, approximately 500,000 pear trees have been destroyed in the Po Valley of Italy, which is the major pear production area of the world, in an effort to eradicate fire blight.

These are all, you know, have footnotes as far as where these references are coming from.

Another 580,000 pear and apple trees were destroyed in Romania between 1993 to 1997, and 340,000 pear and apple trees were destroyed in Croatia since 1995, in efforts to halt the spread of fire blight in those
countries.

This is a year 2000 article. So they're referencing stuff between the mid-1990's through 2000, as far as losses.

CHAIRMAN O'RELL: Move on.

MEMBER DAVIS: Moving on. To finish this, the committee did recommend to renew the materials at this point, on a split vote obviously.

Okay. As plant or soil amendments, aquatic plant extracts, the alkali extraction of aquatic plant extracts.

They were deferred because there were questions that were raised, which included what are the manufacturing processes, what do the extractants and stabilizers do to the product, and are there non-synthetic aquatic plant products available.

Seaweed extracts can be produced from live, fresh plants using potassium hydroxide or sodium hydroxide, which are called alkalis in general. Potassium
hydroxide is the more preferred material due to concerns about the possible negative effects of sodium on the intended crops.

The raw plant parts are digested in the presence of the alkali, to break open the cell walls of the plants. Some manufacturers use pressure in this part of the process; some do not.

It is claimed that the high pressure environment allows the extraction of the cell contents of the kelp with less alkali, without the reduced yield of vital plant compounds that occurs by raising the temperature of the process, which is another way of aiding in the extraction.

After extraction, the insoluble fraction of the mixture is filtered out, and the liquid is either stabilized with an acid such as phosphoric, or dried to form a soluble powder, without acid stabilization.

Liquid formulations would be overtaken with bacterial growth if the pH were
not lowered to around 3.5. Natural acids such as citric are not able to accomplish this in the high pH alkali-type extracts.

The alkali extraction process does produce some chemical reactions in the raw material, although the complexity of the chemical mixtures found naturally in the plant material would make it almost impossible to quantify all of the chemical changes. This is according to the technical evaluation report.

Clearly, the extraction and stabilization of liquid kelp extracts in the alkali process does change the amount of potassium in the finished product, versus the raw plant, and would change the amount of phosphorous if a liquid material were allowed.

One manufacturer commented that their process does not use more alkali than necessary to produce the proper consistency of extract, and no more phosphoric acid than necessary to lower the pH of the extract to the exact point they need.
They contend that the recommended use rates for their material is considerably less than one percent of the typical crop's nutritional need would be supplied.

To go beyond their use rates in order to obtain a fertilizer benefit from the material would be cost-prohibitive to the grower, and possibly detrimental the crop, due to the natural amount of sodium found in kelp and/or seaweed.

Their comments are in response to concerns that fortification with synthetic nutrients might be occurring, rather than simply extraction and stabilization of the product.

In answer to the question about are there non-synthetic aquatic plant products available, there is a product that would involve mechanical or physical disruption or pulverization of the seaweed. The liquid extracts are separated from the solids and stabilized with natural acids, and/or acetic.
As described by the manufacturers, these materials would be considered non-synthetic. The component of plant growth substances in these products is said to be somewhat different than the alkali-extracted products.

I won't go on with that. The aquatic plant extracts used in organic crop production are completely unique in some of their beneficial attributes for crops.

There are no substitute products that provide the same benefits to growers. They are somewhat unique even when comparing the benefits of alkali extracts versus the non-alkali extracts.

The Crops Committee recommends the renewal of the material aquatic plant extracts, other than hydrolyzed extraction processes, limited to the use of potassium hydroxide or sodium hydroxide solvent use is limited to that amount necessary for extraction. Discussion?
MEMBER JAMES: Gerry, I have a question. I know that Armory has made several attempts to communicate their position. I was wondering if you could give your reaction to their comments regarding aquatic plant extracts?

MEMBER DAVIS: Yes. I responded to them in writing on their concerns. I wish I had brought that statement, to sort of be a little more complete. But the gist of it was that I appreciate their concern, that we need to have a delineation of what amount of extraction is allowed.

So we just don't have high amounts of potassium and hydroxide being used to produce a, you know, a potassium fertilizer that's synthetic, for use in organic production.

The materials are used -- I pointed out to them that the materials are used as a use rate of half a pound to a pound per acre per treatment, and that to get a true
fertilizer response from that potassium, you would have use it in the order of probably 15 to 20 pounds to get a true benefit.

At the cost of the material, that would be close to $100 per acre per application. That would have to be done multiple times to fertilize the crop for potassium.

Whereas there's potassium sulfate is an allowed natural that is far, far cheaper than that. That's what growers would use if they needed to supplement for potassium.

I appreciate their concern that there's not funny stuff going on with the amount of extractant used, and that we should put a limit on it, and that's something that could be annotated by petition, to get specific guidelines in place.

But it wouldn't be our place to throw out the material and take off the alkali extracted products from the organic list in sunset. You know, they should address their
concerns through petition and annotation, rather than let's drop it from the list because of that concern.

MEMBER SMILLIE: No, I agree with Gerry. I've had a lot of experience using the material, and you don't fully apply potassium anyhow.

I don't think the fear there that we're using an artificial fertilizer, sneaking in an artificial fertilizer, is justified on any grounds at all. So I agree with you Jerry, and the recommendation of the committee.

Obviously, we need to tighten up and have more knowledge of the manufacturing process, which is continually evolving. There's a lot of different ways and there's new materials being used, like potassium carbonate, and that one gets petitioned.

So I think we can deal with the more knowledge on the material through the petitioning process.
MEMBER DAVIS: Are we done? Getting down there. Another material as a plant or soil amendment, humic acids.

Many commentators requested to keep humic acids on the national list. Two specific comments expressed concern about losing their ability to use water-extracted humic acids in their products that they make and sell to growers.

They were concerned that their water-extracted humic acid would be dropped from the list, along with alkali-extracted versions. This would not be the case, since a true water-extracted humic acid from a natural source, with no synthetic ingredients added, would by definition be allowed and would not need to be on the list.

The NOSB deferred the vote from the November 2005 meeting on humic acids in this form, the alkali extracts, until further information is obtained concerning the availability of water-extracted humic acids,
which would be a wholly natural substitute.

A technical evaluation report was provided to the NOSB, in order to arrive at an appropriate recommendation.

The report described the manufacturing processes of alkali-extracted humic/folic acid, folic being a component of the material, as well as the uses and benefits of the substances.

The report gave no evidence of any harmful or adverse effects to the environment, agro-ecosystem or human health. No water extracted humic acid materials were described in the report.

Search of the scientific literature on humic acid and comments elicited from four separate humic acid producers suggests that leonardite coal, typically used to make humic acids, will not solubulize in water to any significant degree without adding the alkali materials for extraction purposes.

Subsequent Crops Committee contact
was made with the commentators mentioned above, to seek more information on their water-extracted product. The Colorado-produced water-extracted humic acid explained that their product is extracted from peat.

When asked about the humic acid content of their product, they provided analytical lab test results of the material. Unfortunately, the submitted lab result document did not contain any statement as to the humic and/or folic acid content of the material, but merely listed the fertilizer content, such as NP&K (ph).

When asked about the absent data, the producer said they have not been tested for humic or folic acids, but only plant food content. This producer further explained that their product is marketed as a blended component of several products, and that it also includes ingredients, other materials such as glucose and enzymes.

The amount of humic substance
applied as a component of their products is typically about three ounces per acre, and are intended to improve soil health through enhancement of soil biology, but not as the soil amendment use as listed in the technical evaluation report.

By comparison, the typical crop application rates of humic acid of the alkali-extracted sort range from one to five gallons per acre for soils, and one to two pints per acre for folic use.

The Crops Committee makes no statement as to the validity of this product or other possible water-extracted humic acids.

This discussion is offered only in order to show that this particular water-extracted humic acid product available to the marketplace does not represent a functional replacement material for the alkali-extracted humic acid.

Further comments are welcome by the committee as to the availability of any water-
extracted humic acids that may be functionally equivalent, wholly natural substitutes for the alkali-extract materials.

Based on the comments received and the subsequent checking on the true nature of the water extracted humic acids that were alluded to, the Crops Committee recommends the renewal of the following substance: humic acids, naturally occurring deposits, water and alkali extracts only. Discussion?

CHAIRMAN O'RELL: Can we hear from the minority?

MEMBER ENGELBERT: That would be Mr. No again.

MEMBER OSTIGUY: Kevin, you can't be Mr. No, because those are my initials.

(Laughter.)

MEMBER ENGELBERT: You're Mrs. No.

MEMBER CAROE: You're married.

MEMBER OSTIGUY: No, no. I am Dr. No.

(Laughter.)
MEMBER ENGELBERT: Word play here. We had so much to go over that I wasn't comfortable with this. It didn't seem like an essential material for organic production. I just wanted to be sure there was Discussion about it, because I think I still need to learn a lot about it.

In my research, I couldn't find any farmer that used it that thought it was absolutely essential for organic production, and I just couldn't learn enough about it in the short length of time I had to work on it.

CHAIRMAN O'RELL: Was there anything that was brought up to light in the public comments that caused any concern in your thinking?

MEMBER ENGELBERT: I have misplaced my notes. I thought I brought them with me, and so I don't remember that there was.

CHAIRMAN O'RELL: Gerald, was there anything in the public comments that would --

MEMBER DAVIS: I think on this
issue, the reason we deferred it was because in looking at the public comments, we picked up these references to water-extracted humic acids.

So really the reason they were deferred is to investigate well, these commenters are referring to these water-extracted humic acids. We'd better check on them and see is there a wholly natural substitute, and that's really the only -- there was no negative reason for taking that vote.

MEMBER OSTIGUY: I have the same recollection, that it was purely because of the mention of the water extracted, and what that would have meant is we could have taken it off the list, because then it would have been a natural process, etcetera. So that was the direction. It was not an interest in changing the annotation.

CHAIRMAN O'RELL: Okay, thank you. Any other Discussion?
Hearing none.

MEMBER DAVIS: Moving on. Category of use as plant or soil amendments, and also as flotation agents in post-harvest handling, lignin sulfonates.

The question of whether there are non-synthetic alternatives to lignin sulfonates as plant or soil amendments as an issue during the sunset process consideration.

Lignin sulfonates are used extensively as a key leading agent for micronutrients in liquid fertilizer formulations approved for use in organic crops.

However, no information was supplied in the public comment to suggest any non-synthetic alternatives for this very common use of the material. Citric acid is a non-synthetic material that is considered to have a weak, kelating effect when used for this purpose, but is not directly comparable to the level achieved with the lignin sulfonates.
The lignin -- on that side, the lignin sulfonates are also used as dust suppressants on roadways and can be used that way on organic farms, which in arid regions of the country like California, they are facing more and more regulations, environmental regulation on minimizing dust and the particulate counts in the air.

So farmers are targeted as producers of dust. So it would have a possible regulatory effect on organic growers in those areas, where they face dust control regulations.

Regarding floating agents in post-harvest handling, the use for that purpose, a comment was received suggesting that physical agitation, bubblers, etcetera, could work as an alternative practice to the lignin sulfonate use.

Subsequent comments received, after checking on this, received, disputed that the use of physical agitation works in the
handling of pears, which is the significant use of the flotation agent.

Part of this is pears are heavier than water and they add a couple of different materials to the water to make the pears float, so they can get them onto their packing lines.

The committee recommendation, the Crops Committee recommends renewing the following material to the following categories of use: As plant or soil amendment, and as being lignin sulfonate as a kelating agent, dust suppressant, flotation agent, and also as floating agents in post-harvest handling. The committee vote was 3 to 1.

CHAIRMAN O'RELL: Joe?

MEMBER SMILLIE: Yes. Again, I would agree with that. There's more uses than that. It's also used as a seed coat a lot in the Midwest.

I would like to point out one of the issues with it is not a U.S. issue, but it is
a Codex issue. It's not allowed in Codex and under the arrangement with Japan, U.S. producers are not allowed to ship products to Japan that have used lignin sulfonate.

It's one of the three items on the "no go" to Japan list. So not that that needs an annotation or anything, but it's just an awareness thing, that U.S. producers who do use it would not be allowed under the TM-11 export arrangement or under JAS certification to use that material.

CHAIRMAN O'ReLL: Did you want to weigh in, Kevin?

MEMBER ENGELBERT: Yes. I was the dissenting "no" vote again, for the same reasons as before. As Jeff and I talked, we want to keep organic and in some respects, we wish all these materials were off the list and had to be petitioned to be brought back on.

So we had more time to learn more about them, because they just don't seem essential to organic production, and I don't
see how allowing them differentiates organic production and processing from conventional.

I think we're maybe betraying the public's trust with some of these substances, and I just wasn't comfortable rubber-stamping them or giving them an approval without some discussion from the whole board.

CHAIRMAN O'RELL: Andrea.

MEMBER CAROE: Just a kind of overview statement about this. It isn't our job in sunset to reconsider -- we have to respect the previous board's decision. Acting on new information is one thing. Overturning a previous board's decision is not what we're about.

So I'm all in favor of considering any alternatives that have been approached, any new information that's come to light in the last five years.

But overturning a previous board's decision I think it's really disrespectful of the previous board members, and I don't want
to do that.

CHAIRMAN O'RELL: Nancy.

MEMBER OSTIGUY: My question is actually to Joe. If they use the lignin sulfonate as a dust suppressant so it's not on the crop, would that affect it, their ability to export?

MEMBER SMILLIE: Good question. I'd have to look --

MEMBER DAVIS: Depending on the buffer zone Joe, wouldn't it?

MEMBER SMILLIE: Yeah, I guess. Japanese regulations are whole different kettle of fish.

MEMBER OSTIGUY: Okay. I was just asking.

MEMBER SMILLIE: Maybe it's a different approach to it. I think the objection was primarily because they went to Codex, and for whatever reasons, Codex didn't allow it.

I can't remember the history of it,
but it just came up as a "we'll accept
everything you do, but not these three
things." We go "Okay, fine." These three
things aren't allowed. So I can find out more
about the history, but --

CHAIRMAN O'RELL: Jeff.

MEMBER MOYER: I just wanted to go
on record as saying I supported what Kevin was
saying, and in our discussions in the
committee, we both really want to keep organic
organic, and have the --

If these materials were coming up,
being petitioned to be put on the list, I
would have voted no to not put it on the list.

But in support of what Andrea is
saying, we do respect what form of words have
done, and the fact that there was no new
information, coming up to say it had to be
removed.

I voted to, in this initial
document, to keep it on the list, but do very
much support what Kevin is saying.
MEMBER ENGELBERT: That's where we're coming from. We just wanted to --

MEMBER MOYER: Plus Kevin and I were also very short on the learning curve when Gerry dumped this on us. It was like --

MEMBER OSTIGUY: And you guys are doing great.

CHAIRMAN O'RELL: Yeah. You guys absolutely did --

MEMBER MOYER: It was a lot of material to read in a very short period of time, so it really was trial by fire.

CHAIRMAN O'RELL: For each of you, as new board members, and I've seen board members over the last five years, and I can say that you guys have been participating up at a par that exceeds past experience. So that's very welcome.

MEMBER SMILLIE: We appreciate that.

MEMBER ENGELBERT: Yes. Thank you.

MEMBER DAVIS: And I feel pretty new too.
(Laughter; simultaneous discussion.)

MEMBER DAVIS: It's not that we've structured our role, but there was method to our madness, so to speak. We just want to make sure we were handling things properly.

CHAIRMAN O'RELL: That's fine. I appreciate that for the record. Hugh?

MEMBER KARREMAN: I guess I just want to say that we do need to respect the past board's decisions. We need to have continuity. We need to know the history of the board.

But I certainly do not feel bound to not overturn a previous board decision. I just want to put that on the record.

CHAIRMAN O'RELL: Well, and I'm not going to speak for Andrea, but I think what Andrea is saying that without information, we're here for the public, and during the sunset process, that's when the public input comes in.

So if there's no new public
information and the public supports an item, and there's nothing new out there to say we shouldn't go forward with it, then I do think there's some credence to the past.

MEMBER KARREMAN: In this context, yes. But I mean in general, there could be policy decisions made three years ago that are going to change each year.

CHAIRMAN O'RELL: No, no, no. Things always change and evolve. I think her comments were related to sunset.

MEMBER KARREMAN: Agreed.

CHAIRMAN O'RELL: Okay. Last material.

MEMBER KARREMAN: You've still got one?

MEMBER DAVIS: Last one.

CHAIRMAN O'RELL: Okay.

MEMBER DAVIS: Category of use as another flotation agent in post-harvest handling, sodium silicate.

The only comment on sodium silicate
received during the sunset comment period in
August 2005, a question of whether the
material was being used by anyone any more.

The commentator, a certifier from
the upper Midwest, stated that they had never
been asked about the material by any fruit
growers, and suggested that it may be removed
from the list. The material was deferred in
order to find out if the material is still
used by any organic operations.

Subsequent Crops Committee contact
with the Washington State Organic Program, the
certifier in the largest tree fruit growing
region in the U.S., discovered that it is used
as a flotation agent by approximately two-
thirds of their certified growers, who use
these type of materials.

The other one-third is currently
using lignin sulfonate. The actual number of
growers in their program that are using either
material was not disclosed. The contact at
the Washington program stated that these
growers would like to continue using the materials, which are used to float pears.

Some public comment was received by the committee, verbal comments from subsequent contacts with some of these growers that the Washington program alerted us to, and they repeated the same feeling that "Yeah, we need a flotation agent. We'd like them to keep being on the list."

So the Crops Committee recommended renewing the following material to the use category as floating agents in post-harvest handling, sodium silicate. Discussion?

CHAIRMAN O'RELL: So in this case, Gerry, do I understand that we have two substances that do the same thing?

MEMBER DAVIS: Yeah.

CHAIRMAN O'RELL: Is there a distinction between the people who are using sodium silicate and those who couldn't use lignin sulfonate?

MEMBER DAVIS: I didn't pick up on
that at all. I think possibly. I mean I could be speaking out of turn, but it did seem to me --

CHAIRMAN O'RELL: I mean, to me this is a case where maybe you have two items that do the same function. But I'm not sure if we have that level of knowledge here to make that decision. But that would be my concern.

MEMBER DAVIS: And I don't know if there are any of the tree fruit growers from the West Coast here, that would use these kind of materials. That might be kind of a longshot, because it's pretty specialized usage.

Perhaps the fact that the lignin sulfonate has so many more uses, and could be used as a flotation agent. That might cause the board to lean towards removing it. But we'd have to change it, a lot of things.

CHAIRMAN O'RELL: Well for me, it's just a question, because I'm not going to shoot from the hip on something. But it just
seems like we have two materials that do the same thing, and it sounds like if they don't use one, they could use the other, and it's just a question. Joe?

MEMBER SMILLIE: I might have some more information after lunch. I've, you know, contacted WSDA and hopefully we might be able to answer that, we can get some information on that before we vote.

CHAIRMAN O'RELL: I think that would be helpful to know.

MEMBER SMILLIE: Yes.

MEMBER DAVIS: We'll get that.

CHAIRMAN O'RELL: Hugh?

MEMBER KARREMAN: At voting time, do we still have some discussion? Like when the motion is made --

CHAIRMAN O'RELL: Yes. There will be a motion, it will be seconded, discussion, vote.

MEMBER KARREMAN: Okay, good.

MEMBER DAVIS: That's all I have.
CHAIRMAN O'ReLL: Gerald?

MEMBER DAVIS: That concludes the Crops Discussion, yes.

CHAIRMAN O'ReLL: Thank you.

MEMBER OSTIGUY: Good job.

CHAIRMAN O'ReLL: Good job.

MEMBER KARREMAN: Very good job.

(Applause.)

CHAIRMAN O'ReLL: Got to get back to my agenda, to see who's on the hot seat.

MEMBER MOYER: Livestock.

CHAIRMAN O'ReLL: Livestock. Hugh?

MEMBER KARREMAN: I'd put you on the hot seat, Gerald, so now it's my turn.

MEMBER DAVIS: I'll go easy on you.

MEMBER KARREMAN: Hey, whatever it takes.

MEMBER DAVIS: Feedback.

Livestock Committee Report

MEMBER KARREMAN: Okay. As acting chair for Livestock right now, since Chairman Lacy (ph) is not here, I've been asked to
present these materials for consideration and discussion at this point.

So the first one is the -- we're looking at synthetic substances allowed for use in organic livestock production under the category use as feed supplements, 205.603(c), 2(c). We're looking at milk replacers.

Okay, committee summary. Several commenters supported the continued listing of milk replacers. One commenter requested the continued listing of non-organic milk replacers, since organic milk replacers or their equivalent are available.

The Livestock Committee agrees with the commenter, who indicated organic milk replacers or their equivalent are available, and thus non-organic milk replacers no longer need to be on the national list.

The Livestock Committee believe milk replacers can be removed from the list without adversely affecting organic livestock production.
So the committee recommendation, based upon the comments received, we recommend to not renew milk replacers with their annotation, or should I just say milk replacers, since we're not doing annotations?

MEMBER CAROE: The listing.

MEMBER KARREMAN: The list, leave it as is?

CHAIRMAN O'RELL: As listed.

MEMBER CAROE: As listed.

MEMBER KARREMAN: As listed, okay.

The vote was 4 to 0 and one abstention. Discussion?

CHAIRMAN O'RELL: Andrea?

MEMBER CAROE: There seemed to be a lot of public comment on this. Did that bring any new light to your consideration? I mean, I did hear public comment on it, and truthfully, I hadn't been up to speed on your recommendation at that point.

But did the commenters that gave public testimony give you any new information
or any reason to reconsider your committee decision?

MEMBER KARREMAN: I don't think so. I can tell you that some comments that were received by me at farmer's meetings across the country clearly indicated that there was no need for it.

That's directly from dairy farmers, overwhelmingly like because regular milk, kind of waste milk, is used for calves on organic dairy farms.

MEMBER CAROE: Okay. Well, I guess --

MEMBER KARREMAN: Yes, okay. I saw you Nancy.

CHAIRMAN O'RELL: Nancy.

MEMBER OSTIGUY: At least my understanding of the comments was "Well gosh, don't take it off the list because we might need it, maybe. I'm not sure though."

That seemed to be what Jim was saying, and then the subsequent comments were
"Well yeah, we were going to say it was okay to take it off the list. But since Jim said maybe we should keep it, we'll go long with that."

So there really didn't seem to be much information, other than "Well, should we take it off the list, because if we do, then if we need it, we won't have it," and it didn't seem to have a use.

CHAIRMAN O'RELL: I've got Julie, Dan, Joe.

MEMBER WEISMAN: It was PCO, Pennsylvania Certified Organic, did address this issue in their comments that were read yesterday, and it seems like they do continue to receive requests for the emergency use of milk replacer and approve it when they agree that it's necessary. They say that there are not organic equivalents available in their region.

MEMBER KARREMAN: I would ask -- I would like to know and maybe Leslie in here,
what --

MEMBER WEISMAN: Actually, I think Emily signed this comment.

MEMBER KARREMAN: Well whoever from PCO --

MEMBER WEISMAN: Could Emily speak to this?

MEMBER KARREMAN: --what the emergency uses were for, because to -- like I mentioned yesterday, emergency is an unplanned event requiring immediate attention. Usually, when you have to go to certifier and ask things, it takes a little while.

So I'm kind of wondering what the emergency use was. Someone from PCO in here?

EB: Yes.

MEMBER WEISMAN: Yes. Emily's coming.

CHAIRMAN O'ReLL: We'll ask Emily to come up to respond to that, but before -- as you're coming up, Dan?

MEMBER GIACOMINI: Being on the
Livestock Committee, my feeling was uncertain at first. I did go along with the vote. In the public comment that did ask for it to be retained, PCO and also Kelly Shea, I believe, requested that it stay on.

The discussions in the committee was that we couldn't see an emergency use that justified it, so why not take it off? In light of the public comment, I go kind of back to my original feeling. Whereas since it does have such a restricted annotation, there's no harm in having it on there.

For the emergency situation, even if it's a case where the power went out for three hours in the morning and the truck came before the guy could get the calf milk out of the tank, and something else was going on and they couldn't -- didn't feed the calves in time that day, I know there are --

The vast majority of commercial milk replacers on the market probably do contain BST, but I know there are communities and
markets where the processor restricts and does not allow the use of BST.

A lot of those do offer their producers the opportunity of buying whole milk powder, and that would not have BST in it. So in light of all that information, I'll be changing my vote this afternoon.

MEMBER KARREMAN: However, that's milk powder. That's not necessarily milk replacer, and maybe we need to have a definition of what milk replacer is.

Because milk powder -- I mean milk replacer is, you know, can be conjured up in many different ways.

MEMBER WEISMAN: Right.

MEMBER KARREMAN: But milk powder is different. I mean that's just powder with -- milk power and water. I don't know if that's really replacer or not.

(Simultaneous Discussion.)

CHAIRMAN O'RELL: Emily, for the record.
MS. BROWN-ROSEN: Oh, my name?

Emily Brown-Rosen from Pennsylvania Certified Organic. I put this comment in because we do get requests from farmers, and we are asked to review products that are milk replacers.

For a long time, there was never one that was acceptable that was identified. But we recently identified one that is, and the ingredients seemed to be acceptable.

So I agree, it would be a very rare use that would be -- that they wouldn't be able to use organic milk. There would have to be some extreme situation. So we allow it on a case by case -- you know, they have to individually get approval every time they want to use it, and we have to document the emergency.

So what I had put in here was such things as mother dies during birth, somehow there's no other milk available, some kind of big disease outbreak, rabies, fires, you know.

It would be real extreme that would be the
emergency.

MEMBER KARREMAN: Just quick. Do they -- is it usually, do they ask before they use it or after they use it?

MS. BROWN-ROSEN: They're supposed to ask before. Yeah, if they used something afterwards --

MEMBER KARREMAN: That's what they're supposed to do.

MS. BROWN-ROSEN: Yeah, yeah. Joe?

MEMBER SMILLIE: Well, I need clarification on a couple of points. If we approve the continued use of milk replacer, can we put these restrictions on, that it doesn't contain all of the things that we heard so much about the last two days from the dairy community, that they want a real strong organic law and walk the extra mile and all that stuff we heard.

Then we're going to allow a milk replacer that contravenes it because it has a number of ingredients that are --
MS. BROWN-ROSEN: Yes, but why is it synthetic is the question? I mean, you know, we looked at this. On the list is the synthetic, and what do we do? I review products.

You know, so we've seen some that come in with animal fat, blood, amino acids and I've said no. But you know, the other ones we've had -- but there's not real clear guidance for that, other than that they're otherwise prohibited in the rule, you know.

MEMBER SMILLIE: But we can't vote on that. We can only vote to continue allowing that material that you just quoted with all the no-nos in it, or nothing, right? Is that correct?

MEMBER KARREMAN: That's correct.

CHAIRMAN O'RELL: Or if it's continued, you can come back, somebody can file a petition for an annotation, and then these can be addressed in committee.

MEMBER SMILLIE: My second question
is milk from the tank considered milk replacer instead of powdered milk?

MEMBER KARREMAN: Well that's interesting. I mean no. I mean that's milk from a tank. That's organic milk, and that's actually what the farmers I was talking to across the country, they all either use hospital milk or milk they wouldn't put in the tank for whatever reason, or tank milk basically.

MEMBER SMILLIE: Wouldn't be more available on an organic dairy farm than a synthetic milk replacer?

MEMBER KARREMAN: Except in the conditions that Emily had just stated, like salmonella, barn fire, whatever.

CHAIRMAN O'RELL: Kevin?

MEMBER ENGELBERT: Yes. The reason Hugh had that response from all the farmers in the country is because there is no need for milk replacer in an organic dairy. The OFPA requires organic feed from the last third of
gestation.

If a farmer has a problem with a death at birth, there's always organic milk available on a dairy farm. You milk at least twice a day, and there's no reason milk can't be taken out of the tank.

If an animal dies at birth, we always keep frozen colostrum on hand. We can thaw out and feed that animal, and there's just no way to say that there is an emergency need for milk replacer on an organic dairy.

It just -- it won't happen. You'd have to -- you know, if you are fighting a disease on your dairy farm, you can pasteurize the milk simply by doing it on your kitchen stove. You don't need to purchase any major piece of equipment.

You can -- if you have a disease outbreak, you'll be testing your animals, segregating those cows that do have that disease that can be transmitted to the cows, and you will also have other organic milk
available to feed.

You can go to a neighboring organic farm if need be and get milk, buy milk from them. But conventional milk replacers simply have no need or no place on an organic dairy farm, period.

CHAIRMAN O'RELL: Bea and Nancy, and then Emily.

MEMBER JAMES: I have a question. What percentage -- I mean it's probably such a minuscule percentage -- what percentage over a year would a dairy farm, and maybe Jim Pierce might be able to answer this or somebody else, would somebody actually use a milk replacer? I mean --

MEMBER OSTIGUY: Kevin could answer that. It's like six weeks or seven, less than that, if you were going to use a milk replacer?

MEMBER ENGELBERT: Like what, for standard, bringing up a calf?

MEMBER OSTIGUY: For a calf, yes.
MEMBER JAMES: Yes.

MEMBER ENGELBERT: Well, wait a second. This is only for emergencies. This is not for regular like feeding calves.

MEMBER JAMES: Right. So I mean how much milk replacer, how many emergency situations are there where a dairy would actually -- I mean, there will probably be years that could go by that you wouldn't even need to use it?

MEMBER KARREMAN: Can I just answer once here Kevin?

MEMBER ENGELBERT: Sure.

MEMBER KARREMAN: I get onto 80 certified farms down in Lancaster County. I never see bags of milk replacer.

CHAIRMAN O'RELL: Nancy.

MEMBER OSTIGUY: Kevin, this is a question for you. You said that there's never a reason, and I'm ignorant about dairy farms. Would the barn fire be a situation where you might end up needing something, or would there
still be other options?

MEMBER ENGELBERT: You will still be milking your cows somewhere.

MEMBER OSTIGUY: Okay.

MEMBER ENGELBERT: That's a hardship, there's no question about it. But you're still going to have organic milk available from your herd.

MEMBER OSTIGUY: And it's true. You've got to milk those cows.

MEMBER ENGELBERT: And you hope you don't lose the cow. And if you do, you're done or you go to a neighboring farm. You know, and then you'll have to develop a plan. But there is no reason for it.

CHAIRMAN O'RELL: While Emily is here, are there any other comments, questions for Emily, or Emily, do you have anything in final?

MS. BROWN-ROSEN: The only point I would like to make is we do get requests because of Johnes disease, and I know that,
you know, we've struggled with that. I know Hugh doesn't think that's a valid excuse, because it's such a long-term disease to have to fight.

You have to have a long management plan to gradually reduce it. So if you have Johnes without severe restriction, you would be continually feeding.

MEMBER KARREMAN: Right. Can I add to that?

MS. BROWN-ROSEN: So that -- but I think that's what some farmers would like it for.

MEMBER KARREMAN: Okay. Is that the main reason that they ask you?

MS. BROWN-ROSEN: But I think that's probably the main reason they're asking, but we haven't granted it for that.

MEMBER KARREMAN: Okay. Not to talk about Johnes too much, but they should be testing their herds, and just simply not feeding calves milk from those cows that are
positive for Johnes. That's part of the management.

MEMBER ENGELBERT: Right, and to add to that, we've had two farms in New York State that have had severe outbreaks of Johnes. Their certifier did not allow them to purchase milk replacer, and they have beaten the disease without it, just by careful management, testing their cows, segregating that milk and being very careful how they do things. They did not have to have milk replacer to get a handle on that disease.

CHAIRMAN O'RELL: Okay. Thank you, Emily. I think that's been discussed. Thank you, Hugh. Next.

MEMBER KARREMAN: One down, three to go. I think. There's one on the back. One's hiding, okay. The next one is for chlorine under 205.603, synthetic substances allowed for use in organic livestock production, category use (a) as disinfectant, sanitizer and medical treatments as applicable.
CHAIRMAN O'RELL: Hydrated lime?

MEMBER KARREMAN: No. Oh, I'm sorry.

CHAIRMAN O'RELL: Actually, I'm just keeping the order of the sunset.

(Pause.)

MEMBER KARREMAN: Okay. You raised that from the record, I guess. No, okay. We'll start over for hydrated lime, sorry.

Under 205.603, synthetic substances allowed for use in organic livestock production, category use (b) as topical treatment, external parasiticide or local anesthetic, as a --

Okay. This is for hydrated lime. The committee summary was that several commentators supported the continued listing of hydrated lime.

One commentator objected to the continued listing of hydrated lime, stating it is too harsh of a chemical to allow for direct contact with animals, as pest control agent,
and it is hazardous to the humans who handle it.

The committee agrees with the commentator recommending that removal of hydrated lime from the national list. The Livestock Committee believes that there are alternatives to hydrated lime, and that the substance can be removed from the list without adversely impacting organic livestock production.

Therefore, the committee recommendation was that the committee recommends not renewing the following substance of lime, hydrated, as listed. It was a vote of 6 to remove it, zero to keep it.

Discussion?

CHAIRMAN O'RELL: Just --

MEMBER KARREMAN: I'm sorry. Go ahead.

CHAIRMAN O'RELL: A question. in terms of we had a lot of public comment yesterday, discussing the need for hydrated
lime, one, what are the alternatives and do they address the public comment concerns for taking it off the list --

MEMBER KARREMAN: Well, I agree. There was a lot of public comment, and as the listening body to the public as the NOSB, we have to take that into account. I certainly have and we need to discuss this topic, I think at lunch time as the Livestock Committee.

One of the alternatives would be simply regular old lime that's not hydrated lime. I was asked by Mike Lacy to ask veterinarians, just in an open question, what's hydrated lime used for, so we would get a take on it as far as for health type and welfare considerations.

It was an open question to 1,700 veterinarians on my list serve. I think I got 35 replies or so, and basically, hydrated lime is used as a pH adjustment for the bedding of livestock, generally near the udder, to adjust
the pH so microbes find it not so good to live in the bedding and therefore reduce mastitis potential.

You could use regular lime as well, but the pH adjustment is not as radical or as strong. That would be an alternative, regular calcium oxide from the field, or quarried lime like that.

I don't think it's as efficacious, but I think part of the problem with the hydrated lime -- well, not part of the problem, but I think one of the reasons it's synthetic is because of the way it's produced.

In its production, there are certain toxic substances that would be harmful to the workers that are producing it. I think that's under one of the OFPA considerations of the seven points to look at a synthetic.

However, listening to the board today, we are not here to re-review the material in its entirety; just to see if it's truly to be needed in production. So we can
go to Jeff. How's that?

CHAIRMAN O'RELL: Nancy?

MEMBER KARREMAN: Or I'm sorry, Nancy.

CHAIRMAN O'RELL: Nancy, then Arthur, and then Jeff.

MEMBER OSTIGUY: One of the commenters yesterday mentioned hydrated lime being in the material that the barns are painted with?

MEMBER KARREMAN: Whitewash.

MEMBER SMILLIE: That's what I was going to bring up.

MEMBER OSTIGUY: What, and I'm assuming from what his description was this was a public health issue and required. If we took it off the list, does that work?

MEMBER KARREMAN: As I said, I think from the public comments yesterday, we need to discuss this at lunch, and I do agree that there's public health ramifications that we need to strongly consider that. I didn't know
it was used in whitewash.

CHAIRMAN O'RELL: Arthur?

MR. NEAL: Looking at the recommendation, I think we'd have some concerns over the justification. It lists that the committee agrees with the commenter recommending removal of hydrated lime from the national list.

One of the questions that I would have is why does the committee agree with the commenter? If we're going to remove it, what are going to be the alternatives in place of it, because we do have the procedure that was published in the Federal Register, that says that if we're going to remove something, we're definitely going to have to identify the alternative that replaces it, because we need that for the record.

Just to comment on re-reviewing the substance, I mean what are you all doing? You're already re-reviewing a substance. The only difference is that in -- if you renew the...
substance, you would not change the way that
the substance is listed through this process.

If you remove -- you could
potentially remove a substance. That is re-
reviewing a substance. But in renewing a
substance, you would not change annotation or
the way that it was listed.

Just as you are recommending in this
particular recommendation to remove it, that
is re-reviewing a substance. If you remove
the substance, you really do have to justify
why you're removing it, in terms of
alternatives, why you agree with the
commenters and things of that nature.

CHAIRMAN O'RELL: I have Jeff and
then Dan.

MEMBER MOYER: Yeah. I was just
going to say in terms of the barn
whitewashing, I don't think that that's
relevant in terms of the way this is defined
as being used, Because don't as a board
dictate what they paint their barn with or
anything else.

    That barn treatment is strictly --
if we're going to get into that, then we have
to look at what other substitutes that we use
for whitewashing, even if it's an oil-based
paint or something with a thin --

    I mean as a committee, we don't have
jurisdiction over what they paint their barn
with on the inside.

    MEMBER KARREMAN: I guess you could
say cattle could rub up against the walls, and
therefore it's a topical as it is mentioned in
here. But you know, that's hit and miss.

    MEMBER GIACOMINI: One of the things
that did come up in our discussion that I just
noticed that it wasn't in there, I believe
last night when I was looking at this again,
was a discussion of a contamination of the
hydrated lime in the manure and the
complications that that creates in putting
that manure out on the fields.

    In light of what Gerald said
earlier, I'm not sure that the general amount and concentration of that hydrated lime in the manure would be enough to violate the problem of putting that manure out.

So that was one -- that was part of our discussion, Arthur, that didn't quite make it into the recommendation.

CHAIRMAN O'RELL: Bea?

MEMBER JAMES: Yes. Going back to the whitewash. However, it's stated, Starr Curtis mentioned that the whitewash was used as an antibacterial, to help reduce pests on walls and so wouldn't that be something that would be taken into consideration?

Because if we look at how they clean their barns and how they deal with disinfecting --

MEMBER MOYER: Can I comment?

MEMBER KARREMAN: Yes.

MEMBER MOYER: I mean they used whitewash because it's cheap. It's really inexpensive. They have to paint the barn with
something in order to keep it clean and sanitized. That's true. So what he was saying is absolutely correct. They tend to use whitewash because it's very inexpensive.

They do have to recoat the barn -- it's easier to recoat the barn with this periodically than it is to repaint the barn, because you have to do it fairly often because barns get flies and other things that make it dirty. So it's inexpensive to do every two or three years.

CHAIRMAN O'RELL: Bea?

MEMBER JAMES: The comment was also that using an alternative would be more toxic to the animals.

MEMBER MOYER: Well, that's what I'm saying. We're not in the -- this doesn't stop you from using it on your barn. If we took it off the list here as a topical treatment on cattle, it does not preclude you from using it to treat the barn. They could still do that.

That's my understanding, but I've been
looking for clarification.

CHAIRMAN O'RELL: Arthur.

MR. NEAL: That's what I was going to comment on. This listing is as a topical treatment, external parasiticide or local anesthetic. This is not facility or pest management.

MEMBER MOYER: Right.

MEMBER KARREMAN: Okay. So then if it's used in the bedding, that's in the -- that's not a topical treatment either.

MR. NEAL: Well, what I heard earlier was whitewashing a barn.

MEMBER KARREMAN: Right.

MEMBER MOYER: To get rid of animal waste.

MR. NEAL: If we're talking about, let's see, external pest control for the bedding. Yes, that would matter.

MEMBER KARREMAN: Well, Kevin.

MEMBER GIACOMINI: Why is that Arthur? I mean, the main use of this as a
deodorizer, deodorizing animal waste is often in, as I've seen it used, in tie stall barns and things where they put a pretty good coat of it behind the cows, to try and keep the overall ammonia levels down.

The use that we're discussing would be putting it at the back of a free stall, to alter the pH, to have a bacterial effect on the cow getting mastitis. Is that a difference?

MEMBER KARREMAN: Just for the record, Dan, in the tie stalls it's used for the exact same way as in the free stalls for the bedding. I've never seen farmers use it to deodorize animal waste, okay.

As a matter of fact, the only two things I've ever seen, the hydrated lime used for, as a practitioner out there is in the bedding, you know, behind the cow for the mastitis control, or in a box as a powder, where they walk through a topical treatment for the hoof.
You know, I don't see where it ever is under external parasiticide or the other, local anesthetic. But that's the only two things I've ever seen hydrated lime used for, and I guess whitewash.

MEMBER GIACOMINI: That's what I'm asking Arthur. Is, granted that use in the box is topical treatment and that's covered. Is the use in the bedding covered in this?

MR. NEAL: The way that I'm looking at it is that if you're trying to prevent pest infestation of the animal through the bedding, and it is an external application. It may not be applying it directly to the animal, but you're externally trying to prevent pest infestation of that animal from the bedding.

MEMBER KARREMAN: I would, Arthur, look at that as a -- I would take that literally when I see topical treatment as a veterinarian. I see that applied directly to the animal, not just in its environment.

I would say that in the bedding
wouldn't be a topical treatment technically.

CHAIRMAN O'RELL: Emily, would you like to come up and make a comment. I know you were the one that submitted comments on the topical hoof treatment and --

MS. BROWN-ROSEN: Thanks. This is Emily Brown-Rosen again. Yes, Pennsylvania farmers do use it as a hoof treatment, as a walk-through box. We don't allow it -- it's not allowed in bedding because then the bedding commonly gets used in the ground, and then it has synthetic fertilizer and it would be prohibited.

That, I believe, was the reason for the original NOSB annotation, not to be used to deodorize manure because then it would be in the manure and being applied the soil somewhere. So that, I think, was the intent of that whole use.

It's not registered as a pesticide, so we didn't find anyone -- no one's requested to use it as a parasiticide. But it is used
just for the hoof treatment. It's an alternative to copper sulfate.

Copper is, you know, a heavy metal and so in that sense it's more benign in the environment than copper would be. Then you also have situations in the winter where copper sulfate is a supplied liquid, where that might be tricky to apply.

But so we do have it -- we're using it for foot rot and hairy hoof work.

CHAIRMAN O'RELL: Okay. From your earlier conversation, you wanted to take this back in committee?

MEMBER KARREMAN: Yes.

CHAIRMAN O'RELL: And have you had enough discussion here or are there other questions from the committee?

MEMBER ENGELBERT: I have one question. Have any of those farms used just plain lime, powdered lime, and what have the results been/

MS. BROWN-ROSEN: Well, it's been on
the list, so we've allowed it. The literature shows it's more effective, you know, as an antibacterial drying agent. But you know, you could use that. I don't know its effectiveness.

MEMBER KARREMAN: And one last thing, as far as it being applied to the land, I do believe an organic farmer is allowed to buy in conventional manure and apply it to the land.

So I can't see why, you know, a little bit of hydrated lime. It kind of gets to some other discussions we were having previously, but I don't see how that would affect --

MS. BROWN-ROSEN: But a little bit of pesticide too. I mean, you --

MEMBER KARREMAN: Okay, okay, okay.

(Laughter.)

CHAIRMAN O'RELL: Okay. Thank you, Emily. Hugh, you want to move on?

MEMBER KARREMAN: Yep, sure. Okay.
Where are we on two? Which one? Chlorine. I have like two -- I've got three different chlorines. It's all repetitive. Okay. Oh, I see. Okay.

We had to review chlorine for three different -- no, I'm just -- okay, sorry. For 205.603, synthetic substances allowed for use in organic livestock production, category use (a) as disinfectant, sanitizer, medical treatments as applicable, we looked at chlorine.

The committee summary was -- we looked at a lot of some specific comments, and several commenters say that chlorine materials, such as calcium hypochloride and chlorine dioxide and sodium hypochloride should remain on the list.

Some commenters stated that the chlorine materials just mentioned should be removed from the list. The Livestock Committee agrees with the commenters who supported the renewal of chlorine materials,
calcium hypochloride, chlorine dioxide and sodium hypochloride because their use is considered essential for organic livestock production. They can be used in a way compatible with organic production practices.

So based upon the comments received, we recommended the renewal of chlorine materials as listed, and the vote was 6 in favor and 0 opposed. Discussion?

(Pause.)

MEMBER KARREMAN: Do I say it? Okay, I don't see any discussion, so should we move on? Okay. Got it. Okay.

The next one for 205.603 synthetic substances allowed for use in organic livestock production, category use (a) as disinfectant, sanitizer and medical treatments as applicable, we looked at oxytocin, and we received, you know, comments on it.

Several commenters stated that oxytocin should remain on the list. Some commenters stated oxytocin should be removed.
The committee agrees with the commenters who supported the renewal of oxytocin, because it is -- its use is considered not harmful to humans or the environment.

It is considered essential in assuring the health and welfare of organic livestock, and it can be used in a way compatible with organic production practices.

So based on the comments received we, as a committee, recommended the renewal of oxytocin as listed, and the vote was 5 in favor of renewal, zero opposed, and one abstention. Discussion?

(Pause.)

MEMBER DAVIS: I had a question.

MEMBER KARREMAN: Yes.

MEMBER DAVIS: This usage, where it says "use in post-parturition therapeutic applications," is it used for just certain individual cows that seem to have a problem and need to have --

MEMBER KARREMAN: Yes. It's
definitely only allowed in this -- well first, that's an annotation. But to explain it, how it's used, only for emergency use and it would be used by veterinarians when called in to -- for an emergency, which is a serious emergency when the uterus of the cow comes out after the calf does, and you have to put the uterus back in. It's a major procedure.

Then you would give a shot of oxytocin, about 5 cc's, to reduce or contract the uterus rapidly, so it will not just flop out again. Oxytocin is a nine amino acid sequence, and it degrades in about 30 seconds.

So you would use it one time, maybe two times in the first day or two after calving.

MEMBER DAVIS: Thanks. Thanks for the background.

MEMBER ENGELBERT: And I abstained because it can only be used with a vet's recommendation, and the vet has to be there to administer. It's not something a farmer has
on hand and can just randomly give to his cows.

Otherwise, I would have voted against it as not necessary or essential. But there may be a case every now and then where you have to call in a vet and it has to be administered to save that cow.

MEMBER GIACOMINI: The problem is that it is a hormone.

HH Right. That's the problem. However, under OFPA the subtherapeutic use of antibiotics and hormones for growth promotion are prohibited, and this is absolutely not such a use. It's a therapeutic use in emergency situations to relieve pain and suffering for animal welfare. Jeff?

MEMBER MOYER: Hugh, can you in 30 seconds or so tell us what happens to the milk of that cow then, just for the record?

MEMBER KARREMAN: Well actually, on a conventional farm there is no withholding time for oxytocin Because of the rapid
breakdown, and because all mammals produce oxytocin. The synthetic version available in a bottle for therapeutic application has zero withholding time required for meter milk by the FDA, Center for Veterinary Medicine.

You know, first of all, when it's used on the first day of lactation or at calving like that, legally farmers have to hold the milk out for, I believe it's five to six days.

Most farmers don't do that, but so you'd be holding the milk out for a few days anyway, even though there's zero withholding time.

Any more discussion or questions?

MEMBER JAMES: Hugh, what would happen -- I mean besides this, what are the chances of a cow dying without it?

MEMBER KARREMAN: Well, it depends what it would be used for. If it's for a prolapsed uterus and you put it back in and you want to give oxytocin to get rapid
contraction of the uterus and you don't, it
could flop back out and that's not good if it
comes out again, externally of the body.
That's a no-brainer. It's no good the first
time.

We did have a TAP review on this. I
think was this a new TAP review, Arthur or --

MR. NEAL: Yes, yes.

MEMBER KARREMAN: And there were no
good alternatives for it in the alternative
realm. Another reason you might use it is for
a uterine hemorrhage, if there is a rip in the
uterus and there's a vessel that's cut and I
can't stitch it.

It would be used for that purpose as
well. So at that point, the animal could
actually die by not using it.

MEMBER GIACOMINI: I think if you
didn't use it in the other case, the essential
effect would be death also.

MEMBER KARREMAN: Oh yes, yes. That
would be malpractice.
MEMBER JAMES: Yes.

MEMBER KARREMAN: All right. Moving along.

CHAIRMAN O'RELL: Movin' along.

MEMBER KARREMAN: Movin' along, okay. Ivermectin. There we are. Okay. 205.603, synthetic substances allowed for use in organic livestock production, category use (a) as disinfectant, sanitizer and medical treatments as applicable.

We looked Ivermectin and a number of commenters stated that Ivermectin should remain on the list. Some commenters stated that it should be removed.

The Livestock Committee agreed with the commenters who supported the renewal, because its use is considered essential for the health and welfare of organic livestock at this time, and can be used in a way compatible with organic production practices.

Based upon comments received, the Livestock Committee recommends the renewal of
the following substance. Parasiticides, Ivermectin as listed. The committee vote was 5 in favor, 1 opposed, no abstentions.

MEMBER WEISMAN: Can we hear the minority?

MEMBER ENGELBERT: Yes, you may. I think that it is an unnecessary product for organic production.

I think that if a farm has a severe infestation of parasites, that's an indication that there's a severe problem with their operation, and there are other available substances, such as Moxidectin and other products that could be used.

But the studies still are inconclusive about their total effectiveness. But I just -- I'm against this type of substance being allowed in organic practice.

CHAIRMAN O'RELL: Hugh.

MEMBER KARREMAN: This is only to be used as an emergency for a condition diagnosed by a veterinarian.
It cannot be used, you know, routinely, and on the farms that I'm working with for the last ten years, you know, you have young stock, ages between like just past weaning up to about ten months old that seem to be the ones that get potentially infested.

We certainly do run fecal samples on them, and it's only the two out of ten animals that would receive the Ivermectin treatment, and it is only used one time. It's somewhat like the thing with the oxytocin we just talked about.

It's kind of a one-time treatment, and I truly believe it is for the health and welfare of those animals, and without a doubt, at least in my practice, I always educate the farmers on management practices that will reduce the need for it later.

I would say also that because of all the prohibitions in the organic industry, I do a lot of studying for alternative substances for prohibited materials, and there is a lot
of research coming out now regarding in vitro
and some in vivo studies with botanical
treatments against parasites.

They're based in mainly in sheep and
goats, but you could extrapolate cattle.
Regarding diatomaceous earth, I've never seen
it work in an actual infestation. It may work
for keeping things in equilibrium.

So I would say that, you know,
Ivermectin is used so infrequently, at least
it should be by the annotation, that I don't
see it as a problem to the environment as
such, and I -- anyway. Go ahead, Bea.

MEMBER JAMES: What about the
comments from Emily regarding Ivermectin being
persistent in the manure and having an impact
on soil?

MEMBER KARREMAN: Yes, but keep --
in the context of what I was just saying, if I
treat two animals, I'll just say, out of ten,
which would be on average, just from my
experience, that's two animals, two little
calves out of ten out of a herd of, I don't
know, maybe 80 animals on that farm.

I don't believe that the manure from
those two little animals, that little amount,
will affect the environment, compared the 88
other animals or whatever. And it's a one-
time treatment.

MEMBER JAMES: What about two little
animals all over everywhere, on lots of
different farms over time?

MEMBER KARREMAN: That's a good
point. However, it is not being used
routinely. I think that's where I make the
distinction.

CHAIRMAN O'ReLL: Nancy.

MEMBER OSTIGUY: We've actually had
a lot of discussion about Ivermectin,
especially when Moxidectin came up.
Moxidectin is in comparison a much safer
parasiticide to use, certainly in terms of
manure and such and its impact on the soils.

One of the things that I have this
vague memory of, and maybe someone can recall better than I do, there were some questions at one point about a material that was on the list, that we were using in a way that has not been approved by FDA. Was this Ivermectin? Is it Ivermectin?

MEMBER KARREMAN: It could be a lot of things.

MEMBER OSTIGUY: But Actually Arthur can answer probably.

MR. NEAL: He already knows what the issue is. The issue is not that there was -- it's being used inappropriately from FDA perspective.

The issue is that I think in October 2004 or 2003, I can't remember the exact date, the NOSB requested that the NOP take a position that antibiotics cannot be used in livestock production.

Ivermectin, as well as Moxidectin, are technically classified as macroantibiotics, though they function as
parasiticides.

As I write up this particular material, let's say if it is renewed, when I write it up, I'm going to give this description. In this description it will say it is a macroantibiotic.

I'll also talk about how it functions as a parasiticide, however.

My concern is that USDA has taken a position that antibiotics are prohibited. How does this recommendation coincide or correlate to our position?

If it is going to be renewed, the only thing that I ask is either the NOSB provide us some type of justification as to how this relates to our current position, and how this substance is different.

CHAIRMAN O'ReLL: Andrea?

MEMBER CAROE: Well, I don't want to take us off track, but going back to the comment about the persistence in the soil, it seems to me that Emily's comment for PCO was
related to the slowly-released formulas, which
I believe you said is not available. The
formulas are not even available any more?

MEMBER KARREMAN: That's correct.

MEMBER CAROE: So the persistence in
the environment is not a big issue, as big an
issue as it was when this was first listed
anyways?

MEMBER KARREMAN: May I answer that,
Kevin?

CHAIRMAN O'ReLL: Yes.

MEMBER KARREMAN: The slow release
formulation has been taken off the market. It
was not a profitable item for whichever
company. That was, however, strictly
prohibited I believe, somewhere in the
annotation, if I remember. If I'm wrong, it
doesn't matter. It's not on the market.

Now as far as -- I know that we will
have a public comment at some point by a
veterinarian who's here. He will discuss this
antibiotic, you know, aspect of the product
we're talking about.

I do believe we also have to consider perhaps using the term "anthomentic" for this product, rather than anything else, because that is functionally what it is.

Okay, you know, the fine print on the company label might say it's a microcyclic lactone antibiotic in fine print, but I guarantee you in veterinary school, no one learns that. That is not discussed. That's a pure, very purist chemical interpretation or whatever. Go ahead, Nancy.

MEMBER OSTIGUY: I actually agree with Arthur a lot, that we do need to have a discussion at some point about the substances that are chemically antibiotic, and do we wish to say no antibiotic use at all, and then in that case, we may not have a choice but to include things like Ivermectin and Moxidectin.

MEMBER KARREMAN: Moxidectin.

MEMBER OSTIGUY: Moxidectin, and a material that I'm interested in potentially
for beekeeping, naturally derived, technically an antibiotic, used as a fungicide. It's called Fumidil.

But the question then comes, and then also that includes using antibiotics on plants, you know, to go back to the discussion earlier, we need to decide where we stand on that.

Are we talking about therapeutic purposes; are we talking about prophylactic use? Do we want to draw he line with just no, if it chemically is defined as an antibiotic, then we don't even go anywhere near it, or are we okay to use it similarly to how we use it in humans?

CHAIRMAN O'RELL: Kevin.

MEMBER ENGELBERT: I think one of the issues there is that antibiotic simply comes down to an issue of definition, and when you start getting to the definition of antibiotic, you start getting into the slippery slope of all the products with
antibiotic-type effects.

I think that's a very, very slippery slope for us to get into, and I think it's very important for us to deal with this issue in a timely basis, to resolve some of these issues.

CHAIRMAN O'RELL: Nancy, respond and then Hugh.

MEMBER OSTIGUY: Real quickly back.

I agree. We need to have the discussion. We're already on that slippery slope, in that that is exactly -- antibiotic use is exactly what all the chlorine materials are. We are killing bacteria.

MEMBER KARREMAN: I think we need to maybe have definitions drawn up and officially recognized and received regarding terms such as "germicide," "antimicrobial," "antibacterial," "antiseptic," "antibiotic." We need to have them for the record to use in our deliberations in the future. Peroxide would be included too.
MEMBER OSTIGUY: Right. All of those.

CHAIRMAN O'RELL: I think that's a very good point, Hugh. Does that end your presentation from Livestock?

MEMBER KARREMAN: I hope so. I think so.

(Applause.)

CHAIRMAN O'RELL: As everybody in the room can see, we're a little off schedule. The public comment period that was scheduled for 11:00, the purpose of that public comment period is to follow our discussion, which we haven't concluded.

So we're going to continue with our discussion, and then the public comment period will follow. We had to wait for you all yesterday, so now you're going to wait for us today, as we get our work done.

So but we do need to take a break, so I'd like to take a ten minute break if we can, and get back here and get back to the
Handling Committee report. Thank you.

(Whereupon, a short recess was taken.)

CHAIRMAN O'RELL: The board will continue its business, so if you could either take the conversations outside or be seated please. Thank you.

(Pause.)

CHAIRMAN O'RELL: Okay. We're going to pick up with the Handling Committee report. Julie?

Handling Committee Report

MEMBER WEISMAN: Yes. We had several materials that had been deferred, that we made recommendations on. So I'll take it from the top.

We actually have, I have the recommendation for Section 205.605(a), which is non-agricultural, non-organic substances allowed as ingredients in or on processed products labeled as organic or made with organic specified ingredients or food groups.
These are for non-synthetics that are allowed. This recommendations creates colors and flavors.

You're not going to see this on the screen, but my previous chairs gave reasons for the initial deferrals in their recommendations, which is not included.

So I just want to briefly mention that these two items were deferred because they were identified by the Handling Committee as items which might prove contentious.

They were not deferred initially on the basis of a public identification, any identification in public comments.

However, after the request for public comment was made prior to the August meeting, many comments recommending the continued allowance of non-synthetic colors and flavors in organic handling were made.

The Federal Register notice asked the public to provide evidence and address concerns for any substance that they believe
should be discontinued, and there were no
comments specific to these two substances at
that time, against the continuation of either
colors or flavors on the list.

There was one comment at that time,
expressing concern that colors and flavors had
been added to the list without technical
review by the NOSB, and Because of this
comment, the handling Committee requested and
received from the NOP a technical overview of
food and color additives on October 14th of
2005, in time to write the recommendation for
this meeting.

The technical review that was given
to us offered no information that would
suggest that either non-synthetic colors or
flavors are inconsistent with organic
practices.

This is a summary of the information
that was contained in those reviews. The use
of flavoring substances is regulated by the
FDA. All flavoring substances, non-synthetic,
fall into one of two categories.

    They are either GRAS, which means generally recognized as safe, and that is for flavor materials. That's a designation that's granted by a panel of technical experts, whose authority is accepted by the FDA.

    Or they're considered food additives, and in that case they have been reviewed and approved by the FDA directly. On the color side, there are no GRAS -- there's no system of designating things GRAS for color additives in the same way.

    For color additives to obtain approval from the FDA, the manufacturer has to submit a petition to the FDA demonstrating safety of the substance with information including the manufacturing process, stability data, safety studies, toxicity data, all the types of things that we normally ask for in a petition.

    So consequently, as a result of the information that we had at the time that this
vote was taken, all synthetic flavoring substances and -- I skipped a sentence, sorry.

We determined that all synthetic flavoring substances and colors are subject to pre-market approval requirements by reviewing bodies.

So based on this information, the Handling Committee recommends the renewal of the following substances in this use category as published in the final rule. A motion was made by Kevin O'Rell, second by Joe Smillie. The committee voted unanimously to renew these substances.

Now all that being said, we've received since the publication of this recommendation lots of public comment on both colors and flavors. I'm going to ask the chair's help in guiding me if this is not appropriate at this time.

But I wanted to briefly summarize the comments. I did a survey of the comments that we have received since this
recommendation --

CHAIRMAN O'RELL: Since the recommendation has been posted.

MEMBER WEISMAN: Was posted.

CHAIRMAN O'RELL: Yes.

MEMBER WEISMAN: Because I think it's pertinent.

CHAIRMAN O'RELL: Yes.

MEMBER WEISMAN: On flavors, 13 additional comments have been received. Of these 13, six support the continued listing of flavors, non-synthetic on 205.605(a). Seven of the comments recommend that they not be relisted.

I want to say that in six of the seven comments recommending that they not be continued, those also included a recommendation that they be moved to 606.

Now we have had much conversation in the last day and a half already in this room about the fact that during sunset process, there is not going be any petitioning of items...
onto a section of the national list other than
the one that they appear on now.

So I believe that the commenters who
-- those six commenters who recommended not
renewing colors were assuming that they would
appear elsewhere, colors and flavors -- I'm
sorry. We're just talking about flavors --
this is my first time making this
presentation, so I'm sorry.

The six people who recommended
against the continuation of flavors on 605(a),
I believe that they clearly did not appreciate
that they could not be added simultaneously to
another list.

I am hesitant to interpret their
recommendations against relisting as a request
for flavors, non-synthetic to disappear from
the list altogether. I don't think that was
adequately understood by those commenters.

I also -- one of the comments that
was against relisting made mention of the fact
that flavors were added to the list by the --
that flavors were not reviewed, and I wanted
to mention that we -- that this is erroneous,
that flavors are on the list because there was
a recommendation by the NOSB and I think it
was on October 31st of '95 in Austin, Texas.

CHAIRMAN O'RELL: That's correct.

MEMBER WEISMAN: And it was put up
for public comment, and a technical review at
that time, and I know that at least -- I can't
see today, but I know yesterday several of the
people that were on that technical review
panel were in this room, at least yesterday.

So that was the -- that's the
additional information I wanted to give, based
on the public comment on flavors, okay. We
have also received numerous comments on
colors, since this recommendation was posted
on February 1st.

Out of 13 clear comments that were
received, five support and eight oppose the
continued listing of colors on 205.605(a). Of
the eight opposing comments, three comments
included recommending relisting on 606. So I include -- I think of those comments in the same way as I thought of them for flavors.

However, the other five cite the fact that colors were never recommended by the NOSB to be listed in the first place, did not have TAPs or go through public comment. It is these comments that I find troubling, particularly since their -- I have not been able to find any historical evidence in the form of past recommendations, meeting minutes, to counter those assertions as I could for flavors.

If these assertions are correct, it seems -- well, maybe I should -- should I stop here or should I -- this is the time to propose to the committee?

CHAIRMAN O'RELL: Do you want to open for Discussion --

MEMBER WEISMAN: Those are the facts on colors, and I think at this point I want to open it up for Discussion.
CHAIRMAN O'RELL: That's fine.

MEMBER WEISMAN: Kevin.

CHAIRMAN O'RELL: Andrea?

MEMBER CAROE: I just want to -- I have the Federal Register notice for sunset in front of me, for comments that do not support the continuation of an existing exemption or a listed item. The commenters were asked to demonstrate that the substance was found to be "(1) Not harmful to human health or the environment, (2) necessary because unavailability of wholly non-synthetic alternative, and (3) consistent and compatible with organic practices."

It also asked for the commenter to provide viable alternatives, such as practices and other substances, and then also to include the manufacturers of these substances and availability.

I don't think that we've gotten that level of detail from any of the commenters and, you know, again, as we've
heard from the program, in order for these things to go up and be taken off the list, they have to have this level of detail in the justification.

That's clear in the Federal Register notice that was -- the commenters were asked to provide this information. I just don't see that it's come to us in this format.

MEMBER WEISMAN: I'm curious if anybody on the board had a chance to read AMRI's comments on colors.

CHAIRMAN O'RELL: Yes.

MEMBER WEISMAN: Okay, because I think that that did include quite an impressive amount of detail in terms of breaking down the category of colors and the different types of colors that are manufactured and the practices that are used.

CHAIRMAN O'RELL: And it is inherent in the problem with having a listing of a generic or general classification of substances, because when you're talking about
colors, you're talking about a lot of things out there.

It would certainly help if we had a synthetic non-synthetic document, a guidance document on the table today, because then that could alleviate some of the concerns that were addressed in the AMRI letter.

But there's -- that's one of the things that we have to wrestle with, and I know there have been statements made that they should be individually petitioned. You know, that's quite a list of petition for items that would have to come up.

We have the same issue with flavors, although I don't want to lump them together. But it is again a general category with a lot of compounds that are put together to make flavoring materials. So Bea?

MEMBER JAMES: Julie, I wonder if maybe you could just give comment on what you think about AMRI's point on addressing colors and flavors separately.
MEMBER WEISMAN: I think they should be addressed separately.

CHAIRMAN O'RELL: Yes, they were. Andrea.

MEMBER CAROE: Just a reminder that this material is on 205.605(a), as a non-synthetic, non-agricultural material. I mean in its placement, we're talking about — you know, we're not talking about the Concord grade essence here, Because that would be agricultural.

Again, this all tied into our non-synthetic versus synthetic, and our agricultural versus non-agricultural arguments. But in its placement, we're not talking about synthetic forms, and we're not talking about agricultural forms of flavors and/or colors.

CHAIRMAN O'RELL: Nancy.

MEMBER OSTIGUY: I still am curious about the assertion that this was put on the list without a vote of the NOSB. I don't
know, I don't have any information one way or
the other. How was it put on?

CHAIRMAN O'RELL: Arthur, do you
want to respond to that?

MR. NEAL: To my recollection, this
material was on the 1997 proposed rule in the
-- I wasn't there at the time, so I really
don't know how it got added on. It did not
appear on the March 2000 proposed rule. It
reappeared later.

There were no discussions in the
preamble concerning it. So obviously there
had been some type of history behind it. I
don't exactly know all of it, and I can't
explain how it was added to the national list,
particularly -- I see Valerie has her hand up.

MS. FRANCES: You know, Tony's out
of the room right now, but she was there for
all this, and she said it was a mistake it got
left out of the 2000 proposed rule. But there
was really no comment one way or the other in
the preamble addressing it in any way, and
then there was nothing addressing it as a mistake either in the final rule.

MR. NEAL: Right.

MS. FRANCES: And having it reappear.

MR. NEAL: And the other thing is that there was no -- I don't recall the public comment generated as a result of it being on the list at that time.

CHAIRMAN O'RELL: Zea?

MS. SONNEBAND: Thank you for recognizing me. Zea Sonneband, CCOF and the original contractor who got the national list together.

Colors was, and flavors were both on the list of materials that were referred by the original NOSB, to go through the TAP process. We had 162 things to take up all at once.

So we did them in stages over a period of years, and it involved finding enough scientists who would do the TAP
procedure on the different materials as to how fast they got done.

We never could find enough scientists to look at the colors. So there was no TAP review done during the period that I was responsible for the list, which was through 1996 more or less. So to my knowledge, no TAP review has ever been done.

CHAIRMAN O'RELL: But they were put on by a recommendation from --

MS. SONNEBAND: The NOSB did not discuss it, to my knowledge. I think it came somehow from NOP. Now I haven't been to every single meeting, but I don't remember a conversation about the colors.

CHAIRMAN O'RELL: Kim?

MS. DIETZ: Kim Dietz, past NOSB Materials Chair Handling rep. I believe in 2002, when colors did go on the national list, like I said yesterday, there was a recommendation by the board to remove them because they had never gone through a TAP and
never gone through a board review.

There was a technical recommendation to remove them. They did not get taken off in 2002. So there's no history with colors whatsoever from the NOSB.

CHAIRMAN O'RELL: Thank you, Kim.

MEMBER OSTIGUY: I guess my next question is how do we deal with this then? If we never actually took a vote, is it a technical correction to remove it and then we have to look at it? Do we have to vote on renewal and petition it? It seems awfully odd to have to do the latter, since we never voted to put it there in the first place.

MEMBER SMILLIE: Well, we inherited that sin. It's like original sin. I think we've got it, whether we deserve it or not.

So to me, the only and because of the really incredible economic impact that non-renewal would have, I think that basically the procedure would take is to renew it now and immediately start to, you know, get our
work done, with a petition immediately following renewal.

MEMBER CAROE: It did have a TAP.

MEMBER SMILLIE: It was an abbreviated TAP, and from the TAP we did request a technical review. It's not a full TAP that addressed all of the regulation criteria. But we did attempt to fill out the evaluation forms, based on the information we had.

We, in filling out those forms, we recognized there were areas where we didn't have answers, and we didn't have answers for several issues on the review form, which does bother me.

MS. FRANCES: I'm sorry you don't have the form. I was working with a youngster at the desk last night to print things off, and that, I don't think, got printed off.

CHAIRMAN O'RELL: Well, we have it.

MS. FRANCES: You have it? I did give it to you?
CHAIRMAN O'RELL: We have it.

MS. FRANCES: Okay. Somehow I didn't get it then.

MEMBER KARREMAN: Overview.

MS. FRANCES: I'm glad you have it.

CHAIRMAN O'RELL: Yeah, we have the criteria forms here in front of us. But it does show that there are areas that we recognize we don't have the information on, and part of it is in trying to review such a broad class of materials. It's very complex.

Then to Joe's point, these are in wide use. They've been on the list for five years. That's why they're coming up for sunset, and they have been used widely in a number of products that are currently on the market.

So there is a tremendous economic impact to the industry if it doesn't go forward. But yet we do have a dilemma. Nancy?

MEMBER OSTIGUY: Could I make a
motion to -- maybe we should do this this afternoon, but what I'm thinking -- I'll tell you what I'm thinking and then we can figure out how to do this.

I'm a bit uncomfortable with reviewing them as a group, because there are such apples and oranges there. If we do that, there may be then, in the process of reviewing, some things that we think are actually problematic, and we would review all of that negatively. It would not actually meet the OFPA criteria.

We wouldn't want to have that be held as the standard for the things that would be okay. So would it be possible to, instead of looking at each individual color, because that of course also would be -- might lead to the wrong conclusion that we're after, which is being able to get through this and still allow the industry to continue.

First off yes, we renew. But the recommendation would be then to break up that
list of colors into similar groupings, so that we could review groups of colors that the answers to the OFPA questions are likely to come out similar, so that we could -- you know, you're not excluding certain things because there's one bad apple in that particular grouping.

CHAIRMAN O'RELL: Andrea, and then Julie.

MEMBER CAROE: I agree first that we need to move this as a sunset item, and then what I would suggest in moving forward, and obviously --

CHAIRMAN O'RELL: Did you say move or remove? I just wanted --

MEMBER CAROE: Move forward with the sunset process. But afterwards, and the next step is going to be largely impacted by our decisions on ag versus non-ag and synthetic versus non-synthetic.

So I would hold off making any work plan yet, and then also I would suggest that
we try to elicit some petition from the public, as far as you know, folks that are using these.

They can actually come up with these categories and petition those color categories, probably a lot better than anybody on this board, with the exception of Julie, who has some understanding in this area.

But you know, I would suggest that we entertain or put as a priority to entertain working on this, based on comments received.

CHAIRMAN O'RELL: Julie, and then Nancy.

MEMBER WEISMAN: Yes, I wanted to add to that, that I think that a petition -- if someone would petition colors to be moved to 606, that process would serve exactly the function that you're asking for Nancy, in terms of parsing out what exactly are the colors that are manufactured and how are they manufactured, and which ones qualify as agricultural products and which ones do not
and why don't they.

We will -- I think we have access to much better information now than the board had in 1997 or whenever that was.

CHAIRMAN O'RELL: Nancy.

MEMBER OSTIGUY: I'm fine with that, as long as there actually is no delay in us starting the process, and it may not be that we hear it immediately, and it may be that, you know, our first action is to ask the community to start getting the petitions together.

But I don't want to delay it, since it's already -- it's almost been ten years that this process started, and it's been five years that they've been used without a board review.

So I don't want to delay. I realize we don't make a decision until we have some of the other things in place.

CHAIRMAN O'RELL: I think that it would be very easy to get the public to file a
petition to remove colors from 605(a) and put
it on 606, which is really this committee has
talked about it, that that's probably the
place that they belong, and that would
eliminate most of the issues we have today.

But we do have to recognize the fact
that they're in use today. They're in a lot
of products, and the annotation is for
naturally-derived.

MEMBER OSTIGUY: It's duplicate.

CHAIRMAN O'RELL: So we could have a
plan to move forward to get resolution, and
recognizing the public comment that it wasn't
initially recommended by the board. But as
Joe said, we've caught the original sin.
We're here dealing with it now.

MEMBER GIACOMINI: Question?

CHAIRMAN O'RELL: Yes, Dan.

MEMBER GIACOMINI: Just for
clarification, will we be voting on this, both
of them together or individually flavors
versus colors?
CHAIRMAN O'RELL: We had grouped -- the recommendations were grouped by the categories in 205.605(a), 205.605(b) and then 606. So since both of these items appear --

MEMBER GIACOMINI: Even though there seems to be different issues, and to a certain extent especially revolving around --

CHAIRMAN O'RELL: Well, when we have discussion, we'll have discussion of those items, and somebody could split it. Somebody could have a motion to split.

MEMBER GIACOMINI: Could I have some additional input then from those more in the know, on the financial impact of removing colors?

MEMBER SMILLIE: Well, I can't give you any numbers, but a lot, a great deal, I would say probably 50 percent of processed foods would probably be utilizing these two things. Kevin, what do you think?

CHAIRMAN O'RELL: Yeah, and particularly in the dairy industry, there's
widespread use, a lot of manufacturers. We had a public comment from Stony Field Farms, indicating that they use a lot of those colors in their yogurts. There's organic Colby cheese on the market that uses anado.

MEMBER GIACOMINI: But this comes down to a desire in the marketing to meet a consumer perception of what a product should look like, not the type of thing of there won't be any more pears next year. I'm just trying to understand.

I see in my mind a very big difference between those two things, and I don't see a huge -- I'm not sure that I understand a huge impact of not putting a color in a particular item.

CHAIRMAN O'RELL: Are you going to respond to that question? Okay Bea, and then I'll take it.

MEMBER JAMES: For all the things that we do to make sure that we put forth a product that meets consumer expectation,
whether it's a pear and the things that we have done to try to protect the crops industry, so that they have good-looking pears on the market that will sell, as well as you know, milk that is -- meets the expectations of the consumer, I think that you could apply that same principle to how cherry yogurt should, you know, is expected to look in the case by the consumer.

MEMBER SMILLIE: Yeah, and furthermore I don't want to color this argument too deeply, but --

(Laughter.)

MEMBER SMILLIE: The current reality is that manufacturers do understand that there's a lot of pressure and commercial availability to move towards organic colors and flavors. That is happening. It's not as if, you know, that movement isn't taking place right now.

As a certification agent, we're continually challenging the manufacturer, if
you must use this material rather than a certified organic, give us your justification for it.

So I think we've received public testimony from both Smucker Quality Beverages and Stony Field on this issue, and both of them come back with the same thing, is that they support the continued use.

They do understand that they've got to move away from it, and they report in detail on how successful they have been in gradually shifting towards certified organic flavors and colors.

But at this point in time, it's still not -- for some flavors and some colors, they're still not available, those materials that they can use.

So therefore there is a big impact, but again, not to -- I mean we are being successful in moving away from the use of these and towards certified organic colors and flavors.
CHAIRMAN O'ReLL: The direction is towards more organic flavors and organic certified colors. So it's because of their placement again on the list. If they're placed on 605(a), there isn't that carrot out there, for them to want to use organic colors.

If it's on 606, again, with our commercial availability and the criteria guidelines, that the certifiers will ask those questions of manufacturers, why aren't you using an organic color that's available.

MEMBER GIACOMINI: It just seems to me that this conversation would have been conducted with much more detail when the NOSB voted to have them removed from the list, and that I can understand someone voting to have them not be renewed, in support of what was probably then a more detailed discussion than we're having very briefly now. But that may be incorrect.

MEMBER WEISMAN: Kevin, I just want to -- what you just referred -- are you
referring to the reference that was made to an earlier recommendation that they be removed from the list, like we're talking like several years ago? Is that --

MEMBER GIACOMINI: Yes.

MEMBER WEISMAN: Okay. At that time, there were virtually no organic flavors. So I just, as a point that --

MEMBER GIACOMINI: I'm referring to colors in this one.

MEMBER WEISMAN: Or colors. There were no organic any of those being produced at that time. So I agree with your point, but the discussion at that time, there were no alternatives at that time. So it wouldn't have been that no organic alternatives at that time.

CHAIRMAN O'RELL: Bea?

MEMBER JAMES: Dan, I think -- I mean I understand that it's important to have natural colors, and that's, you know, as a lot of people here have suggested, that's where
the industry is working towards.

But to not renew them means that a consumer that is accustomed to buying a product and having it look a certain way, and then all of the sudden opening that product and having it be brown, would be completely devastating to the industry.

We have to allow the manufacturers the time to be able to find a suitable natural replacement, so that they can keep their product consistent with what the consumer's been used to over the years.

MEMBER GIACOMINI: Well, if we take it off the list, natural flavors, it would have to be organic for suitable replacement.

MEMBER WEISMAN: Well, we're talking about colors.

MEMBER JAMES: Yes, yes.

MEMBER GIACOMINI: Things take a lot of time to go through the process, and that's not saying anybody's slow or not acting, but they take a lot of time.
If the NOSB acted years ago to request that they be removed, and it's obvious in the subsequent time that you didn't want they removed, why didn't the NOSB ever take action to stop NOP from progressing on that, if that action had been taken?

MEMBER OSTIGUY: Well actually, how it sort of seems to have proceeded was that it showed up in the National Register notice on the list, and then you'd have to go through the -- it's complicated. That's all I can say at the moment. I'm not going to be able to explain.

CHAIRMAN O'RELL: Andrea?

MEMBER CAROE: Just, you know, this Discussion, I think, is our next meeting discussion when we look at the petitions for these materials. Right now, this is sunset. We've got a lot of things to go over today.

MEMBER OSTIGUY: Yeah, we do. We do have a lot more stuff to do.

MEMBER CAROE: You know, you want to
know economic impact. Anybody that's using colors right now just in packaging and shelf-slotting that they'll lose, it's huge. It's huge.

I mean if they have packaging that says they've got colors on it and you want to take colors away, they have to redo all of their packaging. That's a big expense, just for one manufacturer.

Fifty percent of the products on the market are using color. So you know, right now for sunset, I don't think we have any other choice but to renew it. Let's get the petitions, have this detailed discussion next meeting. My recommendation.

CHAIRMAN O'RELL: Is there any further discussion on these two items? Otherwise, we'll go on. And again, we'll have time to hear public comment and input before we make our votes.

MEMBER WEISMAN: Okay. In that case, I'd like to move on to Section 605(b),
which for this committee just involves chlorine materials and lecithin-bleached.

So this is for chlorine materials and for lecithin-bleached, to be used as allowed synthetics in non-agricultural substances, allowed as ingredients in or on processed products labeled as organic or made with organic.

The Federal Register notice regarding the sunset review asked the public to provide evidence and address concerns for any substances they believe should be discontinued. Of the many comments that -- many comments were received recommending the continued allowance of chlorine materials in organic handling, and there were no comments specifically against the continuation of chlorine materials on the national list for this purpose.

In addition, the NOSB had requested that a technical evaluation report be conducted reviewing chlorine use and organic
handling, and we received this technical report from the program, from the NOP on January 6 of 2006, and that report favorably answered the criteria questions for substances to be used in organic handling.

The technical review did not indicate that there was any new information about chlorine materials since its original petition, that would make it inconsistent with organic practices.

So based on public comments from sunset review an the technical report, the handling committee does recommend the continued use of chlorine materials in this category.

With regard to lecithin-bleached, many comments were received recommending the continued allowance of lecithin-bleached. There were also comments opposed to the continuation of the substance.

During the November NOSB meeting, a manufacturer of organic lecithin announced
that they could produce an organic bleached lecithin to meet the current organic market needs.

So as part of our due diligence, the Handling Committee contacted this manufacturer, while considering this recommendation, to verify the commercial availability as organic of this substance. The manufacturer did confirm its availability as organic.

So therefore, based on the public comment that there is an organic alternative available to replace a synthetic on the national list, the Handling Committee is recommending not to renew lecithin-bleached.

I would just like to point out that we did hear comment yesterday evening from Lynne Clarkson (ph), who is a manufacturer of lecithin, who agreed with this recommendation.

So therefore, the Handling Committee recommends the renewal of the following substance in this use category as published in
the final rule, Part 205.605(b), chlorine materials, disinfecting and sanitizing food contact surfaces, and then as-listed.

In addition, the Handling Committee recommends deferring a vote, not in this category. The Handling Committee recommends not renewing the following substances in this use category: lecithin-bleached.

This recommendation was moved by Kevin O'Rell, seconded by Andrea Caroe, and was voted unanimously to move forward.

CHAIRMAN O'RELL: And I just might add on the chlorine, the committee was aware of and discussed that there is a processing committee recommendation from April 30th, 2003 that went to the NOP for clarification of the annotations associated with chlorine.

We still feel that this is relevant, but it is separate from sunset, because we are not going to be changing annotations. But as part of our work plan, it is to go back and to address this processing committee
recommendation from 2003 back to the NOP, to find out where, why it hasn't gone forward.

Because it does summarize the original intent in the initial recommendation back in, I think, 1995 for chlorine. Discussion?

(Pause.)

CHAIRMAN O'ReLL: Okay.

MEMBER WEISMAN: So we are moving on to Section 606, which is non-organically produced agricultural products allowed as ingredients in or on processed products labeled as organic or made with organic.

We are considering lecithin unbleached for renewal in this section. The committee summary is as follows:

Many comments were received reporting the retention of materials, including lecithin unbleached, currently listed in Section 205.606. One commenter who generally appeared to object to the entire national list opposed the relisting, along
with everything else of this material.

However, detailed information as to why lecithin-unbleached was not compatible with organic practices, as specified in the Federal Register, was not provided in that comment.

Another commenter noted that organic forms of lecithin are available and had concerns that there will be no market for the organically-produced material if the non-organically produced material remains on the list.

However, some commenters also noted that the organic form is either insufficient in quantity or inadequate in some functionality.

Comments were received from a manufacturer or organic lecithin-unbleached, who indicated that organic lecithin unbleached can be manufactured in sufficient quantity to meet demand.

However, this manufacturer also
clearly stated that organic forms of every formulation of lecithin-unbleached that are currently being used do not yet exist.

The Handling Committee agrees, based on compelling evidence given by a manufacturer of organic lecithin-unbleached, that every use of lecithin bleached can in fact not adequately be filled by the forms currently available.

Therefore, the Handling Committee recommends the renewal of lecithin-unbleached in this use category. There were, for deferral there were none in that category and for not renewing. There were none at this time in this category.

The recommendation was moved by Andrea Caroe, seconded by Kevin O'Rell, and the committee voted unanimously to move forward with this recommendation.

CHAIRMAN O'RELL: And again yesterday late, we heard from that manufacturer, who submitted public comments
supporting our recommendation and supporting, in effect, that we were removing the bleached lecithin from the list, but maintaining the lecithin-unbleached as an agricultural product. Because recognizing there were not all sorts --

There were not organic lecithins available that would meet possibly all applications. But in light -- that, in conjunction with our commercial availability recommendation, that now puts criteria out there for the ACAs to ask questions of, we felt that would be enough to move along those people who don't want to use organic lecithin totally based on cost.

They would have to have a justification by the criteria we propose. So Andrea?

MEMBER CAROE: Just really quick. Valerie, I think this is probably for you. It's a small technical correction. The title of this recommendation is a typo. It's
205.606. There's no (b).

CHAIRMAN O'RELL: A new category.

MEMBER CAROE: So we just probably should reflect, as posted right now on the website, it says 606(b), and there's no such animal.

CHAIRMAN O'RELL: Yes, okay. Thank you, Andrea. Any discussion?

(Pause.)

CHAIRMAN O'RELL: Okay.

MEMBER WEISMAN: Right. There is one other pretty brief item that is on the Handling Committee's agenda for this meeting. As Discussion item only, and that is agricultural versus non -- the definition of agricultural versus non-agricultural.

So I just want to make a brief statement about that, which is really more of an update. This is an item on the Handling Committee's work plan, which has over the past year also included participation from the Materials Chair, to take advantage of
additional technical expertise.

A comment was heard yesterday regarding a proposed request that yeast be considered as livestock.

So I just wanted to reiterate, in case it was not clear yesterday, that the committee is entertaining this approach, and to that extent, we have expanded the working group to formally include the full Materials Committee, not just the chair, although it will still be led by the Handling Committee.

If we do move forward with this idea of yeast as livestock, there are additional considerations which we may have to address, such as perhaps a rule change modifying the definition of agricultural product that would exclude only minerals, because at present it does exclude microbial organisms. We would have to look at that.

We would also have to ask, start asking the questions how, you know, I'm still -- I'm coming off of Passover, and part of the
ritual was how is this night different from all other nights. So the question here is how is this livestock different from all other livestock?

(Laughter.)

MEMBER OSTIGUY: We had original sin, and now we have --

MEMBER WEISMAN: Nancy says it has no legs. So we might -- in addition, we might need to look at things like deleting things like living conditions and access to pasture, as considerations. We would have to look at things like 100 percent organic feed.

Then alternately, to consider yeast as livestock, we are also -- might have to consider whether OFPA will allow a rule change to create some other category of non-plant life. That was also a possibility that was discussed.

So this will now be an item on the work plans of a Joint Materials and Handling Committee going forward.
CHAIRMAN O'RELL: And the hope would be to have that recommendation for the next meeting.

MEMBER WEISMAN: I think --

CHAIRMAN O'RELL: That concludes the Handling Committee's agenda.

MEMBER WEISMAN: The Handling Committee's agenda item.

MEMBER OSTIGUY: Good job, Julie.

CHAIRMAN O'RELL: Thank you, Julie.

(Applause.)

CHAIRMAN O'RELL: Synthetic, Non-synthetic. Nancy?

Joint Materials and Handling Committee Report

MEMBER OSTIGUY: Well, we'll deal with this all in one fell swoop and we'll see how long the discussion goes. I'm going to read what we put together.

It's a Joint Materials and Handling Committee response to the NOP documents, dated March 9th, 2006, the evaluation of the NOSB recommendations on the definition of synthetic
and recommended framework for further clarify the definition of synthetic.

The Handling Committee and Materials Committee have received the NOP documents dated March 9th, 2006, "Evaluation of the NOSB Recommendation on the Definition of Synthetic, and Recommended Framework to Further Clarify the Definition of Synthetic," as well as the decision tree to distinguish synthetic and non-synthetic substances.

In general, we find great merit in the comments contained these documents. The documents reflect an attempt to preserve the spirit of our intent, and place them in a form that will pass regulatory muster.

We do not see revealed in them any major ideological differences, but rather constructive and useful criticism given in the spirit of collaboration. We agree with the observation that the recommendation, clarification of the definition of synthetic, adopted on August 17th, 2005, needs to be
organized in a logical sequence with the explanation for its need clearly stated at the outset, and which terms are more clearly defined and separated from policy interpretations, and which makes more concise recommendations.

We are appreciative of the point-by-point responses corresponding to the numbered items in the NOPB recommendation, which reflect a thorough and thoughtful analysis of our original document.

In addition to the NOP's evaluation, we've received a number of public comments which reflect rigorous analysis of both our original recommendation and the NOP's evaluation of it.

These public comments will be taken into account as well. The press of equally urgent issues to be considered and acted upon in advance of this meeting did not allow us to draft a revised recommendation for the definition of synthetic, in time to be
discussed here.

However, we have devised a detailed outline and proposed a time line for incorporating the suggestions contained in the NOP documents, into a revised recommendation, that could be discussed and perhaps even voted on at the next NOSB meeting.

In summary, the Joint Materials and Handling Committee find that the two NOP documents produced in response to the NOSB recommendation on the definition of synthetic on August 17th, 2005, contain valuable feedback which the Joint Committee will be able to use effectively to sharpen our recommendations concerning the definition of synthetic.

The NOP suggestions, along with the recently-received public comment, will be used to propose a revised recommendation on this subject, which will be posted well in advance of the fall meeting allowing for a 30-day public comment period, and perhaps a vote in the fall meeting.
We again thank everyone at the National Organic Program responsible for producing the thoughtful -- the thorough and thoughtful comments contained in these documents.

CHAIRMAN O'RELL: Thank you, Nancy.

Any questions or discussion?

(Pause.)

CHAIRMAN O'RELL: Okay. Thank you, Nancy. Rigo is going to take the lead on our next item, which will be a recommendation. So we'll have a presentation and discussion on Commercial Availability, and then this afternoon we'll be taking a vote on that document. Rigo?

Commercial Availability Committee Report

MEMBER DELGADO: Thank you, Kevin. First of all, I want and appreciate all the work that Julie put into this document and rest of the two committees. It was fantastic work and it was incredible to do over long distance. It's just a lot of things.
Essentially what we're recommending is a document on establishment of commercial availability criteria. The goal was to come up with some acceptable criteria, to determine what's commercially available or not.

Going straight to the recommendation, we have essentially two, three points. The first one involves the applicant, and we're providing information on the -- that should be included on the information to be included in the petition that is posted on the web page of the NOP.

It essentially provides information to the petitioner of what materials or what information must be included in that petition.

Point B talks about how the NOSB is going to review those materials, highlighting the point that we will be reviewing and not so much evaluating the data.

In Point C, the third and last, it's mainly a list of items that should be followed by the ACAs, and describes in detail the
different steps and points that ACAs should follow to evaluate, validate and come up with a decision.

The conclusion is the following: It is the opinion of the NOSB members that the three recommendations listed provide the acceptable criteria and procedures to determine commercial availability.

The recommendations provide for timing determinations regarding commercial availability. The recommendation from the committee was moved by Andrea Caroe, seconded by Mike Lacy. It was approved by 6 votes, only one absent person, and that is my conclusion of the summary.

We received a number of comments, most of them positive. We only received probably a couple negative, commenting on the fact that perhaps the detail on the -- the detail presented on Point B, referring to the work of the NOSB, is not as much as should be, and otherwise, very good reviews from most of
the comments.

CHAIRMAN O'RELL: Thank you, Rigo. Discussion and questions? No, no. We're not voting on it now.

MEMBER CAROE: I know. But I mean is this going to be a vote item or a discussion item?

CHAIRMAN O'RELL: This will be a vote this afternoon.

MEMBER CAROE: Then I do want to kind of fill in some more background then.

CHAIRMAN O'RELL: Andrea?

MEMBER CAROE: This particular recommendation went through quite a few elaborate drafts. A lot of detail was put in and then pulled out, and some of it put back in. We really, really balanced with this for quite a while.

The challenge for us with this was to be efficient with the present petitioning process, and allow for, you know, to try to integrate into the processes that already
exist, and also maintain the flexibility of the certifier -- not the flexibility -- the ability for the certifier to do their job and act quickly on this particular requirement.

So there was detail taken out. Again, as I responded to Jim Riddle, who commented on this the other day, our recommendation for the adjustment to the petition process is consistent with that document.

I do respect the fact that Jim suggests that there should be more detail, and I feel that might be a follow-on item in the entire petition process, in looking at the detail that a petitioner needs to provide, not only for this type of petition but for petitions for other lists as well.

I consider that a separate item. At this point, we need to quickly act on commercial availability, so that we can move forward, especially based on the changes that
will be made due to the lawsuit.

Also, we had a tremendous amount of
detail included as far as the work of the
board and the work of the certifier. A lot of
that detail was also removed.

However, I can say that in working
with the certifiers, the Certification,
Accreditation and Compliance Committee is
going to collaborate with the program, and be
able to provide that level or that standard of
performance at the certifier training.

Guidance doesn't mean as much as if
we can actually integrate into the training
sessions, and establish that standards of
performance, so that the enforcement of this
would be in the accreditation process.

So that's just a little bit of
background, and this was a very work-intensive
recommendation. That's really all.

CHAIRMAN O'RELL: Thank you, Andrea.

Joe?

MEMBER SMILLIE: Yes. I think
Andrea summed it up very accurately and succinctly. The key here is that the NOSB does have a responsibility to be part of the process, and what we've tried to do is keep our role as minimal as possible, and really put the role of the certification agent as primary in determining this.

But again, it's got to be a balance between the NOP, the NOSB and the certification agent. This is going to be an extremely, extremely important issue, and that we're really looking forward to a really specific training in this.

Because it's one of those areas out there that I think I find particularly contentious, and that's the inconsistency of interpretation by ACAs of commercial availability. So it's going to be a real focus of the program, and hopefully we'll aid that focus, to make sure that manufacturers and producers and everyone in the community is judged evenly as far as commercial
availability goes.

CHAIRMAN O'RELL: And I think this goes really a long ways in terms of putting out consistent criteria for the ACAs to apply evenly, so that everybody's asking the same questions, looking for the same bit of information.

The other Part B in terms of the board's role, and the board does have the responsibility from OFPA in recommending materials to the national list, for inclusion on the national list.

But that's a public process. So when materials come up, after the board reviews them, their agricultural components, they check the petitioner's petition for completeness and make sure that there is some credibility there for a case of commercial availability.

That recommendation would be put to the public, posted to the public for input. So if people out there in the public know of
this ingredient or material is available organically, I mean that's the kind of information, that's kind of the check that we're looking for to bring that to the board, before the board would vote on an item.

MEMBER MOYER: I have one question, Kevin. In Section C, Item No. 3, where we're asking -- I guess my question is are we asking the ACAs to develop those lists and then supply them to the applicant or the operator?

Is that any undue pressure on them?

Because the word just says "if they have it." Does that mean we're inferring that we're going to develop those lists, or if they happen to have them they give them?

CHAIRMAN O'RELL: Joe?

MEMBER SMILLIE: I'd like to ask the NOP to comment first before I did, because it is one of the intentions to create some fairly quick database access for that, and I'm just wondering where --

MEMBER MOYER: In which case the
applicant would have direct access to that data, but not through the ACA.

MEMBER SMILLIE: Yes, because right now, certification agents are -- well, it's a complicated issue, because we're not allowed to consult, in any way, shape or form or favor one source over another.

So as certification is, we have to be very removed from that process. At the same time, we're judged with determining whether that is available or not.

So sometimes we have confidential business information that we know it's available, but we're not allowed to see it.

So the ultimate answer, I think, on this one is going to rest with the NOP database.

MEMBER MOYER: This is inferring that you're going to make that available.

MEMBER CAROE: Not particularly.

MEMBER SMILLIE: No, we really can't.
MEMBER MOYER: I'm sorry. Maybe I read it wrong.

MEMBER CAROE: Notify them of sources of information.

MEMBER SMILLIE: Which list?

MEMBER MOYER: Which list?

MEMBER SMILLIE: And right now --

MEMBER MOYER: The available -- list the available ingredients, if the ACA happens to have that list.

MEMBER SMILLIE: Correct, and well speaking frankly --

MEMBER MOYER: That seems like strange language to me. That's all.

MEMBER SMILLIE: Well speaking -- well, the only two sources that I -- and again, I don't want to flavor the conversation too much, but the only two sources I currently think of is all of the web sites of the ACAs, which list all of their clients and their products, which is required in the regulation, and the Organic Trade Association, the Yellow
Pages.

Now I'm sure there are many others out there, but right now, you know, it just depends on your own specific knowledge of those availabilities. Again, I don't want to answer. I want to hear on the NOP on what their answer is to this.

MR. BRADLEY: Mark Bradley, National Organic Program. We've been wrestling around with this as well, as far as how that information would be made available to certifiers.

A lot of people want to keep that confidential, as confidential business information. Sources of organic products, of course, is contentious at best at some point.

I don't know that we're going to be able to maintain that list at NOP just because of, you know, the work requirements. So that's something that's still up in the air. How's that, Joe?

MEMBER SMILLIE: I don't think I'm
really particularly fond of the answer, but let's get more money available for the National Organic Program, because it's really -- I really believe that they have to be repository of that kind of database.

CHAIRMAN O'RELL: Let Andrea go first.

MEMBER CAROE: Okay. I just want to give an example of the type of situation that we're talking about.

If I'm a manufacturer of a complicated product, and I want to use an organic ingredient that's not available necessarily on the market; nobody's selling that particular ingredient as organic, I may contract somebody to make that ingredient for me, and pay for their certification. That's done all the time.

But I don't want anybody, any of my competitors to know that that company can make that organic ingredient. It's my niche. That is a situation where I don't want that company
identified with that organic product.

We get into, you know, business strategy as well. So you know, this whole issue becomes very complex. Using lists like the trade association lists or, you know, the certifier list, is a very safe way to make these available without pointing out that "Gee, I know that there is, you know, organic cherry flavor, you know. Here's the name of the guy that sells it." We can't -- certifiers can't do that, so that's --

MEMBER MOYER: That's why I'm concerned about this language.

MEMBER CAROE: It's saying "the list," making the lists available if you know of them. Just that's all we can do.

MEMBER MOYER: I mean, it's saying that if somebody applies to use a product, and the certifier is saying that they know that something else is available, are they obligated to make that available?

If they know that you're doing it,
how do they get that information to somebody else without --

 MEMBER CAROE: Because you refer them to a list. That's what the language of this, of number three. It says that "You notify the certification applicant or operator of the sources of information which list available organic ingredients. You don't notify them of the source of the organic ingredient. You notify them of the source of the list."

 MEMBER MOYER: Of the list, if you have it.

 MEMBER CAROE: Right. It's too hard to tie down and be any proscriptive than that. And as Joe mentioned, we have talked to the program for a long time about the prospect of this massive database. At that time, it will be, you know, --

 MEMBER MOYER: That would make it easier.

 MEMBER CAROE: It would make it
easy. It would make a lot of things that certifiers do easy, like their annual reporting. But it's not there yet.

You know, I just have just gone through doing a database for my company, and I can't imagine the challenges that they have with this sized database. But some day.

MEMBER MOYER: Thank you.

CHAIRMAN O'RELL: Bea?

MEMBER JAMES: Andrea, this is kind of a philosophical question. Does that seem somewhat unethical to you, that a manufacturer would try to be secretive and exclusive with their organic ingredient, and maybe potentially force another manufacturer to move to 70 percent or 95 percent because they can't find that ingredient?

MEMBER CAROE: I absolutely don't. I think manufacturers have a lot of trade secrets. Their formulas are trade secrets. They don't want anybody to know what those are. It's business. I know, it's not
unethical.

MEMBER JAMES: I just ask that at a point in history when the organic industry is trying to grow.

MEMBER CAROE: You know, it's not that warm and fuzzy. This is about making money.

MEMBER JAMES: That's just too bad.

MEMBER CAROE: Kevin.

CHAIRMAN O'RELL: Julie.

MEMBER WEISMAN: Also Bea, I just wanted to clarify that not knowing that the organic ingredient is available would not necessarily move that product into a "made with" category.

It means that the certifier would agree that they've done their due diligence, and that they will have an allowance to use the non-organic agricultural product under that situation.

CHAIRMAN O'RELL: Rigo?

MEMBER DELGADO: Well, I just want
to emphasize the point that Andrea brought up, that we do need to develop some sort of criterion, especially with regards to Point B.

I still think that we should have a consistent approach to evaluating these materials, not only from material to material, but year to year, and that's probably one item that we should concentrate on.

CHAIRMAN O'RELL: Andrea?

MEMBER CAROE: This is just the start. You know, look at our review process and our evaluation forms. We don't even have evaluation forms for these materials yet. That level of detail is coming.

MEMBER DELGADO: I agree. I'm just saying this is probably an action item for us, for the work plan.

MEMBER CAROE: Absolutely.

CHAIRMAN O'RELL: Okay. Thank you, Rigo. I guess we were schedule to go from 11:00 to 1:00, and it's 12:20, with public comment. So we need to start public comment.
What I'd like to request is that we take absolute no more than a ten minute break, just to get set up for public comment. We'll get the list and -- do we have the list here, or is it still --

MS. FRANCES: It's out there on the --

CHAIRMAN O'RELL: Okay, because otherwise I would announce the first two speakers. I don't even know who that is.

MS. FRANCES: Kastel. Mark Kastel.

CHAIRMAN O'RELL: Mark Kastel will be the first speaker when we come back at 12:30 sharp. Thank you.

(Whereupon, a short recess was taken.)

Public Comment

CHAIRMAN O'RELL: We're going to start the public comment session. We have a lot of people signed up. This isn't a requirement, but this is a plea from the board, that if you can, keep your comments
If you can keep them to three minutes or less, it's really going to help us get through this, because we have work to do, and we have some people that are going to be leaving here at the end of the day because we scheduled an adjournment.

If we don't get to vote on these action items, this is not going to be good for the public. So I know it's not a requirement. We can't cut public comment speaking time, but I implore you to please help us out, because we've got to get to our work.

We want to hear from the public. Particularly we want to hear about the issues that we've been debating this morning. That would be the most helpful for us.

Let me read the NOSB policy for public comments at NOSB meetings. All persons wishing to comment at NOSB meetings during public comment periods must sign up in advance.
Persons will be called upon to speak in the order they sign up. Unless otherwise indicated by the chair, each person will be given five minutes to speak.

Persons must give their names and affiliations for the record. A person may submit a written proxy for -- to the NOP or NOSB requesting that another person speak on his or her behalf.

No person will be allowed to speak during the public comment period for more than ten minutes. We really hope we don't have a lot of ten minutes. But if you have a proxy, let us know.

Individuals providing public comment will refrain from any personal attacks and from remarks that otherwise impugn the character of an individual. Thank you.

Our first speaker is Mark Kastel. On deck, George Siemon. Third, Albert Straus.

MR. KASTEL: Good afternoon. Is this working? Yes. I'm Mark Kastel. I'm
here again representing the Cornucopia
Institute based on Cornucopia, Wisconsin. I
do have a proxy. We probably won't need that.

I'm going to really respect, Mr. Chairman, your comments and requests, but I
have to say that this may be the last
opportunity we have to talk about origin of
livestock before court-mandated adjustments
are made. So particularly --

CHAIRMAN O'RELL: I understand.

We're not trying to --

MR. KASTEL: Right. But we also
respect your needs. So I want to tell you,
and we'll have a couple of brief comments on
materials.

A tale of two farms, to illustrate
where we're at here. I interviewed a farmer
in New York, who's milking about 100 cows on
pasture. He manages his calves from birth
organically.

He feeds his bottle calves 100
percent organic milk, the same quality of milk
that he and his family market and that is available on the store shelves.

He estimated his investment in the milk alone at 15 to 17 thousand dollars per year to raise 40 calves. He raises all his animals when they're weaned on organic pasture, hay, grain. He buys some of his feed, and we know what organic commodities are selling for today.

The story on the second farm, which I visited last fall. I'm sorry. Strike that from the record. This was not a farm I visited last fall.

Second farm. I visited with the officers of this corporation twice in the last couple of months. A minimal amount of their cows are on pasture. They sell 100 percent of their calves at birth. They buy 100 percent of their replacement heifers at 700 pounds or approximately one year of age.

These heifers were most likely raised with conventional milk replacer. We
were discussing the intricacies of organically approved milk replacer. But this milk replacer likely contained dried blood, a BSE risk, and was likely produced from milk that had supplemental bovine somatotropin.

The feed crops or excuse me, also these cattle might very well have been administered antibiotics, and prohibited parasiticides, and other prohibited pharmaceuticals.

The feed grain is most likely coming from genetically engineered crops. They are fed feed that was raised with toxic pesticides, herbicides and fungicides, and again most likely in feed lot conditions.

That particular farm, Farm No. 2, did not have an expense for lost milk. Instead, they marketed probably 600 to 800 thousand dollars per year of extra milk that that first farmer didn't have the same market avenues for.

Both of these farms label their
products as organic in the marketplace.

Very quickly, two other examples. One I'll call a shell game. Farmer A -- I've heard this story more than once from Western farms, on Western farms.

Farmer A, organic certified dairy producer. Sells all his calves off or transfers them in some form to Farmer B, who's a conventional heifer ranch. They're raised using all those conventional management tools that we discussed.

At one year of age, that animal is transferred to Farmer C, who's a conventional heifer operation. Now they're under -- now they're transitioned under organic management for one year of time.

At the end of that time, they are distributed back organic farms, and there is a strict prohibition in the current regulations about rotating animals in and out of organic management. They're breaking the current law on some of these farms.
Last example. There are some farmers who've decided and some certifiers that it's okay to use antibiotics on young stock on certified organic farms. So during the first period of life for these animals, they could receive a myriad of different prohibited materials, and then as long as --

In their interpretation, as long as they're managed organically for the last year before they go into organic production, it's okay. It might be a split operation that has organic and conventional cattle, so they might just transfer them around on the farm.

But again, is this rotating in and out of organic management, is it breaking the current law? We need very much of a tightening of the current regulations that are being abused, and this is a great opportunity with the court ruling to address this.

Very quickly, on two of the materials you discussed, and this is for information. We're not taking a position at
the Cornucopia Institute, but let me tell you. We've heard a lot of discussion from our producers that are concerned that they won't be able to whitewash their barns.

So if that is off the table, we don't have to be concerned about it. But the minute amount of incidental contact that might occur, they're not whitewashing the feed troughs, and it just, you know, I need you to balance that, and if it needs to be qualified so that that's an exempt operation using that material.

We're not, I don't think, reviewing other materials that are used to paint the barn or the milkhouse. There are other FDA and state regulations, and we should leave that open.

And oxytocin, again for information. That was one of the questions we asked when we interviewed the 68 different private label and name brand marketing entities that were a part of our maintaining the organic integrity
of milk study.

We found a very high percentage, if not a majority -- I have not done the analysis -- of people who say we don't use any of it. I think one of the real reasons behind that was that it's very consuming to the consumer, that these marketing entities want to say no antibiotics, no hormones. Not a little asterisk saying "Well, no hormones, well but maybe for therapeutic purposes."

Consumers can't kind of cope with that. One safeguard obviously would be to have a vet like Hugh say that it's only applicable treatment if it's coordinated through a veterinarian.

So I'm going to close by just saying a big thank you for your patience yesterday, and your courtesy. This board really showed respect for the farmers that showed up here from around the country, and I know they greatly appreciated that, and they left with a very positive feeling.
MEMBER KARREMAN: Thank you, Mark, I just want to thank you for keeping grazing front and center in the organic community over the last couple of years. As far as oxytocin goes, I think -- I don't know what the annotation is right now, but it is -- the intent is only for an emergency purpose, hopefully veterinary administered.

Maybe we can do that annotation, you know, after the sunset process, and just for the record with the whitewash, you were referring to hydrated lime and you did not mention it.

MR. KASTEL: I'm sorry. Thank you, and you probably are well aware that on conventional farms, there is a potential for abuse of oxytocin as a production tool, and that's what we're concerned with.

It's just like having antibiotics in the milk house. If they're there, how do we really know how well they're controlled. That's why I would trust you, as being a
practitioner, rather than just having it available free for all. Thank you very much.

CHAIRMAN O'RELL: Thank you, Mark. George, and Albert Straus on deck. Tony Moore following that.

MR. SIEMON: Hello, I'm glad to be here. George Siemon for the record. I kind of just felt like addressing you all because I missed orientation a little bit.

I really appreciate the experience to be in the NOSB, from all the parties involved, and it's a great sense of a growth that we're all part of. I think it's admiring the dedication. But I think it's also very important to remember how unique the NOSB is in the national government.

It's the only thing like it, and I think it's so important that we keep this up like we are, and I appreciate all of you all doing it. I also am so glad to see Valerie on board, and I've constantly given the advice of how important staff support is, to marry the
work plans of the NOP and NOSB.

So I think one thing that NOSB needs to ask for is how can we dovetail with your work plans, when we're working on things that are common plain, instead of this just differences.

I think everybody's working together real well and I appreciate that.

My biggest concern about the whole process is -- one of my biggest concerns is the loss of the farm plan in the certification process. It used to be our foundation, and now I'm finding it to be almost irrelevant in the certification process.

So one of my challenges is how do we get back to using the farm plan, and that's a very difficult one, because the farm plan -- we're kind of moving to an absolutism, where the standard's this. There's no grey areas because we're afraid the certifiers aren't going to implement it equally.

So there's this move away from the
farm plan that really concerns me. If we heard the comments yesterday about intent, intent, intent, intent, that's about the farm plan, and how do you do that unless you have some leveraging.

So I'm really interested in how we take the guidance documents and develop this kind of intent, and then how do we get the certifiers to be out there by applying the pressure. I heard the word "continued improvement." I really think that was a foundation of organics.

This move to only absolute standards, the way I understand, it really is covering up for a lack of evenhandedness amongst the certifiers. I think that's a real issue that Accreditation has to deal with.

You know, I think we need to have a way that the certifiers know that there's all this variation out there. I think we need to have a way where they can report that to the NOP and there's some response.
I know this brings up the peer review question, because that was the whole idea. I found a committee working the other day, applying the peer review model to certifying organizations that will ensure a high degree of integrity and consistency amongst the certifying agents.

This is a big, big deal now, is how do we get it more even out there, and how do we get you all's guidance into the farm plan. I think it's a major issue.

Another thing that I've really got to remind you all is that I hear a lot about science and organics, and if we were only about science, we wouldn't be able to prohibit any of the materials we've already prohibited. They're already scientifically proven safe.

So we've got to watch out for this "science" word. This is about organic principles, and whether they're consumers or farmers, it's all the same about organic principles.
So science is a bit of a trap for us, because we're already defying the bulk of the scientific community with their risk assessment that this is safe. We're now saying "No, we're not going to allow it, you know, and whether it's safe or principles it doesn't matter." Science is touchy stuff.

For those of you all who are new on the board, I just want to remind you that out here in this crowd is an incredible support staff out here, people that are just unbelievably experienced that have sat at these meetings for 15, 10 years now, 13 years, and who have a lot of experience.

I'd go back to what was said earlier about the sunset thing. I think it's really important that you all, at least the chairpeople, have either the e-mail network of previous chairpeople and reach out and ask "What's the history here?"

I think there's a lot of history being lost here, and I wouldn't agree with
Andrea that we should not challenge the previous work. There was some shoddy work done in the early days, and I was part of it, and it was not good work.

We have to -- I know the sunset has its own process, but we have to challenge things. There's a lot that has changed in this industry from '95 to now that's phenomenal in the knowledge base.

Specifically, oxytocin. I really am surprised at your recommendation. Oxytocin may technically not be a hormone, but it's active like a hormone, it's understood as a hormone. We've prohibited in our crops since it was allowed by the USDA; we've never allowed it.

I think it's really dangerous to make decisions on the rare animal that's going to need that. You know, things don't go perfect on organic farms. That's what we have conventional markets for.

You know, we don't allow sprays on a
crop when the crop's challenged. You know, we have to keep the marketing label. Allowing oxytocin for that rare use to me is not the right move. It's the wrong direction, with the kind of scrutiny we have now. We've not allowed it for 11 years, and we've not had any, that I'm aware of, any real issues there.

So to me, livestock's different than crops. You have the opportunity to treat them. We have the standard and the rule that says you must treat, and then we have the conventional market. So thank you very much.

(Applause.)

CHAIRMAN O'RELL: Thank you, George. Albert. Tony Moore is on deck.

MR. STRAUS: Yeah, hi. I'm Albert Straus from Straus Family Creamery, Marshall, California. I have a few of the sunset materials I want to talk about, and other things.

I'm kind of shocked that after all
this time, that we still have chlorine on the list. I've never used chlorine as a sanitizer in either a creamery or a dairy. I think it's a carcinogen. It doesn't have a place in organic, and I never thought it did.

Hydrated lime, I think that we use it for -- on bedding for preventing mastitis, as well as foot baths, instead of copper sulfate, because copper -- we don't want to the copper on our land.

So I would encourage that it stay on the list for now. I don't know if lime by itself or oyster shells isn't as effective, because it doesn't have the pH level.

Oxytocin, it's a hormone. It's being abused. It's being abused in conventional dairies, and in split dual operations, I have high concerns that it's being abused, and I don't think it's being tracked.

I don't think that certifiers are finding out, getting receipts of medications.
of dual operations, as well as organic operations are using, and preventing illegitimate use of it.

You know, I haven't had a prolapsed cow in probably a decade or more. So, you know, I'm not -- I know you like the tools but you know, we do with a lot less tools these days.

Milk replacer, I have no problem getting rid of that. I think I haven't used milk replacer in quite a few years. You know, emergency for milk replacers like, you know, if you have to wait a couple of hour to feed a calf or you know, find a cow to put it on, I just -- I don't know.

It's just, you know, go out and hand milk a cow if you need to. But I don't see the use for a milk replacer in an organic system.

Ivermectin, I don't feel that that should be on the list for milking cows or cows -- anything above, over a year old. I know
that most of the problems are with the younger heifers. They'd have to document the cases.

    Let's see. That kind of ties into my comments about replacement animals. What I would encourage to get to one system really, and I didn't think I talked that long --

    One system is to have organic from birth, and then have allowances, under veterinary supervision or prescription, to be able to treat calves with dewormer or an antibiotic, within the first year of life, and then have that year before production. Then conventional replacements limited to five or ten percent of a herd on an ongoing basis.

    The only other thing I have is that I have a pet peeve about treated sewage on organic crops, tertiary treated and secondary treated crops. I mean secondary treatment on organic crops, I think, is ludicrous, and I put it in a petition a couple of years ago, but nothing ever happened, or complained, excuse me. I guess I'll give up the minute.
CHAIRMAN O'ReLL: Thank you. A question.

MEMBER WEISMAN: When you say "treated sewage," is that something different than sewage sludge, which is absolutely not allowed?

MR. STRAUS: In my looking up what sewage sludge is, it says any form of sewage, liquid, solids, and treated sewage, in my mind, whether it's test secondary or tertiary, is sewage sludge.

MEMBER WEISMAN: So it shouldn't be allowed. What's the --

MR. STRAUS: Should be allowed?

MEMBER WEISMAN: Should not, should not.

MR. STRAUS: It's being used readily.

MEMBER KARREMAN: It's prohibited. It's one of the big three that's prohibited.

MR. STRAUS: Well, tell the certifiers. Tell --
MEMBER GIACOMINI: In my experience with most certifiers, they're interpreting sewage sludge as solids, and in the areas when there's secondary and tertiary sewer water, they're allowing that on crops.

MEMBER WEISMAN: So they're using the effluent?

MEMBER KARREMAN: That's not --

MEMBER GIACOMINI: We think that a lot of people have thought so, but that seems to be where -- and it's coming from somewhere. I mean, I don't know that they've thought about it themselves.

MEMBER KARREMAN: I mean to make a point, it's not even allowed for the use on conventional product within the 30 percent of a "made with" product.

MR. STRAUS: Well, it's being used.

MEMBER WEISMAN: Are we talking about effluent, the water effluent? What portion of the water are we talking about?

MR. STRAUS: When you treat sewage,
you treat it in different --

MEMBER WEISMAN: I'm quite familiar with it.

MR. STRAUS: And they're using it -- actually in Central Valley, California, cities are putting that into irrigation systems, and so that it gets irrigated onto organic as well as conventional crops.

MEMBER WEISMAN: Now I'm trying to understand. Are they putting out the water effluent, or are they putting out water that still contains sewage?

MEMBER OSTIGUY: Water effluent.

MR. STRAUS: It's the effluent that --

MEMBER WEISMAN: Out of the treatment plants.

MR. STRAUS: They separate the solids, they aerate it and then they spray it on the fields.

MEMBER WEISMAN: I can't see how they are doing it.
MEMBER ENGELBERT: And you're saying, Albert, that certifiers are aware of this and are allowing it?

MR. STRAUS: Definitely.

CHAIRMAN O'RELL: Is that the only question?

MEMBER OSTIGUY: Can I make a comment on that? What we're dealing with, and it is going to happen more in the West than it would in the East, and it's something that is absolutely true of Europe, it depends on what you want to define as effluent, and at what point it stops being effluent.

Because what we currently do is we treat minimum secondary in the United States, very few tertiary facilities, and that effluent, the water. So after we have gone through the trickling water filters or whatever it is to remove up to 95 percent of the biologically active materials, which is not necessarily stuff you see floating. That's always gone.
But there's still biological materials left in there. That leftover water portion is dumped into your rivers. Depending on how close you are from where that is released into a river, you could be drinking effluent.

MR. STRAUS: There are concerns about heavy metals, viruses --

MEMBER OSTIGUY: I know what the concerns are. But it depends -- you know, where are we going to draw the line then, Because if I as a sewage treatment facility dump that water into the river, and there's a farmer a quarter mile downstream, that's effluent also.

If you're in Europe, there is not a stream that isn't primarily effluent, somebody else's sewage treatment water that has been put into the stream.

There are too many people. There are very few rivers in the United States in that shape, but the ones in the West are going
to have higher concentrations. There's one river near Las Vegas that is primarily effluent.

CHAIRMAN O'RELL: Kevin?

MEMBER ENGELBERT: That's not in our jurisdiction. That's out of our scope.

MEMBER OSTIGUY: Well, I understand that. But if we're going to start talking about effluent, the water being an issue, we need to then decide when is it sewage and when is it not in our minds.

MEMBER CAROE: Right. That's what she's getting at.

MEMBER OSTIGUY: It's a gray area.

CHAIRMAN O'RELL: I'll take one more comment on this, and then we're going to move on. Bea?

MEMBER JAMES: I would like to ask the NOP to address their opinion on that situation.

MR. BRADLEY: We'll take a look at this. This is Mark Bradley from the National
Organic Program. This situation's new to us, and we need to look at it, but we will. Albert, if you could file a complaint. I mean I'm not --

MR. STRAUS: I did a couple of years ago.

MR. BRADLEY: Okay. I know.

MR. STRAUS: I'll follow up with that.

MR. BRADLEY: We'll check into this.

MR. STRAUS: Okay, thank you.

CHAIRMAN O'ReLL: Okay. Before we get to our next speaker, I've just been asked to make an announcement, that the restaurant here, if somebody's planning to eat, closes at 2:00. So just so you know that.

Tony, Bill Clymer is next.

MR. MOORE: Well, given the food, I'll make it really short. My name is Tony Moore. I work for a company called Moore Ingredients. I'm a certified flavor chemist.

We manufacture and create certified organic
flavors and certified organic ingredients, using them as flavors.

Thanks to all the board members today. It's been really informative to me, watching this whole stuff take place. It leaves me with a lot of concerns and confused me a little bit as well.

But the only thing I'd really like to ask is that the topic of organic flavors be explored more deeply, and be debated a little more before any decision is made.

As probably everyone here is aware, organic flavors and flavors in general are very complex mixtures. Very rarely do they constitute, you know, 100 percent ag except for botanical isolates.

But flavors are generally mixtures of ag and non-ag. They'll contain organic solvents, organic fruit juices, organic concentrates, acidulents (ph), and as well some non-ag products.

Also, just be aware of decisions
made to continue the creation, the continuation of markets of organic products. You know, in 1980, there was no natural aromatics market. Consumers wanted natural products, and the flavor industry rose to that, and by 1990, natural flavors were our fastest-growing category in the flavor industry.

Also in 1990, it was thought that we couldn't create complex organic flavors. Here we are, 15, 16 years later and there's more than several companies offering, creating and selling organic products.

So please be aware of the decisions you made and how they can create new markets in the organic ingredients industry. Thank you.

CHAIRMAN O'RELL: Thank you, Tony. Did you have -- actually I did have a question, Tony. Sorry. The points you're making, could you give me some kind of quantifying on the ag/non-ag part?
Because one of the things we're talking about is moving flavors to ag, to 606.

MR. MOORE: Sure. How about I give a very brief description of a formula, a good organic flavor formula. Let's pick -- pick your berry. Usually can constitute a solvent, usually 30 to 40 percent, which is going to be alcohol, which is I would consider that agriculture.

You're usually going to have something of a named source. If it's a berry, you're going to have blueberry juice concentrate, ag source, correct? We may or may have an acidulent, which could be citric acid, which there is debatable. Right now it's non-organic.

The biggest problem we have in creating organic flavors in natural aromatics. I've kind of put a little outline of some aromatics on my comments. But there are some aromatics, and I'm using -- that's a kind word essentially for natural aroma chemicals.
Some things can be completely derived physically from name products. Like in my description I had talked about anathol (ph) being derived from anasoil (ph). You could also see citrol from lemon oil. The list goes on and on.

But there are also products that are made from completely natural sources, completely natural products that will not be considered ag because they've either been manipulated by simple list aerification (ph), that don't exist in that, you know, state in the natural product.

That's our big problem in flavors. So you essentially, just like maybe, you know, commercial organic food and beverage products, we have a complex mixture. It's not one singular product you can make one decision on.

Does that answer your question? Okay.

CHAIRMAN O'RELL: Bill Clymer and Kim Dietz on deck.

MR. CLYMER: My name is Bill Clymer.
I'm the parasitologist for Fort Dodge Animal Health. I call Amarillo, Texas home.

I'm going to start out by saying that I'm here representing Fort Dodge, but I'm also here representing a number of organic livestock producers, that asked me to get involved a little bit in this fray as far as antibiotic definitions are concerned.

Internal parasites can and do reach clinical levels in our livestock. Parasites can result in reduced production and even death. Organic producers need product or products that can be used to eliminate clinical parasite problems.

When I say the word "clinical," I'm talking about those that are at risk, and still be kind to a non-target organism such as the dung beetle.

I will refer to Moxidectin during my discussion, but my comments will apply to the rest of the microcylic lactones and a general term, and be Ivermectin, Vectomax (ph),
Eprinex, as well as Cydectin.

The medically and regulatory accepted -- okay. The medically and regulatory accepted definition of an antibiotic is an agent with anamicrobial or anabacterial activity.

Moxidectin is an antiparasitic, which includes the helmuts (ph) and insects, but not anamicrobial activity and therefore is not an antibiotic.

The structure of a compound is not a predictor of its activity. An example provided is erythromycin, a macrolide antibiotic is anabacterial, not antihelumetic (ph) or antiparasitic, if you prefer to use that term.

It also works via an entirely different mechanism of action. Therefore, classifying molecules in a class via common structure is inappropriate and misleading.

The next comment is taken from the book Food and Drug Dictionary: Official
Regulatory Terms, Government Institute's Research Group. C. Adams was the editor.

From the preface of this book and I read "It is important to keep in mind that this dictionary is not just a collection of absolute definitions, but is also a resource to identify basic regulatory concepts.

"There may be other means for many of the terms, but the definitions included in this dictionary reflect use of the term in a specific regulatory or statutory context.

"Each term carries a citation to place the term in that context for the reader."

Antibiotic drug. Any drug composed wholly or partly of any kind of penicillin, streptomycin, chlorotetracycline, chloroanphenotrol or bacitracin (ph), or any other drug intended for human use containing any quantity of any chemical substance which is produced by a microorganism and which has the capacity to inhibit or destroy
microorganisms in dilute solution or any derivative thereof.

The actual quotation is listed at the bottom of that slide.

Moxidectin or f-Alpha, as it was first known when it first started being tested for anabacterial activity, was found to have none of these activities. Antibiotic clearly refers to anamicrobial or anabacterial activity, and is separate from antiparasitic.

Antihelumetics, an agent that is destructive to worms. This is all still quotes from this book that I cited earlier.

Another book, Pharmacological Basis of Therapeutics, 8th edition, is taken from Section 11, "Chemotherapy of Microbial Diseases"; Chapter 44, "Anamicrobial Agents," and this is considered the bible for pharmacologists all over the world.

Dr. Goodman and Gilman were the editors. Dr. Gilman won the Nobel Prize for Medicine in the mid-90's, so these guys are
not amateurs.

"Antibiotics are chemical substances produced by various species of microorganisms, i.e., bacteria, fungi, acetomycetes (ph), that suppress the growth of other microorganisms and may eventually destroy them.

"When antibiotics are used," and this is still quoting, "When antibiotics are used to treat an infection, a favorable therapeutic outcome is influenced by numerous factors. However, in simple terms, success is dependent on achieving a level of anabacterial activity as the site of infection that is sufficient to inhibit the bacteria that tips the balance in favor of the host."

Looking at erythromycin, what I would consider a true antibiotic, looking at the mechanism of action, erythromycin and other macrolide antibiotics inhibit protein synthesis by binding reversibly to 50-S ribosomal subunits of sensitive microorganisms.
Erythromycin and Moxidectin are in the same structural class. However, erythromycin is an antibiotic; Moxidectin is an antiparasitic. They have different mechanisms of action and target. The structural properties of any compound are not predictive of activity or mode of action.

"Moxidectin was tested for anabacterial activity and was found to have none." Thank you.

MEMBER JAMES: I have a question for you.

MR. CLYMER: Yes ma'am.

MEMBER JAMES: Do you have a conclusion to your presentation? A very, short quick-like in summary what you really --

MR. CLYMER: In summary, what I'm saying is that the microcyclic lactones, this would be Ivermec, Vectomax, Eprinomectin (ph), Cydectin and then some other generic look-alike type products, are not classified to those of us in the medical profession and in
the livestock profession as antibiotics.

They are classified as antiparasitics. The antihelumetics refer to just the worms, but when we say "antiparasitics" we're talking about internal and external.

All four of these products, the microyclic lactones, are called endectocides. That means I actually have activity, I guess, against both internal parasites, such as the worms, and some external parasites such as lice, mites and that sort of thing.

So in summation, I would say that antibiotics and antiparasitics, even though they may be all in the macrolide group, they actually have different activity, different mode of action, different targets and therefore I do not think they should be classified as an antibiotic.

CHAIRMAN O'ReLL: Hugh.

MEMBER KARREMAN: Thank you for clarifying this for us. We'll take it
definitely into our consideration.

CHAIRMAN O'RELL: Yes ma'am.

MEMBER OSTIGUY: Would you say that the similarity in structure is used initially to try and select for which chemicals to evaluate for similar activity, but from there, they may or may not, as you're explaining, it's not active. So then the structure no longer --

MR. CLYMER: I'd say that's a very good assumption, Because most of the companies involved in development, and I spent 23 years as a private consultant and a contract researcher and then was on the Texas A&M staff prior to that.

So I haven't spent but a very small portion of my adult life working for an industry, or working for industry specifically. They have a screening program, and they're looking --

When they go through a screen, they look at bacterial, fungi, insects, helmuts,
all these different things. So any compound 
that they find, if it has activity, say, 
against a disease, then it goes in the vet 
development program.

So they do start out looking for 
similar structures. I was fortunate enough to 
be the first one to inject Ivermec in a cow in 
1976 as a researcher.

That product was actually found on a 
golf course in Japan, and I think maybe some 
executives were out trying to justify playing 
golf. But anyhow, but that's where that 
molecule actually came from. Any other 
comments? I appreciate very much your time. 
Thank you.

CHAIRMAN O'RELL: Thank you. Kim 
Dietz, followed by David Hiltz.

MS. DIETZ: Kim Dietz, past NOSB 
member. I'm going to comment on commercial 
availability, kind of rubber meets the road 
with this. I agree that the document is a 
great document. I'm concerned with a couple
of things.

One, again from a historical standpoint, the NOSB has made a recommendation on commercial availability, and in this document, it says that there's no standardized criteria to the ACAs.

I know the board has a recommendation out there, and that some certifiers, I hope most of them, are using that recommendation. I know that our certifiers are requiring us to follow those guidelines, and we submit our background on why some things aren't commercially available.

So I'd encourage you to go back and look at that. I think Jim Riddle gave Rigoberto a copy of that yesterday.

The rubber meets the road. I'm concerned that this document is vague and that you're going to have a lot of materials coming in to be petitioned under 606.

I'm on the OTA task force for 606, and I know that we've been kind of waiting for
this document to come out, so we know exactly what we need to petition and how, so that the petitions don't get rejected. So you should start seeing a number of petitions coming your way.

I'm primarily concerned with under the Recommendation No. 2, it says "When petitioning for inclusion on the national list of non-organically produced agricultural products, the petition must state why the product should be permitted, and the production or handling of the organic product.

"Specifically, the petition must include current industry information." What is current industry information? The past board recommendation said that you must show three sources that you've tried to seek out that organic alternative, and you must have that documented.

So that past historical perspective should be in there somewhere, that a minimum of three vendors should be provided. You guys
should ask for that, because it's currently hopefully being used. So that's the one area.

The other one is under (c)(2). "The certifier must validate" or "shall," it says "shall validate that the applicant or operator has documentation proving that the ingredient is not commercially available in an organic form."

Again, what is that documentation? How much of it do you like? Is one person going to submit one letter from a supplier saying they don't have it, and some others submit ten? You need to be, I think, a little more specific with that. The minimum of three has been the industry standard.

Then also in order for an accredited certifying agent to allow this, it says that the organic form may be allowed once they've reviewed "a credible, available information listing, known sources of organic ingredients."

That doesn't exist, and is that
going to bog down materials being allowed under 606. So that's my -- I'll just conclude with that. But I think that -- I know we need it. But again, I'm concerned that there's not going to be consistency out there.

CHAIRMAN O'RELL: Andrea?

MEMBER CAROE: I just want to reiterate that what we did with this document is this document is related to including materials on 606 open to commercial availability.

Those previous recommendations and how the certifier determines commercial availability comes as a second process. They're still intact, but they can't even do that process unless the material's on 606.

MS. DIETZ: Right, Right.

MEMBER CAROE: So this, you know, I feel that level of detail needs to remain, but it's a separate process than what we're discussing.
MS. DIETZ: Okay. I just -- you know, from a certifier's standpoint, and that's your expertise there. But is a certifier going to say "Well, I don't have this database, so therefore I don't know if it's available in other places."

So there's just -- it seems a little vague to me, and there's no list out there. So you may -- it says they shall do it, and that's shall use "they must." So you may want to give them some options in this document.

MEMBER CAROE: And they can. There is a list on OTA's website open to anybody right now. So there's no reason why they can't.

MS. DIETZ: All right. As long as it's there. I heard earlier that there was no list, and I know it's not -- you know, you're using one source, a trade association, and that's only going to list people's ingredients that they ask to be put on that.

MEMBER SMILLIE: Well, by the
regulation also there is a list of products on
each of the accredited certifiers'
association lists or websites.

MS. DIETZ: Okay. That's not as
much a concern as making sure that the handler
validates the minimum of three suppliers, and
right now you don't have any numbers in there.
That was more of my concern than the list.

CHAIRMAN O'RELL: David Hiltz, and
do you have a proxy?

MR. HILTZ: Natalia Milo (ph) was
signed up behind me, and actually she's agreed
to allow me to use her time if necessary. So
I don't think I'll need that. I'm going to
cut my comments down in lieu of your earlier
statement.

CHAIRMAN O'RELL: So you have ten
minutes.

MR. HILTZ: I do have ten minutes,
but I don't think I'm going to use it, given
that --

CHAIRMAN O'RELL: Okay.
MR. HILTZ: Well, good afternoon everybody. Many thanks to the NOP and the NOSB for continuing to allow us to provide public comment on organic issues, and welcome to the new board members who I have not met before, and we appreciate your commitment that you've put in for the next five years.

My name is Dave Hiltz. I'm a research scientist with Acadian Sea Plants. Acadian Sea Plants is one of the largest manufacturers of aquatic plant extracts in the world.

We're located in Nova Scotia, Canada, and our company has supplied both kelp meal and the synthetic aquatic plant extracts to growers for use in both organic and conventional agriculture for the past 15 years. We certainly continue to hope to continue to do so in the future.

I come before you today to comment on your ongoing sunset process for the existing national list, and specifically the
recommendation of the Crops Committee for the
renewal of aquatic plant extracts under
205.601(j).

Acadian Sea Plants mostly agrees
with the findings of the committee, and also
of the TAP review panel, and we're pleased
with the recommendation of the committee to
review aquatic plant extracts.

The majority of the comments that I
have today are going to focus on the
discussion of some of the points that have
been contained in some of the earlier public
comments, and again give Acadian Sea Plants'
opinions on some of the comments that you've
heard.

One of the big issues that continues
to arise seems to be the issue of the
potential for aquatic plant extract
manufacturers to somehow fortify their
extracts with potassium, through the excess
use of alkali during the extraction process.

I certainly can't speak for all
companies, but I will again reiterate what I've said at all the meetings that I've attended, that for our company that simply is not a possibility.

The extraction process that we use was developed in conjunction with research scientists at the National Research Council of Canada, and it is very sensitive to the amount of alkali that we use.

If we put in too much alkali, it causes us major production problems. If we put in too little alkali, it causes us major production problems. So we spend a lot of time within the company, in our quality control process, to make sure that we use only the minimal amount that is required with our established process to produce a quality product.

One of the things I've also heard stated is that these products, if you look on the Armory list, for example, you'll see that the potassium level varies more between two
and 20 percent.

What no one has mentioned is the fact that those products also vary in solids content widely. Some of those are very, very dilute liquids; some of those are dry soluble powders.

If you were to actually put the potassium content in context of the actual dry matter of all those products, you would find that any of them that are alkali-extracted made with potassium are all going to come in at almost the same level.

The fact that one of them is a ten percent solution, of course it's going to lower the potassium level down. So that's where some of the confusion comes in there.

But the suggestion that alkali extraction allows us to market potassium fertilizers at an elevated price is simply without merit.

These products, as Gerald pointed out this morning, are applied at the level of
ounces and maybe pounds per acre, and the agronomic impact of applying that to a crop is simply insignificant.

At the recommended application guidelines, our products would supply considerably less than one percent of the required potassium for a field crop. Given the cost factors involved, it simply is not going to be economically feasible for a farmer to over-apply that.

Even if they did try to do that, aquatic plant extracts made from marine plants contain a natural level of sodium that is about one-third of what the level of potassium is in the final product.

So even if you did try to over-apply that, you would end up, if you tried to, for example, apply 20 pounds of potassium through over-applying aquatic plant extract, you would inadvertently apply six or seven pounds of sodium. You could see that very quickly it's going to run into causing a salinity issue.
So we just don't feel that that is a viable possibility that anybody could do that.

A number of commenters have also commented on the use of potassium carbonate as an appropriate alkali to use. Indeed, a number of our competitors do use that product now.

Acadian Sea Plants has no comment one way or the other on that. It certainly is a viable alkali to also use. The one thing I will point out is that in our opinion, in our experience, anybody that is using potassium carbonate is doing it using a pressurized extraction process, whether instead of extract --

For example, our company extracts at an ambient temperature and pressure. With the use of the carbonate, which is not as strong of an alkali, you have to account for that by usually using high pressure and high temperatures, usually on the order of 300 to
350 degrees Fahrenheit.

So there isn't -- that process is viable, but it is a different process than what we do, and certainly we wanted to point that out to the board as well.

One of the other issues that we've talked about is the existence of some of these non-synthetic type extracts. Indeed, the study that Armory had commissioned had looked at the viability of whether or not alkali extracts were needed.

In that -- some people have concluded that from that report, that there's a statement that or there's a conclusion that the alkali extracts are not needed.

It's unclear to us how they could come to that conclusion, given that on page four in the statements, there's an ambiguous statement where they say that, I quote here, "Both alkali and non-alkali extracts may have some value in crop treatments, although it is clear that the latter" --
"It is not clear that the latter," which would be the non-alkali extracts, can provide responses comparable to alkali extracts.

Yet later in the same statement, they say it is possible to establish -- it's not possible to establish the necessity of alkali potassium hydroxide in the making of extracts.

Well, if there's no clear evidence that the non-alkali extracts work as well as the alkali extracts, how can you conclude that the non-alkali extracts, that alkali is not required? That's very, you know, confusing to us.

And also the other thing I would point out is the fact that some of these non-alkaline extracts, which you would think would be totally natural and non-synthetic, we don't disagree that there are processes out there that will allow for the manufacture of a non-synthetic extract.
The problem then becomes is the same problem that all of us have, is trying to bottle that into something that's shelf-life stable. You can certainly use pressurized, differential pressures, freezing, thawing.

But at the end of that, you'll end up with a seaweed suspension usually, that again is going to be -- if you can't find some way to preserve it or stabilize it, it's going to be susceptible to microbial action.

So some of these products that are on the marketplace, even though they say well, we don't use alkali, we don't use any synthetic chemicals in the extraction process. "No, you don't." But a lot of them do, then subsequently add synthetic micronutrients or synthetic preservatives to stabilize their products.

So even though it looks like it's non-synthetic, it may not really be.

So in closing, I just, you know, I just want to again thank the board for their
continued work on this, and we again thank you for your proposal that for the renewal of aquatic plant extracts as they're currently listed.

Given that a number of us, the manufacturers produce these products in such different ways, with respect to the question of trying to limit the amount of alkali or set some number for the amount of alkali, we would suggest that would be a difficult process.

We certainly will work with the board, if that's something they choose to do. But we'll warn you that that is -- again, given all the different types of manufacturing of the alkali extracts out there, it would be very difficult to establish one of those as being an official process, so to speak. So I thank you very much for your time.

CHAIRMAN O'RELL: Kevin.

MEMBER ENGELBERT: Thank you, David. On the very -- the last line on the very first page of your presentation, I want to
make sure I understand what you're saying. Is there a typo? Are you trying to say "thus rendering them synthetic, despite the lack of chemicals used"?

Should that be "Instead, they are often mixed with synthetic micronutrients."

Is this what I'm reading?

MR. HILTZ: Yes.

MEMBER ENGELBERT: This is where --

MR. HILTZ: Yes. It says they're often mixed with synthetic micronutrients or preservatives that produce a shelf-stable product, thus rendering them non-synthetic" -- yes. That's kind of what I was saying before.

MEMBER ENGELBERT: It should say "synthetic"?

MR. HILTZ: Yes. I apologize. Yes, you're right. That should be "synthetic."

MEMBER ENGELBERT: Thank you.

CHAIRMAN O'RELL: Thank you. Lou Anderson is up next, and I've been asked to make an announcement. It's hotel policy not
to bring food into this room for eating. So I'm sorry. I'm making the announcement.

MR. ANDERSON: I'm Lou Anderson. I represent Idaho Organic Feed Growers Association. I apologize, but I need to talk about the pasture issue again.

I represent a group of 60 plus organic farmers, all family farmers in Idaho. We produce organic feed for organic dairies. We're in an area that's kind of unique. We can produce organic feed there very efficiently and in a very sustainable, friendly manner.

Because of the elevation and the moisture that we get there, and the growing conditions, the short growing season, we take generally just one cutting of hay. Our barley yields, we can only grow short season grains because of the climate.

Our barley yields are usually 20 to 30 bushels per acre. So the natural calcification or natural state of the soil
pretty much takes care of our soil fertility.

We don't have a lot of weed problems there, we don't have a lot of insect problems there, so it's just a natural place for that to happen. Unfortunately, that's about the only crop that we can grow there. We don't have a lot of crop choices.

This is my first experience at one of these meetings, and it's been very enlightening. All of you guys on the board, on the NOP, I really appreciate your patience in what you do, because it's at times certainly it's not much fun.

We support pasture for organic dairies. Our concern is that prescribed amounts of pasture may put unnecessary economic burdens on some of the Western dairies.

We would support focusing more on the overall animal health and welfare than on whether the only feed those animals get is pasture.
Our concern is that if this takes place, these dairies may not be able to operate financially and would go out of business, and we have established over the last ten years a market for about 60,000 acres' worth of organic feed.

We produce in the neighborhood of 100,000 tons of organic feed every year, which we're able to market at this time. It injects in the neighborhood of 15 to 20 million dollars a year into the economy of our area.

A number of the farmers that I represent, probably half would tell you that if it was not for the organic industry and for their ability to farm organically and produce and sell organically that they would not be farming now.

It's a problem in our area that the land values have become so high that sometimes it's easier to sell than it is to continue farming. Because of organics and because of organic feed production, we have been able to
keep most of these farmers on the land.

I'm a fourth generation Idaho farmer. Most of the people I came here today to talk for are second, third and fourth generation Idaho farmers. We just feel that maybe we haven't been heard or people don't know who we are.

So they sent me out here to introduce myself and introduce us to you guys. Like I said, we feel that what we do that we're very strongly supportive of the organic program and the organic rules.

We feel we produce a very organic, very nutritious product something, like I said, in a very friendly, earth friendly, very sustainable manner, and we'd like you to consider our position in this in the dairy question, that we may continue to do that and may continue to grow that industry as the organic dairy industry goes in our area.

I think it's important that organic dairy products are produced in a manner that
are affordable to the general public. I see that happening now. I'd like to see that stay the same way if we can do that.

I appreciate your time. Thank you.

Yes sir.

CHAIRMAN O'ReLL: Thank you, Lou.

MEMBER DAVIS: What part of Idaho are you located in?

MR. ANDERSON: We're in South Central Idaho.

MEMBER DAVIS: Name some cities.

MR. ANDERSON: We're about 50 miles west of Sun Valley.

MEMBER DAVIS: Okay. So you're between --

MR. ANDERSON: We're north of Twin Falls.

MEMBER DAVIS: Okay, between --

MR. ANDERSON: Between Boise in the north. Actually, we have growers that go from the Boise Valley to the Teton Valley, and from Snowville, Utah the other way.
MEMBER DAVIS: Okay. So you're all across that broad patch of land?

MR. ANDERSON: All across that broad band, yes sir. Yes.

MEMBER KARREMAN: Thank you very much for coming in and taking your time out. All I can say is there's a lot of Eastern organic dairy farms that love Western hay. It certainly would be nice to see some of -- or more of your hay come into the East.

MR. ANDERSON: I've been contacted by a number of people. Unfortunately at this point, the freight is -- seems to be prohibitive.

MEMBER KARREMAN: Yes, but still, the organic farmers right here in Pennsylvania will buy hay from -- organic hay from Nebraska and what-not. So please keep us in mind on this end of the country.

MR. ANDERSON: That's what we do for a living. We'd be glad to bring it any place we can.
(Laughter.)

MEMBER KARREMAN: Well, there's been a shortage, this year especially. You've got another question.

MEMBER SMILLIE: One cut, because that's the length of the season or --

MR. ANDERSON: Because that's the length of the season and the moisture we have. We have maybe 18 or 19 inches of moisture, but most of it comes in the form of snow in the winter.

During the last ten years of drought, we've gotten about half a cutting. So the organic has made that so we could still continue to survive. If not for that, I'm sure we'da been out of business.

MEMBER SMILLIE: Is that irrigated or natural?

MR. ANDERSON: Most of the acres are natural, non-irrigated. There is some irrigation, but most of it's natural non-irrigated.
CHAIRMAN O'RELL: Thank you.

MEMBER KARREMAN: Thank you, Lou.

CHAIRMAN O'RELL: Cayse Warf is up, and next on deck, Gwendolyn Ward.

MR. WARF: Good day. My name is Cayse Warf. I work with EcoLab. I have special interest in daily cow health and welfare through teat dips and hair hoof wart treatments, and also food safety assurance during processing through the use of food contact antimicrobials, and efficacious applications of oxidants for cleaning and sanitizing.

I really appreciate the work for the NOSB and the NOP, especially you guys that are volunteering. Keep going. However, I have a couple of concerns and some suggestions I would like to share with you this morning.

Similar in some ways, I think that the process is kind of like the reproduction of elephants. After the initial courtship rituals, it takes about two years to get a
product. So let's work on that.

It seems -- well, I won't even go into that. Where is our Federal Register publication for peracetic acid? I think I know the answer right now. I've talked with Arthur and some others in there.

But you've already made your recommendations. Now is it going to take two years before we get a publication, so that we can go ahead and start using that? It should not be that way.

A couple of things that I'd like to mention too is the inconsistency in our certifiers. Yesterday, it was very interesting to me to see the Shiitake mushroom presentation here, that they had been using the process for years and years, okay, with multiple certifiers, okay.

No problem with at all. You come up with one certifier that says "Well, that's an input," instead of a plastic bag and whatever else. It should not be that way. It should
not be that way, that certifiers can be willy-nilly in their certification or what they're requiring.

Another example is recently, we had a customer using a material on poultry processing for chicken carcasses. One certifier had no problem at all, seeing that it was under an advisement letter from USDA, that it was a food contact substance.

Another certifier in another state says "No, it's not. We disagree with that. We don't go along with the recommendations from USDA," and they would not certify it. It should not be that way, that one certifier can allow it and another should not. That needs to be fixed.

So I called on the NOP quickly to address food contact substances, and quickly rule that they are not under the jurisdiction of the NOSB.

Or I propose that the NOP create a new category called "Food safety
antimicrobials," including all substances
codified in 21 C.F.R. 173, which is secondary,
direct food additives, and legislate that
their automatic inclusion by reference in the
NOP list, and not require them to go through
the listing process on the NOP.

I understand that the NOP is a
marketing program, so it should not trump food
safety in any aspect at all. Organic
consumers expect and deserve that the organic
labeled meat, poultry, fish, fruits and
vegetables are as safe from pathogens as non-
organically processed food. Right now, that
is not 100 percent certain. Thank you.

CHAIRMAN O'RELL: Thank you. Any
questions? Gwendolyn. I'd just remind
everybody we still have 90 minutes of public
comment to go, and the board needs to do some
deliberation on these action items.

MS. WYARD: Good afternoon, Mr.
Chairman, members of the NOSB, NOP staff and
ladies and gentlemen of the gallery. My name
is Gwendolyn Wyard. I'm the primary processing program reviewer at Oregon Tilth, representing 744 members and 411 certified processors.

I'm pleased to be here today and provide comments regarding the retention of flavors. My comments were submitted on April 10th, so hopefully you have those in your book.

While the committee recommendation refers to both flavors and colors, I am going to focus my comments today on flavors, keeping in mind that most of my comments also apply to agricultural colors.

Oregon Tilth does not support the retention of the current listing of flavors, but rather supports transition to a defined inclusion of non-agricultural flavors, as per the 205.605 heading.

I'd like to recognize and emphasize right here from the starting gate that complete elimination of flavors from 205.605 would be premature. I agree with that,
because non-agricultural, non-synthetic flavors, they arguably exist.

However, many flavors are agricultural by current rule definition, and would be more appropriately listed under 205.606, if not commercially available in organic form.

So the current listing of flavors is too broad, and I think we agree. We agree with that. The FDA definition of natural flavor ranges from simple botanical extracts or essential oils such as peppermint extract, lemon oil to the aroma chemicals that Tony Moore from Moore Ingredients mentioned earlier, 6-3-hexanol (ph), acetic acid, etcetera, etcetera, to protein hydrolyzates (ph) and fermentation products. Then there's the complex mixtures of agricultural and non-agricultural.

So the crux of the situation is this: I want to use peppermint extract as an example. It's a simple botanical extract.
They're generally accepted as agricultural. It does not meet the definition of non-agricultural, and it's readily available in organic form.

However, because peppermint extract meets the broad FDA definition of natural flavor, and flavors are listed under 205.605 as non-agricultural, the peppermint extract is regarded as non-agricultural, and the non-organic form is consequently allowed in organic products.

The manufacturer of the organic product is neither required to source or use organic peppermint extract.

So while one company is required to spend considerable money and resources to secure a consistent supply or organic guar gum (ph) or organic mustard brand, another organic product manufacturer may use non-organic peppermint oil as a flavor, regardless of its organic availability. This does not support the production of organic ingredients.
I wanted to mention or comment, you mentioned earlier, Joe, that efforts are being made to encourage manufacturers to use organic flavors. I honestly don't know how we can do that.

A clarification came from the NOP on the form of a letter from Richard Matthews to Richard Segal, when Grace Merriquen (ph) was requesting that manufacturer be required to use organic yeast.

That letter clearly stated that if manufacturers were going to be required to use organic yeast, it would need to be reclassified as agricultural. I'm sifting and sorting through formulations every day, and I'm seeing rosemary oil and peppermint extracts.

I would like to do a case-by-case determination and say "Well, the heading here is non-agricultural. This here is an agricultural flavor." But if the operator comes to me and submits it as natural flavor,
and points to 605, legally I feel like my hands are tied.

So what I'd like to recommend is that once again, we support the transition to a listing of non-agricultural flavors. A thorough investigation into flavor composition and manufacturing practices should inform the determination and long-term retention of solely non-agricultural, non-synthetic flavors.

Organic status should be required for agricultural flavors unless petitioned under 205.606, and during the interim that a broad category of flavors remains on 605.

Guidance distinguishing agricultural flavor from non-agricultural flavors should be operative to aid and evaluation of 205.606 flavor petitions, and create consistent verification among accredited certifiers.

I spend a lot of time calling up certifiers and asking them how they're dealing with flavors, and it's across the board. So
thank you very much for this opportunity.

CHAIRMAN O'RELL: Gwendolyn, yes. So really, I guess what you're saying is that there's a need for flavors to be in both locations?

MS. WYARD: I think so, absolutely, absolutely, and I think that the heading --

CHAIRMAN O'RELL: And I think there are people on this board that agree with that.

So that would help us if somebody filed a petition for 606 for flavors.

MS. WYARD: Joe?

MEMBER SMILLIE: Yes. Two things. Number one, we didn't get your paper. So if you could just make sure whatever, resubmit it or whatever we have to do, Because I would like to have it.

I absolutely agree with you. We're in a legal bind. I think a position that certifiers take is to still, in spite of that legal definition, to still push for organic flavors. I think manufacturers also, even
though not legally required to move towards more and more organic flavors, do so also for marketing reasons.

If they can find something acceptable, I think it aids their process. So you're absolutely right. We have no legal authority to make them comply with commercial availability Because of that issue.

But nonetheless, I think we have moral suasion and I know that there's also some -- there are some marketing benefits to moving towards flavors. But I absolutely agree with every word you said. It was accurate and that's the way we have to move.

MS. WYARD: Okay, thank you.

CHAIRMAN O'RELL: Thank you, Gwendolyn. Tina -- pardon me?

MEMBER OSTIGUY: Make sure you send us your document so it gets into the meeting book. But I'm sure we have it just for the record.

CHAIRMAN O'RELL: Okay. Tina Ellor,
and I'm going to make an announcement that this will be the last speaker we have, and the board is going to break, because I'm going to have mutiny here if I don't let everybody get out and get something to eat.

So we're going to take, and I don't know what, 30 minutes, 40 minutes. They're reserving a spot for us at the salad bar in the restaurant.

So I'm assuming 40 minutes or so, and then we're going to come back and then pick up with public comment, and that will be with Leslie Zuck. So thank you.

MEMBER OSTIGUY: Then you're going to break again for a working discussion? After you hear the public comment, then you'll stop again for your working --

CHAIRMAN O'RELL: I think we need to talk when we're having lunch for the committees, what they may need, if there's still additional public comment that comes afterwards where we need to do it. So we'll
kind of make that determination. Yes Eric?

MR. SIDEMAN: Those of us who are going to come up for comment, because of your break can we send in written comments?

CHAIRMAN O'RELL: Well, I'm not cutting anybody off.

MR. SIDEMAN: Because I have to leave to make a plane by 3:00.

MS. ELLOR: You want to take my spot?

CHAIRMAN O'RELL: That's perfectly acceptable if --

MR. SIDEMAN: Can I do it barefoot?

CHAIRMAN O'RELL: Oh yeah.

MEMBER OSTIGUY: It's organic.

(Laughter.)

MEMBER OSTIGUY: Barefoot is preferred.

CHAIRMAN O'RELL: Tina, thank you. You'll be first up then when we come back.

MEMBER OSTIGUY: That was very nice.

CHAIRMAN O'RELL: Thank you, Tina.
MR. SIDEMAN: My name's Eric Sideman, Maine Organic Farmers and Gardeners Association. I just want to make a quick comment about seaweed extracts.

There have been a number of comments about these, and one thing that has not been considered and I think should be and put into the records, is that phosphoric acid has never been reviewed, petitioned or approved by the NOSB for use in this material.

There are a number of companies across the country that are using it. Most companies are not using it, and I think that needs to be addressed. Not during the sunset review, but soon.

CHAIRMAN O'RELL: Was it allowed in the fish?

MR. SIDEMAN: Yes. That's the only -- and that has something to do with the way that NOP is reorganizing the list. If they reorganize the list so extractants and stabilizers are listed individually, then
phosphoric acid can be listed.

But again, it can't be listed with annotation allowing it for seaweed, because it's never been approved for that use. It's a stabilizer. It lowers the pH so the containers don't explode from microbial activity. Questions?

CHAIRMAN O'RELL: That was it?

Thank you, Eric.

MR. SIDEMAN: That's it. Thanks.

CHAIRMAN O'RELL: Thank you.

MEMBER DAVIS: Eric, is your organization, would they be able to provide a petition to get that on our plate?

MR. SIDEMAN: I'm a little reluctant that our organization provide petitions, because of conflict of interest. Even though we've separated out our technical services from our certification agency, I'd just really rather stay away.

But I may be able to get some other people to file petitions. In addition to
that, we'll be working with somebody to file a petition for potassium carbonate.

As the gentleman from Acadian Sea Plant pointed out, a lot of the major companies across this country are using potassium carbonate, and that too is not on the list.

Again, the person who pointed out the inconsistency of certifiers across the country, this is an area where some certifiers are allowing the seaweed extracts made with potassium carbonate, and others are not, and this is not fair to the companies who are using it, two of which are in Maine, and we don't allow it for use in Maine.

So it's a little bit of hostility at our ag shows.

CHAIRMAN O'RELL: Kevin?

MEMBER ENGELBERT: Very quickly. Eric, why are all those companies being allowed to use phosphoric acid if it's not --

MR. SIDEMAN: It's an interpretation
-- actually, it's a tiny bit complicated. If you take calcium carbonate and put it in water, you actually will get some potassium hydroxide.

So I think that's what some certifiers are thinking, that you're making potassium hydroxide. So potassium hydroxide's on the list, so it's okay. But that's not the way the list was meant to work. Potassium carbonate is a different synthetic material. If it's to be used in organic production, it should be listed.

MEMBER ENGELBERT: Do you know what that means? Okay.

CHAIRMAN O'RELL: Arthur?

MR. NEAL: This issue goes back to just how the list was constructed and interpreted. As we mentioned yesterday, we're going to undertake rulemaking to reorganize the national list.

We do have a petition for the use of phosphoric acid as a pH adjuster in aquatic
plant extracts. Depending on how this whole rulemaking process works out, that petition may just reenter, be resurrected and come before the board for the petition, for the use in which it was petitioned.

That way, that whole annotation issue would be addressed, and hopefully the whole potassium carbonate issue can get worked on at the same time.

MR. SIDEMAN: Yes. I think that's essentially all I'm asking, is that petitions for potassium carbonate and phosphoric acid for the use in plant extracts be moved forward.

CHAIRMAN O'RELL: Thank you, Eric.

MR. SIDEMAN: Thanks.

CHAIRMAN O'RELL: Okay. We're going to take a break and we're going to try for -- to be back here at 2:30.

(Whereupon, at 1:50 p.m., a luncheon recess was taken.)

CHAIRMAN O'RELL: Tina, you will be
in the public record, and I'm sure people will be coming in while you speak, if you don't mind.

MS. ELLOR: It's okay. I'll be very, very brief. I'm not even going to read my comment. My name is Tina Ellor.

I'm from Phillips Mushroom Farms, and also with the Organic Working Committee of the American Mushroom Institute, and there's a couple of issues I'd like to bring up very quickly.

Number one, yeast as livestock. I'm not real comfortable with that, because there are five kingdoms. We classify all of life into five kingdoms. Plant and animal are just two. There are three more. I'd be more comfortable with an additional category of "Other" or something like that.

Those classifications, of course, are based on a lot of different things, and that information's very useful. But I'd like to just mention that if you start putting, you
know, different organisms into different kingdoms than where they belong, than what's to say now mushrooms aren't livestock, and will have trouble with pasture access.

But also we've finally gotten comfortable certifying under the crop standard. Now we had a mushroom standard very far into progress, and the NOP decided not to go forward with it.

If you guys decide to go with a mushroom standard, I still have all the work we did on that originally. So if that comes up on your docket, I'll dig those files out and maybe save us all a lot of time.

The second issue is hydrated lime, and that came up on a number of different things. But we use hydrated lime as pest control in mushroom cultivation, and it's very critical to control green mold, *trichoderma harzianum*, of which has caused massive losses in the mushroom industry.

I won't bore you with the nuts and
bolts, but if it comes up later and you want to know how we use it and why, I'll be here.

The third thing is just a brief word for those mushroom growers who use cheesewax on their Shiitake logs. You couldn't ask for -- and I understand the issue, but you couldn't ask for better people making a better product.

If you line up all the Shiitakes grown in the world, you know, those would be the best. Shiitake comes in massive quantities from Asia. Often it goes through Japan. The lentinen is extracted to use for cancer therapy. The mushrooms are dried and sold here.

Now those people are competing against that kind of product and just massive amounts of imports coming in. What they have is a product that's grown outside in the sun, which is different from what we do. We grow everything inside under lights.

Their product is actually more
nutritious and better quality, and that organic certification means a lot to them. So if there's some way, you know, that we could work with this, I think it would be greatly appreciated.

The last thing I'd like to say is I'm sure a lot of us got that little card in the mail that said there are openings on the NOSB and did not respond, as I didn't, because of the huge commitment you guys make. I just want to tell you how much I appreciate that.

CHAIRMAN O'RELL: Thank you. Questions?

MEMBER ENGELBERT: Could you very quickly go through how you use hydrated lime, just real --

MS. ELLOR: Sure. Hydrated lime is used to adjust the pH of the casing material, because the weed mold, *trichoderma harzianum*, green mold likes very acidic conditions, as most fungi do.

We need to raise the pH quickly, and
to a pretty high point, to have the Agericus, the Portobellas white mushrooms, compete against that green mold. Conventional growers use fungicide in the compost, in the casing, and to coat the spawn.

Of course, you know, we don't have that option and we wouldn't use it even if we did.

MEMBER ENGELBERT: And why hydrated lime and not conventional ground limestone?

MS. ELLOR: Because you have to use so much conventional ground limestone to raise the pH that it changes the structure of the casing soil, and it doesn't function nearly as well. That's what we've used up until like 1954, just a whole lot of crushed limestone.

But these new virulent strains of trichoderma came in in the early 80's and just completely wiped out huge amounts of crops. So I just wanted to mention that.

MEMBER ENGELBERT: Thank you.

CHAIRMAN O'RELL: Thank you. Leslie

MS. BROWN-ROSEN: Hi. I'll try to make this really quick. I just wanted to -- I know this is not directly on agenda, but this issue on the replacement stock. I just you wanted to know -- I think this is in your packet.

A number of certifiers sent a letter a couple of weeks ago to the NOP. We've got Pennsylvania Certified Organic, Vermont Organic Farmers, Midwest Organic Services, NOFA New York, MOFCA, Steller, which is Demeter (ph), and Oregon Tilth, plus several NOBTA, MODPA, a couple of other farm groups, really asking NOP to look carefully at this upcoming opportunity when they have to rewrite the regs.

I mean, the certifiers have been concerned because we had no warning or guidance or proposed rule or what's going to happen, ad our understanding is the rule needs
to be changed by June 9th Because of the court case.

So at that point, animals can -- any 12-month old transition animal being brought onto any organic farm, or do we have a two-track system like we currently unfortunately do, or can we fix this once and for all?

So hopefully there will be an opportunity to comment soon when the NOP does post whatever they're going to do, and I hope you keep it on your work plan to respond promptly and hopefully support your previous positions on this, because this is a real opportunity to fix a problem that's been dragging on for a long time, and we need to do it now and not perpetuate this two-track thing.

So take a look at the letter if you need. We've given specific suggestions on how we thought the wording should look. I think it's not hard to fix. So thank you.

CHAIRMAN O'RELL: Thank you, Emily.
There's a question from Hugh.

MEMBER KARREMAN: Well, I was just kind of wondering could the NOP give us any inkling right now what's going to happen? I mean we're in April right now, and it's going to be June 9th comes around, we're not going to have to another major decisionmaking time.

Do you -- I mean, you know, it's less than two months away when this all changes. Could you give us an idea of what we should expect?

MR. BRADLEY: Mark Bradley with the NOP. We can't comment on that right now, but you'll know very soon.

MEMBER KARREMAN: Okay. Before June 9th?

MR. BRADLEY: Yes.

MS. BROWN-ROSEN: Okay, thank you.

MEMBER KARREMAN: All right.

CHAIRMAN O'RELL: Yeah. I think Hugh it needs then to be, you know, it's a work plan item on the Livestock Committee.
Yes, that as soon as that new ruling comes out, then be prepared for any comments or whatever we need to do.

MEMBER KARREMAN: Absolutely.

CHAIRMAN O'RELL: Yes. Did Leslie come back? Leslie? You're up. You pass? Well thank you. That doesn't mean we don't love to hear from you. Okay. Tom Hutchinson, and next on deck, Diane Goodman.

MR. HUTCHINSON: Tom Hutchinson, Organic Trade Association. Thanks very much. On commercial availability, thank you very much for clarifying your discussion on the role of NOSB's reviewing, rather than evaluating information about commercial availability.

This should lead to new insights about how commercial availability is being used, and we look forward to getting those petitions moving.

OTA supports strict criteria for certifiers to determine commercial
availability plus training, and of course NOP
attention to the issue as necessary.

    We all support Kim Dietz's comments,
especially returning to the previous NOSB
recommendation, recommending three attempts to
find -- a minimum of three attempts to find a
product.

Please also review ag versus non-ag
status, and see our written comments for yet
another reason to include yeast and
microorganisms as agricultural product. Even
if yeast is not livestock, it is non-plant
life. So there is precedent in the rule for
some consideration.

On the framework for clarifying the
definition of synthetic, OTA supports the
framework and has suggested two tweaks,
including having fungi and microorganisms in
the definition of "natural source."

As always, please look at our
written comments, and you can see what OTA's
comment really are, as opposed to uninformed
rumors. On our website, when we get them up probably in about a week, ota.com, under "Public Policy," available to the public for inspection. Thanks.

CHAIRMAN O'RELL: Thank you, Tom.

MS. GOODMAN: Hi again. Just as a clarification on a comment that I made yesterday, I'd like to offer the clarification to the comment I made, and that while my comment yesterday reflected the comment of Florida Crystals, today I would like my comment to be reflected in their comment.

My separate -- my previous comment referred to -- you understand what I meant, right? I said it wrong. My comment yesterday --

CHAIRMAN O'RELL: When you come up, you're a different person. So I'm sorry.

MEMBER KARREMAN: You are you today.

CHAIRMAN O'RELL: Oh, he's confused.

MS. GOODMAN: I'm Diane Goodman, and yesterday I read a comment from Steve Clark
from Florida Crystals, and I made a comment as well.

In both of those comments and in the comment you received and I handed you from Florida Crystals, the comment I made to you personally yesterday reflected the comment that was submitted by Florida Crystals and Steve Clark.

So in this comment, I would like you to take these words now and reflect them back on those comments, because I'm not commenting on behalf of Steve Clark or Florida Crystals.

CHAIRMAN O'RELL: And you do not have a proxy?

MS. GOODMAN: And I don't have a proxy, not even for me. So you understand now?

CHAIRMAN O'RELL: Yes.

MS. GOODMAN: All right. My previous comment referred to a disagreement that we held, with the suggestion that in the clarification documents for the definition of
synthetic that a substance be defined as a compound or element that had a distinct identity, such as a separate CAS number.

In the context of defining a synthetic as a substance that is created by chemical change, that produces a separate and entirely new substance, that all synthetics may be distinct compounds or elements, we'd like to keep in mind that while all substances are --

While all synthetics may be distinct compounds or elements, all compounds or elements may not be synthetic, simply because they are created by chemical change. Do you all understand what I'm trying to say?

MEMBER OSTIGUY: Uh-huh.

MS. GOODMAN: And Kevin, I wonder if you -- and thank you for that. My apologies for the convoluted and confused nature of that.

Can you clarify something you said right before we broke, and that was you said
you urged people to get a petition in for colors or flavors, I think you said, a petition in for flavors.

    I think you might have meant to get petitions in for flavors.

    MEMBER ENGELBERT: Yes.

    MS. GOODMAN: Correct?

    MEMBER ENGELBERT: Yes.

    MS. GOODMAN: Okay, great. Thank you very much. Any questions about what I said? Okay, thank you.

    CHAIRMAN O'RELL: Thank you, Diane.

    Miles McEvoy? On deck --

    MEMBER OSTIGUY: Scheide.

    CHAIRMAN O'RELL: I don't know.

    MR. McEVOY: Hello. I'm Miles McEvoy with the Washington State Department of Agriculture. Thanks for sticking in there and listening to all the comments.

    I have some prepared comments that I gave to Valerie, that you'll get a copy of, and okay. So let's get through -- I'm going
to talk about some tree fruit here.

The Washington State Department of Agriculture certified over 550 organic crop producers last year, and nearly half of these producers are growing organic tree fruit, mostly apples and pears, cherries, a lot of peaches, nectarines and apricots as well.

Washington State produces 58 percent of the U.S. apple crop, and over 50 percent of the U.S. pear crop. In 2003, organic tree fruit comprised 4.7 percent of the state's apple acreage, and over six percent of the pear acreage.

So it's a very significant part of the state's organic production, and the tree fruit industry in the state is very excited about organic growing. Because of the strong market, there are thousands of acres of tree fruit that are in transition to organic production.

The environment benefits of organic food production are widely recognized. An
additional benefit of organic production is
that organic farms are laboratories of new
pest control techniques.

Pest control methods such as mating
disruption were pioneered on organic farms,
and are now the standard for pest management
of coddling moth (ph) in conventional tree
fruit operations as well.

The tree fruit industry, the
conventional tree fruit industry has
significantly reduced the amount of organic
phosphates, carbonomates (ph) and organic
chlorine pesticides due to the pest control
advances pioneered by organic growers.

I'm going to specifically talk about
streptomycin and tetracycline. Fire blight is
a common and very destructive bacterial
disease of apples and pears. The disease is
so named because infected leaves will suddenly
turn brown, appearing as though they have been
scorched by fire.

Pears are very susceptible to fire
blight as well as certain apple varieties such as Braeburn, Pink Lady, Fuji and Gala. Older varieties such as Red Delicious are fairly resistant.

So if fire blight is not controlled, it can lead to the death of a tree, with significant financial loss due to loss of production and need to replace the tree.

Cultural practices can reduce fire blight pressures. Biologicals such as Blight Ban can help reduce fire blight occurrence, but do not completely eliminate the danger. New biologicals are being developed and look promising and may be commercial available within the next few years.

Streptomycin and tetracycline are needed to protect organic tree fruit orchards during severe fire blight outbreaks, especially when there's a lot of moisture. This year is going to be one of those times. We're having a very wet winter.

Over the next few years, viable
alternatives should be available that could eliminate the continued need of these materials in both organic and conventional tree fruit production.

Moving on floating agents, pear floats that are used in post-harvest handling. Pears are heavy and they need a floating agent in order to raise the specific gravity to enable the pears to float. Lignin sulfonate was the preferred floating agent in the mid-90's.

Dr. Eugene Kupferman (ph) conducted a survey of packing sheds in 1997, and found that sheds were using 68 percent lignin sulfonate, 16 percent sodium silicate, and 16 percent sodium sulfate.

In 2005, Organic packing sheds, which is about ten years, were using two-thirds of organic packing sheds were using sodium silicate, and that's due to increased restrictions on the use of lignin sulfonate by waste treatment plants.
The waste treatment plants don't like the lignin sulfonate because it blocks sunlight and decreases the efficacy of the waste water treatment practices.

An alternative to pear floats are packing lines that use floatless dumpers. Floatless dumpers are the standard in Europe, but they're just recently starting to be adopted in the U.S.

But there's a large capital investment. The larger packing sheds can certainly afford that and they're moving in that direction. But there's a lot of smaller organic packing sheds that are going to find it difficult to have the capital to rebuild their packing lines.

So WSDA supports the continued allowance of lignin sulfonate and sodium silicate for floating tree fruit, and also the tetracycline and the streptomycin.

We also support the continued allowance of sodium hypochloride, chlorine
dioxide, horticultural oils for insect and disease control, hydrated lime, hydrogen peroxide for disinfectant and disease control, streptomycin, tetracycline, humic acids, lignin sulfonate and also for livestock the continued listing of hydrated lime.

We also support the NOP to enforce the pasture standard. I don't like the 30 percent DMI 120-day requirement. I think there's other ways to get the to enforce the access to pasture, that a pasture-based management for livestock. So thank you.

CHAIRMAN O'RELL: Andrea?

MEMBER CAROE: Miles, how would it affect your growers in Washington if sodium silicate was retained, but lignin sulfonate was not?

MR. McEVOY: They'd probably all switch to sodium silicate.

MEMBER CAROE: But there's no reason why they wouldn't be able --

MR. McEVOY: They prefer the lignin
sulfonate, from what I understand. But because of the waste treatment plants that don't like it, so they've been shifting over to sodium silicate.

MEMBER CAROE: So environmentally, there would be a preference if they switched over? I mean you're saying there's a water quality issue with lignin sulfonate?

MR. McEVOY: It's not -- apparently the waste, as I understand it, the waste treatment plants, it's not a water quality thing, but it affects the biological activity in the waste treatment plans, because it blocks the sunlight.

So in those packing sheds that release their water to a municipality, to a municipal waste treatment plant, they're required not to use lignin sulfonate. So they have to use alternatives like sodium silicate.

MEMBER ENGELBERT: What is the end result then of, in those treatment plants, of using that?
MR. McEVOY: What's the end result of sodium silicate?

MEMBER ENGELBERT: No, the one that's blocking out --

MR. McEVOY: The lignin sulfonate?

MEMBER ENGELBERT: Yes.

MR. McEVOY: Well, they used to accept lignin sulfonate, as I understand it. But it decreased the biological activity. So now they're restricting the -- what happened to the lignin sulfonate? I don't --

MEMBER ENGELBERT: The decrease in biological activity resulted in?

MR. McEVOY: Less efficient process in their water treatment, Because it would block the sunlight to increase the biological activity that they wanted, in terms of treating the water.

MEMBER OSTIGUY: Basically what happens is in the secondary treatment, the use of microorganisms to extract the nutrients out of the water.
If you have sunlight being blocked, then that extraction of the nutrients out of the water is not occurring. So you end up with more nutrients in your effluent that's eventually dumped into your stream, which obviously is -- produces algae and grasses.

MEMBER ENGELBERT: That's what I wanted to make sure of.

MEMBER SMILLIE: Could you give us some sort of -- your projection, your best guesstimate of how many years you think that we need to rely on streptomycin and tetracycline? What's it look like? Do people realize there's pressure on those?

MR. McEVOY: Yes. It's both the conventional and organic growers that are trying to find alternatives, because for export markets, there's some restrictions on the use of Microshield in particular.

So growers only use it when they have to use it, and that's when they're going to lose their orchard. There's a lot of
things you can do. Even if you have a little bit of fire blight, you can go in with cultural practices and cut it out.

You can use Blight Ban, which is a competitive inhibitor, and apparently there's a new competitive inhibitor that goes into the infection sites of the -- where the fire blight organism attacks the blossom in the tree, and that one's supposed to be very effective. There were some very good results last year. How many years --

I think there's going to be a commercial product available next year.

MEMBER SMILLIE: Will it be acceptable for use in organic?

MR. McEVOY: It should be, yes. They're formulating it so it's supposedly -- it hasn't been registered with Armory or WSDA, but apparently that's what they're aiming for.

It's a biological, and they would want to get it registered for use in organics.

MEMBER SMILLIE: Do you think it
would be fair to organic growers to say in five years there will be a phase-out of the use of streptomycin? I realize it depends on the results of these tests, but if --

MR. McEVOY: Right. The initial research trials look good. On a broad scale, to see how it works, we'll see over the next few years on how effective it is.

There's a lot of pressure to find an alternative, not just from the organic community but also from other buyers, yes.

CHAIRMAN O'RELL: Hugh?

MEMBER KARREMAN: Joe got my question. Thanks.

CHAIRMAN O'RELL: Bea?

MEMBER JAMES: So what I hear you saying is both the conventional and the organic farmers are using streptomycin and tetracycline?

MR. McEVOY: Yeah. I think it's the oxytetracycline that they use primarily. Microshield is the material.
MEMBER JAMES: Okay. Did you submit your comments in writing?

MR. McEVOY: Yeah.

MEMBER DAVIS: So the material that you reference that's being tested, I gather that it would be at the university level of research at this point. So we can't say that it's on the market now?

MR. McEVOY: No. It's not on the market now. It hasn't been EPA-registered. They're working on the registration, as I understand it, and they're hoping to have a commercially available product for distribution next year.

There's actually a few products that are being worked on. The one that everybody's talking about, of being the most efficacious, is Blossom something, Blossom Ban, something like that.

MEMBER JAMES: So both the commercial and the organic farms would use this alternative? I'm sorry.
MEMBER DAVIS: Conventional.

MEMBER JAMES: At retail, we say.

MR. McEVOY: Yes. The conventional farms also do not want to use Microshield or the tetracycline or the streptomycin. They would prefer not to.

They would prefer to use a biological, because the whole tree fruit industry in the Northwest is moving to an integrated approach, using biologicals as much as possible, so that you don't disrupt the system.

The streptomycin and the tetracycline are going to disrupt the system, moreso than a biological, which is a competitive inhibitor at the -- in the orchard.

MEMBER JAMES: However, there's no way to -- or, I should ask. Would there be a way, if these antibiotics were prohibited in organic production, and an alternative came about, would there be a way to enforce that
with the commercial or conventional apple farms or no?

MR. McEVOY: No, no. If it's a registered pesticide, then they can use it as per label directions, and it's their choice. But they're going to usually make the choice that's best for their operation.

CHAIRMAN O'RELL: Rigo.

MEMBER DELGADO: Yes. The testing of these new materials, you said it's still at the research level. Have they done any commercial level testing? In other words, I'm trying to get a feel of what the risk is of not coming with a new product in the next two or three years?

MR. McEVOY: I think there's a lot of risk. There's a lot of people that are very excited about the research trials. I don't know the details of those research trials, but they were on a more of -- they were research trials on a commercial basis, on experimental use permits.
They're not -- they're beyond the university level. They're beyond the lab level or the university research plots. They have been tested on a few commercial orchards. Not organic orchards, but commercial orchards.

CHAIRMAN O'RELL: Hugh?

MEMBER KARREMAN: I have a hard time wrapping my arms around using the antibiotics in the crops, because of the prohibitions in other places in the program.

MR. McEVOY: Right.

MEMBER KARREMAN: I'm just wondering do you know the research, how it's going yourself, or you just know it's happening?

MR. McEVOY: I know it's happening. I'm not intimately familiar with it, no.

MEMBER KARREMAN: Well, one of the things I always think about when I'm studying natural treatments for dairy cows and what-not, like the parasites, you know, you have to kind of hit them in various stages of the life
cycle, you know.

   It's not just like input substitution, because if you start getting more foundation pillar effect, a multi-prong approach to the problem, what a professor might want to see is a total 100 percent equivalent compared to the streptomycin or tetracycline that's out there, whereas maybe in a product that doesn't need to be 100 percent equivalency but maybe 75 percent or something like that, it still might work with other biological management in place. Do you understand what I'm saying?

   Because someone might say in a paper "This new research product we're working on is just not as good. Sorry, we need the streptomycin and tetracycline still."

   MR. McEVOY: Yes.

   MEMBER KARREMAN: But hopefully they're taking into account other management factors with that biological. So it's not just plain input substitution.
MR. McEVOY: Yes, and I think the organic growers are doing that at the current time. A lot of them choose not to use Microshield. For instance, if you use the antibiotic, the tetracycline, you lose your access to the European market because it's not allowed under European standards.

So the organic growers have a lot of pressure to not use the material, and for conventional growers, it's the same. It's an expensive material. If you can use -- there's already a biological on the market.

If you use cultural practices, which are both cleaning out any of the fire blight that occurs in the orchard, and also having an open orchard, appropriate pruning to keep the air flow, you can use wind machines to help with the air flow.

You can do a lot of things to try to minimize the amount of fire blight that you have. But if it gets to be that you're having a lot of flagging, a lot of occurrence, and
you're going to choose between losing your orchard or treating, then the grower, organic grower or conventional grower is going to go in there and use the Microshield.

MEMBER DAVIS: Well, you referenced the organic growers that are trying to pursue the European market, where the antibiotics are not allowed on fruit.

MR. McEVOY: Right.

MEMBER DAVIS: How long of a history are you familiar with, with how they're doing in their control measures on blight, using -- totally not using the antibiotics? Have they been doing this very long or is this new?

MR. McEVOY: It's going to depend on your location, because there's areas of our state that are wetter than others, and so those wetter areas are going to have higher fire blight pressure.

It's going to depend on your isolation from other orchards. But they're certainly orchards that have never used
tetracycline to protect them from fire blight.
So it's -- and there's others that use it occasionally.

I don't know, you know, we'd have to do some background checks, but I doubt there's organic orchards that use it year after year after year. It's only when the fire blight pressure is extreme, and you have the choice between losing your orchard or losing a bunch of trees and saving your crop.

MEMBER DAVIS: So are you familiar with growers who have been participating in a program that allows them to market to the EU with their fruit, and not using it for long periods of time?

MR. McEVOY: Right, and then I'm also familiar with growers that have been in the EU program for many years, and last year was also a heavy fire blight pressure year, and they had to take some of the blocks out of the program because of fire blight pressure.

MEMBER DAVIS: Thank you.
CHAIRMAN O'RELL: Thank you.

MR. McEVOY: Okay, thanks.

CHAIRMAN O'RELL: Steffen Scheide.

I'm sure I got that wrong, and Dave Carter's on deck.

MR. SCHEIDE: Hi. Good afternoon. Thank you for this opportunity to speaking before you this afternoon. I'm Steffen Scheide. I'm affiliated with Summit Hill Flavors, an organic certified manufacturer of flavoring.

This afternoon, I'd like to speak out for colors, and I urge this board to retain colors exactly the way they are under 205.605(a). The reason is the interrelationship between FDA and USDA rules and regulations.

Colors are regulated by the FDA. The reason for colors being regulated and defined by the FDA is because of their functionality in food; in other words, any material whose significant function in food
ingredient is color in that food is a color.

Now I'm a product developer, and when I take non-organic-certified colors in my practice development, organic caramel color has become available recently. If it had not been for 605(a), that product would not have ever been in the marketplace.

Organic turmeric is a colorant. It is a 100 percent organic color. But here is my dilemma. With the exception of meat and egg products, the vast majority of food products in the marketplace are FDA-regulated.

Henceforth, I am using a colorant, because I use turmeric as a color. However, if there is no congruency between the NOP and FDA rules and regulations, because the NOP is a positive list for me; if it is not expressly on that list, the FDA tells me turmeric is a color. The NOP tells me I cannot use colorants. Henceforth, I cannot use turmeric in organic products.

That is really why it should remain
under 205.605(a). Now I know it may sound complex, but I'd like to give you an example of where FDA and what we do in agriculture is a little bit different.

Let us take a look at coffee. Coffee is an agricultural product, but it is not a food because green coffee is not fit and suitable for human consumption.

It is a process of physical change through roasting which changes a green coffee bean into a raw material, which I then grind and I actually extract it.

Those of us who have had coffee this morning have had a food ingredient or a beverage. However, if you spill that coffee on your shirt and you eat your shirt, you're eating a food color.

If that coffee had become cold and I put it into a teramusu (ph), its primary function is flavoring, and I am actually consuming a flavor. The same item under FDA has three purposes.
Now you see why there is a lot of confusion, but I think there's a lot of understanding of what these ingredients are, because the FDA has definitions of these products.

So again, thank you for this time, and I strongly urge you to keep colors on the national list. Thank you.

CHAIRMAN O'RELL: I have a question for you. I must be slow here today. You're going to have to this one by me. Tumeric, which would be considered a color additive in a food product, you can't add that because of the NOP regulations --

MR. SCHEIDE: If you remove it. The NOP defines color and the FDA defines color. In other words, in food products I am allowed to use colors, non-synthetic, as they appear on --

CHAIRMAN O'RELL: Color additives.

MR. SCHEIDE: Exactly, and organic tumeric is exactly that, because in FDA food
products, the FDA determines that tumeric is a color. Is that understandable? The usage basis of colors in organic certified foods is FDA, because FDA regulates the overall food product.

CHAIRMAN O'RELL: It allows you to use tumeric in an organic product?

MR. SCHEIDE: Yes, exactly. In FDA products, but that are also organically certified. Absolutely.

CHAIRMAN O'RELL: Okay. So if you have organic tumeric, you can use it in, let's say, egg nog?

MR. SCHEIDE: Yeah, because of the way the regulations read right now.

CHAIRMAN O'RELL: Right. So there's not a problem?

MR. SCHEIDE: Yes.

CHAIRMAN O'RELL: Okay.

MEMBER SMILLIE: Unless you change the regulations.

CHAIRMAN O'RELL: Excuse me?
MEMBER SMILLIE: Unless it's taken off --

MR. SCHEIDE: Yes, unless it's taken off. Then NOP tells me --

CHAIRMAN O'RELL: Well, if it's taken off, then all colors, color additives cannot be used in organic products unless you would petition for the use specifically of turmeric or if it was available organically, an agricultural product available organically.

MR. SCHEIDE: And you'd almost have to make an annotation as you're saying "turmeric" as a spice and as a colorant.

CHAIRMAN O'RELL: Okay. Thank you. Dave. Rick Segalla is next, on deck.

MR. CARTER: Dave Carter, National Bison Association, National Pet Nutrition, itinerant consultant and NOSB survivor. First of all, congratulations to the new appointees. You've got a wonderful and frustrating five years ahead of you, and I think you'll enjoy the experience.
I apologize for not being at the orientation the other day like the other former members. Some of us were under the impression that this was just for the new members. So I'm going to impart a few things here towards the end.

I also want to recognize Valerie Francis. I think one of the things as we left the board, having the new executive director come on is a great step forward for not only the NOSB but for the organic program.

And I also want to congratulate Mark Bradley and the NOP for the new spirit of collaboration and engagement with the NOSB. Plus it's kind of fun to deal with a guy that looks a lot like Billy Bob Thornton.

(Laughter.)

MR. CARTER: Now, just a couple of specific comments on some of the materials.

CHAIRMAN O'RELL: Was that derogatory?

MR. CARTER: Not at all, not at all.
On the items this morning, first of all, I really appreciate the depth in which you're trying to sort through the streptomycin and tetracycline issue. I think there are a number of reasons to be concerned.

I would caution you though, not to aim all your ammunition at the antibiotic issue, because not only as Arthur said does OFPA relegate antibiotics to livestock; the rule as well compartmentalizes it there.

So it's not really a valid issue to use in terms of crops, although there are a lot of concerns about that. Ivermectin, I would like to see it disappear from the list.

I think there are other alternatives that are coming about and I would encourage you to keep your eye on the whole issue of parasiticides, because I think there's some developments there that will continue to make improvement.

Now let me just -- I have about six things from a 30,000 foot view, that there are things I'd like to say that there are items I
wished I would have remembered to remember when I was on the board, on just some general guidance from an old geezer.

Number one is remember, and this is for the new board members particularly, remember that organics is about organics. We like to get involved in discussion about scale. Myself, I tend to be a big advocate of small farms.

But when it comes to interpreting a federal regulation, you determine the organic regulations based upon organics. You neither to raise the bar to try and prevent big producers from coming in, nor lower it to try and make it easier for them to come in.

Secondly, I would not hesitate -- I want to encourage the new board members -- do not hesitate to be an activist board. The organic community is best served when there's a healthy tension between the NOP and the NOSB.

It's not a tension about
personalities; it's a tension about the issue and working together to try and solve problems and bring different perspectives.

Third, if you have to make a choice of where to invest your time, invest your time at the committee level. The more work you do in your committees to really dissect things through, is less time that you have to spend doing committee work at the board level.

I would encourage you to trust your committees when they bring those things forward that they have done that work, and to rely on their judgment.

Use the board policy manual. It's a good tool, and make sure that you not only use it, but you continue to work on it and improve it, and use the past board members and their expertise. All of us are willing and able and very eager to work with you.

Then finally the last two things is that number one, if you have to say something very controversial, do your best to try and
create a diversion ahead of time to get Dennis Blank out of the room.

(Laughter.)

MR. CARTER: And then finally, and you may want to take a pen and write this one down. This is a very important guidance, is that any time before you get on a conference call, make sure you understand how the mute button works on your telephone.

(Laughter; applause.)

CHAIRMAN O'RELL: Yes. We will always remember that, Dave. Thank you. Rick Segalla and Adam Eidinger.

MR. SEGALLA: My name's Rick Segalla. I'm an organic farmer from Connecticut. My words today are on the last third of gestation rule. I think that's very important.

The other, after having discussion on this 30 percent of pasture and 120 days, I still believe we need that because there's talk about putting a number of acres per cow.
Well, that rewards some and takes away from others, because it's not fair to the guy that's really trying to produce a good organic pasture by keeping his cows out there and improving his soil in that manner, where he can put four or five cows to the acre on there and obtain that 30 percent dry matter, where another guy puts two cows to the acre out there, only because that's the acre requirement and feeds them in the barn and does nothing to improve the soils.

It has to be the 30 percent. If you put just a number of acres out there, it isn't going to work because there are guys out there that can put four cows to the acre and obtain that 30 percent.

But there are guys out there that don't have the right quality land to put four cows an acre out there, and they might not even get that kind of return on a cow to the acre.

If the farm's in the wrong place,
they're going to have to size it to what they have. I feel that's the only way that it would be fair, and we have Lisa McCrory and Sarah Flack, who have given you examples of how they do it. Sarah said she'd be glad to go help certifiers learn how to do it, and I'm sure Lisa would too.

It's being done in the Northeast, and it can be done any place else in the country. Thank you.

MEMBER JAMES: I just want to compliment you. Although we like to have written submission, I'm just impressed you always come up and you just speak without any paper in front of you.

MR. SEGALLA: I can't read when I'm nervous.

(Laughter.)

CHAIRMAN O'RELL: Adam and Dave Engel.

MR. EIDINGER: Good afternoon. My name is Adam Eidinger. I'm the Washington
representative for the Organic Consumers Association.

It's very nice to be here today, and I apologize that our group was not here earlier this week. We would have liked to have been, but we had some major scheduling problems.

Today, I'm going to present a petition that is our comment on behalf of our members. It was signed by over 17,500 people on line. I have a CD-ROM here with a printout of the petition and all the names and addresses of everyone who's signed it, from all 50 states.

The petition reads as follows: "We, the undersigned organic consumers, are shocked and outraged that so-called organic factory farm feedlot dairies are importing milk calves from conventional farms and then raising these animals in crowded, inhumane conditions, with little or no access to pasture, and then labeling the milk and dairy products produced..."
on these feed lots as `USDA Organic.'

"We call on the National Organic Program of the USDA to put an end to these practices immediately. We also ask the USDA to call on Congress to allocate adequate funds to help thousands of American farmers and ranchers make the transition to organic, so we can meet the nation's growing demand for organic foods, without lowering organic standards or importing billions of dollars in organic products unnecessarily from overseas."

I realize the chair asked that we comment on some of the topics discussed earlier today. I don't have a comment on everything, but I do want to mention just a couple of things that we've been very concerned about, and were concerned about earlier this year.

This NOSB panel is -- can always call on the Organic Consumers Association to participate in any discussions you have at these meetings. We'd very much like to be
part of the official discussion that takes place.

Consumer groups need to be part of the process, and I realize we're not industry players, but we are talking to consumers all the time and we're getting a lot of feedback from consumers.

Pasture is an important issue, contrary to much that was presented on the panel yesterday, and I got the report on that. This is an important issue. It can't be put aside. Antibiotics, that's an important issue too. We saw the survey.

But we're hearing that pasture is very important, and there are 17,500 plus people on this database who think it's important, and we want that to be emphasized.

We also don't think that industry consultants should be sitting on this board in the seats that are reserved for consumer or public interest groups. We'd very much like to see the vacancy that's currently open.
filled with a true consumer representative.

I'm not saying that we haven't had — all of the representatives haven't been from consumer groups, but obviously we know about the resignation that happened, which we were pleased by that.

So that's about it. As far as, I guess, as far as some of these sunetted synthetics, you know, I'd be happy to try to answer our position on them if you're interested, but I did not come prepared to give the line by line answer on each one. Do you have any questions?

CHAIRMAN O'RELL: Thank you.

MR. EIDINGER: Thank you.

CHAIRMAN O'RELL: Dave Engel. On deck, Lisa Engelbert.

MR. ENGEL: Good afternoon. My name is David Engel. I'm a certified organic dairy farmer since 1988, and an organic certification agency representative since 1989.
I have three things I'd like to cover, one to the board and then two to the NOP. To the board on the sunset materials, if I were you, I would tend to allow all sunset materials to come back on, unless very clearly, unambiguously, unequivocally, there are a unanimous effort to do it otherwise.

I really appreciated Andrea's common sense and reasonable approach to handling sunset materials. They've already been through a very rigorous process to get there to begin with, and you guys, I think, are doing a good job.

Then to the NOP, since it is my understanding that both the last third and the pasture issue are something that the NOP will be dealing with, rather than look in your direction I'm going to look this way and speak into the mike. But these are directed to you.

So these comments on organic livestock standards are addressed primarily to the NOP, as they are about access to pasture,
which the NOP will be working on soon, and the
last third, very simply, I think it needs to
be.

If not, if the NOP is not inclined, then I would suggest that they consider commercial availability, the commercial availability mechanism in the last third issue.

So with all due respect to my fellow dairy farmers, many but not all of whom want stricter pasture standards, and with all due respect to my fellow certifiers, many but perhaps not all, of whom appear to feel inadequately empowered to enforce the current standards regarding pasture, I believe current pasture standards provide extremely adequate recourse and ability, empowerment if you will, to verify compliance of an organic livestock operator with ruminants, as regards access to pasture.

I'm going to emphasize some of these words continuously through here. A certifier
does not have to look for ducks, does not have
to listen for ducks, and does not have to even
talk with ducks to accomplish this
verification of compliance.

The pasture standard states the
producer of an organic livestock operation
must establish and maintain livestock living
conditions, including access to pasture for
ruminants. "Must" means has to, is required
to, very simple and legally significant.

Access means the ruminant is able to
go somewhere, and pasture is where the critter
goes. Means, according to the legal
definition in the rule, land use for livestock
grazing that is managed -- emphasis added --
to provide feed value and maintain or improve
soil, water and vegetative resources.

Thus, when an organic inspector goes
to a ruminant livestock farm, there must be
access to pasture, based on those three words
and what I just said. If there are ducks,
you're great and hopefully the milk inspector
won't see them, or if he/she does, they won't be bothered by them.

However, if the organic inspector does not see access to pasture, then that will have to be documented, and the certifier will have to consider that documentation.

The current pasture standard provides the certifier with the ability to determine not only the compliance with access to pasture for a ruminants requirement, but also the ability to determine the amount of pasture needed in that operation.

The words in the pasture definition and remember, ruminants must have access to pasture, state that the pasture is land that is managed, and again I emphasize that word, to provide feed value and maintain or improve soil, water and vegetative resources.

"To manage" reflects and is management, the sum and substance of the organic system plan. George's comments this morning were extremely well-put. Just as one
manages many things on a farm, cow comfort, health, feeding and milking schedules and so on, on an ongoing basis, so too is pasture to be managed on an ongoing basis.

There will be situations where the amount of pasture is not enough, and this must be worked out between the certifier and the operator on a continuous improvement basis, just as many other management requirements and recommendations are handled between a certifier and operator; for example, recordkeeping, machinery maintenance, buffers, facilities, crop rotations, organic seed compliance and so on.

In sum, large or small herds with or without sufficient pasture management in place are required to have sufficient management, pasture management in place, and all herd must be brought to that point on a continuous improvement basis, in a reasonable and mutually-agreed upon time frame, that the certifier and operator determine via the
organic system plan.

To paraphrase, and I have just one line left.

CHAIRMAN O'RELL: You can finish your thought.

MR. ENGEL: To paraphrase a great song sung by many great singers, Johnny Cash, etcetera, Merle Haggard, "And if that ain't access to country pasture, I'll kiss my" -- and I don't remember that last word in the song.

(Laughter.)

CHAIRMAN O'RELL: Thank you, Dave.

MEMBER KARREMAN: Dave, just a question. Thank you. I thought you were going to break into a song again like you did a few years ago, the whole thing. So then what's the problem right now? I mean, you know, we hear there's some loopholes that are not being enforced by certain certifiers.

And as I mentioned yesterday, I mean some people in the industry like yourself say
there is, you know, pasture is described and it's there as it is. But then why are we having the problems as we are, and why did we have this wonderful symposium that we did?

MR. ENGEL: Well, I'll just address the first part. The problems stem from the certifier not interpreting the rule, and working at applying it correctly.

MEMBER KARREMAN: Do you have any specific spots, perhaps in the rule, that certifiers are very good at --

MR. ENGEL: No. I just, I read very specifically. I quoted the words. Those words that the certifier has to apply correctly, and that will take care of scale, you know, all herds, amount of pasture that they do or do not have, a certifier can figure it out via the farm plan.

MEMBER KARREMAN: I just think it needs some more teeth, such as the exemption for stage of production.

That seems to be what people think
is a loophole right now, and actually the term access to pasture is kind of passive and "shall graze" would give a more firm meaning, wouldn't it?

    MR. ENGEL: You know, I don't really care. I mean my mother was an English major, and she taught me to know all that stuff too. But passive, active the words are there.

    There is some legal teeth in at least two of them. There's a definition "must." Those two things have legal teeth in them, and if a certifier can't handle it then they just don't know ducks.

    MEMBER SMILLIE: Dave, what state are you from?

    MR. ENGEL: Pardon?

    MEMBER SMILLIE: What state do you dairy in?

    MR. ENGEL: Wisconsin.

    MEMBER SMILLIE: Wisconsin.

    CHAIRMAN O'RELL: Thank you, Dave. Lisa, and I think this last name, I'm having a
hard time reading it, Scott Williams, it could
from -- well.

MEMBER OSTIGUY: McManus?

CHAIRMAN O'RELL: No. From USDA
Office of Budget and Program something.

MEMBER KARREMAN: OMB?

CHAIRMAN O'RELL: No. It's not OMB.

It's another -- okay. Lisa.

MS. ENGELBERT: Good afternoon. My
name's Lisa Engelbert. I'm am co-
administrator with NOFA New York certified
organic in Binghamton, New York. I work
primarily with the dairy farms in our
organization. We're currently certifying 120
dairy farms and we've got well, last count, 25
more in transition. That seems to change
every day.

I'd like to first thank the NOSB and
the NOP for the incredible amount of time that
you put into this program. I'm kind of seeing
firsthand how much that really is. Thank you.

(Laughter.)
MS. ENGELBERT: Organic certification is a privilege, not a right. It has to be earned. A producer that wants to get their farm certified organic needs to bring their operation into compliance with the rule, not try to get the rule changed or interpreted to fit their farm. We need to all remember that.

I would like to reiterate NOFA New York support for the proposed pasture policy, of a minimum of 120 days and 30 percent dry matter. I'm not going to beat it to death. We've all heard it. We all know what everyone said.

Public testimony has shown, excuse me, over the last two days that the vast majority of farms of all sizes all across the country agree that we need definitive pasture standards. We'll never reach 100 percent consensus on this or any other issue. But the majority of the farms in the country do agree with this.
We agree with Jim Riddle's comments yesterday about conducting an inspection at the beginning of the one-year herd transition, to verify field status, feed on the farm, and animal health care practices.

We are currently doing that at NOFA New York. We have -- we work with our producers in transition for the entire year. They apply at the beginning of transition.

They have an inspection and review at the beginning, within the first three or four months of transition, depending on weather situations, and then they have a second.

They update their information and they have a second inspection and review in about the last 90 days. So it works really well, and it identifies problems at the beginning, not at the end.

We fully support the last third of gestation, once the farm's made the transition to organic production and has become
certified.

It needs to be clarified that this is a one-time distinct whole herd conversion, and it is a one-time opportunity for conventional dairy farm to transition their herd to organic production.

It's clearly not the intent of the rule to allow a continual state of transition. Continual transition of animals for 12 months prior to producing organic milk will allow animals that have been treated with a prohibited substance, fed GMO feed and slaughter byproducts.

We do see them in feed rations coming in, with these new dairies coming in, for the first half of their life, to enter the organic system. Think of what will happen if an organic cow tests positive for mad cow down the road. The implications could be huge.

I would like to comment on tetracycline and streptomycin in crop production. I should say I'm putting my
consumer hat on now, not certifier hat. We eat 90 to 95 percent organic food in our household. If we can find an organic, we buy it.

I think if organic consumers knew that antibiotics were being used on fruit or on crops, I think they'd likely change their buying habits. If substances like these continue to be allowed, what true incentive do growers and manufacturers have to develop effective alternatives.

Milk replacer. We agree with removing it from the national list. We had a Yoni situation on a farm, I think it was three years ago. We actually talked to the NOP, because they couldn't locate and we couldn't locate any non-BST (ph) milk replacer.

The NOP said "Well, because of the annotation, it can't be allowed," so we went back and said Sorry. They bought a pasteurizer. This is a bigger farm. This is the biggest farm we certified. This isn't a
little ten-cow dairy. This is a 350-cow operation.

Pasteurized all of their milk, and they have Yonis under control on their farm. They're going a really good job.

Oxytocin, if this is kept on the list, there needs to be clear annotation that it has to be administered by a licensed vet. I think there really is some abuse going on with this product out in the field, the way it's annotated right now.

Lastly, I would like to encourage the NOP to start prosecuting and imposing fines on farms found to be in willful violation and subsequently revoked. A clear message needs to be sent to the organic community, that blatant, willful violations will not be tolerated.

A five-year revocation is not enough. Thank you.

CHAIRMAN O'RELL: Thank you.

MEMBER CAROE: Just a quick question
for you, Lisa. Do you require all of your producers to participate in a transition inspection, as well as their certification inspection?

    MS. ENGELBERT: We do. That's the way we handle our transition program.

    MEMBER CAROE: And what has the accreditation folks said during your accreditation visits, since that's not a requirement of the --

    MS. ENGELBERT: They said that that is not part of certification. That's our own internal policy and it's fine. We're ISO-65 accredited. We're looked at every year.

    MEMBER CAROE: Right, I know the ISO 65. But I mean I'm referring to the accreditation under the program. So nobody's had any problem with you hiring an extra -- something beyond the regulation.

    MS. ENGELBERT: Well, we don't feel it's beyond the regulation, because we're working with the producer for the entire year.
They're required to transition for a year, and we're verifying their practices at the beginning of the year, which I think should be required across the board.

MEMBER KARREMAN: On that, just --

CHAIRMAN O'RELL: Bea was next.

MEMBER KARREMAN: Okay.

MEMBER JAMES: Thank you for your comments, and for your patience as you endure two second halves term. I'm just going to make kind of a statement, opinion, and then I wanted to ask you a question.

You know, some branches of protection have mottos such as to protect and to serve, and I know that certifiers are not officers, but I do believe that it is their job to reinforce the rules, make sure people are following the rules to inspect and ensure, and just like I asked Jim Riddle, I'm just perplexed at how some farms could be given an organic certificate if they're not following the organic regulations, and I wanted to ask
your opinion on that.

MS. ENGELBERT: I agree wholeheartedly with you. I don't really understand how that's happening. I agree with Dave that the current rules should be enough. I mean, the majority of the certifiers in the country are doing it.

Unfortunately, obviously it's not enough, because there are abuses occurring, and I think because of those abuses, we do need descriptive pasture standards, unfortunately.

CHAIRMAN O'RELL: Hugh?

MEMBER KARREMAN: Just a follow-up to what Andrea was saying, or I should say that I think PCO does the same thing NOFA New York does. No? Leslie? Because I thought there's like a pre-inspection, and I just want to say it does really help the farmers.

It really kicks them into gear, starting them thinking about things before it is too late. So it is a very good thing. I
would agree with that, and I hope it gets instituted.

MS. ENGELBERT: It allows any potential non-compliances to be noticed right up front, you know.

If you wait until the last four or five or three or four months of transition to do an inspection and look at their paper work and look everything over and go on their farm, if there's a major non-compliance there that didn't show up prior to that, that farmer's really in deep trouble. They've lost a lot of -- yeah, I had to think about that word.

(Laughter.)

MS. ENGELBERT: I do live on a farm, after all. But they may have lost, you know, three quarters of a year at that point if you don't do that, you know.

MEMBER KARREMAN: I've seen that happen.

MS. ENGELBERT: Yeah. I've heard horror stories about that happening. So
anyone else? Thank you very much.

    CHAIRMAN O'RELL: Thank you. I'm going to try it again. Scott Williams? Is that -- from the USDA? If there is nobody there, we will go on. David DeCou, and last, Brian Baker.

    MR. DECOU: I'm speaking for Brian Baker. He just blew away.

    CHAIRMAN O'RELL: Then you are last.

    Do you have a proxy then?


    Thank you guys for all that you do. You've been thanked many times, but it won't be enough. You know, I've been in the organic industry for way too long, but not long enough.

    And, you know, the work you do, now that I've stumbled into Armory over the years, the work that you do is -- I know how
complicated it is, because we end up having to try to figure some of it out later too.

Brian put a question out to me about colors, because they were talked about earlier, and he noted that one of you, and I don't remember who, mentioned that some colors are both non-synthetic and non-agricultural. He was wondering if anybody could identify any colors that are both non-synthetic and non-agricultural?

And I can't. You know, I think the point is that colors pretty much are agricultural, but --

MEMBER OSTIGUY: Well, you're not doing --

CHAIRMAN O'RELL: Julie?

MEMBER WEISMAN: It is not my area of expertise, contrary to -- I don't do colors. But I'm sorry. It's not -- colors are not my business, but I do know that some colors are mineral, which would make them non-agricultural and non-synthetic.
I think also some of the comments that Tony Moore made about the non-agricultural and non-synthetic ingredients in flavors, non-synthetic.

He was specifically -- he was talking about what we sometimes refer to as natural aromatics or natural aroma chemicals. We don't like to use the word "chemicals," but that is what they are.

I think that colors also include those types -- colors, non-synthetic do include those types of substances.

MR. DeCOU: As I said, it was a question from Brian and I hope he hears what you said.

MEMBER WEISMAN: I'll tell him.

MR. DeCOU: Brian also expressed a concern that with the evidence that this sunset process, a major significant part of it is a concern about economic effect of any possible change to the list.

He wanted to point out a
consideration that is not always brought up, but that a continued listing of colors in 605 is a dis-economic incentive for producers of organic crops that might be used for colors. So there's an economic effect in another direction that is often not remembered.

As a former organic farmer, I used to grow beets, and even in the early to mid-90's, I know some of them were dried and sold for coloring. Exactly how after they were dried, they left my purview and I don't really know.

Another point, and this is a personal statement, not from Armory but myself, but as a 20-year organic farmer, it always strikes me, and I just have to say this; I don't quite understand it. It always strikes me as surprising that the handling sector --

I guess the picture is an organic farmer does the best they can to produce the best food they can, the cleanest food they
can, in the manner they can.

It always strikes me as important that the handling sector and on through keeps it clean, doesn't add anything to it, and it always -- when I start hearing some of the terminology of flavors and other things, colors, I can't help but wonder, you know, it's not where we started.

I can't -- I don't know how to grapple with that. I understand how the industry has evolved, but I think we always need to take that perspective back, and how are we nurturing the whole system to keep it as what it originally was. It doesn't address any particular product, but it's one of those concerns.

I just get -- somehow it gets lost in the "making the industry grow" question, and I think that's one we shouldn't ever forget. You know, it all comes off the farms. Without the farms, there's nothing.

I've heard over and over again a
concern about antibiotics in crops. I've also
heard people -- Julie mentioned aromatic
chemicals, as if "uh-oh, I used the word
`chemical.'"

This terminology -- both the
terminology and the concept of what actually
happens on the farm, the vast majority of the
population doesn't know what goes on on farms,
would be shocked about a lot of things that
are regularly done on farms, that aren't
really bad; they're just surprising.

I think it's a little scary to hear
people trying to make decisions about what
might be happening on a farm from that
perspective, when they don't really know
what's going on. Because they've been
protected from the world of agriculture most
of their lives, they won't understand why.

It's just very difficult as a former
farmer, one with a bad back, that those kinds
of thought processes might make a difference
in how your decisions are made, because it's
important decisions that affect a lot of people. Thank you for all you do.

(Applause.)

CHAIRMAN O'RELL: Thank you, Dave. I think there's a question, Dave, before you--

MEMBER JAMES: I appreciate your comments. Can you please explain to me--I've not been a farmer--how tetracycline and streptomycin in crops is okay?

MR. DeCOU: I guess the question for me is why is it not okay? At some point, it's a very hard issue. There's a reason why that there's no organic pears or essentially no organic pears grown on the East Coast or the Midwest, because of the climate.

So basically, you push everything to an edge and you just push it off. If you eliminate this tool, within a few years there would probably be no organic pears, period. That's acceptable or not.

I don't know how--it's one of
those things that sulphur is a widely-used fungicide. It's pretty nasty stuff. It's not fun to use. I've used plenty of it in growing tree fruit for about seven years at one point.

You know, if you took it out to the consumer and showed it to them, they wouldn't want to ever know it was on their food. You know, I don't know what the damage to the system is of using it or not, and that's where it kind of gets really complicated, because as Miles was pointing out, in WSDA they're trying to go to --

Not in WSDA but in Washington, all fruit growers are going to a very integrated system, trying to minimize -- tweak their system so it protects itself, which -- instead of doing drastic interventions.

That's why they don't want to use tetracycline or whatever. But I don't know how you make that judgment. It's very, very difficult.
MEMBER JAMES: Has there -- do you know of any long-term studies that have been done to prove that those two applications are safe?

MR. DeCOU: I don't know. I can use the sarcastic comment "That's what you've been eating for a long time." But that's a sarcastic comment. But I don't have any -- I don't know of any long-term scientific studies, no.

CHAIRMAN O'RELL: Arthur?

MR. NEAL: This is more of a comment as you consider what you're going to do about the streptomycin and the tetracycline.

There are three comments that you have to consider. How does this substance -- a previous board said that this meets the OFPA criteria. Now we have to consider how does this violate the OFPA criteria?

If we're saying this no longer is consistent with organic principles and practices, then that will be the case for the
next five years for any material that could resemble any type of activity those materials exhibit.

MR. DeCOU: If somebody petitioned it, if it was removed, it would be off for five years. They couldn't be petitioned in the meantime?

MR. NEAL: What I'm saying is that if this board, through the sunset process, says that we're not going to renew it, there's got to be a justification.

Either it has some type of harmful impact on human health or the environment, it's not consistent with organic principles or practices, or there's some other issues related to the OFPA criteria.

That means that based on that decision, that material comes off the national list -- may come off the national list through rulemaking, and for somebody to petition otherwise, it's going to be hard for this board to say it now meets OFPA criteria, when
they sat it through this sunset process in such a rapid fashion that it does not meet OFPA criteria.

MR. DeCOU: I'd also like to point out on the CDC comment about antibiotics to be considered at this point.

I was struck by something that -- Hugh made a comment about hydrated lime and whether it was used or not, and nobody used it, was sort of sense I got from what he said, and he's obviously an expert in a certain area.

It was quickly acknowledged that it is widely used in there. When the CDC says something, it's a question of how broad or narrow your expertise is at times.

Are they really understanding how it's being used in certain circumstances or not? I don't really know.

MEMBER KARREMAN: Can I just answer that, Dave. The list serve of 1,700 that about 35 answered, I don't know how valid a
survey that is. But you know, that's how it went. I won't get into the results again.

CHAIRMAN O'ReLL: Nancy?

MEMBER OSTIGUY: I think the question of narrow perspective goes both ways.

MR. DeCOU: Oh, I understand that fully, and I know. That's why you get the hard decisions and I get to comment.

MEMBER OSTIGUY: Just in a closing remark, I want to say that I highly respect the work that your organization does, and Organic Materials Review Institute, perhaps the whole issue of antibiotics on crops is something that you could look into, and I would certainly appreciate that research.

MR. DeCOU: I would love to, but we don't do that much research itself. I mean, we research materials that come at us and not ones that we don't have.

That's why we didn't comment on a whole lot of things here, because it's not our purview to make the decisions you have to make.
or influence them, other than around procedural technical issues, which is why we spoke to only two materials.

So it's a little hard for us to grapple with the plus funding, you know. We're a not-for-profit. It means it doesn't have extra money laying around. I would love to look at things if we could, and Brian would like to.

CHAIRMAN O'RELL: Hugh, to wrap this up.

MEMBER KARREMAN: I don't have your generic list in front of me, but do you have any of what you guys consider regulated substances for fire blight on the Armory generic list?

MR. DeCOU: I don't have that in my head. I have a copy back there.

MEMBER KARREMAN: You had a copy or two around here yesterday.

MEMBER OSTIGUY: Hugh, what's your question?
MEMBER KARREMAN: Well, I mean Armory is wonderful for listing of ingredients that are prohibited or not, and they also have like a restricted category. So it's like we're not sure what the NOP thinks about it.

But obviously it's been petitioned to Armory to look at, and usually those substances are, in my opinion from livestock, they're fairly efficacious. Maybe not all the science behind them, but they're in the contention for, you know --

MEMBER KARREMAN: Well, they're in --

CHAIRMAN O'RELL: Hugh.

MR. DeCOU: Their job is just to interpret the regulations.

MEMBER KARREMAN: Right. But they're only brought materials to them, if people want to pay the process to get them reviewed, which is not cheap. So I was just wondering if there's some --

MR. DeCOU: Our restricted or
regulated category is not quite as you identified it. It is a category in which additional concerns have to be met before you use it. Every pesticide that's on there, natural and they're all acceptable on the national list.

But they need to work with their certifier, and make them sure that they've already done all the management options prior to that, and they already know it isn't going to work and they have to use this tool.

They can't just use it as a first stop, and that's often what that "R" stands for, is you can't just step in, and I'm sure you have other things --

CHAIRMAN O'RELL: Yeah. I'm really going to have to cut this off.

MEMBER OSTIGUY: Thank you. I can answer the question very quickly. Both of the materials are on the Armory list that were discussed as substitutes for tetracycline and streptomycin.
CHAIRMAN O'RELL: Thank you, Nancy.

MS. FRANCES: Kevin? Over here, Valerie Frances. There's a woman here that did not make it on the sign-up list, and she is requesting an opportunity to address the board right now, if that would be permitted. Bonnie Wideman? Wideman with NOSA.

CHAIRMAN O'RELL: Concerning something that we --

MS. WIDEMAN: Pasture?

CHAIRMAN O'RELL: Okay, come on.

MS. FRANCES: Please spell your name for the record?


We are perhaps the largest dairy certifier in the country, so I did feel that I should make a comment, because other certifiers have. We certify perhaps 350 dairies at this time, with maybe 50 more in
transition.

Though I do, would like to -- I wish the current pasture regulation were sufficient, but since it is not and since all cows are not receiving access to pasture under the current rule, I feel that we could verify 30 percent and 120 days, and that it may not be that our producers are meeting this now.

But if we have the flexibility to work with them, I think we can. I would also like to just register our opinion that since milk replacer is not allowable for Yonis, since it's not an emergency, we see no use for it.

Also, it would be better if oxytocin were off the list, since most of our milk producers cannot use it because of their milk buyer. So that's it.

CHAIRMAN O'RELL: Thank you.

MS. FRANCES: Thank you.

CHAIRMAN O'RELL: Yes. What we're going to do now is I know that when we took
our break at lunch at 2:00, the Handling Committee had an opportunity to meet and take care of some committee business, based on input from public comments.

The Livestock Committee, I believe, is set and ready for recommendations, again taking the input from public comment that we've had. But Gerald, the Crops Committee, do you need a few minutes?

MEMBER DAVIS: Yes.

CHAIRMAN O'RELL: Okay. So what I'm going to suggest is what, 15 minutes or you tell me what works, because we did have time planned for this. We tried to squeeze it in there, but because there were people on both committees, it didn't work. So --

MEMBER DAVIS: If we are wanting to craft a change to the hydrated lime recommendation, that has to be physically typed up and --

CHAIRMAN O'RELL: No, no, no. You can just do --
MEMBER DAVIS: Ten minutes is probably plenty.

CHAIRMAN O'RELL: Fine. So let's take 15 minutes we'll give you. Then we'll come back, take a break. When we come back, we're going to start doing the recommendations for sunset and other recommendations by committees, and we'll be voting on those action items. Thank you.

(Whereupon, a short recess was taken.)

CHAIRMAN O'RELL: I'd ask the board members to be seated. We're all here?

(Pause.)

Board Vote on Committee Recommendations

CHAIRMAN O'RELL: Okay. We've been able to have the Crops Committee breakaway, and do some discussion at the committee level, and we will start with -- we're going through the recommendations for items that we'll be voting on.

We'll do this by Committee, and
Gerald, we'll start with the Crops Committee.

MEMBER DAVIS: Okay. Find the papers. The Crops Committee -- I guess we'll bring up the materials one at a time. I've got them all out of order again here somehow.

Excuse me. There we go.

Kevin, our intent now is just to represent the recommendation and ask for any more discussion before vote. Yes. Just to read --

CHAIRMAN O'RELL: To read the recommendation, and we've already had some background information.

So I don't think you need to go into that. Read the recommendation. We'll do one at a time, and then we will enter that as a motion, and then if it's seconded, we'll have for Discussion. Yes Hugh?

MEMBER KARREMAN: When we're doing this, if there was discussion at lunch in an officially convened committee meeting, should we say what we were -- in case --
CHAIRMAN O'ReLL: If you've changed a recommendation based on committee work today, then you would indicate what that change was and then I would have a brief discussion as to the rationale, as to why you changed your recommendation from the earlier.

MEMBER KARREMAN: I understand. But let's say there was also another discussion -- no, okay.

CHAIRMAN O'ReLL: No.

Crops Committee Recommendations

MEMBER DAVIS: Synthetic substances allowed for use in organic production. Section 205.601(a), as algicides, disinfectants and sanitizers.

The Crops Committee recommendation, based on comments received, is that for chlorine materials, calcium hypochloride, sodium hypochloride and chlorine dioxide, the Crops Committee recommends renewal of these materials for use in this category.

Discussion?
MEMBER OSTIGUY: Second. You needed a second. I did it.

MEMBER DAVIS: Okay.

CHAIRMAN O'RELL: So it was moved and seconded. Discussion?

(Pause.)

MEMBER JAMES: I only have one point of discussion, and that is for the new members, to be sure that you review on the recommendation exactly how that committee is recommending it, because I'm speaking from experience.

But on my first meeting, it's confusing sometimes whether you're voting yes on a no or no on a yes. So you just want to make sure that you look at that before you make your vote.

MEMBER CAROE: Call the question.

MEMBER DAVIS: Call the question if we're going to take the vote.

CHAIRMAN O'ReLL: I'm trying to get the paper work here. I'm sorry. We're a
little behind in getting the paper work. So this is 205.601(a).

MEMBER DAVIS: And the category is the Crops Committee recommends the renewal of the following materials to the use category, Section 2, "Chlorine Materials," except that residual chlorine materials in the water shall not exceed the maximum residual disinfectant limit under the Safe Drinking Water Act.

Number one, calcium hypochloride; two, sodium hypochloride; three, chlorine dioxide.

CHAIRMAN O'RELL: So if everybody's clear, if you're voting "yes," it is to renew these items.

A "no" would be not to renew them on the list, and you have the option of abstaining, and just to point out that if you abstain from a vote, it goes with the majority. It's tallied in the majority. Okay. We'll start with Jeff.

MEMBER OSTIGUY: Conflicts?
CHAIRMAN O'ReLL: Thank you. Are there any conflicts on the board with this recommendation of materials?

(No response.)

CHAIRMAN O'ReLL: Okay. Hearing none, Jeff?

MEMBER MOYER: I vote yes.

CHAIRMAN O'ReLL: Nancy?

MEMBER OSTIGUY: No.

CHAIRMAN O'ReLL: Julie?

MEMBER WEISMAN: Yes.

CHAIRMAN O'ReLL: Joe?

MEMBER SMILLIE: Yes.

CHAIRMAN O'ReLL: Bea?

MEMBER JAMES: Yes.

CHAIRMAN O'ReLL: Andrea?

MEMBER CAROE: Yes.

CHAIRMAN O'ReLL: Gerald?

MEMBER DAVIS: Yes.

CHAIRMAN O'ReLL: Dan?

MEMBER GIACOMINI: Yes.

CHAIRMAN O'ReLL: Kevin?
MEMBER ENGELBERT: No.

CHAIRMAN O'RELL: Hugh?

MEMBER KARREMAN: Yes.

CHAIRMAN O'RELL: And the chair votes yes.

MEMBER KARREMAN: Rigo?

CHAIRMAN O'RELL: I'm sorry, Rigo?

MEMBER DELGADO: Yes.

CHAIRMAN O'RELL: I've got to remember to go to the top of the list.

MEMBER CAROE: And the chair votes yes?

CHAIRMAN O'RELL: And the chair votes yes.

MEMBER CAROE: 10-2-0-2.

CHAIRMAN O'RELL: Ten yes, two no, two absent. So that motion passes.

MEMBER DAVIS: On the list, 205.601, synthetic substances allowed for use in organic crop production. Two, category of use, (e) as insecticides, including acaracides (ph) or mite control; (i) as plant disease control,
horticultural oils.

The Crops Committee recommends the renewal of the following material in these categories of uses: (e) as insecticides, including acaricides or mite control; (6) oils, horticultural, narrow range oils as dormant, suffocating and summer oils; (i) as plant disease control, oils, horticultural, narrow range oils as dormant, suffocating and summer oils.

MEMBER OSTIGUY: Second.

CHAIRMAN O'RELL: You entered that as a form of a motion?

MEMBER DAVIS: Okay, yes.

CHAIRMAN O'RELL: Seconded. It's been moved and seconded. Discussion?

(No response.)

CHAIRMAN O'RELL: Hearing no discussion, we'll take the vote. Any conflicts?

(No response.)

CHAIRMAN O'RELL: No conflicts.
Nancy?

MEMBER OSTIGUY: Yes.

CHAIRMAN O'RELL: Julie?

MEMBER WEISMAN: Yes.

CHAIRMAN O'RELL: Joe?

MEMBER SMILLIE: Yes.

CHAIRMAN O'RELL: Bea?

MEMBER JAMES: No.

CHAIRMAN O'RELL: Andrea?

MEMBER CAROE: Yes.

CHAIRMAN O'RELL: Gerald?

MEMBER DAVIS: Yes.

CHAIRMAN O'RELL: Dan?

MEMBER GIACOMINI: Yes.

CHAIRMAN O'RELL: Kevin?

MEMBER ENGELBERT: No.

CHAIRMAN O'RELL: Hugh?

MEMBER KARREMAN: No.

CHAIRMAN O'RELL: Rigo?

MEMBER DELGADO: Yes.

CHAIRMAN O'RELL: Jeff?

MEMBER MOYER: Yes.
CHAIRMAN O'RELL: And the chair votes yes.

MEMBER CAROE: 9-3-0-2.

CHAIRMAN O'RELL: Nine yes, three no, zero abstentions, two absent, and two-thirds. We need eight to pass, so that motion carries.

MEMBER DAVIS: The Crops Committee reconvened before, a few minutes ago that is, and reconsidered the topic of hydrated lime as plant disease control.

We decided as a committee, voting 5 to 0, to change the recommendation as has been posted to that the Crops Committee recommends renewing the following material to the national list:

(i) As plant disease control, Item 3, hydrated lime.

MEMBER OSTIGUY: Second.

CHAIRMAN O'RELL: It's been moved and seconded. Any Discussion? Any conflicts?

(No response.)
CHAIRMAN O'ReLL: Hearing none, Julie?

MEMBER WEISMAN: Yes.

CHAIRMAN O'ReLL: Joe?

MEMBER SMILLIE: Yes.

CHAIRMAN O'ReLL: Bea?

MEMBER JAMES: Yes.

CHAIRMAN O'ReLL: Andrea?

MEMBER CAROE: Yes.

CHAIRMAN O'ReLL: Gerald?

MEMBER DAVIS: Yes.

CHAIRMAN O'ReLL: Dan?

MEMBER GIACOMINI: Yes.

CHAIRMAN O'ReLL: Kevin?

MEMBER ENGELBERT: Yes.

CHAIRMAN O'ReLL: Hugh?

MEMBER KARREMAN: Yes.

CHAIRMAN O'ReLL: Rigo?

MEMBER DELGADO: Yes.

CHAIRMAN O'ReLL: Jeff?

MEMBER MOYER: Yes.

CHAIRMAN O'ReLL: Nancy?
MEMBER OSTIGUY: Yes.

CHAIRMAN O'RELL: And the chair votes yes.

MEMBER CAROE: 12-0-0-2.

CHAIRMAN O'RELL: Twelve yes, zero no, no abstentions, two absent. The motion carries.

MEMBER DAVIS: I'm not sure of the wording on how this goes, but concerning hydrogen peroxide. The Crops Committee recommends renewal of the following material in this use category:

(a) as algicide, disinfectants and sanitizers, including irrigation system cleaners, for hydrogen peroxide. Section (i) as plant disease control, Item 4, hydrogen peroxide.

MEMBER OSTIGUY: Second.

CHAIRMAN O'RELL: It's been moved and seconded. Any Discussion?

(No response.)

MEMBER CAROE: Who seconded?
CHAIRMAN O'RELL: Nancy. Any conflicts?

(No response.)

CHAIRMAN O'RELL: We'll take the vote, starting with Joe?

MEMBER SMILLIE: Yes.

CHAIRMAN O'RELL: Bea?

MEMBER JAMES: Yes.

CHAIRMAN O'RELL: Andrea?

MEMBER CAROE: Yes.

CHAIRMAN O'RELL: Gerald?

MEMBER DAVIS: Yes.

CHAIRMAN O'RELL: Dan?

MEMBER GIACOMINI: Yes.

CHAIRMAN O'RELL: Kevin?

MEMBER ENGELBERT: Yes.

CHAIRMAN O'RELL: Hugh?

MEMBER KARREMAN: Yes.

CHAIRMAN O'RELL: Rigo?

MEMBER DELGADO: Yes.

CHAIRMAN O'RELL: Jeff?

MEMBER MOYER: Yes.
CHAIRMAN O'RELL: Nancy?

MEMBER OSTIGUY: Yes.

CHAIRMAN O'RELL: Julie?

MEMBER WEISMAN: Yes.

CHAIRMAN O'RELL: Joe?

MEMBER SMILLIE: Yes.

CHAIRMAN O'RELL: And the chair votes yes. 12-0-0-2. Motion carries.

MEMBER DAVIS: On the list, 205.601, category of use Section (i) as plant disease control. Streptomycin and tetracycline for fire blight control in apples and pears.

The Crops Committee recommends renewing the materials listed in Section (i) as plant disease control, Item No. 10, streptomycin for fire blight control in apples and pears only. Item 11, tetracycline, oxytetracycline calcium complex for fire blight control only.

MEMBER OSTIGUY: Second. I'm sorry, is it both materials we're voting on?

MEMBER DAVIS: Yes. It's both
materials. Any discussion?

(No response.)

MEMBER DAVIS: I did have a comment. There's been a lot of debate both ways on these materials. People feel pretty strongly about it in general.

As the Crops Committee discussed that in our meeting this afternoon, just a few minutes ago, and decided that upon listening to the testimony and then talking about the sunset process in general, that we should, even though we may have personal objections to the materials and the way they're used, but that we should stick to the strict intention of the sunset process and vote that way, rather than necessarily only on our philosophy or our personal feelings, but how we are obligated to abide by the rules and the process of the sunset process. Anyone else have anything to add to that?

CHAIRMAN O'RELL: No. I think that was well-said. I think that certainly my
sentiments are I would rather not be here, but a previous board did go through the diligence of approving that, and there wasn't anything really brought forward, other than a philosophical point, which I'd have to side with.

But in the effort of the sunset process, I would have to agree with your comments.

MEMBER DAVIS: Barring any other discussion, I can call the question.

CHAIRMAN O'RELL: Any conflicts?

(No response.)

CHAIRMAN O'RELL: Hearing none, Bea?

MEMBER JAMES: No.

CHAIRMAN O'RELL: Andrea?

MEMBER CAROE: Yes.

CHAIRMAN O'RELL: Gerald?

MEMBER DAVIS: Yes.

CHAIRMAN O'RELL: Dan?

MEMBER GIACOMINI: Yes.

CHAIRMAN O'RELL: Kevin?
MEMBER ENGELBERT: No.

CHAIRMAN O'RELL: Hugh?

MEMBER KARREMAN: Abstain.

CHAIRMAN O'RELL: Rigo?

MEMBER DELGADO: Yes.

CHAIRMAN O'RELL: Jeff?

MEMBER MOYER: No.

CHAIRMAN O'RELL: Nancy?

MEMBER OSTIGUY: No.

CHAIRMAN O'RELL: Julie?

MEMBER WEISMAN: Yes.

CHAIRMAN O'RELL: Joe?

MEMBER SMILLIE: Yes.

CHAIRMAN O'RELL: And the chair votes yes.

MEMBER CAROE: 8 to 4 -- 7 to 4-1-2.

It passes.

MEMBER JAMES: Sorry, I didn't hear that.

MEMBER CAROE: Seven yeas, four no's, one abstention, two absent. The motion passes.
CHAIRMAN O'RELL: So it passes.

MEMBER DAVIS: The Crops Committee recommends the renewal of the following:
205.601, Section (j) as plant or soil amendments.

Item 1, aquatic plant extracts other than hydrolyzed. Extraction process is limited to the use of potassium hydroxide or sodium hydroxide. Solvent used is limited to that amount necessary for extraction.

MEMBER OSTIGUY: Second.

CHAIRMAN O'RELL: It's been moved and seconded. Is there any discussion?

(No response.)

CHAIRMAN O'RELL: Any conflicts?

(No response.)

CHAIRMAN O'RELL: Start with Andrea.

MEMBER CAROE: Yes.

CHAIRMAN O'RELL: Gerald.

MEMBER DAVIS: Yes.

CHAIRMAN O'RELL: Dan?

MEMBER GIACOMINI: Yes.
CHAIRMAN O'RELL: Kevin?
MEMBER ENGELBERT: Yes.
CHAIRMAN O'ReLL: Hugh?
MEMBER KARREMAN: Yes.
CHAIRMAN O'RELL: Rigo?
MEMBER DELGADO: Yes.
CHAIRMAN O'RELL: Jeff?
MEMBER MOYER: Yes.
CHAIRMAN O'RELL: Nancy?
MEMBER OSTIGUY: Yes.
CHAIRMAN O'RELL: Julie?
MEMBER WEISMAN: Yes.
CHAIRMAN O'RELL: Joe?
MEMBER SMILLIE: Yes.
CHAIRMAN O'RELL: Bea?
MEMBER JAMES: Yes.
CHAIRMAN O'RELL: And the chair votes yes.
MEMBER CAROE: 12-0-0-2.
CHAIRMAN O'RELL: 12-0-0 carries, 0-2.
MEMBER DAVIS: For humic acids,
205.601(j) as planter soil amendments. The Corps Committee recommends the renewal of the following substances in this use category:

Item 3, humic acids, naturally occurring deposits, water and alkali extracts only.

MEMBER OSTIGUY: Second.

CHAIRMAN O'RELL: It's been moved and seconded.

MEMBER CAROE: By Nancy.

CHAIRMAN O'RELL: It's been moved and seconded. Any discussion?

(No response.)

CHAIRMAN O'RELL: Any conflicts?

(No response.)

CHAIRMAN O'RELL: Start with Gerald?

MEMBER DAVIS: Yes.

CHAIRMAN O'RELL: Dan?

MEMBER GIANCOMINI: Yes.

CHAIRMAN O'RELL: Kevin?

MEMBER ENGELBERT: No.

CHAIRMAN O'RELL: Hugh?

MEMBER KARREMAN: Yes.
CHAIRMAN O'RELL: Rigo?
MEMBER DELGADO: Yes.
CHAIRMAN O'RELL: Jeff?
MEMBER MOYER: Yes.
CHAIRMAN O'RELL: Nancy?
MEMBER OSTIGUY: Yes.
CHAIRMAN O'RELL: Julie?
MEMBER WEISMAN: Yes.
CHAIRMAN O'RELL: Joe?
MEMBER SMILLIE: Yes.
CHAIRMAN O'RELL: Bea?
MEMBER JAMES: Yes.
CHAIRMAN O'RELL: Andrea?
MEMBER CAROE: Yes.
CHAIRMAN O'RELL: And the chair votes yes.
MEMBER CAROE: 11-1-0-2.
CHAIRMAN O'RELL: 11 yes, one no, zero abstentions, two absent.
MEMBER DAVIS: Section 205.601, synthetic substance allowed for use in organic crop production. Category of use, Section (j)
as plant or soil amendments, Item 4, lignin sulfonate as a key leading agent, dust suppressant, floatation agent, and also as a floatation agent in post-harvest handling, Section (l), Item 1, lignin sulfonate.

MEMBER OSTIGUY: Second.

CHAIRMAN O'RELL: It's been moved and seconded. Discussion? I have a question. If lignin sulfonate is available, and we talked before about sodium silicate doing the same function, is there a belief that we need two, or if we don't, which was it?

MEMBER DAVIS: Based on the testimony we received from the Washington state program, being that there is a limitation on the lignin sulfonate for some producers, on where they can for their waste water, the one to drop if you were going to drop one would be the lignin sulfonate.

MEMBER OSTIGUY: It was lignin sulfonate that we would drop, Because that's the one that would block --
(Simultaneous discussion.)

MEMBER SMILLIE: But only as a flotation.

MEMBER OSTIGUY: Right.

MEMBER MOYER: The other material was a dust suppressant as well, which is what --

MEMBER OSTIGUY: Right, right.

MEMBER SMILLIE: Right.

MEMBER MOYER: And the other material doesn't do that.

MEMBER DAVIS: Can we split them, that apart?

CHAIRMAN O'RELL: I'm just wondering if there's merit into limiting the use of it, and not having it for -- oh yes. We can't do annotations. This is right. Okay. All right, I tried.

MEMBER GIACOMINI: So you can't use -- hoist it on your own.

(Simultaneous discussion.)

CHAIRMAN O'RELL: Jim Riddle is
giving me the thumbs down.

(Laughter.)

CHAIRMAN O'RELL: I learn from you, Jim.

MEMBER KARREMAN: That explains it.

MEMBER OSTIGUY: We didn't say that. He did.

MEMBER DAVIS: Can I call the question?

CHAIRMAN O'RELL: Any other discussion? Any conflicts?

(No response.)

CHAIRMAN O'RELL: Start the voting with Dan.

MEMBER GIACOMINI: Yes.

CHAIRMAN O'RELL: Kevin?

MEMBER ENGELBERT: No.

CHAIRMAN O'RELL: Hugh?

MEMBER KARREMAN: Yes.

CHAIRMAN O'RELL: Rigo?

MEMBER DELGADO: Yes.

CHAIRMAN O'RELL: Jeff?
MEMBER MOYER: Yes.
CHAIRMAN O'RELL: Nancy?
MEMBER OSTIGUY: Yes.
CHAIRMAN O'RELL: Julie?
MEMBER WEISMAN: Yes.
CHAIRMAN O'RELL: Joe?
MEMBER SMILLIE: Yes.
CHAIRMAN O'RELL: Bea?
MEMBER JAMES: Abstain.
CHAIRMAN O'RELL: Andrea?
MEMBER CAROE: No.
CHAIRMAN O'RELL: Gerald?
MEMBER DAVIS: Yes.
CHAIRMAN O'RELL: The chair will abstain.
MEMBER CAROE: 8-2-2-2. That just made it too.

The Crops Committee recommends
renewing the following material to the use in this category, as floating agents in post-harvest handling, sodium silicate.

MEMBER OSTIGUY: Second.

CHAIRMAN O'RELL: It's been moved and seconded. Any discussion?

MEMBER KARREMAN: So would this substance replicate one of the two functions of lignin sulfonate that we just renewed?

CHAIRMAN O'RELL: Andrea.

MEMBER CAROE: Since lignin sulfonate is not allowed for organic production going over to Japan, it would not solve the problem for those growers shipping Organic product to Japan.

CHAIRMAN O'RELL: Nancy?

MEMBER OSTIGUY: Additionally, it's been disallowed in certain areas in the U.S. in their sewer systems.

MEMBER KARREMAN: The lignin?

MEMBER OSTIGUY: Yes, the lignin.

MEMBER KARREMAN: But not the sodium
silicate?

MEMBER OSTIGUY: Correct.

MEMBER KARREMAN: Okay.

CHAIRMAN O'RELL: Joe, did you have --

MEMBER SMILLIE: Same point.

CHAIRMAN O'RELL: Same point. Any other Discussion?

MEMBER KARREMAN: Maybe the person from Washington state already talked about this, but would a grower be using both on one operation, or do they normally just pick one or the other, because --

MEMBER SMILLIE: It would depend how their water was treated, number one. If their water went to a municipal water system, they'd have to use the sodium silicate. But they could be using the lignin sulfonate for other uses, kelating agents or --

But as far as flotation goes, it depends on how their water is treated. If they dispose of their own water, they could
choose between the two. But if it went into a
municipal water system, they have no choice
but to use sodium silicate.

CHAIRMAN O'RELL: Other discussion?

We have a motion that's been seconded. No
more Discussion. Any conflicts?

(No response.)

CHAIRMAN O'RELL: Start with Kevin?

MEMBER ENGELBERT: No.

CHAIRMAN O'RELL: Hugh?

MEMBER KARREMAN: Yes.

CHAIRMAN O'RELL: Rigo?

MEMBER DELGADO: Yes.

CHAIRMAN O'RELL: Jeff?

MEMBER MOYER: Yes.

CHAIRMAN O'RELL: Nancy?

MEMBER OSTIGUY: Yes.

CHAIRMAN O'RELL: Julie?

MEMBER WEISMAN: Yes.

CHAIRMAN O'RELL: Joe?

MEMBER SMILLIE: Yes.

CHAIRMAN O'RELL: Bea?
MEMBER JAMES: Abstain.

CHAIRMAN O'RELL: Andrea?

MEMBER CAROE: Yes.

CHAIRMAN O'RELL: Gerald?

MEMBER DAVIS: Yes.

CHAIRMAN O'RELL: Dan?

MEMBER GIACOMINI: Yes.

CHAIRMAN O'RELL: The chair votes yes.

MEMBER CAROE: 10-1-1-2.

CHAIRMAN O'RELL: The motion carries.

MEMBER CAROE: Okay. I'll move the mike closer. That was 10-1-1-2.

CHAIRMAN O'RELL: Are there any others that you want us to read off?

PARTICIPANT: The one for lignin sulfonate.

CHAIRMAN O'RELL: 8-2-2-2. Eight yes, two no, two abstentions, two absent.

MEMBER DAVIS: That concludes the Crops Committee list.
CHAIRMAN O'RELL: Thank you, Gerald.

Okay, Hugh.

Livestock Committee Recommendations

MEMBER KARREMAN: Okay, Livestock. The first item is 205.603, category of use (c), as feed supplements. I forget. Do I say what the committee -- okay.

The Committee recommended to not renew milk replacers as listed.

MEMBER OSTIGUY: Second.

CHAIRMAN O'RELL: So it's been moved and seconded. Discussion?

MEMBER SMILLIE: That means if we vote "yes," we're voting not to renew it.

CHAIRMAN O'RELL: The vote for "yes" is a vote not to renew the item. That's correct. Any discussion?

MEMBER CAROE: Yes.

CHAIRMAN O'RELL: Andrea?

MEMBER CAROE: I think when we make recommendations to not renew, it should be clearly stated which of the three criteria
were not met, because it's very clear in the
Federal Register that it's either human
health, wholly met -- what is it?

 Non-synthetic alternative, or not consistent with OFPA.

 MEMBER KARREMAN: I would say it's a non-synthetic alternative is available would be the reason.

 MEMBER CAROE: And that's based on testimony that --

 MEMBER KARREMAN: It's based on the testimony of a few hundred people and farmers.

 CHAIRMAN O'RELL: Okay. Any other discussion? Any conflicts?

 (No response.)

 CHAIRMAN O'RELL: I've just got to catch up with the paper work.

 MEMBER KARREMAN: No problem.

 CHAIRMAN O'RELL: The motion has been made and seconded. The vote for yes is not renew, so everybody's clear, starting with Hugh?
MEMBER KARREMAN: Yes.
CHAIRMAN O'RELL: Rigo?
MEMBER DELGADO: Yes.
CHAIRMAN O'RELL: Jeff?
MEMBER MOYER: Yes.
CHAIRMAN O'RELL: Nancy.
MEMBER OSTIGUY: Yes.
CHAIRMAN O'RELL: Julie.
MEMBER WEISMAN: Yes.
CHAIRMAN O'RELL: Joe?
MEMBER SMILLIE: Yes.
CHAIRMAN O'RELL: Bea?
MEMBER JAMES: Yes.
CHAIRMAN O'RELL: Andrea.
MEMBER CAROE: Yes.
CHAIRMAN O'RELL: Gerald.
MEMBER DAVIS: Yes.
CHAIRMAN O'RELL: Dan?
MEMBER GIACOMINI: No.
CHAIRMAN O'RELL: Kevin?
MEMBER ENGELBERT: Yes.
CHAIRMAN O'RELL: The chair votes
yes.

MEMBER CAROE: 11-1-0-2.

CHAIRMAN O'RELL: Which means the motion passes to remove milk replacers from the list of synthetics.

MEMBER KARREMAN: okay. The next item is hydrated lime, and the Livestock Committee had a meeting during lunch, and we certainly have taken into account the public opinion.

There was a motion to retain hydrated lime on the list for livestock production. That motion passed at the committee meeting at lunch. So the official vote now.

CHAIRMAN O'RELL: So the motion from --

MEMBER KARREMAN: The motion to renew passed, to renew it. So the Livestock Committee is renewing -- is recommending to renew hydrated lime.

MEMBER SMILLIE: Was that a vote?
CHAIRMAN O'RELL: It's a motion.

MEMBER CAROE: We're not in discussion yet. We need a second.

MEMBER OSTIGUY: I'll second.

MEMBER KARREMAN: Okay.

CHAIRMAN O'RELL: It's been motioned and seconded. Any discussion? Any conflicts?

(No response.)

MEMBER DAVIS: Is that a unanimous Committee vote at lunch?

MEMBER KARREMAN: Yes, it was. Yes.

Shall I read the official listing then for the vote now? I didn't do that yet.

CHAIRMAN O'RELL: The official?

MEMBER KARREMAN: Well, the category use and all that.

CHAIRMAN O'RELL: Sure.

MEMBER KARREMAN: I should right?

CHAIRMAN O'RELL: Put it in the form of a motion, yes.

MEMBER KARREMAN: So the Livestock Committee recommends and makes a motion that
under 205.603, category use (b) as topical
treatment, external parasiticide or local
anesthetic as applicable, to renew lime,
hydrated as listed.

MEMBER DAVIS: Second.

CHAIRMAN O'RELL: Moved and
seconded. Discussion? Any conflicts?

(No response.)

CHAIRMAN O'RELL: Start the voting
with Rigo?

MEMBER DELGADO: Yes.

CHAIRMAN O'RELL: Jeff.

MEMBER MOYER: Yes.

CHAIRMAN O'RELL: Nancy?

MEMBER OSTIGUY: Yes.

CHAIRMAN O'RELL: Julie?

MEMBER WEISMAN: Yes.

CHAIRMAN O'RELL: Joe?

MEMBER SMILLIE: Yes.

CHAIRMAN O'RELL: Bea?

MEMBER JAMES: Yes.

CHAIRMAN O'RELL: Andrea?
MEMBER CAROE: Yes.

CHAIRMAN O'RELL: Gerald?

MEMBER DAVIS: Yes.

CHAIRMAN O'RELL: Dan?

MEMBER GIACOMINI: Yes.

CHAIRMAN O'RELL: Kevin?

MEMBER ENGELBERT: Yes.

CHAIRMAN O'RELL: Hugh?

MEMBER KARREMAN: Yes.

CHAIRMAN O'RELL: The chair votes yes.

MEMBER CAROE: 12-0-0-2.

MEMBER KARREMAN: Okay. The next item is 205.603, category use (a) as disinfectants, sanitizer and medical treatments as applicable. Chlorine materials, all three, the calcium hypochloride, calcium dioxide, sodium hypochloride. The Livestock Committee recommends to renew them on the list.

MEMBER CAROE: Is there a second?

MEMBER ENGELBERT: Second.
CHAIRMAN O'RELL: Second, Kevin E.

Discussion? Any conflicts?

(No response.)

CHAIRMAN O'RELL: Start the voting with Jeff.

MEMBER MOYER: I vote yes.

CHAIRMAN O'RELL: Nancy.

MEMBER OSTIGUY: No.

CHAIRMAN O'RELL: Julie?

MEMBER WEISMAN: Yes.

CHAIRMAN O'RELL: Joe?

MEMBER SMILLIE: Yes.

CHAIRMAN O'RELL: Bea?

MEMBER JAMES: Yes.

CHAIRMAN O'RELL: Andrea?

MEMBER CAROE: Yes.

CHAIRMAN O'RELL: Gerald?

MEMBER DAVIS: Yes.

CHAIRMAN O'RELL: Dan?

MEMBER GIACOMINI: Yes.

CHAIRMAN O'RELL: Kevin?

MEMBER ENGELBERT: Yes.
CHAIRMAN O'ReLL: Hugh?

MEMBER KARREMAN: Yes.

CHAIRMAN O'ReLL: The chair votes yes.

MEMBER CAROE: There's one missing.

CHAIRMAN O'ReLL: Rigo?

MEMBER DELGADO: Yes.

CHAIRMAN O'ReLL: Thank you.

MEMBER CAROE: That's 11-1-0-2.

CHAIRMAN O'ReLL: So the motion carries.

MEMBER KARREMAN: Okay, next item?

CHAIRMAN O'ReLL: Yes.

MEMBER KARREMAN: The next item is under 205.603, category use (a) as disinfectants, sanitizer and medical treatments as applicable.

The Livestock Committee recommends renewing oxytocin as listed.

MEMBER OSTIGUY: Second.

CHAIRMAN O'ReLL: It's been moved and seconded. Discussion?
MEMBER KARREMAN: Yes. We did have discussion about this at lunch, and I think there was the consensus that if it gets renewed now, that the annotation should change at the minimum, so that it's only administered by a veterinarian.

MEMBER CAROE: So --

MEMBER KARREMAN: This is discussion. We're not voting on an annotation change. I'm just saying that's what we were talking about.

MEMBER ENGELBERT: We did vote again at the committee level. It did pass again.

CHAIRMAN O'RELL: And it was unanimous at the committee level?

MEMBER KARREMAN: There was a motion to not renew it and that failed. Therefore, the motion stands to renew it. We also had discussion that it should only be administered by a veterinarian. At some point we need to take that up. But we can't do that here during sunset.
CHAIRMAN O'RELL: But the intent of the Livestock Committee is to take that up as an issue?

MEMBER KARREMAN: Absolutely.

MEMBER ENGELBERT: Part of our work plan.

CHAIRMAN O'RELL: Part of the work plan?

MEMBER KARREMAN: Yes.

MEMBER CAROE: Well then I would say we need a petition in order to do that. So it should be on the record and spread from here on out, that that's what we're looking for, is those folks that commented to petition for a change of annotation.

MEMBER GIACOMINI: There was Discussion in the Committee, with a number of people who were not necessarily in favor of having it on the list, but not having the justification within the three items that we are specified to deal with, to justify taking it off at this time.
CHAIRMAN O'RELL: Right, okay.

Further discussion? Any conflicts?

MEMBER KARREMAN: I guess I probably make about $200 a year off that product from sales.

CHAIRMAN O'RELL: Well, it's disclosure.

MEMBER KARREMAN: Okay. I don't know if that's a conflict.

CHAIRMAN O'RELL: I wouldn't feel that you'd have to recuse yourself for -- I know your ethics are beyond $200.

(Laughter.)

MEMBER SMILLIE: It's $250, Hugh.

MEMBER CAROE: You treat those animals, whether they stay in the organic herd or not, so I can't see that you're going to make any less money if this comes off the list than if it stays on the list. So I see that as absolutely no conflict.

CHAIRMAN O'RELL: Okay. That was a better answer than the one I gave.
(Laughter.)

CHAIRMAN O'RELL: Nancy?
MEMBER OSTIGUY: No.

CHAIRMAN O'RELL: Julie?
MEMBER WEISMAN: Yes.

CHAIRMAN O'RELL: Joe?
MEMBER MOYER: Abstain.

CHAIRMAN O'RELL: Bea?
MEMBER JAMES: Yes.

CHAIRMAN O'RELL: Andrea?
MEMBER CAROE: Yes.

CHAIRMAN O'RELL: Gerald?
MEMBER DAVIS: Abstain.

CHAIRMAN O'RELL: Dan.
MEMBER GIACOMINI: Yes.

CHAIRMAN O'RELL: Kevin?
MEMBER ENGELBERT: No.

CHAIRMAN O'RELL: Hugh?
MEMBER KARREMAN: Yes.

CHAIRMAN O'RELL: Rigo?
MEMBER DELGADO: Yes.

CHAIRMAN O'RELL: Jeff?
MEMBER SMILLIE: Yes.

CHAIRMAN O'RELL: And the chair votes yes.

MEMBER CAROE: 8-2-2-2, passes.

MEMBER KARREMAN: Okay. Last item is 205.603, category use (a), as disinfectant, sanitizer and medical treatments as applicable. Number 13, parasiticides, Ivermectin, as listed. The Committee recommended to renew it.

MEMBER OSTIGUY: Second.

CHAIRMAN O'RELL: Second by Nancy. Discussion? Was that -- what was the Committee's -- was that unanimous from the Committee?

MEMBER KARREMAN: We didn't discuss it today, but on the Committee vote previously, it was 5 yes and 1 no.

CHAIRMAN O'RELL: So it's the same from our discussion before, that you had expressed. Andrea?

MEMBER CAROE: Just any
reconsideration due to public comment? I mean you didn't vote on it. You kept your original recommendation. Was there any further discussion?

MEMBER KARREMAN: no.

MEMBER GIACOMINI: Again, given the parameters that we have to work within, we couldn't come to a conclusion that, other than what we did.

CHAIRMAN O'RELL: For the sunset process?

MEMBER GIACOMINI: Correct, given the sunset process.

MEMBER CAROE: Is there any need to ask commenters to petition for any changes? I mean anything the Committee felt might have been a preferable course of action if we had it available to us?

MEMBER KARREMAN: This is still -- whatever we -- if we renew it here, it will still be considered by the regulators, due to the antibiotic structure property on paper.
CHAIRMAN O'RELL: Nancy?

MEMBER OSTIGUY: At least among some of us, there is also the opinion that assuming Moxidectin actually goes through, we would like to request that a petition be submitted to remove this from the list.

But based on the sunset criteria, the recommendation was to put it forward.

MEMBER CAROE: Can I make just a quick comment?

CHAIRMAN O'RELL: Yes Andrea.

MEMBER CAROE: Just a reminder to anybody that would petition to remove, petitions to remove have priority to any petition to add. So that would be -- I hesitate to say, but a quicker process than adding. Cautiously say it.

CHAIRMAN O'RELL: Any further discussion? Any conflict?

MEMBER KARREMAN: I saw even less of this than I did the oxytocin.

(Laughter.)
CHAIRMAN O'RELL: Thank you, Hugh.

We'll start then with Julie.

MEMBER WEISMAN: Yes.

CHAIRMAN O'RELL: Joe?

MEMBER SMILLIE: Abstain.

CHAIRMAN O'RELL: Bea?

MEMBER JAMES: No.

CHAIRMAN O'RELL: Andrea.

MEMBER CAROE: I'll abstain.

CHAIRMAN O'RELL: Gerald?

MEMBER DAVIS: Yes.

CHAIRMAN O'RELL: Dan?

MEMBER GIACOMINI: Yes.

CHAIRMAN O'RELL: Kevin?

MEMBER ENGELBERT: No.

CHAIRMAN O'RELL: Hugh?

MEMBER KARREMAN: Yes.

CHAIRMAN O'RELL: Rigo?

MEMBER DELGADO: Yes.

CHAIRMAN O'RELL: Jeff?

MEMBER MOYER: Yes.

CHAIRMAN O'RELL: Nancy?
MEMBER OSTIGUY: No.

CHAIRMAN O'RELL: The chair votes no.

MEMBER CAROE: 7-3-2-2. The motion passes.

CHAIRMAN O'RELL: Six yes.

MEMBER CAROE: Six yes. I apologize.

CHAIRMAN O'RELL: Two abstentions. The vote carries.

MEMBER CAROE: No, it's not possible. It's 7-3-3-2. There's 14 members on this board.

MEMBER GIACOMINI: It's only 12 -- how many are here?

MEMBER OSTIGUY: Only 12 are voting.

MEMBER CAROE: Twelve voting with two absent. There's 14 members on this board. It's 7-3-2-2.

MEMBER JAMES: The vote was 6-4.

MEMBER KARREMAN: We have four no's over there.
(Simultaneous Discussion.)

MEMBER CAROE: I only had three no's.

CHAIRMAN O'ReLL: No, we have four no's. We have four no's recorded. We have six yes, four no's, two abstentions, two absent.

MEMBER CAROE: Okay, so it passes. 6-4-2-2, passes. Abstentions go with the majority.

CHAIRMAN O'ReLL: Thank you, Hugh. Handling. Julie.

(Simultaneous discussion.)

Handling Committee Recommendations

(Pause.)

MEMBER WEISMAN: Okay. The Handling Committee met during lunch, and voted to amend the existing recommendation for 205.605(a), non-synthetics allowed. The amendment, the recommended amendment was to move colors from renewal to the deferred category on this recommendation.
The motion was made by Kevin, seconded by Bea. The Committee vote to amend was 5 yes, 0 no, no abstentions. It was unanimous.

So a "yes" vote on this recommendation will be to renew colors on 205.605(a), and to defer -- did I just say colors?

To renew flavors, I'm sorry, on 205.605(a), and to defer colors. We've got to vote on both at one time.

CHAIRMAN O'RELL: Or we could --

MEMBER WEISMAN: In other words, we amended the recommendation by moving colors from --

MEMBER ENGELBERT: We could put a motion through, and I think it would be more clear on this instance if we did that. So if we took a separate motion for flavors first, and then go to colors or however you want.

MEMBER WEISMAN: Sure.

MEMBER KARREMAN: I move that we
vote on the items separately, with flavors first and then colors after that.

MEMBER WEISMAN: Okay.

MEMBER OSTIGUY: Second.

CHAIRMAN O'RELL: Well, we don't have the motion yet.

MEMBER CAROE: Well, he's motioning to change --

MEMBER GIACOMINI: He's motioning to split the vote.

CHAIRMAN O'RELL: Oh. That's something the Committee -- the Committee can just make the determination on how they want to present it. That's fine.

MEMBER WEISMAN: So do we need a motion right now.

MEMBER CAROE: Which motion is being voted on? Which material?

MEMBER WEISMAN: Okay. Right now, the Committee is recommending that flavors, non-synthetic sources only and must not be produced using synthetic solvents and carrier
systems or any artificial preservative, be renewed on 205.605(a), non-synthetics allowed.

CHAIRMAN O'RELL: OKAY. That is the motion.

MEMBER OSTIGUY: Second.

CHAIRMAN O'RELL: Nancy seconds it.

So you have a motion to renew flavors under 205.605(a). Discussion?

MEMBER CAROE: I mean once again, this is to complete the sunset process for this material. However, based on all of the comments received, we would welcome petitions for specific flavor types, and potentially listing them on different national list categories or sections.

CHAIRMAN O'RELL: And I'm sure we're going to get some. But that will trigger then TAP reviews and we'll be able to go through the process of determining how these stack up to the OFPA criteria, as well as whether they're agricultural or natural, for specific groups. Hearing no Discussion, any conflicts?
MEMBER WEISMAN: Kevin, I am involved in manufacturing both non-synthetic flavors and organic flavors.

MEMBER CAROE: I would have to say that I would suggest that Julie recuse herself from this vote.

MEMBER WEISMAN: I recuse myself.

CHAIRMAN O'RELL: I think a recusal on this would be accepted, yes. So Julie, I'll mark you as a recusal. Any further discussion, and any additional conflicts?

MEMBER CAROE: Point of procedure. Can Julie make this motion if she's recused herself?

MEMBER WEISMAN: Oh. This happened to me once before.

CHAIRMAN O'RELL: No, no.

MEMBER CAROE: I don't believe that she can.

MEMBER OSTIGUY: I will move that the renewal of flavors, non-synthetic sources only, and must not be produced using synthetic...
solvents and carriers.

MEMBER CAROE: I'll second.

CHAIRMAN O'RELL: For the renewal, it's been moved and seconded by Andrea. Okay.

MEMBER CAROE: Sorry about that.

MEMBER WEISMAN: No. That's good.

CHAIRMAN O'RELL: Any additional discussion? Conflicts?

(No response.)

CHAIRMAN O'RELL: Okay. Joe?

MEMBER SMILLIE: Yes.

CHAIRMAN O'RELL: Bea?

MEMBER JAMES: Yes.

CHAIRMAN O'RELL: Andrea?

MEMBER CAROE: Yes.

CHAIRMAN O'RELL: Gerald?

MEMBER DAVIS: Yes.

CHAIRMAN O'RELL: Dan?

MEMBER GIACOMINI: Yes.

CHAIRMAN O'RELL: Kevin?

MEMBER ENGELBERT: Yes.

CHAIRMAN O'RELL: Hugh?
MEMBER KARRMAN: Yes.
CHAIRMAN O'RELL: Rigo?
MEMBER DELGADO: Yes.
CHAIRMAN O'RELL: Jeff?
MEMBER MOYER: Yes.
CHAIRMAN O'RELL: Nancy.
MEMBER OSTIGUY: Yes.
CHAIRMAN O'RELL: The chair votes yes.
MEMBER CAROE: 11-0-0-2, one recusal.
CHAIRMAN O'RELL: So the motion passes on flavors.
MEMBER WEISMAN: Okay. I am not involved in the manufacture of colors.
CHAIRMAN O'RELL: Okay. I'm glad we got that up front.
MEMBER WEISMAN: So may I make a motion?
CHAIRMAN O'RELL: You may.
MEMBER WEISMAN: Okay. I move that we -- that colors, non-synthetic sources only,
be deferred from a decision on renewing on 205.605(a). I'm sorry. It's getting late.

MEMBER OSTIGUY: I'll second that.

CHAIRMAN O'RELL: Nancy seconds. So I think we probably want to explain some of the Committee thinking, in terms of changing this recommendation from renewal to a deferral, and a large part of it is based on public comment that happened over the last two days.

MEMBER WEISMAN: Right, and I did mention some of it this morning, but I will certainly -- it bears repeating, that on this round of public comment, that happened after the decision to defer in August, we had a lot of comments opposing the relisting of colors.

Many of them cited the fact that they had not -- they weren't -- the fact that they're even on the list was not because of a recommendation from the NOSB, that in fact there had been recommendations to remove it by the NOSB that had not been acted upon.
There's sufficient controversy around its existence on the list now that we felt that we could not recommend renewal at this time, because of these procedural irregularities. Is that fair?

CHAIRMAN O'ReLL: Yes. The procedural issues around colors, and hearing from the historical perspective of not being recommended by the board, and at one time the board had recommended the removal of colors and at one time and the technical correction that didn't take place.

Certainly that leaves us in a position that this will sunset unless there's further action in October, but still runs the risk of sunset at October 2007.

We would encourage the public to file petitions for specific colors that are being used, anado tumeric as a color if it's not available.

If it's an agricultural component and not available organically, then for
recommendation to 606. But this has got us in a quandary, and right now we feel that the only thing we can do is defer it.

We might request a full TAP on colors as well, and that will be in the Handling Committee work plan, do further evaluation on this as to how we move forward. Andrea?

MEMBER CAROE: Well, also we would request petitions for color types. It would help us with our TAP reviews if we could have those.

Based on the comments heard, that we could categorize these colors into manufacturing techniques that would make the TAP relevant to all the materials in that group.

CHAIRMAN O'RELL: Arthur's been waiting in the deck.

MR. NEAL: And if a petition will be sent into the board for consideration of this particular material, colors, we advise you to
please supply manufacturers information, so that the contractor can contact the manufacturer, to find out more about manufacturing processes, and that information will be kept confidential.

But that the contractor can provide the board with adequate information that Would resolve some of the questions that exist in the industry concerning color types.

CHAIRMAN O'RELL: Dan?

MEMBER GIACOMINI: I would just like some clarification from the Committee as to why they chose to defer and the time line, or what they envision happening, as opposed to voting and recommending for removal?

MEMBER CAROE: I can answer that. The deferral is because we don't have the complete TAP. We don't have any evidence to indicate it doesn't meet one of those three criteria for sunsetting the material.

But we don't have the information that was originally needed to put this
material on the list and a board vote. So it's lack of information.

There's not -- in order for us to recommend to allow this material to sunset, we have to have -- define clear evidence that it doesn't meet one of those three requirements.

CHAIRMAN O'RELL: And the existing evaluation criteria that we did fill out for colors left, has a lot of holes in it, and we knew that. Jeff?

MEMBER MOYER: I just have a process question that sort of follows on to what maybe Dan was asking.

As a new person on the board, it's my understanding that if no action is taken today or at the next meeting, more than likely this material drops off the list automatically; is that correct?

CHAIRMAN O'RELL: That's true. If no action is taken by the October meeting, then this would fall off the list. October of this year.
MEMBER MOYER:  That's correct.

CHAIRMAN O'RELL:  '06, '07 for sunset.

MEMBER MOYER:  And the action that needs to be taken would need to be taken by the general public, in the form of a petition.

CHAIRMAN O'RELL:  For a petition for specific colors that are in use today in industry.

MEMBER MOYER:  You could ask for a full TAP report, and then bring this up for a vote again at the October meeting.

MEMBER CAROE:  We could ask for a TAP report.

CHAIRMAN O'RELL:  Go ahead.  No, go ahead.

MEMBER CAROE:  We could ask for a TAP report, but based on the comments that we were receiving, the category in itself is problematic.  We need those public commenters to petition for the types of colors that they're using, so that we can have this listed
appropriately.

MEMBER MOYER: Then my question would be is there enough time between now and then for them to petition and have those petitions accepted so they would not have a lapse in color use? That was just a question. I don't know.

MEMBER CAROE: And we actually talked to the program about this, and they have suggested that they will handle this as expedited as possible in order for us to accomplish that. That was our concern as well.

CHAIRMAN O'RELL: Recognizing that there is an economic impact to people who are in the marketplace with those colors now.

But those people now who are using those colors need to get those petitions in, so that we can get the appropriate TAPs on not just the broad category of colors, but on the specific anato tumeric, carmine if somebody wants, whatever. I will recognize Kim if it's
MS. DIETZ: I think there could be some action on this board, and one would be to prepare the TAP contractors that there will be a TAP coming. They can start the TAP.

Also, you need to somehow seek the public to start petitioning, and perhaps that's through the trade association or something else. But somehow that communication needs to get out there on those colors.

You can request the TAP now. It just may take a little longer for them to finish it, because they won't have everything.

CHAIRMAN O'RELL: Well, and I think we'll have a discussion with this in committee, because I think just having a TAP on a general colors doesn't work. We're going to have to identify specific colors that are of interest out there, and start working in that direction, yes.

MS. DIETZ: We have done category
TAPs, but you still need specifics for the ingredients. But generally, they're all going to be made the same way and that sort of thing, I would think.

MEMBER JAMES: This is a question for Valerie. How quickly do you think we could turn around and get this request posted?

MS. FRANCES: Request for a petition?

MEMBER JAMES: Well, announcement, request for public input on the --

MS. FRANCES: Do you want to recommend a format for that, or provide --

CHAIRMAN O'RELL: Yes, Arthur. Defer to Arthur please.

MR. NEAL: It's all going to really be based on how fast we can get information, because our meeting concluded in November last year, and we had TAPs ready, I guess, in February of this year, for you all to review for this meeting.

This is a different story with
colors, because it's such -- it covers so many different materials. The problem that the contractor had is that we don't -- we don't have any manufacturing processes.

So if there are particular colors that you know are of interest, we need to know what those colors are. We need to know the names of manufacturers so that the contractor can contact them, to give you proper information and proper perspective on what you're dealing with.

We can turn that around. This is what -- this is April. We can probably have it if we get the information, you know mid-month, by August.

CHAIRMAN O'RELL: And I see, I know we have representatives, OTA in the audience. We have suppliers in the audience.

We have, I think, somebody representing GMA in the audience to get out words through trade associations, etcetera, that we're looking for this input. Yes, Rigo?
MEMBER DELGADO: Just a question, and I'm concerned about getting the word out. I know there's a number of organizations represented here, but what other channels of communications do we have available to, you know, publish this request or this need of ours?

MEMBER WEISMAN: What occurs to me, we got a -- we had a comment on colors from the American Association of Colors -- there's a trade association of color manufacturers.

I don't think they had any representatives here at this meeting, and when they learn that colors has not been voted to renew at this meeting, I imagine they're going to get very busy. I don't know what the politics are of us informing them sooner rather than later that that's been the outcome.

I don't know. Is that appropriate? Can we call them, for someone on -- for me, as the chair of the Handling Committee, to
call them and inform them?

CHAIRMAN O'RELL: Well, I think that anybody who submitted comments we should reply. So if somebody submitted a comment and it's on record that they were in favor of colors, I think that it would be fair to notify them that colors are being deferred.

MEMBER WEISMAN: That's a good suggestion.

CHAIRMAN O'RELL: So that at least you've covered those people who have expressed an interest, and then you have trade associations. You have suppliers. I think that's about all that I know to get the word out. Yes Diane?

MS. GOODMAN: Very quick question.

MEMBER CAROE: Can you come up to the microphone, Diane?

MS. GOODMAN: Diane Goodman. In my role as co-chair of the OTA Committee on 606, the OTA task force on 606. Can you give us a date specific by when we would have to have
petitions submitted, so that they could meet this deadline?

CHAIRMAN O'RELL: As soon as possible.

MS. GOODMAN: Well, I understand. But up until when? It really will help in the communication if we tell people that it has to be by June 1st or it has to be by July 1st. Can you give us a date?

CHAIRMAN O'RELL: Arthur?

MR. NEAL: Rough estimate I'd say third week in May is the best drop dead date, because there are approximately eight petitions for substances waiting for October.

So we don't want to press them too hard. These petitions have been waiting until December, because of sunset. So if we get it early enough to get it to the contractors, they can put enough people on it.

CHAIRMAN O'RELL: Okay. If there's no further discussion, we'll take the vote. This is a vote. The motion has been made.
MEMBER CAROE: Has it been seconded?

CHAIRMAN O'RELL: Yes, for deferring colors.

MEMBER CAROE: Any conflicts?

CHAIRMAN O'RELL: Any conflicts?

(No response.)

CHAIRMAN O'RELL: Bea?

MEMBER JAMES: Yes.

CHAIRMAN O'RELL: Andrea.

MEMBER CAROE: Yes.

CHAIRMAN O'RELL: Gerald?

MEMBER DAVIS: Yes.

CHAIRMAN O'RELL: Dan?

MEMBER GIACOMINI: No.

CHAIRMAN O'RELL: Kevin?

MEMBER ENGELBERT: Yes.

CHAIRMAN O'RELL: Hugh?

MEMBER KARREMAN: Yes.

CHAIRMAN O'RELL: Rigo?

MEMBER DELGADO: Yes.

CHAIRMAN O'RELL: Jeff?

MEMBER MOYER: Yes.
CHAIRMAN O'RELL: Nancy?

MEMBER OSTIGUY: Yes.

CHAIRMAN O'RELL: Julie?

MEMBER WEISMAN: Yes.

CHAIRMAN O'RELL: Joe?

MEMBER SMILLIE: Yes.

CHAIRMAN O'RELL: The chair votes yes.

MEMBER CAROE: What about Bea? Did you vote?

MEMBER JAMES: He started with me.

MEMBER CAROE: Oh, I'm sorry. 11-1-0-2.

CHAIRMAN O'RELL: Did you hear that in the audience?

PARTICIPANT: Yes.

CHAIRMAN O'RELL: So colors, the motion passed, will be deferred.

MEMBER WEISMAN: Okay. Moving right along to 605(b). We had made a recommendation, which we discussed earlier today, that is unchanged.
This Handling -- we are -- make a motion that we renew the following substances in the use category, 205.605(b), chlorine materials, disinfecting and sanitizing food contact surfaces, except that residual chlorine levels in the water shall not exceed the maximum residual disinfectant limit under the Safe Drinking Water Act.

Part of this recommendation also includes not renewing lecithin-bleached.

MEMBER OSTIGUY: Second.

CHAIRMAN O'RELL: Is there a need to -- do we need to separate this?

MEMBER CAROE: Yes.

MEMBER KARREMAN: Why were they bunched together?

MEMBER WEISMAN: Okay. Forget about lecithin. We are recommending the renewal of chlorine materials.

MEMBER OSTIGUY: Second.

MEMBER CAROE: Nancy, you seconded?

CHAIRMAN O'RELL: All right. So
moved and seconded. Discussion? I think --

MEMBER WEISMAN: Kevin, I do have a question. I realize we already did it, but it's only procedural. I don't recall seeing this done before, where we voted separately on items in one recommendation. Anybody have any -- we have? Okay. I'm sorry. Okay, right. Okay.

CHAIRMAN O'RELL: Because we're splitting when something not going to be -- it's going to be deferred. So in order just to --

MEMBER WEISMAN: To have an accurate, a fair and --

CHAIRMAN O'RELL: Not to be confused for the voting and for the public, we could take them as individual items. I think it's the best to do at this point.

I know when we did the initial rounds of these and we had the lots of them, we put those through. But at this point, I think we're doing the right thing.
And in terms of discussion, just once again going back to recognizing and putting on the Handling Committee work plan the previous chlorine recommendation for the change of annotation that recommended back in 2003, I believe.

But I think we need to put that on the work plan and go back, because the terminology in the annotation is still confusing. It's not correct. But we're not addressing this at sunset. But I do want this for the record to say we are going to look at that. Any further discussion? Any conflicts?

(No response.)

CHAIRMAN O'RELL: Do we have a motion that's been moved and seconded for chlorine for renewal, starting with Andrea?

MEMBER CAROE: Yes.

CHAIRMAN O'RELL: Gerald?

MEMBER DAVIS: Yes.

CHAIRMAN O'RELL: Dan?

MEMBER GIACOMINI: Yes.
CHAIRMAN O'RELL: Kevin.
MEMBER ENGELBERT: Yes.
CHAIRMAN O'RELL: Hugh.
MEMBER KARREMAN: Yes.
CHAIRMAN O'RELL: Rigo?
MEMBER DELGADO: Yes.
CHAIRMAN O'RELL: Jeff?
MEMBER MOYER: Yes.
CHAIRMAN O'RELL: Nancy?
MEMBER OSTIGUY: Yes.
CHAIRMAN O'RELL: Julie?
MEMBER WEISMAN: Yes.
CHAIRMAN O'RELL: Joe?
MEMBER SMILLIE: Yes.
CHAIRMAN O'RELL: Bea.
MEMBER JAMES: Yes.
CHAIRMAN O'RELL: And the chair votes yes.
MEMBER CAROE: 12-0-0-2.
MEMBER WEISMAN: Okay, and now I have a motion that lecithin-bleached not be renewed on 205.605(a).
MEMBER OSTIGUY: Second.

CHAIRMAN O'RELL: It's been moved and seconded. Any discussion? This is consistent with the Discussion from this morning? Andrea?

MEMBER CAROE: Can you state the specific reason for it?

MEMBER WEISMAN: Because there are non-synthetic alternatives available.

MEMBER CAROE: Thank you.

CHAIRMAN O'RELL: Any further discussion? Any conflicts?

(No response.)

CHAIRMAN O'RELL: Hearing none, this is a vote yes to not renew. Gerald?

MEMBER DAVIS: Yes.

CHAIRMAN O'RELL: Dan?

MEMBER GIACOMINI: Yes.

CHAIRMAN O'RELL: Kevin?

MEMBER ENGELBERT: Yes.

CHAIRMAN O'RELL: Hugh?

MEMBER KARREMAN: Yes.
CHAIRMAN O'RELL: Rigo?

MEMBER DELGADO: Yes.

CHAIRMAN O'RELL: Jeff?

MEMBER MOYER: Yes.

CHAIRMAN O'RELL: Nancy?

MEMBER OSTIGUY: Yes.

CHAIRMAN O'RELL: Julie?

MEMBER WEISMAN: Yes.

CHAIRMAN O'RELL: Joe?

MEMBER SMILLIE: Yes.

CHAIRMAN O'RELL: Bea.

MEMBER JAMES: Yes.

CHAIRMAN O'RELL: Andrea.

MEMBER CAROE: Yes.

CHAIRMAN O'RELL: The chair votes yes.

MEMBER CAROE: 12-0-0-2.

CHAIRMAN O'RELL: So the motion carries and lecithin will be dropped form the list.

MEMBER CAROE: Lecithin-bleached.

CHAIRMAN O'RELL: Lecithin-bleached.
Thank you.

MEMBER WEISMAN: Okay. We're now moving on to Section 606, 205.606, which is non-organically produced agricultural products allowed in ingredients in or on processed products labeled as organic or made with organic.

The Committee recommends the renewal of lecithin-unbleached in this use category.

MEMBER OSTIGUY: Second.

CHAIRMAN O'RELL: It's been moved and seconded. Any discussion?

MEMBER KARREMAN: Didn't Lynn Clarkson say that they make an organic version of this?

CHAIRMAN O'RELL: Yes. Go ahead, Joe.

MEMBER SMILLIE: They do, but there's so many uses of lecithin throughout the industry that at the current time, they don't make as many lecithins that would fit those uses.
So he couldn't nor could anyone else say that they could provide a non-synthetic alternative for all uses of lecithin in the manufacturing processing sector.

MEMBER KARREMAN: But that would expand the incentive to have more of the organic than he has, or they have, I should say.

MEMBER SMILLIE: The incentive is there.

MEMBER CAROE: It's still -- it's 606. There is still a commercial availability requirement on this Section.

MEMBER KARREMAN: Right.

CHAIRMAN O'RELL: Okay.

MEMBER MOYER: If I heard him right, he did say that he had, what 120 out of 180 or something already done. So they are moving in the right direction I assume.

CHAIRMAN O'RELL: Yes. He felt that he could handle most of the needs that are in the marketplace, but admittedly he said that
there may be some very specialized cases where at this point he can't, and he felt with this, the accompanying commercial availability criteria for the ACAs, that that would go a long towards improving organic lecithin usage in the industry.

MEMBER MOYER: So he was supportive of this.

CHAIRMAN O'RELL: He was very supportive of this, yes.

MEMBER MOYER: I just want to make sure I got him right.

CHAIRMAN O'RELL: Yes. He in fact stayed late just to make that comment last night. Hearing no further Discussion, we'll start the vote.

MEMBER CAROE: Conflicts?

CHAIRMAN O'RELL: Conflicts? Anybody have any conflicts with lecithin?

(No response.)

CHAIRMAN O'RELL: Dan.

MEMBER GIACOMINI: Yes.
CHAIRMAN O'RELL: Kevin?
MEMBER ENGELBERT: Yes.
CHAIRMAN O'RELL: Hugh?
MEMBER KARREMAN: Yes.
CHAIRMAN O'RELL: Rigo?
MEMBER DELGADO: Yes.
CHAIRMAN O'RELL: Nancy?
MEMBER OSTIGUY: Yes.
CHAIRMAN O'RELL: Julie.
MEMBER WEISMAN: Yes.
CHAIRMAN O'RELL: Joe?
MEMBER SMILLIE: Yes.
CHAIRMAN O'RELL: Bea.
MEMBER JAMES: Yes.
CHAIRMAN O'RELL: Andrea?
MEMBER CAROE: Yes.
CHAIRMAN O'RELL: Gerald?
MEMBER DAVIS: Yes.
CHAIRMAN O'RELL: And the chair votes yes.
MEMBER CAROE: 12-0-0-2.
CHAIRMAN O'RELL: The motion carries
retaining Lecithin on 606.

MEMBER WEISMAN: I have one more.

MEMBER OSTIGUY: Which one?

MEMBER WEISMAN: Commercial availability. Commercial availability is subsumed in the Handling Committee.

CHAIRMAN O'RELL: A big one.

MEMBER WEISMAN: So can I just make a motion, that we accept the recommendation that was discussed this morning?

CHAIRMAN O'RELL: Yeah. I'd read through the full recommendation.

MEMBER WEISMAN: Okay.

MEMBER SMILLIE: You mean the whole four pages?

CHAIRMAN O'RELL: No. The recommendation part.

MEMBER SMILLIE: The conclusion.

(Simultaneous Discussion.)

MEMBER MOYER: The conclusion.

MEMBER WEISMAN: The conclusion?

Okay.
CHAIRMAN O'RELL: No.

MEMBER MOYER: Page three.

MEMBER WEISMAN: Oh, okay. Sorry, okay. I get it. It's getting late. Sorry. The recommendation of the Joint Handling and Policy Development Committee for --

CHAIRMAN O'RELL: Do we have it up?

MEMBER WEISMAN: Yeah. Can we do that?

CHAIRMAN O'RELL: Do we have it up, because it is lengthy? But so the public can see. This is the same as what was in -- what was posted. There were some changes, but -- Joint Handling and Policy Development Committee

MEMBER WEISMAN: This document, this is what was posted on the website dated March 30th.

CHAIRMAN O'RELL: Okay. So it's the --

MEMBER WEISMAN: But mistakenly in the books yesterday was a version that says
March 13th, but that was replaced today. Everyone got a copy of the final.

CHAIRMAN O'RELL: Okay. So this is the March 30th posting recommendation.

MEMBER WEISMAN: That's the March 30th up on there.

MEMBER CAROE: Which part did you want up there? It is the part -- I just put part of the recommendation.

MEMBER WEISMAN: Okay. We want recommendation (a).

MEMBER CAROE: At the bottom?

MEMBER WEISMAN: Which is where you are. No, no, no. You were in the right place.

MEMBER CAROE: Okay. Here we go.

MEMBER WEISMAN: "The NOSB recommends using the procedures currently in place for petitioning materials onto 205.606, meaning those currently in place for petitioning in general also be used for petitioning materials onto 205.606."
"The document entitled "Information to be included in a petition" that's shown on the NOP website, should be amended to include a description of the information needed for the determination of commercial availability of non-organically produced agricultural products.

"The following additions to this document are recommended:

"(1) We have to add the following bullet to Item A, which right now only gives a check off for allowed synthetics and prohibited non-synthetics. Agricultural (non-organic substance) allowed in or on processed product labeled as organic.

"(2) Add the following two bullets to Item (b)(12). When petitioning for the inclusion on the national list of non-organically produced agricultural products, the petition must state why the product should be permitted in the production or Handling of an organic product.
"Specifically, the petition must include current industry information regarding availability of and history of non-availability of an organic form of the product, and all factors that may present a challenge to a consistent organic supply.

Second bullet. "When petitioning for the removal from the national list of non-organically produced agricultural products, the petition must state why the product should be prohibited from use in a non-organic form.

"Any information acquired since the original petition to add the material to the national list should be provided.

A is the recommendations that have to do with what petitioners will provide. B refers to what the NOSB's role will then be.

"In recommending that an agricultural ingredient should be placed on 205.606, the National Organic Standards Board shall review the petitioner's claim that no organic substitutes are commercially available
in the appropriate form, quality or quantity needed to fulfill an essential function in a system of organic handling.

Now C then refers "Once an item has been petitioned and recommended by the NOSB and is now on Section 606, it must be on 606. This is then what the accredited certifying agents' role will be.

"The accredited certifying agent, in granting a determination that an agricultural ingredient on 205.606 is not commercially available in an organic form shall (1) Evaluate the applicant or certified operator's documented claim that no organic substitutes are commercially available in the form, quality or quantity needed by the operation to fulfill the required function, including test data demonstrating that organic forms of the ingredient do not meet the functional requirements for the form or quality necessary to the operation.

"Number two. Validate that the
applicant or operator has documentation proving that the ingredient is not commercially available in an organic form, by reviewing credible, available information listing known sources of organic ingredients.

"Number three. Notify the certification applicant or certified operator of sources of information which list available organic ingredients."

I'd like to clarify here that it is not asking the certifier to list for the applicant sources of the ingredient; only sources of information which list ingredients.

"If the certifying agent finds that such ingredients exist, or maintain and submit to the National Organic Program annually an up-to-date list of ingredients that have been granted allowances in non-organic form.

"The list shall maintain the confidentiality of ingredient suppliers and parties granted allowances. The reporting requirements shall be implemented through the
accreditation process by providing ACAs ample notification and time to adapt data management systems.

"Five. Require certified operators to update commercial availability information in each organic system plan update. That means annually.

"Number six. Acknowledge all complaints concerning allowances granted, and provide rationale for determinations. If the investigation of a complaint provides significant new information, then the certifying agent must revisit the allowance."

I'm not sure why that "and" is there. I think that's a typo.

MEMBER CAROE: And is that the motion, Julie?

MEMBER WEISMAN: And that's the motion.

MEMBER OSTIGUY: Second.

MEMBER CAROE: Call the question.

CHAIRMAN O'RELL: It's been moved
and seconded. Discussion. Andrea.

MEMBER CAROE: I just want to make note that based on comments received and I think it should be very clear that the policy work plan should include working in collaboration with the program on the document that is "Information for a Petition to Add Detail to that Document."

Secondly, that perhaps the Handling Committee work plan in collaboration with the program, should develop the evaluation forms that will be used by the board in evaluating 606 petition materials.

MEMBER JAMES: That would go on the work plan.

CHAIRMAN O'RELL: Jeff.

MEMBER MOYER: I have a question for the Handling Committee and how they addressed the concern that came up today regarding the number of sources that are contacted in Section (c)(2).

MEMBER SMILLIE: Again, it's a good
point and it can be worked on. Remember, we've got -- this is the general recommendation, and it can be fine-tuned and detail can be added.

One of the things I was going to add, that the Committee also would work with the NOP during their presentation to the ACAs, of how this is going to be implemented and things like that could be.

Specifically about the three, it's a good number and it's a good general reference. But you know, we had a couple of submissions. One was entitled "Gaming the Commercial Availability Rule." There are many ways, you know, the flexibility that's allowed certification agents can be played with.

What we're trying to do is put a general recommendation forward to end that, and to really put a consistent level playing field into how certification agents deal with commercial availability.

My feeling is this is a good start,
but details can be added. It's not written in stone, and I think that really where the rubber hits the road on this is the two forms that Andrea talked about, but also how the NOP will roll this out in a training to the ACAs.

MEMBER CAROE: Thanks, Joe. I edited everybody else's work plan except my own. I wonder how that happened?

(Laughter.)

CHAIRMAN O'RELL: Yes.

MEMBER GIACOMINI: I have to admit I'm totally not up to speed on this issue, and it creates a lot of confusion for me. I do have one question. Are we saying that in order to implement the commercial availability and the three alternative issues that something has to be on 606?

MEMBER WEISMAN: That actually is the result of a court ruling. That's something that occurred outside of the activities of this board. So what we're trying to do is implement criteria and
procedures, so that the whole organic world can comply with the court order.

MEMBER GIACOMINI: So in the situations that I've experienced this kind of a situation, if someone's in a particular microclimate and needs 72-day corn, and they look and it's not available, corn seed would have to be on 606? I mean what is 606?

MEMBER WEISMAN: Well, 606 only refers to handling. Seed is a crops issue.

MEMBER GIACOMINI: Okay, thank you. That clarifies it. Okay.

CHAIRMAN O'RELL: Yes Andrea.

MEMBER CAROE: Just, you know, the background section of this I think clearly explains that commercial availability has been part of this regulation since the day it was implemented.

But the interpretation on how that is implemented drastically changed, and was refocused based on the court ruling. So this is the start of implementing those necessary
changes, based on the court ruling.

If you take an opportunity to read the background, hopefully that will explain it if you have further questions.

MEMBER GIACOMINI: One of the things I -- while having read the rule, I certainly have not memorized all the numbers yet.

CHAIRMAN O'RELL: Julie, I know there was some public comment given, in terms of some people thinking that there should be additional information put on Section B. Maybe you'd like to address that and what some of the Committee thoughts were along that line.

MEMBER WEISMAN: Yes. Well, that was actually -- that was a reference to an earlier draft, an even earlier draft of this, the many earlier drafts of this recommendation.

Section B, what the NOSB would be doing, was laid out in -- with separate numbered sections for the NOSB considering
form, considering functionality. Also, the
language of it in the earlier draft was that
we would evaluate during the petitioning
process those claims.

The feeling of the Committee was
that we would not be in a position to evaluate
all the many manufacturers that might use an
item for many different functions, that that
has something that historically has been done
by the certifiers on a case-by-case basis.

It should continue to be done that
way, while recognizing that we needed to
continue to work on how certifiers were going
to have more guidance as to how to tighten up
and make the process more rigorous concerning
allowances for non-organic agricultural
products.

CHAIRMAN O'RELL: So if a person
petitions an item through this process and
gets it on 606, ultimately they're going to be
accountable for the ACA criteria that is in
Part C.
MEMBER CAROE: And they'll be held by their certifier to the requirements under C.

CHAIRMAN O'RELL: Right. Rigo?

MEMBER DELGADO: One of the concerns as well was to make sure that the applicant knew exactly what is it that ACA was going to request on that.

MEMBER CAROE: What the ACA was going to request, or the petition?

MEMBER DELGADO: Or the petition.

MEMBER CAROE: And that's why adding to the work plan for policy, to work with the program and revise the information for petition document.

Because right now, the recommendation that we've made is consistent with the language in the document now, knowing that further detail needs to be put in not only for List 606, but for 601, 602, 603.

CHAIRMAN O'RELL: So the petition, the current petition process is going to
undergo a change, with listing of additional
criteria on the petition process itself, and
this will go in conjunction with that.

MEMBER ENGELBERT: One quick
question for the Committee. Who will
determine essential function in Part B?
That's the only gray area that I see, that I'm
concerned about.

CHAIRMAN O'RELL: Well, maybe Joe,
as a certifier, you might want to go through
the answer to Kevin's question, in terms of
how you would approach the function?

MEMBER ENGELBERT: An essential
function.

MEMBER SMILLIE: Of the material?
Could you just repeat it Kevin?

MEMBER ENGELBERT: The last sentence
in B about -- yes. Who needed to fulfill an
essential function and is that just a given,
or is that something that needs to be
determined at the time this material is
petitioned?
MEMBER SMILLIE: Well again, if it's B Section, that's something the NOSB has to do. The C section is what the accredited certification agent has to do.

MEMBER ENGELBERT: Okay.

MEMBER SMILLIE: So that will be an NOSB rule to determine.

MEMBER WEISMAN: But we will be doing that on the basis of information that's been included in the petitions.

For instance, some information that would be included by a petitioner would be that they have already had allowances from their certifier, to use the non-organic form of this product based on that nothing was commercially available to fulfill that question.

That's one of the types of information that we will have available to us when we are making this determination. We would want to see, at the very least, that there's a history that is verified already by
ACA.

MEMBER ENGELBERT: Okay.

MEMBER DELGADO: But again, we would need as board members some sort of template, if you will, or a list of criteria that includes, yes, not only that it passed the certifier's point of view, but also look into specific areas like what Kevin was pointing out. We need to define those.

I think that's why the importance of defining, or the work that Andrea was pointing out, comes into play. We need those specific elements that will standardize.

MEMBER WEISMAN: Well, can I make -- I will suggest that we're going to -- after we finish voting on this item, we're going to be talking about our work plans, and that it would probably --

It would be appropriate if the Handling Committee, possibly in conjunction with the Policy Development Committee, add to the work plan the development of any changes
or additions to the current evaluation criteria checklist that we have, to make it appropriate for this purpose.

MEMBER JAMES: I just want to clarify that this recommendation will evolve over time, as more input and more information comes back to us about things that need to be clarified, things that need to be further defined, and that by putting it on the work plan is part of that process.

CHAIRMAN O'RELL: I will recognize Kim quickly.

MS. DIETZ: I just want to go on the record that you're going to have a lot of petitions coming in. So even though this could be an evolving work plan and we could redefine it, that it doesn't stop the process of those petitions being received and reviewed.

If you guys aren't ready for them and they're coming in, they need to go through, because within a year, they're going
to -- they need to be on the national list.

    So you know, as long as you can keep working on it. But it doesn't stop a petition for being incomplete, or you don't have the criteria together. You guys need to start working on these. This is the other train wreck.

    You know, we had the sunset and now we have 606. I would also encourage the board to get the rest of the group up to speed on 606, because there potentially could be hundreds of materials out there coming your way.

    MEMBER JAMES: Kim, I agree with you 100 percent. I don't think that there's any way that this document could be further and further and further crafted, to not evolve once the petitions come in, because the petitions are going to be basically information for us, on how it needs to be further defined.

    MS. DIETZ: Right, and it's going to
be you're kind of learning as you go. But you have a foundation, but as long as it doesn't stop the process, because you will have to develop that criteria.

CHAIRMAN O'RELL: No. I truly view this as a foundation that we need to build upon. I think we're going to learn from this that --

MEMBER OSTIGUY: It's a living thing.

MS. DIETZ: Well, but in the past -- I'll just tell you from past chair experience, if a petition isn't complete, it stops with them. If they don't have the information that you want, then it's not going to go the board, and then you're going to bog the system down.

If you don't have your criteria set, you're not going to be able to vote on it. So it is pretty important to get that stuff figured out before you start reviewing materials, and they're coming.

MS. FRANCES: Valerie Francis. I'm
going to do my best to work with this process, to make sure things don't become a train wreck. So you haven't had me before, so I hope I can be helpful.

CHAIRMAN O'RELL: Okay. Thank you, Valerie. All right. I think we're ready to vote. We're voting on the recommendation of commercial availability, to set the recommendation. Hugh?

MEMBER KARREMAN: Yes.

CHAIRMAN O'RELL: Rigo?

MEMBER DELGADO: Yes.

CHAIRMAN O'RELL: Nancy, before she left hearing the discussion, left a "yes" for me with a proxy. Julie?

MEMBER WEISMAN: Yes.

CHAIRMAN O'RELL: Joe?

MEMBER SMILLIE: Yes.

CHAIRMAN O'RELL: Bea?

MEMBER JAMES: Yes.

CHAIRMAN O'RELL: Andrea?

MEMBER CAROE: Yes.
CHAIRMAN O'RELL: Gerald?
MEMBER DAVIS: Yes.
CHAIRMAN O'RELL: Dan?
MEMBER GIACOMINI: Abstain.
CHAIRMAN O'RELL: And the chair votes yes.
MEMBER CAROE: 11-0-1-2.
CHAIRMAN O'RELL: Okay. That concludes the work and action items for the Committee. The last thing on the agenda was to present Committee work plans. You take five? Asking for five. Okay.
I'll take five, but five, so we can get back and just wrap up with the Committee work. Andrea, did you say you wanted to start?

**Presentation of Committee Work Plans**

MEMBER CAROE: If you don't mind. It's very short. The CAC has three items on work plan. Outstanding item is to collaborate with the NOP on a peer review procedure for the continuation of a peer review at the
program level.

The second item is to collaborate with the NOP again on response items to the previous peer review through ANSI.

The third item is once again to collaborate with the NOP on ACA training, specifically in regards to application of commercial availability.

CHAIRMAN O'RELL: Okay. Any questions of Andrea? The one thing I would ask is that all of the committee chairs, let's point out who in your committee is the vice chair.

MEMBER CAROE: Vice chair for our committee is Joe Smillie.

CHAIRMAN O'RELL: Joe Smillie. We want to get this on the record, so Joe Smillie is vice chair. Who's next? Who wants to go?

MEMBER KARREMAN: I'll go.

CHAIRMAN O'RELL: Hugh?

MEMBER KARREMAN: Actually, this is for Livestock and I am the vice chair but
acting chair, so I'm both. But no. Technically I'm vice chair, just for the record, and Mike Lacy is chair.

When I talked to him on Monday before coming up here, basically two things that he mentioned were to work on the last third of gestation or the livestock replacement clause, because of things that are happening after June 9th. That's the first thing.

The other thing is to, now that we've received the aquiculture report, to you know, consider that and work on that.

Okay. In terms of the aquiculture -- what did I say? Aquiculture. Yes. In terms of the aquiculture report, George Lockwood is expecting Mike Lacy to contact him, to have a discussion, so that they can get on the same page in terms of further direction, what plans can be done internally.

Since that working group has not been disbanded, what other things they might
be able to help out and what is the time line
and continuation of the shellfish part of that
recommendation that needs to come in a report
form. Yes Andrea?

MEMBER CAROE: George approached me,
and asked the board to consider an ad hoc
group to deal with aquiculture, since it's not
a direct fit with livestock. It's been stuck
with livestock because it's a better fit than
any other committee.

But perhaps an ad hoc committee,
where maybe there's a variety of different
talents to that group.

CHAIRMAN O'RELL: So you want an ad
hoc committee composed of, within our board?

MEMBER CAROE: Of committee members
-- board members, yes.

CHAIRMAN O'RELL: Okay, okay. Maybe
Mike can discuss that.

MEMBER JAMES: Maybe some kind of
Joint Committee?

MEMBER CAROE: Not necessarily a
joint committee. Just an ad hoc committee. It could be members from any one of the different committees.

CHAIRMAN O'RELL: There are some other people on the board that have an interest in being involved in that activity. Okay.

MEMBER KARREMAN: These aren't necessarily in the order that, you know, they're just on the work plan. Also of course keep dealing with the pasture issue with the NOP. Keep going back and forth with them, work with them as we can from our symposium here.

Then I think from the public comments and what we said right before the votes today, I think on the work plan would be to -- and we could do this from within the NOSB I guess, change the annotations on oxytocin and perhaps Ivermectin. I'm not certain on that.

But there are two materials that we
need -- because of the votes and public comment, we need to kind of keep on the burner.

CHAIRMAN O'RELL: Okay.

MEMBER JAMES: I have a question. Can I ask you something Hugh?

MEMBER KARREMAN: Yes.

MEMBER JAMES: There was a comment that there's an organic system plan for livestock, as far as dairy operations and pasture. I was wondering if you guys were going to look into that and see if that outline -- Jim, you had mentioned something about that, and if --

MEMBER KARREMAN: What George had mentioned as the farm system, the old farm plan? He wants that reemphasized? No? Go ahead.

MR. RIDDLE: Yes. Jim Riddle. Yeah, ATRA has been commissioned by NOP to work on system plans, and has the livestock plan template. It's not just for dairy or
pasture, but it includes those.

So yes, I think that would be good for the Livestock Committee, to be ready to review that, because my understanding of it, George Kipper will soon be submitting it.

MEMBER KARREMAN: Yeah, great. So we will be looking at ATRA checklist.

CHAIRMAN O'RELL: Good. Thank you. Rigo?

MEMBER DELGADO: The PDC has four items on the table. The first one is to make sure that we finish finally the new guide, the guide for new members, 101. The second one is elements that we've been working on since our last meeting.

The second point includes revision of the board policy manual, specifically concentrating on the clarification of deferral.

The third item will be review potentially separation of mineral source supplements from ag source supplements.
The final one is work together with Crops Committee to define the temporary variances for research. Bea is my vice chair.

MEMBER JAMES: There's pain in us all.

CHAIRMAN O'RELL: Okay. For the record, Bea is the vice chair.

MEMBER DELGADO: Yes, and I also should mention that I'm going to be working closely with NOP, to make sure we come up with a nice new guide that is suitable for everyone.

CHAIRMAN O'RELL: New guidelines?

MEMBER JAMES: The new member guide.

MEMBER DELGADO: No, the new member guide.

CHAIRMAN O'RELL: The new member guidelines. Okay, thank you.

MEMBER CAROE: What was the third item, Rigo? Mineral supplements?

MEMBER DELGADO: Yeah. Review potential separation of mineral source
supplements from ag source supplements.

MEMBER JAMES: I also just want to clarify that the policy and procedure manual is actually under the leadership of the vice chair.

So that as we go forward with the notes on things that need to be changed in the policy and procedure manual, that the Policy Committee will be working with Andrea on that.

CHAIRMAN O'RELL: Rigo, going back to that separation, I'm confused.

MEMBER DELGADO: Me too.

CHAIRMAN O'RELL: Okay.

MEMBER DELGADO: Let me -- as I said, I inherited these points from the previous chair.

CHAIRMAN O'RELL: Who was?

MEMBER DELGADO: Who was Dave Carter.

CHAIRMAN O'RELL: And I just saw Dave leave the room. He knew you were going to say that. He hightailed it out.
(Laughter.)

MEMBER SMILLIE: He had his own distractions.

MEMBER DELGADO: If you remember, we managed to clarify what Point 4 was, temporary variances. But let me have that as my assignment, and I promise --

CHAIRMAN O'RELL: Contact Dave and find out what his intent was.

MEMBER DELGADO: I'll find out the details.

CHAIRMAN O'RELL: Because I don't understand it.

MEMBER DELGADO: I apologize for that.

CHAIRMAN O'RELL: Do you Jim?

MR. RIDDLE: No.

CHAIRMAN O'RELL: Okay. Then I don't feel so bad.

MEMBER DELGADO: But I think I do.

(Laughter.)

CHAIRMAN O'RELL: All right, thank
you, Rigo. Tried to slide it by. You felt
his voice lowered, but it was a --

(Laughter; simultaneous Discussion.)

MEMBER CAROE: Shall we move along?

CHAIRMAN O'RELL: Handling Committee, moving on. Yes, go.

MEMBER WEISMAN: Okay, all right. I've got to say I was really looking forward to just crossing sunset materials off the list, but we do have one deferral. So we will be requesting a TAP on colors and seeking petitions on specific colors. We'll still be doing that.

Next on our work plan is to continue to work on the ag/non-ag question, in conjunction -- as a joint venture with the full Materials Committee, especially in light of the new request for consideration of yeast as either livestock or non-plant life.

CHAIRMAN O'RELL: Non-plant life, a part of its definition of livestock.

MEMBER WEISMAN: All right.
Pasture, no. We will also -- actually Bea had prepared, although it didn't get attached, a very detailed step-by-step plan, including a time line, for how we are now going to incorporate into a revised recommendation on synthetic versus non-synthetic, a definition of synthetic that incorporates all of the wonderful feedback we got from the program, as well as some other public comments that were very thorough and insightful. We will also be working on that jointly with the Materials Committee.

We will continue to participate in the Pet Food Task Force work, which I participate in, and I can continue to do that until such point that it becomes an item that the full committee will need to consider.

CHAIRMAN O'ReLL: And your vice chair?

MEMBER WEISMAN: I don't have a vice chair.

CHAIRMAN O'ReLL: Because it's
important, because the vice chairs of the Handling Committee and the Livestock Committee and the Crops Committee will be the liaison on the Materials Committee for petition review.

MEMBER WEISMAN: Right.

CHAIRMAN O'RELL: So we need to -- if you don't have one now, you need to -- maybe in the first committee meeting that we have, we need to get one and have it on record, so that we have a vice chair.

MEMBER WEISMAN: Right. I'm going to have to hone my arts of persuasion.

CHAIRMAN O'RELL: So nobody will be answering your e-mails or phone calls.

MEMBER CAROE: Julie, you have one other item?

MEMBER WEISMAN: Yes. We're not -- yes, I'm not finished. I'm not finished.

CHAIRMAN O'RELL: Oh, sorry.

MEMBER WEISMAN: We went a long way to getting commercial availability off this list. However, even with today's, passing of
today's recommendation, we will continue now to have to work with the program about what kind of guidance to add for ACAs, in determining commercial availability.

Also, that we will need to work on how to amend the evaluation criteria checklists, so that we know that we've gotten the information that we need from petitioners, in order to make an adequate recommendation. Kevin?

MEMBER CAROE: Dealing with commercial availability with the ACAs is right now on CAC work plan, but you're welcome to have it.

MEMBER WEISMAN: How generous of you, Andrea.

MEMBER CAROE: I'm just, you know. I'll share the love.

MEMBER WEISMAN: We'll continue to work on the A and B things, and you can have C.

CHAIRMAN O'RELL: Yes, yes. There's
enough on the plate.

    MEMBER WEISMAN: Right, okay.

    CHAIRMAN O'RELL: Julie's ambitious.

    MEMBER WEISMAN: Wait. I'm not done. Review petition substances as needed. That's going to include the avalanche of 606 petitions that are going to come in, and then we also have this --

    MEMBER SMILLIE: Isn't that an entire board function? That's not a Handling Committee function.

    MEMBER WEISMAN: Well, 606 is --

    CHAIRMAN O'RELL: No. It goes to the specific committee.

    MEMBER WEISMAN: It goes to Handling first.

    CHAIRMAN O'RELL: And then the committees make recommendations to the full board. That's how --

    MEMBER JAMES: Jim's laughing at her.

    CHAIRMAN O'RELL: Jim, you're
enjoying this.

(Laughter.)

MEMBER WEISMAN: And we have some new petitions that we didn't even have to consider, because of the sunset process, such as jelling gum, and I'm sorry I don't have the complete list. But we do have --

CHAIRMAN O'RELL: We have back petitions that -- yes.

MEMBER WEISMAN: We have petitions that need to be reviewed. And then --

MS. FRANCES: You will be getting stuff next week.

MEMBER WEISMAN: Oh, thank you Valerie.

MEMBER CAROE: Thanks. You're not going to even give us a week?

MS. FRANCES: I've put it off three, actually.

MEMBER WEISMAN: Food contact substances was on the work plan, okay.

CHAIRMAN O'RELL: We've got -- I
don't think -- between now and October. I mean really, I mean it could be back burnered on the work plan, but between now and October are the items that we need to address here now, so that the public knows that we'll be moving forward with those for the October meeting.

MEMBER WEISMAN: And respond to Q&As as needed. Is that --

CHAIRMAN O'RELL: Sure.

MEMBER WEISMAN: Okay. That's it.

CHAIRMAN O'RELL: Okay.

MEMBER KARREMAN: Question for Kevin. You mentioned that the vice chairs of each committee are the liaison for petitions to the Materials Committee.

How do you mean? That the vice chair what, shepherds it through the whole process until it gets to the Materials Committee or what?

CHAIRMAN O'RELL: It's in the policy manual.
MEMBER KARREMAN: I should read it.

(Laughter.)

MEMBER CAROE: That welcome letter that said you were supposed to read that before you showed up.

MEMBER KARREMAN: Yep. I got that too.

(Simultaneous Discussion.)

CHAIRMAN O'RELL: Pardon me?

PARTICIPANT: Materials Committee work plan?

CHAIRMAN O'RELL: The number one item on the Materials Committee is the synthetic/non-synthetic document, and then I need to confer with Nancy, to get her list, and get it in the record.

PARTICIPANT: Do we know what -- (not on mike).

CHAIRMAN O'RELL: No, we don't.

MEMBER CAROE: I've got to go. Sorry, Kevin. I've got to go.

MR. NEAL: They're all updated on
CHAIRMAN O'RELL: They're on the website, but --

MR. NEAL: I don't have them off the top of my head.

CHAIRMAN O'RELL: I don't have them on the top of my head. They're on the website. Gerald?

MEMBER DAVIS: Crops Committee work plan. New petitions, lime mud, sulphuric acid in manures, and any other new ones that might come in. I hear there are some.

Two older ones, cyprotein isolate and ammonium bicarbonate. I'm assuming we're still hung up with those, waiting for the synthetic/non-synthetic recommendation to be completed, because those too have issues that we felt were unanswerable until we get that one done.

Finish the compost heap recommendation, which the two parts left to finish on that is the compost heap itself and
dehydrated manures, as part of that, and some vermiculture stuff too.

   Commercial availability of seed.
   Look at the August `05 recommendation and possibly improve the recommendation concerning the national database that was suggested in that, as well as comments that came from certifiers about the workload and the ramifications of that, what that would mean for them.

   Hydroponics is still on the list. Gather information and fact-finding on how and if hydroponics should have or could have standards, organic standards.

   CHAIRMAN O'RELL: And your vice chair? You need to appoint one. Did you appoint one?

   MEMBER DAVIS: No. I just said we need to pick one.

   CHAIRMAN O'RELL: Okay. I thought he was looking at you. Everyone was looking at you. So okay.
(Simultaneous discussion.)

MEMBER JAMES: That's how Joe got appointed.

MEMBER DAVIS: I looked at Kevin too.

(Simultaneous discussion; laughter.)

CHAIRMAN O'RELL: Okay. So that concludes the --

MEMBER DAVIS: If either one of you are available and interested.

MEMBER MOYER: I can do it if you want me to.

MEMBER JAMES: Oh, stepping up.

CHAIRMAN O'RELL: Okay, Jeff.

MEMBER DAVIS: Kevin said yes too. Okay. Kevin's deferring to Jeff.

CHAIRMAN O'RELL: I'll let you guys work it out, just as long as we have one. Okay. Just some quick closing comments, because I know everybody wants to get out of here. We're running late again.

So I'd like to certainly thank the
public for all their participation, especially the few souls that are sticking with us to the very end. Thank you.

But there was a lot of good input from the public during this meeting. I'd certainly like to thank the NOP and staff for all the hard work that was done in preparation for this meeting.

(Applause.)

CHAIRMAN O'RELL: In recognizing Valerie, this has been a new thing with us to have the executive director.

(Applause.)

CHAIRMAN O'RELL: It really has been a lot of help on committee calls and getting things together and organized.

I'd like to thank the Livestock Committee, working in conjunction with the NOP and pulling off a very good pasture symposium.

I think we had a lot of good feedback that I've heard from a lot of farmers and people who traveled here to listen to it. So thanks
for everybody's participation in that.

    I'd like to thank the board for supporting past board members. I'd like to thank those that are still here as past board members for their help. The current board, thank you so much for getting me through my first experience here as chair.

    (Applause.)

    CHAIRMAN O'RELL: And the new members, because I really think the new members came out of the chute just alive and kicking, and it's really good. You've been -- the participation has been there.

    (Applause.)

    CHAIRMAN O'RELL: No, it's been really good. On the committee participation level, and even at the committee level, there's been a lot of good participation with the new members. So with that --

    MEMBER CAROE: Motion to adjourn.

    MEMBER SMILLIE: I'd like to thank the philosophy major who kept everybody
speaking into the microphones.

(Applause.)

CHAIRMAN O'RELL: I would accept a motion to adjourn.


CHAIRMAN O'RELL: Oh Kevin.

MEMBER ENGELBERT: I'd just like to thank all NOSB members, past and present, and the NOP, for making this such a seamless transition for me to come onto the board. I'm very appreciative of all your help.

CHAIRMAN O'RELL: Thank you, and Mark, sorry. You wanted to address us.

MR. BRADLEY: Just very briefly, you know. Thank everybody of course for your perseverance through all of this, and the excellent support that we've had from our court reporter and audiovisual person.

(Applause.)

MR. BRADLEY: I would also like to comment on, again, echoing Kevin's seamless
transition is due in no small part to their jumping in with both feet and attacking all these issues.

They acted just like senior board members, and we're looking forward to an excellent spirit of cooperation with them, the program, and we'll use -- expect a lot out of our new executive director, Valerie, and she's just doing great. Thank you. Thank you all very much.

CHAIRMAN O'RELL: Thank you, Mark. Just one quick comment before I ask for an adjournment. There's a photographer here that would like to get a picture of the board, whatever's left of us.

So well, he'd like to get what's left, okay. So we promised him -- he's been hanging around to do this, so we're going to go do it. I don't want to hear "camera shy."

I will accept a motion to adjourn.

MEMBER SMILLIE: I move for adjournment.
MEMBER DAVIS: Second.

CHAIRMAN O'RELL: All those in favor?

(Chorus of ayes.)

CHAIRMAN O'RELL: Thank you.

(Whereupon, at 6:31 p.m., the meeting was adjourned.)
UNITED STATES DEPARTMENT OF AGRICULTURE

NATIONAL ORGANIC STANDARDS BOARD

MEETING

TUESDAY,
OCTOBER 17, 2006

The meeting was held in Salons 1 and 2 of
the Radisson Hotel Reagan National Airport,
2020 Jefferson Davis Highway, Arlington,
Virginia, at 9:00 a.m.,
Kevin R. O’Rell, Chair, presiding.

BOARD MEMBERS PRESENT:

KEVIN R. O’RELL Chair
ANDREA CAROE Vice Chair
BEA E. JAMES Secretary
GERALD A. DAVIS Member
RIGOBERTO I. DELGADO Member
KEVIN ENGELBERT Member
DANIEL G. GIACOMINI Member
JENNIFER M. HALL Member
HUBERT J. KARREMAN Member
MICHAEL P. LACY Member
JEFFREY W. MOYER Member
NANCY M. OSTIGUY Member
JOSEPH SMILLIE Member
JULIE S. WEISMAN Member

NOP STAFF PRESENT:

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CHAIR O'RELL: Okay. I'd like to officially call to order the October 2006 NOSB meeting. We are -- oh, we have another Board member. Good. One more will be coming. Oh, Nancy.

So the only board member who is not here is Rigo, he is going to arrive a little later today. He's traveling today out of Texas. Hopefully, the weather will allow him to get up here but I think he's planning on arriving about 2:00.

I'd like to welcome everybody in the audience to the meeting. I'd like to welcome the NOP and fellow board members.

Just a reminder, and that was just my cell phone went off just so it could prompt me to remind everybody, I had that set, for everybody to turn off your cell phones or please put them to vibrate because now the rule is in effect. If your cell phone does go off, you will by the board a drink. And since this is my last meeting, I
will take people up on drink offers. I will make sure that's enforced.

Approval of Agenda

The first thing we'd like to do is to approve the agenda. Has everybody had a chance to look at the agenda? Is there any discussion or a request for anything to be changed?

(No response.)

CHAIR O'RELL: Hearing none, I would accept a motion to approve the October 2006 NOSB agenda.

MEMBER CAROE: So moved.

MEMBER KARREMAN: Second.

CHAIR O'RELL: It's been moved and seconded. Any discussion?

(No response.)

CHAIR O'RELL: All those in favor?

(Chorus of ayes.)

CHAIR O'RELL: Opposed? Same sign.

(No response.)

CHAIR O'RELL: The motion carries. The agenda is approved.
From the agenda, we have two public sign up sessions that are available for Tuesday afternoon and one for tomorrow afternoon. And I believe the sign-up books are just right outside the hall and they will be left there during the morning for anybody to sign up for this afternoon's session.

As has been our practice in the past, we are having these public sign-up sessions so that we can hear from the public and get comments about some of the discussion and recommendations that we have posted. This is a very important process, part of the process, where we come out with our recommendations and we really, really encourage and want to hear from the public. Because I know there are a couple of recommendations that I'm sure we will hear from the public. And that's part of the process. It's a good thing. As we deliberate on that discussion, we can ask questions of public commenters. But we also take in that information and we digest that before we come out with final
recommendations and it may or may not influence us in the direction that we go for certain recommendations and voting. So the public process here is very important for the comment section.

I'd like to begin by just going -- well, first, I'd like to ask are there any other, any board announcements that people might have? Any announcements from the board?

(No response.)

CHAIR O'RELL: Hearing none, I'd like to now have introductions from board members. Start with Mike, if you can tell a little bit about where you're from, what segment you represent and maybe just a little bit about why you're here.

MEMBER LACY: Okay. Mike Lacy. I am the science representative -- I'm sorry. Thank you.

Mike Lacy from Athens, Georgia. I'm the science representative on the board and this is my fifth year on the board. I serve as the chair of the Livestock Committee. And I have enjoyed very much my
five years and looking forward to this meeting.

MEMBER KARREMAN: Hubert Karreman. I am one of the environmentalist seats. I'm from Lancaster County, Bart Township, which was in the news lately. I'm a dairy practitioner. I work with about 80 certified organic dairy farms locally. And I'm in my, what is it, second year now.

MEMBER DAVIS: Gerald Davis, grower representative on the board. This is my second year. I'm the Crops Committee chair and I work out of Arvin, California for a large organic vegetable farm, actually the largest single grower in the country. And I'm looking forward to this meeting, too. Thanks.

MEMBER SMILLIE: My name is Joe Smillie, I live in Burlington, Vermont and I'm the certifier representative on the board. It's my first year. I participate in the Certification and Accreditation Committee and the Handling Committee and am a longtime organic proponent.

MEMBER JAMES: Bea James. I am
currently the secretary NOSB. I hold the retailer seat on the board and I am Vice Chair of the Policy Committee and I also serve on the Accreditation and Certification Committee and I'm excited to be here.

CHAIR O'RELL: Kevin O'Rell from Boulder, Colorado and I represent the handlers on the board. This is my final meeting as a NOSB member. I'm looking forward to getting to the other side, like Jim Riddle, where I can sit and look, and stare at the board, and make faces when we say the wrong thing.

I've been in the organic industry a little over ten years in product development, operations, and regulatory affairs.

MEMBER CAROE: I'm Andrea Caroe. I hold an environmental seat. I am presently the Vice Chair of the board. I chair the CAC and I sit on handling, policy, Aquaculture Task Force. I think that's it.

CHAIR O'RELL: Do you want more to do?

MEMBER CAROE: No. In my private
life, I work for a sustainable certification firm as the director of operations.

MEMBER WEISMAN: I'm Julie Weisman. I hold one of the handler positions on the board. This is my second year. I'm chairman of the Handling Committee and in addition to that, I am on the Certification Accreditation, which -- what am I missing? And Compliance Committee and also on materials. I'm from Tenafly, New Jersey, which is North Jersey. And I've been an organic consumer for my whole adult life but I've been involved in the industry for the last ten years. My company makes organic flavor ingredients, among other things. And yesterday was my daughter's seventh birthday.

MEMBER OSTIGUY: Nancy Ostiguy. I'm an environmental rep. I've been, this is my fifth year, so last meeting. I've been on the Livestock Committee, the Materials Committee and Crops Committee.

MEMBER HALL: I'm Jennifer Hall. It's my first years as a consumer representative. I reside in Spokane,
Washington and I work for Chefs Collaborative, which is a nationwide, nonprofit, dedicated to educating chefs in the culinary community about sustainable foods. I've been a longtime organic consumer myself and so I'm very interested in the integrity of what we're doing. I serve on the Livestock, and the Accreditation, and Compliance Committees.

MEMBER MOYER: I'm Jeff Moyer. First year on the board representing the growers' side of things. I'm on the Crops Committee, Vice Chairman there. I'm on the Livestock Committee and Farm Manager for the Rodale Institute. I've been there for 30 years. And I've been involved with organic a long time.

MEMBER ENGELBERT: I'm Kevin Engelbert. I'm a dairy farmer from Nickols, New York. I represent one of the grower seats. I'd like to publicly thank my sons again for taking over the slack that's created by my being on the board. Their position has changed somewhat. They think it should be a paid position because I've
put a lot of time into this and I want to thank them again for take up the slack.

MEMBER GIACOMINI: My name is Dan Giacomini. I'm from California. I have one of the consumer seats on the board. I serve on -- I'm chair of the Materials Committee. I also serve on Livestock and I've helped out quite a bit this last six months on Aquaculture.

CHAIR O'RELL: Thank you, Dan. I'd like to have NOP introductions. If we could go around the room starting with Mark. I'm sorry, Mark, did I catch -- just to introduce at the table for the NOP for the audience.

MR. BRADLEY: I was going to do that in my remarks, but we can do that now. I'm Mark Bradley. I'm the Associate Deputy Administrator and this is my boss, Barbara Robinson, she's the Deputy Administrator for transportation marketing programs for AMS. Demaris Wilson, the Assistant Associate, or Assistant Deputy Administrator, the title gets me every time, Assistant Deputy Administrator. Katherine
Benham, who works for the National Organic Program staff and she is tasked with managing all of the board activities as far as, she's a board specialist. But she does a lot more with the NOP in terms of handling our budget and she is the administrator for the list of accredited certified operations. So she has a huge job.

Going down the line, Toni Struther. Say hi to everybody, Toni.

MS. STRUTHER: Hi everybody.

MR. BRADLEY: Most of you that are regulars at this meeting know Toni. She does a lot of work for the program and she is in charge with a lot of the communications that happen with the NOP right now. She also is one of our ramrods for the regulatory process. She knows the process better than really anyone on the NOP staff, so I depend on her to keep the process flowing. And we'll talk a little bit more about what she does in a little bit.

Next to her is Jonathan Melvin.
JD is our accreditation manager. JD is very busy right now because we have a whole flood of new applications coming for the renewal.

Next to him is Bob Pooler, across the isle. Bob is our materials expert, has been on the staff for seven, eight years now. Seven years.

And of course you know our new, well not new anymore, I guess she's been around for a while, NOSB Executive Director, Valerie Frances.

And who else? Francine Torres. Francine's out at the front desk. Francine is the secretary for the program and she is really the one that keeps my life straight and keeps things moving in the programs. She's responsible for the quality control of the documents that go out the door and schedules everything, does travel, really does a great job for the program.

Not present here today, Mary Lu Lusby. She was going to come. She's been out of the office for about a week, so she's trying to catch up on all the applications for accreditation that have come in in her
absence.

But I think that's pretty much it for the NOP staff.

CHAIR O'RELL: Thank you, Mark.

I just, I want to caution board members that all of these microphones up here are live all the time. Normally we have buttons where we can control them. So, conversations that you might have are going to be transcribed into the public record. So, just be aware of that.

Kevin mentioned the fact that there's a lot of time put in by board members here. There certainly is. I asked Valerie just to kind of give me a count since the last meeting on how many committee calls we've had. There's been a total of 62 committee calls since the last meeting. In the month of August alone, there were 23 calls and totaling 33 hours. So, and that's for one month. And that might have been the high point but July and September were also very active in preparation for this meeting. So, --

MEMBER CAROE: Does that include
Aquatic Task Force?

CHAIR O'RELL: The question, does that include Aquatic Task Force?

MS. FRANCES: Yes.

CHAIR O'RELL: Yes. So, everybody's included. You want her to run up the numbers?

MEMBER CAROE: No, I just assumed it was a lot more than that.

CHAIR O'RELL: I know. It does seem like a lot more than that. But that is the number. It doesn't count email and time. That's just phone time and the preparation time.

So there is just an incredible amount of work that this board undertakes and certainly, between now and our next meeting, we know we have another mountain to climb because materials are mounting and we absolutely need to get to those and that's going to be a priority we talk about at this meeting.

I'd like to now turn over to Bea and have her give us the Secretary's Report.

Secretary's Report
MEMBER JAMES: Okay. So, I have my script here. My bachelor's degree is in acting and so I just can't do anything without a script.

I'd like to give an update on Executive Committee minutes. This is something that often times we do vote on at the board meetings. Executive Committee conference call minutes will be approved by the Executive Committee as part of the conference call agenda. The Executive Committee will discuss the role of EC minutes at the board at our next call. And, at this time, Mr. Chair, we do not have Executive Committee minutes to approve. This will become a process of our calls internally within the board. And Executive Committee minutes are posted, if anybody wants that information, it's available on the website.

CHAIR O'RELL: But just to be clear, this has been part of our process and it's something that has been continuing.

MEMBER JAMES: Right. And next, I'd like to talk about the policy on meeting
Minutes, in the past, have been extrapolated from transcripts. That's something that the NOP has provided for us. Due to labor reasons, we will no longer be receiving minutes extrapolated from the transcripts. However, transcripts are available for viewing on the website. This changes currently and we're going to experiment with the role of the secretary, the NOSB secretary and we'll be taking very brief minutes based on the agenda items during these meetings. And that will be our internal information on the minutes and we'll see how this process goes and we'll vote on minutes that the Secretary takes on the NOSB board meetings. But we will no longer be receiving minutes from the NOP transcribed out of the transcriptions.

And if anybody has any questions or discussion on that, we can open that.

(No response.)

MEMBER JAMES: Okay. So, with that, we will also be voting on transcripts at the board meeting. And I would like to
move to accept the transcripts that have been received by the NOP from the August 2005, November 2005, and April 2006 NOSB board meetings and that these transcripts now serve as official record from those meetings, and that we have received those from the NOP.

CHAIR O'RELL: And that is a motion?

MEMBER JAMES: Motion.

CHAIR O'RELL: Is there a second?

MEMBER KARREMAN: Second.

CHAIR O'RELL: Hugh seconds. Any discussion?

MEMBER CAROE: I just want to clarify that we are voting to accept the minutes, we are not voting to approve -- I mean the --

MEMBER JAMES: The transcripts.

MEMBER CAROE: -- transcripts.

We're voting to accept them and not approve them because they're not up for discussion for change. They are just being accepted into the record. They are what they are. There is no debate.
MEMBER JAMES: Okay. So, do we want to --

CHAIR O'RELL: Any more discussion?

(No response.)

CHAIR O'RELL: It's been moved and seconded. All those in favor?

(Chorus of ayes.)

CHAIR O'RELL: Opposed?

(No response.)

CHAIR O'RELL: The motion carries.

Is that, that is the Secretary's Report?

MEMBER JAMES: And that is the Secretary's Report.

CHAIR O'RELL: Okay. We're going to call on Valerie from the Program to go through a little public training session on the transcripts, so people have a better understanding, if you haven't been there. There's a lot of document there, obviously, from two and a half to three days of meetings. So, Valerie's going to go through some tips on searching through the
transcripts to try to find information that might be relevant to what your concerns are.

Public Training on Searching NOSB Meeting Transcripts

MS. FRANCES: And this is just for the record. Probably many of you known how to search PDF files but I get a lot of calls on the phone and requests for, oh, I didn't know you could search a PDF file. And, of course, you can only search those files that are converted from an original word document. If they've been scanned in, you can't search those because they're kind of more in as a photograph. But these are, these transcripts are converted from a word document and so they are searchable.

And so all you do, you look at the top of your tool bar in any Adobe Acrobat PDF. You'll see a little pair of binoculars and you click on that and that's how you search in a document. And it's actually a very handy tool, if you've never done this.

And I'm just curious. In the audience, how many people have searched a
PDF file and found what they needed? Have folks tried to search the transcripts and found what they needed to find?

It is a lovely tool. And so, just for the record, for people out there that may want to look at this, you just click on the search tool and then you decide what you want to search for. And I won't put the word pasture in because this is from the last meeting and pasture comes up a lot. So, but I can put in some other word or a name, you can also identify a person.

And actually, in my searching, because I had just gotten off the phone with Brian Baker, I searched for Brian and I found him in there, a number of times. I can do that. You see, Brian comes up a number of times. And you can click on each place and you can find, you know, people who have actually spoken during the event.

You can refer to the agenda and identify approximately when the topic that were interested in is being covered and then, you know, basically walk through each page by page, looking for the comments. It
refers you to the page number that you can find the information you want. You can then go and print that page of the document and then you can refer to it more easily that way, if you don't like looking at the screen.

So, that is intended for a little guidance on how to do this. And question?

MR. RIDDLE: Yes, without official minutes now, the really critical thing is finding the motions and the votes.

MS. FRANCES: We don't have a microphone --

CHAIR O'RELL: If you have a question, Jim --

MR. RIDDLE: Could you just summarize? I mean --

MS. FRANCES: Okay. Repeat what you were just saying and I'll try and summarize.

MR. RIDDLE: Yes. How to find motions and votes, because that's really the critical information.

MS. FRANCES: Well, I guess you would --
CHAIR O'RELL: Repeat the question.

MS. FRANCES: Jim is wanting to know how to find motions and votes, as that is critical information.

Obviously, you would look on the agenda to see the day that they were voting. And we've been trying to separate out committee presentations from actual voting time. And so you would know from the agenda what day things were voted on. So that would be certainly one way to approach it. And you would understand when the committee met during that time frame. On the transcripts, you could do it certainly that way.

I don't know about being able to pull up and easily, I guess you could plug in motion. We could look at the second day's transcripts, because I pulled up the first day's. We can pull and maybe trigger motion and see how many motions come up, because that should have come up in the transcripts, I would say. Why don't I do that?
CHAIR O'RELL: Valerie, if we could have Bea respond to that? Because we are trying to address that issue, Jim, so --

MS. FRANCES: Okay. And I'll look at the document.

MEMBER JAMES: One of the things that the Secretary will try to do that we're trying now is that as we take minutes based off the agenda, we'll also be recording questions that people ask in these minutes that the Secretary records. We'll also be, we'll also take information on the votes and who motioned and who seconded and how the votes came about within the minutes that the secretary takes.

I also wanted to mention that at our next Executive Committee conference call, we are going to be talking about making this more official policy, if it works, and looking at possibly adding this description into the board policy manual for the Secretary's role so that there's not confusion around whether or not we talk about Executive Committee minutes at a meeting. We do, we don't. Some meetings
there has been discussion on it, some meetings there haven't been. And we want to make sure that we go forward with a consistent policy around that. And I also, part of the reason Valerie is showing how to use this search mechanism is because we're not having the minutes summarized anymore. So this will help make that easier and we will be able to look at brief summary minutes that the Secretary puts together as well.

CHAIR O'RELL: Andrea, did you have a comment?

MEMBER CAROE: Yes. Also with regards to the motions and votes, those are all going to be, as has been done in the past, put onto the final recommendations. So you can always reference the final recommendation that should post shortly after the meeting with who motioned, who seconded, and what the votes were.

MS. FRANCES: Just in a review, I pulled up Thursday's transcript from the last meeting and that was during the day that all the votes were made. And you can
see motion, when I just plugged in the word "motion," it comes up quite often. I pulled up one. It was a motion and it shows who voted and states, you know, how they voted. And also, when you use a word like "motion," I noticed that "promotion" comes up. So, obviously, words that are components of other words are going to come up as well but not with any great frequency, I would say. Motion is what has come up, it looks like at least 20, 25, times there, or no, 50 times. So you can spend your day looking through.

But obviously, I would think recommendations themselves, the final recommendations are going to be the best place on the website to look for those votes.

Is this helpful? It's okay? We're good?

CHAIR O'RELL: And I think, if I can just add on to what Valerie and Bea have indicated is that we are trying to put together, at this meeting, a format. Bea is trying, as secretary, to have highlighted minutes in accordance with the agenda items,
so that there will be reference notes with the agenda items. And if it is a vote, at that time, we will put down the motion, who second, who brought the motion to the floor, who seconded that motion, and the vote, the recorded vote. So that will be in the minutes. In going forward, we're trying to get better with that process.

So I think Valerie's demonstration here was just to give those people an idea that if they want to get to the meat of it, the meat of it is in the transcripts and you can, it is searchable, you can go back there and try to find out and dig up specifics that you might be concerned about in terms of the discussion. But the minutes that Bea is working on now as we speak, and will throughout the meeting, will reflect highlighted minutes in coordination with the agenda, but then will be published and then approved at our next meeting.

Are there any questions from board members?

(No response.)
CHAIR O'RELL: We're a little ahead of schedule, but Mark, I think we'd like to go into the National Organic Program update and --

MR. BRADLEY: Barbara's going to be first.

CHAIR O'RELL: Barbara?

National Organic Program Update


Before I hand over the NOP Update to Mark, I thought I should address the board and the audience, in particular the audience, just to tell you a few things, just to give you a little update since we last met in April in Pennsylvania.

At that time, we had a dairy symposium and we made a commitment to the organic community that we would, we had just published an advance notice of a proposal we were making on pasture, dairy pasture. And we made a commitment that we would have a regulation out on access to pasture, an enhanced role for pasture for ruminant
animals. And here it is October 16th, October 17th, and as you can all tell, we don't have a regulation published, a proposed rule published. And so I thought it only fair that we give you an explanation why that is the case.

Now, Mark has introduced to you the staff and, as you can tell, I come to you, you know, just about every year. The staff doesn't seem to change size. So here we are again.

We did get 80,000 comments on the ANPR. Now that, you know, sounds like a lot and we're used to getting that number of comments when we put anything out for comment. But a lot of them were very similar. That was okay. And we were happy to get that number of comments and we were in the throws of drafting a pasture, a proposed rule on pasture, and we were going along pretty well and then some things happened that.

You know, my analogy for this program is that we get on a train and we sort of chug down the road and down the
tracks and we're doing pretty well. We were very dedicated in this commitment. I can't stress how committed we are to this pasture regulation. However, some really serious things happened.

You remember last year that we were sued by Mr. Harvey. Well, he decided to sue us again. And this lawsuit is every bit as serious as the lawsuit of last year, at least the ramifications of this lawsuit would be just as serious as the one of last year.

We also received some pretty significant FOIAs, Freedom of Information Act requests, totaling over 400,000 records that were requested of us. And these were significant enough that though we tried to get the parties to narrow their searches. We said we would be more than cooperative in giving them exactly what they wanted. What the requests were for us to simply open the drawers, open the files, and provide access to all of the records that all of our agents also collect.

Now, we ask that our agents hold
their records in confidentiality because those are the records of your businesses and that's what it says in the regulations. But we are have some serious discussions within the Agency with our attorneys as to whether or not the Agency is going to be held by that same standard of confidentiality and we are very troubled by that.

And people in the media and people in other groups disagree and they believe that they should just be able to come in at their leisure or their convenience and disrupt business, in my opinion, and sit down and just look through all of the records.

Now, I also am bound to uphold the privacy laws of the United States and so, I've had many long conversations on the telephone with people from the press and with other groups. And then I'm threatened with lawsuits on top of that, if I don't timely answer those requests. And so when you have lawsuits and then you have FOIA requests, these things are fires that have to be put out.
In other words, no matter how much I want to write a pasture regulation, those issues, when they happen, have time constraints on them. Twenty days, you know, 15 days to prepare a brief, to get it back to a court, something like that. So everyone has to get off the train that was going down the track while we were working on a pasture reg and we just, it's all hands on deck and we have to stop what we were doing and then start working on, you know, dumping out all of the emails or trying to decide what is confidentiality and whose records are privileged, whose records can be held as confidential.

So, and then we get complaints that are serious complaints that demand full investigations immediately and those sorts of things. So, it's with my personal and my professional and my Agency and my Program's apologies that I don't have a pasture regulation that's proposed and put in the Federal Register right now. It is in draft form. I'm not telling you that there's been nothing on it. A pasture regulation is
being drafted. But then, in addition to it, because it is a major change in the regulations, it requires a lot of clearance. There are agencies that want to look at it. The Office of Management and Budget wants to look at it. The General Counsel's Office wants to look at it. There are several other people that will want to review this. And so, and then there's all sorts of ancillary documents, we have to do economic impact analysis to go along with this.

So, every time we get these things that come into the agency and say, well, now we want to know all about this, you know, it changes our priorities.

And I'm terribly sorry to say this to you because I thought that this industry really wanted the pasture regulation as its number one priority. That's what I heard. That's what I heard in April. That's what I've been hearing for the last year, since we met in November, that that was the number one priority. But it's not.

And quite frankly, you know, the
more we continue this mistrust and the more we continue this infighting, and the more we continue this, you know, just frankly, lack of trust, the less progress we make because you're looking at the staff. There's only this number of people. I can't make them work 24/7.

I now work 95 percent of my time on the National Organic Program. I no longer work on transportation and I no longer work on marketing. I write the draft proposed rule for pasture. I'm trying to figure out an economic impact analysis. And I'm sorry if I sound like I'm losing patience, but every day someone calls me up and says where's the pasture reg? Well, I'm still trying to figure out how to, you know, answer FOIA requests for 400,000 pieces of paper that, you know, I don't think I should be answering.

At any rate, that's why we don't have it but I am still trying very hard. I want to get it out this year. I'm committed to it, fully committed to it and that is what I'm working on, in my spare time. And
that's what I want to do. I heard you in April. That's what I believe in and that's what I think we should be doing. That's what I think our number one priority should be.

And I think the FOIAs and the rest of it is not your priority and I don't think it's my priority. It's just something that derails me and that's what I have to go and do.

Now, I mentioned the Harvey lawsuit. We do have another lawsuit. We have answered all the briefs and the motions and it is in District Court. I checked last night with the attorneys to see if there had been any response from the judge and there had not. I will check again today but, so far, I have heard nothing back from District Court. So that means that we are still in litigation.

So, that means two things. I can't discuss the case with you. And it also means that, Kevin, as you and I chatted last night, I have asked the board -- you wanted to discuss a definition of synthetic
versus non-synthetic. And I have asked the board to postpone that discussion, at this time, because the court case involves, it will bear on that definition of synthetic.

And it is not that we are in disagreement with you or that we are rejecting it or any of that. But we think it is prudent, at this time, to simply postpone that until we get the court litigation resolved and we get further information from the court, so that we all have full information and then we can decide. You know, would that change your recommendation at all, would that change our feedback to you? And then go from there. And we can do that. In between meetings we can still work on that.

And hopefully, we'll be hearing something from the court soon. Like I said, I pressed the attorneys yesterday and I'll press them again today.

And the last thing, before I hand over to Mark is the, we did get a very good set of NOSB nominees. We got, I think, 40 some applications, 40 applications. That
package is making its way across the street to the Secretary. I am very very pleased at the caliber of the qualifications of the nominees that we got this year. So whomever the Secretary selects is going to be a good addition. I'm not sure that they can replace Kevin and Nancy and Mike, as well as, you know, the three of you have performed over the last several years, but there's just a good group of people out there. I think, you know, as this board matures and this industry matures, people are getting more interested in participating. So that's good. But I'm just really pleased with the candidates that applied for the board.

So, again, my apologies that we don't have a pasture reg to propose to you but that's still my number one priority.

Now, I'll let Mark get going on the --

CHAIR O'RELL: Barbara, just a question on timing in terms of the nominees. The Secretary will be making choices early January would be the expectation?
MS. ROBINSON: Well, I hope he makes them before then, Kevin.

CHAIR O'RELL: Okay.

MS. ROBINSON: He certainly does not have to announce them until January, but he normally announces them in December or something. If I recall, I think they were announced last year in December.

CHAIR O'RELL: They were December last year.

MS. ROBINSON: So I would expect that he will do that. Bear in mind, it's an election year. That tends to throw schedules off. It tends to just make people, everything piles in. I also don't know, there are many other boards in the department with nominations that come due. And I don't know what their schedules are. Sometimes, it just depends on who stacks up and what's going on. So, but I wouldn't expect that there would be any real, you know, problem in getting them announced at the normal time.

CHAIR O'RELL: Okay.

MS. ROBINSON: Any other
questions?

CHAIR O'RELL: Thank you, Barbara. Any other questions?

(No response.)

MS. ROBINSON: Thank you.

CHAIR O'RELL: Thank you, Barbara.

MR. BRADLEY: Let me deal with a little technology here for a second.

Kevin, thank you very much. I just want to provide just a brief rundown of what the Program has been up to last year, what we're going to be doing this year. But first I'd like to welcome everybody. It's always nice to be able to get together like this, with the board especially, and with the regular list of suspects that come to these meetings, and also some new folks that I know have not been here before. Welcome. We appreciate your taking time out of your busy lives and businesses and coming here to share your thoughts and to participate in this program.

The NOP has been busy this past year, as Barbara plainly said, we have a lot
of things on our plate. There's a lot of things that we are intending to do that we have not got done yet, but we have them on our work plan.

Just for a few highlights of what's been going on for the past year with NOP, for some personnel notes, as most of you know, Keith Jones, who is the Director of Program Development for the NOP, has been on a detail, on a congressional fellowship. That is going to last through January. And we're looking forward to having Keith back and available for service. He's a big producer for the Program and an important part of our policy development, has an institutional knowledge that is critical for NOP. And he has been missed and we're looking forward to having him back.

Arthur Neal, right now, Arthur is Acting Associate Deputy Administrator of Transportation Programs. His skills were needed with other parts of the Program. So he's on loan for about 120 days, I think, to go down until they can hire a permanent position down there. So, as thin as we are,
we're a little bit thinner than usual, but we'll work with that.

Valerie Frances, as you know, is the new NOSB Executive Director, settling into her duties very well. We're very pleased with the way that she's settled into the program and we will continue to fine tune her responsibilities. We will be very interested in how the board has viewed her performance. Not so much her performance, but how her duties have met your expectations over the past year. We would entertain comments on that, in writing offline, anything you're willing to offer up in terms of how we can meet your needs with her position because here position was established to serve the board. So we want to make that that's being done. But so far, were very pleased. She's been a tremendous help.

And from a technical standpoint, it's always good to have someone with her level of experience and field expertise to come into Washington, to be willing to drive into D.C. instead of living out in beautiful
Maryland. She can still live out there, but now she comes into the ivory tower and we're welcoming this level of involvement.

And Katherine Benham was promoted this year. Katherine, most of you know, is our board specialist. Katherine was promoted this year and has taken on some new responsibilities in addition logistics and contracts that she has done before. She is also, as I mentioned, dealing with our budget. As complicated as our budget is, it's only $1.24 million but we're hoping for much more. We're waiting on our appropriations to see what happens with that.

But Katherine has also taken responsibility for managing the list of certified operations. Right now, there's roughly 20,000 NOP certified operations. And keeping track of that list on an annual basis and trying to keep the database in a searchable format is what she's been working on right now, doing a great job and it's been a valuable tool already. We're looking for more great things there as well.
Some of the docket work that we have going on. There's a crops and processing document we got a final rule out of NOP this year. It was cause for celebration. I know that it's a frustrating, long, bureaucratic task to get things from the point where someone in the public says we would like for you to do this, and provides us with the information, and gets it to a point where it's gone through all the filters and checks and balances, and finally publishes the final rule. So, we have the crops and processing document is part of the law now, as of September 11. And that, those, the board has been provided with new copies of the rule and the new rule is posted on the website for the public's access.

We've also got a 06-04, which was a proposed rule for crops and livestock. This was mostly involved with sucrose octanoate esters. That's a proposed rule. We received a whopping 12 comments on that. We can work with that level of information. We're working on a final rule right now and
it shouldn't be, you know, five years before that's out. It should be something we can get through very quickly. Sucrose octanoate esters would appear on two areas of the national list for crops and for livestock for mite control.

Let's see, I missed one, though. That's the one that Hugh's going to jump on. Do you want to hold that until the end, that discussion?

MEMBER KARREMAN: Sure.

MR. BRADLEY: Okay. Just so I can get through this and we --

(Simultaneous speaking.)

MR. BRADLEY: There is a proposed rule that closed, it was published July 17th, closed September 15th for the livestock materials. It's a very much needed proposed rule. It needs to be finaled as soon as possible. When it came out, we got over 100 comments. I believe, as of last week, those are finally posted on the website. We're looking at that. It's going to take us a while to process that information.
There were some serious comments on this. The Program worked with FDA to come up with what was available option-wise as far as what we could do for particularly some of the annotations that were included in that proposed rule. We realize that these are, there is confusion on this, a lot of frustration. We're willing to maintain a conversation on that and find out exactly what we can do, as far as allowing those substances to be published as close as possible to what has been recommended by the board.

A lot of angry comments on this. Of course, we get comments ranging from why don't you just do what the board tells you to do, to some very clearly and concisely written comments that provide, you know, exact issues as far as what has been said as far as precedence, what FDA requires, what the federal law requires. And there is some discussion that can be had with this. This is one of the heavier things on a regulatory plate.

Last but certainly not least is
the access to pasture docket. Again, as Barbara said, we hope to have this out. We would have liked to have had this out about three months ago. It's an important piece of work that we have in front of us and this is just the first of a few regulatory pieces that we need to get in place to get everything settled out as far as dairy, in particular, goes. And it's good that we've got the expertise on the board to deal with the opinions that we're going to have on this. When we get the proposed rule out, we'll have a significant comment period. And we're hoping that we'll have a lot of very carefully thought out, useful comments.

We expect volume. We expect that there will be 100,000 comments and, you know, 95,000 of them will be form letters, you know, where people are weighing in an expressing their concern.

We agree that there's value in the quantity and quality of comments. And while this is out for a proposed rule, when it comes out, we would like for the
community to very carefully, and the board as well, to consider what the impact of what we will be proposing will be on their businesses, so that we can give this serious consideration. Once it comes out, we've heard that there's talk in the community, that once this comes out as a proposed rule, that it's actually a done deal and that's not the case. We're hoping for substantive comment on this.

We're going to get it as close as we can. It's been a tough reg to write. It's very invasive as far as how the industry operates. It would be a big change for not just large producers, small producers, but it's going to impact everyone. The level of involvement is going to be significant, so we need substantive comment on this.

So, we're looking forward to getting that out and then we're looking forward to hearing what you all think about it.

Other regulatory activity. Of course we have sunset going on and it looks
like we may get this done on schedule. The sunset docket is at OGC right now. It's moving through. We've got a meeting set up to discuss it as soon as we get done with the board meeting. So, we'll keep you all apprised as far what the status is on that.

There's also a docket that's been published, it's an information collection burden. It comes out every two or three years and this is something we have to do every so often to explain all the paperwork that we require of the industry. I think we got one comment on it the last time that this went out. And I think that was of the nature that says, well, it's too much paperwork. If you have any ideas on how we can reduce the document burden on the industry and on government or, you know, the certifiers, we're always welcome to hear ideas on that. So, take a look at it. Give it just a reality check.

For other highlights for 2006, we did a lot of training this year. I come from a training background and I realize the value of, you know, for standardizing
procedures. It's important that everyone knows what the rules are, how the Program is applying regulations, what the procedures are for accreditation and certification.

So we've trained, held trainings around the world. We did a training at Eco Farm last year and we're going to be doing another one this year at All Things Organic in Chicago. We trained at the Upper Midwest Organic Farming Conference. It was very well attended. At the international level, we went to BioFach over in Nuremberg, Germany and had a training session over there.

And then, in conjunction with the pasture symposium in the NOSB meeting, of course, we had the training session at State College and that one was opened up to the board members. Any time any of the board would like to sit in on these training sessions, if there's one near you, just come on down. Let us know that you're coming and we'll get you set up with some materials.

Also for 2006, we had 6 new certifiers. ASCO, out in California, Primus
Labs, Yolo County, Kentucky Department of Agriculture, and AGRECO, a German certification company, all joined our ranks. Oh, and Certimex as well, our first Mexican certification company. We have other certifiers that are operating in Mexico, but Certimex is the first one that's based there.

Now, on the way out of NOP, five certifiers leave NOP. QC&I surrendered. Stichting Skal surrendered their accreditation. Stichting Skal has Skal International branch, sister organizations that it wasn't worthwhile for them to stay afloat with the level of document burden that was attached to one of them. So, Skal International is remaining.


And, of course, American Food Safety Institute was the first to have their accreditation revoked for cause. Something we don't take particular joy in doing but it's one of the things as a regulating body
that happens sometimes.

For recognition agreements, we have two new recognition agreements this year. First was with India. APEDA, Agricultural and Processed Foods Export Development Authority is their accreditation body. They have a dozen certifiers that are already operating over there, some of which were already accredited with the national organic program directly.

A recognition agreement is not equivalence. All it does is gives a sovereign government the authority to accredit certifiers based on our same protocols, to apply our standards to export products to the United States. There is no reciprocity with it. It's not equivalence. It does not change our standards. They are applying our standard in their country.

The benefits for us on this is that it allows us to focus our efforts on the directly accredited certifying agents. Then we can just work on a one-to-one, sovereign-to-sovereign basis with the governments there. And we are, we'll be --
I'll talk a little bit about a trip that we have set up to go to India to service this agreement.

Also with Israel, we have a recognition agreement that was just issued within the last couple weeks. Their Plant Protection and Inspection Services, which is their regulatory body for this type of function over there. They were, they had, that discussion had gone from a request for equivalence to a request for accreditation as a certifying body and finally, they settled on the most expeditious format for them would be for them to accredit certifiers in their countries, so that they can act as a government body on our behalf over there.

This is particularly advantageous for us because travel in the Middle East is, you know, to say the least, it can be dangerous. There are travel advisories for federal employees in that area. So we were glad to let them handle that one at home.

We have, I guess that gives us eight recognition agreements now. We have
three in Canada. We have the United Kingdom, Denmark, Israel, India, and New Zealand. This gives us a good scattering across the world when you pair this up with some of the direct accreditations that we provide.

For audit activity, we can now say that we have all the initial on sites completed for everyone that was certified with the initial round back in 2002. It was a big job. The internationals, getting the outstanding foreign audits completed was the biggest job. Most of that was from the standpoint of trying to make it, you know, financially possible to get these people down on a cost-effective basis.

The little audits down in, some of the audits down in Bolivia and foreign travel countries that are not, that have travel advisories, have been a problem but we're working with that.

And all of the 2006 annual updates, which were due to be completed this fiscal year, have been completed. The certifiers are doing a very good job.
They're much more responsive now. They're kind of into the groove of, you know, providing their documents on time.

So this was part of our USDA's performance evaluation, is whether or not our industries are performing as required. So it was a very good thing for us to see these things come through on time.

Eighty-seven percent of our certifiers, I'm very proud to say, were in compliance when they sent in their annual updates. Only 13 percent had any major noncompliances and most of these were issues of absences of a required element, something where they administratively not provided as required. Just a very few of them were issues that had to be dealt with seriously. Of course, then you have the folks that were resigned.

One of the surrenders that we had was the result of an onsite audit where they just kind of threw their hands up and said, okay, we see where this is going. We'd like to call it quits, we were asked to leave. And they submitted their resignation. There
was never an action against them. But it was a result of the oversight process. So this is an example of where the system is working and how we're learning a lot as we go along.

The more compliance work, the more inside information we learn to deal with. We've learned the capabilities of these audits and learned their limitations, too. So, we're learning. The learning curve is still pretty steep for us but we're getting there, I think.

With the international audits, as I said, there's a good scattering. There's some, we're working on four or five continents right now. Australia was one of the first on sites that we did, of course. We worked extensively in Europe, North and South America.

One area that has conspicuously not been traveled to yet is China. China's been in the news. We know this. We know that there is a lot of concern about, or unknown issues, about what's coming out of China. We have not really received, we
received two complaints that had been, that come based on Chinese products. Really, the level of complaints that we've had has not been nearly as much as what we've got from other countries or even within the United States.

But our concern with China is that we don't have any certification bodies that are directly accredited in China. So all of our accreditations are, it's like there's four major certifiers that operate in China, IMO, BCS, Ecocert, and OCIA, have major significant numbers of clients over there. We know that this is an international program. We realize that we haven't been there and we're remedying that, hopefully, to get there before the end of the year.

I would think that if we had the accreditation process, what we're wanting to do with that, -- this a time line where certified operations have to, or accredited certifiers have to have their renewals done. And as part of that renewal process, we are going to go to China. We are going to go to
all the countries, not just China, where certifying agencies have significant activity.

The four certifiers that are doing business in China will help foot the bill for NOP to travel there as part of their re-accreditation audit. Those applications are due the 29th of October. Okay, today is the 17th so they have, roughly, two weeks. And out of the 30 some applications that we're expecting, we have two. So, we're expecting a lot of last minute renewal applications. Of course they're not going to submit them early. No one does. It's like turning in your homework. No one does that early. But once we have those applications, then we can make final plans to go to the places where people are stating that they do business. When we did the first round of accreditation, we focused on the home country where they were doing business. We had to spend a lot of time in the office. We did some site visits that were close by. We didn't travel internationally to a great extent, except in
Europe, possibly.

But this year, we're going to be going to all the places where they do business, or most of the places, and China's going to be one of them. And that's the first thing on our agenda, is to get over there so that we can come back with some kind of definitive description of what the controls are and to identify any weaknesses that may need to be addressed. So, we're looking forward to going over there.

We're also going to tie that in with the recognition agreement with India. I'm scheduled to go over there with one of the, the head of the of the audit review and compliance staff the week before Christmas. So it's, yes, they go ahead and schedule things for that part of the holidays because Christmas is not a real big issue over there, so we can travel over there. It's a big issue with my family, so I'm a little bit in the doghouse, but they're pretty used to me being on the road.

For our Program priorities for next year, sunset is the biggest thing.
It's something we have to do. It's regulatory, it's got a time line attached to it. The pasture regulations are right up there. There is nothing more important, in my mind, than getting that resolved and getting an A in PR and getting the process started for dairy herd replacement as well.

606 procedures are also critical. They have to happen very quickly. To get there, we have to have something done with Ag versus Non-ag descriptions so that we're talking about, know what the Non-ag or agriculture going into 606 are. And we need to talk about commercial availability. We're looking for great things to come out of the board, as far as guidance on that or some kind of collaborative decision there.

Dairy herd replacement, I mentioned that. Grower group certification issues. We're hearing lots of concern about that, lost of talk around the list serves that are going around, so we'll be talking about that.

Identification of certifiers on the labels, retail certifications, dealing
with co-packing arrangements, those types of issues are out in front of us and we're going to look at that. Certifier accreditation renewal will be something that's going to be a big focus for us over the next year.

And also, the NOP quality management system. This goes back to the two big things that were presented to the Program. The ANSI audit was a very complete and detailed quality system audit. It identified a lot of work that the NOP needs to do, it's direct for us, it's input from the industry, as far as the things we need to do to have our processes more fully defined. We've, in our minds, addressed them from the standpoint that we've found where the pieces and parts are. But I don't think any responsible program manager can say that we're ever done with that. Quality management is a continuous improvement process and, with adequate funding, we would like to hire a full-time person that will be responsible for quality system management at NOP. We're looking for that. Again I
mentioned that our appropriation hasn't come through yet. We're operating on a continuing resolution but there's some hope that there may be significant increase in funding for NOP and that would be very welcome.

Coming training events, just for dates. I'm going to be meeting with audit review and compliance staff and seven of their key people that will be doing the renewal accreditation audits in Fredericksburg November first and second. This is going to be two days of putting our heads together, setting up game plans, finaling up audit schedules, making sure it's cost effective and making sure all the auditors are aware of who they're going to be dealing with this round of accreditation. We've learned a lot with the last round and we're going to make sure that everyone has taken advantage of that learning curve.

Again, I mentioned I'm going to India. Part of that is going to be training their accreditation body in New Delhi. That trip is set up fro December 18th through
22nd. We will be touring around and spending some time with each of certifying bodies hopefully in the meeting, and with the accrediting body to make sure they fully understand their responsibilities and really answer some questions. There's only so much that you can do by email and teleconference. And this face-to-face is going to be an important part of ensuring that they understand the Program, what their responsibilities are, and what our expectations are, and what the public's expectations are of products coming out of there and the traceability requirements.

Eco Farm. We're set up with NASOP, the National Association of State Organic Programs, to do some training at Asilomar this year. I always try to find an excuse to go out there. It's a great conference. I'm going to try to drag some of the staff out there with me. That training, that conference is set up for the 24th through 27th of next January. I'm thinking the training is probably going to be, it's usually the first day, try to work
it in there, but the exact date will be announced.

Then, of course, we'll be making another trip to BioFach. This is a good place for us to meet with the international certifiers. It's a party that everybody comes to. We generally have about 25 certifying agents, international certifiers represented there. That's set up. Organic Trade Association is hosting that for us, we appreciate that. And that will February 15th. That's already on our dance card.

And that's what I have as far as structured comments. Are there questions that I may be qualified to answer, or Barbara? And she's not here.

CHAIR O'RELL: Yes. Thank you, Mark. I think we have some questions. Joe?


The training sessions, certifier training sessions. Those aren't mandatory in any way, shape, or form, or do they count as part of accreditation? Do people get points for going to them and participating?
Because sometimes the people who don't need to go are always there and the people who kind of do need to go, we don't see them. So I'm just wondering how you deal with participation in the trainings?

MR. BRADLEY: We -- thank you. That's a good question. We don't have the regulatory authority that we've identified to make attendance mandatory. I think that if we said that you have to come to one of those things, it would be like one of those unfunded mandates. If we wanted to pay everybody's way and have them come and pay their travel and put them up in hotels and do that, I think we could say, you know thou shalt come, and they probably would.

The way that we presented this is that we said it's really to your benefit to come. There will be information there you will get no where else, there is networking that is very beneficial. And it's just like you said, some of the folks that come, the ones that really need to be there, that we would really like to visit with, don't necessarily come. They are still
responsible for the information that we present.

There's nothing new that comes at the training sessions. It's clarifications, it's case studies, it's answering frequently asked questions, it's hot topics. We have a lot of fun. There's a lot of good discussion that comes to the program as well.

We're actually kind of billing them as more certifier meetings than training. They don't really get points or credit for it. Like I said, there's nothing mandatory but it does lead us to a conclusion. For those that do come, we know that they heard the information. We take attendance. And if you're there, you're bound by the information that was presented. If you're not there, you're still bound by the information insofar as that it's part of our regulations. So it's not required but we would really like it to be. And if the board wants to make a recommendation like that, I'm just, I'm all ears.

CHAIR O'RELL: Okay.
MR. BRADLEY: I think it would require some kind of funding to make it mandatory.

MEMBER SMILLIE: The second question has to do with oversight of the government recognition agreements. I'm a little fuzzy on that. It looks like your program for India is clear and outlined and I think that that's wonderful. Does that mean that you've done the same for each of the other recognition agreements?

MR. BRADLEY: We have not. We have not traveled to these countries that have recognition agreements. It's been done in the past on a sovereign-to-sovereign basis, where we recognize them as a sovereign government with the regulatory authority to act. But, and new sheriff in town, I've had some different ideas on this. And that's why we're going to go to India and we're going to go everywhere else as well.

I think there's -- training has to happen. There needs to be a question and answer dialogue going on between the
recognition bodies. We see questions coming out of the products or the producers of products that are produced under these recognition agreements frequently get deferred to the National Organic Program. We would like for all of the recognition agreements, all the accrediting bodies that are acting on our behalf, to be so knowledgeable and so well schooled in NOP, through open dialogue and a closer relationship, that the questions that come to us are more obscure, they're really things that are not basic, very basic issues.

And then this is, again, something that's going to cost some money. We do not charge for trips on recognition agreements. There's no funding, there's no requirement for audits. Maybe this is something we need to change, but this is something on NOP's ticket. And this is one of the things that, if we get additional funding, will absolutely happen. We've made the commitment for India because that's going to be the new drill, is once we get
your recognition agreement in place, we schedule a visit and we make sure that you understand your responsibilities and that you're really truly qualified, just like we do for a certifier. We'll allow him a little time to operate and to identify who their certifiers are, but there has to be close monitoring. And I don't know why it hadn't been done in the past. It's probably funding, it's time, it was just trying to get the program in place. I'm thinking we'll do a lot more detailed or a lot smarter type of accreditation audits as well for our certifiers.

CHAIR O'RELL: Andrea?

MEMBER CAROE: Mark, actually Joe asked my question, but I have a follow-up on that.

For those products that are coming in certified by an operation that is accredited to an organization that is recognized by the program, the enforcement on those, if those products come into question, what is the procedure? I mean, would you be investigating that certified
operation? Would you be investigating the accrediting body? Would you be investigating the certifier? I mean, how, what is the line of authority in those agreements in how you actually, you know, enforce, these regulations of this standard on those bodies?

MR. BRADLEY: The authority that's assigned, it is as though we have taken NOP, the National Organic Program, with its accessory compliance staffs and auditing staffs, and planted them into the U.K. or Denmark, or Israel, and wherever. And that's what we look at when we do a recognition agreement. It's ISO, well, it's a 17011 now, assessment system where they have to have those processes and authorities to do exactly what we do in their country, for their certifiers that are operating in that country. So they have to have the same compliance mechanisms in place.

MEMBER CAROE: But I'm not talking about the investigation into whether the agreement should be set. But I'm saying if a product is identified on the market for
being questioned as far as its compliance, how does that investigation happen? Barbara's got her hand up.

MR. BRADLEY: That's why I'm saying, this has, they have the same authority as NOP in that country and they do the investigations and they do the enforcement.

CHAIR O'RELL: Barbara, did you want to --

MS. ROBINSON: The sovereign body is supposed to do the investigation. The sovereign body that we've recognized does not do the investigation as we would. And what Mark is saying is that then we start having discussions with the sovereign body and say, why aren't you doing what we would do in following through on the investigations?

MEMBER CAROE: So, if a U.S. consumer calls into question a product, they should wage their complaint to that agreement -- to that accreditation body and not the program. Is that what --

MS. ROBINSON: It works no
differently than it does here. You know, you start with a certifying agent and work your way up to the accrediting body, just as it would here. And in this case, you know, we would probably be the liaison with the sovereign body and help out in that regard. But first, it just starts with a certifying agent --

MEMBER CAROE: Okay.

MS. ROBINSON: -- as it does here. You know, we contact a certifying agent and say what's going on.

MR. BRADLEY: That's what I was saying, Andrea. They have to have the mechanisms in place before we would grant them recognition as an accrediting body.

CHAIR O'ReLL: Nancy?

MEMBER OSTIGUY: I'm going to go back to the beginning of you remarks. And thank you very much for getting things through that very long process onto the National Register. We're all very appreciative, I'm sure.

What I also want to say is that while it's a very long process, I much
prefer the one that we have than what we would have if we weren't a democracy. And the fact that it takes so long is because we all have to be able to have our says. And that's okay by me because I wouldn't want it to be otherwise.

So, thank you very much. And it's okay that it takes that long because you have to listen to us.

MR. BRADLEY: Well, thank you. We'll try to expedite it to every extent possible, though.

MEMBER OSTIGUY: Well, yes but you do have to listen to us, so that takes time.

CHAIR O'RELL: Hugh?

MEMBER KARREMAN: Yes, I'd like to just add on to what Nancy said, but also specifically thank Toni Struther and Arthur Neal for shepherding the livestock materials through the FDA process. And now that they're on the ANPR in the form that they are, I believe that the industry and the animals will be better served and hopefully, there is a final rule proposed soon.
So thanks again for doing that for four years, I think, it took of your time. But like Nancy said, you know, there are processes, checks and balances that we have to respect and go through.

Then I just wanted to ask Barbara, from what you were saying with your comments, is there anything we can do as an organic community to get more funding for the NOP? I mean, the organic industry is growing at 20 percent a year and regular conventional agriculture is generally a flat line growth. So you'd think that the USDA would put more resources into the organic program. Is there -- what can we do as a community? Is there anything we can do?

MS. ROBINSON: Well, as board members, you can't. You know, we've explained that to you before. As board members, you can't lobby, obviously. And as federal employees, neither can we. We're bound by the President's budget. This is the first year we were able to get a budget increase in the President's budget and we were very excited about that.
Now, we do have a budget increase on the Hill. Unfortunately, we're stalled in a continuing resolution. There has been an effort underway to divert part of that increase away to cost share. And we're hopeful that that doesn't occur because, frankly, the states, according our bookkeeping, our records, the states barely use 40, at the most, have only used 40 percent of the money that we have given to them for cost share. So, we don't think that's necessarily the best use of the budget increase. We would rather see Congress come up with additional money for cost share, if that's what they want to do. But, and we are hopeful that the House will restore that money. I think the Senate was where they tried to take the $500,000 out of the $1 million increase. And even at that, we're not talking about sizably increasing this budget.

Yes, sure. If the organic community is so inclined, yes, I guess the organic community can go and lobby Congress. I have gone to the House and the Senate and
explained our resources and explained what it is we try to do. And, you know, I don't know how I can make it any plainer, without saying we need more money, which I'm forbidden to do. You have a trade association. The trade association, in my understanding, often makes this case to Congress. But we also live in a world, understand, it's a pay-as-you-go Congress these days. Whatever they give to one program, they have to take away from something else.

So, you know, I hear you, Hugh, and it boggles my mind every single day. I don't understand it anymore than you do. And you know, I don't know. But you're the industry. You know, you have go and do it. We can't do it. You can't do it as board members. So, you know, you can get organized. I mean, I've seen you do it. So, --

(Laughter.)

CHAIR O'RELL: Now, just to be clear. As board members, you can't do that but as private citizens you can do that.
UNIDENTIFIED SPEAKER: What, get organized?

(Laughter.)

CHAIR O'RELL: Lobby for funds.

Bea, did you have a comment?

MEMBER JAMES: Yes, I just wanted to make a comment on Hugh's question. I think part of the problem is, also, that you're talking about a very very large industry of conventional products that generally take up most of the industry. So, when you're talking about organic sales, that's still a single digit percentage of the overall $550 billion industry of retail food.

So the more money that we, I believe, that the more this industry grows, than the larger it speaks to probably capturing that funding.

MR. BRADLEY: Anything else? Any other questions for me or Barbra?

(No response.)

MR. BRADLEY: Thank you.

CHAIR O'RELL: Thank you, Mark.

And thank you, Barbara.
We are exactly on time. That is good. We're scheduled for a break now. So we're going to have a 30 minute break. What time -- 15, sorry. That was wishful thinking on my part. A 15 minute break and then we'll be back here to take up the Pet Food Task Force. Thank you.

(Whereupon a short recess was taken.)

CHAIR O'RELL: Okay. We'd like to resume with the National Organic Standards Board meeting. Next up on the agenda was a Pet Food Task Force update and discussion that was going to be led by Nancy Cook. But I don't believe Nancy is here. Is that correct?

(No response.)

CHAIR O'RELL: And Emily has graciously accepted and offered to step in, at the last minute, and give us an update and report. Emily?

Pet Food Task Force Report Update and Discussion

MS. ROSEN: Hi, I'm Emily Brown Rosen. I'm the Secretary of the Pet Food
Task Force and I gave a little update, I guess it was, one of these last meetings. April? It seems like a long time ago.

Yes, I guess -- I'm sorry Nancy's not here. I'm not sure what happened. So I didn't really have anything major prepared, but I can talk for a few minutes about where we're at.

The Pet Food Task Force have been meeting for like a year and a half. We came up with a draft proposal on revising the regulations to accommodate pet food more specifically and that's been since last April and was provided to you at the last meeting. Since then, we've left it open for comment and there's only been about four or five comments filed on the document.

The task force also worked further to develop a labeling guide that is now also posted on the website that talks about, gives examples of labeling categories and helps to combine the proposed organic labeling categories, along with the existing, conventional pet food labeling rules. So, it's a little complicated but
that was a little bit of a work of art to try and lay those things over each other so that they can be used by industry. But we're -- that's up now also for any feedback and further comment.

But our plan right now is, we've had another meeting this summer and gone over the weight of the comments that we received. And what we're going to do is revise that draft and leave it in revision mode with the comments that people have made and then hand it back to you. And I actually have that mostly done, but I haven't gotten to it yet. But I'll try and get that to you in the next couple weeks and then it will be the board's job to take this one and decide what to do with it. You know, go for it, not go for it, make changes, etcetera. So, we're basically done and we're willing, you know, to sort of stay around as a virtual task force, but and you know, if you need more help with it. But at this point, I think it's pretty much ready to go and it's up to you to move it forward.

So, yes, and it's been a really
good group. We've had really good meetings and there's been a lot of contribution from different parts of the organic and nonorganic pet food world.

So I don't think it's really hit the fan yet in the sense of the wider world recognizing or paying attention. So that's going to be important to get more press for it. I did give a presentation this summer at the AAFCO meetings to walk them through it and explain the whole thing. And there was a lot of pet food people in the audience and there were a lot of questions. And I think there's a lot of interest, too.

Julie?

MEMBER WEISMAN: Can you tell people what AAFCO is? Because it's a lot of acronyms.

MS. ROSEN: Oh, yes. Okay. AAFCO is the Association of American Feed Control Officials. They are the body that is charged with regulating pet food. It's regulated as a sort of subset of livestock feed in the real world and, other than the organic world, and so this is not done
federally, it's done at the state level.

And they have an annual meeting where all the state appropriate officials get together and argue about their rules, because they have a set of model rules that they publish. And then that gets adopted by each state, more or less. So, it's another whole bureaucracy that's out there we need to fit in with.

I think that's it. As I say, we're going to give you one more draft that includes some of these comments that were mostly good suggestions and we are, I think there needs to be some more outreach to get more people in the pet food world paying attention.

I mean the other point is, that there are certified organic pet food products on the market now already and there's getting to be more of them. So it would be good to move kind of promptly on this before a whole lot more products out there that might end up being mislabeled and that sort of thing. Because this really kind of pins down what they can and can't
say on the labels and what the content is like.

There is going to need to be a couple of items petitioned, particularly taurine, I think is the one that we need to encourage the manufacturers to petition because it's an amino acid that's pretty essential for cats and apparently there's reasons why they can't find a natural form. So, that's not on the list yet, so that's going to be probably the first one you'll see. I've been trying to tell them that they need to petition, but you know, it's slow to get that to happen.

Okay. Anything else?

CHAIR O'RELL: Julie?

MEMBER WEISMAN: Yes. I just wanted to make one comment to Emily, as the proxy stand-in for the rest of the task force that it's quite an impressive amount of work that was done. And I came into it a little bit, you know, late in the game for a part that I though was just incredibly complicated. That whole business with the labeling and how to make all the different
scenarios. You know, if people have a chance to read that part of it, it's quite complicated and you guys did a pretty amazing job of like distilling it down to, you know, understandable scenarios.

So I just, I think the task force is really to be commended for having been able to pull that off.

MS. ROSEN: Well, thanks. Actually, it was hard because, you know, there's not really two people that understand both organic and AAFCO. And I tried to do that but it was like speaking two languages. But hopefully, it will be useful to everyone who reads that. Okay.

CHAIR O'RELL: Joe?

MEMBER SMILLIE: Yes. Again, that's important work what you're doing.

I also, my question is more directed to Mark on what the current position of the NOP is versus on the certification of pet food. Again, we're not talking pet treats, but pet food. Where does the program stand on the proliferation of certified product on the marketplace, the
pet food marketplace, in the marketplace?

MR. BRADLEY: As far as what the standards are for that?

MEMBER SMILLIE: Yes.

MR. BRADLEY: The same standards as everything else. The August 23rd memo.

MEMBER SMILLIE: Okay.

MR. BRADLEY: Now, are you talking about the difference between that and livestock feed?

MS. ROSEN: Well, we did have a conversation with Keith Jones when the task force was underway about that. And his message, I think to the manufacturers, was that, you know, we're working through this. In the meantime, if you can do it, you can do it. It's certified and it's okay to have the label on it in the current time period. Because that was, you know, we had members on the task force with certified products and the message was, you know, we're not going after you individually now. We're going to talk about this. This is in process. And then the August memo came out after that. So that's basically what
certifiers are doing.

I'm not sure exactly what parts of the rules certifiers are using, but they're doing it and it hasn't been contested. And so there's product out there. I think mostly, they're following processing rules. But it's not clear altogether. So, --

MS. ROBINSON: Okay. Pet food isn't livestock feed. Pet food is -- people buy pet food. I mean, pet food is --

MS. ROSEN: True.

MS. ROBINSON: -- a consumable product. Pet food is covered under the August 23rd memo.


MS. ROBINSON: That's all.

MS. ROSEN: Uh-huh.

MS. ROBINSON: So, if it meets the standards, and it's eligible by content to be labeled, then it can be labeled.

MS. ROSEN: The question comes up when there are some things allowed on the livestock list that are not on the processing list, or vice versa, which
materials can you use. So that's where I think there's been a little, probably, give in what people are in enforcing.

But we are classifying it as, in the conventional world, it's regulated as livestock feed. It's a subset of livestock. It's FDA statutes of identity are all part of the livestock feed standards. So that's why we've chosen to go that route as far as crafting the regulations, but with adding the labeling components as per human food.

And we've also proposed that everything on 605, provided it's suitable for animals, can be fed to pets. And everything on 603. So, we've kind of said the best, you know, we've identified specifically which parts of the rule apply. So that should help.

MS. ROBINSON: Remember too, at the bottom of that memo that is says that if there are additional standards that need to be proposed and developed, those would be incorporated under the regs. So, you know, if that has to happen, then we would get to that, too.
But in the interim, you know, you just meet the standards.

CHAIR O'RELL: Bea?

MEMBER JAMES: I have two questions for you, Emily.

During your work on this summary, did you discuss the fact that a lot of people and I know this may seem humorous but it's the truth, a lot of people consider pets almost like children and that they really don't like to feed their pets anything that they really wouldn't consume themselves and the consumer perception around some of the decisions that you made and how that might be perceived?

MS. ROSEN: Right. That came up, I think, in a discussion of slaughter byproducts, feeding animal products in general. I mean, there was quite a bit of discussion about, you know, allowing them at all or limiting the types that could be allowed, or, you know, something more restrictive.

And there was talk about the consumer interest in that and basically, the
way that there was too much objection to putting that in. There was a feeling that that could be market driven. People can make additional claims that no slaughter byproducts, if they don't want slaughter, or only pure organic chicken, or whatever they're going to make on there, that that would be unduly restrictive on the formulation.

So, but certainly we expected public comments on that. We really haven't gotten any to that effect. So, it might be good if you, if that wants to go out to more the consumer point of view, to get more feedback on that.

MEMBER JAMES: Okay. And then my second question was on page seven, subpart B, 205.105.

MS. ROSEN: Okay. I'll find it in a minute here.

MEMBER JAMES: You have allowed and prohibited substances, methods, and ingredients in organic production and handling. And you list, A, synthetic substances and ingredients, except as
provided in 205.601, 205.603, and then you list it again under E and it's underlined, so it would be a new addition.

MS. ROSEN: The underlines are new, yes.

MEMBER JAMES: And I was wondering if you could explain, you know, how those two really are different and why you couldn't just go with A?

MS. ROSEN: I'm going to have to look at that. I don't have it front of me. But I'll go over it with you, if you want. I didn't come prepared to look at that.

Oh, I now, there was one other point I wanted to make on the slaughter byproducts, which was, if we prohibited -- well, I guess the other argument, not argument but discussion we had was on some restrictions which we felt would be more restrictive than the food rules. I mean, we basically stayed within the paradigm of the way food is regulated, too. So, you know, there's all kinds of meat products in human food and we're talking about organic meat byproducts.
MEMBER JAMES: Right.

MS. ROSEN: They're not restricted in human food.

MEMBER JAMES: Sure.

MS. ROSEN: So we didn't feel like the pets should be more restrictive than the human food.

MEMBER JAMES: Right, I understand that. I just know, as a retailer, that the consumer that generally buys organic pet food has pretty high standards about their pets.

MS. ROSEN: Right. Yes, I can believe that. Okay.

CHAIR O'RELL: Dan has a question.

MEMBER GIACOMINI: This may be more for the Program, so Mark, a large part of this document included the aspects of made with organic. But I notice that on the item for public comment, it refers that to the regulations do not allow a made with organic label claim. Is that, how do those two fit? Is this something we can -- is that the current regulation and this is
something we could possibly modify through NOSB or is, what is it going to be? Is there a potential problem with a made with organic claim for pet food?

MR. BRADLEY: Our regulations don't allow made with organic?

MEMBER GIACOMINI: I'm looking at the item for public comment document that went out. I don't have a date on it.

MS. ROSEN: I could maybe address that, if you want. I think what that was referring to is the fact that livestock rules don't allow for a made with organic product. So, if we're applying, that's why we needed to do the job here. If we're going to reconcile livestock and processing standards, there was clearly a need for made with organic pet food category.

But some of the other things about livestock rules fit better than the food rules. So that's why those three labeling categories are in the proposed pet food and it does take a regulation change to make that clear.

MEMBER GIACOMINI: So, we would
need a regulation change --

MS. ROSEN: Yes.

MEMBER GIACOMINI: -- to allow for that within pet food?

MS. ROSEN: Right. I mean, well, as Barbara says, you could certify it as if it could meet the processed food standards, that's the alternative, and not make those other changes. But we feel, overall, if it's better --

MEMBER GIACOMINI: Well, that would just have a huge impact on what we need to be looking at adding on the national list, if, whether we can, the made with organic is a viable alternative.

MS. ROSEN: It certainly is. I mean, I think it's going to be probably the major category for a while.

All right. Valerie asked me to remind you, too, that when people are formulating pet food, companies are manufacturing pet food, they have almost a higher standard than human food, in that if they're going to make a claim for a complete and balance food, it has to meet the total
animal nutrition requirements. So that's why it's important to have the regs clearly adapted for, you know, identifying the materials and you know, what's allowed, not allowed, agricultural, nonagricultural, that sort of thing. Because they don't have, you know, they have to still total nutrition requirements. I'm sure you're aware of that.

So that makes it, all the ingredients have to be approved by AAFCO, have to be listed, or an FDA oversight on them. You know, they can't just add stuff that's not already approved. And there's a whole big regulatory scheme set up already for that. So we just have to fit into that and add on to it, the organic flare. And that's why we thought really hard about where to put it in the regs.

CHAIR O'RELL: Andrea?

MEMBER CAROE: Really quick, Emily, I see that you've referenced both 205.603 and 605, --

MS. ROSEN: Right.

MEMBER CAROE: -- as allowed
materials in the nonorganic portion. It seems to me that 603 does not apply. These aren't livestock. These animals are not livestock. As an alternate solution, knowing that these things are needed for animals, was there any consideration during the task force of recommending that these things be included on 605, these items that are on 603 right now, being petitioned and put on 605 for use in --

MS. ROSEN: It could be done that way.

MEMBER CAROE: -- pet food?

MS. ROSEN: It seems like a bulky way to do it. If we can just say, these are universe of what's allowed. I mean, I know NOSB, years ago, recommended that all items on 605 should be allowed for a livestock feed, too, provided they meet FDA requirements for livestock, and that hasn't gone anywhere. But we thought we'd try it this way.

I would disagree with you. They are appropriate for, feed additives used in livestock are the same feed additives used
in pet food. Pet food standard of identity, as in the AAFCO publication, is all, they all have to be in that book and they have to be reviewed by the, you know, the FDA has oversight on that.

So there is, you know, there's a lot of those additives that are used to formulate products as carriers, additives, etcetera, rosemary, etcetera. There is a lot of reasons why the livestock list should apply. Also, the fact that the assumption is that Naturals are allowed in pet food. Naturals that are not on the national list. Whereas, for processing, all the Naturals have to be specifically listed. So, that's another reason to go with the livestock structure on the list and say Naturals are allowed without all having to appear.

MEMBER CAROE: I agree with you that it is an easier solution. I just don't know that it is as well grounded in the regulation. I mean, we do have things listed on two separate lists that are the identical material.

MS. ROSEN: Well, I mean, this is
a path to choose in the future, too, for other sectors, too. I mean, is it easier to have, I mean, we could have done it that way, just have a whole separate section of the rule, with these are the livestock standards, this is the livestock list and repeat all that stuff. I thought it was better to try and blend it in to the existing regs. You know, it could have been done the other way.

MEMBER CAROE: Well, I'm not suggesting that you disregard 605. I'm suggesting that you disregard 603 when you're talking about pet food because it is processed food. And so 605 and 606 become, clearly, applicable. But I think that 603 just kind of confuses the matters a little bit because as the Program has stated in their memo, that it's not livestock. And I want to come up with eloquent solutions --

MS. ROSEN: I don't think they stated that.

MEMBER CAROE: -- in order to accomplish what you're trying to do. You know what I'm saying? So, I just put that
out there to see if you had considered it, or if you, you know, feel that there would be any, other than ease and --

MS. ROSEN: Well, I think that the premise from the committee was we'd start with livestock and then we thought we would add in the bonus of also considering the food additives and such that are already listed, because those, you know, that are appropriate. I mean, there is going to need to be -- well, maybe or maybe not. It would good to screen the list and make sure that everything that's eligible for livestock and pet food is identified that's on 605 and everything, you know.

But pet food manufacturers have to comply with FDA anyway. So they will know that, too. But, you know, it would be good as far as certifier training and that sort of things. And that's another thing. We're going to need, I think, certifiers and the pet food officials that are regulating labels. Because they actually can do us a very good service because they look at labels all the time. So there will be
another, once this gets finalized, there will be another set of eyes out there looking at products and calling to the attention of certifiers if stuff is mislabeled or whatever. So, it would be helpful to have some training sessions with the state officials and also with the certifiers, once we get further down the road here, to help, whichever path we end up choosing.

CHAIR O'RELL: Thank you, Emily. We appreciate you standing in at the last minute.

Public Comment on NOSB Action and Discussion Items

CHAIR O'RELL: We're going to begin our public comment period. Let me just read from our policy manual, the NOSB Policy for Public Comment at NOSB Meetings.

"All persons wishing to comment at NOSB meetings during public comment meetings must sign up in advance. Persons will be called upon to speak in the order they sign up. Unless otherwise indicated by the chair, each person will be given five
minutes to speak."

And I would appreciate if you come up, if you have a proxy for an additional five minutes, at that time please let us know. Bea will be keeping the time, the five minute time and she will give you a one minute warning. And if you do not see the one minute warning, it is not her fault. The five minute period will end at five minutes.

"Persons must give their names and affiliations for the record. A person may submit a written proxy to the NOP or NOSB requesting that another person speak on his or her behalf. No person will be allowed to speak during the public comment period for more than ten minutes." That's with the proxy.

"Individuals providing public input will refrain from any personal attacks and remarks that otherwise impugn the character of any individual."

The first up for public comment session will be Brian Baker. And Brian will be followed by Jim Riddle. We're going with
the big guns right off the bat.

MR. BAKER: Hello. I'm Brian Baker, Research Director of the Organic Materials Review Institute. I should have a proxy from Dave DeCou, Executive Director of the Organic Materials Review Institute.

I really appreciate all the work you've been doing and know you have a tough job. We want to do what we can to make it easier.

First I'd like to thank you very much for your work on the petitions. We support your recommendations from the Crop Committee to not add lime mud, sodium lauryl sulfate and sulfuric acid to the national list.

We also support maintaining the current annotation of calcium chloride. And we strongly support and really thank you for the sunset of colors that were not recommended by the NOSB in the first place and look forward to a case-by-case review of those as agricultural or nonagricultural, as appropriate for the individual colors.

So, moving on to this question of
the clarification of the definition of materials, understand that much of this is driven by the misunderstandings or confusion, call it what you will, about whether things are agricultural or nonagricultural and whether they belong on the list of nonagricultural or the list of agricultural substances allowed in processing. We see these questions as not just isolated in processing, but would like to see consistency and also hope that this is an opportunity to get some clarity on the issue of food contact substances. We get questions from our subscribing certifiers, from the public, from processors, vendors, suppliers, all the time about this and really don't know where in the regulation they fit or how that is all, how that all fits together with the past NOSB recommendations and what's in the rule.

We're concerned that the decision making process on synthetic and non-synthetic is not going forward at this meeting. We see the question of what's synthetic and what's non-synthetic as
related also to what's agricultural and nonagricultural, and also the clarification of the definitions. And we hope that this is just a short delay. We hope that it moves in but we ask that you not address agricultural or nonagricultural until after you've worked out what's synthetic and what's non-synthetic because we see that the two are very much related to one another. We think it's oxymoronic to have something that's synthetic and agricultural. It just, that's the way -- the NOSB has set its precedence on making these decisions. We understand that processing is different in that you have a definition of processing and that things that are chemically changed by cooking, baking, and so forth are non-synthetic, but we also understand that there are chemical reactions that take place that are synthetic that have agricultural precursors and that would open a huge Pandora's box that I don't think we're prepared to close right now.

This whole question of classifying single-celled organisms as
agricultural, we think is premature and really needs further discussion and explorations on what the ramifications would be to reclassify. For example, yeast or dairy cultures as agricultural, especially so soon after the September 11, 2006 addition of microorganisms to the national list. I really thank the NOP for getting that on the national list and for everything else that was on that docket, by the way. And it affirms that the system works. It might take a while, but things eventually end up where they're supposed to be.

Having gotten it there, it would, a hasty change would have implications in crops and livestock that really need to be explored. And this whole question of what is an organic microorganism, every organic farmer out there knows that microorganisms are part of the agricultural system. That's not what the problem is. You've got rhizobial bacteria and things like that.

So, is it microorganisms that come from soil that's been managed organically for three years, for example? I
mean, can we take streptomycetes from an organic field, culture it on an organic media and then have organic antibiotics? The implications need to be explored seriously.

And also, we'd like to see what farmers think. I mean, what do farmers think about organic microorganisms. So, --

(Timer sounds.)

CHAIR O'RELL: You had a proxy, so, is what you indicated. Is that correct, Brian?

MR. BAKER: That's correct.

MEMBER JAMES: You have another five minutes.

CHAIR O'RELL: So, you have another five minutes. MR. BAKER: And if I need to get a physical piece of paper that says I have a proxy --

CHAIR O'RELL: No, no.

MR. BAKER: -- I'll have to do that after --

MEMBER JAMES: No, my timer was pre-set.

CHAIR O'RELL: That's fine. It's
just the timer was set for five minutes.

MR. BAKER: Okay. Moving on to commercial availability. Most of our work with commercial availability is in the seed world. And we are developing, we have online live.seeds.omri.org and we're hoping that that will become a platform for certifiers in the industry to find out what seed sources are available organically. Rich Theurer will talk tomorrow about the prospect of using that as a prototype to move into the agricultural ingredients world.

And we support the intentions to grow in the organic industry but we're concerned that getting too many things on 606 will have the opposite effect. So the whole petition process is very important to see that things are not added to 606 that will have adverse affects on the growth, the organic sector.

And at the same time, the criteria being used to evaluate, we're concerned that the proposal will just make it too difficult to screen these out
quickly. They need to be addressed quickly. We don't see it as the NOSB's role to prescreen commercial availability. We'd like to see the criteria that are in the Act used and, also, would like to know what's happened to the two, I know it's not the NOSB's, but ask the NOP what's happened to the two agricultural ingredients that were recommended to be added to 606, gelatin, and shellac. And if those have, if there are good reasons for those not to be proposed or moved forward, I think that needs to be communicated to the NOSB, the technical reviewers, and the public, in order that we can understand better how to move ahead with other agricultural ingredients.

With respect to manure management, we're really pleased to see that that's on the agenda, that's moving ahead. We understand that pathogen reduction is very much in the public's mind. We want to see that the standards help protect the public, without adding undue burden to farmers, that they really achieve what they can to improve food safety. Concerned that
there's not data to support what some of the specific recommendations are but we're not prepared, at this point, to come up with another alternative. We just see this as a work in process that's going to need continued research and continued vigilance.

I think that we can't -- I mean, to talk about the synthetic substances in the Compost Tea Proposal, only those synthetic substances that are on 601 should be allowed for use in sanitizing disinfecting the equipment. So, you've got chlorine, you've got hydrogen peroxide. But we don't want to see aqua ammonia or things like that introduced that could potentially be used to fortify compost tea products.

And with that, I ask if anyone has questions?

CHAIR O'RELL: Brian, thank you for your comments. Just a couple of comments from me and then I'll see if there's other board members that have questions.

Certainly, in relation to putting forth a recommendation of synthetic/non-
synthetic with Ag/Non-ag would have been our ideal situation as well. I think you were here this morning and heard the comments from the Program and why that didn't take place.

MR. BAKER: I understand.

CHAIR O'RELL: But we certainly do agree with that track. It makes sense.

And as far as food contact substances, that is something that's a priority with the Handling Committee. It was, in part, to be addressed with the synthetic/non-synthetic issue at that time, as well. So, it's there. We recognize it. I just want you to know that it's something that is high on our priority list to come out with some thought and recommendations for.

Are there any questions? Barbara?

MS. ROBINSON: On the two materials that you asked about, Brian, they were never put through for 606 commercial availability. So, we didn't reject them. And because of the first Harvey case, they
actually still can be used up until next year, until June 2007. They need to be re-petitioned to be put back on 606.

MR. BAKER: Have the petitioners been informed of this?

MS. ROBINSON: That I don't know.

CHAIR O’RELL: For the record, Kim --

MS. ROBINSON: They were voted on, they were recommended, we did not dismiss the recommendations. Go ahead, Arthur.

MR. NEAL: Arthur Neal, for the record, National Organic Program. We recognize the fact that those two substances were recommended by the board for inclusion on the national list, I think it was 2003, if I'm not mistaken. And you have to realize, at that time, there was no 606 petition process, nor was there a commercial availability assessment done because those were considered to be agricultural.

And so, for the petition process to be complete, we recognize at Program level, if you're going to affirmatively add
those materials onto 606 themselves, they need to go through a separate review process. Those particular materials came through under the synthetic review process. there was no assessment conducted based on commercial availability and things of that nature which we are discussing today.

So that's why you did not see them affirmatively listed there in 606. However, we did not preclude anybody from using those substances. For anybody who is going to use them in the future after 2007, they will need to be petitioned so that they can be positively listed on 606.

CHAIR O'RELL: Thank you, Arthur. Okay. Thank you, Brian. Jim --

MEMBER GIACOMINI: Mr. Chairman? Just in case he has to slip out, I would like to recognize and welcome Arthur Neal at our meeting, since he wasn't here this morning.

CHAIR O'RELL: Yes, welcome Arthur.

Jim Riddle is up next and following Jim will be Grace Marroquin.
MR. RIDDLE: And I have a proxy from Alexis Baden-Mayer and I gave it, in writing, to Valerie.

CHAIR O'RELL: Thank you, Jim.

MR. RIDDLE: Yes. My name is Jim Riddle. I am Organic Outreach Coordinator for University of Minnesota and would like to invite everyone to visit our new organic website, organicecology.umn.edu. I've been an organic inspector for 20 years and recently graduated from the NOSB academy. And I speak today on my own behalf.

It's a pleasure to be here and I would like to commend the NOSB members and all of the task forces and the NOP staff for all of your hard work over the past several months. I am genuinely impressed with the level of work that you've done. And I'm pleased that you're maintaining and continuing to improve the board policies and procedures manual. And the new member guide looks to be an excellent and helpful resource for new appointees and I encourage that any future Federal Register notices for applicants for board include a link to that
and to the board policy manual so that people have a good idea what they're signing up for.

I do endorse all of the NOSB's materials recommendations on your agenda. The organic seed discussion document and the Pet Food Task Force report, with no changes to any of those.

On the draft recommendation for commercial availability criteria, I see that as a significant improvement over the version that was presented in April. It provides more clarity on the type of information that's needed by the board to make commercial availability determination. And I encourage its adoption.

I further urge that the entire document information needed on a petition be posted in the Federal Register notice as final rule. It's still operating only as a proposed rule. The entire information needed on a petition has never been finalized.

On compost and compost tea, I really appreciate the work of the Crops
Committee to merge those two task force reports into one recommendation. I have a few suggested changes. And in the third sentence of item number four, you have the word "should" and I think it should be changed to "must", to read that "compost tea must be made with compliant compost and/or vermicompost" etcetera, etcetera. The use of compliant compost for compost tea should not be optional.

In the third paragraph of item four, discussion of raw manure extracts or teas says that they can be applied to the soil. But in the rule in 205.203(c), it requires that raw animal manure be incorporated into the soil so I suggested the text be changed to match up with the regulation for the use of raw animal manure.

And I don't understand, in the very last paragraph, why compost extracts may be applied without any restrictions. And I would suggest that the same restrictions that apply to compost tea also apply to compost extracts.

On hydroponics, I support
surveying the ACAs regarding the certification of hydroponic operations. But I think that all ACAs should answer question number six on your draft, not just those that are currently certifying hydroponics. In addition, I think that you should ask ACAs that do certify hydroponics to provide the citation numbers from the rule that they apply when they're reviewing hydroponic operations and any specific guidance or interpretations that they've developed for hydroponics. And also, to request copies of the organic system plans and inspection report forms that they use for these type of certifications.

The information on certificates, I say bravo on recommending that expiration dates be required on organic certificates. As you may recall, it's been a contentious issue ever since the former program manager interpreted the rule as prohibiting the inclusion of expiration dates.

I have one request. I would like your rationale section to be expanded to state that expiration dates are also
important for organic farmers in order to receive crop insurance because that is issued for a set period of time. Also, it's important for the certification cost shares, where states are looking for verification of a set period of certification and when someone is applying for a research grant, that same information is needed.

I offer several changes to your standardized certificate recommendation. The new item number five really should read "the organic crops and/or products produced by the operation." As you know, organic certification is a process based, not a product based certification. While I agree that it's important to list the products, I think it's important that the wording reflect that type of certification. I think there should be a new category added and that is the labeling category for the organic products produced by the operation, in other words, whether it's 100 percent organic organic or made with organic. Critical information for compliance and purchasing purposes.
Concerning that new proposed item C that says what size the paper needs to be and with three inches left at the bottom, I think that's overly prescriptive and should be removed. Almost half of the USDA certifiers and all of them under recognition agreements, are located outside the U.S. We live in a metric world. Eight and one-half by eleven inch paper and three inch margins are not world-wide standards. And I can imagine some paperwork reduction act requirement problems implementing this.

If addendums are used as part of a certificate, I think it's important that the master front page be required to make reference to the existence of those addendums.

So those are a few. And then I urge you, as you continue to work, to merge both of these recommendations about certificates into one document.

On Ag/Non-ag or NAG, I have some serious problems with this draft. While I don't disagree that the definition of nonagricultural substance is contradictory
and unclear, I feel that the proposed changes need a lot more work before final consideration. I do think that the proposed decision tree is helpful, but it needs to be routed in the definition and in some regulatory text. You can't have a decision tree just hanging out there without roots.

So, I propose some changes to the definition that you have proposed, so that it connects to the decision tree, so that a nonagricultural substance would be defined as a substance that is not a product of agriculture, such as a mineral, that used as an ingredient in an agricultural product or an agricultural product that has been processed to the extent that it's chemical structure has been changed, unless the chemical change is a result of a biological, mechanical, or physical process. So that takes some of the concepts from the decision tree and merges them into the proposed definition change.

On the third item of your proposal there, moving dairy cultures and yeast to 205.606, you simply can't do this.
These are not technical corrections. They are changing an entire class of products from one part of the list to another. And we learned during the whole sunset process that you can't make even simple common sense changes to annotations without a petition. These substances have not yet been petitioned. They need to be petitioned, TAP reviews commissioned, proposed for public comment, follow the processes that work well and are transparent and protect yourself from any charges of arbitrary and capricious changes to the list. And you need the input from the manufacturers and consumers of dairy products, fermented beverages, baked goods and others to be engaged. This is happening way too fast.

And then also, it has implications for similar classes of substances currently on 605(a), including microorganisms, animal enzymes, carrageenan enzymes, natural flavors, waxes, they could all be considered agricultural. Yeast and dairy cultures should not be singled out without consideration of applicable, of...
other similar substances.

I'm really concerned that the kind of linkage here is those words or other non-plant life and the definition of livestock to then open the door to bacteria and all these other microorganisms. I think that raises the possibility of undermining the credibility of the whole organic claim. When people see that kind of thin rationale, it's also putting the cart before the horse. There need to be standards proposed, maybe a task force on microorganisms or kingdoms currently undefined by the rule.

But there need to be standards first, regulatory impact needs to be done and you need to move forward with the current known agricultural products, get them onto 606 before opening the door to all of these totally new classes of products.

Thank you.

CHAIR O'RELL: Thank you, Jim.

Any questions for Jim?

MEMBER JAMES: In regards to hydroponics, under terms defined in the regulation, organic production, I'm just
looking for your comment on how you see hydroponics contributing to promote ecological balance and conserve biodiversity.

MR. RIDDLE: Yes. Well, I think if the plant is a naturally aquatic plant, like watercress or something like that, it makes perfect sense. But when you're taking a terrestrial plant and growing it in an unnatural medium, it would have to be approved materials, yes, I do have a hard time seeing how that fits the definition of organic production in promoting biodiversity, etcetera.

Yes, I think we need to be very thoughtful and look at what categories of crops really fit with the definition of organic production and can be produced organically and what certifiers are currently doing, is a good place to start.

MEMBER JAMES: So, are you suggesting that with hydroponics, only certain categories would be allowed under that type of production?

MR. RIDDLE: Well, I'm just
saying what I'm comfortable with. And that is, plants that are naturally hydroponic are a perfect fit. The others may be, you know, I'm not closed to the idea, but it's a stretch and I think that is, would be defendable as a place to draw a line.

CHAIR O'RELL: Joe?

MEMBER SMILLIE: Thanks for your comments and your support on commercial availability. And I think your comments on the certificates are well taken. Obviously, we got a bit more work to do about that. But I am especially pleased that that is moving forward and glad to have your support.

Your comments on Non-ag and Ag are noted. We've got, obviously, a lot of work to do. Again, just so that everyone is clear, basically, we felt that there was some inconsistencies in what was happening with materials and we really felt that we needed to place all of the materials, not just agricultural materials, but some of the ones that were not considered agricultural materials, and start to put some pressure...
and start to probe to see how organic we could get some of these cultures and other things.

Now that microorganisms are on 605(a), I think we have the time. When we started this process, they weren't on it and we had no sure, you know, it wasn't a surety that they were going to be on it. And I saw that there would be a lot of products out in the marketplace that may not be allowed to be produced organically because of that situation.

I think having now microorganisms on 605 doesn't take away, I still think, the need for us to pursue, as you have mentioned, some in-depth discussion of these materials, and I think that that's what we will do. I think eventually, though, that we will see that a lot of these cultures and things that we're talking about, it was broad array of things, could be a lot more organic than they currently are. And that was the intention of the community. But now, I think we do have the time to start to pursue this and I think that we will.
And thanks for your comments and some of the directions that you think we should have.

MR. RIDDLE: If I could just, you know, quickly respond, I don't want the Ag/Non-ag clarification guidance bogged down, though. You know, I think you need to divorce those microbes. You've opened up a whole new can of microbes by proposing that dairy cultures and yeast be moved in relation to this clarification on Ag/Non-ag. To stay focused on that, it empowers the whole rest of the work that needs to be done.

CHAIR O'RELL: Jim, Andrea has a question.

MEMBER CAROE: First off, let me say, I'm so surprised that you're in support of expiration dates. But good.

(Laughter.)

MEMBER CAROE: But anyways, in regards to your last comment on information and certificates where you suggest that we combine those two recommendations, information on certificates and standard
format, originally, we did consider this as a committee to put them together. We split them apart just for the sake of being nimble and actually getting these things implemented. By putting them together, if there was a problem with either one of them, they would stop. So, you know, I don't see any reason to put them together, at this time. I see reasons that that could hamper them getting implemented. So, I think we're going to continue with them separate, unless I hear --

    MR. RIDDLE:  Whatever.

    MEMBER CAROE:  -- for some other reason.

    MR. RIDDLE:  Whatever works.

    MEMBER CAROE:  You have mellowed out since you've been off this board.

    CHAIR O'RELL:  Thank you, Jim.

Grace Marroquin, to be followed by Dick Siegel.

    MS. MARROQUIN:  Here I am again. My name is Grace Marroquin and I'm president of Marroquin International Organic Commodities Services, Inc. My company is
based in Santa Cruz and we import and broker ingredients for the natural products industry.

I'm here, once again, to support the classification of yeast on a national list as an agricultural product. Yeast is currently listed under 205.605(a), as a non-synthetic, nonagricultural substance. At this meeting, you'll hear a joint recommendation of the Handling Committee and the Material Committee that yeast and dairy cultures are agricultural products and thus, should be listed instead on 205.606 as an agricultural product.

I commend the two committees for this recommendation and I respectfully request that the full board adopt it as well.

For several years, and I mean several years, it has been a technical legal error to classify yeast as nonagricultural. We submitted our first formal proposal to change the classification of yeast more than two years ago and I would like to add that we have also petitioned.
The Handling Committee and Material Committee agree that this error should be corrected as part of their overall joint recommendation on defining agricultural versus Non-ag. I want to give the two committees credit for all the heard work that it took to get to the bottom of this issue. And I believe that they've come up with a sensible result. I know how much time and effort went into this. And I know how much time the committees have devoted to deal with this difficult subject and I admire their patience and fortitude.

I am speaking not only of the committee's recommendation of yeast, but the entire recommendation on agricultural versus Non-ag. When it comes to ingredients and a national list that are nonagricultural, manufacturers are free to use nonagricultural ingredients listed on the national list in their processed products. As long as they do not exceed five percent, the nonagricultural ingredients listed on the national list are always allowed. Until now, yeast has been listed as a
nonagricultural. This is to ensure that manufacturers would always use traditional conventional yeast in the nonorganic five percent. And I'll explain a little bit further why I strongly feel that this is wrong.

Certifiers have no way to require them to use the organic yeast alternative. Changing the classification of yeast to agricultural will make a critical difference. Once an ingredient is listed on a national list as agricultural, then in order to use that ingredient in the five percent, it must be organic, unless an organic version is not commercially available. When yeast is reclassified as agricultural, the organic industry will have to supply organic yeast as a normal organic agricultural ingredient required in the five percent. And in my 15 years, almost, in the organic industry of helping providing ingredients, there needs to be this kind of motivation for ingredients to become available.

Before I leave the subject of
yeast, I have just a word about why organic yeast is superior to conventional yeast and should be used when commercially available. Organic yeast is grown on a substrate of organically produced grains. Furthermore, the process of growing organic yeast avoids the chemicals that are used in the production of conventional yeast. And this is really important and this is why I'm here, because I feel very strong that this is something, you know, that's been -- it's an error.

You know, conventional yeast right now uses ammonia. It uses sulfuric acid. It uses caustic soda lyes. It uses synthetic vitamins and synthetic anti-foaming agents. And while the waste water from conventional yeast production must be treated and have special licenses for its disposal to avoid pollution, the waste water from the organic yeast is raw material used for further organic products.

Because of the various chemicals that have been used in producing conventional yeast, the view developed in
Europe that these chemicals were not compatible with organic farming or food processing. This is why, in 1980, a German manufacturer, Agrano, based on Riegel, Germany, began its pioneering work to develop an organic production method for yeast. In 1995, Agrano began commercial marketing of its Bioreal, organically produced yeast. Our firm has been importing Bioreal since 2002.

I would like, as I just mentioned about how these ingredients are, I would like that this be dealt as, the technical questions that may arise, should be handled on a case-by-case on the certifier level. And I would like to conclude by thanking the Handling Committee for the other recommendations in their proposal.

(Timer sounds.)

CHAIR O'RELL: You can finish your thought, if that was a through.

MS. MARROQUIN: Well, it was a thought. It was just saying, again, I know how much went into this. It's a difficult question and I want to thank you all for
putting the thought to it and I really hope that you can build on that thought.

CHAIR O'RELL: Thank you, Grace. Any questions for -- Joe?

MEMBER SMILLIE: Without getting into all the politics of 605 and 606, I just wanted to understand that you have petitioned.

MS. MARROQUIN: Yes, we have, about two months ago. It took awhile because we were told, at one point, it's a technical question. You just needed to make corrections. But we have put a formal petition in, yes.

MEMBER SMILLIE: Okay. It's not on our list but I take it that that will be added. Okay.

MS. MARROQUIN: From 605(a) to put it onto 606.

CHAIR O'RELL: Valerie, do you want to address, for the record? Barbara?

MS. ROBINSON: Grace, is organic yeast being used in products here in the United States?

MS. MARROQUIN: Yes, it is.
MS. ROBINSON: Substantially?

MS. MARROQUIN: Not substantially yet, because of the way it sits on the national list, but yeast, it's being used.

MS. ROBINSON: So now it's an economic incentive?

MS. MARROQUIN: It's being used by folks when it's over five percent. And there seems to be an agreement that you can't use nonorganic yeast in cases where it goes over five percent. So it is being used. It's not being used by companies, primarily, that would use it under five percent.

MS. ROBINSON: So what's it used in?

MS. MARROQUIN: Soup bases. Right now, presently, flavors, where again, the percentage is much higher. And it's being acknowledged, recognized, and accepted that way.

MS. ROBINSON: Okay.

MS. MARROQUIN: It's an odd fellow, this yeast.

MS. ROBINSON: I know.
MS. MARROQUIN: I agree.

MS. ROBINSON: It troubles me very much.

MS. MARROQUIN: Very puzzling.

CHAIR O'RELL: Dick, if you're --

MR. SIEGEL: Hi, Richard Siegel, I'm counsel to Grace Marroquin. Where a manufacturer has an incentive to try to reach the 95 percent threshold and they can put yeast in to get them into the 95 percent, then they're buying organic yeast. It's the people that don't have to use more than five percent yeast who are not being required to use it and are using conventional.

MS. MARROQUIN: And I'd like to add that what it's done, for those people that have been able to use it over five percent, is to bring a new, it raises the bar. So now we have organic savory flavors, we have organic soup bases, that then are used to make further organic products and it's because they were able to use it that way.

Any other questions?
CHAIR O'RELL: I think Dan has a question and then Joe.

MEMBER GIACOMINI: Yes, Grace, like you say, yeast is a strange beast and yeast --

MS. MARROQUIN: Yeasty beast.

MR. GIACOMINI: -- yeast is not yeast. We have different substrates, different uses. What kind of yeast are you importing as organic and is the generic term yeast going to be, going to have a problem in its specificity when we deal with all the issues of DNA fingerprinting, and vintner's yeast and baker's yeast and brewer's yeast, and is any of that that's used in livestock feed, is just a generic yeast on the list, in one place or another, going to cause problems down the road?

MS. MARROQUIN: I think that -- okay, what we're importing, to answer the first question, is we're bringing in a yeast extract paste, a yeast extract powder. We bring in active yeast and we bring in various kinds of yeast flakes, and these are also used to provide some organic vitamins.
They're using it as a feeding medium to help create organic vitamins. And those wouldn't be available in the marketplace either if these companies weren't using yeast for those purposes.

As far as how it will affect the feed industry, I have to be honest, I'm not technically savvy enough to be able -- I don't know which ones are using right now, so I don't know if I can answer it. But I think, as far as using a generic yeast, I think once it gets into the 606 category, that still leaves companies the options that if the yeast does not perform, and this is the case with every single ingredient that sits on that agricultural classification, they have to prove why something doesn't work for them and, if they do, then they can use -- if they prove that it doesn't work for them because it doesn't meet the specific criteria, then they're allowed to use the nonorganic. So I think with -- that was the reason why we put it there so that knowing that it will not always address everybody's specific needs, so it wasn't to
penalize anybody, it was just to put it where it ought to be. Because it's grown using organic rice, organic potato, organic wheat, and corn. So, I mean, it's all the way through. It's an organic product.

CHAIR O'RELL: Joe?

MEMBER SMILLIE: Yes, I think my question may be more of a lead-in for Mr. Siegel than it is a question for your, Grace.

MS. MARROQUIN: Good.

MEMBER SMILLIE: And that is, I missed yeast on the report because basically, you've petitioned to remove it from 605, not add it to 606. And then asterisk says that our recommendation of moving yeast to 605 is a technical correction as part of the thing. So, perhaps you can address your political strategy on this petition, Mr. Siegel.

I presume that's --

CHAIR O'RELL: I believe it was, the petition was to remove it and to put it on 606.

MR. SIEGEL: Remove from 605 and
CHAIR O'RELL: And put it on 606.

MR. SIEGEL: And put it on 606.

CHAIR O'RELL: We're looking at cryptic notes on the -- it should be clarified on our list.

MEMBER SMILLIE: Well, that's why I missed it, because I was looking for it on 606 and it's on 605.

MS. MARROQUIN: That's right. This is what we're asking for.

CHAIR O'RELL: Barbara?

MS. ROBINSON: I don't know whether this is a question or just a comment. All right. So, the stuff I buy in the grocery store to make my bread comes in a jar, it's yeast. So, we're saying this isn't agricultural. So far, that's what we've been saying. Right?

CHAIR O'RELL: By its placement on 205.605(a).

MS. ROBINSON: We've been saying its synthetic?

CHAIR O'RELL: No. Not --

MS. ROBINSON: Oh, just
nonagricultural.

CHAIR O'RELL: Nonagricultural, because of its placement on the list.

MS. ROBINSON: Okay. We've been saying it's nonagricultural but we grow it. Grace, we grow it, like we grow mushrooms?

MS. MARROQUIN: Exactly.

MS. ROBINSON: On a substrate?

MS. MARROQUIN: Yes.

MS. ROBINSON: Okay. That's all I wanted to know.

MS. MARROQUIN: That answers it all, really.

CHAIR O'RELL: Does the board have any other questions for Grace?

(No response.)

CHAIR O'RELL: If not, we're going to proceed with Dick, with your public comment, because it ties in with Grace. And then following that we're going to recess for lunch. We'll see what time that is, we'll take an hour and come back.

MS. MARROQUIN: Thank you.

CHAIR O'RELL: And then that will be Diane Goodman will be next up after
lunch. Just so she's aware to be here on time because we're going to try to start on time.

And there's one question. Bea?

MEMBER JAMES: No, I just wanted to thank Grace for her perseverance. Good for you.

CHAIR O'RELL: Dick?

MR. SIEGEL: Although I'm very happy to appear, at this point, my comments are not about organic yeast. They're about organic seed.

CHAIR O'RELL: Oh, well then we should go to lunch.

(Laughter.)

CHAIR O'RELL: I'm sorry, Dick. Go ahead.

MR. SIEGEL: My name is Richard Siegel. I'm an attorney in private practice in Washington and I'm pleased to come before the board. I'm representing a group of companies in the private seed industry that produce and distribute organically grown seed. And there is a list of these ten companies. They're located in various parts
of the country. And the list is moving around with the beginning of my statement.

As you know, under the National Organic Program, organically grown seed must be used to grown an organic crop except when a "equivalent" organic variety is "not commercially available." This requirement has three purposes.

First, it's to ensure that organic integrity starts with the seed in the ground. A second is to stimulate an organic seed market, with opportunities for organic growers to serve that market. And third and finally, this requirement can encourage seed breeders to develop organically grown varieties that are tailored to organic growing conditions and, therefore, can offer superior performance for the needs of organic growers.

Now we've had four years now under the NOP final rule and, unfortunately, organically grown seed is still the exception, rather than the rule. The seed industry, organic seed suppliers, are working all the time to have an adequate and
representative supply. But a major stumbling block is the regulation itself because it allows growers to use conventional seed whenever they cannot find an equivalent organic variety.

Until now, it's been fairly easy for growers to meet with certifiers and convince them there's no organic variety that's equivalent. So many certifiers have been allowing growers to use conventional seed on a widespread basis and this has cut into the sales of organic varieties that are actually on the market.

So what we have is a soft market and uncertain demands for organic seed. So the industry is hesitant to move forward. So there aren't as many varieties that are going to be supplied, so there aren't as many equivalent varieties, so it's a vicious circle. And we want to stop this vicious circle as soon and as well as we can.

But I want to now go on to some good news and that is, a number of items of good news.

First, OMRI has now introduced
the first interactive internet database for available organic seeds. This database has just been completed. Dave DeCou of OMRI has done a great job to set it up. The companies in our group of private organic seed companies have contributed, I don't want to say seed money, but up-front financing to get this thing started so that it could, a reputable organization could start to put an organic seed database together. And it's, I've given you the web address for it. It's also, you can go to the OMRI website and follow the links to organic seed and you'll see how it works.

Until now, there's been an information gap. Growers and certifiers have just not known where to turn to a central source for what organic seed is available. And now only will this database give them that information, but it will also suggest which organic varieties that are available are equivalent to conventional varieties. So this is the connection we want to make with this database, so that certifiers will look at a list of organic
varieties, they'll see what they're related to and what they're able to be equivalent to in the conventional market. And that is, we hope to get over a lot of this hurdle with compliance by doing that, by putting the information out there.

We want to thank the board for its work. We thank the Crop Committee for holding on to the information requirement which we think is very very important.

And we also want to thank Mark Bradley for the interest he has shown in the database and in the future compliance. Mark's great forte is compliance and in our talks with him, we found him to very understanding and very sympathetic about what we need to fix the organic seed requirement. So I thank you very much.

(Timer sounds.)

CHAIR O'RELL: Thank you, Dick. Any questions for Dick?

Dick, I believe there's a question Bea has.

MEMBER JAMES: I'm not sure if you're able to answer this question or not
but what criteria, maybe OMRI would be better at answering this, what criteria is OMRI using to determine the validity of organic seed company. I mean, are they testing every one of these seeds?

MR. SIEGEL: Well the organic, every organic seed has to be from a -- every organic seed company is certified. OMRI will not list any seed unless it comes from a certified organic supplier.

Now the question of what is equivalency is still a difficult question. And the suppliers that say our organic seed is equivalent to the following varieties of conventional seed, this is, of course, a matter of judgment. It's matter of professional judgment. And it may not be the ultimate answer for every grower that's looking for an organic seed, but at least it will put the information out there and at least it will put the grower to a requirement of explaining to his certifier why a certain seed is not going to meet his needs, his or her needs.

CHAIR O'RELL: Hugh?
MEMBER KARREMAN: I think it's excellent that OMRI has that interactive website for that but I'm just thinking, in my local area, that is for farmers to look at. Right?

MR. SIEGEL: It's for everybody.

MEMBER KARREMAN: For everybody. Well, --

MR. SIEGEL: That's farmers and certifiers alike.

MEMBER KARREMAN: In my local area, people don't even use electricity. So, how would farmers in that particular, you know, area, get all this good information.

MR. SIEGEL: Well, can they come to their extension agent and ask the extension agent to show them online what's -- I mean, certainly they can go to a public or USDA office that has a computer for them.

MEMBER KARREMAN: Okay.

CHAIR O'RELL: Okay. Thank you, Dick.

MR. SIEGEL: Thank you.

CHAIR O'RELL: We are going to
recess for lunch. And I'm asking board members to be back at 1:15. And we will begin to pick up public comment at 1:15. Diane Goodman will be first up.

    Thank you.

    (Whereupon at 12:10 p.m. a luncheon recess was taken.)

A-F-T-E-R-N-O-O-N  S-E-S-S-I-O-N

1:36 p.m.

CHAIR O'RELL: We have, the Program is with us, so we are going to continue with the public comment session. First up will be Diane Goodman, followed by Sean Taylor. Diane, do you have a proxy?

    MS. GOODMAN: Yes, I do.

    CHAIR O'RELL: A written proxy?

    MS. GOODMAN: Yes.

    CHAIR O'RELL: Thank you. So, ten minutes.
MS. GOODMAN: And yes, I also have for you folks to read along -- start counting in a minute.

CHAIR O'RELL: We won't start until you are properly positioned.

MS. GOODMAN: Thank you. Okay. Oh, I have a lot more for you here, wait a minute. Great.

Hi. I'm Diane Goodman. I'm a consultant to the organic industry and I'm here to speak on behalf of the Hain Celestial Group.

Thank you very much to the National Organic Program and to the National Organic Standards Board for the Opportunity to comment on the recommendations of the committees of the board to be presented at this meeting. Hain Celestial Group, Incorporated extends appreciation and thanks to all members of the NOSB and NOP staff for the diligence and time and energy that was necessary to develop these recommendations. Our comments address the Joint Materials and Handling Committee recommendation for agricultural/non-agricultural determinations.
and the Handling Committee recommendation for commercial availability criteria.

What you have in front of you, by the way, the first section is the comment itself and the second is your recommendation in the format in which you wrote it for establishing commercial availability with edits that we have made to it, so that you could actually cut and paste if you found any of them valuable and informative. You'll find our comments in bold italics. Unfortunately, I didn't make enough color copies because of the expense. So the bold italics will be the changes, the additions and the deletions.

Okay. For the Joint Materials and Handling Committee recommendation for Ag/Non-Ag determinations, we support recommendation number one to change the current definition of agricultural substance and believe it will help eliminate inconsistencies. While we understand the need to clarify this distinction, our interpretation of recommendations two and three, leads to further confusion and some
questions. We appreciate the Joint Committee's acknowledgment of the decision tree, that it is a working document and may still need further revision.

In that spirit, we pose the following questions. Since it has been determined that yeast is a microorganism which would imply other microorganisms as well, is justified as an agricultural substance, since it fits the definition of livestock, how will such substances need to comply with livestock standards?

The decision tree, as proposed, includes criteria which is also included as the yet undetermined clarification for the definition of synthetic/non-synthetic. When a board recommendation is put forward to address synthetic/non-synthetic definitions, how then can the decision tree be crafted to be flexible enough to adapt to a new definition of chemical change?

How will the decision tree determine agricultural substances that have been manufactured with nonagricultural substances, consistent with the national
list? Agriculturally derived flavors and colors, for example, that will eventually become ingredients in finished organic products. This is questions to help you see the impact that we see in the definition of Ag/Non-Ag, as it's written.

We also question the Joint Committee's example of yeast and dairy cultures as qualified to move from 605 to 606, based on the new classification as Ag substances, without also considering other 605(a) substances, such as lactic acid, citric acid, some vitamins, flavors, enzymes, and will they have to be petitioned to be moved or can they be included in this recommendation as well?

The implications of recommendations two and three have far reaching effect and we're concerned about a broad reclassification of many substances currently allowed under 605(a). At the same time, the movement of only yeast and dairy cultures creates an uncertain precedent for other agricultural substances now considered non-synthetic.
Placing these substances on 606, while raising the bar to prove commercial unavailability of organic forms of those substances, places their current use in a precarious vulnerability, considering that the board and NOP have not agreed upon criteria to evaluate 606 petitions at this time, and that there is a court order that will result in noncompliance by manufacturers using those nonagricultural substances that are not on 606 come June of 2007.

Okay. The Handling Committee recommendation for commercial availability criteria. The Hain Celestial Group truly appreciates the detail and thoughtfulness that went into this recommendation, as well as the need for urgency to meet the court ordered date, by which time the industry must comply with new regulations. We encourage the department to explore all the possibilities with respect to the court order compliance deadline. Without NOP approval of recommendations for the definition of Ag/Non-ag and synthetic/non-
synthetic, it may be difficult to implement this criteria and result in unforeseen expensive revisions later. I'll repeat this that we encourage the department to explore all the possibilities with respect to the court order compliance deadline.

That said, here are a few specific comments to the recommendation and, as an attachment, the actual text of the recommendation with changes in italics reflecting these suggestions.

Section A, revise procedures for petitioning materials onto 606. We suggest including the requirement that the petitioner substantiate that the substance is, in fact, agricultural, according to the pending clarification or the final determination of the clarification of Ag/Non-ag. We also suggested information needed to assist in the determination of commercial availability be removed from this section, as it is the responsibility of the certifier to make that determination, based on information provided by the operation to the certifier, rather than the
responsibility of the petitioner to justify this to the NOSB. Instead, we believe it would be appropriate for the specified current industry information to be included in Section C.

Now Section B. The NOSB and the NOP role in the review of petitions. We agree that the role of the NOSB is to consider the petitioner's claims and reasons why the materials should be permitted in the production or handling of an organic product. We would also like the role of the NOSB to include conferring with NOP for the publication of procedures and guidance for certifiers in making commercial availability determinations. We would like emphasis in this section that the determination of commercial availability of organic forms of petitioned substances be the sole responsibility of the ACAs.

Now for Section C, the ACA's role. We agree with the recommendations listed and offer the suggestion to move the criteria originally listed in Section A to this list, with the caveat that this
information may include but not be limited to any of the sources listed. We also ask the board to consider an evaluation of the effort of the petitioner to demonstrate due diligence to contract for future organic production of a substance that is not commercially available in organic form.

Finally, we would like to comment on the fast approaching date by which the organic industry must be in compliance with the court order in the Harvey v. Johanns lawsuit of June 2007, less than a year away.

Understanding the obstacles facing the NOSB in finalizing recommendations, the approval of recommendations, the adoption of resulting policy and procedures by the industry and certifiers, we urge the NOSB and NOP to consider the amended provision passed in November, allowing the Secretary to develop emergency petitions, expedited petitions, excuse me, for commercially unavailable Ag products. This would allow the board, the department and the industry the time necessary to complete the work of policy
making that will enable smooth transition to the new requirements for 606.

The year allowed by the court has not proved to be enough time and is placing a difficult burden on the current stream of commerce. We're all aware that emergency procedures exist for producers and handlers who experience all manner of unanticipated events and would incur huge losses if windows of relief were not available. In cases of emergencies, disasters, or shortages, emergency permits are often obtained rather quickly. Such procedures are necessary to support business and to feed families on both ends of the chain of organic commerce.

In conclusion, we urge the NOSB to recommend and develop emergency procedures, allowing speedy temporary allowances for commercial unavailable substances to be placed on 606.

The Hain Celestial Group thanks the board for its consideration of our comments and supports you in all of your good work.
CHAIR O'RELL: Thank you, Diane. Andrea?

MEMBER CAROE: In regards to your recommendation on Section A, Diane, you are suggesting that we don't consider any historic shortages or potential shortages of an agricultural material before listing it on 606. So, are you suggesting that the only criteria this board would use, in order to recommend that a material be listed on 606 is whether it's agricultural or not?

MS. GOODMAN: No, not exactly. Because in the petition justification section, Section 12, there could very well be the requirement that people justify that as part of the reason they believe the petition should be approved.

I don't think that we can necessarily exclude, we don't necessarily need to exclude all commercial availability history or projections but I believe that it is not the role of the NOSB to approve the petitions based on that determination. So, if there was a way of keeping, in a petition justification statement, you can talk about
the fact that the presence or absence of that product has, historically, been available organically, or not available organically, or available in a particular form. And it can be part of the justification statement. But as far as requirements being itemized of what should be included in the petition, as fodder for commercial availability determination, I think it needs to be clarified and separated out.

MEMBER CAROE: I guess I'm not -- I don't --

MS. GOODMAN: I understand your question.

MEMBER CAROE: -- track with what you're saying because, you know, we have to have a transparent criteria --

MS. GOODMAN: Right.

MEMBER CAROE: -- for how we're evaluating and this was one of the criteria that we were looking at. You know, is it reasonable that this may not be in supply in organic and, potentially, should be considered by a certifier under an
applicant's claim that it's not available. So, by making it part of the justification, just makes it, you know, information that isn't part of the criteria. I'm not quite sure what the purpose of that would be.

MS. GOODMAN: Well, maybe there's a way of taking the questions that were proposed in this question in Section A and I proposed to move to Section C. If there was a way of filtering them, perhaps, some that would be more appropriate and perhaps less of a burden, or give people a framework, because to actually specify how you have to prove commercial availability, I think is something that goes beyond the scope of a petition's requirement.

Am I not making sense to you?

MEMBER CAROE: Well, I just, that wasn't the intention of the recommendation. The recommendation was that the NOSB would look at these materials in a broad scope of potential shortages and past history but that the on-the-ground justification would happen with the certifier in real time. We never intended to do the work of a
certifier. In fact, I thought we were pretty clear in our recommendation to split those out. This is just looking at it, overall classification, is this a, you know, do a risk assessment, basically, of this material, as opposed to actually doing that detail level work that the certifier is expected to do.

CHAIR O'RELL: Julie?

MEMBER WEISMAN: Yes, there's another really important reason for that to stay in A. There is an important information collecting function that gets served by having that be submitted as part of the petition, which helps ensure that this is a -- it makes that a matter of public matter. And we've been hearing, you know, many many comments which emphasize the fact that unlike what is currently started by OMRI for seeds, there is no database and we don't really know where that database is going to be. So it's very helpful if this is part of the public record that's maintained, these petitions, you know, people have access to that, and that will be
very helpful in encouraging the development of new organic ingredients.

MS. GOODMAN: I think that that would probably be a workable solution, as long as it is very clear that it is not the NOSB that's making the determination about -- that's much more of our concern, that the NOSB is not making that determination about commercial availability. But I do support the concept of having it as historical public information. That's why it would be put into, that would be, whatever it is the petitioner would want to use that way, would be included in their petition justification statement.

CHAIR O'ReLL: Thank you, Diane.

MS. GOODMAN: Thank you.

CHAIR O'ReLL: Bea, just before I call the next speak up, I just wanted to, for the record, recognize that Rigo as joined us and made his travels through from wind and rain, I guess.

MEMBER DELGADO: That's correct, Mr. Chairman. I appreciate the recognition and I appreciate your patience as well.
CHAIR O'RELL: No problem. Thank you, Rigo. Sean Taylor and Gwendolyn would be, is up next.

MR. TAYLOR: My name is Sean Taylor. I'm the Scientific Director for the International Association of Color Manufacturers. On behalf of the International Association of Color Manufacturers, I would like to briefly discuss our thoughts concerning the situation created by not renewing colors non-synthetic sources onto the national list under section 205.605(a).

IACM, International Association of Color Manufacturers, is a trade association that represents the manufacturers and end users of food colors. Our members have strong working relationships with companies involved in the production of organic or made with organic foods. We submit these comments with the request that the NOSB consider a conditional renewal of colors non-synthetic sources only.

In our understanding of the
current situation, colors were initially placed on the national list at the discretion of the National Organic Program and without a recommendation by the NOSB. Because of this, the NOSB Handling Committee has recommended that colors be removed from the national list and that food colors that will be added must go through the standard petition process.

The members of IACM, as well as other companies involved in food color production, are pleased to have the opportunity to file petitions to the NOSB for the addition of individual food colors to the national list. We feel strongly that this remedy process will bring the listing of colors in line with other food additives that can be used in organic and made with organic products. However, we are concerned that there are impediments to this remedy process that will cause unnecessary delays that are harmful to both the food color and the organic industry.

First, the current situation prevents a timely review of petitions filed
for addition of individual food colors. As a result of ongoing litigation, critical distinctions that are especially relevant to the consideration of food color petitions have not been addressed and we feel that this has left the NOP and the NOSB without a proper mechanism to consider our petitions. Specifically, the adoption of final recommendations and decision trees for determinations of synthetic versus non-synthetic substances and the thorough consideration of the role of solvents used in food color production as food contact substances have been delayed.

Much of the food color industry has one foot in chemistry and another in agriculture. And without explicit definitions of and distinctions between synthetic, non-synthetic, nonagricultural, chemical change, chemical form and other terms, we believe that our petitions cannot be fully and fairly evaluated. Factoring in the amount of time for rule making, we believe that no food colors can be added to the national list prior to the sunset date.
Second, the renewal of colors without the addition of individual food colors, will have a strongly negative impact on the food color and organic foods production industries. Without a sufficient petition evaluation process for individual colors, the food color industry will be harmed through the loss of sales, as organic consumer products companies will be forced to remove these colors from their products. We strongly believe that this will have a deleterious effect on the sale of organic and made with organic products and a serious financial impact on organic foods companies due to re-labeling requirements and necessary reformulations.

On a personal level, as a consumer of organic products, I feel strongly that the NOSB and the NOP should support the organic industry, and has supported the organic industry, and I believe that any actions that would have the potential to reduce consumer interest in and loyalty to organic products is against the best interests of the organic movement.
Third, we believe there is a precedent for conditional listing materials to a positive list. For example, the procedure for provisional listing of foods colors was outlined by the Food and Drug Administration in the Color Additives Amendment in 1960. This allowed food colors that were already in commerce to remain in commerce while safety testing was planned and conducted. Colors that were not adequately tested by a certain time or that were found to be potentially harmful, were then de-listed and not allowed for use in foods. This is a procedural example of the regulatory process making necessary allowances to prevent the disruption of commerce while issues related to that process are decided and it indicates a clear precedent for the temporary listing of materials for use in foods.

Based on these arguments, we request that the NOSB continue the deferral of the vote to renew or not renew colors non-synthetic sources only until the next official meeting in Spring 2007. We ask
that the NOSB provide us with 30 days in which to file a petition for an annotation that would provide a conditional one year extension to the scheduled sunset date. This extension would provide the NOP with the necessary time to develop the proper clarifications essential to a thorough evaluation of food color petitions.

The conditional extension petition will further detail the arguments briefly described here and will provide the NOSB with further opportunity to consider the difficulty we face in filing petitions for individual colors, given the current lack of clear guidelines.

Our organization would like to thank the entire NOSB, the Handling and Materials Committees, and the NOP staff for their ongoing and future guidance to manufacturers of food coloring substances in the petitioning process. We strongly believe that the eventual successful petitioning of our colors will provide organic and made with organic producers with affordable, safe, and attractive options for
adding color to their products and we look forward to working with the NOP staff and the NOSB throughout the petitioning process.

Thank you.

CHAIR O'RELL: Thank you, Sean.

Any questions? Julie?

MEMBER WEISMAN: Yes, I actually do have a question with regard to this issue of I don't believe right now we're in a position to defer for a year because sunset officially, I think, the sunset period if October 22nd, like it's coming up the beginning of next week. And I don't know is the --

MR. TAYLOR: I'm sorry. This is October 22, 2007. So one year from now.

MEMBER WEISMAN: Right. Okay. So beyond that, -- okay, I see what you're saying.

But in terms of extending beyond that, I think that OFPA is pretty, I think that the statute is very clear about five years. It cannot be extended. You can't have like a one year extension to the sunset, I don't believe.
MR. TAYLOR: I think our position is two-fold. One is for now, what we're actually requesting is a deferral at this meeting, specifically, that you don't consider this recommendation until the next meeting. That will give us time, this 30 days that we're asking to fill a petition, to request an annotation that will go into more detail concerning that issue.

I think secondly, we feel that there is precedent for this sort of temporary conditional listing of food additives onto a list while issues are worked out, essentially.

CHAIR O'RELL: Sean, I guess I'm trying to understand what the deferral to the next meeting would accomplish because we still have the door closing on October 2007. So, what will that buy time for?

MR. TAYLOR: What we, our feeling at the moment is that this will give us time to fill out a full petition requesting an annotation for a one year conditional listing.

MEMBER WEISMAN: You know what?
I think I can clarify something. I think that the decision not to renew colors at sunset doesn't mean, correct me if I'm wrong, someone, that it's off the list. It means that we will allow it to sunset.

CHAIR O'RELL: It will sunset in October --

MEMBER WEISMAN: It will sunset. In other words, the use of --


MEMBER WEISMAN: -- the use of the colors on 605(a) will cease as of October of 2007. So there is still, you do have that time.

MR. TAYLOR: Essentially, one year is what we have.

CHAIR O'RELL: Yes.

MEMBER WEISMAN: Exactly.

MR. TAYLOR: What we are arguing, at this point, is we don't believe that one year is sufficient time to allow a petition to be considered fairly, to be evaluated by the NOSB and then to actually go through the rule making process and to be added to the national list.
CHAIR O'RELL: And we certainly sympathize with that because we find ourselves in the dilemma of the process of trying to get through this list of petitions for 606, which I know a large extent of those are colors. There's 34, 35 on the list. Those materials will have to be dealt with prior to the sunset or there will be issues. In the sunset process, it is our understanding is, we have been back and forth with the Program, is that we don't have the authority under the sunset review to add annotations or to put an additional — it's either on the list for another five years, or it's not. We don't have that authority. And maybe if the Program wants to clarify that?

MEMBER CAROE: The definition of sunset is the reconsideration of a regulation for its continuance. So, as is written in the regulation, will it continue or will it not? That's it. There's no new regulation writing that shows up in there. So, conditional listing or listing with an annotation is not an option for sunset.
However, at any time, we can entertain new petitions.

CHAIR O'RELL: Right.

MEMBER WEISMAN: But that is a different process. It can't be --- you know, I know there's been some frustration through this sunset process that we haven't been able to, you know, correct things that we would like a little bit differently or would be a little more clear but, just based on the function of what sunset is, that's not a possibility. That's out of the realm of this activity.

CHAIR O'RELL: I'd like to recognize Arthur Neal. Are you coming up to address this issue?

MR. NEAL: Arthur Neal, National Organic Program.

You mentioned sunset being used to address this particular issue. And if I'm not mistaken, at the last meeting in Pennsylvania, the reason why, or one of the reasons you deferred was to allow someone to petition the board to review colors.

CHAIR O'RELL: Right.
MR. NEAL: No one did that. So, you're just going ahead and you're closing out the sunset process so that nothing is lingering and we can go ahead and move forward with finalizing the sunset proposed rule.

There's still an open window for individuals, companies, whomever, to petition the National Organic Standards Board to review colors for inclusion on a national list. That window has not been closed.

So, the sunset process, based on this meeting, will officially probably be closed based on your determinations and recommendations here today. The issue with colors lies in the fact that there was not a board recommendation. So, you are provided that opportunity to petition. No one took you up on that before this meeting, so you're just taking final action. That's the way we see it.

MR. TAYLOR: And just to stress again, essentially what we're asking for is for you to defer on that action, at this
time. So, thank you.

CHAIR O'RELL: Nancy?

MEMBER OSTIGUY: Can I ask why there was no action taken after our last board meeting?

MR. TAYLOR: Actually, since the last board meeting, there have been, at least to the best of my knowledge, one of our members has filed six petitions for individual colors to be listed onto the national list. I don't think that I'm really capable or qualified to comment on specific issues related to those petitions. I think that probably should be taken up by the National Organic Program, at this point.

MEMBER OSTIGUY: I'm not asking about the specific petitions. I'm asking about what you're asking for right now.

MR. TAYLOR: Well, at this point, I think that, since the last board meeting, this is what we've been working on. We've been working on individual petitions. We've come to the conclusion that we actually can't file solid petitions that we feel will make it through the process because there
aren't really specific determinations about what is a synthetic substance, what is a non-synthetic substance, what is an agricultural product, what is a non-agricultural product, what is the definition of chemical change, what is the definition of chemical form, what is the definition of functional property. And as we began to try to work through these proposed decision trees, we found ourselves in a situation where we didn't really know where or petitions would be evaluated, whether we should try to put them on 606 or 605(a) and how we would proceed from there.

Does that answer your question?

MEMBER OSTIGUY: Yes and no, but that's okay.

MR. TAYLOR: Well, and I guess just maybe to follow up then, where that's left us with is we don't feel that we have sufficient time for our individual petitions to be considered and added to the national list without a significant break in the flow of commerce and that leaves in the position where we feel that separate action needs to
be taken.

CHAIR O'RELL: Andrea will follow-up.

MEMBER CAROE: Just one more comment to try to wrap this up. But one, if we defer and this board makes no determination before sunset, it will sunset. If there is no action by this board, we'll take it off the list. So, deferring does you nothing. So, I would caution you to that.

And one of the things we said when we deferred is we have no information on these materials. We cannot evaluate them for continuance. So, until those petitions arrive, our decision can't change, we can't finish our process without those petitions. So, I see no merit whatsoever in deferring. I mean, the fact that of the matter is is that we can't evaluate without that information. So, we urge the manufacturers of these colors to come out and put those petitions in front of us and that we would do our due diligence to get those reviewed as quickly as we possibly can and get them
in a recommendation to be listed if they were appropriate. That's the best that this board can do. If we defer, we do nothing for you.

MR. TAYLOR: Well again, just, I ask that you consider the deferral and thank you for your time.

CHAIR O'RELL: Okay. Thank you, Sean. Gwendolyn? Following will be Lynn Coody.

MS. WYARD: Good afternoon. My name is Gwendolyn Wyard. I am the Processing Program Reviewer at Oregon Tilth. Good afternoon to the NOP staff and ladies and gentlemen of the gallery, NOSB members.

First and foremost, Oregon Tilth would like to thank the NOSB for your continued efforts on the complicated topic of agricultural versus non-agricultural determinations. This is a top that has personally provided me with endless hours of mental gymnastics.

To begin, I would like to generally say that we do not support the retention of food ingredients on 205.605
that can be produced organically to the NOP standards. Therefore, I would really like to see yeast reclassified as agricultural so that it may be removed from the 605 shield which protects substances from the commercial availability requirements. And I single out yeast because, to the best of my knowledge, yeast is the only microorganism that I know of that's on the market as organic. Certainly products of microorganisms, but a microorganism per se. However, Oregon Tilth has concerns about the approach we're taking toe get there and the implications that the three recommendations may have on various sectors of the industry.

Our major concerns are as follows. What standards should certifiers evaluate yeast, dairy cultures and other microorganisms to? If they're deemed agricultural because they are livestock, they meet the definition of livestock, one would assume that we would use the livestock standards. I'm very familiar with the production of the yeast and other microorganisms and I do not think the
livestock standards are appropriate logic and experience would tell me to go to the processing standards, yet they're defined as livestock. So, this is something that needs to be very clear so certifiers can proceed.

Concern number two, classification of yeast and bacteria as agricultural could have a huge impact on the livestock sector. Unlike its listing on 205.606 where commercial availability would apply, if we call yeast agricultural, then organic yeast would have to be used when fed to livestock. Agricultural must be organic.

Concern number three, this has been brought up a couple times today, so I'll move quickly through it. But we're concerned about the technical move. We feel that there should be a petition process that the criteria, the petition criteria that we're voting on during this meeting for petitioning substances onto 606, that yeast, dairy cultures and any other substance that's taken off of 605 would need to be petitioned and that procedure followed.

And then of course, the
inconsistency, according to the proposed definition and decision tree, microorganisms, enzymes, malic acid, L-malic acid, citric acid, lactic acid, these are all either microorganisms or products thereof and they should also be moved. So, if you take two, then you should take the rest, otherwise, our efforts for consistency have left us with even more inconsistency.

And finally, I've passed around a decision tree. I submitted comments by October 6th and I mentioned that I would bring in some examples of further development that I took a crack at. There are two, they are identical. One has plants, animals and fungi, the other says plants, animals and microorganisms. And I just want to highlight a couple changes that I made. I broke out the boxes. I have a box that says, is the substance in question derived from plant or animal? Now, I have broken out a separate box that says is the substance in question derived from microorganisms in one, the other says derived from fungi. The important part of
this box goes on to say grown on substrate produced from plants and animals.

I think this gets to the heart of the matter. We're considering yeast as agricultural not because view them as livestock, but because they have a history of use in food and their production relies primarily on agricultural ingredients, the kind of agricultural ingredients that we recognize as agricultural, corn, molasses, wheat, etcetera. Accordingly, by virtue of their agricultural content, their organic agricultural content, they become eligible for certification and this is why Grace keeps coming to these meetings.

So I ask, is it necessary to classify yeast or other microorganisms as livestock, rather than viewing them as agricultural products, with emphasis on the word products, that need to be petitioned and evaluated one by one to 205.606? And in this evaluation, a great question to constantly keep asking yourself is, can it be produced organically? Because it has been the working thought of OFPA and the
current rule, that if it can be produced organically, then it is agricultural.

So, once again, I'd like to thank you for your ongoing work and your commitment to the organic industry and hearing me out today.

Any questions?

CHAIR O'RELL: Gwendolyn, before questions, just a comment. I appreciate the information and appreciate what you're telling us to the board, but most particularly the fact that you've submitted some --

(Whereupon the Radisson Hotel audio system shut off for approximately 58 seconds.)

CHAIR O'RELL: -- for the public concern for what a recommendation should be on the board. And thank you for that.

MEMBER SMILLIE: I'm not going to let you go without explaining. And again, thanks for this work. It's great. You've been very helpful to the Committee and continue to be so.

I'm sorry. Can you hear me now?
CHAIR O'RELL: No, we need to wait until. It's okay now? It seems to be? Okay.

MEMBER SMILLIE: Will you just take a couple minutes and walk us through?

The first question is why two diagrams? I'm looking really quickly and I can't see the difference in the charts between the fungi and the microorganisms.

MS. WYARD: Right. If you were to change the definition of nonagricultural and change it so that you would retain the example of mineral or bacterial culture. So, one is an approach saying let's just deal with fungi right now and not extend it on to all microorganisms. Let's just take it one at a time and we've got an existing rule that says bacterial cultures are nonagricultural, let's go with fungi grown on agricultural substrate.

Minor differences. The other just says, let's go for it, all microorganisms.

Did you want any more walking through?
MEMBER SMILLIE: Just one question. Where does Aspergillus oryzae, where would you, how would you walk this one, how would you, where would you start it walking to? Because we've got a petition for koji mold on our docket --

MS. WYARD: Right.

MEMBER SMILLIE: -- that we will have to consider.

MS. WYARD: Right. Well, it would be a product of a microorganism, derived from. So that would be agricultural. If it goes on then to meet the rest of the criteria, the chemical change. And then I've also added a couple boxes because the question is, if any other ingredients have been added to the substance in question. And where that might be a typical material review process for certifiers to look at those other ingredients, I don't think that's always happening and, if you have a decision tree out there, some certifiers may just take that at blank value and not go on to ask additional questions as to other carriers and preservatives that might be
added to the substance afterwards.

MEMBER SMILLIE: So box five has been added to see if those materials would be on 605(a)?

MS. WYARD: Exactly. Exactly. Or 606, if that product is going into an organic product. If you have an agricultural that an agricultural carrier has been added to, then it would need to go on 606.

MEMBER SMILLIE: Thank you.

CHAIR O'RELL: Dan?

MEMBER GIACOMINI: Hi, Gwen.

MS. WYARD: Hi.

MEMBER GIACOMINI: I've been part of the discussions among our groups on, with the same concern, on the feed additive side. How, and I guess more of a clarification question, how do you, as a certifier, look at something being on the list as yeast when yeast is not yeast and there's a dozen different kinds? Would you look at it as just a generic single thing or how specific would you look at commercial availability issue, as far as different types of yeast?
MS. WYARD: Well, the annotation for yeast goes on to list out yeast tolosate, nutritional yeast, baker's yeast, brewer's yeast. So there is more specificity than just general classification. So and my understanding is that yeast, as well as that annotation, including the cannot be grown on petrochemicals, and that whole thing would be moved to 606.

MEMBER SMILLIE: And you don't think that would be enough of an annotation to allow for the traditional, the commonly used yeast additive, feed additives that are in the feed industry now?

MS. WYARD: Do differentiate between?

MEMBER SMILLIE: Yes.

MS. WYARD: It could be. And that falls out of my area of expertise in that I don't do any livestock work. So, looking at those particular, the yeast additives, I'm not really familiar. I haven't done that analysis.

CHAIR O'RELL: Gwendolyn, you
have two charts and one of them just carves out the fungi. And believe me, as a committee, we wrestled with this, because that seemed like to be the easy choice to go. And the other one is the full-blown microorganisms. In your mind and thinking, what rationale would you have for drawing that line there?

MS. WYARD: I don't know that I can come up with one, but I'm looking. Because I think it --

CHAIR O'RELL: Because we tried.

MS. WYARD: -- would simplify.

CHAIR O'RELL: We tried very hard and that's --

MS. WYARD: No, I find that if you bring yeast in, then you bring the rest in, because the next, pardon me, but the next Grace will show up wanting to put microorganism. It's just, it's going to go that way because will be able to --

CHAIR O'RELL: You were listening in to our committee conversations, then because that's very much where we were at.

MS. WYARD: Right.
CHAIR O'RELL: Thank you.

MEMBER CAROE: Just one other.

Gwendolyn, as you look at this, if your first concern is what would be the standard for these microorganisms to be certified as organic, if we continued with the recommendation, maybe not at this meeting, but say this recommendation passed and we had Ag versus Non-ag settled and the line was drawn between, you know, basically things with DNA and things without DNA; however, if we included in our recommendation language that would suggest that these microorganisms wouldn't or a classification of microorganisms may not be available until such time that there are requirements within the rule that play that out, give the requirements for, you know, livestock handling and now microorganism production, would that be a solution that may work for us? That we can draw that line but basically put in an exemption until such time as we've classified or clearly laid out the requirements for organic microorganism?

MS. WYARD: Right. Because Emily
will be done with the Pet Food Task Force --

(Laughter.)

MS. WYARD: -- and we'll put her on the Microorganism Task Force and we'll go from there.

And I think so. I think that the lack of standards, lack of information is a huge part of what we fear, how to go forward. If you could say, you know, if you bring them in saying it meets the definition of livestock so it's agricultural, yet, since it's a processed product being labeled according to the composition standards of 301, that, make that leap. You know, forget the livestock standards and go right to your handling, organic handling requirements.

If you could work that in there, that would be fine. Personally, I'm comfortable with certifying yeast to 301(b). I think it can be done. I have no idea how to do it to the livestock standards.

MEMBER CAROE: Right. I mean, I think that clarification. I think what I'm hearing for the last week from folks is that there is a level of discomfort with not
knowing that part of that, as we look at this part of it.

MS. WYARD: Right.

MEMBER CAROE: So, I'm just wondering if there's a way we can proceed, get past Ag versus Non-ag so we can deal with 606 and, at the same time, put something in place that allows us to deal with the rest of this issue at a later date. And just kind of, it's spinning plates. You know, we've got a lot of them in the air and we can't let anything crash. So, I'm just—okay.

Thank you.

MS. WYARD: Thank you.

CHAIR O'RELL: Thank you.

Lynn? And next is Katherine DiMatteo.

MS. COODY: Kevin, I have a proxy from Leanna Hoods, which is written on your list there. She's a little bit further down than I was.

CHAIR O'RELL: Okay.

MS. COODY: Okay?

CHAIR O'RELL: So we'll be taking
her off and you have her proxy?

    MS. COODY: Yes, that's exactly right.

    CHAIR O'RELL: Thank you.

    MS. COODY: Hi everyone. I'm Lynn Coody. My company name is Organic Ag Systems Consulting from Eugene, Oregon. And I specialize in issues that are related to certification and accreditation.

    Today I'm presenting testimony from the Organic Producers Wholesalers Coalition, who asked me to help them write and deliver their comments to you, since they're really busy selling produce at home. So, these comments are from them today.

    I did submit my comments earlier, and they're posted on your website. So, I hope you can refer to those, as I'm going along, if you'd like to. I'm presenting a shortened version today.

    The Organic Produce Wholesalers Coalition is comprised of 11 businesses that distribute fresh organic produce to retail stores, restaurants and other customers located across the United States and
internationally. Many of our businesses were early participants in the organic community and we have continued to play an active role in shaping the infrastructure of the organic industry. Our combined for sales last year were $357 million and this year, we estimate a 21 percent increase to $434 million.

In the course of our daily work, we receive certificates generated by many NOP accredited certifiers, both domestic and international. These certificates are essential to other businesses because we use them to verify the organic claims of the products we purchase and later represent as organic to our customers.

In our sector of the organic market, fresh produce, crops must be harvested within a very short time frame, shelf life is measured in days. As a result, we are keenly aware of the importance of having reliable and comprehensive information on certificates. Information that is unclear, incomplete or difficult to read, may mean the difference
between our ability to move a farmer's product into the wholesale market or having it rot in a field, warehouse, or port. In this comment, I will be presenting the reasons for the Organic Produce Wholesalers support of the Compliance Accreditation and Certification Committee's recent recommendations on expiration dates on certificates of organic operation and on standardized certificates.

So, first I'll address the expiration date issue. Prior to the implementation of the National Organic Program, the certificates used by the U.S. organic certifiers, routinely contained an expiration date. That was used to determine whether an operation's certification was current. However, once certification agents were required to comply with the provisions of the NOP, expiration dates on certificates were no longer permitted. Instead, recognizing the practical need for some indication of the current certification status, certifiers used procedures such as dating the signature on the certificate,
including the date of an operation's last inspection, or issuing dated letters of compliance. In effect, implementation of the NOP transformed a system that was elegantly functional with regard to representing the date of expiration on a certificate into one in which this information had to be represented indirectly, in order for certification agents to comply with the NOP regulations.

The Organic Produce Wholesalers Coalition asked the NOP to support the CAC Committee's recommendation to require certification agents to include an indication of current certification status. Specifically, we ask that the NOP regulation require certificates of organic certification to display the date of initial certification for new applicant's certification or the date of continuing certification for operations that have renewed their certification. So that's their recommendation on that.

So, I'll move on to standardized certificates. Every day, the people who
staff our businesses receive certificates that have a confounding diversity in their formats and the types of information they contain. It is commonplace to receive copies of certificates that have variable formats, print too small to read after being blurred by a fax machine, and text written in a variety of languages. As these certificates are crucially important to us, we must devote valuable time and effort to decipher their contents.

To further complicate matters, when our buyers must contend with certificates that contain inadequate information to provide certainty that the product is legitimately certified organic, we are left with no option but to contact the certifier of record to determine whether the operations certificate is still valid. Unfortunately, the process of contacting the appropriate certification staffer, waiting for them to find time to research the matter, and finally receiving the needed information, can easily take longer than the shelf life of the fresh produce that passes
through our warehouses and shipping systems. This is a really practical concern.

We ask that the following items should be added to the NOP's requirements for the contents of certificates and the CAC's recommendations. Certificates indicating compliance with the NOP should, and these are, this is specifically what they're asking for, one, be written in English or, if written in another language, contain an English translation of their contents; include the certifier's official seal, because they've had trouble with falsification of certificates in the industry; be designed for readability, especially when faxed or scanned into a computer, and by that they mean no small or complicated fonts. These are really specific. For producers and processors contain a clear and complete listing of the individual products covered by the certificate; for handlers other processors, contain categorical listings that describe the type or range of the products they trade; and finally, the certificate should
include complete information about the facilities used in the certifications. So, for example, for farms, a list of the certified fields associated with the addresses of the relevant farm or ranch, or for handlers, the addresses of all facilities covered by the certification. In other words, not just the legal address of where they're located.

Okay. And the last thing that these folks would like to comment on is making certification information available. To further support the need for accurate and complete information about the certification status of operations supplying product in the organic marketplace, we asked the NOSB to advocate for implementation of a notification system that would make such information easily accessible to the public because these folks are members of the public in their daily trade.

Currently, the NOP regulation requires each accredited certifier to provide information about certification status of the parties it certifies but, in
our experience, the information is not sufficiently current to allow its use as a tool for verifying the certification status of products as they move through the marketplace.

As mentioned in the CAC's recent document, NOP's effort to develop a publicly accessible database has been unavoidably delayed. In place of the planned NOP managed database, we suggest that the NOP require each accredited certifier as well as parties authorized to issue certificates of compliance with NOP standards under recognition agreements with foreign governments, to maintain a publicly accessible website containing its list of certified operations. In addition, we ask the NOSB to advocate for a system that requires accredited certifiers to update these lists frequently enough to allow their use in real time to verify operators certification claims. We believe the availability of such information will not only assist sellers and buyers of organic products, but also be useful to the NOP in
carrying out compliance actions.

The Organic Producers Coalition appreciates the opportunity to comment on the recommendations of the NOSB. Please feel free to contact us if you would like any additional information on the points raised in these comments. And then there's a list of the 11 members of the coalition that have contributed to the comments.

Thank you very much for listening to the comments.

CHAIR O'RELL: Thank you, Lynn.

Joe?

MEMBER SMILLIE: Lynn, on recommendation number five, crops or products certified, I'd love to get your group's input as to how much detail do we go into with crops? Do we want to go as far down as like varieties of broccoli, do we want to go as high as Cruciferae? Where do your people think, how much detail do they want to be subjected to to put on their certificates when they're shipping?

MS. COODY: Yes.

MEMBER SMILLIE: How much detail
do they want for those products that they've got to deliver to retailers?

MS. COODY: Well that's a really critical question and we've spent quite a bit of time talking about that, amongst the people who are participating in this coalition.

The bottom line was that they felt like they needed enough information to make sure that what's in the box is really coming from that farm. So, for example, for split operations, practically, they need more information than they need from a totally organic operation. So, we feel like the idea that the old IFOAM idea of visual distinctness of whether a product can be visually discerned to be different than anything else on the farm, could be one way to make that cut about what should be on the certificate. They generally did not feel like it needed to be varietal. And actually, a lot of these folks are associated with growers who hold that as confidential information. So they didn't feel like it needed to be that level of
difficulty, of specificity, but they felt like they needed to have, if you could say, like Delicious applies versus Gala apples, that was helpful to them. But they don't need to have super specific, like curled leaf parsley versus flat leaf parsley, just having parsley was good enough for them. Especially, if they were able to combine it with the information they also requested about the parcels on the farm, then they have enough experience and understanding of their market to be able to assure of what's going on.

MEMBER SMILLIE: Yes, that's the one that bothered me, the parcels on the certificate.

MS. COODY. Yes, I know.

MEMBER SMILLIE: I remember those days, man.

MS. COODY: Yes.

MEMBER SMILLIE: That's still done.

CHAIR O'RELL: I have Andrea, Dan, and then Barbara.

MEMBER CAROE: I have two issues
for you. One is the facilities used. I have an overlapping issue with our recommendation on private labelers --

   MS. COODY: Right.
   
MEMBER CAROE: -- and not disclosing their manufacturer and the confidential information there. So, I'm not sure how to finesse that to allow for what you're looking for, which is the facilities. So, that's going to be an issue there. And for that reason, it may not end up on this rendition of the document, but something we'd consider in the future, if we can work that out.

   And then the second thing, the last recommendation about requiring the certifiers to provide a publicly accessible database, I think the economic impact of that is going to prevent that from ever happening, because the small certifier that can comply with the regulation and provide their annual information to the program, it may be cost prohibitive to have such a site available, if they are a small certifier in, you know, Wyoming, doing local farms within
a hundred mile radius.

MS. COODY: Well, then you realize that they wouldn't have to update it very often. For example, a small certifier in Wyoming only updates, well, quite a few of them in that area of the country, they have one specific time where they take in applications and they basically to them in a batch because over the wintertime, they're really not certifying much farm work. So they can -- it doesn't take updating every day, if it's a really small certifier. And, you know, in contrast to a $10,000 fee for accreditation, which is, you know, some of the estimates of the accreditation fees going up so much, it seems like it's really not all that much difficult, when you're already having to make sure that you're stable enough to be able to, as a certifier, to maintain your accreditation.

MEMBER CAROE: The issue is not with the maintenance --

MS. COODY: Okay.

MEMBER CAROE: it's with the infrastructure of having a database, a
publicly accessible database.

MS. COODY: Well, you realize that it doesn't require that they have a database under the rule, but it does require that they make publicly accessible for three years, all of their certified parties for three years. They have to have some way to do that anyway.

Currently, they may be, every time they get a request they have to make copies and send it all out. These, the certifiers, in this group are currently going to the certifiers and asking them, they have long lists, you can imagine how many people they represent, they're going and asking for documentation on that stuff. This seems to be the most cost effective way to do it, in my mind. We saw it as a quick and easy way to provide it to all of the public, not just this slice.

CHAIR O'RELL: Dan?

MEMBER GIACOMINI: She, Andrea, covered it well enough.

CHAIR O'RELL: Okay. Barbara?

MS. ROBINSON: You know, I was
probably one of the people who wasn't really in favor of expiration dates on certificates because, when the Program started, you know, there were lots of concerns about certifying agents being able to update in a timely fashion and that sort of thing.

I have a couple of comments. One is that I've, just because of compliance issues and several other issues that have evolved over time, I'm sort of coming around to seeing things a little differently. But I think there may be a compromise position here Mark and I have been talking about that and that is that, as we know, in the regulations, certification persists, certification exists until surrendered, revoked or suspended. That's just the regs. However, a certificate itself, under just, in document control, a certificate, a piece of paper, could possibly expire or need to be updated. Now, this might certainly help certifying agents who are trying to collect their fees or correct noncompliances. And I can see where somebody would say, well show us your certificate and somebody saying,
well, I am still certified, I just don't have my updated certificate. Well, why not? Well, I just, you know, the check's in the mail, something like that.

At any rate, we're just sort of kicking this around but this may be some way to get where you want to go, without even perhaps without having to amend the regulation.

Now, my second concern, Lynn, though, when you start getting knee-deep, hip-deep, neck-deep in what you put on that certificate, I do get a little concerned with how far we go. Well, let me back up half a click.

As far as certifying agents making information available, the regulation already provides they are obliged make lists of their clients available. And they may charge a reasonable fee for that.

MS. COODY: That's right.

MS. ROBINSON: So that is already there, in the regulations. And we very -- we still do want to get to this electronic database, you know, it's the same old, same
old excuse we always have. Not enough money, not enough people and all that stuff. I don't know that requiring them to do it will make it happen nor do I think we'll be able to do it just because I think you're going to jeopardize or information collection burden again. And we're going to go to OMB and say now we're going to make everybody do this, we're going to force them to publish it on their own. And OMB's going to say, yes, but they already have the authority to do it, all anybody has to do is ask for it. And not only that, but if they're small guys, particularly, they can charge and recover the costs. So what are you making them do it for publicly, maintain a website, blah, blah, blah. So, that might be a nonstarter. I don't know.

Now, my last comment is just simply, once you start getting into things, getting beyond, I produce parsley to I produce curly leaf versus flat leaf, what worries me there is now we start forcing, I'm the producer, you know, my flat leaf parsley didn't grow this year, so now I want
to switch to curly leaf. I'm still a certified organic parsley producer and that's my business. Do I have to call the certifying agent up and go through all this? Now, I grant you, if I want to switch from parsley to potatoes, you've got a legitimate issue. But I don't think Joe Smillie deserves to make another dollar, excuse me Joe, my certifying agent --

MEMBER SMILLIE: No offense taken.

MS. ROBINSON: -- deserves to make another dollar just because I switched from flat leaf to curly leaf because one didn't work or the market shifted on me and my supplier wants something different, and that's not on my certificate and I can't produce it, and somebody says, ah-ha, you know, this could be fraudulent.

So I worry about how much detail we get into on the certificates. I understand what you're saying and again, just recently, from questions we get asked, I wish we had, we all wish we had more information. But it's sort of a be careful
what you ask for because you also can run into problems on the other side of that.

So, it's a two-edged sword with information. So --

MS. COODY: Well, I recognize that there are difficulties in finding out where the line is but you know that the rule does require if there's a change that affects the organic plan, that those people, the operators have to provide that information to the certifier has to make an amended certificate. So there's already a --

MS. ROBINSON: Not on the certificate.

MS. COODY: If there's a change to the --

MS. ROBINSON: Not an amended certificate. The plan has to be updated, the agent has to be notified. But if you say that that certificate is no longer valid, what concerns me is that now somebody's standing there saying, you know, if the agent can't get out there within the six and the agent says, you know, I don't
need to come out and --

MS. COODY: No, they don't have to reinspect. They can just, they just can say, okay, this is all done under your same exact farm plan, it's just you changed carrots for parsley. They don't have to go out and re-inspect. They just do, well, under ISO, it's called, there's a whole procedure for amending the scope of certification.

MS. ROBINSON: Well, now we're back to -- all I'm saying is let's, can we take some baby steps here?

MS. COODY: Yes.

MS. ROBINSON: I mean, I'm willing to -- we're willing to --

MS. COODY: Baby steps are fine.

MS. ROBINSON: -- go. It's just let's proceed cautiously because the more information we load up on the certificate, the more I worry that we could, we start trapping people and then we get the opposite affect. People start calling us up, saying, you know, what did I do wrong here?

MS. COODY; Well, the problem
these folks are in, just to put it in perspective is, when I was working on this project for them, they all submitted to me all the certificates that were of concern to them. I saw fraudulent certificates. I saw things that had been doctored up on Photoshop. You know, all kinds of things.

These folks, as I said, they go through, their product cycle is very quick. So they are, basically, doing self-monitoring compliance actions based solely on certificates. And by that I mean, if they think something is fraudulent, they don't buy the product. They just say no. And that creates a big problem for the farmer who, he may be fine, it may just be a funky certificate that's in the way of the sale.

So, these produce operators have a very specific need in that they have to be able to function quickly. And that's why they need all the information they can get as quickly as possible. That's their bottom line point. So any way you can get that to them, they will be greatly happy for it.
CHAIR O'RELL: Okay. I have questions from Bea, and then Mark, and then Gerry, quickly.

MEMBER JAMES: Okay. I want to know, how does OPWC handle new items from, sometimes it's not just a grower that they're getting the certificate from, a grower might be a broker. And that broker is buying from a lot of other different --

MS. COODY: Right.

MEMBER JAMES: -- growers and they decide to substitute Braeburn apples from one organic farm from another organic farm. So then there's always these new item updates and I'm wondering how they handle new items as they're updated and is there a way that we might be able to, on the certificate, make that process easier, so that there's not this continued --

Like the way that I know some retailers do it, they document new items as they come in and then send that information into the certifying agency so that they can see that they're keeping tack of new items as they come in. And that, so that is a
very lengthy process.

MS. COODY: Oh, yes.

MEMBER JAMES: Basically, you have to have someone solely devoted just to certificates --

MS. COODY: Yes, they have people --

MEMBER JAMES: -- so that you can buy --

MS. COODY: -- they do have people solely devoted just to certificates and they're tracking the certificates and all the products that they're buying and reselling.

MEMBER JAMES: Right. So maybe, Lynn, that's something that you would go back and ask them, how they handle new items as they come in. I'm very curious.

MS. COODY: Okay.

MEMBER JAMES: And if there's ideas on how that process might be simplified in the tracking of certificates. And then the other question that I had was expiration dates. Every different grower has a different time that they have
been granted their certification.

MS. COODY: Right.

MEMBER JAMES: So, how -- if a certifier says okay, now all your certificates need to be up-to-date by this date, but that particular grower is still in compliance with being -- it's not that date, do you know what I'm saying, for their inspection to come up?

MS. COODY: For the inspection of the handler?

MEMBER JAMES: Yes. So there's this grace period between saying you need to have your certificate updated and perhaps that date is not, is before they actually are due for their inspection.

MS. COODY: Well they, I think I'm understanding your question. You're asking me about the certification of the handler themselves and then you're asking how are they tracking the --

MEMBER JAMES: Because if we say okay, we want to have expiration dates on certificates, then all of the sudden, there's going to be, you're going to have to
get a certificate from every single person that OPWC is purchasing from that --

MS. COODY: That's what they keep. They keep all those certificates.

MEMBER JAMES: -- that is currently from this day where, let's say, NOP says all right. You're on. It's got to be --

MS. COODY: Well, I think I see what the problem is. If a system like this were implemented, it could be implemented a year out. So that, within that year, everything would then, they would have all the certificates in their files that have expiration dates on them.

And by the way, remember, we didn't ask for expiration dates on it. We're asking for not the date it's expiring, but the date that is actually issued or becoming, the operation is certified and then they're extrapolating from that, a year out. Because expiration dates we were afraid to ask for because the certification couldn't expire. So we didn't want to go into that. So we're asking for a little bit
of a different thing.

Okay. Is that it?

CHAIR O'RELL: Okay. Gerry, for the final question.

MEMBER DAVIS: Then the group you're representing, are they, and pardon me if I missed this in your comments, are they suggesting going down to the, I know commodity level, you know, not flat leaf versus curly leaf parsley, but they want commodity as well as parcel level information for the operation?

MS. COODY: Commodity is like broccoli versus apples?

MEMBER DAVIS: Cauliflower. You know, broccoli versus cauliflower.

MS. COODY: Yes.

MEMBER DAVIS: But as far as where that is grown. Are they asking --

MS. COODY: Oh, no, they're not.

MEMBER DAVIS: Back to the old days when we used to have to put every single parcel on the certificate?

MS. COODY: No. What they were trying to get to is they recently dealt with
a case where they were together able to pool their knowledge to say wait a minute, that guy is selling way too much broccoli on the market than he has land for. Because they, basically, between all of these, have, basically, a corner on the wholesale market. So, if they put their information together, they can extrapolate and see if somebody is maybe bringing in conventional product and sticking it on the wholesale produce market. So that's why they want to know how many parcels people have. That's literally what they're doing. They want to know how much land do you have.

MEMBER DAVIS: So, not specifically itemizing the parcels, but they want to know acreage of this commodity on the certificate?

MS. COODY: We didn't specifically ask for that. They would love to have that, but I told them that was asking for too much. I felt like that was just not, that was going to be, having putting out, potentially information that was held confidential by growers and it
wasn't going to fly. So, we backed off from that position.

CHAIR O'RELL: Okay.

MS. COODY: Oh boy. I'll tell you, next time I'm making my comments on accreditation because you never ask me questions on that.

(Laughter.)

CHAIR O'RELL: Thank you, Lynn.

MS. COODY: Thank you. Thanks everyone.

CHAIR O'RELL: Next, Katherine DiMatteo and then Rebecca Goldburg is up next. And I just remind the board, we've just completed page one of public comments.

UNIDENTIFIED SPEAKER: Doesn't it say Rebecca switched to Wednesday?

CHAIR O'RELL: Did Rebecca -- oh, I'm sorry. Rebecca moved to Wednesday. Oh, that's good. Okay.

Katherine, did you have a proxy? Is that what you're giving -- you are a proxy? So, five minutes.

MS. DiMATTEO: My name is Katherine DiMatteo and I, actually, I'm
reading this for Nancy Hirshberg. So, I've just cut my hair, so you've got to pretend I still have long hair and I could look a little bit like Nancy Hirshberg, or at least the same size.

I also want to say that I didn't write this testimony nor advise on the contents of it. So I am, literally, reading this for Nancy Hirshberg of Stonyfield Farm. She extends her apologies for not being able to be here in person to read this. She had planned on doing so, but last minute things forced her to stay in New Hampshire. So, don't ask me any questions at the end.

CHAIR O'RELL: Did you hear that board?

(Laughter.)

MS. DiMATTEO: Thank you for the opportunity to comment on your recommendation regarding agricultural and nonagricultural substances for national list consideration.

As makers of organic yogurts and smoothies, this issue has enormous impact on our business. We recognize the challenging
task before the board to address this highly complex and technical issue and greatly appreciate your commitment to a clear, consistent and strong National Organic Standard.

A fundamental principle of the National Organic Standard is that even with a five percent nonorganic allowance, if an ingredient of material is available organically, it must be used. This will stimulate the development of new products as organic and it is an essential part of the process of continuous improvement which is vital to the organic community. It is why at Stonyfield Farm we use a nonorganic agricultural ingredient that is not available commercially. We take our responsibility to find an organic alternative very seriously. We don't simply make a few calls throughout the year to casually see if we can find an organic version of the ingredient. We believe it is our responsibility to work with our ingredient suppliers to develop an organic version.
Over the past decade, we have helped suppliers, we have helped bring to market numerous organic ingredients in the United States by being the first to use an organic version from juice concentrates to spices and flavors.

Stonyfield farm purchases dairy cultures from a variety of suppliers. The culture originates from beneficial bacteria in nature. The seed bacteria. The beneficial bacteria are isolated and purified to make what is called an inoculum. The inoculum is then used to seed a commercial scale fermentation, thereby allowing the production of greater volumes of the concentrated pure bacteria. Each grown step involves the use of various nutrients required for growth of the bacteria. Most of the nutrients are consumed by the cells during the fermentation. The unused nutrients are subsequently removed by concentration, to be sure that the finished culture contains as high a cell concentration as possible. The suppliers then ship us a small can, bag, or
bottle of the culture in a frozen or freeze-dried form. In most cases, we add the culture to organic milk to grow a bulk culture which is then added to milk to make yogurt. In a few rare products, we add the culture directly to the Stonyfield product, where it will grow without first making a bulk culture.

The challenge with defining dairy cultures as an agricultural ingredient is that there is an inherent assumption that they can in fact be grown organically. Logically, it would follow, as it does, for all plants and animals that since the bacteria grow, they should be able to be grown organically. The reality, however, is that the sterile conditions and exacting specifications required for bacterial culture production, which have not been reviewed by the National Organic Standards Board, have specific media requirements, including nutrient level, PH buffers, etcetera. These require much more study to evaluate, if an organic production system is even remotely possible.
If dairy cultures can, in fact, be grown to the National Organic Program crop, livestock, wild harvest, or handling requirements, then they must be agricultural. But if they cannot ever be an organic cultural product because of the specific growing requirements, then they should not be listed as agricultural and should remain on 205.605(a) as a microorganism.

Organisms such as yeast that have been documented that they can be grown organically, should be moved to 606. This approach would be consistent with the European Union Regulation EEC 2092/91 and the Food and Agricultural Organization World Health Organization Codex Alimentarius Guidelines for Organic Production, which consider microorganisms to be nonagricultural and permitted, provided they are not from genetically engineered sources.

Reclassifying dairy cultures as agricultural materials raises several challenges. At what point do bacteria become organic? The seed bacteria in nature
would not be organic. At Stonyfield Farm, we add the culture to organic milk. At the point the cultures are added to the soon to be yogurt, they represent .002 percent of the organic product. Is that where the bacteria becomes organic?

Finally, the new definition of nonagricultural would impact other materials on 205.605(a), in addition to yeast and dairy cultures. Enzymes, citric acid, and natural flavors, all will be impacted. Why should dairy cultures and yeast be the only materials identified for movement to 205.606.

In summary, while we greatly appreciate the National Organic Standards Board's positive intentions and hard work on this challenging topic, we believe that broadly redefining dairy cultures as agricultural ingredients, in conflict with Codex and European Union Standards, is not the prudent direction. We recommend the decision tree be modified so that if a microorganism, such as dairy cultures, cannot be grown organically, it remain on
205.605(a). More research is needed on the potential of dairy cultures to be grown organically and where in the production process the bacteria could become organic.

Thank you for considering these comments and for your countless and often thankless hours devoted to maintaining strong organic standards.

And I will try to make copies of this so that you all have that.

CHAIR O'RELL: Thank you. That would be helpful. Thank you.

MS. DiMATTEO: Thank you.

CHAIR O'RELL: Andrea Kavanagh and then up next would be George Kuepper.

Andrea? So she wants to be moved to tomorrow? Okay. So Andrea moves to tomorrow. George. Lorette Picciano, I probably got that wrong, but hopefully you know who you are.

George?

MR. KUEPPER: Good afternoon. There's some handouts coming around. I heard that you didn't get enough paper to handle and read and I wanted to do my part...
to rectify that.

I'm George Kuepper with National Center for Appropriate Technology. We run the ATTRA project. And for those of you not that familiar with ATTRA, we develop and disseminate information on sustainable farming, a lot of which is directed specifically to the organic community and that's what I'm here to talk about.

Back in 2005, early 2005, I spoke to this group about some of the group that we were doing under specific contract with the National Organic Program. It's kind of an update and I'm kind of here to update the update. Sort of a, guess it's half a public service announcement, I guess.

Of the documents that I distributed to you, there's one that reads organic market farm documentation forms. That's actually a spin-off of the first contract that we did with the NOP. The documentation forms are basically tools that the producers and handlers can use to demonstrate their compliance with regulation and, you know, how well they are following
the organic system plans. They are record keeping tools, basically.

And we found when we did the first rounds of these that materials that we were finding were developing were very appropriate for the larger scale operations but the small, bio-intensive farms, the small horticultural operations, they really just weren't appropriate for their circumstances. So, this is trying to fill that gap. And I hope you'll let certifiers and others know that these are available.

Under the current contract, we've developed a compliance checklist for handlers. And basically what this is is sort of a reorganization and rewriting of the regulation into a checklist form. The one that we had developed for producers was rally widely used and we felt, you know, one for handlers was now appropriate and we're hoping to do more development work for handling operations in the future.

We've also done a lot on this contract with organic system plans. As you know, you all have, as a guidance document,
some templates for farm system plans and for handling plans. What was missing was a livestock template and the program asked us to put one of those together and they are reviewing our work right now. Hopefully, before the end of this year, that will be generally available, along with the other updated templates, the ones that you worked on last year. Also, there will be some guides for system plans. We've taken and developed some examples with explanations, particularly for transitional farmers who, you know, are seeing these system plans for the first time. They don't know exactly what's wanted or why it's wanted. So we're suggesting language and ways that they can develop their plans to facilitate their application process.

And I'd just like to express appreciation to the people that help us on this. We feel it's real important to have a stakeholder team from the organic community. And if you look on the inside of that checklist, you'll see some of the folks that we have. They include Nancy Ostiguy and Jim
Riddle, who is a past member of this board. And also, thanks to Barbara and Mark for supporting us in doing this work. And I'll mention Bob Pooler, too, he's been doing the reviews for us.

So that's all I have to say, formally.

CHAIR O'RELL: Thank you, George.

MR. KUEPPER: I appreciate it.

CHAIR O'RELL: Thank you. Any question for George?

MEMBER SMILLIE: Well, just a quick comment. I think it's great work because one of the problems as a certification agent, that certification agents have, is that a lot of times, they'll get applications in, it will say, what do you mean, how do I do this? And we're not allowed, as certification agents of USDA, to help them. So, having this resource, we can direct a lot of our applicants to your website. So I think you need to get this popularized among the certifiers because it will really help them help their clients, because they're not to do so directly.
One of the common questions we get is, can you send me like a sample of how I -- who is buying drinks -- you know, how can I, give me an example of how I fill out a compliance plan.

MR. KUEPPER: Joes, yes, that's exactly what we've done with these guides.

MEMBER SMILLIE: Right.

MR. KUEPPER: There's one designed for large cropping operations, one for small, and then for livestock.

MEMBER SMILLIE: Part of the ACA training.

MR. KUEPPER: Yes.

CHAIR O'RELL: George, this looks really good for a checklist for handlers and I'll be anxious to go through it. But thank you very much for your hard work.

MR. KUEPPER: Thank you.

CHAIR O'RELL: Lorette Picciano?

(No response.)

CHAIR O'RELL: Okay. Bill Wolf?

MEMBER CAROE: Welcome back, Bill.

MR. WOLF: I thought I was three
back in cue. Wow.

I really first want to say thank you all for your hard work and your efforts. I know you've heard this before, but this comes from someone who has seen the work that you all have to do. And seeing how the NOSB has been evolving and taking on the harder and harder details of the process.

The first time that I spoke at an NOSB meeting, there were four people in the audience. That was in 1992 and I haven't been to one in five years and I'm really impressed with the discipline and the thoroughness with which you're looking at really getting into the harder and harder issues that you guys have to face.

I'm speaking today for Wolf & Associates and for a client that will be speaking after me. And I really want to talk about Aspergillus oryzae and about microorganisms and talk about that in context, as you've been hearing the ideas of are microorganisms possible to be certified organic.

I need to step back for a second
and talk about the fact that really organic
is a philosophy, it is not a science and
that there are certain basic principles that
I hope we all support. But like most
philosophies, there are differences in
opinion about interpretations and that I
think that is at he heart of the issues you
are now facing.

A few common principles I believe
are important to the long-term integrity of
organic. One of them is the principle of
continuous improvement, that whatever we do
in building these regulations and in
refining them is based on the principle that
we are pushing the edges and the frontiers
all the time. And a second principle that
comes into play here is organic preference.
We've been forced to face organic preference
a little differently as a result of the
requirement to have all materials on 606 by
next June. And that has driven a
reevaluation of it by a number of
manufacturers of their certification
compliance.

In the case of Aspergillus oryzae
and koji mold, it was being allowed as, by a number of certifiers, as a non-commercially available organic and agricultural ingredient but that determination was not specified in the national list. It was simply the methodology that certifiers, in reviewing the production methods, determined that certain products were allowed.

The use of microorganisms and especially Aspergillus oryzae, has been in food production as a long and honorable history, literally for hundreds, if not thousands of years. And I think that's part of this pictures. It is possible to make these cultures organically and it is possible to grow them organically. And with that in mind, we need to be taking the high road. It think it's also possible to identify the difference between the spore and the grown out culture. And that, over time, may be one of the answers that you have to dice in the process.

In fact, in looking at all of the ways that different certifiers and products have been certified, we identified a couple
of products that were differentiating that way. One was a miso product that lists their rice koji as organic but their koji spores themselves that they receive and bring into the facility as nonorganic.

Briefly, what I need to say is that the important thing is that you look at that long-term view of where we want to be in the industry and that the solutions and improvements come from creating the platform that allows for that innovation to proceed, that we do have the concepts of the standards, we will figure out how to comply. Mushrooms are a good example.

And right now, microorganisms are on 605(a). They were placed there as the result of a petition by Kikkoman, that's what drove them to that location. There is currently a petition on your list for koji mold to be placed on 606. It has been misstated on your list as being desired to be on 605(a). A shoyu company from Japan, Higashimaru, specifically requested that it be on 606 because they saw the opportunity
and they saw that that's where it belonged.

The fact is that San-J, who will be speaking next, we advised them that they had solved the problem of their current certification because microorganism were being placed on 605(a) but they took the high road and said, no we want to see koji mold identified as agricultural. And I think that, with that in mind, we support the Materials and Handling Committee recommendations of the Ag/Non-ag position.

CHAIR O'RELL: Thank you, Bill.
MR. WOLF: It's the right thing to do.

CHAIR O'RELL: Thank you, Bill.
MR. WOLF: Thank you.
CHAIR O'RELL: Are there any questions for Bill? Nancy?

MEMBER OSTIGUY: You implied that there's a difference between spores and the vegetative growth of a microorganism. Could you explain why you have split that in your mind?

MR. WOLF: Well, I think it's, the real comparison is like a vegetable
seed, versus the growing out of the plant. The spore is produced by isolating the seed itself and then the fermentation process is just like growing a plant. And those two things are separate in the process. And if you look at the process of making sake or tamari or shoyu or even natto, those two steps are normally quite separate in the fermentation and in the agricultural process.

MEMBER OSTIGUY: But in the same way that we have a requirement to use organic seed, if it's available, would that not also apply to the situation that you are looking at?

MR. WOLF: That is what I believe is the correct the long-term approach to this issue, that we should have an organic preference and be moving and changing the regulatory structure. And the Ag/Non-ag recommendation moves us in that direction. That is what I was trying to say.

CHAIR O'RELL: Bea?

MEMBER JAMES: I don't know if you know the answer to this, would Kambucha
fall into the same category as the other fermented products that you mentioned?

MR. WOLF: I believe it uses a different organism, but it is the same conceptual process. I've got some data in this file. I could look it up and answer you in more detail.

CHAIR O'RELL: Andrea, did you have a --

MEMBER CAROE: Just really quickly, Bill. We're hearing some concerns, well, we're hearing lots of concerns that there are not clear standards for the propagating of organic single-cell organisms within the regulation. You, I think you're of the same mind as me in that those, we can extrapolate that from the existing regulations and what is applicable. Do you see, though that there is a necessity to clearly define those extrapolated requirements prior to categorizing these as agricultural? I mean that's what we're hearing, a lot of concern is that --

MR. WOLF: Right. I think that that -- I think that we should just move
forward and that the framework for certification is there. The certifiers have the capacity now to certify microbial products. I don't think we have -- it's just like mushrooms. We have certified organic mushrooms and we have a framework in the standards already outlined for making these decisions. The substrate would need to be organic. The process would need to be verified and compliant throughout the rule.

And I think the issue of livestock versus plant life is a tough one and that is something that has to be worked out.

MEMBER CAROE: Okay. Thank you, Bill.

MR. WOLF: Thank you. CHAIR O'RELL: Thank you, Bill.

Well, we are, I am reminded, we are scheduled for a break now. I'd like to ask the board to take truly 15 minutes and come back. Because we do want to recess somewhat on time this evening. So, please take 15 minutes.

When we come back, Rachel Snoddy
would be up next. Following her will be Leslie Zuck.

    Thank you.

    (Whereupon a short recess was taken.)

    CHAIR O'RELL: Can I get everybody to take their seats, please?

    We are going to resume with the public comments. Rachel Snoddy. Rachel?

    MS. SNODDY: Good afternoon. My name is Rachel Snoddy and I am from San-J International.

    I would like to take this opportunity to thank the National Organic Standards members for your diligent work and your consideration of the complex issues of organic production and processing. I would also like to thank the National Organic Program staff for their work to ensure that the U.S. organic regulation is implemented efficiently and effectively within the constraints of their limited budget.

    I am the Production Quality Control Coordinator at San-J International, Incorporated located in Richmond, Virginia
since 1987. Our founding company is San-Jirushi Corporation in Japan, which is now owned by Yamasa Shoyu Corporation. We are the producers of soy sauce and related products.

Our founder, Mr. Sato, started San-Jirushi to fulfill his dream of providing natural miso and shoyu using traditional methods or production. Our products are sold throughout the United States and in a number of countries around the world, including Japan, Australia, New Zealand, and Canada, and throughout Europe.

1989, San-J introduced organic tamari and shoyu soy sauces. Organic sales currently represent 50 percent of our overall sales and have increased five times since 1990. We have introduced one new organic product in the past two years and have a strong commitment to increase the number of organic products and amount of organic ingredients in our products. Yamasa Shoyu Corporation also produces organic products in Japan.

San-J International supports the
recommendation of the NOSB Joint Materials and Handling Committee regarding the definition of agricultural and non-agricultural. In particular, we agree that microorganisms that are traditionally used in the manufacturing and preparation of foods should be considered agricultural.

The committee's recommendation supports both the organic foods production act that includes non-plant life within the scope of the law and the 2002 technical advisory panel review of microorganisms used in organic processed foods. The TAP review includes a recommendation from the organic materials review institute that "another alternative would be to consider, in the future, recognition of such cultures as agricultural commodities."

In the committee's recommendation, the determination of an agricultural product is based on whether the non-plant life grows on plant products, is consumed whole as part of the finished product, and has a history of use in food. Let me explain how koji mold is produced, in
order to illustrate how koji mold meets these requirements and, therefore, why this substrate should be considered agricultural.

Koji mold also known as seed mold or seed koji is produced by inoculating an agricultural substrate, such as rice or barley, with Aspergillus oryzae, a microorganism currently allowed for use under Section 205.605 of the National Organic Program Rules. This begins a growth process to produce spores that are dried, collected, and blended with a carrier, such as cornstarch. At this stage, this is koji mold. Organic soy is then inoculated with the mold and fermented to produce products such as soy sauce and miso. This six month natural fermentation process has been used for over 200 years. In our opinion, koji mold and other non-plant life grown in a similar process clearly is an agricultural product.

Although koji mold is currently not available in an organic form, it is possible that an organic form could be produced in the future. Although this may
take time to develop, organic production should be pursued in order to continually expand the use of organic ingredients in organic processed products.

In our company, taking this as a fundamental responsibility has begun to talk to our suppliers about the possibility. I urge all of the members of the National Organic Standards Board to vote in favor of the recommendation for the definition of agricultural and non-agricultural that the Joint Material and Handling Committee has recommended.

Thank you.

CHAIR O'RELL: Thank you, Rachel. Any questions?

(No response.)

CHAIR O'RELL: Thank you very much.

Tina Ellor and next on deck is Emily Brown Rosen.

MS. ELLOR: Hi. I'm Tina Ellor from Phillips Mushroom Farms. It's so good to see all this fungus being talked about for a change.
(Laughter.)

MS. ELLOR: I am, by professional, a mycologist and you know, I've always assumed mushrooms to be agricultural products, I'd like to say that up front, but certainly not livestock. And I have to say that part worried me a bit.

As you know, we certify under the crops standard. And so far, it's been working well. We would rather, of course, have our own mushroom standard. Just another -- I always plug for that and I will forever until we get one. If there's a task force to be done, I'll take it on.

I'd like us to remember that we're not an island. We live within a larger framework and a lot of this terminology is well established. And I don't, what really worried me, when I saw the recommendation, if it's not a plant, it must be an animal, which, of course, is not true. I brought my son's biology book and there actually are six kingdoms and, you know, they're split into that classification for various reasons. But this an ever-
changing organization and I've addressed this organization countless times.

And before I go any further, and not to start a brawl, but as a true token of respect, I'd just like to give you a little bow because I know the amount of work and the amount of material that you guy must have to learn about, you know, to make these determinations.

I have no problem with the agricultural/non-agricultural determination but I'd like to make sure that we live within established nomenclature, so to speak. So, if it's not a plant, that doesn't make it animal.

And also, a microorganism is anything that you can't see with your eye. That's the definition. So not all fungi are microorganisms. Not all microorganisms, of course, are fungi either.

So, I'd like if we could keep in mind the established nomenclature for these things because, of course, mushrooms are always grouped with fruits and vegetables. You always find them in the produce section,
not in the meat section. And the very idea of certifying mushrooms under a livestock certification, I had the cold sweats all night last night. So, I just, you know, I'd like you to keep that in mind. And if you want a boring lesson on the classification system, I'm your woman.

Thank you very much.

CHAIR O'RELL: Thank you very much.

Tina, if you want to learn about the approach to non-ag/ag on the classification of kingdoms, we've been down that route.

MS. ELLOR: Right. I figured you had.

CHAIR O'RELL: That's our previous ones.

MS. ELLOR: I figured you had.

CHAIR O'RELL: Yes.

MS. ELLOR: But the way it came through in, you know, that one paragraph, I didn't bring it up with me was that, you know since it's not --

CHAIR O'RELL: No, I appreciate
the comment in that regard but --

MS. ELLOR: And this is an ever changing group of people. And down the road, you know, I don't want another group to say hey, wait a minute, you know, yeast are certified as livestock, why shouldn't mushrooms be?

So, I'd like to see us have our own standards, mushroom standards. Microbial standards certainly would over it. Keep in mind, you can't make it single-celled, because there are many, as the Aspergillus, of course, is a filamentous fungi with many cells. So even be careful how you use that term. And of course, there are many filamentous yeast as well. And I'm a mycologist, I'm a geek, I admit it.

CHAIR O'RELL: Andrea, then Joe.

MEMBER CAROE: Just really quickly, one of the things that we were challenged with when we were going down that kingdom route and trying to distinguish, and we have very distinguished scientists on the board to help us out with this, --

MS. ELLOR: Right.
MEMBER CAROE: -- is not a scientific challenge as much as a regulatory challenge in that, you know, we must make our justifications based on information that's provided to us in the OFPA, the statute and the regulation to a lesser degree. But it was very hard to justify carving out and, essentially, reverse engineering what we've done, what the past boards have done to get to that point.

So, if you have suggestions in that area, arena, that's really, you know, I think we're in agreement where we want to go, but how to get there --

MS. ELLOR: Right.

MEMBER CAROE: -- is not an easy --

MS. ELLOR: Right.

MEMBER CAROE: -- task when it comes to getting this recommendation --

MS. ELLOR: But I think for us to start reclassify life is not, I don't know how to put this well, it's not very credible. There's this existing framework that's recognized throughout the world and
not just in the scientific community. This is my seventh grader's biology book, you know? We have to do it within a framework so that, and also within other, I mean certainly mushrooms have always been considered agricultural and never been considered livestock, the FDA certainly puts them with fruits and vegetables, the USDA does. You know, I just don't think it's credible to sort of reclassify life for regulatory convenience. You know?

CHAIR O'RELL: Nancy and then Joe. Sorry. Sorry, Joe. Sorry, Nancy.

MEMBER OSTIGUY: First off, Tina, I agree with you, that there are different kingdoms. But the difficulty does come in with regulations and laws. One of the problems I run in to all the time is explaining to my students how runoff from an agricultural field is a non-point source of water pollution. They keep saying, but I can point to where it's coming from. And they're right, but it's defined legally as a non-point source. So, I'm not coming down on one side or another but I'm just saying
that the law actually frequently does not pay attention to biology and science in general.

MS. ELLOR: Yes, this is pretty fundamental, though.

MEMBER OSTIGUY: I know. It's basic.

MS. ELLOR: This is pretty frustrating.

MEMBER GIACOMINI: There aren't very many soybean cows though either and it's on the dairy case. So --

MS. ELLOR: But we are going to do for outdoor --

(Laughter.)

MS. ELLOR: Yes, how are we going to get those mushrooms outside? They just don't move very fast.

CHAIR O'RELL: Okay. I have Joe for a question.

MEMBER SMILLIE: Well, basically, the point I was going to make, Andrea and Nancy made it, is again we're getting beat up about the livestock issue. But the reason why that came up at all is if we
would have used common sense, we could deal with this issue and deal with it very appropriately, quickly and efficiently. We lack a regulatory base to do so. We know what the right thing to do is. We have to justify it via the regulation. And, as Nancy said, regulation doesn't always follow common sense or science, in some cases.

So, that's why the whole livestock issue came up. Obviously, we -- the regulatory basis by which we felt we could proceed from. That's the only reason why it's there. We don't intend to pasture them or anything.

MS. ELLOR: But from the beginning, I mean, if we could start properly from the beginning. And you know, we had a mushroom standard that was recommended by the NOSB that got dropped for various reasons. And the same with, you know, we're always trying to put round pegs into square holes. We need a mushroom standard, possibly we need a microbial standard because it is very different. And certainly how you grow yeast is much more
akin to how you grow bacteria than how you grow mushrooms. And of course, growing mushrooms is much more akin to a field crop, although it's pretty distant, than say, you know, cattle or dairy or whatever.

So, anyway, thank you very, very much.

CHAIR O'RELL: Bea?

MEMBER JAMES: I just want to make sure that what I hear you asking is that you're saying you would rather see a new standard made for the classification of mushrooms instead of having it grandfathered inappropriately into livestock, where it doesn't really fit.

MS. ELLOR: Absolutely. Absolutely. And now we certify under crops which we made work. It's not an exact fit and there's a lot of inconsistency, you know. So, a mushroom standard wouldn't be too hard to come up with. There are certainly lots of people who could do that.

CHAIR O'RELL: Thank you. Emily?

Emily Brown Rosen and then following Emily is Will Daniels.
MS. ROSEN: Yes, I have a proxy from Harriet Behar for an extra five minutes.

CHAIR O'RELL: Harriet is --

MS. ROSEN: Are you signed up also?

CHAIR O'RELL: Harriet is on the list.

MS. ROSEN: Yes.

CHAIR O'RELL: So, you're taking that place? Okay got it, thank you.

MS. ROSEN: For myself and Harriet. We're passing out some copies of my comments here for you.

My name is Emily Brown Rosen and I've been up here before. Many of you know me. Right now I'm working as the Materials Review Manager for Pennsylvania Certified Organic, so my comments are on behalf of PCO today.

I'd like to talk about three of the recommendations. First I'm going to talk a little about commercial availability, the guidance for a listing of certifying agents names on labels and then agricultural
and nonagricultural. So I'll start off with the shorter document first, it's on two sides.

And basically, commercial availability, we do support this recommendation and especially the intent of this recommendation as far as helping establish more criteria and review of the substances petitioned for 606. In fact, we think that the additional information requested about availability of sources is useful. It will be helpful to NOSB in evaluating the petitions and we also support the role of NOSB in making an initial determination on commercial availability. We think that's an important first job for materials that are petitioned and that that's not something you should shirk from doing. That's part of the whole national list process.

Then further down the line, the certifiers will have to do the more nuts and bolts to get more specific on the commercial availability determinations but it's helpful if they're screened first on the list and we
know, you know, the universe of things to work with. So, we do support that.

In Part C, the role of accredited agencies, we think you've gotten a little close to the line under point three there, where you've recommended or required that certifiers notify clients of sources of information of commercial availability. As you know, certifiers are not allowed to consult or give direct advice to clients that will overcome barriers to certification. So we feel this really is, if not crossing the line, very close and it's not really certifiers' jobs to help processors source ingredients. We feel that should be left out.

Under point four, we don't object. We can see the value of filing these notification reports to NOP about any exemptions provided but we would like to seen an additional point in that document stating that the NOP's role, in this case, is to gather this information and publish it and make it available. We don't want to be burdened with collecting all this
information, updating it regularly, sending it to the NOP and not having it publicly available, having it in a box, or really inaccessible. So, you know, we'd be happy to do it, but it needs to go somewhere once we do do it.

We do, in general, recognize this as a really hard part of the rule. And good luck. It's going to be a big job coming up here. And we're also very supportive of any private sector development of databases that are more interactive, that can be more useful for the industry. So, maybe that's something, you know, that would be an easy thing to say, there's a database out there, go check it and we can work with it. But, it's not there yet and I think we should all be scratching our heads and figure out a way to make that happen.

As far as certifying agents' names on the labels, we think it's great that you're working with NOP on Q and A's on this. It's always a confusing part of the rule to explain to people and also, you know, what has to be on the label. We've
seen a lot of different problems with that. But I think the questions that you were given to work with are a little narrow and don't really cover the scope of the types of problems that are out there. So, I've taken the liberty of writing six new questions, sort of similar to the ones that you have. I'm not going to read them all but it does, I think, cover the turf a little better and I think it helps with who has to be certified, whose name is on the label. And you can, I won't read them all out loud, but you can look through them. I mean, for example, I added a new one here. I mean, because it's not just the retail level, it's also the manufacturing level, when a manufacturer who is certified has a lot of co-packers. We need to cover that base too.

So, my last question here is, what if a certified manufacturer uses more than one processing facility to manufacture a product and the facilities are certified by different agencies? Do all agencies need to be on the label? And the answer is no.
The agency that certifies the manufacturer whose name is on the label can be listed for all the products. The manufacturer, in that case, is responsible for the audit trail and acts as the final handler. So it's like clarifying who is the final handler. And I think this will help. So, I hope you can take a look at that.

Okay. Moving on. Agricultural and nonagricultural substances. I want to give a lot of support for Oregon Tilth and the work they've done on this. Gwendolyn and I have been trading emails like crazy the last two weeks in trying to sort this whole thing out. And her concerns, she listed four major concerns, are really all my concerns, they're all in this document, too. They're in a different number of order, but they're pretty much the same ones, plus I added another one but we are concerned.

You know, our number one concern is probably the impact on the other sectors, and particularly livestock. We certify a lot of livestock in Pennsylvania and dairy
farmers, particularly fond of adding, what is termed by AAFCO as direct fed microorganisms to the animals' diet. It's generally a bacillus, lacto bacillus, various different bacteria. It can be a combination of bacteria and fungi. It's just standard good practice. And my concern is that if you're coming up with this new process for determining agricultural and microorganisms, I mean, it's hard to see how yeast and not bacteria or some organisms are and some aren't agricultural. But if they become agricultural in general, are we going to have a different rule to describe agricultural for the purposes of feed as for the purposes of food? It seems like you'd want one method of doing that for across the board here.

And secondly, in livestock, we don't have a commercial availability clause. If something is agricultural for livestock feed, it's supposed to be organic. So, we'd have a little bit of a conundrum here where you've called them agricultural, they're not available organically, what are they...
supposed to do? So, I don't have a good answer for that, other than, I don't think you should move these things at this point. I don't think it works.

The other industries that haven't been consulted are the brewers and the wine makers and, you know, we've head from one dairy processor, but I think there's a lot of other cheese and dairy people that really might have more to say on this. So, I don't think it's, I mean, it's an idea. I think it's good to think for the future, but I think we need to look at this a little more carefully and think about it a little bit more.

The second main concern is consistency, as Gwendolyn noted. There is, if we're going to do this, you know, in the name of making the definition more consistent with the list, we're ending up with microorganisms as non-synthetic allowed and yeast as requiring to be organic when available and whose to say when we're using it as an organism and when we're calling it yeast. There's going to be total confusion
to move some and not all. So, I think, you know, plus also if you're going to go that route, then we have enzymes that are products of organisms, vitamins can be products of organisms. Are we going to go through this and do this all consistently? I think that's what's needed. So, I can, I have to agree with Gwendolyn, it's sort of all or nothing. And I'm sort of falling on the nothing side, at this point, I hate to say.

And the third reason which we've all heard is that, is we don't know how to do it. Okay? We don't have standards. What do we start with?

If we're going to continually need a laboratory sterile inoculant for your dairy culture and then you're going to grow it one small vat and grow it bigger and bigger and bigger. But there's very prescribed systems. Where does the nonorganic part come from? Is that okay, to be nonorganic forever? When does it become organic? It's really we're talking more like processing function not really, you
know, you can say cultivating, it's growing, but it's sort of more like making a food product. You know, you're taking something and growing it out to make it a bigger food product. But still, we're not clear how to, you know, what is laboratory source organisms? You know, how you would calculate percentage of the weight of the substrate when they're going through five different batches? How would get 95 percent?

There's really no, there hasn't been a lot of thought about this and, you know, I don't know how to do it. We'd like to see guidance and rules before we're suddenly put into that position.

Okay. And fourth, I agree, this is not a technical correction. You have a process. We've been told over and over again, we need petitions. I believe the OPFA says there needs to be a TAP review. There's an old review from 11 years ago that doesn't really cut it on dairy cultures, at this point. So, I really think you need to gather that information.
We've used information in TAP reviews to help us with further certification decisions down the road. We look back at those TAP reviews to say, oh yes, this farm was decided synthetic, this wasn't. This is the manufacturing process that was reviewed and allowed. And that helps us to set these standards.

So, I think if we go through it now, you've got a petition on yeast, if you go through your normal process, that will help you, you know, figure out which way to go, and which type of products and what the rules are. So I really encourage you to stick with the process like you always do. And it might take a little longer, but we'll have a good process.

(Timer sounds.)

MS. ROSEN: Okay. I guess I'll -- that was ten minutes, right? Okay.

CHAIR O'ReLL: That was.

MS. ROSEN: I could go longer but that's okay.

CHAIR O'RELL: We know you could.

MS. ROSEN: Any questions?
CHAIR O'RELL: Thank you, Emily.

MS. ROSEN: Okay.

CHAIR O'RELL: Any questions for Emily? Joe?

MEMBER SMILLIE: On point three, and the role of accredited certification agencies, representing certifiers, I agree. Point three is sensitive. You're absolutely correct. Certifiers are not allowed to help prospective people who are being certified. But, at the same time, we're where the rubber hits the road. You know, it's the certifiers that have to deal with, you know, well, you say it's available, you know, where, how, why? And obviously we can't say, well go to so and so and so. But I think we do need the power to point out, and the wording was carefully chosen, it's sources of information, not direct information. So, what we're looking for is organizations like OTA and then we just heard ATTRA and others who stepped forward to provide those data banks, that manufacturers that create these products that are available in form quality and quantity, you know, we can get the
people who want to get certified to those sources. So, I do want to keep the role of certification agents. I do realize it's a very sensitive point and it has to be clearly understood by certification agents how they far they can go in providing support and help.

MS. ROSEN: I wasn't clear if you were, you know, you're proposal is like a guidance to what the certifier's role should be, right? So you're not saying they're required to do this?

MEMBER SMILLIE: No.

MS. ROSEN: I mean, you know, that's fine. I mean, we always provide general information to people on all kinds of topics. That's applied to all fairly.

MEMBER SMILLIE: Right. And I think eventually it will come down to the ACA training and we'll get guidance on exactly what we can say and can't say. And again, relying on organizations like OTA and ATTRA to promote their role in OMRI, in making these sources available. It's going to be critical because really, when you're
dealing with people who are getting certified for the first time, it's a new world for a lot of these producers and handlers. They don't know how to find organic stuff. They've been buying from the same supplier for like 20 years, now they've got to do organic.

You know, so we do need to, as conduits, we need to be able to get them to the information without breaking our role.

CHAIR O'RELL: Bea?

MEMBER JAMES: Thank you for putting together your easier to read version of the retailer Q & A. And I just want to make sure because when I go through and I read this, it just seems like you're not really saying anything outside of what we had already put into the recommendation.

MS. ROSEN: No, I just tried to expand it a little.

MEMBER JAMES: You're just trying to clarify it more. It's not that you're disagreeing with the way --

MS. ROSEN: No. No, there's no disagreement.
MEMBER JAMES: Right.

MS. ROSEN: Okay.

CHAIR O'RELL: Thank you, Emily.

MS. ROSEN: Thanks.

CHAIR O'RELL: Will Daniels? And then on deck is Suren Mishra.

MR. DANIELS: Thank you. Will Daniels, Chairman of the Board of CCOF. And I'd like to thank the NOSB as well the NOP for allowing me the time to speak today.

My comments today are really nothing more than echoing many of the comments that were already said today, so I will be brief.

With regards to TAP reviews, CCOF supports the conclusions of the TAP reviews and we'd like to express our desire to keep those TAP reviews moving forward, especially those that blur the line between materials and a process.

With respect to Ag versus Non-ag, CCOF has concern for the agricultural versus nonagricultural proposal. While we appreciate the points raised in the recommendation, we're not sure if a
technical correction is feasible. And further guidance is needed on how to certify microorganisms.

With respect to private labels, private label certification is an integral of our organic system. CCOF certifies private labels and they must adhere to the same standards of certification, providing detailed records for auditing, oversight over labeling, certified suppliers, etcetera. Requiring the company to list each co-packer may be too costly and, therefore, we don't recommend it.

Regarding standardized certificates, standardized certificates, including an indication of some sort of an expiration, are important and needed. However, overly prescriptive requirements regarding fonts, spacing and the like, are unnecessary.

I think that's it for today. Thank you. Any questions?

UNIDENTIFIED SPEAKER: We appreciate your brevity.

(Laughter.)
CHAIR O'RELL: Thank you for being so to the point, yes.

Suren Mishra? Anthony Pavel is on deck.

MR. MISHRA: I am Suren Mishra from TETRA Technologies. I am a business development manager for the company and I also manage intellectual properties. This is the first time I am coming to you. I had opportunity to interact with patent and trademark office, convincing my case. So let me see if I can convince you here.

I heard Bill Wolf made a statement philosophy or science. When science becomes sophisticated, it becomes philosophy. And when it is further upgraded, it becomes art. So, I will try to stay at the scientific level. I am not a philosopher, I am a scientist.

I am addressing the issue of calcium chloride being still put in the prohibition list of NOSB. It is well established for long time that both calcium and chloride are nutrients applied foliar, as well as in soil. Calcium chloride has
been used for a long time, at least for over 20 years in the agriculture industry. TETRA alone, I don't quote the exact figure, but would be hundreds of thousands of tons of calcium chloride have been sold in agriculture market, both for soil applications, as well as for foliar applications.

   It is also an excellent source of calcium for soil amendment and I'm sure we go around the world and you go around the United States, there is very large percentage, a significant percentage of soil is affected by salt. And calcium chloride we are selling into that market for soil amendment. It is not restricted only to the crops. Fruits, vegetables as well. So, we are selling into that market.

   It has got a role to play, as it has got readily available calcium. It works very instantaneously, very rapidly, as compared to less soluble calcium source which traditionally has been applied in the industry for a long time.

   What we are concerned about is
calcium chloride has been classified organic for foliar applications but not for soil applications. And principally, what is happening is the chloride issue. One of my colleagues is sitting in the back, Charles Sandler, he always reported that people have that chlorophobia. Sure, people have concern about chloride ions and for that I have attached with this list of various soils from different parts of United States and if you look at the chloride content, they are pretty reasonable. In fact, in many areas, very deficient in chloride content. So, chlorophobia is not an issue, if it is applied properly.

On the other hand, what we have noted that potassium chloride is being classified both for organic, for foliar and soil applications. Why the difference? As a matter of fact, there is a proviso with the potassium chloride and that is, it must be applied with care so that chloride build-up doesn't take place. That's genuine concern. Potassium is a monovalent ion, it can disburse the soil, if it is added in
excessive amount and it will entrap chloride species in there. On the other hand, calcium being divalent, it tends to flocculate and so, chloride species will not stay there. It gets down away from the root zone. So, from that point of view, calcium chloride should be preferable over potassium chloride, as far as chloride sources concerned, which is a nutrient.

Potassium chloride is used all the way up to thousand pounds per acre. On the other hand, calcium chloride is in the range of ten to thirty gallons. That's equivalent to something like 100 pounds per acre, which is much more reasonable, as compared to what you see in case of potassium chloride.

(Timer sounds.)

MR. MISHRA: I will request potassium chloride and calcium chloride should be given equal treatment. And I am open to questions.

CHAIR O'RELL: Thank you. Any questions?

MEMBER DAVIS: I have a question.

CHAIR O'RELL: Gerry?
MEMBER DAVIS: Suren, the chloride concentration of -- I think you make a good point when you talk about potassium chloride and calcium chloride. Why would one be not restricted for soil use, as in the potassium chloride, and the calcium chloride would be restricted? We grappled with that in our discussions on the committee and didn't -- I'll have to give you that one. We didn't approve the potassium chloride.

But you're right, the chloride is the issue and using it as a soil application, it's perceived that yes, it's soluble and yes, it's not going to stay in the profile, it's going to leech through. And that brings up the issue of possible environmental contamination. Not that it would have a high parts per million concentration per application, but if you're continually adding more and more, what are we doing underneath? I mean, that was the issue that we grappled with, as far as one of the criteria for does it pass or not.

Your information showed that your
company would like to have it applied for salt remediation because it's better than, you know, to go into alkaline soils. And it seems counterintuitive, to me at least, to apply a salt to an alkaline soil to remediate salt. I know it, I understand the science behind it and what it does, it just kind of goes against the philosophy of organic a little bit. And I think that's what you're struggling with.

MR. MISHRA: Well, let me answer your question.

MEMBER DAVIS: Okay.

MR. MISHRA: The first instance regarding the chloride level, if you are to compare potassium versus calcium, potassium application is much much higher than calcium application, in general in soil, number one. For soil remediation, now what are you trying to do? It is, you're not -- we have got data available --

MEMBER DAVIS: No, I understand. I know potassium chloride would not be for soil remediation, that is something specific to your --
MR. MISHRA: No, I understand. I'm not talking about -- that's one answer. Another one is for soil remediation, you have said the chloride is an issue. Right? As a matter of fact, if you go and look at soil, affected soil, which will have higher chloride content, then once it has been remediated with calcium chloride, because it is taken out of the system, it is entrapped. Because soil is disbursed, so chloride is trapped into the soil physical structure. Once calcium replaces sodium, it flocculates the soil, it makes it permeable. Chloride gets out of the root zone. It removes the toxicity of sodium, as well as chloride.

CHAIR O'RELL: Nancy, I have a question. Go ahead.

MEMBER OSTIGUY: You still didn't answer the question of where the chloride goes.

MR. MISHRA: Sure.

MEMBER OSTIGUY: Because if it's going beyond the root zone --

MR. MISHRA: It will go down.
MEMBER OSTIGUY: -- it still does
--

MR. MISHRA: Sure. Ultimately, it will go down. Sure.

MEMBER OSTIGUY: Right.

MR. MISHRA: It will flow down.

MEMBER OSTIGUY: In reality, we are dealing with philosophy rather than science. Potassium chloride is prohibited, unless it's from a mine source. The law allows that material to be used because it is non-synthetic. Your material is synthetic.

MR. MISHRA: No, it is not. It is mine source.

MEMBER OSTIGUY: Then why are we even considering --

UNIDENTIFIED SPEAKER: Okay for use.

MR. MISHRA: Yes, that is right. Then it is okay for use.

UNIDENTIFIED SPEAKER: Then what are we talking about?

MEMBER DAVIS: The TAP was a bit confusing and I see where you probably got
the idea, because there are, TAP talked a lot about synthetic ways of producing calcium chloride. But their mine, their process, is not synthetic.

MEMBER OSTIGUY: Then it doesn't need to be petitioned, does it?

UNIDENTIFIED SPEAKER: Even if it is petitioned, that one is still good.

MEMBER WEISMAN: But is petitioned, it was originally petitioned to be prohibited, except for a particular use. So what he's advocating is that it no longer -- I think the issue here is advocating that it no longer be prohibited, that --

MEMBER DAVIS: Change the annotation.

MEMBER WEISMAN: Or no, actually it shouldn't be -- you're saying that it should not be a prohibited item anymore.

MR. MISHRA: Correct. Because it is also, it is produced similar way as potassium chloride is.

MEMBER OSTIGUY: Well, but you were comparing calcium chloride to potassium chloride.
MR. MISHRA: Correct.

MEMBER OSTIGUY: That comparison, they are two separate materials.

MR. MISHRA: I understand.

MEMBER OSTIGUY: Okay. They are two separate materials.

CHAIR O'RELL: Julie?

MR. MISHRA: My argument is both are produced in similar fashion. Both are mined, pumped from underground, processed as -- we have submitted to you the whole process or system of how we produce it. So you should be consider it like potassium chloride is considered.

CHAIR O'RELL: I have Julie, then Hugh.

MEMBER WEISMAN: Okay. I'm asking questions as crops is not my field of expertise. I'm just curious what percentage of agricultural land in this country is, would you say is salt affected?

MR. MISHRA: If you ask me about, it would be about 15 to 20 percent.

MEMBER WEISMAN: Okay. All right. Because I guess I'm wondering, I
take it this is common practice in conventional agriculture, is to add this to the soil so that it can be, so that salt affected soil becomes arable?

MR. MISHRA: Yes.

MEMBER WEISMAN: But there's not rule that says, I mean, no one here is preventing conventional crops from being grown in this way. We're just saying that organic crops need not. Just the same way there is an issue about whether, you know, if there's not enough rainfall in an area to produce adequate pasture, then the issue has been raised, then maybe cattle shouldn't be grazed there. Maybe that is not a good place for cattle, organic cattle production.

MR. MISHRA: Julie?

MEMBER WEISMAN: So that --

MR. MISHRA: What I'm asking for is to be fairness here. If potassium chloride has been allowed to be considered organic for soil applications, why shouldn't it be for calcium chloride? That's the only fair thing.

CHAIR O'RELL: Hugh?
MEMBER KARREMAN: One suggestion, it just kind of reminds me of the ivermectin and moxidectin. If moxidectin is better than the ivermectin for environmental reasons, maybe someone should petition that potassium chloride comes off and calcium chloride comes on. Or if it's natural anyway, I don't see what the petition process was all for.

MEMBER DAVIS: They're different. They're used for different purposes. One would be mainly a potassium supplement, the other is mainly a calcium supplement. But they both contain the chloride ion which is, in my opinion, the bad guy that he mentions about. Everyone's got chlorophobia because they're wondering where is all that ion going, what's the long-term ramifications of continuing leeching through chloride and is that sustainable and is that organic? And that's the, I think the real crux of the issue. It's hard to determine.

MEMBER KARREMAN: Well, I could say that moxidectin actually acts on different parasites than ivermectin does.
MEMBER DAVIS: Well, okay.

MEMBER KARREMAN: No, no. I mean, it's the same parallel argument there.

MEMBER ENGELBERT: Suren, there are two other points of view that we have taken on this. And one is that we weren't sure that potassium chloride should be allowed. And we didn't think that two rights make a wrong. The other thing we thought was that the calcium chloride could be applied foliarly in sufficient quantities to correct the plant deficiencies. And we were extremely concerned about the leaching of that chloride down through the soil into the water table. And we didn't want to add to that problem that may already be exacerbated by potassium chloride being allowed. That's part of where we're coming from, besides what else has been mentioned.

MR. MISHRA: Well, I heard that if, you know, potassium chloride, this isn't what you took, was wrong, it doesn't suggest that this isn't what you take for calcium chloride. So we don't as well.

But calcium chloride soil
applications is being practiced in other areas in nonorganic crops. Right? And that has never been a problem. I mean, it is commercially sold. So I'm intrigued that why shouldn't it be used in organic applications, if chloride is the only issue.

What percentage of land is being used for organic production? Very small percentage.

CHAIR O'RELL: Okay. I'm going to ask the board, does the board have any specific questions?

MEMBER DAVIS: I don't have any more, myself.

CHAIR O'RELL: Okay. Thank you.

MEMBER DAVIS: I wanted to give him an opportunity to air -- we finally --

CHAIR O'RELL: I understand.

MEMBER DAVIS: -- worked our way around to the core issue.

CHAIR O'RELL: So, is the board satisfied with -- Rigo?

MEMBER DELGADO: Just one question. In that, one of the other factors that we took into account is the actual
harmful effect to human health. What is your opinion on that?

MR. MISHRA: Well, harmful effect means, I mean it is any of the high concentration salt. If you are exposed to it, it will hurt, it will affect you. Right?

As far as toxicity is concerned, it is very comparable to salt. So, it is not toxic. And again, MSDS is always applied with them, people who are using it, they operate it. The more fertilizers, the more additives used in the agriculture industry, much more dangerous than calcium chloride.

MEMBER OSTIGUY: But we're not, we're organic, not conventional.

MR. MISHRA: I understand that. I understand that. And again, it is a philosophy. You are considering it organic. So, I'm requesting that simply consider it on par with potassium chloride. That's what I'm requesting.

CHAIR O'RELL: Okay.

MR. MISHRA: Thank you.
CHAIR O'RELL: Thank you. Thank you for your request.

Anthony Pavel? And Jim Pierce is on deck next.

Did you also sign up? Your name is on here twice, once under Tony --

MR. PAVEL: Oh, yes.

CHAIR O'RELL: So it's the same person?

MR. PAVEL: Yes, same person.

CHAIR O'RELL: You're not trying to pull a fast one on us?

MR. PAVEL: No, sir. Just five minutes, please. Do I look like that much of a lawyer, just looking at me?

(Laughter.)

MR. PAVEL: No, just one.

CHAIR O'RELL: Okay. Thank you.

MR. PAVEL: Okay. As you know, I'm a lawyer.

(Laughter.)

MR. PAVEL: My name is Tony Pavel. I actually work with a private firm here in town called Kirkpatrick and Lockhart.
I'm here on behalf of a client called DSM Food Specialties USA, Inc. On behalf of my client and myself, we would first like to thank you all for your hard work.

Briefly, DSM Food Specialties is a leading producer of value added ingredients in the international food, feed and beverage industry. It produces, the products are enzyme systems, specialty yeast for a number of industries, including baking, beer, wine and fruit processing. So guess what I'm here to talk about?

We have -- all the issues that I want to talk about have been touched on already today, so I'm going to try to be brief and just add what I think hasn't been addressed yet.

We basically have three primary concerns. The first one is the movement of dairy cultures and yeast to 606 as a technical amendment or a technical change. We believe that is, quite frankly, a violation of both the Organic Food Productions Act, as well as the
Administrative Procedures Act. To briefly explain, under the Organic Food Productions Act in Section 6517, it states that before establishing the national list or before making any amendments to the national list, the Secretary shall seek public comment on the proposals. We think this is particularly relevant because under the Administrative Procedures Act, you are bound to do that anyway and the drafters found it necessary to put this into the Act again.

Secondly, moving on to the Administrative Procedures Act, under the APA, a federal agency just doesn't have inherent power to correct technical errors in a regulation and they must comply with notice and comment requirements of the APA. Therefore, an administrative rule, it cannot be, under the guise of an interpretation, be modified, revised, amended, or rewritten. And from our perspective, that appears to be what is happening here. There is a new interpretation of yeast as livestock. And because of that, we are making, I'm
assuming, this is the logic that's going on, is that because we have, our new position on how we're classifying this product, we are now moving it and it's just a correction, it's not an amendment.

    Well, under the established case law, it is an amendment and it is subject to notice and comment rule making.

    Next, along those lines, the companies we represent, we work with DSM and we also work with a lot of, a number of enzyme manufacturers, as well as their main trade association, the enzyme technical association. And part of the reason and the purpose behind the administrative procedures act, is to make sure all the stakeholders get a say in changes and amendments to legislative rules. And what is happening here, if we move this as a technical amendment, there were less than 20 days to submit written comments before the October 6th deadline. I brought comments on behalf of my clients today, but you know, our trade association certainly, we haven't been able to get a unanimous review and consider all
the issues on this proposal in this 30 day span. And what this is doing is cutting out a large number of stakeholders who are involved in supplying these products and are a part of this industry.

My last point. And this has been covered in many different angles today, so I'll try to be quick. We also have an issue with the definition of yeast as livestock. It is pretty much outside all other conventional definitions.

I'll tell you briefly. My wife grew up on a natural been farm in North Carolina. It was all grass-fed beef. It wasn't quite organic yet, but it was natural. And I ran this by her. I said, honey, what do you think of this? The organic program is moving yeast and they're going to call it livestock. And she looked at me and she said, honey, if I can't castrate it, it's not livestock.

(Laughter.)

MR. PAVEL: So, I'm obviously a very well-behaved husband.

That is all I have to add. Thank
you very much for your time and allowing us to speak.

MEMBER OSTIGUY: Kevin?

CHAIR O'RELL: Thank you. Nancy?

MEMBER OSTIGUY: I wanted to say that I actually agree with you, some of the stretching that we've done with livestock. I do research on honey bees. They're considered livestock. I would go along with your wife's definition.

MR. PAVEL: Actually, I brought up chickens to her. I said what about chickens, honey? She said, if it has legs, I can castrate it. So, bees, I guess, they technically have legs, so I'd give it a shot.

MEMBER OSTIGUY: It would be an interesting challenge for her, I'd like to see her do it.

(Laughter.)

MR. PAVEL: I actually have a masters in zoology and one of the professors I worked with, he actually also specialized in bees at the University of Western Ontario, there's a big research center up
there. So, I do know a little bit.

CHAIR O'ReLL: Joe?

MEMBER SMILLIE: I appreciate your legal opinion. That's -- we'll take notice of that.

What I'd like, if you could, to take back to your trade association, is to let them know that that's where we're headed. We don't know how we're going to get there, but that's where we want to go and certainly, we're going to give time and due consideration and due process to this process.

But if you could take back to them the fact that that's where we're going with this and we hope to get their support in helping us to figure out a way to actually help them enter a profitable marketplace and seek ways for their associations and their manufacturers to help us create standards, so that we can have organic products from that trade association and DSM, in particular.

MR. PAVEL: Thank you. And we have, basically, we have advised them that
this is going to happen and, you know, generally speaking, quite frankly, they're onboard with it. And their objection really is the procedural that we cannot come up with organic yeast in 26 or 20 days. And they understand that there is going to be a demand and this is the direction that it's moving and they just want the ability to provide their input and their industry expertise into how these products are going to be developed and marketed.

CHAIR O'RELL: Thank you.

MR. PAVEL: Thank you very much.

CHAIR O'RELL: Thank you.

Jim Pierce? And next up would be Leslie, Leslie Zuck.

MR. PIERCE: Thanks, Tony for warming them up. I raise fish and I'm not sure I can castrate them.

MEMBER OSTIGUY: They don't have legs.

MR. PIERCE: They don't have legs.

For the record, I'm Jim Pierce, Certification Czar at Organic Valley and
it's my great pleasure to represent my 875 farmer owner bosses and offer you this public comment to partake in this most American tradition in this, our nation's capitol.

For the nearly half score of years of these offerings, I have become known, for better or worse, for blending humor, even sarcasm, with what I've always liked to believe was wisdom, insight, and criticism, always constructive. Today, I will offer you several comments on several topics pertaining to your posted recommendations, offer you kudos where you hit the target, and solutions were you are amiss.

For a change, I'm not going to talk about access to pasture or dairy replacement. I'm not going to discuss this recently posted animal, dairy animal acquisition table or what we finally referred to as the eight-track dairy replacement table. Most of us are old enough to remember eight tracks and they were inferior even when they were state-of-
MR. PIERCE: I still have a few eight tracks around and I don't use them. This is Abbott and Costello silly. And if the consequences weren't so dramatic, it would be a lot funnier. No, you didn't write, no you don't agree with it in principle or in practice, but you are guarding the gate and you must do something about it. But I'm not going to talk about that.

On the topic of Ag versus Non-ag, thank you for biting off this mouthful. Your proposal is a great start, but only that and I suspect you realize that by the comments. Keep the iron hot, forging away.

With the addition of microorganisms to 605, the technical correction might be to remove dairy cultures and yeast, since they are redundant. Not that there isn't plenty of redundancy in the NOP and in Washington.

If you decide it appropriate to move items from 605 to 606, consider all the
possibilities and consequences, heed the advice of your peers, Gwendolyn Wyard from OTCO and Emily Rosen Brown from PCO, in particular, have offered excellent feedback.

Regarding commercial availability, I don't want to pressure you, but June is eight months away and this is huge. I find it interesting that the Handling Committee puts a minor role on the NOSB and NOP in determining commercial availability and the Crops Committee states, "The NOP does not have the obligation to maintain a list."

I agree with the Crops Committee. It's your responsibility to get everything added to the list soon. It's the certifiers' responsibility to make sure that their clients are sourcing organic when it's available. The Certification Accreditation and Compliance Committee have three recommendations pertaining to certificates.

Thank you for continuing work on these important, if not world-changing issues if, for no other reason, that it's one that I have strong opinions on.
Being Czar isn't all glamorous, you know. In my spacious, mahogany-lined office, on the top floor, next to George's office, overlooking the moat, I'm responsible for maintaining over 1,000 organic certificates as current. So, it's with shower drain clogging experience that I agree that organic certificates do need to be standardized.

You're almost perfect in your recommendations. Let me suggest that as part of your proposed rule change, you publish a template that certifiers can follow. The most successful certificates for us have certified entity information followed by product listing. For larger, more diverse operations, they are typically listed as an addendum.

This recommendation proposed standardizing production terms, or product terms. No easy task. We see essentially useless certificates listing cheese or vegetables and, at the same time, we see manifesto certificates listing every herb in every form known to man. I suggest linking
the list to actual labels, whenever possible. Certificates also need to show the category 100 percent organic or made with, in order to have real value. Good luck figuring out how to list dairy cows for resale.

The proposal to put expiration dates back on certificates concerns me. I'm not sure your recommendation adequately dovetails an expiration date with certification is continuous until surrendered, suspended or revoked. As you wrestle with that, think of me collecting 1,000 certificates every year and then saving them for five years. Right now, today, we document the vast majority of those 1,000 certificates as current through ACA databases. The panaceic wave of the wand solution is that certifiers web databases and the long-promised NOP E-cert database compliment each other like Fred and Ginger, giving me more time to study the view.

The proposal regarding the USDA's private label questions is solid and
workable. My only concern is that the recommendation admits that the identity of the co-packer may become invisible to the consumer. Since some day I hope to see a thesaurus link between organic and transparent, this runs counter to that goal.

Five minutes mercifully limits comments to general and not specific. So, let me extend an invitation to explore the dirty details anytime. You can call me in cubicle in the basement.

(Timer sounds.)

MR. PIERCE: Thank you.

CHAIR O'RELL: Thank you, Jim.

Any questions?

MEMBER DAVIS: I have a question.

CHAIR O'RELL: Gerry.

MEMBER DAVIS: The last comment you made about the co-packer or the grower, you know, like ala Earthbound, where they have a lot of growers sending their product to a large packer, not being able to trace it back down to where it came from and so forth, when they have a problem, how did we get there, as far as leaving that vital
information off of the label?

MR. PIERCE: I think that's an inevitable development of market, of markets and production as it expands. We do a lot of private labeling as well and I know we do private labeling for companies that also source the same product from other manufacturers. So, a consumer looks at it and doesn't know for sure if it's from east coast or west coast or what. If this proposal, however, is solid in that if a consumer wants to look into it and call that certifier, the final certifier, whether it's the handler or the certified retailer merchandiser, they can ferret that information out. Date coding and such will lead them back. I mean, the really concerned consumer will get an answer, I believe. So, you're all right with that.

CHAIR O'RELL: Yes, Kevin?

MEMBER ENGELBERT: As the Certification Czar, Jim, and your concern about expiration dates on certificates, we've also heard that they're needed to verify that they're valid and up-to-date.
What's your opinion on a different type of date, like --

MR. PIERCE: I heard that as well.

MEMBER ENGELBERT: -- a renewal date or an effective date or something like that, that doesn't technically expire. It just lets the person looking at the certificate know that there is a yearly inspection and date and when it's renewed?

MR. PIERCE: Well, a couple of comments and then I'm sure you'll wrestle with this as you deal with those recommendations.

You're hearing a lot from inspectors and trainers that dates are more needed but you're not hearing that so much from the accredited certifiers and the end users like myself. It took us quite a while to get used to not having dates on a certificate. At first, it was very awkward, but we really have come up with a very workable system to work with the certifiers and make sure that everything's current.

Now, another thing that you're
also hearing is that, what if we, if the certificates are issued fraudulently, in other words, if they're not current and they're still represented as current, well that's fraud. You have rules for that. That's not right. You know, or if they're modified or worked in Photoshop or something. That cannot be.

We still collect a lot of paper every year but there is a lot of opportunity in those 1,000 certificates where hundreds of them at one time can be verified as current, or those few that are suspended or facing suspension can be weeded out quickly and isolated and the rest of them, basically rubber stamped, documented in good standing until we hear otherwise.

Does that help?

MEMBER ENGELBERT: Yes.

MR. PIERCE: Probably not.

MEMBER ENGELBERT: Well, I'm concerned about just, for example, a small farmer's market where someone has certified their products. They post their certification but there's no date on it.
And if they don't reapply for certification and the consumer comes up, sees their certificate and says, well, they're certified, buys their product, and this goes on and on.

But if there isn't some type of date on there of some sort, I'm concerned about that.

MR. PIERCE: Yes, well if they're showing that certificate at a farmer's market, it better be current, or it's fraud. And if the consumer again, you know, really needs to know it, they can check either with a website or a phone call and find out that they're current and in good standing.

MEMBER ENGELBERT: Most consumers won't do that.

MR. PIERCE: No, most won't. They're going to take it at face value and it has to be offered legitimately at face value.

I'll let you move on, unless there's other questions.

CHAIR O'RELL: Bea?

MEMBER JAMES: Jim, your comments
are, I enjoy even the humor. You know, I get the substance in between all of that and I could not find your comments posted on the website. They're not under accreditation. Did you submit your --

MR. PIERCE: No, the comments that I just read, I gave one copy for the record. Otherwise, I don't want to distract you with paper, you know.

CHAIR O'RELL: That's smart because we're all a little ADD up here, so --

MR. PIERCE: Yes, I didn't put them up on the website, the more detailed ones.

MEMBER JAMES: Okay.

MR. PIERCE: But probably following the discussions here, there will be more specific recommendations put up.

MEMBER JAMES: Okay.

CHAIR O'RELL: Okay. Thank you, Jim.

MR. PIECE: All right.

CHAIR O'RELL: Leslie? And Erin James is next on deck.
MS. ZUCK: I'm going to be speaking for Erin, so I'll have --

CHAIR O'RELL: Oh, so you have ten minutes. Okay. Thank you.

MS. ZUCK: I'll have some of the same things to say as Jim did, but not as humorously, unfortunately.

I'm Leslie Zuck, Executive Director of Pennsylvania Certified Organic. And I'm commenting on the recommendations from the Certification, Accreditation and Compliance Committee regarding standardized certificates and expiration dates.

I agree that there are many types of certificates and styles. I agree that the content claim to which a product is certified must be listed on the certificate. I agree that approved foreign certification, foreign accreditation programs, must specify that the operation complies with the NOP standards, which we have to do, too.

So, I do not agree that individual products, fields, etcetera should be listed on the certificate. I believe this is best handled by a separate document,
for a variety of reasons. In some operations, the list could be several pages long and it changes on a monthly basis. Many certifiers have -- sorry. I can't see my paper because this thing is in the way.

May certifiers have a fairly rigid process for processing certificates and they often have to be signed by the CEO of the organization or in state programs, they have to go through the Secretary of Agriculture. So, every time you change the certificate, you have to send it up to the top and somebody's got to take the time to make sure that the whole process has been followed properly. So, you know, that's one of the reasons we have the separate document, which is a little more flexible, but still works to provide all the information necessary.

You know, having to issue five, ten, or 50 new certificates throughout the year is cumbersome, burdensome, and confusing. It's really not uncommon for a distributor of organic packaged products to actually change their product line weekly.
And some cooperatives and feed mills do the same thing. So, a separate controlled document that can be issued by the certification program, when requested by the client, works much more smoothly. And we've had no problems with the system in the seven years we've been using it.

It also solves the expiration date problem, as a separate organic product verification form includes a specific effective period on that. So the producer gets one of those. We call it organic product verification form, or OPV, every year.

I also am concerned that it will be nearly impossible to have a list of standardized terms to cover all the diverse products in the vast organic marketplace. I question how specific you would like us to be. You know, we talked about that. Is the word vegetables enough? Can we say kale or do we need to say red Russian kale? And you know, we've kind of come up with a solution to this problem, too. You know, we've noticed that a lot of the growers that have
many varieties and we could have some that would have 20 page certificates. And if it's on the certificate, every time they change that, we're going to have to change that 20 pages and print it out again out of the printer. And my staff reminds me that the certificate paper is very expensive. So, here we are in the paperwork justification issue that Mark Bradley was talking about earlier.

And you know, it turns out that really, that specific information isn't really necessary for the vast majority of our producers. If they're feeding all their crops to their dairy cows, they don't have to have their certificate changed if they decide to plant spelt instead of wheat, because it's just going to be fed to their cows. The same thing with the farmer's market producers. You know, they're selling all their stuff retail at the farmer's market. Does it really matter if their certificate says Austrian crescent fingerling potatoes or Yukon gold potatoes?

But, on the other hand, we can
provide that information through our organic product verification form because it's very flexible. So, if a producer tells us that their buyer needs a certificate to say, you know, red raspberry jam, instead of raspberry jam, we can put it on there for them. And that works really well.

So, you know, in some cases, we put the whole line of brand names on there for people who need to have that on there. And that's a document that's generated from our system, it comes right out of our database, it's signed by the certification director and faxed over, sort of like a TC, whenever somebody needs it, to close a transaction. So, it works real great and we have had no problems with it. Our producers seem to appreciate it.

So, and I agree with Lynn Coody that the certificates should be in English. It's really hard to find translators in some of our rural offices out there in the Hinterlands.

And so, also, about the standardized forms. The form itself, I feel
like, you know, going into the, you want to add Section C(2) and (3) and, you know, I think those requirements are way too specific, the eight and a half by eleven paper, again, is not something that internationally is really recognized and you say you want things listed in a certain order, but it just says in order. We don't know if that means left to right, or top to bottom, or right to left if you're writing in Hebrew, or something like that.

So, we could solve some of those problems, I think, by having an actual, I mean, if you want a standardized certificate, let's do it for real. Let's have a form that is a federally, you know, a federal program form, like we do for export certificates. They're instantly recognized, they're completely uniform. We just fill in the boxes and it's done. And we can have one for the certificate and one for the product verification. And if a certifier would also like to have their own certificate as sort of a marketing thing, they could still do that. I mean, you could
have a piece of paper that has the trademark or something of the certifier, that they could hang on their wall that, you know, looks nice and in color and all that.

But I'm in favor, if we really want to do this for real, we should do it for real. Just give us these forms, we'll fill them out and, you know, go on with the rest o four business instead of having to figure out how to comply with all the restrictions and three inches at the bottom of the page and such and we could just go forward and talk about other things.

The expiration dates. I had a board meeting on Monday, board of directors meeting and they said, what's going on with expiration dates? I thought we had that all solved. And you know, seven years ago, we all screamed and yelled and begged to the Program to please let us put expiration dates on the certificates because, you know, people need to know when they expired. It just seemed really simple. And they told us no way.

And now seven years later, we've
finally gotten all of our clients to understand that they're getting their certificate for life and please put it in a safe place because you're not going to get another -- our letter actually says that, you know. Please keep this, hold on to this. It's the only one you're ever going to get. And so, to turn around now and tell them, whoops, make sure you get a new certificate every year because we changed our mind about that.

You know, so it seems to me rather than reversing that mind-set of both certifiers and clients and having to go down that road, maybe we could just ask the Program to reverse their interpretation of the rule. Because the rule language doesn't prohibit us from having an expiration date on a certificate. So, if they could just sort of reinterpret it and say, okay, certifiers, you can put an expiration date on the certificate if you want to. And you can put an effective date on the certificate if you want to. If that works in your program and that's the way you want to do it
then, you know, go ahead. We've given you
the -- we're allowing you to do that now.

So, that's really all I have to say. Any questions?

CHAIR O'RELL: Thank you, Leslie.

Bea?

MEMBER JAMES: Leslie, explain to me what, you know, what is the main point of having, I mean I know, but I just want to hear it from you, what is the main point for having an expiration date on a certificate?

MS. ZUCK: This is a test.

MEMBER JAMES: Of all the different types of certification that there is out there and the different types of categories of certificates that you give out, farm, handler, processor, what is the main benefit of having that expiration date on the certificate?

MS. ZUCK: Well, when Jim Pierce calls us up and says, I need to know if this list of people who produce milk and ship it to Organic Valley are currently certified by your agency, then we fax over the organic product verifications and he looks at them
and he sees how close they are to expiring or how, you know, how long they're good for. And they're good for a year, usually -- actually, which is another question I have for you, about the recommendation on the standardized certificates, or is that on the expiration date ones? It says that it should have an effective date on the certificate, but it doesn't say whether that has to be a year or it can be less than a year or more than a year or whether the effective period can be anything. Because right now, sometimes, people do get a short-term organic product verification that's only for a few months because they have to send in additional documents before they can get a -- to certify another field or something like that. So, that was unclear to me as to whether it's supposed to be for a year or --

MEMBER JAMES: Okay. I'll let Andrea address that or Joe.

But I just want to, I want to understand. So, Organic Valley then would benefit from having an optional expiration
date? You know, that say they have to, say somebody has to go out and try to figure out whether something has expired or it's not expired. Wouldn't it be easier to have it be one way, so you know what the protocol was for how to handle the expiration of a certificate?

MS. ZUCK: Well, that's why I was thinking, advocating having a real standardized certificate. But Organic Valley and other certifiers who also ask for, we ask for certificates amongst ourselves too, you know -- well, actually, we look for certificates from people who have sourced product, that's certified by another certifier, so we need to find out that, or as our client does. And they don't really care if it's on the certificate, or if it's on a separate document, or if it's, you know, -- we tried to get away from the letter of compliance because you have this letter that's actually in letter form and you had to read down through it and see all what they were trying to say. So we kind of, our organic product verification, it
looks like a certificate, it kind of acts like a certificate but it's just more flexible than a standardized certificate. We can put lots of things on it or not a lot of things on it.

MEMBER JAMES: So, I could just, you know, get into philosophical discussion about this forever, but I'll just let it go. I guess the point I'm trying to make is that I don't really see the benefit of having a wishy-washy determination that is just made, you can put the expiration date on there if you want to, or if you don't want to, you don't have to. So, that's the point I'm trying to make.

MS. ZUCK: Oh, I see. I mean, the certifiers all do that, because if they didn't do that, if they didn't have something on something somewhere on some document, their clients aren't going to want to get certified by them because they can't show to their market that they are in good standing. So if a certifier is not willing to produce that on a document, --

MEMBER JAMES: Right. And they
are out there.

The other thing that I was going to ask is, is it possible for you to submit what that form would look like that you would want the NOP to come up with?

MS. ZUCK: Oh, I think we would be really happy to work on that. Because we would rather kind of help produce that and draft that than to have it sort of, you know, posted and have to figure it out after the fact. So, I think that most of us, certifiers and ACA would really be happy to look at a draft or help figure out what should be on there and what's too much and what isn't enough. And just to make sure the boxes are big enough to put in everything we need to put in, which is sometimes a problem with federal forms.

CHAIR O'RELL: Are there any other questions for -- Hugh?

MEMBER KARREMAN: Just a comment. I want to say that I think the industry really needs those standardized forms with expiration dates. Because a first-hand experience a few weeks ago at the organic
consignment sale we had, with the livestock and dairy --

MS. ZUCK: I wish I could have been there.

MEMBER KARREMAN: It was fun. But it was a really major headache for the auctioneer, and myself, and the farmer and one of the other people involved, to look at, I think it was five or six different certifiers certification papers. And we had to just look all over the paper and just find, you know --

MS. ZUCK: Which box it was in.

MEMBER KARREMAN: -- it should be like my eyes should go there to see, you know. We've got to have standardization and expiration dates. Because that was a major headache, as a first-time user. Now, Jim Pierce might now exactly where to look on all of them, but not for us in the field.

CHAIR O'RELL: Any other questions? Thank you, Leslie.

MS. ZUCK: Thank you guys.

CHAIR O'RELL: Judy Ellis is up.

And next on deck is Kim Dietz.
Judy Ellis? Oh, okay. Sorry, we didn't give you an on deck one because Leslie had a proxy, so it knocked a name off.

MS. ELLIS: Oh, okay. Originally I had been listening to you. I have no corporate affiliation. I've been listening about the microorganisms and redefining them from Sections 605 to 606 and I think I'm beginning to understand.

It sounds like that it would be in the best interest of the land, and the animals, and people for yeast and certain microorganisms to be moved into that category of 606, because then you'd be able to use organically grown yeast for the livestock and -- do I understand correctly?

It also sound like it's not possibly in the best interest of some companies for it to move, for maybe financial reasons, I don't know.

Because the question that I had was would it be possible to create a subcategory in Section 606 that would, oh, I have it written down, that would accommodate
organically grown microorganisms as agricultural, because they're not animals, they're not livestock, and they're not plant.

So, I just wondered if that's a possibility. Did I ask that well?

CHAIR O'RELL: That's fine, Judy. Certainly, you know, part of the process in moving forward, the board spends a lot of time wrestling with evaluations. A lot of these questions that are coming up from the public forum today in discussion are things we've discussed among ourselves on the committee level. We make a recommendation to get something out in the public. We wish this one would have had a little more time, posted for a longer time to have more public input, but I think we're getting the gist of public input now and we'll be digesting that and looking towards a recommendation and trying to see how we craft something going forward that takes into consideration a lot of the points that have been brought up today. So yes, it could go to a point where you add a different provision in the
standards for handling all microorganisms. We have discussed that as a possibility as well.

So, your point is well taken with the board. We do think that we have some work in the committee level for that recommendation.

MS. ELLIS: Also, I would like to thank you all for doing this. As a consumer, I really appreciate your thought and your effort to try to make the organic movement as pure as possible.

CHAIR O'RELL: Well, thank you. And one of the goals in crafting a recommendation was moving forward to try and pioneer new ground and extend organic agriculture to other fields to have additional organic agriculture use.

So, thank you for your compliment.

MS. ELLIS: Thank you.

CHAIR O'RELL: Kim, oh yes.

Okay.

MS. DIETZ: Here I am.

CHAIR O'RELL: On deck is Brian
Cricket Rikita.

Kim, do you have a proxy or are you just five minutes?

MS. DIETZ: I'm just me.

CHAIR O'RELL: Oh, thank you.

MS. DIETZ: Okay. And my comments are not written, but I will certainly submit them to you so you can get them into the board.

Good afternoon. My name is Kim Dietz and I'm here today giving you public comment as an individual and not those of my employer. I served on the NOSB from 2000 to 2005, as a handler representative, three of which were as materials chair and my final year as secretary on the board.

I will be giving comments today on the handling recommendations and materials, along with general observations as an industry leader.

Colors. At the last NOSB meeting, I stood before you giving you a historical background on colors and pleading with you for a recommendation on a deferral are not materials so that the proper process
could be followed and the procedures for petitioning and the board voting on that material. I agree and support your recommendation not to renew colors under the sunset provision. I think you did the right thing.

That being said, I'm very concerned that there are several petitions for colors currently under NOP review, all of which are for inclusion under 205.606. I urge you to quickly review these petitions, send them back, if they're not sufficient, then make sure those materials are brought before this board, prior to the removal of colors under the sunset provision. I also urge the NOP to immediately notify these petitioners of any proposed changes to the petition process so that there is not disruption to this industry. The goal of all of you, NOP and NOSB, should be a smooth transition for removing colors under sunset and try to possibly reclassify under the petition process.

Agriculture/non-agriculture. You heard a lot of comment today, I've cut and
pasted all morning and afternoon.

Basically, as you know, this has been a project that this board and previous boards have struggled with for years and years. I thank you for attempting to bring a recommendation to the table.

I do not agree and cannot support the use of the decision tree to assist in determining the Ag and Non-ag. I think it needs some work, as you've heard all morning. Specifically, I suggest in step three, the words result of a mechanical or physical be deleted. We have a definition of processing. Processes are allowed. Heating is a process, baking is a process, all of which result in a chemical change. So, be sure to protect that.

Lastly, several ingredients have been identified in the background information of this recommendation that could have potential conflict with the definitions. If this is the case, then I urge you to reconsider these recommendations until the ramifications of the decisions are fully understood. Please do not push
through a recommendation unless it is well understood by all parties.

Commercial availability. I agree with this document. I urge you to expedite those petitions currently under review for 205.606 and contact the petition so they may include the new information to devote on it, under the petition process. We all know that the deadline of June 9, 2007 is rapidly approaching. I recommend the USDA schedule another NOSB meeting as soon as possible, to ensure timely review of these materials. As we all know, materials can take two to five years to be placed on the national list.

I urge you to keep this process simple under 606, don't bog it down by incorporating unnecessary steps, look at how you reviewed with the sunset materials, try to streamline the process and don't include anything that you don't need to do in the reviewing of these materials.

I don't have an opinion, either way, on the addition of including current industry information regarding availability. This information is currently required by
handlers, we have to provide it to our certification agencies.

I will say that prior board members have discussed this issue and we felt that we would not need to see industry information because one, we didn't feel it was the role of the NOSB to validate supplier information and two, nobody's mentioned this all day, I'm surprised, you have confidential business information, folks. I'm not sure many handlers are going to want you to know who their vendors, or more specifically, the public. So, there's some confidential business information that may or may not even be accessible to the board. We have had those deleted from petitions in the past.

So, don't expect handlers to freely supply you with their supplier information, especially if it's a tight market for raw material.

Lastly, I acknowledge the amount of time and work that this board has done since the last NOSB meeting --

(Timer sounds.)
CHAIR O'RELL: You can finish your thought. Especially, since it started out good.

(Laughter.)

MS. DIETZ: As a past member, and more importantly, as past materials chair, I need to express my concern that the materials review process is behind schedule. This is no reflection on the current materials chair, rather as a result of a high NOSB turnover rate, Harvey, and a mentoring program that has failed.

When I was materials chair, I stepped aside so that I could mentor the next chair in my final year on the board. I did this because I believed in training and supporting my successor. Several times, I discussed this recommendation to formally include the succession plan in the board policy manual. I was discouraged to formally put it in writing, but I encourage you to do that. I think it's very difficult for new chairs to step in and have never had done the process.

And lastly -- I'm just doing to -
CHAIR O'RELL: Well --

MS. DIETZ: I have some kudos. It's for you. I wanted to thank you and Nancy and Mike for your service on the board. I know that the last five years, we've had our ups and downs and there's times when you just want to walk away from it. But I think you for your perseverance because I really think you guys have really done a great job.

CHAIR O'RELL: Thank you, Kim.

MS. DIETZ: You're welcome.

CHAIR O'RELL: And you know, we are going to take you up on your offer to help us a little bit on the material issue. And thank you for that.

Andrea?

MEMBER CAROE: Just a real quick clarification. On our recommendation for 606 petitioning, what the board function is is not to assess whether it's commercially available or not but to do a risk assessment of the possibility that this might become unavailable. So, as far as confidential
business information, I don't suspect we'll be seeing any of that. We'll seeing information about crop failures, global supply, more broader.

And again, in order for us to do our due diligence in putting the material on the list, we felt we needed to do that type of risk assessment. And then that detailed confidential business information would be assessed at the certifier level, much like you're already doing today.

MS. DIETZ: Yes, I thought I just heard earlier the comment that you could now develop a list and, you know, who's got what and that sort of thing. And I don't think it will happen at that level.

MEMBER CAROE: No, that is not our intention.

MS. DIETZ: Yes, like I said, I'm not attached to either one, but there will be confidential business that people are not willing to share.

CHAIR O'RELL: Thank you, Kim.

Brian? And then last on deck is Patricia Kane.
MR. RIKITA: Hello. My name is Brian Rikita. Folks generally call me Cricket. I work for the Carolina Farm Stewardship Association and I coordinate organic seed projects in the southeast and a number of other things I'm going to talk about.

The first thing I want to say is that I believe that the time is coming when the rules, I believe that the time can be seen when the rules on using nonorganic seed can be tightened up. I think that the seeds are available. There are still some quality issues, particularly with genopods I've seen and a few other things. But I think that those are quickly being taken care of right now, I believe. And I believe that organic growers can use organic seed, from what I've seen. I haven't worked in all regions of the country. I'm southeast.

One thing I'd like to talk about, we've set up a program that's kind of an alternative to the OMRI organic seed list and I'd like to just let you folks know what we have available on our list. It's folks
give us a list, we call them the seed wish lists that they're looking for. They generally do it through our website. Very often they call me directly or mail me or fax me and they let me know what types of seeds they're looking for, sort of in organic form. And we get back to them with a document that has a complete list of all of the organic -- we maintain a database of all of the organic dealers, seed dealers, very complete and I do a lot of research on it, as opposed to OMRI's list which only lists the dealers that find them and choose to be paid. I seek people out, get their information, anyone that has it publicly available. And I'm not going to say it's complete, but I work hard to keep it as close to that as possible.

And then also we, as of January first, we're going to also be introducing the commercial equivalents to what we do, where we just ask the dealers to list what they believe these varieties may be commercially equivalent to. It's their opinions, but that may be helpful to some
growers who are looking for something. When a grower comes to us with their organic seed wish list, then we reply to them with a list of all the companies that we've searched, so that they can see it was a diligent list. And then we also give them a list of the seeds that we were able to find and from where we were able to find them. And if we were not able to find something that they were looking for, we'd give them that information as well.

Yes, and the generally, we generally turn these lists around to folks in two days. It's not as quick as the OMRI list. What I do, very often, I'll open the books, like the catalogues, and actually look. Folks will ask me, well, I need a field corn that's ripe in fewer than 90 days that, you know, that is bi-color, or white, or whatever they're looking for. And if I don't have it exactly categorized the way they ask me in the database, I actually open the books and go into that.

And that's available to anybody in the world, really. I'll do that service
for them. I track all the seeds that I'm able to find organically available in this country.

So, I wanted to let you all know that that service is out there to help folks find the organic seeds that they're looking for. And I can say that when I do this work, I generally am able to find people more seeds than they expected I was able to find them. And I think that if folks are at least willing to try growing the seeds that are available organically, they'll find that in a very short time, they can transition to using organic seeds. Which I think, both for the open pollinated and for the hybrid world of seed production, is very important because I believe that --

I mean, I'm a seedsman by training. And that's what I do. And I've been organic since before it was a law. But one of the things that I believe is important for organic seeds, yes I'll hurry up, is that the seeds be selected for in an organic environment, and ideally, in a microclimate similar to that they're going
to be intended to be grown in. Well, that's a separate issue though, but in an organic environment for seeds that will do well in an organic environment, the selection is my religion, basically.

So, anyhow, that's all I have to talk to you all about, but if you have any questions, or if you don't, or whichever.

CHAIR O'RELL: Thank you, Brian. Gerry?

MEMBER DAVIS: What's your website?

MR. RIKITA: Okay. Right now -- the website is going to move very soon. Right now it's at www.savingourseed.org but on January first or sometime shortly before, it will move to www.organicseedsourcing.com. You go to savingourseed.org and click on the sourcing link.

MEMBER DAVIS: You're going commercial.

MR. RIKITA: Well, the way we're keeping this service free is that we're selling, when we give people these documents back, as I said, we actually send them back
a document that has all the documentation in it, and we're selling advertising in those documents, in order to fund it.

CHAIR O'RELL: Any other questions?

Thank you, Brian. I appreciate your comments.

MR. RIKITA: Yes. You all have a good day.

CHAIR O'RELL: Thank you.

Patricia Kane?

MS. KANE: Good afternoon. My name is Patricia Kane. I'm the coordinator of the Accredited Certifiers Association. It's an association of 29 accredited certifying agencies and we would like to thank the certification accreditation and compliance committee of the National Organic Standards Board for their work in bringing forward the issue of expiration dates on organic certificates.

The ACA supports the concept of a dated organic certificate which allows for determination that a certificate is in good standing. Our members, however, do not
support the use of an expiration date. Our members do support the use of terminology such as annual update or current certificate issue date, which provides information that the certificate is a current valid certificate. Along with the addition of language supporting a current date on the certificate, a definition of this term should also be included. The term current certificate issue date could be defined to mean that the annual update of the certified party has been submitted, the certifying agent has reviewed the updated information, the inspection has been completed, the certification agent has determined that the applicant is complying with the Act, and the date would reflect the date of certifier determination that the applicant is complying with the Act.

The use of such a date in definition would provide confidence to all that the certificate is a current, valid certificate. The lack of this information on an organic certificate is problematic for certification agencies, organic inspectors,
and the purchasing departments of companies seeking to source organic ingredients.

A rule change to require the use of letters of continuation is not necessary, as the annual update is already required and no expiration date will be listed. Certifiers have existing systems to address timely annual review and must complete inspection and the approval within 18 months of the annual date of renewal.

We thank the National Organic Standards Board for the opportunity to comment on this recommendation.

I would also like to comment on standardized certificates. The ACA supports the concept of standardizing the information contained in an organic certificate, as this will provide information necessary to conduct a review of the document. ACA members do not support the requirement for the listing of crops and products certified, as the recommendation did not provide enough detail regarding the specifics of this requirement.

Our members feel that this
requirement should be left to the discretion of the producers, in consultation with the certification agent. Some producers may need a detailed list of crops or products for their markets. Others may sell at farmers markets or through community supported agriculture plans, where they do not need the detailed list of crops.

Our members also feel that Section C of recommendation dealing with paper sizes and margins is too prescriptive and cannot apply to all producers, due to the amount and type of products being produced. Larger producers requiring a complete crop listing, will require one, possibly two, more pages for the certificate. The use of addendum pages to certificates is a current practice by certifiers.

In the case of multiple page certificates, it should be permitted to add the following statement to the first page of the certificate. "See attached addendum for additional information." The addition of this statement will indicate to reviewers or
product purchasers that additional information is included in the certificate.

We thank the National Organic Standards Board for the opportunity to comment on this recommendation.

CHAIR O'RELL: Thank you, Patricia.

Hugh has a comment or a question. A question, I hope.

MEMBER KARREMAN: Just a question. Why are you not in favor of the expiration date?

Just back to this organic cattle auction we had, it would have been very, very helpful to have an expiration date because we had to call some certifiers to see if the person who sent in the cattle was still certified and it just went on and on. But why wouldn't you want expiration dates?

MS. KANE: Our members were in favor of a date but not necessarily expiration date.

MEMBER KARREMAN: But then the problem was, you know, there was a date let's say a year and a half ago, --
MS. KANE: Well, it would be --

MEMBER KARREMAN: -- you're assuming it's a year long, annual update, that's the assumption.

MS. KANE: It would be, the current certificate issue date would be an annual date.

MEMBER KARREMAN: Is that the same as an organic product verification type paper?

MS. KANE: It could be, yes.

MEMBER KARREMAN: I like expiration dates.

CHAIR O'RELL: Joe?

MEMBER SMILLIE: It says ACA members do not support the requirement for the listing of crops and products certified. Is that what you mean or do you mean that --

MS. KANE: Because there was a lack of specificity in the requirement of how detailed it was to be.

MEMBER SMILLIE: But then you go on to say that some people need real specific stuff --

MS. KANE: That's correct --
MEMBER SMILLIE: -- and other people --

MS. KANE: -- but it should be left to the discretion of the producer and the certifier.

MEMBER SMILLIE: But there should be some listing of crops and products.

MS. KANE: Correct, yes.

CHAIR O'RELL: Bea?

MEMBER JAMES: Okay. You support the concept of a dated organic certificate. Explain to me what that would look like on the certificate.

MS. KANE: It could either be the terminology annual update or, as we included here, the current certificate issue date. It wouldn't -- it's just the term expiration date would not be used.

MEMBER JAMES: Okay. So, the issue date could be three years old?

MS. KANE: No, it would be tied to the annual update of the producer. The current certificate issue date.

MEMBER JAMES: Okay.

MEMBER DAVIS: Is that because
it's understood that there's an annual renewal, --

MS. KANE: Right.

MEMBER DAVIS -- it's just built into the regulations and everything. Right?

MS. KANE: That's where the definitions of A, B, C and D need come in.

MEMBER KARREMAN: But someone said there might be a certificate for two or three months. Didn't someone say that, in a previous presentation, and then how would you know, how would --

MS. KANE: The date would change.

That date would change.

MEMBER KARREMAN: It seems confusing.

MEMBER JAMES: So every year, you send out a new certificate. Is that what you're saying?


CHAIR O'RELL: Andrea?

MEMBER CAROE: Well, in order to do that, in order for that issue date to be effective, then we would have to have a rule
change that requires that a certificate be printed every year because that's now part of the regulation right now. So, I mean, and then it doesn't get to Jim Pierce's dilemma that he would have to replace certificates on file.

So, I'm not sure that this gets us any closer. I don't, I'm trying to see the benefit of not using the word expiration. What difference does it make? I mean we're still -- you know, the issues that I'm hearing come up don't get resolved by this solution. So --

MS. KANE: Well, the issue of expiration, what came directly from the prohibition from using the word, using the expiration date on the certificate. And these were other scenarios to get around that.

MEMBER CAROE: I mean, I was there with you and everybody else commenting on those early days when expiration dates we were told, you know, they were verboten. But we have been approached by the Program because of the inability to, in any time
soon, put in this master database to provide this as a tool that's necessary, in order to show some recent compliance, you know, it's not real-time, but it is recent compliance.

So, you know, this is a revisiting. This is, I agree, it's a change of heart. But to get to the crux of what we need to do --

MS. KANE: Well, these are two variations on what certifiers are currently doing. And those systems seem to work, to some degree.

MEMBER JAMES: I wasn't there in those early days. So explain to me, what is the skull and cross bone around expiration dates? Why is that, what is the problem with that?

UNIDENTIFIED SPEAKER: The Program said no.

MEMBER JAMES: I know, but --

MS. KANE: Because certification doesn't expire until suspended, revoked, or surrendered. So, you couldn't use the word expire.

CHAIR O'ReLL: Mark?
MR. BRADLEY: I wasn't here then either, but I asked the question and I was one that was in support of having an expiration date, just because of the compliance issues that we were running into, lots of fraud, using certificates that were produced several years ago and then they just don't expire and they show up in the Middle East in loads of product that had never been certified.

But the way I understand it, the problem was that if certifiers are not able to administratively handle this annual update that's required from certification certificates that expire, then they run into the problem where they haven't administratively removed certification, they haven't done anything wrong, but the certifier wasn't able to keep up with it. So that is the thing that the program had in place when they said that, you know, it's certification for life, until you take it away.

CHAIR O'RELL: Thank you. Thank you, Patricia.
Yes, we're going to recess. We don't need a motion for recess.

We kept pretty much on time. Thank you very much. I appreciate the public comments, people who signed up today. I don't think we missed anybody's name on the list. There was one individual that didn't come up but I haven't heard from them. So, we'll reconvene tomorrow at 8:00 in the morning, where we will start the committee work in terms of discussion items and presentation of those items that will be either discussed or voted on on Thursday. There will be another public comment period after, Wednesday afternoon, so there's another chance to have a public comment period based on our dialogue and discussion here, prior to any votes that might take place on Thursday.

So, I thank everybody.

(Whereupon, the meeting was adjourned at 5:17 p.m., to reconvene on Wednesday, October 18, 2006 at 8:00 a.m.)
The meeting was held in Salons 1 and 2 of the Radisson Hotel Reagan National Airport, 2020 Jefferson Davis Highway, Arlington, Virginia, at 8:00 a.m.,

Kevin R. O’Rell, Chair, presiding.

BOARD MEMBERS PRESENT:

KEVIN R. O’RELL Chair
ANDREA CAROE Vice Chair
BEA E. JAMES Secretary
GERALD A. DAVIS Member
RIGOBERTO I. DELGADO Member
KEVIN ENGBERT Member
DANIEL G. GIACOMINI Member
JENNIFER M. HALL Member
HUBERT J. KARREMAN Member
MICHAEL P. LACY Member
JEFFREY W. MOYER Member
NANCY M. OSTIGUY Member
JOSEPH SMILLIE Member
JULIE S. WEISMAN Member
NOP STAFF PRESENT:

KATHERINE BENHAM
Board Specialist

MARK BRADLEY
Associate Deputy Administrator

VALERIE FRANCES
NOSB Executive Director

ARTHUR NEAL
Acting Associate Deputy Administrator, Transportation

BOB POOLER
Agriculture Marketing Specialist
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Jim Riddle

Tom Hutcheson
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CHAIRMAN O'RELL: (presiding) If I could ask everybody to please take your seat, we are going to call to order the second day of the NOSB October meetings with the business session today.

We are going to begin this morning with the Policy Development Committee.

Rigo, would you like to lead us?

MR. DELGADO: Yes, sir. Thank you.

Good morning to all.

The Policy Development Committee has been working essentially on two points. The first one is revisions to the Policy and Procedures Manual.

Up there on the screen, you have the summary of the changes. I will just walk you through those.

In the second item we will
present to you the new Board Member Guide. I will ask Bea to give us a brief summary of that.

So going back to the updates to the Policy and Procedures Manual, we updated the format, not very substantial, but essentially in three points.

We formatted the entire document to make sure that it had a consistent layout, making sure the points and the different paragraphs match, and so forth.

Subsection formats were activated. So every time we update the document, the table of contents will be activated as well.

Then we included a nice, what I think is a sexier, cover page; looking at Valerie's cover page for the book, it is not nearly as nice as her work.

Going on to the specific updates involving the content, Section II, we introduce an introductory paragraph.
Section III, we did the same.

Section III, page 14, also page 13, we included the description of the Executive's role.

In Section V, page 19 -- and I realize this document that was printed does not have the page numbers, but bear with me -- in Section V, the description of the Committee Vice Chair role was added.

In Section VIII, we included also an introduction to that section. There's a typo there in point No. 6. It should be Section VIII, page 51.

We updated the Committee recommendations. It is essentially a description on sunset that was added to the subsection on Committee recommendations.

Finally, we created a formal appendices and resources section. You will see that we kept the same components of what was called before the appendix and we relabeled with specific letters A through E.
Okay, so those are the updates to the Policy and Procedures Manual.

Bea, if you will be kind enough to give us the update on the NOSB New Member Guide?

MS. JAMES: Okay.

CHAIRMAN O'RELL: I guess, first, Rigo, are there any questions by any of the Board members on any of the material that Rigo has talked about or addressed?

MR. KARREMAN: Actually, Kevin, I am wondering, is this in our folder? I didn't see it in Section III there.

CHAIRMAN O'RELL: Yes, it is.

MR. KARREMAN: I was reading it off there.

CHAIRMAN O'RELL: It is in Section II.

MR. DELGADO: The numbers are a little off.

CHAIRMAN O'RELL: Any other questions?
Okay, Bea.

MS. JAMES: In Section II, you will also find a new document draft. It is called a New Member Guide, NOSB New Member Guide.

As we all know, the amount of information that needs to be learned by NOSB members is a mess, particularly through the eyes of a new member at their first Board meeting.

Many of the NOSB members that come in for the first time are quite knowledgeable and might even actually have had a hand in helping to develop many of the regulations that we have. However, that is not always the case.

Many members that are newly appointed are unprepared, and not by any fault of their own, but by the lack of guidance that the NOSB has provided as an introduction for new members.
The Policy Committee has developed a draft for new members called the NOSB New Member Guide. This draft is meant to provide basic guidance in preparing new members for their first official Board meeting.

The Guide will be used as an accompaniment to the NOSB Policy and Procedures Manual as well as specific information that can be obtained on the NOP website that is listed in the manual.

Briefly, some of the content of the Guide provides valuable information such as "Read!!!" with three exclamation points after it, and what to read, where to find it, dress code, what to do first, what to do second, what to pack, brief descriptions of the NOP, NOSB, OFPA, and the final rule.

The Guide also gives suggestions on how to organize paperwork, emails, as well as how to keep up with reading and writing materials, travel information,
agencies, supporting organizations in the industry, as well as many other suggested best practices.

The Policy Committee will oversee the New Member Guide and update as needed.

We would like to propose this draft for discussion for this meeting and hope to have this draft as a final document at the next Board meeting for a vote to accept it as an official training material for new members.

Now I open to any discussion or questions on the New Member Guide, which I wish I would have had when I had my first meeting.

(Laughter.)

CHAIRMAN O'RELL: I wish my kids would have had this when they went to school for the first time because it would have been very thorough.

(Laughter.)

Bea, I thank you very much. I
think this is going to be very helpful for new members.

Jim Riddle and I had a conversation the other day, and we talked about how this would even, I think, serve a purpose for people who are considering and putting nominations in for submission for consideration to be on the Board, give an expectation of what is required, because there is a lot of work required. People knowing it upfront would give them a better understanding of putting in a nomination.

I like Jim's suggestion of having a link on it for the nomination process once it has become an official document.

So is there any discussion?

MR. DELGADO: We have a question there.

CHAIRMAN O'RELL: Yes, Nancy?

MS. OSTIGUY: Actually, it is a document, I guess, that is never done. Under E on the New Member Guide, it says
that all airline reservations must be made through the FedTraveler. All reservations, because those of us that have gone by train or rented a car, we may not have done it the right way initially and we were informed of a different way of doing it.

MS. JAMES: Okay, good. Thank you.

MR. DELGADO: Just for the record, what is the page number and section, please?

MS. OSTIGUY: Page 4, Section E. The second paragraph of Section E.

MR. DELGADO: Thank you.

Any other questions? Yes, Bea?

MS. JAMES: Originally, we had collaborated with Valerie on this document. There was some really valuable regulatory information that we actually pulled out of the document.

I would like to propose that we re-evaluate that information as possible
submission to the Policy and Procedure Manual because it is more technical. I just wanted to open that for discussion.

I am not sure if many of you saw the first round that came out on the New Member Guide and if you had a chance to look at that, but I found it to be extremely useful information.

So I am just asking maybe Mark and NOP also how they feel about putting that on the agenda for the Policy Committee to look at inserting into the Policy and Procedure Manual.

CHAIRMAN O'RELL: Is that a question to the program?

(Laughter.)

MS. JAMES: Do you have a problem with it?

MR. BRADLEY: We don't have a problem with that at all, if you want to look at that.

MS. JAMES: Okay.
MR. DELGADO: I guess I would like to clarify that this is a working document, and we should be updating that probably on a yearly basis, like we should be doing the same with the other Policy and Procedures Manuals. It is not complete, but I do want to recognize Bea's work on this, on developing the first pass. It was essential, and Bea has been definitely, no question, the leading light behind the New Member Guide.

MS. JAMES: See, from being so lost, you can actually have positives. (Laughter.)

MR. DELGADO: Yes.

Any other comments? Questions?

CHAIRMAN O'RELL: Just so everybody's clear, then the revisions that you discussed first this morning will be voted on tomorrow.

MR. DELGADO: That is correct.

CHAIRMAN O'RELL: And what Bea
presented for the New Member Guide was just a discussion item, and at the next meeting—we plan to make a change or two, and then at the next meeting it will an action item.

MR. DELGADO: Right. That is correct.

CHAIRMAN O'RELL: Does that conclude the discussion?

MR. DELGADO: That concludes the Policy Development discussion, yes.

CHAIRMAN O'RELL: Thank you. You’re still on, I guess.

MR. DELGADO: I’m still on, yes.

CHAIRMAN O'RELL: We are going to move to you and Gerald for the Joint --

MR. DELGADO: That’s right. I also want to appreciate all the work that has gone into developing, working on the temporary variances for research. Gerry and the Crops Committee and the PDC members have been generally busy all the time.

But at this point, what we would
like to do is give you an update on what is happening with research variances, our guidance for them.

CHAIRMAN O’RELL: It is Tab 3 in our books.

MR. DELGADO: That’s correct.

We, essentially, prepared the letter; just to give you that update, I will read from that. You can see that. It is on the screen.

The update is the following:

“For the past year, the Crops and Policy Development Committees have been working to provide recommendations for temporary variances for the purpose of conducting research.

“One topic of discussion concerns research involving prohibited materials and practices, particularly such research that must be conducted on transitional or certified organic land due to funding stipulations.
“Because NOP rule Section 205.290(e) specifically forbids temporary variances involving practices, materials, or procedures prohibited under 205.105, the Committees are attempting to find ways to accommodate this type of research under the current rule framework.

“The Committees have been working on a document recently that we named ‘Guidance for Certification of Operations Participating in Research,’ COPR.

“Ongoing work on the COPR document will attempt to outline the procedures to request, maintain, document, and control distinct plots used for such comparative research within the confines of the Certified Organic Farm Plan of a research operation.

“Another major discussion point on temporary variances questions the validity of allowing certifiers to grant variances, acting in place of the NOP
Administrator, that is. This idea has been proposed as a way to streamline the temporary variance process.

“After close scrutiny of the NOP rule, the Committees determined that the Administrator must be the one to grant any variances. The Committees will be discussing ways to streamline the approval process of temporary research variances as part of the work-in-progress on the COPR document.

“This update on the work-in-progress on this topic seeks to inform the public and to stimulate continued input from all concerned parties.”

Thank you, and that is signed by both Gerry and myself.

CHAIRMAN O’RELL: Any comments, Gerry?

MR. DAVIS: No. I think that gives an adequate status report of what we’re grappling with and why there is no
document for vote.

CHAIRMAN O’RELL: Any questions from any of the Board members? Andrea?

MS. CAROE: It is not a question, but being part of this process, I just wanted to say that we actually did a lot of consideration. We kind of went full circle with this recommendation.

We got very, very complex, and then we brought it back to a very, very safe area. Then we realized that we really didn’t have any there and got stuck.

Temporary variances is a very tricky area for us because a variance is a compromise. It is a compromise on the rules in order to promote the technology and the advancement of the industry. That is a very tough call for this Committee to make, for this Board to make.

We will struggle with that as we move forward, finding out where we are willing to let organic food on the market in
small amounts that don’t meet every piece of the regulation, yet they are providing something back to the industry that will actually take it further along.

So I appreciate all the work that Rigo and Gerry did on this. It was an amazing effort.

Seeing this document, you may not understand, actually, all the work that got to where we are, but I think we’ve got a better understanding, and moving forward, I think it is going to be a very good recommendation that you come up with.

So I appreciate the work that you guys did on this.

CHAIRMAN O’RELL: Hue?

MR. KARREMAN: Actually, Andrea, maybe I’m under the wrong impression, but product made under a variance, I thought that will not be sold as organic, but perhaps that plot, or whatever that it said in here, could come back into production.
But during the examination of a practice or product for a crop, let’s say, that particular crop that season would not be sold as organic, isn’t that correct?

MS. CAROE: Well, there is an opportunity that you could preserve the transition and, in other words, not sell the crop, but sell the following crop as organic.

MR. KARREMAN: Sure.

MS. CAROE: That’s one type of variance. The other type of variance is to allow it to be sold as organic.

So, you know, this would be considered by the Committee in granting a variance. So maybe it is a practice, or I’m not even sure which part of the regulation would be varianced. That is the tough part.

But looking at that and moving forward is the issue. But the world is the gamut on this. It is balancing the benefit versus the detriment, the variance. That is
what is ahead.

    I think Rigo and Gerry are very good at putting that in perspective.

    CHAIRMAN O’RELL: Yes, Hue?

    MR. KARREMAN: Another point: I don’t see anything in this document here -- it is not a document, just a progress update, I guess -- regarding livestock. I think livestock has to be addressed.

    MR. DELGADO: You are absolutely right. This is a working document. We have addressed just these specific points so far.

    So the next step will be to continue with questions like, where does livestock fall into all this? So we are not done with this work at all.

    CHAIRMAN O’RELL: This remains on the work plan?

    MR. DELGADO: Absolutely, yes.

    MR. KARREMAN: One last thing: As the Crops and Policy Development Committees -- and I was just wondering if it
is going to include livestock, shouldn’t it be the Livestock Committee as well or should it just be the Policy Committee itself, not just Policy and Crops?

Do you know what I’m saying? Should it be just Policy because it is overarching over the whole Board and everything to do with organic research or should it be Policy plus the Crops Committee, the Livestock Committee, and whatever all else, just to be fair to Livestock, I guess, and other groups?

MR. DELGADO: My immediate response is, yes, we should be including Livestock in that sense. I don’t know if you have any objections.

MR. DAVIS: I don’t disagree with that, no.

CHAIRMAN O’RELL: Well, I would agree. Policy will be the leading driver. So they would have the primary function to make sure that the roles are carried out
through Crops and Livestock.

So if we wanted to add Livestock to that as part, under the umbrella of the Policy Committee --

MR. DAVIS: That’s fine.

CHAIRMAN O’RELL: Andrea?

MS. CAROE: I would make a suggestion that you consider developing an ad hoc committee to deal with this that includes Crops, Livestock, a couple of people from each area, instead of trying to get all of these committees together; you’ll never get a quorum.

So if you actually get a couple of people that can represent each area, form an ad hoc committee, it will be a lot easier and a lot more tenable to actually get work done.

MR. DELGADO: No, I agree. That will make us a lot more productive, too. Thank you.

MR. MOYER: Kevin?
CHAIRMAN O’RELL: Yes?

MR. MOYER: In fairness to Rigo, there are some of us that sit on Crops and the Livestock Committee. So livestock was discussed from the very beginning of this policy statement right on through. We never separated crops and livestock in the actual discussions.

MR. KARREMAN: The only reason I’m bringing it up, I don’t see anything about livestock per se in this update here.

MR. MOYER: Right, not in this update. In the actual document that we -- we originally had written a document and livestock wasn’t there; we had a lot of problems, not just with livestock, but with the whole thing.

As we re-evaluated it, we just stumbled along and we started to actually regress in our discussion, but livestock was included.

CHAIRMAN O’RELL: Livestock was
definitely included in the -- yes.

MR. KARREMAN: I was part of those discussions.

CHAIRMAN O’RELL: Yes.

(Laughter.)

MR. DELGADO: And, also, Mike Lacy was participating in that. So we did have -- we just have to make it official, I suppose, include the three committees or the ad hoc committee.

CHAIRMAN O’RELL: So I think that is a very good suggestion that Andrea made. So, Rigo, if you would look at putting together an ad hoc committee --

MR. DELGADO: Will do.

CHAIRMAN O’RELL: -- under the Policy umbrella to continue with this, to have representatives of livestock and crops?

MR. DELGADO: Will do, yes.

CHAIRMAN O’RELL: Any other questions or comments?

(No response.)
Okay, Gerald, let’s move on to the Crops Committee rundown of the recommendations that will be presented tomorrow for vote. We have two discussion items, I think, as well.

MR. DAVIS: What’s the best way to structure that, Kevin? I present the petition, then open it up for discussion amongst the Board?

CHAIRMAN O’RELL: Yes.

MR. DAVIS: And that’s as far as we take it for each material?

CHAIRMAN O’RELL: For each material, yes.

MR. DAVIS: Thank you.

CHAIRMAN O’RELL: Just to give some background information and what the recommendation is coming from the Committee for each of the individual materials.

MR. DAVIS: Okay.

CHAIRMAN O’RELL: Then we’ll have discussion.
MR. DAVIS: The first material on the agenda is lime mud, which would be a limestone recovery type of material from various industrial processes. The petitioner is requesting that it be approved for organic use as a liming material. It is calcium carbonate. It is just the problem is that we had with it was that it is industrial byproduct.

The material is synthetic. I mean it begins as a mined material, but it doesn’t stay that way.

So, as far as the criteria, we checked off that it failed all three criteria.

As far as impact on humans and environment, the first criteria, we felt that the lime mud term was very generic and not specific enough.

The petitioner, with their specific version of that recovery-type lime mud, they were presenting that it had
minimal contaminants as far as heavy metals, and so forth, but the term to approve lime mud would open up the door to all sorts of grades of these types of materials that could have vastly different quantities of impurities and heavy metals, and so forth.

Even the material as petitioned, their version of it, it does have some contaminants in it. We felt that, even though they were reasonably low by conventional agricultural standards, that in organic that is not really one of the principles we follow of trying to decide what is an adequate loading rate of heavy metals, and so forth, that should be applied to organic land.

So we thought the potential loading rate of contaminants would be too high with lime muds in general for organic to be compatible -- well, let’s say that, compatibility. It could have an impact on the environment. So it failed that
As far as the availability criteria, are there other materials available? There are. You know, mined limestone is generally available and is effective. There is no perceived need for this type of a limestone material because there are no other sources.

I mean limestone is very available in most areas of the country. It is already an approved natural.

The third category, and we felt it failed also, as far as compatibility and consistency with organic agriculture. The rule prohibits the use of material made in lime kilns. So we thought this was related to that and was a problem area.

Again, the loading rate of heavy metals, accumulation over time, repeated use of this, we didn’t think it was compatible with organic agriculture. So we rejected it on that criteria also.
So we voted to deny the petition. The vote was five members yes and zero members no, no abstentions.

Is there any discussion? Andrea?

MS. CAROE: I just have a question. You are evaluating this as a synthetic. Is this not like a byproduct of a grinding process? I mean, how is this synthetic? Is this actually manufactured?

MR. DAVIS: Nancy, can you take a stab at that? I am blanking here on what determination we used on deciding it was synthetic.

MS. OSTIGUY: I am not remembering the petition at the moment. So I really can’t pull that up.

MS. CAROE: I don’t think it changes anything. I think your evaluation is quite complete. I just was curious about the categorization because it just seems like it is a byproduct of some other type of application or grinding or --
MR. DAVIS: I’ll have to check the petition and see if I can put together why we determined that.

MR. MOYER: Gerry, my recollection was that what we discussed was that, through the process of the creation of the lime mud, as a byproduct of something else, it actually changed the material through the heating process. So it becomes -- you start out with something mined, but through the process, it actually becomes synthetic because there’s so many other contaminants mixed in with it.

MS. CAROE: Oh, so it is like it is binding with metals and things like that in the process?

MR. MOYER: Yes, all sorts of things, right.

MS. CAROE: Okay.

MR. DAVIS: Yes, changing the calcium oxide at one point --

MR. MOYER: Right. Got it.
MR. DAVIS: -- and back and forth in various forms.

MR. MOYER: It actually changes, chemically changes it.

MS. CAROE: Thank you so much.

MR. MOYER: Sort of like taking phosphorous and turning it into triple super phosphate, it becomes a synthetic by the process.

MS. CAROE: I understand.

MR. DAVIS: Seeing no other hands, I guess we will move on to the next material.

CHAIRMAN O’RELL: Yes.

MR. DAVIS: Nancy, do you want to take the sodium lauryl sulfate?

MS. OSTIGUY: Sure. Sodium lauryl sulfate was petitioned for use as part of a material that was to be an herbicide. In our evaluation, adverse impacts on humans and the environment were unlikely.
Sodium lauryl sulfate is, in essence, a soap. So while it can have negative impacts on living organisms, it is relatively benign in that fair quantities are needed.

Primary areas where it is problematic in the environment is near aquatic ecosystems.

So the substance is also biodegradable. It is a food additive. It is grass, so relatively nontoxic.

Like any soap, if you ingest it, it will cause diarrhea.

Category 2, on the question of wholly natural substitute products, there are corn gluten, prevents sprouting of seeds from developing normal roots; acidic acid is considered a natural herbicide. There are also other lists for minimal risk inerts that can also be used such as sunflower oil and citric acid.

Again, on alternative substances,
List 4 minimal risk inerts are available that are natural.

Other practices: cultivation, et cetera, crop rotation, allelopathic plants, et cetera, can be used in place of an herbicide.

So it failed Category 2. It also failed Category 3. The intended use was felt to be beyond the intent of the regulation because the material would be used in crops.

The section under the regulation where this material would be listed is herbicides, soap-based, for use in farmstead maintenance, roadways, ditches, right-of-way, building perimeters, and ornamental crops. That was not the stated intended use.

We felt that it was compatible with sustainable agriculture, with the maintenance as following the regulations as they currently stand, but not for crop
production.

We did find a place for it, if we had wanted to add it to the list, because it is a soap.

The Committee voted that this material was synthetic and that we reject it for listing on the National List because it would violate current regulations in terms of if you look at Category 3, question 2, other materials are also available that are consistent with organic production.

CHAIRMAN O’RELL: Any questions for Nancy?

(No response.)

Okay, Gerald?

MR. DAVIS: Hearing none, the next material is the petition to add sulfuric acid to the National List with the annotation “for use only to stabilize animal manures” in processing of those animal manures.

The first category, the
evaluation criteria, impact on humans and the environment, a lot of the discussion talked about the basic idea that sulfuric acid is a very commonly-manufactured material used in a lot of things.

Different sulfur compounds getting into the air as air pollution and causing acid rain was discussed. Although it is not directly pertinent to this material and its use, the material as petitioned for use would not cause acid rain. The commenter, the petitioner sent in public comments posted on the website stating that. I would have to acknowledge that, that, yes, the material as used would not cause acid rain.

So perhaps we got a little bit off the track on that particular tact.

MS. OSTIGUY: Gerry, can I interrupt?

MR. DAVIS: Yes, please.

MS. OSTIGUY: One of the things
that the Committee was doing, and we did the same thing with sodium lauryl sulfate, is when we list a material, it is listed for any use. So while this particular use doesn’t have an acid rain component, a lot of things that were mentioned in terms of its environmental impact probably do not apply for this particular use. That is not what we are doing when we put something on the National List. It could be used in other processes.

So that was the context of our responses for Category 1, was if it was on the National List, what are the possible consequences?

MR. DAVIS: Right. I was going to discuss that in the compatibility area also.

On the availability criteria -- well, first of all, going back to the first criteria on impact on humans and the environment, we felt that the material did
not satisfy that criteria. So we marked it as no.

The second criteria, availability of natural substitutes or practices that would substitute for this, we felt it failed on that also because there are other ways to stabilize animal manures with other materials such as using citric acid, lactic acid, bacteria, or clay or peat materials, various zeolite materials that tend to absorb free ammonia when they are present in the manure or the compost piles.

There’s also just regular composting of animal manures is a practice that would not keep the volatilization of ammonia. I mean that would happen in composting. It would go into the air and, yes, it would be there, but it is still an alternative practice that is commonly used. This we didn’t feel was necessarily needed for the overall organic agriculture fertilizer need situation.
So we felt there were other available materials and practices. So we voted no on that also.

Criteria 3, compatibility and consistency, we also checked that off as a no answer. As Nancy mentioned a minute ago, when we approve, if we were to approve sulfuric acid for use in animal manures to stabilize them in their processing of them, it would open up the door to many other uses that would go beyond the intent of this particular petitioner.

They stress over and over again the small quantity of sulfuric acid it takes in their process on a hog operation to stabilize the manure in their manufacturing process in making pelletized manure for availability to the organic growers.

But if we approve it, it could be used for many, many things. It is a synthetic. Putting it in the manures results in formation of synthetically-formed
sulfate fertilizer.

The principles of organic agriculture in the rule and the original act state that we are not to be allowing synthetic fertilizers for general use in organic agriculture.

So although the amount they put in this particular process is small and it might seem inconsequential, it would open the door to anyone else desiring to use large quantities of sulfuric acid in compost piles or manures for various reasons to get various effects, all in a synthetic fashion.

So, for that reason, we voted no on the compatibility and consistency with organic agriculture and voted five to zero to not grant the petition.

Any questions or comments?

CHAIRMAN O’RELL: Yes, Dan.

MR. GIACOMINI: I would just like a little clarification on you said a couple of times that putting this item on the list
for this use would allow its use in other cases. OFPA, under National List, says, “The list established under Subsection A shall contain an itemization by specific use or application.”

How would putting it on the list for this use allow its use in other cases?

MR. DAVIS: I didn’t say “other cases,” but within the case of manure stabilization, you know, stabilization of ammonia within manures, it is conceivable it could be used in much greater quantities, let’s say in a composting operation, to where they could go beyond just mainly stabilization and would be actually fortifying compost or manure sources with large amounts of sulfate.

MS. OSTIGUY: Yes. Not only that, so even within this use category, it could go to the point that it would be a synthetic fertilizer.

The way in which, at least in my
five years on the Board, materials have been added to the list, the preference by the program has been to not have annotations. We would have to put fairly restrictive annotations in this case.

So while, yes, OFPA allows annotations, in practice they really have not been the primary way that this has proceeded.

MR. GIACOMINI: I see Gerald’s point on amounts and volumes. I don’t quite see your point on annotation since we put it into a specific category for as use.

MS. OSTIGUY: Once it is in one category, it is opened up for justification for additional categories.

MR. DAVIS: And we have another item on the agenda that will demonstrate that in a few minutes here -- I will point it out when we get to it -- where a material has a very specific addendum, annotation -- excuse me -- and is now being petitioned for
expanded use to change that annotation to give it more usages. So it does happen. It is very routine that that does happen. Putting it on in a small way tends to lead to more usage that we definitely wouldn’t be interested in.

CHAIRMAN O’RELL: Andrea?

MS. CAROE: I think that you’re overly worried about an annotation when you have such a clear reason, because if a particular use presents no risk and you are allowing that use with an annotation for that use, and you are very particular about how this recommendation is written, any petitioner that comes after is going to have to reference the previous Board decision. Clearly, in your decision it will say that it was allowed specifically for this use because there were minimal risks because of the method used for application.

So, I mean, you could do that. However, in this case, looking at this
material, it seems like you have a whole lot of alternatives.

So, I mean, I think the point may be moot in that, why go to that level of -- you would do that if you really needed this material for this reason. If you had no other reason, no other alternative to adjust the PH, then I could see doing that.

But to kind of go between, Dan, it can be done, and you would do it if you needed to, but I don’t think you need to. I don’t think this material has -- or the petitioner has proven that they absolutely need this material.

CHAIRMAN O’RELL: Nancy?

MS. OSTIGUY: I would also argue that this material for this use could, while this petitioner has stressed how small amounts are necessary in their process, it could be used, it could be abused by other individuals.

I am not sure you could write an
annotation that says that you must use the most minimal amount possible, and then how are you going to police that? How are you going to follow that in terms of enforcement?

So we are stuck with a quantity issue anyway.

CHAIRMAN O’RELL: Right, but the rejection of the material is not based on the sole fact that it could be used.

MS. OSTIGUY: No.

CHAIRMAN O’RELL: I mean there are clear criteria for rejecting the material beyond the philosophical point that it could be used in other applications or abused or further --

MR. GIACOMINI: Right, and my comment wasn’t as an argument to your decision on this substance. It was just, you know, clarification on the specificity in OFPA of how we are required to put items on that list for specific use. I mean there
are some items that end up being on the list a number of times for different uses.

In some cases, an item has been on the list, resubmitted for a second use, and that second use has been rejected, but it still stays on the list for the additional use.

MR. DAVIS: Right, and the overarching point that we try to always remember is, if we are going to add synthetics to the National List, we need to make sure they are truly, truly needed and there are no good alternatives. We just felt it really failed that category of criteria.

CHAIRMAN O’RELL: That’s the clear basis for --

MR. DAVIS: That’s the clear basis, that there are other ways to go about this and this is not a justification for adding a synthetic for use that way.

CHAIRMAN O’RELL: Hue?
MR. KARREMAN: I was just going to say this is totally new to me, using something like a synthetic for manure preservation. I don’t know many farmers in the Northeast at least that would use anything for cow manure, poultry manure except drying it out naturally and whatnot. It seems kind of odd.

MR. DAVIS: Right. In the natural drying and handling of manure, there is always a nitrogen loss.

MR. KARREMAN: Right, sure.

MR. DAVIS: If you choose to use a sulfuric acid to add it to the manure pile, the compost pile, it drops the PH of the overall pile or the manure to a level where ammonia gas does not form. It stays in the ammonium form and it stays there, rather than volatilizing off.

Any other questions?

(No response.)

So did I finish? The vote was
also five to zero on the sulfuric acid in manure to reject the petition.

Calcium chloride currently has the status of it is nonsynthetic, at least in this form. Synthetic forms of calcium chloride do exist and they are made.

This particular petitioner produces a calcium chloride that their company sells from a natural brine process. So we determined that it is not synthetic.

Calcium chloride exists on the list right now as a prohibited natural with the annotation “for use only to supply calcium as a nutrient in instances of limited calcium uptake in certain crops.”

Checking the history on it, it was primarily added based on a need that apple growers had for a way to treat for a physiological disorder called bitter pit or -- well, bitter pit, where it makes the fruit unsalable due to a late-season calcium deficiency that is not able to be supplied;
the calcium isn’t able to be supplied through soil-applied methods or many foliar-applied methods of other materials.

The petitioner is requesting that the annotation be changed to allow for soil usage of this material, to broaden the usage of it. So we had to evaluate it on that basis.

So Criteria No. 1, impact on humans and environment, the chloride content of the material seemed to be the central issue. Yes, you can leach the chloride out of the soil profile, and it is not in proper soil conditions for where the chloride would not build up in the soil profile where the crops are grown.

You can eliminate environmental contamination in that zone, but the question always remains, where does that chloride go and what are we doing with long-term usage as far as surface and groundwater contamination from the chloride being
leached through the soil layers?

The material is a salt. Everyone knows that salts are dangerous for certain handling by people. It can’t get in your eyes. You know, it is corrosive to the skin, and so forth.

But the main issue on impact on humans and the environment was the chloride issue and the leaching into the lower profiles of the soil.

So the Committee voted on that criteria that it fails, based on that part of it.

Criteria No. 2, the availability of natural alternatives or practices, for soil remediation in the alkaline soils, mainly in the West and Southwest, gypsum is a very, very effective low-solubility material for reclamation of alkaline soils with sodium and/or chloride problems.

So there is already a mined natural on the list that is routinely used
for that purpose.

Limestone is available as a calcium supplement in other areas, acid soil areas, where you would want an alkalizing material.

As a chloride supplement, a separate issue from the calcium, potassium chloride is on the list already as a chloride supplement.

Also, Brian Baker pointed out to me yesterday, reminding me that table salt, sodium chloride, is a natural and has no restrictions at all and could be used as a chloride source, although not desirable.

(Laughter.)

In situations where you need chloride, it is tiny amounts that you need to put on the soil. So a sodium chloride application at very low rates would be adequate.

But the question is, do these materials -- so we answered yes and no on,
are there alternative materials, because in situations, certain phases of crop growth, soil-applied calcium does not translocate to the problem areas of the plant like an apple with a physiological problem or tends to growing-point problems where you have distorted foliage or fruit that don’t have enough calcium.

The limestone and gypsum materials applied to soil tend to break down at some point. So there is often a desire to put on a foliar source of calcium, which was probably why it was originally added as a prohibited natural with the annotation “for foliar use only to correct calcium-deficiency disorders.”

There are other alternatives, calcium supplement sources for foliar use there were pointed out in the TAP. Calcium chelated with humic acids was mentioned. From my experience on our farm, calciums chelated with various amino acid natural
protein derivatives is very effective at correcting these calcium deficiencies.

So we felt there are other available materials. So we voted no on, did it meet that availability criteria?

Criteria No. 3, compatibility and consistency with organic agriculture, we also voted no on that, based on it is a material of high solubility and that is a principle at least contained in the rule. I don’t see it listed in OFPA itself, but it has been stressed. There seems to be a precedent stressing preferably that we use materials of low solubility to eliminate some of the environmental problems associated with high solubility of materials.

What was the other criteria that we talked about? I am blanking a little bit. Jeff, Nancy, anything on that, other criteria that we were -- Kevin?

MR. MOYER: Well, you hit the
important ones.

MR. DAVIS: okay. So we voted no, that it failed the compatibility and consistency with organic agriculture and voted five to zero to reject the petition to change the annotation to allow for soil use. Any questions?

CHAIRMAN O’RELL: So there were two absent for this vote?

MR. DAVIS: Yes. Yes, we didn’t mark that down, but the day that we did this there were only three members present. I believe Nancy and Jeff were absent for this vote, as I remember.

MS. OSTIGUY: Yes, if you add my vote, it is the same as the Committee’s.

MR. DAVIS: Joe?

MR. SMILLIE: Yes, I agree with the Committee’s decision. But I remember in the old days as a fertilizer dealer that we never allowed potassium chloride, for all of the reasons you have cited.
I just think that it is just a crying shame that we’ve got this process in place now to deny calcium chloride, but we are sitting there with muriated potash, which to me should never have been on the list. So I think it is organic history rather than science and that we are saddled with it, but I just wanted to note that I just think that is a crying shame.

MS. OSTIGUY: Joe, the Committee did talk about that. We agree with you. But we have to work with the petitions that are in front of us.

MR. SMILLIE: I agree.

MS. OSTIGUY: We felt frustrated, but that was the state of things.

MR. MOYER: Someone could petition to take it off, but they haven’t.

MR. ENGELBERT: But that is kind of the message we are hoping to send. We couldn’t justify this because of a wrong that was done, in our opinion, that was done
in the past.

MR. KARREMAN: If potassium chloride was petitioned to be removed, you guys think, with the calcium chloride sitting in the wings, that there might be a switch, let’s say? I mean if KCl was not available --

MR. GIACOMINI: The petition would be to change the annotation?

MR. KARREMAN: Yes.

MR. GIACOMINI: Yes.

MR. KARREMAN: Do you think the annotation could change then if potassium chloride was taken off?

MS. OSTIGUY: Well, they could petition to change the annotation or we could choose, if it was petitioned to remove, change the annotation. That argument would have to be made.

There are other wholly natural sources.

MR. DAVIS: Right.
MS. OSTIGUY: So that would be one of the main things that the Crops Committee would have to evaluate before coming with a recommendation to the Board.

CHAIRMAN O’RELL: Andrea?

MS. CAROE: Did that material go through sunset process?

MR. DAVIS: Potassium chloride? No, I think it was added later than that first batch.

MS. CAROE: It was added later. So it is going to be sunset, right? There will be a sunset on it?

Do we know how long it has been on the list and when that sunset is?

MS. OSTIGUY: I don’t remember.

MS. CAROE: Okay.

MS. FRANCES: But we’ll know soon.

MS. CAROE: I’m sorry.

MS. FRANCES: We’re pulling that information together to make sure that we
are on top of the sunset materials.

MS. CAROE: Okay. It may be a message to send to this petitioner that at that time may be the best time to petition an alternative, if it is necessary.

I don’t pretend to know the technical information.

MR. DAVIS: I believe it would still fail on the availability criteria at least and the environmental criteria.

CHAIRMAN O’RELL: Emily, can you provide some insight?

MS. ROSEN: My recollection is at your meeting you talked about changing potassium chloride. Or, actually, it was talked in Committee. But in order to take it off the list during the sunset, that would have been a change in the annotation. You felt like you couldn’t take it off the list or it couldn’t be considered for that.

There was an initial recommendation, I believe, from the Crops
Committee to consider sunsetting it, but then -- so it seems to me a prohibited natural can never be sunresetted, the way you have set up your rules, which is not good, I don’t think.

MR. KARREMAN: Strychnine -- oh, no, that was different. That remained on as a prohibited natural that stayed on.

MS. ROSEN: That stayed on, uh-hum.

MR. KARREMAN: Yes, okay.

CHAIRMAN O’RELL: Thank you, Emily.

MR. DAVIS: It probably would have to be petitioned because of that process, Andrea, of not being able to change the annotation.

MS. CAROE: I understand, yes.

MR. KARREMAN: Also, Gerry, you’re saying there are other available products out there besides calcium chloride, but it is a natural product. You guys have
said that, correct?

MR. DAVIS: Right, yes. This process produces a natural, yes.

So I mean the debate could go on of whether we should be in the business of prohibiting naturals that don’t have very, very distinct problems with them, such as strychnine or arsenic and stuff like that.

The argument could be made, is calcium chloride to that level to where we really need to tell organic farmers, no, you can’t use this material because it is that bad?

MR. ENGELBERT: But it does have an annotation for use that we think is sufficient.

MR. DAVIS: Right. The annotation for use does mitigate the environmental issues that it has. By restricting it to that level of use, you still have a calcium supplement; you still have a chloride supplement for use certain
ways. You just can’t use it in larger quantities in soil.

CHAIRMAN O’RELL: Any other comments or questions?

(No response.)

Thank you, Gerald. Do you want to go on to compost tea?

MR. DAVIS: Do I want to?

(Laughter.)

CHAIRMAN O’RELL: Do you want to?

No, I guess that wasn’t a question.

(Laughter.)

Would you go on to compost tea?

MR. DAVIS: Okay. Compost, vermicompost process manures and compost teas, this one has been on the agenda many, many times for years now, starting with the Compost Task Force years ago and then the subsequent Compost Tea Task Force.

What we attempted to do was to look at those Task Force reports and come up with a guidance document that, rather than
just adopt everything that is in those Task Force reports as what we should do for these materials, I could see myself inconsistencies in some of the material contained in particularly the Compost Task Force document, the older document, that I thought were problematic and didn’t want to.

So we put directly in there that this is the guidance document. The Task Force documents are for background and history. They are not guidance in themselves.

How are we doing on time?

CHAIRMAN O’RELL: We’re fine.

MR. DAVIS: Okay. I think I had better read this.

“National Organic Standards Board Crops Committee recommendation for guidance for use of compost, vermicompost, processed manure, and compost teas.

“Introduction. Section 205.203(c) of the Soil Fertility and Crop
Nutrient Management Practice Standard in the USDA NOP rule sets forth the fundamental requirement for processing and applying plant and animal materials. The section states that the producer must manage plant and animal materials to maintain or improve soil organic matter content in a manner that does not contribute to contamination of crops, soil, or water by plant nutrients, pathogenic organisms, heavy metals, or residues of prohibited substances.

“Subsequently, Section 205.203(c) states that plant and animal materials include raw animal manure, composted plant and animal materials, and uncomposted plant materials.

“The rule in this section also contains management restrictions for crops on which raw manure has been applied and also specifies the composting conditions that must be maintained to produce compost.

“Certain types of compost and
manure-based inputs commonly used in organic farming were not directly addressed in the rule, such that additional information and rule clarification was needed.

“Two different task forces were commissioned to make recommendations on these materials. In April 2002, the Compost Task Force recommendation was presented to the NOSB and subsequently accepted as a recommendation to the NOP.

“In October 2004, a separate report and recommendation was presented to the NOSB by the Compost Tea Task Force. That document was also accepted by the NOSB, and the Crops Committee was directed by the Board to determine the necessary work that needed to be done to clarify these documents to the public.

“The intent of this current document is to point out and summarize the recommendations contained within both reports. So to summarize the information
that are relevant to clear, concise guidance on the production and use of the compost manure materials listed above, the complete reports of the Task Forces are included with this NOSB recommendation as supporting information only in Addendum A and Addendum B."

Definitions -- some of these are directly from the Task Force reports. Some of them are excerpts with very minor changes.

We added a definition for compost because neither of them actually defined compost.

So “Composting is a process in which organic matter of plant and/or animal origin is managed to promote aerobic decomposition and an increase in temperature in order to enhance its physical and nutritive properties as a soil amendment while minimizing pathogenic organisms.”

“Compost is the product of the
composting process defined here.”

“Compost Tea, a water extract of compost produced to transfer microbial biomass, fine particulate organic matter, and soluble chemical components of the compost into an aqueous phase, intending to maintain or increase the living beneficial microorganisms extracted from the compost.”

“Process manure, manures that have been treated by heating and drying to reduce pathogenic organisms.”

There were some comments made that we should call these dehydrated manures. I don’t feel that is specific enough because it is not just the drying that is included in the manures; it is the heating. So we had to come up with a term that could be all-inclusive of both processes, not just the dehydration.

“Vermicomposting, a managed process of worms digesting organic matter to transform the material into a beneficial
soil amendment.”

“Additional definitions of words used in this document, see glossary and definitions section of Addendum B,” which is the Compost Tea Task Force report.

Our recommendation: “Producers of any agricultural commodity or product certified as organic under the National Organic Program, NOP, must meet the fundamental requirements for processing and applying plant and animal materials for soil fertility and crop nutrient management practices, as described in Section 205.203(c) of the final regulation.

“Examples of plant and animal materials are described in Section 205.203(c) (i) through (iii).

“This recommendation denotes other materials and practices that would be acceptable under 205.203(c)(ii) which applies to plant and/or animal material mixes.
“One, compost, in addition to that described in Section 205.203(c)(ii), is acceptable if, one, made from only allowed feedstock materials with incidental residues, are allowed only if they will not lead to contamination.

“Two, the compost pile is mixed or managed to ensure that all of the feedstock heats to the minimum of 131 degrees Fahrenheit, 55 degrees Centigrade, for the minimum time of three days.”

That section is not intended to mean that we have shortened the amount of time from 15 days for what the rule states to three days. That is just saying that every part of that compost pile needs to be turned, so that every last bit of it has at least three days of heating.

“The monitoring of the above parameters must be documented in the organic system plan submitted by the producer and verified during the site visit. An
explanation of compliance with Section 205.203(c) should also be presented in the plan.

“Two, vermicompost is acceptable if, one, made only from allowed feedstock materials, except for incidental residues that will not lead to contamination.

“Two, aerobicity is maintained by regular additions of thin layers of organic material at one- to three-day intervals.

“Three, moisture is maintained at 70 to 90 percent.

“And, four, duration of vermicomposting is at least 12 months for outdoor windrows, four months for indoor container systems, four months for angled wedge systems, or 60 days for continuous flow reactors.”

There was one or two public comments mentioning that we should define angled wedge systems. We did not do that, probably because we don’t have any experts,
the expertise to look that up at the time.

“No. 3, processed manure materials must be made from manure that has been heated to a temperature in excess of 150 degrees Fahrenheit or 65 degrees C for one hour or more and dried to a moisture level of 12 percent or less or an equivalent heating and drying process that produces a product that tests negative for pathogenic contamination by Salmonella and fecal coliform organisms.

“Since processed manures have been treated to reduce pathogenic organisms, applications are not subject to the restrictions placed on raw animal manure applications in Section 205.203(c)(i) -- what’s that? -- (i), (ii), and (iii).”

I don’t know how you say those “i” numbers.

“To prevent regrowth of pathogens in processed manures, post planting use on crops whose edible portion contacts the soil
must be limited to below-soil-surface applications only.”

“No. 4, compost teas must be made with potable water. Equipment used to prepare compost tea must be sanitized before use with a sanitizing agent as defined by 21 CFR 178.1010.”

Public comment on that was received stating that we should add a phrase to there stating that it has to be a material on the National List, not just materials listed from that CFR section. So we can discuss that.

“Compost tea should be made with compliant compost or vermicompost.” Comment was taken on should be changed from “should be made” to “must be made.” I think that is a very important point.

“So compost tea should be made with compliant compost or vermicompost using the NOSB recommendation for compost and vermicompost mentioned above and as defined
in Section 205.203(c)(ii) of the NOP rule for compost tea.

“This applies to 100 percent plant feedstock materials in addition to manure feedstocks because non-manure compost feedstock may harbor high levels of fecal bacteria.

“Compost tea made without compost tea additives can be applied without restriction. Compost tea made with compost tea additives can be applied without restriction if the compost tea production system, the same compost batch additives and equipment has been pretested to produce compost tea that meets the EPA-recommended recreational water quality guidelines for a bacterial indicator of fecal contamination, US/EPA 2000.

“These indicators and the passing criteria are Escherichia” -- however you say that -- “E coli 126 CFU/100ml or enterococci 3 CFU/100ml.
“At least two compost tea batches must be tested using accepted methodology.”

I think some of the public comment really objected to the two tests for the compost tea, but they misinterpreted that they had to test their compost, two compost tests each batch.

“At least two compost tea batches must be tested using accepted methodology” -- and I let the readers read that, the citation -- “with the average population of indicator bacteria across compost tea batches used as the measurement of passing.

“Each new batch of compost would require that the system quality assurance pretest be conducted again as indicated. After it passes again, compost tea from the system can be used without restriction, provided that an annual retest is completed.”

The Committee added that last statement, “providing that an annual retest
is completed.” We thought it was prudent just for the operator, for their own liability purposes, if there’s ever a problem such as the one that has occurred with the spinach and lettuce, and so forth.

I mean there are elements of the conventional agricultural world that really disagree with compost tea and immediately point the finger at these sort of organic practices as the culprits for these types of incidents or the potential for these types of problems with using compost tea.

So we felt that an annual retest would just be due diligence to prove that what we are producing is safe, that it is not subjective, like what we are producing in our compost tea has never been a problem and it has always worked for us. We thought in this current environment, this situation, with organic agriculture being scrutinized by conventional ag and every little misstep that they think we are taking is pointed
out, this would be an area we needed to tighten the restrictions a little bit to give us better footing to withstand criticism.

“If compost tea made with compost tea additives has not been pretested for indicator bacteria, its use on food crops is restricted to the 90/120-day preharvest interval,” as raw manure would be.

“Crops not intended for human consumption, ornamental plants, and grain crops intended for human consumption are exempt from the bacterial testing requirement and 90/120-day preharvest interval restrictions.

“Raw manure extracts or teas may be applied to the soil with a 90-to-120-day preharvest restriction. Foliar applications of raw manure extracts or teas are prohibited.

“Compost leachate may be applied to the soil with a 90-to-120-day preharvest
restriction. Foliar applications of compost leachate are prohibited.

“Compost extracts resulting from any mixture of compost, water, additives, and agents that are not held for more than one hour before use may be applied without restriction.

“Compost tea or compost extracts are not allowed for the production of edible seed sprouts.”

The Committee vote was five to zero yes, no abstentions or absents.

Discussion?

CHAIRMAN O’RELL: Andrea?

MS. CAROE: I have three things. First, under definition of composting, it says, “to promote aerobic decomposition.” Is it to promote or is it required that, in order to be considered composting, you’re in aerobic decomposition?

I mean my understanding of composting is you have to be aerobic in
order for it to be composting. “Promote” makes it sound like, you know, you’re making an effort, but you may not get there, not reaching the temperatures, not reaching -- I just was wondering if there should be a word change and not “promote,” but maybe to elicit or something is more defined that it actually is happening.

MR. DAVIS: Right. Well --

MS. CAROE: That’s just a suggestion --

MR. DAVIS: Okay.

MS. CAROE: -- to consider by the Committee.

Then the other thing, two other things: One, what is your final recommendation? Are you looking for a rule change or this is a guidance document only?

MR. DAVIS: This is a guidance document.

MS. CAROE: Okay. Okay, that answers that.
The next thing is, in several areas, you say -- and this gets the little hairs on the back of my neck from being a certifier -- “will not lead to contamination.” What does that mean?

I mean, as a certifier, if I were looking at using this guidance or I was trying to not allow this practice, a practice where there is contamination happening, being that that is not defined, it doesn’t really mean anything. Do you know what I’m saying?

So is there a level of contamination? I mean zero tolerance for contamination? Contamination is what? I don’t know what that means.

MR. DAVIS: I see your point. Point well taken.

Jeff?

MR. MOYER: In answer to your one question about the definition, we pulled most of that definition out of the document
that was approved from 2002. So we took that language sort of the way it was.

Then your point on contamination, what we wanted to do was we were thinking about it in terms of a compost site or facility on a farm becomes a point source for contamination. So it is something that can be tested and is generally regulated by either DEP or EPA or some other federal agency that actually looks at that contamination.

So if you’ve got surface water nearby, they are not going to let you put this site there anyway. That is regulated by a whole other organization.

If you do put a site somewhere and contaminate the groundwater, then it is DEP.

MS. CAROE: So it doesn’t even need to be in here. It is already covered under existing regulation?

MR. MOYER: Well, it is, but we
wanted to make sure that we stated that fact that that is a consideration that a composter needs to consider.

MS. CAROE: I would reword it then because it makes it look like organic is going to start looking at other regulatory requirements. I would suggest rewording that and make it a note that you still must comply with existing regulations about contamination or something of that nature.

MR. MOYER: That’s a good point.

MS. CAROE: It is just not written correctly.

CHAIRMAN O’RELL: Hue?

MR. KARREMAN: I’m a little confused on the compost tea. That is obviously not a leachate because that is defined differently. It is not just a little runoff from a compost.

But why is compost tea without additives or treated differently than with
additives if it is a byproduct of the final compost? Am I thinking that right, that compost tea is a byproduct of the final compost?

MR. DAVIS: Right. You would have to read the Compost Tea Task Force document.

MR. KARREMAN: Okay.

MR. DAVIS: And they spent a lot of time talking about the history of compost tea making and testing data that they had showing that, basically, the only time they would run into the bad guy contaminants in compost tea making was if they added these carbohydrate additives. That would allow the pathogenic organisms that might be there in tiny, tiny little fractions to proliferate and grow.

MR. KARREMAN: So then the additives -- I worked on a biodynamic farm originally, and getting an organic agriculture, it is not like biodynamic-type
compost.

It is not the biodynamic preps you are talking about as additives? It is some kind of other -- do you know what I mean on that?

MS. OSTIGUY: The additives that at least were discussed when the report was accepted by the Board are various sugars.

MR. KARREMAN: Okay.

MS. OSTIGUY: Molasses is the primary one, yes.

MR. KARREMAN: It is not the biodynamic preps, okay.

MS. OSTIGUY: And the only microorganism that really increases in a number, if you have just water present, would be E. coli -- well, not E. coli -- cholera. But once you add the molasses, you have the substrate for all of them because now they’ve got a major sugar source.

MR. KARREMAN: Okay. Thanks.

CHAIRMAN O’RELL: Yes, Bea?
MS. JAMES: I know you guys put a lot of work into this, and it is very well-organized. I also realized, as I was reading it, that I don’t think I would have been able to find the document useful if I hadn’t had read the recommendation from 2002 and the report from 2004.

So I am confused about this could be submitted as a recommendation for guidance with these two attachments not --

MR. DAVIS: They are being submitted with the attachments.

MS. JAMES: They would be submitted as part of --

MR. DAVIS: Oh, yes.

MS. JAMES: Okay.

MR. DAVIS: They’re there for backup. We put that statement in as far as what the purpose of those two addendum were, so certifiers wouldn’t think they had to read through all those addendum and start applying each little thing that was
mentioned in those Task Force reports as guidance. But they are very necessary to understand the final recommendation, definitely.

CHAIRMAN O’RELL: Dan?

MR. GIACOMINI: In light of the recent events with spinach and lettuce and various things, I don’t remember the exact calendar in my head of the date of this document versus the date of those events, but do you still think that only an annual retest is adequate?

MR. DAVIS: Well, there are many, many people in the organic movement that make compost tea that are adamantly against the testing part of it. They think it is onerous and that they shouldn’t need to, that compost tea has a good track record when made properly.

So we put in that annual retest before the E. coli scare came on. We had already decided that, and it was a done deal
before that came up in the media.

I know larger compost tea producers that sell to many growers, it is not a big deal for them to take routine tests, and most of them do, just to document that they are doing a good job.

MR. GIACOMINI: Is compost tea sort of a continuous batch mix or is it separate batching generally?

MR. DAVIS: The tea itself is separate batching. Many times the compost heap that they are using for the inoculant is used repeatedly. They will make a batch of compost and hold onto that for a period of time, and many batches are made from that same compost source before they need to start another pile for their inoculant.

CHAIRMAN O’RELL: I have Andrea and then Bea.

MS. CAROE: Gerry, just asking a question here about, you keep on tying what this work has done in reference to recent
outbreaks of E. coli. From my understanding and uneducated eye, watching the situation, that was a situation of a contaminated irrigation water.

MR. DAVIS: Oh, I understand.

MS. CAROE: I look at this as a controlled system. I mean the manufacturing of compost or the managing of compost and compost tea would seem to be a least-likely contributor to E. coli contamination since it is under control, whereas this irrigation water seemed to be a completely unknown source of contamination that is still under investigation from what I understand.

MR. DAVIS: Right.

MS. CAROE: But I don’t see the tie between the two.

MR. DAVIS: All our work was done prior to that coming up.

MS. CAROE: Yes, I know, but, I mean, when we keep on talking about this, I just don’t see the tie. I don’t see the
necessity of even --

MR. DAVIS: The reason I bring it up is because I think we would be foolish to ignore the opposition that we face from conventional agriculture. They, in many cases, do not appreciate our movement at all. There are paid institutes that have websites that hammer on us all day long with distorted information, trying to, in their view, probably cripple the organic movement and stop the movement.

I think this is an area where the perceived risk is greater than the actual risk, but we have to deal with that perceived risk.

MR. GIACOMINI: Would that irrigation water have qualified as potable?

MR. DAVIS: I’m not familiar with the situation, Dan.

MS. OSTIGUY: I don’t believe so. If what I have read is accurate, I do not believe so.
One of the reasons why it has taken so long for this recommendation to come forward to the Board is because of the concerns that Gerry is mentioning. While the risk is low, it still is there. The last thing the organic industry needs is to have a major recall because, oops, this particular batch had a little bit of a problem.

So this is to try to prevent that from occurring. Now it won’t absolutely keep it from occurring, but, hopefully, it will make the chance much more rare.

CHAIRMAN O’RELL: I just want to get back on track. Andrea, following her question, I had Bea for a question. So just a point of order, if we can keep the rotation and raise our hands.

MS. JAMES: Jeff, I just want to make sure I understand. It is kind of a clarification of some of the questions that Andrea was asking.
So I am still uncertain, how do you require pretesting? That is part of some other regulatory body that would take place that would require pretesting of the compost tea batches?

The certifier -- so this would be something that certifiers would have to --

MR. MOYER: Yes, I understood Andrea’s question to be about composting, not the compost tea. Compost tea is done in batches in brewer. So that’s a different thing. That is what we would be testing, pretesting that material.

Then we also have, more importantly, the sanitizing of the equipment, which is where most of the contamination would take place, and then an annual testing of the actual tea.

MS. JAMES: The certifier does that?

MR. MOYER: Well, the process, the farmer of the process or whoever is
doing it would do that, and the certifier would --

MS. JAMES: The certifier requires that?

MR. MOYER: Exactly. Exactly.

MS. JAMES: Okay. Do certification agencies have the expertise to look at those kind of microbial reports on --

MR. MOYER: Probably no more than or less than they would looking at water samples or soil samples which are already required as part of the testing on farms. We require that they test water now. So if they can analyze or at least look at that, they should be able to look at this as well.

Generally, when you get reports back, they highlight problems. So it would be pointed out to you.

MS. JAMES: Would certifiers, then they would look at the facilities that is actually making compost tea, and they
would also look at farms that are using compost tea on their crops?

MR. MOYER: In most cases, it is one and the same because the compost tea can’t be -- it is not like you make compost tea and put it on the shelf and sell it to somebody. It has got to be made and used right away.

So it would be made on the farm. There would be records kept of your sanitizing process, just like you would of any other process that would take place on the farm.

MS. JAMES: Okay. I am just trying to follow this paper trial.

MR. MOYER: Sure.

MS. JAMES: That a certifier goes to a farm. They use compost tea. They require paperwork from that source that they purchase the compost tea from, and then they look to make sure that those reports are, indeed, passed for --
MR. MOYER: If it were purchased, that is correct. If it is made on the farm, then they would have all those records right there on hand.

MS. JAMES: Okay.

CHAIRMAN O’RELL: Andrea?

MS. CAROE: I caution you saying “require.” This isn’t rule change; this is guidance. There is no requirement.

MR. MOYER: I understand. I’m sorry. Thank you. Good point.

CHAIRMAN O’RELL: Thank you.

Yes, Kevin.

MR. ENGELBERT: Gerry needs to be recognized for the amount of work that he did on this project. When we looked at our work schedule, we decided we couldn’t do it, and a day or two later, lo and behold, I got a call and Gerry said, “We’re going to do this.” He is the one that deserves -- you know, he did a tremendous amount of time into this compost tea issue.
CHAIRMAN O’RELL: Thank you, Kevin, and thank you, Gerald. I know that this has been something that has been an issue on this Board since I came onboard five years ago or started before it. So thank you very much for getting this recommendation to the floor.

MR. DAVIS: There were a lot of comments from the public stressing, “We need to get this done.”

CHAIRMAN O’RELL: Absolutely.

MR. DAVIS: I was just responding to that.

CHAIRMAN O’RELL: Thank you.

Any other questions or does that wrap up the compost tea discussion?

(No response.)

Gerald, before we go on, I just want to let the Board members know we are a little bit behind on a break, but that is okay. But Katherine has provided all of these at your seats for a menu, that if you
choose to order something from the bistro, she will collect these at 10 o’clock and get them over there, so that your order will be pre-ordered, and at least Board members will be able to expedite lunch and be back on time for continuing with the public comments.

So if you wouldn’t mind filling these out kind of as we are having discussion, and then, Katherine, why don’t you give us 10 minutes and you can come by or we can just funnel them down, start passing them down here and get them over to Mike. Mike, you can give them to Katherine, so that we get these out of the way.

It would probably be a good idea to put your name on it. So if everybody has one, just do that as a little bit of housekeeping here, so we can keep going.

MR. DAVIS: Next item?

CHAIRMAN O’RELL: Yes, Gerald.

MR. DAVIS: The next item is
pertaining to organic seed availability.

CHAIRMAN O’RELL: This is just a discussion update?

MR. DAVIS: Discussion item update discussing response to comments received following the August of 2005 organic seed availability document.

The National Organic Standards Board Crops Committee’s response to public comment concerning commercial availability of organic seed recommendation, which was adopted by the NOSB August 16th, 2005.

Background: “The NOSB issued a formal recommendation regarding commercial availability of organic seed on August 17th, 2005 in the form of a guidance statement. The Crops Committee agreed to reassess the recommendation in response to additional public comment on certain sections of the document.

“The issues raised were the validity of maintaining a database
containing a list of non-organic crop varieties permitted by certification agencies.

“Two, certification agencies have objected to the amount of additional burden placed on them to collect, maintain, and report the information required by the recommendation.

“And, three, the final recommendation did not include a previous requirement stating that a producer who did not meet the commercial availability requirements for organic seed could not be certified organic.”

“Crops Committee conclusions: The National Organic Program may lack the capacity and does not have the obligation to maintain a list of non-organic crop varieties permitted by certification agencies. If so, an alternative clearinghouse for the information would need to be identified, preferably a non-fee
public benefit entity.

“Two, the Crops Committee agrees that the additional time and expense invested by certifiers to collect and report the known organic seed information would be substantial. The producers using non-organic seed varieties should bear the cost of any such requirement,” through, I guess, additional fees assessed to them by their certifier.

“Three, the statement that an operation did not meet commercial availability requirements for organic seed, could not be certified organic, was not included in the final guidance statement because it was deemed by the Board to be a restatement of what is already required in the rule.” I’m referring to the NOSB meeting transcript from August 16th, 2005.

“Discussion: The Crops Committee does not believe that recent public comments warrant changes in the NOSB recommendation
regarding commercial availability of organic seed. The Committee believes that the guidance document states clearly under what circumstances non-organic untreated seeds may be used and the procedures and documentation required.

“While the Crops Committee understands the concern of the industry over the apparent slow growth of the organic seed market, we believe that care must be taken when trying to influence commerce with the writing of rules.

“A primary goal is to encourage the growth and development of the organic seed industry without harming organic producers. Organic certification remains an integrity-based endeavor, and accountability among growers at the local level is a key element in encouraging adherence to the rules.

“All producers are encouraged to report instances of abuse of the organic
seed requirement to their certifier so that appropriate enforcement action may be taken.

“The guidance statement on the commercial availability of organic seed seeks to influence producers to use organically-grown seed. The sourcing of organic seed remains the responsibility of the producer. Availability and quality disparities between conventionally- and organically-grown seeds should shrink as the knowledge and growing skill of organic seed producers increases, minimizing the incentive for producers to choose non-organically-grown seed.”

The Committee vote was four yes, zero no, one absence.

Discussion?

(No response.)

Seeing none, we also wanted to give an update on the hydroponics issue. We have a proposal to send out a bit of survey, I guess you might call it, to get an
information search on what certifiers are doing with hydroponics in general. Are they certifying hydroponics, are they not, and various questions to give us more information, so we know how we might proceed.

The proposed correspondence would read, “The National Organic Standards Board Crops Committee is seeking input from USDA-accredited certifiers of organic producers regarding the certification of hydroponics operations. Specifically, the NOSB wishes to survey all organic certifiers regarding their policies and interpretations of the NOP rule for hydroponics operation. This is an opportunity for certifiers to provide their input to help shape any NOSB recommendation to the NOP for rulemaking on hydroponics.

“Your response to this survey is greatly appreciated.”

We have a spot for name and title
of the agency or name and title of the person -- excuse me -- filling out the form, the certification agency they represent, and their region of operations.

Question one: “How many hydroponics operations do you currently certify?” I think we have a typo there. “How many hydroponics operations do you currently certify?” The word “any” should not be in there. “If any,” is that the problem? “If any,” okay. So we are missing the words “if any.”

“Do you currently certify, if any, as organic? If none, why not?”

That gives the certifier the opportunity to state, if they are not doing it, justification why don’t they do it, which I think is one of the most important parts of the whole survey.

Question Two: “Do you think that organic certification of hydroponics is appropriate?” Again, another opportunity to
answer that same question.

No. 3: “In your opinion, where is clarification in the NOP rule needed pertaining to practices used in hydroponics operations?”

“If you answered no to Question No. 2, you may skip Questions 4 through 6. This is not questions for operations that do not certify any hydroponics operations.”

No. 4: “Do you maintain a list of allowed/prohibited substances for use in hydroponics?”

No. 5: “In general terms, what are the main fertilizer inputs that hydroponics operations use?”

No. 6: “Please list any potential certification issues with hydroponics that could arise in the future and should be addressed in any proposed guidelines?”

“Thank you for your participation in developing organic standards for
hydroponics.

“Sincerely, Gerald Davis, NOSB Crops Committee Chair.”

We voted four yes, zero no, and one absence to approve the correspondence.

Discussion?

CHAIRMAN O’RELL: Dan?

MR. GIACOMINI: I believe we had a question yesterday regarding adding the crops that were being approved. Would that be a reasonable thing to list, to include on the list?

MR. DAVIS: It would be interesting, but I am not sure that it would be necessary to get after the foundational information we are trying to get which is, do we make guidelines or not, or do we decide maybe that hydroponics are outside the scope of organic agriculture and should not be there?

One certifier has already answered the questionnaire ahead of time
because they are coming from the viewpoint that it shouldn’t be; it does not belong.

CHAIRMAN O’RELL: Andrea?

MS. CAROE: One of the things that I would suggest, as you move forward in this, is define what you are talking about when you say, “hydroponics,” because there are a lot of sprouting operations. I don’t think people generally consider that hydroponics because it is just using the nutrient from the seed to create the initial sprout.

MR. DAVIS: Right.

MS. CAROE: But when you are talking about hydroponics, you are talking about sustaining growth through inputs of nutrients, and that is a whole different situation.

I was curious why the question about, do you maintain a list of allowed and prohibiteds? Because the National List lists allowed/prohibiteds. I mean, do you
feel certifiers are out there kind of creating their own standard for hydroponics?

MR. DAVIS: No, that was based on -- I mean there is always a little bit of interpretation. An agency like OMRI would look at the -- they would take the National List information and apply that information to products.

MS. CAROE: So formulated products and branded products are --

MR. DAVIS: Yes. Maybe that could be more clear on what we meant by that.


CHAIRMAN O’RELL: Yes, Jennifer?

MS. HALL: On Questions 4 through 6 where it says, if you answered no to Question 2, you can skip those, it doesn’t quite follow for me in the sense that whether or not you think it is appropriate doesn’t mean you may not be certifying it at
this time and should go ahead and --

MR. DAVIS: Oh, no, that’s a typo. It should be Question 1.

MS. HALL: Okay.

MR. DAVIS: Thank you. Because if you don’t certify any organic hydroponic operations, you wouldn’t need to answer these other questions.

CHAIRMAN O’RELL: Yes, Joe?

MR. SMILLIE: I commend you. I think this is a really good place to start. I think it is really important that we get the database before we move forward. I think that as much pressure as we can bring to bear on ACAs to answer this fully is important.

Also, I think it is really important that state organic programs are also involved in this loop because there are certain states that have already made noises about this and are setting up their own systems of enforcement and interpretation.
So we would definitely want to bring our dear brethren in the state agencies in this discussion.

It is going to be a complicated one, and it is going to be a very interesting one. I think, basically, what our current interpretation is that, if we are going to consider hydroponics, then the idea is it is not a materials issue. The technical difficulty in hydroponics is being able to qualify under the current regulations as far as materials go. This is really a materials-driven industry.

That is becoming more and more possible through technology. In the early days of hydroponics, they couldn’t meet the current NOP regulations as far as fertilizer inputs. But now technology is improving, and we are seeing operations that are able to meet the specific material input fertilizer situation.

But the organic plan and the
improvement of soil and all of those issues are going to be where the crux of the issue is. Because as the regulation -- you know, it is clearly a soil-based agricultural system, and this is without soil. So we have a contradiction to deal with.

So I think this is a perfect way to start. Rather than coming out with a recommendation, I think let’s go and gather the information about what is currently happening now, and ACAs and state organic programs are the place to go for that information.

So I really support this approach and look forward to participating.

CHAIRMAN O’RELL: Okay, thank you, Joe.

I have Nancy with a question, then Bea, and then Kevin. Nancy?

MS. OSTIGUY: I remember in the Committee discussions of this, I believe I was the one to suggest that Questions 4, 5,
and 6 be placed where they are because that way some people could skip them.

Looking at it again, I am wondering if Question 6, “Please list any potential certification issues with hydroponics that could arise in the future and should be addressed in any proposed guidelines,” if that shouldn’t be open, more clearly open, to anybody who answers the survey, whether they currently register or currently certify hydroponic or not.

Because if you are not, you still may have information that we might be very interested in that you would get through Question 6.

MR. DAVIS: I think the Question 2 and 3 would tend to elicit the response that we are looking for. Certifiers that choose not to certify hydroponics operations would answer those, and their objections would include the same information.

What I thought Question 6 applies
more to is certifiers that are already certifying certain operations, but they have a problem with -- philosophically, they don’t object to it; they are doing it, but the mechanics of this area is a problem, for example.

That is a little bit different slant on the question than Question 2 and 3.

MS. OSTIGUY: No, and I agree that one is more of a philosophical response and the other one is more practical, but those that are not certifying hydroponics might have pertinent information about practical.

CHAIRMAN O’RELL: I think, Jeff, do you want to respond to Nancy’s question?

MR. MOYER: Yes, just to help answer that question, when we wrote the survey, we really felt that most certifiers would read the entire survey and fill out whatever they wanted. But some certifiers may feel yet another survey. So we wanted
to give them an easy out if they wanted it.
That was the only reason for that.

CHAIRMAN O’RELL: Bea?

MS. JAMES: Would you consider adding another question? I think it would be valuable to have a question in here asking, what these surveys -- what the people that read this consider to be the definition of hydroponics.

Because there are certain products that grow naturally in water, and then there’s controlled products that are grown in hydroponics. I think that we are going to have to come out with a definition just because of the way OFPA is written. So it would be useful, I believe, to include in the survey.

MR. DAVIS: The opportunity at least to give their definition.

MS. JAMES: To get feedback on what they consider to be the definition of hydroponics.
MR. DAVIS: Does someone want to make a motion on that idea?

CHAIRMAN O’RELL: Well, I think it is a Committee document. So you can take these suggestions back to your Committee --

MR. DAVIS: All right.

CHAIRMAN O’RELL: -- and vote on them there and put forth a recommendation.

MR. DAVIS: Okay.

CHAIRMAN O’RELL: Because it is just a Committee recommendation to the program for a survey.

MR. DAVIS: Right.

CHAIRMAN O’RELL: Kevin?

MR. ENGELBERT: Yes, Joe’s comments reminded me that we are also looking for input from other NOSB members, your thoughts on this entire situation. I don’t know how we proceed.

CHAIRMAN O’RELL: Any further discussion on the survey?

(No response.)
MR. DAVIS: Seeing none, that is all the Crops Committee has.

CHAIRMAN O’RELL: Thank you, Gerald.

We are not too bad on time. In looking at the agenda, I think there are areas here where we will catch up after the break.

It is just about 10 o’clock now. I would ask Board members to be back at 10:15. We will take a short break and then we will continue with the Joint Materials and Handling Committee discussion.

Thank you.

(Whereupon, the foregoing matter went off the record at 10:02 a.m. and went back on the record at 10:24 a.m.)

CHAIRMAN O’RELL: Board members, please take their seats. I would ask the audience to please take your conversations outside or take your seats.

Before we get moving with the
agenda, I would like to throw something out for consideration by the Board. In the public comments, we had the public comments signup sheet out yesterday for most of the day, I think all day. We had it there very early this morning. I think it was pulled off maybe a little before 8:00 or eight o’clock.

We have 36 people signed up. During the break I have had a couple of people come up to me, and they really have legitimate comments that they want to make concerning materials and recommendations that we are voting on tomorrow.

My feeling is, and I know the Board had a function this evening for a dinner together, but I really think we are here for -- I bought drinks last night; I will buy them again tonight.

(Laughter.)

Even though we have a function planned this evening, my feeling is we are
here for -- I hear the sighs of the Board -- but we are here for the public. I really don’t want people who have traveled here and have things to say that are relevant to our agenda not be able to have the time to do it.

I think most of us would agree we are here committed to hear them. So what I am going to do is, Valerie, if you would take the signup sheets, and we will put them outside for one hour. If you want to sign up, sign up, and that will be, after an hour, they will be taken away.

MS. CAROE: Just remember it is our dinner you’re making us miss.

(Laughter.)

CHAIRMAN O’RELL: Yes, please make your comments on pertinent issues that we are voting on. If you have something, you know, information that you want us to consider in the future, we will take those in writing. I promise that we will review
them at Committee level.

MR. SMILLIE: And my understanding, Kevin, is a working dinner. We have work to do at dinner.

CHAIRMAN O’RELL: Yes. Yes, it is a working dinner. It is not a total social event. But we work until late into the night, I guess.

Next on our agenda is the Joint Materials and Handling Committee report. In the agenda books, in the agenda, you will see a bullet point which is “National List: Clarification of Definition of Materials.” I would just like to give a brief explanation of that.

That was our placeholder for synthetics/non-synthetics that we were hoping that there may have been something back from the court, and that we would have been able to proceed. As Barbara Robinson discussed yesterday in the NOP update, because of the pending court ruling, the
program has advised us that we really couldn’t move forward on synthetic/non-synthetic material issues. That was the placeholder in that agenda, just to explain that item.

So we are going to go on to the ag/non-ag recommendation with Dan and Julie.

Julie, would you like to begin?

MS. WEISMAN: This, as most of you know, has been an ongoing project of the Handling Committee and various other committees on the Board for a long time. Its need is as urgent as ever.

We have heard a lot of comment on it in the last day, and I imagine we will be hearing some more. But I am going to forge on and present it as we wrote it.

The purpose, of course, is the need for clarity and consistency about what are agricultural and what are nonagricultural substances.

In this document, as a companion
to the text, we have also presented a decision tree, proposed a decision tree, to aid in deciding on the classification of substances as agricultural or nonagricultural.

In regards to determination and classification of substances as agricultural or nonagricultural, the definitions found in the NOP final rule can be vague and sometimes even conflicting. Also, the rule does not provide a definition for agriculture.

The net result of this has been inconsistent application and possible -- well, not even possible. We have seen misclassification of substances incorrectly either as agricultural or nonagricultural.

The distinction between agricultural and nonagricultural originated with the NOSB. The Organic Food Production Act was approved by Congress as part of the 1990 farm bill. USDA published the first
proposed rule in 1997.

Between OFPA becoming law and the first proposed rule being published, the NOSB was organized, functioning, and by 1994 already developed the first proposed National List.

It was at that time -- oh, my God, that’s 12 years ago -- that the NOSB introduced the distinction between agricultural products and nonagricultural substances.

The NOSB adopted this distinction based on its understanding of OFPA requirements; specifically, that inclusion on the National List was required for any substance that is used in handling and is non-synthetic but is not organically produced.

The NOSB did not believe it was necessary to send materials for a Technical Advisory Panel review that were merely non-organic agricultural products. Therefore,
the NOSB recommended that non-organic agricultural products appear on the National List as a general category rather than requiring TAP reviews for each specific agricultural product.

NOSB also recommended that non-synthetic ingredients that were nonagricultural did not need to appear on the National List, although this was later refuted, as explained by the NOP in the preamble to the second proposed rule of March of 2000.

I have a question. Should I read all the background?

CHAIRMAN O’RELL: Just a summary maybe.

MS. WEISMAN: Yes, I think, in the interest of time, I am going to -- I think people are aware; I am going to skip to the actual recommendations that we have made.

There are three recommendations.
One is a rule change for the definition of a nonagricultural substance.

So I have to find a place in the rule. Yes, we are skipping down there. Good. Okay.

The second is going to be assistance in defining nonagricultural substance by use of a decision tree. The goal of these recommendations are for a more uniform, transparent system for decisionmaking related to agricultural or nonagricultural determinations.

Then the third part of this recommendation is a technical correction, the idea being that dairy cultures and yeast were examples of things whose classifications are now no longer what they were. They would be moved from 605(a) to 606, and that non-organically-produced agricultural products allowed as ingredients in or on processed products labeled as organic or made with organic ingredients.
So the text that gets changed in Section 205.2, “Terms Defined,” where it lists nonagricultural substance: “A substance that is not a product of agriculture such as a mineral” -- and then striking out “or a bacterial culture” -- “that is used as an ingredient in an agricultural product.”

The rest of that definition would also be struck, the part that reads, “For the purposes of this part, a nonagricultural ingredient also includes any substance such as gum, citric acid, or pectin that is extracted from, isolated from, or a fraction of an agricultural product, so that the identity of the agricultural product is unrecognizable in the extract, isolate, or fraction.”

There are many products that have been -- I am thinking organic alcohol, for instance, which is certainly, if it was distilled from corn, is not recognized from
corn, but I don’t know that anybody has questioned that that product should be sold as an agricultural product and organic when it is produced that way.

Recommendation No. 2: “The Joint Handling Committee and Materials Committee recommends the adoption of the attached decision tree as a guidance in determining a substance’s agricultural or nonagricultural status.”

This is a practical solution which could work with both the current or a modified definition of nonagricultural substance. The decision tree should be used in conjunction with NOSB clarification regarding the definitions of synthetic and non-synthetic which are currently in development.

Do we need to skip to the decision tree? Okay.

“The Joint Handling Committee and Materials Committee recommends the moving of
dairy cultures and yeast from 205.606(a) to 205.606 as non-organically-produced agricultural products that are allowed as ingredients in or on processed products labeled as organic or made with organic ingredients.”

Our conclusion: “The organic industry is an innovative industry with continued opportunities for growth and change. The modification of the definition of nonagricultural substance and providing guidance for what is agricultural will provide greater consistency and clarity in application, and will allow the final rule to accurately serve this growing and innovative industry without compromising effectiveness of the definition.

“The decision tree will be used as a tool to help strengthen the consistency of the National Organic Standards in regards to nonagricultural substances, and it will provide a basis for certifying agencies,
certified entities, and the NOSB to verify a substance’s agricultural or nonagricultural status.”

Now I did do a tally of the comments that have been received during the comment period and heard so far in this meeting. By my count, I have seen 16 comments in support of this recommendation and 10 comments opposing it, for a variety of reasons.

I think that although we had more comments in support, that the issues raised in the opposing comments had a great deal of merit, particularly the issue about yeast being moved, that you move things from one list to another as a technical correction.

So, with that, I guess I open this for comment.

CHAIRMAN O’RELL: Andrea?

MS. CAROE: I think this is a good recommendation in a lot of ways. I definitely think it is time to put a fence
around this.

Prior Boards from 1992 to present day have kind of felt around in the dark on this issue. Because of that, we do have some conflicts within the document.

However, even though this Committee’s work was done in time for a sufficient posting, or a 30-day posting, the required posting, for whatever logistical reasons and challenges, it did not get posted allowing for 30 days’ comment. I don’t think that we can ignore that.

Also, the issue of yeast in feed and the challenges that presents is one that was not addressed by this Committee and I think needs to be investigated into -- and I don’t feel that this is a challenge that can’t be met with a good solution. I think the recommendation should be expanded to perhaps allow some real changed language that would address that challenge.

Also, as we have heard here,
there is a demand from the commenters that we provide some guidance on standards for non-plant life/non-animal life requirements. So I think addressing when that will happen and giving some clarification to what happens in the interim is important.

The technical corrections, I think we need some advice from the program and from the departments on whether we are within our rights to do that or whether we need to elicit some industry petitions to have those materials listed on 606, and also making sure that that list is complete.

The Committee did know towards the end that we had inadvertently missed microorganisms, which was in the process of getting put on the list as we were considering this, and it was an oversight. So that was one, but, obviously, there’s others that were brought up in this meeting that this Committee needs to understand.

Further, I believe that we have
gotten fabulous input from the industry. I thank everybody that made comments on that.

I think this was a very productive discussion, and I would like to continue that with the trades and get some organized input and good solutions from the folks that are going to be using this.

So, for that reason -- and I know that sounds long-winded -- for those reasons, I motion that we defer the vote on this to take this back to Committee for further work and further input from industry.

MR. KARREMAN: Second.

CHAIRMAN O’RELL: We have a motion from Andrea to defer this recommendation back to Committee for further work, with a second by Hue. So we have this motion on the Board. We will entertain discussion.

Joe?

MR. SMILLIE: Andrea, you summed
it up very, very well. That is, I think, a very good and complete listing of the issues we need to face with this.

I think that in a certain sense we have achieved the purpose of the recommendation, which is twofold: to elicit more comment and flesh out and put some meaning behind the direction we are heading.

I think, also, we have communicated where this Board, or at least our Committee at this point in time, wants to head with this, to really encourage the organic production of these materials.

One question I have is -- and we haven’t prediscussed this, so tell me if I am out of order -- but would it be possible to move forward with Recommendation No. 1 and refer 2 and 3 back to Committee? Is that a possibility?

MS. CAROE: That would be creating a new recommendation. At this point, I don’t see the merit to that, Joe.
MR. SMILLIE: Okay.

MS. CAROE: I just see that it is too mixed. I’m sorry, I kind of jumped in.

CHAIRMAN O’RELL: No, Joe, we’ve entertained that discussion in some sidebar comments. I think to pull something out of this, even though there certainly is a justification to do that, I think this is so important going forward as a full piece of an ag/non-ag recommendation, and needs to be tied together and woven a little bit more with some of the input that we are receiving from the public, that my feeling would be that it would be better to keep this intact and put it back in Committee as one than to piecemeal it. But that is one opinion.

MR. SMILLIE: I have no problem accepting that.

CHAIRMAN O’RELL: Dan and then Julie.

MR. GIACOMINI: I agree with Andrea’s comments. I do just want to make
one slight correction.

While there were a tremendous number of conference calls and email exchanges and things that went on in putting this document together, just for the record and the public, there was -- maybe it was a call that Andrea could not have made, did not make, but there was a tremendous, fairly good discussion of the feed issue part of this document, the relevance to it with yeast on the feed issue. That was discussed fairly well.

CHAIRMAN O’RELL: Julie?

MS. WEISMAN: Yes, I also do agree with Andrea and I do agree that this, obviously, needs some more work. But I also, along the lines of Joe’s question, wanted to point out that the one piece of this recommendation on which there was no comment, negative or positive, was the change in the terms defined.

I understand what you say. I do
understand the idea of having things woven. But I just did want to also point out that was a piece of the recommendation that was apparently not controversial.

CHAIRMAN O’RELL: Is there any other discussion?

(No response.)

MS. CAROE: Call the question.

CHAIRMAN O’RELL: The question has been called. We will have a vote.

This is a vote to defer the ag/non-ag recommendation that was proposed by the Joint Handling and Materials Committee back to the committees for further work.

MS. CAROE: Is it appropriate to be doing this today or tomorrow? Did I just jump over procedure?

CHAIRMAN O’RELL: That is a point of order on that. The question has just been asked to me if it is appropriate to have this vote now or to defer.
MS. JAMES: I don’t think it is. I think we should wait until tomorrow.

MS. CAROE: I rescind the motion.

MS. JAMES: I think that we should do it tomorrow because there still is public comment and there might be some really good issues.

CHAIRMAN O’RELL: That is a good point.

MS. CAROE: I rescind the motion.

CHAIRMAN O’RELL: There’s the procedural guy back there who is nodding his head.

MR. GIACOMINI: Kevin, I don’t know that the motion is out of order at this time. It is just a matter of when the vote is taken.

CHAIRMAN O’RELL: Yes.

MS. WEISMAN: You don’t finish the motion until you vote.

CHAIRMAN O’RELL: Andrea has rescinded the motion.
Hue?

MR. KARREMAN: Fine.

CHAIRMAN O’RELL: Okay. So I guess the public is well aware of the direction we are thinking at this time.

(Laughter.)

Did we show our hand or what?

Is there any further discussion on this? I know we are going to get some additional public comment directed to this issue. I think that is a good time for us, then, to be able to really have a dialog with those individuals who bring up points again for consideration. Again, we are looking for constructive input and direction as to how we can proceed with this recommendation.

So Kevin?

MR. ENGELBERT: It’s a moot point, but on Recommendation 3 you have a typo, 205.605(a).

CHAIRMAN O’RELL: Okay, thank
Okay, we made up a lot of time on the agenda.

(Laughter.)

Let’s move on, then, to the Handling Committee report. Julie, will you take us through the Committee reports?

MS. WEISMAN: Yes. I think in the interest of time, I am going to skip some of the more detailed background.

“By way of introduction, although the issue of commercial availability is another one that has been kicked around for a long time, the urgency of it became heightened in light of the June 9th, 2005 court final order and judgment arising from Harvey v. Johanns.

“The NOSB has been asked to review petition procedures for adding materials to 205.606 of the National List. In particular, the NOSB is proposing further clarifications to the terms of commercial
availability as it will be used by the NOSB, certifying agents, and the industry to assist in the petition for placement or removal of materials on or from Section 205.606 of the National List.”

Now the regulatory citations background is as follows:

Section 205.2 -- and I’m skipping down to the next page -- “Commercial availability defined. That is the ability to obtain a production input in an appropriate form, quality, or quantity to fulfill an essential function in a system of organic production or handling, as determined by the certifying agent in the course of reviewing the organic plan.”

And also Section 205.201(a)(ii), “The producer or handler of a production or handling operation, except as exempt or excluded under Section 205.101, intending to sell, label, or represent agricultural products as 100 percent organic, organic, or
made with organic specified ingredients or food groups must develop an organic production or handling system plan that is agreed to by the producer or handler and an accredited certifying agent.

"An organic system plan must meet the requirements set for in this Section for organic production or handling. An organic production or handling system plan must include" -- and (ii) is "a list of each substance to be used as a production or handling input indicating its composition, source, location or locations where it will be used, and documentation of commercial availability as applicable."

The statutory background that is relevant is from OFPA Section 2119 regarding the National Organic Standards Board and Subheading (k), the responsibilities of the Board is that (ii) “The National List. The Board shall develop the proposed National List or proposed amendments to the National
List for submission to the Secretary in accordance with Section 2118.”

“To add or remove substance from 205.606, any person may submit a petition to the NOP and NOSB. The NOP will review the petition for completeness before the petition is considered by the NOSB.

“Complete petitions will be posted on the Petition Substances Database and submitted to the NOSB for consideration. The NOSB will review the petition and all supporting information and make a draft recommendation which will be posted for public comment prior to the next scheduled NOSB meeting.

“The NOSB will consider the petition, all supporting documentation, and all public comments and then make a recommendation to USDA regarding the status of the substance. If the substance is to be added to or removed from 205.606, the USDA will issue a proposed rule in The Federal
Register, receive public comments, and issue a final rule in The Federal Register to establish legal status of the substance.

“Section (c) of the recommendation below proposes standardized criteria to be used by ACAs when making commercial availability determinations for substances on 205.606.”

Does that make sense? Okay.

This is the recommendation: We felt that the petition that is currently posted and recommended for use needed a little amending in order to accommodate having agricultural products be petitioned.

So, therefore, the petitioning process needed to be revised in the following way. Under information to be included in a petition, the following additions to this document are recommended:

No. 1, to add the following bullet into Item A, “an agricultural (non-organic) materials allowed in or on
processed products labeled as organic.” That is adding a new category to Item A.

No. 2, adding the following bullets to Item B(12), “When petitioning for the inclusion of the National List of non-organically-produced agricultural material, the petition must state why the material should be permitted in the production or handling of an organic product.

“Specifically, the petition must include current industry information regarding availability of and history of unavailability of an organic form of the material.

“Industry information includes but is not limited to the following: regions of production, including factors such as climate and number of regions; number of suppliers and amount produced; current and historical supplies related to weather events” — that would be events such as hurricanes, floods, droughts — “that
temporarily halt production or destroy crops or supplies; trade-related issues — examples would be war, trade barriers, civil unrest, evidence of hoarding — “that may temporarily restrict supplies, and any other issues which may present a challenge to consistent supply.”

As a note, we felt it important to emphasize that in this case the global market is the universe supply. Commercial availability does not depend on local market conditions, except in the specific instances that were already addressed in those bullet points.

Another addition under B(12) is that, “When petitioning for the removal from the National List of non-organically-produced agricultural materials, the petition must state why the materials should be prohibited from use in an organic form. Any information acquired since the original petition to add the material to the National
List should be provided.”

Now the second part of this recommendation describes the NOSB and the NOP’s role in reviewing these petitions.

“In recommending that an agricultural material should be placed on 205.606, the NOSB shall review the petitioner’s claim that no organic substitutes are commercially available in the appropriate form, quality, or quantity needed to fulfill an essential function in a system of organic handling.”

I don’t know if this is the appropriate place to clarify. I think it may be because I think there’s been a lot of confusion.

We are collecting the additional information that I described in those bullet points that will be added to B(12). We will be reviewing it.

We will not be making decisions about whether those are commercially
available. The purpose is not to -- well, we will review the information as more of a risk assessment to look at, where do we see possibility that this item, even though it may be available or it may be being used organically in certain specific forms and specific places, now what are the possibilities that the supply could disappear?

I think there’s been a little bit of misunderstanding that the NOSB is not going to replace the role of the ACAs in making commercial availability decisions for specific products and uses that we (a) do not have the technical expertise to make and (b) I cannot imagine the amount of time it would take for this Board -- it would just simply not be appropriate. That is the feeling of the Handling Committee so far on this.

Would that be accurate?

CHAIRMAN O’RELL: Yes.
MS. WEISMAN: Okay. So, with that said, “The NOSB and appropriate committee -- Livestock, Handling, whatever -- would confer with the NOP regarding any modification to the NOP procedures that are made necessary as a result of this recommendation and throughout the petition process for any nonagricultural products that are petitioned for 606.”

The third part of this recommendation describes the ACA’s role in determining commercial availability. This will sound very familiar to you all.

“The ACA, in determining that an agricultural material that is on 205.606 is not commercially available in the organic form, shall, one, evaluate the applicant or certified operator’s documented claim that no organic substitutes are commercially available in the form, quality, or quantity needed by the operation to fulfill the required function, including test data
demonstrating that organic forms of the material do not meet functional requirements for the form or quality necessary to the operation.”

Again, we are noting that the global market is the universe of supply.

“The ACA will validate that the applicant or operator has credible documentation that the material is not commercially available in an organic form by reviewing available information listing known sources of organic materials.”

I know there was a comment on this next point.

“Notify the certification applicant or certified operator of sources of information” -- I’m emphasizing it is the sources of information that the ACA would notify the applicant -- “which list available organic materials, if the certifying agent finds that such materials exist.”
So we are not asking the ACAs to tell people who to go to to buy the organic ingredient. We want to refer them to whatever databases do exist where the applicant can find the information.

And, five, “Require that certified operators update commercial availability information in each organic system plan update.”

Oh, I’m sorry, I skipped something, four.

“The ACA will maintain and submit to the NOP annually an up-to-date list of materials that have been granted allowances in non-organic form.”

This is a list that will be maintained -- it will maintain the confidentiality of material suppliers and parties granted allowances.

“The reporting requirement shall be implemented through the accreditation process by providing ACAs ample notification
and time to adapt data management systems.”

I think the idea with all of this is not to impose a burden, but I think part of the value of having agricultural products listed on 606 is that they are going to serve as kind of a to-do list for the industry, as to what organic ingredients are required.

By having ACAs provide information regularly about what organic materials allowances have been granted to use the non-organic ingredient will, I think, aid in that process.

In conclusion, “The NOSB recommends the above three modifications to petition procedures to be adopted to establish acceptable criteria and procedures to determine commercial availability.”

Then, just quickly, I made a summary of the comments that have come in during the comment period, including yesterday. There were five comments in
support of this recommendation and two opposing.

I want to note that one of those opposing was opposing it because the commenter thought that we were recommending that the Board make commercial availability determinations and replace the ACA’s role, and that is not the case. So that opposing comment, actually, I count as a support comment in favor because we agree with what they were saying.

So any discussion? Are we up to that?

CHAIRMAN O’RELL: Andrea?

MS. CAROE: I think that, again, this is another area where we received excellent comments from the public.

I think, for me, there were two areas that were pointed out that this recommendation needs wording changes. I don’t think that they can’t be done at this meeting. I think it is imperative that we
have this in place, based on the impending deadline of June 2007.

First, in the (B) section, I think the Committee needs to take this back and reword it so that it is very clear that we are assessing risk of supply, and that is the only function of the NOSB at this point, is that we are reviewing the information provided by the petitioner and assessing vulnerability in that supply chain. That’s it, and that the detail work is happening on the certifier level.

So I don’t have wording right now to suggest for including there, but I think we can have it by tomorrow.

CHAIRMAN O’RELL: We will have the Committee work this evening.

MS. CAROE: Then, secondly, in Section (C), and I think there is a valid point, (C)(iii) may be crossing the line of what a certifier can do.

I do have a suggestion that in
(iii) we reword this to say, “make available sources of information which list available organic materials,” period, and just make that requirement that certifiers do have something across the board that they make available to all their entities that provide sources of available information, whether that is from the trades or private entities or whatnot.

CHAIRMAN O’RELL: Bea?

MS. JAMES: First of all, I have to say great job, Julie, on both this and the other recommendations that you worked on. You put a lot of work into it.

(C)(iv), my concern is not so much with what you are recommending here, but the NOP’s ability to be able to staff at the hours needed to help keep this information updated. I would imagine it would be a lot of paperwork that would be coming into the NOP. So I am just pointing that out.
MS. CAROE: Well, I thought we were tying this to the annual reporting requirements that the certifier has. There is already a requirement that certifiers provide information to the program. This would just be information they would be providing at that time. Certifiers are doing that in a variety of different ways at this point.

CHAIRMAN O’RELL: Nancy?

MS. OSTIGUY: Actually, if it was a large amount of information specifically on the number of substances that are not organically-produced, that would actually be very important information to know that it was a large volume. I am not sure it is, but --

CHAIRMAN O’RELL: Julie?

MS. WEISMAN: I will tell you that it is.

MS. OSTIGUY: Okay.

MS. WEISMAN: I will tell you
that it is.

MS. OSTIGUY: That is important information.

CHAIRMAN O’RELL: Andrea?

MS. CAROE: Well, also, this information collection, at this point we may not be able to access the information the way we would want to for commercial availability function, but we are still hopeful that E-cert is on the horizon somewhere, maybe in the distance. But this information would feed into some tool in the future to perpetuate where there is supply problems and where there is an opportunity for an enterprising organic producer to create these things.

But, you know, it is really not looking at the present day, but three steps ahead of where we are at and how we want to set ourselves up.

CHAIRMAN O’RELL: Bea?

MS. JAMES: Okay. C(2),
“Validate that the applicant or operator has credible documentation,” I think that we open a possible interpretation for credibility based on whoever is submitting the document.

So I am wondering if there is some way that we could clarify what we mean by credibility.

CHAIRMAN O’RELL: Joe?

MR. SMILLIE: Yes, I would like to answer that.

I think that, as far as our job in creating this recommendation, I think that is appropriate. I don’t want to go any farther.

I think at that point I would defer to the NOP ACA Training Program to really put into place a very clear list of criteria by which all ACAs must do that, perform that function.

Trying to define it now in a recommendation, I don’t think is our role.
I think that I would rather place that in the hands of the NOP.

There’s going to have to be -- and maybe this should be in the recommendation; I’m not sure -- that clear and consistent application of this by ACAs is the role of the NOP Training Program.

CHAIRMAN O’RELL: Bea?

MS. JAMES: I just want to respond to that, since Joe is delegating to the NOP. I understand the timeliness of this issue, but I do think that it is very important to make sure that the credibility issue is explained expeditiously, so that -- expeditiously. Yes, I sound like George Bush up here.

(Laughter.)

Strike that from the record.

(Laughter.)

I think it is very important to make sure that we define the credibility issue because I see down the road, if we
don’t, the possibility of then looking at problems that we would have because the credibility issue is not defined.

CHAIRMAN O’RELL: Andrea?

MS. CAROE: I just want to point out that certifiers are doing this right now. The only difference is that these things aren’t on the list.

Also, in how a certifier does its work, I don’t think it is for us to prescribe. I think it is for the ARC Branch through their accreditation process to look at how they do their work. I really feel this is inappropriate for us to dictate that level of detail on the performance of certifiers.

CHAIRMAN O’RELL: Barbara, did you want to weigh-in?

MS. ROBINSON: Well, haven’t you already touched on this somewhat in your criteria?

CHAIRMAN O’RELL: Yes.
MS. ROBINSON: So isn’t that -- I mean I thought this was what we kind of discussed. It would seem to me that anybody who is doing the due diligence is going to go back to things like the numbers of suppliers and the amount produced. They are going to come up with, if they are doing due diligence, the credible documentation is going to be solid business information and the lack thereof. That is what an ACA is going to evaluate. That is what they are going to make their decision based upon.

I mean I don’t know that you are necessarily going to say, “Hey, I know that the civil war in Madagascar is going to last for the next 18 months and, therefore, vanilla won’t be available.” But, you know, they are going to say, “I’ve checked the supplies, and because of this event, I know that such-and-such commodity won’t be available.”

You’ve got the criteria already.
I guess I don’t understand why you’re getting hung up on this credible documentation when you’ve already built the criteria over here in the first place.

CHAIRMAN O’RELL: I agree.

Julie?

MS. WEISMAN: Yes, I’m kind of a little bit reiterating, but I’m going to try not to repeat. But I just want to point out that, actually, certifiers, because of this, will now have better documentation and more credible documentation than they have had before. Because by collecting this information as part of the petition process, that information is now a matter -- everyone knows where to find it; whereas, up until now, it was really depending on what particular certifiers happen to know or not know, because we don’t have a database.

So this will actually make -- this is already built into this. It is going to make for much more consistent
decisionmaking than has been possible in the past.

CHAIRMAN O’RELL: Anything further? Rigo?

MR. DELGADO: I just have a question. So the role of the NOSB is to validate that the work of the ACAs was correct?

MS. WEISMAN: Uh-uh.

MR. DELGADO: You’re saying it is evaluating the risk. So what would be --

MS. WEISMAN: We are evaluating the information that is being included in these petitions that describes what are the potential threats to a supply. Some of these products, there may not be organic -- they may not be produced organically. Then that is a clear issue.

In other cases, there may be some organic available, and maybe right now there is a sufficient supply, so exemptions wouldn’t be granted. But if we see that it
only comes from a certain part of the world that is prone to typhoons, then there’s a risk that that supply could be cut off that no one has any control over. So it is really assessing the risk that a currently-available supply could be cut off.

MR. DELGADO: And if it is cut off --

CHAIRMAN O’RELL: Barbara to respond, and then I have Andrea.

MS. ROBINSON: I don’t know that you necessarily would call it a risk. You were doing what you always do with materials. What you are doing here, it seems to me, is refining the petition process in the case of materials you want to put on 606 related to commercial availability.

So you are just asking people to flesh out -- you are fleshing out the petition in this particular case and asking people to do better jobs of coming before
you with a petition or coming to us with a petition, with more detail.

In this case, I mean people aren’t going to be able to assess risk, and neither are you, neither are we. But they are going to be asked to do better homework about variability in supply, what it is subject to. You are going to be given just, you know, more robust evidence to look at and then be able to make a determination of whether or not a material or a commodity, in this case perhaps, should be placed on 606.

Then, from time to time, that material may become commercially unavailable. An ACA will be able to have the discretion to determine that, based on business conditions or trade conditions, as you have described, weather conditions, political conditions as they may arise, that cause a trade disruption, something like that.

That is basically the way I read
this recommendation, is that you have put a more robust set of petition procedures in place. That is what you are recommending, right?

CHAIRMAN O’RELL: Yes.

MS. ROBINSON: That’s it.

You are asking people to do a better job before you come before this Board of asking us to put something -- before we put something on 606. We are giving you good guidelines to do it.

CHAIRMAN O’RELL: Andrea?

MS. CAROE: Rigo, I just want to clarify something. Maybe you know this, but I just want to make sure you do.

A certifier will not be able to consider any material for commercial non-availability unless it has been listed. So our work is the preliminary work to just look at whether there is vulnerability in supply. Then the detail work happens after.

We are not actually looking at
what the certifier is going to do, but they can’t do their work unless we have done ours and put it on that list. So we are not double-checking them, as you had indicated.

CHAIRMAN O’RELL: And, Rigo, there is another part to the process, which is the public comment period. Because this is asking the petitioner to do their due diligence to put enough information in a petition to justify the rationale for putting it on 606.

The Board will review that justification. If they decide to go forward with a recommendation for a material on 606, it will come to a Board meeting. It will be given public comment. That is when the public can input and say why they would object to something being on 606 because it is commercially available.

Then we get that information in a public forum before we make our final decision on putting it on 606.
MR. DELGADO: So in the case of vanilla, for example, if we get that petition and there is enough evidence to show that vanilla does have cyclical problems, then it will go on and be listed.

So when the case comes --

CHAIRMAN O’RELL: It could be considered for listing.

MR. DELGADO: It could be considered for listing, and so forth.

So that is approved and the process takes place?

CHAIRMAN O’RELL: The process takes place. It would be considered for listing. If it did come on a list, then that is where it would come to the public forum for comments as to why Madagascar vanilla, there is not going to be another hurricane prediction in the future. You know, for whatever reason, we listen to the public, and then we make that decision.

MR. DELGADO: I am just trying to
move --

CHAIRMAN O’RELL: Yes, understandable.

MR. DELGADO: So if all this is approved, the material is listed, and so forth, and that typhoon takes place, and so forth, the producer or the handler, or whoever is using that material, will simply report that to the ACA correctly? Is that the whole idea?

MS. CAROE: Yes, they’ll --

MR. DELGADO: Because this material has been listed as potentially facing those cycles?

CHAIRMAN O’RELL: Yes. Then the challenge would be on the certified handler wanting to use the material to work with their certifier to justify, for the reasons we have listed -- and we have given the criteria -- to fulfill that criteria needs, that they can use a non-organic form of that material.
MR. DELGADO: Okay, thanks.

CHAIRMAN O’RELL: Any other questions? Oh, I’m sorry, Dan.

MR. GIACOMINI: On Item C, should we, once an item has been included on 606, an event has happened, and a certifier has issued, has allowed it to be used according to 606, should it be included in C or is that mechanism somewhere else that specifies the frequency of reconsideration on when a certified entity operation has to go back, and has to go back and use an organic form?

CHAIRMAN O’RELL: Andrea?

MS. CAROE: It is innate in the regulation that annually you update your organic system plan. Every year they will have to show this kind of information, as they do right now.

MR. GIACOMINI: Okay.

MS. CAROE: This is not out of order from what the standard operation --

MR. GIACOMINI: As long as it is
somewhere. I just wanted to make sure that that would be something that they would be re-reviewing.

MS. CAROE: Every year.

MR. GIANCOMINI: At least annually.

CHAIRMAN O’RELL: Julie? Is there any further discussion or questions, or are you ready to move to the next --

MS. WEISMAN: We are ready to move on, I think.

CHAIRMAN O’RELL: Thank you.

MS. WEISMAN: Yes. So I believe that the next item up for the Handling Committee is a recommendation that we made regarding the interim report of the Pet Food Task Force.

It is more for formality. The bulk of their report was given at the April meeting. This is just the lag time.

Although, on behalf of the Pet Food Task Force, Emily Brown Rosen did
present a description of some additional work that had been added to the report since the April meeting, those are all posted.

Therefore, our recommendation of the Handling Committee is that the NOSB, as a full Board, officially receive the interim report from the Pet Food Task Force of April 7th of 2006.

The Pet Food Task Force did an unbelievable amount of work and are really to be commended for the excellent work that is reflected in the document they produced.

Therefore, the Handling Committee, this will now be handed to the Handling Committee’s work plan to begin to consider this document and to prepare it for the NOSB to consider it fully.

We would like the Pet Food Task Force to continue to be available as needed for clarification, advice, and counsel, as we consider their proposal.

CHAIRMAN O’RELL: Any discussion?
(No response.)

Just as a point I would like to make for the record, Nancy Cook did come yesterday. She missed the slot. She had some traffic issues. She apologizes for not being able to be here to give the update, but certainly knows that it was handled well by Emily.

The one thing she did want to add and make sure that the Board and the public knows that she really gave kudos to the Task Force and the work that they have done to progress to this point, to be able to give us a report, to go on forward for further Board action.

Julie?

MS. WEISMAN: I think if there’s no other discussion on the Pet Food Task Force report, then we can move on to sunset materials. We are down to two.

Do you want me to wait until you get it up?
We are going to look at the final recommendation for colors, non-synthetic. I think that is next on the agenda.

This was deferred at the April meeting. So this is a recommendation for colors that have been listed under 205.605(a) as allowed non-synthetics, as ingredients in or on processed products labeled as organic, made with organic.

The Committee is this: There were many comments recommending the continued allowance of non-synthetic colors in organic handling.

The Federal Register notice regarding sunset review asked the public to provide evidence and address concerns for any substance they believe should be discontinued.

There was a comment addressing the concern that colors and flavors were added to the National List without a technical review by the NOSB. The Handling
Committee requested and received a technical overview of food color additives on October 14th of 2005. This technical review did not offer any information that would suggest that non-synthetic colors are inconsistent with organic practices, but this was also not a full TAP, which would not be possible on a broad group that contains many, many, many different specific substances.

There were also numerous comments opposing renewing the listing of non-synthetic colors. A few commenters requested that they be moved to 205.606, an action which cannot be taken as part of sunset, but we will be looking later -- we actually have quite a few petitions, but I guess I am getting ahead of myself.

Several commenters cited that non-synthetic colors have been placed on the National List without ever being petitioned and without the recommendation of the NOSB.

The Board finds merit in this
observation. Colors, non-synthetic, can’t be renewed through the sunset process because there was never an NOSB recommendation for its placement on the National List. This is just the facts.

So, therefore, the Handling Committee recommends not renewing the following substance in this use category, effective the sunset date of October 22nd, 2007, colors, non-synthetic sources only.

The Board vote was yes. There were no no votes. There was one absent.

Is there any discussion?

CHAIRMAN O’RELL: Hue?

MR. KARREMAN: Just a thought: If we can’t renew them, how can we sunset them? I mean, if we can’t take action to renew them, how can we let them go?

I mean, how can we take action? If we can’t take action to renew them, if we never had the TAPs, how can we take any action on them whatsoever?
CHAIRMAN O’RELL: Well, they are on the list. They were put on the list. As being put on the list, they will sunset in five years unless we were to renew them.

The justification is that we would -- if we did nothing, they would sunset. We are making a formal request, because of the rationale that they were put on the list without the NOSB recommendation. It is a formal process to say we want it to sunset.

I understand the technical question you are asking, but because they are on the list, we can take action to sunset them, to allow them to by taking no action.

MS. WEISMAN: I also wanted to point out to you that there’s nothing to stop the industry from submitting a petition now that would, obviously, have to be TAP reviewed, although given the number of 606 petitions that have been -- I think a third
of the 606 petitions that we have received already are for colors as agricultural products.

So I predict that it would be moot. I predict that if someone were to -- well, maybe this is not my place to say right now. I will just leave it at that.

CHAIRMAN O’RELL: Andrea?

MS. CAROE: Part of our original reason for deferring this was to elicit that type of response. The industry did step up and submit those petitions. So, again, I feel this has been successful in the actions that we have taken. Now it is just time to put it to bed.

The Committee is recommending that we don’t allow this to renew or sunset -- that we allow it to sunset.

CHAIRMAN O’RELL: We got it. We allow it to sunset.

MS. WEISMAN: Any other questions?
CHAIRMAN O’RELL: Okay, I think we move on.

MS. WEISMAN: Okay. The next item on our agenda for the Handling Committee is lecithin, bleached. It was brought to the attention of the NOSB Handling Committee around the time of the April meeting that -- we had already voted to not renew lecithin, bleached, on 605(b), a synthetic. It was brought to our attention that in our summary in April of that decision that we had overlooked comments that had been made before the August 2005 meeting that opposed the sunset of this product.

So the Handling also became aware that liquid forms of lecithin, bleached, are available as certified organic. However, as the commenters stated, there are no dry forms of this organic ingredient available at this time.
The commenters suggested that these available liquid forms are not appropriate for dry products. As a result of this comment, the Handling Committee investigated these organic alternatives through consultation with food manufacturers.

In doing this, it has come to the attention of the Committee that the organic liquid forms can be used in dry products. Therefore, the Committee confirms its original recommendation of the 20th of April, 2006.

The Handling Committee continues to recommend the removal of the following substance in this use category as published in the final rule: lecithin, bleached.

We have received a lot of comment during the public comment period on this point of clarification. There were two in support, and there were six opposing.

I want to open this up for
discussion because I think that, since even the time that this point of clarification was written, there’s been a lot of discussion, a lot of information presented to various members of the Committee, either individually or as a group.

So anyone?

CHAIRMAN O’RELL: Just to be clear on this, this is a sunset material that in the last meeting we voted not to renew, as a Board. There was question about some material and comments that were made that the Committee consider those.

This has gone back to Committee. The Committee has said, yes, we’ve looked at those. The recommendation coming forward is that we stay with -- it is just a recommendation for clarification that we did consider all aspects of comments that were made to the Board. So that is what Julie is proposing and asking for any additional comments and discussion.
Joe?

MR. SMILLIE: Yes, it is a real tough issue because what we would have liked to have done would have been to create an annotation which would have clarified what could be available in this area and what couldn’t be available. It would have been a very elegant solution to solve the problem.

However, because it is a sunset material, special rules apply and we couldn’t create what we considered a compromise solution to the issue. So we were sort of handcuffed by the fact that it is a sunset material and you can’t have an annotation to a sunset material.

CHAIRMAN O’RELL: Nancy?

MS. OSTIGUY: You mentioned that liquid forms can be used in dry products. Has there been additional information saying that that is not the case sometimes or?

MS. WEISMAN: We had comments that came in during the comment period from
manufacturers. I think this is really actually a demonstration of why this is a good process, because it elicited -- what we really needed to hear from was not a manufacturer of synthetic bleached lecithin and a manufacturer of organic lecithin. We needed to hear from manufacturers who use these products.

What did come back to us were several different uses of dry, de-oiled, synthetic bleached lecithin for a number of uses having to do with making dried fruit, organic dried fruit. I am not remembering right now, but there were manufacturers who came forward and said, “We need this.”

I think the reason why Joe was suggesting this elegant solution is that there’s plenty of liquid lecithin out there, organic and non-synthetic. So from the point of view of liquid lecithin, there is no need for synthetic bleached liquid lecithin.
It is also another demonstration where you’ve got something on the list, and people come forward and they make alternatives; they make non-synthetic alternatives. Then they make organic alternatives.

I think that is a demonstration of how putting something on the list doesn’t cut off the development of new alternatives. It actually stimulates that development. This is a really great example of it.

But I do have concern about those particular manufacturers who need dry, de-oiled, bleached lecithin. I think they do have a legitimate problem.

There is a little bit of a quandary at how to handle it as part of sunset.

MR. SMILLIE: There were some options presented for the use of liquid that would be -- and, again, I am not a food scientist, so correct me if I am wrong --
but you could use the liquid and mix it with a dry material, thereby creating a dry bleached organic lecithin. But, once again, the manufacturers pointed out that the substrates, or whatever that material you would be mixing with, wouldn’t be appropriate to their type of manufacture.

We did get very in-depth reviews of the material. Once again, the ideal solution would have been to say, okay, we’re sunsetting liquid bleached lecithin, but still allowing an annotation for powdered, dry bleached lecithin, but we are not allowed to do that under the constriction. I personally think that we will eventually have that available.

One of the problems with the dry unbleached lecithin is that it is a fairly chemical process because it has to be de-oiled, and we get our old friend hexane showing up again in that process. We are really uncomfortable with hexane, and it is
needed to de-oil. To create a dry bleached lecithin, it has to be de-oiled.

In the future we will see technologies that can create the product without the use of hexane and other solvents. So we are still somewhat reluctant to change our recommendation, even though we believe that these manufacturers — and, again, the manufacturers who are using dry bleached lecithin do have a case that they don’t have anything else they can use to create organic products.

They have a case, but the question is, what’s the greater good, short-term suffering and pain for a few manufacturers in organic products and the farmers who sell to those manufacturers or really pushing this industry to create the product that we would all feel comfortable without the solvent extraction for de-oiling?

I think that is as close as I can
come to it anyhow.

CHAIRMANN O’RELL: Any other comments or discussion?

MS. WEISMAN: I want to float an idea. I can’t believe that I am doing it because I really liked our point of clarification.

But -- oh, God, I can’t believe I’m doing this (laughter) -- it seems like for the manufacturers for whom this is the only alternative, we would have to renew the old kit and kaboodle. I guess my fantasy is that someone in the industry would come forward immediately and petition for an annotation that only dry forms of synthetic bleached lecithin be used.

Is that something that anybody on this Board could live with or think would be possible or reasonable?

CHAIRMANN O’RELL: Nancy?

MS. OSTIGUY: Well, we certainly have precedence for putting it on the list.
One could assume that we have sufficient information, that we wouldn’t have to go through the full TAP process. So it would be a shorter process.

So it actually might be a very reasonable solution that could be fast, as fast as bureaucracy can run. But since it would not include a TAP, that probably would drop six months off of it.

CHAIRMAN O’RELL: The Chair would like to recognize Kim Dietz, as former Materials Chair of the NOSB, for maybe some point of clarification.

MS. DIETZ: I’m going to help Julie out here. You were right on.

CHAIRMAN O’RELL: To help her get her fantasy?

(Laughter.)

MS. DIETZ: Yes. Go back to your flowchart on sunset. You have comments that give valid reasons not to remove it. So you need to consider that, and your
recommendation to probably keep it on is the right thing to do, and then urge a petition for somebody to take it off or change the annotation. Because you really shouldn’t remove a material for sunset if you have commentary to keep it on, and there is no evidence enough to support it to take it off with the annotation that currently exists.

Does that make sense to you? I mean so the right thing to do is for somebody to keep it on, petition to remove it or to change the annotation for only the certain type of -- that is the thing that you need.

CHAIRMAN O’RELL: It doesn’t currently have an annotation.

MS. DIETZ: Correct.

CHAIRMAN O’RELL: Yes, okay. Kim, if you want to stay here, because there may be a followup?

But I would like to recognize Arthur.
MR. NEAL: Arthur Neal.

The difficulty that I am hearing now -- and I wasn’t under this assumption from the last meeting. The last meeting I was under the assumption that there was an alternative to this product. But if there is no alternative for this product, which is part of the sunset review criteria, then we’ve got an issue.

MS. WEISMAN: Yes, I think the problem that we have -- oh, I’m sorry.

CHAIRMAN O’RELL: No, it’s fine, Julie.

MS. WEISMAN: The problem we have, Arthur, is that the information that has come in, the quality of it has been excellent, and it should not continue all bleached lecithin. There are plentiful substitutes for liquid bleached lecithin. It is only the dry form for which the problem exists.

But we don’t have the opportunity
during sunset to make an annotation and sunset the liquid but allow the dry, do we? I don’t know. I don’t think so.

CHAIRMAN O’RELL: No. No, we don’t, but Arthur’s point, I mean Arthur is saying that, part of sunset, if there are legitimate -- there are people who are commercially using it, that this would be a problem that could be an issue under the sunset.

MR. NEAL: And the option that was explored or that was expressed earlier about renewing it, petition to restrict the annotation, is still viable.

MS. WEISMAN: Would it be equally viable to let it sunset and encourage a petition to -- no. Okay.

CHAIRMAN O’RELL: Barbara?

MS. ROBINSON: The less costly way to do it to the industry would be to let it continue, but what you should do is get a petition to remove -- is it lecithin or
“leckithin”? --

CHAIRMAN O’RELL: Lecithin.

MS. ROBINSON: -- lecithin; I hate this word (laughter). Get a petition to remove the one you don’t want.

MS. WEISMAN: Right now it is listed as one thing, bleached lecithin.

MS. ROBINSON: I know. I know.

MS. WEISMAN: Oh, okay.

MS. ROBINSON: So under sunset, let it continue, but get a petition to restrict going separately, okay, but let sunset -- don’t kill it under sunset because then you are harming the industry. So just continue it under sunset because you have a valid reason. In other words, don’t throw out the baby with the bath water.

But you know that you have a problem, that you know you do have substitutes available for -- which is it, the dry?

MS. WEISMAN: The liquid.
MS. ROBINSON: The liquid, all right. So get a petition going so that you can write an annotation to restrict on the liquid, so that you will only have dry.

CHAIRMAN O’RELL: Andrea and then back to Arthur, and then Gerry.

MS. CAROE: Originally, as I was looking at this on Committee, I was under the understanding that only the liquid was available, but the liquid could be used where dry lecithin is being used, in which case we wouldn’t have had that availability issue because you could use it in everything.

Since then, and with the very detailed comments that we have received for this meeting, that is not the case.

Now I think, to Julie’s point, by taking it off, the industry is motivated to get it on in the right way. However, I agree that that causes an economic impact to the manufacturers that are using the dry
form and cannot use the liquid form.

So I guess what I am saying is that the information that I was working under, and I think the Committee was working under, has changed since then, and that we should reconsider based on the information or based on the criteria, as Arthur has pointed out.

CHAIRMAN O’RELL: Arthur?

MR. NEAL: And just from a procedural standpoint, to let you know, while we are really concerned, if you cannot justify the reasoning for dismissing this argument, OMB is really going to come down on us hard, and that docket may not move in enough time to make our date, because they read and assess all of the comments that we receive to see how we have addressed those comments.

CHAIRMAN O’RELL: Okay. I have Gerald and then, Kim, if you want a follow-up comment.
MR. DAVIS: How would one -- if the idea is proposed, like Joe mentioned in your comments, that hexane-processed dry lecithin is inappropriate for use in organic products, how do you ever get rid of it? I’m hearing like, whoa, leave it on sunset and then change it around, but am I hearing it wrong, that that does allow the continuation of something that maybe doesn’t fit organic --

CHAIRMAN O’RELL: Kim?

MS. DIETZ: The first thing is the supplier, the person who’s got a vested interest in the liquid lecithin, should petition to remove the liquid lecithin. So if anybody is out there, that’s probably what I would suggest that you do. That is my personal opinion.

That will then cause an issue for this Board, which will request a TAP review. Supposedly, the people who want the dry lecithin could then input their comments,
and you could request the TAP for the dry lecithin.

It is at that time when your questions are going to get answered and your concerns are going to get answered, and you are going to have to put it through TAP review. Then you vote and decide whether or not you should continue its use for the National List.

CHAIRMAN O’RELL: The issue, Gerald, is that this is not a material that is up for consideration for being put on the list. It is a material that is on the list that is going through sunset.

MR. DAVIS: I understand, but the question is, do we get so tied up in the process that there is no way to remove a material once it has been on there, even though people are saying, “Hey, there’s a problem with this material.”?

We went through that with some of the crops materials and people wanted them
off.

CHAIRMAN O’RELL: Okay, I have Joe, then Andrea, then Arthur. If you can make your points brief and to the point?

MR. SMILLIE: I agree with Kim, and I do have faith that, once we go through that process with the annotation, that we will see shortly thereafter an organic dry product appear, at which point in time we move again to sunset.

CHAIRMAN O’RELL: Andrea?

MS. CAROE: You know, I think this has come up so many times and frustration in this sunset process. But, again, sunset is considering the existing regulation for continuance.

In our sunset document that Kim worked on, we are talking about new information about the product. This isn’t new. The Board that put this on the list considered these things. We are not here to reinvent or revert that decision.
So if you had a problem with their decision, you had to be there at that date making that comment to that Board, but it is on the list.

Unless there are alternatives available, which would be a change to what existed when that was put on the list, or the technology for creating that material changed, it is not for review during sunset.

CHAIRMAN O’RELL: Arthur?

MR. NEAL: Well, it can be reviewed, but it has to be reviewed against a criteria which we all agree. Is it harmful to the environment? Is it not consistent with organic principles and practices, and things of this nature?

You have to look at the manufacturing process to see; with this material, you don’t have a petition. So you really don’t know how it is manufactured about which to make a decision on.

So you would be making a decision
based on people’s feelings, which is what we do not do, to codify. So we want to base our decisions on actual research.

Comments may be fueled by some feelings, but we want that to support the data that we have looked at. We did not have that for this particular material.

CHAIRMAN O’RELL: Nancy?

MS. OSTIGUY: Pass.

CHAIRMAN O’RELL: Thank you, Kim.

MS. WEISMAN: I just have a question. From a procedural point of view —

CHAIRMAN O’RELL: This can go back to Committee for discussion, and the Handling Committee will be meeting this evening.

MS. WEISMAN: Okay. So, in other words, we could be on track to vote on something tomorrow, to revise our recommendation and vote tomorrow?

CHAIRMAN O’RELL: Absolutely. We
could come -- the Handling Committee can come with a revised recommendation to the Board tomorrow for vote, based on discussion. That is the purpose of today.

MS. WEISMAN: All right, last but not least is --

CHAIRMAN O’RELL: Do you have anything that is less controversial?

(Laughter.)

MS. WEISMAN: I don’t know. I don’t know. This Committee is pretty much a hotbed of controversial things.

I just want to review petition substances, if I can find my summary.

Now I believe the list that was circulated to the Board yesterday is an internal list.

MS. FRANCES: Yes, it is based on what’s on the website.

MS. WEISMAN: Right. So it’s okay if I summarize what was on that list?

MS. FRANCES: Yes.
MS. WEISMAN: Okay. There is a very long list of items that are petition substances under the purvey of the Handling Committee. That would be for Sections 605(a), 605(b), or 606.

There are three items that were previously recommended for listing on 606 by the full Board, but have not yet been published. Those would be the de-waxed flake shellac, the gelatin from fish, and the konjac flour.

Does anyone at the program want to -- are those ag/non-ag? Are they being held up for other decisions to be made or do we know?

MR. NEAL: If I am not mistaken, Julie -- Arthur Neal -- that will be a 606 issue. The konjac flour, right?

MS. WEISMAN: Uh-hum.

MR. NEAL: What was the other?

MS. WEISMAN: The gelatin from fish.
MR. NEAL: 606.

MS. WEISMAN: And the shellac, the de-waxed --

MR. NEAL: 606.

MS. WEISMAN: Okay.

MR. NEAL: And as we explained yesterday, when those recommendations were made, the petitions were submitted under the assumption that these materials were synthetic.

Then the Board, in the midst of the review, said this doesn’t appear to be synthetic; it’s agricultural.

So they made a declaration. We did not at that time have a process by which to amend 606. So we did not.

So the industry operated with the assumption that those things are agricultural and could be used. Then the Harvey case came; 606 procedures changed.

In addition to that, we had to come up with a 606 process.
So now those three have to go through the 606 process to be listed on the National List.

MS. WEISMAN: So once we have voted on the previous recommendations about commercial availability, we will have in place the tools that we need, and then these come back to the Handling Committee? They come back to the Board? Is that correct?

MR. NEAL: Right. Right. Right.

MS. WEISMAN: Okay. So we have three items that are about to come back to the NOSB for the Handling Committee’s work plan.

We also have three items that were petitioned for listing on 605 that have been reviewed by the NOP and are currently on the Handling Committee working plan. These are carbon dioxide, magnesium carbonate, and natamycin. But they were not considered -- there was not time spent on these because we were -- I don’t know, I
feel terrible saying this, but we really felt like we had our hands full with commercial availability and ag/non-ag and the crisis that was created regarding materials for 606 as a result of the Harvey suit. But those are definitely on our work plan as well, those three.

There were also two recent petitions that are under review by NOP right now, sea salt for listing on 605(a). I am really glad to hear that that is at the OGC right now because I think that is where it belongs.

I’m obviously getting more relaxed in this role because comments are coming out of my mouth now that I realize like I shouldn’t be saying these things. I’m sorry.

(Laughter.)

Can they be stricken from the record?

The other recent petition for
605(a) is for the removal of yeast.

We also have one item that was out for TAP, fructooligosaccharides. The TAP that was requested is complete. So that is now going to move back onto the Handling Committee work plan.

Finally, there were 32 petitions received since May for materials to go onto 606. I know that this Board probably feels like that is an overwhelming number of materials, but I assure you that it is the tip of the iceberg.

(Laughter.)

Twenty-one of these petitions are under review by the NOP and 11 of them have already been returned; the petitioners have been notified for additional information. So 11 of those have been returned to petitioners asking for additional information.

Now I also wanted to point out that, of those 32 petitions, nine are for
colors. I really think that the industry is to be congratulated because when we knew that we could not renew colors as part of sunset, we encouraged the industry, please, please, please, you know, petition your agricultural colors onto 606. I’m sure there’s more to come, but I was very glad to see these here.

Also, there are three petitions for flavors. Three of those 32 were for flavors. I am wondering if the program can give an opinion about not only with regard to flavors, but also sea salt. If something is already on 605(a), why would we be considering it for 606?

CHAIRMAN O’RELL: A question, first, to the program; Arthur and then Joe and then Andrea.

MR. NEAL: For flavors, if there is a company out there that wants to have their flavor on 606, they want to clearly define that my product is agricultural.
You would look at those, particularly as well, because of the issue that many have expressed through the sunset process, just because of manufacturing processes, clearly delineate which flavors are agricultural and which ones are not. Because we’ve got that group called flavors on 605(a). Which ones are synthetic, which ones could be non-synthetic. So this clarifies that as well.

It also gives clarity to the certifying agent so that they know exactly what it is that is approved for use and they don’t have to search for it.

CHAIRMAN O’RELL: Joe and then Andrea.

MR. SMILLIE: Yes, a couple of technical questions. No. 1, I see a number of materials, three or four, that say 205.605 or 205.606. Whose role is it to clarify where they are going? I can’t see how you can have it in both categories.
CHAIRMAN O’RELL: Arthur, you can respond.

MR. NEAL: Arthur Neal.

I think this may be set up that way because it is going to depend upon the outcome of our discussions on synthetic versus non-synthetic, ag versus non-ag. So we did not pre-determine what the outcome would be for these things, but we are saying it would really depend upon what’s the outcome of the Board’s discussions.

MR. SMILLIE: A followup: Also, when the same material is petitioned twice, is that dealt with -- how do you deal with that?

MR. NEAL: We deal with it in one fell swoop. You have to acknowledge the fact that two people did petition the same substance.

MR. SMILLIE: Right.

MR. NEAL: But that substance will only be dealt with one time.
MR. SMILLIE: So you will take both petitions into account at the same time?

MR. NEAL: Right, because each petition may present different information.

MR. SMILLIE: Okay, good.

CHAIRMAN O’RELL: Andrea?

MS. CAROE: With regard to flavors being on 605(a), the heading for that category is nonagricultural/non-synthetic. So nonagricultural/non-synthetic flavors are allowed.

Agricultural flavors are not listed, which is why it is important that if concord grape essence gets deemed agricultural, and somebody wants to use it, it is not listed for use. It is an agricultural material, not a nonagricultural material.

MS. WEISMAN: I would argue that orange essence is not the same thing as orange flavor. Orange essence is an
agricultural product.

MS. CAROE: Exactly, and that is the point. That is the point why we need to look at it as both the agricultural and the nonagricultural.

So those folks that are moving ahead and certifiers that are approving agricultural materials as allowed, agricultural flavors as allowed, are actually not completely correct because it is the nonagricultural flavors that are allowed, unless they are organic, and then it is a different situation.

CHAIRMAN O’RELL: Joe?

MR. SMILLIE: Yes, point of clarification. One of the tools that can be used is how they are claimed on the label. In other words, you could have the exact same material claimed differently on a label. One manufacturer could claim it as a flavor; another manufacturer could claim it as an extract, for example.
Orange is a good example. One manufacturer using the identical materials could claim it as orange flavor, and another manufacturer could claim it as an orange extract.

So I agree we need to move it on both lists.

MS. WEISMAN: I want to also throw out a practical consideration. I feel like at this point it would be appropriate to identify the fact that I am involved in manufacturing flavors.

We have to think very carefully about whether we want to entertain petitions for every individual formulation that every single flavor manufacturer has to put out there as an agricultural product, because if we suspect that there’s a huge volume of materials to go on 606 without those, that is going to be a whole other order of magnitude.

I would like to ask people to
consider the idea that, given what we are up against in terms of working through the 606 process quickly enough, so that we do not have a train wreck in the processed foods industry, that things that already have a home elsewhere on the list could be not the first things considered perhaps.

CHAIRMAN O’RELL: Well, I think that that certainly could be handled between the Handling and the Materials Committee on setting prioritization to this long list of materials, one of the points to consider, not the only point.

Dan?

MR. GIACOMINI: Just for clarification, I don’t know if this is Valerie’s question or someone else on the program. On the 606 list, Item 23, natural colors, there’s a 15 there that looks like a footnote item, but yet there is no footnote. Is that a reference to anything?

MS. FRANCES: It could be a typo
of mine.

MS. WEISMAN: Or it could mean that there are 15 colors that this manufacturer is petitioning --

MS. FRANCES: Oh, okay.

MS. WEISMAN: -- which actually goes to my point about flavors as well.

MS. CAROE: Bob is giving thumbs up.

MS. FRANCES: Right, okay.

MR. GIACOMINI: So there’s 15 colors on that list?

CHAIRMAN O’RELL: Contained in that petition.

MR. GIACOMINI: In that petition, okay.

CHAIRMAN O’RELL: As Julie said, it is the tip of the iceberg.

Thank you, Julie.

We are going to stay on program here and continue before lunch break with the Livestock Committee report. Michael?
MR. LACY: Thank you, Kevin. We will move quickly on this. We will condense a 45-minute report into five minutes for the good of the cause here.

(Laughter.)

I would like to, first of all, say if the Livestock Committee could sort of sit together at lunch today, we will discuss a few items of business, assuming that we don’t have other business that is going to be done at lunch.

CHAIRMAN O’RELL: That’s fine.

MR. LACY: Okay, great.

I want to thank Barbara for bringing us up-to-date on where we stand on the pasture process yesterday. We really appreciate NOP’s efforts in bringing the pasture issue to an appropriate conclusion. We certainly understand the difficult circumstances that have been imposed upon NOP.

I just want to say that the
pasture issue remains a very high priority for the Livestock Committee, one of our highest priorities. We will continue to offer any and all assistance to NOP as they work on that issue.

The acquisition of dairy livestock also continues to be one of our highest priorities. We are committed to doing our part to bringing logic and fairness to that issue.

Almost all of our efforts since the April meeting have gone toward analyzing the Aquaculture Working Group interim final report and beginning to draft an organic aquaculture standard.

Although the entire Livestock Committee has been engaged in that work, along with a few additional NOSB members -- Joe and Andrea and Bea -- Dan, Andrea, and Joe have taken on the task of taking the Aquaculture Working Group’s report and rewriting it into a standard.
The input on the aquaculture draft proposed standards has been intense, voluminous, passionate, incredible. That is a compliment, a very sincere and high compliment, to those that have been interested in the organic aquaculture issue, and especially to those that have served on the Aquaculture Working Group Task Force.

I know that we thanked them at the April meeting, but I would like to do that again today. Their work continues, and their professionalism, thoroughness just really continues to be exceptional.

I would like to talk a little bit about where we stand now. In our deliberations, we came across about a half dozen issues that were either contentious or there were varying opinions or we weren’t just sure how to move forward.

Technically, the Aquaculture Working Group’s report was extremely thorough. These were more philosophical
questions. We have requested or invited some additional public comment. We have received some very thorough and excellent comments related to that invitation.

I think, in the interest of time, I will just briefly go over the six questions that we asked and then also ask that, if there is still time for additional comment to be turned in on those, we will continue to look at that.

The six things that we asked for or invited input on were specific sections of the interim final report that might require species or production method-specific standards.

No. 2 was how organic aquaculture might meet the requirement of maintaining or improving the environment, including the use of integrated net pen systems.

No. 3 was expectations and explanations of the differences between organic aquaculture and conventional
aquaculture methods and products.

No. 4 was further input on feed ingredients for organic sources of fish oil and fishmeal, and whether it would be possible to develop alternatives to that within the timeframe that had been suggested by the Livestock Committee.

No. 5, we asked for suggestions for appropriate sustainable criteria for sources of fishmeal and fish oil and methods to verify that those sources met such criteria.

And, No. 6, should byproducts from processing of terrestrial organic livestock now prohibited in feeds for organic terrestrial mammals and poultry be allowed as ingredients in organic aquaculture feeds? It is similar to how fishmeal is allowed in poultry diets, in particular.

As I said, we have received good input on that and would like additional
input, if there are still folks out there that would like to respond to that.

I want to say quickly that we want to continue to move forward on this in drafting the standards. I am very optimistic -- very optimistic -- that Joe, Andrea, and Dan will have those ready by our spring meeting.

These standards will be for fin fish only. The Aquaculture Working Group continues to work on recommendations for shellfish and bivalves.

Kevin, I will turn it over to you for whatever questions we might have time for.

CHAIRMAN O’RELL: We have time for any questions the Board will entertain.

(No response.)

Apparently, they’re hungry.

(Laughter.)

Joe?

MR. SMILLIE: I just really feel
I want to second Mike’s remarks in that the Aquaculture Working Group that we work with is an absolutely amazing group of people. All function very well as a group with a real divergence of opinion and position, but work very well together. We have been really privileged in working with the Aquaculture Working Group and their work.

It is one of the more complex issues that I have ever really had to deal with. It is very complicated. But we have boiled it down. We think we’ve got the differences down.

Now with the further round of public comment, we are going to have to make some tough choices and come up with a recommendation for a standard. But if any group of people deserve to get a standard, I think it is this group. They have really bit the bullet and they have really come down and worked in the spirit of compromise to come up with something that will be good
for an entire new industry.

I also believe it is a very important industry in the organic field that we are going to have to get clarification on because these people have also suffered some prohibitions on their ability to market their product now in certain states.

It really behooves us to get this recommendation to the NOP as quickly as possible. We look forward to everyone’s support and comment on these issues.

CHAIRMAN O’RELL: Thank you, Joe. Andrea?

MS. CAROE: I just want to say, from working both with the Livestock Committee on this and the Task Force, and these set of questions that were put out there to elicit some information, the balance and the challenge right now is between -- we are faced with two challenges.

One, to maintain the integrity of the organic label, and, two, to allow for
reasonable capacity-building within this new industry, within this new segment of the organic industry.

So, as you look at the questions that we pose, we are trying to get input from the industry to help us draw that line.

But I think that the work that has been done, I mean the description that Mike gave, I think the word that I always use is “overwhelming.” I mean I probably on my work on the Board spend two-thirds of my time on aquaculture, and I am on quite a few committees.

It is just these folks are engaged and they are on two, three conference calls a week and copious emails with big attachments, and kudos to every one of them. I mean it is just amazing the work that has been done.

CHAIRMAN O’RELL: Dan?

MR. GIACOMINI: I just want to reiterate my support for this group, which
has been incredible. I appreciate Mike’s optimism in our projection to have this ready for a spring meeting.

I just would also like to note that, in addition to the interim report, the Aquaculture Working Group also presented for posting their comments in relation to these questions. I think as much as the interim report and these questions, a lot of additional public comment -- we would be very well-served for you to review those documents in consideration when putting your public comment together. I think that would be a very positive step.

CHAIRMAN O’RELL: Any additional comments, questions?

(No response.)

Mike, thank you for your report. I know the Aquaculture Task Force has done an amazing job. I have seen all the emails and read all the correspondence, and it was certainly a very good conversation, debate
back and forth on a number of issues. So we thank those individuals on the record for their strong effort and support.

MR. LACY: Kevin, we probably do need to name one individual in particular. That is George Lockwood.

CHAIRMAN O’RELL: Yes. Yes, thank you, Mike.

Okay, we are going to recess for lunch. It is 12:07. I would ask 1:10, let’s try. We are not too bad on time. So 1:10.

Thank you.

(Whereupon, the foregoing matter went off the record at 12:11 p.m. for lunch and went back on the record at 1:24 p.m.)
Compliance, Accreditation, and Certification Committee report on the recommendation items and discussion items. Andrea is Chair.

MS. CAROE: Yes, we have three items for recommendation at this time and one discussion item.

The first item for recommendation, just to frame this out, is a somewhat old item that was brought to us by the program over some confusion and work with private labelers and with retailers acting as private labelers.

We were presented with questions for Q&A to answer. So we have been working on fulfilling a recommendation or a guidance document to the program addressing these Q&A.

This was a bit of a challenge because, as we delved into the issue a little bit, the questions don’t reflect the full scope of the issue. So this was a little bit difficult in that it would have
been better if we were able to create our own questions to put the answers and really fully get at the issue. Be that as it may, we did the best with what we could.

I am going to ask Bea James to present that recommendation at this time. Bea?

MS. JAMES: Okay. All right. In 2004, the NOP received a question or several questions listed as one paragraph question.

Before I get started, I want to thank Emily Brown Rosen for trying to make sense of those questions in the comments that she had yesterday. They were very useful.

So they basically ask what accredited certification agency should be identified on the label of a co-packed or commissioned or private label product. To briefly summarize the recommendation, I would like to point out that, as stated in 205.100, all processing operations that
manufacture organic products must be certified as a processor. As a processor, the accredited certification agency’s name would be revealed on the label of any certified organic product. This includes products that might be commissioned as private label products.

In the case of a commissioned merchant or retail establishment that has obtained voluntary certification as a handler, Section 205.100(a)(ii) of the rule states, “A handling operation that is a retail food establishment or portion of a retail food establishment that handles organically-produced agricultural products but does not process them is exempt from the requirement of this part."

However, voluntary certification can apply to retail establishments and is vaguely described in The Federal Register as follows:

“This regulation establishes
several categories of exempt or excluded operations. An exempt or excluded operation does not need to be certified. However, operations that qualify as exempt or excluded can voluntarily choose certification.

“Therefore, the Accreditation and Certification Committee concludes in its guidance document the following clarification which summarizes the answer to the submitted question.”

It is a long document, and that is a summary of the document. I am going to page 3, the bottom of page 3 of the four-page clarification.

Our guidance is, “The Committee wants to emphasize the statements above,” which I’ll read shortly, “which clarify that the voluntary certified handler or private labeler uses the name of its certification agent on the package and, therefore, it assumes responsibility for the product.”
Otherwise, the manufacturer or processor of any final said product is the responsible party and assumes all liability for compliance with the regulation.

“A retailer that is not involved in the processing of the final product is not required to undergo mandatory certification as a processor or voluntary certification as a handler. If the retailer who commissions the organic product chooses not to be certified, then the co-packer or processor would become the entity responsible for compliance with the regulation in full, and their certifier’s name would be indicated on the final product and would also be the first point of contact in the event of an investigation.”

That concludes the summary of the retailer Q&A, and I open it for question or comment.

CHAIRMAN O’RELL: Andrea?

MS. CAROE: At this time, I want
to point out to the Board that there is an existing recommendation that was approved by this Board in July of 2007.


(Laughter.)

CHAIRMAN O’RELL: That’s okay.

MS. CAROE: It is a little time warp thing I did.

(Laughter.)

CHAIRMAN O’RELL: Fast forward.

MS. CAROE: That’s bad.

In 2001, July, this Board did pass a recommendation that is contradicted by this guidance document. That was a rule change document that requested the insertion of the word “certified” in the regulation where it declares the name of the processor.

Part of the regulation that says that the manufacturer and the certifier need to be named, the word “certified” was put in there. So, essentially, a co-packer would
be recognized on private labels.

It is not very clear what I just said.

However, the Committee considered this recommendation, and the Committee did not agree with this prior Board recommendation. It has not been presented to this Board. So we can’t take action today on that recommendation, but the consensus of the Committee is that in the next meeting we will be presenting a recommendation to rescind that prior recommendation, so that we can move forward on this guidance document.

At this time, we will not be able to move forward and accept this recommendation because we didn’t dot that “i”. So as far as the content of that recommendation, I wouldn’t worry about. We are going to provide it to everybody, give the Board ample time to look at that with the recommendation that it is rescind.
CHAIRMAN O’RELL: And back to the Committee for rework, I guess.

MS. CAROE: Yes.

CHAIRMAN O’RELL: Joe?

MR. SMILLIE: I would still like to have a discussion on our document today.

CHAIRMAN O’RELL: Perfectly, it is on the table; you can have discussion around that document or the previous document since it is for discussion.

MR. SMILLIE: Andrea, would you like me to explain the difference between the two?

MS. CAROE: Yes, because I fumbled all over it. Please, Joe.

MR. SMILLIE: Our document is very similar to the 2001 document in most respects. The respects in which it differs is that in the 2001 NOSB recommendation it states that, if the private labeler -- I’ll call it that -- the commissioned merchant chooses not to be certified, then the name
of the certified co-packer has to be on the label, not the name of the certification agent of the co-packer, but the actual name of the co-packer. The company that produced the product would have to be on the label.

Our recommendation says that the name of the certification agent of the co-packer would have to be on the label. There is a difference there. It is a difference that we don’t feel we can move forward with our recommendation unless we deal with the previous recommendation, which required the name of the handler on the label.

That is the difference between the 2001 document and our document. If the commissioned merchant or private labeler chooses to be certified, then there is no difference between the documents. The voluntary certification is regarded as full and complete with all the rights and responsibilities of a mandatory certification, but there is a difference
between the two documents as to what is listed on the label in the case that the commissioned merchant/private labeler chooses not to be certified, which is their right. They don’t have to be certified under the regulation.

CHAIRMAN O’RELL: I would like to ask a question to the program, to Mark. Mark, sorry. I would just like to address the program in terms of this recommendation for a rule change that was adopted by the Board in 2001 and submitted to the program. What is the status of that with the program?

MR. NEAL: If I recall correctly, the program has not responded on that. In order for us to do so, we would probably -- we will have to consult with OGC.

There are a number of issues with it. This is the one for requiring the name of the handler.

No. 1, it is not required by OFPA.
No. 2, it is not required by FDA.

No. 3, you are going to have to have OMB review it because it is going to be another burden on the handling operation.

So there are going to be a number of hurdles to go through, to jump over, before we can accept that one. I will let you know that upfront.

Do you want to rescind it?

MS. CAROE: Yes.

MR. NEAL: That is not an issue.

(Laughter.)

MS. CAROE: Well, that is not an issue.

MR. NEAL: No, that is not an issue. You’ve got to remember I walked in halfway between the discussion.

MS. CAROE: That will teach you to be late.

(Laughter.)

CHAIRMAN O’RELL: Bea has a comment. Did you have a comment?
MS. JAMES: I think we still need some clarification.

MR. GIACOMINI: I don’t understand that’s not an issue.

CHAIRMAN O’RELL: I would like to recognize Jim Riddle, who is past Chair of the NOSB, to come up because I know he is familiar with the issue, just to get it out on the table, so we can understand.

MR. RIDDLE: Yes, I was on the Board and actually was the author of this recommendation that was adopted unanimously by the Board at the urging of Joe Smillie and the Organic Trade Association in 2001.

What it was was an attempt, or is, and I think quite an elegant solution to the issue that you are continuing to wrestle with and really I don’t think your recommendation addresses.

Because it would basically just continue the way things are, which requires the name of the certifier to be on the
label, and that can then be on a label of an operation that they did not certify. That is the current situation.

So a commissioned merchant/private labeler, the co-packer has to be certified. That doesn’t change. But the name of that certifier appears on a label connected to an operation, then, that is not certified. That is the current status.

With that, the audit trail can easily be broken because oftentimes that private labeler buys ingredients and actually manages the sale, manages the formulation, but yet they are not inspected; they are not part of the audit review.

This was a way to let the free market decide who is going to be identified on the label. The private labeler could choose to be certified, and then the name of their certifier would be identified and they wouldn’t reveal who the co-packers are, but,
yet, the audit trail would be complete. Or they could choose to reveal the name of the co-packer, identify the co-packer, along with the certifier of the co-packer, which is already required -- that wouldn’t change at all -- if that is their choice.

It allows the free market to decide, but it maintains the audit trail, just by simply inserting the word “certified” in front of the handler or distributor who is identified on the product.

CHAIRMAN O’RELL: I have Andrea and then Joe.

MS. CAROE: Just a point of information on here: It is required in the organic system plan that manufacturers that are applying for certification have their labels as part of their organic system plan.

So if a manufacturer is labeling under a private label, that is part of their organic system plan. Their certifier should
be able to reference the fact that they are packing in that label. So the audit trail is there. I would dispute that.

MR. RIDDLE: Well, reviewing labels is not reviewing the audit trail. You have to look at the ingredient purchases and the product sales.

The co-packer will have quantities delivered, but will not have the information necessarily on sales and purchases. It is just simply not the case.

I inspected many such operations where the co-packer is paid for doing a custom fee, and that’s it. They don’t control anything.

I agree that they should have copies of the certificates, but oftentimes they don’t even have those because those go to the private labeler who purchased the raw ingredients.

MS. CAROE: So you are making a case for the private labelers -- this
recommendation that we have today in front of us, you just made our case.

MR. RIDDLE: Yes, I don’t think they are inconsistent whatsoever. I think this actually addresses and solves the problem in the long-term.

CHAIRMAN O’RELL: Joe?

MR. RIDDLE: The 2001 recommendation gets to the heart of the matter.

MR. SMILLIE: Well, Jim and I have already debated this, as you might have guessed. So we will replay in public the debate.

My response is that there’s a couple of issues at stake here.

The first issue is, is there a break in the audit trail? I don’t believe that there is a break in the audit trail because I believe that that co-packer that produces that product for a private label must -- not should, and if they don’t,
they’re out of compliance -- must have those certificates for those ingredients.

Regardless of who purchased the ingredients, the person that made the product must have those documents. And if it means also having the complete purchase information, if we believe that to be required, then they must get it. That would be the responsibility of the commissioned merchant to provide those documents. But that is the responsibility of the co-packer to have those documents. Otherwise, they are out of compliance.

To say that they don’t have them, I’m not disputing that may have been the case or it may still be the case, but, clearly, they are out of compliance if that is the case. It is not the responsibility of anyone else other than that co-packer regardless of whether they are the total processor. Whether they purchase their ingredients themselves, or got them from the
commissioned merchant, they still are responsible for it, period. So I don’t believe that there is a break in the audit trail.

No. 2 is it is a commercial issue, in my mind, not a regulatory issue. By forcing, with the implementation of the 2001 document, it would give the private labeler three choices.

The first choice, which I believe is the correct choice, but it is not my decision, is to get certified themselves. That way, they are on top of their own business. There’s a lot of benefits other than packaging benefits.

I think most private labelers are seeing that it is really wise to get certified because they don’t have to go through patching nightmares. Also, in the process of certification, they discover, hey, I'm getting more on top of my organic business, which is where they should be in
the first place.

That is the best choice. We both agree with that. The documents don't differ in that area.

The second choice is, then, if they decide not to be certified, then they are forced to put the name of the co-packer on the label, which they are just not going to do it. It is just not an industry practice. Whether it should be or not, I can't get into that debate, but they are not going to do it because, basically, it is their commercial interest not to.

So then I think they are forced between two positions: either get certified or don't come out with an organic product. I think our job is to convince the food industry and agriculture to go as organic as possible. So I believe that their insistence on -- this is what I have seen anyhow, that they are not going to put the name of the co-packer on their product.
They are just not going to do that.

So if that forces them not to go organic, I believe that that is not our position because I don't think the countervailing argument that there's no audit trail is accurate.

CHAIRMAN O'ReLL: I will allow Jim to give a brief response, if you have one.

(Laughter.)

Then we are going to take a question from Bea, and then I think we need to sum up where we are at, if there is no other comments.

MR. RIDDLE: Well, yes, and I disagree with Joe, that the audit trail is broken in many instances. I think that it is very difficult to have the enforcement capability in the rule without this change that you and others advocated.

We listened to the stakeholders at that time. But the other thing -- and
this was a compelling argument at that time -- was that the certifier's name is being used on a product that they did not certify, on a label of a company that they did not certify.

I believe that is a bit of an exposure issue, that any certifier's name is appearing on a product of a company that was not certified by that.

The thing about revealing the co-packer, as we discussed, in the dairy industry that is standard practice, that the plant number has to appear on a product for any dairy, and that can be tracked without much difficulty at all. So there already is a precedent for revealing co-packers in the dairy sector.

Thank you.

CHAIRMAN O'RELL: Thank you, Jim.

Thank you for the input.

The Board will have the last word, I guess.
MR. SMILLIE: I'm on the Board and you're not.

MR. SMILLIE: It's not personal.

MR. SMILLIE: As Michael Corleone said, this is not personal; it is just business.

The label that that co-packer packs for, their name is going on that label. They have to submit that label to their certification agent for approval. They are connected with that product. There is no divorce there. They are connected with that product.
I still believe that the audit trail is intact and that it is a doable project.

CHAIRMAN O'RELL: Bea?

MS. JAMES: Okay. I want to make a comment about the idea of the co-packer's information being on the final product. I am speaking on behalf of the retailer sector, that the reason it is called private label is because it is private.

This is an opportunity for a retailer to brand an organic product that represents their particular company, so that they can have that privacy of searching out that product, having it branded underneath their name, and being able to represent that to consumers.

If we were forced to put co-packing information -- and I'll just use Trader Joe's as an example -- that that would disclose a lot of what they have built their business on, and I think it would
really hurt the retail industry if we did that.

I also think that private label is called private label for a reason. It is a program that was built by the retail industry so that they could have a marketing opportunity for products that they feel brands their name.

Secondly, I just want to point out that there is another piece of the audit trail that we haven't really discussed that is not even a part of what we have to -- I mean the USDA doesn't regulate, and that has to do with the FDA regulation 21 CFR 101.5. It is listed in this document.

Labeling regulations clearly state that food labels must list the name and address of the manufacturer, packer, or distributor. So the name of that retailer or private label co-packer is also going to be on that final product to help with the audit trail.
I can speak from experience that there is no private label organic product that the company I work for has been able to move forward with without getting that label signed off on by our certification agency that we work with. That is just part of the protocol, that our co-packer has to have approval from their certification agency that the label is acceptable as part of the audit trail.

CHAIRMAN O'RELL: Okay, thank you, Bea.

I think where we are at, to sum it up, is that the particular recommendation that was passed in 2001 was considered at the Committee level during the discussion of this recommendation. Perhaps it didn't dot the "i's" and cross the "t's" and address that recommendation in the text and background information of that recommendation, which will go back to Committee, and that will be done. There
will be a new recommendation coming out for the next meeting.

So thank you.

MS. CAROE: Moving on to the next recommendation that we have, it is standard format for certificates. I am not going to read through this entire document. Based on the comments that we received, you folks actually did. So thank you for that.

(Laughter.)

We were approached by the program based on questions that they have received. So this document was created in order to assist and facilitate the certification process, commerce of organic products, and improvement of compliance and enforcement. It is the Wild West of certificates out there.

We all know that the regulation has few requirements for these documents. Our recommendation does reference those requirements. It does reference where the
establishment of a certificate is in the regulation.

However, it has become increasingly difficult for operations, especially processing operations that use many different ingredients, to keep track of these certificates and was the product, indeed, certified to the National Organic Program Standard. Who was the entity? Who is the certifier? The information is all over these, and especially with so many foreign certifiers now accredited, it has become very difficult.

So we did make a recommendation. Skipping to page 3 of the recommendation, Section B, we included that this certificate must say that the products are in compliance with the USDA Organic Standard.

To just frame out why this is important is we do have foreign certifiers that are certifying to other standards. They are accredited to the USDA, but it
needs to be very clear that the operation that received the certificate did receive it for this standard and not the other standards that that certification agent does issue certificates for.

We also included that the crops and products should be included on that certificate. We have heard many comments about the vagueness of what is a crop and what is a product and how detailed you get.

But at this point, that is the way the language is. Without consulting my Committee, my opinion is that we let the industry figure out what that means, let the certifiers determine what best works for their entities. Many certifiers are including this information on the certificates.

But, indeed, for a buyer and for a manufacturer that is trying to maintain their own certificate, having a verification that the product they're buying is included
in the scope of that certification is of value.

We have received some recommendations from industry on changes to that terminology. We can consider those as well.

Also, one of the other things that was suggested that we add, we actually had two suggestions. One, that the certificate be in English. I have no problem with making that addition. That was, again, valuable input, and I think the Board should consider that addition.

Also is the categories of certification, whether that is 100 percent organic and made with organic product. That, too, is a very important addition to this recommendation that I believe we should consider.

The next part of our recommendation was the C Section, which also elicited robust comments in our attempt to
structure what this standardized format may or may not look like.

We have heard many comments saying the suggestion that an 8.5x11 paper and the requirements for margins are too prescriptive. We've heard that message.

At the same time, interestingly enough, we've gotten the message that industry wants a template, which to me seems more prescriptive, but I understand that there would be merit to that.

So this Committee should consider perhaps coming up with a block format or something for this information to make it easy reference for these new certificates.

The Board did vote on this recommendation. It was seven in favor, none opposed, no abstaining, and none absent on this vote. We had no minority opinion on this recommendation.

Based on the fact that we have received so much information, there is the
opportunity, and we should consider tomorrow deferring this because it is not immediately needed in order to satisfy the industry or other actions moving forward. So just putting that ahead, that that is an option. That is a real option for this recommendation because there is no apparent immediate need.

With that, I open for discussion.

CHAIRMAN O'ReLL: Any questions, comments from the Board?

Nancy?

MS. OSTIGUY: I have a question about -- and this would be for the program. Do we, when we interact with other countries, have a requirement that anything that they send us is in English? Is that ever done?

MR. BRADLEY: Mark Bradley.

We have not required that they submit documents in English unless they want us to work on them.
(Laughter.)

We can charge for the processing of documents that they have sent over, and that would include a translation fee. So we have been very successful in saying that, if you would like for us to work on this right away, that we will require that they be in English.

The certificates, I think we could require that they at least have National Organic Program written in English, so that would be clear.

But as far as the whole document being in English, we have required that the certifiers translate those for us, if we request them for clarification.

Does that answer your question?

MS. OSTIGUY: Uh-hum.

CHAIRMAN O'ReLL: Joe and then Andrea.

MR. SMILLIE: Yes, I agree with Andrea on this document, that the phrase
"certified" is compliant with USDA's National Organic Program, as required. That is one of the really confusing issues in the organic industry because oftentimes we will see certificates from accredited certifiers, and the people say, "No, my certifier is accredited by the USDA." We have to continually say, "Yes, we do understand that, but the certificate itself has to say `in compliance with the USDA.'" That has been a big issue.

At one point in time it was complicated because the program did say they could not require under the regulation that compliance statement. So I take it that you are in agreement with the fact that it is within our -- you know, that we can require that on a certificate.

CHAIRMAN O'ReLL: Andrea?

MS. CAROE: I'll just pass on my comment at this point.

CHAIRMAN O'ReLL: Okay. Hearing
no further discussion, let's move to the next item.

MS. CAROE: Okay. The next item is expiration dates on certificates for organic operations.

Again, when this rule was first implemented, there were numerous comments on the need for expiration dates on certificates, which was the standard method that certifiers were users prior to the implementation of the rule.

The program advised us on the life of a certificate or certification, and that this is likened to a license. Unless it is taken away, it is in good standing, and that expiration dates were not appropriate.

Also, the program was very optimistic that there would be at some point a real-time tool in order to maintain a verification that certificates were good.

Because of numerous logistical
challenges, that is not going to be a reality anytime soon. Until there is some type of tool, it is very difficult for operations that are purchasing organic ingredients to easily and comfortably show that they are in compliance with what they are, indeed, purchasing.

For that reason, the program has come to us and suggested that perhaps an expiration date should be investigated. We do know that the certification does not expire. However, we don't know necessarily that the certificate, the document that expresses the certification is in good standing, can't expire.

I will say that we have made this recommendation for expiration dates to be added to the list of required information on certificates. We have also offered an allowance for letters from certifiers to extend in periods of -- you know, where the certifier can't finish the evaluation
process, which is allowed under the regulation. It is allowed that you could slip, depending on the stage of production for a particular farm or various other issues. So there is in the recommendation allowances to have that time slip.

We also have addressed that, if it isn't an extension or renewal of that certification process, an annual renewal, if it actually is a re-entry into organic, that it would be looked at as a new certification.

We have heard comment on it. It has been interesting. We have heard comment from everything from Jim giving us a big "Yahoo" on that to some of the original testimony folks that wanted this in the beginning saying, "You know what? We got really comfortable without it."

However, I do believe we should move forward with this recommendation. I think it is a service to the processors that
are using these ingredients to have some verification that these products and their vendors have done what they were supposed to do to maintain their certification.

I think this is very important. I see at some point in the future, when the program has bandwidth to create that real-time tool, that we will be offering rule change to pull this back. But at this time, I think this is an important piece in compliance and enforcement. For that reason, we will, hopefully, be voting on this document tomorrow.

CHAIRMAN O'RELL: Discussion?

MS. WEISMAN: Just one point.

CHAIRMAN O'RELL: Yes.

MS. WEISMAN: Clarification: that when Andrea was talking about it, in our recommendation we actually didn't change; the allowance for continuation already existed, that what we are recommending that is new is that there would
be an issuance of a letter to state that allowance.

MS. CAROE: Correct.

MS. WEISMAN: So just that.

MS. CAROE: Just for the extensions, you are talking about?

MS. WEISMAN: Right.

MS. CAROE: Uh-hum.

MS. WEISMAN: That the opportunity already existed.

CHAIRMAN O'RELL: Thank you.

Okay?

MS. CAROE: Okay.

MR. KARREMAN: One other thing on that: Rigo and I were just talking about it a little bit. How about like an update sticker, you know, like you get for your license plate up in the corner?

(Laughter.)

Seriously. Less paperwork.

MS. CAROE: Where were you six months ago, Hue?
(Laughter.)

You know, that is another tool that could be used. I believe that this is something that certifiers are familiar with. They were using this as a tool before. I mean that is a possibility.

CHAIRMAN O'RELL: Bea?

MS. JAMES: Andrea, I think one of the problems that you might face with that is people peeling off the sticker. That, unfortunately -- I just don't see how that -- that's the reality, you know. Peel it off and stick it on something else.

CHAIRMAN O'RELL: Stick it on something else.

MS. JAMES: A good idea though.

MS. CAROE: That's thinking out of the box or out of the pasture.

MR. KARREMAN: It was Rigo's idea, actually.

MS. CAROE: All right, so hearing no more discussion --
CHAIRMAN O'RELL: Yes, move on.

MS. CAROE: Okay, moving on to our last item, which is a discussion item, just to frame this out, I am going to give this to Joe Smillie who has worked on this for the Committee.

Joe graciously took up the charge of working in collaboration with the program to create or to work on a procedure, a standard procedure for satisfying peer review requirements.

Michael Lacy did work on this for us in the past, but with the onset of the Aquaculture Task Force, Michael's time was at a premium. So Joe took this up for us.

So having that, I will turn this over to Joe.

MR. SMILLIE: Well, the Compliance, Accreditation and Certification Committee is now in the exploration phase of looking at options for the Organic Food Production Act mandated Peer Review Panel.
The establishment of a Peer Review Panel allows the formal participation of the organic community in the auditing of the NOP accreditation system.

There is a long, if not recent, history of real concern about this issue in the organic community. In fact, if I recall -- and Lynn Coody will serve as institutional memory on this for me, I trust, and for the NOSB -- that was one of the absolute hottest issues coming from OFPA and the regulation. I mean I remember the stir it caused, the debate, and the insistence of some of the pioneers of the organic movement in that Peer Review Panel.

Since then, it has sort of run a course. Let's start at the beginning, and, basically, the citation from the Organic Food Production Act of 1990 is Section 21.17, which isn't that long, so I will read it in full.

It is Section 21.17, "Peer Review
of Certifying Agents.

"(A) Peer Review. In determining whether to approve an application for accreditation submitted under Section 21.15, the Secretary shall consider a report concerning such applicant that shall be prepared by a Peer Review Panel established under Subsection (B).

"(B) Peer Review Panel. To assist the Secretary in evaluating applications under Section 21.15, the Secretary may establish a panel of not less than three persons who have expertise in organic farming and handling methods to evaluate the state governing official or private person that is seeking accreditation as a certifying agent under such section. Not less than two members of such Panel shall be persons who are not employees of the Department of Agriculture or of the applicable state government."

Then we move along to the
regulation, the regulatory text, which is Section 25, you know, 7 CFR, Part 205.509, Peer Review Panel.

"The Administrator shall establish a Peer Review Panel pursuant to the Federal Advisory Committee Act, FACA, 5 USC AP2 and sequential. The Peer Review Panel shall be composed of not less than three members who shall annually evaluate the National Organic Program's adherence to the accreditation procedures in this Subpart (F) and ISO/IEC Guide 61," although I believe that is Guide 17.11 now, "General Requirements for the Assessment and Accreditation of Certification/Registration Bodies and the National Organic Program's accreditation decisions.

"This shall be accomplished through the review of accreditation procedures, document review, and site evaluation reports, and accreditation decision documents or documentation. The
Peer Review Panel shall report its finding in writing to the National Organic Programs Program Manager."

Those are the two legal interpretations. That is where we are now.

The recent work that was done on this was commissioned to ANSI, who added to their professional auditing staff a person well-versed in organic regulations and in ISO 61.

I think, in general, the community was satisfied by the results of that audit. It certainly was -- you know, it pointed out a number of deficiencies in the program, to which the program has responded and is correcting.

So, my opinion only, but I don't think there was a great concern or discomfort in the community that this function wasn't done properly, that the evaluation of the accreditation was thorough and rigorous, but that the process whereby
it was done may or may not have been in line with what was mandated in OFPA.

So we are at the point now of looking at what was mandated in OFPA, what the regulation says, and where we want to go to, I guess, bring back the original concept of the Peer Review Panel, which our Committee feels is important to the organic community, that it is time to move along and institute the Peer Review Panel which was mandated by OFPA.

So in notifying my fellow Board members that we are embarking on this, we are looking for any input you have. If we do enable the CAC Committee to pass the previous three recommendations, this, then, will become, as far as I can see, Andrea, our top-priority item for the Committee in the future and will be on our work plan.

CHAIRMAN O'RELL: Thank you, Joe.

MS. CAROE: That's all for CAC unless there is discussion.
CHAIRMAN O'ReLL: Any discussion on Joe's comments?

(No response.)

Hearing none, thank you very much, Andrea, for the CAC Committee presentation.

Valerie, you are looking at me like I am supposed to do something now.

MS. FRANCES: I have this little message here for someone in the room.

CHAIRMAN O'ReLL: For someone in the room.

MS. FRANCES: And I can't guarantee the spelling or the pronunciation. Is there a Ms. Kua Ellen? You're supposed to call your office.

(Laughter.)

CHAIRMAN O'ReLL: Okay, good.

It is 2:06. We are not too far behind schedule. At 1:45 we were going to get into public comment. We will start public comment now at 2:06.
I will just let everybody know that everybody will have just five minutes. There may be some proxies in here. No questions from the Board.

(Laughter.)

I'm not saying the Board can't ask questions. That is, obviously, not what I am saying.

(Laughter.)

But it is four-and-a-half hours. So we are here for four-and-a-half hours of public comment without questions.

So what I would ask the public commenters, because we have indicated that we want to accept the time here to open up and not have anybody say that they didn't get to give their just do. So we are here; that is what we are here for. We welcome the public comment.

If somebody has previously stated everything that you want to say, you might get up there and just kind of back their
recommendation and maybe be a little more succinct in your comments to help us along the way. But, obviously, you will get your full five minutes. We are not cutting anybody's time short.

With that, before I begin public comment, let me again address the NOSB policy for public comment at NOSB meetings while we are getting the stage set.

All persons wishing to comment at NOSB meetings during public comment periods must sign up in advance. That has taken place.

Persons will be called upon to speak in the order that they sign up. Unless otherwise indicated by the Chair, each person will be given five minutes to speak. Persons must give their names and affiliations for the record.

A person may submit a written proxy as a written proxy to the NOP or NOSB requesting that another person speak on his
or her behalf.

No person will be allowed to speak during the public comment period for more than 10 minutes.

Individuals providing public comment will refrain from any personal attacks and from remarks that otherwise impugn the character of any individual.

With that, I will ask if we are set up. We're set.

Our first commenter will be David Cox, followed by Richard Vento. David?

Just if there are any new commenters, Bea will be timing you. She will hold up the one-minute sign. But, again, it is not her obligation that you see it. You will hear the buzzer go off.

No David Cox?

Okay, we will go to Richard Vento. On deck, Jim Riddle.

MR. VENTO: My name is Richard Vento. I'm affiliated with St. Gabriel
Laboratories in Orange, Virginia. I am the petitioner for asking sodium lauryl sulf ate to be listed on the National List as an herbicide.

I believe that when NOP regulations were written, that they could not be all-inclusive. Although sodium lauryl sulf ate is listed as a soap and falls under a category of ornamentals and roadways, I believe that the Board has discretion of extending the usage for those materials.

The petition that I filed, and confirmed by the TAP report, indicates that sodium lauryl sulf ate is unlikely to cause harm to humans, animals, and environment.

I am going to kind of paraphrase and kind of go a little quickly there in the comments.

Sodium lauryl sulf ate is unlikely to cause environmental contamination. It is rapidly degraded. It is not expected to
persist in the environment when applied as an herbicide. When applied according to the petitioned use, it is unlikely to cause harmful environmental effects. Breakdown of sodium lauryl sulfate is not surface active or toxic, and it is unlikely that it will cause adverse health or environmental problems.

Sodium lauryl sulfate is a very safe ingredient. It is recognized by the FDA as a grass, generally accepted as safe, and is used in marshmallow manufacturing, soda manufacturing, drug capsules, shampoo, toothpaste, and a whole bunch of other things.

It also has an exemption from tolerance from the FDA. It has an exemption from tolerance from the EPA.

So when used as an other ingredient, it not only can be sprayed near crops, it can be sprayed on crops.

The NOP reports -- sodium lauryl
sulfate is much safer than a lot of other ingredients that are allowed. For example, vinegar, sulfuric acid, sodium hydroxide, pine oil are all on the 4(b) list. Also, careful application of manure as a fertilizer allowed.

The CDC lists 24 causative agents that can be found in that substance. Other references list 40 or more specific causative agents.

The NOSB Committee response to one of the questions was that 4(a) inerts like citric acid and safflower oil could be used. This comment is actually a strong case for allowing sodium lauryl sulfate. Seeing that the NOSB does not discriminate between 4(a) and 4(b), the comment that is in the report that they make is actually a strong indication that you should approve it.

If sodium lauryl sulfate were listed as an other ingredient on a label and
not an active ingredient, it already would be allowed.

The product that we sell is an herbicide called Burnout. If sodium lauryl sulfate were listed as an other ingredient and not as an active ingredient, it already would be allowed. So, intuitively, it is hard to figure out why it makes sense that being listed in one place on the label, it shouldn't be allowed in another place, that it should be denied.

As far as comments from the Committee on aquatic organisms, I concur with the comments, and there should be some concern. The product we sell called Burnout II has on it environmental hazards, "avoid spraying directly into water."

I would suggest that the Committee accept the substance for the National List and possibly as on the front page, listed as herbicides with a restriction that it not be used in lakes,
streams, ponds, and other bodies of water.

Thank you. Any questions?

CHAIRMAN O'RELL: Thank you.

Any questions from Board members? Hue?

MR. KARREMAN: So right now it is allowed as like an incipient in formulations, is that right?

MR. VENTO: It is allowed as an other ingredient.

MR. KARREMAN: As an active ingredient or an incipient?

MR. VENTO: Oh, we have active ingredients and --

MR. KARREMAN: Or whatever the other --

MR. VENTO: -- other are inerts. The EPA has actually asked that the inerts be changed to other. So when listed as an other ingredient, it is acceptable because it is on the 4(b) list.

So I don't know; it doesn't make
sense that it is listed in one place and not another; that it should be okay.

Again, the Committee recommendation to use other ingredients that are on the 4(a) list is tantamount to saying that it is all right to use ingredients that are on the 4(b) list.

So I am not sure what you are saying.

CHAIRMAN O'RELL: Yes, Gerald?

MR. DAVIS: The main difference between the two, when you say citric acid, vinegar, safflower oil, is these four ingredients -- why is SLS different? The difference between those three and SLS is SLS is synthetic and those are naturals. Yes, they are all on list 4, but that's the difference. That is where the distinction is being made.

CHAIRMAN O'RELL: Barbara?

MS. ROBINSON: This is a list 4 inert?
MR. VENTO: Yes, that's correct.

MS. ROBINSON: A list 4? Why are you prohibiting this? Those are allowed.

MS. OSTIGUY: We are not prohibiting it. We are not prohibiting it.

MS. ROBINSON: So what is the problem? I guess I'm confused.

MS. OSTIGUY: We are not going to list it. We are not prohibiting it. It is a synthetic.

MS. ROBINSON: But they are already allowed, aren't they?

MS. OSTIGUY: No, no.

MR. VENTO: Excuse me. We use it as an active ingredient, not as an other ingredient.

MS. ROBINSON: Right.

MR. VENTO: If we put it on the label as an other ingredient, it would be acceptable.

MS. ROBINSON: Oh, so you want it petitioned as an active, correct?
MR. VENTO: Yes.

MS. ROBINSON: I get it. And it is okay to use it as an inert?

MR. VENTO: Yes.

MS. ROBINSON: I see.

MS. OSTIGUY: It's one of the problems --

MS. ROBINSON: Another one of those confusions?

MS. OSTIGUY: Yes. It is one of the problems that many of us had.

MS. ROBINSON: It is okay to have it as an inert, but it is not okay to have it as an active.

MS. OSTIGUY: It is one of the problems that many of us had with that particular solution for dealing with inerts and just doing a categorical listing.

MR. VENTO: You know, the original founders of the rules I think did a good job. They can't think of everything. I would ask that reason prevail and you
accept this substance.

Thank you.

CHAIRMAN O'RELL: Thank you.

Jim Riddle. On deck will be Tom Hutcheson.

MR. RIDDLE: Jim Riddle here, and I have no handouts and no proxies, although I did have offers.

(Laughter.)

And I still agree with everything I said yesterday, so I won't repeat any of that.

But I would like to address a couple of things that did come up yesterday, in particular, about some budget issues. Barbara Robinson made a statement that the states have only spent 40 percent of their cost-share funds. An analysis of the states' dollars from figures provided by the NOP shows otherwise, and Liana Hoodes is going to provide details on that. So I would like to pre-endorse the comments that
she will be offering later.

But the thing that really concerns me is kind of pitting the cost-share against the NOP and compliance budget. We shouldn't be fighting for crumbs. Both are vary valuable and deserve full and adequate funding. So I just really want that message to be heard.

I am also concerned about the TAP contract money because I understand that we are out of TAP contract money or TAP dollars. Last year, when I was on the Board, there was about $200,000 to $300,000 for TAP contracts, and there haven't been that many TAP reviews done.

I don't know where the money is, but, hopefully, there will be money in the next budget cycle for all of the TAP reviews. I would just request that the Board receive a budget report from the NOP at least annually. That used to happen in the early days.
If that information is out there, it really helps all of us, supporters of organic agriculture, to be able to go to the Hill and lobby and request adequate funding, if we know the money that is being received and how it is being spent.

On the dairy issues, just a few comments. One thing that concerns me was another statement that Barbara made, saying that the requirement for pasture would be a significant change to the regulation.

It is my understanding that the pasture is required for ruminants, to accommodate their natural behavior of the species, in the regulation right now. It is just a matter of clarifying how much pasture is adequate.

So I don't see it as a significant change. I see it as a refinement of the current requirements.

The Board has made numerous recommendations to resolve this issue. I
just urge you to stay engaged and to have a plan in order to submit comments on behalf of the Board when a proposed rule is issued.

Likewise, the two-track, or now the seven- or eight-track, dairy replacement situation is really out of hand. It contradicts two of the three purposes of OFPA, which are to establish a consistent standard -- this is an inconsistent standard -- and to facilitate trade in organic products.

As Hue knows, it is certainly an impediment to the trade of organic dairy animals not knowing who can buy what.

So, once again, I remind you the Board has a very simple recommendation -- it has already been adopted -- to require one track, one standard, regardless of how an operation originally converts and gets certified, and to stay engaged and be prepared to comment on that.

I would like to inform you of a
couple of developments. Nationwide Extension Service has an electronic initiative, E-Extension, and now there is an E-Organic team that I am a part of to develop electronic information through Extension offices nationwide to support and inform/educate on organic. So I wanted you to be aware of that.

Also, a new research initiative that the University of Minnesota is just engaging in is development of alternative crops, to expand crop rotations with a focus at looking at methionine content in these alternative crops.

I know that the methionine, the synthetic methionine allowance is set to expire in 2008 to stimulate research. I just wanted to let you know that is a three-year research that we are just now starting on the next crop year.

I wanted to end by saying thank you to Nancy and Kevin and Michael. I
really enjoyed getting to know each of you and to work with you.

It is quite a sacrifice of time/effort that you have put in. Just keep going on.

(Laughter.)

Yes, keep it coming. But it has been a pleasure to work with you, and I really appreciate all of your efforts. So thank you.

CHAIRMAN O'RELL: Thank you very much, Jim.

Certainly, on the work plan items for the Livestock Committee going forward, the response to a proposed rule will be a high priority as well as the origin of livestock. That has been discussed.

MR. RIDDLE: Uh-hum.

CHAIRMAN O'RELL: That wasn't the primary focus here, waiting for it; we had hoped that there would have been a proposed rule published prior to this meeting, but --
MR. RIDDLE: Yes, and the challenge for the Board, to act as a Board, you have to take actions at a public meeting. Oftentimes these proposed rules aren't in play.

But what we had done in the past, and I encourage the future Board to consider, is to compile comments and then send it as a letter from the Chair.

CHAIRMAN O'RELL: Absolutely. If the comment period is open during a portion when we can't meet in public, we will do that, yes.

MR. RIDDLE: Yes, okay, great.

CHAIRMAN O'RELL: Thank you.

MR. RIDDLE: Thanks.

CHAIRMAN O'RELL: Tom Hutcheson, and next up, Joe Mendelson.

MR. HUTCHESON: Hello. Tom Hutcheson with the Organic Trade Association.

It is nice to have been bumped to
the second day because now I can include all the collective wisdom from the first day in our own comments and have them be a little bit more polished that way.

That said, it, of course, does not include our reflections on the discussion this morning. I would like to speak a little bit about that.

First, we would like to inform the Board that in the next few weeks OTA will launch a pilot ingredients commercial list for OTA members. This follows extensive work with our ingredient suppliers and our Council, and we will keep the Board informed of our experience with this list-serv as we go forward.

In our written comments, you will notice that we do comment on a number of the items before you: the Pet Food Task Force, compost, hydroponics, agricultural and nonagricultural, commercial availability, aquaculture, and the recommendations of the
CAC Committee. I am just going to focus on a few of these for now.

First, agricultural and nonagricultural, we do appreciate the very deep work that went into the recommendations. However, while the recommendations point towards a desirable end, it is evident that we may not be ready for all parts of the recommendation to move forward.

While OTA supports the designation of yeast as agricultural, and we now do understand there are issues with livestock, it is apparent that the trade is not ready for all microbials, including bacteria, currently to be designated as agricultural.

Therefore, we do not support the deletion of the words "or a bacterial culture" from Recommendation No. 1, but we do support the other deletion in the definition of nonagricultural substance and
see no reason why that cannot move forward expeditiously.

In Recommendation No. 3, we do support the expeditious inclusion of yeast as soon as the other issues are solved. We feel that dairy cultures are not yet ready, as questions do remain regarding appropriate standards for organic dairy cultures.

We would also support moving yeast to 606 once animal feed questions are resolved, if it can be done as a technical correction, which it might be considered if the definition of nonagricultural changes, as you have proposed.

Regarding commercial availability criteria, some of the information requested consists largely of subjective market assessments which require considerable speculation. For example, regarding evidence of hoarding, how might a small handler substantiate the very real concern that a few large manufacturers could force
out their competition by buying up all available organic supplies of a critical minor ingredient?

A closely-related issue is that identification of sources or product or ingredients is usually confidential business information, which has been pointed out. We must protect the identity of these sources as confidential or risk having commonly-available organic product bought out by perhaps even one large buyer, which would force small businesses to drop product lines, a situation from which it would be extremely difficult to recover.

Regarding the NOSB and NOP role in review of petitions, we suggest implementing a process that involves posting all petitions for inclusion on 606 for public comment prior to NOSB review in order to permit potential suppliers of a petitioned product to come forward. This, I think, would complement what you are looking
for in a review of risk assessment for commercial availability.

Again, I do urge you to read the full written comments. There are other points to be made.

Regarding the issuance of certificates, including both issuance and renewal dates on a certificate should satisfy buyers' needs for current information. We understand that initial certification is not necessarily for a year and renewal dates would be in terms of a year in terms of the annual review.

Thank you very much.

CHAIRMAN O'RELL: Thank you, Tom. Just one note in your comments about yeast and being able to be moved with a technical correction, and I know that is kind of a shaky area. But there is a petition that has been filed for requesting removal of yeast from 605(a) and being placed on 606.

MR. HUTCHESON: And we do hope
that all of those 606 petitions, including any petitions for flavors, can be reviewed expeditiously. We have been urging members to submit petitions for 606 as much as we can --

CHAIRMAN O'RELL: And they have.

MR. HUTCHESON: -- and we are going to continue to do that.

CHAIRMAN O'RELL: And I believe that.

(Laughter.)

And we will try to get to them as timely as we can because we understand the urgent need for the industry with the June 7th, 2007 deadline approaching.

MR. HUTCHESON: Thank you very much.

CHAIRMAN O'RELL: Thank you.

Any questions for Tom?

(No response.)

Thank you.

Joe Mendelson, and next up is
Neil Sims.

Joe, I believe you have a proxy.

MR. MENDELSON: I do have a proxy from Steve Gilman of NOFA-Interstate.

CHAIRMAN O'RELL: So we will take him off the list and you have his time.

MR. MENDELSON: I will try not to use it all.

CHAIRMAN O'RELL: Ten minutes.

MR. MENDELSON: Good afternoon. My name is Joe Mendelson. I'm with the Center for Food Safety and the National Organic Coalition.

As always, I want to thank the program and the Board for all their hard work.

I do want to state for the record, to my knowledge, I don't have any outstanding FOIAs with the agency at this point.

(Laughter.)

So I would like that duly noted
in the record.

Briefly, yesterday there was some discussion about whether organic is a philosophy or a science, and I would proffer that it is both. It is the best of ecological science and it is a philosophy. It is not either/or.

In that context, I would like to talk about aquaculture. I have submitted comments on the recent questions. It is not up on the website yet, but copies are going around right now.

First, a little context: The Center for Food Safety recognizes that there's benefits of applying organic practices to aquaculture, but I think qualification for the organic label depends largely on the systems that are used.

Frankly, a system that puts an Atlantic salmon in an open-water net pen in the Pacific Ocean and feeds it fishmeal derived from wild-caught forage fish should
never be considered to be organic. We think such a system is antithetical to the ecological principles that underlie what organic was or how organic was developed and why Congress passed the OFPA. It is contrary to consumer expectation as to what a label on organic fish would mean, and, frankly, it is also, I think, contrary to both the OFPA and the implementing regulations.

First, on the ecological principles, there's no question that organic is focused on environmental protection. The history of developing the regulations and the law all reflect this, going back from the original 1980 study of organic that the USDA did to the 1990 passage of the OFPA, and what Congress was saying about organic at that time, the 2000 regulations, and more recently, in 2005, what the Board did to amend farm plans to greater incorporate production of biodiversity.
I would remind you that the organic regulations define at 205.2 organic production as promoting ecological diversity and conserving biodiversity. Well, the questions that were offered or asked for responses that might allow up to 12 percent fishmeal derived from wild-caught forage fish and open-water net pens I think violate this principle.

I will go briefly. I know a number of colleagues of mine from the environmental community will be speaking on these issues.

But escapees from net pens are directly looked or have been linked to loss of native biodiversity. The concentration of fish that are in these open-water pens has been linked to spreading of diseases that transfer to native populations. The concentration of waste from these facilities has been linked to toxic algal blooms and other environmental harms. The use of wild-
caught fish from forage fish, frankly, would be supporting an unsustainable practice of harvesting forage fish in many fisheries.

In fact, as more ecological science comes down, we are finding that forage fish form a basis for marine ecosystems. So impacts on those from fishmeal production really need to be further looked at, and I don't think can be considered at this point to be consistent with an ecological principle, especially when you are taking more forage fish out than the protein you are getting out ultimately from some of these systems.

Consumer expectation, there is one poll or focus group that I know of that is done by the New Jersey Department of Agriculture. Consistent with this environmental issue, just under 60 percent of consumers say they expect fish that have an organic label to be produced through systems that reflect environmental
soundness.

Second, the poll says that 95 percent of consumers expect that the fish that they would be buying with organic labeling would have less contaminants or no contaminants in it.

The fishmeal issue, that impacts directly on the fishmeal issue. We know that fishmeal derived from wild-caught forage fish has been linked to concentrating environmental contaminants such as PCBs and dioxin into that fishmeal.

When you combine that fishmeal being fed to, say, a salmon that is normally a migratory fish, but is confined to a net pen, that fish will be fatter. In that fat, it will have higher levels of PCBs and dioxins.

The farm fish, compared to a wild-caught fish, will, indeed, have increased contaminant levels. My comments reflect citations to scientific reports to
that effect.

That would be in direct contradiction of what consumers expect. They would not expect a farmed organic fish to have actually higher levels of contaminants.

Last, I would like to talk about the potential violations of OFPA. Allowing up to 12 percent fishmeal, I think falls in direct contradiction with the Harvey case. We know the Harvey decision says that organic livestock requires feed rations to be 100 percent organic feed. Right now, fishmeal derived from wild fish cannot be considered to be a feed that is organic. Essentially, allowing up to 12 percent would mean you have an 88 percent organic feed ration, not 100 percent feed ration.

I don't think you can say levels of 12 percent fishmeal are a feed additive or a supplement. I just don't think that washes.
Also, I would remind the Board that 205.239 -- and we have had discussions of this in the dairy issue -- requires producers or organic operators to establish and maintain livestock in living conditions that accommodate their health and natural behaviors. I think the Board needs to look very hard at whether using a migratory fish such as a salmon in a net pen kind of facility can be consistent with that standard.

Two other brief comments: One is on enforcement with this issue. I know there has been a lot of talk between industry, our organizations, a program about better enforcement. Well, right now there are products out there that are labeling their product as organic fish. There are no standards. The regulations don't even define fish as livestock because of the specific issue of not having standards.

Congress was clear that, when the
OFPA was passed, that USDA had jurisdiction and should enforce against any product that is labeled organic and implies that it is meeting the USDA standards but does not. I think it is time and consumers deserve to know what they are buying, and with organically-labeled fish at this particular time, they don't know.

Lastly, there was brief mention of the Peer Review Panel. I think Joe properly characterized what happened with the ANSI report, but I would also remind the Board that, back in October of 2002, our organization petitioned the Department of Agriculture, the Organic Program, to establish a Peer Review Panel based on the May 2001 NOSB recommendation for a Peer Review Panel. That legal petition is still pending. We have not received an answer to it.

We certainly appreciate the ANSI audit, but we do not feel that that was a
legal response to our petition. I would encourage the Board to look back at that recommendation and also our petition.

Thank you.

CHAIRMAN O'RELL: Thank you, Joe.

Any questions for Joe? Bea?

MS. JAMES: Is it feasible to assume that perhaps it might be just too difficult to certify fish as organic, wild-caught?

MR. MENDELSON: To certify wild-caught fish as organic, I am not sure how a certifier could certify vast ecosystems where fish is produced as somehow being consistent with organic.

I don't think we should feel that that's bad or unfortunate. I think there are a lot of folks who are looking at wild-caught systems and marketing their fish as wild-caught. Maybe that is the top of the pyramid, if we have sustainable wild-caught fisheries and then move on to organic.
Sometimes maybe we can't do the whole ball of wax. In my mind and in our organization's mind, that is fine.

CHAIRMAN O'RELL: Mike?

MR. LACY: Joe, I just wanted to be sure that we have been clear enough in our questions. The 12 percent fishmeal and fish oil thing was a temporary --

MR. MENDELSON: Yes.

MR. LACY: Okay. I just wanted to be sure.

MR. MENDELSON: We understand it is a temporary, but I still think that we have seen temporary, and you know, just the discussion on sunset, temporary doesn't always mean temporary once you have had it there for seven years. So that is a concern to us.

I would say one thing I did forget: that as far as consumer opinion, we did go out to our 40,000-member true food network to get their opinions on what they
viewed an organic label for fish would mean. We are still in the process of collating that information. Once we do have it, we will, of course, forward it to the Board.

CHAIRMAN O'RELL: Dan?

MR. GIACOMINI: Without having had an opportunity to look at your entire comments, you specifically mention problems with open pen, with the 12 percent fishmeal violating Harvey, with aspects of migratory fish being in a natural setting. Not meaning to sound flippant or anything, do you see any potential for organic farmed fishing, aquaculture?

MR. MENDELSON: I think we do. Like I said, it is system-dependent. I think closed systems, maybe some land-based systems, systems that are not initially based on fishmeal.

So maybe you are looking at herbivoric species or fish species that don't feed on fishmeal. That, in fact,
could be a basis for developing organic fishmeal down the line.

So I don't think we rule out organic aquaculture. We certainly understand that there's a history of using aquatic animals in farm systems for centuries. So I don't think aquaculture is per se inconsistent with organic.

CHAIRMAN O'RELL: Any other questions? Bea?

MS. JAMES: I am just trying to get my head around this idea of the netted-off pens that are in the ocean, having that be certified when the ocean water is the same as the wild-caught, whereas in crops, agriculture, you have to have your land go through a period of three years. The ocean never changes. It is what it is.

So I'm just confused how we could have netted-off pen systems as a possibility for organic fish.

MR. MENDELSON: Well, as my
comments reflect, I agree. I hadn't looked at it, considered the difference between certifying a land-based system over a three-year transition and water sources versus the actual water sources.

I think, just based on an ecological principle, and what we know happens to net pens and the escapes, the fish, and what that means to the environment, that it is inconsistent.

CHAIRMAN O'RELL: Thank you, Joe.

Neil Sims, and then next up is Dom Repta.

MR. Sims: Aloha. My name is Neil Anthony Sims. I am the President and Co-Founder of Kona Blue Water Farms.

There was an insert, I believe, in your folders to this effect, which I would like you all to refer to, if you can, as I go through.

I am also a representative of the Organic Seafood Council. The Organic
Seafood Council is an industry association of producers, brokers, wholesalers, certifiers, and other industry entities that have come together to allow us to speak with one voice on issues that concern us.

These deliberations of your Board are of tremendous importance to our Council and to the future of organic seafood.

Kona Blue is the first integrated open-ocean fish farm and marine fish hatchery in the U.S. We are growing a sashimi grade Kona Kampachi in waters over 200-feet deep, using innovative hatchery techniques and advanced ocean engineering.

We are committed to environmentally-sound aquaculture, and we believe that open-ocean fish farming can and should be able to be organic. Our fish deserve it; the environment deserves, and American consumers deserve it.

The principles of organic production lie at the core of our company.
Our company's mission is to expand the environmentally-sound production of the ocean's finest fish. Our company's core values are sustainability, product quality, and consumer health, all of which are fundamental organic principles and essentials of organic consumers' aspirations.

Just as an aside, and additionally actually, our Chairman, Mr. Tom McCloskey, was formerly the lead investor and Chairman of Horizon Organic Dairy, one of the largest organic success stories in the world.

I respond in the following pages here to the specific questions that were delineated in the September 8th invitation for comment.

However, firstly, I would like to address that which I believe is a wide misapprehension, that fish farming is inconsistent with organic principles. This
perspective has been deliberately fostered by some of the prior testimony to this Board, testimony that is at best ill-informed and at worst broadly slanderous.

The best way to address these untruths is through transparency. I, therefore, issue an open invitation to you all as a Board or as individuals to come to Kona and to visit our offshore fish farm site and our hatchery operation.

There you will see the waters in which we culture our fish, some of the cleanest waters on earth. You can snorkel around our cages and see that the water quality upcurrent from our fish cages is, indeed, indistinguishable from the water quality downcurrent of the cages.

You will see how we rear our fish, native fish, in the hatchery using algae that we grow ourselves to feed to the zooplankton, which, in turn, feeds our larval fish.
You will see the innovative submersible cages that we have deployed, which reduce the likelihood of escapes and minimize the impact on the view plane.

You will see us humanely harvest our Kona Kampachi, a fish that in the wild is considered unsalable, but which we, through our rigorous commitment to quality in our hatchery and grow-out procedures, we are able to render into a high-end sashimi-grade product that is prized by the top chefs throughout the country.

I realize that it is difficult for you all with your busy schedules to travel to Hawaii, much as you might wish. So I have inserted here amongst the text of this submission photographs of our fish and fish farm that should help to inform your thinking.

I would also recommend you to our website, where we have video footage of our fish offshore and details of our
comprehensive permit process and the ongoing monitoring. In the interest of complete transparency with our community and with our customers, we have water quality data from our ongoing water quality sampling program, www.kona-blue.com.

I hope that this will help you to understand that, while fish farming is often framed as a pejorative, we believe that it can and should be conducted in an environmentally-sound manner, in strict accordance with ecological and organic principles.

Certainly, there are additional costs that we must bear to ensure that our fish farm meets the standards which we have already independently set for ourselves, but we also hope that organic certification can provide recompense for what we have accomplished so far and can further spur us and other fish farmers like us towards continuing improvements in our farming
methods.

This is what organic certification has done for dairy, beef, poultry, and crop production. This is what it should also do -- no, this is what it must do -- for seafood.

Thank you.

CHAIRMAN O'RELL: Thank you, Neil.

Nancy?

MS. OSTIGUY: Just to clarify, do you use any fishmeal?

MR. SIMS: Yes, we do. About 50 percent of our feed is a combination of fishmeal and fish oil.

We were originally feeding our fish what is called an organic diet. It is produced in British Columbia, but it is organic in European standards. But this is primarily based on Peruvian anchovies, which was to prove that an anchovy fishery is sustainable in its current sense; it is not
scalable. If we are going to go and build an industry around open-ocean aquaculture, we want to find a more broadly-sustainable solution in the long term.

So this organic fish feed, we recognized ourselves, wasn't what we would like to embrace as a company. So we worked with the feed company, and we said, "We need to include more sustainable ingredients in here," primarily those of agricultural origin.

So we have been able to replace 50 percent of the fishmeal and 25 percent of the fish oil with agricultural grains. We can't do this with an organic feed now because there are not the organic grains available in the quantities that we would need.

We would also hope to find -- I'm sorry, you're looking -- we're talking primarily about Canola, which is the main replacement for the fish oil. There is not
organic Canola available, so I am given to understand.

We also aspire towards more replacement of the Peruvian anchovy by use of fishmeals and fish oils from byproducts from edible seafood processing, such as the Alaskan pollock or the salmon.

One comment that I would have on the questions that you have here, it is not really clear to me the delineation that is drawn between fishmeal and fish oil from reduction fisheries, such as the Peruvian anchovy, and fishmeal and fish oil from processing byproducts of what are otherwise edible seafoods.

I think an organic principle would say that we should embrace the recycling of these byproducts, and so we shouldn't restrict fishmeal and fish oil from these edible seafood processing byproducts. Perhaps you may wish to limit fishmeal and fish oil from Peruvian
anchovies and like fisheries, although they do come from incredibly clean waters in a very well-managed fishery, but the other byproducts I think we should encourage, just as the fundamental organic principle of recycling and good use.

MS. OSTIGUY: A followup: My question actually has to do with whether or not the feed is organic, and you're saying no, is what I am hearing.

MR. SIMS: Organic by what standards, please?

MS. OSTIGUY: By our standards.

MR. SIMS: By the standards of the 12 percent, as it is drafted in here?

MS. OSTIGUY: No, no, no. As it exists right now, the organic standards that animals and plant production are currently held to by OFPA and the rule.

MR. SIMS: No, the fish feed that we are using at the moment is not because the grains that are included in there do not
come from organic sources. We would love to have organic Canola available to be able to include that.

The other thing is fishmeal, I am a little unclear about the status of fishmeal because somebody had mentioned earlier today that fishmeal is included in organic poultry feed. Could somebody perhaps -- is that correct?

MS. OSTIGUY: No. No.

MR. SIMS: There is some confusion. And if it is, I would wonder why are we drawing a delineation between what we feed the chickens and what we feed the fish.

Perhaps the same question might be asked of fish oil, if fish oils are included in any agricultural, any other feeds for other agricultural animals.

MR. KARREMAN: I believe there's some soluble fish oils that some of my dairy farmers have used in the organic -- they're certified organic.
MR. SIMS: Okay. Please remember this is a sustainable fishery for these forage fish in the Peruvian anchovies, which is the prime source for what we use. But we, ourselves, recognize we don't want to be wholly reliant on this. We want to move towards something that is more broadly sustainable, as we are building a larger industry out there.

CHAIRMAN O'RELL: Joe?

MR. SMILLIE: I hesitate, Chairman, because of the time constrictions, to open up the full-scale aquaculture debate, which we will have.

CHAIRMAN O'RELL: Right, which is not on the agenda to be a general vote item.

MR. SMILLIE: It is not on the agenda for a vote.

So having participated in the Aquaculture Task Force, as Kevin has also, I think this is a large, complex issue. Neil has brought a number of very important
points. Again, it is going to be one of those issues on what goal do we want to achieve.

Do we want to bring in organic aquaculture or do we not want to? What compromises are we willing to make to do so?

It is going to be a long one and, I am sure, a contentious one, but I just don't think we can start it today. But I really thank you for your comments and sort of putting it out there, because we will be dealing with it in great detail.

MR. GIACOMINI: And we will work on taking you up on your offer.

(Laughter.)

MR. SIMS: Bring your sunscreens and your mask and snorkel.

CHAIRMAN O'RELL: Just make sure you read your conflict-of-interest guidelines before you head to Hawaii.

(Laughter.)

However, as an outgoing member of
NOSB, I could certainly be talked into going there.

(Laughter.)

MR. GIACOMINI: We all must be properly educated before making a decision.

CHAIRMAN O'RELL: Just remember it is sashimi grade.

MR. DAVIS: A quick question.

CHAIRMAN O'RELL: Gerald?

MR. DAVIS: I'm not sure if it is in here somewhere. This species of fish, is it carnivorous or --

MR. SIMS: Yes, it is carnivorous.

MR. DAVIS: In its natural native -- okay.

MR. SIMS: Yes.

MR. ENGELBERT: Kevin, real quick?

CHAIRMAN O'RELL: Yes, Kevin.

MR. ENGELBERT: Do you have any plans for any other species of fish, to try
to raise in the methods you're using right now, for those types of pens, that location, that water depth? Any other plans anywhere else of any type of diversity?

MR. SIMS: Not immediately. This one fish distinguishes itself so well with feed conversion ratios and its growth rates and its presentability, both as a sashimi product or in the white tablecloth restaurant.

It is a tremendous fish to be growing. I am really proud to be growing it. I would love to be growing it organically.

CHAIRMAN O'RELL: Thank you, Neil.

Dom Repta and Amy Nankivil.

MR. REPTA: Good afternoon. My name is Don Repta. I'm from the Coastal Alliance for Aquaculture Reform. From the name, you should be able to figure out what I'm going to be talking about, aquaculture.
I have come from British Columbia. This issue of organic aquaculture is extremely important to us, in reference to the NOSB, in that British Columbia is the largest supplier of farm salmon to the United States. Seventy-seven percent of our production ends up in the United States market, which recent data shows is about 50,000 metric tons of farmed salmon end up into the U.S. market.

I am here to say that we do commend the Committee on taking on this pretty contentious issue of aquaculture. We have been working as a group for somewhat two decades now on salmon farming issues. So you might be there in 20 years as well.

We do not support open-net cage carnivorous species for organic standards. We would support herbivores in these standards.

We think that it is imperative that the production method in the
carnivorous species such as salmon, which most of my experience is with, be considered separately, and even considered whether or not it will ever fit into the framework of organic principles.

The basis of this is basically 15 years of peer-reviewed published science that I have included into the written submission I have made, six pages of peer-reviewed published science, which I think is really important to mention, that it shows that actually open-net cage systems cannot uphold the ecological integrity of the surrounding environment. It can't even maintain the ecological integrity of the surrounding environment. In fact, open-net cage carnivorous farms in British Columbia are showing to decrease the ecological integrity of the surrounding environment.

Most recently, you probably have heard the really hot issue in British Columbia is the issue of sea lice impacting
wild salmon. Wild salmon are pretty much a foundation of the entire coastal ecosystem up and down the West Coast, extremely important in British Columbia.

Right now, we just had a report come out of the University of Edmonton, co-written by the University of Victoria, Princeton, and Hawaii, showing that migrating juvenile wild salmon that pass salmon farms are having up to 95 percent mortality rates from sea lice. This is an astronomical impact on the foundation of the coast.

We are seeing escapes of farm salmon globally. We have partners in Chile, Norway, Ireland, Scotland. It is fair to say right now that the standards for conventional farm salmon do address this. They do say that production facilities must minimize escapes. Yet, we have over a million escapes a year globally.

In 2004, in British Columbia, we
had 40,000. I know in Europe they have had incidences, single incidences, of over half a million farmed fish, farm salmon.

We do have the issue of waste. I did take note that in the standards, the draft recommendations, waste is actually categorized as a metabolic product, which I find quite odd.

This is the waste; we are talking about large-scale farms here. We are also talking about a product that has a cultural impact in British Columbia. We have First Nations territories, First Nations populations who are dependent on species that exist around salmon farms. We are seeing that their rockfish populations are being contaminated, and we are seeing major impacts on their clam beds.

So there is a cultural aspect to these standards as well that I think is missing in the draft recommendations, especially if we are getting area-specific
to British Columbia.

We also have predator impacts. Again, already in the conventional industry they are supposed to minimize or eliminate impacts on predators. There are a couple of farms in British Columbia that are operating under what they would call organic principles. Yet, in May of this year, we had 1300 sea lions drown in one net. That was pretty significant impact. Again, we are seeing these impacts consistently through the last 30 years.

Okay, some things that I will get to: The solution is closed containment. We have been working for that for a long time. However, closed containment technology in the marine environment still does not adhere to organic principles.

It is not allow the innate behavior of the salmon. They are a migratory species.

And on the feed issue, even if we
decrease or allow 12 percent feed to be used, we are still talking about a feed conversion efficiency rate of 1.5 to 1. If we assume that organics is going to grow in the next seven years to 25 percent of production of BC farm salmon to the U.S. market, we have a net loss protein of 8500 metric tons of wild fish still. Highly inefficient, does not adhere to organic principles.

Also, we are at a point now where I think consumers really have clarity on what organic means. We have a system that is really supportive of organics. To introduce a species that is so contentious with, you know, we have environmental groups that will be sending a different message than somewhat that the organic producers will be, I think it muddies the water on what organic means.

Please ask me questions -- lots.

(Laughter.)
I came all the way -- this was an expensive 300 seconds I just had.

(Laughter.)

CHAIRMAN O'RELL: Well, you gave us a lot of information here, though, in the handout, which is great.

MR. REPTA: Yes.

CHAIRMAN O'RELL: And we appreciate that because it will be information for us to consider in discussion, further discussions on the topic.

Any specific questions at this time? Nancy?

MS. OSTIGUY: A similar question that was asked to others: Are there any types of seafood operations that your group would find acceptable within an organic system?

MR. REPTA: Yes, for sure. We would find species much lower on the trophic level. We would find herbivores acceptable.
The real issues are raised in carnivores. I mean I believe this would be the first time in North America that USDA and OCB would allow the farming of a carnivore to be called organic.

So I am not sure -- I think I'm correct in saying that. But we can't see how it fits into the kind of organic paradigm.

I must say there are a lot of global initiatives working right now to reform the salmon farm industry. There are partnerships with industry, environmental groups, academics, scientists, retailers. So this work is being done already.

I think we can get it to a place that goes beyond the organic scope and actually see organic certification of carnivores, actually, take us a step backwards from where we already are.

CHAIRMAN O'RELL: Yes, Gerry?

MR. DAVIS: I'm very ignorant on
I do not sit on the Task Force.

A quick question though: Your organization is against net pens and net type of culture. How do you farm salmon?

MR. REPTA: Well, currently, in British Columbia the only technology used is open-net pen systems. We have been working to reform the industry for a number of years now.

We are at a point now where we are at the table with governments and industry, and really looking at the economic feasibility of closed containment systems. We are comparing the economic feasibility. In that comparison, we will look at actually right now what the industry can just put off as externalities, including that into the cost of open-net systems.

There is a trial project that is supposed to be happening in this upcoming year of a closed containment system. We
have worked very hard on getting the funding going for this. So we are committed to reforming the industry, not shutting it down. But we believe it can be brought to a place that resembles sustainability in some form.

CHAIRMAN O'ReLL: Nancy?

MS. OSTIGUY: These reforms that you are trying to negotiate, one of my questions has to do with the innate behavior of, let's say, specifically salmon. Is there a way to do a confined system that actually accommodates their innate behavior?

Part of the reason why I'm asking is that how we choose to do the aquatic standards has a lot of influence on other species, including one that I'm most familiar with, which is honey bees, accommodating natural behavior and forage being very important.

MR. REPTA: Short answer: No, which is why we believe that this falls
outside the realm of organic standards. I mean it is not to say that we shouldn't keep pushing for reform.

We have gone through this process in British Columbia. For two years, we had the Certified Organic Association of British Columbia looking at aquatic species.

One of their main reasons for denying organic certification was that it would not allow the innate behavior, open-net cage systems and closed-net cage systems, which is one of the reasons why I think that basically salmon farming or carnivores can't be classified organic. It can be classified as something, whether it is more sustainable, whether it has a different kind of stamp on it, but I really think the push for organics is just a push for marketplace.

CHAIRMAN O'RELL: Any other questions?

(No response.)
Thank you very much.

MR. REPTA: Okay, thank you.

CHAIRMAN O'RELL: We appreciate your comments.

Amy, I think that we are going to take a break, if that is okay with you, and you will be first up. I appreciate that.

Oh, we have a 3:15 break. I thought it was 3:00. Okay, all right. I just did a time check. I thought it was 3:15.

Corey Peet is next on deck then.

Thank you.

MS. NANKIVIL: Hi. I'm Amy Nankivil, and I am with Northland Organic Foods and Northland Seed and Grain, based in St. Paul, Minnesota.

Thank you for the opportunity to speak today. I would like to make a few comments regarding the Handling Committee's recommendation not to renew bleached lecithin as an allowed substance on the
National List under 606.5.

Much of what I prepared to say today was discussed earlier this morning, and I am in agreement with most of the ideas presented. Therefore, I will move through quickly to get to break.

There seemed to be some confusion surrounding the use of lecithin and the forms in which it is available for food, cosmetic, and nutraceutical uses. There are essentially two primary forms of lecithin used today, a fluid form and a powdered form. Within each of these two forms, there are many different versions or specifications. I believe one commenter suggested up to 165 forms.

Lecithin, bleached, has been listed by the NOP under 605(b) and primarily referred to powdered lecithin, which is considered a nonagricultural product.

Unbleached lecithin, on the other hand, has been listed under 606 and covers
fluid lecithin that is unbleached and is considered an agricultural product.

I brought two samples to show the difference between fluid and powdered lecithin. One is a typical bleached fluid lecithin; the other is a typical bleached powdered lecithin.

As you can see, they have very different physical appearances. As you can imagine, they have very different functional properties.

While fluid lecithin is primarily used in margarine and chocolate manufacturing, the powdered form is used in dry bakery and beverage mixes, cookies, pretzels, dried fruit, powders, instant infant formula powder, cosmetics, and anywhere else that a liquid with high soy oil content cannot be used.

At Northland, we produce and sell both fluid and powdered lecithin as conventional non-GMO products. Northland
and others have worked with experts in the oil and lecithin fields to develop certified organic dry lecithin. It has comparable characteristics and properties to the conventional counterparts.

As of today, we have been unsuccessful. We and others continue to work and hope to have something acceptable in the future.

While fluid organic lecithin works for certain limited uses in chocolate and margarine production, it does not function well for most other applications, particularly where a powder form is required. This can be confirmed by the many organic food manufacturers who have tried the fluid organic version and who have submitted letters to the NOSB recommending to renew both bleached and unbleached lecithin. In fact, there were 20 companies that originally petitioned to specifically keep bleached lecithin on the list.
The NOSB Handling Committee made a final recommendation for 606 lecithin, unbleached, on April 20th, 2006 to renew the substance, saying, quote, "The Handling Committee agrees, based on compelling evidence given by a manufacturer of organic lecithin, unbleached, that every use of lecithin, unbleached, cannot be adequately filled by the organic forms that are currently available."

It follows, then, if unbleached fluid lecithin does not work for all applications, then certainly the same fluid product that is bleached will not work either.

It is even more clear that the fluid form of lecithin will not work to replace the powdered form.

Commercial availability is defined as, quote, "the ability to obtain a production input in an appropriate form, quality, or quantity to fulfill an essential
function in a system of organic production or handling, as determined by the certifying agent in the course of reviewing the organic plan," end quote.

Organic bleached lecithin powder is not available in an appropriate form, quality, or quantity to warrant having it removed from the National List, nor will the fluid form work as a replacement.

While it is the goal of everyone here today to work diligently to replace non-organic ingredients with certified organic counterparts, we must be sure that the organic versions are readily available in the form, quality, and quantity before removing the non-organic counterparts from the National List.

Therefore, based on the information that Northland and many others have submitted, I would like to ask the NOSB Handling Committee to strongly reconsider and renew lecithin, bleached, as published
in the final rule 205.605(b).

Thank you very much for considering my comments and your hard work on this particular ingredient.

CHAIRMAN O'RELL: Thank you, Amy.

Any questions?

(No response.)

Thank you.

MS. NANKIVIL: Thank you.

CHAIRMAN O'RELL: Corey -- oh, Rebecca. I needed my glasses.

MS. GOLDBURG: I'm pretending to be Corey.

CHAIRMAN O'RELL: Okay.

MS. GOLDBURG: As you can tell, I am not Corey Peet. I'm Becky Goldburg. But Corey couldn't be here today, and he asked me to read his comments and I agreed to do so.

CHAIRMAN O'RELL: Okay. You are also signed up --

MS. GOLDBURG: I am signed up to
offer my own comments.

CHAIRMAN O'RELL: Okay, so this is just --

MS. GOLDBURG: These comments are on behalf of the Monterey Bay Aquarium.

CHAIRMAN O'RELL: So it is not a proxy. It is five minutes.

MS. GOLDBURG: It's five minutes.

CHAIRMAN O'RELL: Thank you, Rebecca.

MS. GOLDBURG: Well, first of all, I want to thank you for the opportunity to offer these comments. Please accept these comments on behalf of the Seafood Watch Program of the Monterey Bay Aquarium.

"Since its inception in 1984, the mission of the Monterey Bay Aquarium has been to inspire conservation of the oceans. For the last six years, the Seafood Watch Program has been working to foster consumer and business awareness and action for sustainable seafood. Over this time, we
have distributed over 8 million easy-to-use pocket guides to consumers throughout the United States.

"We have submitted comments to your questions and summarized them here today.

"Overall, we are in support of organic aquaculture, especially for low food chain species such as shellfish and odiferous fish grown in systems where inputs and outputs can be carefully controlled.

"At present, we have considerable reservations about the concept of organic production for carnivores species, such as salmon and other emerging species grown in open-net pen systems, as these species and systems are currently inconsistent with the principles of organic production.

"In addition, these pose considerable sustainability concerns regarding the protection of wild ecosystems, human health, and feed procurement."
"The scientifically-documented environmental impacts associated with open-net pen production of carnivores includes the high use of marine resources for feed, contaminants, escapes, disease and parasite transfer, the release of chemicals, and impacts on local predators.

"Many of these issues result from the use of open-net pen technology, which is dependent on a free flow of water from the cages to the surrounding marine environment. This lack of control over inputs and outputs means that open pens are simply not consistent with the current principles of organic production which requires careful control over inputs and farm exports. As such, we do not support products grown under these conditions as being labeled organic at this time.

"In addition, we suggest that certifying the use of wild fish as organic feed input is a direct contradiction of
organic principles and a requirement of control at all levels of production.

"In addition, the reduction and complete elimination of fishmeal and fish oil is also not consistent with organic principles, which state that species must be fed a diet consistent with their natural diet. While it is likely that alternatives to fishmeal and fish oil will be developed, the numerous scientifically-documented environmental concerns with farming of carnivores, the inconsistency of these alternative diets with organic production principles, and the inconsistency of using wild fish as feed with organic principles call into question the suitability of carnivores as being labeled organic at this time.

"An additional serious issue for the farming of carnivorous fin fish involves the high use of fishmeal and fish oil in their diets. Leading scientists have warned
about the inherent unsustainability of farming of the food web because of the relative inefficient use of marine resources.

"Additionally, although it has been argued that some reduction fisheries are sustainable or well-managed, present fisheries science models give little consideration to the importance of small pelagic fish in the wider ecosystem.

"The ecosystem sustainability of reduction fisheries must be resolved before specifies heavily dependent on these feed inputs can be certified as either sustainable or organic.

"We firmly believe that organic production should represent the gold standard for human health and sustainable production. The statement `good for you and good for the earth' is widely believed to be the consumer expectation of organic products."
"The USDA organic label is an established and trusted name to consumers, and USDA should seize the opportunity to set a gold standard for sustainable organic aquaculture.

"Given the range of issues associated with production of carnivores fin fish and the numerous ways that farming carnivores are incongruent with organic production principles, we conclude that trying to certify farmed carnivores at this stage could erode the high standing that the USDA organic label has with consumers.

"Given the confusion in the marketplace over what is sustainable and healthy, it is very important that the USDA organic label remain true to its principles and lead the marketplace in setting a high bar for healthy and sustainable products.

"Thank you for the opportunity to comment, Corey Peet, Aquaculture Analyst, and George Leonard, Science Manager, for the
Seafood Watch Program at the Monterey Bay Aquarium."

And I understand that the Aquarium also submitted, and I have seen them on the web actually, much longer comments for the Board.

CHAIRMAN O'RELL: Yes. Thank you, Rebecca.

MS. GOLDBURG: Okay, thank you.

CHAIRMAN O'RELL: The next person on the list, I think I got a note to take this individual off. So I just want to check with the audience. It was Sue Ann McAvoy. She's not here. Okay. So we can take her off the list. I didn't want to pass anybody up.

It is 3:15 now, and we do have a scheduled break. So I would like to take a 15-minute break.

When we come back, Diane, you are up, and Lynn Clarkson will be following Diane.
We are going to start promptly at 3:30.

Thank you.

(Whereupon, the foregoing matter went off the record at 3:19 p.m. and went back on the record at 3:40 p.m.)

CHAIRMAN O'RELL: Diane, I see you are ready to go. How about that?

MS. GOODMAN: No time to lose, guys.

CHAIRMAN O'RELL: Thank you.

Lynn Clarkson is following Diane.

MS. GOODMAN: I would really like to wait for Julie to be here. Is that possible?

CHAIRMAN O'RELL: Wait for who?

MS. GOODMAN: Julie. I could switch.

CHAIRMAN O'RELL: If you want to switch, because we have a quorum here, and I apologize that there is a member missing, but -- she's Handling Committee. Lynn is
related to Handling Committee as well.

MR. CLARKSON: My name is Lynn Clarkson. I am one of the Managing Directors of Clarkson Soy Products. We have what might be called a vested interest in organic lecithin.

I have submitted some materials being passed around to you, giving a cover letter, sort of a processor's state of the industry, followed by a couple of recommendations for you, followed by market segmentation.

We are offering you the best information we can get in the world. We are not relying only on our own opinions. We have gone out and found the leading expert, at least we think the leading expert, in the world, and tried to make sure that we are providing you very valid information.

Since I do not like to read to people who can read better than I, let me just encapsulate what we are offering here.
First of all, there are some research and development projects going right now that will moot much of your discussions today. I read all the comments that you received, and the language that we are using with respect to lecithin might be misleading.

There are really two families of lecithin, fluid and de-oiled. Under the de-oiled world, you run into powdered and granular.

So if I could walk you through a process, typically, lecithin starts with a soybean. It comes in and you extract oil. The conventional world uses hexane to extract the oil.

From the oil, you try to extract lecithin, but that carries quite a bit of oil with it. The conventional world then uses acetone to de-oil the lecithin.

So for any conventional lecithin today being used in an organic product, we
are using hexane, which is No. 80, 88, on the National Pollution Index, and we are using acetone, which is even worse. Most people aren't aware of that, but acetone is probably No. 20 on the National Pollution Index for bad things.

Okay, if we switch over to the organic world today, we start with an organic soybean. We do not use hexane. We extract the oil physically. We extract the lecithin with a combination of temperature and pressure and certain mechanical procedures.

If we then want a bleached version, we apply hydrogen peroxide; you have a bleached version.

Now if you want a de-oiled version today, you would need some solvent to extract the remaining oil residue with the lecithin. That is not available today.

But in our R&D labs, we have done that. But the conversion from an R&D
project to a commercially-available project will typically take about 16 months to 18 months. So within something like, at the low end, 12 months, at the tail end two years, there should be powdered, de-oiled, organic lecithin without any changes in the rules today. So I look forward to that day.

A suggestion for you: If there is at any time in the future a lecithin formulation that the organic world can't meet, you are in a position, I would hope, with the sufficient sophistication, to at least require that those folks providing it start with an organic soybean.

We are not facing a limitation of organic raw materials here. We are facing some process limitations.

If you would do that, then you would reduce the tendency to play games with the system, to reduce the cost of an ingredient. So we would like to see that.

When I appeared before you
before, I told you that roughly 165 formulations -- really, I perhaps confused you with that. It doesn't mean there are 165 different families. There aren't really significant differences.

There might be 165 versions of fluid lecithin, but the variations are largely on viscosity, and almost every variation there can be taken care of, be fully addressed today, inside the organic system.

So, in summary, the organic system is working the way I think you and we want it to work. It is making progress. R&D is happening. More organic products are going to become available in the ingredient line.

Secondly, we have roughly 80 to 85 percent of the current omnibus market for lecithin covered by organic lecithin, and we have some additional work to do on some things. As of today, not every usage of
lecithin can be met by an organic lecithin. It has been expressed to you by other people; it is absolutely true, but we see that changing.

So thank you for your time. Questions?

CHAIRMAN O'RELL: Thank you, Lynn.

Any questions for Lynn? Andrea?

MS. CAROE: Lynn, have you considered petitioning to have lecithin removed or the annotation on lecithin changed that would require organic soybeans be used for the listed material?

MR. CLARKSON: Yes, I began considering that earlier today.

(Laughter.)

MS. CAROE: Just to follow up on that, it is good to know that at a bench level we can do this without the synthetic solvents. However, until that is commercially available, I don't know that we
can even consider it.

MR. CLARKSON: Sure.

MS. CAROE: I mean it is nice to know, and I hope that we will receive a petition to have it taken off the list at that time, but --

MR. CLARKSON: Well, my question, let me phrase a question to you. Would you prefer we do this incrementally or would you like for us to wait the roughly 12 to 16 months and just proceed in a general way to petition for the removal of lecithin, or would you like to see us promptly submit a petition to remove fluid lecithin?

I think I understand.

CHAIRMAN O'RELL: Andrea?

MS. CAROE: I don't think it is up for us to decide that. We are going to react to what you do. I mean it is our business to serve the community --

MR. CLARKSON: Sure.

MS. CAROE: -- but we don't put
the petitions out there. When they are out there, we are going to service them the best way possible.

MR. CLARKSON: Well, these are somewhat sophisticated procedures in our community. They take a lot of your time. They take a lot of the time of the people here in the room.

So my question really was a more practical one. Should we do this twice or should I just wait and only take your time once? But I am guessing I am going to take your time twice.

(Laughter.)

MS. CAROE: We're anxious to find out what you decide.

(Laughter.)

MR. CLARKSON: Any other questions?

(No response.)

Thank you very much.

CHAIRMAN O'RELL: Thank you very
much, Lynn. We appreciate it.

Diane? Next up would be Andrianna Natsoulas.

MS. GOODMAN: Thank you. I am Diane Goodman. I am consultant to the organic industry, primarily for regulatory compliance.

This is my second comment to you. Thank you again to the Board and to NOP for the opportunity to comment today. Especially thank you to Kevin and to Nancy and to Mike for the past five years of patience and humor and diligent work.

Many of my comments were included in previous comments by me as well as others. So I promise to make this one different.

Regarding your recommendation for commercial availability information requested to add substances to 606, I got it that the Board and the Department want to see justification from the petitioner that
there is enough evidence, historical, current, and futuristic, to prove that 606 is the appropriate section for their agricultural substance and that there is the reality or likelihood that it may one day not be available in organic form.

It sounds a little vague, but we've got a lot of experience with vague. So at least we are on familiar ground.

I think the combined comments about concerns over commercial availability are all valid. I understand the explanation from those of you on the Board who I have had this conversation with, that everyone now gets it, that the NOSB is not going to make commercial availability determinations. I hear you that all the NOSB will do is evaluate a potential risk.

And I am still not convinced that there is a whole lot of difference, substantive or implied, between having the NOSB review this justification and not call
it making it a determination, since this will be new criteria and petitions will be determined for recommendation based on this decision.

Now that said, we need to take this process out for a test drive, see how it goes, and we will all know if it runs smoothly.

Please do schedule more meetings exclusively for materials review and put your recommendations forward. This will create the precedent and confidence that we need to move ahead so we can trust and confidently refine a process that will work for the Department, for the Board, and for the industry.

About colors, maybe I'm being obstinate or stubborn or obsessive or just spoiled and wanting my own way, but I still don't see why it is not possible to petition for an annotation for a substance already on the National List. It doesn't matter how it
got there, and it doesn't matter that it may sunset in a year, because right now on the list is where colors are.

While most of the substances, if not all others, that are going to end up on 606 aren't on the list anywhere, at least colors have the distinction of being there. There is an advantage to that in that in this time of no time to get this work to done, buying time to review colors in all their glorious and potentially non-synthetic use doesn't sound to me like such a bad idea.

It is not as if there aren't already more than 32 petitions in the queue and one-third of them have been returned, compounding the time necessary for petitioners to revise, correct, and make them complete, and then resubmit them to NOP.

Arthur Neal made interesting points earlier today in the discussion about
recommendations to sunset lecithin, bleached, that if there is no viable alternative, it should continue to be allowed on the National List. Robinson followed by adding that killing it would cause harm to the industry.

Needless to say, colors have no viable alternatives, and killing them will cause harm to the industry.

Arthur went on to say that the NOSB needs to base its decisions to remove a substance during sunset against criteria developed and agreed upon for sunset review.

In the case of lecithin, bleached, there never was a petition. It would follow, then, that a decision to remove it would still need to be based on the same sunset criteria.

In the case of colors, there never was a petition or a recommendation. I looked into this history and ended up in a conversation with a former NOP staff person,
Ted Rogers, who worked on the earliest version of the regulations. I knew Ted in those days, and we had a recent good conversation.

I asked him if he knew or remembered anything about how colors got on the list. He replied, yes, he put them there, and he did so based on SOOPAH, which was the System of Organic Farming and Handling, the current thinking of the day.

It seems to me, and I really hesitate to say this, that some responsibility for colors being on the list lies with the Department. So, in closing, perhaps some of the alternatives presented would offer solutions to the dilemma we have over colors. Perhaps reviewing the category against petition criteria that applies to 605(a), using the TAP review received earlier this year, perhaps considering a petition now for annotation that colors non-synthetic be approved only for one year, and
we have a precedent for this with methionine, where we have a limited amount of time that that material would be allowed for use.

Please do reconsider some kind of alternative, some kind of out-of-the-box thinking, that might not be terrible, might even be legal; just a little cushion between one category of substances at risk and some others. And if none of these suggestions are acceptable in good conscious and according to law and regulations, maybe, hopefully, you may have another idea that will.

Thank you again for all your work and commitment. I look forward, as always, to what the future holds. Thank you.

CHAIRMAN O'RELL: Thank you, Diane.

Any questions for Diane?

Diane, the methionine issue was not a sunset.
MS. GOODMAN: I understand.

CHAIRMAN O'RELL: So the precedent there --

MS. GOODMAN: It is a tricky precedent, but it is something that was annotated with an extension and then another extension to allow it on the list for a limited period of time.

CHAIRMAN O'RELL: But it has been specific, I think, in working with the program in terms of changing annotations.

MS. GOODMAN: I know, but I had to bring it up.

(Laughter.)

CHAIRMAN O'RELL: I appreciate that, and you brought up some other food for thought, I guess.

MS. GOODMAN: I hope so.

CHAIRMAN O'RELL: Color for thought. So we appreciate that. Thank you.

MS. GOODMAN: Thanks.

CHAIRMAN O'RELL: Okay.
Andrianna Natsoulas, and next up, Rhonda Belluso.

MS. NATSOULAS: Thank you. My name is Andrianna Natsoulas, and I am representing Food and Water Watch. We are a national nonprofit consumer advocacy organization based here in Washington, D.C. We seek to ensure the health, nutritional and environmental integrity of our food and water.

Food and Water Watch is pleased to have the opportunity to comment further on the interim final report to the Aquaculture Working Group. On October 6th, we already submitted comments. So, hopefully, many of you have already had the opportunity to take a look at those comments. I am just going to shorten them, make them very brief, and pull out specific points.

We urge the Livestock Committee to carefully develop the standards for farm-
raised seafood, taking into consideration consumer health and the health of the environment.

First of all, and most importantly, fishmeal and fish oil from wild fish should not be allowed in organically-certificated farm-raised seafood. A variety of scientific studies have found that farmed fish have high concentrations of persistent organic pollutants such as dioxins, dioxin-like PCBs, and organo chlorine pesticides due to high concentrations of these contaminants in the wild fish they are fed.

Furthermore, using wild fish to feed organic farm-raised seafood would, in fact, compromise the integrity of our environment. The UN Food and Agricultural Organization has identified 75 percent of wild fish populations are either overfished, approaching an overfish condition, or already depleted.

In addition, any fish that were
to be used to feed these organic farm-raised fish should come themselves from organic farms. So they should themselves be organically-certified.

Furthermore, third-party certification of sustainable fisheries in general, whether it be farmed or wild, should not be allowed, as third-party certification does not allow any accountability or transparency.

Three, only closed inland aquaculture facilities should be certified organic. Those inland ponds must not harm this running environment. They must be closed containment, so as no waste harms the surrounding terrestrial lands, and they must be a certain distance to prevent any contamination of natural ponds, lakes, rivers, or oceans.

Fourth, producers of organic seafood, organic certified seafood, must not kill, harm, or harass predators and other
wild species. This often is a problem with birds. Oftentimes with inland farms the birds are attracted to these ponds, and there have been cases where farm owners, the producers, will kill them to deal with that situation. So there should be absolutely no harassment or killing of any wild species when it comes to certifying farm-raised seafood.

Fifth, Food and Water Watch opposes the use of byproducts from the slaughter of terrestrial animals in organic aquaculture feed that could compromise consumer confidence in the organic standards, because many consumers do consume seafood, but they do not consume terrestrial animals -- chicken, hogs, cows.

So we thank you for the opportunity to comment on the aquaculture standard. I would also like to just make one comment on the avian flu.

Food and Water Watch urges you to
define procedures to exempt growers from allowing flocks access to pasture when threatened by disease, particularly avian influenza. We understand the need to protect flocks in the case of an avian influenza outbreak, but there needs to be evidence of such a threat, and certifiers need to be informed in how an exemption is granted. So that should be taken into future consideration.

Again, Food and Water Watch thanks you for allowing us to publicly comment, in addition to our written comments, which we have already submitted. We do have confidence in you that you will protect the integrity of organic standards and protect consumer confidence.

Thank you. Are there any questions?

CHAIRMAN O'RELL: Thank you very much.

Any questions?
MR. KARREMAN: One comment regarding the avian influenza. If there was an emergency and there was some declaration made, there are mechanisms within the regulations for exemptions to happen due to emergencies.

MS. NATSOULAS: They are already in?

MR. KARREMAN: Yes.

MS. NATSOULAS: Okay, thank you.

CHAIRMAN O'RELL: Dan?

MR. GIACOMINI: Yes, one of the issues that we have grappled with in this discussion is, and that is where the compromise of the seven-year and 12 percent and those things came from, is sort of a Catch-22: How do we create the organic fish to be used as the source of fishmeal and fish oil if we don't have anything to feed them that is considered organic?

MS. NATSOULAS: Right, uh-hum. So the idea is that, after seven years, then
there would be a way to feed them fully organic. Well, that indicates that it may not be time right now to be certifying carnivorous fish. That precisely may indicate that there needs to -- maybe in seven years come up with an organic standard, and during those seven years develop alternatives, so wild fish doesn't need to be used.

But that does indicate that maybe we just are not at the point now to certify carnivorous fin fish.

Anything else?

(No response.)

CHAIRMAN O'RELL: Thank you.

MS. NATSOULAS: Thank you.

CHAIRMAN O'RELL: Rhonda Belluso.

Dave Townsend is next.

MS. BELLUSO: Hi. Good afternoon. Thank you very much.

As you said, my name is Rhonda Belluso. I am presenting the comments of
the Pure Salmon Campaign. Our Director Andrea Kavanagh was originally scheduled. She apologizes; she is a bit under the weather today.

The Pure Salmon Campaign is a project of the National Environmental Trust. Pure Salmon is a partnership of over 30 organizations from across the globe with a common goal of raising the environmental and health standards of farm-raised fish.

We believe that carnivorous fin fish, specifically salmon, can be farmed safely with minimal ecological damage if the industry adopts standards that protect the environment, consumers, and local communities.

In our perspective, this means replacing open-net cages with enclosed tanks equipped with proper water filtration systems for waste and developing ecologically-sustainable forms of food to replace the current fish feed.
Pure Salmon Campaign fully supports organic aquaculture for herbivorous fin fish such as tilapia and catfish and other low food chain species such as shellfish that are produced in controlled environments. However, we do not support organic aquaculture for carnivorous fin fish, especially those farmed in open-net cages or integrated net pen systems.

While we support containment technology as a solution to many of the environmental impacts of carnivorous fin fish farming, we believe that the natural dependence of carnivorous fin fish on wild fish feed makes carnivorous fin fish inherently incompatible with organic standards.

We are here today to urge the National Organic Standards Board to omit carnivorous fin fish aquaculture, specifically the open-net pen systems, from consideration for a USDA organic label.
The Pure Salmon Campaign believes that the production of carnivorous fin fish in an open-net cage is inconsistent with organic productions on several fronts. The four main areas are:

One, there is a lack of a physical barrier between farm fish and wild fish. Therefore, the producers lack control over the inputs and outputs of the aquaculture system.

Two, carnivorous fin fish in open-net cage production uses non-organic wild fish for feed, which, according to the standard, organic livestock, including fish, must be fed 100 percent organic feed. As no wild fish are currently certified as organic, carnivorous fish farmers would not be able to meet the requirements of 100 percent organic feed if they rely only on wild fishmeal and fish oil.

Three, this type of production does not improve, and in many cases
degradates the genetic and biological diversity of the surrounding environment.

There are over 40 peer-reviewed science studies that support this statement. Dom Repta from CAAR gave you, I think, six pages' worth of some of the same studies.

Many of these studies clearly point to main examples of negative impacts. The first is escapes, and the second is disease and parasite transfers.

Fourth, farming migratory fin fish such as salmon ignores the species' natural behavioral needs, as discussed earlier.

As you have noted, there were specific questions asked to those for the public to comment upon. In our written comments submitted last week and posted on the NOSB website, we provided detailed responses to the Livestock Committee's request. So I urge you to look at those. I am just going to give a brief summary to try
to keep within my time limit here.

To start, we strongly urge the Livestock Committee to consider only those species which by their nature could comply with the current definition of organic.

In response to the second question regarding impacts on soil and the environment, we believe that the farming of low food chain species in controlled environments could well maintain the soil and environment surrounding the farms. However, we look to a large and growing body of peer-reviewed research that again demonstrates the varied and significant degradation of the marine environment, and that can result from farming carnivorous fin fish in open-net cages.

On consumer perceptions of the differences between organic and conventional aquaculture, it seemed unlikely to the Pure Salmon Campaign that organic consumers would expect organic seafood would be produced in
the manner that uses open-net cage with little control over inputs, provides little to no protection for the transmission of disease and parasites, lacks of full treatment of waste, poses potential competition with wild fish for feed, and has the potential for lethal impacts on marine mammals and other marine organisms, uses wild fish for feed, contains unhealthy levels of PCBs and other contaminants, and is fed livestock byproducts such as poultry bones and feathers.

To determine U.S. consumer perceptions of organic seafood, we conducted a national omnibus poll of approximately 700 U.S. consumers.

CHAIRMAN O’RELL: You can finish your thought.

MS. BELLUSO: Yes, thank you.

Of that number, of that close to 700, 60.5 percent questioned said they would not expect USDA organic farm fish to contain
contaminants or be farmed in a way that is harmful to marine wildlife and does not allow fish to follow their natural behaviors.

CHAIRMAN O'RELL: Thank you, Rhonda.

Any questions?

(No response.)

MS. BELLUSO: Thanks.

CHAIRMAN O'RELL: Thank you. We appreciate your comments.

Dave Townsend. Next, Jim Pierce.

MR. TOWNSEND: My name is Dave Townsend. I am with Crystal Peak Environmental. We were the petitioner on the sulfuric acid addition to the livestock waste.

I will get into why that was in a little bit. Some of you may be wondering. It has been an interesting learning process for us.

We filed the petition several
years ago, and since that time, we have learned quite a bit about the organic rules. Since the Crops Committee has issued their recommendation a few weeks ago, and in considering their recommendation, we have learned more. Then today, this morning, listening to the report of the Crop Committee, we learned quite a bit about the interpretation of the rules.

Based on what we have learned and what we have heard, I would like to make a request today. I would like to request that the Board defer any final decision on our petition until we have had a little more time to research the Crop Committee's recommendations, specifically, with respect to citric acid, an alternative to the sulfuric. That is one of the things that we really have learned a lot about.

Honestly, getting into this a few years ago, it seemed simple. It seemed that sulfuric acid was already on the list for
fish and aquatic products. We'll give sulfuric a try. It worked well. Let's do a petition.

Well, we have learned since that it is not so simple. This is a complicated process, and there's a lot of history.

Citric, similarly, I thought sort of fell into that same category, that it is on the list for use with fish and aquatic fertilizers, and therefore, it must be synthetic; it must need to go through the same petition process.

Honestly, right now, today, I don't know the answer to that. That is one of the things I would like some time to look at. I would like some time to look at whether citric acid will actually work for us, whether we need to file a new petition, whether it is a natural substance, and we don't need to do a petition.

So among other things, there is a lot of research and homework that we would
like to have a bit of an opportunity to do on that aspect of the Committee's recommendations before a final decision is made on our petition.

Another part of the Committee's comments dealt with compost. While compost is not typically done with liquid animal waste, such as in the swine industry that I work within, it is something that I would like to take a little bit of time to reconsider.

We have some legitimate concerns about the comment that it is an available alternative, because it is not available everywhere. It tends to be available where there is poultry and turkey production. But where we are in the Midwest, there are some organic producers; there could be more. The ones that are there have trouble getting compost, and then in other areas of the country, where I have talked with producers, organic producers, where they can get
compost, they have difficulty with quality and quality control.

We had a process that we worked on for six or seven years that produces a very nice, pelleted, odor-free, dust-free, pathogen-free product. We did use sulfuric acid in the pilot plant, and it made a nice product. It prevented the emissions of the ammonia during the production. We think that there is a possibility citric might do the same, but we would like a little more time to figure out that, as well as consider the regulatory aspects of the rule.

So, based on the things we learned, we request that the NOSB defer on final action on our application.

CHAIRMAN O'RELL: Okay. Dave, we appreciate your comments. This is something that we can do to vote, to defer based on the petitioner's request to update a petition or time for additional tests to be able to supply answers or questions
regarding the TAP that was done from the petition process.

So are there any specific questions for Dave?

MS. CAROE: Just one.

CHAIRMAN O'RELL: Andrea?

MS. CAROE: Just to make a point to the Board: By us doing this, since the material is being petitioned to add on the list, this doesn't hamper our decision in any way. It is not putting it on the list. It is just asking for time before we make our consideration. So I think tabling it is appropriate, and I am very interested in what you find out as far as the alternatives identified by the Committee.

MR. TOWNSEND: Thank you.

CHAIRMAN O'RELL: Joe?

MR. SMILLIE: I do agree with it, but if the question is to reform their petition on sulfuric, I see tabling it. If it is to give them time to come up with
citric, it would have to be a new petition.

CHAIRMAN O'RELL: No. No, it is to test -- in the TAP they had talked about that as an alternative.

MR. SMILLIE: Oh, okay.

CHAIRMAN O'RELL: And they want time to be able to test that as an alternative --

MR. SMILLIE: Right.

CHAIRMAN O'RELL: -- which it's their petition; it is certainly procedurally fine for us to table the vote until the petitioner comes back with additional information.

Okay, thank you.

MR. TOWNSEND: Thank you.

CHAIRMAN O'RELL: That's fine.

Okay.

MR. TOWNSEND: Thanks.

CHAIRMAN O'RELL: And committees will meeting this evening to adjust recommendations for tomorrow morning.
Hue?

MR. KARREMAN: Just a question: How long is a TAP good for? I mean, what if they come back in two, three, four years? Let's just say, is this current TAP going to be okay at that point?

CHAIRMAN O'RELL: Well, we've used past TAPs in the sunset review process which was five years later. So I think it is just -- we have to go back to the TAP itself and see if there's any information that we feel is no longer relevant or needs to be updated. But that is a case-by-case determination.

George Kalogridis is following Jim. Thank you.

MR. PIERCE: Thank you. I am Jim Pierce. I am going to be speaking comments without a script but with some outline from both Organic Valley and from my other life as a trout farmer in Wisconsin, so on behalf of the Wisconsin Aquaculture Association.
Great work. I am seeing excellent interaction between Board, program, audience, and having been a regular suspect at these things for years, I have seen some stinkers.

(Laughter.)

I think, honestly, Mike and Kevin and Nancy, you are leaving things in good hands.

Case in point: We were talking about commercial availability. A consumer rep speaks up and says, "How are we going to guarantee credible documentation of commercial availability?" A certifier rep speaks up and says, "Well, this is our plan to do just exactly that." I really like that. You guys are wearing your hats well, and you're working well together.

George, when he was on the Board, George Siemon, of course, was retired from the Board with Jim Riddle, he used to ask in all these discussions, "Who dies?" So I
want to ask you now, "Who dies?"

On these crop materials, I think the collateral damage might be minimal, but the precedent is a little bit concerning. I am wondering if it might be time for my standard tools lecture.

Anybody who has heard me give these speeches knows that I am a staunch conservative when it comes to standards, but I am considerably more liberal when it comes to materials. If the material can go through the petition and TAP process and be shown to be a viable tool in organic agriculture, I think it should be listed. Even if there is another tool there that may be as appropriate, or in some cases more appropriate, there is woefully few tools on the list, and to add whatever is appropriate for farmers, I think should be done.

A case in point is this calcium. I just dealt with a case this week where the guy was very close to a sugar beet
processing. So he had access to sugar beet lime, which is a great source of calcium, but guess what, it's synthetic and not allowed. So he is importing calcium from who knows how far, mined calcium, that, by the way, doesn't absorb as fast in the soil. It is just the balance. That seemed counter to organic principles, to have to truck in mined lime when he had a resource right there.

On colors, you ask the question, "Who dies," and I think there's going to be a line of bodies. I think it is going to be from the processors, from the consumers possibly, and it is going to lead right back to farms supplying the raw materials. So be very careful with that determination. I wish I could stand here and give you the silver bullet, but there's not one.

I do think, though, that it is a much more complicated issue as to what is a color and what is not, and how those things
all come together.

A lot of your recommendations on the table today, you are asking for rule changes. That's fine. That's fine to ask for rule changes, but we know how long rule changes can take. We also know how much of a workload the NOP is working under.

So maybe at the same time as you ask for them, you will give them some prioritization in their procedure to take them through. Because, otherwise, it is still going to be the Wild West for another five years, which wouldn't be at all unusual.

On private label -- and then we will switch to aquaculture -- on private label, your proposal on the table works for me. It works for Organic Valley.

We do 10 or 12 private label agreements, some of which are done with other manufacturers as well. I'm confident that that audit trail is not broken. Just
from a simple HACCP and recall procedure, that's there. Any consumer, any date-coded product can be tracked back. So, respectfully, I agree with Joe.

(Laughter.)

On to aquaculture, I was heartened to hear that you are still accepting comments. So answers to those six questions from the Wisconsin Aquaculture Association will be forthcoming.

A couple of quick points that I would say is: I would like to see someone from the aquaculture industry appointed to the NOSB, just as you have a handler on the Board who happens to have a lot of expertise with colors and flavors, and you have a farmer on the Board who happens to be very well-steeped in the dairy issue, as you struggle with difficult dairy issues, I think that's good.

I have heard the conversations on net pens and appropriate systems. I say you
set the systems and let the entrepreneurs figure out if they can do it. If someone can figure out how to do salmon in a net pen that is not environmentally or accumulatively, whatever, detrimental, let them try to do it.

You saw an excellent example from Mr. Sims how net pen systems can work in certain situations.

The consumers will take care of the rest. I honestly think, if domestic protein is an issue in feed, although it is certified organic, it will work it out.

The last comment: If Mr. Sims can make it here from Kona for a five-minute comment, you guys can make it to Kona. So I will just end by saying, "Aloha."

(Laughter.)

CHAIRMAN O'RELL: Thank you, Jim.
Any questions for Jim? Did you have a question, Julie?

MS. WEISMAN: No, no. I was
saying I'm volunteering to go to Hawaii.

CHAIRMAN O'RELL: Oh, you're volunteering to go, okay.

(Whereupon, the foregoing matter went off the record at 4:20 p.m. and went back on the record at 4:22 p.m.)

CHAIRMAN O'RELL: George, you have our attention.

MR. KALOGRIDIS: My name is George Kalogridis. I own George's Organics, which is an organic sourcing company. We have been dealing with commercial availability for about 20 years.

I want to depart from my prepared remarks quickly to talk about the expiration date on certificates. I think that that will be problematic for stream-of-commerce items as well as aged products, miso, wine, cheeses, where something is laid down for two or three years before it goes out into the stream of commerce and continues in the stream of commerce for quite some time. You
are talking about having to have addendums to the certificate every year on something that won't make it into the marketplace for three or four years.

So I think the expiration dates work very, very well, and would suggest that you take another look at expiration, which is going to be renewal dates. I'm sorry.

I am here today to talk about additional language to commercial availability for a proactive plan. Early this year I submitted a proposal to have proactive language included into the recommendation for commercial availability. The current NOSB recommendation does not address this language.

There is a general consensus among organic ingredient suppliers that, without proactive language, we will continue to revisit this important issue over and over again for the coming years. If there is not a plan, nothing will move forward.
When there is a request, it is a very simple proposal that works within the framework of the organic certification. When there is a request for an organic ingredient exemption, the petitioners must attach a proactive plan detailing how they will either create an organic analog or resolve the organic ingredient shortage situation. This plan would automatically become part of the organic handling plan of either the petitioner or the company that is using the non-organic ingredient and would be subject to annual review by the organic certifier.

If you view an exemption as a privilege and not a right, the addition of a proactive plan is a logical resolution to the issue of commercial availability.

Any questions?

MS. CAROE: Yes.

CHAIRMAN O'RELL: Andrea?

MS. CAROE: You're not really
meaning petitioner; you're meaning organic certified applicant?

MR. KALOGRIDIS: No, I am talking about when a person files a petition for a non-organic ingredient, at that time they also put in a proactive plan to be able to find an organic analog for that product.

MS. CAROE: Are you sure you're talking about petition and not the certificate?

MR. KALOGRIDIS: I'm talking about both. I'm talking about both. Anybody making a petition to say, "I want to have an exemption from organic" should also have in their hand a plan of how I'm going to create the organic product as well. Then that proactive plan would then attach to their organic certification of anybody using that product.

So we would always be in front of them; you would always have the certifier inspector asking them, what's being done
about this?

So the idea is to make it a front-burner issue so that we can actually come up with solutions. I have been involved in two projects where there wasn't an organic ingredient. I have to tell you that the process of petitioning to remove something and get people to accept it from a financial standpoint has been hellish. It really hasn't worked like it is supposed to, and there needs to be another way to approach it.

CHAIRMAN O'ReLL: Yes, Joe?

MR. SMILLIE: I'm having the same issue. You are talking about a petition to put something on 606?

MR. KALOGRIDIS: Uh-hum.

MR. SMILLIE: So you want that plan to be part of that petition, not just part of the justification of non-availability as executed by the certifier?

MR. KALOGRIDIS: Absolutely.
MR. SMILLIE: Okay.

MR. KALOGRIDIS: I mean the organic community is allowing you the privilege to operate in our industry. For you to just say, well, here it is and I'm not going to try to find something else, I don't think is acceptable.

MR. SMILLIE: And you don't find it adequate enough that on the second level -- let's suppose something is placed on 606, that you don't find that your idea isn't adequate if it is just placed on the person that says, okay, it's on 606; I'm requesting that I can use conventional because it isn't available. Then what you are saying is, indeed, the certifier's role in determining what they plan to --

MR. KALOGRIDIS: Exactly. It is a dual track.

MR. SMILLIE: It is not enough. You want both?

MR. KALOGRIDIS: I want both. It
is a dual track, because they are asking for an exemption from our industry.

Yes?

MS. CAROE: I need to be recognized by the Chair.

MR. KALOGRIDIS: Oh, I'm sorry.

CHAIRMAN O'RELL: Andrea? George can recognize you.

(Laughter.)

MS. CAROE: Yes. You know, what is different, though, and the climate is changing from where we were, is that just by placement of these materials on 606, there is proactive movement. By them being placed on the list, organizations like yours, George, are saying, okay, well, people are wanting to use this and they consider this not available; how do I fill that gap?

That has not been the situation. Nobody knows the depth of what ingredients are being used in that less than 5 percent as a non-organic component at this time.
There is, just by us changing our procedure and using 606 in this way, there is a proactive movement to move those towards organic and --

MR. KALOGRIDIS: It is not a proactive; it is an identification. Identification is not proactive.

MS. CAROE: Well, I don't want to argue, but --

MR. KALOGRIDIS: Oh, come on.

(Laughter.)

MS. CAROE: I'll get you afterwards.

CHAIRMAN O'RELL: But, George, I see that being proactive from two standpoints -- if you are a supplier, you have the capability to proactively go out and maybe see how you would manufacture something to comply with the regulations. If you are a user, what type of proactive plan could you have other than telling people you need this material?
MR. KALOGRIDIS: The proactive plan would be to go to their supplier and say, "What are you doing to resolve this?" There are many products on these lists right now which are natural or non-GMO, or whatever they may be. There's never been any effort by the supplier of that ingredient to come up with the organic analog.

MS. CAROE: You know, if --

CHAIRMAN O'RELL: Go ahead, Andrea.

MS. CAROE: I'm sorry. You know, say I'm a manufacturer of curry, you know, a frozen dish.

MR. KALOGRIDIS: Uh-hum.

MS. CAROE: Or something that includes saffron, okay? And say there's no organic saffron available. Nobody is doing it. I petition to have it put on 606, and I show that there's just not production of this. It is a high-value item, and the
suppliers are just not interested in supplying to the small organic industry for the amount of saffron that this industry uses.

So I show that it is not available, and I am working with my certifier to prove that I am not finding it. If saffron is on that list, and I'm a supplier of spices to the industry, I look at that and say, "Hey, if I make that available, they're going to have to use it, and I can show that it's available," that is motivation.

I think this opens it up for the suppliers to fill those gaps. I really feel that it is there.

I think by placing it on the list, that is the plan. That is the plan. I am placing it, I'm identifying it to the industry that this is in shortage.

MR. KALOGRIDIS: I can tell you right now that there are companies out there
that game this system very, very well. They do it by saying, "This is not available."

The way they say it is not available is they never plan in the future to make it available. We have had people that will come up, and we have gone to them and said, "If you sit down with us and you work with us, we can do contracts, and we can have this product for you within a year to 18 months." They never do it, and they won't do it until there's something to happen.

It is really a problem.

MS. CAROE: I agree right now, but I don't think that is going to happen in the future. I don't think it can.

MR. KALOGRIDIS: Well, let's ask the question he brought up, "Who dies if we follow this plan?" Nobody.

MS. CAROE: The expansion of the organic industry. The expansion of the available --
MR. KALOGRIDIS: No, no, I'm saying if you adopt a proactive plan, who dies? Nobody.

CHAIRMAN O'RELL: Julie?

MS. WEISMAN: I would have a concern that if this becomes -- one thing that I think would happen is that I think that this would bog down the 606 petition, against which we have a very tight time -- the 606 process.

So I think a big piece of the organic processed food industry dies.

MR. KALOGRIDIS: It isn't bogging anything down because there is not time limit on it. It simply says --

MS. WEISMAN: But it will complicate the process of evaluating petitions. Listen, I'm on both sides. I supply an ingredient, and I also have to try and continuing to source ingredients for my 95 percent products that are not currently available organically. I run into what
Andrea describes. My use is not big enough to make it interesting to the people who currently manufacture the products in the form that I need them.

You know, I could try to make them in my own facility, but I don't really have that expertise.

MR. KALOGRIDIS: And you could identify those as part -- it is just like an organic handling plan. You have to identify where the problems are and then say, "How am I going to solve it?"

It is just a basic -- if you look at a five-year forecast or seven-year -- you know, it doesn't make any difference to me as long as there is a proactive plan to resolve the problem.

MS. WEISMAN: I'm not sure how substantive that necessarily -- just because it is on the petition doesn't mean that it is any more substantial than having the materials be listed on 606 now.
I need a little more convincing.

MR. KALOGRIDIS: Have you got the time?

(Laughter.)

CHAIRMAN O'RELL: Okay, thank you, George.

MR. KALOGRIDIS: Thank you for the time.

CHAIRMAN O'RELL: Thank you.

Katherine?

Steffan Hake is up next.

MS. DiMATTEO: Hi, and today I am Katherine DiMatteo.

It has been a long time since I've actually been to an NOSB meeting. Probably from the time Tom Hutcheson joined the Organic Trade Association, I have sent him as my emissary or our emissary, OTA, to these meetings.

I have to say I came reluctantly to the meeting today because of the 10 years I have spent going to the meetings, but I
want to thank you all and commend you on your really dedicated work and the good meeting facilitation, the preparations for the meeting, NOP being here, the interaction. Again, I guess I will join Jim in noticing the interaction, the good interaction, between the Board and the industry, the community that is here, each other, and the staff.

I have to say that, very much like many of the very early meetings of the NOSB -- I don't want to take up all my time, but I felt that I had to make note of that and to let you know, as you sit there towards the end of this very long day, that your good work and your good intentions and your commitment are recognized.

I am commenting today or I am bringing back a comment on agricultural and nonagricultural, and the written recommendation I am changing -- the written comment that you just received, I'm going to
change slightly as I go through it, because of the good presentations yesterday, your conversation this morning, when you presented your Committee work.

So I am representing Thorvin, Incorporated today, producers of certified organic kelp sold under the brand name of Thorvin Kelp, located in New Castle, Virginia.

Thorvin as a company would also like to thank you and recognize your hard work and commend you for taking on the difficult and complex issues that face the organic production and processing community.

Thorvin supports the work done on the definition of a nonagricultural substance and the use of a decision tree to provide assistance in defining a nonagricultural substance presented by the Joint Handling and Materials Committee.

These recommendations provide the opportunity to implement the full scope of
the Organic Foods Production Act that includes non-plant life and, as has been brought up, I know that you will have to deal with now this very good question, "How does it fit, non-plant, non-animal?" What else needs to be done in your recommendation to make this workable.

As a company, Thorvin, Inc., that produces an organic product that is not land-based, we have seen the environmental benefits that have resulted from our organic kelp production. We believe that it is important that non-plant/non-animal life should be considered agricultural, and that by doing so, have the opportunity and encouragement to be produced organically and contribute to a positive impact on the environment.

In 2004, Thorvin joined the 15-member coalition of companies to support the petition to consider yeast as an agricultural product. Our motivation to be
part of this coalition is based on our strong conviction that continuous improvement is one of the underlying principles of organic production.

Encouraging better methods as they become available was intentionally built into the organic regulations for just this type of situation. As gentler production methods that align more closely with organic principles are developed, it is essential that we encourage and adopt them.

This direction to change the definition of nonagricultural substance allows the National Organic Program rule to move more effectively and serve the growing and innovative organic industry by supporting organic production and handling of several products that had been previously considered outside of the requirements of organic certification.

So we strongly encourage you to continue this work on this recommendation,
to move in the direction that your recommendation has presented, and to expand opportunities for non-plant and non-animal living organisms to be considered organic.

Thank you.

Any questions?

CHAIRMAN O'RELL: Thank you, Katherine.

Any questions?

(No response.)

MS. DiMATTEO: All right, thank you very much.

CHAIRMAN O'RELL: Thank you.

Steffan, and on deck, Rebecca Goldburg.

MR. HAKE: Good afternoon and thank you for giving me the opportunity to give some comments. My name is Steffan. I work for GNT. We are a base producer of natural colors, and those are all the colors that are qualified as non-synthetic.

We thought we would take this
opportunity to give a little bit of an insight on how does a color manufacturer supplier look at this, because I think colors generally are misunderstood from a lot of different angles. So what I wanted to do is just give a very quick overview.

Basically, as I said, we are a base manufacturer. We would agree that non-synthetic coloring category is too broad. Because if you look at all the colors that are available under that category, it would include carmine, annatto, paprika, just to mention a few.

Then we have to look at the process. So then if we look at annatto, paprika, and carmine, they are traditionally processed using all kinds of different solvents to make them into form that it becomes functional to use in different food and beverage applications.

Then under non-synthetic food colorings, you would have fruit and
vegetable juice color. So these are derived colors from fruits and vegetables. They can be processed with water only, or by FDA definition, they only can be processed with water.

So that is where the differentiation would come in. So for a consumer, it is very confusing. If you see on a label "annatto," you don't know what is behind the process of annatto, whereas it is a little bit more clear what is behind the fruit and vegetable juice color process.

The FDA classification of color is very misleading because anything that is capable of importing color is classified as a color and, therefore, an additive. So, therefore, a strawberry puree added to an ice cream is a strawberry, but if I now used that same strawberry to standardize a cherry juice or to add to a cherry juice, this strawberry now becomes an additive and, therefore, is classified as a color.
So we would think that a true natural color really would be a food having coloring property. Because if we cook at home, there's all kinds of foods that can impart foods to other items, such as a strawberry imparts color to the ice cream. A chocolate imparts a color to the chocolate milk.

So how do we deal with the question of making colors available for organic products? One of the suggestions would be to look at the FDA regulation, the fruit juice and vegetable juice color. This provides a wide spectrum of different colors that are available from orange, red, yellow. They work in all different applications.

By definition, that process has to be organic. You are not allowed to use any chemical solvents. You are basically removing the water, which you would do if you are making, for example, a tomato puree at home. You are simply concentrating a
fruit and vegetable.

So where do the challenges lie? The challenges lie, there's not enough organic farmers that can cultivate organic fruits and vegetables for the coloring worldwide. So that is really where right now the challenge lies.

It is not that we cannot provide with a process to come up with an organic color, but it is to say, okay, now we need to grow these fruits and vegetables organically and make them available organically. That is a challenge because there are not enough farmers out there who can do this at this moment. Organic crops could be made available, however, over a given period of time.

Why do we keep mentioning fruit and vegetables as a broader category? Because the way we have to look at it is, if nature makes the color, we cannot modify due to process; we have to work with all
different batches from fruits and vegetables. We can take cherries, we can take elderberries, strawberries, and we can mix them, but in the end, with using this mixing knowhow, different fruits and vegetables can deliver standardized colors that are available for the industry.

So it would be very difficult if we were to say, well, let’s just put cherry on the list; let’s just put elderberry on the list. So a broader category that allows for fruits and vegetables will allow for better commercial availability because you could use the organic fruits and vegetables that are available and put them together.

So, in conclusion, our suggestion would be to take a more holistic approach, eliminating the usage of highly-processed colors --

CHAIRMAN O'RELL: We will let you make your conclusion.

MR. HAKE: Okay, thank you.
Allow non-synthetic color to meet certain requirements, organically-certified process; colors can be eaten with a spoon; colors from fruits and vegetables with no selective extraction. We believe this will motivate companies to produce organic materials by providing compliance timeframes.

CHAIRMAN O'RELL: Steffan, thank you very much.

Did you hand a copy of this in?

MR. HAKE: Yes.

CHAIRMAN O'RELL: You have it now? Okay. Because I think we would certainly like to have this, the information you presented.

Julie?

MS. WEISMAN: Before when you said that there are not enough organic farmers to provide for these colors on a worldwide basis, are you thinking in terms of conventional and organic or just for
organic foods?

MR. HAKE: Just for organics. So, for example, if you say, let's make an orange color from carrot, you would have to go to a farmer, and then we would provide the seeds, and then we say, "Please grow these carrots for us." Finding a farmer that has land available to now grow carrots, or just using carrots as an example, that is quite difficult, because it has not been done on a large scale up until now.

MS. WEISMAN: Are there specific varieties of, say, carrots that have to be grown in order to manufacture colors? Are these different than the carrots that we eat?

MR. HAKE: Yes. Yes, there are different varieties. But, more importantly, what has to happen is one has to work with the farmers, because the way the rows, what kind of light is available, the environment, where it is grown, and also it has to be
harvested at an optimal point, whereas, commercially-available, even organic, a lot of times it is not harvested at an optimal time because you grow carrots because of taste and different characteristics. Strawberries are grown, so that if you eat them in a hotel, they still look good, but they all taste like colored potatoes.

(Laughter.)

MS. WEISMAN: That's true.

MR. HAKE: Yes. So if you make strawberries for color, you would do it completely different, because you grow them; you want to get the optimal amount of color. It has to be processed really quickly because you have to harvest it, and then it has to be processed quickly.

MS. WEISMAN: Thank you very much.

CHAIRMAN O'RELL: Kevin?

MR. ENGELBERT: Do you have conventional farmers growing vegetables for
you for color?

MR. HAKE: Yes.

MR. ENGELBERT: And have you approached them about organic --

MR. HAKE: Exactly. So that is what we are looking into. We would say over the next couple of years it will become more and more available. It is doable, but it needs time. It is not something you can do overnight.

So I think a good timeline would be somewhere around five years. But, in the meantime, there could be some of fruits and vegetables that could be organic, but maybe not all of them. But to get the whole color spectrum and to make it commercially available, probably somewhere around the timeline of five years, and then it could be done.

MR. ENGELBERT: Thank you.

CHAIRMAN O'RELL: Joe?

MR. SMILLIE: Actually, he just
answered my question.

CHAIRMAN O'RELL: Okay. Any other questions?

(No response.)

Thank you.

MR. HAKE: Thank you.

CHAIRMAN O'RELL: Becky?

Marie Banda is on deck.

Becky, you're up. Sorry.

MS. GOLDBURG: All right. Well, thank you. This time it really is me. Becky Goldberg representing Becky Goldberg. I am, as many of you know, a former NOSB member. I am a senior scientist with Environmental Defense in our Oceans and Health Programs, and I am also a member of the Aquaculture Working Group working on aquaculture standards, where I am the lone representative of an environmental organization. My comments today represent me and Environmental Defense, not the Working Group at large.
I want to offer my own perspective, after listening and reading many of the excellent comments that have been received by the NOSB about aquaculture standards.

It is clear to me that there is really and truly broad support for promulgation of aquaculture standards. There's been no comment, to my knowledge, that has been in opposition to aquaculture standards, despite the really incredible diversity of the commenters.

But two areas are highly controversial. One is feed for carnivorous fish, especially the use of fishmeal and oil made from wild-caught fish.

The other area that is really controversial is the use of net pens or net cages to raise fish, open systems, in other words, that are placed in natural waters.

Now, to be upfront, outside the context of my work on the organic standards,
I have been among scientists and conservation organization staff who have raised some concerns in the past about the sustainability of feeds for carnivorous fish and the ecological impact of net pens. There is, in my view, a very real basis for many of the concerns expressed.

With that in mind, I want to suggest an option to the Livestock Committee as it moves forward. That is to move forward really expeditiously with organic standards for herbivorous and omnivorous fish raised in ponds and tanks and similar sorts of aquaculture, it would be really terrific, from my vantage point, to have USDA organic standards for such popular fish as shrimp and tilapia and catfish in the near term.

Such species are now the majority, by far, of U.S. aquaculture production. I know that there are producers keen to grow these fish in accordance with
USDA organic standards.

Then the Livestock Committee could put on a separate track the development of standards for carnivorous fish and fish raised in net pens. Of course, the issues with carnivorous fish and net pen raising of fish are intertwined because most of the carnivorous fish consumed in the United States are raised in net pens, and vice versa. They go together.

And as you have heard, the issues are difficult. They are complex. They are controversial. We need to get them right, even if it takes us more time.

Moreover, such an approach would be consistent with what the Aquaculture Working Group is now doing with mollusk production. There are a number of tricky issues around production of shellfish such as oysters and clams and mussels which live in the water column and filter out water.

Because we recognize that it
takes some time to consider all the associated issues, we are pursuing mollusks on a separate track and have not yet even completed a draft set of standards for organic mollusk production.

So, in other words, even once we get through a first set of aquaculture standards, there will, presumably, in the future be more coming.

So, from my perspective, it makes sense to take the difficult and tricky issues around farming of carnivores and net pens and give them more time and fast-track the non-controversial areas, which, as I said, represent the bulk of U.S. aquaculture production at this time.

That said, if you do choose this option, continued work on draft standards could, of course, be done by the Livestock Committee or could be done by the Aquaculture Working Group.

I would like to offer an
observation that it might be useful, if we do have a separate process looking at carnivores and net pens, that perhaps some of the critics of those types of operations be included in the deliberations, in the interest of making them really balanced.

Anyway, those are my thoughts, and I thank you for your time.

CHAIRMAN O'RELL: Thank you, Rebecca.

Any questions? Dan?

MR. GIACOMINI: Hi, Becky. I just want to say hello. We've talked and traded emails for months.

MS. GOLDBURG: Right, many emails.

(Laughter.)

MR. GIACOMINI: I just wanted to say hi.

MS. GOLDBURG: Hi.

MS. CAROE: I just wanted to thank you, Becky, for your participating on
all of those calls. I know it was really hard for you to schedule to be there, and your input was always very valuable, and it is appreciated, the work that you did on that Task Force.

MS. GOLDBURG: Well, thank you very much.

Nancy?

CHAIRMAN O'RELL: Nancy?

MS. OSTIGUY: I'm curious, you are suggesting that we possibly fast-track the herbivorous and omnivorous fish. Are there any questions about accommodating their innate behavior in a farm system?

MS. GOLDBURG: Well, that is a really great question. I haven't thought it through.

Many of the fish that are raised that are lower on the food chain naturally within, say, a relatively small section of river or a pond anyway, so there aren't -- perhaps the one area where there could be
some consideration is, what do we think about indoor systems for raising these fish? Is it the equivalent of access to pasture for fish or is a tank as good as a pond?

MS. OSTIGUY: Yes, do you have to have sunshine?

MS. GOLDBURG: Right. Do you have to have real sunshine?

MS. OSTIGUY: Or could you do lights?

MS. GOLDBURG: You could have a tank, though, that has real sunshine, too, but there could be some of those issues which the Committee could consider. I, frankly, think it will be really tough because so little is understood about perhaps the natural needs of fish.

MS. OSTIGUY: Yes, I agree.

CHAIRMAN O'RELL: It's tough to ask them.

MS. OSTIGUY: Well, it's also tough to ask a cow.
(Laughter.)

CHAIRMAN O'RELL: Dan?

MR. GIACOMINI: Becky, after hearing all the comments that have been made and all the wonderful participation you have done, in your recommendation to include the omnivorous fish sort of in a faster track mode, do you have any ideas at all on what we can possibly do regarding the chicken-and-the-egg issue of the fishmeal that we would need for those fish?

MS. GOLDBURG: Well, it is possible right now, actually, to raise some omnivores without fishmeal. For example, Bart Reid, who is part of the Aquaculture Task Force, is a shrimp producer in Texas and raises shrimp with no fishmeal and oil at the moment, even though shrimp are naturally omnivorous, but they are naturally tridivores, so they are not so selective.

Similarly, channel catfish are naturally omnivorous. Their diet at the
moment in conventional production is maybe a few percent fishmeal, and it may be possible to have a zero fishmeal diet or to consider a diet where fishmeal or fish oil is really used as a supplement in a way we are all really comfortable with, because it is only a couple of percent of the diet.

MR. GIACOMINI: Okay.

MS. GOLDBURG: The other issue, of course, is the use of slaughter byproducts, which I haven't directly addressed. But the use of organic slaughter byproducts in fish feeds would be a really good source of protein for omnivorous fish.

There are all sorts of questions about the acceptability of their use, even if they are from organic sources, but I happen to favor their use personally, as long as they are from organic sources. But it deserves more consideration by the NOSB, and maybe it makes sense to restrict the kind of slaughter byproducts, for example,
to poultry and not allow ruminants, since there is so much concern about ruminant byproducts.

CHAIRMAN O'RELL: Bea?

MS. JAMES: Do you believe that netted-off pen systems, if that became a part of, just hypothetically speaking, an organic system plan for aquaculture, that the geographic locations would be conducive for that anywhere, or would there have to be certain areas that maybe pollution levels or water levels would not be adequate for systems like that?

MS. GOLDBURG: Oh, siting of net pens is really critically important. I think anybody in aquaculture would say that today. They just can't go anywhere. They have to be sited carefully.

CHAIRMAN O'RELL: Thank you, Becky.

MS. GOLDBURG: Any more questions?
Thanks.

CHAIRMAN O'RELL: Maria Banda, and then Richard Theuer following.

MS. BANDA: Good afternoon, everyone. I am Maria Banda from the Small Planet Foods, a processor of a number of organic products, including organic cereal.

The comment I will be providing is in regards to the recommendation for bleached lecithin. I commend, and sincerely commend, the NOSB members for the thoughtful consideration given to manufacturers such as ourselves who at the current time have not found an appropriate substitute for de-oiled lecithin powder.

We know that our consumers would prefer we use an organic de-oiled lecithin and so continue to look for one. However, we also aim to meet their desire to have organic flake cereal, which requires that we use de-oiled lecithin powder.
We strongly support the recommendation made this morning to renew bleached lecithin on the National List while encouraging petitions to remove liquid bleached lecithin.

When an organic dry version becomes available, a petition can be made to remove bleached lecithin from the list.

Thank you for the opportunity to provide these comments and for your thoughtful consideration.

CHAIRMAN O'RELL: Thank you for the very direct recommendation.

MS. BANDA: I would like to have the notoriety of having the shortest comment in history.

(Laughter and applause.)

MR. MOYER: Kevin, I think Jennifer's right; that was a challenge to everybody else to try to beat.

(Laughter.)

MR. THEUER: My name is Rich
Theuer. I am here with two hats today. The first one is as a representative of OMRI. OMRI is the Organic Materials Review Institute. I am currently Chair of the Board.

(Pause due to technical difficulties.)

Well, I'm representing OMRI, which is the Organic Materials Review Institute, where I am serving as Chair of the Board. OMRI was created to facilitate the organic industry by reviewing inputs for organic agriculture and handling, and to make that available to the industry.

In the past year, as you heard yesterday, OMRI has created an accessible database for organic seed. We see that that is a close model for organic equivalence to items that are on 605 and 606.

So, at this moment, OMRI stands ready and willing to implement a similar accessible database for those particular
materials on 605, on 606, which are available in organic form, and to provide this source of information, to use your words, within about four months. So we think that that would be very useful to the industry for suppliers who make the organic form of something on 605 or 606, to be able to get that in a database that would be accessible to the world.

The second comment I would like to make is perhaps the only one in the room from the inaugural NOSB 12 to 14 years ago, and to, first of all, congratulate you on the quality of work -- it is very, very good -- and the dedication of all of you to making organic better.

I noticed in printing agricultural versus nonagricultural the comment that, quote, "The distinction between agricultural and nonagricultural originated with the NOSB," about 1994, and the NOSB adopted this distinction based on
its understanding of OFPA requirements.

I think it is important that, in reflecting back on the work that we did 14, 13, 12 years ago -- I only had a three-year term, one of those early people -- that we were doing the best we can, as you are trying to do. The NOSB in that time, we frequently did not get compliments.

(Laughter.)

We were not infallible.

I think one of the things I would like to congratulate you on is the fact that you have a reasoned skepticism about some of the work that was done a long time ago. Because, again, we were not infallible.

I think the take-home lesson that I have learned is that you are a good Board and you realize precedent does not mean prohibition, that something that happened a long time ago like creating something called "agricultural," it served its purpose perhaps then, but maybe no longer does so.
Thanks.

MS. CAROE: I have a comment.

CHAIRMAN O'RELL: Andrea?

MS. CAROE: Better late than never, I want to compliment the pioneers that were on the first Board and actually had the foresight to put in place a good path.

Yes, we are filling in the details of and we are negotiating our way through at this point, but I appreciate all the work that was done by those groups, and based on the fact that you had nothing for precedence, I think you did a fabulous job.

MR. THEUER: We used an axe and we went through the forest marking the trail.

(Laughter.)

CHAIRMAN O'RELL: Jeff?

MR. MOYER: I have a question for your, Rich. When you mentioned about your seed list database, how do seed companies go
about getting their seeds on your list? What is the process or the procedure?

MR. THEUER: Well, it has been made available. Dave DeCou, the Executive Director of OMRI, has been working with the seed manufacturers and the seed associations to make this database available.

People just get in touch with OMRI. There's a relatively low-cost $25 per company, $10 per seed listing in groups of five. So for $75, they can get their seeds listed in the database.

And it is up and running, I believe, for the last month or two, yes.

MR. MOYER: Thank you.

CHAIRMAN O'RELL: Julie?

MS. WEISMAN: Not to take up too much time, but piggybacking on Andrea's comment is that it really helps to have -- I mean our view is better because we are standing on your shoulders, and yours are particularly tall.
(Laughter.)

And I'm particularly short. So it really helps.

(Laughter.)

MR. THEUER: Thank you.

CHAIRMAN O'RELL: Thank you very much, Rich.

Lisa?

Leslie Zuck is up next.

MS. McCORY: Hi, everybody. I have a proxy, Pat Kane. So I am not going to use a full 10 minutes. I'll just want to take my time when I read my comments.

So thank you for the opportunity to comment. I appreciate all that the NOP and the NOSB are doing. I realize that there are a lot of thankless hours that go into this process.

My name is Lisa McCrory, and I work as a technical advisor for the Dairy and Livestock Technical Assistance Program of the Northeast Organic Farming Association
of Vermont. I have been working with certified and transitioning livestock and dairy producers for 15 years.

The program provides technical support to the 126 certified organic dairy farms and the 80 farmers who are currently transitioning to organic production.

NOFA-Vermont's Dairy and Livestock Technical Assistance Advisors are very concerned about the integrity of the organic milk market due to either decisions made or lack of final decisions by the NOP in the following areas pertaining to organic dairy production.

I am representing NOFA-Vermont today to share the following concerns:

NOFA-Vermont's Dairy and Livestock Technical Assistance Advisors are concerned with the fact that the NOP did not accept the following NOSB recommended substances for use in organic livestock production: synthetic activated charcoal,
calcium boro gluconate, calcium propianate, Kaolin pectin, mineral oil, and propylene glycol.

These substances are commonly used by producers and veterinarians. With a cow with milk fever, for example, there is no fast-acting intravenous alternative treatment to calcium boro gluconate, and prohibiting this product makes no sense to producers and veterinarians alike.

The NOP has rejected these substances not based on criteria set up by the OFPA, but, instead, because the FDA does not consider these substances to be animal drugs. However, the FDA does acknowledge that there are 3,000 medications that are allowed by discretion for livestock producers, and the NOSB has recommended only six identified as such in The Federal Register notice and noted above.

If organic producers and veterinarians are prohibited the use of
these products, they will be robbed of important tools to treat serious ailments, for no other reason than bureaucratic classification.

One example I have in what I have presented comes from the online version of the Merck Veterinary Manual and principles of treatment for hypocalcemia. The definitive treatment for hypocalcemia is to eliminate the underlying cause; supportive measures, including the following: "to restore normal calcemia, can be administered pending the diagnosis. Hypocalcemia tetany or convulsions are indications for the immediate IV administration of 10 percent calcium gluconate, which should be slowly infused over a 10-minute period."

And it goes on a little bit further, but just to clearly illustrate that the use of calcium boro gluconate is clearly recommended within a veterinary manual that, obviously, all veterinarians have access to.
It is a common product, and, again, just to illustrate that this is one example of a product that should be allowed for organic producers.

The second item that I would like to discuss is the pasture standard. The pasture standard has been under construction for more years than the NOP has been in place. As time goes on, consumer confidence for organic products, especially dairy, is starting to waier.

NOFA-Vermont realizes that the NOP has been incredibly busy, but if we want the organic milk market to succeed, we cannot wait any longer for a pasture standard to be finalized. This issue needs to be reconciled immediately, and it needs to be implemented in support of the NOSB's recommendations, which states that all ruminants over six months of age should harvest/graize 30 percent of their dry matter needs from pasture for a minimum of 120 days
per year.

The NOSB recommendation also clarifies the producer of an organic operation may provide temporary confinement for an animal because of the animal's stage of life, and that the producer of an organic operation must not prevent dairy animals from grazing pasture during lactation.

Third is origin of livestock. NOFA-Vermont believes that the allowance for conversion of non-organic dairy animals should be permitted only as a one-time whole-herd transition. After the transition, all certified operations must manage their animals organically, starting from the last third of gestation.

Currently, all of our 126 dairy farmers are abiding by this standard. The preamble to the rule clearly states that this was the intent of the law. If farms are permitted to buy in non-organic young stock or to continually transition in young
stock to organic, this allows animals under 12 months of age to potentially be fed GMO feed, feed treated with hormones and antibiotics, or fed slaughter byproducts. This is in direct contradiction to the NOP rule for livestock feed and healthcare.

To clarify that the NOP rule requires that animals brought onto a certified operation must be raised organically, starting from the last third of gestation, would provide consistency among producers and certifiers. It would not require a significant change in management, as it is currently the practice for a large majority of organic dairy producers.

Recent headline news has indicated that cloned livestock are making it into the conventional market undetected. Allowing a continuous flow of conventional livestock to transition into the organic market will undoubtedly allow some of these livestock to infiltrate the organic system,
which will, again, have an effect on consumer confidence and ultimately their purchasing power.

And, last but not least, the dairy animal acquisition document under the NOP regulations, issued on October 3rd, 2006, has created yet another outcry from producers and certifiers alike. Where did this come from? Why did it come to be?

Thanks for all your efforts, though.

(Laughter.)

But I understand that it is with all the best of intentions, but why did this come to be?

Because once a dairy farm has completed the one-time whole-herd conversion, those dairy animals should be certified organic, period. We should be moving forward from their official certification date, not looking back into the producer's precertification history.
This document is inconsistent and creates a system of organic standards which are difficult for organic certifiers to verify, not to mention all those producers out there.

It also allows two neighboring farms to have very different organic standards, creating yet another unlevel playing field.

The NOP's clarification that it is okay for some farms to continually raise non-organic young stock and then transition them to organic creates issues with consumer confidence and allows two farms to be certified by very different standards from each other.

The Dairy and Livestock Technical Assistance Advisors of NOFA-Vermont encourage the NOP to pull this document from the NOP site and allow us to follow the policy that most certifiers have been enforcing all along. Once a herd is
transitioned in, all livestock are certified organic.

I thank you very much for your time.

Any questions?

CHAIRMAN O'RELL: Thank you, Lisa.

Any questions?

MR. KARREMAN: I want to thank you, Lisa, for bringing up all those good points.

MS. McCORRY: Thank you, Hue.

CHAIRMAN O'RELL: Thank you.

Leslie?

Emily Brown Rosen on deck.

MS. ZUCK: Hello. I'm Leslie Zuck, Pennsylvania Certified Organic.

I just have to say I was really compelled to come before you for a few minutes at least to just express my feelings about the commercial availability of organic seed guidance statement.
I was really disappointed to read about the statement that said producers of non-organic seed should bear the cost of this requirement. It made me think that we should be asking, is the purpose of this policy to punish the farmers that are using non-organic seed or is the purpose of it to provide a better market for organic seed producers?

And if the purpose is to provide a better market or motivate that market, then why should the farmers bear the cost of that program? Remember, the rule allows them to use non-organic seed when organic is unavailable.

I know the farmers are out there looking for it. I know they are. They are seeking organic seed. They are asking us about it. They are trying to find out where they can get the seed. They are really trying to do it.

But many, many seeds are still
just non-existent organically. It is not a matter of how far away they have to be shipped or how much they can get or what variety. They are just not there.

So it really presents a problem for me as a certifier. The statement was, well, we would bill the farmer who is using the non-organic seeds to cover the cost of this requirement, and, you know, I'm going to send him a bill. That farmer is going to call me up and he is going to say, "You mean you're charging me because I use non-organic seeds?" And they are going to look at it as a penalty.

It really doesn't make any sense because farmers are already paying what I feel to be a disproportionate share of operating this program. I don't think they should be paying anything.

It really seems silly to make a farmer pay because the industry hasn't yet developed an organic sorghum-sudangrass
seed. I mean, what kind of sense does that make?

So that seed is unavailable at all anywhere, and he can't get it organically, or maybe he can, but I just picked that one. You all would know better than I would.

He looks in the rule, and he is allowed to use it because it doesn't exist organically. Then the certifier sends him a bill for using that.

So it just kind of was something I would like to bring up and ask you to rethink about it. Because if the purpose is really to promote the use of organic seed, it only seems logical to me and fair that the seed industry should bear that cost. Why couldn't they go and seek out a list of all the organic seeds that are available in the world, post it somewhere on a website, and they can pay for that?

Then all the certifier has to do
is look on the website and say, "Hey, this one's available, buddy. You'd better be using it or we are not going to approve your organic plan." That seems to be a little more logical than having all these certifiers collecting all this information and sending it who knows where, and then charging the farmers for doing that.

On the other hand, I felt really great when I got that hydroponic survey in my email box. I really, really appreciated the opportunity to contribute to your process at that point in the system. I think it just makes so much better sense to me than you all drafting a recommendation, posting it three weeks before the meeting, and then having to rely on public comment, us all coming up here, the day before you vote.

So if you could do more of that type of thing, I would really appreciate it, and we encourage it. I will have to say,
though, that some of the certifiers were a little reluctant to spill it out, thinking that maybe they would say something that might appear to be non-compliant, like, "Oh, what if I say I'm certifying hydroponics and they say we're not allowed to?"

So that may be something we can deal with if we are going to do more of this and figure out a way to handle that, but I think the information-gathering process is really great. I hope it works for you all, too. We will see how it pans out.

Did you get a lot of response? I'm not supposed to be asking questions. Sorry.

(Laughter.)

Now this one's for Hue. As happy as I was to see that hydroponics survey, I had a totally different reaction when I got the dairy animal acquisition chart and it landed on my desk.

(Laughter.)
I'm not going to comment on that today in detail, actually, because of time constraints, other than to say it caused me to go up in my attic and look for my old law school books on statutory interpretation. Okay? Statutory interpretation involves a series of canons that judges use when they have to figure out what a law or a regulation really means.

One of those canons is called "the canon of avoiding absurdity."

(Laughter.)

And the canon of avoiding absurdity says the legislature did not intend an absurd or manifestly unjust result.

So I submit that Congress would not have intended different lifetime privileges and penalties for producers who are all producing exactly the same commodity, which would be organic milk. It is the epitome of absurdity, and I bring
this up because I am worried that this could be considered rulemaking without notice and comment. I don't want to see the program have to defend another lawsuit. It is not going to be coming from me, you know.

(Laughter.)

I just want to say that I don't want to see that happen. It is a serious regulatory flaw. We have to fix it soon.

There is talk of an ANPR. I hope it is on a fast track, and the industry is willing to help in any way it can to make that happen.

CHAIRMAN O'RELL: Leslie, thanks. Thanks for your comments. We do appreciate the fact, recognizing that the survey idea, going out and getting information from certifiers beforehand is a good process. I am sure that the Board will look at that and make more use of that in the future.

MS. ZUCK: Great.

CHAIRMAN O'RELL: We don't want
the certifiers to feel like they are going to be self-incriminated if they fill the wrong thing out, though. So maybe we can put a disclaimer on it.

MS. ZUCK: Immunity from prosecution.

(Laughter.)

Can we grant immunity?

CHAIRMAN O'RELL: I believe we have a question. Gerald?

MR. DAVIS: Leslie, the document on the seed availability, that was just merely answering concerns that many of the certifiers voiced at the previous meeting. It was not any new guidance or anything.

It was just a discussion, a response, and it is just a suggestion that, if there are growers that continually use a lot of untreated seed, and it is clear that they are not trying, and they are putting a lot of work on you to collect all this information, and it is costing the certifier
money, that was a suggestion maybe that is a way that you could recoup that.

MS. ZUCK: Do you know what we do if they are not making good-faith effort to source organic seed? It is a non-compliance, and that is how we handle it. They go down the road.

(Laughter.)

MR. DAVIS: If there is a large grower, for example, if you are certifying a large grower and they have a lot of instances of stuff you have to do recordkeeping on to document all those exemptions, I know the certifiers might for some growers be spending a lot more time on it and don't have a way to get a fee out there.

MS. ZUCK: It is definitely an additional cost for our certification program because we don't collect all that information. We have the growers retain it, and we inspect it when we go to the farm.
We audit their records from sourcing organic seed. So we don't have all that. We don't collect it. We go and we make sure that they have it, and we audit their records.

CHAIRMAN O'RELL: Kevin?

MR. ENGELBERT: Just to expound on what Gerry said, Leslie, in the realm of gathering seed of all different varieties all over the country, we wanted to be sure that farmers are trying to source organic seed.

MS. ZUCK: Right.

MR. ENGELBERT: We are not saying you've got to send them a bill if they don't, but just the cost involved with using any conventional untreated, they've got to bear that cost. So they continually have some type of incentive to look hard for organic seed. That's all.

We aren't trying to punish them. We just want to continue the development of the organic seed investment --
MS. ZUCK: I think it would go a lot farther if the industry could come up with a way to just put a list somewhere of what's all available and we could use that. That way, it would be really simple: It's either on the list or it's not, and you can't use it. That crop that you grew without that, that we told you you couldn't use that seed, ain't going to be organic.

CHAIRMAN O'RELL: Gerald?

MR. DAVIS: The problem, Leslie, is there are elements of the seed business -- and this is especially in the hybrid vegetable realm -- there's a lot of big companies that really have no interest in going into organic seed production.

MS. ZUCK: Well, they probably won't ever.

MR. DAVIS: Right.

MS. ZUCK: Whether we want them to or not.

MR. DAVIS: It would be nice to
come up with a way to nudge the system without causing major disruptions. That is what we were all, I think, in general, trying to grapple with.

MS. ZUCK: Yes, and I don't really think it --

MR. DAVIS: How can we give a little bit of a push without hurting the --

MS. ZUCK: It's a great idea. I just don't think the certifiers and the farmers should be the ones that do it.

Thank you.

CHAIRMAN O'RELL: Thank you, Leslie.

Emily?

Erin James is next on deck.

MS. ROSEN: She's not here. I'll take her -- she had to leave, but I will try not to use it, though. Okay.

CHAIRMAN O'RELL: Okay.

MS. ROSEN: I really don't think I'll need it, but just in case.
CHAIRMAN O'RELL: She gets 10, yes. We're just clarifying the time. Go ahead. She's not going to take it all.

MS. ROSEN: Okay, we'll have a speed race.

Emily Brown Rosen, Pennsylvania Certified Organic.

I would just like to say double amen to everything Lisa McCrory said. We are facing all those problems with livestock. They are all really critical.

I know there's so much going on, so much to do, but, you know, it is just really important to get these issues settled.

For the Livestock Committee, the followup on the medications docket and whatever happens next, I hope you dedicate some time to that because I do think, I do hope NOP will see fit to come back and consult further with you on those withdrawal times and other annotations, and that we can
straighten all that out kind of somewhat promptly. That would be really helpful.

I have really just three issues, and the second one is a short one, too. I have new problems for you, okay? I'm sure you need them.

Peracetic acid just got added to the National List for use in washing flume water and sanitizing equipment. Unfortunately, all the formulations of peracetic acid that are on the market, you have to understand they are considered antimicrobials that are registered pesticides with EPA.

Sanitizers, there is a whole division of EPA for sanitizers. So they all have this List 4 inert ingredient in them, only some of the ones I'm aware of that are commonly out there.

So now we have the manufacturer sending letters around to our clients saying, "You can use this product on direct
food contact," and we're saying, "What about the List 4 inerts?" Because, unfortunately, we don't have a category on the National List in the processing section for List 4 inerts. I think that was an oversight.

I did bring it up about five years ago, but now it has hit the fan. So we need to know what to do about this. Otherwise, we are telling them they can't use peracetic acid in direct contact; they are going to have to rinse or something or they can use it on equipment, but this is a little bit of a setback.

So we really need this product for direct crop use for food safety issues. So I don't know if we need an expedited petition or something, but we need to get it on the list.

The other new problem is we seem to be getting a lot of complaints lately about brokers/handlers of livestock feed. These are agricultural commodities who all
seem to think that they don't need to be certified. They think that they are exempt or excluded. Some of them say they have called NOP and been told that.

These are third parties that buy grain, buy hay that's on trucks. They take it somewhere else. They may store it or they may take it directly to a farmer, but they are an intermediate party handling crops that are getting fed to organic animals.

They claim they don't need to be certified. They get their initial certificate from the grower, and then they make photocopies and hand it over to the farmer.

Now I am not sure who's -- you know, we wouldn't let this be done with our certified farmers, but inspectors keep turning this up and they keep arguing about it. So I think we need a little clarification on this.
We don't see that they are excluded, the definition that would allow an exclusion for a handler. It says it has to be, the product has to be packaged or otherwise enclosed in a container, and it has to remain in that same package. We don't see hay wrapped in twine as being enclosed in a container. We don't see truckloads of grain, particularly which can be unloaded and stored and then shipped somewhere else, as exempt.

So we would like a little clarification there, that this was not intent.

There is also a problem where 310(2)(a), 5.310(a), it says, any product, if it was exempt or excluded, that those products produced or handled on an exempt or excluded facility cannot display the seal, cannot be sold or represented as certified organic, cannot be used in multi-ingredient product.
So we think that pretty well knocks it out for livestock feed. So we would appreciate a little support from -- I don't know if you need to get involved, but if NOP should look at this, too, but that I think is potential for a huge amount of product that is going out that is not tracked as a complete whole audit trail or there's big potential for fraud and people shipping this stuff around.

So I think that was really all I needed. So I'm done.

Any questions?

CHAIRMAN O'ReLL: Thank you, Emily.

MR. KARREMAN: Yes.

CHAIRMAN O'RELL: Hue, and then Joe, and then Jeff.

MR. KARREMAN: This question, it is kind of for you, Emily, but also for Mark. Regarding the materials that came out on July 17th, what part of the -- it is for
Mark, actually -- what part of the process are we in there? Are we in what is called ex parte or can we or individuals still have some input, or can we help you, or is it what you would call ex parte? If that is the case, do you declare when that starts or not?

MR. BRADLEY: For the proposed rule that closed --

MR. KARREMAN: For the 12 materials that took four years to go through.

MR. BRADLEY: Oh, those?

(Laughter.)

MR. KARREMAN: On July 17th, that ANPR.

MR. BRADLEY: We would be in ex parte right now, but in ex parte you can discuss things that are -- we can't allude to what the final rule would be on that, but we can hear discussion as long as it is recorded, and this is.
MR. KARREMAN: Because in the AN--

MR. BRADLEY: At a public meeting.

MR. KARREMAN: In the ANPR, I think it said that the Secretary will engage in further discussion on various materials.

MR. BRADLEY: Like this.

MR. KARREMAN: Is that still happening now?

MR. BRADLEY: That's what this is.

MR. KARREMAN: Right now, okay.

Well, is there anything we can -- I mean, with all the public comment that we have put in as a group, is there anything that needs more clarification or enunciation regarding those non-NADA products that the Secretary doesn't want to add?

I mean, do you guys understand what the industry and some of the experts out here are saying about the non-NADAs?
And is that maybe going to be incorporated in your response?

MR. BRADLEY: We will consider that when we draft the final rule.

MS. ROSEN: Okay, can I ask another question? A followup on that would be, the restrictions, the withdrawal times, you know, you said you couldn't do that because FDA wouldn't let you do it. A lot of Board members signed a letter saying, okay, we really recommended restrictions; here's another way to do it.

Can you go back to them and see if they would approve whatever your new version is going to be, if there is one, on withholding time, like before the next proposed rule?

MR. BRADLEY: Let me look at that.

MS. ROSEN: Okay.

MR. BRADLEY: I'll see what we can do. We understand what your concerns
are.

CHAIRMAN O'RELL: I have Joe and then Jeff and then Gerald. Joe?

MR. SMILLIE: Without getting into a detailed discussion, which we don't have the time for, I hear your issue about brokering of trucked feed products and all that. It is really complicated. It is tricky. We don't have the clear lines like we do with canned or labeled, packaged products.

MS. ROSEN: Right.

MR. SMILLIE: I think there is the opportunity for fraud there. But, basically, primarily, if you use the word "broker," they don't have to be certified.

MS. ROSEN: Not the way I read the rule.

MR. SMILLIE: I know. I recognize that we are looking at it differently. So I would like to pursue that conversation.
MS. ROSEN: Okay, sure.

MR. SMILLIE: If I get a written statement as a certifier rep, I will certainly act on it.

MS. ROSEN: Okay, very good.

MR. SMILLIE: We will start to look at it in CAC.

CHAIRMAN O'RELL: Jeff?

MR. MOYER: Yes, my question was in the same vein. When you are talking about broker, are you talking about somebody who actually takes ownership of the product?

MS. ROSEN: Yes, yes.

MR. MOYER: Versus somebody who is just moving product for someone else?

MS. ROSEN: The definition of handler, let's see, says that, you know, someone who is handler, handlers are -- brokers are handlers. Anyone is a handler who sells, processes or packages, except it doesn't include to sell, transport delivery of crops or livestock by the producer to the
handler.

So if you are delivering your crops and livestock to the mill, that's not a problem. But someone else comes in and takes it and brings it over there, they are a handler and they are not excluded.

MR. MOYER: Even if they don't take ownership of it, if they're just a -- you're talking about an outside --

MS. ROSEN: Ownership is not really mentioned in the rule. But, I mean, it does say -- well, you know, we could go around about that. It is probably worth more discussion.

MR. MOYER: Yes.

MS. ROSEN: Yes.

MR. MOYER: It would be.

CHAIRMAN O'RELL: Kevin -- or, I'm sorry, Gerald and then Kevin. I had Gerald up.

MR. DAVIS: Emily, on peracetic acid, the List 4 inert, what is that?
MS. ROSEN: I'm trying to remember if it is on the label or not. I'm not going to answer unless I checked the label. I'm not sure if I am supposed to say that.

If you read the FDA center of identity for peracetic acid, they mention it there. So I guess it is probably public, but I am not sure that it is disclosed on the labels of the registered pesticides.

MR. DAVIS: So the people you have talked to claim that it is in all formulations of peracetic acid?

MS. ROSEN: I'm pretty sure it is because it is a stabilizer. Otherwise, peracetic acid is pretty -- you know, disassociates really rapid and wouldn't be as effective.

CHAIRMAN O'RELL: Kevin?

MR. ENGELBERT: Emily, I would like your opinion real quick on where you think milk falls into this category of
truck, because milk is transported farm to plant, plant to plant. It is transloaded from trailer to trailer. The trucking companies never take ownership, but it is --

MS. ROSEN: Could I defer that question to Leslie or maybe Jim Pierce wants to answer that? I'm not quite -- I haven't really thought about that angle.

MR. ENGELBERT: Okay.

MS. ROSEN: I know initially we used to worry about it, and there's some -- Jim, do you want to answer that?

MR. PIERCE: Jim Pierce, Organic Valley.

I think the solution to both the milk, and then wider to the feed and hay issue, is that that needs to be part of either the shipper or the receiver's handling plan.

In our case, we have a tanker affidavit on file for every milk-hauling company we are dealing with and livestock-
hauling affidavits to get those animals to the slaughterhouse, and in a lot of cases, trucking affidavits for feed companies, and whatnot.

Where it breaks is exactly where Emily said, when it is wrapped and contained in a package. Then it is common carrier, and you just make the contractual agreement.

But, in addition to a thousand certificates, we've got a few dozen trucking certificates that we maintain on file.

MS. JAMES: I just want to say real quick, otherwise, wouldn't we have to certify UPS?

(Laughter.)

I know, but I'm just trying to make a point that they are just a courier and --

MR. PIERCE: But anywhere where there's a chance for contamination, and milk-hauling is an excellent example -- they could either wash with the wrong materials
or haul without a clean truck. There's lots of potentials, and they are on file as understanding basic organic regs and signing off that they are going to follow them.

CHAIRMAN O'RELL: Any other questions or comments for Emily?

(No response.)

Thank you, Emily. We appreciate your comments.

I think I failed to announce who was on deck. Steffan Scheide and then Lisa Engelbert.

Steffan? Sorry about not giving you notice. We got a little distracted.

People want a break? Okay, we are going to give you a chance to get yourself together. We're going to take a little break. There's been a request for a bio break here.

(Whereupon, the foregoing matter went off the record at 5:35 p.m. and went back on the record at 5:53 p.m.)
CHAIRMAN O'RELL: Lisa Engelbert is on deck.

Okay, you have the Board members and you have their attention. We are fresh and ready to go. So this should be an advantage for you.

(Laughter.)

Bea is going to be a little bit late. So I am going to try to manipulate her little timepiece here.

MR. SCHEIDE: Thank you for the break, Mr. Chairman. Also, thank you to each and every member of this Board for steering all of us through the sunset process. It certainly has been exciting, and it has been fun. Sadly, I do have to comment on the sunset material.

My name is Steffan Scheide. I am affiliated with Summit Hill Flavors, and I am a food product developer.

I am speaking out today again for the retention of colors on the National List
under sunset. The removal of color, non-synthetic sources only, means the entire elimination of a class of ingredients as defined in 21 CFR Part 40.

Colors are entirely regulated by the FDA. It means, even though that we have organic certified turmeric, organic beet juice, organic carrot powders available commercially, they are now gone and they can no longer be used.

This means that if this Board decides that colors fail sunset, after October 2007, we will no longer have those organic food products which contain color. For example, organic hotdogs, organic beverages, organic candy, and I don't even want to think about the impact on organic clothing and organic cosmetics.

So, in other words, if color is already listed, then I would implore this Board to come up with some type of sunset process for the delisting of colors and also
for the type of use of colors in manufactured items up until October 2007.

Therefore, I implore you to please keep colors on the National list, where they currently are.

I think the impact is really going to be significant to the organic industry. We have heard a manufacturer of colors today, which I am kind of happy about, because there is a lot of progress being made for subcategories of colors.

Now even though I am aware of the petitioning process, not one manufacturer of organic certified colors has actually petitioned, and I am wondering why that is the case.

That really worries me. Why are manufacturers of conventional colors petitioning conventional colors under 606, whereas none of the manufacturers that I'm aware of have been involved in this process?

I think there's another issue
that we have to recognize as part of the petitioning process. Clearly, if you change the definition of agricultural/nonagricultural, you can petition colors onto 606, but it is only the FDA that makes a determination of what actually is a color.

Can this Board actually determine, for instance, if I use a barley malt that I use for a coloring material, to be a color? Or do I have to petition to the NOSB or the USDA an item with an annotation for color use only?

So I am a product developer, and I am concerned about the impact that that will have. If this Board decides to delist, I will have to ask our salespeople to basically inform our customers that, after 2007, we are no longer going to be able to manufacture products that contain food colors both within food ingredients or within the final food product.

So I thank you for your time.
CHAIRMAN O'RELL: Thank you, Steffan.

We certainly recognize the potential train wreck, for lack of a better term, but it is definitely an issue that this Board recognizes for colors.

The easy thing to do would be to pass colors. We have tried that, and we received some objections to procedure, that colors previously was not petitioned -- or was not recommended by the Board to be listed.

We are going through sunset now, which we have limitations in terms of what we can do. We can renew it or not. If we choose not to, this could be challenged, and somebody might have the false belief that they're okay, and then down the road we get in a situation where we're told colors procedurally is not accepted by OGC or the program, maybe a legal challenge.

We really want to have an answer
to this. Our answer back in April was petition, petition, petition. Get those materials on the list for consideration on 606 that are not available organically.

Obviously, if it is available organically, it continues to be used. That is not a problem.

We would welcome for that magic solution truly. We have talked with the program. We understand the list of petitions we have. We need to expedite those. We need to work in collaboration with the program to get those petitions that are currently in reviewed.

If there is information that still needs to be supplied by petitioners, to get those back in a quick manner and give the petitioners an opportunity to get those petitions corrected and back in place, so that at least the materials that have been petitioned, we can deal with in a timely manner before the June 2007 deadline.
But I understand it. It is a big challenge.

Any comments, questions?
Andrea?

MS. CAROE: I don't know that even renewing this material on the present list is going to help you. The reason I say that is because the colors that we are seeing are agricultural, and being agricultural, they're not allowed by -- they're on the list for nonagricultural colors.

So maybe a color that is coming from a mineral or something is allowed by the present listing, but a color from agriculture, it is not on the National List right now. It needs to be put on 606.

We have the petitions. All we can do is be cognizant of that and expedite that process as much as possible to best service.

MR. SCHEIDE: I would like to
add, I do thank you for finalizing or completing the sunset process, and for consistency for the industry, if you could come up with a vote about the future of colors, I think that would help us all, independent of how petitions proceed.

So thank you.

CHAIRMAN O'RELL: Thank you.

Any other questions?

(No response.)

Thank you for your comments.

Lisa Engelbert?

Liana Hoodes, up on deck.

MS. ENGELBERT: Good afternoon. My name is Lisa Engelbert. I am Co-Administrator with NOFA-New York Certified Organic in Binghamton, New York. I work primarily with the dairy farms in our agency.

First of all, a big thank you to all of you. As I said at the last meeting, I am seeing really firsthand how much time
you really put into this.

(Laughter.)

We really, really appreciate it from a certifier's point of view and from a producer's point of view.

The same goes to the NOP. We really appreciate all the effort you guys are putting forth.

I would like to thank Mark and Barbara, even though Barbara is not here, please pass that on to her, for clarifying where there's no proposed pasture rule in place yet.

I am sure you have all noticed that we are not swarming with dairy farmers at this meeting. Partly, pasture wasn't on the agenda, and it is busy harvest season. But I think the main reason is the producers really have faith that the NOP is going to get this done.

They are disappointed it hasn't been done yet, but they do have faith in the
program. So you can pass that along to Barbara, too.

I agree wholeheartedly, and NOFA-New York agrees wholeheartedly, with Lisa McCrory's comments on the origin of livestock. I know the chart was really meant to help, and we really appreciate that, but we've gone from a two-track system to a seven-track system.

Even in the seven-track system, there are some pretty serious questions that aren't answered yet. So, hopefully, we can revisit that.

I also would like to put forth to the NOP, on issues like this, I love the idea of what the NOSB is doing, putting forth questions to certifiers for input. I think most certifiers are really, really open to that from not only the NOSB, but from you as well, on issues like this, to get input from the people that are doing it.

It is very difficult out in the
field to have a farm side by side, two farms side by side, one that transitioned under the 80.20 and one that transitioned or became certified however else, and have to hold them to two different standards. It is just very, very difficult to explain that to them.

It just doesn't make any sense to think that the 80.20 people had a big financial advantage during transition when the pre-NOP people, once their land qualified as organic, they basically had a 90-day transition at 100 percent organic feed. So I just wanted to put that out there.

I also have to really question, can we legally treat two groups of producers producing the same commodity differently? Is it legal?

The intent of the rule is clear. Once a farm becomes certified to produce organic milk, they should be managing all
livestock, whether farm-raised or purchased, organically in the last third of gestation. This is a scale-neutral rule. It doesn't matter if they have five cows or 5,000 cows; they are following the same rule. And I think that is the true intent of the rule.

I would like to comment on the cost-share program. Barbara had mentioned that there's a lot of money left over each year. I don't know any of the details with that, but I do know that the majority of the farmers that we are working with -- and this is not only dairy; this is all producers -- are taking advantage of this cost-share program. It means a lot to them. It means a lot especially to new, small-scale people that are just starting up, that the certification fee may be a burden, the first few years especially. So I hope that program can continue.

We agree also that there needs to be standardized certificates in English,
please. We do see some in foreign languages, and we say we have to have this in English.

We agree that it should list all crops and products produced, including what labeling category a product falls in. It doesn't need to be so prescriptive that you get down to varieties within sweet corn, for example, or broccoli.

We also agree that there needs to be some sort of a date on certificates indicating either the last date of inspection or the last date of Committee approval for that farm. Out in the field, it is difficult for inspectors, when they see a certificate from 2002, to know for sure whether that certificate is still valid. So if there is some sort of a mechanism there -- I don't really think we need expiration dates. I think that could create a whole new nightmare, but some sort of an annual date would be really helpful.
Once again, I want to comment just on the broker issue. We are hearing things also in the field, especially with grain, that there are people calling themselves brokers that are basically taking possession of organic grain, offloading it at non-certified facilities and then reloading it and transporting it elsewhere. So that really is an issue.

CHAIRMAN O'ReLL: Thank you, Lisa.

MS. ENGELBERT: You're welcome.

CHAIRMAN O'RELL: We appreciate your comments.

Any questions for Lisa? Kevin, it is your opportunity to get a response on the record.

(Laughter.)

MS. ENGELBERT: He wouldn't dare.

(Laughter.)

MR. ENGELBERT: I would pay later.
(Laughter.)

CHAIRMAN O'RELL:  All right, we won't go there.

Thank you.

Lianna?

Julianne Mayo is up next.

MS. HOODES:  Hello, all.  I am Lianna Hoodes.  I am the Organic Policy Coordinator of the National Campaign for Sustainable Agriculture.

I am sorry I don't have a copy of my comments and I will get them to you, but they have now been changed. Really good stuff this afternoon. So I need to add some more things. But there is a copy of an attachment that I thought you would be interested in.

The National Campaign is a national network of organizations and individuals working to advance sustainable ag policy. We have environmental groups, consumer, health, animal welfare, food
security, and other interests that support ag policies.

We want to compliment the work of this Board and the National Organic Program in your ongoing work to support the premiere standard of sustainability in agriculture, organic agriculture. That is really important. That is what it means to us in sustainable ag, that high bar, and you're the ones that set and keep that high bar of organic integrity.

I am going to leave most of the docket questions for my written comments, but I want to spend some time talking about what some of the work of the National Campaign groups, the National Organic Coalition, and the Sustainable Ag Coalition, and others on Capital Hill do to advocate for organic programs.

We advocate for many agricultural programs that support the work of organic farmers, such as the Conservation Security
Program, ATTRA, SER, Organic Transitions Research Program, as well as the NOP budget and the National Organic Certification Cost-Share.

This advocacy is vital, because without it, programs for organic farmers and family farmers are easy targets, and with it, it works.

Unbelievably, ATTRA, for instance, for the past six years, in the President's budget has been zero, zeroed out. With advocacy from all of our groups, we have been able to bring it back, but it has gotten level-funded for six years, but at least it has something. Can you believe that they would zero out that really efficient program of ATTRA? With our advocacy, we can bring it back.

With regard to the National Organic Program, last year's FY 2006 funding was at $2 million. Proposals supported by the National Organic Coalition, as well as
virtually all others, including the President, House, and Senate, called for an increase in NOP budget to $3.13 million.

We all acknowledge that that isn't even enough. We need more in the NOP budget to really get the job done. We have to keep pushing for it.

National Campaign groups and the National Organic Coalition have also supported a request for additional funds for the National Organic Certification Cost-Share Program in the amount of $1.5 million. The cost-share it the only program that goes directly in the pockets of farmers. It provides reimbursement for cost of certification. It is vital for organic farmers that this be continued.

But, for 2007, all funds have been expended from this program, and it awaits reauthorization in the next farm bill. Without additional funding, though, in 2007, there will be no national cost-
share money available, and the future in the next farm bill is in serious jeopardy. You can't go into the farm bill trying to reauthorize a program that has lapsed.

According to information directly from NOP, and you'll see on your chart, the National Organic Certification Cost-Share Program figures show that 89.16 percent of the funds allocated to the states has been used by the states. This usage doesn't really show quite all of the usage. It is probably a little higher than that. You will see California supposedly hasn't used its money. We know California will use all the money that it was allocated.

Of the 44 states that applied for funds, a mean of 82.99 percent was used by each state. This is a very, very well-used program and extremely important.

The Senate budget offered a compromise by proposing that $500,000 of the $1.31 million increase of NOP be used for
certification cost-share, leaving the rest for NOP. We support this compromise position at a time of severe fiscal restraints since this does provide for an increase for NOP and a small amount of money to pay for direct farmer payments. Farmers aren't and shouldn't be pitted against the agency in this compromise. Ideally, we would and we hope to find additional funds to make both funding proposals complete, but that just isn't always possible.

Also, please don't get confused with the Risk Management Agency, Ag Management Assistant Cost-Share. That is a whole different program, and that is where you might have gotten confused on some numbers that were presented earlier. There is another program, but that is only for 15 states.

So the federal program for all of our organic farmers in the pocket to help them support their work to produce organic
product and to protect environment is that certification cost-share.

Thank you.

CHAIRMAN O'RELL: Thank you, Lianna.

Any questions?

(No response.)

Thank you.

Julianne Mayo, and Lynn Coody is up next.

MS. MAYO: Hello, all. Julianne Mayo from Ocean Nutrition Canada. I am happy to be here from Nova Scotia, and I thank you very much for continuing to take comments, despite it being past our allotted time.

To put my comments in context, Ocean Nutrition is an omega-3 fish oil ingredient manufacturer and supplier. We make omega-3 fish oil patter that can be added to foodstuffs for human consumption.

This is different from
previously-discussed fish oil applications that you have heard today. This is intended for the food industry.

One of our applications is the addition to organic foods in the 5 percent non-organic portion. Therefore, we want to really address the agricultural/nonagricultural petitioning under 606 issue.

Our type of product is not really the first thing you think of when you consider organic applications. We want to be sure that our place in the organic industry as a healthy food ingredient is not lost in the shuffle in these debates we have been having. We have a very vested interest.

We have previously submitted comments on the NOSB recommendations in writing. So I did not bring duplicate copies today. You should have them, and they were posted on the NOSB website for anybody else in the audience who wants to
see them.

After hearing discussion over the past two days, I can say it has been extremely informative, very helpful for me.

I do want to reiterate that we are in support of the clarification of agricultural and nonagricultural definitions. More specifically, we do support the decision tree approach, and we would like the text of the tree rooted in the definition as well.

However, we do caution against oversimplification. It has been suggested that if something is truly agricultural, that means it can be grown organically. As you have seen from today, omega-3 fish oil, fish products, and, in particular, omega-3 fish oil is an example of an exception to that idea. We currently cannot have omega-3 fish oil that is organic.

However, we do feel that fish oil products like omega-3 fish oil for human
consumption are agricultural. Some people are onboard with that, but we have had others that have questioned it. We are concerned about that seemingly still gray area of how to consider products such as ours.

I had hoped to see acceptance of a revised agricultural and nonagricultural definition at this meeting, but, as we saw today, it is not looking that way, from the hand that was played earlier today.

As Arthur Neal pointed out earlier today, processing of petitions for 606 may be delayed where agricultural and nonagricultural designation is still unclear. This is a serious cause of concern for us.

We ask the Board to recognize that omega-3 fish oil for human consumption is an agricultural substance, so that we can continue and have our petition processed by the NOP. We have already submitted our
petition earlier in the summer for fish oil and for fish gelatin.

Further, during your continued work on the development of more robust definitions for agricultural and nonagricultural substances, we ask that you please consider explicit inclusion of aquatic animals. Omega-3 fish oil is sourced from the byproduct of wild fish. Therefore, it likely won't come as a surprise that we would specifically enjoy seeing the inclusion of wild captured fish in an agricultural definition.

So since you are still proceeding to work on it, and it is not looking like it will be decided at this meeting, at least it is a silver lining in the cloud that you can, hopefully, try to focus on including some specifics in the agricultural definition like certain animals as aquatic animals versus just animals. So that seems to be a bit of an issue still.
So I want to keep it super brief since you are here late and open it up to any questions, because I know we are in an area that is not necessarily something a lot of people have been exposed to. So if you have any questions at all, let me know.

CHAIRMAN O'RELL: Thank you.

Joe?

MR. SMILLIE: Yes, I'm obviously losing it.

(Laughter.)

MS. MAYO: It's late.

MR. SMILLIE: But why would --

MR. GIACOMINI: No, he's just obviously losing it.

(Laughter.)

MR. SMILLIE: Why wouldn't you want to be on 605(a)?

MS. MAYO: Oh, because that's for, if I remember correctly, nonagricultural, isn't it?

CHAIRMAN O'RELL: Yes,
nonagricultural.

MS. MAYO: Nonagricultural.

MR. SMILLIE: Right.

MS. MAYO: And so we feel it isn't --

MR. SMILLIE: Non-synthetics allowed.

MS. MAYO: Yes, well, we feel it is an agricultural ingredient because it is derived directly from fish.

MR. SMILLIE: Am I missing something?

(Laughter.)

We have a number of products that aren't like yours but that are similar that are on 605(a).

MS. MAYO: Yes.

MR. SMILLIE: I would love to see your product be allowed because I think it is a very healthy, good product, but I would see it as really a long, uphill battle to get it on 606 because of all the issues
surrounding it.

MS. MAYO: Right.

MR. SMILLIE: And I am just wondering that 605(a) wouldn't serve your purpose to keep it as allowed. Because if you don't get on 606 and you're not on 605(a), you will be one of the deaths.

MS. MAYO: Yes, that's what we are really concerned about. But our understanding of the agricultural, what is agricultural has always been that we do nothing to chemically alter this oil. We pull it out of the fish. It is a fish product. There is very little removed from the fish itself. Therefore, that is what makes it agricultural. So that is where it needs to be.

CHAIRMAN O'RELL: Gerald?

MR. DAVIS: Would your company's desire to have it be considered agricultural, it is because of concerns about the 95 percent organic versus 100
percent organic and all that, so you can position your product for more categories of organic?

MS. MAYO: No, no. Well, not in the foreseeable future would we ever operate as an organic product because it is fish. So we know that for a long time to come we will always be in the non-organic portion. So it would really be up to our customers if they are seeking a 95 percent or 70 percent designation.

But at this current time, and I don't foresee it in the early future, we would ever be in a product that was considered 100 percent organic. So our product development hasn't been based on that at all because know that we are always less than 5 percent in terms of the technical amount that you have add to get EPA and DHA levels. So it is up to the customer for what designation they want, but it is not something that we target at all.
CHAIRMAN O'RELL: Well, I would think that just if you want your customers to have the availability of use of organic products, that at least at this point in time, until there is some definitive direction for aquaculture and how the regulations apply to organic, that you file a petition to have them in 205.605(a) -- 605(a), yes.

MS. CAROE: As a nonagricultural ingredient.

CHAIRMAN O'RELL: Right, yes.

MS. MAYO: But it's not nonagricultural. Like we are not trying to do it to get around the regulations, and where do we get on a list so that we are on a list. We are trying to do it -- you know, we do feel we are agricultural. So we are attempting to be where we think we are supposed to be, which is as an agricultural ingredient.

CHAIRMAN O'RELL: Okay. You've
already --

MS. MAYO: But this is why we're here, because there is debate, and we're not really sure why.

CHAIRMAN O'RELL: Okay, I've stirred up the Board. They're awake now.

(Laughter.)

Nancy?

MS. OSTIGUY: Well, I'm somewhat puzzled as to what the argument would be that it is not agricultural. I don't understand --

MS. MAYO: As are we.

MS. OSTIGUY: I don't see how safflower oil or Canola oil is different.

MS. MAYO: Yes, that is one of the reasons that I am here and was hoping for discussion, because whenever we have had somebody say, "Well, we don't think you're agricultural," we've never gotten a good reason for why they think that. We just don't see the argument in it. So I am in
complete agreement. We don't know why.

MS. CAROE: I don't get it, either.

CHAIRMAN O'RELL: Kevin? Dan?

MR. GIACOMINI: Your company is the one that has already submitted the petition --

MS. MAYO: Yes.

MR. GIACOMINI: -- that is listed on our list? Okay.

MS. MAYO: Yes.

MR. GIACOMINI: I just wanted to clarify that.

MS. MAYO: Yes, Ocean Nutrition.

MR. GIACOMINI: So they have already submitted a petition for 606.

MS. MAYO: Yes, uh-hum, based on our understanding --

MR. GIACOMINI: Okay.

MS. MAYO: -- and guidance from various groups. We did try to go to several different groups before we filed, and we
kind of had to go with most people fell out on the agricultural side. That is where we really feel we need to be. So that is where we decided that the petition was most appropriate.

CHAIRMAN O'RELL: Gerald?

MR. DAVIS: But, realistically, for their problem, we are a long ways off from dealing with the wild-caught issue. Are we -- not talking organic; never mind.

MS. MAYO: Yes. No, we are not trying to get it organic, yes.

MR. GIACOMINI: It is just ag.

MS. CAROE: It was just the answer, you know, that this is not about making an organic fish oil.

CHAIRMAN O'RELL: Right.

MS. CAROE: This is about allowing fish oil, when it is unavailable in an organic form, as a conventional.

MS. MAYO: Yes.

MR. GIACOMINI: Considering it as
CHAIRMAN O'ReLL: So you've done the right thing.

(Laughter.)

MS. MAYO: Can I have that on the record, please?

(Laughter.)

CHAIRMAN O'ReLL: It is on the record.

MS. OSTIGUY: And I'm looking at 606 and kelp is on there. The last I knew kelp was ocean also.

MS. MAYO: Yes.

MS. OSTIGUY: So it can't be that it is ocean versus land. I'm just puzzled.

MS. MAYO: I understand your puzzlement.

(Laughter.)

MS. CAROE: Jim is going to answer the question.

CHAIRMAN O'ReLL: Okay, Jim.

MR. RIDDLE: Yes, Jim Riddle.
For the purpose of the organic regulation, it comes down to the definition of livestock, which specifically excludes aquatic animals. That is what we are stuck with right now. That, eventually, probably will be changed, but that is the way it is right now.

MS. MAYO: Isn't there, though -- I was trying to find it earlier today -- isn't there a section that says fish for use as food, like for food use? I was trying to remember where I found it, and I couldn't remember.

MR. RIDDLE: In the law, I think it is.

MS. MAYO: So, anyway, that's our issue.

CHAIRMAN O'RELL: It's a good one.

MS. MAYO: Thanks.

CHAIRMAN O'RELL: Judy Ellis is on deck.
MS. COODY: Oh, no.
No, no, no, you're up. Sorry, Lynn. We wouldn't do that.

MS. COODY: Well, here I am again. I have an issue that probably is just as fishy as the one heard about, but it has nothing to do with fish. This is about the Peer Review Panel and other issues related to accreditation.

My name is Lynn Coody. I am from Eugene, Oregon, and I have a consulting firm called Organic Ag Systems Consulting that specializes in certification and accreditation issues.

Earlier on, Joe gave a good overview of the peer review section, the regulatory language related to the Peer Review Panel. Remember that there is a mention of the Peer Review Panel in the Organic Foods Production Act, and that basically says certifiers should review each other.
Then in the rule it is a little bit different. There it says the Peer Review Panel reviews the NOP accreditation systems for compliance with an international standard called ISO 17011 and for compliance with the agency's own regulations.

So we heard Rich Theuer before go back, harken back to the original NOSB, but I'm going to go back to pre-history. Before there was an NOSB, before there was an NOP, there was me.

(Laughter.)

And I helped to write the Organic Foods Production Act.

CHAIRMAN O'RELL: You are the beginning.

MS. COODY: Well, I wasn't the only one, but I was there when we were writing it.

In the section on the Peer Review Panel, we thought of this as a mechanism to provide oversight of the NOP's accreditation
system. Of course, we didn't even really know what the accreditation system would be because in those days we didn't know much about accreditation.

Our collective understanding of accreditation issues was much different than it is today. So at that time, we decided that we needed some system, though, to oversee the whole thing. We wanted to make sure that there was a public/private component of this, that there was people from outside the USDA overseeing this. That is why it is written as it is, in the Organic Foods Production Act.

At that time, we were unaware of the international ISO standards for either certification or accreditation. It seems hard to believe, but that's the way it was.

These days, now, the expectations of organic guarantee systems are much higher and the concepts in the rule reflect the current practices more closely than those in
OFPA. So the rule is closer to what we know today than OFPA is.

So I only have a little time, and I have lots to say about accreditation. So I am just going to try to ask you to make sure you try to use the concepts in the rule other than OFPA when you are writing your peer review recommendations.

Remember, there already is an NOSB recommendation from 2001 that is based on the rule. So that is a darned good place to start.

So here are five things that I am concerned about about just relying completely on the OFPA standard:

I am concerned that the peer review system in OFPA does not provide a direct mechanism for evaluating the NOP's accreditation program. Attention would be focused on the deficits of an individual certifier instead of the inability of the accreditation system to find and deal with
the deficits.

Unless there were a mechanism that allows an overview of the results of the peer review process, as defined under OFPA, it would be very difficult to piece together a picture of the management of the entire accreditation program. That is the most important point.

Secondly, OFPA does not require the NOP to comply with ISO 17011 specifically. In my opinion, conformance with ISO requirements is essential for transparency, competency, and international acceptance of our NOP program.

A quote from the July 2003 NOP press release announcing the contract to hire ANSI to perform the so-called peer review assessment that we have right now says, "International acceptance of U.S. agricultural inspection and certification programs is important in order to ensure domestic producers are fairly treated around
the world." We know that this happens through ISO 17011.

Third, certifiers vary greatly in their ability to conduct an internal audit of another certification body, as would be required under the rule -- I mean under the OFPA system.

Conflict-of-interest issues arise when certification agencies have spent years investing the infrastructure of their quality systems, which would then be open to their competitors through the OFPA-based peer review auditing process.

And my fifth point is the NOSB's own recommendations on Peer Review Panel are based on the rule, not the concepts in OFPA. We have had little public exploration of a system based on certifiers doing peer review, and a thorough exploration of public comments would be necessary.

I have three other whole issues to talk about about accreditation, which
obviously I don't have any time to do. So I want to just let you know, finish up by saying, I did provide the CAC Committee with papers that explain whole models for incorporating bold things, so you don't get sued from not complying with OFPA, and yet you still are doing the rule process. They already have those papers.

If they need help to understand them, just call me. They are hard. It takes some thinking.

Thanks a lot.

CHAIRMAN O'RELL: Lynn, thank you.

MS. COODY: Okay.

CHAIRMAN O'RELL: We have a question.

MS. COODY: Okay.

CHAIRMAN O'RELL: Andrea?

MS. CAROE: One of the things that, Lynn, I am not quite sure you know about, and probably do, is the IG oversight
on this government program.

    MS. COODY: Right, yes.

    MS. CAROE: And the fact that there is a quality systems oversight --

    MS. COODY: Right.

    MS. CAROE: -- already happening --

    MS. COODY: Yes.

    MS. CAROE: -- as just being part of the government.

    MS. COODY: Yes.

    MS. CAROE: So, you know, one of the things that we will be looking at is, does ANSI or that type of audit or another systems audit actually get us any further down the line?

    MS. COODY: It gets you further down the line in complying with ISO 17011, as required by the rule, but it doesn't do, in my mind, much to comply with the peer review part of OFPA because it doesn't -- well, I can't really explain it all unless I
take a lot of time. But there are other components that need to be addressed.

I thought that both ANSI and the Inspector General efforts were extremely valuable. I think that the outcome of the reports were right on, and I am happy that the NOP is now saying that they are ready to work on their quality system in a really intense way. That makes me really happy, and I know that they will do that to try to comply with ISO 17011, since that was the outcome of those two, both reports that pointed out many non-compliances with that international standard.

So good luck to the Accreditation Committee. I know you have a lot ahead of you.

CHAIRMAN O'RELL: Well, don't think you're off the hook, Lynn.

(Laughter.)

We know your phone number.

MS. COODY: Yes. Okay.
CHAIRMAN O'RELL:  Thank you, Lynn.

MS. COODY:  Okay.  Thanks a lot.

CHAIRMAN O'RELL:  Judy Ellis is up, and David Engel is on deck.

MS. ELLIS:  Hello.  Thank you so much for all of this hard work that you all are doing.  It has been an eye-opener for me.  I'm an organic consumer, and it is very, very important to me that the quality of organic products is high.

So with that in mind, I would just like to read this.

With all due respect, were the regulations and precedents created to ensure the integrity of organic products are uncompromised or are the regulations and precedents established for the sake of protecting the regulations and precedents?

If yeast and organically-grown microorganisms are better for the organic movement under Section 606, then why don't
we or why don't you reinterpret the definition of agricultural to include organically-grown microorganisms as well as yeast? Why allow the precedent in which the original intent was to protect the organic movement prevent the organic movement from moving forward? That's my question. Could you reinterpret it without changing the definition?

CHAIRMAN O'RELL: I guess it is a question to us.

MS. ELLIS: You don't have to answer me.

CHAIRMAN O'RELL: Joe, take a stab.

MR. SMILLIE: I'll take a stab at it.

(Laughter.)

CHAIRMAN O'RELL: Thank you. Thank you.

MR. SMILLIE: I hear what you're saying, and that's the frustration. But,
you know, it is a question of process and regulation. The thing is you have to do the right thing by creating the right structure, so that all decisions are processed the same.

And you can't just say, well, we're going to take this particular product because it is the right thing to do and allow for it. Because once you have done that, you've broken the structure. So, therefore, you have literally opened the box. So then other people say, "Well, if you did that for them, you must do this for us."

So we have to have a level line from which to proceed. That is the regulation. So we have to find a regulatory basis to make good decisions.

And if we make good decisions and use bad process, then it will hurt us more in the long run. That is, I guess, the belief that we are all committed to.
So we want to make the right decisions, but we've got to have the right process, too. So we have to find regulatory justification and a consistent way of interpreting it.

MS. ELLIS: I understand. I am wondering if perhaps it could be amended. If something, like the gentleman mentioned, if something worked 10 years ago, but now we realize it is not working, is there a way to change it?

MR. SMILLIE: I think we are committed to finding the solution to solve that problem. It may not happen as quickly as we would like it to happen, but I think we are committed to finding that solution.

CHAIRMAN O'RELL: Dan? I'm sorry, Joe.

MR. GIACOMINI: We have a petition in front of us. As Joe was saying, if we an error, we have to fix it within the structure. We have a petition in front of
us to remove it from 605 and to put it on 606. That would essentially do that, and if we can do that without having to change the definition of agricultural product, we will proceed, if that is prudent, we will proceed in that way.

MS. ELLIS: That would -- sorry, you were going to say something?

MS. WEISMAN: Well, I was going to say, in addition to that, we are here because we are trying to work out how, you know, what changes are possible. That is exactly what we are here for. We are looking at all the different ways that -- you know, what different bases could we use for changing the definition.

But I can appreciate how frustrating it is when you get a snapshot view and haven't had a chance to sort of -- I mean this is something that has been engaged in over a long period of time because we are trying to find the right way
to do it. It is not that we are trying to shirk that or not do it.

MS. ELLIS: No.

MS. WEISMAN: I mean there are some issues that you have heard about today where there's a little, you might have sensed a little more of a feeling like, well, this is the way it is. This is not one of them. I think we are very willing to try and be creative and explore all the different ways that we could look at it.

MS. ELLIS: And please forgive me; I don't want to seem hostile at all. I'm very impressed with all of you and this meeting, and you're the cream of the crop. You're leading the world with the regulations. You're leading the world.

This group of people right here, the NOP and the NOSB, you are creating standards that are going to affect the international community. I highly respect you and I am thankful for the work that you
I am just wondering, can you reinterpret agricultural. That's all.

CHAIRMAN O'RELL: Okay. Well, thank you.

MS. ELLIS: Thank you.

CHAIRMAN O'RELL: We appreciate your comments. Thank you, Judy.

David Engel, and then Richard Siegel.

MR. ENGEL: Good evening. My name is David Engel. I am entering my 26th year as a dairy farmer, organic dairy farmer, and have been certified organic for almost 20 of those years. I have also been intimately involved with the certification side of the organic industry for the past 18 years, and I am presently the Executive Director of Nature's International Certification Services.

My comments this afternoon are addressed to the NOP and, Mr. Bradley, in an
effort to help us all reach a better level of communication which will be helpful to us all.

In all human endeavors, success of those endeavors rests primarily with the success of communication that takes place amongst those involved in those endeavors. This public/private partnership that the NOP is no exception to this, and as we have experienced over the years of all of our efforts, some of our communications have been successful and some of them have not, with predictable results coming from each success or failure of communication.

Each of us has felt frustrated from time to time about different things that have happened, and as we have tried to make decisions to further our mutual cause of good, healthy food produced without prohibitive inputs.

My overall point here is that it is critical that the NOP and the accredited
certification agencies, the ACAs, develop, establish, and maintain a professional two-way regulatory relationship/partnership which enables an ACA to make their certification decisions in an informed, professional, procedural manner and which allows the NOP to provide the necessary regulatory oversight of this process.

A significant problem now, in my opinion, is that the current relationship between the NOP and ACAs is a somewhat strained relationship, due to the inevitable juxtaposition within the NOP of its perceived and actual dual roles of both serving as an accredditor and helping to make certification decisions for various individual certifiers.

It is noted and acknowledged that the NOP has made purposeful efforts to provide nationwide and international training for ACAs and to help ACAs better understand and manage their role of making
certification decisions. The problem occurs when an ACA makes an informed and documented certification decision and then the NOP overrides or influences that decision.

As I say above, there is within the NOP and current regulatory setup an inevitable juxtaposition of their overall responsibility of the regulatory roles of certification and accreditation, Sections 400 and 500, respectively, in the rule, but it would be in all our mutual best interest to be able to have a well-developed, clearly-established process whereby the NOP concentrates its resources and attention on running a top-notch accreditation program while at the same time, when the NOP is approached with a certification issue, question, problem, interpretation, that the NOP is then able to tap into and utilize the measurable experience and knowledge of the ACAs via the ACA, the Accredited Certifiers Association.
In sum, I would highly recommend and encourage the NOP to develop and establish such a process. Indeed, I remember an NOP training session which took place at the May 2005 ATO meeting where the then-Accreditation Manager of the NOP, Mr. Mark Bradley, stated that he would prefer that the certifiers put their heads together in developing and establishing consistent, well-documented decisions on various rule interpretations.

Mr. Bradley further stated that he was mainly concerned with how well decisions are made, their documentation and justification per the rule, and that concerns regarding the actual rule interpretation itself could be addressed during required regulatory audits.

Mr. Bradley also invited the ACA members at that session to put together well-thought-out position papers on rule interpretations and submit them to the NOP
for dialog, emphasizing the need for a well-documented suggested solution, and the NOP would respond.

Right now, we are stuck in a situation that is widely variable as to how different ACAs do interpret the rule, with predictable resulting frustration amongst all ACAs.

In sum, again, I highly recommend and encourage both the NOP and the ACA to be proactive in their efforts at more successful communications for all our mutual benefits, so that we are not left pounding our fists on the counter.

Thank you.

CHAIRMAN O'RELL: Thank you, David.

Any questions for David?

(No response.)

Thank you.

Richard Siegel.

MS. JAMES: Do you have a proxy?
MR. SIEGEL: No.

CHAIRMAN O'RELL: Okay, we have somebody signed up on the list, just R-A-M, Ram. I don't know what that is. RAM, okay.

Then Richard Martin.

MR. SIEGEL: Thank you, members of the Board, for allowing me to comment, even though I missed original round of signups for today.

I am Richard Siegel, and I'm speaking now as counsel for Marroquin International Commodity Services, Grace Marroquin, who testified yesterday.

Yesterday, there were a number of people commenting and counseling the Board that they thought that the Board should not take action at this time to move a yeast from 605(a) to 606. They made a number of arguments which I think the Board took very much into account.

The hour is late, but I wanted to leave you with our responses to these three
points.

The first point that was developed was that putting yeast on 606 would affect livestock feed, and therefore, should be a time to examine this, problems that might flow from that.

The second point was that additional standards tailored to yeast should be developed before yeast should be moved to 606.

And the final main point that was brought up was that putting yeast on 606 cannot be done as the Committees recommended by way of a technical correction, that there would have to be a petition process.

What about feed? I have looked at the regulations, and I don't see any particular widespread problem that would develop if yeast moved over to 606 in the area of feed.

The feed regulations are described in Section 205.237. The
Composition of Feed is governed by Section 205.237 of the rule.

Dairy farmers, for example, that were mentioned yesterday as direct feeding microorganisms, as feed additives and supplements -- well, that regulation is very liberal about allowing feed additives and substances that are natural. They don't have to be organic.

So there is an area of these microorganisms that are fed do not have to be organic. So moving yeast over to 606 would not affect the kind of uses that farmers make on farm with microorganisms.

Who would be affected? The commercial feed manufacturers who are putting out processed feed products that are certified organic, and they would be subject to the 95.5. Well, their exposure to having to use organic agricultural ingredients would be no different from the exposure of food manufacturers. So these are people
that want to put out an organically-labeled product, and they would have, if yeast were commercial available for their needs, they would be subject to that, if yeast were on 606 and commercially available.

Now what about additional standards for yeast? We came to this Board more than two years ago, and we hate to hear another thing that might be a recipe for delay. And, moreover, it is not particularly necessary.

The regulations we have are very thorough. They are very detailed. They are very comprehensive.

We have a lot of smart certifiers in this industry, and they will be able to figure this out. In fact, they are already certifying yeast as organic. There are already certifiers that are finding yeast meets NOP standards.

So I don't see why we have to wait for the perfect set of tailored yeast
Mushrooms don't have their own standards yet. They're improvised. They're under crops. There is nothing wrong with that.

Manufacturers are just waiting to get this cleared up, so that they can make organic yeast available. Every time we delay, we keep the status quo, which is using conventional yeast instead of organic yeast. And I know this Board doesn't want the status quo.

Technical corrections, we can make this a technical correction. The Board did this itself in the year 2000. They put a comment, they gave a comment to the NOP on the second proposed rule, and they said there are seven substances on 605(a) that can move over to 606.

The NOP did that in the final rule. They took five of the seven and they moved them. They made them agricultural.
So there is good precedent for this.

Harvey does not apply because Harvey wants to put substances that are not out there yet on the National List, and that was where Harvey was focused. When the product is already on the National List, and the question is whether it is going to be a 605(a) product on the National List or a 606 on the National List, Harvey doesn't get into that.

CHAIRMAN O'RELL: Thank you, Dick.

Andrea?

MS. CAROE: Well, just stay there for just one second.

First off, the feed requirement is not 95 percent; it is 100 percent, excluding the supplements. Now very well yeast may be considered a supplement, but until we know that, I am not comfortable with us putting forward this recommendation that may have an impact. I think it would
be prudent of this Board to make sure of that.

As far as additional standards not being necessary, you may be right as well. But it just makes sense that we investigate that and look at the implications of that.

We are hearing from the trades that there's a lot more to it. It would be an error in judgment for us to ramrod forward with this recommendation, not investigating that.

And as far as the technical correction, as I mentioned earlier today, I feel that we need to just verify that that's a possibility and make sure with the program that that can happen.

Again, these are just three areas that I'm not saying have to change. I am saying they warrant further investigation before we put forward the recommendation.

MR. SIEGEL: Okay. Well, I --
MS. CAROE: And I do understand your frustration, Dick. I have seen you here at these meetings, and I know how hard that you have been working for this. However, it does nobody any good to put a recommendation out there that's going to fall flat or get us in trouble.

MR. SIEGEL: Well, I did want to leave you with my thoughts before we went to the meeting tomorrow. All right?

CHAIRMAN O'RELL: Thank you, Dick.

MR. SIEGEL: Thank you very much.

CHAIRMAN O'RELL: Thank you.

Richard Martin, and I'm just going to go back to the first name that we called, David Cox. This will be the last chance, and then you are the last.

MR. MARTIN: I'm it again.

CHAIRMAN O'RELL: You're it.

MR. MARTIN: Thank you for having me.
Richard Martin. I own Martin International Corporation. I hold a degree in marine biology and have been in the aquaculture business for 27 years.

On my way down today, I got sidelined by The Boston Globe with a big report on a study that was published today in JAMA that is a risk/benefit analysis conducted at the Harvard School of Public Health, which is a clear, very, very powerful statement about the benefit of omega-3 fatty acid delivery to human beings. I will just take a quick excerpt.

Also, just curiously, the headline on top of it: "Population Clock Reaches 300 Million People in the United States." So it is kind of a picture that is interesting right there. We have a lot of people and we have to feed them, and we have to feed them good food.

The major study was fish intake, contaminants, and health. "According to the
single most comprehensive study on the risk and benefits of fish consumption published today in JAMA, the Journal of the American Medical Association, Dr. Rimm and Dr. Darius Mozaffarian of the Harvard School of Public Health concluded one to two servings per week of fish, especially those high in omega-3 fatty acids, reduced the risk of coronary death by 36 percent and the overall mortality by 17 percent." They are astounding numbers.

"The documented benefits of fish consumption outweighed the hypothetical cancer risks from contamination by 100 to 1,000-fold. The authors state that even this is a likely underestimate of the benefit since the estimated risk of cancer already has a 10-fold safety net built in."

I think the statement says, and someone could challenge me, but my take on this is aquaculture of carnivorous aquatic species, which are the highest in omega-3
fatty acids, is the conveyor belt of omega-3 fatty acids to consumers.

In addressing your points, I will talk as fast as I can because I have a lot of stuff here. In context, I'm talking about the impact in the environment.

Open-net pen aquatic systems can minimize environmental impact through the reduction of input and maximizing bioefficiency within the feeding systems. It can be argued that a combination of polyculture, the co-culture of plants, invertebrates, and aquatic species of fish, can actually enhance the ecosystem within an aquatic environment.

A combination of limited organic input, feed, invertebrates that live off the effluent in filtered surrounding water and plant culture that contributes to the absorption of metabolic waste can be considered to be a viable model that improves the environment and location in
which these factors are in balance.

A lot of what we heard today so far compares or talks about the aquatic or aquaculture of carnivorous species, but they refer to the conventional model. They don't address what is currently in place in the organic model, which is very different and a very good place to look at what improvements have been made over the conventional model.

The differences between organic and conventional aquaculture standards are:

1. Organic aquaculture standards deliver enhanced value to the consumer in the following ways:
   - Organic aquaculture maximizes delivery of omega-3 fatty acids by lowering or eliminating feed components, especially corn derivatives, which tend to be rich in far less beneficial N-6 acids that do not contain omega fatty acids.
   - What a lot of people don't understand is in the conventional industry a
lot of the diet of carnivorous animals is pumped up with corn derivatives, which has very little value to us human beings when we eat the product or reduces it anyway.

Two, the elimination of the use of therapeutic agents such as antibiotics and anti-parasite agents are also part of the EU program. So you are removing chemicals from the system, very different from the conventional industry.

EU aquaculture has a requirement that mitigates environmental impact by limiting the use of fish oil. The fish in the EU-certified organic product is a maximum of 26 percent. The conventional industry right now uses up to 50 percent worldwide. So it is a 50 percent reduction in fish oil consumption. The elimination of the practice of forcing growth, as seen in the conventional system, is also taken out in the organic model.

The organic system currently in
place in the EU works within the natural growth rates of the species being raised, which minimizes negative environmental impact and reduces consumption of fish and fishmeal and oil.

Five, lower stocking densities in the EU model are 10 cubes per cubic meter versus 40 in the conventional model. So already you are reducing environmental impact by four-fold just by the footprint size in the requirements.

Utilization of recycled protein, the EU practice that requires all fishmeal to be solely comprised of recycled fish trimmings produced from human food use, the recycled fish protein is only obtained from fisheries produced within safe biological limits determined by its robust worldwide organizations as FAO and ICES. This is currently the only truly sustainable fishmeal model in the aquaculture industry.

Five, the elimination of the use
of synthetic pigment agents, GMO-free components, which are passed on directly to consumers.

The confusion regarding the apparent need for the certification of wild-caught fish for feed draws a parallel to the terrestrial equivalent of wild grass being consumed in the pasture by certified organic terrestrial creatures. The certified organic steer is required to spend a certain amount of time in pasture, and that has been analyzed and certified.

During the pasture time, that steer is free to consume any available feed. That includes wild grasses, weeds, and other vegetable matter.

Finish the statement?

CHAIRMAN O'RELL: Finish your thought.

MR. MARTIN: Okay. Although the pasture itself is certified and controlled, and the inputs that can be controlled are
controlled, the pasture remains to the environment, which includes rain, wind, and gases that cannot be controlled for purity, content, origin.

The feed components used in the aquatic system can be controlled, and to the extent that they can be evaluated, adjusted for environmental contamination, as well as source from renewable fisheries, creating well-controlled input, it is similar, if not more controllable, than a terrestrial model.

I have a lot more, but that's it.

CHAIRMAN O'RELL: Okay. Thank you, Richard.

We have a couple of questions. Bea?

MS. JAMES: Have you submitted your comments?

MR. MARTIN: I didn't. I can submit them, though.

CHAIRMAN O'RELL: Please.

MR. MARTIN: Okay.
MS. JAMES: That would be really helpful if you could do that, please.

MR. MARTIN: Yes.

Nancy, I wanted to address something you asked earlier about the animal doing what it wants to do and living the life it was meant to --

CHAIRMAN O'RELL: Nancy, are you asking a question?

MS. OSTIGUY: Yes, I was going to ask a question, and that was not it.

(Laughter.)

CHAIRMAN O'RELL: Okay. Would you like to ask a question?

MS. OSTIGUY: The question, actually, it is more of a statement than a question. You are referring to the Harvard study and the benefit that we see from humans consuming fish. Those fish are not organically-produced.

MR. MARTIN: No.

MS. OSTIGUY: So you cannot make
the analogy that, therefore, we need an organic fish standard in order to attain the benefit that was talked about in this study.

MR. MARTIN: I wasn't attempting to. What I'm saying is the conventional model produces this kind of health benefits. Now if you take the conventional model, you take chemical applications out of it. You give the animals more space and take away environmental or reduce environmental --

MS. OSTIGUY: These animals aren't all farmed.

MR. MARTIN: No, I understand that.

MS. OSTIGUY: Fish consumption is not all farmed conventional.

MR. MARTIN: Could I quote Dr. Rimm briefly?

According to Dr. Rimm, "even a modest amount of seafood such as 3 ounces of farmed salmon per week reduced the risk of death for coronary heart disease by 36
percent."

The other -- I was going to address your earlier question, if it is appropriate.

CHAIRMAN O'RELL: Okay.

MR. MARTIN: About the fish when they are in their net pen in their natural life, what the fish would do would be to migrate -- we're talking salmon here -- migrate down the river --

MS. OSTIGUY: Uh-hum.

MR. MARTIN: -- go out in the ocean, feed, get bigger, and then the only time they migrate, really when they are in the migratory pattern, is when they are going back to breed.

MS. OSTIGUY: That's right.

MR. MARTIN: In the farm system, they are never allowed to get that old. In the wild, they come back at year three. In the farm system, they are harvested by 16 months.
So they aren't denied their desire to migrate because they haven't gotten to the age where they would do that normally.

CHAIRMAN O'RELL: Did you have a question, Dan?

MR. GIACOMINI: It was Bea's question.

CHAIRMAN O'RELL: Oh, okay.

Joe?

MR. SMILLIE: Just a final thanks, and we look forward to your participation on a regular basis in the future.

MR. MARTIN: I'll be back.

Thank you.

MR. SMILLIE: Thank you for the balanced presentation.

CHAIRMAN O'RELL: I would like to thank everybody who gave public comment today.

Thanks to those who are in the
audience today and stuck it out with us. We appreciate that.

There's been a lot of good public comment, a lot of good dialog from the Board to commenters.

Tonight the committees will be working somehow to digest this information.

(Laughter.)

First, we're going to digest.

So, with that, we will recess until tomorrow morning. Is it eight o'clock? 8:00 a.m.

Thank you.

(Whereupon, at 7:00 p.m., the proceedings recessed for the day, to reconvene the next day, Thursday, October 19, 2006, at 8:00 a.m.)
UNITED STATES DEPARTMENT OF AGRICULTURE

NATIONAL ORGANIC STANDARDS BOARD

MEETING

THURSDAY,
OCTOBER 19, 2006

The meeting was held in Salons 1 and 2 of the Radisson Hotel Reagan National Airport, 2020 Jefferson Davis Highway, Arlington, Virginia, at 8:00 a.m., Kevin R. O'Rell, Chair, presiding.

BOARD MEMBERS PRESENT:

KEVIN R. O'RELL Chair
ANDREA CAROE Vice Chair
BEA E. JAMES Secretary
GERALD A. DAVIS Member
RIGOBERTO I. DELGADO Member
KEVIN ENGELBERT Member
DANIEL G. GIACOMINI Member
JENNIFER M. HALL Member
HUBERT J. KARREMAN Member
MICHAEL P. LACY Member
JEFFREY W. MOYER Member
NANCY M. OSTIGUY Member
JOSEPH SMILLIE Member
JULIE S. WEISMAN Member
NOP STAFF PRESENT:

KATHERINE BENHAM  Board Specialist
MARK BRADLEY      Associate Deputy Administrator
VALERIE FRANCES   NOSB Executive Director
BOB POOLER        Agriculture Marketing Specialist
A-G-E-N-D-A

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MR. O'RELL: Okay, Board members.

NOP is here. We'd like to start our final day of the October meeting for NOSB. This morning we'll be voting on the recommendations that we discussed yesterday.

Those recommendations that have not changed, there's already been thorough presentation of those. They've been posted. So we can give a brief background and then just read the recommendation and then we'll accept a motion for that recommendation and begin with voting. So. Policy development committee, Rigo?

MR. DELGADO: Good morning, Kevin.

At this point if you remember the item that we had on the table was to accept the changes for the Policy and Procedures Manual. This, as I said yesterday, these changes make - it's an ongoing effort to update annually the Policy and Procedures Manual. So at this
point I would like to entertain a motion to
accept the updates to the Policy and

    MS. JAMES: I second.

    MR. O'RELL: There's a motion to
accept the recommendations from the Policy
Development Committee. It's been moved and
seconded for a Board vote.

    MS. CAROE: Who moved?

    MR. O'RELL: Rigo entered it in as
a motion. It was seconded by Bea. Is there
any discussion? Hearing none, we'll take the
vote. Start with Mike.

    MR. LACY: Do we need to do
anything about - we don't have any conflict
of interest on this one, do we?

    (Laughter)

    MR. O'RELL: No, but thank you for
- we all have a conflict on this one. But
yes, for our protocol, thank you for
reminding me. Before each vote I will ask if
there is anybody who has a conflict of
interest to declare. Thank you, Mike. So Mike?

MR. LACY: Yes.

MR. O'RELL: Yes. Hue?

MR. KARREMAN: Yes.

MR. O'RELL: Rigo?

MR. DELGADO: Yes.

MR. O'RELL: Gerald?

MR. DAVIS: Yes.

MR. O'RELL: Joe?

MR. SMILLIE: Yes.

MR. O'RELL: Bea?

MS. JAMES: Yes.

MR. O'RELL: Andrea?

MS. CAROE: Yes.

MR. O'RELL: Julie?

MS. WEISMAN: Yes.

MR. O'RELL: Nancy?

MS. OSTIGUY: Yes.

MR. O'RELL: Jennifer?

MS. HALL: Yes.

MR. O'RELL: Jeff?
MR. MOYER: Yes.

MR. O'RELL: Kevin?

MR. ENGELBERT: Yes.

MR. O'RELL: Dan?

MR. GIACOMINI: Yes.

MR. O'RELL: And the Chair votes yes. The motion carries with 14 yes, no no's, zero no's, no abstentions. Okay.

Thank you, Rigo.

MR. DELGADO: You're welcome.

MR. O'RELL: We'll move on to the Crops Committee Recommendations. Gerald?

MR. DAVIS: Okay. Okay, first item on the guidance document for use of compost, vermicompost processed new and compost teas. We've distributed a new one here that incorporates some very minor textual changes, and I want to point out what those changes that we made.

MR. O'RELL: Gerald, just a point of order.

MR. DAVIS: Oh, am I out of order?
MR. O'RELL: Well, can we start with the agenda just in case somebody was following and thinking that lime mud would be up first?

MR. DAVIS: Sure. So what order do you have?

MR. O'RELL: We have lime mud and then sodium lauryl sulfate, sulfuric acid, calcium.

MR. DAVIS: Okay. Great.

MR. O'RELL: Just so we're in -

MR. DAVIS: Thank you.

MR. O'RELL: - keeping order with the agenda. Sorry.

MR. DAVIS: For the petition substance lime mud, the one, we discussed it yesterday, and I wanted to open it up to any further discussion. Is that proper, if there are any other comments from the Board on - or we just?

MR. O'RELL: What you want to do is to read the recommendation, enter the
recommendation as a motion. If there's a second, then we move for discussion before vote.

MR. DAVIS: Okay.

MR. O'RELL: So there will be an opportunity for discussion.

MR. DAVIS: The Crops Committee recommends that the petition for lime mud to be added to the national list be denied. Stating that the evaluation criteria on all three counts, the Crops Committee felt that it did not pass the criteria on all three. And that it is synthetic, and the substance was rejected by a vote from entering the national list because it's synthetic, it is not mined in the form that it exists. Lime mud is too general of a term. It includes substances that differ from the material produced by the petitioner. The loading rate of contaminants is potentially too high as it is an industrial waste product. The rule prohibits the use of materials made in lime
kilns per Section 205.203(c) and (d). And there are wholly natural substitutes, including ground limestone and ground oyster shells.

MS. OSTIGUY: Second.

MR. O'RELL: Okay, I'll accept that as a motion to reject lime mud for listing on the national list.

MR. DAVIS: To reject it, yes.

MR. O'RELL: By Gerald and a second by Nancy. Is there discussion? Hearing no discussion, we'll take the vote. This is a vote -

MR. KARREMAN: How does the vote go? A yes means?

MR. O'RELL: A yes means that you accept the recommendation not to - to reject addition to the national list.

MS. CAROE: Read the conflicts on this one.

MR. O'RELL: Thank you. Are there any conflicts with any Board members on lime
mud? Hue?

MR. KARREMAN: Yes.

MR. O'RELL: Rigo?

MR. DELGADO: Yes.

MR. O'RELL: Gerald?

MR. DAVIS: Yes.

MR. O'RELL: Joe?

MR. SMILLIE: Yes.

MR. O'RELL: Bea?

MS. JAMES: Yes.

MR. O'RELL: Andrea?

MS. CAROE: Yes.

MR. O'RELL: Julie?

MS. WEISMAN: Yes.

MR. O'RELL: Nancy?

MS. OSTIGUY: Yes.

MR. O'RELL: Jennifer?

MS. HALL: Yes.

MR. O'RELL: Jeff?

MR. MOYER: Yes.

MR. O'RELL: Kevin?

MR. ENGELBERT: Yes.
MR. O'RELL: Dan?

MR. GIACOMINI: Yes.

MR. O'RELL: Mike?

MR. LACY: Yes.

MR. O'RELL: Chair votes yes.

Motion carries 14 yes, zero no's, no abstentions. Okay, Gerald, if you'll take us to the next recommendation on sodium lauryl sulfate.

MR. DAVIS: The next recommendation, a yes vote would be to reject from addition to the national list sodium lauryl sulfate.

MR. O'RELL: So there's a - a motion has been made to recommend the rejection of sodium lauryl sulfate to the national list.

MS. OSTIGUY: Second.

MR. O'RELL: It's been moved and seconded. Discussion?

MR. KARREMAN: Question. Then if there's no annotation on it because I think
it was being petitioned to be an active ingredient, correct? Of whatever formulation. But if you deny it here, what about its use, I guess, as a minor inert whatever. I mean, does that affect that status? Because the name sodium lauryl sulfate is still the same whether it's in the inert category or this active.

MR. O'RELL: Nancy?

MS. OSTIGUY: If it is an inert, then it's listed separately on the list as under inert ingredients. So it would be covered as an inert ingredient and acceptable as an inert, but not as an active.

MR. KARREMAN: So, I don't have the list memorized, but so it is specifically listed under inert?

MS. OSTIGUY: No, it does not need to be specifically listed. The way that we did that was we put all List 4 inerts on the national list. So if it's used as an inert, which means a pesticide, then it's
acceptable.

MS. FRANCES: Because the EPA is changing the terminology on that?

MS. OSTIGUY: Yes, they are. Yes. So actually, that brings up a question. Are we going to change the wording on the national list? Would that be a technical correction?

MR. MOYER: From "inert" to "other"?

MS. OSTIGUY: Yes, other whatever it is that the EPA is using.

MR. BRADLEY: When they make that change we will - we'll have to determine how the Board's going to respond to that, but I would think it would be a - it could be a technical correction to correspond with another legal requirement.

MS. OSTIGUY: Okay.

MR. O'RELL: Dan?

MR. GIACOMINI: Mr. Chairman, due to the nature of the way substances are on
the national list by usage, could we please
have included in the motion the usage that
it's being requested for that is being - that
we are rejecting? Rather than just general
to the subject. In the future, when someone
goes back to look at our -

MR. O'RELL: Thank you -

MR. GIACOMINI: - without having
to search through what the -

MR. O'RELL: That's a very good
point. The motion should be.

MR. DAVIS: It has been petitioned
to be added to the list as an herbicide.

MS. OSTIGUY: Well, could we just
put it as an active ingredient?

MR. DAVIS: For use in crops.

MS. OSTIGUY: Can we list it as
it's been petitioned as an active ingredient?

Because that's really what it is.

MR. KARREMAN: Active or inert,
right?

MR. GIACOMINI: But the petition
was for as an herbicide, correct?

MR. DAVIS: Correct.

MS. OSTIGUY: You'd rather list it as an herbicide?

MR. GIACOMINI: That's what we -

MR. O'RELL: That was the specific use.

MR. GIACOMINI: That's what the -

MR. O'RELL: - use.

MR. GIACOMINI: And that's how - since we need to put them on the list for a use, that's what it's being reviewed for, just like we have certain situations that are on the list in one case, they've been reviewed as something else and denied.

MS. OSTIGUY: Do we wish to really be that specific?

MR. GIACOMINI: I think so.

MS. OSTIGUY: On everything?

MR. GIACOMINI: It's related to the petition as the specific use that they're requesting it for.
MS. OSTIGUY: Again, in the past what we were told by NOP is that, and again, the interpretation may have differed, it may differ now, but we were told that if we put something on the list, it was on the list. And what category it was in was less important.

MR. O'RELL: Hue?

MR. KARREMAN: That would bring up some problems, though, with in crops having, what was it, spectrum? The antibiotic. And then why isn't it in the livestock.

MS. OSTIGUY: Oh, I agree.

MR. KARREMAN: I mean, just for instance. So I think we should actually -

MS. OSTIGUY: Hue, we argued about this at the time, but that was the interpretation that we were told, so I'm - if that's changed, as far as I'm concerned good news, but.

MR. GIACOMINI: Well even on this last docket that is currently waiting for
final there were things that were the list
already requested for a different use that
was denied by the Secretary. So I think the
use is important.

MS. OSTIGUY: Okay. I guess
that's how it was done before.

MR. O'ReLL: Go ahead, Andrea?

MS. CAROE: Just for
clarification, right now we do have
herbicides that are soap-based on the
national list as well as soaps, algicides and
demossers. And I'm just not sure, I just
want you to clarify the use that's been
petitioned as opposed to these already listed
uses for soap-based. I mean, I assume sodium
lauryl sulfate, I mean that's a soap.

MS. OSTIGUY: It is a detergent.
If we want to be particular.

MS. CAROE: But it's a surfactant
which is a soap, right?

MS. OSTIGUY: No, it's a
detergent. A detergent is synthetic, a soap
MR. O'RELL: What page are you on, Andrea?

MS. CAROE: But it's on 601 which is synthetic.

MS. OSTIGUY: I agree. It depends on sort of how we want to do this. In terms of why we rejected it, it was not because it was a soap. It was rejected because the use, if you look at that section, it is acceptable to use a soap as an herbicide along roadsides, next to buildings, those sorts of things. This was proposed for general use on crops.

MS. CAROE: Okay, that's important now. I didn't - but - okay. That clears it up, and maybe we should be specific in the motion.

MS. OSTIGUY: Are we wanting to do that? This is clarification, this is not an objection. Do we want to do that on each individual thing is to say specifically in
the motion why we are rejecting it? If so, that's how we can read the motions.

MS. CAROE: It's not why we're rejecting - I'm sorry.

MR. O'RELL: It's okay, go ahead.

MS. CAROE: I just feel that since soap-based herbicide's already on the list, it might be good in the motion to explain and distinguish from that already listed use.

MS. OSTIGUY: But it's more specific on the list. It's soap-based herbicides used for.

MS. CAROE: Right, but you're rejecting the broader range use for actually on the organic crops. I mean, maybe that's - that's kind of what I was thinking is maybe just, you know, include in the motion the overall use on all -

MR. GIACOMINI: For general crop use.

MS. CAROE: For general crop use, yes, that sort of thing. Because I mean, I
just - I don't know.

MR. DAVIS: The petitioner has petitioned for the use of sodium lauryl sulfate to be an approved synthetic to be used as an herbicide for in-crop use.

MR. O'RELL: As an active ingredient. I think we need to, in the recommendation, be specific because that was the petitioned use by the petitioner was for an active ingredient, so I think that should be included in the recommendation. So if you would like to -

MR. DAVIS: Restate that.

MR. O'RELL: Restate the recommendation, the motion.

MS. OSTIGUY: Gerry, do you want me to do that?

MR. DAVIS: Yes, please.

MS. OSTIGUY: Okay. We are moving to reject the listing of sodium lauryl sulfate as an active ingredient on the national - rejecting for placement on the
national list because it is an active ingredient in a soap-based herbicide whose use is more general purpose on crops beyond the categories on the national list.

MR. O'RELL: Can I make a suggestion maybe that we just be more specific in terms of the motion is to -

MS. OSTIGUY: I said to reject.

MR. O'RELL: To reject the petitioned use as an active ingredient for use in crops. And not -

MS. OSTIGUY: Why don't you word it because I said all those, I thought.

MR. O'RELL: But we're adding why we're rejecting it in the recommendation. And I don't think we need to add why we're rejecting it in the recommendation. The recommendation is just to reject for the specific use.

MS. OSTIGUY: Okay. I heard differently. Why don't you make the motion so you get it the way you want it?
MR. O'RELL: No. Chair's going to ask for somebody on the Board to make a recommendation.

MR. DAVIS: I'll give it a try. I think I understand what you mean.

MR. O'RELL: Thank you.

MR. DAVIS: The motion is to reject the addition of - to the national list of sodium lauryl sulfate as an active ingredient for general herbicide use in crops.

MR. O'RELL: Thank you.

MR. GIACOMINI: Second.

MR. O'RELL: Thank you.

MS. CAROE: Who was the second?

MR. O'RELL: Dan was the second. So we have a motion on the floor to reject sodium lauryl sulfate for the specific use in crops, petitioned use.

MS. CAROE: Point of procedure. We never - we did have a motion on the floor.

It was a motion that was made by Gerald and
then seconded by Nancy. It needs to be withdrawn.

MS. OSTIGUY: I withdraw my second.

MR. O'RELL: You withdraw your original -

MR. DAVIS: Withdraw my first motion.

MS. CAROE: Thank you.

MR. O'RELL: Thank you. So we'll accept your second motion is on the floor, it's been moved and seconded. Is there any discussion? I do have a question because a comment was made yesterday about the confusion and the fact that it is an inert that is allowed and it's kind of ironic that the committee is recommending not to use it. I'm just wondering if there's a little more discussion about the clarification of that?

MR. DAVIS: It's on the list, I am told, I never checked this, that EPA List 4 list of inerts of minimal concern. But it is
a synthetic and the Crops Committee looked at it as because it is a synthetic, even though it is in that List 4 category, it still needs to be reviewed and decided if we are to approve the use of a synthetic on a crop, an organic crop, no matter where it's classified on List 4. I thought that was our charge.

MR. O'RELL: No, thank you, I appreciate the clarification for myself and the public.

MR. KARREMAN: One other thing.

MR. O'RELL: Hue.

MR. KARREMAN: Didn't the petitioner also say it's used in, like, human products like shampoos and other things like that? That kind of made me wonder what's so -

MR. O'RELL: It's grass. It has grass status.

MR. KARREMAN: So the main thing is because it is synthetic and there's other natural available things. Okay.
MR. O'RELL: Any further discussion? Mark?

MR. BRADLEY: Just for a point of clarification, is it the intent of the Board that you're going to want to prohibit its use in any organic products even as an inert?

MR. O'RELL: No. The recommendation was specific that it was for an active ingredient. That's what we wanted to get in the recommendation.

MR. BRADLEY: So if you can make it clear that -

MR. O'RELL: That was in the motion.

MR. BRADLEY: - not recommending that as prohibited, but it's not allowed for use as an active ingredient, but it's still allowed for use as an inert or other ingredient.

MR. O'RELL: Well, that's - it's in the motion that was made that it was specific use for an active.
MR. BRADLEY: Right.

MR. O'RELL: Is that sufficient?

MR. BRADLEY: It was petitioned as an active ingredient.

MR. O'RELL: Yes.

MR. BRADLEY: Just so, you know, we have something in the record that says it was not the intent. So we have that now.

MR. O'RELL: I think we have that now.

MR. BRADLEY: I just wanted to be very clear that you overtly stated that so that there was no confusion later on down the line.

MR. O'RELL: I appreciate that.

MR. BRADLEY: Okay. Thank you.

MR. MOYER: Kevin, we didn't specifically mention that we are allowing it as an inert in this motion because that's not what the petition was for. But it's assumed that since it's in the inert that that would be okay. We just - the motion is to reject
is an active.

MR. O'RELL:  Correct. I think that's sufficient.

MR. MOYER:  I think so.

MR. O'RELL:  Valerie.

MS. FRANCES:  I'm just making an observation. We've discussed that we maybe should modify this form a little more and I'm thinking that this form should be structured to state what the petitioned use was, even a space for additional comment by a commenter that came up during the meeting and a final recommendation so that you can offer any kind of feedback to that comment and then you can make your motion to what your decision is. Like there's just an order so that it's clear in the record, the starting point, any modification and what the motion is and then you can.

MR. DAVIS:  I would agree that the form we have to work with is not completely clear in several ways and we've had comments
from people contacting the committee saying we don't understand what you meant by this.

   MS. FRANCES: Yes.

   MR. O'RELL: Okay, and that's another subject, but I appreciate that and I do think the point is that we do need clarification on the form going forward. But right now we have a motion on the floor that we're discussing. And Dan?

   MR. GIACOMINI: Just to further clarify Mark's statement, our motion is also not restricting its use as a soap-based herbicide for general farm maintenance and ornamental crops. It was only for the request for general crop use.

   MS. OSTIGUY: It was not petitioned for what you're describing, so it's not on the list. Therefore, by not approving it for general use we aren't by default accepting it for that specific use either. For the use around buildings, et cetera. That's still not okay. Wasn't
petitioned for that.

MR. GIACOMINI: It's on the list now for that. It qualifies as that on the list now.

MS. OSTIGUY: If it is used solely as a soap, yes.

MR. GIACOMINI: Right. Right.

MR. O'RELL: Okay. Any further discussion?

MS. JAMES: I request that the motion is restated just for clarity.

MS. CAROE: Can I restate what I have?

MR. O'RELL: In the record? Sure.

MS. CAROE: Yes, because I actually added the listing from the regulation. The motion is to reject the addition of sodium lauryl sulfate to 205.601 as an active ingredient for general use. Is that appropriate?

MR. DAVIS: General use in crops.

MS. CAROE: Thank you.
MR. O'RELL: That was your motion.

Okay, thank you. Any conflicts of interest? Rigo?

MR. DELGADO: Yes.

MR. O'RELL: Gerald?

MR. DAVIS: Yes.

MR. O'RELL: Joe?

MR. SMILLIE: Yes.

MR. O'RELL: Bea?

MS. JAMES: Yes.

MR. O'RELL: Andrea?

MS. CAROE: Yes.

MR. O'RELL: Julie?

MS. WEISMAN: Yes.

MR. O'RELL: Nancy?

MS. OSTIGUY: Yes.

MR. O'RELL: Jennifer?

MS. HALL: Yes.

MR. O'RELL: Jeff?

MR. MOYER: Yes.

MR. O'RELL: Kevin?

MR. ENDELMER: Yes.
MR. O'RELL: Dan?

MR. GIACOMINI: Yes.

MR. O'RELL: Mike?

MR. LACY: Yes.

MR. O'RELL: Hue?

MR. KARREMAN: Yes.

MR. O'RELL: And the Chair votes yes. The motion carries 14 yes, zero no, no abstentions.

MR. DAVIS: The next material petitioned is to add to the national list sulfuric acid for use in stabilization of nutrients in livestock manure. And the petitioner's representative in his comments yesterday was asking us to table the item and give them more time to do some more studies with alternate practices and/or materials. So the motion I have is that we would like to table this petition.

MS. OSTIGUY: Point of order. Could I suggest that we motion to defer because a table we have to specifically act
to bring it back? So the motion is to defer this sulfuric acid.

    MR. DAVIS: Okay. I move that we defer this item to a later date.

    MS. OSTIGUY: Second.

    MR. O'RELL: Andrea?

    MS. CAROE: Let me just record that. The only reason, Nancy, that I would see that maybe a table is more appropriate is because you're going to be considering more information at the time of the vote.

    MS. OSTIGUY: There's precedent first. The Board has deferred materials that we want to collect more information on historically and it does not require then a second motion for us to even talk about it, whereas a table would require a motion so we could even talk about it. Deferred, it can just be put on the agenda.

    MS. CAROE: I'm just, my only worry is that the actual documents that have been produced aren't the same.
MS. OSTIGUY: Doesn't matter.

MR. O'RELL: The Chair would agree with Nancy in this case. I think defer is proper. So there was a second, Nancy?

MS. OSTIGUY: Yes.

MR. O'RELL: Thank you. Okay.

Discussion? Joe?

MR. SMILLIE: I'm still a little confused by this. I understand we're deferring it, but the petition is for a material, not a process. The process is stabilizing manure to hold nutrients. That's the process that we're talking about. There's nothing in that process that's either allowed or not allowed. It's the material that's being used that's in question, in my understanding. So to defer the petition on sulfuric acid so that they can investigate citric acid, to me that would be a different petition. You'd be petitioning the use of citric acid for this use and not sulfuric.

MR. O'RELL: Nancy?
MS. OSTIGUY: No. My understanding, what the petitioner is interested in doing is obtaining more information about the alternatives that we are stating are possible for this process. So we still are focused on the material. They're wanting additional information to see if our alternatives are actually realistic.

MR. SMILLIE: Oh, okay. I've got it.

MR. O'RELL: Hue?

MR. KARREMAN: Right, and then they will come back for sulfuric acid.

MR. O'RELL: Yes, this is really a request of the petitioner saying we want to pull our petition back in response to the TAP to get further information and investigation.

MR. KARREMAN: Okay.

MR. O'RELL: Yes, Kevin?

MR. ENGELBERT: I'd just like to state that that isn't going to change our
position on sulfuric acid, so I'm not in favor of deferring. That's all.

MR. O'RELL: Any other discussion?

MR. KARREMAN: Just curious. I mean, if there's new information and citric acid is, let's just say, ineffective versus sulfuric acid, wouldn't the committee look at that information?

MR. ENGELBERT: No, not on everything we looked at for what this use is. It's not essential in organic production. This is a company that's trying to use sulfuric acid to treat manure that's not standard practice. No one's clamoring for it and I don't think it's appropriate for production.

MR. O'RELL: Well, Hue, to respond to your question, if there was new information brought to the committee, the committee would review it. It doesn't mean that the outcome wouldn't be the same, but
the committee would review the new
information brought forth by the public.
Andrea?

MS. CAROE: Once again, there's
nothing to lose by deferring this, even if
the outcome doesn't change. It's not doing
anything.

MR. ENGELBERT: Nobody dies.

MS. CAROE: Nobody dies.

(Laughter)

MR. O'RELL: With no further
discussion, is there any conflicts for
sulfuric acid? Hearing none, let's move to
the vote. This is to defer. A vote for yes
means to defer the petitioned -

MR. DAVIS: Until a later date.

MR. O'RELL: To a later date.

Okay. Gerald?

MR. DAVIS: Yes.

MR. O'RELL: Joe?

MR. SMILLIE: Yes.

MR. O'RELL: Bea?
MS. JAMES: Yes.

MR. O'RELL: Andrea?

MS. CAROE: Yes.

MR. O'RELL: Julie?

MS. WEISMAN: Yes.

MR. O'RELL: Nancy?

MS. OSTIGUY: Yes.

MR. O'RELL: Jennifer?

MS. HALL: Yes.

MR. O'RELL: Jeff?

MR. MOYER: Yes.

MR. O'RELL: Kevin?

MR. ENGELBERT: No.

MR. O'ReLL: Dan?

MR. GIACOMINI: Yes.

MR. O'RELL: Mike?

MR. LACY: Yes.

MR. O'RELL: Hue?

MR. KARREMAN: Yes.

MR. O'RELL: Rigo?

MR. DELGADO: Yes.

MR. O'RELL: And the Chair vote
yes. Motion carries. We have 13 yes, 1 no, zero abstentions. Gerald, now we move on to calcium chloride.

MR. DAVIS: Calcium chloride petitioned to change the annotation that currently restricts it to foliar use only to correct calcium deficiencies in plants. I wanted to - Kevin? I'm trying to - I'd like - I don't know how to, point of order, how to proceed to offer a minority, what would be anticipated to be a minority opinion, I guess, on - that would counter this recommendation.

MS. OSTIGUY: Point of order?

MR. DAVIS: How would that work?

MS. OSTIGUY: Shouldn't we have a motion on the floor first?

MR. O'RELL: Yes. Yes. We need to have a motion first and then open discussion. And as part of discussion you can enter a minority opinion.

MR. DAVIS: Okay. So I move that
we have a vote to reject the petitioned
annotation change for the use of calcium
chloride.

    MS. OSTIGUY: Second.

    MR. DAVIS: I'm sorry.

    MR. O'RELL: I was just wondering
in the motion if we could - it's been moved
and seconded, but I was wondering if we would
accept a friendly amendment to put the
specific usage for the annotation, the
listing, in the - 205 in the motion. Just to
be clear for the record.

    MR. DAVIS: What is that?

    MS. CAROE: It's 205.602(c).

    MR. O'RELL: 205.602(c). Is that?

    MS. CAROE: I'm missing a number.

        No, 602(c).

    MR. DAVIS: Okay. I move that we
vote to - whether or not to reject the
annotation as listed in Section 205.602(c)
prohibited for use except as a foliar spray
to treat a physiological disorder associated
with calcium uptake.

MS. OSTIGUY: Point of order.

Isn't the motion to remove it from the
prohibited list? That's what I believe the
petitioner was asking for us to do, not to
remove the annotation. If we remove the
annotation, then it's prohibited even for
treatment of physiological disorder for
calcium uptake because that would just put it
on the prohibited list.

MR. DAVIS: No, all the petition
is is to change the annotation.

MR. KARREMAN: But I think he
wants it to be more useful rather than be
totally prohibited. If it's on the
prohibited naturals list he doesn't want to
be -

MS. OSTIGUY: Prohibited.

MR. KARREMAN: Right.

MS. OSTIGUY: Yes. That's my -
right now it's on the prohibited naturals list.

MR. KARREMAN: Right.

MS. OSTIGUY: If we take the annotation off, then you can't use it for anything. I don't believe that that was the goal.

MR. DAVIS: Okay. So the recommendation is to leave the annotation as it currently stands.

MS. OSTIGUY: Right, to leave the annotation and to leave it on the prohibited list.

MS. CAROE: We need to take the motion off the floor and restate it.

MR. DAVIS: Yes. I rescind the previous motion. I'd like to make a new motion.

MR. O'RELL: Okay.

MR. DAVIS: That in reference to calcium chloride, the calcium chloride petition, the recommendation is that we leave
the current annotation in Section 205.602(c) as it stands currently, no change.

MS. CAROE: The current listing.

MR. DAVIS: Current listing.

MS. CAROE: Not the current annotation. The current listing, period. Correct?

MR. DAVIS: The correct listing.

MR. O'RELL: Rejecting the request for the annotation change.

MS. CAROE: No, it's actually not an annotation change. It's a removal.

Rejecting the removal.

MR. GIACOMINI: Excuse me, point of clarification. Wasn't the petition to match the annotation change of potassium chloride, essentially?

MS. OSTIGUY: I think he was arguing that it should be treated the same.

MR. DAVIS: Right, but we're trying to get a clear motion on -

MR. GIACOMINI: I understand.
MR. DAVIS: So it's clear on what we're voting for.

MR. GIACOMINI: I understand. I did not get the notion from anyone in any of the discussions that it was to totally remove it from the prohibited list. It was to merely match the more expansive annotation of potassium chloride.

MR. O'RELL: Do you have the petition, Valerie?

MS. FRANCES: It's on the disk.

MR. DAVIS: So the petition states it is to remove the prohibition for use of calcium chloride as a soil applied non-synthetic substance in organic crop production. So that would involve removing it from the prohibited naturals list in function, you know.

MR. KARREMAN: Right, and therefore if it's a natural and it's removed from the prohibited naturals list, it is therefore just allowed. That's what the
petition is asking for.

MS. WEISMAN: No, it's to remove
prohibition of a certain - I'm sorry.
They're not asking for removal of the
prohibition, but the prohibition of that
specific use. Even though they use that
language, it's the annotation that's at issue
here, not the entire.

MR. DAVIS: And they are seeking
an annotation more similar to what is already
on the list in the instance of potassium
chloride.

MS. HALL: They're seeking to
expand the annotation for usage on soil
application.

MS. WEISMAN: That works.

MR. MOYER: That's exactly what I
was going to say.

MR. O'RELL: Okay. Jennifer?

MS. CAROE: Hue's got a point.

This is on the prohibited list. If you
expand the annotation to be more inclusive,
you're expanding the prohibition. If this is except.

MR. KARREMAN: No. Except for.

Except for annotation.

MR. MOYER: And you want it to say specifically that it can be used for foliar and soil. He's adding soil to the annotation. He's not expanding it to be used as anything you want. Expanding it from foliar to include foliar and soil.

MR. KARREMAN: But nothing else in crops.

MR. MOYER: Correct. Adding soil to the annotation.

MR. KARREMAN: So he's adding the annotation to be used as a soil amendment.

MR. MOYER: That's the request. That was the request that was in front of our committee.

MS. CAROE: It's the exception on the prohibition.

MR. O'RELL: Yes, it's like a
double negative. Okay.

MS. CAROE: I think there's four or five negative exceptions.

MR. O'RELL: That's regulations.

MS. CAROE: Gerry, do you want to restate the motion for me?

MR. DAVIS: Do I have to remove the other one? Or did we ever get to that point?

MR. O'RELL: We didn't have - we don't have a current one on the floor, but what I would just ask is, since this is getting a little convoluted with the wording, that when the person is stating the motion, let's pause and take a breath before somebody seconds so we don't have to go back through this. So if we just make sure that we all say this is the motion, we agree, because we'll help where we can. Okay.

MR. DAVIS: This is confusing.

MR. O'RELL: If there's somebody who wants to enter a motion I would recognize
that. Jennifer?

    MS. HALL: The Crops Committee moves to reject the petition to expand the existing annotation on calcium chloride to - that requests to add soil application and usage.

    MR. DAVIS: Okay, let me try that.

    MR. O'RELL: That's a motion.

That is a motion.

    MS. CAROE: To reject the petition to expand the existing annotation -

    MS. HALL: To add soil application.

    MS. CAROE: To include soil application.

    MR. GIACOMINI: Mr. Chairman, in the section that it's in, should we add at the end of that "as an exception"?

    MS. OSTIGUY: No, because it's just expanding.

    MR. GIACOMINI: It already states that.
MS. OSTIGUY: It says it expands.

MR. GIACOMINI: Okay.

MR. O'RELL: So we have a motion on the floor. Is there a second?

MS. OSTIGUY: Second.

MR. O'RELL: Nancy seconds. We have a motion and a second. Any discussion?

MR. DAVIS: One thing I wanted to point out is the one reason I see for going through all these very specific wordings is that to remove it from the prohibited natural list altogether, which would make it an allowed natural for all usage, would allow different things such as using it as a cotton defoliant and herbicide. Not that that doesn't have merit, but we didn't - that's not what the petition was for. They're specifically asking for adding soil uses, not opening up every possible use of the material.

MR. O'RELL: Dan?

MR. GIACOMINI: When - I'm not by
any means a soil expert, and I don't know the
differences in usages of these products, but
I do know that high levels of potassium is
one of the things that we're going to be
dealing with in soils down the road and if
this is a reasonable alternative to that I
think it would certainly - it certainly has
merit.

MR. O'RELL: Joe? And then Hue.

MR. SMILLIE: My position is that,
and it's going to be difficult to vote
because what we have to consider also is the
restriction placed currently on potassium
chloride derived from a main source and
applied in a manner that minimizes chloride
accumulation in the soil. So if this ever
did move forward, it would have to have that
same type of restriction. I think that it is
basically patently unfair to allow the use of
muriate potash, potassium chloride, and not
allow the use of calcium. That doesn't
necessarily mean I'm for the use of calcium.
It just means that I think that the current use of muriate is not in the best interest of the organic community. So I'm not sure how to deal with that conflict. It's not so much that I'm probably calcium chloride, it's more that I'm anti potassium chloride in its current listing. But I just wanted to point out that as we move forward we would have to - if this material was ever considered, it would have to have the same restrictions on it that potassium chloride has.

The use as a calcium chloride is different than potassium chloride. Potassium chloride is used basically as a, you know, mainstream fertilizer to crank potassium into the soil. Calcium chloride is really used as a kind of a desalination, you know, for heavy alkaline soils where it's hard to get calcium. You can't use - gypsum is awful slow sometimes and a small, you know, amount of calcium chloride can get you through some short-term calcium problems until the gypsum
can take effect in the long-term soil 
application. So I'm somewhat conflicted on 
this issue, but I just wanted to point out 
that, you know, potassium chloride is an 
issue for me on considering calcium chloride.

   MR. O'RELL: I have Hue, then

Nancy.

   MR. KARREMAN: I'd agree with Joe 
on the discrepancy or inconsistency with 
potassium chloride and also that there are 
salty soils in the West, like Nevada, Arizona 
and whatnot that might find this useful. And 
it is a natural material, and it is a 
national program, so we've got to consider 
those other areas.

   MR. O'RELL: Nancy?

   MS. OSTIGUY: Two things. One is 
because there is a material that we might 
dislike more that's on the list does not mean 
that we should add something that is better 
just because it's better than what we 
dislike. That material maybe ought to be
petitioned to be removed completely so that it - or the annotation removed so that it's just a prohibited natural. We've sort of dealt with the same thing when we dealt with moxidecton where there was another material on the list that was efficacious but not as desirable, and did we want to put a second material on the list, et cetera. So it's similar argument that we have with moxidecton. This material really ought to be evaluated on its own.

In terms of the speed of release of calcium, the underlying goal of the Organic Management Plan is supposed to be to have good soil quality. And so speedy release of a nutrient is not a goal, especially when you're talking about something that has particular problems.

MR. O'RELL: Kevin?

MR. ENGELBERT: And I understand what you're saying, Joe, and I agree, but we're also along those same lines being
allowed as a folient or foliar feeding it is able to correct these deficiencies and still give time for that soil to be built up in a manner more in keeping with organic principles.

MR. SMILLIE: I do agree with you, Nancy, thank you for that perspective and Kevin. I'm in agreement with you both, but I just wanted to raise that issue. But I'm in agreement.

MR. O'RELL: Any other discussion?

MR. DAVIS: I had one other point to make, just in a general nature being that this is a natural material as produced, natural brining process, that the committee did vote saying that we felt that it did not satisfy any of the criteria, but that in some - in my opinion in some ways that was rather subjective, you know, when it comes to the - we answered some of the questions like on the environmental impact of it as a yes and no.
Yes at higher rates there probably would be
significant chloride leaching through the
soil profile and where does that go. But at
lower rates is that a significant effect? So
it's kind of a yes and no, maybe type of
level. And I wanted to propose the idea at
least that because it is a natural and it is
a - I see it as a fairly limited use material
that would not really make a lot of sense
other than in certain areas of the West that
because for a lot of the country maybe we
disagree with using the material, wouldn't
fit for our area, doesn't make any sense, but
rather than just vote against it, to approve
it. The idea would be to approve it, this
petition, to allow growers in those areas
where they could make use of this tool to
decide whether they want to or not. And let
them make the decision on using it the right
way so it's not detrimental, but it's
actually helpful. It could be an extra tool
that some growers could use in certain
situations. I don't know if that helps or not, but.

MR. O'RELL: Okay. Is there any additional discussion? And we will have Andrea read the motion that's on the floor before we vote. Any additional discussion? So that everybody's clear on it, because there's been a lot of discussion, confusion about this material. Andrea, could you read the motion that's on the floor?

MS. CAROE: Sure. The motion is to reject the petition to expand the existing annotation to include soil applications.

MR. O'RELL: Any conflict of interest? Hearing none, we'll begin with Joe.

MR. SMILLIE: Abstain.

MR. O'RELL: Bea?

MS. JAMES: Yes.

MR. O'RELL: Andrea?

MS. CAROE: Abstain.

MR. O'RELL: Julie?
MS. WEISMAN: Yes.

MR. O'RELL: Nancy?

MS. OSTIGUY: Yes.

MR. O'RELL: Jennifer?

MS. HALL: Yes.

MR. O'RELL: Jeff?

MR. MOYER: Yes.

MR. O'RELL: Kevin?

MR. ENGELBERT: Yes.

MR. O'RELL: Dan?

MR. GIACOMINI: No.

MR. O'RELL: Mike?

MR. LACY: Yes.

MR. O'RELL: Hue?

MR. KARREMAN: No.

MR. O'RELL: Rigo?

MR. DELGADO: Yes.

MR. O'RELL: Gerald?

MR. DAVIS: No.

MR. O'RELL: The Chair will

abstain.

MS. CAROE: Eight yes's, three
no's, three abstentions. Motion passes.

    MR. O'RELL: So the motion passes.

    MS. CAROE: Eight yes's, three no's, three abstentions, no abstentions with the majority, so the motion passes.

    MR. O'RELL: Okay. And lastly Gerald we have compost tea.

    MR. DAVIS: Do I have to make the motion before we can talk about the changes that we made to the document?

    MR. O'RELL: Oh. You can enter in as background the changes that were discussed from the previous motion or recommendation that was posted.

    MR. DAVIS: Right. From the posted version of the document, the guidance document for use of compost, vermicompost, processed manure and compost tea, the changes that were made in Section - these are based on comments received, the changes that were made. In the definition section for composting - okay. The previous - the change
we made is a process in which organic matter
of plant and/or animal origin is managed to,
instead of the word "promote" we inserted
"achieve." So managed to achieve aerobic
decomposition, not just promote aerobic
decomposition. Just a one-word change there.

And on the recommendation section,

Item 1, "Compost in addition to that
described in Section 205.203(c)(2) is
acceptable, (I) made from only allowed
feedstock materials." Based on comments
received, we agreed with striking the
parentheses statement that says "incidental
residues are allowed only if they will not
lead to contamination," agreeing with the
commenters that that is covered in other
areas and this is redundant to be restating
it and just would lead to more confusion on
what is intended. So that the new
recommendation is "Compost in addition to
that described in Section 205.203(c)(2) is
acceptable if, (I) made from only allowed
feedstock materials, (ii) the compost pile is mixed or managed to ensure that all of the feedstock heats to the minimum of 131 degrees Fahrenheit, 55 degrees C for the minimum time of three days."

The last change, also based on comments received, Item 4 of the recommendation section, "Compost teas must be made with potable water. Equipment used to prepare compost tea must be sanitized before use with a sanitizing agent as defined by 21 C.F.R. ' 178.1010," the addition is beginning after that. It would be, comma, using allowed materials found on the national list, period. And that's the only changes to the document.

MR. O'RELL: Andrea?

MS. CAROE: I appreciate the changes that were made. However, in Number 2 under the recommendations you also have the language "will not contaminate." It's inconsistent now with Number 1. It was put
in both places?

    MR. DAVIS: Oh yes, that needs to be struck too.

    MS. CAROE: And then also in Number 4 the recommendation, I thought the second sentence was going to be "Compost tea must be made with." Is that a rejected change, or is this an oversight?

    MR. DAVIS: Oh, that was one that we didn't get written down, that's all. That is a good -

    MS. CAROE: Can you pen and ink this recommendation?

    MR. KARREMAN: Although I think, Andrea, didn't he say that since this is just a guidance document you can't say "must"?

    MS. CAROE: You can say "must."

    MR. O'RELL: You can say "must," but it's not -

    MS. CAROE: Binding.

    MR. O'RELL: It doesn't have the
enforcement of the law.

MR. DAVIS: So in that section, Item 4 under recommendations, Andrea's talking about the sentence, that's the third sentence. "Compost tea must be made with compliant compost or vermicompost using the NOSB recommendation for compost and vermicompost mentioned above and as defined in Section 205.203(c)(2) of the NOP rule."

So that we are striking the word "should" and changing it to "must."

And the other section, in recommendation section Item 2, "Vermicompost is acceptable if, (I) made from only allowed feedstock materials, period." We'll strike "except for incidental residues that will not lead to contamination."

MS. CAROE: So, I'm sorry, I missed that Gerald. You're striking?

MR. DAVIS: In the recommendation section Item 2, "Vermicompost is acceptable if, (I) made from only allowed feedstock
materials, period." We are striking the words "except for incidental residues that will not lead to contamination" because it's redundant. It's already covered elsewhere.

MR. O'RELL: And after - Gerald, where you said (I) made from only allowed feedstock material, comma. Sorry, but commas make differences here.

MR. GIACOMINI: You have (ii) coming up.

MR. DAVIS: Oh, that's true, that is a comma because there's more. True. So those are the changes and I move that we vote on accepting this for submission to the program as a guidance document.

MS. HALL: Second.

MR. O'RELL: Okay, it's been moved and seconded to accept the recommendations from the Crops Committee on the guidance document for use of compost, vermicompost, processed manure and compost teas. Everybody has a revised version that was given out this
morning. We've made some changes to that. I want to make sure everybody's clear on what those changes are. And part of discussion, I think we're going to have some questions. Valerie, have you made the changes? Can you make those?

MS. FRANCES: This is only a PDF because I merged three documents into a PDF and didn't bring the original three.

MR. O'RELL: All right. Got it. Got it. Okay.

MS. FRANCES: Sorry. I'll work on that.

MR. O'RELL: Joe? You had a question?

MR. SMILLIE: Point of information. I think it's a great document. I'm very excited that we've gotten this out, but I really need to know if there's anyone who can clarify what an angled wedge system is. I have no idea and I used to do a fair bit of composting.
MR. DAVIS: That's a worm casting.

MR. SMILLIE: Is it a mechanical device? Is it a digester?

MR. DAVIS: It's a structure of how they do their windrows or whatever you call it. It's the way they shape their piles. And that's all I know about it.

MR. SMILLIE: Well, if that's accurate, that's good enough. I just don't want to vote for something if I don't know what it is.

MR. O'RELL: Emily?

MS. ROSEN: Emily Brown Rosen. That was my question and my comment too and I Googled it at one point and it described it as a windrow that you make the compost in and then they keep adding new materials to one side. And so the windrow becomes angled over time, and then they take it, I guess they take it from one side as more mature than the other. But I thought that was a little vague as far as what, you know, there's a timeline.
Anyway.

MR. SMILLIE: Well, at least I know -

MS. ROSEN: That's what that is.

MR. SMILLIE: Good enough.

MR. O'RELL: Thank you Emily.

Bea?

MS. JAMES: I'm a little uncomfortable with moving forward on voting with this document because I feel that in all honesty as Chair that I'm not sure that the document has been thoroughly reviewed and I want to feel comfortable that the Crops Committee really has reviewed and looked at all of the changes that are in this document. And I think that the Board still has a lot of questions about exactly what some of the things are that are in this guidance document and that perhaps we need to have more discussion before we vote.

MR. O'RELL: Nancy?

MS. OSTIGUY: I'm not quite sure
what substantial changes occurred between
when the committee voted on this and today
that we've not had it in front of us. If
people want to defer it because for whatever
reason, that's different, but we haven't done
much in the way of changes.

MR. O'ReLL: Andrea?

MS. CAROE: I agree with what
Nancy says, that the changes that were made
were oversights, but they were based on the
changes that Gerald already made on the
document. This is a guidance document. This
isn't rule change. And I think the intent is
maintained from the original intent, it was
just a bit of housekeeping to get that issue
that was deleted in the one section deleted
on the other section and the "should" to
"must." This is a guidance document. That
doesn't have a whole lot of change in itself.

MR. KARREMAN: The other thing is
public commenters didn't have much confusion
or problems with it and they've been waiting
five, six years or whatever, so I would respectfully disagree.

MR. O'RELL: I agree with Hue and with Andrea and with what Nancy had alluded to. The changes that have been made are not substantive to the material, to content, the intent of the document. They've been housekeeping, as it's been called, changes. Some of them have been based on discussion from the Board which is our job to do and the other was from input from public comment.

Rigo?

MR. DELGADO: I also want to add that we've been working on this document for several years so we've had enough time to review it and, yes, we do need to add some clarifications and whatever, but I don't think it changes the whole spirit and intent of the document.

MR. O'RELL: I guess I would just say that I want to be sure that we're clear on the changes that we've made and that those
changes have been recorded here. Andrea, have?

MS. CAROE: Pen and inked them in.

MR. O'RELL: You've inked them in.

Gerald, you have those changes in front of you. So if there's any questions about what we're voting on, the recommendation, we have an updated form here, but there have been a couple of changes. I would ask that we go through those one more time just to be clear.

MR. DAVIS: Okay. First page, under the definition section, composting, we changed one word in the first sentence. Well, there is only one sentence, excuse me.

"A process in which organic matter of plant and/or animal origin is managed to achieve," the word "achieve" was substituted instead of "promote." So that was a change from what was posted for public comment. It's already on the document we passed out this morning.

MR. O'RELL: Right.

MR. DAVIS: Second page,
recommendation section, Item 1, "Compost in addition to that described in Section 205.203(c)(2) is acceptable if (I) made from only allowed feedstock materials." That is how your document you're looking at reads. What we have removed from the posted version on the website for public comment is the parenthetical phrase "Incidental residues are allowed only if they will not lead to contamination."

    Same page, well no, it's not the same page. Page 3 under the recommendations section, Item 4.

    MR. O'RELL: Oh, there was a change in recommendation Number 2.

    MR. DAVIS: Oh yes. In Item 2 of the recommendation section vermicompost is acceptable if, (I) made from only allowed feedstock materials. Again to be consistent with the previous we deleted "except for incidental residues that will not lead to contamination."
Item Number 4, "Compost teas must be made with potable water. Equipment used to prepare compost teas must be sanitized before use with a sanitizing agent as defined by 21 C.F.R. ' 178.1010. And what we added was, comma, using allowed materials found on the national list.

MS. CAROE: Keep going, there's one more. Next sentence.

MR. DAVIS: Oh also, next sentence in compost tea, we deleted "should," the word "should," and changed it to "Compost tea must be made with compliant compost or vermicompost."

MR. O'RELL: Okay, thank you.

It's been moved and seconded that we accept the recommendation from the Crops Committee as revised and discussed. And there was a second. We've had discussion. We'll call the vote. Is there any conflicts with compost tea? We're voting to accept this as a guidance document, yes. And we'll begin
the voting with Bea.

MS. JAMES: Yes.

MR. O'RELL: Andrea?

MS. CAROE: Yes.

MR. O'RELL: Julie?

MS. WEISMAN: Yes.

MR. O'RELL: Nancy?

MS. OSTIGUY: Yes.

MR. O'RELL: Jennifer?

MS. HALL: Yes.

MR. O'RELL: Jeff?

MR. MOYER: Yes.

MR. O'RELL: Kevin?

MR. ENGELBERT: Yes.

MR. O'RELL: Dan?

MR. GIACOMINI: Yes.

MR. O'RELL: Mike?

MR. LACY: Yes.

MR. O'RELL: Hue?

MR. KARREMAN: Yes.

MR. O'RELL: Rigo?

MR. DELGADO: Yes.
MR. O'RELL: Gerald?

MR. DAVIS: Yes.

MR. O'RELL: Joe?

MR. SMILLIE: Yes.

MR. O'RELL: And the Chair votes yes. The motion carries 14 yes, zero no's, zero abstentions. Okay, thank you. That concludes the Crops Committee recommendations. We'd like to move now to the Joint Materials and Handling Committee recommendation for ag/non-ag. Julie?

MS. WEISMAN: There was a lot of public comment on this recommendation that was shared in writing before the meeting and also that we heard in the previous two days. And there were very - questions raised that had great merit. I guess procedurally should I go ahead and present this as is, or should I present the recommendation as we originally made it?

MR. O'RELL: No.

MS. WEISMAN: Not the best use of
our time. Right. Yesterday we were on the
verge of deferring action on this
recommendation, so I think the appropriate
thing - and we decided that now would be the
appropriate time to take that vote. So I
would like to proceed with that at this time.

MR. O'RELL: So I will accept that
as a motion from the Handling Committee and
Materials Committee -

MS. OSTIGUY: Second.

MR. O'RELL: - to defer.

MS. WEISMAN: I move that we defer
the recommendation relative to agricultural
and non-agricultural substances for national
list consideration.

MS. OSTIGUY: Second.

MR. O'RELL: It's been moved and
seconded. Discussion? I would just like to
add that I think this is the appropriate
thing to do and certainly the committees in
the discussion were wanting to move forward
with the concept of expanding additional
organic usage and interpretation of non-plant
life. I think there's a lot of good points
were brought up in the public comment. There
needs to be more work done around this issue.

We certainly are going to be reaching out to
the public from the committee side. It's on
the work plan as a priority. I don't think
this interferes with the work that needs to
be done in 606 in terms of classifying those
materials as agriculture and moving forward.

We have continually classified things as
agricultural without the use of this guidance
document. So I just wanted to make that as a
point. Andrea?

MS. CAROE: I just want to say
from the committee standpoint from being on
this joint committee I still don't feel that
this is a bad document. I think it still has
merit. However, I think it is the obligation
of this Board to consider compelling
arguments like we received during this public
comment. And we will investigate all of
those issues, but there may be no changes due to that. We may be just coming back with justification for continuing with this action. And specifically, I did want to state that the issues that are presented that were compelling is one that the comment period was insufficient. So, based on the fact that this is now out there and we can continue to receive input, that's the first thing that we needed to address. Too, we need to look at if there would be any interference with livestock operations that use yeast as either feed or a feed additive and we need to make sure that there is no reason to believe that that would hamper - this recommendation would hamper that use.

Next, we need to clarify whether there is reason to move ahead with standards for non-plant, non-animal life or if there is, how we can accommodate that in the future and go ahead with this recommendation. And also we need to verify our ability to move
items from 605 to 606 as a technical correction based on this further definition and whether that would be acceptable or whether we would need an intervening action of a petition. And again, to further get industry input so that we move forward with a good recommendation although I still think this is a good recommendation, but a recommendation that won't be questioned. So that's my five cents.

MR. O'RELL: Gerald?

MR. DAVIS: Andrea, that was very clearly stated, I thought that was very good how you broke that down, and I was wondering as a part of the Materials Committee, can we get your comments kind of itemized for our work that we continue with? That'd be nice.

MS. CAROE: Absolutely. I will provide you with it.

MR. DAVIS: Keep us on track?

MR. O'RELL: Any additional discussion? Okay. We have a motion on the
floor to defer the Handling Committee, Materials Committee joint recommendation on ag/non-ag. So a vote yes is to defer. Any conflicts of interest to declare? Hearing none, we'll take the vote. Andrea?

  MR. O'RELL: Andrea?
  MS. CAROE: Yes.
  MR. O'RELL: Julie?
  MS. WEISMAN: Yes.
  MR. O'RELL: Nancy?
  MS. OSTIGUY: Yes.
  MR. O'RELL: Jennifer?
  MS. HALL: Yes.
  MR. O'RELL: Jeff?
  MR. MOYER: Yes.
  MR. O'RELL: Kevin?
  MR. ENGELBERT: Yes.
  MR. O'RELL: Dan?
  MR. GIACOMINI: Yes.
  MR. O'RELL: Mike?
  MR. LACY: Yes.
  MR. O'RELL: Hue?
MR. KARREMAN: Yes.

MR. O'RELL: Rigo?

MR. DELGADO: Yes.

MR. O'RELL: Gerald?

MR. DAVIS: Yes.

MR. O'RELL: Joe?

MR. SMILLIE: Yes.

MR. O'RELL: Bea?

MS. JAMES: Yes.

MR. O'RELL: And the Chair votes yes. Motion carries 14 yes, zero no, zero abstentions.

MS. WEISMAN: Okay, the next item up for vote from the Handling Committee is the document on a recommendation for the establishment of commercial availability criteria. This also received a lot of discussion, a lot of very good feedback in the form of public comments and there were some changes suggested in the last two days on the basis of public comment. I did not make a new document and I'm wondering if we
have this in a - is this a PDF also, or is this a Word document? Okay. So I'm going to describe the changes based on the original document that was made up for the meeting and we'll have to pin it in.

MS. FRANCES: I'll make an effort to do that next time, next meeting, having all the documents in any form.

MS. WEISMAN: Right, okay. In Recommendation A, which would be the third page, where it says the second bullet point, after listing the types of info that the NOSB will be wanting to see included in the petition. And I would say actually after the note saying that the global market is the universe of supply, we would like to add "This information will aid the NOSB in evaluating the fragility of supply." That's an attempt to clarify what the NOSB sees their role in using this information. Does that?

MS. CAROE: I need the wording.
MS. WEISMAN: Okay. Add this sentence after that note on the global market, et cetera.

MR. SMILLIE: Is it part of the parentheses?

MS. WEISMAN: No, not part of the parentheses.

MS. CAROE: Is it a bullet?

MS. WEISMAN: Or maybe we should make it before the note. It's not another - okay. I'll accept suggestions as to where the best place to put it is. The purpose is to clarify that we are not going to be making - we're trying to clarify the purpose of collecting the information.

MS. CAROE: I thought that was going to be in the B section, in recommending an ag material should be - NOSB shall review the petitioner's claim that.

MS. WEISMAN: Well that's specific to - that's a separate thing.

MS. CAROE: But the NOSB shall
review the petitioner's claim that there is vulnerability or fragility in supply?

MS. WEISMAN: If that fits there and serves the same purpose.

MS. CAROE: Because in that section you do say that we're evaluating "no organic substitutes are commercially available" which was - that was contentious.

MS. WEISMAN: Right.

MS. CAROE: That's where we wanted to change that to -

MS. HALL: I was actually going to suggest something different based on Barbara's comments yesterday. It's kind of a clarification for myself that if this is truly to put more depth into the process if it doesn't effectively change the committee's role or the program's role as she was explaining I would actually suggest that we strike Section B, that it adds more questions, if we're not changing our roles from what they were previous to this.
document. And then just include your statement as a bullet like we're suggesting now right under those additional criteria.

MS. CAROE: But Jennifer, I don't know if it's ever been clearly stated what our role is in reviewing materials for 606. That's why I think it was originally stated on this recommendation.

MS. FRANCES: It's an amazing piece of technology. You can select text, I forgot. I just put it into Word. So if you want to.

MS. WEISMAN: Thank you.

MR. O'RELL: That's good.

MS. FRANCES: I need more coffee this morning.

MS. WEISMAN: You know, I have to apologize for not being as well prepared on this document as I am for the one afterwards, but I'm like reading the notes in my margins that I made yesterday and whoever said that this belongs as part of Section B is
absolutely correct. So let's just move to Recommendation B. Okay. In the first sentence, the NOSB shall review the petitioner's claim. Okay, the NOSB shall, (1) through technical review if necessary that a material is agricultural.

MS. FRANCES: You know, I'm really not clear where you are.

MS. WEISMAN: Okay. In Recommendation B now, which is the NOSB and NOP role. There. All right. Okay. Now, in that first line, "In recommending that an agricultural material shall be placed on 205.606, the NOSB shall before review -

MR. DAVIS: Mr. Chairman, that seems to be a different version than what we are working with. It's certainly a different format.

MS. WEISMAN: Well, the shall - the word wrap is just - the "shall" is on the first part of the second line, okay? After the word "shall" -
MR. DAVIS: I'm concerned about the rest of the document that changed the formatting three or four lines worth on the page.

MS. CAROE: It's just the word wrap. Same words, just format.

MS. FRANCES: The way the margins are set on the page. Her margin thing.

MR. O'RELL: It's the same document.

MS. WEISMAN: Okay, so shall - instead of "shall" write ascertain, comma, through technical review if necessary, comma, that material is agricultural.

MS. FRANCES: Sorry for typos.

MS. WEISMAN: And I think we want a semicolon there. And then we go on with "and review the claim that no organic substitutes." We continue with that. Just make that segueway there to the rest of it. Does that make sense?

MR. LACY: And Julie, did you have
an "if necessary" in there?

    MS. WEISMAN: No, we want "and review the petitioner's claim." The "and" needs to be there.

    MR. LACY: I thought you had after "technical review, if necessary." Did I not hear that right?

    MS. WEISMAN: Through technical review, yes, if necessary, thank you. I can't see that well from this side of the morning.

    MS. CAROE: I still - we're not going to be reviewing commercial availability. I mean, I don't agree with the after "and."

    MS. WEISMAN: Okay. So let's - this is where we want to make the emphasis more be on addressing the vulnerability of supply.

    MS. CAROE: So I think "and" -

    MS. WEISMAN: Should be struck.

    MS. CAROE: Strike the rest of
that sentence.

MS. FRANCES: Strike the entire sentence?

MS. WEISMAN: Yes, the rest after - "and" and after. But we're going to replace it with - well, you already have it. Ascertain. And evaluate the information regarding the fragility of supply.

MR. O'ReLL: Valerie, could you read that, what you have now and just concur that that's.

MS. FRANCES: In recommending that an agricultural material shall be placed on 205.606, the NOSB shall ascertain through technical review if necessary that material is agricultural and evaluate the information regarding the fragility of supply.

MS. JAMES: You need a "the" in between "that" and "material." That the material.

MS. FRANCES: Thank you.

MS. WEISMAN: Okay, then, now we
have another small change in Recommendation -
In Recommendation C there was concern about
pushing certifiers a little bit close to
being beyond what their appropriate role is.
So to help them out we would like to replace
in Number 3, instead of saying "notify the
certification applicant" we want to say - or
actually, I guess we want to strike that
sentence and replace it with "make available
sources of information" - make available to
the certification applicant or certified
operator - I'll read this over again -
sources of information. That list. Does
that?

MS. CAROE: You just have to say
make available.

MS. WEISMAN: Right. Make
available sources of information that list
organic ingredients. Period. Number 3, make
available sources of information that list
organic ingredients.

MR. KARREMAN: Question. Is that
- could that be construed on consulting on the part of the ACA?

   MS. WEISMAN: That's, we're trying to make it less that way.

   MS. CAROE: Just for information that is made available across the board is not consulting. Information that is made available specifically to, you know, or selective groups within the applicant pool would be considered consulting, but information that's provided across the board is not consulting.

   MS. WEISMAN: Those are all the changes.

   MR. O'RELL: Those are the two changes. Jeff?

   MR. DAVIS: Read that Sentence 3 again.

   MR. O'RELL: Okay. You have to re-read it.

   MS. WEISMAN: Okay. Make available sources of information that list
organic ingredients. Make available sources of information that list organic ingredients.

Is that what we list? Available. So we're going to use "available" twice in the same sentence. I know my English teachers wouldn't like that.

MS. FRANCES: Make available sources of information that list organic materials or ingredients?

MS. WEISMAN: Materials.

MR. SMILLIE: Provide, rather than make available?

MS. WEISMAN: Provide. Okay.

Provide.

MS. FRANCES: Indicate?

MR. KARREMAN: No, not provide, make available. Providing is like here you go.

MR. O'RELL: Yes.

MS. WEISMAN: Make available sources of information.

MS. FRANCES: One at a time. She
can't hear.

MS. WEISMAN: Okay, sorry.

MR. KARREMAN: Keep the sentence as it is, please.

MS. WEISMAN: Okay, I think that's going to be sufficient.

MR. O'RELL: Okay. We've had two changes made in the document. I'd like to go back to - Jeff, yes.

MR. MOYER: Well, I had a question about another change that I had made note on in my document in the item above that, Item 2. There was discussion yesterday about the word "credible." Are we keeping that word in there as it is?

MR. O'RELL: Andrea?

MS. CAROE: As we discussed, "credible" I guess it does require somewhat of a judgment call, but this is a guidance document and it just indicates that there -

MS. HALL: As I recall, we said that most certifiers currently do that, that
they make that decision themselves on credibility and that doesn't change anything.

MS. CAROE: Right. It doesn't, and it's something that actually the detail of that will be evaluated through the accreditation process as their systems are reviewed and the information that they are making their decisions on are reviewed. So noting it here is setting the track, but how that's actually implemented should be left to the accreditation process.

MR. MOYER: Which is the reason I wouldn't have the word "credible." I'd just say that the operator has documentation. A credible or non-credible is a judgment call. I don't think that it needs to be in this document. That was just my point. It was a discussion that came up yesterday.

MS. CAROE: I could go either way because it really doesn't make that much difference.

MR. GIACOMINI: In my
conversations with some certifiers, they claim that they don't have the leverage to question documentation in some situations and in this case I think if we can give them something that says, no, Joe the barber doesn't know what he's talking about, that we should give the certifiers that leverage.

MS. WEISMAN: Okay, leave it in.

MR. O'RELL: Joe?

MR. SMILLIE: At this point I'm not sure if it's appropriate or not, but I'd like to get Mark or the program's take on where we are with (c)(3), if that. Your current thoughts on (c)(3).

MS. FRANCES: Make available -

MR. BRADLEY: From the consulting standpoint?

MR. SMILLIE: Yes. The conflict of interest issue.

MS. FRANCES: Make available sources of information that list organic materials if the certifying agent finds that
such materials exist.

MR. BRADLEY: Oh, we struck that.

MS. WEISMAN: No, it's gone.

MS. CAROE: There's a period after "organic materials" and there's an "available" before the word "organic."

MR. BRADLEY: Really?

MS. CAROE: Yes.

MR. BRADLEY: We wanted to keep that then.

MS. CAROE: We need to - this is about available organic materials.

MS. WEISMAN: Commercially available? Do we want to say that?

MR. BRADLEY: No.

MS. WEISMAN: Okay. Oh, because that's what we're defining. Yes, of course.

MS. FRANCES: We just put "available" in there twice. That's why.

MS. CAROE: No, we determined it's bad English.

MS. WEISMAN: It's not so elegant,
but it does the job.

MR. BRADLEY: Is your objective here to try to promote the use of organic products?

MR. SMILLIE: No, the objective is to be able to provide to the public at large lists of information, not specific companies or specific products, but where people who want to find out what is available on the organic marketplace. And the certification agent is the one who gets this request. We want to remove the certification agent from a position of conflict of interest or consulting by telling people where they get things and instead put them in the position of being able to make available information lists such as an OTA list, an OMRI list, whatever else is available as a generic list of available organic products. So that they don't have a consulting conflict. In other words, they're not consulting the applicant or certified operator on what to do, how to
come into compliance.

MR. BRADLEY: Is this going to be in the context of them developing their organic systems plan, or is it after they have made a request for determination of commercial availability?

MR. O'RELL: Andrea.

MS. CAROE: This is the certifier is making it available just like they make available the list of all their certified entities. I mean, it's just having it out there and available. It's not a response to a request. It's not, you know, it's just information that we feel that the certifiers should have available. Let me put it in an example. You know, the certifier can't say you have to use organic saffron because we know it's available and the entity comes back and says but where. You can't tell them where. However, if you have a list, a clearinghouse of information available, then it's like, you know, pointing to the
dictionary and it's already there for everybody.

MR. BRADLEY: Are they going to charge to list this information?

MS. WEISMAN: No.

MS. CAROE: This is just reference to existing clearinghouses of information.

MR. O'RELL: Hue?

MR. KARREMAN: I think the term "clearinghouse" is important because I think, at least from being out in the field and all, I think certain certifiers are kind of cozy with certain companies and they would steer them maybe just to those companies versus - kind of like an extension service that has a myriad of supplies. Information. Do you know what I mean?

MR. SMILLIE: Yes, you're exactly right and that's what we're trying to craft here is to make sure that we get the information out without getting the certifier in a conflict of interest or consulting
position.

MR. KARREMAN: No, I understand that, but even on that Sentence Number 3, you know, the lists of organic materials might be, up in Maine and Vermont, quite different than the ones in California. And yet if they're - I don't know. It just seems there can be too much coziness between certifiers and information sources.

MR. O'RELL: I will recognize Leslie as a certifier if she has a -

MR. KARREMAN: May I just quickly add that -

MR. O'RELL: Yes, you may.

MR. KARREMAN: They can have very good lists, but I just want to guard against parochialism, I guess, or whatever.

MS. ZUCK: Thank you. Leslie Zuck, Pennsylvania Certified Organic. When I read this first it said "notify the certified applicant or certified operation" and that's where this turns on, to notify a particular
applicant versus making available information
to my entire clientele. This doesn't really
clarify that, though. It just says "make
available" and I don't know if it says make
available to whom or what, you know. But it
does take that part out and that was the
important part, for me to give them
information that would help them overcome an
identified barrier to certification. So
that's the issue.

MS. CAROE: So, Leslie, are you
happy with this change or are you unhappy
with the change?

MS. ZUCK: Well -

MR. SMILLIE: If we added
"publicly available."

MS. ZUCK: You don't really want
my opinion. Right, to whom. So you know,
publish, or some other type of wording. You
know, make available is really vague and if
you're really going to give guidance it
should be -
MR. O'RELL: If it said "published available sources of information"?

MR. SMILLIE: So you're going to make this available to the general public?

MS. ZUCK: Yes. What's kind of - it's really unclear to me how this is really going to work on the ground because if one time a certification applicant then says, you know, if we find that one particular item is not commercially available, or is, then do we change our list and publish it again? Do we do it quarterly? Every time we come up with this information?

MS. WEISMAN: You're not responsible for making the list.

MS. ZUCK: Okay.

MS. WEISMAN: There are lists that already exist even now.

MS. ZUCK: Oh, okay.

MS. CAROE: You're listing the list. You're not -

MS. WEISMAN: You're explaining to
them -

MR. O'RELL: Yes, it's not the certifier's list and maybe we need to clarify.

MS. ZUCK: That's what we need.

MR. O'RELL: Joe?

MR. SMILLIE: Yes, the Point is for the certifier to make publicly available to whoever requests it sources of organizations that have already publicly available lists. The examples I would use, I'm not discriminating, but examples could be the Organic Trade Association, OMRI, ATRA and whoever else is in the business or non-profit -

MR. O'RELL: Can I suggest - to accomplish that can I just, I know you were - can I just suggest "make available public sources of information"?

MS. FRANCES: Or even just "make public sources of information."

MR. O'RELL: Okay.
MR. GIACOMINI: I agree with the examples that Joe is using, I'm just not clear in my mind that this does that as opposed to a certifier pointing to a particular sales catalog.

MS. HALL: I think you could add "and do not present a conflict of interest" or something to that effect.

MR. O'RELL: Okay, I'm going to ask the Board because they're really having problems transcribing all of this when we just have an open, so we need to be recognized and we need to follow procedure, otherwise it's impossible for them to transcribe the conversation. Hue?

MR. KARREMAN: I just want to add that is exactly what I'm saying, what Dan just said. I agree that they're not steering them to specific suppliers only. I don't know how else to put it, but I want to guard against that. I want to make it as wide-ranging as possible, those lists. I don't
know how you can say it though.

MR. O'RELL: Kevin?

MR. ENGELBERT: So after the word "list" add "all appropriate."

MR. O'RELL: Dan?

MR. GIACOMINI: Wouldn't that include the sales catalogs?

MR. O'RELL: Hue.

MR. KARREMAN: There may only be like five sales catalogs that a certain certifier knows and another certifier's got a hundred for whatever products. It's difficult.

MR. O'RELL: Mike?

MR. LACY: I hate to jump in here -

MR. O'RELL: Please jump in here.

MR. LACY: If you put "generic" between "public" and "sources" would that help you all?

MS. WEISMAN: No, I don't think so.
MS. OSTIGUY: Can I make a suggestion?

MR. O'RELL: Yes, Nancy.

MS. OSTIGUY: Since there's no motion yet could we defer this until after the coffee break and then there could be an argument at that point during the coffee break and we come back with suggested wording rather than this?

MR. O'RELL: I appreciate that, Nancy. Let's take a 10 - 15 minute break, and let's let the appropriate people get together and make the correct wording, come back and we'll have it on the screen and we'll introduce it as a recommendation. Thank you, Nancy.

Whereupon, the foregoing matter went off the record at 9:53 a.m. and went back on the record at 10:09 a.m.)

MR. O'RELL: Okay Board members, we have a quorum so we are going to continue after that brief pause. Julie, would you
lead us through. I think we've made revisions to the recommendation that we would like to put forward. Could you walk us through those changes?

MS. WEISMAN: Okay. If Valerie wouldn't mind putting us back into B there are two changes now. B is now reading—actually, I'm going to have to move and use somebody's mic because I would rather read what's there than—

MR. O'RELL: Go around.

MS. WEISMAN: So now B, Section B of the recommendation is going to read regarding the NOSB NOP role in the review of petitions, "In recommending that an agricultural material should be placed on Section 205.606, the NOSB shall ascertain through technical review, if necessary, that the material is agricultural and evaluate the information regarding the fragility of supply." That's the change.

Now, let's scroll down to Section
C. We had just a very intense side bar and we are not able to come up with wording that meets everybody's concerns at this time. And so rather than possibly needing to defer the entire document, we are going to strike Number 3 right now. And it will be part of our work plan to address that as an amendment later. And that's it. That's the document.

MR. GIACOMINI: We need to reorder 4 and 5.

MS. WEISMAN: Oh, so 4 becomes 3.

MR. O'RELL: Thank you, Dan.

Okay, Julie, would you like to enter a motion that we accept the recommendation?

MS. WEISMAN: I enter a motion that we accept the recommendation as now presented with the right numbering.

MR. O'RELL: The recommendation for -

MS. CAROE: Second.

MR. O'RELL: - the establishment of commercial availability -
MS. WEISMAN: I move that the Board accepts this recommendation for the establishment of commercial availability criteria. I'm doing that from memory, is that okay?

MR. O'RELL: That's fine.

MS. WEISMAN: Okay.

MR. O'RELL: And there was a second?

MS. CAROE: Yes. I need to capture that motion.

MR. O'RELL: Andrea's capturing the motion.

(Laughter)

MR. O'RELL: So we have a motion on the floor. It's been moved and seconded that we accept the recommendation from the Handling Committee for the establishment of commercial availability criteria as a guidance document. Discussion, please. I think we've had thorough discussion, so hearing none, is there any conflict of
interest?

MR. KARREMAN: Not on conflict of interest. I think Katherine wanted to know who seconded the motion

MS. CAROE: I did.

MR. O'RELL: Andrea. Okay, we will begin the vote. Julie?

MS. WEISMAN: Yes.

MR. O'RELL: Nancy?

MS. OSTIGUY: Yes.

MR. O'RELL: Jennifer?

MS. HALL: Yes.

MR. O'RELL: Jeff?

MR. MOYER: Yes.

MR. O'RELL: Kevin?

MR. ENGELBERT: Yes.

MR. O'RELL: Dan?

MR. GIACOMINI: Yes.

MR. O'RELL: Mike?

MR. LACY: Yes.

MR. O'RELL: Hue?

MR. KARREMAN: Yes.
MR. O'RELL:  Rigo?

MR. DELGADO:  Yes.

MR. O'RELL:  Gerald?

MR. DAVIS:  Yes.

MR. O'RELL:  Joe?

MR. SMILLIE:  Yes.

MR. O'RELL:  Bea?

MS. JAMES:  Yes.

MR. O'RELL:  And the Chair votes yes.  Andrea, I'm sorry.

MS. CAROE:  I vote yes too.

MR. O'RELL:  Okay, Andrea.  And the Chair votes yes.  Fourteen yes's, no no's, no abstentions.  The motion carries.

Okay, next?

MS. WEISMAN:  Okay.  The next item on the Handling Committee agenda was the final recommendation for colors synthetic.

MR. O'RELL:  Pet food.

MS. WEISMAN:  Oh, I'm so sorry.

Yes, okay.  This was a recommendation that we accept the interim report of the Pet Food
Task Force that was presented to us in April at the April meeting and that we now begin to use that document to move forward with pet food standards.

MR. O'RELL: And is that a motion?

MS. WEISMAN: That is a motion to accept the recommendation of the Handling Committee, yes.

MS. CAROE: To accept the interim recommendation of the Pet Food Task Force for further work by the Handling Committee.

MS. JAMES: Second.

MR. O'RELL: It was seconded by Bea. So we have a motion and a second. Any discussion? Any conflicts of interest? Everybody likes pets. Nancy?

MR. O'RELL: Jennifer?

MS. HALL: Yes.

MR. O'RELL: Jeff?

MR. MOYER: Yes.

MR. O'RELL: Kevin?

MR. ENGELBERT: Yes.
MR. O'RELL: Dan?
MR. GIACOMINI: Yes.
MR. O'RELL: Mike?
MR. LACY: Yes.
MR. O'RELL: Hue?
MR. KARREMAN: Yes.
MR. O'RELL: Rigo?
MR. DELGADO: Yes.
MR. O'RELL: Gerald?
MR. DAVIS: Yes.
MR. O'RELL: Joe?
MR. SMILLIE: Yes.
MR. O'RELL: Bea?
MS. JAMES: Yes.
MR. O'RELL: Andrea?
MS. CAROE: Yes.
MR. O'RELL: Julie?
MS. WEISMAN: Yes.
MR. O'RELL: And the Chair votes yes. Fourteen yes's, motion carries. Now colors.
MS. WEISMAN: This was a final
recommendation coming out of sunset review regarding colors non-synthetic on Section 205.605(a) of the national list. And although we have heard comments, we have had a bit of comment on this, and there is a question about disruptions that may happen if these colors sunset. Unfortunately, we believe, the Handling Committee believes that this is a procedural issue regarding the fact that they appeared on the national list without any recommendation from the NOSB in the first place and that because of this we are not in a position to renew these colors for another five years on the list. So therefore I move that the full Board accept the recommendation of the Handling Committee that colors non-synthetic sources only not be renewed on Section 205.605(a) and effective the sunset date of October 22, 2007.

MS. OSTIGUY: Second.

MS. CAROE: Sorry. I was just going to offer re-wording of the motion.
Just to keep the motion brief, I had to accept the recommendation to sunset the 205.605(a) listing of colors.

MS. WEISMAN: Yes.

MR. O'RELL: It's been -

MS. WEISMAN: I withdraw my motion. Okay, I accept.

MR. O'RELL: And Nancy has seconded. Thank you. Discussion on colors?

Dan.

MR. GIACOMINI: I would just like clarification on this issue of this being a technical matter that essentially we're required to vote to take it off because of some procedural issue five years ago. I mean, I keep hearing that this is a directive from the program. I'd like some clarification on that.

MR. O'RELL: Nancy?

MS. OSTIGUY: I don't know about it being a directive for the program or not, but it's actually, and probably the key role
for the Board is the placement and removal of materials from the national list. OFThA very specifically gave that authority to the Board. No other way except by this I guess recent legislation can you put materials on a national list. So at the time the Board never acted on this and so this material does not belong on the list.

MR. O'RELL: Hue?

MR. KARREMAN: Just wondering are there any other materials on the national list that came on like this particular thing? Not one. Every single one had a TAP review no matter how pathetic way back when?

(Laughter)

MR. KARREMAN: I'm sorry. They've gotten very good now. They've gotten very, very good. But I always hear people worrying about the old TAPs. But every single material had a TAP review, went through the whole procedural process except colors non-synthetic? That's hard to believe.
MR. O'RELL: Jeff.

MR. MOYER: Joe, do you know potassium sulfate, did that get on the same way?

MR. O'RELL: It's a natural.

MR. MOYER: Oh it's not on this list, right.

MR. SMILLIE: Potassium sulfate is from lime sources.

MR. O'RELL: Valerie, do you?

MS. FRANCES: I don't think the only point is that there was a TAP review, it's that there was never a Board recommendation.

MR. O'RELL: That's the key. There was not a petition for colors. Colors was never petitioned.

MR. GIACOMINI: Mr. Chairman, I still don't understand. It's on the list. We're being asked to evaluate whether it should stay on the list or be removed from the list. Since it's on the list, the Board
decided not to take action five years ago. I don't see what the issue on that is forcing our vote.

MR. O'RELL: Nancy?

MS. OSTIGUY: No, actually the Board has repeatedly tried to deal with these issues of materials that they were supposed to go through the process. And it was not corrected, at least in my opinion. So it was asked for before and it was not corrected.

MR. O'RELL: Andrea?

MS. CAROE: Just because we're sunsetting this listing doesn't mean we're prohibiting the use of colors in the future. This action, as you remember from the April meeting, was to elicit the petitions to get the petition and the whole process buttoned up. And we did get that response and we've made a commitment to those petitioners that we will do everything within our abilities to get this reviewed and appropriately listed or not in the future. But as for this listing,
this is the right thing to do is to let it sunset.

MR. O'RELL: Julie?

MS. WEISMAN: And also I want to clarify. It may not need clarification, so I apologize, but we are not - this is not a recommendation to remove colors, it's a recommendation to allow it to sunset and in the meantime we already have petitions for colors to consider.

MR. GIACOMINI: I just, I have a, I feel a real difference when I am just making a decision of whether to sunset an item or being told that the vote needs to be in a certain - come to a certain conclusion because of something that the Board did or did not do, however something happened five years ago. It seems the decision should be made on the validity of colors being on the list now whether it's colors or any other substance that would be on the national list.

If it was something that needed to stay on
the national list, would we be forced in the same situation to take it off and sunset it simply because of a procedure five years ago?

I understand the value of procedure, but I think this would be a bad precedent.

MR. O'RELL: The Chair is going to - Jennifer, I have you next, but the Chair is going to recognize Kim Dietz as former Materials Committee Chair on the NOSB.

MS. DIETZ: Kim Dietz. Just trying to give you a little bit of historical perspective because I think that will help you. For five years the public, most people have known colors has been an issue, so we have gone out there publicly saying petition, it may come up for sunset. I think the people have had adequate time to make a decision to petition if they wanted to. And we have seen those petitions come in. Procedurally, it's the right thing to do. For four years we've been talking about sunset, so it's not just a matter of giving
people time for colors because they've had
the time.

MR. O'RELL: Jennifer?

MS. HALL: This is in response to
Dan. I actually see this as the opportunity
that the Board never had to determine the
validity of these non-organic colors being on
the list. And that they've never - and I
think for me the key is that they are not
organic and that was never assessed, their
validity to be in organic products.

MR. O'RELL: Dan, one of the
challenges we face in my opinion is that I
would love to see colors remain on the list
because obviously there are some things that
really need to happen quickly between now and
June with the Harvey case to continue
commerce as we know it. But this is a
procedural issue. This is something that can
be challenged. And if we go forward with the
recommendation of leaving colors on there and
the public then has a false sense of
security, it can be challenged legally and that's not going to be a good thing either for the industry. So procedurally I do agree with what Kim has said, I agree with what Nancy has said.

MR. GIACOMINI: The issue of Harvey is a 606 issue.

MS. CAROE: This is not a Harvey issue.

MR. GIACOMINI: This is not a Harvey issue, this is 605. These are synthetics, not the naturals.

MR. O'RELL: Well, it's -

MR. GIACOMINI: This could have been petitioned to be taken off at any point in time.

MR. O'RELL: Right. It's in regard to those materials that are being petitioned now for 606 to replace colors on 605. I recognize the placement of the colors, but right now we have a number of petitions in 606 that need to be out there
because when colors sunsets, there's going to be an issue. Hue?

MR. GIACOMINI: Mr. Chairman, I would just I guess put on the record that for clarity I will vote to keep colors on the list not as a matter – not as a view on the colors issue, but on the view of the procedural matter that I seem to feel that we're getting a little arm-twisting on.

MR. O'RELL: Okay. No further discussion? Hue.

MR. KARREMAN: Just one thing on what Jennifer said very well, you know, now is our time to speak up on this material so we can speak up either way.

MR. GIACOMINI: I agree with you on that but we haven't had that discussion. All we've been told is it needs to come off because of a procedural issue five years ago. We have not had any discussion on it.

MR. O'RELL: That's the recommendation and the discussion period is
now. So we're having that discussion.

    MR. GIACOMINI: Okay, on that issue I don't - we have been pushed in this direction of it being procedural for so long we haven't had the discussion and I don't think that saying this is it is a real fair platform for giving both sides an opportunity.

    MR. O'RELL: Is there any further discussion? Hearing none I'll ask is there any conflict of interest? Hearing none we'll take the vote. We have a motion on the floor to accept - Andrea, would you read the motion?

    MS. CAROE: To accept the recommendation to sunset the 205.605(a) listing of colors.

    MR. O'RELL: Thank you. Jennifer?

    MR. O'RELL: Jennifer?

    MS. HALL: Yes.

    MR. O'RELL: Jeff?

    MR. MOYER: Yes.
MR. O'RELL: Kevin?
MR. ENGELBERT: Yes.
MR. O'RELL: Dan?
MR. GIACOMINI: No.
MR. O'RELL: Mike?
MR. LACY: Yes.
MR. O'RELL: Hue?
MR. KARREMAN: No.
MR. O'RELL: Rigo?
MR. DELGADO: Yes.
MR. O'RELL: Gerald?
MR. DAVIS: Yes.
MR. O'RELL: Joe?
MR. SMILLIE: Yes.
MR. O'RELL: Bea?
MS. JAMES: Yes.
MR. O'RELL: Andrea?
MS. CAROE: Yes.
MR. O'RELL: Julie?
MS. WEISMAN: Yes.
MR. O'RELL: Nancy?
MS. OSTIGUY: Yes.
MR. O'RELL: And the Chair votes yes. Twelve yes, two no's. Lecithin, bleached.

MS. WEISMAN: Yes, actually we have a revised recommendation from the recommendation that was presented yesterday which I think everyone is going to be able to see on the screen. Based on public comment that was received prior to this meeting of a very detailed and higher quality than we had ever had before, we have actually - we feel that we have to reverse the recommendation as it was presented yesterday and that while we've seen that there is a variety of both non-synthetic and organic sources now for liquid bleached lecithin, there are no such alternatives for dry de-oiled bleached lecithin. And although we would love to have the option to not renew the liquid forms and just renew the dry forms, this is sunset and we are not allowed to make annotations during this time. Therefore, we feel our only
choice right now is to recommend the renewal of lecithin, bleached and we strongly hope that a petition will be presented in short order to restrict the use of bleached lecithin to dry forms only. I think there may be a word that doesn't belong there. There's a typo at the end. That "however" needs to come out. Thank you. Delete. So the Board - the recommendation of the Board, the Handling Committee recommends renewing the following substance in this use category, lecithin, bleached. 205.605(b), synthetics allowed.

MR. O'RELL: That is a motion.

MS. CAROE: I'll second.

MR. O'RELL: Andrea seconds.

Discussion?

MR. SMILLIE: Yes, I'm comfortable with our reversal because I think the market will eventually make the correction that we think is appropriate and it'll make that correction in due time.
MR. O'RELL: Gerald?

MR. DAVIS: From my point of view and looking at some of the testimony yesterday on how the dry powdered lecithin, bleached lecithin is extracted and then purified, I know I will vote against this because I think there is a point at some point personally I feel that you can't make an organic product out of everything. There's some things that if it can't be made without using a material like that, so be it.

MR. O'RELL: Andrea?

MS. CAROE: I'd just remind the Board that this is sunset. This is not new information. There's no new availability of other materials. This is looking at a prior Board decision, looking for that new information and determining whether it is still valid. There is no new information on this. There's no new availability. So I mean if we were looking at this material to be listed, your concerns would be worthy and
we would be looking at those things. But based on we're looking at sunset, it's a whole different ball of wax.

MR. O'RELL: Any further discussion? Hearing none I'll ask if there's any conflict of interest on lecithin, bleached. We will take the vote. Andrea, would you read the motion again just so we're clear?

MS. CAROE: The motion is to renew the 205.605(b) listing of lecithin, bleached.

MR. O'RELL: Okay, thank you. We have the motion and we'll start the vote with Jeff.

MR. MOYER: Yes.

MR. O'RELL: Kevin?

MR. ENGELBERT: Yes.

MR. O'RELL: Dan?

MR. GIACOMINI: Yes.

MR. O'RELL: Mike?

MR. LACY: Yes.

MR. O'RELL: Hue?
MR. KARREMAN: Yes.

MR. O'RELL: Rigo?

MR. DELGADO: Yes.

MR. O'RELL: Gerald?

MR. DAVIS: Yes.

MR. O'RELL: Joe?

MR. SMILLIE: Yes.

MR. O'RELL: Bea?

MS. JAMES: No.

MR. O'RELL: Andrea?

MS. CAROE: Yes.

MR. O'RELL: Julie?

MS. WEISMAN: Yes.

MR. O'RELL: Nancy?

MS. OSTIGUY: No.

MR. O'RELL: Jennifer?

MS. HALL: Yes.

MR. O'RELL: And the Chair votes yes.

MS. CAROE: The vote is 11-3-0-0.

MR. O'RELL: 11-3-0-0, motion carries. Thank you. Thank you, Julie. That
concludes the recommendations from the Handling Committee. We'll move forward with the Compliance Accreditation and Certification Committee with Andrea.

MS. CAROE: The first vote that we are considering is the adoption of the guidance document in regards to private label. This document was reviewed again, re-read, and the 2001, not 2007, document was also read. And it was determined that they are not in conflict to each other. Knowing that, we also recognize that the 2001 document needs to be followed up with, and that will be a work item, work plan item for this committee. However, since there is not that conflict at this time, we would like to move forward with the Q&A as a guidance document as was originally presented. Motion is to accept the private label Q&A document as a guidance.

MS. JAMES: I second.

MR. O'RELL: It's been moved and
seconded by Bea. Discussion on the Q&A question? It's the recommendation response from the Q&A question that was asked to the committee. No discussion?

MS. JAMES: I just want to be clear that we're talking about the guidance listing of certifying agent's name on a packaged product. So if you're looking for that.

MS. CAROE: It's the first item in Tab A.

MR. O'RELL: Any further discussion? Any conflicts of interest?

MS. JAMES: Potentially I should disclose that as a retailer that's involved in private label it could be a conflict of interest for me.

MR. O'RELL: The Board can consider whether that's a conflict. We appreciate your disclosure according to our Policy and Procedures Manual. Julie?

MS. WEISMAN: As a manufacturer of
processed products I think actually probably
I should reveal that sometimes I make private
label products, that I manufacture products
for other entities. I don't know if that
would be considered.

MR. O'RELL: We'll take one at a
time. I appreciate that disclosure. Hue?

MR. KARREMAN: I do get private
label things made for me sometimes by an
herbalist. And he calls things certified
organic this and that or not. So. I guess I
do have some private label things made.

(Laughter)

MR. O'RELL: I don't think that,
in the Chair's opinion, I appreciate the
public disclosure of potential conflicts of
interest. I don't see where - I would ask
does anybody think they have a material gain
by voting on this recommendation? So, okay.

Unless there's any other Board members that
feel that there is a material conflict of
interest. We appreciate the disclosure in
the public record. Okay, we will start the vote with Kevin?

    MR. ENGELBERT: Yes.

    MR. O'RELL: Dan?

    MR. GIACOMINI: Yes.

    MR. O'RELL: Mike?

    MR. LACY: Yes.

    MR. O'RELL: Hue?

    MR. KARREMAN: Yes.

    MR. O'RELL: Rigo?

    MR. DELGADO: Yes.

    MR. O'RELL: Gerald?

    MR. DAVIS: Yes.

    MR. O'RELL: Joe?

    MR. SMILLIE: Yes.

    MR. O'RELL: Bea?

    MS. JAMES: Yes.

    MR. O'RELL: Andrea?

    MS. CAROE: Yes.

    MR. O'RELL: Julie?

    MS. WEISMAN: Yes.

    MR. O'RELL: Nancy?
MS. OSTIGUY: Yes.

MR. O'RELL: Jennifer?

MS. HALL: Yes.

MR. O'RELL: Jeff?

MR. MOYER: Yes.

MR. O'RELL: And the Chair will vote yes. Fourteen yes, the motion carries.

MS. CAROE: Thank you. Okay, the next vote item that we had was the standard certificate information document. This document brought to us very valuable input from the industry. We recognize that there will be additions to this document including the categories of certification of the products. We recognize that there is interest in having a requirement for English on the document. We will further investigate that with the program to find out if there is any barriers to doing that. Also, we agree that there should be a list of attachments to tie to the document to its attachments. However, we recognize that there needs to be
more work done as far as the formatting of the document. We did receive a wide variety of input suggesting that what we had in the document was prescriptive. We did have also many requests to have a standard template for that information. So at this time the committee would like to defer this document for further work. Again, we do this because it is not immediately needed. We do want to make sure that this does serve the purposes that we listed in the document and is available for the certifiers to use without too much hardship. So at this time I would like to motion to defer the document on standard certificate format.

MS. HALL: Second.

MR. O'RELL: It's been moved and seconded by Jennifer. Do we have discussion? Joe?

MR. SMILLIE: Yes. On the issue of the prescriptive, you know, we talked about the 8.5x11 with three inches at the
bottom and we got a real range of opinion on that. Some people said that was too prescriptive and then other people said we wanted a template. I just wondered which direction you want to head?

MS. CAROE: I want to head into investigating it further since it is confused at this point.

MR. SMILLIE: Okay.

MR. O'ReLL: Nancy?

MS. OSTIGUY: I'd like to offer that actually those two recommendations aren't necessarily contradictory. If you are given a list of requirements that you have to meet but you are going to have to make up the form, that can be much more time-consuming than looking at a recommended document and saying, okay, that works but we need this little bit of information in there. So I can see how a template can be incredibly useful.

You can adopt it wholesale, you can make minor changes if we don't want to be
absolutely prescriptive, but you don't have
to go through the work of figuring out the
layout. So.

MS. CAROE: Thank you.

MR. O'RELL: Any additional
discussion? Hearing none, I'll ask if there
are any conflicts of interest? We have a
motion to defer the recommendation. Andrea,
would you read the motion one more time?

MS. CAROE: The motion is to defer
for further committee work - defer the
recommendation on standard certificate format
for further committee work.

MR. O'RELL: Thank you. So we'll
take the vote. Dan?

MR. GIACOMINI: Yes.

MR. O'RELL: Mike?

MR. LACY: Yes.

MR. O'RELL: Hue?

MR. KARREMAN: Yes.

MR. O'RELL: Rigo?

MR. DELGADO: Yes.
MR. O'RELL: Gerald?

MR. DAVIS: Yes.

MR. O'RELL: Joe?

MR. SMILLIE: Yes.

MR. O'RELL: Bea?

MS. JAMES: Yes.

MR. O'RELL: Andrea?

MS. CAROE: Yes.

MR. O'RELL: Julie?

MS. WEISMAN: Yes.

MR. O'RELL: Nancy?

MS. OSTIGUY: Yes.

MR. O'RELL: Jennifer?

MS. HALL: Yes.

MR. O'RELL: Jeff?

MR. MOYER: Yes.

MR. O'RELL: Kevin?

MR. ENGELBERT: Yes.

MR. O'RELL: And the Chair votes yes. The motion to defer carries, 14 yes.

Last one.

MS. CAROE: Okay. The last
document that we have for vote is the
document for rule change to require
expiration dates on certificates. Again, I
just want to reiterate this is expiration of
the document, not expiration of the
certification. And at this point the
committee is prepared to move forward and
offer this for vote to accept the
recommendation as written, no changes.

MS. OSTIGUY: Second.

MR. O'RELL: We have a motion to
move forward with the recommendation as it
was posted and a second. Is there
discussion? Nancy?

MS. OSTIGUY: There were comments
made by speakers yesterday and the day before
over expiration, date of issuance and I'm not
quite sure what to think about the pros and
cons of those various ideas. What was the
committee's thinking?

MS. CAROE: When considering those
issues it did not appear that they - there
was no change to the logistics. There was no
reason for those. I think the word
"expiration" the reason I clarified that it
was the document expiring and not the
certificate is that's the reason people are
getting hung up with the word "expiration."
We're talking about a document expiring.
Just like your credit card may expire it
doesn't mean your account is gone.

    MR. O'RELL: Jennifer?

    MS. HALL: I have two points.

One, given that we're trying to make explicit
that it's the certificate that 205.404(b)(2)
effective period of the certificate instead
of certification? Is maybe the word we want
to use. In the line that we're changing.

    MS. CAROE: (b)(2)? The effective
period of certification including.

    MS. HALL: That is actually the
certificate, not the certification.

    MS. CAROE: Of the certificate.

Valerie, can you make that change? It's
under the recommendation (b)(2).

MS. FRANCES: The effective period

- 

MS. CAROE: Right. The word

"period" is in bold.

MS. FRANCES: Yes. And -

MS. CAROE: Change "certification"

to "certificate."

MS. FRANCES: Okay.

MS. CAROE: And add "the" in front

of.

MS. HALL: Right. And then

secondly, that I do have concerns about using

"expiration date." From a consumer standpoint

I actually disagree with one of the comments

that was brought up about it being the onus

of the consumer to have to find out what the

effective date is at farmer's markets. I

think it's a really valuable tool for them to

understand whether or not they're valid

without having to go look it up or ask or

whatnot like that. I don't think the burden
should be the consumer's. But on the other side of that when it does say expiration date, I think that that is a disservice to small farmers in that same situation, that many times they may not get certified on time and may be waiting for that letter of extension or whatever. So I would like to see it be annual renewal date, or something that's not quite as - or annual inspection date, or something of that nature that's not quite as defining, that looks like they're out of compliance where the consumer audience doesn't recognize the additional six months that they might have to figure that out.

MR. O'RELL: Andrea?

MS. CAROE: In considering annual monitoring date, renewal date, those sort of things, it's not apparent if that date has passed if they're out of compliance or not. That's why expiration dates was considered more appropriate because you could be past your monitoring date and still within the
grace period, or maybe you're not following
to through with your annual monitoring and that
certificate is long gone. It's not, you
know. So the expiration date was to be clear
for processors and consumers that this was
indeed - is not - it is a requirement of the
certifiers to annually monitor. And we did
put a vehicle in here for extensions, letters
of extension, to continue that in those cases
where, you know, the crop is in the field or
the inspectors can't get out there for
whatever reason consistent with the
regulation.

MR. O'ReLL: Hue?

MR. KARREMAN: I think Jennifer
had a good point, though. At like farmer's
markets, you know, if you have two farmers
and they're both posting their certificate
and one is expired it's like looking at two
cartons of milk. I'm going to go to the one
that's not expired. Is that what you were
trying to say, Jennifer?
MS. HALL: Yes, or just because it's not as valuable a tool for them to express the validity that they're organic. And I kind of feel like in 205.406(b) where it says that the continuation of certification in issuing an updated certificate of organic inspection on the basis of the information submitted in the most recent on-site inspection conducted during the previous 12 months doesn't insinuate that it's an annual requirement. Or does mandate, not just insinuate.

MS. CAROE: The regulation mandates the annual requirement. It's there. It's already existing.

MS. HALL: Right.

MS. CAROE: And just to address you, Hue.

(Laughter)

MS. CAROE: I didn't mean that. We do want this for protection of the consumers at farmer's market, the protection

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of processors buying ingredients. If that's expired and they're no longer in compliance with their annual monitoring, you know, we don't have a real tool, a real-time tool to look at that right now. So you know, you can have a certificate that's three or four years expired right now without anybody really knowing that, you know. It's issued - the certifier doesn't have a control over that to take that document back from you if they ever de-certify you or suspend you. So you could continue to use it all you want for years. With expiration date, you could do that for a limited time, but you're not going to get another document with the new dates on it, or effective dates.

MR. KARREMAN: All right, then I'm confused then. This document being presented is asking to show expiration dates?

MS. CAROE: Yes.

MR. KARREMAN: Good. Okay.

MR. O'RELL: Joe?
MR. SMILLIE: Just one other point and that is that 6-month extension. You know, that's a very useful tool and it doesn't make the certificate less. It really, you know, it does specifically state that document that there's an extension. So with that document in hand at a farmer's market it's valid as a certificate. And it's - I think six months is reasonable.

I think the certifier community is mixed on this issue, haven't gotten used to the other one and there's a bunch of things, but from my point of view, personally, I can't speak for all the certifiers, it also creates a compliance tool that's really valuable. And again, it was mentioned something it would make sure you get your fees paid on time. Well, that's one issue, but actually that's not the worst one. The worst one is, you know, these non-compliances that are issued to clients. Most clients have a certain level of non-compliances,
minor. And if they've got their certificate, there's just a lot less compelling need to get back to the certifier and resolve the compliances, you know. They'll do it, but you know, pulling teeth and stretching. Well, you know, we're past our annual monitoring date, we're coming back again, we still haven't gotten this non-compliance corrected. And with the expiration on the certificate I think we'll get better response from well-meaning clients who have some non-compliances to clear up.

MR. O'RELL: Valerie.

MS. FRANCES: I just think you have a grammatical problem with (b)(2). Effective period of the certificate include - including, and include.

MS. CAROE: Which includes.

MS. FRANCES: Which includes.

MS. CAROE: To include.

MS. FRANCES: Okay.

MS. CAROE: Thank you.
MR. O'RELL: Thank you. Dan?

MR. GIACOMINI: Sorry.

MR. O'RELL: No Bea, then Dan.

MS. JAMES: I appreciate the perspective of looking at how certificates affect somebody like a farmer's market. On the retail side I guess I'm just kind of reiterating a little bit of what Joe was saying. If you have certification and actually having that expiration date in keeping track of all of the certificates that you have to try to keep track of, it's very, very cumbersome and difficult to try to manage all the paperwork without the expiration date on the certificate. So there's, you know, for some areas it might be better to not have the expiration date, but for the majority of people that actually are using administratively the certificate to help manage certification, it's a positive thing to have the expiration date. So I just wanted to make that point.
MR. O'RELL: Dan?

MR. GIACOMINI: I appreciate all the work that has been done by the committee on this and I certainly support the overall intent and the general direction. I think there's a lot of positive things that we do here including the issues with inspection and everything. I'm just not quite convinced that putting the expiration date is the best way to go and I think there was enough concern that I heard from certifiers even among the ones who said we need something, and I definitely believe we need something, that personally I would just like us to reconsider this maybe a little bit more.

MR. O'RELL: The Chair will recognize Jim Riddle, past Chair of the NOSB.

I think he wants his job back.

MR. RIDDLE: No, I just want to try and offer a little language change to make it clear that it's the expiration date on the certificate. And if you just consider
That it read "the effective period of certification including the effective date and expiration date of the certificate."

That separates the issue of expiration of certification because the way it reads right now I think it's unclear, it's confusing. It's lumping the two in the same phrase unless you make it clear that it's the expiration date of the certificate.

MR. O'RELL: You're suggesting effective - could you read that one more time?

MR. RIDDLE: Yes. The way it reads, effective period of certification, comma, including the - that's just grammatical. So including the effective date and expiration date of the certificate. Is that?

MS. JAMES: I accept that.

MR. RIDDLE: Okay, thanks. Just trying to be helpful.

MR. O'RELL: Always, thank you.
The committee is fine with that. Thank you, Jim.

MS. JAMES: We miss your wordsmithing, Jim.

MR. KARREMAN: Okay. Just one question on that.

MR. O'RELL: Yes.

MR. KARREMAN: When it says effective period of the certification, the certification is for life I thought. Like a driver's license. So is that actually, Jim, would that be correct grammatically? Is there an effective period of the certification? I thought once you're certified, you're certified? Right, but an effective period would be like Point A to Point B chronologically.

MR. RIDDLE: You're not certified for life. You have to keep doing certain things. You have to keep complying. You have to pay your fees. You have to file an annual update. You have to be reinspected.
It's not just a given that because you're still alive you're still certified.

(Laughter)

MR. KARREMAN: I realize that, Jim. Thank you for that clarification. All right so that seems fine, I mean if everyone's fine with that.

MR. O'RELL: Gerry?

MR. DAVIS: So this wording change in the Board's opinion does not backtrack on what we were trying to fix a little while ago on this?

MR. O'RELL: I think it's providing clarification.

MS. CAROE: It's syntax.

MR. O'RELL: So I would ask Valerie, because this is the only change we've made in this document that was posted, could you just read one more time what we have up there for clarification?

MS. FRANCES: Just that line?

MR. O'RELL: Just that line. No,
the whole document.

    MS. FRANCES: The whole section (b)?

    MR. O'RELL: Just that line. I'm sorry.

    MS. FRANCES: All right. While the certifying agent must issue a certificate of organic operation which specifies the (2) effective period of certification to include the effective date and expiration date of the certificate.

    MR. O'RELL: Jennifer?

    MS. HALL: Sorry, I just still think it's murky and I would like to change it to just read effective date and expiration date of the certificate.

    MR. O'RELL: Effective date and expiration date of the certificate.

    MR. ENGELBERT: I agree with Jennifer and I see Hue's point. It's going to be almost impossible for an agency to
specify the certification period on a certificate.

MR. O'RELL: Okay, Jennifer is suggesting language. Let's have a discussion.

MS. WEISMAN: I would add one word into your phrase. I would say effective date of certification and expiration date of certificate.

MR. O'RELL: Oh, that's good. I like that. Because then we keep it separate as Jim Riddle had mentioned to do. Okay, Dan?

MR. GIACOMINI: Could we accomplish the same thing just by changing "certification" to "certificate"?

MS. CAROE: That's where we started.

MR. O'RELL: You don't want it lumped together.

MS. CAROE: That was like 15 minutes ago.
MR. O'RELL: I would just like for clarification, again, Valerie, read what was last put up.

MR. DAVIS: She doesn't have that down.

MS. FRANCES: I wasn't clear what was -

MR. O'RELL: You don't? Okay.

Then Julie, would you please?

MS. WEISMAN: All right, (b), the certifying agent must issue a certificate of organic operation which specifies the effective date of certification and expiration date of the certificate.

MR. O'RELL: Okay. That sounds good. And the committee accepts that amendment. Kevin?

MR. ENGELBERT: Julie didn't have a "the" after, and I just wanted to - that "the" needs to be removed.

MS. WEISMAN: I admit it. You're right, you're right. Of certificate.
Expiration date of the certificate.

MR. ENGELBERT: The date of certification.

MR. O'RELL: Okay. Do you think you have it?

MS. FRANCES: Do I got it?

MR. O'RELL: I can't see it.

MS. FRANCES: Effective date of certification and the expiration date of the certificate.

MR. O'RELL: Yes, bingo, thank you. Okay. Any further discussion? Any conflict of interest to declare?

MR. SMILLIE: Well, I work with these documents all the time. I don't think I have a conflict of interest.

MR. O'RELL: Just a disclosure that you do work with these documents and you're -

MR. SMILLIE: Oh. Every day.

MR. O'RELL: Yes.

MR. SMILLIE: I work with these
documents every day and I'm disclosing that I work with these documents every day. I don't have a conflict of interest. I have no material gain to make.

MR. O'RELL: That's fine, we accept that Joe, you don't have to - we just - it's not an inquisition. Okay. We're going to - we have a motion, we have seconded, we're voting on accepting the recommendation from the CAC on expiration dates on certificates of organic operation as amended. And we'll start the vote with Mike.

MR. LACY: Yes.

MR. O'RELL: Hue?

MR. KARREMAN: Yes.

MR. O'RELL: Rigo?

MR. DELGADO: Yes.

MR. O'RELL: Gerald?

MR. DAVIS: Yes.

MR. O'RELL: Joe?

MR. SMILLIE: Yes.

MR. O'RELL: Bea?
MS. JAMES: Yes.

MR. O'RELL: Andrea?

MS. CAROE: Yes.

MR. O'RELL: Julie?

MS. WEISMAN: Yes.

MR. O'RELL: Nancy?

MS. OSTIGUY: Yes.

MR. O'RELL: Jennifer?

MS. HALL: Yes.

MR. O'RELL: Jeff?

MR. MOYER: Yes.

MR. O'RELL: Kevin?

MR. ENGELBERT: Yes.

MR. O'RELL: Dan?

MR. GIACOMINI: No.

MR. O'RELL: And the Chair votes yes. With 13 yes, one no, the motion carries.

MS. CAROE: Who seconded?

MR. O'RELL: Nancy. And I thank the CAC and we have concluded the voting on recommendations to the program. Well, I'd
like to at least move on with, because we did
take a rather extensive break and we're a
little behind schedule. But I understand if
somebody needs to shuffle back and forth we
can do that. I'd like to continue at least
with the presentation of the committee work
plans by the Chairs. If we have a volunteer
to go first, who's ready?

MR. DELGADO: Mr. Chair, I'm
ready.

MR. O'RELL: Rigo. Rigo's ready
to go.

MR. DELGADO: Mr. Chair, members
of the Board, we have four items on the plan
here. The first one is to finalize the new
member guide. We need to include a couple of
sections there that involve the NOP. The
second item is to set up the research
variance ad hoc committee. That's working
together with members of the Crops and
Livestock Committee as well as the PDC.
Third item on the list is continue with our
work in temporary research variances.
Essentially we want to finalize the guidance
for certification of operations participating
in research. That's the document that we
need to finalize.

Last item includes updates to the
Policy and Procedures Manual. We have four
general specific actions there. The first
one is a follow-up of an item that we've been
carrying on since last year and that's
developing a clarification of deferral. And
we hope to complete this this time. Second
one is developing procedures for the
transition of committee Chairs. It was
obvious in this session that we need to put
something in place. Then we also need to
update the NOSB committee recommendation form
to specify the uses of petitioned materials.
So we would like to include that in the
form. And finally we just would like to
review the general format of the PPM, Policy
and Procedures Manual, to make sure that we
have consistency throughout and the nice introductory paragraphs to each section. So that is the plan for us. If you have any questions.

MR. O'RELL: I would like to see maybe we could add a format for putting together recommendations? Oh, I'm sorry.

MS. CAROE: No, that was for materials only, but you're talking about other recommendations as well?

MR. O'RELL: You're talking about for materials format?

MR. DELGADO: That's correct, yes, and you were talking about?

MR. O'RELL: Well, I think maybe that would cover it. I'm sorry I missed that. I spaced out. So, okay. Bea?

MS. JAMES: I wanted to make sure that I understood you correctly, Rigo. We had talked about putting together the succession plan. Is that what you meant when you were talking about committee Chairs?
MR. DELGADO: That is correct, yes.

MS. JAMES: Okay. And did you also have on there putting together procedures for presenting committee action items and recommendations?

MR. DELGADO: No, I did not in those specific words. And you did mention that in your -

MS. JAMES: Yes, I would like to add that.

MR. DELGADO: Absolutely.

MS. JAMES: And lastly, I would also like to continue to work with the NOP on the removed section from the new member guide.

MR. DELGADO: Yes, that's what I meant by the first point. Yes.

MR. O'RELL: Nancy?

MS. OSTIGUY: Can I make a suggestion on the committee recommendations for materials that there be space to actually
write out specifically what the motion is.

    MS. CAROE: Yes, that's like top
    on the list.

    MS. OSTIGUY: Yes. It's a piece
    that I've found very missing.

    MR. DELGADO: Yes.

    MR. O'RELL: Good.

    MR. DELGADO: Good, thank you.

    MR. O'RELL: Thank you, Rigo.

Crops? Gerald?

    MR. DAVIS: The Crops Committee
    work plan is, number one, to participate in
    the ad hoc committee set up by Policy
    Development to continue the work on the
    research variance document. And, number two,
    accomplish the information-gathering on
    hydroponics solicited from the certifiers and
    analyze the information and discuss whether
    to proceed with the guidance document.

    Number three, continuing petitions: potassium
    silicate, possibly sulfuric acid in manure,
    depending on the petitioner's response. New
petitions: pelargonic acid, sodium carbonate peroxypyrhydrate, sodium ferric hydroxy EDTA, sorbitol octanoate, sulfuric acid, and tetracycline.

MR. O'RELL: Any questions for Gerald and the Crops Committee?

MS. CAROE: Can you just repeat that first item on your Crops list?

MR. DAVIS: Pelargonic acid.

MS. CAROE: No, no, the first item.

MR. DAVIS: First item? I'm sorry. To participate in the ad hoc committee.

MS. CAROE: Okay thank you.

MR. DAVIS: To continue work on the temporary research variance document.

MR. O'RELL: Any other questions for Gerald and the Crops Committee? Thank you, Gerald. Mike, want to move to?

MR. KARREMAN: I have a question.

MR. O'RELL: Yes, Hue.
MR. KARREMAN: You mentioned tetracycline as the very last word there. Is that - was that - did that go through sunset? So is that going to be?

MR. DAVIS: There is a petition for expanded use. I haven't seen it yet, but it's on the list.

MR. O'RELL: Thank you. Mike?

MR. LACY: Thank you, Kevin.

We're - Livestock Committee is working on its succession plan and Hue is going to present our work plan.

MR. KARREMAN: Secession?

Succession.

MR. LACY: We're going to secede, yes.

MR. O'RELL: He's from the South.

MS. CAROE: He is from the South.

(Laughter)

MR. KARREMAN: All right, Livestock Committee work plan includes our, well, our main focus and priority will be to
move forward with the process of drafting the organic aquiculture standards. And Kevin Engelbert and myself will be working with Andrea and Joe on that towards writing a document that hopefully we can have a draft standard prepared by next spring, the spring meeting 2007. And then the aquiculture working group is going to continue to work on recommendations for shellfish and we'll continue to work with them as they finalize those, but at this point we can't provide anyone with a timeframe unfortunately.

And as was mentioned yesterday, we definitely look forward to bring closure to the pasture issue and remain ready to assist the NOP in any way possible at any time. Likewise we look forward to the ANPR from the NOP relative to the dairy animal replacement dilemma. And we have, you know, formally submitted a guidance statement asking for a single acquisition method, namely the last third of gestation after you're certified, no
manner how you were certified or when. And
again, we stand ready to help in any way.
And we'll be working with the NOP to see what
we can do to assure future annotations like
the withdrawal times for medications can be
applied to materials. In other words,
hopefully we can help if there's process in
the FDA and whatnot.

Oh, and also we've had the issue
of defining better what outdoor access for
poultry means on our work plan for a year,
but we simply haven't had the time because of
the aquiculture issue, the pasture symposium
and all that went with that, and also the
dairy replacement issue. And as time allows
we will work on that issue of poultry outdoor
access. And finally we'll also work with
Rigo on defining research variances
appropriate for organic livestock.

MR. O'RELL: Any questions for
Hue? Bea?

MS. JAMES: The pasture symposium

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that we had was extremely valuable for I think the entire Board. I don't want to speak for everybody, but I know it was for me and I think it was for everyone else. And I see aquiculture as being a pretty complex issue, and we had a lot of really excellent comments and expertise that came up and helped enlighten us. And I would like to ask if it is possible for the NOP to consider a symposium on aquiculture for the NOSB. And I'm inserting that in with Livestock because I would see that that would be something that you would work on in conjunction with Livestock. If we could do that in Hawaii.

(Laughter)

MR. O'RELL: I agree, Bea. Kevin, did you have a?

MR. ENGELBERT: Just that we could make a motion right now for that.

MR. O'RELL: Mark, did you have a comment on that?

MR. BRADLEY: I'm not real sure.
Are you asking me if you're going to ask
that, or are you asking me now and want an
answer now?

MS. JAMES: No, I'm asking if you
would consider a symposium on aquiculture. I
think that there's a lot more that we need to
learn.

MR. BRADLEY: They're similar but
very different issues. The level of concern
that existed and the amount of controversy
that surrounded pasture lent itself very well
to a very public hearing with a lot of input
from a lot of different sources that
supported the direction that the program's
taking and the way that the Board was able to
respond to all that. It was also very
expensive. I think we probably spent upwards
of $70,000 out of a fixed budget that we have
for federal advisory committee activity. I'm
not going to say no, and maybe something
that's of a more controlled scale in
conjunction with the Board meeting again. I
would not be opposed to something like that.

Is that a - did I dodge that bullet?

MS. JAMES: Can I respond? I guess I would just, I mean I'm not sure if we need something to the extent of pasture even though I wouldn't rule it out. But if there were the opportunity to have an hour or two of people in the aquiculture industry at one of our meetings to be able to help give us more guidance I think it would be very valuable. Because I see it as an extremely important issue.

MR. BRADLEY: Agreed.

MR. O'RELL: Mike?

MR. LACY: Kevin, I think Bea's got a good point. I think the aquiculture will be different than the pasture in that there are few areas of contention in aquiculture and many areas where everybody agrees on probably the direction that we're going to go with aquiculture. So I think really on a really scaled-down version we
could have experts come in to talk on those particular stumbling areas and not have to go to the extent of a symposium and all the expense on that. We actually talked about trying to bring George Lockwood to this meeting to address the group and decided that it would be better to wait until we get those draft standards together and then have him come. So I think Bea's got a good point but it probably doesn't need to go to a symposium level. It can probably go to some experts that we call in.

MS. JAMES: Just one more response then I'll leave it alone. I just want to respond to that, that the advantage of actually having a focused time is that these people that do come in get more than five or ten minutes and I think that that's valuable.

MR. LACY: Yes, I agree with that.

MR. O'RELL: Nancy?

MS. OSTIGUY: We've done this in the past on different topics where we've
asked experts to come in to speak to the Board and it has been for an extended period of time but it's short of a full symposium.

MR. KARREMAN: Right, for instance like the FDA guys that came.

MR. O'RELL: Jennifer?

MS. HALL: I do think this one's a little bit different too in the sense that livestock has been included under the rule up to now so I feel like we're more intimate with that community and they know how to use the system a little bit better. And I think that that opportunity should be afforded to a whole new community of producers and that there actually might be more heightened concern than we're aware. If we open that door a little bit we might be able to cut it off at the pass and avoid getting there by being backed in the corner.

MR. O'RELL: Dan?

MR. GIACOMINI: I totally agree with the idea that Bea is proposing. I would
just like to make a technical correction and shift it to the Executive Committee as a possible work plan because we do have some other possible things that we're going to be going to NOP with that may alter how we're requesting their use of limited funds in the next year.

MR. O'ReLL: Joe?

MR. SMILLIE: Yes, I'm new to the process so my question is it comes down to our time, which we seem to be freely willing to give. The other question is money and I'm just wondering does this have to be funded through current funds? I think that industry could fund a symposium under our direction. I don't know if that's possible.

MR. KARREMAN: Are you offering that from QAI?

MR. SMILLIE: No, no, no.

(Laughter)

MR. SMILLIE: I'm just saying the aquaculture industry per se and the groups
there. I'm just asking. If money's the issue and we can't do it because of our limited budget are there just other ways to create the symposium. Not the control of it, just the funding of it. That's what's done in the private sector at all times. I'm attending a food safety conference in Wisconsin that's run by the university and it's funded by private sources.

MR. O'RELL: Rigo?

MR. DELGADO: I wouldn't like that idea being expanded. I would like to really exhaust the possibilities that we're getting funding from the NOP simply because we might have some misinterpretations that we have private funding coming to support this activity. And we really need to have extremely objective information thrown at us.

MR. O'RELL: Well, maybe this is something on the work plan and Livestock you can seek counsel with the Policy Development Committee and come back with a recommendation.
after you've thought out several of the options that have been discussed here. I think that a lot of good things have been thrown on the table. So I would still put it back on the Livestock committee to come back and seek advice from the Policy Development Committee as well as what some recommendations might be appropriate going forward. Thank you. CAC?

MS. CAROE: We only have three things on our list. First item is to follow up with the deferred recommendation that we have on standard certificate format. The second item is to continue the work on peer review process, peer review procedure in collaboration with the program investigating all the alternatives and their benefits to the program, to the community. And lastly, we're going to follow up on that July 2001 recommendation for rule change that was referenced during this meeting. That's it.

MR. O'RELL: Thank you, Andrea.
Any questions for Andrea? Bea?

MS. JAMES: I would also like to add to the committee work plan looking at defining the role of retail certification when it comes to private label products. Because we had talked about defining that a little bit better. The role of the actual retailer. Because currently in the guidance document that we put out we said that if somebody seeks voluntary certification and they want to use that certifying information on the final product, that they can do that and they inherit the responsibilities that come with doing that. However, in the case of a retailer, you have several departments, and if one department is certified it's a separate issue. It's a separate issue, and so I'm proposing it as a separate issue that we look at defining that if you're certified in one little area, you can't go and use that on a final product. We have to define that better.
MS. CAROE: We accept that addition to the work plan to define certification of retail establishments and all the specifics that go along with that.

MS. JAMES: Thank you.

MR. O'RELL: Thank you, Bea.

Thank you, Andrea. Julie from the Handling Committee, please.

MS. WEISMAN: There's a lot more on my list than yours. That doesn't seem fair. Number one, I have reviewing petitions as complete petitions are given from the program. And I actually, there's 44 things on the list right now by my count, so I am not going to list them all individually if that's okay with everyone.

MR. O'RELL: That's fine. We know they're on your work plan.

MS. WEISMAN: Okay. Number two is the re-work of ag/non-ag. We've specified a lot yesterday and today about what still needs to be done so I won't go into the
details right now. Also, awaiting patiently the green light to continue our work on synthetic/non-synthetic. That's the third item. Fourth item is to now take the report of the Pet Food Task Force and begin the task of how to make them into standards. Five, I still need to appoint a Vice Chair. I haven't had a Vice Chair all year, so that's a task. And respond to NOP Q&A's as needed.

One other, commercial availability I did not put on this list. I'm very happy that that's not here anymore, but there is one little item that is remaining. The item that we struck this morning needs to be addressed and I propose that because it's a certifier, it's about the certifier's role, I propose that either it be moved to the CAC's work plan or that we form an ad hoc committee including certification and handler committee members.

MS. CAROE: What was the issue again?
MS. WEISMAN: The issue was how much information and in what form can the certifier give to either their clients or certified applicant without running afoul of conflict of interest.

MR. GIACOMINI: The deleted number three we took a break for.

MS. CAROE: We accept that addition to our list, reluctantly.

MS. WEISMAN: Is that it? That's it for Handling Committee.

MR. O'RELL: Any questions for Handling Committee? Thank you, Julie.

MS. FRANCES: Actually, I have one thing. Do you want to clarify the petitioned materials versus 606 or 605, all of it?

MS. WEISMAN: All of it. I mean, I will make a note that their one item has a little flashing light for me which is a 605(a) material, fructoooligosaccharides because that's been in the pipeline for awhile and now there is a TAP review complete
so we actually have everything that we need now. It may even have been the case before this meeting but we had our nose to the grindstones on other things, so I will note that I'm aware that this is an item that is now ready for committee review for the next meeting.

MR. O'RELL: Okay. Any other questions for Julie?

MS. WEISMAN: Is that enough?

MR. O'RELL: That's fine. Thank you, Julie. Dan, Materials?

MR. GIACOMINI: The work plan for the Materials Committee is to manage and proceed with the petition process for 606 petition items and other section petitioned items in cooperation with the respective committees that they are involved with. To cooperate with the Executive Committee to coordinate any additional possible meetings that we can arrange through the program to help us through the 606 process in a timely
fashion. To cooperate with the Handling Committee on the continuation of the ag/non-ag document and to move forward with the synthetic/non-synthetic document as it's allowed.

MR. O'RELL: Any questions for Dan, Material Chair?

MS. CAROE: Just you have the 606 process but you also - a standing item is to follow up with the petitions that are in the queue somewhere? I mean, not just 606 but all petitions.

MR. GIACOMINI: No, it was all other section petitioned items also.

MS. CAROE: Okay.

MR. GIACOMINI: I just - rather than saying "all items," I made a note that 606 was a particular priority.

MS. CAROE: Okay.

MR. GIACOMINI: The -

MS. CAROE: Well, but you also have the process, the flow chart of 606.
MR. GIACOMINI: Well, what I'm referring to is the process of getting them approved. That's what I'm referring to as the process.

MS. CAROE: Okay. Then I would suggest the addition of the flow chart for 606 with the timeline for the 606 review process.

MR. GIACOMINI: We said that.

MR. O'RELL: Any additional questions for Dan? I'm sorry, Joe, I didn't see you.

MR. SMILLIE: What hasn't come up in the discussion on the 606 process? Again, maybe I'm a little fuzzy on it, but what is the status of the expedited review process?

MS. CAROE: Emergency provision?

MR. SMILLIE: Emergency provisions, yes. We haven't talked about that the last three days, and I remember that was a fairly interesting item that we never got any kind of firm response from the
program on. I just thought I should—at least, I can't recall us talking about it at all.

MR. O'RELL: Andrea?

MS. CAROE: It is my understanding that the emergency provision is a function of the program and not of the Board. So I don't—although we want to be informed on it, I don't believe, unless somebody at the program tell me if you're waiting for us to take action on this, but I kind of feel like we're going to react to what the program does on that.

MR. SMILLIE: That's my understanding also, but I guess what I would ask for is an update from the program on their current thinking on this issue.

MR. BRADLEY: Part of what we have been thinking on this issue is to see how the process settles out with what the Board wants to do and what the level of their involvement would be with an expedited process. It's
becoming apparent to me that we're going to really need one if we're going to keep some of these things available for use by the industry. And anything that we do, that we develop at the program level we will absolutely do it in collaboration with the Board. I'm discussing working with the various committees and the Executive Committee on how we're going to move these materials through the process quickly and to see what kind of legal corner-cutting we can do to get them out there for that one year allowance that would give them additional time to be more thoroughly reviewed. But we would work with the Board on that.

MR. O'RELL: Thank you, Mark. I think this is certainly going to be one of the biggest priorities of the Board going forward is tackling the queue of materials that are on 605 and 606 particularly. And Dan, I guess we'd look to you and your work plan on the Materials Committee to be working
with the program in collaboration to see how we can move this through on a priority basis and how we can expedite, including the timing of the next meeting, the time needed for the Board to review these petitions and to get them through their paces for recommendations, but that we have a public meeting that allows the program sufficient time following that meeting to be able to go through the rule-making process. That's certainly, Dan, a priority both with the Materials Committee and the Executive Committee I think needs to spearhead. Thank you. Any other comments? Jennifer?

MS. HALL: I have one. I wasn't sure if there was an Executive Committee report, but I actually like the suggestion and based on a number of the items we've talked about today as far as expediting processes like this and potentially holding an aquiculture symposium that I'd like to suggest that the program and the Executive
Committee work together to reinstate perhaps an annual budget report just so that there's a little more understanding of what prioritizing needs there might be or where the struggles are or what the sacrifices are to making certain decisions. I don't know how detailed that needs to be, but at least a little more information.

MR. O'RELL: I think that that's a good comment and certainly something that we could put on for discussion with the program on the next Executive Committee call. Thank you. Any other questions or comments about work plan items? Hearing none we'll go to the next portion of our agenda, recognition of outgoing Board members. And I'm not going to comment on myself, but I think Mark has - I'll turn it over to Mark Bradley and the program.

MR. BRADLEY: We changed our mind. You can't go.

(Laughter)
MR. BRADLEY: Someone got up the other - I don't remember who the commenter was. I think it was the lady that commented a couple of times that she was a consumer, a real consumer coming to these meetings and throwing herself amongst the midst of all the activities and seeing what was going on. And there were on numerous occasions her and others, there's this awe that was cast upon the Board that you guys are the leaders of the organic world. This is - and it's true.

The level of responsibility that has been placed on you and accepted by the Board members and the level of commitment for five years. Five years. You know what happens in five years? We have presidents that don't last that long. We have changes of administration. I mean, who appointed you, Kevin? Was that Veneman still?

MR. O'RELL: Yes, it was Veneman.

MR. BRADLEY: So it was, things have changed and you have been tasked with
adapting your responsibilities and your recommendations and your research to the prevailing political and economic and production climate. It's been a daunting task for the three folks that are leaving, Mike and Kevin and Nancy. The level of commitment, and I'm glad to see that the industry and the consuming public appreciates what you have done and places you in such high esteem. Because in five years, you know, you can go from having no children to toddlers and children in preschool and you can go from no grandchildren. You've given up parts of your lives in five years, sacrificed your careers.

(Laughter)

MR. BRADLEY: I didn't mean it like you've given up your careers. Well there's no way to back out of that one, is there? But given of your professional time and your personal time. So I want to thank you, the three of you in particular that are
finishing up your stints or however you want to view those. I'm not going to ask you if you would do it over. If you had the chance to do it over again if you would, because we have prospective nominees for this position in the audience. And I really don't want to dissuade them by saying too much negative about what's gone on, but I know there have been a lot of choices made.

Nancy and Kevin and Mike, I know there have been instances where you have not been able to make it to meetings because you had to make tough choices, and I really want to thank you for the times where you did choose to work for the NOSB. And the public service I know is a privilege and a responsibility, but there's a lot to be gained I hope for you of the time that you've sacrificed, the professional notoriety that you've gained and earned, the respect that you've provided or earned from the organic community and from the program. We will be
tapping your brains. I think there's a lot
to be said to the amount of asking that we're
still going to come to you with as far as for
your help, for your guidance, your continued
support. Old Board members, you know, don't
go away. And we hope you don't, in
particular. And we don't want you to either.

But is there anything that you would like to
offer as far as comments? We have of course
our tokens of appreciation that are something
you can hang on your wall and be proud of and
take pictures of and put on your websites and
show to your grandkids and possibly use to
explain why you have been gone from their
lives so much. It's not much, but it's
something that we would like you to have.
That would be a good idea, if you all would
come up. Let's add some structure to this.
Let's just let Dennis choreograph this.

The conscription here says -
conscription, that's like inscription. It's
a certificate of appreciation from the U.S.
Department of Agriculture presented to Kevin O'Rell and Michael Lacy and Nancy Ostiguy for five years of dedicated service as a member of the USDA's National Organic Standards Board from 2002 to 2007. So this is the class of 2007.

(Applause)

MR. BRADLEY: Thank you guys.

MR. O'RELL: Mark, on a personal note I thank you very much. It's certainly been a privilege and an honor for me to serve on this Board. It's been quite an experience and five years as you say is a lot of time. It was one hell of a learning process as well and I know that for the new Board members I would say that, you know, that first year it's tough. But I've got to look around this room and say that I'm really pleased with the contribution that the freshman class has contributed to this Board. I'd also like to on a personal note certainly thank Mike and thank Nancy for serving together for the 5-
year period of time. We're the three left of
the five that started and we made it to
graduation. And it is a lot of work and
effort that both of you have put in and
contributed, and I appreciate that very much.

It's been an honor to serve with both of
you.

It's also for me been great to
serve with some of the Board members that are
in the audience that I was privileged to be
on the Board with them. So you've got
current members and you've got past members
at the same time. It's kind of an exclusive
club, but I think there's a bond that really
forms with Board members and as you exit the
Board, you're not really gone. I mean,
hopefully you're still involved in the
organic community and people will seek your
input and you can still make a contribution.

So I thank all of you.

MS. OSTIGUY: I also want to just
say a couple of words. I've very much
enjoyed the time on the Board. Yes, there were some interesting experiences. I'm interested to hear how Kevin described that first year because it reminds me of the same thing that people say when they begin teaching. The first year is overwhelming. After that, it's okay. And actually, the learning process was incredibly enjoyable. It was very, very interesting. Always interesting to hear someone else's point of view and many of times be persuaded. Working with the NOP has been wonderful. A group of people that know how to shepherd things through the federal process which many of us don't have experience with and it's been a great partnership. Thank you, everybody.

(Applause)

MR. LACY: Kevin, I will be very brief. It has been, as Nancy and you both have said so eloquently, it has been an honor and a privilege to serve on this Board, especially with the people on this Board, and

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I appreciate very much the friendships that I have gained and the knowledge that I have gained and the opportunity to be a part of this very dedicated and very committed group of people. Thank you.

MR. O'ReLL: Thank you.

(Applause)

MR. O'ReLL: Okay and with that I think we'll move on to election of officers.

I know we want to kind of keep on track because I know some people have made plane reservations based on us adjourning on time at 12:30 so we want to kind of stick with it if Board members are okay with that. So we will start with there are three offices that we will hold elections for, the Chair, the Vice Chair and the Secretary. And let's start with the Chair position. We'll entertain any nominations to the floor for the position of Chair.

MR. KARREMAN: I'd like to nominate Andrea Caroe for Chair of the NOSB.
MS. WEISMAN: Second. Oh, we don't have to do that, do we?

MR. O'RELL: Technically we don't have to second the nomination, but that's good to know there's support. Andrea, do you accept the nomination?

MS. CAROE: I accept the nomination.

MR. O'RELL: Are there any additional nominations for Chair position?

MR. LACY: I move that nominations be closed and that we elect Andrea by acclamation.

MR. O'RELL: That we need to second.

MR. ENGELBERT: I'll second that.

MR. O'RELL: Kevin seconded. We have a motion to close nominations and cast a unanimous ballet for Andrea as Chair. All those in favor, aye?

(Chorus of ayes)

MR. O'RELL: Opposed?
(Silence)

MR. O'RELL: Andrea, congratulations.

(Applause)

MR. O'RELL: We will go to Vice Chair position and accept nominations for Vice Chair. Do I have any nominations at this time from the floor?

MR. MOYER: I nominate Gerald Davis as Vice Chair.

MR. O'RELL: We have a nomination for Gerald Davis. Gerald, do you accept the nomination?

MR. DAVIS: I accept.

MR. O'RELL: Thank you.

MR. MOYER: I nominate Julie Weisman.

MR. O'RELL: We have a nomination for Julie Weisman. Julie?

MS. WEISMAN: I accept.

MR. O'RELL: You accept. Are there any other nominations from the floor?
Seeing no additional nominations from the floor we have two nominations, Gerald Davis and Julie Weisman for Vice Chair. So we will have a ballot. We can use these, everybody has them, they're the same size. So what I would ask is that everybody cast a vote and then I would ask the secretary if you would collect and tabulate the results. Do we have to go in a secret room to do this?

MR. DELGADO: No chance.

MS. CAROE: I feel like Survivor.

(Laughter)

MR. O'RELL: Okay, the results of the election by the Board is that Julie Weisman has been elected for Vice Chair of the NOSB. Congratulations, Julie.

(Applause)

MR. O'RELL: And Gerry, let me say there's three more years to go on the Board, so.

MR. DAVIS: I'm not worried.

MR. O'RELL: Thank you. Thank you
all. Now the next position is Secretary. Are there any nominations for Secretary?
Yes, Andrea?

   MS. CAROE: I would like to nominate Bea James for the position of Secretary?

   MR. O'RELL: Bea, will you accept the nomination? Bea accepts the nomination.
Are there any additional nominations for Secretary?

   MR. LACY: I would move that nominations be closed and that we elect Bea by acclamation.

   MS. WEISMAN: Second.

   MR. O'RELL: It has been moved and seconded that nominations be closed and that we vote to unanimously accept Bea for the position of Secretary. All those in favor?

   (Chorus of ayes)

   MR. O'RELL: Opposed?

   (Silence)

   MR. O'RELL: Bea, congratulations,
another year.

(Applause)

MR. SMILLIE: Sisterhood.

MS. CAROE: Charlie's Angels.

(Laughter)

MR. O'RELL: Oh, other business and closing comments. Before we go around and have closing comments I will ask is there any other business that needs to be addressed by any Board members?

MS. CAROE: We have two items. One we have to address committee chairs.

MR. O'RELL: Thank you.

MS. CAROE: And then the other thing that we have to address is scheduling the next meeting.

MR. O'RELL: Okay, committee chairs.

MS. CAROE: In taking on the role of Chair of this Board, I am going to step down from Chair of the CAC and I have asked Joe Smillie to take on that role as Chair of
CAC.

MR. SMILLIE: I don't recall being asked.

(Laughter)

MR. SMILLIE: But accepted.

MR. O'RELL: Accepted, okay.

MS. CAROE: And the other position that has come open with the leaving of Michael as Chair of the Livestock Committee, it leaves vacancy in that committee for a Chair. And I have asked Hue to take on that role as Chair of the Livestock Committee.

MR. KARREMAN: Happy to and I would also like to ask if Kevin Engelbert could be my Vice Chair.

MR. ENGELBERT: Yes.

MR. KARREMAN: Done deal.

MS. CAROE: And then all remaining Chairs will stay the same at this time. Committees will remains as are listed at this time pending the new members in the next couple of months and we'll look at the
staffing of each of the committees and possibly make adjustments at that time.

MR. O'RELL: Okay. Thank you, Andrea. In terms of setting a meeting date for the next meeting, and I know that we have tried both ways where we all get our calendars out and wrestle back and forth and get nowhere in terms of when the next meeting date is. In the past, the program has sent a calendar of available dates or asking for people's availability and then they compare that master calendar and try to come back with the recommendations on the Executive Committee that we will take care of for the next meeting. I would entertain discussion, though, in terms of timing for the next meeting. Andrea?

MS. CAROE: Well, I would like to pose a question to the program. We have requested two meetings this coming spring to accommodate the numerous materials we have for 606 in order to get those materials dealt
with prior to the June `07 deadline. And I just again want to check and see if there's any possibility of accommodating perhaps a February and an April meeting for 2007.

MR. BRADLEY: We have discussed this. This is Mark Bradley. There are several options that we can take as far as making sure that we have enough Board time to process the petitions and get them worked through the system in a timely manner. February is a possibility either as a work session or a full Board meeting. A closed work session, there's options there. The April Board meeting was set up for somewhere on the West Coast to get out of D.C. in April.

MS. CAROE: That's the west coast of Hawaii?

(Laughter)

MR. BRADLEY: So those are the two dates that we had considered. And yes, we think that you're probably going to need to
have a February at least work session or
Board meeting.

MR. O'RELL: I think I would
prefer, and I won't be here, but as opposed
to a work session I really think it needs to
be a meeting because they need to move
materials forward in terms of the public to
vote. So that would be my outgoing two
cents.

MR. BRADLEY: Well, we may - in
order to expedite things, you know, to take
advantage of the historical knowledge that
you and some of the other Board members may
have that are outgoing, we would invite you
back possibly. But we can work on that on a
case-by-case basis.

MR. O'RELL: Sure.

MR. BRADLEY: If you would
volunteer for that.

MR. O'RELL: I would absolutely.

MR. BRADLEY: Just as we often

have Kim Dietz for her historical information
with all our materials. If that's possible. But we can discuss that.

MR. O'RELL: Yes, absolutely. I'd be open to that.

MS. CAROE: So can we schedule a meeting at this time or are we going to just do this by email?

MR. O'RELL: Well, I think it's probably easier to do it by email to send out some dates of a calendar from the program and then have people fill in only the times that they're restricted that they cannot do it. In the past that has worked and then the program will tabulate that and will get back. And even then we know we'll have some conflicts but maybe things can move around. Yes, Kevin?

MR. ENGELBERT: It's not a conflict and I can't speak for the other producers and I realize the time constraints if we have two meetings how far apart they have to be. But as a producer, April
meetings are extremely difficult for me. I
never caught up last year from the April
pasture symposium. So even early April makes
a difference as opposed to middle or late
April for me.

MS. CAROE: Is early April good or
bad?

MR. ENGELBERT: Better. The
earlier the better, yes.

MR. O'RELL: Any other comments on
scheduling for the next meeting?

MR. ENGELBERT: But again, I'm
just one person, I don't expect everything to
change, I just, you know, I will make a
meeting whenever it's scheduled, but as
everybody looks at their own schedules, that
is certainly more accommodating for me as a
producer because I have a limited amount of
time that I can, you know, get my spring work
done.

MR. O'RELL: Yes, I don't know
holidays as well, that's why I think it's
just best if we get a calendar sent out from the program. And let's be sure to list holidays on that program because sometimes it comes and they're not listed. I tend to overlook that and get in trouble. So it would be nice if those are spelled out, then people can put - and I would encourage this to be done quickly, Mark, so that we can get it out while it's fresh and everybody would look at it and respond. By the next Executive Committee meeting which Andrea will be leading then I think it would be appropriate to have a discussion then and fix these dates so that we could work forward.

MS. BENHAM: It's also important because I would need to try to locate a hotel.

MR. O'RELL: Yes. Say your name for the record.

MS. BENHAM: Katherine Benham. I was saying that it is also important because I will need - I mean, that you guys just kind
of like really concentrate on getting that
calendar back to Valerie. Just get the
information back to her, particularly because
I would need to locate a hotel and, you know,
try to make sure that you guys, you know,
have somewhat a nice hotel. So.

MR. O'RELL: There's a request for one
with wireless in the meeting room.

MS. BENHAM: Yes, yes. And you
know if you're going to schedule something in
D.C. it can be very difficult, so.

MR. O'RELL: Yes. Thank you,
Katherine. Any other business before we go
to closing comments? Andrea?

MS. CAROE: I don't have anything.

MR. O'RELL: Well, we're going to
end on time, even early, which is good.

MS. CAROE: I guess the one
comment is this is like the first meeting
where at the end of the meeting we still have
more audience than we do Board members which
is, you know.
(Laughter)

MS. CAROE: Usually we have like three people sitting out there at this time.

MR. O'RELL: That's true. Yes, Katherine.

MS. BENHAM: I'm sorry, I've got one more thing too. Make sure I get your travel expenses back.

MR. O'RELL: Thank you. If you want your money, be sure to get your expenses in to Katherine. I guess I would just like to say, you know, once again it's for me my last official meeting in the capacity of a Board member and I'd like to thank this Board and past Boards that I served on for all of your help and guidance. It's been a very good time for me. I've enjoyed it and I've learned a lot.

I'd like to thank the public for this meeting in terms of their thoughtful comments. We had a lot of good comments during the comment period. I think you
should be commended. The comments were focused on our agenda which is really a good thing because it helps us and you can see the effect that the public comments have on the deliberation and the change in going forth with the recommendations from committees to full Board vote. So we want to encourage that in the future, the participation from the public.

I also want to say that I saw a very good sense of collaboration in a lot of the issues that were discussed at this meeting, collaboration with the NOP both beforehand in bringing recommendations to the floor during the meeting and collaboration with the public in terms of hearing input and working adjustments according to that input which has been good. There's a lot of work ahead on 606. We know that's a real issue. We know that's a priority. I just wanted to let the public know with the sunset of colors we recognize what needs to be done
and this Board, the Handling Committee and the officers going forward will take this task on as a huge priority in working with the program as well in any way we can expedite any processes to get through so that we don't leave any materials left hanging.

I'd like to thank the NOP for all of their assistance during the meeting, Valerie for your almost one year I think now of service and thank you very much. I think that's been a real help to the Board in terms of having Valerie in the Executive Director position as a liaison to the program and assisting us with minutes and scheduling. Very helpful. And I know that that's a role that's evolving and future Boards will get better at using the collaboration and working with you through that process. So I only see that as a very positive. Katherine, thank you so much for all the arrangements that you've made. I know there's a lot of work that goes in behind the scenes in pulling
this together so that we can have this
meeting. And I'd like to thank Mark and Bob, Arthur and Barbara in absentia. But we thank the full program for your comments and staying with the meeting and helping us through and working with the Board and the public. Before I ask if the NOP has any closing comments, any other Board members have anything to say in closing?

MR. LACY: Kevin, on behalf of the outgoing class I want to thank you very much for your very able leadership. Appreciate it very much.

MR. O'RELL: Thank you, Mike, I appreciate that. Mark, do you have any comments you'd like to make in closing? I'm sorry, Dan?

MR. GIACOMINI: At the April meeting we did get a Board photograph but it was missing two of the members. I would like to ask the Board if we could stay around for a few more minutes after and get a complete
photograph of the entire Board.

   MR. O'RELL: That would be great.
   We'll do - I think everybody can accommodate that. Who's going to take the picture?
   Where's Dennis?

   MR. GIACOMINI: He left. I mean, even if it's just we'll get something and I'll get them out to everybody on email.

   MR. O'RELL: Okay. Thank you.

Mark?

   MR. BRADLEY: Yes, thanks. This finishes up one year with me as the Associate Deputy Administrator. And I just wanted to thank Kevin in particular for he came into D.C. and we put our heads together for, you know, to try to plot and plan this past year back in January.

   MR. O'RELL: Yes.

   MR. BRADLEY: Came in, spent a whole day, worked through lunch and that seed of collaboration has just carried throughout this whole year. And the Board has been very
free with contacting Valerie. She came along
about the same time. And it has been a very
enjoyable experience. I'm very excited that
Andrea is going to be, you know, following in
Kevin's footsteps, or I don't know who's been
leading who, but you two have worked very
well as a team for the past year and I don't
see any disruption in the flow of work or
progress that's been made by the Board
happening because of this loss of experience,
but you'll be gaining some new experience.
So we will work very closely with trying to
bring in the new people to preserve the work
that you've done to close up some
recommendations that have been hanging out
there for a long time.

And I appreciate the public
comment, the frank and candid remarks and
recommendations and suggestions and the humor
that's been shared with the program. And we
take it to heart. Sometimes we don't - we
don't necessarily take it personally, but we
do listen and it's very much appreciated.
And if you'll stick around we'll try to get a
calendar to you before you get home. And if
anybody has any particular needs that they
want to share with Valerie and I about the
next meeting we can go ahead and get that
process started because we want to get this
scheduled, get Kat going on it and get all
the arrangements made because, you know,
February is not very far off and there's a
lot of work to be done. So we'll have a game
plan put together. That's all, thank you
very much.

MR. O'RELL: Thank you very much,
Mark. Andrea?

MS. CAROE: I just want to take
this opportunity to thank Kevin in particular
for teaching me so much in this last year
about leadership and about leading the Board
and his cool head and his good heart have
just - it's been inspiring to me. And I also
would like to thank for the vote of
confidence. I'm humbled because I work with the most brilliant people on this Board. So I appreciate that and I hope I can live up to that.

MR. O'RELL: Thank you, Andrea. And particularly before we close or ask for an adjournment I want to say that I really thank this Board. It's been a great productive year and my officers, Secretary Bea, I'll get hugs later, and Andrea. So. Seeing no other closing comments I will accept a motion for adjourn.

MS. WEISMAN: Motion to adjourn.

MR. O'RELL: Is it seconded?

MR. LACY: I would like to second that.

(Laughter)

MR. O'RELL: All those in favor?

(Chorus of ayes)

MR. O'RELL: Meeting adjourned.

Thank you.

(Applause)
(Whereupon, the foregoing matter went off the record at 12:04 p.m.)
UNITED STATES DEPARTMENT OF AGRICULTURE
WASHINGTON, D.C.

A meeting in the above-entitled matter was held on March 27, 2007, commencing at 1:03 p.m. in the Washington Plaza Hotel, Ten Thomas Circle, N.W., Washington, D.C. 20000.

Andrea Caroe, Chairperson
APPEARANCES

BOARD MEMBERS:

Andrea Caroe, Chairperson
Bea E. James, Secretary
Daniel G. Giacomini, Chairperson, Materials Committee
Gerald A. Davis
Jennifer M. Hall
Jeffrey W. Moyer
Joseph Smillie
Julie S. Weisman, Chairperson, Handling Committee
Kevin Engelbert
Katrina Heinez
Rigoberto I. Delgato
Steve Demure
Tracy Miedema
Mark Bradley, Associate Deputy Administrator
Bruce Knight, USDA
PUBLIC SPEAKERS:

Will Fantle, Cornucopia Institute

Dr. Barbara Blakistone, National Fisheries Institute

Nancy Hirschberg, Stoneyfield Farm, Inc.

Jim Riddle, Organic Outreach, UMN

Andrea Kavanaugh, Pure Salmon Campaign, National Environmental Trust

Jim Pierce, Organic Valley/CROPP

Jim Pierce, Wisconsin Aquaculture Association

Chef Rick Moonen, Mandalay Bay Resort and Casino per Rachel Hopkins of Pure Salmon Campaign

Sue Ann McAvoy, Sensient Colors

Marc Cool, Seeds of Change

Joseph Mendelson, Center for Food Safety

Brian Baker, Organic Materials Review Institute

Lisa Engelbert, Northeast Organic Farming Association

Caralea Arnold, The Center for Food Safety

Emily Brown Rosen, Pennsylvania Certified Organic

Tom Ferguson, Perdue Agricycle

Rudi Lamprecht or Israel Snir or Michael Picchietti, Regal Springs Tilapia Company

Joe Dickson, Whole Foods Market

Leslie Zuck, Pennsylvania Certified Organic

Melanie Saffer, PCO
PROCEEDINGS

MS. CAROE: We're ready to call the meeting to order. Can everybody quiet down a little bit and take your seats? The spring meeting of the NOSB is now in session. I'd like to thank you all for coming.

This is going to be a very productive meeting. We're going to have more votes in this meeting than any NOSB meeting has ever had before. I thank you all for your comments in advance that we've received, and the comments that we'll receive here at the meeting. We have quite a few issues that evoked quite a bit of passionate comment, and we will take them very seriously as we deliberate to make the best recommendations possible.

At this time, I'd accept a motion to approve the agenda for the meeting. Do I have a motion?

MR. SMILLIE: So moved.

MS. CAROE: Do I have a second?

MS. JAMES: Second.

MS. CAROE: Is there any discussion on the agenda for the meeting? Hearing none, I'd like a vote for accepting the agenda. All those in favor say aye?

(A chorus of ayes was heard.)

MS. CAROE: All those opposed same sign? The motion passes. We have an agenda. I'd like to take the opportunity now to welcome four of our new members, or our
four new members. One of our new members, unfortunately, could not make it here today. That's Tina Eller. Tina is holding one of our environmental seats, and she is going to be -- she is holding spot on the Crops Committee and the Livestock Committee and has been engaged in that activity already, and is already a very valuable member of this Board.

I'd like to recognize Steve Demure. Steve is holding a handler's seat. And he is actually vice-chair of the Handling Committee. He is also on the Materials Committee.

Tracy Miedema.

MS. MIEDEMA: Miedema.

MS. CAROE: Miedema. I apologize. Tracy is a consumer rep, and she is going to be representing the Crops Committee and the CAC. And last but not least, Katrina Heinez, who is holding the scientist position on this Board, and has also been assigned to the Handling Committee and the Materials Committee.

All four of these members have been engaged in activity on the Board since they were appointed in January of this year. They, we have no novices anymore. These folks came in and have been harnessing the load for us.

At this time, I'd like to ask if there's any announcements from the Board? Any announcements? As I said, this is a very productive meeting. We have a lot of
materials that have been reviewed. We have several other
very important issues that we've taken up. We will be making
more votes than ever before, and they will be done fairly
quickly. The Board members have spent a tremendous amount of
time on these recommendations. And we expect there to be a
lot of public comment, because there are so many
recommendations on the table.

At this time I'd like to go around the table and
have the members introduce themselves. If you can tell us
your name, what seat you hold, the committees that you're on,
and why you're serving on this Board. I think it's important
for the public to understand what compels you to do this
insane amount of work as a volunteer. So we'll start with
Dan, since I don't want to start with a new member, put you
on the spot. Dan.

MR. GIACOMINI: Dan Giacomini. I'm on the consumer
seat on the Board. I am an animal management nutrition
consultant and mostly in the dairy industry with ruminant
livestock in California.

I've taken the position of consumer, you know, very
seriously, and as I've spent a lot of time trying to
understand the consumer and learn the consumer, and I -- as
it turns out, I am now finding myself trying to explain the
consumers to producers a lot more than I'd ever have to worry
about explaining producers to consumers. So I think it's
been -- it's an interesting position.

I was just at a large dairy producer meeting in Wisconsin last week, and that was essentially my whole talk is trying to get them to understand and see where the consumer is. And I try to continue that education on myself whenever I can.

MS. MIEDEMA: Good afternoon. My name is Tracy Miedema. I currently work for Stallbush Island Farms, a family farm in the Willamette Valley in Oregon. I am on the Crops Committee and CAC, as Andrea just mentioned. And my motivation for being part of the Board is that a fundamental belief that people should contribute at the level that they are capable of. And I felt like I could make a contribution and am here to do so. Thank you.

MR. ENGELBERT: Hello. I'm Kevin Engelbert. I'm a producer representative on the Board. I operate 120-cow organic dairy farm in upstate New York. I'm on the Crops Committee and the Livestock Committee, and I have been involved with organic agriculture all my life, and my boys got old enough that I can turn over some responsibility, and a good share of the responsibility of the farm to them, and that has allowed me to serve on this Board, and which I'm very grateful to be a part of.

MR. MOYER: I'm Jeff Moyer. I'm the farm manager for the Roedale Institute. I've been involved with organic
production for over 30 years now. I hold a producers seat on
the Board. I'm on the Livestock Committee, and I'm also the
vice-chair of the Crops Committee. I'm involved with the
Board here because of my lifelong commitment to organic, and
I feel that I can make a commitment and a contribution to the
Board's work.

MR. SMILLIE: I'm Joe Smillie. I'm the senior vice
president of Quality Assurance International, and I hold the
certifier seat on the Board. I've been involved in the
organic movement since 1977, based on a decision I made on
ecology in 1969 during a momentary vision of enlightenment.
And I want to serve on this Board because I really think that
it's time to put the community perspective of, and
regulations and industry together, and to work out
compromises so that everyone can achieve their objectives
underneath the regulation of organic integrity.

MS. WEISEMAN: My name is Julie Weisman. I hold
one of the handler positions on the Board. This is the
beginning of my third year on the NOSB. I'm on loan to the
NOSB from the two businesses that I'm involved in, Ewon
Vanilla, which supplies commercial ingredients to food
manufacturers and Flavorganics, which is a retail brand.

I'm chair of the Handling Committee, and I am also
on the Certification Accreditation and Compliance Committee
and the Materials Committee. And I'm here because I have
been involved in organic, at least as a consumer, you know, since I was, you know, adult enough to make my own food purchasing decisions. And it's a chance to really, you know, put into practice and work towards, you know, many, many values that have been important to me my whole adult life.

MS. CAROE: Hi. I'm Andrea Caroe. I'm executive director of Protected Harvest, a sustainable commodity certifier. I am presently the chair of this Board, and I am the past chair of the CAC. I am also a member of the Handling Committee, the Policy Committee, and have had the good fortune to be working with the Aquaculture working group.

The reason that I am on this Board is, back in the early nineties when I first was introduced to organic and asked to be an inspector, I was brought into this industry that was struggling with their next mutation to federal regulation. Being that my past is running environment laboratories and being under the thumb of EPA regulations, I felt that I had something to offer. I felt that I could help this industry adopt, adapt to a federally regulated industry and so I am here to serve.

MS. JAMES: My name is Bea James, and I hold the retail seat here on the NOSB. I am currently also the secretary for the NOSB. I am on the Policy Committee, and I am vice-chair of that committee, and Accreditation and
Certification, and I'm also a vice-chair of that committee.
I am currently working now with the NCGA, which is the National Cooperative Grocer's Association, and I am very excited to be here representing out of the 180 coops across the nation 130 of them.

And the reason that I took this position is because I want to contribute to our future generations, and I'm hoping to maintain the organic integrity that all of us old timers currently grew up with and believe in, and keep it alive for the little kids who are growing up and some day will be able to eat organic food as we know it.

MR. DELGATO: Very good. Hello. My name is Rigoberto Delgato. My user friendly name is Rigo. I'm the producer of West Texas. I can blame probably Jim Hightower and my dad for becoming involved in organics. And the reason I wanted to be involved in this process as an immigrant to this beautiful country was to provide a payback way, and contribute to the whole democratic process. So here I am.

I also want to make sure my children inherit the same things and the same spirit that my dad was, still willing to talk about. So here I am. I'm participating in the PDC. I'm the chair of the Policy Development Committee. I'm a member of the Crops Committee and the Livestock Committee. Thanks.

MS. HEINEZ: Hello. I'm Katrina Heinez. I am from
Minneapolis, Minnesota, where I work for General Mills Small Planet Foods. I work in the regulatory affairs department. I am the scientist representative on the Board, bringing my chemistry background to that. I serve on the Handling Committee and the Materials Committee.

The reason I wanted to be on the NOSB is that I grew up in a natural foods home eating organic as it was developing. And I think I have skills to offer to help make sure that we have strong, credible, organic regulations that both serve our consumers and help make sure that all consumers have access to food they can trust.

MS. HALL: Hello. I am Jennifer Hall. I am the consumer representative. I serve on both the Livestock Committee and the Certification Accreditation and Compliance Committee. I live in Spokane, Washington. I currently work for a residential developer who is quite active in getting farmers markets started and building in agriculture as a component of our developments. I have a long history in the restaurant industry with those restaurants who try to source as sustainably as possible, and also with helping smaller producers with marketing efforts.

The reason that I am here is, I've always been a purchaser of organics myself. I have definitely invested on an individual basis in more education and training about what it means, and what organic stands for, and as a consumer, I
am extremely proud and honored to be able to, I think, remind us all of the great trust that's placed in us. I was reminded a couple of days ago myself, a very intelligent friend of mine knew there were rules out there, buys organic, but really did not fundamentally in her head know that there was already a national organic rule.

So I was reminding, kind of bracing, just that there are so many people out there who really want that quality, but really don't understand the machine behind it. So it's important to keep that in mind.

MR. DEMURE: Good afternoon. My name is Steve Demure. I'm with Campbell Soup Company. I live out in Sacramento, California, and I'm on the Handling Committee and the Materials Committee. And even though Campbells is relatively new into the organic business, I have been involved since the late eighties, early nineties. I was on the startup team for Muir Glen, and very much like the organic industry.

I fully, personally, am very proactive as far as the philosophies and values of the organic industry, and I want to be able to give something back to that. It's given a lot of me and my family, and I want to do that back in return. So thank you. And I am the newbie, one of the newbies here.

MS. CAROE: We do have two members, besides our new
member, Tina, that are not here yet. Hugh Karreman will be here Thursday. He was unable to make it earlier. Hugh is the chair of our Livestock Committee, so his vice-chair, Kevin Engelbert, will be pinch hitting for him. Thank you, Kevin.

Also, Gerald Davis had some unfortunately airlines difficulties, as we all can appreciate. So we expect Gerald to be here sometime tonight, God willing.

Also, I'd like to take just a moment before we get to the NOP staff, to recognize the row of chairs back there, the three past chairs are all standing -- you're pasturing. So Kevin Orell, Jim Riddle, and Dave are here to show me where my seat is when I leave.

At this time, we'd like the staff to be able to give a little bit of introduction?

MR. BRADLEY: I'm Mark Bradley, I'm the associate deputy administrator of the National Organic Program.

MS. BENAN: Katherine Benan, Advisory Board Specialist.

MR. COOLER: Bob Cooler, nationalist coordinator for Kashi and Company.

MS. CAROE: Okay. Well, that's it for introductions. Oh, and Valerie Francis, I'm sorry. Valerie.

MS. FRANCES: Valerie Frances, executive secretary to the Board and just loving being here.
MS. CAROE: We find ourselves a little ahead of schedule. Don't get used to it. But at this point, I'd like to turn it over to Bea for secretary's report.

MS. JAMES: Since we have all that time, we can read the transcripts from the last -- okay. Well, I would like to move to accept the meeting transcripts as official record for the October 2006 NOSB meeting.

MS. CAROE: Is there a second?

MS. HEINEZ: Second.

MS. CAROE: Any discussion? Hearing none, all those in favor of the transcripts from the October 2006 meeting say aye?

(A chorus of ayes was heard.)

MS. CAROE: All those opposed, same sign? The motion passes.

MS. JAMES: Okay. I would also like to move to accept the meeting summaries as shown and posted on the NOSB website for the NOSB fall 2006 meeting, I'm sorry, 2006, and that was for October 17th, October 18th, and October 19th, three different meeting summary minutes.

MS. CAROE: Is there a second?

MR. SMILLIE: I'll second.

MS. CAROE: Who seconded? Joe. Okay. Is there any discussion on those summary transcripts or summary minutes? Hearing none, all those in favor of accepting the
summary minutes from the October 17th, 18th, and 19th meetings say aye?

    (A chorus of ayes was heard.)

    MS. CAROE: All those opposed, same sign? Motion passes.

    MS. JAMES: Okay. Last, I would like to -- the summarized votes for the October 2006 meeting have been updated as of yesterday. We did receive some public comment regarding the votes, and that comment was very good at pointing out that there could have been more clarification in how the votes were summarized. So that has been updated. And everybody received a copy of that.

    So the voting cast has remained the same. The updates on the voting summary include addition of clarification of the motion, and the addition of results from the motion after the voting results. So I'd like to move that we accept the updated voting results from the October 2006 NOSB meeting.

    MS. CAROE: Is there a second?

    MS. KEINEZ: I second.

    MS. CAROE: Katrina seconds. Is there any discussion?

    MS. FRANCES: Just one comment. I haven't had a chance to post a revised version of this on the website. So just for the public's interest.
MS. JAMES: Right. And I just want to restate that the voting results haven't changed, it's just there's more clarification as to exactly what the motion was and what the final outcome was after the votes.

MS. CAROE: Any other discussion? Okay. All those in favor of accepting the vote summary from the October 2006 meeting say aye?

(A chorus of ayes was heard.)

MS. CAROE: All those opposed, same sign? Motion passes.

MS. JAMES: And that would conclude the secretary's report.

MS. CAROE: Thank you, Bea. We're moving very quickly. Next on the agenda is the NOP report. Mark Bradley, are you available? Are you ready?

MR. BRADLEY: I am available. Want me to do it up here?

MS. CAROE: I think they need you on microphone for the transcripts.

MR. BRADLEY: I've got a microphone over here. I can come up there.

MS. CAROE: Thank you.

MR. BRADLEY: I don't want to be rude and turn my back to everyone. Thank you, Madam Chairman. It's wonderful for the program to be able to have the Board here in
Washington. We were originally planning to go up to the
pacific northwest, but budgetary constraints kept us here in
D.C., which is not always a bad thing. It's nice to be able
to play at your home town and to bring people in.

It's always a good excuse for folks to come into
Washington, set up other meetings, and of course the people
that are able to attend the meeting, from a gross headcount,
I think there's just about 100 attendees, which is a very
good attendance. It indicates a good interest in the
programs, activities and the work that you are doing.

I'm just going to give a very brief, brief update
on what's happening with the NOP. We have so much time to
visit with the Board these days, at times it has been that we
needed to carve out some special time during the meetings to
bring the Board up to date on what's happening with the
program. It's not so much the case anymore. There's a lot
of communications, I think. I don't expect that there's
going to be any surprises at this update, but perhaps most of
this is for the folks that have come so far to attend the
meetings, and for the new folks as well.

The program, of course, has eight full-time staff
employees that work to accomplish the mission of the NOP.
We've had some changes recently, rather remarkable changes,
in fact. Keith Jones, who was formerly the National Organic
Program manager was in charge of the program when the final
rule became effective, has -- he went on a detail to Capitol
Hill and found a home up there permanently. And now he is
the new staff director for the House Agriculture Committee,
subcommittee on horticulture and organics. It's good to have
a friend up at that level, and we wish Keith the best.

It would be nice if he could have been here, but
I'm sure that he's so overly gainfully occupied, he's just
like everyone else. He's very busy.

We also have a visiting member on staff,
Ms. Valerie Schmale, who is on detail from the process
products branch from the Fruit and Vegetable Program.
Valerie is doing a very important function for us. She is
conducting an internal quality system audit. This involves a
complete analysis of the program's activities based on ISO
17,011, the guidelines for accrediting, certification bodies
-- or guidelines for accreditation activities of accrediting
bodies.

It's a really wordy title, but it basically is our
guidelines for being an accrediting body and for developing
standards. And her review will take approximately four
months, and is how long she's been detailed for us. If we
can get the work accomplished in less time than that, we will
keep her around to help us develop some of the, any kind of
remedial actions that would need to be developed based on her
findings.
But we're truly fortunate to have someone of her caliber available to the program. She's a quality system lead auditor, trained under ISO 9,000 standards, and routinely conducts evaluations of certifiers and certified operations under the process fruits and vegetable programs. So that's a very fortunate situation for us.

We've conducted two major training events this year. For the certifiers, we conducted a training in conjunction with the Ecological Farming Conference in Pacific Grove, California in January. We try to do our training in January and February, during the slower months for the certifiers that are operating in the northern hemisphere. That was a very successful event with approximately 60-65 certifiers attending that. And also we try to hold an annual certifier training event in conjunction with the BFO Trade Fair in Nuremberg, Germany. That was conducted in February of 2007 of this year.

The total attendees was over 100 accredited certifying agents represented, which is as many as we've had in total since we've been conducting the training. It indicates an interest in the international community. The training has been expanded from a half day to a full day of training. And this year we issued written minutes of the meeting so that they had something to take home. And that was an interesting phenomenon. So many times we would say
something in the context of a training event. It would go in
one ear and out the other. And now they have something that
they can take home, and it's caused a little bit of a stir,
but it's a good thing.

We think that the controversies or the
clarifications that are indicated by the training will
provide some fodder for the Board to consider, and to make
clarifications in the policies or your recommendations as
they become relevant.

As far as training as well, we conducted a two-day
training event for the audit review and compliance staff, the
auditors that are responsible for accrediting certifying
agents. There were seven full-time employees that were
primarily tasked with the organic certification, accredited
certifiers, and conducting those reviews. They act as lead
auditors, and then they take less experienced auditors along
with them to gain experience.

We trained seven of those auditors in
Fredericksburg, Virginia, in November in anticipation of the
renewal audits of 40, well, now 39 accredited certifiers that
come new for renewal on April 29th of this year.

In the international arena we have eight recognized
governments that are authorized under the National Organic
Program to accredit certifying bodies to operate in their
country on behalf of the National Organic Program.
This is provided for in the regulations, and it's something that, it's a bit of a phenomenon with the organic community in that they are able to accredit certifiers only to operate within their country for products that are going to be exported to the United States.

There is some interest in having these, or by these recognized bodies to accredit their certifiers to conduct audits or to conduct certification activities outside of their country. We have determined from the NOP that unless they have regulatory authority outside their country, which, of course, they don't, they would not be able to conduct those certifications on our behalf. Anyone that's operating internationally would have to be directly accredited by the program.

We consider this to be a higher level of assurance which is necessary to make sure we have the authority to review products that come into the country. And if we need to do that under other agreements with countries, we can pursue that.

We have two new agreements which have been recently put in place. In Israel, the Ministry of Agricultural and Rural Development Planned Protection and Inspection Services, PPIS, has been accredited to certify operations or accredit certifiers in Israel. And also, recently, the Agriculture and Processed Food Products Export Development Authority,
commonly know as APEDA, has been recognized by the USDA to
certify agents in that, or accredit agents in that country.
They already have, I believe, 10 certifiers that operate
under their authority in that country, in India, and we have
already gone on site and conducted an assessment of their
activities. That was conducted in December.

And the report has been issued to India that we've
received comments back from it, and we're in the process of
issuing the final report. There were no substantive
comments. So those reports will be available to the public
when they become final. Again, we have a total of eight
agreements.

We have two new accredited certifiers. One was
Ecocert Belgium, and the other is Nature's International
Certification Services, NICS. And Dave Engle, I believe, is
in the audience. And congratulations, Dave.

That brings to our total 96 certifiers that are
accredited to the National Organic Program. We haven't got
over the 100 mark yet, and I don't know what our problem is.
We've evaluated over 120, but they either don't pass, for
some reason, or they decide that they go out of the NOP
business. So we're looking to pass that 100 mark.

But it's, I don't know if we're just aching for
punishment or whatever, but it's an incredible work load for
the staff of eight on the NOP in Washington. But it's good
to see that this level of service is available to the international community.

Our current work priorities for standardization, we covered with the Board the myriad of things that we do this morning, during the new members training. But just for a summary, we have national list sunset, which is going to be due at the end of this year towards October. That work is in a proposed final rule process.

The national list for materials for 205-606 which has to be in place for June 9th deadline for, under the Harvey lawsuit. Pasture requirements for ruminants is still currently in internal, in departmental clearance, but we're expecting some activity on that.

Dairy herd replacement requirements, as soon as we get done with the pasture requirements, we'll immediately move into rule making on that. And there is already a work plan in place for that. And, of course, the aquaculture standards development -- that part of the, once we get the Board's recommendation on that and receive more public comments, we will begin the regulatory process for that.

Just for the brief comments I have, are there any questions from the Board members on NOP activities or what we are up to?

MS. CAROE: Dan.

MR. GIACOMINI: Mark, can you give us an update on
the livestock materials docket that was, proposed rule was
what, last summer sometime, and final rule has not been out
yet?

MR. BRADLEY: We are currently incorporating the
comments into that document so that we can go ahead and
publish it as final. And I don't have a time frame on that,
but it is being worked on right now. We only have half of
the NOP staff here, and you can see we're a little bit thin
over there because we kept the other half of the staff at
home so they can get some work done. Most of the email
traffic and calls are from people that are in this room right
now, so it's kind of a good chance to sequester them so they
can get some stuff done.

MS. CAROE: Joe.

MR. SMILLIE: Mark, could you just let us know
where our discussions with Canada are on their regulation,
since they now have a regulation, and how that will mesh with
the U.S. regulation?

MR. BRADLEY: The Canadians have published a
regulation that's going to be, I'm not sure whether the
effective date is in 2008, I believe. It's some time off,
but we're already talking about, we're going to have a
meeting to talk about a meeting about talking about
equivalents. We are there far away from getting anything
substantive done on it. But we are actually planning a
meeting to talk about how we're going to approach this.

We have decided, or I don't know if we've decided or determined, I don't know if there is a decision that goes with that, but it would be most appropriate for Canada to ask us for equivalents, since we have a procedure for doing that. Canada doesn't have an equivalents procedure. So since we do, they thought they would ask us.

I don't know how this dance is going to take place, and we talked a little bit this morning about what the Board's involvement might be appropriate on that. We're concerned that we engage the Board in any kind of concessions that would be made to our regulations in the context of an equivalence agreement. We don't have any of those yet.

We have lots of people asking for equivalents, Switzerland, Japan. Israel has approached us, India. Most of the recognition agreements that we have were in lieu of an equivalents agreement. What we are, our equivalence procedures essentially say, when your procedures or your technical standards meet our standards, then we can discuss equivalents. Beyond that, exactly how that's going to play out, we don't know.

But Canada, there is a lot of activity between the Foreign Act Service and the Canadian officials, getting this process rolling. We're not close on it.

MS. CAROE: Kevin.
MR. ENGELBERT: Mark, for the benefit of the public, could you expound a little bit more on the pastural and where we are at, because it's not on our agenda at all? You know, when do you think now it is going to be out, and you know, the process it still had to go through?

MR. BRADLEY: The pastural, we said that we would have, try to have something out by August of last year, and then we said, by the end of the year, and now we are saying by the end of this year. It is a work load based issue.

There is, it's been in clearance with, for internal clearance for a matter of months now. The Office of General Counsel and the Office of Management and Budget will be involved in that clearance process. Exactly how long that takes, and even once we get a proposed rule out, there may be some -- there'll be substantive comment involved with that.

That process will involve at least, I would say, 90 days of public comment to make sure that everything is well vetted. And then they would have to go back into considering those comments, putting that out as a proposed rule; and then go ahead and publish that. But it's work load, Kevin. It is exactly work load.

We have a lot of things going on. The priorities that the program has to address first, has to be the sunset of things that are going to come off the national list, if we don't have that regulation finalized and through the process.
606, of course, you are much more in tune with the requirements or the work load that's associated with that, because I know you've all been working nights and weekends trying to get those comments incorporated so that you can get your recommendations for this meeting. Those will have to be a priority as well.

Beyond that, I would say the pasture, anytime that we have, I know that there is, the comments that we have already received on that are being incorporated in the pasture docket. I can't give you a time frame on it, though, as much as I would like to.

MS. CAROE: Any other questions? I actually have one.

MR. BRADLEY: Ma'am.

MS. CAROE: You had mentioned that any day now, or very soon, we'll see the reports on those recognized accreditation firms that we sent folks over to review. The two --

MR. BRADLEY: In India?

MS. CAROE: India and was it Israel was the other one?

MR. BRADLEY: India is the only one that we've evaluated so far.

MS. CAROE: Okay.

MR. BRADLEY: And we have received comments back
from the government of India on the draft report that we have. There is a process that that goes through. And again, that's just a matter of going final with the report.

MS. CAROE: When that report becomes final, you said it would be made available. Is that going to be through the website, or is that going to be something made available upon request, or how is that available?

MR. BRADLEY: The government of India has indicated that they would like for us to publish it for the whole world to see. And we don't disagree with that. So this is new to us. It's the first monitoring of those recognition agreements that we've been able to do. So it's a new process.

But I would expect that it would be best to just go ahead and public it. I don't have a problem with that at all. And I think it would support transparency in the process.

MS. CAROE: Okay. And my next question, since I don't have any others, you had, you said there was eight recognized accreditation firms?

MR. BRADLEY: Yes.

MS. CAROE: Where are those listed and where can we see who those are?

MR. BRADLEY: We have not done on site reviews of those. And that will be, you know, funding available. The
Indian recognition agreement was granted pending an on site review. It was, that was built into that agreement. The other agreements were done based on document reviews and existing knowledge, so were available to the program. There were relationships already established for those reviews.

So there was a decision made, I guess, based on resource availability to not do on site at that time. But there is, it is in the intent or the intention of the program to go ahead and conduct complete reviews of those and make sure that they are as functional as we hope they are.

MS. CAROE: But at this time, those agencies are allowed to accredit certifiers to certify to the NOP standard, correct?

MR. BRADLEY: Yes, ma'am.

MS. CAROE: All right.

MR. BRADLEY: The recognition agreements are effective the day that the administrator issues them, and then the on site, the on site validation will be an ongoing process.

MS. CAROE: Are there any other questions for the program? Okay. We are half an hour ahead of schedule.

MR. BRADLEY: We have, Mr. Bruce Knight is scheduled to come make an appearance here and offer some comments to the program, or to the Board. I think that we're looking at him being here at 2:15. So --
MS. CAROE: Well then my suggestion is that we take our comfort break now and be back at 2:00. Is anybody opposed to that idea, a 15 minute break now?

MR. BRADLEY: Thank you.

MS. CAROE: Thank you.

(Break.)

MS. CAROE: If I could have everybody's attention, we're going to call back to order. Board members, please take your seats. Okay. Thank you for shortening the break just a hair bit. Can I ask that conversations please be taken in the hallway? Thank you.

We are privileged today to have some distinguished guests that I would like to introduce at this point. We have Lloyd Day, our administrator here. And I would invite Mr. Day to the mike.

MR. DAY: Thank you, Madam Chair. Good afternoon everyone. I have the honor this afternoon of introducing the undersecretary for marketing and regulatory programs at USDA. Mr. Bruce Knight is a native of South Dakota, where he has a cow calf operation.

He has been sidetracked from South Dakota for the past couple decades, I'll say, where he's been here in Washington working for both houses of Congress, and also as the president of the Corn Refiners, I'm sorry, the Corn Growers, you can never do that.
Bruce is now, after leaving the Corn Growers, he came to work for USDA as the chief of the Natural Resources Conservation Service, and he is a true conservationist. And I think that's something that goes over usually very well with the Organics Board.

He is now the undersecretary of the marketing and regulatory programs. And I have to say, he's brought a great deal of vision, and a great deal of energy, and a great deal of leadership to MRP of which AMS is one of three agencies. And so with that, I'd like to introduce undersecretary Bruce Knight.

MR. KNIGHT: Thank you much, Lloyd and Andrea. Thank you for allowing me to address the Board. You know, Lloyd mentioned that I'm a farmer by trade from South Dakota, and for those of you who were fellow farmers, I think you will appreciate how I dub my current status.

I have been in this position for the last seven months, and I call it my walking the fields tour. You know when you add another tract of land to the operation, you spend that first year figuring out the bugs, figuring out where the weedy spots are, figuring out where the fences need to be mended.

And that's what a lot of the work that I've been doing the last seven months for the three agencies that we have within our purview. And that, of course, is the Ag
Marketing Service that many of you have interaction with from the organics. But it goes much beyond that, the marketing efforts that go with a host of crops, as well as the export verification programs that provide opportunities for farmers and ranchers both conventional and organic around the country.

APHIS is the Animal Plant Health Inspection Service, where we are doing everything from animal ID to work on avian influenza to BSC to protecting our borders. And of course, GIPSA, the Grain Inspector Packers and Stockyards. And for those of you in the livestock sector, you know one of the most important services are provided there, we're simply making sure that the scales are accurate at the local barn.

And of course, any of the grains that go into the marketplace ultimately use the standards that are established by GIPSA, primarily for international markets, but they are the defacto standards that are out there. And in many ways, that standardization function is very much like what you are accustomed to from the organics side of things.

Lloyd mentioned, I am a conservationist by trade. I spent the last five years as chief of the Natural Resources Conservation Service, and was very proud of the work that we did to really bring the conservation platform forward in a very holistic manner, making sure that the Equip Program, the other programs all fit well and had equal opportunity for
everyone, whether that is a conventional producer, a livestock producer, an organic producer, could have an opportunity that lies out of that.

Well, there are things that I wanted to mention to the folks here is that we have a tremendous opportunity in 2007 with the upcoming farm bill.

Secretary Johanns has taken a very proactive step in putting together what is quite soundly the most innovative administration proposal that I've seen out in the last five farm bills. It's very export-oriented. It is very business-oriented. It is very conservation-oriented, $7.5 billion dollar increase for Equip alone, just in that one particular aspect.

But the other thing that's very much a hallmark of what Secretary Johanns has put out in the farm bill and is a hallmark of what he expects folks like Lloyd Day and myself and everybody to administer are aspects of USDA in, is a passion towards equity and fairness in our farm policy.

As we did the listening sessions around the country on the preparation for the farm bill, remember we visited 48 states. We would have covered all 50 states, had it not been for Katrina, 53 listening sessions, 48 states. And we heard a lot of folks approach us with very common sense ways to improve the programs, common sense ways to make them managed better, make them better serve the farmers and ranchers that
they are intended to serve, but also better ways to serve the consumers who benefit from our bounty, as well as improving management on it.

The recurring theme is that we have to have a farm policy that is fair for everybody in agriculture. We cannot have a farm policy that in fact benefits one segment of agriculture to the detriment of another set of agriculture. And so we are really trying to do some of that rebalancing, that fairness and that equity. And in that context, I think you are going to see many opportunities out there for the organic community as well.

We've heard you talk about a desire to allow more people in with assistance on the certification and the transition. You see that opportunity out there. Many of the folks in the organic community are making incredible advancements as well in a desire for new market expansion. And you see opportunities for market development, market expansion, and perhaps as importantly, in market research and research in how to bring those specialty crops forward as well.

This is an incredibly advantageous time for American agriculture, and for farmers and ranchers as a whole. As I look forward to this next farm bill, I see a great deal of opportunities for us. Opportunities for farmers that are making that choice to go organic;
opportunities for farmers who are staying with that choice of
going with conventional methodologies; opportunities for
folks up and down the value chain of prosperity that is
offered by those things. And much of that keys off of being
able to lean forward and think about where we are going to
go, and how to have the right farm policies for where we want
to be in the future.

You know, I often tell folks the current farm
policies are about 70 years old. When you think about it,
those farms policies were developed at the time that my
father was making the transition from horse drawn agriculture
to the first tractors and mechanized agriculture. You think
about how any of us who are farming, how much we've seen
agriculture change in the last five years, the last 10 years,
the last 20 years.

We need a farm policy that reflects those changes.
We need a farm policy that reflects the fact that we have a
market segment, differing market segments with differing
needs. And we need to be able to be responsive for that.
That means that we need to be encouraging Congress to move
forth boldly with the next generation of farm policy that's
before us. That means we need to encourage Congress to seize
the day with this next farm bill opportunity.

With that, I appreciate very much the chance to
talk to you a little bit, and I encourage this Board to go
forth boldly, as well, not just on the farm policy, but also in providing USDA good sound advice on where we should go on the organic side of things as well.

I've had the pleasure over the years of being in the audience monitoring committees like this. I've been in the chairman's role. I've been in the staffing role. And these forums are incredibly vital for all of USDA. And they're very important for me as a venue of hearing from the public their concerns, their interests, of having that sounding board on how best to develop policies for the future. Thank you very much.

MS. CAROE: So moving onto our next agenda item, we have Dan Giacomini from the Materials Committee going to do a presentation on our process for materials. Dan.

MR. GIACOMINI: Thank you. Valerie, if you can get that up. As chairman of the Materials Committee I was asked to offer a review and update of the materials process and where we stand on some things, and also to make that a fairly complete review, since it's been a number of meetings since this review has been provided. Next slide.

As an outline, I'll try to go through these things fairly quickly. We'll look at the national list of allowed and prohibited substances, the category of the sections involved in that. I will talk about the Handling Committee subcommittee meeting of February 2007, the petitioned items
and sunset review discussion items that we will be looking at at this meeting; the material review process, the national list criterial, and final notes.

I just would like to say either to Valerie or Mark, however, I would really appreciate the ability to get that organic logo bullet, that was really cool on your presentation. Next please.


For under livestock, 603 synthetic substances allowed for use in organic livestock production. 604, again, nonsynthetic substances prohibited or use. Next.

Handling. First 605, nonagricultural, nonorganic substances allowed as ingredients in or on process products labeled as organic or made with organic, and then specific ingredients or fruit groups. There's two sections within 605. A is nonsynthetics allowed, and B is synthetics allowed.

So this is a difference between the crops and the livestock scenario where we had nonsynthetics allowed, not allowed, and synthetics allowed. This is a listing of everything involved that's not organic that goes into the handling processing parts, it needs to be on the list as
allowed.

Also handling 606 is nonorganically produced agricultural products allowed as ingredients in or on process products labeled as organic. Again, that's labeled as organic. That's a specific category of organic. Food labeling and any of these items would need to fall within that five percent allowance. Next.

The Handling Committee subcommittee meeting in February 2007, which was held in Washington, D.C. Next.

The meeting was a Handling Committee meeting to process an extensive number of materials petitioned for inclusion on the national list, specifically through 606. Other Board members were utilized in a subcommittee format to facilitate this process, and but all recommendations do come through the appropriate subcommittee with 605.606 materials coming through the handling committee. Next.

The Handling Committee subcommittees were set up to aid the Handling Committee in preparation by preparing the criterial evaluation form for each petitioned item, and inputs regarding the -- and inputs regarding recommendations were made. Each subcommittee was chaired by a Handling Committee member to maintain the continuity of the handling committee. There were three subcommittees involved designated as A, B and C. And the actual recommendations to the NOSB Board is again a function of the Handling Committee.
Next.

Petitioned items and sunset review. I won't name these specifically, but here is a list of the recommendation items that we were looking at to deal with at this meeting, which we have met with. The reasoning for the February meeting was to process this list of petitions, and this is only part of them. You will see another slide. As I understand, one of these has been withdrawn, but all the rest of them will be action items. Next list.

This is just the list of colors that we processed as recommendations, that we will be processing as recommendations. Next.

We will also be beginning the discussion process on sunset items at this meeting. These will be ones that need to be dealt with before 2008. 605 A, five ingredient substances listed there at 605 B, three substances. Next.

At this meeting we will be doing, we have two recommendations for petitioned items on the Crops Committee. And next, we will be getting discussions on five items, two of which have two uses for crops that are sunset items that will be done by 2008. Next.

Livestock has no petition or sunset items on the docket for the spring meeting; however, I do want to make note regarding the finding. The nature of the annotation is that it carries an end date. That makes this item not
eligible for sunset, since we are not able to change an
annotation during the sunsetting process, and the annotation
says, you can use this, I don't remember the exact date, but
let's say it says, you can use this through December 31st,
2007. If we, by not able to change that annotation, kept the
annotation on the national list in 2008 and 2009, it would
still say that you couldn't use it after 2007. So it's not a
sunset item and it will need to be repetitioned for
consideration.

Material review process, next. Minimum time frame
for the national list for material review is 145 days. Next.
Day one through 14, at a minimum, petitioners are received by
the NOP and reviewed for completeness. Communication is done
back and forth between the NOP and the petitioner to complete
those petitions. And upon determination of the completeness,
by the NOP, the petitions are forwarded to the NOSB materials
chairman. Next.

Material chairman forwards those petitions to the
chairman of the -- chair person of the designated NOSB
committee being crops, livestock or handling, whichever is
appropriate. And petitions are re-evaluated for
completeness, and to determine if they will be forwarded for
a tap review with no tap review being required for 606 items.

Jump in time to 30 days prior to the NOSB meeting,
NOSB. The tap reviews are posted on the NOP website for review and public comment, and in consideration of those tap reviews, the committee recommendations are posted for public comment.

Within 30 days, within 30 days prior to the meeting, public comment is accepted by the NOP and posted on the website. At the NOSB meeting, committee recommendations are submitted. Further comments are accepted from the public and all public comments are taken into consideration, and action is taken by the full NOSB Board regarding committee recommendations. Next, please.

And national list criteria. Next. In general, national list criteria includes, number one, the potential of such substance for detrimental chemical interactions with other materials used in organic farming systems. Two, the toxicity and mode of action of the substance and of its breakdown products of any contaminants and their persistence and areas of concentration in the environment.

The probability of environmental contamination during manufacture, use, misuse or disposal of such substances. The effect of the substances on human health. And the effect of the substance on biological and chemical interactions in the agro-eco system, including the physiological effects of the substance on soil organisms, crops and livestock.
The alternatives to using the substance in terms of practices or other available materials, and the compatibility with the system of sustainable agriculture. And that was from the recent commercial availability docket published in the Federal Register was where I got that specific list. It's also been published in other locations.

Processing aids and adjuvants have a slightly different list of consideration criteria. The substance cannot be produced from a natural source, and there is no organic substitute. Two, the substance, manufacture use and disposal do not have adverse effects on the environment, and are done in a manner compatible with organic handling.

Three, the nutritional quality of the food is maintained when the substance is used. And the substance itself or its breakdown products do not have an adverse effect on human health as defined by applicable federal regulation.

Four, the substance primary use is not as a preservative or to recreate or improve flavors, colors, textures or nutritive value lost during processing, except where the replacement of nutrients is required by law.

The substance is listed as generally recognized as safe grass by the FDA when used in accordance with FDA's good manufacturing practices, and contains no residues of heavy metals or other contaminants in excess of tolerances set by
FDA. And the substance is essential for the handling of organically produced agricultural products. And that is from section 600 B in the rule.

National list criteria for 606, agricultural and potentially unavailable. The NOSB will consider why the substance should be permitted in the production or handling of an organic product. The current industry information regarding availability of and history of unavailability of an organic form in the appropriate form, quality, and quantity of the substance.

Industry information should include but is not limited to the following; regions of production including factors such as climate and number of regions; number of suppliers and amount produced; current and historical supplies related to weather events such as hurricanes, floods and droughts that may temporarily halt production or destroy crops or supplies; trade related issues such as evidence of hoarding, war, trade barriers, civil unrest that may temporarily restrict supplies, and other issues which may present a challenge to consistent supply. That is from the Federal Register document regarding 606 and commercial availability, unavailability.

As a final note, there is a new process for public comment. All public comments are handled via www.regulations.gov according to the appropriate Federal
1 Register docket and government agency.
2 The effort to bring processing of public comments
3 to an equal level of efficiency for all the departments and
4 agencies is the reason for this change. It's not just a
5 change within the NOP itself. It's much broader than that.
6 The new process sets deadlines for having public
7 comment posted, and all public comment received by the NOP
8 even after these deadlines will be made available to the NOSB
9 members for review in advance of the respective vote whenever
10 possible.
11 And finally, website listings of interest NOP is
12 AMS.USDA.gov/nop. NOSB is the same, /NOSB. And the public
13 comment is www.regulations.gov. Thank you.
14 MS. CAROE: Thank you, Dan. Is there any questions
15 for Dan? I just wanted to point out to everybody, this is
16 the first meeting where we've accepted public comment through
17 the regulations.gov or regulations.gov?
18 MS. FRANCES: Regulatory.gov.
19 MS. CAROE: Regulatory.gov.
20 MR. GIACOMINI: Regulations.gov.
21 MS. CAROE: Regulations.gov. It is a new procedure
22 for us, and there are reasons for the procedure. It does add
23 a little bit, extra layer of procedure, and in doing so,
24 we're learning as we go. And Valerie has been working on
25 that to make sure that we receive all those comments. And
hopefully you've been able to negotiate and get your comments in through that site. Plenty of people have. We've gotten quite a few.

MS. FRANCES: Could I make a comment, Andrea?

MS. CAROE: Absolutely.

MS. FRANCES: I'm going to be working on a better set of instructions, now that we all got to experience the regulations.gov. I know some people had trouble getting their attachments in there, and I will make sure everything gets posted, and things that are received at this meeting will be scanned in and posted on our website. And I just want everyone to be assured that we are going to do everything we can to make it work as effectively as we can. We have to work with the system.

And I'll be going through and modifying the titles. I do have some control where I can go in and modify the titles of the comments that are on there, so that we can better go back and look at comments, if you want to find a specific comment. So I'm going to be putting people's names in, so you can find a comment by someone in particular. Because they are just in first come, first serve order. And so it's a little bit random experience. But we'll get there. We'll try to make it work.

MS. CAROE: Thank you. Any other questions? Bea.

MS. JAMES: Dan or anybody that's actually on the
Materials or Handling Committee. I'm wondering what the thoughts are around. Let's say that there are processors out there who maybe fell off of the radar of submitting a petition, and the certifier goes in and sees that they are in noncompliance and packaging needs to be changed, or whatever scenario is there. Do we have any kind of an idea of grace period or how that is going to be handled?

MS. CAROE: Mark, do you want to answer that question? Your mike is not on.

MR. BRADLEY: We really don't have any latitude based on the Court Order to do anything other than fully implement the regulation at that point.

MS. CAROE: On that topic, I will say that this Board recognized every complete petition that we received as of February 23rd, I believe. February 23rd. Every single petition was considered, well beyond the deadline that we had set. But we understand the repercussions of not reviewing those materials. So you have the handling committee chair to thank for that mad dash last minute effort to get those last minute petitions looked at. Any other comments, questions, on the material process? Julie.

MS. WEISMAN: Yes, I mean, on that last item, I just wanted to add that, of course, anyone who finds that they need access to a material, I expect them to be petitioning for the fall meeting.
So it's not that this, I mean, it will certainly be a dislocation. This was the deadline to have uninterrupted access to materials before the Court deadline, but it does not mean -- there will, just like anyone can petition things onto any other part of the national list at any time, it will -- I encourage everybody, even if you have missed this deadline, get it on the list for the fall meeting.

MS. CAROE: Thank you. Any other comments? Thank you very much, Dan. I appreciate your work. Moving onto the next agenda item, we have a report from the joint Handling/Materials Committee. And I turn it over to Julie on that.

MS. WEISMAN: Okay. Somehow, somehow this term, clarification of definition of materials, is sticking with us. I don't know why. But basically, this is the broad term used for the two, two big recommendations that are still pending from this joint Materials and Handling Committee, which is a recommendation on the definition of agricultural versus nonagricultural. And also a recommendation for the definitions of synthetic and nonsynthetic.

These have been kicking around for a long time, and the resolution to them is sorely needed. I'm not pleased to report what I'm about to report, but I liked the phrase that Mark used earlier. I think he said, work load based issue. Was that it?
MR. BRADLEY: Yes.

MS. WEISMAN: Okay. I believe that prior to this year, sunset review was creating the need for a sunset review of a large number of materials. And in this past year, because of the Court ordered deadline for materials to be listed on 606 created another looming train wreck that we had to work very hard and make a priority.

So we do not have any new documents at this meeting on either of those topics, but I will address each of them also separately for a moment.

On the issue of the ag/nonag, we actually, fellow Board members, you will find, I believe, in your meeting books a copy of the same recommendation that was in our fall meeting book, from the October meeting.

At that meeting, we were very close to having a good document, with the exception of one piece of the recommendation and that had, that we decided to defer, and that was because of the issue of how we were going to deal with, and what the implications would be of considering micro-organisms to be nonplant life and therefore agricultural products.

And I think at that meeting we realized that we didn't have enough understanding of what the impact on, for instance, livestock would be, and that we needed to get more information from the livestock industry about what the
ramifications would be, for instance, having yeast be
agricultural, learning -- what I personally did not know is
that yeast is a very, very frequent ingredient in livestock

And the issue was particularly critical against the
background of again this Court order deadline and things
needing to be listed on 606 if they are agricultural
ingredients.

We have not, because of other 606 issues have not
really gotten any more significant information. We have not
really been able to focus on getting that information to be
able to clarify that. And that's the main reason why there
is no new document at this meeting.

However, it will -- my proposal to the Board,
actually, well, it certainly, it is now a priority. It is
now a priority for the fall meeting that we have a
recommendation to vote on.

And it's my proposal to the Board that if, for
whatever reason, we do not feel at the fall meeting that we
can move forward with all the pieces of that recommendation,
because it had more than one piece to it, that we go for what
I have learned so far on the Board, is go for the low hanging
fruit.

That if there are pieces of it that remain
noncontroversial, that we move those forward at the fall
meeting, even if there are other pieces that we still don't feel like we are ready or that we have a good enough document for. So that's going to be my proposal for ag versus nonag.

And maybe if, I'd like to say a couple of things about the status of the synthetic/nonsynthetic document and where I see that going, and then maybe we can have time, perhaps, for a little discussion on the Board.

This synthetic/nonsynthetic definition, clarification is also long overdue and sorely, sorely needed. And we certainly could have used it. It was definitely a factor that affected us not being able to move forward on some of the petitioned items for this meeting, not having that clarification, but you know, we are stuck in this chicken and egg situation. So that is where it's at.

And the lack of this document as well has been very, very much impacted by the Court ordered deadline for materials for 606.

Now, we have had, certainly during the time that I've been on the Board, at least three drafts of this document. In addition, we've had excellent input from the industry on those documents, and excellent input from the program, from the USDA's scientific committee.

So this also is at the top of the Handling Committee work plan for the fall meeting is to go back with all those documents, and start, and make a new document, not
a revision of the, you know, five draft, revised drafts that I've seen in the last five years. We were talking about track changes earlier today, and you know, what happens when you've had too many of them, and then you can't make sense of the document anymore.

So we're going to start from scratch, but not really. Don't get scared. We're not really starting from scratch. But we have a wealth of input since we did those first, since those first recommendations were done. And we're going to use that. So that's my update on the status of ag/nonag and synthetic/nonsynthetic.

Would it be appropriate, Madam Chair, to open this up to the rest of the Board for some discussion?

MS. CAROE: Any discussion, comments, questions from the Board? Everybody is sleeping. We need coffee or something.

I will make a comment. These two documents that are sitting on the table, the ag versus nonag, the synthetic versus nonsynthetic, we did, as Julie mentioned, wanted to get these completed before we looked at the materials. However, the amount of time that it would have taken to do that would have prevented us from looking at all the materials that we did look at. And we definitely prioritized those to keep commerce, to keep business running after June 9th.
As a kind of side note on that, going through the process with all of these materials actually, I believe, helped us formulate some definition on these two. So these documents, I believe, when we come out with the redrafts, will be stronger because of this very, very time intensive exercise that we just went through.

And I thank you for doing that. It sounds like Handling Committee work plan it will be top heavy with a lot of high priority items. That said, I do want to make one more comment, and then I'm going to turn it over to Joe, and then you, Julie.

It is very important that we collaborate on this with the program. And so I am making this plea at this point, that the program be open to a dialogue on these so that we can put together documents that work for you as well as for us before we present them in the fall meeting. Okay, Joe.

MR. SMILLIE: Well, you captured what I was going to say, and that is, there's a lot of ways to go about it, and one is the top down where you work from the definition to create the criteria and then run the materials through. And the way, we started that way. We didn't finish. But then when we were running all these materials through on 606, it clearly called out for an ag/nonag definition to really work.
And also, by going through the materials, as you mentioned, we got a much better understanding of the ramifications of decisions that we might make in ag/nonag synthetic/nonsynthetic.

So I think that even though it's a laborious and painful process, I think it will end up with a better document. Because we can already see sometimes when you create a definition how it can be misused or it can create ramifications that you didn't intend.

And I know the previous Board chair was very, very useful in that exercise about what, when you are creating something, you have to watch out how, what can happen down the road. And I think previous NOSB Board's also experienced that, of what they felt was a good definition, and then later on it turned out to do things.

So I think as painful as it has been to still not have those operating definitions, I think we will be the wiser and have better work when we finally finish.

MS. CAROE: Julie.

MS. WEISMAN: I just wanted to clarify that I referred to these two things as being at the top of the Handling Committee work plan, but I also wanted to acknowledge that all this work will be joint work between the Handling and Materials Committee.

MS. CAROE: Thank you very much. Okay. We are
still a little bit ahead of schedule. I do have one reminder
for you folks, actually, two reminders. One, the
registration is -- Bob, do you have that in front of you, the
registration book? It's in the corner. If you have not
signed the registration, if you would please do so, we would
appreciate that.

Also, there is the sign up for the public comment
tomorrow afternoon, and Thursday is also available there, so
please if you want to make comments, there are slots open.
Go ahead and go there to do that.

I do want to remind people that we would appreciate
you turning your cell phones off, or at least putting them on
silent mode during the meeting. They can be a bit
disruptive, so do so. We won't hold you to the Board
standard that if a Board phone goes off, they buy a round of
drinks. But it can be very expensive.

(Discussion off the record.)

MS. CAROE: Okay. We are getting ready to go into
the public comment period, and I will read the seven
provisions of public comment that's in our Board policy
manual. But I actually want to talk a little bit more about
that.

We expected a lot of public comment at this
meeting. There's a lot of issues on the table. And we want
to hear all the public comment that we can. The Board may
hear your comments. If they are related to something we are voting on, and they have questions, they definitely are going to ask you questions and get clarifications.

If it is something that we are not going to take up at this meeting necessarily, they may make note and call you at a later date or talk to you off line, or get information for a further meeting, just so that we can keep the public comment going. We don't want to shorten the public comment period. We want everybody that's here that wants to be heard to be heard. But we're going to try to stay on point with that.

So I'm asking that you don't get insulted if we don't ask you questions about some issue that you bring up that you want the Board to take up. We're hearing you. We'll make note. But we may not engage you at this meeting, because it's very important that we hear information the issues we're dealing with.

As Joe pointed out, and Julie pointed out, the ag versus nonag document we had on the table, the reason that we took that off the table is because of good public comment. It's important. We want to hear that. We want it before that, these recommendations get voted on, to make sure that we understand those ramifications as Joe discussed.

So with that, I'll read the seven provisions that are in our Board manual. And this is NOSB policy for public
comment at NOSB meetings.

All persons wishing to comment at NOSB meetings during public comment period must sign up in advance. To that, we have filled the slots for today and for tomorrow morning, but we do have slots available tomorrow afternoon and Thursday.

Persons will be called upon to speak in order that they signed up. I will be calling you up in order. We'll call an on deck person, and we ask that you check in with Valerie, if you are on deck, so that she knows you are here, and then also if you have any written public comment or Powerpoint or anything like that, she can accommodate that.

Unless otherwise indicated by the chair, each person will be given five minutes to speak. The only reason that we would shorten this, is if we have too many people signed up that need to speak. Again, we don't want to do that so we are going to try to stay on point. We ask you to stay on point as much as possible.

Persons must give their name and affiliation for the record. A person may submit a written proxy to the NOP or NOSB requesting that another person speak on his or her behalf. And we've received those by email.

No person will be allowed to speak during the public comment period for more than 10 minutes. Individuals providing public comment will refrain from personal attacks
and from remarks otherwise impuning the character of any individual. You can criticize our recommendations. You can tell us that we are way off, but we will not accept criticism of personal -- personal criticism of members of this Board that are volunteering their time.

With that, we are prepared to go into public comment early.

MR. GIACOMINI: Madam Chairman, Madam Chairman?

MS. CAROE: Yes.

MR. GIACOMINI: In light of the new, this new process we have for public comments that were posted on the internet, on the website by a number, but not all of them had a name. If anybody knows the number of their public comment, it would be really helpful if they could include that in their discussion.

MS. CAROE: Some of those people may not be here.

MR. GIACOMINI: Well, but anybody who is coming up, if they submitted a written public comment, and they are going to ask us to refer to it or something, because it's very difficult just to sort through by number.

MS. CAROE: Okay. Julie.

MS. WEISMAN: Valerie, would commentors know what the number of their comment was? Is that information that they would necessarily have?

MS. FRANCES: It was on the website. It's
basically in the order that it was received.

MS. WEISMAN: So if they happen to check and see
and wrote the number down --

MS. FRANCES: If they happened to have noticed it,
yes.

MS. WEISMAN: It's a big if, but if you happened to
have done it, it would be nice.

MS. JAMES: Valerie, we can do a search on those
comments and put the person's name in there, and the comment
will come up, correct? There is a search feature on the --

MS. FRANCES: I haven't tried that.

MS. JAMES: I have.

MS. FRANCES: I was too busy to do so, but go
ahead.

MS. JAMES: Yes, I have.

MS. FRANCES: Okay.

MS. JAMES: And I think that that works most of the
time. So that's another way.

MS. CAROE: Dan.

MR. GIACOMINI: Some of the comments that were only
submitted as an email, if they did not put their name at the
bottom, don't have a name identified with them.

MS. CAROE: Any other comments?

MS. FRANCES: That's something I'll include in the
instructions in the future. If you are going to use the
general comments window of the regulations.gov, yes, there is
the submitter info field, but it doesn't get incorporated
into your comment when you print it off. It's just not
there. The only thing that is there is your statement.
So I'm going to add, some people did sign their
names and city/state kind of thing. That's helpful, or
association. I think I will encourage people, if they are
going to use that feature to put your name and your
city/state/association or whatever it is to identify
yourself, that would help.

MS. CAROE: Any other comments? Okay. Our first
public commentor, Will Fantle. On deck is Andrea Kavanaugh,
and Andrea, if you can check in with Valerie. Andrea, are
you here? Next on deck is Dr. Barbara Blakistone. If you
could check in with Valerie.

Before you get started, you have five minutes, and
Bea will give you a one minute warning. At the time that
your time -- as your time expires, we will allow you to
finish your thought, but not go on much further. Thank you.

MR. FANTLE: Hopefully, I can talk faster than five
minutes. My name is Will Fantle. I'm the research director
for the Cornucopia Institute.

And I am here today to talk about the Livestock
Committee's recommendation on cloning, which I understand may
have shifted over the weekend, but that's the difficulty of
preparing our remarks in advance. So I'm going to address
what has been publically released thus far.

Members of the National Organics Standards Board,
thank you for allowing me to make this presentation.
Cornucopia Institute, on behalf of our members, which include
many certified organic livestock producers and processor,
retailers of organic meat and milk, we respectfully submit
that the Board table at this time the Livestock Committee's
recommendation that the National Organic Program regulation
be amended to exclude cloning.

We strongly encourage the Board to request a formal
request public comment period so that stakeholders in the
organic community and industry and interested members of the
public can be heard and fully participate in this important
decision making process.

To be clear, we fully support the committee's
recommended prohibition of cloning technology, but in
addition to the definitions for excluded methods, in terms of
organic livestock production, we feel an important element of
widespread societal interest has not been addressed, and
that's whether or not progeny or the offspring of cloned
livestock should be allowed in the organic production system.

Good arguments can be made for excluding the
progeny of cloned animals from organic certification. Many
consumers of organic meat and dairy products have legitimate
concerns about a technology that is still in its infancy. Furthermore, there are many consumers who would not purchase livestock products if they did not feel that the organic certification embodies a higher humane standard for animal husbandry.

The well documented reproductive problems, including a high rate of congenital abnormalities requiring disposing of much of the offspring produced through cloning, makes the support of this technology repugnant to many of our industry’s local consumers.

Also, because this technology is unproven, and many of our customers embrace the precautionary principals, it would be prudent for us to respect their philosophical beliefs by delaying the introduction of cloned progeny in the organic products stream.

Even with recombinant DNA engineering of crops, with which society has comparatively more experience, and I say the word here is comparatively, since in terms of evolutionary plant genetics or experimentation of gene manipulation is not even a speck of sand in the hour glass, troubling and unforseen impacts continue to be observed.

As examples, recent new reports in India describe fatal toxicity top cattle grazed on residual BT cotton crops. Toxicity and developmental abnormalities have been experienced in mice fed transgenic corn based on testing in
France. And that comes on the heels of other well documented related problems to organ growth.

There are other problems unanticipated just a few years ago with some of these modified seeds and varieties when they were introduced. Besides the possible health impacts to livestock or humans, the NOSB should consider the marketing implications of any premature decision on this issue. FDA has not even concluded their public comments period yet. You are proposing to move in advance of that on this important issue.

The organic marketplace is a growing and lucrative, because it offers consumers a bonafide alternative to the industrial food production system. Regardless of the decisions at the FDA or through rule making at the USDA's Organic Program, a percentage of our society will continue to have reservations about cloning. We contend that that's a rather large percentage of our society. As astute marketers, which I think we believe we are, we should reserve this market for organics.

Cloned livestock and their progeny are excluded from organic production. This decision can always be reconsidered after adequate real world data is accumulated and the acceptability in the marketplace is gauged.

Now, I also want to bring before you a sign on letter that we began circulating last Friday, signed by 75
different organizations and individuals consisting primarily of retailers across the country, farm organizations, and other nonprofit groups. I'm going to leave that with the Chair, Ms. Caroe, for her to share with the rest of this committee. It's vitally important that we respect the views of the public on this issue, and I hope that you will. Thank you.

MS. CAROE: Thank you. Is there any questions for Will? Thank you for your comment. We have Dr. Barbara Blakistone. Thank you. And on deck, do we have Andrea Kavanaugh in the room yet? Okay. How about Nancy Hirschberg, are you here? Nancy? Nancy, could you check in with Valerie, please. At your leisure.

MS. BLAKISTONE: Okay. Good afternoon. I'm Dr. Barbara Blakistone, director of technical and regulatory affairs for the National Fisheries Institute, the nation's leading advocacy organization for the seafood industry.

NFI's member companies represent every element of the industry, from fishing vessels at sea, to fish farmers, to national seafood restaurant chains. NFI members commend the work of the NOSB on organic standards for aquaculture fish, and urge them to move expeditiously to begin rulemaking on the comprehensive recommendations made by the aquaculture working group, including AWG's recommendations and provisions for limited feed supplements with prescribed allowances for
wild fish meal and oil, and conditioned use of net pin
culture systems.

The NOSB should not defer the inclusion of certain
limited amounts of wild fish meal and oil in the feed for
carnivorous fish. As noted by the AWG recommendation, this
allowance is consistent with sustainability goals because the
sources would be limited to those species not exceeding fish
capacity, as determined by fisheries authorities.

AWG has recommended a limit of 12 percent, and a
sunset clause to drive research on alternatives to wild fish
meal and oil.

Given that salmon, a carnivorous fish is the number
three most consumed fish and consumer focus group researched
by the New Jersey Department of Agriculture concluded that 72
percent would buy organic seafood if available, we urge
immediate inclusion of limited amounts of fish meal and oil
in the diets of carnivorous fish like salmon, so that these
fish may be included under the USDA organic banner.

It seems paradoxical that the organic poultry
standards allow for the use of fish meal from wild fish as a
supplement to the diet of poultry, but the NOSB is
recommending against organic poultry in fish destined for the
organic market, especially when use of animal byproducts is
eco-efficient and hence a practice in sustainability.

AWG has already adequately responded to all
objections net pens through the public comment process. AWG
recommendations ensure adequate addressing of concerns such
as disease and parasite transfer, release of chemicals and
drugs, and impacts from pesticides and microbials and
antifallants, and predator controls.

NOSB chose to defer further work on an organic
standard for aquaculture shellfish due to significant
differences with fin fish culture. The shellfish industry
and its stakeholders have made significant progress in
crafting standards that separate organic shellfish culture
from traditional shellfish farming.

Thus, we urge expeditious initiation of work on our
organic shellfish standard, as soon as the fin fish standard
is completed. As NOSB completes its work on aquaculture fish
standard, NOP established by USDA to develop national organic
standards should also establish a wild capture fish working
group to thoroughly examine the parameters associated with
various fisheries, and determine if sufficient criteria
exists to detail an organic standard for certain wild fish.

Finally, if the NOSB chooses to accept the
livestock recommendation to delay the approval of net pen
culture, and use of wild sources of fish meal and oil to
accommodate additional dialogue, then this issue should be
brought to a conclusion at the next NOSB meeting. Thank you
for allowing me to provide these comments.
MS. CAROE: Thank you. Hold for questions. We have questions. Joe.

MR. SMILLIE: I appreciate your comments, and I am also a big fan of the aquacultural working group's recommendations. For a number of reasons, we have decided to delete those and want to have further discussion on those. And I don't think this particular meeting is going to be the forum for that.

We look forward to those comments, and active participation from everyone in those comments on the fish meal issue and on the net pen issue. And also look forward to aquaculture working groups recommendations on the shellfish. And we will deal with those as quickly as we possibly can.

We think that by putting forward our current recommendation to move it forward to the NOP, that that's, we're taking a step-by-step approach. And the issue of net pens and fish meal is controversial and contentious, and we want to have a full hearing on it, and then move forward with recommendations at that point in time. So probably there will be a lot of comments at this meeting on those two issues.

And what I think that we have decided as a Board is that we really want to engage in comments on our current recommendation, which you know, temporarily, let's say,
deletes those two issues, and then take up those two issues along with the shellfish issue at a further meeting. But I do appreciate your comments, and I can assure you that the NOSB is taking the aquaculture, you know, issue very seriously, and we're hoping to have a larger and more complete public meeting which focuses on those issues in the future.

MS. BLAKISTONE: Thank you.

MS. CAROE: Any other questions? Thank you for your comments. Next up is Nancy Hirschberg, and on deck have we gotten Andrea Kavanaugh yet? Okay. On deck, Jim Riddle. Check in with Valerie, please.

MS. HIRSCHBERG: Hi. Nancy Hirschberg from Stoneyfield Farm. On behalf of Stoneyfield Farm, I'd like to thank the Board for your extreme dedication and willingness to volunteer a huge amount of time to this issue. You have been subjected to a massive volume of work in response to urgent needs as a result of the Harvey lawsuit, and we do greatly appreciate your commitment and devotion to this issue and to organic.

We'd like to offer specific comments today, specifically on inulin enriched with oligofructose. It's very, very technical, and I will say I am not a technical expert, but we do have two experts here today, so if you have further questions, even after this, for the next two days, I
refer you to Rich Thur, right there, who many of you know, and Vin Carrs, right there in the white shirt. I really encourage you to talk to them. They can take this very complex information and make it really understandable.

Stoneyfield Farm has petitioned that the substance inulin enriched with oligofructose for placement on 606. We support the comments of the Irafty Group, which I have just handed to Valerie, which you will be getting shortly, if you didn't already get them, for more technical background.

This is, the oligofructose enriched inulin is essential to our products. It is in all of Stoneyfield Farm, I repeat all of Stoneyfield Farm yogurts and smoothies, and is integral to the function of our products. It has a superior effect to other types of inulin for avoiding fluid separation and improving texture and viscosity.

You've all opened yogurts and see the whey on top. Most of you don't like that. Inulin is a long chain polysaccharide compound extracted from plants, especially chicory, blue agave, and Jerusalem artichoke. While there is some organic inulin available in the world market, the subject of our petition is a slightly modified inulin product that consists of a combination of water-extracted inulin derived from chicory, and inulin that has been partially hydrolized by a mild enzymatic reaction to form the shorter chain oligofructose.
All of these steps are permitted under organic processing standards, so it's ultimately quite likely that we will eventually be able to source this as an organic oligofructose enriched inulin product. That's why oligofructose enriched inulin belongs on 205.606 because it's derived from plants, it will be available organically at some point, and development of the supply should be encouraged. If it's considered nonag and considered for 605, there will be no requirement and no incentive to develop organic sources.

This product provide numerous health benefits related to improved calcium uptake, and is very important to our customers; provides important functional properties in our yogurt, so we do consider it essential for our products. We understand that there is currently direct inconsistency between the existing definition, as Julie was explaining earlier, address the nonag/ag issue. We also realize that the Board has been working to clarify the distinction between ag and nonag substances for some time, in order to facilitate proper review and placement on the national list.

We suggest that you follow the prior recommendations of the Handling Committee when asking, when making a determination regarding an agricultural substance; specifically, the decision to the question that asks, is the
change in chemical structure a result of a naturally occurring biological process such as fermentation or enzymatic hydrolysis, or the result of a mechanical, physical process described under 205.270 A. If the answer is yes, then it's an agricultural product.

Under this criterion, oligofructose enriched inulin is an agricultural product. Please consider it for inclusion on 606. Thank you.


MS. HIRSCHBERG: Yes.

MS. CAROE: Kevin.

MR. ENGELBERT: How many years have you been using this in your product?

MS. HIRSCHBERG: I'm guessing five years, four years. Do you know, how many years have we been using this product?

AUDIENCE MEMBER: I think these products have been all over the U.S. market for a good 10 years now.

MS. HIRSCHBERG: But we've been using it for --

AUDIENCE MEMBER: I would have to guess, five or six years.

MR. ENGELBERT: And could you explain a little more why you now consider it essential, if you've only used it for the last five or six years?

MS. HIRSCHBERG: Because it improves the product,
as far as now we are shipping more product further. And when it gets handled, you have more whey separation, and so forth. And because of the added benefit of the calcium absorption. With so much competition on the shelves right now, in natural and in mass market, we are much deeper into mass market now, that having, if you have choice between two markets and one says on it, increases calcium absorption by 30 percent, that's a very important claim for our, you know, it's an important attribute for our consumers.

MS. CAROE: Other questions? Bea.

MS. JAMES: When you looked at using this ingredient in your product, was it for the function, or was it for the added value?

MS. HIRSCHBERG: And I might have to get that answer to you tomorrow, because I will call R&D to be absolutely sure. But my guess is that it was for both, but I don't know. I'll have to get back to you on that.

MS. JAMES: Is it marketed on your package as being --

MS. HIRSCHBERG: Yes. The claim that we can make, based on California allowing us to make this claim with this product, with no other inulin, is that it increases calcium absorption by 30 percent. And the reason we are able to make that claim is because this product is, has unique studies that have been completed which -- and because of the
attributes of the product which allow us to do that.

MS. CAROE: Any other questions? I just want to make a comment and address it to you, Nancy, but to the other petitioners as well. With 606 materials, we were faced with a unique situation.

MS. HIRSCHBERG: Oh, I know.

MS. CAROE: We didn't have a tap. We had the information from the petition only. If that petition left questions for us, we had two options. One is to send it back --

MS. HIRSCHBERG: Yes.

MS. CAROE: -- which we can talk about the repercussions of that; or two was to give it a no vote and elicit a comment that filled in those gaps. So your petition and others as well, we actually did this in order to give you an opportunity to give us that compelling argument and that data. I'm not going to say that we're going to vote one way or another, but I just wanted to explain to folks that the public comment is ultimately important to us on these petitions because we only have so many sources of information coming in to make our decision.

So thank you for responding to the vote and giving us more information.

MS. HIRSCHBERG: Sure. And as I said, we will be here, I will be here to the end.
MS. CAROE: Thank you. And Rich and Mr. Carr, you will be here for discussion tomorrow?

MS. HIRSCHBERG: Yes, he's giving public comment tomorrow.

AUDIENCE MEMBER: And I will also try to give you some more information through a presentation on the reasons why --

MS. CAROE: Okay.

AUDIENCE MEMBER: -- when I comment tomorrow.

MS. CAROE: Thank you so much, Nancy.

MS. HIRSCHBERG: Thank you.

MS. CAROE: Okay. Next up is Jim Riddle. Do we have Andrea Kavanaugh in the room yet? Okay. Oh, we do. Excellent. Thank you. So you are on deck. Jim, at your leisure.

MR. RIDDLE: At my leisure. Thank you. My name is Jim Riddle from Wynona, Minnesota. And I have a proxy from Steve Gilman from Nova, New York. So I have 10 minutes. And I currently work as the organic outreach coordinator of the University of Minnesota.

And I'm sending around some materials right now that talk about our program. We have a new publication out that I've co-authored, a Minnesota Guide to Organic Certification, and there is a sample copy making its way, and there are little postcards of how you can get a free copy.
And I have left a copy for the NOP, but I didn't bring enough for everyone.

But I'm not, I just wanted to mention that. I am speaking on my own behalf, however, and I would like to welcome the new members, Tracy, Katrina, Steve, and I'm really sorry that Tina couldn't be here at this meeting.

I'd like to direct my comments, first, to the Livestock Committee's recommendation on cloned animals, and I would just like to point out, this is still truly an experimental technology. From the FDA's own report, states that only 4 to 7 percent of cloning attempts are successful.

That means that approximately 95 percent of attempted clones result in gross abnormalities and death of the animals or the surrogate mother. This is still very much an experimental stage. And I have to agree with the statements, the Q and A's from USDA, National Organic Program, that cloning is not possible under natural conditions, and is not compatible with organic production.

I would like to support changes that the Livestock Committee has made over the weekend to your draft recommendation to include the progeny of cloned animals as prohibited. However, I would like to propose two small changes to that draft, and I'll give you a copy, a marked up version with these changes when I finish.

On your proposed definition of excluded methods, in
parenthesis you currently have a statement, or other methods of animal cloning. And I encourage you to change that to, or other methods of asexual reproduction of animals. Cloning is a colloquial term. It's being misunderstood. And what the FDA is talking about is a specific type of cloning, somatic cell, nuclear transfer where DNA is removed and transferred into an immature egg.

They're not talking about embryo splitting. They're not talking about induced twinning or other technologies. It's asexual and it's where the DNA from one male or a female is inserted. It's not where sperm and egg or DNA of a male and female are mixed. And so I think it's really important that you are precise in the language you use in your recommendation.

And along that same line, I encourage you to change the proposed new section 205.236 B(3), also in parentheses where it says, it ends in the phrase, or other cloning methods. I encourage you to change that to, or other asexual methods, just to avoid that colloquial term, cloning, because it can be misunderstood.

Otherwise, I really thank you for taking the comments you receive very seriously and making the changes that you have.

On the aquatic animal recommendation, I ask you to table the section referring to aquatic plant production. I
believe that is outside of the scope of the task force. When the call went out for nominees for the task force, it called for an aquatic animals task force. And this is under the Livestock Committee.

I think that, you know, there may be some valuable work there, but at this time it hasn't been given sufficient consideration, and I just urge you to set that subsection aside when you vote.

I also strongly encourage you to move forward with aquatic animal recommendations that are fully consistent with the rest of the organic livestock section. And in advance, I will take a chance and endorse the comments that will be offered by the Center for Food Safety and Pennsylvania Certified Organic later here.

Okay. Some comments on the Board policy manual changes that you are considering during this meeting. I do suggest that you vote separately on those changes, not as a package, and in particular ask that you set aside the one change that's being proposed to the sunset review policy, which says that there would be no changes to annotations during sunset.

I really think that that is contrary to language in OFA, under the section, on the national list, 6517 B, content of list, says that the list shall contain an itemization by specific use or application of each synthetic substance.
permitted, or each natural substance prohibited. So it's not just the substance, but it's, also it's use or itemization. That's its annotation. They both are open for review during sunset, and they need to be reviewed. It's not that you cannot act on one or the other, and I just urge you to, at the very least, table that, and seek some legal advice before you incorporate that in your policy manual.

On grower group certification, I know you don't have a recommendation in front of you, and there's a good reason, because in 2002 the Board unanimously adopted a very comprehensive recommendation on grower group certification that contained a framework for internal control systems. And that was five years ago. It may need to be revisited.

It may need to be strengthened in how the conflict of interest sections for the control officer of an internal control system is handled. But it does provide a solid basis for moving forward. We're looking at an impending crisis if the entire grower group certification system is thrown out the window.

If there are some either operations or certifying agents that are operating out of compliance, let's deal with them, case by case basis, but don't throw out the entire system, because many lives and many businesses are dependent on that system.

On the 606 materials, I'd love to give comments on
every one. Ha, ha. No, I've always hated that stuff. But I
do have one general comment, and that is, as just was pointed
out by Nancy, that you know, in order for something to be on
606, it must be possible to produce it organically.

And so any substance that's being considered, I
don't know if you have, I admit I haven't looked at every one
of the recommendations, you know, like you have, but if any
of those substances are produced using synthetic solvents,
they would not -- that's prohibited. That would disqualify
them ever from being available organically. And so I hope
you have looked at that, but at any rate, it must be possible
to make the product organically to even qualify for
consideration for the list.

I'd like to close just by saying, you have a
tremendous opportunity ahead of you. As someone who put in
my time, I extend my best to you. You have the opportunity
to provide leadership, and we are counting on you to be the
voice to protect organic integrity, and to help expand
organic agriculture.

And I know there is this new comment process, and I
struggled like five times to get mine posted, but I just urge
you as you work through it to make sure there's always 30
full days for the comments, for the public to be able to
submit comments. That March 16th deadline was really short.

And you've been in a pressure cooker yourselves.
But I do thank you for your time, and it sure feels good to be on this side of the mike. I have a minute and 10, that's fine. I'll cede it to someone at my pleasure. Marty will take it.

MS. CAROE: Thank you. Hold on for comments.

MR. RIDDLE: Okay.

MS. CAROE: Joe.

MR. SMILLIE: Jim, I just want to deal with one of your comments on the group certification. That's been a fairly recent thing. It's not on our agenda. It would really, the Board really can't deal with it today.

MR. RIDDLE: Right.

MR. SMILLIE: However, I appreciate you bringing it up and giving me a chance to comment on it. And I also share with you the concern for this industry, that this new, I won't say new, but this current guideline and interpretation that certifiers have to follow. And I think that it's a major industry issue, and my committee, I'm the chair of the Certification and Accreditation Compliance Committee, is going to put it on our work plan. And we hope to come back to the next meeting with a recommendation.

And needless to say, we will also, in our close collaboration with the NOP, work to ameliorate this situation, to preserve organic integrity, but also to support all of the -- a number of the grower groups that are
following, you know, and demonstrating organic integrity, and not have the damage to the industry that this could possibly cause result.

So, but unfortunately, you know, this meeting is booked to the, right to the end with current 606 and other issues, so we really can't take it up and make it a forum. But we are all aware of the issue, and we're going to deal with it as expeditiously as possible.

MR. RIDDLE: Yes, and I'd just encourage you to go back to that existing recommendation and --

MR. SMILLIE: Yes. It's --

MR. RIDDLE: -- the one that's posted on the website was the draft. It's not the final. So at least when Dave and I just looked. But if you need the final, I've got it, put it on the stack or whatever.

MR. SMILLIE: No, it's a good document. It obviously can be polished up. There's been five years of experience with that system since, and we need to polish it up. But again, it's on the record as an NOSB recommendation, so that's what we will lead with.

MS. CAROE: Rigo, Bea and then Dan.

MR. DELGATO: Jim, hello. Can you just clarify your comments and annotations. You mentioned 6517 B. Is that, I want to make sure I got it correct.

MR. RIDDLE: Right. Off 6517 B.
MR. DELGATO: Right.

MR. RIDDLE: Content of list, under national list section of the law and not the rule.

MS. CAROE: Bea.

MS. JAMES: First of all, thank you for continuing to come to these meetings after the grueling five years that you paid into these meetings. I appreciate all of your expertise.

I wanted to ask, you didn't mention anything about in OFA, 605, 6509 B, breeder stock. And I just was wondering if you had any views on that, that you would like to comment on regarding the fact that in OFA it clearly states, breeder stock may not be purchased from any source if such stock is not in the last third of gestation, in regards to cloning. And I'm just looking for your views on that, Jim?

MR. RIDDLE: Huh, yeah, it's breeder stock may be purchased from any source if such stock is not in the last third. Well, yeah, I don't think a prohibition on cloned animals or their progeny is inconsistent. There are many parts of livestock regulation, in particular, where the rule has gone into greater detail than the law.

I mean, the law is the skeleton, the rule puts the flesh on the bones, and the section, just a little further down, even acknowledges that the livestock section of the law was incomplete because it clearly gives the NOSB, shall
recommend to the secretary standards in addition to those in that section.

So what the Board says and has said that have been additional to these, I think, are certainly relevant. And given the importance of this issue, the cloning issue in particular, I think it's critical that this Board go on record with a very strong recommendation, you know, not just the cloned animals, but also their progeny and products. I mean, that's one of the reasons I see the Board's existence, you know, to offer good solid advice. And this is an issue of the day.

MS. CAROE: Dan.

MR. GIACOMINI: Two things on that. Do you think, do you feel that moving ahead of USDA or other government agencies is premature on cloning?

MR. RIDDLE: Yeah, I have to disagree with the earlier commentor on that. I don't think it's premature. The NOP and their Q and A specifically, you know, already took a stand on the cloned animals and the products, and asked for your advice on the progeny. So it's perfectly appropriate in that regard.

The larger issue of cloned animals and the FDA's proposal and, you know, they are proposing that they be deregulated and allowed with no tracking labeling and specifically meat and milk from cattle, goats and hogs, is
all it's limited to, not sheep and not other species, not fish.

But, you know, you're not commenting to FDA. You're commenting on the status of those animals and their products in organic, and that's perfectly appropriate.

MR. GIACOMINI: Okay. Finally, if you took five tries to get your public comment submitted, in reviewing all this, I think you were successful three times. You did real good.

MR. RIDDLE: Great.

MR. GIACOMINI: Vote early and vote often.

MR. RIDDLE: I guess. Maybe there should be some checker in the system there.

MS. CAROE: Any other questions of Jim from the Board?

MR. RIDDLE: I do have copies of those comments in paper that I will put on the back table. You already have them.

MS. CAROE: Thank you, Jim.

MR. RIDDLE: But if other people wanted them --

MS. CAROE: Thank you, Jim. Next up is Andrea Kavanaugh on deck. Jim Pierce, can you check in with Valerie, please?

MS. KAVANAUGH: Hi, good afternoon. Thank you so much. My name is Andrea Kavanaugh, and I'm the director of
the Pure Salmon Campaign, which is a global project of the National Environmental Trust. We have partners in, over 30 partners in different countries around the world, and we all have a common goal of trying to improve the standards for farm raised fish.

The comments that I submit today are, in writing and both orally, are pertaining to the aquaculture section from the Livestock Committee's report. And they are on behalf of the 38 different organizations in nine countries including Trout Unlimited in the United States, Friend of the Earth, Norway, as well as other local groups in the U.S., Norway, Chile, Scotland, Ireland, Belgium, Canada, and the U.K.

On behalf of those 38 groups, I would like to first comment the Livestock Committee for it's recommendation to exclude open net pens aquaculture, and the use of wild fish for organic feed for standards. And we would like to urge the Board to recommend that, to make that recommendation permanent.

I have four main areas that I'm going to comment on. Number one, is the support for the exclusion of open net cages, and using wild fish for feed. And the second thing is to request that that be made permanent.

The third is asking the Board to look at prohibiting organic claims on imported seafood in the absence
of U.S. standards; and fourth, to request substitution for
the term minimize with stronger, more precise language, in
the six places it appears in the text.

In addition, I have with me today a sign on letter
from 30, over 340 different individuals who are also
concerned about open net cages and wild fish for feed. And
as well, more than 600 individual comments from individuals
who all think that open net cages and wild fish for feed
could never be considered organic.

Okay. First of all, again, thank you very much to
the Livestock Committee. We think that they made the right
decision in excluding open net pens, and we think it's a
small victory for U.S. consumers who depend on a strong U.S.
organic standard.

We encourage the NOSB to adopt the committee's
recommendation to exclude them, open net cages, and to
exclude the use of wild fish for feed. We think, we also
would, again, urge you to make it permanent. And we think
that that would be the best thing to do for aquaculture and
organic centers in the United States.

And the reason why is that we don't consider open
net pens could ever meet the definition for organic, and
neither can using wild fish for feed. For one, the first
reason we don't think open net pens can be considered is that
it lacks a physical barrier between the fish and the wild
fish. And so the producer lacks control over the inputs and outputs of the aquaculture system.

It also uses nonorganic wild fish for feed, which is by definition, not organic. It cannot improve and in many cases can degrade the genetic and biological diversity of the surrounding environment, the outbreaks of diseases like sea lice and escapes.

And farming of migratory species like salmon ignores that species specific certain behavioral needs, and so we think that that also would never, should be considered as organic.

Right now what's happening in the U.S. is that there are imported salmon being sold as organic. And that's what happened, because there have not been, obviously, U.S. standards in place. We would urge you to, in the absence of standards, to make that impossible for those fish to be sold in the U.S. as organic. It helps to maintain the integrity of the organic label, and it would help lead to consumer -- it makes, gives consumers greater confidence.

We think that, you know, these are European things, European -- sorry. The European important salmon, they use toxic chemicals to kill parasites and sea lice. They use antibiotics in certain circumstances to treat disease. They use wild nonorganic feed. The feed is not cleaned of PCV's, dioxin or other contaminates. They do not disallow the
killing and harassment of marine males, and they don't present escapes.

We have submitted written testimony that details all of those issues in Norway, Scotland, Chile, Canada, of all the places where salmon has been farmed organically, but it is actually exactly the same as conventional net pens.

Just to give an example, we got data from the Scottish Environmental Protection Agency via a Freedom of Information request, and they, one of the things that they, the data that's available is that there were over 80,000 escapees of organic salmon since 2002, and zero of them were recovered. Sorry.

MS. CAROE: You can finish your thought.

MS. KAVANAUGH: Okay. Thanks. And then just on that also, according to the Scottish Environmental Protection Agency, there was a use, lots of use of a chemical called emamectin benzoate, commonly called slice. It's used to combat sea lice infestations. And the problem with using slice is that it's a chemical, but if you don't use slice, then you get these massive sea lice outbreaks, and so then it becomes a fish welfare problem.

MS. CAROE: All right.

MS. KAVANAUGH: So we would encourage you to look at that.

MS. CAROE: Thank you for your comments. And
again, those issues will be taken up at a later date in a different forum.

MS. KAVANAUGH: Okay.

MS. CAROE: Are there any questions for Andrea? Hearing none, thank you for your presentation.

MS. KAVANAUGH: Thank you.

MS. CAROE: Next up is Jim Pierce. On deck is Rick Moonen. Rick, are you in the room? If you could check in with Valerie, we'd appreciate it. Valerie, put your hand up. Put your hand up, Valerie.

MR. PIERCE: Do you have me on as both Organic Valley and then as the Wisconsin Aquaculture Association? Okay, I'll address those separate, because they are different topics and you might have questions in between them. All right. Are you ready?

For the record, I'm Jim Pierce, self-appointed certifications at CROPP Cooperative, a now over 1000-member farmer-owner cooperative, marketing under the Organic Valley and Organic Prairie brands. It's my pleasure to offer verbal reinforcement to our comments posted on the regulations.gov website. In fact, I feel sort of obligated to do so, since I am not confident anyone can find our needle in that haystack. Call me an old dog, but I'm not completely comfortable with this new trick. It is heartening to hear that this website is going to improve.
General 606 comments. My colleague, Kelly Shea, aptly refers to the 205.606 list as the entrepreneur's list of business opportunities. And I agree. Remember, these are not synthetics. These are the same commercially unavailable agriculture products that our certifiers have been diligently reviewing and ruthlessly forcing us to use since the Carter Administration.

The crux of the 606 biscuit is compatibility with the system of organic, not manufacture method or essentialness or current availability. If a material is available, we as organic processors have to use it. It's okay if nonfat dry milk -- it's okay to list nonfat dry milk. Nobody will be using it, though, as long as Organic Valley is cranking it out.

There are two kinds of 606 people. You've got your lumpers and you've got your splitters. Me, I'm a lumper from way back. In the recommendations before us, peppers are split, and hops are lumped. The hops decision is perfect, kind of common sense, but I suspect divine intervention considering the magnitude of the issue.

Even though the pepper petitions came in from multiple sources, the same lumping allowances approach could be used. Now, onto more specific 606 comments. One of the dogs in this hunt for organic priority is celery powder. That minor ingredient not currently available as organic in
sufficient quality, form and function, has transformed organic hams, bacons and hotdogs into rising star products. Organic celery powder is becoming available, and Organic Prairie is among the first in line to test and use it.

If, however, organic meat sales explode the way we predict, and there is a very real possibility of organic shortages. We are disappointed to see this material recommended for addition to the list for only three years, and so we repeat our request. If celery powder is compatible with a system of organic production, then list it for the full five-year term.

I know you mean well by attempting to stimulate the market, but you cannot control farm practices and market forces from Washington. Annatto, I like to say that, annatto. It sounds very Italian.

We agree with the three dissenters that the suggested annotation that conventional oil extracted annatto be extracted with organic oil is over prescriptive and should never have stuck to the wall. The real problem with annatto suspended in oil, however, is that it's suspended in oil, and I don't see oil proposed to the addition to the national list. Therefore, by my read, even if oil-based annatto is added to 606, it won't be allowed.

The same situation is true for vinegar brined peppers for organic pepper cheese, and every other multi-
ingredient minor ingredient.

Now, as much as I love saying annatto, I struggle with fructo-olego saccharide and oligofructose. So we'll refer to them as FOS and OFS. As the public comment period progresses in the next few days, you will hear repeated objections to the committee's conclusion that these materials be considered as synthetic. You will also hear carefully constructed solutions in order to list all inulin including FOS and OFS on 606.

Although fructo-olego saccharides and oligofructose sound pretty darn synthetic, they are not. Both can be produced from raw inulin which can and is certified organic by enzyme hydrolysis, an established biological process. Both are clearly compatible with organic practices and need to be added to 606.

Enzymes are allowed in organic productions and are on 605 A. There are plenty of examples of enzyme hydrolysis in organic food, including maltedextrine from cornstarch.

Perhaps more importantly here is the spirit of accepting petitions for 606 consideration. These two materials were petitioned in good faith as agricultural materials representing a significant number of producers whose products are currently certified by organic, by accredited certifiers. To abruptly change classification is to pull the rug out and cause significant economic disruption.
There is an irony here similar to the oil and annatto problem described earlier. There could very well be a 606 problem unless good old just plain inulin gets listed on 606. If for any number of reasons, including market expansion, the prohibition of SOS and OFS as synthetic, or any other various and sundries, organic inulin becomes commercially unavailable.

We're from the private sector and we are here to help. Please give serious consideration to the fructose solution that is being proposed. Think lumper.

Lastly, thank you for recommending natural casings for the addition to 606. It was a perfect decision. On behalf of Organic Valley and Organic Prairie, keep up the good work.

MS. FRANCES: That's the first five minutes.

MR. PIERCE: Yes.

MS. CAROE: Is there any questions?

MS. WEISMAN: Where's the proxy?

MS. CAROE: Well, it's separate. It's a separate agency that signed Jim up. So questions on Jim wearing his CROPP hat? Any.

MR. ENGELBERT: One, Andrea.

MS. CAROE: Kevin.

MR. ENGELBERT: Do you have any concerns at Organic Prairie with natural casings if they are approved with this
cloning issue that's popped up, and cloning animals being used for livestock?

MR. PIERCE: I hadn't really considered it. We will certainly have to work through our certifiers to verify that any casings are not coming from cloned animals, because that would be products of cloned animals. Yes. I think it could be done, though. I think it could be handled. We just have to work out an agreement with the casing supplier.

MS. CAROE: Any other questions for Jim on these comments? Okay, Jim, do a quick turn around and then come back at us.

MR. PIERCE: Yes. Actually, you are playing right into this. Hello. For the record, I am Jim Pierce. The following comments are on behalf of the Wisconsin Aquaculture Association, not Organic Valley. I will not literally but figuratively switch hats now to that of the Wisconsin Aquaculture Association. I was going to bring the old WAA hat, but being a true fish farm working hat, the one in fact that keeps the precursors of fish meal out of my hair, let us say that it is olfactorily challenging.

In another life, a simpler, quieter, dreamier Jeffersonian life, I raise rainbow trout in God's country. I have the privilege, as well, of being a director on the Wisconsin Aquaculture Association, and 80-odd member organization of cool and cold water fish producers.
Wisconsin aquaculturists are the model of sustainable fish producers. The Wisconsin Department of Natural Resources is among the strictest in the nation regarding prudent water use. Since our niche has always been high quality fish produced locally and sustainably, we are anxiously watching the progress of this project.

While our members would benefit significantly from organic standards, there is nothing in this recommendation for us beyond a glimmer of long-term hope, since the fish we grow rely on fish meal in their diet. By postponing standards for fish meal and pen culture, you have, in our view, effectively killed our opportunity for organic aquaculture, exactly what many people want, judging from the comments.

I'm here on behalf of our association to urge you not to leave the standards on fish meal and pen culture in the wake. Delaying the development of fish meal and pen culture could be the kiss of death. We have all gazed into the abyss that is the Federal Register process, that Doug placed in previous NOSB recommendations, critical livestock materials and a pasture law language.

There are a variable boatload of comments posted regarding aquaculture. Most are steadfast in their demand that pen raised aquaculture be banned let alone certified organic. It's unfortunate but undeniable that certain
aquaculture practices have received the harsh criticism they deserve. Like confinement poultry and pork production, those factory style fish farms represent the majority of production, but only a minority of producers.

The same paradigm that has devastated the family farm affects fish farmers. Corporate producers with lopsided influence and little regard for long term sustainability are spoiling the environment and reputation in the name of quarterly profit.

At the same time, most aquaculturists, just like most terrestrial farmers are dedicated stewards to the environment, and husbands to their livestock, and stand to benefit from the organic label.

There is a good deal of consumer confusion regarding aquaculture that is dragging these good farmers down with the sinking reputation. The good news here is that it's not your job to educate consumers. It is your job to write goal-based standards for aquaculture. Indeed it's your OFA anointed duty.

If a dairy farmer can figure out how to manage 5000 cows in compliance with the new pasture regulation, they should and they will. Likewise, if a fish farmer can raise fish sustainably in net pens, like say Kona Blue, without jeopardizing the resource, set the stage and let them do it.

And the stage is set. Pen culture remains in the
definitions. The aquaculture task force and IFO have
proposed a solid foundation of goal-based standards for pen
culture. Either accept them, expand on them, but please
don't abandon them.

The solution for fish meal is more difficult, but
just as critical. The good news here is that the IFO
community has wrested with this problem, has shared their
results. The WAA encourages you to continue to work with the
stakeholders to find compromise. Our plea today is to please
don't let this boat pull out without us, and the thousands of
small aquaculture producers that are already doing it right
and who would benefit from the organic standards for cold
water pacifiers species.

Yes, there are unsavory species -- yes, there are
unsavory practices in conventional aquaculture. Yes, the
issue of fish meal and pen culture are difficult. And yes,
there are righteous fish farmers, like many in the Wisconsin
Aquaculture Association who want to cater to the very
commentors who abhor these practices by providing them with
farm seafood raised sustainably and proudly displaying the
most powerful eco-label on the market, the USDA seal.

It merits repeating that organic standards are
goal-based. Build the goal and farmers will come. Thank
you.

MS. CAROE: Any questions for Jim? Thank you, Jim.
MR. PIERCE: Thank you.

MS. CAROE: Next up is Rick Moonen. On deck is Sue Ann McAvoy.

MR. MOONEN: Good afternoon. My name is Rick Moonen. I'm executive chef and owner of a seafood restaurant in Las Vegas. I've flown out here today to speak to you for five minutes.

I've been in the food industry for 30 years as a chef, 18 of them as focused primarily on seafood. I'm here to represent the viewpoints of many of my peers on the issue of the so-called organic seafood.

I understand that the Livestock Committee has suggested more dialogue is needed on the issue of whether fish farmed in open net cages and those requiring wild fish for feed should be considered for organic certification. And until now, I don't think you've heard from chefs or restaurants who are the gatekeepers, restaurant owners who are the gatekeepers of the food world on our feelings towards organic seafood.

Today I want to present to you a letter that is signed by 20-plus well-respected chefs from across the country regarding our concerns over the organic certification of seafood like farmed salmon, farmed cod, et cetera.

In my conversation with many of my peers, it's my sense that many of us are worried about the watering down or
the confusion of the term organic. When I think of the word organic, and I think most people, they think of this healthy, good for you, good for your family, safe, environmentally-friendly product. Most of the time it's farmed.

And we see organic farmed salmon offered by our seafood suppliers, for instance, and we're confused on how anything like farmed salmon can be called organic. And it's not something we're comfortable with at all.

I'm here to offer my support, along with a large group of the other chefs for the Livestock Committee's recommendation that fish farmed in open net cages and those requiring wild fish for feed be left out of the USDA organic standard. I'm also here to ask that the NOSB never consider these types of seafood for the organic standard. To me, based on my knowledge of organic food systems, it simply makes no sense that we're even considering labeling open net caged fish and carnivorous fish as organic.

In 1998 I took a trip to Norway. I used to be, I used to be a huge proponent of farmed salmon. I thought it was the greatest thing since sliced bread. I took a trip up to the Bay of Fundi, and I visited some salmon farms, and I thought it was the most fantastic thing in the world. Within hours, I was in New York City for 28 years, we'd get the fish gently taken out of water, you know, correctly handled, sent to us. It was inexpensive. It was an easy fish to sell.
Everybody understood salmon. They loved salmon. It was so many preparations. There's nothing about it that I didn't, that I couldn't embrace.

And then in 2004, I was attending in Vancouver the third world fisheries conference, and I took a trip into the Britain Archipelagos and met this lady called Alexandra Morton. And she was a researcher up there in Eco Bay. And there are, she was researching a lot of the salmon farms in the nearby area. And in particular, the effect of sea lice at these salmon farms. These open nets were producing large amounts of sea lice.

Now, sea lice go through a natural cycle where, you know, the population will be down at a certain time. There's five wild species of salmon in the Pacific Northwest. And when they are immature, they don't have a scale coating, so they are very vulnerable for sea lice. Sea lice will kill them.

What we did is we took a vote. We went nearby one of these salmon farms, we took a net and we pulled up a bunch of wild pink salmon, put them in a little aquarium and every single one of these salmon were dead or dying from sea lice.

From my own personal research on the impacts of fish farming, basically what we are doing is, we're wiping out wild species of salmon. And I can tell you that from first hand experience.
I've also met the natives from up there. They are called First Nations, and they sat down and told stories about how these salmon farms affected their land, their water there, the systems that surrounded their families for hundreds and hundreds of years.

As the letter that I present to you now states, my peers and I simply, (a) cannot support an organic system that takes more resources, fish, from the natural environment, and that it provides in return, as in the case with farming, all carnivorous fin fish, such as salmon. Kona Blue, for instance, 50 to 1 radio. It takes 50 pounds of feed to produce one pound of Kona Blue.

(b) It cannot support caging a highly migratory species like salmon and labeling it as organic. It's not exactly free range.

It cannot support organic certification for any food system that allows untreated waste from the farm to be discharged directly into the ocean, as in the case of an open net cage fish farming system. The effluent that comes from these fish farms creates this blanket suffocating everything around it, all clams, oysters, anything that's on the bottom dies.

I cannot, we cannot support organic certification for any system that does not eliminate the spread of harmful and sometimes lethal parasites to wildlife, as in the case
with open net cage salmon farms, as I had spoken. Cannot support an organic system that does not prevent escapees of farmed fish into the wild, as in the case of an open net cage fish farming system. And cannot support an organic label for a product where the feed, and therefore, the product itself may very well contain unhealthy levels of contaminate such as PCB's and dioxines in sometimes higher quantities than conventionally farmed product.

Basically, just to boil it all down, we're just asking that we don't confuse an already confused organic name. Thank you very much.


MS. JAMES: I want to make sure that I understand what you do support. So what I hear you saying is that you're okay with limited varieties of fish that would be raised organically, but not just a blanket on everything potentially being raised right now?

MR. MOONEN: Correct. Basically, what our major concerns are, twofold. In aquaculture, if it's, if they are pulling feed from -- if it's a carnivorous fish, the feed must come from the environment. And basically, we're punching holes into the environment by removing -- let's say it's sardines. We're taking sardines to produce pellets to feed carnivorous salmon or cod.
There is an imbalance in that, and then that creates a big problem. There is contaminates in the feed, and it's not an organic source, therefore, it can't be labeled as organic.

In the world of vegetarian fish, such as catfish and Tilapia, there I would support the word organic being used, because it's much more controlled and the source of their feed it not from, if it's noncarnivorous. Does that answer your question?

MS. CAROE: Kevin and then Dan.

MR. ENGELBERT: That was basically what I was going for, too. I wondered what you did support. But I'm also concerned about when you say never, and I heard, you know, you are not the first person to say never. That's a long time.

MR. MOONEN: Okay. When it comes to farming, what I would like to see happen, I think that aquaculture is very important, because there is a need for fish protein for consumption. But there's a permanent barrier between these farms and the natural environment. And it can be done, and it's shown to be done. It's more expensive, but it's the only solution I see as a viable answer to the word organic or anything in the future.

MR. ENGELBERT: Right. And as Joe and Andrea have said, this is the topic for our next meeting. But while I
have your ear, have you studied the proposed rules that the aquaculture working group came up with that we have set aside? I mean, as a novice, they seem very thorough, and a lot of the issues that you have just talked about seem to be addressed. But you, apparently, think there is no way that they can be. And I'm --

MR. MOONEN: I know that I maybe used a lot of extreme words as far as never. But what we want to do is we want to take steps in the right direction. I mean, I'm a seafood chef. I sell fish for a living. I don't want to remove fish from my menu, because then I would be serving tofu, you know. I would have to change my entire concept.

So I'd like to see it done in a responsible manner. And I did not read the entire standards. I gathered a lot of information from trusted sources, environmental groups that I'm affiliated with for many, many years. And I'm constantly on line. I have like a stack of things that I read on a daily basis involving sustainability of the ocean.

My menu in Las Vegas, the land of who gives a darn, you know, is -- I research everything that I put on there, and I try to make it as sustainable as I possibly can.

MR. ENGELBERT: Thank you for coming out.

MR. MOONEN: You're welcome.

MS. CAROE: Dan. Hold on.

MR. GIACOMINI: Essentially, you know, without
wanting to take longer than need on this, but it was the same
as Kevin was saying. I mean, the issues of efficiency of
food harvest versus food output of inflow and outflow of
waste and those things, a lot of those are dealt with or our
bars are set in these guidelines.

And I guess one of the things I'm asking is, is it
worth trying to set a high enough bar to fix the problems
that you're seeing I conventional farming, or is it just not
worth trying at all?

MR. MOONEN: It's absolutely worth trying, because
I think it's a viable solution.

MR. GIACOMINI: So if we set a high bar and it can
very few or never be done, then there is no organic salmon
available, I guess the question I don't have is what would be
wrong, what's wrong with setting the bar high and trying to
improve the problems that you are seeing with conventional.

MR. MOONEN: I just think the word organic
shouldn't be applied at this time to farmed carnivorous fish.
Until, until we find a way of producing some sort of feed
that doesn't have that large imbalance ratio -- Kona
Kampachi, I just found out a few minutes ago, that the ratio
is 50 to one. And that blew me away. Salmon isn't that bad,
I mean, comparatively, but still isn't great. You know, so
it's taxing our natural ecosystem.

And I'm not here to save the world. I'm here to
try to educate myself, my staff, my customers on making healthful choices for the environment for the future.

MS. CAROE: Thank you for your comments.

MR. MOONEN: You're welcome.

MS. CAROE: Next up is Sue Ann McAvoy. Did she check in with you, Valerie?

MS. FRANCES: Yes.

MS. CAROE: Okay. On deck is Mara Cool. I'm sorry, Marc Cool. Marc, are you hear?

MR. COOL: Yes.

MS. CAROE: Could you check in with Valerie, please? Thank you.

MS. McAVOY: Good afternoon. My name is Sue Ann McAvoy, and I'm with Sensient Colors in St. Louis. And I want to thank the Handling Committee for reading and commenting on all the color petitions that they received, 51 out of -- excuse me, 21 out of the 51. That was a lot of work.

And I want to thank the Board as a total for their consideration, and full consideration of all these items that are before you for comment to addition to 606 at this time. I will also thank you for the opportunity to submit public comment responding to the recommendations of the NOSB that will be finalized at this meeting.

And I want to thank you for accepting, please
accept our comment for specific, specific to the NOSB Handling Committee recommendations for the petitions received for color, annatto.

We understand that the NOSB received three petitioners for annatto extracts to be placed on the national list 205.606 nonorganic agricultural substances. Two were submitted by Sensient Colors, Incorporated, of which I'm the manager of regulatory compliance, and one was from another company.

We support the decision of the NOSB to review and make recommendations of petitions of similar substances by substance rather than individually by petitioner. In this case, however, the petitions for annatto extract are, in fact, for two different substances, annatto extract water soluble and annatto extra oil soluble.

Sensient submitted one petition for each and our other company, another company, submitted one petition for many colors that included the oil soluble annatto seed extract.

The current handling subcommittee recommendation to the Handling Committee is to approve both forms of annatto extract with the annotation that organic oil must be used for the oil extraction. The Handling Committee voted to reject the recommendation on the grounds that the annotation was overly prescriptive.
We agree with the Handling Committee regarding the annotation and respectfully offer the following suggestions. We propose that annatto extra water soluble and annatto extra oil soluble be considered as two separate substances, as they are manufactured differently and are distinctly different when used in formulations of organically handled products.

We propose that the Board consider a friendly amendment that would remove the annotation from the use of organic oil from the recommendation for annatto extract oil soluble, as it is determined to be outside the scope of 205.606. And we urge the NOSB to approve the two separate recommendations for the two forms of annatto extract that would allow for the use and offer the use as nonorganic agricultural substances on 205.606.

We'd like to emphasize that the most important points made in the Sensient petitions for annatto extract, while there are some supplies of annatto seed being produced in countries outside the United States, in our search for organic annatto seeds, we discovered limited supply, crop irregularities, certification and accreditation difficulties, improper form, or NOP prohibited manufacturing processes of raw materials and inferior quality.

Our determination was made after consulting with over six producers and processors of annatto seed and extracts. Annatto seed must be handled and the color
extracted immediately after harvest with controls
consistently in place at all points during shipping,
packaging, drying and storage.

When this process is not managed properly, the
result is diminished seed quality, which means inconsistent
unacceptable levels of bixin, which is the substance in the
extract that contains the coloring component.

We are actively engaged in working with producers
to successfully cultivate and develop an organic annatto seed
that will yield annatto extracts with consistent qualities,
appropriate form, and brilliant color to meet the production
standards in expectation of organic handlers and consumers.

Until that time, we urge the NOSB to separately approve
annatto extract water soluble, annatto extract oil soluble,
without annotation, for inclusion on the national list,
205.606.

Thank you very much for your consideration. We
look forward to production, a productive and successful
meeting.

MS. CAROE: For questions? Joe.

MR. SMILLIE: Thanks for the annatto information.

I appreciate it. Did you have, did Sensient or yourself make
any other comments on any of the other rejected colors?

MS. McAVOY: We chose at this time not to make
comment on those, not because we wouldn't be in support one
way or the other, but because we didn't petition for them.

MR. SMILLIE: Okay. Thanks.

MS. CAROE: Rigo.

MR. DELGATO: You mentioned you are working with producers to secure production, organic production of this product.

MS. McAVOY: That's correct.

MR. DELGATO: What are the challenges that you are facing with those producers, and when do you think you'll, you anticipate having a constant supply of annatto?

MS. McAVOY: The biggest challenge is where annatto seeds grow. It grows, they grow in equatorial climates at high elevations in similar places to where coffee grows. Many of the sources are Ecuador, and in Peru. And for example in Peru, the United States encourages, under the Andes Agreement, encourages cooperation with Peru. And the Andes Agreement is to help keep down the amount of drug trafficking. So instead of coca being grown, annatto or cochineal or another substance that will be an agricultural or product for use in foods, coffee, for example, will be grown instead. So to make it sustainable for those people.

The biggest problem we are facing in Central and mostly in South America is that the organic, lack of organic certifiers that are accepted by the NOP. We have yet to
really secure a very good source. And we've been in the
annatto seed trading business for 25 years, at least as far
as I go back with the company. So that's one of the issues,
is trying to find a certifier of those products in those
countries.

MS. CAROE: Any other questions. Julie.

MS. WEISMAN: Just in anticipation, possibly, this
is not for sure, but in anticipation possibly of making two
separate recommendations, I was hoping for your professional
technical opinion. Would it be more accurate to call these
things, for instance, annatto in water, or annatto water
soluble, or are they interchangeable? And the same for oil.
Would it be annatto in oil, or annatto oil soluble, because
we've been using them interchangeably on the Board.

MS. McAVOY: Right. It's water soluble annatto.
The water soluble product has potassium hydroxide with it.
The seed, the color -- I don't know how technical you want me
to get. The color is contained on the outside of the seed.
It's about 2.5 percent of the weight of the seed itself. And
it's in a resinous coating on the outside.

In order to get the color off you have to wash it,
for lack of a better term, in some manner. There are two
physical washing means. One is with oil, and that's the
traditional means that has been used to get the coating, the
resinous oil soluble coating off.
And the other one is water with potassium hydroxide, which is another traditional means that has been used. With the potassium, that product that makes it water soluble, there actually is a slightly different structure to the color. It's called noabixin. And the color that is oil soluble, that color component is called bixin. So we are looking at two different color components. Both are carcinoid in nature, but there are still two different structures.

MS. CAROE: Any further questions? Go ahead, Steve.

MR. DEMURE: I'm not sure I understand why you wouldn't be able to use, or want to use organic oil in the extraction process. Could you explain that?

MS. McAVOY: We felt, well, the annotation was added, and because of the annotation the Handling Committee recommended, even though they recommended it, it was voted down. We felt that when we had originally petitioned, we felt that oil, organic oil would be the more appropriate way to go, because that's more within the feel of the standard itself.

However, it was then felt that perhaps it should be up to the specific certifiers to decide whether or not organic oil has to be used in this nonsynthetic, excuse me, nonsynthetic, nonagricultural product at this time. Does
that make sense? Yes. Okay.

MS. CAROE: Just in response to that, Steve, we'll have further discussion when we talk about this material. I have a definite opinion on why that should or should not be unrelated to the product itself, but more about the process and about the appropriateness of these annotations. So thank you, Sue Ann. Do we have any other comments? None. Hearing none, thank you so much.

Next up is Marc Cool. On deck is Joe Mendelson. Joe, are you here? Joe? He's here? Can somebody make sure he checks in with Valerie? Go ahead.

MR. COOL: Thank you, Madam Chairman. My name is Marc Cool. I work with Seeds of Change. We are a certified organic food and seed company based in Santa Fe, New Mexico. We are very committed to the organic industry, both from the food and the seed side. We're also very supportive and appreciative of your efforts here as volunteers on this Board.

I'd like to speak to you today on a couple of points regarding organic seed. The first is the Omri Database. We're all aware of the Omri Database which lists allowed substances to use in organic agriculture, also has a seeds database. And this was placed a number of months ago by a consortium of seed companies. And this lists currently about 650 varieties of organic seed available to commercial
farmers.

About 250 of those are ours. There's about six or seven companies listed on this database, which is far too little. We really need to, as an industry, take a couple of next steps in making sure there are more and more varieties listed on this database. We do appreciate Mark Bradley's help to push and steer certifiers towards this database.

The second point is, what Seeds of Change is doing, and what the industry is doing to make organic seed available. As we all know, conventional seed companies really do not see the demand out there to provide them impetus to actually develop organic seed varieties.

What we are doing is, we have taken the step of actually -- you know, the question, the old question, the chicken or the egg. The answer to the chicken or the egg question is, the first thing that comes is commitment and resources. It takes a lot of time and energy to actually develop the supply side of the business, if there is no demand side of the business.

What we have done is develop a catalog. I've put a couple on the back table for you if you are interested to look at, which shows a little bit of something that some companies are doing to provide supply side on the organic seed industry.

The next thing is the farm bill. We're all aware
that there is mention of the organic research in the farm bill, and we would like to, obviously we are all here in favor of support of that. It like to ask you to please continue to push for support the inclusion of relevant organic research in the '07 farm bill.

The last thing, which is the most important thing I would like to touch on, is the transparency in granting the allowance to use nonorganic seed. We all know under NOP rule 205-204, the definition of how, when someone has to use organic seed is pretty much all the time unless organic seed is not commercially available in equivalent form which is relevant for the farmer in his or her operation. That's a fair exception, and we support that exception.

However, reality is that less than 1 percent of the organic fresh market and processed food grown in America is using organic seed. This as opposed to conventional untreated or nonchemically treated seed. There is very, very little organic seed used in this organic chain. And that's kind of a shame, because our seed is the start of the chain, and that start doesn't exist.

So what we would like to do in some kind of way as an industry, as a seed industry, to know what organic varieties are in demand out there? What do farmers want to plant in an organic form.

The easiest way, it would seem, would be to get
access to lists from the certifiers on what exceptions or
exemptions they have given farmers to use nonorganic seed.
Evidently, we've had a number of talks with several
certifiers, evidently this information is not available. The
certifiers themselves don't track or don't file these kinds
of records. But the farmers, it's the farmer's job to file
this.

So we thought about maybe doing a survey amongst
farmers to see what varieties, you know, are in need out
that. But that becomes very difficult. Surveys, of course,
generally have a very low response rate, and the people that
do respond can skew the results quite dramatically.

So what we actually would like to propose is the
following. We would like to recommend to NOP, and this is
consistent with some thoughts that have been voice before,
that NOP request certifiers to make the possible
consideration of exemptions to the use of nonorganic seed for
an organic crop system, to make this information public on a
website, for instance on the NOP website, make this available
in advance of granting this exemption.

What then can happen is the industry will be able
to look at this know what demand is out there and be able to,
if necessary, fill that. If a variety is not available, then
at least that list gives an overview of what exemptions have
been requested.
If we do the above, what we are going to do is provide impetus for the organic plant breeding companies to actually develop better varieties for the future that were developed specifically to do well under organic or low input agricultural systems. Also, we therefore, allow organic farmers access to the best possible varieties for them which is to their long term interest.

And finally, what we will then do is allow the consuming public to be satisfied with the authenticity and comfort that the organic seed chain, or the organic food chain is complete, starting all the way from the seed. Right now, that is not the case, and we think that should be the case.

We need to defend the brand organic. So with that, thank you very much. I'd like to, if there are any questions, answer those now, or anytime in the future. Thank you.

MS. CAROE: Are there any questions from the Board? Tracy?

MS. MIEDEMA: This sounds so sensible. Is there any opposing viewpoint to having this database?

MR. COOL: I think the -- thank you for mentioning this would be sensible. Joe might have some comments. I think the general comment, of course, is one of limited resources. Both the certifiers and NOP have very limited
resources. In my view, in the whole accreditation process, there is a whole number of steps and a lot of paperwork to be done, and I don't understand quite why it would not be possible to have one step, namely, a very simple website where people could very easily simply type in the information and make this available to the public. But there will be some comments regarding, of course, simply resources.

MS. CAROE: Joe.

MR. SMILLIE: You've taken the words right out of my mouth. It's back to the old USDA website issue, which we've batted around a few times. It would be really great to have a lot of this on the website, but there's a number of reasons why that hasn't occurred yet, resources being on of them.

Second one is, it's another burden that would be on the certifiers to put up there. And the reason why it's a burden on them, not so much the bureaucratic load, but also, farmers do not like to let people, other people know what varieties they are planting. It's, for a market gardener, it's a life and death issue, and for crop and field guys it's not so big. But there is a certain resistance in the farming community to really let, you know, to say that I'm using this particular type of seed for whatever market advantages, either perceived or real.

So there's a couple of things that prevent us, I
think, at this time from moving forward. But I agree with
you. I think it's important. I think it's a shame that
we're not using more organic seed. And again, if it was
available and people could get it, then I'm sure they would,
but again, we've got to get them to say what they need, and
then certifiers have to also be able to have a good database
to rely on to say, no, that's available. Excuse me.

Right now, we're still working with a system that
we've had for many years, which is show me your due diligence
efforts to procure the organic seed. And of course, that is
enforced among different certifier groups at different
levels, and you know, how much effort did they really make,
and how much is just show. And they just specked you to
death. Oh, I couldn't get this, and I've got to have this
variety or, you know, my market expects it, or the wholesaler
expects it.

So I agree with you in principal, and hopefully
between -- hopefully we'll be continually tightening the
screws, and hopefully we will have some sort of system that
works for everyone to increase the amount of organic seed
used.

MR. COOL: Well, thank you. Yes, where the
exception is relevant, obviously, everyone agrees to it. We
don't want to force growers to use a product they don't want
to use, and which they are not going to be successful with.
The database does exist that actually lists all the varieties available organically. It's the Omri Database.

Again, as an industry person, my goal is to actually increase the presence and listing of varieties and companies on that database. Your comment about farmers not wanting people to know what varieties they are using, an easy way around that would be to not link the name of the farmer or the operation and the variety that is being requested for exemption.

The goal of this is very clear, all of us want to make this chain true. The public will increasingly want to see this chain as being true. We have to defend the organic brands. And some of the concerns that are raised are things in my mind that we can actually sit down, discuss and overcome and not say up front, we can't do it because of our resource issues.

MS. CAROE: Any further questions? You have a question for Joe? Okay, Bea.

MS. JAMES: So, Joe, in your comment that we will get to this, are you saying that this is something that the CAC Committee would put on their work plan?

MR. SMILLIE: Yes. Yes, I think it could be. Again, I'd like to confer with the program and see where they're at with it right now, see what they are doing as far as their accreditation of certification agencies, and how
this is being enforced. Because technically, I mean, the regulations are clear. You have to use organic seed unless it's an exception.

And the fact that Marc brought up is like 1 percent, and there's like a lot of exceptions. In fact, it wouldn't be an exception at that kind of level. So we've obviously got a problem that we need to deal with. And yeah, I can see putting it on our work plan. Absolutely.

MS. CAROE: Any further -- Kevin, quickly.

MR. ENGELBERT: One quick question, Marc. Do you -- what types of seed do you sell? I mean, are we talking vegetables, field crops?

MR. COOL: Our company sells vegetable seeds, but also input crops along with that, so say insects, flowers, cover crops, et cetera, all 100 percent certified organic.

MR. ENGELBERT: Okay.

MR. COOL: Well, thank you, and we're very happy to help you as we pursue this issue, and I'm open to questions any time and at any time in the future. Thank you.

MS. CAROE: Any further questions? Okay. Thank you so much. Next up, Joe Mendelson, and on deck is Brian Baker. Is Brian in the room? Okay. Brian, you're going to be on deck, but we're going to take a little break after this speaker for comfort.

MR. MENDELSON: Good afternoon. My name is Joe
Mendelson. I'm with the Center for Food Safety. We're a consumer and environmental organization located in Washington, D.C. with offices also in San Francisco and members across the country. I want to thank the Board again for all its hard work, and welcome the new members. Thank you for dedicating the better part of your lives over the next five years, to many tasks.

In the interest of your break, and others, I'll try to be quick. I want to give Jim the chance to opt out on my comments. No? Okay.

Just I'd like to comment quickly on two topics. The first is cloning and the second is the aquaculture recommendations. First on the cloning issue, I have to say I haven't had the chance to read the revised draft that has been mentioned, but we want to, I would like to say we appreciate all the hard work of the Livestock Committee on the recommendation that had occurred before, taking up a very timely issue, certainly one that our organization is very interested in.

I'd just like to add that we, like other commentors, think that the prohibition has to extent to progeny. We think there are scientific reasons that validate that, in particular, and this is in our written comments, that there are studies out there showing that some of the genetic aberrations that occur in clones are passed down to
their progeny. And that suggests that these animals are fundamentally different than what would be a conventional animal. That is that they do not get reprogrammed into normalcy necessarily after a cloning occurs. And I would ask you to look at our comments that were submitted through the egovernment,eregulation website that cite to that.

That means, just like you would have if you took say a genetically engineered alfalfa, bred it with a conventional alfalfa, created next generation alfalfa that has the genetic trait, genetically engineered trait, and that would be prohibited under the excluded methods. So should the progeny in organic.

I would like to also support Jim's recommendation about using the term asexual and not cloning. I use that as a common, term of common art. But asexual reproduction is really what we are talking about.

A couple of other quick comments on the progeny issue. I was just in attendance at a meeting of the Transatlantic Consumer Dialogue. That is a meeting that is sponsored by the European union and the U.S. governments of consumer organizations from both the United States and the European union.

And we come together to develop consensus consumer positions. And we developed a consensus recommendation on cloning. It was attached to our comments. Within that
recommendation is a recommendation that clones and their progeny be prohibited from any type of organic production system. This is supported by groups in the United States such as, certainly, ours, the Center for Science in the Public Interest, Consumer Federation of America, Consumers International, and a host of very large and well-represented consumer groups in the EU.

Lastly, I dumped on Valerie a CD that had over 2600 comments from CSF members that were sent in based on the recommendation that you put forward to suggest and say that as consumers and environmentalists, we do not want progeny of clones to be allowed in organic.

So with that, I, again, would support Jim's recommendations for amending both 205.2 and 205.23 B(3). I have not seen that specific new provision, but we do think that you do need to create a part of the origin of livestock regulation to specifically prohibit livestock from cloning progeny, livestock asexual reproduction, excuse me, progeny of livestock and any reproductive materials derived from them.

One minute. Onto aquaculture. Again, we submitted comments in the past, twice. We strongly support the prohibitions on both net pens and fish meal. We have submitted to the Board previously a letter in support of that position from 25 organization, 24 organizations that are both
consumer, environment and organic organizations. And our comments speak to why we support that.

A couple quick points on 205.252 E which deals with the allowance of feed additives. We think that that needs to be specifically clarified, so that wild caught fish are not allowed to be used as a feed additive. It's my understanding that at a certifier training recently, that NOP said that all agricultural -- I'll finish up. All agricultural feed materials have to be from organic sources. That's certainly consistent with not allowing that feed additive and feed supplement provision. It would be a loophole to allow fish meal and fish oil from wild caught fish.

MS. CAROE: Thank you. Any questions? I'm hearing none.

MR. MENDELSON: Thank you.

MS. CAROE: We're going to take a 10 minute break. It is now 10 after, so if the Board can reconvene by 20 after, no later, please, so that we can stay on track.

(Break.)

MS. CAROE: Okay, Brian Baker, you're up. And on deck is Lisa Engelbert.

MR. BAKER: All right. Thank you. Good afternoon, members of the NOSB, Madam Chair. I appreciate the opportunity at the break to accommodate your comfort. I hope everybody is all relaxed and rested after that.
I'm Brian Baker. I'm the research director for the Organic Materials Review Institute. I'd like to especially congratulate the incoming members of the NOSB and welcome you. For those of you who are new and just to remind those who -- our movement started 10 years ago to provide the transparent independent and professional review of materials and methods used in organic production and handling. And we appreciate this opportunity to comment.

The petition substance's database is a definite improvement, and thanks to the NOP for revising and updating it. However, that coincided with a change in the regulatory process for which we were unprepared, and the last posting of petitions and agenda items made it very difficult to review all the great volume of material on materials. And we had a difficult time preparing comments for this meeting.

Before getting to those petitions, though, there are fundamental questions that are faced every day in the field and the factor, and that is, what's synthetic? What's not synthetic? What's agricultural? What's not agricultural? And that's very much relevant to the decisions that are going to be made in the next few days.

We'd like to know what the next step is with those documents, with those decisions, and how to go ahead with it. We'd like to caution, we've participated in the drafting of those and if further work is needed, we're more than happy to
work in any way that we can. However, any significant
changes would be disruptive.

Those documents drafted as they are being applied
by certifiers, by Omri, are being made, are being used to
make decisions by producers and handlers. And so, please, if
you are going to make significant changes, that really needs
to be weighed heavily, and opportunity for public comment is
needed, especially with agricultural/nonagricultural, a solid
foundation is needed to review the 606 petitions.

And I understand the obstacles that you face in
going ahead with that, especially with something like
aquaculture, fish oil and fish gelatin, where that fits in,
is definitely a gray area. And we're asking that you defer
when you are faced with a lack of clarity.

Solving one problem might create a whole lot of
other problems. And getting to the agricultural ingredient
petitions, we're not going to, Omri is not going to take a
petition on any individual petition. There are obviously
people who have opinions on all sorts of them. Things like
beets or carrots, cabbage, there are producers out there, and
the availability to some people seems somewhat, the lack of
organic availability seems questionable to a number of
people, but we're not going to, we're not going to
specifically address any one of those.

The whole process is flawed in rush. We've been
informed and we accept that it's not a perfect world, but the
NOSB should take its time and deliberate on these decisions.
Don't panic. When in doubt, go with organic. Don't put
tings on the list if there is the possibility of an organic
source. So that's my advice. Just go through the criteria
very deliberately. The criteria for all materials applies to
606. Consider the human health and environmental impacts of
growing these things conventionally.

It's easier to put things on the national list than
it is to take them off. Our experience with the sunset shows
that once something is on, it's really hard to take it off.

I'd like to also address the issue of
confidentiality and transparency. That is something that is
going to be an obstacle to determining commercial
availability. Certifiers need to work together, communicate
with one another, make this information available and share
it.

I'd also like to comment that nonorganic
ingredients processed with volatile solvents should be made,
limited to a made with organic claim, and it's very important
that such products be -- that colors in particular be treated
consistently with flavors, and that volatile solvents not be
allowed. Thank you.

MS. CAROE: Any questions for Brian? Comments?

Kevin.
MR. ENGELBERT: On the back of your comments, Brian, you state that five years is too long a period --

MR. BAKER: Right.

MR. ENGELBERT: -- for sunset agricultural readings. Would you elaborate quickly on that, and what --

MR. BAKER: Well, I would say that things should be evaluated on a year to year basis, and the commercial availability and market conditions are very dynamic, and they change; that with the emergency provision, particularly in light of the rush to get things on, it's important that the materials that come out not be put on in a permanent basis if there is any doubt that -- if there is a true emergency out there that is causing disruption, then that should be accommodated, but for a one-year basis, consistent with the provision change in the organic foods production act by Congress in fall of '05.

MS. CAROE: Joe and then, you pass. Okay.

MR. MOYER: I was wondering if you could expand a little bit on your comment here that you say putting too many items on the national list will prevent the development of organic sources, when we just heard some of the other speakers say that it's a business opportunity list. How do you reconcile that difference?

MR. BAKER: Well, I think the list of petitioned substances is a business opportunity list. That doesn't
necessarily mean that once they go on the national list, that
that will create an opportunity. Quite the contrary. It
will recognize and institutionalize the use of nonorganic
sources in a product that's labeled as organic. And that
will inhibit the development of those specific ingredients
for, in their organic form.

MR. MOYER: Thank you.

MS. CAROE: Just one comment. We need to remember
that listing on 606 does not mean you can use it. It means
you have the opportunity to show nonavailability of an
organic.

MR. BAKER: And if I may respond, Madam Chair, that
is true. However, in practice, the certifiers find
themselves faced with processors who are making assertions of
commercial unavailability that are at times difficult to
dispute. And they find themselves in a situation where they
don't have, where they are unable to refute those claims, and
don't have complete market information. And they are finding
themselves in situations where there are, it turns out that
those ingredients are available, and there's a breakdown in
communication.

You also heard from the, an organic seed supplier
who, and the situation with organic seed is much the same.
There is organic seed commercially available. It's not being
planted. Derogations are, if you will, exceptions are being
made, and that is a situation that needs to be addressed.
MS. CAROE: Well, I think, just from my perspective, that's a separate issue, and listing is one issue. How the list is used is another issue. And perhaps that's another action item for this Board to consider is how to provide guidance to how that list is used, how the certifiers verify or provide appropriate oversight of that due diligence search for these organic materials. But we'll have further discussion on that. I hope you will be around and we can discuss it further with these materials.

MR. BAKER: I'll be around.

MS. CAROE: Thank you. Oh, I'm sorry. Katrina.

MS. HEINEZ: You make the recommendation that for items added to 606 that we put them on for a shorter period than five years. Now, we've heard a lot already today about the work load of both the Board and the NOP in dealing with this. And that both the sunset items from last year, and then the 606 items from this year have prevented work on equally important topics. Can you speak to your recommendation on how it would balance against other items? I just see this perpetual not getting to pasture, not getting to other topics because we're back loaded with materials. I'm interested in your thoughts.

MR. BAKER: Right, my thoughts, my personal thought is that the 606 list shouldn't exist and that the market should sort out what's commercially available and what is
not. That's not the consensus of the Organic Materials Review Institute, and our experts have all sorts of opinions about what's available, what's not available, what should be on 606, what should not be on 606. Most disagree with me about what -- about 606 not existing.

However, I will say that every one of them, every expert I've talked to said that the NOSB should not put things on 606 that will jeopardize the availability of those organic ingredients. And that by shortening the time frame, that puts more pressure to make it available. And having it, having it re-examined annually on an emergency basis is one way to do that.

The other thing is that you've got this huge work load in front of you, this meeting, and by putting it on for a year, then you can sort out what really is needed and what's not. And if something down the road needs to be put on for five years, then you can make that decision at a future date.

What this does, what putting it on for one year does is buys you time to look at what's truly needed on 606, and what can be made available, quite readily in the organic marketplace.

MS. CAROE: Any further questions for Brian? Thank you, Brian.

MR. BAKER: Thank you.
MS. CAROE: Next up is Lisa Engelbert. On deck is, I've got three names listed, so I need a representative from Regal Springs Tilapia Company. Do I have somebody from that company here? Nobody from Regal Springs Tilapia Company? Okay, then going to the next is Carol King. Are you hear?

MS. ENGELBERT: I have her proxy.

MS. CAROE: You have Carol's proxy?

MS. ENGELBERT: I don't know that I'm going to need it, but I do have it.

MS. CAROE: Okay. Just before you get started, Lisa, I do have a note. There is a reception tonight for our new members that's being held at the Cosmo Club at 2121 Mass Avenue. It is open to everybody. It is not just for Board members, but all interested parties. It's tonight from 6:30 to 8:30, and it's sponsored by Covington, Burling, Whole Foods, Organic Valley, and CMT. And the dress is business casual. I was asked to announce that. So the Cosmo Club at 2121 Mass Avenue, for anybody that's interested in welcoming our new members. I'm sorry, Lisa.

MS. ENGELBERT: That's okay. Thank you, Andrea.


I'd like to welcome the new members to the Board.
We look forward to working with you and watching you over the next few years. I'd like to thank everyone for their continued hard work, not only the NOSB but the NOP as well. I'm not known for being brief. If you ask most people that know me, they seem to think I'm a little long winded. But I'm not going to be today. I'm going to try to be as brief as I can.

On the cloning issue, this is a huge issue, and it's so important for those of you that are going to be voting on it to get it right the first time. If that means deferring it, defer it. Don't make it -- don't come out with a recommendation that down the road is going to be challenged and you're going to have to go back and fix. If you need to defer it to get it right the first time, I really encourage you to do that.

I'm going to touch just briefly, even though it's not on your agenda on the pasture issue. Thanks, Marc, for the clarification on that. I noted at the last meeting that there weren't a lot of dairy producers there, and that was partially because of the time of year, as it is now; but also because they have faith in the program that this is going to get done. They still have faith that it's going to get done, but they're starting to lose that faith.

We understand you guys are so under staffed, you're so under funded. We understand that. But it's hard to keep
going back to our producers. They don't understand that quite as much as we do, because they are under funded, and they are under staffed as well. So thank you in advance for anything you can do to move that along.

Another issue that I think is, that bears mentioning, brokers currently are not required to be certified. I think that's weak link in the audit trail. What we're starting to see with organic grain and organic hey is people acting as brothers, and they are using a producer certificate as validation that it's actually certified, but there's no, there's no audit trail there. That's a concern.

We have a really reputable feed mill that we certify in New York State. They've been receiving phone calls from a broker of organic grains. And this guy is telling them that he has a great supply of organic corn, organic soybeans. It's not there. You know, it's like magic grain that is appearing. And he's using just the producer's certificate.

So our producer said to him, what is going to prevent you from, okay, selling maybe one load of organic grain using this producer certificate, and selling eight or nine loads of conventional grain as organic, using the same producer certificate? There is no verification for that. So it's just something that I think we all need to be aware of.

It's happening with hay as well. It just happened
with one of our producers with hay about a week ago. That
one turned out just fine. But the potential for abuse is
huge. I'd really, really like to see brokers and
distributors need to be certified. It would close that gap.
I guess that's all I have for you today. Anybody
have any questions?

MS. CAROE: Are there any questions for Lisa?

MS. ENGELBERT: Thank you.

MS. CAROE: Thank you. All right. So, and so you
didn't have any proxy for Carol? You didn't have any
information from her to pass along?

MS. ENGELBERT: No, no. That was in case I got
long winded.

MS. CAROE: I see. Okay. Well, without notice,
then, Leslie Zuck, are you in the room? She just left.
Okay. Leslie is on and then do we have the representative
from Regal Springs Tilapia Company? I have three names and
I'm not going to do well with any of them, but I'll go with
first names. Rudy, Israel or Michael from Regal Springs
Tilapia Company? Second call. Okay. Leslie is next and
then followed by Melanie Saffer. Emily is going to give her
comment in your place. Okay. Okay. Is Melanie available?
She won't be here. Well, this is going well. Okay. How
about Caralea Arnold?

MS. ARNOLD: Yes.
MS. CAROE: Caralea, do you want to go ahead and come up and we'll leave Emily on deck.

MS. ARNOLD: All right. Moving right along. A side note, this is on the cloning issue, and it was written before some of the changes that happened this weekend.

So, hi. I'm Caralea Arnold, and although I may look like my mother, Cathy Arnold, I am not her clone and I am 100 percent organic and reared under organic practices from conception. So in reality, I'm the daughter of organic dairy producers Rick and Cathy Arnold from Truckson, New York. And although I am currently working and living here in D.C., I still own a few of the dairy animals up there, and although not as many as my younger brother who just seems to get all the lucky breaks.

So I am here today to give comment on behalf of NODPA and Food Farmers. The Northeast Organic Dairy Producers Alliance, NODPA, represents over 450 organic producers here in the northeastern U.S., and the Federation of Organic Dairy Farmers, Food Farmers, is a national umbrella organization formed by the Northeast Organic Dairy Producers Alliance, the Midwestern Organic Dairy Producers Alliance, and the Western Organic Dairy Producers Alliance, who represent over 850 organic dairies across the U.S.

Food Farmer and NODPA support the Livestock Committee's recommendation as written, to revise the
definition of excluded methods to more specifically prohibit cloning. However, in addition to expanding this definition, it is imperative that progeny of clones be unequivocally disallowed by adding a new entry to the origin of livestock section of the regulation to specifically prohibit livestock, progeny of livestock, or reproductive materials from cloned animals.

Food Farmers and NODPA believe this is not an issue to take up later, but one that needs to be addressed now, to be prepared and ready should the FDA approve cloned animals and their products for use in the food system.

It does not matter that there is no test to determine whether an animal is derived from cloning or not. The National Organic Program is a process-based program, not a test-based program. As with field histories, purchased feed, et cetera, producers have to verify through record keeping, affidavits, and paper trail, that the organic standards process has been followed.

So too it should be necessary to document that no cloned livestock or progeny are brought into a heard of organic livestock, or transitioned to organic production. If the necessary documentation is not available on animals, then they cannot be considered for organic production.

On the pasture front, food farmers support adding regulatory language to clarify that production of organic
milk requires that organic dairy animals must consume at least 30 percent of their dry matter intake from pasture for the entire growing season, but for no less that 120 days. Food Farmers and NODPA urge the NOP to issue an exemplary proposed pasture regulation as soon as possible. The longer pasture remains in question, the more damage is done to our industry. So too with the replacement issue. The groups urge all due hast in getting out and PR on dairy replacements. And in closing, thank you NOSB for attending to this issue.

Please completely address the full range of concerns by explicitly prohibiting the progeny of clones as well as clones and their products, through revision of both the origin of livestock section and revision of terms defined. Your time and efforts are duly noted and very appreciated. Thanks.

MS. CAROE: Thank you very much. Is there any questions for Caralea?

MS. ARNOLD: Thank you.

MS. CAROE: Hearing none, Emily, you're up. On deck we have one more call for anybody from Regal Springs Tilapia Company? Okay, next up then after Emily is Tom Ferguson. Is Tom here?

MR. FERGUSON: Yes.

MS. CAROE: Okay, Tom. You're on deck.
MS. ROSEN: I'm speaking for Leslie and for Melanie Saffer. We had two slots.

MS. CAROE: Okay. Thank you.

MS. ROSEN: Hopefully, I won't need them both. Hi, my name is Emily Brown Rosen, and I work for Pennsylvania Certified Organic, an accredited certification agency in Pennsylvania. And I'm glad to be here and welcome all the new Board members. And thank you for your patience and endurance and all this hard work.

Briefly, I want to talk about a few things, and then mostly focus on aquaculture. I really finally got a chance to sit down and read the whole thing, so I have a lot of specific points, and I've drafted them up here for your later reference. I don't think I'll get to go through all this, but I do have some specific points.

But generally, before that, I'd also like to mention I had a comment filed on the Board policy on sunset review. I believe it's comment number -- no it's not. I think it's like 101, but it should be in your books.

And basically, I just don't -- I think you should really reconsider that and not necessarily rule out all possible future changes to annotations during the sunset process. You may need that time to do some reorganizing of the list, to consider new information, and particularly, I would say, a huge problem with -- if that's the policy, you
can never take a prohibited natural and remove it from use, that is currently allowed, for instance, potassium chloride or calcium chloride that are listed as prohibited natural, but annotation makes it allowed. So if you can't work on the annotation, then that means effectively during sunset you can't take it off the list.

And clearly the intention for sunset review was to be able to take some things off the list if they are no longer needed or if there is new information. And that, I don't think you should rule that out. I mean, that's kind of a -- I could talk to you more later if that's not clear. But we do have that odd section of prohibited naturals that are actually allowed.

And the annotation controls how they use an application of something. So it's something that should be considered altogether, I think, when you are doing sunset review. But you can, we can talk about that more later.

Going on to aquaculture. I'm really glad that the task force came up with this big analysis of the comments, because they did get a lot of comments last time, and it was helpful to look through why they did or didn't consider some things.

And we support their ban on net pens and or organic fish meal. I think it is not clear from the way you have presented it, and you've clarified a little bit about whether
or not there is a new comment period, or whether you are
going -- if these regulations are going forward as is and
then you are expecting NOP to work on it, and then you are
going to add to it. I think it's kind of dangerous to do
things in piecemeal fashion.

I would suggest if this is when you get your
recommendation done, send it off, and get them working on it,
and then perhaps we can phase in later these other changes do
it, so that we get something out of it, and then we can move
forward. But make it real clear with the time lines and the
deadlines for comment and such, you know, what you expect to
accomplish when because, like in my comments I found a number
of things that given the fact that you are taking out net
pens and wild fish meal, there are other inconsistencies left
in that rule. So you need to make it one way or the other.
You can't sort of mix and match, or else it will be
conflicted when you send on the new part.

So I think you should dedicate to getting part of
it done. We can have pond production. We can have some
supply of organic fish meal, and maybe, you know, that will
change the equation for people who are going forward with
organic fish.

So first, my first problem was in the feed section.
And it's this point about, it's actually a parallel of
what's in 603 for livestock feed. It says that aquaculture
feeds may be composed of feed ingredients, except that nonsynthetic substances and synthetic substances around on 603 may be used as additives and supplements.

We've had arguments for the last five years about this, and livestock feed, I mean, does everything, if you could call it a supplement or an additive, maybe it doesn't have to be organic. And the NOP did finally clarify this, very emphatically to the certifiers in January at our meat training. If there is an agricultural substance in a feed, like molasses, if there is wheat membranes, if there is soy oil, no matter what you call it, supplement additive, carrier, if it's agricultural it has to be organic.

So that's fine. That's really helpful to us to clarify and move forward so that we can all be on the same page. But the same reasoning should apply to feed fed to aquatic fish. If it's agricultural, it must be organic. So I suggest you fix this in the regulation there, giving a little technical fix, so that you don't have the same arguments going down the line about is it a supplement for a fish, you know, and what does the rule really mean. So let's start out with having it clear there. Only nonagricultural, nonsynthetic substances could be used as supplements and additives because the naturals are allowed in livestock feed.

And I made a similar correction on the next section about, because it implies that you can make fat silage and
lipids produced from organic fish that's enzyme processed is
goed, as long as it's organically produced. Well, if we're
talking about organic feed, the that's pretty much, you know,
not necessary, because they will have organic sources of
these things that will have to be processed organically. So
there is some redundancy there.

The same thing about pigments. It's very confusing
the way the language is there about pigments. It says now,
nutritional pigments that have been produced and handled in
accordance with organic requirements are okay, and/or, yes,
or appear on the national list or are organically produced.
It's not clear if you are saying that you only want organic
pigments, or if you think pigments that are on 603 are okay
that are nonagricultural or, you know, it needs to be cleared
up.

So I've offered some language here to say that they
should appear in 603 or else they're organic, and then
they'll go through the normal national list process. It
should refer to the existing national list process if you are
going to redo pigments.

Then moving on, there's a section about manure from
organic, using manure or compost to fertilize fish ponds.
And I didn't really find a lot of references to why they
think you can put compost in a fish pond, with only 30 days
to harvest, when we have had just years of debate about
compost and manure being applied on crops with a minimum of 90 to 120 days. So I would, you know, I'd just like to see more research about, you know, here we're putting it right in the water, and water can leach nutrients. And also if you have pathogens in your compost, then they can bloom in warm fish ponds. So I'd like to see a little more science about what the rational was for that.

MR. SMILLIE: That was 258?

MS. ROSEN: It is number J under the feed section. For some reason it was in the feed section. 252. It's on page two of my comments here. Then in the facilities, I agree with what's there on food safety, why one year of conversion on when you have direct soil/water contact? What is it less of a standard for fish than it is for, you know, dairy cows, which have to have the three years, poultry, you know. The fields have to be certified for that long. So maybe it's an arbitrary rule, but why shouldn't it be fair for all the different types of livestock.

And then again, getting to the 258 section on aquatic plants, you know, I commented before, and they rejected my comment that, you know, I didn't think the aquatic animal test really should be the one primarily in charge with crop standards for algae, which I know big ponds of algae for fish feed, maybe it's related and maybe you can use that further, but I think it needs to be looked at
It's really clear. They didn't know what the rules are for fertilizers and crops, because they put this huge loophole in here to say that you could put in dissolved macro and micro nutrients, including transminerals, and compost, and vitamins listed in 601 and 603.

Now, 603 is not a crop section. It's a livestock section. And where minerals and vitamins are listed, you're talking about FDA approved minerals for feeding to cows. If you look at that list it's really long. It includes almost every synthetic fertilizer there is.

So if you are saying all those are allowed for fish ponds, but, you know, they are certainly not allowed in any other form of organic agriculture, it really has to get crossed out. So I think that who section should be removed and revisited.

I don't know enough about algae growing myself, personally, but I think we should look at it a little more closely. And then again, it allows manure in those ponds, too.

So, and then the section on contaminates, there is really not a section anymore, but that was part of the aquatic working group's recommendation to have some very general standards about background levels and other similar species, which, a certifier would have a very hard time knowing how to do that. I mean, I think this is taken care
of right now if we are not talking about wild fish meal and fish oil in the feed. That's where your problem of concentrating the PCV's and the mercury, et cetera, come from. So as long as that's out, it's okay for the time being.

But if that is considered, we have to look really hard at real strict thresholds, so that the consumers who are expecting that they're not getting contaminated fish if they are buying organic, as 73 percent of the people they surveyed said, or whoever they took that from. They expect the organic label to mean contaminate free.

So I think if we go forward with fish meal in the future, that should be very seriously considered, and a really strict standard would have to be set. Okay. I think that's all I have to say. Any questions?

MS. CAROE: Any questions?

MS. HEINEZ: I think that on the one year transition, that pretty standard in aquaculture is a shorter time frame that a generation takes to produce to be ready to market. Would there be some room for putting in --

MS. ROSEN: Well, chickens can be produced in seven weeks.

MS. HEINEZ: I'm just saying, would there be any room in your mind for putting in a minimum number of generations, but nothing -- or a year, whichever meets the
goal?

MS. ROSEN: Well, I mean, if we go back to why do we have the three-year transition, it was sort of selected somewhat arbitrarily as the idea of the, what the type of chemicals or use history of the land was, and what the potential was for previous contaminates to be, have a chance to be ameliorated and improved. And we could go look and see what commercial fish ponds are like and see.

But there should be some reason to base it on, or a good argument. And I don't see a good reason to make it shorter at this point. You know, we have very short, quick growing livestock facilities currently. So I don't see why. I just see like this sector should not have preferential treatment, one or the other.

MS. HEINEZ: I think another reason, and I'm not opposed or for in any reason, but another is just the flushing capacity of that system being greater than land-based materials.

MS. ROSEN: Could be.

MS. CAROE: Bea.

MS. JAMES: Emily, I just wanted to thank you for your comments on the voting results, and how to make that more clear.

MS. ROSEN: Oh good. I'm glad you got that. Good. Thanks.
MS. CAROE: Any others? Emily, I have one, since the Board doesn't have anything else. You asked about time line for further development of these standards. I would love to put a time line down, but I think it's largely going to be based on budget constraints in order for us to be able to have some type of vehicle to get more information, especially on those two controversial issues.

So as we move forward, I believe that's the constraint that we're looking at in trying to figure out how we are going to be able to accommodate the robust public comment and discussion that we need in order to work out those issues. So I would have loved to have done that very soon, but it's not a possibility.

MS. ROSEN: That's understandable. It's complicated.

MS. CAROE: It is on a high priority for us.

MS. ROSEN: Are you just intending to send whatever comes out of this on, or are you going to -- you haven't decided that yet, I mean, the current version?

MS. CAROE: What we had planned on doing is establishing, establishing aquaculture standards to send a recommendation that would establish a place in the regulation for aquaculture, and then further develop that and add the other pieces as we are able to work them out with industry.

MS. ROSEN: Okay.
MS. CAROE: Obviously, we haven't even gotten the recommendation from the aquaculture working group on shellfish. We want to look at that and see if that's a possibility and put that in as well after we've gone through the process. However, to wait for all of it, you know, we just felt that establishing a place first --

MS. ROSEN: That's fine. That's fine. So a sort of phased rule making, in other words.

MS. CAROE: That's correct.

MS. ROSEN: That would be, that's great. Just so we have an idea where we are headed, but good. Thank you.

MS. CAROE: All right. Thank you, Emily. So now up we have Tom Ferguson, and one more call for anybody from Regal Springs Tilapia Company. Are you in the room? Okay. Tom, you're the last.

MR. FERGUSON: Thank you. I'm Tom Ferguson with Perdue Agrirecycle. And being in the manure business, I'm just to being last, so this is appropriate for me here today. Anyway, I would like to, after being in the business for 25 years, this is where I always am. But I thank you very much for your volunteer time. You work hard. And I know none of these issues are easy. We all have our own agenda. I know that. So just bear with me here and we'll see if we can get through this.

A brief introduction of Perdue Agrirecycle. Perdue
Agrirecycle was formed in 2000 to provide an alternative outlet for our poultry growers in Delmarva for excess manure that they couldn't use on their farms. We have a lot of farms that have two chicken houses and 10 acres of land. So we had to find a solution for their manure.

Perdue Agrirecycle, since 2000, has handled 375,000 tons of manure. We've turned 186,000 tons of that into a pasturized processed dried material that literally goes across the country in lots of different markets.

A brief overview of the process, Perdue Agrirecycle process heats raw poultry manure to a temperature of at least 170,000, and the moisture level is always below 12 percent. Testing by independent labs since we've started, we've never had a positive test for e coli and salmonella in our process. And as a side note, the dreaded 0157 e coli that you see in the news all the time is really not associated with chickens. It's associated with ruminants, pigs and sheep, not chickens. We're not a host for it.

So there's probably, not probably, if you talk to the CDC, 99.99 percent it would never be in chicken manure to start with. But if it did, it would be killed under our process. And all these notes that I'm referring to are in your handout and all our past notes.

What we're asking for. Since 2001, our product has been listed on the restricted list under the Organic Material
Review Institute on the basis that we were not composted, so
if it weren't composted, you only have two categories,
composted and raw. You don't recognize our process.

Our purpose today is to request that our product be
reclassified as a processed manure, and that our product be
fully approved through the National Organic Program without
restrictions.

As the organic market is growing, and growing, and
growing, we get more and more requests from large organic
growers about our product on tomatoes, vegetables, and a lot
of vegetable crops. We are the largest producer of this type
of product, and the most cost effective that I can see the
market. We have a great big plant. We produce a lot of
product. And we've got the ability to ship it around the
country.

Supporting requests on what I'm asking for here,
addendum A of the National Organic Standards Board compost
task force dated April 18, 2002, manures that have been
treated to reduce pathogen organisms are considered to be
processed manure. Process manure materials must be made from
manure that has been heated to 150 degrees for one hour and a
moisture level of less than 12 percent, or frozen.

Since processed materials will not be contributed
to the contamination of soil, it is under our, like compost,
processed manure materials do not have to be incorporated in
the soil, therefore can be applied top dress and side dress, similar to compost, with no waiting instructions.

Now, Perdue Agrirecycle got a letter dated March 3rd, 2004, from the Organic Material Review Institute. OMRI has listed your product as processed manure, without days to harvest and restrictions. Based on meeting the standards the product has been heated to 150 degrees for one hour or more, and the moisture level is less than 12 percent.

Then, dated September 13, 2006, again from your National Organic Standards Board Crops Committee, recommendations for guidelines for use of processed manure, composting, and et cetera. Since processed manures have been treated to reduce pathogens, applications are not subject to restrictions placed on raw animal manure. Okay.

The moisture of Perdue Agrirecycle's new products are less and 12 percent, and we exceed the brand new data on e coli dated March of '07 at 165 degrees kills it instantly. We do at 170 degrees all the time, so we get that kill.

So, I'm asking what we need to do to get moved from restricted to approved. That's why I'm here.

MS. CAROE: Does somebody want to address that?

Crops Committee?

MR. FERGUSON: I'm confused.

MS. CAROE: Okay. Julie, do you have a question?

MS. WEISMAN: Well, I do have a question. No, go
ahead.

MS. CAROE: Go ahead, Jeff. Oh, Kevin. It's Kevin.

MR. ENGELBERT: I'm just -- we're going to need more time, personally, I mean, to see exactly what has to be done. I can't look at this and say --

MR. FERGUSON: We sent our petition in in May. We didn't get any response to that. And I was here for public comment in October, but a computer glitch got me off the Board. So we've got plenty of time. The manure will be here forever. We'd just like it to come to an end.

MS. CAROE: Okay.

MR. ENGELBERT: What we'll do is we'll put it on our agenda as a work item. We'll take care of it.

MS. CAROE: Let me just, I just need to make sure I understand. So are you asking us to affect your OMRI listing?

MR. FERGUSON: No, I want you to approve us as NOP as an approved product without restriction under the NOP Program.

MS. CAROE: Okay. Have you, I'm going to take this back a little bit and this may be --

MR. FERGUSON: Sure.

MS. CAROE: -- a stupid comment, but have you looked at the regulation's restrictions on manure?
MR. FERGUSON: Yes. Raw manure, yes.

MS. CAROE: Okay. And there is an established three-point system that has to, three ways of establishing a composted manure. You're saying it's composted.

MR. FERGUSON: No, no. We do not compost.

MS. CAROE: You are not composted.

MR. FERGUSON: But it meets the same, it meets the same criteria, though. It exceeds it, actually.

MS. CAROE: Okay, so it's compost -- it's uncomposted but --

MR. FERGUSON: Processed.

MS. CAROE: -- pathogen reduced.

MR. FERGUSON: Guaranteed, yes. Pasturized.

MS. CAROE: Okay. So you are asking for a rule change or --

MR. FERGUSON: Yes.

MS. CAROE: -- guidance that would allow your product to be acceptable, since it is a raw manure but meets pathogen reduction.

MR. FERGUSON: It's not a raw manure. It's a processed manure.

MS. CAROE: It's a processed manure. Okay.

MR. FERGUSON: It's not a raw manure.

MS. CAROE: Julie.

MS. WEISMAN: I want to help you. It sounds to me,
what's being called for is a rule change that adds an additional category --

MR. FERGUSON: Right.

MS. CAROE: Okay.

MS. WEISMAN: -- of processed manure.

MR. FERGUSON: Correct.

MS. CAROE: Got it. Any -- Mark.

MR. BRADLEY: We've been meeting with Mr. Ferguson and Perdue Agrirecycling, and we're looking into the particular details of the program. We have a trip planned up there to look at the process. But we would defer to the Board before we would go off the track and, the way that we understand right now, the regulations have manure and composted manure. There is nothing here that provides a guidance for us to either issue guidance or a reg change.

MS. CAROE: Any other comments from the Board? Katrina and then you're next, Tracy.

MS. HEINEZ: I heard you say that you have submitted a petition. I just wanted to clarify that to what you said?

MR. FERGUSON: Yes, we applied. We sent one in in May.

MS. HEINEZ: Thank you.

MR. FERGUSON: Yes, ma'am.

MS. CAROE: Tracy.
MS. MIEDEMA: I'm on the Crops Committee.
MR. FERGUSON: Great.
MS. MIEDEMA: So I expect to be taking this up possibly at some point.
MR. FERGUSON: Congratulations.
MS. MIEDEMA: Is there some difference in a cooked manure like yours and a composted in the way it interacts with the soil, and the nutrient value delivered?
MR. FERGUSON: Well, according to your, a couple of your own peer groups, no. Not that we know of. And of course, the National Organic Board said that they looked at it. I think Barbara Bellows, years ago, did a study on it. The answer, as far as I know, is no.
MS. MIEDEMA: Why doesn't everyone just cook their manure, then?
MR. FERGUSON: It's very expensive.
MS. MIEDEMA: Okay.
MR. FERGUSON: It's extremely expensive.
MS. CAROE: Kevin.
MR. ENGELBERT: That's what I wanted to ask. Why don't you compost? What's the reasoning behind the processing?
MR. FERGUSON: You drive off all the nutrients. You end up with no NPK. Yes.
MR. MOYER: That's clearly, that's clearly not
true.

MS. CAROE: Hold on a second. Hold on, hold on.

MR. FERGUSON: Well, you don't end up with a 4 percent nitrogen if you compost manure.

MS. CAROE: Okay. Hold on. Jennifer, did you have something? No. Jeff? Tracy, did you have anything else? Okay, Jeff.

MR. MOYER: No, I was just going to say that you may not be able to get your 4 percent, but you don't end up with a material with no nutrients. And clearly the statute says that even with processed manure, it is not designed to be the sole source of fertilizer, nutrient free, or even the primary source.

MR. FERGUSON: There was one statement like that, then you contradicted it later on. I don't believe it should be your total nutrient deal, but I don't believe it needs to be treated like raw. We're far from raw.

MR. MOYER: No, I understand what you are saying.

MR. FERGUSON: Far from raw.

MS. CAROE: Anymore comments? Julie.

MS. WEISMAN: If it meets the criteria for composted manure, what is the difficulty with calling it that? I'm not in crops production, so pardon my ignorance.

MR. DAVIS: In California, processed manures are used extensively in organic vegetable production, at least,
and they are quite useful. A lot of growers use them and they are very valuable. But there is, there has been this problem with, no, they don't meet the compost criteria because the end goal is the same, pathogens are gone. The desired result is the same, but they don't meet the compost guideline criteria, because it's done a different way.

And that's what he's asking for, something that's very valid, is that it's time to clarify this and get a category for this type of material, being that it does not fit the compost rules. It doesn't not classify as a raw manure.

MS. CAROE: Are there any other comments. Rigo.

MR. DELGATO: Sir, I just have a question. The ball is on your court. Once you are satisfied with all the information, Mark, then you are going to send that to us, correct?

MR. BRADLEY: I'm sorry, what do you mean?

MR. DELGATO: The gentleman here submitted a petition. You have it on your desk.

MR. BRADLEY: I believe the petition was for a nonsynthetic, was that -- petition for a nonsynthetic for use in ag production. Go ahead.

MR. POOLER: The material was petitioned -- this is Bob Pooler, National Organic Program. The material was petitioned to add to the national list. It was reviewed and
considered to be a nonsynthetic. And I believe a letter has been sent, and the letter indicated that the material was a nonsynthetic, but was restricted by our regulations 205.203 the 90 and 120 day restriction before harvest. That's what I believe the letter has said. So the petition was not continued forward because it was considered a nonsynthetic.

MS. CAROE: Is there any other comments? Well, I think may Crops should consider taking this issue up and putting on the work plan, and working with the program. Bob?

MR. POOLER: There currently is a quote-unquote petition in front of the NOP and actually the Crops Committee dealing with the issue of processed manure and asking for revision of 205.203. And I will be working with the Crops Committee on this to try to get this petition as part of their work plan.

MS. CAROE: When you say petition, we're not talking about a material petition for listing on the national list.

MR. POOLER: No.

MS. CAROE: We're talking about a petition for a rule change.

MR. POOLER: A petition to revise the regulations in 205.203.

MS. CAROE: Yes. Okay. Great. I agree. But that's going to be done in collaboration with the Crops
Committee.

MR. POOLER: Correct.

MS. CAROE: Excellent. Any other -- Jeff, do you have something?

MR. MOYER: No, I was just going to say, that's what I said earlier, we're going to put it on our work plan.

MS. CAROE: Great. All right. Thank you so much.

MR. FERGUSON: Thank you all so much. Thank you all so much. Great time. Thanks.

MS. CAROE: That is our last commentor for today, so we are in recess until 8:00 a.m. tomorrow morning. And again, 6:30 to 8:30, the Cosmo Club, 2121 Mass Boulevard is a reception open to all interested parties. Thank you.

(Recess.)
ELECTRONIC CERTIFICATE

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NATIONAL ORGANIC STANDARD BOARD MEETING

Teresa S. Hinds, Transcriber
A meeting in the above-entitled matter was held on March 28, 2007, commencing at 7:34 a.m. in the Washington Plaza Hotel, Ten Thomas Circle, N.W., Washington, D.C. 20000.

Andrea Caroe, Chairperson
APPEARANCES

BOARD MEMBERS:

Andrea Caroe, Chairperson

Bea E. James, Secretary

Daniel G. Giacomini, Chairperson, Materials Committee

Gerald A. Davis, Crops Committee

Jennifer M. Hall

Jeffrey W. Moyer

Joseph Smillie, Compliance Committee

Julie S. Weisman, Chairperson, Handling Committee

Kevin Engelbert, Livestock Committee

Katrina Heinez

Rigoberto I. Delgato, Policy Committee

Steve Demure

Tracy Miedema

Mark Bradley, Associate Deputy Administrator
PRESENTERS:

Gary Robertson, Smoki Foods/American Gold Seafood  5
Nancy Hirshberg, Stony Field Farm  10
Emily Brown Rosen  21
Grace Marroquin, Marroquin Int'l Organic Commodities Services  24
Dom Repta, Friends of Clayoquot Sound, Coastal Alliance for Aquaculture Reform  31
Kelly Shea, White Wave Food Company  42
Harriet Behar, Midwest Organic Sustainable Educational Service  52
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MS. CAROE: We're going to start off this morning with public comments, so I'm going to reread from the Board policy manual the restrictions on public comment. Please just hold with us for one moment.

Okay. From the Board policy manual, NOSB policy for public comment at NOSB meetings. One, all persons wishing to comment at NOSB meetings during public comment period must sign up in advance. Today's morning session is full up, and I do have those received listings.

Two, persons will be called upon to speak in the order in which they signed up.

Three, unless otherwise indicated by the Chair, each person will be given five minutes to speak.

Four, persons must give their name and affiliation for the record.

Five, persons may submit a written proxy to the NOSB, NOP or NOSB requesting that another person speak on his or her behalf.

Six, no person will be allowed to speak during the public comment period for more than 10 minutes.

And seven, individuals providing public comment will refrain from personal attacks and from remarks that otherwise impune the character of any individual.

All right. So, starting off this morning, we have
Don Ripta. Don, are you in the room? Okay. Moving on.
Gary Robertson. Gary, are you here?
MR. ROBERTSON: I am here.
MS. CAROE: Okay. On deck we have Katy Highland, which Nancy are you taking Katy's spot?
MS. HIRSHBERG: Yes.
MS. CAROE: Do you want to check in with Valerie, please. You can start whenever you want.
MR. ROBERTSON: Great. Good morning, everyone, and thank you for the opportunity to address you this morning. My name is Gary Robertson. I'm the vice president of sales and marketing for American Gold Seafood and Smoki Foods out of Seattle, Washington.
And for those of you that aren't aware, American Gold -- there we go -- American Gold is the only U.S. owned and operated open net pen salmon farm in the United States. So as I've been told this morning, I think I am the devil. But I would like to take some opportunity to explain a little bit about who we are, what we do, and move forward from there.
Smoki Foods is a 22 year old company owned by Roger and Lisa May. We employ approximately 250 people. We are one of the nation's largest processors of wild salmon. We produce approximately 25 million pounds of wild salmon every year. We are the only, again, salmon farm that's
domestically owned and operated. We principally process halibut, wild and farmed salmon, black cod and king crab.

And our business is in a crossroads. We can either stay at the status quo and put our, essentially, our business and employees at risk, or we can become politically active and position ourselves for future growth. And it is with that intention that I address you today, and the future of our 250 employees, quite honestly, lays in your hands.

We consistently do swat analysis to identify our business, as most business do. And our weaknesses are, quite honestly, public opinion, because far too much bad science has actually received far too much publicity. And regrettably, that hasn't just impacted farms, that also impact salmon, and we've seen that in our numbers.

I think it's important to recognize the fact that we will not, and you will not hear a farm, a salmon farmer, excuse me, take shots at wild salmon. We won't do it. This is a salmon issue, and we want to make sure we address it as a salmon issue.

Also, headlines are made by tragedy, so stories about sustainable, safe, healthy food has a tendency not to be a very sexy story, so it's not something you hear on a regular basis.

And quite honestly, voice. This is the first time I'm addressing this Board, and it's my understanding that no
one from our company has had an opportunity to address this Board in the past. And so as a result we are playing catch up.

When we look at the threats to our business, there are obviously several. Competition is a big one. There are countries out there that are producing salmon at remarkably low prices for a myriad of reasons which I won't discuss today.

There are products being marketed as certified organic, and that comprise the integrity of the products that we produce. Although we conform to the same standards, we can't and won't use the term organic until this body approves use of that term. And to the above point, consumers are obviously having a trend towards organic.

The cost to produce natural products, which is the product that we produce that would be certified, and that we would offer to be certified as organic, obviously is very expensive. And it would be certified as organic in most places in the world. And obviously, there is also a tariff aversion, something that we have to address as a company, is also in the industry.

And also, obviously, there's biological. An algae bloom can have a devastating effect in what's going on with a pen salmon system.

The strength and opportunities we have, obviously
with what's going on with the U.S. government right today. You have the U.S. Commerce Secretary, Carlos Gutierrez promoting legislation to expand aquaculture. The numbers he recently shared, that seafood is a $7 billion dollar industry globally, only a billion dollars in the U.S. Obviously, a huge opportunity for growth.

80 percent of the seafood that's consumed in the United States is imported, and that's a trade deficit of approximately $9 billion dollars, and 40 percent of that is farmed.

We, obviously, as a company, have a nice balance between what's going on with wild salmon and farmed salmon. And we also have history. Some of the sites that we have in operation have been in operation for over 30 years, and actually two of our sites are located on preserves.

And we also have a very strong advocate in NOAA. The Manchester NOAA site is actually about 200 yards off of one of our net pen sites, and one of the biggest advocates I have are the people from that Manchester site.

Some of the things we're working on with NOAA is to produce products, actually salmon feed from byproducts of bioenergy production, using waste as feed for farmed salmon. Use of invasive, the invasive carp that you see in the Mississippi, for example, us that silage as feed for wild salmon. NOAA, they're helping us address that issue.
Development of a demonstration farm, potential for
the use of recirculation of water, and development of
alternative crops like sable fish and Maine cod, and also
black cod, if you will.
So I will leave you with this. Organics is a
belief system. It is not a science. Best practices is what
we hope to attain with this group. And that's why we're
working with NOAA. And I think I'm out of time.
MS. CAROE: Thank you. Any comments from the
Board. Questions?
MR. SMILLIE: Did you have a chance to look at the
recommendation that's currently in front of this Board?
MR. ROBERTSON: I have. And one of the concerns
that I have is the elimination of net pens. I wanted to make
sure that, again, that was addressed.
MR. SMILLIE: Well, again, as I said yesterday, it's
not in this draft, but we will take it up at future meetings,
hopefully some sort of symposium or some sort of more, larger
discussion because it is, you know, so controversial. But
any comments on the current draft that -- have you had a
chance to look at it and see how it would affect your
operation?
MR. ROBERTSON: I have, and at least I applaud the
direction that we are moving, and the fact that we are
moving, again, addressing, getting some organic standards put
in place. The feed conversions, as we were discussing earlier this morning, they are within the realm.

I think there is, again, there is some, there is some very faulty science out there regarding what is actually happening in the wild versus what's happening in a farm system that we could get into today, but I'm sure that you've got plenty of information in front of you that addresses that issue. But I just want to make sure that, again, we are clear about the need to keep things on the table. Thank you.

MS. CAROE: Next up, for Katy Highland. On deck we have Grace Marroquin. Grace, can you check in with Valerie?

MS. HIRSHBERG: Good morning. Just some other ingredients we want to mention today. We want, regarding specifically rice starch, we support the Handling Committee's recommendation to list rice starch at 606, although it has been proposed to list it only for two years.

As noted in our petition, we find that rice starch has certain qualities that cannot be duplicated by other substances, especially it's ability under freezing, thawing, and high water binding capacity.

We continue to work with a manufacturer to try and source organic versions of this type of waxy rice, that's specific to this product, that is needed. Two years may be a bit too short to accomplish this, but we will certainly try.

Please note, also, that both rice and corn starch
are permitted in the EU standards without qualification. And we think that rice starch merits inclusion in the U.S. standards as well.

Natural colors, Stony Field Farm uses a number of natural colors in our products, and we are pleased that the committee has recommended quite a few colors for inclusion on the list. We do use cherry juice color in some products, and have not found organic sources for this.

I should also qualify this by saying, there are many, many ingredients that Stony Field has brought to commercial availability, and so we're often leading the way for other smaller companies who don't have those R and D or sourcing capabilities.

We also currently have not found appropriate supplies of organic carrot juice color. And I'm sure you've heard from many people that it's not just about the carrot, but there is a lot of science behind the actual colors, and so forth. So there are many carrots available, but that doesn't necessarily equivocate to the same, to the quality of the color that we need, which also merits consideration for the national list.

If annatto is approved, this may be an alternative to carrot juice, so we're fine with that. But we believe that a listing for these colors on 606 would provide more flexibility for product formulation as a supply of organic
colors gradually increases.

Whey protein concentrates. We have petitioned for the addition of whey protein concentrate at 35 percent and 80 percent strengths. The recommendation by the committee was to list WPC 35, but not 80. We have provided further information to show that these two types of whey protein concentrate are manufactured in the identical fashion, and are concentrated by using ultra-filtration, a membrane filtration technique that is a mechanical process without the use of any chemicals.

There is subsequent use of processing aides for the purpose of pH adjustment that appear on the national list, such as citric acid and potassium and sodium hydroxide. We believe both concentrations should be listed similarly.

And the final ingredient is annatto. And to your question yesterday, Julie, I think the appropriate, and again I'm not a scientist, but the appropriate term is water extracted or oil extracted annatto.

Stony Field Farms supports the addition of annatto to 606. At present, we cannot find organic annatto in the quantity or quality needed for our purposes. The committee recommendation appears to reject annatto based on a disagreement about the annotation. While we agree there is no reason to require an organic oil be used to extract a nonorganic ingredient, we do support the listing as annatto,
water or oil extracted.

This restriction is important because nonorganic annatto is also legally permitted to be extracted with solvents such as acetone, ethylene dichloride, hexane, etcetera. If annatto is listed in 606 without restrictions, these toxic solvents could be considered permitted for purposes of extraction.

Currently there is natural annatto available that is extracted without these harsh solvents, and this should be the form which is what we currently use, and this should be the form specified as acceptable until adequate supplies of truly organic sources are available.

And finally, what I would like to really, is really more for the NOP. And believe me, I am the first person to be lobbying for more funds for NOP, because I know you are over-taxed and have many priorities. But I will say that there is an absolutely urgent, dire need for NOP to develop emergency procedures for designating agricultural products that are commercially unavailable in organic form.

As soon as Jim, was it seventh or ninth? And I'll give you some examples. Thank you. Supplies disappear. We're one of the larger buyers of organic ingredients. A few years ago we had developed a lot of strawberry projects, et cetera. Two companies came in, started a cereal with strawberries, organic strawberries. Pouf, the supply
disappeared.

It's not that it disadvantaged companies like us so much, as the smaller companies who are going to be hurt by this, because they don't have the buying power to lock in long term supplies.

And finally, as an example, Stony Field Farm buys approximately 200 million pounds or organic ingredients a year. We're growing, this year we'll buy 55 percent more organic milk that we did, or next year -- no, this year than we did last year. Some of these ingredients, we might use 10,000 pounds a year of, these minor ingredients.

We don't have the buying power to have someone develop an organic supply. They just won't even talk to us. And we're one of the larger buyers. So it's really -- the emergency procedures, I think, for supplies disappearing can be critical. Thank you.

MS. CAROE: Thank you, Nancy. Any question for Nancy?

MR. DEMURE: Hi, Nancy, Thank you.

MS. HIRSHBERG: Hi, yes.

MR. DEMURE: You had mentioned a problem with carrots.

MS. HIRSHBERG: Yes.

MR. DEMURE: Is it a processing problem, because there seem to be a lot of organic carrots out there?
MS. HIRSHBERG: There are a lot. And when I've
talked to them, again, this is a volume issue where, you
know, especially for a concentrate, because they have to shut
things down, develop them. In fact, I remember talking to
Stallbush, specifically, on one. And they just weren't
willing, for the volumes that we were able to use, to develop
the product for us, to do the R and D time, and the
quantities that we're talking about. If we're talking tens
of thousands of pounds, they just wouldn't do it.

MS. CAROE: Bea.

MS. JAMES: Hi, I was wondering if you were going
to address the question regarding inulin or --

MS. HIRSHBERG: Yesterday. And, in fact, I just
got on line and the person who emailed yesterday didn't
respond yet, so I'm going to go and call her.

MS. JAMES: Thank you.

MS. HIRSHBERG: Yes.

MS. CAROE: Tracy.

MS. MIEDEMA: Was that question just documenting
availability? Is that what Bea was asking about?

MS. HIRSHBERG: No, this is inulin about whether it
was, we went to it because of the marketing ability or the
structure function claims.

MS. MIEDEMA: Okay. Yesterday, Dan explained our
subcommittee is within Handling Committee. And I recall your
petition for cherry, in particular, was very compelling, but it just lacked documentation that due diligence had been done on the search. And it didn't seem to carry the burden of proof there. Do you have further documentation?

MS. HIRSHBERG: I don't have anything right here. I certainly can provide it. But this is my question, which Jim raised yesterday, which is, that burden of proof is on the certifier. And this is where I get confused about where I'm listing versus the certifier's role. Because every time we get certified, or reinspected, we have to provide that documentation on everything we've done to find it.

So even your listing it just shows that there is the potential that it could not be available, which I hope we've provided that much information. So, and maybe you can provide some clarification on that.

MS. CAROE: Julie.

MS. WEISMAN: Yes. I think, I think the way I heard Tracy ask the question, I think that you were assuming that Nancy is the petitioner on the cherry, and she's not. The supplier is the petitioner, who I believe is going to be presenting separately later. I'm not sure. No, we don't. Okay, we don't. Okay. Rumor control.

MS. HIRSHBERG: Yeah.

MS. WEISMAN: But anyway, she's not the petitioner. She's the end user. And what she's telling us is that we,
you know, we have looked for organic cherry juice for this purpose, and we can't find it.

MS. HIRSHBERG: And we've documented that for our certifier.

MS. WEISMAN: Right. And you're -- what was discussed at our subcommittee meetings, was the fact that the petitioner who is petitioning that the nonorganic form be used, that that's where, who our beef is with. That, you know, it may be true that there is not organic out there, but we can't act with no information. So we're going to ask anybody up here that has any experience with colors today, we're going to pound you for any information you can give us about availability of the colors that are currently listed to be rejected.

MS. HIRSHBERG: But this my question for you, which I'm a little unclear of, which is that we provide that documentation to our certifiers.

MS. WEISMAN: Right.

MS. HIRSHBERG: And so that's going, that's a given that that has to happen.

MS. WEISMAN: Right. And I think this is where, I think, there are two -- I think Jim divided people into lumpers and splitters. Well, on this issue we also have, there are two camps in the industry. There are two camps of stakeholders. There are those that think that item -- those
that have already argued that items should not be listed
unless they have been demonstrated at this level to be, to be
not available.

And then there are, you know, for industry, I know
that the need is to have it be, this is the universe from
which the certifier, you know, can decide that either, yes,
this, it can be used, nonorganic can be used for this purpose
or not. Am I being clear? Am I too -- have I had enough
coffee this morning?

MS. CAROE: Let me just address this really
quickly. You are right. The certifier is going to, at the
moment that you provide an organic systems plan, your
certifier is going to verify that you've done due diligence.
However, our criteria for listing on 606 requires the
petitioner to provide compelling evidence that there is some
fragility of supply.

So in doing that, we are looking for any
information about historic shortages. So most, a lot of
these petitions that were rejected were because we got, you
know, we got all the wonderful benefits, and the reasons why
this product is needed for organic, but we didn't get that
information and that data about the supply issue.

And yes, that's duplicative information that you
give to your certifier, but it didn't get through.

MS. HIRSHFIELD: Get to you. Can I just make one
statement which is that I hope in your deliberations, you 
realize that June is coming, and I'm sure you all know, we 
certainly are well aware of it, so therefore, I hope you err 
on the side of caution in that you have to understand that 
our certifiers have that information, and if we didn't get it 
to you, that was a miss on our part.

But I hope that you will keep that in mind in your 
deliberations, even if you give a one year or two year 
extension, or whatever, so that we can provide that 
documentation for you, because, clearly, it's out there.

MS. CAROE: Joe.

MR. SMILLIE: Not so much a question for Nancy, but 
a comment on what Steve alluded to, and that is, there are 
organic carrots out there. There are organic cherries out 
there. There is no organic cherry juice that satisfies the 
color needs of Nancy, but that is more an issue of cost than 
availability.

MS. HIRSHBERG: No, it's not.

MR. SMILLIE: Are you telling me that if you spent, 
if you were willing to pay whatever you wanted for organic 
carrot juice, you couldn't get it at any cost?

MS. CAROE: Julie.

MS. WEISMAN: No. The problem is, is that people 
who have the equipment that can process this, who are 
currently using it to use, to process carrots for color for
the conventional industry, which are enormous volumes. I don't know the numbers. If somebody else does, that would be great. But they, it is not -- they cannot afford to turn their machines on for less than say 20 metric tons a year. I mean, I'm not saying that -- there is a cost issue there, but the cost issue lives with someone who is not primarily an organic processor. And that's not how they make their living. So at the moment, in the industry, we're dealing with infrastructure that we're borrowing from the conventional. And they have a different set of criteria. They're not necessarily, it's not necessarily attractive for them to turn their equipment on for 10,000 pounds a year. So it's not that anybody who is making an organic product is avoiding the cost issue. It's that the nonorganic processors upon whom we currently depend, it's not worth their while.

MR. SMILLIE: Well, just to followup --

MS. CAROE: We're just going to have to make this a little bit shorter, because we do have a lot of other commentors this morning. But Jeff, go ahead.

MR. MOYER: I understand that Andrea, but I think it's key to the whole crux of the issue that we're talking about, so I think it's worth spending just a few minutes to talk about.

I understand what you are saying, Julie, but in the
context of most of the organic industry, that has always been true. It's true in the dairy industry. In the beginning, we borrowed processing equipment to process milk, and many of the other products. And I think it always has been an issue of cost.

Most companies are willing to do whatever it takes to get the product out the door, if you are willing to pay for it. You can't get it at the same price that you'll get the other juice at.

MS. HIRSHBERG: Well, I will just speak from personal experience, that we can't even get a foot in the door to talk to them. And they'll just say, we're not interested. Don't even -- you know, the capacity concerns, whatever. But I also want, well, just to let Emily, because this will really clarify it.

MS. ROSEN: Just very briefly, one other point about colors is that I think the gentleman from GTC was here last time. Hopefully they will be here later. But it's a different production process to develop vegetables for color. It's not like growing vegetables for vegetables. They grow specific varieties. They grow them closely spaced. They harvest them at a different maturity, so that they are fully advanced, you know, whatever the color pigments are. And they have to be harvested at the plant right away. So they generally grow them very close to these processing plants.
So they just haven't developed to the supply yet is the problem. And it can be done, but it's not there.

MS. CAROE: Joe, do you have a comment?

MR. SMILLIE: Well, actually, Emily said what I was going to say. Carrots are not always carrots.

MR. MOYER: Oh, I understand.

MR. SMILLIE: I mean, the carrots that you grow for color are different, not in every case. And we've got a long list. And one of the problems this committee had, was that we've got a long list of colors. Some of them, you know, a cherry might be a color cherry. But a carrot is not a color carrot. So we have to go through.

And again, to back up what Julie said is that, we had a lot of color petitions that did nail down that insufficient data thing. We went and we talk to these different grower groups, and this is the report on what we could get grown. We said, bingo, done, well, you got it.

Other color petitions just didn't have that information. I'm sure they're in the same case, but we can't rule on something that isn't in front of us.

So what our plea was, in rejecting that list of color is that please, those people who petitioned it, not the end users, but the people who petitioned it, have to come forward and say, this is the data that we can present, that we present to you to resolve that issue of the due diligence
of their search for growers of these particular varieties.

MS. HIRSHBERG: And I'll give you an example of carrots. In addition to talking to many other potential suppliers, our existing supplier, they grow all of the ingredients for their colors. They wouldn't even consider buying it, because they can't, for the reasons we said, they can't control it.

They are in the process of developing an organic carrot supply, but it's, you know, we don't have it now. So they can't really go out -- they can say that, and I think they did say that in their petition, but they don't go out and source from other places. That's just not colors are, manufacturers work.

MS. CAROE: Is the Board satisfied with the questions. Rigo?

MR. DELGATO: Nancy, I just have a question. What kind of actions are you taking to encourage producers to come out with the colors that you need or the raw material that you need and so forth? Are you content to --

MS. HIRSHBERG: Oh no. We are actively out there working with our suppliers. So for instance, in this case, we talked to them years ago, just and frankly like the inulin, saying, you know, what is the process? How are we going to get from here to there?

So, and our -- in the case of a lot of colors, it's
frankly testing everything out there that we can find
organically, so not just working with our existing suppliers,
but also working with the existing suppliers to develop a
process or a plan.

So we've come really far in colors, and frankly,
flavors, too, in developing the organic. We've really
increased so that we don't have that many more right now.
But we're just on the final ones.

MR. DELGATO: How much time do you think it's going
to take for you to bring, say, carrot color?

MS. HIRSHBERG: Carrot? Well, I know there are
going to be some next year, but is it enough to cover our
needs and others? I don't know that. So I can't answer that
very technically right now to say, this much in '08 or
whatever. So, but certainly, I would say within five years,
I would think everything, maybe even sooner, that we use
would be organic.

MS. CAROE: Any other comments, questions? Thank
you, Nancy.

MS. HIRSHBERG: Thanks.

MS. CAROE: Next up is Grace Marroquin, and on deck
we have Dom Repta.

MS. MARROQUIN: Good morning, everybody. My name
is Grace Marroquin, and I'm president of Marroquin
International Organic Commodities Services, Inc. My company
is based in Santa Cruz, California, and we import ingredients, and distribute ingredients for the natural products industry. We've been in business since 1991 in the organic industry.

I am here once again to support the classification of yeast on the national list as an agricultural product. This change would raise organic standards in a variety of processed foods. It would make it a requirement that these foods use organic yeast instead of conventional yeast.

As long as yeast is a nonagricultural product under section 205.605 A, manufacturers have the right to use traditional conventional yeast and still label their product organic. Certifiers have no way to require them to use organic yeast alternatives.

Organic yeast is far superior to conventional yeast for organic products. Organic yeast is grown on organically produced grains. Furthermore, there are no chemicals, like the ones that are being used in conventional yeast right now. There is no ammonia. There is no sulfuric acid. There is no caustic soda lye. There is no synthetic vitamins, and there are no synthetic anti-foaming agents.

In conventional yeast production, the waste water must be treated before disposal to avoid pollution, and I believe there are even special licenses required to handle it. In organic yeast, the waste water is a raw material
available for further production of other organic products. And that says a lot.

Because of the chemicals used making conventional yeast, the view developed in Europe that conventional yeast was not -- the view developed in Europe was that conventional yeast was not compatible with organic farming or food processing.

In 1980, a German Company, Agrono GMBH based in Riegel, Germany, began to develop an organic production method for yeast. In 1995, Agrono began marketing bio-real organically produced yeast. Our firm began importing it from, in 2002, and we are their North American agent.

The reason I am here is to request to move yeast from nonagricultural to the agricultural column, so that organic yeast can be a preferred organic ingredient subject to commercial availability.

Why has it taken so long, so very, very long, two and a half years? The Board first wants to have an overall policy to decide which materials should be agricultural as opposed to nonagricultural.

At the last meeting of the Board, last October, the Handling and Materials Committee offered a joint proposal. It would settle the ag/nonag questions as part of this proposal. Both committees agreed that yeast was an agricultural product, and thus should be listed in sections
This drew a lot of public comment, urging the Board to go slow. The Board voted to postpone further action, so that it could study the points raised. As we heard yesterday at the upcoming fall meeting, the Handling and Materials Committee plans to take this up and present a new proposal.

Let me try to sort this out where the matter stands. The proposal of the two committees, the one you have heard, the one you have in your Board books is basically sound, however, the public comment raised is some valid questions. Some of the commented, some of the comments objected to, including dairy cultures as agricultural.

Yeasts are not bacteria, but dairy cultures are bacteria. These were concerns about what it would mean to classify bacteria as agricultural, both for food and livestock feed. If bacteria would be designated as agricultural, then all bacteria and other microorganisms fed to livestock would also have to be organic.

Yeast is the only microorganism that is being produced organically. It would be premature to address the agricultural status of other microorganisms at this time. There were other questions, though, that came up specifically about yeast.

To respond to these questions we have filed a full length, our full length comments are on the new www.regs-
regulation.gov website, and these are comments 0090 and 0090.1. I have two main questions to address.

Yeast in livestock. There would not be a problem for organic livestock operators if they were to be required to use the yeast. I spoke with Midwest Bio Ag, a firm that in 2002 had developed an organic yeast for supplements. Because there were no rules requiring this, they ended up having to fold. Basically, they let their certification lapse. The equipment got sold. And it's sitting now in some empty warehouse, and they lost a lot of money. The product they produced was Rye Gain.

And I've spoken to them, and they said that they had enough yeast to be able to produce for the needs of the Livestock Committee. I've made it my business before the fall meeting to speak to other yeast producers to be able to see if the other ones can come on board with the yeast. I don't think there's a problem, from my initial conversations.

I'm going to cut to the chase here, but jump to another point, which is the EU will be adopting new organic standards later this year. The new EU regulations separates yeast from other microorganisms.

Unfortunately, I can't finish this, but what I'm here to do is to ask you to defer the yeast petition, meaning that you have so many other ones on your plate right now, and re-evaluate it again in fall.
MS. CAROE: Any questions from the Board? Joe?

MR. SMILLIE: I take it that that's what you want us to do, because you want us to come up with the finalized recommendations?

MS. MARROQUIN: Yes, exactly. I think you can't make a real decision on this until you decide what's ag or nonag. I mean, that's really the crux of it. And one of the things I'm concerned about is given what the status is, how the EU is handling this is, they are separating it out. They're not, they're separating yeast out from other microorganisms.

And if their draft passes with yeast in it, they're going to require yeast for food and feed. So then not only do we have our own issues here, but we, now we are creating another trade barrier because yeast is used a lot in various kinds of crackers and snacks. And any kind of snack going overseas will not be able to be used because now we've created this disharmony with the regs.

It's not final yet, but that's what's being proposed, and it's gone through the first acceptance. And yes, I'm asking for you to look at the ag part of this before you make a decision.

MS. CAROE: Okay. Joe.

MR. SMILLIE: Right now there is a debate in the certifier community over the certification of organic yeast.
There is actually USDA accredited certification organizations that are certifying yeast. I don't see people here. And I'm just wondering what the NOP, how the NOP views that?

MS. CAROE: Mark.

MR. SMILLIE: Is it within the realm of ACA to certify organic yeast, if they believe it meets the USDA NOP regulations?

MR. BRADLEY: Mark Bradley, National Organic Program. The first certified yeast that I was aware of I saw listed is ingredients yesterday. And certification is for agricultural products.

MR. SMILLIE: Right.

MR. BRADLEY: So it would be difficult to certify something that is listed as a nonagricultural product. But there are inconsistencies in the way that the regulations are being applied, between certifiers. And it brings in the issue of flavors as well. So this is something the program is looking into.

MR. SMILLIE: So once again, the program would look to the NOSB to create that definition and give you a recommendation?

MR. BRADLEY: Yes, we would really like that.

MS. MARROQUIN: So, and Joe, I would like to add that right now the way the NOP is dealing with some other nontraditional production systems, in that they don't have
specific standards for mushrooms, and they don't have
specific standards for bee keeping and greenhouse production,
and yet these have been treated separately, and they're being
certified presently. And we're asking for yeast. Until you
have those standards, that you just treat it the same way as
you have been with mushrooms and bee keeping and greenhouse
production.

MS. CAROE: Grace, as the petitioner, you have the
right to take your petition off the table. Is that what you
are requesting to do?

MS. MARROQUIN: Until the fall meeting.

MS. CAROE: Okay. We will not take it up at this
meeting, then. We will not discuss it today. The petitioner
has a right to take this off the table, and she has done so.

MS. MARROQUIN: Until fall, though. No longer.

MS. CAROE: Thank you, Grace. Anymore questions
for Grace? Okay, thank you. So we have Dom Repta, followed
by Kelly Shea. You're on deck.

MR. REPTA: All right. Thank you. This is my
second time here. I am from British Columbia. I was here
the last time, and I'm here to talk about the aquaculture
standards.

My name is Dom Repta. I'm here from the Coastal
Alliance for Aquaculture Reform, and more specifically, the
Friends of Clockwood Sound, which is one of the hubs of
salmon farming in British Columbia. And I am here presenting various ENGO's, scientists, and first nation groups who have been in British Columbia for thousands of years. I think it was said yesterday hundreds of years, but it actually is thousands of years.

I would, I am here to -- I only have five minutes, but I'm here to say we do support the Livestock's recommendation that species that require wild fish food be excluded from the aquaculture standards, and of course, any standards that would -- we're here also to support recommendations to exclude the open net pens from the aquaculture standards as well.

I do understand that this will probably be taken up at a later time, but I will give a few comments on that, and then progress onward from there. So a couple of new things since the last time I was here in British Columbia.

Of course, we do rely on peer review science for kind of the basis of our work. A new submission and a new peer review paper came out just a month ago that was showing that open net aquaculture, as far as sea lice, which is a major problem in British Columbia. We have vast amounts of wild salmon, and the interaction between farmed salmon and wild salmon just isn't proving to be sustainable.

A new paper which we have, we have a collaboration with another, the largest salmon farming company in the
world, and we have our on farm data showed that 12 salmon
farms, which is more than those in British Columbia, produced
billions, not millions, they produce billions of sea lice
eggs, which, of course, in turn, creates billions of sea
lice.

And as our last submission showed, and my last
talk which really did weigh a lot on sea lice showed that sea
lice are impacting migrating juvenile salmon in British
Columbia. We've seen drastic population declines in some of
the rivers and some of the populations in the archipelago.
And one can assume, as global trends show this happens
elsewhere in British Columbia. The problem is, we don't have
the science. We don't have the money to do the studies. And
industry might have the data, but the data is not shared.

So again, so we're talking about billions of sea
lice impacting wild salmon. So we are really, really pleased
that the recommendation is to exclude open net aquaculture.

Also, there is one salmon farm in British Columbia
who is claiming to operate under organic principals, and in
personal communications with this salmon farm, we have found
out that in 2006, they have had at least 46 sea lion deaths
in their farms.

And again, this is just one of the inherent
problems with open net aquaculture. You can't control the
inputs and you can't control the outputs. And this farm is
probably as sustainable as you can get in British Columbia,
yet we still have 46 sea lions, major keystone species in
Clockwood Sound, and we have 46 sea lions dying.

Yesterday, I heard there was a chef here talking
kind of on behalf of our groups. And he had mentioned that
organic salmon farming can never happen. Then he was
questioned about it.

And I am here to say, organic salmon farming can
never happen. And I would appreciate some questions about
that. I understood you did have some questions. Can it
ever, ever, ever be organic? It can never ever, ever, ever
be organic. And that's just the way it is.

Organic salmon farming can be less unsustainable.
For sure. And there are some global initiatives doing this.
There is closed containment initiatives. We work in
collaboration with something called a salmon aquaculture
dialogue, which works with WWF, probably about four other
ENGO's, a couple of the main producers globally, some
scientists, some first nations. And we work on moving the
industry to closed containment.

However, closed containment still is not organic.
It's probably less organic than open net pens, but it is more
sustainable. So trying to fit salmon farming in to organic
framework just doesn't work. If it's closed containment,
yes, it's way more sustainable. But at the same time, it's
more industrial. It's more intensive. It's, you have more
fish in one pen. The feed conversion ratio is probably
better, but at the same time, in organic farming, you can't
alter the feed of 80 percent of a species and call it
organic. It's just not possible.
So I would appreciate questions, the same questions
you gave the chef, I would love. Wow, five minutes goes
fast. It's a long flight for five minutes. I'm shocked all
the time. Gee it was quick.
MS. CAROE: Do we have questions from the Board?
MR. REPTA: I would love some questions. I'll just
say, organic and salmon farming can happen. It can be more
sustainable. I know there are some organic producers here of
aquaculture. It can be more sustainable. We've worked for
10 years with the industry to make it more sustainable.
We're not trying to shut it down. Organic is not salmon
farming.
MS. CAROE: Okay. Members, any questions?
MR. REPTA: Remember, it cannot be organic.
MS. JAMES: So if I hear you correctly, you are
saying that you really don't think that organic aquaculture
is a reality?
MR. REPTA: I'm not saying organic aquaculture.
I'm saying carnivorous, open net pen aquaculture, whether
it's salmon farming, because that's what we're dealing with now. But the industry could change to single fish in British Columbia tomorrow. There's 56 licenses of the 120. That cannot be organic either. But, you know, catfish on land could be organic. Tilapia could be organic. It's a controlled, closed system.

But even if you are altering 80 percent of a carnivor's diet, is that really organic? Not really. I mean, you're supposed to adhere to the natural diet as closely as possible. And to me, altering 70, 80, 60, 50 percent of a diet isn't under those principals.

And I come from a long organic background, too. And the one thing, we have -- I'm here on nine groups. Many of us were organic farmers, are organic farmers. I don't recall a time when nine groups would fly to Washington to oppose anything organic. It just doesn't happen. So this is really, I think, I think should be notice that the environmental groups, the ENG groups, the scientists, first nations are saying, hey, you can make it better, but come on, we've got to protect the organic name here.

MS. CAROE: Joe.

MR. REPTA: In my history of organics, it just has never happened before.

MS. CAROE: Joe Smillie and then Kevin Engelbert.

MR. SMILLIE: Just to make your flight worth while.
MR. REPTA: Okay, thank you. Yes, yes. 20 minutes would be great.

MS. CAROE: It's not going to happen.

MR. SMILLIE: The chair would take my head off. But do you have or does your group have any comments on our current recommendation? We are going to go back to net pens, and we will talk again. And we will explore that deeper.

MR. REPTA: Well, I think --

MR. SMILLIE: But we have a recommendation on the table, and have you guys and ladies taken time to look at that recommendation and make some comments about what is the current recommendations?

MR. REPTA: You might update me, but the recommendation that I am talking about is to exclude it right now. We made recommendations, we made a 30-page submission the last time I came here in October.

MR. SMILLIE: Right. Yes. We agree. For now, we're excluding the fish meal issue and the net pen issue. But all the other issues are steps towards an organic aquaculture recommendation are there, and I'm just wondering if you have any comments on those?

MR. REPTA: Well, I mean, the bar is set pretty high, although we, you know, I've looked at the standards and we've talked about them quite a lot, and we've tried to fit salmon farming, because that's the ideal one, into these
standards. And we just don't see it. We just can't, we can't fit it in. We can shove it in, but it's like shoving a square into a round peg.

MS. CAROE: Kevin, do you have questions?
MR. ENGELBERT: Joe alluded to a lot of it, but also, sometime, I'd like to know, did you submit written comments for this meeting?

MR. REPTA: I have them right here, yes.
MR. ENGELBERT: But not before this time?
MR. REPTA: No, not before the meeting.
MR. ENGELBERT: Okay.
MR. REPTA: I was, sorry, I was surfing in Mexico and skiing in Banff.
MR. ENGELBERT: Well, as everyone said, we are going to deal with this afterwards.
MR. REPTA: I know. I know. I understand.
Yesterday I heard that you were going to, so I was like, what am I going to talk about today? I could talk about surfing in Mexico and skiing in Banff, but --

MR. ENGELBERT: But when you submit your comments, what I'm leaning to is, we need specifics. We can't, you know, we can't go by it can never be done, because we have a certain obligation to try to make it happen. And until we can be convinced that it can't, we have to proceed.

MR. REPTA: Well, I think, if you --
MR. ENGELBERT: So when you make comments, we need sound backing, not --

MR. REPTA: Your obligation to make it be done, to me, I don't think you have an obligation to make it be done. You have an obligation to uphold organic production.

MR. ENGELBERT: That's right. Yes, and that's what I --

MR. REPTA: Whether salmon farming fits into that or open net -- it just doesn't fit into it. And I think if you look at the wealth of scientific publications, which I did submit last time, a long list of scientific publications showing impacts of open net aquaculture, it just can't. I'm not saying that it can't be done better, and it can't be done more sustainable. It can. But if it is done more sustainable, it's still not organic.

MR. ENGELBERT: Yeah.

MR. REPTA: I mean, it can be done way more sustainable, and it will be done. And that's what we look for. But at the same time, more sustainable doesn't mean organic.

MR. ENGELBERT: Right. The thing is, we've had, on conference calls, I've heard experts in this field looking at all this information and come away with exactly the opposite opinion.

MR. REPTA: Well, I would like to see your experts.
I would like to talk to them. And I would say, show me some peer review science that says the opposite, and I would gladly like to see that.

I mean, you might see some industry scientists, you might hear some industry folks say, it can be done. But where is the science? It's not published. It's not done. If you look at published science, the opposite.

MS. CAROE: Okay.

MR. REPTA: I think there's been 30 peer review published science saying the impacts in the last couple of years. Has there been one for the industry? It's just, it's not there.

MS. CAROE: One question from Bea James.

MS. JAMES: I was wondering if you might be able to comment, in your experience, if you have any views on the water quality maintenance and off-puts from land locked operations?

MR. REPTA: Actually, I was at a land-based salmon farm before the surfing and skiing tour about a month ago. And it was probably the most sustainable system I've ever seen.

It was raising sockeye salmon. Not a huge, not a commercial scale, but an open net aquaculture. They raise maybe 100,000 sockeye salmon, and they have a nature aquifer running through. Their off-puts, it went through a pond, it
went through a marsh, and the water output was really, really clean. It was super-sustainable. But it still wasn't organic. And the prof, he's a prof out of University in British Columbia, would agree. This was probably the most sustainable system I've ever seen. I'm actually working with this farmer to find a market for him to sell his fish, because it was probably the highest level of salmon farming I've ever seen.

People say, it couldn't be done. You can't do it on land. There's some issues with land-based salmon farming, but it was miles ahead of anything I've ever seen. The water was clean coming in. The water was clean going out. Amazing, you know, wildlife bio-indicators around the farm, raising 100,000 fish. It was great. It was phenomenal.

You can't have that everywhere, of course. The conditions where this farm were, were precisely what this farmer needed, cold water, sockeye salmon. I think he had nine or 10 pens.

At the same time, though, it was closed containment. It was relying on its carnivores, relying on altering the diet of the fish. It was super-sustainable, and the groups that I'm involved with are trying to find a market and say, yeah, this is a green, you know, a sustainable product. But it's still not organic. It's just not. Because we all understand what organic is.
MS. CAROE: Okay.

MR. REPTA: But we want to help this fellow, because he is the highest level that we've ever seen. It was a phenomenal farm. And there's two or three of them now operating in British Columbia. Even if we go to sustainable farms, closed pens and in the ocean, which we are trying to raise funds for from the government, from ministry, it still won't be organic.

MS. CAROE: Okay.

MR. REPTA: It might be less organic.

MS. CAROE: I think we got your message.

MR. REPTA: You got my message. Okay. I appreciate the time.

MS. CAROE: Is there any other comments from the Board?

MR. REPTA: For sure.

MS. CAROE: Okay. Thank you.

MR. REPTA: Actually, I appreciate the time. Thank you very much.

MS. CAROE: All right, Kelly Shea, you are up next. On deck is Harriet Behar. Harriet, are you in here? Great.

MS. SHEA: Good morning, you guys. How are you?

Just in the interest of time I'll sort of skip the opening remarks to thank you all so much for all your hard work, et cetera, et cetera.
But I think it is important to note that it was crucial for the Board to do the in person working session that you did in February. Yet, I think that maybe some kind of public input at that time, and I don't know the best way for it to have been done, but it could have led to some more correct conclusions by some of the committees and subcommittees, and consequently really taken some burden off the Board.

As my friend Jim Pierce noted earlier, I like to refer to 205.606 of the national list as the entrepreneur's list of business opportunities. 606 items are those that can be made organically if the proper ingredients are sufficiently available.

I think it's important to keep in mind that the overarching premise of the 606 list is that the items cannot automatically be used. A certified entity must justify commercial unavailability, and their certifier must grant permission to use the item.

I hope you all received the document I sent into the Board on February 16th. I also sent it to the NOP asking for clarification. OFPA sets forth two different methods for allowing the use of nonagricultural, nonorganic agricultural substance. And did you all receive that letter? Are you going to address it at today's Board meeting? Okay. Never mind. Let's go on. I'll get it to you again. It's really
The secretary has not yet promulgated the emergency decision making procedures. And so as we go forward, if the Board is going to hold as a strict criteria proof that the item is absolutely commercially unavailable at the meeting when you are looking at it, what happens down the road when there's an emergency. There's a hurricane. There's a typhoon. There's a crop failure. And if the Board is only meeting three times a year, there has to be procedures in place for reviewing these items. Okay. So I sucked up some time doing that.

606 items, White Wave Foods, my company produces the organic brands Horizon Organic Dairy, Silk Soy Milk and Tofu Town. And we want to address a couple different items today. Under colors, I want to talk about annatto, turmeric, purple black carrot juice, red cabbage juice, and then fructose, the short chain FOS.

Adding annatto to 606 is really critical. We have been researching and testing organic annatto colorings for the last three years, and we have yet to find a reliable source in the amounts necessary or the proper functionality. One source couldn't provide the product year round, and another source turned our cheeses pink, which my kids thought was cool, but I don't think the average consumer wants pink cheese. So though we're going to continue to
search for an organic source, annatto must be added to 606.

We also support the addition of turmeric as a color on the national list. The Handling Committee noted that more information was needed on the lack of availability of an organic supply. We have been pleased to see a few entrepreneurial companies beginning to provide organic turmeric color.

Horizon Organic and Silk Brands do use organic turmeric color in a couple of our seasonable products, like the eggnog. But we are not able to source enough for some of our product lines that are produced year round. The demand for organic turmeric far outweighs the supply today. So until this market matures, we need you to add that to the national list.

Also, purple black carrot juice and red cabbage juice, they are colors that are needed to provide the red and pink hue lost in the processing of red berry products. Now, in our Horizon Organic Strawberry Single Serve Milk, it comes in little acentric tetra pack. And you can't see it. So we don't put any color in it at all. It's white. Oh, one minute. Okay.

I'll just -- I have all the information showing all the suppliers we've contacted and the unavailability of all these. So we can supply that to you. Okay.

And short chain FOS, it's very crucial that the
Board realize this is a nonsynthetic agricultural product, and it has been used by our company for over four years in our products.

These fructins, inulins, OFS's, FOS that you are going to hear about, they are used today on the market in organic bakery products, organic energy bars, organic cereal, organic yogurt, organic soy milk, and organic kafir. And a number of cert agencies, including QAI, MOSA, Organtile, have all certified these fructins as appropriate for inclusion in organic products. They've allowed their use as agricultural ingredients not commercially available.

And these items are on your plate today because of the Harvey lawsuit, and because of the changes to 606. And I really want you to keep that in mind when you are looking at these, that they have been used in the industry for a long time, and certifiers have found them to be appropriate.


MR. SMILLIE: Thanks, Kelly, especially for the turmeric. Do you have any information on saffron, grape juice extract, grape skin extract, blueberry juice, cherry juice, hibiscus juice, carrot juice, pumpkin juice, tomato juice extract, purple potato juice, lycopene or beta carotin.

MS. SHEA: I have to admit I'm pretty much here for self-serving purposes, talking about the items that we use in our products. I am not a trade association nor a blah, blah,
1  blah. So I'm sorry. I don't.
2  MR. SMILLIE: But I need --
3  MS. SHEA: The only ones that we use --
4  MR. SMILLIE: I needed that opportunity --
5  MS. SHEA: Yes.
6  MR. SMILLIE: -- what we need back from the community.
7  MS. SHEA: I agree. And you know what, I think that the people that use these --
8  MR. SMILLIE: Great.
9  MS. SHEA: -- and they have vested interest in these should be talking about them. For me it's annatto, turmeric, purple black carrot juice, red cabbage juice, and the short chain FOS.
10  MR. SMILLIE: We appreciate your input.
11  MS. SHEA: Okay.
12  MS. CAROE: Katrina.
13  MS. HEINEZ: Hi, Kelly. Thank you for your comments. There was a question earlier about being willing to pay a higher price for some of these ingredients, and would that create the economic incentive. Could you provide some perspective on that?
14  MS. SHEA: Yes. The cost of a product is absolutely irrelevant in determining commercial availability or unavailability. And I think that's really important,
because I've heard it mentioned a couple of times by the Board.

When a certifying agent asks a certified entity about commercial availability or unavailability of a product, we're not discussing cost. We're discussing availability. And we've submitted comments on a definition of commercial availability and unavailability a number of years ago. And economics was not part of the discussion.

MS. HEINEZ: I guess the question is, if you were willing to pay more, could you make it commercially available?

MS. SHEA: I thought that's what I just answered. No. I mean, here is an example. In the case of the purple black carrot juice, okay, so we contacted every supplier out there, domestically and internationally. We could not locate a single source for organic red cabbage color.

In our search for a purple black carrot juice color, only one supplier had organic purple black carrot juice, and that was the juice, not the color form. And they are different. That particular supplier could not have been able to supply us with even the juice.

If we could buy the juice and go find a company that could turn it into a color for us, if that's even possible, due to their own juice needs, they couldn't have sold it to us. So it's not -- for love or money, these
things are not yet available.

MS. HEINEZ: Thank you.

MS. CAROE: Other comments from the Board? I have a couple.

MR. DELGATO: Yes, I do.

MS. CAROE: Okay. Rigo.

MR. DELGATO: So what do you do after that? You can't find it. Nobody is producing it. What's the next step you take?

MS. SHEA: Well, what we've done, you know, we've been doing this for over 15 years, is part of the development, and the reason a lot of things are available organically now is it's education and information. That's going to your suppliers and saying, this is what we want. And really, there is an incentive for a manufacturer to do this. We don't really want to sit back on our haunches and not be able to list things as certified organic on our ingredient declaration. We want them certified organic.

So we actually, our company puts funds into doing the research. We're constantly testing products. And that's at our cost. And it's also encouraging farmers to convert to organic, helping our suppliers find organic products.

Some of, for example, with the turmeric, that's
coming from India. And so it's a matter of educating some of
the farmers over there about why they actually want to get
NOP accredited, because that's another issue. Some of these
spices are grown overseas, and the certification agency might
not be NOP accredited. There's just a lot of layers to it.

But we're not going to sit back, just because you
put it on the list, we don't, you know, go -- and go home and
not do anything. And as soon as it's available, you'll find
me back up here petitioning to have it removed from 606.

MS. CAROE: Do we have other comments from the
Board? Okay. I have a couple. I really have to defend the
Handling meeting in February. As far as public input at that
meeting, we do. It's called a petition. We got the
petition, the petitions. There was numerous contact between
the program and the petitions trying to get more information.

At that time, which was the last minute possible to
make it for this meeting, we considered what was available to
us. We had two options, as I mentioned earlier. Our options
were to proceed with a novo an elicit more public comment, or
to defer, defer until the October meeting. If we did that,
you know, we stop commerce.

MS. SHEA: Agreed.

MS. CAROE: We are acutely aware of the June 9th
deadline in getting these things. This is an atypical
situation. This situation, I don't foresee in the near
future that we'll have another court order pushing us the way we are.

So, yes, maybe unconventional in our approach, but this meeting and these notices sent out were to elicit public comment. And I really appreciate you bringing to the table what you brought today. That's what we were hoping to get, the names of suppliers and the logistical battles that you have in getting these.

And we agree that these things have been on the market, and we want to keep them on the market if the organic consumer has accepted these as organic products. So really more of a comment than a question to you, but I did feel I needed to respond to that.

MS. SHEA: Yeah, and in light of that, I probably should have read my opening paragraphs about how grateful I was to all of you. But it just, I agree that it's a really unconventional time. And we know in the past, when we're looking at material petitions, that the processes always worked.

But I think just due to the nature of the situation, we could have maybe helped, is all I'm saying. You've had a huge burden getting through this. We always just want to help, right, be involved. It's our life, right?

So --

MS. CAROE: Thank you for your comments.
MS. SHEA: But just, I want to be on record as saying, I had no issue that there was a lack of transparency about the February meeting. That is not my issue. I think the Board absolutely has the responsibility and the ability to meet whenever they want. I trust you guys. I just wanted to be able to help. That's all.

MS. CAROE: Thank you, Kelly. Harriet, you're up, and next on deck is Nadine Bartholomew. Nadine, are you here? Nadine? Going once -- there you go, Nadine. Check in with Valerie, please.

MS. BEHAR: Hello. I'm Harriet Behar, an organic farmer, an organic inspector, an organic educator. Thank you for the opportunity to speak and welcome to the new members of NOSB. While I can see that the NOP has made progress in giving direction to certifiers concerning implementation of the organic regulations, there's still a lot of work to be done.

Various directives, guidance, and interpretations are given either to only one certifier at a time, or to groups of certifiers at trainings. This information is not available to all certifiers, nor is it available to the public. It has been over five years since the OFPA was implemented with the organic rule, and the National Organic Program does not yet have a program manual, one that is transparent, clear and effective.
Certification agencies need to have this type of manual in order to become accredited, and it is time for the NOP to put this in place for themselves as well.

In addition, the OPFA voted the appointment of a peer review panel which has not yet materialized. The maturation of the NOP cannot occur, and trust in the organic integrity is lessened without these two critical pieces necessary in the day to day administration of the NOP, as well as peer review of the accreditation process.

I'm concerned that the NOSB recommendation on commercial availability, which directs certification agencies to continually review items on 606 as not currently available as organic will not be consistently implemented by all certification agencies without clear directive from the NOP.

Many other NOSB recommendations have not either become regulation or directives, and to certifying agencies and to their producers. Again, a program manual would hopefully have a process for incorporating these NOSB recommendations into the implementation of the law, or offer a framework for a continued dialogue if those recommendations are not acceptable to the NOP.

The hard work of previous NOSB's as well as your hard work and all of the public comment received represent a strong foundation for retaining the excellent representation of the word, organic, which it currently has in the
The NOP should work closely with the NOSB and not ignore the recommendations. Get them someplace where people can find them and use them.

Another example of this is the recent NOP statement at a certifier training disallowing community growing groups with internal control systems, due to concerns over conflict of interest. A 2002 NOSB recommendation on this type of organic certification system was never implemented by the NOP, and addresses many of these core concerns.

I believe the legitimate NOP concerns of conflict of interest can be dealt with, and I do not see anyplace in the AFPA or the regulation that formally denies this type of certification. Other recommendations have also not been acted upon, such as pasture, mushroom, or aquaculture standards, resulting in inconsistent organic certification.

Organic products command a significant premium in the marketplace due to consumer confidence in organic integrity. Inconsistent definitions of any organically labeled product in the marketplace is damaging to all organically labeled products.

I would like to voice support for clarity on the issue of cloning. Although tracking the progeny of cloned animals may not be an easy job, I believe the organic community should take a strong stance on this issue, and make
it clear that this method, not just for the first, but all subsequent generations, if not compatible with organic production.

The use of GMO crops such as fertilizers, dry soybean meal, mulches like GMO corn stalks and vitamins are currently allowed in organic agriculture, since the specific GMO traits are not being exploited in the foreign system. The presence of these GMO's on organic farms or in organic food can be seen as lessening the integrity of the organic product. And perhaps it is time for the NOSB to look at this issue and openly discuss it, rather than choosing to ignore it and allowing there to be various interpretations of what is and what is not allowed.

I believe the aquaculture standards still need a lot more work, and perhaps the scope to be considered should be narrowed down to the systems that we feel comfortable can meet the current NOP requirements. This would include pond or raceway raised fish, rather than fish in open waters.

Organic fish should be held to the same high standards as all other organic livestock, with 100 percent organic feed and health care. The organic consumer demands no less.

In the NOSB manual it states that annotations should not be changed when materials are offered for the sunset review. This prohibition takes away an important tool
which would allow for modification to better meet the needs
of our dairy producers and safeguard organic integrity.

MS. CAROE: You timed that pretty close. Comments
from the Board. Joe.

MR. SMILLIE: A couple things, Harriet. We will
have a discussion on peer review. Our committee is looking
at it and --

MS. BEHAR: Thank you. And thank you from --

MR. SMILLIE: Right. And we do, we do expect to
have a recommendation for the October Board meeting, and we
are looking for input at this point in time. Also, again,
the group certification issue has just come up. It's not on
our agenda, but our committee will be taking that up, and we
will be looking for comments on the current NOSB
recommendation of 2002.

If there is any update, updating needed on that
document, or any input from the community on that document,
we are looking for input on that document, because that's
basically what we're going to lead with as far as our
committee work. And I'm fairly certain we'll have a
recommendation on that issue for the October meeting, which
is our next meeting.

The only thing I would disagree with you on is, I
believe that the current aquaculture recommendations do
exactly what you're saying here. We did narrow the scope --
MS. BEHAR: Yes. Yes.

MR. SMILLIE: -- to what we felt was, you know, herbivorous fish without net pens and all.

MS. BEHAR: So there is my support.

MR. SMILLIE: Okay. Great.

MS. BEHAR: But one of my points was, is that your recommendations don't always become a strong directive to certifiers, and so some, and it's actually very clear from the NOP that an NOSB recommendation is not the reg. And so my concern is, there isn't a clear process for turning those recommendations into something that is publicly known and used by all, because some do follow the recommendations, some do not.

I just mostly know the upper midwest, and I know maybe eight or 10 certifiers active in that area who are using different interpretations. And it's really hurting farmers and consumers by not having consistent definition. And I think a program manual would help.

MR. SMILLIE: It's very clear the NOSB has outstanding statutory powers compared to other factor groups, and we do have, do have statutory powers as far as the list goes. Anything else that the NOSB recommends is at the pleasure of the Secretary of Agriculture to accept or not accept. They do not have to, nor are they bound to respond to our recommendations if they don't want to.
So all we can do is put them out there, and they do not have any force whatsoever unless it, unless the collaboration, unless they need to utilize it.

MS. BEHAR: And I'm concerned that the commercial availability recommendation that you are making that certifiers need to do on 606 will also not be consistently implemented, because it's not in the reg.

MS. CAROE: Well, let me --

MR. SMILLIE: Okay.

MS. CAROE: There's a couple of things. Valeria Frances wants to talk, but I also want to explain really quickly that, you know, we're developing a collaboration with the program.

MS. BEHAR: Yes, I know that.

MS. CAROE: And it's just gaining leaps and bounds. It really is. So some of the old recommendations back when, you know, the Board was doing a lot of work kind of without, without better communication with the program.

Some of those things stopped because of logistical problems with government. And so they are kind of in limbo land. And I think Valerie is going to speak on that, you know. She has been tasked with looked at all those recommendations, finding out where they are, and seeing what's salvageable and how we can work together on it.

Moving forward, our new recommendations, involve
the program a lot more heavily, so that we can come up not
only with a good recommendation, but a method for
implementing it. And we've had discussions with Mark Bradley
and with the program about certifier training, accreditation,
where can we instill this consistency. So we are acutely
aware of what you've spoken of.

    MS BEHAR: Thank you.

    MS. CAROE: This are growing pains, and this is
areas where we are learning, you know, until we get it out
there and running, we really don't identify all the hitches.
And I think you're going to be seeing some improvements, but
I do appreciate you keeping us updated on what's happening
there. Valerie, do you have comments?

    MS. FRANCES: Yes, Harriet, I just wanted to
address what you said for the record. I mean, I've been, one
of the things I've been tucking in, along with everything
else, is cataloging ever recommendation ever made, and going
back and reading minutes from like 1992 all the way forward.
And I think I must have 10 or 15 pages of spread sheet of
every recommendation and what's happened. I'm working on
that.

    With everything else, you just sort of work real
hard on something, then you have to put it aside and do
something else, and then come back to it. So we will be
getting through these things. It just --
MS. BEHAR: Well, I look forward to seeing the process where some of these recommendations can come into place, and they're open to the public and all certifiers, so there is consistency. Thank you.

MS. CAROE: Okay. We have Nadine up, and then followed by Luke Kazmierski. I hope I didn't hurt that too badly.

MS. BARTHOLOMEW: Good morning Committee members, and attendees of this meeting. I'd like to thank you for the opportunity to comment today. I make these comments on behalf of the Sustainable Seafood Initiative of the Monterey Bay Aquarium, so at the end, I'm not prepared to answer comments outside of what's outlined in this paper.

Since it's inception in 1984, the mission of the Monterey Bay Aquarium has been to inspire conservation of the oceans. For the last six years, the Sustainable Seafood Initiative has been working to foster consumer and business awareness and action for sustainable seafood.

Over this time, we have distributed over 20 million easy to use pocket guides to consumers throughout the United States. We have previously submitted comments during this process, and contribute further to the discussion here today.

First, we would like to thank you for your careful attention to the development or organic aquaculture standards. We applaud your decision to prohibit the use of
open water net pens, and to prohibit the use of fish meal and
fish oil in organic production at this time, given the
opposition by NJO and the uncertainty of compliance of open
water net pens, and wild fish input with organic principals.

We are in support of organic aquaculture in systems
where inputs and outputs can be carefully controlled and for
the species that are compatible with available organic feed
inputs. At this point, it is unclear whether production of
high feed input species like salmon grown in open water net
pens can ever be consistent with organic production
principals.

The inconsistencies with organic production
surround the high use of marine resources for feed, the
effects of escaped fish on adjacent wild stocks, the affects
of disease and parasite transfer from farmed fish to wild
fish, the release of chemicals for health management into the
environment, the disturbance of local predator communities.
Additionally, the nature of open net systems means lack of
control over these inputs and outputs which is inconsistent
with the idea that organic equals control.

All of these scientifically documented impacts, and
the lack of control over inputs must be addressed if
production in open systems can be considered organic.

With respect to the use of fish meal and fish oil
we suggest that certifying the use of wild fish as an organic
feed input is a direct contradiction of organic principals, and the requirements of controls at all levels of production. In addition, the reduction and complete elimination of fish meal and fish oil is also not consistent with organic principals which state that species must be fed a diet consistent with their natural diet. This suggests that fish meal and fish oil will have to be derived from organic seafood byproducts, for example, Tilapia, if carnivorous species are to be certified organic.

Furthermore, although it has been argued that some reduction fisheries are sustainable, present fishery science models give little consideration to the importance of small pelagic fish in the wider ecosystem.

The ecosystem's sustainability of reduction fisheries must be resolved before species heavily dependent on these feed inputs can be certified as either sustainable or organic.

While it is likely that alternatives to fish meal and fish oils will be developed, it is unclear whether the ecological sustainability concerns, and by this we mean both the sustainability of catches and ecosystem effects, needs of sustainability of -- the needs of, sorry, the fish physiology and the tolerance of the human palette can be adequately aligned in a way that is organic.

In closing, the USDA organic label is an
established and trusted name to consumers, and organic production principals were never designed to be all inclusive. We would like to emphasize the importance of ensuring that the aquaculture industry adapts its production practices to meet the principals of organic production, and not vice-versa.

Given the numerous ways that the production of carnivorous fin fish in open systems are incongruent with organic production principals, we conclude that trying to certify these species produced in open systems at this time could erode the high standing that the USDA organic label has for consumers and business.

I'd like to thank you again for the opportunity to comment on behalf of the sustainable seafood initiative of the Monterey Bay Aquarium.


MR. KAZMIERSKI: Hi, good morning. Coni Francis that's scheduled to speak after myself, is also from GTC Nutrition. We have a Powerpoint presentation that we put together, and I'm planning on doing the first half of the presentation, and Coni Francis was going to do the second half of the presentation, if that's okay with the Board.

MS. CAROE: Board members, can you see the screen?
You might want to scoot around.

MR. KAZMIERSKI: The presentation is being passed around. A note with the screen that's up right now, and the presentation that's being handed out, we did reference our comment that was sent in for the initial recommendation that was done in February. It's on the slide that's up there now, but not on the presentation that's being distributed.

All right. First of all, Coni and I would like to thank you for letting us speak today on short chain fructoligo saccharides, or short chain FOS. And we're here to answer any questions that the Board has with short chain FOS.

Can you go to the next slide? Short chain FOS is found in nature at very low levels in a variety of fruits, vegetables, and grains. In order to obtain the same amount of short chain FOS as found in our product, you can see by the slide, one would have to consume 22 bananas, 15 onions, and 383 garlic cloves. Next.

Processing of short chain FOS begins with sugar beet and sugar cane plants. The beet or cane sugar is fermented using a naturally occurring enzyme to make the short chain FOS. I'd like to note that the short chain FOS that's created is the same form as short chain FOS that is found in nature. Clearly, by this, it is an agricultural product.
Short chain FOS is currently used in organic products, which means it has been approved by a USDA accredited certifying agent.

Short chain FOS is made by the fermentation of sugar. As defined by law in the NOSB recommendations, fermentation is an approved processing method for nonsynthetic substances, and therefore short chain FOS should be considered nonsynthetic.

When utilizing the NOSB's decision treaty to determine whether or not a substance is agricultural versus nonagricultural, there are several questions that are posed. First, is the substance in question derived from an agricultural product? And in regard to short chain FOS, the answer to that would be yes. The substance is derived from a sugar cane or sugar beat plant.

Has the substance been processed to the extent that it's chemical structure has been changed? The answer to that question is yes. The sugar is fermented to make short chain FOS.

Is the change in the chemical structure a result of a natural occurring biological process such as fermentation? Again, the answer would be yes. The sugar is fermented to make short chain FOS, the result of a natural occurring biological process which is fermentation.

Again, I guess I would want to reiterate with that
slide that the product would be considered agricultural, and would be properly classified under 205.606.

All right. In the initial Handling Committee recommendation for short chain FOS, there was some confusion in regard to the status of the substance. And I just wanted to note, in November of 2000, the FDA did affirm that short chain FOS is indeed generally recognized as safe.

Next line. Short chain FOS is agricultural and nonsynthetic, and the question of essentialness does not -- and therefore the question of essentialness does not apply. However, short chain FOS is essential to organic handling because it's a prebiotic fiber source. It enhances mineral absorption. It improves the digestive function and regularity, and also inhibits pathogen growth.

Coni Francis is now going to talk in regard, more to you about the essentialness of the product.

MS. FRANCIS: Good morning, and thank you for letting us come and help to clarify some of the things that were not clear to the Board. And we do apologize that our petition wasn't clear enough for you to understand.

I'd like to go forward and talk about each of these things, the fiber source, and the prebiotic function of it, and talk about the essentiality of it.

If you look at the definition that the American Association of Cereal Chemists has for fiber, you'll see that
oligo saccharides is, in fact, highlighted as part of that definition. So this definitely is a fiber.

In terms of the prebiotics of this particular thing -- in terms of fiber, let's go back and talk about that, one of the problems that we have in this country is that there is definitely a gap in the amount of fiber that's recommended, which is about 28 to 35 grams per day, and the amount that's actually consumed, which is about half of that.

And so we are not consuming enough fiber, and therefore we are having issues that are coming up, you know, that are health issues. And certainly we want to be able to provide fiber to individuals in the food stuffs that they are eating.

In terms of this being a prebiotic fiber, if we look at the definition of a prebiotic fiber, it is a substance that, in fact, helps the good bacteria in your gut to grow. And this is a positive thing, because, in fact, if we nourish the gut, then we improve digestion, and we improve a lot of other things. And most of the prebiotics are oligo saccharides that are used to nourish these prebiotics.

I also want to speak to the calcium, magnesium and other minerals absorption, just by giving you a few statistics about bone health in this country. Right now about 90 percent of girls and about 75 percent of boys between the ages of nine and 13 are not getting enough
calcium to achieve peak bone mass.

Now, if we think that those of us who are in our fifties and sixties are looking at an issue with osteoporosis, I am very frightened about what's going to happen when these children reach their thirties and forties, because they are not getting enough calcium from their diet.

In addition, 10 percent of Americans overall have low bone mass, and an additional statistic is that about 50 percent of women and 25 percent of men over the age of 50 will likely suffer an osteoporotic fracture in his or her remaining lifetime. And so our intention is to be able to utilize more of the calcium that's found naturally in foods.

Again, we have a gap of calcium between what's recommended, which is about one to 1.2 grams per day, and what we're taking in, which is about half to three-quarters of what's required. And considering the fact that we only absorb about 30 percent of the calcium that we take in, if there is a substance that would allow us to achieve more calcium absorption, it makes sense to do that when it's also providing other benefits in terms of fiber and the prebiotic effect of that.

In terms of digestive health, about 20 percent of Americans are suffering from some kind of digestive disease. And those of you that have had the occasional heartburn or a little bit of stomach upset, you know how annoying that can
be, and how difficult that is for an individual to live with on a regular basis. And so if there is something that we can naturally eat in our diet that, in fact, will allow us to have better digestive health, that's certainly a positive in terms of where we would go.

This particular graph is just to show that with short chain fructoligo saccharides, in fact, it doesn't matter whether it's at the beginning of the large intestine or the end of the large intestine. You can see that when short chain FOS is added to the diet, there is definitely an increase in the number of intestinal cells per crypt, which means that you've increased the absorptive area, and in fact, you are improving digestion because you have more surface area for nutrients to be digested upon.

Also, one of the things that these fructoligo saccharides do when they are fermented in the intestine, the bacteria there creates something called short chain fatty acids. These short chain fatty acids reduce the ph in the gut, and therefore they increase the ability of the bifidobacteria to live, but it decreases the amount of pathogens.

So this is showing that as we have average counts of bifidobacteria increasing, in fact, clostridium profringins, which is a known born food borne pathogen actually decreases. So, you know, we don't change the number
of bacteria in the gut, but we can modulate them to be better bacteria for us in terms of health.

So just to reiterate, short chain fructoligosaccharides or short chain FOS, is consistent with organic principals. In fact, it is found in nature in very small amounts, but the product that is produced is exactly that, that is in nature. And it is created by fermentation, which is a naturally occurring process.

And therefore, we would respectfully request that you add it to the national list as a 606 category.

MS. CAROE: Thank you. What timing.

MS. FRANCIS: Right on.

MS. CAROE: Board members, questions? Comments?

MS. FRANCIS: We can both answer questions.

MS. CAROE: Questions or comments? Bea.

MS. JAMES: Well, first of all, you didn’t mention anything about the possible side effects of FOS, and I know that some people do have a negative reaction in their digestion.

Secondly, I, you know, I don't, I don't understand if this is an added value ingredient into products, or if it is something that is necessary and has to be in the products for it to be proper form, function, quality, texture.

And I think that the side effects of a poor diet are not necessarily the responsibility of organic agriculture
or products. If it were, there would be a lot of other added value ingredients that we would be considering because, as you know, most people do have struggles with having good diet.

So I was just wondering if you could make comment on the essential importance of FOS being in an organic product?

MS. FRANCIS: I think part of that is the fact that if we look at what the consistent values, you know, people think of organic as being healthier for you, and these products are being used, these oligo saccharides and prebiotics are being used in all sorts of conventional products.

And so what I would hate to see is for a consumer to have to make a choice between eating the organic version, or the regular version, because one of them is going to provide me with this benefit of having additional calcium absorption, better digestion, et cetera.

We have provided a disk with a lot of the research to the Board. We gave it to Valerie so that you all would have that available. Our grant status shows that you can get up close to around 30 grams a day of this product, and you will have mild gas and bloating from this.

Typically, our recommendations are that people don't need to consume any more than three grams a day in
order to receive these benefits. And we have studies that show that at that level that they can achieve this benefit.

MS. CAROE: Tracy.

MS. MIEDEMA: If, for the sake of argument, we call this product agricultural and we call it essential, can you comment on availability of an organic version on the horizon?

MR. KAZMIERSKI: Yes. GTC has been looking into producing organic short chain FOS. We've run into some hurdles in regard to sourcing raw materials that would fit with organic principals, but it is something that we are pursuing.

MS. MIEDEMA: What are those materials, and what are the problems?

MR. KAZMIERSKI: The main ingredient is liquid sucrose that's used in production. We, in the United States, we're finding or having difficulty sourcing that, the availability of the liquid sucrose in organic form.

MS. MIEDEMA: What are the options? What are you thinking? Is it a number of years?

MR. KAZMIERSKI: We're actually, depending on what we find, we're looking at about a year from now, if we can find either a liquid organic sucrose or a means of converting a granular form of organic sucrose to liquid for the manufacturing.

MS. FRANCIS: Part of the problem when we do find
the liquid organic sugar is that it has a very short shelf life. And getting it transported to where we do the manufacturing can be problematic. So we start with a liquid product, and then we actually dry it so that it becomes a powder.

MS. CAROE: Kevin, you had a question?

MR. ENGELBERT: So the liquid sucrose you are referring to that you need to grow organic, are you saying there is no source of organic beets, or there is no source of a processing for that? I'm not sure what --

MS. FRANCIS: It's just, all of the organic product is made into granular sugar. And so up to this point in time, we have not found a source that is liquid that we are able to get in large enough quantities to supply for the organic market. And so we are looking into how we get that into the liquid form such that we can then make it.

MS. CAROE: Joe, did you have a question?

MR. SMILLIE: Yeah. Saying basically what Kevin said again is, if cane is included, I'm not an expert in the subject, but as far as I know, there is liquid organic sugar available. Again, quantities, quantities, I'm not sure of. Once again, though, reminding everyone that it's a two-step process, putting it on 606 doesn't necessarily allow its use, if organic is available, and it would serve, you know, the industry well that the connection between the
organic liquid sugar and your manufacturing process get connected so that it can become available organically.

MS. FRANCIS: And currently, we are the only manufacturer that makes this particular product, and so therefore there isn't any other availability. It's not like some other prebiotics that there are a number of manufacturers.

MS. CAROE: I just, really quickly, want to remind the Board that the criteria for essential in organic is a criteria under 600, 205.600 B, which is for processing aides. So under B for processing aides -- yes. It's 606 B(6) is the criteria for being essential for organic. This is an ingredient, not a processing aide as we're hearing.

MS. WEISMAN: I also wanted to add further to that, that these criteria in 600, these, in terms of what's essential, these have to do with synthetic and nonsynthetic substances only. They do not refer --

MS. FRANCIS: Right. And we are saying to the Board that we believe that we are a nonsynthetic. But we're saying, even if you consider us as synthetic, we still are showing that, you know, there is a reason to include these products.

MS. CAROE: Just, okay. I think we are clear. I just want to point out that the criteria is to establish for processing aides, and we are talking about a petition for an
ingredient. Okay. So thank you for your comments. Thank you for the Powerpoint presentation.

MS. FRANCIS: Thank you.

MS. CAROE: I have nobody on deck right now, because I was confused. But is Bob Hutkins in the room?

MS. FRANCIS: Actually, I have his proxy.

MS. CAROE: You have his proxy.

MS. FRANCIS: Yes.

MS. CAROE: So are you speaking now again, or are you --

MS. FRANCIS: Yes, I can do that, if that's okay with the Board.

MS. CAROE: Well, you are signed up.

MS. FRANCIS: Yes. I have his proxy.

MS. CAROE: Okay. On deck then is Kimberly Gilbert. Kimberly, are you in the room? Okay, great. Thank you.

MS. FRANCIS: This is a letter actually written to Valeria Frances, the Executive Board, and this is from Bob Hutkins who is a professor at the University of Nebraska, Lincoln.

Dear Ms. Frances, I am writing in regard to the status of short chain fructoligo saccharides. I am a professor of food microbiology at the University of Nebraska and have conducted research on prebiotic oligo saccharides
for nearly 10 years.

I publish numerous peer review papers in leading scientific journals on prebiotics and am considered an authority on the metabolism of prebiotic oligo saccharides by intestinal bacteria. In 2005 I was named the kem sahani professor of food microbiology for my research on prebiotics and probiotics. I am a charter member of the International Scientific Association for probiotics and prebiotics, and am currently on the Scientific Advisory Board of the International Probiotics Association and the GTC Nutrition Scientific Advisory Board.

I belong to the American Society for Microbiology and the Institute of Food Technology. I have also served on the board of directors of local food cooperatives, and I was recently an instructor during a recently held training workshop for organic food certification.

Fructoligo saccharides or FOS and other prebiotic oligo saccharides have gained significant attention among scientists, public health practitioners, and consumers, due to their ability to promote gastrointestinal health in humans and other animals. The prebiotic concept is actually based on rather simple, ecological principals.

Briefly, dietary FOS or FOS and other prebiotics escape digestion in the hydrolysis in the stomach and small intestine, and pass in tact into the colon. The most, most
intestinal bacteria lack the metabolic wherewithal to ferment these carbohydrates, and cannot use them as a growth substraight or energy source.

In contrast, other intestinal bacteria, in particular strains of lactobacilli and bifido bacteria do have the ability to ferment FOS. This gives these latter bacteria a decided competitive advantage in the intestinal environment.

Importantly, greater proportions of lactobacilli and bifido bacteria in the GI tract are positively correlated with improved gastrointestinal health. Thus, diets containing prebiotic FOS enrich for desirable bacteria at the expense of less desirable bacteria.

There is now substantial and convincing evidence in the biomedical and health sciences literature that prebiotic FOS stimulates and enhances growth of beneficial bacteria in the GI tract. The overall positive health effects of FOS are also well-established.

These ingredients have grass status, behave and are considered as dietary fiber, and pose no safety risk to consumers. They are widely used in Europe and Japan and throughout the world. They are produced naturally via fermentation with fruit grade microorganisms and are indistinguishable from the FOS that are already present in onions, garlic, and a variety of other foods.
Based on the collective scientific research from my lab and others, I conclude that FOS and other prebiotic oligosaccharides are safe and natural, and have the potential to improve human health significantly. Sincerely, Robert Hutkins.

MS. CAROE: Thank you. I don't know, can you answer any questions for --

MS. FRANCIS: I certainly could.

MS. CAROE: Questions from the Board? We don't have any anyways.

MS. FRANCIS: Okay.

MS. CAROE: Thank you.

MS. FRANCIS: Thank you.

MS. CAROE: Up next is Kimberly Gilbert, and on deck is Steve Fennimore. Steve, are you there? Just before you get started, I just want to ask the Board, we have six more speakers, seven more speakers including Kimberly. Can we hold out for a break? Is everybody okay? All right. Thank you, Kimberly.

MS. GILBERT: Okay. Thank you. I'm Kimberly Gilbert from Dow AgroSciences. Thank you for letting me respond to your comments on pelargonic acid. Dow AgroSciences is a petitioner for pelargonic acid to be listed, to be listed on the organics products list.

We are petitioning for use in farmstead
maintenance, roadways, ditches, as well as on ornamental
crops. We have rendered our petition for that.

Pelargonic acid, as you know, is a naturally
occurring fatty acid. It is contained already in a variety
of plant and animal foods, and nonfood products. It's even a
food additive and is used in processing programs right now.
It is currently registered with the EPA as a broad spectrum
herbicide and it is a nonsystemic contact herbicide.

Next slide, please. In your comments, there was a
question in regards to is pelargonic acid a soap? What is a
soap? It is a cleansing agent made from the salts of
vegetables or fatty acids, or animals fats. Natural soaps
can be sodium or potassium salts of those fatty acids.
Originally, soaps were made from boiling lard or other animal
fat together with lye or potash.

The term soap refers to the metallic salts of long
chain carboxylic acids. And that carboxylic acid is marked
by the presence of the carboxyl group, or the CO2H. And on
the next slide you can see that pelargonic acid does contain
that carboxylic acid piece of its molecule, the nine carbon
chain. Okay.

In addition to having the chemical structure of a
soap, it also has the mode of action of a herbicidal soap.
As you can see here, the free acids accumulate in cells
causing intracellular ph changes that lead to loss of cell
membrane integrity, cell leakage, and cell collapse, resulting in death of the plant tissue.

And in addition, per the TAP report, the references that went into the creation of the TAP report did refer to pelargonic acid as an example of a herbicide, often referred to as a herbicidal soap. Therefore, pelargonic acid is a herbicidal soap, based on its chemical structure, its mode of action, as well as it's already recognized by university and growers out in the community right now as a soap.

We do agree, there are other organic alternatives to this that are on the market right now, corn gluten, vinegar, clove. However, it's our understanding from university researchers and growers that some of those do not give consistent and adequate performance, as opposed to what pelargonic acid may provide.

In addition, yes, there are other cultural practices that could be used versus this herbicide, manual removal. However, that is time consuming, expensive. Pulling the weeds could disturb the roots of your ornamental plants, also contributes to soil erosion, and as well as disturbing the soil often creates more germination of the weed seeds.

Why we are petitioning for this is our end use product site, it has been requested numerous times from growers for another tool for the organic tool box, and we
hope that pelargonic acid would provide a sustainable natural
product that's more efficacious and easier to use than some
of the current alternatives. Yes.

MS. CAROE: Thank you for your presentation. Board
members, do you have questions? Gerry.

MR. DAVIS: In your presentation you make a
statement about carboxylic acid being considered a soap. Do
you have any specific references that can verify your
statement? You mentioned that --

MS. GILBERT: Well, actually, where I got that one
statement was about chemistry.com. I took that from that.
We do have other publications, I'm happy to provide for you,
as well as Wicopedia online, and --

MR. DAVIS: But we looked up some of that
information as part of the committee's deliberations, and
they mentioned the carboxylic acid part that they don't make,
they didn't make the direct statement that that is a soap.
And that's what we were -- we did not have the
information needed to -- we're not chemistry experts, and we
were waiting to hear from someone to say nine chain
carboxylic acid in the form that your material is, is a soap,
by something, some documentation that that is true. All we
had was just the statements by people that aren't backed up.

MS. GILBERT: Okay. We can definitely provide hard
and fast publications or data to back that up.
MR. DAVIS: That's what was needed.

MS. CAROE: Just before we take anymore questions, herbicidal soaps are on the national list and allowed. So I'm wondering, if you are saying that this is a soap, and it's a herbicidal soap, why are you petitioning anything if it is already on the list?

MS. GILBERT: I don't believe pelargonic acid is on the list.

MS. CAROE: But if it's a herbicidal soap, it fits into the category that is on the list.

MR. DAVIS: But that's the question. That's what we're getting at right now. It is truly recognized as a soap.

MS. CAROE: Got it. Other questions from the Board? Statements? All right. Thank you so much.

MS. GILBERT: Thank you.

MS. CAROE: Next up, Steve Fennimore. I hope I didn't hurt your name. Steve, you have a proxy as well?

MR. FENNIMORE: Yes, I'm speaking for Richard Smith. I'm Steve Fennimore. I'm --

MS. CAROE: Okay, hold on one second. I've just got to get somebody else on deck. Mike Thorp, are you in the room? Mike, you'll be up after Steve. Thank you. I'm sorry. You can start.

MR. FENNIMORE: I'm an extension weed science
specialist with the University of California Davis. I'm based on Selenus. I primarily work on cool season vegetables such as lettuce, broccoli, spinach, celery.

I have a lifetime of experience in agriculture from Oregon's Willamette Valley, where I grew up. I worked in industry in Mississippi. I also worked a number of years in the midwest, and now I am back in California again.

I appreciate the complexity that this Board deals with, with all of agriculture in the U.S. I have just seen part of it, and I am by no means unique with that cross-section of agricultural experience.

The one thing I want to impress with you, after reading the comments, I'm not sure that the comments of the Board necessarily appreciate the complexity of managing weeds in organic or in any agricultural system. And so that's what I want to emphasize.

I was on the organic research panel with USDA CSRES two years. And projects which were proposed which did not deal with organic systems in a systematic manner were soundly rejected.

Some of the comments that you made in the rejection of pelargonic acid imply to me that a lack of appreciation of the complexity and the need for tools in the system. And so my comments are going to be made to, speaking to the comments made in the rejection.
I have tested pelargonic acid several times. I've tested a number of organic products, including corn gluten meal, acetic acid, various vinegar formulations. And one thing I will say about pelargonic acid is that the formulation is actually a commercially viable formulation. It is on the market. It is making it as a conventional herbicide. And it's got some pretty good competition there. I think that speaks to the quality of the product. But what I get are consistent results. And I guess I'll challenge you all to, other than with a disk blade, which tillage does work every time, or generally every time, to get the consistency from some of the other products, because we have tested them.

There is no such thing as a weed. There are over 300 species of weeds recognized in the world. Some of them are perennial weeds, field bind weed is extremely difficult to manage. And so to make simplistic generalizations, the fact that a product should or should not be considered organic, I think one needs to appreciate the complexity. So one, I do know the product works. I have tested it conventionally. But what my point is, is integrated wheat management requires many different tools, because there are many, many different situations. And weeds are very effective at going from seed to seed in a very short period of time.
For example, shepard's purse. I have documented it going from seed, from emergents, to setting a viable seed in 40 days or less. In our climate it can do that.

I will cite the research of Andrea Grundy in England. She documented transitions from organic to conventional in England. And what, and consistently what researchers find is that there are increases in the weed seed bank, thereafter, during the transition. After several years, there seems to be some stability. But generally, organic growers are dealing with a higher weed population.

The reason is, this is recognizing weed science, whether it's right or not, it's sort of the consensus of the time, is that when you remove tools from, weed control tools, that you increase your weed control problems. So if you do not, for example, in an organic system, you do not have a residual herbicide, pre-emergent herbicide, and some would claim that corn gluten meal fits this. I would strongly challenge that.

You do not have residual weed control. You have post-emergents weed control. You can only control emerged weeds. And emerge weeds are only a very small fraction of the total weed population. Most of the weeds are seeds in the soil, seed bed. And so you need multiple tools. I will say that again and again.

One thing that you did not comment on here, you did
not recognize, apparently, is the use of propane flaming. Because some of the comments in here imply that herbicides are not necessary if we do, if we farm properly, we use cover crops, we do crop rotation, that we simply don't need these herbicides. And I guess I would really challenge that, because I'll give you an example, and this is a real guy. His name is Phil Foster. He raises organic onions in Holister, California. And what he does is, he prepares a stale seed bed. He has a raised bed. He plants -- he pre-irrigates, that is irrigation prior to the planting, and he removes the weeds with a Littleton cultivator. He comes in, if he has time, pre-irrigates again, and removes them with propane. The trick is to try to not disturb the soil. My point about the propane is, this is a real guy in a real production system, and it really works. The thing is, going over it with propane is basically a substitute a conventional grower might use Roundup or some other product in that instance. He's using what he can. He's compliant. He's a good farmer. He's highly skilled. But what that means is there is a need for a product that goes quickly over a field and removes weeds. The trouble with propane, propane is subject to the world price of energy, creates CO2, and we now have, we are trying to be compliant with the Kyoto Treaty in California, and perhaps the rest of the country will finally follow.
But I think we need to be conscious of this, because the world is absolutely taking it seriously. So, and also, it's a hazard. Propane is explosive. It's also very hot, and there are some worker safety issues.

So, and the other issue, shallow tillage is used to remove weeds from parastial seed beds, but you can't always do that. Rainy weather often interferes with that. Hillsides and such, you've got erosion issues. You just can't always put the tractor in the field.

And there are a lot of places where you can't use tillage. You can't use it everywhere in an orchard, in a vineyard. You can't use it that close to an irrigation valve. And so those are all places where something like propane, if you can use it, if it is a dry part of the season, you might not be able to use it because of a fire hazard. I would argue that something like Sife would be an excellent product to be able to use in an organic farmstead around irrigation valves, for example.

Okay. Vinegar. There's a comment in here that vinegar or acetic acid is a potential substitute for this pelargonic acid. And I guess, you know, the comment is made, up to a 20 percent solution. Has anybody here tried a 20 percent solution for acetic acid? It's very caustic. You do not want to get it in your eyes. You do not want to get it on your skin.
Also, it's very caustic to equipment, to nozzles. Those of you who may have used sulfuric acid will know, because it was used in onions, and it still is in some places, is extremely corrosive. And so this is, I'll just tell you straight out, it ain't easy. Maybe on paper it's there, available, but I'll tell you, just try it. It's not easy. And it's not fun. And it's not very nice.

Corn gluten meal. Yes, corn gluten meal is listed as an alternative. You quote Penn State. But you know, you say that Penn State lists it as a less toxic product. But what you didn't say, does Penn State say it works? I didn't see that comment in here.

I have tried it, and I have submitted to you a test we did a number of years ago, and it isn't just me. There's a number of colleagues who have tried it. We've tried to duplicate some of the work that's come out of Ohio State, or Iowa State, sorry, and have not been successful in replicating that work.

And I will close with just salt, which is listed as an alternative. Nobody would put sodium on their field. It's toxic to plants.

Cover crops and rotational crops were listed as an alternative. As a substitute for herbicide, I would say cover crops are in the field for a few months, perhaps. We grow crops year round in California. And also crop rotation
is listed as an alternative. Crop rotation and cover crops are extremely important, but they are integral tools, and they need to be utilized with a whole systems approach that includes an herbicide.

   I would argue that the growers already using compounds like herbicides in their system, and I'm talking about propane, this offers another alternative. I'm done.

   MS. CAROE: Hold on. Let's see if we have questions. Kevin.

   MR. ENGELBERT: I know we're running short of time, and I'll make it brief, but I want you to understand some of our perspective. We don't look at weeds, I'm an organic farmer, as a necessary evil. We use them to gauge the health of our fields. And we don't want the mentality to have farmers to go out and see a weed and spray it. Weeds are trying to tell farmers something is wrong with their soil.

   We use, you mentioned Shepard's purse. We used to have severe problems with Shepard's purse on our farm 30 years ago, when we were farming chemically. We don't have it on our farm anymore, and we didn't use any herbicide to get rid of it. We took care of our soils properly, let the rejuvenate and become healthy, and that has taken care of the problem.

   So I just want you to understand a little bit. It's not a case of not understanding the complexities of the
situation, but that's where we're coming from as we look at these things and, you know, make our decisions.

MR. FENNIMORE: What do you raise? What are your crops?

MR. ENGELBERT: Field crops, mainly.

MR. FENNIMORE: Okay.

MR. ENGELBERT: Some vegetables, but mainly field crops.

MR. FENNIMORE: Okay. I guess I realize the difficulty of establishing a seed bed for lettuce or for spinach or other small seeded crops. It's difficult to do with weeds. And given the food safety issues, and the disease issues, we don't have all of the genetic resistance to diseases that many of the field crops do.

I understand what you are saying about the soil health, but I guess I would also contend that organic agriculture has a longer history than conventional agriculture. And I'm talking about the 7,000 years of history. And weeds have been friends, companions throughout.

They are a cost.

I appreciate your position, but I don't know that it necessarily applies across the country in all situations.

MS. CAROE: Jeff.

MR. MOYER: Yes, my understanding is that this petition is not for crop land.
MR. FENNIMORE: That's my understanding, too, that it's for farmstead and ornamental use. Yes.

MR. MOYER: So in that case, it wouldn't help your producers with onions?

MR. FENNIMORE: Not yet, I guess. Not at this point. We need products like this, and I'm responding to the comments in here which implied that herbicide-like products are not needed. And I guess, personally, I don't think you guys should be dictating what a farmer should do. I think that should be, the decision would be left up to the marketplace. That's my opinion. I'm exercising my academic freedom to say that.

MS. CAROE: Joe.

MR. SMILLIE: Probably Julie is going to ask this, is it a soap?

MR. FENNIMORE: I'm not a chemist.

MR. SMILLIE: Right.

MR. FENNIMORE: I think that that question needs to be issued. From what I know of organic chemistry, it looks like a soap to me, but that's my opinion.

MS. CAROE: Gerry.

MR. DAVIS: We're short of time so I'll shorten my comments to only one. One of the primary natural materials or types of materials that we mentioned as an alternative was clove oil, things like that. And I noticed a curious lack of
mention from your presentation, there are products being sold in California that are clove oil, cinnamon oil materials, that I have personally looked at, and they are quite active as herbicides. And I wondered what experience you had with them?

MR. FENNIMORE: Well, I couldn't say everything in 10 minutes, but I did submit these written comments to you. I submitted a paper, a peer review paper from Weed Technology. And here is my comment. I'm quoting from our paper.

Percentage weed control with clove oil. I'll go with a number of weeds, it actually provided fairly poor control of purslane, provides poor control of grasses. The cost was quite high for effective weed control. The problem that we had is that the labeled weed control rates for clove oil, for example, were too low. And we tested effective rates, and came out with a cost of over $500 an acre. So yeah, I see --

MR. DAVIS: Was that a commercial formulated material?

MR. FENNIMORE: Yes.

MR. DAVIS: Or was that a straight clove oil?

MR. FENNIMORE: Yes, it was. It was. I don't remember off the top of my head.

MR. DAVIS: All right. You submitted those
comments in writing to us?

MR. FENNIMORE: Yes, I can give you another copy, right here.

MR. DAVIS: All right, great. Thank you.

MS. CAROE: The Crops Committee can take that up then in reviewing those comments. Thank you. Do we have any other comments from the Board? Okay. Thank you so much. We have Mike Thorp now and MJ Marshall, you are on deck. MJ, are you here? Is MJ Marshall in the room?

Before you get started, there has been a request that the conversations in the back of the room be taken outside. It's a little distracting to some of the people that are trying to listen to the commentors.

MR. THORP: Good morning. My name is Mike Thorp, organic manager for Tanimura and Antle based out of Selenus, California.

I've farmed organically for 20 years in the central California area, and have tried many of the approved materials. I will not say that some of them, of the other approved materials don't work. I just believe that Sif could be a good companion to some of those, and would work well on hard to kill weeds.

We have tried vinegar. We have tried corn gluten with very little success. We've also worked quite a bit with propane burners, but my main concern there is worker safety,
The other issue that has come about most recently is with the food safety for leafy greens being put into effect after the e coli outbreak of September 14th of last year. I think we do need more materials to clean up borders and ditch banks and roads, because those are going to be really looked at for mitigating road, unswept tiles, and other wildlife, just to keep the food safety issue at its best. So that is all I have.

MS. CAROE: Thank you. Hold on. Any comments? Thank you so much for your comments. MJ?

MS. FRANCES: She just stepped out.


MR. THEUER: I'm ready. Start the clock when I get everything organized. Thank you. My name is Rich Theuer. I'm from North Carolina. And I'm a consultant to industry. I've done a few other things, but I'm representing today, George Westin Bakers, who petitioned the committee, the NOSB, to allow and add natamycin to the national list at 605 A.

Now, I'd like to thank the committee for, the Materials Committee for its report as a checklist of things that we either did not give you enough information or we were not specifically precise enough to allow you to make a
decision. So as a boss once said, no is a request for more information, and that's why I'm here.

The committee report, as I synthesize it has said that natamycin was nonagricultural, synthetic, preservative, not needed for bread. Can I have the next?

Well, the position is, we agree with you, it's not agricultural. We disagree on nonsynthetic because by law and by the operation of the definition in the OFPA it is nonsynthetic. We agree it's a preservative. And believe it or not, we agree that it's not needed for bread. Could I have the next one?

It may not be needed for bread, but it's desperately needed for fresh English muffins. Now, I'm glad you are laughing. Can I have the next one, please?

This is an English muffin. It comes from the bakery. We're talking about fresh English muffins. Never frozen. In about two days or three days after it's baked, it shows up in the store. It has a shelf life label of 13 days. It's good for about 16 or 17 days before it turns moldy. Could I have the next?

That's a moldy English muffin. Now, you say, well, that green stuff is mold. It's Penicillium species, Aspergillus. I learned on the weather channel the other day that 22 percent of the American population, and I'm one of them, has allergies. Mold allergy is real, and moldy food, I
found on Medline, can actually produce death and anaphylaxis if you're sensitive and the mold count is high enough. Moldy is bad. Can I have the next slide, please?

So, why is it not necessary for bread, and why is it necessary for English muffins? And it's a very obvious answer. One is moister than the other one. The water activity of an English muffin is much higher than of bread.

English muffins contain more and 40 percent moisture. Breads, rolls, buns, must contain less than 38 percent moisture per FDA regulation. Can I have the next, please?

These are data taken from the ARS nutrient data laboratory database on the web, and it shows the moisture content of various baked goods. You'll see on the bottom, break, French or Vienna bread, they're about 28 percent moisture. Old bran muffins, 35; bread, whole wheat, commercially prepared, 38, against a 38 max in the regulation. English muffins are up above 40, 42-45 for whole wheat ones. Could I have the next one?

These are the data taking it one step further, showing the standard error and the number of samples of English muffins we tested by the USDA and English muffins plain. And it's pretty clear that that 42.1 percent level has an end of 140, standard error of 0.2, standard deviation would be about 2 or a little bit. So 40 percent seems to be
the big line. Could I have the next? The next, yes.

So, what did the petitioner do? It said, are there any other nonsynthetic preservatives on the national list? And the answer is yes. Citric acid, lactic acid. Could I have next?

We tried those. We tried citric acid, lactic acid. They were too tart, too sour. So tried again. Could I have the next one? Tried citric acid and organic vinegar, source of acetic acid, another antimicrobial, antimycotic. That one was tried. The commercial shelf life was 10 days, which is not adequate. Can I have the next?

Tried to sell them? It didn't work. They failed. The taste was too sour. And so you have a chance to have something to eat. We have -- let me get these out very quickly. My time is running out. You have a chance to taste them. Could I have the next one, please?

Now, this is what our -- well, they'll be here, and I'll give them to you in a minute. Our petition was to say, packaged back goods, yeast leaven, yeast leavened backed goods. Could I have the next one, please?

That was really too broad. And the really precise requirement is something containing more than 40 percent moisture, and for the treatment of English muffins, nothing else.

MS. CAROE: Thanks Rich. We do have the rest of
your slides in hard copy. And we'll accept those as comments as we look at these materials.

MR. THEUER: Okay.

MS. CAROE: Do we have any comments from the Board? Questions? Hearing none -- Jeff.

MR. THEUER: Yes.

MR. MOYER: Rich, what is the difference in shelf life when you use the product versus when you don't use it?

MR. THEUER: If you have a --

MR. MOYER: I mean, that's really what you are talking about, shelf life.

MR. THEUER: Yes, exactly. And I'd like to get one other thing in, so you have a full deck to answer that question. If you do not use a mechanism for controlling the mold, they go moldy in about five days, four to five days. And if you do use the natamycin at a level of actually half of what we are requesting, 20 parts per million, what the FDA allows, you can get up to 16 days, and you have a labeled shelf life of 13.

Now, I'm talking about fresh English muffins, the ones that are never frozen. There are other brands that freeze them, deliver them to the store, so that that distribution time can be controlled. And so you can find English muffins that have been previously frozen that, in one case, which I found in a store last night, Whole Foods, an
organic English muffin, apparently they thaw it out in the back room and they put it on the shelf. They also have these two agents in there now, vinegar and citric acid, and I would think at about the same level. And as I said, they go.

In the Whole Foods in Raleigh, where I am, there was a -- they did not have any kind of preservative. Those were frozen probably to get to the store, and then are in a refrigerator case. But they're not that many places where you have a refrigerator case in a bakery isle. And so for practically 100 percent of the stores in the United States, fresh is the only way to go.

MS. CAROE: Bea James.

MR. THEUER: Yes.

MS. JAMES: Pharmaceutically, is natamycin used as an antifungal and an antibiotic?

MR. THEUER: In the petition, we had information that natamycin has been used in some eye preparations for mold infections of the eye. It's also been used in some livestock uses as a, to fight mold, mold infection. Was that your question?

MS. JAMES: Yes. So do you know if it's also used as an antibiotic?

MR. THEUER: Oh, not too much anymore.

MS. JAMES: Systemic, yes.

MR. THEUER: No, no, not too much anymore. See,
natamycins are extremely insoluble. And the way they put this on is, let me throw one more, is they spray the outside of the muffin after baking. So it's only on the outside, which is where the mold grows.

MS. JAMES: Why not just sell the English muffins frozen?

MR. THEUER: Well, I looked in the frozen section of the grocery stores within a gallon of gas drive from my house, and I didn't see any in the frozen section.

MS. JAMES: Do you think a consumer would rather have a frozen without that ingredient, or a fresh with the ingredient?

MR. THEUER: I can't answer that question.

MS. CAROE: Kevin.

MR. ENGELBERT: I think I know the answer, Rich, but just to be sure, you can't make an English muffin at a lower moisture?

MR. THEUER: My understanding, based on the data is, I don't think so. I'm not really technically competent to answer that. But I --

MS. CAROE: Tracy.

MS. MIEDEMA: I guess this is a little more of a comment than a question. If this were added to 606, that's what this petition is, or --

MR. THEUER: No, 605.
MS. MIEDEMA: -- this is 605. Okay.

MS. CAROE: 605.

MS. MIEDEMA: It's not specifically to be used just as an English muffin spray, right? This would be something that anybody from here on in food production could use in unlimited quantities?

MR. THEUER: Can I suggest that we, our petition was amended, strictly for English muffins.

MS. MIEDEMA: Okay.

MR. THEUER: We suggested 40 parts per million in our petition. FDA allows 20 to 22, and the bakery uses 20. So it would be a specific requirement on the level and the surface application only, and only for English muffins.

MS. MIEDEMA: Okay.

MS. CAROE: Any other questions from the Board? Comments? Thanks, Rich. Are you going to be around for a while if the committee has any questions?

MR. THEUER: Yes, yes. Can I offer you some --

MS. CAROE: We have a break coming up in just a little bit.

MR. THEUER: -- sprayed or unsprayed. It has citric acid sprayed on it.

MS. CAROE: MJ Marshall, are you in the room again?

Okay. And then do we have Kim Eason in the room?

MS. EASON: Yes, I'm here.
MS. CAROE: Kim, you're on deck.

MS. MARSHALL: I have some slides, Valerie. Are you going to get those up?

MS. FRANCES: Yes.

MS. MARSHALL: Okay. Great. Good morning. I'm MJ Marshall. I'm the director of government relations for the Flavor and Extract Manufacturer's Association. I appreciate the opportunity to comment before you today.

FEMA represents the manufacturers and end users of flavoring substances that are used in foods, including foods labeled as organic, or made with organic. Our members vary from large international corporations to small family owned operations. And many of those companies are just beginning to investigate the potential of supplying their nonsynthetic flavors to the organic industry.

What I'd like to do is provide a summary of our written comments that we've supplied to you today, and comment on the current listing of flavors on the national list, section 205.605 A, whether most flavors could be considered as agricultural, and finally on some of the challenges that lie ahead, should individual flavor substances require petitioning onto the national list.

In late February, the NOP stated in a guidance document that quote, flavors, nonsynthetic and nature, nonagricultural were on the national list and do not need to
be petitioned for as long as they meet the existing definitions. FEMA strongly agrees with that statement. But we also recognize the conflict between listing of flavors on 205.605 A and the existing situation where some flavorings have been certified as organic. We believe this discrepancy can be resolved in a manner that would provide for the continued development of certified organic flavors without compromising the necessary listing of flavors under 205.605 A.

Second, with regards to agricultural and nonagricultural determinations and how they apply to flavors, while a decision treaty to delineate between agricultural and nonagricultural has been proposed, we would suggest that there are necessary and critical modifications that are essential in the language of this treaty prior to its adoption so it can apply to complex materials such as flavors.

Finally, in the remainder of our comments, we'd like to highlight some of the challenges that lie ahead, in attempting to place individual flavors on the national list without careful consideration and planning. And I have some slides, as I said, to illustrate that. Can you get that? Yes.

First, an orange tree classified as citrus sinensis produces the standard sweet orange, as we have there. This
orange can be squeezed to produce orange juice. We think we all would agree that this is an agricultural product, that the three things, excuse me, the orange tree, the orange and the orange juice will be classified as agricultural.

But now let's consider one possible flavoring preparation from an orange. Orange oil provides flavor to many foods, including beverages, flavored yogurts, and candy. It's produced by extraction or fractional distillation from orange rinds and pulp followed by further fractionation, blending, and standardization.

A flavor company makes its living by making every batch of orange oil that it produces exactly the same as the last. While orange oil may have begun its life as an agriculturally derived product, the process of purification, blending, and standardization removes it sufficiently from its origins so that it no longer has the same chemical composition as freshly distilled nonblended orange oil. Next slide.

To further add complexity, orange oil is, in fact, a natural flavoring material that's composed of many individual flavoring substances. At last count, roughly 60 substances have been identified that contribute to the orange oil flavoring affect. And we question whether or not, because these are individual substances, would each of them require a petition to be added to the national list? Next
slide.

In fact, if we were to look at more than the 200, more than 200 different flavorings of unique natural origin, we would find that there are more than 2000 different flavoring substances that are present in varying amounts, and almost 400 different natural flavoring preparations.

If each of these were considered agricultural and require a petition, we all have our work cut out for us, and while we recognize that NOSB is very hard working, we think -- and NOP as well, we think that they want time to see their families. Given the complex characteristics of flavoring materials, the large number of naturally derived flavoring substances and remaining ambiguities regarding NOSB definitions of substance and agricultural, we believe this issue requires careful contemplation.

While we'd like to say that we have a great proposal, that we feel NOSB should adopt today, we simply don't. However, we would like to work with NOSB and NOP on this endeavor.

MS. CAROE: Thank you, MJ. Joe.

MR. SMILLIE: Yes. Thanks. Good presentation, and obviously we need to work on our ag/nonag document to start to make it work for industry and the community.

MS. MARSHALL: Right.

MR. SMILLIE: You said that you felt that the
discrepancy between the certification of organic flavors
which is currently happening and many members of your trade
association are producing organic flavors.

MS. MARSHALL: Well, I'd say that just a very
limited number of them.

MR. SMILLIE: It's growing.

MS. MARSHALL: Yes.

MR. SMILLIE: And you say that the discrepancy can
be resolved in a manner that would allow for the continued
development of certified organic flavors without compromising
the listing under 605 A. I wonder if you would just
elucidate on that a bit?

MS. MARSHALL: Well, to be honest, Joe, that's one
thing that we are still working on internally, and that's why
I said that we really don't have something that we can
propose to you today. But we are talking about it a great
deal within FEMA.

And as I said, we would appreciate the opportunity
to work with NOSB and NOP on that particular issue. And
we've had some discussions with Mark Bradley and others about
that very thing. So we look forward to trying to resolve
this as quickly and as reasonably as we possibly can.

MR. SMILLIE: Okay.

MS. CAROE: Julie.

MS. WEISMAN: Yes, I also wanted to thank you for
your very short but rich presentation about what the
challenges are. I had one question and one comment of
couragement.

The question was, when you had that schematic on
the board, you said that after the orange goes through all of
these various stages, to be distilled and standardized and
blended, that it is, that it -- what, in those processes, do
you believe makes it likely that it's no longer considered an
agricultural product?

MS. MARSHALL: Well, I think as I said, all the
different distillations.

MS. WEISMAN: Okay. Distillation is an allowed
process in organic preparations.

MS. MARSHALL: Right, right. I know. I understand
that. And fractionization, things of that nature. But I
think that as I said, all of those processes, while they can
still be, as you said, organic compliant, and the end product
can still be considered natural, we just don't believe that
it's any longer recognizable as an agricultural product like
you have with orange juice and things like that, that are
freshly squeezed, that just come immediately from the orange
itself.

MS. WEISMAN: Okay. Well, I guess that's a nice
segway into the comment that, of encouragement that I wanted
to make, is that I -- it will be certainly discussed further,
I mean, this has obviously become a very important issue in the flavor industry, and in the organic industry. And I think that we are going to be discussing what kind of opportunities we can create at this point to engage your expertise, the expertise of the rest of your members, and bring them, you know, into -- you know, bring them to this table and the discussion.

MS. MARSHALL: Right. Obviously, we think the flavors are very essentially to organic products. And we don't want to lose any flavors, because as I said in the presentation, there are, you know, more than 2000 --

MS. WEISMAN: Right.

MS. MARSHALL: -- different flavors. And you can have 2000 different strawberry flavors alone.

MS. WEISMAN: That's right.

MS. CAROE: Any other questions? Comments? All right. One more petitioner, commentor left. Thank you, MJ. I have Kim Eason, and then we are going to take a small break. We are about, just a little over an hour behind schedule already. So, but Kim.

MS. EASON: Good morning. Thanks for holding out for the last but hopefully not least of all the presentations this morning. My name is Kimberly Eason. I'm the director of strategic relations for Trans Fair USA. We do fair trade certification for agricultural products coming from the
developed world into the U.S. market.

We work with over 1 million farmers and farming families, workers around the world that sell products under the fair trade certified label. And that's coffee, cocoa, tea, fresh food, and a number of other products. Over 80 percent of these products brought into the U.S. market are also organic certified.

In 2006 alone, we had over 50 million pounds of dual certified coffee, Fair Trade and organic certified coffee imported into the U.S. And the estimated retail value of that product was over $605 million dollars. Producer impact for farmers producing that product is over $85 million dollars in above market additional revenue back to small family farmers.

We work with 600 businesses that distribute these products into 40,000 retail chains across the country, retail outlets.

I'm here to comment on the possible change and possible ban of the internal control system for grower group certification which came to light very recently in meetings in Germany and in California, NOP certifiers training sessions.

I make my comments based on my understanding that the NOP will begin to require that 100 percent of all farms within a small farmer coop be inspected annually by
independent certification agencies. That's actually a new application of the existing law, 205.403.

I recognize that this is not on your agenda for this meeting. But I want to call caution in moving forward with this. As an organic consumer, a business person, an advocate for small scale farmers in the developing world, I'm alarmed about the devastating impact that this change in procedure could have on farmers and the organic market in particular here in the U.S.

The unintended consequence of this action will be the exclusion of vast numbers of small farmers worldwide from the U.S. market, and will also leave businesses and consumers without access to these quality organic products. For coffee, it could essentially wipe out the organic coffee market in the United States, because the small farmers are the ones that supply that coffee.

The organic certification community has recognized the need to adapt certification procedures to the socio-economic reality of organized small growers in developing countries, at the same time recognizing the need to protect the integrity of the system and the label.

For many years now, community grower groups have been inspected and certified based on an internal control system evaluation. The ICS system is not unlike other quality system based audits and even fair trade certification
uses a form of ICS for grower groups with a high degree of success. The EU and Japan are not, are not seeking to change the way they certify organic.

I did speak with one of the grower groups that we work with out of Nicaragua. They, it's about a 2000 member coffee cooperative. They say that their costs under this new kind of rule would be $50,000, and those are for farmers that maybe earn an income of $1000 to $2000 a year. So you can see that that would just not be possible for them to pay that high cost.

As you all know, there are many benefits of organic farming, far beyond the environment and social benefits. I don't have time to go into that here. I'm an active business member and a past board member of the Specialty Coffee Association. I'm currently on their sustainability committee, so I understand all the volunteer work that you all do, how important it is.

I have been made aware by many of the member business of the Specialty Coffee Association that this is an issue on the radar screen, and people are very concerned about it and urging caution and moving forward.

I guess the request is just to take some time here before pushing this issue forward. I believe that there is another solution. We need some time as the organic community and working with the certifiers to understand what we can do
to assure the integrity of the system, and at the same time, not totally disallow ICS's for grower group certification.

Trans Fair USA and the whole, our business network and grower network, and all the Specialty Coffee Association, all of those members, we are interested and willing to help put forth a solution, if we have time to do so. So thank you very much for your consideration.

MS. CAROE: Comments, questions? Joe?

MR. SMILLIE: Yes, again, I would, from the NOSB's point of view on this issue, it's new, and it will be put into the work plan for the Certification, Accreditation and Compliance Committee and where we will start is with the NOSB 2002 recommendation.

So all of your people should get a hold of that document. See what you think of that document, and get input back to us. And then hopefully we will move forward and create some sort of recommendation which we can then reinforce the recommendation that we already made in 2002 to the NOP.

MS. EASON: Okay.


MR. DELGATO: Can you describe for us what kind of process your farmers in Nicaragua follow to get their certificate?

MS. EASON: Yes. There is, the internal control
system there is a person or group of persons that are responsible for training the farmers for organic certification, and then overseeing the control, quality control of that system. When the organic inspector comes, they are allowed to inspect the internal control system, and a number, 20 percent of the members, to have actually the inspection visit on site. So the idea is that this is a system that's been used, and that has worked with a degree of success.

MS. CAROE: Any other questions? Comments? Thank you for your comments.

MS. EASON: Thank you.

MS. CAROE: Is Nancy Hirshberg in the room? She just left. Do you know what? We'll get her after break. I understand she has some answers to some questions the Board had. Nancy. She's right here.

MS. HIRSHBERG: I was just standing there waiting for you.

MS. CAROE: Nancy. Sorry to put you on the spot, but I understand you do have some answers for us. So I'll give you an opportunity before we break.

MS. HIRSHBERG: Yes. The question that Bea had asked was, did we start using this product because of the calcium marketing claim or because of the functional properties. And we started using this product back in '99-
2000 in our YoSelf, which is a product geared for women. And it had, so we were able to talk about calcium, fiber, and the prebiotic.

And what happened was, when we started using it, we found it had all these wonderful, in addition to the nutritional benefits, it had all these wonderful functional properties. And I got some more detail on those. Sorry.

That it improved the mouth feel and the texture. It decreased that syneresis, which is the separation. And it improved our shelf life. Because what happens over time, in yogurt, as you know, it gets more tart. The ph drops as you get towards the end of shelf life. And you get curds in it, lumps. And so this decreased that as well. So at that point we decided to move it into all of our products because of that.

MS. CAROE: Thank you, Nancy.

MS. HIRSHBERG: Sure.

MS. CAROE: Okay. Joe.

MR. SMILLIE: So it's a lumper -- it's a splitter not a lumper, right.

MS. CAROE: You needed to do that. Okay. We're going to take a short break. 10 minutes, no more. We are so far behind schedule. The Board back in your seats in 10 minutes, please.

(Break.)
MS. CAROE: All right. We're back in session and we're moving onto discussions on the Policy Committee recommendations. So I'm turning it over to Rigo Delgato.

MR. DELGATO: Madam Chair, thank you very much. We have two items to recommend. The first one is six changes to the policy and procedures manual. I'll review those very quickly. And first of all is a clarification on procedures for counting abstentions. That's on page 12, section 2.

On section 3 we have a flow chart that we included in there to clarify the role of the NOSB executive director. That's on section 3.

On section 4, 5, I'm sorry, we have added the description on the committee chair's role in facilitating transition for committee chairs. As you'll recall from our last meeting, that was an important topic that was recommended from the floor. We also have included procedures to present committee recommendations in section 5.

And finally, we have included a comment on the exclusion of annotations during sunset review. That's on page 52, section 8. So far we received comments on that last addition asking us to not go forth with that addition on exclusion of annotations. And we have not received any other comments on the other points.

The second recommendation is the official presentation of the new member guide, which is a document
that we think will help in the transitioning of new members, but I'm going to ask my vice-chair Bea James to give us a general description of the document.

MS. JAMES: The new member, the purpose of the new member guide is to introduce and not scare away any newly appointed members. The document is intended to be an accompaniment to the policy and procedure manual. The background is, we realize that no one should come into a five-year NOSB commitment without fully understanding the level of time and energy that it takes to contribute to the mission of the Board.

The new member guide is intended to be an educational, informational support reference for the NOSB, as well as any potential interested members in the public. The recommendation will be to accept the NOSB new member guide as an official document and post it on the website for all to use.

MR. DELGATO: And that are the two recommendations we have, Madam Chair. Thank you.

MS. CAROE: Okay. Do you want to take questions and comments, discussion on these one at a time?

MR. DELGATO: Yes, please.

MS. CAROE: Okay. And shall we start with the policy manual changes?
MR. DELGATO: Yes.

MS. CAROE: Does any of the, do the Board members have any questions or comments on any of the changes proposed to the policy and procedures manual? None. Any discussion on the last item, regarding, which we've heard comment on, regarding the sunset process, that actually sunset process was written in 2004, I believe, 2004-2005, as far as allowing changes to annotations. Jeff.

MR. MOYER: My understanding, when I first started on the Board in talking with Arthur Neal at the program level, was that we were not allowed to make changes to annotations. Was Arthur mistaken at that point in time or is that an accurate statement? Because we were always instructed that we could not. Many of us felt that changes to annotations were warranted, but that we could not do that.

MS. CAROE: I have an answer, but I'll let the program answer that question.

MS. DELGATO: Go ahead and answer.

MS. CAROE: Sunset is by definition, and not definition in OFPA, not definition in our regulation, but definition within government --

MR. MOYER: Right.

MS. CAROE: -- to mean the, an opportunity to look at regulations that have been in place for a length of time for their continued viability. And it is regulations as they
exist. Therefore, when the Sunset procedures were written and we looked at this, a material being listed on a list with particular restriction, in whole, is the regulation. So those restrictions of an annotation are, indeed, part of that listing. And we felt it was inappropriate to consider any changes to that, or further restrictions, which would be new legislation, new regulation. Sorry. So that was where we were with that. Is that consistent with what the program's view of sunset is?

MR. BRADLEY: Mark Bradley, National Organic Program. That is the way we have been dealing with this, and part of that was to expedite the sunset review process, so that we're not getting into the -- you can petition a change in annotation, or you can petition to have something removed from the national list as a separate function.

But in working with the Board, I think what we agreed was that it was more functional to go ahead and just consider the material and the annotation together with, for sunset, just to make a decision whether it was going to be renewed as written, or to go ahead and just let it go off the list. And it would go off completely with the annotation.

MS. CAROE: Does that answer your question, Jeff?

MR. MOYER: Well it does, but then my question to you is, what exactly are we talking about here, changing that policy?
MS. CAROE: We are considering the public comment, which is suggesting that we change that policy.

MR. DELGATO: Yes. Just to clarify the addition to the policy manual is, states as follows. The annotations cannot be included in a recommendation during sunset review. That's what we're looking at. So there is no question, no doubt that was the intent of this. Bea.

MS. JAMES: So I guess I would like some discussion around the idea that the comments that we heard from the public were that we potentially might be limiting ourselves by having that documented in the policy and procedure manual. And I wanted to know what your thoughts were on that, Mark.

MR. BRADLEY: I'm sorry. I couldn't hear.

MS. JAMES: The comments that we received from the public were that we are limiting ourselves by, potentially limiting ourselves by putting that change into the policy and procedure manual, that annotations are not allowed and not a part of sunset. And I wanted to know what your thoughts were on that?

MR. BRADLEY: You mean the recommendation or the comments that Jim was making yesterday about, about having the material and the annotations be subject for review at the end of it?

MS. JAMES: Yes, and Emily Brown Rosen as well as Harriet Behar also made that comment.
MR. BRADLEY: I can't really comment on that at this time, because we would want to consult the attorneys. And anything that we have developed as far as policy, you know, for the sunset process, has gone through our legal counsel. So that we can certainly discuss this, but I wouldn't want to do it just, you know, at the spur of the moment.

MR. DELGATO: Julie.

MS. WEISMAN: Yes, we certainly need to hear like the legal perspective, but I just wanted to, you know, say from a practical perspective, Bea, Rigo, we are all veterans of the first big sunset process. And I just want you to try and remember what we were doing at that time, and what that would have been like if we had been considering annotations and having to require and wait for TAP reviews on those materials.

The way I look at it, there's four other years during a listing when those changes and annotations can be considered. And that's a much better and more fruitful time to look at those things, I think.

MR. DELGATO: Andrea.

MS. CAROE: And again, this was stated before, but it needs to be restated. At any time somebody can petition for an annotation change. Sunset, sunset, we use as just, like I said, the continuation of that regulation. If the
annotation is inappropriate, then a petition is, can be
filed, and we can look at it. It's not never looking at
annotations, it's just not looking at them during sunset.

MR. DELGATO: Just to comment on that, one of the
suggestions was, or comments from the public was that given
the fact that the urgency of sunset has passed, and the need
to have that efficient process in place is probably no longer
necessary. It would probably more convenient to be able to
make changes to annotations. I wonder what you guys think
about that. Andrea.

MS. CAROE: Every five years we're going to look at
that bulk of materials. Every five years we're going to be
under that urgency. Trust me, five years flies by.

MS. WEISMAN: And every five years from now, given
the bulk of what we are doing today.

MR. DELGATO: Thanks, Julie. Can we have Bob and
then -- yes, Bob.

MR. POOLER: This is Bob Pooler. We understand the
sunset process is to review the regulation as is. And that's
what the listing in the national list, as is. And either you
accept it and review it, as is, or you do not. A change of
the annotation is basically changing the regulation. And
that, as Mark has indicated, is a separate, and Andrea, is a
separate process. That's not part of the sunset process.

Now, that is our understanding of the sunset
process. Perhaps we need to go back and take a look at what
the sunset process is to see if we can accommodate these
other changes. But our understanding at this point is to
either renew it, as is, or take it off the list.

MR. DELGATO: There was someone else that wanted to
participate? Okay. That's it. Table back to you. Any
discussions on items 1 through 5 of the additions to the
policy and procedures manual?

MS. CAROE: I just have one question.

MR. DELGATO: Yes.

MS. CAROE: And you said that no new member should
be given, thrown to the Board without knowing what they're
into, or would be? Because I don't think, I think we may
scare people off from ever applying to the Board.

But no, this is a fabulous piece of work that I
really want to commend both Bea and Rigo on, putting this
together. Bea, you know, when she first came in, noticed
that you were thrown into the fire, and we were inventing
things. And at this point in our maturity as a board, this
is an appropriate action to take in order to maximize our
efficiency with our Board members and our resources.

So my operations hat on there. So I just want to
say, I appreciate the effort, and I think it's a very good
work.

MR. DELGATO: Bea.
MS. JAMES: Thank you, and I think we are all excited to actually have a noncontroversial issue on the agenda.

MR. DELGATO: I also want to appreciate the help that we got from our executive director in completing that document. It was really a team effort, and thank you, Bea, for your always pointed comments on developing that document. And I hope that it helps the new members, and all those coming members in the future. On that note, back to you, Madam Chair.

MS. CAROE: All right. Moving along, we're going to move to Crops Committee. Gerry, if you are ready to present your recommendations.

MR. DAVIS: We have two materials ready to be presented for this meeting. One was ammonium salts or fatty acids, and that was petitioned to be allowed for general organic crop production use.

As it stands now, being that it is a soap salt of fatty acids, it could be used, technically, in compliance with the regulations as it already exists for noncrop use. But they specifically were requesting within crop use.

And the committee felt that it failed the --

MS. CAROE: I'm sorry, Gerry.

MR. DAVIS: What are we doing now?

MS. CAROE: Gerry, I'm sorry. I messed up the
order. You're not on quite yet. So if you could hold your
thoughts, I apologize.

    MS. FRANCES: He said, excellent.
    MS. CAROE: Excellent. Well, that's good.

Actually, we have some discussion items from the Joint Policy
Crops Livestock Committee in regards to research guidance. So with that presentation, I'm not sure who's making that
presentation.

    MR. DELGATO: I think I am.
    MS. CAROE: Okay, Rigo.
    MR. DELGATO: I'll give Gerry a break here. But just, we are presenting for discussion a document called,
Guidance for Certification of Operations Participating in Crop Production Research. We came out with this document to
simply provide clarification to those operations doing crop research. I'm going to discuss the essence of the
recommendation.

    It's split into three parts. And it mainly is focused on those products, prohibited materials involved in
research, and addresses the need for buffer zones, or the requirements for buffer zones when carrying out different
experimental analysis.

    And it also recognizes the use of distinct plots throughout the operation that will isolate the use of prohibited materials for experimental purposes.
In the second section, (b) -- can you scroll down, please -- the second component of the recommendation is a list of requirements that include, among others, a valid research plan, definition for description of the specific location of the experimental plot; the listing of prevented materials, and time frame devoted to the specific study as well as justification of the use of prohibited materials, and so forth.

In conclusion, we are hoping that this document will provide the clarification that researchers need to promote, as well, the development of new techniques, new knowledge, and at the same time, maintain the purity of the organic production.

On that note, I would like to ask for comments, discussion from the members. Andrea.

MS. CAROE: I just wanted to make very clear that this is not, this is not research variances, that variances are granted only by the secretary, and the Board has no authority in the granting of variances. That this is about guidance for those unique operations that participate in research efforts that are atypical of organic production for commerce purposes.

MR. DELGATO: That is correct, and when we're dealing with prohibited materials, we can't talk about variances. It's now allowed, simply. But what we did try to
do is create a framework where we can be able, are able to
use prohibited materials with the purpose of doing research,
comparative research, but at the same time, protecting the
integrity of the organic operation. We have a comment
from --

MR. MOYER: Yes, Andrea, it is also not geared
specifically to those organizations that might be doing
research, but even on farm research, so that farmers can fit
into the context of this without jeopardizing their
operation, those guidelines, as well.

MR. DELGATO: Dan.

MR. GIACOMINI: In an earlier version of this, it
included livestock coverage. I'm seeing this as exclusively
a Crops, from Crops and Policy Committee, Development
Committee, is there -- I know you still have Hugh as a
committee member on the Joint Committee. Is there a plan to
include a livestock similar document in the future, or --

MR. DELGATO: Yes, that's correct. And livestock
did participate in the development of this document. The
next step will be to come up, and we're working on the
document, is to come out with a document that does talk about
variances in both livestock and other types of areas.

So we should be having, hopefully, a version of
that mid-summer, and definitely for our next meeting. No
questions? Andrea.
MS. CAROE: Very good. Thank you so much. And so I'll look forward to an actual vote item on that at the fall meeting.

MR. DELGATO: That's correct. Thank you.

MS. CAROE: Okay. All right. Now looking at the correct schedule, I see that we are going to Compliance, Accreditation and Certification for two items of discussion.

MR. SMILLIE: Right. At the last meeting, we deferred our recommendation on standardized certificates. We had some good public input. There was, in general, the document was well received. People do feel a need for this. They thought that our recommendations was a little too prescriptive. And we've taken that under advisement.

There was also some debate in the community as to the level of detail we would go into in describing, you know, the products that would have to be on a certificate.

And we went back and asked for input, and we receive a very good input from the accredited certifiers association, and from NASOA, the National Association of State Organic Programs who both submitted documents to us. And we will take those under advisement and move forward to come out with a recommendation at the October meeting.

And I would like to -- and Jennifer is actually leading that document writing, so I'll defer to her for any
comments she would like to make on the development.

    MS. HALL: I'll just add that definitely we got feedback, and agree that the prescriptive detail of the formatting is something we will minimize, but still require English or a translation thereof.

    As well, there was some good input around adding that the category of certification be added to the requirements, and that was not something we had. So that was quite valuable. And we are just still deliberating over the level of detail of listing crops and what's too much and what's required to be sufficient at the job and certification.

    MR. SMILLIE: And we're also hoping to get this passed at the next meeting to that the NOP can take advantage of this input and combine it with the already approved NOSB document on certificate expiration dates, not certification expiration dates. And we've got that clarified, and we think that this will move a lot forward in the community, so that we've solved the problem of some of these floating certificates of ill repute.

    The second item that we will be coming out with a recommendation on in October is the peer review. And basically, we don't have that document, right, Val?

    MS. FRANCES: No.

    MR. SMILLIE: Okay. It's very brief. Let me just
bring it to everyone's attention. Harriet Behar has already commented on it. There may be other comments, too. But our committee is working in collaboration with the NOP to actually get this longstanding directive implemented.

As you know, peer review is a panel of industry peers that will participate formally in the review and auditing of the NOP accreditation system. It's mandated OFPA, the law, 1990 law, section 2117. It's also part of the regulation, 7 CFR part 205.509. And quite frankly, the program is under compliance, because we don't have a peer review panel. But we're working with them to put one in place, and we're looking for input from the community on this.

Basically, I think our role is just to recommend that NOP, you know, move forward on this. After that, we're not sure, at this point in time, how much role NOSB will have in that committee. There's some structural questions, I guess, to answer, which perhaps might need legal counsel, whether it would be a part or some sort of, how it would be joined with NOSB, or whether it would be at all, whether it would be a stand alone group.

So as we explore those options, we're hoping to have our fleshed out recommendation again for October. I would like to give Mark any opportunity to comment.

MR. BRADLEY: No, we've been very pleased with the
collaboration with the Board on this. We've had some
meetings and discussions on conference calls to talk about,
you know, their ideas and our ideas, and how we can reduce
duplications of effort and expense. So we're looking forward
to having something come out of this.

MR. SMILLIE: And I'm not sure if I'm out of order,
Andrea, but should I discuss new items on the work plan? Is
that for Thursday or --

MS. CAROE: That's Thursday --

MR. SMILLIE: That's Thursday.

MS. CAROE: -- when we'll talk about work items.

MR. SMILLIE: Okay. So that's the current
situation of the CAC Committee.

MS. CAROE: Any questions for Joe on these items?

Very good. Okay. Okay. Now, this is the real time for
Gerry.

MR. DAVIS: Okay. The first Crops Committee
recommendation that we have is for ammonium salts or fatty
acids for use as allowed for general organic crop production
as an herbicide. And the Committee looked at the information
and the evaluation criteria of what, whether we should
approve this petition.

And on the impact on humans and the environment, we
basically concluded that the material was reasonably benign,
as far as its impact on humans and environment. So
determined that it met that criteria, that gave that a yes.
On the category, the criteria of is it essential
for organic crop production, we voted that it did not satisfy
that criteria, mainly because there are alternative weed
management and practices, as well as some natural materials,
herbicidal materials that could be used if a grower wanted to
go that direction.

And also on the third criteria, is it compatible
and consistent with organic farming? We looked at the
regulation that states the herbicidal soaps are to be used
only for farmstead, you know, ditch banks, right-of-ways, and
so forth, and not -- or ornamental crops, but not in general
organic crop production.

So we felt that the petitioner's specific request
that it be approved for organic crop production for use in
crops, that our hands were basically tied, and we could not
approve that, because it directly violates the regulation at
this point.

So based on the, it -- on that, those
determinations, we felt it failed the criteria in category
two and three. And so we voted to reject the petition to
allow the use of soap salts, ammonium salts or fatty acids as
herbicides in organic crop production. The vote was five to
zero with one member absent. There was no minority opinion.
Questions?
MS. CAROE: Isn't this a herbicidal soap? I guess I don't understand because herbicidal soaps are on the list.

MR. DAVIS: For use in general farmstead --

MS. CAROE: In farmstead. So --

MR. DAVIS: ditch banks and right-of-ways.

MS. CAROE: So this, that is the gist of it, is that it would be used on the crop? That's the big difference?

MR. DAVIS: The petition was for it to allow it to be used in crops, food crops.

MS. CAROE: Okay.

MR. DAVIS: And that's what we rejected, not the fact that it could already be used in general right-of-way and farmstead applications, because it already fits the regulation.

MS. CAROE: Okay.

MR. DAVIS: Joe. Joe.

MR. GIACOMINI: Is that just in -- I must have been sleeping for a bit. Is that just in the regulation, or is that restriction in OFPA also?

MR. DAVIS: The regulation is based on the statement in OFPA that the categories of synthetic materials that the legislation allowed were, soaps were mentioned as one of the synthetic materials that are up for grabs, in other words, as far as something that can be used. So the
regulation was built from that.

But the original OFPA does not state on how soaps can be used, or whether they can be used as herbicides in crops. That was determined by a previous board, and then enacted as rules originally.

MR. GIACOMINI: So the mechanism to allow -- there is nothing in OFPA that absolutely prohibits this. So would the mechanism to allow this in crop production to be petitioned to change the annotation?

MR. DAVIS: Right. You would need a petition for rule change on eliminating that annotation that says farmstead, right-of-way, ditch bank use only. Any other questions?

The next petition and recommendation is for pelargonic acid, again, another herbicide. The specific petition was for pelargonic acid for use as an herbicide in farmstead maintenance, roadways, ditches, right-of-ways, building perimeters, et cetera, and ornamental crops.

So the background on that is, you know, soap type, soap-based herbicides are already allowed for this use. The question with the pelargonic acid is, is this a soap. And that's what we're grappling with, is the crux of the whole issue is, can the material be classified as a soap. And we were looking for information in various sources to try to determine that.
Again, in going over the evaluation criteria, impact on humans and the environment, we felt that it was reasonably benign material and not a huge impact on, and causing problems in that way. So the committee said it did satisfy the humans and environment criteria, as far as being safe enough.

Is it essential? We voted no on that one, because we felt that there were alternative materials, as well as mainly a lot of alternative practices, cultural practices, and so forth, that made it not essential. Helpful, maybe, in some circumstances, but we were trying to determine if it was essential or not.

The last category was, is it compatible and consistent with organic farming and the regulations? We also voted no on that criteria because mainly the soap issue. We could not find information from the EPA on, looking on an internet search and so forth.

The EPA information, various chemical websites that talk about, you know, from Wikipedia and everything else that we checked, they were willing to state that it was a carboxylic acid, but not one place mentioned this particular material was classified as a soap that we could find.

As a committee, we would be totally -- we would welcome that information to support the verbal claims that the petitioner made in their public comment today, that it
should be considered a soap, that we're looking for justification for that statement.

    So we felt that it was not consistent with what the current regulation says, because we can't call it a soap without further documentation.

    So the recommended action from the Committee was to reject adding pelargonic acid to the national list of synthetic substances allowed in organic crop production as an herbicide for use in farmstead and ornamental crop use. The vote was zero yes to add it, four no to add it to the list. Two were absent and there was no minority opinion.

Questions?

    MS. HEINEZ: Trying to live up to my scientist label here, so speaking to the herbicidal soap, I guess two comments. One, that TAP on line 58 says that pelargonic acid is an example of herbicides often referred to as herbicidal soaps.

    And then referring to its manufacturing process, it is consistent with how you would produce other soaps. So while you may not be able to find a reference that say it is soap, it's manufacturing process of combining a fat with an alkaline to convert it to something with a carbocyclic subgroup is consistent.

    I'm not sure if that addresses your concerns.

    MR. DAVIS: We considered that.
MS. HEINEZ: Sorry.

MR. DAVIS: The main sticking point, that you know, all the herbicidal soaps seem to be an alkaline base combined with a fatty acid to make this salt of a fatty acid. The pelargonic was specific in that it was an ozone type process to produce this fatty acid that had this. It did not have a metal salt associated with it. And we thought that the literature made it specific that that is what a soap is, is a metal salt plus the fatty acid in combination. And it seems like a minute point, maybe, but that's where we went with it.

And we kind of did that to see what kind of response we would get from the public in their public comments, to see if we could get a little more light shown on it to support a decision. Julie.

MS. WEISMAN: Not to sabotage the excellent work that Andrea just did getting us, that is getting us back on schedule, because we were an hour late before the break, but I think there are some organic chemists in the room, I think. And I was wondering if they would be willing to be called upon by us at this moment, or if the Board, if that might be an appropriate thing to do, is to ask an organic chemist to address the question of whether this pelargonic acid, in fact, is a byproduct of saponification.

MS. CAROE: Well, Katrina is a chemist.

MS. WEISMAN: Right. Okay.
MS. CAROE: Which we recognize her. Also, just outside of this, did anybody go back to the TAP reviewers which we hired to do this sort of work.

MR. DAVIS: We looked at the TAP and it's --

MS. CAROE: No, no, no, go back to the TAP reviewer.

MR. DAVIS: -- in that line, as we mentioned. Oh. That line that Katrina mentioned that is in the TAP, it is documented in our recommendation that we noted that, that the TAP reviewer made that mention. But there is no support for that statement given by the TAP reviewer. They just state it as a general thing.

And then I heard in the petitioner's public comment today another general statement that they had on their Powerpoint. But we're looking for scientific backup for those statements. And that's what we haven't had anyone show us yet.

MS. CAROE: Well, I know we've been dealing with a lot of 606 materials where we're getting just information from a petitioner, and we question that, or we look for some evidence to validate that.

However, when we have a TAP, that is a credible reference. That is a scientific reference. Those folks are under contract and they've been reviewed. And you can accept that information from the TAP reviewers as credible.
So I don't know that I feel that we really have to get validation of our TAP reviewers because that will go on forever if we continue to do that.

MR. DAVIS: Well, the basic -- we noted that comment in the TAP. It was a single sentence. But we also noted that the EPA does not class pelargonic acid as a soap. It is, at this point, it is unclassed by EPA. So that's where we stopped. We just -- go ahead.

MS. JAMES: I just want to recognize that we did have a discussion yesterday with the NOP where they pointed out that they were interested in having TAP reviews and seeking information in TAP reviews where there was more documented, specific information that could be referenced. So I'm just making that point. I don't know if Mr. Pooler would like to comment on that or not.

MR. DAVIS: Julie.

MS. WEISMAN: Yes, I also, I definite, looking at the, you know, how other agencies treat a material is, that's part of what we need to do in this process. That there is a difference between, part of what we were discussing was chemistry, what is the chemistry involved in making a soap and its byproducts. And that is quite a separate issue from how the EPA, from federal regulations classifying things.

Now, if EPA specifically said that this is not appropriate to consider as a soap, that we would have to
abide by. But their absence of saying positively that it is, 
does not mean that according to, you know, standard, 
according to standard chemistry, chemical understanding, that 
it is a soap. That's a thought.

MR. DAVIS: Again, not to belabor the point, just 
we as a Committee thought that the classification of what is 
a soap, I mean, not necessarily what EPA says about it, that 
a soap is, and several committee members pointed this out in 
our discussion was a soap is a metal salt of a fatty acid. 
And I, the committee would be interested in, if there are any 
organic chemists in the audience that want to give us some 
help on that, to see if this material, you know, how close it 
is.

MS. CAROE: Rich, I know you're a --

MR. THEUER: Hi, I'm Rich Theuer. I'm a BS chemist 
and Ph.D. and Masters in biochemistry. A chemistry says 
exactly what you said, a soap is a metal salt of a fatty 
acid. That's the standard definition.

MR. DAVIS: There's another gentleman that raised 
his hand, also.

MS. CAROE: The chair recognizes the gentleman in 
the third row. I don't know who you are.

MR. B. SMILLIE: I'm an organic chemist of nearly 
60 years. I agree. A soap -- my name is Bob Smillie.

MR. SMILLIE: He's right.
MS. CAROE: And your affiliation, sir?

MR. B. SMILLIE: Pelican Lab. We were the petitioners to allow ammonium pelargonic to be used as an herbicide. Ammonium pelargonic has been registered by the EPA for organic production, but that fits into the rule of not being used on food. We have a nonfood use registration. We have petitioned the EPA, of course, for a food registration, and that's now under review.

But going back to soap, a soap is a salt of a fatty acid. It has to be a salt. We all know what soaps are. What do we think of when we think of soap? We think of soap as a cleaning material, something to clean something.

The reason it cleans is because one end of the molecule has a tendency to get into water. The other end of the molecule is oil or tends to get into organic materials. So it basically emulsifies the oil dirt or whatever it is that we are cleaning, and you then get rid of the dirt by emulsifying it into the water. It works because one end of the molecule has this water attraction.

Pelargonic acid is water insoluble. There is, it has no, it has no tendency to do what a soap does. I'm very familiar with pelargonic acid. And I'll tell you, I would not wash my hands with it. I would wash my hands with soap with salts of pelargonic acid, and have done so. A soap, by definition, is a salt of a fatty acid. It has to be a salt.
Thank you.

MR. DAVIS: Thank you very much. So, I'm not sure where we left off here, but I guess we did finish the statement of what the Committee action was and how we came up with that vote to reject the petition to classify pelargonic acid from the petitioner as a soap-based herbicide.

MS. CAROE: So at this time, at this time, the Committee's recommendations stand? You don't, you're not going to reconvene or look at this material based on public comment? The Committee recommendation, as is, will be voted on tomorrow?

MR. DAVIS: No, I mean, I think based on public comment, and maybe some more that we may get in the, you know, later, during the next comment period, it's possible that this is something that people could change their mind on within the Committee's vote, or the overall Board could do that also.

But we just, we took just an interpretive look at what the rule says, and what is allowed, and we're not willing to, you know, call pelargonic acid a soap, against nothing in the EPA or from the science information available to us. We didn't want to classify it as a soap when no one else is.

MS. CAROE: I'm not suggesting that you do change your mind. I'm just trying to determine whether this is
going to be the recommendation we vote on tomorrow, or are we
expecting some changes to that recommendation?

    MR. DAVIS: I would not expect changes at this
point.

    MS. CAROE: Okay. Very good. Is there any further
questions for Gerry on those items? Okay. Well, we're
scheduled for a break right now, but I would ask the Board if
you would be willing to forego the break, since we had one
fairly recently, to try to gain back some of our time? Okay.

    Moving forward then, I think we have some
discussion on our next items in livestock. So I will turn
the, turn it over to Kevin, who is vice-chair of the
Livestock Committee, and start the discussions for
aquaculture and cloning.

    MR. ENGELBERT: Thank you, Andrea. For the good of
the cause, I will be brief. But before we start on Livestock
Committee business, Hugh asked me to pass along his
sentiments that he deeply regrets missing the first two days
of this meeting, but he hopes to be here tomorrow morning.
He had commitments that he simply had to honor.

    I'd also like to thank Mark for the update
yesterday on the issues relating to the Livestock Committee.
I guess it goes without saying that organic dairy farmers
across the country are very anxious for the pasture rule to
be released, and for the ANPR on origin of livestock.
The Livestock Committee remains optimistic that their time is near, and we stand, you know, ready to help in any way we can to continue to facilitate that process. Okay. And as I am sure everyone is aware, the two items that we have spent most of our time on since the last NOSB meeting, are aquaculture and cloning, the first, having been on the LC work plan for a number of years, and the latter just recently appearing on our radar screen.

Given the amount of work that we have to do and the amount of time we have to do it in, I know I should just go directly to that word, but I must take a minute to talk about aquaculture and how we got to where we are today.

The standards were first discussed in 1998 with the first attempt at writing them taken in 1999. That led to the Wittenberg report in 2001, which in turn led to the Aquatic Animal Task Force and the publication of the Anderson report.

A group of 85 people calling themselves the National Organic Aquaculture Working Group used the livestock standards, the Wittenberg report, the Anderson report, and 12 international standards to write a white paper that was published on the NOP website.

Finally, and most recently, there were 12 members appointed to the current aquaculture working group who presented the current report to the Livestock Committee. So as I'm sure everyone is aware, there are many, many, many
people who have devoted countless hours and effort to get to
where we are today.

As a relatively recent participant in this
aquaculture process, I hesitate to attempt to name everyone
that deserves special attention, because there are so many,
and I don't want to leave anybody out. But I think everybody
knows, you know, if you have been paying attention to this,
who these people are throughout the years, and right up until
today.

Many people from the NOSB, the NOP, from the
organic community, and from the aquaculture industry have
contributed a great deal of valuable input to the proposed
standards. They deserve our deepest appreciation, and
everyone should be proud of the work that has been
accomplished.

And on a personal note, it's been a privilege to
work with the AWG and everybody else who has been involved in
it presently.

Now, with respect to the Committee's
recommendation, we owe a thank you to Andrea, senior member
of the NOSB and long time AWG member, for guiding the
Livestock Committee through the process of issuing this
recommendation. There have been many worthwhile public
comments posted and presented. So it remains a work in
progress.
Given the controversy that surrounds the feeding of wild caught fish meal and fish oil and open cage net pens, the Livestock Committee decided to remove these sections from the AWG's report.

Those two issues, which remain the most contentious of the six the Livestock Committee had previously asked for comment upon, along with the shellfish and bivalves, which will continue to be worked on, we hope to have a recommendation for them for the fall meeting. That's one of our goals. But we will focus today on the recommendation as we have presented it.

The AWG's report was extremely thorough, very professional, and we believe very close to a standard that's necessary to protect organic integrity. One footnote on that report, there is a typo on the Committee vote. There were actually six votes in favor and one absent vote. There wasn't a no vote on that, on the Livestock Committee's vote.

At this time, I would like Andrea, I ask Andrea to recognize George Lockwood.

MS. CAROE: If George Lockwood, would you come to the podium as we discuss this. Special thanks to George who has done --

MR. ENGELBERT: Yes.

MS. CAROE: -- well above and beyond, meetings twice a week and a lot of documents. And it is greatly
appreciate, all your hard work and effort towards this.

MR. LOCKWOOD: Thank you, Madam Chairman.

MR. ENGELBERT: Exactly what I was going to say when I got you up there, George. Thank you very much for all your -- you know, you've just gone above and beyond what anybody should expect from somebody that's volunteering in a position like that. And with that, we'll just turn this discussion over for questions and comments from the Board and see if we can work through this report.

MR. LOCKWOOD: Most of the comments we've received so far during these hearings have pertained to the fish meal, fish oil and net pen issues. And since those are not on the table at this time, there were some comments received yesterday that I do believe need to be attended to, in a letter from Emily Rosen, Emily Brown Rosen.

If you have that document, and unfortunately the audience doesn't have it, but if you do have that document, I would like -- I think we can go through these questions or these issues very quickly.

Item number one is a fish meal and fish oil matter, and I think it probably needs to be deferred. That's aquaculture feed, paragraph E.

Also at the very end, contaminate levels is a fish meal and fish oil issue, and it should be properly deferred until we deal --
MS. CAROE: Hold on, George. Let's take them one at a time, and slowly enough that Valerie can do some changes, as -- oh, you want to bring up Emily's --

MR. ENGELBERT: Whatever is the best way to do it. You two can decide how to do it.

MS. FRANCES: I don't have Emily's comments in the system.

MS. CAROE: Okay. Then let's take the comments one at a time. Let George address, and then the Committee can discuss --

MS. FRANCES: Emily does.

MS. CAROE: So you do have them.

MR. ENGELBERT: I don't think we need them.

MS. CAROE: Okay.

MR. ENGELBERT: I think George is going to make the changes. I think George is going to make the changes to the document. I think this will be fairly quick. We won't take up much time, Madam Chair.

MR. LOCKWOOD: Well, as I indicated, the first comment has to do with paragraph E of section 252, and I believe that properly belongs in our future discussion, since it deals with fish meal.

And also, her last comment, her last paragraph has to do with contaminant levels, and again, I suggest that be deferred until fish meal and fish oil is discussed.
Vanishing with her comments, paragraph G
deals with silage. And there is a misquote or a missed
citation. The citation should be section 205.601. We
believe that the one of the frontiers of aquaculture is
indeed recycling fish carcases after the filets have been
removed, so that the nutrients that are in the fish carcases
can be recovered. This will allow that. It references
silage to fish enzymes, emulsions and so forth, which are
allowed. And that's the section that we are citing.

Paragraph H, we believe it is essential. It has to
do with organic aquaculture feeds may include meals and oils
containing essential fatty acid produced by processes allowed
in organic production. Again, if we are going to have
limitations on oil and lipids from natural sources, this will
allow us to have an alternate source of oils. And we think
it's very important to be stated here in the affirmative.

The next comment has to do with paragraph I,
nutritional pigmented compounds that have been produced and
handled in accordance with organic requirements appear on the
national list, that's 205.603, are allowed in the US, and
allowed by the US Food and Drug Administration for inclusion
in aquaculture feeds, may be used. She has offered some
suggestions, word changes which we concur with. So paragraph
I we would concur with.

Paragraph 6 has to do with composted manure. And I
think there is a bit of confusion here. The indication is that we should be consistent with crops, and we are. Under the crop standards, there is a method for the composting of manure. There is no time limit. We have in our using of composted manure for fertilizing ponds a 30-day withdrawal prior to human consumption. And we believe that is adequate. Let me say that this is now being practiced in the growing of shrimp. Shrimp crops are generally fairly short crops, 120 days. And if the period of withdrawal were to be significantly greater than what is proposed here, it would preclude the use.

What happens here is an instant ecological development in that the carbon and nitrogen source for micro-algae comes from the compost. Micro-algae is grown as a primary producer. Then cocoa pods and ether, small crustaceans eat that algae, which is then eaten by the shrimp. This greatly reduces the off-farm inputs into a shrimp growing operations. And we believe this is one of the frontiers.

MR. ENGELBERT: George, how many more separate items do you have that you want to go through while --

MR. LOCKWOOD: About three.

MR. ENGELBERT: Three?

MR. LOCKWOOD: Three.

MR. ENGELBERT: Okay. Let's go through all those
three, so we can get a brief overview, and then let's go back
one at a time to give Valerie a chance to incorporate these
changes into the proposed recommendation, and to give the
Board a chance to talk about each one of these changes.

MR. LOCKWOOD: Okay.

MR. ENGELBERT: Okay.

MR. LOCKWOOD: The next proposal has to do with
aquaculture facilities, and it has to do with the conversion
period. We have proposed one year, and she is suggesting we
go to 36 months, which is the time period for land
conversion.

Aquatic systems are dramatically different than
terrestrial systems. And this is one area. We believe that
there is substantial science to indicate that the, any
prohibited substances that would be in a pond would be dealt
with within a 12-month period of time. This is a substantial
difference than terrestrial, but the aquatic system is
substantially different in this respect.

The next item has to do with farmed aquatic plants.
Farmed aquatic plants are essential for many aquaculture
systems, particularly in those that rely on lower tropic
level feed inputs. The objection is, we believe that we are
also allowing aquatic plants may be grown in organic systems
for human consumption. We certainly would be willing to
postpone that section of farmed aquatic plants, if we could
go ahead with the allowance for the use of farmed aquatic plants as aquaculture feeds.

So that's, those are our comments here.

MR. ENGELBERT: Okay. Now, can we go right back to the top and talk about the first recommendation or the first change that the AWG agrees to, and we can talk about that.

MR. MOYER: Item A was the table --

MR. ENGELBERT: Okay, yes, that, we're just going to table that, the things that we are just going to talk about changing, so that we can get a recommendation ready for vote tomorrow. The first one is --

MR. MOYER: You have to change the citation for 605 and 601.

MR. ENGELBERT: Okay. Valerie, the first change is in G. There is a typo there. We need to change that to read, from reading -- it's in 252 section --

MS. FRANCES: What page?

MR. MOYER: 205.

MR. ENGELBERT: Section G.

MS. CAROE: It's all the way at the end of the document where the actual rules are, because the first part is all public comment.

MR. ENGELBERT: It's on page eight.

MS. FRANCES: Page eight. Page eight of the rules, or page eight of where the public comment discussion. In
your actually recommendation. Okay.

    MR. ENGELBERT: In the proposed recommendation, under 205.252 letter G.

    MS. FRANCES: The silage?

    MR. ENGELBERT: Yes. Yes. We need to change that 205.605 to 205.601.

    MS. FRANCES: Okay, that's a typo.

    MR. ENGELBERT: Yes, Dan.

    MR. GIACOMINI: 601, this is aquaculture feed section. This is the section that's looking at what is going to be allowed as the use in feeding these animals. 601 is the crop section. I understand that it may have been convenient to go there as a source of where it is in the existing rule, but I'm totally opposed with the fact that I don't believe that's the appropriate place to go.

    This needs to be 603, which is where we deal with livestock issues. And if we then need to add substances on 603 to make this work, I think that would be the appropriate way to do it. But I don't think it's appropriate to go to the crop section for livestock feed, livestock aquatic feed issues.

    MR. ENGELBERT: All we're saying, Dan, is you've already provided for silage for fish emulsion, and we simply want to make sure that silage is included within the aquaculture section. That's the only citation we have. It
has nothing to do with soil amendment. We're obviously not
amending soil.

MR. GIACOMINI: Joe.

MR. SMILLIE: Yes, it's what -- I think you are
right, Dan. I -- it's dealt with in our current terrestrial
systems, if 601 is a fish emulsion product. And what you're
talking about is a fish feed, but done through the exact same
process. So I think Dan is right. I think 603 is the proper
place for it.

MR. ENGELBERT: Well, then, that would have to be
an amendment you would carry.

MS. CAROE: It's not a motion. It's not an
amendment. It's a change.

MR. SMILLIE: Yes. I think we can --

MS. CAROE: Kevin --

MR. SMILLIE: We can make that change.

MR. ENGELBERT: I'm not sure. I don't know.

Andrea.

MS. CAROE: I think the issue is, you're looking to
get a particular material available to you, and it happens to
be on a list, but it's not the appropriate list. So to Dan's
point, 603 is the appropriate list, unless we even build a
new list out of the reserved sections, which we could do. I
don't think it's necessary. I think we can go to 603.

However, a follow on action, and perhaps an action
for the fall meeting is looking at materials that need to be added to 603 to accommodate this new production technique, in which case that material that you are citing off of, a crops list may be one that needs to be petitioned and looked at. But, you know, the tail is wagging the dog if we cite 601. We need to, I think Dan is correct. 603 is appropriate, but your material that you want is not necessarily there. So there is further action in order to do this the right way.

MR. ENGELBERT: So then you are saying, this should be 603, and that's what we should probably go with right now. Is that what I'm understanding?

MS. CAROE: It's my opinion, yes.

MR. ENGELBERT: Okay.

MR. SMILLIE: One clarification. 603 is synthetic substances.

MR. LOCKWOOD: Well, that's what's -- so what's required here is the use of acid, synthetic mineral acids that are allowed for fish emulsion. It's the same process as silage.

MR. SMILLIE: Okay. Okay.

MR. LOCKWOOD: If you are going to rewrite that and put it in 603, there is a pH limit of 3.5 for the fish emulsion. I would suggest that we go a little bit lower to 2.5 perhaps.

MR. SMILLIE: Andrea?
MS. CAROE: Again, that would be the section action. That would be looking at, petitioning, and putting appropriate materials on the list for this particular production practice. So I think that can be, you know, evaluated.

But it's not, the material that is listed there is listed under a crop section. The regulation allows it in the crop use. It's inappropriate for us to apply that to production system, which was not looked at by original Board that put that on the list, nor the TAP reviewers that evaluated it for that purpose.

So, again, the after action is to look at, or listing appropriate materials on the appropriate list.

MR. LOCKWOOD: That takes a whole new petition process, then?

MS. CAROE: It would take a petition. And, I know, I know. But this is the pain of putting in a new production system into a standard that exists. There are things that are not considered and that need to be started from scratch.

MR. LOCKWOOD: Okay.

MR. ENGELBERT: Okay. Now, the next item you brought up is under H on 205.252. And you disagree with Emily Brown Rosen's suggestion?

MR. LOCKWOOD: She uses the word implies, I guess, the proper word being first. We're not implying anything.
We're very clearly stating that organic aquaculture feeds may include meals and oils containing essential fatty acid produced by processes allowed in organic production. And that is new technology is coming on line that will allow as an alternate source of fish oils.

MR. ENGELBERT: Bea.

MS. JAMES: I just have a question on point of order here. We're changing this recommendation, and I'm assuming that after that, then we are going to get into discussion about the recommendation in general? Okay.

MR. ENGELBERT: Yes. Any other comments on H, what we need to do there? Dan.

MR. GIACOMINI: Yeah, George, I think this would also be a place where you might want to address, there were a number of public comments that addressed the allowance of fish and fish meal, fish oil, fish meal in particular through the additives section. And that this was considered a loophole in getting into aquaculture, and how much would then be allowed going, jumping from an additive to a feed. Do you have anything to address on those issues?

MR. LOCKWOOD: Dan, all during this conference we've been saying these issues are going to be postponed, and we think it's proper to address them when you are addressing them later on. And I seem to notice here that this apparently is an issue in livestock also, the wording of this
particular clause.

The clause you're talking about was picked directly from the livestock standard. At present, we would not want to deviate from what you are doing in livestock.

MR. ENGELBERT: Joe.

MR. SMILLIE: Yes, I just wanted to clarify what George has said, that the H is not referring to fish meal or fish oil, right? It's a new algol process for omega 3's that looks to be a promising alternative to fish meal and fish oil.

MR. LOCKWOOD: And Bob Bolus, one of our Committee members is where, and he will be giving public comments later.

MR. SMILLIE: So my recommendation is to leave it as is.

MR. ENGELBERT: Leave it as is. Okay. Okay. Anybody else? Okay. Next, George was, under J, maybe you could explain your position a little bit.

MR. LOCKWOOD: I think it's I, isn't it?


MR. LOCKWOOD: We find the change that is being proposed here probably clarifies matters.

MR. ENGELBERT: Okay.

MR. LOCKWOOD: It's acceptable.

MR. ENGELBERT: So on I, Valerie, it starts out,
nutritional pigment compounds, and then we want to delete, that have been produced and handled in accordance with organic requirements. And then pickup again with, appear on the national list at 205.603.

MR. LOCKWOOD: I think it's --

MR. ENGELBERT: And then add in, or are organically produced. And the pick up with the rest of the wording, and allowed by the U.S. Food and Drug Administration for inclusion in aquaculture feeds may be used.

I'll read straight through the whole thing.

Nutritional pigment compounds -- pardon me -- that appear -- no. Nutritional pigment compounds that appear on the national list at 205.603 or are organically produced and allowed by the U.S. Food and Drug Administration for inclusion in aquaculture feeds may be used.

MS. FRANCES: Did I get that?

MR. ENGELBERT: I can't see it from here.

MR. LOCKWOOD: There should be the word that in there, nutritional pigment compounds that appear, no comma.

MR. ENGELBERT: Okay. Valerie, would you re-read that, please?

MS. FRANCES: Nutritional compounds that appear on 205.603 or are organically produced and allowed by U.S. Food and Drug Administration for inclusion in aquaculture feeds may be used.
MR. ENGELBERT: Is that it? Thank you. Okay.

Does anybody have any other comments on that wording? Okay.

Next is J then. The question is, why is that under feed when you are using composted manure to fertilize the pond?

MR. LOCKWOOD: Where else would we have put it? I'm at a loss right now. Would you want it under living conditions?

MR. ENGELBERT: Yeah --

(Discussion off the record.)

MR. ENGELBERT: Is there any discussion on this from any other members of the Board? Does anybody want to try to help us out here? Andrea.

MS. CAROE: We're talking about these manures in the ponds?

MR. ENGELBERT: Yes.

MS. CAROE: I think living conditions may be a place that you can do it, because it becomes an environmental control, right? Is that not correct?

MR. MOYER: I think what they're trying to do is fertilize the pond to grow the algae and micro-algae. And micro-algae is a feed, and I think that's why they stuck it in here under feed. But you are really not feeding fish with the compost, so it doesn't really belong there.

MS. CAROE: Kevin?

MR. ENGELBERT: Yes, Andrea.
MS. CAROE: Okay, so ultimately, what you just said, it could be put into the aquatic plant section, because that's what you are doing is growing aquatic plants. You're fertilizing aquatic plants.

However, in this situation, I think the reason that it's here is because you're trying to restrict the proper use of these so that you don't have an environmental issue. It becomes living condition.

MR. ENGELBERT: Right.

MS. CAROE: That's why I was suggesting, it becomes living condition. It's not a feed issue. Hopefully, they are not eating it, but I don't know. But anyways, but it might be an environmental issue with the place that they are swimming around.

MR. ENGELBERT: Yeah, I'm trying to think of a comparison with terrestrial agriculture. I'm not sure that -- I still think maybe in plants is the better place, you know what I mean. Applying a fertilizer to a field to try to grow the crop is analogous to what I think is trying to be accomplished here.

MR. SMILLIE: Well, I want to point out that it also does appear, much the same language in 258, farmed aquatic plants, which we'll be dealing with. So it's there. I don't know, do you need it in both places, George?

MR. LOCKWOOD: Well, we're doing something more
than just growing plants here. We're establishing an ecosystem that supports the growth of shrimp.

MR. SMILLIE: Yes, so living.

MR. LOCKWOOD: It doesn't make a lot of difference to us where it appears.

MR. SMILLIE: Okay.

MR. LOCKWOOD: We just want to make sure it's in there.

MR. SMILLIE: Okay.

MR. ENGELBERT: Yes. Okay. We'll have to work on that.

MR. SMILLIE: Yes.

MS. CAROE: Kevin.

MR. ENGELBERT: Yes, Andrea.

MS. CAROE: Really quickly, it is now after 12:00. Actually, is it 1:00? Am I reading it -- it's 12:00. 10 after 12:00. How much longer do you want to debate this? I'm wondering if we should cut this at some point so that we can break for lunch, take a shorter lunch, come back. Shorter lunch.

MR. ENGELBERT: Jennifer.

MS. HALL: Can I suggest we get through the changes and then maybe break and come back for discussion?

MR. ENGELBERT: Okay. We can do that. Okay.

What's --
MR. MOYER: Next is 205.255.

MR. ENGELBERT: Next is 205.255, page 13, item K, related to the one-year period. Go ahead George and tell us.

MR. LOCKWOOD: The reason we have opted for one year here is that with aquatic systems, a pond that's filled with water, the prohibited systems would be dealt with due to not only the biology but the simple fact that water is there and the pond will be drained, and so forth, before it is used. That being said, this isn't a deal killer with us.

MR. ENGELBERT: Right.

MR. LOCKWOOD: If you really think in your judgment that a three-year period is necessary in order to be consistent throughout the standards, that's fine.

MR. ENGELBERT: Yes. That's always been my opinion, but again, that's why we're here trying to work this out.

MR. LOCKWOOD: We would prefer one year. We think the science supports it. But like I say, if three years is what you want, we can live with it.

MR. ENGELBERT: Okay.

MR. LOCKWOOD: And the prohibited substances that are in 602, I guess it is, we don't use any of them. There is very little use of chemicals in aquaculture.

MR. ENGELBERT: But if there are any, that's the distinction we have to make. We have to --
MR. LOCKWOOD: The list you have, we don't use.

MR. ENGELBERT: Well, maybe in the future, they will be, and we're trying to write, you know, trying to write a long lasting recommendation here. So I think to have a good chance of getting this to go through, we need to change that to 36 months, three years. Any other discussion, comments? Steve.

MR. DEMURE: Are there any testing, any scientific evidence on whether one year versus three years is better?

MR. ENGELBERT: It's, again, this is part of the subjectiveness of writing a rule. Three years was a compromise with land, you know, with land, terrestrial-based system. And it -- tests are expensive. They can be done, but it's, yes, Jeff.

MR. MOYER: Steve, to answer, I mean, I have scientists that work in my own organization that will say that they can scientifically show that they can transition land in under a year and have it be organic. I mean, that's not what this is all about. It's not about testing. It's about the process.

I mean, you test a lot of land, and you will find residuals, but if they went through the three-year process. So it's not about testing, it's about the time. And it's not trying, we're not trying to short cycle things here. I agree with Kevin, that if you have three years for land, it's hard
to not say you have three years for water, and justify that.

If we get into some sort of testing thing, we're in
deep unchartered waters there. We don't want to go there.
You don't want to go there.

MR. LOCKWOOD: Jeff, let me point out that IFOM has
one year or one crop, whichever is less. So the
international standards are going for one year, and we
thought that was reasonable. But again, Kevin, this is not
the deal killer.

MR. ENGELBERT: Okay. Okay, let's -- yes, we can
change that. Valerie on 205.255, aquaculture facilities
under K, we want to strike one year, and put in three years
or 36 months from the date of the last prohibited substance.
Joe.

MR. SMILLIE: George, do you understand that from
the date of the last prohibited substance. So if you are
claiming that most, in most cases these particular substances
are not used, then you shouldn't have a problem with it.

MR. ENGELBERT: Right. That's, you know --

MR. LOCKWOOD: We understand that.

MR. ENGELBERT: If they can document --

MR. LOCKWOOD: That's why we can live with it.

MR. SMILLIE: Okay.

MR. LOCKWOOD: These prohibited substances aren't
used in aquaculture anyway.
MR. SMILLIE: Understanding that that's a compromise.

MR. ENGELBERT: Because that's what works in the rest of the rule anyway.

MS. JAMES: Kevin, Kevin.

MR. ENGELBERT: Yes, Bea.

MS. JAMES: Why are we changing it based on what we have for crops? Don't you think we should be making these regulations based on the science for aquaculture?

MR. ENGELBERT: It's based on -- right, it's not in the science for crops. It's based on --

MS. JAMES: Well, I heard you reference that it should be changed because we have this three-year period with crops, so therefore.

MR. ENGELBERT: But it's not --

MS. JAMES: However, then I'm hearing George and Joe say, well, a lot of these things aren't used anyway, and within a year -- so I'm just confused, why three years then?

MR. ENGELBERT: Joe.

MR. SMILLIE: Bea, I think what we are saying is, three years from the date of the last prohibited material being applied. Ponds are very much like fields in that they have bottom, and the bottom is generally some sort of soil-based material. These chemicals can fall down, impede themselves -- it's no different than ponding on a field, only
it's deeper and you are raising fish in. So that's why we are saying, three months from -- just the same as with crops. 36 months, I'm sorry.

MR. LOCKWOOD: I might add --

MR. SMILLIE: If they haven't applied anything to the pond for the last 36 months, technically, when George walks out the door, it's certified organic if we voted on this, just like a farmer's field would be. They are very comparative. And farmer's fields are not based on science per se. I mean, there is science, but --

MR. LOCKWOOD: One of our members, John Hargraves, is a scientist who works in the area of ponds. And in our commentary to you, which was delivered on March 23rd, John wrote the following. Conversion periods in terrestrial agriculture are intended to allow dissipation of residue, chemical residues that may have accumulated in the soils subject to repeated exposure to pesticides and other agricultural chemicals.

Aquaculture production systems are fundamentally different from terrestrial agriculture in this regard. Very few agricultural chemicals are applied to aquaculture production systems because of concerns related to accumulation of chemical residues in cultured fish.

Furthermore, chemical residues partition between the water and the soil. So simply draining water from a
culture unit will remove a variable portion of residues.
So that's a scientist who works in this area's opinion. Again, it's your decision. We have suggested one year, but --

MR. ENGELBERT: Right, but we still believe because there are, if -- the key word is, there are very few used, but there are some. Andrea and the Rigo.

MS. CAROE: I just want to point out that 205.202, present land recommendations, number, or letter B, indicates, have no prohibited substances as listed in 205.105 applied to the -- applied to it for a period of three years immediately preceding harvest of the crop. So in order to apply this identically, you have to say, three years prior to the harvest of the fish.

MR. ENGELBERT: Of the animal, right.

MS. CAROE: So --

MR. ENGELBERT: That's a good point.

MS. CAROE: -- this is actually more restrictive than it is for terrestrial farming.

MR. ENGELBERT: Yes, that's true. That's a good point. Okay. Can you repeat that for Valerie to add into that?

MS. CAROE: Well, I mean, it has to be changed somewhat, because we don't have a prohibited section to refer to.
MR. ENGELBERT: Right.

MS. CAROE: But essentially it is immediately preceding harvest of the, what do you call it? It's not --

MR. ENGELBERT: It's not --

MR. LOCKWOOD: It's a crop.

MS. CAROE: Crop? You call it a crop?

MR. LOCKWOOD: Sure.

MR. ENGELBERT: I guess.

MS. CAROE: Okay. Call it a crop.

MS. FRANCES: Aquatic crop.

MR. LOCKWOOD: Aquatic animals.

MS. CAROE: They're fish, or shrimp, or whatever.

MR. LOCKWOOD: We call fish aquatic animals.

MS. CAROE: Okay.

MR. LOCKWOOD: That's in our definitions.

MR. ENGELBERT: So why don't we go with that, then. Let's go with aquatic animals.

MS. CAROE: Harvest of aquatic animals.

MR. ENGELBERT: Yes.

MS. CAROE: I'll bring this to Valerie.

MR. ENGELBERT: Okay.

MR. SMILLIE: So let's proceed.

MR. ENGELBERT: Oh, that's right. Rigo.

MR. DELGATO: Going back to the topic of the three years, and when I think of a pond, I think of very clay
bottom soils, not much permeability. The water is going to stay there.

And thinking of land crops, three years, we don't have the science to back those three years. But you're saying that in the case of aquaculture, we do have the science to say that three years will be plenty of time to somehow eliminate any prohibited substances if they fall to the bottom and then they are somehow leaked outside of the system. Is that correct?

MR. LOCKWOOD: Our scientists who work in this area believe that one year is adequate, and certainly three years would be more than adequate.

MR. ENGELBERT: Okay. Now onto 205.258, farmed aquatic plants. Page 15, Valerie. Okay. George, would you refresh everyone's memory on what we are referring to there, and what you think we should change to leave that in rather than taking out the entire section, because you said that it's needed, aquatic plants are needed.

MR. LOCKWOOD: Aquatic plants are essential for some forms of aquaculture. And it is also the frontier of the future of aquaculture. There is a strong effort to push down to a lower tropic level so we get away from fish meal and fish oil and fish diets. And this is accomplished by having a system that grows plants, aquatic plants. So we feel it is essential for aquaculture of certain species.
Now, originally written here, we have a clause for human consumption, as well as feed for aquatic species. The reason for that is, there are aquatic plants, nori, for instance, that are grown and cultured, and there is a large market in Japan for nori. And we wanted to cover nori and others.

If this is a matter that you want to consider further, then we're quite willing to go along with that, as long as feed for aquatic animals is included.

MR. ENGELBERT: Joe.

MR. SMILLIE: Yes, I think we're just way better off in striking the human consumption and as from this document, because the whole sea vegetable production systems are a different --

MR. LOCKWOOD: Okay.

MR. SMILLIE: I wasn't going to say that. Anyhow, it's a different thing. So I think we are just better off for your industry, for the aquaculture industry at this point in time, to just work without the human consumption.

MR. LOCKWOOD: Well, would it be your intention to revisit this?

MR. SMILLIE: Well, currently, to my understanding, we are certifying sea vegetables mostly under the while crop provisions of the regulation, and there have been a number of different, you know, programs that are based on the current
NOP, that allow the certification of sea vegetables for human consumption, such as nori, hakama and I can't remember them all.

MR. ENGELBERT: Sorry, Joe. But, yes, George, I think this will be addressed, but it may very well come under the Crop Committee --

MR. LOCKWOOD: Fine.

MR. ENGELBERT: -- because it will be for human consumption at that point.

MR. LOCKWOOD: We just ask that -- this is an integral part of aquaculture.

MR. ENGELBERT: Right, but I think if we, as Joe suggested, and Valerie, if we start out with aquatic plants may be grown in organic system for feed for aquatic species that utilizes algae for food provided that. If we take out those four words, human consumption and as, I think we can continue with this in the recommendation, and keep everybody -- Andrea.

MS. CAROE: Just, I think, I think that's a good thing to do. And just to take this back to the precedence of what we already have in the rule, this would be analogous to pasture requirements in the livestock section, as opposed to crop production practices in the crop production.

MR. ENGELBERT: Right.

MS. CAROE: So this, this, right now, is addressing
pasture for fish. And we certainly want to have them have pasture access.

MR. LOCKWOOD: Well, I hope we don't get, we don't confuse -- I hope we don't confuse wild with cultured. Now, Joe, I have one other possible suggestion here, if we want to really clearly differentiate from wild, insert the clause after organic systems, insert, in ponds or other containment vessels, if that would help you in dealing with, you're certifying now wild seaweeds, or seaweeds grown in the ocean. And we could deliver that limitation, but we are not proposing it.

MR. ENGELBERT: Andrea.

MS. CAROE: I think that can be taken up as a crop section later on.

MR. LOCKWOOD: Okay.

MS. CAROE: Yes.

MR. LOCKWOOD: Now, moving on, the one year in number one there --

MR. ENGELBERT: Yes.

MR. LOCKWOOD: -- we just talked about changing to 36 months.

MR. ENGELBERT: Yes, we changed that to 36 months.

MR. LOCKWOOD: Again, this is from the application, prohibited substances.

MR. ENGELBERT: Right.
MR. LOCKWOOD: So if somebody has a concrete tank that they just build --

MR. ENGELBERT: Yes.

MR. LOCKWOOD: -- and no prohibited substance has ever been used, they can go into organic production immediately.

MR. ENGELBERT: Yes, they can. Yes, they will, or they may.

MR. LOCKWOOD: So that needs to be changed. Valerie, that's A(1).

MR. ENGELBERT: A(1), any uncontaminated vessel from which algae are intended to be represented as organic, must have had no prohibited substances as listed in 205.602 applied for 36 months immediately preceding harvest of the crop.

MS. FRANCES: It also should be just 602, just prohibited substances.

MR. ENGELBERT: Just prohibited substances, true. Yes.

MS. FRANCES: Should we just delete that phrase?

MR. ENGELBERT: Just, yes, prohibited substances applied for 36 months.

MR. LOCKWOOD: Kevin, under paragraph 2 there, there is a mis-citation which should be taken out.

MR. ENGELBERT: Okay.
MR. LOCKWOOD: It says, 205.601, which is correct, and 205.603, which is incorrect.

MR. ENGELBERT: That should be taken out. Okay.

MR. LOCKWOOD: That has to do with animals.

MR. ENGELBERT: Okay. Valerie, under 2 we need to strike, and 205.603. George, did you address the comments from IFOM with respect to our standards, and incorporated them in your latest recommendations that you presented today?

MR. LOCKWOOD: That's the only area where we --

MR. ENGELBERT: That was it?

MR. LOCKWOOD: Yes.

MR. ENGELBERT: Okay.

MR. LOCKWOOD: Now, Kevin, there are a couple of other changes that we have submitted to you in writing that I think you might want to address. Going back to feed, Valerie, item B has a typographical error that needs to be corrected.

MR. ENGELBERT: That's on page 8, Valerie.

MS. FRANCES: Which?

MR. LOCKWOOD: Item B, Valerie. The way it reads, it just doesn't make sense. And the and should be must.

MR. ENGELBERT: Right here. Use of fish meal and fish oil must minimize?

MR. LOCKWOOD: Yes. Now, that being said, we suggest another change there. It's not the fish meal and
fish oil. It's the aquatic animal feeds. So we would recommend changing use of fish meal and fish oil to read, use of aquatic animal feeds must minimize.

MR. ENGELBERT: Okay. Good.

MR. LOCKWOOD: It just makes it a little bit clearer.

MR. ENGELBERT: Yes. Okay, now do we -- do we want to remove item A under 252 for right now because of the fish oil and fish meal? We said we'd come back to that, but maybe we can talk about that right now before we break a little bit. Andrea.

MS. CAROE: We're not prohibiting the use of fish meal and fish oil. We're prohibiting the use of nonorganic fish meal and fish oil.

MR. ENGELBERT: Nonorganic. Okay.

MS. CAROE: Keep it in there because the industry may be generating fish meal and fish oil off of these plant eaters.

MR. ENGELBERT: Okay. Is there anything else from anyone? George.

MR. LOCKWOOD: Yes. The public comments received in writing include some very good ones from the Humane Society that we recommend be included.

MR. ENGELBERT: Okay.

MR. LOCKWOOD: First of all, under aquaculture
general, 250, item 9, Valerie. What they have recommended
and we concur is, it should read, aquaculture facilities
shall be designed, operated and managed in a manner that
seeks to maximizes the welfare of cultured aquatic animals,
minimizes stress on those animals, and prevents the spread of
disease within the facility, and so forth.

Those comments are included in addendum one, which
was handed out yesterday of our public, of our digested
public comments.

MS. FRANCES: Could you state that again?

MR. LOCKWOOD: Nine should be amended to read,
aquaculture facilities shall be designed, operated and
managed in manner that seeks to, and then add, maximize the
welfare of the cultured aquatic animals, comma, minimize
stress on those animals, and prevent, as it reads now, and
prevent, yes.

MR. ENGELBERT: Okay.

MR. LOCKWOOD: So that's one amendment.

MR. ENGELBERT: Okay. Let's wait just a minute,
George. Let's make sure Valerie gets it and reads it.

MS. FRANCES: I got it. Do you want to read it?

MR. ENGELBERT: Read it back, please, and then --

MS. FRANCES: Aquatic, I mean, aquaculture
facilities shall be designed, operated, and managed in a
manner that seeks to maximize the welfare of cultured aquatic
animals, minimize the stress on the animals, and prevents the
spread of disease.

MR. LOCKWOOD: It should be, on those animals.

MR. ENGELBERT: Okay. Any comments or discussion
from anybody on the Board? Okay.

MS. CAROE: Are you done with changes?

MR. ENGELBERT: No, just this one.

MS. CAROE: Okay.

MR. ENGELBERT: We're going to move onto the next
one now.

MR. LOCKWOOD: There's a couple more amendments.

MR. ENGELBERT: A couple more.

MR. LOCKWOOD: There's two more.

MR. ENGELBERT: Let's do it, two more.

MR. LOCKWOOD: I'm just as hungry as you are.

205.254, aquaculture living conditions. Section A -- I'm
reading from something different.

MR. MOYER: It's page 12.

MR. LOCKWOOD: It would be 12. And paragraph 2.

It's recommended that there be a new three added which says,
appropriate population or biomass densities that promote
natural behaviors and limits aggressive and dominant
behaviors from others.

MR. ENGELBERT: One more time, please, George.

MR. LOCKWOOD: Appropriate population or biomass
densities that promote natural behaviors and limits
aggressive and dominant behaviors from others.

MR. ENGELBERT: Okay. Any comments or questions
from the Board? Did you get that, Valerie.

MS. FRANCES: I'm assuming we mean other aquatic
animals? Okay.

(Discussion off the record.)

MR. LOCKWOOD: Fish farmers are very gentle people.

MR. ENGELBERT: Okay. Would you read that back,
please, Valerie.

MS. FRANCES: Three, as appropriate population or
biomass densities that promote natural behaviors and limits
aggressive and dominant behaviors from other aquatic animals.

MR. ENGELBERT: Thank you.

MR. LOCKWOOD: Okay the --

MR. ENGELBERT: Any discussion? Okay. Next,

George.

MR. LOCKWOOD: 205.259, harvest transport post-
harvest handling. Which B must be --

MR. ENGELBERT: Page 16.

MR. LOCKWOOD: 16.

MR. ENGELBERT: For those of you following at home.
Okay.

MR. LOCKWOOD: Item D, number D --

MR. ENGELBERT: Yes, I've got it.
MR. LOCKWOOD: Fish will be held in high-quality water for the duration of food deprivation prior to transport and slaughter for a period not to exceed the time necessary to allow clearance of the stomach and intestine contents. Insert, after slaughter for a period not to exceed the time necessary -- to allow.

MR. ENGELBERT: Cross the S off.

MR. LOCKWOOD: Take that, allows and change it to be to allow. Okay. And that, and then there is a change on --

MR. ENGELBERT: Wait just a minute, George. Read that right -- read through that again the way it should read, so we can be sure Valerie has it. Are you set, Valerie? Go ahead and read it, then.

MS. FRANCES: Fish should be held in high quality water for the duration of food deprivation prior to transport and slaughter for a period not to exceed the time necessary to allow clearance of stomach and intestined contents.

MR. ENGELBERT: Thank you. Any discussion on that? I'm seeing none.

MR. LOCKWOOD: Under E, just below that, I believe is L, permitted procedures include, okay, it says (1), E(1).

MR. ENGELBERT: E(1).

MR. LOCKWOOD: And then two small i's. Electrical stunning sufficient to achieve insentence --
MR. ENGELBERT: So right after electrical stunning insert --

MR. LOCKWOOD: Before immediate. Insert after electrical stunning --

MR. ENGELBERT: Sufficient --

MR. LOCKWOOD: -- sufficient to achieve insentencence.

(Discussion off the record.)

MR. ENGELBERT: Any discussion? Do we need that read again? Does anybody like to have Valerie read that? Okay. We're all set. George, I know everybody wants to break, but quickly would you talk about the ice slurry, and why you have, why you disagree with the comments on that, and why you feel that should still be allowed? Because there will be some discussion on that, I'm sure, amongst Board members eventually.

MR. LOCKWOOD: Our proposal is for warm water fish, ice slurry be allowed for a period of five years. The reason being that the technology for the stunning of cold water fish is already developed and in practice. The technology for warm water fish is not quite there yet. And we propose a five-year period to allow that technology to catch up.

MR. ENGELBERT: Okay. Does anybody else have any questions or comments, concerns while we're -- before we turn this back over to Andrea? Thank you, everybody, for your
patience in helping us work through this process. Andrea.

MS. CAROE: I just ask George, after the break, if
-- after we go to lunch and come back, the Committee may want
to discuss some more general topics about aquaculture yet.
So if you could make yourself available, it would be
appreciated.

MR. LOCKWOOD: I'll be here.

MS. CAROE: Okay. Then anything else from you,
Kevin?

MR. ENGELBERT: Not right now.

MS. CAROE: Okay.

MR. LOCKWOOD: Thank you very much for your
patience, everybody. Thank you for your interest in this.

MR. ENGELBERT: Yes, and everybody in the audience,
also. Thank you very much for your patience.

MS. CAROE: Dan.

MR. ENGELBERT: Dan.

MR. GIACOMINI: Would it be possible for members of
the Board to get flash drive distribution of the updated
document, so that we can take a look at it before tomorrow?

MS. FRANCES: You'll have to bring your little
thing and I will do it.

MS. CAROE: Bring her your stick. Okay. So we
were supposed to break for lunch 35 minutes ago. And we were
supposed to also get through cloning. So we're a bit behind,
but I am going to ask the Board, do you feel that you can be back at 1:15? It's 12:35.

(Discussion off the record.)

MS. CAROE: All right. 1:30, but we are going to be here for a little while tonight. Everybody will be here promptly at 1:30.

(Luncheon recess.)

MS. CAROE: Do you want to address anymore aquaculture questions at this time from the Board?

MR. ENGELBERT: That's up to the Board, Andrea. If anybody on the Board has anything they want to bring up, we could ask George to come back up and we could try to address these issue right now. I don't see George in the room. But we can start, anyway.

MS. CAROE: Okay. Why don't you go ahead and see if anybody has any questions on any part, or in general, on his recommendation.

MR. ENGELBERT: Having said that, are there anymore discussions, comments, criticisms that anybody on the Board would like to bring up about aquaculture before we move on? You had one.

MR. SMILLIE: Just one comment, and that is that once again, as everybody knows, but just to make sure, that this is not set in stone; that there's been a number of good comments that we've received, and we haven't been able to,
perhaps, put into the document. And it's going to be an
ongoing document, so the Board and everyone else -- it is a
work in progress.

MR. ENGELBERT: Right, a work in progress.

MR. SMILLIE: It's going to be a recommendation.

We've still got lots more time to hone it and perfect it, and
it's still a ways before it's a regulation.

So I think that having been said, a couple of the
petitioners that got in very reasonable petitions that could
have been accepted, weren't accepted at this go round. That
doesn't means that those comments are lost. We will
definitely get back to them when we get time, and as we
continue to work on the document. Hopefully, it gets voted
for positively tomorrow, then we'll continue to work on it.
So those comments that didn't get specifically answered today
from petitioners are still kept.

MR. ENGELBERT: Tracy.

MS. MIEDEMA: Yes, I just have a question on the
terminology aquatic animal versus aquatic species that's
mentioned in our responses to public comments. Aquatic
animals includes, or it accepts amphibians, reptiles, birds
and mammals. But the term aquatic species includes
amphibians, reptiles, aquatic plants? I just wanted to make
sure we don't have any confusion of that in using the term
aquatic animal we are excluding the species I just mentioned?
MR. ENGELBERT: Where are those references, exactly, to each?

MS. MIEDEMA: It's on page four and on page 25, where the two terms are defined.

MR. ENGELBERT: Okay. What was your question again? I don't see aquatic species.

MS. MIEDEMA: The broader question is just aquaculture as we are defining it here only applies to fish and crustaceans, not amphibians, reptiles, or any mammals that are raised in the water.

MR. ENGELBERT: That's my understanding. Yes.

MS. MIEDEMA: Okay.

MR. ENGELBERT: Yes. That's what we believe.

MS. MIEDEMA: Okay.

MR. ENGELBERT: Bea.

MS. JAMES: Well, I guess I'll just play devil's advocate here, what else is new. I just want to know what the rationale was with the Livestock Committee on pushing this forward so quickly, when there is obviously so much more information that we need?

MR. ENGELBERT: Andrea, do you want to address that?

MS. CAROE: It's far from quick. This, there has been a tremendous amount of work over a lot of time being done on this. I believe that we've requested a lot of
volunteer time from industry. They will not, they will not
stay with us and work with us any longer if we don't show
progress.

We are not finished with this. We have further
work that we are going to do. This is the noncontroversial
part. And you know, we've pulled out -- you've heard a lot
of comment today and yesterday about two sections that we've
pulled because we know they are controversial. So those two
sections, you know, we agree they need further work. But
establishing something and showing progress is important for,
you know, to return.

Essentially, we can have organic catfish and
Tilapia after we task this. We can't have carnivors unless
Tilapia and catfish become fish meal and fish oil to meet
those dietary requirements of carnivorous fish. But this
will establish some organic production, and it will show that
we, as we have said, we are going to make progress. And it's
been, it's been two years of work -- two years of volunteer
time. I mean, I don't think that's quick.

MS. JAMES: Well, I would disagree. And I don't
think that two years is a long time in this industry. And I
think that the recommendation has a lot of unanswered
questions in it, in my opinion. And I believe that it's
better to have the full recommendation with all things
considered than to just put something forward because the
industry is pounding at our door.

That's just, that's my opinion. I feel like I don't really fully understand the water quality maintenance and the off puts from land locked operations. I understand that when I questioned one of the people that came up about it, they had -- were able to reference one facility that they were familiar with. But I haven't, I've read through a lot of the comments that are saying that there are issues around that.

That there are issues with the auditing; that there are going to be issues with adding this into the certifiers process. Are they ready for that. And so I think that there is a lot of information that still needs to be considered, and I appreciate and respect all of the hard work that's been done with this.

But I would be hesitant to put something forward, just because we're trying to please the industry. I think that our duty is to make sure that we fully understand the impact of whatever recommendation that we put forward, and we have all the necessary information before we put a recommendation out there.

MR. ENGELBERT: Andrea.

MS. CAROE: This recommendation has been available for NOSB members to look at for a while and ask questions. I feel like I've been a part of this. I've been working with
this. I think it's been available to us. You have a vote.
If you feel that way, you know, a minority opinion is a good thing. But I can't -- I will say that we agree to disagree on this.

MR. ENGELBERT: Katrina and then Jennifer. Or Jennifer. Katrina and the Jennifer.

MS. HEINEZ: I'm not sure who can most appropriately answer this, but as I'm trying to wrap my arms around this recommendation, I'm trying to understand what the impact will be for consumers once a final rule is issued.

Today, when I go to the grocery store, there is a wide variety of fish available. Some are labeled organic. So for example, organic salmon. If this recommendation -- if we approve the recommendation and a final rule is issued, what I'm understanding is that only noncarnivorous fish could then be certified organic?

I guess I need someone to explain what does, what does the future look like for consumers?

MR. ENGELBERT: Andrea.

MS. CAROE: At this time, we are not allowing any deviation from 100 percent organic feed. That presents a pretty significant challenge to anybody that is raising fish that require fish meal or fish oil as part of that diet. It's not impossible. It's improbable, but it's not impossible.
However, that is what is being established today. We will be looking for a possible provision and other methods to accommodate this period of time where availability of those organic supplies are not there. That's tabled. That we have already said we are going to engage in some type of dialogue with industry to establish that. But at this time, it doesn't prevent those things from making it out to market, it just makes it extremely difficult.

MS. HEINEZ: I guess I don't, I'm not saying that having those off the market is a bad thing. I'm just trying to understand. They exist today, and we've heard lots of public testimony that maybe they shouldn't be on the market today.

So maybe, Mark, this is a question for you. The current things that I can see at the grocery store that are labeled organic salmon, would those then not be able to be labeled as such, unless they meet these requirements?

MR. BRADLEY: Are you asking if they come forward with an herbivorous fish standard only, if it would exclude carnivorous fish from being sold? That's something we're going to have to look at, but that's something that the Board need to consider as well, is if this would be the aquaculture standard, or if it would be an aquatic species standard for herbivorous fish that would leave the rest of them still able to be marketed? I think it would be very confusing.
I mean, there's a lot of confusion going on right now, and we consistently get comments about, how are they marketing this, and you know, on the other side, the industry has been waiting for a standard for a while.

MS. HEINEZ: Thank you.

MR. ENGELBERT: Jennifer was on behalf of Katrina, so Joe.

MR. SMILLIE: Well, two things. Number one, as Andrea said, and I want to reiterate, it doesn't ban piscivorus, I think is a more correct term, and carnivorous fish. For example, if the organic -- if we pass a standard and we have organic Tilapia, catfish, et cetera, those fish could become legitimate organic feed and be fed to piscivorus fish.

So it doesn't specifically exclude piscivorus fish. It excludes wild fish meal as organic feed at this point in time for further discussion.

Number two is, rather than confusing the consumer, the consumer is now confused. The aquaculture industry in the United States is just an absolute welter of different claims and different promotions, including, you know, organic being banned in California and Georgia. I don't know where Georgia came from. But it's banned in California and Georgia, yet there's organic labeled product all of the U.S. which is European organic, which is still allowable in this
country to call it organic, since there is no regulation.

So by putting down a regulation, we are at least starting to clear up the consumer confusion issues by saying, here's what's allowed in the U.S. as organic. And that way, you know, it could create trade barriers for organic fish from Europe in the future, because we will have an aquaculture standard. So I think it will take a big step towards clearing what is an extremely confusing eco-seal, humane seal, you know, all sorts of different claims in the marketplace now.

MR. ENGELBERT: Yes, Bea.

MS. JAMES: I want to comment on that. I don't necessarily think that having this partial recommendation is going to clarify things for the consumer. I think that the consumer, it's going to potentially cause more confusion because the retailer is going to, and I'm just speaking from experience in the retail industry, assume that there are now regulations within the United States, and there will be more labeling of organic fish that potentially is not considered organic by the NOP.

MR. ENGELBERT: Okay. And I would like to just comment, quickly, that I don't want, Bea, to give the impression that the livestock committee is trying to force anything on anybody on this Board. That's not our intent at all. And if that was the impression that was given, I
apologize. That's not it at all. Andrea and then Jennifer.

MS. CAROE: Just for clarification, one of the reasons why, when we took this on, we looked at this is because of the confusion of marketplace labels.

Ultimately when the decision is made, after we have this fact finding, whether there is going to be some other method to allow for the fish that eat fish to get into the organic systems, or whether there is going to be net pens, when we have that dialogue and we come up with our recommendation after that, I fully expect if this Board determines that it's inappropriate to allow some short period of time when nonorganic fish are allowed as feed, if that doesn't happen, we're establishing a rule across the board like any other food labeled in organic.

So, you know, if it is a no for -- any product on the market that's labeled as an organic fish will also have to meet these standards. So European standards, which presently, since there is no established rule, have a place in the marketplace, won't. It will be establishing that federal regulation.

So your argument, I guess, I see it the opposite direction. I see this as a means to correct what's happening.

MR. ENGELBERG: Did you want to comment? Jennifer.

MS. HALL: I'm not sure how many people are
familiar with Monterey Bay Aquarium Seafood Watch Guidelines, but currently that is probably the most widely recognized consumer education on seafood purchasing in a sustainable manner. And with the document that we have that's been revised that we're currently considering, it is on a very consistent and parallel path with how that defines sustainable purchasing at this time, which is vegetarian or nonpiscivorous fish that are farmed, are in the green category, and farmed salmon is in the red category. So I think if anything it helps to work hand in glove with efforts that are in place already.

MR. ENGELBERT: Okay. Anybody else on the Board have any comments or questions they'd like to bring up before we move on? Seeing none, that was fun.

Now we go onto our next recommendation, relatively recent on the radar screen, and that's cloning. The Livestock Committee took heed of the message sent by the overwhelming majority of the public comment sent in since the posting of our recommendation, and we have voted to add wording to deal with the progeny of cloned livestock. Valerie is putting that on the screen. And what we have proposed since the recommendation came out was on the introduction on the second paragraph, we have voted on striking out the entire last sentence. And we have also voted on adding the following under 205.236, origin of
livestock, B, the following are prohibited, then number 3.
Livestock, progeny and all succeeding generations from cloned
livestock, reproductive materials, or any other products
derived from animals produced using animal cloning
technology, and then in parentheses, includes somatic cell,
nuclear transfer, or other cloning methods. Those would be
prohibited under origin of livestock.

We've had some good suggestions yesterday on public
comment, and I think that if we can adopt those suggestions
also, and change under excluded methods, state or other
methods of asexual reproduction of animals -- I can't see the
screen.

MS. FRANCES: I am confused. Where are we?

MR. ENGELBERT: Okay. Under 205.2 --

MS. FRANCES: Right.

MR. ENGELBERT: -- terms defined, excluded methods.

MS. FRANCES: Right.

MR. ENGELBERT: The second sentence. We have
proposed adding in somatic cell, nuclear transfer, or other
methods of animal cloning. And it has been suggested and the
Livestock Committee agrees that we should change that to
asexual reproduction of animals, or other methods of asexual
reproduction of animals.

And then the same thing under 3 on what we proposed
under the filing are prohibited. The last two words would
need to be struck and add in, methods of asexual reproduction of animals.

Okay. Then the last change that we proposed, the original first working draft contained the word forever quite a few times, and I went through and took it out and have discovered that I missed one. Right at the top of that page under for recommendation, the paragraph reads, the Livestock Committee recommends that the NOP implement rule change to clarify that cloning technology and all its products, including all progeny and succeeding generations from those progeny in organic production be forever excluded from organic production. We would like to strike the word forever there, also. Right there. Strike that word.

That's the only place it was. And that's what we have for our, the Livestock Committee's recommendation on cloning. And I will open it up for questions, comments, discussion from the Board. Dan.

MR. GIACOMINI: Thanks, Kevin. The original, the previous version of this document, not including progeny, allowed for us to use some terminology without being quite as specific as we could have been. In the process of including progeny on this, we are now then, and using the term somatic cell nuclear transfer, I contacted a fair number of reproductive and AI Bull industry experts, who said that that would include embryo splitting, which is currently allowed.
There may be some people in the industry that do not feel that it would be. And it's not that it's allowed within to organic industry, you could not do this on your own operation, but by the language we are including now, we would be prohibiting the progeny of those animals.

There are thousands of bulls in the last probably five to 10 years that have, that are in AI service that were from these techniques. They are identified as ET, embryo transfer, at least within the dairy industry. I'm not sure how they are identified in the beef industry. But they are not separated from any other ET animals. There is no additional identification of them, other than just being embryo transfer, the result of embryo transfer.

So I'm very concerned that we are theoretical, essentially creating a prohibition on a large number of animals that number one are currently allowed in the organic industry; and number two, there is absolutely no way in the current landscape to track these animals. And from the people that I've talked to, if this is also a concern of other members of the Board, a result around this would be simply to add the word adult between includes and somatic in the origin of livestock paragraph.

That would eliminate the embryonic somatic cell transfer problem that is currently, this document, this language currently creates. And the fact, if someone has a
problem with adult and saying, well, I don't want to be able, I don't want them to be able to clone calves, the use of the asexual reproductive techniques that we follow that first phrase with would outlaw it for them also.

But this would, by adding adult, I believe we would go a long way towards not restricting and prohibiting animal, techniques in animals that are -- animals that are a result of techniques that are currently allowed and is not part of this document, is not part of this debate. This is an adult cloning problem that we're trying to address. And I think this would solve the problem. Otherwise, I think this really creates some problems in the industry.

Mr. Engelbert: Anybody else have any comments?

Joe?

Mr. Smillie: Just a clarification, Dan. Could you, the language for those of us that are not as familiar with the livestock issues, in going with the ban on progeny it creates a problem on enforceability of --

Mr. Giacomini: There is currently technique that's been used for --

Mr. Smillie: Right.

Mr. Giacomini: -- fairly regularly, for a large number of years, where the embryos, some or all the embryos harvested in an embryo transfer process are, let's say, I don't know the exact numbers, but let's say at 16 cells, they
are split to two eight cells, reintroduced in evacuated eggs, and then implanted in recipients. That's currently allowed -- that's not allowed in organic, but the progeny of those animals is not illegal.

This language would make the progeny of those animals illegal. There are thousands of bulls currently in use, and there is absolutely no identification of them. And there is no way to track that.

MR. SMILLIE: So it would create an unenforceable rule?

MR. GIACOMINI: Well, there is debate now of whether this would even, as the best language we put together is an enforceable rule. We would be outlying a tremendous number of animals that are currently allowed in organic production.

MR. ENGELBERT: Jeff.

MR. MOYER: Yes, I think, Joe, to answer your question, on top of what Dan already said is, it will do both. It will create a situation where animals that are currently being used as breeding stock in the organic industry would no longer be allowed, nor would it be an enforceable rule. So it's both true.

MR. ENGELBERT: Andrea.

MS. CAROE: Originally, the first draft of this document, we looked at changing or adding to the definition
of excluded methods to include or to clarify that this type
type of technology is excluded. However, understanding that
progeny of these, even though we felt that the rule does not
allow that, adding language and putting that in we avoided,
and we avoided it for this reason, in that all of these
problems exist. All these consequences exist for trying to
enforce that.

The original language was somewhat vague saying
that we're committed to working with the program identifying
these areas and areas in which we can create enforceability
for this. This draft kind of went past that. And I respect
the fact that the Livestock Committee wanted to be very clear
on their opinions about this excluded method and its progeny.
However, I don't think we're doing ourselves any justice by
putting something out there that's useless.

Because since these animals don't come with a
pedigree, and there is no markers to indicate that they, you
know, that mom or dad or grandma or grandpa was, you know,
just like their sister, it just doesn't, it -- I just don't
see that we are doing anything. I think this is words for
words. It's making a stand but it's, you know, it doesn't
really make much sense to me to do this.

So I would, I would like the committee to
reconsider language that commits to working with the program,
and identifying enforceable regulation here, whereas, you
know, and I think that's the commitment we need to show at this point, instead of stating something that we can't do.

MR. ENGELBERT: Jeff.

MR. MOYER: Andrea, from the very beginning, you have the same position as I have on this with the words for words sake, and sort of placating people by putting the word progeny in there is a nice idea, but I don't see how it is enforceable.

On the other hand, by putting the words in there the way we talked about doing it in the second draft, does indicate the intent of the Board and the intent of the direction that we want to go. And even though it may not be enforceable, it's been argued that it does show farmers the intent that we don't want it to be there.

On the other hand, an inspector could never verify that it was there, nor could he verify that it wasn't there. So I agree with exactly what you are saying.

MS. CAROE: Is there a compromise position? Is there language we can use that does not suggest rule change that's not enforceable, but makes that commitment to include progeny? That's what I'm looking for is a compromise position.

MS. JAMES: I believe that if we were to change the
language again to have a more compromised position, that we should allow public comment on that.

MR. ENGELBERT: That's a good point. Anyone else? I mean, to defend the Livestock Committee's decision, I think it's important that we come out strongly against cloning in organic agriculture. I don't think there is any place for it. I think we're all in agreement on that. I also don't think there is any place for progeny of cloned livestock in organic agriculture. And I think we need to deal with it.

I think the issue has been identified. I think this is, at the present time, is as good a language as we can come up with for it. I don't see it as just word smithing or placating the public. I think this is important to get on the record right now.

When the original rules were drafted, there was no cloned livestock in the marketplace. And there is going to be soon. And as a process-based system, there is a lot of things that can't be proven in organic agriculture. But we still need to have the guidelines there so that people know what's right and what's wrong and what's accepted. And if someone is caught doing something that's not acceptable, they can be, they can be taken to task for that. And if it's not there, it's almost an unrestricted type of situation in my opinion. Bea.
MS. JAMES: I also think that we need to remember that this recommendation still has more stages to go through, that it will go to the NOP and that the NOP, perhaps, would, you know, whether we change the language now or we don't, they are going to be faced with the situation of looking at how to deal with tracking progeny.

MR. ENGELBERT: Right. Joe.

MR. SMILLIE: Bea said exactly what I was going to say.

MR. ENGELBERT: Andrea.

MS. CAROE: I'd like to actually direct my question to Mark. Where is this recommendation going to go with language like this?

MR. BRADLEY: Mark Bradley with the National Organic Program. The program asks for clarification and a statement from the Board and some consideration as to, you know, what to do about progeny. We've already said that cloning is a prohibited practice underneath the NOP regulations. We didn't know exactly how the Board was going to view, or the public was going to view the progeny issue. I think we got the message. And it's, I think it's something that we can just work with.

In terms of, you know, the problem about the Board coming out with the recommendation saying that progeny is excluded and then how do you track that? I think the main
thing would be like Kevin is saying, that the intent is there. It's getting it in the regulations, and the program can -- I don't know if it's going to cause a reg change or not, because, I mean, if it's an excluded method now, perhaps, you know, that will be enough, that we can make it clear to the industry and to the consumers that this is not acceptable under the regulations. And it's under an existing regulation.

So from this, from here we would work with the attorneys to see if it would take a reg change; but I would think a recommendation from the program or the Board would be in order.

MR. ENGELBERT: Rigo.

MR. DELGATO: I just wanted to echo what you said, Kevin, previously. And I was one of the ones who was struggling whether we should come out with this recommendation or not. But it seems to me that the industry is changing so much that I think that the fact that we're coming out with a statement of intent has more validity than waiting for the industry to develop a way of tracking or enforcing our recommendation. That's what I wanted to say.

MR. ENGELBERT: Dan, I'd like to address your point, just for a second, not that I'm a reproductive, you know, Ph.D., or anything like that. But the techniques that you're referring to I don't think would be looked at
favorably from the organic public. And I'm not convinced
that that is actually cloning, splitting an embryo, because
you haven't removed a cell from an animal and then fertilized
it separately and then made it grow in another animal. So
that to me is still a gray area as to, given the wording
change to asexual reproduction of animals, if we really are
infringing upon that practice.

MR. GIACOMINI: The wording that is infringing on
that practice is somatic cell nuclear transfer.

MR. ENGELBERT: Okay.

MR. GIACOMINI: That is the term for that
procedure. There are other versions of that, for lack of a
better term, but that is the -- what that procedure is called
of the splitting of embryos.

And the fact that we're specifically identifying
that as a prohibited, as an excluded method, which I don't --
that is currently, that's currently the way the regulation
is. What we are changing by this is by prohibiting the
progeny of those animals. And that's an entire shift in the
way the regulation currently is, and it's not part of this
argument.

MR. ENGELBERT: Explain again then now adding adult
won't open up trouble by implying that we than approve of
that technology with anything younger than what would be
considered an adult animal.
MR. GIACOMINI: Well, the adding of the word adult is to classify the somatic cell nuclear transfer away from the embryonic process. By putting adult in, you are, in a way, and I talked about this with the people that I talked to, you are setting up a possibility of a loophole of younger animals.

It seems, and while they don't know organic regulations and/or anything else, but they felt that the addition of that, the clause that follows that of or other cloning methods, or other asexual reproductive techniques, would include the young stock as not being allowed. But it pulls, but adding the adult, it pulls it away from the embryo splitting problem.

MR. ENGELBERT: Anybody else?

MR. GIACOMINI: If you were to do it with calves, it would be an asexual reproductive technique --

MR. ENGELBERT: Right.

MR. GIACOMINI: -- which we are saying is not allowed.

MR. ENGELBERT: Right.

MR. GIACOMINI: Okay. But by saying, adult somatic cell nuclear transfer, we are not saying that the embryonic somatic cell nuclear transfer is prohibited.

MR. ENGELBERT: And I agree, but that's a concern, you know. To me it makes it seem like we're giving our
blessing to embryonic somatic cell nuclear transfer, and I
don't want to do that, I don't believe.

MR. GIACOMINI: It's been done. We would be
changing the regulation. And it's not that it's not
prohibited. It is a prohibited excluded method on organic
livestock operations. But the progeny of that technique is
not currently prohibited.

MR. ENGELBERT: Mark, do you have anymore insight,
what you think we should do with this?

MR. BRADLEY: I wish I did. Is this a postpartum
thing that you're thinking of, Dan, just anything after birth
that's -- and once it's been born you don't want, you know,
to do cell transfer?

MR. GIACOMINI: Well, all somatic cell nuclear
transfer or asexual reproductive technique done after birth
would be prohibited from this wording and would not be
allowed. And the progeny of them would not be allowed.

MR. BRADLEY: If this goes to a reg change, then we
can include language in the preamble that explains fully what
the intent is, and what the implications are. If it doesn't
go to a reg change, and it's just a guidance document, we can
include all that in there.

But in your recommendations, what we would
appreciate, if you could send forward, would be something
that fully explains what your intent is, and then we can --
you know, you can make the recommendation about the actual reg language, but the most important thing right now is that we get a clear signal from the Board that progeny is not accepted.

But if there are certain techniques that you wish to remain in place, then make that clear too, if you can.

MR. ENGELBERT: Jennifer?

MS. HALL: I don't have the perfect suggestion, but it seems since it's a clarification of one term, that there may be the opportunity just to reformat that paragraph in some kind of a bullet style or a list style that specifies a qualification of a term that's acutely just about that one item, since it's in a list format instead of kind of jumbled together. So that might be something we could work on.


MS. JAMES: Well, another suggestion might be to think about in the terms defined, defining out exactly what those methods mean, and include it. And I think Mark alluded to, was potentially alluding to that a little bit.

MR. ENGELBERT: Yes. Anyone else? Yes, I'd like to conclude by thanking the entire Livestock Committee for all their --

MR. GIACOMINI: Where are we going with the document?

MR. ENGELBERT: We're going to, we're going to have
to try to get together sometime before the vote tomorrow, the Livestock Committee, and see what we can agree to put in for our regs, for our -- Andrea.

MS. CAROE: We won't be prepared to vote, then, tomorrow, because this Board needs to consider whatever recommendation you are putting forward. I don't have a recommendation that you are putting forward to discuss.

MR. ENGELBERT: All right. Bea.

MS. JAMES: And, Kevin, I just want to point out that if you do add terms defined or you do change it significantly, that we really should look at the public giving comment to that, and I don't know what the, you know, how the rest of the Board fees about having this go into the fall. I know --

MR. ENGELBERT: Yeah, I don't think it should. I think as Mark has stated, we need to get a recommendation out here.

MS. JAMES: Is it possible to look at voting on this and then in the fall meeting have terms defined?

MR. ENGELBERT: I can't answer that. I don't know. Andrea?

MS. CAROE: You know, if the intent is to send a message to this industry that this is prohibited, even if this recommendation gets deferred, the Board is showing its intent.
USDA, and we've heard this before, you know, their interpretation of the regs has precedence. There interpretation of the regs say it's prohibited now. We're just adding clarification. Right now, the USDA lawyer said, cloning the progeny of cloning is not allowed by the regulations as they exist today. We were simply adding clarification language.

MR. ENGELBERT: Okay.

MS. CAROE: Okay. Let me just say, we have heard the statement. Mark, correct me if I am wrong, but we have heard the USDA lawyers emphatically say it's not allowed by the regs as they exist. Is that not correct?

MR. BRADLEY: That is correct. Cloning is a prohibited practice under the NOP regulations. Cloning is a prohibited practice under the NOP regulations. We asked you about progeny.

MS. CAROE: So my suggestion, and not being a member of your committee, is to defer this to fall.

MR. ENGELBERT: I would prefer to have a vote and have it not pass then to defer it. Because I think we are abducting our -- not living up to our responsibilities to come up with some type of recommendation dealing with progeny for the NOP. That's my personal opinion.

MS. JAMES: But Kevin, voting on something and having it not pass sends a mixed message.
MS. CAROE: That's right.

MR. ENGELBERT: Yeah.

MS. JAMES: I mean, I understand your dilemma --

MR. ENGELBERT: Well, I guess if we, if we put in adult, would you think that then we could go ahead with a vote? Would you concur that that alleviates your concerns about current technology that's being used in agriculture?

MR. GIACOMINI: Yeah, I think that alleviates the problem with --

MS. CAROE: Microphone.

MR. GIACOMINI: Yeah, I think that alleviates the problem of prohibiting progeny from where they currently are not prohibited. And I think we have enough additional language there of asexual reproductive techniques to cover the entire animal's life span from birth on.

MR. ENGELBERT: Bea.

MS. JAMES: I just want to remind the Board how long we spent trying to define pasture. And it makes me a little nervous putting forward something that needs further clarification. So I don't, I'm just going to state my opinion, for the record.

I think that if the NOP and Mark Bradley, you know, that they have made this announcement that the lawyers have taken this position that the USDA does not allow cloning in organic production, that that is a pretty powerful statement.
And that to wait until the fall to have your accurate
document for recommendation with the public comment, might
better suit the overall purpose of what we are trying to say
here.

MR. ENGELBERT: Jennifer.

MS. HALL: As a member of the livestock committee, and I fully support what the intent of what you want out of this, Kevin. What I'm hearing Mark say is that he has the ammunition he feels like he needs, having requested from us a statement about progeny. And it may be deferred, but then at least we have a greater chance of getting it passed and permanent, as much as that's really a fact. So I would suggest we defer.

MR. ENGELBERT: Jeff.

MR. MOYER: I guess Jennifer pretty much answered my question. I was going to ask it of Mark. If we table this, as the Livestock Committee, until fall, does that in any way jeopardize the NOP's position and your understanding of what you need to accomplish?

MR. BRADLEY: We would wait on the Board to come with a recommendation on progeny if you did defer on that. But we would say that the Board is working on it. And that's the current statement right now, is that the Board is considering, you know, the fate of progeny of cloned animals. But waiting until the fall meeting may give you the time you
need to mince out exactly how Dan's concerns about, you know, the progeny of split embryos. And we would need to have clarifications on that anyway.

    MR. ENGELBERT: Dan.

    MR. GIACOMINI: Mark, do you need better wording than cloning?

    MR. BRADLEY: Do we need better wording than cloning?

    MR. GIACOMINI: Do you need more specific wording than cloning? Is the recommendation coming from us, if we just said, that, would that -- and their progeny. Would that be clear enough for you, and if we totally got out of, without the specifics of somatic cell nuclear transfer, asexual reproductive techniques, without giving you those specifics, is just cloning and their progeny, would that be enough for the program, or would you be looking for something more specific from us?

    MR. BRADLEY: Is your intent that progeny of split embryos remain eligible for organic production? If that's your intent, and that is captured by cloning right now, then --

    MR. GIACOMINI: It's not captured by cloning right now. It's captured by the wording we're using to describe cloning.

    MR. BRADLEY: Okay.
MS. CAROE: I would suggest that that is something that gets discussed in Livestock Committee instead of right now with Mark. I don't -- I think you need to discuss that in committee.

MR. ENGELBERT: Yes, so how do we --

MS. CAROE: And let me just, I just want to add one more thing. Could somebody, or a question to you, to the livestock committee, and from the little bit I know about this technology, what is the likelihood that progeny of clones are even going to be available to organic anytime soon?

MR. ENGELBERT: Dan.

MR. GIACOMINI: The gentleman that I talked to that's an executive with one of the major bull studs in the U.S. said that they are seriously looking at the fact that they won't even get cloning in, that they'll never be allowed to market those animals because of the results of what have come up from this risk assessment document.

MR. ENGELBERT: Okay, then we'll defer the recommendation then.

MS. CAROE: I think you've sent the message, Kevin. I think you've done great work on this. I don't mean to sound like I'm combating the work that's been done. I think it's good work. However, I think it needs to be a little bit better thought out so that it can be work that actually is
enforceable from the day that it hits.
And I just want to say that because I know that
I've been contradicting a lot of what you've stated here.
But I think it's a prudent move, and based on the fact that
the risk of this technology ending up in the organic herds is
not likely to happen in the next six months. I feel like you
can buy some time.

Okay, so that concludes the livestock discussion.

MR. ENGELBERT: Yes.

MS. CAROE: Thank you. Two tough issues. Thank
you so much. Moving along to Handling Committee. There's a
couple recommendations that they have. All right, Julie, if
you want to get started.

MS. WEISMAN: Okay. Just for my fellow Board
members that are on the Handling Committee, I just passed
around for your reference a list of the order in which we are
going to present the something like 58 materials that the
Handling Committee has to consider and vote on by tomorrow
sometimes, hopefully not in the night.

Before we, before we tackle the list, I thought
that it would be helpful to make a few general comments, not
that I want to take anymore time than is necessary, but I
think it might move the process along, and also in the
interest of transparency, that everyone on the Board, and
everyone in the public that is here, should understand what's
gone on so far.

I won't repeat all the good presentation that was made by Dan Giacomini yesterday about the February meeting and what that was all about. What I do want to say is that at the February meeting, there were subcommittees which were described yesterday. Each subcommittee had a Handling Committee member on it, in addition to other Board members who were extra pairs of eyes to help the process. And then, at a following subcommittee votes, the Handling Committee is who voted on the recommendations that we're considering at this meeting.

Some of those votes were taken before we left Washington at the February meeting, at the very end, and also on subsequent conference calls. In the, for nonhandling committee members, one of the first, one of the early pages in the tabbed section seven is the summary in alphabetical order of the materials, and it shows you in the far right hand column what the subcommittee motion and votes were. And then it shows you what each Handling Committee member voted, with a summary of the committee vote in that middle bold column.

And so you will notice that there were some instances in which the -- there were many instances in which the Handling Committee voted, vote was in accordance with the subcommittee vote. In other words, the Handling Committee
concurred with what the subcommittee had come up with. In other cases, the Handling Committee, you know, had some issues with the way the subcommittee, sometimes it was a function of the fact that there were not seasoned Handling Committee members who were accustomed to dealing with these issues.

So for instance, even though subcommittees voted to recommend things like paprika and annatto with annotations that only organic oils be used, when the Handling Committee got a look at it we said, you know what, that doesn't work. You know, in handling you can't have that prescriptive annotation. And that's something that you're going to see dealt with during the discussion this afternoon.

And I think that it was a good process, because we got help from everybody on the Board, but the check was that ultimately everything came through the Handling Committee.

There were a number of issues that came up in considering some of these items which asked questions about, what are the evaluation criteria for 606? And what's the eloquent way to state this. Basically, that there is the question of demonstrating -- the question gets asked, traditionally, when we've considered materials, one of the important questions to answer is, is this essential for organic production?

And it was important to keep in mind that that is a
question, really, that is reserved to be asked for synthetics. If we're talking about an agricultural ingredient, that is not a question that needs to be asked. You know, I don't know if there is going to be, if there needs to be further discussion about that, but that's what I'm -- that's where I'm coming from right now.

So the third point that I wanted to make is that we hired a lot of public comment yesterday, already, between yesterday and -- we heard a lot of public comment even just yesterday that added information that we felt that we were lacking. And that we, as a result of that, there are certain -- the Handling Committee met after public comment, and we actually, we voted to change some of the recommendations that have been posted for the last 30 days. So we want to get that out there.

I'm going to briefly mention what they are, and then they will be discussed in a little more detail as those particular materials get presented.

So, for instance, we voted on the issue of three, you know, annotations for various numbers of years that are less than five. We voted to remove all the annotations that were for less than five-year listing, in other words, it's either on the list or it's off the list. And there is nothing at any time in the next five years that prevents anybody from petitioning to have something removed.
One exception to that is the rice starch. We didn't -- because that was a two-year listing, particularly taking into account the fact that it had a less than a 30-day comment period. And so we thought because of that extenuating circumstance that it was appropriate to have a short listing.

We also voted last night, the Handling Committee voted to reconsider whey protein concentrate at 80 percent. We also, now did we vote here to reconsider or to recommend? Okay. We voted to reconsider and then recommended that annatto be made into two separate recommendations, annatto water extracted and annatto oil extracted, and that paprika also be similarly separated into two recommendations, paprika water extracted and paprika oil extracted all for 606.

And lastly, we voted to reconsider, and then we voted to recommend FOS and inulin, OFS, for listing on 606.

Does everyone on the Handling Committee agree that that's what we did last night? Okay. So --

MS. FRANCES: Question. I don't have any of those revised documents. I don't know if you revised them.

MS. WEISMAN: You mean --

MS. FRANCES: The recommendations.

MS. WEISMAN: You mean new cover sheets?

MS. FRANCES: Yes.

MS. WEISMAN: It's only -- no, no, the votes and
the annotations will change. Do you -- is it possible that
those can be provided for you by tomorrow before the vote?

MS. FRANCES: I just was wondering if I should be
scrolling through those as you advise --

MS. WEISMAN: Oh, no, no, no. No. We -- there was
time for much last night, but making new documents for that
did not happen.

MS. FRANCES: Okay.

MS. WEISMAN: Okay. So we, for the purposes of
voting tomorrow, we made a decision that we're going to go
through each item and vote on them individually. However,
today, for the purposes of discussion and presentation, in
the hopes that it might save some time, we felt that it was
appropriate that there were certain groupings of items that
could be presented together.

And we have a very, very brave new member of the
Board, Katrina, that actually is going to lead us off. But I
just, for, maybe for clarity sake, I just wanted to just say
briefly that I think the groupings, roughly, that you are
going to be hearing are colors that were accepted by the
Handling Committee. Katrina is going to discuss those.

Colors that were rejected by the Handling Committee. And
mostly that's going to be with the exception of annatto and
paprika, which Joe is going to talk about.

Then we had spice materials that were accepted, and
Steve Demure, another brave new soul, is going to talk about that group. And then we had a couple of rejected spice petitions, which Andrea is going to talk about one and I'll talk about the other.

After that we have, I'm not going to get too detailed, but then we have a sort of a general category of materials that were accepted. There's about a dozen of those, and a general category of materials that were rejected. All of, I've mentioned that we've already changed some Handling Committee recommendations, some of the things on that list. And two things on that list, yeast and whey protein isolin were both withdrawn by their petitioners.

And then lastly we had one materials that was deferred, which I'll discuss, and three, where we voted in February not to consider them for technical reasons, which Andrea will go into.

So if Katrina's -- are you ready? Her light's on. I guess that means yes.

MS. HEINEZ: Okay. The Handling Committee reviewed petitions for seven colors that are produced from agricultural materials that we voted to recommend for listing on 205.606. Is that better? Okay.

These colors are, color purple and black carrot, color elderberry, color red cabbage, red radish, color red cabbage, color black current, and color choke berry, and
finally, color beet juice.

All these colors are produced through a physical process then soaked in water and concentrated. And in all the cases, the petitions provided evidence that the agricultural products used to make these colors were not available in sufficient form, quantity or quality. And we heard public comment to that effect this morning, that production of these colors relies on using specific varieties under specific growing conditions that produce a color with the correct hue and strength.

We also heard these colors are used in a wide variety of products to make them visually appealing for consumers.

One point of note, the hosted recommendation for color choke berry includes an annotation to list the material on 606 for three years. When we met last night we amended that recommendation to remove the annotation.

So again, the Handling Committee recommends inclusion of all these colors on the national list, 205.606, and all those votes were five for and zero against.

Discussion?


MS. CAROE: That's one of the easy ones.

MS. WEISMAN: All right. The next, the next group
of color materials being petitioned for 606 are the ones that
were rejected at this point. And I just, I'll let Joe
discuss the annatto and paprika. And then I'll make a couple
comments about the other ones.

MR. SMILLIE: Yeah, there was, as has already been
discussed, and well petitioned and well commented on, we are
dividing annatto into the oil and the water sections. And
after due consideration and a certain amount of arm twisting,
there will be a friendly amendment to remove the annotation.

And in the other case, another decision was made to
take any three or five year, make all things five year,
rather than the three year. That pretty much clears the
decks as far as the Handling Committee is concerned for the
acceptance by the Board of annatto.

Paprika is in the same boat as it were, as far as
the annotation, the three to five year issue, and the oil and
water soluble issue. But at this point in time, the Handling
Committee would like to have any public comment on the
diligence of the search for paprika sources.

We still feel that although the petition for
paprika did go into the availability of sources, we felt at
that time that it wasn't particularly global, and that
certain areas of rich paprika production, paprika, as it
were, production, weren't mentioned. And we were hoping that
the petitioner or petitioners would get back to us with more
information on a more global search.

So that's where we are right now. I'm not 100 percent sure that we've changed our recommendation, even with the removal of the annotations and the three-year issue on the paprika. But I could be fuzzy on that. Any other Handling Committee members? Is that pretty much it?

MS. WEISMAN: Jeff.

MR. SMILLIE: Yes.

MR. MOYER: I guess I'm not quite clear on the annatto. Can you go over that one again? You split it into oil and water, and you're changing your vote now to approve --

MR. SMILLIE: Correct.

MR. MOYER: -- water but not oil?

MR. SMILLIE: No, approve both, with all -- with the annotation for the organic oil requirement being removed. There's two annotations.

MR. MOYER: Yes.

MR. SMILLIE: Okay. One is to allow for three years. We're changing that. It will be five years.

MR. MOYER: Yes. Right.

MR. SMILLIE: The other annotation was that organic oil be used in the production of oil soluble annatto, oil extracted, sorry, oil extracted annatto. And we're also removing that annotation.
MR. MOYER: Okay.

MS. SMILLIE: And with those annotations removed, the Handling Committee is voting favorably on the acceptance of both oil extracted and water extracted annatto.

MS. WEISMAN: Andrea.

MS. CAROE: I voted against this material being listed, specifically because the annotation that was attached was for organic oil for oil extracted. If that, being that that annotation is being removed, my vote will change for this. I will vote for list.

MR. SMILLIE: Great.

MS. WEISMAN: I was also thinking that for nonhandling committee members that haven't really, you've had other things that you've been eating, sleeping and breathing for the last six weeks, but not this, that I wanted to emphasize that this nonorganic agricultural ingredient is being petitioned for listing on 606 including it's production method, which includes nonorganic oil. That's the package. That is the package. Okay. Any other questions or discussion?

MS. MIEDEMA: On this entire grouping?

MS. WEISMAN: Well, just on the annatto and paprika, yes. Tracy.

MS. MIEDEMA: So do I have this correct that both forms of annatto are now being recommended by the Handling
Committee to pass, will not have any annotations about time limits or organic oil?

MR. SMILLIE: Correct.

MS. MIEDEMA: Okay. And then in terms of paprika, the annotations have been removed for the organic oil, and a time limit, but no one has come forward to demonstrate that these are not available?

MS. WEISMAN: Actually, I do, I'm going to recognize myself, because I'm -- the petitioner actually did submit additional comment on March 21st. That was handed out yesterday. It didn't, wasn't in time to be posted on our wonderful new regulations.gov website.

But one of -- they specified, they were more specific about four different reasons why they found something to be not available as organic. And one of, paprika, actually, sweet peppers for paprika are mentioned in, on the second page, item 1.2, where they say, the underlying certified organic raw material may exist, but they are crops that have far more value in the market fresh, either whole, cut or diced, than as raw materials for color extraction.

That generally, things that get used for color extraction are end products, leftover pulp, things that have no value. So if the market grabs up all of the organic product and uses it for fresh applications, there is nothing
left over from which to make color, from which to make color.
I mean, there may be, we may have additional questions about that comment, but that was the additional information that the petitioner gave about why there is no pulp material on the -- organic pulp material on the market available, even though there is lots of organic red pepper.

Kevin.

MR. ENGELBERT: Could you explain briefly why the annotation for organic oil was dropped?

MS. WEISMAN: Andrea.

MS. CAROE: The listing of these materials on the national list are for nonorganic materials. These are nonorganic colors. They are not produced in organic facilities. They are not within the control of this regulation. Including organic oil into the production of these is imposing organic regulations on nonorganic products.

Annotations restrict the use of materials that come in a variety of ways to the ones which are acceptable to be used in organic production. It is not used to designate how things get produced. Oil, organic oil crossed that line.

If you wanted to say oil production as opposed to water production, both of those are available, and if you were narrowing in on one that's acceptable, that's appropriate, but this is imposing organic regulations on a nonorganic world. And it crossed the line, and I opposed it.
And also we had some commentors that opposed it as well.

MR. ENGELBERT: Okay. Thank you. I just wanted to be clear that that's what was the reasoning behind that.

MS. WEISMAN: Tracy.

MS. MIEDEMA: I'm going to go ahead and bring this up now because it's going to apply to several of these colors. The additional evidence that you just presented was, similar evidence was present in many of these color petitions. And it was very uneven, the evidence presented.

And I felt that there probably was not enough guidance given to petitioners what our expectation was, because some people really had a slam dunk case where they had six letters, maybe even a dozen from suppliers around the world clearly documenting they had given it this amazing shot.

Whereas other people said one sentence about, most of it is getting taken up by fresh market. We can't get any. And it was just very hard to draw the line of what, you know, what is proof. So maybe someone on the Handling Committee could further clarify that.

MS. WEISMAN: I'll take that one. I actually, I thank you very much, Tracy, for bringing that up. That should have been something that was in my initial presentation.

I think that is absolutely a factor. The timing
with which the industry was presented with the commercial availability criteria, and what the process was going to be for this new category of petitioned products on 606 was, I mean, even though everyone was working as fast as they possibly could, I believe that that was first published in December. And about four weeks, including Christmastime, and the holidays, four weeks ahead of what we had put out as our soft deadline for when we had to have these petitions in order to consider them at the March meeting. And I don't know if I've said anything that makes anyone from the program want to respond. I hope not. Okay.

But so I think that's a very, I think it's very important. And I ask the entire Board to please keep that in mind, that there was a wide variety in the depth of information that got presented. And it kind of depended a little bit on, you know, which petitioners are better connected to this process, and which ones are just newly trying to figure out how to do this.

And I want people to take that into consideration, and not be overly punitive of the people that are newer to the process and trying to get on board. Dan.

MR. GIACOMINI: Just for clarification on that, if we vote to reject an item significantly based on insufficient information, is there a process for petitioner to supply that information for us without having to go back to square one?
That might be a question --

MS. WEISMAN: You mean, if they supply --

MR. GIACOMINI: -- that might be a question for Bob, I don't know.

MS. WEISMAN: Okay. I mean, there was -- we posted our, 30 days ago we posted our decision. So there's been the last 30 days when it would have been hoped that they would have come forward with the additional information.

So you are asking, what happens if after this meeting there wasn't enough to change that recommendation. Is that what you are asking?

MR. GIACOMINI: Right. Granted, it won't be acted on until fall --

MS. WEISMAN: Right.

MR. GIACOMINI: -- but would they have to go through the entire process of resubmitting a petition and doing all that, just for clarification?

MS. WEISMAN: No. Kim, can I ask -- okay, Bob.

MR. POOLER: Yeah, Bob Pooler, National Organic Program. If the Board decides that there is insufficient information to evaluate these petitions, they have the option of notifying the petitioner, and indicating that there is insufficient material, and the petitioner will have the opportunity to provide more information. And the petition can be deferred until the fall.
MS. WEISMAN: Okay. So I guess the answer is, don't, let's not reject. Let's defer, rather than reject it, if that's what it comes down to.

MR. GIACOMINI: It's a different motion.

MS. WEISMAN: Right. Okay, so, with that being said, I'm going to talk about the color materials that were rejected, other than annatto and the paprika.

And they basically, they all fell, they all fell into the same category. Basically, they were petitions. I might go out on a limb here, even, and say that they all were on, they all came from the same petitioner who, the assertion was that there were very general comments made about all of these ingredients.

And if you look down the list, for instance, okay, we don't -- all right. Saffron is one that got rejected. And that's actually, this petitioner submitted a comment last week, and in the same paragraph where they discussed sweet peppers for paprika, they have also mentioned -- well, I guess can I read it?

While there is an abundance of domestically grown grapes, for instance, and while some of this crop is now certified organic, the crop is more valuable in the production of wine than as a raw material for color extraction. This is true for organic certified tomatoes from which lycopene is extracted, for carrots from which beta-
carotin is derived, for the sweet peppers which we just
discussed, and most certainly saffron.

So I'm -- that's the additional information that I
have to offer at this point. And I don't know -- that's the
additional information that I have to offer on the saffron.
And that's also for the grape.

Now, we have -- you know, I'm kind of going to
apologize that we don't have a list to put up, you know, for
the public. But I'm assuming the fact that everybody on the
Board has this list in front of them, it's okay. All right.

These are the items that were rejected colors for
insufficient data. Turmeric, saffron, grape juice extract
and grape skin extract, blueberry juice, cherry juice,
hibiscus juice, carrot juice, pumpkin juice, tomato juice
extract, purple potato juice, lycopene, and beta carotin.

Now, we have heard public comment today that
mentions some of these items, and on the basis of that, some
of these ongoing, there are, some of these items on this list
that I'm going to suggest now that the handling committee
change its recommendation. Is that -- I'm looking for -- is
that appropriate to do?

MS. CAROE: No, you can't do committee work at this
table.

MS. WEISMAN: Okay. Based on what's mentioned in
this second comment from petitioner, I would put, I would put
turmeric in this category. We did hear evidence in public comment on a lack of supply. We also heard a commentor this morning mentioned cherry juice and carrot juice.

We have a public comment that was not made into, read in to the record, but was received in writing that I just read from, and that one listed lycopene and beta carotin and tomato juice, so -- and the grape, and the grapes in general, grape juice and grape skin, which were referred to.

So it basically, of the list that I just read, it leaves blueberry juice, hibiscus, and purple potato, for which no additional information has been given since the Handling Committee voted to reject it.

MR. GIACOMINI: Pumpkin.

MS. WEISMAN: Oh, and you know what, I'm sorry, that didn't -- yes, and pumpkin. Yes, Andrea?

MS. CAROE: At this time, if we're to consider these for a vote tomorrow, which we all intend on doing, the Handling Committee cannot meet and forward a different recommendation. The recommendation is to reject. However, the Board does not have to vote with the committee recommendation.

Based on the new information, these are identified and will go to full Board vote. That's what I would suggest. Dan's asking --

MS. WEISMAN: Okay.
MR. GIACOMINI: The important point on this is that these have all been presented in a positive to accept motion. So it would, all we are, the Handling Committee is merely recommending a yes vote rather than a no vote. And that allows us to do that without having to change the motion, in order to get a passing. All we would need is a two-thirds vote of the motion to accept, to pass it, which is the same as it would be before. You are just now suggesting a yes instead of a no.

MS. WEISMAN: That's right. Thank you for that clarification, Dan. You are actually -- thank you for doing my work for me. I was supposed to say that. So yes, that's absolutely true. We don't have to change the recommendation. The full Board is welcome to vote differently than the Handling Committee. That's the way it works. Andrea.

MS. CAROE: I just want to let everybody know, but by design, all of these motions were made to list, even if they weren't going to pass committee, they were all voted to list for several reasons.

One, like I said, this was an atypical situation. We wanted these all to be posted to elicit public comment where we didn't have it. But also, knowing that we were going to have so many votes for the Board, we wanted all the motions to be in the same format, so at no time does a Board member not know what they are voting for.
So just, it looks a little bit strange on paper, but there is a method to the madness, I hope.

MS. WEISMAN: Bea.

MS. JAMES: Could you just read the rejected ones one more time? I'm sorry.

MS. WEISMAN: Blueberry -- you mean the ones that are still rejected --

MS. JAMES: Yes.

MS. WEISMAN: -- because there is no new information?

MS. JAMES: Right.

MS. WEISMAN: Yes. Blueberry, hibiscus, pumpkin juice, and purple potato juice.

MS. JAMES: Okay. Thank you.

MS. WEISMAN: Any other? I had, I think, one other matter that was -- one other thing I wanted to throw out to the rest of the Board.

That, of course, we don't know what -- we don't know exactly what the timing of the full meeting is going to be, and we've just, it's been clarified for us that if we, if we decide to defer these materials, it is important to note that although the 606 deadline is in June, colors is a sunset material, and it actually does not sunset until October of this year.

So manufacturers can, theoretically, can
technically use these materials until they actually sunset.

And I suppose there is a possibility that we might meet before that sunset. But you know, the way this thing -- but it wouldn't make it in the Federal Register, obviously, in time for sunset, but I did want to point that out.

And I guess the second statement that I wanted to throw out is, I feel a responsibility to represent my constituency, which is the processing community. And I would encourage the Board, having said everything I said about which materials we got, no additional information.

Ultimately, you know, there is an additional step in this. Because something gets onto, is listed on 606, it does not mean that a handler can use it. It does not mean that a food manufacturer can use it.

All it means is that it's something that's eligible for the certifier to consider letting them use; that the onus will still be, there's still going to be an additional filter to get through. There's another hoop to jump through. It isn't enough to have it listed on 606.

And because of the difficulties of timing, of getting the information out to manufacturers, some of whom are more or are sometimes are less savvy about how the organic industry and this process works, I would really encourage the Board to err on the side of listing.

I know we've also had some public comment that
goes, you know, that's been the other way. But I, it is not clear to me how severe the impact will be from not listing. And putting things on the list does not mean that they get to be used. So I wanted to remind everybody of that.

Any other discussion about this? Wow. Okay. All right. The next category, or the next group of materials that are going to be presented will be spices that were accepted by the Handling Committee, and Steve Demure is going to talk about those.

MR. DEMURE: Okay. We've got a group of five spices that were submitted for inclusion on 606 that the Handling Committee went through. They are lemon grass, frozen, galangal, frozen, Turkish bay leaves, red pepper, dried, crushed, and celery powder.

The lemon grass, the galangal and the Turkish bay leaves all passed, five yes, zero no. The red pepper was the same. The celery powder passed four yes, no no votes and one absent vote.

You'll notice in the, on the website, that the red pepper and the celery powder both have three-year annotations. And as several people have mentioned, we have decided to remove those and make these five year annotations or five year listings, so you can disregard those.

All of these substances were considered by the Handling Committee to be recommended for listing.
MS. WEISMAN: Any discussion? Okay. Now we're going to move on. There were a couple of spice petitioners that were rejected. The first one we are going to talk about is dill weed oil which Andrea is going to discuss.

MS. CAROE: As we broke down into these groups, dill weed oil kind of became one of those materials that was a little bit more challenging for us. There was one major piece of information that was missing from this petition. There was quite a bit of information about how good this product is, and how available it is, and information about the quality of this product as compared to organic dill weed oil. But there was no information about why dill weed oil was needed.

And I don't say it's not essential. That's really not the argument here. But why dill isn't used, because this is for pickles. And so we were hoping that we would elicit more information about that.

However, since whether the product is essential for organic production as a processing aide requirement, and not an ingredient argument, it's touchy. This is close. But the Board, the committee had voted to reject this on that principal, that there was really no information why dill weed oil, that form is necessary for the flavor, the flavor representation for this product. Any discussion? Tracy.

MS. MIEDEMA: That question seems out of the
purview of the Board. It's something like a flavor formulation decision.

MS. CAROE: Yes and no, I agree with you. If we had somebody that came to us and wanted to use, you know, it was speculating to the point where they can use a nonorganic, you would question it. You would question it. If they said that they needed orange rind dried in milk to, you know, you could spec things down to the point where they are not available.

What we didn't get from this is why it's -- you know, they never gave us any information about whether their processing technique takes this -- this makes their technique work, or whether there is pathogen issues with using the fresh herb or the dried herb or, you know, we didn't really get a feel for why this form, this particular spec was what they needed. And without that, you can't really tell if they are speculating for a particular product.

That was the issue. And like I said, it is close. And you know, you can see it either way, but it was just never explained at all. It was missing from this petition. They did not come back.

MS. HEINEZ: This is a comment, not a question. I just wanted to point out for the Board that, or for the rest of the Board, this petitioner provided ample evidence that the dill weed oil was not commercially available in organic
form. Our vote was more a reflection of, was there an alternate substance, fresh dill, that they could have used. So when you make your decision, that's the point that we would recommend that you consider.

MS. CAROE: And actually, I wanted to add that that was a factor in some of the other spices that were accepted, that specifically, every single one of those that was excepted, where there were two that were in frozen form, and those petitioners specifically addressed and gave, you know, industry information why the fresh form isn't available in the quantity or at the times that we need it, and the dried form, only the frozen can substitute, not the dried. Those other petitioners that were accepted were very, very clear about why the other forms were not, were not either available or not usable for them. Dan.

MR. GIACOMINI: I'm a little confused. And maybe the committee can, or the subcommittee can enlighten me a little bit here. But just looking at the petition on number eight, justification statement, it says, no form of dill is currently available in the organic form. We're working with our suppliers to grow organic dill, but the earliest available will be October 2007.

Given the date of June 2007, when all the organic ingredients not on the national list must be organic, they are asking for this. Do we know something contrary to the
availability of organic dill in any form?

MS. CAROE: No, actually the petition, you're reading off the checklist, the quotation?

MR. GIACOMINI: I'm reading off the petition.

MS. CAROE: Okay. I thought the petition specifically referenced dill oil?

MR. GIACOMINI: It does say dill oil, but it says, no form of dill is currently available in organic form.

MS. CAROE: I thought it said, I thought it said that it was dill oil that was not available in organic form.

MR. GIACOMINI: Number eight, justification statement on page two if somebody wants to look that up.

MS. WEISMAN: I don't have the --

MS. CAROE: It will take me a while to get it up, but I truthfully, Dan, there's so many materials in my head, I can't remember all the details about this.

MR. GIACOMINI: Oh, I know. I know.

MS. CAROE: But I do know that specifically we looked for that in the petition, and we felt it was insufficient. I have to pull up the petition and look at it again. Like I said, we felt that they made a very good argument as far as dill weed oil, but there wasn't a whole lot addressed as far as the rest. Tracy.

MS. MIEDEMA: So if what you are saying is they made the case for dill weed oil, I'm confused of why we are
even talking about dill weed. Because it seems like the oil
and fresh form are so different, we know of all the
constraints. We're aware of the challenges of taking a minor
ingredient and extracting, you know, something from that.
And I just, if they made their case, then it seems like we
should move on.

MS. CAROE: We need to revisit this. And I can
report back tomorrow before we do the vote on this, but we
did not feel that they did do what you said that they did. I
mean, again, we were looking at this and seeing, you know,
there was no explanation of the specification of this
product. None. None.

And so, all we wanted, we felt it was a very short
answer that we needed from them, to tell us that, you know,
the concentration of a flavor is, you know, they need to have
this level of concentration. They can only get that through
the oil component. Or that the equipment can only add it in
a liquid form, or that, you know, there is too many pathogens
in the fresh or the dried product. Any of that.

We just wanted that explanation just to verify that
they weren't specking out the organic product. So that's
kind of where we were. But I have to, I will revisit the
petition, and again, I apologizes, but I just cannot remember
all the details. Jeff.

MR. MOYER: Andrea, my recollection of that
conversations, also, was that for this particular pickle manufacturer, dill is not a minor ingredient in dill pickles. There was a discussion about that as well, too. I don't remember exactly where.

MS. CAROE: No, I don't think we could be considering the nonorganic -- we couldn't even be discussing that if it was not a minor ingredient. We're only discussing ingredients that are nonorganic, and therefore are limited to 5 percent of the finished product.

MS. WEISMAN: I know what it was.

MS. CAROE: The issue that, and it wasn't an issue for our deliberation on this, but if they use a nonorganic dill oil, they will not be able to label the product as organic dill pickles, because it's not organic dill. But that was a different issue.

MS. WEISMAN: Katrina. Katrina.

MS. HEINEZ: I thought it might help. We have listed on our recommendation checklist, the petitioner did do a search for an organic form of the dill weed oil. So this is from the petition, page two, item nine. The petitioner states that one of their manufacturers is willing to contract with the petitioner to product an organic dill weed oil, but that crop would not be available until October of 2007, at the very earliest. So that there was information about the commercial availability of the organic form of the oil.
And underneath that, we asked the question, is there another practice that would make the substance unnecessary? We wrote, while fresh dill is a possible alternative, information was not provided by the petitioner as to the viability of this option.

So that the petition is specifically for dill weed oil, and they did provide information that they are unable, today, to find an organic form.

MS. WEISMAN: I also, the difference between this petition and the color petitions that didn't pass is that I believe that the recommendation at committee level, at subcommittee committee level was to reject. So the yes votes were yes to reject. So if this were going to be changed, I'm reading from the -- the subcommittee motion was to reject, five nothing, and the committee vote -- am I reading the wrong line here?

MS. HEINEZ: Julie?

MS. WEISMAN: That's correct. So this is different than the colors that didn't pass. They were recommended and they didn't pass. This was actually, the recommendation was not to list. So this would require -- from the subcommittee. Oh -- okay. All right. I'm sorry. I didn't mean to confuse it.

Then the vote to clarify, this is, this is the same as the colors. So in other words, the recommendation was to
list. So the Board, the full Board does have, anybody on the Board has the opportunity to vote for listing, because that is the recommendation on the table when it comes to tomorrow. Any other? Anymore on dill weed oil? Okay.

The other spice petition that did not pass, there was a petition that was received for dried spices as a group. And this had to be rejected because only single materials can be petitioned.

And we were prepared to debate about this, but we had it on pretty good authority that even if we voted to accept it, legally it was not going to make its way through all of the hoops that it would have to get through in USDA and OGC and all of those. So that's why that petition did not pass.

MR. GIACOMINI: Julie?

MS. WEISMAN: Dan.

MR. GIACOMINI: I would just like to note on that, that in NOP passing that onto us, NOP specifically went to this petitioner and said, these need to be individually. We'd like you to break them down. They said, no. Put it through in that, we want you to put it through in that form.

And interestingly, it is the same petitioner that did submit a couple of other of the spaces, individually, and those have passed. So they are, the petitioner is the one who insisted that it go through this way, even after we, the
NOP asked them to break it down.

MS. WEISMAN: Yes, that is my recollection as well.

Now, we are, we're moving to a new category of a number of materials not for color, petitioned for 606, that are the Handling Committee did vote to accept. And these are going to be presented by a few of us.

So the first, I'll read off the list of materials, of all the materials in this category. They are gellan gum, fish oils, whey protein concentrate, hops, jalapeno and chipotle peppers, poblano peppers, salvia hispanica, which is Spanish sage, sweet potato starch, rice starch, fish gelatin, natural pork casings, and seaweed otherwise known as wakame undaria.

So the first material, gellan gum, I think Katrina.

MR. SMILLIE: Julie?

MS. WEISMAN: Yes.

MR. SMILLIE: You said these are all 606? Gellan gum is 605.

MS. WEISMAN: Thank you. Yes. That's actually a very important distinction.

MR. SMILLIE: B.

MS. WEISMAN: Is there anything else that anybody can think of that I misclassified here? These were materials petitioned for 605 or 606 that were accepted. And yes, the first one, gellan gum is a 605 B material, which is the
1 synthetic part of the list. Katrina.

   MS. HEINEZ: Okay. So we reviewed gellan gum
2 petition for addition to the national list on 605 B,
3 synthetic allowed materials. Just a brief background, we did
4 have a tap review that was completed in February 2006.
5 Gellan gum is used as a thickening agent at low levels.
6 There are similar materials already on the list. 605 A has
7 agar and carrageenan, 605 B has pectin and xanthan gum.
8
9 Gellan gum, in the petition, they describe that
10 this provides different functionality, or is used in
11 different applications than the similar materials already on
12 the list.
13
14 It's produced, just as background for the rest of
15 the Board, by microbial culture. The gum is separated from
16 the fermentation began through solvent extraction. The TAP
17 identifies that isopropyl alcohol is that solvent, but the
18 TAP did not reveal any adverse effects on humans or the
19 environment. As a note, the residual solvent is at less than
20 .1 percent after the process.
21
22 We voted to recommend inclusion of gellan gum on
23 national list 205.606 E, and the vote was five for, zero
24 opposed. Any discussion or questions?
25
26 MS. WEISMAN: I just, I want to make one brief
27 comment here. I do encourage my fellow Board members, if
28 there are any questions at all, not that I want to make us
stay here any longer tonight, but tomorrow it will be very,
we will barely have enough time to vote. So it's pretty
important to, as much as humanly possible, to get all
discussion out of the way today. So if you even think you
have a question, do not be shy about asking it.

All right. Sounds like we are ready to move on.

MS. HEINEZ: Okay. The next material that we
reviewed was fish oil, so again some background. It's an
ingredient typically used to increase omega-3 fatty acid in
food stuffs. The manufacturing typically involves an alkali
refining process, filtration, bleaching, and deodorization.

The typical fish sources cited in the petition were
anchovies or sardines. And the petition did provide evidence
that the fish oil is produced in a manner consistent with
organic production.

I think it is obvious to everyone that given all
our discussions this morning on aquaculture, that clearly
organic fish are not currently commercially available as an
input to making this fish oil. So based on that, the
handling committee recommended inclusion on 205.606 of fish
oil. And the vote was five for, zero opposed.

MS. WEISMAN: Dan.

MR. GIACOMINI: There was discussion in the
subcommittee on the possibility of an annotation that this
contain, that this have, be with a natural preservative. I
don't remember how that came out of subcommittee on a vote, but would that be considered too conscriptive just as the organic oil would be, or --

MS. WEISMAN: I'll take a stab at this. I don't think so. I mean, you're saying, this is being petitioned as an agricultural ingredient, and you're a nonorganic agricultural ingredient. Asking that the preservative be natural is not the same thing as petitioning a nonorganic ingredient, and saying that one of the components has to be organic. Andrea.

MS. CAROE: I guess it would depend on, you know, are these products typically made with natural preservatives. And then the second question is, what is a natural preservative? Is that clear? I mean, if I was a certifier and saw an annotation like that, it's a rat's nest. I mean, it's just, what is a natural preservative.

If it's defined by FDA, I'm great with that. But if it's not, I don't know. I think that it might not mean anything. And if nobody is using that, and if it means that they are going to have to, you know, try to designate new production to meet an organic market, then it's just as bad as imposing an organic regulation on them.

MR. GIACOMINI: Well, it just seems that allowing nonorganic agricultural products is one step, allowing into the food stream for organic consumers, all owing ethoxyquin
in is another step, which is essentially what we would be
doing.

MS. CAROE: Kim, if I can call you to the podium to
talk, I mean, I know we had this whole fish argument, and I
can't remember how it all went. If you can give us some
history.

MS. DIETZ: I'll try. Kim Dietz, past NOSB
Materials Chair, regulatory manager for Smucker Quality
Beverage. In the past, as we've reviewed materials, your
role is to review them as they are and as they are
manufactured, okay. And that includes all processes and all
processing aides, and all products, anything it takes to make
a material. You are reviewing it for inclusion on the
national list.

Typically, if that includes a processing agent, a
ph adjuster, anything that is included in that, you don't
necessary put that in an annotation. You are accepting that
material as a whole. So annotations make things very touch
and sticky when you get to using them on the national list.

As far as fish goes, you know, we were talking
about the gelatin, and that's a separate material that you
are reviewing, so, and I don't know. Maybe that's good --
Rich Theuer, are you still there? Is there any such thing as
a natural preservative? I don't know as it --

AUDIENCE: Tocopherol.
MS. DIETZ: Okay. Tocopherol. Okay. So, you know, you may need to take this back and discuss it and talk about it.

AUDIENCE: There is also rosemary --

MS. DIETZ: Okay. Okay. So you can limit that annotation. But typically, in the past, we've -- you've put materials on as is including all manufacturing processes.

MS. WEISMAN: I am reminded that the petition specifically said that tocopherol was what was being used.

MR. GIACOMINI: Again, 55 petitions run amuck in my brain.

MS. WEISMAN: Yes, okay. So this one is, and in fact, the petitioner is in the room. So if we would like to --

PETITIONER: I'm open to questions.

MS. WEISMAN: Okay. Do we need that at this point, or was that -- I think we just reminded ourselves of what we had to remember.

MR. GIACOMINI: I think maybe the debate came up on the possibility of the fact, putting it on, you know, we're putting on fish oil. We're not putting on the fish oil from this petition. It still is a potential problem.

MS. WEISMAN: Right. Yes. Andrea.

MS. CAROE: Knowing that there is a product out there that is made with a natural preservative, you can put
the annotation. I would suggest not using the word natural, because I really feel it's undefined, but you might want to use tocopherol only, or you know, you might want to come up with different terminology for that annotation.

And again, it's not imposing organic regulations on the nonorganic world. It's being specifically about what you accept into the organic world. Does that make sense?

MS. WEISMAN: Sounds good to me. Katrina. All right, what do we want to do with it? I think that, let's -- I know we try to avoid the annotations as much as possible, but I think it might be appropriate here. So I think we would need a motion to amend the recommendation.

MS. CAROE: You don't need it.

MS. WEISMAN: Okay.

MS. CAROE: What I suggest doing is, we can have -- during this discussion, we can talk about an annotation. When the motion gets put on the table tomorrow, then accept a motion to amend to add an annotation. But let's discuss it here so that we're aware of it, so that, you know, we're making notice of it right now, unless you want to take it to committee, reconsider, and then come back, which I would suggest not.

I would say, let's leave the motion, the recommendation from the committee as it stands. When the motion gets made tomorrow, if somebody wants to amend that
motion to add an annotation, that would be the appropriate place to do it.

    MS. WEISMAN: I do suggest that we, that we discuss now exactly what the wording of that annotation will be. Joe.

    MR. SMILLIE: With preserves allowed under the NOP regulation, or something to that effect. Allowed, not natural.

    MS. WEISMAN: Okay, so state it the way you think it would read.

    MR. SMILLIE: Oh boy. Where it is? Substance to be voted as allowed on the national list, 205.606 with annotation in accordance with all NOP regulations, including, but not limited to allow preservatives.

    MS. WEISMAN: What?

    MR. SMILLIE: What I just read. This is English.

    MR. GIACOMINI: Canadian English.

    MS. WEISMAN: Yes.

    MR. SMILLIE: Et tu en Francais? Substance to be allowed, to be added as allowed on national list 205.606 with -- to be allowed on 205.606 in accordance with all NOP regulations including but not limited to allowed preservatives.

    MR. GIACOMINI: Preservatives allowed on the national list.
MR. SMILLIE: Well, okay, preservatives allowed.

Ball park. Ball park.

MS. WEISMAN: Okay. Ball park. All right. I'm just trying to avoid problems tomorrow. I'd rather have problems today.

MR. SMILLIE: Okay, what's problematic about that?

MS. WEISMAN: It sounds a little wordy.

MS. CAROE: Can I make a suggestion?

MR. SMILLIE: Please.

MS. CAROE: Can we just say, only natural -- only preservatives listed on the national -- oh, now I'm getting --

MR. SMILLIE: No. See, you're --

MS. CAROE: It turns around.

MR. SMILLIE: I'll try that again.

MS. CAROE: Allowed preservatives only.

MS. WEISMAN: Okay.

MR. SMILLIE: Okay.


MR. MOYER: How is that different from putting an organic standard on this that we just said we couldn't do? What's the difference? I'm sure there is. Just explain it to me.

MS. CAROE: All right. The difference between this an annatto oil extracted and being made with organic oil is,
right now, nobody is making annatto extracted with organic oil and made with other oil, and letting you choose which one you purchase. In this case, there is available through the conventional supplies products that have preservatives that are tocopherol or rosemary oil or whatever, using those. They are available in the conventional market. In this case, we're setting an annotation that narrows in on what's acceptable to bring in.

In the case where you're saying organic oil, you're forcing manufacturers to have their venders remake their product specifically for their allowance. And that's different. That's impending regulation down. You see, you see the difference?

MS. WEISMAN: In other words, product that complies with this is already in the marketplace. So we're just closing the door and saying, that's it. This is what's going to be allowed. Nothing that meets less than this standard.

MR. SMILLIE: And again, the historical reason for this, for Board members not up to it is that fish meal, in the past, that was allowed in organic products, contained ethoxyquin. It was a standard preservative in fish meal. And we just want to be really clear that we're allowing fish oils, but we're not allowing fish oils with ethoxyquin.

And again, the petitioner in this case, you know, was very clear that was alpha tocopherol -- mixed tocopherols
that were being used as an allowable natural preservative.

MS. WEISMAN: Okay. Are we good with fish oils?

Okay. Whey protein concentrate.

MS. HEINEZ: Are you ready?

MS. WEISMAN: Yes.

MS. HEINEZ: Okay. The Handling Committee reviewed three petitions for whey protein materials. Just as a reminder, whey protein isolate has been withdrawn by the petitioner. The other two petitions were for whey protein concentrate, 35 percent and 80 percent.

Whey protein concentrate is used in dairy products for texture and consistency. It's manufactured from whey byproducts, mostly from cheese production. It goes through an ultra-filtration process that removes a large portion of the lactose and the minerals in the water. The process does not involve use of chemical, and then it's spray-dried and sold as a dry ingredient.

The petitioner provided great deal on why they've been unable to source organic whey protein concentrate. So just to summarize that for the rest of the Board, it really has to do with the fact that the economics are such that it is better for the producers of the whey byproduct to produce whey powder versus whey protein concentrate. They have better yields, the runs are larger, and there is a market for all that whey powder. So why go to the extra expense of
creating the whey protein concentrate, when you have a market
for the whey powder that's cheaper to produce.

So because of that, there just is not any whey
protein concentrate available for purchase. It's a very
short summary. If you have more questions about it, there's
a lot of detail in the petition.

There are two companies in the U.S. that collect
the majority of the whey from organic cheese processing. One
occasionally will provide whey protein concentrate, but will
not guarantee a supply. The other one has just said, they
have no interest in producing it.

A last point of note here, our posted
recommendations for the whey protein concentrate 80 percent
is a recommendation not to list it. Subsequent information
from public comment was received that provided evidence that
the process for whey protein concentrate 80 percent was
identical to that for the 35 percent, and did not involve the
use of chemicals.

So at our meeting last night, the Handling
Committee voted to reconsider our recommendation, and voted
to recommend listing whey protein concentrate 80 on 606. So
our recommendations are to list both on 606 and the votes
were both five for and zero opposed.

MS. WEISMAN: Any discussion? Questions? Kevin?
MR. ENGELBERT: Just one. What's the future look
like for whey protein concentrate? Is there going to be any
organic on the marketplace if this is allowed on 606?

MS. WEISMAN: Can I please answer that? Kevin, I
think you probably know the answer to that question better
than anybody. It depends on the supply of organic milk.

MR. ENGELBERT: Okay.

MS. WEISMAN: It depends on the supply of organic
-- okay, Andrea has more.

MS. CAROE: We are not doing away with commercial
availability. It's still there. If it becomes available, it
has to be used. This permits a certifier to consider a
manufacturer that's using a nonorganic form. It does not
give them carte blanch. They still have to prove that it's
not available. Okay. So listing on 606 does not prevent the
development. It should incite the development of these
organic products.

MS. WEISMAN: I'm debating whether I want to take
this moment, because it's relevant, to -- there has been,
there has been public comment on both, you know, on two
different strains about -- there are some -- I think Jim
talked about the lumpers and the splitters yesterday. Well,
we have kind of a similar breakdown of categories on the
listing issue.

There are those who think that as few things as
possible should be listed on 606, and the reason that's given
is that it will inhibit the development of organic
ingredients. And I do, I also want to point out that we're
-- all these, all the ingredients that we're talking about
right now are all minor ingredients. They're all used less
than 5 percent. And that up until the Harvey lawsuit,
anyone, theoretically, you could use an agricultural product
if your certifier approved, that was not organic in your 5
percent.

So if being able to use those products was an
inhibitor to the development, it becomes very difficult to
explain the fact that in the last, since the rule became
effective in 2002, there were -- I mean, and I'll ask, you
know, think, all you manufacturers out there, think about how
many minor ingredients were available in 2002 compared to
now.

The facts in the field are that despite the fact
that there is an allowance to use agricultural ingredients,
if they are not available organically, many, many, many,
many minor ingredients have been brought to market, for reasons
that were mentioned by many commentors in the last two days.

There are many, many companies who were not, I
certainly would not be in the organic business. I make a
minor ingredient. And it was my customer who pushed me to
make it organically. They didn't have to, but they did. And
many, many manufacturers, many manufacturers do that.
I am not saying that there aren't people out there who do try and push the envelop and take advantage. But the facts in the field are that the ability to use, have access to nonorganic agricultural ingredients has not so far proven to be an impediment to the development of organic minor ingredients. That's my spiel. Thanks.

Okay. The chairman informs me that we're due for a break.

MS. CAROE: Yes, if we could take a 10-minute break, 10 minutes, just 10 minutes. Okay.

(Recess.)
AFTERNOON SESSION

MS. CAROE: Okay, Board. The next material is hops which Joe Smillie is going to be handling. He's not in the room right now. So, we're going to go slightly out of order and, Julie, I'm taking over for you.

(Discussion off the record)

MS. WEISMAN: The next material on our list is hops which Joe Smillie is going to discuss.

MR. SMILLIE: Even though hops are somnorific I hope everybody's awake. What Julie said at the end, before a break, I won't repeat. You've heard it eighteen times already which is that hops is another one of those categories which simply because it's placed on the list does not mean that one can use it. One has to justify to one certifier that organic and farm quality quantity is not available.

So, again, with that as the bedrock that we start from, we looked at the hops petition and quickly determined that unlike perhaps other products hops are simply not hops. There are many different varieties of hops and there's a very long, long tradition. The Reinheitsgebot in Germany and other traditions where different hops are used to create different identities of beer, so, beer is not beer, it's AL lager, pilsner, you have all these different things. They all rely on different hops produced in two different ways, either boiled with the water or added as fresh after and
that's simplifying, you know, a very long brewing process.

So, basically, in reviewing the petition we had to look at a wide variety of different types of hops produced under different regimes and while there are organic hops available and possibly in the near future in sufficient quantity, they would be of a specific type of form and quality that while useful for some beers is not useful for all.

And we went through the petition. The petition went into great detail with the different types of variety, growing methodologies and that, and the very strong possibility that as this industry grows that more and more of these hops would be available as organic. Again, quality, quantity, and form were all issues in the availability and the fragility of supply.

Once again, like a lot of modern agriculture there used to be, you know, small scale production all over the place and unfortunately it's been, you know, centralized production in only certain areas now have the infrastructure, certain agricultural areas, one in the U.S. in particular have an infrastructure that will support the growing of hops.

So, in reviewing the document we decided that it was acceptable; that it be placed on 606 without any annotations or restrictions.

MS. WEISMAN: Any discussion or questions. Andrea?
MS. CAROE: I actually just want to make a comment. When we first approached the 606 process the materials committee and Dan created a process by which we would be reviewing these new category of materials and after that process was established we took two diverse materials that we received petitions for and did a beta test where we ran this review process engaging the board and this was one of those two products that we used for that beta test. The other one was poblano peppers.

So, they had two separate issues, two separate sets of issues, I should say, and this one, you know, was actually a model for what we expected to see in a petition. So, I just wanted to make that very clear that actually it's more than the handling committee that's seen this. The whole board hasn't seen this as part of that exercise.

MS. WEISMAN: Okay. We're going to move on. We have a group of materials, three, that Steve DeMuri is going to present, jalapeno, chipolte peppers, poblano peppers and salvia hispanica.

MR. DEMURI: In the interest of time I'll take the jalapeno, chipolte, and poblano peppers kind of as a little mini group of this three set group. We reviewed the petitions for these pepper ingredients. As Andrea mentioned, the poblano is one that we had looked at before the rest and used it as kind of a model for future petition discussions
and to begin with we didn't have the information that we wanted or needed to accept this one, but, in the meantime since we looked at it again we received some more information from the petitioner on availability and all these, all three of these peppers, jalapeno, chipolte, and poblano did pass.

The jalapeno, chipolte peppers was voted 5 yes, zero no votes, and originally did have a three annotation and that will be removed. The poblano peppers, 4 yes and one no. And, so, we felt all of these pepper ingredients may be criteria for form, quantity, and quality to be listed on 606.

The third one is salva hispanica, also known as Spanish sage. For those on the board that don't know, it's used in quite a few snack foods as a nutritional additive to products that provide soluble and insoluble dietary fiber, omega 3 fatty acids and a few other things. The petitioner did make a case for it not being available as organic and the handling committee carefully reviewed that petition as well as the sub-committee and it was voted 5 yes and zero no votes to list that on 606.

So, any discussion on any of those three items?


MR. POOLER: I don't have any comment on the specific materials, but, I do want to make a general comment about 606 materials. I would like everybody to know that after the commercial availability criteria was established by
the NOSB in October that information was distributed to all
the petitioners that are on this list and they were given
ample opportunity to provide commercial availability
information.

We also distributed this information to any
potential petitioner that contacted us. We also provided
this information to any person or any industry member who was
interested in the petition process specifically for 606. So,
what everybody needs to know is that the commercial
availability information was put out there prior to being
published in the Federal Register so many petitioners, and
these petitioners here and other petitioners or potential
petitioners were provided the opportunity to respond to
commercial availability information. Thank you.

MS. WEISMAN: Thanks, Bob. We know that the
program worked as fast as they possibly could and to get this
out in as many ways as they could think of, you know, and
there's also, unfortunately, you know, a big gap in terms of
what is -- there's a big gap in what's required to reach some
parts of the industry as opposed to other parts of the
industry and there's just no way we have been getting around
that.

So, everybody did the best they could. It's
agreed. Yes?

MR. GIACOMINI: I just want to throw in one thing.
In regard to the NOSB's effort on this I think I got close to 20 petitions passed on to me over one weekend so they were putting in extra hours on above and beyond just like all the rest of us were.

MS. WEISMAN: Yeah, that's for sure. The next two items in this category actually are three now that I'm going to present, sweet potato starch, rice starch, and fish gelatin. What I will -- I'm going to present the sweet potato starch and the rice starch also as a little bit of the mini group because they are both products that are used in -- used for purposes of texture in organic processed food products. They are both made from starch, one coming from sweet potatoes, the other coming from rice.

There are no synthetic substances used in the processing of these. Sweet potato starch is commonly on the market as bean thread. Some people know it as cellophane noodles and is essential to create a certain -- a very specific texture in authentic Asian cuisine.

The petitioner of the sweet potato starch had first of all had communicated with the major producers of these cellophane noodles who are all located in Korea and none of them are producing this in an organic form. In addition, they considered other products which are made from other kinds of starches which are available organically such as they looked at wheat and soy, organic soy starch and neither
of them gave this authentic Asian texture that people expect in these type of products.

In the case of rice starch it's used to create a texture in dairy products such as yogurts. I believe it's necessary to keep it from liquefying for things like squeeze yogurts so that I don't know how many of you have kids, but, in other words, without the rice starch if you opened up the squeeze yogurt it would just fall down your kids' shirt and then you'd get a call that you have to pick them up and bring them clothes and it would be really a mess.

So, we saw nothing in either of these petitions that would make it at all questionable and compatible and we felt that both petitioners -- one more thing. In the case of rice starch, there are certainly organic forms. This is organic rice on the market but this particular, the rice starch for this particular use comes from sticky rice and although there are organic varieties being developed I think the brand is under conversion is I think what the petitioner said, it's still a year or two away from being available for use and I think there's also some R&D that would still have to be done.

It's not determined that once the organic variety is being grown that it actually is going to work for this purpose. But, that's the trajectory so we felt that due diligence was being done on that as well. The one difference
between these two is that there is going to be the recommendation for rice starch is the one item that still is going to have an annotation about the length of time that it's going to be listed and that's for the reason I mentioned in my earlier presentation that the petition ended up being posted for less than the 30 day period and, therefore, we felt it should have a smaller window of listing. But, it can certainly be re-petitioned before that time.

And I'll just say that the committee votes on the rice starch were 4 yes, zero no and on the sweet potato starch was the same.

The next item is the fish gelatin.

MR. GIACOMINI: Do you want to comment on these as a group?

MS. WEISMAN: Yeah, I'm sorry, thank you. It's getting late. Thank you for keeping me on track. Is there any discussion about the starches?

MR. GIACOMINI: Yes.


MR. GIACOMINI: The petition for the sweet potato starch almost gives the impression that it is the main ingredient in the bean thread noodles. It's very difficult to extract out of there that it's an ingredient of less than 5 percent. Do we know anything more about that?

MS. WEISMAN: Yes.
MR. GIACOMINI: Or are they going to be looking at final recipes?

MS. WEISMAN: No, no. It's actually -- the bean thread noodle is not the final product. Rice potato starch is the name by which they're petitioning bean thread noodles. Bean thread noodles are a minor ingredient in Asian potstickers. They are less than 5 percent. Is that the question you were asking?

MR. GIACOMINI: Is that the only -- is that the main place that it's used or is there any place where it --

MS. WEISMAN: That's the only place that this petitioner -- I mean, that's what it's being petitioned for.

MR. GIACOMINI: Okay.

MS. WEISMAN: Andrea?

MS. CAROE: As far as whether it's over 5 percent in the product, that's kind of irrelevant to this conversation.

MR. GIACOMINI: Right.

MS. CAROE: It's elsewhere in the regulation.

MR. GIACOMINI: Right. Okay.

MS. WEISMAN: Any other questions? Okay. We need to move on to the fish gelatin. I have to tell you, I volunteered for this one, but, I wasn't on a sub-committee so I might need a little help from somebody that was. The fish gelatin was being petitioned for micro encapsulation.
Does anybody have the petition in front of them? It's the same as the fish oils. I didn't know that. Okay. Thank you for helping me.

UNIDENTIFIED SPEAKER: What do you want me to do with the petition once I have it?

MS. WEISMAN: Joe can help.

MR. SMILLIE: It was petitioned for use as the micro encapsulation of the fish oil by the same petitioner and it basically just physically encases the fish oil and it's fish gelatin and it follows through with all the other petition reasons of fish oils as available as organic for obvious reasons and it poses no other significant, negative effects in 606 criteria, so, it meets all the criteria.

It doesn't seem to be controversial in any way, shape, or form.

MS. WEISMAN: Right. Now, part of what made this one more complicated, why I took it on also is because after we -- after the handling committee voted to recommend this material it was brought to the attention of the committee that there had been a past recommendation and I'm actually going to pass copies out now to the rest of my fellow board members.

So it only affects how we're going to list it. If it were not for this it would just be seen as fish gelatin. However, at the May 2002 meeting of the NOSB in Austin, Texas
there was a final recommendation on gelatin and that particular gelatin was being used primarily as a processing aid to clarify tea but it was also used as a fining agent in wine, as a stabilizer, a thickener, a texturizer, so, there are a number of gelatins.

So, this particular gelatin was approved. In addition, the recommendation was that gelatin in general be listed on 606. And that would include the fish gelatin that's being petitioned today. The reason why it wasn't listed -- the only reason why it wasn't listed was because at that time the general interpretation was that materials not organically produced agricultural products did not need to be listed on 606.

Obviously that has changed. Our world has changed since then. And it might even have been appropriate at the time that the announcement was made that konjac flour and the shellac and one other thing were now going to be added to 606 that this gelatin, you know, should have been included in that group, but we're here now talking about it.

So, the recommendation for this item is going to be for gelatins to be listed, for gelatin to be listed on 606 because that's the way it was petitioned in 2002. And, so, now it's time to add it that way and fish gelatin will be among those gelatins.

There may be questions though, so, Dan?
MR. GIACOMINI: part of this petition was specific dealing with either banning the fish gelatin over other animal sources for kosher and vegetarian reasons. It seemed the sub-committee to be a significant distinction. And I'm a little leery of just throwing it in with the other prior petition. It's the same general category but it certainly has some very different specifics.

MS. WEISMAN: Let me restate it. We actually don't have a choice. This is a past board decision and it should - - there is a past board decision for the recommendation of gelatin. Maybe is that too strong? Okay. There is a past board decision. And it has always been our -- I mean that has been a guiding principle here that we do -- that we abide by past board decisions. It was only maybe nearly like -- it took a little while for the light bulb to go off in everyone's head, oh, we made a decision about this in 2002 and now we do have to list things on 606 so this needs to be on 606.

MR. SMILLIE: I don't think it will create a problem because fish gelatin will be a part of the gelatin listing and the manufacturer can specify, you know, suitable for vegetarians or kosher or which other, you know, which is what they need which is why they needed fish gelatin specifically.

MR. GIACOMINI: Do we need to vote on this at all
to reinforce the prior decision or will that just pass
through as a 606 recommendation?

MS. WEISMAN: Andrea?

MS. CAROE: We don't have to vote on it. It's been voted on. In order to change this we have to vote to rescind a prior board recommendation and I would strongly suggest we don't do that. I'd like to recognize Kim Dietz.

MS. DIETZ: I am Kim Dietz. That recommendation you have in front of you I'm not sure if you actually printed out the whole recommendation but we discussed in detail the fish oil, the fish gelatin as part of the gelatin recommendation so that was included in our petition but the original petition that was included in our recommendation. We blanketed -- we looked at all of them as a whole because they all have different forms and functionalities and different products.

MS. WEISMAN: Jeff.

MR. MOYER: That sort of begs the question, are there any other outstanding votes that were made that aren't in front of us that we don't have to act on or should have acted on?

MS. WEISMAN: Bob, help.

MR. POOLER: No, there are no outstanding decisions or recommendations on 606 that have come from the NOSB. There's only these three materials, shellac, gelatin, and
konjac flour.

MR. GIACOMINI: And those are considered viable and active or whatever petition -- I mean recommendations without us needing to do anything else?

MR. POOLER: That is correct.

MR. GIACOMINI: So do we need to move on this petition then at all?

MS. WEISMAN: I guess not. We won't be voting on this one. Bob?

MR. POOLER: Would it be necessary for the board to say we include this petition to be incorporated in the prior recommendation?

MR. GIACOMINI: It already is.

MS. WEISMAN: Andrea.

MS. CAROE: I don't think so. From a recommendation standpoint it's encompassed in that prior recommendation. There's no further action. For record keeping purposes if you want to include the documents together we can do that, but, there's absolutely -- it doesn't gain us anything.


MR. SMILLIE: Basically, very sound petitions presented. Met all of our considerations. We looked at them both very carefully. There are a couple -- you know -- a
couple of minor issues with the casings. Again, the question was asked, you know, why can't animal -- vegetarians may want to leave at this point in time, but, why can't animal intestines be used, you know, from organic animals and the petitioners, of which the three collaborated, I think there was three, three or four collaborated, and basically made the case that the concentration of animal slaughter houses wasn't sufficient at this point in time to yield enough intestines for the casings for the sausage products and that was backed up with data and we, once again, by listing this we see that in the future this will hopefully change as organic meat production surges and perhaps there's more specialized companies start looking for this market.

But, we will see them emerge and at that point in time we can have the petition to withdraw casings from the national list or certifiers will enforce the fact that there are organic casings available. We also looked at the option of no casing type sausages and found out that just wasn't culturally acceptable in many sausage eating communities and that other forms of non-animal casings were also unacceptable so basically the petition was solid and we approved it 5 to zero.

The seaweed was a different item. Basically the issue came down to that there is certified organic sea vegetable species available and it got down to a species
argument of which type of seaweed was appropriate for the use and the petitioner was very -- gives a very comprehensive petition that outlined why this particular species is used in a particular Asian formulation such as soups and why the current existing wakame, Atlantic wakame, which is available as organic wasn't acceptable for use commercially.

Also, it met every other criteria for 606 and once again it may be possible that this material starts to become available organically, but, at this point it isn't available and, again, it's followed the other conditions and so it was also approved unanimously. Does it say SPP? I can't read that, but, it should be -- again, it's very specific to one particular strain of wakame undaria spp.

Any questions from the board on those two?

MS. WEISMAN: Bob?

MR. POOLER: Yes. Joe, the materials, petition materials database indicates that the petitioner for natural casings submit a petition for natural casings. Why was the recommendation specified for pork?

MR. SMILLIE: Good point. The petition -- you're absolutely right. The petition is for natural casings, not natural pork casings. And we did look at all of the different -- yeah, that's a typo.

MS. WEISMAN: That must have been me. I made up this list last night. So, it must have been me.
MR. SMILLIE: Yeah, the petition for natural casings.

MS. WEISMAN: Not pork.

MR. SMILLIE: Well, including pork. But, not specific to.

MS. WEISMAN: But, not limited. Not limited, yes. Thank you.

MR. SMILLIE: Thank you.

MS. WEISMAN: Any other comments or discussion about the casings or the seaweed? Bea?

MS. JAMES: Could I just get some clarification on the word natural casings?

MR. SMILLIE: Yes.

MS. JAMES: So, just thinking of, you know, the whole situation with Harvey and whatnot, could it be --

MR. SMILLIE: No, very specific to animal intestines.

MS. JAMES: From cloned animals though and could be from --

MR. SMILLIE: That came up yesterday. We didn't -- we didn't want to get to that, but, that would be from the progeny of cloned animals.

MS. JONES: It concerns me a little bit using that word natural in there because, you know, it's --

MR. SMILLIE: Well, it means not synthetic.
MS. WEISMAN: Can we say animal derived casings?

MR. SMILLIE: Well, it's not --

MS. WEISMAN: Tracy.

MS. MIEDERMA: They use the word natural casings as an industry standard term and it's to designate it between peelable, cellulose casings, and eatable collagen casings and natural casings are that a known industry term.

MS. JAMES: Right, but, it's also very confusing to use that term so within the --

UNIDENTIFIED SPEAKER: How about people making sausage?

MR. SMILLIE: Yeah, within the meat industry that's the term.

MS. WEISMAN: Bob?

MR. POOLER: Yes. The term natural as it applies to meat products is regulated by the USDA FSIS and so any term of the use natural with pork casings or whatever natural casings would probably be applicable or regulated by USDA Food Safety Inspection Service.

MS. JAMES: So, where does the current FDA definition of natural as it pertains to --

MR. POOLER: The USDA and FSIS has a definition of what is natural and it's part of their regulations. I'm not sure where it is but they control, they regulate natural labeling of meat products and this probably falls under their
Mr. Smillie: Bea, what's the issue? I don't understand your concern?

Ms. James: It's just a red flag.

Ms. Weisman: Can I try. I think I know where you're uncomfortable. We have been avoiding the use of the word natural, Joe. We are conditioned here to avoid the use of the word natural. That's the problem. Bob?

Mr. Pooler: Yeah. I just received information that the word natural under FSIS means minimally processed, no additives.

Mr. Bradley: The minimally processed, no added ingredients but usually with natural casings it's an identity factor that distinguishes it from collagen casings or something like that.

Ms. Weisman: So it is a standard of identity?

Mr. Bradley: I can't speak to standard identify but that gets into a very technical definition that I can't speak to.

Ms. Weisman: Tracy?

Ms. Miederma: The petition does go into the specifics of the terminology and they cite scientific research. You know, for instance, the anti-microbial properties used for the preservation of natural casings that's, you know, peer reviewed journal article. It seems to
be used throughout the petition in a very standard of identity sort of way.

MS. WEISMAN: Bea, this is addressing your concerns?

MS. JAMES: It's, you know, it is what it is. I don't --

MS. WEISMAN: Are you concerned that even though we understand where it comes from that once it's out in the field and certifiers are having to use it that it may be -- so we need to think maybe of some language to add to this descriptor that's going to specify? Katrina?

MS. HEINZE: The petition on page 3 states that the common name for this is natural casings, the processed intestines of hogs, cattle, and sheep.

MS. WEISMAN: What do you think, guys? I mean, you don't want to add that?

MR. SMILLIE: No.

MS. MIEDERMA: Here's the FSIS language. Natural casings are regulated by the FSIS of USDA under 9 CFR Parts 317 and 338(I) so it looks like the term is part of FSIS.

MS. WEISMAN: Can we say natural casings as defined -- okay, it's inferred. I guess that becomes part of certifier training. That actual -- that concludes this category.

We now have a general category of materials that
were rejected. The first two on this list, yeast and whey we
do not need to discuss because as I mentioned earlier the
petitioners have already withdrew those petitions. So, the
next item on the list is carrot fiber which is, I guess,
Joe's got the next three.

MR. SMILLIE: Right. The carrot fiber was a
petition that basically the petition made a -- gave us
comprehensive information about the use of carrot fiber and
it was very much about one company petition. They had the
only process that would create this carrot fiber. The
arguments for the use of carrot fiber were very strong but
the company did not present a sound argument. In fact, for
the fact that they couldn't create organic carrots create
this organic fiber and they basically said, you know, we're
basically declared that we're not going to make an effort to
get organic carrots, it's just much too difficult, and we
consulted with our vegetable producers and they said that,
you know, that there's a number of firms out there willing to
produce organic carrots for this and that we felt that the
company really owed it to us in order to get carrot fiber on
606 to give us a good reason of why they couldn't work to
locate organic carrots for their process at their facility
and so we rejected it unanimously and have not received any
response to that rejection so that's where we sit on that
one.
What's next?

MS. WEISMAN: The next item is the milled flax seed.

MR. SMILLIE: Oh, flax seed, okay. I don't have that one right in front of me but the recollection is that the company made an effort to point out the importance of milled flax seed as essential which we had no trouble with. The argument for not using flax seed, which basically didn't buy. Basically, we felt that it was almost as much organic flax seed as there is conventional flax seed produced and that there certainly wasn't a shortage of organic flax seed. Their issue was that the organic had more defects than the conventional which, you know, that was what they said and we happened to have knowledge, you know, that there are machines, those little air machines that kick out seeds that spot defects and that perhaps, you know, we needed to invest in that machine in order to get the quality they wanted of flax seed.

So, we thought that was rightly or wrongly we thought they were overspecing in order to be able to use conventional flax seed and so we rejected it and we were more than happy to receive their response which we did not receive so the committee rejection stands on that one.

MS. WEISMAN: Should we be stopping in between for discussions because we didn't have any discussion.
MR. SMILLIE: Oh, I'm sorry.

MS. WEISMAN: Yeah, we didn't have any discussion on carrot fiber. Were there any questions or any discussion that we needed to have on that?

MR. ENGELBERT: Just real quick I also wanted to point out that the fiber is also obtained from peelings, not just whole carrots, and the company was unwilling to source them either.

MS. WEISMAN: And any discussion that needs to happen on the milled flax seed? Okay. Can we move on to the instant non-fat dry milk?

MR. SMILLIE: Yeah. I really want to point out there's been a couple of mistakes within the committee that this is not non-fat dry milk, this is instant non-fat dry milk. This is a more complicated one and it was, as Tracy will back me up on, we spent a lot of time on this one and went through in great detail.

The issue is here is that the milk supply is our first challenge but we don't think it's fragile so, therefore, the milk is there. It's all about the process. The process for non-fat dry milk is in place and organic is available. The process for instant non-fat dry milk, however, is a much more limited process and if anybody has any more information I'd be glad to listen to it.

But, basically, it was determined that indeed
instant non-fat dry milk would be available organically if
the order was 40,000 lbs. And the petitioner was a small
bakery that makes granola. Again, this material is used
primarily in baking from what we were able to read from the
petition and they said that it's just -- you know -- it's
impossible for them to make that order.

We debated in the committee as to whether this
really, you know, created a fragility of supply and
eventually the majority opinion was that even though it may
be impossible for small users to obtain the material that we
felt that it was possible for either trading companies or
larger users to make the commitment to that 40,000 lb. order
and then it could become available.

So, after much debate and with a split opinion it
was rejected at that point and we have not heard anything
back from the petitioner.

Dan, you have the minority opinion on this.

MR. GIACOMINI: Well, I had the minority opinion
and then I think Tracy had the moving opinion. But, I don't
know where it is right now, so, I just viewed this petition
as a processing petition. We have a number of processing
petitions. We have the wakame seaweed. They were looking for
a particular type of seaweed to go into their misco soup.

We had lemon grass frozen. We had some other
frozen gilango. We had red pepper dried crushed. All of
these, to me, seemed like processed petitions. Now, they went out -- granted, they went out to their petitions and to their suppliers and all the suppliers said no. Well, this -- the one that made this one different, number one, I think is because it was dealing with milk, which I think it had a bias that there was milk and there shouldn't be any fragility supply to consider there, but, also the fact that they had one supplier that essentially said, and I am paraphrasing, yeah, we can do it if your order has this many zeros and the implication then of course is the check is going to have this many zeros.

To me, it seemed like -- it seems to be an unfair additional burden we're placing on this petitioner simply because their suppliers just don't -- they don't want to cooperate. They don't want to make this ingredient. They don't want to make in an organic form. They make it in their regular form. And they're only going to do it if it's worth -- you know -- if they make up for their inconvenience.

It's the way it seemed to read, so, I could do it just the same way as I did the other processing ones and I voted to put it on. Tracy, did you want to also speak to this?

MS. MIEDERMA: Okay. Yeah, I flipped flopped big time on this and finally just made an extension vote because I had too many open-ended questions. A couple of things that
haven't been raised. One gets back to your point earlier, Andrea, about companies expecting things so fanatically that they just force themselves to get to an organic version.

And the other particular case a company had been using non-fat instant milk for about 20 years and decided to organic in 2003 and switched to the available form of organic dry milk which was non-instant and that was back in 2003 and now here in 2007 they're petitioning saying our sales are down, R&D has told us we've go to back to instant.

MR. GIACOMINI: They went back. They went back because it was not an acceptable product.

MS. MIEDERMA: Well, they're in the process of going back because there is no instant organic and, so, on one side of the coin maybe this is one of those spec questions. I don't now their hearts and minds and my advice would be to think best intentions but the complicating thing to me is the president's just said that if manufacturers know what's being petitioned they can cover the flag that says, yes, we've got this even though they don't really have it yet.

This company is saying they can make the instant non-fat organic dry milk powder having actually made it yet. And that gives unscrupulous companies the power to say they can do something they haven't done yet and hold against the head of buyers and I am concerned about the precedent there.
MS. WEISMAN: So, oh, Rigoberto, I'm sorry.

MR. DELGADO: I think it's important those are to consider the intent of the company. I know we have the same discussions with, what was it chipolte peppers and dry peppers, but, it was clear in the petition that some of those companies were actually making the effort of going out and contracting with farmers to get the raw material.

I wonder if in this petition there was any indication that this company or this petitioner was eventually going out to try to find other possible sources of dry milk that had fewer zeros attached to it or the limitation.

MR. GIACOMINI: This petition included a number of letters from dry milk processors that said they would not make an instant. There was only one company that currently made an instant conventional and they said that we will make an instant organic for this minimum worth.

MR. DELGADO: So, we're taking about a case where you're probably never going to have that material available in organic form, correct?

MR. GIACOMINI: No. Other companies could decide to make it or a larger company could buy that order and make available to different users. The question is whether there are enough users or not. One of the companies listed that they used as a reference was Morroquin International.
Morroquin International I assume would be somebody who possibly could buy that 40,000 lbs. if they thought there were enough users to sell it in a six month period.

MS. WEISMAN: Wait, wait. I would like to not have back and forth because we're way behind schedule and we're pretty close to the end and, you know, on the one hand, you know, we're here for robust discussion and on the other hand it's going to get to a point that we're so punchy that whatever discussion we have is going to be worthless. It's going to be less than robust, thank you.

The difficulty -- so it sounds like there is some sentiment that we may want to have a new recommendation for tomorrow?

MR. GIACOMINI: No, the recommendation is set. You're just voting no.

MS. WEISMAN: Well, the recommendation was -- was this recommendation -- so we have the opportunity tomorrow then for everyone to vote yes, correct?

MR. GIACOMINI: I believe so.

MS. WEISMAN: All right. All of these we made an effort to post all of these petitions in the positive so in other words the original, the recommendation for the handling committee was to list non-fat dry milk instant and the committee voted no and I'm sorry it was misleading that I called this category rejected, but, it was not phrased that
way so this is, once again, a positively worded
recommendation and tomorrow when the full board votes
everyone has the opportunity to vote differently than the
handling committee voted previously. We can vote yes.

There are no changes in the recommendation
necessary.

MR. GIACOMINI: I didn't meant to put Morroquin
International on the spot. It was just an example from the
petition. Nothing intended or implied.

MS. WEISMAN: I'm going to take comment on this,
Tracy.

MS. MIEDERMA: Yes, I'll be brief here. This is
just to clarify availability and what quantity means. If
it's hypothetically available then that means available and
I'm asking my colleagues on my board and if there's too much
of it does that mean quantity is not available?

MS. WEISMAN: Available only means available if
your certifier says it's available. You know, you can look
at this that there's no jeopardy in listing because
ultimately if some -- if Grace goes out and buys orders for
40,000 lbs. then the certifier is then not going to agree for
that to be used anymore as non-organic.

MS. CAROE: Let me make this point over and over
again. Just because it's listed does not mean you can use
it. You're still going to have to show the certifier it's
not available so if it gets listed then Grace can buy the 40,000 lbs. of dry milk and tell Joe that it's available so his processor doesn't use the non-organic form.

MS. WEISMAN: Let's tighten it up here, troops. We're almost there. We're almost there, okay.

MR. ENGELBERT: One quick comment, please.

MS. WEISMAN: Yes, Kevin.

MR. ENGELBERT: If it's not approved wouldn't the same thing happen? I mean, I'm concerned about the precedent of saying that there's too much, I can't afford it. Then there's no incentive for a smaller company to try to develop and there's no incentive for anyone to purchase it and if this company has success with a product using an organic ingredient at any level other companies will follow suit and the demand will be created.

MS. WEISMAN: Andrea?

MS. CAROE: Kevin, you got to understand if it doesn't get listed manufactures that are making products are not going to formulate products using that ingredient. And if they formulate the products using that ingredient they're not going to buy that ingredient. There's no incentive to create an organic ingredient.

MS. WEISMAN: Anything else on non-fat dry milk?

MR. SMILLIE: Is everyone clear on that issue? I think it's a key issue. In other words, what Andrea just
said. Let's take that. I just really want to make that point. The baker's there, they're making a granola, the need instant non-fat dry milk. If it goes on 606, okay, and they can prove to their certifier that they can't get organic instant non-fat dry milk then the certifier may allow you to use conventional. The product continues. The demand is created. And someone or some manufacturer then makes it available and it comes off the list and it's an incentivizing process to put it on 606.

If we don't put it on 606 then basically that small baker cannot formulate that product with instant organic and they'll either stop making organic granola or they'll reformulate and then there's no demand created for an organic instant milk. That's my interpretation. I just want to make sure everybody sees it the same way.

MR. MOYER: Well, I just take offense to the thing that we all have to see it. I understand what you're saying.

MS. WEISMAN: That's all, he just wants to be understood. He just wants to be understood. I think that's from my past career as a social worker.

MS. JAMES: Julie, I don't want to beat a dead horse but I think that, Jeff, you should state your point of view.

MR. MOYER: Well, boy, I haven't thought of it well enough to state it at the moment, but, I think that in many
cases, look at the seed industry for example, we have said that, you know, farmers need to use organic seed, yet, we just heard yesterday that less than one percent of the vegetable seed that's being used is actually certified organic even though it is available and everyone knows it's available. They just spec around it. And, so, we have to be careful how we do this and just the rush should not be to list everything on 606 in my opinion and I realize Joe disagrees with that.

MR. SMILLIE: For example, not on this issue.

MS. WEISMAN: Okay. I would really like to move on. We have natamycin and I think I'm going to try to, if I'm may I'd like to try and get the short story on this. Basically when this was looked at in February it was looked at -- it was being considered as a synthetic. And the rules are very clear that -- and it was being looked at as a synthetic and the petition was very clear that it was going to be used as a preservative. And it did not meet the criteria to be used. Sole use as a preservative is not a reason for a synthetic to be listed on the national list.

So, we voted against listing natamycin at that time. However, I think we heard -- I believe that we've heard -- on the handling committee I think we've heard pretty compelling public comment yesterday and today and I think we are persuaded that natamycin is not in fact not synthetic and
so the prohibition for listing something for the purpose of being using as a preservative does not apply to a non-synthetic. So, I think that the recommendation will be to list -- no, I guess, help, it's getting late.

This is not something that the handling committee voted on like some of the other things I mentioned earlier.

Yeah, but, I think Andrea's going to help me out here.

MS. CAROE: Right now the petition that -- the recommendation from the committee is not to list. The motion was to list in the sales. However, the same motion will stand and go to the board and based on new information it is not unlikely that the board will vote different than the committee and list.

MS. WEISMAN: Okay. Now, there's a second issue which we did get some very good scientific information about the natamycin would be needed on specifically on English Muffins as opposed to other baked products and the board may tomorrow may want to entertain a recommendation for an annotation that -- you want to finish my thought?

MS. CAROE: Well, I want to suggest language for an annotation before we get to tomorrow and that annotation would be for use in baked goods with moisture levels of greater than 40 percent.

MS. WEISMAN: Will 40 percent do it or does it have to be above 39? I forget what the threshold is.
MS. CAROE: Well, the commentor that gave us all that wonderful comment everything was over 40 percent.

MS. WEISMAN: Okay. I'm good with that. Dan?

MR. GIACOMINI: I believe first we would need to deal with an amendment to change this motion to 605-A unless that's already been done but you didn't say that it had been done.

MS. CAROE: Okay. Like I said, we're not going to change the motion now. We're not going into committee. So, tomorrow the motion will be put on the floor as is for 605-B. At that time we can entertain an amendment to 605-A as well as entertaining an amendment for an added annotation for baked goods with greater than 40 percent moisture. So, that's kind of how I see it done at this point based on the fact that we're in the 11th hour, but, I defer to any other board member that has a procedure that we feel that we can do this with transparency.

MS. WEISMAN: Any other questions on this time on natamycin? Okay. Koji mold.

MS. CAROE: Okay. That was mine. I'm going to read the recommendation from the sub-committee which was then accepted by the handling committee. The handling committee recommends -- this is so small -- the handling committee recommends the petition that Koji mold is already listed -- I'm sorry -- to the petitioner that Koji mold is already
listed on 205.605-A under the listing micro organisms, any
food grade bacteria, fungi, and other micro organisms. The
petition is for inclusion on 205.606. The handling committee
recommends continued including on 205.605 instead an
acknowledgement that OFPA does not provide for production
practices or standards for this type of production. That's
considered as agricultural.

Evidence to this is found in the regulation where
the definition of non-agricultural includes bacteria. This
contradicts considering non-plant life as agricultural
included in the livestock definition so we have heard the
argument that livestock includes all non-plant life.
However, we also see in the definition of non-agricultural
bacteria is included.

So, we consider that Congress did not intend for
these types of products to be included in this regulation,
and, therefore, we don't consider it agricultural. We do
consider it appropriately listed as 205.605-A and that was
voted on by the handling committee and there is a minority
opinion.

MR. SMILLIE: Yeah. I think the shoiu, miso, tenta
and associated products are protected by the listing in 605-
A. However, I think that eventually this material needs to
move to 606. If it doesn't move this session hopefully we'll
have another round at it after we have created our ag/non ag
definition document.

   My belief is that the bacteria issue doesn't talk
about aspergillus cryzae. That is the micro organism, if you
want to call it that, that leads to Koji mold. Koji mold is
an agriculture. It is the culturing of soy beans in the
presence of aspergillus cryzae and is a very traditional
culture that's been going on for centuries in Japan and other
countries and I believe it's a form of agriculture and will
be proven as such eventually.

   However, the industry that creates these products
is protected under 605-A. There's no encouragement to that
industry to start to use organic methodologies as similar to
what the yeast industry has done in creating organic
substrates and methodologies without the use of chemicals to
create yeast products. And I think the Koji culture people
will also eventually start to create organic Koji cultures
and hopefully at that point in time the NOSB will see the
wisdom of traditional Japanese production methodologies and
move it on to 606.

   MS. WEISMAN: Any questions or comments? Okay.

   Now the next two items are the list I think are going to
require some discussion. Those are FOS and NON and I just
want to note that there are four items that come afterwards
which are I think quite non-controversial and I wonder if we
should not close off first before we do the FOS.
There is a category. There is one item that was deferred. There was one material deferred. We had a petition for pectin, non-annotated which is currently covered on 605-B. The petitioner wanted to make a distinction between non-annotated and annotated lone antitoxin pectin and asked that the non-annotated be moved to 606 and we looked at the petition. There may be merit in it but we felt for this meeting that is a product that is already covered and available for use and it has a home elsewhere on the list and we felt like our time at this meeting really had to be devoted to looking at times for 606 that didn't have any other home and that will be lost for use after June.

So, we decided to defer. It's a well-written petition and it has merit and we are going to look at it in the fall.

Any questions or discussion about that? Okay. We also had three items that we voted to not consider and I think Andrea will speak to those.

MS. CAROE: As you might recall, the sub-committee that I worked with got some of the more complex materials for a petition so this was one of the ones that my sub-committee looked at and they're the handling committee looked at. I would like to read what we wrote because it codifies our thinking.

The petitioner requests consideration of the
principal components of sea salt for allowance in organic production. The four principal components are sodium chloride, potassium chloride, magnesium chloride, and magnesium sulfate. Sodium chloride is designated as exempt as in the regulation as salt. This was further clarified by the NOP at a later date.

Magnesium chloride and magnesium sulfate are currently permitted through their listed on 205.605-A as non-synthetic non-agricultural materials allowed for organic production. The petitioner further requests that magnesium chloride presently listed on 205.605-B of the synthetic material be moved to 205.605-A as a non-synthetic.

This request was made in order to ensure the allowance of this material after the court order action. The petitioner was concerned that due to the court order synthetic materials would not be allowed in organic production. This was one of those materials caught in an in-between time between the court order and some further clarification of changes made so I think there might have been some misunderstanding.

Upon review of the original TAC this material was deemed synthetic due a bleaching process that is used for extracting sea water. Further the Federal Register Notice of 5 June 2006 clarifies that an amendment to the statute made after the court order negated the issue of synthetics allowed
in organic production. Therefore, items listed on 605-B continue to be allowed for inclusion in organic products. For this reason, moving the material is unnecessary. The committee recognizes that may desire the listing of sea salt on the national list of allowed. In order to accommodate this the petitioner must provide a detailed petition that addresses all the criteria for the instructions of the NOP website. A TAC review must be done and evaluated to assess the manufacturing process as well as the health and environmental impact and all of the contents as is the procedure.

This must include all possible contaminants, both principal and minor. So, for this reason, this material is not being considered for listing. It is deemed unnecessary. The handling committee did vote on this and the vote was -- yeah, the recommendation was not to consider it and handle it through a vote which was 5 to zero. So, that was a unanimous decision on that.

Any discussions on sea salt? Next is processing technologies.

MR. GIACOMINI: Julie, while you're processing that, I think it would just be worth noting that there wasn't an error on the recommendation listing on sea salt bond, it was on the internet. It was listed as a 5-5 vote and it was actually 0-5. That was corrected like a week before the
meeting, so, it's just worth noting that if people have
looked they'd have seen that.

MS. WEisman: Is it possible that there was no
document for this?

MS. FRANCES: There was a document, I think. There
should be a document in your meeting book.

MS. WEisman: We can find it. Not for processing
type technology.

MS. CAROE: Oh, for processing. I think we ended
up pulling it all together.

MS. WEisman: Let me just talk about that. There
was a petition received for processing technologies and
listed were five or six technologies such as freeze-drying,
indicating that these were a limiting factor in supply and to
each of these technologies there's a long list of materials
that may use this technology and become available in a
specific form.

Unfortunately, the national list is not a list of
methods, it's a list of materials, and in order to apply the
national list process to this we would have had to look at
each of the individual materials so it wold have been, you
know, sage, free dried, you know, time freeze dried, each of
those individually and the petition that we received did not
include all of our criteria for 606 being that it didn't
include any of the information on those independent,
individual materials.

Therefore, this petition was voted not to consider and sent back to the petitioner who can then, you know, resubmit individual materials.

Any discussion?

MS. CAROE: I'd did want to note -- I'm sorry, I was confusing that with something else. There was nothing further from that petitioner. So, the next item is carbon dioxide not to consider and I will read the recommendation off the covering sheet.

The committee recommends that the petition does not need to be considered so carbon dioxide is already listed on 205.605-B. Further, the Federal Register notice of 5 June 2006 clarifies that an amendment to this statute made after the court's order negated the issue of synthetics allowed in organic production and therefore items listed on 205.605-V continue to be allowed for inclusion in organic production. For this reason moving this items unnecessarily.

Again, this was one of those materials that the manufacturer was concerned it was listed 205/605-B, that it was a synthetic, that it would not be allowed os they were asking for it to be moved over as a non-synthetic. It's not necessary. It can be used as a non-synthetic since it is listed. So, it becomes unnecessary.

Obviously there are available forms of CO2 that
floats around in the air, but, it often is manufacturers that
sell commercially so listing it where it is is is appropriate.

Comments? Okay. It looks like we're all okay with
that or else we're --

MS. WEISMAN: So, these should be removed from our
lists for tomorrow. We won't even be addressing these at all.

MS. CAROE: That is correct.

MS. WEISMAN: The last two materials that we need
to discuss are FOS and inulin about which we have heard much
comment in the last two days. Andrea, why don't you take
this one.

MS. CAROE: Okay. Well, bear in mind that this was
a unique situation and things don't always go well but we
looked at these two materials. FOS, there were several
concerns of the sub-committee level. One is that we had a
TAC on this material and the TAC does recognize that there
can be side effects to this material. We don't know to what
extent those side effects are possible, whether they're
remote or at a significant level.

So, when it came to human health impact we did have
concerns there that we indicated. The other criteria that we
felt needed more information was on whether this material was
essential and we have heard plenty of comment today about why
that is essential and yesterday for that matter. The sub-
committee voted against this material. However, with the new
information that we've received this is another motion that may be made tomorrow where the board votes against -- let me step back.

The sub-committee voted against it. Originally the handling committee voted with the sub-committee. Last night there was a vote to reconsider this material at the handling committee level. The handling committee did indeed pass that we should consider that the recommendations should be for listing. I'm still hearing some concern from the board on this.

So, it may not be a straight vote either way but I do believe that we received compelling information here, whether it's enough compelling information to take us to a positive vote, I'm not quite sure, but, I would like to open it up for discussion. Katrina.

MS. HEINZE: I wanted to add to that that part of our reverted to, I'm not going to use the right language here, reconsider our recommendation and then we amended it to move the recommendation from 605 to 606. That was based on public comments that we had received.

When we reviewed this in sub-committee and then in the handling committee the nature of the number of things we're looking at we misclassified it as something on 605. I can't remember whether it was synthetic or not. Given new information we received in public comment and then additional
public comment this morning the handling committee felt that it was more appropriately an agricultural product.

Given that, we have different criteria that we use to consider its listing. For 605 synthetic you would consider essential. That is not something you would consider for 606. So, a point of clarification on what we did.

MS. CAROE: This is a very messy one, unfortunately, and when this motion comes up tomorrow I expect that we may be considering some amendments especially on which list is appropriate. Clearly we heard a lot of information that says it's non-synthetic. However, is it agricultural or is it non-agricultural. Is it 606 or is it 605-A? That may be a point of amendment tomorrow.

Other information on this? Questions, concerns?

MS. WEISMAN: I'm just trying to look. Jeff?

MR. MOYER: According to our initial recommendation this is still being considered a value added material, not necessarily essential for final product.

MS. CAROE: I want to remind that if a product is either non-synthetic or it is agricultural that is not -- that's only criteria that has to be met for synthetics to be listed as allowed, not for agricultural products or non-synthetics.

MS. WEISMAN: The heading is for 605, 600-B-6. B-6 is for essential for organic production. B says non-
MR. MOYER: Right now it's not in any listing.

MS. WEISMAN: She's not saying which section number it's with. She's saying where in the rule it says the criteria. The criteria only is for synthetics. This criteria needs to be met for synthetics and she's quoting. It's 205600B6.

MS. JAMES: So my question is could you explain some of the compelling information that led you to believe that FOS was essential as a processing aid?

MS. CAROE: No, it doesn't have to be essential.

MS. WEISMAN: It's not a processing aid, it's an ingredient.

MS. CAROE: It's an ingredient.

MS. JAMES: Okay. Let me rephrase my question then. Can you give me some information on the testimony that you heard yesterday and today that led you to believe that FOS had compelling information to change your position?

MS. WEISMAN: yeah. We had pretty thorough descriptions of the production methods which clarified the confusion we had back in February as to whether it was -- there was a question in February. We couldn't tell from what we had at that point whether this was synthetic or non-synthetic. I believe that the tissue wasn't even clear. It
was like for 606 or 605. They weren't sure. And, so, at the
time we said, well, we're going to need a TAC review to
figure out whether this should be on A or B.

But, we feel convinced. As of last night we felt
convinced by what we had heard yesterday. The handling
committee felt convinced but the board obviously, everyone
makes their own decision about what's been heard, but, as of
last night we agreed that we had been convinced, that, okay,
this is not synthetic.

Joe?

MR. SMILLIE: Yeah, that's what I was going to say
that we're convinced that it's not synthetic. Whether it's a
605-A or whether it's 606 is the issue that without a non-ag
criteria document my leaning right now would be 606, but,
we're going to have to decide that. Andrea.

MS. CAROE: I do want to say if you wanted to ask
specifically what compelled me to believe that it's non-
synthetic is the description of the enzyme fermentation which
when we read it in the document that we received looked to be
a very aggressive chemical treatment whereas we're finding
out and what we're finding from the petitioners is that
something that is a very natural occurring process and, yet,
there is a chemical change but it's a chemical change by a
natural process as opposed to that.

You know, I think the language was maybe not as
descriptive as it should have been and more technical and the
leaving of that group off which we kind of cringed at. Would
it be appropriate now to recognize the petitioner? Are you
asking to be recognized?

We recognize Nancy Hershberg, petitioner on this to
come up.

MS. HERSHBERG: I realize that A, this is so complex
and B it's very late but you're mixing up FOS with the NUN
but what you got in the document last night was the NUN, not
the FOS made by different ways. And it's really complex. I
know there's a presentation coming and there's an idea. I'll
just leave it at that.

MS. CAROE: Okay. And also Kelly, another
petitioner. Kelly Shay.

MS. SHAY: You do also actually also receive
information on the process for the creation of short chain
FOS showing it to be a 606 product using the board's own
ag/ag-non determination and also the rules you've received.

MS. JAMES: Were you able to review the potential
side effects that are sometimes with FOS? Was that
information made available?

MS. CAROE: Well let me say that that was never a
compelling reason for me to vote against this material and
there was information that we saw in the TAC and it's like
reading an MSDS sheet for aspirin. You think the stuff is,
you know, nuclear waste. I never found it compelling in the TAC so it may not have been addressed thoroughly in the comments that we received, but, I'm still willing to vote for this material.

Kelly?

MS. SHAY: Kelly Shay. I really appreciate what Bea is referencing and I would like to remind this board that we've had a history of the imperfect TAC reviews provided to the board. The product short chain FOS has been determined to be grasped by FDA since 2002. It's being used in a lot of products. We would never put anything in a product that would hurt a customer and I think that there are many places in the TAC where they colored outside the lines and I think after the TAC you received follow up documentation from the manufacturer that addressed all the incorrect points in the TAC and we continue in our industry to struggle with not having perfect TAC reviewers yet.

MS. WEISMAN: Do we need any further discussion at this time on the FOS? Okay. Andrea, you want to move on?

MS. CAROE: All right. Now, inulin which is even worse. And the reason I say it's worse is this. When we had our working handling committee meeting in February we looked at this material which we received a 606 petition on. We looked at it and the information in regards to how it was produced indicated to us that it was non-agricultural which
meant we needed a TAC.

For that reason our comments were cut short and we requested that it be considered for 605 and be sent for TAC. In that we had a lot of other things to do and we weren't looking to invent work for ourselves. The checklist for this material was not completed. It will be completed tonight. Come hell or high water it will be completed tonight. We have received a tremendous amount of information.

We did read the entire petition in the information and we did consider it. We just did not complete our paperwork on this one. I believe that we've gotten quite a bit of information, very good information here at the meeting. We appreciate the petitioner. We appreciate all the other comments that we received on this and there will be a motion tomorrow on this product for listing and handling committee vote on it before it is put forward.

However, that's not today, it's tomorrow, and for that reason I don't have a checklist to put in front of you, although I can tell you that anything in FOS seemed to parallel quite a bit so I suspect that they'll be somewhat similar. Is there any comments on that? Is anyone capable of making comments at this point? Kelly Shay?

MS. SHAY: This is Kelly Shay. I know you're getting tired. I just want to throw out you will remember in during the public comment period the comments that were due
by March 16th. You had gotten comments from members of the industry saying it's Jim's kind of lumping and splitting things though they're not identical. There is a precedence on the national list for putting categories of products together and though you do have a couple of organic companies represented here that use these if you look at the comments there's quite a few organic companies that use these type of OFF products that are not represented here.

And as you know, some people and especially in smaller companies just really aren't aware of what's going on on the board and these different things. So, we've tried to reach out to a few of them but you'll find there are company names and their products in some public comment that you have.

MS. CAROE: Thank you, Kelly. The comments that we received in writing will be considered as we put this together.

That concludes the discussion on materials for 605 and 606 from the handling committee. Okay. We're going to take a ten minute break. We're only three and three quarters hours behind. And we've got 35 public comments, 37 public comments.

If there is anybody that's willing to volunteer that they move off the list for today's public comment and make public comment tomorrow we'd be really appreciative of
that. And, also, we won't limit you past five minutes, but, you can summarize your comments or if somebody's made your comments and you can just acknowledge that you're supporting that comment that would be appreciated.

So, for now, a ten minute break, ten short minutes.

(Whereupon, a brief recess was taken)

MS. CAROE: Board members, please, please. I still don't have a quorum. I need ten for a quorum. I think I've got it now. Okay. All right. We do have a quorum now, ten. We've got ten. Let's just go. All right. First on the list, Tom Hutcheson. Tom, I'm going to ask you if you wouldn't mind being on desk. Urvashi is signed up but she's much later on the list and she's not feeling well.

MR. HUTCHESON: That's great.

MS. CAROE: Okay. So, I'm going to ask you to be on deck. Urvashi Rankin.

MS. RANKIN: I actually appreciate it. It's actually a sick baby I've got to get back to and a flight I need to catch so I appreciate it. My name is urvashi Rankin. I'm an environmental health scientist at Consumers Union. We're the non-profit publisher of Consumer Reports Magazine and I really appreciate being here today and hearing the deliberations. There's a lot of really great discussion going on.

And I want to talk about two specific issues. One
about the use of progeny of cloned animals and maybe I can
provide a fix for you all on the language to get that moving
because we think it's a really important issue that the
progeny of cloned animals is also prohibited and I think
without the asexual reproduction as well at the end of that
statement and just restricting it to semeiotics on nuclear
transfer that would be adequate in our minds to take care of
the problems associated with the progeny of cloned animals.

I brought in a lot of peer review studies for you
that I'm going to submit to you for your review but they
essentially document how as CNT actually specifically can
cause genetic alterations in the progeny of cloned animals,
including nuclear DNA, myocondrial DNA, two areas which are
at the end of the DNA's and histones which help control genes
turning on and off.

Those problems are largely not associated with
embryo transfer systems and really don't apply to those.
These would be genetic problems very specific to semiotic
cell nuclear transfer. In addition to that, the offspring of
these cloned animals through SCNT can exhibit an intended
physiological differences compared to their non-cloned
counterparts.

One study found that offspring from a cloned bull
showed lower heart rates, lower body temperatures, and other
studies have shown two links can be altered which can perhaps
affect life span of the animal as well. So, we would strongly encourage you to please include progeny of cloned animals in the ban at this time and if you restrict it to SCNT at this time and consider other forms of asexual reproduction later that would suffice in terms of dealing with the problems associated with the progeny of cloned animals.

The next thing I'd like to comment on is the agriculture standards. Actually, we're very pleased to see the progress that's been made on these standards. I know it's been a very long and arduous task and Consumers Union has been very leery of the fact that organic fish at this time is being sold in the market. Consumers don't know whether it's USDA certified or not. It's incredibly misleading to consumers. States like California and Georgia have gone the extra mile because they consider it to be a deceptive and illegal business practice.

We strongly urge you and the USDA to please prohibit that label until we get these standards straight. It simply doesn't do anything to help the market today and it's not going to help the market once these standards are established. Consumer Reports continues to advise our 6.5 million subscribers not to pay more for organic fish at this time and that it just doesn't mean anything more.

We strongly support the comments of the Pure Salmon
Campaign, including the exclusion of open net pens, and also the use of wild fish meal. That's particularly important at this time because with that exclusion we don't get into the problem with the contaminants in fish production. That's been a big concern for Consumers Union, for consumers who are purchasing organic fish who consider it to be cleaner, contain less contaminants like mercury or poly chlorinated bifennels. By prohibiting the use of wild fish you literally get around that issue. If wild fish meal is considered at a future point we are going to ask for contaminant testing of the end product so that consumers are assured that these products that they buy do not contain contaminants.

Along a similar line with the fish oil you discussed today and the fish oil supplements, if that comes from wild fish you're running into the same issues again with contaminants and we really think if that is going to be approved that we also address the testing of contaminants in this fish oil supplements.

Thank you. I appreciate it.

MS. CAROE: Thank you, Urashi. Any questions?

Thank you so much.

MS. RANKIN: I'm going to submit these papers and also my colleague, Dr. Michael Hanson, who is an expert in cloning and other genetic matters can also be contacted at Consumers Union. Thank you.
MS. CAROE: Before I call Tom up we've had a
filming crew that's been going around. I was hoping that you
could identify yourselves since we have commentors coming up.
So, if you would just identify who you are and I think our
public comment folks would appreciate knowing who you are and
what you're doing that.

MS. ROGERS: My name is Shelly Rogers. I'm a
student at NYU. And I have started this project as a masters
thesis but it has since grown to become a full fledged
documentary project and, so, it's called What's Organic About
Organic and it's following the stories of farmers trying to
help consumers understand exactly what organic means.

MS. CAROE: Thank you. Okay. Tom Hutcheson,
you're up and next we have Neil Simms. Neil, are you in the
room? Very good.

MR. HUTCHESON: Thank you all and thanks, of
course, for all your work. I extend -- I'm Tom Hutcheson
from the Organic Trade Association. And we extend our
welcome also to the new members for the board, even if we
know you've already been working for the past several months
very hard so we also recognize you're not new.

Some brief comments and then perhaps a little bit
of an extended comment on 606. First, on the topic of
flavors, OTA appreciates your attention so far and notes that
further board consideration is needed. We'd be happy to work
with you to identify issues and approaches.

On cloning, OTA supports the position of no progeny, recognizing the current recommendation may need further refinement for practical or regulatory purposes. OTA agrees with those board members who feel that it is important to move forward at this meeting and requests the board to craft a simple statement of intent expressing the sense of the board even if a final recommendation is deferred.

On aquaculture, the excellent foundation NOSB has provided will expedite the development of recommendations for carnivorous fish, shell fish, and mollusks. Such species represent a significant portion of the conventional aquaculture industry and the opportunity to include a certified organic product of this type would benefit both consumers and the environment.

OTA suggests that the issue of net pens can be addressed by considering specific criteria for stocking density and nutrient management. We are confident that these criteria can be set so as to support responsible ecological management and the health of the species being cultivated in addition to expanding the options for consumers seeking high quality organically produced seafood.

Now, on 606. OTA commends the NOSB for its diligence in reviewing the numerous petitions for inclusion of substances on section 205.606. We would also reiterate a
fundamental point. Petitions for 606 do not need to
demonstrate that the substance is currently commercially
unavailable in order for the NOSB to recommend that it be
added to the national list. Commercial availability
determinations are quite properly the job of an accredited
certification agent.

OTA urges the board not to be overly exactly in
requiring evidence of unforeseen and perhaps unforeseeable
supply disruptions. Instead, the board should err on the
side of including ingredients whose steady availability is
especially important as the industry expands. There are many
uncertainties at this stage and new product development is
already risky.

The previous allowance of non-organic agricultural
ingredients in the five percent of an organic product not
required to be sourced organically led directly to the
current strength in the organic spice trade. Again, please
give 606 petitioners the benefit of doubt so that 606 may
indeed be a list of entrepreneurial ideas and not an
unnecessarily difficult hurdle to jump. Thank you.

MS. CAROE: Thank you, Tom. Any comments for Tom?
Thank you so much. Next up is Neil Simms followed by Barbara
Glenn. Barbara, are you here?

DR. GLENN: I'm here.

MS. CAROE: Okay. If you could please check with
Valerie. Valerie, wave your hand so they can see you. Thank you.

MR. HUTCHESON: Did I have 30 seconds left?

MS. CAROE: You have 30 seconds. Go for it.

MR. HUTCHESON: Thank you. I did also want to support the inclusion of both inulin and the saccharites on section 606. I think we've demonstrated here today that they are agricultural products. If there's any chance that that does not happen we've included in the handout a suggestion for dealing with it in a regulatory way so that the trade can continue forward as if you require a TAC review, as that happens.

I hope that that's not the case. I hope that you do recognize its agricultural nature for both of those products and that construction of the solution can move forward.


MR. SIMMS: I'm Neil Anthony Simms. I'm the co-founder and president of Kona Blue Water Farms. Kona Blue is the first integrated open ocean fish farm and marine fish hatchery in the United States and operations are in waters over 200 feet deep out off shore in Hawaii. We're now producing over 12,000 of shishina grade kampachi every week in an operation that has negligible almost immeasurable
environmental impacts.

Our company was founded by marine biologists who are committed to environmentally sound agriculture. We use all submersible cages and we are aspiring to more sustainable feeds. We culture an 80's species kona kampachi. There is no commercial fishery for the species and all of our stock is hatchery produced.

We have very high feed conversion, a highly efficient feed conversion ratios, no detectable mercury in our product, very high in omega 3 fatty acids. It's a super soshini and also very versatile as a cooked product.

I want to reiterate my invitation to the board to please come to Kona at your leisure and visit our farm. I also want to share with you here as we scroll through some of the pages of our operation to help dispel some of the misapprehensions that some would you have labor under.

You'll see no plumes of sewage or piles of uneaten fish feed. Organic fish farming need not be the future cesspool that some would paint it as. We can do this right. We just need the opportunity and the incentive.

So, while I commend and thank the livestock committee for the work to date I believe further recommendations on fishery and fish oil and the use of net pin culture was a lost opportunity. This deferral means a fish farm does not have the prospect of an organic premium as
an incentive to improve their farming methods.  

Because of this, our oceans are somewhat the poorer. And a deferral also means that Americans will not yet have organic seafood products that they can consume with confidence. Their diet is therefore somewhat poorer for this. Organic standards for marine fin fish could have encouraged better farm practices and improve national health. Instead, it seems that the emotional arguments of a small minority are vocal opponents to set a net pin culture have held sway, but, that notion should not be a basis for decision-making.

Rather, we should address the issues at hand based on their merits. If we must have rigorous and exacting standards then so be it. We want to see organic agriculture respected and organic seafood sought after. Americans need to eat more fish. The health foundation is suffering from over-consumption of fat laden animals. Heart disease is a national epidemic. And seafood is part of the solution.

Yet, consumers are confused by the barrage of misinformation that such as you've heard here this afternoon about contaminants in farm seafood. Organic seafood standards can begin to rectify this by providing increased consumer confidence in organic seafood sufficient for some Americans to increase their seafood consumption. Organic standards will, therefore, save lives.
You have an opportunity and an obligation. Let's please address the specifics and not the emotion. It makes more sense and is more productive for us all instead of preventing any and all fish farms from being organic, let's impose a rigorous, exacting standards for organic operations. As some farms aspire towards organic status, then these more wholesome practices might then become more widely integrated throughout the conventional system. This is the very same exemplary manner in which organic agriculture has helped to improve conventional agriculture systems. It is proper and appropriate.

Please act expediently to establish net pin standards however so as you see fit to allow fish to be farmed in the sea where they belong. The exclusion of the culture for fin fish production is perhaps analogous to excluding fences from terrestrial agriculture production, It's simply a production method. If the opponents of net pins have specific concerns then we need to be able to hear them and discuss them, yet, there being no simply outright opposition. Are they not citing guidelines that might make organic net pin culture acceptable? We haven't heard from them.

Are there not restrictions on which species might be cultivated organic net pin systems, why are these not being proposed? Are there not standards for affluent water
quality or impacts that would be considered appropriate for organic fish farms? Then why haven't we not heard these. Let us please address the issues and not the emotion and let us please establish some standards. Our oceans and there are consumers who will thank you for it and I thank you.

MS. CAROE: Comments? Yes, Joe?

MR. SMILLIE: Do you have any -- I appreciate your comments on the aquaculture and the fish mill culture and again we will consider it down the road. Do you have any specific comments on the current recommendations that are now before this board?

MR. SIMMS: Yes, I do. I don't want to distract from the main thrust but I support the fish mill and fish oil from organic sources. That's a very good start. I also would like to put forward the suggestion that poultry sort of by-products should be considered if they're perhaps from organic poultry sources and I'd also like to suggest that if I had the choice between electrocution and falling asleep in the snow I'd choose falling asleep in the snow.

And, so, I don't think that concussion and electrocution should immediately be embraced as the most humane method for slaughtering warm water species. When you come to Kona and visit our operation, our fish farm operation, and you see how we harvest our fish into -- it's
very humane. It's the analogy of falling asleep in the snow is the best one that I can find.

MS. CAROE: Dan.

MR. GIACOMINI: Testimony was given yesterday regarding a very poor feed efficiency. I believe the gave for Kona Blue they gave the number 50 lbs. of harvested fish or it was 50 to 1. I don't remember the exact for your output. You've just said you had a very high efficiency. Would you like to state for the record what your -- what the range of what your efficiency is?

MR. SIMMS: Yes, I'd be very curious as to where that information had come from yesterday. Was the source for that cited?

MR. GIACOMINI: The hallway.

MR. SIMMS: I'm sorry?

MR. GIACOMINI: The hallway. I just heard it in the hallways.

MS. CAROE: It was presented.

MR. GIACOMINI: It wasn't presented here but he said I just heard it a minute ago. That was his reference.

MR. SIMMS: Okay. I'm a little displeased and distressed that people have impugned our reputation so liberally here at this podium. In land-based chiles where they have species leaving we got feed ratios down to 1 to 1. Now, please understand that's with the dried pellet feed. So,
we use about 50 percent fish meal and fish oil in that dried pellet feed.

If you're going to go and take that back out then as to how many poundage of wild fish goes into that there's about five pounds of wet fish that needs to go to make one pound of fish meal so it works out to be about 2.5 to 1 in our land based systems where we can have better regulation of the feed. Out of offshore, because of the open ocean system and there still are some challenges there, putting the pieces in place to make this work efficiently our feed conversion ratio using the dry pellet is about 1.7, 1.8 to 1.

MS. CAROE: Okay. Well, I just want to correct something you said. It wasn't Kona Blue. It was Kona kampachi, wasn't it?

MR. SIMMS: We have the trademark Kona kampachi. That's the fish.

MS. CAROE: I know. It's a company name, isn't it?

Kona Blue --

MR. SIMMS: Kona Blue is the company name. Kona kampachi is our trademark.

MS. CAROE: It was the fish that was being -- okay. Jeff or is it Kevin.

MR. ENGELBERT: Kevin. I was going to ask how much do you feed to get a pound of yield.

MS. CAROE: No, no, he said how much wet fish.
Five pounds of wet fish make one pound of fish meal that then gets fed to the kampachi.

MR. SIMMS: Right.

MS. CAROE: How many pounds of food does that -- how many pounds of kampachi does the fish meal for whatever it eats?

MR. SIMMS: We're doing it where we can push feed where we have better control and we can get the feed conversion ratio of 1 to 1. So, that's 1 to 1 of dried feet to one pound of Kona kampachi. Then the wet fishing, the wet fish out, which is really as a fishing biologist that's the major that I want to look at, that 2.5 to 1 and offshore it's closer to 5 to 1.

MS. CAROE: Okay. Got it.

MR. SIMMS: When we go toward -- we can very quickly move towards something like 1 to 1 by using by-products in there. This is what I was talking about, the incentive and using these incentives. We can go and use pollack or salmon by-products which at the moment are being dumped. We can use those and we get down to a ratio of wet fish in/wet fish out of 1 to 1 and I think when you're looking at this that's something that everybody, even those people who testified here yesterday with this misinformation, if you told them that we had a wet fish in and a wet fish out of 1 to 1 they may --
MS. CAROE: I just want to say that this is something -- this is the type of thing that we want to investigate and so I don't -- although I know the board has a lot of questions on this stuff I do want to point out the fact that there will be another time and a place and I'm really hoping in your -- I can get a unanimous vote on that recommendation from the board. I'm just saying.

Did you have a question, Bea?

MR. JAMES: And I know that Gerald has made it very clear that we will be discussing that at another point in time and I look forward to that. But, in the interim to kind of help me think about some of the things are know are going to be coming up, can you address -- I've heard a lot of comment about the impact to wild species if over-fishing happens on the food supply.

Can you give me any kind of -- you know -- how you perceive that statement that's been made.

MR. SIMMS: The fishing of?

MS. JAMES: For feed.

MR. SIMMS: Oh, the reduction fisheries such as proven in anchovies. Proven anchovies, when I went through the marine biology back 20-25 years ago even back then the proven anchovy fishery was used as a model for a beautifully managed fishery and it still is to this day. We recognize it though. We as a company recognize it even though it's very
stable and it's sustainable in its stability, it's not sustainable in its salability and that's why we as a company already are trying to push the envelope for more sustainable feeds.

That's why we originally feeding our fish an organic feed based on European standards that that was primarily a proven anchovy and that didn't hold water as we were concerned about trying to hold ourselves out to be sustainable and that's why we've pushed the envelope down to 50 percent fish meal and fish oil and using more agricultural grains.

One of my concerns going forward is that if we're going to do an organic farm there may not be -- the limitation may not be fish meal or fish oil. The limitation may be the availability of agricultural products to go into the feed, the cannola, the organic cannola, the organic soy. That's going to be a limitation as well.

MS. CAROE: Anymore questions from the board? Thank you so much for your comments.

MR. SIMMS: Thank you all very much.

MS. CAROE: On deck we have Sean Taylor. Sean, are you in the room?

MR. TAYLOR: Yes.

MS. CAROE: Can you please check in with Valerie. Mrs. Barbara Glenn.
DR. GLENN: Good evening to members of the National Organic Standards Board. First, please indulge my voice, I apologize. My name is Dr. Barbara Glenn and I'm managing director of animal biotechnology for the Biotechnology Industry Organization in Washington, D.C.

Thank you for providing the opportunity to testify today on the current recommendation before the board. We respect that today you've actually taken an action to defer on this recommendation. Today, however, I'd like to summarize some of the written comments that were submitted on March 16th which respectfully opposes the recommendation.

Biotech Industry Organization's members provide cloning technology for agricultural animals and are leaders in the production of livestock clones to provide solutions for issues important to human kind, including hunger and health. An animal clone is a genetically identical twin to a donor animal that has been recognized as naturally possessing desirable traits that the breeder would like to replicate.

There is recombinant DNA technology involved in the process of cloning. No genes are inserted or changed. Cloning simply produces a genetic twin. In fact, animal cloning allows farmers and ranchers to produce healthy productive animals and healthful foods for human consumption.

Animal cloning allows for rapid distribution of the best genetics for proven animals to provide consistent, healthful,
and safe food for human consumption.

Animal cloning is a safe assisted reproductive technology. There is no human health nor food safety reason to exclude animal clones from organic production. Following exhaustive food safety reviews by the U.S. Food and Drug Administration they have stated in a science-based draft assessment that edible products from healthy clones and progeny of clones pose no additional food consumption risks relative to corresponding products from other animals.

In this conclusion the FDA agrees with the National Academy of Sciences who concluded similarly in 2002.

Moreover, animal cloning is simply another step along the continuum of assisted reproductive technologies or ART's which are high technology breeding methods used today in animal agriculture and including organic agriculture.

Somatic cell nuclear transfer or SCNT has been recognized as an ART by FDA. Other ART's include artificial insemination and transfer and in vitro fertilization, all of which are allowed to be used in organic production in the NOP. Indeed, the proposal currently before the board would specifically allow the use of artificial insemination in organic production where the regulations have previously been silent.

Any distinction made among these different types of ART's that deny or give producers the benefits of these
technologies should be supported by science and reasonable
argument. The value of these breeding tools is undeniable
both within and outside the organic community. For example,
it's estimated that 75 percent of the milk and 80 percent of
the pork is produced through the use of artificial
insemination which includes milk and pork labels under the
National Organic Program.

There is nothing in the Organic Food Production Act
of 1990 that speaks directly to animal cloning. Organic
livestock producers should have the option to select the best
genetics, select the reproductive technology to allow them to
raise high quality livestock in a manner that's consistent
with the NOP. Animal clone progeny are not produced using
SCNT. The progeny or offspring of clones are not clones
themselves. These animals are sexually produced from the
mating of a clone with another animal after undergoing the
normal gestation period and birthing process.

Without prejudice to our position, the cloning
should be allowed under the NOP. It's even more the case for
progeny. The NOP should certainly allow the progeny clones
to be used in organic production. As discussed above,
livestock clones, because of their highly desirable traits
and genetic mirror will be the superior farm animals.
Organic livestock producers should have the opportunity to
take advantage of those superior breeding stock.
Furthermore, the progeny of clones are produced under normal conditions of livestock breeding and production and are compatible with organic production. These naturally born offspring which may be raised according to the statute or the regs should be allowed under the NOP to produce animal feed products to be labeled according to the NOP.

Importantly, attempting to force a ban on progeny clones and organic production will actually impose significant burdens on organic livestock producers. As mentioned earlier, livestock clones and progeny are indistinguishable from livestock produced using natural mating or other ART's. There's no test, chemical or otherwise, that can be conducted to identify that an animal is actually the offspring of a clone. Therefore, there would be no practical process in organic production to allow absolute certainty that an organic livestock producer isn't purchasing or doesn't have a progeny of a clone.

In fact, that problem is likely to be magnified because there will be thousands of progeny in the future and, indeed, today there are several dating several generations to the 1980's when cloning was actually used.

MS. CAROE: Thank you.

DR. GLENN: Thank you for allowing me to make comments.

MS. CAROE: Any comments from the board? Thank you
DR. GLENN: We'd be happy to work with you if you need assistance.


MR. TAYLOR: Good afternoon. I'm Sean Taylor. I'm the scientific director of the International Association of Color Manufacturers. I'm going to limit my comments today primarily to talking a little bit about annatto and support of annatto very briefly and talk a little bit about commercial availability.

I have written proxy to talk tomorrow morning and I'll talk a little bit more about some of the anthosianic contained colors. But, you're welcome to ask any questions that you want obviously.

What I'd like to say is that first of all we'd like to thank you for the chance to comment on recommendations of the NOSB that are slated for discussion and final vote at this meeting. My association, the International Association of Color Manufacturers is the trade association that represents manufacturers and end users of coloring substances that are used in foods, including those colors that are used in products labeled organic and made with organic.

We've already supplied some written comments to the
NOSB. What we'd like to do with these public comments is provide some additional information concerning the recommendations of the NOSB handling committee with regards to petitions received for both annatto and paprika colors. Our association felt one of the two petitioners received for paprika and we found the only petition received for paprika oil resin or paprika oil extracted as it's now being called.

As far as annatto goes, I'll keep it very briefly. We support strongly today's recommendation for annatto color. And I don't think I'll go beyond that considering the time. What I'll say as far as paprika goes, as within annatto, the current handling committee recommendation is to separate paprika, water-extracted paprika, oil extracted, I should say, on the national 205.606 and to the annotations concerning material listed for three years from the date of publication and organic oil must be used for the oil extraction.

Again, we strongly support these recommendations now from the handling committee to remove these annotations and to separate the two materials. The one thing I would like to suggest, however, is you may want to consider remaking paprika water extracted for maybe something like paprika color because as it turns out paprika is really not water extracted. It's really just taking sort of the dried
pepper and grinding it. So, paprika water extract is a little bit of a misnomer I would say. So, please take that under consideration.

Finally, in our view of the petition the handling committee recommendation we feel that the paprika petition is dealing with both forms of paprika have met all of the critical criteria for getting on the national list but we'd like to provide some additional comments with regards to the commercial availability of certified organic paprika or raw material alternatives.

In our original petitions for paprika color and paprika oil resin which is now referred to as paprika oil extracted we provided evidence in our petitions of pepper crop went outside of the United States and is currently in transition to certified organic. Specifically, there's crops plants in South America which is, as it turns out, a major source for the sweet peppers that are used in the production of paprika colors.

We anticipate, I should say, some of our member companies anticipate that this crop land will eventually produce sufficient raw materials for certified organic process for what you might want to call paprika color and paprika oil extracted color. However, we expect that initial reduction so real conventional crops will occur. We had some concerns that the supply chain may be initially inconsistent
after the transition is first complete.

Additionally, the certified organic paprika pepper farm lands will require crop rotation to ensure consistent yields, maintain quality of the soil, and prevent disease. We believe this will necessitate the development and coordination of companion organic product to be grown in the same land and while members of our association are working with the growers to find a suitable companion crop this work is still very much in progress.

We feel that these factors alone require the listings of paprika color and paprika oil extracted colors of the natural west. We'd also like to provide some additional comments in the sourcing of peppers for paprika used as a color, whether it's paprika or paprika oil extracted.

In the handling committee's recommendation the question was raised as to the importance of Hungary, the country Hungary, as a supplier. One of the member companies, and specifically it's a company called Cowset, which is one of the major producers of paprika color and paprika oil extracted for use as a color has indicated to me that Hungary does not supply substantial amounts of raw materials for paprika used as a color.

That's not to say that Hungary produces no peppers for paprika. What it really says is that Hungary is a relative source of paprika used as a flavor and spice agent.
and so there's a distinction between paprika use as a color
and that used as a flavor and spice agent.

In addition to that, some of the specific varieties
of peppers that are used to make paprika colors, those that
have been selected over time due to, say, increased pigment
content, are not generally grown in Europe but primarily in
South America and in the United States to a lesser extent.

We expect that within five years, and we hope this,
when the use of these materials occurs members will have
certified organic processes in place and sufficient certified
organic raw materials to fulfill our customers' requirements.

Our member companies are fully committed to developing
certified organic paprika color and paprika oil extracted
colors and some of the members already have some sort of
organic processes and materials in place and we're going to
continue to work towards that.

So, thank you very much.

MS. CAROE: Thank you. Comments? Thank you so

MR. CAERS: In the sake of time and perhaps in the
sake of a general level of fatigue I have a proxy for Steve
Abrams, but, if my presentation is clear enough I will offer
not to give the presentations from Professor Abrams but just
give you the handouts and if there are any questions I'm
available for answers.
MS. CAROE: I appreciate that.

MR. CAERS: So I am Wim Caers. I am regulatory support manager for RFT. We are a medium to small sized company from Belgium but we are the leading producers of inulin worldwide and our presentation today is in support of the Stoney Field petition and just to make it clear for the record I would like to point out that the petition product is not just any standards inulin but it's all different enriched inulins which is a particular type of compound.

On the next slide you will see a relative distribution, a comparison relative distribution of inulins coming from different sources and you'll see immediately that there is a large difference in the overall composition of these different inulins.

The next slide will show you a number of potential sources that contain inulin to different levels and it's safe to say that despite the high number of potential sources today more than 95 percent of all the inulin which is produced to be used in foods is coming from the chicory root and this is a very conservative assumption I should say.

The next slide really shows you how inulin looks like and it's important to say that each different amount is represented by a singular peak and it's also very important to remember that the general profile and compositions of these types of ingredients are really crucial for both the
technological properties while using in the food product and its metabolic fate and nutritional benefits after ingestion in your body through any type of fruit matrix.

The next slide really summarizes what happens in the plant. So, the seeds are planted in spring and then the plant really grows throughout summer and during the summer the plant or the root produces the high levels of inulin which reaches a peak in September when normally our company starts harvesting.

But, at the same time there is a second process that the plant does which we call the endogenous hydrolysis from inulin back into oligofructose and this is triggered by temperature and weather conditions. And if you look on the next slide what you will see is that the first column really gives you an idea about timing. The second column gives you the general level of the chain links and you see a steep decrease starting at September going down to the end of December.

But, at the same time you do not see a steep decrease of percentage of inulin type fructan which basically means that all the hydrolysis that's taking place is used to form again these phototype type of quantities.

This is most demonstrated by research done by people from the University of Ghent in Belgium and in the next slide you will see on top, and they used chicory inulin
as a model to demonstrate the whole concept. You will see on
the top side, this is inulin measured from September and then
compared to inulin measured in January and the next slide
will show you that indeed there is a high — an increased
level of presence of these oleofactoral type of modalities
and are those are reproduced in the plants.

And these are published results by other people.
The next slide will show you how this looks without inulin
and the next slide will show you that this process already
starts in September when we actually harvest the ingredient,
but the next slide shows you how these levels genetically
increase if you just wait long enough that when the plant
matures and you go into much colder conditions in wintertime.

The next slide really shows you the general
composition of inulin coming from chicory in this corner
compared to similar type of inulins coming from other sources
which I believe are organically available on the market in
very small quantities.

But, you will see immediately a clear difference in
the general compositions of chicory inulin and then, of
course, compared to the one from blue agave and irusin an
aftershock represented right there.

And then the next slide shows you how the profile
looks from the petitioned product which is the oligofructose
enriched chicory inulin with a concentration of shorter ones
combined to the long ones and you will see as an example a
very clear distinction with the profile from the short chain
FOS that has been discussed also today and which is part of
different petition.

But, you can clearly see the difference between the
two products. So, as a general conclusion I would like to
state that indeed we would support the inclusion of this
oligofructose inulin as an agricultural product based upon,
first of all, latest originated agriculture product, the
chicory root. Secondly, the change in the chemical structure
is identical to the process which invariably takes place in
the plant when it matures.

The identity of this oligofructose enriched inulin
is clearly recognizable in the overall pattern from the
chicory root and even it's safe to say that only the chicory
root can be used as a raw material for this type of
ingredient and it's very unique in it's very unique in its
composition and its nutritional properties. And as such,
today, there is no organic variety available to replace it.

Thank you very much for your attention.

MS. CAROE: Thank you. Joe?

MR. SMILLIE: What do you think in the future could
be the possibility of organically produced chicory being used
as your base for production?

MR. CAERS: Well, since the organic interest is
gaining momentum both in the U.S. and in Europe we've only
lost months. We've discussed this with the Belgium
Federation of Organic Processing Companies and what they're
trying to do is to see how we need to adapt our process, but,
of course, if the problem starts with starting from organic
material.

And the chicory plant is not the easiest one to
grow because it's a rotating crop and you can only use the
same field every fourth year and that in combination, of
course, with the organic requirements, at least in Europe,
where you need to produce four years of organically type of
crop harvesting, so we need to do that first.

And then, secondly, we need to adjust our process
because, as you can imagine, the chicory has some remaining
bitterness that we need to be able to separate from the rest
and still staying within organically allowed type of process
technology and this is something that we are looking at this
moment but it will take quite some time to get there.

MS. CAROE: Katrina?

MS. HEINZE: Thank you for your comments today. We
received several public comments after our recommendation
with the public recommending that we list fructans as a broad
category on 606. I'd be interested in your thoughts on
whether that's a reasonable solution and if there are any
hurdles to doing that or ramifications that we may not be
thinking about.

MR. CAERS: I think if you really go into the chemistry, fructans really cover a number of quite different types materials. It goes from the inulin type, from the oligofructose short chain first type. It includes levans who have a totally different chemical structure.

So, having said that I also believe that the different members within the fructans have very different, let's say technical qualities and also physiological qualities after ingestion, and, as such, I believe it would be fair to look at the different members within the fructan family and to judge them based upon their own merits for inclusion in 606 lists or not because I think that the difference in potential behavior and characteristics is too wide to really look at them as one group.

MS. HEINZE: Thank you.

MS. CAROE: Any other questions? Thank you for your comment. Next up, I didn't have anybody on deck. Jorge Gaskins, are you here? You're up and on deck is Tony Moore. Are you in the room, Tony?

MR. MOORE: Yes.

MS. CAROE: Excellent. Check in with Valerie.

MR. GASKINS: Good evening. My name is Jorge Gaskins. I'm the managing director of HC, the Organic Seafood Company. And I'd like to thank you for the
opportunity of sharing with you our views on the progress to
date on the agricultural standards and also thank you for the
amount of effort that has gone into producing the work to
date, historically and the actual effort. It's notable, it's
admirable, and it's commendable.

And having said that, let me go into a few things
that we think should also focus your attention. HC is a
vertically integrated producer of certified organic tilapia
and shrimp and polychocho, both organisms in the same pond.
We're certified organic by Natural Land from Germany. And
we're a pioneer in the Western Hemisphere of organic talapia
production. We actually have 925 acres of fresh water ponds
in production in southwest Brazil and Panama State, just
north of the great waterfalls of Equasoux along the Parana
River.

I'd like to also suggest a visit which would
probably be educational, interesting, maybe not quite the
same competition as Hawaii, but, worthy. We employ over 125
persons and contract over 80 organic grain farmers and 60
organic talapia producers. And our parts have been in the
North American and European markets for over a year.

Talapia is a well domesticated fish species, an
omnivore. The relationship with man is even depicted in the
hieroglyphics on the pyramid walls. We have submitted
written comments for the record but we have traveled here to
underline and bring into focus certain points of concern in
the proposed regulations, one of which, of course fish meal,
fish oil, and agricultural feed rations.

And I say this because, one, we are perhaps the
largest producer at the present time of certified fish meal
and fish oil and we are beginning to raise fish only for fish
meal production. Two. We use micro allergy production
extensively in our ponds as an essential part of our fish
nutrition during the first six to eight months of life. We
are now doing research and development to harvest these
biolipids producing algae and incorporate them into the diet
of the shrimp and fish, more directly into the feed rations
to better address the diets of the adult talapia.

We are most encouraged with the results to date and
together with other research and development in the industry
we look forward to a more diversified diet for organic,
aquatic animals in the future. And, three, finally, we are
working with major soy processors in Brazil to remove the
complex sugars in soy meal; some 20 percent of the soy's rate
and possibly 10 percent of aquatic feeds that do not
contribute to the fish nutrition but they do add to the waste
in the water systems.

So, we see that the soy used in agriculture feeds
can be improved. Micro algae can produce a more natural
source of biolipids and protein for fish and shrimp rations
and the sources of organic fish meal and oil do exist and
will increase. However, at the moment these food
alternatives lack far behind the actual production of organic
fish and shrimp to be found on the North American market
today.

And these alternatives will not fuel the supply to
meet the identified demand for organic seafood as well
described in the New Jersey comments on the website of
consumer interest. It is for this reason that although we
feel we are part of the long-term solution for organic feed
we endorse the use of fish meal and fish oil from trimmings
of wild catch from identified sustainable fisheries until
such time as these other alternatives can mature.

In another area of the market the retail buyers,
the food service operators, consumers, and even chefs
expressed their interest in having a broad selection of
seafood. Commercially having organic talapia and possibly
organic catfish at some time in the future and a much more
limited supply of shrimp and not having cod, salmon, kobia,
sea bass, seabring to choose from, is going to dampen if not
cripple the growth of the organic seafood industry.

MS. CAROE: Thank you. Board comments? Thank you
for your comments. Oh, wait. Joe?

MR. SMILLIE: Yeah. The current recommendation,
for example, for which your company qualified under those
MR. GASKINS: Our company definitely would qualify under those standards and we support the timeliness of producing a standard and it's a part that I couldn't quite get to. A lot of capital decisions are being held in abeyance all over the industry as NOP process grinds on. And the industry definitely needs more stability. The standards as you have referred to them up-to-date, the draft, we can support.

We don't think that they're the standards that the industry needs to propel itself into a better market position. But, we do support the standards and approving standards as early as possible.

MS. CAROE: Any more questions from the board or comments? Thank you so much.

MR. GASKINS: Thank you.

MS. CAROE: Up next is Tony Moore and on deck is Brian Baker for Dave DeCou.

MR. MOORE: Tony Moore, Moore Ingredients. I'll make this really short. Thanks to all you folks for all the work you're doing. I can't imagine. I'm getting tired just sitting here. I can't imagine what you guys have put into it.

Really simply put I guess I would like to request a further appeal on the current state of organic flavors. I
was sent a notice the NOP sent out that was attempting to clarify organic flavors and I just have a couple of points on that. I'm going to assume that some of the language used that refer to simplicity and also not consumer acceptability and of these flavors was more simplistic flavors like some of the dill weeds that we spoke to and that was a whole different class of flavors that exist and those are complex flavors that are used in beverages and a lot of other --

(Discussion off the record)

MR. MOORE: I was comparing some of the language of the NOP's clarification on flavors hoping to refer to more simple things like spices and some of the dill weed we spoke of earlier but I'm also saying there's a whole different class of flavors that exist and neither complex flavors that are used by the commercial consumer, beverages, and that our company manufactures these. We make most of our livelihood doing that and if you're an organic consumer chances are you probably consume these products with these complex flavors.

There are also blends of both organic -- I'm sorry, both agriculture and non-agricultural products so they really don't meet all of the classification that we are currently going under. Some of the other issues, just by using natural flavors we talked about some of the things not imposing organic regulations on a non-organic industry which is a comment I think we talked about but rather what are we
introducing into the organic industry from non-organic products and that's something that we should really take into consideration by products that are just called natural flavors.

That's the gist of it so I guess I'm officially asking for a further review on the possibility of organic flavors in the current state of organic flavors.

MS. CAROE: Comments? Julie, you want to comment?

MS. WEISMAN: I'm going to make a confession. I was trying to make sense of your handout so can I -- so, pardon me if I misunderstood something, but, did you take from the last clarification, do you think that there is an implication that there should be no organic flavors? Is that what you --

MR. MOORE: No. I took the position that saying that they thought the current flavors, the 1 to 1 don't exist in organic flavors and that the current flavors being organic are simplistic and not acceptable for consumers. That's what I think. Did I misunderstand that?

MS. WEISMAN: Okay. All right. So, you are saying that organic -- can I rephrase it? That whole organic flavors, to say that they are not complex is not accurate, that they are also complex. To say that they are not acceptable to consumers?

MR. MOORE: I think a more accurate way to say it is
the flavors is too broad of an issue to simply call it flavors and I think we need to look at that as a class and explain exactly what they are. You know, if we're going to keep referring to the CFR it's a pretty broad swatch of what they're calling natural flavors. Spices fall under that, sweeteners fall under that. However, there's also a class of flavors that are blends of, again, non-ag. They're going to contain solvents of alcohol. They're going to contain fruit juices. They're going to contain sweeteners, acidulants and so forth and all those have their own little issues which makes those kinds of flavors very complex issues and I guess I'm encouraging doing whatever would mean to encourage these organic flavors because by doing that you're encouraging the use of other organic products.

You're encouraging the use of organic alcohol. You're encouraging the use of organic fruits and berries. You're encouraging the use of organic sweeteners and the list goes on and on. By just simply allowing natural flavors are so-called organic component you're not encouraging that and you're not encouraging all the businesses that want to sell these products and manufacture those products.

And, also, by just simply following within the current CFR for natural flavors you're inadvertently introducing a lot of non-organic things into organic products and there's a lot that goes into that so I guess I'm offering
up a really honest discussion about that.

MR. SMILLIE: As you know, we will be working on our ag/non-ag definition and I believe that that will be the key for us as a board to go back to the NOP and give them advice as to how to come up with a guideline of which flavors do really belong on 605 and which belong on 606 and encourage, you know, the growth of 606, you know, and organic flavors as much as possible rather than allowing occurring to the latest recommendation that, you know, just having FDA define it for our industry.

MR. MOORE: Yeah, I agree.

MR. SMILLIE: And, so, we'll look forward to your contributions as we try to create this document but what we're going to be down to pretty quickly is what we saw in the previous flavor presentation that was put out there. When does an organic essence stop being agricultural, after how many cuts and splits. You know, where do we draw a line and so we'll be looking for industry expertise such as yours to help us determine when does something stop being agricultural and become non-agricultural through the distillation process.

MR. MOORE: Sure. I will assist any way that I can, anyway you'd like to. One really fast comment though i that a lot of these lines need to be simplified because all we're doing is finding ways to encourage use of non-organic
products when a lot of these can be made organically. The raw materials are available. The technology is not that difficult when it comes down to it.

MR. SMILLIE: Great. Thanks.

MS. CAROE: Do you want to comment?

MS. HEINZE: I can't help but notice in your handout that you have a hibiscus certified organic color.

MR. MOORE: We do. I chose not to confuse the issue, but, we do have two organic colors.

MS. HEINZE: We are looking for commercial availability information on hibiscus. I was wondering if you could speak to that a little bit.

MR. MOORE: Oh, certainly. When we first manufacture it's a very simple product. It's a hydro extract meaning that we take certified organic hibiscus and extract that with organic alcohol and water. We first manufactured the flavor not for color but in using it in finished product. It's actually been commercially used in five different consumer products that are labeled as organic right now.

We found a wonderful color so using that as a color that led us into making into an extract which is also being manufactured right now and is being sold in some different confections. It's manufactured in the same process so using organic tumeric, organic alcohol and water.

MS. HEINZE: Are you able to find enough certified
organic hibiscus to make enough to meet your customers' needs?

MR. MOORE: We've had no issues and, in fact, as we posed the question to our suppliers for hibiscus our suppliers for tumeric and we're currently we're not complete to all the suppliers asking about commercial availability and our hope is they're saying bring it on. So, they're saying there is no commercial, but, -- sorry.

MS. CAROE: Jeff.

MR. MOYER: My question would be, I'm trying to understand it. Are you inferring that by placing items on 606 it encourages the use of organic or are you inferring that keeping things off the list is encouraging people to develop more organic?

MR. MOORE: I guess you could take that either way. I guess I'm saying that by not being really encouraging the use of organic flavors. In other words, right now as it stands, because of ag versus non-ag you can use simply natural flavors in the product. There's no legal requirement to use organic flavor. Am I correct about that? By doing that -- I'm sorry, go ahead, Julie.

MS. WEISMAN: Sure. Yeah, I think the other issue here is that natural flavors are elsewhere. In other words, it is already a problem whether -- it's not about what gets listed on -- part of it is not about what gets listed on 606.
Part of it is the fact that natural flavors is a broad category on 605-A and there's very broad interpretation about what is a natural flavor and I think part of what Tony is arguing is like let's look at what's in natural flavors because there are -- and let's look at what called a natural flavor that may really be a natural ingredient or composed solely agricultural ingredients that are available as organic.

MR. MOORE: There's mixtures of ag and non-ag just like a lot of consumer products are because at the end of the day you look at the components of an organic flavor they exactly mimic let's just say an organic beverage. You've got solvents, you've got water, you've got sweeteners, you've got fruits, you've got acidulants, and you've got flavor so, in other words, that's another choice but it's not the same classifications and we need to really address that because, like Julie said, they're called natural flavors it just really confuses the issues and I think it causes a lot of confusion in people and customers, people like myself who formulate them for a living.

And, as well, like I said, my bigger interest though is just encouraging the use of all the organic ingredients that we can to further a trait.

MS. CAROE: Julie?

MS. WEISMAN: I just have one more comment in
response to what you're asking for. You know, Joe addressed
one issue, one aspect of how we will be responding which is
going to be throwing work onto the ag/non-ag recommendation,
but, I think that you're not the first person in the last two
days that has called for a more rigorous look at flavors in
general and, so, I think we're going to, you know, have to
have some conversations with the program about what other
forms might be crated and that to include participation, you
know, of people outside just the board. And we will probably
want you to -- we may contact you when that time comes.

MR. MOORE: Anyone in my organization is happy to
help in any way that we can.

MS. CAROE: Any other comments or questions from
the board? Thank you, Tony.

MR. MOORE: You're welcome.

MS. CAROE: Next up, Brian Baker for Dave DeCou and
then following is John Jantos. John, are you in the room?
How about Will Fantle for Mark Kastel? Will.

MR. BAKER: Thank you very much. I'm not Dave
DeCou. I'm Brian Baker, research director of OMRI and I have
been asked to speak on his behalf and not say anything he
wouldn't say so do that and that should make things even
briefer.

I just wanted to touch briefly on TAC reviews and
what Kim said earlier today is very helpful and very true.
We use TAC reviews and petitions to try and understand the standards of identity and what we're talking about here, cast numbers, INS numbers, 21 CFR references, those are all very important for us to establish what it is we're talking about when we're working with certifiers, when we're working with suppliers and manufacturers to help them understand what's going on here and what the regulations mean and navigate that.

We need to know and be all on the same page when the TAC reviews are not posted and the petitions are not clear. That makes our job more difficult and it makes the job of certifiers and inspectors and processors more difficult as well.

So, several of the petitions, a couple of the petitions were not posted, TAC reviews were not done on 606 materials and there's some ambiguity about what we're talking about here. Also, on the subject of TAC reviews and petitions, the board needs to seriously consider all alternatives.

One alternative not discussed very much has been the option to make a product with a process product with a made with claim that a non-organic ingredient is used. That's not to say that it's the only option but it is an option and should be considered by the board. OMRI wants to see the result to see organic strengthened and that's a very
clear consensus message.

On the issue of cloning, briefly, OMRI is in line with what's been said to ban clones and their progeny. We've received a lot of questions on the subject. We understand the devil is in the detail. There are a number of other excluded method questions that are being sent our way. We have a whole lot of related issues. I mean, look, we put meat and bone meal on our list. Does that mean meat and bone meal from cloned animals can't be used as a fertilizer, things like that.

We want to know what the implications downstream are and need to seriously consider what the implications are of what that means. So, we want to see the NOSB go ahead. We want to see a standard that is clear and enforceable and meaningful and doesn't leave people in funny situations.

Thank you.

MS. CAROE: Any questions for Brian, for Dave?

MR. BAKER: I'll take them back to Dave if you don't want hear from me now.

MS. CAROE: Thanks, Brian.

MR. BAKER: Thank you.

MS. CAROE: Next up is Will Fantle. Do we have John Jantos in the room yet? Has he arrived? How about Jeff Racherty?

MR. FANTLE: Hello, again, I'm Will Fantle for the
Cornucopia Institute. I am its research director and I will try and say things that Mark Kastel would want heard here today.

We want to thank the livestock committee for its move to try and bring the progeny of cloning into the consideration before this board. We think it's very important. It's our hope that this board will make it very clear that the progeny are not allowed. It's also our desire to see our favorite color removed from the organic regulations as much as possible and that color is gray so what that crystal clear for people to know and understand.

I have a comment about the web page and its usage. I've used it for two other non-NOP uses, one with FDA and one with USDA on another matter. Very difficult to navigate and very user-unfriendly. I've been involved in some web page development myself. I think there's probably better ways to approach this and I hope you'll do that and I want to take -- I hope you take that as a sincere request on our part. It's very important for the public to be able to use this and to comment and to provide you with feedback and input on the issues that you were considering. The web page does not need some upgrading.

Next, I want to address just your meeting process. I am an elected official in Wisconsin, a local elected official. I understand what the open meeting process is
about. I'm a little disappointed that the NOP and the NOSB have been encouraging the use of the most recently closed meetings.

We have very distinct criteria for what we use as an elected official in Wisconsin. Contract negotiations, labor negotiations, consideration of legal strategies. I'm not sure that those are the types of things that have been taking place during your closed sessions. I understand fully the need for you to have compressed meetings and schedules and try and be efficient and effective in what you're doing but I hope that you will consider that sunshine and transparency go together and try to be involved and keep the public aware of what you're doing.

It only leads people to be suspicious of what's taking place behind closed doors if those processes are not fully open. Lastly, a matter that I know you can't do anything about but I have to comment on, pasture, and the regulation that the lay of the regulation once more.

This board in August of 2005 made a recommendation that was rejected by the National Organic Program. They decided instead to try and refine the language that this board approved. We're now into 2007. We're told that maybe at the end of this year -- well, actually I don't know that it is the end of this year. We were told at the end of the year. We weren't told what year that would be that this
pasture regulation will come out.

Our members, our family farm members really want to see this resolved and I know, again, that you have little control over the process, but, whatever you can do to try and push that out the door we would fully appreciate. It's our contention, our continued contention that the current regs are enforceable. They're not being done. That's not being taken, that action by the National Organic Program.

We think that confinement, farm operators that are speeding down the highway that are violating the regs and something should be done about that. Perhaps you can find some ways to encourage enforcement activities.

With that, thank you and I hope the rest of your evening goes quickly.

MS. CAROE: Comments for Will? Thank you so much. Jeff, you're up next. After that, Zea, you're on deck. I saw her somewhere in the back. Is Zea here? She might have fallen asleep. Yeah, there's a lot of that going around.

MR. RACHERTY: Hello, everybody. Jeff Racherty, Moore Ingredients. You've heard earlier from Tony Moore who is the technical director and I'm more on the sales and marketing side so I'm going to kind of be a little more basic. I just wanted to thank everybody on both sides of this know that there's been -- it's clear that flavors have to be that more closely and I think we're all heading in that
direction with the discussions that we all have had.

I just want to make a couple of comments about a few things. Moore Ingredients, as numerous other flavor manufacturers, it has been clearly established that certified organic flavors are indeed available. So, I guess with some of the earlier commentary today as it pertains to that, adding the fact that that natural non-organic flavors that are in compliance are on the allowed list and some of the comment, I guess the exact verbiage may have been it just means that it is available, not that it is a given or a definite.

So, I guess I have a question and I'll ask if someone wants to answer it now that would be great and if that is the case. What is the criteria that the certifier is using to evaluate a given flavor to be accepted under that parameter or not or challenged?

MS. CAROE: Well, we'll let a certifier answer that.

MR. RACHERTY: I was looking right at -- sorry, Joe.

MR. SMILLIE: Let me start by saying that I'm accredited by the USDA. When I'm given guidelines, I've got a law, a regulation, guidelines, current thoughts, and a number of different inputs from my accreditor as to how I will deal with different issues and unlike Will who wants to
see the color gray go away it ain't go away in my lifetime
and there's a lot of things that are gray out there.

Our personal company, and I cannot speak for all
certifiers, and it's hard to, because there's a variety of
opinion on this, but, we took the position early on on the
fact that we felt that natural flavors are what's called, you
know, NOP compliant that are allowed under 605-A. You know,
we allow them. We saw that clearly they were natural but
non-agricultural, okay.

So, that was fairly simple. They're allowed as long
as they don't have propylene glycolin or other solvents.
They're allowed. There's also a whole world of flavors out
there that are, we thought in our estimation that were
agricultural, you know, essential oils, extracts, vanilla,
you know, and, so, we said, hey, if those are agriculture
they've got to be organic or under 606.

And, so, that's the way we were operating. Then
the first guideline that we received was that anything,
anything that even smacks of agriculture has got to be on 606
and I was like whoa, that is we fell a little far to the side
of the way we were interpreting it. And then we moved
forward and we have a lot of clients that are really working
hard to use a lot of certified organic flavors and a lot of
flavor companies that are producing certified organic flavors
and our business is certification so we see it.
You know, we have to work with flavor companies. It's one of the hardest questions to answer is a flavor company will phone us and say what's the deal here and you have to take a long deep breath and try and walk them through, you know, the mine field in explaining how you certify a flavor. And, so, we usually get through it and the companies struggle with it and then they sort of get it and then they start to move and that's our job, to encourage production of organic flavors and that's our role.

And, so, I thought we were doing fairly well moving along that, quite frankly, the latest guideline which went back to like the FEMA stuff and, you know, I, personally, I'll be honest, was disappointed with that guideline, but, again, it's a guideline and, again, NOSB's just is to come up with their response to that guideline and to give advice to the USDA on how we all consistently among certifiers, you know, interpret that.

And, so, it's very difficult for me to give you an across the board answer for other certifiers because it's a complicated situation. Each certification organization works their way through the issues different, but, from our position we think very clearly that some flavors -- you know -- we're certifying organic flavors. We know it's possible. We know you can do it. And then for those that aren't possible as agricultural they need to be put on 606 if
they're extracts.

That's clear. How far you go --

(Discussion off the record)

MR. SMILLIE: I was directed to answer your question. Anyhow, and, so, once again, it's, you know, we're working on it and I'm actually -- on the flavors issue I'm pretty confident that we'll get to a reasonable solution.

MR. RACHERTY: And just to comment on that comment, you know, for QAI, who Joe works for is very good at it and they really have -- I think they're taking the right stance. I won't go into that because it's my five minutes, but, the one other question on this and it's actually just a statement.

In almost every guideline, clarification, conversation that a certifier has with a processing company, there is never the common -- I shouldn't say never -- there is a very infrequently the commentary of if it is commercially available, the commercially available certified version should be used and I think that all the bodies involved, the certifiers, the NOSB, the NOP, USDA, I think when they clarify and they give guidance and guidelines they should always finish it, start it, wherever, with the fact that if there is a commercially available version it should be used. And that we as an organic industry should strive for that.
So, that's just a comment. And then just one comment I want to make and Joe mentioned it too and I kind of think several people have had problems with it, is pertaining to the NOP's guidance for certifiers, the documents that they produced on 2/16 of this year. Towards the bottom of that document in the last paragraph, and I'm quoting right from it, it says, however, these flavors, and they're talking about certified organic flavors, are more simplistic and may not deliver complex flavors and profiles demanded by consumers.

So, I just want to make a comment that I think as a flavor supplier this was an extremely inaccurate and irresponsible statement from the point of view of the processor who might buy that flavor from me and use it in their product. That's an insult to their product that has a complex flavor and it's also on the bottom of that rung, which is not the bottom because it's really the top, is the consumer who eats it, drinks it, or whatever and enjoys it and their statement basically said that we have no taste.

So, I am finished so I don't even need that minute, but, I just want to really, you know, say that that we all in the organic business really kind of took offense to that comment and we'd hope there would be a retraction on it and I thank you all for the time.

MS. CAROE: I just want to address a couple of your

MS. CAROE: Very quickly. We did put out a recommendation on how certifiers -- what certifiers' role is and what their due diligence needs to be in order to review an organic systems plan that includes a non-organic agricultural ingredient and if it is listed on 606. So, there is a guideline from this board to certifiers on what that process needs to be and what they need to do in order to verify that there is a non-availability of that organic form.

And as far as further development, I don't know if it was very clear, the board is going to take up a recommendation on flavors in clarifying that the flavors word is a whole universe and try to tear that apart and as Julie indicated we're going to outreach to do that. We're going to bring the community in and come up with a more comprehensive and well vetted recommendation.

We will collaborate as well with the program as we do that so that it can be implemented. So, I can say that, you know, it is on the work plan. It's going to be developed. It's going to happen. It's not here at this meeting just because of time constraints.

MR. RACHERTY: Thank you. Thank you very much everybody.
MS. CAROE: Thank you for your comments. Is there anybody else that had any comments? Sorry. Next up, Zea, and then I have L. Monge. Are you here? Are you going to be giving comment? You are. Okay. You're up next then.

MS. SONNEBRAND: Before we start, Andrea, Eric Sidemen signed up also and I have his proxy. I am willing to do that tomorrow morning as long as it's not before 8:30. Well, we can stay the night and do it if you'd like. Eric Sidemen. He's somewhere. I signed him up today. So, that's fine for tomorrow. I do have a proxy from Eric but that's not the comments I'm giving right now. I'll do those tomorrow.

Okay. I am Zea Sonnebrand from California Certified Organic Farmers. Thank you for the opportunity to address you and welcome to the new board members. I've been working with NOSB since pretty much the beginning of the materials review process. Also sometimes I'm known as the materials girl and I've helped the board deliberate on many of the issues over the past and as such I'm one of the people who knows quite a bit about history and what things have come up in the histories and what decisions might have been made so feel free to ask me about that.

As one of the oldest and largest certifiers in the United States we have several issues that we're concerned about today. Like Harriet Behar's comments we're still
waiting for the program manual to come out from the
department that has specific instructions on what we're
supposed to abide by. We feel like we really need clear and
consistent communication from the department and when new
policies or implementation details change we need plenty of
advanced notice with clear start and end dates.

We don't like hearing things in a certifier
training that don't have a clear date of implementation,
except as of that moment, and we don't like the same things
posted on the website in an adverse decision on a case that
we suddenly have to abide by. We like an announcement saying
please start this as of this date and it takes -- our clients
do not read websites every day. So, we figure it takes about
six months to get a full notice out to all of our clients.

And that's a number of cases recently of suddenly
things are different and we're supposed to do things
different without appropriate notice. We also have some
things to say about materials. We were the petitioner for
the carbon dioxide and I've submitted the letter to Valerie
to withdraw the petition. We're perfectly comfortable with
you not taking it up at this time. We are trying to be
proactive in case the Harvey situation did not get
overturned.

We do, however, have problems with future decisions
when we don't have a clarity on synthetic/non-synthetic
document and the ag/non-ag determination document. We also have a great deal of concern over this whole issue of changing the annotations in subset and you can imagine our confusion. You board members, I'm sure, are thoroughly confused, but, we've been trying for any number of years to change the annotation for aquatic plant products.

We would like to see this annotation change. We've gotten told that it needs a petition. Well, we do not have a commercial interest in any product. However, one of the commercial interests did petition and the petition did get swallowed up in the black hole of the NOP and so now we can't get it changed because it's part of restructuring the national list.

And restructuring the national list is sometimes it's in your court and sometimes it's in their court and we need to change some of these annotations. Some of these annotations date from 1994 and 95 and things have changed since then and some of the things, and the crops list in particular, because processing almost always has commercial interests that want to change things, but, with grower-based things a grower does not know enough information to file a petition and often we have a hard time representing what might be in the best interest of all the certifiers.

So, we urge you please to keep -- somehow figure out a process so annotations can be changed without it only
having to be the commercial interest. And please finish your
work on the synthetic and non-synthetic document.

We want to support that you take up the cloning
issue at this meeting and please try and have a vote. If you
have to take out one paragraph don't let it hold up the whole
thing. We thoroughly support the comments against cloning
and we feel like you are so close you should be able to vote
on something tomorrow instead of tabling it.

And I wanted to point out one teeny thing about the
research proposal which is that you have a thing in that
research proposal saying that parcels for research have to be
on your certificates. Therefore, it has kicked into the
certificate problem which does not have parcels on it right
now and so that part probably needs to be changed.

And, lastly, for someone on the board yesterday
expressed support of the organic seed variations on the
websites for certifiers. Since certifiers don't customarily
put the information into computers that would create a
tremendous workload for certifiers that doesn't exist and we
do oppose such a proposal while we encourage more use of
organic seed if we can figure something out.

MS. CAROE: Thank you, Zea. Comments for Zea?

MR. DAVIS: I have a question.

MS. CAROE: Gerry.

MR. DAVIS: Zea, on the aquatic plant extraction
they had a change. What specifically did you mean by that?

MS. SONNEBRAND: Well, right now I don't have it in front of me because it's not on your agenda today, but, it's worded to allow a certain amount of extraction from basis but it doesn't cover all of the points that you'd want to have in, you know, a thorough annotation of what types of organic plant aquatic plant products are out there and when we do take it up, when it is able to be on the agenda, we'll be happy to provide you with some wording.

The petition that is being ignored is to put the stabilizing materials directly onto the national list as a stand alone item so, therefore, the aquatic plant product would not necessarily need to be on its own and that's one way of doing it, it's not the only way of doing it, but, that's why that got held up for the restructuring.

MS. CAROE: Thank you, Zea. Okay. Katrina?

MS. HEINZE: Is it possible to take a quick break sometime in the next half an hour?

MS. CAROE: Okay. One more and then we'll take a five minute, ten minute quick minute break. We have L. Monge.

MR. MONGE: It's L. Monge. The final "g" changes and sounds like an "h". It's M-O-N-G-E, Monge. That's fine. Well, thanks for the opportunity to submit this public comment. Again, my name is L. Monge and I work with Dole
Fruit International. I live in Costa Rica and I made the trip from Costa Rica to Washington to speak on behalf of 1,500 small banana farmers from Northern Peru. As you may know, organic culturing in developing countries is often associated with the small farmers. Primary organic crops produced by the small growers include coffee, cocoa, tea, fishes, and tropical fruits.

In America, many of the small growers started farming their own land after the agrarian reforms in the 60's and 70's. Before that they were farming the same land as workers of the landlord large estate. With the agrarian reforms the large farm was divided in 1,000 of small plots and run by the new owners who continued farming the same crops in a more genius farming systems. It was the old landlord large farm became the small grower groups growing that we see today.

In Northern Peru, the provinces of Plura and Tumbes, there about 5,000 hectares of organic certified bananas, most of them grown by the small farmers with farms from 0.17 hectares to up to 20 hectares on an average of one hectare per farm or plot. Before the organic banana production there were no real options for the small farmers and their families and there was no hope and there was no future for them.

After the year 2000 the first organically certified
banana exports to international markets the farmers started receiving better prices for the product and their livelihoods started to improve. Today, their quality of life has improved tremendously. There are new and better schools. They can build new houses. They are getting access to things that only they see in their dreams.

The organic certified banana grower is being a major development drive in Northern Peru. The small growers are organizing groups under one management and marketing system. These groups market their products collectively. Their members belong to the same geographical area. Their farms are one continuous orchard and their farming systems are very similar.

In many cases, all these micro farms used to be one single farms just four years ago. The grower groups's education concept plays an important role in the organic banana production in Northern Peru. Just to give an example, an extension of 20 hectares it's possible to find 20 or even more different farms with 20 or more different owners. This is how in 5,000 hectares of organic certified bananas in Plura and Tumbes it is possible to find 5,000 small farmers.

Five thousand small farmers plant hundreds of inspection days per year which are currently conducted and recorded by the internal control system of the organization. The NOP certification bodies are inspecting each small grower
group as outlined for the certification of grower groups by the NOSB recommendation as of October 20, 2002.

Policies and procedures are in place for determining how many smart growers must receive an annual inspection by the certifying agent, documenting in each case in order to get the number of growers to be inspected, taking into account the number of operations in the grower group, the size of the average operation in the grower group, the degree of uniformity between the growers group operation, the complexity of the group production system and the management and structure of the group's internal control system.

Now, that recently the NOP has pronounced itself requesting the inspection of 100 percent of the plots of the small grower groups. This will imply a significant increase in the number of available certified inspected small grower groups, in the certification cost, and will reduce the importance of the internal control system.

This interpretation from the NOP substantially affects the operations of thousands of non-grower groups in Africa, Asia, and Latin America and substantially affects the viability of the supply of organic group certification and the supply of the organic goods produced by such groups.

Therefore, hereby, we from Dole ask the NOSB to insist that the NOSB adopts its recommendation from October 20, 2002 regarding the criteria for certification of grower
groups in order to avoid a situation where thousands of the
small farmers in the tropics will be affected by regulation
and may assist only for large farms.

And, finally, I have three questions. Number one
is why hasn't the NOSB recommendation been adopted by the NOP
yet? Number two is, when we can expect that this
recommendation will be adopted, and number three, what kind
of actions we, the growers in the tropics, can perform or we
can be doing in order to support your job as the NOSB in
order to get this done? Thank you.

MS. CAROE: Thank you. Comments from the board?

Joe.

MR. SMILLIE: We will -- this will be on the work
plan of current certification, accreditation, and compliance
committee. I can't answer the first two questions. Those
would have to be asked to the NOP. The third question as to
what you can do, I think one of the real challenges here, I
mean, it's ironic that we're supporting a return to the
Astoncia system. It is not the way we thought this was going
to go and we don't want it to go that way so I think the NOP
is enforcing 205.403 and they have good regulatory ground to
do so because there has been abuses.

I think what we all have to do is show how these
abuses will be corrected with the NOSB recommendations. So,
whatever documentation you have on the effectiveness of the
internal control system is probably going to be the most help.

Now, whether this is going to be a regulatory battle, I don't think so because the NOP is enforcing their interpretation which is a correct interpretation of 205.403. That doesn't mean it's the only correct interpretation but theirs is correct so they're not wrong and it's not new. It's come to their attention because of the fact that it has been abused and there's no question of that and now we need to correct that abuse with another correct interpretation of 205.403 as my personal belief and our committee will take it up and as a committee recommend it to the board.

We already have an NOSB recommendation that is also the practice of the NOSB to honor previous NOSB recommendations so I would imagine, although it's not my prerogative but we will be asking those two questions that you asked of the NOP ourselves. Of course, the NOP, we're always open for any comment they might have.

MS. CAROE: Kevin, did you have a question? Rigo?

MR. DELGADO: Waiting for Marks' response to the first two questions from the gentleman from Peru.

MR. BRADLEY: It's awfully quiet in here. As we've discussed this with the board at length and the regulations, we are required to enforce the regulations. The program has not responded to that portion of the group's recommendation
because it does conflict with the regulations as they exist but we will work with the board to clarify what the requirements are and we've worked with certifiers in the training sessions on what options are available on this, how they can meet the requirements of the regulations and still have the grower groups enjoy the advantages, the timings of scale that are important for small developing countries so there will be lots of talk on this and we're looking forward to working with the board on it.

MR. DELGADO: Madam Chair, I have one question. I'm trying to imagine your producers, small scale, one hectare which is about two acres. It's very small. Are you as Dole charging those farmers for the actual certification of their land or how does that work?

MR. MONGE: It's a mixed system. There are groups that are organized by themselves. They pursue their own certification so they pay for their certification and there is also a members of farmers that are organized with us so we pay for their certification too so it's a combination of two systems. And you can see them at Doleorganic.com and you go to Peru and then you can see them or Google it. It's nice.

MR. DELGADO: Thank you.

MS. CAROE: Any other comments? One more?

MR. SMILLIE: I just wanted to point out to Rigo, as a certification person, the person who pays for the
certification owns the certification so, again, the
independence of these growers in paying for their own
certification means they can sell anybody. Otherwise it's
back to the old 1950's and area fruit company.

MR. DELGADO: I was just curious to see if Dole was
working with these farmers and there was some kind of
incentive to bring them over and promote it. That's all.

MR. MONGE: And, in fact, we helped them to develop
their own control systems.

MS. CAROE: I hope you found your five minutes
satisfying for that trip from Peru.

MR. MONGE: Absolutely.

MS. CAROE: Thank you for coming. And stay tuned
for more information on that. It is on our list.

MR. MONGE: I will. Thank you.

MS. CAROE: So, at this point I'm calling for a ten
minute break and before I go is David Guggenheim here?

David, you will be next up. I don't think I have anybody on
deck. Let me just make sure. We've got twenty more. Just
relax yourself.

So, David, you will be next. And then Marty Mesh
is on deck.

(Whereupon, a brief recess was taken)

MR. GUGGENHEIM: Good evening and thanks for
staying late and thanks for this opportunity to provide
public comment. For the record, my name is Dr. David Guggenheim. I am an independent consultant based here in Washington and project consultant for Aquaculture Development. It's a Pittsburgh-based aquaculture company dedicated to sustainable aquaculture and the development of closed recirculating systems in the Americas.

For four years I served as vice-president for conservation policy at the Ocean Conservancy, the leading U.S. NGO indicated exclusively to ocean conservation and during my tenure there it became very clear that over-fishing and destructive fishing practices ranked among the gravest threats to ocean ecosystems.

And at one meeting I was asked why we in the conservation community were seemingly always opposed to aquaculture. Well, aquaculture potentially can represent one of the more important solutions to the problems of over-fishing on wild fish populations and, you know, I really took that question to heart and, in fact, much of what we did was policing rather than promoting aquaculture.

So, two years ago I left the Ocean Conservancy and I've been dedicating my career to solutions in ocean conservation, especially in aquaculture. And I also came to the conclusion that closed recirculating systems are by far the most sustainable of aquaculture practices. I've recently returned from extensive travel overseas, including Malaysia
and Denmark to see firsthand state-of-the-art recirculating systems in action used by our technology partners, namely Uni-Aqua in Denmark and Fish Protech in Australia. And these systems are impressive. They really, in my opinion, afforded me a glimpse of the future of truly sustainable and scalable, profitable closed land-based systems that are sustainable.

So, it's with this background and perspective that I respectfully offer my comments today very briefly on three points. The first being on the topic of closed systems. Because of the level of control that you achieve in closed systems we believe that they are in the best position to fulfill organic requirements both from an environmental and from a human health perspective. Closed systems have clear and dramatic advantage over other forms of aquaculture in addressing the majority of environmental concerns.

They can completely address the problems of water pollution, coastal habitat alteration, disease and escapement and further properly managed systems never need the use of antibiotics, chemicals, or hormones. But, all forms of aquaculture, including closed systems, have one great challenge and that is the use of fish meal for raising omnivorous species.

But, closed systems do have a profound advantage in this venue as well and that is tremendous efficiency because, again, because of the level of control over their
environment. Our technology partners are demonstrating food
conversion efficiencies more than ten times higher than
comparable open systems meaning that less than one-tenth of
the feed and, therefore, less than one-tenth of that wild
fish component is required per unit of fish grown.

Conversion ratios of less than .8 have been
demonstrated in real world conditions for baramundi and
halibut among other species in climates ranging from tropical
to more than temperate. Closed systems have many other
advantages as well, but, I don't have time to talk about.

Second point relates to feed. I've lost track of
where the board is on feed since I wasn't here yesterday,
but, we do support the use of wild feed over a period of time
during a phaseout. The closed systems, even the most
advanced ones, haven't cracked that just yet on how to have -
- not use wild feed and fish meal, but, we do believe that
efficiency is a key metric that the task force and board
should use.

And, finally, on the point of stocking density.
The current draft language refers to the natural behavioral
characteristics of the species and while they're acceptable
and understood metrics for determining physical health of
those species we see that natural behavioral characteristics
is more problematic so we ask you to take another look at
that.
Sorry, I went over.

MS. CAROE: Thank you. Kevin.

MR. ENGELBERT: Very quickly, could you go over your closed system as opposed to an open one.

DR. GUGGENHEIM: I'm sorry. A closed system is a system that recirculates its affluence so the systems that we're working with are closed to the outside environment. They're land-based, often land-locked, nowhere near a coast, and recirculate between 97 and 99 percent of the water and other compounds within that facility.

MR. ENGELBERT: Thank you.

MS. CAROE: Jeff and those Joe.

MR. MOYER: Those facilities are often indoors, is that correct?

DR. GUGGENHEIM: Yes. I mean, they are completely enclosed with a roof.

MR. SMILLIE: Are the fish species raised there speciferous?

DR. GUGGENHEIM: Yes. Yes.

MS. CAROE: Any other comments, questions?

DR. GUGGENHEIM: They don't have to be. I mean, it's both. You can raise talapia indoors in these systems as well as speciferous but these are market driven decisions to raise those fish.

MR. ENGELBERT: How many years have you been
accomplishing this, raising these fish like that? How many years experience do you have doing this?

DR. GUGGENHEIM: I'm fairly new to aquaculture. As I've mentioned, I come from the conservation business myself; spent a decade in various -- the Ocean Conservancy and other NGO's. But, this technology has existed for more than 15 years in commercial operation, especially in Australia, and has been commercially successful for a long time. So, there's a long track record of this sort of technology.

MR. ENGELBERG: Thank you.

DR. GUGGENHEIM: Thank you.

MS. CAROE: Any other comments or questions from the board? Thank you. Marty, you're up and on deck, Steve Gilman, are you here? Steve? Steve Gilman?

(Discussion off the record)

MS. CAROE: Steve is not doing. Marty is tomorrow. Julianne Mayo, are you here?

MS. MAYO: Yes, I'm here.

MS. CAROE: Julianne, you're up. And Richard Martin, are you here? Richard, you're on deck.

MS. MAYO: Hopefully I won't even take the five minutes. I'm Julianne Mayo, for those of you who don't know, from Ocean Nutrition Canada and in the regulatory affairs department there and am visiting Washington from Nova Scotia. I'm from the other coast of Canada.
Basically, you guys talked about fish oil today and the recommendation on the fish gelatin so I just wanted to put it very quickly into context for the board members or the public who might not know where that petition kind of came from and offer the chance for any questions that you might have.

Basically, Ocean Nutrition has only been operating in the organic sector for about a year, year and a half, so, we're relative novices to this arena and I've got to say we're having fun. It's been a really busy year, year and a half for that part of our business. So, about a year and a half ago we reformulated a fish oil product so that it could be compliant in the five percent non-organic portion of certified organic products.

In that process we consulted from the very early stages with the NOP. We worked very closely with QAI and with Stoney Field to reformulate a product that would be fully compliant and meet the needs of customers that were operating organically. So, that's kind of the context of where we came from.

With the changes in the regulations, obviously we needed to get fish oil and fish gelatin on 606 as agriculture ingredients when we didn't need that when we started a year ago. So, Ocean Nutrition Canada, Ltd. is a manufacturer of fish oil for human consumption and uses fish gelatin in a
processing of certain fish oil powder products. ONC would like to take this opportunity to thank the NOSB's handling and materials committees for their recommendations to add fish oil and fish gelatin to Section 205.606 of the national list of allowed and prohibitive substances.

I was very excited that Dave was tracking the website hourly to see what the recommendations would be. So, thank you for making my day, my year, it was great.

Just a couple of very quick comments. The handouts were made this morning before the recent chat so a lot of the comments are a little bit redundant now. Fish oils used in handling organic and agricultural products. It's an ingredient that serves to increase the omega-3 contents, specially EPA and DHA of organic products. Fish oil from ONC is not an organic product itself, as you guys will be well aware, it is food grain, grass, and intended for human consumption. Fish oil is not commercially available in organic form as we know because there are no current standards.

Also, as everybody's been pointing out, this is like the change in the future. We're moving towards that. Fish oil derives from fish. Ours actually comes from the by-product of the Peruvian fish meal industry. So, no fish are harvested for the purpose of creating the oil. It's simply the by-product from the fish meal.
Definitions, of course, have started to come out more focused towards the aquatic systems as a result of the aquaculture working groups so we are very excited to see that. It more clearly defines fish as agricultural products. Fish oil for human consumption is typically manufactured using alcohol refining which is sodium hydroxide based, filtration, bleaching, which is plain carbon and deodorization. It's a very mechanical process. There's no chemical change to the oil.

Fish oil can be derived -- delivered in its liquid oil form or can be made into a fine powder product using gelatin. It's high omega-3 polyunsaturated fatty acids. Many international health authorities have agreed on the beneficial effects of fish. The use of fish oil in organic products is necessary in order to deliver the health benefits provided by fish oil to organic consumers, particularly in the absence of a current organic fish standard.

Further, the addition of fish oil to 606 allows the continued use in organic products which will allow organic products to maintain a competitive position as similar conventional products, many of which are fortified with fish oil omega-3 ingredients.

So, for the fish gelatin I only had one question. I just wanted to forego the rest of the comments on that. Do I have it clear that fish gelatin would fall under the
previous recommendation for gelatin and as such there won't be a vote tomorrow? Is that how that works? I just wanted to say thanks and it's absolutely lovely to see regulations that keep pace with innovation and it's something we fight in our industry and you guys did a great job on this one and we're very pleased to see that.

MS. CAROE: As far as just a point of procedure, we do have a recommendation that encompasses fish gelatin as gelatin overall and like Kim Deitz pointed out that fish gelatin as well bovine were all considered in that so that recommendation is going to move forward to the program just like all of the rest of our recommendations will.

MS. MAYO: So the actual vote.

MS. CAROE: The actual vote. It's voted and passed already, but, you know, it does have to go through channels at that point so we'll watch it.

MS. MAYO: That's great.

MS. CAROE: Any other questions or comments from the board? Thank you for your comments.

MS. MAYO: Thanks guys.

MS. CAROE: We have Richard Martin up next and then John Cardoux. John, are you here?

MR. CARDOUX: Yes. I'm going to go tomorrow.

MS. CAROE: Tomorrow. You deserve a cookie. How about Barbara Blakistone, are you here? Barbara? She's not
here. How about Buffy Bauman? Buffy, are you here?

MS. BAUMAN: I'll go tomorrow.

MS. CAROE: We're winning. M.J. Marshall. She's gone. All right. Will Fantle, are you still here, Will?

You spoke for a proxy. Okay. So he's not here. Liana, are you here? Marty, are you going to find her for us? Okay.

MR. MARTIN: I'll make this as fast as I can. I'll beat your timer. I'll really go. I need to catch a plane as well. Richard Martin. I hold a degree in marine biology. And I own Martin International Corporation and Export Company. I've been involved with aquaculture for 27 years and I thank the board for hearing me out. I'll be as quickly as I can.

Neil Simms kind of said everything I was going to say. He and I should have consulted before I made the trip down because he's stole my thunder so I'll just hit a few points, especially about the livestock recommendations and as they're stated now which I think is a key important discussion to make.

I recognize the livestock recommendations is a positive step forward but a step and they're not yet really comprehensive with the two exemptions but if you do delay moving on fish meal, oil, and net pens until October let's use those six months in the most effective way we can, as Neil said, not in an emotional manner, but, let's get to some
science, let's make some visitations or have a symposium
that's really, really essential.

I'll cite two of the livestock proposals that you
had included very quickly, the standard 205.2.2, paragraph C,
aquatic animals must be provided with their natural foods.
Also cite paragraph E, non-synthetic and synthetic substances
allowed under 205.603 may be used as feed additives in
supplements and additionally standard 205.253, 1 and 2, the
producer of an organic aquatic animal shall not provide feed
supplements or additives in amounts above those needed for
adequate nutrition and health maintenance to species at a
specific stage of life. All of these kind of allude to or
looks as though they allow the use of fish meal and oil or
move in that direction.

I'm speculating that livestock committee's
confusion over the inability to differentiate between wild
fish and organic feed is as simple as the influential
understanding of the basic difference between a product claim
and a processed claim. The livestock committee should not
consider or identify fish meal as wild substance unless it
also considers inclusion of wild vegetable matter such as
grass, weeds, seeds, or insects in terrestrial organisms.

The livestock committee should prescribe a separate
rule for feed which defines an organic process by which the
feed components are obtained and processed and, secondly,
considered the process by which the actual creature is raised utilizing that feed. In the EU, that's what they've done. They separated out the two. They certified the process for feed, they certified the process for growing the animal.

In terms of inherent organic principles the use of fish meal and oil are also in compliance with the base principle or the preservation of biological capital and the recycling of highly valuable omega-3 equity. A lot of their adversarial positions say this is a net deficit in the conventional system it is. In the organic system we're using recycled fishery waste products is 100 percent gain. These products would be thrown away or utilized as pet food, fertilizer, other extenders, and they're not used for human food so to take recycling of fish waste and turn it into a human food that's very, very good for human beings is 100 percent gain.

I know that I won't get into the ocean closures. That's for October. I'd just make the comment that the committee's proposal failed to address three of the most important points that differentiate between organic and conventional aquaculture. Those are density which relates to net culture, but, nonetheless stocking densities is a key issue in reducing parasite movement, in reducing environmental impact, and reducing or improving the overall health of the system.
Also, site-specific regulations. Location, location, location is so important that you don't put farms just anywhere. There are places where there's more sea life than others. There's places where there's more predators than others. So, when you're certifying a farm where it resides is as much part of — it should be part of the standard as what it's doing.

The third is single year class crop locations, base based principle for those who are in agriculture it's the same principle. You don't keep farming the same spot year after year after year after year. The EU principle is requiring single year class crop rotation. That also mitigates parasite transfer, disease, environmental impact, it reduces the overall footprint. Those were not in the standards that I read and I think they should be heavily considered going forward.

Ocean culture is not exclusively open or more open than the terrestrial culture. All farmed animal culture is open. Avian flu and hoof and mouth disease are clear examples of just open terrestrial culture is and I say actually that our kind of culture provides a barrier for a lot of human transfer that is not available in terrestrial but it's not exclusively open whereas land-based is not.

Thank you very much. Have a good evening, everyone.

MS. CAROE: Questions? Bea?
MS. JAMES: Could you explain the advantages of having separate certification of feed and process? I mean, how do you see that as being a better process?

MR. MARTIN: I don't think it's a better process. I think it brings you to the point of the discussion. Remember, we're discussing organic principles and I'm talking the way people outside the industry and they say what is an organic product and I go through this discussion of what a process is.

What they've done in the EU is to describe a process by which the food is realized or recognized as an organic feed. That then becomes a part of the process of raising the animal. You can't raise an organic fish without an organic feed but what constitutes organic feed and they have a whole list of principals such as recycling of fish trimmings, 100 percent certified vegetable binders, pigments that are natural. They use all those components to create a process by which the feed is described.

MS. JAMES: And you don't feel that that was accomplished in the recommendation?

MR. MARTIN: No. Well, fish meal and oil was pushed forward for future consideration, but, I'm saying in the future consideration breaking that out is a separate process would be recommended.

MS. CAROE: Joe?
MR. SMILLIE: Do we have your comments in writing?

MR. MARTIN: Yes.

MS. FRANCES: They're in your book, your main book.

MR. SMILLIE: Okay. Great. The points that you make on the differences I think that that's one thing that we, you know, we're going to move forward with the recommendation as it stands now but I think in the future we would want to incorporate that because one of the real issues coming up will be what is the difference between organic aquaculture as it's being proposed and conventional because a lot of the criticisms we hear are really directed against conventional agricultural and not with some of the issues that you brought up and I think that that's what the whole purpose of the next round of discussion's going to be is to get down to those differences.

MS. CAROE: Any comments or questions? I have a couple of quick things to say. For you folks in the aquaculture that are coming into organic you don't get the full history of where we are with feed in this regulation. This is a regulation that is a marketing regulation and it considers public policy in its development. We've had situations where there has been suggestions that leniency on feed requirements would stimulate the industry's growth.

It brought about quite a bit of very passionate helpful comment. So, this is an area that is very tricky for
this industry to deal with because we've heard the public say
to us when it comes to organic, organic feed is necessary.
The only reason that it was even considered to offer
something in this situation was this is a new component to
this industry and it was only for a temporary allowance.

So, anyway, so it's not that we don't understand
what you're saying. It's just that there's more to the
picture than what's here and now and it really is kind of the
last ten years which you don't have the ability to really be
part of. And, just another little clarification. The
recommendation does not disallow the use of fish meal and
fish oil, just disallows the use at this time of non-organic
fish meal and fish oil.

MR. MARTIN: I understand. I think it's also safe
to point out or good to point out that at least in the world
of aquaculture that industry is coming to a close in terms of
expansion. It's hit a plateau. And that's important to
note. It's not just ever expanding and going crazy, it's
not. It's coming to an end and part of that is feed.

You can't produce more feed, you can't grow more
fish. So, the technology will come and pick up behind.

Competition creates good technology and innovation. That's
going to happen. We'll find solutions to that. But, also, in
the meantime the world population is growing. The demand is
growing hand over fist. There's not enough already and we
have to find ways to create systems that improve what we have
going forward to give to humanity as well as the system
itself.

MS. CAROE: Dan.

MR. GIACOMINI: I think I remember from a prior
testimony you gave before us where you were describing that
essentially you can't feed corn oil to fish.

MR. MARTIN: Right.

MR. GIACOMINI: With the current recommendation we
have and we even had one grower, one aquaculture person today
say that they're growing their fish for feed, the type of
fish that you would see qualifying under regulations that we
have used and ground and used as feed, and we're not getting
into the environmental footprint that that might have, would
they be of a high enough grade, for lack of a better term, to
be a meal and oil source for some of the other species we're
looking at?

MR. MARTIN: Oh, absolutely. The question, Dan, is
when can you get there. When will that industry be growing
enough to make the feed for the next step in the industry and
on a commercially viable scale. I think that the commercial
viability is going to happen before the practical, you know,
application can bring, for example, talapia grown to the
extent that you can create the kind of fish meal you're going
to require for just the existing industry as it stands.
I think it's something that it really has to be facilitated. It's an absolute necessity, not as an exclusive source, but, as another source where we're growing feed to grow fish. Absolutely.

MS. CAROE: Any other questions from the board. Thank you again.

MR. MARTIN: Thank you very much.

MS. CAROE: All right. Going backwards a little bit.

(Discussion off the record)

MS. CAROE: Okay. Bob Smiley. Bob, are you here? Okay. All right. How about Steven Craig, are you here? You are the last commentor for today.

MR. CRAIG: Well, I won't say the usual say, saving the best for last, but, my name is Steven Craig. I'm a fish nutritionist from Virginia Tech Aquaculture Center. So, I'm kind of the guy that steps into the breach with all this fish meal, fish oil discussions. I'd like to thank George Lockwood and the other people at the task force. They did a marvelous job trying to get something to you guys.

I think it's important that we have some movement that was discussed this morning. The industry needs it. We need to see something moving forward mainly so that we can protect the notion of organic aquaculture. It's the wild west out there and until we have something moving on the USDA
level it's just going to go out of control and I've got to worry about the protection of the notion of true organic aquaculture.

So, I think, you know, you basically side-stepped the two really controversial elements of the proposal so I think certainly it deserves a positive recommendation side-stepping those events for a little bit. But, as Neil said very eloquently earlier, you know, we need movement, we need to solve these problems. We can solve these problems.

We've grown shrimp, marine shrimp for the last three years on a commercial level with no fish meal, no fish oil in these diets using certified organic protein sources. Just last month out of my lab we produced the first kobia which is carnivore pisovore equal to the salmon on a total fish meal, fish oil free diet. We can do these things, but, we need to protect the notion of organic while we're catching up.

Another point I'd like to make it's all about sustainability. Traditional aquaculture is moving away from fish meal because of sustainable issues. Now, if you factor in the organic aspects of that, to me it makes sense to move away from the relaxed all fish meal, it's certainly a big part of our program at Virginia Tech is alternate protein and research in high level marine carnivores. One final thing I would like to say is, you know, the salmon guys, they're an
easy whipping boy, they dd a lot of bad things for a long time, they've gotten a lot better. They've reduced their fish meal and fish oil consumption quite dramatically over the last fifteen years. What I'm worried about is seeing other carnivores suffer because of the salmon reputation. And by that I mean the fish I work with, so I'm urging you not to make these regulations for herbivores or omnivores but not carnivores, I would say if the fish can get in under granulation studies, no matter what it is, it shouldn't be certified organic and so with that, I would love to buy you all a cocktail, but I have to get home, so I appreciate your time.

(Discussion off the record.)

I certainly appreciate your effort you guys put forth, I thought academics like me would put you all at rest. And I'll take any questions if you have them.

MS. CAROE: Thank you for your comments. Are there any comments from the board? Joe?

MR. SMILLIE: Yes, the topia is a piscovorous fish used on an experimental basis on feeding a non-fish meal, non-fish oil, where did the omega-3 come from?

MR. CRAIG: We're working with a U.K. company called Sea Bay, they're growing myriad worms, un-organic certification by the British Coral Association, it's a Marine protein source that supplies the EPA-DHA. The technology is
still moving, I mean the Malvoso Group may be a nice organic food certified for the EPA-DHA, so there are other sources out there, it coming, it's going to get there, you know, it should be hard to do an organic marine carnivore, I mean, don't make it easy, you don't want everybody doing it, and it's going to be costly, but don't shut the door on them because the research is trying to catch up.

MR. SMILLIE: Before we table one or two of the contentious sections, one of the compromises we were working on, unfinished business, we wanted to talk about your work, you know, a drop dead date for the period of use of fish meal and fish oil. As a specified crop, you know, for the industry a few times. Maybe we'll bring that back to the table once we get to something

MR. CRAIG: Please do something out there us, it's hard to keep people invigorated, again George and his group does a fantastic job, incredible amount of hours put into this, so we just need to move forward for us, so we can keep the momentum going.

MS. CAROE: Thank you for your comments. We appreciate it and the commission needed to hear that information. Do you have that in writing, or contact information?

MR. CRAIG: No I haven't, I'm on the no-Ag, but I can be -- I did not make a public comment on it. Who would I
send that to?

UNIDENTIFIED SPEAKER: The more help we get the better.

MR. CRAIG: Thank you very much.

MS. CAROE: Any further comments or questions? I want to remind the board before we recess for the day that Committee Chairs need to make sure that your recommendations are complete and are there for tomorrow, you need to make a vote. We have a vote for tomorrow, so -- Any other business, is that it for now? All right, we're in recess until 8:00am. (Whereupon the proceedings were suspended.)
ELECTRONIC CERTIFICATE

DEPOSITION SERVICES, INC., hereby certifies that the attached pages represent an accurate transcript of the electronic sound recording of the proceedings before the United States Department of Agriculture:

NATIONAL ORGANIC STANDARDS BOARD MEETING - DAY 2

By:

Teresa S. Hinds, Transcriber
UNITED STATES DEPARTMENT OF AGRICULTURE
WASHINGTON, D.C.

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A meeting in the above-entitled matter was held on

Thursday, March 29, 2007, commencing at 8:00 a.m., at The

Washington Plaza Hotel, Ten Thomas Circle, Washington, D.C.

before:

Andrea Caroe, Chairperson
APPARENCES

USDA STAFF:

Mark Bradley
Bob Pooler
Valerie Frances

BOARD MEMBERS:

Steve DeMuri
Jennifer Hall
Katerina Heinze
Gerald Davis
Rigoberto Delgado
Bea James
Julie Weisman
Joseph Smillie
Jeffrey Moyer
Kevin Engelbert
Tracy Miederma
Daniel Giacomini

PRESENTERS:

Tim Redmond 4
Sean Taylor 7
John Cadoux 16
Kelly Shea 18
Emily Brown-Rosen 19
Pat Kane 24
Ram 26
Dave Carter 33
Alexis Baden-Mayer 36
Steffan Scheide 37
Nicole Dehne 47
Kim Dietz 52
Harriet Behar 56
Dave Engel 59
Amelie Hayte 64
Adrianna Natsoulas 71
George Lockwood 74
Rob Mayo 77
Sebastian Bell 79
Stephen Walker 89
Luke Zuzmierski 93
Zea Sonnebrand 93
Marty Mesh 98
Rich Theuer 109
MS. CAROE: Good morning. We will start this morning with a public comment and again I'll just do a quick refresher on the NOSB policy for public comment at NOSB meetings. All persons wishing to comment at NOSB meetings during public comment period must sign in in advance. We are full up for this morning so if you haven't signed up submit your comments in writing.

Persons will be called upon to speak in the order they sign up. Unless otherwise indicated by the Chair each person will be given five minutes to speak. Persons must give their name and affiliation for the record. A person may submit a written proxy to the NOP or NOSB requesting that another person speak on his or her behalf.

No person will be allowed to speak during the public comment period for more than ten minutes. Individuals providing public comment will refrain from any personal attacks or remarks that otherwise impugn the character of any individual.

All right. First up, actually I'm going to break on policy a little bit because we do have a public commentor that has an appointment that I hope everybody would be all right with him speaking first. So, I'm going to be calling Tim Redmond first and then John Martin. Are you here? You're going to speak for John. You're on deck. Okay. Tim,
are you ready?

MR. REDMOND: Good morning. First off, I want to thank all of you. I know you've been working hard to uphold the USDA organic standard, the symbol that goes on organic food packaging and I know you've all been working hard at that and staying up late and I appreciate that. You know, as somebody who has been in this industry for a long time I really do appreciate that. You all know Joe Smillie here. I've been dealing with organic foods just about as long as he has. I was one of the founders of a company called Eaton Foods back in the late 60's, early 70's.

My name is Tim Redmond and I'm the president of Blue Horizon Organic Seafood Company. We just introduced a couple of new items into the market at the Expo West Show out in California and the International Seafood Show. One is skillet meals made with organic shrimp and organic pasta and so on and so forth and the other is breaded shrimp made with certified organic shrimp and organic breading and organic oil.

On the packaging we don't call them organic items. I mean, we don't say organic skillet meals. We don't say organic breaded shrimp because there's no USDA standard for it for aquaculture yet. So, my main purpose in standing here and saying what I have to say is to encourage you to move through, you know, the issues that you have to deal with and
do the recommendation that you're set to do and I know that there are unresolved issues that you're going to defer to work on later regarding net pens and fish oil and fish meal and so on, but, I think it's important also to get through those issues and I think it is possible and I hope that you do that, you know, in as quick order as you can.

But, I hope that you hope that you move forward with the recommendation that I think that you're set to do. I think it's very important for the public to not be confused about what is organic in the seafood area. I was part of the early -- I was part of the group that formed the soy milk standards for the USA and the issues for that were removing public confusion which is typical for standards and that's what we need in the marketplace in the USA.

Also, there's an international issue that I'm sure you're aware of, but, you know, American companies need to be able to compete in the world at large and the U.S. seafood standards are important for that.

So, with that said, I think that's all I need to say right now. If anybody would like to ask me a question.

MS. CAROE: Thank you. Joe.

MR. SMILLIE: You're currently involved with organic shrimp production?

MR. REDMOND: Yes.

MR. SMILLIE: Do you think that your current
production meets the recommendation that the NOSB is coming 
out with now because I've been told that it covers 
herbivorous fish and there's always mention made in shrimp 
also, but, I've never heard conclusively that shrimp could 
comply with the recommendation that we're currently putting 
on the table.

MR. REDMOND: Yeah, these are certified according 
to Natureland Standards. If you've been to Germany, I'm sure 
you're all aware of who they are. I think they are a good 
set of respective standards. They do probably the standards 
probably come in fourth that I hope we'll see will require 
some changes in those Natureland, perhaps layer on top, and 
you know, I think that's very valid. So, I think we'll have 
to do a little work with, you know, the European certifiers 
standards to, you know, comply with what we're going to come 
up with.

Did I answer you, Joe?

MR. SMILLIE: Not -- not precisely, but, in other 
words, what I would urge your company to do is look at what 
we've created as far as a set of recommendations and see what 
the gap with the current certification program for your 
shrimp and see if your shrimp --

MR. REDMOND: Mostly centering around feed issues.

MR. SMILLIE: Yeah, and, again, we've pulled out 
the fish meal so I'm not sure what the fish meal component
for your operation as far as the shrimp feed is or not and
whether -- if this recommendation became a regulation would
your current production comply, I guess is the question.

MR. REDMOND: Well, we deal with more one farm and,
you know, we will be dealing with the farmers directly and
we're in on that.

MS. CAROE: Any other questions from the board?
Thank you.

MR. REDMOND: Thank you.

MS. CAROE: So, John Martin is up or the proxy for
John Martin and on deck is John Cadoux. John, are you here?
Okay. If you could check in with Valerie, please.

MR. TAYLOR: Well, good morning. My name is Sean
Taylor. I'm the scientific director of the International
Association of Color Manufacturers. I spoke yesterday. This
morning I'm speaking as a proxy for John Martin who is the
regulatory affairs manager for Wild Flavors, which despite
the name, is also a color company based in Kentucky.

First of all, again, I'd like to thank you for your
hard work on this entire petition process. There's been a
lot of work on our side. It's probably been even more work
on your side because of the number of petitions.

This morning what I'd like to do is describe what I
think are sort of the challenges with colors that we continue
to face in continuing to develop and certify organic colors;
some of the plans that we have and some of the specific
issues related to variety of color, raw materials and
technical challenges.

Our association has filed a number of petitions, as
you're probably aware. These include petitions for grape
juice, grape extract, red radish extract with cabbage
extract, purple and black carrot juice, beet juice,
blackberry and fruit juice, chokeberry juice, appleberry
juice, and paprika and paprika oil extractant. We've already
provided some written comments, but, like I said, I just want
to underscore some specific issues here.

First of all, in drafting our petitions our member
companies attempted to source certified organic materials. In
some cases we found evidence that certified organic oil
material might be available but we encountered great
difficulty in finding sufficient quantities or in some cases
the right variety.

Now, this is the same challenge that one of our
companies has faced after completing the certification on it.
I should point out that two of our companies have
certification as organic certified handlers, processors, and
manufacturers. One of these just received certification in
the last quarter of 2006. That company sent me a
communication and I quote. " Once we completed the organic
certification audit our next task was to establish a
dependable organic certified raw material supply chain to
meet our volume requirements and our customer needs to
produce both 100 percent and 95 percent organic certified
products.

Our recent experience has proven this to be more
difficult than expected. We found far fewer organic certified
food additive ingredients than expected that can meet our
requirements for lead time deliveries, volumes, and
microbiological specifications. Our supply chain in R&D
spent hundreds of man hours searching the internet, industry
publications, and other data bases to identify dependable
quality suppliers of organic certified ingredients”.

As this quote indicates, we still face significant
hurdles we feel that prohibit the easy development of
processes to make certified organic colors. As another one of
our companies and, again, one that is already through the
organic certification process for a specific product they say
that specifically that we found that anthocyanin crops such
as purple carrot, red cabbage, and red radish are often grown
strictly for color, primarily for color.

These crops are grown internationally and on small
farms where it can be challenging to obtain conventional
material and adequate supply, not to mention coordination of
NOP compliant organic certification at the multiple
international farm locations that would be necessary to
achieve adequate supply. Similarly, although other anthocyanin crops such as aronia, black current and elderberry may have limited alternative applications other than color, they, too, present the challenges of being grown internationally in small farms and requiring the significant coordination efforts to ensure that they start certified organic and end certified organic.

There’s also some technical challenges. Could you back to the second slide; one more back. Yeah. Just pointing out a few of these issues we have originally or I had originally felt with what if certified organic fruit juice was available, could that be used as a color. The issue with that is that many of the heating and processing that are used to create color juices, what actually destroy the color content in more traditional fruit juices are certified organic.

For anthocyanin containing colors, grape colors, red cabbage extract, black current, and others, the anthocyanin containing colors must really go through a very specific and rapid isolation process. You have to isolate the anthocyanin complexes. You have to remove the sugar, other water-soluble components. Once you have it, then you have a form that's suitable for uses of food color. But, as I said, this has to be very quickly after harvesting.

And, finally, increased concentrations of color
pigments due to the use of a specific variety can also reduce
heat processing based losses and changes. And I'll just give
a couple of quick examples on the next slide.

For instance, unique grape colors. One specific
variety is mega natural red and purple grape concentrates
that are unique grape concentrate that are used to color a
variety of different fruit preparations. They're very high
in color strength. They're very high anthocyanin
concentrations relative to more traditional grape varieties.
They're in some ways similar to the grape extract in ochinina
type products that are used to make very high concentrated
colors.

Next slide, please. They're too astringent to
drink by themselves. Their concentrations are very low
concentrations, but, so far there isn't a certified organic
process available for these. That's not say it won't be
under development at some point, but, it's not there yet.

MS. CAROE: Thank you. Any questions from the
board?

MR. SMILLIE: Could you give another example?

MR. TAYLOR: Sure. Next slide, please. I should
point out, this was not coordinated. Another example of beet
colors. Just think about the sort of three standard type of
beets. Sugar beets have no color at all. They're sort of a
gray or brown color. The more traditional eating beets that
everybody thinks about are sort of pickled beet that a lot of people really enjoy, myself included. The color concentration, the main color component concentration is about three fold less than that variety of beets that are primarily used for color and this is a betanin pigment that's really providing the color.

Now, as I pointed out previously, these differences in betanin concentration are really critical once you consider processing, formulation, incorporation into different sorts of products. And, so, if you're losing color along the way you want to start with the highest possible pigment concentration that you can. And at the same time, the higher your pigment concentration in many cases the lower the value of these things as an eating product, the less incentive there initially is for these products to be grown in fields.

And, so, by putting these things onto the national list initially we think that there's going to be a market that's going to develop for these colors that will eventually allow the transition over to a certified organic product. And I could give similar examples for many of the colors that we're talking about and actually probably even for many of the colors that we didn't file petitions for, tomato juice or lycopene. I think we could talk about saffron and turmeric similarly.
The other thing -- I'm sorry, go ahead.

MS. CAROE:  Gerry?

MR. DAVIS:  I work for a farm in California that grows organic carrots, purple carrots, red cabbage, red beets. And we also grow on contract a lot of vegetable items for processors. What would be the hurdles of a color manufacturer contracting ahead of time with a company such as the one I work for to produce the specific varieties of purple carrots, orange carrots, red cabbage, so forth that would meet the needs for color?

MR. TAYLOR:  In terms of, you know, hurdles right now, I think primarily right now it's just an issue of time in that we don't have sufficient time between now and October when color and non-synthetic sources only comes off on the national list for us to develop a certified organic color product alternative. And, so, our manufacturers are really headed in that direction and, you know, some of them in particular make contacts with companies that -- I should say farms that do grow these products, but, it's going to take some time.

MR. DAVIS:  Is there, for example, using the California example, is there -- when you mention there are a lot of times the anthocyanin component has to be removed from the sugars and so forth, is that done prior to it being made into juice or after like carrots are pressed into juice?
MR. TAYLOR: To some extent it really depends upon the specific product that we're talking about, but, generally the time between harvesting and conversion into a juice for color is very, very fast. And, so, in many cases I think somebody pointed out yesterday many times the sort of source, harvest, and production facilities are very closely spaced in terms of physical location to ensure that very little color is lost between the time that something comes off the field and the time that it goes into a vial for color processing. So, that is to some extent another hurdle. I don't think it's by any means something that can't be overcome with sufficient planning.

MR. DAVIS: So, a company such as Grimmway Farms that has their own juicing facility, they have their own freezing facility, they can do a variety of things for a customer. Are these color manufacturers somewhere other than U.S. located that distance is a problem with, you know, contracting for a specific type juice pressed a certain way of these materials?

MR. TAYLOR: Yes and no. Many of our manufacturers are located in the United States. We also have manufacturers in Japan. We've got some European manufacturers as well. In most cases though I think that the majority of the people or the companies that are interested in making a certified organic product right now are U.S. based.
The primary obstacle that we found, and I think grapes are a great example because when somebody first said, well, we really need to petition for grape juice and grape extract I almost laughed because I know that there are certified organic grapes out there. I'm sure I've drank a bottle of certified organic wine at some point. The fact I can't remember means I may have drunk many of them at some point.

But, the challenge is that the color application is not the primary reason that these things are being grown as a certified organic crop, okay. Grapes are a really nice example because the majority of certified organic grapes are going to be used for table grapes or they're going to be used to make wine. We can't get our hands on those grapes at this point. It doesn't mean it won't happen, it just means at this point there's not quite enough supply for there to sort of be the types of, for lack of a better word, maybe leftovers I would say for us to buy those products, convert them into color applications.

It's much more lucrative for a farmer, and we completely understand, it's much more lucrative for a farmer to sell these products directly in the food supply as either a raw vegetable crop, something that's relatively minimally processed, than it would be for them to sell it to us to convert it through several steps into a color material.
MS. CAROE: More questions? Thank you very much.
MR. TAYLOR: Thank you.
MS. CAROE: John Cadoux and on deck Kelly Shay but I think Kelly switched with somebody from yesterday. So, are you going to give comment? Okay.
MR. CADOUX: Hi, I'm John Cadoux. I'm the president of Peak Organic Growing Company. Thanks for having me here today. I really appreciate it. Joe really laid out the argument in a very articulate way yesterday. I appreciate that. And, really, I didn't want to come up and repeat what Joe said, but, when it comes to hops all I wanted to come and tell you guy is in terms of two row malted barley which is pretty much 99 percent of our batch ingredients as the organic beer category I started to grow and grow we've seen wonderful advancements there.

Hops have been a little bit more difficult. It's a much smaller percentage of our batch ingredients but I think as this category continues to grow, organic beer that is, we're going to see more and more people from the farmer standpoint, the co-op standpoint, the distributor standpoint become more and more interested in supplying these things for organic beer companies, both ours which are growing and new ones that are going to come in.

And we've already heard this so far, so, I just wanted to say that and that's something that, you know, on
our side, the industry side, we're going to be very committed to.

MS. CAROE: Thank you. Questions for John?

MR. SMILLIE: Yeah.

MS. CAROE: Joe, Dan, and then Gerry.

MR. SMILLIE: Yeah. I can't remember if it was in the petition or not, but, how many different types of hops do you currently buy?

MR. CADOUX: We currently buy about nine. We are abnormal for a brewing company because we in all of our beers we use one hop type. It's called a New Zealand Hallertaul Hop which is the one that we can find grown organically in abundance. Most beer companies would rarely use one hop type in all three or all four, however many beers that they have, but since we are committed to that, we do use that one hop type in all of our beers.

We're also a new company and as we expand -- if you look at a bigger brewing company like a Sam Adams that number might even get up into 15-20 different hop varieties.

MS. CAROE: Dan.

MR. GIACOMINI: You were here for yesterday's testimony? I mean, you heard yesterday's speakers?

MR. CADOUX: Some of them.

MR. GIACOMINI: Okay. Yesterday one of the speakers brought some samples. I was just wondering maybe --

MR. CADOUX: Thank you.

MS. CAROE: Kelly Shea and then on deck Emily Brown-Rosen. Emily, are you in the room? Is there Emily there? Great.

MS. SHEA: Kelly Shea with Silk Soy Milk, Tofu Town, and Horizon Organic. Good morning to you guys. On the issue of cloning, it's really crucial. I know yesterday it was deferred and the board had a quite comprehensive paper on it, but, you deferred it and you can pick it back up again and you really should not get on the plane to go home without the board at least passing a sentence as simple as clones and their progeny are prohibited in organic and then you can really figure out all of the details of your recommendation later, but, please don't leave without the board passing that once sentence, okay?

The issue of materials, I spoke to you yesterday about four colors that are very important to us. Turmeric, annatto, black, purple carrot, and red cabbage, and we had some great conversations with different people here yesterday. They are starting to be available. They are not yet available in sufficient quantities. As I noted, we can do some of our seasonal products with them, but, not a full line. We are absolutely committed to getting there, but
meanwhile they're not there, okay. That's very important.

And then when it comes to the other product with
the long name, the short chain FOS, that is a product that we
have used in our yogurts and smoothies for almost four years.
It is an agricultural product. It can be made organically.
It is safe. It is GRAS. And there have been two companies
here at the board meeting talking about these type of
products but there are more companies out there with these
type of products in their certified organic products and I
just want you to keep that in mind.

And we will be in the room. I'm not going to take
my whole five minutes, but, when it comes time to vote if you
have any questions, if you're not settled on any of those
issues because you have questions please let us know so that
we can help you work through this because I would hate if you
voted without all the information that you need to vote,
okay. That's all.

MS. CAROE: Thank you. Any questions for Kelly?

Thank you, Kelly. Emily, you're up now and Pat Kane. Is Pat
in the room? Pat, you're up next.

MS. BROWN-ROSEN: Hi, I'm Emily Brown Rosen,
Pennsylvania Certified Organic.

MS. CAROE: Excuse me, the camera is blocking our
members' view. Thank you.

MS. BROWN-ROSEN: Hi. Okay. Thanks for -- there
are just a couple of things I wanted to touch on to follow up from yesterday. First of all, on cloning. The second one Kelly just said. It's important to get something done here. I refer you to the FDA draft risk assessment which is their PFI which I can hand you on a disk if you don't have it, page 37, 38, and 42. They talk about clearly just, you know, the different types of assisted reproductive techniques which they call ART and they clearly distinguish to change some of the historical things people have done like artificial insemination up through a number of processes, including embryo transfer, and then they talk about cloning which is somatic embryo transfer. So, there are two different things and somatic embryo transfer is not cloning in FDA's speech and they do consider, however, the embryo transfer of an asexual reproduction technique. So, that's all you have to do is cross out that other asexual reproductive techniques in your language and it's fine what you have written. It's fine.

And FDA has done all that work for us and you can just refer to that, so, I mean, if you want to go that way, that would be my recommendation. I think the reason people wanted that language was because down the road we don't know what cloning technology is going to be like and people are going to calling other things cloning too, but, we can cross that bridge when we get there. Right now, this would be very
clear. It would be very consistent with what FDA is already saying. So, that's my recommendation.

On aquaculture, I'd like to thank you for taking my comments so seriously and going through them all. It was great. Couple of things I don't think you touched on so I'll just hit them once more and that was on this is on page 8 of the draft, 205.252E I think we need to add one word here where we need to add the word non-agricultural so it says agriculture feeds must be composed of feed ingredients that are certified except that non-agricultural, non-synthetic substances and synthetic substances on 603 may be used as feed additives in supplements because otherwise, the problem we're having with livestock feed, and otherwise people are going to argue that fish meal is non-synthetic and it's being used as a supplement and an additive and it's not actually feed, you know. There's lots of hairsplitting over that.

If we just clear it up now we won't have these continuing debates that we're currently having in livestock that NOP has very recently clarified for us on the livestock. So, I mean, work with NOP on that, but, to me, that's a one word fix there that would save a lot of problems down the line.

And then my other issue there was -- well, it's kind of like 252J. We talked about maybe putting manure or compost doesn't belong in the feed section. However, my real
issue is not where it is in the room. My question is, you know, regardless we're told even despite five years of compost, task force, working groups, and compost task force working groups and, you know, 25 page recommendations that have gotten revised like three times, that you can't put compost in water and spray it on your crops unless you have 90-120 days to harvest.

So, despite all this research and all this documentation and all this work by the board that's what the growers are stuck with right now. So, maybe it's perfectly fine to throw compost in water if you feed it to fish and harvest them within 30 days, but, where's the data? I mean, why is that allowed for fish? What's the packaging? I looked. I really didn't see packaging size or maybe there was more work done that I didn't now about but I'd just like to understand sort of from my equity point of view, is there a food safety issue, is there not, is there a justification for doing this? I mean, I think that you can just take that section out right now and then there can be more data and then it could be added in.

I don't really think it's essential for their -- my understanding is a lot of sugar producers -- most don't do this anyway. I think it's kind of an unusual practice. So, they could -- you know -- we could clarify the rules for everybody it would be better.
That's really it. I just want to make a final plug on flavors that we -- we've got stuff going now on 606, some of this is considered as a spice for one use but, you know, they could also be used as a flavor. So, we're going to need to clear up right away pronto some agreement, understanding, guidance as to when do we call it a flavor, when is it a spice, do we tell these people they have to get organic and most people can use it as a flavor.

So, we need some kind of meeting of the minds here. So, that's it. You're doing great work.

MS. CAROE: Thank you Emily. Questions for Emily? I've got a couple of comments. Again, your comments on aquaculture are very helpful. I will say one thing though. This is just a start of the process, you know, and we're going to find more little things that we missed and there is opportunities like the word non-agricultural being put in there. I don't think it substantively changes our intent. However, that may be something that would have been added later.

So, just a comfort language that there will be other opportunities for us to make these kind of adjustments just to make sure we plug the loopholes. As far as flavors, we agree with you completely and we're going to be working with the program and offering certain suggestions on how we can collaborate not only with them but with industry to come
up with that plan for taking this category of how materials are used -- I mean, we really have an issue with calling some flavors because it's about its intent for use, not what the material is.

MS. BROWN-ROSEN: It's a tiny percent.

MS. CAROE: Exactly. So, we're going to have to, you know, have those brain sessions where we just put it on the table and sort it out and, so, we will be doing that for sure. Thank you. Any other comments? Thank you, Emily.

Okay. So, I've got Pat Kane and then next on the list is Ram. Okay. If you could check in with Valerie.

MS. KANE: Good morning, I'm Pat Kane. I'm the coordinator of the Accreditors Certifiers Association. And I'm here to talk to you about the draft recommendation from the certification, accreditation, and compliance committee on standardized certificates. We have submitted detailed comments to the board and I think you have them all in your packet. We do support the inclusion of the class and products information, whatever crops and products are certified, and the inclusion of product categories for the processed products.

We also support the ability of certifiers to provide an addendum page to this certificate in order to provide additional information on crops and products that maybe certified. There does need to be a link between the
certificate and the addendum to indicate to folks that both exist.

We generally do not support the current Section C pertaining to the formatting of the certificate as it is too prescriptive. In our comments we did suggest some other mechanisms to deal with that and we also support the requirement that certificates be provided in English or a translation.

In our comments we did submit several samples of certificates, just basic information on there, so, we would encourage the committee to contact us and if we can be of any service when you get to doing any more work on that and we would thank you for all the work you do and all the late hours and that's all I have.

MS. CAROE: Thank you, Pat. Is there questions for Pat? Joe?

MR. SMILLIE: Well, not, but, I think we haven't met formally, but, we see what you've done and I think that there's pretty much general agreement that's the direction we're going to go.

MS. KANE: Thank you.

MS. CAROE: Any other comments? Thank you. Ram and then on deck, Dave Carter. Dave, are you here? Okay. Great.

RAM: Good morning to the board and the folks here.
My name is Ram. I'm the certification director for Quality Certification Services. Usually my personal policy and business policy is to resist from making public comments because you have a USDA and my job is not to be an advocacy involved in public comments. It's Marty's job to do that. But, this is a unique opportunity and I want to take an advantage because of the experience we have with aquaculture. And my comments are specific to the technical part of the recommendation just explaining a little bit more science to what the recommendation has been made; just explaining a little bit more of the process so that the board can understand and make a better recommendation.

To start with what was the first question what Joe asked this morning to Mr. Redmond, the answer is more cooperation would not qualify if the fish meal option is shut down. They will not meet the existing standards and other product standards that has been same allowance, 12 percent agent has been allowed mostly by most certifiers around the world as acceptable fish meal level.

I would like to start with the animal feed section. One of the recommendation of the board is to use up the new compost. The idea of land is that it would promote all the growth. Algae, aside from the conservation, so my A's are pronounced differently from what you guys are pronouncing here, nationally do occur in the system, in the water,
whatever you do apply. The idea behind them is to apply a nitrogen source that will help the organ to bloom. But, the question is the fish excretion itself normally in a pond is sufficient enough to make this algae to bloom or grow.

There is another issue related to that. If it is they're really looking at supply of nitrogen then there is other alternative sources like molasses that could be fed into the pond and that molasses can be certified organic in the way you make the systems better. The other related issue is the eutrophication so even if the fish feeds the algae they're going to supply some feed and what's going to happen is you need to end up putting a lot of paddles to make the oxygen supplies moving around causing more energy requirement as opposed to having molasses.

So, I just kind of wanted the board to consider the use of manure and compost as being used and recommended for the algal growth. There are viable substitutes. The other issue is pigments. I don't think, to my knowledge, I haven't seen any catfish that stays or tilapia that stays pigmented or shouldn't stay pigmented so, across the board, the salmon or other species that may require pigments.

The next question is about the festivities. There was a discussion about three years versus one year requirement. Most of the closed system, avoiding most of the open systems to my knowledge to which I have inspected in
different countries, has a line which is usually plastic. In other words, the water do not come in contact with the soil and that's a consensus I request the board to have one year transition time and there are some systems where the land comes in contact with the water to have three other requirements.

The next issue I want to touch base, this is purely information, is the 5 percent market weight allowance that has been allowed. This is the least challenge so far but I want to bring it to your attention. In case of shrimp, the 5 percent agent market weight, this is unknown origin, the 5 percent of market weight usually comes around the 15-18 days which is 15 person of a total lifetime an animal is going to be under non-organic management.

I'm also bringing another issue to the board is the algae multiplication. This procedure, it's been followed in Italy and all the aquaculture facilities. It's established and published by the name Guilla -- G-U-I-L-L-A -- Adeep in 1952 and subsequently in 1978 that there was a massive use of synthetic fertilizer for a mass duplication before it was being released into the farm. That is so.

My suggestion is the board to look carefully into the aquatic plant modifications or the aquatic plant production system. The board needs to create a separate list in my opinion for 603. For example, for farms -- several
farm have some Ph resistance like lime. I just at the time haven't seen it. It's not a synthetic. So, my recommendation to the board is to create a separate list and the postaros (phonetic sp.) issues, for example, in shrimp, it is harvested in ice water it immediately causes melanosis. Melanosis is kind of a pigmentation of the shrimp and that lacks the quality so people are fighting to find a viable and at least the uses of our clients to try and find there is something natural.

So, these are the issues that I'd like to address to the board. Any questions, please?

MS. CAROE: Thank you for comments. Questions?

MR. SMILLIE: Well, I think I'll just echo what Andrea said. Those are all very good inputs from someone who is familiar with both the European, the current situation, and our recommendation and it's going to be just too difficult for us to deal with them today, but, have you submitted these in writing also?

RAM: Well, I was trying to and I lost my --

MR. SMILLIE: You still have time and we'll get those in writing and then, again, as Andrea said, we'll be working on this document, I'm sure, for many years to come and we thank you for your input and look forward to making the changes as we get a chance to look at them.

RAM: I didn't want to bring up the fish and
Part of the reason is I wanted to have something more and I'm not opposed to what the board is trying to do. That's an efficiency in my feeling to start with something and just keep on adding as times passes by.

MR. SMILLIE: Thank you.

MS. CAROE: Joe, I think Jorge just passed out when you said many years to come. Anyway, Bea James.

MS. JAMES: I'd like to ask you what percentage of the farms that you believe have the plastic lining in the ponds?

RAM: It was all operations which is certified which is 100 percent of the operation. There's basically two groups you can classify or three groups. Intensive, semi-intensive, and wide -- In my opinion, most of the intensive and semi-intensive systems do have pond linings because that's an efficiency problem.

MS. CAROE: Any other questions. Rigo.

MR. DELGADO: This is directed to the other board members. Assuming that we pass this motion and the rules changes accepted, it goes into place, and then later on, three months, six months down the road, we find out that we need to do some changes, I mean quantitations, assuming we have problems with plastic and compost and so forth.

How soon can we implement those? And my question is based on the fact that we're not going to come up with a
perfect set of rulings, but, I'm sure we're going to have some changes and so forth, but, it will be nice to have at least an idea saying, yeah, we'll be reactive or able to correct this new rule.

MS. CAROE: Well, Kevin, do you want to address -- there is a certain amount of changes that are going to happen while this is at the program level and really what I was talking about was were any changes that could happen there that, you know, things have put it in conflict with the regulations or, you know, just there will be smithing that goes on at the program level and we'll be able to do that.

Substantive changes like prohibitions on certain practices will have to be further recommendations from the committee and then the board. And we expect there to be a series of them as we go along which is why we table them as too contentious. That will be another one. We'll have the shellfish addition. That'll be, you know, another as well. So, there will be several different add-ons.

It's a journey. It's not a destination. So, we'll continue to build on it. If we do know of a practice that right now is in what we're putting in that is contentious our options are to take it out now, to table it, which I don't think is a good action, or, to take it out later after the further recommendation that pulls it back out. So, that's the options on the table and the procedures that we have to
move forward.

MS. JAMES: I want to ask Ram, in your opinion the recommendation as it stands now, do you feel that it's adequate? I think we're all familiar with how long it takes when changes are imposed and then they actually manifest. So, in some cases it might be advantageous to pull back and submit something that is more in line with, you know, what the public really wants to have happen with aquaculture. I'm not saying that's what needs to happen, but, I know that changing recommendations after they've been submitted takes additional time.

So, I wanted to ask you, in your opinion do you think the recommendation is adequate as it stands?

RAM: Yes, it is for several species but it is not for species like shrimp and I'm not even going into the carnivores like salmon. Shrimp is something that you can provide in the vegetarian diet called fish diet, but, commercially what some people have tried is they've tried to produce tilapia, for example, and they make it as a fish meal instead of an organic tilapia they make it as a fish meal and they have been giving it as a source for shrimp.

And I have seen some shrimp operations that's been fed completely with wheat and soybean -- meat diet. I'm sorry. So, this regulation, the proposed recommendation is adequate for omnivores and I would really like to move
forward on that. It's not adequate for shrimp but it's still manageable. Thank you.


MR. CARTER: Good morning. Dave Carter with National Bison Association, Natural Pet Nutrition, Crystal Springs Consulting, and NOSB refugee. Three things, very quick. One number, Madam Chair, I want to compliment you on running a very tight meeting, very good meeting. I know that you're sitting in a difficult spot. You did a great job this meeting.

To the new members of the board, congratulations. I know after sitting through this meeting you're now sitting there this morning going let's see, I've got four years and nine months more of this.

Very quickly. The one issue that I want to talk about is cloning. And I was not signed up to speak until after I heard some of the discussion going on yesterday and I'm very concerned because I understand the role of the board. There are times when the board needs to sit down with the department and say, okay, let's, you know, find the thing that's absolutely the most enforceable that we can, you know, do to the letter of the law and there are times that I think the role of this board is to really push the envelope and to
really give the department some real leadership to say this
is what the organic community is demanding and I think
cloning is one of those issues.

We are at a particularly critical point in the food
system overall. Number one, I think it's egregious that the
FDA is not only saying that it's okay to use cloned animals,
have meat and dairy from cloned animals in the food system,
but, to say that you don't have to label it as that. The
consumer doesn't get to know.

Consumers are going to be looking for a safe haven
and organic needs to be that. This board needs to be very
clear and I think Kelly put it best, one sentence coming out
of this meeting saying no cloning, no progeny. Then I
compliment Mark yesterday when he essentially said hit us
with your best shot on this and then we'll sit down and
figure out how to get it done.

But, the consumers are really looking to organic to
put a flag in the ground and say this is where we stand on
cloning. Please do that. Thank you.

MS. CAROE: Thanks, Dave. Any questions? Don't go
anywhere.

MR. CARTER: No, I was being nice.

MS. CAROE: Now, I agree with completely with you
and I just want to state my opposition to the recommendation
or my concerns with the recommendation, not with its content,
but, it's method. As rules change we figured out how to do this. I don't think we figured out how to do this yet. I fully support the principle that cloning and progeny are clones and has no place in organic. So, I think that's where my issue has always been and I don't think anybody on this board disagrees that cloning and progeny of clones should not be considered organic in any way, shape, or, form. I think there's a subtlety though in how to present this and I appreciate the one sentence approach and actually that, to me, is a lot more palatable than trying to offer rule change, you know, which will become ineffectual and then, you know, we as a board aren't really advancing the cause.

So, I just wanted to explain to anybody that's here that the issue of cloning is not that we're in disagreement with it, it's just how to get there.

MR. CARTER: You bet. No, and I just say particularly at this stage in the process and the one statement that helps put the flag in the ground, but, you know, the history has shown whenever recommendations go up they usually don't come back saying something stronger. I mean, you start here and you kind of sand it down from there so don't sand down the edges too early.

MS. CAROE: Alexis and then on deck is Steffan Scheide.

MS. BADEN-MAYER: Hello, I'm Alexis Baden-Mayer and
with the Organic Consumers Association. I also want to speak
about cloning and second there were remarks that had been
made earlier. I think it would be great if the board cold
come out before the FDA process is finished. You are the
leaders of the sustainable and organic agriculture movement.
Your words on cloning mean a great deal. And I feel that the
FDA may extend the comment period 30 days.

So, if it doesn't happen today you may have time to
still do it before the FDA comment period is up. I also want
to talk about antibiotics briefly. Like cloning, antibiotics
are antithetical to the idea of organic. From the
presentation yesterday, natamycin, the use on English
Muffins, on spraying antibiotics on food to extend the shelf
life is not organic. Please do not approve that. It will be
rejected by organic consumers and it will have a damaging
effect on the impression organic consumers have of the
program.

I wanted to just say briefly that the Organic
Consumers Association supports the comments of the Pure
Salmon Campaign, Restaurant RM, The Humane Society, and Emily
Brown-Rosen on aquaculture. We also support the comments of
Jim Riddle and others on group certification. We support the
use of internal control systems by Safe Trait Cooperative.
That's all.

MS. CAROE: Thank you. Brief and to the point. I
love it. Comments from the board, questions? Thank you so much.

MS. BADEN-MAYER: Can I say that 60 percent of the consumers have already rejected the idea of cloning? Keep that in mind because that's not organic.

MS. CAROE: Thank you. Steffan Scheide and then Nicole -- I can't read the writing -- Nicole Dehne. I can't read the name, Nicole.

MS. DEHNE: Dehne.

MS. CAROE: Dehne. Okay. Thank you. You're on deck if you could check in with Valerie.

MR. SCHEIDE: Hi, good morning. I'm Steffan Scheide with Summit Hill Flavors. And I'm actually here to talk about colors but based on yesterday's session I just cannot avoid to make two comments, one on natural casings and the other one on flavors. I share the reservation on the word natural as it used with casings for three reasons. First of all, FDA does not recognize the USDA definition of natural. The only terminology of natural that the FDA recognizes are natural flavors.

Number two. How can certifiers apply the word -- how can certifiers evaluate commercial availability toward natural when USDA and FDA disagree. I think it's impossible for certifiers to do that. And, finally, there are actually natural casings out there which are edible, digestible,
collagens which are processed by processes which do not meet the definition of minimal processing which is currently defined as something that the housewife can do in her own kitchen and clearly there are no housewives which have industrial extruders in their kitchen.

So, I really would hope and we support casings to be listed under 606 based on the fall of Harvey because it clearly should be an ingredient allowed for the making of brats and those type of ingredients but I really would urge this board to reconsider the word natural.

That having been said, as a flavor manufacturer, I do not necessarily disagree with what was said yesterday regarding to flavors. However, we have been able to make somewhat slightly more complex organic de-certified flavors for the last seven years and only reason we did not petition agriculture flavors at this time was due to the public policy notice that came out in January. However, we have certainly petitions ready and that's why we would welcome to be part of the NOSB's effort to really discuss flavors and what necessarily would constitute an organic flavor.

Now, that brings me to really the reason why I'm here and I appeared before this board twice during Sunset for Colors and I had urged the board to keep colors on the list. We use organic certified caramel color and my question both to NOP and this board is, is it still allowed in organic?
You have allowed a prohibitive materials on the NOP. Does the removal of colors from the national list constitute a prohibition? And I think that's the reason I would like to have an answer. Colors were petitioned. They were not addressed and I would just like to know if I'm still able to use organic color after October.

MS. CAROE: Julie?

MS. WEISMAN: Yes. Steffan, I appreciate very much your comments about the casings. I also had similar concerns about the use of the word natural given the history of this industry and this board, a long history of avoiding the use of that word.

With regards to your question, there is never a prohibition against using an organic ingredient in an organic product. I don't know if anybody has any other thoughts about that.

MR. SMILLIE: Yeah. If, for example, caramel does not appear on 606 it means that you can't use conventional product. If you're currently accessing an organic re-certified color that use will continue.

MR. SCHEIDE: Personally, I do not disagree with that, but, color, like flavors and spices, are functional ingredients which are specific -- which undergo specific labeling requirements because they, in part, color on food. So, I cannot just call it caramel, which happens to impart
color. It is actually a color which is regulated by the FDA. And, so, the problem, the dilemma we've had is by eliminating colors from the national list, can they still be used? I mean, I'm very happy if there is a guidance document there that's saying, yes, if it's certifiable organic it can be used, then that's fine by me. But, that's the dilemma we're facing.

If colors were removed, I am using a color. Does the removal of the color constitute a prohibition?

MS. CAROE: No, nonorganic colors. Non-organic synthetic -- I mean, non-organic, non-agricultural colors have been removed from the list. That is true. Organic colors, organic anything is always allowed in organic products, okay. We are considering several colors that are agricultural to be added that would be allowed in non-organic forms if the organic form is not available. But, organic colors are always, always allowed.

Now, the non-organic, non-agricultural, yes. Those have been prohibited unless they get added back into the list.

MR. SCHEIDE: And if this organic certified color becomes unavailable, then I'm obligated now to petition under 606?

MS. CAROE: That is correct.

MR. SCHEIDE: Thank you.
MS. CAROE: Bea and then Joe.

MS. JAMES: Do you have the suggestion on the terminology to replace natural?

MR. SCHEIDE: Well, I think it was given yesterday and I don't have the exact verbiage but as the intestines of sheep, swine, and something else and I would say that because then you can apply organic -- then you can apply commercial availability to it. And I think that's what the petitioners had intended.

MS. CAROE: Joe.

MR. SMILLIE: Yeah. Again, I grew up in the organic industry and the natural foods industry and I've been to Codex meetings where the last gasp for declaring a regulation for natural died and I've never supported the word natural, but, in this case, I think it's being used colloquially as an industry expression for that particular material. I don't think it's -- I don't think our recommendation to allow it is enshrining a new definition for natural, but, if enough people are concerned about it I guess we should take that under advisement and if we had that other definition, the intestines of pigs, goats, that was quoted yesterday, but, at this point in time I don't want to lose that vote or that recommendation for that material while we give it a new name.

That's what my only worry.
MS. CAROE: Julie?

MS. WEISMAN: I guess I have a question. Is there procedurally anything wrong with there being an amendment made prior to vote to change how we refer this product?

MS. CAROE: Your committee can put whatever you want up for a vote. After the motion's on the table it can be amended by members of the board. So, there are options for making the change. I have asked the board to minimize last minute changes for the reason of transparency and so that the public can fully comment on anything that's on the table.

However, minimized does not mean prohibit them.

Tracy?

MS. MIEDERMA: I just want to reiterate what I said yesterday and this is based on my reading of written testimony that's expert testimony. I just wanted to make sure since I'm hearing two different stories which are people at FSIS saying there is a term called natural casings and they cite some location of this word in their regulatory language and what you're basing denial of the word natural casings as having legal standing.

MR. SCHEIDE: It really is a very complex issue because the best way to explain it is which food products are regulated by the USDA and which food products are regulated by the FDA and normally we'd say meat, poultry, and egg
products are clearly USDA overseen by FSIS and everything is off the egg. However, it gets very complex and the best way to look at it at the last joint policy meeting was that open faced sandwiches where you have a sandwich where you have turkey breast on it is FDA; closed faced sandwiches are USDA.

MS. MIEDERMA: I'm talking very narrowly about the words natural casings. Those two words together. That's all.

MR. SCHEIDE: And I understand the petition but you also have to realize that casings also go into vegetarian products which by that definition really cannot be from animal-born sources.

MS. MIEDERMA: Right, and those would be the collagen and cellulose casings.

MR. SCHEIDE: That's right and, but, they would also fall under natural casings, right?

MS. MIEDERMA: No.

MR. SCHEIDE: They would not?

MS. MIEDERMA: They're not.

MS. CAROE: Just a point of information. Collagen is an animal derivative and would not be allowed for vegetarian diets.

MS. MIEDERMA: Okay. What about cellulose?

MS. CAROE: Cellulose is from plant material.

MS. MIEDERMA: Okay. So --
MS. CAROE: It's synthetic. Yeah, I mean, there are inherent inconsistencies between kosher, organic, and vegetarian and organic in certain places and this is one where it shows up. Rennet is another one that we've had issues with with kosher.

MS. MIEDERMA: I feel like we're just -- we are kind of taking a guess at something that is actually known and defined in a book of food terms and let's not just take a stab at it.

MS. CAROE: Katerina, then Julie.

MS. HEINZE: You bring up a very good point that I had not considered for meat containing products the term natural casings would be different by USDA. For vegetarian sausage, that definition would not apply because that would be an FDA regulated and considered that and said yesterday natural casings weren't. The definition from USDA would apply, but, it won't if it's a vegetarian sausage.

MS. CAROE: Julie?

MS. WEISMAN: Yeah. In response to Tracy's observation that, you know, that to take into account when the term has already a well-defined definition, sorry for the redundancy, in, you know, in federal regulations, we don't necessarily want to go there. And the flavors is a really excellent example. Flavors has a very complex set of federal definitions and there are different ones for oat flavors that
are differing and sometimes contrary to those that are for
people to put on their retail packages and for the purposes
of the organic program we're here for organic and a lot of
things in the definition of natural flavors are absolutely
inconsistent and incompatible with organic.

And that is why they went on 605A with the
annotation that they went on because there are things that
can be called natural flavors that are allowed to have
certain synthetic ingredients in them such as certain
carriers which we would not allow in organic.

So, we can't take other federal definitions as our
-- we have to look at them. But, I wouldn't necessarily want
to use them as our standard. We can't actually.

MS. CAROE: Dan.

MR. GIACOMINI: A question for the program. In
light of the fact that we have a petition and we've had this
debate if we just stayed with the natural casings terminology
or if -- and there was some problem with it could the program
use the petition and the debate that we've had to modify that
term in putting it on the list to make it correct? Is it
something that we really need to beat ourselves up about?

MS. CAROE: Mark.

MR. BRADLEY: Mark Bradley, National Organic
Program. As long as the petition conveys the intent and the
language is clear and we understand what you're wanting to do
with this material we can work it through the attorneys and check with any -- we'll have to check with FDA anyway to check conflicting regulations so, you know, we can work with what you give us on that.

MS. SHEA: Thank you.

MS. CAROE: Bea?

MR. BRADLEY: But, we have -- that's what this whole thing's about, I think, isn't it? Try to get it out by June. Kim said by June.

MS. CAROE: Bea?

MS. JAMES: What would be the -- what is the problem with changing it to what Tracy or what Katerina had mentioned yesterday; why would that be such an issue?

MS. CAROE: Any response?

MS. MIEDERMA: What was your wording, Katerina?

MS. HEINZE: Reading from the petition they said the common name is natural casings, the processed intestines of hogs, cattle, and sheep. So, we could just call it casings, the processed intestines of hogs, cattle, and sheep.

MS. CAROE: Response? Jeff?

MR. MOYER: Well, it sounds to me like that really, in fact, is what the petitioner is asking for. We're taking it right from their language and we're going to approve what the petitioner wanted, not what we want. That would make the most sense to me.
MS. CAROE: Any more comments? We figured it out.

Thank you.

MR. SCHEIDE: That you very much and thank you from all of us in the industry for all the hard work that you've put in all these wonderful matters. Thank you.

MS. CAROE: Thank you. Nicole, you're up and on deck, Kim Dietz.

MS. DEHNE: Okay. So, thank you for the opportunity to speak today. Welcome the new members and thank everyone for their hard work that they've been doing these past couple of days. My name is Nicole Dehne and I'm a certification administrator for Vermont Organic Farmers or VOF, which is a USDA certification agency. I'm speaking on behalf of 400 certified producers more than half of whom are dairy and livestock producers and there are just a few points I wanted to comment on today.

First, I wanted to address the livestock committee's recommendation on cloned animals. It's well-established and recognized by the board that a large percentage of consumers find cloning technologies to be offensive and are opposed to their use. It's clear that without organic standards that clearly and fully address these concerns to perceived integrity, sales of organic or livestock products in the marketplace will be negatively affected.
So, VOF endorses the committee's recommendations to the NOP that animals derived through the use of animal cloning methods be disallowed in organic production and that these methods be included in the definition of excluded methods and we commend the committee for including the progeny and the progeny of cloned animals to the prohibition in its revised recommendation.

And we do support comments made earlier by Jim and others that the language used to describe clones be as specific as possible to avoid confusion. So, my understanding of including the term somatic cell nuclear transfer was to accomplish what Dan was worried about yesterday which was to exclude the embryo splitting from the definition and, not being an expert on cloning, but, having read some of the FDA document that describes the somatic cell nuclear transfer, embryo splitting is not included as part of that definition.

It had the list of assisted technologies and it was included there but it may be described as asexual reproduction but it wasn't defined as somatic cell nuclear transfer. So, I thought to help clarify I'd recommend as others did using the language either cloning as defined by the FDA or just somatic cell nuclear transfer and leaving out the asexual reproduction part.

I also wanted to address one of the materials, natamycin, which I believe is being petitioned to added to
205.605A. One of our certified producers a few years ago looked into using natamycin. So, we just did some preliminary research on the product and it kept being described as an antibiotic in all the documents that we had looked at and so, obviously, food with antibiotics wouldn't be consistent with organic processing and I also believe that it was allowed only for cheese by the FDA.

So, I really encourage the board to look into this further before voting to add this material to the national list. And, finally, despite the fact that pasture and origin of livestock are not on the agenda at this meeting I still feel compelled to mention them and I appreciate that Mark mentioned that both of these issues are currently being worked on but they do remain huge concerns for our farmers and our farmers are still waiting to hear whether all organic producers will be held to the same standards for pasture and we still feel that 30 percent drive out intake is the best way to assure that all producers are on the same page and as far as origin of livestock the VOF believes that the allowance for conversion of non-organic dairy animals should be permitted only on a one-time -- as a one-time whole herd transition and that after the transition, all certified operations should be managing the animals organically starting from the last third of gestation.

So, without clarification on these two items,
organic livestock producers, big and small, across the United States are not playing on the same ball field which I know is the intent of the federal standards.

So, I mention these issues again just despite the fact that they're not on the agenda just so nobody thinks that we have forgotten about them. And we are still -- farmers are still waiting for standards or enforcement of the standards that establish consistency and fairness amongst producers which I think would strengthen the consumer trust in the organic label and return the integrity to the standards. Thank you.

MS. CAROE: Thank you. Questions? Julie?

MS. WEISMAN: Yeah. I have one question. Can you tell me what body or federal agency it is that mentions the use of natamycin only for cheese?

MS. DEHNE: Yeah. I was afraid that you were going to ask that and this is some of the research which we did three years ago. And, so, all I know is in looking it up kind of on the internet and asking other experts it came coming up as an antibiotic. And as far as -- and I would also say despite searches on the internet that it was the FDA approved for cheese. So, I don't know if that has changed, but, my comments were that I think you guys should look into that before, you know, allowing it.

MS. WEISMAN: Okay.
MS. DEHNE: So, I don't have the specific document.

MS. WEISMAN: So, it is possible that it is approved for use -- one of the approved uses is for cheese. There's not necessarily for cheese only. We don't know.

MS. DEHNE: It might be for cheese only. That was my thought that I would look into it.

MS. CAROE: Just for information for the board, if the board were to consider natamycin a good candidate for the list and vote it thorough, that would be caught. I mean, that's not going to end up on the list so certainly if that were exclusively for the use when FDA approved this thing they'd say no, it's not happening, correct? I get a nod from the program. That's as good as it gets.

Any other questions, comments? All right.

MS. DEHNE: Thank you so much.

MS. CAROE: Kim Dietz and on deck, Harriet Behar.

MS. DIETZ: Good morning. My name is Kim Dietz, regulatory compliance manager for Smucker Quality Beverages. I've been employed by them for 23 years, just about as long as I've been in the organic industry actually. I've been involved in the industry through OTA. I chaired the MPPL Committee to the American Organic Standards. I've also served on the California Organic Advisory Board and, as you know, I was on the NOSB for five years from 2000 to 2005. I chaired the materials committee and also acted as board
First, and most importantly, I want to thank you every one of you for your dedication. I know what it's like on those all-nighters. I feel for you. But, it's very, very important. I encourage you to take your role seriously and listen to all your sectors. All of us out here, we all have things to say. Take that in the whole, make the best judgment that you can, and we trust you on that.

At the same time, have fun and enjoy the relationships that you're going to find. They'll be lifelong, believe me. Smuckers doesn't really have any comments right now. On materials we don't have any issues on the table. We are looking at -- actually we just added a color to one of our new products, but, depending on what the board does with colors we're willing to leave them in, take them out, whatever it takes, so, my comments are my own today and don't reflect those of Smuckers or Smucker Quality Beverage.

So, why am I here? I'm here as an historian. I'm here as a mentor. My company has provided me at your service for many, many years so I'm here to help guide you if needed and as well as a lot of people here in the audience. I encourage you to use the guidance documents that the past boards have developed. As one of the first board members appointed to the USDA NOSB during the launch of the program
we set the foundation for what you guys are doing today. We put the meat on the bones, so to speak. Without that your job would be much tougher so you do have a very good foundation and use those documents and use those guidance papers.

I encourage you to take the time during your deliberations and don't rush through things, don't feel rushed. I know it's a frenzy up there to work through wording and that sort of thing but take your time and make sure you make the right decisions. I support the continued use of agon and non-agon and synthetic and non-synthetic. I think that's critical for you to move forward with materials. It's really confusing out here in the industry and on the board if you don't have those things defined.

I support your ability to have non-public working group meetings. I think you would never have gotten where you are at this meeting if you had not had that private session. Conference calls just wouldn't have done it. So, I do support you in that as needed. Annotations. Be really careful with annotations. And unless they're specific, achievable, and within legal guidelines, don't put them on there. If you don't know that the annotation is going to be right, don't do it, okay.

They are needed in some cases, you know, and if it's a matter of material getting voted on then that be it
but be very, very careful with annotations. And I specifically disagree with any term limits, like three years, two years, one year. That just muddies the water and we've had several instances where we've limited that from past posts and by the time it gets on the Federal Register that time limit's gone so some things take a long time so be careful with timing.

Follow the materials review process. Dan's done a great job and you're in good hands with him so follow those guidelines. Read the sunset material review process that's coming up again. It's a pretty detailed process. Flavors. I wasn't going to comment on flavors but I'm going to. I saw this coming three or four or five years ago and I think you're on the right track, form a task force. You have the ability to do that through your policy manual and you can ask for a task force industry representatives and yourselves involved in that.

Collaboration. As a key industry leader I get those phone calls and e-mails when the industry is in a frenzy and we've had a couple of those recently. So, I encourage you to collaborate with the NOP and the NOP to collaborate with you so we don't have any more frenzies. We don't have confused methods. It's really important that we try to limit that. And the sunset, I don't agree that annotations should be changed during sunset. You see the
frenzy that you've got with 606. Sunset's just as critical in that you have a very finite time.

If you start changing annotations during that time you're going to have TAP reports and it's going to delay the process. Okay. Questions?

MS. CAROE: Thank, you. Personally, I want to thank you for coming to this meeting and to be there as a resource and fill in those blanks which we seem to run across quite often. Joe, you have a question, comment?

MR. SMILLIE: Yes. You may not have been prepared for this but I'd like to hear some of your stories of how your company is anticipated having to come into compliance with the use of colors, flavors, and things like that. In other words, you say you have no issues here. You're not petitioning anything. You guys have a lot of different products. You use a lot of different colors and flavors. And I'd like to hear your company's story of how your company went about making sure that they were going to be in compliance and not get into the frenzy.

MS. DIETZ: Okay. Well, you know, being that I'm on the front lines with you, we have converted probably -- we have about 400 beverages certified organic. We've converted about 99 percent of them to organic flavors and it's taken a long time. It's taken many years to do that. A lot of product development with many different flavor companies and,
you know, we're treating colors the same way. I think the industry would just have to push. They'd have to do product development. They'd have to take it seriously and be prepared because any material on the national list can come off at any time. I guess that's our philosophy.

We want 100 percent organic if it at all possible and we just happen to have the mechanisms to be able to push the industry so we've just been due diligent in it.

MS. CAROE: Other comments, questions?

MS. DIETZ: Okay. Good job, good luck.

MS. CAROE: Thank you, Kim. Harriet, you're up.

On deck, Dave Engel.

MS. BEHAR: Hello, I'm Harriet Behar. How are you all doing this morning? Awake, I hope. I have just a few comments. I don't have anything written. One is on the natamycin. I think we need to be very careful with this product. It will appear on the label. It is known to be an antibiotic so we need to be careful about consumer feelings about clean labels and also even if the -- it might be caught and the FDA might not necessarily approve it afterwards. I think that you should have that information before you make the vote so I think you should defer on this product and not vote on it until you have more information and really given it more thought.

I also want to talk about non-fat dry milk
instantized because I think the problem with the petitioners is that they did not ask the right question. There's plenty of non-fat dry milk out there that is not instantized and typically the instantizing process or agglomeration that occurs happens as a separate process. So, what they need to ask is not can you make me agglomerated non-fat dry milk, but, can you agglomerate non-fat dry milk that I give to you as already as organic because that can be a much smaller one, typically 5,000 lbs. I think if you gave me an hour on the phone I'd be able to find the place that I could get maybe even just 1,000 lbs agglomerated.

The main issue in organic is that the agglomeration is a steam process so there would have to be a way to turn off any possible volatile chemicals with the steam, but, this is done very regularly with organic with not much problem. So, the 40,000 lb. minimum run I think is not true and they just very well could by the non-instantized non-fat dry milk and bring it to a custom processor who could agglomerate it for them at practically any level that they want.

So I don't think that that needs to be put on the label and I also agree that I'd like to see something today come out of here, a strong statement about cloning. I think the consumers want to see that. I think the producers want to see that. And I understand the need to want to have the perfect statement, but, I think you could come up with
something that would show your intent and that would be very
important.

And lastly, I just want to put forward again that
your guidance to the certifiers and to the certified entities
and to the public about what certifiers will be looking at
for commercial availability needs to be on the website. Be
very clear that this is a directive on how commercial
availability is being reviewed. I really want it up there, I
want it clear, I don't want there to be another kind of
inconsistency between certifiers and I think it's difficult
for certification agencies to work with clients when the NOP
hasn't come forward and made it very clear this is the
process to say that if it's not a mandated process by the
certifiers put out there by the NOP as a directive, your
recommendation, then you'll have certifiers doing lots of
different processes again in the commercial availability and
we're facing this very soon in June.

So, that's my comment. And Mark is smiling.

That's good.

MS. CAROE: Comments, questions from the board?

Fair enough. Thank you. Dave, you're up and then Amelie
Hayte, you're on deck. Amelie. I'm sorry. And after that
we're going to take a short break.

MR. ENGEL: Good morning. My name is Dave Engel.

I am a dairy farmer from Wisconsin since 1981 and in 1987-88
several of us got together and started the crop cooperative, better known today as Organic Valley. At that time, for better or worse, we decided that we were going to go organic with all of our products. So, we had to find a certification agency to work with and one thing led to another and we started a little CI chapter and I ended up being the program director for the chapter and since then I've worked with several certification agencies for the past 18 years in different capacities and, again, for better or worse, I consider myself fairly well versed on methods and materials in organic production both as a current farmer and as a current certification agency representative.

My concern today has to do with the process of how materials are decided upon to be acceptable for organic production. Mr. Giacomini provided an excellent review on Tuesday of the process, including Section 6517 and 18 of the OFPA and Section 205.600A of the rule. In fact, I would call these the twin rails upon which this process rides.

I have been attending NOSB meetings for seven years now and as a lay observer of the process I find that often times a material will make it through the different steps of the process referred to above only to find themselves faced with usually only a few board members who feel the material is non-essential or that there are alternatives available.

Examples at this meeting include, and some of the
comments just lately notwithstanding, I still would stand by these comments, pelargonic acid, natamycin, instant non-fat dry milk, various colors and flavors, short chain FOS, and perhaps others. And for better or worse then during the course of further discussion a decision is made to not allow this or that material primarily because it is deemed to be non-essential or it has alternatives.

I would encourage the board that when you reach this point, try to remember that for a farmer, for example, more tools are definitely better than fewer tools. Kevin and I both know what it is like to have to fix something that is broken and how quite often it is a special tool, a special piece of steel that in with sweat and cussing gets the job done and I would submit that pelargonic acid is or could be such a tool for example.

And we all know what it was like to have our mothers cook that special dish or recipe and how it was just one ingredient which made that food taste better. Perhaps it was instant non-fat dry milk. I appreciate Harriet's comments. Or, short chain FOS, probably not. But, you get my point. My further point is simple. The process of decision making for materials is quite involved. It requires a substantial twin rails and the rule and in toto it provides very adequate oversight.

So, when you reach a point in this substantive
process after the material has been through and ridden these rails that you think a material is non-essential or that there are alternatives available, remember, we don't want to be organic by neglect. We do want our farms to look good and food to be good.

Kevin and I want more tools in our toolbox; at least I do; not fewer tools. Mom and all of us want foods that taste good, look good, and provide a good eating experience and that aren't moldy, or colorless, or, flavorless or that drip when they should not drip. It is not shameful or weak or a threat to organics to have more materials approved for use than organic production. The twin rails of 6517 and 18 and 205.600A that you run on to decide the appropriateness of materials are good, strong rails which protect us all and service all.

But, I would you to think twice about disallowing the material. If your main concern is it's non-essentiality or that it has alternatives to whom is it non-essential and how many alternatives can't we have. Thank you.

MS. CAROE: Thank you, Dave. Questions? Kevin?

MR. ENGELBERT: I'd just like to go on record, Dave, and say that I prefer far fewer tools than you do in my toolbox.

MR. ENGEL: And frankly I tend to use just a hammer myself, but, I know when you have to reach down in to put on
a clip, for example, on a diesel line whose boot is leaking
it's a really special tool that you need and I still stand by
my comments that more tools are better than fewer tools in
organics. I mean, just in the human experience.

MS. CAROE: Jeff? No? Any other comments, questions? Thank you, Dave. Oops, wait. Dave, we've got
one more question.

MR. DELGADO: It's not a question, it's just a
comment that I don't think it's the number of tools, it's the
quality of the tools and the impact of the tools so you might
have several products out there that are good tools. It's
just the impact on the environment, on the sustainability of
your operation that makes a difference and I think that's
where we have to base and that's what the two rails of our
decision process want us to follow.

MR. ENGEL: When you reach the point though after
those two rails have taken you to the end and it is non-
essential, deemed to be non-essential or that there are
alternatives, those are two points that I personally would
take a moment, step back, and see what the larger community -
- this is an ecumenical process that the larger community
would like and if you think that you're protecting the
organic integrity by not having instant non-fat dry milk on
however that process brought it to that point in this case I
guess it's the 606, you know, there's different twists to
this when you reach that point.

What I'm trying to concentrate on most true criteria that are in 600, I believe, non-essentialness and alternatives. I assume it happened with this board so many times where you get a material, calcium oxide in 02 that was shot down, you know, these are tools that farmers could be using and yet they're not available because they're deemed to have an alternative. In that case there in 02 that was an alternative that people felt you could use calcium carbonate from limestone.

The quality is not being diminished.

MS. CAROE: Thank you, Dave. Any other comments?

Amelie. Did I say your name very badly?

MS. HAYTE: That's fine. A lot of people have trouble. So, good morning everyone and I'm Amelie Hayte with GNT and we are natural color producer and we specialize in colors that are made from fruits and vegetables and we now have over 30 years experience in producing fruit and vegetable juice for color.

We have petitioned 12 different colors to be included under 205.606 and we'd like to thank the board for reviewing our petition and for giving us the opportunity to speak today. So, we understand that the board has some questions regarding the commercial availability of organic material and we have tried to gather more information to try
to address these concerns.

We first tried to source the organic raw material, meaning like, for example, organic fresh pumpkin or organic fresh carrots and we'd like to remind you that these fruits and vegetables have to be a specific variety that has a required properties for color and, yeah, so we contacted several farmers and none of them were able to deliver the variety of pumpkin or variety of carrots that we were looking for and another point is also that all these raw materials are specifically grown for colors and specific know how and specific way to grow them and when we asked all those farmers if they were growing any fruits or vegetables for color purposes none of them were actually able to do that.

We're connected to the Department of Illinois which is one of the largest state producer of pumpkin and they referred to a professor at the University of Illinois who has done extensive research on pumpkin and squash, for example, and he told us there's a question of organic pumpkin came up two years ago and that it was really difficult to locate organic pumpkin for the industry -- for the process industry.

Now, since we're not able to find any organic raw material we also searched the OTS website for organic ingredient and we were able to find two sources of different organic. For example, carrot puree or pumpkin concentrate or blueberry juice or diced carrots or frozen carrots, but, we
were not able to search any organic fruits and vegetable juice that were specifically standardized for color.

Now, I would also like to add that all this organic matter has to be harvested at the maximum ripeness and that, therefore, the organic fruit and vegetable usually deteriorate by transportation and that most of the fields have to be located around the production plant.

And, for example, for pumpkin juice colorizer, there's only one that do color from pumpkin at this point, and I'm pretty sure that's located in the Netherlands so all the fields will have to be around the middle, for example, Germany or Belgium and I would just want to go over again the different challenges that we're facing. We're trying to organic raw material.

So, first, the demand for organic products has grown a lot and farmers now rather like to focus on growing organic material for the fresh market and, therefore, there is a needed surface available for organic product for the industry -- for the food industry. Also, if we wanted to convert our fields into organic fields that would require three years and there's no pesticides on those. Another point our country is facing is a shortage of pesticides for organic production.

Organic production has a more development of bacteria and therefore there were color quality needs so we
would have to grow more organic products, more organic raw
material. We're also facing a lot of workers and good
machinery and the most important point is that all these
farmers need to have a special know how and we will need to
train them on organic production methods.

GNT has been working for several years with
farmers. We grow our own raw material. We don't buy on the
market. And we've been working with the farmers and now want
to produce organic colors. The only thing is that we need a
few years to be able to guarantee that we would be able to
provide the volumes that are required by the food industry so
that's why we would like to see an organic -- no, pumpkin
juice color, carrot juice color, blueberry, purple potato,
and hibiscus juice for color to be included on the list so
that it gives us more time to do our work and to be able to
able to come into the right quantities for the industry.

MS. CAROE: Thank you. Joe.

MR. SMILLIE: Can you go through that list again?

MS. HAYTE: Pumpkin, carrot, blueberry, hibiscus,
and purple potato.

MR. SMILLIE: Purple potato?

MS. HAYTE: Yes.

MS. CAROE: Dan?

MR. GIACOMINI: You didn't mention any of the
details of your problems or search regarding hibiscus and
purple potato. Could you go give us a little bit of a little idea on those?

MS. HAYTE: Yeah. Well, given the short times we had to -- first, we are not used to sourcing raw material since we do everything ourselves so since importers have asked us that we started doing it and we have a short time so we focused mainly on pumpkin and carrot because we know that the two that we have the most challenges to process are organic and also we figured that it would be the easiest one to source as organic comes to market.

MS. CAROE: Gerry, Steve, Julie.

MR. DAVIS: Did I hear you correctly that you said you are working with growers in the Netherlands area by your production plant to get them to start producing organically produced pumpkin and carrot and all that?

MS. HAYTE: Well, actually, already producing.

MR. DAVIS: They already are.

MS. HAYTE: And we already have organic colors.

The only thing is that there is not enough fields. There is not enough farmers and we don't have enough organic material right now.

MR. DAVIS: Would you expect in the five year period that this board is considering to allow you to use non-organic materials that within that five year time your company would have the goal of being able to access 100
percent organic materials after that time?

MS. HAYTE: In five years we should be able to provide the industry with 100 percent organic colors.

MR. DAVIS: And are there of the colors that you make from these vegetable materials, are any of them items that do not need to be produced right next to your production facility and can be shipped from further distances?

MS. HAYTE: I don't know the deals about that, but, I know for carrot and pumpkin it has to be produced around the production plant and, if anything, we actually don't grow only in Europe, we grow all over the world so if it was possible we would do it.

MR. DAVIS: Okay. Thank you.

MS. CAROE: Steve?

MR. DEMURI: Were you here yesterday?

MS. HAYTE: In the afternoon, yes.

MR. DEMURI: Okay. Did you hear the fellow from one of the other flavor companies, color company? I think it was Moore Products. How would you respond to his contention that hibiscus, for example, is in good supply?

MS. HAYTE: A good supply of organic?

MR. DEMURI: Yes.

MS. HAYTE: I don't know.

MR. DEMURI: Do you agree with him or --

MS. HAYTE: Well, the thing is that we personally
for our -- I was not able to choose any organic hibiscus
color and our plant is not able to get organic from hibiscus.
That would have other properties for us to process.

MR. DEMURI: Is that one that has to be grown close
to your plant to process?

MS. HAYTE: Yes.

MR. DEMURI: Okay.

MS. WEISMAN: It's very helpful to hear, you know,
to hear in detail the fact that the way the production
methods work requires very quick processing of the materials
and so you perhaps have spoken a lot to the issue of
converting the growers who are in close proximity to your
facilities to those producing agricultural products
organically, but, I was also wondering if you could speak a
little to the production process and if there are any
challenges there to having the process -- to having the
processing of those materials into color down the line. Once
you have the organic raw materials are they going to be any
further challenges that have to be overcome on a side of
actually processing those ingredients?

MS. HAYTE: There is some challenges and I cannot
go into details about them, but, right, we have to overcome
that and because we grow organic only we would need -- we
need more raw material to overcome the challenges that we
face during processing so it feasible but it's really a
shortage of raw material right now.

MS. WEISMAN: Thank you.

MS. CAROE: Any other comments from the board?

Questions? Thank you so much.

MS. HAYTE: Thank you.

MS. CAROE: We will take a break right now but up right after the break will be Adrianna Natsoulas and then George Lockwood after that. So, it's right now about ten minutes of seven so -- California time, sorry -- ten minutes of ten. Ten o'clock we'll be back.

(Whereupon, a brief recess was taken)

MS. CAROE: Okay. Adrianna. Adrianna, are you here?

MS. NATSOULAS: Yes. Good morning and thank you very much for this opportunity to further comment on the development of the organic standards for seafood. My name is Andrianna Natsoulas and I am the campaign coordinator for Food & Water Watch Oceans Campaign. And we've been following this process and have submitted comments previously and again have submitted comments just today with more updated scientific evidence to support our position around organic standards for seafood.

And I have abbreviated those comments and you probably will hear me repeat some of the comments you've heard already from some of the other NGO's on governmental
organizations commenting and interested in the organic
process for farmed seafood. So, with public health and
environmental sustainability in mind, as I said, we are
supplementing these comments with updated scientific studies.

I'd like to say that I strongly support that the
direction that you’re going in in developing these standards.
We're really pleased where you're headed and we hope that
you continue down that same track and we're very pleased that
you have -- that you support the edit to the task force's
interim final report that net pen and cage culture must not
be considered for organic certification at this time and that
those standards only apply to closed systems again at this
time because there's not enough scientific evidence, there's
not enough development of other firm species to be able to
consider net pen and open cages for organic certification.

Furthermore, the land-based farms must adhere to
strong environmental standards to ensure zero emissions of
untreated ethylant and to the surrounding environment and
they also support that there's a three year transition period
to gain organic certification for these land-based closed
systems for farm raised seafood.

Food & Water strongly supports the committee's
edict that wild fish and their products must not be fed wild
fish feed. Feeding wild fish meal and fish oil to farm fish
is not a sustainable nor safe. In terms of sustainability
capturing and removing smaller species from the open oceans to use as feed for farm fish stresses larger wild fish populations because then they have less to eat and it turns off the balance of marine ecosystem.

This is not safe either for consumers. Many scientists have concluded that fish meal and fish oil produced from wild conk fish is likely the primary route of entry for cancer-causing contaminants into the farm fish and we've seen many studies with farm salmon to indicate such.

Therefore, it's critical that wild fish meal and fish oil not be used as feed for organic farm raised aquatic animals.

Lastly, and I'm going to make this brief. We strongly support the aquaculture's working groups prescription of the use of slaughter by-products in feed for organic fish. Food & Water Watch opposes the use of by-products from the slaughter of terrestrial animals in organic aquaculture feed. Such a practice, deception by omission, could potentially lead to consumer loss of confidence in the organic standards undermining its value to them, to producers, and to the USDA.

So, again, we appreciate this opportunity for further comment on the development of organic standards for farm seafood and, again, you have a full comment so I just wanted to abbreviate what we have submitted and, again, you've already heard some of these very similar concerns and
again you're going down the right track and we really support
the direction you're going in so thank you for this
opportunity.

Thank you, Adrianna. Any other comments or
questions from the board? Thank you so much for your
comments. George Lockwood and then Rob Mayo, you're on deck.

MR. LOCKWOOD: Madam Chair, my name is George
Lockwood. I'm Chairman of the Aquaculture Working Group.

Every now and then you wake up in the morning and you have a
feeling of satisfaction that perhaps you've done something or
in the middle of a process of doing something very good and
that's what's happened to me. I think that we're on the
brink of doing something good for humanity and for the planet
in what we're doing here today.

Something had struck me yesterday which was very
interesting. There's a number of people who are in this
business or in allied businesses who have already begun the
innovation process to comply with what we're proposing. We
heard this about omega-3 fatty acid and also from growers and
it came as a surprise to me that the innovation process is
beginning so soon.

At this time, the Aquaculture Working Group urges
that you do adopt the report that was amended yesterday and
that we all move ahead without further delay. We see nothing
to be gained by delays at this time. When the matter goes
into the National Organic Program there will be opportunities
for further public comment and perfection as it is necessary.

We also urge that you move ahead with addressing
the fish meal and oil and net pen issues. The issues in
opposition are well developed. You've heard them here. I
would also point out that in the report that you have from
the livestock committee on page 51 two pages of tables that
describe all the species in aquaculture and the impact of not
having fish meal on aquaculture and almost all of those
species except for tilapia and perhaps one or two others do
require fish meal and fish oil in their diets.

The question before all of us is not whether we're
going to see organically certified aquaculture products.
They're already on the market. The question is, which
label. Is it going to be a USDA label or is there going to
be Natureland, or, one of the many other certifiers around
the world. Salmon, shrimp, tilapia, three of the big ten
consumed fish species in the American diet, and at this time
there are certification processes under way or have them
under way for bringing those species into the market.

Aquaculture is at the same stage as agriculture was
ten years ago before the final rule was adopted and we think
it's time that the USDA label the available for aquaculture
products to save the consumer all the confusion that goes on.
You'll notice in our proposal, while I don't want to speak in depth to the fish meal and fish oil issues, we have heard a number of comments about excessive amounts of wild fish being required to produce a pound of farm fish. Our proposal is that no more than one pound of wild fish go under one pound of farm fish or that fish meal and oil be recovered from the wasted carcasses after filet has been taken off of them. And, in particular, in the Alaska pollock industry, which is the largest fishery in the United States, there's enormous waste. Carcasses are either thrown overboard or in the case of oil it's recovered, it's burned, mixed with diesel and fuel oil and burned in engines and in boilers.

This is viable omega-3 fatty acids which are being lost and our proposal gives an incentive for those sources to be developed, but, a lot of PCB's I'd point out some calculations on page 37 of the report where our proposal would reduce by 90 percent the amount of PCB's down to the level of 10 percent of conventional and this would put aquaculture grown salmon, for instance, amongst the lowest PCB's of all foods, including beef, pork, and poultry.

On the matter of bio-valve shellfish we continue to work. We had a meeting, telephone conference call last week and we have a conference call scheduled for Monday so it is a difficult matter because there are no precedents in organic
certification of bio-valves that we can use.

And, in conclusion, I particularly want to thank you, Madam Chair. You've been involved with us since the beginning of the rule writing. Kevin and Joe and Dan have also been very instrumental in getting us where we are. Jim Riddle and Mike Lacey in the past. It's been fun to be part of this creative process with you and for the entire board we also thank you for being a part of this very interesting journey. Thank you.

MS. CAROE: Thank you, George. Just a quick notice. I won't be on that call on Monday because I won't be home yet. Any comments from the board, questions for George?

Thank you, George.

MR. LOCKWOOD: Thank you.

MS. CAROE: Next up is Rob Mayo with Sebastian Bell on deck.

MR. MAYO: Hi. My name is Rob Mayo. I've been serving on the aquaculture task force. My company is Carolina Classics Catfish. We're a small niche supplier of farm raised catfish to great companies like Whole Foods Market. And I'm going to be really brief and just say to you that as a fish producer I really hope that we can go forward with organic aquaculture rules. Producers in the U.S. really need them. Thank you very much.

MS. CAROE: Thank you. Joe?
MR. SMILLIE: Finally a catfish producer. One of the things that we were told, and, again, I'd like to hear from you directly is that your particular production system would be able to move forward with an organic label under our current recommendation and I specifically would like to ask you if you could give us more information about the catfish aquaculture and does our current recommendation, how does it sit with you, as far as if it became a regulation. Would you have any issues in coming into compliance with it?

MR. MAYO: To try to make it brief and not too technical, we've been producing a product which for lack of a better term we've termed natural because we can't call it organic. I think it's going to be relatively straightforward for us to come into compliance with a lot of focus on feed production from where we are now in certified organic ingredients.

As far as our industry as a whole, it would take a commitment and, you know, a long-term commitment from somebody who's not focused in the area of organics to go that route but I think it's doable.

MR. SMILLIE: Just to follow up. Have you started to investigate -- I'm not sure which feed, you know, you're using and is the supply of organic feed of the kind that you need, is that available?

MR. MAYO: I've only made the most cursory
inquiries and I think the answer is yes and, of course, then it becomes at what cost and year-round availability or the seasonable availability. Catfish production is a warm month production. Can you get the corn at that time; can you get, you know, the various ingredients that you need to produce the feed. So, you know, I guess I found in what we've done so far in working with retailers like Whole Foods is where there's a will there's a way and you overcome the obstacles you think are -- and sometimes the things that you didn't think were going to be big obstacles become the big ones and the things that were the big ones aren't.

But, I think in general we can do it. We'll figure out a way.

MS. CAROE: Any other comments or questions? Thank you, Rob. Thank you for your continued working on the working group. Next up. Sebastian Bell. On deck is Stephen Walker. Stephen, are you in the room?

MR. WALKER: Yes.

MS. CAROE: Great.

MR. BELL: Good morning ladies and gentlemen. My name is Sebastian Bell. I work for a farmers trade association called The Main Aquaculture Association. We are the oldest state aquaculture association in the country and we've been in existence for over 30 years. I am also a member of Aquatic Animal Task Force or Aquaculture Task Force
and it's been a real education to be part of that process.

I want to take the opportunity to thank you as board members, and particularly the board members who have engaged on the conference calls. I think you guys have really helped us formulate our ideas and craft a tighter set of proposals to you and I thank you for your input and your time. I also want to thank the NOP staff who have been on those conference calls. I think they've really done a lot of hard work and helped us as well and also Valerie Frances, I think you've done tremendous work and spent a lot of time with us.

I also want to thank George Lockwood, our Chair. I think George deserves a great deal of credit for all the hard work and leadership that he's shown and he is often the mediator between guys like me who are pounding on the table on one side and gals like Becky Goldberg who's pounding on the table on the other side.

So, I don't envy his position. Our growers, and I'll give you a little bit of background, we grow about 15 different species in the State of Maine. We've been growing species in Maine for over 30 years as I said. Our farm gate sales on an average year are around 80-90 million dollars over the farms and we have about 500 people that we employ on the farms and there are about 140 farms.

We have 1,300 acres that are in production in the
state and we produce both freshwater and saltwater animals
and, yes, one of the things we produce is salmon. I've been
in this business for 30 years. Most of my career has
actually been overseas as a farmer and I farmed personally 15
different species in twelve different countries. I came back
to this country because I believe that aquaculture is
something we should be doing in this country and we shouldn't
be scared of the environmental issues around it. We should
tackle them and try and do it the right way.

I'm also a farmer of sick of being called things
that I'm not. And I'm going to speak just briefly about
that. What I am is a Cousteau kid who read a lot of stuff
while I was standing watch on commercial fishing boats in my
early years and the stuff I read was Rachel Carson, Jacques
Cousteau, Aldo Leopold, Wendell Berry. Those were the people
that formed the way I look at the world and I'm proud of that
and I'm not ashamed to be a fish farmer.

I left commercial fishing because I was not proud
of what I was doing as a commercial fisherman. We were doing
some stuff that was bad for the environment and it troubled
me. And, so, I left that and I went into aquaculture and it
is certainly an irony today that I stand before you being
vilified as an environmental villain after making that
change.

I want to support the comments that both Neil and
Jorge made yesterday about the standards. I think both of
their comments were insightful, thoughtful, and helped frame
some of the issues. I have to confess, I can't offer you
Hawaii or Brazil as places for your next visit, but, come to
Maine. Maine is a wonderful state. I love living there and
it is very beautiful and I would be more than happy to take
anybody on any of our farms and if any of you are divers and
would like to dive underneath our farms come dive underneath
our farms and see how they link to the environment in which
they're in.

I would like to encourage the board to move forward
with the recommendations that came from the task force. I
understand that you have made the decision to remove or will
make the decision likely to remove a number of components and
I think that's fair game. Thank you.

But, I also want to encourage you to move forward
with net pens and fish meal and fish oil issues and the
reason I want to do that is because we in Maine are
different. We used to have multi-national corporations
farming in Maine. We no longer do. We're locally owned,
regionally owned. Our salmon farm is owned by a father and
two brothers and they compete on a world market against folks
who produce in many or other countries with little or not
environmental regulation or oversight.

They compete in those markets and there is no way
to give them a reward for doing the right thing without some brands and standards out there so I would ask you, please to move forward with those areas as well.

Finally, I want to focus on two words that Neil used in his presentation yesterday, opportunity and incentive. That's what we as farmers need. We need the opportunity to be rewarded for doing the right thing and we need the incentive to move in that direction. And that's what I hope you as board members will think about as you go forward and come back hopefully to deal with the net pen issue and the fish meal and fish oil. Thank you.

MS. CAROE: Thank you, Sebastian. Is there any questions, comments? Kevin.

MR. ENGELBERT: Sebastian, we heard some powerful testimony over the last two days from people that think salmon should never, ever, ever be certified organic and could you just briefly give your thoughts on that, maybe not as powerfully but just your thoughts?

MR. BELL: You know, there are a lot of issues that are brought up and I would have brought up and I believe honestly that we went through all of those issues on the task force and tried to address the standards that were developed. There is clearly a feeling amongst some people in the environmental community that if you contain animals in a net pen that shouldn't be certified. It's not just salmon and I
think the irony of this is that, in fact, salmon is probably
the least issue.

If you look at the way aquaculture is going to
develop around the world it's going to be marine fin fish
that are going to be a large part, if not the major part, of
the production on the fin fish end of things. And those will
be likely be cultured in cages as well. So, people talk
about salmon but I think the bigger picture is as we begin to
transition to other species all of those species are going to
be growing in net pens.

The irony of rejection is there's no other
production method which is as linked to the environment as
net pen culture. If you think about it, we culture our
animals in a marine ecosystem. That culture system is linked
intimately to the environment in which it's embedded and, so,
yes, we can impact the environment. We can do bad things and
exceed the carrying capacity of that environment and that's
not the right way to farm.

But, unless you provide incentives to people to
change what they do, you're going to have that anyway and we
will end up with large amounts of bio mass being produced and
being produced in ways that may in fact harm the environment.

You can farm, in my opinion and it is my opinion and I do
have a vested interest obviously, but, you can farm net pens
in synergy with the environment.
If you go to one of my member's farms in Maine and look at the environment around it and look at how they're trying to respond to that environment and the way they're farming it they use a lot of methods that are used by terrestrial organic farmers right now. I mean, they use site rotation, fowling, a lot of different methods to try to farm in synergy with the local environment.

And, so, each of the technical issues that have been brought up, if you add four or five hours I would literally sit with you and walk through each of those issues and explain to you how I think they could be solved from a non-therapeutic organic proposal, but, it is very complicated for sure.

MS. CAROE:  Joe?

MR. SMILLIE:  I look forward to a symposium where we can sit down and really bring a lot of open minds to that discussion and come up with solutions because I thank you for your testimony. I think it's very enlightening and I think that's the direction that we want to head. We want to make sure that all of the participants that start to get into this debate come in with an open mind and not with, you know, preconceived ideas that they don't want to by abide by terms and I think we all can benefit from this discourse and I'm hoping that we can move this as forward as quickly as possible.
MR. BELL: Thank you.

MS. CAROE: Dan?

MR. GIACOMINI: Hi, Sebastian, good to finally meet you.

MR. BELL: Good to meet you too.

MR. GIACOMINI: Sort of I guess in light of Kevin's question could you give us your perspective of -- and I apologize that maybe I'm stretching into some of the things that we've eliminated, but, some of your perspectives since you're here, how high would be setting the bar with the recommendations that are the AWG has been coming forward with like with net pens and that? How high are we setting it? Is it something that would just, you know, a couple of tweaks or is it something that, you know, potentially maybe people we can't even do, but, it's the bar that we're setting and it's the target we're shooting for.

MR. BELL: I think -- and I think you may have been on some of the calls. I mean, it's pretty clear, I think, from my discussions on the calls that I've been saying all along I'm not exactly sure anybody can meet the standards as they were proposed in the fin fish end of things and the net pen fish end of things.

And I also was frankly worried about it from the shrimp point of view as well. I think there were some issues there that establish a very high bar. Having said that, and
put that in perspective coming from a guy who our belief in Maine is at least that every fish that's grown in Maine would qualify under European organic standards, the Natureland standards.

And, in fact, we had companies that were pursuing that certification and when this exercise started they stopped. They stopped pursuing Natureland because they were worried that they would invest in that and then have to re-tool or change what they were doing for USDA standards.

So, we have, I think, some of the most progressive farmers in the world in terms of net pens, but, you know, bars aren't a bad thing. Sometimes we as farmers need a little bit of a push to change what we do. We tend to be, believe it or not, a fairly conservative group of people. We look at farming methods and equipment and new ways of doing things often pretty skeptically because we know that we work in nature and Murphy's Rule, you know, reign supreme and things break and they don't work the way you want them to work.

So, sometimes we take a little convincing in terms of changing our methods. But, I do believe that with the exception perhaps of some of the issues surrounding fish meal and fish oil the standards that were proposed were probably achievable over a period of time. It wouldn't happen overnight. We would have to change quite radically some of
the things we do.

The challenge for us, I think, is going to be, you know, why do you do that, how do you do that if you're not convinced that that's actually where you're going to end up. And, so, if we -- you know -- I've got growers now. I met actually with a couple of growers up in Eastport, Maine the day before I came down here and they asked me, you know, where should we go, where are we headed, what should we do so that we're headed in that direction and I couldn't answer them because, you know, I didn't really know where things were headed.

But, I think the standard as proposed was high, very high. I think it's going to be a challenge to meet, but, that's not a bad thing.

MS. CAROE: Any other comments, questions? I'd just like to say that in this factfinding whatever quorum we take for these two issues I think that's when we'll find out how high the bar is. Between that and then, you know, once this thing gets going we're going to find out what we missed. I mean, you know, until things are in operation you really don't see that, so, but, thank you again, Sebastian. I know that we've gone head to head a couple of issues ourselves, but, --

MR. BELL: That's a good thing.

MS. CAROE: I think that what makes the standard
strong, so, I appreciate your work on that.

   MR. BELL: Thank you.

   MS. CAROE: Okay. Next up. Stephen Walker and on
dock I have a proxy from Eric Olson to Luke Zuzmierski so,
Luke, you're up next.

   MR. WALKER: Good morning. My name is Stephen
Walker. I'm the certification manager at the Midwest Organic
Services Association. MOSA certifies approximately 950
producers and processors primarily located in the upper
Midwest. Like most of the organic community we've been
growing at a rate of about 20 percent annually and each year
that means more to manage than the same 20 percent the year
before; more inspections, more grades, assorting to black and
white and more calls from the media and others asking our
expert opinion on the latest organic news.

   As a certifier, I do a lot of keeping my ear to the
ground to see what challenges are presenting to the organic
community so I can best inform our certified operators of
developments and ensure that our decisions are consistent
with other certifiers. I come to these meetings wearing a
reporter's hat more so than feeling a need to express a
stance on some issues where our diverse stakeholders,
farmers, processors, consumers may have varying opinions. We
walk the middle ground.

   But, all stakeholders agree that the public must
associate the organic label with a clear, strong standard.
I'm concerned with the current state of the public opinion with organics. Even informally I'm hearing a lot of questions about organic integrity. This past week the topic came up again in casual conversation and this time around the campfire. A friend says to me, she so appreciates and admires the work I do, upholding the standards, making sure organic means something and so forth.

She went on and on and pushed my humble comfort zone to the point of embarrassment. But, in the next breath she says I don't even care about buying organic anymore. It's too many corporate farms. I'd rather buy from a farmer I know and she went on and on. So much for my feeling like a hero.

Now, I tend to be rather reserved. I'm not inclined to get up on any organic soap box. So, I'm tired and irritated with feeling like I need to defend the NOP standard from public opinion. Clearly, some in the organic community have been very successful in getting out the word about challenges faced by organics. I'm confident that the various community mobilization and media notification efforts are well-intentioned to raise the floor set by the organic standards.

But, I'm very concerned that the full message is not getting out to the public. Many consumers seem to only
be hearing that organics needs fixing, that the pasture
standard needs enforcement, that there's corporate desire to
weaken the organic regulations. To echo Carlea Arnold's
comment from Tuesday, the longer the questions remain in the
minds of the consumers the more damage it's done to our
industry.

I appreciate NOP's responsiveness in providing
thoughtful recommendations in providing useful guidance to
certifiers. You're doing good work toward addressing
consumer confidence. I understand some of the reasons behind
delays in bringing NOSB recommendations into the NOP
regulation. Workload-based issues are real and I believe the
NOP is well-intentioned to moving as fast as the program 16
feet will allow.

But, our stakeholders made transparent
communication and action. Clearly, this program needs
funding in line with the expediential growth of the organic
industry to enable appropriate enforcement. I hear
repeatedly from most the producers and processors that they
want a strong standard. I find working through non-
compliance situations usually results in our building a
stronger relationship with our clients and their stronger
commitment to organics.

But, this is not the word on the street and that's
frustrating. Past year recommendations, materials issues and
so forth are moving forward, but, in the meantime we all must proactively engage in a good news campaign. At the Midwestern Organic Farming Conference in LaCrosse, I said briefly in a report about dialogue meetings toward developing a national organic action plan. The dialogue raised some 40 plus bullet points on what's right about NOP organics.

Items included increasing awareness and acceptance of organics in Congress, articulate organic farmers, university students wanting to farm, the moral, spiritual, cultural connection to organics and many, many other points. To these good points we can add hundreds of organic success stories and heart songs played out each day on certified organic operations.

As we work on the questions and the needed fixes let's all please be conscious of how the organic news is heard on the street and let's emphasize all that's right and well in this organic community. Consumer confidence depends on that good news.

MS. CAROE: Thank you, Steve. Comments, questions? Joe?

MR. SMILLIE: I just want to say well said, Stephen, well said.

MR. WALKER: Thank you.

MS. CAROE: Any others?


MR. ZUZMIERSKI: Hi. I'm here to make a few comments on short chain fructosaccharides or short chain FOS on Eric Olson's behalf. First of all, I would just like to say that short chain FOS is a safe product. It's made by a simple and natural process that processes enzymatic fermentation of sugar derived from a plant source. That said, short chain FOS is agricultural and it should be properly categorized under 205.606 on the national list.

And I'd just encourage the board if you have any questions about short chain FOS please address them to myself or Dr. Connie Francis who is also here from GGC and that's all I have.


MR. ZUZMIERSKI: Thanks.

MS. CAROE: Zea, you're up with Marty Mesh in the hold. Marty? Is Marty here?

MS. SONNENBRAND: Hi. I'm speaking as a proxy for Eric Sideman. We're going to let Marty have the last word. There's more after Marty. Well, he thinks he's the last on the list before the break. I'm not giving my own comments except one sentence at the end. The rest is Eric.

And I am reading Eric's letter in the I, but, the I
referred to here is Eric's I. Eric, as you know, as many of you know, is a former member of the NOSB, the scientist member, and he's from Maine Organic Farmers and Gardeners Association.

Although I want to offer my general support for the NOSB committee recommendation on aquaculture standards. I want to again stress my apprehension about the use of fish meal made from wild cut fish. The livestock committee itself recognized this concern; did not accept the task force recommendation for fish meal as a supplement. However, the livestock committee and I differ in that the committee suggests future rulemaking to add sections on fish meal after more discussion as they do for the use of net pens.

Although I support more discussion, especially with the conservation committee, I strongly feel that the livestock committee should recommend and state up front that after the discussion fish meal and net pens may not be recommended for organic production. The NOP final rule is a practiced-based regulation. The regulation describes practices used to produce organic aquatic livestock should meet the mandates of OFPA rather than trying to reinterpret OFPA to meet present day aquaculture production standards.

The livestock committee recommendation does a good job in recognizing this but I believe falls a bit short. Their recommendation needs to be very clear about the outcome
of discussions with the marine conservation committee and the grassroots organic community that states the use of fish meal may not meet the law of OFPA nor the historically high environmental standard of organic production.

Certified organic product must be based on sustainable production practice in the high list of production of fish meal may not be a sustainable practice. OFPA mandates that producers must provide organically produced animals with total feed ration composed of agricultural products that are organically produced. I'm comfortable with the potential for this to occur in aquaculture systems that are in designated areas where a producer is responsible for knowing about the feed that is brought in, moves into, or, grows in the area similar to terrestrial life that grows in designated areas under the management of a producer.

I am very uncomfortable giving an organic label to fish that live and move in and move out of un-designated areas and are not in the control of the producer or for that matter anyone else. However, hence, I do not believe that wild caught fish, although it is a product I hold in high esteem, should ever be labeled organic and fish meal made from wild caught fish also does not meet organic standards. This was the same conclusion by the first NOSB aquatic animal task force of which I was a member.
I support the exception of NOP final rule that non-synthetic substances and synthetic substances included on the national list may be included as feed additives to balance a feed but I think that clarification is needed as to what is a feed and what a feed supplement are additives. Also, it's very clear that feed must be organic and so I strongly believe that the basic feed groups approaching fat and carbohydrate must come from organic feed. OFPA does not provide for national sources of feed, only organic, so, as I read off the natural ingredients used as supplements must be limited to balancing specific nutritional needs perhaps within these feed groups but supplements may not be used to provide livestock with significant portion of feed unless the supplement is organic product.

I do not believe that fish meal made from wild caught fish can ever meet organic standards I think there needs to be a very tight regulation on its use as a supplement and it only be used to balance a specific nutritional need in very limited amount.

The second agriculture task force recommended allowing up to 12 percent fish meal and 12 percent fish oil to way beyond balancing nutritional need and clearly supplying a significant portion of the feed from non-organic source.

I'm pleased that the livestock committee recognized
this and held it out of their recommendation. I suggest that
the NOSB too recognize this and state clearly after further
discussion that there may be very tight limits on the use of
non-organic supplements in organic livestock production.

That's the conclusion of Eric's comments, but, Eric
and I, as you know, some of you, served on both the compost
task force and the compost tea task force that the NOSB has
had in the past and so I believe that Eric joins me in saying
to you that having a compost provision in your aquaculture
task force recommendation in which compost is recommended to
be added to water in fish bones is possible going to kill
your whole report because it will end up wallowing in the
morass of the USDA like the compost tea recommendations have.

So, I really think you're better off taking it out
of your report before you send it to the NOP so that you have
a chance of the rest of the report going through.

MS. CAROE: Thank you, Zea and Eric.

MR. SMILLIE: Was Eric speaking for himself or for
the Farmer and Gardeners Association?

MS. SONNEBRAND: Well, he has it on his letterhead
from MOSA and this proxy is MOSA letterhead too so I think.

MS. CAROE: Any other questions or comments for
Zea? Jennifer?

MS. HALL: As a member of the livestock committee
the retraction of both net pens and the fish meal I can
assure you was for a number of reasons and that the end of
those discussions remains quite open-ended. It is not a
known quantity at the end; that it was missing information,
differences of opinion. There's a lot of discussion still to
be held.

MS. CAROE: Clearly from the comments that we've
received over the last three days we have two ends of the
spectrum and not much in between on these two issues so our
work is cut out for us on whatever outreach or session that
we have in order to try to come to consensus. But, anyway,
moving along. Marty Mesh on desk and you are the anchorman
Rich.

MR. MESH: I'm currently on the national campaign
for aquaculture and I'll gently remind you of your comment
yesterday that if I gave up my seat I could take as much time
as I wanted.

MS. CAROE: I believe I offered you a cookie.

MR. MESH: Well, good morning. Unlike Kelly who
needed to focus her time on specific materials instead of
some more general comments let me take the other road. My
name is Marty Mesh. I want to chat with you for a few
minutes about some general things. A bit of an introduction
to give you a partial frame of reference of who I am.

In 1972 I first helped form a co-op to provide a
way to obtain organic foods while growing organically on a
small scale. In 1976 with Bellevue Gardens Organic Farm we
started farming several hundred acres and I still own
approximately 150 acres myself and my sister some other land.
In 1987 I helped form Florida Certified Organic Growers and
Consumers and later became executive director of a growing
consumer organization.

I've been an accredited inspector and have done
inspections internationally and nationally. I serve and will
make statements at times representing the seven sustainable
agriculture working group among the board. I've served as
past chair of the Organic Certifiers Council for the OTA for
two terms. I serve on the National Campaign for State
Agriculture Organic Steering Committee and since 2001 and
through currently I serve on the board of directors of the
Organic Trade Association although my comments should never
be interpreted as the official position of the Organic Trade
Association.

And I currently serve on the board of directors of
the Accredited Certifiers Association. For the record,
because of issues that have kept me from being able to attend
the last couple of meetings I want to personally thank the
past members for their work. I can't imagine any past
members wanting to read transcripts except maybe Jim, but, if
you're reading this we're appreciative and should probably
look to find some new light reading material at least for a
break.

I want to thank the existing board members for their hard work and dedication and welcome all the new members of the board. I think very few realize the huge time commitment each of you make and maybe you, yourselves, may not have been aware of that, and we are truly appreciative. We stand by not only to always tell you what you did wrong, but, to hopefully work together to get things right.

By the way, for those of us who have picked the right NOSB member in our pool yesterday to see who would be the first to fall asleep after the 10 hour meeting mark we are appreciative of your cooperation. You may or may not know who you are. Just kidding. I have always tried to provide a little humor when we all have a tendency to take ourselves so seriously.

I never mean any personal ill will. I want to thank the USDA program staff for my estimation of doing an outstanding job with inadequate resources managing a complex worldwide program across all agricultural production from sea to store shelf. They are trying as best they can to be responsive to what I refer to as a hyper-participatory industry, dedicated consumer base, with some folks who have the view that through expansion of organic food production global culture and environmental change could happen.

I should recognize that many times there are
divergent opinions on how to get to think how we want to be within our own community. So, again, thanks and good job to the USDA.

However, now that I've given the deserving, positive reinforcement to USDA, let me bring up just a couple of things. Aquaculture. Some additional history of USDA certified fish. Around April of 2002 the former USDA national program director stated publicly in a meeting that we invited him to with producers that shrimp could be labeled as USDA certified organic and then after considerable investment was made by some innovative aquaculturists a USDA reversal was done.

We on the behalf of the operations we have certified lodged a request for an expedited rulemaking many, many, many years ago. In the spirit of cooperation we and the producers we certified refrained from filing any lawsuits even after several years of little to no action. I am immensely grateful for the progress finally towards allowing shrimp, tilapia, catfish, etc. raised and managed organically to once again be sold as certified organic under the national organic program and hopefully have agreement in the community on the standards.

My hope is that a proposed rule or ANPR will be forthcoming in a truly expeditious time line and that any final tweak in certain production questions can be vetted
publicly. I'm having a little trouble with, and I do find it a bit ironic, to hear that fish oil is petitioned for inclusion on 606 without any testing for contaminants so that people can have non-organic fish oil but that a beginning aquaculture industry in its embryonic state will have to source non-existent organic fish oil to use in livestock feed.

Hopefully the final USDA regulation will achieve a balance on important aquaculture feed issues, including the possibility of a time limited opportunity to use leftover fish waste from processing fish for a reasonable small percentage as the industry gets a toehold after years of being held back by USDA.

Be it confident that you can set a high bar for shrimp, tilapia, catfish and that those who are truly serious about environmental stewardship and a different model for aquaculture production will meet the challenge and finally be rewarded in the marketplace for their efforts without having to compete with shrimp and other fish produced without any organic feed but sold on U.S. store shelves as organic.

The non for profits by NOP for certifiers. Harriet mentioned several items, most of which I agree with and if something really upsets the USDA I would like to reserve the right to possibly somewhat distance myself from being associated with that specific part. One additional point
might be that years ago it seemed to me that USDA published a proposal about issuing guidance despite a Federal Register notice many years ago I don't believe anything has ever happened. I point this out as an example because I think that if USDA can get back to square one and either intimate or on their behalf contract outside with an entity who can operate an internationally recognized and compliant accreditation program which would by definition have some of the tools which would have been lacking for consistent and competent implementation of the regulation it would solve many of the problems which have been brought to you and the program's attention.

Annotations. Following Zea's comments I want to add that annotations can be a problem with verification and I have in the past urged care in the use of annotations without regard to the challenge associated with the regulatory compliance end of the program. Use of annotations need to be able to be discussed and if needed, modified in a timely manner and not be able to address -- and to not be able to address CCR's concerns within 10 years is absurd.

Grower groups. The fact that the public comment has not been requested, yet, has never stopped me in the past on commenting nor will it stop me now. Careful consideration should be given before throwing the baby out with the bath water as others have referenced there's a 2002 NOSB
recommendation issued which may help the recently articulated concerns of the NOP.

There's a balance to be achieved between rigor and verification of a functioning internal control system and exclusion from the global marketplace for the overwhelmingly vast majority of the world's smallest scale producers and land holders for producing crops organically for markets and handlers eager to reward them for their environmental stewardship.

I'm asking the NOP, the NOSB, the industry, the ACA, and other concerned parties to work together, come up with a solution and do it in a timely manner where no damage is done to organic farmers or the trade. USDA's made a statement that affidavits cannot be the basis of certification. Although for our program this statement will not present a problem in the way we have carried our regulatory responsibility. The NOSB needs to work closely with the NOP and all certifiers need to be clear about what the program's expectations are of certifiers relating to the widespread use of affidavits.

More clarity from USDA is needed before such statements are given to limited certifiers at the training. Enforcement resources and the lack thereof. The need for a more USDA enforcement is clear and this was one of the main reasons why the program was supported by me personally and
many other organic farmers as well. It seems that the
important enforcement component of the program critical to
maintain consumer confidence needs strengthening.

Speaking of consumer confidence in the NOP we have
heard the program is stated that resolving the past issue is
one of the highest priorities. However, given that the NOSB
has issued recommendations for years to hear that this is
still a priority but we may not see resolution until 08 when
this is March of 07 seems woefully inadequate.

On behalf of the national campaign of sustainable
agriculture, me personally, and of the consumers I represent
after all the Florida growers and consumers I'd have to
comment on minimizing. I've always tried to look at the
health of the entire industry over the individual interest of
one company or foreign.

If natamycin is added to the list our certification
program, Quality Certification Services, will evaluate an OSP
and a product profile based solely upon the national list and
regulation. However, as an organic consumer and historical
organic farmer I in the national campaign am stunned of the
idea of putting an antibiotic on organic English Muffins. As
a farmer, should I be petitioning the synthetic fungicide to
slow down the natural process of a disease, in our case
siserian wilt that ultimately kills the watermelon plants so
the plants can rot just a little longer. How would that go
over?

As a parent who is sensitive to whether my kids get a prescription for antibiotics when they are borderline what do you think my decision will -- is that five? I'm almost done. I'm in the homestretch now, Andrea.

(Discussion off the record)

MR. MESH: When they are borderline what do you think my decision will be if I know that those organic English Muffins have just a little bit of antibiotics on the top even if the antibiotics are mainly used for livestock production or historically for eye infections.

By the way, I don't even believe this antimicrobial or antibodies has FDA approval for English Muffins. I believe it is for cheese. Should that be of consequences?

About the private meetings. I understand the need for boards to go into closed sessions but it seems to me that the prior meeting had been open with no public comment you would have not had many people and those people who may have been there could have a new recognition providing not only institutional memory but technical expertise which may have made your meeting not only more productive but avoid any appearance of behind closed doors.

In closing, in 1989 my partner and I differed in our support for a national organic program with him pointing out that I needed to give him an example of a USDA program
that was beneficial for small scale family farms while we are
growing watermelons. The silence was deafening on my part.

I promised him to try to fix things and make sure
the national organic program and the agriculture policy in
general can be less of a hinderance to the survival of
smaller scale and family farms. I remain hopeful that this
next farm bill and the continued improvement by the NOP will
move us every more toward that end. Thank you and thanks for
the time.

MS. CAROE: Okay. Any comments? Joe?

MR. SMILLIE: Yeah, Marty. In viewing your
history, I was a trainer at that session. Anyhow, but,
seriously, one of the issues that's really come up and really
disturbs me today is the wide gap in aquaculture. You're
operating an aquaculture certification program. Your
connections with the NGO is in that community is well known
and I would ask you to join us in trying to get the NGO's and
the aquaculture industry to sit down at the table and really
have an open and constructive dialogue. We've got a number
of comments signed by, you know, whole list of NGO's. It's
just basically are no, no, no, no, no, no way, Jose, and I'm
asking you as one of the people that moves between regulatory
world and the NGO world to give us your best efforts.

You don't have to answer this, but, you're
operating an aquaculture standard. We've got a
recombination. We've got to move forward and discuss net
pens and fish meal and so I'm looking for some leadership
from you and other people in your situation to help get this
rift over with and get everybody at the table and to work out
a consensus so we can move the aquaculture industry forward.

MR. MESH: I'm more than happy to help. It's no
problem. I do -- none of the NGO's or environmental groups
have said that, you know, to manage aquaculture for organic
shrimp, tilapia is not compatible with their perception.
It's more the net pen dilemma and I'm willing to help with
that, but, let's not hold up the shrimp, catfish, you know,
tilapia leg and get it out in the market.

MS. CAROE: Thank you. Any other comments? Bea?

MS. JAMES: I appreciate your comments on the
natamycin and I look forward to hearing from you again when
601 comes up for tetracycline and streptomycin.

MR. MESH: Yes, ma'am.

MS. CAROE: Anybody else? Rich Theuer. Thank you,
Marty.

MR. THEUER: I'd like to just answer some of the
questions or addresses some of the issues that came up this
morning on natamycin and just as a slight digress and get at
the point when I received a call two years ago from George
Weston Bakeries they said they were interested in natamycin
on English Muffins.
My first question was, a preservative? You're kidding. And, so, I checked the Merck index and it said it's non-synthetic and therefore 600B4 does not apply maybe and then I checked EFIS and said this stuff is only allowed on cheese. It's not allowed on English Muffins or baked goods or anything. Well, the background is that back in 1995 under the reinventing government where they hit all the regulations, we've tried to find nowadays and can't because they they're not published anymore, the FDA Modernization Act was passed that basically enabled manufacturers of materials to do self-affirmation of GRAS tests and that basically required them to pull together a panel of experts, toxicologists, food scientists to review literature, review applications and to make a self-affirmation of generally recognized as safe status.

There is the possibility of providing that GRAS report to FDA and FDA to issue a letter of non -- no problem basically. In fact, there are several materials that are being petitioned FOS. It went through that process because it had not been described before. There is a 21 CFR 172 155 reference to natamycin which is the cheese and there is also one for something in chicken feed.

So, the manufacturer, in this case, Nabisco USA pulled together its board -- its expert panel. They looked at it and extended the GRAS use to baked goods. And some
countries they don't have this procedure and I think in Australia this has been specifically petitioned to the government because they got to do it that way there. In the United States that's not required.

And that letter was included with the petition and there was some problem with the TAP review reflecting on it and we got a letter too. It should be in the file where we said there actually was a letter that said it did have the GRAS -- the technical committee review it.

Now, the question, it's called an antimitotic which means it kills mold or it keeps mold from growing. And are there other antibiotics on the national list and the answer is yes. There's lactic acid. Now, in the meat industry people are allowed to use lactic acid as a spray on hide carcasses, cold carcasses to reduce E. Coli standard plate count and salmonella. It's allowed in poultry as well as in beef. So, in a sense there is a precedent.

It doesn't have a bad name, a funny looking name, but, it's the same thing. And this is why I felt it was "morally good" to petition this in an attempt to get through. I always thought this was mission impossible. But, mold isn't good. It's a penicillium mold. If you let that mold grow you're going to get traces of penicillin and I think more people are sensitive to penicillin and mold than they are to natamycin.
And, finally, I'd raise the question. This is a non-synthetic material produced by soil, streptomyces metolensis. It's isolated from the earth, the ground, and it's using glucose type substrates. There's a foreseeable possibility that it could be produced organically and, so, it could be that in three years, five years, ten years there will be an English Muffin with nothing in it except at the end organic natamycin. Now, the question is, is it an antibiotic by some people's definition? It's a preservative obviously.

Question is, what happens then? You say you can't do that. So, that's the regulatory history on it. It's still confirmed as GRAS and the letter was included in the petition. Thanks.

MS. CAROE: Thank you, Rich. Comments? Bea?

MS. JAMES: I just to point out that when mold grows on a product it's kind of an alert to the consumer so that they know that it's there.

MR. THEUER: That's correct.

MS. JAMES: And that the natamycin will not be known by the consumer and I doubt it will be listed on the ingredient.

MR. THEUER: Oh, it must be listed. It is listed now in regular English Muffins. It must be listed on the ingredient declaration. It's not a processing aid in the
definition of processing aid. It touches and goes away. At
the point it's manufactured, at the point it's in
distribution, it's on the muffin. When it dissipates over
time, when it goes away, is when the mold happens so it will
be labeled.

MS. JAMES: And, you know, a lot of consumers don't
read ingredient lists but they do look at mold and they
recognize not to eat something when there's mold on it and I
just want to voice that I believe that most consumers
interested in organic products, if they fully understood that
that was sprayed on their English Muffin, that it wouldn't be
favorable response.

MR. THEUER: I hear you. And that's why I thought
it was mission impossible.

MS. JAMES: I give you credit for trying.

MS. CAROE: Tracy.

MS. MIEDERMA: When I first saw natamycin being
petitioned I was confused because as a mother I have
definitely put natamycin drops in my children's ears and
immediately associate it with as being a medical antibiotic
and, you know, I'm also an organic consumer and now an
organic consumer rep on the board and I just, you know, feel
that I would have been stunned if I turned over a package of
organic English Muffins and saw that an ear drop ingredient
listed and so I had to speak from that personal perspective
as well.

MS. CAROE: Any other comments or questions from the board? Thank you, Rich.

MR. THEUER: Thank you.

MS. CAROE: And that concludes public comment for this meeting. We will take a break. It's now just after 8:00 in California so 11:15 we will come back. We will be doing voting on policy issues, crops issues, and livestock issues before lunch.

(Whereupon, a brief recess was taken)

MS. CAROE: Okay. As soon as board members are in their seats we're going to start with policy and Rigo. Oh, wait a second, hold one second. Before we get started with the votes I would entertain the program manager to entertain you. If you want to -- do you want to come up to the podium?

MR. BRADLEY: I would.

(Discussion off the record)

MR. BRADLEY: We had some board members that we have new people on the board and this is something that we do every year. The Secretary of Agriculture, Mike Johanns, is very grateful for the commitment that the organic board, NOSB board members make. It's a huge commitment, as you all know.

The regulars at this meeting the 7:30 finish up that we had last night for the public comment is not unprecedented. Was it eight o'clock? Eight thirty. Oh, I
must have been on Virginia time. But, anyway, it's not uncommon for us to go to that level of extra effort, especially for people that are doing this in addition to their real jobs and all the extra things that they do in their families and we do appreciate that.

We recognize that when you come onto the board the Secretary has a very nice plaque that they award you with to hang in your office when you are actually there to see it, and a letter from the Secretary of Agriculture, and the plaque reads certificate of appointment presented to, your name, with appreciation for accepting the call to serve the nation and the United States Department of Agriculture as a member of the National Organic Standards Board. And this is signed by the Secretary of Agriculture.

So, it's unusual. Usually we do this at the first board meeting they become involved with because they -- but they have this secret meeting, this private meeting that was back in February. I was invited, I got to come, but, they kicked me out. So, no, they -- we wanted to do this at a public meeting so that the public could see that we do appreciate what they do and the commitment that they made and now that they are two days into the third day of the board meeting, the first real board meeting, the first public board meeting, and they have not left the room screaming and dodged off and gone to sleep that I've noticed, I didn't say anyone
napping, we do want to recognize them and thank them for accepting the call.

And so this is for Mr. Steve DeMuri, Ms. Tracy Miederma, and Dr. Katerina Heinze. We have a plaque for Tina Ellor when she recovers and comes and joins us for another public meeting. We'll recognize her at that time, but, thank you very much for enduring this and entertaining the option to come here.

MS. CAROE: All right. Back to business. We will go to policy committee for items of action. Rigo, if you want to present those items now.

MR. DELGADO: Thank you, Madam Chair. First item is the updates to the policy and procedures manual. We have, as you know, six changes. I would like to move that we accept -- I'm going to split the motion. So, I'm going to present first the first changes, the first five, and then I'll call separately for the sixth.

In that case, I move that we accept the following application to the policy and development -- policy and procedures manual which includes the clarification on procedures for counting abstentions found on page 12; flow chart illustrating the role of the NOSB Executive Director found on page 13; the description of the committee's chair's role in facilitating transition of committee chairs found on page 19; and the inclusion of a section on procedures for the
transition of committee chairs found on page 20 and, finally, the section on procedures to present committee recommendations found on page 21.

Do I have a second?

MS. JAMES: I second.

MR. DELGADO: Discussion? Madam Chair, I'm taking away your function.

MS. CAROE: Is there any discussion? Hearing none, we'll call the question. Let's restate the motion at this time is to accept changes, and I'll be even more brief, changes presented for page 12, page 13, page 19, page 20, and page 21 of the board policies and procedures manual.

And we will go to vote. Dan?

MR. GIACOMINI: Yes.

MS. CAROE: Tracy?

MS. MIEDERMA: Yes.

MS. CAROE: Kevin?

MR. ENGELBERT: Yes.

MS. CAROE: Jeff?

MR. MOYER: Yes.

MS. CAROE: Gerald?

MR. DAVIS: Yes.

MS. CAROE: Julie?

MS. WEISMAN: Yes.

MS. CAROE: Bea?
MS. JAMES: Yes.

MS. CAROE: Rigo?

MR. DELGADO: Yes.

MS. CAROE: Joe?

MR. SMILLIE: Yes.

MS. CAROE: Katerina?

MS. HEINZE: Yes.

MS. CAROE: Jennifer?

MS. HALL: Yes.

MS. CAROE: Steve?

MR. DEMURI: Yes.

MS. CAROE: And we have two absent and the Chair votes yes. Motion passes.

MR. DELGADO: Thank you. Next motion. I move that we include on the police and procedures manual the comment on exclusion of annotations to a sunset review found on page 52. So, it would read as follows. Annotations cannot be included in the recommendation during sunset review. Do I have a second?

MS. JAMES: I second.

MS. CAROE: Any discussion? Jeff?

MR. MOYER: I just want to be clear that what we are saying that annotations will not be on the table. Am I correct in that during sunset?

MR. DELGADO: During the sunset process, sunset
review, yes.

MR. MOYER: Thank you.

MS. CAROE: Gerald?

MR. DAVIS: I'd like to offer an addition to that wording of annotation changes cannot be included in the recommendation during sunset review to be more specific.

MS. CAROE: Are you offering an amendment?

MR. DAVIS: Yes.

MS. CAROE: Is the amendment accepted by the motion?

MR. DELGADO: Can you repeat, please, the suggestion?

MR. DAVIS: To simply add the word changes so it would be annotation changes cannot be included in recommendation during sunset review.

MR. DELGADO: Annotation changes.

MS. JAMES: I have a question. Is that redundant to say that? I mean, --

MS. CAROE: I have to look at it in context. Restate the section, Rigo, please.

MR. DELGADO: Annotations cannot be included in a recommendation during sunset review. The whole paragraph as it reads now is as follows. Since sunset is defined as the review of regulations to ensure the continued relevance and not the creation of new regulation all substance must be
renewed as listed. Annotations cannot be included in a recommendation during sunset review.

If there's a need to consider changing an annotation or moving a material from one list to another this may be accomplished through the existing procedures for petition.

MS. CAROE: Just for order. We have a motion for amendment on the table without a second. If we have a second we can discuss.

MS. HALL: I second.

MS. CAROE: Bea?

MS. JAMES: I am concerned about having the word changes in there because that might infer that we're talking about annotations that are in there and we're not going to change those annotations. That's how it reads to me a little better. And what we're saying is that the process of annotations is not a part of the sunset process and by putting changes in there it reads to me like there could be an annotation and we're talking about changing that annotation and that's not the intent of the motion.

MS. CAROE: Rigo, do you want to answer that? You know, from my standpoint, it encompasses not being able to change them, add them, drop them, anything. I mean, it's more than just change.

MR. DELGADO: That is correct, that change is just
a part of it and I would follow Bea's recommendation by
leaving it as it is. Annotations cannot be included in a
recommendation.

MS. CAROE: Is there any more discussion on the
amendment offered? Hearing none, let's vote on just the
amendment starting with Tracy for the amendment that's being
offered, the word change being added.

MS. MIEDERMA: I honestly am not seeing the
difference. I guess abstain.

MS. CAROE: Abstain.

MR. GIACOMINI: Madam Chairman, point of order.

MS. CAROE: Please.

MR. GIACOMINI: Can we just have the notice please
that the first vote -- that we did have does change our
absentee process and that that affects all votes from now on?

MS. CAROE: That is true. The changes that we just
voted in the first change, the policy and procedure manual,
means abstentions are blanks. They no longer are counted with
the majority so that does change how the results will be
looked at but it's kind of an aside but it's a good reminder.

Thank you for pointing that out. So, Tracy, do I have a
vote?

MS. MIEDERMA: Abstain.

MS. CAROE: Abstain. Kevin?

MR. ENGELBERT: No.
MS. CAROE: Jeff?

MR. MOYER: No.

MS. CAROE: Joe?

MR. GIACOMINI: No.

MS. CAROE: Julie?

MS. WEISMAN: No.

MS. CAROE: Bea?

MS. JAMES: No.

MS. CAROE: Rigo?

MR. DELGADO: No.

MS. CAROE: Gerald?

MR. DAVIS: No.

MS. CAROE: Katerina?

MS. HEINZE: No.

MS. CAROE: Jennifer?

MS. HALL: No.

MS. CAROE: Steve?

MR. DEMURI: No.

MS. CAROE: And I'm no as well so the amendment did not pass.

MR. GIACOMINI: Me too.

MS. CAROE: I'm sorry. I'm sorry, I forgot to go back to the beginning. So, you're a no?

MR. GIACOMINI: Yes.

MS. CAROE: I apologize.
MR. GIACOMINI: Yes, I am a no.

MS. CAROE: You are a no. Okay. So, the amendment does not pass. We have the original motion still on the table. Any discussion on the original motion? Tracy?

MS. MIEDERMA: A point of order here. Am I correct in saying that by voting yes we are simply codifying the status quo process that's in use? Or, are we making a change to our procedure?

MR. DELGADO: No, we're not. We're essentially formalizing the way we've been conducting business when it relates to evaluating materials during sunset review.

MS. MIEDERMA: Okay. Thank you.

MS. CAROE: Any further discussion on the motion? Seeing none, hearing none, we will vote starting with Kevin.

MR. ENGELBERT: Yes.

MS. CAROE: Jeff, I'm sorry.

MR. MOYER: Yes.

MS. CAROE: Joe?

MR. SMILLIE: Yes.

MS. CAROE: Julie?

MS. WEISMAN: Yes.

MS. CAROE: Bea?

MS. JAMES: Yes.

MS. CAROE: Rigo?

MR. DELGADO: Yes.
MS. CAROE: Gerald?
MR. DAVIS: Yes.
MS. CAROE: Katerina?
MS. HEINZE: Yes.
MS. CAROE: Jennifer?
MS. HALL: Yes.
MS. CAROE: Steve?
MR. DEMURI: Yes.
MS. CAROE: Dan?
MR. GIACOMINI: Yes.
MS. CAROE: Tracy?
MS. MIEDERMA: Yes.
MS. CAROE: And the Chair votes yes. So, that's 13 yes, zero abstentions, and two absent.
Moving on.
MR. DELGADO: Okay. The third and last motion is to accept new members support guide as part of the wonderful tools that we have available here and as a compliment to the policy and procedures manual. Do I hear a second?
MS. JAMES: I second.
MS. CAROE: Any discussion? Discussion? Hearing none, seeing none, we will vote starting with Jeff.
MR. MOYER: Yes.
MS. CAROE: Joe?
MR. SMILLIE: Yes.
MS. CAROE: Julie?
MS. WEISMAN: Yes.
MS. CAROE: Bea?
MS. JAMES: Yes.
MS. CAROE: Rigo?
MR. DELGADO: Yes.
MS. CAROE: Gerald?
MR. DAVIS: Yes.
MS. CAROE: Katerina?
MS. HEINZE: Yes.
MS. CAROE: Jennifer?
MS. HALL: Yes.
MS. CAROE: Steve?
MR. DEMURI: Yes.
MS. CAROE: Dan?
MR. GIACOMINI: Yes.
MS. CAROE: Tracy?
MS. MIEDEMA: Yes.
MS. CAROE: Kevin?
MR. ENGELBERT: Yes.
MS. CAROE: Motion passes. I vote yes. Motion passes.
MR. GIACOMINI: Madam Chairman, we've had a request if you could more specifically announce yes votes, no votes, motion passes, motion fails when you're complete so we're
requesting that.

MS. CAROE: Okay. That was one zero no's, 13 yeses, zero abstentions, and two absent. Thank you for the work done on the policy committee. Any other action items at this time?

MR. DELGADO: No, Madam Chair, that concludes our recommendations.

MS. CAROE: Thank you so much.

MS. CAROE: Crops committee. Gerald, action items?

MR. DAVIS: We have two action items, both on materials. The first one is a soap based herbicide, ammonium source of higher fatty acids. Petition is to add it for agricultural crop uses in organic. We received a letter during the meeting from the petitioner and I'll read it. Please defer any action on this subject petition until further EPA ruling on this same subject. We will inform your office and request your further action once we've had a ruling from the EPA. Best regards, Joe Smillie, president of Falcon Lab.

So, I move that we defer this item to the next NOSB meeting.

MS. CAROE: Just for procedure, this board does not have to take any action if the petitioner has pulled the product off the -- the petition off the table. We're not
voting on it so it's no action of this board. Joe?

MR. SMILLIE: Point of order, Madam Chair. I just want to be really clear that we don't have to declare status of deferred on these.

MS. CAROE: The only time that we have to take action is if the board is deferring it, but, the board is not deferring, the petitioner has deferred it. So, this was for which material? This was for the --

MR. GIACOMINI: It's for ammonium sulfate fatty acids.

MS. CAROE: It's no action. So, moving onto your next item.

MR. DAVIS: The second material is pelargonic acid being petitioned for as to be considered a soap-based herbicide for use in non-crop farmstead usages and organic. I believe there's a representative, a petitioner here, who would like to make a statement on this.

MS. CAROE: The Chair recognizes the petitioner.

MS. GILBERT: Thank you. This is Kimberly Gilbert from Dow Agrisciences and on behalf of Dow Agrisciences we respectfully request that the crops committee defer their decision until the fall meeting on pelargonic acid.

MS. CAROE: Thank you. The material is then deferred. This board will take no action until the fall meeting.
MS. GILBERT: Thank you.

MR. DAVIS: And that is all the action items that the crop committee has.

MS. CAROE: Okay. Well, we're making up some time. Livestock. Okay. We're going to lose it. Kevin.

MR. ENGELBERT: Thank you, Madam Chair. This is not going to be this easy. We have one action item right now that's on the table and another one that we would like to bring back. The first was the aquaculture recommendation. I'd briefly like to read the introduction and then just go down through the changes we all agreed to yesterday.

The NOP and NOSB received correspondence and public comments requesting consideration of adoption of organic standards for aquatic species. To facilitate this mission the NOP created an animal task force composed of knowledgeable members of the aquaculture and organic communities. Upon receipt of the task force report the NOSB livestock committee recommends that the NOP implement rule changes to allow for the production of organic aquatic animals within the regulation.

Comprehensive restrictions on organic aquaculture production must be in place in order to comply with organic principles. To protect the environment and to maintain the organic integrity of products labeled as organic the task force report specifies practices to protect these principles.
Within the task force report there are several areas that the livestock committee would like further public comment. Specifically, the committee recommends further factfinding on sources of feed for aquatic animals that require a diet that includes fish. The task force recommended a temporary allowance for feed that would include wild caught organic feed but the committee believes the further input from the community, organic community, is required in order to determine if this practice is consistent with organic principles.

Likewise, the livestock committee would like more dialogue on the allowance of net pen operations for organic production. There appears to be conflicting opinion on whether this type of production is consistent with organic principles. These sections of the task force report are not included in the recommendation for rulemaking. However, the livestock committee intends to enter into further rulemaking to add these sections upon further completion of further dialogue in the aquatic industry and organic community.

Then the changes that we agreed to yesterday, the first one is on, I believe, it's on page 8. Yeah, excuse me, it's on page 6. And it's under 205.250 agriculture general. Number 9. Aquaculture facilities shall be designed, operated, and managed in a manner that seeks to maximize the welfare of cultured aquatic animals; minimizes the stress on
those animals; and prevents the spread of disease within the
facility and to all adjoining ecosystems and native fish
species.

The next one is on page 8. It's under 205.252, aquaculture feed. B. The use of aquatic animal feeds must minimize the environmental impacts on at least nutrients on receiving waters and adjoining ecosystems as documented in the organic system plan. Then under I. Nutritional pigment compounds that appear on 205.603 or are organically produced and allowed by the U.S. Food and Drug Administration for inclusion in agricultural feeds may be used.

The next is on page 12 under 205.254. Aquaculture living conditions. Under A-3, appropriate population or biomass densities that promote natural behaviors and limits aggressive and dominant behaviors from other aquatic animals was added. Page 16 under 205.255, aquaculture facilities, we changed under K production systems with soil water contact are allowed provided that a conversion period of 36 months from the date of the last application of a prohibited substance immediately preceding the harvest of aquatic animals occurs under organic management before production can be certified organic.

MS. WEISMAN: Excuse me, Kevin. Yeah, I just wanted to -- we're going back to the appropriate population biodensity. Very minor but you referred to it as under
Section 205.254A and you refer to it as 1-3 and I believe it is not the number three, it's iii. In other words, it's being added to Section A-2 as the third listing.

MR. ENGELBERT: Yeah, I apologize for that.

MS. WEISMAN: Just a clarification. You're doing great.

MS. CAROE: That was just a clarification.

MR. ENGELBERT: It's not actually number 3. It's two and it's iii.

MS. CAROE: Okay. Hold on. Wait one second. At this point we're trying to put the motion on the table. We can talk about if there's any changes that you're suggesting, Jeff.

MR. MOYER: No, it's not iii, it is the number 3.

MR. ENGELBERT: It is three.

MR. MOYER: No, it is not the roman numeral three. It is the number 3. If you look on the board you'll see it up there. Kevin had it right.

MS. CAROE: We can have discussion after we have a motion but let's let Kevin finish presenting the motion.

MR. ENGELBERT: Okay. Well, we'll leave that as presented then as a separate number 3 under A.

Yes, on page 16, under 205.259 under the letter D we have changed that to read fish should be held in high quality water for the duration of food deprivation prior to
transport and slaughter for a period not to exceed the time necessary to allow clearance of stomach and intestinal contents. The word fat and the letter "s" were deleted in there. It's basically just a grammatical correction.

Then under E-1-ii, we've added electrical stunning sufficient to achieve insentience immediately followed by the severing of the gill arches or decapitation. The committee vote on this was six in favor and one absent.

And our conclusion is the NOSB livestock committee recommends that the NOP implement rule changes to allow for certification of aquatic species and to engage the industry in the organic community and dialogue for further rule development.

MS. CAROE: Is there a second?

MR. SMILLIE: Second.

MS. CAROE: Any discussion? Rigo and then Joe.

MR. DELGADO: I just want to go back to page 12. Are we creating a third number? Can you just read that please.

MR. ENGELBERT: Yes, this is under 205.254, aquaculture living conditions. I'll read A. Aquaculture systems must establish and maintain living conditions as documented in the organic system plan that accommodates the health and natural behavior of the aquatic animals, including 1, 2, and then 3. We're adding in appropriate population or
biomass densities that promote natural behaviors and limit
aggressive and dominant behaviors from other aquatic animals.

MS. CAROE: Joe?

MR. SMILLIE: I think it's a small issue but I
think it should be iii and not 3 because it does come under -
it does, to me, come under that heading containment and
that's what iii should be referring to rather than a separate
number 3, but, it's not a big issue.

MS. CAROE: Are you offering an amendment?

MR. SMILLIE: Yes, I'd like to offer an amendment.

MS. CAROE: Is the amendment accepted by the
motioner?

MR. ENGELBERT: Yes.

MS. CAROE: And is it accepted by the second? Of
course. Okay. So, that amendment is made. George, did you
have something that you needed?

GEORGE LOCKWOOD: The proposal was the number 3 and
not three iii's.

MS. CAROE: Just for clarification, that was -- any
more discussion on this? Julie?

MS. WEISMAN: Marty I think wanted to speak.

MS. CAROE: Marty.

MARTY: I thought yesterday it was pigments that
are on the national list. That's what I thought we heard
yesterday. I'm not sure.

MS. CAROE: We'll go back to that, Marty. We've got to work on this issue first. So, as far as the format of this whether it's iii or the number 3. Julie?

MS. WEISMAN: I have one more question for George. Is there any significant detriment created by referring to this as iii instead of number 3?

MS. CAROE: You'll have to approach the podium to speak.

GEORGE LOCKWOOD: It has the same result.

MS. CAROE: George, George, I need you to approach the podium to speak since it's on the record and please give your name and affiliation.

GEORGE LOCKWOOD: Julie, could you repeat the question?

MS. CAROE: If it's listed as iii under 2 instead of as its own separate number 3 is that going to be detrimental at all the spirit of the intent?

GEORGE LOCKWOOD: No. You're dealing with --

MS. CAROE: George, you need to give your name and your affiliation.

GEORGE LOCKWOOD: George Lockwood. I'm chair of the Aquaculture Working Group. I don't think there's a significant difference. Our proposal was the letter 3. If you're going to put it iii's you want to take the and off the
first i and put it on the second i.

MS. CAROE: Okay. Thank you. Thank you, George.

Any further discussion from the board on this issue? So, right now as it stands we're looking at iii is how it's amended. Any discussion on other issues related to this? Joe and then Jeff.

MR. SMILLIE: I'm sorry, Madam Chair, related to this specific one?

MS. CAROE: This --

MR. SMILLIE: This iii?

MS. CAROE: This motion.

MR. SMILLIE: Oh, no.

MS. CAROE: No. So, everybody's okay with iii and there's no further discussion on this motion? Seeing none, hearing none, we're going to vote.

MR. GIACOMINI: Are we going to deal with the question on pigments on the national list?

MS. CAROE: Somebody's got to ask the question. Is there someone who wants to bring up the issue and talk about that? Jeff?

DR. MOYER: Just a point of order. Are we talking about other changes on here or simply that change?

MS. CAROE: We finished that change and I was looking for any other comments on the motion. Jeff and then Joe. Jeff and then Joe.
MR. MOYER: I did not hear being read on page 15 item 205.258, the change from one year to three years or 36 months, however we had it. And also the topping of item 205.605. I'm sorry, 603.

MR. ENGELBERT: We missed that. Let me read through the changes also on 205.258. We somehow skipped over that as we were going down through. Under A, that now reads aquatic plants may be grown in organic systems for feed for aquatic species that utilize algae for food. We provided that. We deleted human consumption and as out of that sentence. Then under 1, we've changed that to read any pond or containment vessel from which algae are intended to be represented must have had no prohibited substances applied for 36 months immediately preceding the harvest of the crop. And then as Jeff said down in 2 we had deleted where -- well, aquatic plants may be provided to solve macro nutrients and micro nutrients including trace minerals, chelating compounds and vitamins listed in 205.601. Then we deleted the 205.603. I apologize. Somehow I missed that change.

MS. CAROE: So that is part of the original motion?

MR. ENGELBERT: That's part of the original change, yes.

MS. CAROE: Is there any -- Joe?

MR. SMILLIE: I would suggest an amendment to page
8, 205.252, Section J to be deleted. Section J manure from organic terrestrial animals is accomplished with the plan in section 205.203 may be used to fertilize aquaculture product and organic production systems. Compost and manure must not be applied within 30 days of harvest of aquatic products for human consumption. Manure, whether compost or not, shall not be applied to aquaculture production systems other than ponds.

My amendment is to remove that section.

MS. CAROE: Is that amendment accepted by the motion?

MR. ENGELBERT: Yes, it is.

MS. CAROE: Okay. So, it's now part of the -- the motion is now amended to delete that section. Any other comments? Jeff?

MR. MOYER: Question on that latest change. If we accept that change do we then have to look at Section 205.258, item B, mentions manure from terrestrial animals may not be used to fertilize aquatic plants unless composted as provided under 205.252. I believe that should also be stricken.

MS. CAROE: You're offering another amendment?

MR. MOYER: I suppose I am.

MS. CAROE: Is that motion -- I mean, is that amendment accepted by the motioner?
MR. ENGELBERT: Just a minute, please.

MS. CAROE: Just a minute.

MR. ENGELBERT: Yes, it is accepted.

MS. CAROE: Okay. As the motion stands it's been amended again. Any other comments, questions?

MS. WEISMAN: Did we discuss the change on page 13 to 205.255K which also involves changing a one year period to a 36 month period? Because I think that we stopped at the iii thing and we skipped something when we went on.

MS. FRANCES: Can we go back to the prior change? I didn't get a chance to -- I just want to make sure I get it up here on the screens, the other -- did we not finish something on it? Is it accepted?

MS. CAROE: Slow down.

MS. FRANCES: I'm sorry.

MS. CAROE: Hold on. Jeff, can you restate which section needs to be removed?

MR. MOYER: Certainly, Valerie. It is found on page 15 under Section 250.258, item B, the entire item is going to be removed. My recommendation is to remove it.

MS. CAROE: Okay. That's been captured.

MR. MOYER: Thank you.

MS. CAROE: Okay. Now, Julie, back to your area.

MS. WEISMAN: When you get a chance, Valerie, can you please put up Section 205.255. That's page 13 and I want
to see Section K. Scroll down to Section K.

MR. ENGELBERT: Madam Chair, yes, I've apparently missed another change and I apologize for that again. This is under 205.255, aquaculture.

(Discussion off the record)

MR. ENGELBERT: Okay. I'll re-read that last amendment under K. Production systems with direct soil water contact are allowed provided that a conversion period of 36 months from the date of the last application of prohibited substance immediately preceding the high risk to aquatic animals occurs under organic management before production can be certified organic. That would change from one year to 36 months is the basic change there.

MS. CAROE: So that was a part of the changes made in the original motion voted on by the livestock committee.

MR. ENGELBERT: Yesterday, yes.

MS. CAROE: Are there any other discussion on the full motion? Dan?

MR. GIACOMINI: Just a note. There was some question regarding national pigment, a comment of it meaning to be on national list. The change that was made and I don't know if Kevin hit it or not was that nutritional pigment compounds that appear on 205.603 or organically produced was the change that was made for any question that was there and I'm assuming Kevin got that one.
MR. ENGELBERT: Yes, I did read that.

MS. CAROE: Any other discussion on this? Are we prepared to vote? No other discussion. Okay. We will start the votes -- this is tough -- with Joe. No, Jeff. Hold on.

All right. Joe.

Yes, before we vote is there any conflict of interest any board members to declare? The second was Joe Smillie. The amendment was accepted by the motion. There was no second. Okay. You want to restate the motion. It's in a summary form, Kevin, before we vote?

MR. ENGELBERT: I've already shifted gears but I will go back. I make a motion to accept the aquaculture recommendation as proposed.

MS. CAROE: And there was a second so we are prepared to vote at this point. Joe was the second.

Starting with Joe.

MR. SMILLIE: Yes.

MS. CAROE: Julie?

MS. WEISMAN: Yes.

MS. CAROE: Bea?

MS. JAMES: No.

MS. CAROE: Rigo?

MR. DELGADO: Yes.

MS. CAROE: Gerald?

MR. DAVIS: Yes.
MS. CAROE: Katerina?

MS. HEINZE: Yes.

MS. CAROE: Jennifer?

MS. HALL: Yes.

MS. CAROE: Steve?

MR. DEMURI: Yes.

MS. CAROE: Dan?

MR. GIACOMINI: Yes.

MS. CAROE: Tracy?

MS. MIEDERMA: Yes.

MS. CAROE: Kevin?

MR. ENGELBERT: Yes.

MS. CAROE: Jeff?

MR. MOYER: Yes.

MS. CAROE: And the Chair votes yes. The votes are 1, 13, zero, 2. Motion passes. All right. Moving on to your next item.

MR. ENGELBERT: We, the livestock committee, would like to bring the cloning recommendation back to the table and offer up some changes in language that we have agreed to. If Valerie can bring that up on the screen I'll go through what we are now proposing. On the first page under introduction we would like to add in the following, the last sentence.

Furthermore, the NOSB is very concerned with the
issues of progeny of animals that are derived using cloning technology. But, on page 3, under recommendation, we would like to propose that this reads the livestock committee recommends that the NOP recommend rule change to clarify that cloning technology including all progeny and succeeding generations of those progeny be excluded from organic production.

And down under 205.2, terms defined, the livestock committee recommends that read excluded methods. A variety of methods used to genetically modify organisms or influence their growth and development by means that are not possible under natural conditions or processes and are not considered compatible with organic production. Such methods include cell fusion, micro-encapsulation and macro-encapsulation, cloning, and recumbent DNA technology, including gene deletion, gene doubling, introducing a foreign gene, and changing the positions of genes when achieved by recumbent DNA technology.

Such methods do not include the use of traditional breeding, conjugation, fermentation, hybridization and in vitro fertilization, artificial insemination or tissue culture. The livestock committee also recommends the following addition to the regulation. Under 205.236, origin of livestock, under B, the following are prohibited, three livestock progeny and all succeeding generations from cloned
livestock, reproductive materials or any other products
derived from animals produced using animal cloning
technology. And the livestock committee and the NOSB will
work in collaboration with the NOP on further rulemaking
recommendations as additional issues are identified.

In conclusion, to strengthen and clarify the
existing rules, the NOSB livestock committee recommends that
the NOP amend the regulations to add the animal cloning
technology to the definition of excluded methods and that the
NOP update other sections of the rule to ensure that animal
cloning technologies excluded, including all generations of
progeny of cloned animals and a period and the last part of
that would be deleted.

MS. CAROE: Is there a second?
MR. MOYER: I'll second that.
MS. CAROE: Let's enter into discussion then. I
guess I'm going to start. I don't know the changes that have
been made, Kevin, from the position that was taken up
yesterday.

MR. ENGELBERT: Okay. I can go over them.
MS. JAMES: And, Kevin, would you mind starting at
the top of those changes?

MR. ENGELBERT: Yes, I will.
MS. JAMES: Thank you.
MR. ENGELBERT: The changes from yesterday are
under the second paragraph under introduction we want to add back in the very last sentence of that paragraph.

Furthermore, the NOSB is very concerned with the issues involving the progeny of animals that are derived using cloning technology period. The next change from yesterday --

MS. CAROE: Hold on, hold on. On that point, so, what you struck from that sentence that was in there yesterday is not showing up on here because there was more on that sentence yesterday but the strike out isn't shown.

MR. ENGELBERT: The rest of the sentence that was being struck, will work with the NOP on further rulemaking recommendations as issues are identified. We've moved that part of the sentence down to the end of the recommendation.

MS. JAMES: My question is for Valerie. Do we have the tracked changes that were made?

MS. FRANCES: He gave me a different document. I don't know. I mean, I could try to pull up the other document and how quickly I can do that.

MS. CAROE: That's okay. Continue on with the changes that were made, Kevin.

MR. ENGELBERT: Okay. The next change that was made is under for recommendation. We have eliminated the words and all its products from that first sentence so that it reads the livestock committee recommends that the NOP implement rule change to clarify the cloning technology
including all progeny and succeeding generations of those progeny be excluded from organic production.

The next change that we made from yesterday was under terms defined. We had originally proposed that the second sentence reads such methods include self fusion, micro-encapsulation, and macro-encapsulation, somatic cell nuclear transfer or other methods of animal cloning and that was also amended to read or other methods of asexual reproduction of animals.

We have replaced that entire phrase with the word cloning. The next change that differs from yesterday's proposal was under 205.236, origin of livestock, B-3. The original proposal yesterday said livestock progeny and all succeeding generations from cloned livestock, reproductive materials, or, any other products derived from animals produced using cloning technology and then in parentheses includes somatic cell, nuclear transfer, or other cloning methods and then an amendment was made to change that to methods of asexual reproduction of animals. And we've agreed to take out all those words that were included in the parentheses and stop it with a period after saying using animal cloning technology.

Then the final change that we agreed to was under the conclusion. We took out the last few words of that conclusion which stated and products derived from organisms
subjected to such technology be excluded.

MS. CAROE: Any discussion on this? Tracy?

MS. MIEDERMA: I'll just restate for the record something that has become very clear since the cloning issue has arisen which is that organic consumers, and, in fact, the entire organic community has spoken in a very crystal clear manner that cloned animals have no part of the organic system and I would just urge my colleagues to have a similar -- show a similar level of unanimity in supporting this motion.

MS. CAROE: Gerald.

MR. DAVIS: In listening to Kevin's verbal descriptions of what has been deleted I believe we still have not deleted the last part of that phrase that is highlighted right now and that products derived from organisms. He stated it but it hasn't been done up here. Is that correct, Kevin?

MR. ENGELBERT: Yes, that's true Gerald, that needs to be deleted and then we'll be current.

MR. DAVIS: Then cross-referencing. There's another statement that concerns products resulting from, I think it was in your origin livestock section. I'm not sure what number that is. We were just working what number that is, that last statement there, isn't that tied to what we just eliminated from a second ago? Or any other products derived from animals. Are they related or am I
misunderstanding it?

MR. ENGELBERT: The way we've interpreted that that is referring only to those products that would be used under before the origin of livestock. It wouldn't be products from those animals. There is a difference in that.

MR. DAVIS: Okay.

MS. CAROE: Bea?

MS. JAMES: I want to compliment and Kevin and Jeff on the changes that you've made to the recommendation and I know that yesterday I expressed some concern around really trying to make sure that we had clarity and I understand that the process of trying to really define how to audit progeny, I mean, that's going to be complicated no matter what the recommendation is and I support the -- I support your recommendation and I support telling the NOP that we on the NOSB do not support the idea of cloning and its progeny.

MS. CAROE: Is there other discussion? Dan?

MR. GIACOMINI: I just wanted to make note that we did hear a lot of debate or a lot of testimony regarding specificity of terms and that cloning was described in various ways. I think what we've pretty much came to was the fact that FDA created an entire document on the risk assessment of cloning. They defined cloning of what it is and what it isn't and that we didn't need to go into rehashing those terms in our document when we didn't have
control over it anyway.

MS. CAROE: Any other discussion? I find myself in a very difficult position with this recommendation. Although I am totally in favor, as I said on the record already with excluding cloning and progeny of clones, I feel that this origin of livestock section is unenforceable and may not be able to be implemented and I don't like the precedence it sets when board recommendations cannot be implemented.

The repercussions of that are dangerous. However, I feel that it is completely necessary and I believe as the one that initiated this action in the very beginning to make a statement about this, to make sure that the organic community understands that this is not a loose interpretation, this is indeed part of this regulation.

So, I'm not quite sure how I'm going to vote on this and it's not related to my desire to help this industry because -- go ahead, Kevin.

MR. ENGELBERT: Well, I'd just to explain briefly, Andrea, that when the rule was published cloning wasn't even on the horizon, let alone part of the agricultural scene and the livestock committee believes that whether it's implemented or not it should be and we need to make a strong statement and that's what we think and that's why we've proceeded ahead with that language.

It's a recommendation and we'll see where it goes
from there but we think this is the time to make that strong statement.

MS. CAROE: And I am not in disagreement with making strong statements. I am in disagreement with offering world change language that can't be implemented. Jeff and then Julie.

MR. MOYER: Andrea, I just want you to know that there are other members of the livestock committee like myself that share your concern and your opinion over the question of enforceability and that's been discussed on every one of our phone conversations and I think Kevin would attest to that that I've always had a real problem and issue making bold statements that aren't enforceable.

However, in this particular case with the way we've worded this I feel very comfortable with the language that we've chosen.

MS. CAROE: Bea?

MS. JAMES: I want to make sure that the livestock committee feels comfortable that with the revised recommendation that it puts us in a stronger position to deal with the fact that 6509B and OFPA mentions that breeder stock may be purchased from any source -- may be purchased from any source.

MS. CAROE: Kevin.

MR. ENGELBERT: That's a good point, Bea, and I
neglected to mention that's why, yes, we do, we believe that
strongly. That played in our decision making.

MS. CAROE: Any further discussion?

MR. DELGADO: I just want to highlight the fact
that it was included here that the NOSB would work closely
with the NOP in developing further this rulemaking. We all
understand that this is a new field, new issues are coming up
and it's not a done deal. We still will have to come back
and re-hash, work on the details and so forth.

MS. CAROE: Well, just in response to that from my
minority opinion on this. I have no issue with that. In
fact, I urge strong language about collaborating with the
program on rulemaking. However, you've not only done that
but you've offered rule change and that rule change, not
enforceability at this point, but, even implementation,
whether this is going to be -- whether the USDA can make this
rule change is questionable at best. And that's what
concerns me.

Bea?

MS. JAMES: I'd like to just ask you why you feel
that if the public and the NOSB is in a strong position to
say this is what we believe cloning means for organic that
you would not imagine that the NOP could not reinforce and
support that?

MS. CAROE: It would be like a lobbying pass that
you could not -- that nobody can enforce. I can't draw an
analogy to this but there is no -- but, let me just finish my
thought, Julie. There are indicators that can tell us about
the intangibles that we try to get to. What we've set here
right now is intangible. There is no identification
whatsoever. There's no pedigree program for these animals.
There's no physical markers. There's nothing to identify the
progeny and then the progeny and progeny of these animals.

So, there is absolutely no way to tell if this is
happening. If a farmer who goes through all the appropriate
channels and buys an animal that they have bought in good
faith from somebody who gives them information that it is
indeed, you know, non-product of cloning, they really --
there's really no way of them being guaranteed that. You
know, I mean, you're being held to something that you can't
do anything about.

That's like saying that, you know, you're not
buying a home on top of a, you know, 2,000 year old burial
site. You may not have that information. You know, it's --
I think that when it clears the program that there's going to
be big issues with being able to put this into regulation
when it cannot be and that's just in my opinion and it may be
when it gets through the program it can be put in there and
my suggestion from the very beginning that we enter into that
collaboration and then only put forward what can be done.
MS. JAMES: I just want to make comment on that and I appreciate what you're bringing up and I understand what you're saying but I believe that in lieu of what happened with Harvey that the NOP is probably a little bit more astute to making sure that the organic regulations and organic recommendations that get submitted to them based on what the industry, the public, and NOSB believes is truly what maintains the organic integrity according to OFPA they would be more inclined to make sure that they don't end up in a situation where they're not enforcing the right thing.

MS. CAROE: Just a quick response to that. I am not -- I can't seem to be able to express myself. I am not in any way, shape, or, form thinking that the program or anyone doesn't believe that this is good. I believe that the mechanism won't allow this to go through. And, so, it's not about what they want. I think the program asked us to address this.

I really feel that they want this on the books. However, it's the format and the mechanism that I have issue with and I think it's going to prevent this from moving forward and the actions of this board have an effect. So, that's -- I don't really want to say anymore on the subject because I understand where everybody's at and they understand that we don't have to beat this dead horse.

So, any other discussion? Hearing none, seeing
none, I will call for conflicts. Anybody have a conflict of interest that they need to express? Hearing none, seeing none, we will go to vote.

Starting with Julie.

MS. WEISMAN: Yes.

MS. CAROE: Bea?

MS. JAMES: Yes.

MS. CAROE: Rigo?

MR. DELGADO: Yes.

MS. CAROE: Joe?

MR. SMILLIE: Yes.

MS. CAROE: Katerina?

MS. HEINZE: Yes.

MS. CAROE: Jennifer?

MS. HALL: Yes.

MS. CAROE: Steve?

MR. DEMURI: Yes.

MS. CAROE: Dan?

MR. GIACOMINI: Yes.

MS. CAROE: Tracy?

MS. MIEDERMA: Yes.

MS. CAROE: Kevin?

MR. ENGELBERT: Yes.

MS. CAROE: Jeff?

MR. MOYER: Yes.
MS. CAROE:  Joe?

MR. SMILLIE:  Yes.

MS. CAROE:  And the Chair abstains.  Motion passes.

Zero nos, 12 yeses, one abstention, two absent.

We will take a recess for lunch.  It is now 12:20

so not to get too far behind 1:30 I think is reasonable, 1:30

sharp, not a minute later.

(Whereupon, a luncheon recess was taken at 12:24 p.m.)
AFTERNOON SESSION 1:33 p.m.

MS. CAROE: All right. We're going to get back to it. We'll be starting with handling materials. But, before we do I just wanted to kind of set the tone for these votes which this will be, you know, the first big batch of 606 votes we've ever had.

I want to remind the members to vote weighing the evidence that we have through the petition process, through the public comment, through the written comments that we've received and to make your decisions with prejudice, accepting the risk, and when I say risk you need to look at the risk not only to the organic integrity and ultimately the integrity of the organic label, but, the risk to the products that have a place in the market and how that risk balances with the other parts of this process that allows them to be used in organic products. So, with that said, I mean, I just wanted to make sure that everybody understands that this is about making that judgment as opposed to any principle or emotional reasons for wanting and not wanting a product but this is based on the evidence and information that we have on hand.

That said, I will turn over to Julie Weisman. However, just one note before Julie takes over I know that Katerina wanted to make a quick statement so let me recognize Katerina.
MS. HEINZE: I just wanted to declare a possible conflict in trust. I think most folks know that I work for Hamburg that produces a variety of organic consumer products. I do not participate in any of the sourcing or R&D decisions. And, frankly, I don't really know which of these we do use and we don't use. But, I just wanted to get it out there so my colleagues on the board were aware.

MS. CAROE: Thank you. Jennifer.

MS. HALL: I'd like to just add one more comment before we get into these materials and encourage all of us to look at these materials in an equitable manner and when you're considering commercial availability that that lens also includes what is considered reasonable access and that while we've talked a bit about large companies not having access to large enough quantities I think it's an equal measure on the other end to talk about these people that can really not accommodate potentially a huge quantity that only they can get access to and I would hate to see us further hit ourselves against -- not against, but, have conversation continue between local and organic and I think it's generally the small operations that are the local and that we do a great disservice to all of us to continue that conversation to continue that conversation in another way.

MS. CAROE: Thank you. With that, --

MR. DEMURI: Since Katerina did it I have to do it
now too. I also for a large CPG company and I do have influence over R&D decisions and part servicing but we do not use any of the items on the list to be voted on today. So, I just wanted to make sure everyone was aware of that on the board.

MS. CAROE: Thank you. Now, with that, I will turn it over to Julie for the handling committee to go through their action items.

MS. WEISMAN: Thank you, Madam Chair. I wanted to say a couple of general things and reminders as we kick off. One is although yesterday in discussion we were able to make presentations with items kind of lumped in categories, like things with like things. We are not free to vote that way. Most of that was because at the time the agenda had to be published I hadn't had a chance to organize how they should be grouped and so I gave an instruction to Valerie to do it alphabetically because that was the best that we could do at the time and since it got published that way I believe we are bound to vote on them in that order.

So, it may not make as much sense as yesterday. But, I will do everything that we can and I ask my fellow board members to help me do everything -- to help me keep this sensible and unconfused. The second thing I wanted to say is to just remind everyone that the recommendations that you see on the first page of section 7, the bold column that
says committee vote, those -- a lot of these are worded rejected and I wanted to remind everyone that rejected in that column doesn't mean that we voted -- not that we said the recommendation was to reject it. All of the recommendations for all of the handling materials that we're going to discuss today were worded in the positive. In other words, they were recommendations to list.

The handling committee may have voted to reject them, but, if we -- if any member of the board has been persuaded by what they've heard or read since that time we do not have to make any -- we don't have to make amendments in order to vote positively for listing. And then I think this is my -- finally, I also want to remind everyone of something that was discussed yesterday was that on Monday, after public comment, the handling committee did vote to change some of their recommendations and for those we have revised recommendations and those Valerie will put up on the screen and I'll just say briefly, mention briefly what they were.

We voted to remove all year limit annotations with the exception of rice starch. We voted to separate both annatto and paprika, each of those into two separate petitions, one for the water extracted version and one for the oil extracted version. And then we voted to change our recommendation on whey protein concentrate 80 percent because we received -- well, we voted to change it. I'll go into the
details when it comes up for vote.

Also, we voted to change in our recommendation for both inulin and FOS we voted to change our recommendation for listing on 606. This is not new information. This is not new information. This was all -- these were all mentioned yesterday in our discussions but I just wanted to remind everyone that there are some recommendations that were changed and people will get the chance to see as we go.

So, with that being said, the first item on our list, it looks like we're going to be going through the colors, all the colors in alphabetical order. Annatto extract is first and as I just mentioned that is now two separate petitions. So, we're going to do water first, water extracted first and then oil and these are very narrow lines.

So, the motion -- I motion that we -- the motion is that to recommend annatto, colors annatto water-extracted for listing on 606.

MR. SMILLIE: Second.

MS. CAROE: A motion by Julie and a second by Joe Smillie. Discussion? Bea?

MS. JAMES: Julie, I just want to make sure I understand. So, I guess vote means that we are voting to accept listing it?

MS. WEISMAN: Correct.
MS. CAROE: Board discussion? Hearing none, seeing none the votes will start with Bea.

MS. JAMES: Yes.

MS. CAROE: Rigo.

MR. DELGADO: Yes.

MS. CAROE: Gerald?

MR. DAVIS: Yes.

MS. CAROE: Katerina.

MS. HEINZE: Yes.

MS. CAROE: Jennifer.

MS. HALL: Yes.

MS. CAROE: Steve.

MR. DEMURI: Yes.

MS. CAROE: Dan?

MR. GIACOMINI: Yes.

MS. CAROE: Tracy.

MS. MIEDERMA: Yes.

MS. CAROE: Kevin.

MR. ENGELBERT: Yes.

MS. CAROE: Jeff.

MR. MOYER: Yes.

MS. CAROE: Joe.

MR. SMILLIE: Yes.

MS. CAROE: Julie.

MS. WEISMAN: Yes.
MS. CAROE: The Chair votes yes. That is zero abstentions, zero absent, zero no's -- two absent. I'm sorry, two absent. Try that again. Zero no, 13 yeses, zero abstentions, and two absent. Motion passes.

MS. WEISMAN: Okay. Next up is annatto, annatto colors oil extracted which I move -- the motion is recommendation for listing on 205.606. Do I have a second?

MR. DEMURI: Second.

MS. CAROE: Okay. The motion by Julie and the second by Steve. Any discussion? Hearing none, seeing none, the vote will start with Rigo.

MR. DELGADO: Yes.

MS. CAROE: Joe.

MR. SMILLIE: Yes.

MS. CAROE: Katerina.

MS. HEINZE: Yes.

MS. CAROE: Jennifer.

MS. HALL: Yes.

MS. CAROE: Steve.

MR. DEMURI: Yes.

MS. CAROE: Dan.

MR. GIACOMINI: Yes.

MS. CAROE: Tracy.

MS. MIEDERMA: Yes.

MS. CAROE: Kevin.
MR. ENGELBERT: Yes.

MS. CAROE: Jeff.

MR. MOYER: Yes.

MS. CAROE: Joe.

MR. SMILLIE: Yes.

MS. CAROE: Julie.

MS. WEISMAN: Yes.

MS. CAROE: Bea.

MS. JAMES: Yes.

MS. CAROE: The Chair votes yes. Votes are zero against, 13 for, zero abstentions, two absent. Motion passes.

MS. WEISMAN: Going alphabetically the next on the list is beet juice, colors, beet juice. And the recommendation was and is still for listing on 606.

MR. SMILLIE: Second.

MS. CAROE: Motion by Julie, second by Joe Smillie. Any discussion? Hearing none, seeing none, the vote will start with Gerald.

MR. DAVIS: Yes.

MS. CAROE: Katerina.

MS. HEINZE: Yes.

MS. CAROE: Jennifer.

MS. HALL: Yes.

MS. CAROE: Steve.
MR. DEMURI: Yes.
MS. CAROE: Dan.
MR. GIACOMINI: Yes.
MS. CAROE: Tracy.
MS. MIEDERMA: Yes.
MS. CAROE: Kevin.
MR. ENGELBERT: Yes.
MS. CAROE: Jeff.
MR. MOYER: Yes.
MS. CAROE: Joe.
MR. SMILLIE: Yes.
MS. CAROE: Julie.
MS. WEISMAN: Yes.
MS. CAROE: Bea.
MS. JAMES: Yes.
MS. CAROE: Rigo.
MR. DELGADO: Yes.
MS. CAROE: The Chair votes yes. That is zero no's, 13 yeses, zero abstentions, two absent. Motion passes. Next.
MS. WEISMAN: Next we have colors betacarotene. Again, the recommendation was and continues to be for listing on 205.606.
MS. CAROE: Does anyone second?
MR. DEMURI: Yes, second.
MS. CAROE: Is there any discussion? What was the committee vote?

MS. WEISMAN: Okay. At the time the committee voted no 4 to 1 because there had not been compelling evidence at that time back in February. We didn't -- it didn't make sense -- betacarotene comes from carrots. We had knowledge that there's lots of organic carrots grown and we didn't understand it. We didn't have enough information explaining why this could not be obtained organically. We've heard a lot of comment since that time particularly in the last 24 hours addressing that question and I think that's what we're up to.

MS. CAROE: Okay. Is there any further discussion? Tracy?

MS. MIEDERMA: I work for a farm that's a large carrot processor and just wanted to find out whether that would warrant a conflict of interest.

MS. CAROE: Does your company have a financial interest on the outcome of this vote?

MS. MIEDERMA: There could be a future financial interest and there could be definitely the appearance of impropriety.

MS. CAROE: Does the board feel that Tracy is in conflict?

MS. JAMES: Conventional carrots?
MS. MIEDERMA: Conventional, organic, and sustainable.

MS. CAROE: Are you recusing yourself?

MS. MIEDERMA: I would prefer to.

MS. CAROE: We accept. Thank you.

MR. DAVIS: That would be a similar situation for me. I also work for a carrot processor growing organic carrots and the company could potentially stand to gain from growing organic carrots for someone wishing to make an organic color.

MS. CAROE: Does the board have any issues with Gerald? Somebody want to say something? Gerald, are you recusing yourself?

MR. DAVIS: I will recuse myself.

MS. CAROE: Gerald's recused.

MR. DAVIS: On all the carrots.

MS. CAROE: Any others?

MS. WEISMAN: You know, I would like to say, I'm not -- I have a little bit of hesitation about having people with expert knowledge not participating in the vote. What's the downside here if they don't recuse themselves?

MS. CAROE: If they don't recuse themselves it calls the credibility of the vote.

MS. WEISMAN: All right. Forget it.

MS. CAROE: They definitely have been part of the
participation in the discussions so I think we have the
benefit of their knowledge.

MS. WEISMAN: Okay.

MS. CAROE: I don't want to call that into
question. So, any further discussion? All right. Any
further discussion? Hearing none, seeing none, the vote will
start with Katerina.

MS. HEINZE: Yes.

MS. CAROE: Jennifer.

MS. HALL: Yes.

MS. CAROE: Steve.

MR. DEMURI: Yes.

MS. CAROE: Dan.

MR. GIACOMINI: Yes.

MS. CAROE: Tracy recuses. Kevin.

MR. ENGELBERT: Yes.

MS. CAROE: Jeff.

MR. MOYER: Yes.

MS. CAROE: Joe.

MR. SMILLIE: Yes.

MS. CAROE: Julie.

MS. WEISMAN: Yes.

MS. CAROE: Bea.

MS. JAMES: Yes.

MS. CAROE: Rigo.
MR. DELGADO: Yes.

MS. CAROE: Gerald recuses. The Chair votes yes.

We have zero no's, we have 12 yeses, two absent. I'm sorry 11 yeses, two absent, and two recusals.

MS. WEISMAN: I think we need another section of the board policy manual.

MS. CAROE: Motion passes.

MS. WEISMAN: Next, black current juice. That passed handling committee back in February. The recommendation then was for listing on 606 and it still is for listing on 606.

MS. CAROE: Does anyone second?

MR. DEMURI: Second.

MS. CAROE: Okay. Motion has been made by Julie and seconded by Steve. Any discussion? Hearing none, seeing none the vote will start with -- is there any conflicts?

Okay. Hearing none, seeing none we'll start with Jennifer.

MS. HALL: Yes.

MS. CAROE: Steve.

MR. DEMURI: Yes.

MS. CAROE: Dan.

MR. GIACOMINI: Yes.

MS. CAROE: Tracy.

MS. MIEDERMA: Yes.

MS. CAROE: Kevin.
MR. ENGELBERT: Yes.
MS. CAROE: Jeff.
MR. MOYER: Yes.
MS. CAROE: Joe.
MR. SMILLIE: Yes.
MS. CAROE: Julie.
MS. WEISMAN: Yes.
MS. CAROE: Bea.
MS. JAMES: Yes.
MS. CAROE: Rigo.
MR. DELGADO: Yes.
MS. CAROE: Gerald.
MR. DAVIS: Yes.
MS. CAROE: Katerina.
MS. HEINZE: Yes.
MS. CAROE: Chair votes yes. Zero no's, 13 yeses, zero abstentions, and two absent. Motion passes.
MS. WEISMAN: Next up is colors blueberry juice. This did not pass sub-committee. It was -- it failed 4 to 1.
And this was a similar situation to the betacarotene which is that at the time that we voted there was not felt to be sufficient data explaining why an agricultural product that everyone knew was being grown plentifully has organic was not available for this purpose and I'm probably not going to repeat the statement. I need some kind of shorthand to
remind everybody because there's going to be quite a few more like this.

But, anyway, again, we've heard much comment and much more additional information in the last 24 to 48 hours and so the recommendation was and is for listing on 606. Do I have a second?

MR. DEMURI: Second.

MS. CAROE: Motion was made by Julie and seconded by Steve. Any discussion? Any conflicts? Tracy.

MS. MIEDERMA: Again, Stahlbush is a large blueberry grower and processor and I am not organic on the blueberries.

MS. CAROE: Potentially would you be doing organic blueberries?

MS. MIEDERMA: No.

MS. CAROE: Potentially if you have -- potentially if this is listed and somebody's sourcing the convention you'd be able to supply?

MS. MIEDERMA: Exactly. So I would prefer to recuse.

MS. CAROE: We accept. I appreciate that. Any other conflicts? Any further discussion? Hearing none, seeing none, we will start the vote with Steve.

MR. DEMURI: Yes.

MS. CAROE: Dan.
MR. GIACOMINI: Yes.

MS. CAROE: Tracy recuses. Kevin.

MR. ENGELBERT: Yes.

MS. CAROE: Jeff.

MR. MOYER: Yes.

MS. CAROE: Joe.

MR. SMILLIE: Yes.

MS. CAROE: Julie.

MS. WEISMAN: Yes.

MS. CAROE: Bea.

MS. JAMES: Yes.

MS. CAROE: Rigo.

MR. DELGADO: Yes.

MS. CAROE: Gerald.

MR. DAVIS: Yes.

MS. CAROE: Katerina.

MS. HEINZE: Yes.

MS. CAROE: Jennifer.

MS. HALL: Yes.

MS. CAROE: The Chair votes yes. Vote is zero no's, 12 yeses, zero abstentions, two absent and one recusal. Motion passes.

MS. WEISMAN: Next is colors form carrot juice.

This like blueberry and betacarotene before was a recommendation for listing which was rejected by the handling
committee because of a lack of information at that time. The recommendation was and still is for a listing on 606. Do I have a second?

MR. SMILLIE: Second.

MS. CAROE: Okay. So motion by Julie and seconded by Joe. Any conflicts for carrot juice?

MR. DAVIS: Can I recuse myself?

MS. CAROE: Gerald recuses.

MS. MIEDERMA: I'd like to recuse myself.

MS. CAROE: Tracy recuses. Any discussion?

Hearing none, seeing none we're back to the front. Dan.

MR. GIACOMINI: Yes.

MS. CAROE: Tracy recuses. Kevin.

MR. ENGELBERT: Yes.

MS. CAROE: Jeff.

MR. MOYER: Yes.

MS. CAROE: Joe.

MR. SMILLIE: Yes.

MS. CAROE: Julie.

MS. WEISMAN: Yes.

MS. CAROE: Bea.

MS. JAMES: Yes.

MS. CAROE: Rigo.

MR. DELGADO: Yes.

MS. CAROE: Gerald recuses. Katerina.
MS. HEINZE: Yes.

MS. CAROE: Jennifer.

MS. HALL: Yes.

MS. CAROE: Steve.

MR. DEMURI: Yes.

MS. CAROE: The Chair votes yes. Zero no's, 11 yeses, zero abstentions, two absent, and two recusals.

Motion passes.

MS. WEISMAN: Next from colors purple and black. This passed at the handling committee 5 to nothing. The recommendation was and is for listing on 606. Do I have a second?

MR. DEMURI: Second.

MS. CAROE: A motion has been made by Julie and seconded by Steve. Any discussion? Any conflicts?

MR. DAVIS: I'll recuse myself also.

MS. CAROE: Gerald recuses.

MR. DAVIS: My firm grows purple carrots.

MS. CAROE: Thank you for your recusal. Any others? Hearing none, seeing none, the vote will start with Tracy.

MS. MIEDERMA: Yes.

MS. CAROE: Kevin.

MR. ENGELBERT: Yes.

MS. CAROE: Jeff.
MR. MOYER: Yes.
MS. CAROE: Joe.
MR. SMILLIE: Yes.
MS. CAROE: Julie.
MS. WEISMAN: Yes.
MS. CAROE: Bea.
MS. JAMES: Yes.
MS. CAROE: Rigo.
MR. DELGADO: Yes.
MS. CAROE: Gerald recused. Katerina.
MS. HEINZE: Yes.
MS. CAROE: Jennifer.
MS. HALL: Yes.
MS. CAROE: Steve.
MR. DEMURI: Yes.
MS. CAROE: And Dan.
MR. GIACOMINI: Yes.
MS. CAROE: The chair votes yes. Zero no's, 12 yeses, zero abstentions, two absent, and one recusal. Motion passes.

MS. WEISMAN: Next. Colors, cherry juice. This is another one that was a recommendation for listing on 606 which did not pass which failed at the handling committee 4 to 1 for the reasons previously mentioned on the previous items that had also passed the handling committee. So, the
recommendation was and still is for listing on 606.

Does anyone second?

MR. DEMURI: Second.

MS. CAROE: Motion has been made by Julie and seconded by Steve. Do we have any cherry producers, any cherry conflict? Hearing none, discussion? Wait, Tracy?

MS. MIEDERMA: I have a discussion point. Did the cherry petitioner provide the additional data that supported an availability?

MS. WEISMAN: No, the additional data that we got since the petition was mostly coming from several manufactures who have spoken in the last three days who are unable to obtain purely organic.

MS. MIEDERMA: The change on the part of the handling committee was based on the verbal data that was given in the last two days?

MS. WEISMAN: Correct.

MS. MIEDERMA: Okay.

MS. CAROE: Any further discussion? Hearing none, seeing none.

MS. WEISMAN: Actually, I want to make sure that Tracy understands that we're not changing -- there's no change in recommendation. The recommendation always was for listing. It failed at handling committee because of lack of data. So, everyone here gets to decide whether you've heard
enough in the last few days to vote differently than the
handling committee voted on the basis of what information we
had at that time.

MS. CAROE: Okay. Any further discussion?

MR. ENGELBERT: One quick point. When did you --

MS. CAROE: Kevin?

MR. ENGELBERT: I have it listed as a rejected item. Had it included committee re-vote?

MS. WEISMAN: Okay. It's not -- rejected doesn't mean that the recommendation was to reject. The recommendation was for listing and that's the same for all the other ones that show up as rejected. It was for -- it was a bad choice of words. It was for listing, but, it failed.

MS. CAROE: Yes. That's really what I was going to say is it was poor choice. It should say failed. All of the motions are to list. Any of those that say rejected should say failed. Any further discussion? Is everybody clear on the motion and clear on the opinions of the handling committee on this? Go through the motion again.

MS. WEISMAN: Okay. The original recommendation was and still is for listing on 606.

MS. CAROE: Any further discussion? Okay. Now we're prepared to vote. Kevin.

MR. ENGELBERT: No.
MS. CAROE:  Jeff.
MR. MOYER:  Yes.
MS. CAROE:  Joe.
MR. SMILLIE:  Yes.
MS. CAROE:  Julie.
MS. WEISMAN:  Yes.
MS. CAROE:  Bea.
MS. JAMES:  Yes.
MS. CAROE:  Rigo.
MR. DELGADO:  Yes.
MS. CAROE:  Gerald.
MR. DAVIS:  No.
MS. CAROE:  Katerina.
MS. HEINZE:  Yes.
MS. CAROE:  Jennifer.
MS. HALL:  Yes.
MS. CAROE:  Steve.
MR. DEMURI:  Yes.
MS. CAROE:  Dan.
MR. GIACOMINI:  Yes.
MS. CAROE:  Tracy.
MS. MIEDERMA:  No.
MS. CAROE:  And the Chair votes yes. Three no's, 10 yeses, zero abstentions, two absent. Motion passes.
MS. WEISMAN:  Next, colors. Chokeberry/aronia
juice because those are considered the same thing, or, at least, well, they are the same thing, but, they were separate petitions by two different petitioners under different names but we realize it was the same material.

This was a recommendation for listing on 606 and it passed the handling committee, passed it 5 to 0. So, the recommendation was and still is for listing on 606.

MS. CAROE: Is there a second?

MR. DEMURI: Second.

MS. CAROE: Any conflicts? Are there any conflicts? None. Discussion? Hearing none, seeing none, the vote will start will Jeff.

MR. MOYER: Yes.

MS. CAROE: Joe.

MR. SMILLIE: Yes.

MS. CAROE: Julie.

MS. WEISMAN: Yes.

MS. CAROE: Bea.

MS. JAMES: Yes.

MS. CAROE: Rigo.

MR. DELGADO: Yes.

MS. CAROE: Joe.

MR. SMILLIE: Yes.

MS. CAROE: Katerina.

MS. HEINZE: Yes.
MS. CAROE: Jennifer.

MS. HALL: Yes.

MS. CAROE: Steve.

MR. DEMURI: Yes.

MS. CAROE: Dan.

MR. GIACOMINI: Yes.

MS. CAROE: Tracy.

MS. MIEDERMA: Yes.

MS. CAROE: Kevin.

MR. ENGELBERT: Yes.

MS. CAROE: Chair votes yes. Zero no's, 13 yeses, zero abstain, two absent. Motion passes.

MS. WEISMAN: I just have a question for the new members before we get into the really meaty stuff later. Are we having fun?

BY ALL: Yes.

MS. WEISMAN: Okay. Next is colors, elderberry juice. This also was a recommendation for listing on 606 which passed, was passed by the handling committee 5 to 0. So, again, the recommendation was and still is for listing on 606.

MS. CAROE: Is there a second?

MR. SMILLIE: Second.

MS. CAROE: Any conflicts of interest? Seeing none. Any discussion? Hearing none, seeing none, the vote
will start with Joe.

MR. SMILLIE: Yes.

MS. CAROE: Julie.

MS. WEISMAN: Yes.

MS. CAROE: Bea.

MS. JAMES: Yes.

MS. CAROE: Rigo.

MR. DELGADO: Yes.

MS. CAROE: Gerald.

MR. DAVIS: Yes.

MS. CAROE: Katerina.

MS. HEINZE: Yes.

MS. CAROE: Jennifer.

MS. HALL: Yes.

MS. CAROE: Steve.

MR. DEMURI: Yes.

MS. CAROE: Dan.

MR. GIACOMINI: Yes.

MS. CAROE: Tracy.

MS. MIEDERMA: Yes.

MS. CAROE: Kevin.

MR. ENGELBERT: Yes.

MS. CAROE: Jeff.

MR. MOYER: Yes.

MS. CAROE: And the Chair votes yes. Zero no's, 13
yeses, zero abstentions, two absent. Motion passes. Moving on to grape juice.

MS. WEISMAN: Grape juice. Juices are separate. Okay. Good. Grape colors, grape juice was a recommendation for listing on 606 which failed the handling committee by a vote of 4 no, 1 for because of insufficient data at that time. Everyone has heard quite a number of public commentors come up and discuss this material. So, the recommendation is for colors, grape juice, to be listed onto 205.606.

MS. CAROE: Is there a second?

MR. DEMURI: Second.

MS. CAROE: Any conflicts with grape juice color? Seeing none. Any discussion?

MS. JAMES: I just wanted to ask. Originally, Julie, when you have a lack of information was that on the supply that you felt like you didn't have enough information that showed the availability of supply?

MS. WEISMAN: Exactly. In other words, we have knowledge on the -- you know -- on our committee that there are organic grapes and there was no information given in the petitions that we had in front of us that said why there are organic grapes. Is there a problem having organic grape juice color and we've heard from a number of manufacturers address that.

MS. CAROE: Gerald?
MR. DAVIS: Perhaps I missed that in the first day's proceedings of public comments. I don't specifically remember grapes being addressed by the speakers that I heard.

MS. CAROE: Julie.

MS. WEISMAN: It was actually addressed by the young woman from the Netherlands. Oh, also by Mr. Taylor from IACM, from the color manufacturer's trade association also addressed that.

MS. CAROE: Any other discussion? Hearing none, seeing none, the vote will start with Julie.

MS. WEISMAN: Yes.

MS. CAROE: Bea.

MS. JAMES: Yes.

MS. CAROE: Rigo.

MR. DELGADO: Yes.

MS. CAROE: Gerald.

MR. DAVIS: Yes.

MS. CAROE: Katerina.

MS. HEINZE: Yes.

MS. CAROE: Jennifer.

MS. HALL: Yes.

MS. CAROE: Steve.

MR. DEMURI: Yes.

MS. CAROE: Dan.

MR. GIACOMINI: Yes.
MS. CAROE: Tracy.
MS. MIEDERMA: Yes.
MS. CAROE: Kevin.
MR. ENGELBERT: No.
MS. CAROE: Jeff.
MR. MOYER: Yes.
MS. CAROE: Joe.
MR. SMILLIE: Yes.
MS. CAROE: The Chair votes yes. The votes are 1, 12, 0, 2. One against, 12 for, zero abstained, two absent. Motion passes.
MS. WEISMAN: Next we have colors, grape skin extract and that's listed separately because it is a different process. It's a different fraction of the grape. That also was a recommendation for listing on 606 which failed at the handling committee because of a similar lack of information at that time. So, the recommendation was and still is for listing on 606.
MS. CAROE: Is there a second.
MR. DEMURI: Second.
MS. CAROE: Motion has made by Julie, seconded by Steve. Is there any conflicts with grape seed extract.
MS. WEISMAN: Skins.
MS. CAROE: Skin. Grape skin extract color. Any discussion? Hearing none, seeing none, the vote will start
with Bea James.

MS. JAMES: Yes.

MS. CAROE: Rigo.

MR. DELGADO: Yes.

MS. CAROE: Joe.

MR. SMILLIE: Yes.

MS. CAROE: Katerina.

MS. HEINZE: Yes.

MS. CAROE: Jennifer.

MS. HALL: Yes.

MS. CAROE: Steve.

MR. DEMURI: Yes.

MS. CAROE: Dan.

MR. GIACOMINI: Yes.

MS. CAROE: Tracy.

MS. MIEDERMA: Yes.

MS. CAROE: Kevin.

MR. ENGELBERT: No.

MS. CAROE: Jeff.

MR. MOYER: Yes.

MS. CAROE: Gerald.

MR. DAVIS: Yes.

MS. CAROE: Julie.

MS. WEISMAN: Yes.

MS. CAROE: And the Chair votes yes. One against,
12 for, zero abstentions, two absent. Motion passes.

MS. WEISMAN: Next we have colors, hibiscus. This is a recommendation for listing which failed the handling committee 4 no's to 1 yes because of a similar lack of the data given on why the organic raw materials were not available.

MS. CAROE: Is there a second?

MR. DEMURI: Second.

MS. CAROE: Is there any conflict with hibiscus juice colors? Any discussion? Joe?

MR. SMILLIE: Yeah. This one we did have a manufacturer present documentation of the availability of organically certified hibiscus colors. I wished at the time I would have pursued, you know, the volume that they were offering to add but I missed it and, hence, I'm somewhat uncertain as to what the capability and the volume of that company is at this time so I have a bit of quandary on this one.

MS. CAROE: You have the option to amend the motion to defer. I would just remind the board that as opposed to rejecting, deferring is an option if you feel that you don't have the information for a positive vote.

Jennifer?

MS. HALL: It is my recollection that both the testimonies were given by producers and that the issue was
proximity of the product to processing so it was the same
issue that ones that might have had it more proximate to
actually make the color but the second person, same process,
did have it proximate to them. They were both producers of
the color, not a user and a producer.

MS. CAROE: Dan. Then Joe.

MR. GIACOMINI: If the organic product does exist
the certifier will not allow it to be used under 606.

MS. CAROE: Joe?

MR. SMILLIE: In principle, I agree. That's the
way I've always seen it. It's not a problem to list it.
It's a certifier's job. But, in some cases when you're
presented that the product is available listing may allow the
inconsistency of certifier applications to use it so I'd like
to make an amendment to defer hibiscus. That leaves the
industry time to resubmit for October meeting and there is
some -- there is definitely some available now so I'd like to
make that amendment.

MS. CAROE: Is it accepted by the motioner?

MS. WEISMAN: Yes. I accept the amendment.

MS. CAROE: Is it accepted by the second?

MR. DEMURI: Yes. Madam Chair, I don't think that
would be appropriate. This would be -- it's essentially a
motion to table. It would be appropriate for the maker of
the original motion to accept an amendment but this isn't an
amendment. This is to defer the vote.

MS. CAROE: The vote -- the motion right now is to accept. So, we have to vote to defer so it is an alteration of the motion.

MR. DEMURI: It's an overlying motion over the top. It's not changing it. It has no effect on the motion. It's to lay the entire discussion of the motion on the table until the next meeting.

MS. CAROE: Tracy.

MS. MIEDERMA: I would submit that we've got a little bit of an inconsistency here. I think you're referring to more ingredients. This was handed out yesterday, a list of organic flavors, one of them that's being shown here as being commercial available is blueberry which just a few minutes ago we voted as being --

MS. WEISMAN: That's a flavor.

MS. MIEDERMA: Flavors and colors. Thank you. All right. Thank you. Wrong list.

MS. WEISMAN: There is data on another sheet. It has hibiscus color on it.

MS. MIEDERMA: It's here and somebody has it.

MS. CAROE: In the past what this board has done has actually voted to defer. Substitute motion? The Chair recognizes Dave Carter. Please help me or shoot me, one or the other.
MR. CARTER: Just procedurally, Dan's right. This is different so it would be a substitute motion that would have to be made, seconded, and voted on separately so it's not an amendment.

MS. CAROE: Do I have to rescind the original?

MR. CARTER: Substitute motion takes precedent.

MS. CAROE: Okay. So, Joe, you've made a substitute motion and is there a second to that?

MR. DEMURI: Second.

MS. CAROE: Steve seconds it. Okay. Any discussion right now on to defer this material which was hibiscus juice color? Any discussion?

MR. DEMURI: How do we get word out to these folks who need information?

MS. CAROE: The result of this is going to be published and the deferred recommendation will include this information. Katerina?

MS. HEINZE: Just procedurally I have a question. The next vote we take will be to vote to defer, right? If it passes it defers. If that fails then we go back to the original motion?

MS. CAROE: Well, we can. I mean, we can make that motion, yes. Okay. But, right now we have on the table a motion to defer. Any further discussions on this motion?

Yes vote is to defer. It's not rejecting, it's deferring.
It will be taken up later. Is everybody clear? Any questions, any comments? Hearing none, seeing none, the vote will start with Rigo.

MR. DELGADO: Yes.

MS. CAROE: Gerald.

MR. DAVIS: Yes.

MS. CAROE: Katerina.

MS. HEINZE: No.

MS. CAROE: Jennifer.

MS. HALL: Yes.

MS. CAROE: Steve.

MR. DEMURI: Yes.

MS. CAROE: Dan.

MR. GIACOMINI: No.

MS. CAROE: Tracy.

MS. MIEDEMA: Yes.

MS. CAROE: Kevin.

MR. ENGELBERT: Yes.

MS. CAROE: Jeff.

MR. MOYER: Yes.

MS. CAROE: Joe.

MR. SMILLIE: Yes.

MS. CAROE: Julie.

MS. WEISMAN: No.

MS. CAROE: Bea.
MS. JAMES: Yes.

MS. CAROE: And the Chair votes no.

MR. GIACOMINI: Madam Chairman, would this be two-thirds or just a typical --

MS. CAROE: It made two-thirds. It's going to pass. It is going to pass. The votes are 4 against, 9 for, zero abstentions, two absent. Motion passes. 9 for 13. It just passes. Because of our new board policy and abstentions not going we just got to make sure we got this straight.

Lycopene.

MS. WEISMAN: Okay. The next item on the list is colors lycopene. Just to remind everybody that that comes from tomatoes. This also is a recommendation for listing which failed the handling committee for no votes to one yes vote so once again the recommendation is for listing on 606.

MS. CAROE: Is there a second?

MR. DEMURI: Second.

MS. CAROE: Do you have a conflict?

MR. CADOUX: We are a large tomato processor. We do not produce lycopene from them. We don't sell tomatoes for lycopene. It's all used internally.

MS. CAROE: Okay. I just need to make sure because you seconded it that you have no conflict.

MR. CADOUX: I don't.

MS. CAROE: Does anybody on the board question
that? Okay.

MR. SMILLIE: He wants to get top dollar.

MS. CAROE: I'm sure he'd really like that on the

transcript.

MR. CADOUX: Thanks, Joe.

MS. CAROE: All right. Any discussion on lycopene

colors? Okay. So this motion is to list. Just a quick
discussion. Could you refresh my memory on what the
committee vote was on this?

MS. WEISMAN: Yeah, the handling committee rejected
it 4 no, 1 yes because we knew that there's organic tomatoes
and the petitions didn't include information about why those
weren't being processed into lycopene.

MS. CAROE: Okay. So, the motion failed at the
committee level?

MS. WEISMAN: The motion failed at the committee
level, yes, but, the motion is still for listing.

MS. CAROE: Any further discussion on lycopene
color? Katerina.

MS. HEINZE: I believe, but, would have to dig for
this, that we've received public comment as to the commercial
availability in one of the written comments. I can't exactly
put my hands on it right now. But, I believe we did get some
public comment on this.

MS. WEISMAN: Yes, I think you're right. One of
the petitioners that we asked to give additional information did send in written comment last week and lycopene was one of the -- I believe it's the March 23rd color maker comment and I believe that was -- lycopene was included in the category with other thing where the material that was obtained for -- that was used for color is a by-product and that most of the material was going to fresh market. Lycopene was one of those.

In other words, the organic tomato material that lycopene could be made from is more valuable on the fresh market and it never makes it into the color. There hasn't been any available for use as color.

MS. CAROE: Any further discussion? Joe?

MR. SMILLIE: Is that what you meant, Katerina? You said that you saw something that it was available.

MS. HEINZE: No, that's what I meant. I just wanted to bring it to the board's attention that we did receive some comment on this one.

MS. CAROE: Any further discussion on lycopene color? Hearing none, seeing none, the vote will begin with Gerald.

MR. DAVIS: No.

MS. CAROE: Katerina.

MS. HEINZE: Yes.

MS. CAROE: Jennifer.
MS. HALL: Yes.
MS. CAROE: Steve.
MR. DEMURI: No.
MS. CAROE: Dan.
MR. GIACOMINI: Yes.
MS. CAROE: Tracy.
MS. MIEDERMA: No.
MS. CAROE: Kevin.
MR. ENGELBERT: No.
MS. CAROE: Jeff.
MR. MOYER: No.
MS. CAROE: Joe.
MR. SMILLIE: Yes.
MS. CAROE: Julie.
MS. WEISMAN: Yes.
MS. CAROE: Bea.
MS. JAMES: No.
MS. CAROE: Rigo.
MR. DELGADO: No.
MS. CAROE: The Chair votes not. This one is not going to pass. 8 against, 5 for, zero abstentions, and two absent. Motion fails. Paprika.
MS. WEISMAN: Okay. Paprika, like annatto was one that we separated into two petitions, one for the form that's manufactured by a water process and one that's manufactured
with an oil process. And the recommendation, the way it reads right now and the material, the way it reads to list right now, I think if Valerie is able to bring it up, what we will see is it's going to say colors, paprika water extracted. My colleague, Joe, just reminded me that a manufacturer advised us yesterday to just simply call it colors -- colored paprika for the version that's manufactured using water.

So, am I allowed to suggest an amendment to something?

MS. CAROE: Before you make the motion.

MS. WEISMAN: Okay. The motion -- the motion is for listing of paprika, for listing of colors, paprika water extracted on 205.606.

MS. CAROE: Is there a second?

MR. DEMURI: Second.


MR. SMILLIE: I think it should be just listed as colors paprika, not water extracted. From what I understand it is not. It is not water extract.

MS. CAROE: Water soluble. That's not what he said either.

MR. GIACOMINI: I believe the petition was for water.
MS. CAROE: The Chair recognizes Sean Taylor.

MR. TAYLOR: Sean Taylor, ICAM. Paprika in general does not have a large amount of water soluble material in it. Some of it is a little bit water soluble but it's really the ground pepper pods, the ground pepper. So, it's more not paprika water extract. There's no water extraction.

MS. CAROE: Thank you for that clarification. So, it's color paprika. Are you offering an amendment? The mention is for paprika water extracted.

MR. SMILLIE: Yes. I'd like to amend the amendment to make it color paprika.

MS. CAROE: Is that accepted by the motioner?

MS. WEISMAN: Yes.

MS. CAROE: Is it accepted by the second?

MR. DEMURI: Yes.

MS. CAROE: Okay. Moving with the new motion to list paprika color on 606, 205.606. Any discussion? Hearing none, seeing none, the vote will start with Gerald. No, wait a minute, Katerina.

MS. HEINZE: Yes.

MS. CAROE: Jennifer.

MS. HALL: Yes.

MS. CAROE: Steve.

MR. DEMURI: Yes.

MS. CAROE: Dan.
MR. GIACOMINI: Yes.

MS. CAROE: Tracy.

MS. MIEDERMA: Yes.

MS. CAROE: Kevin.

MR. ENGELBERT: Yes.

MS. CAROE: Jeff.

MR. MOYER: Yes.

MS. CAROE: Joe.

MR. SMILLIE: Yes.

MS. CAROE: Julie.

MS. WEISMAN: Yes.

MS. CAROE: Bea.

MS. JAMES: Yes.

MS. CAROE: Rigo.

MR. DELGADO: Yes.

MS. CAROE: Gerald.

MR. DAVIS: Yes.

MS. CAROE: The Chair votes yes. Zero against, 13 for, zero abstentions; two absent. Motion passes.

MS. WEISMAN: Now, we have made a separate petition for colors, paprika oil extracted. The original petition had two annotations. One we voted on Monday night was for a two year listing. We have already voted to remove that annotation so the recommendation right now is for colors paprika, oil extracted. The annotation only organic oils is
still part of the recommendation at this time. So, that is
the motion. Is there a second?
MR. DEMURI: Second.
MS. CAROE: Is there any conflicts with oil
extracted paprika? Hearing none, is there any discussion?
Kevin?
MR. ENGELBERT: Julie, could you explain briefly
what your thoughts were on originally having it two year and
a two year annotation?
MS. WEISMAN: Yeah. Joe, your sub-committee that
handled it.
MR. SMILLIE: Yeah. I thought that at that point
in time we didn't feel we had enough information that the
color people had really done a global search for supply and
specifically mentioning, you know, traditional countries of
paprika production weren't mentioned in their search and they
obviously they need time to connect to those supplies so we
thought we'd shorten the year and since then we've received,
I think, fairly good public commentary about, you know, make
it five or not. You know, don't complicate issues by making
it shorter terms and we've also received information that
those traditional paprika producing companies really weren't
looking to sell to the color trade and it wasn't a good fit.
So, we reconsidered and moved it, dropped the
annotations.
MS. CAROE: Tracy.

MS. MIEDERMA: Just a point of clarification. Does the word color appear in the motion or does it say paprika oil extracted.

MS. WEISMAN: No, colors comes first, then paprika oil extracted.

MS. MIEDERMA: Thank you.

MS. WEISMAN: And there's still an annotation that only organic oil can be used in tint.

MS. CAROE: Actually, that was removed in the handling committee. Annotations were removed in the handling committee.


MS. CAROE: So, restate the motion.

MS. WEISMAN: Okay. So, the motion now is colors paprika oil extracted for listing on 606.

MS. CAROE: And the motion is --

MR. DEMURI: Second.

MS. CAROE: -- seconded. Okay. Any further discussion? Are we clear on the vote? Does everybody understand it's to list colors without an annotation. Any further discussion? Hearing none, seeing none, the vote will start with Jennifer.

MS. HALL: Yes.

MS. CAROE: Steve.
MR. DEMURI: Yes.

MS. CAROE: Dan.

MR. GIACOMINI: Yes.

MS. CAROE: Tracy.

MS. MIEDERMA: Yes.

MS. CAROE: Kevin.

MR. ENGELBERG: Yes.

MS. CAROE: Jeff.

MR. MOYER: Yes.

MS. CAROE: Joe.

MR. SMILLIE: Yes.

MS. CAROE: Julie.

MS. WEISMAN: Yes.

MS. CAROE: Bea.

MS. JAMES: Yes.

MS. CAROE: Rigo.

MR. DELGADO: Yes.

MS. CAROE: Gerald.

MR. DAVIS: Yes.

MS. CAROE: Katerina.

MS. HEINZE: Yes.

MS. CAROE: The Chair votes yes. Zero against, 13 for, zero abstained, two absent. Motion passes.

MS. WEISMAN: Okay. The next color. Colors pumpkin juice. The recommendation is for listing on 205.606.
This is also -- this a recommendation that failed at the handling committee because of insufficient information at that time; insufficient data to show why organic pumpkins were not available or why they couldn't be processed into color and we have heard significant public comment since that time addressing that issue. So, the motion is for listing of colors, pumpkin juice on 205.606.

MS. CAROE: Is there a second?

MR. DEMURI: Second.

MS. CAROE: Is there any conflicts? Tracy.

MS. MIEDERMA: I had flagged seven of these so, yes, I would like to recuse myself as a member of an organization that grows a lot of organic and conventional pumpkin.

MS. CAROE: Okay. Any others? Discussion? Hearing none, seeing none, the vote will start with Steve.

MR. DEMURI: Yes.

MS. CAROE: Dan.

MR. GIACOMINI: Yes.

MS. CAROE: Tracy recuses. Kevin.

MR. ENGELBERT: Yes.

MS. CAROE: Jeff.

MR. MOYER: Yes.

MS. CAROE: Joe.

MR. SMILLIE: Yes.
MS. CAROE: Julie.

MS. WEISMAN: Yes.

MS. CAROE: Bea.

MS. JAMES: Yes.

MS. CAROE: Rigo.

MR. DELGADO: Yes.

MS. CAROE: Gerald.

MR. DAVIS: Yes.

MS. CAROE: Katerina.

MS. HEINZE: Yes.

MS. CAROE: Jennifer.

MS. HALL: Yes.

MS. CAROE: The Chair votes yes. Zero against, 12 for, zero abstentions, two absent, one recusal. Motion passes.

MS. WEISMAN: Okay. Next up, I like the name of this one, not that that should have any influence on anyone. Colors, purple potato juice. This is a motion for listing on 606 which did not pass at the handling committee. It was rejected for no votes, one yes vote, because at the time there was not felt to be sufficient data to understand why it was not being grown organically or being processed into organic color so the motion is to recommend the listing of color purple potato juice on 205.606.

MS. CAROE: Is there a second?
MR. DEMURI: Second.

MS. CAROE: Is there any conflicts with purple potato juice color? Any discussion?

MR. DEMURI: I have a question for the board. I can't recall anybody coming up to us afterwards and telling us if that was available or not available.

MS. CAROE: Jennifer?

MS. HALL: Yeah. The gal from The Netherlands this morning, that was one of her --

MR. DEMURI: I don't recall her specifically mentioning that.

MS. WEISMAN: We asked her to make a -- I'm sorry.

MS. CAROE: Dan?

MR. GIACOMINI: I just wish I could see one before I voted on it. I feel a little bizarre on this one.

MS. CAROE: I'd like to see the hops but we'll go there later. Anybody else? Any discussion? Hearing none, seeing none, the vote will start with Dan.

MR. GIACOMINI: Yes.

MS. CAROE: Tracy.

MS. MIEDERMA: Yes.

MS. CAROE: Kevin.

MR. ENGELBERT: Yes.

MS. CAROE: Jeff.

MR. MOYER: Yes.
MS. CAROE: Joe.
MR. SMILLIE: Yes.
MS. CAROE: Julie.
MS. WEISMAN: Yes.
MS. CAROE: Bea.
MS. JAMES: Yes.
MS. CAROE: Rigo.
MR. DELGADO: Yes.
MS. CAROE: Gerald.
MR. DAVIS: Yes.
MS. CAROE: Katerina.
MS. HEINZE: Yes.
MS. CAROE: Jennifer.
MS. HALL: Yes.
MS. CAROE: Steve.
MR. DEMURI: Yes.
MS. CAROE: The Chair votes yes. Zero against, 13 for, zero abstained, two absent. The motion passes.
MS. WEISMAN: Next. Colors. Red cabbage extract. This was a recommendation for listing on 606 which passed 5 to 0 by the handling committee. So, the recommendation is for colors, red cabbage extract for listing on 205.606.
MS. CAROE: Is there a second?
MR. DEMURI: Second.
MS. CAROE: Is there any conflicts for red cabbage
extract colors?

MR. DAVIS: I work for a farm that grows red cabbage and could grow organically grown red cabbage for color.

MS. CAROE: Are you recusing yourself?

MR. DAVIS: Yes. I'm recusing myself.

MS. CAROE: Thank you. Any further conflicts? Any discussion? Hearing none, seeing none, the vote will start with Tracy.

MS. MIEDERMA: Yes.

MS. CAROE: Kevin.

MR. ENGELBERT: Yes.

MS. CAROE: Jeff.

MR. MOYER: No.

MS. CAROE: Joe.

MR. SMILLIE: Yes.

MS. CAROE: Julie.

MS. WEISMAN: Yes.

MS. CAROE: Bea.

MS. JAMES: Yes.

MS. CAROE: Rigo.

MR. DELGADO: Yes.

MS. CAROE: Gerald recuses. Katerina.

MS. HEINZE: Yes.

MS. CAROE: Jennifer.
MS. HALL: Yes.

MS. CAROE: Steve.

MR. DEMURI: Yes.

MS. CAROE: Dan.

MR. GIACOMINI: Yes.

MS. CAROE: The Chair votes yes. So we have 1

against, 12 for's, zero abstained, two absent. No, 10 for,

one recusal. I'm so sorry. I'm sorry. Let me restate that.

One against, 11 for, zero abstained, two absent, one

recusal. Motion passes.

Now, just before you go any further, we're

scheduled right now for a break but I'd like to get through

this page of votes before if everybody is okay.

MS. WEISMAN: The whole page?

MS. CAROE: The colors.

MS. WEISMAN: Okay. I was going to go through the

page but I'll go through colors.

MS. CAROE: All right. Just go through the colors,

Julie.

MS. WEISMAN: The next color. Colors. Red radish

extract. This was a recommendation for listing on 606 which

passed the handling committee 5 to 0.

MS. CAROE: Is there a second?

MR. DEMURI: Second.

MS. CAROE: Is there any conflicts with red radish
extract color? Seeing none, is there any discussion on red radish extract color? Hearing none, seeing none, the vote will start with Kevin.

MR. ENGELBERT: Yes.
MS. CAROE: Jeff.
MR. MOYER: Yes.
MS. CAROE: Joe.
MR. SMILLIE: Yes.
MS. CAROE: Julie.
MS. WEISMAN: Yes.
MS. CAROE: Bea.
MS. JAMES: Yes.
MS. CAROE: Rigo.
MR. DELGADO: Yes.
MS. CAROE: Gerald.
MR. DAVIS: Yes.
MS. CAROE: Katerina.
MS. HEINZE: Yes.
MS. CAROE: Jennifer.
MS. HALL: Yes.
MS. CAROE: Steve.
MR. DEMURI: Yes.
MS. CAROE: Dan.
MR. GIACOMINI: Yes.
MS. CAROE: Tracy.
MS. MIEDERMA: Yes.

MS. CAROE: The Chair votes yes. That is zero against, 13 for, zero abstentions, two absent. Motion passes.

MS. WEISMAN: Colors. Saffron. This is a recommendation for listing on 606 that was rejected by the handling committee 4 no, 1 yes vote because at the time that decision was made the petitions were felt to contain insufficient data as to why it could not be obtained organically. I believe that this was a one item that was mentioned emphatically in the second color maker letter in terms of the material going to fresh market and never becoming available for use for color manufacturer.

MS. CAROE: Is there a second.

MR. SMILLIE: Second.

MS. CAROE: I'm going to give that one to Joe. It was close. It was a draw. Any conflicts for saffron colors? Hearing none, any discussion on colors saffron? Hearing none, seeing none, the vote will start with Jeff.

MR. MOYER: Yes.

MS. CAROE: Julie.

MS. WEISMAN: Yes.

MS. CAROE: I'm sorry, Joe. There's too many J's around.

MR. SMILLIE: Yes.
MS. CAROE: Julie.

MS. WEISMAN: Yes.

MS. CAROE: Bea.

MS. JAMES: No.

MS. CAROE: Rigo.

MR. DELGADO: Yes.

MS. CAROE: Gerald.

MR. DAVIS: No.

MS. CAROE: Katerina.

MS. HEINZE: Yes.

MS. CAROE: Jennifer.

MS. HALL: Yes.

MS. CAROE: Steve.

MR. DEMURI: Yes.

MS. CAROE: Dan.

MR. GIACOMINI: Yes.

MS. CAROE: Tracy.

MS. MIEDERMA: Yes.

MS. CAROE: Kevin.

MR. ENGELBERT: Yes.

MS. CAROE: And the Chair votes yes. The vote is 2 against, 11 for, zero abstained, two absent. Motion passes.

MS. WEISMAN: Next is colors, tomato juice extract.

This was a recommendation for listing on 205.606 which failed the handling committee 4 no votes to 1 yes. As a
There was knowledge of much organic tomato that's grown and not enough information in the petition about why it wasn't being processed into color. And there has been public comment in the last three days which has addressed that. So, I'll restate the recommendation is for colors, tomato juice extract for listing on 205.606.

MS. CAROE: So, the motion is for listing tomato juice extract color on 205.606, right?

MR. DEMURI: Second.

MS. CAROE: Is there any conflicts with tomato juice extract color?

MR. DEMURI: I'll just mention again that we are a large tomato processor and we do organic tomatoes. We make our tomato juice, organic and conventional, but, we do not sell it to anybody. So, I wouldn't think there would be a conflict.

MS. CAROE: Okay. Any further conflicts?

MR. DEMURI: Let me rephrase that. We don't sell to anybody to make colors out of. We do sell it.

MS. CAROE: The Andy Warhol thing. That would be a highly unsustainable business.

MR. DEMURI: Exactly.

MS. CAROE: So, anyway, is there any discussion on tomato extract colors? Hearing none, seeing none, the vote
will start will chopped liver Joe.

MR. SMILLIE: Yes.

MS. CAROE: Julie.

MS. WEISMAN: Yes.

MS. CAROE: Bea.

MS. JAMES: No.

MS. CAROE: Rigo.

MR. DELGADO: No.

MS. CAROE: Gerald.

MR. DAVIS: No.

MS. CAROE: Katerina.

MS. HEINZE: Yes.

MS. CAROE: Jennifer.

MS. HALL: Yes.

MS. CAROE: Steve.

MR. DEMURI: No.

MS. CAROE: Dan.

MR. GIACOMINI: Yes.

MS. CAROE: Tracy.

MS. MIEDERMA: No.

MS. CAROE: Kevin.

MR. ENGELBERT: No.

MS. CAROE: Jeff.

MR. MOYER: No.

MS. CAROE: The Chair votes no. Okay. We have 8
against, 5 for, zero abstentions, two absent. Motion fails.

MS. WEISMAN: Next. Next item is colors, tumeric. It's incorrectly spelled in a lot of places. There's a little bit of controversy here. So, can we treat that as a typo?

MS. FRANCES: Is it spelled correctly?

MS. WEISMAN: It's probably not spelled correctly up there because I wrote it.

MR. BRADLEY: I think it's spelled more than one way.

MS. CAROE: Okay. Hold one. Make the motion. I do believe that this is a technical correction that we can make not from the program on this. Spelling errors, can we correct?

MR. BRADLEY: You're asking me can you correct them in your document?

MS. CAROE: I'm asking if they go forward with an incorrect spelling can it be corrected before it makes it into the Federal Register?

MR. BRADLEY: We would correct that, yes.

MS. CAROE: You would correct our English, our spelling?

MR. BRADLEY: Spelling, yes.

MS. CAROE: Okay. Thank you. They're from the government and they're here to help.
MS. WEISMAN: The recommendation is for colors, tumeric for listing on section 205.606.

MR. DEMURI: Second the motion.

MS. CAROE: I said she's moving, she's not recommending. You're moving.

MS. WEISMAN: Okay. I am -- but that's the way I've been saying it for the last -- okay. The motion is to recommend colors, tumeric, for listing on Section 205.606.

MS. CAROE: Is there a second?

MR. DEMURI: Second second.

MS. WEISMAN: Okay. This was also rejected by the handling committee. Usually I say that before we do all this stuff.

MS. CAROE: I haven't gotten there yet. Are there any conflicts? Tumeric, tamaric, or, any of those? None.

Is there any discussion? Julie, do you want to --

MS. WEISMAN: Yeah. This is a recommendation for listing which was rejected by the handling committee 3 no, 2 yes. And this is also -- I think this was not done by my sub-committee so I'm having trouble remembering. This is an odd vote. I think this was -- okay. It was rejected 3 to 2.

It is also an item that was mentioned in that written petition that we see -- we received a second comment from the petitioner.

UNIDENTIFIED SPEAKER: What was that again?
MS. WEISMAN: Tumeric. That it was not -- okay.
That it was another issue where whatever organic that was
available was not being made available for processing into
color.

MS. CAROE: Katerina and then Steve.

MS. WEISMAN: Okay. Actually, --

MS. CAROE: Katerina and Steve.

MS. HEINZE: I just wanted to remind the board and
all that testimony I think it's hard to keep track. We have
heard public comment that there are some handlers who do use
organic tumeric when it is available but it is not always
available for all the products that they are producing. Just
a reminder.

MS. CAROE: Steve?

MR. DEMURI: I just wanted to mention that like the
hibiscus it does show up on this sheet as well.

MR. SMILLIE: And I wanted to speak to that. I
think that one we did have a number of public comments that
even though it is available it's not available in the
quantities that the manufacturers need and that we -- you
know -- specifically reports from one manufacturer that they
use it in seasonal products and, but, there's not enough
available for the whole product.

MS. CAROE: Any other comments or discussion?
Hearing none, seeing none, we'll call the vote starting with
Jeff -- I'm sorry, Julie.

MS. WEISMAN: Yes.

MS. CAROE: Bea.

MS. JAMES: No.

MS. CAROE: Rigo.

MR. DELGADO: Yes.

MS. CAROE: Gerald.

MR. DAVIS: Yes.

MS. CAROE: Katerina.

MS. HEINZE: Yes.

MS. CAROE: Jennifer.

MS. HALL: Yes.

MS. CAROE: Steve.

MR. DEMURI: Yes.

MS. CAROE: Dan.

MR. GIACOMINI: Yes.

MS. CAROE: Tracy.

MS. MIEDERMA: Yes.

MS. CAROE: Kevin.

MR. ENGELBERT: No.

MS. CAROE: Jeff.

MR. MOYER: Yes.

MS. CAROE: Joe.

MR. SMILLIE: Yes.

MS. CAROE: The Chair votes yes. That would be 2
against, 11 for, zero abstain, two absent. Motion passes.

It is now a quarter of three. Does the board need to take a break at this point or shall we continue? Okay. It's now a quarter of. We'll be back at five minutes to.

(Whereupon, a brief recess was taken)

MS. CAROE: Okay, Julie, get started.

MS. WEISMAN: Carbon dioxide is the next item. Okay. Next item on the list is carbon dioxide. This is one we discussed yesterday. This has been taken off the table by the petitioner. We do not need any further discussion about this material.

MS. CAROE: So, carbon dioxide as we heard in public testimony yesterday the petitioner, Zea Sonnebrand from CCOF, has pulled this petition so it will not be considered.

Moving onto the next item.

MS. WEISMAN: Carrot fiber. This was a recommendation for listing on 606 which was rejected by the handling committee 5 to 0. So, the recommendation is still for listing on 205.606.

MS. CAROE: Is there a second?

MR. DEMURI: Second.

MS. CAROE: Steve. Okay. The motion is on the floor. Is there conflict?

MR. DAVIS: Yes.
MS. CAROE: Gerald?

MR. DAVIS: The company I work for grows organic carrot fiber and could supply organic carrot fiber.

MS. CAROE: And are you recusing yourself?

MR. DAVIS: Yes.

MS. CAROE: Thank you. Any other recusals? Joe, are you recusing yourself?

MR. SMILLIE: No.

MS. CAROE: Okay. Tracy?

MS. MIEDERMA: Yes, I'm recusing myself.

MS. CAROE: Thank you, Tracy. Any further conflict? Any discussion? Joe?

MR. SMILLIE: Yeah. I just wanted to remind everybody that this petition was for a specific process. It wasn't carrot fiber as a whole. It was for a specific process of carrot fiber that did not explore the use of organic carrot peelings for this fiber.

MS. CAROE: Any further discussion? Okay. Hearing none, seeing none, the vote will start with Bea James.

MS. JAMES: Abstain.

MS. CAROE: Rigo.

MR. DELGADO: Yes.

MS. CAROE: Recusal for Gerald so Katerina.

MS. HEINZE: No.

MS. CAROE: Jennifer.
MS. HALL: No.

MS. CAROE: Steve.

MR. DEMURI: No.

MS. CAROE: Dan.

MR. GIACOMINI: No.

MS. CAROE: Recusal for Tracy. Kevin.

MR. ENGELBERT: No.

MS. CAROE: Jeff.

MR. MOYER: No.

MS. CAROE: Joe.

MR. SMILLIE: No.

MS. CAROE: Julie.

MS. WEISMAN: No.

MS. CAROE: And the Chair votes not. I think that one doesn't pass. We have 11 against, 1 for, 1 abstention, and two absent and two recusals. Oh, no, that's wrong. Sorry. Nine against, 1 for it, 1 abstention, two absent, two recusals, and a partridge in a pear tree. Motion fails.

MS. WEISMAN: Next item is celery powder. This was a recommendation for listing on 606 which passed the handling committee 4 to 0 with one absent. So, the recommendation once again is for listing of celery powder on 205.606.

MS. CAROE: Motion has been made, is there a second?

MR. DEMURI: Second.
MS. CAROE: Is there any conflicts? Gerald?

MR. DAVIS: I work a grower of celery. I'm not sure if it's in the form that this petitioner could use. I wasn't on this sub-committee. I didn't read the information.

MS. CAROE: Are you recusing yourself?

MR. DAVIS: I'd rather not, but, --

MS. CAROE: Okay. I don't see a reason for you to recuse. Is there anybody on the board that feels differently? Okay. Hearing none, I don't think you need to recuse. Thank you for the disclosure. Any other conflicts?

Tracy?

MS. MIEDERMA: The processing facility at our farm makes celery puree, much of which is turned into celery powder, so, I would like to recuse.

MS. CAROE: Tracy, you are recused. Okay.

Discussion? Hearing none, seeing none, the vote will start with Rigo.

MR. DELGADO: No.

MS. CAROE: Gerald.

MR. DAVIS: No.

MS. CAROE: Katerina.

MS. HEINZE: Yes.

MS. CAROE: Jennifer.

MS. HALL: Yes.

MS. CAROE: Steve.
MR. DEMURI: Yes.

MS. CAROE: Dan.

MR. GIACOMINI: Yes.

MS. CAROE: Tracy recuses. Kevin.

MR. ENGELBERT: No.

MS. CAROE: Jeff.

MR. MOYER: No.

MS. CAROE: Joe.

MR. SMILLIE: Yes.

MS. CAROE: Julie.

MS. WEISMAN: Yes.

MS. CAROE: Bea.

MS. JAMES: Yes.

MS. CAROE: And the Chair votes yes. We have 4 no's, 8 yeses, no abstentions -- I'm sorry, two absent, one recusal. Motion fails. I need nine positive votes for a pass. I've got eight positive votes.

MR. GIACOMINI: But, that's two-thirds.

MS. CAROE: I need a decisive vote.

MR. DEMURI: You need nine out of 13 but you have to counts the votes that are voted.


MS. WEISMAN: Okay. Next item on the list is dill
weed oil. This was recommended for listing on 205.606 and it was rejected by the handling committee 5 to 0. And we have had no further information given to us by either the petitioner or any other manufacturers. So, the motion once again is to recommend dill weed oil for listing on 205.606.

MR. DEMURI: Second.

MS. CAROE: Is there any conflict of interest?

MR. DAVIS: I work for growers fresh market dill weed. I would rather not recuse myself.

MS. CAROE: Is there anybody on the board that feels there's a conflict? Nor do I so recusal is not necessary. Any discussion? Katerina?

MS. HEINZE: I need some help with this one. Maybe some folks who were on the sub-committee or the handling committee can remind me. I believe this petitioner provided evidence on why they were unable to source dill weed oil. But, there's some question about whether they needed it or not. I need point of clarification. Are we supposed to consider whether it's essential or not for 606 items?

MS. CAROE: I can answer that question, I believe. The issue with this product was there was no explanation to the specification of this product and the concern was that this was being specked out of organic and that was never addressed. The petitioner was contacted after we did the review in February. There's been no response. Clearly we
felt that there was. We just wanted to have that information on record of why the oil was the appropriate form for this product and just to make sure that it wasn't a situation of specking out.

So, any further discussion? Dan?

MR. GIACOMINI: Gerald, do you guys do any organic dill?

MR. DAVIS: Yes.

MR. GIACOMINI: You do?

MR. DAVIS: Yes, that's all we do other than conventional carrots and potatoes.

MS. CAROE: Julie?

MS. WEISMAN: Yeah. I'm actually -- I just want to make sure -- I need a little reassurance. So, if the dill weed oil does not pass it means that this manufacturer may be forced to reformulate using fresh organic dill which Gerald does produce so I am not sure -- I think that that maybe a conflict of interest.

MS. CAROE: The votes can go either way or there can be a motion to defer. Tracy?

MS. MIEDERMA: I would like to make a substitute motion that we defer this petition to add dill weed oil to 606 in light of the fact that we did not hear back on the question of substitutability and I'm not sure that that was made explicitly clear that we're asking about the
substitutability or have we necessary held every other manufacturer to that same level of evidence.

MS. CAROE: Is there a second for the motion?

MR. SMILLIE: Second.

MS. CAROE: Joe seconded. So, the motion on the floor right now is to defer the listing, the consideration of dill weed oil until the fall meeting. Is there any discussion on the item. Katerina?

MS. HEINZE: My understanding is that after June 9th the petitioner would then not be able to use dill weed oil because we had deferred. Is that correct?

MS. CAROE: That is accurate.

MS. HEINZE: This petitioner had indicated that they have contracted with a supplier of organic dill weed oil but at the earliest that crop will be available in October. So, folks are aware of the position that the petitioner would be in.

MS. CAROE: Any further discussion? If I remember from the petition the cucumbers are harvested in August and the dill becomes available in September so that's the time. The pickles have to be made in August when the cucumbers are harvested but the dill doesn't have to become available until September.

MR. GIACOMINI: About the petition. Cucumbers are available in August, September; dill in October.
MS. CAROE: I was close.

MR. GIACOMINI: Yeah, you were. That was really good.

MS. CAROE: Any further discussion?

MR. DEMURI: Is that fresh dill or dill oil in October?

MS. WEISMAN: I believe that that was the oil. I believe that the manufacturer of the oil.

MS. CAROE: I know who the manufacturer is. It says harvested in.

MR. GIACOMINI: The very earliest in dill weed oil would be available would be October 2007.

MS. CAROE: I apologize. Any further discussion? All right. Hearing none, seeing none, the vote is to defer consideration of dill weed oil. The vote will start with Gerald.

MR. DAVIS: No.

MS. CAROE: Katerina.

MS. HEINZE: No.

MS. CAROE: Jennifer.

MS. HALL: No.

MS. CAROE: Steve.

MR. DEMURI: No.

MS. CAROE: Dan.

MR. GIACOMINI: No.
MS. CAROE: Tracy.

MS. MIEDERMA: No.

MS. CAROE: You could have withdrawn it and we could have stopped the vote. Kevin.

MR. ENGELBERT: No.

MS. CAROE: Jeff.

MR. MOYER: No.

MS. CAROE: Joe.

MR. SMILLIE: Abstain.

MS. CAROE: Julie.

MS. WEISMAN: No.

MS. CAROE: Bea.

MS. JAMES: Abstain.

MS. CAROE: Rigo.

MR. DELGADO: No.

MS. CAROE: And the Chair votes no so it is 11 against, none in favor, two abstained, two absent. The motion fails. So, we can reconsider dill weed oils, first motion, --

MS. WEISMAN: The original motion is for listing of dill weed oil on 205.606.

MS. CAROE: Is there a second?

MR. DEMURI: Second.

MS. CAROE: Any discussion? Tracy.

MS. MIEDERMA: I don't mean to get too wrapped...
around this but I feel like we're getting into kind of a murky territory when we go to a manufacturer that tells us dill weed oil is a very critical ingredient and we start questioning their formulations which is what we pushed back on.

MS. CAROE: I just want to respond to that before I open it up any further. I agree with you. We thought we were asking a very simple question and just never got responded to. But, the fact of the matter was, there was this question out there that we didn't get response on which kind of put us where we're at. Any further discussion? Julie?

MS. WEISMAN: I just wanted to once again remind everyone that there will be a further check. Putting it on the list does not mean that they automatically can use it. It means that their certifier will, you know, ask them to show that they couldn't source it organically. And it sounds like there's a pretty good chance that they're going to be able to source it organically pretty quickly.

MS. CAROE: Any further discussion? Katerina?

MS. HEINZE: I am not a gardener or grower by any stretch of the imagination. But, you know, they believe that they'll have it ready in October, but, we all know that crops are crops and they don't have it today, right. I mean, October, that crop could come in and not meet their needs.
MS. CAROE: I think we could say that about just about everything though. Further discussion? Okay. Hearing none, seeing none, the vote will start with Katerina. The vote is to add.

MS. HEINZE: Yes.

MS. CAROE: Jennifer.

MS. HALL: Yes.

MS. CAROE: Steve.

MR. DEMURI: No.

MS. CAROE: Dan.

MR. GIACOMINI: Yes.

MS. CAROE: Tracy.

MS. MIEDERMA: Yes.

MS. CAROE: Kevin.

MR. ENGELBERT: No.

MS. CAROE: Jeff.

MR. MOYER: No.

MS. CAROE: Joe.

MR. SMILLIE: Yes.

MS. CAROE: Julie.

MS. WEISMAN: Yes.

MS. CAROE: Bea.

MS. JAMES: No.

MS. CAROE: Rigo.

MR. DELGADO: Yes.
MS. CAROE: Gerald.
MR. DAVIS: Yes.
MS. CAROE: The Chair votes yes. Okay. There's 4 against, 9 for, zero abstentions, two absent. Motion passes.
MS. WEISMAN: Yes. Okay. I will just briefly state that the next item which is fish gelatin. After we had spent quite a bit of time considering the petition it came to our attention that this had already been recommended by the NOSB in 2002 for listing on 606. So, therefore, it's already on 606 and we don't have to take any action. And we just encourage gelatin to be included and published soon.
MS. CAROE: Just a little further comment on that. The recommendation that did move -- that will move forward from the previous board recommendation was for the inclusion of gelatin at which time the board did consider fish gelatin as well as other gelatins. So, it is included in that. It was deliberated on and since we have an action completed on that there's no action to be taken by this board.
So, moving forward.
MS. WEISMAN: Okay. Next item. Short chain fructan olegofructose saccharides. Jumping the again. Sorry. Fish oils. This -- sorry about that. This was a recommendation for listing on 205.606 which passed the handling committee 5 yes, 0 no. There was concerns that were brought to light in the last few days during public comment
and our discussions yesterday and there was a concern that we limit the kind of stabilizers that can be used so the recommendations as it stands now is for listing of fish oils as is on 606.

MS. CAROE: Is there a second?

MR. DEMURI: Second.

MS. CAROE: Okay. Any conflicts of interest of any fish oil people here? Okay. Discussion? Joe?

MR. SMILLIE: I think I'd like to make a friendly amendment to the effect that -- oh, boy, I've got to get the wording here.

MS. WEISMAN: I have it here. It's this first one right here.

MR. SMILLIE: Which would be an annotation.

MS. WEISMAN: This would be an annotation. Yes, this would be the dreaded annotation.

MR. SMILLIE: The dreaded annotation. The annotation would read stabilized using allowed ingredients on the national list.

MS. CAROE: Is the motion accepted?

MS. WEISMAN: Yes, I accept the amendment.

MS. CAROE: Second?

MR. DEMURI: Second.

MS. CAROE: Okay. So, we now have an amended motion on the table for fish oil with the annotation what?
MR. SMILLIE: Stabilized using only allowed ingredients on the national list.

MS. CAROE: Okay. Valerie, are you catching that?

MS. FRANCES: Yes.

MS. CAROE: Any discussions? Okay. Hearing none, seeing none, the vote will start with Jennifer.

MS. HALL: Yes.

MS. CAROE: Steve.

MR. DEMURI: Yes.

MS. CAROE: Dan.

MR. GIACOMINI: Yes.

MS. CAROE: Tracy.

MS. MIEDERMA: Yes.

MS. CAROE: Kevin.

MR. ENGELBERT: Yes.

MS. CAROE: Jeff.

MR. MOYER: Yes.

MS. CAROE: Joe.

MR. SMILLIE: Yes.

MS. CAROE: Julie.

MS. WEISMAN: Yes.

MS. CAROE: Bea.

MS. JAMES: Abstain.

MS. CAROE: Rigo.

MR. DELGADO: Yes.
MS. CAROE: Gerald.

MR. DAVIS: Yes.

MS. CAROE: Katerina.

MS. HEINZE: Yes.

MS. CAROE: The Chair votes yes. We have zero against, 12 for, one abstention, two absent. Motion passes.

MS. WEISMAN: Okay. Now, we can move on to short chain fructo-oligosaccharides. This was one of the items which the handling committee voted on Monday to amend the recommendation so it is now recommended for listing on 205.606.

MS. CAROE: Is there a second?

MR. DEMURI: Second.


MR. DEMURI: Yes.

MS. CAROE: Dan.

MR. GIACOMINI: Yes.

MS. CAROE: Tracy.

MS. MIEDERMA: Yes.

MS. CAROE: Kevin.

MR. ENGELBERT: Yes.

MS. CAROE: Jeff.
MR. MOYER: No.

MS. CAROE: Gerald.

MR. DAVIS: Yes.

MS. CAROE: Julie.

MS. WEISMAN: Yes.

MS. CAROE: Bea.

MS. JAMES: No.

MS. CAROE: Rigo.

MR. DELGADO: Yes.

MS. CAROE: Joe.

MR. SMILLIE: Yes.

MS. CAROE: Katerina.

MS. HEINZE: Yes.

MS. CAROE: Jennifer.

MS. HALL: No.

MS. CAROE: And the Chair votes yes. We have 3 against, 10 for, -- yeah, 3 against, 10 for, zero abstentions, two absent. Motion passes.

Mr. DAVIS: Madam Chair, I'm ready to inform you that due to a conflict of schedule we need to leave at this point.

MS. CAROE: Well, we appreciate all your hard work during this meeting and we still have a quorum. We still have 11 members. Thank you.

MS. WEISMAN: We're moving to the third page of our
spreadsheet. The next item is listed, is going to be listed as galangal frozen. This is a recommendation for listing on 205.606 which passed the handling committee 5 to 0. So, once again the motion is for listing of galangal frozen on 205.606.

MS. CAROE: Is there a second?
MR. DEMURI: Second.

MR. GIACOMINI: Yes.
MS. CAROE: Tracy.
MS. MIEDERMA: Yes.
MS. CAROE: Kevin.
MR. ENGELBERT: Yes.
MS. CAROE: Jeff.
MR. MOYER: Yes.
MS. CAROE: Joe.
MR. SMILLIE: Yes.
MS. CAROE: Julie.
MS. WEISMAN: Yes.
MS. CAROE: Bea.
MS. JAMES: No.
MS. CAROE: Absent. Katerina.
MS. HEINZE: Yes.
MS. CAROE: Jennifer.
MS. HALL: Yes.
MS. CAROE: Steve.
MR. DEMURI: Yes.
MS. CAROE: And the Chair votes yes. Did the court reporter get those votes now that we've lost numbers? Thank you. Okay. So we have 11 for, 4 absent, zero abstained, and zero no's and the motion passes.

MS. WEISMAN: Next item is gellan gum. This is recommended for listing on 205.606. This was passed by the handling committee --
MR. POOLER: Is the listing for 605B or 606, gellan gum?
MS. WEISMAN: You know, I'm pulling this out of my head so I'm sorry. Okay. Let me correct that. This is a recommendation for listing of gellan gum on 205.605A, right? B? Synthetic?
MR. GIACOMINI: Eight.
MS. FRANCES: 605B.
MS. WEISMAN: All right. Let's try this again. This is a recommendation of listing of gellan gum on 205.605B, synthetics.
MS. CAROE: Is there a second?
MR. DEMURI: Second.
MS. CAROE: Okay. Any conflicts with gellan gum?
Any discussion on gellan gum. Bea?

MS. JAMES: Yesterday Katerina mentioned some alternatives to gellan gum that are currently listed and I was wondering, not to put you on the spot, Katerina, if you remember what those were and I thought there were four possible substitutes.

MS. CAROE: Katerina?

MS. HEINZE: There are four similar substances that are on the list, agocarogenan, I believe on 605A, pectin low methoxy and xanthim gum on 605B. The petitioner provided evidence in the petition that while similar they don't have the same functionality; that all of these gums create unique thickening, unique other properties, so, it's another tool in the tool box of development.

I don't think it would be factual based on the petition to say that those are substitutes.

MS. CAROE: Bea.

MS. JAMES: However, those are ingredients that are traditionally also used as thickeners, correct? I know from my experience that, you know, those ingredients that are currently listed are also used as thickeners and that's not to say I'm not trying to jump to an assumption that the petitioner would be able to substitute the exact texture that they are looking for that they currently get with gellan gum and I was wondering also if anybody on the handling committee
or the sub-committee would remember if there was
documentation of the exact type of texture or results that
the petitioner was looking for with gellan gum.

    MS. CAROE: I can't remember the exact -- go ahead,
Katerina.

    MS. HEINZE: I have the petition if you'd like me
to look it up, Madam Chair.

    MS. CAROE: Well, we can do that. I'm wondering if
we should table this to a later vote today, but, just table
it so that we can look at that.

    MS. REMDINE: I am the petitioner.

    MS. CAROE: We should invite the petitioner up.

    It'll make it quick. Please, you're welcome to address.

    MS. REMDINE: Cheryl Remdine, CP Company,
petitioner for gellan gum, 205.605B. Could you ask the
specific question so that I can answer you?

    MS. JAMES: Could you tell me the type of products
that you're -- and the consistency that you're looking for
specifically with the gellan gum?

    MS. REMDINE: Okay. We've been working with
various beverage formulators and actually White Wave
presented comments about the stability that gellan gum
provides in beverages and it's not present with similar but
not the same type of additives. It provides the ability to
stabilize the nutrients and minerals in certain beverages
like soy beverages or milk beverages.

MS. JAMES: Are you currently making products without it that are okay?

MS. REMDINE: No, not organic but, they are in the like the chocolate milks and soy milks that are not organic at this time. Their organic industry asked us to move towards this petition, put this petition forth, for beverages at one point, but, gellan gum has some neat functionalities as xanthin gum wouldn't have.

It doesn't require protein to suspend. It has its own matrix so it has a better suspense system ending property set than some of the other gums. We currently make xanthin and I can speak for that.

MS. JAMES: Okay. Thank you.

MR. GIACOMINI: Okay. Wait, wait, wait. I have a question. The TAP review identifies as a permentation product which would normally be non-synthetic. You specifically requested listed on B which synthetic. Do you have justification for doing that?

MS. REMDINE: Well, at the time xanthin gum is on the 605B and we put it in the same place as xanthin. Xanthin is also fermentation derived.

MS. CAROE: If the information from the TAP reviewer can be pulled up the TAP reviewer should clarify appropriate listing.
UNIDENTIFIED SPEAKER: Give me a sec.

MS. CAROE: Shall we table this?

(Discussion off the record)

MS. CAROE: Just till -- this is not deferred, just tabled to later. I think that's appropriate and I don't believe that we can -- we have a motion on the table. Can you -- would you like to rescind your motion?

MS. WEISMAN: Yes, I would like to rescind my motion at this time.

MS. CAROE: Okay. Thank you. Then let's move on to hops.

MS. WEISMAN: We have a recommendation for listing of hops on 205.606. This is actually -- you'll see this listed on your sheet as vote previously cast because the handling committee voted on this even prior, back in December, prior to the February meeting. So, the handling committee vote at that time was unanimous for the listing of hops on 205.606.

MS. CAROE: Is there a second?

MR. DEMURI: Second.

MS. CAROE: I think he's closer so he got to my ear faster. Okay.

MR. DEMURI: Quick draw.

MS. CAROE: All right. Is there any conflict of interest with hops?
MS. WEISMAN: What, that we drink beer?

MS. CAROE: That's not a conflict. It's an enhancement. Is there any discussion regarding hops?

hearing none, seeing none, the vote will start with Tracy.

MS. MIEDERMA: Yes.

MS. CAROE: Kevin.

MR. ENGELBERT: Yes.

MS. CAROE: Jeff.

MR. MOYER: Yes.

MS. CAROE: Joe.

MR. SMILLIE: Yes.

MS. CAROE: Julie.

MS. WEISMAN: Yes.

MS. CAROE: Bea.

MS. JAMES: Yes.

MS. CAROE: Katerina.

MS. HEINZE: Yes.

MS. CAROE: Jennifer.

MS. HALL: Yes.

MS. CAROE: Steve.

MR. DEMURI: Yes.

MS. CAROE: Dan.

MR. GIACOMINI: Yes.

MS. CAROE: And the Chair votes yes. And so we have 11, 4, 0 abstained, 4 absent, no recusals. Motion
passes.

MS. JAMES: Inulin, next item, yes, is inulin. I would like to ask Valerie to pull this document up. We came into this meeting with a recommendation for a TAP review at that time. And, therefore, there was no evaluation criteria. The check was the recommendation posted on the web. During this meeting we have heard a lot of comment and public presentation from both manufacturers who make this material and food manufacturers who use it and believe that we had enough information to handle in committee to make a recommendation on Monday to recommend this material for listing on 205.606. Oh, no, you're right it was Tuesday. I'm sorry. So, the recommendation is for inulin OFS to be listed on Section 205.606.

MR. DEMURI: Second.

MS. CAROE: Do I have a second? I've got it. Is there any conflicts? No conflicts. Any discussion? Katerina?

MS. HEINZE: Does anyone remember the commercial availability information on this?

MS. WEISMAN: I can answer that. I believe that there is development going on and maybe if I'm remembering this wrong someone in the room can correct me, but, I believe development is going on and that there is an expectation that at some point it will be available. It might be able to be
available as organic.

MS. CAROE: And there's nods from the audience saying that's accurate. Would you like to come address? The Chair recognizes Nancy Hirshberg.

MS. HIRSHBERG: Yes. This is made from chicory and in, in fact, they made some connections with some people here who might have some in South America and so forth so they've been researching it and they're working towards that.

MS. CAROE: Thank you.

MS. HIRSHBERG: I'm just blasted with a morass with materials at the moment.

MS. CAROE: That's the word of the week, morass. Is there any other discussion on inulin? Inulin OFS. Hearing none, seeing none, the vote will start with Kevin.

MR. ENGELBERT: Yes.

MS. CAROE: Jeff.

MR. MOYER: No.

MS. CAROE: Joe.

MR. SMILLIE: Yes.

MS. WEISMAN: Yes.

MS. CAROE: Julie.

MS. WEISMAN: Yes.

MS. CAROE: Bea.

MS. JAMES: No.

MS. CAROE: Katerina.

MS. HEINZE: Yes.
MS. CAROE: Jennifer.

MS. HALL: Yes.

MS. CAROE: Steve.

MR. DEMURI: Yes.

MS. CAROE: Dan.

MR. GIACOMINI: Yes.

MS. CAROE: Tracy.

MS. MIEDERMA: Yes.

MS. CAROE: The Chair votes yes. We have 2 against, 9 for, zero abstained, and four absent and the motion passes.

MS. WEISMAN: Okay. Next item are jalapeno/chipolte peppers. This was a recommendation for listing on 205.606. This passed the handling committee 5 to 0 so once again the motion is for the listing of jalapeno/chipolte peppers on 205.606.

MS. CAROE: Okay. Is there a second?

MR. DEMURI: Second.

MS. CAROE: Is there any conflicts with jalapeno/chipolte? I'm kind of allergic but I don't think that's a problem. Anyway, there's no conflict, so, discussion.

MR. MOYER: Yes. Julie, can you refresh my memory exactly how they were going to be -- it seems not to put a whole plant type on there, chipolte peppers, so, can you
explain to me again how they want to use it?

MS. WEISMAN: Actually, chipolte peppers isn't the plant type. All of those peppers are jalapenos and chipolte is a form of processing particularly authentic Mexican. Most of the processing is done in Mexico and those processes are not certified organic. So, it wasn't an issue of a lack of availability of organic jalapeno peppers, which is the agricultural product that it starts from, it was a lack of certified processors who understand this traditional method and will also certify organic.

MR. MOYER: And this will be used in a small quantity in some processed product?

MS. WEISMAN: Enchiladas or something like that.

MR. MOYER: So, less than 5 percent?

MS. WEISMAN: Yes, yes, yes, less than 5 percent.

MS. WEISMAN: Joe?

MR. SMILLIE: I can't remember the deliberation but wouldn't it be more probably called just chipolte because if we use jalapeno --

MS. CAROE: I can answer that.

MR. SMILLIE: -- there's an issue.

MS. CAROE: There was actually two petitions, one for jalapenos and one for chipolte which was to process jalapeno so it was put together because if jalapenos aren't available then, you know, chipoltes wouldn't be available
either.

MR. SMILLIE: They're not asking for a 606 listing for fresh jalapeno peppers.

MS. CAROE: It was one of the petitions was jalapeno.

MR. MOYER: That was a confusing part to me, Joe.

MS. CAROE: There was two petitions. One was for jalapenos, one was for chipolte peppers.

MR. MOYER: But, by voting --

MS. CAROE: You know, Dan, you were -- just as far as information this was one of the two materials that we used to beta test. I'm sorry, poblano, wrong pepper.

MR. GIACOMINI: Yeah.

MS. CAROE: Okay. I apologize. Shall we clarify this before we move on?

MR. MOYER: As a board member I'd appreciate it.

MS. WEISMAN: I think we need to look up both those petitions. I have a recollection that the jalapeno petition was being petitioned specifically for this use. It was not a petition for fresh jalapeno peppers to be on the list except for this use. We want to make chipoltes and if -- it was really for the same product but they were being called different things.

MS. CAROE: Katerina?

MS. HEINZE: I recommend we table this.
MS. CAROE: Okay. Is there agreement that we should table this and come back? I made the motion. You want to rescind the motion?

MS. WEISMAN: I will rescind the motion.

MS. CAROE: Okay.

MS. WEISMAN: So we have two items that we will return to. Moving on. The next item on the list is koji mold. This is a material that recommended for listing on 205.606. I mean, --

MS. CAROE: I'm on just the 606. It is being motioned to not consider.

MS. WEISMAN: Okay.

MS. CAROE: It was to not consider.

MS. WEISMAN: The motion, I am corrected. The motion for koji mold is not to consider. But, I believe that the issue is that we do not have standards for --

MS. CAROE: Well, let's get the motion.

MS. WEISMAN: All right. The motion is not to consider koji mold.

MS. CAROE: Is there a second.

MR. MOYER: I'll second that.

MS. CAROE: Okay. All right. So, is there any conflicts with koji mold? Except with the natamycin is bad. A mix of materials. But, anyway, okay, for discussion I'll jump in here. This is being considered -- this is being --
the motion is to not consider due to the fact that the
handling committee has deemed this unnecessary since micro
organisms appear on the list 205-605A and we find this
consistent with that listing and also considered as a non-
agricultural material based on the conflict in the regulation
between the livestock definition, including non-plant life,
and the non-synthetic definition, including bacteria.

So, this is being -- the motion is to not consider
this for listing. Dan? Joe?

MR. GIACOMINI: Just for a point of clarification.

What would be the next steps if this motion were to fail?

MS. CAROE: I think that we would have to decide
right here and now. We would have to -- we don't have any of
the evaluations completed in order to make a listing. It
would be deferred. Joe?

MR. SMILLIE: Well, I'm not going to move for
deferring but I am going to ask for a minority opinion to be
reflected. I don't believe koji mold is on 605A. I believe
the organism which creates koji mold is on 605A and I believe
that eventually koji mold and yeast will have to be on 606
because they are agricultures and I believe that we have a
number of examples of agricultures that don't have specific
regulations for them and this is just another one.

So, the people who create products that are made
with koji mold can go on creating them. There's no incentive
for them to create organic koji mold processes. And I believe that will eventually be needed but in the interest of not being a pain in the butt I won't ask for deferral but I do want to express that this will rise again.

MS. CAROE: You minority opinion is expressed in the recommendation as it stands. Any further discussion? Hearing none, seeing none, we will vote starting with Jeff. This is the motion to not consider.

MR. MOYER: I vote yes.

MS. CAROE: Joe.

MR. SMILLIE: No.

MS. CAROE: Julie.

MS. WEISMAN: Yes.

MS. CAROE: Bea.

MS. JAMES: No.

MS. CAROE: Katerina.

MS. HEINZE: Yes.

MS. CAROE: Jennifer.

MS. HALL: Yes.

MS. CAROE: Steve.

MR. DEMURI: Yes.

MS. CAROE: Dan.

MR. GIACOMINI: No.

MS. CAROE: Tracy.

MS. MIEDERMA: Yes.
MS. CAROE: And the Chair votes yes. Oh, sorry, Kevin.

MR. ENGELBERT: The other chopped liver votes yes.

MS. CAROE: As long as it's a yes and you're voting with me it's not chopped liver.

MS. WEISMAN: How does the Chair vote?

MS. CAROE: I vote yes. Three against, 8 for, no abstentions, 4 absent. Motion passes. We will not consider.

MS. WEISMAN: Okay. Next item is lemongrass frozen. This is a recommendation for listing on 205.606 which passed the handling committee 5 to 0. So, recommendation is for the listing of lemongrass frozen on 205.606.

MS. CAROE: Is there a second?

MR. DEMURI: Second.

MS. CAROE: Is there a conflict with lemongrass?

Seeing none, discussion? Hearing none, seeing none, the vote will start with Joe.

MR. SMILLIE: Yes.

MS. CAROE: Julie.

MS. WEISMAN: Yes.

MS. CAROE: Bea.

MS. JAMES: Yes.

MS. CAROE: Katerina.
MS. HEINZE: Yes.

MS. CAROE: Jennifer.

MS. HALL: Yes.

MS. CAROE: Steve.

MR. DEMURI: Yes.

MS. CAROE: Dan.

MR. GIACOMINI: Yes.

MS. CAROE: Tracy.

MS. MIEDERMA: Yes.

MS. CAROE: Kevin.

MR. ENGELBERT: Yes.

MS. CAROE: Jeff.

MR. MOYER: Yes.

MS. CAROE: The Chair votes yes. Zero against, 11 for, zero abstentions, four absent. Motion passes.

MS. WEISMAN: The next recommendation is for the listing of milled flaxseed on 205.606. This was rejected by the handling committee 3 to 2. I'll leave the rest for discussion. It's a recommendation for listing of milled flaxseed on 205.606.

MS. CAROE: Is there a second?

MS. HALL: Second.

MR. DEMURI: Second.

MS. CAROE: Jennifer gets on the board. Is there any conflicts with milled flaxseed? Seeing none, any
discussion? Jeff?

MR. MOYER: My understanding yesterday was we had a commentor mention that there is just as much if not more organic flaxseed as there is conventional. Is that what I heard correctly?

MS. CAROE: You heard correctly, but, it wasn't from a commentor. Joe?

MR. SMILLIE: I was reporting the sub-committee deliberations on this.

MS. CAROE: Further discussion? Dan?

MR. GIACOMINI: Just as support of that, I don't know about right now, but, I know over the years we've had a tremendous amount of flaxseed and flaxseed meal to dairy cows over the years. Organic, yes.

MS. CAROE: Any further discussion? Okay. Hearing none, seeing none, motion is -- would you restate the motion?

MS. WEISMAN: Okay. The motion is for the listing of milled flaxseed on 205.606.

MS. CAROE: We start the votes with you, Julie.

MS. WEISMAN: I vote no.

MS. CAROE: Bea.

MS. JAMES: No.

MS. CAROE: Katerina.

MS. HEINZE: No.

MS. CAROE: Jennifer.
MS. HALL: No.

MS. CAROE: Steve.

MR. DEMURI: No.

MS. CAROE: Dan.

MR. GIACOMINI: No.

MS. CAROE: Tracy.

MS. MIEDERMA: No.

MS. CAROE: Kevin.

MR. ENGELBERT: No.

MS. CAROE: Jeff.

MR. MOYER: No.

MS. CAROE: Joe.

MR. SMILLIE: No.

MS. CAROE: And the Chair votes no. That's a unanimous against. 11, 0, 0, 4. Motion fails.

MS. WEISMAN: The next recommendation is a recommendation -- okay, got to get this right -- is for natamycin to be listed on 205.605A.

MS. CAROE: Is there a second?

MR. GIACOMINI: Second.

MS. CAROE: Any conflicts of interest with natamycin? Okay. Any discussion? Any discussion with natamycin? Katerina?

MS. HEINZE: I am perplexed by the commentor's comments this morning that it is possible that the process to
produce this could be certified organic and being a new member on the board I was wondering if someone more experienced than me could speak to that and how that might influence that process?

MS. CAROE: I can shed some light on that. Just because something is agriculturally created by agriculture doesn't necessarily make it something that would be consistent with organic principle. For example, nicotine is a prohibitive natural because it fits into a category is agriculture in nature but not necessarily consistent with organic principles so if that possibility comes up it will happen, but, at this point we don't have to allow the non-agricultural form.

MS. HEINZE: Thank you.

MS. CAROE: Does anybody further want to comment on that? Bea?

MS. JAMES: No, I just wanted to comment that I found it interesting that the petitioner recognized the difficulty in even submitting this item as being possibly listed so there's obvious conflicts in the petition so I just wanted to say that.

MS. CAROE: Any further discussion? Okay. Hearing none, seeing none, the vote starts with you, Bea.

MS. JAMES: No.

MS. CAROE: Katerina.
MS. HEINZE: No.

MS. CAROE: Jennifer.

MS. JAMES: No.

MS. CAROE: Steve.

MR. DEMURI: No.

MS. CAROE: Tracy.

MS. MIEDERMA: No.

MS. CAROE: I actually should say your name. Dan, no?

MR. GIACOMINI: No.

MS. CAROE: Tracy.

MS. MIEDERMA: No.

MS. CAROE: Kevin.

MR. ENGELBERT: No.

MS. CAROE: Jeff.

MR. MOYER: No.

MS. CAROE: Joe.

MR. SMILLIE: No.

MS. CAROE: Julie.

MS. WEISMAN: No.

MS. CAROE: And the Chair votes no. 11 against, none for, none abstained, 4 absent. Motion fails.

MS. WEISMAN: The next item as it was recommended -

MS. CAROE: Hold it.
MS. WEISMAN: Sorry, sorry.

MS. CAROE: Recognize Bob Pooler.

MR. POOLER: Vote count, please.

MS. CAROE: The vote count for the --

MR. POOLER: The natamycin.

MS. CAROE: I'm sorry?

MR. POOLER: For natamycin, could you repeat the vote count?

MS. CAROE: The vote count was 11 against, zero for, zero abstained, and four absent. Okay. Continue.

MS. WEISMAN: The next item was originally recommended as natural casings for listing on 205.606. That's the recommendation that is before us right now.

MS. CAROE: Okay. And do I have a second?

MR. DEMURI: Second.

MS. CAROE: Is there any conflicts with natural pork casings?

MS. WEISMAN: Not pork.

MS. CAROE: Okay. Is there any conflicts with natural casings? Okay. Discussion?

MR. MOYER: Yes.

MS. CAROE: Jeff.

MR. MOYER: I think we need to make an addendum to that petition to strike the word natural and put in the word pork, beef, or sheep casings.
MS. CAROE: Is the amendment accepted by the motioner?

MS. WEISMAN: No.

MS. CAROE: Is there a second for the amendment as an unfriendly amendment?

MS. JAMES: I second.

MS. CAROE: Bea seconds. Discussion? Discussion on this amendment?

MS. WEISMAN: There as another suggestion of how to call this material as casings from processed intestines of sheep, pigs, and cattle. Oh, goats, sheep, pigs, and goats.

MS. CAROE: Dan, did you have something?

Discussion on this? Jeff, do you have?

MR. MOYER: I was just going to say as the person who made the motion for the amendment I would concede to that language change.

MS. CAROE: But we don't know the language change. Are we looking at the exact wording of it?

MS. WEISMAN: We noted the word natural wasn't going to be in it.

MR. MOYER: I was going to say processed intestine of pork, sheep, beef, goat.

MS. CAROE: Katerina?

MS. HEINZE: The petitioner says that the common name for this is natural casings, the processed intestines of
hogs, cattle, and sheep.

MS. CAROE: Is there any discussion? Dan?

MR. GIACOMINI: I don't understand why going to the petition for the specific wording why we're dropping one of the words. It has natural in its request.

MS. CAROE: Any further discussion?

MR. MOYER: Yeah. I think the reason we are dropping the word natural is because it has a lot of connotations and is very confusing across the industry outside of the sausage processing industry, the meat processing industry.

MS. CAROE: Bea?

MS. JAMES: No.

MS. CAROE: Julie?

MS. WEISMAN: No.

MS. CAROE: Okay. I do have -- casings are already on the national list under cellulose. There is an annotation for the cellulose listing for use as regenerative casings as an anti-caking agent non-chlorine bleach, and filter. So, casings from a cellulose material are already on the national list and gelatin is being put onto the national list which is also a material for casings so what I guess I'm getting at is you can be broad because all the kinds of things you're trying to exclude with your annotation are already on and allowed.
Does that make sense?

MS. HEINZE: Could you repeat where they're listed?

MS. CAROE: 205.605B, cellulose. Tracy?

MS. MIEDERMA: There is one more type of casing that we would potentially be approving, eatable collagen casings. They're synthetic and they would require separate petition.

MR. MOYER: But, they are considered natural, correct?

MS. MIEDERMA: No, absolutely not. Natural specifically refers to the intestine. That's the standard term. For instance, there's a North American Natural Casings Association. It's just a very accepted term out there and I understand the board's reticence to ever use the word natural, but, now that we've attached these particular three mammal intestines are we saying no, we're not going to allow votes. I think that we're wrapped around this word natural because of our innate, you know, reticence to ever use the word. It's just a standard industry term in this situation.

MS. CAROE: Julie?

MS. WEISMAN: I will rescind my recommendation.

MS. CAROE: Rescind the recommendation? There's a motion on the table for an amendment.

MS. WEISMAN: Okay. All right.

MS. CAROE: It's not your amendment.
MS. WEISMAN: Okay.

MS. CAROE: It's Jeff's.

MR. MOYER: But, Julie's did not accept it.

MS. CAROE: Correct. So what we have on the table is the amendment alone. It is not attached. We are just considering the amendment at this point. Because she did not accept it into her motion it's not -- we have an amended motion on the floor from -- we have an amendment on the floor.

MS. WEISMAN: Can I withdraw my non-acceptance?

MR. MOYER: Madam Chairperson, I think it's easier if I rescind my amendment and allow Julie.

MS. CAROE: So rescinded.

MR. MOYER: You need to ask her for a second if she's willing. I rescind my motion for the amendment.

MS. CAROE: Okay. Very good. And Julie?

MS. WEISMAN: Okay. I would like to amend my recommendation, if that's the proper procedure here, to read as a recommendation for the listing of natural casings from processed intestines of hog, sheep, and cattle on 205.606.

MR. SMILLIE: Second.

MS. CAROE: No, it has to be accepted by her second which was Steve.

MR. DEMURI: I accept it.

MS. CAROE: So now we have an amended motion on the
floor. Thank you.

MR. MOYER: Thank you.

MS. CAROE: Any further discussion on this? Kevin?

MR. ENGELBERT: Yes. I have a question for the board that I've been unable to find the answer to. Does anyone know now that the FDA has given an approval for cloned animals to be in the marketplace when that's actually going to happen? Is there a start date or has anybody heard any clarification on that, or, are we years away?

MS. CAROE: Let me just say it's completely irrelevant based on the motion that was made earlier today to include it as excluded methods. Whether it's an organic ingredient or non-organic ingredient you cannot use excluded methods, so, it would be not allowed for the non-organic casings.

Program. Bob Pooler.

MR. POOLER: This is Bob Pooler, National Organics Program. Is there any particular reason why you're limiting the annotation to be species that were mentioned? Why not goats?

MS. CAROE: Jeff.

MR. MOYER: That's what was petitioned in front of us.

MS. MIEDERMA: No, it wasn't.

MS. CAROE: Tracy.
MS. MIEDERMA: The petition explicitly calls for the inclusion of natural casings and later when they're citing the common name they further define it and cite those three animals. They don't say to the exclusion of every other mammal or anything like that though.

MS. CAROE: Further discussion? So, we have on the table a motion for, can you restate the motion?

MS. WEISMAN: Can I restate it differently than I said before?

MS. CAROE: Whatever gets us through it.

MS. WEISMAN: Okay. There is now a recommendation for the listing of natural casings from processed intestines for listing on 205.606.

MS. CAROE: Is that accepted by the second?

MR. DEMURI: Yes.

MS. CAROE: So now we have yet a new addition of this motion. Are there any further discussion on this? Bea?

MS. JAMES: So, I like can't keep track of this yo-yo. So, we're going back to natural casings.

MR. GIACOMINI: Their term.

MS. CAROE: Let me recognize Katerina first.

Katerina?

MS. HEINZE: I have a question that maybe the program could help us with. If -- so the term natural casings I believe would fall under the FSIS definition. In
the event that someone wanted to hypothetically create a potato, apple, bacon sausage that might not fall under FSIS jurisdiction but would instead fall under FDA jurisdiction does listing natural casings on 605B cause some ramifications that I can't think about right now or am not capable of thinking about right now?

MS. CAROE: Mark Bradley.

MR. BRADLEY: Are we looking at 606 right now?

MS. HEINZE: My mistake. Sorry.

MR. BRADLEY: Are you talking without the annotation of or the clarification from hogs, cattle, and sheep?

MS. HEINZE: I'm just worried that because FDA does not have a definition of natural that somehow this would cause some weird labeling issue that seems more complicated than I'm able to think about.

MR. BRADLEY: I really can't say at this time, but, there's going to be preamble language that's going to explain what this material is and what the discussion was and why you put it on and what it includes so if the language that you put in here, whether it's natural casings or natural casings from pigs, goats, and sheep, I don't know if that's going to be as big of a factor but the more that you put into the regulatory language that people will be looking at all the time it's usually, you know, more clear.
MS. HEINZE: Thank you.

MS. CAROE: I will say that if your concern is a vegetarian type sausage that's made, they're not going to use natural casings nor will they use anything but the cellulose which is the only non-meat.

MS. HEINZE: I'm not worried about vegetarian, but, some innovative thing that falls in this weird gray land between USDA and FDA. The example I used in the whole outside was, you know, corn dogs are regulated by USDA. Bagel dogs are regulated by FDA. And we could all argue that those are pretty similar products.

MS. CAROE: Jeff.

MR. MOYER: Would it be possible to still strike the word natural but just say casings from processed intestines?

MS. WEISMAN: I would accept that amendment.

MS. CAROE: Second?

MR. DEMURI: I accept it as well.

MS. CAROE: Discussion? Bea?

MS. JAMES: I mean would we need to say casings from animal intestines?

MS. CAROE: What else has intestines?

MS. WEISMAN: The recommendation now before is for the listing of casings from processed intestines on 205.606.

MS. CAROE: That is the motion. Any further
discussion? Dan?

MR. GIACOMINI: I think we should put livestock in there.

MS. CAROE: Really?

MR. GIACOMINI: You guys are cutting up over the use of natural when it's their industry term and we're looking at these not wanting to list particular species but I don't think we want to be getting too creative either.

MS. CAROE: Julie?

MS. WEISMAN: Would you want to exclude horse intestines? Because horse are specifically not excluded to be considered livestock.

MR. GIACOMINI: I don't think in the United States they would be legal.

MS. CAROE: All right. Call the question, please. All right. So, restate the motion as it stands right now.

MS. WEISMAN: As the motion stands right now the motion is for the listing of casings from processed intestines on 205.606.

MS. CAROE: Okay. Are we prepared to vote? The voting starts with Katerina.

MS. HEINZE: You said 606, right?

MS. CAROE: 606.

MS. HEINZE: Yes.

MS. CAROE: Jennifer.
MS. HALL: Yes.

MS. CAROE: Steve.

MR. DEMURI: Yes.

MS. CAROE: Dan.

MR. GIACOMINI: Yes.

MS. CAROE: Tracy.

MS. MIEDERMA: Yes.

MS. CAROE: Kevin.

MR. ENGELBERT: No.

MS. CAROE: Jeff.

MR. MOYER: Yes.

MS. CAROE: Joe.

MR. SMILLIE: Yes.

MS. CAROE: Julie.

MS. WEISMAN: Yes.

MS. CAROE: Bea.

MS. JAMES: Yes.

MS. CAROE: And the Chair votes yes. Okay. So, we have 1 no, 10 yeses, no abstentions, four absent. And, painfully, that passes.

MS. WEISMAN: Okay. The next item on our list is a recommendation for the listing of non-fat dry milk instantized on 205.606.

MS. CAROE: Is there a second.

MS. HALL: Second.
MS. CAROE: Jennifer got it. Any conflicts with non-fat dry milk?

MS. WEISMAN: Instantized.

MS. CAROE: Instantized. Dan?

MR. GIACOMINI: I don't have any connection with the petitioner, the product, but, I did grow up in the area of the company that made the 40,000 lb. offer and in my expressing not objection to the fact that a company does this kind of a practice my objection to using it as a reason not to put something on 606 I was accused of having a bias against the company.

I may have a bias against the practice, but, I don't have a bias against the company. I just wanted to put that out for information, full disclosure.

MS. CAROE: Does anybody on the board feel this is a conflict? Nor do I, Dan. Julie?

MS. WEISMAN: No.

MS. CAROE: Okay. Any further conflicts? Discussion? Hearing none, seeing none, the vote will start with Jennifer.

MS. HALL: Yes.

MS. CAROE: Steve.

MR. DEMURI: No.

MS. CAROE: Dan.

MR. GIACOMINI: Yes.
MS. CAROE: Tracy.

MS. MIEDERMA: No.

MS. CAROE: Kevin.

MR. ENGELBERT: No.

MS. CAROE: Jeff.

MR. MOYER: No.

MS. CAROE: Joe.

MR. SMILLIE: No.

MS. CAROE: Julie.

MS. WEISMAN: No.

MS. CAROE: Bea.

MS. JAMES: No.

MS. CAROE: And the Chair votes no. I'm sorry, Katerina. Katerina.

MS. HEINZE: I'm chopped liver.

MS. CAROE: Sorry.

MS. HEINZE: Yes.

MS. CAROE: So, what we have is 8 no's, 3 yeses, zero abstentions, four absent. Motion fails.

MS. WEISMAN: The next item on our list is monopoxy pectins, non-annotated which were being petitioned to be moved from 205.605B to 205.606. The recommendation at the handling committee was to defer this until the fall meeting as it is currently on the national list and is available for use.
MS. CAROE: I'm not sure an action is required for this.

MS. WEISMAN: The handling committee voted to defer.

MS. CAROE: Okay. Well, I don't think there's an action required. Just a standing item on the work plan.

MS. WEISMAN: Okay. Poblano peppers. This is a recommendation for the listing of poblano peppers on 205.606.

MR. DEMURI: Second.

MS. CAROE: Is there a second?

MS. WEISMAN: There is.

MS. CAROE: Okay. Is there any conflicts with poblano peppers? None. Any discussion? Julie?

MS. WEISMAN: I just wanted to review for the board that this passed the handling committee 4 to 1. This was a similar issue that what was being called into question there was an acknowledgement of the availability of organic peppers but this is an ethnically specific method of processing and there -- it's mostly done outside of this country by processors who are not certified organic.

MS. CAROE: Further discussion? Jeff?

MR. MOYER: Same question as with the other thing. You're saying we're certifying a process?

MS. WEISMAN: No, no, we're -- but, I'm making a
distinction. Organic poblano peppers are not available even though organic peppers are grown. There are no certified processors currently who can make those peppers into poblano peppers, organic poblano peppers. There are only conventional ones available.

MR. MOYER: Thank you.

MS. CAROE: Dan, you look confused.

MR. GIACOMINI: This was one of the trial balloon items. It was one that while it was a long time ago it was one that I worked through with the handling committee and the fact that I've connected with the process. I know originally you voted in the other way. You voted to reject it. I agreed with that vote then. I just seem to remember this more as a supply in processing.

MS. WEISMAN: I agree. Because this was one of the first things that we did that was back in December. In February, when we met as sub-committees we began to see a lot of petitions where there was no commercial availability as a product as organic, not because the organic material wasn't available, but, because it was -- there was no one available to process it organically into the form it was required for a -- you know -- a finished processed product.

And, so, we -- and we at that point had to revisit poblano because poblano fell in the same category. It would have made no sense to make a recommendation favorable to all
those other materials when it turned out in hindsight that poblano was the same exact issue.

MS. CAROE: Steve.

MR. DEMURI: The raw poblano peppers are available. It's a processing issue. They specifically petitioned for IQF, diced, roasted poblano peppers. They get the raw peppers. They can't find a processor for the dicing and roasting operations.

MS. WEISMAN: Thank you.

MS. CAROE: Further discussion? Okay. Are we prepared to vote? The vote will start with Katerina.

MS. HEINZE: Do we need to amend the recommendation to the IQF roasted whatever? I'm not saying I want to amend it, I'm just asking a process question.

MS. WEISMAN: Are you making an amendment?

MS. CAROE: Are you motioning to amend?

MS. HEINZE: No. Further questions, discussion? Bea?

MS. JAMES: Would you mind restating the motion?

MS. WEISMAN: Okay. The motion right now is for poblano peppers to be listed on 205.606. And I would also like to say that I would accept an amendment. You can amend it. Okay. I'll amend it myself. Then I will -- I amend this recommendation to read to be for the listing of poblano peppers, diced IQF. Oh, no, no, no, roasting, that's the
problem. No, never mind. It stands. I list it as is.

MS. CAROE: It's just poblano peppers. There's no amendment's been made. Further discussion? Okay. Bea, are you raising your hand?

MS. JAMES: I just want to make sure everybody's clear about the motion.

MS. CAROE: Once again, restate the motion.

MS. WEISMAN: The motion is for the listing of poblano peppers on 205.606.

MS. CAROE: Further discussion?

MR. DEMURI: Yeah. I know that there are poblano peppers organic available so we might be building ourselves up to allowing --

MS. CAROE: Yes, I agree.

MR. DEMURI: -- all kinds of poblano peppers when they are available. This particular form is not available.

MS. WEISMAN: Can I recommend that we table this, not that I want to add things to the bottom of the list, but, I also want to -- I'm hoping to feel more clear later. I don't know what makes me think that that will happen.

MS. CAROE: Okay. This issue is tabled. Let's move on. Processing technology.

MS. WEISMAN: This actually was a recommendation not to consider because raw materials can be recommended for listing, not a technology.
MS. CAROE: Is there a second?

MR. DEMURI: Second.

MS. CAROE: Is there a conflict with processing technology? How about discussion, any discussion on processing technology? Dan?

MR. GIACOMINI: I don't have it in front of me, but, just for clarification, this wasn't a petition for processing technology. It was about three to five different petitions, individual petitions for a particular technology, three. So, it's not like somebody just requested processing. That's our lumping.

MS. CAROE: Correct. Any further discussion? Okay. Let's go ahead and take a vote on that starting with Steve.

MR. DEMURI: Just to be clear this is to?

MS. CAROE: Not consider.

MR. DEMURI: Yes.

MS. CAROE: Dan.

MR. GIACOMINI: Yes.

MS. CAROE: Tracy.

MS. MIEDERMA: Yes.

MS. CAROE: Kevin.

MR. ENGELBERT: Yes.

MS. CAROE: Jeff.

MR. MOYER: Yes.
MS. CAROE: Joe.
MR. SMILLIE: Yes.
MS. CAROE: Julie.
MS. WEISMAN: Yes.
MS. CAROE: Bea.
MS. JAMES: Yes.
MS. CAROE: Katerina.
MS. HEINZE: Yes.
MS. CAROE: Jennifer.
MS. HALL: Yes.
MS. CAROE: The Chair votes yes. Zero, 11, zero, 4. It passed.
MS. WEISMAN: Okay. The next is a recommendation for the listing of red peppers, crushed and dried on 205.606.
MS. CAROE: Second?
MR. DEMURI: Second.
MS. CAROE: Okay. Conflicts with red peppers? Seeing none, discussion with red peppers? Jeff?
MR. MOYER: Same point of order as with the last two pepper items. Red peppers are most definitely available. The fact that they're not willing to pay a processor to do it is a totally different issue.
MS. WEISMAN: I believe that the petitioner acknowledged that there is organic crushed and dried. They have a very specific specification for their finished
product. It's also -- I think it's like a Mexican --

MR. MOYER: I understand that.

MS. WEISMAN: Okay. That's my recollection from

the petitioners.

MS. CAROE: Further discussion? Okay. Go ahead

and start the vote with Dan.

MR. GIACOMINI: No.

MS. CAROE: Tracy.

MS. MIEDERMA: Yes.

MS. CAROE: Kevin.

MR. ENGELBERT: No.

MS. CAROE: Jeff.

MR. MOYER: No.

MS. CAROE: Joe.

MR. SMILLIE: Yes.

MS. CAROE: Julie.

MS. WEISMAN: Yes.

MS. CAROE: Bea.

MS. JAMES: No.

MS. CAROE: Katerina.

MS. HEINZE: Yes.

MS. CAROE: Jennifer.

MS. HALL: Yes.

MS. CAROE: And Steve.

MR. DEMURI: Yes.
MS. CAROE: And the Chair votes no. Votes are 5 no, 6 yes, zero abstain, 4 absent. Motion fails.

MS. WEISMAN: Okay. Next item is rice starch, non-modified. And this is a recommendation for the listing of rice starch, non-modified with the annotation that it will be listed for two years from the date of publication.

MS. CAROE: Is there a second?

MR. DEMURI: Second.

MS. CAROE: Is there conflict with rice starch, non-modified? Hearing none, discussion? Joe?

MR. SMILLIE: Yeah, this is one of those materials that's well along its way in the pipeline to becoming available organically but right now it's not and it is needed by industry for a number of applications. We looked at this one and actually went out and got industry opinion on it and they said basically that it's coming, it's almost here, but, it's not here yet. It certainly isn't here by the June deadline so that's why in this case we stuck with the two year annotation because we dropped that?

MS. CAROE: No.

MR. SMILLIE: Okay. Good. That's the way it should be.

MS. CAROE: Jennifer?

MS. HALL: I'd like to make an amendment to remove the two year annotation.
MS. CAROE: Motion?

MS. WEISMAN: Yeah, the two year -- I do not accept the amendment. And I would like to clarify, if I may. The reason for the two year listing for this item only is because it was not possible to post for the full 30 day comment and that was -- it was a compromise that was part of accepting a shorter public comment period that it would not be listed for the full -- it could not be a full five year listing.

MS. CAROE: Do you still want to pursue the amendment?

MS. HALL: I do.

MS. CAROE: Is there a second to the amendment? Hearing none, the motion dies for lack of second, so, the motion on the floor at this point is for the listing of rice starch, non-modified, for two years from date of publishing on 205.606, correct? Any discussion? Hearing none, seeing none, the vote will start with Tracy. Tracy?

MR. GIACOMINI: Clarification exactly. We were working on something else on another issue.

MS. CAROE: Okay. Restate the motion.

MS. WEISMAN: The motion is for the listing of rice starch, non-modified on 205.606 for a period of two years from the date of publication.

MS. MIEDERMA: Thank you. Yes.

MS. CAROE: Kevin.
MR. ENGELBERT: Yes.

MS. CAROE: Jeff.

MR. MOYER: Yes.

MS. CAROE: Joe.

MR. SMILLIE: Yes.

MS. CAROE: Julie.

MS. WEISMAN: Yes.

MS. CAROE: Bea.

MS. JAMES: Yes.

MS. CAROE: Katerina.

MS. HEINZE: Yes.

MS. CAROE: Jennifer.

MS. HALL: Yes.

MS. CAROE: Steve.

MR. DEMURI: Yes.

MS. CAROE: Dan.

MR. GIACOMINI: Yes.

MS. CAROE: And the Chair votes yes. Motion passes zero against, 11 for, zero abstained, 4 absent. Just really quickly, is the board okay with not breaking at this point? Is there some objection?

(Discussion off the record)

MS. CAROE: I'm just going to make a decision. Let's take a quick break to get a breath of fresh air. It's right now 4:25, ten minute break, 4:35.
(Whereupon, a brief recess was taken)

MS. WEISMAN: All right. The next item for recommendation is salvia hispanica also known as Spanish sage. This is a recommendation for listing of salvia hispanica on 205.606.

MS. CAROE: Is there a second?

MR. DEMURI: Second.

MS. CAROE: Is there a conflict with salvia hispanica, Spanish sage? Seeing none, is there discussion on salvia hispanica?

MS. WEISMAN: I just want to let the board know that this was passed by the handling committee 5 to 0.

MS. CAROE: Further discussion? Comments?

Everybody clear on this material? Okay. We start with Kevin.

MR. ENGELBERT: No.

MS. CAROE: Jeff.

MR. MOYER: No.

MS. CAROE: Joe.

MR. SMILLIE: Yes.

MS. CAROE: Julie.

MS. WEISMAN: Yes.

MS. CAROE: Bea.

MS. JAMES: No.

MS. CAROE: Katerina.
MS. HEINZE: Yes.

MS. CAROE: Jennifer.

MS. HALL: Yes.

MS. CAROE: Steve.

MR. DEMURI: Yes.

MS. CAROE: Dan.

MR. GIACOMINI: Yes.

MS. CAROE: Tracy.

MS. MIEDERMA: Yes.

MS. CAROE: And the Chair votes yes. So we have 2 against -- I'm sorry, 3 against, 8 for, zero abstain, 4 absent. Motion passes. Next?

MS. WEISMAN: Next is sea salt which was a recommendation not to consider.

MS. CAROE: Is there a second?

MR. DEMURI: Second.

MS. CAROE: Is there a conflict with sea salt? Hearing none, discussion on sea salt? I will just fill everybody in again, this was for four components of sea salt, three of which are listed items, one of which is exempt. This item doesn't need to be listed nor is it appropriate to be listed. So, any further discussion? Bea?

MS. JAMES: So a yes vote means that we're not considering it?

MS. CAROE: That is correct. Further discussion?
Dan?

MR. GIACOMINI: I would just be a little contrary to the very last bit of what you just said. I think that listing sea salt would be great and I think one of the things we did there was request them to specifically petition that and go through TAP and everything else. It's just the way they petitioned it with the requesting four individual items just doesn't work, but, I would certainly support a full petition and a TAP.

MS. CAROE: And our recommendation did reflect that if they wanted a full listing that a TAP with all components of sea salt and contamination potential and environmental impact would also be considered. Any other discussion? Jeff? Hearing none, seeing none, the vote will start with Jeff.

MR. MOYER: Yes.

MS. CAROE: Again, this is a vote to not consider.

MR. MOYER: That's correct.

MS. CAROE: Joe.

MR. SMILLIE: Yes.

MS. CAROE: Julie.

MS. WEISMAN: Yes.

MS. CAROE: Bea.

MS. JAMES: Yes.

MS. CAROE: Katerina.
MS. HEINZE: Yes.

MS. CAROE: Jennifer.

MS. HALL: Yes.

MS. CAROE: Steve.

MR. DEMURI: Yes.

MS. CAROE: Dan.

MR. GIACOMINI: Yes.

MS. CAROE: Tracy.

MS. MIEDERMA: Yes.

MS. CAROE: Kevin.

MR. ENGELBERT: Yes.

MS. CAROE: And the Chair votes yes. That would be zero, 11, zero, 4. Motion passes.

MS. WEISMAN: Next item is seaweed. Recommendation for seaweed wakame angaria for listing on 205.606.

MR. DEMURI: Second.

MS. CAROE: Second. Is there a conflict with seaweed? And I don't know how to say that so wakame.

Hearing none, discussion on the motion?

MS. WEISMAN: I just want to make the rest of the board aware that this was passed by the handling committee 5 nothing.

MS. CAROE: Further discussion? Okay. Hearing none, seeing none, the vote will start with Joe.

MR. SMILLIE: Yes.
MS. CAROE: Julie.
MS. WEISMAN: Yes.
MS. CAROE: Bea.
MS. JAMES: Yes.
MS. CAROE: Katerina.
MS. HEINZE: Yes.
MS. CAROE: Jennifer.
MS. HALL: Yes.
MS. CAROE: Steve.
MR. DEMURI: Yes.
MS. CAROE: Dan.
MR. GIACOMINI: Yes.
MS. CAROE: Tracy.
MS. MIEDERMA: Yes.
MS. CAROE: Kevin.
MR. ENGELBERT: Yes.
MS. CAROE: Jeff.
MR. MOYER: Yes.
MS. CAROE: And the Chair votes yes. Zero against, 11 for, zero abstained, 4 absent. Motion passes.
MS. WEISMAN: The next is a petition for spices, dried. This could not be considered.
MS. CAROE: It was actually not be considered.
MS. WEISMAN: It's not to be considered because only single materials can be considered. This is error,
these votes.
The next item is sweet potato starch for listing on 205.606.

MS. CAROE: Is there a second?

MR. DEMURI: Second.

MS. CAROE: Is there a conflict with sweet potato starch? Hearing none, discussion on sweet potato starch?

Julie?

MS. WEISMAN: I just want to let the board know that this was passed by the handling committee 5 to zero.

MS. CAROE: Further discussion? Jeff?

MR. MOYER: I believe Steve had his hand up first.

MS. CAROE: I'm sorry. Steve.

MR. DEMURI: Okay. It's just for one specific form of the starch though. It's for the bean thread.

MS. WEISMAN: I would like to amend. I would like to amend this listing in that case. Sweet potato starch, bean thread for listing on 205.606.

MS. CAROE: Is it accepted by the second?

MR. DEMURI: Yes.

MS. CAROE: Jeff, did you have -- no? You got it? Any further discussion? We're of one mind. Okay. The vote starts with Julie.

MS. WEISMAN: Yes.

MS. CAROE: Bea.
MS. JAMES: Yes.

MS. CAROE: Katerina.

MS. HEINZE: Yes.

MS. CAROE: Jennifer.

MS. HALL: Yes.

MS. CAROE: Steve.

MR. DEMURI: Yes.

MS. CAROE: Dan.

MR. GIACOMINI: Yes.

MS. CAROE: Tracy.

MS. MIEDERMA: Yes.

MS. CAROE: Kevin.

MR. ENGELBERT: Yes.

MR. ENGELBERT: Jeff.

MR. MOYER: Yes.

MS. CAROE: Joe.

MR. SMILLIE: Yes.

MS. CAROE: The Chair votes yes. Zero against, 11 for, zero abstained, 4 absent. Motion passes.

MS. WEISMAN: Next item is turkish bay leaves for listing on 205.606.

MS. CAROE: Is there a second.

MR. DEMURI: Second.

MS. CAROE: Any conflicts with turkish bay leaves?

Hearing none, any discussion on turkish bay leaves?
MS. WEISMAN: I just want to let the committee know that this passed -- rather let the board know that this was passed by the handling committee 5 to 0.

MS. CAROE: Jeff?

MR. MOYER: I'm just wondering if you could give me a little background information because this one is slipping my mind.

MS. WEISMAN: This is a particular flavor profile. The petitioner -- that specifically comes from bay leaves grown in a small region of the Mediterranean. There are challenges to having those be certified organic by an NOP accredited agency and also they are occasionally available organically but not on a consistent basis and it's very specific flavor profile and they submitted comments from chefs citing the differences and actually I think this is the one where they submitted a gas chromatography analysis that showed the differences in the different aromatic compounds in turkish bay leaves as opposed to other types of bay leaves.

MR. MOYER: Can you expound on what the challenges are to getting certified by an accredited certifier? Why is that not?

MS. WEISMAN: There weren't -- I guess there were not enough -- in other words, these are foreign certifiers that are operating and they were not necessarily accredited yet by the NOP.
MS. CAROE: Dan?

MR. GIACOMINI: I believe there was also reference to changes in profile based on freshness and leaf color and some of those issues and that even of the organic that they could find they didn't always meet their specification requirements.

MS. CAROE: Further discussion? Steve?

MR. DEMURI: The other issue is, this is a tree so it takes quite a while to develop an organic source. It's not like a row crop.

MS. CAROE: Further questions? Jeff?

MR. MOYER: To that end you can transition a tree just like you can a cow so you don't --

MS. CAROE: No, you can't.

MR. MOYER: You can transition apple trees. Of course you can.


MS. JAMES: Abstained.

MS. CAROE: Katerina.

MS. HEINZE: Yes.

MS. CAROE: Jennifer.

MS. HALL: Yes.

MS. CAROE: Steve.

MR. DEMURI: Yes.
MS. CAROE: Dan.

MR. GIACOMINI: Yes.

MS. CAROE: Tracy.

MS. MIEDERMA: Yes.

MS. CAROE: Kevin.

MR. ENGELBERT: No.

MS. CAROE: Jeff.

MR. MOYER: No.

MS. CAROE: Joe.

MR. SMILLIE: Yes.

MS. CAROE: Julie.

MS. WEISMAN: Yes.

MS. CAROE: The Chair votes yes. I've got 2 no votes, 8 yes votes, one abstention and four absent. Motion passes.

MS. WEISMAN: Next is a recommendation. Okay. See if I can tighten this up. There are two separate recommendations as of Monday night, one for whey protein concentrate at 35 percent and one for whey protein concentrate at 80 percent. I would like to make a recommendation that we make one listing for whey protein concentrate.

MS. CAROE: Are you going to vote on them together?

MS. WEISMAN: I want to vote on them together.

MS. CAROE: It's your prerogative. Is there a
second for -- there is a second?

MR. DEMURI: Second.

MS. CAROE: Okay. There is a second. So, the motion at this time is voting on whey protein concentrate 35 percent; whey protein concentrate 80 percent for listing on 606, 205.606.

MS. WEISMAN: Correct.

MS. CAROE: Is there any conflicts with whey protein concentrate? Hearing none, discussion? Katerina?

MS. HEINZE: I thought we had discussed combining this into just one whey protein concentrate listing.

MS. CAROE: That's what we just did.

MS. WEISMAN: I know what you're saying. To not make any reference to the concentration level. Why limit that.

MS. CAROE: Because it was three materials that was listed. The motion is yours.

MS. WEISMAN: Okay. I'm going to amend my own motion. The motion is for the listing of whey protein concentrates on 205.606.

MS. CAROE: Does the seconder accept it?

MR. DEMURI: Yes.

MS. CAROE: Okay. Motion on the table is the listing of whey protein concentrate on 205.606. Is there any further discussion? Dan?
MR. GIACOMINI: Could I ask if that's a reasonable
to the petitioner?

MS. CAROE: For the record, the petitioner
responded that it was reasonable. Any further discussion or
questions? Valerie?

MS. FRANCES: This version I have from Julie has
annotation of three years.

MS. WEISMAN: No, that should have been -- that's
ancient. An artifact.

MS. CAROE: Any further discussion? Is the board
clear on the motion at this point? Okay. Are we prepared to
vote? Starting with Katerina.

MS. HEINZE: Yes.

MS. CAROE: Jennifer.

MS. HALL: Yes.

MS. CAROE: Steve.

MR. DEMURI: Yes.

MS. CAROE: Dan.

MR. GIACOMINI: Yes.

MS. CAROE: Tracy.

MS. MIEDERMA: Yes.

MS. CAROE: Kevin.

MR. ENGELBERT: No.

MS. CAROE: Jeff.

MR. MOYER: No.
MS. CAROE: Joe.
MR. SMILLIE: Yes.
MS. CAROE: Julie.
MS. WEISMAN: Yes.
MS. CAROE: Bea.
MS. JAMES: No.
MS. CAROE: And the Chair votes yes. Okay. I have 3 no votes, 8 yes votes, no abstentions, 4 absent. Motion passes.
MS. WEISMAN: The next item on our list, whey protein isolate has been withdrawn by the petitioner and the same is true of the material after that which is yeast.
MS. CAROE: Okay. So we'll turn to the tabled items which are --
MS. WEISMAN: Can I make a recommendation? Can we take these out of order because I think that the peppers, we have some recommended language that probably will help us vote on those quickly.
MS. CAROE: That's fine. So, we're doing the jalapeno peppers/chipoltes?
MS. WEISMAN: Right, and the recommendation is to drop jalapeno from the name. It turns out that that was a petition that was withdrawn -- that was sent back, I believe, so we never actually considered the jalapeno.
MS. CAROE: So, state the motion.
MS. WEISMAN: So, the motion is for the listing of chipotle chili peppers on 205.606.

MS. CAROE: Do I have a second?

MR. DEMURI: Second.

MS. CAROE: Okay. Discussion? Board satisfied with the listing at this point?

MR. DEMURI: Yes.

MS. CAROE: Okay. And, so, let's go for a vote starting with Jennifer.

MS. HALL: Yes.

MS. CAROE: Steve.

MR. DEMURI: Yes.

MS. CAROE: Dan.

MR. GIACOMINI: Yes.

MS. CAROE: Tracy.

MS. MIEDERMA: Yes.

MS. CAROE: Kevin.

MR. ENGELBERT: No.

MS. CAROE: Jeff.

MR. MOYER: No.

MS. CAROE: Joe.

MR. SMILLIE: Yes.

MS. CAROE: Julie.

MS. WEISMAN: Yes.

MS. CAROE: Bea.
MS. JAMES: Yes.

MS. CAROE: Katerina.

MS. HEINZE: Yes.

MS. CAROE: I think I've got everybody. Yes vote for the Chair. So, I have 2 no votes, 9 yes votes, zero abstained, 4 absent. The motion passes.

MS. WEISMAN: And the next tabled item is poblano peppers. And I have -- I would like to now recommend -- make a recommendation for the listing of IQF, which stands for individually quick frozen, roasted poblano peppers for listing on 205.606.

MS. CAROE: Is there a second?

MR. DEMURI: Second.

MS. CAROE: Discussion? I would like to offer a suggestion on poblano peppers and using IQF as the annotation, IQF only, or, individual quick frozen only. Because it is a selection of poblano peppers.

MS. WEISMAN: I accept the amendment.

MS. CAROE: Is the amendment accepted by the second?

MR. DEMURI: I accept it.

MS. CAROE: Okay. Further discussion? Katerina?

MS. HEINZE: Julie, could you read?

MS. WEISMAN: Yes, if course. So, the recommendation now is for the listing of roasted poblano
peppers on 205.606 with the annotation IQF only.

MS. CAROE: Further discussion? Seeing none, hearing none, the vote will start with Steve.

MR. DEMURI: Yes.

MS. CAROE: Dan.

MR. GIACOMINI: No.

MS. CAROE: Tracy.

MS. MIEDEMA: Yes.

MS. CAROE: Kevin.

MR. ENGELBERT: No.

MS. CAROE: Jeff.

MR. MOYER: No.

MS. CAROE: Joe.

MR. SMILLIE: Yes.

MS. CAROE: Julie.

MS. WEISMAN: Yes.

MS. CAROE: Bea.

MS. JAMES: No.

MS. CAROE: Katerina.

MS. HEINZE: No.

MS. CAROE: Jennifer.

MS. HALL: No.

MS. CAROE: The Chair votes yes. That's 6 no's, 5 yeses, zero abstained, 4 absent. The motion fails.

Okay. We have one item left and I'm sure you're
clear on it.

MS. WEISMAN: Oh, right. Okay. Everybody, we've got to help each other out here. Gellan gum and I believe we were trying to locate some information in a TAP. Is anyone on the internet? Can anybody pull up TAP?

MS. HEINZE: I have the TAP on my computer.

MS. WEISMAN: I have the tap on my computer.

MS. HEINZE: I could use a reminder of what we were looking for.

MS. WEISMAN: Gellan gum.

MS. HEINZE: I have the TAP for gellan gum on my computer. I just need a reminder of what I was looking for.

MS. MIEDERMA: Question.

MS. CAROE: Tracy?

MS. MIEDERMA: It seems that the question was around what consistency properties were imparted by this substance, ingredient.

MS. CAROE: I believe we had the petitioner up and answered that question.

MS. MIEDERMA: Yeah, and it didn't seem to satisfy the group at that moment.

MS. CAROE: Jennifer?

MS. HALL: The reason that we tabled it was to clarify why she applied under the category she did and she wasn't quite clear. She basically said she did so because
the other product they produced with similar properties fell under that category currently.

MS. CAROE: Right. And as I remember we were going to look at the TAP to see what the TAP contract said. Katerina?

MS. HEINZE: Evaluation question number one on the TAP, the question is, has the petitioner in some sense formulated or manufactured by a chemical process. The second paragraph they say it's produced by naturally occurring biological process and a chemical process is used to extract the gellan gum from the gelatation medium and to formulate the desired thickness of the gum. Then further down in evaluation question number 2 it says the formulation and manufacturing process involves partial removal of aceto groups which in turn affects the thickness and hardness of the gel.

I do remember now in sub-committee we had discussion about that which caused us to concur that it should be on 205B -- 205.605B.

MS. CAROE: Julie?

MS. WEISMAN: I also, in looking at the references to the TAP under evaluation criteria, I also see that the extraction solvent is isopropyl alcohol which is a synthetic which is further weight that this should be 205.605B.

MS. CAROE: Further discussion? So, can you
restate the motion, Julie, at this point? Or, we actually
don't have a motion because we tabled this.

MS. WEISMAN: The motion is for the listing of
gellan gum on 205.605B.

MR. DEMURI: Second.

MS. CAROE: Second. Okay. Discussion further?

We're kind of out of order, but, I'm a little confused at
this point. Anything further? Any conflicts? Hearing none,
seeing none for the last vote of the day. Dan.

MR. GIACOMINI: Yes.

MS. CAROE: Tracy.

MS. MIEDERMA: Yes.

MS. CAROE: Kevin.

MR. ENGELBERT: No.

MS. CAROE: Jeff.

MR. MOYER: No.

MS. CAROE: Joe.

MR. SMILLIE: Yes.

MS. CAROE: Julie.

MS. WEISMAN: Yes.

MS. CAROE: Bea.

MS. JAMES: No.

MS. CAROE: Katerina.

MS. HEINZE: Abstained.

MS. CAROE: Jennifer.
MS. HALL: No.

MS. CAROE: Steve.

MR. DEMURI: Yes.

MS. CAROE: And the Chair votes yes. I've got 4 no's, 6 yeses, 1 abstention, 4 absent. Motion fails.

And that is the end of a marathon vote. Unfortunately, we don't have any time to take a breath here so we will move into work plan. We don't have an order on this. Okay. Policy. I need your work plan.

MS. JAMES: The first item is to complete the guidance on temporary research variance with the livestock committee. And then updates to policy and procedure manual. We have four points under that. Developing a clarification deferral; updating appendix D on parliamentary procedures; helping to define table versus rescind motions; update on NOSB committee recommendation form to specify use of petition material, the NOSB petition form.

MS. CAROE: That's an NOP form, it's not an NOSB form. That's a program form that we use.

MS. JAMES: It's the committee recommendation form.

MS. CAROE: It's a program form so we can corroborate with the program. Go ahead to suggest changes.

MS. JAMES: Okay. In corroboration with the NOP, review the NOSB committee recommendation form to specify uses of petition; review overall flow of the policy and procedure
manual making sure that sections have adequate introduction.

And then on the new member guide we're going to add in the wonderful document that Valerie provided and work with Valerie on the staff changes. And we are going to look at the packet information that we received from Bob Pooler and see if there is a way to use some of that information in the new member guide.

Okay. This is going to be a recommendation that we're going to work on in collaboration with the NOP. We are going to work on the use and function of a document that would be accessible on the website that would show all outstanding prior recommendations.

And we are also going to clarify in the policy and procedure manual -- I'm sorry, I forgot to put this one in -- the policy and procedure manual in the election of committee chairs that the role of the board chair will be to officially make those recommendations of committee chairs annually and it's not listed that way currently in the policy and procedure manual.

MS. CAROE: Okay. It's not election.

MS. JAMES: Appointments. Appointments to have documentation of that being an annual process.

MS. CAROE: Okay. All right. Policy. Okay. So, now crops. We lost our crops chair.

MR. MOYER: Jeff, vice-chair for crops. We have
several petitioned substances that we're going to be working on throughout the next few months to get ready for the October meeting. They will be potassium silicate, sodium carbonate, peroxihydrate, sodiumfuric hydroxy EDTA, sorbitol octino-8, tetracycline.

And then we have five sunsetting substances we'll be working on, copper sulfate, ozone gas, pherocytic acid, EPA lists three inerts in passive pheromone dispensers, and calcium chloride. We'll be working on those substances.

Other items that we're going to be working on will continue to work in conjunction with the policy development committee on research variance and research operation documents and we'll be working with the NOP regarding implementation of the NOSB guidance recommendation concerning processed manures, pond compost, and compost T. That is our work plan for the next six months.

MS. CAROE: Thank you. Moving onto livestock. For your vice-chair. All the chairs left.

MR. ENGELBERT: Thank you, Andrea. The livestock committee work plan continues to be aquaculture. We continue to work on the issues that were deferred, namely the open net pens and the use of fish oil and fish meal. We will also with the AWG --

MS. CAROE: I need your mike up.

MR. ENGELBERT: Sorry. The aquaculture standards.
We will continue to work on the issues that were deferred, namely open net pens, the use of fish oil and fish meal and the use of compost, the composted manure in ponds. We're also going to work with the AWG on the development of standards for shellfish and bi-valves.

The livestock committee will continue to work in conjunction with the policy development and crop committees with regard to research variances. We also intend to get back to the pet food recommendation which was tabled until after this meeting and we're looking forward to working with the pet food task force.

Another item on our agenda is to work on a better definition of outdoor access for poultry. Mike Lacey, the former chair of the livestock committee was disappointed that this issue got pushed to the side by the pasture ANPR and we hope to get back at it.

And, lastly, at the present time we don't have any materials to consider, either petitioned items or sunset items. And that's pretty much our agenda for right now.

MS. CAROE: Just for clarification, that pet food task force work is in collaboration with the handling committee?

MR. ENGELBERT: Okay.

MS. CAROE: Okay. That's been a handling issue since it's not livestock feed, it's pet feed which actually
follows regulation for people feed.

MR. ENGELBERT: Okay.

MS. CAROE: People feed.

MS. FRANCES: As well as AAFCO.

MS. CAROE: Right. So, thank you for your work plan. Bea, did you have something?

MS. JAMES: I just was wondering if you were going to continue to track cloning and keep that on the work plan.

MR. ENGELBERT: Yeah. At least stated at the end of the recommendation on cloning we will help the NOP in any way we can if other issues continue or do come up regarding cloning.

MS. CAROE: Okay. Katerina.

MS. HEINZE: I believe one of the items that we just reviewed for the handling committee was also petitioned by the petitioner for livestock. Julie, can you help me on that? I think it was FOS, but, I'm not sure. It says under recommendation.

MS. WEISMAN: I can't remember. I approached livestock on this in February.

MS. HEINZE: Sorry.

MR. GIACOMINI: We'll review with that with the program and see where that stands.

MS. HEINZE: Thank you.

MS. CAROE: Okay. Any further questions for the
livestock on their work plan. Moving on. Handling.

Ms. Weisman: Still a long list even though we did a monumental task. For the fall, top of my list is clarification of agricultural versus none agricultural which will be done with the materials committee. Also, definition of synthetic and non-synthetic, also being done in collaboration with the materials committee.

Next I have on my work plan the pet food draft recommendations so I guess we'll all be working on that one. Petitioned materials. I think even as we speak that there are already petitions that have come in for the fall meeting. Leftover 606, okay, maybe I'm wrong, all right, but, there may be more 606 things by the fall.

Mr. Pooler: We didn't mean to take work from you regarding pet food. I apparently went back and went previous minutes of meetings to make sure that I was ready for this meeting and I obviously misread something.

Ms. Weisman: Okay. Materials for sunset review of which there are -- of which we have nine coming up. We have -- they are on 605A, auger auger, carrageenan, tartaric acid, animal enzymes, calcium sulfate, and glucono delta lactone. We also have three items coming up for sunset on 605B which are ethylene -- didn't we just do that -- okay, ethylene, cellulose, and potassium hydroxide.

Finally, there's been a lot of discussion about
flavors at this meeting and we are adding to our already full work plan, I guess what's sounding like the formation of a task force on flavor guidance.

MS. CAROE: Thank you. Go ahead.

MS. WEISMAN: That's all I got.

MS. CAROE: That's all you got.

MS. WEISMAN: I'm looking for more.

MS. CAROE: Any comments for Julie on the handling work plan? Okay. Moving on to materials.

MR. GIACOMINI: The work plan for materials, number one, collaborate with the handling committee regarding the definition of material document or the other two documents, however you want them referred to.

Number two. Stay in contact with the NOP to offer any support possible to help the program meet the June 9 court-ordered deadline for 606.

Three. Manage new petitions as they are received from the NOP.

Four. Manage 2008 sunset items in collaboration with the appropriate committees.

Five. Collaborate with the NOP and the handling committee -- sorry, Julie, I'm adding one more for you -- regarding guidelines for certifiers on issues related to determining commercial availability.

MS. CAROE: We have that guideline.
MS. WEISMAN: I just got commercial availability off my back. You're putting it back on?

MS. CAROE: We've done that. We have a recommendation.

MR. POOLER: That was Item C that was recommended.


MR. GIACOMINI: And, six, this is a working one and I would like everyone to let me get through it before jumping to any conclusions. Collaborate with the NOP regarding a process to have limited access to CBI version petitions to aid the NOSB in evaluating petitions regarding the placement of items on the national list with due consideration of maintaining confidentiality of that information.

MS. CAROE: Thank you, Dan. Any questions for Dan on the materials work plan? Last, but, certainly not least, Smillie's on.

MR. SMILLIE: The certification, accreditation, and compliance committee will have a recommendation on standardized certification for the October meeting and we will have a recommendation on, I hope -- I shouldn't say we will -- in all likelihood will have a recommendation on peer group review. We will also look at, and I'm not sure that's the right word because there already is a standing NOSB recommendation on grower group certification, but, we will re-look at that and see if there's anything we can do to
update it, if necessary.

And then press upon NOP, collaborate with NOP to give a solution to what's good for everyone.

MS. CAROE: You want the handler to help you collaborate?

MR. SMILLIE: Later.

MS. CAROE: Okay.

MR. SMILLIE: Corroborate.

MS. CAROE: Corroborate.

MR. SMILLIE: Although the hammer into the morass sometimes, you know. We were talking about tools earlier. When all you have as a tool is a hammer everything looks like a nail.

The fourth item on our list is a new one and Bea, my excellent vice-chair, has seen fit to add it onto our work list and that is to investigate, I would say, the enforcement of the organic seed requirement on organic seed commercial availability. We had one petition that I think it was one commentor that was, you know, put in front of us some interesting figures and I think that as the committee in charge of enforcement we should look into that and see why we're getting such low levels of compliance on that issue.

Bea.

MS. JAMES: Was there something that we also needed to do with the private label retailer growers or --
MR. SMILLIE:  No.

MS. JAMES:  -- we're just waiting.

MR. SMILLIE:  Anxiously awaiting the NOP response
to that document.

MS. CAROE:  Is that it, Joe?

MR. SMILLIE:  Yes.

MS. CAROE:  Kevin?

MR. ENGELBERT:   I just wanted to thank you,
Andrea, for extremely well-run meeting and your help getting
through this long process.

MS. CAROE:  You guys make me look good.

Housekeeping things.  I do need the committee chairs to send
me your work plans by e-mail please and if they bounce back
send them again.  I get issues with my e-mails.  I have
issues with my e-mail.

Also, I need all of the recommendations before I
can submit them to the program, so, all of those materials,
all of those recommendations have to come to me so I can
submit them.  I have to sign off on them and send them in,
okay.  That said, I will call for other business.

Is there any other business of this board?  Okay.

I would like to thank the program for your assistance through
this grueling process.  Valerie, you know, you're worth a
million helping us through this.  Dan, thank you for
orchestrating this fiasco and well-run machine and others
and, again, I'm embarrassed to take any accolades for this because the work was done by you folks and you just made me look really good so thank you so much.

With that, I would entertain -- Mark Bradley?

MR. BRADLEY: Yes, please. I'd like to embarrass you one more time on an incredibly well-run meeting. I know this was a team effort and to sit back and watch especially the new members and the newer members ganging in here it's not always this crazy but you guys have done a yeoman's job getting all these materials processed. You stuck with it and didn't go out of the room screaming, which I think, everyone, please.

And we appreciate all the frank comments that the program's received today and over the last couple of days and we do take them seriously, although, you know, progress is sometimes slow. The cloning, we particularly appreciate your prompt and timely response at that. A good recommendation is something that we can work with and we look forward to collaborating with you on finishing that out and getting something that we can take to the attorneys and say this is what we want to say and get a quick lesson with it so we can have a firm position that we can support.

And I'd also like to recognize our court reporter who is just demonstrated patience beyond patience in trials of adversity. That's all I have. Thank you very much.
MS. CAROE: Okay. With that, I will entertain a motion to adjourn.

MS. JAMES: I motion to adjourn.

MS. WEISMAN: Second.

MR. DEMURI: Second.

MS. CAROE: All those in favor say aye.

BY ALL: Aye.

MS. CAROE: Opposed, same sign. Hearing none, we are adjourned.

(Whereupon, at 5:20 p.m., the meeting was adjourned).
UNITED STATES DEPARTMENT OF AGRICULTURE

IN RE: NATIONAL ORGANIC STANDARDS BOARD MEETING

Meeting held on the 27th day of November, 2007

at 8:00 a.m.
Holiday Inn-National Airport
Shenandoah Ballroom
2650 Jefferson Davis Highway
Arlington, VA

TRANSCRIPT OF PROCEEDINGS

11-27-07 NOSB Meeting Participants

Chair: Andrea Caroe

NOSB Members: Gerald Davis
Rigoberto Delgado
Steve DeMuri
Tina Ellor
Kevin Engelbert
Daniel Giacomini
Jennifer Hall
Katrina Heinze
Bea James
Hubert Karreman
Tracy Miedema
Jeffrey Moyer
Joseph Smillie
Julie Weisman

NOP Staff: Barbara C. Robinson
Mark A. Bradley
Katherine Benham
Valerie Frances
Robert Pooler
Jonathan Melvin
| 1 | Richard Mathews  |
| 2 | Valerie Schmale |
| 3 |                      |
| 4 | **Public Comment:**  |
| 5 | Urvashi Rangan      |
| 6 | Carrie Brownstein   |
| 7 | Corey Peet           |
| 8 | Jim Pierce           |
| 9 | Joe Mendelson        |
|10 | Patty Lovera         |
|11 | Felipe Caballo       |
|12 | Becky Goldburg       |
|13 | Rhonda Belluso       |
|14 | Sebastian Belle      |
|15 | Jonathan Shepherd    |
|16 | Barton Seaver        |
|17 | Rob Mayo             |
|18 | Ernest Papadoyianis  |
|19 | Brad Hicks           |
|20 | Spencer Evans        |
|21 | George Lockwood      |
|22 | David Guggenheim     |
|23 | Mike Picchietti      |
|24 | Alice Chiu           |
|25 | Dick Martin          |
|26 | Mark Kastel          |
|27 | Harriet Behar        |
PROCEEDINGS

November 28, 2007

MS. ANDREA CAROE: –do work and create a draft standards, which they did after numerous hours of work and conference calls. I had the pleasure of being one of the liaisons for the board on that group so I was able to see the good work that they did and appreciate how hard an effort this was.

Once the aquaculture working group had finished with their work the board accepted their report and published it for public comment. At that time there were two issues that elicited a lot of comment and concern. The board, being not that we're technical experts in aquaculture, decided that we needed further understanding of these two issues before we moved forward. So I the March meeting of the NOSB we did pass an aquaculture standard that was void of these two particular issues, being that we wanted to go back and look at these a little bit further.

These two issues for today, we will explore. The livestock committee of the board has received papers on these subjects and selected presenters to give us some understanding of the depth of the issues that the board would be
prepared to make a decision on. And our livestock chair, Hue Karreman, will go into great detail about how that selection process happened.

At this time though, I would like to thank a couple of people that got us to where we are today. First I'd like to thank the secretary and the program for allowing us this working group, and this task force, and this symposium. With tight budgets this was a Herculean effort and we appreciate that. It's important for this industry to explore this issue so I thank the program and the secretary. I also thank wholeheartedly the aquaculture working group and George is in the audience, and the countless hours that these volunteers put into this we certainly respect the work that was done and we appreciate the work that was done. And then lastly I'd like to thank the livestock committee, who has done a lot of work for today's meeting and taking the work from the aquaculture group and implemented it well into the work plan of the NOSB and the work that you folks have done. So I appreciate that.

And with that, I will open up this Aquaculture Symposium. We will be hearing from these presenters. We have six presenters on the two separate issues, each. We will have a
presentation by the Aquaculture Working Group—give us a chance to understand the thought process that went into their presentation and their recommendation for these two issues so that we can understand the items that were discussed and why the working group came to the conclusions that they had. So with that I turn it over to Hue Karreman, the chair of the livestock committee of the NOSB.

MR. HUE KARREMAN: Thank you, Andrea.

Good morning and welcome to the Aquaculture Symposium. I just have a few notes that I want to go over about how we chose the panelists, and I certainly want to say that without the aquaculture working group having come forth with a really comprehensive set of standards we would not even be here to day as far as talking about aquaculture at any rate. So in March, the NOSB voted to recommend adding the AWG, aquaculture standards, to the regulation and that was based on being consistent with OFPA [phonetic] 2102.11 under livestock. So aquaculture does come under livestock.

I don’t know whose idea it was to have a symposium but it wasn't mine, I can't take credit, but I'm glad we're having this, and what we found
out from the March meeting is that there were two
issues of controversy, two broad issues. One
being the issue of net pens and the other one
being the issue of feeding fishmeal / fish oil to
agriculture livestock. And so what the livestock
committee did with numerous phone call conferences
was to basically come up with a set of questions
that we then put out to the public that we asked
to have answered with an abstract so that we could
choose the panelists for today. And so within the
topics like net pens, we were looking at
questions, or answers actually, and that's what we
want to hear today, get insight into the
ecological ramifications of net pens, the issue of
sea lice, possible escapes, the assimilation of
wastes, predators, and migratory issues. So that
when people were submitting their abstracts to
become a panelist for, let's say, net pens, we
were really looking for answers to those questions
and we hope to hear some today.

And then the other broad question was
about alternative nutritional technologies to the
proposed fish meal of 12 percent and fish oil of
12 percent, giving a 24 percent of the total feed
with those inputs, and are there possible
alternatives being developed, and what are the
prospects for research to decrease fish meal and
fish oil levels. Would these alternative type
feeds meet organic production principles? Would
these alternatives be considered to yield high
nutrition fish to the consumer? What is the feed
conversion rate of these different kind of
alternative feeds? And is utilization of wild
captured type fish for meal acceptable to the
organic community? And also would these, let's
say, wild caught fish be able to be segregated to
guarantee that they were from sustainably fished
species?

So they're the two broad questions with
the sub-categories that we are hoping to hear
about today. So we chose our presenters today
based on how they answered those questions as well
as giving priority to original research versus
basically reviews of synthesized previous
research. However that can be very important as
well, but we looked at the original research a
little bit more strongly. And then also we were
trying to get a balanced approach, discussing
various aquatic species. The aquaculture is
certainly not a one-issue type topic. We want to
hear about lots of different aquaculture species.

And then also please be aware, and I
think you can see over in the far side of the room
there are some posters being presented today of
people that did submit abstracts but then were not
selected as panelists but obviously they have very
meaningful input, and then also two people that
have posters today that I wanted to mention that
we didn't select, and as I said, we selected on
these questions I just went through, is Urvashi
Rangan [phonetic] from the Consumers Union and
Linda Odierno [phonetic] from the New Jersey
Department of Agriculture. I think it's really
worth mentioning, the whole national organic
program is under the agricultural marketing
service and so their two submissions were
basically looking at the marketing aspects and the
consumer aspects of aquaculture, organic
aquaculture. I just wanted to really point out
that we need to, as the National Organic Standards
Boards, maintain organic consumer confidence.
That is part of our mission, and a big part of it.
And so I would urge you to look at their input on
the posters because it really shows how the
consumers view what they want organic aquaculture
to look like, and we do need to take that into
account. And so we need to balance that with,
hopefully, a scientific basis in our decision
making and hopefully we will be able to vote on
these two issues at our spring meeting next year.
Thanks.

MS. VALERIE FRANCES: So just a simple
review then of what our process will be for today.
I'm Valerie Frances, I'm the Executive Director of
the National Organic Standards Board, and I've
spoken with many of the panelists or had email
exchanges, trying to help pull all this together.

If any of you went to the dairy
symposium, you'll recall we had panelists come up
and address various issues, and we did not take
public comment in the usual way. And we will be
having public comment tomorrow, Wednesday, the
first day of the business meeting, where I have
grouped a large number of aquaculture folks early
on to accommodate travel schedules and just sort
of force some coherency. But what we'll do today,
along with hearing from the panelists in their
presentations, first covering fish meal and then
in the afternoon covering the net pens, I'm going
to pass out index cards and little pencils, and
you are free as the audience to write out
questions as they come up, and help get them to
me, and I will give them to the livestock
committee, and they can move through those
questions, and help get different questions out there in case you've thought of things that the livestock committee and the board haven't thought of in the course of the presentations.

So I'm going to run through real quickly each of the panelists according to their panel. So in the beginning of each section I will introduce the panelists and then they will come up in the order that they have selected out of the cup. So it was a random selection. And am I covering everything? And then before each of the panelists, as well the actual panels, George Lockwood is going to present an overview of each section in terms of what the aquaculture working group came up with.

MALE VOICE: Valerie, we're going to try to seat the panelists along this seating that would normally be for the program, so we're going to yield six seats over here while they're in there in their panel mode, so they'll all be together. We'll move some microphones down there so that they can speak at that.

MS. FRANCES: Thanks for improvising. So I'm going to run through, real quickly, the panelists for the record and then George you are more than free to have the stage at that point, so
hang on a second.

Our first speaker is, I hope I get this right, Md. Shah Alam. I think that's right. He is with the University of North Carolina, Wilmington, the Center for Marine Research. His topic is replacement of menhaden fish meal by soy bean meal for the diet of juvenile black sea bass. He is a research assistant professor at the Center for Marine Science and has a PhD in aquaculture, nutrition, and feed technology from the Lab of Aquatic Animal Nutrition out of Kagoshima University in Japan.

Our next speaker will be Dr. Craig Browdy with the Marine Resources Institute, with the South Carolina Department of Natural Resources. His topic is alternative approaches for removing fish meal and oils from farmed shrimp using plant and poultry meals and marine algal products. He is the Senior Marine Scientist responsible for the development and execution of R & D programs on marine shrimp. He's doing research on the farming and husbandry of marine shrimp in South Carolina at the Waddell Mariculture Center in Bluffton, South Carolina.

Brad Hicks is next. He's the chair of the Pacific Organic Seafood Association, out of
Canada, British Columbia. His topic is feeding fish fish meal and fish oil, fulfill organic tenets? He has a background in fish and wildlife biology, veterinary medicine, and fish pathology, and is a certified fisheries scientist. Published a great deal. Just to remind me, make sure I'm covering everything.

Number four is Dr. Steven Craig from the Virginia / Maryland Regional College of Veterinary Medicine, out of Virginia Tech, my alma mater as well. Total replacement of fish meal and fish oil in diets for Nile tilapia, and the marine obligate carnivore, kobia. He has a doctorate in marine science from Texas A&M and is currently associate professor in the large animal clinic sciences and a joint appointment at the Department of Fisheries and Wildlife Sciences. Conducts his nutritional research at the Virginia Tech aquaculture center. Also with the Virginia Aquaculture Association, and the World Aquaculture Society, and a founding member of the Organic Aquaculture Institute.

Jonathan Shepherd is with the International Fish Meal and Fish Oil Organization. His topic is sustainable marine resources for organic aquafeeds. Qualified vet with doctorate in aquaculture economics, also with a number of
management posts in aquaculture with a variety of companies, and the managing director for Danish fish feed company, Biomar until he's with the Fish Oil Organization.

And last but not least is Dr. Torbjorn Asgard from Akvaforsk, Norway. Sorry for my pronunciations. Flexibility in the use of feed ingredients can turn the farm salmon industry sustainable. He is the research group manager with the fish feed nutrition in Akvaforsk, and fish nutrition at Norwegian University of Life Sciences, and has a field of fish nutrition research with emphasis on salmonids, a wide variety of nutrition and physiological related research.

So I think that covers it. And George, you're on, thank you.

MALE VOICE: Valerie? Where was Shepherd?

MS. FRANCES: Number five. Yes.

MALE VOICE: One question, Valerie. When the panelist are giving their discussion, will they be taking any questions in their 20 minutes or is that all at the panel discussion time?

MS. FRANCES: We discussed keeping that to the end, and now of 20 minutes, B. James is
going to have a little one minute sign for the
panelists to let them know they have one minute
left. We're going to try to stick to our time
clock as much as we can. We have a lot to cram
in. And I'll pronto be passing around index
cards.

MR. GEORGE LOCKWOOD: Madam Chair, I want
to thank you all very much for the effort you're
making to understand organic aquaculture, a
complex subject, and for being here today. You're
all very busy people and to come here a day early
is much appreciated by your aquaculture working
group. I'm George Lockwood, the chair of the
Aquaculture Working Group.

As Mrs. Caroe has said, we are a diverse
group of twelve that were officially appointed by
the secretary. Four of the aquaculture working
group are research scientists at various
universities across the land. Three are growers,
one is a former grower. One is a trade
association executive, another is a fish health
expert, another is a potential supplier of omega-3
fatty acids produced by algae, and we have a
member of the environmental community as one of
our members.

As we worked over the last several years,
and incidentally, this all began in 1999. We've come a long ways. Since 2005 we've been working intently on the regulations that we have proposed that you have before you.

During our work we've always had one member of the staff participating in our telephone conference calls and almost always at least one member of the NOSB. Mrs. Caroe, you were with us from the very beginning and we are very appreciative of all the time and effort you've put in towards what we are trying to accomplish here.

Let me point out that our interim final report, which is a document basically that the fish meal and oil section and the net pen sections was a consensus document. There is no minority report. The twelve of us reached a consensus on what the feed standard should look like and what the net pen standard should look like. It was not an easy task because we had a lot of diversity and a lot of diverse opinions, but nevertheless, while each one of us might think differently if we were to propose a standard we all speak with one voice. We were unanimously behind this consensus document. Every voice was heard.

Since then we have received numerous public comments having to do particularly with
feed issues and net pen issues, and those have been digested and reported. You'll recall that in February of 2007 we put together a commentary based upon all the public comments with a revised proposal. In that is a table that we have drawn up showing the requirements for fish meal in a wide range of either crops now grown in—fish now grown in aquaculture or our prospective candidates. It shows clearly the dependence for every specie, including tilapia, on fish meal. In tilapia's case, it's very low but the simple fact is if you don’t include fish meal or other sources of the critical amino acids in that diet, the animals do not grow well and they are not healthy.

In the proposal before you we have a number of features. One is we address the sustainability issue of marine ecosystems including but not limited to fishery resources. We address contamination from persistent organic contaminants. We have included a maximum for a seven year period of 12 percent for fish meal and 12 percent for oil. And we've also, in the case of reduction fisheries, namely Peruvian anchovies or American menhaden, require a maximum of one pound of wild fish to produce a pound of farm fish. You'll undoubtedly hear today and you've
seen in the literature, people are making claims that it takes a large quantity of fish from the ocean to produce a pound of aquaculture grown fish. We're saying that if any fish is coming from the ocean in a reduction fishery, that it's one pound maximum and our nutritionists believe that that is a practical rule.

Also we are favoring strongly the use of trimmings. In the case of Alaska, the Alaska pollack industry, it is a very, very large fishery. It is sustainably managed, it's recognized as being sustainably managed. When the pollack is harvested, the filet is cut off, which might account for maybe 30 percent of the total weight. The rest is wasted. If it is within Alaskan waters, state waters, the carcass is reduced to fish meal and oil. Because of the economics of the oil, it is burned as-mixed with diesel fuel and boiler fuel, and burned for its energy content, and that very valuable source of omega-3 fatty acids does not make it into the human chain. Our proposal would heavily weigh recovering the Alaska pollack by-products.

We also have a clause in here that the use of fish meal from wild resources will expire in seven years. Our nutritionists believe that is
a practical period of time and the questions you'll be answering today, hearing answers to, will go to that question. Is it reasonable to expect that in seven years aquaculture can no longer require fish products from the wild?

And finally I'd like to say that you've heard a great deal in the public comments and you probably will hear today about conventional aquaculture. We are not attempting to codify conventional aquaculture. We have something substantially different and we hope that you will recognize that as you go on.

So that's all I have to say. I guess you're the moderator, Valerie? Thank you very much.

MS. FRANCES: If we have any other comments for George right now or any questions for him real quickly? Anything anyone wants to say right now?

MS. CAROE: I just want to point out that the document that George has referred to is posted, so that is available to get a more detailed explanation of the response to the concerns with these issues. So that is available on the web site.

As we tee up for these presentations, I
will reiterate that public policy is important for this program. This is a marketing label and today we're going to be hearing a lot of the science but we will also be taking into account the public's concern on these two issues, as a marketing claim and protection of the organic label as Hue has indicated, is important to this board. This regulation is about protecting the consumers when they're purchasing these organic products, that they meet their needs for organic for that label. So this is kind of an interesting combination. We are entering into a symposium here which largely is based on science but the outcome of what this board does will also take into account those public policy issues.

I thank you George and with that, we're ready for the first speaker. Valerie?

MS. FRANCES: Our first speaker then is Md. Shah Alam, with the University of North Carolina, Wilmington. And amazingly, we're ten minutes ahead of schedule.

[pause]

MR. MD. SHAH ALAM: Good morning everybody. I'm Md. Shah Alam. Came from the University of North Carolina, Wilmington.

MS. FRANCES: Do you want to bring your
mike a little closer to yourself?

MR. MD. SHAH ALAM: Thank you.

MS. FRANCES: If you could give us your name and your association and then spell your name for the court recorder, we'd appreciate that.

MR. MD. SHAH ALAM: Okay, my name is Md. Shah Alam. M-D. S-H-A-H A-L-A-M. And I came from the University of North Carolina at Wilmington. I'm working as a research assistant professor with Professor Dr. Wade O. Watanabe, who is also present here. And one of our other quarters of this research is our graduate student, Katharine B. Sullivan.

Okay, before going to details I would like to a little bit brief introduction that organic aquaculture, what we are thinking now for organic fish feed and fish meal is one of the most important topics today. How can we get it sustainable and what level of fish meal we can use?

So before going into details, a little bit of background of this fish. My title was how we can replace the fish meal with soy bean meal, because soy bean meal is [unintelligible]. Now black sea bass are found in waters along the Atlantic coast from the Gulf of Maine to north
Florida, and of course this is an excellent food, and this is overharvesting. So the culture of black sea bass is increasing day by day, especially in the North Carolina region.

Now how are the resources on black sea bass culture? By the way, before going into details I'd like to say that today, this morning, I'm going to present this as original research. That is, that research will give some information for the fish oil, especially for the menhaden fish, the level of the organic feed.

Okay now, the research on black sea bass is for captive spawning larviculture grow out of [unintelligible] and economic evaluation is done. But unfortunately, nutritional requirements or feed development of this species not yet. We just did one study about protein requirement of hatch [unintelligible] fingerlings and at present we are doing several studies on this species for nutritional study.

Now, alternative protein sources in organic aquaculture diets. So this is very simple things that now today we know that primary protein sources is fish meal, which is limited and of course this is expensive. And of course, day by day, the use of fish meal is increasing.
The reason we chose the alternative protein sources is because it is less expensive, especially plant protein sources, and this is available, sustainable, and this is environmentally friendly. Phosphorus and nitrogen, two important things that is the problem in the water for fish meal. So in this case we can reduce this. And of course we have to think that these plant protein sources are deficient of some essential amino acids, which is really needed for fish to grow.

So the target of my research is to determine the maximum percentage of fish meal protein that can be successfully replaced by solvent extracted soy bean meal in black sea bass diets. So for that purpose, initially we did two experiments. One is partial replacement of fish meal protein by soy bean meal, which is from zero to sixty percent. Zero means no soy bean meal, all 100 percent fish meal based, and we replaced 10 percent protein, 20, 30, and 60. And we did another experiment is partial and full replacement of fish meal protein by soy bean meal protein from 60 to 100 percent. It was possible to do it in one experiment but unfortunately, due to limited space and time we did two experiments. And of
course we wanted to see initially how many percent
we can get.

So these are the basic formula for the
diet formulation. We used about 48 percent
protein and lipid 12 percent, vitamin, minerals we
used high quality starch, attractants, and others.
Now these are the formulation for these diets.
Here I want to mention that as we have no clear
organic feeds, what it must be, this is not yet
finalized, so this was initially our target was to
replace the fish meal by soy bean meal, not the
organic point of view, but we have planned now to
improve, to go to the organic diets. So that's
how we use attractants one percent, because to
make the palatability, which may be not allowed
for organic. And we used solvent extracted soy
bean meal, which may be not, but we can change
this one also. So we used menhaden fish meal, 50
percent, for the control diets, if you can see.
Unfortunately I don’t have any pointer. And then
we decreased the fish meal for each, you know can
see, and here is we increased the soy bean meal.

Here I have to mention that we used the
soy bean fish meal protein replacement, and then
others we used squid meal, krill meal, and fish
oil, soy bean lecithin. These all formulations
according to the recent nutrient requirements information for carnivorous fish, especially menhaden fish. And we used the protein. This is analyzed, lipid level 12 percent. And this soy bean meal, we know that it's deficient of two essential amino acids, methionine and lysine. So we just calculated what methionine and lysine is available here.

Now these are our feed preparation room. This is our University of North Carolina Center for Marine Aquaculture facility. Thank you very much. And then this is our feed room that we prepare feed and everything. Everything we purchased locally, either maybe United States or maybe some from Japan, especially like vitamins and minerals. And we prepared diets in our facility.

Now this is the rearing conditions. Here, one thing is that we used a recirculating aquaculture system. So we used for the first experiment we used 6.6 to 7 gram black sea bass, 75 liter tanks, and 15 fish per tank, and we used it in triplicate tanks. The other water quality parameters were according to the suitable conditions for black sea bass maintained. And we fed two times a day and 42 days we continued this
Now, by chemical analysis, some analysis we did in our facilities, our newly established aquaculture nutrition laboratory, and some of this equipment still we don’t have so we used the New Jersey feed laboratories. And all data we analyzed by [unintelligible].

Now this is the results from our experiment. What we found after the 42 days feeding trial. So you can see that we did sampling in each of two weeks, I mean, 14, 28, and 42 days. So you can see we did not find any statistical difference during 42 days, even from zero to 60 percent. It means even 60 percent replacement of fish meal by soy bean meal, we did not find any statistical differences. So on the basis of this we continued.

Then this is the weight gain. So you can see this is the effect on weight gain. There is no statistical differences. Now this is the other parameters, like SGR. As I said, this scientific research so we did specific growth rate, feed intake, FCR, feed conversion ratio, survival. No statistical differences. We did not find any differences for this species. And this is after feeding trial, we did body proximate composition,
like moisture, protein, lipid. We did not find any differences except some in ash content.

So what did we find from this experiment? One, we found that no significant differences on growth performance. And we found no significance on body growth, protein, and lipid, and moisture. And we found that replacement of fish meal protein by soy bean meal could be more than 60 percent. So on the basis of this experiment we continued another experiment.

This is the partial and full replacement of fish meal protein by soy bean meal protein. So you can see that from zero percent, this is the control one, and then 60, 70—we did again 60 even though we did before—until 100 percent replacement. So this is a guide formulation as we did before. Exactly same things we did, just only in this case we just increased soy bean meal and decreased the menhaden meal, and you can see the finally 100 percent replacement is zero percent. And the other [unintelligible] similar to experiment one.

So the whole thing is like a methodology for diet, rearing, and protocol. Everything is the same as experiment one, just different batch of fish. So in this case we used initial weight
of the fish was nine grams and then you can see that we did this experiment until 70 days. After 40, 50, 60, and 70 days, you can see the—significantly different, the growth is, we found. This is the body weight gain. If you can see that if we use more than 70 percent, the body weight gain was statistically decreasing. Whereas less than 70 percent there's no differences.

So what we found from this experiment?

Looks like that we cannot use more than—we can use if we want but in this case growth will be lower than the control diet. So these are the other parameters. As I said, specific growth rate, feed intake, feed conversion ratio, all were significantly decreasing if we use more than 70 percent.

Now could you please? Now these are the whole body proximate composition, I mean, body composition. We can see that if we use more than 70 percent then protein and lipid level is significantly decreasing.

So what we found from this experiment?

We found that if we use more than 70 percent replacement then growth is decreased, feed conversion and protein efficiency is decreasing. And more than 70 percent replacement decreased the
whole body protein and whole body lipid. Now we can recommend that replacement of fish meal protein for black sea bass diet, not more than 70 percent. Here I want to mention that I used with attractants like glycine, alanine, taurine, and [unintelligible] which may be not allowed for the organic aquaculture. But why I use here? As I said, this is the first study we did. We wanted to know how many percentage of fish meal could be replaced, then we can gradually improve. And these are for the palatability.

So on the basis of these two experiments, we designed another experiment. Let's see what happened without attractants if this is not allowed. So we did experiment, exactly like experiment one but in this case we did not use any attractants that makes the fish eat the soy bean meal. We used zero percent, 10 percent, to 60 percent. So in this case, I'll not say details as we did—everything is the same as experiment one but different batch of fish. So initial weight was one gram and after 42 days, you can see that after 14 and 28 days we did not find any statistical differences. But after 42 days we found that 50 percent and 60 percent replacement gave lower growth, without attractants. If you
can remember, the previous experiment was 70 percent with attractants.

So the next experiment we designed let's see [unintelligible] 50 to more than 50 percent, I mean, 100 percent, without attractants as we did experiment number two. So we did experiment number four to replace 50, 60, 70 to 100 percent, of course without attractants. Then what we found. I just showed only the result, body weight gain. You can see that if we use more than 60 percent then growth is significantly decreased. Just compare with the previous experiment we did, experiment with attractants, which was 70 percent. If no attractants then it's 60 percent replacement. So maximum replacement of fish meal protein is not more than 60 percent without supplementing attractants. That is—we are want to organic thinking.

So we tried to see another species like southern flounder, which is also a most important species in North Carolina region. So what we did in this case just change the species. So this will give us information that how species, water carnivorous species, how species to species difference the utilization of soy bean meal. So we did the experiment zero to 60 percent.
Now the results. We're just showing only the growth performance. We have a lot of data like proximate composition, fatty acids, amino acids, that we'll do later. So we can see that this result, just after 42 days, not more than 40 percent we can replace. Because if we use more than 40 percent then growth is significantly decreased. Water carnivorous species, one can use more than 60 percent, the other cannot use more than 40 percent. So my thinking is that before deciding that 12 percent fish meal or something, we have to think that species is of concern.

So final remarks from these, my five experiments. We can conclude that assuming no reduction in growth, if we think that there will be no reduction in growth, we don’t want it, then about 70 percent of menhaden fish meal protein could be replaced by soy bean meal protein, with attractants, that is alanine, taurine, vitane [phonetic], but I did not use any methionine and lysine. But if we add methionine and lysine, it could be more. This experiment is going on now.

In another sense if we [unintelligible] the calculation from the diet formulation, I found that 15 percent fish meal plus 47 percent soy bean meal, if we use 7.5 percent squid meal and krill
meal, and ten percent lipid for all, equal to the
40, 50 percent fish meal [unintelligible] no
reduction on growth. So we can use 15 percent
fish meal, but of course it depends on the
formulation. If we change something, vitamins or
minerals, it could be different. [Unintelligible]
no effect on growth. But if we think for organic
feed we want to compensate on growth then maybe
you can use 10 percent, 12 percent no problem.

So without attractants. That is the
organic point of view, that we need to use 20
percent fish meal to make the equal growth that is
100 percent fish meal based diets.

Okay, now in the case of flounder, we
cannot use more than 40 percent menhaden fish meal
replacement with soy bean meal protein. So on the
calculation of feed formulation we found that 30
percent fish meal we need. Of course, I said this
is on the basis of my formulation that I did, a
combination of squid meal and krill meal equal to
50 percent fish meal. This is for the case of
flounder.

So my consideration on the organic feed
aquaculture, that today we are going to debate for
that 12 percent fish meal and 12 percent fish oil,
my thinking is 12 percent fish oil is enough for
the fish growing, especially for black sea bass and southern flounder that we are doing an experiment. But 12 percent fish meal, if we want to use, we have to use something protein different like soy bean meal of other combination, animal protein sources. So diet containing 10 to 12, 15 percent fish meal, of course in combination of these protein sources like soy bean meal, squid meal, krill meal, produce slightly lower growth but in the case of flounder it produces 50 percent lower growth. So if we want to make an organic flounder—of course I said this is intensive recirculating aquaculture system. I'm not talking about pond or any other thinking. Okay, now we can get half growth but future, we'll do future studies with non-solvent extracted soy bean meal, which could be slightly different or—we don’t know. We'll do it. But most of the market we can find the solvent extracted soy bean meal.

Now we need to think about the culture system. My thinking is like extensive culture, same intensive, or intensive, or recirculating, because we know that intensive culture, we are not going to provide any other natural—it's not possible to produce. Is it possible to use this kind of system for organic, because if that is not
a level for pond or other system.

Now we all need to think feeding behavior [unintelligible] omnivorous, carnivorous, herbivorous, or [unintelligible] especially protein requirement. We know that for the menhaden fish, protein requirement is high. More than 50 percent. And especially they need higher animal protein sources to grow. If we can feed them lower protein based diet but in this case there is a possibility for disease outcrop or maybe some other negative effect.

So this is all about my research, what I did. As I said, this is all information about the original research which maybe gives some information, some data for you to decide organic feed, organic [unintelligible].

So I'd like to acknowledgment for the funding of these experiments is [unintelligible] Biotechnology in North Carolina, our ENCW [phonetic] program, and NOAA, also grants from the National Menhaden Aquaculture Initiative, and of course our staffs of ENCW, our aquaculture program, and finally thanks everybody for your attention. Thank you very much.

[applause]

MS. FRANCES: Thank you. I just want to
remind folks too that the presentation will be posted on our web site so you'll be able to go through them like a PowerPoint right on the web site.

Our next person is Dr. Craig Browdy from the Marine Resources Institute, South Carolina Department of Natural Resources.

DR. CRAIG BROWDY: Thank you Valerie. Before I get started can I ask, does anybody in the room have a laser pointer?

MS. FRANCES: Once again, if you can announce yourself, and then your affiliation, and the spelling of your name please for the court recorder.

DR. BROWDY: Yeah sure. My name is Craig Browdy. I work for the South Carolina Department of Natural Resources and my name is spelled, C-R-A-I-G, Browdy, B-R-O-W-D-Y.

As part of the South Carolina Department of Natural Resources, we have a marine resources research institute that has been around since the early 1970's and has engages in aquaculture research. In fact, our department has been doing aquaculture research since the 1950's. And in 1984 we built the Waddell Mariculture Center in Bluffton, South Carolina, where we've been doing a
lot of work on aquaculture, various aspects of aquaculture research.

This particular study builds on a lot of studies that we've done over a lot of years to try to make aquaculture a bit more sustainable and this is working on different things having to do with the feeds, the diets, building it towards organic certification, and it also builds on work we've been doing with systems, and with water quality, and with a lot of other aspects of sustainability in aquaculture.

The work that I'm going to present today is multi-disciplinary and has a bunch of people that helped me out with it. And if I can't answer any of the questions that might come up, I'm certainly not, number one, a nutritionist by any means, I'm more of a generalist, but my co-author, certainly Alan Davis and others, can find answers to questions that may come up that I may not be able to answer very quickly.

The two from DNR that worked on this was myself and Dr. John Lefler. The diet formulations were mostly done by Dr. Alan Davis from Auburn University. Some of the testing was done by Dr. Tsahi Samoha [phonetic] at the Texas Agriculture Experiment Station. And Bob Bullis has been
working with us on this. He was part of the 
aquaculture board and works for Advanced 
Bionutrition Corporation that makes these oils, 
which are alternative sources of DHA and ARA.
The diets were all manufactured by a 
company called Ziegler Brothers in Gardiners, 
Pennsylvania, for the large scale pond trials. 
The diets for the small scale trials were 
manufactured at Auburn. And then we did some work 
on post harvest flesh quality and that was done by 
Gloria Seaborn, who works at the NOAA Center for 
Coastal Environmental Health and Biomolecular 
Research in Charleston. She's the lipid lady. 
We have a couple of different sources of 
funding that went towards this research. We have 
some grants from the base funding for many years 
from the U.S. Marine Shrimp Farming Program, 
that's funded through the CSREES, USDA. We did 
get a small business innovation research grant 
through Advanced Bionutrition and subcontracted on 
that for some of the large scale studies. 
Recently we've gotten some funding from NOAA from 
a program called Oceans in Human Health and when 
we saw that program we felt like it was a good 
opportunity for us to get our feet a little bit 
wetter in the area of seafood and human health.
And it seems like a direct relationship between what's going on in the ocean and what happens to humans. And so we've been focusing on that. We've done a bunch of surveys. For example, we've done 70 different sources of shrimp and looked at contaminants and fatty acid profiles of those shrimp. And we've done the same with red drum from Asia and from farms in the United States and from wild, different estuaries around the United States, looking again at 79 different contaminants with NOAA partners and looking at fatty acid profiles in terms of human health benefits. So the benefits and risk and weighing the benefit and risk. So that paid for part of the forensic analyses that we did.

And then finally we just got a grant from the Integrated Organic Program last year. Unfortunately, the first studies that we've been doing on that program have only been over the last season so we don’t have a lot of that really digested yet and ready to present but I'll show you some of the directions that that research is going.

I guess we all know, I'm here to talk about shrimp. Shrimp is a really important seafood product, particularly for consumers when
we're talking about public policy and we're talking about what people want. I think in a lot of cases what people want is shrimp. It's the number one consumed seafood, and the quantities keep increasing, and people really enjoy it. This is just a little bit of data on fish meal use with shrimp culture. Today a lot, more, and more, and more of the shrimp that we're eating comes from aquaculture. Today globally I think it's almost, it's over 50 percent already. And it keeps increasing. This is the increase in global aquaculture production of shrimp. We've got a tiger by the tail here and trying to increase opportunities for sustainable production of shrimp and to deal with some of the problems that have come up with this kind of explosive growth. But I think that in general the world shrimp farming industry is doing a better job. There's opportunities for improvement in a lot of places but there's also standards now that are making it more environmentally sustainable. But one of the issues is certainly this fish meal and also, we haven't talked about it much, but fish oil use.

World feed production is about 630 million tons. Aquaculture does about four percent of that. Now that four percent from aquaculture
uses 57 percent of the world's fish meal and of that 57 percent used for aquaculture, some of it goes to shrimp culture. It's only four percent by volume of world aquaculture production. Most of aquaculture production is fresh water species like carp, but it's 20 percent of the value of world aquaculture production so it's very important. And importantly it uses 23 percent of the total fish meal used by aquaculture so if we can reduce fish meal use with shrimp then we can basically make a big dent in the amount of fish meal that's used by aquaculture.

A lot of this data comes from a paper by Albert Taycon [phonetic] that's cited in my testimony. What do you call it? White paper?

The simple fact is that fish meal supplies are limited, that use is increasing, price is going up, and toxin levels are a concern. So even the aquaculture industry has impetus to try and replace some or all of the fish meal, whether or not they're going to try to be organic. So we decided to go ahead and do some testing of the fish meal and fish oil free diets for shrimp. We're blessed to have a very interesting critter in Panaeus vannami, which is the shrimp of choice for shrimp culture in the world, in that it really
takes advantage of natural productivity. So we felt there were some real opportunities here and we decided to shake it out and test it.

We did test some, what we call organically certifiable diets, whatever that means without a certification protocol, but we tried to use some organic ingredients and we tried to move towards what we thought would be certifiable when we did this in 2004, 2005, some of it. One thing that we wanted to pay attention to was the PUFA levels in the animals at harvest, especially DHA and EPA. It's some of the most important components of seafood in terms of human health. The benefits continue to—new papers coming out all the time. Yesterday I just saw something come out on juvenile diabetes. There's a lot of work on brain development and health, and certainly heart disease is the big one. So it's very important for human health.

So where does this DHA and ARA, where does the DHA, which is critical for human health coming from. And this is a slide I borrowed from Bob Bullish showing the marine trophic pyramid that basically it's coming from phytoplankton. That's the original primary producers, and then it works its way up through the food chain into the
carnivorous fish such as tuna or salmon that have very high levels of lipids and very good for you in terms of DHA.

Other than fish, which when the bioaccumulation, algae is really the only source of DHA. Now this product that we were testing in this aqua grow is made from an algae called schizochytrium. It's fermented in a large factory in South Carolina in Kings Tree, and then algal meals are produced that are very high in DHA. So we did quite a few studies trying to look at the opportunities for replacement by using some of these products and we started out with small scale tank studies that were done at Texas Agricultural Experiment Station. These are tanks that are about 650 liters. It's in a shaded area with heavy aeration and we added SPF, Panaeus vannami, at about 30 shrimp per meter which is a relatively low or moderate stocking density. To give you an idea today, I'm growing shrimp in some of my super intensive systems as high as 550 animals per meter in large open ponds. Very low density shrimp are typically grown at 20 per meter or less.

We did a lot of water quality monitoring. Over the last 15 or 20 years we've developed techniques to grow shrimp without exchanging any
water in the system. So it's a very environmentally sustainable technology in that all the nutrients are cycled within the system and you get this sort of waste recycling within this closed system. And it's natural microbial processes within the system, not only maintain your water quality but also have a benefit in terms of the nutritional contribution to the animal that you're growing. And it's these nutritional contributions that we very much wanted to take advantage of. So all of the diet studies that we do are done in these brown water systems that allow us to determine what we can get from the environment, what we can get from the water itself. So water quality monitoring becomes very important when you're not exchanging any water and you're just running these, what we call, bioflock systems that we use.

The oil again was from these microbial fermentation—was supplemented with oil from these microbial fermentation products. And then we did two types of protein replacement or fish meal replacement. One uses Profound, which is a co-extruded poultry by-product meal with soy beans and it has an egg supplement. This was not for the organic diet, obviously, but more for just
producing a fish meal free diet that could be
commercially viable in terms of a replacement for
farmers in the world today. Can we go out and
sell them a diet that they can actually get
cheaper and better with less fish meal use?

The second is organic plant protein
sources. I know you can't see this. That's even
worse than I thought it would be but [laughter] it
is in the handout so if anybody has the thing
that's on the web and you can see it there.

Basically, the point I want to make is that there
were two experiments that were done. This shows
the two experiments. And this was done in two
separate years, and in both cases the diets were
compared to a commercial formulation. Basically,
we had—this was one of our first experiments. We
wanted to test the use of these algal meals so we
tested them at two different levels of inclusion
and then a third diet with no inclusion of those
oils, rather using the menhaden oil. So what
we're comparing is fish oil to a no fish oil diet
that just uses these algal meals. All of these
meals in the first year used Profound, the poultry
meal replacement and soy bean meal. No fish meal.

The second year, we chose one of the
levels of oil replacement and here we compared it
to a diet that had no dish oil and no replacement. So here there is actually no marine fish oils in the diet.

The last diet here that we tested in the second year in the small scale study was an organic diet, and if you look at the products that were used we got rid of the soy bean meal and used organic soy bean meal, organic [background noise] gluten. Again, these oils and different types of organic soy oil, organic flax oil, etc.

To give you an idea I'm going to put the two experiments on one slide just to go through it quickly so you can see what happened. There was no difference in survival. All survivals were well above 90 percent. No difference in feed conversion, feed conversions were reasonable. I'm showing you here the growth data and all of that data is in the paper in a table. But just to show you visually the growth data, you can see that we were able to— [sound cut]

DR. BROWDY: This is the control diet and it obviously did a little bit better although not statistically significant. Notice that this has
been truncated so that you can actually see the
differences but these differences are not
significant. Basically you could replace the
menhaden fish oil with the algal oils, even at the
lower inclusion rate with very good success in
terms of growth of this shrimp in the brown water
system.

In the second year where we actually
completely removed the oils we were surprised to
see how small the difference was but in fact it
was a statistically significant difference from
the control. At our first shot at the organic
diet it didn't do quite as well as we had hoped.
We were down significantly lower than any of the
other diets. But we learned from that and we came
back with some new formulations for our pond
trials. Again I think that the diet with the
algal oil replacements did almost as good as the
control diet.

So we decided to go prime time and to
take our studies out to the ponds, which is no
small matter because it's very expensive and very
difficult to run pond trials. One of the
disadvantages with pond trials is you don’t get
the replication that you can get with a tank
trial. So we used these tenth hectare ponds for
our trials and basically this is the Waddell
Mariculture Center in Bluffton, and we had three
ponds for each of our diets that we were testing,
so we had some replication. But probably not
enough.

Basically we did two series of studies
that I'm going to present. One using this plant
based organic diet. And again, here we used
almost all organic ingredients. I say it's
organically certifiable. We did have to include
some liquid fish solubles and squid liver oil at
about one percent for attractability, but by and
large it's what we call an organically certifiable
diet. And again we used these algal oils. So
it's no fish meal and significantly no fish oil as
well. So no marine products. And then again, the
second year we did a study with using the poultry
by-product meal and again, this is to provide a
more cost effective formulation that could go into
some replacement right away.

Six ponds, 89 day study. It's basically
a complete grow-out and we compared it to a
control 35 percent protein shrimp grow. Here you
can see the harvest size was not significantly
different. In fact it was even a little bit
higher with the plant based diet but not
statistically significant. These production levels are very reasonable. Five thousand kilograms per hectare per crop. And then a good growth rate and high survival. So this showed us that actually in the pond in this kind of a heterotrophic bioflock based system we could already use basically an organic diet with no fish meal and fish oil and get reasonable production results with this species of shrimp.

So then we ran a second study and this time—Significantly, that first study, I failed to mention was that 25 shrimp per meter squared. So again, that's at a relatively low stocking density. Shrimp are very different from terrestrial animals. They like being crowded. These guys live in schools in the wild, I mean, you put more in per unit area. I told you we're up to 550 per square meter. We never thought it was possible and the shrimp are perfectly happy. They love it in there. So the crowding in marine organisms, the schooling effect, is very different mindset than in land organisms. But we went ahead and increased the stocking density in the second study to 80 per meter so that we could get more production out of them and we used again, nursed animals. This is something that could go into
commercial use right away to replace fish meal in these kinds of diets. So we thought we'd try it out at high density. Limited water exchange here. We did do some water exchange in this study. Once we had a power outage, had to do 20 percent exchange, and then again we exchanged towards the end.

Here again, this time we got a significant increase in size with the poultry meal based diet. So we showed that it can work, we got production as high as ten or eleven thousand kilos per hectare, which is very reasonable commercially in the world today. And then a reasonable harvest size growth, good survival, and FCR with the poultry meal based diet with no fish meal and no fish oil.

So basically there wasn't any differences in harvest biomass and we concluded that these kinds of diets with these replacements can be comparable to conventional feeds even at high stocking densities. So I think Bob is out there now in the world kind of beating the bushes and showing the growers and the feed companies that, you know, hey, we can cut back on our fish meal use, we can cut back on our fish oil use, even if this never has significant implications for
organic, which I think it does, it also has significant implications in terms of sustainability of shrimp farming in the world. Now hopefully we'll make a step forward that we'll be able to start cutting back in a large scale in the amount of use of these meals and oils with these replacements.

So then we asked the question, do these diets produce an equivalent nutritional product from the human health perspective. Valerie, how many minutes do I have? Just one? Okay, I can't tell you about the human. Hopefully I can get an extra minute.

From a human health perspective we ran these fatty acid analyses. And we found that the differences in the lipid—there were differences in the lipid profiles between the diets. And to cut to the chase I'll show you the graph and explain it from there. Here you've got the plant based diet in blue and the fish meal based diet in red. The top is showing you what's in the diet, the bottom is showing you what's in the shrimp. And we're looking at four different fatty acids here, four very significant ones. We've got linoleic, linolanic, EPA, and DHA. Now the linoleic is very high in the plant based feeds, obviously. It
comes from the soy beans. This is not as good for
you in terms of heart health as the EPA and the
DHA, which we're looking for. The EPA and DHA are
much higher in the fish meal based diet with the
fish oil, the conventional diet, than they are in
our replacement diets. The replacement diets are
relatively low. And it's not surprisingly when
you come down to look at the shrimp you find that
in the plant based diet the linolic and linoleic
are higher and the EPA and the DHA are somewhat
lower.

What surprised us and what really kind of
made us take a double take was that it wasn't that
much lower. If you look at how low it was in the
diet the fact that the shrimp had such nice levels
of EPA and DHA, we found to be somewhat
surprising. So they either bio-accumulated it or
it came from the natural productivity.

So this takes us to where we are today
with the Integrated Organic Program. We're trying
to use a holistic approach to put all this
together—to increase the amount of fatty acids and
essential amino acids that's coming from the
bioflock, we're doing this through a number of
different types of studies that are focusing on
that in order to create a holistic approach to
formulating diets for organic standards and utilizing natural productivity within the system. Thanks.

MS. FRANCES: Thank you very much.

[applause] We're having some technical difficulties with some of the mikes. They have a life of their own up there and they keep popping on so that's what you're getting.

Our next speaker is Brad Hicks, who is chair of the Pacific Organic Seafood Association from British Columbia, Canada.

MR. BRAD HICKS: Good morning. For the record, my name is Brad Hicks, that's B-R-A-D, H-I-C-K-S. I am with the Pacific Organic Seafood Association from British Columbia. And I guess technically, Valerie, you're doing the advancing of the slides? Well this should be interesting.

First of all I'd very much like to thank the National Organic Standards Board for inviting me to come. I've been involved in fish farming, and fish health, and in fish nutrition for about 35 years. I've raised six different species. I've raised fish in Maine, Florida, Chile, Ontario, British Columbia, and I've raised oysters as well. In addition, about ten years ago I got involved in the organic movement in British
Columbia and a group of aquaculture people in British Columbia, some shellfish farmers, and some fin fish farmer got together and put together some standards for raising finned fish and for oysters. Those standards are currently before the, what's called the COABC, which is the local regulatory board in British Columbia, which has in terms of I guess political science has about the same position provincially as the NOSB has federally in the U.S. So it's about the same stage.

My topic is basically that I think feeding fish meal and fish oil does fulfill organic tenets and in addition I'm going to talk to you about the concentration of biological capital, which I will explain as we go forward here.

The other thing is I should mention is that although you've listened to a couple of technical talks, mine will not be technical. I'm going to perhaps more address the challenge from the chair this morning about protecting the USDA organic label, which is obviously part of your decision making process.

The goals for my talk are three. First of all I'm going to convince everybody in the room that fish are not [background noise] trophic level
carnivores, that they're actually the same trophic level in the system as our regular farmed animals are. Secondly, the main controversy over organic fish farming is political and not scientific. And third, that organic aquaculture standards should be encouraged [audio feedback] biological capital.

MS. FRANCES: I'm going to pause for a second. We're going to pause while we get this microphone so we can pay attention to your presentation.

MR. HICKS: I'd be delighted to pay attention. [laughter]

MS. FRANCES: Thank you. This is a phantom mike.

[off-mic comments]

MR. HICKS: So my goals for today are to get everybody to understand that fish are not top level carnivores, that in fact they operate at the same trophic level as the rest of our farm animals do. That the main controversy in organic fish farming is political and not scientific, and that organic aquaculture standards should encourage the preservation of biological capital. And during this talk you will get to understand what biological capital is.

Okay, this is Biology 100 here or Ecology
100, trophic levels. It will be on the exam so please pay attention. See I told you this would be tricky because I thought I'd have the button.

Basically in terrestrial systems, carbon is fixed by plants, and in farm animals that's primarily the grains, some fruits and vegetables end up in animals, but primarily it's the grains and grasses. They also feed, of course, terrestrial invertebrates. Terrestrial invertebrates, in turn, feed chickens and pigs. Chickens and pigs are both essentially omnivores. That's why they spend a lot of time digging around the earth looking for bugs to eat. Top carnivores, typically the bears and the eagles, and the tigers and the wolves, then eat the omnivores and the herbivores. That's kind of the way the system works, and to a large extent humans are top carnivores.

Major trophic levels in aquaculture systems—something happened in the translation here. Sorry about this. Essentially you have zooplankton at the bottom, they fix the carbon. That moves through a system of planktivorous fish, fish which each the plankton, and those include primarily the sardines and the herring group of fishes, menhaden you've heard of earlier, and
aquatic invertebrates including shrimp.

Piscivorous fishes, and I use the term piscivorous rather than carnivorous because in aquatic toxicology fish eating fish are called piscivorous fish. These are the tuna and the salmon. There are also omnivorous fishes, the tilapia and the carp for instance.

So you can see the plankton produces, goes to the next level. Some of the omnivorous fishes are direct consumers of plankton. But primarily they get their food from other sources that have already basically concentrated the plankton. And then you have the piscivorous fishes, the salmon and tuna, which primarily eat planktivorous fishes and invertebrates. And just like the other slide, the top carnivores in this system are the bears, the eagles, the toothed whales, not the baleen whales but the toothed whales, and predatory birds such as the osprey, and of course humans.

So if we put this all together you'll see that the fish that we farm are actually the same trophic level as other farm animals. So I'm just going to take all those lines out and I'm going to replace them with a whole bunch of new lines.

Okay, now in organic systems are essentially
prescriptive ways of rearing plants and animals. Organic systems have been set up to deal with grains and oil seeds. Organic systems are in place to deal with omnivores and herbivores, our usual farm animals. We have the rules that show how the food value moves from the grasses up to the farm animals. We also globally and the NOSB to a certain extent now has, I guess, preliminary rules for organic aquaculture. And globally, 14 standards are available globally that look after piscivorous fish and my sort of reading of the NOSB is they're already pretty well accepting of the omnivorous fishes.

In addition, it seems to me that the organic rules have accepted that we can take terrestrial plants and animals, or terrestrial plants and feed them to aquatic species. That's generally accepted is my understanding. It's also generally accepted in most organic systems that you can feed fish meal and fish oils to terrestrial organic animals. In addition, aquatic protein fish meal can be used as a fertilizer. So this is a bit of a circuitous route by which aquatic animal protein is moved into the organic food system. It goes down fertilizes a plant, that plant then is fed to an organic animal.
Humans, although there are some organic dog foods available, the primary top predator or the top trophic level individual that organic standards focus on is human. So currently we have a system that allows farm animals, through the organic system, to go to people. We have tentative rules in place to allow omnivores. The only place there's a question in this whole system seems to be with piscivorous fishes, okay? So that's what I want to focus on.

So why is that? Why is it we can accept all these other standards and yet we get hung up on piscivorous fishes? Well having been at this for many years my sense is that it's politics and not science. The science is actually quite simple once you understand it. The politics is extremely complex. Hence the protection of the label is as important as the science.

Organic aquaculture is a small sector of the aquaculture industry, just like organic agriculture is a small sector of the agricultural industry. They both rely on organic principles as the underpinning of the rule making. In addition, they are both open farming systems. All the farming systems we deal with, deal in the open. They are not closed systems. They deal with
diseases, parasites, waste, interaction with wildlife, and interaction with predators. That's primarily for this afternoon but I just caution the board to understand that there is a political overlay in most of what they’ll hear today.

One of the ways this has come to the attention of something I refer to as advocacy science, the development of science or the conducting of science to support a specific thesis. This is from the Moore Foundation. The Moore Foundation is one of the supporters of this group down here. Integration of Aquaculture Science Messages into the Anti-Farming Campaign. That refers to the anti-fish farming campaign. The pure salmon campaign is part of that. So essentially there has been an attempt to develop science that supports the anti-fish farm movement.

The board, of course, very familiar with this. You have received two letters that I know of and probably a whole lot more I don’t know of. The two letters I know of are from the Organic Consumer Association. I read the letter. Not a whole lot of science in the letter, but I did see that they represent 850,000 people. I feel the pressure on the NOSB already. In addition you've received another letter from what I refer to as
the 44 Organizations letter. Together we represent millions of voices. So the NOSB now has a lot of political pressure on it and a little bit of science to try and solve this.

Well, somebody else thought about this before I did. Science is a part of your input, but scientific debate is readily clouded by scientists who fail to recognize the boundaries between intrinsically scientific and intrinsically political questions and advocate their own ideological beliefs. So not all science is perhaps as we believe. Public acceptability of a given policy is a political not a scientific issue. For me, that is what the NOSB must deal with.

Okay, now back to a little more pragmatic issues. Preservation of biological capital. This has been a pet peeve of mine for a very long time. I think we should use our biological capital wisely. What do I mean by biological capital? Essentially all our food is generated by the sun, plus carbon, plus water, plus minor nutrients, to produce biological capital. I'm sorry how these slides turned out. They don't look like that on my presentation, but-- So this biological capital is essentially the plants and animals that are
derived and driven by essentially the sun. Fish meal and fish oil are unique forms of biological capital. Fish meal is very high in the limited sulfur containing amino acids. The very first speaker this morning, I'm sure you're not that technical, but at the bottom of one of his slides he showed in yellow, meaning it's not organic, the addition of lysine and methionine. The reason why most organic standards allow the use of fish meal in diets is to supply the lysine and methionine.

So it is unique. It is valuable. In addition, everybody knows about EPA and DHA, you've heard lots about that already.

So what so we do with our biological capital? Well old school, when there was no conservation, basically we used fish meal and fish oil to produce industrial chemicals, fertilizer, paint, fuel, and lubricants. So all of that EPA and DHA we just burned it folks, we didn't use it. Okay? New school, if you will, with conservation ethic, about 50 years ago we started to use these products in farm animals because we found them very useful and we found it a better use than using it as a fertilizer or industrial chemical. Then about 30 years ago we started using it in amounts in farmed fish primarily tuna, salmon, and
shrimp. Most recently, we've been using some in pharmaceuticals, fish capsules. In addition, I think it's important to understand that if we accept the use in farm animals, fish are about two to ten times more efficient at conserving this valuable biological capital than other farm animals. So if we're going to use it in farm animals we should use it in fish.

Next please? Okay, it didn't work.

Sorry about that, I emailed this in which probably didn't work. Essentially on this slide, these are actually movies and for me the choice is we can burn up this beautiful biological capital in a diesel engine pulling tractors around at a tractor pull or we can use it to produce a food that we can celebrate, i.e. fish. And for me, this is the actual decision that's trying to be made.

I've been at this for quite a while. I haven't been alone. And as a pioneer it's always a little bit difficult sometimes. You have to change some people's attitudes a little bit along the way. So I would like to acknowledge and thank the members of the Pacific Organic Seafood Association for their help and their perseverance in this process. And fish farmers, like all farmers, are proud of the things they produce and
I would like to thank you for your attention.

[applause]

MS. FRANCES: Our fourth speaker is Dr. Steven Craig with the Virginia / Maryland Regional College of Veterinary Medicine from Virginia Tech. And after talk we will have a break.

[off-mic comments]

DR. STEVEN CRAIG: Good morning. It's a pleasure to be here this morning. Last time I saw you guys it was about 9:30 at night, last March, after a long day of public comments. Hopefully we'll wrap it up a little quicker today.

I'd like to present some research we've been doing at Virginia Tech. Kind of on opposite ends of the spectrum, if you will, in terms of--


Again, we've been looking at alternate proteins from a little bit different perspective than most labs around the country and the world, in that we went straight to the organic alternate protein sources in terms of fish meal replacement. There's a need in conventional aquaculture to move away from fish meal inclusion. We took it a step further to go ahead and look at some organic source.
And so again, we've been looking at this since about 2003 in the laboratory, certainly with tilapia and kobia. Talk a little bit about kobia later. Tilapia is very well known in North America certainly. And then we've also done some commercial field trials with the marine shrimp that Craig Browdy talked about at the Organic Aquaculture Institute in Imperial, Texas. We have a poster in the back there that describes the three years of data we've collected there. Again, pulling all the fish meal out of aqua feeds for shrimp and having pretty good production under organically certified guidelines. And we're moving on, as we look at the alternate protein work, we're moving on to investigate the alternate lipid work using some of the ingredients Craig talked about in terms of the DHA algae and other sources.

So our problem is, as a nutritionist, the organic protein sources, the certified organic protein sources, there are very few of them, and those that are out there, there are even fewer that are suitable for aqua feeds. Fish tend to require higher levels of protein. They're more efficient converters of protein but they typically require higher levels of dietary protein for
optimal growth. These organic protein sources are very expensive and that compounds that problem certainly when you're looking at the economics of it. And so what we've looked at, at the Virginia Tech Aquaculture Center, soy bean meal, soy concentrate, soy isolate. These are pretty easily obtained. There's a relatively good market for them. We went and found some hemp meal out of Canada. It's a very interesting protein source. I'll talk about that a little bit later in terms of blending protein sources to achieve the amino acid requirements of some of these animals we're working with.

We've also done a considerable amount of work with a product called NuPro by All Tech out of Nicholasville, Kentucky. This is a certifiable protein source, if you will. It's the contents of the yeast cell and that's basically how we started our alternate protein work with kobia and we've advance from there just recently.

We've conducted over ten feeding trials to date. We have two in the water right now and all of these have been bouncing between 40 and 100 percent fish meal replacement. Now again, with the tilapia it's fairly easy to do. They don’t require that much fish meal. In fact they don’t
require any. We can do that very easily. With the kobia it's a high level carnivore, piscivore is probably a more appropriate term, and like the salmon, you can usually replace about 40 percent of the fish meal protein pretty easily across the board without any impacts on growth. Once you go higher than that you have some problem in terms of weight gain and performance.

So again, tilapia is a relatively easy fish to start with. As I mentioned last March, I think there's some animals that you can look at right now that are very conducive to organic aquaculture. Tilapia would be one of those. This was a ten week feeding trial. Again, zero to 100 percent fish meal replacement, or in this case we actually replaced the soy bean meal component of the tilapia diet. We kept four percent fish meal in most of the diets—all the diets except for one.

And then that final diet, we're always looking to replace 100 percent of the either fish meal, or in this case soy bran meal, with an organically certified protein source. And again, as with all our studies, we monitor weight gain, feed efficiency, biological indices. I'll just present the weight gain data today.

And so this is the growth, percent
increase from initial weight after ten weeks. You can see the zero represents a control diet and basically no differences in growth after the ten week study, especially that one bar on the far right. That's the 100 percent NuPro. That's no soy bean meal or no fish meal. That's 100 percent yeast based protein.

This is just a different way to present it as a percentage of the controls. Again, you can see all of the diets basically out-competed the control diet as we replaced the soy bean meal with the NuPro. Again, on the far end, that 100 percent diet again, a total yeast based protein, a totally certifiable organic diet had very good growth over the ten weeks.

So we kind of moved away from tilapia very quickly. In 2002 we looked at kobia as being really one of the exciting fishes for the future of aquaculture. It's a very rapidly growing fish, again, a marine carnivore or piscivore. Rapidly growing—we can grow this fish from a one millimeter egg to ten pounds in one year. So it's a very attractive fish for aquaculture.

We've conducted over 20 trials with this animal at the VTAC [phonetic] over the last five years, so we know the animal pretty well in terms
of nutritional requirements. And that's a key to, as we start replacing fish meal and pulling the fish meal out, you really need to know the quantitative nutritional requirements so that you can hit these fatty acid, amino acid levels, as you replace the fish meal.

And again, as I mentioned, we're a little bit unique in that all the alternate protein sources we use were certified organic. I'll talk about kind of a novel source we've just recently completed a follow up trial with. It's a Nereid worm diet that's very attractive for the future. And we've had success replacing 100 percent of the fish meal. Now we have some caveats. With some amino acid additions we found taurines very important and conditionally indispensable when you pull a lot of the fish meal out of diets for kobia. And again, those are things that are going to have to be discussed later in terms of national listing and such.

So again, zero to 100 percent. That 100 percent is always the holy grail. We want to pull all that fish meal out of this diet. We know we can do that now with and without amino acid supplementation. Again, as we move forward and move past this proof of principle if you will, I
think we can start blending some of these unique protein sources that are out there to achieve the amino acid requirements necessary so that we can move away from amino acid supplementation. In most of these trials we did utilize menhaden oil to supply the essential fatty acids that all marine fish require. Again, six to eight week studies and the same parameters—weight gain, feed efficiency, biological indices, to see the impact of these dietary manipulations on the animal's final product quality.

So this is the initial study again. This is with the NuPro, with the yeast protein if you will. And again, 25, 50, 75, and 100 percent replacement of fish meal. You see the decline in growth after we hit the 25 percent level. We analyzed these diets and saw some deficiencies in some specific amino acids so we re-ran it and just looked at the 50 and the 75 percent inclusion levels. In one set of diets we added methionine and tryptophan because they seemed to be a little deficient. Then we took that diet and added taurine to it, and you can see the dramatic impact that dietary taurine had when we're pulling out this fish meal. Taurine is relatively high in fish meal. So this got us really excited thinking
we had the silver bullet for alternate plant meal inclusion in diets for kobia.

So repeated the first trial. All these diets were supplemented with a half a percent taurine in the diet and once again, that 100 percent we're always trying to push that wall. You see the decreasing growth but it was a substantial improvement from the previous trial. So not quite there. Again, this is a yeast protein with taurine but it gave us some hope that kobia was be amenable to 100 percent fish meal replacement.

And then this one masters student did all this work. She did a wonderful job. She was interested in the organic aspect of it, so again, we came back, we looked at the NuPro at 25 and 40 again, just to repeat our trials to see if we could repeat those results, and we did. And then that soy bean meal, soy isolate, and then that hemp meal at the end.

Really good growth. We call this—this is our Katrina control. We got some menhaden meal out of New Orleans right after Katrina hit so something was wrong with that fish meal. But these growth rates represent pretty typical rates for our lab that we've seen over the years. So
again, at 40 percent inclusion or replacement of fish meal we can get adequate growth. Now this is important because these different protein sources we can utilize as a blend possibly to attack the problem about supplemental amino acids, specifically with kobia.

Something that we've just finished. I mentioned it in March. We still had the trial in the water. We've been working with a company out of the UK called Sea Bay. They grow these marine worms, these Nereid worms. They're certified organic by the British Soil Association and they're rag worms, they're fish bait, so marine fish typically love to eat these worms. They've got really nice protein content, 50 to 55 percent. About 18 percent lipid. Now that's very important because it's a marine lipid, so you're bringing in these N-3 [phonetic] fatty acids that are required by marine fish. Again, this is an organically certified protein source. Very expensive but very interesting in terms of what we're able to do with the kobia. We've run two separate trials to repeat these results to insure that what we saw the first time was indeed happening and thankfully it was.

So this was the first trial. The control
is a straight 100 percent fish meal diet, herring meal in this case. And then again, the 25, 50, 75, 100 percent replacement of that fish meal. That diet on the end is what we called our organic diet. It was a mixture of the worm meal, organically certified soy concentrate, and then the NuPro, which again is able to be certified as organic. You can see we got really good growth, particularly with the 75 percent replacement level. The organic diet represents the first time that we know of that a marine fish has been cultured on a fish meal and oil free diet. So you can do it. It can be done and we've done it. And we did it again. And we just finished this last spring. Step back—again the control is fish meal. We looked at 50 and 100 percent as well as we repeated our organic formulation, and again, we're seeing the same thing. So this makes us very excited in terms of the potential to culture at least a kobia, and we feel if you can do a kobia you can probably do any other marine fish.

So in conclusion, the work we've done at the Virginia Tech Aquaculture Center and in conjunction with the Organic Aquaculture Institute in Texas is we've produced shrimp, tilapia, and kobia on diets that could be certified as organic
and certainly have no fish meal or fish oil in them. You might need the supplemental amino acids at the start but again, I think by blending some of these sources, what we've seen, we can move away from the supplemental amino acids. Naturally, some fish are going to be easier to culture than others under organic certification and our mantra and our position is it should be difficult to do this. It's not for everybody to go out and produce an organic aquaculture animal. It should be hard, it should be expensive. But you've got to protect that label and that's our concern is that if the standards aren't high enough then the label loses its validity in the marketplace. And once you lose that you've kind of lost everything.

And so to tie this all back into the proposed rules in terms of the 12 / 12, as I mentioned in my paper, I kind of just rambled on for three pages. I didn't present a pure scientific paper for you, but I think it's a very good start. But what we could like to see is the phase out. We think it can be done. We feel like we've proven it can be done, and I think that we need to get something going now and the 12 / 12 rule is a great place to start. But we should set
our sights higher in terms of the phase out.

Thank you very much. [applause]

MS. FRANCES: We are scheduled for a break, about a 15 minute break. We definitely need one. We'll resolve the technical problems, we hope. It's now ten o'clock? Quarter of? So come back at ten o'clock. Good?

Anybody has index cards with questions, you want to leave them over here by my laptop, that would be helpful.

[sound cut]

MS. FRANCES: How are we doing on mikes? Not yet?

Our next speaker is Jonathan Shepherd. He is with the International Fish Meal and Fish Oil Organization.

DR. JONATHAN SHEPHERD: Good morning.

Thank you to the NOSB for inviting me. Ron Hardy and I presented a paper on sustainable marine resources for organic aqua feed to this conference. Ron sends his apologies. He's away in Asia right now and he's asked me to present it on our joint behalves. I'm originally veterinarian, turned fish farmer, with a career in the fish feed business, and for the last three years with the International Fish Meal and Fish
Firstly some background comments. With wild fish capture facing a number of severe constraints, global aquaculture production will have to double by 2030 to keep pace with the demand. According to FAO, the United Nations, that means in absolute terms an increase of almost 40 million tons.

Analysis of food conversion efficiency according to the International Council for the Exploration of the Seas, ICES, suggests a closely regulated combination on the one hand, of human consumption fisheries, and on the other hand, of industrial fisheries, by which we mean feed fisheries, by which we mean reduction fisheries, will provide the only solution to the long term demands for fish protein.

Then again, it's worth adding that in an ideal world, fish would be fed directly to humans, but where this is not currently feasible, farm fish are the best converters to high quality food for human consumption. Look, if you could get a higher price for selling a menhaden or for that matter selling processing offals into the human food market, then of course you could and you should do so.
Given that the organic rule book was not designed originally, as I understand it, with aquatic products in mind. I've tried to focus on the key points, which should influence our thinking during this debate. I'll seek to show firstly that as regards sustainability, feed fisheries will be a finite or a sustainable resource. I'll paint the picture of eco-efficiency, which is that of an improving wild to farmed fish ratio. Thirdly, human health. The massive positive impact on human health is totally disproportionate to the minor contaminants risk that we hear about a lot in the media. And finally, fish health and welfare. Fish, of course, have an essential fatty acid requirement. That not only means as a veterinarian I have an ethical obligation to promote fish welfare and take account of dietary requirements, but in my experience it's a sound economic driver for keeping fish healthy, otherwise they don't grow as they're expected to.

The view has got about that demand will outstrip supply within the next decade and this position was reinforced by a period of strong prices. As some of you know, the price has come down from over 1,300 to $1,400 a ton to about $800
a ton right now. On the other hand, the fish oil price has risen sharply to over a thousand tons [sic], influenced as it is by the whole bio diesel market, and rapeseed oil, and so on. The truth is that with the ongoing pattern of substitution with complementary ingredients, be they soy or whatever, reallocation from pig and poultry on the one hand to aquaculture on the other, and the more strategic use of fish meal and fish oil, there really is no current crisis. And I'll point out why we don’t have to fear of any crisis in the next ten years. So my conclusion is that increasing demand for fish meal and fish oil from aquaculture is not leading to an imminent supply crisis.

But let's look at the catch and production data. As you can see, from the last thirty years, these are FAO statistics, the global supply of feed fish, industrial fish, reduction fish if you like, has varied between 20 and 30 million tons per year and the variations reflect natural variation to a large extent and you can see the marked effect of El Niño, in this case in 1987, and minor ones along the way. El Niño being so important to the global catch because of course Peru and Chile together are approximately half of
the world's supply.

This overall picture of feed fish catch globally, of course, is mirrored by the fish meal and fish oil production statistics. This is from '86 to 2006 and you can see fish meal varying between five and six million tons per year with blips following the El Niño again and fish oil likewise at around one million tons per annum.

Let's look ahead for a moment and I believe there is no evidence of an out of the ordinary alteration to raw material supplies, but there are a lot of factors, of course, affecting this. On the one hand you've got—we've been talking about it—El Niño, which has a negative effect. You've got a more precautionary approach to fishing, which I think is a wise and responsible thing and it's very much in the minds, particularly of the Peruvian market, their government at the moment. Then there's more fish going to human consumption as for example in Chile with jack mackerel there are now processing innovations to try and utilize the bigger jack mackerel for human consumption. And these, if you like, negative in terms of feed fish and fish meal supply, negative factors of course offset by certain positive effects. La Niña, the opposite
of El Niño, krill coming on stream. I doubt if that will be used for commodity fish meal but it's becoming commercially available. And then more processing waste to the fish meal and fish oil industry.

So in summary our belief is that there will be certainly good years and bad years but the overall effect on fish meal and fish oil volumes will be neutral. In other words, it will stay a relatively flat curve over the period, certainly not getting higher.

So much for supply then. What about demand? I think the interesting message I want to put over, of the last two, three, four years really, has been the effect of increasing price leading to market reallocation based on value. In other words, that the pig and the poultry sectors are using less and less fish meal and that is therefore available for aquaculture or whoever indeed is prepared to pay a higher price. And if you look at the left hand column, 2002, I would say there was a high use of fish meal of course in aquaculture diets and in pig diets, including grower pigs, and moderate amounts, certainly in Europe, in poultry diets, and at that stage in the USA as well.
Also, I have not put on this slide, but here in the States I shouldn't pass up the importance of the pet food market in terms of usage of fish meal and fish oil. And then of course nutraceuticals is a growing but small-high value, small volume usage.

But then by 2007, by this year, of course the use in aquaculture has moderated quite considerably. We've heard already about the success in terms of substituting with complementary ingredients in a number of diets. In pigs I would say that worldwide it's more and more restricted at the moment to baby pig weener diets. It's gone out of pig grow-out diets almost completely and that's based on price. And certainly in the UK, where I live, we don’t see any fish meal in poultry at the moment except perhaps in small niches like turkey pouls and so on.

Looking ahead then, I think this trend will continue. I think in 2012 it will be start of finish of brood stock and recovery diets. In other words, fish oil for example, will only be as a washout in the last two, three months before slaughter to raise the long chain omega-3 levels. It won't be in the main grow-out diets. And I
think the same will pertain in terms of pigs and poultry where it will be in niches like breeder diets, and recovery diets, and so on.

So to summarize that picture I would say if you look at the foot of the table, the three green points, one has a picture of increasing animal production worldwide, a picture of decreasing fish meal inclusion rates, and a relatively constant availability of fish meal, a sort of plateau. Therefore, I mean, it's obvious that we've got a situation that's traditionally been a commodity and is becoming increasingly a strategic ingredient for use at critical stages in the life cycle. In other words, where people are prepared to pay the price to get the insurance and nutritional security that they need in the critical life stages, but not as a generality throughout the life cycle.

So if we stay with the picture of six million tons thereabouts, about a million tons of fish oil, we reach a point in 2012 where you'll see that approximately 60 percent of world fish meal production goes to aquaculture, compared with 52 percent in 2005. And 88 percent of fish oil will be used by aquaculture, compared to 84 percent in 2005. Now obviously, these are rather
difficult projections to make. They're published by Andrew Jackson based on Albert Tacon's [phonetic] data. But I think the point is that increasing demand for fish meal and fish oil from aquaculture is not leading to that imminent supply crisis. And it's worth just adding to that, that by 2012 fish oil will be getting tight if there's no production of industrially manufactured EPA and DHA by then, which I'm sure will come about. So that's the worry. It's the fish oil that's the worry in terms of longer term availability and fortunately there are substitutes in development.

Coming then to this vexed question of ratios of fish in / fish out, if you like. There's a popular misconception that, you know, there's eight to one, or four to one, or ten to one, or I've heard everything I think, and you've got to actually examine the data of course. And if you look up at the top left you see a little green spot. Belona [phonetic] the NGO, did a study in Norway in 2003 with Norwegian salmon and concluded that the figure there was 2.67 to one. And of course, since then it's been improving somewhat due to continually improving food conversion rate of feed to fish and increasing substitution particularly in Norway now as well of
fish oil by rapeseed oil. But I'll say more about salmon in a moment.

I want to concentrate on the other two, the red and the blue line, which is trying to take a global picture, input / output picture, and this by the way, is all fed compounded diets, right? Whether they're carnivorous fish, so-called, or all aquaculture. This is fin fish and crustacean aquaculture fed compounded diets. Again, Albert Tacon and the FAO have supplied the data and Andrew Jackson has looked at it. And you can see that, first of all, if you take the picture of all aquaculture, that's the blue line, by 2005 or 2007, it's already about 0.6 to one, below one to one. But of course, I think that's an unfair comparison. I think we should focus on fish which have a relatively exacting nutritional requirement, and so the red line is the carnivorous fish and today, in 2007, that's about 1-1/2 to one. But of course, the devil's in the detail, and if you feed back the offals from those farm fish to other species of fish, other species for preventative medicine reasons, then you'll get it at one to one or even less than one to one, even today. So it's a picture of continuing improvement due to the substitution [audio
Continuing improvement due to the strong substitution push.

Coming back then to salmon, I know this is of interest to a number of you, so I'm said that the Bolona figures, 2.7 in the early 90's and published in 2003 for Norway, this is now down to close to one to one on the protein side. But of course, it's the high fish oil which makes this something of a special case and now the growing use of rapeseed is the sort of secret factor which will help that. And logically, I believe that feed formulators can and should replace down to about 12 percent fish oil and make the rest up with vegetable oil in order, not for the benefits of the fish so much, they need less, they need probably only two percent, but in order to ensure there's enough long chain omega-3's in the filets for human consumption.

And it's worth reminding ourselves, I think Brad Hicks said that conversion efficiency is based on the edible protein and energy recovery basis and fish are about twice that of poultry and many more times efficient than in cattle. And why is that? Well of course that's due to biological fundamentals. The fact they're cold blooded, the fact of neutral buoyancy, and they don't have to
worry about gravity, don’t have heavy bones, and all the rest of it. So it's inherently more efficient. And going to your proposed 12 and 12 rule, those levels of inclusion as proposed in salmon would make the ratio around one to one, while with other carnivores with less oil it would be better than one to one. And especially of course if one then utilizes the salmon offals into non-salmonids for farming purposes.

But looking at sustainability then, what are the options here? Peruvian anchovy, as I said, is far and away the biggest fishery in the world. There is a highly precautionary approach by the government. There was a problem in the 90's with lack of compliance by the big fishing boats in Peru but the government has now imposed a whole system of satellite tracking, and seven day a week independent auditing by SGS, and it seems to have pretty well eliminated all that illegal fishing. And you've got to remember there, it's such an important part of the Peruvian economy, it's the second or third biggest export, fish meal, they can't afford to kill the goose that lays the golden egg. So it's a fundamentally strategic fishery for the Peruvians and fortunately for us too, who can take advantage of
it. But here in the USA, of course, you're exceptionally lucky—

[sound cut]

[END MZ005002]

[START MZ005003]

-in having access to trimmings from the Alaskan Pollock fishery. Also, that it’s MSE certified. And both of Pollock canvas [phonetic] salmon on managed targeted fisheries. So the segregation and traceability of fishmeal and fish are derived from. It was not a big deal.

As regards international organic standards, the Europeans, we Europeans, would regard fishmeal, fish offen [phonetic] certified sustainable fisheries as our gold standards. So we’re very envious of you guys with your Alaskan Pollock. But given our lack of current certified volume sources of supply in Europe, our default position is an acceptance of fishmeal and fish offen trimmings of fish processed for human consumption. Of course, with only natural antioxidants and so on.

Next slide. Human health. I’ll skip these two. I’m running out of time. But I just want to say the benefits to human and animal health from long-chain Omega-3s are overwhelming and eating
salmon reared on fish oil reduces atheromatous plaques. That doesn’t occur when you eat salmon reared on wholly fish vegetable oils. And that’s in the view of most commentators, is very important compared to the minor diminishing and manageable risks from persistent [phonetic] to organic Pollock pesticides.

Human health. Again, the only thing I would say here that’s relevant is it’s not really a deal here, because the levels found in pelagic fish from Alaska and the South Pacific are so very low. And less than 12%—going back to your 12 and 12 rule—less than 12% runs the risk there are not enough long-chain Omega 3s in the final product.

Next slide.

Fish Health and Welfare. What I want to say there is fish cannot convert the Omega-3s found in plant oils. So—and virtually all species are carnivorous during at least some parts of the life cycle even if it’s only as fry [phonetic]. And so the reality, ladies and gentlemen, is if fish were eliminated from all aquafeeds, production of nearly all fish species would be difficult, if not impossible on a general point. So my final slide, including points. Most international organic standards have recognized
the inherent differences between terrestrial and aquatic ecosystems and allow the use of meal and oil produced from fish processing byproducts in organic feeds. So the organic movement in the States is unhappy about using Peruvian anchovy meal or Manhattan [phonetic] meal, despite the sustainability record that I’ve talked, you have this waste stream of MSE certified Pollockical [phonetic] salmon processing on your doorstep in Alaska. And if the NOSB or any other organization rejects organic darts [phonetic] for aquaculture then I believe they remove the incentive for aquaculture to move further towards the responsible and eco-efficient approach to production which I’m sure you advocate. And if you don’t encourage its use, you know, the alternative could be to waste it. And surely, feeding it to fish and retaining the EPA and DHA has got to be better than using it for power up in Alaska. Thank you very much. [Applause].

MS. VALERIE FRANCES: Thank you very much.

FEMALE VOICE: Valerie, we have one more speaker? Can you hear me. Can you hear me now? Yeah. I’m not seeing any heads moving.

FEMALE VOICE: I can hear you.
FEMALE VOICE: Okay. All right. So we’re good. Thank you.

MS. FRANCES: Our last, but not least speaker is Torbjorn Asgard from Akvaforsk in Norway. I hope I got that right. And you’re [unintelligible]. Okay.

MR. TORBJORN ASGARD: Thank you, and thank you for the invitation—

MS. FRANCES: Hang on one second. I’d like to ask you to give your name and your affiliation, and spell your name.

DR. ASGARD: My name is Torbjorn Asgard and I’m affiliated to Akvaforsk, the Institute of Aquaculture Research in Norway, owned by the Ministry of Fisheries. It’s the main owner. My name is spelled T-O-R-B-J-O-R-N O-R-S-G-O-R-D. If it’s difficult you can change the ur or oe and the or to aa. [Laughter]. And my coworkers on this presentation are Dr. Gedmaled Barga [phonetic], Dr. Tuti Mofkara [phonetic] and Dr. Stolaresti [phonetic]. And we want to stress this point that flexibility in the use of feed ingredients—that’s very important for the sustainability and it’s very important, we think, for sustainability in any food production that there is flexibility. Next.
It has been said some words about the efficiency I heard in a unit in just draw the attention to different figures. This is a study from 1996 where they were studying what was actually the situation in the Bjorn [phonetic] Sea for the Northeast Atlantic cut [phonetic]. How much was it consuming? How big was the standing biomass [phonetic]? How was the annual harvest? Sustainable harvest. And how much was the fillet output from that.

And then this is compared to what would be the situation if Atlantic salmon got the same feed fish as their only feed. No vegetable ingredients in the feed. What would then be in the parallel output. And you see at the bottom line, the fillet output is considerable higher. And I think this is actually showing why we, as humans, switch to culture production in agriculture on land too. It is much more efficient when we can feed animals to situation and where they don’t have to go and starve for long periods. Next please.

And also this relation of efficiency between our most efficient meat producers are very important for where we should use the most valuable feed ingredients. And as long as we among
the aquaculture species find the most efficient
uses of these feed ingredients, I think that’s
where we should use this limited sources. Next
please.

And if we go 15 years back, of course,
the salmon diet, for example. It was very marine-
based. You could find diets consisting more or
less of fishmeal, fish oil and some wheat just to
get right the physical quality of the feed. This
is now showing more the feed composition today.
It’s a considerable content of fat protein
sources. This is then from Europe. Next.

And here is a feed composition based on
good plant protein sources and what that would
look like. And you can see also the relative
prices at the bottom line here, showing that there
is actually a very strong drive for going for the
plant protein sources because they are cheaper
than the fishmeal. But there are problems relating
to using this plant protein sources. As in salmon
there are several problems you have to deal with.
And that’s why we haven’t reached this level yet.

Next please.

In South America it’s a different
situation. We have—the industry have access to
more alternative protein sources, like animal
byproduct meals, blood meals, hydrolases [phonetic] of all different kinds. But in Europe that has been prohibited due to BSE from 2000. So it has not been legal to use these animal byproducts. Blood meal from non-ruminants were again, legal from 2003. In Norway it was again legal now from 2007. but hydrolases, they have to have a very small molecular size. All molecules smaller than 10,000 deladoltants [phonetic] and that means that most of the products available are not approved.

But we have several ingredients here where—excellent amino acid profile that would largely improve the possibility for using plant proteins sources without adding additional amino acids.

Then I would like to go a little bit more into this fish-in, fish-out [inaudible] we’ll say into [phonetic] and we have actually salmon producers today are using as low as 15% fishmeal in their feed. And what is the situation then? It means they are using then 150 grams of fishmeal per kilo feed. And if we say an average feed conversion ratio here is around 1.2, they are using 180 grams of fishmeal. And if that is on an average containing 67% protein, we see that the
fish protein spent for producing one kilo of salmon is actually 121 grams.
And in one kilo of salmon there is 180 grams of protein. Which means a net gain of 59 grams of protein. And if we then should pick a fish in, fish-out that balance around one, this means a fishmeal inclusion of around 20% when the feed conversion is 1.2 or 55%. Now, 25% of fishmeal, if the FCRA’s around 1.0. Next please.

Expressed in another way, how much marine protein did we spend at fishmeal inclusion levels. And how much fish protein do we produce? So here if we put the spending at one, how much do we then produce? And you see that it’s in the range between 20% and 30%. We balance on the protein side. On the fish-in, fish-out equal to what. Well, if we can go lower it’s considerably better. Next please

And then again, it’s important to think about what are we using of the fish if we make a fishmeal, and what are we using if we want to use it directly for human consumption. There is a considerable difference. In the—if we should use the, the fish just for filleting it’s a fairly small pollution [phonetic] that is recovered. But, of course, we can also use the rest for fishmeal
production. But here you see, if we look at fish
fillet spent and the fish fillet produced, we are
even on the—actually on the positive side, already
at 35% fishmeal inclusion level. Next.

And here you see just the possibility we
get if we can use the animal byproducts. The next
one in addition to please. Yeah.

And you see here the comparison then
between the plant protein based diet with a low
fraction of fishmeal and the animal byproducts
based diet and of course, it’s a growing concern,
at least in Europe, about these animal byproducts
that are actually very highly valuable protein.
Why are we not using this for food production in
feed? So I think that is an important ecological
concern. Why should we not use this extremely
valuable protein sources for feed and food. Next
please.

On the lipid side, the picture is a bit
more difficult. And of course, the lipid content
in fishmeal varies to some extent. But on an
average, the fish used for fishmeal production
contains 7% lipid. And some of this lipid roughly
2-1/2% of the 7% is actually in the fishmeal.
Meaning that the oil fraction will only be 4-1/2%
of the lightweight [phonetic]. So if we should
have a fish-in, fish-out ratio of one here there should not be more than 7% of fish oil in the, in the diet. But of course, more fish oil can be used if the fish contains more lipid. Next please.

So just to show you the calculations here too, if the industrial—if the fish contains 7% lipid, what is decide then if fish lipid level in the feed is 16%. You have discussion also about 12 or 14. well, fishmeal contains 10% lipid which means 100 gram of oil per kilo. And if it contains 25 fishmeal this gives 25 grams of fish oil. Next.

And the first kilo of fish we catch, of course, it contributes with all its lipid. The next kilo will only contribute with the lipid, we can separate out, which is 45 gram. And the next kilo, again, 45 gram, so then we are using actually three kilo of wild caught fish to reach the 160 gram or lipid in the diet. But of course, all the protein—that will be possible to convert to fishmeal and that will give us roughly half a kilo of fishmeal. Which can then be used to other animals.

So this means that the real fish-in, fish-out factor here is actually 1.09, but it’s at the same true that we need three kilo of one fish for this production. Next please.
But then again, to the—what is the demand from the consumer and what are the difference of course, between the fish species of the natural lipid content. And what is actually needed for the health of the fish. And what do we want for humans. But the fish itself requires somewhere between one-half and one percent.

Can we do something about the efficiency and retention of these essential fatty acids? Well, there are differences between species in their ability to elongate and desaturate their fatty acids. And carp and eel have quite some ability. It’s also some ability in rainbow trout and Atlantic salmon. Not very much. But maybe enough so that we can actually retain 100% of what we put in in feed in the product we get. While in the marine species there doesn’t seem to be ability for such elongation. Next.

And then I think it’s one aspect that is not raised here and that is the relation to the genetics. I think it’s very important that we work with domesticated animals. And they are much more efficient than the wild ones. And when we try to take care of resources I think it’s important that we utilize this possibility. And you see it’s in Atlantic salmon, the difference now between the
selected and the wild is really important. Next. And it’s also very important, actually the growth we achieve. If we look at the feed conversion ratio here in relation to the growth of the fish, you see that if you slow down the growth too much you will spend much more feed resources on producing a kilo of fish. Next.

So to conclude here, commercial feed production is gradually become more independent of fish meal and oil from the fisheries. And increased use of protein from vegetable and animal byproduct sources will make Atlantic salmon a net producer of marine protein. Vegetable oil sources can be used at high levels in salmon feed as long as the minimum needs for essential fatty acids are met. And the fatty acid profile of the fish will, of course, be reflected according to the feed we are using. Next.

So in the early 19s, roughly 2-1/2 to three kilo of wild fish was spent in the production of one kilo of farmed salmon. And this has now been reduced to approximately one to one on the protein side. And it is possible to improve this further. And the slaughter offal from the salmon industry are used for other species. And this is actually an important point because if we
say that the aquaculture industry has an offal production of roughly 40% of the lightweight, if that is converted to fishmeal it will be roughly 10% of the weight of the fish we produce, and that will mean that at 10% fishmeal inclusion level we are actually not using any protein, or we don’t have to use any protein from wild catch at all. So it’s not necessary to go to zero to be independent of fish protein from the wild. Thank you for your attention. [Applause].

MS. FRANCES: Thank you. And thank all the presenters. I will turn it over now to HUE, the livestock chair, to facilitate questions and answers from the board. Go right ahead. Do we have 80 more index card questions from the audience we want to get up like right this minute.

MALE VOICE: Let’s have them.

HUE: Please put who you want your questions addressed to when you send them up and don’t be afraid. Yeah, I know. Well, thank you to all our morning panelists. I really enjoy the fact that we’re hearing from people with different accents. I like that a lot. It means we have a real worldwide global input here, as the National Organic program is an actually globally based program so there’s a lot of interest, of course,
and where all the salmon and aquaculture and big
areas are in the world are not necessarily in the
U.S. so thanks to the panelists and of course, we
as the National Organic Standards Board have
questions for you and we also have cards from the
audience. And what we did at our last symposium
was basically our questions certainly have
priority in the question list so—and then we kind
of look into the cards and maybe entertain some of
them. But I should also say that, as at the last
symposium in State College, Pennsylvania, if I’m
not mistaken these cards will be scanned into the
public record so that they are officially put into
the symposium, okay?

MS. FRANCES: Posted on the Web site.

HUE: Yeah. In case we don’t get to them
all, which I’m we won’t. So I’ll just open it up,
I guess, to anybody on the board and just—Dan.

DAN: I’d just like to, first of all,
with a slight clarification on the recommendation
that was made from the aquaculture working group
was to have a limit of 12 and 12 from wild caught
sources. That was really only addressed with the
last speaker. But if we’re only looking at that
requirement being from wild caught resources, how
could any of the other speakers address how that
would change their view of the recommendation, if
they’re looking at essentially no limit on
fishmeal and fish oil coming from a natural
growing organic fishmeal and fish oil that
develops within the industry.

HUE: Any of the panelists? Brad Hicks
[phonetic].

MR. BRAD HICKS: I put up my hand ’cause
nobody else did. The reality is currently that
source is quite a ways off. It does not exist.
There are currently some small meal and oil
supplies perhaps out of organic poultry rearing,
but in its wisdom poultry has been excluded as an
ingredient for fish.

The other issue is it has been suggested
that people grow fish to produce the fish meal and
grow fish in our organic system to produce fish
meal and fish oil for rearing fish. If you
actually look at the ecological footprint of that,
as you look at the concept a little bit deeper
you’ll find it’s really quite extravagant. And I’m
not sure—certainly our group is not prepared to go
in that direction.

In the event that organic aquaculture
does grow significantly and is able to get to the
position where byproducts are available from
organic production they would certainly be used in
preference to other sources. Thank you.

HUE: Joe had a question. You’re up next.

JOE: Yeah, it’s been mentioned solvent
extracted soy meal in a couple of the
presentations and the industry—the organic
industry, as far as I know, is not able to provide
certified organic soy meal because allowable
extraction processes, which we do have, are too
expensive at this point in time for soy meal.
That’s my understanding, but I’d like to just get
a clarification on the availability of organically
certifiable, if not certified organic soy meal
that is—that only has allowable, you know,
solvents. Carbon dioxide, et cetera.

MALE VOICE: We—in our—we used a, a
certified soybean meal, but it wasn’t extracted so
I guess you would call that a full fat. But—and
then the soy concentrate is becoming more
available as the industry—as the fishmeal prices
increase more soy producers are going towards a
concentrate which give you a higher protein
content. It bumps it up to about 68% of 70%.

MALE VOICE: So it doesn’t necessarily—we
don’t need defatted soy meal meal. It’s not a
requirement for the aquaculture industry.
MR. STEPHEN CRAIG: No, the advantage of that in a traditional soybean meal is that it increases the protein content for you.

FEMALE VOICE: Please identify yourselves.

MR. CRAIG: Oh, I’m Stephen Craig [phonetic] from Virginia Tech.

MALE VOICE: Andrea, you had a question?

MS. CAROE: Well again, I just want to clarify what the AWG recommendation was. What we were looking at is a maximum of 12% from fishmeal, a maximum of 125 from fish oil. From wild caught sources; not organic sources. Not organic sources. This was a matter of—and I think George could speak on this, but it was a matter of without organic fish how do you have organic fish meal. It was—this provision was put in there with a sunset on it to develop other sources and to develop organic fish sources for feed. But we are not specifically looking at a diet for piscivorous—is that how you say it?

MALE VOICE: Piscivorous.

MS. CAROE: Piscivorous fish that includes organic fish or nothing. We’re looking at the possibility and the reality of allowing a wild caught alternative for a period of time for the
development of organic fish or the development of other protein and amino acid sources.

So again, that’s really not a question, but I just want to clarify with the researchers that are here and the board, just a reminder of what we’re looking at as far as this issue.

HUE: Questions? Tracy.

TRACY: This question is for any of the panelists who measured yields. I was wondering if there are any other metrics around say, the texture or the flavor of the fish that are also being measured as substitutions and the feed occurs?

MALE VOICE: Someone spoke to that, I know.

DR. BROWDY: I don’t know about the fish, but we tasted—Dr. Browdy from South Carolina. I don’t know about the fish, but we did some organelles uptil [phonetic] analysis of the shrimp that were fed the vegetable based protein diet. The “organic” quote/unquote diet that we fed the shrimp from the pond study. And what we found was that there was not a real significant difference. I can provide that data for you. For me personally, I can tell you that taste different. They’re not as—they don’t have that sort of fish,
you know, kind of flavor. That sort of iodine ocean kind of flavor. They’re much cleaner in terms of flavor. And when I took it to some restaurants locally and gave it to the chefs and said try this, try this, and then they handed it out to the people in the restaurant, it was really interesting to see in these blind tests that, you know, some people preferred one; some people preferred the other. But they definitely do taste different and they definitely have lower levels of some important fatty acids even with the algo-oils [phonetic] that we used. So, you know, we’re going to have to beef that up some if we want it to be as healthy. But there’s definitely a difference in flavor.

HUE: Jennifer.

JENNIFER: I just have a follow-up question to that. Your research compared your control which was also farmed to your organically fed. Did your taste test also just compared both farmed or also to wild?

DR. BROWDY: That’s a good question. It’s just both farmed.

HUE: Tina? Or who had the—was it—

TINA: This is also a follow-up to that question. The measurement most used was growth
rate. And I know that it’s always our instinct to want to just produce bigger, better, faster. But is there a linear relationship across the board between growth rate and health? And other, you know, other factors. Health, nutrition, susceptibility to disease, all those things. And that could be for anyone.

MR. HICKS: Having grown lots of fish I guess I’ll try. It’s Brad Hicks from British Columbia. I guess I’ve grown lots of fish under lots of conditions and there’s no question that you can overgrow them, for lack of a better term. You can push them too hard. It’s not unique to fish. We certainly that in other farm animals as well. The standards that we have proposed, to a certain extent, take into account, for instance, we limit that energy quantity that’s available in the feed, is one of the standards we used to manage that issue.

Health-wise, I guess my experience is that crowding is more of an issue than growth. It’s one of the issues, of course that will go along with animal husbandry of any kind. So we certainly limit crowding. I think for this issue about the use of fishmeal and fish oil there is—we have not got enough production under our feet to
look at the effect of this heavy substitution of vegetable proteins for fish proteins and vegetable oils for fish oils yet, to look at the health implications of doing so. We’re just too early on the system. We do not yet have enough experience. That may turn out to be a problem. I think from my talk I understand teacher 12 and 12, but I think even under that it is our responsibility, certainly our organization looked at it from an organic perspective that it is our responsibility to in fact use fishmeal and fish oil for the production of fish. That it’s a very good use of that material and our standards do require that half of that does come from fish processing processes. So it’s not virgin fishmeal and virgin fish oil per se. I don’t know whether that answers your question, but it’s an attempt.

MALE VOICE: I actually—Doc Asgard in a moment. Let me—I wanted to add on one thing on Tina’s question, if I may, which kind of related—I guess I’m a dairy veterinarian among the organic dairy farmers, and what I find is that—yeah, okay. Totally different terrestrial and their cattle, but I still work with conventional farms and what I find is that when conventional farming—I’m trying to phrase it in a more conventional and
organic—the animals are pushed a lot harder so you get more production, more efficiency, everything like that. But with cattle that are pushed hard, there are certain health problems that happen. I won’t go into them, but they do. Metabolically and everything like that.

And with the organic farms that are fed more—well, they’re not pushed as hard and other aspects about it, they don’t have those same kind of problems. I’m just wondering—I think it’s in the same line of what Tina’s asking, if you try to feed the animals to what the conventional paradigm all the time, you know, max efficiency, max everything to get max yield, are there some health problems that might come up with fish versus if you kind of back off a little. Does that make any sense? Anyway, it does to me.

MALE VOICE: I will try to answer this. And it’s actually two sides of that. One is that in general you will see that where they have health problems there is, in general, very poor growth. So remember this aquaculture activity is still very young. And the problem is actually to meet the requirement of the animals to the extent that they express their growth potential. Or close to that. Because I would say on an average, if we
see an Atlantic salmon, in an average the industry will express maybe 75% of the growth potential in the fish. And in some areas they are down to 50%. So and they far from growth rate being a stress.

On the other hand, when you reach very high growth rates then you are really challenging the diets. So if there are some deficiencies in the diets you will show it at the very high growth rates. Because then everything has to be precise. It has to be extremely well-balanced when you approach the maximum growth. And that is one of the things that appear here with the soya replacement. You will go into mineral deficiency as shown with reduced ash content. It’s very common to get a problem if you don’t care of the mineral balance in the diet.

So, and this complicates actually the balancing of the diet as you go for high growth. But actually it’s when the animal express its growth potential that it seems to be most in balance.

HUE: Okay. Thank you. Jeff, you’re—then you’re next.

JEFF: Thank you, HUE. My question is for Brad Hicks. Brad, in your presentation you showed an image that had a—indicated a traceable linkage
between grasses, herbivores on up into humans.

Then on the fish side of your presentation you started at the bottom of the slide with a zooplankton algae or plankton something like that, and then onto fish. But you specifically never highlighted the zooplankton, the plankton, or may any sort of linkage between that that was traceable on up through the food chain. You drew lines from grasses over to fish. And I’m just wondering why you specifically avoided that, or if there is a connection there that we could exploit.

MR. HICKS: Actually I’m not sure 'cause my original presentation, the lines weren’t quite the same as turned out with this projector. In the presentation there actually are linkages between the zooplankton and the phytoplankton up into the invertebrates. And there is a line up into the omnivorous fishes. Okay? Because yes, that does occur and that can—is exploitable.

JEFF: A follow-up question then. So are you inferring or on the terrestrial side we manage our soil organically, we produce organic grasses, grains or anything else that’s in the oil that moves up through the food chain. So are you explicitly saying then that you would work towards farming organic plankton, zooplankton that would
then be traceable up through the system, through our organic system plan?

MR. HICKS: At this stage I would say no. The reason why I would say no is because in the terrestrial system the management of the soil is quite easy. Quite frankly, the management water is much more difficult. Even in a soil system. Where does the water come from? It’s got the same issues for me as water, say, in the ocean. You know, when the rain comes down on your pasture do you know where your rain’s been? Okay? The rain is—contains all sorts of interesting things besides water.

So the idea that organically we somehow manage everything, to me is not quite there yet. Because we don’t manage the water system in terrestrial. The water portion of terrestrial agriculture we don’t particularly manage. When we draw water out of a well, for instance, you have no idea necessarily where that water’s coming from except upstream somewhere. And you don’t know the inputs necessarily into that water as a result.

So in a roundabout way to answer your question, I think that in the aquatic system the plant portion, because the system is based on single cell organisms that in fact don’t have a footing, if you will, don’t have a root system, it
is really much more difficult. And in the aquatic
system, or sorry, in the terrestrial system plants
bring billions of cells together already. So we’ve
got a unit we can manage.

In the aquatic system that doesn’t occur
until the planktivorous fish level or the
invertebrate level. Okay? We don’t have that
assimilation or that bringing together of a mess
of biology until that level. So it’s really quite—
from my perspective, that is impossible to fulfill
that desire.

But my other discussion point on that is
it is really not that unlike terrestrial
agriculture in the sense that the water portion
are both from open systems. Okay?

STEVE: I’d like to add something to
that. I work with the organic aquaculture
institute with the shrimp. What we’re proposing is
managing the microbial food Web within the pond.
Much like you—we call it treating the pond like a
ruminant. Where you’re actually feeding the bugs
and the bugs feed the organism. And we’ve had
tremendous success with organic compost additions
as feed supplements. And actually managing and
exploiting that microbial food Web. And in the
case of marine shrimp it’s very effective. So
there are certain applications where you can
exploit that aspect of the aquatic environment.

MR. BROWDY: This is Craig Browdy again.
I think that what Steve said is very true for
shrimp and it’s true also for certain species of
fish. But it doesn’t work for other species that
need clear water. So we need to make sure that we
keep in mind that aquaculture is a very diverse
industry. And one thing that works for one species
might not work for another and making one rule
that covers all species, you have to really keep
that in mind all the time.

The other thing I wanted to mention
specifically in answer to your question was that
these particular algomeals [phonetic] that are
produced by fermentative processes and similarly,
I guess they’re used to a certain degree, can
produce some—it would be like farming up the food
chain, I guess, except for that—I guess if you saw
the factory in King Street I’m not sure that you
wouldn’t shudder a little bit because it’s a big
fermenter, but on the other hand they assure me
that they’re working towards organic certification
of that part fermenter. So I guess that it is
possible that we’ll have organically certifiable
phytoplankton meals that are high in DHA and
possibly one day EI.

DR. ASGARD: This is Torbjorn Asgard again. It’s, I think it’s one thing you should think about in relation to this management of the whole food system. Not just organic; it’s any food production. I think one of our big challenges today is to manage to recycle nutrients back to the production systems. We are more or less stealing from the production areas and dumping in the cities. That is maybe the biggest challenge we actually have.

HUE: Andrea.

MS. CAROE: I’m going to circle us back around to the health issue a little bit. In my past careers I did a lot of work in water quality and bioassay work. And one of our prime indicators of water quality was looking at these indicator organisms for mortality first, of course, but also reproduction and fecundity. And I was wondering if any of the researchers have looked at these indicators for the overall sustainability of these, these aquaculture farms, and has there any research been done on egg production as it relates to a control, or the ratio of female to male population as fecundity and the selection, based on the environment or based on their health.
HUE: Before anyone answers, please, all panelists have to identify themselves every time that you’re going to speak. It’s for their reporter.

MR. HICKS: I guess I’ll go. It’s Brad Hicks. Our experience with fecundity specifically and in salmon is that the fecundity in farmed salmon is not as good as the fecundity in wild salmon. That was particularly true 20 years ago. In the last 20 years we have, for lack of a better term, I guess, and I don’t think it’s a discovery, I still think we’re pioneering and in the art form—we have learned that if we feed the fish better diets, and in fact, if we actually restrict their feeding which occurs naturally in that particular species, just post-ovulation, that we’ve actually been able to dramatically improve the fecundity in salmon.

So I like, I guess, all terrestrial species, as the better we get at understanding, the more we learn about them the better we are at trying to mimic nature for lack of a better term and we do improve those things. I don’t—is that the issue you’re looking at or are you looking at pollution?

MS. CAROE: No, I’m specifically trying
to find an indicator of, you know, these system were look—what I see in most of the research that was put there is production oriented, which certainly is important for the financial viability of these operations. But it doesn’t speak to us really about whether this is good for fish. So I was trying to get at indicators that would let us know if this is healthy for fish to be reared this way. And fecundity and reproduction definitely are indicators of whether, you know, that species of fish is thriving in this environment with this type of diet. So again, I’m just kind of trying to get some more, you know, sideways look at, you know, since the fish can’t tell us if they’re happy or not.

HUE: Okay. There’s no question that the diets that give us better fecundity, we have much higher levels of fishmeal and fish oil. At this point I don’t think we know the specific science behind it, but practically speaking, and we’ve got—our end [phonetic] here is very large. We have very large numbers to deal with. We’ve certainly discovered that much.

MR. SHAH-ALAM: Shah-Alam from the University of North Carolina, Wilmington. I just wanted to a little bit with this question—it’s
true that yes, if we had more fishmeal, fish oil, that’s good fecundity. Good eggs. We did some studies, I think Dr. Otranovy, he’s here [unintelligible] and some studies with the black sea bass and southern flounder. So when we fed the fish with some kind of, I mean, wild light fish, like not frozen fish, wildcat [phonetic] like I call a sardine, anchovy or something like this, then the highest fecundity definitely we found. And also we tried to develop some dyes [phonetic] with the different types of lipid. Because lipid plant could—important role for the, I mean, developing eggs. So we fed the lowly picked and highly picked one I think maybe 12 person and 18 person, lipid fish world [phonetic]. Let’s give the good excellent, I mean, fecundity sarbatar [phonetic] rate of this fertilization egg. So many parameters we look for this. So that’s true that for—if you think that for the high quality good stock we must add high quality diets. And again, same thing, that not only fishmeal and fish oil is the diet for molition [phonetic]. [Unintelligible] so many other parameter, well-balanced diets. So maybe due to nother small nutrients like [unintelligible] could be deference [phonetic]. So these things also we
need to consider. Thank you.

HUE: Dr. Asgard.

DR. ASGARD: Torbjorn Asgard again. I think again it’s a question of how we look upon it. If we look at the salmon industry there’s no doubt there has been an improvement in fecundity. The whole production is much more predictable. Getting average better and better result in, in the industry overall. Not just organic, but generally in the industries.

At the same time it has not been, as far as I can remember, any studies particularly on this replacement where you go very far down in fishmeal and checking then what is the quality. But in general, what I state as I had in my last slide, that it’s the nutrients that matters; not the ingredient.

So if we are able to understand what are the requirements of the animal and we can fulfill the requirements with the ingredients we are using, it will be working.

HUE: Bea.

BEA: First of all, I want to thank all of the panelists. Your information was very useful. A couple of questions that I have, there’re two separate question, but they
interrelate to each other. From a consumer perspective I think it’s going to be very important for consumers to understand the animal welfare conditions of the farms. And I’m curious what studies have been done or what considerations have been made as far as the health and the environment of the fish that are being raised on the farm.

I hear a lot about how important it is to make sure that their diets and their weight are maintained for their health through supplementation and the different types of feeds that you’re changing out of its diet. So making sure that you maintain a certain level of nutrients. But I haven’t heard much talk about the actual, you know, conditions of how these fish are being raised and how that compares to their natural habitat.

MR. JONATHAN SHEPHERD: Could I try and lay a little bit about that.

HUE: Please state your name for the—

MR. SHEPHERD: My name is Jonathan Shepherd. I don’t know if this answers your question, but maybe it’s worth—I’ve been fortunate in many ways to have grown up in the last 30 years of my career with—simultaneous with the growth of
the salmon farming industry in Scotland which I was very involved with. And we helped to pioneer the company I was with. Marine Harvest, Salmon Farming in the U.K. And then the Norwegians really sort of took over and Torbjorn can confirm or otherwise what I’m going to say, but I hope that—we helped each other really. Because in the very first years it was very much of an experimental thing and we didn’t know the—talking specifically about infectious diseases, the viruses and bacteria. Of course, we knew we had a problem in the wild furonculosis occasioned in wild salmon, and that worried us a little bit.

And the book said that this organism, aramon salmon asadra [phonetic] only survived in fresh water. So we were relatively relaxed because we wanted to farm in sea water. But then we discovered the book’s lying [phonetic]; we could take it to sea water and it caused a huge epizootic and we nearly gave up salmon farming in the early eighties in Scotland because of furonculosis.

And then fortunately, just in time we came up with an oil-adjuvanted vaccine because we were using a lot of antibiotics in those days and we knew it was an unsustainable setup. And we were
using, this was largely undomesticated salmon, I would say. Our improvement programs hadn’t really got off the ground then. So our feed, we were, you know, learning. The fish were undomesticated. They had these organisms that interestingly came from the wild environment around them. And presumably, in the wild the collision opportunities, the chance of cross-infection and so on were so long that they didn’t usually cause epizootics. But when you brought these fish together in pens in a, as you could say, a sort of unnatural environment, the cross-contamination risks and so on were much greater and you could get some quite nasty strains of this.

Fortunately, you could boost the immune response and, and I could tell you the same story again for a variety of viruses which again, came from the wild populations and didn’t cause a particular problem, occasionally up and down in the wild, but in the farmed environment caused big problems. So I think, I think the point I’m trying to make is that you’ve got to be careful to sort of compare the wild populations of salmon and their disease cycles with the sort of the epidemic situations you can get in a farm environment. If you don’t know about—if you don’t have a—if you
don’t, haven’t domesticated those fish to the extent that you’ve bred in disease resistance for the specific pathogen, and that you have a range of vaccines available as a routine so that these when they go to sea can happily live in this environment without it causing any problems. And of course, you’ve got to look after them very carefully. And then they’re that much more resistant.

DR. ASGARD: Torbjorn Asgard again. It’s, I think, the domestication is really important here. Because I think it’s wrong to produce meat in a zoo on wild animals. I think if we want to produce meat we should do it is on domesticated animals where we take full responsibility for the whole life cycle. I think that is the aim and that should be the aim for all the species.

And this requires actually that we develop very good breeding programs where we take care of genetic variation and avoid in-breeding. And that is no spreading in several species and in salmon it has become very far. It has been all the way very broad genetic program where you take care of the genetic variation, but I think that is very important for any cultured species. And I think that is even something you should think of in
traditional domestic animals. When you start with
small populations, again, in breeding is an
important issue.


MR. STEVE CRAIG: To add, in terms of
water quality—

HUE: State your name please.

MR. CRAIG: Steve Craig, Virginia Tech.

Thank you, sorry about that. We work almost
exclusively with recirculating aquaculture systems
so water quality is paramount. It’s got to be
maintained at very high levels. The implications
on growth are very apparent once your water
quality decreases so—and then growth is often the
first indication of a health issue. So it all kind
of feeds back. You’ve got to maintain excellent
water quality. You have to have very good diets to
optimize the growth and keep these animals
healthy.

HUE: Dan.

DAN: Thank you. As a trained ruminant
nutritionist I completely agree with Dr. Asgard’s
statement that we feed for nutrients and not
feedstuffs, and I think that’s true in all
species. But I also am very aware that—and I’ll
limit it to ruminant nutritionists without
questioning any of yourselves there, but I think we tend to be a lot—we think we’re a lot smarter than we really are. And sometimes we are far more effective with a shotgun than a rifle. And in light of that, I’d like to ask Dr. Alam, what were you trying to accomplish, or what was the reasoning for maintaining the squid meal in all of your diets?

DR. ALAM: This is Alam. An excellent question. Squid meal, I—

DR. SHAH-ALAM: --in Japan, I did my PhD and postdoctoral research on Menhaden fish and shrimp. Squidmeal is the excellent [unintelligible]. If you add just a small amount of squidmeal that gives good palatability and [unintelligible] that if we have any other [unintelligible]. So my thinking is here I used a higher level of soybean meal, so I used a small quantity of squidmeal, which gave them more palatability and that's helped the [unintelligible]. This is the one reason. The other reason is squidmeal is not used a lot of in the industry so it's just a small amount, so we can use this. So this is the reason I used
MR. HUBERT KARREMAN: Do you have a follow up, Dan?

MR. DANIEL GIACOMINI: It's not a follow up [inaudible]. Actually, it's not related, but it will be my last one for this group. A couple of you have mentioned domestic fish and your belief in the importance of it. At least two of the papers this afternoon, at least from the paper, they're recommending no more than, I believe, F2 generation and mainly in relation to getting away from the problem with escapes. Is there any other nutritional aspect or any other aspect that the nutrition panel would like to address on that point?

MR. CRAIG BROWDY: I just want to, I guess reiterate--this is Craig Browdy--reiterate the points that were made earlier about, from the standpoint of nutrition, with the shrimp, we've been almost completely closed reproductions since about 1990. And they go about a year a generation, so we're pretty far along on domesticated stocks and the differences that we see in terms of all the measures that we talked about, reproduction, growth, how happy they are, it's unbelievable the difference between now and
when we started. To think that we're going to go back to having to do no less than an F2 is just--
the animals wouldn't be as happy if you take them from the wild and put them in than an animal that's been domesticated for a number of generations. In terms of escapement, is the South Carolina Department of Natural Resources and growing an exotic species, the Pacific White Shrimp, we've had to deal with escapement for the last 20 years. And wearing both hats, it's a very significant issue, but I'm not sure that it's one that necessarily is for this particular panel. But there are probably technical solutions rather than necessarily trying to grow wild fish.

MR. KARREMAN: Rigo?

MR. RIGOBERTO DELGADO: I have three questions. The first one is for Dr. ALAM. You did your study with sea bass and I'm just wondering, did you carry out human nutrition analysis after your studies to see what the impact on those essential elements was?

DR. ALAM: Okay, thank you. I used, in this experiments, I used a small fish, so I did not use any [unintelligible] for this. But I did start using growth [phonic] fish. I fed three months with the two lipid levels. One is a small,
low level lipid, another one is a higher level lipid. So then after three or four months, I used this fish to test our [unintelligible] and some people who like fish, so we made some kind of test, that's how, like flesh quality, fatty fish. But we did not use any human nutritionist for this kind of thing that--how this quality test on--but definitely we found that the people like higher quality, if that fish contains higher level of lipid, then it is tasty. And then we did several sashimi sushi, different types of food we prepare and then we found that instead of 12%, the diets containing 18% lipid is the more tasty in general what I found for black sea bass. And black sea bass contain high level of lipid, definitely, compared to the other southern flounder. Is it make any...? Thank you.

MALE VOICE: Just a follow up: do you think your results would have been different if you had used the soy malt concentrate instead of what you used in your experiment?

DR. ALAM: Okay, here is the question is that protein percent is how many percent of soybean, how many percent is of fishmeal protein we're going to use, I mean replace? So if it's exactly the same, I think maybe not. But if we
change the formulation, it could be different, because soya protein content is completely different. This is only protein. It would be different. Here we are using soybean mill extrude and solvent extracted soybean meal which is contains fiber and so many other non proteinous substances. But soya protein concentrate I think is high level of protein, so it could be difference.

MALE VOICE: It seems to me that we're moving in the right track, that 12/12 and all the members of the panel more or less agree with that. There's going to be some trade-offs between the nutritional value for human consumption and how much we replace in terms of vegetable sources. I wonder, and this is a question for all the panel members--it points to the area of crowding--and I can picture our commercial farms trying to get the most out of their resources, so crowding would be an issue--I wonder if you consider that in your studies and to see if there's a confounding effect between the amount of vegetable sources that you can use and the actual number of fish per square meter of water or however you measure it. And if so, are there any other confounding effects that we should be considering, not only the
overcrowding and so forth?

DR. ALAM: For me I think density is a factor, definitely because if you use intensive [unintelligible] so many fish [unintelligible] so the feed area [unintelligible] so many things. Lower density could be difference and lower density of some spaces have some carnivorous [unintelligible] catabolism effect of something--cannibalism. So this kind of thing, also. This is my thinking.

MR. KARREMAN: Okay, we have ten more minutes left for questions. I have Dan, then Kevin, then Jeff, then Julie. Dan and Jeff, would you mind seating to Kevin and Julie, just [inaudible]? So, Kevin, you're up.

MR. KEVIN ENGELBERT: Brad has something to add.

MR. KARREMAN: Huh?

MR. ENGELBERT: Brad wanted--

MALE VOICE: [Inaudible].

MR. KARREMAN: You wanted to add on to that last question?

MR. BRAD HICKS: Yeah, I think the question was to all the panelists, so I thought I'd--and the question related primarily to crowding. It's Brad Hicks from British Columbia.
Crowding is a very species-dependent phenomena, much as it is with terrestrial species. The number of quail and the number of leghorns that you can raise in a certain space is different. And fish are no different.

And I'll just give you an example amongst the salmon group of fishes, never mind all the rest of them. Arctic char can be raised at approximately 12% density, that's 120 kilos per cubic meter, which is very dense. And if they are actually raised at lower densities, they do more poorly. Atlantic salmon's about the middle. Atlantic salmon's optimum density of rearing is around 25 kilos per cubic meter. That varies quite a bit depending on water quality, not unlike the number of cattle you can raise on an acre of land, which depends upon the ability of the land to produce nutrients for the cattle. So there's variation which are very, very similar. And Chinook, or Pacific salmon, the Pacific Salmon that's raised in British Columbia, it's at about 15 kilos a cubic meter.

If we "break those rules, if," I used to say, "listen to your fish, they have a lot to say." If you don't listen to them and understand them, what we find is if we raise at densities
greater than or less than, in the case of fish, and quite frankly the same in a lot of domestic species, we decrease their socialization, if you will.

Fish have a pecking order very similar to chickens, for instance. If you overcrowd them, you end up with both behavioral and health problems. Fish will begin to fight excessively, for lack of a better term, including salmon, if you get them too dense. Feed conversion goes to hell in a handcart. Feed conversion drops off dramatically once you get over density. So yes, fish, like terrestrial animals, are very sensitive to density.

MR. KARREMAN: Kevin, you're up.

MR. ENGELBERT: Thanks Hue, and thanks everybody. I think all your statements point to the complexity of this issue, but I'd like to bring it back to a basic question, yes or no, for each of you, back to what Andrea stated when we started this. The reason the 12% was on this proposed standard and the reason that I've heard is that we were told from the industry that you can't start an organic fish industry without fishmeal and fish oil being used as feed. We also heard from the organic community that they did not
want that allowed because if it's not organic feed
going into the product, it's not organic. So in a simple, yes or no from each of you, so that I can be sure I understand your papers and positions, if we did not allow wild-caught fish oil and fishmeal, could the organic aquaculture industry get started?

MR. KARREMAN: Go right down the line, I guess.

MR. HICKS: I'm at this end, It's Brad Hicks. No, we could not get started.

MR. JONATHAN SHEPHERD: Jonathan Shepherd. I totally agree.

DR. ALAM: No, I am not agree, because we need wild fish.

DR. STEVEN CRAIG: Steven Craig, Virginia Tech. No.

MR. BROWDY: This is Craig Browdy. For shrimp, yes. For fish, no.

MR. TORBJORN ASGARD: This depends on the alternatives you have and what is wise in the situation you are and not. Because it's not--don't think it's right to have a yes or no. It's depending on the situation. What is available where you are? What are the resources where you are producing? As now the huge difference between
the American continent and the European, between whether you can use animal byproducts or not. I think that is very important for the answer of yes or no.

MR. KARREMAN: Thank you. Jeff.

MR. JEFFREY MOYER: Thank you, Hue. Jeff Moyer. My question actually follows up very closely to Kevin's comments, which were the recommended document that we have has this 12% and 12% in for seven years. As we work towards eliminating that out of the recommendation, what's the true potential of reaching that goal, given your current statements that you just made in answer to Kevin's question? And so what would the diet look like in seven years from now as compared to where it is today? That question is for all of you or any of you.

MR. ASGARD: I can start. Torbjorn Asgard again. This also depends on the species you are producing because it's huge difference between the species in what they are actually requiring. And also just during the life span of let's say salmon, it's huge differences in what is the right dietary composition. And it's huge variation in what is the expected feed conversion ratio. So what I think is necessary is to accept
the complexity and actually make the rules according to what is right for this species, for this life situation. It makes it more complicated, but it is too tough a simplification to put up figures that is good for everything.

MALE VOICE: I think the Sunset Provision is important. I think we should eliminate fishmeal and fish oil in organic aquaculture. That being said, we need to get going. So in seven years, hopefully you'll have waste streams from organic aquaculture production that can be fed back in. I would strongly urge a consideration of at least organic poultry waste to be allowed to be incorporated into the fish-- organic fish formulation. It ties in with the organic mantra of recycling nutrients. It's ridiculous that the poultry byproduct meal from an organically produced chicken cannot be used in an aquafeed. So I'm a very strong proponent of eliminating fishmeal and fish oil with the Sunset Provision, but we have to have other sources of organically certified proteins to do that.

DR. CRAIG: Steven Craig, Virginia Tech.

MR. KARREMAN: Hold on, Andrea wants to put something in.

MS. ANDREA CAROE: I just want to remind
the panel that, like I said in the very beginning, we're balancing consumer perception and science. And although I completely agree, or your science very well may show the benefits of poultry byproducts, we have heard from the consumers on these issues, and the consumers don't necessarily want to see animal byproducts fed to fish. So again, I know it's frustrating for the scientists in the room to consider this, but we as a panel and as an--working through the Ag marketing service for a marketing label have to consider that consumer perception.

MR. KARREMAN: Also I wanted to add in one thing. There was a question here on a card. I think it's pertinent to this. Says for Dr. Browdy. Do you have any prediction as to when the worms would be commercially available and would combining them with algal meals help move this along?

DR. CRAIG: That would be Steven Craig, Virginia Tech. They're commercially available now. They're just very expensive, so with increased demand and increased production, hopefully that cost will come down, but it is commercially available right now. In terms of combining this worm, marine worm source, with
other protein sources, I think is really, could alleviate all these other concerns about protein sources and definitely would take poultry byproduct meal off the table because it does supply the N3 fatty acids that marine fish need. It can be produced under organic conditions. It already is. It's just a cost factor at this point.

MALE VOICE: As long as the consumers don't see it.

MR. KARREMAN: Hold on, Bea, because there's--Julie's been waiting very patiently.

MS. JULIE WEISMAN: I think a lot of my question was answered when Kevin asked his question, but I want to rephrase it from another point of view. I very much appreciate the complexity of the answers that have been given, but I want to go back to the really simple too. And so my question is, is the 12 and 12 enough? And this is more for Dr. Alam because you specifically noted 70% as the optimal level in your data, so really my question is for you. Is 12 and 12 enough?

DR. ALAM: I think for my study, what I did, I said that formulation is not only fishmeal 12 and 12, is contain other things like vitamin,
mineral, so many other things. But anyway, if everything is fine, everything is okay, we believe that vitamin, mineral, everything is fulfilled requirement, then 15% seems no differences with the fishmeal even 50%. So 12% maybe not big differences [unintelligible]. So my thinking in this case for this species, black sea bass, those like so many kind of food they can maybe--it's okay, we can use it. But what happen for the southern flounder? Those who [unintelligible] other fish--at this moment, I don't have this other information. But for this in general, for my thinking, 12% lipid seems okay, looks they are growing good because I did some [unintelligible] 12% lipid. For my personal opinion, seems low, not bad. But for the fishmeal, if the other sources, if squidmeal is allowed as organic certification, if krillmeal 5% is allowed, if [unintelligible] high quality vitamin and mineral [inaudible] okay, then 12%, I think, without reducing growth, may be possible. But if we want to, like reduce growth--like we don't want this maximum growth--then maybe we can wait for long time. But in this case there is a possibility due to lack of some nutrient, maybe disease or some other things may happen. Or how many long days
can we wait? So for my opinion, it's not bad at least for in general. Thank you.

MR. KARREMAN: I think Bea was looking at me first, Jennifer. You're next.

MS. BEA JAMES: This is actually a question that, George Lockwood, you might be able to answer also. In looking at the 12/12, and if we were to go more towards a plant-based diet using what I saw up there was soy, wheat gluten, wheat, that it seemed like supplementation of amino acids was an important component. So if all these species have different needs, are we going to end up with synthetic amino acids on the national list?

MR. GEORGE LOCKWOOD: We're not going to allow poultry byproducts. There has to be a source of certain amino acids.

DR. CRAIG: Steve Craig, Virginia Tech. I think the 12/12 is a good starting point and also not all fish are going to be able to be produced organically. So if you can't make it under those guidelines, you can't be produced organically. And I don't think it's very wise to think, with all the different species of fish cultured around the world, that every one of them is going to be able to be certified organic.
FEMALE VOICE: So are you suggesting that the aquaculture standards should be for specific species?

DR. CRAIG: No, I'm saying if you throw this 12/12 out there, certain fish species are going to be able to handle that. Others are going to take more research or maybe they can't make it at all. I think that's how you protect the organic--the notion of organic. If everybody can do it, then why is it special?

DR. ALAM: This is Alam. I'm just going to elaborate that methionine which is a really very important limiting amino acid for most of the plant protein sources. So if we use only 12% fishmeal, we must have something that gives methionine or good amino acid profile, otherwise due to only [unintelligible] or any kind of amino acid deficiency, there'll be something different--situation, like disease or so many thing. So if there is a possibility to add this methionine or lysine or some kind of organically certified or synthetic amino acids, could be fine, I think, for aquaculture industry. This is my opinion.

MR. HICKS: Can I say something?

MR. KARREMAN: Yeah, go ahead, Brad.

MR. HICKS: I'd like to actually be
extremely pragmatic for a minute on this issue of the 12 and 12. I've earned my living almost exclusively from growing fish or being very intimately involved with the growth of fish. If the 12 and 12 is fixed in stone and the Sunset clause is in place and it's only seven years away, and I say only because animal husbandry is a multi-thousand year process. We didn't get to the current organic chicken in seven years. I'm not sure how we're supposed to get to the organic fish in seven years.

So from a very strictly pragmatic producer's perspective, say we go this route. We begin to develop a market for organic fish with 12 and 12. And for whatever reason we're not able to get over the hurdle at seven years, we cannot produce the fish in seven years. What happens then? If you're the producer and you've invested a tremendous amount of time and effort, you've probably also behind you, dragged in a whole bunch of university research and tons of public money into this process and now you're over the cliff. From a strictly pragmatic perspective, I would guess it'll be pretty difficult, other than a very, very select few, to be able to go this route.
MR. KARREMAN: It's interesting you say that, Brad, because the issue of methionine in poultry is coming up again next year as its Sunset runs out for the second time. Joe, you have the last question. Then I'm going to read some cards and then it'll be lunch break.

MR. JOSEPH SMILLIE: Well, you took the wind out of my sails here 'cause that's exactly what I was going to say is that we did grant the poultry industry a Sunset synthetic amino acid. That was done, and we're coming to that sunset. So we will have an answer to your question. We'll see how we deal with the methionine issue with the poultry industry.

MR. KARREMAN: That will be interesting. Okay, let me read some cards here. As was mentioned, these will be scanned in and on the website just so the people that wrote them know also that you can speak with the presenters during our poster session this afternoon after the second panel. So here's--let me just go with this here then. Could we use organic poultry byproducts to grow nereid worms? Okay. Jonathan Shepherd, here's one for you. With regards to using [unintelligible] in fish feed, is there a difference in ash content when compared with meal
from Menhaden anchovies, et cetera? And if so, has that caused problems in terms of fish health or affluence or any difference? Any genetic variation for ability to elongate fatty acids? How big on input is fish processing waste to fishmeal, fish oil supply? Here's one for Jonathan Shepherd again. In fisheries, for fishmeal and fish oil, how do you ensure that the fisheries are sustainable for the long term and not just stable especially in the face of climate change and the poor track record of fisheries management? Here's one for Dr. Asgard. What are the waste pollution implications of increasing the vegetable content and decreasing the fishmeal oil content? And does increasing the vegetable component lead to increasing waste pollution, especially via open net cages? Here's one for Brad Hicks. Well, they're for everybody, but these have the names on them. Your presentation implied that science on environmental impacts of fish farming in British Columbia is fraudulent. This is a serious allegation. Please clarify. Either retract your statements or provide evidence of fraudulent science. Is squidmeal--this one's a tough one to read--I'm going to hold on to that one for a second. For Steven Craig, what is the
price differential between organic diets with nereids and conventional diets? What's the price differential? Okay. How will supplemental protein sources such as krillmeal and squidmeal be handled? It appears that some of the studies have listed krill and squidmeal separately in their ingredient lists. Fish oil issue comment: farms show good replacement of oils in salmon feeds. However, informally, nutritionists indicate that salmon fed with low fish oil diets show obesity, low blood oxygen, less immunological responses. Results are not only related to growth. Eight more, okay? What is the effect of fish meal replacement on the cost of production? That's for Steve Craig. Another one for you. Does total replacement of fish meal with yeast change the cost of production? Another one for Dr. Steven Craig. You suggest a phase-out of fish meal and oil diets in organic agriculture. Do you suggest the same for organic agriculture? What studies have been done with the in situ production of organic herbivores integrated with omnivorous and piscivorous fish? That's a holistic type question there. Question to Brad Hicks: Why is the choice between burning up fish products and feeding them to fish--wait--why is the choice between burning
up fish products or feeding them to fish?

Couldn't fish used to make fish meal and oil alternatively be fed directly to people as Peru is now doing with some of its very large anchovy fishery or left in the ocean as feed for marine predators as the Atlantic States Marine Fisheries Commission is now considering for some Menhaden?

For Steven Craig; you're popular. You specifically said in your presentation, protect the organic label at all costs. Where in your research did you consider the human factor and did you conduct any studies or testing on the taste, texture or flavor of the fish? I think we've--that's been answered a little bit. Two more, no, one more. Yeast and worms as fish fed replacer, are they really certifiable organic under NOSB, especially in light of unresolved issues? Yeast and worms, are they actually certifiable, is the question? Okay, I'll try to get through this one here.

MALE VOICE: This one is separate over there.

MR. KARREMAN: Oh it is? Okay. Is squidmeal different than fishmeal and cornfed--here, you want to try that Kevin? I'll get the last one. I've studied this one a little.
MR. ENGELBERT: Is squidmeal different from fishmeal? Are cornfed squidmeal allowed if fishmeal is not allowed? I think. What would be a source of lipids? How about the initial culture of algae, is it organic compliant? I can't get the bottom line there. Are there any data related to wild harvest versus conventional shrimp versus plant based diet? That's the best we can do with that one.

MR. KARREMAN: Okay, with that, we're going to wrap up the--what? No, no comments on these. Sorry, not right now. With that, Joe has one comment and then we're going to wrap it up.

MR. SMILLIE: I just wanted to point out one of the big issues that we didn't deal with this morning at all--we're talking about the 12 and 12. We still haven't really cracked the nut or even really discussed the sustainability issue. Again, we've had people talk about MSC certification of the Pollock Fisheries and we've talked about other sustainable markers for the Menhaden and the anchovy fishery, but that's going to be one of the issues this board has to deal with is what credentials for sustainability can we accept? And again, it's an open question to everyone. I just wanted to point that out.
MR. KARREMAN: Okay, I just want to thank the panelists and the audience, but especially the panelists for being here this morning. I think the livestock committee can congratulate itself. I think we've really put together a fine set of individuals and we certainly thank you for coming from everywhere where you did. And we look forward to after lunch hearing from the next set of panelists. So enjoy the rest of the day here and I'm sure you'll have questions coming to you later on.

MS. CAROE: Okay, so we will recess for lunch and reconvene at 12:40, not a minute later. We got a little bit shorter lunch than we expected.

MS. VALERIE FRANCES: So you don't want to do a full hour for lunch?

MS. CAROE: 12:40.

MS. FRANCES: 12:40.

MALE VOICE: 12:45. It'll be 12:45 when they get here.

MS. CAROE: Pithy issue for this symposium--

MS. FRANCES: Neil Sims is not in the room?

MS. CAROE: Neil Sims?
MALE VOICE: He's up number three, so we could start, but we'd like to have all six panelists here when we start.

MS. CAROE: Okay, well we'll give him a couple of moments. If anybody knows him or sees him could you--

FEMALE VOICE: [Inaudible]

MS. CAROE: He's in the restroom?

FEMALE VOICE: The restaurant.

MS. CAROE: Oh, restaurant. We're going to get started again with the net pen issue and as we started with the first part of the panel, we're going to have George Lockwood come up and tee up the issue, describing the rationale and thought process that the aquaculture working group went through when they came up with their recommendation. So, George.

MR. KARREMAN: One thing, George, before you start, extremely dumb question on my part, but I think there's some other people that have been confused at times, but if you could give us the definition of--it's really stupid--of net pen. There's open net pens, there's--are there closed net pens, or are there just net pens? Or could you just maybe also do that in your talk? Thanks.

MR. LOCKWOOD: I'm looking at our
proposed standard to see exactly--okay, we call
them open water net pens. Open water net pens are
a floating structure that have nets hanging from
the structure that are open to allow water to flow
back and forth. There are references to closed
net pens, or closed pens, and that basically is a
design that is being tested now that has a solid
plastic barrier, a flexible plastic barrier and
all the material that otherwise wouldn't move in
and out of the pen is collected at the bottom. So
those are--does that help?

MR. KARREMAN: That does, and also is
there any relation to the sea coast versus out in
the open water, way, way, way out? No? They're
all just net pens, then, generally? Okay. Thank
you.

MR. LOCKWOOD: They're also used in
freshwater in some places for growing tilapia in
lakes, it's just not salmon. I'm sure I want to
thank the board for what I think was a very good
session this morning, not only in the selection of
the speakers, but in all the questions that came
from you. And I hope you're getting a very good
education on aquaculture.

We're now dealing with open water net
pens and I want to again state that our standards
were a compromise consensus and that we worked hard on this one as we did with the fishmeal and oil for marine resources. Let me just briefly outline for you the considerations that we have proposed for the standard. The consideration must be given of surrounding ecosystems for each location, and as you can imagine, location is very substantial.

A predator deterrence plan must identify potential predators, appropriate deterrence methods, how predator behavior will be modified by application of deterrence methods, documentation of control methods and effects, contingencies for failure to achieve objectives and how plan implementation can serve biodiversity in the ecosystem adjacent to and including the aquaculture facility.

Another condition is natural [unintelligible] capacities of discharges must occur within 25 meters of the site boundary without degradation beyond. 25 meters. The site must have a containment management plan to prevent escapes. With the objective of minimizing environmental damages to the seafloor beneath net pens, our proposed standards would require consideration of water depths, current velocities
and directions, stocking densities and other factors, have a monitoring program, measures to prevent transmissions of diseases and parasites between cultured and wild animals. And the use of multiple species of plants and animals is necessary to recycle nutrients.

Now in two places in the proposed regulation, we mention, one, aquaculture facilities must be designed, operated and managed in a manner that seeks to prevent the spread of diseases within the facility and to all adjoining ecosystems and native fish species. We also state that facility managers shall take all practical measures to prevent transmission of disease and parasites between cultured and wild animals. So that's basically what our recommendation is and we look forward to this panel as well as we did the last one. Thank you.

MS. CAROE: Thank you George. Valerie, can you give us the line up of presenters for this issue?

MS. FRANCES: We have six open net pen panelists as we did have six fish feed this morning. We're going to start off--well--we have two substitutions today, so I'm going to read the bio as it was provided to us initially and then
refer to the person who is substituting and they're going to have to fill in a little more on their background when they get up to the podium. The first is Sandra Bravo with the Aquaculture Institute of the Universidad Austral de Chile on the use of antifouling in the Chilean salmon industry. She had a family emergency and could not attend. And we have Pir Gunnar Kvenseth in her stead and he works with Torbjorn who spoke on the earlier panel. He is also a producer as well [unintelligible] I think is farm? All right. Sandra Bravo is a fishery engineer and full time professor at the Aquaculture Institute and her data that she analyzed in her study actually was provided by Per? Am I correct? Mostly? Okay. All right.

Next is Kenneth Brooks, Aquatic Environmental Sciences of Washington. He's doing a comparison of environmental costs associated with open net pen culture of Atlantic salmon and production of some other human foods. He's been studying the environmental response to finfish and shellfish aquaculture for 20 years, has focused on effects of organic waste on marine environments and published extensively in peer-reviewed literature. His doctoral thesis looked at
epizootiology and genetics of hemic [phonetic],
neoplasia and various species of marine mussels
and the genus Mytelus. I hope I got all that
right. And next on our list is Andrea Kavanagh,
who's the director of the Pure Salmon Campaign.
Looking at a review of the research on the causes
and the quantities of farmed fish escaped from
open net cage systems and a literature review of
the impact of escapes on wild fish populations
using farmed salmon as a case study. In her
stead--she had a medical emergency today--is
Thomas Natan, who is the Research Director at the
National Environmental Trust of which the Pure
Salmon Campaign is a part. And he is their
scientist, staff scientist, so I think--and helped
prepare the presentation today and will address
her paper for us. Andrea has directed the Pure
Salmon campaign since April 2005. The Campaign is
a global project of National Environmental Trust,
includes close to 80 partners and allies in major
salmon producing regions aimed at raising the
standards for farmed fish. From 2001 to 2005 she
managed NET's Take a Pass on Chilean Sea Bass
Campaign and has been with the Trust since 1997 as
part of climate campaign activities. Follows
Martin--I should have gotten the pronunciation--
Krkosek, the Centre for Mathematical Biology, University of Alberta, Canada on the disease threats of salmon aquaculture to wild fish. Martin is a PhD candidate at the Centre for Mathematical Biology at the University of Alberta. He's trained as both a marine field ecologist and a mathematical biologist and has studied sea lice interactions in wild and farmed salmon in the Broughton Archipelago for five years. George Leonard, formerly with the Monterey Bay Aquarium, Center for Future of the Oceans and now currently with the Ocean Conservancy. He is looking at performance goals for net pen production of organic finfish and he was with the Seafood Watch Program at the Monterey Bay Aquarium, where he oversaw the development science based sustainability standards and recommendations of wild cot and farmed seafood for consumers and businesses and acted as science lead on those activities. He did his PhD at Brown and then more recently took a position with the Ocean Conservancy. Neil Sims, a producer with Kona Blue and he's the president and co-founder of the Kona Blue water farms. 25 years experience in fisheries, biology, fisheries management and sustainable aquaculture development throughout the
tropical waters of the world. His topic is
applicability of organic principles to marine
finfish aquaculture, comparing open ocean net pens
and closed containment systems for production of
Kona Kampachi. And the order is then been
selected today by pulling numbers out of a cup.
So our first up on deck then is actually Pir
Gunnar Kvenseth.

MR. PIR GUNNAR KVENSETH: Thank you. And
thank you very much for giving me this opportunity
to give the presentation of Sandra Bravo. My name
is Pir Gunnar Kvenseth and the spelling is P-I-R
G-U-N-N-A-R K-V-E-N-S-E-T-H. And I work in a
medium sized organic fish farming company called
Villa [phonetic], and Villa is the name of a place
and it's not a house. And my--usually that's a--
my background is I'm a trained fisheries biologist
from the University of Bergen and the Institute of
Marine Research in Bergen. And my experience is
mainly in the cold water marine species, as cod,
halibut, torbut [phonetic], cleaner fish, salmon
and trout. I've been involved in the development
of organic fish farming in Norway for 10 years and
now I'm also working as an expert in the E.U.
commission in developing organic aquaculture in
Europe. And through this work, I've been
challenging a lot of different problems according to develop environmental friendly organic solutions. For example, for sea lice, also for net fouling, and that's the topic I want to speak today, antifouling in the Chiles.

MS. CAROE: Sorry, my computer is taking a minute. My power turned off, apparently.

MR. KVENSETH: You had it there earlier, so it's there.

MS. CAROE: Sorry.

MR. KVENSETH: It's not working? Slowly?

MR. KARREMAN: Oh by the way, it's a good time just to remind all the panelists today, the twelve panelists, that I guess you are required to be around during the poster session to answer any questions people have, even if you have not made a poster. But since you're a panelist, if there's follow up questions, okay? So you're here 'till 5:30, just like us.

MR. KVENSETH: I don't have any fish jokes, but I can talk a few words about how potential the seawater is. So more or less, whatever you put into the seawater, the algae, the mussels and everything will start to colonize it and grow on it, so that's also this topic about this antifouling. So even if you put a glass
plate or whatever in the sea, it takes some longer time to colonize it, but—and one good thing from the sea is that a lot of animals have shells and mussels have solved these problems. So there are a lot of activities going on around the world trying to use enzymes or solutions from the animals themselves to stop antifouling, stop the fouling on the treads. Okay? Okay, here we go.

So the title is Antifouling on the Chilean Salmon Farming Industry. So just give me the next slide. [Unintelligible] made before I got—it's a combination of things I've got on the mail during the last night and that I made myself, so you can just continue.

Well, the Chilean salmon farming industry started back in the 80s and Chile had for some years been the second largest producer and 387,000 tons of salmon altogether in '96. And only one company had been involved in the organic salmon farming in Chile and I think they have stopped. And one of the main technical problems, as I already said, will be the fouling of the nets. And this will vary with season and temperature, salinity, tide. What's the will of organisms to grow? And one of the big problems is that the fouling will reduce the water flow through the net
and also increase the weight of the whole construction, so you have to take this into consideration when you make dimensions. And it will also have direct effect on the fish health, will reduce oxygen, can have jellyfish that will more easily stop in the nets or seaweed. And attached organisms may also act as [unintelligible]. Next one, please.

Copper: Chile is quite rich in copper, and copper is the only metal that's allowed in antifouling for fish farming in Chile. And as we note, copper is defined as an environmental toxin and it can accumulate in algae and a lot of different organisms in the sea. And the effect of the antifouling is that you make a paint with copper and the copper would leak out to the near environment and as long as there is copper, that will prevent the new organisms, at least reduce them, the possibility so they can [unintelligible]. And it's efficient with the quite low levels. So here's a diagram over--if you're used to different meshes and different seasons, we don't even know with antifouling how long a time it takes before you have to change your nets. And for the smelt production, when you have quite small measures, it takes down to 10 to
12 days in the summer without antifouling before you have to change your nets. And if you have antifouling, it takes several weeks, maybe 20 weeks if you are in a good position. So this just shows how important the antifouling today is for Chilean industry. This data collection is the project I've been going on for five years and they've been sent out [unintelligible] to the companies that sell the antifouling and also to the companies that giving the service, washing and painting the nets. So it should be quite consistent.

This shows the different products and I at least see several of the products that I know the products names from Norway that I established down there and we see one of the different things at least from Norway and I guess UK is that there are very few that are water based. If you can just show the next one.

This shows the specifications on the different antifouling. A lot of solvents are used with [unintelligible] and I think it's just 10% of the antifouling in Chile today that is based on water. And the copper content, well I guess it's quite cheap in Chile, so it's quite high compared to what we are used to having in Norway. So the
total sales were also quite high in 1999, 1 million 700 liter and with the 20% copper that accounts for 460 tons of copper. And I tried to compare this a little to Norway. The sales have increased quite rapidly in Chile, so it's 2003, 1200 tons of copper and compared with Norway, about the same amount of salmon production, Norway have about 200 tons, about 1/6 of that.

Well this shows a figure of the development of the aquaculture industry on salmon in Chile for the last five years and we see there's a more rapid increase in the use of antifouling based on copper than its increase of the salmon production.

And I think the next slide will give some explanations for that. One of the explanations is that the sizes of the cages have grown much, much bigger, so it's much more difficult to change the nets so often. So they need to have very good antifouling that will last for quite long. And they also moved out into more exposed areas so that gives more problems for changing the nets. And the claim that they have more quicker [unintelligible] by the [unintelligible] and that may be part of this--what shall I say?--more fertilizing in the sea and they have low
percentage of water based antifouling compared with what's usually in Europe.

Alternative solutions, that is to use different washers or brushers with high pressure operated by divers or operated from the surface. But they say it's not a good solution because it gives a lot of suspended materials out in the sea that gives problem for the gills of the salmon and also this organic load may accumulate at the bottom. And also it's difficult to operate this washer out on the more exposed sites.

So in [unintelligible], there are now several farms that try to operate without using antifouling, at least antifouling without copper. You have several possibilities to use net polish or other silicone-based that make a smooth surface and make the treads stay together without using any copper and makes it easier to clean. But also this frequent handling of the nets and changing nets may cause escape of fish and stress and [unintelligible]. And the copper based paint in Chile, at least [unintelligible], will be banned as soon as there are good possibilities available and they compare with the TBT that this 1000 time more better, and I think that's what's used on big boats traveling on the big seas. And in Chile,
they also have, at least have had a lot of net pens in the lakes for smelt production and they have not been permitted to use copper in those lakes. And when you wash these nets and you take care of the debris and the mussels and seaweeds that are--have a lot of copper, it's usually a problem to recycle it because it's quite expensive.

So this was the first part and the project was financed by the [unintelligible] Investigation Pescera so when I was asked to put down some slides about the situation and antifouling in Norway, so I think they will follow now.

Antifouling in Norwegian aquaculture industry has also been dominated by copper and its use is about 220 a year and the industry goal is to reduce this to 20 tons a year. There's an increased use of paint without toxin as I now test out in Chile and the purpose is to give a smooth surface that's easy to clean and also to pack the treads, giving it more difficult for the organisms to settle. And in Norway there's quite many cleaner equipment in use and we have had no problems with this suspended materials in the gills or gathering organic materials on the
bottom. We are operating quite deep areas, deep fjords and a lot of current. And there's also an increased use of so-called environmental nets where you have two nets that are put together that are not painted with copper and when the one is in use, the one is out in the air drying, so you just change them every second week or once a month.

And the next slide will show what I've been working with for the last 20 years, use of cleaner fish; that is fish [unintelligible] that will eat fouling organisms from the nets. So you can have the next one. Quite easily or rapidly during the summer, the net would look like this. So I have had several students working on finding out on what's growing on the net and what's eaten by the cleaner fish. [Inaudible] the next one. Well, giving you some organisms that grows quite rapidly; blue mussels will be quite easily and all the others will establish quite quickly. And for the cleaner fish that we mainly put in to have control of the sea life. This was with just like lunch table all the time. So we have looked into the stomachs of this cleaner fish, so I hope that's the next one, maybe. So here is a summer situation and the number of mussels that we found in each of these cleaner fish. So we see that
the--at the most, when the blue mussels settle, 180 blue mussels in the one cleaner fish. So that they really do a vacuum cleaning job.

MR. PER GUNNER KVENSETH: We see also this [Unintelligible] quiet manual then [phonetic]. And very nicely, we have had quite few sea lice [phonetic]. So when there are sea lice, they will raise them down if we operate this in the right way.

And to take, this is a quite abnormal environment for the cleaner [phonetic] fish, so to take care of them in the best possible way. We'll make a micro habitat for them with different arrangements.

I think this is my favorite picture, as you see, so if it's done the right way, they clean the net so you can just continue with the, like a new pressure [phonetic].

This is cleaner fish that's eating the sea lice and the good thing, continuously lower levels of sea lice, if do it in the right way.

So that's it.

[Applause]

MS. ANDREA CAROE: Thank you very much.
Valerie, our next speaker?

MS. VALERIE FRANCES: Our next person is Kenneth Brooks with the Aquatic Environmental Sciences in Washington.

MR. KENNETH BROOKS: Thank you, Valerie. I don't haven any jokes to tell either.

Okay. This is a typical salmon farm, this one is located at Fortune Channel that will [phonetic], in Clakawit [phonetic] Sound, British Columbia. Next.

At a meeting, oh, I'm going to guess it was 15 years ago, a young student in the audience said, "Well, there are no environmental effects associated with my diet, because I eat only bread."

In addition to being a scientist involved in examining the environmental effects associated with aquaculture, I've been actively involved in conservation since I retired from the Navy 30 years ago.

I've worked extensively with USDA soil conservation service, with our local conservation district as the chairman of that district for 12 years, and as chairman of Washington State's Conservation Commission. I'm fully aware as are those of you who are agronomists, of soil losses,
one effect of traditional terrestrial agriculture. The photo on the left is from the Pollus [phonetic] in Washington State. The photo on the right is from a talk given by General Herrel [phonetic] after the first draw downs on the Columbia River. And that's one of the impoundments behind a dam on the Columbia River.

All of the sediment that you see there has been deposited, primarily from agricultural lands into these impoundments. After his talk, I asked General Herrel, I said, "Well, there's a huge amount of sediment there." And his response was, "When we first built the dams, we thought they would have sufficient hydraulic capacity to produce power for 200 years. Because of the soil loss and sedimentation behind the dams, we now believe that's only 75 years."

Soil is lost from the wheat-growing areas where bread is produced in Washington State, at 4-11 tons per acre. Soil losses are over four tons, I think it's 4.2 tons average from airable [phonetic] land throughout the United States, and it's 16-300 times higher in other countries. Topsoil is being lost on average worldwide 17 times faster than it's being produced.

My point is that there are environmental
costs associated with a loaf of bread. Next slide.

Categories environmental cost. I'm a member of GSAMP 31, an FAO committee that has been working for several years to develop management recommendations for near-shore and offshore aquaculture for member countries. I've suggested that we can categorize environmental costs associated with aquaculture in these four categories.

Today I want to talk a little bit about category two, what I call inevitable costs, and a little bit about category four, possible effects. Next slide.

The benefits and economic costs. This is for one company, 2005 they produced 38 million kilograms of Atlantic salmon. That's a third of a billion meals for human beings. The production per site was 3,500-4,000 metric tons. They used 45,000 metric tons of feed, with a biological FCR of 1.16. And the water area covered by these 38 net pen complexes to produce a third of a billion meals was 15.2 hectares. Next.

Dissolve nutrients from salmon farms. I'm going to point this out because I notice in your recommendations, in some cases, not all, that
you look for broad-ranging prescriptive operating standards to apply to aquaculture. You hard earlier that it's inappropriate to apply feed standards across a broad range of species.

One of the things that we discuss frequently in FAO is that standards are at least regionally specific. The environmental problems that you encounter in the Northeast Pacific are very different from the environmental problems that you might encounter on the east coast of the United States, and they're further different from the problems that you would encounter in the southern hemisphere or in the Northeast Atlantic.

Environmental standards need to be at least regional, and if you try to apply blanket standards across all regions, you will either not be effective, or you will actually have unintended consequences that don't help us achieve sustainability.

As an example, on the West Coast, because of upwelling -- the bringing of nutrient-rich oxygen-poor waters from the deep Pacific to the surface -- we have a lot of nutrient, far more nutrient than the phytoplankton a macro algae can use. In fact, they're light-limited where we are. They are not nutrient-limited.
Back in the '90s, I monitored nearly all of the salmon farms in Washington State, and we were required to look at nutrient levels up current, down current at three meters and down current at 30 meters. And we were required to analyze those water samples within half an hour of slack tide when we anticipated that the concentrations of metabolic waste would be at their highest for ammonia, ammonium, phosphate and silicate.

What we found was, and it's really ammonium that we're most concerned about, that's what's directly evative [phonetic] for the phytoplankton, that's what's given off as a primary excrement from the fish. Nutrient-rich concentrations were infrequently elevated within three meters down current from net pens. We never saw a significant increase 30 meters downstream from the net pens in comparison with upstream values. And there's no evidence from dozens of studies in the Northeast Pacific that salmon farms have any effect on phytoplankton production.

In our region, nutrient additions, water column nutrification [phonetic] is simply not an issue except in a few isolated poorly-flushed embayment's [phonetic] where we don't site salmon
farms.

I was asked by NOAH about putting a 300-metric ton striped bass farm in Chesapeake Bay, at a meeting six, seven years ago. I kind of threw up my hands and I said, "you've got to be kidding me." Chesapeake Bay is nutrient-challenged in the extreme, and that's an example that's very different from the Northeast Pacific. Next slide.

Benthic [phonetic] effects. These are inevitable effects with open net pens, they are real effects. Some kind of an effect will occur and those effects can either be positive or they can be negative. In the worst cases, we see a significant reduction within 100-150 meters of the net pens in the macrofaunal [phonetic] production due to the enrichment of the sediments. In other cases, perhaps 10%, 15% of the forms in the Northeast Pacific, we actually see an enhancement, both in the abundance and in the diversity of critters living on and in the sediments under and in the vicinity of the farms. These are generally very well-flushed sites where the currents are in excess of a knot and a half, 75 centimeters per second. But we do see those enhancement effects.

Near-field effects are what we, the way I define near-field effects is that there can be
assessed at specific points in time. In other words, we can go out on Tuesday and monitor, and we can see where the physical, chemical, and biological changes have occurred. Far-field effects, which we're not going to discuss today, have not been well documented, in part because they're very difficult to document.

Effects are best managed by proper siting to avoid sensitive areas, we don't put salmon farms over shellfish beds, over eelgrass meadows, over rocky reef habitats, important to rockfish and a number of other species. We put them over the muddy plains or the sandy plains that are not so sensitive to nutrient additions. And macrobenthic [phonetic] environments have always been found to naturally remediate, and I've done numerous studies looking at the long-term response of these environments to fowl.

When you have a farm operating and then you stop operations, how long does it take for the sediments to chemically remediate, for the organic carbon to be catabolized [phonetic] and go back to normal sulfides decrease, redox [phonetic] increased, and for the macrobenthic community to recolonize that area? Next.

Because these effects have been very well
studied by many, many researchers over the last 20 years, and because this is essentially an inevitable effect of net pens, we've developed -- we haven't, Chrome E [phonetic] and Kenny Black and others have developed some models that predict the deposition of carbon on the bottom. And here you can see the net pen if you look carefully, and you can see the red area, which is where you get more than about 5 grams of carbon, which is the threshold above which they think they see significant effects. So we can predict what the extent of these effects is going to be. Next.

My own work has focused a great deal on determining the environmental response to what we call physical chemical surrogates, which are sulfides and redox potential and total volatile solvents in the sediment. And here you can see a very real response. The Y axis is the log of the number of taxa [phonetic] that we see; the kinds of animals we see in these sediments. And on the X axis, you see the log base 10 of the free sediment sulfides, and you can see there's a very nice, linear relationship with the reduction in the kinds of critters you find in these sediments as the sulfides increase. Next.

This is the number of taxa that we see
adjacent to a salmon farm, typical salmon farm in British Columbia, as a function of distance in meters on the X axis. And you can see, the control, which is about 500 meters away, it's plotted at 300 just for visual aide, you can see that from the control, the log and the taxa is about 1.6, and we're below that when we get inside about 65 or 70 meters from the farm. So near-field, close to the farm, we see a reduction.

I have never collected a sediment sample from a salmon farm or a shellfish farm, and we see similar effects under intensive mussel culture in the Pacific Northwest. I've never collected a sample that did not contain some animals. There is no desert there, but there is a significant reduction at some sites in the numbers of kinds of animals that we see. Next.

Same is not true for the abundance of critters, and very frequently at intermediate levels of sulfide, from about 200-300 micromoles up to around 4,500-5,000 micromoles, we see an absolute proliferation of animals, and there's a few kinds. I've identified eight, call them carbon opportunists, in the Pacific Northwest, and they proliferate and we get huge numbers of them. These are numbers per sample, and we get up to 18-
19,000 critters in a tenth-meter square sample. If this is all too detailed for you, imagine my poor techs who have to separate all those 19,000 critters from the residue in those sieved samples. Next.

Environmental costs, benthic costs have both spatial and temporal dimensions. In this direction, we have distance from the farm, and in this direction, we have ton. And these red areas here are areas where we have significantly elevated levels of sulfide. And you can see that at this farm, we got significantly elevated levels out to about 25 meters, and they extended through the production period, but then once the fish started to be harvested -- not when the farm went fallow, but as soon as the fish biomass started to be decreased during harvest -- those sediments started to chemically remediate. And within about six months, they went fallow in March of 2002, and sulfide remediation at this site was essentially complete at all stations by July of 2002.

It then takes some period of time when new critters can recruit into those sediments, most of them are planktonic and it can be up to a year. If the farm remediates in October or November, it's going to be the next spring, early-
summer before you have a cohort of new recruits to repopulate those sediments.

But in cases like this where we have chemical remediation in the summer, by the fall, those sediments will be well on their way to biological remediation. Not all farms respond this way. In the worst case that I'm aware of in the Northeast Pacific, it took eight years for the sediments to chemically remediate. But with better siting, in today's world, this is more characteristic of what we see. Next, please.

What are the environmental costs? Well, we lose species, biodiversity is decreased, and in some cases, in fact I would say in most cases, the abundance of benthic critters benthic critters is diminished. That results in a loss of wild fish production due to a loss of their prey.

The average footprint of a Northeast Pacific salmon farm is about 1.6 hectares. And the average temporal extent of the adverse effects during production and remediation, is about 44 months. Next.

What do these losses mean? Well, if you just assume one trophic [phonetic] level between the macrofauna in and on the sediments and in edible fish, then we lose about 307 kilos of wild
fish due to the lost prey base under the farm. In exchange, the average farm produced, during these year-2000 surveys, produced about a million kilos of salmon. That's 12,624 times more salmon produced than wild fish were lost. It's about 84 kilos of wild fish per year during that 44-month period. Next.

I was fortunate enough, when I was 23, to have bought 17 acres of old-growth forest on Horsefly Lake in the Canadian Rockies. This is some of the old growth timber near our cabin there. Next.

This is my farm where I raise cattle and trees. The wetlands that you see in the bottom there, that was all pasture. I moved 17,000 yards of semiaumal mud [phonetic] to create those wetlands which are now fantastic wildlife habitat. Next.

My cows and your cows can deplete the soils of nutrients. They destroy brush, trees and imperion [phonetic] habitats. They add to greenhouse gasses, they compact the soil, they add excess nutrients to surface waters, etc., etc., but they are a valuable source of meat that helps feed people. Next.

What are the spatial and temporal
footprints? And I'm just talking about the land consumed by these two ways of producing protein. For salmon, to produce 1,250 metric tons of edible salmon flesh, this assumes that 50% of the carcass ends up -- a salmon carcass -- ends up as edible flesh. It takes 1.6 hectares on average.

For beef, at 8 AMUs, which is typical of grass production in my part of the world, it takes 3,174 hectares. The temporal footprint for salmon is two to four years, for beef, for my farm to return back to that old-growth forest would take at least 200 years.

This is just one aspect of the environmental cost, but I think it clearly illustrates from an environmental-use point of view, the efficiency that can be achieved with aquaculture. Next, please.

Some of the costs of commercial fishing. In the Straits of Juan de Fuca, not myself, but a group of recreational fishermen got some side-scanning sonar and identified 2,000, I call them derelict pots and nets, other people call it ghost fishing gear. They were then able to retrieve, these pots and fishing gear are generally in deep water, they've been able to retrieve over 200 of the pots. I have dozens of pictures like the one
on the left which is of one of these pots. And all of those fish, prawns and crabs, and other critters in there, are just dying with no benefit to anybody.

The Department of Fish and Wildlife in Washington State has estimated that just in these three embayments, where these 2,000 pots were found, those pots are catching 10% of the allowable Dungeness crab fishery in Washington State. And you look worldwide at the lost fishing gear, at the lost pots, at the lost nets, and all the light areas you see in that pile of nets that these guys were able to get this commercial to haul up for them, that's all fish caught in those nets and dying.

Point being, there are costs associated with the wild harvests of fish. Next slide, please.

And in fact, there are environmental costs with every form of food production. Society needs to understand and accept that there are costs associated with a loaf of bread, a hamburger, or any other food, including the wonderful fried fish filet I saw someone consuming for lunch today. I wished I'd chosen that meal.

We need to prioritize environmental costs
and focus our energy on solving problems rather than using the environment as a battlefield upon which to debate social and economic issues. And I deal in a number of environmental areas and I see far too much of that.

At commission meetings when I was chairman of the commission, I used to constantly chide people that we're not going to make any progress towards sustainability until all you folks sitting around the table pointing your finger at the people across the table turn those fingers around and say, "What can I do to solve these problems?" not "What do I want you to do."

Next.

Ten years ago, these were some of the challenges put forth by the ENGOs opposed to salmon farming. Today, we're involved in sea lice extirpating pink salmon runs in the Broughton [phonetic], and escaped Atlantic salmon will out-compete displaced native Pacific salmon. Next.

MS. CAROE: Excuse me. Mr. Brooks:

MR. BROOKS: Yes?

MS. CAROE: You did run out of your time, but we want you to continue, briefly, please.

MR. BROOKS: I'll be quick.

MS. CAROE: Thank you.
MR. BROOKS: I'll try to be quick. I’m a retired professor and I tend to think in 50-minute increments. Anything less than that is tough.

This is even-year peak salmon returns to the Broughton, and salmon farming started where the purple line is and you can see that after the initiation of salmon farming in the Broughton, we've actually seen some of the highest sustained levels of pink salmon returns to the Broughton.

In 2000, there was an enormous return: 3.6 million fish, and the next year it crashed, and therein ensued the current debate over the effects of sea lice on those pink salmon returns.

Next slide.

I just returned from a meeting of the Pacific Salmon Forum, which is addressing this and Dick Baymish [phonetic], a revered DFO scientist presented some marine survival data for the years 2004 through 2007 for Glendale, the major spawning river in the Broughton. 2004 survival was 23%; 2005, 3.4%; 2006, 1%; and 2007, 2.6%.

Frazer [phonetic] river stock marine survival has historically averaged 1.2%, and coast wide, pink salmon survival averages 2-3%. The bottom line is that marine survival of pink salmon originated in the Broughton Archipelago watersheds
has been equal to or better than average. There is no crisis in those stocks. Next slide.

This is the number of escaped cultured salmon, and I noticed in the submission to you that it essentially ignored escapes in British Columbia, Maine, and in Washington. And as you can see, there were a lot of escapes, primarily Chinook in late-80s, early-90s, but today we have very few escapes.

Andy Thompson, with DFO has been running the Salmon Watch program for 15 years now and I talked to him just the other day and he said, "Ken, we're kind of discontinuing the program because we just don't find escaped Atlantic salmon in British Columbia streams, despite extensive looks." Next slide.

MS. CAROE: [Unintelligible].

MALE VOICE: How many more slides do you have, because--

MR. BROOKS: I think I'm done.

MS. CAROE: Yeah. I think.

MR. BROOKS: So organic standards, one, I would encourage you to look at efficiency in our food production. I would encourage you to use performance standards rather than operating standards. A lot of what I read is just fine. I
question why you have this passion for reducing or eliminating fish meal.

My recommendation is that you rely on regional laws, because regional governments do attempt to do a good job at managing the environmental costs associated with [Unintelligible – cough] and you should take advantage of all of their work. Next slide.

This is one of the ponds on my farm. There's four- to five-pound trout in there. That's my son trying to catch one. Last slide. And that's my bit of heaven on Horsefly Lake. I thank you for your indulgence of my exceeding your time.

MS. CAROE: Thank you.

[Applause]

MS. CAROE: Valerie, our next speaker?

MS. FRANCES: Number three is, Neil Sims, Kona Blue, Applicability of Organic Principles to Marine Fish Aquaculture.

MR. NEIL SIMS: Thank you. My name is Neil Anthony Sims, N-E-I-L, A-N-T-H-O-N-Y, S-I-M-S. I'm the President and co-founder of Kona Blue. And I want to speak to you this afternoon, a lot of people have put forward the idea of closed containment systems as an answer, and perhaps the
only answer for organic marine fin fish culture
and I want to just talk about my perspective on
this comparison of open-ocean net pens and closed
containment systems for Kona Kampachi.

I'm going to give a brief introduction to
some of the overarching questions that we're going
to address with it that we're addressing here, and
then run through some of the methods that we use
in this study, some of the results and then some
shameless podium thumping in the discussion.

In the introduction here, I do talk about
the McCarthyism of mariculture [phonetic] and I
realize that that's a fairly loaded term to use,
but I can't think of what else really describes
the morally questionable opposition to aquaculture
and where farm fish really has become a pejorative
in the common lexicon. That strikes me as
passingly strange.

We are scaring Americans fishless.
They're walking past the seafood counter and going
and buying something else. Yet, Moser, Ferry and
Rim [phonetic] the most recent meta study on the
benefits of seafood has shown that modest
consumption of oily fish, once or twice a week,
will result in a 30% reduction in coronary death
and a 17% overall reduction in mortality. This is
right up there with anti-smoking campaigns and seat belts in terms of the public policy issue, and we need to try and begin to turn this around.

Why do I call it McCarthyism? There is, as a good senator from Wisconsin liked to do, there's a lot of distortion of facts here. A lot of the past examples of salmon farms from 20 or 30 years ago are used to deride what organic aquaculture of marine fin fish might be now.

This constant reference to the plumes of sewage that's down current of fish farms, there's talk about net pens as being feed lots, when really what we're talking about here is putting fish in their natural environment and just fencing them so that we can come back and get them when we want to harvest them.

There's also a portrayal of organic principles as some idol or some ideal, where it really is an ideal that we ought to aspire towards for the benefit of the planet, the oceans, and the consumers.

Then I was very reticent to put this up there, but there's no other term to use for the outright lies that have been put forward to this orgast [phonetic] body at the last hearings here. My mother always said, "Don't use the term 'lie'
unless you absolutely have to." But when it is more than an order of magnitude, that's not a distortion. People have testified to you that there was a 50-to-1 food conversion ratio for Kona Kampachi, and the truth is, that it is less than 2-to-1 in our net pens, and in controlled feeding trials, we can get it down to under 1-to-1.

Enough of the emotion, let's, well, perhaps a little bit more of emotion, because the emotion stems a lot from the, what I would call the salmo-centricity [phonetic]. A lot of people are very emotionally attached to this beautiful fish, the iconic salmon. I come from Australia where this isn't such an icon, and I'm a marine fishery biologist. There are 20,000 species out there in the ocean and we've only just begun to scratch the surface. We've been doing terrestrial agriculture for 10,000 years, marine fin fish culture for 30 years. We need to get better, but let's develop, let's work towards solutions.

When we're talking about marine fish, we're talking about diversity, because we're not just talking about salmon in the Broughton, for crying out loud.

Right across the Mediterranean or Southeast Asia, or all across Eastern Asia, in
Norway and Scotland, all of these various species in all of these different areas, and yes, in Hawaii, we've grow Kona Kampachi as well as threadfin moy [phonetic]. So this is a much broader debate than just salmon.

Let's think again about the historical arc here. Yes, the earliest net pen systems, they were very primitive, and because of the engineering limitations, they put them in very protective bodies of water. They were feeding them wet fish or moist pellets. They had very little understanding of fish nutrition, they were using prophylactic antibiotics and there was almost no understanding about the ecosystem impacts or how to model that.

Yet now we have, in 30 years, we have vastly improved culture practices much better: net pen design which allows us to into more exposed sites, formulated feeds which are more digestible, reduce the effluent. We have prepared these strategies and vaccines for fish ill [phonetic] and we have very sophisticated ecosystem modeling as Dr. Brooks has shown.

With some shameless chest thumping here about Kona Kampachi, we have, I think we'd like to hold ourselves forward as one of the
representatives of how this has moved forward, where we're now using native species, actually reared wherein in exposed sites, sustainable feeds and healthful product.

Our Kona Kampachi, it's name, it's a deep-water fish, there's no commercial fishery there. We culture them there in the hatchery, we get excellent growth rates, very good feed conversion ratios, and it makes great sashimi and versatile cooked fish.

It's hatchery reared, that's important to us. Because we can control what goes into that fish all the way from hatch to harvest, from its very first feeding. But it's also important to us from a sustainability perspective, for our company, that we rear these fish all the way through, and we can scale our operation. We're not dependent on the wild stocks.

The siting is important to us, and constant monitoring, where, okay, we're only a half mile offshore, but it is open ocean agriculture. There's nothing between us and China to the west, and there's nothing between us and Antarctica to the south. We're in waters over 200 feet deep and the technical term for the currents through our farms like that is rip snorting.
Our feeding is always actively monitored, either by in-cage video or by divers. We also have extensive monitoring of water quality there. The basic parameter that we're always concerned with because we're in tropical waters is turbidity -- the scientific term for fish poop. And there's no measurable difference between what's up current and what's down current of the farm.

We are working towards more sustainable feed solutions. This is something that we're constantly discussing and striving towards both. With some of the NGOs that are actively involved in these issues, more so with our feed company. Everybody wants to move towards these sorts of solutions.

So our fish actually, the diet that we feed them is 50% vegetarian. The fish meal and fish oil that we use is from sustainable fisheries. We're currently using about 10% of byproduct from the British Columbian eight [phonetic]. We'd like to move towards zero fish meal and fish oil from reduction fisheries, but it becomes very expensive to do this if you're going to go and use byproduct. And the only other alternative, as you're keenly aware, is poultry meal or other terrestrial animal byproducts.
But we do grow, we're very proud of the fact that we grow a very healthful product. We are able to control the diet, we know there's no risk of internal parasites or ciguatera, which are banes of these fish in the wild. And there are undetectable levels of mercury.

There's fat levels of up over 30% in our fish, and these are all the heart-healthy Omega 3s. Well, they're not all the heart-healthy Omega 3s, but it's the fish oils that people really need to be eating more of.

We have higher Omega 3 fatty acid levels than almost anything else in the ocean. We're now harvesting about 18,000 pounds a week, and we're on track, we're hoping to do 30,000 pounds a week by the middle of next year.

We like to think of ourselves as all that ocean culture could be and should be. We would like to be organic, but we're not really sure we're going to be able to fit that model, because of these other various reasons about byproducts and how this all may play out in the end.

But just to come back now to the question of comparing land-based and open-ocean grown, I have done this. We have eight 50-ton tanks there at ESOP [phonetic] and we're going through the
pre-commercial stage here. We're growing our Kona Kampachi in these land-based tanks. And now we've reached the stage where we have eight of these
3,000-cubic meter cages offshore there in our farm site in Kona.

So let's first of all look at what this means in terms of the comparison of biological loading and stocking density here. This table is there in my written presentation. I'd like to highlight here the water exchange, this is, we're getting a turnover in the tanks every four hours of a full exchange of those tanks there, which we ran, actually, at 25 tons rather than the capacity of 50 tons. And this here was a very conservative estimate of the water exchange through those cages out offshore about a turnover a minute.

This is the relative flow right here and then what the actual fish feels is not the number of kilos, because these are, our fish are very happy to be schooling very close together. What they feel physiologically is the load in kilograms per liter per hour. And this is the production capacity from our land-based system of 10,000 tons out offshore. If we do it right, we should be doing 720 tons per year.

So in essence, a synopsis of this is
there is a 1,600 times greater load in terms of kilograms per liter per hour in the land-based tanks, and a 67% greater density of the fish. Out offshore will [phonetic] much lower density, much less exchange rate. And it's also a lot closer to the natural environment.

In our land-based tanks, we had heavy shading there, drew a juicy amount of algal growth in the tanks. Out offshore, we have natural lighting and there, the seasonal lighting there.

In the land-based tanks, there's constant centripetal motion, that's what you need to be able to move the particulates out of there. Yet out offshore, there's natural tides and currents.

In the land-based tanks, the fish are within a couple of feet of the tank bottom, which that's where the fish feces and the other fouling accumulates, yet out in the open ocean, we're over 100 feet away from the substrate where there is our rip-snorting current that pushes along through there.

And in land-based tanks, the fish will pretty much just hold in one position there, relative to their neighbors, oriented into the [Unintelligible]. Out offshore, the fish are able to swim freely throughout the cage there.
The effluent right and the nutrient recycling has always been spoken of very eloquently by Professor Brooks, but what I'd like to point out here is that in the work that we had done, there was no discernable difference, even over 1,600 times more concentrated in the land-based tanks, that was going into the groundwater at the natural energy lab, which is near shore and then goes eventually out to ocean. But there was no measurable impact on the groundwater or the near-shore waters, even at 1,600 times the concentration of what we see out in our offshore cages.

We have extensive water quality data available on our website, I'd like to refer you all to that if you're interested in numbers and graphs at length. But again, the take home message is there is no measurable impact on effluent water quality. And again, this is the measures of turbidity here.

Now what does this mean if we're going to scale, if we're going to build a larger operation? In the land-based tank, you're still going to be putting those into a single point source that goes into the groundwater, where out offshore, if you're going to scale your offshore operation, the
sensible farmer would go and put the cages across current and so there will not be any added [Unintelligible] effects on water quality out there.

From land-based tanks of particulates, there's often talk about recycling of the particulates from fish farms, but in a marine fish farm, these are salt laden. They do not make a usable fertilizer and I don't think that there is any use for the particulates from marine fish farming. Yet if you site your farm correctly in the open ocean, the particulates should stay up in the mixed layer of the water column, where they become bio-available.

So the land-based tank, there is some potential, eventually at some scale, for some detrimental impact on the coral reef there. Yet out offshore, the nutrients should become quickly assimilated, particularly in tropical waters where metabolic processes happen a lot faster, and they should become bio-available.

So the comparison between the two is that your nutrient enrichment in the land-based tank has the potential to become pollution, where if you site your farm properly out offshore, then it should just become a source of productivity.
I want to just quickly talk about energy usage and the carbon footprint. I know this is not germane to the criteria of organic standards, but I'm starting to lose the clicking here, Valerie, so I might ask you to occasionally step in.

But these were the, in the land-based tanks here, I used in the calculations, in the paper, I used a pump head of 5 meters, about 15 feet, which okay, in most closed containment systems that are going to be floating in the water, they're going to be the same head. However, you are going to have to be pushing water across a filtration system, and filters require a lot of pump heads. So I think that's a fair number to be using.

And without distracting you too much with all of these various numbers, what we end up with here out of this system, the production demand is about 1,700 kilograms of Kona Kampachi that we can produce per ton of CO2, just the electricity for driving the pumps. That's not counting the electricity for production of the oxygen or all of the other considerations.

Out in the open ocean, net pens, the main carbon demand there is the boats to go backwards
and forwards. We're eight kilometers away from the farm site. And again, these data and the notes, the explanatory notes are available in the full paper.

For our 720-ton operation, it's about 3,500 kilos per ton of CO2. So the take-home message here is [Unintelligible] in the carbon footprint, it's about twice as efficient in an open ocean net pen as opposed to a land-based system.

Let's look at some of the other considerations: animal welfare and ecosystem impacts, which are perhaps more germane to the organic discussion. We do undertake ongoing monitoring of wild con-specifics [phonetic], so it's still a very healthy population of Kona Kampachi, literally around the net pens there, and so we do catch these fish.

What we find in the wild fish is that they are somewhat late [phonetic] and fairly prevalent with a calogous-like [phonetic] parasite, but we don't find any of these copepod [phonetic] parasites on our fish in the net pens. What we do find in the net pens is that there is an ectoparasite, a skin fluke that does become prevalent there in the farm fish. Yet in
the wild, we only find about 0.2 of a skin fluke per fish there in the wild. So the wild fish are also very heavily laden with internal parasites, as a part of what renders them unsaleable, yet we have no internal parasites in our Kona Kampachi, again, because we have this level of control over their life, all the way through.

We find no evidence from our study of any negative interaction between pests and parasites, between the wild and the farmed fish.

Some of the other questions that are germane here, what we like to hold ourselves up to, as I said, we're not calling ourselves organic, but we do like to call ourselves what we're doing as environmentally sound as practicable. We're using a local species, there are healthy wild stocks, we're not engaging in any selective breeding, we don't go, we choose not to go past, if too we recognize that we don't have all these questions of cage, integrity nailed down with this new engineering out there. So we will not indulge in selective breeding until we actually have a big of control over that.

These cages are very resistant to predators. In the three years that we've been out in the water, we've only had one instance, and
that was really a management issue there where there had not been adequate management of the nets, where we'd had a predator problem there. But we think that this is something that the idea of a predator-management plan is very appropriate, because it's something that's progressive, that we will learn as we go along through this.

So what I'd like to do in this general discussion is just talk about some of the, to help you understand that some of the benefits of open-ocean fish farms. It's connected to the fact that these can become a productivity pump, particularly in oligotrophic [phonetic] waters such as in the tropics there. And whilst in other areas where your nutrient laden, in tropical waters, you're really nutrient poor. It's not measurable, but all of the modeling suggests that if you're putting these nutrients into the water, that you have the potential for further productivity down current.

And there really are no detrimental impacts if your farm is sited correctly. I want us all to just consider the hypothetical open-ocean fish farm that's stuck, for argument's sake, in the middle of the mid-Atlantic. And so you could presume there that there are negligible
impacts there. The only reason why you might claim that there are significant impacts is if it were farming salmon and that it was emotionally problematic.

But if this fish farm in the middle of the Atlantic has no significant detrimental impact, then why couldn't you consider it organic? At some stage you're going to want to move it closer to shore, and so it then becomes a question of what criteria do you apply to the siting there. And this, then comes back to these questions that you had posed. I want to run through all of these various questions that you had posed here that you wanted to have addressed here. And the first one is just what do you have to do to be ecologically responsible?

There are three critical factors: the species that you culture, the biomass at which you culture them at, and the site. The overarching aspiration, I think, is that you should always be operating within the ecosystem capacities. So we need to establish some standards there and then you need to monitor. And this is something that we, as a company, and I think we as an industry, would embrace.

The question of sea lice infestations or
other parasite infestations, perhaps, Aquaculture Working Group had said that you should take all practicable measures. I would actually suggest that there be something else be added in there. That there should be monitoring. That the onus be put upon the fish farm to monitor, to ensure that there is no proliferation there. Establish them some standards and then monitor.

Aquaculture Working Group's recommendation, again, suggested minimize the release of nutrients. I actually suggested it should be, in the case of open net pen culture, that you should optimize the assimilation of nutrients, and that, again, is a siting question. The assimilation of wastes, the Aquaculture Working Group talks about using a measure of waste assimilation from one species to another. Just purely from an extractive viewpoint, I think as a marine biologist, I would suggest let's look at this more in an ecosystem impact. But it doesn't necessarily, the additional productivity, the recycling doesn't necessarily have to be something that we take back. We don't always have to take. Some of this productivity we can let it go into the wider ecosystem.
Again, one thing I would like to endorse from the Aquaculture Working Group here with the assimilation of wastes is that they do emphasize that monitoring shall be employed. Establish some standards, and then let's monitor here.

They also talk about multiple species and polyculture as something that must be included. I think, again, siting is important here. It's inappropriate to have polyculture in offshore systems, but instead, you want to encourage fish farmers to move towards more exposed sites, and that's not where you want to go and have macro algae or mussels hanging off there, because that's additional loading on your mooring. Encourage them towards more exposed sites where there is better flow through, better flushing.

And the question about predators, I think the idea of a predator-management plan is something that we would endorse, because it allows for improvement and adaptation, and that really is the fundamental of organic principles.

The question of migratory instincts in cultured fish, perhaps for an adromous [phonetic] fish or for F1s, but certainly not for marine fish, and I would suggest certainly not for domesticated fish. This is like saying that there
are migratory instincts in domesticated ducks or
domesticated cattle. You do breed these instincts
out of the animals that you grow and that you come
to know and love.

I think in conclusion, closed containment
systems are actually further from the ideals of
organic aquaculture, because of the densities,
because of the nutrient recycling challenges,
because they're more removed from natural systems
and because of the additional energy loose there.

The question is not whether net pen
culture should be allowable as organic, but
rather, how: what the standards should be. We
need to establish siting guidelines and then you
need to put the onus on us, the farmers to monitor
and to validate that which you're charging us to
do.

Open-ocean net pen culture should be good
for the fish, it should be good for the oceans,
and it certainly should be good for the consumers
and good for broader humanity. Thank you very
much.

[Applause]

MS. CAROE: Thank you very much. It was
a good presentation. Now the next presenter,
Valerie?
MS. FRANCES: Our next presenter was to be Andrea Kavanagh, Director of Pure Salmon Campaign, and she had a medical emergency, so she is being replaced by another member of her staff who is their Research Director, Thomas Natan, and he can provide more information about himself.

MR. THOMAS NATAN: Thanks very much. My name is Tom Natan, I'm the Research Director at National Environmental Trust. I'm a chemical engineer by training and I have two broad areas of responsibility within National Environmental trust. One is one of my fields of expertise is on environmental inventory data of all kinds. That ranges from greenhouse gas emissions data to data provided on things like escapes which we're going to talk about today. And the other one is human health and environmental toxicology issues.

A little bit about the Pure Salmon Campaign. As you heard, we're a coalition of partners and allies from salmon-producing countries. The campaign rests on the simple premise that salmon can be farmed safely and with minimum ecological damage if there are standards that protect the environment, consumers, and local communities.

That leads to two questions applicable
here today. Can the farming of any fin fish in open-net cages achieve the goal of minimal ecological damage? And can the systems like that be labeled as organic?

We're going to be talking primarily about escapes as the indicator of environmental impact. Next slide, please.

These are the questions that you asked us to address and we're going to take them in reverse order. We're going to talk about escapes first. Next slide, please.

Over the past few years, the Pure Salmon Campaign has been collecting data on escapes in major producing regions via Freedom of Information Act requests in Scotland, Norway, Chile, Maine, and Australia. We've also obtained some data from British Columbia, so I think somebody said that we, one of the speakers said we didn't have those data; we do have data from British Columbia. We also have some data from Washington State as well, and we have some information that also come from conservation organizations.

We've been trying to form an inventory of the reported escapes of salmon and other marine fish from open-net cages, and this is the first agglomeration of these data in one place. And by
our calculations, it represents approximately 70% of salmon farming operations. So it's a robust compilation globally. Next slide, please.

Very likely that these data are only a conservative estimate of escapes, and they are reported in general by incident and then agglomerated over time. It does not include leakages and it only includes, basically, salmons for the most part, and we do not have 2007 data for all of the regions yet, so we're not presenting 2007 data.

There are lots of, in general, I think, most inventories of any kind, and that includes pollution emissions, are generally under reported. Next slide, please.

What do we know about escapes in general? These are the agglomerations of the data that we have for these various countries or provinces for the years that are indicated there. As you can see, if you total it up, there have been at least 10.2 million reported farm salmonid escapes and there were 262 reported escape incidents from the open-net cages between 2000 and 2006.

And even though regions or countries such as Norway and Scotland have regulations aimed at controlling those escapes, we're talking about
hundreds of thousands and millions of escapes from those countries.

The British Columbia data vary significantly from year to year, so when you take an average, it looks like it's lower. I'm not sure how, if we had more data over a longer time, if that wouldn't come closer to what we see from the other countries. On the other hand, if they're doing something right, we'd really love to hear them tell us what that might be. Next slide, please.

Norway has provided some data on escapes from other species and so we wanted to see if we could do a little comparison, and this is 2006. The escape ratio for cod was much higher than it was for farmed salmon, and if you look at the other marine species, such as Arctic char [phonetic], halibut, turbot, etc, it's three times greater than Atlantic salmon.

So if we can take these as representative, and of course, it's only one year, so it's difficult to say whether they are representative of or not, but if we assume they are, it does raise concern that escapes are going to significantly increase rather than decrease, if you see the expansion of aquaculture to other
species worldwide. And I think these are, this is relevant to your considerations, whether to include open net pens for other species as well.

Next slide, please.

We were asked to determine the rate of escapes from organic fish farms, and it's really actually impossible for us to do, because we don't know which farms are organic. Some certifying bodies, such as the Organic Food Federation, which certifies U.K. salmon as organic, they've refused to provide a list of organic salmon farms. So we don't have any way of comparing this to other escapes in Scotland on and off of organic farms.

We don't know the level of production for organic salmon farms, and company-specific information isn't actually shared with the Scottish executive, because it's considered to be commercially sensitive.

So we would need to get each of these farms to provide us data on escapes and then on production. This is what we do know, though, from the soil association of organic salmon farm sites to seek data in 2002 to 2006, there were 12 escape incidents, 132,000 reported escapes, only about 1% were recaptured. And as I said, we don't have production data so we can't calculate the escape
It's difficult to summarize globally what might cause escapes, because it does appear to have a high amount of regional factors. Failure of equipment was the number-one cause in Norway, Scotland, Chile, and Australia. In those regions, equipment failure was responsible for between 32 and 58% of the escapes in the reporting period.

In Scotland, Chile, and Australia, it was weather: storms, ice, etc., that was the number two cause of escapes during the reported period. Human error factored somewhat further down the list except for Norway, where it was the number-two cause of escapes.

In all regions though, human error played a significant role and predators -- sea lions and seals -- were reported as number three cause of escape in Norway, Chile, and Australia, and number four in Chile [sic?]. Next slide, please.

One of the concerning trends in escapes is that successful recapture is virtually impossible and as you can see here, this is Scottish data from 2001 to 2006. Out of 1.9 million escapes, about 1,900 were recovered. So we're talking about a very, very small percentage: one out of every thousand escaped fish was
recaptured.

Now this does not include some 130,000 escapes that were reported dead in 2006, and 125,000 escapes that were reported dead in 2006. So we didn't include dead fish within the calculations since they were likely still in the farm area, and they wouldn't accurately represent the ability to recover them once they've escaped into the wild. Next slide, please.

Some more Scottish data, and this is on escapes from IPN-infected sites. Sixty-percent of the Scottish escapees are from IPN, in fact, its sites between 2000 and 2005 we're talking about close to 1.2 million salmon escaping from IPN-infected sites. And in 2004, all of the reported farm salmon escapes in Scotland were from IPN-infected sites. Next slide, please.

Some more data on chemically-treated salmon escapes. These are also from the Scottish executive, and this is with, these are salmon sites treated with sea-lice chemical slice, access and oxytetracycline at the time of the reported escape.

So since 2002, over 115,000 escapes came from sites that were treated with slice. Next
Another consideration that we'd like to bring to your attention is escape of farm fish into special areas of conservation, protected areas, or areas deemed critical for wild salmon. So from this map, you can see that -- it's difficult to see, even for me standing here, sorry about that. But you can see that there are the special areas of con...

There were approximately 400,000 escapees in the Shatlands [phonetic], which is in the upper right of your map, and close to 800,000 in the western islands, and the paper provides a better breakdown for some of these so that you can take a look at that.

The reason these are concerns, wild salmon and other species are supposed to be, in theory, protected by international and national laws in those areas. Next slide, please.

So the observations that based on this inventory that the Pure Salmon Campaign created, that escapes continue to occur all over, and
despite having a zero-tolerance policy for escapes in Norway, they reported 1.2 million escapes of farmed fish in 2006.

Various causes for it, including failure of equipment and also weather. Less than 2% of escapes are recaptured on average, and certainly when you consider the total number over the years, it's much, much less than that. Escapes do occur from chemical-treated and diseased sites. New species, new to fish farming, anyway, are escaping at a higher rate than salmon are, at least according to the Norwegian data.

And we do know from the Scottish data, that there are escapes from organic sites as well. Next slide. I forgot we had the rolling pointer here. Thanks. Next one. There we go.

The paper does provide a literature review on over 30 scientific papers from authors across the globe. These start from the early 1990s, so they're not quite 30-years old, more like 20-years old. And two recent scientific reviews are a particular useful frame of reference. There's a 2005 review paper by Neeler [phonetic] et. al, and a 2007 review by Ferguson, and they're both attached to our submission. So I wanted to point those out to you.
These are the effects that are noted in these papers, significant and ecological genetic impacts on native wild fish populations, increased disease risk, sea-lice infestations, and then escapes from other species are an emerging international issue as well. Next slide, please.

The question that we have here is the only, is it true that the only solution to ensuring that escaped farm fish have little to no impact on wild fish and marine biodiversity is to prevent the escapes in the first place. That is what the Principle 15 of the Rio Declaration [phonetic] would support, and certainly it is the basis of the precautionary principle. Next slide, please.

You did ask us a bunch of other questions and we do not have the expertise to deal with those specifically. And so we, instead of trying to just end at that, it seemed appropriate to try and pose what sort of questions have to be answered in order to answer the questions that you had asked us.

So first, it's evident to us that the burden of proof that these systems do contain escapes and that they won't have the impacts that are described, really falls on the proponents of
the organic open-net cage aquaculture. And so
that's why we wanted to pose it in this way.
You asked how, the first question would
be how many escapes are too many? What number
would be too high? At what level are escapes a
threat to the wild fish populations? If one of
the solutions to this is farming native species
only, then this leads to the question of are the
potential increase in genetic disease risks
inherent with the culture of native species
preferable to the conventional genetic and
ecological impacts associated with the culture of
exotic species?

So we don't know if there's actually any
science to answer those questions, or if it's in
the pipeline. Next slide, please.

So the other, if it's impossible to
ensure that the open-net cage fish are not going
to contract disease, so what we would want to ask
in that case, is there certainty that diseases and
parasites will be effectively treated and fully
contained? Can we guarantee that these diseases,
including sea lice, are not going to spread? And
what kind of data are available showing that
organic pollution from the farms are not and will
not drive additional disease or parasite burdens
on wild fish?

That's all I have, so thank you very much. I appreciate the opportunity to come and present to you, and I apologize for not being Andrea. She sounded a little frantic when I talked to her this morning. But thanks again, and obviously if you have any questions--

MS. CAROE: Before you leave the podium, can you give your name and affiliation and spell it for the court recorder? I don't think you did that in the beginning.

MR. NATAN: Sure. My name is Tom Natan, N-A-T-A-N. I'm the Research Director with National Environmental Trust in Washington, DC.

MS. CAROE: Thank you.

[Applause]

MS. CAROE: We are now scheduled for a little break, and I guess we'll take 15 minutes. I have, that it is 25 after, so 20 of we'll come back, we'll reconvene. Thank you.

MS. CAROE: Valerie? Are we ready with the next presenter?

MS. FRANCES: Next on deck is Martin Krkosek, with the Centre for Mathematical Biology, Department of Biological Sciences, University of Alberta.
MR. MARTIN KRKOSEK: Hi. I'm Marty Krkosek, it's spelled K-R-K-O-S-E-K. I'm a Ph.D. candidate at the University of Alberta. I've been studying sea lice in salmon in the Broughton Archipelago for the last five years. That's mostly what I'm going to talk about today, but I'm also going to talk about some other observations we've made on disease interactions between wild and farmed salmon in the area over the years.

The term "emerging infectious disease" is probably something most people in this room have heard of. When we think about Avian Flu or West Nile Virus, those are examples of emerging infectious diseases. These diseases are emerging through interactions between humans and wildlife and domesticated animals.

When we're thinking about disease interactions between wild salmon and farmed salmon, we're dealing with this area here, which is an interaction between domesticated fish and wild fish.

Usually when we think about these kind of disease interactions, the conceptual framework is something like this: you start with a natural wildlife population, some domesticated animal is introduced, and it might have some novel pathogen,
and then that pathogen can spread between the wild population and the farmed population.

   And there's many examples of this, a lot of them from Africa. The most contemporary example is the critically endangered Ethiopian wolf, and its primary conservation threat is the spread of rabies from domestic dogs.

   When we're thinking about wild and farmed salmon interactions, this is the scenario that we're looking at. This is the migration routes, the migration pattern of wild pink salmon in the Pacific Ocean. They leave their rivers, go out to the open ocean and come back.

   Here's Vancouver Island, which is located right here, and each of those dots is a salmon farm -- an open-net salmon farm. They're situated on the migration routes of the wild fish, so there's an opportunity for pathogens and parasites to get transmitted between the wild and the farmed populations.

   The first example we have of pathogen interactions in the Broughton occurred in 1991, and it was repeated in 1993 where there were outbreaks of furonculosis [phonetic] on the Atlantic salmon farms in the Broughton, which subsequently spread to the wild salmon populations.
and into a hatchery located in Echo Bay.

This picture here is an escaped Atlantic Salmon caught in Scott Cove Creek amongst a school of wild Koho salmon and it is diseased with furonculosis.

The next example is IHN, this is a viral pathogen. It is highly transmissible in the water and it's highly pathogenic to Atlantic salmon and some Pacific salmon species.

In 2003, there was an outbreak that occurred on a salmon farm located right here, which is near Campbell River.

After that, a boat left Campbell River and traveled up the coast delivering smolts [phonetic] to salmon farms. And all those red dots are the subsequent locations of the salmon farms where the virus spread.

So it can spread rapidly, and that happened in one year. It can spread rapidly among the salmon farms, but one question from a conservation perspective is what was the impact on the wild fish stocks?

This is the Broughton Archipelago here, where we've been working. And that's the origin, the nadal [phonetic] river of all tagged wild salmon that have been recovered in the Broughton.
We're dealing with a highly-migratory wild fish species. The opportunity to spread these pathogens throughout the coast is vast.

I've been studying sea lice for the last five years. Sea lice are a crustacean, they're related to crabs and shrimp, and they're a natural parasite. They're native. They occur naturally on wild salmon. They're common also on farmed salmon, they're common in wild adult salmon, but they are rare on wild juvenile Pacific salmon.

Wherever you look in places where there are no salmon farms, the prevalence of sea lice on wild juvenile salmon is less than 5%.

Sea lice have a lifecycle that has two stages and it's important to understand this lifecycle. There's a definitive parasitic stage where the parasite makes its living on the host, feeding on surface tissues. It goes through a developmental progression from a baby copapoda louse [phonetic] freshly attached. They're only about a millimeter in size. They progress then through calamous [phonetic] stages, which are like middle-aged lice, and finally into motile lice, when they're sexually reproductive. They reproduce and they release their progeny into the water column where they can persist for up to a
week before infecting another fish. So you have
this dispersing planktonic stage that can move
through the environment, and a definitive stage
that it's attached to its host.

This picture here is a juvenile pink
salmon. It's about this big, it weighs about one
gram, it's about four centimeters in length.
These are female salmon lice infecting the
juvenile pink salmon. You can see the extensive
tissue damage to, you can see the extensive damage
to the surface tissues of the fish, puncture
wounds, scaring. The feeding of the lice on the
surface of the fish causes stress to the fish, it
makes it hard for the fish to maintain its osmotic
balance, and can ultimately kill the fish.

Wherever you look in British Columbia,
also in Norway, Scotland, and Ireland, there are
more sea lice on juvenile wild salmon in areas
where there are salmon farms.

What this means is when we're thinking
about, conceptually, about the interaction between
wild and farmed fish, we need to revise that a
little bit. Wild fish generally have the
structure where the adults occupy different
habitats than the juveniles. Juvenile fish are
small, they have different prey, they have
different predators and they have different
habitat requirements. What that means is if you
have a pathogen that's associated with the adult
fish, the juvenile fish do not encounter that
pathogen until they're recruited into the adult
population.

When you introduce domesticated fish into
the environment, you have the opportunity for new
transmission chains to open up and the juvenile
fish can become exposed to these parasites when
they are very small and not well equipped to
handle the parasite.

So we've been looking at three questions
when we're looking at sea-lice impacts on wild
fish, wild salmon in the Broughton. Do sea lice
spread from farmed to wild salmon? Do they kill
the juvenile salmon? And is that mortality
sufficient to threaten the wild salmon
populations?

This is how we do it. So to look at the
first question, we sample the juvenile salmon as
they're leaving the rivers and migrating out to
sea. Each one of these stars is a sample site.
We collect the fish by beach scene [phonetic] and
count the lice on them.

In 2003, there was one isolated salmon
farm located right there. So we were able to study the fish as they're approaching and passing that salmon farm. We can see where the infection begins, and how it progresses.

Here's a look at the data. Again, here's the migration route, there's the salmon farm. On this plot here, are the three developmental stages of lice on those fish. The copapodas, which are the baby lice, the calamous lice, which are the middle-aged lice, and the motiles, which are the adult lice.

The fish are traveling from left to right, which corresponds to their migration down this migration route. The farm is located at X equals zero.

Before they reach the salmon farm, there's few lice on those fish, but there are some lice there. As they pass the salmon farm, you see a rise in the baby lice, indicating transmission is happening and those fish are picking up lice as they're passing the salmon farm. As they continue to migrate out to see, you can see those lice maturing through the middle-age stage, the calamous lice. Finally, by the time the fish reach the end of the migration route, the lice have matured. They're sexually reproductive, and
we see a second generation of lice appearing down here.

When we analyze these data, we can reconstruct where all those lice are coming from, and that's what's shown in this plot here. Fish are migrating from left to right, and this is the spatial distribution of the infective larvae in the environment. This is like the cloud of parasites that the fish have to migrate through on their way to the ocean.

This thick curve here is the overall distribution. This first curve here are the lice coming from the salmon farm. The second curve here, is the second-generation of lice. Once these lice have matured and reproduced and re-infected the fish, and there's another line near zero here which is the natural abundance of lice in the environment.

These lice here correspond to the 2-3% of the lice that we see in areas where there aren't any salmon farms. Next slide.

These are the models that we use to analyze the data. I'm not going to explain it. Next slide.

This is how we fit the models to the data, and if anyone's interested, I'd be happy to
And this is how many times we've done it. We've looked at different species of salmon, migrating down different migration routes in different years. Every time we look, we get the same answers. Sometimes there's three salmon farms on the migration route, sometimes there's two, sometimes there's one. Every time, the answers are the same. There are natural sea lice in the environment, but there's also a lot of sea lice coming from the salmon farms and infecting those wild juvenile salmon. Next slide.

So to answer the first question, do sea lice spread from farm salmon to wild juvenile salmon, the answer is yes. And this occurs on the scale of about 30 to 80 kilometers. So you don't have to go right past the salmon farm, you can be 50 kilometers away and still feel that impact.

But so what? We really need to know what those lice are doing to those fish, and so that's what we looked at next.

We did some experiments where we collected these infected fish from the environment, sorted them by the number of lice they had, and held them in these ocean enclosures, protected them from predators, fed them salmon
feed, and monitored their survival over the course of a month.

Each one of these panels here corresponds to one of these enclosures, and this is the number of lice the fish had on them at the beginning of the experiment. The fish with no lice survived very well. There were two mortalities in this one and two mortalities in this one.

The black line here in each of these panels is the real number of fish surviving through time. As the number of lice increases, the survival of the fish declines. Next slide.

You can take that information and combine it with the information we have on sea lice infecting the juvenile salmon as they're migrating out to sea -- next slide -- and estimate the proportion of the wild salmon populations that are dying from the sea lice as they're passing the salmon farms. And that's what's shown here.

Along the migration route as the fish are traveling from their rivers out to sea, the grey area here is the proportion of the juvenile salmon population that is surviving the sea-lice infestations. Sometimes the mortality is not too bad, about 9%, and other times, the mortality is up to 95%. 
Ninety-five percent of the juvenile salmon leaving the Broughton are dying from the sea lice from the salmon farms. Next slide.

So clearly, if 95% of the juvenile salmon are dying every year from sea lice, we have a problem. We have a very serious problem. But the mortality of these juvenile fish, from when they enter the sea to when they return to spawn is very high anyways. About 85% of those juvenile salmon are going to die before they return to spawn, and so what if 50% of these fish are infected with lice?

This is a really challenging question to evaluate whether or not this is actually a threat to the wild salmon populations. Next slide.

Well, you can look at it mathematically. If we write down what we know about salmon population dynamics and how pathogenic the sea lice are to the juvenile salmon, you can estimate that an average abundance of about 2 to 3 motile-stage sea lice, the wild salmon populations are going to collapse.

We've seen sea-lice infestations in that range, and we've seen collapses of those populations. Now a few moments ago, Dr. Brooks presented some data from one population in the
Broughton suggesting that the wild pink salmon are doing just fine. That was from one population. There's at least 16 populations in the Broughton of pink salmon, there's also chum salmon and Coho salmon.

You can't conclude based on one population that everything is okay. No one's done that comprehensive analysis yet. Next slide.

Here's one example of a population from the Broughton that's doing really poorly. These are the Viner [phonetic] chum salmon. From 1953 to 2005, the number of chum salmon returning to Viner Creek. The first thing to take note is that it's incredibly variable. There's good years and there's bad years. Over this time period, there was a commercial fishery right in Viner Sound, fishing this population.

This is when the salmon farm came in about a kilometer and a half from the mouth of the river.

We used to have returns of 10,000-60,000 fish to this river. Over the last few years, the number of chum salmon returning to Viner Creek has been less than 100 individual fish. Next slide.

So do sea lice threaten wild salmon populations? You can be shown examples that say
yes, you can be shown examples that say no. The answer really is we don't know yet. I would say probably, but the comprehensive analysis hasn't been done. Next slide.

But I want to impress upon you that we are not dealing with just a few missing fish. This is one of the 89 chum salmon that returned to Viner Creek this year, 89 individuals. Next slide.


And humans come to British Columbia to fish the salmon for fun. Commercial fishermen depend on wild salmon and aboriginal cultures have evolved with the wild salmon for thousands of years. These are the linkages that are being threatened. Next slide.

But the story isn't limited to salmon. Over the last couple of years, we've been getting
reports of other fish species that are being
brought up in the shrimp dragger nets. These are
flat-head sole infected with some kind of bacteria
that we haven't identified yet. Near the salmon
farms, almost all of them have it, distant from
the salmon farms, it's almost absent. Next slide.
This is a rock sole infested with a
copepod, same story. Next slide. This is a
juvenile skate infested with parasitic worms.
Same story: near the salmon farms, they're
infested; distant from the salmon farms, they're
not. Next slide.
These are turbot infected with a copepod
that infects their eyeballs. Near the salmon
farms, almost 95% of the turbot have this
parasite; distant, they don't. These observations
so far are preliminary. We're only beginning to
analyze these kinds of questions. Next slide.
There are a myriad of ways that diseases
can interact between wild and farmed salmon. Not
just wild and farmed salmon, but also farmed
salmon and other wild fish species such as those
bottom-fish I just showed you.
These impacts are inherently
unpredictable and they are poorly understood.
Scientifically, we're just beginning to develop
the capacity to study sea lice, which you can go out and see and count, but there's all kinds of other viral and bacterial diseases that are much more difficult to study and we don't have any information on what's happening to those fish. Next slide.

The reason that disease interactions between wild and farmed salmon are so rich and so damaging is because the ocean is an open system. Pathogens can persist for long periods of time in the ocean. They are widely dispersed, there are abundant fish populations that are highly migratory, the system is well mixed. The salmon in the net pens are always going to be exposed to the pathogens that the wild fish carry, and then there's always the threat to the natural ecosystem of those pathogens being returned. Next slide.

I just put this slide together to address the points made earlier today, just to clarify where our funding comes from. Three-quarters of it comes from peer-reviewed scientific grants, the remaining funding comes as matching funds through a peer-reviewed system.

And that's all I have for you.

[Applause]

MS. CAROE: Thank you. Thank you very
much. Before we go to the last presenter, I would
like all attendees who have not signed in to
please do so. We really need a record of how many
people attended this symposium, so if you have not
signed in, I ask that you please go to the book.
And Valerie, the book is located?
MS. FRANCES: Right here.
MS. CAROE: Right there. So please go
and sign the book before we leave today. It's
very important that we have an accurate number.
MS. FRANCES: Behind the screen.
MS. CAROE: Behind the screen. The lady
with the red shirt. All right. Valerie, our last
presenter for today?
MS. FRANCES: George Leonard is formally
with the Monterey Bay Aquarium, Center for Future
of Oceans, and is now currently the Director of
Aquaculture program for the Ocean Conservancy.
DR. GEORGE LEONARD: Thank you, Valerie.
I want to thank all of you for toughing it out. I
picked number six out of the bag, out of the hat,
and it was totally unintentional, but I actually
think it's great because I get an opportunity to
do a little bit of cleanup here at the end of the
day. And I think I will touch, ever so briefly,
on all the issues brought up by the other
speakers.

My name is George Leonard, spelled G-E-O-R-G-E, L-E-O-N-A-R-D, and I am now currently with the Ocean Conservancy. Up until two weeks ago, I spent the last five years as the Science Manager at the Seafood Watch Program. And for those of you who don't know, the Seafood Watch Program at the Monterey Bay Aquarium, we have largely been the guys that have put out those seafood cards with the red, yellow, and green lists that you either love or hate, depending on where you fall on the rankings.

We are presenting, this is a joint presentation today with myself and Cory Pete [phonetic] who is in the back over here. This is work that we did at the Monterey Bay Aquarium. And what we want to do is talk a little bit about performance metrics as a potential solution to this quagmire about open net-pen systems and carnivorous or highly fish-meal- and fish-oil-dependent species as perhaps a third path, a way to think through some of these issues with respect to organics.

I'd like to thank the NOSB for all their hard work on this, the Aquaculture Working Group for the same, and in particular, George for his
leadership on this issue. We want to take where that work went and see if we can move it a little farther down the line.

I also want to admit that I think this stuff is really, really hard. Okay? I spent five years thinking about what is a sustainable fishery or a sustainable aquaculture operation. You now take that issue and you have to overlay it with the concept known as organic, and I think it's really hard.

So what we're trying to talk about here, I don't think is perfect, but I think it's an interesting concept. And for those of us like myself who sometimes has some difficulty with this concept, I think it's because we're trying to explicitly merge two concepts. Second slide.

So none of us need to be told this issue is controversial, there's a whole bunch of reasons for that. As I've mentioned, we think performance metrics may work as a potential solution instead of production or performance-based metrics. It is this intersection of sustainability and organic production. And this is really designed to be a thought experiment as a proposal for discussion rather than some certification regime that we should go off and start implementing tomorrow.
So first, starting with organic principles, I'm certainly no expert in organic principles, but my sense of this is that if you look back half a century into the 1940s and look at Sir Albert Howard's *Agricultural Testament*, it's a very nice sort of summary of this whole issue and where the concept started.

And what's really key about this is that the principles of ecology, the principles of recycling wastes, and in particular of natural defenses as part of an agricultural system is at the heart of what he's talking about 60 or so years ago.

Of course in 1990, the Organic Food Production Act kind of codified this whole issue, and really, in very much the same spirit as Howard was talking about. So we're talking about an ecological management system that looks toward the preservation of biodiversity, the maintenance of biological cycles within a farming system, and in the case of terrestrial where this all starts, really the maintenance of soil biological activity. Next slide.

Now the issue becomes difficult when we try to then think about the concept of organic as
it relates to aquaculture, and in particular, open
net-pen systems precisely because of some of the
sustainability issues that we've talked about this
afternoon.

And there really are five issues. I'm
really only going to talk about four of those
today, and none of this should be new to anybody,
right? But just for the sake of completeness, the
five issues are: the risk of escaped fish to wild
fish and natural ecosystems; the risk of pollution
or nutrient inputs and habitat impacts from
farming operations; the third issue is the impact
on predator populations; the fourth is the risk of
disease and parasite transfer, much like Marty
just talked about in advance of me; and the fifth
is the use of marine resources for feed. This is
the fish-in, fish-out kinds of discussions from
this morning.

We don't really think it's all that
useful to debate whether these are real issues or
not. I think much of the science -- it was
presented both in testimony and in writing --
suggests that many of these, if not all of these,
are very well documented in the scientific
literature. So the more important question is
what are we going to do about these potential
risks in the context of organic certification of fish grown in these types of systems? Next slide.

So our approach here was to have sort of two goals: one was to think about whether there are performance rather than production-based standards or metrics that could actually reduce these environmental risks to something that we think is tolerable, and at the same time the goal is that each of those metrics should be as consistent as possible with the existing organic principles, both as laid out by Howard in the 40s, as well as codified within U.S. regulation.

The goal here is to strive to achieve this balance, this overlay, without thinking about certain species or certain kinds of different methods of production. So much like Neil talked, this is much more than salmon, we would agree that this is not a discussion simply about salmon. Salmon can inform the debate, but this is much more about that broad sweep, I'm not sure it's 20,000 different fish, but certainly there's going to be a range of fish coming into production in the next 10-20 years, and the question is how do these principles apply to those as well as salmon?

Now the way we did this is we hosted a workshop last summer in July of 2007, and we
brought together a small group of constructive folks from both the aquaculture production community, from the organic certification community, from the scientific community, and from the conservation community. And we asked these folks, who have various opinions and perspectives, to come together and help us think through this explicitly with the idea of being constructive. Constructive engagement was the only criteria. And because this wasn't necessarily something that they were required to sign onto or some sort of consensus-based approach, the idea was what would come out of this, we will have to own this so nobody is responsible for what's on the paper other than ourselves. But we didn't create this in a black box. Next slide.

So what I want to do is I want to walk through each of the four issues, talk about what this performance metric might be, and then discuss how they either help or don't help solve some of the sustainability concerns in the context of organic.

So the first is the risk of escapes, and like the Aquaculture Working Group, we think that open net-pen systems must be designed and implemented to eliminate escapes. But we also
know from Andrea's work and the Pure Salmon Campaign, that in fact, even if you work to eliminate escapes, you still get escapes. So we have to go beyond that.

So our feeling is that as a consequence, if we're going to have escapes, we need to reduce those impacts in the wild, and that the only way to do that is really to farm native species of local genotype, which we've heard about today as well.

What that means is that non-native species, or native species with substantial genetic divergence from wild stocks, would simply not be able to be declared as organic farmed fish. And that also includes fish that would be heavily selected upon, even if they were natives. So we are suggesting here then that organic farm fish must essentially be the farming of wild fish. And that's a point that probably needs some discussion.

Our definitions are native is really endemic to the local area of culture, and that by local genotype, we do mean fish not beyond the, I think that actually should say F2, but the F2 or F1 generation. The idea being that you will bring in wild genotypes into the husbandry to
essentially maintain wild fish. And this is
something that Neil, I believe, is doing in Kona
right now. Next slide.

So what are the consequences of a native
fish kind of performance standard with respect to
organic? Well, the first is that I suggested, and
as we've heard today, escapes are inevitable. We
can make our nets stronger, we can do all the
right things with respect to our management plans,
but we will get escapes. And that a native
species requirement essentially reduces those
impacts as much as we possibly can, give it's an
open-net system.

Now to us, that strikes that that's
essentially on par with stock-enhancement programs
and procedures that are currently being used to
revive over-fished or threatened species. And so
we think that a native species husbandry-type
approach as identified here would at least be on
par with that approach, but it is important to
recognize that hatchery programs themselves are
not without their critics. And in fact, there was
just a paper published in Science a couple of
months ago, identifying some pretty big impacts of
hatchery programs.

However, it strikes us that the only next
step, if those risks are too large, the only next step is then to go to a fully-closed system to actually reduce those levels, in this case, essentially to zero. So again, this is probably a point that deserves some discussion about which way you would want to go on that.

Now there's also another big consequence of this kind of metric, of non-, of native species, and that is that that Atlantic salmon would essentially not be viable candidates for organic certification, because Atlantic salmon in the Atlantic, are essentially, have been heavily bred upon and selected from the wild fish. So there's genetic divergence there. And Atlantic salmon farmed in the Pacific are non-native.

So we recognize that such a metric would drastically impact the ability of Atlantic salmon to be declared certifiable under the NOSB standards. However, we would suggest that farming natives is likely better than the status-quo approach, in which you would allow the farming of non-natives to be considered organic. So that's issue number one.

Issue number two is the question of pollution or nutrient inputs, and I think for those of you who have not read Ken Brook's paper
in detail, it's a great summary of these issues. Thank you for putting that together.

Our approach, again, builds on the AWG work. We do believe that polyculture is a good solution to the issue of nutrient enrichment, and we suggest that you might use a performance metric or a performance goal of 50% of the dissolved nutrients in organic material be recycled through polyculture within the farm tenure.

We would also suggest, however, that the cumulative impacts of organic farms and non-organic farms within the surrounding ecosystem needs to be taken into consideration, and that those must not exceed the assimilative capacity of the surrounding ecosystem. I think this is also ultimately a point that's going to need some discussion, is the extent to which individual farms can be thought of as organic when they are embedded in the open system that Marty just touched on.

We would also suggest that benthic habitats should show no measurable impact on chemistry or biodiversity. And we heard from Ken with respect to salmon farms, that in fact, there is an inevitable consequence, at least a near-field effect, for salmon farming. But we also
know that with respect to a lot of the other species that are coming online, and Neil's Kona Kampachi is a good example, is that for many of these metrics, there are no measurable impacts. And perhaps having no measurable impacts is the acceptable metric for organic fish, not necessarily sustainable, but for organic fish.

We recognize that polyculture may be a difficult thing to do technologically and otherwise, and would suggest that a transition period of eight years be implemented. And we would suggest that that be incremental: building from an initial entry point of 10%, which is a pretty small number, up to 50% over an eight-year period, and we would like to see that incremental so that it's not a sunset clause where it goes to 50 on the end of year eight. Next slide.

So what are the consequences of this metric with respect to pollution? The first is that polyculture or integrated aquaculture, we do believe, meets the spirit of the definition of organic aquaculture. It's certainly been embraced by the Aquaculture Working Group.

We also think that a performance metric of 50% is actually a feasible number. This is based largely on Terry Chopin's [phonetic] work
with seaweeds and salmon farms on the East Coast. And we think that a transition period may actually provide some incentives to scale this thing up over time.

What are some of the other consequences? Well, one of the big consequences is if in fact we stick to a no-demonstrable impact within the farm tenure, that suggests that near-shore producers are likely not going to be able to be considered to be organic under this performance metric, and that would, obviously, include much of the near-shore farmed salmon.

So that likely, like the non-native metric, would perhaps include farmed salmon. We would suggest, however, that the offshore fish farms may in fact be able to meet this metric, but that at the same time, we should be cautious about that because there's at least one published paper in the peer-reviewed Science now that does show that at least at one farm, you can begin to show some nutrification problems even in offshore fish farms. So we don't believe that the nutrient issue can be dismissed entirely in open net-pen systems.

We certainly recognize that polyculture would be difficult in the offshore waters that
Neil Sims and Kona Kampachi is being farmed in, but at the same time, my sense is that 10 or 15 years ago, people didn't think we could farm fish out there at all. And so I suspect that incentives would result in some really new and creative ways of farming fish, even in those offshore waters.

Third issue is the impact on predators, which we think is the third important issue. And like the Aquaculture Working Group, we would suggest that an integrated predator management plan is critical. We must have one. But at the same time, much like the escape plan, we need some metrics around what's a tolerable impact.

We would suggest that non-lethal deterrents are always the first course of action. We would suggest that no underwater acoustic deterrent devices or similar methods can be used at all, ever. And we would also suggest that there is no intentional killing of predators, except for immediate human safety.

The key here is, the keyword is no "intentional" killing of predators, and the key is immediate human safety, which we would hope, obviously, is a rare occurrence.

And the final issue here is that what do
we mean by rare? We would also suggest that more than a rare mortality event would essentially result in loss of certification.

Now, what's the definition of rare? Obviously, this is sort of arbitrary, but we would suggest that one mortality event per certification period would perhaps be allowed under these circumstances, but certainly not more than rare.

The key here is this is a performance metric around predator mortalities because in open systems you can't necessarily guarantee you're not going to have a predator problem. Next slide.

So just to touch on that again, with respect to what are the consequences of this, it seems pretty clear that predator impacts must be addressed to meet the consumer expectations of the concept of organic. You just can't have mortality events in organic farms, and that site selection, low stocking densities within open systems and production management, some vigilance to that may -- and you'll notice that that's in italics -- may key predator impacts at bay.

But there are no guarantees on this and therefore we would suggest that three years of data that would support sort of a competitor, that would support no predator impacts should be part
of the system here. And we think that swift
revocation of organic certification would have to
go hand in hand with this kind of metric.

You'll notice that this is the third one
and it's starting to get squishy in terms of how
comfortable we are with these issues. And now
let's go to the difficult one, which is this issue
of the risk of disease transfer and parasite
transfer.

I think Marty's data speaks for itself.
It's strong, it's powerful, he's a very smart
mathematician and I can't follow the first one of
those equations. But it seems clear that there
are some major issues in terms of general issues
of disease transfer in open systems. Salmon is
one issue, my sense is that the general
mathematical dynamics that have been identified
probably apply to other systems. We just don't
know it yet.

So what do we do about that? Well, the
only think we could come up with, and this is
something we probably should talk about, but the
only thing we could come up with was a performance
metric that did two things: that said on an
organic farm, there simply can't be clinical signs
of disease or parasites; and at the same time,
there can't be any treatment with synthetic drugs except those that are permitted under the national list.

Now of course, we would allow treatment of sick fish for animal welfare issues, just as you would in terrestrial production. But those certainly couldn't be sold as organic. That seems relatively straightforward. But this metric then, is essentially a no-disease, no-treatment metric.

Next Slide.

The consequences is, this is clearly the most daunting issue for organic open net-pen systems, and it's the most daunting performance metric. We believe and I think the data suggests that disease transfer and the chemical treatments themselves negatively impact the environment. We're sort of caught in a Catch-22 here where you can't have either of those issues to be organic, but that there is a strong financial incentive to maintain low disease incidents on a farm, simply because of the positive financial reward of the organic label.

Consequences are salmon are likely going to be excluded because of the data we've heard today. It's not clear, it's likely maybe that other species are capable of meeting this metric,
particularly the new and upcoming species. How much of that is because it's at small scale? And at what scale disease issues become a major kind of ecosystem-wide issue is really, I think, where the rubber is going to meet the road on this. And that was actually a question I was going to ask you, Marty, is how we deal with the scale issue and the concept of organic.

Finally, I think we would say that although producers obviously have the right to petition the NOSB for things like parasiticides to be listed on the national list, we don't think that organic consumers would be tolerant of that proposal. Next slide. Next slide again.

The next two is this issue of feed. We did some work on feed, but that's obviously not part of this panel. Happy to talk about it or its in the paper we presented as well. So just go to the next one. Next one. See, I'm close. I've got one final slide in here.

Because these are performance metrics as opposed to production-based standards, it's really about sort of data of no impacts. So we would suggest that because of that, we really need three years of compliance data before certification would happen at all. That is, we'd need to, you
basically have to have a clean record before you could be certified, and that that should be obviously continual strong performance on each of those four or five metrics would be part of continuing certification. Final slide.

So the question then becomes, is this a way forward? Is this a way to get us out of this problem we're in? We have a yes camp and a no camp. We, as the Monterey Bay Aquarium have been on the record as closely aligned with the no camp. We think there are legitimate sustainability concerns. The no camp in general thinks that the concept of open net-pens and the fish-meal issue are sort of fundamentally inconsistent with the concept of organic, and are therefore, not certifiable, end of story.

The yes camp, of course, thinks that these issues are compatible and that these kinds of systems and fish should be certified as organic.

It may be that this kind of performance-based approach would help us to actually meld these two concepts in a way that makes people more comfortable, and builds on the very good work that's been done so far. The big implication for this though, as I've sort of hinted at, is that
only a very small part of the existing industry, if at all, would actually be certifiable today.

So the question is, does that create enough incentive to get this airplane off the ground? And I would suggest that if two things can't happen, the first being that if this is not deemed to allow enough of an incentive for organic aquaculture to really get a running start at this, or if there's a consensus or some growing understanding that these kinds of performance metrics don't reduce the environmental impacts to a level that people can live with, that the National Organic Standards Board should join the no camp, and should not certify open net-pen systems as organic under U.S. law. So thank you.

[Applause]

MS. CAROE: Thank you very much, and that is our final presentation for this portion of the symposium. And with that, I'm going to, we're about a half an hour behind, but that's pretty good. I'm going to turn it over to Hue Karreman, Chair of the Livestock Committee to facilitate the board's question and answer, and hopefully, we can get to questions from the audience as well. But again, the board questions will take priority. Go ahead, Hue.
MR. HUE KARREMAN: All right. Thank you, Andrea. I'll just open it up to questions from us. Steve?

MR. STEVEN CRAIG: I only heard one presenter talk about the fouling problem on net pens, and I was wondering, is that a common problem throughout the industry? And if so, is copper the common solution to that problem?

MR. KVENSETH: So far the copper has been a usual solution, but as I told you, there are new solutions coming up so you can treat the pens without copper. Just to get a smoother surface or to bind the treads closer to, you can use mechanical devices to clean them. So I would say that the copper is on its way out, and there is, you can at least operate the organic production without using copper.

MR. KARREMAN: Please, Andrea.

MS. CAROE: Just really quickly, is TBT tributyl tin [phonetic]? It is. Okay.

MR. KAREMAN: Wow. Big word there, Andrea. That's Ken, isn't it? Yeah.

MR. BROOKS: I'd like to just add to that, I left 10 CDs for the members of the Livestock Committee, and on that are several papers dealing with copper zinc, a computer model
for predicting water column concentrations of copper.

I'm going to agree that copper is identified by the U.S. EPA as a major marine pollutant in the United States. The Navy in San Diego is spending in excess of $10 million dollars per year looking for alternatives to copper for antifouling paints. And I think this is a technology that will proceed.

However, having said that, copper and zinc from feeds are two metals that are released from salmon farms and they're two metals that we have shown can be managed. But again, I do agree that I think five years from now, 10 years from now, you won't see copper used as an anti-foulant on any marine structures.

MR. KARREMAN: Jerry?

JERRY: Follow-up question to that on antifouling. Neil, didn't you mention something about the effects of the further offshore net pens in relation to antifouling?

MR. SIMS: Neil Sims. No, but just for the record, we have half of the net pens that we have are treated with copper, the other half are not. It's a huge burden to be keeping the non-treated nets clean because it requires divers in
the water because of the cage structure. We are working towards some other solutions there such as an invertible cage. We have half of our cages are invertible there where you can air dry the top half and then turn them over and air dry the bottom half there.

But the copper nets do reduce the amount of fouling there, which does increase the water flows through there, which presumably makes for happier fish. There's less restriction on the water movement through the net pens. So there are some benefits to having some sort of antifouling on the system.

JERRY: So the increased current out there further offshore doesn't have any impact on the type of species that want to foul that net? Does it cut down on some of them, or is it no different?

MR. SIMS: Because we are in open ocean and we are in, actually alogotrophic waters, they're very nutrient poor, we don't get the sort of fouling in our net-pen systems that they get, say, in the temperate waters closer to a coastal shelf.

JERRY: All right. Thank you.

MR. SIMS: So it is distinctly different
sorts of fouling.

MR. KAREMAN: Kevin?

KEVIN: I have a question for Mr. Sims very quickly, I thought it very interesting that your efforts to build up your net-pen system almost took an approach of telling us how poorly the land system was. But I was confused about the rip-roaring current and how the fish in that net pen are still able to swim about as their natural behavior, because of the centripetal forces in the closed system, they were not.

MR. SIMS: The currents offshore are highly variable. When there is a very strong current through there, it's periodic, it doesn't seem to be tidally driven, it's more the offshore gyres [phonetic]. When there is a strong current there, the fish will orient into the current.

Most of the time, however, they're able to just swim around inside the cage fairly freely.

In the centripetal current in the land-based tank, the fish can move from one side of the cage to the other, but that means going through the vortex close to the central stand pipe. And so they choose not to, and so you just tend to have the fish holding position in the tank.

KEVIN: So that centripetal force is
constant? There's never a break where there's no current in that water? That's a 24x7 situation?

MR. SIMS: Yes. You have to do that with the land-based tank systems so that you have the feces and other particulates move towards the central drain and then they move out of the tank. If you don't have that, you just have feces and particulates building up on the bottom.

MR. KARREMAN: Actually, I have a question. Let's see, one of you just mentioned, I think it was Dr. Leonard, about using only native species. And I just couldn't help but think about terrestrial agriculture and how we have a lot of Holstein cattle in the U.S. that are actually native to Northern Europe.

So just in case we were to adopt that, philosophically speaking, what would we do with the cattle that are in the U.S. that actually shouldn't be?

DR. LEONARD: I guess send them back is not a good answer? There are lots of non-native species now all over the world. I think the general principle here with respect to non-natives is to be concerned about it.

When I was doing my graduate work, I was impressed by the work being done by Jim Carlton in
marine systems in which he sort of became known for demonstrating that ballast water was responsible for moving a lot of non-native species around the world. And the story he told me once, was really eye opening, which was, there was a particular invertebrate that they'd watched for years and it had never come into the East Coast...

[END MZ005006]

[START MZ005007]

GEORGE LEONARD: Even though they knew it was in ballast water for ten or fifteen years. They figured there was something special about this thing. And just when they were getting ready to reach that conclusion it took hold in one of the bays and estuaries in Massachusetts and they have no idea why. And so you know his was to be worried about non-native species generally because they are very difficult to predict.

I don't know what you do about terrestrial systems other than to say that cows don't probably move as much as fish do and we can go find them. You know I think it's really interesting that something like less than one percent of the escaped Atlantic salmon can be recovered. I just - that's just not a viable you know strategy.
You know this issue of domestication I think is an important one because this is another one of these kind of catch 22 problems. We either need, in my opinion we either need to farm, basically farm native species of local genotype as we suggested wild fish, so when they get out they minimize the impact because we know they are going to get out.

The other alternative is to really domesticate them hard to the point where if they get out they are kind of like cows walking down the street, you know by the Safeway. They are not going to last very long. Okay. Some folks have said well what if you can put a suicide gene in a fish, right, and if it got out it couldn't - it literally had a survival rate of 0.0. So the difficulty is when we are in the middle, between either full domestication or wild fish where if they do get out there has been enough selection on them that those maladapted genes will persist in the population. And there is enough empirical and modeling data with salmon to suggest there's - there's some problems there. So you know it feels to me like you've got to go one way or the other but being in the middle is difficult.

HUE KARREMAN: Just a quick follow up on
that. At least in my little world I see that actually mixed breed cattle do a whole lot better than - than the pure breds. They are just genetically stronger, I guess the hybrid affect.

Can that happen with - in agriculture? You guys, you were just saying you've got to highly domesticate them or have the native stock. Why can't you have some kind of mix? Is that just not possible? Because in cattle they don't make as much milk, but they are really healthy.

GEORGE LEONARD: I am far from an expert on genetics, but there are a number of folks like Ian Fleming and Phil McGinnety who are and it would be really interesting to put that question to. You know I think you first have to recognize that wild fish are not, you know pure breds right? There's a whole diversity of genes in those populations that are breeding as a function of natural genomics. I think the real worry with - with genes from farmed fish is if they - you could make the argument if they get into the population they'll just, they'll have less fitness right, so they are going to be eliminated by natural selection. Which I think applies if escapes happen once. If it's a pulse experiment where you throw some genes into a wild population it will be
weeded out over - very quickly over a generation or two.

But the problem is as we now know; escapes are a pretty ongoing event. And in that case when you continually put maladapted genes into a population you can reduce the fitness of the wild population pretty dramatically because of that continual input. And I think that's where the worry comes from.

HUE KARREMAN: Actually what if you looked at it the other way around that you breed in native genetics into your farmed species? Or - is that possible?

MALE VOICE: Yes I think - and that solves it. But right--

GEORGE LEONARD: And maybe Ken or a producer can talk about this more specifically. My understanding is that there is often these like pleotropic [phonetic] effects where when you select for faster growth or larger fish or disease resistance, sometimes those run counter to the genes that would result in high fitness under the wild population. So you can't kind of have your cake and eat it too. But somebody else may be able to comment on that.

HUE KARREMAN: No I realize that but in -
I guess in organics I don't think of maximal production and maximal everything as part of the organic paradigm.

GEORGE LEONARD: Well I think that's exactly a really important point. And that came up this morning with respect to the much of the production data. Where the implication was if your growth rates were twenty percent or thirty percent reduced, that was a problem. But I think - I think it was Andrea over here - identified that perhaps maximum growth is not necessarily a metric on which you can measure successes of organic production.

HUE KARREMAN: Right.

GEORGE LEONARD: Right? I mean that's the whole point right? Is that it's organic but you don't get the fastest growth rates as you could at conventional. And maybe that's a consequence of trying to solve some of these issues, particularly on the feed side as well.

HUE KARREMAN: Julie.

JULIE WEISMAN: Yeah, I was also struggling myself with this issue of the arguments for native species only and things that I had heard from - in some of this morning's presentations, and I know that - that this is not
officially a time when any of those people are on
the panel, but I - I felt like there were some
interaction because I pretty distinctly remember
someone this morning talking about how F2 would
not be an acceptable parameter for - for farm
raised and fed fish. And there had already been
hard experience demonstrating how disastrous it
was when you tried to bring any - you know when -
until domestication had been achieved. And I was
wondering if it - if I'm allowed to ask anybody
from this morning's panel to address that piece of
it.

HUE KARREMAN: Do you know exactly who it
is?

ANDREA CAROE: -the post reception
[unintelligible].

JULIE WEISMAN: Okay.

HUE KARREMAN: Okay, Dr. Osgard
[phonetic]. Does any current panel member have an
answer for that? Okay Neal.

NEAL SIMMS: Neal Simms. I think this
morning's discussion was focusing on some of the
abilities of some species to metabolize some of
the anti nutritional factors or some of the other
factors that are included in soybean meal. And
that is, I think, very specific to that issue.
For all of the other species, of which I'm aware, people are using - starting obviously with wild stock and very few generations. There has not been a lot of work done with selective breeding of marine fish. The research shows that you can get some tremendous improvements in performance in growth particularly. But then when you take that selective pressure away it very quickly reverts back to - there is Charlie Darwin has his own barometer there. It very quickly reverts back to the wild type.

HUE KARREMAN: Okay. Andrea actually--

ANDREA CAROE: This may seem a little bit simplistic but bear with me. With all the discussion about the threat of the escaped domesticated or - or farmed fish in these - in these net pens, is there any consideration or any work being done on secondary containment systems or other mechanical methods in order to decrease the risk associated with - with escapes?

HUE KARREMAN: Ken. Please state your name also.

KENNETH BROOKS: Yeah Kenneth Brooks. I'd like to make a couple of points. One, this issue of escapes and their potential for genetic and - and ecological interaction with wild fish is
one of those issues I mentioned this morning which has to be addressed on a regional basis. If you read Ron Jeanette's 2002 report evaluating the potential for escaped Atlantic salmon to interbreed with and/or compete with Pacific salmon, or if you read Lee Alverson's [phonetic] discussion in the Pacific salmon forum, or the Salmon Aquaculture Review, you will find that both of these people concluded that there was very little or - I won’t say no - very little, minute potential for genetic interactions or for competition between escaped Atlantic salmon on the Pacific coast and Pacific salmon on the Pacific coast. And I think that's a perfect example of a situation in which farming an exotic species, if you will, significantly reduces the environmental risks associated with the production of that food.

Now if you are farming Atlantic salmon in an area where you have threatened or endangered wild Atlantic salmon, then other considerations need to be made. And so that is an example of these regional issues.

British Columbia, about three years ago I think it was, initiated a very strict net pen integrity program - escape prevention program I guess you would say. It has not reduced the
escapes to zero. But unlike the situation in
Norway and in Scotland, it has significantly
reduced those escapes to the point that in Ms.
Cavanaugh's paper she said British Columbia was an
outlier. And then went on to state that the
escapes from Scotland then and Norway represented
the lowest feasible and practicable levels of
escapes that could be anticipated from open net
pen systems.

My response in part is why didn't that
paper look at escapes from British Columbia salmon
farms and conclude that with that very aggressive
escape prevention program, that represented the
lowest level achievable and practicable? It's not
going to get to zero. Just like I try to keep my
cows in but unfortunately they do escape every
once in a while. And - but again that's got to be
one of those regional issues and the risks
associated with escapes are very much a regional
management problem.

HUE KARREMAN: Okay. Julie is up. Wait,
okay Jeff. And then Jennifer and then Dan and
then Katrina.

JEFFREY MOYER: Thank you Hue. In the
discussions that we heard about net pens, I
believe Ken brought it up; you were talking about
the fact that under - under the net pen scenario you often have reduced biodiversity right, in the region of the net pen. Yet in conventional organic systems we are encouraged to increase biodiversity wherever possible.

Then later George was talking about poly cultures. And I'm just wondering if we could get some kind of reaction from the panel on - on how we can farm with net pens but still maintain or improve the biodiversity of the waters surrounding the net pens and whether poly cultures would help do that.

MALE VOICE: Let me come back to the uh there are risks associated with everything. Now I don't raise chickens. But I've seen a number of chicken farms where the chickens are produced in houses. And the chickens may have access to a yard. What is the biodiversity underneath that house? In almost every form of agriculture there is some loss of biodiversity associated with the production. I like actually the provisions you have in the current recommendations before you, which are consistent with the BC recommendations, that you establish an allowable zone of impact, the site tenure, the site in your - in your example, and that you do not allow effects outside
that site. That's a very reasonable performance standard, and one that is probably achievable with the initiation of management practices. But guys you're not going to find zero risk. If you do we're all going to be eating soil and green.

MALE VOICE: So can I just follow on that real quick? I think the question that has to be asked in the context of - of the impacts around farms is are we talking about well managed conventional farming, or are we talking about organic and what make organic different? Because I would argue that having an allowable impact and minimizing that impact isn't organic, that's simply good management of whatever the traditional model is.

The question is how do you go beyond that in the spirit of organic? And I do think the concept of enhanced biodiversity and poly culture are the two key issues there. It strikes me that those are two separate but related issues. You can do poly culture but the issue of enhancing biodiversity or at least of reducing the negative impacts in the farm tenure, is simply a matter of stocking density. And you can get that by reducing stocking density, which you know
obviously there's a - there is an economic consequence of that. But you could perhaps have reduced stocking densities and maintain profitability because of the enhanced income from - from the organic label.

HUE KARREMAN: Neal go ahead.

NEAL SIMMS: If I may add to that as well. As you move into deeper water, into more exposed sites, then you do add to the biodiversity there. Our farm site for example, it was bare open ocean there before our farm site was there. And now we start with small bait fish and then larger decaptors [phonetic] and then larger tunas and Wahoo, there's an entire ecosystem in there that's built up around our cages. And that's even separate from the nutrient input which is model - you can model that and you can see yes there will be some increased productivity and therefore some increased biodiversity somewhere further downstream. We can't measure it but we know that that effluent is going to have an effect there. So there are two levels for that increase in biodiversity that we see in Kahona [phonetic].

HUE KARREMAN: Jennifer.

JENNIFER HALL: This is really for anyone. A couple of you touched on predator
defenses but nobody really talked about them
specifically, and I'm wondering what - what
practices are common and what the repercussions of
those are?

NEAL SIMMS: Neal Simms. In the open
ocean systems you have to use your cage as the
defense. You can't have any other deterrent
there. We are dealing primarily with sharks and
there are endangered Hawaiian Monk Seals in the
area as well. We very infrequently have them come
around the farm because there's nothing there for
them. And it's just the integrity of the net is
adequate there for us. We do have a seasonal
migration of Tiger Sharks that comes through the
farm site there. And we don't deter them anymore.
We have learned to live with them. This has been
part of - I said there's an evolving predator
management plan. We've gotten a lot smarter. And
something about having a fifteen foot Tiger Shark
around your cages makes you get pretty smart
pretty fast.

HUE KARREMAN: Dan.

DANIEL GIACOMINI: I'm not really sure
how to address this question but I’m - I have some
concern on the one hand in the process of - and I
think it was brought out in George's paper - in
the fact that most of this is in public waterways, working with states, foreign governments, all sorts of different agencies. In looking to move the possibility of - as Neal is suggesting - of deeper waters, in the salmon it sounded like - seems like most of them are in fairly somewhat inland. Is moving the salmon to deeper waters, is that feasible? Is it something that would have regulatory problems with - from the people you have worked with in dealing with getting approvals for that? And then specifically as that question develops, with Martin is the numbers that you used of thirty to eighty kilometers, I'm assuming that's in fairly confined environments. If you went to open, more open sea, deeper water type of environments, what kind of numbers do you think - where do you - it seems like that number would be reduced fairly tremendously. How - what kind of an impact do you think you would see there?

HUE KARREMAN: Please give your name first again.

MARTY KURKOWZIC: Marty Kurkowzic, University of Alberta. Certainly if you move offshore into more flushed environments you are going to reduce that risk. The dispersal of the parasites is going to increase so it will spread
much further. But the density is also going to go
down. So moving to the more flushed environments
would certainly help. And I can't - and in terms
of siting obviously it would be better for the
juvenile salmon if they moved the salmon farms off
the migration routes and offshore is a good place
for that, but I can't comment on the regulatory
aspects of how that would happen and those kinds
of complications.

HUE KARREMAN: Okay, Katrina?

KATRINA HEINZE: My question is for
George. And I can't remember what slide it was on
but you talked about the - your performance
metrics that it would be difficult for organic to
maybe meet this particular one - and again I can't
remember. But that perhaps a sustainable system
could. And I'm a little bit intrigued. What
would - maybe two questions. What's the
difference between sustainable and organic in your
mind? And how would the performance metrics be
different?

GEORGE: Yeah I'm not sure I have a great
- well this is a question that we have spent a lot
of time thinking about. From our perspective at
the aquarium, where I was for five years, in
talking to consumers I think many consumers think
of organic as kind of good for you, good for the
environment. And if you can say good for the
environment it's sustainable. Right? Then they
think of organic as sustainable.

But as I began to come up to speed with -
with the rules and regulations of how organic came
about and - and what it really means, there then
is this question. Is, you know, is organic equal
to sustainable? Right? And that becomes a much
bigger discussion, you know probably over beers
late at night and this kind of stuff. There's a
lot of philosophy involved in that right. But I
think in the - and the reason I'm really
interested in this with farmed fish is because if
the U.S. develops organic standards, that
basically by definition are sustainable, then
that's where we want to be. Because as a - as a
conservation person I am much more interested in
sustainability, broad kind of ecosystem
sustainability, than I am about a particular label
that plays out in the marketplace.

But if that label supports that concept
then that's great. But, and that's why I think
this so hard because there are the rules and
requirements of how organic works and how the AWG
did all it's work. But those aren't necessarily
the standards you might come up with in terms of sustainability. So you know the good example is the feed issue, right? Where we might say god, from a sustainability point it's really great to be able to recycle and use say poultry byproducts. But if that's not going to fly from the organic eater consumer or regulatory framework, then we're dead in the water on that issue. But that's not - sustainability would have taken you a different place with respect to feed. So that's kind of what we--

KATRINA HEINZE: So how would--

GEORGE: And I can't remember the specific example you were talking about to be honest with you. But I'll - if I go back and look at my slides maybe I can figure it out.

KATRINA HEINZE: So are there places where the performance metrics that you suggested would be different between a sustainable system and an organic system?

GEORGE: Uh--

KATRINA HEINZE: The ones he suggested.

FEMALE VOICE: I think it's relative to disease.

GEORGE: Relative to disease?

KATRINA HEINZE: I think so as well.
GEORGE: You know I'm sorry. Maybe it's because it's late in the afternoon. I was batting cleanup. I need some more coffee. Let me think about that a little bit and let me get back to you. I apologize for that.

KATRINA HEINZE: That's okay. Then I have a follow up question for you.

GEORGE: Okay.

KATRINA HEINZE: To give you a break on that one.

GEORGE: Maybe I could try on that one.

KATRINA HEINZE: You know I am an organic consumer. I have two young children. And frankly I like buying organic because it gives me confidence that my purchasing dollars are driving industry in a direction I want them to go. If we have an organic standard for aquaculture that is so stiff that few if any, I think are the words you used, fish meet that, that really denies me the opportunity to use my consumer dollars to drive industry behavior. Have you considered that? I mean what - how do we find that balance between providing an economic incentive?

GEORGE: Yeah. No you're exactly right. I mean and that's sort of what was at this - at the genesis of this concept, which was if we just
say no to organic under these conditions, then we have lost the power of the consumer dollar to actually achieve sustainability under the guise of this thing called organic.

But so how do you go there? How do you develop metrics that might support that? And what we came up with was what we came up with. I think the difficulty here is that - I think our philosophy is that we need - we need to follow the organic principles and the concept of sustainability to where it leads us with respect to standards. And then ask the industry to change to meet those standards if they want to be organic. Rather than trying to figure out a way to shoehorn existing processes into the concept of organic and/or sustainable.

And so you know I think that's the fundamental challenge to this is can we develop standards that aren't so unrealistic or somehow fundamentally flawed that nobody can ever meet it. But let's go through the thought process first and then say well, does this work for anybody? Yes or no. And then move from there.

KATRINA HEINZE: Thank you.

NEAL SIMMS: If I may just add to that?

HUE KARREMAN: Go ahead, yeah sure, go
NEAL SIMMS: The other area or the other side of fishery is biology so I can't help but throw into the discussion here the idea of the reuse of edible fishery byproducts. That's an example where clearly these sustainable solutions, something which we all should embrace, is the idea of these Pollock trimmings, which are getting dumped over the back of the boat in the Bering Sea. We should - that's a resource that we should be reusing. And whether you're going to call that sustainable or whether you're going to call that organic, it's a matter of semantics. But we need to encourage that reuse at every level.

I would like to see the opportunity for an industry to build up around that supply, that we create an incentive here in organic standards and with this window of opportunity that the aquaculture working group has provided, that we make it available for these byproducts for an industry to build up around there so that then it becomes more economically viable. At the moment for us to use the BC - British Columbian Hake byproducts, it's more expensive than for us to bring up Peruvian anchovies, and that's when our feed company is in British Columbia. This makes
no sense. But that's the way the economics work because it's a matter of scale, because they are working in tens of containers a week for British Columbian Hake it's a smaller fishery and it's more difficult for them to manage it.

HUE KARREMAN: Bea is up and then Rego [phonetic] after that.

BEA JAMES: First of all thank you again to all of the panelists. I enjoyed all of your presentations. My question is for Mr. Simms and anybody else who might be able to answer this. I am trying to understand the space in which you have an open net pen system. And I'm - I'm trying to imagine how you control that and how you determine to shrink and expand it as you grow your business. And you mentioned that - that at this point that you have a level of control and I'm curious to understand at what point would your net pen system be too big for you to have a level of control? And also, this is probably a very elementary question, but how - how do you keep your space protected? What if someone else wants to come into the area and also open up a net pen system?

NEAL SIMMS: Neal Simms. The primary determined over the area that we requested from
the state was the scope that we needed on the
anchors. We needed the holding power. And so
because we are in water 200 feet deep, we needed
to go almost 1,000 feet in each direction to get
the five to one scope to make sure that our cages
stayed where we - we put them. We would like to
move into deeper water but there's an interesting
trade off there. As we move into deeper water the
area that we need becomes greater because the
spread of the anchors becomes further.

And so we have been, for the last couple
of years we have been in discussions with our
community about where and how we might expand,
just because we have got overwhelming demand for
our fish. And so we want to look at this. And
there's still - I think because of, as I said, the
pejorative about farmed fish, there's still some
disquiet there in the community. People were
perfectly open to the idea of us putting larger
net pens in there and so what we - the proposal
that we have with the state at the moment is
instead of the 3,000 cubic meter net pens what we
have there, that we'll go and replace those 3,000
cubic meters with 6,000 cubic meter cages. So
that's what we have to the state.

I'm comfortable with that given the level
of water that we have - the amount of water we
have moving through our net pen and the fact that
we are not detecting any effluent - any impact on
the water quality and the effluent there.

Your second question about control of
other farms that may want to come into the area,
we would - the general rule of thumb that I think
it's the Mediterranean Industry - this is
something - it has become a conventional wisdom
that has been kicked around and I'm not sure of
it's origin, but the conventional wisdom is you
don't want to have your fish farms closer than
about five miles to each other. So at some point
this industry can be self regulating. Anybody
comes and requests another lease from the state
within five miles of ours then we will vigorously
oppose it just because peace of mind is a very
valuable thing.

We also - it is not an exclusive lease.
We do allow fishermen to come through - these tuna
and Wahoo and other fish that are attracted to our
fish farm, we allow fishermen to come through and
troll through our site. People can bottom fish in
the site. And people also catch some of the bait
fish that aggregate around our net pens there.
But we do restrict of course scuba diving and
spear fishing around the farm site for obvious reasons.

HUE KARREMEM: Rigo.

RIGOBERTO DELGADO: Yes, talking about risks, what would be the risk of using the byproducts from Alaska fro example in your farm, first of all. And second what are the risks of using copper antifouling materials for the fish inside of your nets?

NEAL SIMMS: Neal Simms. Copper is pretty toxic to most marine animals and so the idea of using copper as a feed additive is that perhaps your suggestion?

RIGOBERTO DELGADO: No you are using it as an antifouling. Is there any risk of using those products to the fish inside of your nets?

NEAL SIMMS: The level of ambient copper that the fish are exposed to or that the environment is exposed to is absolutely minimal given the amount of water that moves through there and the limited amount of copper that is on there. Remember eight kilometers away is a small boat harbor that has 200 boats in there who all have copper antifouling. There is no other antifouling that people use on their boats with any regularity and with any effectiveness. And so it's not like
we don't use copper in the marine system. It becomes a problem when you get it concentrated or when people are using other forms of antifouling, such as tributal tin is now I think universally prescribed. I don’t think anybody anywhere in the planet is still using TBT.

And I'm sorry your second - I answered your second question first. Your first question was?

RIGOBERTO DELGADO: The first one is risk related to the use of byproducts.

NEAL SIMMS: Right, the salmon byproducts. My understanding is that there is minimal risk of transfer of pathogens from between families. You wouldn't want to use salmon byproducts for salmon feed. And in fact that's actually one of the problems. We would love to be able to be using salmon byproducts in our Kahona Compache Feed. But our feed company will not allow salmon byproducts into their site because the risk of some potential down - down stream of some unknown prion [phonetic] or something to that effect. What - the reason why I would like to see us working towards some incentives is that we need to encourage the feed company to perhaps have different dedicated lines of extruders so that the
salmon meal and salmon oil can get fed - can - byproducts can become Kahona Compache feed. The Kahona Compache and the Cobia byproducts can become Barramundi feed. And then the Barramundi byproducts can become salmon feed. That's a beautiful reuse of resources and it's something that we should, I think, encourage and provide economic incentives for. I don’t think that that is diluting the value of the organic brand to start to lead on that rather than just letting consumers tell us what they think. I would say the same would hold true with the question of poultry byproducts.

HUE KARREMAN: All right, Joe and then I'm going to have one question at the end and read some cards yet.

JOSEPH SMILLIE: Well this is for Martin and Ken especially. What parts of the AWG recommendation do you think would move the salmon, the conventional salmon aquaculture industry to a better ecological perspective? And what additions do you think, sort of like George mentioned, performance metrics, should we look at in trying to create an organic and I'll, you know tackle the tough issue, the salmon - it's been - it has been pointed out that the salmon is a problem, it's
salmon-centric, and so I'd like to get some direct opinion from you two on exactly which - do you think the AWG standards will help the problems that we have noted with the conventional salmon aquaculture industry? And are there some things that we should go beyond the AWG recommendation to try and create an organic salmon industry? And again your perspective on whether that will help the problem rather than just saying no to organic salmon aquaculture.

MARTIN KURKOWZIC: Marty Kurkowzic. From the perspective of my background, sea lice and salmon, it's really clear that you need to separate the salmon that are inside the farm from the wild juvenile salmon that are migrating past it. And there are some options. One is to move the farms. Coastal waters - in British Columbia there are very few places on the coast where wild juvenile salmon don’t go. It would be really hard to find a site that would - that you could move an open net cage farm to - to eliminate that problem. So maybe moving offshore is an option. And the other obvious alternative is a closed containment system where the waste materials from the farm are treated before they are released into the environment.
KENNETH BROOKS: There are so many questions that can be answered in that one question that you asked. One - I deal internationally - U.S., Canada, FAO, on the development of environmental management standards - not standards for organic consumers. And so I have no expertise there. But I will tell you this, that the countries that I deal in and work with spend a huge amount of effort developing management programs to address environmental issues. And as I said earlier, those management programs differ by region, differ by the social and economic structure of the country, their priorities, their environmental characteristics, etcetera, etcetera.

From an environmental point of view I strongly recommend that you follow the trend that I see in - in numerous of your recommendations to rely on those local jurisdictions by requiring that organic consumers be in compliance with those governmental regulatory programs, which are regionally specific. The development of these programs takes tens of thousands of hours and years and years of study. And to think that the National Organic Standards Board, no matter how bright you guys are, are going to sit down and in
some reasonable period of time duplicate those
standards is I think unrealistic - or improve on
those standards is somewhat realistic. Because
you would have to look at a broad range of
jurisdictions and environmental conditions and it
would very quickly go beyond your - your time and
resources to do that.

I can't close without saying that I
strongly disagree with Marty's presentation - with
many elements in Marty's presentation. I just
came from a Pacific salmon forum meeting where
there are - were a dozen or more researchers who
have been doing specific research in this field.
And they would not reach the same consensus that
Marty has given to you. And I can only suggest
that I have included in the CD I sent to you, a
list of conclusions from that latest Pacific
salmon forum meeting that were reached by one
other academic and myself based on the
presentations. And I would suggest that you want
to read that to gain a different perspective of
the BC sea lice issue.

HUE KARREMAN: Okay, it's 4:15. We are
well beyond our cutoff. I mean we could keep
going but we do have a poster session and we can
keep talking about things and I will forgo
actually reading these cards at this time unless you all really want me to? No. Okay. They are going to be scanned in.

But I do want to say one thing about the regionality issue. You know that - that's a major deal in other aspects of organic agriculture. And you know, what can we say except this is a national program. And Andrea is going to touch on that more I know. But you know in another symposium we had, the same idea you know, there's regionality to that whole topic of pasture for cattle. So we understand that but this is a national program.

ANDREA CAROE: And just - I'm going to back you on this Hue. We agree that a regional - and even a species specific standards are really more appropriate. However we need to deliver a consistent platform for the organic label. That is our charge. If we are to recognize regional variance, we need to be able to codify that in our regulation with our recommendations stating what that - that level of authority is. Where - where that jurisdiction will go, which is not always easy because although this is a U.S. standard for U.S. products, these products are produced around the world. So we understand what you're saying
but the logistical challenges to that are - are pretty - pretty vast in themselves. So at this point we are looking at trying to create a standard that may be at the 30,000 foot view in some areas and not to the detail that we would hope. However that is the best way we can do our job to provide the consumers with - with an assurance to the - to the standard of that - that label on fish. So I think that again backs what - what Hugh said and you want Kevin - Kevin do you have something?

KEVIN ENGELBERT: Yeah I was going to speak about the same thing. But I also want to make a comment. I'm troubled by the implication that - that organic is going to lead down a different path than a sustainable approach. Because one of the tenets of organic agriculture has always been sustainability. And that is one of the things that those of us on the AWG, the NOSB members, have always considered when - in our debates, is this sustainable? We look at everything and every possible angle. We want a system in place that's going to be sustainable for the generations. So there may be Pollack being dumped out the back of fishing boats, but it's not organic Pollack. So if it was, then that would
come into play. But I really think that to say that organic and sustainable will diverge - I'm not, I'm not convinced of that yet. I just - I just wanted to make that point. I don't really need a response.

HUE KARREMAN: Okay. With that we're going to take a fifteen-minute break. And I want to thank all the panel members again this afternoon for coming in from all the different areas of the world and providing us with invaluable information as we go through our deliberations. Everyone please stick around and mill around by the posters and ask the panelists from today questions. That's what this next hour is for. We'll start up again in about 4:30 - 4:35. And it goes for one hour until 5:30.

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DATE: November 27-30, 2007

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ability.

[Signature]

Date: 10 Jan '08
UNITED STATES DEPARTMENT OF AGRICULTURE

IN RE: NATIONAL ORGANIC STANDARDS BOARD MEETING

Meeting held on the 28th day of November, 2007

at 08:30 p.m.
Holiday Inn-National Airport
Shenandoah Ballroom
2650 Jefferson Davis Highway
Arlington, VA

TRANSCRIPT OF PROCEEDINGS

11-28-07 NOSB Meeting Participants

Chair: Andrea Caroe

NOSB Members: Gerald Davis
Rigoberto Delgado
Steve DeMuri
Tina Ellor
Kevin Engelbert
Daniel Giacomini
Jennifer Hall
Katrina Heinze
Bea James
Hubert Karreman
Tracy Miedema
Jeffrey Moyer
Joseph Smillie
Julie Weisman

NOP Staff: Barbara C. Robinson
Mark A. Bradley
Katherine Benham
Valerie Frances
Robert Pooler
Jonathan Melvin
Richard Mathews
Valerie Schmale

Public Comment: Jim Pierce
Tom Hutcheson
DeEtta Bilek
Alex Moreno
Michael Sligh
Garry Lean
Catherine Cash
Katherine DiMatteo
Liana Hoodes
Kimberly Easson
John Foster
Sue Baird
Pat Kane
Tiffanie Hudson Labbe
Gwendolyn Wyard
Jake Lewin
Sam Welsch
Marc Cool
Maury Johnson
Marty Mesh
Leslie Zuck
Melanie Saffler
Emily Brown-Rosen
Grace Marroquin
Grace Gershuny
Brian Baker
Zea Sonnebend
Rose Koenig
Judy Thompson
Lawrence Datnoff
Lawrence Marais
Jay Irvine
Mitch Johnson
Dave Martinelli
Barbara & Tom Elliot
Kelly Shea
Harriet Behar
Liana Hoodes
Greg Nemec
ANDREA CAROE: I would like to call the November '07 NOSB Board Meeting to order. Thank you all for coming. Our first item on the agenda is to approve the agenda. So at this time I ask all board members for - entertain a motion to approve the agenda. Joe?

JOSEPH SMILLIE: I'd like to make a motion - Madam Chair I would like to make a motion to approve the agenda for November 7th - for November 27th NOSB Meeting. November 28th.

ANDREA CAROE: Is there a second?

MALE VOICE: Second.

ANDREA CAROE: Is there any discussion?

JULIE WEISMAN: Yes.

ANDREA CAROE: Julie?

JULIE WEISMAN: Yeah I would like the - the agenda currently - as it currently reads shows two items, one is a joint handling and materials committee item called the definition of materials and that is listed on the agenda as a recommendation. It probably is obvious from what has been posted on the website that that is going to be a discussion item at this meeting. We are not ready to make it be a recommendation. It's a
work in progress.

Also pet food is listed as an item for recommendation at this meeting and that is also going to go forward as a discussion item. There are two lingering details that have to be hammered out. Thanks.

ANDREA CAROE: Okay so those two items will be changed from recommendation items to discussion items. And the voting will be eliminated for Friday. Any other changes?

MALE VOICE: I would like to change the CACC item that is listed as a recommendation on multi site operation certification; the committee has decided that we will change that to a discussion.

ANDREA CAROE: Okay so that - that too will be removed from the voting items and changed as a discussion item. Any further changes to the agenda?

MALE VOICE: Madam Chair.

ANDREA CAROE: Dan.

DANIEL GIACOMINI: I believe we also have a speaker for the alternative perspective slot.

ANDREA CAROE: Yes. I think the published version that it was on the website reflects this, the Board - the Board - the version
that you have in your board books is - is just a
step behind and that's not reflected. And so - so
noted that that changed - that has changed
already.

       VOICES: We can't hear you.

       ANDREA CAROE: I can't get this any
closer. Okay so the - the issue is is that there
- the board books right now have an earlier
version that does not reflect a speaker today.
There is an empty slot. But that has been
resolved on the website and the version that was
posted there. So that is noted. I'm getting
feedback. Any other changes to the agenda?
Hearing none, all those in favor of the agenda as
changed by these - these two areas, say aye.

       VOICES: Aye.

       ANDREA CAROE: All those opposed same
sign? We have an agenda. Thank you. Okay the
next item of business is the wrap up from the
aquaculture symposium. Hue do you want to say a
couple of words on the aquaculture symposium
yesterday?

       HUE KARREMAN: Thanks Andrea. We had a -
wow that's really - pardon me. I'm back here and
you can hear that pretty well. Okay. We had a
very productive aquaculture symposium yesterday.
And we had - is that better? Okay. So yesterday we had our aquaculture symposium and we had two major topics that have been unresolved very - from a very in-depth perspective dealt with yesterday. Regarding the feeding of aquaculture fish, fish meal and fish oil, and also the net pen issue. I think the speakers we had were excellent. Certainly experts in their field. And I - I believe we will be able to move along now and come to a conclusion as a board regarding those two issues and hopefully we will have a - a recommendation to vote on at the spring meeting. All I can say is if you weren't here you really missed a - a wonderful and excellent USDA set up symposium. And I'm glad we were all here. So but thanks to all the panelists if you're here, and please I guess we'll be hearing public comment as well about the topic I hope. And I guess that's about it for now.

ANDREA CAROE: Thank you. As we have said before, the AWG as an appointed body for working in this project has done a stellar job in providing information. This was - the symposium was a great opportunity for the board to get further information on - on a couple of details that were - were of concern to the public. And of
course our - our first order of business is to maintain this label for public transparency for public confidence in the label, and so this was a good way of us to be able to do that. I thank the Livestock Committee for putting together a fabulous session.

And also for any of you that were not able to be here we do have the poster sessions still up and available for you to review some of the work that has been done in these areas and talks about the potential risks of these - these two particular issues. So feel free to look at those and learn more about the - the process.

Now the Livestock Committee will take the information that they have and they have until the spring meeting to develop a recommendation that will be voted on then. So we look forward to that and we'll move forward with this pretty big task of bringing aquaculture into the organic fold.

Okay at this point I'd like to talk about - a little bit more about what we are here to do, which seems like kind of remedial but in past experiences on boards that I have sat on we - we always started the meeting just kind of reiterating what our purpose is here. So I'd like to kind of bring us back, not only to focus the
board on what our work is, so that we can accomplish our task, but also to advise everybody that's making public testimony, what our authority is and - and in what way we can actually move things forward.

So with that I thought it was really appropriate to go back to the statute and actually look at what the statute says in regards to this board. So at this time I'm going to actually read the quotations from - from OFBA.

In OFBA, in regards to the National Organic Standards Board, it says in general the Secretary shall establish a National Organic Standards Board in accordance with the Federal Advisory Committee Act, thereafter referring to the - in this section as The Board, to assist in the development of standards for substances to be used in organic production and to advise the Secretary on any other aspects of the implementation of this title.

So the - specifically that is our task. It goes further to talk about the composition of The Board, the appointments, terms and meetings. The responsibilities of the board are - are listed. In general The Board shall provide recommendations to the Secretary regarding the
implementation of this title.

So once again that is our purpose. And if there is anything that we can do within this purpose to assist the organic industry; we really would like to hear testimony on that. As Board members we need to focus in on activities that move forward with this mission. And again it may feel a little bit remedial but I think it's just a good reminder. I like the idea of starting a meeting talking about what our purpose is.

So with that I will ask the Board if there is any announcements to make. Does - do we have any announcements? No announcements. Okay. Then we will move to introductions. And we'll start with Hue. If you can give your name, your affiliation, the seat that you hold, and any other information you want to give about your being here on this board.

HUE KARREMAN: Okay, my name is Hubert Karreman. I'm a dairy veterinarian from Pennsylvania. My background is in soil science, soil conservation, dairy husbandry and now veterinary medicine. I - my seat is the Environmental Resource Conservation Seat. And let's see I was appointed in 2005 so I have two more years on the board here. And I look forward
to moving forward with some very important issues coming up.

KEVIN ENGELBERT: Good morning. Kevin Engelbert, Nichols, New York. I'm a - I hold one of the Producer seats on the board. My family and I operate a 120 cow certified organic dairy farm in upstate New York. I want to go on record as usual thanking my sons for carrying the load for me and putting up with all the time that I spend working on NOSB business. And I'm just honored to be able to serve on this board.

JEFFREY MOYER: Good morning. Jeff Moyer. I'm - excuse me - I hold the farmer position on the board. I've been on the board since 2006. I'm the farm manager for the Rodale Institute. I live in Lenartsville, Pennsylvania where I have a small farm of my own. I'm on the Livestock Committee and the Crops Committee.

Good morning. I'm Jennifer Hall. I fill a Consumer Representative slot. I live in Spokane, Washington and work for an urban developer bringing a food cooperative to our great city. And I - I serve on both the Livestock and the Certification Committees and I have had past experience working with several NGO's that really commit to educating the public and consumers and
the culinary industry and restaurant industry
about foods and sustainability and organics and -
and where and how to do all of that.

RIGOBERTO DELGADO: Good morning. A producer from Texas. Chair of the Policy Development Committee. Member of the Crops Committee and also the Livestock Committee. I'm very pleased to be here. And for the benefit of my colleague, Bea, my name is Rigoberto Delgado. And it's - like Kevin said it's an honor to be serving on this board. I was appointed in 2005 so I have a couple of years left. Thanks.

DANIEL GIACOMINI: Dan Giacomini, I serve as a consumer position on the board. I'm from California. I am a consultant in the dairy industry for the most part. I am also an active consumer in dairy - in organic. I serve on the Chairman of the Live- of the Materials Committee and - that wasn't a Freudian slip Hue, don't worry about it - and also serve on the Livestock Committee.

JULIE WEISMAN: Julie Weisman, I am the - currently the Vice Chair of the NOSB and the Chairman of the Handling Committee. And I also serve on the CAC. I’m not sure if I'm forgetting something here. But I hold one of the two
handling positions on the board. This is the end
of my third year. I can't believe it. I live on
northern New Jersey, though I'm from Brooklyn.
And I have been - I have been a member of a
collectively owned vegetarian restaurant in a past
life, served breakfast to people sitting in this
room. I have been a psychiatric social worker in
the Bronx. And for the last 12 years I have been
running my family's business providing ingredients
to the flavoring industry and now proudly mostly
organic ingredients.

ANDREA CAROE: Hi I'm Andrea Caroe and
I'm Chair of this Board. In my paying job I am
Executive Director of Protected Harvest which is
an eco label certifier. I also serve on the
Handling Committee, the CAC, the Policy Committee
and the Aquaculture Working Group. This is the
end of my term. So this is my last meeting. And
that's it.

BEA JAMES: Bea James, I serve on NOSB
with the Retailer Position. I work for the
National Cooperative Grocer's Association which is
an organization representing 137 co ops across the
United States. I live in Minneapolis, Minnesota
but I'm a native Oregonian and that's really where
my roots are. I have two beautiful sons, Forest
and Harvest, who are anxiously waiting for me to come home and - and I look forward to that day.

JOSEPH SMILLIE: I'm Joe Smillie, I'm the Senior Vice President of Quality Assurance International and in that capacity I hold the seat of - Certifier Seat on the NOSB. I’m Chair of the Certification Accreditation and Compliance Committee and a member of the Handling Committee.

I was appointed in 2006 and I have been an organic farmer, a fertilizer dealer, a composter, and an inspector, and I am now a bureaucrat.

KATRINA HEINZE: Good morning. I'm Katrina Heinze. I sit in the scientist slot on the board. I am also on the Materials Committee and the Handling Committee. I work for a consumer products company in a regulatory affairs group. My experience is I have a background in chemistry. I have spent most of my time in manufacturing. And I'm a certified quality engineer. I was born and raised in Marin County, so long time organic consumer. I have two young children. And my interest on the board is making sure that we have strong national standards so that my children inherit a good planet.

TRACY MIEDEMA: Good morning. My name is Tracy Miedema. I'm from Philomath, Oregon. I am
also an organic consumer as are my three children and husband. And I sit in the Organic Consumer Representative Slot. My background is in organic education, marketing and consumer behavior. And I appreciate the opportunity to serve. Thank you.

STEVE DEMURI: Good morning. My name is Steve DeMuri. I live in Carmichael, California. And I hold one of the handler positions here on this board. I'm also on the Materials Committee and the Handling Committee. And I work for Campbell's Soup Company. I direct the company's organic production. I've been in the food business for 28 years and in organics for about 15 years. And I too am honored to serve on this board and very much appreciate all the fine work that's done here. And I was just appointed last year so I'm still a newbie. So be gentle.

GERALD DAVIS: Gerald Davis, I sit on the - a producer seat on the board. I'm the Crops Committee Chairman. I am from California and I have 25 years experience working with organic and conventional crops, about 40 different crops in those states. I got around a little bit. I work for Grimway Farms, a family owned very, very large vegetable farm that is the largest carrot producer in the world. But still owned by one family and
not a corporation. Thank you.

KRISTINE ELLOR: Hi I'm Tina Ellor. I sit in the environmental seat. I'm from Kennett Square, Pennsylvania. And as Steve said, this is my first meeting so I'm really, really nervous. But I see a lot of familiar, friendly faces in the audience that I'm looking forward to hearing from. So I think that's about it. Thank you.

ANDREA CAROE: Valerie do you want to introduce yourself?

VALERIE FRANCES: Valerie Frances, the Executive Director of the National Organic Standards Board. And this is a lively meeting as usual.

ANDREA CAROE: Bob?

BOB POOLER: Hi I'm Bob Pooler. I'm with the National Organic Program. I've been with the program since - well for many years. And was involved with the reg writing and getting this program implemented. And I deal with a national list of state organic programs and cost share amongst many other things.

VALERIE SMILLIE: Good morning. I'm Valerie Smillie. I'm the Quality Systems Manager for the National Organic Program and I just started with them in March and I'm very pleased to
be here. Thank you.

JONATHAN MELVIN: Good morning. My name is Jonathan Melvin. I'm the Accreditation Manager for the National Organic Program. Welcome everyone.

BARBARA ROBINSON: Barbara Robinson, I'm the Deputy Administrator for Transportation and Marketing Programs and the National Organic Program falls under my oversight. And I've been with this position now for I think this is my seventh year. And so I don't know how long I've been coming to these meetings. But — and I missed the last meeting for personal reasons. And thank you very much for your forbearance. It's nice to be back.

MARK BRADLEY: Hi, Mark Bradley. I'm the Associate Deputy Administrator of the National Organic Program. And I manage the NOP staff. I've been there for two years, something like that. Seems longer.

FEMALE VOICE: I just want to acknowledge Katherine Binham over here. She doesn't have a mic. There she is. She's trying to help us with our audio right now. We don't have our audio tech
with us. But she's our Advisory Board Specialist and is really responsible for logistics of making the meeting happen.

ANDREA CAROE: Thank you. She's been floating around. I haven't been able to-- all right well we're a little ahead of the time but we know we'll have a lot of public comment. So -- all right so moving on, our next item is the Secretary's Report so I'm going to turn it over to Bea.

BEA JAMES: I would like to move that we accept the March 2007 meeting transcripts into the official record. And I would also like to mention that the meeting transcripts do reflect a few errors that are not anything that changes the content of the meeting but there are some misspelled names and just misspelling in general. So Valerie and I plan on going through that and making those corrections. But I just wanted that to go on the record that it's a lot of paperwork and we haven't gotten around to it. So I need a second.

ANDREA CAROE: Is there a second?

MALE VOICE: Second.

ANDREA CAROE: Is there any discussion on the transcripts? Because I know everybody has
read every word of them. Every word. Okay.

Hearing none, all those in favor of accepting the
March 2007 Board Meeting transcripts say aye.

    VOICES: Aye.

    ANDREA CAROE: All those opposed same
sign. Okay we have transcripts.

    BEA JAMES: Okay. I would also like to
make a motion to accept the summarized minutes
from the March 2007 meeting, which also include
the summary of a lot of votes. And those are
posted on the website for anybody who is
interested in reviewing that. But I would like to
accept those into the NOSB official record.

    ANDREA CAROE: Is there a second?

    MALE VOICE: Second.

    ANDREA CAROE: Steve DeMuri second. Any
discussion on these - now I do hope the board
members did read the summary minutes.

    FEMALE VOICE: Can I make a point of
order here? I wasn't - didn't attend those
meetings so I would like to abstain from those
votes.

    ANDREA CAROE: You can at the time of
voting go ahead and abstain.

    FEMALE VOICE: Well there was no
opportunity to abstain from the last one so that's
just for the record.

ANDREA CAROE: Oh, very good. Thank you.

Any discussion on the transcripts - the summary minutes? Hearing none we'll go to vote. All those in favor of accepting the summary minutes from - summary votes?

BEA JAMES: Minutes and votes.

ANDREA CAROE: Minutes and votes from the March 2007 Board Meeting say aye.

VOICES: Aye.

ANDREA CAROE: All those opposed same sign. And abstentions?

FEMALE VOICE: Thank you.

ANDREA CAROE: One abstention.

MALE VOICE: Over here too, I wasn't there.

ANDREA CAROE: Two abstentions. Okay. The vote passes.

BEA JAMES: That concludes the Secretary's report.

ANDREA CAROE: Okay so this is the last time I'll say this this meeting, we're ahead of schedule by a half an hour. And the - it's the last time I'll say it probably ever. So with that we are prepared for the program report.

BARBARA ROBINSON: Are we doing what we
always do, I say my name first and - okay.

Barbara Robinson, Deputy Administrator, Transportation and Marketing Programs. Who did that?

Just a few things from the program for an update at this meeting. Again let me start off by thanking the board for its patience in my absence in the past year for personal reasons, and for your very nice sympathy for the loss of my husband. I do appreciate that.

Now there are just a few things that I would like to bring you up to speed on. The first one is that the program and the board received a - a letter alleging - well it was a complaint alleging violations - ethics violations about a member of the board. And asked that the board take action and that the program address this and so I will address this.

The letter was written by two private individuals who were former members of the board. And the letter alleged that a current member of the board had made ethics violations and had conflicts of interests and so we - we took a look at this. That the member of the board did not appropriately recuse himself from votes or declare his interest - a conflict of interest. And so we
took a look at this and - and furthermore the letter asked that the Secretary remove the board member.

Let me say this. First of all you are representatives of the Secretary. You are not employees of the Department. No FACA law - that's the Federal Advisory Committee Act - no OFPA law and no National Organic Program regulation has been violated here. None whatsoever. The references to the board policy and procedures manual, those are your rules of the road. Those are not anything that has to do with a law of the U.S. Government.

Furthermore your internal policy and procedures manual says - this is rules that you all have decided upon - say that you declare an interest in a vote before a vote takes place. Now let me say this first of all, each and every one of you is appointed to this board by the Secretary because you have a particular expertise. Therefore each of you comes to this board with a built in conflict of interest. We expect that. That's what we - that's the reason you were appointed. So that the Secretary would benefit from your particular interest that you bring from this industry. You are expected to participate in
every discussion that takes place on this board.
Not to participate in a discussion, to recuse
yourself from a discussion, is in effect to shirk
your duty and to deny this industry the benefit of
your expertise.

According to your policy and procedures
manual, as I recall, recusal is really up to the
board, not yourself. You may recuse yourself.
But as I recall, and maybe I'm wrong, when you
declare an interest, and you really don't have to
declare a conflict of interest, you can declare an
interest when a vote comes up.

Why would you do that? There are two
reasons that I can see that you would declare an
interest. One is you have an exclusive
relationship with the petitioner. Or you stand
somehow to materially gain from the vote that is
about to occur. Rarely have I seen that happen.
Now carried to the logical extreme, each and every
one of you stands to somehow gain from the vote
that is about to occur - either as a producer or a
consumer. You either stand to gain or stand to be
harmed, depending upon your views about the
material that is either going to be put on the
national list or put on for being prohibited. One
way or the other, depending on how you feel about
it, you either don't like it or you do.

Recusing yourself at some point can tip the quorum so that you will not have a full bodied vote. And that is not a good thing. So I caution you against this recusal that you have built in here. You know this is not necessarily - I know that the motive behind it appears to be - to appear politically correct and - and to refrain from doing something that would look inappropriate. But I caution you about that because you know once you get to a point where the quorum is very, very narrow, then - then again the industry is denied a full bodied vote of 15 members. And then we don't know how the vote might have turned out otherwise.

So as to the other issue in the letter about a member appearing in a private press release, affiliated with his or her firm, what you do on your own time and in your own businesses is your business as you have so often reminded the Department. You are private citizens. You volunteer your time to the Department. And there have been many occasions where you have reminded us that you are free to write to the Secretary as private citizens. And share with him your views. Well turn about is fair play. And in your private
business if you want to get your name in print,
the Department has nothing to say about it, and we
don't comment on your private press releases.

We have nothing further to say about this
except the following. The Secretary appointed
you. The Secretary supports all 15 of you. And
you are not getting off the board this easily.
And that is the end of the matter.

The second item that I would like to
bring up is - I'm not going to tell you about our
budget and you know our resources because you
never want to hear that stuff. However, in the
course of the last year and what I can safely
predict in 2008, the NOP workload will probably
turn into the following unless we do something.
Next year we will only work on what is known as a
FOIA, a Freedom of Information Act Request.
Unless we do something different. Because that's
pretty much what we are getting now, Freedom of
Information Act requests. And they go back to the
year 2002 when we opened the program.

So I have decided, and I have gone to the
Senior Policy Officials in the Agency and gotten
permission to do this, that we have to
dramatically change the way that we do business in
the NOP.
So we are going to do that. We ourselves are contributing to the FOIA's that we get. Does everybody know what a FOIA is - first of all? Anybody not know what a FOIA is? A FOIA is a - basically a request that the public is entitled to, for information that is records that are under our control and that are in our possession, but for which we do have to go back and redact, which is another word of saying black out any confidential business information. We contribute to this problem and we contribute to a growing climate of mistrust in my opinion by not publishing this information because as you know we - we have certifying agents, 94 or 95 of them. How many do we have? Ninety five. And we are continually, as time goes by, auditing them. And when we do we add to the pile of paper that is potentially releasable once we get it done. Then we get a FOIA request. So as you add to that pile, that is potentially releasable, and you don't publish it, and someone says I want it back since 2002, as the years go by, the stack gets higher.

There is nothing to hide. And there is no excuse for not having transparency. So as soon as we can, but hopefully by the beginning of 2008,
we are going to create for shorthand, ENOP, an electronic National Organic Program. A reading room, an electronic reading room if you will. Where everything that can be published about the National Organic Program will be published electronically. And the history of this program will be accessible through its certifying agents.

You will come in, you will click on a certifying agent's name and you will be able to start with the accreditation letter that they have received from the administrator that grants them the license to do business. And you will find a list of all the operations certified by the certifying agent. You will find the audits, the audit reports that have been completed by the audit review and compliance branch. You will find all of the appeals, that appealed decisions issued by the administrator that have been completed. Eventually we will get to all of the non-compliances that have been issued. Eventually we will get to all of the decisions issued by the National Organic Program.

Now my goal for this program is that when 100 people call in and ask the same question they get the same answer and we aren't there yet. We should be, but we're still a young program and we
do have terrible resource constraints. But this will help us get there. Because people will be watching and people will say well you answered this differently than you answered it over here. Because transparency will become a two way street. There will be accountability and it will be painful - painful for us. It will be a burden on us. But eventually there will be growth as a result.

But if we don't do this the program will simply be paralyzed very shortly by FOIA's and this all we will do. We won't do any rule making. You'll be having one meeting, not two. We won't work on anything but putting together FOIA requests.

Right now compliance and analysis, which does our investigations, which does all of the investigation work for the entire agency, and AMS, the Ag Marketing Service, has a staff that swells to over 4,000 people at various times during the year. Right now compliance and analysis tells me that they spend more time on FOIA's than they do on all investigations for the agency. And part of that FOIA burden is because of the National Organic Program.

So there's just, you know I don't say
this in any - I say this to you not in any, you know hostile sense at all. The public has every right to know what goes on in this program. And we have begun to do this almost a year ago but we delayed doing it because of something called web migration. The entire department was switching over to a - a single uniform type of home page. And then a problem occurred and so the contractor couldn't get it right. And so everybody decided well we'll just wait. Well this became ridiculous. I don't care if it takes twice as much IT resources, that's somebody else's problem to deal with, we're going to go ahead and do this anyway and we'll deal with those consequences later on. But I think we just need to go ahead and publish as much as we can electronically. So that's what we're going to do.

Third thing, we are moving ahead with equivalence discussions with Canada. We have gotten pretty far along. We are waiting for the Office of the Trade Representative, which is the White House Office, to give us a green light on whether we can take the next step and move ahead with discussions, formal discussions with Canada. As you may know their standards will come into effect in December of 2008. And so we want to go
ahead and actually sit down to the table with them and see if there is a possibility to actually engage in an equivalence discussion with them. Remember the last time that we tried to have an equivalence discussion was with the EU.

Equivalence is very, very difficult to achieve with the National Organic Program Regulations. Canada has problems with two of our materials, Chilean nitrate and Potassium Bicarbonate. And of course they have antibiotics. So we will have something to discuss. But they are eager to engage in this discussion and so we will proceed and see how that goes.

We have renewed some discussions with Japan. But of course we would like them to remove the restrictions on three materials that they have placed on us. So we will see how that goes.

And last but not least, dockets. I have signed off on Sunset '08, Sunset '11; we have no sunset for 2010 because you did not add any materials in 2005. So you will have to go through a sunset exercise in 2008 and 2011. Sucrose octenate ester is done. Dr. Karreman, your livestock meds, I signed off on the final rule just before I came down. All of these dockets will be published next week. So Merry Christmas.
ANDREA CAROE: Yes we certainly are ahead of schedule. Okay all right well perhaps we should take a little break right now. I know it's kind of early. But if we can take a ten minute break right now and then come back at nine o'clock. I know it's unscheduled but we are a little bit ahead of schedule and then we can just regroup a little bit. Okay? So we will recess for ten minutes.

[RECESS]

ANDREA CAROE: Okay, let's get back into session here. At this time I have the pleasure of introducing our Deputy Undersecretary of Marketing and Regulatory Programs, Dr. Eller, who would like to speak to this board. Dr. Eller?

DR. ELLER: Thank you Andrea. It is a pleasure to be here this morning and speak to you on behalf of Undersecretary Knight. He enjoyed his visit with you last March I believe it was. And he said this fall you need to go meet these folks. And I do because I need to catch up on your issues.

I've been involved with AMS pretty closely on the grass fed forage raised, whatever and now we're struggling with naturally raised. I'm not sure I can
define natural at this point. So we got off the hook with naturally raised. We're bringing that through. And I believe in those nomenclatures. I also believe in knowing what your nomenclature is. And I also believe that marketing is between the lines. And if you're going to sell something then it needs to be between the lines. So I do believe that perhaps we are at least starting on similar philosophy. But I've got a lot of catching up with the organics nomenclature, the organics lines so to speak, and the organic industry.

I grew up on organic agriculture but I didn't know any better. We milked our own milk. We had our own eggs. We had our own bacon. We couldn't afford a lot of the chemical fertilizers and we couldn't afford a lot of the pesticides so I grew up without knowing what I was growing up on - organically.

I'd like to congratulate your Chairman, Andrea I understand this is your last meeting. I understand you've been very busy in chairing the aquaculture symposium yesterday and that you have set a full agenda for these two days. And I understand you have been a very active board member and now a very active board chairman. So I think your shoes are going to be hard to fill and
I presume this board however has learned to be very active, fast paced and full agenda'd under your leadership. But congratulations and we appreciate your tenure.

I also want to thank the board on behalf of the Secretary and Undersecretary Knight. We really appreciate your experience, your expertise, your time, your efforts and your commitments on behalf of USDA and the Organics Industry. Without that we wouldn’t be where we are. Now I know from what I'm - when I talked to Barbara, some of you say well we're not very far down the road. But can you imagine how far we wouldn't be down the road if it wasn't for you folks stepping up to the plate.

You are an example of some of the best things in government, particularly USDA, and that is the public private partnership. We have made so many strides at USDA over recent years with a public private partnership, leadership philosophy. We really appreciate what you do and we thank the board members for your tenure and the industry here - I mean my goodness, I presume everyone in this room is interested in some phase of promoting and advancing organic agriculture and organic foods. So I - I think I see a lot of interest
around the room.

As you know USDA has been extremely involved in trying to change farm policy. This started to some extent with organic agriculture. We did listening sessions as you know. Secretary Johannes was very, very committed to listening sessions - just a year to 18 months ago around the country. As a result USDA proposed a number of new initiatives in the Farm Bill. And by golly most of those have been included in both the Senate and House versions of the new Farm Bill. It shows solid support for segments of agriculture that were never involved in farm policy debates beyond the subcommittee level.

Both bills include new funding for the organic data collection. And this will help provide better price and yield data at the production and distribution points for organically grown crops. Under both bills currently considered the AMS, your host agency here, could expand its coverage greatly. Fruit and vegetable marketing and distribution, volumes and prices - at production, at handler levels, at the import border crossing levels, and at the wholesale level markets. I presume that's some - if I were producing in your shoes that's something I would
go fight for. I believe that's something you can
hold in the Farm Bills.

In fact we have some indication, we were
meeting with the Senate staff, both sides of the
aisles, yesterday, there is some indication that
the Senate Ag Committee might try to go to the
leadership with a set number of amendments and try
to come back to the Farm Bill next week when they
get back in town. I hope they do because that's
about the only movement we'll get on the Farm Bill
by Christmas. And that means we can start writing
the real Farm Bill in the mid January timeframe
and maybe have a President's Day signing of the
Farm Bill that is late February traditionally.
Otherwise we'll have an Easter Farm Bill if the
Senate cannot get their Farm Bill off the floor in
the next three weeks we'll probably be signing
Farm Bills in Easter.

We'll be extending the MILC, M-I-L-C
program. We'll be extending the kumquat program,
the raisin - you know I mean - I'm being facetious
about kumquat program. But the Farm Bill is so
complicated that we'll have to cherry pick little
extensions and that's all they'll get done is play
little extensions until they can get the master
Farm Bill extended. So let's hope that the Senate
can come back and agree with the leadership next week and move a bill off that floor so that the real Farm Bill can be written in the Conference Committee, which is going to take a long, long, tough, tough time.

Both bills currently include expanded resources for organic research. This will focus on conservation and environmental outcomes and new and improved seed varieties which are well suited for organic agriculture. I think you've done your job.

The popular certification cost share program will be extended - I'm sorry - expanded significantly. Increase of funding and resources for reimbursement for both producers and handlers are included. We'll get more money for total reimbursement and the program can be expanded then to all states.

Of course USDA supports the increased funding for the National Organic Program. With a whopping 15 to 20 percent growth in the organic industry, it is hard for the USDA and the Congress to ignore the needs of the - for the additional resources in compliance and enforcement activities that AMS must carry out under that kind of a growth program.
I don't believe that we have any other one single program that is growing at that rate in the area that we are. We, Secretary Knight and I have the animal plant health inspection service, the packers and stockyards, the grain inspection and the agricultural marketing service, under our section of the sub cabinet. And this program, unless there is some new figures, it's the fastest growing program that we have.

We certainly hope Congress will demonstrate its continued support of organic farming, organic agriculture, organic food production and marketing, and we need a Farm Bill. We need a Farm Bill to recognize the true value of specialty crops. And we need a Farm Bill that serves both farmers and the American consumer as well.

We've come a long way in Farm Bills. I've been around town a long time but the first Farm Bill I was up to my ears in was 1985. I was the lead lobbyist for the Cattle Industry at that time in town. And I was told on many occasions by other lobbyists, by staff, and by members of Congress how dare you get involved in the Farm Bill? The Cattle Industry had no supports. The Cattle Industry wanted government out of our
business. We believed in the free market and all we needed was a chance to meet that market.

The bulk crops - so called program crops - had had a lock on the Farm Bill and to some extent still do, and I'm - I mean that's - that's our basis of world trade. I'm not saying we shouldn't do Farm Bill policy that keeps us active in farm production, keeps us producing a lot of product, and keeps us the world leader in trade and exporting our commodities.

But between dairy and the - the gross commodities, it was like how dare you get involved in the Farm Bill? The Farm Bill - this is - you can't be involved in the Farm Bill. We don't do those things in the Farm Bills. All we wanted was some level playing fields, etcetera, etcetera. So we have come a long way for the specialty crop interest to now be a - have its own section. I mean Title X of the Farm Bill didn't exist in 1985. We created Title X and now you guys are creating the - the fruit and vegetable title. Congratulations. Sometimes things just take longer in Washington right?

USDA and AMS, we also support a lot of other small farm programs. I'm sure many of you know of and probably even participate in the
Farmer's Market Promotion Program. Basically it is a grant program targeted to states, to tribes, to roadside stands, to community approved agricultural groups, economic development regional farmer authorities and other marketing authorities, that helps do a production to consumption direct link. And that is as good as it gets. I mean it's nice to have a choice and I've never seen such growth. One thing that's going to rival probably the - in my opinion, this is a personal opinion - one thing that’s going to rival the growth in the organic production acceptance and consumption, is going to be the local grown and consumed niche market growth.

Watch out! That is coming. That is here. That freight train is right behind us and I think it's wonderful.

You go up the street and buy your eggs. You buy your sweet corn. You buy your vegetables. I'm on the - I live on the edge of the Washington growth. I take a train in every morning. The way some farms around me are maintaining open space and their ability to farm is providing that locally supplied market. And you know what, right beside us there's three quarter to a million dollar houses going up and those households don't
care what the price is. I love it. They don't
care what the price is. And my neighbors are
going to provide it. So again those are exciting
things. These are exciting times in agriculture.
AMS recently held a very successful
National Farmers Market Summit in Baltimore. It's
part of our effort to look for new opportunities,
size up the niche marketing developments, and
other opportunities for medium and small size
farming operations.
Again I think the direct consumer,
producer to consumer production and marketing and
partnerships are the thing to watch in - in
agriculture as far as growth rates. Total volume
not necessarily but growth rates over the next few
years. And again that's personal.
Another way USDA might be able to help
and fit in with some of your organic and other
niche market plans in the future is by - and this
is switching over to the animal industry now, a
animal identification and premise registration
system. You know that we have been involved in
that. Secretary Knight and I were brought in
about 15 months ago. Our first job was to change
the animal identification - national animal
identification system from mandatory to voluntary.
And because that fits our philosophy exactly, that was a fun thing to do. And we've basically turned it around and we're very proud of that. The national identification system, or NAIS, as you've heard over the past, is now on board. It is operating. It is there. The conveyor belts are running. The screens are shining. The nomenclature is working. And the premises are being registered. RFID tags are going in the ears. And we have wands and ear tags and equipment that is technology neutral. So that 14 tags can be read by seven devices crossing at any place any time. The problem we're having is that the devices cannot read to the speed of commerce. And so we still have a lot to do. We knew that. And if we needed fifty million tags tomorrow, the industry could not provide it. We didn’t know that.

We thought industry - because a lot of you in this room probably have pet chips in. Some of you folks if you are a horseman, may have a horse chip in as a way to identify your animal should they wander off, be stolen, or whatever. It's a phenomenal thing for the food industry. The NAIS is voluntary. When we came in, Secretary Johan said okay, we've - we have learned a lot
about BSE now. I don’t believe in a – that this is the right time for a mandatory identification system. I want you to put the system together, make all three legs of the milk stool work, premise registration, animal identification, and animal tracing in case of a disaster, and have it ready so that when the producer wants it – if the producer wants it, and when a particular producer wants it--

[END MZ005008]

[START MZ005009]

MR. MARK BRADLEY: --it's ready, it's up and going, and it's operational. We're there, 15 months later. We're very proud of that. We're also very proud that it is a voluntary program. The reason I'm bringing it up here is that you're not obligated to register your premise; you're not obligated to put a RFID device in the ear; you're not-- or any other tag; you're not obligated to have you animal traced. But for some of you in the animal organic industry, it's probably one of the best management tools that you could ever imagine. From the start, we said, "If we're going to do this, it's going to be a management system that we can layer and tier." Yes, bottom line, we are going to have this program to hopefully
prevent animal disasters, from disease introduction. And once we get it, we can find people and animals, and not only find the diseased animals, but protect those around them. We'll--our job is to protect people and animals and lives and economies and businesses and farms. And so, if we can do that, we've accomplished our purpose. So, we're not just tracing diseases, we're trying to find people to protect. In other words, we want to put that border around that disease and notify everybody here, and know what animals are there, so we can protect these animals, while we're getting control of this disease outbreak over here. Now, layered on top of that, what happens when you have an export certification program? You got your NAIS program here, you had your export certification here. Grass fed, certified on top of here. One device, one program, one system. Organic, lay it here. It's there if you want it. How do you prove to me that you haven't brought in extra cows into your organic dairy and called non-organic milk organic milk? I can prove it to you with my management system. We don't tag those cows yesterday, we tagged those cows last year. We have a running record of those cows. We can show you where the
milk came from, calves, pigs, chickens, because we can-- Chickens you don't, their ear's not big enough. [laughter] We can lot identify a chicken house if you want. So, anyway, what I'm saying is, my message to you this morning, the main reason that the Undersecretary wanted me to come over was to say that we have something that we think is one more management step that, if you like, and if you're ready, Barbara's folks will recognize it, and they'll recognize it darn quick, because a RFID tag trail is a lot easier, faster and easier to prove than a paper trail. I see the certifiers over here. Hey, I'm looking for them to go out with a wand here one of these days. If you're, I mean, you know, maybe some day we'll figure out how to identify that lettuce and those tomatoes and everything else. Well, as you know, commercial industry already, the grocery industry already, many other industries already, are chipping the shipping containers. You know, it's hard to do an individual head of lettuce, but you can sure do the shipping container. I'm not suggesting that, I'm saying that boy, we're in a time where there's wonderful, wonderful opportunities, with technology, programs. The good thing about it is, it's not required, it's
voluntary, it fits into the free-market system.
2 And I love it. One thing I want to-- I'd like to
3 have as you, madam chairman, as you get finished
4 with your meeting, I see you have somewhere here
5 on my agenda, some reports for the Animal Health
6 and Welfare Research, then you've got a Global
7 Animal Welfare Initiative. I'd like to have those
8 reports, I'd love to, if you'd share those. I had
9 to chuckle, coming from a livestock basic
10 background, I always have to chuckle, animal
11 welfare this and animal welfare that -- we grew up
12 caring for animals on my farm, all animals were on
13 welfare [laughter] and I just have to throw this
14 out, I wonder why we don't call it animal care,
15 rather than welfare. Thank you for having me
16 here.
17
18 [applause]
19 MS. ANDREA CAROE: Well, thank you very
20 much for taking the time from your busy schedule
21 to address this group. We always appreciate
22 hearing from the USDA on the bigger picture as we
23 focus in on the details of our work. And this is
24 exciting and we look forward to seeing this
25 develop, it sounds like there's all kinds of
26 wonderful things on the horizon. At this point,
27 I'd like to recognize Barbara Robinson again,
there is a little bit more of the NOP report so,
Barbara, if you can come to the podium and give us
more information.

MS. BARBARA ROBINSON: Barbara Robinson,
Transportation and Marketing Programs. When I was
talking to you about the docket update, I forgot
to give you a progress report on pasture, and you
didn't ask me, I'm surprised.

[audience comments, laughter, inaudible]

MR. ROBINSON: I just am shocked, you let
me get away. Yeah. So, nothing to report. No,
just kidding. [laughter] Here's we are on
pasture: we have made significant progress on the
pasture rulemaking. As you know, in rulemaking,
there's two components to any rule. There is the
actual regulation, the regulatory language itself,
and then when we would publish a proposed
rulemaking, there's something called, what I call
the ancillary kind of documents, the regulatory
impact analysis, the reg flex analysis, the
paperwork reduction act, paperwork burden, and an
executive order, that we have to also address at
the end of the actual regulation. We have
clearance on the pasture rule, with our attorneys.
We have gotten them satisfied on the actual
language of the regulation. And what, all we're
working out now, is the-- those ancillary
documents. Kind of the impact on small producers,
sort of the cost benefit analysis of this, and the
paperwork burden, and I'm very optimistic that
we're going to get this done shortly. And once we
get that done, it will move out of the department,
and we'll have to get it over to OMB, Office of
Management and Budget. Now that'll be a tough
sell. But I think what I'm going to try to do is
actually make, rather than just, you know, the
normal course of events is you just, you send a
rule. And the-- and it goes over there. Every
rule that we do in this program, except for
materials, OMB has told me, "You might as well
consider it to be a significant rule." That adds
additional review time, that means OMB gets 60
days to review it. That actually means Congress
gets time at the end to review a rule. So I think
what I'm going to do, because this is so
significant, is I think I'm going to actually try
to make an appointment, and go over there and
brief them on it, sit down with 'em and talk to
'em about it, and see if that wouldn't help. I'm
not saying it'll help speed it up, but if I can
sit down and walk 'em through it, and explain to
'em what we're doing, then maybe that will help.
So that's-- all I'm trying to do is tell you where we are, but I am very hopeful about this. And we have made significant progress on it. So, that was all I wanted to tell you.

MS. CAROE: Is there any questions for Barbara on this?

MS. ROBINSON: You have questions?

AUDIENCE: How about the origin of livestock, Barbara, do you have anything to report on that?

MS. ROBINSON: That's being worked on, too, Kevin. It's just that I made pasture-- I have one person, and I've said, "Your only job is rulemaking. Materials dockets, pasture, and origin of livestock, and that is also being, it's drafted, but I keep manipulating this person around and saying, "Go back to pasture, go back to this, go back to that," so-- But it is being worked on, yes. It'll come right after pasture.

MS. CAROE: Any other questions for the program? Thank you, Barbara. Okay, so it is now 6:30, 9:30. So, we will start the public comment, and first up is Urvashi Rangen [phonetic].

Urvashi, are you here?

MS. URVASHI RANGEN: Yep.

MS. CAROE: Great. And on deck is Carrie
Brownstein. I'm going to go ahead while Urvashi is coming up. We're having still a little bit of technical difficulties with the microphone. But while Urvashi's coming up, I'm going to read from the board policy manual, the rules of engagement, as it is, for public comment. The manual reads, "NOSB policy for public comment at NOSB meetings. One, all persons wishing to comment at NOSB meetings during public comment period, must sign up in advance. Two, persons will be called upon to speak in the order in which they signed up. Now, there's a slight altercation here--alteration here, because we have tried to group the aquaculture comments in the first part of this meeting, to be consistent with the workflow, since we are just coming off our aquaculture symposium. Three, unless otherwise indicated by the chair, each person will be given five minutes to speak. The only change that we would have to this is we do have some presentations that are being made by public today, which were put on the agenda in advance, and also if we go into the wee early hours of the morning, we're going to cut back comment, not that the board will be hearing much at that hour, but we've done some pretty long ones in the past where we've had to cut back. I don't
expect that to happen. Four, persons must give
their name and affiliation for the record, and
again I just, will remind you periodically that
the court recorder needs to have the name and the
affiliation. Five, a person may submit a written
proxy to an NOS-- NOP or NOSB requesting that
another person speak on his or her behalf, and
that's just one proxy. Six, no person will be
allowed to speak during the public comment period
for more than ten minutes. And seven, individuals
providing public comment, will refrain from
personal attacks, and from remarks that otherwise
impugn the character of any individual. We will
gavel down any comments that are of this nature.
There's not need from it, this is not
constructive, and this board won't hear 'em. So,
with that, Urvashi.

MS. RANGEN: Hi.

MS. VALERIE FRANCES: One more logistical
thing. When you're on deck, when you're called up
on deck, and you have written comments, can you
come over and see me, or if you've already loaded
up PowerPoint, come and see me before you're up,
so we can gear things for that direction, and I
can help pass out the comments. Alright? Thanks.

MS. CAROE: One other thing, B. James
[phonetic] will hang up the one minute left sign. It's one minute left whether you saw it or not, so don't ignore her, 'cause we're going to, you know, one minute and then as your time comes up, you know, you can finish your sentence and quickly your thought, but it won't go very much further than that. Catherine?

CATHERINE: [inaudible]

MS. CAROE: Okay, so until lunchtime, we're going to have to grin and bear it with a little bit of squeak in the microphone system.

CATHERINE: Maybe you could use someone else's mic [inaudible]

MS. CAROE: Is it just mine? Is it just- - is it my squeaky voice? Okay, alright so, Urvashi.

MS. RANGEN: Good morning. Thank you. My name's Urvashi Rangen, I am a senior scientist and policy analyst and consumer's union. We're a non-profit publisher of Consumer Reports Magazine. I'm a toxicologist by training, I have a doctorate in toxicology. And thanks for holding the aquaculture symposium yesterday. I think many of us who were found it, on the most part, informative and helpful and I'd like to spend some time today talking a little bit about consumer
expectations of aquaculture and taking into account what we did hear yesterday, providing a little bit of guidance for the Board in terms of what we think needs to be done with the aquaculture standards. What's very clear is you're not dealing with one animal, you're dealing with multiple species, and so it's not just one type of chicken or a cow, it's actually multiple types. And so a one-size-fits-all standard is going to be very difficult. And while we certainly appreciate the fact that you need to come up with something that is a bar, that everything needs to meet, we think that bar needs to be very high, and it needs to be compatible with what's already organic. A lot of people who are here, talking about aquaculture, are somewhat new to the organic community, and I think for those of us who've been a part of this community for a long time, there needs to be a little bit of historical recollection and comparisons to what is compatible with organic? What have consumers come to expect and what are they willing to pay more for? Yesterday's aquaculture symposium really highlighted the fact that there are more questions than answers concerning the environmental impacts of fish farmed in open net systems, including how
to adequately monitor and control the detrimental effects of things like disease and contamination spread to the wild, from these open net systems. Most of the researchers we heard from also agree that lowering the amount of wild caught fishmeal is definitely a goal of all of their research, and frankly it should be a main goal, and so for now, we think that the coveted organic label should really be reserved for those species that can in fact meet the higher standard, where more research needs to be done, it needs to be done, whether it's on alternative protein sources, or on stemming the environmental pollution, but the National Organic Program is not an experiment, and it's not a charity effort for consumers to support different experimental procedures, it's actually a marketing program designed to label products that give consumers assurances that certain tenets have been met. When consumers vote with their dollars in the marketplace to buy these products, they're buying them because they're meaningful to them at the time that they're paying the premium for them. In this case, it means according to our survey from July 2007, that the organic fish that they buy is free or low in contaminants, and is also, does not cause environmental pollution problems --
[laughs] And this thing has bugged out on me.

Hold on just one second, please -- and is also free or low in contaminants. Where those tenets are met, that's where we think those products should be eligible for organic certification at this time. Where they can't be met, it's simply not appropriate for it to be eligible for organic certification. We think these high expectations need to be maintained. We didn't hear about contaminant problems yesterday, with wild fishmeal, but that happens to be a major concern for consumers. Having more choice on the market is one thing, and that came up yesterday, but as a mother and someone who has children, I'm looking for meaningful choices to make. 90 percent of consumers want to have clean fish, and that's really part of the equation when it comes to their willingness to buy organic fish. I also want to remind this board that a lot of the problems voiced by those who want to cash in on this industry yesterday, have to do with commercial availability, feed is too expensive, I've brought 17 news articles about a chicken producer in 2002 who wanted to gut the standard to lower the 100 percent organic feed requirement for livestock. There was huge public outcry and groups like us,
Organic Grade Association, even the Secretary of the USDA, had to come out and speak against it, that it did not meet the expectations, nor the high standard of the Organic Food Production Act. That 100 percent organic feed requirement is central and integral to what we all expect from organic, and we really urge you to maintain that standard. Allow the species that can be labeled as organic to meet that, like shrimp and tilapia, and continue the research for other species, and allow those to go as they can meet the high standard.

MS. CAROE: Thank you, Urvashi.

MS. RANGEN: Thanks.

MS. CAROE: Do we have any questions for- - ? Tina? I mean Tracy.

TRACY: Thank you, Urvashi. Yesterday, one of the speakers brought up a general aversion that the American public seems to have around farmed fish, in general. And I wondered if your group, or if you've heard of any research that has studied how organic farmed fish might be perceived, and whether the concept of organic and farmed fish are themselves compatible in the minds of organic consumers, at this point.

MS. RANGEN: Yeah, that did come up, and I
think that consumers do have, perhaps, a skewed notion that farm raised fish is less than wild caught. We're constantly trying to remind consumers that tuna, which is often wild caught, can contain very high levels of mercury, and so it isn't just a cut and dry situation. Farm raised organic fish, and I caution that, but where we feel it meets those high standards, let's say in the case of shrimp, certainly can offer consumers a much more valid choice in the marketplace. 70 percent of our shrimp is imported. We've had a number of problems this year with major contamination problems from China, including antibiotic drugs, banned fungicides. So having systems that do have a kind of oversight that we can provide, that do meet the high organic standard, can in fact provide consumers with meaningful farm raised choices in the marketplace, but I would caution again that if we start to slip those standards below what other organic livestock and other organic food have come to mean for consumers, that's a very dangerous marketing effort that could in fact backfire, and that's what we saw in 2002.

MS. CAROE: Joe?

MR. JOSEPH SMILLIE: Urvashi, your points
are well taken, and I agree yesterday that we
didn't get into the contaminant issue. But-- and
we will have to, and we'll have to look at that,
as we talk more and more about the alternate feeds
and all that. But my point is that once again,
organic is a process, and that we all live on a
polluted planet, and the people who made this
regulation and made the law were very cognizant of
that, and organic is not a contaminant free claim.
We all realize that organic is part of the
solution to this contamination, but we can't
promote organic as contaminant free.

MS. RANGEN: Joe, I would agree, and I
always cringe when I hear that organic is
pesticide free out in the media, so it's certainly
not my goal to convey that point; however,
fishmeal in particular has a problem with
contamination, and when you condense fishmeal,
those contaminants condense right along with it.
And if you look at the studies that are out there,
that concentrated contamination cascades down
through the chain, and you basically concentrate
that down through the chain. So contamination in
this case, with aquaculture, is particularly
egregious, and to not deal with that in any way
would really be problematic for the program.
MS. CAROE: Is there any other questions for Urvashi? Bea.

MS. BEA JAMES: You mentioned that you thought that the goal would be to get away from 100 percent fishmeal feed, so that leaves some of the alternatives, obviously, which would be soy, heard a lot about soy meal yesterday, possibly wheat gluten, corn. How do you think consumers would react to, you know, there's this pervasive amount of those particular ingredients out on the market, and you know, for those of us who have read "The Omnivore's Dilemma," there's concerns around just having too much of those ingredients, a lot of food allergies coming up. And I'm just curious if you have any information on how you think consumers would respond to taking away the natural diet and replacing it with that?

MS. RANGEN: Bea, that's a great question, and I think, you know, as we talk about farm raised fish, and protein from yeast being fed, or poultry byproducts, we do start to move away from what consumers think of as a natural productions system. That said, it is important to convey to consumers that organic is a production system, and controlling that production is very important, including the inputs and the outputs of
that system. Just to clarify, our issue is specifically with the wild fishmeal, and we think if you could produce certified, organic fishmeal, sure why not? And I think that they may be, while some species could be allowed at this point, you could start that chain in terms of creating that kind of commercial availability for organic feed, and certified organic fishmeal, that would be a very different scenario than allowing the wild fishmeal. It's that wild fishmeal that, at this point, ahs the contamination problems and issues.

MS. CAROE: Any other questions? Thank you, Urvashi.

MS. RANGEN: Thank you.

MS. CAROE: Okay, up now is Carrie Brownstein. Carrie? On deck, Corey Peet. Corey, are you here? We don't have Corey in the room. Okay, Jim Pearce, you're after Corey. Jim. Thank you.

MS. CARRIE BROWNSTEIN: Okay. Good morning, my name is Carrie Brownstein, and I work with Whole Foods Market. I'm the seafood standards coordinator. Okay, thank-- better? Okay. Did everybody hear me so far, though?
Okay. I'm going-- my written comments are being passed out, and I'm going to read them allowed so
that everybody can hear. Whole Foods Market appreciates the NOSB for creating a forum to carefully examine the issues of fishmeal and fish oil use in feed, and open net pen aquaculture production systems. Defining organic for feed in net pens is undoubtedly a major challenge, because there are no exact right answers. But at the same time, there's a lot at stake. Most importantly, we need to ensure that organic aquaculture does not become one additional contributor to the degradation of marine and coastal ecosystems. Instead, it should serve as a model for sustainable food production that fosters a sense of trust for organic consumers. While the aquaculture industry grows worldwide, many countries, including the U.S., are lacking basic rules and regulations to govern aquaculture production. Or in some cases, regulations are not enforced. Consequently, farm seafood sold in the marketplace can be associated with toxic chemical use, water pollution and other issues, such as poor animal welfare, that are of concern to organic consumers. In addition, there are already several organic labeling schemes under which species raised in net pens, and fed fishmeal and oil, are eligible. However, some of the European
organic aquaculture standards are not strong enough to meet the American idea of organic. For example, some of the European standards allow the use of antibiotics and parasiticides, or do not adequately limit the amount of fishmeal and oil that can be sourced from reduction fisheries. For this reason, and because we do not want to confuse our customers with multiple organic labels, to date Whole Foods Markets has refused to label any seafood as organic, until there are standards in place in the United States. To meet the expectations of seafood customers at Whole Foods Market, many of whom seek seafood that is raised according to organic principles, at least conceptually, Whole Foods Market fills this gap by developing our own set of internal buying guidelines, that not only prohibit the use of antibiotics and synthetic chemicals, such as pesticides and parasiticides, but also limit use of fishmeal and fish oil, and the impacts of net pen systems. In developing rigorous standards for feed, we aim to keep more small pelagic fish in the ocean, where they play a key role in marine food rubs [phonetic]. And with our standards for net pen systems, we're working to reduce the risk of escapes and disease transfer, as well as
minimize benthic impacts. Overall, we hope our standards will raise the bar among aquaculture producers. Yet, as the organic market continues to grow overall, and consumers become increasingly more informed about the issues associated with aquaculture production. The demand for organically raised seafood, including carnivorous species raised in net pens, will increase. Therefore, it behooves us to create strong standards here in the U.S., so that we do not run the risk of becoming inundated with seafood products labeled as organic under foreign standards that do not meet our expectations. We have an opportunity in the U.S. to set the bar where we want it. Whole Foods Market suggests that the NOSB develop rigorous standards for net pens and fish meal and fish oil use in feed, and not exclude their use from being eligible for organic seafood production. We believe that the organic label offers the greatest incentive for an improved industry. Whole Foods Market suggests that the NOSB establish specific performance metrics for feed and net pen production systems. At Whole Foods Market, our quality standards for farmed salmon, for example, set specific limits on use of fishmeal and fish oil, using a maximum fish
in/fish out ratio to reduce pressure on wild fish populations, and limit reliance on reduction fisheries. We encourage use of byproducts of fish processing, which do not need to be counted in this ratio. We also encourage producers and feed manufacturers to explore other innovative methods for lowering the amount of fishmeal and fish oil in feed ingredients, such as algae based products as a source of essential fatty acids, to reduce the amount of fish oil used. At this time, we do not allow byproducts of avian and mammalian species in feed. To address the impacts of net pens on marine ecosystems, our approach for farmed salmon has included, but is not limited to the following: prohibition on anti-fouling agents, such as copper based paints and copper treated nets; prohibition on parasiticides; required nutrient management plan; minimum redox potential levels for sediments in the benthos; required containment management system outlining protocols for preventing escapes; reporting requirements for escapes; requirement to develop a marking system to allow escaped fish to be traced back to producers; an accuracy level of 99 percent for counting fish stocked and harvested, to attain improved tracking of escapes; and a prohibition on
lethal methods of predator control. The proposal submitted to the NOSB by George Leonard and Corey Peet of the Monterey Bay Aquarium, presents a solid effort to establish specific performance metrics for organic net pen aquaculture. We would like to express our support for such an approach; however, there are a few areas in their proposal that we believe require further analysis. The risk of escaped fish to wild stocks: the current direction--

**MS. CAROE:** Okay, I'm sorry, Carrie, your time has expired.

**MS. BROWNSTEIN:** Okay, sure.

**MS. CAROE:** Is there any questions for Carrie? We do have your entire written comment--

**MS. BROWNSTEIN:** Yeah, you can read those last comments on the--

**MS. CAROE:** Thank you. Any further questions? Joe?

**MR. SMILLIE:** Are you internal guidelines published? Are they public?

**MS. BROWNSTEIN:** Not yet.

**MR. SMILLIE:** Not yet?

**MS. BROWNSTEIN:** Not yet.

**MR. SMILLIE:** Do you anticipate making those public, as a contribution to our work on
creating a standard?

MS. BROWNSTEIN: We haven't published them yet to the public, so I guess we would need to discuss what the options are.

MS. CAROE: Would it be possible that our livestock committee, as they're working on their recommendation, contact you as another source of information on these topics.

MS. BROWNSTEIN: Absolutely, mm-hm.

MS. CAROE: So, perhaps if you can make sure that Hugh Karreman has your contact information.

MS. BROWNSTEIN: Sure.

MS. CAROE: I think that might be a good resource for us to use.

MS. BROWNSTEIN: Sure.

MS. CAROE: If you're-- can oblige.

Okay, thank you so much.

MS. BROWNSTEIN: Sure.

MS. CAROE: One more call for Corey Peet, are you in the room? No? Okay, so Jim Pierce you're up, and then on deck is Joe Mendelson, Joe are you in the room? [unintelligible]

MR. JIM PIERCE: Corey was here yesterday, you might call his name again later, I don't know. I have submitted one set of comments
for the record, but I'm not going to pass out comments to you, so listen carefully. Hello, my name is Jim Pierce. The following comments are on behalf of the Wisconsin Aquaculture Association. In another life, a simpler, quieter, dreamier, Jeffersonian life, I raised rainbow trout in southwest Wisconsin. I also have the privilege as well of being a board director, figuratively and often literally on the Wisconsin Aquaculture association, a member organization of primarily trout, walleyed perch, and sunfish producers, piscivores as Brad Hicks referred to them yesterday. Last March I stood here on behalf of this organization and expressed concern that by delaying rules on fishmeal and net pens, you are effectively leaving us on the deck, as the SS Organic Aquaculture pulled out for federal register ports of call. Today, eight months later, my first comment to you is, "Good job, well done." You're not ignoring these black sheep issues but are facing them head on, calling on experts and authorities from around the globe for science, anecdote and opinion. It's truly encouraging to see you wrestle with these issues in order to establish organic aquaculture
standards that will benefit those of who raise piscivorous species. As the facts continue to accumulate, it's amusing and amazing to see how the possibility, the perspective, the reality of organic fish farming begins to align and resemble organic terrestrial farming. Sea lice, avian influenza, tide water, rainwater, net pens, feed lots -- in ever case there are levels of control, the best and worst practices, and in every case there are farmer who will eagerly push the envelope of better practices in order to capture a market niche and the corresponding reward. Not a square peg in a round hole, Urvashi, more like a lost sheep coming into the fold. To the meat, or filet of the matter now, as the case may be. Joel Solitan [phonetic], grass based, sustainable livestock guru, is well known for rejecting prescriptive rules in favor of goal performance based standards; "Show me the finish line" is his mantra. It is a mantra that I hope you respect and repeat ad nauseum as you move forward. As you digest all the information and transform it into organic aquaculture standards, please be aware that there can be a small step indeed between a high bar and an insurmountable barrier. The proposed performance metrics for net pen standards
look to me like standards on paper that are commercially unattainable in practice. Native fish-- Only native fish of local genotype, decertification of treated or clinically diseased animals, and the prohibition of fishmeal and terrestrial livestock byproducts, sounds like a poison pill that will effectively establish organic standards, but will also effectively prevent the development of organic aquaculture. Not a finished lane, so much as a high tensile razor wire. The upside to a high bar is obvious: environmentally sustainable practices that meet consumer expectations and bolster organic integrity. The downside is perhaps more opaque. If the finish line is at the end of such an overwhelming course as to deter participation, then the environment and the consumer are left without the choice, and therefore the chance to influence fish farmers into better practices. If net pen aquaculture is jettisoned from organic aquaculture, as many mari-culture McCarthyists would prefer, or if organic standards are set so high that Cona Blue Neil Sims [phonetic], the very poster child of sustainable net pen aquaculture can't clear it, then a serious disservice to both the organic producers and consumers has been
committed. Kudos again to the aquaculture working group on the development of bivalve mollusk supplement; not a directly critical document to the Wisconsin aquaculturists, but certainly important as precedent. These proposed standards strike a very good balance of subjective and prescription regulation. It's obvious that the authors have identified the shortcomings of existing organic livestock regulations, and are attempting to draw clear bright lines. When I read this document, I found myself smiling and noting in the margins that they have taken organic livestock standards writing from haiku to Tolstoy. In closing, let me reiterate our collective appreciation in your steadfast dedication, your impressive pragmatic approach in the development of organic aquaculture standards, including the cultured bivalves, prudent use of net pens -- and most importantly for the Wisconsin contingent, the use of fishmeal as feed. We encourage you to keep the finish line in sight, keep in mind that all farming, including organic farming, has inherent risks and economic impact, environmental impact, to exclude certain production models, especially models with the most potential for improvement, is counterproductive, and will, as Katrina Hyde so
eloquently stated yesterday, "preclude environmentally minded consumers from using their purchasing dollars to drive industry behavior."

Thank you.

MS. CAROE: Thank you, Jim. Is there questions for Jim? Hugh?

MR. HUBERT KARREMAN: Just one comment. Thank you, Jim, that was excellent.

MR. PIERCE: But you don't want to hear about the one point that I really wanted to put in but couldn't fit in five minutes? Alright. Thank you.

MS. CAROE: Thank you, Jim. Another question? Okay. So, next up, Joe Mendelson. Is Corey Peet-- last call for Corey Peet, are you here? Okay, on deck, Patty Lovera, I hope I pronounced that correctly. Are you here, Patty? You're on deck.

MR. JOE MENDELSON: Good morning, my name's Joe Mendelson, I'm the legal director of the Center for Food Safety, we're a non-profit consumer and environmental organization. I want to thank you all for your continued hard work, as always. It's very difficult to follow Jim's flair, but I'll give it a try. And also, I don't want to be too redundant, so I may be quick. But
I think anybody who was at the aquaculture symposium yesterday, which was excellent, and we thank you for, there was a certain tenor that suggested, and I think as Tracy brought up, that there is a negative stigma attached to fish farming. And that may or may not be true, but the role of the board and the program is not to solve the marketing issues for the aquaculture industry. And I think it's important to remember that within this debate, it's not a debate over whether fish farming is occurring, it's not a debate on whether someone like Mr. Sims is doing a better job than others, at doing that; he very well may be. He may in fact be able to market it in a different way, but the question remains is whether it is organic. And so, I just ask, and our organization asks, that the board keep that perspective in mind, and focus on the question of whether the standards that are being developed are consistent with the goals of organic. As I think you all know, through a number of letters and comments that we have submitted to the board, and more recently, comment that included 44 organizations that span the globe from environmental organizations, to producers, to consumer organizations, to animal welfare organizations, we
do not feel that the issues of open pen, net cage aquaculture, and fish, the use of fishmeal or fish oil, have been resolved, to be consistent with the environmental goals of organic. We-- you've heard the litany of issues around those escapes -- disease transmission, pollution from those systems -- I don't need to reiterate it, other than to say, we've submitted comments, you've received, I think, thousands of comments from consumers. Our expectation right now is that these two proposals, or the use of net pens and fishmeal or fish oil, do not meet consumer expectations, nor are they consistent with organic. There were a couple of issues that were not addressed yesterday, or got a full airing. One is, I think the very legality of the 12 percent/12 percent and a possible seven year phase out, as we know from the Harvey case, courts have looked, it's 100 percent organic feed is required for livestock -- fish are considered livestock under the act, they require 100 percent organic feed. Even if the board is supportive of the 12/12/7 year phase out, I'm not sure how you do it under the law. It's just inconsistent. I think you need to recognize that, and realize the limitations of how you dress it. You know, there may not be an easy issue there. And as far as the
phase out, I think organizations like ourselves are very concerned that a potential phase out doesn't become a phase out but becomes an entitlement. And we're on the, we're going to be on what, the second round or third round of methionine, 2008, it's a possible connection. So, like Urvashi's organization, we think you should go forward with what is possible now, and that is non-carnivorous, closed containment systems, and let's build it from there. Two other quick issues, on the grower group issue we certainly respect the board's efforts on that, we really think the recommendation or the discussion should be tabled and further, much more robust discussion. We think there are significant differences between growers and handlers and retailers dealing with staff and the amount of inputs and ingredients and things that go into different systems and I think it needs to be further discussed. On the commercial availability issue, I know you'll probably hear a lot from sea producers about some of the things. There's one thing in there, though, that we do support, and that is the guidance that recommends anybody who's taking advantage, or-- don't mean to use that with any connotation-- but using a commercial-- finding
something commercially unavailable, that they
should be proactive and come forward and say, you
know, this is what I am doing to support making
something available on organic form. I think
that's very important, that's consistent with the
spirit of the program. And lastly, I'd be remiss
if not saying that the program should get the
pasture rule out with due speed. Thanks very
much.

MS. CAROE: Alright, thank you, Joe. Any
questions for Joe? Comments? Alright, well I
have a couple, real quick. First, on the 12/12,
you're absolutely right, there will be some
challenges from the regulatory aspects of that,
that we would need to explore. We appreciate
that, there is a lot of logistical challenges with
many issues related to the agriculture organic.
Well, okay. My other option is feedback [laughs]
so-- So, I appreciate that, and this board will
have to work through those issues, and I'm glad
you understand that they're there, because you'll
understand and appreciate the work we're doing.
The second is regard to the phase out. Yes, we
have had the issue with methionine, and it'll be
very interesting to see what this board does as it
comes up again. However, I will point you to the
fact that we did use a phase out for 100 percent
Chilean nitrate allowance in spirulina, and this
board stood with that phase out and did not allow
its continuation. So we do have precedents for
holding our ground, as well. You know, input, we
expect input from the public, we appreciate your
input, but I did want to just kind of point out
that it wasn't a complete a rollover and that
entitlement would exist. We don't consider it so,
okay? Thank you so much, Joe.

MR. MENDELSON: Thank you.

MS. CAROE: Any other-- Dan?

DAN: Yeah, I have a question. Have you
ever looked, or you've gotten any input from the
consumer, on the carryover in their minds, for
instance, if methionine goes off the list, and
spirulina's the example we have, methionine goes
off the list and we lose a significant part of our
poultry, organic poultry market, what is the
carryover. I understand the implications to the
poultry producers. What's the carryover into the
fruit and vegetable shelf, as far as the
consumer's perception of organic and their
confidence in buying? Have you ever looked at any
of that?

MR. MENDELSON: Yeah, well, let me just
see if I have your question right. I mean, as far as if consumers, for instance, could not purchase organic chicken, will that affect their impact on other products?

DAN: Yeah, it's like, yeah, it's, you know, this is organic yesterday, it's not today. Well, what else is because of--

MR. MENDELSON: Yeah, you know, I don't think anybody's looked at that "taking away" a certain segment of product. I will say to the amount, with the pasture issue and the milk issue, we did do some research in surveying, and found that milk was essentially a gateway product. So, if there are controversies over the integrity of that product, you know, you could be affecting consumers first brush with organic. Oh, I'm sorry, do you want me to repeat that, or is it--Okay. The-- but I think with something like chicken, for example, it's not-- tends, the research I've seen tends that's not the first gateway product. But the short answer is I don't think we've, anybody, any survey that I've seen, suggest that, you know, if you, one product's here now and goes away, it's a problem. I will say on the fish issue, you know, we do have a complaint into the program about imported product, and I
think that's a concern for us, as far as what that means to consumers who are seeing an organic claim, but don't have a standard to back it up here in the United States. Now, I think that's also, frankly, discriminatory towards domestic producers, and their ability, too. So hopefully we can have that issue resolved. I would point out one thing, someone asked to Urvashi about the consumer surveys, I think Tracy may have on aquaculture. The ones that I've seen, the New Jersey Department of Agriculture survey, that I think there was a poster on yesterday, is the one that I've seen that's really investigates the issue, at length. I don't know of any others.

MS. CAROE: Thank you, Joe. Any other questions? Thank you, Joe.

MR. MENDELSON: Thanks.

MS. CAROE: Next up is Patty Lovera and I understand, Corey Peet, you're in the room?

MR. COREY PEET: Yes.

MS. CAROE: Corey, you'll be up next.

MR. PEET: Okay.

MR. PATTY LOVERA: Hi, my name's Patty Lovera, I'm the assistant director of Food and Water Watch, which is a non-profit consumer advocacy group based here in D.C. We're about two
years old, and many of us used to work together at Public Citizen, which is a larger consumer group that a lot of people know. We are here, and we're concerned, about the aquaculture issue, 'cause we have a long history of working on food issue and general food safety and labeling and quality, and that leads us very often to recommend that something consumers can do to deal with a lot of these concerns is to buy organic, so we're very, always very concerned about the integrity of the organic standard, and that what we're recommending to people because it is certified, and it is backed up by these standards that are enforced, that those mean what people think they mean, and the continue to have confidence in that, and we continue to have confidence in making that recommendation. Specifically on aquaculture, we have a lot of concerns about large scale aquaculture, especially open ocean aquaculture. And so therefore, any push to set up a standard to let some of those products be labeled organic is of concern to us, and very specifically the carnivorous fin fish in the open net pens. And so we heard a lot about it yesterday. We agree with Urvashi and Joe, we just heard a lot of their concerns, so I'll try to be really quick. But the
basic point that I have to make is that consumer
expectations of what organic is, and what the
organic seal offers them, is not compatible with
wild fish as feed and open net pens. And we think
that that, the board should readdress those issues
again before you come out with a standard. Really
quickly, consumers are starting, especially
organic consumers, are really starting to
understand that what you feed animals matters.
And for what we hear, from our members and people
that contact us, that's an issue that brings
people to organic livestock -- mad cow disease --
people started to understand that it matters what
you feed animals -- antibiotics, hormones, all of
those things are bringing people into organic, so
we think the wild fish feed and the inability to
guarantee that that fish in those systems under
this proposed rule might be fed 100 percent
organic feed, that's a deal breaker for us. We
think that you have maintain that standard that
it's all organic feed, and not allowing this 24
percent of the diet to possibly be wild feed. The
other issue that brings people to organic is
environmental impact, and we heard a lot
yesterday, I won't get into all of the issues of
disease and waste and escapes and biodiversity
impacts, but we think all of those concerns about open net pen aquaculture are another deal breaker for consumers when it comes to their expectation of what an organic seal means. So, and just to reiterate another point that other folks have brought up, kind of theme and the tone yesterday that there's some obligation for the standard to meet the current practice is really troubling to us as well, especially when you're talking about consumer confidence in all of organic. And you know, the organic seal is not an entitlement, and we're not grading on a curve. It needs to be set, a bar needs to be set that's going to meet the principles of organic and consumer expectations, and the industry has to come to meet them. We're sympathetic to the wish, you know, this aspirational goal that we can help drive industry practice by setting a good standard, but that's not what people are shopping for at the supermarket that day, they're buying food to put on the dinner that night, with a seal on it that says, "This food was raised in this way," not in seven years after a phase out it'll be raised in this way. So we think it's really important that the standard be set firmly now, and that the industry come to meet it, not the other way
around. We support what Joe was saying about imports, we think that's a really important issue that the agency has to deal with now, which are organic products coming in from countries that don't have a standard, we think that's a huge issue for consumer confidence. And so just to wrap up, I think the integrity of organic standards really depend on really solid standards being written, and when it comes to aquaculture, that means no wild fishmeal and no open net pens, and we'll just reiterate what other folks have said about pasture, when it comes to consumer confidence and their feelings about the integrity of the rule, we have to deal with the pasture issue yesterday. Thanks.

MS. CAROE: Thank you, Patty. Are there questions for Patty. Hugh and then Rigo.

MR. KARREMAN: I'm just wondering, I don't think you can answer this, just kind of rhetorical maybe, but as far as having a 100 percent feed for organic livestock, I always wonder how that's reconciled with the other products that are on the shelves that's, to get the certified label, since you're a consumer group. That can be down to 95 percent organic ingredients. I'm just wondering how that's
reconciled, that livestock has to be 100 percent, but products on the shelf can be 95, and carry the seal.

MS. LOVERA: I think that's one of the issues when people start to do more investigating, when consumers start to really look into what they're doing, that's one of the questions we get asked, is what about these percentages. I mean, they want it to go as far as it can go, and so that's an ongoing [unintelligible] issue I think for consumers.

MR. KARREMAN: And I realize the Harvey case has really hammered that home, but maybe that 12/12, you know, and seven years type phase in or phase out or whatever, or maybe as George Leonard put yesterday, you know, kind of proscribed step down, year per year, not just at the end of seven years, maybe somehow, I don't know, regulatory wise, that can be worked in with the other parts of the certified shelf products that are out there, that are 95 percent. Maybe some board can remember when we deliberate on that.

MS. CAROE: Rigo, did-- Rigo?

MR. RIGOBERTO I. DELGADO: Thank you. I have a question about open its pens. If we were to minimize the risks of pollution, escapes, or
whatever, and established standards, metrics, performance metrics, as was suggested yesterday, do you think that would be something that the public will accept? Or where is the cut off point, if you will?

MS. LOVERA: Where's the line? I mean, I think we don't yet.

MR. DELGADO: Bear in mind, a lot of the commentators yesterday pointed out that we'll have to deal with species specific standards, perhaps. So, I wonder what the public will think of it.

MS. LOVERA: I think the public is very confused about aquaculture. I mean, we have opinions on it, other groups yesterday had different opinions on it, but the consensus was that we don't know that much yet, so I don't know if we're able to come up with those performance standards, yet, without a lot more research. So, you know, I think consumers will be very confused if it's a performance based standard, when we don't know enough to know what the best performance can be, if we're still figuring out, this industry is trying to figure out how to minimize those impacts.

MS. CAROE: Is there any other questions for Patty? Thank you.
MS. LOVERA: Thanks.

MS. CAROE: Oh, wait, hold, Kevin?

MR. KEVIN ENGELBERT: I'd also like your opinion on the point that Dan made to Joe, about the methionine issue, not to beat a dead chicken, but it's relevant to what--

MS. LOVERA: About the impact on other foods? Or--

MR. ENGELBERT: Yes, because it was sunsetted twice now, it's coming up again, and this issue with the fishmeal and fish oil, it plays into that, and what's your thoughts on the methionine issue, and what happens with that, and consumers' perception and trust of the organic label, if that sun sets.

MS. LOVERA: I mean, I have kind of the same response as Joe, which is we don't know, but I also worry about the risk of continuing to allow something that people might not be comfortable with, and as more and more people hear about that, does that undermine their integrity and everything because it's allowed to stay on the shelf as organic. There's a flipside to that.

MR. ENGELBERT: I have a question right now: do the organic consumers, sorry to bring up the methionine again, but do the organic consumers
have an issue with the organic eggs and poultry right now?

MS. LOVERA: Based on people buying it, probably not. [laughs] I think there's an awareness issue that's growing. I mean, I don't think it's a secret that there's a lot of people gunning for organic, and saying it's a rip-off, saying you know, you're not getting what you're paying for, and that's not going away. So I think, you know, allowing things like that, that are questionable when people come to know about them, sets you up to be attached in that way, and really undermine people's confidence in organic as a whole.

MS. CAROE: Any other questions? Thank you, Patty.

MS. LOVERA: Thanks.

MS. CAROE: Next up is Corey Peet, and after Corey I have Felipe Caballo, I believe. Felipe are you here? Okay, Becky Goldberg, Becky are you in the room? Becky's here.

FEMALE VOICE: There is a proxy for Felipe Caballo.

MS. CAROE: I don't have --

FEMALE VOICE: Alex Buschmann, should've been on there.
MS. CAROE: Oh, Alejandro Buschmann.

FEMALE VOICE: Ale-- yeah.

MS. CAROE: Alejandro, are you here?

Yes, you're up on deck.

MR. COREY PEET: Okay, good morning committee members, thank you for the opportunity to comment. I just wanted to start by pointing out that I spend five years studying the interactions between sea life salmon farms and juvenile salmon in British Columbia for my graduate research. And I'm currently the aquaculture research manager for the Sustainable Seafood Initiative at the Monterey Bay Aquarium. For the last six years, the Sustainable Seafood Initiative has been working to foster consumer and business awareness and action for sustainable seafood. We have previously submitted comments to this process, and I was a coauthor on the paper by George Leonard, presented yesterday at the symposium. I'd like to thank you for your careful attention to the development of organic aquaculture standards, and the lack of credible aquaculture certification option for producers in this situation, adds to the appeal of the organic label and the importance of this process. We are in support of organic aquaculture in systems where
inputs and outputs can be carefully controlled, and where ecological sustainability can be maintained. Today I'd like to comment on the use of fishmeal and fish oil, the difficult of a disease metric, and address the issue of scientific integrity. With regards to fishmeal and fish oil, we are in support of feed ingredients being 100 percent organic in aquaculture production, and for the elimination of fishmeal and fish oil from wild fisheries after a transition period. During the transition period, fishmeal and fish oil must come from sustainably managed fisheries byproducts and foraged fisheries; however, we believe that the entry point for organic certification must be a wild fish into farm fish out ratio of one to one. This is the starting point. We would also encourage the use of organic poultry byproducts, as an organic feed ingredient, to help producers comply with this ratio. On the disease metric we proposed yesterday, of no clinical signs of disease, no treatment other than approved treatment methods, and animal welfare maintained, I want to emphasize the difficulty of compliance with this metric, as it is only a theoretical possibility at this point, that will depend highly
on site selection. The nature of open net systems and disease interaction suggests that the only real way to stop disease amplification and transfer in open systems is basically separation of wild and farmed hosts. And I think the work by Neil Fraser on those posters over there is a testament to the difficulty that you will have in setting this metric. The transition period, therefore, that we propose in our paper of three years, is imperative to ensure the compliance and the process must be governed by data, if the integrity of the USDA organic label is to be maintained. Finally, I'd like to comment on the scientifically documented impacts of open net pen aquaculture, particularly salmon farms, by sharing a personal experience. During my experience as a graduate student in science in British Columbia, I was exposed to a significant amount of political interference affecting both my work and the work of my colleagues, one of which was Marty Krkosek, that you saw yesterday. And I would suggest that actions such as countering peer reviewed science in the public forum, with non-peer reviewed counter-hypotheses, threatens to erode the credibility of the scientific process in the public eye. And that the quality of the science
being conducted on these issues is solid. It's, you know, and this is-- the peer-review publication record can attest to this fact. It really is the qua--

MR. PEET: -lity of the interpretation of this research by some that must be questioned here. So, in closing, I would like to emphasize the importance of insuring that the aquaculture industry adapts its production practices to meet the principles of organic production, and not vice versa. It cannot be forgotten here that you may be trying to put a square peg into a round hole, and that while it's worth trying to see if you can find a way to make it fit, if it ultimately does not, that is an acceptable outcome, as integrity is more important than inclusiveness. I thank you for your work and diligence on this issue, and urge continued caution as you move forward.

Thanks.

MS. CAROE: Thank you, Corey. Do we have any questions for Corey? Hugh? It's you. Hugh.

MR. KARREMAN: Just wondering, I guess I'm a little confused by what was said yesterday, and you kind of reiterated it today, regarding, I
think a performance metric of no disease in the
net pens.

MR. PEET: Mm-hm.

MR. KARREMAN: You mean no disease.

MR. PEET: Well--

FEMALE VOICE: Can you speak into the
mic?

MR. KARREMAN: Are you-- you're being
very firm that there shall be no disease in net
pens if they're going to be organic. I think that
was a performance metric?

MR. PEET: Yeah, I mean basically if you
want to ensure that wild fish aren't going to be
impacted, that's what you have to get to. And if
you look at the work by Neil Fraser, it shows you
basically that in order to ensure that, you need
disease levels on farm fish that are orders of
magnitude smaller than those on wild fish, which
are already really small to begin with.

MR. KARREMAN: But in land-based
agriculture right now, with livestock, there's--
there can be disease in herds. Sometimes that can
be transmitted, I guess, to wild animals, but
actually the reverse is usually more the case,
like wild deer with tuberculosis transmitting it
to actually farmed animals in Michigan and certain
parts. So, I just, I have a problem with a kind
of blanket statement that disease, you know, shall
not be tolerated on farms, it's just, it happens.

MR. PEET: Right.

MR. KARREMAN: And I think it's
unrealistic to make that as a, you know, it's a
good goal, of course you want as little as
possible, you want the animals as healthy as
possible, but to just say, you know, to be organic
there cannot be disease on the farm, which was
said yesterday, and you did reiterate it in your
public comment, it's a little bit idealistic.

MR. PEET: It is, but you have to
consider what's at risk. In land based farms,
what are you impacting? I think Marty Krkosek
showed some examples yesterday of how terrestrial
farms can impact wild animals as well. So, you
know, there's a risk, and the risk has to be
addressed. And I think what it means to be
organic is that you are being harmonious with the
environment, and if you're spreading disease to
wild fish, especially if those fish have lots of
value both economic and social and otherwise,
that's a problem.

MR. KARREMAN: But you're also kind of
precluding, it seems, any possibility that there
are treatments that would be available or come available to the fish farming community, under organic management. I give you personal testimony because a lot of the regulation on medicines right now, you know, that does stimulate research and clinical trial of natural treatments. So--

MR. PEET: Yep, well and in our proposed metric, we said if those treatments are approved under your system, then that's appropriate.

MS. CAROE: Any further questions? Thank you.

MR. PEET: Thanks.

MS. CAROE: Oh, Barbara.

MS. BARBARA ROBINSON: You know, that, I would say one thing that's sort of analogous, you don't have a zero tolerance program in the NOP, anywhere. You don't have zero tolerance in crops; as Hugh pointed out, you don't have zero tolerance in livestock. We don't have that kind of a regulation.

MR. PEET: Right, but it's also a different environment. You're dealing with the marine environment, which has different dynamics in terms of transmission vectors for disease, and the potential impact. Oops. Sorry, I was just saying that you're also dealing with a different
environment. The aquatic environment has different, you know, transmission vectors and potential for those, for disease to be transmitted and have an effect on its host is much different. There's also, you know, in the case of salmon, wild salmon are really important to people. So, there's a bigger risk than maybe there is in terrestrial systems.

MS. ROBINSON: I guess what I'm asking, you said-- are you implying that there's no disease in the natural environment, in the wild.

MR. PEET: No, absolutely not, there's lots of disease in the natural environment.

MS. ROBINSON: Right. It's naturally, it gets selected out.

MR. PEET: Well, it gets put into a balance, into a dynamic equilibrium, to which domestication of animals and culture can change that dynamic that threatens wild hosts. That's exactly what you have with sea lice and salmon farms. It's not a-- it's a two way street, right? It starts with the wild fish infecting the farm fish, and then coming back. It's not a one-way street at all, which is where the separation needs to happen.

FEMALE VOICE: Hugh's got something.
MS. CAROE: Hugh had a question, hold on.

MR. KARREMAN: Just curious, are there diseases that wild fish, like wild animals in the terrestrial land, are there diseases that wild fish can pass to farmed fish, instead of always focusing on what the farmed fish can do to the wild fish. And I'm not just talking salmon, but since you're a salmon guy, I guess, are there things in wild salmon that they can transmit as they go by to the farms?

MR. PEET: That's how it starts, for everything. I've-- of the top of my head, although maybe furunculosis might be an example of that, but you know, sea lice, IHN, pretty much all of them start with the wild fish infecting the farm fish, the farm fish then amplifying the ambient levels, and then transferring it back to the wild fish. But the wild fish as juveniles, not as adults, which is where the problem is. The smaller you are, the more susceptible you are to impact by these diseases, so it-- that's how it works.

MS. CAROE: Any other questions? Thank you.

MR. PEET: Thanks.

MS. CAROE: Okay, Alejandro, you're up.
And Becky Goldberg, are you in the room, Becky?

FEMALE VOICE: [unintelligible]

MS. CAROE: Okay, Becky, you're on deck.

MR. ALEJANDRO BUSCHMANN: Thank you. I'm trying to bring up some very specific comments on open up the culture--

MS. CAROE: Excuse me, just, I just--

MR. BUSCHMANN: Oh, my name and--

MS. CAROE: I just want to point out that, one, tell us your name and you affiliation, and also that's a-- that mic is particularly quiet, so if you can get very close to it, when you speak, it would be best.

MR. BUSCHMANN: Okay, I will.

MS. CAROE: Thank you.

MR. BUSCHMANN: Thank you. So, my name is Alejandro Buschmann, I'm from the University of Los Largos in Chile. I've doing research about environmental affects and bioremediation, actions that can be take around open aquaculture, during the last 20 years. My perspective is I think that from hearing yesterday the discussion, there a few issues that need to be, to me, point out. First, siting is an important point for, have a open aquaculture, but it's not only siting, because depends also about the intensity of aquaculture.
You can have good siting, and you have a high, intense use of the environment, so you will start to get interactions between cultures, open a culture activities in the site. So, it's not only a site decision, siting decision. Also, when you start to increase intensity, like what is happening in Chile today, you start have these interactions, and diseases will start to move, not only interact to between the farms and the wild, but also in between farms and transmission of diseases will be an important issue in those scenarios. So, my point is that in this first, do not only take in account in about a siting, but it's a much more complex when you have intensive aquaculture. Second point is that we are willing to have, or when you have open aquaculture, we are hoping that the sea maintains the capacity for assimilating all the discharges. There is some, in some cases, when you have low intensity of aquaculture, and you have a low farming sites, that is possible. But that is not possible in, again, in a high density of farm situation. In that cases, you need to understand how waste can be bring out of the system. And that is another, quite different type of a scenario, and there is some actions that are in the literature that can
be take in account. But, like integrated aquaculture was, which was brought out yesterday, but again, that is not the whole solution. There are many other aspects that remain, or will be used in aquaculture generally, chemicals and terra-pollutants [phonetic] and so on, that will be not be taking out by integrated aquaculture. One example, was taking, was mentioned yesterday: anti-foulings. Anti-foulings with copper, perhaps in the future will be gone, but today, they, if you go beneath the sediments you find high copper concentrations. And we just published a paper in Chile, it's in Spanish, but I can tell you, that you have a good correlation about biodiversity lasses and copper concentration. Okay. So, the last point is about terra-pollutants. Terra-pollutants are also be used, and in many areas, in the northern hemisphere, there are alternative ways how you make and handle the-- these, and lower the use of these products. But, when you go into a high density farming intensity, and you have a almost, all the coastal areas, cover it, like the situation in China, that is almost impossible now. You not depend from your own activities, but you are depending also from your neighbors. So, that makes the systems quite more
complex, and that needs to be taking account, in open aquaculture. You're not isolated from the rest of the other actions that are taking place. Thank you.

MS. CAROE: Thank you, Alejandro. Are there questions? Jeff, and then Rigo.

MR. JEFFREY MOYER: Yeah, Dr. Buschmann, Jeff Moyer. We're going to be charged with writing a universal standard.

MR. BUSCHMANN: Yeah.

MR. MOYER: In doing so, I think the discussion, or the points came up yesterday that clearly, what we have currently, is lacking in some aspects in terms of siting. You bring up those issues right now. We're aware that there's a problem there, but do you have any solutions that you can point out. I mean, what sort of standards should we be looking at regarding siting and density levels?

MR. BUSCHMANN: Well, siting and density, you must, I think, we must, we cannot apply rules for growing and activity and developing activity, without taking up account the assimilation capacity of the environment. That is the first thing. And that has been going on in several areas, in several regions in the world. So, that
is a main issue. So, we must maintain a relation about the capacity of the systems to assimilate a sort. For example, for salmon, for salmon farm, there is literature that we can move a little bit from the numbers, the more accurate numbers, but the literature says that we need an assimilation, or we need an environment that is 10,000 times greater than the farming area, to maintain that sustainable -- 10,000 times. My calculation is that, for example, to maintaining the salmon farm from 1000 hectares, from perhaps that will produce 1000 tons, you will need, for example, at least 150 hectares of seaweeds to take out the nitrogen that is going out. So that is makes the point that you need, it's not very simple to maintain the systems, so you must things that heavy producing in a small area, which has a big volume because salmon farms are using the water [unintelligible], it's not like a farm in agriculture that is flat, no, only depending from the surface. For assimilating all those nutrients, you need the huge area. So that is an important area. And things like that are in the literature, you can do-- you can make some calculations and you can come up with some figure for how intense aquaculture should be. And if
that is the ma-- if that happens, perhaps you can
go and have a-- and have some standards
integrating size, integrating siting, integrating
density of farms, for a region and for an area, to
become possible, the clear organic concern. But
if you go beyond that, it's almost impossible.

MS. CAROE: Rigo.

MR. RIGOBERTO I. DELGADO: Well, exactly
the same question that Jeff had, and I thank you
for being here, doctor. So, it seems to me that
you can literally pinpoint sections of the ocean
where you can support certain size farms, if you
will, certain numbers, and also the density per
farm. Is that correct? Am I understanding this
correctly? Are we [unintelligible]

MR. BUSCHMANN: Well, you can-- you can
do it and you can cal-- make some calculations,
and you can enhance recycling of nutrients by
using some technology available, and you can
enhance all that. And you can come out with some
figures that will be, in some extent, lower some
risk. But you will not come to zero point levels,
that is for sure. You know, you are an open
system.

MS. CAROE: Is there any further
questions? Hugh, and then Jeff. No. Hugh and
then Jerry.

MR. KARREMAN: I guess I always, because my life revolves in Lancaster County with all those dairy farms there, we have 1900 dairy farms in one county, which is like an astronomical amount of farms. And they're mainly small family farms that everyone just loves. And it's a main source of pollution to the Chesapeake Bay. And you know, wherever agriculture is, the environment is not pristine, even organic agriculture has its impacts, and we of course want to make sure that we reduce the impacts and we have good biodiversity and everything. I'm just-- you know, there's a 100 organic dairy farms in my county, and they create manure pollution, I guess some people would call it, I would call it nutrient management, or whatever the other politically correct term is. I'm just wondering, you know, the agriculture industry is relatively new, 30 years old, and you know, we saw some maps yesterday of a lot of density of farms, fish farms along the coastal areas of various islands and continents or whatever. And all the impacts with that, but it is also, isn't it reasonable to expect, with agriculture, or aquaculture, that you're going to have some impacts that, that's
producing food. I mean, and yeah, we need to site these appropriately, of course, and but I think some people think it's supposed to be just pristine, and the environments going to be the exact same as before the farm gets there, and I don't think that's the case. So anyway, I just want to agree with you that siting is very critical, but even when the farms go in, hopefully we will have some performance standards to look at, as far as environmental type effects.

MR. BUSCHMANN: Oh, for sure, every human activity will have an impact. But still, if you want to make sure, in open waters, the diffusion coefficient of particles, nutrients, is much higher. You cannot contain it so easily. And normally, also places that have good, are good for aquaculture, they have strong water movement, so dispersal should be enhanced also. So, there's several issues to must be taking account, that this, I'm not taking about zero impact, but we--but we cannot go to extremes. That can be very dangerous. And we must couple things, balance things, no?

MS. CAROE: Gerald.

MR. GERALD A. DAVIS: In relation to Mr. Buschmann's comments, I have a question for the
livestock committee. Has your discussion on aquaculture issues so far delved into the issue of runoff, the analogous terms in terrestrial of runoff and pesticide drift from conventional farms and what kind of boundary zones we would have for aquaculture?

MS. CAROE: Hugh?

MR. KARREMAN: I can't say in regards to aquaculture, per se. I mean, I'm sure the AWG has been working on that, but in terrestrial agriculture, you know, there's buffer zones, that the certifiers, yeah--

MR. DAVIS: Has that entered into your discussions yet in this process?

MR. KARREMAN: Yes, it has.

MALE VOICE: And it will. [laughs]

MR. KARREMAN: Yeah, absolutely, without a doubt, without a doubt, yeah.

MR. DAVIS: I was just wondering if you'd got to that point yet, 'cause it-- this discussion here just brought that to mind and went, "Wow, talk about a giant different between terrestrial."

MS. CAROE: Thank you, Gerald, and I think that'll be part of the work that the livestock committee does between now and spring, is to consider that as well as all these other
aspects. Any further questions for Alejandro?

Thank you very much.

MR. BUSCHMANN: Thank you very much.

MS. CAROE: Becky Goldberg, you're up.

And on deck, we have whoever is the representative from Pure Salmon League, Pure Salmon Campaign. Is there somebody here from Pure Salmon Campaign?

Okay, so you're on deck. Before you start, Becky, these are good questions, I'm glad we're asking them, I just want to remind the board members that we have 24 people speaking before you can go to lunch. [laughter] So keep your questions on point and I ask the commenters to also keep their responses on point. I don't want to stop anybody from asking these questions, I just want to remind you of the implications of your actions.

[laughter] Becky.

MS. BECKY GOLDBURG: Okay, I guess I won't get any questions now. So, I'm Becky Goldburg, I'm a biologist, a senior scientist with Environmental Defense, which is a national non-profit organization. I'm also a former member of the NOSB and the environmental representative on the aquaculture working group. And I wanted to offer today some, just reactions, observations, and following yesterday's excellent aquaculture
symposium, which, you know, I'm really grateful that the board convened. And then also talk briefly about an issue that didn't get brought up yesterday, which is the use of compost in organic aquaculture ponds and tell you the results of a little bit of work that I'd done and ask that you consider a way forward on the issue, how we proceed. Well, I'd first like to offer some observations from yesterday on the feed issue, that we had some excellent presentations yesterday. They were largely about, you know, how to use alternative ingredients and what some of the options are in farm fish production. Perhaps what was lost yesterday, or at least didn't get brought up is an issue I think that's really important, is that there are some really real ecological motivations for moving away from heavy use of fisheries ingredients in feed for farm fish, at least fisheries ingredients from wild fisheries. And these issues stem from the fact that the small fish that are caught to make fishmeal and oil are of course the underpinnings of marine ecosystems. And while not all the science is in place, there's substantial concern that at some of these fisheries, while they may be harvested at a rate where the fishery itself...
replaces itself, there may be too many fish being
taken to support the sorts of populations of
marine predators, be they sport fish or marine
mammals or whatever, that people care about. And
this is an issue now that's being tackled for the
U.S. Menhaden Fishery in the Atlantic, regulators
are beginning to take it seriously. But it's yet
another reason why I think the NOSB is, and
aquaculture working group, is on the right track
in moving away from fishmeal and fish oil use.
Also, with respect to feed, I think one thing
that's critical is that if the board does
ultimately recommend a sunset provision for use of
fishmeal and fish oil, as the aquaculture working
group has suggested, that that be made a real
sunset. I was on the board when we recommended
the methionine sunset, so I'm familiar with how
challenging these sorts of things can be, and I
would urge that if you do put in a sunset that it
be part of whatever rule comes out, whatever
standards come out, for aquaculture, rather than
built into the national list, where sunsets are a
little harder to effect. I also think the
Monterey Bay Aquarium made an excellent suggestion
yesterday, in that sunsets could be set up with
transition periods, or ratcheting down, for
example, of fishmeal and oil use, so that you
don't just go from 12 percent fishmeal and oil one
day to zero the next, which makes sunsets also
harder to effect. Moving onto net pens, you know,
continue to be really challenging issues around
net pens. Part of this is because there's, of
course, no long history of organic production in
aquaculture. European certifiers, a few of them
have had standards for a few years now, but there
isn't a lot of agreement about what organic
aquaculture should be, especially with respect to
net pen systems. And there are some really, you
know, serious issues with some of the conventional
systems, especially for salmon farming. That
said, you know, I think about my experience
working in terrestrial agriculture, and you know,
I could step into now, the debate about dairy
farming or hog production or whatnot, and on the
basis of my concerns about kafo [phonetic], say,
we shouldn't have organic, you know, agriculture.
In reality, what we need really are organic
systems that are different, that are more than
just, you know, no use of drugs and synthetic
chemicals, but that have some real ecological
underpinnings that people are comfortable with.
So, I urge the board to think hard about setting
some tough goals for organic net pen systems that are consistent with that logic. Finally, on compost I had, at the behest of the aquaculture working group, a graduate student look at the literature on the use of compost in fish ponds, which is recommended by the aquaculture working group. There isn't much of a literature there. There is, however, a World Health Organization report last year, to do with the use actually of human waste water and excreta in aquaculture ponds, which is a practice in Asia, actually. And the WHO report offers some insights, one of them being that at relatively low levels, things like coliforms in ponds don't turn up in fish flesh. Another is that, you know, WHO does set some levels for, safety levels for coliforms and other bacteria in ponds, so there is some science to build on. And while it's not directly applicable to organic compost use in ponds, it's actually for, you know, practices we don't advocate, I think there ought to be a way forward to allow compost use in pond. Pond fertilization is really important, it's consistent with organic principles that you grow a flora in a pond that fish and shrimp can feed on, and I ask the board that we have a way forward to think through these issues
in a way that works for the organic community and for growers. Thanks a lot.

MS. CAROE: Any questions from the board for Becky? Okay, I actually have a--

MALE VOICE: I actually-- oh.

MS. CAROE: Go ahead, Gerald.

MR. DAVIS: Becky, can you provide a way that I can get that WHO report on the composting in ponds?

MS. GOLDBURG: Well, it's not on composting in ponds, it's actually on use of human sewage, essentially, in ponds.

MR. DAVIS: Right, but that princi--

MS. GOLDBURG: Absolutely, it's on the web, I'd be happy to email-- well, I'll give you the URL, the report is actually about 23 megabytes, I don't want to email it to people.

MR. DAVIS: Okay.

MS. GOLDBURG: I can share that URL perhaps with Valerie.

MR. DAVIS: Thank you.

MS. CAROE: Joe.

MR. SMILLIE: Just like to thank you, Becky, for working on the AWG, it was really great. I know you are sort of alone there [laughter] but you guys did great work and I
anticipate the AWG continuing and working with us to create a final recommendation.

MS. GOLDBURG: That's great to hear, thank you.

MS. CAROE: Okay, well the comments that I had for you, Becky, two of 'em, one I just want to clarify that the sunset, the seven year allowance that we're looking for is not an allowance for fishmeal and fish oil, it's an allowance for a non-certified fish oil and fishmeal.

MS. GOLDBURG: Mm-hm, right.

MS. CAROE: After that date, if there's certified available, and which we hope will be, I mean, that's part of the premise of, you know, creating fish so that we could have organic fishmeal, but just an allowance, we're not talking about eliminating the use of fishmeal and fish oil. So that's one point that I just wanted to clarify. And secondly, the concept of using compost was actually abandoned by the AWG. It became an issue, and it was brought up as one of three issues, and the AWG said there wasn't enough interest to pursue it, so it was actually pulled out. So we're not looking at compost.

MS. GOLDBURG: Hm, that-- I've discussed-
- Well, let me respond first to your comments on fishmeal and oil, and I absolutely agree to you, and my terminology was sloppy in my comments, and you know, I was speaking from fishmeal and fish oil, non-certifiable because it's from wild fisheries. On compost, perhaps we at the AWG should reconvene, but you know, I talked about the issue before the meeting with George Lockwood who specifically suggested it was still on the table. So, I don't, I'm not sure it's wholly abandoned, but maybe the whole matter needs a little bit more consideration.

  MS. CAROE: Dan.

  MR. GIACOMINI: It was one of the three big issues, and in planning the aquaculture symposium, there was the plan to have three panels. It was the request of the AWG for time constraints and other issues to drop that as a discussion item; it may still be on the table, but it was at their re-- it was the AWG request to not have it as a panel for the symposium.

  MS. GOLDBURG: Okay, yes, that's correct, and that's different. I think it's a lower priority issue, than the feed issue and the net pen issues. I think if there is a constructive way forward, though, on the compost issue, we'd
still like to pursue it, 'cause again, pond fertilization is an important consideration for any production system for filter feeding or scavenging fish, and shrimp. And you know, use of compost is a very good way to fertilize agricultural systems.

       MS. CAROE: Thank you very much, and Hugh, just make sure that's on the livestock committee's work plan. Of course, prioritize below these two items that we looked at yesterday, but-- Thank you, Becky.

       MS. GOLDBURG: Okay, thanks a lot.
       MS. CAROE: Any other question. Thank you. Next up is, and I don't-- Is this, are you Rachel Hopkins?

       MS. RHONDA BELLUSO: I'm not.
       MS. CAROE: You're not, but you're from Pure Salmon Campaign.

       MS. BELLUSO: That's correct.
       MS. CAROE: Okay, on deck, Sebastian Belle, are you in the room?

       MR. SEBASTIAN BELLE: Yep.
       MS. CAROE: Sebastian, I'm going to ask that, I've gotten board requests for a little break, so after--

       MS. BELLUSO: Rhonda Belluso.
MS. CAROE: --Rhonda.

MS. BELLUSO: Yes, R-H-O-N-D-A.

MS. BELLUSO: After Rhonda-- thank you.

After Rhonda speaks, we're going to take a little break and then we'll reconvene with you, Sebastian.

MS. BELLUSO: Thank you. As you said, I am with the Pure Salmon Campaign, it's a global project under the National Environmental Trust. In the past meetings that the NOSB has held on this issue, the Pure Salmon Campaign under our director Andrew Cavanaugh submitted full comments, and those comments still hold true. I'm actually here today to relay the message of many U.S. consumers. Over the past few months, consumers have been sending the Pure Salmon Campaign thoughtful letters with the purpose of having me deliver them here to you today, because it was important for them to have their message heard. The letters range. Initially there are 37 substantive comments that range from restaurant owners, organic farmers, representative from the New Hampshire House of Representatives, natural food store owners, fly fishermen, and regional organic farming associations. All have the same message, they unanimously agree that open net
cages, along with wild fish for feed, do not lend itself to an organic label when considering aquaculture production. Each may have their own reasons for writing the letters and for having those thoughts, but again the message is consistent. Additionally, 14,547 consumers signed a letter, again with the same message, asking you the NOSB to exclude open net cages and wild fish from feed, when considering aquaculture for an organic standard. The letter that they agreed to, more or less, reads this, that: "We the undersigned United States consumers, urge the NOSB to prohibit the use of wild fish for feed source, and open net pen farming systems, in an organic farm raised fish production. The feeding of wild fish to organic farmed raised fish concerns us for three critical reasons: the first, organic feed should be 100 percent organic; the second, organic farming practices should not damage the environment; and third, organic food should be free, or lower in contaminants. We also do not support open net pens, mesh cages anchored in the ocean's environment for two key reasons: organic farming systems should at least collect, if not recycle waste; and organic farming systems should not endanger wild fish or marine mammals." They
support organic standards for farm fish that are in accord with the organic principles; specifically, vegetarian fish species farmed in fully closed systems. However, if the NOSB decides to include non-organic feed, and open net pens in organic farmed fish standards, their confidence in the USDA organic label will be greatly diminished. Thank you.

MS. CAROE: Thank you, Rhonda, just really quickly, could you give us the spelling of your last name again?

MS. BELLUSO: Sure, it's B-E-L-L-U-S-O.

MS. CAROE: Thank you. Any questions for Rhonda? Thank you, Rhonda.

MS. BELLUSO: Thanks.

MS. CAROE: And again, we're going to take a short break right now. It is five of, let's convene at 11:05, give everybody a ten minute break. Promptly back at [break in audio] We're going to start folks. Sebastian Belle. Can I ask the audience to be-- to keep down the chatter, we're going to go with public comment now. Excuse me, those of you in the back of the room, that are having discussion, can you take it outside the room? Sebastian Belle, you're up. On deck we have Jonathan Shepherd, Jonathan are you

MR. SEBASTIAN BELLE: Thank you madam chair, my name is Sebastian Belle, I run the Maine Aquaculture Association. We are the oldest state aquaculture association in the country. We've been in discussion for over 30 years, and we represent aquatic growers. Our members, we've got anywhere between 130 and 150 farms on any given year, depending on what their membership status is. Our growers grow freshwater fin fish, saltwater fin fish, and saltwater shellfish, as well. I am also a member of the aquaculture working group and was involved with the group, NOAG, which was in existence before the aquaculture working group was created. Thank you very much for the opportunity to speak to you today. I want to start by going on the record, and I think the madam chair will particularly appreciate this, with an acknowledgement that I was wrong. I came for- to the idea of this aquaculture very skeptically and was convinced that it was going to do nothing but establish a bully pulpit for the people who have been beating me and my members up for the last ten years or so. And I was wrong. I think the committee deserves a
great deal of credit for the boards that they assembled, and there was some bully pulpit phenomenon there, but I think -- I sat in the audience and added up the number of years that nine of the members of that committee had in terms of experience in aquaculture research, it was over 200 years. I think that's quite astounding, to be able to put that kind of group together. I'm going to make my comments this morning on two pieces, one first on the fishmeal and fish oil, and then on the net pens. I'm going to focus more on the net pens than the fishmeal and fish oil because I think yesterday's board was very good and gave a very comprehensive treatment of the issue. The one point I want to make is from the producers' point of view. I heard a lot of questions from the committee yesterday about growth rates and focusing on increasing growth and why were people talking about that so much with respect to fishmeal and fish oil? I think it's important to understand that the reason that most of us as producers use fishmeal and fish oil is that we are still early on in understanding what the nutritional requirements are for our animals. And so, we're using it, essentially, as a safety factor in our diets. And particularly in marine
fin fish, where we have very little understanding in many cases of what the nutritional requirements are of those species, fishmeal and fish oil is being used as a way of kind of couching our risk from a nutritional pathology point of view. So, just to start with that point. Second thing I want to really support is Brad Hicks' points he made yesterday on the committee about trophic levels. I think it's the first time I've seen anybody clearly articulate what is so different about marine ecosystems and terrestrial ecosystems, and I think it was a very important point and actually this board deserves a great deal of credit for giving somebody the forum to make that point. I think it was-- it's not been made, honestly, in many other arenas. And finally, on fishmeal and fish oil, as producers we are concerned about the sunset provision, and principally we're concerned about the length of the sunset provision. And the reason we're concerned is if you look at the generation time of the animals that we're growing, particularly on the fin fish end of things, but also on the shellfish end of things, depending on which animal you're talking about, a generation of production for us is anywhere from 18 months to 42 months,
and in some cases, in the case of for example, halibut, it may actually be longer than that. So when you're doing nutritional studies, and developing diets for fin fish, and the generation time of your animals is relatively long, my worry is that we'll get to the end of that sunset period and we won't have been able to develop those alternative protein and lipid sources. I recognize that having that sunset period is very important to provide incentives for people to develop those diets, and I don't want to mislead you, we support the sunset provision, we're just concerned about its length. Finally, I have fair disclosure, one of my members is a company called Sea Bait and they grow worms, and they grow worms that were alluded to yesterday as some diet ingredients. And I just say that it's a very novel application of their product, and it's very early days yet to see how it's going to work out. It is very exciting and promising and we hope that it does work out. But it's going to take a lot of years to really understand whether or not that's a realistic source for some of those compounds. Net pens and their implications -- I want to just say that, and if I leave you with one thing, this is what I want to leave you with: if the standards
go forward and they preclude the use of net pens, it will be a great irony, because of all productions methods in aquaculture, net pens are the method which are most transparent to the environment, have the most interaction with the environment. And that means that they have the greatest risk of impact, but it also means we have the greatest possibility of changing those risks and reducing them over time. If you go forward without net pens, you will essentially—if you put it in terrestrial terms, ponds, raceways and tanks are methods of containing water on land. In terrestrial terms we would be going forward with a set of standards that were precluding, or that were requiring people to use barns underwater in which air was injected into, to raise organic animals. Okay? So think of it in those terms. And I'll leave it at that.

MS. CAROE: Thank you, Sebastian, and it is on the transcripts, that mea culpa, and I'll print it up later for the board. I knew for, I knew with great confidence that our livestock committee would not let you down with that aquaculture symposium. And they did a fine job. Is there are questions for Sebastian? Steve.

MR. STEVE DE MURI: Just a quick
question. What length of the sunset provision
would you propose?

MR. BELLE: I honestly would want the
feed formulation folks to make that proposal. I
don't feel that I'm qualified. I think that
Jonathan Shepherd, and I don't know if he's still
here or not, but Jonathan would be very qualified
to do that because he's been working on feed
issues for many, many years. But I think that the
proposed period, if you look at it, and you look
at the generation time, and then you look at the
time it takes to do the nutritional studies-- And
an interesting note, I think, yesterday you heard
a bunch of nutritional studies. The longest of
those nutritional studies was 72 days. None of
those studies tell you anything about nutritional
pathologies that occur over a longer time. And I
think that's something to be quite concerned about
as you're beginning to formulate feed. And that's
really why we want to be able to use fishmeal and
fish oil at some level.

MS. CAROE: Any other questions for
Sebastian? Bea.

MS. BEA JAMES: So, yesterday we heard a
lot about the feed recommendations for fish and
net pens versus farm raised ponds, and in
livestock we have taken a lot of time and care to
try to create an environment that's conducive to
the natural behavior of the animals, so that they
can roam freely, so that they can have pasture.
And I'm trying to understand, or maybe you can
help me understand, what would be the ideal
situation for raising fish so that they have the
same consideration?

MR. BELLE: Well, it's, I think Neil put
his figure on it yesterday in his presentation.
It's not a simple answer. It is, to some extent,
species specific, it's also site characteristic.
In other words, in the case of pens, site
characteristics really change the way fish behave
in a pen. But if you-- let me put it to you this
way: if you as a person put on a scuba suit, and
sit in a tank, a raceway, a pond or a net, it any
one of those production methods is done correctly,
and understands how animals behave in that method,
you will find natural behaviors. There will be
behaviors in those systems which are perfectly
natural, and which you would see even in the wild.
So it's not, I don't believe it's so much the
specific production system as it is how it is
managed. And how you provide opportunity for
those animals to do what they would do naturally
from a behavioral point of view.

MS. JAMES: So, does domestication of fish mean that we train them to live in a condition for our consumption? Is that--?

MR. BELLE: No, I think domestication of fish means the same thing as it does for terrestrial animals, which is over time we select for strains of animals that tolerate domesticated conditions.

MS. CAROE: Any further questions for Sebastian. Thank you--

MR. BELLE: Thank you.

MS. CAROE: --Sebastian for your participation in AWG. It was always fun to banter with you. [laughter] I'll miss that. Okay, next up, we have Barton Seaver, and second call for Jonathan Shepherd, are you here Jonathan? Okay, next up Rob Mayo. Are you here? Rob? You're on deck.

MR. BARTON SEAVER: Hi, good morning to the board and everyone here. I'd just like to say [unintelligible]. My name is Barton Seaver, I'm the executive chef and partner of a restaurant here in Washington D.C. called Hook Restaurant. We feature 100 percent exclusively sustainable seafood and I'm here to ask the board to listen to
a chef's perspective on this. So often in conservation and in critical matters of environmental issues, the chef's perspective is left out. Chefs represent the keepers of the food culture in America. Sixty percent of seafood is eaten in restaurants in this country. Up to two meals per day in the average family are eaten outside of the house. That means it's really up to me, it is up to my colleagues to really push forward these ideologies, push forward the ethos of sustainability, that we really seek to do. I really appreciate you allowing me to participate in this today. The consumers in my restaurant really want answers, and it's my opportunity, it's my burden, to sell solutions. I think that with the environment and with our impacts that we have made on fisheries in the wild, it is-- we're in very dire straits. And I come to you really talking about the word "sustainability." When people come into my restaurant, the word "organic" is a very valuable tool. It suggests and promotes an ideology and ethos that this food, not just this system, but the food on the plate, is-- has a positive value for us corporally. It has a positive value for us socially. It has a positive value for us ecologically. Not just in the fact
that the way that it was farmed or raised, does not have a negative impact, but that it creates a system that can be replicated and sustained throughout our future. We are not only seeking to sustain today's demand, but also to ensure adequate supply for all future generations. When it comes to fish, this is even more important. I believe that farmed carnivorous fish are simply—should be set aside for now. It is a hard thing to, for us to, for me personally, to invest in or to recommend to my customers, that when we're dealing with a global fishery crisis, using a method of aquaculture that is a negative sum equation, simply doesn't work for me. I applaud aquaculture methods, I applaud herbivore fish aquaculture. I applaud the efforts that people are making towards sustainable aquaculture of carnivorous fin fish. I really do. And I support you. I think that it is very important that we move very quickly in that direction. Those who are argue that we have a right to eat carnivorous fish, maybe our time is done with that. We have been given an opportunity by our environment, by our ecology, to do so, and we have screwed it up. I think that we-- until we are at a point where we can do, we can provide a sustainably raised
aquaculture carnivorous product, it should not be
rewarded with an organic label. The organic label
to me suggests, as I said earlier, that it is a
positive value for many of the systems in our
society, not just the agricultural or aquacultural
one. I think it's very important that we
understand that it's valuable to have a standard
that really sticks up for-- has a rigid set of
values behind it, that it-- forgive me, I'm a
little nervous, I'm a cook, not an orator--
[laughter] I think that it's very important to
have a standard with solid meaning behind it, that
really sticks up for an ideology, not just to have
a standard to begin with. As I said, it is my
unique opportunity to sell solutions, to diversify
the demand that we place upon our environment, in
our fisheries, and by removing, as we already
have, the top tiers of the trophic level, to then
begin targeting the bottom levels of the trophic
scale, in order to recreate the top, I think is
only going to create an implosion. So, that is
it, I will actually finish a little bit early. I
am sorry for being a little passionate, but this
is what I do. And this is what I believe in, and
I know a lot of chefs stand behind me in this.
And I, as I said again, am honored to have the
opportunity to speak for them, so I appreciate it.

MS. CAROE: Well, thank you very much for your comments and don't apologize for your passion. Is there any questions for Barton? Katrina.

MS. KATRINA HEINZE: Thank you for coming this morning. If we passed a performance standard, some of the metrics that we heard yesterday, that precluded farmed salmon from being labeled organic, would you serve a substitute in your restaurant? And what would that be?

MR. SEAVER: Serve a substitute in terms of--?

MS. HEINZE: Salmon. Or would you replace it with a different fish?

MR. SEAVER: I, in my restaurant, we'll-- I refuse to serve anything that isn't sustainable. I think even if salmon-- I mean, in this case we have wild salmon fisheries. You know, as I said, it's important to diversify the demand that we place upon our oceans, that if it's my-- Wal-Mart simply cannot sell Trivali [phonetic] or Corvali [phonetic] or some of the weird things that appear on my menu that people come to me looking for a unique experience. And that's what top tier chefs can do. And I understand the plight of Wal-Mart,
and I applaud their efforts, and groups like Wal-Mart.

MS. HEINZE: Would you—so you would serve wild salmon?

MR. SEAVER: Yes, wild salmon regularly makes an appearance on our menu.

MS. HEINZE: How do you reconcile that with what we heard earlier from the consumer's union, that consumers are interested in products with low contaminant levels? 'Cause they, I don't know if you were here yesterday, I'm still wrestling with this idea of organic, sustainable, where do they overlap? Where don't they overlap? So, I'm wondering if you have any thoughts on that subject.

MR. SEAVER: On our menu we do have a—a number of different species, and there are contaminant levels that vary, up and down. You know, we do serve Atlantic bluefish. Some of the species that we serve, it is important just to support the fisherman, just to enable the fishery to continue to exist. One of the great issues with wild fish is that fish don't vote, but fishermen do, so it's important to employ, keep those fishermen employed. The contaminant levels in salmon are an issue, it is a personal choice
that we allow our customers to make, and we are very open and honest about the contaminant levels that there are. You know, and in this case, I think that's the best that I can do on that level. Is to be open and honest and to open the dialogue about the state of our fisheries.

MS. CAROE: Bea had a question.

MS. JAMES: Well, I was going to ask you how to grill sea bass, but I'll save that for later out in the hall. I'm curious what your criteria is for what you do serve in your restaurant, and do you communicate that to your consumers?

MR. SEAVER: Yes, absolutely, we work very closely in cooperation with Blue Ocean Institute, especially, Seafood Choices Alliance, as well as Monterey Bay Aquarium, Shedd Aquarium, Charleston Aquarium, and really cross-reference a lot of these various, you know, and sometimes widely varying information systems, that-- And I do a lot of onsite research. We do a lot of fishing, we buy a lot of fish out of Tobago. My partner Joshua went down there and fished with them. Just-- we're starting to do a lot of work with an African fishery. I'm going to go over there in a month to check all this stuff out; went
up to Maine to actually investigate a lot of this stuff. And you know, I think that is part of my duty, is to very much understand not only the science behind it, the numbers behind how many fish there are in the ocean, but also the sociological impacts of the fish.

MS. JAMES: Just specifically, like your top three things that you look for when you're doing your research.

MR. SEAVER: There's five questions. I think a lot of people stop at three, they ask what, where, and how. I think, you know, what is caught, where it is caught, and how it caught are all very, very important. I think beyond that, though, I ask two additional questions, which is who and why. I think who is catching this and why they're catching this is even more important. Anybody that's going out there with a boat the size of the Empire State Building, is not going to make a profit until it's 95 percent filled up. And so it's inherently unsustainable to the state of the fishery that they're after. If we're talking about artisanal fisheries where people are going out the same way that their great-grandparents did, fishing with hand lines, you know, on a day boat catch, that's very important.
And this is also part of the story that we can sell to our customers, and this is part of why they engage. And so all of our wait staff is very much engaged in this process of the story of sustainability and the story of our future.

MS. CAROE: Kevin, and again, board members, keep it on track for what we're trying to accomplish as much as possible, please.

MR. KEVIN ENGELBERT: Bea asked the questions I wanted to know. I wanted to know who they turn to, to determine the sustainability of the fish they use, that's what I was--

MS. CAROE: Thank you. Any other questions? Thank you very much.

MR. SEAVER: Thank you.

MS. CAROE: Okay, we have Rob Mayo next. Third called for Jonathan Shepherd, are you here Jonathan? Okay, then I'm going to try this next name. Earnest Papadioanos [phonetic]. Did I get close? No. [laughter] I apologize, to you and all of your ancestors. [laughter] Go out and--

MR. ROB MAYO: Okay. My name is Rob Mayo, I'm a member of the AWG, I operate Carolina Classics Catfish in North Carolina, so I'm a catfish farmer, made the decision to get into the business 22 years ago. And I did this in large
part because of my experience growing up around
the commercial fishing industry, near the mouth of
the Chesapeake Bay. I watched that fishery and
that industry in decline as a young teenager. And
it was a large part of why I got into the
business, because I believed that catfish farming
represented a healthy, environmentally friendly
alternative way to provide a great seafood product
to U.S. consumers. Catfish farming, which
especially employs a soy corn diet, to grow a
mild, delicious white-meated fish, is pond based.
More catfish are produced in the U.S. than any
other aquaculture species. But, all of U.S.
aquaculture is relatively small. Only a very
small percentage of farmed seafood that is
consumed in the U.S. is produced in the U.S.
We're talking about less than ten percent. U.S.
aquaculture industry's small, and the average
producer in the U.S. is small, compared to a lot
of the overseas suppliers selling their products
into the U.S. market. U.S. farmers need an
organic standard as soon as possible. The longer
the U.S. continues not to have a standard, the
more disadvantaged the U.S. aquaculturists are
relative to their international counterparts, many
of whom are producing organic to other non-U.S.
standards. As a producer, I want to point out that even for species that would appear to be best suited for organic production under the standards that we proposed, it's not going to be easy to adapt to those standards. Let me give you a for instance, the feed will require some major changes, even for warm water species that are basically vegetarian, because for instance, soybean meal, moving from a solvent extracted soybean meal to a full fat bean meal may not be possible because the fat levels are too high. So we're going to have to rewrite our books and research and reformulate what we can do. I do believe that the proposed fishmeal and fish oil sunset is a good idea, gets the ball rolling. I believe that if the current standards, proposed standards are approved, that you're going to see a number of U.S. aquaculturists adapt their production, change their production meaningfully, in order to produce organic. The industry, consumers in the U.S., and the environment, will be the beneficiaries if we are able to go forward. Thank you.

MS. CAROE: Thank you, Rob, and again thank you as one of the members of the AWG and all of the work that you've done on that committee.
We really appreciate that. Is there questions for Rob? Dan.

MR. GIACOMINI: As a livestock nutritionist working with a number of organic dairies, it's my goal and preference to try and get them to switch from organic, mechanically extracted soybean meal to the high fat. Are you saying that you have a, that what you've looked into so far, you would have a hard time procuring mechanically extracted?

MR. MAYO: The whole subject is more complicated than I thought it would be, and based on geographically where we are, formulating a feed and procuring the ingredients, and you know, at the volumes we need, it's going to be more of a challenge than I thought it would be, for, you know, from the early on front end, I think it's going to be a challenge.

MS. CAROE: Any other questions for Rob?

Thank you, Rob.

MR. MAYO: Thank you.

MS. CAROE: Ernest. You're up, and I'm not going to say your last name again. I'll hurt somebody.

FEMALE VOICE: Spell it though, please.

MS. CAROE: And then-- then the next one
on deck is Brad Hicks. Are you here? Brad? You are. And Ernest, when you come up, if you could spell your name. [laughs]

MALE VOICE: And pronounce it.

[END MZ005010]

[START MZ005011]

FEMALE VOICE: ...and pronounce it for me.

MR. PAPADOYIANIS: I’m going to stand over here because I have a couple slides that I’d like to show you on some products that we have. My name is Ernie [phonetic] Papadoyianis, president of Neptune Industries public aquaculture and aquaculture technology company in Boca Raton, Florida.

FEMALE VOICE: [unintelligible].


[laughter]

FEMALE VOICE: [unintelligible].

MR. PAPADOYIANIS: No, the [unintelligible]. We have been working on two technologies that address some of the concerns that were brought up yesterday and have been reiterated throughout the National Organic
Standards Board’s discussions. The first technology that we’re working on is a sustainable fishmeal replacement. It’s called Ento-Protein. And I have to go through these rather quickly because it’s—I’m only going to harp on a couple of different slides.

Ento-Protein, as I said, is an insect-based protein. We’re working in cooperation with Mississippi State University to develop this product. This is a product that we’ve known intuitively that freshwater fish consume insects; many species consume them almost entirely in their diet. It’s a very sustainable product in the wild, and we’re looking at doing it on a commercial scale, very large commercial scale, with these select insects—produced under controlled conditions, harvested, dried, ground and produced a very high-protein meal. And very quickly, I’d just like to go over where we are in that research ‘cause I think it’s valuable in terms of a sustainable replacement. This is our—our first tier of research that we did on this was—with Mississippi State is selecting from literally hundreds of species of insects, based on
a litany of parameters not only for commercial
production but also for nutritional profiles, and
we selected four species of insects out of that
search, based on those parameters. And these are—
again, very briefly ‘cause I know we’re pressed
for time, the profiles—that’s why there’s a range
in these compared to fishmeal, soybean meal and
poultry meal. And what we found was very, very
promising, as you can see by the crude protein as
well as omega fatty acids and limiting amino
acids, that it’s very, very close to fishmeal and
often exceeds it in certain circumstances, as well
as exceeding soybean meal and protein meal. Now,
there are some concerns that we have with regard
to the omega3 fatty acids, and certain insects
with the methionine levels, but as you can see,
for the most part they’re very, very strong. And
then we took this research to the next level.
Basically, what we’ve done is we’re working on our
phase two production right now, which we did—we
finished off, actually, in October. Someone asked
the question yesterday about fishmeal replacements
and the actual taste of the product. We kind of
took the cart before the horse. Instead of doing
the growth trials first, we did the taste trials
to see if it was worthy to do the growth trials.
First of all, what we found was, in three-week trials with hybrid striped bass at Mississippi State University, there was no significant difference in diet acceptability with 100 percent fishmeal replacement in the diet with insect protein. In terms of the taste quality, the fish were harvested after three weeks and brought to the Food Science and Technology Department at Mississippi State, where they were reviewed by a blind, independent taste panel which actually found no significant difference in the taste. However, in the survey, they actually preferred the taste of the insect-based protein-fed fish over the fishmeal, which we thought was very, very encouraging. Our third phase, which we’re about to—or, actually, our phase two-B, which we’re about to enter in January, will be 90-day growth trials on this product. Again, with 100 percent fishmeal replacement, we’ll be testing two insect species with 100 percent replacement and a fourth treatment that will do a blend of two—a 50-50 blend of the two insect species. And we hope, by second quarter of 2008, we will be in pilot production, producing approximately 500,000 to 1 million insects a week; and by the end of 2008, a full-scale facility producing 200 to 220 tons of
product—dried product—per week.
[unrelated conversation]
What I wanted to show you, very quickly, is...
[pause]
[unrelated conversation]
I wanted to show you an integrated model that we’ve created with regard to this product very quickly. We have two models with two different groups of insects. What we’re looking to do, on one basis, is utilize waste, not only from our fish production but also from agriculture and livestock production, as a source—a feed source—for select insects. And the insects would actually consume the waste and we’d produce—be producing—a high-quality protein from this that could then be ground, dried and turned into fish and livestock diets. In the second model, the insect species that are basically feeding on grains, vegetable sources and so forth, we’re working with several companies right now to utilize the byproducts of other industries, biodiesel, ethanol production, fruit and vegetable processing waste that can be consumed by the insects and converted into this protein source, which then goes back into fish production. So
we’re looking at establishing a very sustainable product here.

FEMALE VOICE:  You’re going to have to wrap it up.

MR. PAPADOYIANIS:  That’s it.

FEMALE VOICE:  Okay.  Does the board have questions?  Joe [phonetic] Smillie?

MR. SMILLIE:  I saw your last slide.  Do you think this is certifiable to organic standards?

MR. PAPADOYIANIS:  Yes, [unintelligible].

MR. SMILLIE:  Great.

FEMALE VOICE:  Jeff [phonetic] Moyer?

MR. MOYER:  Yeah.  What are the byproducts and the environmental impact of actually producing those insects?  And what’s the risk of escapes and the effect that that would have in the environment?

MR. PAPADOYIANIS:  Good question.  With regard to escapes, this procedure is very much synonymous with a marine fish-related hatchery in terms of the actual quality control and protocol on this.  First of all, we’d certainly be doing indigenous species to wherever we did this.  We’d be doing non-invasive species, in terms of their impact on human health and the environment.  For
instance, the facility I showed you in the picture is a picture of a screwworm facility in Mexico. Now, these insects are produced by the government to eradicate a pest insect. They’re basically produced; they’re sterilized with UV light; they’re released in the wild so the males breed with the females and populations drop. Now, as a noxious predator, that insect—the quality control on that facility is tremendous. The insects that we’re using, that’s not the case. So [unintelligible] the quality control in there in terms of keeping the bacteria and other contaminants in the food courses low and disease is critical to maintaining those populations.

FEMALE VOICE: Bea James?

MS. JAMES: What diseases do you encounter, and how do you deal with prevention and remedy?

MR. PAPADOYIANIS: I wish I had an answer for you at this time. We don’t. We’re too early in the research to do that because we haven’t reached the full-scale production basis yet. But from what I know what [phonetic] our research team, Mississippi State, that’s worked in producing these large-scale facilities, most of the contaminations affect, as they do with fish
populations as well and [phonetic] [unintelligible] livestock, actually affect the populations of the insects. In other words, you’re getting contaminants from things like mites and other pests that will actually influence the reproduction and productivity of the facility. So that’s why quality control will be extremely important.

FEMALE VOICE: Dan, and then Gerald.

MR. GIACOMINI: Just wanted to let Barbara [phonetic] and Mark [phonetic] know we’ll start working on the insect regulations. We’ll try not to make ‘em species-specific, and we made need a working group for that, though, so...

[laughter]

FEMALE VOICE: Gerald?

MR. DAVIS: What family of insects are you focusing on that work the best for your production?

MR. PAPADOYIANIS: The species are confidential. We’re working on—basically, the orders [phonetic] we’re working on are dipterans and lepidopterans. That’s as specific as I can get.

FEMALE VOICE: Any other questions from the board? [Unintelligible], Rigo?
MR. DELGADO: Thank you. Ten years down the road, what do you think will be your capacity and will you be able to meet the demand for your product in the marketplace, first question? And second, in terms of pricing, how do you expect that to be compared to the commercial fishmeal.

MR. PAPADOYIANIS: Good questions. One of our goals in being able to do this is to—you know, with fishmeal, the facts are, basically, that every metric ton of fishmeal has to travel approximately 5,000 kilometers to get to the end user from where it’s produced, so there’s a real economic liability there. What we’d like to do in our facilities is be able to base these facilities strategically, in strategic locations, to be able to combat a lot of the freight costs in doing that and be able to supply to the largest markets, you know, on a cost-effective basis.

FEMALE VOICE: Hue?

MR. KARREMAN: Just wondering—maybe I missed it in the slide—but what protein level does the insect meal give, because actually, Dr. Alam, during the poster session yesterday, wanted to kind of point out that, you know, even if there’s a 12 percent fishmeal, you know, inclusion for now, you know, the protein of that
fishmeal varies from batch to batch and all that. So just wondering what kind of variation of protein is in that meal that you’re making.

MR. PAPADOYIANIS: Yeah, I went through that pretty quickly, but in the slide we had four species and it ranged from a low of 42 percent with one species up to the one that we’re moving forward with [unintelligible] commercial production, which is up to 60—between 62 and 63 percent, versus fishmeal, which is usually 67 up to 70 percent, typical menhaden meal.

FEMALE VOICE: Any other questions from the board—from the [unintelligible]—Barbara, [unintelligible] program?

BARBARA: Is—are you—does this only have application as a substitute for fishmeal or are you going to be considering its use in any other— as a supplement, or does it—is it only in fishmeal?

MR. PAPADOYIANIS: No, absolutely not. We’re looking at it as a very high-quality, sustainable protein meal that could be used for fish and livestock diets, and eventually, we hope for human diets.

[laughter]

BARBARA: So—oh, really?
MR. PAPADOYIANIS: Well, people laugh, but you consume insects every day in your corn flakes and your bread. And everyone knows...

[laughter]

There’s an allowable percentage of insect parts in any grain-based diet, so you’re consuming ‘em.

BARBARA: So this could be a possible substitute for methionine?

MR. PAPADOYIANIS: For what?

BARBARA: This could be a possible substitute for methionine?

MR. PAPADOYIANIS: Uh huh.


[Unrelated Conversation]

FEMALE VOICE: We’ll give you five more minutes.

[pause]

MR. PAPADOYIANIS: Okay. The other technology that we’re working on addresses closed containment system. We have a product that we’ve trademarked as the Aqua-Sphere. It’s a closed containment—floating closed containment system. It’s constructed of flexible, high-impact polypropylene, and the tank system has actually
incorporated flexible neoprene joints in it to actually combat wind and wave stress factors. Some of the other benefits of the system are that it actually concentrates solid waste in the bottom of tank and shunts it, periodically throughout the day, to a waste-concentrated trap, which [unintelligible] the waste can then be shunted to the land-based production system or a barge for disposal. The other benefit that we’ve targeted—I’ve heard a lot of critiques on closed containment in terms of operating expense. What we use is—instead of using high energy consuming pumps to pump the water from the outside environment to the inside, we use a very old but very efficient system of an airlift, and those—organ pipe design on the side of the tank actually is a very low-high-volume, low-pressure air injection system that moves water very efficiently into the system. And to give you just an idea, we have a land-based hybrid striped bass farm in South Florida, adjacent to the Everglades, and it takes us approximately 300 horsepower in pumps moving water throughout the farm to produce 1 million pounds of product a year. In this system, from our six-month operating history, we’ll be down to less than 60 horsepower to produce the
same amount of product. And what that’s done is
it’s allowed us to begin work with several
companies now for integration of alternative
ergy to be able to run the system, and we’re
looking at wind, wave, solar and also methane or
[phonetic] biogas as a full operating energy
component and as an augmentation to the grid.

[pause]

Just wanted to go over some of the
benefits of using closed containment over net
pens. We—as I said, we’ve had a system operating
for six months with the production of hybrid
striped bass, albeit on a pilot scale in a quarry
[phonetic] lake system in South Florida. And
we’ve been able to achieve some pretty tremendous
results in terms of the reproduction, and also,
the cohabitation with some pretty good predators
in the system. We’ve had—we’ve lived
cooperatively with the alligators, soft-shell
turtles, anhingas and cormorants, and a bunch of
other predators. So closed containment really
allows that—the containment of the crop
and also the protein of that crop from outside
predation, and that’s a very important component
of the system as well. The other thing that we’ve
done is we’ve fully—our business mantra is really
to fully integrate our systems so that there’s no waste and we’re actually producing secondary and tertiary products. All of the waste that’s being produced in that system is being pumped to shore. It’s being digested, anaerobically, with a methane digester. We’ll be using that methane to actually power the air blowers to pump the system, and then the digested sludge is used as a fertilizer for herbs and vegetables in our greenhouses. And we’ve, again, successfully closed that loop over the last six months in doing that. And again, we feel that integrated aquaculture is a very sustainable model. We heard yesterday that all sustainable products are not necessarily organic, but certainly, organic products should be sustainable. And we also believe that producing secondary and tertiary crops, at no cost, from those byproducts, helps supplement, and oftentimes eclipse the cost of energy to pump that water in that system. Thank you.

FEMALE VOICE: Thank you. Any questions?

Steve?

MR. DEMURI: How do you address the fallowing [phonetic] issue with your systems?

MR. PAPADOYIANIS: We’re doing testing right now on the polypropylene. We’ve had
extremely low following on the outside. Now, we haven't tested it in the marine-based systems yet. We’re looking—in mid 2008, we have—our second-generation system is going in the water in January, and we’re looking about mid 2008 to have the system in pilot operation elsewhere, with other species in the marine environment. And part of the reason I wanted to address the board today is wanted to have an impact that private enterprise is moving forward on these items very rapidly. We’re looking to have both these products to [unintelligible]—to market and commercial development by the end of 2008, beginning of 2009.

FEMALE VOICE: Any other questions from the board? Thank you.

MR. PAPADOYIANIS: Thank you.


MR. HICKS: Good morning again. My name is Brad Hicks. I’m with the Pacific Organic Seafood Association from British Columbia, and today I’d just like to address some issues on fish welfare. I noticed, when I was preparing to come
here, that there was a paper on fish welfare so I just thought I would let the NOSB know what the Pacific Organic Seafood Association did to address that issue. I guess first, having raised several species besides fish, and my understanding of the organic aquaculture—or organic agriculture system—Freudian slip—was that the systems that would be adapted in organic agriculture would have gone through a process where people accepted them. So for fish, what we did was we looked at organic standards, both terrestrial and aquatic, and we chose the Five Freedoms as the underscore for our section in our standards on welfare. The Five Freedoms are freedom from nutrition—we heard yesterday, that as we try and move away from fishmeal and fish oil, currently we have to substitute with some synthetic amino acids. At least, certainly, for a transition period, we can use fishmeal for that process. So we have to be able to husband fish that are well-nourished and not malnourished. The next freedom is freedom from thermal and physical discomfort. For those who are not familiar with fish, we know an awful lot about the thermal comfort zones for fish because their behavior and their survival outside their thermal comfort zone is very, very poor.
That’s well known. So in our standards, we have our standards set up so that we can adjust them for species, based on their temperature requirements, as one of the metrics. Hot on the heels of George’s [phonetic] presentation yesterday. The next freedom is freedom from injury and disease. We actually—fish diseases have been studied for a long time. The first fish disease was diagnosed with something called furunculous, and that was over 100 years ago. So we do have some experience in fish diseases, much more than in nutrition, as it turns out. So like organic terrestrial systems, we have in place a system whereby if the animals do get sick and we cannot solve the problem with conventional organic methods, then the fish do need to be treated from a health and welfare perspective. And once they are treated, they have to be removed from the system. Pretty standard practice. Freedom from fear and distress—for those of you who are unfamiliar with fish, perhaps fish behavior doesn’t seem so transparent, but for those who work with them—those of us that work with them every day, we can tell when a fish is upset, for lack of a better term, ’cause we—so we set up systems—I think there was question earlier about
how do you know when the fish is happy, sort of—and so we set up systems, and the fish is pretty transparent [unintelligible] telling when he’s unhappy. So we assume when he’s not telling you he’s unhappy, he’s probably happy. Okay. It’s a bit of a negative, but—and, you know, fish—you can watch a pecking order in fish just the same as you can in a field of chickens, once you get to figure out how to do it and what a pecking is in fish. So we set up systems where the stress is as low as we can get it. Freedom from unnecessary restrictions of behavior—one of the issues that has come up in fish farming is the migratory issue. I guess my issue is good fences make good neighbors. All the animals I ever raised wanted to get out of the barnyard at one time or another. Migratory behavior is real. One of the reasons why husbandry of all animals work, including fish, is that we [unintelligible]—migration is for food and reproduction, primarily, and we supply the food and we look after the reproduction, so the migratory requirements are removed in a farming system. And that, for me, is the same for virtually all species. Thank you very much.

FEMALE VOICE: Thank you, Brad. Any questions for Brad? Kevin?
MR. ENGELBERT: Do you have any parameters for density?

MR. HICKS: Yes, we have specific parameters for density, for both the—just so—our standards are for salmon, primarily, because that’s what we do. We have standards for the net pen systems, and we have standards for the land-based system. In salmon rearing, when they’re juveniles they’re raised on land. So we have densities in place for both.

FEMALE VOICE: Joe?

MR. SMILLIE: You have an organic association composed of organic aquaculturalists?

MR. HICKS: That’s correct?

MR. SMILLIE: How—are you self-certified or have you employed an independent to agency to verify compliance to your standards?

MR. HICKS: We are currently self-certified, and the reason is, in British Columbia, where we live, there’s provincial legislation, which would be equivalent to state legislation, and we currently working to become certified under the provincial legislation. Now, in all honesty, just like you people have, and the people in this room have issues to deal with, the current discussion in British Columbia is whether or not
the legislation applies to aquatic species as well
as terrestrial species. [Unintelligible] pretty
common question. So at this point, we’re self-
certified, but we’re—certainly have standards that
have been—the stage they’re at with the COABC is
that they’ve been passed by the Standards Review
Committee is the stage they’re at, so we’d be
comfortable [phonetic] to take them elsewhere.

MALE VOICE: Brad, could you forward that
to the Livestock Committee, your standards and any
verification procedures that you guys have
investigated?

MR. HICKS: I can. I have the standards,
but we have the ISO 9005 booklets, et cetera. We
have all that done. You’d like all of that
material?

MALE VOICE: Not the ISO, but—

MR. HICKS: [interposing] The standards?

MALE VOICE: Hue?

MR. HICKS: We have the standards, yeah.
I will certainly give you the standards.

FEMALE VOICE: All right. Any further
questions for Brad?

MR. HICKS: Thank you very much.

FEMALE VOICE: Thank you, Brad. Next up
is Spencer Evans, and on deck, George Lockwood.
And just a status to the board, we have eight more
speakers before lunch and 44 this afternoon for
the four hours of comment period. Don’t want to
stop you from asking your questions, just want you
to know what you’re up against. Go ahead.

MR. EVANS: I understand you’re hungry so
I’ll go quickly here. My name is Spencer Evans.
I’m a farmer. I’ve been farming fish for about 20
years, and I’m currently the general manager of
Creative Salmon. It’s a small farming company
operated on the west coast of Vancouver Island in
British Columbia, Canada. Before—I’m going to
just touch briefly on the sea lice issue, and then
I’d like to tell you, briefly, a little bit about
what Creative Salmon does. But before I get
going, I just wanted to thank the NOSB and the
Aquaculture Working Group for taking on this
challenge. I know it’s been difficult. Like Brad
said, we’ve gone through a similar process—we’re
going through a similar process in B.C., and it
is—it’s very difficult. And you’ve been given a
lot of information, some of it conflicting, and
it’s difficult. You’ve got some very difficult
decisions to make. Just on the sea lice issue, I
want you to understand that not all farms have
problems with sea lice, and I think that’s kind of
the message that’s been conveyed up to this point.
We as a company, Creative Salmon, have been
growing Pacific Salmon for 17 years in the
traditional territory of the Colloquia [phonetic]
First Nations on the west coast of Vancouver
Island. We’ve never had a problem with sea lice.
We have never had sea lice mortality on the farms
or mortality related to sea lice, and we have
never treated for sea lice. For us, sea lice is a
non-issue. Having said that, it has become a
public issue in British Columbia, and when it did,
our First Nations neighbors came to us and said,
“What’s going on here”? So we took the initiative
to embark on a sea lice monitoring program, and
for the last four years, we’ve been looking at
lice levels on our fish on the farms, and on wild
fish in the river systems near the farms and away
from the farms. And in all cases in our area, the
sea lice levels are very, very low, so for us sea
lice is not a problem. We—Creative Salmon is a
very small company, very small producer. We are
one of the founding members of the Pacific Organic
Seafood Association, and the standards that Brad
Hicks referred to, we have been growing our fish
according to those standards for the last four
years. So that means things like we grow
indigenous species only; very, very few fish per cage; very, very few fish per farm; every farm sight is routinely fallowed; no chemical treatments of any sort for the nets; a whole bunch of standards that ultimately result in a high-quality product, a high-quality salmon with the least environmental footprint possible. When you grow a high-quality salmon, it means you grow a healthy salmon. And on our farms, we have survival rates anywhere between 90 to 95 percent survival from smolt introduction to harvest. And that’s without antibiotics. We haven’t had to treat our production fish since October 2001, and those are the fish that we sell into the marketplace. Farming salmon, if it’s done right, can have a very small environmental footprint, and that’s exactly what we’re striving to do. And at some point, we’re hoping that we’ll be recognized for our efforts and be able to have some sort of organic certification. Thank you.

FEMALE VOICE: Thank you, Spencer.

Questions for Spencer? Joe?

MR. SMILLIE: How are you sited [phonetic]? Like you’ve obviously achieved a lot of what we’re talking about. Is the [phonetic] sitting [unintelligible]...
MR. EVANS: In British Columbia siting—
the regulations in British Columbia are extremely
stringent, probably the most stringent in the
world when it comes to aquaculture, and siting is
just one of those issues that are highly
regulated. Our sights are in protected waters.
They’re in fjord-like [phonetic] inlets on
Vancouver Island. Some of them are excellent
sites; some of them are less than excellent. But
that’s why we fallow sites. We know, from our own
experience monitoring program, that indeed we do
have impacts on the sediment under the farms, but
we also know from our environmental monitoring
that fallowing the farms reduces those imprints.

MR. SMILLIE: What would be your
rotational cycle on the fallowing?

MR. EVANS: We do two types of fallowing
programs, one we call the short-term program and
the other one’s a longer-term program. One of the
things we do with organics, or organic operations,
is we do single-year class [phonetic] stocking, so
we put a group of fish on one farm; we never move
those fish; in fact, we don’t even touch them
until they’re harvested out of that farm; and
after that process, the farm will sit [phonetic]
fallow for a minimum of two to four months before
we restock. That’s the short-term fallowing program that every single farm goes through. The long-term program can be anywhere from two, to four, to six years. We have six farming locations in this body of water that we operate in, but we only operate a maximum of four farms at any one time. A maximum of four at any one time, so we actually rotate, physically rotate, the cages from farm site to farm site, and we do get fallow periods for two, to four, six years, so forth.

FEMALE VOICE: Hue?

MR. KARREMAN: Just want to thank you for coming here for—it’s great to hear from a real farmer, like yourself, at this meeting.

MR. EVANS: Thank goodness I got a good staff back at the farm that’s looking after those fish for me.

FEMALE VOICE: Any other questions for Spencer? Steve?

MR. DEMURI: Can you give me some idea just how big this sea lice issue is? You don’t have it, but we heard some pretty compelling evidence that it is [phonetic] out there. Can you give us some kind of idea of how bad it really is?

MR. EVANS: Personally, I think it’s blown way out of proportion. Salmon have sea
lice, absolutely. When you grow Pacific Salmon, it’s a non issue; when you grow exotic species, like—well [unintelligible]—when you grow Atlantic Salmon in the Pacific, it is more problematic, however, there are government regulations that require farms to monitor lice levels on their fish, and at certain thresholds, they are forced to treat. And the lice levels are very, very well-contained on the farms. The idea that somehow farms are causing the collapse of Pink Salmon around the province is not true, in my opinion. Some pink runs are definitely in decline, but there’s a whole bunch of reasons for that. And sea lice, if it is one of the reasons, is very, very low down on the list of reasons. Having said that, we need more research on sea lice, absolutely, and that’s why we participate, and the whole industry participates in sea lice research. But from a public perception standpoint, I think it’s far—it’s blown way out of proportion, in my opinion.

FEMALE VOICE: Gerald?

MR. DAVIS: In your opinion, what—do you give up anything in using indigenous Pacific Salmon versus what the other Atlantic Salmon producers get by farming Atlantic Salmon in your
MR. EVANS: Yes, and that’s actually a really good question. When the industry first started in British Columbia, everybody grew Pacific Salmon. That’s what the industry did, and I’m talking 25-odd years ago. And we were basically putting wild fish in cages and growing them, and we soon ran into problems because we didn’t know—we didn’t have very much information about the nutritional requirements of the fish, the fish health aspects of the fish. And we had a lot of early problems in the industry and there was—to address those problems, there was a dramatic shift from Pacific Salmon to Atlantic Salmon, and now the entire industry, except for a small handful of farmers, are growing Atlantic Salmon. The disadvantage to growing Chinooks, or Pacific Salmon in our case, is they take longer to grow; they convert feed at a higher rate; and when you do have mortality with Pacific Salmon, it typically happens later in life, where with Atlantic Salmon, mortality more often occurs at the smolt size. So it’s a much more challenging animal to grow, and that’s one of the disadvantages of doing it. However, one of the advantages of doing it is we can distinguish, or
find niche markets for it in the marketplace.

FEMALE VOICE: Thank you. Any further questions? All right. Thank you very much.

George Lockwood, you’re up next, with David Guggenheim—you’re next. Again, board members, I really don’t want to take people to three-minute comments, which is what we’re going to have to do if we can’t kick through some of these, but, you know, keep your pertinent questions coming.

MR. LOCKWOOD: I’ll be very brief. First of all, the aquaculture worker wants to thank the board again for yesterday’s superb day. I think we are all very satisfied that the selection of the 12 experts and leading advocates was outstanding, and I would hope that you have a real good idea now of what these issues are and what the science behind them is. It’s also, I think, important that these—to know these people volunteered their time, and at their own expense, came to be with you. On the matter of the issues that are remaining from our proposal of February 1, there are five. Yesterday, we dealt with the fishmeal and fish oil issue and net pen issues. But we still have working, as Becky [phonetic] indicated, a revised proposal concerning compost, and we need to pick up on aquatic edible plants,
and we, of course, have submitted a second report having to do with the biovalve mollusk [phonetic]. The reason why we focused—or urged you to focus on fishmeal and oil and net pens yesterday was that without fishmeal and oil, virtually, there is no aquaculture. I think the message yesterday was very clear from all the feed nutrition people that the amino acids that come out of fishmeal, or the alternatives, poultry byproduct or free amino acids, are indeed necessary. As for net pens, if we don’t deal with net pens, there are—will be no salmon grown. One hundred percent of the salmon and about a third of the world’s tilapia is grown in net pens. So the three remaining, we’re still working on, and we hope that the biovalve mollusk report that we submitted will be accepted and we can go to work on it. One thing I would like to comment on, we’re eagerly looking forward to the program to move ahead with rule making on what was passed last March, and we’re prepared—the Aquaculture Working Group is prepared to assist in any way we can, in any of the writing or any of the research that’s necessary. And lastly, we look forward to continuing to work with the Livestock Committee as we move forward on fishmeal and net pens issue that are most pressing right
now. Thank you very much.

FEMALE VOICE: Thank you, George.

Questions for George? Thank you very much. David Guggenheim, you’re up. On deck is Mike Picchietti. Mike, are you here? You’re on deck.

MR. GUGGENHEIM: Good afternoon. My name’s David Guggenheim. I’m a marine biologist and president of the non-profit, One Planet, One Ocean, formerly vice president of the Ocean Conservancy. But I’m here today representing an aquaculture company called Aquaculture Developments, based in Pittsburgh, and I serve as a consultant to them.

[unrelated conversation]

In my years in conservation, I grew to view these as my clients.

[unrelated conversation]

And as you know, my clients dealt with—have continued to deal with some very serious situations. This headline appeared in the New York Times about a year ago, “Wild Fish Stocks are in Great Decline.”

[unrelated conversation]

At the Ocean Conservancy, I worked with a number of commercial fishermen, including one in St. Croix, and these are his kids. And
every time I’d show up at their house, they would
dive into the cooler that their dad had brought
back and show me the biggest fish that he caught
that day, and those are the biggest fish. And the
other ones in that cooler, you would see more
likely in your aquarium. So, you know, obviously,
a lot of problems. And I had a bit of an epiphany
about three years ago, when I left the Ocean
Conservancy, and since it’s the holiday season,
I’ll put it this way: I have seen aquaculture
future, and it looks like this, and it looks like
this, and it looks like this. These are all
examples of next-generation, recirculating, land-
based aquaculture technology. This one’s based in
Malaysia, growing barramundi, and that also has a
[unintelligible] hatchery associated with it.
This is—on top, you see an eel facility in
Northern Denmark which supplies 1,000 tons per
year of eel. That’s 20 percent the European
demand. Below it is a halibut facility in Norway.
And we’ve talked about recirculating systems, and
this is, very simply, what one looks like. And
the most important thing to see in a recirculating
system is that there are no connections to the
outside world; 99 percent of the water is
recycled; and basically, if you’re familiar with
water treatment facilities, this is a water
treatment facility that just happens to have a
fish tank in it. I became enamored with closed
systems because they addressed virtually all of
the environmental impacts we see associated with
open systems, escapement, water pollution, habitat
destruction, and use of antibiotics and chemicals.
None of these are issues at all. The only issue
that remains, like all other forms, is feed.
Well, invoking one of my favorite shows,“MythBusters,” I wanted to dispel a couple of
myths about closed-system aquaculture. First
myth: Land-based recirculating systems can’t
compete with other forms of aquaculture. That
myth is busted. These are proven commercial
success since the early 1990s, gross margins as
high as 30, even as high as 40 percent in
Australia, and strong consumer demand. In fact,
they’ve succeeded in establishing a consumer
preference for farmed fish in Asia, because of the
safety issues. So very different from the
discussion we were having earlier. Myth number
two: Land-based recirculation systems use too
much energy. In fact, one of the best-kept
secrets are great efficiencies—there are great
efficiencies in recirculating systems, and in
fact, they use, in [phonetic] order of magnitude, less feed to produce the same amount of fish. So here we see 1 kilogram of wet fish to produce a kilogram of barramundi, versus 15 kilograms. Fish grow much faster, 10 times faster. This is halibut grown in a recirculating system, compared to a flow-through. No heat is used to heat the water in this facility in Northern Denmark. The metabolism of the eels is sufficient to keep the water warm. And you have to consider food miles. Closed systems offer the possibility of locally grown fish, fresh to market and close. So in conclusion, set the bar high. The technology already exists for the standards that you’ve posed to be met. And setting that bar high will continue to encourage further innovation to make this happen. We still have the problem of feed. We support the sunset provision that you’ve outlined; we feel we can make it, and well beyond. Thank you very much.

FEMALE VOICE: Thank you, David. Any questions for David? Kevin?

MR. ENGELBERT: One quick one. How would you address the animal welfare issue of the fish being in a closed building, obviously not their natural environment whatsoever?
MR. GUGGENHEIM: I think it comes down to a very species-specific question. I think there’s some fish where the jury is still out on whether or not they adapt themselves well to a closed environment. I think one of the best measures of whether these animals are doing well or not, just as on land, is to observe their behaviors and to observe the measurable health parameters of the animals. And from everything that I’ve observed in these systems in Malaysia, in Denmark, these animals seem very healthy and they seem to be exhibiting normal behaviors, at a variety of stocking densities. The eels you saw were packed like sardines, if I can use that pun, very high stocking densities. And I don’t know exactly what a happy eel looks like, but I was impressed at the health of these animals and their ability to still exhibit as normal behaviors as you might expect. Welfare goes beyond some of the science, and welfare issues do bring up subjective issues as well. The consumer tolerance of seeing animals raised in captivity, that’s a different issue, and not one that I’m prepared to respond to.

FEMALE VOICE: Thank you. That is something we’ll delve into in the future. Any further questions for David? Thank you, David.
MR. GUGGENHEIM: Thank you.

FEMALE VOICE: Up next, Michael [phonetic] Picchietti; on deck, Alice Chiu. Alice are you here?

MS. CHIU: Yes.

FEMALE VOICE: Thank you. You’re on deck.

MR. PICCHIETTI: Hello. Mike Picchietti, P-I-C-C-H-I-E-T-T-I. I’m a-made my living in tilapia for the last 27 years, and I’m currently president of Regal Springs Trading Company. I started farming in Africa, and then went to India, and then Brazil. I lose track sometimes. And then to California, Florida, and now we’re in Indonesia and Honduras. Regal Springs is a vertically integrated producer of tilapia with operations in Indonesia and Honduras, active in the business, Regal Springs, that is, since 1998. [Unintelligible] of Germany and Bioswiss [phonetic] of Switzerland have certified some of our farms organic in 2006, which comprise land-based hatcheries and cage installations in artificial dams and natural lakes. So far, only about 2 percent of our production is organic, most going to the market in E.U. and Canada. Today’s focus is, basically, can net pens be considered
organic? Regal Springs is one of the founding members of the Steering Committee of the World Wildlife Fund’s tilapia aquaculture dialogue. Our effort with WWF is to reinforce the image that tilapia is a green, sustainable species. We are creating a certification for the sustainable production of tilapia producers worldwide, with the WWF and other producers. I mention this participation to share with you how our early experience with the various stakeholders, mostly environmental NGOs, brought up similar objections to cage farming and the issues being discussed here. From the WWF dialogue, the purpose is to discuss the facts. We realize most of the objections were grounded in a lack of knowledge about how tilapia’s farmed, how tilapia in cages is farmed, and how our company operates. Specifically, some stakeholders were imposing their knowledge and experience with marine shrimp and ocean net pen of salmon onto cage farming of tilapia in particular. After the first meeting discussing the main issues and objections with stakeholders, testimony provided by experts, the WWF adopted a single guiding principle to oversee the direction. That principle is tilapia production facilities will be evaluated based on
performance standards and will not be prejudged as environmental or socially acceptable. In reading over the objections today of the marine net pen culture [phonetic] of carnivorous species—allow me to briefly go over some of the issues that we have. As far as fishmeal, we have constructed a fishmeal and fish oil extraction facility next to our processing plant. We process whole tilapia into fillets. Before we had the fishmeal facility, our fish heads, blood, guts and frames had to be trucked and buried into landfills. Now all these wastes from the filleting operations are converted into fishmeal and fish oil. Our fishmeal is sold into the feed mills for shrimp and poultry industry, so not to backcross into the tilapia feeds, while our tilapia diets trade [phonetic] the fishmeal purchase from the poultry and shrimp feeds yielding Regal Springs as a net zero user of fishmeal-fish oil. This has significant impact on our conventional fresh tilapia fillet market because our company supplies about 25 percent of the entire U.S. market. Fish oil—from the same facility, the fish wastes we produce produce high volumes of fish oil, approximately 3,000 gallons a day. We sell about 40 percent of this into animal feeds, and the rest
we convert into biodiesel so that our entire operations in Honduras are using tilapia fish oil biodiesel to fuel all the farm vehicles, motors, pumps, rather than consuming fossil fuels. This effort awarded Regal Springs the highest environmental award in Central America. OceanChill carbon footprint—Regal Springs has developed the techniques to ship fresh fillets to the U.S. from Honduras via ocean ship rather than airfreight. To compare this to the industry standard method of air shipping, the difference in fuel kilocalories per pound of fillet produced is what 2 percent of what airfreight uses. Regal has trademarked this process OceanChill. There is much discussion in organic circles about fossil fuel use in the production of these products. Escapees—again, a regional issue, like Mr. Brooks [phonetic] said yesterday. We have kind of a polyculture. Our escape tilapia are caught and consumed by humans and all the native animals in the surrounding environment. Thirty years before we arrived in Honduras, the government stocked the same species of the tilapia in the same waters we’re using. Since then, the government regularly stocks the same species in the lakes for human communities living near the lake. They also
channel catfish, largemouth bass, which are all exotics. There are thousands of fishermen organized into cooperatives that provide a balance in the productivity of the lake, a way to remove nutrients and escapees together. Effluence—the most open water bodies suitable for net cage culture have wild fish population. In ours, we have natural, exotic and indigenous fish, stocks which congregate around the cage and feed off the extra feed and fecal material. Proof of this is found in the stomach contents of the fish. A well-designed net cage system allows for surrounding bodies of water to recycle fecal material without accumulation in the water body bottom without increasing end [phonetic] values of water quality parameters. We have the data to support this observation, for many years. We are in a more closed system than the ocean by a scale of about 2 million to 1. We do, and can, measure our impacts, and we have data going back years so we can measure the increase in any phosphorus, nitrogen and other important levels. The fact is there’s actually been a decrease in phosphorus level since we’ve been the lake, which we don’t quite understand. The key is the balance to assimilate the waste within the lake as a whole
organism. We are constantly monitoring. Being in a public body of water intensifies the governance and monitoring, as we are working, literally, in a fishbowl, not behind barbed-wire fences, like private farms.

FEMALE VOICE: Excuse me. Your time has expired.

MR. PICCHIETTI: Okay.

FEMALE VOICE: Is there any questions from the board? Joe?

MR. SMILLIE: Yeah, I encourage you to get certified, your organic operations, once we have the standard ready, ‘cause I’m hoping that the tilapia, catfish and other industries can start the fishmeal. Even though the biodiesel use may be attractive from an environmental point of view, we’d like to see it all go to be certified fishmeal. In your certified organic operations, could you mention the biggest obstacles? One of ‘em is the lack of production because you actually have to select for sex rather than using hormone treatments, but if you could just elucidate on the challenges for your—what are the barriers that you face in going organic with all of your production.

MR. PICCHIETTI: Well, the—In cages, there—tilapia need a substrate to spawn, and in
cages there is no substrate, so the need for the
sex reversal is not as apparent as in ponds, where
it’s certainly needed. So we got a big break
there. Then biggest problem for us to expand our
organic is the USDA has not provided it, so we
don’t want to expand it because we don’t know
which way it’s going to fall, with regard to net
cages specifically. The other problem with
production is the feed ingredients cost quite a
bit, ridiculous, actually. [Unintelligible] has
to certify, you know, the grains and the farms and
so that takes quite a bit and it takes ‘em a lot
of time. So the feed cost is prohibitive, and it
makes the product expensive where it doesn’t
really have to be.

FEMALE VOICE: Any further questions?
Thank you so much. Up next is Alice, and on deck,
Dick Martin—are you here? You’re on deck.

MS. CHIU: Hi. My name is Alice Chiu.
I’m a researcher at Stanford University, working
with Dr. Rosamond Naylor on analyzing the
environmental impacts of aquaculture. I wanted to
thank you for this opportunity to provide public
comment, and for taking the time to consider the
trickier points of organic aquaculture through
yesterday’s excellent symposium. Dr. Naylor and I
recently convened a meeting of several scientists, industry and NGO collaborators to discuss sustainable alternatives for aquaculture feed inputs, a summary of which I thought would be beneficial as you consider developing organic aquaculture standards. In the coming months, this group will be producing a rigorous evaluation of the alternative sources of aquaculture feeds and their tradeoffs, which I would be pleased to share with you when it’s complete. But today, I’d like to discuss the strategic use of fishmeal and fish oil and provide a more general overview of the alternative sources of nutrition, particularly for carnivorous or pestiferous species that have more demanding nutrient requirements. So from an ecological standpoint, the use of fishmeal and fish oil from reduction [phonetic] fisheries should be minimized, and eliminated where possible, in order to protect the status of wild forage fish. An important step in minimizing the use of fishmeal and oil in aquaculture feeds is to use these fish-based feeds only during the life stages where it is nutritionally necessary for the fish, for example, in the juvenile stages. Alternative sources of nutrition should be substituted at all other times. This already
occurring, to some degree, due to the high price of fishmeal and fish oil, but an organic standard including this would further encourage the substitution. The discussion of alternative feed inputs raises the question of whether a fish raised on alternative proteins can be comparable, from a human consumption standpoint, to a fish fed fishmeal and oil. This concern can be addressed, to a large degree, through the use of a finishing diet that includes fishmeal and fish oil. Fish derive their characteristic taste through the oil that they are fed, and studies have shown that feeding a fish-based diet for a period of time immediately before harvest restores omega3 levels, and also the customary taste to a fish otherwise fed a vegetarian diet. Some scientists say as little as three weeks on a finishing diet is adequate, while others suggest two to three months to ensure that high levels of omega3 fatty acids are present. Even so, limiting fish oil to the final three months would still reduce the total amount of fish oil consumed over the fishes’ lifetime by 85 percent. Because of this, I strongly encourage the strategic use of fishmeal and oil only in life stages where they’re considered necessary, and using alternative forms
of nutrition at all other times. As far as an assessment of some of the alternative sources of proteins and oils, I have submitted comments so I don’t have time to go into, you know, all the details, so I refer you to those. But terrestrial—meals from terrestrial plants such as soy and wheat are what are most commonly available, and because they’re available at fairly commercial quantities, plant-based feeds may provide the most practical avenue for meeting organic principles. However, the use of plants in aquaculture feeds have other biological and environmental impacts that must be considered. Vegetable proteins lack certain essential amino acids, such as lysine, along with [unintelligible] omega3 fatty acids that consumers desire for their health benefits. And on the ecosystem side, plant-based feeds have a higher fiber content, which results in increased fecal output which exacerbates the problem of pollution. One alternative which I think should definitely be encouraged, and which people have spoken a lot about today and yesterday is the use of seafood processing byproducts in—if it’s from a farm origin, this would be a traceable and controllable input that fits well with organic principles. And
in either case, it’s an efficient use of material that would otherwise go to waste. Fish trimmings often have a high lipid content, making them a good source of fish oil, which is often considered a limiting factor in the fish oil-fishmeal debate. One potential issue is that corresponding high levels of contaminants can be—is a problem in some cases. However, purification processes do exist that remove contaminants of concern and add only $3 to $5 per ton to the price of feed. As Mike mentioned previously, the cost of these seafood byproducts appears to be a problem. Currently, the majority of farmers are not asking for alternative feed [unintelligible]—

MS. CHIU: ...and lacking that demand, feed companies have no desire to complicate their manufacturing processes with numerous specialty mixes and separate bins for each species of byproduct. Organic certification could be extremely useful in driving the demand that will speed this change. Increased production of these byproduct feeds would bring the price down, and the price premium that comes with organic certification would simultaneously allow the
producer to afford the more expensive feed. Another producing alternative is that of the use of animal byproducts. I realize there’s a consumer reluctance for this, but scientifically, animal protein contains high levels of lysine and is a much more complete source of nutrition than vegetable protein. And the potential for this industry is quite large, as it’s available in enormous quantities. Again, further research is needed, and in order for fish raised on animal byproducts to be organic, only organically raised animals could be used in feed. Since it is important to avoid fueling further, industrialized [unintelligible] operations by creating [phonetic] an additional demand for them.

FEMALE VOICE: Thank you, Alice. Your time has expired. Is there further—is there questions from the board for Alice? Thank you so much. We have Dick Martin up, and on deck, Will Fantle. Will, are you in the room? Very good.

MR. MARTIN: Good afternoon. I’m Dick Martin. I have been in the industry for 28 years. I own Martin International Corporation, which is a seafood import-export company in Boston, which I’ve owned for 22 years. I’m going to try and skip over things that have been said already
today. We’ve had great public comment, so I’ll try and get to the key points, and so bear with me as a skip around. I’m not going to read off my text. Madam Chair, you stole some of my thunder right at the very start. I think, at this phase of all the work you’ve done, it’s key to back to the basic premise of what you’re trying to accomplish here, which is that the NOSB is charged not with creating the perfect world in a vacuum model, but you are required to uphold organic principles, comply [unintelligible] the final rule on a practical and viable basis. Most of the testimony and literature brought forward by the opposition is based on worst-case practice and taken out of context in historical observation of poorly run and poorly managed systems. We shouldn’t waste our time thinking about poorly run conventional systems. We should think about, now, setting metrics for what your goals are, and they’re attainable. Common sense should prevail in considering [phonetic] those arguments, and the existing working models provide excellent examples of what is possible and what is plausible. I want to kind of key on net pen culture a little bit. That seems to be hot topic. My opinion, and it’s been for some time, the worst thing about open net
pen culture is the exaggerated use of the term open. Ocean fences are no more open or closed than the terrestrial variety. A net pen has no inherent property that makes it any more or less damaging than the environmental—to the environment than a fence in a pasture. When one considers the hypothetical proposition, the sea pen is more likely to pose a threat in the [phonetic] potential transfer of diseases than a terrestrial fence, once you consider the openness of terrestrial systems in recent historic epidemics of Hoof and Mouth Disease and avian flu. I would argue that sea pens are far less likely to propagate disease, as a human vector is generally eliminated in the aquatic system, and that is a serious contributor in disease transfer in the terrestrial models. A lot of the organic farms that are in existence today have very little disease. Part of that is the advent of better improvements in vaccines. Disease now is related more to high-intensity—high intensive farming than it is just to the practice of farming fish altogether. In terms of talking about pests, the favorite topic here is sea lice. It is a valid consideration that a captive population of hosts can [unintelligible] potential problems, yet
proper management of the sites [phonetic], low-density, low-intensity, location, location, location has more to do with pest management than random chance. In the U.K., the organic salmon sites are located in areas mostly in the Shetlands, Hebrides and Orkney Islands. There are no rivers on those islands. That’s a significant reason why they’re there. They aren’t there because people like to live there. It’s a good place to farm the fish. Without rivers, there’s no breeding [unintelligible] population. Through sensitive site selection, which reduce or eliminate the wild [phonetic] population vector, there has been minimal sea lice infestations in those locations. Observation of what is possible and that which has been practiced, such as siting [phonetic] requirements, are key issues in developing organic standards for real world applications, not hypothetical, worst-case scenarios. Siting should be a key consideration in the establishment of a U.S. standard. In terms of escapes, that hasn’t really been talked about today very much but I want to harp on that a little bit. In considering the threat of escapes in aquatic systems, you’ve been pounded by statistics that quantify worldwide escapes, and
you’ve been led to believe that the genetic code
[unintelligible] the ancestral species is somehow
endangered. The fact of that matter is that
restocking programs for various strains of
Atlantic Salmon have been reared in hatcheries and
have been in place for more than a century.
Similarly, in British Columbia, identical strains
of Chinook have been used to restock ocean
ranching programs and commercial net pen culture
alike. Up to 38 percent of wild Pacific Salmon
species actually begin their life reared in
hatcheries, using the same chemical assistance,
identical feeding regimes as their farmed brothers
and sisters. One man’s escapee is another man’s
stocking program. In terms of effluence, when
discussion turns to effluences [phonetic] from an—
of aquatic sites, it’s hard to believe that some
people actually are astounded to feel or hear that
fish poop in the sea.

[laughter]

For those who are incredulous to consider
this—and I’ve been waiting all year to do this—I
suggest reading a book authored by Taro Gomi,
“Everyone Poops.” It’s what you do with it and
how you manage it that’s important. We shouldn’t
be gaga over the fact that these critters actually
live a life. The natural excrement—

FEMALE VOICE: [interposing] All right.

MR. MARTIN: --of fish populations—am I

FEMALE VOICE: Your time has expired.

Your time has expired, and lunch is way past due,

so I’m [unintelligible]—

MR. MARTIN: [interposing] It’s better
for toddlers [phonetic] [unintelligible], but...

FEMALE VOICE: Is there questions? There
questions? Hearing none, thank you for your

comments.

MR. MARTIN: You’re welcome.

FEMALE VOICE: Will Fantle, you’re up,

and Harriet Behar, you’re on deck.

MR. KASTEL: Okay. Thank you. Good

morning. My name is not Will Fantel. My name is

Mark Kastel, and I’m speaking on behalf of the

Cornucopia Institute. I’m its co director and

senior farm policy analyst. This is a little

segue into the afternoon sessions, folks,

Cornucopia—we are organic watchdogs; we are

industry watchdogs. But I want to really

emphasize we are all watchdogs. I also want to

say I have a—in addition to my comments, I have a

proxy from one of our policy advisors, Merrill
Clark, a former member of the National Organic Standards Board. We know why people first come to organic food, why consumers first come to organic food, and it’s selfish, and there’s nothing wrong with that. It’s folks who are concerned with the health and wellbeing of their families and want to provide the very best food, and I’m sure we all share that motivation. But research clearly shows why there’s such little price resistance in the organic marketplace, and that’s because consumers don’t just feel that they are doing something selfishly, they feel they’re doing something positive for society. They think they’re supporting a different kind of environmental ethic; a different, more humane form of animal husbandry; and they think they’re supporting economic justice for family farmers. It’s not surprising that consumers feel betrayed by the lack of enforcement on scofflaws operating factory farms producing organic milk, the largest product segment in the organic industry and a gateway product. The NOP might be satisfied with the [unintelligible] new rulemaking, but many in the organic community are not. The National Organic Standards Board has passed five guidance and rule proposals since the year 2000. None of
them have been put into effect by the USDA. Progress. In the meantime, the people are taking the law into their own hands. Many in this room know that Cornucopia has filed three legal complaints since—starting in 2005, regarding dairies operated by Case Vander Eyk, Aurora Organic Dairy and Dean Foods-Horizon. Here’s a status report, which you might have not read in the trade media: Ten-thousand-cow dairy operation by Case Vander Eyk Jr. in Pixley, California, had its certification yanked [phonetic] this year; Issues: origin of cattle—could not prove they were organic—record keeping is the backbone of organics; pasture—what’s an organic farm? Well, we know what it’s not; it’s not a feedlot. In 2005, we delivered a survey report of all the organic farmers polled in this country, and we delivered to this body a report that the average was one cow per acre. There’s quite a range, but that was the average. In the E.U. it’s three-quarters of a cow per acre. On the Vander Eyk spread, it was 44 cows per acre, and part of the documented complaints that we received in our freedom information request was the fact that they weren’t even using the 120 acres available to over 5,000 cows. Hard to believe that, post-2002, QAI,
the certifier, allowed this operation to continue to ship milk to Strummex [phonetic], Heritage and Horizon. Aurora—based on Cornucopia complaints, AMS compliance entered into an investigation. The results of that investigation was the issuance of a letter of proposed revocation by the National Organic Program. This letter cited 14 willful violations—willful—of the organic law, including inadequate pasturing of animals; origin of livestock—cows were on these farms—thousands of cows that did not qualify for organic certification. And most importantly, again, they repeat it in the document, “Willfully selling milk labeled as organic that did not qualify under the law.” Well, was this firm indeed decertified? No. Were they fined? Not a penny. Well, they did enter into a consent decree and there was some publicity that you might have seen on that, and it said that they would reduce their herd and remove certain animals from the herd. Well, here’s the fine print, and this is what we feel is the most egregious and illegal aspect of this document and agreement between the USDA and Aurora Dairy, it cited that they would remove the cow—the 80-20 cows transitioned to organics from their herd, those would be removed from their operation. The
funny thing is those were the only legal cows on
the two dairies in question that they operated.
Those were the legal cows that they transitioned,
using the 80-20 rule ending in December in 2003.
The thousands of illegal cows that they brought on
their farm subsequently, this agreement between
the USDA and Aurora would allow them to keep.
Now, this room is not filled with dairy farmers,
so I ask the question, rhetorically, why would
they do that? Why would they—this is an ass-
backwards agreement. Why would they allow them to
keep these illegal cows? Well, how many of those
original cows are still in that herd? And by
measuring the call [phonetic] rates that they’ve
disclosed publicly for those facilities, they
answer is virtually none. So instead of enforcing
the law and removing maybe 98 percent of the
cattle, the thousands of illegal cows from these
farms, they were allowed to keep them and maybe
remove 2 percent of the legal cows from those
farms. That’s what we call a sweetheart deal;
that’s what we call an illegal deal. So, folks,
this is wrong. We need the National Organic
Standards Board to stand with the rest of the
organic community. This is quite an irony because
in the year 2000—one other ironic part of this
consent agreement is, in the year 2000, the National Organic Standards Board passed a resolution that stated—and passed it onto the NOP, that lactation was not a stage of production, which would exempt farmers from managing their cattle according to the access to pasture rule. It took them from the year 2000 to 2007 to put that into effect, but it’s only in effect for one dairy operator in the entire United States, and that’s Aurora, because it’s in the consent agreement. The other 1,599 or so farms don’t have to abide by that. Your rulings are being disrespected, but there is a higher authority in this country than the USDA in these matters, and that’s the organic consumers. And it’s been reported widely in the media that there are now a total eight class-action consumer fraud lawsuits, representing plaintiffs in 30 states, that have been filed against Aurora Dairy, because if our federal regulators aren’t willing to take action—and by the way, we think the NOP did the job on this. The decision not to come down on Aurora happened at the political appointee [phonetic] level at the USDA. But if they’re not willing to do the job, the civil courts are still there. So this is a warning, and I don’t care what commodity
you are, if you’re an investor, if you’re a
private operator, if you’re engaged in organic
commerce, don’t think that if you have lobbyists
in Washington and you’ve got payroll in the
Legislative Branch due to campaign finance
contributions—don’t think that that’s going to buy
you immunity, because we have the civil courts.
So this could cost you millions of dollars, and it
could cost you your brand value. And so the cost
to Aurora is going to be high. There are already
customers looking for options. We understand some
have already switched, private label customers.
We need this board to send a strong statement to
the secretary of agriculture that this enforcement
history is totally unacceptable. Folks, you have
the voice of authority. You represent us in the
organic community. We need you to speak. And
I’ll close by just touching briefly on the
conflict of interest charges which were brought up
by Barbara Robinson [phonetic] this morning. We
do not think—and I’ll quote Merrill Clark here,
“The National Organic Standards Board must be made
up of people who have the best interest of organic
agriculture at heart, and I think you folks do.
We must enforce a high code of ethical standards
for this board and for this community. The fact
that—and this supersedes the board and talks about
our certifying community—“The fact that QAI and
the state of Colorado both collaborated with
Aurora Dairy, in issuing their damage control
press releases, quoted—

[background noise]

I’m sorry, ma’am. Did I say something?

FEMALE VOICE: I do not—the rules of
public comment were clearly stated, that

[unintelligible]—

MR. KASTEL: [interposing] Maybe you’ll
have to repeat them.

FEMALE VOICE: I will repeat them.

MR. KASTEL: Thank you.

FEMALE VOICE: And you are not to impugn
the character of any board member or company that
they represent, and I will not have that here, so—

MR. KASTEL: [interposing] Wait a second—

FEMALE VOICE: --wrap your comments—

MR. KASTEL: [interposing] Let me back
up.

FEMALE VOICE: Wrap your comments—

MR. KASTEL: [interposing] I made a
factual statement that represents from Quality
Assurance International and the state of Colorado
were quoted in press released issued by Aurora
Dairy, Incorporated.

FEMALE VOICE: I’m sorry. I’m sorry. You indicated that there—you stated there was a collaboration that is not a fact. It is not a fact, it’s your—

MR. KASTEL: [interposing] These were press releases that were issued by the company.

FEMALE VOICE: This—

MR. KASTEL: [interposing] These representatives of the certifiers had to speak directly and in a—

FEMALE VOICE: [interposing] Please wrap your comments.

MR. KASTEL: —collaboratively manner.

FEMALE VOICE: Please wrap your comments.

MR. KASTEL: I’m sorry?

FEMALE VOICE: Wrap your—

MR. KASTEL: [interposing] Thank you.

Okay. We think that type of behavior on the part of the certifier community is inappropriate, and we hope this board will make a statement along those lines. Thank you very much.

FEMALE VOICE: Since this board has no authority in compliance and enforcement, I see that we’ll make no comments or have no questions for you. We will not—we have no authority, and we
have to actions to take in regards to you comments.

MR. KASTEL: I think you have the moral authority, and I thank you for the opportunity to speak.

FEMALE VOICE: Harriet Behar [phonetic]?

MS. BEHAR: I believe I’m the last.

FEMALE VOICE: Just for this morning.

[Unintelligible] mornings [unintelligible].

MS. BEHAR: Okay. My name is Harriet Behar, and I am an organic educator, inspector, farmer and consumer. Thank you for the opportunity to give input into the process of protecting and enhancing the U.S. organic standards. Thanks also to Andrea, for her many years of dedication and hard work to this process.

I will repeat again my disappointment that the NOP has not implemented the OFPA mandate of a peer review panel to oversee the NOP accreditation program. In addition, there is no written protocol available detailing how the NOP and the NOSB interface. Both you, the board, as well as the public, put countless hours into the development of recommendations. There is no transparent protocol without an NOP quality manual in place, detailing how the NOP may or may not use
or incorporate these recommendations, which, if
the proposal—the protocols were known, would
clearly affect how the NOSB and the public
interact with the NOP. The need for clarification
of the apiculture standards and the ever-popular
pasture for ruminance [phonetic] requirement are
two of the many examples which illustrate how
frustrating and damaging it is to the organic
community to let these languish in regulatory
limbo. Consumers are aware that consistent
standards do not exist, and that this confusion
and mistrust is damaging to all involved in the
organic marketplace. Aquaculture—I believe in
consistent standards. If non-organic feed is
allowed for organic fish, then why not for
chickens or dairy cows? Consumers will be
confused, and rightfully so, when some foods have
different standards in their production. There
are fish species now that meet current organic
standards, such as tilapia. Let’s start with
these and work into the development of fish raised
in a truly organic system. While organics are not
based in purity testing, the wild stocks used in
fishmeal or oil could be contaminated, and this is
not what organic consumers would expect in their
expensive organic fish. We have all worked very
hard to obtain and maintain a significant organic premium in the marketplace for organic products that meet strict standards. When aquaculture has matured sufficiently to meet the spirit and current standards, then we can eat organic fish. Other eco labels can be applied now to these sustainable raised fish, and a trade organization could educate consumers on the value of these specific production practices. Let’s not water down the organic standards that we have in an effort to award the organic label to this food category. As fish farmers develop sustainable methods, they can work towards building an organic system. This is the same way that organic land-based systems developed. Commercial availability—the guidance for reviewing commercial availability for processing ingredients and seeds should be separated, especially the section suggesting producers work to encourage the development of an organic equivalent. It is unrealistic to assume this of farmers. I believe the recommendation should include the use of catalogs and Web sites as proof of search [phonetic] for organic, and [unintelligible] that a letter be obtained for each variety of non-organic seed used that organic was not commercially available. The documentation
requirement places a huge paperwork burden on vegetable producers who purchase hundreds to types of seeds, and I am one of these. The mandate that certifiers collect and report all the non-organic seed used by their producers is also a paperwork nightmare and serves no useful purpose. Organic certificates—the current NOSB recommendation does not include a date by which buyers, sellers, inspectors and certifying agents can verify the current status of a certificate. This renders the document almost useless, since I have inspected numerous operations where a certificate was presented to me and I personally knew that the client had switched certification more than six months previously. The next annual monitoring date, or current certification inspection date, or dated signature of the annual certificate could be examples of a date scenario which is truthful and would not oppose the no-expiration mandate in the current rule. Multi-site certification—I agree with the National Organic Coalition comments submitted. Retail stores or processors are a different animal from farms. Farm management does not change regularly, whereas I know—well, we know there is significant personnel turnover at the retail level. The group certification of handlers
is a completely different type of certification and should be discussed as a separate topic from the farmer-based grower groups.

FEMALE VOICE: [inaudible] minute left.
FEMALE VOICE: Less than five minutes.
Wow.
FEMALE VOICE: Thank you, Harriet.

Questions for Harriet? Joe?

MR. SMILLIE: We did pass a recommendation—gosh, last October, wasn’t it?
Yeah. On the expiration of certificates. I would direct you to that. This current recommendation is on the standardization of the certificate.
There’s a previous recommendation on expiration.
It hasn’t been accepted nor rejected by the NOP, as yet, but—

MS. BEHAR: [interposing] Well, that goes to my first point.

FEMALE VOICE: Hue?
MR. KARREMAN: Just a question. I fully realize the Harvey Rule nullified the 80-20, but the 80-20 was put into place to help organic dairy get going, so wouldn’t the 12-12, or whatever, be, you know, somewhat mirroring of that, if it’s allowed by regulation?

MS. BEHAR: Well, we did find that it was
not allowed by regulation.

MR. KARREMAN: True, but the intent of the board and the NOP at that point was to create an industry, so that’s a possibility of what we’re trying to do, of course.

MS. BEHAR: I’m concerned about consumer confusion in the marketplace, and just wondering why—how can organic fish not eat organic food and that sort of thing.

FEMALE VOICE: Jennifer?

MS. HALL: On that first point, I would like to come back to your desire for an understanding of your relationship between the NOSB and the NOP. And I am an equal advocate and proponent of transparency, but I also think that there is equal value to the freedom of the landscape within which we work, and that sometimes when you have too much regiment to follow, it can limit the quality and the creativity of what we’re able to put forward, and that there is some inherent risk, then, that the recommendations that we might make would be to fit the bill that we think might be accepted versus what’s the best thing. So it’s a balancing act.

FEMALE VOICE: Any other comments for Harriet, questions? Thank you, Harriet, for
keeping it brief. And this—we are done with our
morning session, at 1:00. The board members are
going to break for lunch, but they have generously
offered to truncate our lunch period to 30
minutes, so we will reconvene at 1:30, with the
presentations on animal health and welfare, and
then global animal welfare initiatives.

[break in audio]

...that we’re running late, we’re going
to continue with the agenda, and I ask our
speakers to just bear with us. Some of our
members are still finishing, but they promise that
they’re all good multitaskers and well capable of
listening to your presentation while eating their
lunches. So, Kathleen, if you would come and give
us your presentation, we’d appreciate that.

MS. MERRIGAN: Thank you. I’m here with
Dr. William [phonetic] Lockeretz, my collaborator
on this project. We come here from Tufts
University, the home of the Red Sox, the Patriots,
the Celtics. You may know a little bit about
where I live.

MALE VOICE: [unintelligible] Bruins.

MS. MERRIGAN: Well, yeah, the Bruins,
the Revolution. We’ve got a good year going up
there. I just want to say thank you for the
opportunity to testify here today, and I know how hard you all have worked as board members. I survived just shy of five years as an NOSB board member. I was an environmental representative to the board. Willie Lockeretz was also an environmental representative of the board for a couple years, so we’ve been in your shoes and we know how complicated your tasks are. I was also asked, by Hue, to give a little background on myself, because I don’t know a lot of you, so you understand my connection with the organic standards. I worked for the Senate Agriculture Committee in the late eighties, early nineties, working for Chairman Patrick Leahy, and drafted the Organic Foods Production Act of 1990, the Senate committee report that is, in large measures, still the major text of congressional intent that helps in the administration of the law; and then, later on in my journey, took over the job of administrator of the Agricultural Marketing Service, toward the tail end of the Clinton administration, and was primarily tasked with getting out the final organic rule that we have that was put into place in 2002, I guess, when it finally was implemented, though we finished a couple years prior to that. So I have
a lot of historical knowledge, and I say that at the start because one of the things that I want to say to you is I think that animal health and welfare issues have always been a part of the NOP agenda, maybe not always explicitly written out; maybe not always detailed in the way that we’d like, but when we were framing the legislation in 1989 and 1990, I can assure you that animal health and welfare issues, as nascent as the livestock sector was in the organic then, were on peoples’ minds. And we saw that when we developed the livestock sector and more expertise in organic livestock management, that animal health and welfare issues would be part and parcel to all the standards elaboration that would be necessary to have a fully operational NOP. And when you look at the Senate committee report, and I’ve passed out some testimony—I’m just going to read you a couple of passages from it. The first says, “More detailed standards are enumerated for crop production than for livestock production. This reflects the extent of knowledge and consensus on appropriate organic crop production methods and materials. With additional research, and as more producers enter into organic livestock production, the committee expects that the USDA, with the
assistance of the NOSB, will elaborate on livestock criteria,” and there are passages that I cite from that committee report of the same nature, so it’s on the agenda. It was on the agenda in 1990; it’s still on the agenda today. When we look at the final rule that was put out by USDA and the National Organic Program, again, a whole lot of anticipation of health and welfare standards for livestock. Some passages from the final rule: “An organic livestock producer must—a whole dropdown list that I’ve provided you, to do things like provide shelter designed for the natural maintenance, comfort level and opportunity to exercise appropriate to the species. One of many, many dropdowns on livestock criteria, and then a whole lot of place markers for the NOSB in the final rule, things like we’re looking for—species-specific guidelines will be developed in conjunction with future NOSB recommendations and public comment; we will seek additional input from the NOSB and public comment before developing such standards on a specific length of time that cattle or other species may be confined prior to slaughter. We anticipate that additional NOSB recommendations and public comment will be necessary for the development of space
requirements. The NOP will work with the NOSB to
develop additional guidance for managing ruminant
production operations. We will continue to
explore with the NOSB specific conditions under
which certain species could be temporarily
confined to enhance their wellbeing. You see a
lot of these things woven into the final rule,
clear indication, again, that animal health and
welfare standards are expected to be a part of a
fully developed, robust National Organic Program.
That brings you to our testimony today. We feel
that the time is right to really engage. The NOSB
has been involved. Clearly, the pasture thing has
taken a big chunk out of your life, among other
issues. You’ve been engaged in some of these
issues, but we’re at a critical juncture where the
industry is about to grow, and grow in a big way.
We’re still at a point, particularly with swine
and poultry, where there’re not that many
producers, things are not in a situation where
you’ve had huge investments in infrastructure,
things are in a lockdown situation. Now is the
time where you really could move forward with
standards and not be overly concerned about dire
economic consequences that you’re placing on the
industry, which then becomes a problem when you’re
tying to get a rule through the Office of Management and Budget with your cost benefit analysis, and all of a sudden you realize all these industry folk are going to have economic hard. Makes your jobs a lot harder. So there’s a real opportunity now, the timing is right, and we really want to implore you—that’s one of our main objectives today, is to implore you to really place time in your agenda to dive into some of these issues. We brought five particular potential standard recommendations to the board today, based on a project that we’ve been funded through CSREES to do in looking at potential elaboration of organic health—and animal health and welfare standards. The paper that was put up on your Web site that we submitted prior to our testimony today was something that we’ve done a year ago that gives you some sense of where different standard programs are in this arena. What we’re providing today are some scientific literature citations to back up what we would consider the low-hanging fruit standards here. We tried to pick one per species to just give you a sense of some of the opportunities where you could go forward, where there’s scientific consensus, where there’s, largely, industry consensus on some
thing that could be done right now, if you wanted. And so the—first, I looked in the poultry field, and one of the things that came out of a stakeholder meeting that we had in April of this year at Tufts University, following our scientific and standards analysis, was the issue of perches for layers. And people felt, and we feel very strongly that perches are very important for poultry wellbeing and health, and so we put that out there as something—I don’t think we’re ready to say, “The perch has to be this long, and it has to be this many and [unintelligible],” all those little details. But the actual idea that you must have perches for layer hens seems to be a very commonsense, important standard to have in the NOP. The second standards we through out there, also for layers—I should’ve had one for broilers, but I didn’t—that is induced molting by feed and water withdrawal that—you know, sometimes we see birds going as much as two weeks without food to induce molting, and we don’t see any reason that that’s necessary. There’s also some economic consequences for the industry because the molting increases the breaker eggs, and there’s not a big market for breaker eggs in the organic industry right now. So it seems like there’s an
opportunity there to carve out a position in the NOP and set up a standard. The third issue is beef [unintelligible]—in the beef cattle domain. There’re a lot of standards that are coming out with specific space requirements for cattle in feedlots. We don’t have a huge number of cattle in feedlots right now in the organic industry, but we don’t know where this industry is going. And a basic principle that we feel would fit well into the NOP is that cattle in a feedlot situation should have [unintelligible] minimum amount of space to lie down, and that’s not always the case in conventional systems. The E.U. has very specific space requirement based on how much an animal weighs that’s also consistent with Whole Foods Tier 4-5 [phonetic] standard. I know Margaret Wittenberg is about to testify. You know, I don’t even know if you have to get to that level of the actual space, you know, numbers, but the concept that animals should have at least enough space to lie down seems to be a very important concept to have as a part of our program. Dairy cattle—tail docking. AVMA, the American Veterinary Medical Association, would say that the scientific literature shows that there’s no real value to tail docking. And at this point,
the science and the industry should come together here and say, “This is just not necessary in organic production and let’s just prohibit it outright.” Swine—gestation crates. Farrowing crates are going to be a big controversy for the board in the future, and the standards are all over the place when you look across the different programs on farrowing crates, and that’s a big discussion. But gestation crates seem to be something that we could prohibit right now, outright, just say no to, not necessary in organic production, not consistent with organic production. So we provide you some scientific references, some thoughts on those five issues. And in moving forward, I was trying to think of what I would do in your situation. There is something that’s appealing about the idea of putting together all the standards for a species, because if—perches—well, how do perches relate to the roost area, you know, to the—how many doors, and the placement of the doors, and then you start getting in, everything is interwoven in a certain sense. And there’s certainly an appeal to want to put together a species standard in a holistic way, but I would argue, if you try to proceed that way you’ll get bogged down because some issues are
more complicated and controversial than others. And just as a strategic process suggestion, Willie and I would argue that you try to move forward, once you start to get agreement on discreet pieces and put those into place, and make those recommendations to the secretary, and for the secretary to get those proposed rules out and public comment on them. Again, the industry is on the verge of growing. You know, we didn’t have organic livestock until 1999, so it’s behind the other aspects of organic production and it’s just exceedingly [phonetic] timely to invest the time and energy, and to pin down these desirable standards when we can. So that’s it. I thank you for your attention to my testimony. I will provide an electronic copy to the staff so it can go out on the Web site. I’m sorry I didn’t bring enough copies for everybody in the room. And I’m happy to accept questions if you have any.

FEMALE VOICE: Does the board have questions for Kathleen? Hue?

MR. KARREMAN: Just—I want to thank you, Kathleen, for bringing this to the board’s attention, and also your perspective from your experience in how to get things through the system in a good, clean, quick way, if that’s possible.
MS. MERRIGAN: I stand ready to help.

FEMALE VOICE: Do you have that magic one? All right. Good. Does anybody else have any questions or comments? Barbara Robinson?

MS. ROBINSON: Kathleen, are you suggesting to the board to do this in a species-specific way, or just—if they had consensus, if they agreed, say, with your five—suppose the—we were in the spring meeting, and they agreed with all five of your...

MS. MERRIGAN: Low-hanging fruit options.

MS. ROBINSON: And they were to just simply pass a recommendation on animal welfare—these animal welfare—are you suggesting that they not do it as just—but they do it as species-specific?

MS. MERRIGAN: [unintelligible]. Thanks for that question, Barb [phonetic], because I guess, in my ramble, I wasn’t as clear as I could be. I’m suggesting that when you have movement on any particular standard in this arena—

MS. ROBINSON: [interposing] Get it done.

MS. MERRIGAN: --move forward, get it done. Don’t try—and we all want to do things holistically, but that’s going to be the death nail of it. It just—it will not happen in the
time that you need. I mean, if it’s 10 years from
now, just think of—in the pasture debate, you had
certain operations, and they had this
infrastructure and investment, and it becomes a
very tough, tough thing. And if you’re talking
about a small number of organic swine producers, a
small, infant industry, now’s the time to put down
the standards, and also anticipate that not
everyone—gestation crates may not be a factor in
organic production right now. I don’t know. I
haven’t been to every swine producer, but I don’t
think it’s a major practice in organic production,
but it could be if it’s not prohibited. So now is
a great opportunity to move forward on these
things and build consensus before it’s too late.

MS. ROBINSON: So this could just—we
could amend the 205.239 section, you know, and
just amend it in piecemeal, adding various little
subparagraphs?

MS. MERRIGAN: Yeah.

FEMALE VOICE: Hue?

MR. KARREMAN: Just one extra thing, we
can also—for the more entrenched industries, like
dairy and perhaps layers, certainly we can canvass
individual certifiers and see what they do to come
up with something that is palatable and has
already kind of been in force at the certifier level, so we might be able to go in even though the industry is more entrenched.

MS. MERRIGAN: Absolutely. And of course, that’s the whole role of public comment, is to put out a proposal and get that public comment in. And USDA, in its history of organic, has done a really great job of responding. I think my colleague wants a word.

DR. LOCKERETZ: One of the questions that’ll come up in this sort of thing is how far do we go? Do we push the standards to the point of that things are the way we would really like them to be, or do we start out by presenting things that we really don’t want to see? [Unintelligible]—so there’s a minimal standard that will come into play, just to get the bad guys, the few people who are really below what’s acceptable these days; and then there are—the standards are dynamic. They can be developed to build onto that and go further to what we would like to see in the future. But you don’t necessarily have to propose standards that go all the way. Some people will not be happy with your standards because they don’t go all the way, but a practical strategy is to put a floor under
the practices now, and then in the future come back to it again and again and push it further and further, but at least start with things that are—by prohibiting things that simply should not be allowed in organic, period, and so there is no real argument about it, and then the arguments can come a little bit later.

FEMALE VOICE: Bea?

MS. JAMES: Thank you so much for your presentation, and I also want to thank Hue for actually spearheading this whole initiative to get this discussion going. But—and I apologize, I haven’t really had time to thoroughly go through your presentation here, but it seems to me that wouldn’t it be worthwhile to maybe look at the idea of an animal health and welfare task force? Because even thought it is a large issue, and yes, it could be something so monumental that we may not be able to accomplish it right away, but it seems like there’s more things that are immediate that should be addressed besides what you have here. And you know, I’m just trying to figure out the best way to try to come up with a first draft of a recommendation on health and welfare where we can have, maybe not the whole enchilada, but a little bit more than what you have here. And
would you agree with that?

MS. MERRIGAN: I would agree to that.

And you’re very kind to say you haven’t had a chance to read through all the testimony, since I just passed it out. I apologize to the board for not sending it sooner. We chose these five issues as illustrative of the opportunities that the board has before them in terms of this arena. A task force might be a very appropriate way to move forward. You also have your subcommittee. I don’t know how the board wants to proceed, but I do want to say that Willie and I stand ready to assist the board in preparing the background documentation, and to the NOP, because I have a little inkling of what it takes to get a rule out. You know, we’ve spent a lot of time this last couple years looking at various standards, looking at the scientific research, and we want to help bring this to public debate.

FEMALE VOICE: Hue?

MR. KARREMAN: One last thing. I guess I would be—I’d like to just possibly start with this within the Livestock Committee. I think task forces can have extremely long lives and, you know, the AEWG’s been around nine years and they’ve done a great job and—nine years, isn’t it?
Eight, whatever. They’ve been around a long time.
And I think if we just start with some of the low-
handing fruit, as they mentioned, I think
Livestock Committee, as a committee, can start
with that at least, and if there’s bigger issues—
even the pasture issue, we worked on within the
board and not a task force. [Unintelligible].
Thanks.

FEMALE VOICE: Any other questions?

DR. LOCKERETZ: I’d like to just add one
point to that as far as how much work is involved.
You’re not—you don’t start from the beginning.
There is a tremendous amount of work that has
already been done in other countries, which we
drew on. [Unintelligible] in Sweden has very
highly evolved livestock standards; Soil
Association in Britain has a very evolved
livestock standards; and any number of others, so
a lot of the work—the groundwork—has been laid
already by very responsible and effective
certifying programs and standards writers in many
different countries. And so the task is not as
enormous as you may think, because people have
been working on this for so many years already.

FEMALE VOICE: Bea?

MS. JAMES: I know we have a lot to do
today, but I just really want it to go on record that I think that this is an extremely important issue; and that I believe, from my experience in retail, that consumers have an assumption that a lot of this is already in place, even though it’s not in place; and that I really feel that it is the duty of the NOSB to try to bring to the forefront these—the health and welfare standards, because the—it encompasses the environmental issue that so many consumers want to believe that they’re eating things that are coming from the natural state of their natural environment. And I mean, when we’re talking about fish, and the living conditions and the welfare conditions there, that it seems like our focus oftentimes is on getting to production, and that we also really need to keep in mind that the environmental impact that we will create with a standard that we develop really needs to be taken into consideration, too.

FEMALE VOICE: Hue?

MR. KARREMAN: One last note. I mean, there are already good regulations in the book which the industry has started from, and that’s due to your work and your work over there. And there’s some areas where it’s silent, and I think
that’s where we need to fill in. But there are
certainly good regulations already that consumers
can rest assured with, we just need to fill in
some of the silent areas. Barbara has something.

FEMALE VOICE: Barbara?

MS. ROBINSON: Let me just reinforce

something Kathleen made—a point Kathleen at the
beginning, and then again at the end of her
testimony, and this is really important here. I
think the critical point here is that this is an,
as yet, less-developed industry. Economic rents
have not been really built up. I mean, meat is 2
percent of this industry in terms of retail sales.
So I think the point Kathleen is making to you is,
if you do want to do something, first of all, keep
it simple. I mean, I can’t stress that to you
enough. You start creating task force, you start
creating your own infrastructure and then we’re
another two years down the road before we get a
recommendation from you. By then, the industry is
that much further along. And I think what
Kathleen is saying is now it has an
infrastructure, that means it has economic rents,
it has something to lose when you go to make
changes. And when it has something to lose, then
the consequence of us disturbing that with rule
making makes it that much more complicated and stretches out the time that it will take to effect those changes. Whereas the sooner you do it, with an underdeveloped industry where people haven’t put in place a lot of these things, it’s pretty simple to come out and say, “Birds should have perches.” That’s the whole statement, that’s it, birds should have perches, and then we let—we kind of let the industry morph around that. And what Willie is saying is, you know, we don’t try and address the whole thing, just get your toe in the water, do something. Animals should be able to lay down without touching, simple statement. I could work with this; I could do something with this; and, you know, you go from there and you don’t get a lot of—you haven’t done something drastic to an industry yet because the industry itself hasn’t—help me out here, Kathleen. It’s—it has not—

MALE VOICE: [interposing] Matured.

MS. ROBINSON: Yeah, it hasn’t matured and it hasn’t put all these systems in place that you then disturb.

DR. LOCKERETZ: But we have to also recognize that standards for livestock are much more difficult, much more complicated than plants.
There’s more of a history in plant production, organic plant production. So it’s not a trivial job, but it’s quite appropriate to do it in steps and do some basic things first. But it’s a subject that seems to be much more difficult for people to wrap themselves around than plant production, maybe because it’s newer. Organic plant production goes back 60 years, and livestock is much more recent than that, so it will not be a trivial job to complete the task. But you don’t have to worry about that, as far as getting started.

FEMALE VOICE: Okay. I have Dan. Is there anybody else besides Dan? Dan?

MR. GIACOMINI: I’ll certainly respect the experience the two of you have, but in the brief observation I have, it seems like the only one that’s easy is the first step, and every time after that there’s already the first step to deal with and everything that comes up—that comes with it. And I agree with what you’re saying—there’s a tremendous amount of history already; not having to get into the length of time of a life of a task force; but I’m hoping that when we do look at this, for a spring meeting or something, we have more than, you know, four to six things that we’ve
looked at because it seems like the second step is
going to be much harder than the first step, even
if the industry hasn’t developed, because you have
all the other parts that go along with it of, you
know, “Well, what’s the status of the previous
recommendation we made”? and, you know, “Is it
going forward? Was it accepted? Was it
implemented”? you know. It’s—I’ll trust your
[inaudible]—

[break in audio]

MS. MERRIGAN: Well, I know how
frustrating it can be, being on the NOSB, having,
again, sat in your chair, when you make
recommendations and then there’s only so much
control you can have about how they’re taken up
and the process by which USDA vets the
recommendation to the federal register. But you
can only do what you can do, and come up with the
good recommendations, and be a focal point for
this very important topic that people want to talk
about and want to come to consensus on. And then,
you know, hopefully, Mark [phonetic] and his team,
Barbara, will put the wheels in motion. There’s
only so much you can control, and again, I think,
if you at least get out a first series of
recommendations, the easy ones—they’re going to
get harder. But if you get some of those out, then people are going to say, “Hey, that NOSB, they’re about animal health and welfare standards, and that’s the forum to go to, and that’s where it’s going to be happening,” and USDA’s going to be looking to you for help in this area because this area’s hot, and it’s going to get hotter. And as Bea said, consumers have certain assumptions about what organic foods are, and we need to understand that and respond to that. So we thank you for your attention today. I know Margaret’s [phonetic] behind me, waiting to get the podium. And again, we just want to, in any way we can, support you in your very good works. Thanks so much.

FEMALE VOICE: Wait one second, Kathleen.

[Unintelligible]-

MS. MERRIGAN: [interposing] Oh, sorry.

FEMALE VOICE: Mine’s very quick. I did not get a copy of your paper, so if you get a chance, if you could get me one, I’d appreciate it.

MS. MERRIGAN: Certainly.

FEMALE VOICE: Thanks.

MS. MERRIGAN: Thank you.

FEMALE VOICE: Thank you very much for
your presentation. Next up we have Margaret Wittenberg, with Whole Foods, to give us her presentation on global animal welfare initiatives [phonetic].

MS. WITTENBERG: Okay. Thank you very much.

[unrelated conversation]

Okay. While Valerie’s [phonetic] putting the presentation up on PowerPoint, I wanted just to thank the board for this opportunity. It’s really great being here, and wonderful being able to follow, you know, the previous comments. I think they’re just right on the beam here. And what I’m going to be [phonetic] talking about is really enchaining the animal welfare—health and welfare within the organic livestock standards. I think it’s been teed up for us on how important this is and I want to show you a new approach that I think you might find quite interesting and quite helpful. It’s a tiered, five-step animal welfare ratings system approach. Oh, and for the record, my name is Margaret Wittenberg. I am the global vice president at Whole Foods Market for quality standards and public affairs, and I’m also proud to be a prior National Organic Standards Board member from 1995 to 2000, and a livestock member
for that five-time-five years as well. And I
think that’s been interesting—we’ve learned quite
a lot from that time. I remember when we were
wrestling with all these issues, just even the
basic issues, from when I was on the board, and
now a lot has really changed. A lot has really
changed in the livestock field and the consumers
are really interested in more. You know
[phonetic], as this has already been kind of
reiterated, that there is a consumer demand for
this now. I know, even with Whole Foods Market in
the early days, you know, people were interested
in it, but now the demand is there, they’re really
looking for something. But they’re already
expecting that organic is a gold standard; they’re
already expecting that all of these standards have
already been figured out, and I think we’ve seen
that with the organic—the pastures and the dairy
situation. Very, very strong consumer outcry on
that one, and that’s just pasture. There’s so
many more opportunity with that. We’ve already
heard about the livestock standards being very
different throughout—not only in this country, but
also throughout the world. I know that the E.U.’s
been working on different issues on this as well,
and the consumer publications are really getting
into this and showing that there is a lot of confusion on meat labeling and in poultry and in diary labeling. And then, certainly, there’s also—livestock producers are now seeing [phonetic] that they have uncertainly about creating systems, “How do you do this”? They’re interested in it, but how do you do this? So the—I’m going to show you just the—one of the more recent things I’ve seen in the consumer publications. Many of you are probably familiar with the UC Berkeley wellness newsletter. It’s a great publication. I’ve been a, you know, fan of that for many, many years, and this one just came out in November of this year, and the title of it is “Got a Beef With Your Butcher”? And within this they’re talking about beef labels, and I’m going to read it because I know there’s some people behind that can’t see the screen very well. But it says, “Beef labels, even those that are independently or government certified are confusing. Don’t assume, for example, that organic beef comes from animals never confined to feedlots or treated and slaughtered more humanely, or that natural grass-fed beef is raised without antibiotics or hormones. Natural is not interchangeable with organic, nor grass-fed with pasture-fed. If you
care about these issues and don’t mind paying extra for your meat, you may want to do a little background research.” And then within the article, they list some of the different labels, and this is what they have for USDA certified organic: “To meet USDA organic standards, cattle are raised on 100 organic feed, whether grass or grain, that does not contain animal byproducts, manure, poultry litter or plastic pellets, and without antibiotics or growth hormones. They must have access to pasture and opportunity to exercise, though what this means is still not specified.” So that’s all they could say about the organic label, and consumers are expecting a lot more. And then for producers, too, many of you’ve probably already seen the Organic Farm and Research Foundation’s—their 2007 National Organic Research Agenda Report. In chapter three, they get into the organic livestock and poultry management systems and they have a summary of the research goals that they are really hoping are [phonetic] happening, focusing on animal welfare and health. Says, “Production challenges persist due to lack of well-funded research efforts targeted [phonetic] at specific animal healthcare, pasture management and nutrition issues.
Producers rank animal healthcare as their highest priority for organic livestock research. Effective disease controls will require systems-based research on intensive [phonetic] grazing management, good nutrition and strategic use of supplements and preventative treatment. Standard, economically viable rations [phonetic] to complement pasture and provide complete nutrition for all species of livestock and poultry within the constraints of the national organic standards also need to be developed. And then finally, breeding programs that emphasize adaptability to organic management systems are needed to enhance animal health and productivity.” Well, I’m here today to give you some—you know, just share some insights that Whole Foods Market has had with our experience working on animal welfare standards within our own meat and poultry quality standards program. We’ve had meat since, well, about April of—let’s see. April 1981, a few months after we opened our stores, when we first starting selling meat. And then at that point, we just focused on, like—

[END MZ005012]

[START MZ005013]

MS. WITTENBERG: —the no antibiotics. In
fact, it was no subtherapeutic antibiotics at that time. This was very early in the game and producers really didn't know and we were just trying to find small producers. Well, as we—as the years went by, we found people were interested and some of the pioneers in the field.

But in 2000, we decided, you know, we needed to do more. We needed to go beyond just the added—no added growth hormones. And at that point, it was [inaudible] had said no antibiotics, not just subtherapeutic, but no antibiotics. And we wanted to put more emphasis on the humane treatment of animals.

So we started working on that. And then in 2003, we went another leap. We decided that we were going to initiate in addition to our just basic standards or benchmark standards a whole another label called the Animal Compassionate Standards.

And how we developed that is saying that we had two—we understood there were two goals, primary goals within livestock production. Goal A is to maximize the welfare of the animal. Goal B is to maximize the cost and maximize efficiencies. And so with the Animal Compassionate Standards, we wanted to have goal A—oh, wait a
minute. I had this—the wrong [inaudible] my
goodness. We want to have goal A supersede goal
B. There we hare. So I will change that before
it goes on the public record—well, actually on the
web site. But we wanted to have the—we wanted to
maximize the welfare of the animal over the issue
of minimizing costs and maximizing efficiencies
while at the same time knowing that we needed to
have producers that could make a living. I mean,
my goodness. That's certainly an issue.

So as we were doing this process, we
realized the complexity. We'd heard about that
before here with the complexity of the influences
that affect animal welfare. You have genetics.
You have indoor and outdoor environment, health,
group size, stock and density, feed, all of that
type of thing. And even on the other side of the
coin, just plain old management, husbandry and
being a good stocks person. All of these are many
components of it.

So we are finding that there's there
complexity. This was even more than we had
imagined. So then what we did is that thought
okay, we need to get feedback. And we're very big
on multi-stakeholder group processes. There's no
way a grocery store that's committed to any amount
can do it on its own. You have to get input from a lot of people. So from winter 2003 to spring 2007, we have a series of Animal Compassionate Standards developmental meetings.

And we included animal advocate groups including like Humane Society of the US, PETA, Animal Welfare Institute, Animal Rights International, Animal Place. The producers, we went—like first we started with ducks and then beef cattle and so on. And those producers, the [inaudible] market producers at—of those species we invited to this meeting.

We also had a third party auditor representative so that when we were working on standards, they were saying you know, you can't audit that or that's something you an audit or look at it this way kind of thing.

We also went the world over to find animal welfare scientists that could really give us the detail work on who were experts in these issues—Dr. Jim Webster [phonetic] from New Zealand, Dr. Ian Duncan from Canada, Dr. Mike Appleby [phonetic] now from the U.K., Dr. Temple Grandon [phonetic], people know her from United States, Dr. Renee Bourgerone [phonetic], who is in Canada, and Dr. Joe Stuckey's [phonetic] also from
Canada. And then we also had a lot of committed Whole Foods Market executive leadership there; our quality standards team and our national meat coordinator, regional meat coordinators.

Okay, so the insights of all of this, what we found on that is that the producers really wanted and needed support. They are interested in it. They wanted to do it. They thought, you know, this is a big field, don't really know how and what.

And when we have these multi-stakeholder meetings, we're going through like detailed detail. It's kind of reminiscent of going on—being on the National Organic Standards Board. If you like detail, you're in heaven. And this is how these meetings were, too, and sometimes a little heated. And, you know, that's fine because I think that's where you get the real nub of it on what is really important.

We also understood that more research was needed on alternative livestock. You know, the OFRF has always been very good on showing how organic research in general needs more work. Well, we talk about animal welfare, whether it's conventional or organic, there's a—certainly a need for that.
So what then we did is that we also realized that we needed to see if we could help fill in those education research gaps. So we actually created a private foundation called the Animal Compassion Foundation in January of 2005 to do that. And we hired a wonderful woman, Anne Malleau, who is actually—had done all of her research in Canada with Dr. Ian Duncan, who is a well known—worldwide known poultry—animal welfare poultry expert. And she's been in charge of our program here. And these are sample research fundings that we have done so far and still working on. One is alternative to castration in pigs. You know, one of the issues on—with male pigs is boar taint. You know, how do you get—you know, if you don't castrate, then you have that issue, especially in the United States , as we grow—the pigs grow larger here as opposed to Europe when they are slaughtered younger and you have that issue of boar taint to deal with. So there's a certain feed additive that—an herb that is being looked at to see if that could really work on that.

Breeding short-tailed sheep to eliminate tail docking, pastured poultry, how do you maintain pond quality, how do you maintain pasture
for ducks and geese and turkeys and then how do you deal with making sure that you don't just really denude the land in the process.

And then another one is like looking at transport and the welfare of pigs. And then we also did a lot of workshops to any producer. It didn't have to be Whole Food producers. We just put that out in the network and people would come and we really focused on grazing workshops this past year to really get people back into pasture and really knowing how to maintain it and what to do and what integrated livestock systems are like.

So then as kept going through this and then Animal Compassion meetings, we realized that, you know, you just really can't do an all-or-nothing thing. and—because there are different gradations there. There are some producers were at a certain level and others were at a wide level. But if you just had, you know, two different types of labels, you could have people who were doing minimal effort being lumped in with people who were just doing incredible and—efforts. And we thought, you know, that really isn't fair. And they also should, you know, get economic value for all of the work they put into too.

And we also saw that a lot of producers
were really kind of reticent. They—you know, if I have to go like to the nth degree, I just don't know if I can do that right now. So maybe I won't do it at all.

So we thought about that. And then we thought, you know, what we need to do is look at a five-tiered system. And not only would it be helpful for producers, but also for the consumers. So next slide.

So what we did is we worked on this internally. We took all of the information from the Animal Compassion Foundations. We worked it into a five-tier program. And I'll get into that a little bit of that in just a second here. And we actually initiated it in our Kensington—New London/Kensington store in June of 2007, this year. And very successful. Consumers loved it. We had a lot of producers over in the UK that we were all ready to put in the program there.

And what—the three things that we think that are best about this, it supports continuous improvement on farm animal welfare. It's a framework. It's a framework for producers knowing how they can continue to improve as they move along and get recognition all the way.

Increases opportunities for farm animals
to be treated with dignity and respect in conditions that let them express their natural behaviors. And it's a fabulous transparency tool for consumers and we also found very educational. People really have no idea how meat is produced. They don't want to hear it. A lot of times you say well, do you know how? They say I don't want to know, you know? And have you ever been? You know, no. They haven't been in slaughter plants. They don't want to know about that either.

But it is important for them to know because if they're really concerned about the meat that they eat and how it's really impacting the animal and the Earth and everything else, it's very important to know that.

So you see on the bottom of the screen, there are five different labels that we used. And I'm going to get into those in just a second in just a little bit more detail on that.

But—next slide.

But I do want to tell you that it is very, very focused on independent verification and auditing. In fact, we spent a lot of time working on this because being connected to the organic program and just knowing how important that it is for third party audits and to be—and anything that
you put out there as a standard has to be verified. We thought this was a—we put a lot of effort into this program. In fact, even [inaudible] of this year, the USDA Food Safety Inspection Service approved a label recognizing our five-step animal welfare rating system. And it, you know, a process label that authorized producers that can meet the requirements to actually use that label. So we're very, very proud of that and that work.

But the verification bodies, we had long decided that we wanted to like organic have the ISO-accredited verification bodies. We felt that it was very important for credibility.

And the auditors have to also go through very, very specific training on how to audit to the five-step animal welfare rating program because this is not a normal thing. This is—we looked the world over and there's not many systems where on a standard that they have these five tiers that people are looking at.

And there's also when they're doing the audits, they're looking at recordkeeping, condition and practices on the farm and ranch, and then the slaughter plant.

We're also developing producer guidance
materials and also auditor guidance materials so that they know what to look for. And we also tested this in the summer. This summer, we invited many auditors who had livestock training. In fact, many of them were organic auditors already and verification bodies to come and do a training with us on this program. It was a three-day training on farm. And we also used it as a trial of the standards and also wanted to have feedback. And it was just an extraordinary event, very extraordinary. We learned a lot and got a lot of insights and that type of thing. So it really made us examine more and see what we could do with this.

So next slide real soon and we'll get more into the details. [Inaudible] just one more slide. Okay. Okay, thanks.

So anyway, just wanted to get into this a little bit. So the five steps, steps one to three are varying degrees of welfare practices. The first one is a benchmark, which is the minimum welfare standards.

This is not, you know, you sell meat, you get a level. You have to have a certain minimum level of showing that you have animal welfare or you are concerned about your farm, you know what's
going on. So just a, you know, a couple of these things, you know, this is just a very, very, very small list, but no animal byproducts in feed, no gestation or farrowing crates, third party audits on slaughter to make sure that humane slaughter is being done throughout the process, just a few. There's just a score of many more that really indicate that. In fact, even for the FSIS on these labels, and you can't see the detail, but we had to put a good summary of what each step meant. You know, if you have just a one label, you just say well, here is the label and you can look at the information on a web site or a brochure. But this, we had to summarize what each of these levels meant on the label so people could see.

Step two, outdoor access is required. So that brings it another level up. And we also, just a couple more things on that. You know, shade was required for any outdoor area for the livestock. Extended weaning requirements, you know, we wanted to-the-there was a minimum weaning for bench one, for step two had that extended. And everything is incremental. You, you know, it kind of adds on to each other with each of the steps.
Step three is pasture-based, continuous access to pasture. Pasture is just, you know, is where the animals live. It's really important. [Inaudible] access to shelter. That's definitely an aspect of this as well.

Next one.

Animal-centered and animal-centered gold, four and five. This one, who's—it really ratchets it up. And in—this is where we have the all integrated—integrated all farm approach with proactive measures that demonstrate, you know, agricultural animal production systems have a primary emphasis on animal welfare. This is really where the rubber hits the road when you're really looking at the [inaudible] animal welfare.

And so this gets into, you know, even more stringent on even higher standards than step two and three and so forth on transport and weaning and everything you can imagine. And then even on step five, there's no transport off the farm because transport is one of the hardest issues or—on an animal, one of the most traumatic parts of their lives. So anyway, they found that transport was something that we really wanted to have on step five is as one of the big highlights on that.
Okay, just what do these standards cover? We'll, they're outcome-based standards on how does it affect the animal's wellbeing. And you can see that the—on the on the list on the left, beef, cattle, sheep, or other, chickens, turkeys, ducks, laying hens, pigs, dairy, veal, these—we're really trying to get in all the detail on it. And these are detailed standards. They get into farm plan and documentation, pest and predator control, breeding and source of livestock, animal health, animal handling, animal management, feed and water, outdoor conditions and land management, housing, loading and unloading and transport. And, you know, that's for pigs. And then on the next slide, we get into the poultry and, you know, just a few little nuances. You have hatchery in there and so forth. And then the beef/sheep, you get into other details that even go right in with the—with beef/sheep and so forth.

But the other—when we were developing these standards, the standards, some were for all steps, that they were just so basic to the program, they have to be. And then you have others that are different steps within one standard that kind of differing [phonetic], like transportation, now long we will allow for
transportation along the different steps from
going from the farm to the slaughterhouse and so
forth.

Okay, and so then we decided to take this step. We found that, you know, private standards are real great and we—very proud of them at Whole Foods Market and so forth. But we felt, you know, we really want—if we are really interested in animal welfare, we're going to make them available to any retailer, any producer in the world.

And so we decided to move this from a private standards program to an independent global verified labeling program with a new not-for-profit that is outside of Whole Foods Market, completely independent foundation called the Global Animal Partnership. This will be a successor to the Animal Compassion Foundation. It will include the animal welfare education, the research, but also include the—this verified labeling program so that you have the five-step program within it.

And so right now what we're doing, and as this global animal partnership is being finalized, it'll be launched in early spring 2008, we're completing a—an intensive re-review of all of the five-step standards that Whole Foods Market has
already done with a—this—an independent task
force, again with animal welfare group
representatives, farmer representatives and
producer representatives, animal welfare
scientists and retailer. You know, quite frankly,
we're a retailer in there, but we have all of the
others. This is not our—we don't consider these
our standards anymore. These are out there.

And so what we're doing is working on
those right now. And as soon as they are all
completed—and we're getting quite close to that
and also the verification program and the
training, we're getting close on that too, but
once this foundation is launched in the early
spring of 2008, all of this will be on the web
site, all of the details on the standards will be
there. They will be by species. We think that's
very important because an animal isn't an animal
is an animal. Each one of them has their own
needs and it was extremely apparent as we've gone
through since 2003 on extremely detailed meetings
on these issues that you really have to go for it.

And quite frankly, both—these meetings
were open to both the conventional and organic
producers that Whole Foods Market has been dealing
with. And we see that animal welfare is important
for all. But we think, you know, here today just saying, you know, there are some things that you can explore and look at. You don't have to start from scratch. There are some things that have been third party reviewed globally throughout the world. And we're really anxious to have you look at the details as soon as we're ready to have them launched, which like I said, the new foundation will have them, you know, hopefully in early spring.

Then on my last slide here, just again, why the consideration on this. You know, we do think it's consistent with core organic principles. It emphasizes continual improvement by rewarding a higher rating to producers who improve their practices.

It's really important that, you know, we don't know the whole story all of the time. And a producer, you know, the incentive, then give them the opportunity to get credit for that. I think it's really important. And that also goes along with the organic as we're continuing learning. That's how the whole organic process is.

Greater transparency regarding the treatment of farm animals, so consumers will know how to really evaluate the meat that they eat, and
multi-stakeholder process, this has definitely been a multi-stakeholder group process open for any of the slings and arrows and suggestions and everything. It's important and we went through all of that.

Scale neutral, the—definitely scale neutral, but there's certainly a good support for small, local producers, especially when we get in the higher tiers. Levels four and five are probably easier for a smaller producer than for a large.

It's a good extension of what's already in the national organic standards. And it's also consumer tested. When we've done that in UK and we started with the lamb, chicken, beef, and pork, that was already at step four. You know, it was pretty amazing being able to do that. And they're very stringent standards to boot, and then ducks and veal even at step three.

So anyway, I again am very happy to be able to be here today and to share and I look forward to and we can give you even more detail on it so that you can look at it and we'd be happy to continue to work with you. And I know the new foundation will be very thrilled for the opportunity too because animal welfare's important
for all of us.

So thank you.

FEMALE VOICE: Thank you, Margaret. Dan [phonetic]?

MR. GIACOMINI: Margaret, do you think these kind of labeling programs are at risk at all if there's any continued swell of—and carryover from the recent milk labeling court decision?

MS. WITTENBERG: You know, these—when you have very detailed regulations on a label where people know exactly what they're getting and you've got a really—a real high quality verification and auditing program, I think this is—just enhances opportunities for people to know what they're getting and for producers to know what they should be doing. And if you have the verification program right, it can be verified and, you know, done well.

So I think this is going to be a real boon for organic to have people really understand. What really frustrates consumers is not knowing. They are forgiving if you say you know, here is what we're doing. We're not where we want to be, but, you know, this is where we are now. Much better than if they find out the other way. It's like, you know, we really thought you've been
doing something else and we're feeling like we've been had. So I think what is great about these standards is that they're very detailed. Here is exactly what you're getting. And you know when you're buying that meat. And you have a conscious choice, whether it's organic or conventional meat, you can say, you know, in our case, and we will be having this in our retail stores, these five-step standards, both organic and conventional meat will have it labeled at a certain step so that our consumers really know.

MR. GIACOMINI: But do you think that—do you think there's going to be—the question, though, is do you think there's going to be any fallout and attack on these questions from the more conventional feedlot part of the beef industry, for instance, in light of the new—the recent court decision on the milk labels where they can't use no BST [phonetic]. They can't have any of those kind of—there are certain areas of the country where they can't use any of those kind of statements anymore.

MS. WITTENBERG: Yeah. Well, we're—we do see in—I think what you're getting at especially is we're looking really at the production methods. And, you know, rbST, it won't be allowed in these
standards. But what we're going to be doing is really, you know, really focusing on, you know, if you're talking about feedlots, exactly what does that feedlot have to—the conditions for that animal.

It's pretty much—it's pretty objective information on this, things that you can actually audit and look for. And I think that's the real key here. If you've got a really good auditing program, you need to have something you can really audit to.

And the rbST, you know, that's a hard one for—to really test for. And you have to really, you know, kind of look at records, know what the producer is doing and that type of thing. But with the way that we have this program set up, it's very specific on things that can be audited.

FEMALE VOICE: Hue first, and then Bea [phonetic].

MR. KARREMAN: No, that's okay.

FEMALE VOICE: You going to pass? Bea?

MS. JAMES: I just want to thank you and congratulate Whole Foods for taking on such an initiative. I know it was probably a monumental amount of work to try to come where you are today and that if it is successful, it is really going
to benefit consumers and retailers. So thank you.

MS. WITTENBERG: Thanks Bea.

FEMALE VOICE: Board comments? Any more board comments?

Thank you, Margaret.

MS. WITTENBERG: Okay. Thank you very much.

FEMALE VOICE: Just a status for the board, if we work really hard and we get through these as -

[Crosstalk]

MALE VOICE: - dinner?

FEMALE VOICE: - as quickly as possible, we'll be done around 8 o'clock. We are that far behind already. So again, you know, I'm not—I don't want to stop anybody from having any questions, but just know that we're right now very much behind.

MALE VOICE: [Inaudible].

FEMALE VOICE: Our first commenter is Jim Pierce [phonetic]. Are you here, Jim? On deck, Tom Hutchison. Tom? There he is.

MR. JIM PIERCE: Eight o'clock, huh?

Are we ready? Okay. Excuse me. Okay, for the record, again, I am Jim Pierce, self-appointed certification czar at CROPP Cooperative
representing over 1200 member farmers in 28 states
who market under the Organic Valley and Organic
Prairie brands.

This year, we accomplished two things
noteworthy to the NOSB. In the six weeks leading
up to June 9th, 2007, what we like to refer to as
H-day, we brought in just over 2500 dairy farms
into the co-op as we wistfully watched the sunset
on 8020 [phonetic].

Second, maybe more noteworthy, we
conducted an internal audit on every one of our
nearly 900 dairy farms to assess compliance to the
NOSB 120-day, 30% pasture recommendation, which
has been adopted as co-op policy.

In a nutshell, it can be done and it is
being done and it can be measured.

With the logjam of 606 get-'er-done lists
barely behind you, it's exciting to see this
diverse agenda, so many things to comment on and
yet so many good people here to tell you what they
think and tell you what you should think.

My comments will be limited primarily to
materials. These comments have, by the way, been
carefully vetted, scrutinized, and censored by and
so are indeed the position of CROPP Cooperative.

I begin with a cooperative confession.
We have use issues. Of the seven processing materials being reviewed for re-inclusion, we used three. We use animal enzymes to make award winning cheddar cheeses and Italian cheese. We use carrageenan as a stabilizer in chocolate milk. And since we're bearing our souls here, let it be known that in 2000, we actually petitioned [phonetic] cellulose for use as hot dog casings as and as a flow agent for shredded cheese.

Since its addition to the national list, we have tried, really tried to kick the cellulose habit. And, in fact, to a large degree we have. Since cellulose is synthetic and since it has to be labeled and since we strive for clean formulation in labeling, it's clearly in our best interests to do without. In fact, many of our shredded cheeses are dry enough that they don't need or contain cellulose. And the mantra for the rest of the shreds is as-needed.

Please forgive us along with so many others for missing the opportunity to endorse these seven materials early on. We encourage you to approve all seven processing materials, as well as the five crop materials for reinstatement to the national list.

Of equal or greater importance is the
pending approval or rejections of three crop
materials. Time for another confession—I read all
of the petitions, TAPs, and recommendations. And
I enjoy it. I know it's serious geekisms, but I
can't help myself. I'm hooked.

The crops committee is recommending the
rejection of all three of the materials being
reviewed at this meeting. But I don't see it
quite as—quite that cut and dry. I see all three
of these materials as having uses that are
compatible with a system of organic farming.

Potassium silicate in particular I see as
a material that was endorsed by a previous NOSB
board and one which could be used instead of
copper and sulfur products.

As a standards conservative and a
materials liberal, I would remind you that the
toolbox for organic farmers is severely limited,
as it should be. I would also remind you,
however, that when it comes to adding materials to
the national list, this committee has a persistent
history of making decisions not always based on
reason, let alone science.

Your clear mandate as NOSB members is to
review materials. My request is that you read the
petition and TAP carefully, challenge the
committee recommendations, and then make your own decision.

If the committee convinces you of their position, by all means, vote to prohibit. But if not, please have the courage to overturn that decision.

In the minute I have left, I would like to deliver a message from our farmers to the NOP [phonetic]. Keep in mind, this was written last night.

Please, please publish the 12 livestock materials that were included, including the troubled six, and please, please publish the pasture rule.

The timely publication of the pasture rule have parried a tremendous amount of largely unnecessary damage to the organic—to the integrity of the organic label, saving everyone, including yourselves, unnecessary pain and stress and it's clearly prohibited in 205.238(a)(5) [phonetic].

With the delay of the livestock materials, it is important that you realize that you are unfortunately responsible for unnecessary pain and suffering of organic livestock. Even the best, most humane organic animal husbands are not doing the best they can because they can not reach
for butorphanol, xylazine, or flunixin, materials that were determined five years ago to be compatible with a system of organic farming.

Good and hardworking NOSB board members, please make it your issue, your passion, dare I say, even your addiction to keep pressure on our fine appointed public servants to move your work through to our farms.

Thank you.

FEMALE VOICE: Thank you, Jim.

MR. PIERCE: Okay, questions?

FEMALE VOICE: Questions for Jim? Julie [phonetic]?

MS. WEISMAN: Could you specify what—you mentioned seven materials. Three of them you use, but you were endorsing the approval of seven handling materials. And six of them I can figure out, but I'm not—could you specify what all seven are?

MR. PIERCE: They're all listed in the agenda, so I'm not sure if I-

MS. WEISMAN: [Interposing] Mm-hm, okay.

MR. PIERCE: - can recite them the same.

MS. WEISMAN: Were you including petitioned material?

MR. PIERCE: I was including the—
referring simply to the sunset materials.

MS. WEISMAN: Only to sunset.

MR. PIERCE: Because that was an issue -

MS. WEISMAN: [Interposing] Right.

MR. PIECE: - with the processing committee that they simply had not had any -

MS. WEISMAN: [Interposing] Yes.

MR. PIERCE: - any feedback, so there's ours.

MS. WEISMAN: [Inaudible].

FEMALE VOICE: Thank you, Jim.

MR. PIERCE: All right, thank you.

FEMALE VOICE: Any others? Thank you very much. Tom Hutchison? And then on deck I have DeEtta Bileck. Are you here? Okay. How about Alex Moreno [phonetic]?

MR. TOM HUTCHISON: Good afternoon, everyone. My name's Tom Hutchison. And I am the regulatory and policy manager of the Organic Trade Association.

First, I'd like to thank the board for its extremely hard work in generating and covering all of these agenda items and extend congratulations for a successful and informative aquaculture symposium yesterday. We look forward to continued progress on a broader aquaculture
standard and we support the recommendation on bivalve mollusks.

Hope you've all had a chance to look at OTA's comment on the recommendation on multi-operation certification, which we submitted through regulations.gov and which I'll review in a moment.

We also have a detailed comment on the definition of materials, plus shorter comments on a number of other agenda items. Please refer to the handout for the specific comments.

Regarding the recommendation on multi-operation certification, we believe that our comment addresses the root problem that gave rise to this agenda item, which is the logistical problem of how grower groups meet the inspection requirements of the rule.

We provide a framework that addresses the agricultural segment and emphasizes a single organic system plan with a single internal quality system, a definition of production unit that defines the focus of the annual inspection, and we call for the development of detailed inspection protocols.

The following are specific recommendations. One, the agricultural group must
be organized as a single legal business entity, such as an association or a cooperative, and our use of the terms does not mean that they are legally defined as under US law.

Each agricultural production unit must be inspected as part of the required annual onsite inspection under the NOP. Plots or subunits within an agricultural production unit must be within geographic proximity, but need not be contiguous.

Individual members may be split or parallel operations, including plots intended for self-provisioning. However, if prohibited substances are used on any portion of that operation that adjoins an organically managed plot, that portion should be considered a higher risk for loss of organic integrity and factored into the choice of subunits to be included in the organic inspection.

And lastly, only products marketed through the certified group operation may be represented as organically produced.

For more detail, please look at the full document provided in the handout.

Again, OTA has chosen to address only the original segment of concern to the NOP and NOSB
and we hope our comment set a template for consideration by the board.

Regarding the definition of materials, we appreciate the thoughtful consideration given by the joint materials and handling committee to these complex issues.

We disagree that an agricultural substance can be processed to a point at which its agricultural nature ceases to exist. We support a broad definition of consumption as used in OFPA's definition of agricultural products, to include personal care products, fiber, etc.

Regarding the definition of non-agricultural substance in the final rule, we support either ending the definition after the word mineral or perhaps substituting the phrase mineral derived substance for bacterial cultures and ending the definition there.

We agree that the concept of unrecognizable substances is not useful. And we appreciate the effort to develop a different model for classifying substances, but believe that the new paradigm does not go far enough. And we disagree that some life may not be agricultural, especially if it is ecologically managed.

On other matters, OTA supports the
research recommendations, believes that any
substances being considered for sunset review be
approved to remain on the list absent any new
evidence for removing it, supports standard
certification information as recommended, urges
the handling committee to move the Pet Food Task
Force report forward for recommendation by the
full board, and supports the proposed guidance on
commercial availability, noting that recommending
approval of a substance should not require
documentation of its current commercial
availability.

          Thank you very much for your
consideration.
          FEMALE VOICE: Thank you, Tom. Is there
questions for Tom? Tracy?
          MS. MIEDEMA: Just one quick comment.
          I'd like to publicly thank you, Tom, and the OTA
for convening the task force that produced this
excellent body of work and also publicly thank Kim
Dietz [phonetic] and Grace Gershuni [phonetic] for
their leadership of this group. It was quite a
large task force. It was one of many groups
weighing in on this issue under quite a bit of
time sensitivity. And I know many of you came to
this meeting expecting a vote on a recommendation.
And as we have found, we're much more at the beginning of this question that at the end. And I just wanted to thank you.

FEMALE VOICE: Any further comments or questions for Tom? All right. Thank you, Tom.

Next up is Alex Moreno. Are you...

MS. DEETTA BILEK: No, I'm not Alex. But DeEtta Bilek. I'm the president -

FEMALE VOICE: [Interposing] Oh, you did.

MS. BILEK: - of OCA International. And Alex has folders to pass out to the board.

FEMALE VOICE: Okay. Now are you—I just need to make it clear because I've got both of you listed. Are you both giving five-minute comment?

MS. BILEK: If we can and if we can do it together, that -

FEMALE VOICE: [Interposing] Do you want ten minutes for the two of you?

MS. BILEK: Total, right.

FEMALE VOICE: Thank you.

MS. BILEK: And I'm thinking I'll take less than five.

MS. BILEK: Okay. I've been on the international board for this is my second year. It's my first year as the president. I'm from Minnesota. In your packet that Alex has just passed out, I'd kind of like to run through the material that's in there.

FEMALE VOICE: [Inaudible].

MS. BILEK: Spell my first name?

FEMALE VOICE: Yes, your full name for the court reporter.

MS. BILEK: Okay, spell it?

FEMALE VOICE: Yes.

MS. BILEK: My first name is D-e and a capital E-t-t-a, Bilek, B as in boy, i-l-e-k. Okay?

FEMALE VOICE: Thank you.

MS. BILEK: Thank you. The first item is a letter, which I will read at the end. And in the folder, we have our membership brochure and two sheets of information about OCIA. We're one of the world's first, largest, and most trusted leaders in organic certification. And we are talking about the community grower group topic today. We're-community grower groups in our organization consisting of approximately 30,000 farmers, so it is an important topic for us.
In the opposite side toward the back is our most recent newsletter, the Communicator and then some of the points on community grower groups and how they can operate from our perspective. Those two pieces Alex will speak to. The photo is an example of a community grower group that's becoming very successful. It's actually a group of women in Mexico.

And if I may read the letter, I'll start at—by thanking the board for giving us this opportunity to be in front of you on the NOSB recommendation for certification for multi-site operations on the—under the National Organic Program.

OCIA and group certification, small holder farmers are important as it has been estimated that they contribute up to 70% of organic products imported to countries in the Northern Hemisphere. As an example, most products containing organic sugar would not be available without small farmers who produce sugarcane. The same could be said about coffee, bananas, chocolate, pineapple, etc.

For decades, based on IFOAM's criteria and its own experience, OCIA has successfully certified grower groups in developing countries
under social and cultural conditions very
different from conditions in the USA.

These organized groups of growers comply
with NOP certification standards and from the
compliance perspective have earned their
eligibility for certification.

However, cultural barriers, language,
 geography, sorry, reduced production volumes, and
their very scarce financial resources limit their
access to certification.

Then group certification reduced the cost
of certification, opening a window of opportunity
for them to access world markets and obtain a
better price for their products.

The OCIA group certification policy is
attached to this letter as a referred to in the
folder. Understanding the social considerations
behind group certification, this policy uses
annual gross organic sales to determine the
inspection scheme.

Any individual grower making $5,000 for
two consecutive years is inspected annually.
Growers making $50,000 or more per year in
processing facilities are inspected annually.

Group certification has been used for
decades as a way of opening market opportunities
to disadvantaged communities. However, OCIA recognizes that as a certifier, we have obligations with producers and with consumers and that even healthy social motivation can not be a substitute for compliance with the standards. The good intentions of consumers choosing organic product should not be betrayed and the role of the certifier is key here. Our actions and decisions should be transparent to prevent the development of consumer cynicism and doubt about the organic claim.

OCIA and group certification, OCIA does not support the NOSB Certification, Accreditation, & Compliance Committee recommendation for certifying operations with multiple production units, sites, and facilities.

We request that NOSB reject the current CAC recommendation and consider developing a new recommendation that is limited to addressing the unique certification issues inherent to grower group certification.

OCIA essentially agrees with the suggested revisions by the Accredited Certifiers Association, ACA, to the 2002 NOSB recommendation for certification of grower groups.

Ideas presented by ACA could serve as a
basis for a new recommendation addressing grower
group certification. OCIA's observations to ACA's
comments to the 2002 NOSB recommendation for
certification of grower groups are attached in
Attachment 2 and again they're in the folder.
I'm on number 2. I'm not sure how my
time is doing.
Given the continued increase of
international trade and the just aspirations of
small holder farmers in developing countries, OCIA
believes the NOP needs to continue developing
regulations for group certification. OCIA
believes the NOP needs—I just read that.
These regulations will strengthen the NOP
and are necessary for determining compliance with
the standards in order to ensure the integrity of
the USDA organic label worldwide.
OCIA recommends that the NOP consider the
creation of a specific area of accreditation for
group certification. We believe that this will
provide the organic sector guidance to ensure the
group certification—ensure that group
certification follows consistent procedures,
strengthening the confidence of consumers on
organic products. This will also ensure that
certification agencies are evaluated according to
uniform criteria during the accreditation review of their programs.

FEMALE VOICE: DeEtta?

MS. BILEK: Yes?

FEMALE VOICE: You only have 3.5 minutes left of the ten.

MALE VOICE: Total.

MS. BILEK: Total? Okay. I'll stop there and then give Alex the rest of the time and questions whenever he's finished. Thank you.

[Inaudible] you want to continue reading or not?

MR. ALEX MORENA: Yeah. OCIA considers that a central body called internal control system, ICS, management system or quality system is essential to group certification. Therefore criteria needs to be developed to determine its functionality, sufficient qualification of the staff, and prevention of conflict of interest.

And I'm really willing to take any questions that you may have about our experience with certification of groups.

FEMALE VOICE: Does the board have questions? We have no questions at this time, but this is an open item. We're—it's a discussion item for here, for this meeting, so at some point
in the future, we may have questions. And Tracy
has outreached already through OTA and the
outreach will continue I would take it. Tracy?

MS. MIEDEMA: This item will remain on
the CAC committee agenda going forward. And it
would be wonderful if you would stay with us and
leave your contact information and participate in
the dialogue.

MR. MORENA: Sure. We were—we are more
than willing to help doing whatever to continue
with this certification.

MS. MIEDEMA: Thank you.

MS. BILEK: And thank you again for your
time.

FEMALE VOICE: Thank you.

MR. MORNENA: Thank you.

FEMALE VOICE: So up is Michael Sly. And
Gary Lean [phonetic]? Gary, are you here? Where?

MALE VOICE: He's right -

FEMALE VOICE: [Interposing] You're on
deck.

MR. MICHAEL SLY: Good afternoon. I am
Michael Sly with the Rural Advancement Foundation
International, RAFI USA. We're a nonprofit,
nongovernmental foundation dedicated to equity,
justice, sustainability, and diversity in
agriculture. We work both domestically and
internationally on the issues and opportunities
and challenges related to family-size agriculture.

I'm—I have come here today to also talk
about the issue of grower group certification.
And certainly I want to add my thanks to you as
well as a former NOSB alumni myself to the
dedication, the hard work that you have to put
forward to get this job done. And I know well the
personal and business sacrifices that you must do
to accept this call to duty.

I think it's quite important that we
focus in on this issue of grower group. And I
have six quick points that I'd like to bring to
your attention.

And the first one is that I think it's
quite important that we return to the original
NOSB currently approved position as the basis for
the dialogue. I think that we are going to make
our task far more complicated and confusing if we
bring in the issues of processors and retailers
into a historic grower group issue at this time.

So I think if those issues need to be
addressed, they should find a separate time and a
separate place. They have their own importance
and I well respect that. But I think if we return
to the existing position, it will give us a clearer focus as a way to move forward on the exact issue.

Secondly, I strongly urge you not to reinvent the wheel. As you well know, there are many, many organizations and organic stakeholders around the world who have worked very hard on continuous quality improvement in the grower group certification system. The International Organic Accreditation Service, many of the certifiers that you'll hear from here today, and the grower groups themselves have enormous expertise. And I strongly urge you to engage all of these in a dialogue about how to move forward on this very important issue.

I think the—some of the model of the fish debate and the pasture debate could play out here on the grower group debate as well and that we would support a broad-based working group that is transparent and accessible that could help to develop and shape this direction and recommendations.

Thirdly, we don't want to lose sight that this is about small farmers in locally-based cooperative controlled groups and associations. And we have to remember where this model came from
and that why it was developed and that the grower
group certification system predates the NOP,
coming out of Latin America in the early eighties
as a way for very, very low resource farmers to
market cooperatively and to get access to new
markets that they could not otherwise achieve.

This is a value-added farmer empowerment
and rural economic development system with a
proven track record that has demonstrated its
commitment to continuous quality improvement.

This certification is recognized in
Europe and by the FAO.

Fourthly, I urge us not to do harm. That
should be our first duty is to do no harm to these
vulnerable farmers and to continues to work to
find ways to quality improve.

Fifthly, we urge that you adopt specific
criteria for grower groups and that the scope be
identified for grower groups as it relates to this
for certifiers. This would very much help and
this should be tied to the continuing work of the
department in developing an accreditation manual.

And finally, we support the comments that
were submitted by the National Organic Coalition.
As a founder of this coalition, we support those
very detailed and considered technical
Thank you very much.

FEMALE VOICE: Thank you, Michael. Any questions?

MR. SLY: Thank you.

FEMALE VOICE: Thank you very much. Gary Lean, you're up with Katherine Cash [phonetic] on deck. Katherine, are you here?

MALE VOICE: Yes, she is.

MS. KATHERINE CASH: Yes.

FEMALE VOICE: Great.

MR. GARY LEAN: Thank you. There's a handout going around. Just like to introduce myself. This is Gary Lean from Cameron, Ontario. I'm currently chair of the IOIA board. And this is Katherine Cash, a member of the board of directors of IOIA as well. We'll try to keep our presentation relatively short if at all possible. Just as a way—by way of background, I come as a professional agrologist and have 20 years of experience as an organic inspector. And the paper I read is not my authorship, but rather an outcome from an ad-hoc committee that we'll talk about. Katherine will follow with a brief personal perspective.

I want to thank the NOSB for this
opportunity to present this position paper. Our goal is to be part of a participative process working towards solutions, policies, and procedures that help to build and maintain integrity in the organic food system.

Two IOIA members need special recognition for their contribution to the IOIA ad-hoc committee. They would be Masuare Gumiure [phonetic] from Nepal, the board liaison to the committee, and IOIA immediate past chair Luis Brenes from Costa Rica who chaired this committee. Masuare and Luis have extensive experience with CGG [phonetic] inspection in their relative areas.

So why is IOIA commenting on this position? In terms of history, most of you'll know, but for those of you who don't, we're a association of inspectors that inspect crop, livestock, and processors. And we were founded in 1991 by organic inspectors who recognized the need for uniform inspector process and protocols to build inspector skills and promote public confidence.

The mission of IOIA, part of it is to promote integrity and consistency in the organic certification process. We have more than 400
members in over 16 countries worldwide. And we consider I guess that we're the largest, most diverse and representative organization for organic inspectors in the world.

In our code of ethics and in our code of conduct, you'll find among other statements that inspectors support and encourage the development, implementation, and advancement of organic agriculture and also that inspectors should be sensitive to social, political, and environmental variables of their region when inspecting.

IOIA believes it can provide objective and credible comments given its respected role and lengthy experience in the organic sector. And we are commenting in order to contribute in a positive way to the discussion.

Organic production in developing countries often rests in the hands of organized small scale growers, i.e., community grower groups. And this is occurrence is a social and a cultural reality arising not from the creation of standards, but rather from deeply rooted traditional agricultural practices in these regions.

Thus since the beginning of organic certification—and this is an echo of the previous
speaker—that is not only the need to guarantee organic integrity, but also the need to adapt the certification procedure to such social cultural reality.

After years of refinement, there existed a audit techniques based on risk assessment that can reliably identify possible non-compliances. They are based on a two tiered system, an internal control system and an external third part inspection.

This is very similar to a quality-based system audit or to an organic food processing audit where the organic inspector is not present to audit every organic run as we understand is now the trend in other sectors of the food industry, like USDA meat inspection or APHA [phonetic] citrus handling.

Instead, the organic inspector reviews the management system, checks written internal procedures and records, and verifies these with sample audits.

For more than a decade now, IOIA inspectors have witnessed the development and refinement of internal control systems within community grower groups. The IFOAM/IOIA International Organic Inspection Manual of
December 2000, Pages 121 to 125, includes a chapter on how to inspect community grower groups. This chapter was based on an earlier printing of the IOIA Inspection Manual, number 2, in 1998. The written material greatly influenced the Criteria for Certification Of Grower Groups, NOSB 2002, and is cited literally as a guideline for an inspection protocol.

Before NOP final rule and to date, five years after its implementation, many American and foreign USDA-accredited certifiers have inspected and certified community grower groups based on an internal control system evaluation.

These certifiers have publicly written policies, procedures, or guidelines. In most situations, these documents not only follow the 2002 recommendation, but actually improve upon it. As one example, and it's just—as it was just mentioned, the Organic Crop Improvement Association has attached their CGG certification policy to its comments.

We are willing to contribute and provide perspective for these discussions as an independent organization. And we trust that our experience as inspectors, being the eyes, ears, and nose of the certifiers, that in most
situations, we are the only ones actually visiting the production units and sites where growers groups carry on their activities.

While on-site, inspectors are not representing the interests of the growers, nor the buyers, nor the extension agents. We're acting as third party independent professionals as outlined in federal regulation and ISO 65.

FEMALE VOICE: Gary, your time has expired.

MR. LEAN: Okay. Then I'll just finish up. Inspectors [inaudible] objectivity as a professional practice. We would like to recognize that our—the work put into the papers submitted from the Organic Trade Association, IFOAM, ACA, and NASOP and have all submitted public comments. And we see that there's a high level of agreement and few differences.

FEMALE VOICE: Thank you, Gary.

MR. LEAN: [Inaudible].

FEMALE VOICE: Okay.

FEMALE VOICE: Is there any questions for Gary?

MR. LEAN: I just would like Katherine to carry on [inaudible].

FEMALE VOICE: We'll give her five
minutes. So let's just -

MS. KATHERINE CASH: [Interposing] [Inaudible] going to need a couple.

FEMALE VOICE: You're only going to - that's music to our ears.

[Crosstalk]

FEMALE VOICE: Any questions for Gary before? Okay. Go ahead, Katherine. On deck I have Katherine DeMateo. Katherine, are you around? Do I see you?

FEMALE VOICE: [Inaudible].

FEMALE VOICE: Is Katherine DeMateo in the room?

[Crosstalk]

FEMALE VOICE: Oh, okay. Thank you.

MALE VOICE: She's so small [inaudible].

MS. CASH: As Gary said, I'm here today to kind of speak on a personal front. I'm speaking as an organic inspector. And I can say I've witnessed what happens when organic farmer groups are allowed to develop internal self control systems.

Often the end results seems to be and often to the surprise of the inspector a well oiled and organized machine with comprehensive farm plans, well functioning recordkeeping
systems, and in the end, audit trails that would make your grandmother do cartwheels if she happened to be an inspector.

So what I'm saying is that it's a system that works, at least from what I've seen. And it's a good option for farmers whose survival as farmers depends on the flexibility that grower group certifications afford.

Organics is growing. And you don't need me to tell you that. But unfortunately at the same time, the demand for organic products is increasing, we are losing farms at an alarming rate. The caveat is that at least in Virginia, studies show the numbers of very small farms are on the increase. And the surveys show that these small farms are mostly tiny mom-and-pop operations, sometimes out in the remote areas of the state, sometimes in places where no sane agribusiness consultant would ever even consider suggesting a farmer even think about trying to scratch out an existence on the land.

I'm talking coal country, tobacco country. These farms are joined by other farms that are facing their own challenges, challenges from encroaching development, from land prices that make selling out look a lot more appealing
than hanging on. The least we can do for these people is to continue the practice of a system that's already working, growers group certifications, albeit with some tweaks that Gary mentioned earlier.

In Virginia, we do see growers groups as a practical, viable options for small farming operations. We have several groups of Amish and Mennonite farmers who work together, often farm together, share equipment, loads of organic grain and the like. Working together means they can farm. The avenues open to them by virtual of growers group certifications can not be taken lightly.

We also have a group of farmers referenced earlier down in tobacco country down in Southwest Virginia. They sell to the same markets. They use the same types of inputs. They pack in the same packing house. And they all ship product together. They are organized, diligent, and earnest about what they do. They're committed to farming with integrity and they depend on the growers group certification system as part of the mechanism that gets their products to the table.

The public wants small, local, and organic farm products. Now is not the time to
make things even more complicated. The time is
right for us to fine-tune growers group
certification protocol and simply refine what is
already a functioning system.
The end result will be that many -

MS. CASH: - small, organic farmers will
be free to do what they do best, and that is quite
simply to farm.
And I thank you.
FEMALE VOICE: Okay. Thank you,
Katherine. Do we have any questions from the
board? Thank you very much. Up is Katherine
DeMateo? On deck is Leanna Hoods [phonetic].
Leanna? Are you here?

MS. KATHERINE DEMATEO: Thank you very
much. My name is Katherine -

FEMALE VOICE: [Interposing] Oh, hold on,
hold on. Hold on, Katherine. Katherine, I've
just got to get somebody on deck. Is Leanna here?

FEMALE VOICE: She's not in the room,
though. Why don't we go with Kimberly [phonetic]
-

[Crosstalk]
FEMALE VOICE: Oh. Leanna, you're on
deck. You just made it.

MS. DEMATEO: All right. thank you. My
name is Katherine DeMateo or DeMateo depending on
which part of the world you come from.

I am a senior associate at Wolf
[phonetic] DeMateo and Associates. We're a
consulting firm based in Virginia and
Massachusetts. I am also a World Board member of
the International Federation of Organic
Agriculture Movements. And for transparency and
making sure that everyone understands where I—what
hat I'm wearing right now, I am wearing the hat as
a paid consultant representing IFOAM, the
International Federation of Organic Agriculture
Movements.

We were engaged to help them track the
process on this group certification issue and to
lend our expertise and comments. So I am
representing their opinions, but as a paid
consultant.

And I want to thank the NOSB for taking
this issue up and trying to advance the 2002
recommendation. I want to thank the NOP for
allowing the 2002 recommendation of the NOSB to be
used as guidance in this interim process. It's
very important as you've heard from the other
people who have testified that grower groups and
group certification is an integral part of what is
happening today in organic agriculture movements
and in the industry worldwide.

I want to also state that IFOAM, we are a
worldwide organization representing 770 members in
108 countries. And as you may know, organic
agriculture is being practices in 120 countries
around the world.

We are not here as the voice of Europe.
We are not trying to impose a European viewpoint
on the United States or on the NOP or the National
Organic Standards Board.

That may—that is an assumption about
IFOAM that I want to just make public, that we are
an international organization. There is many
members of IFOAM in this room today. They are
based throughout the world. And our opinions come
from that.

We are also recognized as a standard-
setting organization by the International
Standards Organization. So we have a lot of
expertise behind us.

And our written comments have been posted
and I hope that you have them in your booklets. I
didn't re-do them for you.

I will just try and hit the highlights.

I think you've heard already that there is large agreement among the groups that have testified.

And I am pleased that this is now a discussion recommendation as opposed to one that will have a decision today.

And I do hope that IFOAM's suggestion and others that a working group perhaps be put together of those with expertise in this area, and as you can see that there's a number of groups that have offered very good and specific comments that if we could come together, we could help you develop a recommendation that would meet everyone's needs.

The group certification system is based on sound accreditation, inspection, and certification norms that are recognized by ISO, the International Standards Organization.

We do also suggest and agree with other presenters today that there should be a category in your accreditation for group certification because it does require—the system needs to work from the top down and the bottom up. It's not a—just about the growers or other groups doing this correctly. It's about the whole system working as
it should and having its checks and balances from accreditation through certification down to the production and handling.

Of course, IFOAM's past comments on—and papers and manuals on group certification were based for grower groups in developing countries. IFOAM has advanced our position and we now do see the possibility and the scope of group certification to include different size and types of organizations.

So I think I will end there. And I—and we are available to help. Thank you.

FEMALE VOICE: Thank you, Katherine. And your comments are in our books, so we do have them. And definitely have paid attention to those comments.

Tracy?

MS. MIEDEMA: Thanks Katherine. And I'm glad to hear you're getting paid because you've done an enormous amount of work on this issue. Katherine has been an enormous—just a tremendous resource with her historical perspective on this issue to the Certification, Accreditation, & Compliance Committee as we took up this issue in May and have worked on it for the past three or four months.
And, you know, there's a couple key questions that I would love to have more feedback from IFOAM and other stakeholder groups. And that is, you know, the construct of the ICS has come up in nearly every comment on this issue so far and I expect it will continue. And if we can just explore further what are the limitations of this construct, what are the benefits? We know that it's being used in—throughout the supply chain, throughout the organic supply chain, hence multiple production unit sites and facilities. And, you know, just trying to understand why it may work under one sector of the organic industry and not for others.

And I guess I want to set aside the argument of well, it makes the issue more complex. That's a given. But what are the limitations of the ICS in that it can't be truly embraced in these other sectors?

MS. DEMATEO: Well, I don't know that you really want me to answer that question right now. But IFOAM does recognize that it can be. It—the basic principles of an internal control system or an internal quality system should be able to work regardless of the operation. That's its purpose. It's purpose is to have internal
controls that are functional and that then can be
audited during an inspection process. Because
inspection's not just about observing what's
happening, but it's also auditing the paperwork
and the control systems that happen, whether
that's in a grower group situation or on an
individual farm or in a handling facility.

So we believe that it, you know, it can
be applied.

MS. MIEDEMA: Thank you for that. I
don't expect we're going to come up with a
solution here on the spot either. It's an open-
ended question and I appreciate you taking a stab
at it.

MS. DEMATEO: Well, thank you.

FEMALE VOICE: Other comments from the
board? Thank you, Katherine.

MS. DEMATEO: All right.

FEMALE VOICE: Up is Leanna Hoods with
Kimberly Easson on deck? Kimberly?

MS. LEANNA HOODS: Good afternoon, all.

I'm Leanna Hoods. And today I am representing the
National Organic Coalition. The National Organic
Coalition is a national alliance of organizations
representing farmers, environmentalists, other
organic industry members and consumers concerned
about the integrity of national organic standards.

The goal of the coalition is to assure that organic integrity is maintained, that consumers' confidence is preserved, and that policies are fair, equitable, and encourage diversity of participation and access.

You all have the National Organic Coalition comments on growers group—grower groups. I'll recap a few of the points in a minute. I did want to bullet some other items.

First kudos to the Aquaculture Working Group. I think the symposium was—the parts of it that I heard were excellent. And I think the—to the whole board, that symposium model seems to work really well to really bring depth and information and I encourage you to continue that with other issues.

Regarding NOP accreditation procedures, we've continued to for years talk about that the National Organic Program's compliance with international quality systems would provide the level of consistent oversight of the program that's really expected by consumers and the organic community worldwide to protect organic integrity. We encourage the NOP to become ISO compliant as required in the regulations and
produce a quality manual. And we understand that's moving forward and we appreciate that that is.

Regarding the issue of TAP reviews, we believe that TAP reviews should be required for all materials, 606 materials included. Budget shortfalls notwithstanding, no materials should move without these independent reviews. We think that the information provided is vital and that if necessary the materials if there's absolutely no money, maybe the materials need to stop. But barring that, I think that a commitment from the department high up to support the finances—the financial needs of the National Organic Program is paramount in that and it can't—we can't be stopped in doing rigorous review of materials and so TAP reviews should be required.

And finally on these bullet points regarding pasture, real enforcement of the pasture requirement as written today is necessary for the integrity of the label. In addition, the promulgation of a pasture rule is necessary to provide a clear direction in the future. The longer this delays, the more the entire—the integrity of the entire organic label is threatened. We see that out there all the time.
The consumers are so, so concerned about this issue, this entry product. And I can't say it enough. And I know there's, you know, the whole realm of bureaucracy behind why it hasn't gotten done. It—the longer it delays, the more serious it is for the label itself, for the ability of that label to bring that high quality.

In regards to the grower group issue, we'd like to thank this CAC for the thoughtful consideration of this important issue. However, we do believe the draft proposal does go well beyond the scope of the problem it intends to solve and, in fact, proposes major change in the scope and nature of organic inspection that is not warranted and will be harmful to the integrity of organic certification.

That means that the issue is really about grower group inspections. We recognize that the NOSB has identified unresolved issues related to voluntary certification of retail handlers, but we believe this topic requires additional guidelines or rulemaking and should not be included here with the original issue of concern, whether a cooperative type of farmer-based grower groups can be certified under USDA NOP.

We appreciate that NOP has endorsed the
previous NOSB recommendation of 2002 as current policy pending further clarification of rulemaking.

We further recommend strongly that NOP consider certification of grower groups as a separate area of scope for accreditation of certifiers. This will provide the extra assurance that certification agencies have the necessary policies and expertise to perform this type of review and will require witness audits by USDA of actual grower group inspections. This will help maintain consumer confidence in this form of organic certification.

We reference USDA, the IFOAM accreditation criteria for insight into evaluation of internal control systems by certification agencies.

We support the comments of the Accredited Certifiers Association. We find that inspection of production units rather than all individual farm members of a grower group would ensure the integrity of organic products. We have some details on that in our comments as well.

And that's basically—and finally, we do encourage the ongoing investigation of this grower group issue through active discussion with small
holder groups and others directly involved with this method of certification and other stakeholders. We think that's a really good idea.

So I'll stop there.

FEMALE VOICE: thank you, Leanna.

MS. HOODS: Thank you.

FEMALE VOICE: Board members, questions? Comments? Bea?

MS. JAMES: Thank you.

I read through your—the National Organic Coalition comments and I was wondering if you could elaborate a little bit on the position and the statement that you made about the importance of annual inspections across all sectors.

MS. HOODS: In general that the annual inspections of production units is vital to the program. It is how we can maintain the integrity through actual viewing what's going on. There's—
is no better way than to be—annually go see.

In terms of, for instance, internal control systems, you know, that's often more than annual review—inspections that happen. And in some cases that is needed. So there's variation. I was learning about grower group issues, surprised to see how detailed it can be about assessing the risk of noncompliance to make that a
part of your decision-making and how often the 
review, the inspection should occur. And so I 
think that's important.

But the minimum should be as the rule and 
I believe even the law suggests that it is annual 
for production units. And as we described, 
production units can mean different things and I 
think we need to hone in on that. But the idea 
that it—annual is the minimum and then we move 
from there.

FEMALE VOICE: Any other comments or 
questions? Thank you.

MS. HOODS: Thanks.

FEMALE VOICE: So next up is Kimberly 
Easson with John Foster on deck. Before you get 
started Kimberly, I just want to kind of check 
with the board. Are we okay go to a little bit 
further or do we need a break?

MALE VOICE: [Inaudible].

FEMALE VOICE: Move forward? We're going 
to move forward. Kimberly?

MS. KIMBERLY EASSON: You're impressive.

You have an awful lot of work, so I will be short. 
I'm Kimberly Easson. I'm the Director of 
Strategic Relations at TransFair USA. We do fair 
trade certification and we work with over 1
million small family farmers around the world, mainly for coffee, but also other agricultural products—fresh fruits, sugar, rice, tea, etc. Eighty percent of the coffee that's brought into the US right now is also organic certified. And we actively encourage organic certification of all of the grower groups that we deal with under fair trade certification. The—we also have 600 business partners that help to manufacture and distribute fair trade products across the country.

And secondly, I'm a representative of the Specialty Coffee Association. That's a 3,000-member trade association representing businesses throughout the global coffee industry. Everyone is anxiously awaiting a word from this meeting. And I am understanding that maybe there isn't going to be a resolution from this meeting this week.

I think people are relieved that there does appear to be some kind of consensus that grower groups certainly can exist under the NOP and the inspection protocols and that there is a recognition that organic—I'm sorry, internal control systems or internal quality systems can provide the foundation for the rigor that is
needed in order for products to carry the USDA organic label.

Obviously there's still a lot more work to be done. We—my comments are informed by the excellent work by a number of groups—obviously you all, the NOSB, and the CAC. The—I participated but in a limited way on the Organic Trade Association Task Force. I have to highly commend the work that was done on those calls and the recommendation that was made.

I—TransFair USA does support the OTA recommendation with regard to group certification of producers and producer handlers. We do not as an organization nor do I personally possess the expertise to be able to say more about the inclusion of multi-site production or handling operations.

I think many people agree that what we need to do first and foremost is address this grower group issue and be able to move forward.

With the OTA recommendation, I think it's key to understand that the definition of a production unit, which has been missing, is as comprised of subunits. I think that some of the work around additional definitions is really key for helping us to understand how grower groups can
be included in the NOP.

There are a couple of other issues—the issue of how inspectors use the standard risk analysis and sampling, initial versus annual inspections, and the—I think that—excuse me. I got lost on my notes here. Some of the—some of those issues can be clarified by bringing together some kind of a task force to help to put together what the best practices would be for working with the OCS under grower groups.

So I think that's it. Obviously there's a lot of good input that you've all received and I appreciate the work that you all do to help come to the best decision. And TransFair and I know also other members of the Specialty coffee association, there's a lot of support, people willing to participate to help make sure that the decision is going to be workable for everybody, especially the grower groups and the industry that depend on their supply.

So thank you very much.

FEMALE VOICE: Thank you, Kimberly. Any questions for Kimberly? Thank you very much.

MS. EASSON: Thank you.

FEMALE VOICE: Up next is John Foster with Sue Baird on deck. Sue, are you here?
MS. SUE BAIRD: Yes.

FEMALE VOICE: Thank you. John, what's your affiliation? Who are you with these days?

MR. JOHN FOSTER: It's hard to keep track sometimes, isn't it? I know.

Yeah, I'll be very clear about that. I'm going to sacrifice spontaneity for actually fitting it in five minutes, which as those of you who know me know it's hard for me to do.

I'm John Foster. I am Senior Manager of Organic Integrity for Earthbound Farm. We are a grower, packer, shipper of organic salad mixes, fresh fruit, fresh and dried vegetables—sorry, fresh and dried fruit, fresh vegetables, baked goods, snacks, things like that.

My job just so you kind of know where I'm coming from is to ensure the organic integrity of all products supplied to Earthbound Farm. So it's pretty broad and sweeping.

I appreciate the opportunity to provide comment today. I certainly appreciate your time and effort and sacrifice on the board here to benefit us all.

In addition to our own organic integrity, the processes we have in place just for us, we really rely on the integrity of the organic seal
as a reliable currency and symbol that our customers can look to and depend on inasmuch as possible to make sure that those products are grown and handled to their expectations along with consistent with the regulations.

We think that working to maintain the integrity of organic products and process, all operations should complete the certification process, including individual, once-yearly inspections and that every location should submit to the process of an annual inspection.

My experience is that most consumers kind of expect this if they have a thought about it at all. They kind of expect that every place has been looked at.

Because of this primary importance on the integrity and the perceived integrity of the organic goods, we might argue against all group management under the NOP, but at the same time recognize and appreciate the historical precedent, the significance, the economic necessity, and certainly standard of practice over the last couple decades at least with respect to grower group management.

Really have no issue with that in the real world even though it opens the door to
inconsistencies to say the least. I think that it's a practice that's okay. Not perfect, but it certainly is manageable. And I think when it's controlled appropriately with internal systems, I think work—can work fine.

While we have faith in handlers' abilities to implement internal control systems and to operate in this way, really don't feel like any of the retailers or handlers are going to have certainly not purposefully misused this.

We're much more worried about the appearance of implementation of or expansion of this grow—sorry, group management system to other contexts.

That's really it, problems with perception more than anything else, not problems with actuality. I have had the opportunity to see how grower groups work and I've seen how group management in retailers work in prior experiences. And I've seen both work really well and I've seen both work not so well. I know it can be done, but there are a lot of pitfalls as well.

I'm not suggesting that organic integrity will necessarily be undermined if this extension were formalized. But it will allow claims to be levied—maybe inappropriately and maybe from less-
than-informed perspectives, but levied all the same. And my observations of the industry in the recent past are that I would rather not see that again. So if we can do something to avoid that, we should.

We've heard—in the context of aquaculture, we've heard and I've experienced with our consumers, thank you, that consumers are looking for more oversight and more scrutiny I think. They want more certainty. There are a lot other examples where retailers and handlers are inundated with audits and inspections. And I can—

I understand the argument that we don't—they don't want one more.

However, on the whole, I would—I—my observation is that the value of an unquestionable process for retailers and handlers exceeds the relatively small economic or monetary cost, the differential that a site that 100% inspection would incur.

Lastly, just want to—I want to encourage the—you to consider the reality and the perception of organic integrity as an essential, pivotal component in charting our collective course of action.

FEMALE VOICE: Thank you, John. Joe
MR. SMILLIE: Well, as always, John, I appreciate your comments. And I think you hit the nail on the head. That's—was one of the main moving forces of why we pulled it back from a recommendation is again if a perception is out there and it becomes widely believed, then it does become reality. And we have to look at that just as if it was real. And in my mind it's not. And our committee, we looked at it very carefully. And it was a—the committee was very much split on the issue. We wanted to move forward. We wanted to find a solution. But I think that the way we're going through it now is going to be better. Basically the crisis has abated. Grower groups are continually being certified. We'll come to a solution. We'll take time. We'll hear all of the opinions. We'll go back. We'll go back to work. And the comment you made is I think just right on. We'll definitely take that into consideration.

I do want to remind everyone that, you know, the hot button issue, the elephant in the room, is that the group certification would go to retailers. And I personally don't think it's a bad thing. But, you know, if the community
doesn't want that to happen, you know, that—we'll try and reflect the will of the community.

I do want to remind everyone that retailer certification is voluntary. It's not mandatory. So the retailers that do seek certification, either individually or as a group, are doing it of their own free will. And they're actually adding to the integrity of the system, certainly not diluting it by being voluntarily certified.

However, we heard the community speak very loud and very clear and we'll go back and continue working on the issue.

MR. FOSTER: So no question in there, right?

FEMALE VOICE: There was just a comment, not a question.

MR. FOSTER: Okay.

FEMALE VOICE: But is there anybody else? Tracy?

MALE VOICE: [Inaudible].

MS. MIEDEMA: Thanks John. I do have a real question.

MS. MIEDEMA: When you mentioned annual inspections, you know, one of the things this
recommendation attempted to do was shine a light on something that was uncovered, which is that there really does seem to be a difference in not every inspection looks the same. An initial inspection, for instance, might have land history reports, etc., that aren't carried out, you know, at a renewal inspection.

So when you say annual inspections and you talk about consumer perception of inspection, are those one and the same? Do you see them as different? Just any comments there?

FEMALE VOICE: That was a question, John.

MS. MIEDEMA: [Inaudible].

MR. FOSTER: I think by and large—I think they're—well, they are different things. They're different beasts. I've done a lot of both of them.

But I'm not sure that that distinction is—I'd—it's certainly not well understood by consumers. And even if it were understood that that happened, I don't know that that would have any meaning for them.

In the world of, you know, our generation of sound bites, you'll never be able to explain that. It's not going to have any traction because it's—there's subtleties and nuances and—that are—
it's not that consumers can't get it. It's that they generally don't. I mean, that's not the world they're used to. They're—they need quick information. And I think that's—I could be wrong, but—I have been more than once. But I think that would be a very difficult distinction to make clear enough to have any meaning to them.

But functionally, yes, they're different. But it would—I don't think it would address the issue of perception and how that could be—how the perception can be shifted in away that—that's it's a negative for the industry. I think that would be very hard to—argument to fight against.

FEMALE VOICE: And is there any more comments or questions? Bea?

MS. JAMES: Just one comment, and I'm not insinuating that anybody said this. but just because retail certification is voluntary doesn't mean that those standards should have any—I mean, once you volunteer for certification, you're under the same guidelines and expectations as anybody else who goes under certification.

So my question is do you agree with that?

MR. FOSTER: Yes.

FEMALE VOICE: Any other comments or questions for John? Thank you, John.
MR. FOSTER: Thank you.

FEMALE VOICE: Sue Baird up now with Pat Kane on deck. Pat, are you here? Great. Thank you, Pat.

MS. SUE BAIRD: Hi. I am Sue Baird, technical manager at QAI. I wanted to speak briefly to you on multi-site operations certification.

QAI applauds the NOSB committee for providing the first step for providing legal jurisdiction to be able to do organic certification for group management system plans.

QAI applauds careful dissection. I really liked the way you did that. From—being from a past governmental agency and doing—writing laws and things, I thought you did an excellent job of dissecting 205.43.(a)(1) [phonetic] to be able to discern that there is a regulatory text difference between initial, as it says—let me read it to you—initial onsite inspection of each production site, unit, and facility that produces and handles organic products. And then you go ahead and you dissect that the annual thereafter onsite inspection specifically only addresses the certified operation. Great work and I applaud that.
QAI also applauds that the NOSB committee recognizes that the organic system plan with any internal control system manual or any other kind of documentation that's additionally submitted is the key management tool that a certifying agent must use to determine compliance to the NOP.

I don't know how many of you know, but many of you do know that I worked for several years as a quality assurance manager for a large poultry processing plant. I worked both pre-NOP and post-NOP—I'm sorry, pre-HASSOP and post-HASSOP, 1995 and thereafter.

I remember back when HASSOP was first signed into law by President Clinton in 1995. And at that time, the responsibility for taking on food safety issues was taken from the complete responsibility of FSIS USDA and placed into the hands of us as the plant employees QA departments. We were appalled. We just knew by having to take all that responsibility and operate under an HASSOP plan that food safety, foodborne illnesses were going to skyrocket because there was no USDA oversight. They were taken from the overseer to the auditor of the plant's plan.

Instead of foodborne illnesses sky-rising, they significantly decreased. Why?
Because we as that plant took control of our own destinies. We wrote our internal control systems. We monitored it and we implemented it.

I tell you that because internal control systems work. They work whether it's for a HASSOP plan. They work whether it's for group management systems for multi-site operations. They work because there's more oversight to assure organic integrity instead of less oversight.

I've heard it said that multi-site operations—and I've heard it here today. And I want you to know that QAI certifies not only for group management—and I'm sure you guys know that—not only small groups of producers all over at least South America and in Europe, and in the United States, but we also certify retail stores by group management plan.

And I've heard that's not right. This was only designed for the small farmers. And my heart [inaudible] small farmers. I spent years in Missouri working to develop and help small farmers stay on the farm.

But no federal law can be written to only give privileges to one economic class of people without extending that law to all US citizens, and not only US citizens, but anyone else, any citizen
of the world who can adhere and will comply to that law. It is—can not be a one-class law.

I've heard it said that it will be used for retail stores. And we're telling you yes, we do use that same model to certify retail stores. They are excluded from the law; 205.101.(b)(2) says that any store or anyone—let me read this. Any retail store that only processes and serves previously certified products that's been processed on their own premises—am I out of time?

FEMALE VOICE: You are out of time. I'm sorry.

MS. BAIRD: Oh, my goodness. I've got two other things [inaudible] y'all get to talk about me.

FEMALE VOICE: Thank you, Sue. Any questions for Sue? Tracy?

MS. MIEDEMA: Just a really quick comment, Sue. As a primary author of this committee's recommendation, I want to thank you for allowing my chair to be cool for a minute and I will prepare to listen to the future comments.

MS. BAIRD: Well -

MS. MIEDEMA: [Interposing] Thank you.

MS. BAIRD: - thank you. I made one
other comment, which said that I appreciated the
courage it took for you to do this and stand
against the maybe others' opinions. And thanks
for the courage. I know what it is to stand
behind the mudslingers.

FEMALE VOICE: Thanks.

FEMALE VOICE: Pat Kane, you're up with
Tiffanie Husan Labbe. Tiffanie, are you here?
Thank you.

MS. PAT KANE: Hi. My name's Pat Kane.

And I'm the Coordinator of the Accredited
Certifiers Association. I'd like to thank the
board for all of the work you do and the
opportunity to speak today.

I'm speaking on behalf of the Accredited
Certifiers Association. And I'm also going to
read some comments from the National Association
of State Organic Programs. I also brought
comments from Montana Department of Agriculture
and the Washington State Department of
Agriculture, which are being circulated.

Regarding recommendation for the
certification of multi-site operations, ACA
submitted written comments pertaining to this
recommendation and they're posted and I believe
you have them.
The ACA appreciates the committee decision to move this from recommendation to a discussion. We did not support the committee recommendation for the certification of multi-site operations. In our comments, we requested that the board return and focus on the 2002 NOSB recommendation. And we did provide specific revision information on that.

I'd like to read the comments from the National Association of State Organic Programs. The National Association of State Organic Programs, NASOP, represents 17 NOP-accredited state organic certification programs and two approved state organic programs.

NASOP does not support the NOSB Certification, Accreditation, & Compliance Committee recommendation for certifying operations with multiple production units, sites, and facilities. NASOP believes the CAC recommendation if adopted would severely reduce the integrity of certified organic products in the US and in turn reduce consumer confidence in the organic label, our member certifiers, and the NOP.

NASOP does not believe that the CAC recommendation accurately reflects the intent or letter of the Organic Foods Production Act, the
current practice and vast majority of NOP-accredited certifying agents, nor the expectations of organic consumers. Rigorous annual third party inspection of all organic production and handling operations by USDA-accredited certifying agents is a fundamental tenet of organic certification and a requirement of the law, OFPA.

This flawed CAC recommendation fails to recognize these basic tenents. And NASOP strongly urges the NOSB to reject the current CAC recommendation.

On the other hand, the minority opinion included with the CAC recommendation presents a sound basis for reaffirming the integrity of organic - of the organic certification process as authorized under OFPA and defined by the NOP rule. NASOP recommends that the NOSB issue a recommendation to the NOP based on the minority opinion. They also have some specific recommendations that you can read in your information.

I'd also like to say that the Montana Department of Agriculture and the Washington State Department of Agriculture did not support the recommendation and did provide some recommendations in their written comments.
So that's all I have to say except if I could make an announcement that the accredited certifiers are going to have a meeting tonight from 5:30 to 7:00 and certifiers are welcome.

Thanks.

FEMALE VOICE: Well, I believe that we'll actually be listening to public comment at that time.

[Crosstalk]

MS. KANE: I know you will. And I'm sorry.

[Crosstalk]

FEMALE VOICE: I'm so sorry, too. And the—there is a question about where that meeting is.

MS. KANE: Eisenhower Room.

FEMALE VOICE: Okay. Joe?

MR. SMILLIE: Just a quick point of clarification—NASOP and Montana and Washington do not support group certification anytime, anywhere, anyhow? Is that correct?

FEMALE VOICE: [Inaudible].

MS. KANE: No, they want you to go back and look at the 2002 recommendation.

MR. SMILLIE: Two, okay, thank you.

MS. KANE: Yes, yes, yes.
FEMALE VOICE: Any further questions for Pat? Thank you. And thank you for bringing us all the states. We like that.
MS. KANE: You're welcome.
FEMALE VOICE: I actually made a mistake. Gwen, you're next, Gwendolyn, and then on deck is Kim-Tiffanie, I'm sorry. Oh, I guess I'm trying to rush through the list. I shouldn't. I apologize. So Gwendolyn, whenever you're ready, you can get started.
MS. GWENDOLYN WYARD: That's okay, thank you. Okay, good afternoon. Madam Chair, NOSB members, NOP staff, and ladies and gentlemen of the gallery, my name is Gwendolyn Wyard, and I'm speaking today on behalf of Oregon Tilth Incorporated. We're a nonprofit membership organization representing approximately 1800 members and certified clients. Our mission statement is to support biologically sound and socially equitable agriculture through research, education, advocacy, and certification.
I serve as the processing program reviewer for the certification arm of our organization. And we do have these really slick beverage coasters. You should get one. They're going to become collector's items. They're on the
My comments today are on the CAC commercial availability guidance document. Oregon Tilth thanks you for the opportunity to comment on this recommendation. And we thank you for your efforts to help ACAs with this very complicated issue.

My written and expanded comments have been given to Valerie today. These are going to be brief and you'll want to have the recommendation in front of you for reference.

First we'd like to say that we agree with and currently practice several of the itemized steps for ACAs in Part B, including incorporating commercial availability documentation into the OSP and annual audit process of each certified party.

However, we do not agree with and/or offer the following suggestions for Part B of the recommendation, ACA's role in determining commercial availability.

The first point should be revised to include test data as one form of evidence to support the operator's claim. The words test data, the implications there, test data may not be the only way to support a documented claim.

Including the phrase supporting evidence followed
by examples such as test data, growing season reports, extension research, etc., would allow for all relevant documentation to be reviewed. The exact wording of the text changes we proposed are in the written comments.

Point number two, the word multiple is a vague term. It's generally thought of as at least three. However, the number of companies that are contacted should be relative to supply. One may be enough, or five might not be enough. The word multiple should be removed and the phrase commensurate with known supply inserted in parentheses after the word results.

And point number three, point number three is for certifiers to notify the applicant or certified operator with proper lead time suggested at six months to notify the applicant of sources of information listing organic seed materials or ingredients.

This point is completely unreasonable and should be removed altogether. The certifier's responsibility is to determine compliance and assist operators in understanding what is required by the regulations. We're not allowed to conduct operator-specific research and provide individual consultancy services, which is where this type of
requirement falls. Providing operators with
general sources of information is an optional
service that can be provided upon request. As a
requirement with a designated lead time,
certifiers become liable for providing information
that is not uniformly accessible. This could lead
to unfair competition amongst certifiers, as well
as irate clients. This type of information needs
to be accessible from a neutral party or a
privately hired consultant.

And point number four, point number four
suggests that a list of all granted allowances be
reported to the NOP. While Oregon Tilth supports
the concept of transparent allowances, we have
corns as to the logistics behind the reporting
system. How can a standardized reporting system
be developed that will account for the various
subjective details that led to a particular
allowance? From a database design perspective, it
would be very difficult because of the standard
allowances because of their very unique detail.
And will that detail be a part of that list? If
it's just a list without detail, what meaning will
it have? And who will be collating and
maintaining such a system? We're concerned that
we'll be required to spend time on an effort that
will not be taken up by the NOP. Our concerns stems from the fact that the NOP to date has not had the time to launch the database of certified parties that was promised some years ago.

And point number five, while Oregon Tilth certainly supports proactive efforts to generate organic seed materials or ingredients, we don't see where in OFPA, the preamble, or the regulation certified operators are required to generate them. It's a huge task for operators to extensively search, document, and submit their attempts, let alone have time to promote or money to fund development. It's up to research and education organizations, the OTA, and other organic consumer groups, concerned individuals, certified operators, and industry entrepreneurs to rise to the occasion at will. The market should bring availability to the operator. This guidance goes too far and creates a new burden on the operator.

And finally on point number six, with respect to the first sentence in five and all of point six, Oregon Tilth sincerely hopes that there's not an accredited certifier out there that's not incorporating commercial availability into the OSP and the annual audit system.

Once again, Oregon Tilth would like to
thank the NOSB for their ongoing work and your
commitment to the organic industry.

FEMALE VOICE: Thank you, Gwendolyn.
Joe?

MR. SMILLIE: You gave a copy of your
comments to Valerie. Do you have any other
copies?

MS. MYARD: I don't.

MR. SMILLIE: You don't.

MS. MYARD: I tried to get in on your
account at the front desk because Mark said that
there was some money up there.

[Crosstalk]

MR. SMILLIE: Oh, for the lack of a
horse. Yeah. Well, if we'd like to get a copy.
We'd like to take a closer look at it and we may
have some committee time to see if we can respond
before -

MS. WYARD: [Interposing] Sure.

MR. SMILLIE: - because we are voting on
this one on Friday.

MS. WYARD: Okay.

FEMALE VOICE: Very good.

[Crosstalk]

MS. WYARD: Oh, I'm Gwendolyn, G-w-e-n-d-
o-l-y-n. The last name is Wyard, W-y-a-r-d.
FEMALE VOICE: Are there any other questions for Gwendolyn?

MS. WYARD: No. Well, I—for 10 cents a page, I could.

FEMALE VOICE: All right.

MS. WYARD: I said you would.

FEMALE VOICE: Thank you, Gwendolyn.

MS. WYARD: Thank you.

FEMALE VOICE: Tiffanie, you're up with Jake Luhan [phonetic] on deck. I think we're in certifier row here. Is Jake in the room? Thank you, Jake.

MS. TIFFANIE HUSAN LABBE: All right. Thank you, Madam Chair and NOSB members for participating in this forum and for the work that's been done.

I am Tiffanie Husan Labbe with Oregon Tilth. I'm the farm program manager and livestock inspector. I'm here to comment on the multiple site grower groups.

Oregon Tilth generally supports the NOSB CAC committee recommendation for certifying operations with multiple production sites, units, and facilities. We particularly welcome provisions in the NOSB recommendation to include definitions and language in national rule
specifically addressing the use of internal control systems.

ICS means a written quality assurance system included in a master organic system plan that sets forth the practice standards, recordkeeping, and audit trail requirements applicable at each production unit, facility, or site and that identifies the internal verification methods.

The—as the NOSB CAC majority position correctly elucidates, the organic system plan is the forum through which the producer or handler and certifying agent collaborate to define on a site-specific basis how to achieve and document compliance with the requirements of certification.

[Inaudible] agrees with the opinion that OSPs are the key management document for certified operations. Additional documentation may be ordered by the certifying agent to ensure the OSP is consistent with OFPA and NOP.

Oregon Tilth further agrees that this is adequate authorization to use the organic system plan as a vehicle for development of internal control systems that improve the results of third party inspections by bringing the various units and sites under one governing compliance scheme.
that may reduce or eliminate the need for direct
observation by inspection of each unit or site.

Oregon Tilth also believes this
acknowledgement is long overdue and is consistent
with the NOSB's 2002 position on grower-on
community grower groups.

We also strongly and categorically
disagree that the position taken by the CACA that
participation in grower groups only be available
to growers producing less than $5,000 in organic
sales and the assumption that growers earning over
$5,000 in sales should be able to afford
individual certification.

Based on our over 11 years of experience
working closely with grower groups in Mexico, OTCO
[phonetic] believes that this would limit—this
limit would place a huge and unnecessary burden on
these grower groups and would negate many of the
positive social and economic effects these
projects are trying to achieve. As was pointed
out by a representative of such one group, $5,000
a year is still poverty income, even in Mexico.
Inspection costs alone on an overseas project,
particularly for the class of skilled bilingual
inspectors necessary to adequately assess these
kinds of operations, can easily range upwards of
$400 to $500 per day or more once the travel costs are included. Even under a system where a percentage of parcels are inspected, the cost of certification represents a major hurdle for small holder groups. Placing a $5,000 cap on these—on the use of these—of this model would further increase the cost. OTCO is ambivalent with respect to the inclusion of the retailers and large processors under this system of certification, believing that the NOP will in the end rule that the regulation must be implemented evenly without respect to scale and can not grant special considerations to one scale of operator over another.

OTCO believes that the certification of larger US-based retail and processing operations under a rigorously enforced and verified ICS system as defined by the current NOSB recommendation and including the annual inspection of a statistically significant percentage of individual locations would not pose a significant threat to organic integrity.

Our experience with community grower groups in the developing world leads us to predict that if the recommendations of the NOSB and CAC are adopted, there would not be as some have
predicted a large-scale rush of retailers and processors to seek this model of certification provided certifiers maintain rigorous standards with respect to the evaluation and enforcement of the ICS as laid out in the OSP.

The logistical and organization requirements of maintaining a very homogeneous production and quality control system in multiple locations and of demonstrating the compliance of those systems with the ICS are a significant burden on any organization. Thus we suspect that many entities will choose to stay in their current system of certification rather than adopt a system that by its very nature would put all of a company's operations at risk of suspension or revocation if one single location or facility failed to comply with the rule.

Thank you.

FEMALE VOICE: Thank you, Tiffanie. Are there questions or comments for Tiffanie? Bea?

MS. JAMES: Thank you for your comments today. What is your definition of rigorously enforced? On 205.403, onsite inspections, onsite inspections shall be conducted annually thereafter for each certified operation that produces or handles organically-organic products for the
purpose of determining whether to approve of request certification.

MS. HUSON LABBE: I'll have to go out a little bit of a limb because this was a collective document. So I would say that rigorous does have something to do with someone actually being onsite annually, which would go back to their ICS within their OSP. So we do a thorough analysis of their reporting system for their internal control, so someone is actually visiting all sites all year, and then we do our statistical selection and inspect those. So part of that rigorous is making sure their internal quality control systems are in place and are being adhered to within their greater organic system plan.

FEMALE VOICE: Any other questions or comments? Jeff [phonetic]?

JEFF: [Inaudible]. Yeah, Tiffanie, I was curious about your comment and I understand what you're saying about scale neutrality. But you were inferring that there should be no dollar limit then on whatever size operations can pull together to form a grower group. Is that correct?

MS. HUSON LABBE: That's correct.

JEFF: So anybody could form any size grower group anywhere and not—and avoid annual
inspections?

MS. HUSON LABBE: Well, our experience has been that a lot of these groups are often also marketing cooperatives, which we view as two separate things. But often a grower group is a marketing group. And the fee gets totaled on the gross percentage—or a percentage of the gross sales, so it's collectively they share the burden, both ways.

FEMALE VOICE: Hold on, hold in, hold on. There's people in front of you, Katrina [phonetic] and then Tracy.

KATRINA: Thank you for your comments this morning, or this afternoon.

MS. HUSON LABBE: You're welcome.

KATRINA: My question has to do with what happens after the annual inspection. So I'll give you a hypothetical situation.

MS. HUSON LABBE: Okay.

KATRINA: So say there's a grower group that has 500 individual farmers -

MS. HUSON LABBE: [Interposing] Mm-hm.

KATRINA: And you go in and do some percentage assessment against their internal control system. So you look at their internal control system and then you decide to do onsite
inspections at say 50 of their 500 farms. And you
find that half of those 50 have some
noncompliances.

What actions would you take after that
inspection finding?

MS. HUSON LABBE: Well, I believe the
non-compliances would be able to be resolved, just
like if they were an individual group.

We can kind of speak to the fact if they—
if we have to move to suspension or revocation,
then the whole group is at risk for that.

But, you know, through formal procedure,
any noncompliance will have a chance to be
corrected.

KATRINA: Would you not then say that
perhaps—that there's a chance that their internal
control system is then not working because 50 of
your—so then you —

MS. HUSON LABBE: [Interposing] I'm sure
that would be something we would look at. I mean,
if we're following a trend and we're seeing a
trend or actually it would to back to if part of
their OSP is this ICS and we feel like they're not
following it, then that in itself is a n on-
compliance and we would address that would them at
that point.
KATRINA: Thank you.

FEMALE VOICE: Tracy and then Bea.

FEMALE VOICE: Okay.

MS. MIEDEMA: You mentioned the statistical metric of how many units you decide to expect on site. Can you share with us what are your determinates there, what are the metrics -

MS. HUSON LABBE: [Interposing] Sure.

MS. MIEDEMA: - and the statistics.

MS. HUSON LABBE: Right now, we practice initial inspection for every site. And then following yours 20%, rotating so that everyone gets inspected within that percentage, so a different 20% every year so that in what do you say, five years, everyone gets inspected, but in—headquarters gets inspected every year.

MS. MIEDEMA: So no over layer of say a risk-riskier operation [inaudible] -

MS. HUSON LABBE: [Interposing] Oh, we will do that if we see that that's a fit. I mean, it's kind of a per-basis situation, but it - as an overall theory, 20%. And if someone, you know, is a specific risk or we've had a bit of an issue or we feel there might be concern, we would probably go over our 20% and go back and check a few of risk to us.
MS. MIEDEMA: Thank you.

FEMALE VOICE: Bea?

MS. JAMES: I just am looking for some clarification because earlier when I cited the rule that producers and handlers needs to be inspected annually and you mentioned that you do do that and now you just mentioned that you would approve or that you would suggest that a percentage of sites being inspected would be adequate. So that would mean that you would not be able to do annual inspections in all the sites.

MS. HUSON LABBE: I'm sorry, yeah, I will clarify. Their internal quality control system should inspect every site every year. We are doing a sample of that, of their total sites, so that 20%, but their internal quality control system should be monitoring all sites all—every year.

MS. JAMES: So let's say for instance that you have a group of retailers, 500 retailers that are certified through you and you would inspect a certain percentage of those, how long would it take you to get to the rest of the locations? Do you have a criteria say that, you know, is somebody—if the list is so large that how would you manage getting to all of these sites in
a reasonable amount of time.

MS. HUSON LABBE: I'm not sure actually. My experience has been with a lot of the farms who are in a general region, so they can be done in on trip, so over a week or ten days. I'm not sure about a national scale for a retailer.

MS. JAMES: But you were suggesting that retailers, producers, handlers, should fall under the same criteria as grower groups, correct?

MS. HUSON LABBE: Correct as far as if their internal quality control system is deemed compliant within their OSP, then yes.

FEMALE VOICE: Any further—Katrina?

KATRINA: A follow-up question, and this is perhaps asking for a gut instinct.

MS. HUSON LABBE: Okay.

KATRINA: What is your gut on how your peer certification folks so they operate similarly with grower groups as far as percentages? And in particular, how they would react if they found a lot of non-compliances at their sample percentage.

MS. HUSON LABBE: I guess I would have to say on my hope, maybe not my gut, that that would be the case. I've spoken to only a couple that are familiar with kind of this type of situation and we unfortunately didn't talk about -
MS. TIFFANIE HUSON LABBE: ...you know proposed suspension or revocation issues. I would assume that the noncompliances would all be handled in a similar fashion, a chance to comply and if it had to go further that they couldn’t comply or couldn’t resolve them, then it would move to that and the whole co-op would be in jeopardy.

MS. HUSON LABBE: Thank you.

MS. BEA JAMES: I’m sorry, I am not. I’m sorry I’ll try and help. You’re doing really good, you’re doing really good. I’m trying to understand if the rule says annual inspection of a production facility, how do you justify only inspecting a percentage of those? Or how would you justify only inspecting a percentage of those?

MS. HUSON LABBE: I hate to keep repeating myself. It would still go back to what their quality controls are. So if we feel, after the initial review of the sites, and a part of the initial review is that you know when we are looking at everyone, does everyone use the same inputs, the same management tools, you know they’re not in control of their own production and
that's the difference for us between a marketing group and a grower group. A grower group, to speak very generally, they have a management system who dictates how they produce so what inputs are used, how they’re used, when they’re used is usually a collective effort of planting and harvesting, these type of things, which is different then someone who markets together because that is individual producers in charge of their own production. So in that case those people would need an individual audit because it’s its own production site different from their neighbor even though they market together. So a growers cooperative where they have one central location who manages that, dictates all that product that’s part of that internal quality control that we feel like if we’re auditing that and they’re doing what they say they’re doing with that, then we don't need to be at every site every year. And it goes back too that they should be there every year at every site within that internal quality control so someone is on site it just may not be us every year.

MS. JAMES: Any other questions, comments? Thank you.

MS. HUSON LABBE: All right, thank you.
MS. JAMES: Jake you’re up. We have Sam Welsh on deck. Sam are you in the room? Sam don’t get too excited because we’re going to take a little break after Jake. I just want you to be aware. Jake come on.

MR. JAKE LEWIN: I’m the one keeping you from your break. Okay, small point of order. I’m holding a proxy for Z.S. Sonabund. I’m going to try to get through all this stuff and maybe we can save you a few minutes. So my name is Jake Lewin. I’m the Certification Services Director for CCOF. We’re a, we’ve been involved in Organic certification for over 30 years. At this time we certify about 1,300 farms, about 500 handlers, and at last count almost a half million acres of organic ground. So I’m going to talk a little bit about the grower groups.

We’re really happy that this has been moved to a discussion item and kind of don’t want to flog the horse too much but we are concerned about the CAC recommendation covering the multi-site operations. CCR larger supports the Accredited Certifiers Association position statement on this issue. We see this as a strong reflection of the overall standing and opinion of U.S. certifiers and it’s important that ambiguity
in the regulation is reduced whenever possible. We’ve seen this in a number of areas of the standard. Fundamentally we wish to see clear guidelines for grower group certification that are unambiguous and clearly limited to growers in specific and extremely limited situations.

Unfortunately the current recommendation does not serve the needs of the organic marketplace. As written it creates tremendous leeway for application of grower group concepts to processor, retailers and others. We see this as an unacceptable slippery slope that will create a race to the bottom among U.S. and foreign certifiers. Certification’s a competitive enterprise and we don't really want to see one of the fields of competition how few inspections you can do. Therefore we are extremely concerned about the direction and substance of this recommendation. CCUF does not currently certify any grower groups and requires 100% inspection of all production sites for both large and small growers and processors, 100% inspection is the gold standard for certification that should be maintained wherever possible.

What we would really like to see is a recommendation come back that addresses the key
issues that are important to grower group certification, how it should be done, what the sampling rates should be, how growers, how they qualify and how many failures within a sample system result in a failure over the entire group. Clear guidelines for how this will happen at grower locations, if it’s going to happen. And we really appreciate the concern the NOSB has placed on this issue, the concern the NOP has placed on it also and we also recognize that a lot of energy has been put forward by good people and fundamentally really appreciate the work the NOSB does. We’re pretty busy around my office and I can’t believe that all you have the time to do this so we really, really do appreciate it.

Regarding materials, we would really like you to take into account the previous work that’s been done on materials and move the ball forward within the existing paradigm that we have wherever possible and watch out for reworking away from the years of effort that have been put into this. Regarding Sunset materials, we support the re-listing of the grower and processing material that are being Sunsetted and apologize for not commenting earlier on that.

With the seed commercial availability we
have some significant concerns with this. With
1,300 certified organic farms growing hundreds of
crops and untold thousands of varieties the
current recommendation to maintain an ongoing
database of allowed non-organic seeds is
untenable. We support a positive database of
available organic seed but believe that trying to
maintain an ongoing database of every allowance of
non-organic seed will just create an unacceptable
paperwork burden for our clients and for
ourselves, it’s just a monumental task it’s a
systems approach. We inspect operations and they
need to be able to demonstrate compliance onsite
not report to us every single seed that they buy.

Finally, just in terms of the new
materials the potassium silicate, we believe that
we have growers who would be interesting in
experimenting with this. We don't have too many
that have told us that they really want it but
nobody’s had an opportunity to try it as a disease
or pest control and so with all the growers that
we work with, we believe that there are some that
would have an interest in looking at it further.
And that’s it.

MS. ANDREA CAROE: Is that for your proxy
as well?
MR. LEWIN: Yes.
MS. CAROE: Well exciting. Any questions?
MS. JAMES: Yes.
MS. CAROE: Bea.
MS. JAMES: Thank you for your comments today. Do you think that part of the overwhelming feeling around keeping a database of allowed non organic seeds is because not enough of the people that you certify are actually using organic seed?
MS. LEWIN: It’s the sheer volume. It’s the sheer volume of the information. We are constantly finding ways to try to do certification in a way that’s meaningful and not all about just the paper and trying to maintain a database of when we’ve got farmer’s planting everyday of every year, thousands of varieties to try to constantly track exactly which one was organic and which one wasn’t, isn’t something that is going to be possible and we do not want to see that paperwork burden to be the barrier to organic compliance.
MS. JAMES: But you said that you thought that if it was organic seeds, that it would be manageable database.
MR. LEWIN: Yes because there are fewer organic seeds certified and if there was a
positive database of certified organic seeds, it would be very much appropriate for growers to have to go to that and look for the seed.

MS. JAMES: Right which is the goal.

MR. LEWIN: Yes.

MS. CAROE: Any other questions or comments? Katrina?

MS. KATRINA HEINZE: I want to make sure I heard you right. You support the relisting of processing and handling materials.

MR. LEWIN: Yes.

MS. HEINZE: And had no comment on handling on materials. Did I hear that right?

MR. LEWIN: No we support the relisting of all the materials up for Sunset.

MS. HEINZE: Okay. Then I have a follow up question.

MR. LEWIN: Okay.

MS. HEINZE: Glucono Delta Lactam.

MR. LEWIN: Yes.

MS. HEINZE: We received very few comments on that material.

MR. LEWIN: Yeah.

MS. HEINZE: Do you have any input on how industry is using that and what the impact on industry would be if it was delisted?
MR. LEWIN: It’s it I remember correctly and I’ve moved up away from handling the files every single day, it’s used in tofu and frankly it’s one of the items that I see used relatively commonly and therefore my expectation would be is that that would be quite a blow to those who lost it.

MS. HEINZE: Thank you.

MS. CAROE: Any other questions? Okay.
Thank you Jake.

We’re going to take a break. It is now 4:25 and if the Board can be back by 4:35, I know it’s only 10 minutes but I want to eat tonight.
Okay Sam, are you ready? Okay whenever you’re ready we do have a quorum present. Board members can you pay attention; we’re going to get back in.

MR. SAM WELSH: Okay, my name is Sam Welsh, I’m from OneCert and here are my comments on private label certification.

In October 2006 NOSB recommended guidance on the retailer private label certification that contradicts the NOP rules by creating interpretations where none are necessary. The language of the rule is clear on this points.
Here are some of the problems that have been
created by some certifier’s business practices that are not in compliance with NOP labeling rules. I won’t read through these now, I just want to point out that the labeling guidance has created unintended confusion that has resulted in errors of certification. Errors that could be avoided by following the rule as it is written.

Since most private label products are manufactured for retailers I want to make a key point about retail certification. Notice the exception in this definition which is in bold.

Final retailers that do not process are specifically excluded from the definition of handler. Other private label companies may never even touch the products that carry their name.

The manufacturing and distribution are often contracted to others.

The answer to question two from your 2006 recommendation was incorrect because it would change the definition of handler that Congress included in OFPA. The correct answer is no. The definition of handler clearly states such term shall not include final retailers that do not process agricultural products. It would take an act of Congress to change the definition.

I want to point out here that the
exemption or exclusion from certification for retailers and distributors that do not process is distinct from the exemptions and exclusion from certification from those who do process. There are six categories of exempt or excluded operations. Four categories involve processing and have specific labeling requirements. The exemption and exclusion for retailers and distributors, the ones who do not process, do not contain specific labeling requirements. None are needed because the products they receive are already finished products. The current practice of some certifiers to grant certification to exempt retailers and excluded distributors solely for the purpose of getting that certifier’s name on the label has absolutely non justification in the NOP rules.

The use of imprecise terms can often create unnecessary confusion. The term final handler does not appear in the NOP rules. The Rule uses the terms handler of the finished product, and operation producing the finished product. Co-packers are the handler of the finished product. Subsequent handlers are exempt or excluded.

What certifier must be identified on the
label? The answer is easy when you read the rule. The label must identify the certifying agent that certified the handler of the finished product. Keep in mind that paragraphs B2 in sections 303 and 304 are mandatory requirements. Such a mandatory requirement cannot be changed by voluntary certification of subsequent handlers.

Here are some of the known problems that occur when the so called certifier of the private label approves the label for a product that claims to be certified by that certifier when in fact is another certifier that is inspecting and certifying the co-packer that actually makes the finished product. This is a typical listing from a certificate issued to a private label retailer or distributor. Such certification is voluntary and could be dropped at any time without penalty; this is the NOP definition of processing. These are not part of the definition of processing but even if they were, they are not the final step in the making of a finished product. When the label is applied it is a finished product.

I want to point out that creating formulas, sourcing ingredients, designing labels are activities that are often done by consultants. Consultants do not get certified for these
activities. On the other hand certification of
the co-packer is mandatory because they actually
make the finished product. Their certifier can
only verify what has happened up to the point
where the product is packaged and labeled.
There’s no way to verify at that point what will
happen in the future.

As I pointed out earlier paragraphs B2 in
sections 303 and 304 are mandatory requirements.
Voluntary certification subsequent handlers does
not change who is the handler of the finished
product. It also does not change what certifier
must be identified on the label. Any questions?

MS. CAROE: Hold on. I actually, Joe
Smillie is not here you know because he’s not back
from the break yet so I just wanted to respond to
a couple of things. One the Committee when they,
when we looked at this do not feel that private
labelers meet the definition of what a retailer is
in the commissioning of a label and the marketing
of a product that is their product essentially
through label. So that’s were we diverge from
your assumption that retailers are excluded from
the, wrong wording. I apologize, exempt from the
process so that is one part of this that I want to
talk about. And then the other is the definition
of processing which includes and otherwise
manufacturing and packaging is another area that
we construed the commissioning of a product and
the production of a label as you know our
interpretation is meeting a processing function.
So there are a couple of areas that you know we
have considered what you have written and I’ve
actually seen your comments before Sam. I wanted
to explain that there was a rationale and it
wasn’t flagrant disregard for what was written but
a different interpretation for these unique
operations that don’t necessarily you know meet
these broader category titles.

MR. WELSH: I appreciate the explanation
but I did include both the category that is exempt
retailers and excluded distributors neither of
whom have any labeling requirements because
neither are doing label, because neither are doing
processing which is why they’re exempt and
excluded. So to try to give those operations
through a voluntary certification rights to
determine what certifier is on the label certainly
has no foundation in the law or in the NOP.

MS. CAROE: And again in the
commissioning and the production of a label, we
certainly believe that these private labelers are
labeling a product.

MR. WELSH: But they are not the handler of the finished product because the finished product is made by their co-packer.

MS. CAROE: I believe that we can continue on all through the night with this but clearly this is not a clear issue.

MR. WELSH: I beg to differ which is why I brought this up. It is a very clear issue if we simply look at the rule. Perhaps there’s others who have questions I don’t mean to.

MS. CAROE: I will, Bea and the Hugh.

MS. JAMES: Thank you for your comments Sam. My questions are a little easier. I want to understand, are you asking the Board to go back and revisit the private label recommendation that was submitted last year?

MR. WELSH: Absolutely, I think it should be resented it has that, that is one illustration of inaccurate or you know areas where it contradicts what’s in the rule.

MS. JAMES: And Valerie I don’t recall seeing Sam’s comments in the meeting book? Are they posted on the website for this particular—

MS. VALERIE FRANCES: There was a group of six comments at the back of your Meeting book.
MS. JAMES: They’re not listed on the Table of Index of all the people that submitted.

MS. FRANCES: Right. And it should be there.

MS. JAMES: Okay.

MS. CAROE: Hugh?

MR. HUBERT KARREMAN: I just want to thank Sam for laying out a very clear case I believe by reading the citations and definitions from OFF but I, actually finally understand this issue now. Thanks.

MR. WELSH: You’re welcome.

MS. CAROE: Okay now, is there any other question before I move on? Sam has another testimony that was supposed to be yesterday that was flip flopped with another commenter so he’s going to continue but I want to get on deck Maury Johnson. Are you on the room? You’re on deck, you’ll come next.

MR. WELSH: Okay thank you. I have comments on a couple of different topics. I’ll try to keep this brief.

On commercial availability although the definition applies to both seed and ingredients listed in 205-606, the type of information required for each is different, it’s as different
as a farm is from a food processor so I suggest that any guidelines that be written be written for each of those separately. I will discuss a little bit further the 606 because it has only 38 items whereas seed has hundreds if not thousands of different varieties.

There is a new website available that was designed with some input from different certifiers that would become a database of all the available suppliers of commercially available organic ingredients that are currently included on 606. It’s a free listing, it’s designed to facilitate finding, answering the question is it commercially available because any supplier of a commercially available organic product listed can simply register. The site is 606organic.com. It will accomplish a couple of the items on your NOSB proposed criteria for example items two and three with some additional development it could even facilitate the record keeping items that are discussed in four, five, and six.

Evaluating whether or not an appropriate form, quality, or quantity is available in organic form is the critical decision for certifiers. We need to be sure that specs for organic ingredients are not manipulated simply to avoid using organic
ingredients that are available under 606 which is an issue that’s occurred in Europe and other places where things keep getting switched and specs keep getting switched simply to avoid using things that would work perfectly well in organic form but they don’t want to spend the money to do so.

On grower group certification I am in general agreement with OTA, the ACA comments on this. I worked on both of those task force or committees. I do what to stress that I think no new guidelines are needed for multi-site handling operations because the rule is very clear. Each facility and site must be inspected annually. When it comes to production units I think even there in OFPA it says every farm must be inspected annually. I think it’s unfortunate we weren’t forced to stay with the original guidance from the NOB that we inspect 100%, I think it would have been a worthy challenge for us to come up with ways to it affordably and maintain the integrity.

What’s failed to be mentioned and failed to be discussed are some very real issues in group certification. We’ve heard many people talking about what happens when it works well. What we’ve not heard about is what happens when it does not
work well, when it’s actually being abused by those who create these groups. Not all groups are cooperatives or associations, some groups are formed by buyers or exporters. A worst case scenario I’ve seen is when an exported organized a group, told them it would take three years to go through transition so for three years they got conventional prices even though the exporter got certification after one year.

So if we’re concerned about growers, we need to start looking at what are the things that are going wrong with group certification and address those in the new guidelines. The guidelines are great for those that are working well; the things we’ve heard today are for ones that have the necessary expertise and resources to make it work. That’s not the case in all circumstances and in many parts of the world there are certifiers who do not have sufficient staff even to do the kind of sampling we’ve heard about today and are still granting certification. Those are all issues that need to be brought up and discussed as we develop better guidelines for group certification.

I think I’ll stop there in the interest of giving you an extra minute or so.
MS. CAROE: Thank you. Is there any comments or questions from the Board? Oh, Bea.

MS. JAMES: Sam, I really appreciate the time and the effort that you put into your comments. And for whatever reason they didn’t get into our meeting book and so I really want to make sure that we, the Certification Accreditation Committee gets an opportunity to see the documents that you worked on.

MR. WELSH: Okay.

MS. JAMES: So I’m just requesting that those get maybe emailed to us directly.

MR. WELSH: I did bring copies today and I–

MS. JAMES: Okay thank you.

MR. WELSH: All right, thank you.

MS. CAROE: Kevin.

MR. KEVIN ENGELBERT: Your most recent statement about certifiers that you know of that do not have the personnel to properly inspect an operation but still certify them, what steps do you take if you know that has happened if any?

MR. WELSH: We make sure that the governing authorities are aware of it and in many cases this happens in Countries where there is no official oversight so it’s something that other
then you know it would go to the U.S.D.A. And I know a number of things not just from me but there are other certifiers who’ve also shared concerns so if we can’t address it with the agency involved, then it gets brought to the attention of the NOP. And as we know you know they need more funding but that is certainly you know an issue and that’s partly what you know well, never mind, I won’t digress here.


MR. MAURY JOHNSON: Good afternoon. My name is Maury Johnson and I am production and sales manager and part owner of Blue River Hybrids Organic Seed. Blue River Hybrids is independently owned and operated and located in central Iowa about 25 miles north of Des Moines.

The sole focus of Blue River Hybrids is to produce and sell field crop organic seed to farmers on a national basis and into Canada. My comments today are in regard to the commercial availability of organic seed, specifically organic field crop seed which is the area in which I work. I’ve been involved with the organic seed since 1999 and I’ve seen significant progress but I
also, in my comments want to alert you to a significant challenge that’s now facing organic seed, especially field crop seed.

In terms of the positives I believe that there is now or soon will be within the next two to three years, more than adequate capacity to produce sufficient supplies of organic seed corn, soybeans, sedan grass, and alfalfa to meet all domestic demand. In the case of Blue River Hybrids we had a very good year last year, very significant sales growth and yet we only sold about 60% of our available corn inventory. We are only using a part of our production and conditioning capacity for organic seed, we could do a lot more. It is my experience that other organic seed companies whether they are located in Illinois or elsewhere have the potential to increase their production and distribution of organic seed.

Secondly, there are mechanisms in place to deliver organic field crop seed to almost any and every grower in the United States. Blue River Hybrids is selling and delivering organic seed to farmers in more than 35 States and 4 Canadian Provinces. We have over 150 seed dealers and distributors throughout the United States. We
have dealers from Pennsylvania to Oregon and from Texas to North Dakota. We offer not only one variety for a given maturity but often several varieties or hybrids to choose from for a customer.

A third issue that is also talked about with regard to commercial availability is the performance of the organic seed and whether or not it is equal to or hopefully better then conventional untreated seed. To demonstrate the equivalency Blue River Hybrids is testing its seed in more then 70 locations throughout the mid-west and east coast areas. Our test plots include organic and convention untreated seed that is currently being sold to organic farmers. We also put our seed in public trials that are sponsored by State agencies or universities and that information is public. We also have a very liberal policy providing at little or no charge seed for testing to customer or dealers and even potential customers much of our test plot data, whether it’s our data or with other companies is available on our website.

But all of this progress is being threatened at this time by the fact that the conventional suppliers of organic germplasm in the
United States are rapidly transitioning from convention seed to trait or GMO seed. This progress is undermining our work with non-GMO organic seed. In the past, many organic seed companies relied on these suppliers for seed stock and testing of new varieties. However, these suppliers are transitioning from non-GMO research to the production of GMO seed stock and testing. This trend began several years ago but is rapidly accelerating. Our choice through these normal suppliers is greatly limited.

In order for organic seed companies such as Blue River and any of the other companies doing organic field crop seed to survive, we need to come up with sufficient resources to adequately support our own product development programs.

Farmers who—

MS. CAROE: I’m sorry your time has expired.

MR. JOHNSON: Okay.

MS. CAROE: Is there any questions for Maurey? Jerry.

MR. GERALD DAVIS: What are you requesting specifically from this Board?

MR. JOHNSON: We generally favor the rule that you are looking at as far as encouraging
farmers to use organic seed. That’s our general position.

MR. DAVIS: And that would help you in your efforts to have enough volume and the resources to maintain non-GMO lines?

MR. JOHNSON: Right.

MR. DAVIS: Okay.

MR. JOHNSON: It’s not a matter of us surviving as a business as much as it is having the resources non-GMO inbreds that are rapidly disappearing and not just us. But whether it’s other seed companies or you know whoever. But the non-GMO inbreds whether it’s for corn or for soy beans, those are decreasing fairly rapidly.

MS. CAROE: Bea.

MS. JAMES: So, just for clarification, you’re supporting the commercial availability recommendation that includes the sourcing of the seed?

MR. JOHNSON: Yes, that’s correct. Now the one thing I do want to emphasize, is I recognize that with field crop seed it’s a lot different then when we’re talking about vegetable seed. That’s almost a completely different realm. Vegetable seeds you’re starting to talk about taste and texture and processor demands and a
whole realm of criteria that we don’t deal with on
tfield crop seed. So I recognize that that’s a lot
different. And in some respects our job on the
field crop seed is somewhat easier. What makes it
more difficult is the looming cloud out there of
GMO hybrids and seed that’s being used, that’s
what makes it difficult for us.


MS. TRACY MIEDEMA: You mention having an
abundance of organic I think it was corn seed and
we know that commercial, there have been
exceptions granted for instance to farmers who
can’t find that seed.

MR. JOHNSON: Right.

MS. MIEDEMA: So my question is how do
you promote that availability so that we don’t
have certifiers out saying it’s not available when
you know you’ve got it right there in your barn?

MR. JOHNSON: Well there’s a number of
things that we do. We are listed on the OMRI
organic seed list. We did do a mailing of
approximately 4,000 postcards to organic farmers
in August and September letting them know we were
there. We’re at conferences and trade shows you
know annually across the United States. You know
we work with our dealers and distributors who are
just about everywhere. So we, and we work through various trade associations and we haven’t you know done a mailing for instance to certifiers or to necessarily inspectors but we’ve tried to do a lot to contact directly growers and let them know that we’re here.

MS. CAROE: Any other questions? Thank you so much for your comments.

MR. JOHNSON: Thank you.

MS. CAROE: Up next Marty Mesh and on deck Emily Brown-Rosen. Emily? Is Emily here?

FEMALE VOICE: Yeah, she’s right over there.

MS. CAROE: Thank you.

MR. MARTY MESH: Madam Chair I have a proxy from FarmSoy Dairy I mean FarmSoy Tofu. Good afternoon, this one’s going to be brief and try to help you makeup some time. I’m going to first read you a comment from, about calcium sulfate from somebody that I had suggested that they petition the materials years ago if they wanted to utilize it and then they saw that it was scheduled for Sunset.

Dear NOSB members my husband and I own and operate the FarmSoy Company a small manufacturer or organic soy products which began
as the farm community soy dairy in the early 1970’s and under our management has produced only certified organic product since 1992. I’ve recently learned that calcium sulfate is scheduled to be soon dropped from the approved list and this is my official request to keep calcium sulfate on the improved ingredients list. Our tofu operation has always used calcium sulfate as the coagulant for making our unique tofu and it’s functionality cannot be replaced by another coagulant. We and many dedicated customers much prefer the taste of this style of tofu compared to tofu with other coagulants and she goes on. Then even though I have no office help in November of 2000 I did the work and filed the necessary papers in a timely manner to get calcium sulfate on the approved ingredients list. These documents included MSDS product analysis and other materials. I’m going to skip part of it, and a list of its many food applications. And besides tofu manufacturing it is kosher certification calcium sulfate is a salt that is mined from the earth and is purified to food and pharmaceutical grade. Just as the variety of organic soy bean used affects the taste quality and texture of
tofu, so does the coagulant. There’s no reason why calcium sulfate should be removed from the approved list and the existence of FarmSoy Company would be in serious jeopardy if that were to happen.

She talks about the, her marketing efforts. And then I trust the NOSB will exercise common sense in keeping this ingredient on the approved ingredients list for food manufacturing.

Thank you for your time and consideration.

I assume that you’ve received that already in your packet but for the record you’ve heard it again in an abbreviated form.

So you know just to introduce myself to whoever I might not know, Tina’s first meeting I probably don’t need to introduce myself to you. My name is Marty Mesh I’m the executive director of Florida Organic Growers, our certification program, quality certification services. I started farming organically in ’72 and have been involved with FOG and our certification program since ’89. I serve on the Board of Directors of the Organic Trade Association. My comments never, ever reflect the official position of the Organic Trade Association, and I serve on the Board, Karen’s here. I serve on the Board’s of the
Southern Sustainable Agricultural Working Group and various other Boards and policy committees.

I want to start by thanking the USDA and the NOB for the Agriculture Symposium and the Agriculture Working Group for its work. And now once again as usual as I’ve done up here for the last approximate six years I’m begging to get something done and move forward.

I’ve requested many other time we start with the low hanging fruit, shrimp and tilapia. Those that were certified at one time under the program and then that ability to use the USDA logo was withdrawn by the program. It seems like that’s easy to move forward. In fact this time I found it interesting in public comments by Consumer’s Union, the Center for Center for Food Safety, Salmon Safe, all of those consumer and environmental organizations that have caused me untold grief over the last six years, now they’re all in agreement by saying get shrimp and tilapia done. Get it out of the way. Get that going and maybe that would be a source of fish meal in the future. So I would really ask that you focus on the low hanging fruit and get something done in a timely manner and so that organic agriculture can move forward as maybe some of the other more
complicated issues are considered.

I want to take a minute and thank Andrea for her service to the Board. I know and I take responsibility for a comment years ago which was focused on the Federal process and not personality but I fear at the time it may have been misspoken or misinterpreted. I hope it’s okay to make a personal comment once again since it’s your last meeting. I’ve valued my professional relationship with you for years. And though we’ve made, although we may have differed in opinions we were always cordial and professional and on behalf of the community and the industry and me personally, thank you for your time, your energy, your competency, your integrity, and your service.

Having been part of the discussion of grower groups, I want to state the obvious that there are many who care about this issue. The industry is dependent upon many products produced by those least able to afford the escalating cost of certification and inspection fees and that a solution is vital. There should be resolution to the grower group issue for certification so that the smallest of agricultural producers can continue to access the organic marketplace. I think that to marry the certification of those
grower groups with multi-site processing and
handling facilities is problematic, I disagree. I
think with maybe OTCO’s position that you can’t
separate them.

You know the regulation treats growers
and production units different then it does
handlers and the materials list is different. The
NOSB recommendation which the industry is supposed
to be operating under dealt with grower groups not
multi-site processing and handling facilities and
so I would hope that, my sense is that there’s no
major disagreement anywhere in the industry or the
community about trying to move forward with the
resolution for grower groups and urge that to come
to a completion.

I’m concerned with the ever increasing
paperwork burden associated with organic
certification especially for the small, is Dave
awake, especially for the smaller scale operators.
I don’t want to see them give up on the National
Organic Program and the organic label. The
recommendation about documenting the use of
untreated seed seems burdensome for certifiers,
and seems burdensome for producers and beyond the
scope of our responsibilities for our certifiers.
The seed database referred to by others should be
done by others and not certifiers. It should be done by those who market seeds or sell seeds.

Potassium silicate, I think in general Florida Organic Growers is, would recommend all the materials be relisted that are up for Sunset, potassium silicate that recommendation out of the crops committee needs to be reversed. This was a material as I remember that was petitioned, reviewed, the Crops Committee approved it unanimously pending its EPA registration and now years later after EPA registration is received all of a sudden the Crops Committee reverses its recommendation. I urge the Board, either the Committee to reverse its position or for the Board to do the right thing and approve potassium silicate. You heard from others. Jake I mean with CCOF, you’ve heard from other grower organizations as well about its usefulness.

I’m concerned about the process. The process that tells manufacturing, tells a petitioner that yes after you get your EPA registration you know it’s approved. That’s all 10 minutes? Okay. Man, you guys will love me then before I get done. So anyway fix the potassium silicate and I can stop now.

Let’s see it think. Oh, Kathleen and
Willy’s suggestion on humane treatment, I really enjoyed it and if Kathleen Mafken [phonetic] is willing to donate her time and you know to help the program or the Board in coming up with some recommendations, I would jump on it. And I would urge no task force. I’ve seen what the agricultural working group that did such good work, how long it took. I would want you guys to issue as soon as possible a proposed rule and let the community you know give feedback on a proposed rule. Task forces you know the past year’s stuff, it’s all taken so long that I fear that we may loose consumer’s confidence if we string this stuff out too long. And with that, you have more time.


MS. EMILY BROWN ROSEN: Okay do I have the five minute from Melanie Saffer too that was, I was going to speak for both of us from PCO, we both signed up in a row there.

MS. CAROE: Actually I thought Leslie told me that Leslie and herself were being switched to tomorrow.

MS. BROWN ROSEN: All right, well I
probably can get through this in five minutes.

MS. CAROE: Thank you.

MS. BROWN ROSEN: I don't think I have that much. Thank you, I’m glad to have a chance to speak to you and echoing everyone else. Thanks for all the hard work. This is a tremendous agenda you’ve put together here, tons of reading and the agricultural symposium also was very impressive. I learned a lot so it was a good experience so wish you well and sleep well at night when you get done with this.

I’m going to talk mostly about materials since that’s my main thing. As far as the Sunset materials PCO does support the relisting of all the Sunsetted materials on the list, agar agar [phonetic], calcium sulfate, carrageen, and glucono delta lactam cellulose and also I believe tartaric acid is on that list although it has never been mentioned anywhere, so that one you should make sure to recommend as well. It was just a glitch that it didn’t get listed anywhere. All these products had detailed reviews when they were originally approved and we are unaware of any concerns related to their use in organic food processing. It’s too bad we weren’t able to get a notice posed in time but I know things were crazy
this spring also but in the future it would be
good to have like just a brief Federal Register
notice saying Sunset you know have it even three
or four years ahead of time and these are the
items so we can all be ready to work on them.

The crop Sunset materials, we also agree
with the committee’s recommendation to renew all
the current listings, calcium chloride, ozoning
and gas, parasitic acid and the list three inerts
for use in pheromone dispensers. One question on
the copper sulfate although we have zero
experience with rice production in Pennsylvania, I
could say that we noticed you missed, there’s
another listing on copper sulfate. One for
algaecide use, one for tadpole control in shrimp
so you need to recommend it twice for each use I
believe. Both listings do have the annotation
about using once every 24 months. I think this is
being used so that people can use it once every
year since they can claim different uses so maybe
in the future you might want to reconsider that
but that’s just a point of references. You do
need to renew that one.

On the new materials, potassium silicate,
I read the TAP review, it’s nice that there was a
good TAP review on this and it was you know an old
issue that’s come back. I you know it looks like
to me it hash a lot of benefit in organic crop
production. We have in the east, we have very
humid climate unlike out west and fungal diseases
are one of the main problems for organic produces,
fruit crops, vegetable crops and that’s more my
specialty. I’m sure it’s other crops as well.
But this seems to have a very benign environmental
profile, it’s now EPA registered. Our only
alternatives really are cooper and sulfur and
those have you know toxic qualities and negative
aspects about their use. They’ve been
historically allowed in organic production. It’s
one of those things that came back from before
1990 and we’ve always been looking for
alternatives and haven’t had very many. So this
is one I would urge you to reconsider your
recommendation here. I think it would be of value
to have an addition material so we can reduce the
use of these other products.

The one other product mentioned in the
TAP review was this bacterial bacilli subtilis and
I did a seraphine good efficacy report on a lot of
these biological controls and that one really
rated poorly across the board in most fruit and
vegetable applications as far as peer review tests
on efficacy so I wouldn’t say that’s a great alternative, that would be like serenade as a trade name.

Then one of the new materials you had recommended on processing, the grape seed extract. We’re concerned that you have continued to remove some materials without a TAP review. I know at some point along the line you decided that you didn’t need TAP reviews for 606 items. I think this is a mistake. Maybe they don’t all but certainly a lot of them do and this one does. It should be tabled for further review. You did not have the TAP review and or an independent technical review and my concern is that the only reason to add it is for added nutritive value that would not otherwise be present to meet consumer expectations but you’re adding a none organic ingredient to an organic product for a marketing purpose. I saw no information about how it was extracted. Is it haxin [phonetic] extracted ’cause it was CBI all the information was withdrawn? There’s, the way they, the argument they used that it was not commercially available was that it’s so concentrated it takes 100 to 1 volume to produce it, they couldn’t possibly have it organically but my question is well what about
pesticide residues, have we looked at that from conventional grapes and we’re going to be putting this in organic food so I would take another look at that.

MS. CAROE: Thank you Emily. Board member questions? Hugh.

MR. KARREMAN: Regarding the copper sulfate shrimp that you mentioned, does that have to go under livestock then?

MS. BROWN ROSEN: It’s for Rice, it’s under crops.

MR. DAVIS: It’s for use in rice to control a pest, tadpole shrimp.

MR. KARREMAN: Oh, tadpole shrimp.

MR. DAVIS: Yes.

MR. KARREMAN: Okay, cool. That’s fine. But then also on copper sulfate it’s only for crops supposed to be applied once every year or two something like that, did I hear that? That’s not my realm.

MR. DAVIS: Once every 48 months.

MR. KARREMAN: Okay but it is used in livestock as a footbath sometimes and those footbaths go out on the land, so I’m just wondering how that’s reconciled.

MR. DAVIS: Well as Emily alluded to
there is 24 months, excuse me, yeah 24 months.

Every 24 months for tadpole shrimp and also every
24 months for, as an algaecide so it does, if you
claim it as an algaecide one year, you can use it
and if you claim it for tadpole shrimp the next,
you can use it again.

MS. CAROE: This is a great discussion
that we will have during the recommendation part
since we’re not engaging Emily here. But if you
do have questions for Emily, let’s ask her. Okay
so we’ll discuss that further when the item comes
up for discussion among the Board. Thank you
Emily. Oh Tracy?

MS. MIEDEMA: Emily I appreciated your
comment about the need for TAP reviews and Jerry
maybe you could weigh in on this too. In our
discussion about substances for crops, it came up
that you know tight budgets, we don’t necessarily
have money right now to do TAP reviews on
everything and so the discussion came up that
maybe there should be a threshold if there are,
there’s information in the petition that precludes
this from any further consideration, then we
wouldn’t expend resources on a TAP review. Sort
of a sure no, we wouldn’t use money for a TAP
review.
MR. DAVIS: Well that was one way to avoid TAP reviews if we expected the material not to have any chance of passing. We wouldn’t worry about expending the money. But for example a grape seed extract, that wouldn’t apply to that example at all. You know obviously it’s—

MS. MIEDEMA: Well you wouldn’t had to recommend it, yeah.

MR. DAVIS: Yeah it’s recommended to be added to the list.

MS. MIEDEMA: Right, yeah.

You know I just wanted to mention that for the sake of transparency in that this was something that was kind of uncharted territory, making a decision to not do the TAP and you know it may be an item that we need to go further.

MS. CAROE: Dan?

MR. DAN GIACOMINI: Hi Emily. This is specifically not a question. So but, I don't remember seeing a comment from you on the definition of the materials. Want to just ask you at some point in time to take a look at that document and get something to us.

MS. BROWN ROSEN: I have more here on that if you want to hear about it.

MR. GIACOMINI: Okay, I do.
MS. BROWN ROSEN: I also signed up, actually I also signed up for some time on Friday and what I want to do there is give you a little Power Point with all, what I’ll briefly say is that we think you have a lot of tools available already to do this. I think you know I appreciate that it’s tough to start up with this, it seems very complicated but it’s not as hard as it looks or seems and we think that with all the flowcharts you’ve already developed especially the March 2006 Framework on Synthetic Non synthetic, the various versions of the Ag, Nonag one, we can put it altogether. I’ll try and run you through a few examples and show you how it’s really not that hard to do and we think we can move forward on that and we would like to do that.

MS. CAROE: Any other questions? Thank you Emily. And we have Grace Marroquin up and we only have 20 more comments for today. Grace when you’re ready.

MS. GRACE MARROQUIN: I’m back.

MS. CAROE: Oh, wait a second. Before Grace Gershuny you’re on deck. I saw Grace earlier. Did she leave the room?

MALE VOICE: No, I’ll get her.

MS. CAROE: Thank you.
MS. MARROQUIN: Before I start I want to say thank you Andrea for all your great work and you know you’re going to be missed by everybody. And also want to thank the Board and the NOP. But I’m back and it’s your fault. No. I’m joking, joking.

My name is Grace Marroquin and I’m president of Marroquin International Organic Commodity Services Inc. My company is based in Santa Cruise, California and we import, distribute, and develop organic ingredients for the national food industry. I’m here once again to support the classification of yeast on the national list as an agricultural product.

We believe that this change would contribute to the raising of the organic standards. Organic processors presently are not required to use organic yeast because yeast is not listed as agricultural. This change would make it a requirement that organic foods use organic yeast instead of conventional yeast. Organic yeast is unique in that it is the only commercially available organic ingredient that processors do not have to use. We want to make it clear to the Board that this is a loop hold in the organic standards that we believe can be closed.
Organic yeast is far superior to conventional yeast for organic products. I know that you’ve all heard this before but there are some new folks here that haven’t. Organic yeast is grown on a substrate of organically produced grains, all organically produced grains. Furthermore there are no chemicals used like the ones used to make conventional yeast. There’s no ammonia, no sulfuric acid, no caustic soda lies, no synthetic vitamins, no synthetic anti-foaming agents. In conventional yeast production the waste water must be treated before disposal to avoid harmful pollution. In organic yeast production the waste water is a raw material for further organic production. Because of the chemicals used in making conventional yeast the organic movement in Europe realized that conventional yeast was not compatible with organic farming or food processing. In 1980 a German manufacturer Ograno, began to develop an organic yeast production method and in 1995 Ograno began marketing Beoreal [phonetic] organically produced yeast and our company began importing Beoreal into the United States in 2002. Our position is that yeast be moved from
non-agricultural to agricultural status so that under the NOP yeast can be a preferred organic ingredient subject to commercial availability. We’ve been pursuing our position with the Board now for three and a half years. We first brought this request to the Board in the summer of 2004. The Board, at that time the Board wanted to have an overall policy to decide which materials would be agriculture as opposed to non-agricultural.

One year ago after much hard work the Handling and Materials Committee offered a joint proposal for the October 2006 Board meeting. As part of this proposal both committees voted unanimously that yeast was an agricultural product and thus should be listed on Section 205-606 but not so, it didn’t happen. So there was public comment urging the Board to go slow. The Board voted to postpone further action so that it could study the points raised and there were two principle points raised. One was that there were no standards for organic yeast production. The other was that making yeast an agricultural product may have a negative effect on the yeast used in organic livestock feed. The Board said it was going to study the points so they could then revisit the basic proposal, the one that both
Handling and Material committee had already approved, it’s in the transcript under the October 2006 meeting, pages 75 to 77.

I would like to point out that in regard to the organic yeast the discussion document does not make any reference to the work that the Handling and Materials committee produced in October of ’06. The discussion document does not return to the agenda that the Board laid out in October of ’06. Now we have a discussion document that goes far beyond ag, non-ag area into the synthetic, non-synthetic area and the way it appears is that it’s moving further away from being able to address the question of yeast.

I want to leave the Board with a couple of points and one is June 28, 2007 the E.U. adopted, the E.U. adopted Council Regulation number 834-2007 and it gives full express recognition to organic yeast in food and feed. It provides general rules for the production of yeast. There are standards that apply to the processing. U.S. certifiers …

MS. MARROQUIN: …have wanted to have the yeast operations certified and they’ve been asking
for these processing standards. With this E.U. action the organic role is moving towards yeast as an organic ingredient and today there are many organic food products exported from the U.S. to Europe that contain yeast. If the U.S. organic standards continue to allow conventional yeast in organic products, this will setup another trade barrier for U.S. products being exported to the E.U.

And in regards to the livestock issue, I’ve been in this industry 16 years and have operated under the idea of organic preference and I know that presently there are some very large organic yeast companies posed and ready who are watching this issue and how we’re dealing with it. And you can bet anything that they’re going to be in this industry with organic yeast along with our supplier who is just waiting for a decision to be made to come here and setup production in the U.S.

I want to thank you all for your thoughtful consideration to this issue.

MS. CAROE: Thank you Grace.

MS. MARROQUIN: Thank you.

MS. CAROE: Questions for Grace? Joe and then Jerry.

MR. JOSEPH SMILLIE: As you know Grace I
support your position and it’s unfortunate but trust me that the yeast issue which you feel is lost in the newer discussion, it didn’t happen in a way that was prejudicial to your case and then the idea of yeast. The more and more we looked at this material the more and more we were faced with a conundrum of the synthetic nonsent [phonetic] that had gagged non-ag which Emily says is simple and I can’t wait to hear her explanation tomorrow. But we thought we had to deal with the whole thing holistically but on your issue I absolutely support it and I’m hoping that this Board can address that situation.

MS. MARROQUIN: Thank you. Think of it as low hanging fruit.

MR. SMILLIE: It is a fruiting body after all.

MS. CAROE: I think they’re coconuts but Jerry.

MR. DAVIS: Thanks for sticking with it Grace.

MS. MARROQUIN: Thank you.

MS. CAROE: Any other comments? Dan.

MR. GIACOMINI: I work in livestock; I consult with dairy farmers that work in, that treated a large amount, a fair amount of yeast to
their cows and one of the problems is the fact is that it’s a very small amount of yeast. I’ve talked to two of the major feed yeast companies and they really don’t want to have to go there and they are not looking forward to the possibility of needing to be, go through organic certification through international manufacturing and everything else. Could you list the companies you’ve talked to that are ready to go that currently supply feed yeast to the livestock industry?

MS. MARROQUIN: Well Midwest Bio Lag in Wisconsin, they did this several years ago. They actually produced organic yeast and they bought the equipment, they went through the OCIA certification and because of this loophole and no enforcement on it, they finally had to close down shop, they lost a lot of money. They actually at the time when I spoke to them over a year and a half ago they had not sold the equipment yet. It was in storage somewhere in hopes that maybe something might change. But it I think they you know they may have given up and they’re watching. Some of the other yeast companies are more from the food end. You know I haven’t, I know that they’re out there and they’re waiting. I think, again I want to point to organic
preference that is what got this industry to be
what it is today was if someone produced an
organic product had it available, we would have to
use it and it changed the industry, it changed
the, it kept raising the bars. Every company,
every product that’s here is because of that
preference. My company for the last 16 years has
been operating under that and has risen to that
challenge, enjoy the challenger and feel that
we’re a contributor to where the industry is. And
I think that they may not like it, sure. But it
think they’ll, it just takes one of them to get in
it and the rest will follow. I know that ‘cause
I’ve seen it for 16 years now.

MS. CAROE: Any other comments or
questions for Grace? Thank you.

MS. MARROQUIN: Thank you.

MS. CAROE: Let’s bring up another Grace.

Grace Gershuny are you in the room? There you
are. Brian Baker are you in the room? You’re on
dock.

MS. GRACE GERSHUNY: I was telling
people, I’m a virgin at this. I’ve been, never
have given a public comment at an NOSB meeting so
I am making this comment on my own behalf. I’m
listed as Gaia Services, that’s my consulting
name. I do consult for various people here in the industry and I had some hand in drafting some other people’s comments that you have already heard. But I am going back to my roots here. I am speaking as one who crafted some of the early organic definitions including the 1985 OTA guidelines for the organic industry and as one who served on the NOP staff for five years from 1994 to ’99 where I had a major role in drafting the regulations. Before this I was actively involved in grassroots advocacy on behalf of organic farmers where my ideas about the meaning of organic developed and I would add I’m also writing a book which this plays into.

I really appreciate the thoughtful analysis including acknowledging the areas of confusion in the document about the discussion of the definitions. And I want to contribute this in the spirit of joining the discussion rather then expecting anything to come out of it. What I really, it’s really kind of a radical proposal, radical idea in the sense of getting to the root of the confusions which has to do with the term synthetic. The root of confusion which is enshrined in our law and I want to tell a little bit of a story about how that came about. And I’m
going to try to be as brief as I can so I don’t go over the five minutes so I’m condensing some of this material. I’ll be glad to expand upon it in other conversations and discussions.

Essentially I believe that the basic premise of defining organic production and handling by the absence or non-use of synthetic substances is fundamentally flawed and I think that you know we’re not going to get away from that anytime soon but we could change the definition of synthetic. And my story includes coming to draft the document that’s appended to this comment which was created by the NOP staff in 1995 and was actually reviewed and approved by the NOSB with a couple of slight revisions. But this is a set of principles and a definition of organic agriculture that was used as a basis for drafting the regulations. And I want to point out that the term synthetic doesn’t appear in it anywhere and I believe that basing the law on this concept was a mistake whose consequences continue to unfold in public controversies and confusion about what organic means and should mean.

I went on to explain a little bit about Joe Smillie and I worked on drafting the OTA’s guidelines back in 1985, pulled together a lot of
principles and definitions from everybody and found that there were a couple of disconnects between what is feasible on the farm and what consumers believe and expect. We and what this did was promote a simplistic false dichotomy between synthetic as bad and natural which is good. Although many consumers clearly believe that organic meant chemical free or non-synthetics, we argued that the credibility of the organic label required us to educate consumers rather than perpetuate their ignorance.

Essentially I’m going to cut to the chase and tell you what I think the definition of the synthetic would be, it would solve a lot of the problems that have come up.

MS. CAROE: Well we definitely want you to continue and tell us what it will be. You can’t leave us hanging right there Grace.

MS. GERSHUNY: Okay. I think my modest proposal involves amending OFPA to define synthetic in a way that more accurately reflects both the basic principles of organic production and the really bad things that consumer’s thing of when they hear the word synthetic. This definition would narrow the meaning of synthetic to refer only to substances that are derived from
petrochemical products, i.e. synthetic organic compounds. Criteria for including petrochemically derived compound on a national list could also eliminate novel molecules that are not known to exist in living cells.

I’ve given a lot of thought to what the implications be, it would certainly make it possible to use things like potassium sulfate that were byproducts of manufacturing and not have to only buy mined potassium sulfate, things like that. There are a lot of, there’s a lot in here.

It is not a proposal to weaken the standards and I wanted to say that a lot of people would probably see it that way but most of us don’t have any interest in weakening the standards and I would just say that the definition should be shifted away from the idea that it’s a negative that it’s an absence of bad things onto the positive focus on ecological production systems whose primary goal as written in this document, which I’m very proud of, is to optimize the health and productivity of interdependent communities of soil life, plants, animals and people.

MS. CAROE: Thank you Grace. And I appreciate the comment, this is very interesting and I especially like the part where you put blame
on Joe Smillie. I share that sentiment. Is there comments or questions for Grace?

MS. HEINZE: I just wanted to thank you for your comments. You know it was the intention of the Handling Committee when we put out our initial thoughts to generate comments to help us as we continued in this process. I know you’re the first of many people who will have comments for us this week and I do appreciate it.

MS. CAROE: Thank you Grace. Now you’ve done it once, you can come back. Brian Baker you’re up. And you have a proxy Brian?

MR. BRIAN BAKER: That’s correct I have a proxy for [unintelligible] [crosstalk]—

MS. CAROE: Do you want two five minute sections or one ten minute runt them through?

MR. BAKER: Well I yeah, I think I can handle it all in less then ten minutes.

MS. CAROE: Excellent.

MR. BAKER: I’ll shoot for less then five.

MS. CAROE: Okay.

MR. BAKER: Hopefully, I don’t want to take up too much of your valuable time.

MS. CAROE: Okay and Rose Koenig are you in the room Rose? Yeah, you’re on deck. When
you’re ready.

MR. BAKER: Yes, Brian Baker, research director, Organic Materials Review Institute. I appreciate being before you again and also want to mention that I once sat where you are. I was on the NOSB for all of one meeting as a rotating certifier representative at the first meeting where synthetic and non-synthetic substances were voted upon in Orlando, Florida hosted by the illustrious Marty Mesh and that was perhaps a pivotal meeting where some of what Grace just mentioned was discussed. I was also wanted to mention that I’ve served as a TAP cord and technical advisory panel coordinator and TAP reviewer for the NOSB and have been working on these difficult issues. Most of my comments, I’m a materials geek working for the organic materials review institute and most of my comments will focus on the discussion of definition of materials. And it’s something that I think is vitally important and really appreciate you giving some thought to that and raising some fundamental questions, it’s important to not take some of these things for granted and certainly wanted to applaud some of the positive suggestions that you made. For example the elimination of the
definition of non-agricultural, it just gets in
the way. It’s not a negation of agricultural and
it complicates rather then clarifies. There are
other things in the discussion document that
really had a hard time understanding and just try
to work through what was intended by the
discussion document. And I just, we get questions
at OMRI everyday from organic farmers and their
suppliers, from certifiers and inspectors, from
suppliers, vendors, handlers, and we need to be
able to determine the status of a formulated
product clearly, consistently, and in a timely
way. This is vital for the continued growth and
prosperity of the organic sector and we are, we’ve
worked closely with the NOSB over the years in
helping to develop what culminated in the decision
tree that was posted in March of 2006 and ask that
you revisit that rather then starting anew and
departing on a new path and build upon the solid
work that’s been done by the NOSB over time.

I mean we did debate over using the basis
of synthetic, non-synthetic and agricultural and
non-agricultural as the basis or the foundation of
the standards and that, things have moved on since
then and we have to, we have many unresolved
issues that need attention. But creating new
unresolved issues is not very helpful.

Briefly I wanted to mention about the whole question of how agricultural products are added to 606. OMRI believes that all the items on 606 need to be evaluated against the criteria in the Organic Foods Production Act. The conventional farming practices of how those agricultural products are produced and their environmental impacts, their human health impacts are crucial to be understood before voting on them. And we believe they need to be independently evaluated by TAP reviewers and that the information needs to be publicly available and redacted as confidential business information.

We need also clarity on the meaning of commercial availability. We’re getting applications now from vendors and formulators of combinations of agricultural and non-agricultural ingredients and those formulations are requested to be confidential and it’s very difficult for us to explain under what conditions those formulated products can be used. So the meaning of commercial availability of those ingredients, the form, function, quality and quantity of the different ingredients that are going into the formulated products that we evaluate is very
difficult for us to communicate to the industry. And so we need further clarity on commercial availability. And so until TAP reviews are done and until there’s clear guidance on commercial availability we ask for a moratorium for amends to 606 and have some suggested language for the, for what can be recommended.

We ask that if we’re recommending that any non-organic agriculture ingredient be added to 606, the NOSB shall consider the criteria in the Organic Food Production Act for that ingredient in particular the impacts on the environment, human health, and the soil of the non-organic production practices used to produce that petitioned ingredient. The NOSB should consult with technical experts who are independent of the petitioner to determine the availability of organically produced and handled alternatives and the sustainability of those non-organic production practices. So that’s something we think is very fundamental in anything that goes on the national list. So similarly with aqua-culture, we expect the national list process to be respected for synthetics used in aqua-culture as well and are withholding comments in general on aqua-culture until we see something more about what’s proposed
there.

Briefly wanted to mention sodium carbonate proxy hydrate which has been petitioned, it’s something that when it’s used according to the label makes two things that are on the national list, hydrogen peroxide and sodium carbonate. So the difference is that the reaction takes place not in the factory but on the farm. And it’s our believe that the limitations and restrictions of the national list apply not, are relevant to what’s applied to the crop and not what’s put on the tank but we encourage the petitioner to petition for clarification and look to you for guidance. It’s just one example of the many kinds of questions that we have to deal with and face.

So with that I offer myself as a resource if you choose to explore this further. If you want to form a task force, OMRI stands prepared to support your work in anyway possible. I know it’s not easy and just I’m offering my assistance and I thank you.

MS. CAROE: Thank you Brian. Questions? Katrina and then Jerry.

MS. HEINZE: I want to thank you Brian in particular for your written comments and the
historical documents you provided. Had an opportunity to read them last week and they were particularly helpful as I think about this definition in materials. I was hoping you could speak a little bit about this idea of synthetic agriculturals because we’ve had quite a bit of discussion about that on the joint committee. And I will say I’m perplexed about the idea that a material can exist in both of those places particularly as it applies to how we would handle petition materials. So some thing is agricultural and it’s synthetic and someone petitions it, does it go on 606, does it go on let’s say 605B, does it go on 601, how are we?

MR. BAKER: Or it doesn’t go on at all.

MS. HEINZE: Right or it doesn’t go on at all.

MR. BAKER: I mean it depends on the application use but more fundamentally it depends on the source and manufacturing process. I use the example of ethylene gas. Ethylene is produced by apples or kiwi fruit. You can call that agricultural quite clearly. I mean everybody thinks an apple an agricultural product right. Okay, you can get it from and most of what’s commercially available comes from a petroleum
refiner so that’s clearly synthetic right? You can also produce it by evaporation or distillation and as a byproduct of ethyl alcohol in the process of splitting it off from ethyl alcohol this Board considered that to be synthetic when it was petition so that was a petition for a specific application for the greening of sprouts. It was a petition to put a synthetic on 601 okay, not even for use post harvest handling. So that’s one example.

You’ve got two things that are on both 605B as synthetics allowed in processing and 606 depending on their form on function. One is bleached lecithin and unbleached lecithin.

Bleached being reactive with hydrogen peroxide which is on the national list or benzoic peroxide which is not on the national list, either one’s okay as a bleached lecithin but you see and going back to histories and organic preference which is a term that sounds great but you know the reality of implementing it is not so great.

This Board recommended that there be a hierarchy created. If there’s an organic ingredient, you got to use it. If there’s not an organic ingredient that has that form, function, quality, and quantity, then you can use the non-
organic agricultural source. If you have a, if you don’t have the organic or the non-organic agricultural, then you can use a non-agricultural non-synthetic and only if you exhaust the organic the non-organic, and the non-synthetic non-agricultural, only then can you use the synthetic non-agricultural and so you can have a given ingredient depending on the source and manufacturing process be agricultural or non-agricultural, be synthetic or non-synthetic. It’s not the substance and that’s because organic is a process based standard not a—

MS. HEINZE: [Interposing] So then is your proposal that as we look at a decision tree or whatever format we end up putting this in, that we would focus our questions on the process?

MR. BAKER: That’s right. What is the source? What is the manufacturing process?

MS. HEINZE: Thank you.

MR. BAKER: How is it derived?

MS. CAROE: Jerry did you have a questions?

MR. DAVIS: When you mentioned sodium carbonate for peroxhydrate, give me your point again on that, I missed it just a little bit. What were you saying?
MR. BAKER: Well the point is that the active substance is not what the farmer sprays out or actually what the farmer applies through an irrigation cleaning system for example. It’s the sodium carbonate peroxyhydrate goes into solution and creates hydrogen peroxide and sodium carbonate and so by going into solution, by being used according to the label it then, the active substance that’s actually formed because it’s in dry state, right? It’s just, it’s a way of shipping hydrogen peroxide without shipping all the water so it’s a more concentrated form.

MR. DAVIS: The end result of the breakdown of that formulation becomes two materials that are already on the list.

MR. BAKER: That are already on the list but we’re seeking clarification because we acknowledge there are differences of opinion. Some certifiers say yeah, sure that makes sense and other certifiers are saying wait a minute, I don’t see sodium peroxyhydrate on the national list so yeah rather then spin the manufacturer around in circles, we said well go to the NOSB that’s you know if they give you a clear answer, then that’s what we’ll live with. But the precedent is that we see that if it’s used
according to the label, it’s producing two things that are on the national list.

MR. DAVIS: Right and the sodium carbonate actually would be a mined material actually from what I’ve read.

MR. BAKER: Right but it’s a mined material that has been reacted with hydrogen peroxide.

MR. DAVIS: Right, right.

MR. BAKER: In a reversible reaction so and then dehydrated.

MR. DAVIS: Correct. Okay thank you.

MS. CAROE: Any further questions for Brian? Dan.

MR. GIACOMINI: That is a consistent interpretation I guess would be the word, on the livestock side we have the same type of thing in the formulations of teat dips. The things that they make after they’re mixed are on the list. A lot of them have not been allowed because of the source material that’s used to make the solutions.

MR. BAKER: Yeah, I can think of a few. Well the, yeah the iodine products. But the other confounding factor of course with teat dips is they usually have excipients. And one thing I forgot to mention is that the, we look forward to
the docket on livestock materials and further clarification of what excipients are allowed in organic production. We desperately need that.

MS. CAROE: Any further questions for Brian? Gary non? Thank you Brian.

MR. BAKER: Thank you.

MS. CAROE: Rose you’re up. On deck Judy Thompson. Are you in the room?

MS. JUDY THOMPSON: Yeah.

MS. ROSE KOENIG: Hi, I’m, wakes everybody up. My name is Rose Koenig and I’m an organic farmer in Gainesville, Florida. Good afternoon and thank you for your service on the Board. I sat on the Board from 2001 through 2006 and during that time two issues that you’re dealing with today were somewhat, I thought, resolved or at least parting thinking that it would be a consistent retention of at least the ideologies of the previous Board. But however upon looking at the agenda and reading some of the documents I saw a difference of kind of opinion in terms of what was happening. So henceforth I’m here. That’s how you get me to come to these meetings again.

The first issue is potassium silicate. I was on a Crops Committee at that time when the
petition came forward for both the soil amendment and as a disease control product. That Board also as I think you’re Board viewed the product as a soil amendment a no-go. But in terms of disease control as the many members of the audience have stated, we could, we were in favor of listing that product for disease control. However, at that time there was no labeling, EPA label of that product so for us putting it on the list at that time it was like superseding the authority of the EPA because that’s their, you know they really have to determine whether something’s you know an efficacy or a type of product that can be used in disease control. So we told the company get the label and we’ll differ it at this point. So that is the history and I can go into more history if it is needed on that product but there was a consensus of the Board at that time that it should be on the, listed on the for crop use, for disease control and now I see it’s been labeled also for insect control. And I think you know at least in my opinion that it would be consistent for that also as it presently is petitioned.

Some of the reasons that I believes and I think that the Board believed it was as other people stated the existing materials, in fact
materials that are on the list things like copper and sulfur do have issues that if you go through the OFPA criteria, probably wouldn’t meet OFPA criteria as well as this product does. There’s heavy metal issues that occur when you use copper. There’s also resistance among pathogens, they can become resistant to coppered fungicides when they’re used repeatedly. That should not happen based on the mode of reaction or if it does happen, it would be a not I guess a more rare occurrence. If you know the mode of action, which will be explained on this particular product by the next series of speakers so I’m not going to go into that. But I just want to make the statement that I do think that this product is much more consistent with the OFPA criteria based on the products that are on your list and really I certainly, for people who know me, was not somebody who liked to list a lot of products. I don’t believe in that the synthetics list should be this thing that everybody you know petitions and voila their product becomes it. But I do believe that when there are products that meet the criteria and in fact when there’s products that are probably more environmentally friendly then those on the list they should be heavily
considered by the Board and should probably be listed. So when Sunset does come around there are other alternatives now on the list that you can kind of weigh the data of efficacy, data on these products to see if those products can be taken off.

It’s especially true of disease control products because as you know that you know farmers even you know I’m plant pathologist, I have a PhD in plant pathology and I’m also a farmer and I try to use systems management as the rule states that we’re supposed to do a series of hierarchy steps before we go to that you know last step which is your input, your chemical input. But even as an organic farmer there are instances where things just blow into your system. There’s air you know wind born type pathogens that are going to come into the systems and I do think pest control tools are a must if you’re going to list anything, you should really look at those very heavily.

I really wanted to do some conversation on also the materials document although my five minutes is coming close. What I just will mention about those documents is that this work also historically had been done. I did a lot of work in my last couple years on the Board trying to
further clarify the definition of synthetic 'cause basically we were told that materials were at a stalemate, we couldn’t go forth because we kind of got involved in soy protein isolate under the Crops Committee petition and we realized that it wasn’t easy with the present definition to make a decision on that. So we worked heavily on further defining synthetic. And then the NOP after I left actually did a great job, I think they worked with their lawyers from what I can see in terms of their evaluation. You know kind of taking our document and working into I think a much more legally defensible type of document and I really believe that you should go back to that document.

I think that that should be your starting point in terms of the process.

MS. CAROE: Thank you Rose.

MS. KOENIG: You’re welcome.

MS. CAROE: Questions for Rose, comments?

Thank you for making the trip back. We’ll just have to keep on throwing out controversial things so you keep on coming back.

MS. KOENIG: That’s all right [unintelligible] [off mic.].

MS. CAROE: Next up is Judy Thompson and on deck is Lawrence Datnoff.
MS. JUDY THOMPSON: Hello, I’m Judy Thompson with PQ Corporation and we are the petitioner for potassium silicate. And Rose has already covered some of the history. I just wanted to clarify why a pesticide registration is needed for a product like potassium silicate. OFPA’s definition of a pesticide refers to the FIFRA and according to that and I’ll use a fungicide as an example; if a material in any way controls a disease, then it falls into the fungicide category. In the case of silicon it actually helps the plant, at least part of the mode of action is to help the plant defend itself. You could think of it as the vitamin C of the plant kingdom so for that reason it needed to be registered as a pesticide.

Over the years I’ve provided updates to the NOP as far as the status of potassium silicate and as I knew it was going to come back before the Board and so I consolidated all those updates along with the 2002 petition and that is the document that is the 2006 petition. So the 2006 petition has the, more information on efficacy as well as the lasted research that’s been published on the mode of action and I had also added the insecticide use.
The TAP report is from early 2003 and this has some very good information in it however the 2006 petition really has a more complete, is more complete with respect to the latest research on salable silicon. In the Crops Committee recommendation one reason for failure was that it says here synthetic soil applied fertilizers are not compatible with organic farming regulations and I understand that. The 2006 petition actually petitioned a plan amendment for hydroponics use only but in an effort to clarify potassium silicate and to perhaps focus it, I’d like to withdraw that for consideration. So I’d like to take the plant amendment off for consideration. I think the people who have spoken in support of potassium silicate have done so for pesticide uses so I’d like to keep the disease control and insecticide uses.

The EPA registered potassium silicate as a biopesticide specifically in a biochemical pesticide category and this is because as I said silicon is used by the plant to help defend itself. Pesticides are given a signal word. It might be poison, danger, warning or caution. Our end use potassium silicate product has a caution word which means it’s the friendliest type of
product. It also has a tolerance exemption and if you’re not familiar when you register a pesticide you must document to the EPA any pesticide residue, how much of that can be tolerated by humans. In the case of a product that is benign and friendly such as this one, you can receive a tolerance exemption and that would be due really because the potassium silicate would be indistinguishable from potassium and silica that’s already in that environment.

The reentry interval is four hours. Some pesticide products could have a reentry as long as thirty day. This is the amount of time you have to wait before you go back into the field. Some products might be one day, twelve hours. This is four hours which is the lowest time. Also it has a zero pre-harvest interval. This is the amount of time before you can apply the material and then harvest the product. And again all this speaks to the benign nature of potassium silicate. And I also like to tell organic folks that potassium silicate is odorless.

Potassium silicate shows activity for both disease and insects and as such it may lower the use and frequency of less desirable control measures such as sulfur and copper. And lastly
potassium silicate is made the same way as sodium silicate. Sodium silicate is on the national list for fruit floatation and it was reapproved in a Sunset review I believe last year.

And lastly I’d just like to thank the Board and the NOB especially Bob and Valerie for their good and hard work on this process. Thank you.

MS. CAROE: Thank you. Just a quick question for you. Will you be in the meeting tomorrow.

MS. THOMPSON: Yes.

MS. CAROE: And on Friday?

MS. THOMPSON: Yes.

MS. CAROE: So if we have any further questions you’re available to help us with that.

MS. THOMPSON: Yes.

MS. CAROE: Okay any other Board? Jeff.

MR. JEFF MOYER: Yeah I just want to verify what I heard you say. You’re amending your petition to not include it as a plant and soil amendment?

MS. THOMPSON: Correct. I’m withdrawing that for a consideration so I would like to restrict it to the disease control and insecticide uses.
MR. MOYER: 'Cause that was one of the big issues that the Committee had with the product was that it becomes a synthetic fertilizer. Thank you for that clarification.

MS. THOMPSON: Thank you.

MS. CAROE: Any other questions, comments? Jerry.

MR. DAVIS: Real quick comment on the recommendation because of that problem with soil amendment versus the other uses, we did split it out into three separate categories so we expected the soil one to be rejected and not voted positively so it’s already setup to where it’s no problem, it doesn’t need to be amended. We’re going to vote on the three separate uses independently.

MS. CAROE: Any other questions, comments? Thank you Judy. Lawrence Datnoff you’re up and I have Lawrence Marais.

MR. LAWRENCE DATNOFF: I have a proxy so which would be Jay Levin so I’m going to take his time, is that ten minutes.

MS. CAROE: Jay Irvine?

MR. DATNOFF: Jay Irvine, yeah thank you.

MS. CAROE: All right, thank you.

MR. DATNOFF: Okay so just for the record
my name’s Lawrence Datnoff, I’m Professor of Plant Pathology at the University of Florida and I’ve been conducting research on using silicon for plant disease control for over 16 years. So the next slide.

So just to let you start out with terms about what silicon is as an element. You know it’s found in the Periodic Table just below carbon. Silica is SiO2; you also know it as sand. Well, you walk on beaches, that’s silica. Silicate is a compound with silica plus potassium. It could be also calcium or sodium. And then silic acid is this form right here. Next slide please.

And you’ve read in the TAP report about silicon, it’s the second most abundant element on the earth’s crust after oxygen.

Next slide. And you know we know a lot about nitrogen mineralization, we know about phosphorus dynamics in soil, how it gets into plants but when it comes to the natural dynamics of silicon in the soil and how it moves into the plants it’s not as well studied. But here’s some ideas of what we think goes on.

You do have minerals in the soil and that is released into a form silica acid. You have
these iron aluminum oxides that will bind up the
silicon so that they can be released over time.
You can also have polymers from plant materials
that can be released from irrigation water and
then this silica acid is what the plant takes up.
Next slide.

And probably the best study so far has
been in rice and last year AMA from Japan found
two transporter genes, LSI1 and LSI2. And what
happens is it will take salicylic acid from the
soil matrix, move it across the casparian strips
into the ion for loading, once it’s loaded and
moves up becomes deposited in the leaves and it’s
basically immobile once it is deposited. And in
rice you’ll get these silica bodies forming.
Here’s with silica, without, you can see. And
this is sort of X-ray microanalysis just showing
the amplification of silicon deposition in the
leaf surface. Next slide.

But what happens in this whole system you
can have some natural leaching. Okay. Next
slide. And there are soils that go through a
weathering sequence. This is what soil scientists
use, these soil orders to describe the horizons,
the texture and contents of clays and sands. And
basically they can go through a weather process so
it’s a de-silication so silicon is not available to the plant so not all soils are equal in their content of plant available silicon. Next slide.

And so you’ve heard about tropics. You can see there’s just millions of hectares of these soils so they are low and lemoning [phonetic], they’re out there. Next slide.

But even in the U.S. we have soils, the sandy antha [phonetic] soils, hista [phonetic] soils, organic soils, high organic matter, incepta [phonetic] soils you see and ulta [phonetic] soils that are just like probably the ones in the tropics, they are very low and lemoning. So again plant medium is low in lemoning and a lot of times there’s not enough silicon available to that plant. Next slide.

So also plants differ in their capacity to accumulate this element. So wetland grasses on a dry matter basis will be around 5% to 7%. Dry land grasses like sugarcane cereals turf about .5 to 1.4 on average and dicots [phonetic] about .2. Next slide.

And so these are plants that I just kind of listed, they’re in the literature. They show where silicon either can suppress disease or improves some type of plant growth and
development. And you recognize a bunch of crops here, some are ornamentals and turf grasses. Next slide.

And so when you look at silica in the literature there’s a lot of things this element can do. It does impact on plant diseases. Best studies are rice blast and powdered mildew pests and also can alleviate a lot of different stresses like metal toxicity, lodging, draught resistance for an example. Next slide, next slide.

Okay so enhancing resistance. So here we have, this is rice blast it’s the most important disease of rice in the world. We have three cultivars. This is resistant, this is partially resistant, this is susceptible. As you increase silicon you can take a susceptible cultivar, push it to partially resistance level and take a partially resistant cultivar and push it to complete resistance. This is very important for something like hair looms or land races to enhance that resistance. Next slide.

Similarly here is sheath blight, the second most important disease of rice in the world. Susceptible, partially susceptible, highly resistance without silicon, blue is with silicon you see you get that great suppression. But
what’s interesting is you can take susceptible
cultivars, moderate susceptible and push that
level of resistance just like high partial
resistance. So it can really enhance the
resistance of the plant. Next slide.

So what’s going on? You know is it
structural, biochemical? Well here’s a scanning
electron microscope showing deposition of silicon
just below the cuticle right here. And this is
the sidasol [phonetic], then here’s the cell wall
they control. Next slide. And what happens is a
spore will land. Hit that please, hit advance.
Okay, germ tube and this is silicon deposition.
Hit it one more time, one more time. And so you
have no infection. It blocks the ingress of the
fungus being able to penetrate that cuticle ’cause
the deposition of silicon. Next slide.

And here is an example where you took
this even further. This is 96 hours after
infection, big lesion here, very little lesion
here, you cut it you know look at it on
transmission electronic microscopy. Here’s a
fungal cell very normal growing, the cell walls
starting to dissociate. Here’s a fungal cell in
the presence of silicon, it’s like a huge vacuole,
it’s empty and you had this amorphous material
that we’ve identified to be phenolic in nature. Pheno is produced in plants or defense responses in plants. We also phytoalexin compounds and these are also low molecule [phonetic] compounds that have antifungal activity. Next slide.

We’ve also extracted a messenger R N A. You know R and A is a transcript factor in building proteins and enzymes and you can put this on gelled and through electrophoresis move the messenger RNA and get a banding pattern. You can see without silicon 36 hours you get, not as big expression a we do with silicon for beta one three gluconace [phonetic]. Well fungi have glucon in their cell wall. Beta one three gluconace is a an enzyme that attacks that cell wall so it looks like in the presence of silicon you’re producing this enzyme to attack cell walls. Next slide please.

Also peroxidases as you can see it is 60 hours, here’s our control. It kind of starts to shut down but it’s still being strongly expressed. Peroxidases are involved in the production of lignin. lignin helps fortify cell walls to protect the plant. Next slide.

And also we have what we call PR1 proteins. You can see it starts to be expressed
at 60 hours in the controls, with silicon it’s strongly expressed. PR1 proteins are proteins known to have anti fungal activity also. Next slide.

So here are some examples of potassium silicate on grey leaf spot on turf. This is work we did a number of years ago. You can see the number of lesions just sort of infecting the plant. Fewer here, we cut it in half. Well, almost half say about a 42% reduction. Next slide.

This is work coming out of Canada with that batritise [phonetic] development on strawberry and again potassium silicate versus the control, you got over 42% reduction. Next slide. And more recently with wheat potassium silicate for powdery mildew and it’s about a 50% reduction. Next slide.

So does how does silicon enhance disease resistance. Well here’s what we think is going on. It’s probably, it’s a passive role. You’ve got deposition; it makes it very difficult for that fungus to get through. Okay it’s not always uniform but when it does get through it slows it down enough to where maybe silicon’s eliciting or amplifying the signal in the plant to produce these
defense related compounds. Next slide.

And so basically you know if silicon can play this type of role and the media can be lower limiting and it should used for suppressing plant disease and it shouldn’t just be for biological thinking or experimentation, it should actually be implementation and the Board has, I you ask me, a great opportunity to bring this to fruition for organic growers based on some of the reasons that Dr. Koenig and Dr. Thompson just mentioned. Next slide.

And these are just some pertinent references that we’ve published over the years going back from 2001 on rice primarily. And this was not in the TAP report but let me go back to that TAP report just a little bit.

One of the things they said well you know you can use green sand. Okay, well green sand it does have 25% silicon in it but it’s totally immobile, it’s not available. It does not weather and so it’s not available to the plant. There’s another similar silicon source, magnesium silicate. If you look it up in the chemistry handbook it’ll tell you it’s insoluble in water, you have to use hydrochloric, hydrochloric acid, it also has 26%. And there are people out there
unfortunately trying to sell some of these materials and say oh yeah, we have silicon. But is it available to the plant and in this case they’ve done a great job in showing that this has great efficacy across a number of fungal species, on a number of crops and you know organic growers are looking for other ways to manage plant diseases.


MR. SMILLIE: I appreciated it. I enjoyed it Dr. Datnoff. It’s nice to get back to what organics is all about and certainly the role of silica in plant health has a very long history. You know as being bio-dynamically trained Rudolf Steiner one of the founders of organic thinking pointed out the important role of silicon in plants and I think it’s nice to see the modern research showing scientific reasons for what has been passed off as organic mythology in the past. So I really appreciated the presentation.

MR. DATNOFF: Thank you.

MS. CAROE: Any other comments or questions from the Board? And will you two be around the rest of the meeting to [unintelligible] [crosstalk]–
MR. DATNOFF: I’ll be here all day tomorrow.

MS. CAROE: Tomorrow.

MR. DATNOFF: But I have to go back tomorrow evening.

MS. CAROE: Okay so you’re available?

MR. DATNOFF: So if you have any questions related.

MS. CAROE: Tomorrow is the more important day during the discussion period.

MR. DATNOFF: Right exactly. So again like some of the other products that are mentioned in that TAP report like milk and whey I mean they’re really, they’re not registered, they’re not available, there is concerns about efficacy and the spectrum of activity is very narrow and here you’ve got some very broad spectrum.

MS. CAROE: Thank you very much for your comment. Moving on Lawrence Marais and then on deck Scott Hutchinson. Is Scott in the room? I’m sorry? Oh, John okay thank you.

MR. LAWRENCE MARAIS: Ready? I’m also a plant pathologist. I am an R and D manager for Monterey Ag Resources. We distribute potassium silica to ag industries in California. I’m very excited about this product.
I’m not going to belabor what Lawrence has explained there and Judy as well. What’s exciting about this product particularly if one looks at the problem that organic growers have with perennial plants, tree fruit crops to contend with soil born diseases, they do not have any organic products that are available to control these diseases. And we know that there’s a lot of documentation of potassium silicate being used to control disease like root rot in other avocados, citrus pythium and of course bacterial rot of tomatoes but discellium and ferrcerium [phonetic] are two diseases that are very prevalent, there aren’t even chemicals available to control these disease and we know that potassium silica does a good job of doing that when is applied as a soil drench. So this is very exciting.

Another thing nimitoad, nimitoad pests are extremely important as far as reducing crop yield. They don’t kill plants but they reduce yield and there aren’t any organic nimiticides [phonetic] of really any worth out there. And this potassium silicate does a good job of controlling citrus nimitoad and fretilancus [phonetic] and hellicadillancus [phonetic] in sugarcane, that’s been documented.
Another thing replant disease in perennial crops are really caused by a combination of nimitoads and sorgun [phonetic] fungi and you know that conventional growers use methyl bromide to get rid of that, to alleviate that problem while organic growers can’t use that. Methyl bromiders also could be leaving the market pretty soon and the combination of using potassium silicate to control nimitoads and sorgun pathogens, it’s a wonderful tool that organic growers have and that is something that one really needs to emphasis.

Insect pests in California and Florida of course you’ve all heard about the greening disease and in California we have Pierce’s diseases. These are vectored by insect pests and at the moment we only have some conventional chemicals like Admire that are toxic of course to the environment but are very good chemicals to control these vectors but organic growers don’t have that. The application of potassium silicate which is very good pesticide will help the wine grape growers who are organic and organic table grape growers to contend with Pierce’s disease. And in citrus, Asian greening disease which is transmitted by the citrasilla [phonetic] which is
also another disease, another vector that can be controlled by potassium silicate. So if one looks at potassium silicate as a fungicide for sorgun pathogens and pests that vector disease, this is a very important tool that organic growers can use.

Another fact that one has been looking at that’s been documented, the environmental stress that can be alleviated by potassium silicate, what happens is that when you’re applying potassium silicate as a [ unintelligible] spray or even as soil drench, we find that the amount of silica gel that is associated with the cell wall’s sililoes [phonetic] in the epidermal cells results in a reduction in transference. So during times of water deficit like we’re going through a period of draught, Georgia is, California next year our irrigation is going to be cut by almost 30% and growers that have perennial crops are going to need something they can apply that’ll reduce the amount of transference in their plants and this is one of them. Both conventional and organic growers can do that.

So just in summary then, this potassium silicate falls really extremely important issue in organic agriculture where no organic products for the effective control of sorgun disease and of
course nimitoads. There aren’t any organic products registered to control nimitoads at this stage, there are some biologicals but very inconsistent results. The maximum residue levels that are imposed on the products that are imported or exported to the European Union you know that every year they are imposing more, they’re increasing the maximum residue levels for post harvested yeast control. Potassium silicate is used to control post [unintelligible] diseases in cherries, avocados, bananas and if any organic growers are using organic substances or products to control post [unintelligible] diseases, they need to have something that has very low residues and potassium silicate is one of them that can be used. Thank you.

MS. CAROE: I’m afraid your time is expired? Rigo.

MR. RIGOBERTO DELGADO: We understand clearly what the mechanism of control in the case of diseases is, can you explain how it works for the case of insects? Is it similar?

MR. MARAIS: Insects?

MR. DELGADO: Yes.

MR. MARAIS: The insect, with insects there’s two modes of action, the one that Lawrence
explained as far as physical barrier. Aphids for instance cannot, they cannot probe because they start [unintelligible] very sensitively tender, they can’t probe cells that have been, that have the layer of silica in the epidermal cells, that is preventative. As far as I think the glassy winged sharpshooter for instance, that’ll be the same thing. You know that glassy winged sharpshooters probe right through the bark of vineyards and so on and they feed on the silon [phonetic]. Now the silicon, the potassium silicate is going to also form a physical barrier to probing and when insects feel that they find difficulty in probing, they move away. It’s not a toxic thing it’s just it’s mainly a physical barrier as far as insects are concerned. And also desiccation of course if you’re applying potassium silicate to an insect it’ll also desiccate that insect as well. In other words they die from desiccation.

MS. CAROE: Thank you. Other questions? Thank you so much for your comments.

MR. MARAIS: Thank you.

MS. CAROE: John Hutchison and Dave Martinelli are you in the room? And you have a proxy as well. You’re on deck.
MR. MITCH JOHNSON: Hi, I’m not John Hutcheson. I’m Mitch Johnson. John had to catch a plane a few minutes ago so I’m substituting for him.

Good evening, my name is Mitch Johnson and I am manager at Intervet Animal Health Company a part of Schering Plough Corporation. My purpose today is to introduce you to fenbendazol a material that was petitioned in February for addition to section 205-603 of the national list as a paracide [phonetic] to be used as an emergency treatment in dairy and breeder stock. While the TAP review has not been formally completed for this material we want to provide you with some information on fenbendazol and why we know that it is much more compatible with organic agriculture then the existing material on the list which is ivermectin. Specifically fenbendazol is an anathetic capable of causing the evacuation of parasidic intestinal worms important to cattle production and cattle health.

Fenbendazol was approved by the FDA in 1983 and is marketed under the trade name Safeguard. It is a proven treatment in control of several types of gastrointestinal worms including lung worms, stomach worms, and intestinal worms.
MR. JOHNSON: There are several specific reasons that fenbendazol is compatible with organic agriculture. First it is not a microlite antibiotic. Second it does not harm beneficial insects particularly the dung beetle as well, earth worms, plant life, fish, and micro organisms. Thirdly cattle internal parasites are increasingly developing resistance to the approved material ivermectin as well Safeguard fenbendazol addresses an important need in organic livestock production of welfare concerns. Quite simply a dairy heifer or a dairy cow parasitized is a sick unwell animal.

Fenbendazol is not, let me go into these points with a bit more information. Fenbendazol is not a microlite antibiotic but is instead a member of a well known and widely used class of compounds called the benzimidazoles. According to the Merck Veterinary manual the wide safety margin of benzimidazoles is due to their greater selective affinity for parasites rather then for mammalian tissues. In our early launch meetings with Safeguard back in the ‘80’s our technical services team would tell producers there’s a reason
why we called it Safeguard.

Fenbendazol’s activity is specific to gastrointestinal parasites. Extensive studies have demonstrated that fenbendazol will not have a negative impact on dung beetles, fish, earthworms, microorganisms or plant life. We have summarized some of those studies in a separate handout that I believe that you have received.

The emerging issue of parasite resistance to ivermectin is an increasing problem throughout the cattle industry. It is critical that an emergency treatment allowed for us in organic agriculture be an effective treatment. Fenbendazol has a different mode of action than ivermectin and the macrolide antibiotics therefore it is an effective dewormer in herds that have selected for ivermectin resistant parasites.

Unlike the USGA organic approved material, ivermectin, fenbendazol is administered orally and it does not become systemic in cattle. Studies have shown that fenbendazol is completely excreted within seven days of administration thus accounting for the short withdrawal period when used in slaughter stock production and a zero milk withhold in non-organic dairy production. The lack of an effective and organic compatible
parasidicide stands today as one of the key limiting factors in the growth of the organic livestock sector.

Current non-synthetic substances, synthetic substances on the list and alternative cultural practices are not adequate for the problem. For example diatomaceous earth has not been demonstrated to affective in controlling internal parasites in scientific studies and as you know the approved material, ivermectin, the only approved material is a macrolide antibiotic and has demonstrated negative impacts on dung beetles in particular.

In closing fenbendazol is not an antibiotic, it is safe to the environment, it affectively deals with the emerging issue of anathematic resistance in cattle production, it is good for supporting animal welfare and animal wellbeing and as important Safeguard and fenbendazol is being requested increasingly by organic dairy producer customers of Intervet as a viable option for controlling cattle parasites.

Thank you for you attention and I’ll entertain any questions.

MS. CAROE: Thank you. Questions? Huge?

MR. KARREMAN: I have a few but first I
want to thank you for bringing up fenbendazol again. I did not know it went for a TAP or submitted in February, I think I became aware of it in June or July something like that.

MALE VOICE: When we would have got it.

MR. KARREMAN: That’s when we got it.

Okay so, yeah. And at that point we kind of had out plate full with the agriculture symposium and what not so I didn’t want to give fenbendazol short shrift and I wanted to have it, I want to have it come up for a recommendation vote in the spring.

MR. JOHNSON: Thank you.

MR. KARREMAN: Okay so it’s going to be on a work plan. I’m glad it’s not a macrolite antibiotic. I know that and that’s very good. I just wonder if it’s available over the counter and there’s no milk withhold in the conventional world, that raises a few problems potentially just with it being used on the sly so to speak. I hope that wouldn’t happen but that would be one thing you know I’d be kind of, a little bit worried about but there’s other over the counter things as well like penicillin and we’re hoping that’s not used on the sly of course.

As far as the resistance of the
ivermectin, understood, I got that. That’s especially in goats and sheep actually not so much cattle yet in the U.S. But you know I don’t think that that’s really germane to the organic herds because they’re not using ivermectin routinely it’s like on the one animal. And as with antibiotics and organic antibiotic resistance of the pathogens, mastitis pathogens in organic herds, their resistance actually goes down when they’ve done some studies in Wisconsin and Michigan about resistance for the same bugs in a conventional versus organic herd. Anyway that’s me just blabbing away but I’m glad you’re going to petition it again. I want to support it and we will work on it between now and in the spring.

MR. JOHNSON: Thank you. We would welcome providing any information addressing any questions that the Board may have concerning the petition.

MR. KARREMAN: We will.

MS. CAROE: Right thank you. And we appreciate, the Board always appreciates Hugh’s expertise blabbing, yes. Thank you very much.

MR. JOHNSON: You’re welcome.

MS. CAROE: Up next is Dave Martinelli and Dave you have a proxy so you’ll have 10
minutes. On deck we have Barbara and Tom Elliott. Not here? Okay moving on it’ll be Kelly Shea on deck. When you’re ready.

MR. DAVE MARTINELLI: Okay. I need my Power Point here. No it’s the only file on that. It’s on that CD. While Valerie’s getting that up I apologize in advance, I’ll need every bit of my ten minutes. I’m trying to stuff 20 pounds of walnuts in a 10 pound back here so.

My name is Dave Martinelli and I’m with Petaluma Poultry/Coleman Natural Foods but actually today I’m speaking on behalf of the methionine task force. I’ll give you a little brief, if you can hit the next slide Valerie. I’ll give you a little brief overview of the methionine issue just very quickly. What the task force has done to date and kind of what we’ve determined on some different alternatives and what the next steps might be.

Methionine again just to kind of hit old ground here just again very quickly, is an essential amino acid. If poultry don’t get enough methionine in their diet they’ll exhibit a number of these characteristics that are shown there. We’ll have excessive mortality, poor performance in the field in terms of body weight or egg size
and in worse case poor feather development and actually the birds exhibiting signs of cannibalization and feather picking.

The current annotation to use synthetic methionine expires in October 2008 which is right around the corner and just as a point of reference from and inclusion rate standpoint a certain amount of the methionine in the diet is provided by corn and soybean meal. In synthetic methionine it’s out at the rate of five pounds per ton of feed so it’s approximately one quarter of one percent of the overall diet.

Methionine Task Force has been around for approximately six years. Individual members of the Task Force have been at this issue for much longer then that conducting field trials and the like. But within the last 12 months the Committee has kind of really re-energized again and a significant departure is the fact that we have asked for funding from different members. We felt a lot of research that needed to get done wasn’t getting done so we’ve kind of self imposed an assessment on our members and have raised a significant amount of money to cover a number of initiatives that I’ll kind of walk you through right here. This is kind of a quick overview of
them but we’ll discuss in some detail each one of
these items.

The first was a literature review. To
our knowledge it was the first review of its kind
conducted that both look at the methionine needs
of poultry as well as the national, international
organic standards and also discusses the viability
of certain alternatives. This review was
conducted by Dr. Bonnie Burns Whitmore at the
California State Polytechnic University in Pomona,
Cal Poly Pomona. And it’s really a tremendous
document. I would more then welcome the
opportunity to provide any member of the NOSB with
a copy of the Executive Summary which is in and of
itself about 100 pages long. The report is
approximately 60 pounds. If you’re interested we
can send it to you but it’s quite a bit of
reading.

Some of the key findings in it that we
found particularly interesting is that obviously
more research needs to be done both around the
feed requirements for the birds and also on
genotype. Interestingly enough there’s some
evidence from some of the historical that’s been
done that suggests that the leaner breeds may have
a methionine demand then a breed such as broilers
which tend to be a little fattier but interestingly enough heritage breeds do not have a lower methionine demand then commercial flocks. European practices are quite frankly unclear. It’s very obvious that methionine is not allowed in diets in Europe, in organic diets but in the discussions that Dr. Burns-Whitmire and her staff had with European producers there seemed to be some ambiguity at the producer level about whether synthetic methionine was allowed. We’ll get into this point a little bit later on but it’s very important that a number of the alternatives that are listed and are touted as being higher in methionine while they are indeed higher, they typically don’t have sufficient methionine except when included at very high rates in the diet which creates other imbalances in the diet. And we’ll cover that in a minute. Another initiative that the Task Force has been engaged in this last year are farm trials. There have been, there’s a number of broiler trials that have been completed and one that’s ongoing currently at Penn State. There’s a broiler trial, excuse me a layer trial that is being done through Organic Valley in conjunction with the University of Minnesota that is in
process and there is discussion about starting another layers at Penn State. None of these trials are peer reviewed, I should point that out as well.

The Coleman trial, I you can hit the next slide, the Coleman trial is interesting because actually the trial suggests that you can raise birds without methionine. The interesting part was, or the downside of this is the fact that meat yields were poor and the flock performance was not as strong from a feed conversion standpoint and the real, the sixty four million dollar question here is whether we can replicate those results on a commercial scale. This was in an isolated instance on an isolated farm with very small number so our next intent is to really try this trial on a larger scale. The other interesting point is that our best performance in the trial was using corn glutton meal on a diet which is not currently available in organic form either.

The organic value University of Minnesota trials really focused on using high methionine corn, they did not run a no methionine group so that is one of the things that the Task Force needs to look at in the future is potentially a layer trial that has no methionine in the diet and
no high methionine corn. And then obviously we need to have some turkey trials at some point. There isn’t a strong turkey representation on the Task Force so at some point we need to rerun trials to represent that segment of the industry. The organic rally results did show good performance on the layer side using high methionine corn and we will talk about high methionine corn as well right now.

The Task Force has been, had a strong dialogue with the Micro Field’s Agricultural Institute, Dr. Walter Goldstein. He’s given us a presentation. High methionine corn is attractive because it comprises a significant part of the diet. Corn’s approximately 60% of the diet of organic poultry and while it has two to three times in methionine levels of convention corn or normal I should say organic corn, that’s not a high enough percentage to provide all the methionine needs to the bird. Another issue not so much from the poultry side but from an agronomic perspective, farmers have been very reluctant to grow high methionine corn, there’s a concern about yield drag and high moisture content in it and those issues need to be overcome if this is going to be produced on a commercial scale.
But to try to get a little bit of the ball rolling in terms of getting high methionine corn out there, the Task Force has funded two different trials, they are currently underway. One trial is in Chile and a second trial has just been approved to start in Hawaii. The intent is we will generate and do some more hybrid experimentation, propagate some more seed stock, bring that back to the U.S., to the Midwest, get that planted in the spring of ’08, and then hopefully have some better data and some better results by harvest of ’08.

I alluded to this issue a little bit earlier that a number of the alternatives are commonly touted as being viable alternatives or products higher in methionine. Yes, they are higher but they don’t typically contain sufficient levels of methionine and the next slide I think really illustrates this. This is provided courtesy of Dr. Jackie Jacobs at the University of Minnesota. It lists a variety of feed ingredients; you probably can’t read them all from here. But the item at the very bottom of the list looks like the homerun item is casing.

The thing I would point out on this list is this is a scale from zero percent to three percent so that means that casing has
approximately 2.6%, 2.8% methionine. So to get
the equivalent of what five pounds of methionine
to get this we would have to include casing at the
diet at at least the rate of 10%. Now that’s
going to create significant other imbalances
within the diet that would probably not be able to
overcome and that’s casing which is the most
promising product. We haven’t even talked about
commercial availability just from an inclusion
rate perspective we have a lot of dietary
imbalance issues that would need to be addressed.
Next slide please Valerie.

When we talk about commercial
availability corn glutton meal I think is a very
promising product. It’s not available in organic
form and I’m not carrying any dialogue, actually
Dr. Bonnie Burns-Whitmore has interviewed people
in her report that claim to have used it and claim
that it is available in organic form. I’ve
canvassed everybody I can think of that we buy
feed from and I’ve no takers on anybody that can
produce organic corn glutton meal. If somebody
knows of one, please put them in touch with us.
Interestingly enough we have located a source of
sesame meal to at least do some trials with
organic sesame meal clearly a long ways away from
having that available on a commercial basis but I think for some trials we can pull some good data. Fish meal I don’t need to bore you with anymore aquacultural related issues probably today but nonetheless I think there are some significant hurdles there both in terms of the preservative that’s used, ethoxyquin and some of the other issues. Next slide please.

Pasture very quickly, pasture is considered to be one alternative. Earthworm meal on that chart was 1.6% methionine so earthworms and insects although quote unquote “rich” in methionine would need to be included in the diet at approximately 30% inclusion rate in order to make the diet balanced from a methionine perspective. It’s felt that if all the chickens could access that much earthworms and insects to balance their diet and get sufficient methionine needs. We talked about the Heritage breeds.

I’m running out of time so I’m going to hit these very quickly. These are three items the Committee’s really focused on: high methionine corn, genetic selection, and naturally fermented methionine. I will tell you that all of these are in the R and D phase and literally years probably five to ten years away from being available on a
commercial scale. I do think they hold tremendous amount of promise but if we can advance just a couple slides?

I just want to close with this. Just hit another slide or two Valerie. This is the final slide. We are well aware of the fact that the October 2008 deadline is right around the corner. We would like to come back to the Committee some point unfortunately with a petition. There’s a variety of paths we can take that are outlined there but what we’d really like to do is engage the Livestock Committee in some sort of dialogue around a potential solution. We think we have viable alternatives we simply are not going to have them available by October 2008.

MS. CAROE: All right. Thank you Dave for your comments.

MR. ENGELBERT: Real quick please?

MS. CAROE: Absolutely.

MR. ENGELBERT: How many years has methionine added to poultry rations?

MR. MARTINELLI: Six years I believe.

Synthetically you know with the annotation?

MR. ENGELBERT: At all in any—

MR. MARTINELLI: At all?

MR. ENGELBERT: Yes.
MR. MARTINELLI: I’m going to take a stab at it and say 40 years.

MR. ENGELBERT: How were their needs met prior to that time?

MR. MARTINELLI: Well that’s a great question. I don’t think you were getting the same sorts of feed conversions and performance and probably bird size, meat quality that you’re getting today. Whether that would be acceptable to the consumer I just don’t know. On a commercial scale everything we’ve determined in our C values etcetera, you need to add synthetic methionine to the diet.

MS. CAROE: Hugh.

MR. KARREMAN: Thanks for coming in Dave. We’ll be definitely staying in touch over the next year I know that. Did you see the fellow, the presentation from South Carolina with the insect meal earlier today, he was in here linked into agriculture.

MR. MARTINELLI: Yeah I need to get in touch with him. I did some quick calculations of what he kind of looked at in terms of run rate and availability. Obviously if that’s feasible and that’s a possibility. He would need to produce a significantly higher quantity then the amount he
was talking about at full run rate. I think he
was saying two hundred twenty tons a week. That
would not even be enough to do more then probably
20% of the broiler industry let alone layers and
turkeys. That aside, that sort of solution could
potentially be the answer. Again that won’t be
here by October 2008.

MS. CAROE: Dan.

MR. ENGELBERT: Well, no, I can let it
go. That’s fine. It’ll be more discussion. No
that’s fine really.

MR. GIACOMINI: As a rumen nutritionist
where I’d work with about half conventional
there’s a tremendous number of feed availability
and if I’m to use the best tools that I can and
consider that the perfect fox for making a ration
for nutrition, I don’t think I’ve ever made an
organic ration where I didn’t have to shave some
corners. I’m at the very least glad that this is
a not a Sunset item, it’s got a drop dead, it will
only happy with a petition. And the only thing I
would suggest right there is that if you want a
petition looked at in a timely fashion, you file
it tomorrow and that’s being a little dramatic.
But don’t think about looking into the future at
some point of time of when you’re doing it because
it’s only doing to delay things. Now that’s not saying whether it’s going to pass or not but if you’re going to be wanting to present a petition even with the data and the things you’re working on, start working with the NOP and that’s not working with us, that’s getting it approved with Valerie and Bob.

MR. MARTINELLI: You know if I could just, I appreciate the feedback. You know we’ve really frankly tried to avoid the whole petition discussion. I mean we’re much more focused on getting a solution then doing petition. I think we’re now coming to the realization thought that we aren’t left with a whole lot of options so we will put it in high gear to get something before you quickly.

MS. CAROE: Thank you. Any further questions from the Board? Thank you so much.

MR. MARTINELLI: Thank you.

MS. CAROE: Kelly Shea you’re up, on deck. First, let’s another call for Barbara or Tom Elliott, are you in the room? Okay then Harriet Behar for Joyce Ford, you’re on deck.

FEMALE VOICE: Barbara and Tom Elliott were Marty Mesh’s, he combined those earlier 'cause he was their proxy.
MS. KELLY SHEA: In the interest of time and because you’ve already received my comments in printed form, I’ll just be really brief and touch on three main points. Point number one, I’m with White Wave Foods Company and you probably better know us better as Horizon Organic Dairy and Soy Milk. In regards to the document that the NOSB has put together seeking comments on making determinations of ag. non-ag. and non-synthetic and synthetic, I would like to put forward a strong suggestion that NOSB look at convening an industry wide volunteer task force to collaborate on the issue. It’s a really crucial issue, there’s a lot of institutional knowledge and experience out there from former Board members, Trade association, groups such as OMRI. And I think that the many years of discussion and learnings really need to be captured in any final recommendation. It also would take a little weight off the shoulders of the Board and the program to let the organic community take this in our hands, spend you know six months, four to six months on it and come back with some work for you that you can then refine. So I’d like you to take that under consideration. And I know even in the room today a lot of people have said they’d be
happy to you know push up their sleeves and get involved in that.

The second thing is in regards to Sunset materials. We would very much like to see renewed carignan, agar agar, and cellulose. And in the written comments that I provided to the Board I gave you information on the original TAP reviews and the original Board votes for these materials. Carignan was approved in 1995, thirteen members in favor, one member absent. Agar agar which is obtained from seaweed vegetarian extracted using hot water that was approved in ’95 also, twelve in favor, one abstaining, one absent. And the same with cellulose, that was approved in 2001, ten votes in favor and four abstentions. Since the call for Sunset comments I believe the Board has received no information from the public about these materials being harmful in any way or problematic in any way. And I will be here tomorrow as well as Friday if you have any particular questions about those materials and I do have a lot of information as well as the original TAP’s and Board information.

And then lastly I don’t know if the Board is going to be considering gellan gum, it’s been a little complicated for me to follow. Though we
don’t use the product today, I believe that it is a product that fits the criteria. There are other similar but different products on the national list now and I think it would have some really good uses in organic food manufacturing. So if that was added to the national list, I believe it would be a tool that we would make use of. Thank you.


MS. HARRIET BEHAR: [Off mic]

[Unintelligible] then right after.

MS. CAROE: I’m sorry?

MS. BEHAR: Lianna is right after?

MS. CAROE: Yes and Lianna for Jim Riddle.

MS. BEHAR: Well she’s going to start and then I’m going to finish is that okay? ’Cause we’re bringing the same, we did this because Jim and Joyce will have a long amount.

MS. CAROE: Okay so you want ten minutes.

MS. BEHAR: We each have already had five minutes.

MS. CAROE: So you want ten minutes?

MS. BEHAR: Yep, but she’s going to read
1 half and then I’ll read half.
2 MS. CAROE: I don’t care how you do it.
3 MS. BEHAR: We were trying to follow the
4 rule.
5 MS. CAROE: I just want to know what to
6 set on the clock. Ten minutes okay.
7 MS. BEHAR: Ten minutes.
8 MS. CAROE: Actually.
9 MS. LIANNA HOODES: I just want to say
10 ahead of time that I am reading Jim Riddle and
11 Joyce Ford’s comments, these don’t reflect any of
12 the positions of the National Organic Coalition or
13 the National Campaign for Sustainable Agriculture.
14 Greetings I apologize for not attending
15 an NOSB meeting for the first time in over six
16 years. Joyce and I are taking a three week
17 vacation in South Africa. I continue in my
18 position as the University of Minnesota Organic
19 Outreach Coordinator and Joyce continues her work
20 as an organic inspector while volunteering as
21 President of the Board of the Midwest and Organic
22 and Sustainable Education Services. We submit
23 these comments on our on behalf.
24 First we’d like to congratulate Andrea
25 Caroe on completing your term in NOSB, kudos to
26 the NOP on your investigation of Aurora Dairy and
the well documented statement of fourteen willful
violations contained in the notice of proposed
revocation. Shame on those at USCA who undermined
the NOP’s good work by negotiating and issuing
consent agreement M005006, it is truly a bizarre
document which bares no relationship to OFPA, the
final rule or the violations identified in the
revocation notice. By refusing to hold Aurora and
its certifiers accountable for willful violations
the USDA had undermined consumer and producer
confidence in the Department’s ability and or
willingness to enforce Federal organic standards.

We have reviewed the agenda and draft
recommendations; commend you for your hard work
leading up to this meeting. We support proposed
changes to the Board policy and procedures manual
and are gratified to see that it continues to
serve as a living document. We are extremely
concerned that code of conduct and conflict of
interest provisions are being ignored and along
with former NOSB Chair Dave Carter submit the
attached formal ethics complaint regarding the
behavior of one NOSB member.

Proposed changes to the new member guide
make sense and should be adopted. In order to
familiarize new members with the Board’s standing
recommendations, the NOSB should add to the new member guide an explanation and link to the NOSB final recommendations table housed at and the URL is listed there.

Two points should be changed in the joint policy development Crops and Livestock Committee’s draft. Guidance on the certification of operations involved in crops research, the second sentence of line A2 on page two should be rephrased to read quote “per regulation all land treated with prohibited materials must undergo transition prior to certified organic status subject to the procedures found in 205, 202,” unquote. On page three of the same document the third sentence of quote “answer four” should be rephrased to read quote “land exposed to prohibited materials, practices, and or excluded methods will require a 36 month of organic management prior to regaining organic status,” unquote. The attached paper, Organic certification of Research Sites and Facilities recently presented by the American Society of Ogronomy is offered for consideration by the NOSB to further enhance and clarify your final recommendation.

The Joint Committee’s guidance on
Temporary Variance for Research should be adopted with no changes. The Materials and Handling Committee’s discussion document on the definition of materials is clearly a work in progress. As written it does more to confuse rather than clarify the issues at hand. On this issue we differ to comments submitted by the Organic Materials Review Institute who have extensive reviewing synthetic and non-synthetic materials used in organic production and handling.

We offer no comments on specific petition substances and Sunset materials. While the CAC’s draft on standardized certificates is good and should be adopted it does not address the issue of no expirational and renewal dates appearing on certificates. Certificates from suspended, surrendered or revoked operations continue to circulate since certificates only indicate the date of issuance and not a date of expiration or date of renewal. This deficiency handicaps buyers, inspectors, and regulators and increases opportunities for fraud. The CAC’s draft Further Guidance of the Establishment of Commercial Availability Criteria jumbles the issues related to determinations of commercially unavailable agricultural ingredients with issues related to
organic seed sourcing. The draft should remain at Committee level and be rewritten so that the two issues are articulated for separate but consistent consideration.

By far the most inappropriate draft recommendation being considered at this meeting and possibly in the history of the NOSB is the CAC’s Certifying Operations with Multiple Production Unit Sites and Facilities under the National Organic Program. This document appears to be nothing more then a veiled attempt to justify one agencies spot inspection program for retail chains by extending grower group inspection protocols to cover retailers and processors. The Committee’s draft proposes an illegal framework. Under a section titled Legal Background the draft makes no mention of OFPA 6506A which states quote “a program established under this title shall, five provide for annual onsite inspection by the certifying agent of each farm in handling operation that has been certified under this title,” unquote. OFPA defines handling operation as quote “the term handling operation means any operation or portion of an operation except final retailers of agricultural products that do not process agricultural products that” A receives or
otherwise agricultural products, and B, processes, packages, or stores such products” unquote. Farm is not defined in OFPA or in the final rule.

Harriet?

MS. CAROE: You can keep going.

MS. HOODES: All right. OFPA is very clear at 6506A5 that every handling operation must be annually inspected. The retail operations are not required to be certified under OFPA in the final rule. Once they choose to be certified, they are certified as handlers and must comply with all the applicable certification requirements for handlers. While handling operation is defined farm is not. This provides the secretary with some discretion to certify grower groups as farms. If a grower group is certified as a farm and the farm is annually inspected by an accredited certifying agent, then the requirements of OFPA are fulfilled.

To preserve consumer confidence and protect organic integrity while providing market access to small scale producers the NOSB should decisively reject the CAC’s draft. To respond to concerns identified by the NOB the NOSB should revisit the Board’s 2002 recommendation to strength the 1, inspector qualifications; 2,
conflict of interest provisions; and 3, risk assessment protocols to determine the percentage of production sites inspected by the ACA.

Further the NOP should consider the establishment of a separate accreditation category for ACA’s who conduct grower group certification as suggested by Lynn Cody [phonetic]. As always we appreciate the opportunity to comment and support the work that you do. Best regards and have a great meeting. Jim Riddle and Joyce Ford.

MS. CAROE: Thank you Lianna.

MS. HOODES: Sure.

MS. CAROE: Not that we could ask Jim or Joyce any question. I thank you very much for presenting that. Greg Nemec are you in the room? Greg? Okay, moving along. What? Then I have David Cox? Not here. Okay. The last one, Will Fantel [phonetic]? Will?

FEMALE VOICE: He is going to not speak tonight in the interest of time and I think one or both, somebody is signed up tomorrow morning between Will and Mark and they will speak then.

MS. CAROE: Okay you had me at he’s not going to speak tonight. So we are done with public comment. So with that we will recess till 8:00 A.M. tomorrow morning which is way too close.
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HELD AT: Arlington, VA
DATE: November 27-30, 2007

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Date: 1-10-08
UNITED STATES DEPARTMENT OF AGRICULTURE

IN RE: NATIONAL ORGANIC STANDARDS BOARD MEETING

Meeting held on the 29th day of November, 2007

at 8:00 a.m.
Holiday Inn-National Airport
Shenandoah Ballroom
2650 Jefferson Davis Highway
Arlington, VA

TRANSCRIPT OF PROCEEDINGS

11-29-07 NOSB Meeting Participants

Chair: Andrea Caroe

NOSB Members: Gerald Davis
Rigoberto Delgado
Steve DeMuri
Tina Ellor
Kevin Engelbert
Daniel Giacomini
Jennifer Hall
Katrina Heinze
Bea James
Hubert Karreman
Tracy Miedema
Jeffrey Moyer
Joseph Smillie
Julie Weisman

NOP Staff: Barbara C. Robinson
Mark A. Bradley
Katherine Benham
Valerie Frances
Robert Pooler
Jonathan Melvin
Richard Mathews
Valerie Schmale

Public Comment: Joe Dickson
Mark Kastel
Steve Peirce
Caren Wilcox
Kristen Knox
Gwen Wyard
Keith Olcott
Consuelo Allen
Zareb Herman
Marian J. Marshall
Margaret Wittenberg
Cheryl A. Van Dyne
Rick Green
Barbara Chinn
Rob Everts
Sam Welsh
Steve Fournier
CHAIR ANDREA CAROE: We’re going to go ahead and start our session.

CHAIR ANDREA CAROE: Our first order of business today with the Policy Development Committee, Rigoberto Delgado, chair. And three items that should be presented. So I will go ahead and turn it over to you Rigo.

MR. RIGOBERTO I. DELGADO: Thank you very much madam chair. As you said we do have three items for the PDC team, from the PDC team. The first one includes updates to the policy and procedures manual. We essentially have seven changes that are highlighted there on the first page of your handout. And those include the following. I must clarify that the purpose of these changes is to keep this document a live and helping us be better members and function better in duties.

So on that note I also would like to point out that I did forget to list the first change which is found on page five of the document. And that’s just the note that we added
to recommend new members to become familiar with
the Organic—with OFFBA and also the rule.

The next change that is presented there
on the list is the introductory paragraph found on
page six, this first section. On that same page
we have also a description of the [unintelligible]
mission of our board. We also have two edits to
the mission statement. And then an updated, an
update to the OFFba section, section number for
the following, the content on the sections called
duties of the board and officers.

I also needed to include there that on
page 33 of the, of the document we made a
correction on a typo. It, we, it had OFPS and now
OFFBA, minor change there. Going on with changes
listed. Those are found on page 45 and includes
changes the place of the committee recommendation
form to the front of the decision matrix that we
use. And [unintelligible] materials.

The second change was to the actual form
itself. We included a section—the top is just an
area to specify the use of the, of the material.
And we did make some changes on the layout of the
form. We think that this is a better looking form
and [unintelligible] and straightforward.

On page 54 we added a section that
highlights the process or the requirements for deferral. Clarification for deferral’s called and we, we said four points that one should serve as guided to committee members as to when, when we should be deferring decisions. and also on the second paragraph you’ll find several points that highlight the reasoning that you have two percent when you explain to the rest of the board why you went with a deferral decision.

The final change to that PPM is found on page 62 and it includes an addition to the list of parliamentary procedures. We added the definition for [unintelligible] motion and [unintelligible]. The specific clarifications on who and when motion can be done.

That includes our changes for the PPN. We did receive public comment supporting the changes. We appreciate the public comment. And I’m open to questions from the board members. No. hear none.

We move onto the next update which includes the new member guide. Again, this is a living document. And the changes, updates that we are presenting are meant to help us be better members, more effective. And essentially we have two. These changes were suggested by board member
in our last meeting.

And the first one includes—you’ll find there that it’s a section, additional section, 2.E. You’ll find it in two places. Right after the first page describing the summary of update. And you can also find it on the actual document. So you’ll see what decision that change will take within the document. And that section essentially highlights or describes the process for regulation making. Okay.

The second change is in addition of fifth chapter. And it’s addition in, I’m sorry, it’s additions to the fifth chapter and it’s a section called tracking changes in board documents. It’s part of the best practices. And it’s essentially a way of handing tracking changes in Word. We were not intending on promoting this software feature but we do find it very useful when we’re exchanging our emails as we conduct our business over the phone. So it is important for new member and old members, young and old, to be familiar with this tracking mechanism.

We did receive a public comment. Again, we are very grateful for it. A very supportive comment as well. And, and one the specific recommendation from the public was to add a link
to the final NOSB recommendations table. And that was it.

The final item we have is a, it’s an update on proof of, proof of concept. It’s a, a table or database of recommendations history or icon. And the update is as follows. We have had some proof of concepts going back and forth between Valerie and Bea and myself. And we do have a pre-beta, XL base, database of recommendations. We’ve been working on making something that is useful, practical, that everybody can have access to. It has a number of pull down and drop downs that allow you to locate and track recommendations quite, quite easily.

And, but the benefits are, we think, as follows. First, it’s going to be an archive that you can use as reference when you review your materials. And refer back to prior decisions if it applies, or similar decisions and so forth. But also we think that it can become a, a tracking mechanism so you, every member will be able to understand at one stage of the process is from the initial point of review at the committee level all the way up to the regulatory review process.

So that’s the update. I did omit to give enough time to the members to prove questions on
both the changes to the new member guide. And you
get to do so now. So you have any questions?
Yes.

MS. TRACY MIEDEMA: We got—this is out
there on the margins, a minor detail. I sent to
you about nine copy edits just cleaning up some
language. And I just—this is the first time I
looked to see and I don’t, I don’t think they were
incorporated in this draft. And—I’m sorry for the
new member guide.

MR. DELGADO: New member guide, okay.

MS. MIEDEMA: And I’m absolutely fine,
you know, waiting till the next meeting to
incorporate those. They were copy edits not
material.

MR. DEGADO: I apologize Tracy, I must
have misplaced those. But you’re right, it is a
living document and we’ll have a chance to update
those and incorporate those.

Any other comments, suggestions,

MS. BEA E. JAMES: Yes, I was wondering
if we could talk about—maybe with Valerie’s help
too—how long it will take to actually get that
database that we’re working on for all the
recommendations to the point where we can actually
look at it.

MS. VALERIE FRANCES: It was an over December last year project that I spent a lot of time on and then had to sit aside to, you know, do the ongoing stuff during the year. And I [unintelligible] get really back into it again hopefully during December when it’s a lot quieter and start working on refining the language and figuring out what additional fields we need and how to make it useful internally as well as externally. And move it along. So it’s really a time thing. and I’m happy to work with both of you on it, so.

MR. DELGADO: Thank you, Valerie. I do have to clarify that this is a joint effort with NOP and members of the BDC group. So appreciate your time and your help and your effort.

FEMALE VOICE: Just as a follow-up I want to acknowledge Valerie for all the work that she put into that preliminary database document. And because I know that there were technical changes that are taking place we weren’t able to share it. But I know that it was a lot of time so thank you.

MR. DELGADO: Andrea.

CHAIR ANDREA CAROE: Just a clarification on the format of what this is going to look like.
You’re talking about just an Excel document, you know, two-dimensional? Or are you talking about something like our materials which have actual links to the tabs and, and, you know the database on materials has a little bit more depth. Can we have that also included in this and actually have the recommendation?

FEMALE VOICE: Right now it has all the links built in. The challenge is that they keep talking about migrating the entire website. And I’m talking to my webmaster folks to about how to migrate, migrate those links within this document. And they’ve taken a look at it and they said they’re going to help me. So whatever point this web migration occurs, which I know they tried to do already. It, it, but that has been definitely a factor in how to manage this project.

MS. FRANCES: But right now all the links to the recommendations are all built in. They go back to the very original board meetings. Back to ’92 even. So it goes by meeting all the way up in reverse chronology. So you know.

MR. DELGADO: It sounds easy. It’s been a lot of work. Those links are there. We were very happily surprised when Valerie produced that Excel. But at the same time I must say it’s
Excel. It’s very simple to use. And again, I’m not championing any Microsoft product [laughter]. But, yes, Tina.

MS. KATRINA HEINZE: What, what level of information will this include. So, it will have just the former recommendation or will it include some discussion as to how those recommendations came to be? you know what level of information’s going to be included here?

MS. FRANCES: Right now it’s more, it’s kind of by topic. As things come up in our discussions it helps me see what sort of topics we need to bring forward. And some things are really deeply imbedded in ancient archive minutes that are not as pulled out and user friendly as our recommendations are now. I think, you know, over the years they’ve gotten better at having particular documents at our recommendations verses everything imbedded in our minutes. So the older ones are more difficult to really pull up.

And I know there’s some missing links to addendums and all kind of stuff that I would love to sort of fill in the gaps in and work with people who may have some of those documents. Even historically if we don’t have them I do find broken links in some places. So I, I, it’s going
to vary over time. but as we get better and
better at it I think we can continue to refine it.

MR. DELGADO: And also we will—once it’s
done and we’re happy with the beta version we’ll
send it out to all the members to to get their
feedback and see how it works. Yes, Bea.

MS. JAMES: I think the goal is to have a
chronological order of recommendations that are
still out there. And that they would be sorted by
date as well as by all committee. So we’d have a
chance to look at them that way.

MR. DELGADO: Any other questions? That
concludes our PAC presentation Madam Chair. Thank
you.

CHAIR ANDREA CAROE: Thank you, Rigo. So
you will have two vote items tomorrow. For the
new member—for the changes made to the board
policy manual and the new member guide and the
collaborative effort with NOP for this
recommendation database is an ongoing process.

MR. DELGADO: That’s correct. It’s just
an update.

CHAIR ANDREA CAROE: Okay. All right
moving on. thank you very much, Rigo for your
work on that continued maintenance on those
important documents. Next is the joint policy
development crops and livestock committee. I don’t know who’s taking the lead on this. We have Rigo from policy, Jerry from Crops, and Hue from livestock. Who wants to take the lead on this discussion?

MR. DELGADO: If it’s—
CHAIR ANDREA CAROE: [Interposing] Rigo.
MR. DELGADO: --all right with my colleagues I’d be happy to take the lead or the blame, however you want to see it. But essentially we do have two, two items. The involve agricul—research in particular. And the first item is called the guidance for certification of operations participating in crop production and research. The intent was to provide a, a clarification of how and, and who can do research and, and especially when it comes to the use of prohibited materials.

We believe this is applicable to research operations involved in crop research because of the nature of the prohibited materials. If you recall the section 290 allows for variances with the purpose of, of research. This, because it involves prohibited materials, doesn’t fall in that concept. So we more or less created a parenthesis to that.
The guidance, as it says in the summary there, is targeted to [unintelligible] optimal production practices and input on the certified organic conditions. And just as a matter of background, if you were to apply prohibited materials to any part of a certified field, you would lose your certification status and that will create a great deal of expense and problems for organizations, research organizations. Elevating the cost of research.

So that was the intent of, or the goal of this document. You’ll find that in the recommendations section we have three areas. The first one provides—and that’s on page two—provides the limits or the application of the, of the actual, the variance, if you will. And also provides for the allowance of isolated plants within the field. That can be used for research.

We also, in the following section, provided the proper buffer zones created around the, around that research lot. We provide the necessary justification or materials that need to accompany a request for, for, for a research variance in this case. On section C on page two, we provide a description of the, the process to assess that request.
We did get public comment, favorable public comment. Specifically there was a suggestion to modify the following wording on point A2. It suggests that we replace the second sentence ‘per regulation all land treated with prohibited materials will be considered to be.’ And the suggestion is to ‘must undergo transition.’ Adding the work ‘prior’ to certify organic status, subject to the procedures found in 2052 too. Otherwise we did not receive any other changes. At that point I open it to comments from my colleagues from the livestocks and crops committee if they want to. Or questions from the board members. Yes, Jerry.

Mr. Gerald A. Davis: Also there is the, that one word addition in question, answer four of that document also.

Mr. Delgado: That’s, that’s correct.

Mr. Davis: The word prohibited.

Mr. Delgado: That is. You’re absolutely right. It’s found on page three. It’s the answer to question four. And it’s the last sentence. ‘Land exposed to materials’ as we have right now. And the recommendation is to add the word prohibited. ‘Materials [unintelligible] land exposed to prohibited materials, practices, or, or
excluded materials.’ Good, good [unintelligible].

Thanks for that. Yes.

MALE VOICE: I, I think we should include
that, both those suggestions. I think they’re
both good suggestions.

MR. DELGADO: [unintelligible] so none?

Very well. Any other?

CHAIR ANDREA CAROE: Just we may want to
do that tomorrow when we have a motion on the
floor. Amend the motion to put those two things
in and then vote on them. Since it’s already gone
through a committee. At this point it now needs
to be a board action to make those changes.

MR. DELGADO: Right. Yes, I agree.

That’s the proper procedure and we’ll follow that.

any other questions, suggestions? Leave that—
Kevin, questions? No. Okay. So [unintelligible]
we’ll move onto the next item. That is called
guidance on temporary variance for research. And
again, this is clarification for research
operations. And, we, we spend a great deal of
time with this, but we essentially provide enough
framework to assess research variance requests.
And we’re presenting a set of general principles
that first of all provide the, the, the
justification. Or if you will the, the, the logic
behind approving a request for variance. And having said that I’m moving on straight to the deliverable in this document which is found on page four.

That is the actual recommendation. Follows pretty much the logic that we had in the previous document. We start with the scope on point A where we specify where it’s applicable and to what. Second followed by the set of requirements that a requester needs to fulfill in order to request a variance. And then the last point highlight the criteria that must be considered in determining the validity of a variance request.

And final requirements on points D through F involve general publication and sharing of results of the research. This item is also going to be presented for voting as a recommendation. And I open the floor for additional comments from my colleagues in livestock and crops if they want to add anything else, or questions from the board members. Yes, Andrea.

CHAIR ANDREA CAROE: Well I just want to clarify to those that are here today, this board has no authority to grant a variance. The
variance is, can only be granted. Research variance can only be granted by the administrator. This is simply a information to provide a format for that, that request. Also the regulation’s quite specific over which pieces of the regulation could possibly be varianced, or more specifically, which ones cannot.

So there—although this is a helpful piece of information, this is format information, this is the intent of what that request should look like. And there’s a limit to how far we are able to go. This is clearly through the regulation, not within our authority. But in doing so it was, it was a, kind of a, I guess a black hole that we, we added some clarity to how the process works.

MR. DELGADO: That’s correct. I agree with that. an emphasis on the word framework for decision-making. Yes, good point. Any other comments from Hue? Jerry? Okay. Questions from [unintelligible]? Yes, sir.

MALE VOICE: I’d just like to say that we did put a lot of time in this. And we depended a lot of Jeff given that this was his life’s work. and he was invaluable in what we came up with.

MR. DELGADO: Absolutely, yes. I [unintelligible] to that, yes. His participation
contribution was invaluable. And also from the public we did have some very good comments. No changes so that means that they liked our work. they’re proud. So, well, on that note Madam Chair, we conclude our presentation.

CHAIR ANDREA CAROE: Thank you again, Rigo. All right. Next up is our materials presentation as is become our tradition we, the materials chair will give a presentation on the process that a, a petition material goes through on it’s way to the national list. So, Dan Giacomini is chair of the materials committee and therefore he has the, has the stage for the presentation.

MR. DANIAL G. GIACOMINI: Thank you, Andrea. I’ll try to stay far enough away from the microphone so that we don’t have problems with it today. Hopefully with the bigger tables. And thank you to the program for giving us a little more space [applause]. The national organic materials update, the outline for our talk today is to look at the national list of allowed and prohibited substances. To review the petitioned and sunset review of items. And really all of the items that, that have come to, gone through the process where they are at least ready to come onto
our doorstep. They do not include all of the
items that are still being processed by the NOP
that have not been completed, but ones that are
very, at least very close.

We will look at the material review
process. We will look at the national list
criteria, the sunset review criteria. As an
overview of the materials committee, a very brief
mention. There’s, they’ll be a more extension
discussion on definition materials, but just a
brief mention of it here. And then any final
notes that we have.

The national list—next slide—
[unintelligible] percent of materials under crops.
Section 601 is synthetic substances. And I will—
you know most of these but I’ll, I’ll just
summarize them as we go along. So 601 is the
synthetic substances that are allowed in crop
production. 602 is the non-synthetic,
quote/unquote “natural” substances that are
prohibited in organic crop production. Section
603 is, and 604 are livestock with 603 being
synthetic substances allowed, 604 being non-
synthetic substances prohibited

Handling is slightly different in that
everything needs to be on the list. 605 is non-
agricultural, non-organic substances allowed with section a being non-synthetic substances allowed and section B being synthetics allowed. Section 606 for handling is non-organically produced agricultural products that are allowed as ingredients in or on processed products labeled as organic.

Petition and sunset review items.

Current recommendations for section 601, potassium silicate, sodium carbonate peroxyhydrate, and sodium pharic [phonetic] hydroxate EDTA. Under 606 is grape seed extract.

Sunset items at this meeting for recommendation, consideration are listed there. For 601 two of which have two listings on the national list. 602 for calcium chloride. 606a there is some debate on three of those items and— I’m sorry 605a—and handling will deal with those issues when they get to, when they have their discussions. And 605b cellulose.

Petition items that I’m listing here as consideration. Those are the ones that are somewhere in that process of being very done or have been sent to us or, or, or have been—well we’ll just leave it there. Listed there for 601, 603, 605b, and 606.
Additional items that are still somewhere on the table. Items that have been, substances that have been returned to the NOP and waiting for additional information. Some of which may be clarification on their status relative to the definition of materials issues, ag/non-ag, synthetic, non-synthetic. Or also they’ve been sent back to the program requesting tap reviews.

There are also the four items listed there that have been fairly recently, at some meeting, where the most recent petition was deferred by the petitioner. There’s no additional action or consideration at this time on those items.

Livestock there are no petition or substance sunset items on the docket for the livestock committee for this fall. But do want to mention again, the finding that the nature of the invitation at the end of the—with an end date with the finding makes this item not eligible for sunset. In order for this item to stay on the national or be, to be replaced on the national list this substance must be petitioned for that process to occur. Okay.

FEMALE VOICE: I just want to add a little bit of clarification to that. It, it, just
add some depth to what Dan is talking about. Meaning that a sunset is a continuation of a regulation.

MR. GIACOMINI: I get that.

FEMALE VOICE: We could sunset methionine, but methionine has an annotation that says it’s no longer used, you can no longer use it. So in essence sunset is not applying. It’s irrelevant. So just a little bit of—I know there’s been a lot of questions about that and there’s been a lot of confusion. But there is a specific date in there that even if the regulation continues, the way it’s written it’s saying that it’s not, you can’t use it.

MS. ROBINSON: I just want to say I, I appreciate that presentation. That’s the best presentation materials that I have ever seen a board put up in all the years that I’ve been sitting at one of these. Thank you [applause].

MR. GIACOMINI: Well thank you, Barbara. But I’m not done yet so hopefully I don’t disappoint you and change your mind by the end [laughter]. The material review process. This, this portion of the program, I was told a number of years ago that if you take something from someone else you should reference it about the
first three times that you use it before you claim it for your own. So I think this is the second time I used this so I will still give Kim Dietz credit for this portion of the program. I stole it from one of her old presentations on the issue.

The minimum time from for the national review, list review, material review is 145 days. The first portion of this process is with once the petition comes to the NOSB, the petition is first reviewed by the NOP and reviewed for completeness. Received by the NOP and reviewed for completeness. And on determination of the completeness by the NOP, the petition is forwarded to the NOSB materials chairperson.

Materials chairperson forwards that petition to the chairperson of the designated NOSB committee, whether that be crops, livestock, or handling. The petition is reevaluated for completeness and to determine if it will be forwarded back to the NOP for a tap review. Currently there are no taps for 606 items. Tap reviews are completed and returned back to the NOSB. The reviews are posted on the NOP website for review and public comment. And committee recommendation are posted for public comment. Then the 30 days—yes.
FEMALE VOICE: Really it’s six weeks at this point with the change—

MR. GIACOMINI: [Interposing] yes, yes.

FEMALE VOICE: In [unintelligible]. I just want to make sure you understand that.

MR. GIACOMINI: Yeah, we get there.

FEMALE VOICE: Okay.

MR. GIACOMINI: Within the 30 days prior to the meeting—and that, that should be 60 days now with the new processing of posting—public comment is accepted by the NOP and posted on the website.

At the NOSB meeting committee recommendations are submitted. Further comments are accepted from the public. And all public comments are taken into consideration. And actions taken by the full NOSB regarding committee recommendations.

During the entire process all communication between petitioners and the NOSB should go through the NOP office. National list criteria in general. Number one potential for such a substance for detrimental chemical action with other materials used in organic farm systems. Number two toxicity and mode of action of the substance and of it’s breakdown products of any
contaminants and their persistence and areas of
centrone in the environment.

Number three the probability of the
environmental contamination during manufacture
use, misuse, or disposal of such substances. Four
the effect of the substance on human health.
Number five the effect of the substance on
biological and chemical reactions in the agro-
ecosystem including the physiological effects of
the substance on soil, microorganism including the
salt index and solubility of the soil, crops and
livestock.

Number six the alternative for use, the
alternative to using the substances in terms of
practices and other available materials and it’s
compatibility with a system of sustainable
agriculture. And that’s coming from the federal
registered docket listed there.

Regarding processing age and adjuvant,
the substances can’t be produced from a natural
source and there is not organic substitute. The
subjects manufacturer’s use and disposal do not
have adverse effects on the environment and are
done in a manner compatible with organic handling.

MR. HUBERT J KARRAMAN: You use the term
adjuvant is that specific to processing right here because adjuvant are used in livestock medications which have now been addressed by that docket.

FEMALE VOICE: [Off mic].

MR. KARRAMAN: This is specific to processing. Thank you.

MR. GIACOMINI: Yes. Number three the nutritional quality of the food is maintained when the substance is used or and the substance itself or its break down products do not have an adverse effect on human health ads defined by applicable federal regulations. The substances primary use is as a preservative or to recreate or improve flavors, colors, textures, or nutritive value lost during processing except where the replacement of nutrients is required by law.

Number five the substance is listed as generally recognized safe grass by the FDA when used in accordance with the FDA’s good manufacturing practices and contains no residues of heavy metals or other contaminants in excess of tolerance set by FDA.

And number six substance is essential for the handling of organically produced agricultural products. And that comes from federal, the rule section 606b. I mean 600b, excuse me. Regarding
606 items, agricultural and potential commercial unavailability NOSB will consider a: why the substance should be promoted in the production or handling of an organic product. B: the current product industry regarding availability of and the history of unavailability of the organic form in the appropriate form, quality, and quantity of the substance.

Industry information includes by is not limited to regions of production including factors such as climate and the number of regions. The number of suppliers and the amount produced. Current and historical supplies related to weather events such as hurricanes, floods, and droughts that may temporarily halt production and destroy crops or supplies.

Four trade related issues such as evidence of hoarding, war, trade barriers, or civil unrest that may temporarily restrict supplies, and other issues which may present a challenge to a consistent supply. And those items come from the federal register docket listed.

Sunset review criteria. Sunset review criteria from, directly taken from OFBA is that no exception, I’m sorry, no exemption or prohibition contained in the national list shall be valid
unless the national organic standards board has
reviewed such exemption or prohibition, as
provided in this section, within five years of
such exemption or prohibition being adopted or
reviewed. And the secretary had renewed such
exemption or prohibition.

Sunset review criteria. Sunset includes
the opportunity to revisit the continued need for
the regulation of the substance and the review
finds, if the review finds that the initial
condition still exists the regulation is renewed
for an additional period of time. This comes from
a 2004 NOSB guidance document, sunset and the
national list of allowed and prohibited
substances.

Sunset process is not used to petition,
to add a new substance to the national list, nor
is it used to change an existing annotation.
That’s from that same document.

Exemptions which are national list
listing are accepted because the evidence
available showed substances were found not harmful
to human health or the environment, substances
were necessary because of the availability of
wholly non-synthetic alternatives, and the
substances were consistent and compatible with
organic practices. That’s similar to what I mentioned earlier. But just summarizing it down into three points.

Sunset is a repeat of the national process. NOSB will solicit information and comment to reevaluate the substance against the same criteria that substances were found not harmful to humans or the environment, substances were necessary and non-synthetic alternatives were available, and the substances were consistent and compatible with organic processes.

Regarding the definition of materials I just wanted to leave one thing here. It’s a quote from a songwriter, from a song that I know; “The art of simplicity simply means making peace with your complexity.” This is a very complex issue and we are trying, the committee was trying to look at it from not a radical approach, but maybe a new approach.

Final notes, public comment. All public comment is now handled through www.regulations.gov according to federal registered docket and the governmental agency. It’s an effect, an effort to bring processing of public comments to an equal level of efficiency across departments and agencies. And the new process sets deadlines for
having comments posted. All public comments received by the NOP will be made available to the NOSB members for review in advance of the respective vote whenever possible.

The, I was, one of the things that I was charged with in making this presentation was a review of the posting process of making a public comment. With all due respect of everyone involved in that program, it’s, I think it’s generally accepted that that is a very difficult website to manage and, and—

FEMALE VOICE: [Interposing] navigate.

MR. GIACOMINI: --navigate. And in trying to, as briefly as possible, come up with an explanation of how to do that I will be very honest with you, we have a very simple four or five step procedure for just getting to look at your public comments, that Valerie has put together for us. And half the time I can’t get there. So it, it’s a very complicated thing. and I could simply not come up with a summary of that in this brief amount of time.

Finally, for the relevant website listings were listed there and now they’re gone. AMS, the NOP website, the NOSB website, and public comments regulations.gov thank you.
CHAIR ANDREA CAROE: Thank you, Dan. Is there any, any questions for Dan on the process? Hue

MR. KARREMAN: Just one, one thing Dan. On, you quoted one of the regulations for like the seven criteria that we review materials. That is directly, actually from OFFBA isn’t it. Isn’t that right in OFFBA, those seven items for review. Just, I saw it was in regulation two, but I do believe it’s right out of OFFBA. Barbara has it.

FEMALE VOICE: Not for processing, Hue. The, the general criteria are, are from OFFBA. But the, the criteria from processing aids and adjuvant those are from the NOP regulations because there weren’t any—when OFFBA was written there wasn’t any contemplation that there would be a national list for processing.

CHAIR ANDREA CAROE: Any other questions? It, it is important though to recognize the difference between those general criteria and the processing criteria. Especially as you’re looking at materials. The confusion may be trying to apply those processing criteria to materials in which they don’t apply. Which we can’t do. and so remember that those are processing criteria for, for processing aids and adjuvant. Barbara.
MS. BARBARA C. ROBINSON: That’s why we came up with that. I think we gave you those forms and you’re using those.

CHAIR ANDREA CAROE: That’s correct.

MS. ROBINSON: But we identify which criteria applies whether you’re evaluating a material for crops, livestock, or handling and which criteria you should evaluate it against. Right?

CHAIR ANDREA CAROE: I absolutely agree. And when the committees are filling out those they are right on track. But when the committee—the board starts discussing it we’re not necessarily staying on track with the forms.

MS. ROBINSON: Right.

CHAIR ANDREA CAROE: And so as the discussion is, is evolving I just want to make sure that it’s not evolving around criteria that is not applicable to the material.

MS. ROBINSON: Right, right.

CHAIR ANDREA CAROE: Because there is a little overlap but—

MS. ROBINSON: [Interposing] Yeah you do have to sort of be careful there.

CHAIR ANDREA CAROE: That’s what I was pointing out. Gerald.
MR. GERALD DAVIS: Regarding the regulations.gov website, Valerie or someone from the program, do we have a breakthrough in sight as far as more easier manipulation of that website as far as some sort of instructions or something that will put an end to the difficulty people are discovering.

FEMALE VOICE: Barbara just, you want to [unintelligible]?

MS. ROBINSON: I talked with Kris Sarcoat [phonetic]. Lock Key Martin [phonetic] runs that sight and I guess we— you know I’ve gone back and forth with, with Kris because I didn’t realize how much, how much trouble you all were having. And we’re—I’m going to work with her some. She, she didn’t realize. In fact the last time you all were having trouble with it apparently the— everyone was having trouble. You weren’t the only ones. Then we got a message that, I guess, the thing was down or something. They were having technical difficulties. So you weren’t the only ones who were having problems with it. But then they failed to send out the right kind of message to tell people that no one could get on.

So Lock Key Martin [phonetic] anyway, has the contract for one more year. And hopefully
enough people will complain that they’ll either
get the message that they need to make this thing
more user-friendly or they’ll lose the contract.
So in the meantime, I think, between Valerie and
I, I think we’ll continue to work with Kris and
see if we can’t, you know, get our voices heard a
little bit more. But apparently, you know, Kris
says that she has trouble with it too, I guess.
And, and it is just not, it’s just not user
friendly, you know. And, and I apologize for
that, you know.

She has trouble finding, finding our
comments. We’re the base, we’re like the second
largest agency for regulations in USDA. So it,
it’s really important that we do be able to use
this thing easily. I’ll keep working on it is all
I can tell you. and see if I can’t come up with a
more user-friendly set of instructions, at least,
so you can get into it. But I don’t know, I don’t
know what else to tell you right at the moment.
FEMALE VOICE: And I’m truly concerned
about the future of those comments as an archive.
MS. ROBINSON: Yeah. I know. I know.
I’m sorry is all I can tell you. it’s out of our-
that is really out of our control too.
CHAIR ANDREA CAROE: Bea, you had a
question.

MS. JAMES: If I could make a simple suggestion, I’ve had to coach people that I know that are trying to get in and look at public comment, how to do it. There’s no simple instructions or like a header posted anywhere: here’s how you actually find your public comment or public comment. If that could be posted somewhere that would really help.

FEMALE VOICE: You’d never find it [laughter].

MS. JAMES: Well even if it was on that NOSB website under public comment and then directions for accessing public comment. that would be great [laughter]. And I’m not a techy. So if I can figure that out.

CHAIR ANDREA CAROE: Okay. well we appreciate, we appreciate the effort you’re making to help us out with this. And we appreciate the frustration that you also must have with this. But again, we’ve expressed the urgency. And these public comments are fundamental to the work we do. So I think, I think this just highlighted that for us, how important it is for us to be able to see these comments. And how nice it was to see them in actual paper [laughter] when we got to the
meeting. With that, any further questions for Dan and the material process? Joe.

MR. JOSEPH SMILLIE: Yeah, I’m not sure if it’s the right time or not, but Dan, you, you said that there is no tap reviews required for 606. could you elaborate? Is that just a—

[Interposing] [off mic].

MR. SMILLIE: That’s a board decision. Dan.

MR. GIACOMINI: My understanding on that was that that was a program decision that no tap reviews were required on agricultural products.

MR. SMILLIE: Required, but suppose we would come across material that we think merits a tap. Is that, I mean, financial considerations aside. Is that, is that a hard and fast?

MR. GIACOMINI: We can submit a request and see what happens.

MR. SMILLIE: Okay.

CHAIR ANDREA CAROE: I’d like to go ahead and recognize Kim Dietz on these. She worked on the sunset process better, you know, more intimately than any of us. so, Kim, if you’re willing will you give us a little bit of the background on that?

MALE VOICE: Not sunset, 606.
CHAIR ANDREA CAROE: 606, I’m sorry, 606.

MS. KIM DIETZ: Good morning, Kim Dietz.

Thanks Andrea. The decision to, to not do tap reviews on 606 is really up to you. The rule office says the board may convene a tap review for anything that you want. It’s really up to your discretion.

However, based on the complexity or non, non-complex material that’s really something you have to evaluate. In the past 606 material is, should be an agricultural product with minimal processing. It’s something—if it isn’t then that’s certainly up to you. But really the funding is what, why we decided not to do that. so it’s really at your discretion.

CHAIR ANDREA CAROE: Thanks, Kim. But could you explain to us what an agricultural product is [laughter].

MS. KIM DIETZ: I was going to do that in my comments [laughter].

MALE VOICE: And what was your definition of minimal again [laughter].

MS. DIETZ: So, anyways, what a tangled web we weave. This is all, all quite tied together. And I didn’t understand what you were saying, Joe. And there are these, these materials
that we’re—it’s, it’s questionable whether they’re agricultural or not because of the amount of processing that goes into—or manipulation that goes into the products. And it certainly would be nice to have the resource of the 606, I mean, of a tap review to look at them.

And one of the one, one of the one things that—one of the first things we get out of our tap review is the, is the categorization of the material. The tap reviews tell us if it’s synthetic or non-synthetic, agricultural or non-agricultural. Sometimes that in itself is the value of the tap. So there, there will be situations that I think it will be appropriate for us to request tap.

CHAIR ANDREA CAROE: Any other materials, questions, or questions for Dan? Hue.

MR. KARREMAN: Not really for Dan, I’m just curious. What—since we’re talking about taps—how much is in the coffers for doing taps? A big fat zero. Till when? Like—

FEMALE VOICE: [Interposing] we’re on a—

MR. KARREMAN: --can’t be forever.

That’s what we’re here for.

FEMALE VOICE: Well you know we’re on a continuing resolution. Right now through the
middle of December. I don’t expect to get out from under the continuing resolution until March really, really. To be realistic. And the chances are pretty good that we could, you know, I don’t know when we’re going to see a budget.

If we got our new budget we could get another million dollars in this program. Which would practically double the NOP budget. Frankly, we don’t have any discretionary spending let in the NOP budget. What we have is about $60,000. period. That’s it [laughter].

FEMALE VOICE: Bake sales.
FEMALE VOICE: Yeah, car washes and bake sales guys, for taps.
FEMALE VOICE: Right [laughter].
CHAIR ANDREA CAROE: All right, any other questions?

MS. JAMES: I have a question for Dan.
CHAIR ANDREA CAROE: Bea.

MS. JAMES: Dan, I was wondering if you could have that presentation posted under our agenda? That would be great. It’s currently not. so that would be—thank you.

MR. KARREMAN: One more question.
CHAIR ANDREA CAROE: Hue.

MR. KARREMAN: Not to get into whole
budgetary things because that’s a whole different,
you know, world. But is, is there any possible
way for tap review money to come in from some
other neutral source or must it come in through
the USDA?

FEMALE VOICE: You mean like a gift?

MR. KARREMAN: Yeah, some philanthropist
or something. Is that possible or not?

CHAIR ANDREA CAROE: You know, you’re
not, this is not the first time that’s been
brought up. In past years previous boards have
said what if, what if someone was to give you
money just for taps. And so that’s not such an
odd question. But we can’t accept, we can’t
accept money is the short answer.

MALE VOICE: We have user fees though.

FEMALE VOICE: Dan.

FEMALE VOICE: If we have user fee
authority that would be great.

MALE VOICE: User fees to do—

[Off mic]

FEMALE VOICE: Yeah, yeah, I did.

MALE VOICE: Is that, is that, is it the
user fee that makes it different between for
instance the FDA where the companies submitting
the drug?
FEMALE VOICE: Yeah, basically.

MALE VOICE: Are we not, are we not able to do that.

FEMALE VOICE: The reason we are poor is we’re an appropriated program, exactly. If we had user fee authority we would be charging our certifying agents. Of course then they would be charging a lot more to the certified operations. Yeah, but then we would be a lot richer because we would be charging by the hour.

MALE VOICE: But what if, what if the company’s submitting—what if the petitioner—

FEMALE VOICE: [Interposing] we would also charge the petitioners.

MALE VOICE: What if they paid for the taps?

FEMALE VOICE: Well, we’d be doing a lot fewer taps I can tell you that right now because people would be petitioning a lot fewer materials to go on the national list.

MALE VOICE: But if that was an option. Right now we’re not doing any taps and, and—

FEMALE VOICE: [Interposing] right.

MALE VOICE: --substances are starting to—could potentially get backed up. If a petitioner wanted that tap done and was willing to
do that is that an option?

FEMALE VOICE: No, because we don’t have any user fee authority is the problem. Here’s the problem.

CHAIR ANDREA CAROE: Okay. actually, Kevin I want to get to you but I see either Kim or Rose to get some board historic perspective, I think, is valuable at this point.

MS. ROSE KOENIG: I think first of all that maybe the board isn’t utilizing—the fact that a lot of times the petitioner will provide you a lot of technical information. you know a good example is the potassium silicate petition. So if you go back—and I don’t know if you still give the folks the petition. I know a lot of times it’s on the web, but you’re looking at the technical report.

So the first thing is you do have a body of information. Now that information may be bias because it’s being submitted by the company. Additionally, there’s a thing called Google [laughter]. But you can access—you know it does take extra work from the board, but it’s not that you can—you know your hands are tied. You yourselves can do some minimal research on those things. A lot of it is just technical research
and you can just say alternatives to some.

So I don’t think that you have to feel like because there’s not money to actually pay for a technical report that the committees can’t go forward. You know as you do that you might feel that you’ve gathered at least sufficient amount of information by doing a Google search yourselves.

Like for example, on this soy protein isolate, when I started getting through even the tap reports it wasn’t sufficient to answer the questions that the board actually came up with in terms of whether this thing was synthetic or non-synthetic. So at that time there was folks that, you know, every time I would do a Google search there were people in the university community that actually had expertise in food science. And you can utilize those folks.

But again, it’s going to put extra work on you guys. Which, you know, and you’re already, you know, with a lot of work. But, you know, if people on the board have that energy and that inclination, you know, it is possible for any individual that has some common sense and can read and do a little bit of research to kind of get those answers. But it’s not, certainly, as efficient as a tap report.
CHAIR ANDREA CAROE: Rose, just before you leave, I think, specifically I know of a situation where we have a material where it’s about the process and technique.

MS. KOENIG: Um-hmm.

CHAIR ANDREA CAROE: And that, not necessarily can— I mean some of that’s confidential business information that we’re not really being able to get.

MS. KOENIG: But the thing is, when you’re putting the material on the list you’re not putting that—it, it doesn’t matter who produces that generic material. There’s usually multiple ways. And it’s very rare that there’s a proprietary way. And even if there is you still have to look at all the ways that it’s being produced because in a way the only way you can exclude a way of something that’s producing is by those annotations that we all have learned to love, right.

So I’m just saying you have to remember you’re not putting that product on for that individual company. Once it’s on that list as a generic it doesn’t—you’re in a way saying, okay, it doesn’t matter how it’s produced; we consider it synthetic and all of it’s all right unless we
annotate it. So a lot of times the proprietary—if
you can’t get that information you still probably
could get information on all the other ways it’s
manufactured and it may help. But remember, we’re
not doing this…

[END MZ005018]

[START MZ005019]

MS. KOENIG: …for individual companies
though. It’s not their product that we’re putting
on the list.

CHAIR ANDREA CAROE: I, I, I agree with
everything you said, Rose, I mean whole-heartedly.
I just, I think that some of the information is a
little bit easier to access online then others. I
mean definitely information about the material.
But it, it falls short a little bit on some of the
processes and technologies.

FEMALE VOICE: [Crosstalk] but don’t
forget there is this thing called confidential
business, CBI.

CHAIR ANDREA CAROE: Yeah.

FEMALE VOICE: And sometimes we, as a
board don’t even have access to that information.

CHAIR ANDREA CAROE: Exactly. That’s the
point. That’ the point. That’s where we’re
[unintelligible].
FEMALE VOICE: And they’re not [unintelligible] on pass [unintelligible] when that confidential business information came up. As a board you have to put it on knowing that you can never access that information. If you’re not comfortable with that then it’s really not an [unintelligible] criteria, but you can say there’s insufficient information of how it’s manufactured. That doesn’t make us feel comfortable. We don’t know if it meets the criteria on that.

CHAIR ANDREA CAROE: Kevin and then Hue.

MR. KEVIN ENGELBERT: I’m just curious, Barbara, the money that certification agencies pay to become accredited every year and reviewed, doesn’t that come back into the program or is that already figured in as part of your budget?

MS. ROBINSON: No, that doesn’t, that doesn’t come to the NOP first of all. That goes—well first of all they’re not paying every year, okay. They pay every five years and it goes to the arch [phonetic] branch. It goes to the auditors. And they’re paying a user fee, they’re paying travel and perdeium. But nevertheless, it doesn’t come back to NOP.

And it’s not like a profit that they’re making, okay. It’s a cost recovery basis. So the
auditors that go out there, say to audit CCOP, let’s say—

[Background talking].


MS. ROBINSON: Or Nofum [phonetic] New York, whatever. For the time that they spend out there reviewing the documents they’re being charged on an hourly basis by those auditors for the salary that it takes to recover, you know, to pay for those two guys that spend all that time out there. So there isn’t any extra money floating around. And those guys work for Jim [unintelligible] shop. So it doesn’t come back to the NOP.

Now I do want to say something about tap reviews too. Another source of this information—previous boards have always resisted it—but for crops is EPA. There’s also the FDA as a source. And previous boards have sometimes resisted those federal sources of information. But you know they’re, we think they’re trustworthy sources of information. It depends on how you feel about them I guess. But you can find scientists at those agencies. And you can find valuable information about a material, probably, there, you know. And as Rose says, there is, you know, quite
a vast amount of information out there on the Google search engine.

It is true that there probably is a lot of information, particularly for 606 stuff. And the other thing is, is why not move to have—force the petitioners to at least provide the cast [phonetic] numbers. I thought we were going to move to a point where we were not putting anything on a national list that didn’t have a CAS number. That that’s what we were going to—that’s how we were at least annotate things so that you didn’t have these problems down the road of people, you know, saying it’s, it’s not really this material, it’s this material. We’re going to eliminate that confusion and we were going to get away from these complicated annotations. We were just going to identify material with a specific CAS number. But that would also help in evaluating some of this.

CHAIR ANDREA CAROE: Hue.

MR. KARREMAN: I, I, I guess I would just caution to, that we move, that we not move away from third party review. I, I just really think, you know, just like the way, I’ll just say how Amrey [phonetic] reviews things is very thorough. They have CAS numbers. Just—I think we do it internally in the board, we’re all very
intelligent here except we all have our areas of expertise. And it’s going to get to be like where different certifiers review different materials. And there doesn’t seem to be always that much overlap. And there’s not going to be—I just think it’d be cleaner with a third party review. And I understand the financial problems with doing that. but I, I, I don’t want to rely on Steve to go Google something for I don’t know what. And then I get different information and it’s not, we’re not all on the same level playing field to make our decision.

FEMALE VOICE: Well let me ask you this.  
MR. KARREMAN: I just want to say that.  
FEMALE VOICE: Let me ask you this, what if, you know, AMS has a—we have scientists, you know, we have laboratories and scientist, you know. And what if in the short run, you know, when we’re backed up like this and we don’t have any funds is a third party review, what if we went to our scientists? I don’t even know if our scientist will do it because, you know—  
MR. KARREMAN: [Interposing] I guess—  
FEMALE VOICE: They can say, well, where’s your money. because they operate on a user fee basis too. But if we could—if I talked
to, like another deputy administrator, my counterpart who runs the science and tech programs in AMS, and say, you know, can your guys evaluate some of these materials for me. Take a look at them and give me some sort of sense, you know are the synthetic, non-synthetic, ag, non-ag. And give me some analysis of them. Would that be a possibility? Would you consider that as a short run placeholder?

MALE VOICE: I, you know, I wouldn’t be apposed to that except that, you know, it has to be within the OFFBA criteria or the other criteria.

FEMALE VOICE: Oh, no, obviously.

MALE VOICE: But obviously, no, but just case in point on that is, actually the FDA center for veterinary medicine has asked me to come in and talk to them next June about organics because they want to learn about it. And so I don’t know if I would, you know, I don’t know if they’re up to speed yet except for that docket, you know, just about organics in general, to be a good source of information for us as a board perhaps. Maybe they would be but maybe not. but I would say—I wouldn’t be apposed to that. rather than us individually having to go mine out information
from wherever we can. That, that would be better.

CHAIR ANDREA CAROE: Just, just, I mean just to put in perspective, I mean I have two filing cabinets at home filled with taps. And I look at them and every tap reviewer is inconsistent with every other tap reviewer. So to say that the work we would be doing is inconsistent and that’s why we should go to the outside, I don’t buy that because I’ve seen some really wacky taps that we’ve gotten over the years.

So I, I don’t know that there’s—I understand what you’re saying Hue, but I think you’re idealizing what the tap reviewers bring in. because in reality they’re just as inconsistent as the information that we would be getting.

[unintelligible] Hue and then go to—Dan, are you still waiting? Hue and then Dan.

MR. KARREMAN: Dan’s nodding his hand, okay.

MR. GIACOMINI: [Off mic].

MR. KARREMAN: Yeah. Well I’d say, gee whiz. Oh, yeah, on the tap reviews, like from— I’ll just say Amery [phonetic] again because they’re kind of the gold standard out there I believe—that you know yeah, you look at each
reviewers, the three reviewers notes and they may be all over the place, but there is one consensus note that is submitted. And that’s, that’s what we usually look at as the board, I believe. Although we may look at different individual, you know, ideas from reviewers. But we do kind of put some weight on that final analysis.

CHAIR ANDREA CAROE: I’m going to go with—Dan do you have something?

MR. GIACOMINI: I have a clarification.

CHAIR ANDREA CAROE: Yeah.

MR. GIACOMINI: Just to clarify, I’d forgotten my—regarding CBI, the, the sub-committee meeting that we had in February, we found out how invaluable the CBI information was. We could not have done the 606 materials at the spring meeting without having access to those. One of the items on the materials work plan is working with NOP, mainly with Bob, to figure out a way—confidentiality statements, whatever it may take to allow someone, possibly on the board, to have, to potentially have access to those as necessary. Bob was, my last information with Bob was that he had, was in contact with, I believe with OGC and finding out what the legal implications and criteria for that would be. We ran out of time
for proceeding on that for this meeting. But it, it is still on, it’s still definitely on the material work plan.

CHAIR ANDREA CAROE: Bea.

MS. JAMES: I don’t think it’s an either or situation with looking at more information on a petition or if you want a tap. I think, I, I’m actually pleased that Barbara offered that there’s internal people that would be able to do more additional research for us. and that really helps the collaborative process and it also helps the diversity of the type of information you can look for. And if—I would leave it up to the intelligence of the committee chair that if we really needed a tap review or we needed further information we could get that. But that—it seems like you would want to take advantage of trying to do your own research. And if you needed more diversity of opinion you go to the NOP and you say, you know, what can you do to help us to bring more information to the table. So just throwing that out there.

CHAIR ANDREA CAROE: Okay, I’ve got Rigo and then Dan.

MR. DELGATO: I, I too like Barbara’s idea. And I think it would be also useful to
compliment that with a way of trying to reach out to universities and other research institutions. It’s always good to have a wide pool of scientist or people involved in this to provide input. And I, I think it’s useful and necessary to have taps. Case in point is potassium silicate. We probably would have done it different—or followed a different route—if we had enough information like the one we saw yesterday.

But I think it’s also important that, that, that we realize that public comment is also another important tool in our decision-making, so.

CHAIR ANDREA CAROE: Dan.

MR. GIACOMINI: I, I, I’m very concerned about something that could come up in the future. I’ve talked to the program people about it and some of the board members about it. And in regard to taps and that the, the, the infamous Applegate letter is, is, is—explains the programs interpretation of things on the national—synthetics on the national list being able to be combined and the new things that they create are all automatically okay. my concern in the taps that I have looked at going—I haven’t certainly looked at all of them, but a number of them going back. The potential in what things can be made
into was not considered. And I, I’m very concerned with where that road could take us as, as we go head towards the next major, 90% of the materials [unintelligible] sunset period.

FEMALE VOICE: That’s why if you put things on the national with their own CAS number you would stop that from happening. That was the point of, you know, we, that, that’s why we asked if you would do that. because if, if a material is identified strictly by it’s CAS then you can’t do this, this, you know, Chinese menu thing anymore. you know one from column A and two from column B. and you know, and mix and match and, you know, come up with something else that you like. You wouldn’t, you wouldn’t wind up with that.

But as long as, as, as something is on the national list there is no way to restrict that from happening. But if you would say to the petitioner, what’s the CAS. And that is the only way it’s going to get on this national lists, with a CAS number, then you would stop that from happening.

CHAIR ANDREA CAROE: Hue.

MR. KARREMAN: Does everything—well so far historically, would everything that’s on the
list right now have a CAS number? because I’m not
certain that everything would when it comes down
to—well some of the natural things wouldn’t have
to be on the list. Does everything have a CAS is
the question.

FEMALE VOICE: No, I don’t think
everything does have a CAS. It’s, it’s about
moving forward. And 606 certainly doesn’t. but
who—you know I don’t think you need to worry about
606.

CHAIR ANDREA CAROE: Just, we need to
wrap up this discussion so we can move on. I
think this is all good. And I think Dan, if you
were taking notes you got a couple work item for,
for your committee. Specifically we should look
at what are the resources that we have. And then
possibly build some mechanisms in order to reach
out to those. Barbara, if those scientist in AMS
are accessible to us, how do we access them? We
need to figure out how that’s going to happen. If
we’re going to outreach to universities how’s that
going to happen? So I think, perhaps, that, that,
that might be valuable work for the materials
committees to have some mechanisms and some, you
know, not relying strictly on the taps, but what
other resources do we have and how do we get
there?

MR. GIACOMINI: That’s fine. We’re not working on anything else at the time, so…

CHAIR ANDREA CAROE: [laughter] all right, I’d like to wrap this up. Gerald, do you want to go ahead? One more.

Gerald: Rigo, I’d like to recommend that this discussion about sources of information that several, you know, committee chairs, you know, after you’ve done it a couple of years you learn places you can go to get additional information beyond the tap. If we work towards at least collaborating with you for the board policy manual or new members guide, that type of area of including some of these areas of suggestions. So as old members go off the board what they’ve learned over five years is not lost. Is it already there already?

FEMALE VOICE: [Off mic].

Gerald: Oh, no, no, no, no.

FEMALE VOICE: She’s young.

Gerald: I understand.

CHAIR ANDREA CAROE: All right, so without any further questions on this matter let’s take a 15-minute break. It is—we are exactly on schedule. It is 9:30 right now so we have until
9:45 coming back. And joint materials handling committee will be doing their report.

[Background noise].

CHAIR ANDREA CAROE: Board members, we can reconvene. Okay. moving on with the agenda. Our next item is with the joint materials and handling committee. I believe that Dan, you’re going to present this issue which is the national list clarification of definition of materials

MALE VOICE: What’s number ten [off mic].

MALE VOICE: Six I believe.

FEMALE VOICE: Six.

MR. GIACOMINI: Recent boards have repeatedly attempted to deal with the issues of non verses non-ag and synthetic verses non-synthetic in separate documents. Many of which, for various reasons, failed to reach voting action by the board. The, and, and there are many lingering issues that have been overhanging the board on determining the classification of materials for a number of years.

While the work of the past NOSB boards is considered invaluable, the fact of the topic has been worked on by the board for 15 years without a true, full resolution. It lead the giant committee to want to consider the possibility and
the need for maybe a slightly new approach. Since the issue has not been resolved by looking at it from a ag verses non-ag and a synthetic verses non-synthetic position the joint committee thought that it could be constructed to simplify the process into two simple questions.

Question one is whatever substance we’re looking at. Is it agricultural? And if not, question two, is it synthetic? We ask the industry to view this new paradigm with an open mind. We ask you to, if that does not work, show us why it doesn’t work and where it doesn’t work. and we are open to that discussion.

This was intended and prepared for the meeting as a discussion document and no one on the joint committee considers any part of it final. We ask the fellow board members, the industry, and the public to consider the new idea with an open mind and offer, hopefully, constructive comments on it’s progress.

In examining the paradigm it lead the joint committee to the development of a visual aide with we titled and presented to you as the universe of materials. The concept and the diagram is accompanies, is accompanied with a decision tree that consists of two parts.
The first part, is it ag? Which may or may not be based on a development, on further development from the decision tree in the ag/non-ag document of 2006 which never reached full board action. And the second part of the is it synthetic question still needs to be fully developed.

The board, the committee members have certainly heard the comments so far and read the public comments. And in informal discussions we support the incorporation of all historical perspective. All prior [unintelligible] board documents and the minds that created those. We were not trying to throw anything out. but when you ask the same question and you continue getting an answer that you can’t reach full resolution with, maybe there’s just a little tweak that needs to be done in the question. And that’s what we’re looking at.

We’re open to those minds, all of those documents to if this paradigm can work to be used to implement those two recommendations that will be used to serve the industry into the future. We ask for your open-minded consideration for looking at this new approach to an old problem.

We also acknowledge that there was a very
short posting date on this document. It was a discussion item. It was not an action item being a vote that required the same amount of posting date. And it’s not—and, and we did not hold back this document in any way to avoid your, to try to get around from the public examining it. It was simply a matter that as we were reaching the point in time of documents being needed we had been working on this process and the potential development of the trees and different items going through the trees—of which we really had only really achieved only a template of the first question.

We reached a point in time where do we post anything at all or do we post nothing. We acknowledge the complexity of the issue and we acknowledge the new approach that we are trying to look at in solving these complex problems in what could conceivably be a fairly simple, a more simple fashion. And it is simply a matter of the documents was posted when it was completed.

So we—it’s an unfortunate we’re—for any shock that this caused. But the document was posted when it was done. We did not have—we don’t have the requirements of the deadlines because of it not being an action item. Thank you.
CHAIR ANDREA CAROE: I would just like to add to that a little bit, Dan and talk about the purpose and why, why this is important; why we’re going through this exercise. And you know the obvious, the obvious reason is that we need to, when reviewing materials place them appropriately on the national list. This has always been a case-by-case analysis that’s been done through the materials process. This is to add some criteria to that so it’s, it’s repeatable and consistent.

The second implication that is a little bit less obvious is the implication on feed which has the 100% requirement for the agricultural feedstuffs. And what is that, what are those agricultural components and what are not agricultural components. Certainly there’s implication there that we need to clarify before our industry grows to the point where it’s hard to fix.

We just talked about that yesterday with, with other issues that—as a [unintelligible] industry we have the capability to correct things before we’re too far down the line. So I just wanted to add that little bit.

There’s been a tremendous amount of work. and, and sitting in on some of you meetings and
watching this evolve has been very interesting. This is not started with this board. This has been started for a long time. But I think this, this board, and Dan your committee, and Julie, have, have pushed it forward to actually get some paper on this going. So that’s—I commend you for that. At this time I would open it for questions from the board. This is only a discussion item today. But this is a good opportunity for those of you who may not have been involved in the process to ask your questions and, and again, forward this work. Katrina.

MS. HEINZE: I thought for the benefit of board members who haven’t had an opportunity to see our pictorial aide it might be worth a couple minutes explanation. The idea with this is that any material exists somewhere on this page. And then what happens, you take the universe of materials and then there’s a bucket, shall you say, that you can put agricultural products in.

So once you’ve done that—so that’s the green circle here on the, the picture. Once you’ve done that you have agricultural materials and you have things that are not agricultural materials. From the non-agricultural you can then take a second bucket, the synthetic bucket, and
put things that are synthetic within that. and so
those are the two, obviously, largest.

   Everything else then exists in the white
of page. So it is then non-agricultural and also
non-synthetic. So from this picture the, one of
the recommendations that we made in our discussion
document was that we would recommend eliminating
the definition of not agricultural because we
think that’s where a lot of the confusion comes
from. In general the public comments supported
that recommendation.

   MALE VOICE: Or at the very least
amending it.

   MS. HEINZE: Yeah, or amending it. I
would say that where we have had more difficulty
and need to spend more time with some of the
historical documents is how to convert this
pictorial aide into a series of questions that
help define those buckets and make sure that
things are appropriately placed within the
buckets.

   So that’s where we appreciate all of the
public comment that we have received and we
continue to receive. And then input from the
board as well.

   CHAIR ANDREA CAROE: Any other questions?
Bea.

MS. JAMES: Katrina, you mentioned that you wanted to put this into a pictorial flowchart of questions. And I’m wondering if you looked at the documents that was submitted by the materials committee, I think it was two years ago, that I believe Rose and Nancy worked on, that actually has a series of questions that actually take you through a graph and a flowchart.

MS. JAMES: Actually, I think Dan, you’d like to answer that.

MR. GIACOMINI: There, there’ve been, I believe at least two different flow charts that have been proposed and worked on in the past. There was an ag/non-ag flowchart. And there was a synthetic/non-synthetic flowchart. The committee at this time has worked through portions, a significant portion I would say of the ag/non-ag, the is it agricultural side of the question. We haven’t gotten to the synthetic/non-synthetic side of the question hardly at all. The questions and the boxes that we put on the decision tree that is in the document were essentially placed there just to get some—continue with the discussion.

CHAIR ANDREA CAROE: Bea and then Julie. Did you? Julie.
MS. JULIE WEISMAN: Yeah, and I guess it was, it was, Dan had briefly mentioned it, but I, I wanted to throw out to the board that the, the recommendation that was presented two years ago was very far along. And the fact that it didn’t become a recommendation, it was on very discrete issues. And I think that we—probably the very, you know, I think the very early task after this meeting, for the joint committee should be—although, you know, we have—are the other pages on this slide?

MALE VOICE: Yeah.

MS. WEISMAN: Can you go to the next, can you go to the next page? This, this was a product of our own discussions. I suspect—it’s already been pointed out to me that there is a glaring hole on the way to something being called an agricultural product that we, that is not addressed here. But having to do with where do ingredients that are allowed for handling fit into this? So there is certainly—if we use this as a tree for agricultural certainly another box would have to be added before the final oval.

But I would also ask my, you all, my colleagues to give serious consideration to just keep the tree that was part of the 2006 proposed
recommendation. because that was an excellent documents as well. And then yes, we do have to mind all those historical documents and the minds that created them to have a really good tree for determining synthetic.

CHAIR ANDREA CAROE: Dan.

MR. GIACOMINI: One of, one of the issues in the 2006 document, which was the ag/non-ag document revolved around, revolved around the issue of changing yeast to an agricultural product. One of—that got sidetracked in public comment on the impact that that would have on the feed issue.

The reason that that got sidetracked at that point in time was because of a slightly inconsistent input from some of the program. and not meaning to point fingers at the program. But when the issue—we did discuss the impact this would have on feed. The initial input from, from a member of the program was that if it was on 606 you could still use that as a feed. That interpretation was changed, modified, clarified, that no it wouldn’t. that’s a handling list. If it’s an agricultural product and deemed an agricultural product. and on 606 then it would have to organic. It was there was a tremendous
amount of public comment on that point. It had been discussed.

But it was—the reason, the real reason that it got derailed was, it had a lot to do with the fact that our input, the input that we had from the program—and again, not pointing fingers at the program—but that had changed slightly. So I’m a little hesitant to say, well, we’ll take that tree and plug it in when we still have, that’s still the—

FEMALE VOICE: But that’s not an issue, that’s not an issue, the tree.

MR. GIACOMINI: It’s an issue with the agricultural side of the tree. If you’re looking, if your recommendation is just to take it, blank it.

CHAIR ANDREA CAROE: It would be. but before that I just want to point out to everybody who’s watching, this is work in progress. This is not a final product. this is a discussion item. And so as you’re looking at that understand that we know that this is not where it needs to be yet. Bea, you want to...

MS. JAMES: I just wanted to acknowledge that I thought that Amery [phonetic] submitted some pretty good feedback on your recommendations.
And one of the comments that they made was that they were hoping that you might consider a working group to finalize the recommendation and I was wondering if you were considering that?

CHAIR ANDREA CAROE: Dan.

MR. GIACOMINI: The, the, the members of the committee that I’ve talked to—and I think everybody involved—will be, is very interested. And I thank you for using the term that you used. If we use the other T word that was used the other day there are implications to it that we really may not want to get into. But yes, that, that is certainly part of the process that we’re looking at.

Also, regarding the public comment, there was a tremendous amount of extremely valuable public comment. There was some public comment though that address the issue that we, that this can’t be looked at in one universal thing. It has to be looked at as—from the livestock perspective and from the crops perspective and then from the handling perspective. And, and we cannot find the support for that. Granted there may be historical documents in NOSB that, that reviewed things from that light. We can’t find the historical support for that within OFFBA and the rule.
There’s one definition for agricultural product. There’s one definition for synthetic. We’re not getting into the details of how something is put on the list; we’re simply looking at the determination of what category something goes into. We also need to recognize the fact that while we are talking—could you go back to the university materials please?

We also need to recognize—and I’m hoping that, that this is not too radical for some people to consider. But there is the possibility, as this industry has moved forward, that where something falls in any of those buckets or on the white page is a factor of the processing that went into that particular version of that substance.

As example, we currently have cellulose up for sunset on 605b. I can not even find the way when you look at this process from the two dichotomy questions which do not touch ag/non-ag verses non-synthetic, how that made the jump from coming from an agricultural product source and ending up on the synthetic side of 605b. It’s with the continuum that I can, that I can understand that.

What we do, using that as an example, it is possible that new technology could develop that
would derive that substance in a form that would
quality—that would not place it in the synthetic
category. There is, it is possible the technology
could develop that could still keep it in an
agricultural product. It is then possible that we
could have organic cellulose while at the same
time it’s currently on 605b, synthetic.

So things can be in more than one place
at the same. Not there—as one person put it—this
beaker will go in a particular place. Well there
may be two beakers with the same thing in them but
the process which they came from may place them in
different buckets.

CHAIR ANDREA CAROE: Bea.

MS. JAMES: Thank you, Dan. I think that
it’s going to be difficult to try to come to
resolution on finalize a recommendation this
complex if you are continually considering the
possibilities of the future. Because technology
and how things are going to evolve and change
could make it so this will never get done. So I
just want to point that out.

CHAIR ANDREA CAROE: Julie.

MS. WEISMAN: Yeah, I, I also, I wanted
to go back to the issue of, of involvement and
tapping the resources outside this board to move
this process forward. That has also been very consistent in public comment. That, that suggestion has come from many, many, many commenter. And there have been many offers to participate in that process. And we’re going to, we want to be, we do want to be inclusive. We do want all of the stakeholder and all of the people, the people who’ve worked on this before us, we want to capture. You know, have a way to capture what’s been done.

And what comes to my mind immediately is that somewhat was the process that happened in the grower group document that was produced. There was a lot of work by industry groups that the representatives of the board were invited to be part and hear what was going on those meetings. And then brought all of that discussion back to, back to CAC meetings on the topic. And I think that model worked very well. And I think that might be a model that we should consider in this arena.

CHAIR ANDREA CAROE: Okay. I’ve got Katrina, she wants to speak. And Rose, you, you’ve been wanted to be recognized. So as you work your way to the podium we’ll get Katrina and then Dan will come next.
MS. HEINZE: Hue, has his hand up as well. I just wanted to ask, we have gotten so much valuable public comment, as the board and the public considers this and offers us comments, to recognize that there are three pages in this kind of discussion document that have varying levels of maturity. I would say that I think that the joint committee has much more confidence in this first page, the universe of materials and this pictorial representation. The decision trees, I think we have less confidence in. We know we need to incorporate some of the historical documents.

So it would be particularly beneficial to me, as a member of that committee, if there are perspectives on that universe of materials that we have not considered, that we hear those. Because that’s, that’s the, or is it my hope that that can be the foundation for our decision trees. So if there’s a glaring error in it that would be important to know. Thank you.

MS. KOENIG: Okay. The first thing I want to do is acknowledge—oh, I’m Rose Koenig. I was the materials chair for a while. First of all, it is a very complex, you know, the, the important thing about materials is that it’s the only thing you have authority to, okay. So that
makes it very important. And the other thing is that it is a really difficult thing to just come into. because a lot of times there’s a lot of technical information. people have adversity to chemistry. I know, even though I’m a science, when I see a scientist, I see some of that stuff, it’s like, whoa.

   It is really a difficult thing. so don’t, don’t, you know, feel like you’re deficient. And it’s something that—this whole procedure in this industry has evolved over time. and if you look in the minutes there always were arguments. Sot it’s not something that is going to be difficult to achieve.

   But what, what we had, had kind of worked on is trying to achieve a process by which our recommendations could be consistent. because again, we’re doing this in a regulatory fashion. And these guys are responsible in a legal fashion for the decisions that are made. We’re, you know, it’s a federal program. So our efforts really were inspired by the NOP who said to us, you know, when we have issues from somebody who’s petitioned we need to be able to justify what you guys are doing. you know you have authority. But we need legal justification as to why you’re putting
something somewhere.

So I’ll talk about that, but I want to answer immediately Dan’s question in terms of what happens if something comes that now, you know, we might find in the future. There is a procedure—it has nothing to do with these definitions—just be aware of it. That is why you can petition to remove something, okay. and that is also why the sunset is there.

So if there is something that appears on a list that says, you know, this natural thing, you know, this agricultural cellulose is non-, is synthetic. And there’s now a new procedure where you’re maybe not using the same kind of manufacturing procedures, it can be taken off. So you can get consistency with the changing or the evolution of an industry through a whole different procedure in the materials process. And that’s called removing that. you know petitioning to move, or through the sunset procedure. So I hope that’s clear. So that, I hope, solves that whole issue of having to plan for the future.

CHAIR ANDREA CAROE: And also just to, to tag on that. petitions to remove have priority over petitions to add materials. So they get bumped to the top of the list for consideration.
MS. KOENIG: Okay. and there’s always, there’s always going to be issues in terms of agriculture, non-agriculture, definitions, okay. because the important thing is to get a definition and have clarity on a definition. And that’s where the problem has always existed. And that’s why for synthetic/non-synthetic the debate wasn’t necessarily to make the tree. The debate was, you know, what we were told by the NOP was, we need you to clarify that definition so that when you are making a decision you can justify it, you know, to that petitioner. It is synthetic because you have this X chemical reaction or you have a protein configuration change.

So if you actually go through our definition—and I’m not talking about ag/non-ag first. We separated those two for a good reason. because you, you know don’t want to take one thing at a time to find those things. Just like they’re defining the rule. And it—things don’t— definitions are definitions. They don’t necessarily have to make sense.

you know you have this idea that everything has to be grouped, like in your diagram. But in fact, definitions are definitions. Things have to meet definitions, is
the way I look at it. Not that everything has to come into a kumbyah [phonetic] moment and work together, okay.

so, but the other thing is, so, synthetic/non-synthetic we clarified as best we could the definitions in our feeble way. And we don’t, you know, acknowledging that we’re not regulators, nor are we lawyers. And we, in fact, that recommendation was a unanimous board vote that this was the best we could do. in the spirit of what we have written we think it’s clear enough. We acknowledge that we’re not regulatory folks at your expertise. And we don’t run the program. You have to.

So we, 13 to 0, took that document and acknowledged that we all knew that we were getting off the board. And we, you know, gave it to those guys. And said, please, you know, if you can, you know. But at that time there was a lot going on. there was a Harvey lawsuit. I mean there’s a lot of things on the NOP’s plate. And they came back in March 2006.

The great thing about that document—I mean we all should like raise our hands and clap—because it was a great accomplishment. They really didn’t change much of the content. At
first when I looked at there was a lot of nit-
picky thing where the grammar was wrong and I was
like, oh what. you know we didn’t-how could they
say that this wasn’t written well.

But what the document acknowledges is if
you really look through it the first one just says
this isn’t clear. And it’s not clear from a legal
standpoint. you know because they’re stilling
having to defend themselves. But what they
produced back was really not that different from
what we had produced. It was just put in a form
that they could utilize as a program management.

And in that, again, solves a lot of the
questions that you just had. It states that you
need to have a CAS number. It states in there
that you can’t combine two things on the list
creating a new CAS number without reviewing that
new CAS number.

So what I’m saying is that, I really feel
that it’s almost there, that document. They did
point that out-which again, was a great thing. I
think it was the legal team that pointed out that
there’s still areas of non-clarity in this
document that needs to be worked on. and that’s
where I think you should be putting your efforts.

Okay. let’s go on to the non-ag/non-ag.
That was a separate committee. I mean I kind of was involved in some of that discussion. The handling committee kind of took that over. And again, the frustrating thing, it’s a public process, was that there wasn’t that much—there was a few things that people never really understood why something was on there, you know, yeast and such. But there was a reason. you know you can go into the, the, to the minutes and understand that it was based on that definition that bacterial cultures were set aside. And there is justification. I mean I can, and I, I mean Joe’s kind of smiling. I took what was the, you know, the definition was there, and proposed a, you know, an argument as to how you can keep things in a consistent way, you know, it’s justifying what’s there.

Now it is up to the board if, if, and the industry. If they feel that that’s not a good enough justification or they want to switch thing, you know, it can be done. But you are changing, you know, rule making and such. There’s also, you know, so, so what I’m saying is that’s a separate definition. I think what has happened through the process if people have taken those two definitions and tried to work together with them. But they
really are separate issues in many ways.
And I, I think that, you know, if the ag/non-ag, that, that just never got to the point where the group could decide on. and that was in a less, less better form once most of the folks that were working on that left. But there also is some historical documents on that. But again, it’s not, you know, there’s a lot of people that want something to change in a program. That doesn’t mean it has to change. It doesn’t mean it has to change. Sometimes things are just the way they are and industry has to figure out, you know, more creative ways. And I’ve always said, well if yeast is an issue, if there is something, if yeast is now being produced in a way, say in an organic way, you can—I know the NOP doesn’t like to annotate it—you can keep everything the way it is on the list and have an annotation. They can petition yeast, okay, and say we want to petition it with an annotation grown only on organic sub straight [phonetic] with non-synthetic inputs. That could be annotated that way and that would suffice by saying, okay, now only yeast that’s grown on organic sub straight [phonetic] can be used without changing the definition of agriculture. You can work within the regulation
to do it that way if that is what needs to be achieved, without changing the definition of agriculture or non-ag. And I don’t know if that helps.

CHAIR ANDREA CAROE: Thank you, Rose.

MS. KOENIG: Or further confuses.

CHAIR ANDREA CAROE: Hue, and then Dan.

MR. KARREMAN: I just want to thank Rose for that because it answers my questions on that cellulose example Dan gave as far as petitioning things to come off when new processes come on. and just briefly I just want to say, I really like this kind of representation for my simple brain. This works very well. Okay.

CHAIR ANDREA CAROE: Dan.

MR. GIACOMINI: Well it, I just, you know, want to address the point that, you know, first of all, you know, on the one hand acknowledging that things can be in different categories. But one of the problems that we’ve had in—as we, as petitions have come to us, in deciding whether it’s even an appropriate petition for that category goes back to the definitions, and in some cases, you know, the looking at what the national list is, you know.

We have, you know, two examples. We have
gums specifically listed as a non-agricultural product. That’s in the definition. But yet we have organic gums and we have gums listed on 605b as synthetic. Pectin is specifically listed as a non-agricultural product but we have it in 606 and—

FEMALE VOICE: There’s a petition.

MR. GIACOMINI: Yeah, there’s another petition to list it. So even within the, the, the definitions that we have there has been confusion and there continues to be confusion. And it, it, we’re, we’re just, we’re not trying to change the world, but maybe just a new perspective n the foundation of what we’re doing. And maybe just a little twisting of the pieces.

We’re not expecting a big movement here. We’re not expecting a big change in the national list. There may be a couple things that need to be, will need to be altered as we really examine it. But if, if, if that is, if that is where this is going that is certainly not the goal of the committee by any means.

MS. ROBINSON: Well Dan—to address those things we could certainly—you know I’ve heard that many times. And, and I, I, I would just like to say for the program, you know, I, you know, I
appreciate Rose’s remarks. And i—as far as things like pectin or gums and certainly yeast, from the, from the perspective of the program, let’s solve the programs with, without—let’s tackle the problems first. And then reevaluate. Still—I’m not saying we can’t look at this.

But, but it sounds to me as though we’ve got two issues here. First of all we have some problems. We have, we’ve always had this problem with yeast. And, and, and it’s not going to go away. But the way to fix the yeast problem is through a petition. Someone’s got to do something with a petition. We keep saying this over and over and over again. And I think there was a petition at one point and then it was withdrawn.

Now, you know, address these problems. We can address the problems. The problems with pectin and gums can also be addressed. Either through, those could even be addressed through technical rule changes. you know we, we can, we could actually change the definition by taking, you know, gums out of the definition. Or, again, through, you know, petition changes to—if they need to be moved.

But let’s solve those particular, particular, or specific problems. And then you
can still look at, you know, the bigger picture of, you know, do we have an issue here with ag/non-ag, synthetic/non-synthetic. Have we got things skewed correctly or defined correctly. Are things out of—is the universe out of alignment here. But I guess my, my concern here is that we don’t, you know, we don’t look at this, you know, taking a telescope and turning it around and look at things from the wrong end of it. And say, whoops, we’ve got a major problem. Because we’re looking at the world from the wrong end of the telescope. If I’m making any sense here.

We’ve identified some very specific problems. But the way to solve them is by tackling those specific problems. Not by saying, well obviously our definitions are all wrong. Do you see what I’m saying? because we still will have the problems when we get all done.

CHAIR ANDREA CAROE: I agree Barbara and I think the committee is, is exploring all of this to come back to solving the problem. What is the problem and solving it. We’re going to have to wrap this up. But one of the things that Rosie said I just want to comment on. and that’s annotations.

Annotations are not a quick fix.
Annotations are specifically to identify the allowed material when several are available on the market. So an annotation maybe paprika may be smoked paprika only as apposed to sweet paprika. They’re both available. Annotations are not to impose organic principles on non-organic production. So I have to respectfully disagree with, with Rosie’s comment that you can have yeast on the list if it’s grown on organic sub-straight [phonetic]. That’s inappropriate for this regulation to go to the production of those non-organic components.

So my very first board meeting, or maybe it was the one before I came, there were materials considering where they were tagging on two and three annotations and trying, building these things. And as a certifier at the time I sat in the, the, the audience thinking, now how the heck am I going to implement this. And how am I going to find this to verify that this is an appropriate use of this material. It’s impossible to get those things practically implemented.

So I, I, I—well Joe will tell you, the little hairs on the back of my neck go up when I hear the word annotations. And it’s jut because once you get on the doing side of it, it falls
apart folks. So I’ll ask for any more questions although we really do need to move on. Is there any further discussion on this?

Okay. Let’s, let’s move on to the next item. Which is—thank you, thank you very much for the joint committees work, by the way. It’s an arguous [phonetic] task and I know you guys are working hard to get this resolved.

Next committee is handling committee. Julie you have—

FEMALE VOICE: [Interposing] [Off mic].

CHAIR ANDREA CAROE: --three recommendations and one discussion item, correct?

MS. WEISMAN: Actually our, there are, there are, there now exists three sunset recommendation, one recommendation on a petition material, and we do have this place holder for reconsideration of a possible petitioned material to deal with.

We also have a discussion item, pet food standards. And I, I would like to have permission, if I could, to depart from the order on this agenda ever so slightly to deal with pet food first.

CHAIR ANDREA CAROE: Is there any objection from the board? Okay. Let’s go ahead.
MS. WEISMAN: Okay. I just want to—mostly because there’s going to be a bit of discussion on the other recommendations and I didn’t want people waiting to hear about pet food to have to sit through all that.

As everyone knows, in April of 2006 the, an [unintelligible] body from the pet food industry that agreed to be a taskforce made recommendations...

END MZ005019

START MZ005020

MS. JULIE S. WEISMAN: We accepted those recommendations, uh, and at the time we were in the middle of Sunset and Harvey and, uh, uh, it, uh was really my hope, uh, that we would be addressing it fully and making recommendation at this meeting. And even as late as August, I was, uh, uh, uh, I was insisting that it be put on the agenda for this meeting as a recommendation. Uh, but, uh, uh, and the Handling Committee, uh, uh, address it over the summer but not to the extent that we were ready to, uh, vote. And what I just wanted to do right now is just briefly highlight what the issues are that were discussed, uh, and that we have to, uh, address, uh, uh, on the pet food standards as they were proposed to us.
Uh, one actually, uh, very, uh, timely in light of all the discussion that we had on Tuesday at the Agriculture Symposium, uh, one of the big issues is the question of using slaughter by-products in pet foods. Uh, and, uh, perhaps some of the discussion that took place in relation to agriculture will, uh, help us in our deliberations on that.

The, uh, second, uh issue that we need to resolve are, uh, the labeling categories for pet food. Uh, especially in light of the fact that there are well established labeling categories, uh, for pet food, and, uh, we, uh, we need to, uh, uh, decide how organic labeling categories, uh, fit and jive with, uh, already, uh, long established pet food labeling categories. And they’re very complex and I’m not going to summarize them here. Uh, uh, and then, uh, one other minor thing was that after the initial pet foods standards were, uh, put forward by the Pet Food Task Force, uh, there was, uh, a request for public comment in the pet food community and as a result of that there was a minor revision offered in September of 2006 simply clarifying, uh, uh, what kind of animals were considered, were and were not considered pets and to make sure that it
was clear that things like rabbits and, uh, uh, camelids and horses are livestock. They are not pets. Even though they are sometimes kept as pets. And also that zoo animals, lions and tigers and bears, are not pets.

FEMALE VOICE 1: Oh my.

MS. WEISMAN: Oh my. And so that is what I hope we will have resolved by the spring meeting. Uh, and, uh, I don’t really need to see any more, to say any more about the Pet Food Standards right now, although I probably, if, if anyone has a burning need –

MS. ANDREA CAROE: Burning desire.

MS. WEISMAN: A burning desire to, uh, ask a question about it, I’ll try.


MALE VOICE 1: He has a burning spot.

MS. CAROE: Hugh.

MR. HUBERT J. KERREMAN: Uh, regarding the definition of livestock, I do believe the AVMA looks at horses as companion animals these days. Just keep that in mind. And, uh, camelids I do not believe are livestock. Livestock are the traditional farm animals, cows, pigs, uh, that kind of thing. Just keep it in mind with the
horses, okay? They are companion animals by
definition of AVMA. And now I know Emily has a
better technical viewpoint on it. Can Emily come
up and –

FEMALE VOICE 1: Andrea, what’s a
camelid?

MS. WEISMAN: Llamas, camels. I’m sorry.
MS. CAROE: No, that’s not in my realm of
expertise.

MR. KERREMAN: Llamas, alpacas, camels
are camelids.

FEMALE VOICE 1: Llamas?

MR. KERREMAN: Llamas, alpacas and camels
are the common, most common camelids you would
think of.

MS. CAROE: They sound like livestock to
me. But, uh, Emily –

MR. KERREMAN: No, they’re...well okay.
You’re using two different definitions. And I
don’t know the definitions that well but livestock
is like a vernacular-type term. Camelid is an
actual like species or family or order. So keep
those things in mind. But horses is really,
every, you know, they are companion animals this
day and age.

MS. CAROE: Emily.
MS. EMILY BROWN ROSEN: Very briefly.

Emily Brown Rosen. Uh, AVMA may say one thing but the regulatory officials that control animal feed are the American Association of Feed Control Officials and they define pets and livestock that horses are livestock. So that’s, this is a basically a food regulation so that’s where we have to use that.

MS. BARBARA C. ROBINSON: Andrea?

MS. CAROE: Barbara.

MS. ROBINSON: Did you, did you, uh, did you guys consult with, uh, AFIS?

MS. CAROE: I was not part of the Pet Food Task Force so I have to –

MS. WEISMAN: We had FDA, we had a whole bunch of FDA people on the task force.

MS. ROBINSON: Does AFIS do anything with this?

MS. ROSEN: I don’t believe so.


MS. ROBINSON: Yeah, yeah. Don’t they run the Animal Welfare?

MR. KERREMAN: Uh, no, that’s under USDA actually. Animal welfare standards are under –
MS. ROBINSON: That’s what I’m talking about. AFIS.

MR. KERREMAN: Uh, they may administer it actually.

MS. ROBINSON: Yeah.

MR. KERREMAN: Yeah.

MS. ROBINSON: Yeah. So I’m wondering if, just to toss this out, they may have another definition is all I’m saying. Uh, because I know that, uh, uh, when I was down in OGC begging for your livestock medication docket –

MR. KERREMAN: Thank you so much. Seriously.

MS. ROBINSON: You’re welcome. I just wanted, I wanted another thank you. So when I was down there begging for your livestock medication docket...that’s your cue. Say “thank you” again. Uh, I notice they had, the only reason I say that is I noticed they had a bunch of folders on, uh, the attorney’s desk dealing with kennels. So that’s why I’m bringing that up. I wonder if there’s just another source.

MS. ROSEN: But we were strictly, this is pretty much a feed issue. For pet foods standards.

MS. ROBINSON: Well, I’m just talking
about the definition of who’s, what’s up with that. What’s a livestock?

MS. VALERIE FRANCES: I can offer some clarity here.

MS. CAROE: Valerie...hold one second. Valerie.

MS. FRANCES: I did do some research with AFIS and FSIS and everybody refers to FDA’s definitions regarding feed. They all refer to them.

MS. ROBINSON: Okay.

MS. CAROE: Alright. Okay. Any further questions on the pet food? Valerie?

MS. FRANCES: I just have one other issue I wasn’t sure you really brought it forward with the clarity that is involved in the labeling and this is when you have a “made with” product. If it contains, the pet food industry gets so into the minutiae regarding how they label different meat products, for instance, organic chicken versus organic chicken meal versus organic chicken broth. And I don’t think we have the same approach and so this is going to be one of the challenges is when someone says made with organic chicken that could be thought of differently in pet food. So that’s one of our challenges.
MS. CAROE: I think that’s the kind of detail that we’re going to challenge, be challenged getting this recommendation to a vote stage. But we’re not there yet. This is discussion stage on where we’re at. Bea, you have a...

MS. BEA E. JAMES: Just a quick comment. Not really a comment, just for clarity in case any board member is looking for more information on the pet food recommendation. It’s not in our book but it is on the NOSB website under NOSB recommendations, Handling Committee Final Recommendation October 2006.

MS. CAROE: Julie.

MS. WEISMAN: Uh, it’s also on the USDA website. Uh, there’s a section that says task forces. And if you click on that it will say pet food task force and if you keep clicking, it will bring you through to the recommendation.

MS. CAROE: Okay. Uh, anything further? Thank you and we, uh, we look forward to seeing the recommendation on that perhaps in the Spring meeting.

Uh, next for handling? I guess we’ll take it from the top now. So the next item that we’re discussing is Handling Committee has a
recommendation for the addition of, uh, grape seed extract. Uh, this is an item that was, uh, petitioned originally in the crush of items late in 2006, early 2007. Uh, and did not quite make it under the wire, uh, for us to be able to consider with the group that was dealt with at the spring meeting. Uh, and so we felt, uh, there are certainly other, there are certainly other 606 petitions that we have received over the summer but we gave this one priority because it had missed being considered this Spring meeting by such a small, uh, window. Uh, so I, uh, I think that, uh, uh, this is the documents that were posted, uh, uh, let me just move to the recommendation. Oh yeah, it’s not... wait. Yeah, the committee recommendation is not in the book. No, not that, that’s the... I’m sorry. I don’t like to take up the time. No that section is not what I was looking for. I don’t even have that. Wait, wait, wait. Uh, I’m sorry. No don’t take a break. No, no, no, no.

MS. FRANCES: My manual is actually missing, but Kat has it in her binder.

FEMALE VOICE 2: Half of them have it; half of them don’t?

MS. CAROE: No, I was looking; there was
a text committee recommendation.

FEMALE VOICE 3: On grape seed extract?

This is all we have. I mean, we just...I don’t recall. You don’t have it in your book? It just somehow didn’t get in your particular book.

MS. CAROE: I have an empty slot for grape seed extract.

FEMALE VOICE 3: It didn’t get stuck like in the wrong slot?

MS. WEISMAN: I looked. These were checked. Alright. You know what, I can...we’ll proceed. I mean the [cross talk] that’s okay.

No, no. That’s alright. Okay, I think, alright, I’ll go back. Uh, we, the issue with grape seed extract, it was being petitioned onto 606, uh, by a manufacturer because of, uh, it’s, uh, uh, uh, high anti-oxidant properties. And like some other non-agricultural, like some other agricultural ingredients that are, uh, that there had been interest in being used in the 5%, uh, added value that, uh, consumers, uh, wanted available in organic products. Uh, and, uh, on quite a, on being consistent with a number of other materials that were petitioned for this reason, and I’m thinking of fish oils was one that was, that we acted on in the Spring, that this was, uh, in
terms of, uh, that, uh, for 606 materials that it met, uh, it met the criteria, uh, uh, the evaluation criteria that it met, uh, that we felt that it met the, uh, evaluation criteria for a 606 on impact on humans in the environment. Uh, that it was, uh, information was given as to why it was not available in an organic form. It seemed mostly to do with the, uh, the, the quantity of raw material that was required to produce the ratios. It was like a 100:1 ratio of, uh, grape seed pulp to have one unit of, uh, grape seed extract. Uh, and that, uh, uh, that the, it was compatible and consistent with organic practices. Uh, we did have, uh, uh, some public comment was received on this petition. Uh, and we did have, it was actually one of the few materials where there was a comment opposing. Uh, and so I do think at this point that we should, uh, probably address that. I can either outline what that opposition was or I think that the...okay. One was, uh, there were, uh, questions about, uh, actually I’ll go to the comment controls.

MR. KERREMAN: Julia, I was just reading it.

MS. WEISMAN: Okay.

MR. KERREMAN: It’s basically from non-
conventional grapes they are heavily sprayed and
if you’re concentrating something, you may be
concentrating some of the residues of the
herbicides and what not. That was, I think, the
essence of the comment.

MS. WEISMAN: I think that was probably
the, that was one and I think the other, uh,
question that was raised was that, uh, uh, at
least from the material that was available to the
public with the petition, it was not possible, the
comment felt that it was not possible to determine
whether the, uh, extraction was, uh, uh, done in,
uh, uh, what kind of solvents were being used.
Uh, uh, I mean, we did have access, it is not my
belief based on the, uh, CBI information, uh, that
there was, uh, that synthetic solvents were being
used. So I’ll share that piece. But that doesn’t
address the pesticide issue, so, uh, I think that
maybe, uh, okay.

MS. CAROE: Again, you know, one of the
things that Rosie did say that I completely agree
with is that this petitioner may not be using
solvent extraction but if it is typically used,
that is something that you need to consider
whether that’s an issue or not. So regardless of
what their processing technique is, we need to
look at the broader processing techniques and
also, again, this is a conventional item used in
less than 5% of the product, is this enough of a
risk, or that’s, you know, solvent residue in the
production of that, is that enough of a risk to,
to, to alter your decision on the allowance. Uh,
Joe and then Dan and then Julie.

MR. JOSEPH SMILLIE: Repeating what you
said, Andrea, we’re not trying to, earlier, not
just recently, but we’re not putting organic
requirements on non-organic agricultural
materials. That’s the mantra we have to look at
these items through. We’re not, and we’re not
going to put annotations on it either. Are we?
No. No annotations. Uh, for solvent producers.
So, uh, I learned that one. Uh, so basically we
have to look at it the same way we looked at all
of the other 606 materials that we went through.
And we have to be consistent as a board and we
can’t, uh, because there’s only one material now,
we can’t dive into that and give it grade, you
know, give it a different approach than we took to
all of the other agricultural materials that we
considered. And hence, uh, the production of non-
organic agricultural materials can not be, does
not have to be in compliance with organic
regulations.

The second thing is, uh, something else that was mentioned earlier that I really want to bring to the attention of the board and it’s not news to me, but the importance of it is news to me. And that is that there’s a priority to petitions given to remove items from the national list. And once some one manufacturer comes up with an organic source for grape seed extract and we know for a fact that in California alone, there’s a lot of organic grape seed available, and once that becomes commercially available then that should be petitioned to get it removed, at that point in time. At this point in time, it’s not available and hence the committee voted as it did to, uh, to allow it to be put on 606.

MS. CAROE: Okay, Dan.

MR. DANIEL G. GIACOMINI: Uh, one thing that has changed since the, uh, February sub-committee and the March meeting though is the timing of the, the deadlines set on the court order. Uh, one of the efforts in those items and the reason they were all pushed and grouped together, uh, was to, uh, try and prevent any disruption in commerce that may be occurring. Uh, if there’s any disruption on this item, uh, it’s
already occurred. Uh, there is not a tremendous amount of organic wine on the market. Uh, that’s a wine issue. Uh, but there, I drive up and down the Napa Valley weekly and you can talk to Jake over there. There’s a tremendous amount of grapes that are grown organically. Uh, I, I, when this petition came up in February and March, I certainly supported the sub-committee. But looking at it now from the fact that if there was a disruption, it’s already been made and it’s not like there’s not an organic source for this material. Uh, it’s out there. So.

MS. CAROE: Uh, Julie, and then Hugh.

MS. WEISMAN: I don’t remember what I was going to say.

MS. CAROE: Hugh. Uh, gosh, you know, it sounds like a horrible bias to just, because we, because this petition is not lumped together with Harvey that we shouldn’t, you know, process this in the same way. I really would reconsider that thought process and, uh, again, all materials on 606 doesn’t mean that they definitely can be used. They still have to go through commercial availability justification with the certifier. So it’s not, uh, you know, I mean there’s, there is one extra piece in this. And I just, I just, I
think I, I mirror Joe on this one just because this one stands alone, we’re going to highlight it and put it through extra scrutiny? To me, uh, that, that’s not right. Uh, again, this is less than 5%, this material is used in very small amounts, uh, there’s not a whole lot of economic incentive for somebody to produce this organically. Uh, which is one of the limiting factors why a material like this isn’t making it to organic market that quickly. Hugh and then Julie.

MR. KERREMAN: I forget how I thought about it at the February sub-committee meeting, but organic grapes aren’t really available. And, and, and maybe we are looking at this differently because time has moved on, which it does. Uh, the other thing is that I buy herbal products from various herbal suppliers. There is organic grape seed extract available. And if we’re going to list it, it always comes back to the question of well, is there such incentive then to make the organic grape seed extract if they can, you know, derive it from conventional sources? And I, you know, grapes are their carrots, same thing as like with carrots, you know? I just, uh, I think I would have felt the same way back in February. I
forget how I was thinking or the committee votes
then, but anyway.

MS. CAROE: Julie.

MS. WEISMAN: Uh, yeah, I, I remembered
what I wanted to say before, and I also something
that I want to say that addresses Hugh’s point.
Uh, you reminded us that we’re talking about
weighing the risk for an item that’s being used in
5% and I wanted to remind people that, uh,
something, an ingredient like this in, uh, uh,
chips or whatever it’s going to be added into, uh,
have usage rates of, uh, .001 percent, .005
percent typically in the finished product. So
we’re not even talking about 5% of the finished
product. We’re talking about, uh, not that it’s,
I’m not saying that it’s nothing, but I just
wanted to, people to have a perspective on the
quantity of this that will be, that’s being used.

Uh, the second thing I wanted to say is
that the issue of, uh, the fact that organic
grapes are being grown and that there is obviously
then organic grape seed has only to do with the
availability of the agricultural product. A lot
of discussion at the spring meeting, uh, uh, uh,
uh, ended up highlighting the fact that just
because the agricultural product is available does
not mean that people who have the equipment to
process it in the form that is needed for, uh, a
finished product are willing to get their
equipment certified or that people who are
producing the organic raw material can make the
investment in purchasing that equipment
themselves. So there’s a difference between the
availability of the, uh, the agricultural raw
material, which we know is quite available, and
the, the equipment that is needed to process it
into the form that’s required.

MS. CAROE: Bea and then Joe.

MS. JAMES: Just a couple points of
clarification. I do believe that there is quite a
bit of organic grapes that are grown and there may
not be a lot of organic wine out there, but there
still is a lot of wine that is made from organic
grapes that is just not certified organic.
There’s a stigma around organic wine, uh, having a
certain profile and so a lot of producers have
chosen not to certify their wine organic even
though they’re using, uh, organic grapes.

And secondly, uh, I, okay, I understand
that at the last meeting we rushed through
discussing a lot of the petitions that were up for
review. But I’m of the opinion that the process
that we’re doing right now with grape seed is what we should have done with everything at the last meeting, but that we didn’t have the time. And just because we didn’t have the time doesn’t mean that that last meeting sets the precedent of how we should rush through or give, uh, uh, consideration to something that requires discussion less discussion because we didn’t do that at the last meeting.

MS. CAROE: Joe.

MR. SMILLIE: Well, Julie covered the main point. This is not a discussion of, of grape seed. It’s a discussion of grape seed extract and, uh, there’s a big difference. Uh, I specifically phoned three friends in the wine industry saying what do you do with your grape seed? Can you ever get it processed as an organic product? They said oh we looked into it. We’ve got lots of grape seed, you know, but basically they confirmed that you just couldn’t get it processed because of the continuous run needed by these types of plants.

The second thing is what Andrea said, we’ve all got to remember that putting it in the list does not make it available for use. It makes it available for consideration if there is no, you
know, commercial availability issue. So once again, we’ve got to remember we’re not allowing it’s use. We’re allowing it to be considered if, if organic doesn’t become available. And again, that’s the role of the certifying agent to determine if there is, uh, uh, commercial availability of that product on the marketplace. And number two, I just want to reiterate as soon as an, uh, organic grape seed extract manufacturer can get up to production, it becomes commercially available and number two, they can petition to have it removed.

MS. CAROE: Kevin, and then Tina.

MR. KEVIN ENGELBERT: Uh, one point I’d like to make that hasn’t been brought out yet is that I’m uncomfortable with the argument of allowing it because there’s such a little small amount that it doesn’t matter. Yeah, I know, but I’m just saying that.

MS. CAROE: Tina.

MS. KRISTINA ELLER: Uh, let me clarify something. Hugh said you’re buying organic grape seed extract?

MR. KERREMAN: It’s in the catalog. I don’t particularly buy it but it has OPCs in it. You can buy it for human nutraceutical use. Uh,
you can buy organic grape seed extract from Herb Vitality in Arizona and various other suppliers. Now it might be industrial size vats and that’s a commercial availability thing, but it’s, uh, it is out there and there is a process to make it. It’s like it’s not impossible to make.

MS. ELLER: Thank you.

MS. CAROE: I just want to comment... go ahead, Tracy.

MS. TRACY MIEDEMA: Hugh, you and I sat, uh, on the sub-committee together so I’ll remind you what your thinking was at the time. Which was our great hope was that when something was added to 606 that would be this flashing red light to the industry that there would be this opportunity, go forth and make this organic version and they shall come. And we still hope that that’s what really happens. I’m not sure if that’s getting communicated out there to the industry properly. That 606 is a great opportunity. It’s not a blank check for manufacturers to use a non-organic version; they have to leap the commercial availability hurdle every time and let’s as an industry put that hurdle and produce the organic version.

MS. CAROE: Julie.
MR. KERREMAN: I may well have said that, but I think just that my thinking has changed perhaps. And that, you know, you know if it’s more difficult to use the non-conventional source, non-organic, if it’s more difficult to use a non-organic source, the more incentive there will be to use an organic source.

MS. CAROE: Julie.

MS. WEISMAN: Following up to Tracy’s comment in the absence of a database of allowances that are being granted, this is the best we have to provide the industry with information about what ingredients are needed organically.

MS. CAROE: Uh, Dan.

MR. GIACOMINI: I, one other thing that is new since the March meeting is, uh, when we talk about will this be viewed as a growth potential or will this be viewed as letting things in the door? Uh, there was a tremendous, uh, I feel comment from sectors of the community that felt that the criteria that we used in March was, let’s say, a little liberal.

MS. CAROE: I’m just going to address that, and I’m going to address Bea. I have no regrets whatsoever over anything that I did in that spring meeting. Any vote I made and scrutiny
that I used in reviewing those materials. And I
will not say that, that any material was skated
through because we had a large group of them. We
just had to work longer. I don’t regret it. And
I, I guess I’m getting a little bit emotional
about this because, you know, that’s not the way I
work. Uh, we would have just not been able to
finish it if we couldn’t do it right. I felt we
did it right. I stand behind the process. So the
thought process that we would be consistent with
that process and somehow we should bump it up, I’m
in disagreement with. But you know, I’m one vote.
Everyone here has a vote on this material. But,
uh, I just want to go on the record saying that
nothing that happened, there was, I feel that was
the right process to go to to this day. I didn’t
change my mind in the least.

Jennifer.

MS. HALL: One quick point of
clarification, Julie. Is the petitioner, can you
remind me, is the petitioner the producer of this
item or a user of this item?

MS. WEISMAN: It’s the producer.

MS. HALL: So they have the equipment,
then, to make grape seed extract?

MS. WEISMAN: I believe that is true,
yes. And I believe that there’s one other manufacturer that they identified that also has the equipment to do this. So they size themselves.

MS. HALL: So they could choose to do this organically?

MS. WEISMAN: They could.

MS. HALL: Okay.

MS. CAROE: Dan.

MR. GIACOMINI: Jake, you got CCOF certifies a number of those vineyards. Are the wineries themselves, when they leave the vineyard and they go onto the winery, a number of them technically change hands. Uh, are they, are the vineyards, are the wineries, uh, are any of the wineries being certified there? Or would we, are we looking at something where a lot of what we think could be available would lose its?

MR. JAKE LEWIN: Uh –

MS. CAROE: State your name and your affiliation, please.

MR. LEWIN: My name’s Jake Lewin. I’m the certification director for CCOF and let me give you just briefly. We’re certifying right now about 18,000 acres of grapes. My guess is that 9,000 of those are wines so they’ve probably got
seed in them. About 4,000 are table, largely without seeds would be my guess. Uh, we’ve only got about 28 wineries certified. 9,000 acres, 28 certified wineries. So there’s not that many facilities that are certified. We’re probably losing those grapes to non-certified product.
Ingredient panel claim, that kind of thing. Not from panel labeling claim. But I’m sure that there is a lot of organic seed, you know. It’s probably just going to by-product or whatever.

MS. CAROE: Any more discussion on grape seed extract? Okay. Julie, why don’t you move us along.

MS. WEISMAN: Uh, the next item that we have on the agenda, uh, is a, uh, uh, is an opportunity, uh, to, uh, to reconsider an item, a petitioned item that was discussed and voted on at the spring meeting. Uh, we can only do this, uh, and the keepers of the Roberts rules can advise me on this, but I believe that we can only do this if someone who voted no at that meeting, uh, is the only, would be the only, uh, uh, member who could initiate a reconsideration. Is that...that is true. Okay. Right.

MS. CAROE: Want me to open it?

MS. WEISMAN: Yeah. Uh, there were, so I
guess my question is I know that there were four
people who were no votes. Uh, I’m going to assume
that you know who you are. Uh, I think only three
are actually at the table right now and so I would
like to ask if any one who voted no, uh, uh, would
like to, uh, has an interest in, uh, reconsidering
this? Uh, Jennifer?

MS. HALL: Uh, due to the fact that the
conversation that we had at the Spring meeting was
incredibly non-linear, uh, it skipped around, uh,
the questions did as well as the testimony and I
think that there were some hanging questions as to
whether or not, what the status of the ingredient
actually was synthetic or non-synthetic, that
there was a rush for time at the end, and the
confusion that I think still remains a little bit
on the board as well as in the public and
additional testimony that’s been received, I would
like to move that we reconsider gellan gum.

MS. CAROE: Is there a second?

MS. MIEDEMA: Second.

MS. CAROE: Okay. We have a motion on
the floor. Uh, any discussion on the
reconsideration? Okay.

MR. KERREMAN: Just wondering. Is that
motion for today or for tomorrow? Today’s
discussion, tomorrow’s the vote. I’m just
wondering.

MS. CAROE: We’re going to allow the
motion for reconsideration today but the vote will
be tomorrow with the materials. So this is just
to bring it back onto the table for
reconsideration. And I, you know, during this
discussion, I just want to remind people, you
don’t have to necessarily change your votes. You
can change your votes. This is just bringing it
back onto the table. That’s all it is, so the
outcome of this is, is, you know, is up to you.
So any further discussion on the reconsideration,
Dan?

MR. GIACOMINI: Uh, yeah. This was an
item, uh, as Tracy was saying, I mean, not only,
uh, was the day a bit non-linear, if I remember
correctly this is one where we had moved from its
previous voting location to the end for additional
information and then in the process, uh, two
additional members had to leave, uh, so that we
were down to four absent. Uh, so it was a, as
Tracy said, a non-linear day. Uh, I know things
like this have happened before. I know they will
happen again. Uh, I just feel this is a, while
it’s not a precedent, the potential of putting out
for reconsiderations, uh, is something that I think should be considered very carefully.

MS. CAROE: Certainly it is not a precedent. We have, uh, reconsidered materials before. Uh, Bea, you have a question?

MS. JAMES: Julia, I’m wondering if you, uh, received any further information that you might be able to share with the board about gellan gum based on the, uh –

MS. CAROE: You know, we can actually talk about that later in consideration. This is for the reconsideration.

MS. JAMES: Oh, okay.

MS. CAROE: Okay. I don’t mean to stop you, but we’re going to have discussion on the material as well. This is right now; we have a motion on the floor just for the reconsideration. We haven’t passed that we’re going to reconsider yet.

MS. JAMES: Okay so I’ll hold my question.

MS. CAROE: Okay, thank you. Any other discussion on the motion to reconsider? Hearing none. All those in favor of reconsidering gellan gum for additional to 20560 –

MS. WEISMAN: Right now, right now it
was, as of the spring meeting, it was to be petitioned to 605.b.

MS. CAROE: 205605.b. All those in favor, say “Aye.”

UNISON: “Aye.”

MS. CAROE: All those opposed same sign.

MR. KERREMAN: No.


So now, uh, Julie if you would like to present gellan gum as an item that we will vote on tomorrow.

MS. WEISMAN: Uh, yeah, I mean, I think that this is going to end up being, uh, uh, a joint effort to somewhat perhaps to reconstruct where we got confused during the last discussion that we were having about this material. But if I remember correctly, and I will ask you all to jump in if you, uh, have a different recollection, I believe that, uh, the, one of the, the turning point, one of the turning points on the discussion that we had was, uh, uh, uh, uh, when we asked, uh, Katrina raised a question about, uh, the solvent that was used in the extraction and, uh, had pulled up the tap review and, uh, uh,
which noted that, uh, isopropyl alcohol was the solvent. And based on that, uh, uh, based on noting that, uh, uh, it was assumed that because of that, that makes the gellan gum be a synthetic and, uh, I think that was, uh, an erroneous assumption at the time. And it’s relevant because obviously the listing of synthetics on the list have a different, uh, bar to meet than non-synthetics and/or agricultural products. So I, I believe that that is the, I think that we have to go back to that point and clarify, uh, and clarify that and proceed from there.

MS. CAROE: Any further discussion on this? Dan.

MR. GIANCOMINI: Are you looking then to amend the recommendation to 605.a?

MS. CAROE: I think that that’s something; I think that’s something that we have to resolve. I think that that’s something that we have to reconsider and resolve. Yes. Bea.

MS. JAMES: So just, I just want to be clear, Julie, there is no solvent extractions used in gellan gum?

MS. WEISMAN: Uh, you know, I am actually, I’m aware that the manufacturer is in
the room. And, uh, I am wondering, uh, if this is an appropriate time to ask a representative of the manufacturer –

MS. CAROE: You certainly can.

MS. WEISMAN: Okay, uh –

MS. CAROE: Is, can I ask the representative from the, uh, CP Kelco to please identify themselves?

MR. RICK GREEN: Here. Do you need me to go to a mic?

MS. CAROE: Yes, please. And please give us your name.

MS. FRANCES: Can I offer a point of clarification in your document here? You have the transcript embedded in here, of your discussion, so you can refer to that.

MR. GREEN: Uh, hi. My name’s Richard Green. I’m Director of Regulatory Affairs at CP Kelco. And the, uh, the issue, gellan is recovered with IPA and that is required under the CFR. If you look at 21 CFR 17265, it specifically states that have to process it that way. And it does set a residual limit. So in order for it to be food grade, it has to be manufactured. Does that?

MS. CAROE: Does that answer your
question?

MR. KERREMAN: Just what’s IPA? Sorry?

What’s the long name?

MR. GREEN: It’s isopropyl alcohol.

MR. KERREMAN: Oh.

MR. GREEN: that’s the solvent that’s used for extraction. Because the fermentation broth, when you ferment, it’s kind of a pudding-like substance. And in order to extract it from that acquiesce medium, you need to use a solvent. And it’s just that when it was approved, you know, the federal regulations required that.

MS. CAROE: Any other questions for the petitioner while we have them? Gerald.

MR. GERALD DAVIS: And when you mentioned there is a residue limit as part of that CFR, is there a residue of isopropyl alcohol in gellan gum.

MR. GREEN: Yes, there will be. The CFR states no more than 750 ppm. Now, you know, production can vary. We sell most of the gellan to, you know, in the market, we generally process at a much lower level. I would say 500, because that’s of course European and Japan limits are lower than U.S. limits. So that would be the amount in the gellan gum itself. And then of
course at the use level of any average use level is about .01 percent. So you’re looking at, you know, an extremely low level.

MS. CAROE: Just a translation. 700 ppm is .07 percent?

MR. GREEN: .075 percent maximum allowable.

MS. CAROE: Just, uh, any further questions for the petitioner while we have him here? Okay, thank you very much. And, uh, if you’re going to be around for the next day, we may have questions when we come to vote tomorrow and during our discussion. So it would be helpful.

MR. GREEN: Okay, and there is one clarification I would like to make is that the IPA is used as a processing aid. And so, you know, the residual is, you know, is basically required, you know for the processing of the gum under the code of federal regulations. And that the residuals are, you know, what the FDA has determined to be, you know, the suitable amount, you know, for residual processing aids in this kind of polysaccharide gum.

MS. CAROE: Thank you.

MR. GREEN: Okay, thank you.

MS. CAROE: Uh, I will remind the board
that if this is considered a non-synthetic that
the criteria listed in 205600.b are not
applicable. So look at those criteria because we
discussed those at the last meeting and I think
this is part of the basis that people may have
been concerned, or felt like this didn’t meet the
criteria. But this criterion does not apply to a
non-synthetic. Which, you know, okay. Any other
further discussion on gellan gum at this time?
Katrina.

MS. HEINZE: Not a discussion but a, uh,
request for assistance from my fellow board
members. Where are alcohols on the national list?
For a handling? Yes, I’m just not finding them at
this particular moment. I found them under
livestock but I can’t find them on the handling.

MS. WEISMAN: No. Can I... it doesn’t
need. This is not an organic ingredient.

MS. HEINZE: Right. I’m just trying to
understand it for my own personal edification.

MS. CAROE: Alcohol isn’t on the 605
list.

MS. HEINZE: So is it...

MS. CAROE: There is organic alcohol.

MS. HEINZE: Thank you.

MS. CAROE: Certified organic alcohol.
That’s what’s in the tinctures and extracts.

MS. HEINZE: Thank you.

MS. CAROE: Tracy.

MS. MIEDEMA: Just one quick question.

So we have moved to reconsider this for what list? Or is that still up in the air? What portion of the regulation?

MS. CAROE: Julie.

MS. WEISMAN: Well, I, I think I would like for all of us to, uh, to come to some clarity among ourselves and, uh, my understanding is that in a non-organic, in a non-agricultural product and a non-organic product that the fact that a synthetic solvent is being used does not compromise the non-synthetic status of this material. So I believe, I believe that this appropriately petitioned to 605.a.

MS. CAROE: Just to clarify a little bit, you know, from what I understand about the way this, this processing aid is used, it’s not a reactant. It’s used as a solvent which means it’s a means of separation. Which would keep it as a non-synthetic. Tracy.

MS. MIEDEMA: Yeah, I’m just having a little bit of a déjà vu on the Spring meeting in that we had, we had an open-ended question and
when we got to the vote, it confused the vote.
And so this is the time for discussion and
tomorrow’s the time for voting, let’s make crystal
clear what, what part of the role we are looking
at. At this point.

MS. CAROE: Joe.

MR. SMILLIE: My interpretation is that
it is a 605.a item and I think we should treat it
as such.

MS. CAROE: Bea.

MS. JAMES: Uh, uh, I guess I would agree
with what Joe just said, 605.a, non-synthetic,
non-agricultural because I also see agri-ager
listed in the same, uh, classification and, uh, I
know that ager is different but it does have
similar properties as far as thickening.

MS. CAROE: Any other questions?

Comments? Discussion? Does everybody feel very
clear? I mean this is the reason we’re doing
this, uh, revisiting of this material is because
we weren’t clear last time, so –

MS. WEISMAN: And we don’t want to have
to go –

MS. CAROE: This is the last time.

Katrina.

MS. HEINZE: I’m just opening up the
petition to clarify for myself what they, the
petitioner asked. What section it should go on?
So can I have 10 seconds?

MS. CAROE: You can, but - 
MS. HEINZE: The petitioner petitioned
for, uh, 605.b. And I believe our recommendation
is for 605.b, but I can go check.

MS. CAROE: It...okay. Just, uh...I’m
losing control again. Kim, come up and in the
meantime, Tina, you want to make a comment?

MS. KRISTINE ELLOR: I’m just wondering
would it be enough to ask the petitioner who’s
sitting right here if that would be, you know,
okay with them?

MS. CAROE: Well, in, yes. But you know
the board has done this before where a petitioner
has asked for a material to be in a certain place
and the board has determined it’s appropriate in
another place. So I wouldn’t get too wrapped
around the axel about where the petitioner feels
that it should go. Kim. Are you done?

MS. ELLOR: I’m looking at the
recommendation in our book and the handling
committee recommended for 605.b. So that’s just a
point of clarification.

MS. CAROE: Yes, I understand that and we
can actually amend that petition during the discussion tomorrow.

MS. ELLOR: I understand that. I just, to clarify for the folks on the board.

MS. CAROE: Okay. Kim.

MS. KIM DIETZ: Okay. Uh, when you go through your material criteria review, you have to make recommendation for one of the placements on the national list, but ultimately it’s the programs decision on where a material should go based on the criteria. So again, I wouldn’t necessarily focus on the petitioner’s request because they may not know what category it goes under. And I wouldn’t get so hung up on where you think it needs to go rather let the program decide that. Give them some guidance if it’s clear, but otherwise, you know, you voting on a material, not a section of the national list.

MS. CAROE: Kim, the only relevance to where the categorization is which criteria apply.

So –

MS. DIETZ: Right. But the criteria are the same for processing materials.

MS. CAROE: But not for synthetics and non-synthetics.

MS. DIETZ: Correct.
MS. CAROE: So that, that’s the
determination that has to be made. Board? Hugh?

MR. KERREMAN: I’m, I’m just a question.
Would it make any difference if they used organic
isopropyl alcohol, if that’s available? No such
thing. Okay. Stop.

MS. CAROE: They’ll use ethyl alcohol,
no? Any other questions? Bea?

MS. JAMES: I also recall, uh, at our
last meeting we talked a lot about what we’re,
what was the use and the properties of gellan gum,
what types of products were it used in and I think
that we received sufficient information about
that. And I just want to state that from the
research that I’ve done, I’ve also looked on Kelco
website, they have a review from 1990 that it
seemed like gellan gum from what I read is a
fairly safe ingredient and that, uh, it’s used in
a lot of products, uh, that I believe the organic
industry could benefit from.

MS. CAROE: Any other discussion on this
material? Katrina, you...oh, Julie?

MS. WEISMAN: Uh, along the lines of what
Bea just said, I want to point out that of all of
the handling materials that were up for public
comment, uh, this, I think if it didn’t receive
the most, it was the second most comments, uh, requesting it, uh, its listing because a lot of people would like it to be available for use in organic products.

MS. CAROE: Any other questions?

MR. ENGELBERT: One, Andrea.

MS. CAROE: Kevin.

MR. ENGELBERT: Would someone clear up again why the change from 605.b to a because the last statement in the testimony in March was from Julie saying, “I also see the extraction solvent as isopropyl alcohol which is a synthetic, which is further weight that this should be 205605.b.” So I’d like a little bit more explanation why the change now.

MS. CAROE: Julie.

MS. WEISMAN: Because I was pie-eyed by the end of that meeting and I could not think clearly about things that I’m normally I’m pretty clear about. That was, uh, that was, uh, that was an example of not clear thinking. And I apologize for the cost that this has had on this process.

MR. ENGELBERT: Thank you.

MS. CAROE: Okay. Questions, comments? Are we clear? Okay. Then we will move on to the next item.
MS. WEISMAN: Okay, the next item on the agenda is Sunset Materials. And before we proceed, I need, it needs one correction, uh, to what’s on the agenda. Right now, for whatever reason, on the agenda, calcium sulfate is listed, uh, as 205605.b. That has not ever been in question. That is simply a typo and I would like for people to know that calcium sulfate belongs in the 205605.a column with agar agar and Carrageenan and animal enzymes and Glucono-delta-lactone. Uh, that being said, uh, I feel I need to, uh, update, uh, the board and the program and just address a little bit, uh, uh, we had an unusual situation, uh, in having to make a recommendation in time for this meeting and public comment. Uh, in time to post our recommendations ahead of this meeting, and, uh, the, the notice of the Sunset of these materials did not take place in the same way, uh, that it had, uh, on the materials that were sunsetting in, uh, that just, that would have sunsetted this past October. Uh, so I believe that because of that anomaly, as of the time that we had to vote, there had been no public comment at all, period, on any of the sunset, the handling materials that were up for sunset. Uh, and the way the handling committee felt we had to deal
with it was that although we, uh, because we had industry knowledge, we believed that these materials were still in use, that nothing about their safety or toxicity had changed, that there were not new alternatives available that made them not necessary, uh, that we could not vote what we believed on the, in the face, in the absence of any public comment. That that did not seem like, uh, we, we did not feel comfortable, uh, just saying well that we recommend these because we just know they’re being used. Uh, so what we did was probably somewhat unorthodox and it was not meant to cause anybody anxiety, although I’m sure that it did. Uh, in, we did draft a recommendation that was phrased in the positive and that’s consistent with, uh, some previous decisions that we had made about wanting recommendations to be phrased consistently so that we were always clear about what our “yes” and our “no” votes were for. So we draft a recommendation in favor of the re-listing of these items and then we all voted “no.” And, uh, it was our hope that this would elicit the public comment that we felt so sorely in need of. And this is in fact what happened. Uh, in the eight weeks since these recommendations, uh, were posted we did get public
comment on every single one of them. Uh, and so, on Tuesday night, uh, at the conclusion of the agriculture symposium, the handling committee reconvened, uh, a motion was made and seconded to reconsider our committee level vote, uh, which was from, that, was made in the beginning of October, uh, and, uh, what came out of that meeting were, there had been two recommendations. There were actually, what came out of that were three recommendations. Uh, we voted unanimously five to nothing for the re-listing of agar agar, animal enzyme, calcium sulfate, and Carrageenan. Uh, and then because, there were some questions about Glucono-delta-lactone, uh, that we did not want to, uh, drag down the items that everyone was crystal clear on, so a separate recommendation was made for the re-listing of Glucono-delta-lactone on 605.a and that passed at committee level four to one. Four in favor, one “no,” no absent, no abstentions.

Uh, a third recommendation for the re-listing of cellulose on 205605.b. Uh, and that also passed unanimously, five to nothing.

Uh, so despite what is in the meeting books and what was posted ahead of the meeting, the recommendation that’s coming out of the
handling committee right now is for the re-listing of these six, of these materials. Uh, uh, so I want everybody to be clear on that. Are there any questions about that process?

MS. FRANCES: Would you clarify the first and seconds for me?

MS. CAROE: Who made the motion and who seconded it?

MS. WEISMAN: Uh, wait, I have it. I believe, uh, the, you mean the motion to reconsider or the motion on the recommendations?

MS. CAROE: On the recommendations.

MS. FRANCES: On the sunset materials.

MS. WEISMAN: I believe that they were [END MZ005020]

[START MZ005021]

MS. WEISMAN: Uh, let me, just...I have it here. Let’s go to the video. Uh, they were moved by Joe and seconded by Andrea.

Uh, I have one more, uh, annoying thorny item to bring up, uh, with regard to this. There is a material that we received public comment on that even as late as Tuesday we, uh, erroneously did not include on this list. Uh, and that is tartaric acid. Uh, tartaric acid was one of two items that were mistakenly included in the fall
2007 sunset and voted on two years ago to be re-listed by the board. Uh, and then I believe, however, that when it was realized that they should have been in the 2008 batch, uh, both of those items, uh, had since been deleted from the final rule for the 2007 sunset. That’s correct, yes? Right. Now, in addition to that, over the summer, uh, uh, there were, earlier this year, there were two other items that we also on this list that should not have been. Uh, because, uh, and those were potassium hydroxide and ethylene. And that’s because, uh, uh, the clock was being mistakenly set from when, uh, changes had been made in the annotation. And that should not have been the basis, uh, for their being included in the 2008 sunset. So those two items were removed over the summer and somehow at that time, tartaric acid dropped off our work plan along with those, even though it should not have. So, uh, the dilemma that we have right now is that tartaric acid belongs in this group. That’s the bad news. Uh, and it’s not on the current recommendation that we voted yesterday. The good news is that in, in, as recently as two years ago, the board did vote to re-list this and nothing about it has changed since then. So, uh, I am wondering if we
1 can...no? How can we proceed?
2 MS. CAROE: Was it posted in...
3 MS. WEISMAN: It was included in the, uh,
4 in the minutes of the March, this past March
5 meeting.
6 MS. CAROE: The announcement, not the
7 minutes.
8 MS. WEISMAN: It’s in the announcements
9 and the minutes. Well, I don’t know about the
10 announcements. It was in the minutes, it is in
11 the public record at the March meeting at the
12 conclusion of the meeting when I was asked to read
13 off my work plan, tartaric acid was on my list.
14 It is part of the official record.
15 MS.CAROE: It’s not on today’s agenda.
16 It’s not on this meeting’s agenda. Point of
17 clarification, without it being on the agenda, we
18 can’t vote on it can we?
19 MS. ROBINSON: You mean it was part of
20 the original 2007 sunset?
21 MS. WEISMAN: But it wasn’t supposed to
22 be.
23 MS. ROBINSON: It wasn’t supposed to be?
24 MR. KERREMAN: It was reviewed.
25 MS. WEISMAN: But it was reviewed at that
26 time and voted on at that meeting.
MS. ROBINSON: Wait, wait a minute. When was it added to the national list? Do we know?


MS. ROBINSON: 2003? So it should be up for renewal at all.

MS. WEISMAN: No, it should be in this group.

MS. CAROE: Katrina.

MS. HEINZE: Uh, I have in Jan’s magnificent presentation on the materials process and so Dan, this is a question for you. Doesn’t your presentation say that sunset materials must be reviewed within 5 years? So if the board voted in, on it early in 2007, hasn’t the matter been taken care of?

MS. ROBINSON: No, it’s going to come up; it’s going to come through on the 2008 ANPR.


MS. ROBINSON: It sunsets in ’08.

MS. CAROE: So it’s got to be –

MS. ROBINSON: It’s going to come through in the ANPR.

MS. WEISMAN: Well, unless we already voted on it.

MS. ROBINSON: Right, but –
MS. WEISMAN: Or a previous board voted on it.

MS. ROBINSON: You’ve already voted, but it’s not, as Andrea says, it’s not on your agenda, so you can’t deal, you can’t conclude that its business now.

MS. CAROE: Thank you. Thank you. But, okay, so let’s take it. Just bear with me folks. If we take this out of today’s meeting because it’s not business we can deal with, we can look at the possibility of being able to forward that vote that was done within the five years and -

MS. ROBINSON: Correct.

MS. CAROE: - and maybe -

MS. ROBINSON: That can carry forward to your March or whatever month your spring meeting is and you can conclude it, you know, it could be concluded perhaps in the spring and that would be one off of the list for sunset ’08.

MS. CAROE: So the salient point is we’re not dealing with it here.

MS. ROBINSON: Right.

MS. CAROE: Just so that board members have access to outside for lunch today, I’d like to kind of move us along so that we don’t have sandwiches brought in again.
MS. WEISMAN: Uh, that was the last thorny issue I had to raise.

MS. CAROE: Any question on any of the sunset materials? Bea.

MS. JAMES: Can you just, uh, restate exactly what we’re doing with tartaric acid? I’m sorry.

MS. CAROE: We’re not doing anything with it today. At this meeting; we can’t. We’re going to take it out of this meeting and we’re going to deal with it with the program, at committee level and at the program. It can’t, there’s no business we can do with it since it’s not an agenda item.

Any more questions? Comments?

MS. ROBINSON: I have one.

MS. CAROE: Okay.

MS. ROBINSON: How come in my book for tomorrow, for, uh, what am I looking at...cellulose. Julie, I thought you said you, uh, voted at the committee to...it says in my book that the handling committee recommends renewal but then the vote says “yes, nobody.” “No, three.” “Abstentions, two.”

MS. WEISMAN: Right. And we, what I was explaining earlier was that that was the vote that we felt, the way we were, that we had no choice
but to vote that way in October before we had received public comment.

MS. ROBINSON: Alright.

MS. CAROE: Bea.

MS. JAMES: Just for clarity tomorrow when we do the vote, Andrea, would you review why we vote on the sunset materials in a cluster instead of individually? That we will be doing that tomorrow?

MS. CAROE: It’s just for efficiency.

MS. JAMES: Alright. Does everybody understand that that’s how we’ll be voting on the sunset?

MR. KERREMAN: I understand the efficiency part, but maybe some people have an issue with one of the four? Sorry. I’m not saying I do, but maybe someone does.

MS. CAROE: During the discussion of that motion we can clearly amend it.

MR. KERREMAN: Okay, cool.

MS. CAROE: And we can have a second motion. We can deal with that, Hugh. We don’t want to, to, to tamp that down at all. So, it’s just, it they’re all, we did this with the first sunset. We had so many materials and they were all kind of in the same boat. So we just went
ahead and, uh, put them together and one vote, knocked a bunch of them out. But certainly if you have a concern, or anybody has a concern, we can break them off. Julie.

MS. WEISMAN: I, I have no wish to restrict, uh, our access to the outdoors. I did, though, want to address an issue that came up yesterday because this is the appropriate time. It’s the discussion of these materials. There was a question about the use of Glucono-delta-lactone. And I, uh, went back to the petition substances database and I looked at the petition and it, I wanted to confirm that it is in fact a coagulant used with soy milk in the production of tofu. Uh, so I just wanted to confirm that. And we had, uh, public comment requesting its continued use and we did not have any comment, uh, opposing that or raising any questions about it.

MS. CAROE: Okay. Anything further?

Alright. We are exactly on time. It is 11:45 and we will recess for lunch till 12:45. But please don’t be late because I don’t want to be long tonight. We’ve got public comment this afternoon, guys. Thank you.

If I could ask the board members to please take your seats so we can reconvene.
Alright. We’re back in session. We’re going to now go to the crops committee. Uh, you have, uh, three petitioned materials and sunset, and, uh, five sunset materials to consider, correct?

MR. DAVIS: Correct. The, uh, I’ll wait till she gets that loaded up. The first material, new petition, well sort of new, sort of old, uh, that we’ll cover is potassium silicate. We’ve had a lot of, uh, public comment concerning that this meeting. And this is the first item on the agenda. Uh, the crops committee considered this in, uh, well it was one of the first, it’s been several months ago. And we had a bare quorum that day; there were two absent members. So I don’t, I don’t believe we really had a full look at it partly because of, uh, the small amount of members we had to go over it. Uh, we split it, this material is petitioned as an insecticide and as a plant disease control and as plant or soil amendments for hydroponic use. Uh, public comment from the petitioner’s representative yesterday requested that we table the plant and soil amendment for hydroponic use, part of it; they’re withdrawing that. So we, that will not be a vote item today. Or tomorrow, excuse me.
The, this is broken into three sections. As insecticide, they’ll be a vote, as plant disease control there will be another vote and the crops committee voted it this way in separate sections. But we will not, uh, we are tabling by, per request of the petitioner the plant and soil amendments for hydroponic section of this recommendation.

Uh, pertinent things that I wanted to point out. There was a split vote within the committee. Uh, overall, it was voted to, uh, not be added to the national list. And, uh, uh, there was a, I wanted to read the minority opinion on that because I believe it reflects a lot of the public comment that we got yesterday on it.

Uh, as insecticide and plant disease control the material favorably satisfies criteria 1, 2 and 3, and should be added to the national list. Information provided in the tap report aptly supports prohibition of the material as a plant or soil amendment but does not or did not provide ample support for failing any of the evaluation criteria for the material as used for an insecticide or plant disease control agent. And some of the history I pointed out here, because I was the minority opinion, previous NOSB
crops committee in 2003 voted four to zero to approve, uh, the insecticide...well, no, the plant disease control aspect of this material. It voted four to zero to approve it. At the May 2003 NOSB meeting, the material was deferred for later vote pending eventual EPA registration, which they didn’t have at that time. So they didn’t vote until they could get that EPA question resolved. And, uh, there is a proposed annotation on it that no industrial by-products could be allowed in the manufacture. The material is as petitioned, uh, the manufacturer makes it from, uh, natural sand and reacts it at very high temperature with, uh, potassium carbonate, so it’s, uh, because the sand is providing the silica and there are numerous industrial by-products containing silica that could potentially be used so we thought it would be wise to annotate this to not allow any industrial by-products in the manufacture of potassium silicate.

At this point, I’d like to open it up to questions or discussion from the board.

MR. KERREMAN: So you’re going to have it so it only can be made from sand and potassium carbonate.

MR. DAVIS: Well, I guess technically
we’re not stating anything about the potassium carbonate part of it but we are saying the sand portion must be natural sand, not industrial by-product sand or silica, you know, slag.

MR. KERREMAN: Got ‘cha. Okay.

MR. DAVIS: Andrea.

MS. CAROE: Is that going to be apparent in the market? Is that, again, the annotations distinguishing how a product is produced unless it creates a distinctly different product that is marketed differently is inappropriate for this.

MR. DAVIS: Right. It does. Uh, the petitioner emphatically, in fact they changed their, their original petition in 2002, I believe, just called it potassium silicate, that the actual name of the substance being petitioned and voted on is acquiesce potassium silicate. And according to the manufacturer, acquiesce [phonetic] potassium silicate that can be stabilized in that way essentially can not be made from slags. But that’s part of what their petition states. And I wouldn’t mind getting a comment on that from the petitioner, if we could.

MR. KERREMAN: Well, is the petitioner here?

MR. DAVIS: Yes.
MR. KERREMAN: Here she comes.

MS. CAROE: Gerry, while we’re waiting for the petitioner to reach the mic, the only other question I would have is this, is this a branded product? Or is it, are there other manufacturers that are making this? Is this, uh, you know, in annotations and narrowing down, are we narrowing it down to a, you know -?

MR. DAVIS: I don’t believe so. I, I did a web search and there is at least one other domestic manufacturer that makes acquiesce potassium silicate.

MS. JUDY THOMPSON: Right. That is correct. That manufacturer -

MR. KERREMAN: Identify yourself, please.

MS. THOMPSON: Oh, excuses me. Judy Thompson with PQ Corporation. Uh, that manufacturer does not have a pesticide registration and we do. We do have a branded product but acquiesce potassium silicate is pretty generic. There’s lots of different acquiesce potassium silicates. And the reason I added acquiesce was when I’ve done literature searches, I’ve found a few articles that refer to potassium silicate. And then when I read that article I find, well, it’s not potassium silicate solution,
it’s been a slag material. So that’s why I added acquiesce in hopes that that would clarify the product.

MS. ELLOR: Would they have different CAS numbers? Acquiesce and –

MS. THOMPSON: Uh, probably. Right?

Yeah.

MS. ELLOR: Okay.

MS. FRANCES: Does anybody know what it is?

MR. DAVIS: The CAS number?

MS. ELLOR: It should be in the petition.

MR. KERREMAN: It is in the petition.

MR. DAVIS: Okay. Thank you.

MR. KERREMAN: Regarding –

MR. DAVIS: Uh, Mr. Datnoff, you have something to add to that?

MR. LAWRENCE DATNOFF: I just want to add something about slags.

MR. KERREMAN: Identify yourself, please.

MR. DATNOFF: Oh, sorry. Lawrence Datnoff, University of Florida. Uh, as far as slags go, as far as being silicone sources, uh, there’s, if you read the literature and then what we’ve used historically have been slags have either come from the still industry, when they’re
making pig iron, and that’s a calcium silicate material. And then there’s also, uh, slags that comes from the phosphate industry when you’re producing phosphorus that they by-product is also a calcium silicate slag. So those are the slag sources. These are calcium products. So, uh, I think those are completely different from, you know, potassium silicate and how that’s formed. So when you’re talking about slags, it’s really not, you know, what they have and what they’re marketing. Okay? So just to set that record straight.

MR. DAVIS: Right.

MR. DATNOFF: D, live in David. A-T, N like in Nancy, O, then double F, like Fred Frank. I spell it all the time, can you tell?

MR. DAVIS: And part of the...I’m losing my train of thought. In trying to understand the petitioner’s reasoning for changing the name of it to acquiesce potassium silicate is it’s a very purified form of the material that would just by the nature of that type of formulation of it eliminate some of our concerns about, uh, heavy metals, other things that are in there that other generic potassium silicate products that are not liquids could potentially contain with that
material.

Uh, Hugh.

MR. KERREMAN: I just wanted to address something that Andrea had mentioned about. You know the annotations and how it can’t be so narrowed down so it’s only become one company, but that has happened here. On, uh, I think it was, what... go ahead. I mean it has happened.

MS. CAROE: I mean, there’s a difference between one supplier and a, uh, patented or unique process that only one supplier could ever fulfill. If it’s one innovator, absolutely, we want to recognize those things. But if it is a, uh, proprietary product that only one, then it’s a little bit limited and it’s a little bit different. But even in that situation if a product is good, it should be allowed for organic. I was just exploring it more than anything.

MR. DAVIS: Yeah, I believe if the other major manufacturer that I know of in this country wanted to get a pesticide registration for a formulation of potassium, acquiesce potassium silicate, they could. Uh, if they so chose.

Dan? Oh, sorry.

MR. GIACOMINI: Just want to point out that, uh, Valerie did find CAS numbers and the two
listed, one’s for water and one’s for potassium silicate. Not a specific acquiesce potassium silicate.

MR. DAVIS: Okay. So I’m not sure what that would mean, as far as if we put on the, the official name of acquiesce potassium silicate, it would not have its own CAS number I’m assuming. Can you comment on that?

MS. CAROE: Gerald? I wouldn’t get, I mean ultimately we would like the CAS numbers and I think it will solve a lot of problems. But I don’t know that you want to get hung up about this to, you know, keep this material from being used if it’s consistent.

MR. DAVIS: Yes.

MS. THOMPSON: Do you need me to address that then, or no?

MR. DAVIS: If you have something to add.

MS. THOMPSON: Judy Thompson, PQ. Yeah, your statement is correct. There’s two CAS numbers for the material. One is water and one is potassium silicate. Excuse me? It does, yeah.

MR. DAVIS: Do we have any other comments or questions on this material?

MR. KERREMAN: Yeah, we’re not going to get hung up on the CAS numbers, but I would think
that the potassium silicate number in the future might be the one associated with this product. Even though water has the CAS number, if you had to pick one, I’d say the potassium silicate CAS number would be appropriate.

MR. DAVIS: Okay.

MR. KERREMAN: Anyway, that’s in the future.

MR. GIACOMINI: How different are we from putting water on the national list? I’m, I’m not sure, I mean, is that what we’re doing with this? I mean, how much, I mean is this, how different is this product that we’re looking at from potassium silicate to try and put it in solution?

MR. DAVIS: Rose, do you have a comment on this? Or Judy?

MS. THOMPSON: Uh, Judy Thompson, PQ Corporation. The product that we have registered is a 29% potassium silicate. Uh, the technical, so our end use product is a 29% potassium silicate solution. Our technical is potassium silicate flake product. It’s a flake glass; it’s a glass that can be dissolved in water.

MS. ELLOR: Can I ask her a question?

MR. DAVIS: Sure.

MS. ELLOR: Uh, you know what I’d really
like to know is, is the chemistry any different?
Is the chemical formula different for acquiesce potassium silicate than potassium silicate? Or is it a solution?

MS. DAVIS: The acquiesce is a solution. Potassium silicate, like this CAS number for potassium silicate, and you’ll correct me if I’m wrong, is just for the flake glass. It’s for, uh, a glass, I don’t know the exact composition, but the ratio of silica to K2O is 2.5.

MS. ELLOR: So you’re not actually –

MS. DAVIS: This glass can be dissolved in hot water and you get the solution of potassium silicate.

MS. ELLOR: Okay, but you can also take it back out of solution? So you haven’t changed the molecular structure of the potassium silicate to make it an acquiesce form?

MS. THOMPSON: I’m not sure if you want to go down this road. There’s, once you put potassium into solution, you have species of silica along with potassium ions.

MS. ELLOR: Okay. I see. Say no more.

MS. THOMPSON: Okay.

MR. DAVIS: Rose, do you have anything to build on that at all? Or?
MS. ROSE KOENIG: In my opinion, I wouldn’t, I mean acquiesce...oh, Rose Koenig, Eagle, Florida. Uh, acquiesce, if there’s two CAS numbers, I’m assuming, you know, one is obviously from water. It’s more of a, this is a, even though it’s not highly formulated, the acquiesce makes it a formulation where the potassium chloride silicate is the generic that you want to put on the list. If there are, it appears from what we’ve heard from the expert that there are no slag sources, uh, of potassium silicate. You know, I don’t know, I forget what the actual tap says. That’s the information you have before you. If you don’t, I mean, the only way to really feel comfortable, and I don’t recommend doing the annotation, is you could annotate saying not from slag sources. So it would be clear that potassium silicate could come from sources other than slag. Uh, or you can assume what has been said is correct and not put that annotation and potassium silicate, you know, would be allowed. The acquiesce, to me is more of a, is a formulation, uh. You know, again, once you put it on there, pesticides are going to be formulated. There may be products on the market other than, down the road, other than this product where it can be a
combination of inert ingredients as long as their 4Bs, you know, in a pesticide product. The difference here when you’re putting it down for disease control is, again, you can’t supersede the EPA. There’s going to be labeled products as long as they have potassium silicate in it and only list 4B inert, which water would be, uh, it would be an allowed product all the way. There may be potassium silicate products that end up getting formulated with different inerts that would be allowed, uh, as they’re active, but the inerts would know them out of the marketplace. I hope that’s clear. You know in terms of the final product. But the generic is the potassium silicate.

MR. DAVIS: Andrea.

MS. CAROE: It, it seems to me that, uh, you should be able to move forward with a bit of confidence on this if slag sources aren’t available on this potassium silicate. Uh, if that changes at some point in the future, that would be new information that could be considered during sunset, at the least. Or removal from the list for a more, uh, quick response. But if slag sources aren’t available and that’s your concern, then potassium silicate just listed that way, uh,
is not going to be from slag sources.

MR. DAVIS: But there could be, uh, smaller, you know, less high volume, uh, industrial manufacturing processes that could yield a potassium silicate that may be are not commonly known about but could exists that might have impurities and stuff that we don’t want to just generically say it’s okay to use it.

MS. CAROE: I can say that about anything on the list of, you know, you know, cellulose that’s on the market that has, you know, different process that is by a small manufacturer and is full of impurities. I don’t know that you could, uh, extrapolate down to that possibility and prevent a material that if it is consistent with organic, uh, agriculture should be allowed. I mean, weigh your risk, uh, you know. If, again, I’m not a crop expert and I’m definitely not a crops input expert, but from the presentations and the information that we’ve received on this material, it’s quite valuable to organic agriculture. Uh, is the risk of some unknown processor out there making this in a, you know, in a different way, is that possibility or risk outweigh the benefits?

MR. DAVIS: Go ahead.
MS. ELLOR: You know, maybe this could be simplified by the experts in the back of the room. What you’re actually taking from the sand is the silica, correct? So it’s the silica you’d be taking out of anything that you manufactured it from, presumably leaving all else behind? Is that fair to say? Yes? Okay. Okay. So that if it was manufactured using some other form of silica, say, what were we talking about, uh, calcium silicate, would the calcium be left behind? You would just be taking the silica, correct? Or not?

MR. DAVIS: Do you have something to add, Kevin?

MR. ENGELBERT: Yeah, I can’t bring it up on my computer but I remember the reason we discussed the annotation is that the tap review did state that it could be made from slag. So we seem to have a discrepancy between the experts in the room and the tap. And that’s what we were basing a lot of our thought on is the tap.

MR. DAVIS: I think what the tap said was more of industrial slags are used as silica sources in many countries. Not that it wasn’t making statements toward that it could be used to make this potassium silicate as much.

MS. THOMPSON: Right. I’d like, yeah, I
agree with that. Judy with PQ Corporation. Don’t
confuse what is a silica source for let’s say plan
amendment versus what is silica source for
manufacturing of potassium silicate.

MR. DAVIS: Rose? You guys better stay
up there, I think.

MS. KOENIG: Again, the tap was not
clear. A lot of times they were using, uh,
interchanging calcium silicate which is what’s
used in the by-product of the slag manufacturing.
They were using it interchangeably in that tap
report. Because it also, calcium silicate also
has properties that are, uh, you know, disease
prevention and such. Similar to potassium
silicate but it’s an entirely different CAS
number. It’s a totally different material; that
is not the material that is being asked to be
added onto the list. And I think that’s what the
confusion is. Potassium silicate is different,
like I said; Lawrence was talking about the slag
industry. That is the calcium silicate, uh,
product. Not the potassium and because a lot of
times in that tap it was being compared to that
product, because there’s quite a bit of
information, there’s a lot of historical data on
that particular product, that is why it is placed
1 in that tap. But you’re confusing some of the
2 benefits and adverse effects of that product with
3 potassium silicate.
4         MR. DAVIS:  Understand.
5         MS. KOENIG:  Which is a separate CAS
6 number, a separate generic. And calcium silicate
7 is not being petitioned.
8         MR. DAVIS:  Andrea. You’re suggesting
9 leaving the annotation off, just to make this
10 cleaner and simpler?
11         MS. CAROE:  I just don’t know why you
12 would even need the annotation. I mean, it
13 doesn’t even seem to make any sense to have it.
14 And any time you put an annotation on, you’re
15 adding an extra layer of verification at the
16 certification and that is a potential risk of
17 inconsistency. I, simplifying it does make it
18 cleaner.
19         MR. DAVIS:  And I guess if we are
20 eliminating talking about plant and soil amendment
21 part of this and all that’s left is for
22 insecticide and plant disease control, then EPA
23 labeled products would only apply. Which would
24 also clean up the situation quite a bit as far
25 as...correct?
26         MS. CAROE:  Well, rule number one is this
regulation does not pre-empt other regulations.
So it has to be labeled and registered for the use. So, that first. I mean, you’re not going to grab something off the shelf for medicinal purpose and use it on your crop to kill bugs. It’s not possible.

MR. DAVIS: Okay.
MS. CAROE: You know, that is, that is the first and only premise. First premise. I think you’re petitioner wants to be –
MR. DAVIS: Lawrence.
MR. DATNOFF: Lawrence Datnoff, University of Florida. I just, you guys have been going back over this. Let me just throw this slide up here one more time, okay? So when we’re talking about silicon, that’s the element, right? And then we talk about silica, like, uh, Dr. Thomas has been telling you how they manufacture potassium silicate, they use sand. Okay? Now let me mention one thing about sand. It’s definitely got silica in it, but if you know there’s a lot of beaches around, doesn’t weather, so if you just have sand by itself, it does not supply plant available silica to that plant. Okay? So just want you to recognize that. And then silicate, okay, potassium silicate, calcium silicate is a
compound. It has potassium or calcium or sodium along with silica. Okay? And then those, all those through hydrolysis will form silicic [phonetic] acid and that’s the form the plant takes up. Okay? It’s not different from if you take rock phosphate, P2O5 and you add that to the ground and then you get phosphoric acid and that’s the form the plant takes up. And it converts it and you have, you know, phosphate ion that forms to form ATPADP, right? Same kind of things going on here. But you have a source that you’re using to supply that element. And we always measure it in some type of elemental content. Okay? So hopefully that maybe helps clear that up a little bit better.

MR. DAVIS: Sure. Thank you. Point of order then. Is this the point where we would entertain a motion to remove the annotation? Or would that be tomorrow?

MS. CAROE: I would, no. It would not be today. Uh, when you have, tomorrow when we go to voting, somebody, assuming somebody makes a motion for this recommendation, we will have discussion and during discussion you can entertain a discussion to amend your recommendation. Or alternatively, you can take this to committee
tonight, redo your committee recommendation and bring it, a new recommendation tomorrow. Those are your options.

MR. DAVIS: Okay. Are there any other questions or comments? Okay. We’ll move on to the next material. Uh, which is sodium carbonate peroxyhydrate. Uh, the petition is to add sodium carbonate peroxyhydrate to the national list in 205601.a as an algaecide. The crops committee considered it and, uh, did not feel that it satisfied the evaluation criteria 1, 2 or 3. So we voted “no” that it did not satisfy any of those criteria. Uh, and, uh, so it was a unanimous vote to, uh, reject and not add it to the national list. Uh, material is a combination of sodium carbonate, which is a natural material or potentially natural material. It can be synthesized also but, and uh, hydrogen peroxide, uh, is pointed out by Army and Brian Baker that both sodium carbonate and hydrogen peroxide are on the list. Well, at least the hydrogen peroxide is, as it is right now. And he was questioning, I believe, that, uh, why did we reject this material when it’s really just a vehicle to supply hydrogen peroxide to the aquatic environment to use it as an algaecide, a safer vehicle than handling, you
know, caustic liquid hydrogen peroxide. Uh, I would entertain any comments or questions about that area, but I wanted to open it up to anyone that had anything to say.

Okay.

MS. CAROE: Hugh, that’s fine. I just want to make sure that we have a little bit of discussion on these materials. Uh, I guess I’m not quite sure why you’d want this material. Can somebody who would, you know, explain to me why you would want this? If you have the, the, uh...Tina.

MS. ELLOR: It’s my understanding and Emily, you probably could help me out with this, that it’s a safer, more stable way to get hydrogen peroxide and to ship it around.

MR. DAVIS: And it’s used, farm use is to control algae in reservoirs and ponds.

MS. CAROE: Okay. So it’s a safer form of handling these materials and it breaks down to the active, uh, parameters afterwards. Correct?

MR. DAVIS: Correct.

MS. CAROE: So, uh, you know, as I read through the recommendation, there’s concern over environmental risk when it seems to me that handling the materials that are on the list that
would be the alternative may be an environmental risk. I mean, if, just explain to me, can you weigh out the risk on these as a user of these materials which would present more of a risk? Bringing in those, those two already listed materials, which as Tina, you just explained, you know, or maybe it was you, Gerald, that there is a potential risk with handling those materials. Or taking this more stable material and letting it break down and, and also having the manufacturing process for that material...I mean, just weighing it out.

MR. DAVIS: Well, let me say it in a different way. And it may answer your question. I think with the committee makeup that considered this material, uh, it probably would have rejected hydrogen peroxide use as an algaecide also. So it, times change and things are a little different right now and, but, I think the petitioner is here, uh, if we could bring them forward to state their case a little bit at this time.

MS. KRISTEN KNOX: Hi. I’m Kristen Knox. We are the petitioner from BioSafe Systems. Uh, the petitioner actually went in prior to my starting to work for the company, I have since taken over all the regulatory and am here to
represent the company. In regards to the committee’s recommendations, we recently submitted a rather full response to your findings. Uh, we thought we addressed most of your concerns rather well. Uh, I’m not sure what you want me to defend right now.

MR. DAVIS: Uh...

MS. KNOX: Is there a specific question?

MR. DAVIS: This, most of our discussions in the crop committee focused on, uh, yes, hydrogen peroxide is on the list for use as an algaecide. Yes, this material would probably be safer handling than that. But we really, uh, focused on are there natural alternatives other than throwing peroxide into a pond to control algae?

MS. KNOX: But we honestly don’t look at it as just throwing peroxide onto a pond. It’s very widely used as an algaecide for reservoirs, it’s just not considered at this point organic.

MR. DAVIS: Right.

MS. KNOX: It is NSF listed; it’s two ingredients that are already on the national list. And as soon as it hits the water, it breaks down into hydrogen peroxide. We have very controlled doses and even at twice the limits, uh, the
recommended limits, we’ve shown that there was no environmental hazard.

MR. DAVIS: Go ahead.

MS. ELLOR: So maybe the question is if these things are already available on the list, what’s the advantage to this material over the ones already on the list?

MS. KNOX: You mean as opposed to just using hydrogen peroxide?

MS. ELLOR: Right.

MS. KNOX: Well, for one, for the shipping. Also for, uh, it’s actually stabilized as it’s in the water. It takes a slower, uh, release. Slower breakdown so the stabilizers that are there help it to stay in form to actually do its work longer. And as soon as the hydrogen peroxide hits the algae or the organic material, it then oxidizes it and then it turns into oxygen and water.

MR. DAVIS: Right so the committee acknowledged that. This is far safer for a farmer to use in their reservoir as far as applying it and you can simply broadcast this in pellet form over a reservoir and it will disperse itself versus trying to figure out how to pour or apply liquid hydrogen peroxide somehow in their aquatic
situation there. Andrea.

MS. CAROE: Okay. I don’t want this to sound blunt, but I mean, it just, so what I’m hearing is that this is a safer product than two listed products, but you’re not recommending it because you don’t agree with the original listing of the first materials? So you’re going to, in essence, the end product is you’re going to force people to use the listed materials, which you have just stated are, are actually not as good an alternative as this material. I don’t understand the logic here. I mean, I’m...

MR. DAVIS: Hugh.

MR. KERREMAN: I agree with Andrea, first of all. But also, uh, you cite tap line 233 through 241 that during its use there would be environmental contamination, talks about the Ph being changed in the soil or the water. Is this, I’m just curious, is this product being used like one time? Or is like every day?

MR. DAVIS: I would ask the petitioner that.

MR. KERREMAN: Well, not just one time but maybe, you know, once in a month or whatever, versus every day additions. That would make a difference to me on that tap review for what –
MR. DAVIS: That was part of the environmental consideration is what does that sodium carbonate portion of that do over time. To continually add it to, to that reservoir?

MR. KERREMAN: Well, peroxide would do the same thing, right? Or the other initial ingredient that makes these two that are already listed. But I’m curious, how is it used? Like in reality.

MS. KNOX: Either way. It can be used preventatively in smaller doses or it can be used as a curative. It has immediate knock-down. It doesn’t have any residual in the water as hydrogen peroxide breaks down into water and oxygen and the sodium carbonate breaks down into sodium and carbon.

MR. KEMMERER: And what kind of areas are, what, how strong are you using this and what kind of area? Like a little mud puddle or are you looking at a lake or what? I mean –

MS. KNOX: It’s usually irrigation ponds, uh, whatever a farmer would have.

MR. KERREMAN: Okay.

MR. DAVIS: Andrea, Bea, Dan.

MS. CAROE: I, I guess, Hugh, I understand the question you’re asking but the
alternative, if it doesn’t get listed, they can use hydrogen peroxide every day. I mean it’s on the list. Every day you can use it. It’s already there.

MS. KNOX: They can use sodium hypochlorite, too. I mean.

MS. CAROE: So, I mean, you know, this is about giving, giving organic growers better choices and I just don’t see why you wouldn’t give them this choice. I mean, I haven’t heard anything convincing to let me know that, that the alternatives that are already on the list are better. It doesn’t sound like they are, so, I’m missing something.

MR. DAVIS: Bea.

MS. JAMES: I guess I’m a little confused, too, because just in context of looking at another area, we’ve got agar agar, we’re looking at gellan gum, we’ve got cellulose, we have these different, Carrageenan, we have these different materials that we, we want to be able to provide because even though they do kind of, they can do kind of the same thing, the specific use needs to be applied for a particular, uh, product. So why wouldn’t we look at having this as being another alternative to something that might work
better?

MR. DAVIS: Right. Dan.

MR. GIACOMINI: Uh, your response on the sodium hypochlorite kind of deflated my question, but I’ll ask it anyway. Is there any measurable change in the sodium load over time?

MS. KNOX: No there’s not. And we have submitted under confidential business information the studies that show there was no change in Ph, there was no change in phytotoxicity or anything toxic to aquatic invertebrates.

MR. DAVIS: Go ahead.

MS. ELLOR: I’m going to have to say since I’ve learned more about this material, I think I will definitely support it because of the safety of handling and because the breakdown products are fairly innocuous and fairly safe. So, I’ve certainly learned more about it, and that’s why we have these discussions.

MR. DAVIS: Rigo.

MR. RIGOBERTO I. DELGADO: I wonder if the petitioner can comment on alternate natural, uh, approaches to controlling this problem of algae and so forth. That your product aims to, to control. For example, we looked at pond aeration devices or practices or the simple use of barley
straw inoculation. How well are those working compared to the efficiency of your product?

MS. KNOX: Well, it’s our understanding that none of those are registered pesticides to begin with. Any of those four other ingredients that are, we actually promote to use our product in conjunction with beneficial bacteria and enzymes as part of the IPM practices. Uh, alum, gypsum, limestone, and what am I missing, barley, the four are either used in concoctions together in different formulations, but you run the risk of the limestone, uh, if it’s going to drop the pH too much, that’s there to counteract the, uh, alum. But if it goes too low, then you actually create the phosphates that are going to cause more algaecul [phonetic] bloom, uh, and it’s my understanding, or our understanding as a company, that, uh, gypsum is not effective in hard water. So, and barley takes four to six months just to become effective. And we also submitted data on that. Uh, it’s got to sit there for four to six months to ferment before it even starts to take effect. It’s a good algae stat, but not an algaecide. Aeration practices, top aeration is just decorative. It’s not going to get to the algae that’s going to settle on the bottom of the
pond. Bottom aeration is effective between six to eight feet in depth. If it’s anything, if you have a deeper pond than that, it’s not going to get down to the bottom. And it’s also very expensive.

MR. ENGELBERT: Could you clear up one point for me that you made? You stated that the sodium does not accumulate. Where does it go if it doesn’t accumulate?

MS. KNOX: It’s such a low amount, it’s, uh, the scientific information that I have in the Harrah, which I hope you folks have access to, is that it just dissipates and breaks down into the soil but it does not have an adverse effect. They’ve done studies over a year and shown that there was no, it’s naturally occurring and it’s ubiquitous, is what I think the comment was put in the tap report. And our soda ash is actually mined from Wyoming.

MR. DAVIS: So for preventative use in irrigation ponds on farms, what would be the typical growing season, how often would they typically apply it, I guess, and how many times?

MS. KNOX: As you probably know, algae can thrive under specific circumstances, but it’s not going to be a constant thing.
MR. DAVIS: Right. I mentioned growing season.

MS. KNOX: Uh, correct. Uh, and one of the biggest applications that we’re looking at using this for is for the rice industry where there’s a very short timeframe. It’s only about a two-week timeframe where they are actually worried about the algae forming before the rice can grow up through the algae mass. If you knock it down then, the rice gets up through the algae mass and it’s fine. Uh, you only really need to apply once or twice. Rice people aren’t really going to apply preventatively, though the average person would probably apply it preventatively would be our farmers, and I have, somewhere, a copy of our label which gives the rates. And these are the same rates that, uh, our competition has as well. There are some other products out there on the market with the same exact active ingredient. We have, gosh, uh, two to nine pounds of the product per acre foot of water per application.

MR. DAVIS: You mentioned the use in rice. Your company is pursuing an EPA registration for algae controlling rice?

MS. KNOX: I’m sorry; I didn’t hear the first part.
MR. DAVIS: You mentioned using this product in rice. Is your company pursuing, uh, an EPA registration for that?

MS. KNOX: We have. We have actually received an amendment for that application.

MR. DAVIS: Oh, so you, that is an allowed use?

MS. KNOX: Yes.

MR. DAVIS: According to EPA at this time?

MS. KNOX: Yes.

MR. DAVIS: Because when we did our work a few months back, we checked with the California Rice Commission and I asked their regulatory person about that, about using this material. Could it be a good substitute for copper sulfate use in rice, organic rice production to replace copper sulfate? And she was like, boy, you’re really getting the cart before the horse, aren’t you? There’s not even any EPA registrations for that.

MS. KNOX: Well, it was approved this past May, and I actually have an amendment in before the state of California as well right now.

MR. DAVIS: Well, that’s some new information that, uh, if that had been part of our
committee deliberation would definitely have
influenced things because it would, at least in
rice production, for algae, uh, a better
environmental profile than copper sulfate. Bea.

MS. JAMES: I would like to request that
the crops committee take this form back and fill
it out again. So that it more accurately reflects
the true interpretation of the tap. And then
bring that back tomorrow.

MR. DAVIS: The board is free to over-
ride the crops committee, uh, recommendation if
they wish. Do you think that’s necessary?

MS. JAMES: But I’m confused because on
your form you’re saying that there is
environmental contamination during manufacture,
but what I’m hearing is that there’s not. And
because I’m not on the crops committee -

MR. DAVIS: No, that whole line is
manufacture use or misuse. Not just manufacture.
So it is, yeah, it is a problem in discussing it,
it’s probably a small environmental effect, but
that was the, we were splitting hairs as a
committee trying to figure out how small is this
and, you know. Andrea.

MS. CAROE: Well, you can take it to
extreme. Walking across the lawn is an adverse
environmental effect, you know. I mean, uh, I think you have to, you have to be realistic when we’re talking about, I mean, and didn’t the petitioner just say that there’s no change in the Ph? So I’m concerned. I just don’t feel, I think this like the worst case scenario extrapolating down to all possible, you know, situations that aren’t reasonable, aren’t what’s...Barbara is behind you.

MS. ROBINSON: Here’s my concern from the program. If what I’m hearing is that you’re going to change your vote on this, but this, uh, the form is going to be left alone; these are the kinds of documents that, uh, become kind of our historical reference. Uh, I don’t care if all you do is go through here, at least for us, I don’t care what happens to your forms, just to tell you the truth, I don’t, you know. But, you know, I can’t tell you how many times I go back through historical and look at what previous boards have done. It’s kind of like my bible and I get them out, I regurgitate them to the public, I give them back to you and say, previous boards said this. And it becomes the institutional knowledge, so if you’re going to change your vote, one of these things has to be corrected for the record. To
reflect whatever it is you are determining now to be, you know, the most accurate information bout this material. Uh, so that we’ve got something so that a year from now, five years from now, whenever it is, particularly when we get to sunset on this material, if in fact it winds up on the national list, but when we get to sunset, we don’t want to go back and say, how in good gosh did it ever get on the national list?

MR. DAVIS: Bea.

MS. JAMES: I guess I just want to second that because, uh –

MR. DAVIS: I agree with you.

MS. JAMES: Not only for the NOP, but there’s people on the board, myself, that I’m not on the crops committee, it’s not an area of my expertise and I rely on your expertise giving me accurate information.

MR. DAVIS: Right. Rigo.

MR. DELGADO: Well, don’t forget that this is discussion and we’re here to hear the comments from the petitioner, your comments and so forth. And, uh, as a committee we have the option of going back, reviewing those materials, those comments and changing our vote. And I think, or we may remain with the same one. We might be even
reinforcing our position. I think it’s a part of the process.

MR. DAVIS: As the crops committee chair, we can definitely, we will convene on this and go back over it and consider all this information.

MR. DELGADO: We do have new information that the petitioner has provided, so I think it’s, the process is working. That’s what I’m saying.

MR. DAVIS: And with the difficulties we had with retrieving public comments and things like that, I apologize. I did not see your comments until I got them in this book here at this meeting.

MR. KERREMAN: Just as a technical point, okay, so let’s say you have a sub-committee meeting and you feel reinforced and you’re going to stick with your vote, just theoretically. And then tomorrow, we as a board vote different than what you guys, let’s say with the sub-committee vote tonight would do. What happens, Barbara, because we are allowed to vote against their recommendation and you want all the right stuff in the –

MS. ROBINSON: We’ll meet them in the
back hall and beat them up.

MR. KERREMAN: I mean, you know, we can vote them down. And then, but they will have already recorded what they...do we change things before it goes to you, then? If the vote would go opposite of what a committee vote is recommending? Just wondering, really.

MS. ROBINSON: I don’t know.

MS. CAROE: Can I, we are getting a little off-track. This is kind of, kind of, yeah, we’re getting...we will make sure that there is appropriate documentation if nothing else but these wonderful transcripts to read about this discussion about how we got to where we got to. I’d kind of like to figure that out myself. But anyway...Valerie.

MS. FRANCES: You do also your final board recommendation and you have an additional form on top of your committee recommendation that you fill out and you can add additional stuff.

MS. CAROE: Thank you, Valerie.

MR. DAVIS: The crops committee will take all these comments and new information under advisement and be back with, uh, hopefully a different, uh, recommendation tomorrow.

Uh, moving on to the next material. I
don’t know; this one’s a little easier. Sodium Ferric Hydroxy EDTA. This has been petitioned, uh, to be added to the national list as a snail and slug bait. Section 205601.h. Uh, the crops committee, uh, voted six to nothing; we had everyone present at this consideration to reject this petition based on its potential impact on humans and the environment. Particularly the EDTA portion of the molecule was the deciding, the key area that bothered us. Uh, is it essential and available? We said, “No,” on that also because there is already another material, ferric phosphate that is not on the national list yet but it’s in the process. Uh, which, so there is another material with a little less, uh, a little better environmental profile that was approved by a previous board. And we didn’t feel it satisfied the criteria on criteria 3 compatibility consistency with, uh, organic rules in farming either. Uh, there was a lot of information on, on EDTA. It’s very commonly used industrial chemical in many, many things. And, uh, we really didn’t like that material. I mean, there’s nothing that killed this material in our, the committee’s mind quicker than, than having an EDTA approved on the national list. Uh, so, do I have any comments or
questions on that? Bea.

MS. JAMES: What was your, uh, committee vote?

MR. DAVIS: Six to nothing to reject it.

MS. JAMES: To reject it.

MR. DAVIS: Andrea.

MS. CAROE: Gerry, uh, without going through all the comments, did you receive public comment on this material, besides the tap and the petition? Did you have any other information that you were considering in your decision?

MR. DAVIS: Uh, I don’t know. Just to be brutally honest with you. I tried to go on EPA.gov and gave up. So I opted, admit that I’m not prepared to answer that question. Can you?

MS. ELLOR: Well, I mean as far as I can recall, and I did read all the comments posted, I didn’t see any comments about it at all.

MR. DAVIS: Hearing no other comments or questions, let’s move on to the sunset items. Oh, Kevin, go ahead.

MR. ENGELBERT: Before we move to the sunset, I’d just like to make one quick comment about in defense of the crop committee and they work that we put in on those three petition substances. We tried to attack our work plan a
bit at a time. Two items a month and we started right after the last meeting. And there’s obviously been information that has come on board since the time that these materials were looked at a long time ago. And we did our best at the time with what we had to work with. It may seem like there was no logic involved, but there was. We had to be convinced completely that these items were in the best interest of the organic community, the organic industry to be put on the list. And at that time, we were not convinced.

MR. DAVIS: What’s the first material? Calcium chloride? Uh, oh where are you? Let me see that. First material, calcium chloride. Uh, this material is on the national list as a prohibited non-synthetic substance. Uh, with the annotation that, uh, reading the brine process is natural and prohibited for use except as a foliar spray to treat a physiological disorder associated with calcium uptake. Uh, we reviewed this and voted to leave it on the national list as annotated. With, uh, some public comment, I’ll call it public comment but it, it comes from a California, uh grower, namely myself. With some concerns that I wanted to read and it’s merely, mostly just a call to someone who I think should
petition this material to try to fix it. It was petitioned last year to be, uh, have this restriction removed so it could have unlimited use as a soil amendment and it was voted down. Uh, for that purpose, but I wanted to read in my opinion the way it should be used. Uh, the present annotation I think is overly prescriptive in its foliar spray use guideline. Modest application rates applied with the proper methods in irrigation water can supply calcium nutrient without significant soil or water contamination and with less salt burn to the crop foliage than applying it foliarily. Particularly in sensitive vegetable and greenhouse crops. Number two, the current annotation does not address the fact that chloride is an essential plant nutrient and can be deficient in some situations. Uh, some irrigation waters in California and probably other places that are based on snow melt, which is very pure water with no minerals in it, uh, can really benefit from a small amount of calcium chloride added to it. It’s far better than adding sodium chloride or even potassium chloride. Uh, number three, the limitations on calcium chloride, uh, use are much more restrictive than the other mined natural chloride materials allowed in organic
farming at this point. The potassium chloride annotation reads, you know, that its prohibited natural unless derived from a mine source and applied in a manner that minimizes chloride accumulation in the soil. Magnesium and sodium chloride, although both high solubility mined substances, are not on the prohibited non-synthetic list at all. Some consistency is needed in how these materials are listed. Uh, one suggestion would be to, uh, to try to bring consistency within all the natural mined chloride materials is to, uh, try to clean up these annotations with, uh, more consistency with something such as, uh, calcium chloride or potassium chloride, whatever. Unless derived from a non-synthetic mine and/or brine source and applied in a manner that minimizes chloride accumulation in soils, sub-soils, surface waters or ground water. Uh, and thank you for letting me provide my public comment on that material. Uh, do you have any questions or comments on our vote on leaving calcium chloride on the list as annotated?

MR. KERREMAN: Question for tomorrow, I guess, would be if we vote yes for this, I mean, how does this, you will explain this because it’s
kind of like, uh, it’s like a negative negative, prohibited.

MR. GIACOMINI: The motion is to retain.

MR. KERREMAN: Retain.

MR. GIACOMINI: On the list on 602.

MR. DAVIS: What’s next on the agenda?

Copper sulfate in rice? Uh, copper sulfate in rice production as, uh, as an algaeicide and also as insecticide for tadpole shrimp control. Uh, we checked with the California Rice Commission and the biggest California Rice, Organic Rice producer and the situation has not changed with concerning this material as far as its need in their production system. Uh, the Rice Commission even stated the fact that there’s no replacement for it even in non-organically grown rice. It’s universally used. Uh, the information from the last petitioner that stood up here, if what they say is true and it can be used, there’s no, I guess in California they’ll have to prove that with their California EPA before this country’s rice production, organic rice production would use this type of material, would be able to use it. So that is new information that I was just informed of a few minutes ago obviously. Uh, but until I heard that, it was assumed that there was
not a replacement, it’s still needed and we voted
to, uh, retain it on the national list for the,
the uses mentioned. Any questions?

MR. GIACOMINI: I just want to make sure
this covers both listings?

MR. DAVIS: Both listings. We, uh, the
recommendation on the screen now has been
corrected. It was mentioned yesterday in public
comment that we had neglected to put the “as
insecticide” category on there. So it is
corrected now to include both, uh, categories.
The committee discussed both categories but
neglected to notice that it is two separate
categories and that it needed to be listed that
way.

Okay. Moving on to the next material,
ozone gas. Uh, it’s on the national list
currently for use as an irrigation system cleaner
only. Used in this way, this material would
typically be generated on the farm with equipment
designed to produce O3 gas, ozone, from
atmospheric oxygen and injected into irrigation
water. Uh, it’s a strong oxidizer. It kills
algae and bacteria and keeps irrigation lines
clean. Uh, in checking with a variety of
certifiers, some interest was found for keeping
the material and no strong feelings were expressed for removing from the list. Uh, did we receive any comments on ozone? Other than those? Okay. And there’s no comments that were submitted as part of the record for this meeting. So we voted, uh, six to nothing to retain this material, uh and renew it to the national list for this use only. Uh, as an algaeicide and for irrigation system cleaner only. Any questions or comments?

MS. MIEDEMA: I want to make one, Gerry, and that’s just because our process on the crops committee differed a little bit from Julie’s committee in handling. Julie told everyone earlier about the lack of public comments. Uh, their decision because of lack of public comments was to vote no to illicit the comments. Uh, we did the Google route basically and got on the phone and tried to beat the bushes and find out whether these were still useful materials. And, uh, vote to retain, you know. I’m thinking if we’d have said, “No,” we’d actually, we would have elicited the comments. So I just wanted to point out in case anyone had noted that incongruence.

MR. DAVIS: Uh, at the last round of sunset, I forget when that was, two years ago now? Uh, the crops committee tried that with a
material, which one was that? Hydrated lime, and
we got our ears pinned back. We didn’t hear any
comments. We didn’t think that anyone used it.
And boy did we hear about it at that meeting.
There were many, many comments. So we tried that
tact where we’ll, let’s just try it and just drop
this and see if we get any comments. And it is an
interesting way to get comments. Joe.

MR. SMILLIE: I don’t want to be a stick
in the mud, but once again, I think that copper is
one of those things that builds up. It can be
toxic, we had a good little discussion of it in
the marine world, and I think it’s one of those
issues in organic farming that we’ve just got to
keep pushing to try and find replacements for.
For a fact, I mean it’s not hard to –

MS. CAROE: I just want to remind people
that we are not –

MR. SMILLIE: [Inaudible]

MS. CAROE: No, that’s not what I was
going to say. Just give me a chance. We are not
evaluating this material for listing. This is
sunset. This is sunset; this is not about re-
reviewing the material. It’s are there any
changes; is it still needed? That’s it. Unless
you’re telling me, Joe, that they’ve come up with
alternatives, or unless there’s more, new
information since the tap was originally reviewed
by the board that put it on the list, you know, we
don’t need to go there.

MR. KERREMAN: I have a question. Or if
there’s new information about the material, right?
So like in livestock, using copper sulfate foot
pads that are put on the land all the time,
Cornell’s done studies in New York that you get
toxic levels of copper buildup on your farmland
pretty darn quick. Is that, but that’s livestock;
that’s not crops so I shouldn’t enter that, but
you know, we’re talking copper sulfate on land.

MS. CAROE: But exactly. That is the
type of information you look at during sunset, is
new information like that. But, uh, re-evaluating
old information is not the duty of this board
during the sunset process.

MR. DAVIS: And we might be backtracking
a little bit to copper sulfate, uh, the petitioner
that was up here for the sodium carbonate
proxyhydrate, uh, that might be an example where
when they do get California EPA approval of their
material for use in rice and when it is looked at
by the rice growers to see if it is effective,
then the next cycle might be an opportunity for,
in rice, we can get rid of that, the old dog. But I think it would be premature to do it this time around because, again, I didn’t realize that they were this close to getting at least the federal EPA approval of that usage, which California can come a year or two behind federal easily, as far as giving the approval for growers. So. Okay.

Next material.

The next material, Peracetic Acid. And that is for, uh, use as an algaeicide, disinfectant, sanitizer and including irrigation system cleaners and as plant disease control. Did we get comments on this? Uh, my crops committee secretary to my left tells me that she did not notice any comments provided in the public record for this meeting on this material. Uh, it is, uh, another way of delivering the sanitation power of hydrogen peroxide, uh, in a less caustic, safer to use form than straight hydrogen peroxide. It’s a combination of hydrogen peroxide and vinegar, acetic acid. Uh, this is for surface disinfection on equipment and seed, things like that. And as such is a viable and possibly more desirable material than the chlorine materials and also for controlling fire bacteria in apples and pears. I’m not aware of products on the market at this
point that include peracetic acid for use in
pears, but I am told that there are companies that
have, who work with this material that it is only
a matter of time before they get an EPA approved
product so we wouldn’t want to stand in the way of
that because it could be a potential replacement
material to use in conjunction with biological
controls to replace the streptomycin’s and
tetracycline use that are so, there is so much
resistance for using in pears. Uh, so the
committee voted to, six to zero, to retain it on
the national list. Any questions or comments?
Steve.

MR. STEVE DEMURI: Is this another one
where you had to call people that you knew to be
using it to find out if it was still being used?

MR. DAVIS: It is being used as a surface
sanitizer fairly commonly. Uh, I don’t know why
no one made any comments. Uh, there’s another,
uh, listed use, national list use for this
material that is, was only published in the
national register last year, I believe, for use as
a food contact substance also in like wash out for
vegetables and so forth in handling. Uh, when
you’re packing vegetables and so forth and fruit.
Why we didn’t get any comments, I don’t know. But
it is common knowledge within the expertise of our
decision-making body that it is being used. Go
ahead, Bea.

       MS. JAMES: Uh, two years ago we heard
from the state of Washington. They came up and
they were, uh, petitioning for the renewal of
streptomycin and tetracycline. And I think it’s
pretty exciting to know that there is an
alternative for that for fire blight on pears and
apples. And I’m wondering if you have any
information as to whether or not any of those, uh,
farms or crops in the Pacific Northwest are
currently using this alternative. And if it was
available for them to use two years ago?

       MR. DAVIS: there was not a, uh, EPA
registered paracetic acid material for apples or
pears registered at that time. And I’m not sure
if there is as yet. Uh, there are some contacts
that the committee has with the Pacific
Northwest/Washington Pear producers and who, they
are testing other alternatives to streptomycin.
Even on a conventional basis because they’re
always, the threat of resistance and problems with
the material breaking down not accomplishing their
controlled goals. Uh, we’ll just try to monitor
that, but as yet, it’s still, they’re testing the
biological, uh materials that would antagonize the
growth of the fire blight. Those by themselves
are not adequate; they get part-way there but the
disease is very devastating and it’s not nearly
good enough control by themselves. So, uh, in
discussions I’ve had with those people they say
yeah, wouldn’t it be nice if a company would
finally step forward and spend the money to get an
EPA registered material and that’s the hurdle.
That’s the difficulty is that it’s small use,
small crop and it costs a lot of money to register
peracetic acid.

Uh, the next category of materials would
be the EPA List Three Inerts. And I hate to put
you on the spot, Tracy, but do you want to take a
stab at this one since you did so much work on it?

MS. MIEDEMA: Sure. Okay, so this is
specifically, this refers to EPA List inerts used
in passive pheromone dispensers only. And they’re
referred to in 7 CFR Section 205.601.m.22. Okay.
Our decision was as a committee we vote
unanimously to retain these List 3 inerts on the
national list. And he quandary we were in is that
EPA is going through a, a new system of
decategorizing lists. And so we’ve had this
situation of lumping anything under one List 3.
And we needed to basically draw a line, grandfather things in and make the public very aware that future petitions to add, remove or renew an inert ingredient to the national list will need to reference a specific inert ingredient. And so there’s not this sort of blanket categorization of inerts. We won’t have that available to us.

MR. DAVIS: So to give a little more detail, the, I guess no one else is using these EPA List 3, List 4, those designations are gone. And they don’t really, aren’t being used other than this reference at this point. And, uh, that’s why we wanted to make sure in, with this recommendation and vote that it was clear that this can not be, uh, relisted the next go round again this way because it will be so far from, it will be changed so long ago by then there’s no way we can continue this List 3 Inert grouping in passive pheromone dispensers. Each material would have to be re-petitioned individually. Tracy, go ahead.

MS. MIEDEMA: And I guess I failed to mention our reasoning for, uh, the importance I guess of the passive pheromone dispensers and, yeah, this is another situation where we didn’t
have any comments to go on. No one was asking us
to keep this around and we really did just get on
the phone and we were calling orchardists and
talking to fruit farmers and anyone who uses these
traps. You know, how important are these? And
the general, uh, consensus among organic farmers
is that this was an important tool.

MR. DAVIS: Kevin.

MR. ENGELBERT: I just want to back up
what Tracy said. I called three small orchardists
that I know and they were all unanimous. They had
to have these to be able to continue to grow
organic fruit.

MR. DAVIS: Hugh.

MR. KERREMAN: Uh, is there any way,
maybe it’s like such a long list, but to actually
name the List 3 inerts? And if they get re-
classified and different nomenclature, fine. It’s
this listing of these three, whatever inert List 3
that we mean.

MR. DAVIS: I checked with, uh, CCOFs
materials expert, Sia Sonnebin [phonetic] about
this and she did some checking. Asked some of the
manufacturers of the pheromone traps what they are
using. As near as I can tell there’s about three
or four of them. And she gave me that information
in an email, and I can forward that to you. But it wasn’t, it wasn’t good enough to publish as a statement from CCOF. It was just an email say, “Yeah, it’s this one, this one, and this is what they’re doing with it.”

MR. KERREMAN: Well, I’m just wondering, could you canvas the certifiers that are certifying these kind of products and just, I know it’s homework and everything, but if the EPA isn’t using this nomenclature anymore and people want these products that are under this List 3, you kind of have to do something different than just say List 3 inerts because it doesn’t exist.

MR. DAVIS: Most people don’t even realize that these materials are in pheromone dispensers. They don’t have a clue. All they know is they need pheromone dispensers; they don’t realize there’s an issue with these inert ingredients that are part of the lure that releases the pheromone. So it’s such a disconnect that people don’t even know to comment. And I think the more direct way would be to go to the manufacturers and make sure they’ve seen this information and then they respond. Andrea.

MS. CAROE: From what your presentation has, uh, provided for us is that this is an
evolving issue. That EPA is working on, there’s changes being made, and I, although this is all very interesting where it’s going and it’s very helpful, but for today, uh, for this material it just seems that at this point re-listing is appropriate and that we understand that at some point in the future change may be needed. But at this meeting we don’t have the information to make that change. In order to make a docket to keep this from sunsetting, action needs to happen here. 

So –

MR. DAVIS: Right.

MS. CAROE: I don’t know, I don’t know that we need to spend a whole lot of time, uh, theorizing where this is going to go. The action, you know, just to keep us on track for what we’re doing here today, is it’s still needed. There may be some changes coming but it’s still needed. Let’s move along.

MS. MIEDEMA: And just to point out clarification for you, Hugh, basically the List 3 is a lot longer than is needed for the materials that are in these passive pheromone dispensers. But we kind of have to take this big, broad brush at this point, capture everything that was on there, that’s why we have this URL listed that
captures the moment in time when this changed, uh, rolled over and then in the future, it will just be the things needed.

MS. ROBINSON: We don’t have a petition for those materials. We have sunset for a present listing.

MR. GIACOMINI: I just have a quick question. When will this listing not make any sense to the government?

MR. DAVIS: It already does not make sense to the government. It’s a done deal. It’s over. We are lagging behind.

MR. GIACOMINI: I know, but if the list no longer makes any sense to the government, I, I, I don’t understand the, I understand we, there’s things that will be come unavailable. But I don’t understand the value of, I mean –

MS. ROBINSON: Yeah. It makes sense right now, okay.

MR. GIACOMINI: Okay.

MS. ROBINSON: It’s good.

MS. CAROE: Thank you, Gerald. Uh, okay, we are, of course, way behind already. Uh, certification, accreditation, compliance, compliance accreditation, certification committee. This is going to take a while. What time is it?
Alright. I’ll turn it over to you, Joe. You can get started.

MR. SMILLIE: Yeah. We’d like to get started because this may take a while. Uh, basically the certification, accreditation, compliance committee has a lot of things we looked at, uh, on our work plan. We decided on three specific items that, uh, two currently are recommendations and one’s a discussion paper. Uh, basically we’re going to look at standardized certificates. We’re going to look at, uh, commercial availability and we’re going to look at multi-site operation certification.

The first two are currently listed as recommendations. The third has been switched as of yesterday, two days ago to a discussion paper. The way we’ll handle it is we’ll deal with each item separately and the conversation will be led by the principal author of that paper. And I’ll provide sort of the background, uh, to the reason why it became a priority for us to deal with it.

So I think what we’ll try and do, Madam Chair, if it’s okay with you, we’ll do the standardized certificate one, and then if you feel we’ll break as necessary before one of the others, we can do that.
MS. CAROE: At your lead.

MR. SMILLIE: Uh, so basically with standardized certificates, uh, it became apparent in the industry that, uh, the, the wording and the specifications for a certificate were not adequate to, to provide the needs for not only certifiers but also for people getting these certificates. There was too much wide variety and I remember to my shock a few years ago when the program said no, they don’t even have to say the certificate implies the, uh, you know, under compliance of the 7 CFR Part 205. And I was in shock. I said well, it’s got to say that. Well, there’s no place in the regulation where it specified it has to say that. So upon hearing that, things started into motion and the result, basically at this point in time is what we are looking at as a recommendation for a standardized certificate. Uh, that’s the motivation for it. Uh, we need to have much more, uh, consistent information that’s on a certificate and, uh, at this point in time the committee has come up, uh, with this recommendation and I’ll let the, uh, principal author, Jennifer Hall, take it from there and walk the, uh, the committee through it, uh, board through it.

MS. HALL: So our committee, uh,
presented the recommendation for standardized
certificates the first time in fall of ’06, and we
were fortunate enough to receive ample, uh, public
comment that we took back and then re-presented
the recommendation as a discussion item last
spring. Following the feedback we got from that,
we did make some adjustments, uh, and in
205404.b.5, we changed, uh, our request for crop
names to basically list the common trade name of
the item. Uh, 205404.b.6, we added to request the
actual category of organic certification. And in
205404.c.1 was added, which was a request for it
to be written or translated into English. C2 was
changed, uh, and was just less prescriptive and
just said if we have additional pages are allowed,
if they are there, they do though need to have how
many pages there are so that there is a tracking
of what should be included.

Uh, so those were the basic changes. We
did receive some public comment, uh, a couple of
comments about the fact of just reminding people
that 404.b.3 effective date of certification is
just that. It is not an expiration date. Uh, and
so people were requesting reinforcement of
expiration dates which is something we actually
already discussed and approved for recommendation
to the NOP in a prior recommendation. So, uh, and
that was in fall, the fall ’06 meeting. So that
is already done and we are requesting that. So
this, those two issues are separated on purpose,
uh, by design of basically thinking there might be
some resistance to the expiration date item but
not so much to the items that we’re recommending
today.

So our understanding is that when this
gets modified, all of those things, the expiration
and the standardization things that we are
recommending today would come out in one thing
from the program.

Uh, the other comment related to 205404.d
and it was the very end of that sentence which
essentially is or should the certification be
allowed to expire, uh, and as we looked back, that
actually is a hold over. That phrase alone is a
hold-over from the expiration recommendation. And
so that will be modified in our recommended vote
for tomorrow.

MR. DAVIS: And further clarification,
the real issue, well, what seemed to be the last
remaining significant issue was how much
specificity about the crop and there was a wide
disagreement about how specific, and uh, different
sectors had different expectations. Uh, we went back to the ACA and the NASOP, I asked those two groups to get together and see if they could come up with something. We got pretty close. What we agreed is we couldn’t be too specific and we couldn’t be too general. The example we used was, uh, we didn’t want to see a certificate say, you know, and have someone selling blue corn chips and the certificate saying blue corn, and the certificate saying grain. Then we went through the whole genus family order of species and decided that was not going to work either. So we batted around a number of suggestions, talked a number of people and finally came up with, you know, basically a simple, common sense solution, the common trade name. So that when someone sells blue corn, they don’t call it corn, they call it blue corn. When they sell turnips, it’s not, you know, red and white turnip or purple turnip, it’s just a turnip. Uh, so even though it’s loose we think it provides enough specificity for the certificate to be read accurately but not too specificity that requires like the specific variety or down to such detail as it’s purple broccoli or pack-man broccoli or something like that because that would be putting too much of a
burden on both the certifier and the grower. So by going with the common trade name, uh, we think that that should solve, for most cases, the, the degree of specificity, uh, on the certificate.

MS. HALL: Is there any discussion? Yes, Dan.

MR. GIACOMINI: Uh, I just, I want to thank you for the work. I, I like what you’ve done with number 5. I remember, uh, a number of years ago the first time I saw, uh, a certificate on a dairy farm that had gone through the 8020 conversion so thus their cows were not anything that could be sold organic, but yet the only thing that was ever listed on their certificate was livestock. It wasn’t listed as milk, their milk was not listed but yet their livestock were not actually organic animals. They were animals that were able to produce organic through the 8020. So, uh, I think five will help on that. I have a question about the value in what is gained by number 6. Uh, the, the processor or whoever will have to, uh, get approval for any changes they make but, uh, are they going to need to get a new certificate?

MS. HALL: Julie.

MS. WEISMAN: Uh, that, I think for
handling and for process, multi-ingredient process products that has to be on the certificate because, uh, uh, not all, I’m trying to think of an example, but you could have something that could be the same common name, you might be selling just the same common name, but it’s, it’s becoming increasingly important for, uh, customers to know whether the ingredient that they’re buying is 95% or 100% because they have percentage formulation requirements that they have to meet. They have to know that.

MR. GIACOMINI: So the listing items in number 6 will be per item in number 5?

MS. HALL: Yes. Chair, did you have a comment? I saw Steve; you were first. Oh, sorry. Barbara.

MS. ROBINSON: I, I appreciate the spirit of this. I just, I have to raise some issues with you from the program on this. Uh, number one of course and I know that you’ve gotten this feedback before, uh, the regulations say that, uh, uh, certification does not expire. Okay? So, that doesn’t mean you can’t change it, of course. That you can recommend to have expiration dates on certificates. However, and you, yes, you can recommend to have all this stuff put on a
certificate. Now the consequence of this is, uh, pretty big burden on certifying agents. Uh, wait a sec; I’m not done. Uh, and then you will have a lot of non-compliances being issued. And I do mean a lot. Because anytime, anytime an operation, let’s just take your products to be listed, or categories of operations, anytime an operation decides to make a change, uh, any time they make a change, if they don’t hurry up and contact their certifying agent and the certifying agent doesn’t get right out there and amend the certificate, uh, and somebody complains, and complains to the NOP, they start the ball rolling here. And you can have non-compliances issued. And, if I’m going to truly do what I say and start ENOPing and putting all this up on the web, uh, how’s everybody going to feel when they find their companies listed for non-compliances because their certificate were out of date or because this happened or that happened. And what if the certifying agent doesn’t get out there and now you’re going to give me a grower group recommendation, and how are we going to handle that one? You know? I want you to think about this because you, the more, the more restrictions, the more information you put on this, I’m not
telling you we’re just going to reject it, I’m just telling you to think down the road here. The more you put on a piece of paper that binds a company or a producer, the more you are putting, you know, out there for potential non-compliance. That may be sort of a no-fault situation here; it may just be a matter of time. Something to think about.

MS. HALL: Andrea, and then Joe.

MS. CAROE: Alright. I’ve got to address a couple of things here. Uh, one is if an operation changes, uh, their operation as reflected in their OSP and they don’t tell their certifier, they don’t update it, they’re already in non-compliance. Uh, so they have to update that anyways. That’s already in there. Two in regards to expiration date, this board did already pass last, last meeting a recommendation to add expiration dates and to rule change and that work item was put on our work plan because of the urging of the program to do so. So I hear what you’re saying and, you know, that’s the premise that we were going on before and then things changed and we said, you know what, we were told expiration dates would help. We did the work, we passed the recommendation. Uh, this is to reflect
that OSP that is still current, uh, so we kind of went down this road. And, yes, I, I’m fully familiar that there will be non-compliances, but they’re out there already. It’s just that we don’t know about them. Uh –

MR. SMILLIE: Well to carry on with that, uh, basically it’s, uh, we feel that, uh, that these things...first of all, when you say you have to get out there, the certifier does not have to get out there for most of these changes. These are within an OSP. These can all be done via email. Certificates can be cut, when you’re working with a distribution or trading company, it’s a continuous operation. This idea of certification being a once a year event is only in a few people’s minds who don’t know what certification’s about. It’s a continuous back and forth between the client and the certifier. It never stops. Never, 24/7, and certificates are part of it.

The second thing is that for us not to have the phrase “certified as compliant with the USDA’s national organic program,” is absolutely unacceptable. Uh, we get certificates that have to specify –

MS. ROBINSON: I don’t disagree with
MR. SMILLIE: Okay. Well, uh, the common trade name is really important. We’re seeing a lot of activity going on with just too broad of a designation. Some certifiers have much more specific than this. Some have very little. And we’re trying to get some consistency. Uh, down to the products listing; that’s become a huge item because of the programs and continuous re-evaluation of, for example, what creates 100% product? And the program’s continual insistence on accurate numbers for formulation, meaning that if you sell a product to, uh, to, uh, a manufacturer, they’re not allowed to use that organic product under NOP’s instruction basically as 100%. They have to use it as like 95, 96, 97%. Talk about burdens. There’s one I’d love to cut right out. So the new things that we added we, we feel are, are pragmatic and practical and that certification organizations can accomplish it. We didn’t get a lot of feedback so, uh, I would like, uh, I would like to hear from my fellow certification agents, or from the community, uh, if this is overly burdensome. I think it’s necessary for the flow of trade.

MS. HALL: Any further comments from the,
from the room?

MR. DEMURI: I have one.

MS. HALL: Okay.

MR. DEMURI: Uh, as a large manufacturer that uses hundreds of organic ingredients from probably 50 or 60 different suppliers, I applaud this because it is a huge nightmare to keep up with the certificates on a daily basis. We have a couple people that that’s all they do. And the way they’re written now, that’s really, really tough. So the more information we can get on these certificates, the better off we’re going to be.

MS. HALL: Bea.

MS. JAMES: I would echo that. That if you’re, uh, under voluntary certification as a retailer to try to track certificates and interpret their meaning has, can be a real challenge. So even though the burden’s going to fall somewhere, and right now, the burden is really in the hands of people who are trying to interpret and understand and make sure that the certificates are actually accurate and still valid. So...

MR. KERREMAN: I have one thing also.

There was a large organic dairy auction in our
area about a year ago. And I had the fortune or
misfortune to be very involved with that. And I
saw certificates coming through from various
certifiers; it was a nightmare. So even when it
comes down to livestock stuff, not just handling
and all, it would be helpful.

MS. HALL: So hearing no further comment,
we’ll move to commercial availability.

MS. CAROE: How does the board feel about
a break? Or do you want to move forward? Okay,
hearing no objection, we’re going to move forward.

MR. SMILLIE: Uh, second item on the list
is, uh, commercial availability. And, uh, where
do we go on this? Basically, uh, this has always
been needed. We’ve always known right back from
the very earliest days of the board, Jay or Rich
are in the audience, commercial availability we
always knew was just one of the most toughest
things to deal with. It’s basically impossible
and we all do our best. However with the advent
of the Harvey law suit and the enriching of list
606, we realized that commercial availability
basically applies to two things in the regulation:
606 and organic seeds. So basically with the 606
list now being as, uh, small as it is, or as large
as it is, depending on your point of view, uh, we
really felt that, uh, we needed to get a recommendation out, another recommendation. There have been previous recommendations on commercial availability out because certifiers are now, right now, faced with deciding whether someone can use something off 606 or not based on commercial availability. And it’s really important for the certification community to basically achieve some sort of level of consistency on their interpretation of commercial availability. So this recommendation actually, in a certain sense, is motivated by 606 and motivated by the pleas of the organic seed community for help in enforcing that regulation and, uh, the need for, uh, some sort of consistent interpretation there also, as well as, 606. And it’s also basically designed to help motivate, uh, even with the financial considerations, the NOP to, you know, to move into action to create some sort of training for certification agencies on applying commercial availability. Uh, that’s the reason why we’re making this a recommendation. If there wasn’t that sense of urgency, I think we would rather have it as a discussion paper because we realize that there is a lot of issues in here, and we did get a lot of push-back. And I’ll ask Bea, the
principal author of this document, uh, to explain why we did what we did and some of the things that we see in the future for, uh, for how, the future of this document.

MS. JAMES: Thank you, Joe. Uh, so although our recommendations have been submitted to the NOP by the handling committee, and actually on January 18th of this year, the NOP did release a notice of guidelines on procedures for submitting, uh, national lists petitions, we’re still not quite there as far as clear enough guidelines so that petitions are submitted with sufficient information to the board. And I think that we all saw evidence of that at, uh, the March 2007 NOSB meeting in which many petitions submitted for the inclusion onto the national list were received by the NOP but not all of the petitions were eligible for consideration. And in part that was due to the fact that some of the petitions did not contain sufficient information as far as the documentation of commercial availability. And part of the reason for that is that there’s really, currently, not strict enough and clear enough criterion guidelines around that. Uh, and yesterday we did hear quite a few comments, uh, as far as having seed in the
document. So before I continue, I would just like to address the issue of commercial availability of seed. Uh, one of the difficulties of having seed in this recommendation is due to the fact that petition procedures for 606 are for agricultural ingredients used in handling and not for petitioning for the use of non-organic seed. And currently there are no requirements that farmers petition the NOSB to review and recommend a listing of varieties of seeds as commercially unavailable as, uh, organic. And we did hear from, uh, quite a few people and we also, uh, received several public comments, uh, as far as the idea of a database of, uh, commercial, commercially available or unavailable seed seemed to overwhelm many people in the industry. So, and, uh, so the CAC had many discussions about whether or not seed should be in the document. Uh, I actually take responsibility for pushing it through. Joe kept saying, well, you’re going to get it. And I said, yeah, but I think we want to because I, because it’s important to bring this up to the surface of the industry and really make sure that we do something about the situation of commercial availability with seed. So, uh, uh, we all understand the complexity of commercial
availability of organic seed but in the end decided that the accountability of sourcing and having guidelines for tracking organic seed is just as important as any other agricultural material or ingredient. However, we have also heard from the public and because of that, uh, we are looking at the possibility of reconsidering that in the recommendation. And, uh, yeah, I just have to say, kind of on a side note, is that, uh, I was very impressed at the number of comments that we heard, uh, for strict standards for aquaculture. Yet I’m also amazed at the number of comments that we have heard asking for not so strict standards for the tracking and accountability of organic seed. And I just have to bring that about because the burden of proof is not, in my opinion, this is strictly my opinion, the burden of proof is not a sufficient reason to not have a good regulation that demonstrates accountability. Uh, so with that, as far as the recommendation as it stands now, our committee vote was 5 yes, zero no and one absent. And, uh, the recommendation is in two parts. Part A which talks about as Joe mentioned, the importance of training procedures and process for ACAs and protocol on determining commercial availability
that would be spearheaded by the NOP. And then that would become part of the training process for certifiers. Uh, and then Part B is the ACAs role in determining a commercial availability and we do have a lot of things in here that are fairly prescriptive. And I know, uh, you know, we’ve heard from people, uh, particularly as far as the database and the tracking that there’s concerns around that. We’re re-evaluating how we can go about that proactively. Uh, so I’m not going to go through each one of these, Joe, unless you want me to.

MR. SMILLIE: No.

MS. JAMES: Okay, so, uh, the CAC stands by its recommendation for further standardized criteria to be used by ACAs and the organic industry at large when making commercially, commercial availability determinations, uh, for agricultural ingredients. However, uh, we would like to discuss with, uh, the committee the possibility to refer this recommendation back to the committee for further development with the crops committee to establish guidelines for seed. So thus we would be producing a handling committee recommendation for the Spring meeting that would establish guidelines on the establishment of
commercial availability criteria that is specific to 606, and then we would also product another document, uh, in conjunction with the crops committee so it would be joint crops and handling committee recommendation. I mean, I’m sorry, not...so joint crops committee and CAC committee recommendation on the criteria for the determination of commercial availability for organic seeds. Uh, and then I would also welcome any comments on the recommendation as it pertains to the ACA’s role in determining commercial availability.

MS. CAROE: Uh...

MS. ANDREA CAROE: Okay. I just want to reiterate the reason that this is so important and we want to get this out there, and we want to get this voted on so quickly is we now have a robust list of materials on 606, and we have been well criticized for having a robust list on 606, but as we’ve always said from the very beginning, just because a material is listed on 606 doesn’t mean that it’s allowed, it means it’s allowed for consideration if it is commercially nonavailable in an organic form. So in order to finish off
that second piece, to have that second layer which
will effectively keep organic growing, we need
this document to add consistency across
certifiers. So it is truly important that we do
this. The 606 list took priority to keep organic
commerce undisturbed, but at this point to protect
organic, we have to have a guidelines for what --
or establish an expectation on what that
commercial availability sourcing effort must look
like. So I have been -- I’m actually -- I
understand the comments that were received on
seed, I understand that this document’s not going
to move forward. I personally am upset that I’m
not going to be able to vote on this, because I
think it’s that important.

MALE VOICE:  What?

FEMALE VOICE:  Well, the Board --

FEMALE VOICE:  No, no.

FEMALE VOICE:  We were going to decide
that now.

MALE VOICE:  That’s not a done deal.

MS. ANDREA CAROE:  Okay. All right.

FEMALE VOICE:  Yeah.

MS. ANDREA CAROE:  Okay.

FEMALE VOICE:  We’re gonna

[unintelligible].
MS. ANDREA CAROE: I do -- I truly think that we need to move forward with -- on this, and that's not to move forward without a well thought out document, I think there's been a lot of thought put into this, but it's needed, desperately needed, very quickly in order to keep that standard where we need -- where we expect it to be.

MS. BEA E. JAMES: I would just like to ask --

FEMALE VOICE: [Interposing] Uh huh.

MS. BEA E. JAMES: . . . for comment from anybody on the Crops Committee as far as your opinion on the recommendations. So, yeah, Gerry.

MR. GERALD A. DAVIS: I would heartily recommend that we split out the seed and work together on it for a later meeting. I under -- I respect the need for the 606, the pressure that puts on it, and I agree. We need to pull the seed out of there. I mean, we could really stumble the seed industry -- the vegetable seed industry is the most complicated one, and we don’t want to do that. We want to proceed in a way that won’t hurt the industry, and we really could do damage if we’re not careful in how we craft what we’re doing. Or it would never come out of rule making,
for example.

FEMALE VOICE: Rigo?

MR. RIGOBERTO I. DELGADO: Just want to echo what Gerry was saying. We’re dealing with two different animals. Or seeds, or ingredients, whatever you want to call it, but for the purpose of having clarity I think it makes sense to create two documents and involve the Crops Committee in the seeds discussion.

FEMALE VOICE: Joe, and then --

MR. JOSEPH SMILLIE: No, I [unintelligible].

FEMALE VOICE: Oh, Tina.

MS. KRISTINE ELLOR: Yeah, I absolutely agree. I think it’s a much more complicated -- just in terms of sheer numbers, issue with the seeds, and it would be great to get, you know, a lot of input from, you know, certifiers who -- a lot of certifiers have talked and -- talked to us about it that we could separate seeds out and get the Crops to be involved, that would be a wonderful idea.

MR. JOSEPH SMILLIE: We agree. In fact, that was our initial thoughts, but because of the urgency we were handled -- or the CAC was handed commercial availability and I was going Gerry,
Gerry, where -- couldn’t find him. Anyhow --

MS. KRISTINE ELLOR: He was out on the farm somewhere.

MR. JOSEPH SMILLIE: With a chainsaw. I think he was getting the chainsaw repaired that day, if I recall. But anyway, but we’ve got some choices here, and neither of them are pretty. The one choice is to move ahead with this as a recommendation. We recognize that it -- there’s flaws, and there’s problems in it, but there’s nothing here that binds anyone, and I do not think that it does any damage. We don’t have statutory authority in this area and it puts it out there, and I guess it’s more of a question -- and then the other thing is to just, you know, back to committee, divide it up, and having nothing to move forward with. So I guess my question is, to those with more experience, is can we put this document out there, knowing full well there’ll be another document coming along later.

MS. BARBARA C. ROBINSON: What kind of -- setting aside the seed issue, what -- did you get favorable public comment -- did you get favorable comment on the rest of your criteria for the rest of your commercial availability? What sort of reaction did you get? I don’t --
MS. BEA E. JAMES: I think that there were mixed reviews. We actually had a couple of favorable comments as far as keeping seed in the recommendation.

MS. BARBARA C. ROBINSON: Well, I mean, did --

MR. JOSEPH SMILLIE: [Interposing] On the other hand --

MS. BARBARA C. ROBINSON: [Interposing] Was this going to be helpful to operators and to certifying agents? Was that the general feedback that you get? Aside from the seed.

MR. JOSEPH SMILLIE: We got some very, very good comments. The quality of the comments were really excellent, and it’s just -- if we would have had two days between getting these comments and putting out a recommendation I think we would have come up with a great document.

MS. BARBARA C. ROBINSON: Well --

MR. JOSEPH SMILLIE: [Interposing] Unfortunately we don’t have that time. It’s like we can only meeting until, you know, 2:00 in the morning kind of thing, but the --

MS. BARBARA C. ROBINSON: [Interposing] Because the reason --

MR. JOSEPH SMILLIE: . . . but the --
okay.

MS. BARBARA C. ROBINSON: ... the reason I say this is because I’m wondering if what we shouldn’t do -- because it sounds like what I’m hearing is okay, now we’ve got the list of materials on 606.

MR. JOSEPH SMILLIE: Yeah.

MS. BARBARA C. ROBINSON: But we don’t really have a good way to activate the list, is what you’re saying is where we are, right, Andrea?

All, you know --

MS. ANDREA CAROE: [Interposing] Actually it’s not activate the list, it’s temper it down.

MS. BARBARA C. ROBINSON: Well, we don’t have a permission -- we don’t have the levers --

MS. ANDREA CAROE: [Interposing] We need a filter.

MS. BARBARA C. ROBINSON: Right.

MS. ANDREA CAROE: We need a filter.

MS. BARBARA C. ROBINSON: Right. We need guidance for knowing when to use those materials. What I’m -- I guess what I’m getting to is maybe there’s a way we can still work with the Committee, you know, break out of here, get the seeds part out, and publish guidance here until you get back to something a little more formal,
but in the interim pull out -- pull the seeds portion out and publish it as guidance for the community, for operators, and for certifying agents to use.

MS. BEA E. JAMES: Yes. So we have two choices; one is to send it back to the Committee and reintroduce it as two separate recommendations, one on seed, one a cleaned up version of our recommendation with really taking into account the public comment that we got, or we can actually have a mini-working session tonight, we can remove seed, and come forward with the document as it is, and reintroduce it tomorrow.

MS. BARBARA C. ROBINSON: Well, I mean, that’s up to you, but it -- if you don’t do the working session tonight, we could probably do something to bridge the gap until you get to a new recommendation next spring, is what I’m saying.

MS. ANDREA CAROE: Barbara, we’re not -- I mean, this is not recommendation for rule change, it’s only for guidance anyways.

MS. BARBARA C. ROBINSON: I understand that. I understand that.

MS. ANDREA CAROE: So, I mean, but this is what I -- the option that I would suggest is if we can pull out seed, introduce this, vote on it,
it is a guidance, it can be reworked, you know, I mean, it’s not a rule change.

MS. BARBARA C. ROBINSON: Right.

MS. ANDREA CAROE: This is guidance and at least it gets something out there now --

MS. BARBARA C. ROBINSON: [Interposing] Right. Right.

MS. ANDREA CAROE: . . . to start building certifiers’ procedures to get them consistent.

MS. BARBARA C. ROBINSON: Right.

FEMALE VOICE: Julie.

MS. JULIE S. WEISMAN: Yeah, I also -- just while we were sitting here talking, went through this document and there are exactly four places where text needs to be deleted. We have done much more complicated things than that sitting in this room with this on the screen, so I don’t -- you know, it could be done fairly easily done tonight, it could probably even be done now.

MS. BEA E. JAMES: I’m comfortable with that decision if the rest of the Board is comfortable, and our Committee is comfortable with that. And then that way we take it back to the Crops Committee and we do a joint recommendation for next spring on seed, specifically. So we’d be
able to put forward guidance at this meeting for a vote.

FEMALE VOICE: Do we need to, like, find out -- vote?

FEMALE VOICE: No.


MR. DANIEL G. GIACOMINI: I would just like to request that either there be someone with livestock background on the Crops Committee, or you include someone -- you include the Crops Committee also -- I mean, the Livestock Committee also. You know, when these -- when dairy farmers and beef people are looking to reseed, they’re scrambling, you know, if they’re rotating with corn silage or some other crop, corn, soybeans, and they’re rotating that with pasture, there’s a period of time where they’re scrambling to, you know, fast growing grass, grow -- growing -- slow growing grass, legumes, a number of different things, it’s not an easy thing to just put together when you’re going to have to be doing it from a number of different sources, partly organic, partly not. I think it would be a value to have some of that perspective.


MS. JENNIFER M. HALL: There may be more,
but I know Jeff is on both Crops and Livestock.

MALE VOICE: Kevin’s a dairy farmer. I would highly suggest Kevin to be on that.

MS. BEA E. JAMES: We can determine that later, but I definitely will take that into consideration, adding in the Livestock Committee as well for the seed recommendation. So Andrea, at this time I guess I would like to leave it that the way that this recommendation stands is that it will go back for some editing -- deletions, editing, and I also want to just assure the public that we also are going to be looking at some of the excellent public comment that we got from many of you with your suggestions for this recommendation, and we’ll try to temper the database fear that seems to be out there with a lot of the certifiers, and with that, that concludes recommendation for commercial availability.

MS. ANDREA CAROE: Okay. It’s three o’clock now. I think we should take a 15 minute break. We are about 45 minutes behind -- well, about an hour behind and we can come back and do multi site which we should just, like, breeze right through, right? And then livestock and public comments. So 15 minutes.
[Audio interruption]

MS. ANDREA CAROE: Hello. Board members to the table, please. Okay. Let’s reconvene, and the next item on the agenda is multi site certification -- multi site operation certifications with the CAC.

MR. JOSEPH SMILLIE: Okay. Now for a nice, quick, easy, noncontroversial item. Multi site certification. Most of you -- I think a lot of people -- I won’t say most of you, but I would guess most of you understand the reason behind this, and I’ll let Tracy, the [unintelligible] of the principal author of our recommendation -- or discussion paper, I should say, give you more of the specific background, but needless to say, it caused great furor in the community, and I think quite rightfully so, because what we have here is a long established organic practice that people have felt worked well for years, and then we had discovered that it doesn’t always work well, so we’re between a -- between something that we really, as a community, believe needs to happen, which is multi site or group certification, as it’s often termed. Something that we really believe is needed that’s appropriate both politically, socially, and economically for a
fairly large segment of the organic community, and
we’ve got a situation where that way of doing
things has been abused, and that’s been improper,
and so what we need to do is go back and look at
it carefully, and find statutory and regulatory
foundation for continuing a practice that’s been
going on -- group certification I’ll call it -- in
the organic community for a long time. But we
need to find a statutory and a regulatory basis
for continuing that activity, whichever way is the
most appropriate. We also need to balance that
with what was, you know, has been well reported
from a number of commentators, we need to make
sure that we’re not just talking about the good
scenario, but also the scenario where that
particular style certification has been abused.
So we also need enforcement activity to make sure
that certification agents hopefully moving forward
with group certification -- ability to do group or
multi site certification, are in compliance with
the regulation and we’ve got a quality job being
done. So we have to balance those two
considerations and come up with a way that is not
only socially and politically just, but also is,
you know, has a statutory and a regulatory basis
so we can, you know, move forward on it and not
have someone else say well, you can’t do that
because OFPA says this, and a District Court judge
agrees with them.

   So that’s the charge we felt we needed to
move forward on, and we have got a number of
great, great comments and, you know, working
groups from OTA, IFOAM [phonetic], ACA, and others
who’ve really done a lot of work in this area,
have contributed a lot of expertise, and I think,
you know, with a sufficient amount of time we’ll
be able to utilize all that expertise and bring it
together.

   But I’ll let Tracy walk everybody through
the introduction, the background, and our current
thinking on the subject.

   MS. TRACY MIEDEMA: Thank you very much,
Joe. I would take exception to one
characterization; calling the comments an
uproaring or furor. I think it’s been very
vigorous and I think we’ve had some excellent
comments from all over the world pouring in, and I
think the real furor came when the plug was sort
of pulled on this construct last year, actually
about ten months ago.

   So I thought I would start out reading
just a little news blurb. This is from May 2nd,
2007, Sustainable Food News. Try to do my best
Dan McGovern voice.

Hoping to soothe anxieties of organic
certifiers and small scale coffee and food
producers in the developing world, the U.S.
Department of Ag’s National Organic Program said
Wednesday that regulations governing the
certification of grower groups remain status quo,
at least until rule making changes can be
discussed publicly this Fall.

So when we adjourned from our March
meeting, this topic was not on our work plan for
CAC. In fact it was May of this year before it
was kicked over into our direction and onto our
work plan. I’m going to continue here.

An OPE deputy administrator, Barbara C.
Robinson, wrote to certifying agents Wednesday to
clarify a recent appeals ruling by the
administrator of the USDA’s Agriculture Marketing
Service, Lloyd Day.

Many in the industry were discouraged by
the initial reading of the administrator’s ruling,
thinking it was the end to group organic
certification of small farmer cooperatives. And I
think many of the people in this room who have
submitted public comments or presented them
already were among this group that was really terrified that what they had relied on and seen built as a very robust, viable means of farming around the world go away.

I want to point out one other thing, and this goes back to October 2006, and this is sort of the precipitating issue.

At issue is an appeal involving a community grower group in Mexico that was seeking organic certification. The grower group was denied certification because among other things, the certifying agency’s policies and procedures were inconsistent, quote, within OP regulations. Instead of inspecting each production unit, and this is all going to be important as we talk a little bit deeper about the regulations.

The certifying agent selected a percentage of the producers in a community grower group for on-site inspection, the ruling read. The ruling said that was in conflict with the provision 205.403A(1) whereby each production unit must be inspected.

In January of this year that ruling was construed by our Associate Deputy Administrator as basically a reason to slam the brakes down on this construct of an internal controls system, serving
as a proxy for each individual site being inspected. You go to the first slide.

So I have a really short PowerPoint presentation. In fact, it’s just two slides, and for those of you who can’t see it, it’s a picture of a wagon wheel.

The internal control system functions from a central hub, and I guess, you know, what fell out of this I guess scary situation from October 2006 to May 2007 was a dusting off of the 2002 NOSB recommendation and Barbara’s decision, and please Barbara or Mark, correct me if I mischaracterize any of this. To enstate that as the tacit mans of certifiers being able to continue to certify groups.

But they knew there were some issues. The key issues, and the way Mark characterized this as we don’t have proper optics. We can’t peer into these, so we need to break these things down, we need to understand, we need to be able to break them into pieces, we need to understand percentages, what is a statistically significant percentage of sites, for instance. Looking at that hub, you know, how many spokes of the wheel need to get looked at each year.

As the CAC took up this issue, me and my
freshman Board member, Vigor, decided this looks very straightforward, looks very important and interesting, and I’m going to dive in and learn everything I can about group certification, and my first call when I first entered into this issue, and I mean we’re talking June 2007, not years ago or decades of experience like many of you in this room have, we’re talking this summer -- it immediately became apparent that internal control systems were being used throughout the organic supply chain.

You know, and I knew of certified organic retailers. IFOAM [phonetic] told me about processors and handlers that were using internal control systems, and I started to get a sense of how complex and how broad this construct is applied throughout the organic supply chain. You know, I founded some very nice, exhaustive surveys of their members, for instance, and we saw everything from 6,000 member Ugandan coffee farmers, to where we were seeing, you know, all the way to the opposite end of the supply chain, you know, retailer groups. And in all situations some basic rules had to be followed, and I, you know, I want to just go to the 2002 recommendation because these really have been the rules of the
road for what these need to look like. As far as I can tell.

There really needs to be -- these spokes of the wheel and these various units need to be very homogenous, they need to be -- and most situations have be geographically contiguous. They need to have constant training and education, and there’s many, many metrics that the 2002 recommendation put forth to help guide -- you know, the operating manual for what an internal control system could look like.

But that didn’t get us over this hurdle that 205.403 says that every site must be inspected annually, and we have a -- you know, we have sort of a language problem, so to me very early on it looked like we had a rule making issue. Really, you know, there was some language that was going to have to be changed, Barbara referred to that in her comments to certifiers, and it also was apparent to me that this construct can, should, and does exist throughout organic.

I was very compelled by Michael Sligh’s comments yesterday, and he said, you know, I want to tell you about the history of grower groups. This is not made for monied interests and people who can afford to get every site inspected, this
is -- this was for people who could not afford those inspections. Let’s go back to the traditional reasons why any type of clustering should ever occur. And I respect the history there, you know, and the motivation behind that.

However, that alone would never have been enough to justify those operations becoming certified organic. They still had to legitimately be organic, and some very complex grower groups have become certified organic, so the mechanism has become much more sophisticated.

Other certification programs around the world have gotten really good at this, and there’s, you know, there’s some information to be learned. Not that we want to mirror our program on anyone else, but we don’t necessarily have to, you know, reinvent this wheel and in looking at 205.403, for instance, IFOAM shared their training manuals and there are very rich systems around the country and training programs, et cetera, and so when I approached this recommendation I really thought we need to solve problem A, which is we have a regulatory issue.

We have a very vulnerable construct that’s important to a lot of people that the plug could get pulled on, you know, out of the socket
again based on one bad site visit to a country where, you know, the optics weren’t strong enough, et cetera. And the reason for that is the overwhelming -- I mean, this is -- has been nearly unanimous, I would say, that the construct does have value, and that grower groups should carry on.

So first and foremost, this recommendation says yes to grower groups, but, you know, we were looking at, you know, from the very beginning at more than just grower groups, hence this very wordy title that I think captures more the complexity of what internal control system really is, and these are multiple production units, sites and facilities mirroring the language that’s in 205.403.

So Valerie, if you can go two slides this time.

Another circular shaped object, a snowflake. The spirit of an organic system plan, and I really tried to bring this forward in the recommendation, is that organic system plans are structures that make sense, but every single one is unique. Like a snowflake, they are adaptive, they are responsive, and this is all very much on purpose so that the industry could grow, so that,
you know, we weren’t dealing with just a checking off boxes type organic program, we were really responding to nature, and crops, and in an extremely dynamic, growing industry. And, you know, I would absolutely posit that this structure of the organic system plan, this deal between an accredited certifier and a grower, a person as it said in the -- you know, and a person is going to be anyone throughout the organic supply chain, that the organic system plan is strong enough to meet the unique demands of the system that it’s looking at. And I guess at this point I’ll take the group through a little bit more of the details of the recommendation, as you know, the copy itself. So if you want to pull that up, Valerie. By the way, any of my fellow Committee members who would like to jump in at any point, you know go ahead.

MS. VALERIE FRANCIS: Is that the other document that you asked me to pull up --

MS. TRACY MIEDEMA: [Interposing] Yeah.

MS. VALERIE FRANCIS: . . . off your thing?

MS. TRACY MIEDEMA: Yeah, it’s just the recommendation exactly as it’s -- it was posted to the Federal Register.
MS. VALERIE FRANCIS: Oh, okay.

MS. TRACY MIEDEMA: I just added some highlights [unintelligible] as I wanted to emphasize.

MR. JOSEPH SMILLIE: One other document that did influence me in my contribution to it was the ISO document that I think primarily IFOAM forward to us, and then we got the newer copy, which is more updated, and the ISO approach on multi site, there was a very, very -- there was a lot of congruence between where the organic industry had grown to and the way ISO looks at it. Now, I understand it’s an NOP USDA regulation, it’s not an ISO program, but nonetheless that document was a really solid document, and we took a good look at that and found a lot of congruence, and again the title, which we looked at rather than grower groups, because we were looking at it more structurally and from a regulatory and statutory viewpoint, seemed to fit better and it also, as Tracy just said, fit with the language, which is in 403.

MS. TRACY MIEDEMA: It is. The ISO -- and this is ISO Guide 62 from 1996, and I know there’s an ISO 17021 that’s the more current, but it talks about multi site certification.
We know there’s a rich body of information out there to help us really build out the operating manual. I guess before I get into this I want to make sure people understand that I didn’t take it as our Committee’s charge in these last three months to build that operating manual. That is phase two of this process, and it’s much longer, and that’s -- this is the start of that conversation. It’s well underway, and in fact so many of the public comments gave great feedback on what the operating manual should look like. So, you know, we took a giant step forward but, you know, we still have to deal with the most germane question in front of us right now.

Okay. So if you could keep scrolling down, Valerie, I want to get to page 3 where we talk about the role of the organic system plan, and this is really just some language lifted right out of OFPA. It’s, you know, this is in your books, it might be kind of hard to read on the screen.

But the organic plans means -- the organic system plan is a plan of management that has been agreed to by the producer or handler and the certifying agent that includes written plans concerning all aspects of agricultural production.
or handling.

And Congress envisioned the OSP as a collaborative written management plan that reflected the unique characteristics of the operation. You know, those are -- we’ve got a lot of leeway to make this fit, and the question that I keep coming back to and I don’t feel has been answered yet is within that relationship of the organic system plan, what are the limitations of an internal control system? If it works for the 6,000 member Ugandan coffee farm, why can’t it work in other areas of the organic supply chain?

So I just wanted to point out, you know, what I believe was really Congress’s intent for the organic system plan, and I think OFPA supports that.

The organic system plan is the form through which the producer or handler and certifying agent collaborate to define on a site specific basis how to achieve and document compliance with the requirements of certification. The organic system plan commits the producer or handler to a sequence of practices and procedures resulting in an operation that complies with every applicable provision in the regulations. So while we have something that’s
very malleable, that’s very unique, it’s also very rigorous. I mean, this is holding people’s feet to the fire. If you can keep scrolling down, Valerie, to the role of inspections.

And as you can see from my slide, there – you know, I really wanted to focus this in on the organic system plan and on inspections.

Inspections play an important role in determining whether an OSP is being properly implemented, and Congress mandated that all certified farms and handling operations receive a, quote, annual inspection. And this is from 7 U.S.C. 6506A(5) and 6502, Definitions.

The statute does not define the word inspection, the statute. And the fact that it occurs but once a year indicates that Congress considered inspection more a part of the OSB collaboration between the farmer and the certifying agent, than as the government’s policing of, you know, of the organic label.

This is a really important point here. When we get to -- and I know there was a lot of public comment on that, and I’m still digesting it all as it’s coming in, but when we look at inspections in detail there really seems to be a difference noted in the regs between initial on-
site inspections and annual or renewal inspections.

Now, you know, I was just ignorant enough to think that all inspections looked the same, year after year after year. And I talked with some different certifiers who, you know, assured me that, no, initial inspections do not look like renewal inspections. Initial inspections have things like land history reports, and surveying of perimeters, et cetera, et cetera, and I’m sure there are people in this room who can so clearly articulate the way these initial inspection and renewal inspections look different.

But it’s really important because we need to find a way in 205.403 to make sure that we’ve got a way forward from a regulatory standpoint. And this distinction that’s made in discussing inspections, and the reality that already exists between initial and renewal inspections, means that we’re not rewriting history here in carrying forward with group certification or certification of operations with multiple sites production units and facilities.

We are already there in the spirit, and its very modest language changes needed. I think we’re -- I heard some pushback and I want to hear
more comment on this. I hope our Committee gets much more in the public record.

I actually felt kind of like we were shining a light on something that was a known, but not discussed fact about inspections; that initial and renewal inspections really do look different. But because of the way 205.403 is written, we haven’t really wanted to talk about that.

So you know, I am very comfortable pointing out that in my investigation they really, you know, they look different in many ways.

So if you can scroll down a little bit more, Valerie, to the recommendation proper, that would be on page 6.

What we as a Committee put forth in terms of an actionable item were new definitions added to 7 C.F.R. 205.2 and a clarification of on-site inspections. However, we know that we’re at the beginning of this conversation. We’re not going to pull back or withdraw this recommendation.

What we really want as a Committee is a more robust public record at this point. People didn’t have a lot of time to respond to this recommendation, and it’s an extremely important topic to many stakeholders all over the world. 45 days with a complicated electronic comment
collection system is not enough to solve this or
really, you know, get the kind of robust public
record we need. This might be something that we
end up working on during the whole time I sit on
this Board, frankly, bracing myself for a long
haul here.

But we’ve, you know, the engines are
fired up and it was really exciting to see the OTA
taskforce was way ahead of the NOSB or the NOP
and, you know, galvanizing their members,
gathering information, pulling together quite a
diverse group of stakeholders. IFOAM jumped in,
we had retailer community who -- they know they’re
going to be affected by the outcome of this, so
they’re going to absolutely want to throw their
opinion into the ring. People have really been
generous with their time and expertise, and this
is just really the start of the conversation, so
the way I see this going forward in Committee is
to leave the recommendation posted for more public
comment. For the item to remain on the CAC work
plan, and to take this issue up again in March
2008.

MR. JOSEPH SMILLIE: Do you want to --

MS. TRACY MIEDEMA: [Interposing] I guess
I better finish saying that --
MR. JOSEPH SMILLIE: [Interposing] Yeah.

MS. TRACY MIEDEMA: ... amongst our Committee members -- there were six of us, this was not a slam dunk. In fact, we had three yes’s, one absent, one abstension, and one no with a very strong minority opinion.

FEMALE VOICE: Two nos.

MR. JOSEPH SMILLIE: Two nos.

MS. TRACY MIEDEMA: Two nos?

MR. JOSEPH SMILLIE: Yeah, two nos.

FEMALE VOICE: Three.

MR. JOSEPH SMILLIE: Three, two --

MS. TRACY MIEDEMA: [Interposing] No, we didn’t.

MR. JOSEPH SMILLIE: One.

FEMALE VOICE: Yes.

FEMALE VOICE: Yes.

FEMALE VOICE: It was revised.

MS. TRACY MIEDEMA: When was it revised?

FEMALE VOICE: When Jennifer --

MS. JENNIFER M. HALL: On the website it’s 3-2-0-0.

MR. JOSEPH SMILLIE: One.

MS. TRACY MIEDEMA: Okay. Okay.

MR. JOSEPH SMILLIE: No, one.

MS. JENNIFER M. HALL: One. Sorry.
MR. JOSEPH SMILLIE: 3-2-1.

MS. TRACY MIEDEMA: Okay. At the time --

MS. VALERIE FRANCIS: Can I clarify the vote? Can I clarify the vote? Jennifer had voted. It was a day when our server wasn’t working properly for e-mails, and I didn’t get --

MS. TRACY MIEDEMA: [Interposing] No problem.

MS. VALERIE FRANCIS: ... a whole set of e-mails one Thursday afternoon, and that was one of them.

MS. TRACY MIEDEMA: Okay. Thanks for the clarification. Absolutely not a slam dunk. And, you know, that maybe should have been the point where we, you know, we knew this was a discussion item but, you know, this is an important enough issue that we want to move it forward, and we wanted to take action, and we wanted to get something out that we could collection, you know, opinion from 360 degrees, and that is happening.

MR. JOSEPH SMILLIE: Thanks, Tracy. I think it would be also useful to hear from the person that issued the minority opinion, so Bea.

MS. BEA E. JAMES: In the spirit of visuals I threw together a quick one slide to give the visual on the minority opinion, so I’ll just
let Valerie pull that up real quick.

Scroll down. It’s a -- there you go.

Yeah, the last one word. Don’t open one of my kid’s folders. Videogames.

Okay. So I think one of the big differences here, in case you can’t see that, that’s the internal control system ICS functions from a central plow, and that -- I think one of the things that we had difficulty coming to a consensus on was the idea that grower groups went beyond farmers, and that that’s really where a lot of the minority opinion is coming from, so I’ll just go through real quickly.

That the minority opinion is really looking for further consideration and clarity in the proposed recommendation for multi site operations, and that’s specifically to retain the scope of the 2002 grower group recommendation which focused and was limited to grower groups, farmers only.

And to require complete inspections of all sites annually, and facilities and protection units, with certain considerations granted to farms meeting specific criteria for grower farmer groups, as well as specific details to the criteria for grower groups to provide guidance on
internal inspections should be included and, as Tracy alluded, that this recommendation is not a manual, and that that is definitely something that I think the Committee all has consensus on, is that that’s one of the phase two components of this recommendation that we definitely need.

Next is that there are some assumptions made in what I believe is how the recommendation was phrased, and that’s not to say that I don’t give 100 percent kudos to Tracy, my colleague, for taking on such a huge task and trying to craft this recommendation in her first year. I give her lots of compliments for that, because it’s not easy, and that having this diversity of opinion and getting public opinion to help craft and shape a final recommendation is the healthy part. It’s not always the easiest, but it’s the healthy part of what we try to do as we discuss our recommendations.

So with that, I think that by saying, quote, in the recommendation it says it, in reference to an organic system plan, has also encouraged the participation of final retailers and organic certification, thus helping to bring all of the links in the seed to table organic value chain under one organic program. The use of
an internal control system as part of an organic system plan that integrates multiple sites and production units is consistent with OFPA and provides additional -- provided additional assurances are met, may reduce or eliminate the need for direct observation by inspection of each unit or site operated under an OSP.

And as a retail representative on this Board, I think that that’s where I struggle with this recommendation, because I think that it’s extremely important to certify the handling and processing units of every site, and that it would, you know, there’s different ways that we can look at how to dilute the organic seal and make sure that it really means something, and I think that by not inspecting all production and retail sites, that that would be one way of diluting our organic seal.

I also think that the following statement should be struck from the recommendation; that certifying agents have developed an implemented certification models that are tailored to the various types of operations seeking certification. At the NOP the certification models were based on the NOP’s 2002 recommendation, and are now extended to each -- to reach all links in the
I do not believe that the NOP has approved any new certification models, and that some certifiers may be using and developed, and I do agree that there are perhaps different ways that some inspection agencies are looking at recertification, but I think it’s very important that we acknowledge that annual inspections should be done consistently, and with the same criteria each year, and that a renewal is not a lessening of an annual inspection, particularly when you’re looking at a handling and a processing facility.

In the name of time here I’m not going to go through some of the OFPA sites which really I think would help clarify that this recommendation is not consistent with OFPA, but they are noted on the bottom of the multi -- of the minority opinion. And that’s all. Thank you.

MR. JOSEPH SMILLIE: The Committee would really like to hear from fellow Board members on this. I know a lot of you have heard about this issue, I know that a lot of you have been following the information and the public comments, so we’ve been talking among ourselves for quite a while, and the Committee all knows each other’s
opinions fairly well, and we would really like to hear from fellow Board members as to where you think you want to go with this.

MS. ANDREA CAROE: I hate to be the taskmaster here again. This is a discussion item, it’s not one that we’re going to vote on, it’s not one that we can take action on in this meeting, so I would suggest that we have some discussion, but more elaborate discussion is going to happen after this meeting.

MR. JOSEPH SMILLIE: I concur.

MS. ANDREA CAROE: Thank you.

MR. JOSEPH SMILLIE: I would like a little discussion though.

MS. ANDREA CAROE: Thank you.

MR. JOSEPH SMILLIE: Just to get some --

MS. ANDREA CAROE: [Interposing] Okay.

MR. JOSEPH SMILLIE: . . . you know, like -- I want to hear from my fellow Board members.

MR. DANIEL G. GIACOMINI: I really don’t see the difference between ICS and essentially what have been called I believe turnkey operating systems. That’s what makes Wal-Marts go, that’s what makes McDonald’s go, that’s what makes franchise chains all alike, and I’m very concerned
that something like this, as a mechanism to allow
for multi grouping of entities, just has people
rubbing their hands together.

I’m very concerned with that. My first
inclination in the overall picture is annual
inspections. I can understand situations of
grower groups of -- in a banana plantation in
Brazil or whatever they’re growing. But I think
rather than expanding that, I think we need to --
would be better off more clearly defining what
that exception is. If we’re not going to
absolutely require every plot, that we do define
the percentage of acres that are inspected per
year, the percentage of sites inspected per year.
That every site must be inspected within a certain
number of years.

But the possibility of expanding multi
sites into massive amounts of organizations of
both land and facilities in this country, I don’t
see that as the right way to be going for organic
certification and for the confidence of the
consumer.

MR. JOSEPH SMILLIE: Gerry.

MR. GERALD A. DAVIS: I echo his
statements. I think that the grower group -- the
beauty of what can be done with that should be
kept by itself and not be expanded to other types of operations here in the States.

Mr. Joseph Smillie: Katrina, then Tracy.

Ms. Katrina Heinze: As someone with a lot of experience with internal control systems, in theory I agree with your thought process, but it is my experience that they can either be very strong or not so strong. So I strongly concur with Gerry and Dan, that at this time they should be limited to farms, very -- we should have very well defined criteria for what is a grower group. I agree with -- I would like to see more specificity around the percentages that could be inspected on an annual basis -- of the one concern I have is the language on 403(ii). As I read that paragraph, I read it -- it looks to me like you could not inspect any sites in a particular year. So you may want to look at the language in that paragraph a little bit.

And then one addition. I have great concerns if a certain number of sites are inspected in an annual year, how that is used to evaluate the internal control system, not those individual sites. And so I would like to see something added on that. Thank you.

Mr. Joseph Smillie: Andrea?
MS. ANDREA CAROE: Tracy was next.

MR. JOSEPH SMILLIE: Oh, Tracy. Yeah, I’m sorry.

MS. TRACY MIEDEMA: Well, I guess I want to make what feels like a point of clarification to my colleagues, and I really appreciate the feedback.

This recommendation is not proposing expansion of the construct of an ICS or group certification to retailers. It’s already happening, and it’s happening by accredited certifiers that the NOP has accredited. You know, there seems to have been a tacit endorsement and that it’s working out there for some number of years, and the very first thing I thought was the amount of work that some of these organizations outside of the farming situation have gone through to apply the same principles of homogeneity and strong central management, and have gone -- are so rigorous, and what are we saying now, that we’re going to, you know, throw them overboard and the work that they’ve done because we want to keep this to the people who -- I don’t know, it seems like there’s a little bit of a politicizing of -- some people elicit our empathy more than others, and in a way that -- I just would like to make
sure that we’re looking at this in an impartial manner.

MR. JOSEPH SMILLIE: Andrea.

MS. ANDREA CAROE: The regulation, as it exists today, has one section for inspection, and one section for certification, and they are not operation specific. It’s not an inspection for a grower, inspection for a handler, inspection for a livestock operation, it’s inspection. Same with certification.

So if this group, and again this is all -- this work is going to happen after I leave, but if this group is going to carve out portions of the industry where this is appropriate and where it’s not, I suggest you spend a lot of time with justifying and carving out why it’s okay in one and not the other, when the regulation does not specify these things. So, you know, that’s one of the reasons why, in looking at multi sites, I was a proponent of looking at all of it instead of just a piece. Although typically this has been used with growers and not so much with the processors and the handlers, I was -- since we were addressing a section of the rule that did not distinguish it, for one, and at this point if you were to write this just for grower groups it would
be discriminatory.

It needs to be carved out well, and you need to rationalize why that is; what parts of the requirements cannot be satisfied with this type of construct, and why those requirements can indeed come from the crop section, the livestock section, the handling section, and various. But right now there is only one section for inspection.

MR. JOSEPH SMILLIE: Bea?

MS. BEA E. JAMES: I guess I would just like to reemphasize that if there are current examples in the industry where handling and processing operations are not being inspected annually in their entirety, that that is a violation of the rule and not a model for how it should be done. And that if we take into consideration what people are doing that may not be a part of the rule as a precedent for what should a rule -- what a rule should be, then how can we possibly have any kind of control over what people should be doing? To me that just seems like inconsistent and it -- and I think that in 2002, when the Grower Group recommendation came forward, that it did try to circumvent a model for why grower groups would be an example of a good focus for having grower groups inspected in a way
that would be conducive to making it reasonable
for an environment like that to be able to do it.
So I guess what I’m saying is that I disagree that
the recommendation does not -- is not trying to
push that through. I think the recommendation is
trying to push it through with retailers through
this whole idea that because it’s happening now,
that we’re just going to document it and say it’s
okay.

MR. JOSEPH SMILLIE: Barbara.

MS. BARBARA C. ROBINSON: Let me just
reiterate that currently we haven’t changed this
rule. Annual inspections of every site is
required. I don’t -- I’m not really too sure
about this so called tacit approval from the
program that something less than that has been
granted, because I didn’t grant it, so I don’t
know where that’s coming from.

MALE VOICE: [unintelligible] you’re busy
with FOIA.

MS. BARBARA C. ROBINSON: Yeah, maybe
we’ve been too busy with FOIA. But let me just
remind you of this; you know, all I -- and then
let me just suggest to the Board that you need to
really get back on schedule here. Far be it for
me to remind you of your own schedule, Madame
Chair, but it is 10 after 4:00 and you do have the public waiting here to comment.

But, you know, where I sit every day increasingly -- increasingly I am getting phone calls, letters, e-mails about consumer concern about imported product, you know, this program is taking every opportunity it can to weaken the standards. My goodness, you people can’t do your jobs. You seize every opportunity there is to weaken the standards, and I’m just, you know, it seems to me -- I just have got to go on record here but to suggest that what we should do not, at a time when the most visible step here is to at least require one inspection per year. One. Just one. And now you want to say well, the heck with the inspection. I mean, what do we do next, self certify? We say -- I think I’ve met all the requirements of the National Organic Program Regulations, so I’ll write to my certifying agent and say I filled out the forms, send me the certificate, here’s my money.

And I don’t -- I shouldn’t sound so snippy about this, but you know, I really shouldn’t but sit at my desk someday. I mean, these are the kinds of concerns that I get, you know, the integrity of the label, the integrity of
the standards, what does the seal mean and where’s your compliance and enforcement. It’s through the inspection process. It’s through -- somebody’s go to get out there and look --

MS. BARBARA C. ROBINSON: You know, we were willing to issue the temporary guidance, the 2002 Board recommendation as temporary guidance for grower groups, and even that gives us a little bit of heartburn, but you know, that’s -- those are for -- at least there we were talking about very, very small producers of contiguous farms and that sort of thing, and even there for some reason it’s okay for the coffee grower in Columbia, but the minute he goes over to China everybody has a heart attack.

So you know, now you want to bring him back to the United States, but the same producer in the United States, if he was an herb farmer, he would be getting an annual inspection. But not if he was a coffee grower in South America because apparently he gets to be -- he gets to get out from under it. But if he’s here in the United States he pays his dues.

So I have trouble following this logic.
MR. JOSEPH SMILLIE: Stay tuned.

MS. BARBARA C. ROBINSON: Anyway, I would suggest since -- I would like to suggest, since it’s not being acted on now, you know, maybe you continue to think about it. We’ll continue to think about it, but you might want to just keep moving on.

MR. JOSEPH SMILLIE: We are, and we’re not going to leave this issue in the near future, so Tracy, five years of hard time, no time off for good behavior.

MS. ANDREA CAROE: That concludes the CAC’s report. So we are moving on to livestock, and you have two items, on discussion item, one recommendation?

MR. HUBERT I. KARREMAN: Yes, and I will keep it very short actually. I believe I can. Two items, two minutes, how’s that? I get a piece of chocolate if I do good? Okay. I had my ice cream. Ooh.

[Background noise]

MR. HUBERT I. KARREMAN: They make the best chocolate. Okay. So we -- just a quick discussion item. Yeah, on the symposium, kind of a follow up -- wrap up. I think most everybody in the room would agree that we had a very
informative, very good, if not excellent symposium, so I want to thank the USDA for allowing us to have that, and our panelists who came, as well as the Livestock Committee for helping get that all prepared. And we will be working on those two issues of the feed and the net pens, and hopefully come up with a recommendation for the Spring meeting. It’ll definitely be on our work plan. Pretty much number one.

And the second item -- I’m sorry. If there’s discussion on that? I’m sure we’ll have some more public comment in a little while anyway.

Second item is that the Livestock Committee will be recommending tomorrow that we accept the aquaculture working group’s supplement to the interim final report for bivalve mollusks, which will set the stage for yet another symposium. No, it won’t. We don’t think so, but -- and that is a 13 or 14 page report here from the AWG, basically talking about bivalve mollusks in general. The organic system plan for their production. The origin of them. Forage production, contamination indicators, animal health care practices, living conditions, bivalve growing facilities, harvesting bivalve shellfish,
and handling and transport of them.

And the one issue that probably -- it seems like a fairly benign topic, but I think the harvesting practices brought up some questions because you are actually raking up, you know, the sediment, but I don’t think that’s insurmountable. But anyway we’re going to recommend to accept that tomorrow. And if there’s any discussion on that within the group. And I do know that George Lockwood is back there with a presentation, but honestly George, in the interest of time, if that’s okay, I’m sure you have a public comment, or hopefully you do. No? Okay. So if there’s any discussion on that bivalve mollusk document that we’re going to receive tomorrow, officially? We approved it six to zero. Oh, Bea has a question.

MS. BEA E. JAMES: We’re just voting to accept --

MR. HUBERT I. KARREMAN: [Interposing] Yes.

MS. BEA E. JAMES: . . . the -- yeah, we’re not --

MR. HUBERT I. KARREMAN: [Interposing] That is correct.

MS. BEA E. JAMES: Okay.
MR. HUBERT I. KARREMAN: That’s right.

Just like we did at State College for the big one that they gave us, yeah. And that’s it for the Livestock Committee.

MS. ANDREA CAROE: Thank you. I think you went 2-1/2 minutes, but being particularly benevolent that I am, I will give you the piece of chocolate anyway. Okay.

MR. HUBERT I. KARREMAN: Let’s move on.

MS. ANDREA CAROE: And in the spirit of being benevolent, I have two commentors that have airplanes to catch, and I’m going to let them sneak up to the front of the list. We’ve all tried to make airplanes so just, you know.

MR. HUBERT I. KARREMAN: Be late anyhow.

MS. ANDREA CAROE: Bring your goodwill.

So I have Peter — I can’t read your handwriting.

MR. PETER VAN WYK: Van Wyk.

MS. ANDREA CAROE: That’s you.

MR. PETER VAN WYK: That’s me.

MS. ANDREA CAROE: You’re up, and then on deck is Rob Everts. Yes, I need to actually read the rules of engagement or so — just hold on one second. I think it’s page 17 of the policy manual.

Okay. Oh, it’s not. See what page on
the manual do I find. Here it is. Okay. Quickly
I need to read the NOSB Policy For Public Comment
at NOSB Meetings.

One, all persons wishing to comment at
NOSB meetings during public comment period must
sign up in advance.

Two, persons will be called upon to speak
in an order -- in the order they signed up. Well,
we know I just kind of fudged that a little bit.

Okay. Three, unless otherwise indicated
by the Chair, each person will be given five
minutes to speak.

Four, persons must give their name and
affiliation for the record.

Five, a person may submit a written proxy
to the NOP or NOSB, requesting that another person
speak on his or her behalf.

Six, no person will be allowed to speak
during the public comment period for more than ten
minutes.

And seven, individuals providing public
comment will refrain from any personal attacks and
from remarks that otherwise impugn the character
of any individual.

Okay. With that, Peter.

MR. PETER VAN WYK: Okay. Thank you very
much. I appreciate your allowing me to go early and catch my plane. My name is Peter Van Wyk, and I’m a biologist working for a small start up coming located in Florida called Scientific Associates. And our company has been working for a couple of years to develop a system for producing marine shrimp in closed, recirculating aquaculture systems. Yesterday David Guggenheim of One Planet, One Ocean spoke of his epiphany that the future of sustainable aquaculture is in closed, recirculating, aquaculture systems. We are in complete agreement with David’s analysis. We have chosen this approach because we feel that closed, recirculating aquaculture systems offer the best opportunity to minimize the environmental impacts of shrimp farming and to produce a safe, tasty, and wholesome product utilizing sustainable production techniques.

Our goal is to provide consumers with an environmentally friendly alternative to the imported shrimp grown in traditional pond base systems, whose spotty environmental record is well known and well documented. We believe that closed recirculating aquaculture systems allow shrimp to be grown in a manner that is highly consistent with the goals of
the National Organic Program, and ultimately hope
to be able to market our shrimp as USDA
organically certified.

    We would like to take this opportunity to
voice some of our concerns to the NOSB before you
adopt a set of rules for organic aquaculture.

    My comments today have to do with the
national list, as it relates to aquaculture
production systems. We believe that as the NOSB
considers the organic standards to be used for
aquaculture, there should be a revision of the
national list to include certain substances that
are currently barred from use.

    Substances approved for use [clearing
throat] excuse me. We believe that there should
be a revision of the national list of substances
approved for use take into account that there are
fundamental differences between terrestrial and
aquatic environments, and also that the
environmental requirements of terrestrial crops
and marine or freshwater, aquaculture crops, are
distinctly different.

    Let me offer a couple of examples.
Currently calcium chloride and potassium chloride
may only be used in special situations such as the
treatment of plants with a physiological disorder
that limits their calcium uptake ability. I believe that the justification for the prohibition of these chemicals is their potential for chloride -- contamination of the soils with chlorides.

However, in the case of marine shrimp production in a closed aquaculture system, our crops are grown in a saline environment. Over the course of time, shrimp extract minerals such as calcium, potassium, and magnesium from the water, depleting the concentrations of these ions from the sea water.

We believe that we should be allowed to selectively replenish the supply of naturally occurring minerals in the sea water, using calcium chloride, potassium chloride, and other sources of inorganic ions.

This kind of use does not represent any threat to the environment, as these are tank based production systems with zero exchange -- discharge to the environment.

A second example of a prohibited substance is ozone. Currently ozone is prohibited except for the disinfection of irrigation tubing. In closed aquaculture systems ozone is the most effective water treatment for reducing bacterial
loading in the water, and its use makes it possible to maintain the health of animals without resorting to antibiotics.

Properly used, ozone is consumed as it oxidizes organic matter in the system. Ozone contact devices can be outfitted with ozone destruct units to ensure that there is no release of ozone into the atmosphere. This application of ozone was not considered when the standards were developed for terrestrial aquaculture products.

These are just two of the chemicals on the national list that have uses in aquaculture that are far different from their uses in traditional forms of aquaculture and which we believe merit further consideration. We’d be happy to assist the NOSB in identifying chemicals on the national list that have different uses from -- in aquaculture systems and different risk factors associated with their use.

We understand that we will need to file petitions for the addition of certain substances to the national list, specifying how they’re to be used in aquaculture applications, but we just want to make the NOSB aware of the fact that when an aquaculture organic standard becomes available, a whole new set of materials may need to be added to
the national list.

MS. ANDREA CAROE: Well, thank you very much.

MR. PETER VAN WYK: Thank you.

MS. ANDREA CAROE: And we are prepared. We understand that with the inclusion of aquaculture there becomes all new materials that we will expect to see in petitions, and that luckily we do have the mechanism already in place to evaluate these materials and list them. I’ll note, Hue.

MR. HUBERT I. KARREMAN: Yeah, I mean, they want there to be a petition, which you’re well aware of, and they’ll have to meet the seven criteria of OFPA, just like anything else. But also, like potassium chloride and calcium chloride, I’ve learned through calcium bora gluconate, and things like that, that they’re electrolytes so you might be able to use them anyway. Electrolytes are allowed for livestock. Learned that. Paralegal learning here. Anyway, just -- yeah.

MR. PETER VAN WYK: We look forward to working with you guys over the next, you know, few months to try to determine which chemicals actually need to be petitioned and which ones can
be used under existing regulations, and then try
to follow through on the petitioning process.

MS. ANDREA CAROE: We appreciate that you
are watching the process and are staying with us.
It’ll be a while before this is implemented, so
we’ll have some time to start looking at that, and
thank you very much. Any other comments?
Questions? Thank you very much, and I hope you
make your flight.

Do we have Rob Evert? Okay, Rob, you’re
up, and up next then is Joe Dickson with proxy
from Margaret Wittenberg. Joe, are you in the
room? Do you see Joe?

FEMALE VOICE: He was just here.

MS. ANDREA CAROE: Joe? He’s there?

MR. ROB EVERTS: Thank you. My name is
Rob Everts, I’m President and Co-director of Equal
Exchange, here to talk about the grower group
certification. Equal Exchange is the largest fair
trade company in the United States. We have
direct relationships with 33 small scale farmer
organizations in 19 countries throughout Latin
America, Africa, and Asia. Founded in 1986 we
were the first company in the country to offer
fair trade coffee. We now import over five
million pounds of coffee and several hundred thousand pounds of coca beans, sugar, and tea every year.

This year we also began selling organic almonds, pecans, and cranberries grown by family farmers in the United States. Certified organic products comprise nearly 90 percent of our sales, and the vast majority of organic coffee and cacao throughout the world comes from small farmers.

As a company, Equal Exchange prides itself on the direct, long term relationships that we’ve established with our trading partners. We’ve worked closely with some of these groups for 10 to 15 years, and can attest to the farmers’ hard work and dedication to protect the natural environment, improve the quality of life for their families, and provide consumers with the highest quality organic food products.

Each year we travel to source to visit with the cooperative members. We meet with the farmers, attend co-op meetings, participate in quality control trainings, and visit the farms’ processing centers, storage facilities, and dry mills. We stay in the farmers homes. We observe first hand the cultivation and processing methods used.
We have found that most farmers have assumed the organic requirements with considerable seriousness and a strong degree of pride in their accomplishments.

In some cases the farmers have shown us the methods they have adopted as part of their participation in the organic program. In other instances, however, the methods being practiced stemmed from cultural norms that go beyond the necessity of meeting certification requirements.

For example, in many indigenous cultures the farmers have a deep respect for Madre Tierra, Mother Earth, and articulate with tremendous understanding and concern the interrelatedness between farming practices, our health, and the health of the natural world in which we live.

Now our view on the proposed NOSB recommendations. We would like to thank the CAC for its thoughtful consideration of the grower group certification issue, and express our support for your attempts to protect the integrity of the organic label.

Equal Exchange is a member of the National Organic Coalition and is in agreement with the statement that the NOC is submitting for your consideration. We believe that the grower
group certification system has been working well for many years, and that additional guidelines could serve to strengthen it. A fundamental question is how do you certify large swathes of land, whether it’s owned by 400 people, 10 people, or 1 person. Most of the farmers in the cooperatives Equal Exchange works with own five to seven acres of land. The farms are in isolated areas where roads, electricity, and other infrastructure is limited or nonexistent. As we’re all aware, the organic requirements are strict and labor intensive, and due to the distances between farms, the cost to complete an inspection can be very high.

We believe that most of our trading partners have a serious commitment to organic production, but fear that rising costs could be a prohibitive factor in their facility to continue on this path. They have told us that without group certification, the increased costs associated with the need to have every farm individually inspected on an annual basis would in effect cause many of them to abandon their organic programs.

As nearly 90 percent of our sales are organic, we fear this could put us out of
business. We view the internal control systems as an additional layer of oversight for the grower groups. You are already aware, I believe, of the training, the inspections, and the documentation requirements. In human terms, the peer pressure is real. Knowing the people you inspect actually helps, and it’s harder to pull the wool over their eyes. The message is clear; if you cheat we all lose.

Further, since individual farmers do not know which farms will be inspected by the external agents, they must behave as if their farm will be selected in this sample, so we view this system as an additional layer of protection for ensuring compliance.

Still, if people are found to be out of compliance they must pay the price. This proves that the system works.

To conclude, organic agriculture provides some of the highest incomes for people in the rural areas in the developing world. Most of this is small scale. We strongly believe that the current requirements could be tightened, but that the system as a whole should not be eliminated.

We respectfully ask the NOSB to consider the extreme diligence that most small scale
farmers apply in carrying out the requirements,
the expertise of the certifying agencies in
determining the correct number of farms to be
inspected, and the importance of continuing a
certification system which will allow small scale
farmers to continue to supply U.S. consumers with
high quality, organic products. Thank you for
your consideration.

MS. ANDREA CAROE: Thank you. Comments?

Hue.

MR. HUBERT I. KARREMAN: Something I
thought of during that whole other discussion we
had, but since you’re bringing it up here and
you’re using the term that came through my head at
that point is -- and since you can’t discriminate
between, let’s say the developed United States,
and where we might not want to have grower groups,
but in the developed world I -- in the developing
world perhaps somewhere, if it’s ever written up
as a rule change or whatever, where there’s lack
of infrastructure, lack of basic things in
infrastructure, possibly there could be a grower
group type certification, such as what you’re ten
miles away from a main road, there’s, you know, no
electricity, blah blah blah. I mean, some kind of
definition, but hinge it on infrastructure, or
actually lack thereof. And I don’t think you’re going to find that in the United States anymore, but you will find it in other countries.

MS. ANDREA CAROE: I think that’s the type of work that needs to be done between now and the next meeting is that type of pulling those thoughts out and trying to sort them out. Is there any other comments? Bea.

MS. BEA E. JAMES: Thank you for coming today and your comments. I wanted to ask you about the organic almonds that you’re selling, and I’m curious if you’re purchasing pasteurized almonds.

MR. ROB EVERTS: We are purchasing almonds from Big Tree in California and they are in complete compliance with all the latest rules in that regard. That’s what I can say.

MS. BEA E. JAMES: Okay.

MR. ROB EVERTS: I saw some e-mails go back and forth between our person and their person, and I was copied on a couple of these things, and I know that we had to explain to our people why we’re going along with their recommendation, but they’re in compliance with whatever latest rules were imposed. I should -- I apologize for not having a first hand
understanding of that one.

MS. BEA E. JAMES: No, that’s okay, I just was wondering if maybe you were focusing on exempt smaller farm almond farms where you were purchasing, but it sounds like you’re just --

MR. ROB EVERTS: [Interposing] They’re --

MS. BEA E. JAMES: [Interposing] Yeah.

MR. ROB EVERTS: They’re pretty small scale out there, but yeah.

MS. ANDREA CAROE: Rigo.

MR. RIGOBERTO I. DELGADO: Going back to the topic of defining grower groups. In your mind what makes a grower group, and forget about finding that grower group in Chile or Peru or wherever. Even the United States. In your mind what makes a grower group different, and I assume this grower group owns collectively 1,000 acres. What makes that group different from a farmer who -- organic farmer who owns the same amount of land?

MR. ROB EVERTS: I think it should be very much in play that farmers who belong to, for example, an organized group in the United States like a cooperative -- dairy cooperatives, for example, who are in the same geographical area, who market through the same system, who process
using the same systems, who use the same inputs, we’re very fair game for groups like that in the United States made up of individual farmers to seek access to the group certification.

Individuals, I’m just calling random individuals, I mean they wouldn’t -- I don’t know who they’d be seeking group certification from, but I would say for people again, similar inputs market the same way, sell the same product, same contiguous areas, these are all the elements that come into play right in determining what’s appropriate for these definitions.

In our experience again working with the almonds and pecans just began earlier this year, so this -- our experience really is overseas, and it’s third world, and when I say organic agricultures provides one of the highest incomes, it is all relative.

MS. ANDREA CAROE: Dan?

MR. ROB EVERTS: It’s all relative.

MR. DANIEL G. GIACOMINI: Regarding grower groups, and in your experience, and the way you see the picture working, let’s say you have 100. I don’t know how many are in -- of individuals in plots are in your grower group. You have the organic certificate, correct?
MR. ROB EVERTS: The group has the
certificate.

MR. DANIEL G. GIACOMINI: The group has the certificate. If one of them in the group is found to be in violation, where is -- who is penalized?

MR. ROB EVERTS: The group feels threatened at this point, and other certifiers may speak to exactly what happens if 1 -- if there’s 50 people in a group, 1 is found out of compliance, is that person singularly thrown out? That’s where the risk assessment is negotiated between the certification agencies and the grower groups and what their internal control system looks like.

If that’s an area that should be tightened up in some way, based on communication between certification agencies or something like that, I think that’s all fair game for improvement, but the --

MR. DANIEL G. GIACOMINI: [Interposing]

How --

MR. ROB EVERTS: . . . internal control system itself would be the one --

MR. DANIEL G. GIACOMINI: [Interposing]

How many violations do you think you would need to
have on different members before --

FEMALE VOICE: This is not a
[unintelligible].

MR. DANIEL G. GIACOMINI: Well, but it is
a question. I mean, it’s part of this whole
grower group process. If Kevin has one cow that’s
a problem for her organic certification, yeah, the
cow’s thrown out, but so is Kevin. And if they
have -- if -- okay.

MS. ANDREA CAROE: I understand this is --
but you’re asking certification questions. I
mean, those are questions that we can ask the
certifiers that participate in group certification
or have in the past. But I don’t know that -- and
I’m speaking for you, but I don’t believe that
this is your expertise and what you’re coming here
to talk about.

MR. ROB EVERTS: Right. That’s where --
and given a place and a track record and history
of an organization where it’s recently been around
the block many times, large, small, they need to
negotiate within their organic plan. They make
the call on risk assessment, who’s -- maybe even
how those penalties, you know, happen.

MS. ANDREA CAROE: Is there any further
questions? Any further?
MALE VOICE: Kevin does.

MS. ANDREA CAROE: Kevin?

MR. KEVIN ENGELBERT: Just quickly. I’ve been -- I’m a grower group newbie, so I thought it’s better to just be quiet until I learn more about this, but the thought has run through my head, exactly what Dan has said; what prohibits this from happening in the United States, and how can you write a rule that is so biased like that and doesn’t open up a can of worms with a co-op being able to certify all its farm under its banner with just certain numbers of them certified every year?

MR. JOSEPH SMILLIE: It’s got to be an identical OSP. That’s what is missing in this conversation. U.S. growers don’t have identical OSPs. They’re going to be different. They’re individuals, they own their land. Even if they’re part of a marketing cooperative and are very similar and good friends, cousins, brothers, sons and daughters, it doesn’t matter. They’ll have different OSPs for the farm. You’re looking at a situation that these farmers are identical in their OSPs; their organic systems plan. What they use, what they grow, how they grow it, there’s a significant difference.
If you took that criteria and applied it to even how to write a colony, which is the closest I’ve ever seen to it, then you would find different OSPs because U.S. growers have their, you know, some buy this material from that salesman, some buy different material. You’re looking at identical OSPs in the grower group situation that he’s talking about. There’s a distinct difference. It’s not a question of, you know, it’s okay for Colombians and not okay for Americans, this is different farming systems involved, and I think the key word is identical OSPs. But I know Andrea’s losing patience with this conversation, but I just had to say that.

MS. ANDREA CAROE: I am. I’m sorry. I know that there’s a lot to be discussed here, I wish we had more time for it, and Kevin, I really -- I don’t want to put this off but I’m really more focused now on our vote items, this meeting, and making sure that we get all that comment.

FEMALE VOICE: We can join the call.

MS. ANDREA CAROE: I appreciate you coming here and I would hope that you can make it to the Spring meeting, because this topic will still be there.
MR. ROB EVERT: Thank you very much.

MS. ANDREA CAROE: Thank you very much.

Next up is Joe Dickson. On deck is Mark Kastel. Mark, are you here? You’re Will Fantle. Okay. All right. Joe.

MR. JOE DICKSON: Hi. My name is Joe Dickson, I’m Organic Programs Coordinator at Whole Foods Market. I’m also holding a proxy from Margaret Wittenberg and I’d like to speak for ten minutes. I’ve just circulated three documents to the Board. One is a letter from one of our suppliers, one is a letter from Margaret, and one is a longer version of the comments that I’m about to give today.

First off I’d like to express our company’s support of the recommendation on standardized certificate information. As a certified retailer we verify and update certification files every year for every single organic product that we sell in its unpackaged form.

Without standardization these certificates are incredibly challenging to review and interpret. The Committee’s recommendation would directly improve efficiency in the flow of organic products and enhance the overall integrity
of the organic market.

My main comment today, however, is about the Accreditation Committee’s recommendation on multi site certifications. Whole Foods Markets strongly supports this recommendation, which proposes to update the existing and fully functioning certification protocol for organic operations that operate multiple sites.

I’d like to focus on two key points today. First, we have and we will continue to support small scale farmers which aggregate their products in order to process, distribute, and market these products. This recommendation will allow such operations, largely smaller producers in developing countries, to continue to access the U.S. organic market while maintaining organic integrity in their operations.

Second, as the country’s first national certified organic retailer we developed an organic compliance plan under which our retail operations are certified, using a strong internal control system as the backbone of the certification. This recommendation properly clarifies the role of an internal control system for handlers, and in particular retailers certified under the group or multi site certification model.
The Committee’s recommendation strongly defines the roles and responsibilities of a certified client’s internal control system as an integral part of the compliance system. The ICS enables the certifier to ensure that the organic system plan is being followed, and organic integrity is being upheld in all units of the system throughout the certification year.

I’d like to spend a few minutes describing Whole Foods Markets’ organic compliance plan and its internal control system to demonstrate that a well implemented multi site certification protocol provides just as much, if not greater, compliance monitoring and continuous improvement as a traditional single site certification.

Although the final rule provided an exemption from certification for retailers, we opted to forego that exemption. We believed at the time and now, that our customers would benefit immensely from knowing that everyone who had handled their food had been certified by a third party, rather than everyone accept the retailer.

We designed our organic compliance plan shortly after the implementation of the final rule in 2002, and tailored it to the specific oversight
mechanisms favored in the final rule.

We became the first national retail chain to be certified organic when QIA accepted our organic system plan, inspected our company, and a set of our stores, and issued our first certificate in 2003.

The organic compliance plan we designed ensures that the regulation is followed in all areas of our retail operations, including purchasing, record keeping, storage, preparation, merchandising, and marketing.

In general we designed an OCP that ensures that our employees in every department of every store are trained and equipped to preserve the organic integrity of everything we sell. The success of this system hinges on our -- and our certifying agent’s ability to monitor and address compliance at each of our over 200 stores. Our internal control system, the compliance monitoring program at the core of our retail certification, provides us with this ability.

The internal control system, as implemented at Whole Foods Markets, increases the value of the inspection process, and improves the integrity of the audit trail. It also establishes feedback loops that provide for continuous
improvement throughout the inspection year in a
way that annual inspections do not.

Each month every retail location is
visited by an organic compliance auditor. Over
the course of the three to four hour audit, every
department is evaluated on a number of criteria
which measure the store’s adherence to the retail
OCP and the national organic standards.

Criteria include the documentation of
sanitation practices, protection of organic
products from contamination and commingling,
training of employees, marketing and merchandising
practices, and the compliance of pest control
practices.

The auditor then files an electronic
inspection report with the leadership of the
store, the company’s regional leadership in charge
of that store, and my office. This report enables
the company to identify and address known
compliances and other improvement opportunities
immediately.

The auditors in my team also review
subsequent inspection reports to monitor for
repeat noncompliances and take appropriate action.

The auditors themselves are a group of
highly trained quality assurance professionals who
have all worked in our stores and have been
trained extensively by a team well versed in
organic compliance practices and NOP requirements.

The auditors maintain ongoing contact
with my office to keep my team abreast of
compliance at our stores, and they receive ongoing
guidance from my team on auditing criteria and
requirements.

The auditors, our retail operations, and
my team all function together as a well integrated
group with a shared goal of upholding organic
integrity in our stores.

Internal estimates for 2008 indicate that
these auditors will spend about 10,000 hours
auditing our stores for organic compliance, three
to four hours per month, in each of our 270
stores.

The work of this group of auditors
results in continuous compliance improvement in
our stores and in a strong audit trail which
represents conditions in each store throughout the
year. Our certifier then reviews a sampling of
these audit reports, along with the operation of
the overall system, during our annual inspection
every year.

Our annual inspection by our certifier
consists of three principal parts. The inspector randomly selected subset of our stores, they inspect our overall management practices for all facilities, and they inspect our internal control system by random samplings and by evaluation of the integrity and objectivity of the internal control system itself.

Twenty percent of our stores are visited directly on an annual basis. This year was about 40 stores directly audited by our certifier.

The store inspections consist of a thorough review of compliance to our OCP in every department. The inspection of our group management practices takes place every year with my team in our office in Austin. The inspector reviews the overall management and operations of our system, verifies that past noncompliances have been fully addressed, reviews purchasing documentation and certificates, and generally verifies that our systems are in place as set forth in our OCP.

The auditor also reviews our internal control system, reviewing a sampling of reports from our auditors, and verifying that individual noncompliances have been addressed. The ICS is then also evaluated as part of the retail store
inspections. When visiting a given store, the inspector reviews the recent audits for that location and looks at consistency in quality of the audits and the match between those audit reports and the actual conditions at the store. This is an essential part of the certification process, in that our certifier makes sure that our internal audit program is operating with integrity.

To summarize, under our certification program, a noncompliance in an individual store is reported and addressed almost immediately, whereas under a traditional inspection model it may not have been noted for up to a year. This feature; our ability to monitor and improve compliance on a continuous basis, is a key strength of the multi site certification model described in the Committee’s recommendation. Between the 10,000 hours of direct observation by our auditors, the 120 hours of direct observation by our certifier, and the additional verification of our ICS by the certifier, our system enables us to uphold organic integrity in our stores and facilitate continuous improvement of our system in direct, powerful ways.

Our multi site certification program
provides far more value to our company and to our
customers than one in which each site is visited
directly by the certifier on an annual basis.

The Committee’s recommendation preserves
the best of the existing approaches to multi site
certifications, while improving the overall
process, and truly supports a model that respects
producers and handlers of all sizes and types.

Whole Foods Markets supports this recommendation
and urges the Board to continue to consider the
certification of the many retailers and handlers
already certified as groups, in addition to grower
groups, in its recommendation. Thank you.

MS. ANDREA CAROE: Thank you, Joe. Are
there questions for Joe? Bea.

MS. BEA E. JAMES: Thank you for your
presentation.

MR. JOE DICKSON: Thanks, Bea.

MS. BEA E. JAMES: How many of your 200
stores are inspected annually?

MR. JOE DICKSON: This year it was about
40 stores. It’s generally 20 percent of the
stores, based on a formula derived from the IFOAM
criteria for multi site certification.

MS. BEA E. JAMES: For the stores that
are not inspected do you spend extra time auditing
those stores?

MR. JOE DICKSON: No. Given that, you know, each of those stores is -- undergoes a full audit once a month for three to four hours, we consider that sufficient.

MS. BEA E. JAMES: How do you determine what stores are inspected of that 20 percent?

MR. JOE DICKSON: That determination is made by our certifier.

MS. BEA E. JAMES: Are you given that information ahead of time?

MR. JOE DICKSON: Slightly.

MS. BEA E. JAMES: Uh huh.

MS. ANDREA CAROE: Any other questions for Joe? Dan.

MR. DANIEL G. GIACOMINI: First thing; when were you certified?


MR. DANIEL G. GIACOMINI: 2003. So we’re in five year -- have you ever -- how many of your stores haven’t been ever inspected?

MR. JOE DICKSON: You know, I can’t say off the top of my head.

MR. DANIEL G. GIACOMINI: That were in -- that were stores in 2003.

MR. JOE DICKSON: As of this
certification year, all of our stores that were
open in 2003 have been inspected. Stores that
have opened since that time may not have been
inspected.

MS. ANDREA CAROE: Any other questions?
Tracy.

MS. TRACY MIEDEMA: One of the most
compelling things I heard early in this
investigation was the idea of consistency and
continuity, and so will you speak a little bit
more to how you use some sort of central
management when, you know, your stores can’t
possibly all look exactly the same, but we’re
relying -- you’re relying on some sort of
management tool in the middle.

MR. JOE DICKSON: Yeah, I mean, well, I
think the most important feature is that we have
one single, very clearly defined organic system
plan. That, you know, while our stores are
different sizes, some may have a juice bar, some
may not have a juice bar, there’s all sorts of
configurations, we have a very clear set of
operating procedures for each of those stores and,
you know, a whole suite of training programs, and
sort of operating manuals, and audit criteria that
really do not vary from store to store.
And I think a key part of that too, and sort of keeping that consistency, is the group of auditors who actually do the audits, and you’ll hear from one of them and a few commentors, but it’s there, I think direct contact with the stores, and their sort of, you know, application of those audit criteria that really keep those stores operating on the same plan.

MS. ANDREA CAROE: Bea.

MS. BEA E. JAMES: In the letter that you passed out from Margaret, Margaret mentions in the second to last paragraph, she says, third, the recommendation treats every inspected and certified equally, whether a producer, a handler, or retailer, and the smallest and the largest organic operators are treated the same.

I guess I would disagree with that because if you’re a small operator, as a retailer generally you have less stores, you have less stores, every site has to be inspected, and if you’re a large retailer then you’re looking at 20 percent of your sites being inspected. So I just wanted to point that out.

MR. JOE DICKSON: I recognize that that might not -- that might seem unfair to the perspective of a smaller retailer.
MS. ANDREA CAROE: Any further --

Jennifer and then Hue.

MS. JENNIFER M. HALL: Do your internal auditors consistently audit the same stores, or do they move around to different stores?

MR. JOE DICKSON: They move around to different stores.

MS. ANDREA CAROE: Hue.

MR. HUBERT I. KARREMAN: Just there are statistically valid ways to randomly select out of a group who you’re going to check, I mean, just as far as that goes.

MR. JOE DICKSON: Was that a question, or --

MR. HUBERT I. KARREMAN: [Interposing] No, that was a response to Bea.

MR. JOE DICKSON: Oh, okay.

MS. ANDREA CAROE: Bea.

MS. BEA E. JAMES: My point in pointing that out was that if your -- 20 percent of your stores are given advance notice on inspection, then those 20 percent of your stores have a little bit of pretime to prepare for that inspection while your other stores that are not being notified, would be more likely to not have time to prepare, and so it puts a little bit of an
advantage onto the stores that are given the
notification in advance.

MR. HUBERT I. KARREMAN: That’s one thing
that I’ve never understood, is that on inspections
there’s always a lead time given to the farms. My
farmers know when the inspector’s coming. It’s
going to be in two weeks Tuesday, and I don’t
think there’s enough surprise inspections or
whatever. There’s different argument, but that
would go along with this group certification, it
would fit in.

MS. ANDREA CAROE: Not to get off the
reservation here too much, but besides annual
inspection there are unannounced inspections, and
they are just given enough time to make sure that
somebody’s there, but there is two types of
inspections that happen. Joe.

MR. JOE DICKSON: To that point real
quickly. You know, our internal auditors, their
audits are always unannounced. Those are
completely surprise inspections at our stores,
they don’t know they’re being inspected until the
auditor shows up, and that, from my perspective,
is one of the best ways we control for the
predictability of the annual certifier
inspections.
MS. ANDREA CAROE: Any further questions for Joe. Thank you so much for showing up and giving us your input on this.

MR. JOE DICKSON: Thanks very much.

MS. ANDREA CAROE: The next up, Will Fantle, I guess, and then Steve Peirce. Are you in the room, Steve?

MR. STEVE PEIRCE: Yes.

MS. ANDREA CAROE: Okay. You’re on deck.

MR. WILL FANTLE: I’d like to note that I have a proxy as well for a former NOSB member, Goldie Kaufman. And I would like to use her five minutes for that purpose, so I’ll be reading a portion of a letter that she provided to you members of the NOSB.

My name is Will Fantle. I’m the co-director at the Cornucopia Institute. I think many of you are familiar with our work, and we work primarily with farmers around the country and we attempt to voice some of their concerns on organic issues before this forum and before other forums. First I’d like to say that we welcome the announcement yesterday by the NOP that there’s going to be greater transparency. We think this is a step in the right direction to open and put out more of these documents for people to see.
I know the frustration that the secrecy and some of the mystery that has surrounded previous decisions and actions by the NOP have led to our organization filing FOIA. Yes, we are one of those groups that have done that. We haven’t done it a lot, and we haven’t been frivolous with that, and I will say up until June of this year we had not filed a FOIA for over a year. We again began filing FOIAs in June and we filed four, I believe, when the decisions were announced regarding some of the complaints that we had initiated with Vanderak, Aurora, and Horizon, and our puzzlement, if not befuddlement, on how some of those decisions were reached, so if this type of information were made available to us and I think the broader public, this would eliminate some of that confusion, and we welcome this step, and we hope it is a step that is implemented fully by the NOP.

I want to turn a little bit to different topic and something that we sent a letter to the Crops Committee on last month, and I hope that all of you have this in your packet. I’m not going to read the letter, but I’m going to talk a little bit about some of the highlights, and it concerns almonds, or as some of our growers in California
say, ammonds, and it’s a matter that we had to try
to sort out. Is it almonds, is it ammonds? I’m
still going to call it almonds, being from the
Midwest.

And in September of this year the USDA
implemented a mandate that affects all raw almonds
sold in this country. That mandate requires a
pasteurization process to be performed on those
raw almonds, and it identified two methods for
implementing that pasteurization rule.

One was the use of propylene oxide, a
toxic fungicant that we have grave concerns about.
The second is a steam treatment process that is
acceptable for organic almonds in the eyes of the
ABC -- the Almond Board of California.

We’re not convinced, and this is one of
the points we raised in our letter and we would
like some clarity on this; that propylene oxide is
prohibited for use in the organic sector, and we
would welcome some determination or discussion by
the NOP and the NOSB on that, and we think part of
that confusion stems from the rider that passed
Congress in 2005 which changed the classifications
of removed ingredients and substituted substances,
as the -- or lowered the threshold so that
substances were the process that we’re concerned
Propylene oxide leaves a residue on the nut, and it’s a toxic substance, and we are going to be talking about that as it affects all almonds, but not necessarily organic almonds. So I would encourage the NOSB, I would encourage the NOP, to look at whether or not propylene oxide is allowed. We hope not, and we encourage you to take that and make that statement.

Secondly, we want to get a further exploration of the steam treatment process; whether or not there are residues from that steam treatment process; boiler additives, those types of things, that may affect that pasteurization.

Finally, on the issue of almonds as we encourage the Crops Committee to look at, and that is the gaping loophole in this mandate that allows unpasteurized almonds to still be sold in this country, but only from imports. And that is what I want to turn to next. A report from the field, from the almond growers that we’re talking to in California, from retailers that we’re talking to around the country, and from our meeting yesterday with USDA officials on this matter. First I want to point to one of the pieces of paper that I passed out from an almond grower in California,
and an organic almond grower; Purity Organics. Steve Cortoff [phonetic] is his name. This is not the only report that we have received like this. This is perhaps the most dramatic.

And what Mr. Cortoff is reporting is that he has experienced losses this year from the pasteurization mandate of 45 percent of his business. Not in this letter, but what he told us was that that means $450,000 in losses he has experienced this year from the pasteurization mandate. His customers don’t want it. He is seeing on store shelves where his almonds used to be, foreign almonds in its place, and that is a dramatic impact, and as I said, that’s not alone amongst the almond growers that we’re talking to. This is an important issue for the NOSB to look at, for the NOP to look at. I’m not convinced you were, and I think you will agree, you were not consulted on this by the broader USDA when they were looking at this rule and its impact.

Secondly, I want to turn to the letter from Goldie Kaufman, who I’ll also note is the newest Board member of the Cornucopia Institute. She served until the end of 2005 on the NOSB and she is the Education Director for PCC Natural Markets in Seattle. For those of you that don’t
know, that is the largest cooperative grocer in the country. They have sales in excess of $110 million on an annual basis, 40,000 members, they have removed domestic almonds from their shelves because again their customers don’t want domestic raw almonds that have been pasteurized, so they have Spanish almonds on their shelves. And she says this is a no win situation, utterly unacceptable to us. Necessitated because of the outrageous collusion between the management of the Almond Board of California and the USDA. The National Organic Program and the National Organic Standards Board must act decisively and immediately to intervene on behalf of the organic stakeholders whom they are charged with serving, including organic growers, and all the way to the organic customer. I expect the NOSB to speak out on this issue and to demand a thorough review and investigation of this entire and unnecessary fiasco.

I hope you will listen to those words from Goldie.

Lastly I’d like to say there is a compromise on this and something that your voice I think would be helpful in supporting. We think that much like there are juices sold in this
country, fruit juices that are unpasteurized that carry a warning label on them for those consumers that may be concerned or susceptible to potential diseases from an unpasteurized juice product.

We think something like that could be done with almonds that would allow farmers like Mr. Cortoff and others to continue to sell their product and put that warning label on it so that consumers in the marketplace can still make that choice.

The other report I want to note is from our meeting yesterday with Lloyd Day and two other people in the USDA to talk about almonds. They seemed open and receptive potentially to this option. And again, I think this is something that you can help push along. If this Board were to make that recommendation and to work with officials to encourage that there is a compromise that can be reached on this that will help all of us, will help consumers, and will help our farmers around the country, particularly in California who grow almonds -- or ammonds, as the case may be, with a resolution to this problem. And that concludes my remarks. Thank you.

MS. ANDREA CAROE: Thank you, Will.

Questions for Will from the Board. Bea and then
MS. BEA E. JAMES: Thank you, Will, for your discussion on the pasteurized almond situation. I did want to point out that we actually, within the NOSB, have been discussing this briefly, and I believe that the Crops Committee is looking at getting more information on pasteurized almonds and how it potentially might be harmful to organic farmers, if I’m -- am I correct on that, Gerry?

MR. GERALD A. DAVIS: Yeah.

MS. BEA E. JAMES: Yeah. And I also just wanted to bring up another point; that the raw foods movement on the West Coast is growing between -- according to Spence, which is like the A. C. Nielsone for the natural food industry, between 27 and 30 percent annually, and that the raw food consumer is a very educated consumer and so on the cooperative side of the retail industry, the NCGA is hearing a lot of complaints about pasteurized almonds and the discontinuation of almonds that are grown in the United States which unfortunately does affect our local farmers, and so I appreciate the work that you’re doing.

MR. WILL FANTLE: Lloyd Day told us yesterday that the Secretary’s office is hearing

Dan.
about this issue as well. He said that half of all the comments coming in to the Secretary’s office today are on almonds, and it’s rather startling that the educated and motivated consumer that you’re talking about really does care about this.

MS. ANDREA CAROE: Dan.

MR. DANIEL G. GIACOMINI: Being from California I just have to stand up for the California farmer. It’s really very simple; they’re almonds when they’re on the tree, and when they fall off it knocks the L out of them.

MR. WILL FANTLE: Thank you for that explanation. I appreciate it.

MS. ANDREA CAROE: Any further questions, comments? Thank you so much. Next up is Steve Peirce with Tom Hutchinson, is it you that has the proxy for Karen, or Karen Wilcox that has the -- oh, okay.

MR. STEVE PEIRCE: Good afternoon and thank you. This is my first presentation to the NOSB and I appreciate the opportunity. My name is Steve Peirce, I’m with Ribus Incorporated. I serve as President.

I come to today’s meeting impressed with what I’ve seen you all do over the last two days.
I also want to bring forward an issue that I think actually slipped through the cracks, and I’m coming forward with a cooperative spirit to resolve this issue that I think slipped through.

Earlier Andrea said, you know, is there any new information during the Sunset as we were looking at new products trying to get on the list. I’m just on the opposite side. I’ve got a certified organic ingredient, actually 100 percent certified and EU certified, that earlier this year -- I’ll take you to page number 1. I understand that the Sunset review is about a two year process. If you’ll draw your eye over to the right hand side where the colors start, in January of this year we introduced a brand new food ingredient, certified organic, made from rice hulls, to replace silicon dioxide, a synthetic that has been and is currently on the national list.

About two months later the preliminary ruling came out; the Federal Register asked for comments. During that comment period, which ended May the 7th, we did submit comments, and the rest of my time, the few minutes I’ve got left, will comment on what occurred between that May the 7th and the 16th of October, when the final ruling
came out.

My purpose today is to make three points with the NOSB. One, make you aware of several unexpected events that occurred in this process. Number two, bring three perceived violations of the Organic Food Production Act to your attention, and number three, provide an opportunity for you to take either an initiative -- or initiate a corrective action or take it yourself.

I’ve got a little bit of information on my bio, company and personally. Situational facts were number one. We did introduce that new product in January. Number two, we did go ahead and submit written comments to the, I guess, NOP, and I’ve used NOP and USDA interchangeably, and I will apologize in advance for that, because I’m assuming I’ve made a couple of mistakes there.

We provided written notification, informing the NOP that a new, commercially available ingredient that functions similar to and is a substitute for a synthetic on the national list, silicon dioxide, does exist.

In response to that we received comments back, written, that we did comply completely with the request in the Federal Register. Next we received a phone call from the USDA and an
attorney from the USDA’s Office of General Counsel. They let us know that that -- those comments were never reviewed by the NOSB and were not brought to your attention, that they were reviewed by, quote, a host of USDA employees, something that I never found in the Act as a standard procedure to follow.

We were also told in writing that the new Sunset review, five years from now, will begin 24 to 30 months prior to the expiration, so be looking for action on silicon dioxide in the year 2010.

These kind of comments concerned us. We had conversations with the USDA and maybe I failed by not sending that same letter to each of you that are on the NOSB. I did not know I needed to. In hindsight I wish I would have. So we took this to the Missouri Department of Agriculture, U.S. Senate, and U.S. House of Representatives. The last page in your package is a letter that was sent on the 1st of this month to the Secretary of Agriculture, asking him to re-review this issue. Reason being we feel that the actions that were taken, and I do not feel that they were intentional. I want to be the first one to state that. Whether it was an oversight, a
misunderstanding, maybe false expectations on our part, but something slipped through the cracks, we want to bring it to your attention, and we are willing to cooperate fully with anything that we need to do.

Basically I wanted the NOSB what has occurred, and I was told that it occurred without your knowledge, and I believe that, and that has been confirmed by one of the Board members yesterday.

I heard Andrea say that innovation was good, annotations create risk, and inconsistency. One of the things that we looked at was 6517, and it talks about the certification, and the Secretary sets up the national list and so forth. And guidelines for prohibitions or exemptions of prohibited substances for organic farming or handling are permitted under this chapter only if -- and if you read farther it goes on to say only if it is because there is the unavailability of a wholly natural substitute product.

Well, this is a situation where there’s not --

MR. STEVE PEIRCE: . . . just a natural
substitute, there’s a certified organic substitute in commercial existence, and what we are proposing -- we did not file a petition because we didn’t necessarily want the product removed. If we follow the letter of the law it ought to be removed, period. We asked for an annotation so that we don’t disrupt the commercial supply, which I know is critical to the industry, and we would simply like the annotation to read that silicon dioxide for use in agricultural products, if the wholly natural substitute is not commercially available.

MS. ANDREA CAROE: I need to stop you --
MR. STEVE PEIRCE: [Interposing] I’ll stop there.

MS. ANDREA CAROE: ... because your time is up.
MR. STEVE PEIRCE: Yes.
MS. ANDREA CAROE: Unfortunately. I will -- of course I don’t know anything about how this situation occurred, and -- but I do know that we have a new method for receiving comments, and that new method may precipitate -- be precipitated out of the fact that there was difficulty making sure that all the comments were received, so --
MR. STEVE PEIRCE: [Interposing] We sent
this one in Federal Express so that we would have
a receipt so --

MS. ANDREA CAROE: [Interposing] I
understand, but I mean, regulations.gov is a new
database that we use, which we’re challenged with
the turnover and using this new system, which you
may have heard earlier in the meeting.

MR. STEVE PEIRCE: Right.

MS. ANDREA CAROE: So I suspect that that
is a mitigating step for these types of errors,
but again --

MR. STEVE PEIRCE: [Interposing] Sure.

MS. ANDREA CAROE: . . . I’m unaware of
the situation. I will let you know that a change
to an annotation can be petitioned, or an addition
of an annotation can be a petition. The removal
of a substance, as we stated before, can be a
petition and there is also a petition that takes
precedence over other petitions --

MR. STEVE PEIRCE: [Interposing] Sure.

MS. ANDREA CAROE: . . . so there --
even though we’re not in the Sunset process with
this, it doesn’t mean that you have to wait five
years before an action to happen, so I would
suggest that you utilize one of these mechanisms
that are available to you.
MR. STEVE PEIRCE: We would be happy to after we, what I would say, fully exploit what we complied with; making comments during the Sunset, and that's the piece that previous fell upon deaf ears, and why I brought it to the attention of the Board today. And I don't know what the ability is to go backwards and change anything.

MS. ANDREA CAROE: It's probably -- my suggestion to you, sir, is to move forward and not try to go back to that recommendation, because that ship has sailed. I mean our recommendation has already gone through on that material --

MR. STEVE PEIRCE: [Interposing] I understand.

MS. ANDREA CAROE: ... and I think it would be easier to initiate the petition to remove or petition to change the annotation at this point, based on the information you provide. And we certainly would like to see that information as I've said, that advances where we're going, that's what the --

MR. STEVE PEIRCE: [Interposing] Sure.

MS. ANDREA CAROE: ... beauty of this regulation.

MR. STEVE PEIRCE: And that's the spirit in which we introduced the product to the
MS. ANDREA CAROE: Thank you so much.

Tracy?

MS. TRACY MIEDEMA: What is this used for?

MR. STEVE PEIRCE: It’s used as an anti-caking agent, like silicon dioxide, a flow agent, we’ve used it with a drying agent in fruits, and powders, and that type of thing, and most recently there was a statement issued in organic egg production where there’s egg washing going on and foaming is an issue, we have done some preliminary tests and we’ve got field trials going on now with producers to use it as an anti-foaming agent in egg washing.

MS. TRACY MIEDEMA: So if you have something that you feel is truly more appealing to the organic consumer, you know, I just wanted to give you a chance to market that, and --

MR. STEVE PEIRCE: [Interposing] Thank you.

MS. TRACY MIEDEMA: Yeah, it seems like the market’s going to sort this out for you within a short period of time.

MR. STEVE PEIRCE: It’s a silicon dioxide or a rice concentrate, and from a label
declaration point of view it’s a strong impetus, even to the point that we’ve got conventional spice producers that are buying the organic product because they don’t want silicon dioxide even on a conventional label.

MS. ANDREA CAROE: Is there any -- Julie.

MS. JULIE S. WEISMAN: I’m looking at the timeline here, and I just want to make sure that I understand what I’m seeing --

MR. STEVE PEIRCE: [Interposing] Sure.

MS. JULIE S. WEISMAN: . . . because I’m pretty sure, I mean, this is an item that was in the big batch, the initial batch of Sunset materials --

MR. STEVE PEIRCE: [Interposing] Okay.

MS. JULIE S. WEISMAN: . . . from what was o the original rule that was published in 2002, and we were reviewing comments on this during 2005 --

MR. STEVE PEIRCE: [Interposing] Yes.

MS. JULIE S. WEISMAN: . . . and voted about two years ago at the Fall meeting. Okay. So now here I see that the commercial introduction of this ingredient happened in January of this year.

MR. STEVE PEIRCE: Of 2007, that is
MS. JULIE S. WEISMAN: Okay. So this was not commercially available when we were deliberating --

MR. STEVE PEIRCE: [Interposing] No, it was not.

MS. JULIE S. WEISMAN: ... the renewal of this on the list.

MR. STEVE PEIRCE: No, it was not.

MS. JULIE S. WEISMAN: So I'm trying then to understand --

MR. STEVE PEIRCE: [Interposing] And this is where I commented --

MS. JULIE S. WEISMAN: [Interposing] Yeah.

MR. STEVE PEIRCE: ... maybe it was an oversight on my part, or a misunderstanding, but when I looked at the Federal Register that was published on March the 6th, it was the proposed rule, and what was on there, and it said, processes are the public, if they've got comments that are substantial, please bring them forward. I felt then, and feel today, that this is substantial because it is new information that if you read the way that the law is written, when a commercially available organic product, blah blah
1. blah. So even though it did not come in, in your timeline, which I wish that it would have been commercially available, it did come in during a comment period, and that is not what anybody seems to want to recognize.

2. MS. ANDREA CAROE: Well, I believe that what you commented on was the proposed rule, which was after our recommendation, when the Federal Register notice goes out, that these materials have been voted on and approved by the Board, and at that point the comments they’re looking for I would guess would be more of process at that point. There is a Federal Register notice sent out -- went out well before that, asking for comments for new information. So --

3. MR. STEVE PEIRCE: [Interposing] Which I don’t the NOP nor anybody else would want to read concepts that someone has of an ingredient.

4. MS. BARBARA C. ROBINSON: Andrea?

5. MS. ANDREA CAROE: Barbara.

6. MS. BARBARA C. ROBINSON: This is a little -- you know, we apologize, but it’s a bit of apples and oranges, because your material, while it may constitute new information, your material itself would have had to go out for a tap. While you may have it certified, there’s no
assurance to the Board itself that it’s -- it’s very nice of you to come forward and say I’ve got something that can replace silicon dioxide, but this Board doesn’t just take your word for it.

MR. STEVE PEIRCE: Nor would I ask them to.

MS. BARBARA C. ROBINSON: No. So it would have to go out for a tap. The proper procedures, I believe, is -- I think -- I hope that it was explained to you, nor is the national list a proprietary list. We don’t --

MR. STEVE PEIRCE: [Interposing] Sure.

MS. BARBARA C. ROBINSON: ... we don’t just put Ribus on the national list.

MR. STEVE PEIRCE: Nor was it requested.

MS. BARBARA C. ROBINSON: I understand that, but this material would have to be sent out for a tap and thoroughly analyzed and then, you know, and determined whether the components of this product satisfy, you know, what you say.

MS. ANDREA CAROE: Barbara, his product is a certified product, not -- it’s certified.

MS. BARBARA C. ROBINSON: Right.

MS. ANDREA CAROE: It’s a certified product.

MALE VOICE: Certified correctly.
MS. BARBARA C. ROBINSON: Yeah, but if he’s going to say it’s a wholly natural ingredient -- and furthermore, silicon dioxide, which properly have to be petitioned to come off the national list.

MS. ANDREA CAROE: That’s right. That’s what -- that’s the key. It has to be petitioned to be removed.

MR. STEVE PEIRCE: You -- and thank you for your comments. This is the first I’ve heard them off of probably five or six conversations with the USDA and NOP.

MS. BARBARA C. ROBINSON: And you may petition at any time for silicon dioxide to come off the national list. You do not need to wait for Sunset to come back around. That may happen at any time.

MR. STEVE PEIRCE: And that I’m aware of.

MS. BARBARA C. ROBINSON: But there’s been no -- I’m sorry, but there’s really been no violation, I don’t believe, that’s occurred here. There’s probably been some misunderstanding of the process, and for that I apologize, but I don’t think there’s been a violation. We don’t just send stuff to the Board, they wouldn’t comment on the proposed rule. They had already done their
due diligence up to that point.

MR. STEVE PEIRCE: So when the request from the Federal Register was for comments --

MS. BARBARA C. ROBINSON: [Interposing] That’s for comments from the public.

MR. STEVE PEIRCE: I consider myself public.

MS. BARBARA C. ROBINSON: Yes, I -- yes, you are. Yes, you are. Yes. But, you know, there wasn’t sufficient information and there wouldn’t be sufficient information about this product to say okay, this is sufficient information for the Board to change its mind on Silicon Dioxide.

MALE VOICE: Actually it wouldn’t have been a case of the Board changing their mind, it would have been us.

MR. HUBERT I. KARREMAN: Well, the vote had already occurred anyway.

MS. BARBARA C. ROBINSON: Yeah, we would have had to overrule the Board, and all they’re doing is renewing an exemption that has already been in existence.

MS. ANDREA CAROE: Gerry, and then Hue.

MR. GERALD A. DAVIS: I just want to repeat in different words what Barbara just said.
I believe what happened with you was your introduction of the product did not come at the best time at all for us to accomplish what you’re hoping to accomplish, as far as incorporating into the Sunset process, and by all means your most aggressive and best way probably is to petition to remove the synthetic silicon dioxide with your supportive information of your new product, new type of material that can replace it, rather than --

MR. STEVE PEIRCE: [Interposing] And I appreciate that.

MR. GERALD A. DAVIS: . . . take any other stance that’s less aggressive. Be direct.

MR. STEVE PEIRCE: Sure.

MR. GERALD A. DAVIS: This is the kind of thing we hope would occur, to replace some of these materials.

MR. STEVE PEIRCE: Thank you.

MS. ANDREA CAROE: Hue, and then Tina.

MR. HUBERT I. KARREMAN: Well yeah, I mean, your comment, if it had come earlier, prior to our vote to renew silicon dioxide, would have made a big difference probably.

MR. STEVE PEIRCE: Sure.

MR. HUBERT I. KARREMAN: So it was just
we had already voted, and then the Federal Register notice came out, and that’s when extra public comment comes in, but our vote had already gone in, so just petition to get silicon dioxide off the list. Do it tomorrow.

MR. STEVE PEIRCE: How long does it take in a situation like this for a --

MR. HUBERT I. KARREMAN: [Interposing] I have no idea.

MR. STEVE PEIRCE: ... petition for something to change?

MS. ANDREA CAROE: Yeah, we have a whole presentation on that that you I guess weren’t here for. Tina?

MS. KRISTINE ELLOR: I’ve heard a couple of times in this meeting that just because it’s on the list doesn’t mean that you’re allowed to use it, if there’s, oh, sorry. That doesn’t apply here, huh?

MS. ANDREA CAROE: 606 is where commercial availability is. There’s no commercial availability or wholly --

MS. KRISTINE ELLOR: But I also appreciate your sentiment in not wanting to yank it and --

MR. STEVE PEIRCE: [Interposing] Sure.
MS. KRISTINE ELLOR: . . . and making other potential -- you know.

MS. ANDREA CAROE: Okay. Hue.

MR. STEVE PEIRCE: It’s a six to eight month product. We want to see if it works.

MS. ANDREA CAROE: Hue, and then we have to move along.

MR. HUBERT I. KARREMAN: Just have there been petitions previously -- historically, to take things off the list when something like this happens, and if so, how long has it taken? Just to get that out.

MS. BARBARA C. ROBINSON: Well, you know, remember your into ruling. First of all you’ll have to vote to -- and tell us to take it off the list. And then of course we’re into the rule making. I’ll have to go down to OGC and beg them for your document.

MR. STEVE PEIRCE: Thank you, all.

MS. ANDREA CAROE: All right. Thank you.

MS. BARBARA C. ROBINSON: But we --

MR. STEVE PEIRCE: [Interposing] Thank you.

MS. ANDREA CAROE: I -- I wish you the best of luck.

MR. STEVE PEIRCE: Thank you very much.

MR. TOM HUTCHESON: Good afternoon, Tom Hutcheson speaking for Karen Wilcox and my last name is H-U-T-C-H-E-S-O-N, same as one of the aquaculture participants, Scottish spelling.

First, regrets from Karen that her plans for the afternoon have taken her away. I’m sure she would have wanted to say what we’re going to say now herself, but thanks very much to Andrea Caroe for her dedicated and energetic leadership of the Board, and of course her excellent work over the past five years.

First just a reminder that OTA’s comments did contain a substantial bit on definitions, and I would urge the Board to look at that. We think it contains a very useful perspective.

Secondly, just to go back over issues of listings on 606 and commercial availability. Based on a discussion this morning I thought it might be good to introduce a little bit of the business perspective on how that works.
Unless there’s a demonstrated demand, manufacturers are unlikely to invest in an organic product. If organic -- and this is for minor ingredients, that is in the five percent of a 95 percent product.

If organic manufacturers are not allowed to use, say, conventional grape seed extract, then there is no incentive to produce the organic version as the conventional isn’t being used and there’s no demonstrated demand. If they are allowed to use the conventional, potential suppliers will assess the market and the market potential, and invest accordingly, as was done in the 1990s with the classic example of cinnamon. The organic preference rule drove the development of organic cinnamon and many other organic spices. The incentive to potential organic suppliers is if they make it, it must be used, and of course we loudly applaud your efforts to tighten protocols for determining commercial availability.

Remember, no one is required to make organic grape seed extract, but if there is a demonstrated potential demand, if conventional grape seed extract is being used, you will see investment according to the demand. That’s all I have to say. Thank you all very much.
MS. ANDREA CAROE: Thank you, Tom. I like that. Gwen, I understand Kristen’s in the room, so you’re going to -- is it -- are you -- where’s Kristen? Is somewhere in the room? You’re Kristen? Come on up. Five minutes.

MS. KRISTEN KNOX: I promise to make it brief because when I made the appointment to speak I didn’t realize I was going to have the chance to speak earlier during the meeting, so I’ll keep my comments very brief. I just would like to urge each and every one of you on the Board, if you have not had a chance to read the letter that I sent on November 9th, and the supporting materials, to please do so before you make your final decision, because I believe that we have addressed concerns, substantially, and I will be available for any further questions of concerns after that.

FEMALE VOICE: Give your name, please.


MS. ANDREA CAROE: Thank you.

FEMALE VOICE: Any questions?

MS. ANDREA CAROE: Any questions for Kristen?

MR. HUBERT I. KARREMAN: I hate to be
dumb, but what was the -- which --

MS. KRISTEN KNOX: It was the sodium bicarbonate.

MR. HUBERT I. KARREMAN: Thank you.

MS. KRISTEN KNOX: Okay.

MS. ANDREA CAROE: That’s okay. We’re all a little bit dumb right now. Okay, thank you so much. Gwendolyn.

MS. GWENDOLYN WIER: Right. Good afternoon, Madam Chair, NOSB members, NOP staff, and ladies and gentlemen of the gallery. I love to say that.

My name is Gwendolyn Wier. I work as a processing program reviewer for Oregon Tilth. We certify 524 processors, I’ve managed and worked on several certified organic farms, and I hold a degree in food science, an emphasis on fermentation science, and a minor in chemistry.

Our comments today are on the definition of materials. First I’d like to thank the Board for taking up the issue of agricultural versus nonagricultural. After Oregon Tilth requested clarification in October 2004 and while many moons have passed, and my headache has turned into a way of life, we are very grateful for your continuing efforts on this very complicated matter, and we
appreciate the consideration you have given to our input.

We very much understand that the documents presented are works in progress, and in that respect appreciate this issue being listed as a discussion item only.

Oregon Tilth supports the Van diagram and the holistic approach it takes. However, we urge you to deal with synthetic, non-synthetic, and egg, non-egg separately, while not letting their connectivity escape final decisions. And we strongly urge you to take up the NOSP documents on synthetic, non-synthetic from the August 15th, 2005 meeting and the NOP document of March 2006, and continue where that discussion left off.

Okay. So from here out I’m talking egg, non-egg only. First off I’ve offered up yet another decision tree where I’ve tried to incorporate and improve all of the decision trees and comments presented today.

With respect to first to box number one on the Joint Committee decision tree, the question asked whether the substance is derived from plant or livestock. This box needs to be expanded to include aquatic life. The details of the terminology I’m not sure of. They need to be
worked out, but seafood is covered in OFPA and standards for aquaculture are clearly being developed.

This is also the box where fungi and other nonplant, nonbacterial lifelike creatures will need to be further addressed. I would also urge you to further address fermentation byproducts because there’s a growing world of edible fermentation byproducts that can and are being organically produced; i.e., alcohol, i.e., arithritol.

Oregon Tilth supports deletion of all or at least part of the definition of non-agricultural, but please keep in mind that the term agricultural product in OFPA and the rule is defined as any agricultural product. My grandpa told me you can’t define a word by using the word being defined to get the definition, so box number one is crucial; it defines the source, and it’s this box that has primarily tied up this discussion for the last three years.

Box number four states that if any other ingredients have been added to the substance and remain in the final product, the substance becomes nonagricultural. I think the question here is appropriate, however, the addition of an
ingredient doesn’t render a substance agricultural or nonagricultural. The addition should simply be evaluated for compliance with either 605 or 606, and I’ve demonstrated that adjustment in the decision tree that I’ve passed around.

Additional processing questions need to be asked, such as have any volatile synthetic solvents or synthetic processing aids been used. The rule may already answer this, but it’s not clear. It depends on how you read it, and certifiers are reading it inconsistently.

Oregon Tilth, in conjunction with PCO -- Pennsylvania Certified Organic, we’ve submitted a policy question to the NOSB that addresses this question. I handed them out, there’s not enough, the copier broke. The document is titled “What Restrictions Apply To Non-organic Ingredients Allowed in Organic Food” and focuses on the prohibition found at 205270c(2). The document proposes resolution to this question via the Q and A section of the NOP website. The answer to the question would appropriately be worked into the decision tree.

And finally Oregon Tilth would like reiterate [unintelligible] comments by saying that Organic is a processed based standard, rather than
a performance based standard. The result of a
given input or product is not the result of what
it is in most cases, but how it’s produced. In
the history of OFPA and in the current NOP
regulations the working thought has been if a
substance is organic, can be organic, then it must
be agricultural. I have no inspected or reviewed
operations for yeast, yeast extracts, glycerin,
fatty acid, sucrose esters, enzymes, flavors,
colors, and probiotic vitamins. These substances
can technically be certified organic based on the
95/5 composition and compliance with other
applicable sections of the rule. It’s entirely
possible to produce a synthetic according to the
OFPA definition, a synthetic organic product, you
just don’t call it synthetic, you call it
processed, and it’s entirely possible to certify
yeast. Why? Because their production relies on
agriculture. They are agricultural products with
an emphasis on product.

MS. ANDREA CAROE: Thank you.

MS. GWENDOLYN WIER: Thank you very much.

MS. ANDREA CAROE: Thank you. Any
questions for Gwendolyn?

MS. KATRINA HEINZE: I wanted to thank
you, Gwendolyn for your comments today, as well as
comments that we’ve received in the past from you. I know you’ve given us a lot of thought, and your efforts are greatly appreciated.

MS. GWENDOLYN WIER: Thank you.

MS. ANDREA CAROE: I think, Gwendolyn, you’re helping us create a forest of decision trees at this point.

MS. GWENDOLYN WIER: It is. I know. There’s limbs. Limbs everywhere.

MS. ANDREA CAROE: Yeah.

MS. GWENDOLYN WIER: Limbs abound.

MS. ANDREA CAROE: Thank you.

MS. GWENDOLYN WIER: Thank you very much.


MR. JEFFREY W. MOYER: Madame Chairperson?

MS. ANDREA CAROE: Yes?

MALE VOICE: Jeff is here.

MS. ANDREA CAROE: Jeff?

MR. JEFFREY W. MOYER: Yes, I just wanted to apologize to the Board, to the program, and the gallery for my absence earlier today. I’m happy
to be back and I apologize for that.

MS. ANDREA CAROE: Thank you. Thank you, Jeff. Thank you. All right. Do -- M. J., you’re here. Okay. I got -- all right. Whenever you’re ready to start, Consuela.

MS. CONSUELA ALLEN: Hi, my name is Consuela Allen and I’m the Assistant Team Leader for the Organic and Quality Standards Audit Team at Whole Foods Market. I’d like to comment on the Accreditation Committee’s recommendation on multi site certification systems, a recommendation which my company supports. In particular I’d like to talk about the role of the internal control system, and how the objectivity and consistency of my work as part of that system, gives integrity to the company’s organic certification.

I would also like to describe how our work facilitates continuous improvement of organic compliance throughout the company in all stores throughout the year. Our company consists of ten auditors -- our team consists of ten auditors who inspect each retail store between 10 and 11 times a year, spending between 3 and 4 hours in each store.

Each auditor on my team goes through a basic organic compliance training in the retail
store upon hire, and then they go through and initial three day auditor training. The auditor’s reports are constantly monitored for consistency and quality. All of the audits are surprise audits. No store knows when they will be audited.

Each of our auditors adheres to nationally specified audit criteria and makes sure that all of the members of a retail team understand the issue of organic compliance and their role in keeping our product organic.

This includes quizzing team members on their sanitation methods and looking at past organic sanitation logs to ensure the organic compliance protocols are in fact in place and in practice.

If there is an issue our auditors speak to leadership in the store to clarify what needs to be done to maintain organic compliance. We often conduct on the spot training. I am bilingual and I often do trainings in Spanish, if necessary.

After an audit is conducted, the auditor files a report on an electronic form which is sent to myself, Joe Dickson, the National Organic Programs Coordinator, the store team leader, and the regional leadership. If there are any issues,
they are red flagged and a complete description of 
the area of noncompliance is documented. I look 
for any continuing issues and we make sure that 
the auditor who will be conducting the next audit 
is given a location -- of a given location, has a 
copy of the current audit to reference and monitor 
for repeat noncompliances.

The criteria on the audits are updated 
annually after our inspections by our certifier in 
order to more closely focus on areas of potential 
noncompliance.

As the Assistant Team Leader for the 
audit team I impressed upon both my team and all 
Whole Foods team members that are being certified 
as an organic retailer is an earned privilege and 
that we -- one that we never take for granted. 
Our focus is to report without bias and to direct 
all resources to any organic noncompliance issues 
that are recorded.

The audit team is very much dedicated to 
being fair and tough, while making sure that the 
stores and the team members are aware that organic 
compliance is an asset that needs continuous 
tending and monitoring. My team of auditors is a 
highly professional and dedicated group whose work 
as the eyes and ears of the company makes it
possible for our national office and our organic
certifier to ensure that our organic compliance
plan and the national organic standards are being
upheld in all of our stores.

Thank you for the opportunity to comment.

MS. ANDREA CAROE: Thank you, Consuela.

Is there any comments or questions? Bea.

MS. BEA E. JAMES: Do you know how much
you’re currently spending, approximately, on
certification --

MS. ANDREA CAROE: [Interposing] Oh, I
don’t think that’s an appropriate question.

MS. BEA E. JAMES: No, I can’t -- okay.

MS. ANDREA CAROE: I don’t think that’s
an appropriate question.

MS. BEA E. JAMES: Never mind.

MS. ANDREA CAROE: Any other questions?

Thank you very much.

MS. CONSUELA ALLEN: Thank you.

MS. ANDREA CAROE: Okay. M. J. Marshall
Herman here? Zareb? Okay. Then the next one on
the list is Cheryl Van Dyne. Are you in the room?

MS. CHERYL VAN DYNE: Yes.

MS. ANDREA CAROE: You’re next.

MS. M. J. MARSHALL: Good afternoon. My
name is M. J. Marshall. I’m the Director of Government Relations for the Flavor and Extract Manufacturers Association, and I’m here today to talk to you today about criteria for determining agricultural versus nonagricultural substances for use in organic processed foods.

FEMA has been taking a long, hard look at the organic movement, following its trends, and we’ve been giving a lot of thought to how we can help support the organic market. We -- to coin a certain phrase, realize that we live in an imperfect world, but we’ve been also trying to focus on how we can help improve upon that imperfect world and recognize the organic market’s needs, recognizing that it needs to have the flexibility to grow and develop over time.

So in order to support this developing industry, as I said, we wanted to come up with what we believe will be a very valuable tool, particularly for certifiers, to determine when a product is agricultural versus nonagricultural.

Flavors in general food use. They may be simple or complex, they may be synthetic or nonsynthetic, they may be agricultural or nonagricultural, and they may be derived from animals, plants, herbs, spices, and botanicals.
Flavors are also complex mixtures, derived from a variety of sources, both agricultural and nonagricultural. An important point to note here is that while we continue to believe that flavors should be listed on 205.605, we also recognize that there are some instances where some ingredients used in flavors are more appropriately listed on Section 205.606.

So again, getting back to this whole discussion of ag versus non-ag, we agree that there needs to be a process to simplify the decision for organic uses to help select suitable flavors in a consistent, cross industry fashion, to distinguish agricultural versus nonagricultural flavors.

So FEMA, having reviewed the decision tree that the NOSB put forth, has come up with an alternative approach. So first I’d like to go into a little bit of comparison or NOSB’s proposed decision tree, and then I’ll get to the FEMA proposed decision tree.

In FEMA’s view the NOSB proposed decision tree concludes that some materials considered not suitable for organic use under the NOP criteria, must be synthetic. For instance, spice olea resins obtained by solvent extraction. We agree
that spice olea resins may not be suitable for use in organic foods, but they are not synthetic, they simply are not organic compliant. And we -- it would, you know, also point out that in putting forth and developing the FEMA decision tree, we made certain that we adhered very closely to the NOP rules and regulations and definitions.

So with respect to the NOSB decision tree, we believe that, as I pointed out, there could be some misapplication of the decision tree in other sectors of the trade, because nonorganic foods, for instance -- and this raises a concern to FEMA members and our clients.

So I just put up this NOSB decision tree. I don’t think I really need to go through it. I hope everybody here is familiar with it, so Valerie, if you want to skip to the next couple of slides. There you go.

So a decision tree comparison again. With the FEMA proposed decision tree what we do right up front, and the next slide I believe will show you our decision tree, so I’ll get to that in a second. We would propose to eliminate synthetic materials at the beginning of the decision process, which we think is very important. And we also focus on determination of the agricultural,
nonagricultural status of any given material. So we conclude for nonsynthetic flavors, that some may qualify as agricultural and meet the requirements for organic certification, and others may be suitable for organic use.

MS. ANDREA CAROE: I’m sorry. Your time has expired.

MS. M. J. MARSHALL: Oh, okay.

MS. ANDREA CAROE: Is there questions?

MS. M. J. MARSHALL: Can I just show the next slide.

MS. ANDREA CAROE: Is there questions from the Board? Joe.

MR. JOSEPH SMILLIE: Could you please show the next slide?

MS. M. J. MARSHALL: What’s that?

MR. JOSEPH SMILLIE: Could you please show the next slide?

MS. M. J. MARSHALL: Show the next slide?

MR. JOSEPH SMILLIE: Yes.

MS. M. J. MARSHALL: After this one?

MR. JOSEPH SMILLIE: No. This one.

MS. KATRINA HEINZE: This one.

MS. ANDREA CAROE: He’s giving you an opportunity to explain your slide.

MS. M. J. MARSHALL: Oh, okay. Well,
yeah, if I -- sorry. If I could maybe just use an example of citric acid. I mean, if you follow this decision tree all the way down to number eight, is a material an agricultural product as defined by USDA. The FAS -- Foreign Agricultural Service, U.S. Trade Ag definition, which I put on this slide, right there, what you would determine is that it’s an agricultural product based on this definition, and I think it would be really helpful for the Committee to have a presentation by someone who’s very familiar with the harmonized trade -- harmonized tariff schedule, because in the FAS definition, several of the chapters -- or all of the chapters help make the determination as to when a product is agricultural, versus nonagricultural. So essentially there’s really already a process in place to help you determine that, because that’s what you have to look at when you import a product into the country. And as it says at the bottom here, certain other products under Chapter 33 are considered agricultural products. The most important of this is essential oils. So we would believe that, based on our decision tree, that essential oils are an agricultural product, and they’re also an agricultural product based on the FAS definition.
So --

MS. ANDREA CAROE: [Interposing] So any of the Board members have further questions? Hue?

MR. HUBERT I. KARREMAN: Well, I just -- we have to take that definition into account, I would think, at least in our deliberations if that’s what that USDA is calling agricultural.

MS. ANDREA CAROE: All right.

MR. HUBERT I. KARREMAN: We can’t look the other way and say no, it’s not.

MS. M. J. MARSHALL: Yeah.

MR. HUBERT I. KARREMAN: But anyway.

MS. ANDREA CAROE: Julie?

MS. JULIE S. WEISMAN: I agree, and I think that I would definitely like to look more at this, but I do also want to caution that definitions of agricultural, for the purposes of trade and tariff, are meant to serve a very different purpose than ours, maybe. I’m not -- I just -- as a -- this may be very helpful, and we should also keep in mind that it was meant for a very different purpose.

MS. ANDREA CAROE: Katrina.

MS. KATRINA HEINZE: I have two things. The first is have you submitted this either electronically or in a written document so that
the Committee --

MS. M. J. MARSHALL: [Interposing] No.

MS. KATRINA HEINZE: ... can review it?

MS. M. J. MARSHALL: No, but thank you for asking my question. We will be. We intend to submit follow up comments to the Board and NOP staff because we very much want to work with you to come to some sort of agreement, terms, what have you on determining ag versus non-ag, because it’s very important to us.

MS. KATRINA HEINZE: Okay. Then my second comment was going to be that as has become abundantly clear for many topics this meeting, but certainly our definition materials, these matters are more complex than they always appear. You know, we’ll take a look at these comments, we’ll take a look at all the definitions, we’ll figure how everything wraps together, and we’ll be back at the next meeting. Thank you.

MS. M. J. MARSHALL: Right. Well, absolutely. Well, we concur wholeheartedly that this is very much a complex issue, and so that’s why we hope that the Board would help, you know, rely on FEMA industry expertise on the issue of flavors in particular and how they are -- they can
be determined ag versus non-ag.

MS. ANDREA CAROE: Tracy and then Hue.

MS. TRACY MIEDEMA: Just very quickly, are you considering extracts agricultural?

MS. M. J. MARSHALL: Yeah. Yes. The experts in the background say yes.

MS. ANDREA CAROE: Hue.

MR. HUBERT I. KARREMAN: Just in response to you, Julie, in that this is under agricultural and marketing service, therefore this tariff type thing actually would I think apply, because we’re in commerce here.

MS. JULIE S. WEISMAN: Uh huh.

MS. ANDREA CAROE: Okay. Further questions? Great. Thank you very much, and we would appreciate your presentation, and if we can get it.

MS. M. J. MARSHALL: Definitely. Thank you.

MS. ANDREA CAROE: Thank you.

FEMALE VOICE: All things will be posted.

MS. ANDREA CAROE: All things will be posted, as is appropriate. Okay. Cheryl Van Dyne, and then up next is Rick Green. Rick, are you here?

MR. RICK GREEN: Actually Barb Chinn
should be next, and then I would go after her.

   MS. ANDREA CAROE: Okay. That’s fine.
Barbara Chinn is next. Okay.

   MS. VALERIE FRANCIS: Cheryl Van Dyne, the whole one that you gave me, the Van Dyne --
   MS. ANDREA CAROE: Uh huh. Oh, sorry,
   Cheryl.
   MS. VALERIE FRANCIS: Not the Chinn one first?
   MS. ANDREA CAROE: Excuse me.
   MS. VALERIE FRANCIS: You gave me three original PowerPoints, and so you want me to eliminate all the prior three and only use the one that you gave me? Just clarifying.
   MS. CHERYL VAN DYNE: [unintelligible] that I gave you on [unintelligible].
   MS. CHERYL VAN DYNE: Okay. Now I understand. Cheryl Van Dyne, CP Kelco. My name is spelled C-H-E-R-Y-L V-A-N space, capital D-Y-N-E. CP Kelco thanks the NOSB for the opportunity to present information and answer questions for the Board on the petition material Gellan gum. We have three CP Kelco representatives here to answer the Board’s questions, and the information
presented in the package for the Board can be reviewed at your own pace. We’re going to present an overview of the technical functionality Gellan gum brings to the organic industry.

I don’t think that’s it. Okay. And so there will be three speakers. Included in your packet is a compilation of letters that we present to the Board from industry. Included are letters from the industry that were given to CP Kelco to bring to this meeting and those posted on regulatory -- or regulations.gov, and --

MS. ANDREA CAROE: [Interposing] Could you speak a little bit closer to the microphone.

Sorry.

MS. CHERYL VAN DYNE: Oh, I will.

MS. ANDREA CAROE: Thank you.

And so you can see that we had quite an outpouring from the industry for support of Gellan gum, and we wanted to bring that to you as a package. If you could go through it. And keep going Valerie.

Yeah.

CP Kelco would like for the Board to understand that Gellan gum is a polysaccharide, it is a gum, and it is a -- composed of repeating monosaccharide units and two glucose units, and
one which is a component of sucrose, which is a common sugar. Food grade Gellan gum is tested to meet the purity requirements identified for Gellan in 21 C.F.R. 172.665, the Food Chemicals Codex, and the EU specifications for purity, as well as JECFA, and Gellan gum is manufactured in accordance with FDA’s food GMPs 21 C.F.R., Part 110. And Gellan gum does not contain any heavy metals or their contaminants in excess of the FDA tolerances.

The manufacturing process of Gellan and the use of Gellan result in no significant impact to the environment. Continue please. And there are no reported adverse affects from Gellan to human health or the environment. Gellan has been used in food since the early 1990s. The next one.

So we ask why Gellan gum, and we are going to have Barb Chinn present this -- you know, its functionalities to you, but Gellan presents distinctive qualities to formulators of products across various application segments for products for the organic consumer. Barb Chinn, our food scientist, will present information on Gellan use. And if you could go. Keep going, Valerie.

Valerie? Okay.

MS. BARBARA CHINN: Hi. I’m Barbara
Chinn, C-H-I-N-N, and I’m the Food Applications Manager at CP Kelco, and I’m here because I understand there was some confusion at the last meeting in terms of what Gellan gum did, so I’d like to give you a crash course on the functionality of Gellan gum in foods and beverages. Next slide. Next.

So as Cheryl said, Gellan gum is a stabilizer, it’s a long chain molecule produced by fermentation, and as such it is animal free and sustainable, and as a long chain molecular, when we use it at very low use levels in beverages it will form a network. The Gellan molecules will associate very weakly with each other, and this network we refer to as a fluid gel, and this fluid gel is capable of suspending particulates in beverages, and by particulates I mean things like minerals and fiber. And when we use it at higher use levels it’ll form a true gel that you can actually unmold and cut, and we use that property to do things like enhance heat stability, bake stability, provide texture, and just control water in general.

Now, like all stabilizers, Gellan gum has its own unique fingerprint in terms of properties, and these properties drive the best fit
application. So every gum has its applications where it works very well, and applications where it doesn’t work so well. And what we’ve seen as a growing area of interest is the suspension of particulates in beverages. Next. Thanks.

So when we use a Gellan gum fluid gel, we can suspend all sorts of insoluble particulates, like cocoa, insoluble minerals such as calcium carbonate, and tricalcium phosphate, we can suspend soy protein, fruit pulp, and very -- this picture shows some very novel includes that are seen Asia of basil seeds and some [unintelligible] cocoa particles.

But this is very important to create very uniform, appealing appearing products on the shelf, as well as to ensure the consumer consumes the particulates, and that’s especially important when we’re including nutritional supplements in the beverages. Next slide.

So further evidence to the importance of suspension is in this article, where the researchers looked at a number of calcium fortified beverages, and in all of the rice and soy beverages they saw a lot of sedimentation where oftentimes the calcium -- it was calcium carbonate or tricalcium phosphate was settled to
the bottom of the container, and it was a thick
sludge at the bottom of the container, and even
with vigorous shaking they often could not get it
resuspended. So as such, the consumer may not
ingest that calcium and that’s especially
important when consumers are drinking soy milks
and rice milks as alternative to dairy milks. So
it puts the risk -- it puts the consumer at risk
of insufficient intake. Next slide.

In this table, you can read it at your
leisure, but I’ve compared Gellan gum with
carrageenan and pectin, and across the top listed
a number of functionalities of these products in
beverages. And the reason I chose carrageenan and
pectin to compare with Gellan gum is because both
of them are used in beverages and both of them
will form true gels at higher use levels. And as
you look at the functionality of these ingredients
in these applications you’ll see that none can
substitute for another. There are situations
where carrageenan works, you know, very well,
other situations where Gellan gum works well, and
other situations where pectin works well, so you
cannot substitute one for the other. Next slide.

And this compares those same three gums
in food applications, and again it’s the same
story; one gum does not substitute for another. They each have their own, you know, best fit applications, and sometimes, as in the case of pectin in a standard of identity jam or jelly, it is the only stabilizer you can use. Okay. Next.

So in conclusion I’d like to say that Gellan gum has unique properties which lend themselves to specific food applications, and utilization of Gellan gum, building gels in organic soy, rice, and almond beverages would ensure consumption of key nutritional ingredients, such as the soy proteins, the calcium, and maintain excellent sensory characteristics. And the properties of Gellan gum complement those of other stabilizers, such as pectin, xanthan, and carrageenan. And in summary, the availability of Gellan gum for use in organic foods, by itself, as well as in combination with other stabilizers, will bring new functionalities to the product developers of organic foods and allow those developers to better serve this important market.

Thank you.

MS. ANDREA CAROE: Thank you. And just for clarification, do you have one more speaker --

MS. BARBARA CHINN: [Interposing] Yes.

MS. ANDREA CAROE: . . . from your
organization? Okay. So there will be one more
five minute presentation. Do you have questions -
- does the Board have any questions? Katrina.

MS. KATRINA HEINZE: I have a point of
clarification. Are we able to hear all three
speakers and then lump all our questions in one
group? Is that -- are we able to do that? I just
wanted to make sure. Newbie question. Thanks.

MS. ANDREA CAROE: Jeff.

MR. JEFFREY W. MOYER: I have a question
actually with [unintelligible] here with Kevin.
If you didn’t use Gellan gum in a beverage, could
you not simply put on the label, shake before
consuming?

MS. BARBARA CHINN: Well, as it -- the
one article showed, they could -- they shook very
vigorously, and often times they could not
resuspend that, so the consumer doesn’t know until
they get to the bottom of the container, if they
look, at they have this sludge at the bottom and
in fact they didn’t consume that. So you do get
hard packing with a number of ingredients.

MS. ANDREA CAROE: Steve.

MR. STEVE DEMURI: I might have missed it
in your presentation, but what’s the carbohydrate
source that you’re fermenting?
MS. BARBARA CHINN: Corn syrup.

MR. STEVE DEMURI: Corn syrup?

MS. ANDREA CAROE: Any other questions?

Okay. Thank you very much, and Rick -- no. Yes, Rick Green is the next person. I just want to bring the on deck person up. Marc Cool, are you in the room? You will be next.

MR. RICK GREEN: Okay. Hello again.

I’ll be very brief since I think Barb covered everything. But, you know, one of the things I want to touch on, as we talk about a lot of the technical aspects, and in my own household we actually have -- I have people who can’t have dairy drinks, and so we’re big fans of soy beverages, and we’ve seen them improve over the last ten years or so. And you know, one of the things I’m looking at for the use of Gellan is, you know, we’ve made the point about it being a nonanimal gel, which is, you know, very consistent with sustainability practices. It’s also good for people with dietary restrictions like Kosher, Halal, vegetarian.

I think, you know, one of the main things is that really the organic industry came you know, to us because they saw a need for this, and there’s been a really overwhelming support, and
that’s really the main point that I wanted to make.

I did want to address whoever asked about the shaking issue, because as we found and in my own household, is that you don’t -- you want to get away from things that you have to shake, especially if they’re in cartons. Because while a teenage boy can shake a carton with the intensity of an industrial paint shaker, that it lacked the upper body strength to keep the top completely sealed, and we have ceiling fans in my house, so it’s amazing how much a small amount of soy milk can get distributed over a kitchen. So you know, as a consumer I would prefer to get things that I don’t need to shake, and Barb tells me that I should get more calcium, so that’s really all that I wanted to leave you with. So I wanted to be brief. If there’s no questions.

MS. ANDREA CAROE: Thank you. All right. Jeff?

MR. JEFFREY W. MOYER: Maybe a follow up question to what Barbara just mentioned. She mentioned that you use corn syrup. Could you or do you use organic corn syrup in the production of Gellan gum?

MR. RICK GREEN: I don’t believe we do.
We get corn syrup from such manufacturers as Cargill -- I’m sorry, what’s that, Cheryl?

MS. ANDREA CAROE: I’m sorry, I’m going to need you to go up to the mic --

MR. JEFFREY W. MOYER: [Interposing] Yeah, we can’t hear you.

MS. ANDREA CAROE: . . . and give your name because this is on transcript. Thanks.

MR. RICK GREEN: Again the fermentation nutrients are really processing aids for the bacteria. No matter what you feed the bacteria -- you could use wheat syrup, and we have done that in the past. You can use all sorts of different carbohydrate or protein sources because it’s an extra cellular polysaccharide. So the bacteria will create the same Gellan gum regardless of the, you know, fermentation inputs. So you use what’s, you know, what works best in the process.

MS. ANDREA CAROE: Bea.

MS. BEA E. JAMES: Are you using high fructose corn syrup or just --

MR. RICK GREEN: No, it’s -- I guess the technical term for it is, what, 42 DE? Barb could probably explain that better to you as to what the significance of that is.

MS. ANDREA CAROE: I’m sorry, you’re
going to have to come up to the mic and give us your name. Thank you.

MS. BARBARA CHINN: Barb Chinn. Uh, 42
DE refers to 42 dextrose equivalents. It is a measure of the degree of the starch hydrolysis in the process of making corn syrup from corn starch. 100 percent DE means it’s been fully hydrolyzed to basically its glucose units, so 42 DE gives you a measure of the degree of hydrolysis. It’s along the lines -- Karo corn syrup is about 36 DE, so it’s a little more hydrolyzed than Karo syrup.

MS. ANDREA CAROE: Katrina. Oh, Jeff?

MR. JEFFREY W. MOYER: I still don’t understand why, if we’re going to be using Gellan gum or petition to use Gellan gum in organic products we could not use organic corn syrup, or wheat syrup, or whatever fermentation base you’re using. Why wouldn’t we do that?

MR. RICK GREEN: I’m sorry. Julie, were you going speak out or did --

MS. ANDREA CAROE: [Interposing] I’m -- well, I’m -- okay. Katrina had -- you want to wait?

MS. KATRINA HEINZE: I can wait.

MS. ANDREA CAROE: Julie?

MS. JULIE S. WEISMAN: I’m trying to
answer Jeff’s question. This is a 605, not a 606 item. In other words, this is not an item that anyone is suggesting is going to be made certified organic, it’s a non organic for the five percent, and so the -- there’s no jurisdiction for us to require. I mean, that’s, you know, if we want to open that one up that’s certainly a can of worms that we can look at, but that’s not the way things are right now.

MS. ANDREA CAROE: Katrina?

MS. KATRINA HEINZE: I’m glad I waited.

That was a nice segue. Thank you. I had a chance earlier today to go back and look at the transcripts from our last meeting to refresh myself on the confusion we had around this material, and a lot of the confusion had to do with whether it was a 605a or a 605b, so we talked about that this morning, that it’s extracted with isopropyl alcohol. The other discussion we had was -- and I haven’t had a chance to look at this, but either the tap or the petition mentions that in the drying process or the extraction process, I don’t really remember which, there’s a change to the acetyl groups, maybe during hydrolysis, I’m not entirely sure. And that factored into our confusion on whether it was a 605b or a 605a. So
I was wondering if you could speak to that. So the basic question is, is there a chemical change from how it exists naturally?

MS. ANDREA CAROE: And just to qualify; a change that would happen without a natural process.

MS. KATRINA HEINZE: Correct.

MR. RICK GREEN: Okay. Do -- can you call that transcript up, because I don’t recall that. I need the context of it.

MS. ANDREA CAROE: Basically what we’re asking you, I mean, it’s not -- it’s irrelevant what the transcript says. It really just prompted our history here, but the question that the Board and specifically the Committee was considering, was whether this at some point became synthetic, was there a chemical change that was one other than would happen in a natural process such as fermentation or oxidation or some --

MR. RICK GREEN: [Interposing] Right. I think I understand. The presence or the percentage presence of acetyl groups in Gellan can be very variable, depending on the organism and even the fermentation. So it’s one of those sort of variable parameters you get because it’s a biological origin where you don’t have a variable
amount of, say, you know, the polysaccharide structure. Does that address the question?

Because I --

MS. KATRINA HEINZE: [Interposing] So how do you -- my follow up question would be how do you adjust the level of acetyl groups? Is that done through a natural process or a chemical process?

MR. RICK GREEN: The processing of Gellan gum, there -- it could be chemical, it could just be the processing, you know, through pasteurization because we are required to kill the bacterial. So hold on. Cheryl’s passing something to me here. Yeah, from the tap review it did say that the extraction -- the extraction and formulation steps don’t alter the identity of the Gellan gum produced by the microbial culture so, you know, as far as it’s food grade status. It remains Gellan gum because the, you know, Gellan gum is the polysaccharide and some of these other things can be variable. So basically it will still meet the FDA definitions, regardless of the variability of the acetyl groups.

MS. ANDREA CAROE: Questions?

MR. RICK GREEN: Yeah, I’m not sure we’ve gotten there yet.
MS. KATRINA HEINZE: Are you going to be here tomorrow, too?

MR. RICK GREEN: Yes, I will and --

MS. KATRINA HEINZE: [Interposing] Okay.

MR. RICK GREEN: . . . if you would like to talk about that offline, because I think we’re not quite there, but, you know, we are short on time for the other speakers.

MS. ANDREA CAROE: You have a question to Bea?

MS. BEA E. JAMES: I just want to thank you for bringing out the troops to try to educate us on this material. It’s been very helpful.

MR. RICK GREEN: Well, thank you too. I realize it is kind of counter intuitive, it’s a very sort of strange, you know, way to make products, but, you know, a large part of it is that, you know, the one thing I wanted to leave you with is that there is a very real, you know, desire and need for this, you know, from, you know, the people that are going to be using it. Their customers are telling them that, so they’re coming to us and telling us that, and then of course, you know, so they asked us to come to you. So thanks again. I realize that the Board, you know, has seen the support from the industry, and
I appreciate you guys bringing that up.

MS. ANDREA CAROE: Any further questions?

All right. We may have them tomorrow, so again --

MR. RICK GREEN: [Interposing] Okay.

We’ll --

MS. ANDREA CAROE: . . . don’t go far.

MR. RICK GREEN: . . . we’ll be here.

MS. ANDREA CAROE: We’ll be here until, like, 9:00, 10 o’clock tomorrow night.

MR. RICK GREEN: Okay. Thank you.

MS. ANDREA CAROE: I hope not. I hope not. I hope not. Geez. It’s a joke. Marc Cool and on deck Steve -- I’m not good with names. F-O-U-R-N-I-E-R. Steve, are you in the room?

MR. STEVE FOURNIER: Yes, ma’am.

MS. ANDREA CAROE: Okay. You’re on deck.

MR. MARC COOL: Good evening, thank you.

My name is Marc Cool. I’m with Seeds of Change. We’re a 100 percent certified organic seed and food company based in Santa Fe, New Mexico. I’d like to address the Board regarding the issue of commercial availability; specifically the seed component of that. Of all the very important, very urgent, and very difficult issues you’re facing, and there are a lot of those, I fully recognize that -- you have a very full slate.
Seed is equally important and urgent, but actually not very difficult. Seed already is in the regulations that growers must use certified organic seed. There has been an NOSB recommendation passed in August ’05 supporting -- to that effect, supporting that and that’s not yet been implemented. I mentioned in March, when I spoke with you last time, that in vegetable production less than one percent of organic vegetable production is grown using organic seed. To me that’s quite scary. After using five years and after the implementation of NOP rule, there’s still that little certified organic seed available, and we talked last time a little bit about the reasons for this supply and demand, et cetera. We can go into details later if you want. The fact is that there is -- if you want to put it this way, kind of an abuse of the system. There’s not a lot of transparency, nor oversights, nor accountability for using organic seed, and there should be.

So I think this is not a very difficult issue. I do want to discuss very briefly why -- you know, I work for a seed company so obviously I want to sell organic seed, but the reasons that we are in this industry, the reason I support this
recommendation are two fold. One is this authenticates the whole organic chain. If you see the organic mark as a brand, then consumers need to have confidence that the chain has integrity and is whole, and starts with organic soil and organic seed. That’s the rule, that’s the way it should be, that’s not the way it is. We have to recognize that. The second reason is very importantly from a seedsman’s perspective, our goal long term is to develop varieties of seed that are specifically adapted to low input, agriculture and organic conditions. These types of varieties will perform better for farmers agronomically, they’ll have better traits for consumers, they’ll be healthier for people, and they will be healthier for the environment. This is a longer term goal for the organic seed industry.

We can’t get there if there’s no organic seed used. We can’t, you know, offer organic seed if there’s no organic seed industry, so these issues are all very interrelated. I heard this afternoon -- I’m a little bit --

[END MZ005025]

[START MZ005026]

MR. MARC COOL: . . . scared that it
seems that you might, this evening, deliberate
over including in your commercial availability
discussion, seed or not. I’m hoping you haven’t
made a decision to exclude seed yet, hoping that
you’re still willing to think about this. I’d
like to sway you to include in the recommendation
tomorrow the seed provision. We’re not asking you
for anything new, this is already something that
you’ve recommended, it’s part of the rule like I
said.

I have heard a lot of comments that even
though this is all the right thing, we all agree
this is the right thing, it would be very
difficult to implement. I kind of disagree with
that. The burden of proof on showing proof of
organic seed being used shouldn’t really rely on
the certifiers. In my opinion that should be a
burden on the growers. Growers should include the
use of the variety of seed they use in their OSP.
Growers know very well what seed they’re using.
The biggest grower I know uses about 100 varieties
of vegetable seed per year. That’s a lot, but
it’s not a huge burden. The growers know the seed
they use very well, they have lists of the seed
they use, they know the performance of the seed,
they know where it came from, they know if it’s
organic or not organic. It’s quite simple for them to make a list, sit down with the certifier at the kitchen table and in all honesty go over the list and say this is organic, this is not organic, and here’s why this is not organic, and here’s the criteria I used to want to use a non-organic variety.

That should be a very simple discussion that the certifier and the grower have. It should be an open, transparent system with oversight and with accountability.

That in my mind is not a hugely difficult endeavor. One thing I’d like the Committee to hear, because I do understand there is some concern with the documentation process, is that myself and my company would be willing to help, either financially or otherwise, as appropriate or relevant, to both certifiers and NOP, if there’s a way that we can help develop a system to document this and develop a website, et cetera, and we would like to reach out to certifiers to discuss this with them and find a way to make this system work. I would hope that the basis of this would be your positive recommendation tomorrow to include seed in your final review. So with that, any questions? I’d be happy to answer.
MS. ANDREA CAROE: I get -- I just want to clarify that we’re not proposing that we ignore seeds, we’re talking about separating it out from the 606 and -- I mean, the ingredient portion of it, and retooling it so it makes more sense, as far as the logistics of how it would work. But we agree with you, we want to promote seed, that’s why we’re going to continue to pursue it.

Now, I have Steve, and then I have Hue, and then I have Jeff.

MR. STEVE DEMURI: Thanks for your presentation, Marc. Are you folks a seed producer, or are you just distributing?

MR. MARC COOL: We are a breeder, a producer, a distributor.

MR. STEVE DEMURI: So you are actually breeding?

MR. MARC COOL: Yes.

MR. STEVE DEMURI: Are you working with companies out there like the Pedoes [phonetic] and the As Grows [phonetic] that produce --

MR. MARC COOL: Pedoe not, because they’re part of Seminis [phonetic], which develop --

[Cross talk]

MR. MARC COOL: But generally yes, we co-
develop with other parties, as well as ourselves.

MR. STEVE DEMURI: Are you finding from those other companies that you work with a desire to develop organic seeds? Or is there a --

MR. MARC COOL: [Interposing] The answer is there’s a huge interest. People see the $16 billion U.S. food -- organic food market as an interesting market. They also see the extremely small vegetable crop production, seed market, and they are worried about that difference. They know there is going to be -- because of regulatory enforcement, there will be a future organic seed industry, but right now it’s not big enough for them to bother about. So for them it’s too high of a risk, too high of a cost. They look for a specialist like ourselves and others to develop the organic seed industry.

MR. STEVE DEMURI: So how would you recommend we get the ball rolling?

MR. MARC COOL: I recommend that -- and I understand Madame Chairman, your point about splitting it up, and I frankly don’t care if you split it up or put it together. I would like you to make a recommendation to NOP tomorrow, not in March, that’s my point, regarding seed.

I would propose that we first put the
recommendation on paper, on the table, such as it has been done already in August ’05, such as it already exists in the rule, and then I would propose that we work together with certifiers and the NOP to find the system to actually enact this. The fact that it’s difficult to track this in some people’s minds doesn’t mean it’s not right. Let’s first say it’s right, and then let’s find a way to track it. I would be willing to help with that.

MS. ANDREA CAROE: Okay. Steve.

MR. MARC COOL: Financially or otherwise.

MS. ANDREA CAROE: Hue and then Jeff.

MR. HUBERT I. KARREMAN: I just want to agree with what you’re saying about how, you know, we have to get back down to the seed, get that organic. I think it’s the same thing in livestock. You know, we have poultts that are -- you can get them at one day old. They’re not organic until then. The origin of livestock essentially, you’ve got to -- we have to stimulate, you know, incentives to complete the whole organic cycle so that organic agriculture is very different than convention from, you know, seed to finish, and you know, we heard yesterday from a guy from Blue River, I think it was, who said he sold 60 percent of his organic seed, he
had a lot left over, and now that’s field crops,
and I have learned in the last day that that’s a
very different market than the vegetable type
demands.

But still we just need to get that
incentive to not let farmers or whoever just find
conventional seed, where if they just check three
sources and they can’t get it. It’s got to be a
lot harder. A lot harder or just not at all so
that you can have your business and other folks
too.

MS. ANDREA CAROE: Thank you. Jeff?
MR. MARC COOL: Can I make a comment on
that and respond to it briefly?

MS. ANDREA CAROE: We really have to keep
rolling. I’ll let you comment at the end. Jeff?
MR. JEFFREY W. MOYER: I don’t mind
[unintelligible].

FEMALE VOICE: Gerry.
MS. ANDREA CAROE: Gerry.

MR. GERALD A. DAVIS: Marc, what was the
name of that seed company you mentioned that does
not cooperate with you on development of varieties
and what other major vegetable seed companies are
also kind of stonewalling the process, that would
not work with you?
MR. MARC COOL: It’s not a matter of them not working with us, it’s vice versa. Without getting to details, there’s various companies in the U.S. that have been purchased by both Monsanto and Sagent in the last number of years. Those are two companies who are involved in [unintelligible] research, which we believe can’t -- is not compatible of course with organic production systems, and we also believe they can’t differentiate in their breeding lines between the GMO lines, conventional lines, and potentially organic lines. So we’ve made the decision to not work with people who actually have active GMO breeding. Luckily in vegetable production it’s not very many. Of the 12 breeding companies in the world, major vegetable breeding companies, only about two, which are U.S. based, are involved in GMOs. The rest are not.

MR. GERALD A. DAVIS: And those two would be?

MS. ANDREA CAROE: You know, Gerry.

Gerry.

MR. GERALD A. DAVIS: Okay. Sorry.

Okay.

MS. ANDREA CAROE: Let’s not go there. Let’s not go there. Any other questions?
MR. JEFFREY W. MOYER: Can I still make my comment?

MS. ANDREA CAROE: Jeff.

MR. JEFFREY W. MOYER: Thank you, Andrea, for allowing me the time. We did hear yesterday about grain crops, and there are differences between grain crops and veg crops, and I am a firm supporter, and have been forever, for using organic seed. However, I’m in contact with lots of growers and lots of farmers on a smaller scale and there’s huge issues with seed quality in vegetable seeds, more so than in grain seeds, and I think we have to be aware of that in terms of germination and true to type.

Personally I’ve bought seed from many different producers, including yourselves, and have found that type according to label is nothing at all what it should be. Germination can be all over the board because of the certification. There are no good certification standards on vegetable crop seeds in the small lot purchasing area, and we have to be aware of that when we -- if we’re going to put any kind of a burden on growers to use this seed, that the burden has to come back onto the seed producers to produce quality product, because I’ve had a lot of
complaints about comments I’ve made in public
meetings about using certified organic seed.

MS. ANDREA CAROE: All right.

MR. MARC COOL: I completely agree.

Certified organic seed must be as high quality or
higher in terms of trueness to type, germination
purity, and disease absence to conventional seed.
That’s a very important part of what we’re doing.
The only way to get there is to have an organic
seed industry which means people using organic
seed.

MS. ANDREA CAROE: Thank you, Marc. All
right. Thank you very much. Any further
comments? Okay. Thank you.

MR. MARC COOL: [Unintelligible].

MS. ANDREA CAROE: Now, before we go any
further, next up is Steve Fournier, but I want to
ask the Board, do we need a break?

FEMALE VOICE: Yes.

MS. ANDREA CAROE: I think I have one,
two, three, four, five -- nine. So we’re going to
take a ten minute break. On deck is Dave Carter.

[Audio interruption]

MS. ANDREA CAROE: Thank you for your
patience. Okay, Steve. Come on and -- whenever
you’re ready to get started.
MR. STEVE FOURNIER: My name is Steve Fournier, S-T-E-V-E, F, as in Frank, O-U-R-N-I-E-R. I’m with Pet Guard Company.

First of all I want to thank this body for all the work that they’ve done and kind of thank you in advance for the work you’re going to do. So it’s a ton of it.

Although not heavily discussed today, my comments are concerning organic pet foods. Companion animals are no longer considered pets; they’re family members. As such, Pet Guard feels organic pet food should be under no less scrutiny than human foods.

While the differences in nutritional needs are a fact, they should not be an impediment to bona fide organic pet foods being in the market. With the combination of organic regulations with AFCO nutritional regulations, and the vast amount of nutritional data that goes with that, I feel that with minor adjustments, organic standards can be applied fairly and beneficially. Being the sole diet supplier for companion animals make them unique and dependent upon their humans for 100 percent of their nutritional adequate needs.

As such, these diets must be fortified
with nutrients that may not be needed in human
diets or that humans can consume at will, as
needed. Taurine is such an ingredient. While
available for supplemental use only, as a
synthetic it is essential to the health of cats,
and to a lesser extent, dogs.

Supplementation is necessary because the
animals cannot physically eat enough food to
supply it with its needs. While it is [clearing
throat] excuse me. While it is preferable to
adhere strictly to human standards for pet foods,
the unique nutritional needs of cats and dogs is
the hurdle we must get over. With that being
said, the closer the guidelines are to each other,
the less temptation there may be for companies to
only look in the short term gain or ride a wave of
popularity instead of the final destination for
organics. That being healthier foods, healthier
people, and a healthier environment. That’s it.

Thank you.

MS. ANDREA CAROE: Thank you. Do we have
any questions for Steve? Julie, any questions
from pet food?

MR. STEVE FOURNIER: Thank you.

MS. ANDREA CAROE: Thank you so much. Up
next, Dave Carter with Neil Simms. Neil, are you
in the room? Neil?

MALE VOICE: He’s long gone.

MS. ANDREA CAROE: He’s long gone?

MALE VOICE: Yeah [unintelligible].

MS. ANDREA CAROE: Okay. Well, that makes -- then I need Nicole. Nicole, I can’t read your writing. Nicole from Vermont.

MALE VOICE: Daney.


MR. DAVE CARTER: Okay. Madame Chair, members of the Board, my name is Dave Carter. I’m involved in bison pet food, consulting, and an alumni of this auspicious group. Today I’m speaking strictly for myself, though.

First of all Andrea I want to congratulate you on completing a successful term and over the weekend we’ll start teaching you the secret handshake for former NOSB chairs.

I do want to limit my comments tonight strictly on Board policy issues and specifically the Board policy manual. In two areas in particular, conflict of interest and activities outside the Board.

I know yesterday morning, when Barbara gave her initial comments, she outlined some
things in terms of those issues, and one of the things where I think she and I could agree on completely is that this Board contains a lot of conflict of interest. In fact, I would go beyond that. I would say that by design the drafters of OFPA put together the NOSB to ripe with conflicts of interest, because when you bring together a people with the wealth of experience and expertise, they naturally bring along a lot of their biases and their personal issues as well.

And so the real test is how we handle that balance, and that’s why the Board policy manual was developed, or one of the reasons it was developed and why it’s so critical. When we put together, or started putting together, the Board policy manual, one of the things that we started to draw on was what are some similarities out there. And if you look, almost every state in the United States has a state statute that governs nonprofit associations. Those are groups that serve a larger constituency, so that’s where we kind of drew on. And if you take a look at almost every one of those statutes, or at least every one that I’m familiar with, it talks about nonprofits are allowed to have conflicts of interest, that is not the issue.
It’s that when there are those conflicts, that they need to be clearly identified and then publicly identified and addressed, and in some cases, people ought to recuse themselves and in other cases not, but it’s up to the Board to make that decision.

And so that’s the model that we tried to develop. The problem is we really don’t have any way within the Board policy manual to enforce that within the Board or to talk about compliance, and I would encourage the policy development Committee to start looking at some of those things within the parameters of what the Board can and cannot do. I always like to say that whatever’s good enough for a local community group that helps raise money for playground equipment is good enough in terms of a procedure for a $17 billion industry.

In terms of, you know, recusing yourself in the quorum, the integrity issue that was raised, I guess I have to disagree with the Deputy Administrator in that I think that the process is served -- it’s enhanced when people will recuse themselves from time to time. You’ve got 15 members on here. If a couple of folks recuse themselves, I think ultimately the decisions -- we
may agree or disagree with those decisions, but
they -- the integrity of those decisions are
enhanced by the fact that people that have
identified conflicts of interest have willingly
recused themselves in certain circumstances.

And then finally the activities outside
the Board, I was surprised yesterday by the
comment that what you do on your own time is your
own business because that really reflects a 180
degree departure in previous directives, at least
to the Board. I know in February 25th and 26th of
2003 we had a Board planning retreat here in
Washington D.C. where we started to talk about
Board policies, and to develop that, and it was
very clear at that time that when you are outside
of the Board, that you need to do everything you
could to make sure that your activities were not
conveyed in any way at all of representing the
Board, or speaking for the Board, or as a member
of the Board.

And so those are some things that I agree
more with the former interpretation as in terms of
the guidance, rather than with the one that was
issued yesterday morning, because I think it is
very important for all of us to be very respective
that while we’re here, we need to recuse ourselves
of some things, while we’re outside we need to make sure that we recuse ourselves of being part of the NOSB.

With that I thank you very much, and thank you all for your patience at this late hour.

MS. ANDREA CAROE: Okay. Thank you Dave. I’d like to say I can talk about nonprofit management with some expertise, and my company, in full disclosure, my company does have members on my Board of directors that do maintain conflict of interest. And we fully expect those members to participate in discussion and development. When it comes to a vote perhaps they recuse themselves, but they are not expected to be quiet. In fact, I would think they’d be doing a disservice to our Board, because that’s why they’re there, is to provide that. I think that’s consistent with what I read in our Board policy manual, and all members can and are expected to participate in those discussions. Our Board policy manual also indicates that before a vote, and I will, before we start voting, just as you did, call for any potential or perceived conflicts of interests, and the Board will make that decision on whether we consider that conflict enough that members should recuse themselves from vote.
We have not had votes on -- in the particular situation that -- there has been no votes.

MR. DAVE CARTER: Okay.

MS. ANDREA CAROE: So I’m a little puzzled by what you’re protesting, because we haven’t gotten there yet. Votes are for tomorrow, and at that time we’ll call for any conflicts of interests, and those will be disclosed, and the Board, in fitting with the policy manual, will decide whether they’re conflicts. I think what -- not to speak for you, Barbara, but what Barbara was saying in regards to on our own time and what we do is our own thing, is that we as private individuals, and I was told this from the very beginning of the -- my term on the Board, is I have a right to do whatever I want on the outside. However, I will not represent myself as representing the Board. Even as members, if it is, you know, you have to be very careful even if it is something that has been discussed at the Board, not to represent yourself as answering for the entire Board. That’s consistent as well, so I’m -- I guess I would like some more detail from you. I think, you know, we’re in agreement on a lot of different -- of the basic premise, Dave,
but I don’t understand a particular situation. I
don’t feel like anything has gone past the point
where there’s been any policies of this Board that
have been broken.

MR. DAVE CARTER: Okay. There’s -- well,
there’s a couple of issues at play here. Number
one is the whole issue of yes, having a voice and
no vote. I mean, at what times you choose to have
a voice and no vote. And I think it’s important,
you know, in terms of not only in materials
issues, I think the procedure is very clearly laid
out that when you go to take formal votes that you
ask for that conflict. I mean, there’s that whole
process, and that’s good, and there were times we
forgot to do that when I was Chair and you went
back and did it after the fact, just to make sure
that it was done.

More and more there’s, you know, as much
as I hate to say this, it’s not likely that the
Board is going to be involved in fewer of the
controversial policy issues and administering. I
mean, we’ve seen the whole thing with grower
groups, with everything else. And I think clearly
on, you know, clearly first -- early on in those
discussions that folks that have conflicts of
interests need to get those out. The case in
point I would use in mind, for example, is you
know, when the issue of a pet food -- that we were
going to start organizing a pet food taskforce,
was to -- even before that taskforce was appointed
or the process was there, announce that I was
involved in the formation of a pet food company
and so that I was going to try to refrain from
being in certain positions, and in fact that’s one
of the reasons that the Handling Committee ended
up dealing with pet food is because I was chair of
the Policy Committee at the time, and even though
the Policy Committee was supposed to deal with all
of these directives, we handed off the other one
just to make sure that, you know, beyond an
appearance of a conflict of interest there.

MS. ANDREA CAROE: Dave, you know, I
guess we’re going to have to agree to disagree,
because I think that you could have lent quite a
bit of expertise to a discussion on pet food if
you were involved to that point.

Now, if you chose to abstain from a vote,
or if the Board felt that you were in conflict for
the vote, that’s a different situation, but
definitely I think you robbed this Board of your
expertise in that situation. So I -- again I
think we should agree to disagree. And this is
from my expertise and my experience outside this
Board on a nonprofit Board that is under that
same -- nonprofit organization that’s under that
same structure that you have suggested.

So with that I think we’ve heard your
comments, Dave, and I -- you know, for the next to
24 hours as Chair of this Board, I feel that we
are fully within it. I stand by all of our
members and what they’ve done, and, you know, I do
not believe that there has been an issue, and we
will continue to try to uphold the policy manual
as interpreted.

MR. DAVE CARTER: Okay.

MS. ANDREA CAROE: Thank you.

MR. DAVE CARTER: Thank you.

MS. ANDREA CAROE: Any other questions
for Dave. Thank you, Dave. Next up is Nicole,
and on deck is -- I’m having trouble with the
handwriting, but Eunice.

FEMALE VOICE: Eunice.

MS. ANDREA CAROE: Eunice. Is that -- I
don’t have your last name at all.

MS. EUNICE CUIRLE: It’s Cuirle, C-U-I-R-L-E.

MS. ANDREA CAROE: Okay. Nicole,
whenever you’re ready.
MS. NICOLE DANLEY: Great. I want to thank the Board for the opportunity to speak today, and I’m going to try to be brief, partly because it’s going to be facilitated by the fact that my brain is much this late in the evening.

My name is Nicole Daney and I’m the Certification Administrator for Vermont Organic Farmers. I’m speaking on behalf of 501. We finally broke the 500 mark, certified producers.

So there are several things I wanted to comment on today.

Starting with I’d like to address the clarification of definition of materials. In general I guess I just feel nervous about changing past NOSB Board decisions. I understand kind of the motivation of this Board was to clear up inconsistencies regarding substances that have been listed as both agricultural and nonagricultural in different parts of the rule.

But I’m wary about changing the definition of agricultural to allow more substances to be considered agricultural and thus qualify for certification.

I’m not totally against it, just wary of it. As stated in the Materials and Handling Committee’s recommendation, the OFPA states that
not all live is agricultural. And my question; who benefits by having more substances meet the criteria for agricultural, so I would like to recommend to the Board that they keep the definition as conservative as possible.

I guess I’m feeling skeptical today because I’m also skeptical of the value of redefining yeast as agricultural, partly because I am concerned -- that was something that was mentioned in the discussion before about cost and supply for livestock producers in Vermont. I’m afraid of the way our dairy farmers are going to look at me when I tell them that their yeast and their feed has to be certified organic.

But I do agree with Rose’s comments earlier today about adding an annotation to the existing allowance of yeast. And I feel that as a certifier I’m already verifying that the yeast itself is not genetically modified, and in some cases that the substrate that it’s grown on is non-GMO. So I don’t think it would be too much different to verify that it was grown on organic substrate, so I think this is possible and it might solve the problem.

As far as standardized certificates, I wanted to commend the Board for addressing this
topic, because I do feel like it’s an issue in our
industry, and I generally agreed with most of the
ideas and statements for the recommendation.

In regards to the standardized terms for
certificates, I wanted to remind the Board that
mixed vegetables has been the accepted description
for many of our small, diverse, vegetable growers,
and so I would like that to be taken into
consideration when the NOP or the Board decides on
standardizing terms.

As far as grower groups, we don’t certify
any grower group, so it’s not our area of
expertise, but we do support the ACA position on
grower groups, and I did want to reiterate that we
do not believe that grower groups should include
retailers or handlers. We support the definition
of grower groups that was posted in the minority
opinion attachment to the recommendation. I won’t
read that for you, because you know what that
says.

But I would like to add, just from the
earlier discussion, that as far as our
organization, initial and renewal inspections for
our farmers and processors look almost identical.
We do check buffers on a yearly basis because we
never know what might be happening on adjacent
So I think historically grower groups were certified because of accessibility and financial obstacles, and I think the Board should consider that reasoning as they come up with the recommendation.

I’m not going to -- I’ll skip my recommendations on the commercial availability requirement because I do support the Certification Committee’s decision when they changed their recommendation to keep seed and planting stock separate, which I think was a good decision.

And then I would just remind the Board that probably planting stock shouldn’t get lost in the language when you’re writing that recommendation.

As far as livestock materials, I wanted to reiterate the need for the NOP to approve the livestock materials that have been recommended by the NOSB, and I do appreciate Barbara’s comments that she’s personally prioritizing the addition of some of these materials to the national list. But I do urge the Board to assist the NOP in finding a reasonable solution for allowing the materials that have been left out of the current proposed rule. For example, the propylene glycol and
calcium proprienate. So dairy farmers we feel really need these critical tools to care for their animals, and in light of these animal welfare discussions that we’ve been having, the importance of proving all of these materials is really paramount.

Okay. So lastly I just -- I also, like always, need to comment on pasture and origin of livestock. I really feel our organization of farmers feel that consumers and producers are really waiting with baited breath to see how these two issues are going to be resolved. We feel that these two issues are the major cornerstone of consumer confidence, and if we disappoint them with either the regulations that we write, or the enforcement of these regulations, their confidence will erode and I feel that the organic label will stagnate, which will affect the livelihood of thousands of farmers and their families, as well as the continued growth of the entire organic industry. So thank you.


MR. JOSEPH SMILLIE: Mixed vegetables. How specific do you feel as a certification organization, you want to get on that certificate?
MS. NICOLE DANELY: I feel on a case by case basis, depending on what the growers are doing. And in certain -- different circumstances, where we have orchard as they’re growing apples, we would clearly write apples in that situation, and in some regards we would even potentially list the three different varieties of apples that they’re growing.

But when I think of our small, diverse vegetable growers, it is included in their application, the list of vegetables that they’re growing, but potentially they might have crop failures, and I almost worry more or it could potentially be a worry that you’ve now got a certificate that lists a specific crop, but they’ve had a crop failure on and, you know, as far as keeping that up to date, I worry about that. And I also feel like during the audit and the inspection, the verification of what they’re growing, that happens there.

MR. JOSEPH SMILLIE: Okay.

MS. ANDREA CAROE: Anybody else? Hue.

I’m sorry.

MR. HUBERT I. KARREMAN: Nicole, just with that docket that hopefully will come out in the next week or two, we’ll just have to see
what’s on that and not, but there certainly have
been some creative ways to deal with some of those
over the counter things that you mentioned. So
hopefully we can get to that, but also just --
nah, maybe, well, regarding, you know, you were
saying you’re kind of fearful of telling your
dairy farmers, you know, they’re going to have to
use organic yeast -- why? Shouldn’t they --
they’re getting the organic premium, shouldn’t
they just be wanting to use it?

MS. NICOLE DANEY: Well --

MR. HUBERT I. KARREMAN: [Interposing] I
mean, they’re organic.

MS. NICOLE DANEY: Yeah.

MR. HUBERT I. KARREMAN: I would think
they would want to use organic yeast if they
could.

MS. NICOLE DANEY: But I’m not
necessarily sure that yeast should be considered
agricultural, and I do feel that some of our
farmers might question that, especially since
they’ve been feeding yeast that was acceptable and
certifiable -- or not certifiable.

MR. HUBERT I. KARREMAN: No, I understand
that, when something gets switched midstream,
dairy farmers go nuts. You know --
MS. NICOLE DANEY: [Interposing] I also just -- I see their faces looking at me, like, yeast? Yeast is agricultural? And I feel like that -- that I have that question too.

MR. HUBERT I. KARREMAN: Yes.

MS. NICOLE DANEY: And as much as I want to push our industry to make sure that, you know, we’re trying to create innovative techniques, I think we can do that potentially with this -- with yeast without having to make it certifiable. You know, by creating the annotation.

MR. HUBERT I. KARREMAN: Yeah, no. I understand that. It’s very complex. But I mean, I’d say if there’s a light at the end of the tunnel for yeast to become organic, you know, I would want to see that happen. I know it’s really complex, but then I would also I guess like to see the dairy farmers say good, we got organic yeast, we can get it now. Finally.

MS. NICOLE DANEY: Right.

MR. HUBERT I. KARREMAN: But I have a feeling that won’t happen, and that worries me, that the dairy farmers, they get their premiums, but just like anybody in society, if you can be cheap about something potentially, you will, and yet they’re getting the organic premium, so they
should wrap their arms around the idea of getting
organic yeast, potentially.

MS. NICOLE DANIEL: Uh huh.

MS. ANDREA CAROE: Any other comments?

MALE VOICE: [Unintelligible].

MS. ANDREA CAROE: Kevin.

MR. KEVIN ENGELBERT: Speaking on behalf
of organic dairy farmers who, if --

MALE VOICE: I thought you might speak
up. That’s fine.

MR. KEVIN ENGELBERT: We don’t all go
nuts when something changes, and if organic yeast
becomes a reality, we will embrace that.

MS. ANDREA CAROE: Any other comments,
questions? Thank you very much. Eunice, you’re
up, and Rich Theuer, you’re on deck.

MS. EUNICE CUIRLE: Okay. My name is
Eunice Cuirle, that’s E-U-N-I-C-E. Last name is
C-U-I-R-L-E and I’m here representing Marinalg, M-
comments brief, considering the time. Marinalg
International is a trade association representing
the worldwide producers of seaweed derived
extracts. First I’d really like to commend the
Handling Committee for taking the time to review
comments that were submitted in response to your
October 2nd report regarding carrageenan and auger — auger. We agree with the recommendation presented this morning that carrageenan and auger be reconsidered for retention on the national list, and thank you for that. Carrageenan and auger each provide unique properties when used in food. In fat reduced products carrageenan provides an indulgent property. It provides versatile gel textures and controls syneresis and whey off. It provides a range of viscosities, and it’s used as a film former. Carrageenan’s properties provide for its use in meat and dairy products, as you’ve seen earlier today. And it’s also applicable in personal care items, such as toothpaste and chewable vitamins.

Auger, on the other hand, is somewhat of a niche product. It’s unique in that it provides a thermal set when exposed to high temperatures, and as such it’s used in the icing on preassembled baked goods; meringues, aspics, some meat products, and sauces. And I’ll end my comments there. I just wanted to give you some additional clarification on these two products.

MS. ANDREA CAROE: Thank you very much. Is there any questions? Thank you very much. Rich, you’re up, and I have Will Fantle down, but
I think you’ve already done -- Mark.

MALE VOICE: [Unintelligible.]

MS. ANDREA CAROE: Okay. You’re on deck.

MR. RICH THEUER: Well, good evening.

It’s very late and you’ve been here a long time, and I hope everybody’s had a little candy like I had to keep from getting too hypoglycemic. My name is Rich Theuer, I’m a private citizen and occasional consultant from Raleigh, North Carolina. My comments represent my own views and probably nobody else’s. As you can see, I -- oh, can I go back? As you can see I happen to be part of the cause of the problem in 1992 and 1994, relating to materials.

And then I got my comeuppance as a tap reviewer, trying to figure out what really was synthetic and what was nonsynthetic. Lesser so the agricultural, but I was very gratified when Dan mentioned this morning about the cellulose, and I remember in the tap review coming to the conclusion, in one out of three, that yes, you could make it organic if you started with cotton. You could make it probably organic if you started with glucose -- organic glucose and had a microbial fermentation, but it certainly was synthetic if you did the pulp isolation, the
Then I’m now with OMRI, trying again to figure out from old cap reviews what do materials do.

What I’d like to do today is review your materials from a rather unique point of view. Can I have the next? First of all I think the definition of agricultural substance, as you have described, should be either deleted or substantially modified, because it’s confusing, problematic, ambiguous, and I think it’s contrary to the sense of the OP -- the Organic Food Production Act. Actually something starts or agricultural, it really doesn’t change, and it can actually become synthetic or start synthetic, but it really doesn’t change. The other thing that I think is required is a working definition of a chemical process. In the synthetic definition there are -- if it’s formed by a chemical process or it’s chemically changed, or -- and then the exemption for something that’s from a naturally recurring biological process.

The work done two years ago on coveilant ionic by Rose Kiernagan [phonetic] and associates, I think did a nice job on point number two. But point number one really could use, if not a
definition, some good examples, right? Cellulose isolation from wood pulp by these horrible chemical methods would be a good example. We need more, but we don’t really know what chemical process means, and as Dan mentioned earlier, the early tap reviews are so inconsistent, so ambiguous sometimes, and you really wonder how did people ever figure that out. And of course after seeing that, the Board would vote you know, like 8 to 5 that it was synthetic. You know, you don’t tell sex that way and sometimes you can’t tell synthetic that way either.

No, the next one is -- they’re points to disagree with and it sounded like, when I was reading the document, that minimal processing of an agricultural product could make it nonagricultural. Further processing could change it enough to make it synthetic, even if there was no chemical change. And maybe I misread it wrong, but -- misread it, but I think I disagree if that’s the meaning. Could I have the next?

When we talk about agricultural product, getting to the point of does any processing change it, and I think in the document you mentioned that lysozyme [phonetic] really should be synthetic, and I would disagree with that because of the
words of the act; a product derived from livestock, marketed for human consumption, is still agricultural. And chicken goes to egg, goes to egg white, goes to lysozyme, and so lysozyme is still agricultural, and I know a processor would never want to fool around with it chemically because then it would lose activity. Can I have the next?

And so the paradigm of agricultural and nonagricultural, nonagricultural to synthetic, I don’t think is right. Agricultural always stays agricultural, synthetic can actually go to nonsynthetic if you isolate. Can I have the next one?

If you take corn starch from GMO, the decision tree of about two, or three, four years ago, says you can remove synthetic part and you wind up with corn starch that you can ferment to citric acid, and that is nonsynthetic.

And then a final question; can there be nonagricultural organic. That to me is the $64 question. I don’t think you can.

MS. ANDREA CAROE: Thank you.

MR. RICH THEUER: It has to be -- can I have one more, please, and then -- synthetic definitions, and just as a point of view, next
one, in processing it doesn’t make really a big
difference. Everything goes thorough the national
list. But for crops it does make a difference,
and I think as I learned after last meeting, can I
have the next and final, and then I’m gone. I
think you’ve got a real problem with streptomycin.
It’s a natural material, it’s on the list of
 synthetics, it’s really nonsynthetic, and someday
someone’s going to use it and there will be no way
of stopping them from using it for anything.

MS. ANDREA CAROE: Thank you, Rich.
MR. HUBERT I. KARREMAN: I’ve got one
question.

MS. ANDREA CAROE: Jeff -- Katrina, and
then Hue, and then Bea.

MS. KATRINA HEINZE: Thank you for some
very well thought out comments. I really
appreciate it, and some good slides that we can
use.

MR. RICH THEUER: Thank you.

MS. ANDREA CAROE: Hue.

MR. HUBERT I. KARREMAN: On your
streptomycin then, what do you think about
penicillin, because I hear that from straight --
or conventional [unintelligible] so they say well,
penicillin’s natural, it’s from the soil.
MR. RICH THEUER: They’re, well, let me tell you what I know, and then what I don’t know.

The two microorganisms to make the oxytetracycline and streptomycin were isolated from the soil. It’s a very simple fermentation, I’ve read the patents, and it’s a -- in fact, for the fire blight they actually spray I think, from what I read, the entire culture, so there’s no isolation. So it’s absolutely nonsynthetic.

In the case of pencillins, many of them are semisynthetic pencillins, and so I would have -- I would, you know, from a point of view, I think you need to look at each and every one to exactly know what is it, what is a direct product of fermentation, and also the aspect of was it a GMO organism that may have been involved.

So streptomycin, it is not a GMO. The organism was isolated in about 1940. The fellow who did it got the Nobel prize in ’52 because they thought it would eliminate TB, but it’s all pre-modern science.

MS. ANDREA CAROE: Okay. Gerry.

MR. GERALD A. DAVIS: So I remember when we reviewed streptomycin for the last Sunset process this question came up, but what was unclear in the tap was whether there was something
in the formulation process of the finished product as used in agriculture that made it synthetic, and this is kind of interesting, new information to bring up, and --

MR. RICH THEUER: [Interposing] I have not gotten that far, except to -- there’s a professor at Wisconsin working on fire blight in pairs in Wisconsin who basically indicated, and from what I’ve read on the internet, that the culture of streptomycoses drisius [phonetic] is very little modification, it’s just blown all over the orchard.

Now, the reason I got into that is after the nanomycin which was, you know, nonsynthetic, you know, looking into this and saying oh, this is even worse in terms of having the resistance factors generated. I’d have to look into that, Gerry.

MR. GERALD A. DAVIS: I’d be interested in your input if we could be in contact. Thanks.

MS. ANDREA CAROE: Dan.

MALE VOICE: Who’s next?

MS. ANDREA CAROE: Bea said she didn’t have him.

MR. DANIEL G. GIACOMINI: On that -- the one slide where you think you may have
misunderstood, I think you may have -- it wasn’t
what we intended to say, but certainly was your
intent. I’ll put it that way. Were you on the
Board when lysozyme was put on the list?

MR. RICH THEUER: I think that was later.

MR. DANIEL G. GIACOMINI: Okay. Well
then I’ll ask it then; why do you think they put it
on 605a?

MR. RICH THEUER: I have no idea. No,
Dan, when I was on the Board ’92 to ’94, and they
asked me to come back in ’95 to chair the sessions
of going through processing materials, and it blew
my mind how some things were said to be synthetic
and some things were said to be nonsynthetic,
knowing -- having done 63 out of the 71 tap
reports. That, you know, I knew those materials
and I don’t understand how it happened. It was by
a vote.

MR. DANIEL G. GIACOMINI: Well, it was
confusing then, and it’s confusing now, and if our
document did nothing more, it’s getting --
hopefully it’s at least getting people maybe to
look a little bit outside the box of things in
different ways and maybe we’ll find an idea that
we can move with.

MS. ANDREA CAROE: I think lysozyme is,
like, within the last three years. I’m pretty sure I voted on it, but at this point I’ve got random access memory, so I can’t remember what the logic was. But I’m pretty sure that it was fairly recent that that was put on the list.

MR. RICH THEUER: And sometimes there’s no rhyme or reason.

MS. ANDREA CAROE: It’s case by case, which is, you know, what we’re trying to solve. So any other Board member questions, comments?

Thank you, Rich. Always thank you.

MR. RICH THEUER: Thank you.

MS. ANDREA CAROE: Your historic perspective is very valuable.

MR. RICH THEUER: If I can be of assistance I’ll -- I’m here.

MS. ANDREA CAROE: We will definitely call on that.

MALE VOICE: We need your card.

MS. ANDREA CAROE: All right. Mark Kastel and that is our final commentator for today, so this is it, folks.

MR. MARK KASTEL: Okay. Good afternoon. Thank goodness. My name is Mark Kastel, I’m representing the Cornucopia Institute, we’re based in Cornucopia, Wisconsin. I also have a proxy
here from Tom Willey of T. D. Willey Farms in Madera, California. Am I saying that right, Dan?
Madera. Okay. Thanks. First I want to preface before I go into my remarks -- substantive remarks, I want to say that what happened during my testimony yesterday I feel was inappropriate, and let’s look forward though, instead of back. But I want to highlight history for some of the newer Board members.

The tradition of the Board chairperson briefing the participants at the beginning of the meeting to act in a respectful manner is a byproduct of an era which predates, incidentally, the Cornucopia Institute’s founding, where there was some vociferous language and behavior on the part of some participants on the Board. Sometimes some staff, and sometimes some participants. But let me say that I would like to see whoever comes in as chairperson discontinue this tradition of briefing the adults in this room as in terms of acting in an appropriate manner, because it leads to potential censorship.

I don’t think there’s anything that I said yesterday that was either disrespectful or factually inaccurate, but if I had, you folks have the right and ability to either scold Mark Kastel
or any other participant here if you think my behavior’s out of line, or if you think that statements made by somebody making a presentation that’s factually inaccurate, you have obviously the right and maybe the responsibility to try to correct the record.

So I really want to discourage whoever comes in from continuing this tradition, and hope that we all remain and continue to respond in a respectful and professional manner.

Folks, it’s time. It’s time for the NOSB to take a look at the exemption, the cap on the exemption for certified organic direct market producers which was set at $5,000 when this process began in the year -- prior to the year 1990. What that number should be I’m not going to recommend today, but I want to read you a brief part of an article that was in the Wall Street Journal this morning on biodynamic agriculture, and it said in part, for those who feel organic farming has sold out to corporations, biodynamic farming has often seen as the last bastion here of shelter.

So first of all that sentiment we don’t like to hear, obviously, as we get more larger players in, and the smaller farmers are the folks
who really consumers can romantically relate to, and I think it’s important for us to have marketers and participants in this industry in all scales.

And so whether that number should 15,000 or some other number, it really eliminates the possibility for a lot of small, part-time seasonal direct marketers to label their products organically, and we should be encouraging the expansion. A lot of them will be the ones to raise to a higher commercial level in the future, and we want to encourage that entry level growth.

Grower groups. My comments are intended in no way to impugn the credibility of an example -- the Whole Foods representative that was just recently speaking, and she’s rightfully proud of their internal procedures and their internal auditing protocol. But I want to emphasize that these are internal auditors.

The Cornucopia Institute, as a public charity, by law in the State of Wisconsin, has to be audited every year by outside auditors, and that’s really the strength and basis of our certification program in the organic industry is that consumers depend on the USDA to accredit outside auditors, outside certifiers, and we at
the Cornucopia Institute, and much of our membership, thinks it’s not in the same class, and shouldn’t be in the same discussion to talk about third world peasant farmers on a very small scale, and talk about multinational retailing corporations in the United States in the same breath.

Next subject, leafy greens. There is an advance notice of proposed rule making with a docket open right now that I hope the Board will consider, if nothing else, as individuals participating in voicing your views on. This is a -- this is bad news for organic producers around the country. This is an effort to take, quote, the voluntary program in California, and turn it into a national program. First of all, let me emphasize that the California program is not really voluntary, that there are a number of large supermarket chains and food distributors that are requiring their suppliers -- their growers to adhere by these standards. At a minimum, the United States Government should delay potential implementation of this on a national basis. There is not a good scientific basis for these protocols. Since the California voluntary -- the Leafy Green Marketing Agreement went into effect,
there’s been at least two recalls from participants in that program that were adhering to those protocols, so this is no guarantee we’re going to solve the problem that manifested itself in spinach last year.

The regulations would discriminate against organic farmers. It would eliminate forms of biodiversity, it would cause farmers to have to, in essence, sterilize the environment and it’s in conflict with our -- some of our mandates in the organic standards.

The problem has been in a prewashed spinach, and bagged leafy greens. The problem has not been in other leafy greens. But the proposal on the table is to expand this for all leafy greens, including this like arugula and chard. At a minimum, if the problem is with these prewashed greens, we should get these other crops off the table.

At a minimum we should think about, and I hope you folks will chime in exempting small direct marketers and organic growers. These are not the people responsible for national epidemics. The one size off rule does not fit. This is a disproportionate burden on small organic growers.

One of the requests is testing at harvest time,
and so let me contrast this.

We have large farms, commercial industrial farms in California that some of them are monocrop producers, some of them are producing one to three crops per year that will be mandated to be tested at harvest. We have members in New York State, in Wisconsin, in California that produce many, many crops. You’ve heard testimony about the challenges of procuring organic seed for vegetables. Many -- dozens of crops, and some of these farmers are going to market every week, and doing a harvest every week. If they have to go to the expense of a testing protocol, this could put some of them out of business, and so I want to lastly read just a couple of quotes from Mr. Willey’s testimony here. He said last week a shipment of ours was held up at the Canadian border because it included two boxes of bunched kale, and we are not signatories in the, quote, Leafy Green Handler Marketing Agreement. Thank you.

What’s objectionable about the Leafy Green Agreement it is -- is it is anti-biological, anti-nature, and biased. It imposes growers -- discriminates against growers using traditional production methods demonstrated to be safe over
Coerced by processors, farmers up and down the Salinas Valley are destroying hedgerows, any farmscape that might attract wildlife, though no significant evidence exists to implicate native species in produce contamination. And I also in closing want to recognize the California Alliance with Family Farmers, CAFF, for their work -- leadership on this issue, and I’ll close here and take any questions, if there are any.

MS. ANDREA CAROE: Are there any questions or comments?

MR. MARK KASTEL: Then I’ll say good night and thank you.

MS. ANDREA CAROE: We are -- that completes our public comment session, and our agenda for the day, so we stand in recess until 8:00 a.m. tomorrow morning, where we will start public comment again.

[END TRANSCRIPT]
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HELD AT: Arlington, VA
DATE: November 27-30, 2007

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Date: 1/10/09
UNITED STATES DEPARTMENT OF AGRICULTURE

IN RE: NATIONAL ORGANIC STANDARDS BOARD MEETING

Meeting held on the 30th day of November, 2007
at 08:00 a.m.
Holiday Inn-National Airport
Shenandoah Ballroom
2650 Jefferson Davis Highway
Arlington, VA

TRANSCRIPT OF PROCEEDINGS

11-30-07 NOSB Meeting Participants

Chair: Andrea Caroe

NOSB Members: Gerald Davis
Rigoberto Delgado
Steve DeMuri
Tina Ellor
Kevin Engelbert
Daniel Giacomini
Jennifer Hall
Katrina Heinze
Bea James
Hubert Karreman
Tracy Miedema
Jeffrey Moyer
Joseph Smillie
Julie Weisman

NOP Staff: Barbara C. Robinson
Mark A. Bradley
Katherine Benham
Valerie Frances
Robert Pooler
Jonathan Melvin
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MS. ANDREA CAROE: We can reconvene.

Good morning. First on the public comment is Kim Dietz with Kelly Shea on deck. We’re all ready, so Kim, whenever you want.

MS. KIM DIETZ: Get to hear my raspy voice first thing in the morning. Ready? Okay.

Good morning. My name is Kim Dietz and I’m here today to give you public comment as an individual industry member, and not of those of my employer.

I served on the NOSB from 2000 to 2005 as Handler Representative, three of which were as Materials Chair. Prior to that I’ve chaired RTA’s MPPL Committees -- Committee, during the drafting of American Organic Standards and much time before that, as well. And I was one of the founding members of ORMI. The reason I bring that up is just for experience with materials, because I think again that is most severe charge, and most of my focus.

Today I continue to volunteer in this industry whenever needed as leading task forces
and other things like that.

First of all I’d like to request a technical correction on a recent recommendation for beta carotene, listing in 606. The CAS number, 1393.631 noted on the annotation is incorrect. That needs to be fixed. That annotation -- or that CAS number actually is for an auto, and I’ll supply the MSDS sheets and background to Bob Puller [phonetic].

Sunset materials and materials in general. As a former Board member I feel for each and every one of you when you go through the painful discussions with materials. Believe me, you’re not alone, we’ve all been there. It takes a while to get going and understand exactly how it all works, but you’ll do it. You’re a competent group and we have faith in you.

Here’s a few words of advice; use the process and the material recommendation guidelines at all times. Don’t waiver from those when reviewing material.

I caution you to refrain from personal opinion or stating that you personally believe a
product should or shouldn’t be allowed for some reason or another. Be consistent, use your national list. If the materials on the national list that’s similar or has a similar process, or is placed in a similar place, use that as guidelines.

Some of the comments yesterday about previous voting on 606 materials, in comparison to the current petition being discussed, was quite alarming as a member of the audience sitting back, and especially as a former Board member. I caution you to be careful with that. You want to be consistent and fair again with the material review process.

If any Board member or Committee feels that information is needed -- more information is needed, you can always defer a vote. I didn’t hear that talked about at all over the last three days, and it’s not something you want to do, but you can defer to request more information, and that’s a fair thing to do instead of voting or rushing something through because you’re not sure of all the information that you need. So you can
You certainly shouldn’t vote if you don’t feel like you have everything that you need.

Crop materials; just a point of clarification. A comment was made yesterday that no public comments were received. I did submit public comment on those. And particularly because I was on the Board when we voted on those, and it was very difficult to get the farmers in to petition those. We pleaded with them for years and years, and we finally got those petitions in, so I’m not surprised you don’t have comments, but they are using those.

Finally the discussion docket on the definition of materials. I think you’ve all heard the comments. It’s a good start, and we’ll get it there. Thanks, Bea. I thank you all for bringing forward this document, and I encourage you to engage the industry leaders, former NOSB members, and any other public people that are interested in this process. I do support a working group on this, and in fact there’s been many of us here over the last few days in the room that have
somewhat semiformally formed a group with or
without you, and I kind of hate to say that, but
as a materials person it’s what I’ve done almost
my whole career, and, you know, we’re going to
follow it closely and if there’s not the proper
mechanism within the NOSB then, you know,
collaboratively we’re going to all work together
and make sure that you get the comments you need
from a concentrated force.

I’ve got some specific examples. The
decision tree I think is very close. The fourth
block that was mentioned yesterday by Gwendolyn,
and I think I’ve talked to you about a few people,
definitely was missing some pretty critical
information on handling basically what has made
everything 100 percent organic, and that’s it, and
you don’t want to go down that road. Oh, okay.
One last thing? Thank you Madame Chair for your
service of five years. I’m sure it’s been a fun,
and painful, and glad you’re ready to get off
road.

MS. ANDREA CAROE: Thank you, Kim. Could
you elaborate for some of our newer Board members
the Sunset -- the reason for Sunset, and our
purpose in Sunset?

MS. KIM DIETZ: The reason for Sunset is -- should be fairly basic. If the material is
still needed in the industry, then it should be
continued to be allowed, so long as there’s no
negative comments on that material.

And a negative comment with be a very
formal comment that comes in, giving you the
reasons why it needs to come off, and really,
industry information as to why it needs to come
off. That’s really -- supporting it such as
there’s an alternative available. We had a
speaker yesterday with an alternative for some
materials. Really the industry needs to make sure
that that -- that whatever’s out there is
something that they can use.

But the Sunset is meant to just reenlist,
and for you to go through and say okay, if there’s
nothing changed, and no new material to replace
it, it should continue to remain. Is that what
you were looking for? Okay.

MS. ANDREA CAROE: Exactly. Any
questions for Kim? Hue.

MR. HUBERT J. KARREMAN: In that same vein, what about if, like, for some reason, you know, there’s public outcry about some material, but it’s just, like, well, we don’t think it should be in organics, you know, just that kind of thought.

MS. KIM DIETZ: It’s not -- yeah, I don’t -- it’s not fair, actually. I mean, I stood back yesterday, and as a manufacturer -- put my work hat on for a minute. As a manufacturer, if I use the material that this other person’s saying I have a replacement for, you need to give the industry time to look at the new material. Certainly we always want to look at new things, and we’ve been leaders of this industry, many of us, but you want to make sure that whatever the replacement in will work for you. There’s a lot of different applications for a lot of different products out there, so you should just be able to say we’ll take it off for no reason. It needs to be -- the industry needs to look at it and have time to see if it really works for their products.
MS. ANDREA CAROE: Barbara.

MS. BARBARA C. ROBINSON: That’s why we — if you go back and you look in the process for Sunset, in the ANPR -- you remember the Advanced Notice of Proposed Rulemaking that we wrote, there’s a whole lengthy description of the process and what has to be put forth in order to basically to remove material from the national list, and we went to great lengths to describe the evidence, basically, that has to be produced by the public in order to delist or not renew the exemption for material. We’re not starting over again with each and every material. Otherwise you never would have gotten through 174 materials on the national list for this first Sunset.

It is simply according to the law, you are just saying -- you are just renewing the exemption. But that ANPR was quite detailed and said, you know, someone must come forth with evidence, and the burden is on the industry to come forth with that evidence that says hey, you know, I’ve got the proof here that says why this material should come off the national list. You
don’t have to come up with the evidence, and you
don’t -- and it is not your charge to say -- to
challenge all previous Board’s decisions about why
this material now fails to meet all the criteria
that put it on the national list the first time.

MS. ANDREA CAROE: Other questions or
comments from the Board? Thank you.

[Cross talk]

MS. ANDREA CAROE: Next up is Kelly Shea,
and on deck is Will Fantle. Will, are you here?

MALE VOICE: Will [unintelligible].

MS. ANDREA CAROE: Well, we’ll pass at
this time. Steven Walker, are you in the room,
Steven? You’re on deck.

MS. KELLY SHEA: Good morning, National
Organic Standards Board and program. I am Kelly
Shea with Horizon Organic and Silk Soymilk. I
guess I also have morning voice like the previous
speaker.

First off we would like to thank Andrea
Caroe for her five years of service to the organic
community. Thank you, Madame Chair. Also want to
note that we appreciate Bea James’ comments
yesterday on Gellan gum. At White Way we do believe it will have excellent unique uses in organic, and will not be duplicative to other materials on the list.

As regards the Sunset materials, carrageenan, agar agar, and cellulose, these three Sunset materials, there have been no calls at all for their removal from the list. There has been no new information about the criteria regarding these materials, nor any available substitutes proposed, and so we appreciate the Committee’s recommendation to relist this item, and we appreciate the Board’s consideration.

We would like to comment on the great news that the program provided on the pasture proposed rule and the livestock materials moving forward. This has been a very, very long time in coming, and I know the 425 farmers that ship to our Horizon Organic label, as well as many other farms out there, will appreciate the efforts of the Board and the program in this area.

I would like to point out one learning from this process we’ve gone through. In order
to, well, I won’t say that. I think I’ll just cut straight to the chase. As we look at the origin of livestock clarification to the regulations, I think based on our learnings we should either consider a technical correction to the regulations because the regulation is not correct in the way it is written provides an uneven playing field, so I think I’d appreciate it if the program and their attorneys considered a technical correction, or at the very least, a proposed rule without an ANPR. I believe with an ANPR we will be years out from this effort as well, and so I would like the program to take that under consideration.

And lastly I would like to remove from my comments yesterday the two odious words taskforce, and substitute the words working group. I didn’t quite realize the stigma attached to the words task and force, and so I appreciate the education that I received from many, many members of the Board and the program, and so once again I would like to reiterate the organic community’s willingness to come alongside the Board in some form of a working group to look at the history of
ag, non-ag, nonsynthetic, synthetic, and try
together to come up with a solution that will work
for the community today, and the community of the
future. Thank you.

MS. ANDREA CAROE: Thank you, Kelly. Any
questions? Comments? Thank you, Kelly. Steven
Walker? You’re up, and then Jackie Von Zuden
[phonetic]. Jackie, are you in the room? Yes?
Good.

MR. STEVEN WALKER: Good morning, I’m
Steven Walker, Certification Manager at Midwest
Organic Services Association in Wisconsin. I’d
like to thank the Certification, Accreditation,
and Compliance Committee for their consideration
of the concerns and benefits of multi site
certification schemes.

This is another challenging issue in the
organic community’s persistent struggle to balance
promotion of the growth of organics with
maintenance of a strong organic standard.

Continuation of grower group
certification is important to the organic
community, however, MOSA does not support the CAC
Committee recommendation. The introduction to that recommendation states it extends the logic of the 2002 NOSB grower group recommendation to accommodate organic industry developments. Although logic can be extended to a new conclusion, it can be a mistake to do so.

This Board has previously had to clarify inappropriate extensions of logic. For example, you clarified that stages of production language and allowing temporary confinement for livestock cannot be extended to include lactation.

Similarly I see that the proposed extension in scope to enable limited certifier inspections of retailer and other handler groups as being based in convenience, rather than necessity. It amounts to a weakening of our organic standard and would again put us at risk for more questioning of the integrity of the organic label.

As I’ve said here before, frankly I’m tired of defending against the -- lost my spot here. Tired of defending against the questions and the suspicions. I do recognize that economic
efficiencies and reducing burdens on certified
operations have their place. In that light I’d
echo Michael Sligh’s comment from Wednesday; that
we seek to do no harm to small farmers.

Overriding that principle, I’d add that
our decisions must first ensure that we do no harm
to consumer’s trust in the organic label. We need
to get back to a focus on the grower’s needs.

I would not portray the 2002 NOSB grower
group recommendation as being in need of fixing
because it’s broken. Rather, it’s in need of some
fine tuning. Others here have pointed out that
the organic system plan based internal control
system model has been long in use and is
functioning fairly well, with ongoing improvements
and with many success stories.

Group certification systems are based on
sound accreditation, auditing, and certification
norms. MOSA supports the CAC’s suggested
revisions to the 2002 NOSB recommendation.

The ACA recommendation and other comments
before you seek to sensibly limit and define the
grower group certification parameters. These
systems were developed based on considerations on how to lower market entry barriers for small holder groups. Certification should not be a technical barrier to market access.

This said, lowering barriers to certification should be based on need, such as limited access to infrastructure and limited financial capability, and must be balanced with risk assessment. Need should not preclude due diligence in addressing organic integrity risks.

In MOSA’s experience, the group certification scheme is not deemed appropriate or necessary for retailer or handler situations. We certify a handful of retail operations. Our certified retailers have expressed that multi site retail certifications have devalued their certification efforts, and have created an unlevel playing field.

We do not certify any retail chains per se, but we have certified several retail operations with multiple stores, using centralized management and a single organic system plan.

It’s our policy to perform annual
inspections of all sites, and these inspections have found instances where compliance issues vary from one location to the next, even though the organic management plan is held in common.

Though there is committed organic management plan supervision, it’s not easily transferred to all store personnel. Risks to organic integrity and organic management variables are very site specific at this level. We’ve seen the need for annual third party inspection in our limited multi site situations, let alone retail chains with hundreds of store locations.

Thanks for seeking a way forward, but also for recognizing that the multi site certification recommendation needs to be pulled back because of the perception that it could lead to organic integrity questions. Perception is as important as practice. You’ve wisely applied the brakes before hitting a slipper slope.

I’m pleased to work in a community where we can fairly effectively design the rules to fit our needs, but let us remember that this is a diverse organic community and needs that must be
addressed include consumer’s higher standards desires, as well as organic operators needs for an efficient, sensible certification process, when balancing these needs it ultimately benefits all to err on the side of a stronger organic standard.

MS. ANDREA CAROE: Thank you so much.

MR. STEVEN WALKER: Thank you.

MS. ANDREA CAROE: Questions? Tracy.

MS. TRACY MIEDEMA: Just in trying to explore the limitations of how an ICS can work, it sounds like you’ve encountered, in multi store operations that are certified organic, you visit every single store and you feel that every store inspection annually is important. Is that -- that’s what I heard you say just now?

MR. STEVEN WALKER: I think it’s an additional control and from the comments that I heard yesterday, it sounds like the ICS system is working very well in some situations, but there’s not a need to then cut back the third party certification --

MS. TRACY MIEDEMA: [Interposing] So my --
MR. STEVEN WALKER: . . . by inspection.

MS. TRACY MIEDEMA: Okay. So my question is -- here's the persistent question I have. You don't certify any multi site operations that are farms, is that right?

MR. STEVEN WALKER: We do. Well --

MS. TRACY MIEDEMA: [Interposing] That have an ICS?

MR. STEVEN WALKER: Not that I -- the gist of your question; we’re not doing coffee growers and things like that, but we do have for instance a poultry operation with a centralized management and multiple farms, all following the same organic system plan, and I like in that organic system plan too in our internal control system. There may not be a separate document saying this is our internal control system, but there is that document, the organic plan, they’re, you know, pretty much one and the same.

MS. TRACY MIEDEMA: Right. And that’s what I’m seeing as, you know, the internal quality system, whether it’s a farm with many locations, a farm where each farm manager is an owner of that
piece of land, I mean, where are the limitations? Why is it not working with these stores? And you’re insisting upon making sure every store gets an annual inspection, which sounds like it’s prudent in this situation. Why might it be okay at a farm but it’s not in the store?

MR. STEVEN WALKER: Well, I’m not saying it’s ideal in a farm situation. It’s need based, and with the farms situation that we are certifying, we are inspectioning all of those individual poultry operations.

MS. TRACY MIEDEMA: Do you have any opinion on --

MR. STEVEN WALKER: [Interposing] That’s the point.

MS. TRACY MIEDEMA: ... group certification -- grower group certification, you know, say 100 member farm, do you believe that every one of those member units should be inspected annually?

MR. STEVEN WALKER: Yes. Should.

MS. TRACY MIEDEMA: So that -- so you feel you’re really sort of -- if there’s a
spectrum, you’re at the absolute end of every --
you would say every member, every time, every
year, always?

MR. STEVEN WALKER: No. I think that the
grower group certification scheme can be
effective. We need some additional definition
parameters; how do we assess risk, those types of
things, but it’s not idea, and I see it as a
compromise situation. A reasonable compromise
that isn’t needed at the retailer level, the
handler level, where there’s sufficient
infrastructure and so forth.

MS. TRACY MIEDEMA: Thank you.

MS. ANDREA CAROE: Any further questions?

Jennifer and then Rigo.

MS. JENNIFER M. HALL: How do you
prioritize -- or how do you level the playing
field? Because I actually find it interesting
that people see less of a need for annual
inspections on the farm, when that’s where the
integrity starts, and at the retail level people
seem to put more of an onus on the end of the
game.
MR. STEVEN WALKER: I guess I’d back off and saying less of a need, but it gets back to that practical, sensible, this balancing act between what do we need to do to promote the growth of the industry while maintaining the integrity in the organic label. And I think that the grower group situation as its been presented, you know, 4 or 5 -- 15 years ago, is a reasonable way of finding that balance, but that kind of approach is not needed in the situations that we are certifying.

MS. ANDREA CAROE: Rigo.

MR. RIGOBERTO I. DELGADO: Yeah, I have a question. If you -- assume we have a farmer who owns 1,000 acres, but those are split into 10 different fields, close to each other, this person is growing the same crop, same procedures, and so forth. Do you go and inspect each of those fields every year?

MR. STEVEN WALKER: Risk based, and we have situations like that as well. A big farm, ten different parcels or something, we will inspect the entire operation more thoroughly.
It’s that initial update and inspection scenario again. Based on the organic plan and our experience in overseeing that operation, we may not inspect, you know, every inch of every field in subsequent years, but we’ll do a more thorough job in that first year. Risk based.

MS. ANDREA CAROE: Other questions?

Thank you.

MR. STEVEN WALKER: Thanks.

MS. ANDREA CAROE: Next is Jackie Van Zuden and Leslie Zuck. You’re up on deck.

MS. JACKIE VON RUDEN: See how that works. It’s Jackie Von Ruden. I am a Certification Specialist from Midwest Organic Services Association of [unintelligible] Wisconsin. I have a statement to read from our director, Bonnie Wideman.

Members of the National Organic Standards Board and National Organic Program, thank you for your work, it is appreciated. On behalf of the 450 organic dairies we certify, we ask that you give attention to the dairy replacements issue.
Our farms are small, the average herd size is around 50, but the commitment to organic farming represented here is large. A commitment to not only organic methods of production, but to sustainable family farming as well.

The certification of industrial organic dairy farms in other parts of the country has an impact on our farmers here in the Midwest. This past spring an influx of milk into Wisconsin from large dairies caused economic hardship for a significant number of our farmers, and some of our organic milk went into the conventional market with farmers receiving lower than conventional pay price.

The current dairy replacement policy, as defined by the NOP chart given to us in October of 2006 allows these large operations to maximize profit and minimize sustainability by selling off organic heifer calves and transitioning conventional heifers to organic production.

A survey of our farmers done this fall show that 98 percent of them would like to see that all organic dairy producers are subject to
the same dairy replacement at state rules. Based on the results of this survey, MOSA joins the Federation of Organic Dairy Farmers in asking the NOP for the following dairy replacement policy. Once an operation has been certified for organic dairy production, all dairy replacement animals, including all young stock, whether subsequent born on or brought in -- onto an operation, shall be under organic management for the last 1/3 of gestation prior to the animal’s birth.

We also look forward to the forthcoming clarification of the pasture requirements. Again on behalf of our farmers who see pasture as an important part of organic livestock production, we would like to see a measurable amount of real pasture be required for all age groups with no exclusions for stage of production. We believe that organic dairy should be located where pasturing is possible.

In closing, I would like to share a comment from one of our organic dairy producers in Indiana, Ipka Veldhaus [phonetic]. He said, I think for the whole organic sector we should look
at what the market of organic -- at what the market the organic consumers want, which can be generally described as honestly produced organic food products, raised with attention and care for the environment and sustainability. The market wants clear rules they can depend on because the food chain is nowadays extremely long. Such that consumers have to trust the rules are sufficient and they are followed.

They cannot check this themselves. If there are unclear rules or questionable practices and interpretations of the rules, this will harm the whole organic movement.

There are roughly 1,600 organic dairy farms in the country. We certify and are representing 28 percent of them. On their behalf we thank you for consideration of these comments.

MS. ANDREA CAROE: Thank you. Hue?

MR. HUBERT J. KARREMAN: Just wondering what’s your feeling about irrigation in organic agriculture.

MS. JACKIE VON RUDEN: My personal feeling, representing MOSA, would be that it would
be fine if it’s a sustainable practice and supports the environment as well, and is not depleting our natural resources.

MS. ANDREA CAROE: Any other questions for Jackie? Thank you so much.

MS. JACKIE VON RUDEN: Thank you.

MS. ANDREA CAROE: Leslie, you’re up. On deck, Grace Marroquin.

MS. LESLIE ZUCK: Good morning. I’m Leslie Zuck, that’s Z-U-C-K, like luck. And I’m here representing Pennsylvania Certified Organic. I’m also the Chair of the Accredited Certifiers Association, but I’m not speaking on their behalf. I might a little bit, but not -- if I do I’ll let you know.

I have a few comments on your standardized certificate recommendation. I’m a little confused by the two separating out the expiration date recommendation, and I understand that you have some -- there’s some merit for doing that, but it puts us in a situation of trying to figure out if I support your standardized certificate recommendation am I supporting a
standardized certificate without an expiration date, and I’m confused by that. I’m not sure if the program has that sorted out. They -- I don’t know, they may need some additional help with figuring that out because I haven’t been able to quite understand what -- how to support the standardized certificate recommendation that doesn’t say there’s an expiration date because I -- as a, you know, certifier, I don’t really want to do that because that I thought was part of the main reason we are going forward with trying to standardize our certificates, from the rationale that was included in that recommendation.

But I do -- we do recommend -- or support removing the paragraph regarding the continuation of certification. We call that the eternal certification clause. But I think we’re going to have to explain that somehow get across in this recommendation that -- or in the regulation, that although the certification is for life, as we like to say, the certificate does expire. The certificate’s the proof of certification, that’s what we’re talking about here, that’s what’s
expiring, so you know, I really appreciate Barbara’s comments on behalf of the certifiers and any burden this might place on the certifier, but if we don’t run out there and get the certification completed by a certain time, you know, their certification is still valid, and they are in good standing, and as a -- you know, the ACA did go on record as supporting this standardized certificate recommendation. And as Joe said, as certifiers we’re already doing this. You know, we constantly are out there, updating certificates and our verification forms. We essentially send those out prior to the expiration date every year, and in the meantime, you know, any time throughout the year that their product, or their fields, or their farm names change, we immediately issue a certificate, and I probably sign three or four of those a week which is great because it makes me feel useful. It’s one of the few responsibilities I have at the organization. But I do appreciate your concern in that regard. On your paragraph B(5) regarding the trade names, I just have one question for you;
what if there is no crop or product? We’re talking about, you know, if we certify a restaurant are we going to put on their bacon and eggs or blue plate special, or, you know, essentially what would a handler certificate look like, because right now ours will just say handler or they’ll say processing plant. So, you know, we’re talking about warehouses, cooperatives, wholesale distributors, retail stores. They’re not going to have a common trade name for some of these particular products, and maybe you’ve figured that out, but I just wanted to question -- had a question about that.

And I have a few comments on commercial availability, your recommended guidance. If the program is worried about placing undue burdens on certifiers, this is the one we would like you to protect us from.

We are okay with evaluating the credibility of the commercial availability documentation submitted by the certified operation. Okay. We are already doing that. That’s your paragraph B(2). We’re doing that,
we’re doing that well. Certifiers have various ways that they go about that, and every year we are seeing significant increases in the use -- thank you, of organic seed and organic ingredients. We are seeing that in our organization. So we must be doing something right, and the certified operations do want to use organic products when they’re available, but my staff really is not in a position, nor does -- you know, we don’t have the time, energy, or expertise to analyze test data, search for ingredients and materials and tell our clients what they should be using and where they should be buying it from. That’s the client’s job.

It is our job to verify compliance with the rule, we do not ensure compliance, and we don’t help clients source ingredients, and, you know, it’s also not our job to help producers of organic materials in the marketing of their products.

I do want to say it’s not database fear. Really it’s not because certifiers absolutely love databases. We use them for everything, we’re good
at it, we’re fine with databases. It’s just the concept. I kind of figured out what that would cost our organization, and you know, it’s about a 2 to 3 percent increase in the workload for each of our reviewers, which is going to be 15 to 20 percent increase in the workload overall, and that’s another half time employee just to kind of collect and distribute that data.

And then one other really quick thing on the wording of your recommendation, just to remind you that because it’s a recommendation, so when you start it out by saying that the ACAs shall do all these six things it kind of sounds like we have to, and if it’s a guidance document I would like to see the language reflect that a little differently. Maybe should, or if they feel like it, or something.

MS. ANDREA CAROE: Or if they feel like it. Thank you, Leslie, for your comments.

MS. LESLIE ZUCK: I bet you have questions. I knew it.

MS. ANDREA CAROE: Joe.

MR. JOSEPH SMILLIE: Well, Jennifer,
chime in also. We’re going to have to work
through this, Leslie, so --

MS. LESLIE ZUCK: [Interposing] We’ll
help.

MR. JOSEPH SMILLIE: . . . let me go
back to -- we’ll start with the standardized
certificate one and then finish up with commercial
availability. Basically we passed a
recommendation on expiration. Right. That’s been
passed, so I don’t have that document right in
front of me, but you need to refer to that
document. It was -- it’s not part of this
document, it’s not mentioned in this document
because it’s a separate recommendation that was
passed at the last meeting on expiration.

And --

FEMALE VOICE: [Unintelligible].

MR. JOSEPH SMILLIE: I’m sorry. Okay.

Yeah. Last fall. Basically the two documents
both go together as guidance, our input to the
NLP. What the NLP does with it is --

MS. LESLIE ZUCK: [Interposing] Okay.

MR. JOSEPH SMILLIE: . . . their
business. We do -- you made a very important
point, you know, internal certification, unless
voluntarily surrendered, revoked, or suspended, is
a right, but the certificate definitely can be --
expire. So we’re agreed on that.

As far as some of the issues that you
brought up with the standardized certificate, I’m
glad that you support it. I think that we all
agree that we need to have --

MS. LESLIE ZUCK: [Interposing] As long
as it has an expiration date.

MR. JOSEPH SMILLIE: That’s already a
recommendation. As far as your number 5, which is
one of the tricky issues that we had to deal with.
You know, Section B(5), at a minimum the common
trade name of each organic crop and/or product
produced by the operation.

Then it’s the second sentence that I
think that we’re banking on. I’ll use your very
complicated example of the restaurant. And as you
know, and I know, and other people are going to
find out; certifying restaurants is -- I won’t say
impossible, but it’s about the most difficult
certification operation that there is, because those people are -- we thought we were crazy, but you get into the restaurant you find out what crazy really means.

But basically what it says here is for extensive lists, additional pages may be used as per 205.404c(2), and then down below we have that allow for the use of additional pages for information, provide the number of additional pages as specified on the certificate.

That’s how I think this document addresses that complicated issue. So rather than put the blue plate special, you know, tortillas, that sort of thing, what we would suggest and what I’ve seen other certifiers do is for distribution lists is that you manage an up to date distribution list and the same for restaurants.

They would have to -- they would provide that additional specification in an additional sheet. It wouldn’t be on the certificate, per se. It would be --

MS. LESLIE ZUCK: [Interposing] So you’re saying -- you’re expecting that the certifier
would have a constantly updated list of all of the blue -- the menu items from the retailer or from the restaurant that would go out with that certificate every time we issue the certificate? It seems a little strange.

MS. ANDREA CAROE: Yes, because I mean, that’s already --

MS. LESLIE ZUCK: [Interposing] I think we need to talk about that.

MS. ANDREA CAROE: Leslie, that’s really already in the rule that you have to have in the organic system plan formulations.

MS. LESLIE ZUCK: It’s in the organic system plan, but it isn’t on the public document that we send out with every request for a certificate.

MS. ANDREA CAROE: Okay.

MS. LESLIE ZUCK: Plus it’s going to change on a weekly basis on the -- at a restaurant.

MR. JOSEPH SMILLIE: Well, it’s a problem. I certainly agree with that. But it’s been a problem with distribution and traders from
the get go. I mean, you’ve got a big distribution
coming that’s bringing ingredients from all over
the world, and palletizing --

MS. LESLIE ZUCK: [Interposing] Right. I
agree.

MR. JOSEPH SMILLIE: . . . and shipping
them out, I mean.

MS. LESLIE ZUCK: I agree.

MR. JOSEPH SMILLIE: I mean, that’s what
we have to do.

MS. LESLIE ZUCK: Oh, yeah. Okay.

MR. JOSEPH SMILLIE: More or less.

MS. LESLIE ZUCK: Well, I think with the
expiration date though, the question is if the
program doesn’t accept or publish your first
recommendation on expiration date, and they do
take the one that you’ve just sent -- you’re
sending out now to them --

MR. JOSEPH SMILLIE: [Interposing] Okay.

MS. LESLIE ZUCK: . . . what does that
mean?

MR. JOSEPH SMILLIE: Well, let me --

MS. LESLIE ZUCK: [Interposing] You get a
standardized certificate without an expiration date or what?

MR. JOSEPH SMILLIE: Yeah, but again some of the purposes of this document are to -- well, let me just go back to the -- it’s in the key purposes. I mean, it’s possible that the NOP, in their wisdom, and hearing your plea of undue burden, will strike some of this guidance. That’s a possibility. But what we really -- some of the basics of this document that are important is that the phrase certified as compliant with the USDA national program gets put on those certificates --

MS. LESLIE ZUCK: [Interposing] Uh huh.

Yep.

MR. JOSEPH SMILLIE: . . . and some other basic things that we think --

MS. LESLIE ZUCK: [Interposing] Yep.

MR. JOSEPH SMILLIE: . . . are really essential get put on. How we deal with, like, the list of the common trade names is complicated, and this is our best shot at at least getting that process started so that we can have --

MS. LESLIE ZUCK: [Interposing] Okay.
MR. JOSEPH SMILLIE: ... certificates that are somewhat accurate, and I think that entire industry agrees with that --

MS. LESLIE ZUCK: [Interposing] Yeah, I --

MR. JOSEPH SMILLIE: ... concept, that we need a better --

MS. LESLIE ZUCK: [Interposing] We haven’t seen accuracy as much of an issue as just a consistency. I mean, certifiers are the ones that are going out there and they’re going through an operation, and trying to look at 200 certificates that all have everything in different places and they call it different names, so we do have an interest in standardizing that.

I would like to see it be a truly standardized certificate and actually be a format so that everything is in the same place, and we are using the same language and, you know, just like when you do your taxes, you know, there’s an instruction sheet on the back that says you know, here’s all the counties, and the code names and everything and, you know, to really truly
standardize it if we’re going to go through the

MS. ANDREA CAROE: Well, Leslie, we went
trouble to do this.

there, and we got a lot of kickback on that, so
this was the happy medium of not being that
prescriptive.

We agreed with you. Your colleagues in
the industry don’t necessarily agree that they
want to do that, so this was the -- this is where
we are.

MS. LESLIE ZUCK: We don’t always get
what we want.

MS. ANDREA CAROE: And Leslie, the other
thing I want to say is if when these
recommendations go through, you know, provided
this one passes the Board and it gets passed
through to the program, if the program were to
release implementation of this and not the
expiration dates, there would be further --

MS. LESLIE ZUCK: [Interposing] Sure.

MS. ANDREA CAROE: . . . comment

MS. LESLIE ZUCK: Oh, you bet. There
will.

MS. ANDREA CAROE: So that would be -- I mean, it’s not like this is, you know, we’re putting it into the black hole, it’s going to get implemented and then, you know, that’s it. There are other opportunities, so I wouldn’t you know, I wouldn’t get too wrapped up on that yet. Okay?

Thank you. Any -- oh, Joe.

MR. JOSEPH SMILLIE: I have to deal --

there was also the commercial availability --

MS. LESLIE ZUCK: [Interposing] Yes.

Yes.

MR. JOSEPH SMILLIE: . . . and the Committee worked last night --

MS. LESLIE ZUCK: [Interposing] Oh, good.

MR. JOSEPH SMILLIE: . . . and this morning, and I think your concerns are absolutely completely reflected in our new iteration.

MS. LESLIE ZUCK: Thank you.

MS. ANDREA CAROE: Thank you. Any further questions? Thank you, Leslie. Grace Marroquin, you’re up. And on deck, Sue Baird.

MS. GRACE MARROQUIN: May name is Grace
Marroquin, President of Marroquin International Organic Commodities Services, Inc. based in Santa Cruz. I’m sorry I have to come back up here to take up your valuable time, but there were some statements made yesterday that I would like to correct, especially since we have a new Board that weren’t here for the past 3-1/2 years while we’ve been attempting to get this through.

So the statements -- there was a statement made by Rosie that addressed the issue of yeast as an agricultural product. She said that if the Board recognized yeast as an agricultural product it would represent a change in the definition of agricultural product. This was incorrect. OFPA sets the definition for agricultural products. We have never proposed a change in OFPA definition. Yeast fits within this definition.

In October 2006 the Handling Material Committee agreed unanimously that yeast was an agricultural product under this definition. However, Rosie was right when she said that the Board should deal with the ag, non-ag
question separately from the synthetic, nonsynthetic question. They are two completely different questions and they do not need to be decided together. We agree with her on that one. Barbara Robinson’s input was helpful yesterday when she said that reclassifying yeast was a distinct question and should be solved separately. We agree with that wholeheartedly. The discussion document is divided into several sections, and the section on yeast does not have anything in common with the rest of the sections. Why an annotation would not be sufficient, Rosie suggested that instead of placing yeast on 606 as an agricultural product it would be better to keep yeast listed as a nonagricultural on 605a and add an annotation. Besides Andrea, you know, we agree with you and Joe Smillie on that, and that’s a good enough reason. Since organic yeast is not available, the goal is to make it clear that organic yeast would be a preferred organic ingredient if commercially available. Keeping yeast on 605 list would not
accomplish this at all. The only way to do this is to place it on the section of 606 with the other agricultural ingredients.

The status of our petition, we need to clear that up as well. Marroquin International filed its first request to reclassify yeast in July of ’04, and in August of ’06 it resubmitted the same request in the form of a 606 petition. We consider this petition still pending. The remark yesterday was that we withdrew it. We absolutely did not do this. We have never withdrawn a petition. I’d have to shoot myself to do that.

Last March, just before the Board meeting, we learned that the Handling Committee had voted 4 to 1 to reject the petition. We felt this action was premature because we understood that the Handling Material Committee were still considering ag, non-ag definition. So we asked that the petition to be temporarily deferred. The Board agreed to this, and if you read the transcripts from March 28th, ’07, pages 28 to 31, it’s pretty clear right there that it was not
being withdrawn.

Eliminating the definition of non-ag substances. The discussion document in section 4.1.1 says that the Joint Committee is considering eliminating this definition from the NOP regulations. During this meeting a number of commentors, including OMRI, Oregon Tilth, and Richard Theuer have called for the eliminating of the definition. We agree with this.

The definition does not mention yeast at all. The definition names a mineral or a bacteria culture as an example of a nonagricultural substance. Yeast are fungi and not bacterial, but when the Handling Committee looked at the yeast petition it cited bacteria as a reason for finding that yeast was not an agricultural product.

To repeat, and if you go back through all the transcripts, you’ll find clear backing on this; that yeast are fungi and not bacteria, and biologists regard this as a profound distinction, because fungi and bacterial have very different cell structures. Yet as long as a definition stands there will be confusion between yeast and
We request that the Board simply focus on the yeast question and take care of it as Barbara Robinson had suggested. It is a distinct question in a discussion document yeast is outside the scope of all the questions raised, and we sincerely hope that this does not fall into a working group or taskforce stage, because otherwise I’m going to have a lot of gray hair by the time this is done.

So now that the EU has recognized organic yeast in food and in feed, we ask that the Board finally approve yeast as an agricultural product. What’s that old quote? Justice delayed is justice denied. I thank you all for considering this.

MS. ANDREA CAROE: Thank you, Grace. Any questions for Grace? I just want to -- one thing, Grace. We never called yeast bacteria, what we said was in our Handling Committee discussions, that just like there are not any standards within the regulations for bacteria, there is none for yeast. We compared it only in the fact that
microorganism type production techniques are not within the standard.

MS. GRACE MARROQUIN: Uh huh.

MS. ANDREA CAROE: So we didn’t call yeast --

MS. GRACE MARROQUIN: [Interposing] It wasn’t in the document. Where it was -- when they were looking at the --

MS. ANDREA CAROE: [Interposing] We didn’t call it yeast. We never called yeast bacteria, I guarantee that.

MS. GRACE MARROQUIN: Good. Good.

MS. ANDREA CAROE: So, I mean, we recognize that they’re distinctly different --

MS. GRACE MARROQUIN: [Interposing] Thank you.

MS. ANDREA CAROE: . . . but there are similarities when you’re talking about the implementation of the regulation. So just wanted to clarify that.

MS. GRACE MARROQUIN: Okay.

MS. ANDREA CAROE: Okay?

MS. GRACE MARROQUIN: Thank you.
MS. ANDREA CAROE: Thank you.

MS. BARBARA C. ROBINSON: [Unintelligible.]

MS. ANDREA CAROE: Barbara.

MS. BARBARA C. ROBINSON: Grace, I -- we need to go back and look. It sounds odd to me that the Board would be rejecting the petition.

MS. ANDREA CAROE: We didn’t reject the petition, the Committee was rejecting the listing of yeast as an agricultural material.

MS. BARBARA C. ROBINSON: Yeah, I’m a little perplexed by that, Grace, so I think we’re going to -- Valerie and Bob, I think we need to go back and do a little digging on that. That sounds out of the normal of the process here. I don’t think the Board rejects petitions.

MS. GRACE MARROQUIN: I --

MS. ANDREA CAROE: [Interposing] We never rejected the petition, Barbara.

MS. BARBARA C. ROBINSON: Yeah. No, I know, but Grace said there was a vote, a pending vote to reject a petition and I --

MS. ANDREA CAROE: No.
MS. GRACE MARROQUIN:  No.

[Cross talk]

MS. ANDREA CAROE:  There was a Committee vote on the material for -- on the petition for listing on 606. the Committee met and voted on it, and --

MS. GRACE MARROQUIN:  [Interposing] In March.

MS. ANDREA CAROE:  . . . it was getting ready to go to the Board. But the vote at the Committee level was not in favor of listing.

MS. BARBARA C. ROBINSON:  Yeah, so then you said what? You asked for --

MS. GRACE MARROQUIN:  [Interposing] They defer making a decision because the ag, non-ag question was clearly all over the place and we had new Board members, and I saw the writing on the wall and I thought, you know, they can’t really make a good decision here.

MS. ANDREA CAROE:  So you asked for it to be deferred.

MS. GRACE MARROQUIN:  To be deferred and tabled and I believe if you go back to the
transcripts, Joe and Andrea both agreed -- I don’t
know Andrea, but I know Joe agreed -- they asked
me if this was what I wanted and I said yes, and --

MS. ANDREA CAROE: [Interposing] Okay.

MS. GRACE MARROQUIN: . . . with the
understanding it was only being tabled until they
can come up with a clearer definition.

MS. ANDREA CAROE: Okay.

MS. GRACE MARROQUIN: Okay. Thank you.

MS. ANDREA CAROE: Thank you. Sue, hold
on until they make sure that they get the mic
situation worked out. While I’m waiting, Mark
Kastel, you’re on -- Mark Kastel on deck. Are you
here, Mark?

MALE VOICE: [Unintelligible].

MS. ANDREA CAROE: Okay. Katherine
DiMatteo, you’re on deck.

MS. SUE BAIRD: Hi. Sue Baird, QAI. QAI
deals with the issues of ag, non-ag, synthetic,
non-synthetic, on a daily, perhaps hourly basis.
It’s just our business, and we really, really urge
you -- and I know that you’re working on it, and
what a thorny, horrible issue, but we’re urging you, as the Joint Committee, to take the hard stance of actually defining agricultural.

We agree with you that nonagricultural is -- needs to be just deleted. It just causes too much confusion in the whole world. We agree that recognizable versus not -- unrecognizable just really is just needs to be deleted because you can’t go there with it.

We were a little disappointed that the decisions were not made to make a definition and let’s get it over with, let’s get a definition for agriculture. We’re asked -- we were a little disappointed with your flow chart.

Specifically let me tell you one spot that we thought was a little thorny, and that’s where you said in the flow chart that -- and I didn’t write this one down. I should never do that. The addition of synthetic additives, or the use of synthetic solvents would necessarily result in a chemical change and create a synthetic material. And the reason we have a problem with that spot in your flow chart is because in the Q
and a section of the NOP you specifically state additionally the remainder of ingredients and are made with organic specified product may include, and in point 2 says nonorganically produced agriculture products, raw processed, that have been produced using synthetic, nonsynthetic, nonagricultural substances without regard, 601.601. So your chart prohibits something that you’ve already said in Q and A is allowed. So look at that particular section there, because -- and it was, like, number two box or something. I had it marked, but then I didn’t bring it with me. We’re just asking you to revisit. Please give us a definition of agricultural. Remove the definition of nonagricultural, and it was interesting because Rich said this last night; define the terms chemical change. Chemical treatment and biological processes for us, because there’s the real crux of what makes an agricultural nonagricultural.

I sent or had Gwen send her flow chart to our specialist, Jessica Walden, and by the way, we thank her for this. She’s the technical
specialist in the QAI world. She went through the chart, we find it much more easy to go through than perhaps your flow chart that we understand you tried to put everything together, may create a little more problems.

There’s some problems tweaking with Gwen and Emily’s, but look at it real closely. We did -- or Jessica did. Found some areas that might be a little inconsistent. We think maybe number two, we’re going to be able to certify citric acid now. [Unintelligible] on 605a, and if it can be we probably will.

Heads up QAI will be certifying citric acid next, if we go through this, but just a little problems. But, you know, let’s get a definition. Thanks.

MS. ANDREA CAROE: Thank you, Sue. Any questions for Sue? Joe.

MR. JOSEPH SMILLIE: I’m sorry, did you actually -- did you submit your version of the flow chart? Was that part of yesterday’s --

MS. SUE BAIRD: [Interposing] No.

FEMALE VOICE: No, she’s
MS. SUE BAIRD: No, this actual section was what I -- it’s just a cut off of the first one. I just sent it around for a little more clarity. The first submission is this thing again, it’s not anything new.

MR. JOSEPH SMILLIE: Okay.

MS. SUE BAIRD: Okay?

MS. ANDREA CAROE: Dan.

MR. DANIEL G. GIACOMINI: I had two questions because I missed your three listings of the terms, but I see they’re listed here at your thing. But you recommend -- and I realize this may be rhetorical, but you recommend the definition of agricultural. Do you have a suggestion?

MS. SUE BAIRD: No.

MR. DANIEL G. GIACOMINI: We’ve been working on it for a long time, so.

MS. SUE BAIRD: I understand that, we all have, and we know it’s thorny, but we would certainly be willing to collaborate with you with all these other great experts out there to come up
with a definition. So don’t leave us out of trying to work with you.

MR. DANIEL G. GIACOMINI: Okay. And we just hope that, you know, that the community is, you know, looking at this as a work in progress, and we’re bringing it to you to, you know, what course corrections, you know, where does it need to be worked on, and we’re hoping it’s viewed in a positive light like that --

MS. SUE BAIRD: [Interposing] Right.

MR. DANIEL G. GIACOMINI: . . . rather than completely being internal and it goes on for another couple of years and --

MS. SUE BAIRD: [Interposing] It just can’t.

[Cross talk]

MR. DANIEL G. GIACOMINI: Then we have -- we’re accused of transparency problems, so we didn’t want that to happen.

MS. SUE BAIRD: We appreciate that. I do have with me kind of a decision tree that QAI goes through to determine ag versus non-ag, and I will certainly give that to you, if you’d like to see
it. Great.

MS. ANDREA CAROE: Thank you. Any --

MS. SUE BAIRD: [Interposing] It’s based on the March and November, and then we did a little tweaking on our own. Okay.

MS. ANDREA CAROE: Is there any other questions for Sue? Thank you, Sue.

MS. SUE BAIRD: Okay.

MS. ANDREA CAROE: Katherine, you’re up.

We’re going to take a little break after Katherine, but Emily Brown Rosen, you’ll be up after the break.

MS. KATHERINE DIMATTEO: Thank you very much. I’m here today as Katherine DiMatteo, D-I-M-A-T-T-E-O. And just for some of you in the room who don’t know who I am, I was the Executive Director of the Organic Trade Association from 1990 to 1996 and some of you may have heard or have heard me spoken of as the lapdog of the capitalist pigs. Before that I actually have been thoroughly engaged in food cooperatives since the early ‘70s and in the cooperative style of economic for my life, I would say.
So that’s just who I am. I’m going to make -- most of my comments are also about group certification as an individual -- this is an individual comment, but if I have some time I have multiple thoughts on things that you have deliberated on during these last few days.

First of all I want to say for anybody on the Board and in the room who feels that group certification is a pass, it is an allowance for a less than rigorous controls or less than rigorous inspections, or something that somebody’s getting that an individual farmer may not be able to get?

I just want to know what we can provide -- we being the greater population that supports group certification, to make you see or help you see that this is not just a collection of people who are coming together to market some common product without any rigor and do it for convenience, as opposed to necessity.

Thank you for that comment before. That this is a very rigorous, very well designed system with a lot of controls in it, and it reflects the system that I believe everyone
who’s been in the movement from earlier than
myself, has been trying to work for; trust. But
verified, and I feel us all going towards the
mistrust, the distrust, as the basis for the
decisions that we’re making, rather than the trust
factor. And I’d like to get and hear and see that
coming out of both the public comments you get and
in your deliberations and your work.
 Not saying that the work hasn’t been
excellent, and it has, and I appreciate every
minute that you have spent on these things.
 But if there’s anybody who has these
feelings that somehow these people are getting a
pass, it’s not true.
 Let me talk about the system itself. The
accreditation. When the accreditor goes to the
certification organization they don’t go through
every single file. They don’t read every file on
every certified operation that that certifier is –
– has certified in the past year. They’ll do spot
checks of the files and they may even do spot
checks of the certified operations.
 Risk sampling, very organized controls.
If they see things that they want to follow up with, they will do that. It’ll be in the record. That’s when they’ll do inspections or come in unannounced on things.

Same for the certifiers. The certification organization isn’t going to go -- when they send an inspector to a facility --

[END MZ005028]

[START MZ005029]

MS. KATHERINE DIMATTEO: They’re not going to talk to every employee. They’re not going to go there during the early shift and the late shift or the middle shift of the day. The same thing on the farm, and many people have said that they do go to every inch of every field of every farm that they certify. But I would guess that that’s not true in most circumstances, but again that’s the system we have and we are taking that same system with this idea of group certification and making it work through rigorous control, oversight systems that follow the same practices that we have throughout our national organic program and throughout the world in most
of the certification programs and organic systems
that are out there. And just one comment,
Barbara, we already do have self-certification.
It’s a $5,000 exemption. Those people are self-
certified, and I buy food every week in a food
coop that I know the farmers are selling those
products as organic. They say they’re less than
$5,000, but if I calculate how much I spend on
their products, I know that’s not true. One last
thing, I want to thank our chair who has done a
magnificent job. All of the chairs of all of the
committees have. I want to thank you, and in line
with other gifts I know you’ve gotten, I happen to
just have this with me. [Unintelligible]

FEMALE VOICE: Thank you very much,
Katherine. Questions for Katherine? Jeff?

MR. JEFFREY W. MOYER: Yeah, not so much
a question as a comment on your terminology using
the word “trust.” I think that when decisions
were based on philosophy as they were many years
ago and in some cases still are, then I think
trust is a very meaningful word. However, when
the decisions are based or centered more on a
profit motive, then I think trust needs third-party verification.

MS. KATHERINE DIMATTEO: That’s a long, philosophical discussion I’d love to have with you because I think the word “profit” is probably—we each can define that in our own way just like agricultural/non-agricultural and synthetic and non-synthetic. So, it’s all to each of us individually. We all have profit motivation.

MR. JEFFREY W. MOYER: Of course.

MS. KATHERINE DIMATTEO: Even if that means that the profit is just making it to the end of the day with enough to eat. So, that is, you know, we’re into this corporate big bad corporation thing, and somehow imposing personal feelings about the fact that some people can afford to do things and other people can’t. I say build a system, make it work. The people who qualify for the system participate in the system.

FEMALE VOICE: Bea?

MS. BEA E. JAMES: Thank you for your comments and also for coming to these meetings. I appreciate the years of experience that you bring
when you address us. I just wanted to ask you
based on your comment along the same lines as what
Jeff mentioned on trust, do you believe—do you
believe that rules, laws, regulations, are made
for trustworthy people or to protect trustworthy
people against people who are not so trustworthy?

MS. KATHERINE DIMATTEO: Hum,

interesting. You know, I have to say I wasn’t
around when the community, the industry went to
Senator Lahey’s [phonetic] office and the
Congressman’s office from Oregon to say we want a
law. You know, we want this to happen. I have to
say I wasn’t involved in the organic movement at
the time so I don’t, I don’t know. From the
history, people were feeling that it was the force
of a regulation that would allow people to be
protected from those people who could not meet the
standard or would not follow the system, and it
also would set up that consistent requirement that
everybody or every operation be certified and
participate in this third-party objective
oversight and have internal control systems and
organic system plans for their operations. So, I
think that was the motivation was at least from what I understand it that there would be a way, you know, to show people what you needed to do and then to weed out the people who couldn’t meet the system and the requirements. I don’t know if that answers your question quite.

FEMALE VOICE: Any other questions for Katherine? Thank you again, Katherine.

MS. KATHERINE DIMATTEO: Thank you all.

FEMALE VOICE: All right, it is about ten after. If we could just take a ten-minute break, that would be great.

[break]

MS. ANDREA CAROE: After Emily is Steffen Scheide. Are you here, Steffen?

MS. STEFFEN SCHEIDE: I’m here.

MS. ANDREA CAROE: Okay, Emily, you’ve got a proxy so you’ll be ten minutes?

MS. EMILY BROWN ROSEN: You could give me the [unintelligible].

MS. ANDREA CAROE: And two fives, we’ll give you two fives. Did you get that? Five, two fives—she wants five minutes.
MS. EMILY BROWN ROSEN: Oh, and I need Valerie to put up my [unintelligible].

[background conversation]

MS. EMILY BROWN ROSEN: Okay, I have my technical expert. Dr. Caraman [phonetic] is going to help me out on the slides. So, whenever you’re ready let me know.

MS. ANDREA CAROE: All right, so at your leisure you can start your presentation. We’re going to do five-minute presentations. Right?

MS. EMILY BROWN ROSEN: Yes.

MS. ANDREA CAROE: Okay.

MS. EMILY BROWN ROSEN: Everyone ready?

Okay, go. My name’s Emily Brown-Rosen [phonetic]. I work for Pennsylvania Certified Organic, and I promised the other day to solve all your problems. There’s my light bulb brilliant ideas. It doesn’t solve all the problems, but it just puts the framework together a little better, and it helps us, you know, helps me and you identify what needs more work. Next slide. Okay, the tools are in hand. We have all this old work that I know you’ve got through some of it, but it was hard to
figure out how to put it all together because there is so much work that’s been done on this. So, you know, these are the key documents to work with. There as an original AGNON [phonetic] Ag draft in May 2005. There was another one I forgot to put up here the September/October one of 2006. The August 2005 Synthetic/Non-Synthetic draft and then NOP came back with really—comments on it that were very constructive and a really good flow chart. So, those are very good. Now we have the 2007 Oregon Tilf [phonetic] proposed decision tree, which is another really helpful piece of the puzzle. Next slide, please. It’s okay.

Okay, so this is the main change I would make in your decision tree now. Your first block right now of the—you know, I understand the idea of trying to have one tree that does all, but there are certain breakout points where you have to separate it because right now the right now the first question is is the substance or product derived from plant or livestock and marketed in the U.S. for human or livestock consumption? And so if you say no to that, then it’s not an
agricultural product. However, if you put soybean meal as your first question for fertilizer and you’re not—and the answer to that question would be is it marketed for human or livestock consumption, the answer would be no. You would get it’s not an agricultural substance so there’s something a little bit wrong here. We have to take—that’s what got people upset because you didn’t deal with the crop products. It kind of starts out with processing rather than thinking about growing the plants first. So, this is the first question. Does it come from plants, livestock—well, I added a few other things here while we’re getting the universe bigger, fungi, aquaculture, marketed for human consumption, or livestock feed, or pet food? Then if it’s yes, we start with the ag/non-ag chart, and if it’s no, we skip a page and go to the synthetic/non-synthetic because those are the only relevant questions on those products. Next slide. I’m going to take a few examples through this process if we have—I’ll probably only get through one, but if you want to do more just ask me a question. Okay, cellulose
in livestock feed—okay, go back up. Could you go back up to the first question? Okay, is it derived from plants, livestock, [unintelligible]
okay, so the cellulose we use in the commercial world is mainly derived from trees, from wood.
So, yes, it’s from plants so we would say yes and go to the ag/non-ag chart. Could you go down to this? Okay, so you probably can’t all read this, but number one is it from plant, animal or aquaculture? Yes, go to question three. Question three has the substance been processed to the extent that its chemical structure has changed? Yes. Cellulose that comes from trees is like a very complex polysaccharide compound. Trees, wood, is about 50% cellulose. It has hemicellulose. It has lignins. The tap review explains, you know, and I happen to have done that tap review so this is the one I picked because it’s, you know, there’s cellulose in trees, but it has to go through a radical process to end up as a cellulose that we use. So, it is chemically changed. So, question four, is the change the result of a naturally occurring biological process? No, it
involves KOH. It involves bleach. It involves a whole lot of chemicals and sulfur. No, so then it’s non-agricultural. Okay, so next we go to the synthetic/non-synthetic chart. So, do you want to—could you escape from there and the other one is loaded there. And you will see the synthetic/non-synthetic chart. I couldn’t—here we go. Okay, so this as from last spring from NOP actually. So, the substance not on the list—we’re talking about cellulose. Is it from a natural source? Yes, so we go down to the next one, which is does extraction of the substance from its source—that sentence doesn’t make sense here, but is—well, does extraction by chemical or physical methods occur? In this case we would say, yes, they use acids, bases, a number of chemical steps there. So, it goes—do you want to scroll up a little bit here? It goes into this extraction box, and they ask these particular questions about extraction. Has the substance been transformed into a different substance via chemical change except for [beep] naturally growing processes? Has it been altered to a chemical form? See, this
might need some tweaking. When you run through here, you might find some things that need tweaking because you also might say it’s not extracted it’s actually further synthesized. You know, you could be adding chemicals and making something new. There could be another whole chain in here.

MS. ANDREA CAROE: Emily? Your time is up, Emily.

MS. EMILY BROWN ROSEN: Okay.

MS. ANDREA CAROE: Board members, questions or comments?

MS. BEA E. JAMES: I have one question.

MS. ANDREA CAROE: Bea?

MS. BEA E. JAMES: Valerie, is that—Valerie has a copy of this, right?

MS. EMILY BROWN ROSEN: Yes.

MS. BEA E. JAMES: So, she could send that to the rest of the—

MS. EMILY BROWN ROSEN: [Interposing] Yes, yes.

MS. ANDREA CAROE: Hue?

MR. HUBERT J. KARREMAN: Some day it
would be nice maybe with the materials committee
to have all of these charts people are advocating
with your chart like all side by side by side
because it really gets kind of confusing when we
have new chart that’s very detailed to remember,
oh, what was the difference in that last chart and
your chart and all that. So, maybe something to
keep in mind.

MS. ANDREA CAROE: It’s the decision tree
forest.

MR. HUBERT J. KARREMAN: Yeah.

MS. ANDREA CAROE: Yes.

FEMALE VOICE: It’s good homework for the
joint committee.

MR. HUBERT J. KARREMAN: Again, we
followed some of the same methodologies. We ran a
number of products during our joint committee
meetings through our charts, and we get to, oh,
man, this really works. Then we get another one,
oops, it doesn’t work.

MS. EMILY BROWN ROSEN: It takes a lot of
tweaking, yeah.

MR. HUBERT J. KARREMAN: So, is a lot of
tweaking going to go on, and again the practice of running materials through them until they’re all seemingly get fair and consistent treatment is the exercise.

MS. ANDREA CAROE: Other questions?

Kevin?

KEVIN: Emily, on your chart just in the short time we’ve seen it I’ve seen chemical process, chemical change, and chemical structure. How can we get this simplified down to determine when a line is crossed, and is there any way to simplify these terms so we can come down to an easier decision-making process here?

MS. EMILY BROWN ROSEN: There’s a really good definition of all of those steps in the synthetic/non-synthetic document, the text of the document, from August of 2005. And I would urge you to go back and look at those definitions because that’s when you get—when you have to—also, it’s very important to know, I realize, you have to have very good information about how the substance is manufactured so then you can say, oh look, they’re adding, you know, propylene oxide or
this, that, and the other thing. And what’s it doing to the product? And you can say, ah, yes, that meets the definition of chemical change. You know, an atom is added or subtracted to the molecule. It’s very specific. Sometimes it’s hard obviously, but I think if we have it all spelled out and we refer to those definitions, we’ll be okay.

MS. ANDREA CAROE: Other questions? Okay, so we’re going to give you—

MS. EMILY BROWN ROSEN: [Interposing]

The second five minutes.

MS. ANDREA CAROE: —five more minutes for your proxy, and your proxy is for?

MS. EMILY BROWN ROSEN: Melanie Saffer [phonetic] for Pennsylvania Certified Organic.

Uhm, one just closing point I’ll make on this is that the cellulose, I did make one change on Gwendolyn’s chart, which was, you know, if it’s ranked as synthetic, I mean, or it could be derived from agriculture but then it has synthetic processing [unintelligible] or some reason that would knock it out of being agricultural, then the
last box on her chart I would say go to the other chart, you know. Go to it’s non-agricultural. Now review it for synthetic/non-synthetic. You may want to list it as synthetic. So, it ties the charts together, but we will do—I’m, you know, Kim already asked to help her work on this with a test, I mean a test working group. So, we’ll come back in the spring with some more fleshed out ideas, and I’m glad that the committee worked on this. Now, I understand what they did, and I think we can put it all together. So, I think it’s going someplace. Okay, also—one quick comment before I get into my main topic here is glucono-delta-lactone [phonetic]. We did comment.

MS. ANDREA CAROE: Emily, is this part of your second presentation?

MS. EMILY BROWN ROSEN: Second presentation. Oh, you didn’t start yet?

MS. ANDREA CAROE: Okay, thank you.

MS. EMILY BROWN ROSEN: Oh, good. Okay.

Glucono-delta-lactone [phonetic] is an [unintelligible] used for making silken tofu, and I don’t think there were a lot of comments added
to the comment period about that, but as I recall the tap review there were no—you know, it was beneficial material. It made a whole different style of tofu, and that was a particular reason for it in case you were wondering. So, and we don’t see any objection for that. We put that in our comments as being to renew that.

Completely new topic is, and it’s related to the fact I was very happy to see that Barbara announced the new policy about transparency, putting all the decision documents up, even accreditation and non-compliance. It’s going to be tough for all of us, but I think the reward will be, you know, the internet age, instant communication, we all know what’s going on, we can all do a better job. So, that’s really wonderful. Along those lines, I recently found out about a compliance decision that happened I believe a whole year ago in November regarding fortification of food, and I didn’t know about it until like two weeks ago. So, we were doing completely different things, I believe, as certifiers on this issue. And it involves, you know, the rules say that
nutrient vitamins and minerals according to 21 CFR 104.20 the guidelines therein can be used in organic food. And I’ve always interpreted this and I think most of the certifiers have always interpreted this to mean that vitamins and minerals are allowed in organic food provided they’re used in accordance with these guidelines, which are kind of an interesting piece of work from FDA. I understand they come from like 1996, and they’ve always been difficult to evaluate because they were in these guidelines not as a regulation. They basically say you can use a whole long list of vitamins and minerals. Here is procedures you should use, you know, for determining their need, and there are certain things we’re never supposed to do. So, we’ve been trying to follow that, but now the interpretation that was given in this compliance involved a product fortified with an additional nutrient that was not a vitamin or mineral. And the understanding that compliance had was that any nutrient, not just vitamins or minerals, that are somehow referenced in this guidance document are
allowed in organic food without further needing to be on the national list. This guidance does deal with vitamins and minerals, and then there is this little clause “F” in here that says any other nutrient that’s anywhere in 21CFR for use as a nutrient in food can be used. So, basically it’s a huge monster loophole that you could allow, you know, claim it’s a nutrient, claim it’s a novel food, it has some kind of—prove it has some kind of nutrient value, and it doesn’t have to be on the list. It’s puzzling me why some of these products are on the market place as organic. I thought maybe they were being considered agricultural ingredients not commercially available. Then it turns out after 606 rules they’re still out there. So, this is the reason. So, I think you might want to re take up this subject, this understanding of what that listing is supposed to mean. And if we really need to do a petition to get this straightened out, I guess industry can work on that. But I wouldn’t think we need to do that. I don’t think that’s really in the best interest here. But, I mean, if we
have to we will. So, I just wanted to bring that
to your attention. Thank you.

   MS. ANDREA CAROE: Thank you. I remember
dealing with that regulation, and I remember full
fortification where you had to add the entire list
and replacement for a typical food product where
you could fortify to it or you lost anything
during fortification. I don’t remember the
blanket exemption in 104.20. I don’t remember.

   MS. EMILY BROWN ROSEN: Do you want me to
read part “F” here?

   MS. ANDREA CAROE: Andrea, Barbara?

   MS. BARBARA C. ROBINSON: It’s based on a
board recommendation that was made, and if you
read the annotation in the national list, first of
all, that says vitamins and nutrients, and I
believe it says including accessory nutrients,
Emily.

   MS. EMILY BROWN ROSEN: No, it doesn’t.

No.

   MS. BARBARA C. ROBINSON: Well, the board
recommendation does, and if you read the board
recommendation, it specifically listed those
accessory nutrients on which that compliance decision was based.

MS. EMILY BROWN ROSEN: I understand there was an old decision, yes.

MS. BARBARA C. ROBINSON: And so that’s what the decision was based on. It referenced that specific accessory nutrient, and the board’s recommendation at the time, I don’t have it in front of me, but the board’s recommendation when they made it, and this goes way back. I think it precedes the program implementation was written because they said they did not want to preclude I forget even how they said it, but they didn’t want to get in the way of new nutrients or—

MS. EMILY BROWN ROSEN: [Interposing] Novel nutrients, yeah.

MS. BARBARA C. ROBINSON: Novel, right. That would come on the market and things like that.

MS. EMILY BROWN ROSEN: Right.

MS. BARBARA C. ROBINSON: That would be added to foods and so they didn’t want to get in the way of that. They knew that there would be
these things, and, yes, if you do go into 104.2 in FDA’s regulations, there is that section that says, you know, vitamins and minerals and then any other nutrients that can be added to foods. And I don’t—you know, I don’t think that’s—I don’t know that you want to just characterize it as some glaring loophole in the regs, but you have to be—it has to be shown. And also the board’s recommendation, I believe, says when recommended by an independent authority. I believe there was that discussion, and there as quite a discussion in the transcripts if you go back when the board was deliberating on this that these things had to be recommended by an independent authority in order to be recognized by FDA.

MS. ANDREA CAROE: I think that’s in 104.20.

FEMALE VOICE: Can I respond?

MS. ANDREA CAROE: I think 104.20 says that they have to be—

MS. EMILY BROWN ROSEN: [Interposing] I could give a little history there on that. The board—there was this old addendum, I think it’s
addendum 25 of 1995, it’s like two paragraphs, and it happened at that same 95 meeting where they had a vote on vitamins and minerals. And actually Rich—I guess he’s not still here, had written a lot of—he was a tap reviewer on the vitamins and minerals. So, there was additional discussion and an addendum item that clarified that, and we’d also like to not preclude accessory nutrients. And, you know, it was very kind of sketchy. I wasn’t there. Maybe Brian remembers what happened, but the actual vote on the tap reviews on that meeting was for vitamins and minerals, and the actual recommendation, or the annotation was when required by law or recommended by professional association. So, when we got to the proposed rule, I think it was the second proposed rule in April 2000, it was written as, you know, nutrient vitamins and minerals, as they appear—you know, in reference to this FDA guideline 104. And I remember Keith telling us at the time, you know, required by law, that’s one thing. Well, they figured the FDA guidance was the closest thing we had to required by law, but recommended by
professional association there was—how would they
know—who is the right association? I mean it was
too vague. You know, we didn’t want to just put
something like that in the regulations. So we’re—
now it became linked to, you know, vitamins and
minerals and then this FDA guidance. So, it’s
kind of an unhappy marriage I think in some
senses, but I—you know, I, you know, I know there
was the addendum. But I don’t know how such
discussion there was about that addendum. I mean
it’s a very old piece of work, and I know the vote
was really specifically for vitamins and minerals.
There was no vote for accessory nutrients as far
as I know.

MS. ANDREA CAROE: Well, I think you
shined a light on an area that definitely needs to
be on the work plan for a little bit of guidance.
So, Hue?

MR. HUBERT J. KARREMAN: Just one
question. Is this only for foods or also feeds?

MS. EMILY BROWN ROSEN: No, it’s only
referenced for foods. Feeds is just as FDA
approved for livestock. So, it’s okay over there.
FEMALE VOICE: Hence, my admonishment to you yesterday about making sure whatever you do is accurate for the historical record because people use this stuff down the road. You dig out old board recommendations and say, hey, this must be what they meant, and we use them. So, make sure whatever you mean, you really do write it down because somebody long after me is going to come around and use it. Trust me.

MS. ANDREA CAROE: Okay, so...

FEMALE VOICE: That’s the only record there is.

MS. ANDREA CAROE: So, we have a work item number, work item for handling, and we’ll remember the hysterical perspective on this.

MALE VOICE: Hysterical?

MS. ANDREA CAROE: Hysterical. Thank you, Emily. Steffen Scheide, you’re up next, and Patty Bursten Deutsch, are you in the room, Patty?

You’re next.

MR. STEFFEN SCHEIDE: Oh, good morning. I’m Steffen Scheide. The name is spelled Steffen, last name Scheide. I’m affiliated with Summit
Hill Flavors, manufacturer of organic certified savory flavors. I’d like to take the opportunity this morning to comment on your discussion of ag versus non-agricultural. This is clearly an important issue to the entire organic community.

The latest discussion document has a decision tree and a universe of material chart attached. Regarding the proposed decision tree we believe there is need for further clarification. For example, when you look at box four, if you were to use salt as a preservative of an agricultural product, this product would become non-agricultural, and I clearly don’t think that is what is intended. When you look at the universe of material chart, it is a wonderful effort I think conceptually to take a look at the whole matter. However, it is hurt by the absence of a decision tree, and we are also concerned about the possible elimination of so-called non-agricultural materials.

I’d like to state that there have been significant changes affecting the flavor industry. USDA FSAS has assumed jurisdiction over meat and
poultry flavor products this year. This regulatory change means that these ingredients are now just meat and poultry products, and as such they are agricultural. However, without a listing of flavors as non-agricultural and 20605A in general, more complex organic certified flavors would not have been possible. I understand that these issues are not easy, and I understand a lot of work has been put into these matters. However, in order to move forward because I think all of us feel that there is a little bit of uncertainty all around, we’d like to suggest the following. Perhaps one you could stay within the current regulations and the definitions thereof. Secondly, you could actually focus on the need of certifiers who have actually been very active in this matter, and finally I think it would be very good for the entire industry if you could issue one decision tree and then invite public comment toward that decision tree itself.

In closing, I would like to thank Andrea for her stewardship, and I wish you all the best in the future. I’d like to thank all of you on
your hard work and efforts on this matter. Thank you.

MS. ANDREA CAROE: Thank you so much. Are there any comments or questions? Thank you so much. Up next Patty Bursten Deutsch. On deck is Lynn Coody.

MS. PATTY BURSTEN DEUTSCH: Okay, I have to take my glasses off so I’m just going to assume that you’re all smiling at at me. Hi, I’m Patty Bursten Deutsch. I’m an independent organic inspector with ten years’ experience. I’m a senior partner of Organic Concepts, a consulting, developing and training organization serving a broad range of clients. My husband and I are owners and operators of a certified organic dairy operation in Wisconsin. Thank you all very much for your time and effort, and I really appreciate the opportunity to speak to you. I want to briefly comment on the CAC recommendation to changes to 205.404B, the issue of standardized certificates. It’s not an exaggeration to say that over the past 10 years of inspecting I have looked at thousands of certificates from many of
the 95 accredited certifiers. As a whole, in their current iteration many certificates are such that it is impossible while on site to verify any or all of the following items, specific products that are certified, certification status of items listed such as if they are 100% organic, organic or made with organic and whether or not any of the specified or unspecified products are actually certified to the national organic program. Without this additional information, an inspector’s ability to fully and thoroughly verify NOP compliance of organic inputs is significantly hampered.

While I support the recommendation from the CAC in its entirety, I feel that it may not actually go far enough, and I just want to acknowledge that I know how unpopular what I’m saying is. I believe that additional information to be added or which could be added would be the annual date of the update inspection, the brand names and/or labels of all inspected and certified products. Finally, I want to add that there are some certifiers, as you know, that currently use
an addendum or other type of associated document
to list this information, and the board might
consider leaving the certificates as they
currently are while requiring, actually mandating
that such an addendum be updated at the time of
the annual renewal or at any time that the organic
system plan is updated with relevant changes.

Thank you. Okay, now I can put my glasses back
on.

   MS. ANDREA CAROE: Thank you, Patty.

Questions for Patty?

   MS. PATTY BURSTEN DEUTSCH: Thank you.

   MS. ANDREA CAROE: Thank you. Next up,
Lynn Coody, and then on deck Will Fantell, are you
here? Mark Castell, are you here? Okay, on deck
is Barbara Robinson.

   MS. LYNN COODY: Hi, everyone, I’m Lynn
Coody. It’s spelled Lynn Coody. I—my business is
Organic Ag Systems Consulting from Eugene, Oregon,
and I’ve been working with certification and
accreditation systems since the mid-eighties. I’m
now assisting certifiers with complying with
accreditation requirements of the NOP and other
accreditation programs, and in this capacity I have helped certifiers document, design and implement systems for grower group certification. I worked on the task force with the National Organic Coalition to create their Grower Group Comments, and I support those comments. Today I came to the microphone to try to answer questions that Kevin was asking yesterday. And he didn’t get them really addressed for various reasons, so I thought his questions were great and we were just going to get to the meat of the issue. But then we got sidetracked. So, his questions basically focused on how grower group certifications actually play out in practice and I wanted to give a little bit of information more about this. Some of the other speakers have done this a little bit more this morning, especially Katherine, so I appreciate that. But Kevin’s major question was how—what happens—how many non-conformances are still acceptable within a grower group and allowing it to go forward. But in practice the way it really works is that there can be non-conformances within a grower group system
just as there can be a non-conformance in a single operation. What really matters is is the ICS, the Internal Control System, aware of them? Is it catching them? Is it actually acting to make those individual growers either conform or no longer be part of the grower group? So, it may be the case that an individual grower within the grower group has a minor violation. In this case, the ICS should catch it. It should require corrective action. It should monitor the corrective action, and if the grower can come into compliance, they’re still in. If the individual grower has a major non-conformance, the ICS should catch that and should eliminate that grower from the grower group for—usually it’s for three years. If it’s a major non-conformance, they have to transition back in, that kind of a thing, just the same way that an individual grower, individual certification will work. So, the thing that causes a decertification of an ICS, of a grower group, is malfunction of the ICS itself, not necessarily individual problems with individual growers. These would be things such as the ICS is
not performing rigorous, annual inspections of every operation in their grower group. That’s where the annual inspection comes in not from the certifier but from the ICS. Another problem would be that the ICS is not identifying problems with the grower operations. They’re just not seeing them. Another problem might be they’re not requiring appropriate corrective actions. Another problem might be they’re not correctly monitoring the implementation of the corrective actions. In other words, they notice them, but they’re not going forward and making sure that they’re all corrected just like a certifier would have to do. Another thing is they’re required to educate their growers about the standards. They’re required to maintain their own quality system, their own ICS quality system, including documentation and complete records not only of the ICS but of each individual grower in the ICS. They have to have records of the inspections and their corrective actions. So, if they’re not doing that, the ICS would be failing. And another thing would be that they’re not complying with any conditions imposed
on the ICS itself by the certification body. So, maybe QAI or Oregon Tilth, or OCIA has told the ICS you’re not doing a good job here. Maybe you’re having conflict of interest or you’re having some problem. You must correct it. If they haven’t done that, the ICS would be failing. The grower group would be not certified any more. So, it’s not a matter of just a few problems with a few growers inside as long as the ICS is correcting it. That’s what the certifier checks. The certifier actually is checking the ICS, and three tools—just in closing there are three major tools to do this. They audit the records of the ICS. So, they go in their office. They look at the ICS’s records. They look at the inspections records. They repeat the actual inspections of a certain amount of the growers, they actually go and repeat it and compare the records, and the third thing is they often do witness inspections. In other words, they’re following behind an ICS inspector and watching what they do and again comparing right on the spot what’s going on with what the ICS is doing. Thank you. That was a
lot.

MS. ANDREA CAROE: Thank you, Lynn. That does put it in perspective very well. I guess, you know, as I’m listening to you it’s like, you know, we probably should have drawn some analogies, but it would be like going to a farm inspection and talking to employees, random employees. If one employee doesn’t know what they’re doing, it doesn’t mean the farm is bad. It means there’s a system problem that that farmer doesn’t understand.

MS. LYNN COODY: Right, which you would correct maybe by training or things like that.

MS. ANDREA CAROE: Right.

MS. LYNN COODY: It’s not a hopeless situation in other words.

MS. ANDREA CAROE: Right. Dan?

MR. DANIEL G. GIACOMINI: How would you address where I think the argument would be made that the requirement is for a third-party annual inspection? You have very much an internal annual inspection.

MS. LYNN COODY: Right, I would address
that by saying a third-party annual inspection is done of the ICS, which is the certified party by the certifier.

MS. ANDREA CAROE: Katrina?

MS. LYNN COODY: The certifier comes in and inspects the ICS, the grower group.

MS. ANDREA CAROE: Katrina?

MS. KATRINA HEINZE: Thank you. Your comments were particularly helpful for me as I think through this. I do have a question.

MS. LYNN COODY: Okay.

MS. KATRINA HEINZE: I just want to make sure I understand what I heard. So, if you went in and did inspections of this small sub sample of all the farmers—

MS. LYNN COODY: [Interposing] Yes.

MS. KATRINA HEINZE: --would you differentiate between a non-compliance that you as the certifier found that the ICS had not identified versus a non-compliance that you found that the ICS had identified?

MS. LYNN COODY: Yes, I would because the one that the ICS found, I would be saying did the
ICS deal with it appropriately. I wouldn’t be so worried about that if they were dealing with it appropriately and they had characterized it appropriately as a minor violation. If though the ICS did not find the problem, that’s when I start to get worried, and I start to say as the certifier, gosh, now the risk has gone up. I think I’ll do a few more inspections so I can double check them, exactly right. That’s a really good question, perfect question. Thanks.

MS. KATRINA HEINZE: Thank you.

MS. ANDREA CAROE: Well, but also if you were to identify that the ICS identified a major non-compliance—

MS. LYNN COODY: [Interposing] And didn’t take action.

MS. ANDREA CAROE: Well, even if they did take action, I mean that’s a different thing.

MS. LYNN COODY: Well, they can identify a major non-conformance as long as they tell the grower we’re not buying from you any more and you’re out of our grower group.

MS. ANDREA CAROE: Right, right.
MS. LYNN COODY: That’s find if they’re identified it’s okay.

MS. ANDREA CAROE: Appropriate action, an appropriate action.

MS. LYNN COODY: That’s right.

MS. ANDREA CAROE: Bea?

MR. STEVE DEMURI: Thank you, Lynn. Do you think that same model that you just described for farmer grower groups is a model that would be appropriate for producers, handlers and retailers?

MS. LYNN COODY: Well, thank you for asking that question. As I said at the beginning, I did work on the NOCK [phonetic] group that created their comments for presentation here, and our group did not support that extension of the concept of grower groups to retailers and handlers. The reason that I personally don’t support it, and one of the points that I made to our group, is to me retailers and handlers, it’s basically like a food chain. All of the things that go wrong on the bottom, get concentrated in the food chain because many of the—say like a retailer or a distributor or somebody, they’re
taking in products from hundreds if not thousands of certified parties. So, to me having the chance to annually review the records of that part is really important for a certifier. Now, I know, at least—my husband works for a retail chain, and they have stores all over Oregon. Although they buy a lot in bulk, their practice is also to buy local so each store is soliciting things from the farmers say right around Eugene, Oregon, so they can have local markets, and I think this is really a common practice. I’m not an expert in retailing, but that’s a reason why a certifier would want to be able to have access to that record even though they may have systems for handling the products from the coming in and everything else, their procurement can be radically different. Since retailers and handlers, one of the most important things is no commingling and also keeping things from being contaminated, those things I believe need to be checked on an annual basis from the certifier.

That’s my personal opinion.

MS. ANDREA CAROE: So, let me—based on
your belief of the importance of what the
retailers are doing, I take it you’re an advocate
for mandatory certification for retailers?

MS. LYNN COODY: I would like to see
that, but that’s not part of what the NOP is
doing. Way back when we were writing OFFFA
[phonetic] I was an advocate for mandatory
certification of retailers.

MS. ANDREA CAROE: Okay, so since we
don’t have mandatory, a voluntary certification
that allowed for an ICS would be better than what
we have, which is none.

MS. LYNN COODY: I don’t think so because
I think it provides consumers with a false sense
of assurance compared to—

MS. ANDREA CAROE: [Interposing] But the
assurance they have right now is none.

MS. LYNN COODY: Because then they can’t
make an organic claim that they’re a certified
operation so I think it’s fair.

MS. ANDREA CAROE: I guess I don’t
understand, Lynn, because if they don’t make any
claim, they don’t get certified and they’re not
making a certification claim for their retail
operation, you’re still making the organic claim
of the product. So, I don’t understand exactly.

MS. LYNN COODY: Well, because they’re
required under the rule to make sure that there’s
no commingling and no contamination, under the
rule as it is.

MS. ANDREA CAROE: Right, without
verification.

MS. LYNN COODY: Yeah, without
verification, but that—

MS. ANDREA CAROE: [Interposing] That’s
my point.

MS. LYNN COODY: I guess it would be
great if it were all even, but it’s not even under
the system that we have. Personally, I prefer a
system, when we’re going to implement a system, I
like it to be as rigorous as we can. That’s all,
and when I’m thinking about this, I’m not just
thinking about retailers. I’m thinking about
other handlers who also are required to be
certified.

MS. ANDREA CAROE: Like the distributors?
MS. LYNN COODY: Well, like processors.

MS. ANDREA CAROE: Okay, all right. Hue, and then [unintelligible] and then Kevin?

MS. ANDREA CAROE: Actually, I’ll reverse it because I know Kevin has had his hand up a while.

MR. KEVIN ENGELBERT: That’s okay.

MR. HUBERT J. KARREMAN: All right, I don’t know if you can answer this or not, but I hear about the non-compliances and how do you check for them, you know, with the ICS and annual inspection. And maybe you can’t answer this.

MS. LYNN COODY: Give it a shot.

MR. HUBERT J. KARREMAN: Okay, in livestock, what do you call a minor versus a major non-compliance, in livestock certification of a group of farms somewhere let’s say?

MS. LYNN COODY: Well, I mean certifiers have to deal with this every day, right, so usually minor violations are things that are correctable without having a-making the product itself be impacted so it’s usually things like record keeping, that’s minor, things like that.
whereas certainly use of a prohibited material is clearly major. But there’s all kinds of things in between, and certifiers on a daily basis, it doesn’t matter grower groups or not, they have to make a decision about what’s major and minor. A while ago there was a paper that the NOSB put out that what is major and minor for each of the different categories, and that’s one of the things certifiers use for guidance, both for grower groups and for individual certified operations.

MS. ANDREA CAROE: Okay, I have Rigo, Kevin and then Tracy.

MR. RIGOBERTO I. DELGADO: Thank you for your comments.

MS. LYNN COODY: Sure.

MR. RIGOBERTO I. DELGADO: I’m also trying to understand the whole complexity. About ICS, who composes those groups, and I’m thinking of grower groups? How is that group composed, the ICS, and how are they paid? Are they composed of the same farmers that form the group, and if so how can you guarantee objectivity in the whole process?
MS. LYNN COODY: Right, okay, well that’s a good question. The farmers usually come together because they’re in a certain geographical area and they have a desire to market usually to the U.S., right, because we’re NOP. So, they’re in a certain area, and they actually—the ICS are usually people who are able, who are usually can speak English, who have some kind of agronomic background, who can help the growers with training, identification of disease, things like that, and also have a propensity for administration. It’s almost like running a small certification agency. If you have 100 growers, you have 100 inspections to do each year. You have to assign inspectors. So, usually that’s the type of people. They usually either get someone from within their group or in many cases or in many cases hire someone from the outside. In traditional grower groups from a long time ago, frankly, it was usually in many cases it was people from the U.S. or Europe who had moved someplace in the southern hemisphere and were helping them, helping these folks ship stuff out.
But now more than likely it’s indigenous people who are just, you know, well educated enough to do this.

As far as conflict of interest, I agree that can be a problem especially under the terms of NOP. And I think that is where—what we need to work on in this recommendation. I think that is a legitimate concern, and there needs to be a certain distancing of—it certainly shouldn’t be farmers inspecting each other. But I think if you could have—we could set up a system for having folks who are appropriately distanced. I mean that’s where I think we need to do the work. That’s what we need to think about certainly much more intensely than worrying about how it’s going to be applied in the retail situation in my own opinion. That’s where we need to put our brains.

Hue, you’re next. I mean I’m sorry, Kevin’s next, and then Tracy. I’m sorry.

MR. KEVIN ENGELBERT: Thank you, Lynn and Katherine for bringing this subject back up and addressing some of the concerns I have. I have two questions. One Hue touched on is I’m still
not clear about—and it’s probably subjective, depends on the operations, where you go from a minor to a major compliance in these grower groups and two what—if one of the spokes or two of the spokes have been found to have major compliances and are out of the grower group, what’s the procedures for making sure they remain out for I’m assuming five years?

MS. LYNN COODY: Well, I’ll answer the second one first because I remember that better. What happens is the grower group each year as part of their farm plan basically is asked to submit a list of growers, and so you can see—they have a list of growers that are in and growers that have been removed within that year. That’s what the certifier checks, to see how is in and who is out. Then when you go to do your inspection, you make sure that each of the growers who is in is getting inspected and monitored and everything else. As far as keeping the people out, certainly of that individual grower group you can see whether they’ve crept back in unless there’s some bad actor like we have even here in the U.S. where
people sometimes change their farm name, get different land, all kinds of different things. There are all kinds of sneaky ways to get back in, and I’m sure that happens in grower groups just the way it happens here with other farmers. But that’s the mechanism. There’s a specific listing of the operations, the amount of acres they have, a farm map and all that kind of stuff so you can see exactly where they are and which fields they’re controlling.

MS. ANDREA CAROE: Kevin, I just want to speak to you on this just a little bit. I really think you need to consider this like one operation with employees, separate employees. If you go to an operation as an inspector and they have 20 employees and you talk to 4 employees and 2 of them have not been properly trained, you’re not getting rid of those two employees. You’re talking to them about the integrity of their system for outreaching to their employees. That’s where the violations are. That’s why the ICS is what gets the violations, not the independent entities. It’s—they are an indicator of how well
the ICS is working, and so all of the violations
are going to happen on that end. And as far as
major and minor non-compliance it’s like any other
certification that certifiers apply. They
actually are going to determine whether this is
something that can be quickly mitigated or
something that can’t be quickly mitigated and has
an immediate effect on the integrity of the
organic product being produced. So that’s all out
there right now, but really don’t look at these
groups as 12 entities. They’re not. They’re one,
and each one is applying that operation. They’re
all part of it like employees within a company.
Okay? I think—I hear us keep on going to the
detail, and I’m just trying to put it in words to
get it across because I think we’re losing
something in the translation here. Would you
agree, Lynn, that’s the way you would explain it?

MS. LYNN COODY: Yes, did she answer the
question that you addressed to me okay for you?

MS. ANDREA CAROE: Tracy, you had a
question? Anybody else?

MS. TRACY MIEDEMA: I do. I have a
question for you, Lynn, and then I also want to respond to something you asked about Rigo. I really appreciate National Organic Coalition Comments that were submitted November 12th, and I have spent quite a bit of time with them. You know, one of the places that your group agreed with this recommendation, and this goes back to the 2002 criteria is that cooperatives of growers that meet the definition of person are eligible for certification as a group. And I just want to remind everyone that when we’re talking about these groups, there’s a big laundry list of what it takes to be able to join the club, you know, basically.

MS. LYNN COODY: Yes, right.

MS. TRACY MIEDEMA: We’re talking about uniformity being managed as a legal entity under one central administration, limited to people who sell all through one group. There’s not a bunch of individual certificates. You know, we have the quality control system, ad nauseam, so the idea that just two people who want to get together and not have to get inspected every year can just join
up and skirt inspection is an absolute fallacy and
is just not having really studied what this is all
about yet. So, when I read the National Organic
Coalition comments I found a lot of common ground
actually.

MS. LYNN COODY: Absolutely, yeah.

MS. TRACY MIEDEMA: But there was kind of
a key difference of opinion, and that’s how far to
extend this throughout the supply chain.

MS. LYNN COODY: Right.

MS. TRACY MIEDEMA: In your opinion, not
the question of should it be applied to retailers,
but can? And do you think that there are such
things as effective internal control systems that
do work in other parts? Can they work?

MS. LYNN COODY: I’ll tell you as far as
belief in internal control systems, you’re talking
to a person who believes very strongly in that
because I see it work from accreditation down.
So, you know, I do believe that it can work, but I
don’t believe that it’s in the best interest of
the organic industry to go in that direction.
That’s my opinion. I think internal control
groups can work well for everything from how the NOP organizes itself as an accreditor all the way down to the way I manage my family to make sure everybody goes to school on time. That’s a minor internal control group, but I’ll tell you that one runs like clockwork.

MS. ANDREA CAROE: Joe?

MS. TRACY MIEDEMA: I’ll be super quick. I just need to reply to Rigo’s question about conflict of interest within these places and just site that, you know, at our 5,000-acre farm we have a quality assurance department, and this group operates independently. I mean we’re all paid by the same boss. But just because I want to ship something that quality assurance department puts the hammer down because the integrity of the organization is at stake if your quality assurance department is not operating as a stand-alone, independent policing agency. And that’s what these ICSs are. That entire group has an enormous amount of exposure if it is not operating independently without conflict of interest, and any smart ICS would not want that exposure.
MS. LYNN COODY: Yeah, and just one point that I wanted to make that Tracy didn’t quite mention is just remember that in these ICSs like Tracy presented it as spokes of a wheel yesterday. Imagine if only one spoke is out and all the other 20 spokes get decertified? There’s a lot of interest to make sure that everybody is doing things well because that’s something that individually certified organizations don’t have to deal with is their neighbors and making sure that everyone else is doing things well. Okay, Joe?

MR. JOSEPH SMILLIE: Tracy hit on it. I just want to stress it. Again, it’s when the recommendation came out, it extended the opportunity of other groups other than growers to meet the criteria, and as Tracy pointed out, it’s a very strict criteria.

MS. LYNN COODY: Right.

MR. JOSEPH SMILLIE: I just want to speak practically about that. From my point of view and in my experience there’s very few handlers will fit that criteria. It just so happens, and I don’t know if it’s an accident of history or
design, the only group that I really see being able to meet that criteria are retailers. We didn’t design the program, our recommendation to include growers and retailers. We designed the criteria by which someone could apply group certification, and from a practical point of view, looking at it practically, processors just aren’t going to meet it. They’re not going to hit that criteria. They’re just not going to make it. They have that opportunity, but it’s very, very, very doubtful that processors and even distributors and other handlers can meet it. Retailers because of the unique situation of the ICS and the central control and the single OSP being identical among the participants or the sub-units, it just so happens that it’s possible because of the way that practicalities work that retailers can hit that. So, again, this wasn’t like a political recommendation. This was a regulatory recommendation, and what we did is put down the criteria for the first step, the first phase of this. What Lynn has really gone forward to was what we always considered to be phase II,
which was getting down to the quality manual.

MS. LYNN COODY: That’s right. We love quality manuals.

MR. JOSEPH SMILLIE: The risk—it’s—let me tell you, folks, it’s a big manual. It’s a very serious manual. Luckily, because of the work of [unintelligible] and many, many other organizations that manual exists and that can be adapted as we move hopefully quickly. Again, we didn’t have that much time to do the work, but we can take those manuals, whether they’re ISO manuals or others, and we can adapt those so that we can have the quality manual, which gets down to the detail of the risk/benefit analysis and all of the other inspector qualifications, ICS conflict of interest, all of those details. We don’t have to, as Tracy said yesterday, reinvent the wheel. A lot of it’s there. We just have to make a decision as to how we’re going to move forward on this, and then start to bring in those quality manual issues.

MS. ANDREA CAROE: Okay, Joe. Bea, and then we’ve got to wrap this up, guys.
MS. BEA E. JAMES: You know, I mean I sit on this board as the retailer representative, and that I think it’s important to remember that if you’re a retailer and you’re marketing certification that you are in the prime light of being a keeper to communicate to the consumer that that USDA seal really does mean what the consumer expects it to mean, and I know from my own experience that without having somebody who is extremely knowledgeable like a certifier come to each location and make sure that the checkpoints are in place, that you risk— you risk miscommunicating what a USDA organic seal means, and I’ve seen it happen. So, I believe that it’s important to keep the certification at the retail level just as stringent as anybody else, and I heard during Aquaculture a lot of people comment and say it shouldn’t be easy.

[END MZ005029]

[START 106939-2A]

MS. BEA E. JAMES: It should be something that is earned and it should be something that is quantified by somebody who really understands what
it means when you say no commingling. You got a
USDA, huge USDA seal right when a consumer walks
in the store and they get mixed messages because
not ever store is being inspected. So that's my
only comment.

MS. ANDREA CAROE: All right. With that
we're going to—we got to wrap up. We got to wrap
up, Jeff, I'm sorry. This is it. I'm sorry. I
got to stop it. This is going to be further
discussed. It's not an action item for this
meeting. I—you just happen to be on the other
side of the cutoff, but... Thank you, Lynn.

MS. LYNN COODY: Thank you so much
everyone.

MS. ANDREA CAROE: All right. Last
commenter, Barbara C. Robinson.

[Background noise.]

MS. BARBARA C. ROBINSON: Do I have to
say my name again?

[off-mic]

MS. BARBARA C. ROBINSON: Excuse me?

[Laughter.]

MS. BARBARA C. ROBINSON: I am the proxy,
Andrea.

[Background noise.]

MS. BARBARA C. ROBINSON: I'm moving another agenda item up a little ahead of schedule because I realize that I should have done this a little earlier, but... Andrea, I just wanted to say—well, I guess I should do this. Barbara Robinson, Deputy Administrator.

I wanted to say thank you from the National Organic Program and from the Agricultural Marketing Service for all your many years of service on this Board, and most especially for the last year in your capacity as the chair of the Board. And aren't you glad you haven't been chair longer. And I am sure, my dear, my friend, Chair, and all the other names that we have gone by over the past five years, that there have been many days and many meetings where the end of the meeting, what you have really felt like saying was the following at the end of the day when I said, "So, how goes it?"

"I'm depressed. I get wet. My face broke out. I'm nauseous. I'm constipated. My
1 feet is swelled. My [unintelligible]. My sinuses
2 are clogged. I've got heartburn. I'm cranky and
3 I have gas."
4  
5 [Laughter.]
6 However, with all due respect, Andrea, I
7 would like to present to you a certificate of
8 appreciation for your five years of dedicated
9 service on the board.
10  
11 [Applause.]
12 MS. ANDREA CAROE: I only have one
13 response.
14  
15 [Laughter.]
16 [Music.]
17  
18 [Background noise.]
19 MS. ANDREA CAROE: Thank you so much,
20 Barbara. I think we need to take a 15-minute
21 break so we can be prepared for votes next. I
22 know Bea wants to get settled so that she can
23 record them and I need to get settled as well. So
24 15 minutes, folks.
25  
26 [Break.]
27 MS. ANDREA CAROE: Okay, let's reconvene.
28 First up for the voting portion of this
meeting, Rigo Delgado and the policy committee.

MR. RIGOBERTO I. DELGADO: Thank you, Madame Chair. Our first item is the one related to updates to the policy and procedures manual. We believe that these revisions will allow us to function better as board members and it's part of the ongoing update of policy and procedures manual. So at this point I would like to move for the approval of the following updates to our policy and procedures manual.

The first one found on Page 5. The change is found on Page 6 of Section 2, which includes an introductory paragraph to the section, an addition of the mission of the Board. Two edits to the mission statement and an updated number.

We'd also like to include the change to the typo found in Page 33, and changes in sections, in the Section 8. On Page 45, the change of location for the committee recommendation form, updates to the committee recommendation form, found in the same Page 45; and on Page 54, the addition on the section of
clarification of deferral.

Finally, the two definitions found in Appendix D, Page 62.

MS. ANDREA CAROE: Okay. So what we should do as we're presenting these vote items, let's present them and then make your motion a little bit more concise, if we could. And then—

MR. RIGOBERTO I. DELGADO: [Interposing] Very well.

MS. ANDREA CAROE: Just so that we can record it, what the exact motion was.

MR. RIGOBERTO I. DELGADO: And I also would like to clarify that I'm making the motion for the whole list of changes here as one, and if there is any objections, obviously we can split those. But at the moment, the motion is to approve the updated changes listed to the policy and procedures manual.

MS. ANDREA CAROE: Is there a second?

FEMALE VOICE: Second.

MS. ANDREA CAROE: Is there discussion?

FEMALE VOICE: I have one piece of discussion. On the form on Page 45, that's a
program form not a board form. So were the changes made by the program or did policy committee make changes?

MR. RIGOBERTO I. DELGADO: Page 45—give me a minute.

FEMALE VOICE: We made those changes and then you're adopting them into your manual.

MR. RIGOBERTO I. DELGADO: That's right.

FEMALE VOICE: That's what I wanted to verify, that it wasn't changes we initiated.

Thank you.

MR. RIGOBERTO I. DELGADO: That's correct. Thank you for that.

MS. ANDREA CAROE: Any further discussion? Jennifer.

MS. JENNIFER M. HALL: Very minor, but the first change is, it's a typo, actually. It's not Section 2, it's Section 1, Page 6. So just for clarity in the minute.

MR. RIGOBERTO I. DELGADO: That's right. So the first change will be Page 5 and it's the introduction section.

MS. ANDREA CAROE: Any further
discussion? Hearing none I will start with Tina on the vote. Tina?

MS. KRISTINE ELLOR: Yes.

MS. ANDREA CAROE: Gerald?

MR. GERALD A. DAVIS: Yes.

MS. ANDREA CAROE: Steve?

MR. STEVE DEMURI: Yes.

MS. ANDREA CAROE: Tracy?

MS. TRACY MIEDEMA: Yes.

MS. ANDREA CAROE: Katrina?

MS. KATRINA HEINZE: Yes.

MS. ANDREA CAROE: Joe?

MR. JOSEPH SMILLIE: Yes.

MS. ANDREA CAROE: Bea?

MS. BEA E. JAMES: Yes.

MS. ANDREA CAROE: Julie?

MS. JULIE S. WEISMAN: Yes.

MS. ANDREA CAROE: Dan?

MR. DANIEL G. GIACOMINI: Yes.

MS. ANDREA CAROE: Rigo?

MR. RIGOBERTO I. DELGADO: Yes.

MS. ANDREA CAROE: Jennifer?

MS. JENNIFER M. HALL: Yes.
MS. ANDREA CAROE: Jeff?

MR. JEFFREY W. MOYER: Yes.

MS. ANDREA CAROE: Kevin?

MR. KEVIN ENGELBERT: Yes.

MS. ANDREA CAROE: Hue?

MR. HUBERT J. KARREMAN: Yes.

MS. ANDREA CAROE: And the chair votes yes. The vote is zero noes, fifteen yes, and it passes.

Next item, Rigo.

MR. RIGOBERTO I. DELGADO: Thank you, Madame Chair. The next item is—considers updates to the new member guide. Essentially includes two changes that were discussed yesterday and this formed part of the ongoing process of maintaining this as a working document that will benefit new members, as you recall. Well, at this point, without further ado, I would like to motion that we accept—update the new member guide with the following changes: addition to the section called, "What are rules in the process of rule making," and two, the inclusion of the section called, "Tracking changes in word documents."
MR. HUBERT J. KARREMAN: Second.

MS. ANDREA CAROE: Okay. So, Rigo has made the motion and Hue Karreman has seconded it. Is there any discussion on the new member guide changes? Hearing none we will go to vote starting with Jerry.

MR. GERALD A. DAVIS: Yes.

MS. ANDREA CAROE: Steve?

MR. STEVE DEMURI: Yes.

MS. ANDREA CAROE: Tracy?

MS. TRACY MIEDEMA: Yes.

MS. ANDREA CAROE: Katrina?

MS. KATRINA HEINZE: Yes.

MS. ANDREA CAROE: Joe?

MR. JOSEPH SMILLIE: Yes.

MS. ANDREA CAROE: Bea?

MS. BEA E. JAMES: Yes.

MS. ANDREA CAROE: Julie?

MS. JULIE S. WEISMAN: Yes.

MS. ANDREA CAROE: Dan?

MR. DANIEL G. GIACOMINI: Yes.

MS. ANDREA CAROE: Rigo?

MR. RIGOBERTO I. DELGADO: Yes.
MS. ANDREA CAROE: Jennifer?
MS. JENNIFER M. HALL: Yes.
MS. ANDREA CAROE: Jeff?
MR. JEFFREY W. MOYER: Yes.
MS. ANDREA CAROE: Kevin?
MR. KEVIN ENGELBERT: Yes.
MS. ANDREA CAROE: Hue?
MR. HUBERT J. KARREMAN: Yes.
MS. ANDREA CAROE: Tina?
MS. KRISTINE ELLOR: Yes.
MS. ANDREA CAROE: And the chair votes yes. The motion passes, zero no votes, fifteen yes. Thank you. Rigo, is that the end of...?
MR. RIGOBERTO I. DELGADO: That concludes our section, Madame Chair. Thank you.
FEMALE VOICE: [Unintelligible] has a question.
FEMALE VOICE: Andrea, when they're doing a first or a second or a motion or whatever, they need to specify what for, for the court reporter.
MS. ANDREA CAROE: Okay.
FEMALE VOICE: Who seconded. Who made the second.
[Crosstalk.]

MS. ANDREA CAROE: Okay. I think I restated it.

MALE VOICE: I got it this time, yeah.

MS. ANDREA CAROE: Okay. All right.

Thank you.

MALE VOICE: Don't let them go by too quickly, though.

MS. ANDREA CAROE: Okay. I will definitely restate it so we have it on the record.

FEMALE VOICE: Do we need to restate something now?

MALE VOICE: No.

[Crosstalk.]

MS. ANDREA CAROE: Okay. So the joint policy items are up next. Rigo, Gerald or Hue, I don't know who's taking the lead on the votes for this.

MALE VOICE: Madame Chair, if I am allowed, I am taking the lead.

MS. ANDREA CAROE: Thank you.

MALE VOICE: And the first item is the document called "Guidance for Certification of
Operations Participating in Crop Production Research.” It's a reminder that the joint committees feel that agriculture research is a critical component in the growth and expansion of organic agriculture and we realize that crop research has—faces specific challenges, specifically when it deals with prohibited practices in materials and procedures. And we believe that this document will provide the necessary clarification and guidance that is required. So on that note, I would like to move to accept the Guidance for Certification of Operations Participating in Crop Production Research.

MS. JENNIFER M. HALL: Second.

MS. ANDREA CAROE: Okay. Second from Jennifer Hall. Any discussion? Hearing none—

MS. LYNN COODY: [Interposing] Weren't there some proposed wording changes? Did those get dealt with?

MR. RIGOBERTO I. DELGADO: Thank you very much, Lynn. Yes, the proposed changes—and I apologize for that—as follows, the first one is
found on Page 2 of the document. And it's Section 8.82. We replaced the sentence that reads, "per regulation, all land treated with prohibited materials will be considered." That was replaced, "will be considered to be" was replaced by "must undergo." So the sentence now reads, "Per regulation, all land treated with prohibited materials must undergo transition,"—and we included the word "prior"—"to certified organic status subject to procedures following 205.202." [Unintelligible.]

MR. RIGOBERTO I. DELGADO: The next change is found on—prior—

MS. ANDREA CAROE: Oh. Got you.

MR. RIGOBERTO I. DELGADO: Right?

[Crosstalk.]

MR. RIGOBERTO I. DELGADO: The next change is next page, answered question four. The last sentence, "land exposed to" and we added the word "prohibited materials." So it—at this point, Madame Chair, I think it's proper for me to—in this point of clarification, obviously, it should—I withdraw my motion and then resubmit it.
MS. ANDREA CAROE: You can amend your motion and it can be—as long as the second accepts that.

MR. RIGOBERTO I. DELGADO: Well, at this point I would like to amend the motion to include the changes that we just discussed.

MALE VOICE: Second.

[Crosstalk.]

MS. ANDREA CAROE: The first second, which was Jennifer, do you accept those—

JENNIFER: Yes.

MS. ANDREA CAROE: —amendment. Thank you. Further discussion on this item? Further questions? Okay. At this point I will call for a disclosure of any potential conflicts of interest with this document. Hearing none we'll go to vote starting with Steve?

MR. STEVE DEMURI: Yes.

MS. ANDREA CAROE: Tracy?

MS. TRACY MIEDEMA: Yes.

MS. ANDREA CAROE: Katrina?

MS. KATRINA HEINZE: Yes.

MS. ANDREA CAROE: Joe?
MR. JOSEPH SMILLIE: Yes.

MS. ANDREA CAROE: Bea?

MS. BEA E. JAMES: Yes.

MS. ANDREA CAROE: Julie?

MS. JULIE S. WEISMAN: Yes.

MS. ANDREA CAROE: Dan?

MR. DANIEL G. GIACOMINI: Yes.

MS. ANDREA CAROE: Rigo?

MR. RIGOBERTO I. DELGADO: Yes.

MS. ANDREA CAROE: Jennifer?

MS. JENNIFER M. HALL: Yes.

MS. ANDREA CAROE: Jeff?

MR. JEFFREY W. MOYER: Yes.

MS. ANDREA CAROE: Kevin?

MR. KEVIN ENGELBERT: Yes.

MS. ANDREA CAROE: Hue?

MR. HUBERT J. KARREMAN: Yes.

MS. ANDREA CAROE: Tina?

MS. KRISTINE ELLOR: Yes.

MS. ANDREA CAROE: Gerald?

MR. GERALD A. DAVIS: Yes.

MS. ANDREA CAROE: And the chair votes yes. So that's zero no votes, fifteen yes, and
the motion passes. Moving on.

MR. RIGOBERTO I. DELGADO: Thank you, Madame Chair. The next item is the Guidance on **Temporary Variance for Research**. Again, the members of the joint committee believe that the framework that we are providing with this guidance gives the consistency and clarity that is required at the time for allowing such temporary variances with the purpose of research.

So on that note I would like to move that we recommend the approval of Guidance on Temporary Variance for Research.

MR. JEFFREY W. MOYER: Second.

MS. ANDREA CAROE: So it was moved by Rigo and seconded by Jeff. Is there any discussion on this item? Bea.

MS. BEA E. JAMES: I noticed that in your committee votes there was somebody who voted no and I was wondering if they might be able to just talk a little bit about why.

MR. RIGOBERTO I. DELGADO: If I recall the history, we had a series of questions included in the original document that were withdrawn
afterwards and the member that opposed some of those questions was not present at the second voting and I felt at that time that it was proper to keep his no vote in the record. If I'm not clear on that, we submitted a question—a document to the committee first and included a series of clarification questions. There was confusion at the time and that's where the no vote came and I believe that was changed afterwards and we came out with that no vote. In other words, it's a typo. That's the clarification.

MS. ANDREA CAROE: Is it absent then or a yes vote?

MR. RIGOBERTO I. DELGADO: It should be an absent.

MS. ANDREA CAROE: Any other questions? Comments? Hearing none we'll go to vote.

Starting with Tracy?

MALE VOICE: Hold on. Well, I guess—this particular document could affect or help me with research in the future, for the good of—

FEMALE VOICE: I'm sorry.

MALE VOICE: —organic livestock. Not
that I would gain hardly a penny from that, but I just thought I'd let you know that this would, as it says in the document, advance research through variances at the secretary level, I guess. So anyway, I just thought I'd let the Board know that I may be engaging in research that may, may, take advantage of this document.

MS. ANDREA CAROE: And thank you, thank you both.

MALE VOICE: I would have to say the same thing. Obviously—

MS. ANDREA CAROE: [interposing] All three of you.

MALE VOICE: [unintelligible] research.

MS. ANDREA CAROE: I failed to ask for potential conflicts. Is there anybody else that would like to disclose any potential conflicts?

FEMALE VOICE: I would request that my colleagues not set the bar that low for conflict of interest.

MALE VOICE: Just disclosing.

MS. ANDREA CAROE: Does anybody on the Board feel that this is—that what was disclosed is
a conflict of interest for voting? Nor do I. So the vote will proceed and I ask the members to please vote. Starting with Tracy.

MS. TRACY MIEDEMA: Yes.

MS. ANDREA CAROE: Katrina?

MS. KATRINA HEINZE: Yes.

MS. ANDREA CAROE: Joe?

MR. JOSEPH SMILLIE: Yes.

MS. ANDREA CAROE: Bea?

MS. BEA E. JAMES: Yes.

MS. ANDREA CAROE: Julie?

MS. JULIE S. WEISMAN: Yes.

MS. ANDREA CAROE: Dan?

MR. DANIEL G. GIACOMINI: Yes.

MS. ANDREA CAROE: Rigo?

MR. RIGOBERTO I. DELGADO: Yes.

MS. ANDREA CAROE: Jennifer?

MS. JENNIFER M. HALL: Yes.

MS. ANDREA CAROE: Jeff?

MR. JEFFREY W. MOYER: Yes.

MS. ANDREA CAROE: Kevin?

MR. KEVIN ENGELBERT: Yes.

MS. ANDREA CAROE: Hue?
MR. HUBERT J. KARREMAN: Yes.

MS. ANDREA CAROE: Tina?

MS. KRISTINE ELLOR: Yes.

MS. ANDREA CAROE: Jerry?

MR. GERALD A. DAVIS: Yes.

MS. ANDREA CAROE: And Steve?

MR. STEVE DEMURI: Yes.

MS. ANDREA CAROE: Chair votes yes. So that's no no votes, 15 in favor, the motion passes. Okay. Moving on to Handling Sunset materials. Thank you for the joint policy crops, livestock committee. I think I got everybody there. There's nearly a whole board boat there.

Okay. The first recommendation that we're going to vote for is a grouping of 605a materials which includes agar agar, carrageenan, calcium sulfate—where is our—wait, I have it up. No, no, no, it's on the recommendation. And animal enzymes. Okay. Agar agar, animal enzymes, calcium sulfate, carrageenan. These are for 605a. There is an additional 605a item which will be voted separately that was—[Crosstalk.]
MS. ANDREA CAROE: Sorry. Is there any discussion?

FEMALE VOICE: We haven't even had a motion.

FEMALE VOICE: Oh, okay. I'm sorry. Alright. Get in the groove here. Okay. Hold on one second. Let's just tee up the motion and then let's make the motion and then get a second.

FEMALE VOICE: Do—the recommendation of the handling committee was for the relisting of these four substances on 605a. Do I have a motion?

MALE VOICE: You can make it.

FEMALE VOICE: You can make it.

MS. JULIE S. WEISMAN: I move that these four materials be relisted on 605a. Do I have a second?

MR. JOSEPH SMILLIE: Second.

MS. ANDREA CAROE: So Julie Wiseman moves with Joe Smiley seconding. Any discussion on these items? Bea James.

MS. BEA E. JAMES: I have a question on the point of order. I just, I want to make sure
that everybody understands that we're voting on the handling Sunset materials as a group and that if there's any particular discussion on each one of the individual items, then we can pull those out and discuss it. Is that correct?

FEMALE VOICE: (A), I think that's correct and if anyone has an objection to them being voted as a group, we can vote on them separately.

MALE VOICE: Or pull out any one individually if somebody has a problem on that. That's why we—

FEMALE VOICE: [Interposing]

[Unintelligible.]

MALE VOICE: Yeah, the ones out separately already.

MS. ANDREA CAROE: Katrina.

MS. KATRINA HEINZE: Similar to what I expressed at the March meeting, I work for a large consumer products company.

[Crosstalk.]

MS. KATRINA HEINZE: I'm only going to do it once so we don't have to do it for every
handling and crop material. There is a
possibility that we, either now or in the future,
use one or all of these materials. I just wanted
everybody to know.

MS. ANDREA CAROE: Thank you for that.

Bea?

MS. BEA E. JAMES: I don't know if it's
appropriate for me to ask this question regarding
a Sunset item, but I am curious anyway. I'll take
whatever response I get.

Why agar agar, which is derived from
seaweed, is on 205605, nonsynthetic—nonsynthetic.
I don't understand that.

MS. ANDREA CAROE: I'll just take a—this
is Sunset. We're not reviewing this material so
Sunset is not the time for replacing, removing
annotations, changing in it. It's about the
continuation of regulations so you're voting to
continue it where it is. If you disagree with
where it is and you want to vote against it,
that's your decision but we are—we can only at
this time vote for maintaining it where it is.

MS. BEA E. JAMES: So if I had an issue
with agar agar, then we would vote on that one separately?

MS. ANDREA CAROE: If you—you could ask them—the person that made the motion to accept an amendment to delete that item for a further motion.

FEMALE VOICE: No, Andrea.

MS. ANDREA CAROE: Yes?

FEMALE VOICE: No.

MS. ANDREA CAROE: No?

FEMALE VOICE: If you—you can have an issue with it but, you know, you should have gone through this in the ANPRB. But the—as a Sunset material, the question before you is not to debate where it should be on the national list. It's simply to renew its exemption again. It's not to reconsider, you know, the worth of agar agar or whether the previous Board got it right when they put in on the—where they put it on the national list.

MS. BEA E. JAMES: So if I think it should be on the national list but it's the wrong place then—if I think it's in the wrong place,
then I would vote yes and then address that at another time?

FEMALE VOICE: Correct.

MS. BEA E. JAMES: Okay.

MS. ANDREA CAROE: Any further discussion on these items for Sunset? Hearing none, the vote is to relist. The recommendation is to relist so your yes vote is to relist these materials. I will call at this time for anybody that feels that they have a potential conflict that they need to disclose. Steve.

MR. STEVE DEMURI: Since Katrina started it, I also work for a large consumer product company. We do not use any of these—

MALE VOICE: —so I'll say that once.

MS. ANDREA CAROE: Does anybody on the Board feel that these conflicts are such that the member should not vote? Hearing none, I ask the members to vote. We will start the vote with Katrina.

MS. KATRINA HEINZE: Yes.
MS. ANDREA CAROE: Joe?

MR. JOSEPH SMILLIE: Yes.

MS. ANDREA CAROE: Bea?

MS. BEA E. JAMES: Yes.

MS. ANDREA CAROE: Julie?

MS. JULIE S. WEISMAN: Yes.

MS. ANDREA CAROE: Dan?

MR. DANIEL G. GIACOMINI: Yes.

MS. ANDREA CAROE: Rigo?

MR. RIGOBERTO I. DELGADO: Yes.

MS. ANDREA CAROE: Jennifer?

MS. JENNIFER M. HALL: Yes.

MS. ANDREA CAROE: Jeff?

MR. JEFFREY W. MOYER: Yes.

MS. ANDREA CAROE: Kevin?

MR. KEVIN ENGELBERT: Yes.

MS. ANDREA CAROE: Hue?

MR. HUBERT J. KARREMAN: Yes.

MS. ANDREA CAROE: Tina?

MS. KRISTINE ELLOR: Yes.

MS. ANDREA CAROE: Gerald?

MR. GERALD A. DAVIS: Yes.

MS. ANDREA CAROE: Steve?
MR. STEVE DEMURI: Yes.

MS. ANDREA CAROE: Tracy?

MS. TRACY MIEDEMA: Yes.

MS. ANDREA CAROE: I got the initials [unintelligible]. And the chair votes yes. So zero against, fifteen in favor, the motion passes.

Moving on.

MS. JULIE S. WEISMAN: Yes. We have a second recommendation now, which is for the relisting of a glucono-delta-lactone, also on Section 605a of the national list. I would like to move at this time that glucono-delta-lactone be relisted.

MR. STEVE DEMURI: Second.

FEMALE VOICE: Thank you.

MS. ANDREA CAROE: Okay. So the motion is by Julie Weisman, second by Steve DeMuri.

Okay. I'm trying to—any discussion on this item?

MALE VOICE: Just to—asking the committee for a clarification. This was pulled off because of a different amount of public comment or significant difference in public comment?

FEMALE VOICE: I wanted to explain to my
fellow members, I was the no vote on this material. Prior to this meeting we had received very little public comment as to its continued use in the industry and so I wanted—I was concerned that I didn't fully understand how it was used. I am now satisfied by the comments we have received. So I just wanted to clarify for the Board that it is widely used and, you know, the products for which it is appropriate.

MS. ANDREA CAROE: Further discussion?

Any potential conflicts of interest that you would like to disclose? Hearing none, we will move to vote starting with Joe.

MR. JOSEPH SMILLIE: Yes.

MS. ANDREA CAROE: Bea?

MS. BEA E. JAMES: Yes.

MS. ANDREA CAROE: Julie?

MS. JULIE S. WEISMAN: Yes.

MS. ANDREA CAROE: Dan?

MR. DANIEL G. GIACOMINI: Yes.

MS. ANDREA CAROE: Rigo?

MR. RIGOBERTO I. DELGADO: Yes.

MS. ANDREA CAROE: Jennifer?
MS. JENNIFER M. HALL: Yes.

MS. ANDREA CAROE: Jeff?

MR. JEFFREY W. MOYER: Yes.

MS. ANDREA CAROE: Kevin?

MR. KEVIN ENGELBERT: Yes.

MS. ANDREA CAROE: Hue?

MR. HUBERT J. KARREMAN: Yes.

MS. ANDREA CAROE: Tina?

MS. KRISTINE ELLOR: Yes.

MS. ANDREA CAROE: Gerald?

MR. GERALD A. DAVIS: Yes.

MS. ANDREA CAROE: Steve?

MR. STEVE DEMURI: Yes.

MS. ANDREA CAROE: Tracy?

MS. TRACY MIEDEMA: Yes.

MS. ANDREA CAROE: Katrina?

MS. KATRINA HEINZE: Yes.

MS. ANDREA CAROE: And the chair votes yes. Zero against, fifteen in favor, the vote—the motion passes. Moving on.

MS. JULIE S. WEISMAN: Okay. We have a third Sunset recommendation, and that is for the relisting of cellulose on Section 205605b of the
national list. That would be synthetics allowed in handling.

MS. ANDREA CAROE: Is there a second?

MS. KRISTINE ELLOR: Second.

MS. ANDREA CAROE: Okay. So I have a motion by Julie Weisman and a second by Tina Ellor, Kristine Ellor, whichever you like to be called. Any discussion on this item? Okay. Any potential conflicts of interest, any cellulose people here? No cellulose people. Hearing none, we'll move to vote starting with Bea James.

MS. BEA E. JAMES: Yes.

MS. ANDREA CAROE: Julie Weisman?

MS. JULIE S. WEISMAN: Yes.

MS. ANDREA CAROE: Dan?

MR. DANIEL G. GIACOMINI: Yes.

MS. ANDREA CAROE: Rigo?

MR. RIGOBERTO I. DELGADO: Yes.

MS. ANDREA CAROE: Jennifer?

MS. JENNIFER M. HALL: Yes.

MS. ANDREA CAROE: Jeff?

MR. JEFFREY W. MOYER: Yes.

MS. ANDREA CAROE: Kevin?
MR. KEVIN ENGELBERT: Yes.

MS. ANDREA CAROE: Hue?

MR. HUBERT J. KARREMAN: Yes.

MS. ANDREA CAROE: Tina?

MS. KRISTINE ELLOR: Yes.

MS. ANDREA CAROE: Gerald?

MR. GERALD A. DAVIS: Yes.

MS. ANDREA CAROE: Steve?

MR. STEVE DEMURI: Yes.

MS. ANDREA CAROE: Tracy?

MS. TRACY MIEDEMA: Yes.

MS. ANDREA CAROE: Katrina?

MS. KATRINA HEINZE: Yes.

MS. ANDREA CAROE: Joe?

MR. JOSEPH SMILLIE: Yes.

MS. ANDREA CAROE: And the chair votes yes. That's zero against, fifteen in favor. The motion passes. Moving on.

MS. JULIE S. WEISMAN: Okay. We're now moving into petitioned materials and we have two up for vote this morning. The first one is grape seed extract, which was—it's material that we—was not able, for time reasons, to be included in the
March meeting and so we are addressing it in this meeting. This is being petitioned for 606. That is an agricultural product, a non-organically produced agricultural product for 606. The handling committee—where's the vote?

[Crosstalk.]

MS. JULIE S. WEISMAN: Okay. All right. Yeah, this—okay. Thank you. The handling committee vote for this was three, four—were three in favor, no opposed, two members were absent that day.

FEMALE VOICE: Make the motion.

MS. JULIE S. WEISMAN: I move—the recommendation is for grape seed extract to be added to section 606 of the national list.

MS. ANDREA CAROE: Is there a second?

MR. STEVE DEMURI: I'll second.

MS. ANDREA CAROE: Motion was made by Julie Weisman, seconded by Steve DeMuri. Any discussion on grape seed extract? No discussion? Okay. Any potential conflicts of interest with grape seed extract? Okay. We will go to vote starting with Julie.
MS. JULIE S. WEISMAN: I vote yes.

MS. ANDREA CAROE: Dan?

MR. DANIEL G. GIACOMINI: No.

MS. ANDREA CAROE: Rigo?

MR. RIGOBERTO I. DELGADO: Yes.

MS. ANDREA CAROE: Jennifer?

MS. JENNIFER M. HALL: No.

MS. ANDREA CAROE: Jeff?

MR. JEFFREY W. MOYER: No.

MS. ANDREA CAROE: Kevin?

MR. KEVIN ENGELBERT: No.

MS. ANDREA CAROE: Hue?

MR. HUBERT J. KARREMAN: No.

MS. ANDREA CAROE: Tina?

MS. KRISTINE ELLOR: No.

MS. ANDREA CAROE: Gerald?

MR. GERALD A. DAVIS: No.

MS. ANDREA CAROE: Steve?

MR. STEVE DEMURI: Yes.

MS. ANDREA CAROE: Tina—yeah, Tracy?

MS. TRACY MIEDEMA: Yes.

MS. ANDREA CAROE: One of the "T"s.

Katrina?
MS. KATRINA HEINZE: Yes.

MS. ANDREA CAROE: Joe?

MR. JOSEPH SMILLIE: Yes.

MS. ANDREA CAROE: Bea?

MS. BEA E. JAMES: No.

MS. ANDREA CAROE: And the chair votes yes. Eight no, seven in favor. The motion fails.

Moving along.

MS. JULIE S. WEISMAN: Okay. We have a second item, petitioned item, up for vote this morning. It was—it's Gellan Gum, which was voted at the spring meeting but we—a motion was made and we voted yesterday to reconsider this item. We've heard quite—well, I shouldn't [unintelligible]. We've heard a lot of public comment in the past few days on Gellan Gum. We had an opportunity here, a lot of expert information was offered during this meeting and so we now—we now have a recommendation and I move—the motion is for Gellan Gum to be added to Section 605a of the national list. That is a nonagricultural, nonsynthetic—did I say something [unintelligible]? Okay. Nonagricultural, nonsynthetic material.
MS. ANDREA CAROE: Is there a second?

MR. JOSEPH SMILLIE: Yes, seconded.

MS. ANDREA CAROE: Motion is made by Julie Weisman, seconded by Joe Smillie. Is there discussion on this item? Katrina.

MS. KRISTINE ELLOR: Maybe a point of clarification. My understanding is that our recommendation is for listing on 605b.

MS. JULIE S. WEISMAN: No. That's incorrect. I want to make sure that it is absolutely clear, the petition was made—the petitioner asked for a listing on 605b but it is—after all of our deliberations and all of the explanations we've heard in the last three days, this is absolutely material being recommended for inclusion on 605a.

MS. KRISTINE ELLOR: I'm looking at the screen, that's why I'm confused.

MS. JULIE S. WEISMAN: Okay.

MALE VOICE: Madame Chair—

MS. ANDREA CAROE: [Interposing] I'll have to—that's something I'll have to update for the record. Dan?
MR. DANIEL G. GIACOMINI: This was also a reconsider of the previous vote. So if we had—it needs to be the same as the vote at the March meeting. If we want to change from that, that motion would then need to be amended.

FEMALE VOICE: Fair enough. So we have actually a motion for 605b and we can amend it at that time—at this time if somebody wants to offer an amendment.

MALE VOICE: Madame Chair?

MS. ANDREA CAROE: Dan.

MR. DANIEL G. GIACOMINI: I move to amend the motion to 605a.

MS. ANDREA CAROE: Is it accepted by the principal motion? Julie, do you accept that?

MS. JULIE S. WEISMAN: Absolutely.

MS. ANDREA CAROE: Joe, do you accept that as a second?

MR. JOSEPH SMILLIE: Yes.

MS. ANDREA CAROE: Okay. So now we have a motion on the table for listing of Gellan Gum on 605a. Discussion?

MALE VOICE: Just a technicality.
Actually, since I was not here in March, I did not vote on this, does that come into play here? Is it the same people voting or it's present here and now?

MS. ANDREA CAROE: No. You're on the Board. Any other discussion on this? This is a reconsideration and we really want to make sure that we're discussing this. Katrina?

MS. KATRINA HEINZE: I am under the belief that it still belongs on 605b. Gellan Gum is processed in a way very similar to Xanthan [phonetic] Gum, which is on the national list under 605b. Both are fermentation products that are separated by isopropyl alcohol. So I just wanted to get that out for folks' discussion as we vote on whether it's listed on 605a or 605b.

MS. ANDREA CAROE: Dan?

MR. DANIEL G. GIACOMINI: In the procedure of—the person making the motion and the second both accepting it, at this time your only option then would be to make another amendment or vote it down.

MS. KATRINA HEINZE: Vote the material—
MS. ANDREA CAROE: [Interposing] Katrina.

MS. KATRINA HEINZE: —or make a second amendment. Are those my choices?

MALE VOICE: Vote no or second amendment.

MS. KATRINA HEINZE: I move that Gellan Gum—I'm not sure exactly what to move. Let's see. I move that Gellan Gum, the recommendation be changed to list it on 605b.

MS. ANDREA CAROE: Is there a second for it?

MALE VOICE: Second.

MS. ANDREA CAROE: Okay. Oh, wait a second. I'm sorry. I shouldn't have done it that way. If it's a friendly amendment it is accepted by you, Julie, as the principal motion. Do you accept the amendment?

MS. JULIE S. WEISMAN: I don't.

MS. ANDREA CAROE: Okay. It's an unfriendly amendment, I guess. So is there a second to that? Am I doing this right, Dan?

MR. DANIEL G. GIACOMINI: Yes.

MS. ANDREA CAROE: Okay. So is there a second to Katrina's unfriendly amendment?
MR. GERALD A. DAVIS: Second.

MS. ANDREA CAROE: Gerald. Okay. So now—where are we? Do we have to vote on the amendment?

MALE VOICE: Yes.

MS. ANDREA CAROE: Okay. We have to vote now and we'll do this by voice vote to amend—we are voting to amend the motion to change the placement of Gellan Gum to 605b instead of 605a. Is there discussion on this? Tracy, and then Jeff.

MS. TRACY MIEDEMA: Yes, a point of discussion and clarification from yesterday. My understanding is that the most germane issue is that we're voting whether to add something to the national list and that ultimately the program will decide whether it resides under A or B?

MS. ANDREA CAROE: That's true. Jeff?

MR. JEFFREY W. MOYER: My question was just to Julie to see if she could explain why she wanted it on A because I already got Katrina's explanation on why she wanted it on B.

MS. JULIE S. WEISMAN: Yeah. The fact
that there is a synthetic processing aid does not make this a synthetic product. It's a processing aid, it's not an ingredient. Okay. And I also think that the fact the although we do look at the—although it is certainly our charge to respect the decisions of previous Boards, the definitions of material has not been consistent over the years and I don't think the fact that Xanthan gum, having a similar process—and I haven't looked, compared those two—but I don't think the fact that that resides on a different part of the list should set the precedent for where this one—we should go on our own.

MR. JEFFREY W. MOYER: But the petitioner originally asked to be put on B; is that correct?

MS. JULIE S. WEISMAN: Yes. And petitioners often don't, I mean they have their own understanding and some of it is some—the level of their understanding varies, as does ours, about where things belong at different times.

MS. ANDREA CAROE: Just a clarification. We're not beholden to what they're asking for placement. Just to get it—just the material. So
Joe, you had a point?

MR. JOSEPH SMILLIE: Point of order,

Madame Chair, I would request that we vote on this amendment in the same manner as the other votes rather than up or down, or request that we—

MS. ANDREA CAROE: [Interposing] A poll vote?

MR. JOSEPH SMILLIE: A poll vote. Yes, ma'am.

MS. ANDREA CAROE: Okay. Hue. I'm sorry.

MR. HUBERT J. KARREMAN: Okay. I'm a little confused but regarding the A and the B, they have different definitions and I know in Sunset we're not trying to—we're not trying to declare if it's in the right category or not. We're just voting on it. But this is a petition material; correct? I mean this is like first time on the list. So we need to know clearly—at least I do—what I'm going to be voting on here, if it's going to be under A or B.

Sorry. I know we're trying to get to that but it makes a difference in the vote. I
don't—because—not because, but—or will the NOP
still place it where it needs to go. But
regardless of that, we need to know how to vote,
like what it's coming into as far as our purview.

MS. ANDREA CAROE: Bob?

BOB POOLER: Bob Pooler, USDA National Organic Program. Traditionally the Board has
initially voted on whether material is synthetic
or nonsynthetic and than after that vote decide—
you know, that vote decides where, what section
material may go in if it's approved.

MS. ANDREA CAROE: Thank you for that,
Bob. I'd like—I know we've got more questions,
but I'd like Kim Dietz, if you can come up and
just help sort this out.

KIM DIETZ: Kim Dietz, and I don't
represent the NOP so, you know, I'm just going on
history and what we've done in the past. So I'll
just have to give you my guidance from that and
Bob is correct. Typically when you vote on a
material you do vote synthetic, nonsynthetic.
We've done that to help clarify so you know what
section of the list to go on.
At the same time, you're making your best judgment with the information that you have and if you recommend that it goes on A and it really should go on B, then you would hope that gets clarified through public comment when you post the Federal register notice and you have to make the best judgment that you can.

So that being said, also if you have a similar product that's in the wrong place, there are mechanisms to move that, to petition to move it or if there's a clarification of the national list, you can move things because you know there are things in the wrong places. So hopefully that answers your question.

MS. ANDREA CAROE: Bea has a question.

MS. BEA E. JAMES: No, I don't.

[Crosstalk.]

MS. ANDREA CAROE: Bea has a question and then Gerald. Do you have any?

[Crosstalk.]

FEMALE VOICE: If you vote to put this on the national list, this is the beginning of rulemaking. Then we will get public comment and,
you know, there will ultimately be—you know,
there'll be a lot of feedback and it may
ultimately turn out that when the program writes
the final rule it will say well, hey, even though
we just, you know, the Board said it should go, we
say it should go on a 605, ultimately it has been
determined through the public comment and, you
know, whatever, that while the Board said it
should go on 605b or a, that the program has
determined that it really should go on A or B.
But, you know, this can get sorted out.

So I just—I guess what I'm trying to say
is don't—this isn't like do or die, really, I mean
I know—you do it the best that you can given the
information that you have. I just don't want to
see you have dueling sword battles over this and
say oh my god, if it's, you know, if we can't
determine whether it's A or B, well, we're just
not going to—we'll reject the whole thing out of—
because that's what I—where I sort of sense you're
about to go. If we can't make up our minds here,
we'll just vote it off. Don't do that. Take your
best—do the best you can with the information that
you have and we'll get this sorted out through a process.

MS. ANDREA CAROE: Okay. Bea?

MALE VOICE: No, go ahead. I was going to say something else.

[Crosstalk.]

MS. BEA E. JAMES: Okay. I think because of all of the confusion, for some reason this material has got a jinx on it or something, I don't know, but I would like to ask that the people from CP Kelco come up and just very briefly explain why you petitioned for it to be on B, which is synthetic, instead of A, which is nonsynthetic.

[Crosstalk.]

FEMALE VOICE: Hold on, hold on. Gerald?

[Crosstalk.]

MR. GERALD A. DAVIS: I wanted to point out what Kelco said yesterday was that—and the influencing factor that caused me to second Katrina's motion was the 500 parts, 450 to 500 parts per million of isopropyl alcohol that remains in the Gellan Gum. That's within their
allowed—amounts are allowed and everything, but
that is what remains and that's why in our
discussions over the last few years over what is
synthetic versus nonsynthetic is how much
extraction is left in the finished product and
whether—

MS. ANDREA CAROE: [Interposing] Okay.
MR. GERALD A. DAVIS: —that influences
whether it's synthetic or not.
FEMALE VOICE: Let me just qualify. This
motion is not to add isopropyl alcohol to our
list. It's to add Gellan Gum.
MR. GERALD A. DAVIS: I understand.
FEMALE VOICE: No—but Gellan Gum
[unintelligible] material.
MR. GERALD A. DAVIS: I know.
[Crosstalk.]  
MR. GERALD A. DAVIS: Which is nothing
wrong with that it's just—
MS. ANDREA CAROE: [Interposing] All
right. Let's get the gentleman from CP Kelco to
address this very quickly.
FEMALE VOICE: Can I make one more
comment? Your handling committee has made a
recommendation. Your handling committee has
determined, to the best of their knowledge,
whether it's synthetic or nonsynthetic. Your
handling committee are the experts on the Board on
a material. So that's one thing.

The amount of alcohol, the amount of the—
whatever the extraction, is considered a
processing, an aid under the CFRs. Doesn't that
deam something synthetic, it's an allowed
processing and remember the consistency of what
your doing and remember your definitions and
again, just do the best you can.

MS. ANDREA CAROE: Okay. I'm going to
rein this in. I do want to hear from the
gentleman from CP Kelco and why—addressing Bea
James' question, why you initially asked for 605b
listing.

RICK GREEN: Okay. Again, I'm Rick Green
from CP Kelco and we basically just put it in the
same place, 605b, because Xanthan was there
because it was the—very similar material. So we
were just going on what the previous, you know,
decision was made and, you know, we don't have
any—if we had thought 605a was a better choice we
could have petitioned for that. That was really
the only reason, is that we looked for the most
similar material and it seemed to make sense that
it would go there. So if that material was
initially, you know, mislisted, you know, we have
no objection to, you know, having it on either
list. That's, you know, the basic reason was
because it seemed to make sense to us at the time.

MS. ANDREA CAROE: Okay. I'll ask for
more questions, but I just want to remind this
Board that diminimus [phonetic] processing aids,
just like Kim Dietz has just indicated, are not
what we consider and they are allowed through
other federal regulation. It's inconsistent with
other Board deliberations for us to take those
insignificant amounts and disqualify useful
materials for organic production. I think that's
kind of over and above.

Go ahead, Katrina.

MS. KATRINA HEINZE: I do want to remind
the Board that in addition to the isopropyl
alcohol or maybe separately from that is a better phrasing, that there is some discussion that the functionality of this ingredient can be slightly modified to the changes of the acetyl groups and that similar to Xanthan Gum—or is very similar to Xanthan Gum. So my belief that it's on 605b has more—is related to that.

MS. ANDREA CAROE: Would the gentleman from CP Kelco like to address the acetyl group manipulation?

RICK GREEN: I think as we pointed out yesterday, you know, in the TAP [phonetic] review they addressed that same—it doesn't really change the food identity. It wouldn't change the cas number. It's basically Gellan Gum. So, you know, it's still the same food material and I'm not sure what more detail you'd like on that.

MS. KATRINA HEINZE: It's just my point that it goes through some chemical change during that, as indicated in the TAP. Very minor. It's just some change in the acetyls.

MS. ANDREA CAROE: Tina.

MS. KRISTINE ELLOR: Yeah, I have to say
that when we originally looked at Gellan Gum I considered it to be synthetic based on that it was—there were changes in the acetyl groups. So, you know, were there changes to food identity? Is that still a chemical change? That would be my question, I guess.

RICK GREEN: I guess that would be better for a chemist to decide because chemical changes can be part of the actual, you know, the bacterial fermentation itself. So if the bacteria makes the change, you know, if there's inherent variability in the Gellan itself, is that a chemical change in processing? It's—as to whether it goes on 605a or 605b, it's really not an issue for us or for the end users.

MS. ANDREA CAROE: Tina.

MS. KRISTINE ELLOR: My question would be are the acetyl changes taking place as part of the downstream processing after the fermentation? And that would make that clear.

RICK GREEN: Well, they could take place either after fermentation or during fermentation because the amount of acetyl that's made by the
bacteria is variable. So if you have a batch
where it's got low acetyl or high acetyl, then you
don't have any further changes. You could, you
know, manipulate it further if you needed to do
that as well.

MS. KRISTINE ELLOR: Do you manipulate it
further? Do you manipulate the acetyl groups as
part of your downstream processing?

RICK GREEN: You can reduce the acetyl
groups, yes.

MS. KRISTINE ELLOR: Do you?

RICK GREEN: As to whether we do, I would
say yes. And it's really a matter of batch
variability because if you need low ethol
[unintelligible] because someone has an
application and your bacteria is producing higher
[Unintelligible.] [Phonetic.] then you can
chemically change it. But you don't necessarily
need to. And because these are biological batch
processes, it will vary. But so yes, it can be
chemically modified and if necessary we could do
that. So if that would make it a synthetic as
opposed to a nonsynthetic...
MS. ANDREA CAROE: Okay. Hue.

MR. HUBERT J. KARREMAN: Well, I think from what you're just saying, that the original change is due to the biological processing fermentation, to me then says that's a natural process because it's biological and that's your—and then occasionally you have to change it because of biological variability, but now I understand what you're saying, Katrina. But if it's due to the fermentation and that's a biological process, that to me is the basis for it to be still natural.

MS. ANDREA CAROE: Any other discussion? At this time, just to clean this up I would make the recommendation that we withdraw the present motion that's on the table and that perhaps somebody move that we deem this synthetic or nonsynthetic, however you want to word it, and vote on that portion first.

MS. KATRINA HEINZE: I withdraw my motion.

MS. ANDREA CAROE: Katrina, it's not your motion, actually. The motion on the floor—
[Crosstalk.]

MS. ANDREA CAROE: Okay. You're withdrawing your motion. Okay. Then I need also, Julie, for you to withdraw your motion.

MS. JULIE S. WEISMAN: Okay. I will withdraw my motion.

MS. ANDREA CAROE: Okay. So we have no motions on the floor at this time. All right. Anybody want to make one?

[Laughter.]

MS. ANDREA CAROE: Julie? Oh, Joe?

MR. JOSEPH SMILLIE: I'd like to move that Gellan Gum be considered as a nonsynthetic and placed on 605a.

MS. ANDREA CAROE: No. We don't want to get in the mess. Let's just deem in synthetic or nonsynthetic at this time.

MR. JOSEPH SMILLIE: I'll withdraw that. I would like to move, Madame Chair, that Gellan Gum be regarded as nonsynthetic.

MALE VOICE: Second. Okay.

MS. ANDREA CAROE: I didn't catch that. Who second?
FEMALE VOICE: Bea.

MS. ANDREA CAROE: Bea. Okay. All right. Now, we can have more discussion on this. So—

MALE VOICE: [Interposing] Madame Chairman, question to the program. Mark, would this be a decisive vote?

MARK: This should just go one way or the other.

[Crosstalk.]

FEMALE VOICE: So what do you want him to have, a majority?

MALE VOICE: Just a simple majority.

MS. ANDREA CAROE: A simple majority will do. We're not adding anything to the list at this point. We're just—

FEMALE VOICE: You're just making up your mind.

[Crosstalk.]

MS. ANDREA CAROE: I'll refrain from comment on that. Okay, so the discussion is whether—well, the discussion is on the motion that Gellan Gum is nonsynthetic. Any discussion?
Tina.

MS. KRISTINE ELLOR: I'd actually love to hear from [unintelligible] on this, if we could indulge me.

MS. ANDREA CAROE: We invite Brian Baker to the podium to give his words of wisdom.

FEMALE VOICE: State your name and affiliation.

BRIAN BAKER: Thank you. Brian Baker, research director, Organic Materials Review Institute and also former TAP reviewer, and NOSB wannabe.

I would point out to the Board that this is an important decision, whether it's synthetic or nonsynthetic and it has—there's an implicit source restriction in 605. If something is on 605a, that means that it has to be from a nonsynthetic or natural source. There are a number of items that are on 605a that can be from a synthetic or nonsynthetic source. For example, calcium chloride can be extracted from brine. It can also be produced by the [unintelligible] process. If someone were to ask to have a product
with, for example, calcium chloride, then—to be 
used in organic processing, for processing a 
produce labeled as organic, that would need to be 
documented to be a nonsynthetic source.

Similarly with Xanthan Gum, there was a 
discussion about the various different sources of 
Xanthan Gums. Many are nonsynthetic. Some are 
chemically modified by means similar to what was 
discussed. So if you decide that only the 
nonsynthetic sources of Gellan Gum are permitted, 
and it's on 605a, there is an implicit source 
restriction there that will need to be verified by 
the certifiers and by their agents. If on the 
other hand it is on 605b, it is less restrictive 
and the source is less important and these 
chemically modified Gellan Gums would then be 
permitted.

MS. ANDREA CAROE: Thank you, Brian. Any 
further discussion on the nonsynthetic nature of 
Gellan Gum? Hearing none, we will vote on this 
motion. I will restate, the motion is to consider 
Gellan Gum nonsynthetic. The motion was made by 
Joe Smillie and seconded by Bea James. And we are
starting with Dan.

MR. DANIEL G. GIACOMINI: Yes.

MS. ANDREA CAROE: Rigo?

MR. RIGOBERTO I. DELGADO: Yes.

MS. ANDREA CAROE: Jennifer?

MS. JENNIFER M. HALL: Yes.

MS. ANDREA CAROE: Jeff?

MR. JEFFREY W. MOYER: Yes.

MS. ANDREA CAROE: Kevin?

MR. KEVIN ENCELBERT: Yes.

MS. ANDREA CAROE: Hue?

MR. HUBERT J. KARREMAN: Yes.

MS. ANDREA CAROE: Tina?

MS. KRISTINE ELLOR: I'm going to say no.

MS. ANDREA CAROE: Gerald?

MR. GERALD A. DAVIS: Yes.

MS. ANDREA CAROE: Steve?

MR. STEVE DEMURI: Yes.

MS. ANDREA CAROE: Tracy?

MS. TRACY MIEDEMA: Yes.

MS. ANDREA CAROE: Katrina?

MS. KATRINA HEINZE: No.

MS. ANDREA CAROE: Joe?
MR. JOSEPH SMILLIE: Yes.

MS. ANDREA CAROE: Bea?

MS. BEA E. JAMES: Yes.

MS. ANDREA CAROE: Julie?

MS. JULIE S. WEISMAN: Yes.

MS. ANDREA CAROE: And the chair votes yes. So that is two against and thirteen in favor. Gellan Gum is now nonsynthetic.

Now, next up?

MS. JULIE S. WEISMAN: I move that Gellan Gum be added to Section 605a of the national list.

MS. ANDREA CAROE: Is there a second?

MS. JULIE S. WEISMAN: Be added, excuse me.

MR. STEVE DEMURI: Second.

MS. ANDREA CAROE: Steve. Motion is made by Julie Weisman and seconded by Steve Demuri.

Further discussion on adding Gellan Gum to 605a?

Katrina.

MS. KATRINA HEINZE: All that being said, the last [unintelligible] that we spent, this material has lots of good uses for organic products and I would ask the Board to consider
that many similar gums exist on the list and are widely used.

MS. ANDREA CAROE: I would say that that is not a criteria for 605a. It is a criteria for 605b.

MS. KATRINA HEINZE: Thank you.

MS. ANDREA CAROE: Dan?

MR. DANIEL G. GIACOMINI: I would just like to make a very quick point, but to get it on the record that the discussion that we've been having over this whole period on this item makes—the problems we had with it at the last meeting was far more than just a little bit of nonlinear issues and being late in the day and some people leaving. It's a complicated issue with a lot of possibilities. It's good we're reconsidering it but I just want to go back that for people that were critical of that decision, they look at the process that even at this point in time this is still taking.

MS. ANDREA CAROE: Well, we all feel vindicated now. Any further discussion on Gellan Gum for addition to 605a? Going, going. Okay.
Time to vote. We will start with Rigo.

MR. RIGOBERTO I. DELGADO: Yes.

FEMALE VOICE: I'm sorry. I'm having trouble.

MS. ANDREA CAROE: Jennifer?

MS. JENNIFER M. HALL: Yes.

MS. ANDREA CAROE: Jeff?

MR. JEFFREY W. MOYER: Yes.

MS. ANDREA CAROE: Kevin?

MR. KEVIN ENGELBERT: Yes.

MS. ANDREA CAROE: Hue?

MR. HUBERT J. KARREMAN: Yes.

MS. ANDREA CAROE: Tina?

MS. KRISTINE ELLOR: Yes.

MS. ANDREA CAROE: Gerald?

MR. GERALD A. DAVIS: Yes.

MS. ANDREA CAROE: Steve?

MR. STEVE DEMURI: Yes.

MS. ANDREA CAROE: Tracy?

MS. TRACY MIEDEMA: Yes.

MS. ANDREA CAROE: Katrina?

MS. KATRINA HEINZE: Yes.

MS. ANDREA CAROE: Joe?
MR. JOSEPH SMILLIE: Yes.

MS. ANDREA CAROE: Bea?

MS. BEA E. JAMES: Yes.

MS. ANDREA CAROE: Julie?

MS. JULIE S. WEISMAN: Yes.

MS. ANDREA CAROE: Dan?

MR. DANIEL G. GIACOMINI: Yes.

MS. ANDREA CAROE: And the chair votes yes. Hallelujah, we're done.

FEMALE VOICE: Let's move from Gellan Gum.

MS. ANDREA CAROE: The vote was zero against, fifteen in favor. The motion passes and I suggest that we consider taking a break for lunch. It's now 11:40 if I'm converting from California. Right?

MALE VOICE: Madame Chair, I'd like to move we break for lunch.

MALE VOICE: Second.

MS. ANDREA CAROE: Do you have a conflict of interest?

MALE VOICE: Yes.

MS. ANDREA CAROE: All right. We will
stand in recess for one hour, coming back at
12:45, no later.

MALE VOICE: Was there a second? Did I
get a second?

[Background noise.]

[END 106939-2B]

[START MZ005031]

MS. ANDREA CAROE: All right, we’ll
reconvene, and Gerald, you’re up with crops
materials for a vote.

MR. GERALD A. DAVIS: Thank you, Madame
Chairman. Yes, the first material that is on the
floor is the new petition, potassium silicate.
The first thing to point out is on the screen
versus the posted recommendation we have struck
out the plant or soil amendment item, which all
three of these categories were voted on separately
by our committee. The plan and soil amendment one
has been deleted per request of the petitioner so
it’s not on the table for vote. The remaining two
would be for plant disease control and as
insecticide. The crops committee based on public
comment we received in the discussions within the
board yesterday met on this subject last night and
one other material to discuss whether we wanted to
change our votes, reconsider, based on the
testimony. So, we did meet, and we did—there was
a motion and a second to revote on this based on
the new information we were provided and the—five
months ago when we initially considered this,
several of the crops committee members mentioned
that the strongest reason for them voting against
listing it was they couldn’t perceive there would
be that much interest in the material and that
much usefulness of it. So, that’s some of the
comments that were discussed within our committee
last night. People were saying, you know, we have
a lot more information now. We see a reason to
revote. So, the vote was taken, and it was five
yes, zero no, and one absent for listing potassium
silicate for the as insecticide category, and we
voted separately again also five zero, one absent,
to list it as plant disease control. So we will—
and that’s designated at the bottom of the form on
the screen and what transpired last night. So, I
wanted to point that out, and the remaining
question we talked about yesterday concerns the
annotation, and we didn’t decide on that last
night either way but decided to leave it open
whether there would be a motion from anyone. We
might entertain a notion to delete the annotation
just for consistency’s sake in cleaning up the
recommendation. With that I’d like to—

MS. ANDREA CAROE: [Interposing] Okay,
so exactly what is the motion? Or are you—have
you made a motion?

MR. GERALD A. DAVIS: I guess I could. I
will make the motion that we strike the
annotation.

MS. ANDREA CAROE: Okay.

MR. GERALD A. DAVIS: Which is no
industrial byproducts allowed in the manufacture.

MS. ANDREA CAROE: Let me just—I need to
clarify things. What did your committee vote on?
Was it with the annotation?

MR. GERALD A. DAVIS: We voted on it with
the annotation as is.

MS. ANDREA CAROE: Okay, then we will
discuss that and maybe amend your motion at this
point, but are you making a motion to allow this material for those two uses or do you prefer that we vote separately for each of these? I mean it seems like it was pretty consistent. Do you want to—I need a motion on the floor from the committee. The committee didn’t vote that the annotation be deleted. So, bring the motion from the committee.

MR. GERALD A. DAVIS: As is.

MS. ANDREA CAROE: And then when we discuss it, we can—

MR. GERALD A. DAVIS: [Interposing] That’s the time to bring in the question about the annotation?

MS. ANDREA CAROE: Yeah, yeah, we can discuss it on the floor.

MR. GERALD A. DAVIS: Being that we have deleted one of the categories, I would like to move that we vote on them individually. So, I would move that we—to vote on the use of potassium silicate beginning with as an insecticide to add it to the national list?

MS. ANDREA CAROE: Is there a second?
MR. JEFFREY W. MOYER: I’ll second that.

MS. ANDREA CAROE: So, the motion has been made by Gerald Davis and seconded by Jeff Moyer to add potassium silicate to 601 as a, 601E, as an insecticide.

MR. GERALD A. DAVIS: Correct.

MS. BEA E. JAMES: With the annotation.

MS. ANDREA CAROE: With the annotation that is—

MR. GERALD A. DAVIS: [Interposing] At this point, yeah.

MS. ANDREA CAROE: Can you read the annotation because my eyes aren’t—

MR. GERALD A. DAVIS: [Interposing] The annotation reads no industrial byproducts allowed in the manufacture.

MS. ANDREA CAROE: Okay, so we have a motion. We have a second. Is there discussion on this topic? Steve?

MR. STEVE DEMURI: Is it aqueous potassium silicate or just potassium silicate?

MR. GERALD A. DAVIS: As petitioned it’s aqueous potassium silicate.
MS. ANDREA CAROE: Okay, then is the motion for aqueous potassium silicate?

MR. GERALD A. DAVIS: It will need to be because that is what the petition states?

MS. ANDREA CAROE: What is the recommendation from the committee?

MR. GERALD A. DAVIS: The recommendation says aqueous potassium silicate at the top.

MS. ANDREA CAROE: Further discussion.

Now, you still have an annotation on attached, so?

MR. GERALD A. DAVIS: Correct.

MS. ANDREA CAROE: Further discussion?

MR. JEFFREY W. MOYER: There was discussion among the committee members whether or not it should be there, and there was a not a consensus. We voted on the material the way it is. There was discussion about it afterwards, and there was a split decision—part of the committee wishes to keep it on. Part of it wishes to remove it, and so that’s why it’s a point of contention and discussion here.

MS. ANDREA CAROE: Tina?

FEMALE VOICE: I believe Jerry has new
information you gathered last night about the
manufacturer of this that might affect the
annotation if I remember correctly?

MR. GERALD A. DAVIS: Well, partly in the
testimony yesterday they talked about what’s the
likelihood of slag materials, calcium Silicate,
being used to make aqueous potassium silicate, and
it’s really not possible. That’s the testimony
that I wanted to highlight so they according to
the petitioner in their comments yesterday and
they reiterated that in further conversations,
just a repeat of it, that they don’t know of any
way that aqueous potassium silicate could be made
out of calcium silicate slag.

MS. ANDREA CAROE: So, my question to you
is why even have the annotation? It’s an extra
barrier of verification.

MR. GERALD A. DAVIS: Exactly.

MS. ANDREA CAROE: But you still have it.
Nobody has made a motion to remove it so we’re
voting on it with an annotation.

MR. GERALD A. DAVIS: I understand that.

MS. ANDREA CAROE: Tina?
MS. KRISTINE ELLOR: Can I make a motion that we remove the annotation? Would this be appropriate?

MR. HUBERT J. KARREMAN: Second.

MS. ANDREA CAROE: And that is second.

Yes. So, Tina Ellor has moved to remove the annotation from the recommendation, and actually before I get to you, Hue, Gerald, do you accept this as a friendly amendment. And does your second?

MR. JEFFREY W. MOYER: I do not.

MS. ANDREA CAROE: Okay, then it’s an unfriendly amendment. Is there a second for it?

MR. HUBERT J. KARREMAN: Hue.

MS. ANDREA CAROE: Hue. I know I’m just trying to put this in. Okay, did I do that right, Dan?

MALE VOICE: Yeah. I’ll tell you.

MS. ANDREA CAROE: You know, this is not my expertise. Okay, so what we have on the table is a motion to remove the annotation from the recommendation, and so is there discussion on that?
MALE VOICE: One extra bit of information. I checked with Brian Baker just now about annotations on this material, and he points out that some of the other materials, like copper sulfate or copper do not have that sort of restriction so we wouldn’t exactly be being consistent by adding an annotation on this particular form of disease control or insecticide.

MS. ANDREA CAROE: Further discussion?

Okay, let’s vote on removing the annotation from the recommendation starting with Jennifer:

MS. JENNIFER M. HALL: Yes.

MS. ANDREA CAROE: Jeff?

MR. JEFFREY W. MOYER: No.

MS. ANDREA CAROE: Kevin?

MR. KEVIN ENGELBERT: No.

MS. ANDREA CAROE: Hue?

MR. HUBERT J. KARREMAN: Yes.

MS. ANDREA CAROE: Tina?

MS. KRISTINE ELLOR: Yes.

MS. ANDREA CAROE: Gerald?

MR. GERALD A. DAVIS: Yes.

MS. ANDREA CAROE: Steve?
MR. STEVE DEMURI: Yes.

MS. ANDREA CAROE: Tracy?

MS. TRACY MIEDEMA: Yes.

MS. ANDREA CAROE: Katrina?

MS. KATRINA HEINZE: Yes.

MS. ANDREA CAROE: Joe?

MR. JOSEPH SMILLIE: Yes.

MS. ANDREA CAROE: Bea?

MS. BEA E. JAMES: Abstain.

MS. ANDREA CAROE: Julie?

MS. JULIE S. WEISMAN: Yes.

MS. ANDREA CAROE: Dan?

MR. DANIEL G. GIACOMINI: Yes.

MS. ANDREA CAROE: Rigo?

MR. RIGOBERTO I. DELGADO: No.

MS. ANDREA CAROE: And the chair votes yes. Three against, eleven in favor and one abstention, so the motion passes. Now we have a recommendation on the table with out the annotation for the listing of aqueous potassium silicate for the use as an insecticide.

MR. GERALD A. DAVIS: Correct.

MS. ANDREA CAROE: Is there any
MR. DANIEL G. GIACOMINI: I move to amend the motion by striking the word “aqueous” and adding, I don’t have it in front of me the cast number for potassium silicate.

MS. ANDREA CAROE: Gerald, do you accept that as a friendly amendment?

MR. GERALD A. DAVIS: Considering the other possibilities of what are out there that could be used, no, I would not accept that.

MS. ANDREA CAROE: Is there a second for the unfriendly amendment? The motion dies due to lack of a second. So, we still have the motion on the table for the addition of aqueous potassium silicate for the use as an insecticide. Further discussion? Hearing none we will proceed to vote stating with Jeff?

MR. JEFFREY W. MOYER: Yes.

MS. ANDREA CAROE: Kevin?

MR. KEVIN ENGELBERT: Yes.

MS. ANDREA CAROE: Hue?

MR. HUBERT J. KARREMAN: Yes

MS. ANDREA CAROE: Tina?
MS. KRISTINE ELLOR: Yes.

MS. ANDREA CAROE: Gerald?

MR. GERALD A. DAVIS: Yes.

MS. ANDREA CAROE: Steve?

MR. STEVE DEMURI: Yes.

MS. ANDREA CAROE: Tracy?

MS. TRACY MIEDEMA: Yes.

MS. ANDREA CAROE: Katrina?

MS. KATRINA HEINZE: Yes.

MS. ANDREA CAROE: Joe?

MR. JOSEPH SMILLIE: Yes.

MS. ANDREA CAROE: Bea?

MS. BEA E. JAMES: Yes.

MS. ANDREA CAROE: Dan?

MR. JOSEPH SMILLIE: Yes.

MS. ANDREA CAROE: Rigo?

MR. RIGOBERTO I. DELGADO: Yes.

MS. ANDREA CAROE: And Jennifer?

MS. JENNIFER M. HALL: Yes.

MS. ANDREA CAROE: And the chair votes yes. Motion passes zero against, fifteen in favor. No abstentions or absentees. All right, so—
MR. GERALD A. DAVIS: The next motion I would like to bring would be to add aqueous potassium silicate to the national list as plant disease control, section 205.601i.

MR. JEFFREY W. MOYER: I’ll second that motion.

MS. ANDREA CAROE: Okay, so as I understand this exists with the annotation coming out of committee. So, I have a—so, okay, the motion made by Gerald Davis, seconded by Jeff Moyer is to add aqueous potassium silicate for use as plant disease control and with the annotation—I can’t read it. What’s the annotation?

MR. GERALD A. DAVIS: No industrial byproducts allowed in manufacture.

MS. ANDREA CAROE: No industrial byproducts, okay, so discussion on that motion?

Tina?

MS. KRISTINE ELLOR: Once again I’d like to motion that we remove the annotation.

MS. ANDREA CAROE: Is it accepted by the motioner?

MR. GERALD A. DAVIS: Yes.
MR. JEFFREY W. MOYER: No.

MALE VOICE: Seconded.

MS. ANDREA CAROE: Hold on. Jeff, no?

MALE VOICE: Sorry.

MS. ANDREA CAROE: Okay, unfriendly amendment, are we accepting it as an unfriendly amendment?

MALE VOICE: No.

MS. ANDREA CAROE: Friendly amendment no.

You said no as a second, so do we have a second as an unfriendly amendment?

MALE VOICE: Again, unfriendly.

MS. ANDREA CAROE: Yes, very unfriendly.

So, discussion on the removal of the annotation for this material recommendation—any discussion?

Hearing non, let’s vote on the removal of the annotation in the recommendation for aqueous potassium silicate for the use as—

MR. GERALD A. DAVIS: [Interposing] Plant disease control.

MS. ANDREA CAROE: Plant disease control, thank you.

[Unintelligible]
MS. ANDREA CAROE: Starts with Kevin?

MR. KEVIN ENGELBERT: Would you clarify again, what are we voting on?

MS. ANDREA CAROE: Oh, my gosh, I knew you were going to say that. We are voting to remove the annotation in the recommendation for the addition.

MR. KEVIN ENGELBERT: No.

MS. ANDREA CAROE: Hue?

MR. HUBERT J. KARREMAN: Yes.

MS. ANDREA CAROE: Tina?

MS. KRISTINE ELLOR: Yes.

MS. ANDREA CAROE: Gerald.

MR. GERALD A. DAVIS: Yes.

MS. ANDREA CAROE: Steve?

MR. STEVE DEMURI: Yes.

MS. ANDREA CAROE: Tracy?

MS. TRACY MIEDEMA: Yes.

MS. ANDREA CAROE: Katrina?

MS. KATRINA HEINZE: Yes.

MS. ANDREA CAROE: Joe?

MR. JOSEPH SMILLIE: Yes.

MS. ANDREA CAROE: Bea?
MS. BEA E. JAMES: Abstain.

MS. ANDREA CAROE: Julie?

MS. JULIE S. WEISMAN: Yes.

MS. ANDREA CAROE: Dan?

MR. DANIEL G. GIACOMINI: Yes.

MS. ANDREA CAROE: Rigo?

MR. RIGOBERTO I. DELGADO: No.

MS. ANDREA CAROE: Jennifer:

MS. JENNIFER M. HALL: Yes.

MS. ANDREA CAROE: And Jeff?

MR. JEFFREY W. MOYER: No.

MS. ANDREA CAROE: Oh, and I vote yes.

Thank you for that. Okay, I think we’re exactly the same as we were before, three, eleven, zero, three against, eleven for, and one abstention, so sorry. You’re right. So, that motion passes.

Now we have the original motion on the table for the addition of aqueous potassium silicate for addition to 205.601E as a—

MALE VOICE: [Interposing] It’s “I”.

Section “I”.

MS. ANDREA CAROE: Okay, as plant disease control. Any discussion on that motion.
FEMALE VOICE: Without the annotation?

MS. ANDREA CAROE: Without the annotation. Any discussion? All right, so the vote will start with Hue?

MR. HUBERT J. KARREMAN: Yes.

MS. ANDREA CAROE: Tina?

MS. KRISTINE ELLOR: Yes.

MS. ANDREA CAROE: Gerald?

MR. GERALD A. DAVIS: Yes.

MS. ANDREA CAROE: Steve?

MR. STEVE DEMURI: Yes.

MS. ANDREA CAROE: Tracy?

MS. TRACY MIEDEMA: Yes.

MS. ANDREA CAROE: Katrina?

MS. KATRINA HEINZE: Yes.

MS. ANDREA CAROE: Joe?

MR. JOSEPH SMILLIE: Yes.

MS. ANDREA CAROE: Bea?

MS. BEA E. JAMES: Yes.

MS. ANDREA CAROE: Julie?

MS. JULIE S. WEISMAN: Yes.

MS. ANDREA CAROE: Dan?

MR. DANIEL G. GIACOMINI: Yes.
MS. ANDREA CAROE: Rigo?
MR. RIGOBERTO I. DELGADO: Yes.
MS. ANDREA CAROE: Jennifer?
MS. JENNIFER M. HALL: Yes.
MS. ANDREA CAROE: Jeff?
MR. JEFFREY W. MOYER: Yes.
MS. ANDREA CAROE: Kevin?
MR. KEVIN ENGELBERT: Yes.
MS. ANDREA CAROE: And the chair votes yes. So, that will pass zero noes, fifteen in favor. All right. Uh, I forgot to call for conflict of interest. Does anybody have any interest that they would like to disclose as a potential conflict? Then that stands. Moving along.

MR. GERALD A. DAVIS: Moving along, the next material is sodium carbonate, peroxyhydrate, also known as—named as percarbonate to shorten it a little bit. This is the second material that the crops committee considered last evening in our meeting due to additional public comment, and discussion within the board. And for this one I’d like to turn it over to Jeff Moyer, Vice chair to
lead the discussion on this, describe what we did.

MR. JEFFREY W. MOYER: Thanks, Gerry.

Before we put a motion on the floor, Madame Chairperson, we wanted to make a couple of comments about this particular material and the process we went through as we evaluated this and then again re-evaluated it. I’d say that this crop committee if it has any prejudices at all it is prejudiced against putting synthetic materials on the national list. Given the tap review that we had to work with and the nature of the questions on the committee recommendation form that we submitted to the board, we came to the logical conclusion that this material was a synthetic material and therefore when we answered these questions, it did not pass the criteria by which to put it on the—to add it to the list. I will also say that, you know, there are materials that are already on the national list that if they were to come in front of this committee today to go through the same process, we may come to the similar conclusions. I know that was discussed yesterday that some of the materials that are
currently on the list are less safe or less easy
to handle than this particular material. That’s
not to say that this material doesn’t work for its
intended purpose because probably it clearly does
although I have no personal experience with it and
that the material isn’t safer or easy to handle.
The other issue that the committee discussed was
oftentimes this particular material is being
petitioned to use as an algicide. Oftentimes,
algae is a symptom of a much larger issue, and the
committee was certainly in favor of treating, not
treating symptoms but looking at major root causes
for particular problems. Often over-nitrification
of water causes algae bloom, and there are reasons
that you may be able to get away from not using
this material or any other for that matter. I
think the fact that our initial recommendation was
not to approve this material and now when we make
our new recommendation it will be adjusted and we
voted last night to go ahead and recommend
approval of this material should not in any way be
viewed as anything other than this process at work
in the way it was designed to work. In that as
new information comes to light through the open forum of these types of meetings, the transparency of that I think is quite appropriate. And for us to re-evaluate our decision based on that information and the discussions that we’ve had here at this board our new recommendation for this material is to go ahead and list. And I’m going to make the motion that we list sodium carbonate per oxyhydrate on 205601A as an algicide.

MS. ANDREA CAROE: Is there a second?

MS. KRISTINE ELLOR: Second.

MS. ANDREA CAROE: Thank you. That motion has been made by Jeff Moyer, seconded by Tina Ellor, or Kristine Ellor. Tina? Tina, she wants Tina, okay. All right, discussion on this motion? Steve?

MR. STEVE DEMURI: I have a question for the committee. Could this replace one of the other substances on the list that is less safe?

MR. JEFFREY W. MOYER: Sharing personally, part of my decision making on changing my vote was based on the new information coming from the petitioner that they had received
EPA approval for the use of this in rice production which in that case it would replace copper sulfate, which is far less of a good choice than this material. So, I was—this heavily weighed in my decision to change.

MALE VOICE: Steve, yeah, it could replace it. It doesn’t necessarily replace it. That would be up to the user. It does not automatically take something off the list that is already there. Somebody would have to petition to take that material off of the list based on the fact that this new material is available.

MR. STEVE DEMURI: That was my point. Somebody could petition to take something off.

MALE VOICE: That’s correct. That’s my understanding, yes.

MR. GERALD A. DAVIS: At the point of our deliberations earlier this spring in committee, originally on this material they did not have EPA approval for use in rice, and we checked on that and had no clue that it would be forthcoming during this process that they would get it.

MS. ANDREA CAROE: Just a—I want to make
sure that we all get recognized so that the
recorder is getting the names down. Bea, I
believe you had a question.

MS. BEA E. JAMES: Jeff, I just want to
make sure I understand this. Your original
recommendation you voted against adding it to the
national list, correct?

MR. JEFFREY W. MOYER: That is correct.

MS. BEA E. JAMES: Okay, and now you are
wanting to vote to add it to the list?

MR. JEFFREY W. MOYER: That is correct.

Our recommendation currently would be to go ahead
and add it to 205601A.

MS. BEA E. JAMES: Even though the form
says under six are there adverse biological and
chemical interactions in the agro ecosystems, yes;
is there potential detrimental chemical
interactions, yes; is the substance harmful to the
environment, yes?

MR. JEFFREY W. MOYER: That’s absolutely
correct, and that’s why I wanted to preface my
recommendation by stating that personally, and I
speak for some others on the committee that our
prejudice is really to not put materials that fall in this category on the national list, but—and that’s why our initial recommendation was to not recommend this material to be added to the list. However, given the new information that we heard throughout this meeting and the fact that this material could replace a much more harmful and detrimental material and actually be safer to handle and use, our recommendation is that even though it does fail the criteria, and so we did not go back and change our classification of this material. It still fails in all of the categories. We still recommend currently that it be added to 205601A. That’s correct.

MS. ANDREA CAROE: Bea?

MS. BEA E. JAMES: The replacement that you’re talking about—was that for fire blight? IS this the material?

MR. JEFFREY W. MOYER: No, this material is only for an algicide.

MR. GERALD A. DAVIS: Gerald Davis.

MS. ANDREA CAROE: Gerald?

MR. GERALD A. DAVIS: Just to try to
answer your question a little more, the
environmental hazard of this material that we
assessed from the tap is strictly a raise in pH
and alkalinity of a farm pond. That’s the
environmental impact. So, it is an impact, and we
said, yes, it does affect the environment. But in
relation to copper sulfate, for example, it’s far
less. So that’s why the apparent contradiction.

MS. ANDREA CAROE: Hold on one second,
Bea, I’ll get to you. I would caution the members
of the committees when you’re filling out these
forms, I know I was dramatically yesterday when I said
walking across the lawn is an environmental
impact, you know, you really have to be very
careful when you’re filling out these forms, if
you are filling out that there is an environmental
impact but you’ve discounted it as not being
significant enough to change your decision, to
clearly indicate that in the box that is provided.
We’ve done that before, and sometimes it’s not
significant enough to keep this product from use
in organic production. And indeed you want to
know that you haven’t ignored it. But, you know,
your rationale should clearly be on the forms as
historic record of this discussion. Barbara
Robinson, then Bea James.

MS. BARBARA C. ROBINSON: Yeah, I really
want to aboard the committee for, Jeff, for what
you did. I, you know, I understand and the board
should be prejudiced against synthetics. That is
the nature of—that is your charge by law. You are
supposed to be prejudiced against putting
synthetics on the national list. I hope you are.
That being the case, I would hope that what you do
is what Andrea has just sort of suggested is that
what you do is with the form that is preserved for
the record that even if you want to check the box,
yes, there is an adverse impact that over where we
have given you space for comments that you say
noted, but not of a significant amount to fail the
substance, or to fail the criteria.

MALE VOICE: [off mic]

MS. BARBARA C. ROBINSON: Right, because
we’re going to have to—when we go to rule-making,
this is all part of the record. This could be,
and we will have to explain to the public how did
you come to the conclusion that you did. You know, we have to explain to the public the board recommended to the Secretary to add this to the national list, but your record says it flunks. You know, it’s not enough for me to say, well, the board is inherently prejudiced against synthetics because that is—by definition you should be prejudiced against synthetics. So, if you could just please, you know, it’s all right to check the box that there’s an adverse impact, but if you could simply please in the comment section note that the adverse impact is not of a sufficient nature to have rejected by your vote.

MS. ANDREA CAROE: Okay, I have Bea, Hue, Gerald and then Valerie.

MS. BEA E. JAMES: I would also like to echo that if you are making a decision based on another material that you think is similar but has worse effects, that somehow is documented in here too because for me when I look at this if I were to vote strictly based on how you filled out this form, I would vote against it.

MS. ANDREA CAROE: Hue?
MR. HUBERT J. KARREMAN: I would just echo Bea and Barbara and also do you think that someone will petition copper sulfate to come off if this comes on besides the company that’s maybe making this? I mean do you really think that there will be people wanting copper sulfate coming off the crops list for this use?

MS. ANDREA CAROE: I really don’t know that anybody can answer because we don’t know the availability or the effectiveness. I mean there’s a whole list of factors involved with that.

Gerald?

MR. GERALD A. DAVIS: I wanted to respond to Barbara’s comments similar to the ones you made yesterday, and the committee did discuss that last night with Valerie. Our intention was to include the transcript of this discussion as part of the document. And I wanted to ask if that is sufficient or would it be more appropriate to change the—to fill in the comment section on the form itself.

MS. ANDREA CAROE: The actual recommendation is the first page of this document.
The rest of it is like as Barbara said for back-up, the rationale that led to this. So, we can move forward, and the back-up information, the following pages, can go back to committee and get filled out in more detail. I don’t think that there’s any break in protocol because without all of that, the actual recommendation is to list this material. All the rest is background. So, you know, I would suggest, you know, we take back the form and fill it out no the form because that’s the way the program is used to it. Just for the consistency of the documents they have, this is the document they need.

MR. GERALD A. DAVIS: Okay.

FEMALE VOICE: We can work with you on that. There’s time for that.

MS. ANDREA CAROE: Valerie?

MS. VALERIE FRAUCES: The committee last night seemed really prejudiced against revising the form that they had written on the date they had—they didn’t really want to revise it because they felt strongly that it stood as it was at the time. And they wanted to put an interim document
in between the final NOSB recommendation with an
explanation of their additional logic and
reasoning with the transcript cut into it. So, it
was a complete record of their original discussion
and decision and subsequent.

MS. ANDREA CAROE: I still think that the
recommendation because the vote coming out of your
committee was to list. That rationale needs to be
summarized in those papers, what the rationale was
coming out of committee. You had a positive vote
for this material, so that needs to be in there,
and if it includes dialog and testimony received
during the first part of this meeting, go ahead
and put that [Interposing] here. But again, that
form should be filled out Gerald?

MR. GERALD A. DAVIS: Message received.

MS. ANDREA CAROE: Tina? I didn’t mean
to beat you up.

MS. KRISTINE ELLOR: Yeah, and I
personally don’t have any problem, you know, once
put that way that we’re not going to actually
change our criteria but further elucidate how we
came to that decision. That’s fine with me.
MS. ANDREA CAROE: I would suggest if you need examples, I can show you about, I don’t know, 40 different petitions that we’ve done where we’ve—because nothing is black or white. It’s a whole bunch of grey. So, you need to clarify it. This vote is to list. We’re okay with this vote. Like I said, the recommendation is to list. The first page is fine. The other pages are going to go back and get filled out. The program won’t be able to move forward until they have that for clearance. That will just be backup, follow up work for the committee. Right now we still have the motion on the floor to list sodium carbonate peroxyhydrate to 601A. The motion has been made by Jeff and seconded by Tina, and we’re still in discussion on this material. It’s been a good discussion. Hearing none, let’s vote. We will start with Tina. Tina?

MS. ANDREA CAROE: Tina?

MS. KRISTINE ELLOR: Yes.

MS. ANDREA CAROE: Gerald?

MR. GERALD A. DAVIS: Yes.

MS. ANDREA CAROE: Steve?
MR. STEVE DEMURI: Yes.

MS. ANDREA CAROE: Tracy?

MS. TRACY MIEDEMA: Yes.

MS. ANDREA CAROE: Katrina?

MS. KATRINA HEINZE: Yes.

MS. ANDREA CAROE: Joe?

MR. JOSEPH SMILLIE: Yes.

MS. ANDREA CAROE: Bea?

MS. BEA E. JAMES: No.

MS. ANDREA CAROE: Julie?

MS. JULIE S. WEISMAN: Yes.

MS. ANDREA CAROE: Dan?

MR. DANIEL G. GIACOMINI: Yes.

MS. ANDREA CAROE: Rigo?

MR. RIGOBERTO I. DELGADO: Yes.

MS. ANDREA CAROE: Jeff?

MR. JEFFREY W. MOYER: You missed Jennifer.

MS. ANDREA CAROE: Oh, I’m sorry.

Jennifer, it was the wrong J. Jeff?

MS. ANDREA CAROE: Jennifer?

MS. JENNIFER M. HALL: Yes.

MS. ANDREA CAROE: Jeff?
MR. JEFFREY W. MOYER: Yes.

MS. ANDREA CAROE: Kevin?

MR. KEVIN ENGELBERT: Yes.

MS. ANDREA CAROE: Hue?

MR. HUBERT J. KARREMAN: Yes.

MS. ANDREA CAROE: And the chair votes yes. So that is one opposed, fourteen in favor, zero abstentions or absents, and that motion passes. Oh, I’m so sorry. Was there anybody that had a potential conflict of interest with that material? Okay, none. Thank you.

[off mic]

MS. ANDREA CAROE: Okay, do you have another material, Gerald?

MR. GERALD A. DAVIS: Yes, we do. The last new petition material is sodium ferric hydroxy EDTA [phonetic]. It’s misspelled on the recommendation form, Valerie. [off mic] Pardon me?

MS. ANDREA CAROE: I said that can be a technical correction.

MR. GERALD A. DAVIS: Right, okay. As mentioned yesterday, we—the committee voted six to
nothing to not list this material. It failed all
three categories substantially, not much grey area
in our opinion on this material. And due to the
EDTA molecule itself, it has lots of information
on it in the negative based on a lot of usage that
there is worldwide. I’d like to move that we vote
whether or not to list this material.

MS. ANDREA CAROE: Okay, I’m going to
help you with this one a little bit.

MR. GERALD A. DAVIS: I know.

MS. ANDREA CAROE: Just because
historically what we have—well, through the
evolution of board votes we have determined it’s
easiest always to frame a material list
recommendation as an addition. So, the motion
would be to add.

MR. GERALD A. DAVIS: To add sodium
ferric hydroxy EDTA to the national list on
205601H as a slug and snail bait.

MR. JEFFREY W. MOYER: I second that.

MS. ANDREA CAROE: There’s a second. So,
the motion has been made by Gerald Davis.
Seconded by Jeff Moyer to list sodium ferric
hydroxy EDTA on 205601H as a slug and snail bait.

MALE VOICE: [off mic]

MS. ANDREA CAROE: I believe it. Okay, so any discussion on this item? Hue?

MR. HUBERT J. KARREMAN: I’m just wondering. Wasn’t it just two years ago ferric chloride put on the list for that exact same reason, slug/snail bait?

MR. GERALD A. DAVIS: Ferric phosphate was approved by this board to be added to the list. It is still. It has not gone to rule making that I know of.

MR. HUBERT J. KARREMAN: Didn’t we vote on ferric chloride as well somewhere?

MR. GERALD A. DAVIS: It was ferric phosphate.

MR. HUBERT J. KARREMAN: Was it?

MS. ANDREA CAROE: We’ve been informed by one of our experts in the audience that is actually on the list now the ferric.

MR. GERALD A. DAVIS: I had never heard it go through the registered process and all that.

MS. ANDREA CAROE: Katrina, your fellow
board member is pointing that out to you. Tina?

MS. KRISTINE ELLOR: What we found when we looked at this, and we actually didn’t have a tap for the sodium ferric hydroxy EDTA. We had the tap for the other material is that they are pretty different. You know, we looked into it, you know, fairly intensively, and the information that came out about this particular compound caused us to reject it.

MS. ANDREA CAROE: Any further discussion? Hearing none we will proceed to vote starting with Gerald? Oh, wait, wait, wait before we vote is there anybody that would like to disclose a potential conflict of interest with sodium ferric hydroxy EDTA? Okay, now we can vote starting with Gerald. Gerald?

MR. GERALD A. DAVIS: No.

MS. ANDREA CAROE: Steve?

MR. STEVE DEMURI: No.

MS. ANDREA CAROE: Tracy?

MS. TRACY MIEDEMA: No.

MS. ANDREA CAROE: Katrina?

MS. KATRINA HEINZE: No.
MS. ANDREA CAROE:  Joe?
MR. JOSEPH SMILLIE:  No.

MS. ANDREA CAROE:  Bea?
MS. BEA E. JAMES:  No.

MS. ANDREA CAROE:  Julie?
MS. JULIE S. WEISMAN:  No.

MS. ANDREA CAROE:  Dan?
MR. DANIEL G. GIACOMINI:  No.

MS. ANDREA CAROE:  Rigo?
MR. RIGOBERTO I. DELGADO:  No.

MS. ANDREA CAROE:  Jennifer?
MS. JENNIFER M. HALL:  No.

MS. ANDREA CAROE:  Jeff?
MR. JEFFREY W. MOYER:  No.

MS. ANDREA CAROE:  Kevin?
MR. KEVIN ENGELBERT:  No.

MS. ANDREA CAROE:  Hue?
MR. HUBERT J. KARREMAN:  No.

MS. ANDREA CAROE:  Tina?
MS. KRISTINE ELLOR:  No.

MS. ANDREA CAROE:  And the chair votes no. The motion fails fifteen against zero in favor, no absent or abstentions. All right,
sunset materials?

MR. GERALD A. DAVIS: Calcium chloride, I have it in order in my book so the committee recommendation was voted on five yes, zero no, one absent, to maintain the listing of calcium chloride on the national list as a prohibited natural under section 205602C with the annotation brine process is natural and prohibited for use except as a foliar spray to treat a physiological disorder associated with calcium uptake. I’d like to move that we call this to a vote.

MS. ANDREA CAROE: Are you moving to retain this material?

MR. GERALD A. DAVIS: TO retain.

MS. ANDREA CAROE: Is there a second?

MS. KRISTINE ELLOR: Second.

MS. ANDREA CAROE: Tina. Motion has been made by Gerald Davis and seconded by Tina Ellor to retain calcium chloride on 205602C. Is there any discussion on calcium chloride? We’ve lost some members. I’d like them to come back for the vote. Tracy?

MS. TRACY MIEDEMA: Just a point of
clarification, I think in the motion we should have the annotation.

MS. ANDREA CAROE: That’s very clear.

Okay, so Gerald do you want to restate the motion?

MR. GERALD A. DAVIS: The motion is to retain calcium chloride brine process as natural and prohibited for use except as a foliar spray to treat a physiological disorder associated with calcium uptake, to retain that item and annotation on the national list.

MS. ANDREA CAROE: That is the annotation, okay. Okay, I think that’s clear.

Any further discussion on calcium chloride?

MR. GERALD A. DAVIS: I did want to highlight, Gerald Davis, one comment that was part of the aquaculture comments about a closed system aquaculture production that this material, calcium chloride, would be very important to their production system if it weren’t so severely annotated like it is. As it’s annotated at this point, they can’t use it, and it’s—the speaker said that’s not really fair and it’s just something that wasn’t really considered when this
annotation was put on this years ago.

MS. ANDREA CAROE: I’ll get to you in a second, Hue; you’re on next. There will be other materials, I suspect, when aquaculture production comes into the rule that will have to be looked at, and at that time it could be an annotation change. But we haven’t even started entering the rule-making process for an aquaculture standard at this point so there’s plenty of time before they would actually need it. So, and also you probably want some technical information about how it’s going to interact in that system as well. I think that’s good to have that in the forefront of your mind, but I don’t think that it needs to be part of your decision at this moment.

MR. GERALD A. DAVIS: Just background information.

MS. ANDREA CAROE: I agree, wonderful.

Hue?

MR. HUBERT J. KARREMAN: Yeah, I’d agree, and I think that might even come under a livestock production or health thing and therefore don’t worry about it.
MS. ANDREA CAROE: Any further discussion on calcium chloride? Okay, hearing none, where did I end up? Oh, with Steve. Wait, wait, wait, conflict of interest? Anybody have a conflict? Steve, do you have a potential conflict?

MR. STEVE DEMURI: No, I’m just getting ready to vote.

MS. ANDREA CAROE: All right, hearing no conflicts, we’ll go first with Steve. Steve.

The motion is to retain.

MR. STEVE DEMURI: Yes.

MS. ANDREA CAROE: Tracy?

MS. TRACY MIEDEMA: Yes.

MS. ANDREA CAROE: Katrina?

MS. KATRINA HEINZE: Yes.

MS. ANDREA CAROE: Joe?

MR. JOSEPH SMILLIE: Yes.

MS. ANDREA CAROE: Bea?

MS. BEA E. JAMES: Yes.

MS. ANDREA CAROE: Julie?

MS. JULIE S. WEISMAN: Yes.

MS. ANDREA CAROE: Dan?

MR. DANIEL G. GIACOMINI: Yes.
MS. ANDREA CAROE:  Rigo?

MR. RIGOBERTO I. DELGADO:  Yes.

MS. ANDREA CAROE:  Jennifer?

MS. JENNIFER M. HALL:  Yes.

MS. ANDREA CAROE:  Jeff?

MR. JEFFREY W. MOYER:  Yes.

MS. ANDREA CAROE:  Kevin?

MR. KEVIN ENGELBERT:  Yes.

MS. ANDREA CAROE:  Hue?

MR. HUBERT J. KARREMAN:  Yes.

MS. ANDREA CAROE:  Tina?

MS. KRISTINE ELLOR:  Yes.

MS. ANDREA CAROE:  Gerald?

MR. GERALD A. DAVIS:  Yes.

MS. ANDREA CAROE:  And the chair votes yes so that passes zero against, fifteen in favor, no absent, and no abstentions.  Next?

MR. GERALD A. DAVIS:  The next materials is copper sulfate for use in rice production as an algicide.  Let me read off the exact thing.  Okay, copper sulfate for use as an algicide in aquatic rice systems limited to one application per field during any 24-month period.  Application rates are
limited to those, which do not increase baseline soil test values for copper over a timeframe agreed upon by the producer and accredited certifying agent. That is section 205.601A3. It is also listed in 205.601E3, copper sulfate for tadpole shrimp control in aquatic rice systems with the same identical wording after that as I just read. Section E is as insecticide.

MS. ANDREA CAROE: Have you made a motion?

MR. GERALD A. DAVIS: I’d like to move that we vote to retain this material on the national list.

MS. ANDREA CAROE: Is there a second?

MS. TRACY MIEDEMA: Yes.

MS. ANDREA CAROE: Motion has been made by Gerald Davis and seconded by Tracy Miedema.

Discussion, Hue?

MR. HUBERT J. KARREMAN: Okay, so now I just voted for the carboxy/hydroxy, you know, that other one, right? Anyway, we all know what I’m talking about.

MALE VOICE: Cash in your scientific
1 credentials.
2 MR. GERALD A. DAVIS: Sodium percarbonate is far easier to say.
3 MR. HUBERT J. KARREMAN: I don’t use it.
4 So, now if I want to let this one go because of the previous discussion, I’d like to but then I’m worried about how long it will take for the process to get the new one on in case this is sunseted. So, I’m just curious about the program.
5 MS. ANDREA CAROE: Let me respond. This is sunset process, and if you read the procedures of the sunset process that are in the policy manual, unless you have compelling evidence to take it off—you do?
6 MALE VOICE: [off mic]
7 MS. ANDREA CAROE: You don’t have your mic on. I can’t hear you.
8 MR. HUBERT J. KARREMAN: We just had this discussion about this other product about how the product we voted on is less harmful/toxic to the environment than copper sulfate. It was just stated.
9 MS. ANDREA CAROE: We have absolutely no
information unfortunately that tells us for sure that this has the same efficacy in all situations and is a true 100% replacement.

MR. HUBERT J. KARREMAN: You didn’t mention that in the last discussion when we were voting on that other material about the efficacy and everything. You were just talking about the—

MS. ANDREA CAROE: [Interposing] As a replacement, as a replacement, Hue. In order for it to be a replacement, it’s got to be able to replace its function in all situations, and we don’t know that for sure. It may in some situations be the case, and it may in all cases, but we have not received that kind of information. Jennifer, Jeff, Gerry, Barbara?

MS. JENNIFER M. HALL: The efficacy was the point I was going to bring up, and I think we did talk about that yesterday in our communication about sunset and what it requires.

MR. HUBERT J. KARREMAN: My comment to Hue was that my understanding of the process would be that if someone has that information, they should come forward and petition the board to
remove that, but they would have to petition to
remove it. We can’t do it through the sunset
process. It would have to be petitioned to be
removed.

MS. ANDREA CAROE: Gerry?

MR. GERALD A. DAVIS: One thing to
remember even though they’re discouraging you from
following your line of reasoning, but beyond the
process of getting the other material on the list,
you also have the problem of federal EPA approval
of sodium percarbonate for rice production is only
the first step because California only has its own
EPA and it usually takes one to two years
following a federal EPA approval to get California
approval.

MR. HUBERT J. KARREMAN: But they grow
rice in Minnesota and Louisiana, don’t they. I
mean it’s not only California.

MR. JEFFREY W. MOYER: The information I
have is that the type of rice production that
requires the copper sulfate in this country is
pretty much only practiced in California.

MS. ANDREA CAROE: Barbara and then Joe?
MS. BARBARA C. ROBINSON: Jeff is right, but try to remember here you just voted on a material that hasn’t even gone through rule making. So, that’s going to take a long time to get through where as now you switching gears and you’re just voting on a sunset material. If you don’t like this material, someone has to petition to take it off, and they’ve got to bring forth a lot of evidence to justify to you why there is no longer good reason for it to be on the national list. Don’t put yourself in that position of being, you know, the judge and jury just because you listened to somebody come forward with a new material and now you want to say, good, well we’ll put the new material on and now we should take off the old material. These are two separate events that are occurring here, and we’re no where near getting sodium ferric hydroxy on the national list. You just voted to recommend it to be placed on the national list. It’s not there.

MS. ANDREA CAROE: Dan?

MR. DANIEL G. GIACOMINI: In this process of sunset, that information could have been
brought now, but in fact it wasn’t. Isn’t that correct? I mean outside of the rule making of the other thing if this had new information of a problem, for whatever reason.

MS. BARBARA C. ROBINSON: It was not available. The registration hadn’t occurred.

MR. GERALD A. DAVIS: Correct, right, right.

MS. BARBARA C. ROBINSON: As Gerald said, you know, that would have happened way back in the ANPR process anyway.

MR. GERALD A. DAVIS: Right.

MS. ANDREA CAROE: And just to make a point here for transparency this has never posted for a petition to remove. You know, you haven’t even asked for evidence to support that it should be removed or not other than sunset, which is we still need the material and there’s no new information. Okay, so just basically you’ve gotten a little bit of information from public testimony, but there hasn’t been a notice put out that this is the action this board is considering, right?
MS. VALERIE FRANCES: Let me just—you know, this may sound like we’re kind of beating you up but, you know, this is really complicated. No other board has gone through sunset yet. So, this is understandably complex what you’re doing because you’re reviewing new materials at the same time that you’re doing a sunset exercise. This is really confusing to do. So, I certainly would not want you to feel like this is—you know, why do they think we don’t get it because on this side of the table I’m sort of sitting here thinking, you know, which one are we on? Are we on the new stuff or are we on the sunset? It is difficult to do, and I think you’re doing amazingly well by the way. So...

MS. ANDREA CAROE: Steve?

MR. STEVE DEMURI: Just as a comment, sunset probably wasn’t the best term to use for this process. To me in contracting another application, sunset means it goes away unless somebody wants it to remain.

MS. VALERIE FRANCES: That’s exactly what this process is, Steve. Unless you do something
about it, it does go away.

MR. HUBERT J. KARREMAN: But we’re also being told that we have to have really compelling evidence for it to go away, and yet from what Steve is just saying about sunset, it kind of should just go away. But now we’re being forced to say, oh, we got to have this, that and the other thing to make it go away. No, it should just be going away unless we want it on there for compelling reasons.

MS. VALERIE FRANCES: That was what the ANPR process was about, and you are well beyond that is my point. You made the recommendation.

MS. ANDREA CAROE: Julie?

MS. JULIE S. WEISMAN: Also, let’s please not confuse sunset and petition process. What you need very compelling evidence for is a petition to remove something more than a petition to add it. And because of that, that—because this gets fast tracked, what we’re looking for is evidence that it is still in use, that there is still a need for it.

MS. ANDREA CAROE: Hue?
MR. HUBERT J. KARREMAN: Maybe I didn’t hear it right, but I thought it also for sunset that if we hear that there’s evidence of some other product that might be out there to replace it, we need to take that into account. Okay, that’s not the case at all with sunset?

MS. ANDREA CAROE: No, that is not the case. We should have done sunset first on voting and then the new stuff. That’s maybe what’s confusing me a little.

MS. ANDREA CAROE: Regardless, that doesn’t come into effect. You don’t consider—that would be something you would consider during a petition process. This process is—is the material still needed? If you had public comment that said we don’t use that anymore. We’ve got this other better material, then you would be able to consider it, but I mean it is very difficult and I know that this board is so diligent about their efforts that, you know, it’s hard to just stop where the sunset process stops, starts, whatever. All right, is there further, is further discussion on copper sulfate? The motion, which
was made by Gerald Davis and seconded by Tracy Miedema is to continue the listing of copper sulfate 205601A3 and 205601, there was another listing, E3. Any further discussion? Hearing none, is there any conflicts or potential conflicts of interest with copper sulfate. Hearing none we will go to vote starting with Tracy.

MS. TRACY MIEDEMA: Yes

MS. ANDREA CAROE: Katrina?

MS. KATRINA HEINZE: Yes.

MS. ANDREA CAROE: Joe?

MR. JOSEPH SMILLIE: Abstain.

MS. ANDREA CAROE: Bea?

MS. BEA E. JAMES: No.

MS. ANDREA CAROE: Julie?

MS. JULIE S. WEISMAN: Yes.

MS. ANDREA CAROE: Dan?

MR. DANIEL G. GIACOMINI: Yes.

MS. ANDREA CAROE: Rigo?

MR. RIGOBERTO I. DELGADO: Yes.

MS. ANDREA CAROE: Jennifer?

MS. JENNIFER M. HALL: Yes.
MS. ANDREA CAROE: Jeff?

MR. JEFFREY W. MOYER: Yes.

MS. ANDREA CAROE: Kevin?

MR. KEVIN ENGELBERT: No.

MS. ANDREA CAROE: Hue?

MR. HUBERT J. KARREMAN: No.

MS. ANDREA CAROE: Tina?

MS. KRISTINE ELLOR: Yes.

MS. ANDREA CAROE: Gerald?

MR. GERALD A. DAVIS: Yes.

MS. ANDREA CAROE: Steve?

MR. STEVE DEMURI: Yes.

MS. ANDREA CAROE: And the chair votes yes. Three no’s, eleven yeses, and one abstention. The motion passes. Moving along to ozone gas.

MR. GERALD A. DAVIS: Ozone gas, this is to retain the use of ozone gas under section 205601A as algicide, disinfectant and sanitizers including irrigation system cleaners. I would like to move that we retain this material on the national list?

MS. ANDREA CAROE: Is there a second?
MS. KRISTINE ELLOR: Second.

MS. ANDREA CAROE: The motion has been made by Gerald Davis and seconded by Tina Ellor to retain Ozone Gas on 205601A of the national list. Any discussion? No discussion. Hearing none, we will go straight to vote with Katrina? Oh, wait, wait, wait, anybody want to disclose a potential conflict of interest with Ozone Gas? Hearing none, now we’ll go to vote starting with Katrina.

MS. ANDREA CAROE: Katrina?

MS. KATRINA HEINZE: Yes.

MS. ANDREA CAROE: Joe?

MR. JOSEPH SMILLIE: Yes.

MS. ANDREA CAROE: Bea?

MS. BEA E. JAMES: Yes.

MS. ANDREA CAROE: Julie?

MS. JULIE S. WEISMAN: Yes.

MS. ANDREA CAROE: Dan?

MR. DANIEL G. GIACOMINI: Yes.

MS. ANDREA CAROE: Rigo?

MR. RIGOBERTO I. DELGADO: Yes.

MS. ANDREA CAROE: Jennifer?

MS. JENNIFER M. HALL: Yes.
Ms. Andrea Caroe: Jeff?

Mr. Jeffrey W. Moyer: Yes.

Ms. Andrea Caroe: Kevin?

Mr. Kevin Engelbert: Yes.

Ms. Andrea Caroe: Hue?

Mr. Hubert J. Karreman: Yes.

Ms. Andrea Caroe: Tina?

Ms. Kristine Ellor: Yes.

Ms. Andrea Caroe: Gerald?

Mr. Gerald A. Davis: Yes.

Ms. Andrea Caroe: Steve?

Mr. Steve Demuri: Yes.

Ms. Andrea Caroe: Tracy?

Ms. Tracy Miedema: Yes.

Ms. Andrea Caroe: And the chair votes yes, and that passes zero against, fifteen in favor, no abstentions and no absentees. Moving on.

Mr. Gerald A. Davis: The next material is the group of materials designated as peracetic acid. Where is my peracetic acid? There it is—sorry about that. This material is peracetic acid for use as an algicide disinfectant sanitizer.
including irrigation system cleaners, and in section A of 205601 and section I as plant disease control. I move that we retain this material on the national list.

MS. ANDREA CAROE: Is there a second?

MR. KEVIN ENGELBERT: I’ll second.

MS. ANDREA CAROE: Motion has been made by Gerald Davis and seconded by Kevin Engelbert to retain peracetic acid on the national list 205601A and I. Any discussion? Any potential conflicts of interest that should be disclosed—I did it all by myself? Hearing none, we’ll move to vote starting with Joe.

MS. ANDREA CAROE: Joe?

MR. JOSEPH SMILLIE: Yes.

MS. ANDREA CAROE: Bea?

MS. BEA E. JAMES: Yes.

MS. ANDREA CAROE: Julie?

MS. JULIE S. WEISMAN: Yes.

MS. ANDREA CAROE: Dan?

MR. DANIEL G. GIACOMINI: Yes.

MS. ANDREA CAROE: Rigo?

MR. RIGOBERTO I. DELGADO: Yes.
MS. ANDREA CAROE: Jennifer?

MS. JENNIFER M. HALL: Yes.

MS. ANDREA CAROE: Jeff?

MR. JEFFREY W. MOYER: Yes.

MS. ANDREA CAROE: Kevin?

MR. KEVIN ENGELBERT: Yes.

MS. ANDREA CAROE: Hue?

MR. HUBERT J. KARREMAN: Yes.

MS. ANDREA CAROE: Tina?

MS. KRISTINE ELLOR: Yes.

MS. ANDREA CAROE: Gerald?

MR. GERALD A. DAVIS: Yes.

MS. ANDREA CAROE: Steve?

MR. STEVE DEMURI: Yes.

MS. ANDREA CAROE: Tracy?

MS. TRACY MIEDEMA: Yes.

MS. ANDREA CAROE: Katrina?

MS. KATRINA HEINZE: Yes.

MS. ANDREA CAROE: And the chair votes yes. Motion passes zero against, fifteen in favor, no absent, no abstentions, move on.

MR. GERALD A. DAVIS: Now, we have a group of materials designated as EPA list 3 inerts
used in passive pheromone dispensers only and referred to in 7CFR Section 205601M2II. Category of use as synthetic, is section M as synthetic inert ingredients as classified by the Environmental Protection Agency, EPA, for use with non-synthetic substances synthetic substances listed in this section and used as an active pesticide ingredient in—

 Accordance with any limitation on the use of such substances. I move that we retain this designation of materials as listed on the national list.

 MS. ANDREA CAROE: Is there a second?

 MR. JEFFREY W. MOYER: I’m sorry, I’ll second that.

 MS. ANDREA CAROE: Okay, the motion has been made by Gerald Davis and seconded by Jeff Moyer to retain EPA list 3 inerts on the national list 205601M2ii. Any discussions on this motion? Dan?

 MR. DANIEL G. GIACOMINI: I would just
like at this point on the record to sort of repeat what the program said yesterday was that even with all the stuff that’s going on with EPA on this issue this still does make sense.

MS. ANDREA CAROE: Any further discussion on making sense? Any further discussion?

MALE VOICE: Cents or sense?

MS. ANDREA CAROE: Well, that’s the conflict of interest. Does anybody make cents from this? Julie?

MS. JULIE S. WEISMAN: I would like to ask a question so that it’s in the record though—not that any of us would be on the board the next time it comes around for sunset, but before that happens these things have to be petitioned whatever the four or five inerts that are actually being used, eventually they will have to be petitioned separately in order for them to continue in use. And it’s never too soon to figure out who in industry needs to be prompted to do that.

MS. ANDREA CAROE: Gerald?

MR. GERALD A. DAVIS: I had a question if
it would be appropriate for the crops committee to
take it to task to notify these manufacturers of
the pheromone dispensers to make sure they
understand what we’re trying to telegraph to them
that you guys need to get petitions in because
your material will go away in five years if you
don’t.

MS. ANDREA CAROE: I mean certainly we
outreach with community, but I think you don’t
want to be part of the petitioning process if you
want to vote on these materials.

MR. GERALD A. DAVIS: I guess what I
should have said is just make sure they get this
information, this action that we took today in
hand so that they know about it just to follow up
to make sure that they have seen it.

MS. ANDREA CAROE: Bea?

MS. BEA E. JAMES: I’d like to ask the
NOP if that would maybe come across as
solicitation for retaining.

MS. BARBARA C. ROBINSON: Well, wouldn’t
we—I guess I’m going to ask my own colleagues
here, wouldn’t we somehow be letting the public
know this through the course of our normal rule-making? Wouldn’t we be notifying the public through the sunset process that—and haven’t we already done this on the web site through the guidance, made the public aware of the fact that EPA is redesignating all of the inerts and so—and I have no problem with us certainly letting the public know that inerts are going to have to be petitioned individually in the future. But, you know, let me just ask you.

MALE VOICE: [off mic] For now it stays on, but at some point, we want to [unintelligible] things with the EPA, and we’ll be coming back to the board.

MS. ANDREA CAROE: Let the program confer on this topic.

MS. BARBARA C. ROBINSON: Okay, Rick is telling me that when we get feedback from EPA within five years, of course, we’ll be coming back to the board and asking you for — telling you how we need to get back in synch with EPA based on their new procedures. So, it will eventually all work itself out, and it will be a lot of work.
There’s no doubt about it, but I have no doubt that this is going to—and I’m sure that EPA itself is still letting people know about this.

RICK: [off mic] And for now we’ve still got the old list up.

MS. BARBARA C. ROBINSON: And for now we do, we still have the old list up and it is still valid.

MS. ANDREA CAROE: Bea?

MS. BEA E. JAMES: Just for clarification though, would it be appropriate actually for the board to contact—I mean to me it seems like it might come off as a form of solicitation to try to retain something on the national list and that if somebody wanted to know, I guess what I’m trying to confirm with you is that they should be able to find out that information off of the web site and not through the actual NOSB.

MS. BARBARA C. ROBINSON: Right, right.

MS. ANDREA CAROE: Julie?

MS. JULIE S. WEISMAN: Bea, would you feel less uncomfortable if the contact were made by an industry organization that those
manufacturers belonged to rather than specific manufacturers who might have something to gain?

MS. BEA E. JAMES: OMRI is also letting people know about this too.

MS. ANDREA CAROE: This is a very interesting topic, and as much as I’d like to talk about it, I don’t know if we want to stay here too long or if we’re ready to move on. Are you okay with that, Gerry, or do you need to—

MR. GERALD A. DAVIS: [Interposing] I would love to move on.

MS. ANDREA CAROE: This is like a future action. This is about next time sunset or sometime between here and next sunset.

MR. GERALD A. DAVIS: Let’s move on.

FEMALE VOICE: You definitely won’t be here.

MS. ANDREA CAROE: I won’t. any further discussion on these EPA list 3? Does anybody have a potential conflict of interest with EPA list 3 inert with pheromone mating disruption, whatever, none, okay. We will go to a vote starting with Bea James.
MS. BEA E. JAMES: Abstain.

MS. ANDREA CAROE: Julie?

MS. JULIE S. WEISMAN: Abstain.

MS. ANDREA CAROE: Dan?

MR. DANIEL G. GIACOMINI: Yes.

MS. ANDREA CAROE: Rigo?

MR. RIGOBERTO I. DELGADO: Yes.

MS. ANDREA CAROE: Jennifer?

MS. JENNIFER M. HALL: Yes.

MS. ANDREA CAROE: Jeff?

MR. JEFFREY W. MOYER: Yes.

MS. ANDREA CAROE: Kevin?

MR. KEVIN ENGELBERT: Yes.

MS. ANDREA CAROE: Hue?

MR. HUBERT J. KARREMAN: Yes.

MS. ANDREA CAROE: Tina?

MS. KRISTINE ELLOR: Yes.

MS. ANDREA CAROE: Gerald?

MR. GERALD A. DAVIS: Yes.

MS. ANDREA CAROE: Steve?

MR. STEVE DEMURI: Yes.

MS. ANDREA CAROE: Tracy?

MS. TRACY MIEDEMA: Yes.
MS. ANDREA CAROE: Katrina?

MS. KATRINA HEINZE: Yes.

MS. ANDREA CAROE: Joe?

MR. JOSEPH SMILLIE: Yes.

MS. ANDREA CAROE: And the chair votes yes. Motion passes zero against, thirteen in favor and two abstentions. No absentees. Thank you to the crops committee for your hard work.

Next committee on the block CACC.

MR. JOSEPH SMILLIE: Yes, Madame Chair, the certification, accreditation and compliance committee would—is going to be placing two recommendations in front of the board. The first recommendation will be on standardized certifications, which we’ll have up on the screen shortly. Basically, this was put on the CACC work plan, and we got a certain way along. Then with the help of public comments we were able to deliver a recommendation at this meeting after deferring the recommendation last October. And we feel that the public response especially from the certification sector has been very positive, and we are moving forward with our recommendation.
The principle author will walk the board through this recommendation, and after that we’ll be making a motion for acceptance.

MS. JENNIFER M. HALL: Thank you, Madame Chair. I’d like to present our recommendation on standardized certificates. Receiving public comment we also did make one modification and voted as a committee on that. So, I’d like to talk through that first if you don’t mind. And that is under 205.404d the very end of that sentence where it says or should the certification be allowed to expire—we would like to strike that. It is inconsistent language with the rest of the document and was a holdover from the expiration recommendation. So, with that modification, I would like to move that we approve the standardized certificate recommendation.

MS. ANDREA CAROE: Is there a second.

MR. JOSEPH SMILLIE: Second.

MS. ANDREA CAROE: The motion has been made by Jennifer Hall and seconded by Joe Smillie. Just for clarification, the recommendation already includes the modification that has been voted on
by the committee coming to the board.

MR. JOSEPH SMILLIE: That’s correct. It was a 6-0-0 vote.

MS. ANDREA CAROE: Okay, any discussion on the standardized certificate recommendation? Jeff?

MR. JEFFREY W. MOYER: Yeah, I just have a question for the committee. Under 205.404b5 we discussed and heard testimony today about the fact that might be burdensome. Can you respond to that in any way?

MS. ANDREA CAROE: Joe or Jennifer?

MR. JEFFREY W. MOYER: Either one is fine with me.

MR. JOSEPH SMILLIE: Yeah, I’d like to respond. It’s problematic, and why we decided the common trade name is because number one it is a common trade name, and one of the presenters the other day said, you know, we’ve got a lot of farmers with small vegetables. We call it mixed vegetables. We feel that’s acceptable. It’s gives certification agents enough flexibility to decide what’s on the report. We couldn’t go, you
know, we couldn’t get too vague, and we couldn’t get too specific. And I think I polled you actually for opinion on that too. We went around, and we could not get any good agreement on order, phylum, variety and all that, and we just felt that common trade name would be the most appropriate term to use, which gives certifiers enough flexibility in that.

MS. JENNIFER M. HALL: I would add on the restaurant end, which seems to have its own difficulty that I would suggest that it might be sufficient to attach copies of prior menus knowing that there is seasonality. That provides an audit trail if they can then produce the invoice or bill that they got for items that they’re specifically highlighting as organic. That would be sufficient as a paper trail.

MS. ANDREA CAROE: Further discussion? No further discussion? Okay, I’m not calling for conflicts on this one. It’s a recommendation. So, hearing no further discussion [crosstalk] conflicts to a recommendation? All right, are there any potential conflicts of interest on the
standardized certificate?

MR. JOSEPH SMILLIE: Just for the purpose of the record, I already declared at the beginning of the meeting that I work for a company that is very much involved in the granting of certificates, which are now becoming standardized. I do not feel like it’s a conflict of interest. However, I would like to ask the board to make that judgment.

MS. ANDREA CAROE: Do any of the members feel that there is a conflict of interest for Joe? And I agree. So, we ask that the member vote with the rest of the committee. Any further conflicts to disclose? Okay, then we will start the vote with?

FEMALE VOICE: Julie.

MS. ANDREA CAROE: Julie?

MS. JULIE S. WEISMAN: Yes.

MS. ANDREA CAROE: Dan?

MR. DANIEL G. GIACOMINI: Yes.

MS. ANDREA CAROE: Rigo?

MR. RIGOBERTO I. DELGADO: Yes.

MS. ANDREA CAROE: Jennifer?
MS. JENNIFER M. HALL: Yes.
MS. ANDREA CAROE: Jeff?
MR. JEFFREY W. MOYER: Yes.
MS. ANDREA CAROE: Kevin?
MR. KEVIN ENGELBERT: Yes.
MS. ANDREA CAROE: Hue?
MR. HUBERT J. KARREMAN: Yes.
MS. ANDREA CAROE: Tina?
MS. KRISTINE ELLOR: Yes.
MS. ANDREA CAROE: Gerald?
MR. GERALD A. DAVIS: Yes.
MS. ANDREA CAROE: Steve?
MR. STEVE DEMURI: Yes.
MS. ANDREA CAROE: Tracy?
MS. TRACY MIEDEMA: Yes.
MS. ANDREA CAROE: Katrina?
MS. KATRINA HEINZE: Yes.
MS. ANDREA CAROE: Joe?
MR. JOSEPH SMILLIE: Yes.
MS. ANDREA CAROE: Bea?
MS. BEA E. JAMES: Yes.
MS. ANDREA CAROE: And the chair votes yes. Motion passes zero against, fifteen in
favor, no absent or no abstentions. Moving on.

MR. JOSEPH SMILLIE: Madame Chair, the second item is commercial availability. Now, I know we’re a little ahead of schedule, and I will now get us caught up because we have decided—the committee met last night and decided that [crosstalk]. Everybody’s tired, that’s okay. Basically, we decided that this was an important enough item that we wanted to move forward. We received significant public comment that was number one directed toward—the most important issue it seemed the public comment very strongly felt that trying to put seeds together with 606 items, the only two things that are available in the commercial availability realm, just wasn’t perfect and wouldn’t work as a combined document. So, rather than table the entire document or defer the entire document, whichever is the correct term, Dan, we’ve decided to go back and do a rewrite of the recommendation. Basically, in that rewrite, which the principal author is going to walk you through and then we’ll make a motion for acceptance of that rewrite, we’ve gone through and
removed all reference to seed commercial
availability from that document. Again, as we
talked about yesterday, it’s just going to be more
appropriate for a specific seed document to come
forward under a joint committee between the crops
committee and the CACC committee to issue a joint
document. We did heed the warning and the plea
from the seed industry that really it’s in the
regulation already. They do not feel it’s being
enforced. We urged the program to enforce the
current regulation, and we will be coming out with
a more specific guidance document in the spring.
But for the time being, the recommendation that
you’re going to be considering today is only going
to be concerning 606. The second alteration is we
heard well the public comment from the
certification sector that a certain section of the
document was not only burdensome but possibly
misplaced in that their role was not as we had
originally in the original document sort of
proscribed. So, we’ve gone through and made
significant alterations to that section, and I’ll
let Bea walk us all through the document. Now,
you know, you will be seeing this document for the first time, but I recommend that you follow along with the document that you were issued in the book. I know it’s very hard to read the screen, but mostly it’s a question of deletion, and when we get to sections that are additions, we’ll go through that slowly.

MS. BEA E. JAMES: Thank you, Joe. Let me just get my mic up here. Valerie, I’m wondering if we can get that to 135. I think it will still stay—the whole thing will be on the screen. Most of us are at that age where our eyesight is—I’ll speak for myself anyway. Okay. Higher.

MALE VOICE: One more bump.

MS. BEA E. JAMES: 150, there you go.

Okay. So, just to, you know, Joe gave a pretty excellent summary of the changes that were made to this document, and it’s more of an editing than anything else. So, I’m just going to take you through some of those changes. The first change is obviously is the dates. This is now going to be a document that was created as of, you know, 2
a.m. last night. So, the first strike out is the
last part of the first paragraph that really has
to do with seed, and a lot of things that we
removed from this document do pertain specifically
to seed. And for a lot of the people in the
audience who are anxious to see something happen
with seed, it’s not that we’re removing these
comments from the recommendation and not planning
on doing something else with them. We will use a
lot of the comments that are in here to work in
conjunction with crops and livestock and
certification committee to come up with a separate
recommendation specifically on seed.

The next change—scroll all the way down,
Valerie, please to regulatory citations and
background. We removed 205, 204 seeds and
planting stock practice standards since this
recommendation is now separating out comments that
have to do with seed.

MR. JOSEPH SMILLIE: Bottom of page two.

MALE VOICE: thank you.

MS. BEA E. JAMES: okay, and then we go
to the discussion, and in then discussion the
first change is we didn’t want to totally remove
the fact that we acknowledge that the situation
with commercial availability of organic seed needs
to be addressed. So, we left in information
regarding that, but we’re just acknowledging it in
this document, and we’re highlighting on the last
sentence that I’ll just read the sentence.
Therefore the NOSB recommends evaluation of the
above-listed documents in order to improve the
ability to enforce 205/204 as well as
collaboration between the certification
accreditation crops and livestock committees to
review the above documents on seed and determine
the process for enforcement of commercial
availability of organic seed with a goal to
present a recommendation at the spring 2008 NOSB
meeting.

Then the last sentence is struck. The
final sentence that gives kind of a precedent to
the recommendation to come—the last part of that
sentence that has to do with seed is struck. Then
we go to the actual recommendation, and this was—

MR. JOSEPH SMILLIE: [Interposing] Top
of page four.

MS. BEA E. JAMES: Okay, we didn’t really receive any comments regarding A in the recommendation, so we left the recommendation for training from the NOP and we added in that it should include a review of NOP’s current and any new courses of action for determining commercial availability as well as review procedures for proactive steps that the applicant or certified operator takes to generate. And then the last part of that sentence is struck because it has to do with seed. Section B of the recommendation, the ACA’s role, this is where we get into quite a few changes. So, in B1, the first part of that change is really to—that we took out the reference to seed and that we changed some of the wording a little bit so that documented claims should be accompanied by supporting evidence demonstrating the organic forms of the ingredient or material. And then moving on after the end of that sentence to that we heard from the public that they really didn’t want any kind of a proscriptive direction on how to do that, so we opened that up a little
bit and said examples of such evidence include but are not limited to test data, market reports, third party research, reports on local growing season and letters from suppliers.

We left in the note that acknowledges that the global market is the universe of supply for agricultural ingredients, but we removed all of the reference specifically to seed. Any questions in B1? Okay, going to B2, not a lot of changes here, mostly taking out comments that refer to seed and that we heard in public comment that the proscriptive recommendation to ask for multiple detailed results wasn’t favored by a lot of the certifiers, and so we changed multiple to various and instead of saying should changed it to could. So, it’s documentation could include various detailed results commensurate with known supply of the applicants effort to contact credible sources of ingredients or materials. And then the rest of that is the same except the removal of seed. Any questions on B2?

Okay, moving to B3, so okay, so this is where we heard most of the opposition from public
comment, and that’s the whole idea of ACA’s notifying certification applicants or certified operators with proper lead time, sources of information. A lot of the public comment that we heard yesterday felt that was in some way consulting, which certifiers are not supposed to do. So, we changed that wording so that it is the ACA will maintain and keep accessible sources of information, which lists available, organic ingredients or materials if the certifying agent finds that such sources exist. And we left it at that and we struck the topic of the expectation and lead time. And if you want to explain why we struck.

MR. JOSEPH SMILLIE: Just repeat [off mic]

[crosstalk]

MR. JOSEPH SMILLIE: What I would like to do is accept, you know, my amendments or word changes at this point.

MS. ANDREA CAROE: Unfortunately, what’s being presented is committee-voted on recommendations.
MR. JOSEPH SMILLIE: You’re absolutely right.

[off mic]

MS. BEA E. JAMES: We didn’t have a full agreement on that.

MS. ANDREA CAROE: We can just—I mean we have a voted-on document, Jennifer, and I know there was a lot of changes that were made. So, maybe that’s something we can discuss after the motion is made at the board level. Certainly those things can be done.

MS. BEA E. JAMES: That’s okay. Did you ask that I repeat three?

MS. ANDREA CAROE: I’d just like you to repeat three in its totality.

MS. BEA E. JAMES: Okay, so B3 is ACA’s will maintain and keep accessible sources of information, which list available organic ingredients or materials if the certifying agent finds that such sources exist. That’s it. Everything else is out of there.

Okay, B4 so here we also heard quite a bit of comment as far as keeping an up to date
listing so we made some changes to this point so that it wasn’t so prescriptive. So, I’m just going to go through and read this piece mill paragraph here. ACA’s will keep an up-to-date listing of certified organic 205.606 ingredients. This list will be maintained and submitted to the NOP annually by the ACA for the NOP to collate into a master list of materials and ingredients that are available in organic form. It is recommended that the database of all materials and ingredients will be maintained by the NOP or other NOP-appointed organizations. So, the main opposition that we heard around this was that the certifiers didn’t feel that it was their job to actually maintain this list, and there’s also several concerns around the NOP’s ability to actually keep a database if they do this work. But we didn’t strike the entire thing because we really feel that this is the way to go, and we also changed it so that it is more in the positive instead of keeping a list of all of the granted non-organic items that we’re asking for certified organic 205.606 ingredients.
MR. JOSEPH SMILLIE: My understanding is this was not a change to the current requirements under the NOP—that is a publicly-accessible list of certified products. My understanding is that certification agencies report that currently so it’s nothing new.

MS. BEA E. JAMES: Okay, the last—one of the last ones here, B5, we did receive public comment asking us to pretty much strike five in its entirety, but as a committee we felt it was important to maintain the whole idea of proactive steps that the applicant should be required to do. So, we softened the language a little bit. The main change is that we’re asking that the NOSB would like to recommend that the NOP consider requiring a plan to include detailed documentation of proactive steps that the applicant or certified operator is taking to generate the organic form of commercially unavailable organic ingredients or materials striking seed. So, the language prior to that was very prescriptive, and so now we’re really leaving it up to the NOP to make that final decision, and we’re giving them the recommendation
that we would like to see this happen. Six stays
the same, and the only other thing that changed is
our vote. We passed this document around with
these changes. Everybody voted. We had six yes,
zero no, and I moved and Joe seconded.

MR. JOSEPH SMILLIE: We have that in
writing.

MS. ANDREA CAROE: So, is there a motion?

MS. BEA E. JAMES: Yes, I would like to
move that we accept the edited recommendation that
is now dated for November 30, 2007, for further
guidance on the establishment of commercial
availability criteria.

MS. JULIE S. WEISMAN: Second.

MR. JOSEPH SMILLIE: Second.

MS. ANDREA CAROE: Julie beat you. So, we
have a motion made by Bea James for the further
guidance on the establishment of commercial
availability criteria document dated November 30,
2007, and that was seconded by Julie Weisman.

Discussion? And I’ll start off—just a couple of
reminders. This is a guidance document not rule
change language, and I will also reiterate what we
said yesterday that the urgency in this matter is that this is the protection of the use of 606 materials. This is what restricts the use of 606 materials, a consistent application of commercial availability. So, we felt that with a robust list of materials on 606 it was necessary to have that level of scrutiny on those materials. Hue?

MR. HUBERT J. KARREMAN: I think the content is fine. It’s just the technicality is if it’s a guidance document can you use the word “will” instead of “shall?” That’s all I’m asking. That was my only question.

MS. ANDREA CAROE: You certainly can use the word “will,” but you can’t be—it’s not binding. Right, I mean this is about clarifying the intent of what is due diligence on a commercial availability effort.

MR. HUBERT J. KARREMAN: The only reason I ask is when we were trying to pass some guidance on other things earlier with livestock, I think we were cut back on the word “shall” to “should.” I just want to make sure it’s right going in. Otherwise, it’s fine. I like it.
MS. ANDREA CAROE: Well, those changes could be made at another rendition of this if it was necessary, or we can make the changes here if you have specific ones that you’re interested in. Since we’re in discussion now, we can look at amending this document. Jennifer?

MS. JENNIFER M. HALL: Yes, I would like to go to the original page four. I guess it’s under the recommendation letter B, number 3, the first sentence. Is that it? Two changes, the end of the first line where it says “or” I’d like that to be an “and,” ingredients and materials. Number three. [off mic] No, you were right. [off mic]

MALE VOICE: Item three, yeah, the first line.

MS. JENNIFER M. HALL: At the end of that very first line on number three, “or” should be “and.” And I would like to strike everything after materials.

MS. ANDREA CAROE: This is—Valerie, you should be putting this in track.

MS. JENNIFER M. HALL: Yeah.

MS. ANDREA CAROE: Are you making a
motion for an amendment to this document?

MS. JENNIFER M. HALL: I would like to
move that the document be amended.

MS. ANDREA CAROE: And is that being
accepted as a friendly amendment by the motioner?

They’re in conference.

[crosstalk]

MS. BEA E. JAMES: I accept the change to
say organic ingredients and materials, but I
reject the strike of the last part of that
sentence.

MS. ANDREA CAROE: Okay, there’s a
motion. You have to accept or reject.

MS. BEA E. JAMES: Reject.

MS. ANDREA CAROE: You reject it. Is
there a second as an unfriendly amendment?

MR. HUBERT J. KARREMAN: Yes, second.

MS. ANDREA CAROE: Okay, so there is a
motion on the table for an unfriendly amendment
that will alter B3. Is there any discussion
around that amendment? Joe?

MR. JOSEPH SMILLIE: Yeah, I think the
reason why the “if” the certifying agents find
that such source exists, it may or may not, and this binds the ACA’s that we’ll maintain the access of all available materials. If it’s not there for whatever reason, you know, they still have to comply, and I’d like to let them—I’d like there to be a way that is not so—I’d like to make it more flexible. That’s all it is.

MS. ANDREA CAROE: Bea?

MS. BEA E. JAMES: Jennifer, can you explain why you want to remove that last part of the sentence?

MS. JENNIFER M. HALL: Yes, I actually think that it clears it up. It’s just maintaining a list of sources. For me, that last phrase actually makes it more incumbent upon them that they’re looking for something specific, not a general guide of where to find information.

MS. ANDREA CAROE: Hue, did you have something?

MR. KEVIN ENGELBERT: It’s just is the second part of that sentence redundant? It is? Okay, well that rearrangement in my mind.

MS. ANDREA CAROE: Further discussion?
Rigo?

MR. RIGOBERTO I. DELGADO: There is a comment here asking if the last part of that sentence is redundant, and my opinion is that it’s not because if you take it away you’re actually forcing the ACA to have those sources of information. And the way I’m interpreting what the committee wants is to give more flexibility as to whether those sources should be there or not—just a point of clarification.

MS. ANDREA CAROE: Further discussion?

Kevin?

MR. KEVIN ENGELBERT: I think it’s just semantics. To me if they don’t exist, they can’t keep a record of it. That’s why it seems redundant to me, Rigo.

MS. ANDREA CAROE: Further discussion?

Bea?

MS. BEA E. JAMES: Well, I guess I think it’s better to be slightly over redundant since we oftentimes end up in conversations over words like and, of, the, it, and we spend days trying to talk about that. So, for me it clarifies it more,
which is one of the things that I have found is important to do when writing recommendations.

MS. ANDREA CAROE: Before we go on, just you know I know at this time of the meeting we usually get loud in the audience, but we’re really trying to concentrate on these little details. And I ask if you have conversations to take them outside. Is there further comments, questions, or discussions on this amendment? Bea?

MS. BEA E. JAMES: I also want to remind my fellow board members that yesterday when we went through this document that the NOP expressed that they were in support of trying to get a document to them on commercial availability. This is not—I mean it will go to the NOP and from there the final, final will come from them. So, just…

MS. ANDREA CAROE: Further comments?

Further discussion? None. Okay, so the motion that we are voting on right now is the motion to amend the recommendation. The motion was made by Jennifer and seconded by Hue, and that is to amend item B3 by removing the word “or” and replacing it with “and” and then removing “if the certifying
agent finds that such sources exist.

MR. JOSEPH SMILLIE: Point of order.

MS. ANDREA CAROE: Joe?

MR. JOSEPH SMILLIE: I’m not sure how this is handled under Robert’s rules of order, but we did accept as a friendly amendment the change from “or” to “and.”

MS. ANDREA CAROE: You can’t accept part of a motion. The motion included both of them. So, again is there any further discussion on the amendment. Hearing none, let’s vote on the amendment. That’s to change the recommendation starting with Dan.

MR. DANIEL G. GIACOMINI: No.

MS. ANDREA CAROE: Rigo?

MR. RIGOBERTO I. DELGADO: No.

MS. ANDREA CAROE: Jennifer?

MS. JENNIFER M. HALL: Yes.

MS. ANDREA CAROE: Jeff?

MR. JEFFREY W. MOYER: No.

MS. ANDREA CAROE: Kevin?

MR. KEVIN ENGELBERT: Yes.

MS. ANDREA CAROE: Hue?
MR. HUBERT J. KARREMAN: Yes.

MS. ANDREA CAROE: Tina?

MS. KRISTINE ELLOR: Yes.

MS. ANDREA CAROE: Gerald?

MR. GERALD A. DAVIS: Yes.

MS. ANDREA CAROE: Steve?

MR. STEVE DEMURI: No.

MS. ANDREA CAROE: Tracy?

MS. TRACY MIEDEMA: No.

MS. ANDREA CAROE: Katrina?

MS. KATRINA HEINZE: No.

MS. ANDREA CAROE: Joe?

MR. JOSEPH SMILLIE: No.

MS. ANDREA CAROE: Bea?

MS. BEA E. JAMES: No.

MS. ANDREA CAROE: Julie?

MS. JULIE S. WEISMAN: No.

MS. ANDREA CAROE: And I vote no, but I’m irrelevant. Okay, one, two, three, four, five, six, seven, eight, nine, ten — ten against, five in favor. No abstentions. No absentees. The motion fails. So, the original document is back on. So can we remove the track changes? Okay, the
motion on the floor is to accept the recommendation. The motion was made by Bea James, seconded by Julie Weisman. Discussion on the recommendation? Katrina?

MS. KATRINA HEINZE: I’d like to make a friendly amendment that the “or” is stricken and replaced by “and.”

MALE VOICE: Second.

MS. ANDREA CAROE: Is the amendment accepted by the motioner as friendly?

MS. BEA E. JAMES: Yes.

MS. ANDREA CAROE: And by the seconder?

MS. JULIE S. WEISMAN: Yes.

MS. ANDREA CAROE: Okay, so it is a friendly amendment, we don’t need a second. Okay, discussion on the removal of the word “or” and the addition of the word “and,” adding “and.” Any discussion on that? Bea?

MS. BEA E. JAMES: We have throughout this document ingredients or materials on several of the sentences, and so I’m just wondering if this is truly the only place that the board would like to see this change? Sorry, but, you know,
for consistency’s sake.

    MS. ANDREA CAROE: Dan?

    MR. DANIEL G. GIACOMINI: I don’t want to be too picky here, but if you’re combining early, early grade math and some language logic when you— if you look at what you’re talking as two circles being two sets of things with one being ingredients and the other being materials and you have an overlap in those two circles and those two sets, use of the word “and” is the area over the overlap, the area where both of them are at the same time. The use of the word “or” is the entire area of the two sets. I think what we’re looking at here in that sense and what the intent of that sentence is — is for the entire area of the two sets being the “or” and not simply the overlap area being “and.”

    MS. ANDREA CAROE: Barbara?

    MS. BARBARA C. ROBINSON: In other words, as we say down in OGC where I went to beg for your livestock document—

    MALE VOICE: [Interposing] Thank you, thank you.
MALE VOICE: And grovel she did.

MS. BARBARA C. ROBINSON: --the word “or” implies “and.” So, if you use the word “or” you get them both anyway. [crosstalk] So, if you leave it as “or” you get “and.”

MS. ANDREA CAROE: Katrina?

MS. KATRINA HEINZE: Thank you, Dan, for reminding me how much I love Venn diagrams. I would like to remove my friendly amendment. Is that the right language?

MS. ANDREA CAROE: You have withdrawn it. You don’t even have to accept it. She’s withdrawn it. It’s done. It’s over with. So, we are back to the original motion that we started with like 25 minutes ago.

MS. TRACY MIEDEMA: Madame Chair, I would like to call for the question.

MS. ANDREA CAROE: The question has been called. All right, the votes will start with Rigo.

MR. RIGOBERTO I. DELGADO: Yes.

MS. ANDREA CAROE: Jennifer?

MS. JENNIFER M. HALL: Yes.
MS. ANDREA CAROE:  Jeff?
MR. JEFFREY W. MOYER:  Yes.

MS. ANDREA CAROE:  Kevin?
MR. KEVIN ENGELBERT:  Yes.

MS. ANDREA CAROE:  Hue?
MR. HUBERT J. KARREMAN:  Yes.

MS. ANDREA CAROE:  Tina?
MS. KRISTINE ELLOR:  Yes.

MS. ANDREA CAROE:  Gerald?
MR. GERALD A. DAVIS:  Yes.

MS. ANDREA CAROE:  Steve?
MR. STEVE DEMURI:  Yes.

MS. ANDREA CAROE:  Tracy?
MS. TRACY MIEDEMA:  Yes.

MS. ANDREA CAROE:  Katrina?
MS. KATRINA HEINZE:  Yes.

MS. ANDREA CAROE:  Joe?
MR. JOSEPH SMILLIE:  Yes.

MS. ANDREA CAROE:  Bea?
MS. BEA E. JAMES:  Yes.

MS. ANDREA CAROE:  Julie?
MS. JULIE S. WEISMAN:  Yes.

MS. ANDREA CAROE:  Dan?
MR. DANIEL G. GIACOMINI: Yes.
MS. ANDREA CAROE: And I vote yes, and
the motion passes zero again, fifteen in favor,
zero absent and zero abstentions. Good job.
MR. JOSEPH SMILLIE: Thank you, Madame
Chair. Thank you, board.
MS. ANDREA CAROE: All right, the last
vote item for—Hue?
[off mic]
MR. HUBERT J. KARREMAN: Might as well
finish up the voting. This won’t take too long I
hope. Okay, the livestock committee would like to
recommend that the board accepts the agriculture
working group’s interim final report on bivalves
and mollusks, that we receive their report as we
did their early report at State College. We’re
receiving it. We’re going to keep working it.
Nothing is set in stone. It’s just so we can
officially work with it as the livestock committee
and keep on working with AWG as well. So, that
was a long motion wasn’t it? I’d like to move
that we accept the AWG’s interim report on bivalve
mollusks.
MR. JEFFREY W. MOYER: I second that motion.

MS. ANDREA CAROE: Second, okay. So, the motion has been made to accept the Aquaculture Working Group interim final report on bivalve and mollusk on the [unintelligible].

FEMALE VOICE: We know what you mean.

MS. ANDREA CAROE: Yeah, but I’ve got to say it. The motion has been made by Hue Karreman to accept the interim final report on bivalve and mollusk of the Aquaculture Working Group, and that has been seconded by Jeff Moyer. Is there discussion on the motion? Joe?

MR. JOSEPH SMILLIE: Just how you’re proceeding on the committee—how does that get attached to what we currently have? Are you going to look at that and recommend at the Spring meeting or in the future that it be added to our current recommendation?

MS. ANDREA CAROE: Do you want me to answer?

MR. HUBERT J. KARREMAN: If Madame Chair would answer that since she knows the history of
the whole document.

MS. ANDREA CAROE: What happened the last time we received the report. Then the report is discussed in committee for a recommendation to be generated. So, this is just receiving the report. Then the livestock committee will take it and there will be a second recommendation for further rule making for standards for mollusks and bivalves. So, it’s an additional standard, an additional—

MR. HUBERT J. KARREMAN: [Interposing] It will be kind of part of the new agricultural standard that’s being created now by the NOP. As we sit here they’re working on it. I know that. [laughter]

MR. JOSEPH SMILLIE: You’ve got shares in the bridge too, right?

MR. HUBERT J. KARREMAN: no, but you know, what was passed in March is technically at the NOP level now, and we’re just kind of adding on to that after we work as a committee and vote on the bivalve mollusks hopefully in the spring as well.
MR. JOSEPH SMILLIE: And in the same way the net pens & fish meal issue will also be discussed, recommended, and added to it so that once the NOP has the full package of Aquaculture reports, then they’ll proceed or do you feel they’re proceeding?

MR. HUBERT J. KARREMAN: Oh, I have high hopes that they will proceed with what we’ve already sent them already.

MR. JOSEPH SMILLIE: Okay, good enough.

MR. HUBERT J. KARREMAN: I have hope, maybe not high hope. We sent, we voted on something in March. We—it is at the NOP level now to create Aquaculture regulations, standards for agriculture, and now the feed and net pen issue that we had our symposium on we will be sending further recommendations on. Then when we are done with the bivalve mollusks we will send more recommendations all within Aquaculture.

MS. ANDREA CAROE: Joe?

MR. JOSEPH SMILLIE: May I address the NOP in asking are they going to proceed to look at this in piecemeal fashion or is their expectation
to get the second of two parts of what will be a
three-part recommendation and move forward on the
total package?

MS. BARBARA C. ROBINSON: We’re poor.
You know, the coffers are empty. I’ll be honest
with you. We have not begun to do any rule-making
on what you’ve sent us so far. So, I can’t answer
your question, Joe, because we haven’t begun to do
any work. We’ve been working on livestock. So,
you know, if we get a budget and we can get some
more people.

MR. JOSEPH SMILLIE: That’s good.

MS. ANDREA CAROE: Any further discussion
on accepting this mollusk and bivalve report.
Hearing none I will call for the last vote of the
day starting with Jennifer?

MS. JENNIFER M. HALL: Yes.

MS. ANDREA CAROE: Jeff?

MR. JEFFREY W. MOYER: Yes.

MS. ANDREA CAROE: Kevin?

MR. KEVIN ENGELBERT: Yes.

MS. ANDREA CAROE: Hue?

MR. HUBERT J. KARREMAN: Yes.
MS. ANDREA CAROE: Tina?

MS. KRISTINE ELLOR: Yes.

MS. ANDREA CAROE: Gerald?

MR. GERALD A. DAVIS: Yes.

MS. ANDREA CAROE: Steve?

MR. STEVE DEMURI: Yes.

MS. ANDREA CAROE: Tracy?

MS. TRACY MIEDEMA: Yes.

MS. ANDREA CAROE: Katrina?

MS. KATRINA HEINZE: Yes.

MS. ANDREA CAROE: Joe?

MR. JOSEPH SMILLIE: Yes.

MS. ANDREA CAROE: Bea?

MS. BEA E. JAMES: Yes.

MS. ANDREA CAROE: Julie?

MS. JULIE S. WEISMAN: Yes.

MS. ANDREA CAROE: Dan?

MR. DANIEL G. GIACOMINI: Yes.

MS. ANDREA CAROE: Rigo?

MR. RIGOBERTO I. DELGADO: Yes.

MS. ANDREA CAROE: And the chair votes yes. The motion passes zero against, fifteen in favor, no absent and no abstentions. And at this
point we can take a little break. It is now what

ten of three.

MALE VOICE: One hour ahead.

[break]

[crosstalk]

MS. ANDREA CAROE: It’s time. Last call.

It’s the last chance.

[crosstalk]

ELECTION OF NEW OFFICERS

MS. ANDREA CAROE: All right, let’s get
back into session. At this time we are prepared
to do election of our officers.

FEMALE VOICE: What about recognition of

[unintelligible]?

MS. ANDREA CAROE: It’s already done.

So, let’s start with the secretary position, and I
open it up to the board for nominations for
secretary. Bea?

MS. BEA E. JAMES: I nominate Katrina
Heinze.

MR. JOSEPH SMILLIE: Second.

MS. ANDREA CAROE: And there’s a second.

Is there any other nominations for secretary?
Hearing none, we will do voice vote for the position of secretary. All those in favor of Katrina Heinze as secretary say aye.

MIXED VOICES: Aye.

MS. ANDREA CAROE: All those opposed same sign. Abstentions? Congratulations, Katrina.

Congratulations, I’m sure you’re going to do a fabulous job. Your organizational skills will go far in the position of secretary, and I’m so—I bet Bea is just like in tears because she is not going to be doing that work any more. Katrina?

MS. KATRINA HEINZE: I have quite impressive shoes to follow, and I’m honored by everyone’s confidence and railroading.

MS. ANDREA CAROE: Okay, I now open up the floor for nominations for vice chair. Hue?

MR. HUBERT J. KARREMAN: I’d like to nominate Jeff Moyer for vice chair.

MS. KRISTINE ELLOR: I’d like to second.

MS. ANDREA CAROE: Who seconded that? Tina, okay. Hue, Tina—any other nominations for vice chair? Joe?

MR. JOSEPH SMILLIE: I’d like to nominate
Julie Weisman.

MS. ANDREA CAROE: Is there a second?

MR. STEVE DEMURI: I’ll second.

MS. ANDREA CAROE: Any further nominations for the position of vice chair? Tracy?

MS. TRACY MIEDEMA: I’d like to nominate Dan Giacomini.

MALE VOICE: Second.

MS. ANDREA CAROE: Okay, any further nominations for vice chair? I close the nominations, and we will pass around—there’s—

FEMALE VOICE: [Interposing] Everybody has got little post-its. Can you repeat the—

MS. ANDREA CAROE: [Interposing] The three nominees are Jeff Moyer, Julie Weisman, and Dan Giacomini.

[crosstalk]

MALE VOICE: Do they go to the new secretary?

MS. ANDREA CAROE: No, they go to me.

[crosstalk]

MS. ANDREA CAROE: Congratulate the new
vice chair, Jeff Moyer.  [applause]  Moving along to the nominations for chair.

MR. KEVIN ENGELBERT:  I’d like to nominate Rigoberto.

MS. ANDREA CAROE:  Rigoberto.

MR. KEVIN ENGELBERT:  Rigoberto Delgado, the user-friendly name, Rigo Delgado.

MS. ANDREA CAROE:  Is there a second?

MR. HUBERT J. KARREMAN:  I’d like to second for Rigoberto Delgado.

MS. ANDREA CAROE:  Any other nominations for the position of chair?

MS. TRACY MIEDEMA:  I’d like to nominate Jerry Davis.

MR. DANIEL G. GIACOMINI:  Second.

MS. ANDREA CAROE:  We have a nomination for Gerald Davis.  Any other nominations for the position of chair?  Okay, I close the nominations, and I ask everybody to vote.  We have two candidates, Rigoberto Delgado and Gerald Davis.

[end MZ005032]

[start MZ005033]

MS. ANDREA CAROE:  My congratulations and
condolences to your new chair, Rigoberto Delgado.

[applause]

MR. RIGOBERTO I. DELGADO: Well, Madame Chair, thank you very much, or I should say no thanks. But I do want to appreciate your support, colleagues and friends and yours, Madame Chair.

If my memory doesn’t fail, which is not often, I think you are the first woman chair person.

MS. ANDREA CAROE: No.

MR. RIGOBERTO I. DELGADO: Oh, well there you go it fails again, but nonetheless, I would like to personally recognize you and appreciate all of your help. You have not only been a good friend but a good mentor, and I am the first one to recognize that. Your shoes are extremely big, and it’s going to be very difficult to fill them in a good sense.

MALE VOICE: You’ll look funny walking around in high heels.

MR. RIGOBERTO I. DELGADO: Very, very funny I’m sure, but what I would like to emphasize the big lesson that we got from you was having an environment of exchange of ideas, aggressive
sometimes but overall constructive, and I look forward to continuing with that legacy working with my friends and fellow members of the board and also with the NOP and members of the public. I think that the common ground here is love for the industry, respect for the public and the brand, and I appreciate your support. Thank you.

[applause]

COMMITTEE WORKPLANS

MS. ANDREA CAROE: All right, the next item on our agenda, and we are way ahead of schedule, which I feel no guilt over the last three days but the committee work plans. So, we can do them verbally now, but then I ask the committee chairs to send them to Rigo when you return to your place of business. So, starting with in no particular order, crops.

MR. GERALD A. DAVIS: Of course, on our work plan will always be new petitions as they arise. We expect some. Some were turned back for further information and work from the program. So, we expect at least those back plus some more maybe. On our work plan has been the idea of a
report on the state of hydroponics or organic
hydroponics if there is such a thing and if we
should get involved as a board in making
standards. I expect to have a progress report at
the next meeting. Also, the collaboration with
the CAC on the organic seed recommendation that
was mentioned here at this meeting. And also
since we have a renowned mushroom expert on the
crops committee now, we want to open up the
previous mushroom recommendation and standard and
see if there are any improvements or work that can
be done on that.

MS. ANDREA CAROE: Does that conclude
your work plan?

MR. GERALD A. DAVIS: That concludes my
work plan.

MS. ANDREA CAROE: Thank you so much.

MR. JOSEPH SMILLIE: We will spend a lot
of effort working on the multi-site certifying
operations with multiple production units, sites
and facilities issues that’s obviously a huge
issue in the community. We will, as we have before, seek community input and we will work diligently to hopefully come up with a recommendation for the March meeting. I think that’s appropriate.

MS. ANDREA CAROE: Okay.

MR. JOSEPH SMILLIE: And again we will be working with the crop committee on seed availability and bringing what we just deleted as starter material for that. There may be more issues that arise, but that’s currently the work plan.

MS. ANDREA CAROE: Thank you. Moving along—handling committee.

MS. JULIE S. WEISMAN: Every meeting I am able to cross one or two items off this list, and somehow at the end of every meeting there are more items on it than when the meeting started. That being said, I have on my list continued work on the definition of materials, which we will continue to work jointly with the materials committee and we look forward to absorbing the work of the industry working group that appears to
be coalescing on this issue. For materials for sunset review we have one little orphan that we must deal with at the next meeting, which is tartaric acid. I believe that’s all the materials that we still have lingering for sunset. Review of petitioned materials, we have three recent petitions. We have—okay, we have four materials on for 605. One is calcium from seaweed. One glucosamine hydroxide. We have Propionic acid still open, but that was sent back for a tap. I don’t know what that means given what we’ve heard, and then I also have yeast on this list as to we need to clarify the status of the petition. There was a lack of clarity at this meeting as to what—and we need to hammer that down. On 606 one other petition that I think is also still lingering, there was a petition deferred at the spring meeting for the movement of nominated low methoxypectin [phonetic], and we deferred it because at the time we were giving priority to 606 items ahead of the Harvey court deadline and pectin having a place already on the list we didn’t think that it was going to drop out—that
the industry would lose access to it so we do have
to return to that as well. For 606, we have 15
items. I would like to read them into the record
just because I think it’s better if we have one
more place where people will go and know that this
is what we’re looking at. The 15 that are
currently reviewed by NOP and are now at the
handling committee are Chinese thistle daisy,
black paper, camu camu [phonetic] extract powder,
caramel color—we’re going to have to call that
something else, chickory [phonetic] root extract,
Codonopsis [phonetic] root extract, ginger root
extract, jojoba fruit extract, marsala cooking
wine—let’s go for that, peony root extract,
polygala root extract, poria fungus extract,
Rehmannia root extract, sherry cooking wine, and
tangerine peel extract. That is it for 606 items.
We have on our work plan, and I really hope we can
wrap this up in the spring is the review of the
pet food standards. We will consult with the pet
food task force and the livestock committee as
needed. We also have here the issue of flavor
guidance, and I want to keep that on our work
plan. We have food contact substances, and a new
item that got added to our list today is
fortification of food. And that’s it for
handling. That’s quite enough.

MS. ANDREA CAROE: Thank you, Julie. I
think you should have fun with that. Materials?

MR. DANIEL G. GIACOMINI: Thank you,
Madame Chairman. The materials committee’s work
plan at this point in time course, the first item
will always being following and tracking of all
petitions and sunset items with one special note
being along with handling a—working with handling
and the program to clarify the status of the
petition on yeast. The second item is to continue
in the process of the definition or classification
of materials. We have the list of people
interested in helping us through a working group,
and one significant 2A if you would like on that
item being specifically to hopefully maybe have a,
possibly have a recommendation on a non-AG
definition. Item number three, we will continue—
the materials committee will continue to
collaborate with the NOP regarding a process to
have access to information only contained in the CBI petitions regarding commercial availability to be able to place items on the national list with consideration of maintaining confidentiality of the information within the guidelines of the OGC.

MS. ANDREA CAROE: Thank you, Dan. Rigo, policy committee?

MR. RIGOBERTO I. DELGADO: We have three items, Madame Chair, the first one is to complete a database of recommendations. The NOSB will continue working closely with NOP and Valerie to do so. We have several updates to the new member guide. Remember, it’s a living document. One of the updates includes the creation of a link to the final recommendation list as was suggested by public comment, and also as suggested by board members we would like to include a list of common technical sources used by committees to review and acquire information for the review process. And updates to the policy manual we have pending another review of the flow of the document to make sure that it makes sense from a structural point of view. And I believe that concludes the list of
pendings.

MS. ANDREA CAROE: Last but not least livestock and don’t tell me dockets.

MR. HUBERT J. KARREMAN: No, actually I need to thank Barbara again for that docket publically.

MS. BARBARA C. ROBINSON: Because I went down to OGC and begged for your docket.

MS. ANDREA CAROE: I really think you need to get her a pair of knee pads because she’s spending a lot of time on—

MR. HUBERT J. KARREMAN: [Interposing] Well, it’s great. Things are getting done.

Anyway, that was nice to hear at the beginning of the meeting, and we also heard from the agriculture symposium so of course we will be working on that. As far as the two issues, net pens and fish meal, fish oil, also compost for ponds and aquatic edible plants, and that’s going to be in our work plan all kind of under I guess agriculture and also the bivalve mollusks. So, aquaculture is going to keep us going, but that will give us our priority. We do have actually
two materials that we need to look at, fenbendazole [phonetic] which is a parasiticide as was said in public comment, and we hope to have a recommendation for the spring for that. And potentially a second material if they send in a petition for methionine because I’m sure we’re going to be hearing about that, okay, but nothing officially has been done yet. And we really can’t act on it unless the poultry people submit a petition. Right?

Okay, now with the poultry in play, also we would like to look at the outdoor access of poultry in poultry houses and what not because I think we need to do that. And last but not least, of course, and that outdoor access kind of ties in to what Kathleen Merrigan [phonetic] and Margaret Wittenberg [phonetic] brought up, our animal health and welfare, or I should say animal health and care issues. I think I liked that term, whoever said that, animal care. It’s a politically, you know, whatever-neutral. So, we’re going to look into that as well. So we have four things, aquaculture, the fenbendazole
[phonetic], the poultry, and the animal health and care. That should keep us going for the next few years. That’s it.

MS. ANDREA CAROE: Thank you, and with that—what? Joe?

MR. JOSEPH SMILLIE: And bees? What’s the situation with that? Is that livestock?

MR. HUBERT J. KARREMAN: I believe it would fall under livestock, but I think Nancy Ostiguy [phonetic] was holding that torch and I haven’t heard anything from her lately.

MR. JOSEPH SMILLIE: She’s not on the board anymore you know.

MR. HUBERT J. KARREMAN: I know that, and I’m not trying to duck that, but honestly that issue that’s the first I’ve heard that issue in a full year, Joe. Seriously.

MR. JOSEPH SMILLIE: Oh.

MR. HUBERT J. KARREMAN: And I don’t think that was on the work plan. If it has been, I apologize, but I don’t think it has been. Would you like it to be?

MR. JOSEPH SMILLIE: Yes, I would.
MR. HUBERT J. KARREMAN: Can do. That will be number five.

MR. JOSEPH SMILLIE: I’d like you to consider it because I think that, you know, we’re seeing a lot of interest in it and a lot of frustration and again bees have been in the news a lot lately. I think [crosstalk], not that Bea.

MR. HUBERT J. KARREMAN: Not the Queen Bea, the regular bees. Okay, I’ll put that on there, no problem.

MS. ANDREA CAROE: Any additions or comments on the work plans? Once again, please send them to your chair so that can be put together as the entire board’s work plan. So, now other business, is there any other business? Bea?

OTHER BUSINESS

MS. BEA E. JAMES: Well, I would like to just officially thank Andrea for her dedicated and hard work as a very hard-working member of the board as well as an excellent chair, and I want to acknowledge that as chair Andrea really helped bridge and bring together all of the people that are on the board and keep the peace amongst all of
the differing opinions. And that is actually quite a huge accomplishment because as you know we all are very opinionated and have our own ways of communicating. So, I want to acknowledge on behalf of the rest of the board and thank Andrea for her time. And she will be dearly missed.

[applause]

MS. ANDREA CAROE: You’re very welcome.

Is there any other other business? Valerie?

MS. VALERIE FRANCES: I just want to raise a small issue, and I’m sorry to do it. It’s a work plan issue, and I know it’s going to come up if we don’t at least talk about it right now, which is the pasteurized almonds.

MS. ANDREA CAROE: I don’t know exactly that is, you know, that has been brought up before.

MS. VALERIE FRANCES: I just want to make sure it gets discussed a little bit.

MS. ANDREA CAROE: I just want to say that again going back to what I said in the very beginning, I guess Tuesday or Wednesday morning is this board is in maintenance and interpretation of
this regulation I’m not quite sure how this board
has an action in that other than to watch.
Barbara?

MS. BARBARA ROBINSON: I spoke with Bea
about this, but I have already said that I would
like to go back and speak with Lloyd Day first
since there has been a meeting about this. I
haven’t had any juice in my blackberry for the
past couple of days so I haven’t been able to talk
to him about it. But, you know, let me pursue
this a little bit first before I talk to the board
about it. And then I will get back with you about
it. I understand that some board members have
concerns because some members of the organic
community have a concern about this. But let me
follow up because there have been some meetings.
It is a program area in AMS, but there’s another
deputy administrator. Before I go treading on
another colleague’s of mine, before I go treading
on his turf, I’d like to do a little homework and,
you know, then I’ll come back and talk with you.
But let’s, you know, there’s ways to do it. Let
me—I have to do a little homework on this issue
first.

MS. ANDREA CAROE: Thank you. Any other business.

[off mic]

MS. ANDREA CAROE: We have not set a date for the spring meeting, and I assume what we’ll do as we’ve done in the last couple where the program will float dates to the board. So, I mean I know that in the past when I first started on this board, we used to pick the dates at the end of the meeting. But I believe that it’s worked out better that the dates were floated and we did that by e-mail when we all had our calendars in front of us. Other further other business? Okay, closing remarks? I just wrote down a couple of notes. I wanted to talk to the board about what I’ve learned in five years. And it’s very interesting. This is—no, this is going to be quick. The first thing that I learned and I watched it with you members this meeting as you were doing your work, bringing your work to the table, the first thing I learned was humility on the first time I attempted to draft a
recommendation and it was torn apart by my committee and then put together where I think there of the words were my original words after it was done, and then torn apart in public comment, and then put back together again, and the second thing that I learned after that is it ain’t personal. It just ain’t personal. Don’t take it that way. It works out. Nobody is—it’s about the product and not about you and your work. And people appreciate what you’re doing. The third thing I learned is how little I actually know. I come in to an issue puffed up thinking this is a no-brainer, I can whip this out, I know exactly what the issues are, and I never did know a tenth of what was at stake. I learned that through the process, so do your best but know that you don’t know everything, and you’ll learn it through the process. The next thing I learned was stamina to get through and finish a meeting at, you know, 8:00 at night. You know, I learned how to pace myself and I learned how to get through it. You know, you guys got a crash course this meeting, and I appreciate you sticking with me. The next
thing I learned was patience, and I forgot that pretty quickly. So, for a split period of time I had patience, but that’s really hard to keep. And a couple more things. I learned what passion is, listening to the folks that aren’t thinking about these issues as theoretical or regulatory concerns but thinking about them as their livelihood and about their mission to further organic for all kinds of different reasons. So, I learned that by listening to testimony, and that is a wonderful thing that I take away from this position on the board. And lastly, I have experienced great gratitude, which is the pay for this job. It’s well worth it. It’s well worth it, and I thank you all for your support. And I’ll be around. [applause] And with that I entertain a motion to adjourn.

MS. BEA E. JAMES: Motion to adjourn.

MS. ANDREA CAROE: Is there a second?

MR. JEFFREY W. MOYER: I’ll second that motion.

MS. ANDREA CAROE: All those in favor say aye.
1      MIXED VOICES: Aye.
2      MS. ANDREA CAROE: All those same sign.
3 This meeting, this fall meeting of the NOSB is
4      adjourned.
5      [crosstalk]
6      [END TRANSCRIPT]
CERTIFICATE OF TRANSCRIBER

IN RE: National Organic Standards Board Meeting

HELD AT: Arlington, VA

DATE: November 27-30, 2007

The prior proceedings were transcribed from audio files and have been transcribed to the best of my ability.

[Signature]

Date: 1/11/08
CERTIFICATE OF TRANSCRIBER

IN RE: National Organic Standards Board Meeting

HELD AT: Arlington, VA

DATE: November 27-30, 2007

The prior proceedings were transcribed from audio files and have been transcribed to the best of my ability.

[Signature]

Date: 11/11/07
The Meeting of the National Organic Standards Board convened in the Chesapeake Room, Holiday Inn Inner Harbor, Baltimore, MD, pursuant to notice, at 11:00 a.m., Rigoberto Delgado, Chairman, presiding.
BOARD MEMBERS PRESENT:

RIGOBERTO I. DELGADO, CHAIRMAN
JEFFREY W. MOYER, VICE-CHAIR
KATRINA HEINZE, SECRETARY
HUBERT J. KARREMAN
KEVIN ENDELBERT
JENNIFER M. HALL
JULIE S. WEISMAN
DANIEL G. GIACOMINI
GERALD A. DAVIS
KRISTINE ELLOR
TRACY MIEDEMA
JOSEPH SMILLIE
STEVE DeMURI
BARRY FLAMM
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National Organic Program

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Organic Agriculture Movements

Harriet Behar
National Organic Coalition

Leslie Zuck
Executive Director
Pennsylvania Certified Organic

David Guggenheim
Aquaculture Development
CHAIRMAN DELGADO: So, we do have quorum and I'm calling the -- the meeting will come to order.

And on behalf of my colleagues, and as Chair of this Board, I want to welcome all of you to this, the 36th meeting of the National Organic Standards Board.

At this moment, Board members, I'm assuming you had time to review the agenda, and I want to call for any changes or comments on your part.

(No response.)

Hearing none, I will call for a motion to approve the agenda as is printed.

MEMBER HALL: I move to accept the agenda as printed.

VICE-CHAIR MOYER: I second that motion.

CHAIRMAN DELGADO: It is moved and seconded to approve the agenda for today as
printed. And we will take a vote viva voce.

Those in favor say aye.

(Chorus of ayes.)

Those against?

(No response.)

Okay, we have an agenda. Thank you very much.

By way of a welcome, I just want to say how proud I am of all the Board members. For the past four months, we have worked extremely hard. We have some changes in deadlines. And I want to appreciate that work.

I know we all were extremely focused on our work plans. We were able to resolve our differences of views in a extremely constructive manner. And I think we were able to work and participate with the program and the public in a most productive of ways. In short, I think this Board is a working unit to be proud of.

You might not know this, Board
members, but we clocked over 100 conference calls in the last four months. Each one of those calls was for sure at least two hours. We had several participants, in some cases up to 10 or more participants in those calls. There were heated debate going on.

And it doesn't take a lot of knowledge to make the math and realize that we accumulated very close to a thousand hours. I know you hate me to say this, and I consider myself the MBA, in-house MBA, but if you put numbers to those hours, pretty soon they add up to several thousands, if not millions, of dollars.

But the important thing is that all this is volunteer work, and that is highly appreciated. I know that's time away from your work, added pressure to your agendas, and most importantly, it is time away from your families. So thank you very much for that.

Right, a quick announcement on my part: our Board member, Mrs. Bea James, won't
be able to join us for personal reasons, so she sends her apologies.

And I would also like to introduce our newest member of the Board, Mr. Barry Flamm. We are very happy to have him. He has been with us for several months now, but that hasn't kept him from being an active member. He is actually forms part of the -- he is the Chair of the Policy and Development Committee, and I appreciate your effort, courage, and dedication, Barry.

Right, on that note, we can proceed on to introductions, unless there are other announcements.

MEMBER HEINZE: Catherine has asked that we remind the public, if you haven't signed in in the registration book, to please do so, so we know who has attended. Thank you.

CHAIRMAN DELGADO: Any other announcements?

(No response.)
Okay, let's proceed with introductions, and we will start on the window side of the aisle with Dr. Hugh Karreman, please.

MEMBER KARREMAN: Good morning. Thank you, Rigo.

My name is Hubert Karreman. I'm -- I sit in the Environmentalist/Resource Conservation seat on the Board. In daily life, I am a dairy veterinarian, working with organic dairy farms in Lancaster County, Pennsylvania, and I've been doing that for the last 12 or 13 years and --

MEMBER ENGELBERT: Thank you, Hugh and Rigo.

I'm Kevin Engelbert. I'm a farmer representative on the Board. I operate a 120-count dairy farm in upstate New York. We've been organic for about 30 years.

I want to thank my sons, as I always do at these meetings, for carrying the load for me while I am away from the farm,
especially during this crucial month of the year for us.

I sit on the Livestock Committee, the Crops Committee, and the Materials Committee. I am very, very honored to be in this role. Thank you.

MEMBER HALL: Hi, I'm Jennifer Hall. I live in Spokane, Washington, and I sit on the Board as a consumer representative on both the Livestock and the Certification Committees.

In my regular life, I direct an effort right now to open a consumer co-op in Spokane, Washington.

MEMBER DeMURI: Hi, everybody. My name is Steve DeMuri. I hold one of the handler positions on the Board.

For fun, I work for Campbell's Soup Company, and there I direct organic manufacturing for our company.

I have been on the Board now for about a year and a half, and it has been an
honor to be on this Board.

MEMBER WEISMAN: My name is Julie Weisman. I'm the other handler on the Board. I'm currently the Chair of the Handling Committee, and this is my -- it's the beginning of my fourth year. Time flies when you're having fun.

In my regular life, I am an owner of Elan and Flavorganics, which involves me in flavor ingredients, both organic and conventional. I am also the mother of two girls who I would -- I hope to get to a meeting before the end of my term.

MEMBER GIACOMINI: My name is Daniel Giacomini. I sit in one of the consumer seats.

I'm from the Bay Area in California, and my daily -- the rest of my daily work is now taken up with issues of the Board. I am also an animal nutritionist and dairy consultant.

And I sit on the Board -- this is
my third year on the Board. I'm Chairman of
the Materials Committee and on the Livestock
Committee.

MEMBER HEINZE: Good morning. I'm
Katrina Heinze. I am in a scientist slot on
the Board with formal training in chemistry.
I also have the honor of being the Secretary
for the Board.

I'm a long-time active organic
consumer and mother of two children. So this
certainly fits some personal passions.

Like everybody else, my day job, I
work for General Mills in our Regulatory
Affairs Group and have most of my experience
in food safety and manufacturing.

CHAIRMAN DELGADO: Before we
continue, I would just ask you, when you
finish talking, please turn off your
microphones. That will avoid the echo that we
are listening to. Okay?

VICE-CHAIR MOYER: My name is Jeff
Moyer. I hold a farmer position on the Board.
My day job is the Farm Director for the Rodeo Institute, a 333-acre research and education facility in Pennsylvania.

I am on the Livestock Committee. I'm the Vice-Chair of the Crops Committee. I'm on the Materials Committee, and I'm the Vice-Chair of the Board.

Thank you.

MEMBER DAVIS: I am Gerald Davis. I am a producer representative on the Board and the Chair of the Crops Committee, and I'm on the Handling Committee.

I work for Grimmway Farms in California. Long-time, 15-year organic farm advisor and agronomist.

MEMBER ELLOR: I'm Tina Ellor. I'm filling one of the environmentalist slots on the Board. I've had the honor this year of working with the Crops Committee and the Livestock Committee, and I can't tell you how much I've learned and how nice it is to see so many familiar faces out there.
MEMBER MIEDEMA: Good morning. I'm Tracy Miedema. I live in Oregon and work for a sustainable and organic farm there and manage the Consumer Products Division, and I sit in the consumer -- one of the three consumer and public interest seats.

My committee work is Handling Committee and Certification, Accreditation, and Compliance.

MEMBER SMILLIE: My name is Joe Smillie. I hold the certifier seat on the NOSB. I'm Chair of the Certification, Accreditation, and Compliance Committee and a heavily-worked member of the overworked Handling Committee.

(Laughter.)

I have been a certifier officially since about 1998. I'm the Senior Vice President of Quality Assurance International.

Before that, I was an organic inspector for a number of organizations. I was a consultant specializing in industrial compositing and
orchard management. And before that, I was an organic farmer.

I have been on the Board for three years and, you know, like everyone else, the reason -- one of the reasons I took the CACC job was because that was the Committee that didn't have much work, and I thought, well, I've got a pretty heavy work schedule, so I'll try that one. But that was a mistake because all of a sudden we got a load of work.

So I just want to testify what everybody else has said, that serving on the NOSB is a real commitment and it takes a lot of time. A lot of the people on this Board spend a lot of time doing reviews and many of the other tasks we have. It's an amazing Board to work for.

We have definitely differences of opinion all the time, but we work really well together as a group, and I'm especially proud of that fact.

MEMBER FLAMM: As Rigo announced,
I'm the newcomer on the Board.

I live in Polson, Montana on the beautiful Flathead Lake. I always have to do a little advertising for Montana.

I have spent my life, vocation and avocation in conservation, particularly in natural resources and environmental work.

On the Board, as Rigo mentioned, I am currently Chair of the Policy and Development Committee. I also serve with Joe on the CAC Committee and also the Crops Committee.

I, my -- briefly, my background, as I mentioned, is in conservation and natural resources, environmental work. Currently, I am primarily an international consultant on conservation in different parts of the world.

And I just recently sold my organic cherry and apple orchard.

And I'm extremely pleased to be part of the NOSB and have worked with a great group of people. I'm real happy to be here.
and hear your comments and meet you individually.

CHAIRMAN DELGADO: Well, thank you very much.

I do want to make an announcement. Board members and members of the public, if we do hear a cell phone go off, we'll take your name down and you will have to buy drinks for all the members of the Board. So please take this time to turn those off.

I would like also to continue -- thank you very much for -- with members of the program, if you were kind enough to introduce yourselves and tell us something about your background. Then if we can start with Dr. Robinson?

MS. ROBINSON: Oh, I'm sorry, what do you want?

CHAIRMAN DELGADO: Introductions, please.

MS. ROBINSON: I'm sorry.

Barbara Robinson, Deputy
Administrator for Transportation and Marketing Programs and presently the Acting Director for the National Organic Program.

Do you want me to introduce the whole staff, or do you want --

On my right is Richard Mathews. To his right is Katherine Benham, then Toni Strother. On my left is Mark Bradley. Next to Mark is Bob Pooler, and next to Bob is Shannon Nally -- at your service.

CHAIRMAN DELGADO: And lastly, we have our Executive Director, Ms. Valerie Francis. Could you tell us something about your background and the most funniest thing that has happened in the last three hours?

(Laughter.)

MS. FRANCIS: Long-time organic person, nutritionist by training, worked on farming, marketing, retail, wholesale, research, a lot of different activities, certification even more recently.

And glad to be here. This will be
my third year in this role, and it has just
been a blast. I love working at the Board.

And the funniest thing that has
happened in the last three hours is we've had
a heck of a time with our projector. And so
we are trying to get that worked out, but it
has just not wanted to cooperate. So we have
a back-up plan for later. I don't know how
funny that is.

CHAIRMAN DELGADO: Thank you, Valerie.

Okay it's part of the tradition
here on the Board is for the Chair to read the
Board's mission, and that is what I am going
to do at this point. It reads as follows, and
it is found in the Policy Manual:

The mission is to provide effective
and constructive advice, clarification, and
guidance to the Secretary of Agriculture
concerning the National Organic Program and
the consensus of the organic community. All
right?
And let's move on, then, to the Secretary's report. Dr. Heinze, if you would be so kind?

MEMBER HEINZE: Okay. It has been a while since anybody has called me "doctor". It's a little bit shocking.

Okay we have two matters to take care of as part of the Secretary's report. One is the meeting transcripts from our November meeting, and the other is our meeting minutes. So we'll take those in order.

So I have -- I believe the transcripts are in order and there's no discussion unless anyone on the Board has discussion on the transcripts.

(No response.)

Okay, hearing none, I move that we accept the November 2007 meeting transcripts.

CHAIRMAN DELGADO: Any second?

MEMBER ELLOR: Second.

CHAIRMAN DELGADO: It is moved and seconded to accept the November 2007 meeting
transcripts.

Discussion?

(No response.)

All right, ready for the question?

The question is on the motion to accept the November 2007 meeting transcripts, and we'll take a viva voce vote.

All those in favor please say aye.

(Chorus of ayes.)

All those against?

(No response.)

Okay, the motion is approved here.

Any abstentions?

(No response.)

Thank you for the correction.

None. So, thank you.

We'll continue on.

MEMBER HEINZE: Okay, the second matter is the November 2007 meeting minutes. Typically, that is a combination of the Secretary's minutes as well as the vote summary. Due to the transition in Secretary
and a technical error, the Executive Committee has not voted on the vote summary. So we'll have to handle those at our next meeting. So this is just the minutes from our November 2007 meeting.

Any questions or discussion on those?

(No response.)

Okay. I move that we accept the November 2007 meeting minutes.

VICE-CHAIR MOYER: I'll second that.

CHAIRMAN DELGADO: It is moved and seconded to accept the November 2007 meeting minutes.

Any questions? Discussion?

(No response.)

Hearing none, we are ready for the question. The question is on the motion to accept the November 2007 meeting minutes, and we'll again take a viva voce vote.

All those in favor please say aye.
(Chorus of ayes.)

All those opposed say no.

(No response.)

Any abstentions?

(No response.)

Okay, the motion is approved.

MEMBER HEINZE: That ends the Secretary's report.

CHAIRMAN DELGADO: Thank you very much.

Well, it is 11:29, and it is now the turn for the National Program to provide us with their report. And I'll ask Dr. Robinson to do so at this point.

MS. ROBINSON: Good morning.

First of all, I would like to welcome Dr. Flamm to the Board.

Barry, we certainly do appreciate you accepting this appointment. And we have for you a plaque and your letter of appointment, signed by Secretary Edward Schafer. So I want to present that to you now.
with appreciation for accepting the call to serve the Nation and the United States Department of Agriculture as a member of the National Organic Standards Board.

(Applause.)

Okay. Well, we've had some good things happen to us this year. One was we got a lot of extra money. And with this program, every little bit helps.

The FY08 budget increase was almost a 100 percent increase in our budget, which for the size of this budget is -- I guess you could say that's not saying much, but for us we jumped up and down for joy. We're up to $2.6 million in program funding.

And last fall, when I talked with you -- with the Board and with the industry -- I told you that we were going to make some changes if we got some new money, and so we have. At that time I talked with you about trying to increase transparency in this program. So we think that we are on the road
to doing that.

    I also told you that we would probably, you know, scrape our knees a little bit when we did it. But we have done some -- made some changes, and I am pretty pleased with those.

    Because of the additional funding that we have received, we are now to the point we have been able to actually create some structure in this program. Whereas, before we always had kind of the situation that I like to call, you know, seven or eight people, just, you know, get up there and do some work, now we have been able to create three branches in the program for the first time.

    We have a Standards Review and Development Branch. We have a Accreditation, Auditing, and Training Branch, and we have a Compliance and Enforcement Branch.

    Rick Matthews heads up the Standards Review and Development Branch. Mark Bradley heads up the Accreditation, Auditing,
and Training Branch, and at the moment we don't have anyone heading up the Compliance and Enforcement Branch.

But for the moment, and until we fully get staffed up, we are trying to staff up to 15 or 16 people this year, and we hope that we will be able to do that. For the moment, if you are in either the Accreditation, Auditing and Training Branch or the Compliance and Enforcement Branch, my expectation is that you wear both hats.

We also have changed our website, which I am sure -- in fact, I know -- that many of you have noticed. We now look like the USDA home page. If you've ever been on that site, we now look like that.

We have been waiting a long time to be able to do that. So we're very happy that we now look like the USDA home page, and we had to come into compliance with that directive.

But when we did that, it enabled us
to take advantage of some things and begin to
create what I talked to you about last fall,
which was to start to build more transparency
and create this glass house for the NOP to
begin to publish everything that we can
publish for this program and put it on the
website.

So we are beginning to publish all
the information that we can relative to our
certifying agents. We started something
called NOP Access, where we are trying to put
up questions and answers that we receive from
outside parties.

We know that you are reading it
because you let us know where we don't do it
right. I'm not going to apologize for the
website or for the fact that you point out our
mistakes because that lets me know you are
reading. So I'm very happy for that.

Like I said before, Access is new.
The website is new. Like anything new, it's
not perfect. We'll get there.
We are engaged in equivalence discussions with Canada. We have had two technical meetings with them. We are coming up on a third discussion with them. We are very optimistic and we remain so. It is a priority for us because it is a priority for you. So it is high on our list of things to accomplish.

Yesterday I met with officials from Japan, after they were meeting with representatives from the U.S. Trade Representative's Office. We presented them with a letter of recognition. So they are now one step closer to requesting equivalency discussions with us as well.

We understand that they have removed restrictions on potassium bicarbonate and lignin sulfonate. They still have problems with fumic acid. That will be a problem if they request equivalency discussions with us.

We understand that the EU has also
backed away from their concerns about potassium bicarbonate as well, which is good.

As for regs, the materials dockets are moving through clearance, as they need to be, and we will get them done. The sunset dockets, everything will move through and get there on time.

The pasture rule is still working its way through clearance, and we remain optimistic that we will have something for the industry.

That's all that we have for the NOP update, unless you have questions.

CHAIRMAN DELGADO: Are there any questions? Kevin?

MEMBER ENGELBERT: Two questions, Barbara: Do you have any idea what the pasture rule is going to look like? Will it resemble the NOSB recommendations at all?

Two, where does the origin of livestock stand?

MS. ROBINSON: We're writing the
origin of livestock rule right now, Kevin. We haven't put it through clearance yet, but we are writing it.

Yes, I do know what the pasture rule will look like because we wrote it, not to be flippant or anything, but I do know what it will look like.

What was the other part of your question? Will it look anything like the NOSB recommendation? Yes, it will meet everyone's needs. Yes.

CHAIRMAN DELGADO: Any other questions for Dr. Robinson?

Kevin, was that clear? Satisfied?

(Laughter.)

Never mind. Well, we'll move on.

Mr. Smillie?

MEMBER SMILLIE: Any timeline on the head of the third branch of the NOP, for hiring that person?

MS. ROBINSON: I'm hoping this summer.
CHAIRMAN DELGADO: Any other questions? This is your chance.

MS. ROBINSON: Oh, it's not your only chance. I'm here for the whole meeting.

CHAIRMAN DELGADO: Absolutely. Yes, I must recognize that, and thank you for participating with us every month on the conference calls. You have been extremely supportive, and I want to recognize that.

Very well. Thank you very much for your report.

MS. ROBINSON: You're welcome.

CHAIRMAN DELGADO: And it is 20 before the hour. That concludes our first section of the meeting. The next part is very interesting. It is lunch. So we'll take a recess and come back at quarter to 1:00.

We have a total of 47 public commenters. We'll start with Mr. Ed Maltby. We need to be here promptly. So I'll ask you to be here at quarter before the hour.

Yes? Is the room going to be
locked? Can we leave our valuables here? It will be locked and you can leave your valuables.

Yes?

MS. FRANCIS: Rigo, I'm not sure we can really start before we say we're going to start when it comes to accepting comment, to be sure that a commenter does not miss their opportunity.

CHAIRMAN DELGADO: I stand corrected. You're absolutely right. So we'll start at the listed time, which is one o'clock local time.

Any other clarifications? Questions?

(No response.)

Okay, we are in recess.

(Whereupon, the foregoing matter went off the record for lunch at 11:38 a.m. and went back on the record at 1:05 p.m.)
CHAIRMAN DELGADO: Okay, we're ready to start.

We are now into the second part of our program for today, which is public comment.

Before starting, however, I would like to read the policy for public comment that is stated in our Policy and Procedures Manual. It has seven points and I will read all of them, starting with No. 1.

"All persons wishing to comment at NOSB meetings during public comment periods must sign up in advance." And that has happened.

"A person will be called upon to speak in the order they sign up. Unless otherwise indicated by the Chair, each person will be given five minutes to speak.

"Persons approaching the Board should give their names and affiliations for
the record." And I will be reminding all speakers of that.

I'll just skip to the next one.

"No person will be allowed to speak during the public comment period for more than 10 minutes."

And the most crucial I think is the following: "Individuals providing public comment will refrain from personal attacks and from remarks that otherwise impunge on the character of any individual on the Board or the members, on the program, or the public."

So I'll be asking that of the public, and I'll be very careful with that.

All right, on that note, we have some other groundrules on the part of our Secretary.

MEMBER HEINZE: Part of my duties as Secretary are to assist those speaking with their time management. So I have my timer. Five minutes. When you have one minute left, a big yellow sign. When you have used up your
time, stop sign. So, hopefully, everyone will be able to see those.

CHAIRMAN DELGADO: Thank you very much.

There is one clarification there on the part of our Director.

MS. FRANCIS: I didn't hear if you actually said this; I was talking to someone up here, but I just need to make sure that, if you have written comments that you want passed out, that when you come up here, check in with me before your comment time, and bring me the comments, I will pass them out.

I guess you'll bring the first person up, and then there will be someone on deck each time?

CHAIRMAN DELGADO: Yes.

MS. FRANCIS: And you also need to state your name and your affiliation for the record at the beginning of your talk for purposes of the transcript. That would help us a lot.
CHAIRMAN DELGADO: Good. Thank you.

All right, any other comments, announcements?

(No response.)

Let's move on to our first speaker, Ed Maltby, representing NODFA.

After will be Charlotte Vallaeys as a proxy for Mark Costell.

MR. MALTBY: My name is Ed Maltby. I'm the Executive Director of the Northeast Organic Dairy Farmers' Alliance and Administrator for the Federation of Organic Dairy Farmers, which is a national umbrella organization for dairy farmers across the country.

What I am going to, I should say, read -- but nothing I'm going to say today is in any way new, and that is the problem. We have an access to pasture rule that isn't due to come out for quite some time. We have an industry that is split. We have an organic
consumer which is questioning the integrity of the organic seal in a very public way, so much so that once the integrity of the seal is diminished, then the consumer, the farmer, the marketer, the industry as a whole will lose the credibility necessary to justify the increased profitability for every sector of the industry.

Now in looking at the access to pasture rules -- and I was on a conference call last week with organic dairy farmers across the country, and they had a few suggestions as to how I might present myself today, 100 percent of which I ignored because your caveat in starting was to be polite and not insulting.

One of the suggestions was I should bring some stale milk and put it around the room, so that you wouldn't forget the crisis that organic dairy farmers are in.

To get back to the necessary regulations, and this is nothing new, 120
days, 30 percent dry matter has been out there now for two years, three years, four years. So we're not suggesting anything different from what the NOSB recommended many years ago. We're not looking for anything new. We're looking for something to be published.

To that extent then, we continue our lobbying at the USDA. Last month myself, a representative from the National Organic Coalition, and Horizon Organic met with the Under Secretary for Agriculture and expressed our deep concern with what was happening and the delay. We need something out. We need something that recognizes exactly what the NOSB put out there, not in part, but 100 percent, so that will retain the confidence of farmers who have been struck not just with one crisis, but with three or four different crises.

You all know the price of diesel, $4.80 or $4.90 a gallon. You know the price of health insurance. You know that farmers are
suffering. You know that farmers are going out of business and going back to conventional, and now is the time to act.

We need to have clear direction to the certifiers: This is how you measure access to pasture. Many certifiers are doing that now, but we don't have a level playing field across the country.

That should be a relatively straightforward thing to do. It is welcomed by both small farmers, not small farmers but farmers who have small herds. Most of the farmers with small herds are rather large, but -- one minute left. But it is welcomed by small and large farmers across the country in arid areas where land is irrigated, California, in the Midwest, in the Northeast.

Anytime any of you need any substantiation of that, go to the NODFA website, and it's a bit easier to navigate than the USDA NOP website, which is, of course, coming along very nicely, and thank
But before she shows me the yellow stop sign, which when I'm driving I disobey routinely, origin of livestock, last third of gestation, we need it; we need it now. We have to stop farmers who are going to enter the industry doing so under false pretenses.

We have to have enough information so organic dairy farmers can plan for the future, can invest in livestock, can invest in the land base they need to farm sustainably for the future.

Thank you very much.

CHAIRMAN DELGADO: Mr. Maltby, please --

VICE-CHAIR MOYER: Ed, can you return to the podium? Thank you.

CHAIRMAN DELGADO: We have a question here from Dr. Karreman.

Go ahead, please.

MEMBER KARREMAN: Ed, regarding the farmers in economic crisis, one of the things
that I read about definitely on some of the LISTSERVs, one in particular, is that because of the large certified organic dairy farms, the small certified organic dairy farms are getting -- you know, they don't have the economies of scale and whatnot, and if there weren't that many, it would be a lot better.

So how many, roughly, how many of those large organic dairy farms do you think there are that are actually -- do you have any numbers somewhere that show that the large organic dairy farms are actually, you know, truly affecting directly the small farms?

That is one of the reasons for the pasture rule, of course, is that all the cows will be out, and apparently the larger farms might not be able to make that. Therefore, there will be smaller farms left.

So I guess I'm just asking, do you have any clue about how many of those large farms that you feel or your group feels that might not be in compliance with the current
rule that are affecting things right now?

MR. MALTBY: I think the problem is that they probably are somewhat in compliance with the current rule. The current rule is not specific enough.

If you look at the reasons why you need an access to pasture rule that defines quantifiably just how much grass or forage crops that need to be grazed is what consumers expect. That is what is on every carton of milk.

So you need the cows out there in their hobbie-fours. They need to be out there grazing.

If you look at the number of large dairies coming online, then we are talking perhaps eight to ten 5,000-plus cow dairies which are going to come online unless some regulation comes out that clearly defines what they need to do and what land base they need to have.

Now if you look at 5,000-cow herds

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and multiply that by 10, that's 50,000. The
most conservative estimates, we've got under
200,000 organic dairy cows in the country. So
the math is quite simple.

When there was a surplus a year ago, people were talking about a wall of milk.
Well, unless we get definition on exactly how many acres you need to sustain a large dairy
herd, then we will have a wall of milk coming from the West and the Midwest that is going to
drive small family farmers out of business.

CHAIRMAN DELGADO: Mr. Engelbert?
MEMBER ENGELBERT: Yes. Ed, I think I may resemble one of your remarks.

(Laughter.)

MR. MALTBY: It wasn't directed at you, Kevin.
MEMBER ENGELBERT: I have a number that I heard of family farms in the Northeast
who have gone out of business. But do food farmers in NODFA have an official number? Do
you know how many farms have gone out of
business in the last year?

MR. MALTBY: We don't exactly
because it is very difficult to calculate. We
know that at least 25 organic dairy farmers
have stopped shipping organic milk. Some have
gone back to conventional. Some have gone out
of business.

What we do know is that one
supplier of organic feed in the Northeast said
his receivables went from 500,000 back in
September of '07 to 1.5 million. So you are
seeing farmers who are in debt. You are
seeing farmers who have used their savings.
You've got farmers whose line of credit has
run out, and expect something catastrophic to
happen this fall, which is not going to do the
integrity of the seal any good.

MEMBER KARREMAN: I guess I have
one follow-up question, if I may. My
question, more specifically, is perhaps, do
you have any numbers about the amount of
consumers that have backed off buying organic
dairy products because of this perception out there with the large farms skirting the rules, or whatever, you know, like you all say?

MR. MALTBY: Right, and we don't have those figures yet, but if you look at anecdotal accounts in newspapers, you see that people are backing off from apparently paying extra for organic milk.

Our study shows that the retail price of organic milk in the marketplace is, in fact, slightly less than it was two years ago. So it is not price.

So if you take that information, then it is questioning the integrity of the seal, and whether they should pay extra for that, and what does it do to benefit their environment, their children's environment, and in my case my grandchildren. I don't look that old, but I had kids when I was young.

(Laughter.)

MEMBER KARREMAN: Thanks.

CHAIRMAN DELGADO: Any other
questions?

(No response.)

Thank you very much.

MR. MALTBY: Thank you.

CHAIRMAN DELGADO: Up next is Charlotte Vallaeys. After her is Mitch Johnson.

MS. VALLAEYS: Hi. My name is Charlotte Vallaeys. I'm a Farm and Food Policy Analyst at the Cornucopia Institute, and I have a proxy statement for Mark Castell, who is the Co-Director of the Institute.

Mark would like me to share with the Board our concern for the lack of enforcement of the organic regulations for these large dairy farms and the apparent favoritism toward certain corporations at the compliance level.

He has asked me to read the following sections from a press release issued by the Cornucopia Institute earlier this month:
"The Cornucopia Institute has filed a formal legal complaint with the USDA claiming that one of Dean's Horizon suppliers, a dairy in Snelling, California, was skirting the law by confining the majority of their cows to a filthy feedlot rather than allowing them fresh grass and access to pasture, as the federal organic regulations require.

"Cornucopia has also asked the Inspector General at the USDA to investigate appearances of favoritism at the agency that has benefitted Dean Foods.

"Cornucopia charges that past enforcement of the Organic Foods Production Act, the law governing organic food labeling and production, has been unequally applied toward major corporate agribusiness by the USDA.

"We are asking the USDA, once again, to investigate serious alleged improprieties at dairies that produce Horizon organic milk.
"Besides the legal issues that Cornucopia raised, they suggest Dean Foods has seriously injured the value of its Horizon label and the reputation of organic milk. In the eyes of consumers, factory farms with questions about humane animal husbandry and records of endemic pollution do not meet the ethical litmus test.

"Cornucopia's most recent complaint is the third filed with the USDA alleging Dean Foods has broken the federal law that governs organic production. Prior complaints also charged Dean with confining cattle on their two corporate-owned dairies, managing as many as 8,000 head of cattle each.

"Although the USDA, based on Cornucopia research, sanctioned or decertified two independent factory farms supplying Horizon, the federal agency dismissed both legal complaints against Dean Foods itself.

"According to documents obtained under the Freedom of Information Act by
Cornucopia, the USDA never investigated or even visited Dean's largest corporate-owned industrial dairy in the desert-like conditions of central Idaho.

"It appears that Dean Foods has more political clout in Washington than the two independent factory farm operators that were found to have been abusing the trust of organic consumers.

"According to FOIA documents, Dean Foods hired lawyers at Covington and Burling, one of the Capital's most powerful and influential legal and lobbying groups, to plead their case.

"The USDA closed complaints we filed in 2005 and 2006 without ever having visited the Horizon dairy in Idaho and warned Dean Foods in advance before inspecting their Maryland farm.

"In a letter to USDA Inspector General Phyllis K. Fong, Cornucopia asked her to investigate why the agency arbitrarily
chose to adjudicate some of the formal legal complaints filed by Cornucopia, but looked the other way when it came to the largest corporate dairy processor and marketer in the country for almost identical alleged offenses.

"Cornucopia's letter stated conditions on the 8,000-head factory farm operated by Dean in Idaho were very similar to the factory farms that the USDA has already sanctioned. The only discernible difference appears to be how much money Dean Foods has spent on lobbyists and campaign contributions in Washington."

We would like to stress that the current rules are enforceable, as evidenced by the enforcement actions against Aurora and VanDrake. So we ask the Board to be on record to support strong and even-handed enforcement against all marketplace players no matter how large and powerful.

Furthermore, we urge the enactment of the new regulatory language controlling
pasture and the origin of livestock. These must be no less strict than the standards are today, only easier to understand and enforce.

Thank you.

CHAIRMAN DELGADO: All right, thank you.

Any questions from the Board?

Dr. Karreman?

MEMBER KARREMAN: Just a simple -- not a simple point, but it's conventional and organic. Regarding animal welfare and how animals are kept, I've got to say that on some of the larger farms, animal welfare is better than on some of the small farms I see. I'm just saying that. You can't just take a broad brush and say large farms, 1,000-2,000 head, conventional or organic, have bad animal welfare.

I'm in the industry. I just want to correct you on that.

CHAIRMAN DELGADO: Okay. Ms. Miedema?
MEMBER MIEDEMA: I just wanted to
add to my colleagues on the Board and to our
Chair, I do take exception to this pulpit
being used as a forum for unfounded
allegations, and we're going to have a really
long three days if this is the type of
information that flows to us.

CHAIRMAN DELGADO: Okay. Well, I
do have to remind the member of the Board that
this is public comment, and we are obligated
to listen to those comments. Whether we agree
with those or not, or whether we think those
comments are appropriate for our mandate, it's
another story.

MEMBER MIEDEMA: I question whether
enforcement is under the purview of this
Board.

CHAIRMAN DELGADO: Absolutely.

Okay, any other comments?

(No response.)

Thank you very much.

Up next we have Mitch Johnson,
please, and after Mr. Johnson is Patty Lovera.

MR. NEWCOMB: Actually, I'm Harold Newcomb, and I'm a cattle tech services veterinarian for Intervet/Schering-Plough, the petitioner to add Fenbenzadole to the National Organic Standards as a parasiticide --

MEMBER HEINZE: Could you spell your name, please?

MR. NEWCOMB: Ma'am?

MEMBER HEINZE: Could you spell your name, please?

MR. NEWCOMB: N-E-W-C-O-M-B.

MEMBER HEINZE: Thank you.

MR. NEWCOMB: Anyway, we wish to add Fenbenzadole to the National Organic Standards as a parasiticide to be used as an emergency treatment in dairy and breeder stock.

We appreciate by unanimous vote the NOSB Livestock Committee recommended Fenbenzadole to the National List in accordance with Section 205.238 of the
National Organic Standards.

We also want to acknowledge the National Organic Program's decision to allow the petition to be advanced under the 1999 TAP review of Fenbenzadole, Ivermectin, and Albendazole.

Parasite control today stands as perhaps the major factor limiting development of certified organic livestock production. Fenbenzadole addresses this need in a manner much more compatible with the principles of organic agriculture than can be offered by Ivermectin or Moxidectin.

Certainly management practices are the foundation for parasite control in organic livestock production, but the same section that requires organic producers to maintain preventative livestock health practices also requires producers to use appropriate medication to restore an animal to health when methods acceptable to organic production fail.

In addition, animals on pasture
naturally have more exposure to parasites than those in confined situations. Current biological and natural parasite controls are not always effective to control emergency outbreaks of internal parasites.

While Diatomaceous Earth is effective in controlling external parasites, there is no scientific evidence regarding the efficacy of this product on internal parasites.

Controlling internal parasites should never be the main motivation for adding Diatomaceous Earth to the feed.

Organic livestock producers approached Intervet a couple of years ago to request that we petition Fenbenzadole as marketed under the commercial name of Safeguard for approval as an allowed parasiticide under Section 205.603 because Fenbenzadole offers three major advantages.

No. 1, Fenbenzadole is not a macrolide antibiotic. Fenbenzadole is part of
a class of compounds called Fenbenzadoles. By contrast, Ivermectin and Moxidectin are both macrolide antibiotics. As such, they are inherently inconsistent with organic management practices. In fact, the Secretary of Agriculture in 2006 initially refused to accept the NOSB's recommendation to add Moxidectin to the National List for that reason.

Secondly, Fenbenzadole is benign to dung beetles, earthworms, and other beneficial microorganisms. Dung beetles recycle nutrients in pastures and control horn flies and face flies. A single manure pat can generate 60 to 80 adult horn flies if protected from insect predators such as dung beetles. Fly populations have been shown to decrease significantly in areas with dung beetle activity.

Ivermectins have a broad range of activity in nematodes and arthropods as well. By contrast, Fenbenzadole only targets
nematodes. Studies cited in our petition document the benign impact of Fenbenzadole on the dung beetle, earthworms, and other beneficial microorganisms.

Third, parasite resistencies grow into the Avermectins or Ivermectin. The repeated use of the same drug class contributes to the development of resistance by parasites. Parasite resistance to Ivermectin compounds is well-documented. In contrast, little resistance to Fenbenzadole has been shown during the past 20 years.

In summary, Fenbenzadole represents a viable resource that will allow organic producers to have access to an appropriate medication that will not violate the principles of organic production. We strongly urge that NOSB adopt the recommendation of the Livestock Committee and recommend the addition of Fenbenzadole to 205.603 of the National Organic Standards.

CHAIRMAN DELGADO: Any questions
from the Board?

(No response.)

Okay, I hear none.

Thank you very much.

So Ms. Lovera, and after that is Harriet Behar.

MS. LOVERA: Hi. My name is Patty Lovera, and I'm the Assistant Director of Food and Water Watch, which is a consumer organization based in Washington, D.C. I'm here today to speak about the aquaculture recommendation.

I just want to start off by saying that we represent consumers, and our members especially communicate with us that they have very high expectations of the organic standard in general, and the credibility of that standard is what I am here to talk about, and aquaculture is no exception.

So Food and Water Watch has longstanding concerns about aquaculture in general, especially done in the open oceans.
So the issue of open net pens and wild fish used in meal or oil are two practices we are very concerned about. We think they have such high environmental impacts that it makes them incompatible with the principles of organic production.

So, therefore, with the recommendation you all are considering at this meeting, we were pleased to see Section 252(b) that says there will be no use of wild fish meal or oil in feed, but we have concerns about a couple of the other sections in the recommendation.

The first concern we have is with Section 252(a), which allows the use of fish meal and oil from carcasses, viscera, trimmings from processing of foreign certified organic farmed aquatic animals to be used in fish feed for domestic organic production.

We have concerns about this on a couple of levels. One is as a process question, whether it is really good precedent
just to declare a foreign process basically equivalent to a U.S. process that doesn't yet have a standard. So we are very concerned about the order of events there if we don't have a U.S. standard yet, but we're allowing foreign organic products to come in and be used in organic production here.

Then we have very specific concerns about some foreign standards for organic that allow things like antibiotics and parasiticides to be used that we feel don't match up with the livestock standards we have here.

The other section we are concerned about is 252(1), and we're a little bit confused about this one because it specifies where you can't get fish meal and oil from. You can't come from fisheries that are overfished or at risk, which doesn't seem compatible with Section (b) that says you can't use it. So we are a little bit confused about why that is in there. We think that
that is unnecessary if Section (b) says you're
not to use wild fish meal or oil.

The final point on aquaculture I
need to make is we are very concerned about
any proposal to allow a transitional or a
made-with-organic ingredients label for
aquacultured fish. We don't feel like that is
an acceptable interim solution while we are
still having this debate. We need to figure
out what the standards are going to be, come
up with a good standard, and we don't think
that an alternative label or an interim label
is an adequate solution to the current debate
that we are having.

So I think, rather than repeat the
comment I made six months ago, I will just say
that we are very concerned about kind of the
sense we get from this recommendation and from
some previous debates, that there is this
pressure to have a standard for carnivorous
fish. We don't think that that is the way it
is supposed to work with organic if organic is
going to remain credible with consumers. We don't want to see the standard stretched to meet current practice. The industry practice has to come meet the standard, and the standard has to remain very high for organic to be credible with consumers.

Finally, I will just say, to save some time, we are a member of the National Organic Coalition, and you are going to hear comments from them later that we fully support about grower groups and the need to maintain that issue for growers, and also for the issue of materials and the national lists. We think that this is a huge issue of credibility for organic consumers to trust the standard, and we think there's a lot of process issues that have to be cleared up with the way materials are being added to that list before we add a lot more.

Finally, I just have to also point out that the issue of pasture and figuring out
that pasture rule is another huge credibility issue with consumers.

Thanks.

CHAIRMAN DELGADO: Okay, thank you. Questions? Yes, Ms. Hall?

MEMBER HALL: On the fish meal and oil, in the interest of trying to reduce the burden on wild stocks, and also try to preserve a natural diet for piscivorous species, where would you suggest they get their diet?

MS. LOVERA: We think that it isn't going to be an automatic that carnivorous fish immediately can be organic. So I know there's some companies exploring raising fish organically, herbivorous fish organically, to then turn them into feed for carnivorous fish. If that takes longer, that is the sequence of events. We just don't see wild fish being an acceptable bridge to that because of the environmental impact that it has.

CHAIRMAN DELGADO: Yes?
MEMBER SMILLIE: Patty, since you're the first aquaculture person, I thought I would take the opportunity to forget about the details for a second and try to figure out where your group, what you want out of this. Because I had participated in the beginning on the aquaculture debate, and to me the recommendations that the Livestock Committee has come up with have really gone through a lot of the details and they've gotten down to like what they consider the barest minimum, and a possible future organic aquaculture industry may or may not even be able to grow or survive or even start with what currently is being recommended.

The end game for your group, surely you want to support an organic aquaculture industry because most of your complaints, which are valid and legitimate, are against conventional aquaculture. Don't you feel that we have to find a middle ground, a compromise position, so that we can start an organic
aquaculture industry that can be replaced, hopefully, by consumers voting at the marketplace with an organic aquaculture industry?

But if we kill, if we don't allow this organic aquaculture industry to start, then there won't be really a real competitor to the conventional aquaculture industry that seems to be at the core of most of your issues.

So I just wanted to ask you philosophically, has your group thought about the strategic end game in this? Do they want to support an organic aquaculture industry to compete in the marketplace with the conventional industry that causes all of these problems that you have noted?

MS. LOVERA: I think that the definition of organic is what we are talking about, and if it is only able to be done for certain fish, then it is only able to be done for certain fish. I don't think we want to
sacrifice the credibility of the organic standard for all foods to deal with the issue of aquaculture, and that is a concern that we have.

So we don't think that this is the only way to deal with the negative impacts of conventional aquaculture. We're doing plenty of other stuff to try to deal with that as well. There are fixes that need to be made there, and it is not only going to be duked out in the market with organic versus conventional.

I mean we have to stop the environmental impacts of conventional production and we have to have organic production when it is appropriate and when it meets the criteria of what people expect of organic.

MEMBER SMILLIE: Right.

MS. LOVERA: I mean I don't think we have any reason to bend that in some kind of short-term battle.
MEMBER SMILLIE: One of the problems we face is that it is such a different thing to deal with. In the conversations with the Aquaculture Working Group and many, many others, we have realized that some of our organic rules, which we hold steadfastly to, don't seem to fit, and we need to spend more time in trying to figure out what organic and aquaculture mean. Because if you just take livestock rules or the current feed rules we have, sometimes they just don't fit with the aquaculture realities. We are working off a terrestrial basis.

I mean you will hear more at this meeting about hydroponics, how it can't possibly be organic, and aquaculture is a very hydroponic operation in many ways.

So what we are looking at in aquaculture is trying to figure out how organic integrity fits with aquaculture. If we hold a strict terrestrial definition, it will be problematic, but I understand your
point. It was a good answer. You answered my question.

MS. LOVERA: Yes, but we just have the concern that in the short term I sympathize; I don't envy you guys the job you have to do, but there are bigger credibility issues at risk to solve this one problem of aquaculture. I don't think that that is worth it for organic as a whole. I mean we have to put that integrity first.

MEMBER SMILLIE: Like the foreign fish example?

MS. LOVERA: It makes us very nervous, yes.

MEMBER SMILLIE: Okay.

CHAIRMAN DELGADO: Jennifer?

MEMBER HALL: I would share that I have equal concern about the integrity of the label and aquaculture as a whole. However, I do think, like Joe suggested, that there does need to be some point at which we can start, and that if it is all noes, then the
legitimate concerns you bring up about conventional aquaculture, consumers do respond to that. I do worry that then that just hyperinflates the demand on wild stocks which are already in great jeopardy.

CHAIRMAN DELGADO: Hugh?

MEMBER KARREMAN: If the Livestock Committee were to amend its position on the foreign organic fish such that they cannot have had parasiticides or antibiotics, would that be helpful?

MS. LOVERA: Compared to some people in this room, I'm a newcomer to organic, but my understanding is that to declare a foreign standard equivalent, you have to have a U.S. standard. So I'm a little bit confused about the order of events of allowing that in.

MEMBER KARREMAN: Yes, I'm not trying to get to that point right now. I'm just saying that if there were foreign fish coming in, let's just say, and they were
certified not to have had antibiotics or parasiticides, would that allay some of your -- there's one point that you mentioned on that?

MS. LOVERA: Yes, I mean that would be a start, and we would have to then go look at, are they using that and some of the other concerns that we have that just aren't on the table for this agenda.

CHAIRMAN DELGADO: Any other questions?

(No response.)

Thank you very much.

MS. LOVERA: Thanks.

CHAIRMAN DELGADO: Ms. Harriet Behar, and on deck we have George Lockwood.

MS. BEHAR: Hello, everyone. I'm Harriet Behar, a certified organic grower, an organic inspector, and an educator with the Midwest Organic Sustainable Education Service. I have a few comments on a few different things.
Commercial availability of seed recommendation, the proposal as written puts a tremendous burden on producers, seed suppliers, and certifiers. For agronomic crops, the vast majority of the organic corn, beans, small grains, and legume seeds are now certified organic. However, the availability of organic vegetable seeds is limited.

The marketplace would be better served by having the seed breeders survey the needs of organic farmers and produce seeds to meet those needs. This would get more to the heart of the issue than producing voluminous lists from each certifier.

On aquaculture, the proposal allowing foreign-certified wild-caught fish meal to be used as feed for NOP organic fish puts our domestic producers at a disadvantage, stating that a lower standard certification from a foreign entity is allowed while requiring a higher standard from any domestic producers.
The proposal to test the wild-caught fish for contaminants also takes us down the slippery slope of having the organic label be based in a testing regime and not in a production system.

The NOSB and the NOP should not be pushed by the marketplace to come up with something to meet the marketplace demand for a cleaner fish. The final standard should be consistent with all other NOP standards; otherwise, we risk the lowering of consumer perception for all categories of organic labeling.

Grower groups: Calling this a multi-site certification process goes beyond the original issue brought before the NOP and does not take into account fundamental differences between farmers and retailers/handlers. Farmers are part of a community where there is peer pressure to remain true to production standards set by that community. Farmers manage their land
from year to year, and it remains within the family as well as for generations.

Handlers are hourly or salaried employees who may lose their jobs if they do not perform their work satisfactorily, but would not lose their homes and livelihoods if they do not follow their organic protocols.

The retail environment is notorious for employee turnover, losing the consistency needed from year to year to continuously improve the organic management system.

This proposal to improve internal control systems should be returned to only include farmer producers with any discussion of multi-site certification for retailers or handlers to be part of a completely different document which would address the significant differences between the two types of operations.

TAP reviews: At this time, TAPs are not needed for items on 205.606. It appears that the decisions on these 606 items
are being made solely on the petitioner's statements without any further impartial analysis done in the marketplace. There is no review of the environmental or health effects of the conventional farming or processing practices to produce these items on 606, which is clearly required by OFPA.

After Harvey, there was a tight deadline to have items on 606, and for expediency TAP reviews were not done. However, this should not become the status quo. With the increased funding of the NOP, these TAPs should be instituted.

The presence of okra on 606 and petitioner's justification is one example. I also noted that there was no TAP done on the cheese wax to be reviewed during this session. Again, the NOSB is relying only on those who support the petition to support them with their information, which inherently will be one-sided and not impartial.

Q&As on the NOP website: It is
impossible for the NOP staff to have deep knowledge on every subject, resulting in errors on the website.

One example is whether honeybees can be certified organic. Comparing honeybees to poultry shows a great lack of knowledge in the biology of honeybees.

There is a good NOSB recommendation on apiculture which addresses not only the origin of honeybees, but also the beeswax within the hive which will need to be transitioned. Many entomologists suspect the high concentration of toxic substances used in beehives is a cause of colony collapse disorder, and ignoring the honeycomb issue as well as lack of understanding of bee biology makes this an unworkable answer.

Q&As should be verified as correct by running them by a knowledgeable person, such as Nancy Ostiguy or a member of the NOSB Apiculture Task Force for this specific question.
Methionine, I would hope that some dollars could be found to fund the research on a methionine replacement. Relying only on the marketplace to do this is resulting in a continual extension of the sunset of this clearly prohibited substance. All synthetic amino acids are prohibited in the OFPA.

Lastly, I ask the NOSB to request from the NOP to hire employees with strong technical backgrounds, especially in the materials area, from the increased funding which all of us worked very hard to get in the 2008 farm bill.

Thank you.

It is a big handful. You have a lot of things on your docket that we have to comment on.

CHAIRMAN DELGADO: Thank you.

Questions from the Board? We'll start with the Vice-Chair.

MS. BEHAR: Hi, Jeff.

VICE-CHAIR MOYER: Hi, Harriet.
You did a good job reading very fast.

(Laughter.)

MS. BEHAR: And you have it in front of you.

VICE-CHAIR MOYER: We do. Thank you.

On your comments on commercial seed availability, you said the proposal as written would be a tremendous burden. Can you explain more about that, how tremendous that burden is?

MS. BEHAR: Well, you are asking certifiers to keep lists of all the items that they are approving as not commercially-available. At this point, that's done at the inspection level. It's not always present in a database of the certifiers.

I personally am a certified organic grower. I probably have purchased 30 percent of my organic vegetables or my seeds as organic for my vegetable operation, but 70
percent not organic because I couldn't find it. That is probably about 250 kinds of seeds.

So imagine if a certifier has a hundred vegetable growers. Do the math. They are going to have to maintain these lists. We are asking the seed suppliers to respond back to every vegetable grower that they don't have these 300 vegetable seeds. It is just a tremendous paperwork burden.

VICE-CHAIR MOYER: But as a grower, do you not already make a list of the seeds that you have or that you purchase?

MS. BEHAR: Yes, but I don't have it electronic. They would have to enter it in some kind of database. There would be these voluminous lists done by the certifiers, basically, to service a marketplace demand, where I think the seed people, they should be surveying their marketplace to see what producers want. It may not only be by variety.
The vegetable producers may want certain characteristics; there isn't even a variety available right now. So the marketplace would actually get more information that they need from a survey rather than just finding out that they can't get tyee spinach organic, because they are not finding out from the producer why do they want tyee.

CHAIRMAN DELGADO: Mr. Davis?

MEMBER DAVIS: Harriet, I just wanted to point out that your assertion that certifiers would have to collect and make a list and compile all this, that is not correct. That is not what the recommendation suggests.

So the recommendation purely is that certifiers act as the channel for the growers' list just to collect them, not compile them into a further list. So I just need to point that out.

MS. BEHAR: But the inspector is
usually seeing that on site. It is not always
going back to the certifier because, again, of
the large amounts. You know, there is a kind
of long list there.

And in the areas where we haven't
had a problem, I know in the Midwest -- I am
not sure about the East Coast, but I would say
65 to 70 percent of all the corn, soybeans,
small grains are organic seeds at this point.
Really our lack is in the vegetable area.

CHAIRMAN DELGADO: Any other
questions?

(No response.)
Okay, thank you very much.
Mr. Lockwood, and after that is
George Leonard.

MR. LOCKWOOD: Thank you, Mr.
Chairman. It is, indeed, a great pleasure to
be here today. I'm appreciative of this
opportunity.

I would also like to say that,
since we began this journey with the National
Organic Standards Board in 2005, we greatly appreciate the attention, the interest, the patience, and the diligence that you have provided, and particularly your Livestock Committee. It has been a pleasure working with them over the last several years and a multitude of a conference calls.

You mentioned the number of calls that you have had. I think the Livestock Committee must have the record of the majority of them.

We have carefully considered the proposal after working with the Livestock Committee, what they have proposed, and we are very concerned that perhaps it is not the most workable solution.

I would point out that, since 2006, the Board has been involved in many different meetings and discussions, including a symposium. Our 12-member professional group has participated in all of these. We have carefully considered what the proposal is, and
we, frankly, believe that it is just too risky at this time to place all of aquaculture in what is being proposed.

In what we had proposed back in our interim final report in the year 2007, which was basically adopted with some exceptions, we were of one mind. There was no minority report, and we still are of one mind, that we are unanimous in what we are recommending.

To make our recommendations short, sir, what we simply would like to suggest is what we originally suggested, what we originally proposed to be adopted. We think that there is merit to what the Livestock Committee is proposing here, and perhaps it could be included as Item Q that fish meal and oil from carcasses, viscera, and trimmings from the processing of foreign certified organic farmed aquatic animals will be considered organic for the use in fish feed only.

And the risks are simply this has
never been done before. The equivalency part of the law gives us great concern that the Secretary is going to have to determine a foreign certifier to be equivalent to what we have in the United States. The only way we can possibly see this working is if a grower is to grow to, say, a Natureland standard and to your standards simultaneously, so that that fish could possibly be used as a source of feed.

A second big concern we have is in oil. Right now there are no ways of producing the equivalent of fish oil. That may come, but it is far from certain at this particular stage.

So that is our recommendations, sir. We are just concerned whether or not the equivalency requirement really can be met in an expedient way.

I would also say that at one time the Livestock Committee was considering a phaseout of fish meal and oil. We support
that. If that is what the Board wants to do, we think that is a workable condition.

But when it comes back to what we really recommend, we all feel what we originally proposed was, indeed, the best way to make a viable aquaculture industry organic or to make organic aquaculture viable.

Thank you, sir.

CHAIRMAN DELGADO: Thank you.

Any questions? Yes?

VICE-CHAIR MOYER: Thank you for your comments, George.

A question: If I go down to the supermarket today and buy organic fish, where and how is that produced?

MR. LOCKWOOD: Well, Natureland and the Soil Association are certifying fish that come into the United States under very different standards. As one of the previous speakers pointed out, they allow antibiotics and other prohibited things that we don't allow here.
VICE-CHAIR MOYER: I understand that. So what our position was is that we're trying in some way to accommodate your needs and also the needs of the previous speaker. So when we have an aquaculture working group, an industry, that's not 100 percent happy, and we have an environmental group that's not 100 percent happy, I think we are working on the right track here as a Board, because it is a fine line for us to try to walk.

What we are also trying to do is make it possible to remove that organic fish from the marketplace and substitute it with a U.S. standard that I think is going to be quite a bit higher than what you are seeing there. They would not be able to sell that fish today in the marketplace if this standard that we have proposed would be in place. In fact, they would only be able to use the trimmings of that fish to feed these fish at a very low percentage, 12 percent fish meal and 12 percent fish oil. So that is our goal.
MR. LOCKWOOD: Well, first of all, Jeff, we're not unhappy. We are very, very pleased with the progress that has been made.

VICE-CHAIR MOYER: Good.

MR. LOCKWOOD: We just want to make sure that what is finally adopted here is workable, and we have serious questions, as the 12 of us who are professionals in this field, seven PhDs, we are just very concerned that it may be very difficult to implement.

VICE-CHAIR MOYER: Okay.

MR. LOCKWOOD: That is our concern.

CHAIRMAN DELGADO: Yes, Dan?

MEMBER GIACOMINI: George, regarding the foreign fish meal and fish oil, if that were to go through, meet muster, meet legal challenges, whatever else, would that create a disadvantage to the U.S. aquaculture, fish farmers, as far as getting access to that or do you think that would all just be staying in country and shipping out the fish at the end?
MR. LOCKWOOD: Dan, I have heard a number of people, U.S. growers, who are very concerned about what you just mentioned, that this is discriminatory against the U.S. farmer.

My feeling is that if a U.S. grower wants to get Natureland to certify their crops, that they could probably grow to these standards. I think that is unprecedented. I have never heard of it being done. Maybe you all who are in the business know how that is being done. But, yes, it is a concern.

CHAIRMAN DELGADO: Yes, Kevin?

MEMBER ENGELBERT: Yes, George, briefly, I just want for the record to know that we have done the best we could with what our parameters were. We were told that wild-caught fish oil and fish meal simply will not be allowed when the OPIA writes the rule. When it says organic, it's got to be organic.

Hugh brought up the suggestion, well, there are foreign-certified operators...
selling fish in the United States. If we added onto that recommendation that no prohibited substances be allowed, would that be something that you think would be workable?

As Jeff said, we've got to have some way to get these -- and that you have said, too -- we have got to have some way to get these oils into the system to start the process. Maybe it won't start all at once, but we've got to do something. If we are going to have an organic aquaculture, we've got to bring them in some way.

MR. LOCKWOOD: Kevin, let me say I know how frustrating it has been for all of you, and we share the frustrations and we, again, have great appreciation for all that you have done in that area.

Our biggest concern, again, is workability and equivalency. This has never been done.

What you are saying is, if you were to proscribe antibiotics, and so forth, would
this be equivalent? I don't know. It really boils down to the equivalency concern.

MEMBER ENGELBERT: Equivalency wasn't our main objective. We were simply looking for a source of these fish meals and fish oils that would still qualify as at least some type of organic. Because there are fish processors, from what we understand, being certified by foreign entities. That would provide a source for these oils.

We are not saying that their standards are equivalent, but we are looking for something that would qualify as organic, even though it is not USDA. But once our standards are in place, then everyone would have to meet those.

MR. LOCKWOOD: Well, again, the law requires that the foreign standards be equivalent, whatever that means. It is my understanding that has never been tested in terms of putting it into rules and implementing it. That is one of our major
concerns.

CHAIRMAN DELGADO: Okay, we have Dan, followed by Jennifer.

MEMBER GIACOMINI: I just feel I want to respond to what Kevin just said. We did receive in our discussions, we felt we were receiving pushback from the program when we were discussing the step-down possibilities.

But I think we need to recognize that the discussions that go into rulemaking, for instance, using pasture as an example, the discussions that went into the original rulemaking of pasture is far different than what has gone into the discussions of the pasture document that they are working on right now.

I think whatever we send to the program will be reviewed within the entire scope of the law and the regulation. If Congress felt that it was okay to put into the law, into OFPA, that the Secretary would be
able to consider wild-caught fish to be certified or labeled as organic, knowing that they also had in there the restriction on the feed side of the issue, I think it is prudent of us to put forth the best document we can. If we want to try to see this industry go, we put forth the document that we think might do it and let those kinds of issues be resolved by the NOP. I think we are putting the cart before the horse.

CHAIRMAN DELGADO: Jennifer?

MEMBER HALL: I just want to respond to your comment that, in relation to equivalency, that this has never been done before. I would suggest that this whole recommendation as it relates to aquaculture has never been done before.

So I think we really took the time to sit with that and give ourselves the opportunity to think creatively, given it is a whole new realm. In so doing, the suggestion of using foreign-certified seemed like a good
certain step-up, knowing that those same suppliers, once we have a rule in place for aquaculture, they will be stepping up their own production to meet that regulation, so that they can have access to not the fish feed market, but the human feed market. So it would be a pretty short-lived window that perhaps a lower margin might be the source of feed for the bulk of the species, that over a pretty short window it would be not out of the realm to think that most of the supply would meet our standard anyway.

MR. LOCKWOOD: Our biggest concern, Jennifer, as I said, has more to do with oil than with meal. Farmed tilapia may well be the first source of fish meal. Unfortunately, farmed tilapia is not a high oil fish, and salmon and shrimp require larger, substantial amounts of oil in order to be healthy.

Let me also comment, Kevin. I appreciate that perhaps you have been told that wild marine resources are not going to be
allowed. We've considered that, and simply, as your professional group has sat back and said what we proposed originally is workable and it's still, we think, the only way we can see a viable organic aquaculture industry develop.

We have tried, you all have tried a number of different approaches, and we have, too. We are most appreciative of that.

When we sat back, all of us said what we originally proposed we thought was pretty good and that we have seen nothing that would be workable that is better at this time.

CHAIRMAN DELGADO: Any questions? Kevin?

MEMBER ENGELBERT: Just one real quick. To Dan's point, we have to make sure we make the distinction between feed that's being produced for human consumption and feed that's being produced for livestock. It all comes back to, well, if you can feed it to humans, why can't you feed it to livestock?
And you can. As authors of OFPA, we are still concerned about human consumption in that respect, just like we are right now with this fish oil and fish meal.

CHAIRMAN DELGADO: Any other comments? Questions? Joe?

MEMBER SMILLIE: I would just like to thank George and his working group for spending the time with us. I know it was very frustrating for you at many times. Our group certainly appreciated working with you. It was a very valuable collaboration, and hopefully, we will get somewhere with it.

MR. LOCKWOOD: Well, as Jennifer just said, we're all plowing new ground here or charting uncharted waters.

CHAIRMAN DELGADO: Okay, Kevin, please.

MEMBER ENGELBERT: Thanks for that. I meant to do that with my comments. I forgot. But right, we thank you a great deal, George, in all your patience with us and
working with us and explaining things, the whole nine yards. You've been great.

MR. LOCKWOOD: Well, you're welcome, and it has been our privilege, too.

CHAIRMAN DELGADO: Okay, any other questions?

MR. LOCKWOOD: We'll also be here tomorrow.

CHAIRMAN DELGADO: Great. Thank you, George.

Next is George Leonard, followed by Becky Goldburg.

MR. LEONARD: Good afternoon.

My name is George Leonard. I'm with the Ocean Conservancy.

First, I want to thank the NOSB, the Livestock Committee, and George Lockwood and the Aquaculture Working Group for these challenging issues on aquaculture. As you all know, this is hard stuff. This is the intersection of sustainability and organic principles. If it was easy, I think we would
have been done long ago. But I think we are making good progress.

We have submitted some comments to you in writing, myself and Cory Pete from the Monterey Bay Aquarium in California.

We were also participants in the Symposium you put on in the fall, where we tried to present some performance metrics on the issue of fish meal or fish feed and this issue of net pen aquaculture and the intersection of organic principles.

In preparing some comments this afternoon, I took a look at the comments that had been submitted. In many of those comments, particularly on the industry side, there's a lot of discussion of this issue of practicality; that is, can we do this? What are the implications in terms of industry development?

I think what this really boils down to is two issues that are at play. One is the practicality aspect, but the other is this
fundamental principle of organic and what organic means and being true to the label. These are sort of in some cases fundamentally at conflict.

I guess I would suggest that our comments kind of come at this from, if you need to make a decision going forward about which of those is going to persevere, I think we ought to probably start with principle and then bring practicality in secondarily.

I think the reason for that is the potential long-term damage to the brand itself if we focus too much on practicality, maybe something that it is difficult to recover from.

So given that, with the concept of starting first with principles, I would suggest that the work that the Livestock Committee has done is good progress. The exclusion of wild-caught fish meal and fish oil we think is a good thing. It is a very strong stance against this concept that wild-
caught fish can be declared organic. It is a strong stance for conservation. It is a strong stance that 100 percent of the ingredients in organic farm fish themselves have to be organic.

So all of that I think is good progress. It is a strong stance. We are in support of that.

The flip side, of course, is this issue of the use of foreign-certified products. That, obviously, causes some trouble. I think it causes trouble on a couple of fronts.

One is there's a real potential to confuse consumers if the standards on the feed inputs are different than the standards on the product coming out of that system.

In addition, I think there are some concerns about the standards of foreign certification, including the use of antibiotics, parasiticides, and those are the primary drivers. There are some other issues
as well.

So we remain concerned about that, and that is the reason we have been generally supportive of trying to come up with a U.S. standard that sets the bar for the rest of the world.

So, in a sense, I think that the desire on the practicality side to get a source of meal and oil for the industry to start off perhaps puts too much emphasis on the practicality issue and too far sacrifices the principal concept.

Now perhaps a way to move forward on this would be to focus more on sources, domestic sources of U.S.-certified oil and meal from byproducts of farm fish. I realize this potentially gets us into a bit of a circular argument, but that gets us away from the foreign certification issue.

I suppose secondarily you could work to a situation in which you allow the foreign-certified products with a phaseout
much as the Aquaculture Working Group was suggesting for wild-caught feed, as a potential to move away from that in the long run.

Either way, I think we recognize the fact that many producers are concerned that there simply won't be sources for certified meal and oil to get the industry up and running. I think that is a legitimate issue, but is one in which we need to stick by standards first.

I think, finally, we would just take exception in the minority opinion on this issue of farm fish generally eat wild fish, and as a consequence, we ought to use that as sort of a reason to continue to use wild fish meal and farmed fish -- I'm sorry -- wild meal and oil in organic fish.

We have put together a table for you from some basic literature on the wild diets of many of the common farmed fish. You will see that there's a whole diversity of
food products in the wild, including things like zooplank and phytoplank and algae, microinvertebrates, macroinvertebrates, and of course a number of small fish as well.

So I don't think we should use the idea that wild fish eat regular old wild fish as an excuse to continue the use of wild-caught fish meal and fish oil.

So thank you for your time. I appreciate it today.

CHAIRMAN DELGADO: Thank you.

Any questions? Joe?

MEMBER SMILLIE: I hear all of your comments and I tend to agree with a lot of it.

I just wanted to do -- the equivalency thing is problematic.

MR. LEONARD: Yes.

MEMBER SMILLIE: We recognize that. I'm not sure how it is going to work.

But, again, equivalency doesn't mean identical. There's certain rules about judging equivalency that may be useful if the
National Organic Program wishes to follow them.

The second thing is just grouping all foreign certification standards together. They're not all the same. There's some that are much better than others.

Having reviewed, for example, soil associations, and Naturelands in particular, there's not indiscriminate use of parasiticides. Yes, they are allowed under certain conditions which we wouldn't allow, agreed, but those -- I didn't want to paint them as free use of that.

If you look carefully at those standards, they are very limited, limited use once in a while in certain stages of early growth and all that.

So it is absolutely correct there are prohibited substances under our rule and couldn't be allowed, agreed, but they are extremely limited. Those organizations have in the past said that, if there are additional
requirements needed to meet the U.S. market, a gap study can be done, and every prohibited substance can be pointed out in those standards. They would sign onto an additional requirements declaration that in this case for this load none of these prohibited substances were used, because they aren't used indiscriminately even on those standards.

It's a minor point, but it is something that we could possibly work through with additional requirements on prohibited substances.

MR. LEONARD: Well, I think that's right. Can I just respond to that?

I didn't mean to imply that it is indiscriminate use of parasiticides and antibiotics. I certainly didn't mean to imply that.

The other thing I think it is important to recognize in the context of this issue with aquaculture is aquaculture is not just one species. There's a broad diversity
of things that might be farmed organically, including seaweeds, obviously the bivalve issue, and then a range of fish.

So in many cases this issue itself is boiling down to a couple of species. Most dominantly, farmed salmon is the one that would be most likely influenced. So although there may be some restrictions in terms of the ability of farmed salmon to be declared organic under U.S. regulations, certainly a broad diversity of other species would be just fine.

CHAIRMAN DELGADO: Any other questions? Hugh?

MEMBER KARREMAN: Where do you think the marine fish oil should come from to start the industry?

MR. LEONARD: I know that's the hard nut to crack here.

I appreciate the issue that certainly species like tilapia may not be not be able to provide all the oils we need. I'm
intrigued by the concept, and I don't know how this would fit under the rubric, but a series of many marine algae are producing oils that apparently are quite good in terms of nutritional qualifications. Whether those could be produced or farmed in a way that would be declared organic, I haven't looked into that enough, but I think there's some opportunities there that probably haven't been explored in detail yet.

MEMBER KARREMAN: You know, when we were thinking about this at the Symposium in November, there was a fellow from South Carolina who was talking about some kind of insect production. Maybe you remember that --

MR. LEONARD: Yes, right.

MEMBER KARREMAN: -- and how that could work.

We're just trying to look at various inputs, not to lay it all in one basket, so to speak, to get the marine fish oil, but from various inputs. So maybe
algae -- do you have information on that you could send?

MR. LEONARD: Yes. I mean I can get you some of that. I think certainly the insect idea is a good one. Annelid worms is apparently a good source and is becoming commercially available.

I like the idea of a diversity of diet, feed ingredients. Certainly that is consistent with wild diets for sure.

CHAIRMAN DELGADO: Any other questions?

(No response.)

Okay, thank you very much.

MR. LEONARD: Thank you.

CHAIRMAN DELGADO: Next is Becky Goldburg, followed by Sebastian Belle.

MS. GOLDBURG: Thank you very much.

I am Becky Goldburg. I am a former member of the NOSB and also a member of the Aquaculture Working Group. I would like to talk about two related issues today with
The issue that is receiving the most attention, fish meal and oil and feed. George Lockwood presented comments from the Aquaculture Working Group just now, asking that the NOSB go back to the AWG's earlier recommendation concerning fish meal and oil.

I want to make clear that at issue is not the major goal that we all share, and that is going to organic sources only of meal and oil, which means byproducts from farm fish and potentially other sources of protein and lipids for fish diets, looking to alternatives like George Leonard just talked about with marine algae, worms, insects, and so on. We're all there.

What is at issue is how we get to having a viable industry. There's no perfect solution here. People put forward in good faith a lot of alternatives. We happen to
feel that a transition is probably more workable than going to a system that depends heavily on foreign-certified byproducts from organic aquaculture, which is problematic, for reasons others have described today.

I also want to comment briefly on a couple of Livestock Committee's other feed recommendations. One is an issue that Patty Lovera pointed out. The way the current recommendation from the Livestock Committee is written, there is a Section (l) concerning fish meal and fish oil from wild fish in a recommendation that is otherwise about not using wild fish and feed, and it is just really confusing. That section doesn't belong there. It's about the status of fisheries. I think it was just a mistake it was included, and I urge you to eliminate it.

My other comment, a little bit more substantive, concerns Section (m), which talks about contaminants in fish meal and fish oil. This is not a section that we in the
Aquaculture Working Group got to in our discussions of the Livestock Committee recommendations. So I am offering my own perspective here.

One is that this section requires monitoring of contaminants in fish meal and oil, and says essentially that all pollutants must be removed if there are above regulatory levels in commercially-available meal and oil.

Well, it is really unclear to me what this recommendation means because there are, in general, no regulatory levels for these contaminants in feeds. FDA doesn't have set tolerances or action levels for these contaminants in feed, and even ACCO lacks standards for many of them, especially Lipophilic compounds, which are the ones we worry about most in meal and oil, things like dioxins.

So I am quite concerned that this recommendation, while really well-intentioned, is not particularly workable. I think that
using the original language recommended by the
AWG, which essentially says that the
contaminant levels in meal and oil have to be
comparable to the lowest in the marketplace,
probably makes the most sense at this point.
It is not a totally satisfactory
recommendation either, but it reflects the
reality of current U.S. regulations.

Finally, on the feed topic, I would
like to note that while we on the AWG favor a
transition over using foreign-certified
materials, one element of the Livestock
Committee recommendation that I personally
like is the step-down process for a
transition, where you set some intermediate
levels of meal and oil that are allowed in
feed, because that ensures that people are on
the road to getting where we want them to go.

With that said, I would like to
turn to the topic of compost and say how
strongly I support the Crops Committee
recommendation. It is essential to my mind
for truly organic systems for producing shrimp
and some finfish species like tilapia and
carp, which are naturally scavengers and
grazers in nature.

Basically, what the Crops Committee
recommendation says is that manure from
terrestrial animals may be used to fertilize
aquatic plants intended to feed organic fish
in aquaculture ponds, provided that the manure
is composted in compliance with 205.203, the
standard composting recommendations.

Conventional aquaculture producers
often fertilize their ponds now to produce
blooms of algae and other microbes and the
zoplank that feed on them all, and these
organisms provide a significant part of the
feed for the shrimp or other fish being raised
in the pond, essentially building a pasture, if you will, in your pond.

Without a provision allowing the
use of compost in aquaculture ponds, organic
aquaculture producers, who cannot, of course,
use synthetic fertilizer, will not be readily able to create such, quote/unquote --

CHAIRMAN DELGADO: Becky?

MS. GOLDBURG: Yes?

CHAIRMAN DELGADO: I'm afraid your time is up. Can you just sum up?

MS. GOLDBURG: -- okay, I'll complete in two seconds -- on "pasture-based pond systems". Rather, their systems will be more like feedlots. I think that is really undesirable and it would be great if you supported the Crops Committee recommendation.

Thanks.

CHAIRMAN DELGADO: Thank you.

Any questions for Becky? Hugh?

MEMBER KARREMAN: Just as far as I think you mentioned the residues, or whatever, in the fish meal/fish oil possibly, in OFPA 2107(a)(6), that is where we based that on. I am sure you are aware of that section there.

MS. GOLDBURG: Yes, I'm well aware of that section, but then you have to go and
see what the underlying EPA or FDA structures are. In this case, they are not there.

CHAIRMAN DELGADO: Gerry?

MEMBER DAVIS: Becky, on the compost as the guidelines that are in the rule now with the CN ratios and stuff that are there, would a compost like that be adequate for aquaculture pasture, as you call it?

MS. GOLDBURG: You know, I think that's an open question. I have discussed it with a couple of people, and the answer is not entirely clear, but my sense is we've got to start somewhere. By at least allowing the use of compost in ponds, I think --

MEMBER DAVIS: And there's not a lot of nitrogen there.

MS. GOLDBURG: Yes.

MEMBER DAVIS: But I don't know anything about aquaculture to speak of, either.

MS. GOLDBURG: Yes, it is a really good question and one I've thought about and
asked questions about. The literature is very scarce. There's a small amount of literature, but not a whole lot.

MEMBER DAVIS: If you ever hear anything, if you come across any information that would be helpful to the Committee.

MS. GOLDBURG: Yes.

CHAIRMAN DELGADO: Right, the Vice-Chair, followed by Jennifer.

VICE-CHAIR MOYER: Becky, I would value your opinion on this question: If fish are declared livestock, and livestock need a 100 percent organic feed, how can you justify your step-down version over seven years, where they would for seven years not be fed 100 percent organic feed? How do you do that?

MS. GOLDBURG: That's a really good question. I think it probably is confusing for consumers, and it is one of those things where you justify it, that it is for purely practical purposes, to initiate an industry. We are making real progress toward where we
want to go, and this is the way forward.

VICE-CHAIR MOYER: But it is clearly against the rule, and the rule says, once something is declared livestock, it must be fed -- it doesn't say it should be or could be -- it says it must be fed 100 percent certified organic feed.

MS. GOLDBURG: Yes. Well, what had been discussed with Valorie and among the Committee was potentially creating a transitional label for the farmed product, so that it was clear that products weren't fully meeting the rule.

I realize that is not a perfect solution, either; none of these are. I'm really open to other ideas. No one has come up with quite the right answer, but at least from the perspective of creating an industry, the transition seems to offer the most promise.

CHAIRMAN DELGADO: Thank you.

Jennifer?
MEMBER HALL: On the contaminant levels, where do you access the information about the lowest level in the current marketplace?

MS. GOLDBURG: There is actually a lot of testing right now of feed going on because Europe, the EU actually does have regulatory levels. So you would have to ask feed suppliers about the levels, which are almost certainly being looked at in order to sell feed in Europe.

CHAIRMAN DELGADO: Any other questions? No?

(No response.)

Okay, thank you, Becky.

MS. GOLDBURG: Thanks.

CHAIRMAN DELGADO: Next is Sebastian Belle. No Sebastian?

Well, after that is Tom Hutcheson, proxy for Neil Sims from Kona Blue.

We have some changes. We've got the monopoly here, so trust us.
(Laughter.)

That clarified, Tom, please.

MR. HUTCHESON: Thank you, yes, proxy for Neil Sims of Kona Blue.

Dear Board members:

I would like to offer the following comments on behalf of Kona Blue Water Farms, LLC.:

Kona Blue is the first integrated open ocean fish farm and marine fish hatchery in the U.S. We're growing sashimi-grade Kona Kampachi in waters over 200-feet deep using innovative hatchery techniques and advanced ocean engineering. We are committed to environmentally-sound aquaculture, and we believe that open ocean fish farming can and should be organic.

Monterey Bay Aquarium's Seafood Watch Program recently ranked U.S. yellowtail as a good alternative. This demonstrates that open ocean aquaculture of marine fish can be undertaken in a sustainable manner. We simply
have to ensure that it is done right.

The development of an achievable organic label for marine finfish will provide such assurances and will, thereby, provide real benefits to marine ecosystems and real benefits to consumer health.

The organic label will also provide a widely-recognized imprimatur of quality that will encourage more conscientious farming techniques to be adopted as the industry grows, but we need to create a regulatory climate that will allow an organic offshore industry to grow.

The nutritional needs of marine fish and the low levels of critical fish oil in most other aquacultured species decree that an alternative source of organic fish meal and fish oil needs to be identified to allow development of an organic marine fish culture industry.

We have reviewed the Livestock Committee's recommendation for allowing fish
meal and fish oil from processing byproducts of foreign-certified organic aquaculture and the Aquaculture Working Group's recommendation for a stepwise decrease in the allowable levels of fish meal and fish oil from processing byproducts from sustainable edible seafood processing.

Both hold merit, yet each of these alternative sources may yet present challenges. Therefore, in the interest of providing the best chances for growth of an organic marine fish culture industry, we would recommend that both the Livestock Committee's and the Aquaculture Working Group's recommendations be accepted together.

We see the best benefits to be gained for consumers and for the ocean by accepting both recommendations; i.e., both the Aquaculture Working Group's recommendation for a limited introductory and diminishing period of using edible wild seafood trimmings at about 12 percent and concurrently the
Livestock Committee's recommendation for allowing fish meal and fish oil from processing byproducts of foreign-certified organic aquaculture.

We recognize that the proposals before us may not be perfect, but we place our faith in the guiding principle of continuous improvement, the same principle that is a foundation of the terrestrial organic industry.

Please remember NIH studies, Mozaferian and Rem, 2006, have shown that modest increases in seafood consumption could result in a 17 percent reduction in overall mortality and a 35 percent reduction in mortality from heart disease. These are lives that could -- that must -- be saved.

Organic standards for marine finfish can encourage better marine fish farming practices and improve national health and the health of our oceans. To do this, however, the organic standards must be
achievable and the products must be available.

We commend the NOSB, the Livestock Committee, and the Aquaculture Working Group for their continuing hard work toward establishing regulations for organic aquaculture, and thank you for your consideration.

Sincerely, with aloha, Neil Sims.

CHAIRMAN DELGADO: Well, thank you. Any questions for Mr. Hutcheson? Yes, Dan?

MEMBER GIACOMINI: Just for clarification there, I think in the step-down that he is talking about, and I understand you're reading his statement, but he talking about the Livestock Committee's step-down rather than the Aquaculture Working Group 12 percent set amount.

MR. HUTCHESON: I take your comment. Thank you.

(Laughter.)

CHAIRMAN DELGADO: Any other
questions?

(No response.)

Thank you, sir.

Next is Barbara Blackstone from National Fisheries Institute, followed by Mr. Jim Riddle, Organic Outreach Coordinator for the State of Minnesota.

MS. BLACKSTONE: Good afternoon. I'm Dr. Barbara Blackstone, Director of Scientific Affairs for the National Fisheries Institute in McLean, Virginia.

NFI is the Nation's leading advocacy organization for the seafood industry. Its member companies represent every element of the industry, from fishing vessels at sea to the national seafood restaurant chains. NFI and its members support and promote public policy based on scientific research.

NFI greatly appreciates the opportunity to speak to the NOSB on behalf of the seafood industry.
As we all know, aquatic foods are the final major category of food not yet approved for U.S. organic certification. Though only 1 to 2 percent of food produced in the U.S. is produced by organic methods, 20 percent of the consumers queried in focus group research sponsored by the New Jersey Department of Agriculture said they were committed to purchasing organic seafood while 52 percent said they would buy it occasionally, and 72 percent, significantly, said they would buy organic seafood if available.

Mark then that the industry must have an organic seafood rule to serve consumers who are asking for it, and many of them are asking for it.

Salmon is No. 3 of the top 10 seafoods enjoyed by American consumers, and therefore, should be available for organic labeling.

Supplements of fish meal and fish
oil to feed pisciverous finfish such as salmon is a good agricultural practice that will expand the availability of organic salmon at a reasonable price.

NFI is very concerned because the feed industry has no alternative to fish meal and fish oil for finfish, though it seeks such.

Results in alternative feed research to date are not encouraging, and nothing is on the distant horizon. Sunset clauses will not make feed alternatives happen and will in time prohibit use of fish meal and fish oil to feed salmon and other pisciverous finfish, thus eliminating organically-labeled salmon from the consumer's menu.

USDA will most likely have to extend the sunset clause and provide immediate research dollars for alternative feeds to be a reality within seven years. In the meantime, NFI supports the recommendation of the Aquaculture Working Group that fish meal from
wild fish as a feed additive or supplement may not exceed 12 percent by weight of feed, and fish oil from wild fish used as a feed ingredient may not exceed 12 percent by weight of feed as averages over the production cycle of the fish.

Two notes of concern in the Aquaculture Working Group's recommendation found in appendix A:

One, as just stated, the Aquaculture Working Group's prediction of seven years of research may not be sufficient to find fish meal and oil alternatives.

And, two, exclusion of the use of genetically-modified organisms, GMOs, as a feed ingredient or as an aquatic livestock enhancer represents today's Pollyanna myopic view of aquaculture.

Without the assistance provided by GMOs directly to aquatic animals and to the feeds they consume, seafood may not be a sustaining industry tomorrow.
Our opinion is one shared by the Biotechnology Industry Organization, a worldwide association of over 1100 biotechnology companies, academic institutions, and state technology centers.

In conclusion, NFI urges completion of the current work on organic standards for farm-raised seafood, so that work can begin on standards for those seafoods currently excluded, wild-caught and mollusk.

Further, with our concerns about appendix A just stated, NFI is generally pleased with the recommendation of the Aquaculture Working Group. The organic label for seafood can happen when we remind ourselves that the label is a venue for practices that use and steward natural resources, not rigid conservation practices.

Organic labeling is not about addressing activist issues, but is about defining USDA best practices in production of safe, healthy seafood for the consumer.
Thank you for the opportunity to speak to the Board.

CHAIRMAN DELGADO: Thank you.

Questions? Joe?

MEMBER SMILLIE: Well, it is not really a question. The U.S. organic regulation which you're supporting excludes GMO methods from organics.

MS. BLACKSTONE: Yes.

MEMBER SMILLIE: And speaking as Pollyanna, as I recall the movie, she had the rest of the village smiling pretty well by the end of that movie. Now it may be Disney World, but we oftentimes want to remake the world in our image, which excludes GMOs.

Therefore, I think that any proposal or thing that we hear that talks about confirming the regulations has to take that into account.

MS. BLACKSTONE: I think you can smile for a few years and then we are going to get to a point where there just isn't anything
available that doesn't have a GMO in it.

MEMBER SMILLIE: Well, we are going to do our very best.

MS. BLACKSTONE: Okay.

CHAIRMAN DELGADO: Any other questions?

(No response.)

Thank you very much.

MS. BLACKSTONE: Okay.

CHAIRMAN DELGADO: Next is Mr. Riddle, and I take this opportunity to explain that Mr. Ram Balasubramanian has rescheduled his presentation for another day. So we will take care of him.

Mr. Riddle, followed by Tom Hutcheson again.

And you, I understand, are doing a proxy?

MR. RIDDLE: Right, from Alex Stone, Oregon State University. Ten minutes, please.

Thank you.
Well, thank you for the opportunity to speak. My name is Jim Riddle, Organic Outreach Coordinator with the University of Minnesota, former NOSB member. It is good to see all of you once again.

I am also on the leadership team for eOrganic, which is a multi-state project funded by USDA, CSREES, that is bringing the best scientific information on organic agriculture to the internet through land grant universities and cooperative extension.

I have handed out a brochure about eOrganic, just in summary, a web community where farmers, researchers, and educators can exchange objective research and experience-based information about organic agriculture.

We have a lunch planned for this fall. This is part of a larger e-extension initiative where universities across the country are working together to consolidate information. It is not limited to people working in land grant universities. It is
open for anyone with organic agriculture experience to contribute and become a part of the community of practice.

So I encourage you to check it out. We are working in cooperation with the Sustainable Ag Research and Education, or SARE, ATRA, the National Ag Library, New Farm, OFRF, and other organic information providers.

So we are trying not to duplicate, but to rather maximize the use of resources and make the best information especially available to farmers and extension agents that is research-based information.

We will be having our own frequently asked questions that will be rule-compliant and searchable and follow a chronological order of the organic regulations. It will be built in as part of this website.

I would like to thank you all for the hard work you do in preparing for this meeting. I see some of you still are
suffering from conference call ear and elbow.

I know the feeling well. It is certainly a challenge, the work you do.

We've got a lot to celebrate right now with all of the very strong organic language that is in the recently-passed farm bill. I want to celebrate that and acknowledge the efforts of so many people in this room to make that a reality.

But we also have some cause for concern with these recent polls showing for the first time ever an erosion in consumer confidence in the integrity of organic. There's various reasons for that, but I think it is something that we need to take seriously and do what we can to address that.

In addition to promoting the eOrganic project, I am here today speaking on my own behalf. Even though I live in Minnesota, I am here to defend organic okra.

I strongly disagree with the Handling Committee's recommendation that okra
be added to 205.606. When I look through the
decision sheets, I find the strongest
justification being the petitioner presented
voluminous information and references that
organic okra in commercial quantities was not
available, especially near or transportable to
an IQF facility. Maybe the petitioner should
move the IQF facility nearer to organic okra
fields or possibly transition land near an IQF
facility to grow organic okra, or label the
products that contain non-organic okra as made
with other organic ingredients.

There's a lot of options here, but
there's no entitlement to the use of non-
organic ingredients.

The recommendation appears to rely
solely on the information provided by the
petitioner, and I am concerned that that
petitioner is a client of the person who made
the motion to add okra to the list.

The petition and the recommendation
contain no market analysis and no information
from organic okra growers, and it exemplifies some of the things that have gone wrong with this rush to add materials to the list and the review process, and this particular recommendation should be rejected.

The items that go on 606 need to be rare exceptions. They must be well justified with neutral objective analysis and TAP reviews, not just relying on information from the petitioner.

On a positive note, I support the Livestock Committee's recommendation to add Fenbendazole to the National List. However, it is time to remove Ivermectin, which is not compatible with organic principles and organic production.

I support the allowance of DL-Methionine for two more years only. I think the research can be concluded and alternatives commercialized in that time.

I support the Crop Committee's recommendation to add cheese wax with the
annotations and to reject Dextrin and Tetracycline.

I urge the NOSB to table the Livestock Committee's draft on aquatic plants. I think it is a good starting point, but it doesn't have any background information. It has not been subject to discussion and shouldn't be brought forward to a vote until there's been more thorough discussion of this draft recommendation.

There's a discussion document on hydroponics. Really, the two are so similar that they should be considered together, not separately. It all needs to be done in the context of what the law allows. So looking back at OFPA and requirements for the use of soil and land-based production.

I support the Crops Committee's additions to the existing recommendation on organic seeds. I think there are some problems with that language, but as any guidance gets implemented on this, the NOP
needs to work very closely with accredited certifiers to make sure that standardized protocols are implemented that really work without being an unfunded mandate or overly burdensome.

I do urge that the existing organic seed requirements be better addressed during accreditation audits. There already are requirements.

One thing I like about the Committee's draft on organic seeds is that it followed a good model by building on an existing Board recommendation and amended that recommendation. Well, that is not the case with the discussion document posted by the CACC on multi-site certification.

Instead of building on the existing 202 NOSB Grower Group recommendation, which was recognized by the NOP for guidance, which is a highly unusual thing, and that should have been the starting point -- instead, the CAC chose to expand a previous discussion
document which was never adopted by the Board.

So you are building on a discussion on a discussion of something that has never been adopted instead of resolving the issue of grower group certification when you've got a solid recommendation to be amending and working from.

This draft on multi-site certification, it appears to justify one agency's sample inspection program for retail chains by extending grower group protocols to cover retailers and other types of handling operations.

The draft from the Committee, the discussion document makes no mention of OFPA 2107(a), which states, "A program established under this title shall provide for annual onsite inspection by a certifying agent of each farm and handling operation that is certified under this title."

And OFPA defines handling operation to mean any operation or portion of an
operation that receives or otherwise acquires agricultural products and processes packages or stores such products.

Farm is not defined in the OFPA or the rule. This gives USDA more flexibility in how that term "farm" is applied to a grower group operation.

The Board should direct the Committee, CACC, to discontinue work on the discussion draft, take some of the advice that will be offered here by the National Organic Coalition, the Organic Trade Association that is focused on grower groups, respond to the concerns that were identified by the NOP in the appeals decision and revise the 2002 Board recommendation to strengthen language on inspector qualifications, conflict of interest, and risk assessment protocols.

In addition, the NOP should consider establishing a separate accreditation category for certifiers who conduct grower group certification.
I would just like to let you know that the University of Minnesota will be converting our 70-cow dairy herd to organic, have committed to that.

Also, next week there will be a signing ceremony for a new MOU on organic agriculture with three state, four federal, and three universities in Minnesota, all to service the organic sector.

Thank you. Viva la okra.

(Laughter.)

CHAIRMAN DELGADO: Any questions for Jim? Kevin, please.

MEMBER ENGELBERT: Jim, I know you have your hand on the pulse of everything organic.

MR. RIDDLE: I wouldn't say that.

(Laughter.)

MEMBER ENGELBERT: In your opinion, what's the best way to introduce fish oil and fish meal into the --

(Laughter.)
MR. RIDDLE: Oh, thank you. Yes, right, I love to fish. You're dangling that hook in front of me.

Well, I think starting with the herbivorous fish that can be fed an organic diet, you know, let's start there. That can be done. Everyone agrees that can be done.

Let's have standards for that and let's build from there. That's what I would say.

It may take going to Congress. I mean, otherwise, this predicament of 100 percent organic feed is always going to be a problem.

I mean the other is -- and there has been some consideration about this phasing-out allowance, temporary with a built-in phaseout for the non-organic fish meal and fish oil as feed supplements, which non-synthetic supplements are allowed under the rule, but that it still is a phaseout to allow the industry to adapt.
But I think focus on the low-hanging fruit, which are the herbivorous fish, is really the place to start. Let's have some standards, but don't jump into this, the Board equivalent with some provisions that go beyond a foreign certifier's norm -- I just think that's really problematic.

I don't know if you've gotten feedback from the NOP on that proposal. I think it is a good idea just to talk about, but I don't know that it would fly.

CHAIRMAN DELGADO: Kevin, if we can stick to the comments by the speaker, and before you proceed, let me give the opportunity to Joe. You wanted to talk? Or Dan? And then if you need to expand further, you will have the opportunity.

MEMBER GIACOMINI: Thanks, Jim.

You recommended relisting of Methionine, and let's remember this is not -- for poultry.

MR. RIDDLE: Yes.
MEMBER GIACOMINI: And let's remember this is not continuation as in sunset. This is considered a new petition.

But you would have probably been here three years ago when it came up the second time --

MR. RIDDLE: Right.

MEMBER GIACOMINI: -- this being now the third time.

Are you aware, either then or now, of any significant real data, not hypothetical, not what happens if there's no Methionine in the diet, but real data showing in practical diets impact on health, immunity, feathers, cannibalization, whatever, in real data, with a practical diet of no Methionine, with no added Methionine in it, that we can really hang our hat on?

Because what they gave us in the petition is performance data. I'm not aware of anywhere else where it would just throw bones to an industry like we have done with
Methionine for the ability to maintain more conventional growth.

Can you give us -- do you know where that data is? Are you aware of it? Do you remember it? Or is somebody going to come up with it to help us out on that?

MR. RIDDLE: Yes, well, I could come up with data showing that Methionine is an essential nutrient for poultry. I would have to do a lot of research to try to come up with the rest of the answer, and I'm not aware of that either.

But I am aware of very promising research on high Methionine corn varieties, for instance, or other feed ingredients that I think are very promising, but we need a lot more research flocks, feeding that, to establish some of that data of how well they perform.

But they do need to have outdoor access. It needs to be real, and they are going to gain Methionine if they do have
access to earthworms, insects, and fresh green grass and seeds in their diet. A diversified diet provides a lot of different sources of Methionine.

CHAIRMAN DELGADO: Any other questions? Joe?

MEMBER SMILLIE: Well, I'll jump into the gumbo with you, Jim.

MR. RIDDLE: Hey!

(Laughter.)

MEMBER SMILLIE: 606 is a whole new process caused by the Harvey lawsuit. It wasn't anticipated when we were setting up TAP reviews and for quite a while.

The NOSB was forced to get into the 606 listing, and I just want to point out that the procedures that we're following for 606 are different than the other procedures. I don't know if it is significantly different or not, and I don't want to steal Julie's thunder because I know tomorrow she is going to talk in general about 606 quite a bit. It is
problematic. It is a little complicated.

But one of the things the NOSB is charged with is examining the fragility of supply and doing sort of a risk analysis, to jump over to a different topic, of the situation. Our job is not to determine commercial availability. That is the certification agent's job, because, again, it is a two-step process.

You can't use an agricultural ingredient unless it is on 606, and even if it is on, that doesn't mean you have license to use it. You must prove it is not available.

So it is a two-step process, not that that limits your argument. I mean your argument still stands. Once it gets on 606, then there is more of a chance.

But our job on the NOSB is to look at the risk of the supply side and the fragility, and that is what we did in that case.

The other thing is that when you
say it needs no market analysis and no information from organic growers, in filling out those documents we have been talking among ourselves that we are going to give more information to the public at large about what went into that decisionmaking. I agree with that, and we are just going to have to do that.

The volume of materials we had to deal with really limits your ability to go into extremely great depth, but that research was done, market analysis and information from organic growers, freezing facilities, and certification organizations. They were polled, and we can go into the details perhaps later or off-session, if you want to.

That having been said, I think tomorrow and during the thing when that comes up, we can get into great detail on the gumbo controversy. Because as soon as that passed, I said, "We are going to catch it on this one, guys, guaranteed," because it doesn't look
MR. RIDDLE: Yes.


But when you look at it really carefully and you look at the petition and what we went through, you will see why our Committee justified it and we will see what the Board thinks of that down the road.

MR. RIDDLE: Okay, but the larger process issue, the things that go on 606 still have to meet all criteria, and you need to be addressing -- there's not a pass given to 606 that it only has to address market fragility --

MEMBER SMILLIE: Right.

MR. RIDDLE: -- but it has to be reviewed for the environmental, human health impacts, and all of that. I don't see that happening for 606 items because there aren't TAPs. There's not objective neutral research
being conducted for the Board.

    MEMBER SMILLIE: Yes. Will you handle that tomorrow?

    MR. RIDDLE: Yes.

    MEMBER SMILLIE: That's a very good question, and we've spent a chunk of time this morning actually going through that, and I will let Julie handle that tomorrow in her response.

    MR. RIDDLE: Okay.

    CHAIRMAN DELGADO: Very well, we will make that clarification tomorrow.

    Do we have any more questions?

    Dan?

    MEMBER GIACOMINI: Going back into that vast mind of yours, we have tartaric acid on both (a) and (b) 605 up for sunset. Any remembrance of how that exactly came to play and any comment or any knowledge of usage or anything?

    MR. RIDDLE: I'm sorry, I would have to do some review to refresh my mind.
Sorry.

And I understand my comments about Ivermectin coming off, that that may take a petition to trigger that, but I do think it is time, and anything we can do to get it off when the other goes on would be a very good step forward.

CHAIRMAN DELGADO: Jim, before you leave, I believe Barbara has a comment, question. No? Okay.

Kevin, you wanted to conclude with your statement.

MEMBER ENGELBERT: No, that's all right. I'll pick Jim's brain privately.

CHAIRMAN DELGADO: Fantastic.

Thank you very much.

MR. RIDDLE: All right, thanks.

CHAIRMAN DELGADO: Thank you, Jim.

Next is Tom Hutcheson, followed by Jody Biergiel.

MR. HUTCHESON: Good afternoon. My name is Tom Hutcheson, and I am the Regulatory
and Policy Manager of the Organic Trade Association.

Thank you very much for all your work, and thank you for the opportunity to present these comments.

First, I would like to commend to you the work of the Materials Working Group, with which I served and which is posted as a discussion document regarding the definition of the term "agricultural" and related issues.

This group dove deep into the issues and has developed a document that can serve well as a foundation for discussing the myriad of issues involved.

I believe you received OTA's comments on the certification of multi-site operations, and they should be in your meeting book. These and some replies to the questions that you asked at the end of the current document, discussion document, will be discussed at length by Grace Gershuny and Kim Dietz, Co-Chairs of OTA's Task Force, in a
In addition to these issues, I would like to offer some other comments. Regarding the proposed aquaculture standard, NOSB has taken the first step toward a useful standard by recommending that new sections of the rule be created for aquaculture in the so far reserved 205.250 series.

However, thinking from terrestrial ecological management systems still infuses NOSB thought, and I urge you to acknowledge and celebrate the differences in aquatic ecological management that can make the upcoming recommendation both more useful in growing the organic system and more practical for those wishing to participate.

The terrestrial provision should not necessarily apply to aquaculture unless they make sense specifically for aquaculture. Therefore, NOSB should recommend, and NOP should implement, renaming the current rules sections referring to livestock, 205.236 to
239, to refer to terrestrial livestock, to help clarify the situation, with the 250 series referring to aquatic livestock.

On farmed aquatic plans, some OTA members have indicated support for the NOSB recommendation, and we applaud NOSB for their substantial attention to this field.

On seed commercial availability guidance, the Joint Committee has made its desires clear and has laid out a number of practices that could help stimulate the growth of the organic seed trade.

The major obstacle for farmers to growth in the organic seed trade cited in the paper, though, was the quality of organic seed, which seems to be left unaddressed. The Joint Committee seems to be proposing a substantial increase in the requirements for certifiers and buyers without necessarily getting at the main cause of the problem.

These steps might be helpful to some degree, but the recommendation does not
give much hope that the problem will be much
closer to being solved, even with the
substantially increased reporting requirements
proposed.

OTA generally supports the
direction of the carefully-crafted and well-
thought-out recommendations of the Organic
Seed Growers and Trade Association, OSGATA.

Thank you.

CHAIRMAN DELGADO: Thank you.

Any questions for Tom?

(No response.)

All right, thank you very much.

On with Jody Biergiel.

MS. BIERGIEL: Hello. Thank you
for the opportunity to address you today.
This is my first time addressing you. Thank
you very much.

My name is Jody Biergiel, and I am
representing CCOF, Organic Certification.

Regarding the materials up for
sunset review, generally, CCOF has a diverse
membership, producing many kinds of products, the handlers. We support the relisting of all materials, as we have historically.

Regarding the two forms of tartaric acid, we also support the relisting of both of those, understanding that it was some sort of historical typo.

(Laughter.)

Regarding the 606 additions, we have one client who will be able to upgrade their product from "made with organic" to "organic" based on one of these additions. So they will be happy to hear that.

However, CCOF would not be surprised if both of the marsala line and sherry, for example, become available organically in the near future. We would continue to require that thorough commercial availability searches are conducted annually, if not more frequently.

Now I would like to comment on the use of materials listed on 605 in or on
products labeled as 100 percent organic.

Certifiers are interpreting the 100 percent organic labeling category a little bit differently. The regulation states that products sold as 100 percent organic must be processed using organic processing aids. This does not seem to be clear enough direction to certifiers, as in the case of chlorine used as a sanitizer for fresh products.

Some certifiers are not allowing chlorine to be used on products labeled as 100 percent organic and some are allowing that use, chlorine, over the Safe Drinking Water Act standard.

Just last week we informed a client that their product would not be considered 100 percent organic by CCOF due to the use of chlorine at levels above four parts per million in water that contacted the product, and the client solicited comments from other certifiers about his product. He provided an email from another certifier demonstrating
that he would be able to call his product 100 percent organic if he went to that certifier. On the phone with me, he said he felt he was at a market disadvantage because of CCOF's take on this issue.

Certifiers also vary in their allowance in the use of sanitizers on the surface of meat labeled as 100 percent organic. This issue extends beyond sanitizers to many items on 605, including the use of nitrogen gas in bagged salad, Diatomaceous Earth, and juice processing or rice treated with CO2.

These examples illustrate a larger issue. Where there is room for interpretation of the rule and certifier interpretations differ, certified operations are figuring out that they can shop around for a desirable answer.

In short, CCOF is requesting clarification as to whether items on 605 that directly contact food, not all of which are
necessarily processing aids, are or are not allowed for use on a product destined to be labeled 100 percent organic. Is the intent of the 100 percent organic labeling category to apply to a very limited scope of products or all organic product that may also be using allowed materials? It appears to CCOF that this has become a complicated issue of semantics about what is and is not a processing aid.

More generally, CCOF would like to make the NOSB formally aware of the impacts of differing certifier interpretation and encourage the NOSB and NOP to provide rule clarifications in order to prevent this certifier shopping in the marketplace.

Lastly, CCOF is requesting clarification as to whether DHA and other omega-3 fatty acids are allowed under the nutrient, vitamin, or mineral listing on 605. CCOF does certify a company using this material as a supplement in baby food. But
recent complaints have surfaced against the use of this material. CCOF would like to know either way if this material is allowed for use in organic production.

This question extends to a general discussion of accessory nutrients, like other fatty acids and other health-promoting compounds and their allowance in organic products.

Another client has requested the use of DMAE and choline in a product labeled "made with organic". Although we have not allowed the use of these substances, there is increasing market pressure to accept a very wide interpretation of the vitamin and mineral allowance.

Please clarify whether nutrients, vitamins, and minerals should be interpreted to include only actual vitamins or whether it can be extended to other substances that could be considered essential for growth and development.
Thank you.

CHAIRMAN DELGADO: Any questions?

Joe?

MEMBER SMILLIE: Right.

MS. BIERGIEL: Hello.

MEMBER SMILLIE: This 100 percent thing, I'm not sure that all the NOSB members are up-to-speed on this, but as the certifier rep, I have to tell you there has been a great deal of disturbance in the forest on this one.

Again, it is an NOP issue, and it hasn't been on our work plan. But the NOP, the current thinking of the NOP seems to be -- and please correct me if I am wrong -- seems to be that almost anything is considered a processing aid when it comes to the 100 percent claim.

That means if you take grain and put it in a silo and add Diatomaceous Earth, totally allowed, and then filter that Diatomaceous and send that grain out, that grain loses its 100 percent status.
If you take CO2 and -- what's the word? -- I hate to use the word "fumigate" -- you know, put strawberries through it, those strawberries are not 100 percent organic anymore because the CO2 isn't organic.

If you take nitrogen and 100 percent olive oil and put that nitrogen as a packaging aid, was our previous interpretation, then that olive oil cannot be 100 percent, even though it fulfills every other requirement.

This is kind of a bit of a shock to the certification community. It has caused a lot of consternation in the industry, to the point that the 100 percent label has been problematic from the very beginning of this regulation.

I can't tell you how many hours I have spent explaining to clients and prospective clients, "No, you can't say it's 100 percent, even though everything is organic in it, because the processing aids weren't
organic."

It was hard enough; now it has become almost impossible. Basically, I think all of us in the certification world are saying, please, don't make 100 percent claims.

It has created this kind of real problem in the industry, and I am not sure everybody is aware of it. It is not on our work plan. I'm not sure what we can do about it, other than conference with the NOP to at least come to a decision of how we're all going to move forward, because everything like this does create this certification shopping. We just about eliminated certification shopping to some extent, based on money and service, and now with these different interpretations coming back in as people explore the regulation, it is coming back.

So we need to act quickly to clarify and create that common ground. I am not sure that all of you were aware of this 100 percent issue, but we have had to deal
with it. The ACA LISTSERV has had a number of options, and perhaps Pat will speak to that tomorrow or the next day, but it has become a serious issue, but I don't see it on any of our work plans.

As far as the second issue of the vitamins, minerals, and other nutrients, as allowed in 104.20, that is, if I am not incorrect, that is going to be on our work plan, Julie.

MS. BIERGIEL: Thank you.

CHAIRMAN DELGADO: That was yes from Julie.

MEMBER SMILLIE: That was a very reluctant yes though.

(Laughter.)

CHAIRMAN DELGADO: Any other questions? Steve?

MEMBER DeMURI: This is in response to you, Joe. No, I was not aware of the issues with 100 percent, but I am glad I am now.
MS. BIERGIEL: Thank you.

MEMBER DeMURI: I do think it is something we need to work on pretty quickly.

MS. BIERGIEL: Yes, thank you.

CHAIRMAN DELGADO: So there we have the action item. Very good. I like to hear that.

Any other questions, participating from the program, clarifications? Barbara?

MS. ROBINSON: What did you want, Joe?

MEMBER SMILLIE: Did I present it --

MS. ROBINSON: Yes, you did, and the program will take a look at it.

MS. BIERGIEL: Thank you.

CHAIRMAN DELGADO: Kevin?

MEMBER ENGELBERT: Joe, what about the instances where there are requirements above and beyond organic standards for sanitation, things like that? How does that play into your decisionmaking with 100
percent?

MEMBER SMILLIE: Well, to go back to a previous decision, we do not regard a sanitizer as a processing aid, as long as it is rinsed off and does not come into contact with the final product.

So, in other words, if you clean your line with a sanitizer, it's a clean rinse, a sanitized rinse, as a manufacturing facility, you have to prove to us that there's no residual left. So we don't think it is an issue. That is our current stance.

MS. BIERGIEL: If it doesn't contact the product and there's no residual --

MEMBER SMILLIE: Right.

MS. BIERGIEL: -- it is not an issue.

MEMBER SMILLIE: Right, but the Diatomaceous serves the carbon dioxide. We are talking about nitrogen, carbon dioxide. You know this is like what we breathe every minute, this stuff, you know. You can't see
it.

MS. BIERGIEL: Right.

MS. ROBINSON: Rigo? Wait a minute, Rigo.

CHAIRMAN DELGADO: Barbara, please.

MS. ROBINSON: There is a definition of a processing aid in the regulations, and the sanitizer is not a processing aid. It doesn't say -- nowhere in the definition of a processing aid is the word "sanitizer". Okay?

MEMBER SMILLIE: But Diatomaceous Earth, carbon dioxide, nitrogen are processing aids under your definition.

MS. ROBINSON: Yes, but they are not added to food.

We'll look into this further. Okay?

CHAIRMAN DELGADO: All right. Any other questions for the presenter?

(No response.)

Thank you very much.
MS. BIERGIEL: Thank you.

CHAIRMAN DELGADO: At this point we're going to take a well-deserved break. We will come back at 3:15, and the next speaker will be Emily Brown-Rosen.

(Whereupon, the foregoing matter went off the record at 3:09 p.m. and went back on the record at 3:24 p.m.) CHAIRMAN DELGADO: We are ready to resume our public comment.

At this point, Emily Brown-Rosen from the PCO -- we are ready to start our public comment.

Emily, thank you for being with us. Please start.

MS. BROWN-ROSEN: Okay, thank you.

My name is Emily Brown-Rosen, B-R-O-W-N R-O-S-E-N. I work for Pennsylvania Certified Organic as the Policy Director. Thank you very much for the chance to speak to you here again today.

Pennsylvania Certified Organic is
an accredited certifier. We have about 500 clients. We have filed a number of comments that should be in your book on various different topics, materials, grower groups, seed. But today I am going to focus my little five minutes here on the materials definition issues. I don't think anyone has talked about this yet. When should something be agricultural and when something is non-agricultural? So I will be the first.

If you have questions about any of our other comments, feel free to ask me later. Also, we have two other people that will address some of those issues coming along.

Previously, I posted a comment in support of option D. I should say, starting out, that I was a member of this Materials Working Group, this collection of different individuals who worked quite a bit on that lengthy proposal that we gave you. I think it was a really good process. It was a really good discussion. We came up with lots of
different ideas. It was a hard one because there was a lot of difference of opinion, but we gave it a shot, and I came out in support of option D.

But having thought about it further and having read other people's comments, which is all part of the process, I have now revised my opinion. So I am handing out another one.

I have a new option I am supporting, and I am calling it option B-plus. I will explain this. It is not A. It is not perfect. Nothing will ever be perfect, but I think this is good enough. So I will explain where I got this from.

This option B is based on the proposal that commercial availability is required for everything on the list that's 205.605 and everything on 205.606. I think this really makes it simple. Initially, we had rejected doing this because it seems like it is too much work to prove availability of this other section of the list, but we are
doing this already with 606 as far as certification goes. I think we know how to do that. A lot of the things on 605 will be fairly obvious that they are not possible ever to be organic. So it won't be that much of a stretch to add this to that.

From reading CCOF's comments, which I support on this issue, they pointed out this does provide more incentive to develop organic forms of all the substances on the National List. It gives us back that order of preference; we want organic whenever available.

And as Oregon Tilth has pointed out, we need to get back to the old, original thinking that there is sort of this order. You know, organic is best; then if you can't find something organic, something natural is best, and then something synthetic on the list. That really fell out when the final rule got published, but it is something worthy of trying to bring back.
So I think this proposal does that.
It will keep the section (a) and (b), synthetic, non-synthetic, so that's there for identification purposes, and then people will have to justify that they are not using organic if it is available.

Now this also requires that we drop the term "non-agricultural" from the title of 205.605. So everything listed on 605 will just be non-organic substances allowed in food processing. So it won't be one way or the other, it's agricultural or non-agricultural. It is just a substance that has been reviewed that is allowed. If you can possibly find a way to make that organically, that is the form of it you should be using.

So there's no barrier. It's because it's not classified as non-agricultural, like right now the NOP's Q&A says that yeast is non-agricultural so you cannot make it organically. So that nomenclature problem will just disappear.
because we won't identify it one way or the other.

Now this is my change here. I suggest that, in addition to this major change, we use the definition of non-agricultural substance that Oregon Tilth has proposed. I will repeat. Gwendolyn nicely wrote up, "A substance that is not raised in or derived from an agricultural system, such as a mineral or atmospheric gas. For the purposes of this part, a non-agricultural ingredient is also anything technically impossible to be organically produced." So Gwendolyn went on to explain that "technically impossible" refers to either a lack of standards or the current production methods available for the substance in question are limited to materials and practices that are not consistent with the standards for an organic product.

So this is something that is doable. This is something that I think will
1. be a very bright, clear dividing line for NOP
to say, "We don't have standards for
microorganisms. We can keep microorganisms on
the list."

I'll finish my sentence and then
you can ask me questions.

CHAIRMAN DELGADO: Yes, if you can
wrap up.

MS. BROWN-ROSEN: Okay.

Keep microorganisms on the list,
but you could also put baker's yeast or the
types of brewer's yeast that are available
organically on 606.

I want to point out that attached
to my comments I have printed out a page from
the AFGO manual listing the 45 different kinds
of bacterial and fungal microorganisms that
are used in livestock feed. I can't even
pronounce these names, but at this point in
time I don't see them being available for
organic livestock, and therefore, let's just
keep microorganisms on the list at 605, and
you could do that with this proposal.

All right, any questions?

CHAIRMAN DELGADO: Okay. I just want to make sure, did you get a copy of Emily's proposal?

MEMBER HEINZE: I was going to point out we had a little miscommunication gap. So this side of the table has the written comments; this side of the table doesn't. So we'll get them to you.

CHAIRMAN DELGADO: Thank you for that.

Okay, now any questions?

We'll start with Dan followed by Gerry.

MEMBER GIACOMINI: Just so I understand your B-plus, the clarification on the definition of non-ag, which is a fairly significant change, is coupled with the fact that you're dropping the term non-ag out of the title of 605, correct?

MS. BROWN-ROSEN: Correct.
CHAIRMAN DELGADO: Gerry?

MEMBER DAVIS: You mentioned that list of all those microorganisms. Do you have any comment on the importance of -- I know you say they are being used, but is there any centering at all on certain ones that are vitally important and others are just occasionally used?

MS. BROWN-ROSEN: Well, I will say, from the standpoint of someone who reviews livestock feed additives all the time, that you see all of these in multiple combinations all the time. It is considered a very important part of a healthy diet for ruminants to prevent other medical problems that would require medications or treatment.

So I can't judge whether one is better than another one. I know the formulatios all have their reasons why they think certain combinations are better for certain purposes. So I would say they're in everything.
We will commonly see a livestock feed additive that has 30 or 40 ingredients, including maybe five or ten microbials and then all the vitamins and the different things for different purposes. So there is a lot of work reviewing those products to begin with.

So if we had to get organic certificates for all of them, we could do it, but I don't think it is going to happen any time soon.

CHAIRMAN DELGADO: Dan?

MEMBER GIACOMINI: Just a comment on that, Gerald, as an animal nutritionist working a lot with dairy cattle ruminants and these types of products, a large part of what these products are trying to do is a balance of enzymes in the rumen. It is very likely that the optimal enzyme supply balance is not even -- it may be three of these bacteria species that are used very minorly now, but they just haven't put them together yet.

So you have the regulars now, and
the favorite, the A list. It may be that two
or three or four or five from the B list may
end up being the best thing in two to three
years. So it would be very hard to just try
and start splitting hairs on where on this
list the best is going to come from.

MEMBER DAVIS: So you would concur
that there is a vast amount of differing
concoctions being marketed in feed? I mean
that list is reflective of what's actually
being used, just like she said?

MEMBER GIACOMINI: Well, the
technology of bringing these to the animal, to
a great extent, is a technology in being able
to get the billions of different species that
are in the rumen already fed back to the
animal in a product where you are still
getting to them in a live state. There may be
changes in technology and maybe modifications
down the road where this list may be obsolete
in five years.

MEMBER DAVIS: So it may be a bit
MEMBER GIACOMINI: Well, the answer is always going to be a shotgun rather than a rifle because it is going to be the balance of amino acids, but what BBs go into that shotgun is going to be changing constantly also.

CHAIRMAN DELGADO: Was that clear enough, Gerry?

MEMBER DAVIS: Yes.

CHAIRMAN DELGADO: Okay. Any other questions?

(No response.)

Very good. Thank you, Emily.

Up next is Gwen Wyard, followed by M. J. Marshall.

MS. WYARD: Good afternoon, members of the Board, NOP staff, and ladies and gentlemen of the gallery. My name is Gwendolyn Wyard. I am presenting today on
behalf of Oregon Tilth.

We are a membership-based nonprofit organization. Our mission statement is to support biologically-sound and socially-equitable agriculture through research, education, advocacy, and product certification.

The topic for this afternoon is the definition of materials, namely, agricultural versus non-agricultural. The comments in their entirety were submitted to regulations.gov, so you should have them and all their gripping details in your book.

We also submitted comments in conjunction with PCO on the 606 review process, and I believe those are going to be addressed in later comments, but if you have any questions for me, at the end of my five minutes I will be happy to answer them.

I also was on the Materials Working Group, and I have some comments with respect to the options that were offered up in that
document.

We start off our comments by laying down five key concepts that should remain central to this discussion. While all are equally important, in the interest of time I will highlight only two.

No. 1, the NOP definition of organic production, and No. 2, 205.605 should be reserved for substances that technically cannot be organic.

With respect to the Materials Working Group discussion document, we are tossing another option in for discussion. It is referred to as option Tilth. It could have been option DD, it was suggested, because it is largely based off of option D, but we're sticking with option Tilth.

There are some significant differences that I would like to point out. Option D adopts a 2005 clarification on the definition of agricultural product. We would like to see only part of that guidance
adopted, namely, the following: Agricultural products are those that are managed by humans, and managed by humans refers to the intentional act of gathering, producing, raising, or growing domestically or in designated wild harvest areas by persons for human or livestock consumption.

Oregon Tilth does not agree that lines between agricultural and non-agricultural should be drawn based on an organism's taxonomy. The focus should be whether they are a living organism managed by humans and intended for human or livestock consumption. The focus from there on out should be whether they can or are produced and handled in accordance with the act and the regulations.

The definition of non-agricultural should either be revised or removed completely. We feel a revision, rather than complete deletion, is more appropriate because the general concept is very ingrained into our
regulation and is extremely useful when explaining why certain substances such as water and salt are allowed in or excluded from certified products.

Therefore, we recommend the following definition: Non-agricultural, a substance that is not raised in or derived from an agricultural system such as a mineral or atmospheric gas.

For the purposes of this part, a non-agricultural ingredient is also anything that technically cannot be organic. It is the same definition as B-plus.

We support the change in the title of 605 as presented in option D. Drop the word "non-agricultural" and refer to non-organic substances only. This approach provides a place for non-organic inputs that are either non-agricultural substances or substances that do not belong on 606 because they cannot be certified to the organic production or handling standards.
We support retention of agricultural, non-organic non-synthetic, and non-organic synthetic as categories because they cater to the organic preference stepwise approach of using materials which, I might add, has been lost in time.

Yeast -- hang onto your knickers. While Oregon Tilth cannot positively point to yeast as being agricultural in a traditional sense, we can say that yeast are living organisms and their production relies primarily on agricultural material that is available in organic form.

We recognize that yeast production has definite agricultural and environmental implications, and we feel these should and can be addressed by applying organic principles to yeast used in organic food.

Option Tilth offers the following fodder for thought: Retain microorganisms on 605 as non-agricultural substances and clarify that yeast products can be produced.
organically using non-organic yeast seed covered under the listing of microorganisms on 605.

While Oregon Tilth strongly believes the handling requirements of 205.270 provide adequate standards for certifying organic yeast, we accept that the larger community may feel more comfortable if organic yeast guidelines are further defined. The appropriate place to do this is in a guidance document that would ultimately need to be circulated by the NOP for public comment via The Federal Register, adopted if favorable, and posted to the NOP website.

Once processing guidelines for organic yeast products become available via the NOP website, specific products such as baker's yeast and nutritional yeast could be petitioned to 606 as agricultural products subject to commercial availability.

Under this working theory, a distinction can be made between a
microorganism classified as non-agricultural substance and the organic processed product that can be produced when the microorganism and substrate are formulated in accordance with requirements of processed organic product.

One last sentence?

CHAIRMAN DELGADO: One last one.

MS. WYARD: This approach would continue to allow direct-fed microorganisms to be allowed as non-synthetic, non-agricultural livestock feed supplements while continuing to support the organic production of yeast products listed on 606.

Thank you very much.

CHAIRMAN DELGADO: Thank you, Gwen.

Any questions? Steve?

MEMBER DeMURI: Without having both yours and Emily's proposal side by side, can you explain the difference between yours and her B-plus?

MS. WYARD: B-plus applies
commercial availability to both lists. So it merges the list. It doesn't actually merge them, but commercial availability is applied to 605 and 606.

I have made a distinction between 605, which contains products that cannot be certified organic, and 606, which are products that can be certified organic. I have included these categories, like I said, along with synthetic and non-synthetic. So there is this progression of organic preference.

Otherwise, they are very similar.

CHAIRMAN DELGADO: Any other questions?

(No response.)

Thank you very much.

MS. WYARD: Okay. Thank you.

CHAIRMAN DELGADO: Up next is M.J. Marshall.

Julie, you had a comment?

MEMBER WEISMAN: Well, no, it was with regard to a different person on the list.
CHAIRMAN DELGADO: Yes.

MEMBER WEISMAN: I don't believe she is in the room, and I do believe that they are signed up tomorrow.

CHAIRMAN DELGADO: Tomorrow.

MEMBER WEISMAN: As of yesterday, that was my impression.

MEMBER HEINZE: Julie, she asked and I told her that that wasn't possible.

MEMBER WEISMAN: When was this?

MEMBER HEINZE: It was an email late yesterday, and I said that it was too booked, and I'm sorry.

MEMBER WEISMAN: Okay.

CHAIRMAN DELGADO: So we are skipping M.J. then, and next up is Grace Marroquin, followed by David E. Adams.

MS. MARROQUIN: I'm back.

(Laughter.)

Good afternoon. My name is Grace Marroquin. I'm President and CEO of Marroquin Organic International, based in Santa Cruz,
California.

I founded my company in 1991, and we are importers and suppliers of organic ingredients.

Before turning to discuss yeast as an agricultural product, I have a brief comment on tartaric acid. Organic tartaric acid is available. At this meeting, the Handling Committee will make a sunset recommendation that tartaric acid remain on the National List both as non-synthetic on 605(a) with an annotation "made from grape wine", and as synthetic in 205.605(b) with an annotation "made from malic acid".

My company can supply organic tartaric acid made from grape juice extract. Since this organic version of organic tartaric acid is now available from at least one source, and grape juice is an agricultural product, it is my opinion that non-synthetic tartaric acid made with grape juice or grape wine should be listed in 606.
Turning now to the Materials Working Group report, since July 30th, 2004, I have been asking this Board simply to recognize yeast as an agricultural product. I appreciate the work that the Materials Working Group has done. I also served on this group.

I am grateful today that Kevin Orell, a former Chair of the NOSB, Goldie Caughlin, former member and officer of the NOSB, Lynn Clarkson, a leader in the organic community, have all submitted comments in support of our request. I am pleased that Dave Adams of Savoury Systems International is joining us today to voice his support.

Before organic yeast became available on the market, yeast was classified on the National List as a non-agricultural under 605(a). This means organic yeast cannot be a required organic ingredient.

Organic food processors do not have to use it at all. They are free to use conventional yeast and do not have to search
for an organic alternative.

Organic yeast uses an organic grain substrate and absolutely no synthetic chemicals in its production process. Conventional yeast, on the other hand, is made using synthetic chemicals. I have to remind you about this every time, but I will. Ammonia is the nitrogen source. Sulfuric acid and caustic soda lyes are used to regulate pH. Synthetic vitamins and synthetic anti-foaming agents are used, and the waste water is a major problem.

In the organic yeast production, the waste water is used to further make organic products. Nearly two years ago we thought this matter was on its way to being resolved in September of 2006, when the Handling and Materials Committee voted unanimously, eight to zero, to recommend to the Board that yeast and dairy cultures be listed on 606 as agricultural products. At the Board meeting in October of 2006, the
Board discussed this but deferred action.

We all understand the OFPA does include fungi, including yeast and other microorganisms, in its definition of agricultural product. No one on the Board or from the NOP had challenged this.

At this meeting, the Board will be reviewing poria fungus extract for listing as an agricultural product on 606. The NOP and the Handling Committee have simply accepted this petition for a fungus as an agricultural product. No one has questioned the status of fungus as an agricultural product.

While the Committee voted not to approve this petition, it did so on other grounds. Yet, the Board has still not acted on a unanimous recommendation from the Handling and Materials Committee of 2006. We see it as the principal reason for the impact it will have on livestock feed, which is understandable. Livestock feed is the reason we have a stalemate on recognizing yeast and
other microorganisms as agricultural products. The Materials Working Group report is a reflection of this stalemate.

Okay, here we go, option G. Option G is working within the framework of what we have right now, which is OFPA.

CHAIRMAN DELGADO: You have one minute.

MS. MARROQUIN: All right. Okay. Option G, keeping the existing definition of non-agricultural substances in the NOP regulation, it identifies a bacteria culture as not a product of agriculture. This would mean livestock operators could continue to use non-organic bacterial cultures in their feed as a supplement allowed under 205.237(a).

Processors using bacteria dairy cultures could continue to use them without the need to search for an organic alternative.

Two, since organic yeast can be available for food and feed, recognize yeast as an agricultural product and transfer yeast
alone to 605(a) -- from 605(a) to 606. A definition of non-agricultural substance, the NOP regulation identifies bacteria cultures as not a product of agriculture. This does not apply to yeast. Yeasts are fungi, not bacteria. This is a well-known scientific distinction.

Three, keep the existing listing of microorganisms as non-agricultural in 605(a). This is the same approach the EU has recently taken toward yeast in its regulation of 834/2007, blah, blah.

CHAIRMAN DELGADO: Okay.

MS. MARROQUIN: Yes.

CHAIRMAN DELGADO: Thank you, Grace.

Any questions? Joe?

MEMBER SMILLIE: Grace, we've got to get into the details. So I would like to ask you why, to the two options that we just heard, wouldn't your problem be solved by those options?
MS. MARROQUIN: Yes. I like those options, too, but that is an act of Congress. I might be dead by the time anything happens on that because it has taken four years already. I hate to say that.

There's also yeast and other items, ingredients like this, could be certified as processing standards. I think there have been clarifications that said, if 95 percent of the ingredients on substrates are used, they are considered an organic product. So that would be one avenue we could take.

I like B-plus. I like the various options. But, again, we are working within the framework of OFPA, and I thought that's what NOSB is to do, is to make and serve and clarify the regulations within OFPA.

MEMBER SMILLIE: Well, you join the Pollyanna crew?

MS. MARROQUIN: Yes, right, but I do think, you know, these other options that are being presented are good options.
MEMBER SMILLIE: The criticism of them is they take regulatory change.

MS. MARROQUIN: They take an act of Congress, which is like an act of God.

No, I mean, aren't you talking about changing OFPA in some of those cases?

MEMBER DAVIS: Didn't I hear Gwen --

CHAIRMAN DELGADO: Hang on a minute, Gerry.

Are you done with her?

MEMBER SMILLIE: For now.

CHAIRMAN DELGADO: For now, okay.

MEMBER DAVIS: I'm sorry. I'm trying to sort this out in my own mind, listening to Gwen and Emily. I thought I was hearing them saying they have to redefine the word "agricultural". I heard them dropping non-agricultural out, but I thought -- I guess I am wrong, but I thought I heard them mention that agricultural should mean this. Well, OFPA already says what agricultural is.
MS. MARROQUIN: Is there a lawyer in the room?

(Laughter.)

CHAIRMAN DELGADO: Can you state your name, please?


OFPA is a statute -- this Board is assigned in OFPA to advise the Department on how OFPA should be implemented. So this Board has to operate -- this Board and the Department of Agriculture have to operate within the four corners OFPA.

Now OFPA says that in order to have an organic product, it must first be an agricultural product. If you blur the distinction between agricultural and non-agricultural, and you make a nice, big, happy list, and you say, "Now here's this nice, big, happy list," and if someone can come up with an organic version of something on this list,
fine, it will be an organic version, but that organic version has to be an agricultural product. So you can't get around the fact that anything that is going to eventually be organic has to pass muster as an agricultural product.

That is why we are suggesting in this latest option that we have, option G, consider that yeast is an agricultural product and leave bacteria and the other microorganisms as non-agricultural.

MS. MARROQUIN: And again, this was all framed within moving forward from the idea that we have to work within this framework of OFPA. If it was possible that we don't, then all these other options are all very good options. I mean not all of them. I like B-plus. I like Tilth. But again, we're bound by the law.

One last thing: Organic preference has been mentioned here, but it is the reason my company is here. Because it was a great,
fun challenge to look at those lists and see what on that list can we make organic, and there are plenty of things. Lecithin can be, glycerin, but why aren't people petitioning these? There must be reasons. It takes away the challenge of producing organic ingredients.

CHAIRMAN DELGADO: Very good. All right, the Secretary, please.

MEMBER HEINZE: You'll be relieved to know I don't have a yeast question. Now I have a tartaric acid question.

So you have that available? Is that what I am hearing you say?

MS. MARROQUIN: Yes. We haven't brought it in. It was three years in the making because they were trying to make baking powder, and we have it made with organic baking powder, which no one has to use, of course.

But because of that, they had to produce a tartar, and they were trying to get
rid of the phosphates. So they were able to develop this. But again, the issue came up and it was like, oh, dear, do I really want to do this?

MEMBER HEINZE: I will admit, as a member of the Handling Committee, sometimes I feel like I'm stuck in a chicken-and-an-egg thing on the sunset. We saw this with lecithin a couple of years ago, that someone did say it was available, but yet it wasn't in a form that industry could use. Yet, what you say is, until it is off the list, industry won't be incented to use it.

I do feel a bit stuck sometimes.

MS. MARROQUIN: Yes.

MEMBER HEINZE: We all have the same goal.

MS. MARROQUIN: Right.

MEMBER HEINZE: Get things off the list, but it does seem --

MS. MARROQUIN: Organic is about chicken and eggs.
MEMBER HEINZE: Okay.

CHAIRMAN DELGADO: Dan?

MEMBER GIACOMINI: Thank you, Rigo.

Not a question, but just a reminder to everybody: We will have a presentation tomorrow by the Materials Working Group. Depending on how long all the presentations fall within our time limit, there will be discussion.

CHAIRMAN DELGADO: Very good. Thank you.

MS. MARROQUIN: I want to thank you all again for all your patience and understanding and attention to the matter.

CHAIRMAN DELGADO: Before you leave, are there any other questions for Grace?

(No response.)

Okay, thank you.

Okay, I understand that M.J. is present at this moment, M.J. Marshall. Is that the case?
MS. MARSHALL: That's it.

CHAIRMAN DELGADO: Okay, you're up.

After M.J., we'll have David Adams.

MS. MARSHALL: Sorry I was late. The train was a little late, believe it or not.

I'm M.J. Marshall. I'm the Director of Government Relations for the Flavor and Extract Manufacturers Association.

Along the lines of the discussion that you were just having with respect to ag versus non-ag, I just wanted to give you an update as to where the flavor industry is with respect to those discussions.

Certainly, FEMA shares the concerns for the integrity of the program and the tremendous efforts that have gone into all of these discussions of late. We have made enormous progress, I think.

We have had our own internal FEMA Task Force looking at this issue. We have had twice monthly meetings with more than 20
company participants. Then at our recent annual meeting, which was just a couple of weeks ago, we had some presentations on the organics issue, and we have been giving these to a wider audience within our organization to try to educate the members as to the concerns that we have about the definitional issues.

Certainly FEMA wants to help reach a solution to ensure business continuity in a way that will satisfy the producers of organic products, the certifiers, and the regulators.

I would also stress that we have also been working with the certifiers very closely on this issue as well. I think that is an important point.

We will also continue to work closely with the Materials Working Group and, as I said, the certifiers. We want to help try to resolve any outstanding concerns with the definitional issues by achieving a solution that we believe will provide a consistent approach to the challenges that we
On a final point, we believe that the solutions must support the program and ensure the integrity of organic products.

CHAIRMAN DELGADO: Well, thank you.

Any questions? Barbara?

MS. ROBINSON: M.J., I'm glad you came. I just would like to say that, as a matter of fact, I got an email the other day and it was not from FEMA, but it was from someone -- I can't remember his name now.

MS. MARSHALL: A member of FEMA?

MS. ROBINSON: I'm not sure. It is a gentleman out in California who has been working with flavors for quite some time.

It was an extremely educational communication about natural flavors, the way actually that they are annotated on the National List and kind of problems with the original annotation, linking it back to FDA's definition of a natural flavor.

So, unfortunately, I was on my way
here, and I didn't really have time to -- it was like a three-page email when I printed it out. So I want to go back and look at that and then go back and look at the regulatory citation at FDA, and then we probably do need to talk. Because like I said, it was really educational about the FDA regulations governing natural flavors.

MS. MARSHALL: Which FDA has said that they are not going to define, "natural" that is.

MS. ROBINSON: Actually, there is some regulatory history there.

MS. MARSHALL: Well, there's definitely history --

MS. ROBINSON: Yes, right.

MS. MARSHALL: -- but what I'm saying is that they've come out recently and said they weren't going to try to define natural --

MS. ROBINSON: Right.

MS. MARSHALL: -- any further than
they already have.

MS. ROBINSON: But I guess what I am saying is that we still have more work to do delving into this.

MS. MARSHALL: I agree. So that is why I wanted to come and participate today --

MS. ROBINSON: Right.

MS. MARSHALL: -- just to give the Board a status report on where we are --

MS. ROBINSON: Right.

MS. MARSHALL: -- and to reiterate our concerns and our goal of trying to find a workable solution.

MS. ROBINSON: And so is ours. So is ours. I just wanted to reaffirm that with you.

MS. MARSHALL: Yes. Well, if that's an email you would feel comfortable sharing with me --

MS. ROBINSON: Oh, I would, absolutely.

MS. MARSHALL: Yes, that would be
great.

MS. ROBINSON: Because I would like your feedback on it.

MS. MARSHALL: Yes, okay, and we can have some follow-up after that.

CHAIRMAN DELGADO: Okay, thank you.

Joe, you had a question?

MEMBER SMILLIE: Yes. A member of FEMA participated in the Working Group.

MS. MARSHALL: Okay.

MEMBER SMILLIE: Has FEMA looked at that document, and do you have any comments to make on that document about which option you may be leaning toward at this point?

MS. MARSHALL: I am really, Joe, not comfortable commenting on that. I would say that, yes, we have looked at the document, but we are still having some internal discussions about it.

CHAIRMAN DELGADO: Any other questions?

(No response.)
Good. Thank you very much.

MS. MARSHALL: Thank you.

CHAIRMAN DELGADO: Up next is David Adams, followed by Kelly Shea.

MR. ADAMS: Good afternoon. Thank you for the hearing. I'm Dave Adams from Savoury Systems, President and owner. We are a natural ingredient company working with products for the food industry.

We are making organic baker's yeast extract. This is a natural flavoring material. It is a very stable product. It has been around for centuries really, baking yeast and reliable low allergen.

We have been making this for about three years now in the U.S. It is sustainable, as you grow it on a carbohydrate source, molasses and sugar, which yields a nutritious, protein broth for flavor and nutrition, kind of like chicken broth, if you will, but it is vegetarian. So it has a big benefit and it is a sustainable product.
We respect the efforts of the members of the Materials Working Group and look forward to a decision on the issue here.

We have looked at options also. We wrote a letter about (c), but really it doesn't resolve the issues with all the dairy cultures and the microorganisms and everything else that are a bit complicated.

Yeast is a little simpler product and reliable. So what we have come up with also is the option G. Tilth also suffices for the same program to sort it out, but I think that would work well.

Comparing it to EU, there is a similarity if we used the other issue, the production standards for organic yeast. The EU recognized yeast as eligible for organic certification in food and feed and had issued production standards.

So if we need standards, the EU are pretty standard; we could use those as a model. Here again, standards should not be an
obstacle.

Also, if the NOP continues to keep yeast as a non-agricultural substance, NOP-certified manufacturers will continue to rely on conventional instead of organic yeast, while the EU could soon start blocking organic imports from the United States unless they contain organic yeast.

Again, I think you've got a fast program from Grace Marroquin on the option G and its similarities. So I won't belabor that issue.

But the purpose of NOP regulation is that new organic ingredients are developed for processed products. There is an organic preference that should favor the use of these ingredients, and we see option G as the best one now that would be in perfect interest of strengthening the organic integrity of processed food products by finally requiring the use of yeast in organic form if it is commercially available.
Thank you.

CHAIRMAN DELGADO: Thank you.

Any questions?

(No response.)

All right, thank you very much.

MR. ADAMS: Good.

CHAIRMAN DELGADO: Next up is Kelly Shea, followed by Zea Sonnabend.

MS. SHEA: Hi, Everybody. I'm Kelly Shea with WhiteWave Foods, better known to most of you as Horizon Organic Dairy and Silk Soymilk.

I want to thank the people at USDA's Egg Marketing Service, NOP, and members of the NOSB for all the effort you put into preparing for this meeting. For a lot of us, we travel here for the meeting, but we know how many hours and days have gone into preparing for the meeting.

As well, a welcome to Mr. Flamm to the Board.

So I am here today to offer public
comment on a number of issues of importance to
the organic community.

No. 1, we want to show our
continued support for the renewal and
reaffirmation of the following materials to
the National List: Karaginan, Agar Agar, and
cellulose.

As noted in the Handling
Committee's reaffirmation of the above
materials, numerous comments in favor of
relisting, with no comments opposed, were
received in the months following the November
2007 meeting.

Secondly, we thank the Board and
the public for the discussions around the
definitions of ag, non-ag, non-synthetic,
synthetic. Proper definitions will allow for
consistent interpretation of the rule and
transparent decisionmaking. As well, it will
encourage further production and availability
of organic inputs.

So I would ask the Board that you
request the Materials Working Group continue the efforts begun and that our next report would be delivered at the autumn NOSB meeting.

As you can see, even since the last time the Materials Working Group stopped working, we have had a number of new options. So I think it would be great if we had an opportunity to go back and come forward at the autumn meeting with another document for you that would be more advanced.

I want to talk a little bit about organic seed. So in organic dairying, it is as much about raising grass as raising cows, and farmers face difficulty locating good quality organic seed with a high germ rate that is suited to organic farming practices, when it can be located at all, and specifically grass seed.

So I want to really thank the NOSB for the document you put together. I think it is the best work to date.

I also want to thank Mark Cool at
Seeds of Change for the great service he has done to the organic community with his public comments on this important issue over the last few NOSB meetings.

So some of the seeds that farmers struggle to find in their areas as organic are yellow sweet clover seed, red clover, crimson clover, a good two-row barley that is going to produce good straw, stands well, and doesn't lodge, sudex, tritecti, which is a lot better for grazing.

So we are going to be compiling further information on this. Ed Maltby, the Executive Director of NODPA, has offered to join us in putting a call out to organic dairy farmers in order to ascertain what other seed varieties they cannot find as organic.

I think there has been a lot of focus on the vegetable seeds, as we have heard, but less on cool season and warm season grasses, and some of the annual forages.

But here's a question: So if I
have compiled this list of seeds that are hard
to find as organic, then what do we do with
that? I mean it is a little odd to think I am
going to send that list to every seed supplier
here in the U.S. There is not sort of a seeds
wanted database. There's databases of
existing seeds. So just a little something to
take away as you go back to look at reworking
your document.

So organic, as you know, is under
attack from many levels today. We've got
price issues, supply issues. We've got a lot
of imitators coming onboard.

I really thank the NOSB for the
work that they have done to promote organic as
the only third-party certified products
produced under protocols that benefit the
environment and provide food and fiber that
can be traced back to the farm. Organic has
been called the poster child for biosecurity
and country-of-origin labeling.

The USDA organic seal must meet the
expectation of the organic consumer. So we thank you for the work that you are doing.

Last, but not least, something we have talked about before -- I will be done in less time than that, Katrina (responding to time limitation on speakers) -- we urge USDA to act quickly on the two critical priorities for the organic dairy community today, the immediate publication of the pasture rule with very clear metrics for compliance, at least 30 percent dry matter intake from active grazing, and not less than 120 days of the year. We all know most dairy farms can graze many, many more days of the year than 120 days.

Lastly, as opposed to an advanced Notice of Proposed Rulemaking on origin of livestock, we really need to go right to a proposed rule. We did an ANPR on pasture. It came out in April of 2006. So it is just a long road coming.

I think the whole community is aligned on what we want out of origin of
livestock. So we could probably dispense with an ANPR.

Thank you.

That was really more for them and less for you.

Thanks.

CHAIRMAN DELGADO: Thank you, Kelly.

Any questions? Joe?

MEMBER SMILLIE: Kelly, I appreciate your comments that the Materials Working Group should go back and further refine the great work that you have already done. You have obviously chosen that route rather than seeking a recommendation for the November meeting.

I just wonder, do we need to take that time? Do you think that we should take a little more time rather than try to come out with a recommendation?

MS. SHEA: Yes. Well, we might be able to have one by then, but let me tell you,
the calls were some of the most amazing calls
I have been on in a long time. You had a lot
of members of the community on these phone
calls.

I've got to tell you, the first
"how long" was just resurrecting history,
right? So Brian and Grace and everyone that
was on the phone call going, "Oh, member in
'95," and "member in '92," and a lot of you
that sit on the Board have a hard time finding
all this history. So it was just rich mining
to pull all this together.

Then, once we got it all together
and made sure nothing was left out, the time
was already half gone, and then it was time to
start really eating that and digesting it and
deciding where to go from there.

So it is not finished. Could it be
November? I think -- ask the team -- yes,
probably, but I would rather underpromise and
overdeliver.

MEMBER SMILLIE: I would be remiss
-- which option are you leaning toward? I am doing a survey of everybody who speaks to it?

(Laughter.)

MS. SHEA: I'm not saying yet.

(Laughter.)

MEMBER SMILLIE: You're not saying?

MS. SHEA: No. I don't have a position on it yet for public consumption.

(Laughter.)

CHAIRMAN DELGADO: Barbara, you had a comment, following by Jennifer.

MS. ROBINSON: Yes. I should have mentioned this this morning when I was doing the NOP update, and I apologize for forgetting to do this, but we have decided, Kelly, to omit the ANPR on the origin of livestock and go straight to a proposed rulemaking.

MS. SHEA: Praise the Lord. Thank you very, very much.

CHAIRMAN DELGADO: Jennifer?

MEMBER HALL: Whichever direction that the Materials Working Group does go, if
it goes back to that group, I do want to really applaud that group's work. I really appreciate how collective it was and how the results of it, at least to date, were really exploratory about the different options and kind of bringing the Board good information to digest and think about what the impacts of those are and kind of not a dictum about which direction to go and kind of "my way or the high way" sort of a thing.

So if it does go back to that group, I would really appreciate a similar sort of a presentation, maybe fewer, that go through that sort of option and implications, but it was quite helpful for me.

MS. SHEA: Thanks for saying that, Jennifer. It was painful, but what we kind of want to be able to do is preserve this sort of history for the future because I'm almost getting 50, a lot of us are getting older; we are going to want to leave this information so people will know why the decisions were made
that were made, right? So thanks, you guys.

CHAIRMAN DELGADO: Any more questions for Kelly?

(No response.)

Thank you very much.

Next is Zea Sonnabend, followed by Claudia Reid.

MS. SONNABEND: Well, Kelly's comment about mining history is a perfect segue to what I have to say.

Zea Sonnabend, California Certified Organic Farmers.

CCOF recently passed the half a million acres mark in certified organic acreage with over 1800 clients.

The decisions that you make affect great numbers of us out in California. We hope sometime we will get you to come out to California and have a meeting, or at least to the West Coast, so more of our people can give some input to your process.

Thank you for the opportunity to
address the NOP and NOSB. I want to talk about materials and a little bit about seed.

First of all, I came to my first NOSB meeting in 1993. We were brought in, a few of us in the industry, to give introductory reference to the first NOSB members, at which time I said there's a nice definition in the OFPA about synthetic, and it is good, but it needs a little bit of clarification and elaboration, particularly as it applies to things like extraction, formulation, agricultural, and non-agricultural, and other definitions like that. Combustion was one of them.

Over the years, a number of attempts have been made by NOSB to work on the synthetic definition and elaborate on it. Since 1995 maybe, when Richard Steward did some work on synthetic, there's not been any finished pieces that have proceeded to clarify what extraction means and what types of extractants are necessary, formulation issues,
and then of course the agricultural issues that you are dealing with now.

So some of us in the industry that review materials and work with them are stuck on a number of things, and you, in fact, since you may not know it because many of the petitions were deferred before your time, but there are deferred petitioners sitting there waiting for you to come up with clarifications on synthetic and non-synthetic to make a decision.

Therefore, I urge you, in conjunction with this materials discussion document on agricultural, to pick up the last piece done by Rose Koenig and fellow NOSB members that has really good information on extraction things and other issues. It may not be quite done, but it is really time to make a decision on this and to move forward on this issue, because once you get synthetic, then you can proceed to agricultural and some things can fall into place.
Part of that is to acknowledge that synthetic distinctions are not necessarily the same for handling as they are for crops. Much of the recent work done was done only from the handler point of view and neglected some of the crops realities.

So, for instance, one of the deferred petitions is soy protein isolate. Soy protein isolate as a food ingredient would be able to be acceptable in organic products because potassium hydroxide is on the handling list, which is used as the extract for the soy protein isolate. But its petition for use as a fertilizer in crops is not considered to be acceptable to extract something with potassium hydroxide and use it on crops. So the Committee at the time got bogged down in deciding whether it was synthetic or natural and has tabled that discussion for several years now. So I do urge you to pick that up.

For the agricultural and the discussion paper, I have submitted some
written comments. We support option B in CCOF. We can go with the B-plus thing, but we like option B because it is the simplest, and simple is what you need. Your life is already really complicated, and so if you just drop the non-agricultural issue, subject everything on the list to commercial availability, which we actually do for the most part, that would enable yeast to be on the National List, and if it is commercially available organically, it would be okay, and if it wasn't, then the "non" would be okay.

So we think that B is the simplest choice. We would like you to make a decision on this as soon as possible also.

Now regarding the petitions -- and this sort of leads into the new website -- we appreciate your effort to make the website uniform with the USDA. The petitions portion of the website turned into really an incredible dinosaur. I was having real trouble, trying to get ready for this meeting,
figuring out the status of where petitions were because you have to go to each letter and look at each one individually, instead of being able to see a chart that has them all there, and you can sort the chart in different categories.

So I really hope you will try to work on that, so it is more functional for us and yourselves. Along those lines, there was terminology that was unclear about where a petition actually stood, like in some cases -- and there's some actual wrong information on some of the petitions. I know this because I was the TAP contractor to the NOSB from 1994 through 1996. So the older petitioners, I'm largely responsible for making sure they moved through onto the National List.

I don't have time to go over every single entry in the petitions database to clean up all the mistakes, but I will do what I can when I find them.

So, anyway, there are several
petitions that we really would like you to see
addressed that have fallen by the wayside.
One of them is the soy protein isolates.

Another one is the terpines petition, which at the time got turned away because the EPA ruled that the terpines could be added to List IV. However, then when you made a declaration about the new inerts policy, it ruled out the terpines which were decided after 2004.

So the terpines are still in a gray area, and the cleanest way to solve it would be to take up the petition, send it to TAP review, and either put it on the National List or not, so that we can know the answer to terpines.

Another example of a petition wrong on the database, which I feel still needs work, was the one on phosphoric acid as a crop production aid. When you go to the website, it gives a TAP review for phosphoric acid for handling and says nothing about it for crops.
It was petitioned as a stabilizer for fish, and the Department was giving some strange rulings at the time about non-synthetic and synthetic. Therefore, they just wrote a letter to the company saying they could use the product, and this is not really adequate. This needs to be addressed by a TAP review. So really I hope you send this on for a TAP review.

Then I do echo what some of the other people have said about TAP reviews should be done for everything put on the list. If you have a streamlined TAP process for 606, I can understand that, but you still need objective information. It needs to be transparent, so that people can see it and comment, so that if a person was growing organic okra, they could step forward at this meeting and say, "I'll grow it all, all that you want," or whatever, like we saw some of at the meeting last spring when some of the other things were reviewed for 606. But we would
like to see transparency and objectivity.

Okay, so on to the commercial availability of seed. We do applaud your efforts to keep working on this very complicated and hard-to-grapple issue. We were one of the main people complaining about the previous recommendation which put too much burden upon certifiers to have to put information that is normally now kept on farms that we inspect, and it was asking us to compile it and send it in.

So we appreciate that you have thought a lot about it and you have put out a good, thoughtful piece in the introduction.

We also support the growth of the fledgling organic seed industry. You will hear later from the Organic Seed Growers Association, which is a newly-formed organization that we would like to support.

However, we still feel that some of the details in your seed availability proposal are fairly cumbersome, and now the onus has
shifted a little bit away from the certifiers and onto the growers. It is still asking for collection of information that normally we only review on the farm. So we would like you to keep working on it, but I don't think our growers are going to be happy with the way it is.

Lastly, I was the person who mainly pushed for the petitions for tetracycline and streptomycin to get onto the National List in the first place when they were added. I understand that you have a new recommendation for an additional tetracycline product. I understand that you came to the Committee recommendation without doing an additional TAP review on that new product.

Even if it is essentially the same, as they claim, to the existing material on the list, they are petitioning a new use for it for use on peaches for bacterial spot, and that has not been TAP reviewed. No peach growers have asked -- I'm on the last sentence
-- no peach growers have asked for this that I know; maybe some will go forward today. No study of the alternatives for uses on peaches has been conducted.

    So I think you are correct in either turning down the recommendation or deferring it until you do a proper TAP review on the subject because you really need to do a TAP review for each use that is on the National List.

    CHAIRMAN DELGADO: Thank you, Zea.

    MS. SONNABEND: Thank you.

    CHAIRMAN DELGADO: Any questions? Yes, Tracy.

    MEMBER MIEDEMA: Thank you, Zea.

    I want to make sure I understand what the burden is on farmers or certifiers in feeding back that information on organic feed.

    MS. SONNABEND: The proposal, as I understand it, says that a grower has to make a master list of every seed they use and then send it around to all the seed companies that
they buy from and ask if they have any of those varieties organically.

Now we allow the grower to show us the seed catalog from Johnny's, and we know that if Johnny's doesn't have it in their catalog, that sending them a list is not going to make them have it if they don't have it already. So we accept the Johnny's catalog as evidence of here's what organic varieties are available or not.

We don't make the grower write it all down onto one master list. We question the grower about each variety that they are using non-organically and say, "Why are you using this?" Then we write much of it in our report.

But if they are growing three hundred varieties, as Harriet is, we don't ask every single variety every year. We look at what they get every year. We ask them about the ones that we feel are key. We don't make them turn in the completely master list. They
keep it with their own OSP on their farm, the lists of what they use.

Most growers, many growers are very protective of what varieties they are growing and they don't want them turned in, even to file reviewers to see, much less to some third party to see, if it might disclose their identity in relationship to that variety.

MEMBER MIEDEMA: Okay. A follow-up question then: If the end game is to get more organic seed available, do you have any alternative suggestions to making that demand transparent to the marketplace?

MS. SONNABEND: Yes. We look at it as a continuous improvement in a situation. So we don't look for an absolute you contacted three people or you used "X" percent. What we look for, continuing effort and improvement each year in what they are doing.

I think that at this point the best solution on the whole is for maybe like the Economic Research Service or one of the
granting agencies for data collection in the
USDA to do the market research about what
varieties those are or give a grant to one of
these groups who are interested in organic
seed to do the market research to see which
varieties are most widely grown that are not
being grown organically, and also to ask
processors, because a big area of this gap is
in seeds for processing which processors are
requiring certain agronomic traits.

So you shouldn't force the growers
to have to supply the seed companies with data
that they really need to collect themselves as
market research, and you should do what you
can to get certifiers to keep -- you know, you
have to have a recommendation like you have,
but it has to be one that is like keep
tightening the screws, so that all the
certifiers keep tightening the screws to some
extent.

CHAIRMAN DELGADO: Katrina,
followed by Gerry.
MEMBER HEINZE: You talked about continuous improvement. Do you see that with the growers that you certify, that they are increasing the amount of organic seed they are using every year?

MS. SONNABEND: Yes, and I also see concurrently to that more organic seed is becoming available, including some organic hybrid seed, which a lot of our growers need for their market characteristics.

It is slower than maybe some of us would like. It is certainly slower than the seed companies would like. But I think this really comes into partly an enforcement issue also because a few of our certifiers who were meeting yesterday said, well, the USDA auditors, they never check to see that we are enforcing the seed rules; it might not be on their auditing checklist. So, therefore, if they are not even looking at the very minimal amount of things we are doing now, how are they going to put more things in place?
So just starting to write up the
certifiers who aren't doing anything about it
would be a step to helping there be more
organic seed.

CHAIRMAN DELGADO: Gerry?

MEMBER DAVIS: You partially
answered my question in what you just said
about NOP. What suggestions would you have
for the NOP then on things that they could do,
should do, to get all the certifiers to be as
proactive as perhaps CCOF is on seeing
improvement in the growers?

MS. SONNABEND: Yes, a couple of
things. One is make sure that the auditors,
the accreditors, do look at the organic seed
rule and how it is being applied on an even
basis, so that the certifiers all know that
the USDA is looking at them. Once they don't
look at them a few times, then they think, oh,
we can get away with it.

The second thing is that the big
problem for certifiers in actually enforcing
the rule is that it says you have to use organic seed if an equivalent variety is not available. Well, equivalent in your recommendation has a very broad definition. It has no teeth in it that we can say to anyone, okay, this is not equivalent to that, as a certifier, because we just say, "Well, what characteristics are necessary?", and the grower will say, "Well, I have to have early blight resistance in tomatoes."

We'll say, "Okay, well, you know, here's these varieties that are early blight resistant." But they will say, "Oh, well, this one doesn't work because of this; that one doesn't work because of this." We can't say, "You're wrong; this doesn't work."

So we would encourage you, in keeping to work on this issue, to perhaps appoint a task force, which I believe that there will be plenty of seed people willing to serve on, that could help get at this equivalent issue, what's an equivalent
variety, to give certifiers guidance on how we
could say more to people: This is the
equivalent or this isn't equivalent. I think
a task force made up of certifiers, seed
company people, and growers would be
potentially a direction to go in.

CHAIRMAN DELGADO: Are you done?

MEMBER DAVIS: Yes.

CHAIRMAN DELGADO: Kevin?

MEMBER ENGELBERT: Zea, could you
give just some rough numbers on what you think
the increase in organic seed use is each year
with your huge number of acreage?

MS. SONNABEND: Yes. Okay, and it
varies a great deal in crops, as other people
have mentioned. The increase has been much
greater and faster in rice, which is a big
crop for us, or grain crops. In fact, in
cover crop seed, that is one of the biggest
uses of organic seed because that is easiest
to get organic source. But the vegetable
crops, some of them, it is still quite small.
So I would say in vegetables, since the last maybe three years, I have seen it double, but it has doubled from less than 1 percent to 2 or 3 percent.

I also have seen, though, some companies -- and this is a skill issue, unfortunately. If you are the smallest grower and you grow 100 varieties on a quarter acre, you don't have much clout with the seed company when you say, "I want organic seed." If you have 20,000 acres, and you go and you say, "I need these agronomic characteristics. I'm looking for something," you've got a lot more clout.

So from that point of view, we might lean on the big companies equally as hard or even harder, knowing they have more ability to influence it. We are seeing the most improvement among the bigger companies who have the most power to do something about it, including that they can contract for whole seed crops, for instance; they can transition
their own land, if they want to produce their own seed, and they can do other measures that the smaller growers can't do.

So we definitely are seeing improvement, but there's still a good ways to go.

CHAIRMAN DELGADO: Any other questions for Zea?

(No response.)

Okay, thank you very much.

MS. SONNABEND: Thank you.

CHAIRMAN DELGADO: Next is Charlotte Vallaeys, followed by Jim Pierce.

MS. VALLAEYS: Hi. My name is Charlotte Vallaeys with Cornucopia. Thank you for the opportunity to make public comment. We really do appreciate it.

My comments will be on hexane extracted oils containing DHA and ARA. I know that a lot of certifiers would like clarification on this, and I hear it is on the work plan.
Currently, these oils have not been reviewed by the Board. They do not appear on the National List as approved substances, nor do accessory nutrients appear on the list. But, nonetheless, these DHA and ARA oils are currently added to all organic infant formula on the market and some organic milk as well.

I would like to stress to the Board why this is an important issue. It is important not just because these are added to infant formula without having been approved, but because some infants are getting sick from these additives. So, actually, I make these comments not just as a Cornucopia staff member, but as an expectant mother and really on behalf of many mothers who have contacted me.

When they do, when they email or call me, they ask, what type of formula can I give to my baby that doesn't contain these oils? And I have to tell them, "I'm sorry, but there is no organic infant formula that
would be a safe alternative for your baby."
There is no organic formula that doesn't contain these hexane extracted algal and fungal oils.

Clearly, this hurts the infants whose parents cannot turn to organics as a safe alternative, but I would also like to stress that it hurts the organic industry as a whole when consumers can't turn to an organic formula as a healthier, more highly-regulated, and safer product, which, frankly, organic consumers expect that, and deserve that, and lose confidence in organics when these decisions are made, not to benefit babies, but to benefit a handful of companies.

So I'd like to share some of the findings which are in our report, which I will submit, so it will be available for you to look at.

We filed a Freedom of Information Act request with the FDA, and this came out of conversations with healthcare professionals.
and mothers. And we found that, indeed, many
mothers have submitted adverse reaction
reports to the FDA.

And I'd like to stress that this is
not just, okay, my baby was given, say, a
dairy formula, had diarrhea and vomiting, and
I switched to a soy formula without DHA. This
is really when they switched to an equivalent
formula, the only difference being that it
didn't have DHA and ARA.

And often -- well, actually, in all
of these cases that we documented, symptoms
disappeared, usually within 24 hours. And the
most common symptoms in newborns and babies
are diarrhea and vomiting.

I'd also like to note something
which is covered in the report, which is that
these oils -- well, that the vast majority of
peer-reviewed scientific studies show no
benefits to cognitive development of term
infants from these DHA-fortified formulas. So
there really, at this point -- there is no
scientific evidence that would support adding these oils to formula to benefit the infant. And there is nothing in the organic standards that would indicate that these oils can be added legally to organic foods. Yet, as I mentioned earlier today, if a mother is searching for a DHA-free formula for her baby, she will not find one. These algal DHA and fungal ARA oils are not on the National List as approved substances, nor are byproducts of microorganisms.

An initial legal complaint about these additives was filed in 2006, and was dismissed. The compliance officer noted that, quote, vitamins, minerals, and accessory nutrients, unquote, are allowed when the actual regulations state -- and here I quote from 605 -- nutrient vitamins and minerals in accordance with 21 CFR 10420 are allowed.

Now, DHA and ARA are fatty acids. This is basic nutritional knowledge. Fatty acids are not vitamins; they are not minerals.
That's the first point.

Then - since I am running out of time, I will make this quick - 10420 is an FDA regulation which states that the FDA does not encourage the indiscriminate addition of nutrients to foods. So this is really -- it's a fortification regulation, and the FDA has not required DHA and ARA to be added to infant formula. For example, the American Academy of Pediatrics has not recommended it, either.

Cornucopia filed a second legal complaint, and -- well, we'd like to point out that the NOSB is charged with the task of reviewing materials -- okay, I'll end it here.

Just one last line: I think it's important to note that babies are getting sick from these, and I'd just ask you to at least keep baby formula, if we could at least keep that safe from these indiscriminate additions, that would be good.

Thank you.

CHAIRMAN DELGADO: Thank you.
Any questions? Yes, Hugh?

MEMBER KARREMAN: It sounds like we need to review DHA and - what's the other one? - ARA --

MS. VALLAEYS: Yes.

MEMBER KARREMAN: -- with TAP reviews if they are not vitamins or minerals, and they're - you cited - didn't you cite CFR whatever it is saying --

CHAIRMAN DELGADO: Remember, we can only review materials if they are petitioned.

MEMBER KARREMAN: If they are petitioned, right.

CHAIRMAN DELGADO: So that would be the normal process to follow, and we can leave it at that, unless there's any other clarifications, questions.

MEMBER DAVIS: Can there be a negative petition brought to say, these materials should not be in organic products?

CHAIRMAN DELGADO: Absolutely, yes. So any other questions, comments?
Does that clarify your question, Hugh?

MEMBER KARREMAN: Yes.

CHAIRMAN DELGADO: Okay.

Well, thank you very much.

MS. VALLAEYS: Well, we have submitted a legal complaint, so it's really at the compliance level, I think.

CHAIRMAN DELGADO: That's part of the program. Our main function is to review materials and recommend those.

MS. VALLAEYS: Okay. Thank you.

CHAIRMAN DELGADO: So thank you very much.

Okay, next is Jim Pierce, and I also want to give you an update while Jim walks up to the podium. We are halfway there in terms of public speakers, and we have about 20 minutes before we finish, according to our agenda. So I will request the Board and the speakers to summarize their recommendations,
observations, or comments. If they so can, it will be greatly appreciated. However, I want to make sure that we are not sacrificing quality of comments for the sake of time.

Jim?

MR. PIERCE: Okay. For the record, I'm Jim Pierce, former certification czar at Organic Valley, now the Global Certification Program Manager for Oregon Tilth Certified Organic.

I'm still having trouble saying that since the all one word "Organic Valley" has become part of my vernacular, like nuclear.

The most exciting thing about the offer to work for Oregon Tilth is that I honestly believe that the pragmatic solutions to the nascent quandaries of this relatively young national organic program require an open, honest synergy between NOSB, the NOP, and the accredited certifiers, and I want to be part of that solution.
Also for the record, you may have heard rumors that I jumped ship from manufacturing to certification solely for the privilege of gaining access to the ACA LISTSERV. Not true.

(Laughter.)

Others claim it's because I would do anything to attend Mark Bradley's NOP certifier training. Also not true.

(Laughter.)

Or maybe, just maybe, I am positioning myself ever so strategically for the certifier seat that comes available on January 24th, 2011, Joe.

(Laughter.)

I'm thinking, however, we will need a decidedly more democratic administration before that particular snowball makes it through Hades.

Hopefully, in the intervening three years, you can put a lid on commercial availability, ag/non-ag, hydroponics, private
label, hopefully.

I am no longer certification czar, but I remain in a position where I can address you, the fine folks of the National Organic Standards Board. So, on behalf of Oregon Tilth, here are our comments on multi-site certification and seeds:

Regarding multi-site certification, as was made clear by our comments last November, Oregon Tilth is breaking ranks with most of the other certifiers. Our position remains that, with solid, auditable internal control systems, the model currently being applied to small holder producers could be applied more broadly.

But - and this important - but, in the interest of fairness and integrity, certification of multi-site operations must remain limited to producers only until guidance is final.

Although certification of retailers is optional, it's a good thing, and should be
encouraged, since it gives consumers an added
degree of assurance, and lends further
credibility to organic claims.

The appendix developed by the CACC
and the OTA Task Force is also a good thing,
which will help you write the final
recommendation. Write rules not for cheaters,
but for compliance. Fraud is fraud, at a
single site, or a multi-site.

605.400(f)(1) and (2) are sharp
enough teeth to bite the butts of cheaters.
Initial review of each and every site the
first year is critical, as is inspection of
every new site, every previous non-compliance,
and every complaint in subsequent years.

The Accredited Certifiers
Association can assist you in developing a
weighted matrix for reinspection based on the
appendix criteria outlined in order to achieve
consistency among themselves.

Two important elements of a
successful multi-site certification plan are:
one, the audit by an organic inspector of the documentation from the internal auditors' inspection of 100 percent of the sites and, two, that the plan for certifying multi-site operations will be written, submitted, and approved for credibility by the NOP.

In the next two days, you will be dealing with two pieces of business regarding seeds: commercial availability, and Dextron used for seed coating. As you know, biodiversity in agriculture is seriously threatened, especially in developing countries. The Crop Committee's recommendation to tighten accountability while still allowing deregations where legitimate need can be proven is strict, yet fair, and will serve as a good model for foreign agencies.

Several of the specific requirements in the recommendation are overly prescriptive, however, and I would refer you to the Accredited Certifiers Association.
comments for cut-and-paste solutions.

The recommendation to reject Dextron as non-essential is troubling, since Dextron is commonly used as a binder in seed coatings by suppliers that do not necessarily cater to organic farmers, but who do provide unique or heritage breeds with obvious potential in a system of organic production.

If the synthetic substance, Dextron, in this case, is not compatible with organic principles, then certainly, it should remain prohibited. But if it's used to bathe a baby, then perhaps it shouldn't be thrown out.

As I commonly do from this podium, I ask you to challenge the good work of the Crop Committee, and then decide for yourself if Dextron should be approved or rejected.

So we all look forward to the next three days of deliberation. Thank you for the opportunity to address you, for your tireless dedication to your work, and good luck with...
the ag/non-ag thing.

And, yes, Virginia, hydroponics can be organic.

(Laughter.)

CHAIRMAN DELGADO: Thank you, Jim. Any questions for Jim?

(No response.)

All right, thank you so much.

MR. PIERCE: Thank you.

CHAIRMAN DELGADO: Next is Liana Hoodes. On deck is Kristy Korb.

MS. HOODES: Good afternoon, all. My name is Liana Hoodes. I'm with the National Organic Coalition.

We want to thank you for the opportunity to speak in front of you, and also for the hard work and long hours that you all continue to put in. It's just incredible, excellent work.

The National Organic Coalition is a national alliance of organizations representing farmers, environmentalists,
consumers, industry members, and others concerned about the integrity of the national organic standards.

The NOSB has an important mandate: to consider petitions for materials, and make recommendations regarding changes to the National List.

In 2007, we saw a record amount of new substances added to the list. Forty-eight new substances have been added in one year. Of these, 38 are non-organic ag substances allowed in organic food that are considered to be currently unavailable, or of fragile supply in organic form.

However, some fundamental policy questions regarding interpretation and classification of the National List remain unanswered. Despite the fact that 38 substances were added as agricultural, as you know, there is still no clarification of the distinction of the definition of agricultural and non-agricultural.
In addition, the distinction between synthetic and non-synthetic is not clear yet, either, and this is fundamental criterion for consideration of materials on the National List.

It's time to put the horse before the cart, and make some fundamental policy decisions before any more materials are added to the list.

The National Organic Coalition respectfully requests a moratorium on the recommendations to add any substances to the National List until the following actions are taken:

A final recommendation on synthetic/non-synthetic and agricultural/non-agricultural determinations get adopted.

Publication of the final rule for the 38 substances added to the 205.606 as interim final rule that addresses the public comments and questions about those substances.

TAP reviews must be conducted for
any substance recommended for the National List. And until the money is available, we consider that materials should not be reviewed.

We respect and admire the efforts carried out by the NOSB to prevent the disruption of the organic industry. However, without independent, objective TAP reviews, the NOSB cannot make an informed recommendation on materials petitioned for inclusion on the National List.

The NOSB needs scientific, technical advice, and better access to historical decisions in order to prevent mistakes, and that's a lot of information for you all to have to compile on your own, without the TAP reviews helping add that information.

More comprehensive reviews are needed for substances proposed for 205.606. The environmental and human health impacts of agricultural practices used to produce non-
organic agricultural ingredients petitioned for addition to 205.606 need to be evaluated using the criteria in OFPA.

Questions regarding substances on 205.606 need to be answered for the regulation to be uniformly implemented. These include: How is a permitted substance identified? Specifically, are certifiers and their clients to use the chemical abstract services number, or some other standard of identity? What formulants may be used with the items on the National List? Are items that appear on 606 subject to restrictions or annotations limiting source, processing aids, or type?

The NOP should develop a policy that permits the NOSB or the TAP contractor to review and summarize confidential business information.

When a material is approved, and there is no TAP, and the petition redacts all the manufacturing information, it is impossible for anyone trying to implement the
regulations to determine if a substance in question conforms with the substance approved by the NOSB.

Given that it's been very rare that substances are removed from the National List by petition or by sunset, we think it's prudent that the NOSB take the necessary time to resolve these questions before more materials are added. The establishment of a strong policy framework will make NOSB future decisions more credible and consistent.

And we also request that a streamline process be developed to petition for removal of substances on 606, since they may become available in organic form much more quickly than the five-year sunset.

And I'll also say, with regards to okra, I just received an email from the Southeast African-American Organic Farming Network, a new group of the entire Southeast of African-American organic farmers, that said: you wouldn't believe how much okra is
grown down here. And they said to really consider, ask the farmers how much okra there already is before you allow the discussion on commercial availability.

CHAIRMAN DELGADO: Okay, thank you.

Steve?

MEMBER DeMURI: From the Coalition's perspective, can you tell me why you think it is that we get petitioned constantly for things to be added to the list, but we very seldom, if ever, get petitions to have things removed?

MS. HOODES: I know, from our perspective, it was always a goal of ours to begin -- because it's hard enough work for you -- first, let me say that I believe that the NOSB itself could petition them to come off, but that that -- with the amount of work you have, that isn't going to happen.

And so it was always one of our goals to consider trying to do that. And as a coalition of non-governmental organizations,
we -- given the amount of work that goes on to try to advocate for organic, it falls way to the bottom of our list because of the amount of expertise needed to understand the materials enough to petition them off. But it is, for instance, something that we thought would be possible to do when this program began. We thought, well, that would be a great role for us, and it's just not possible. We're unable, in our many groups of our coalition, to perform that task.

There is, obviously, commercial advantage to wanting a material on, and very little to getting one off, is basically what -- and we don't have the resources, for instance. That's one reason, but not the only.

MEMBER DeMURI: I appreciate your explanation. I still do not quite understand the dynamics there. I would think that we could get more petitions to take things off.

MS. HOODES: Yes, and it would be
great to be able to do it. It takes a huge amount of effort and expertise, and it's hard to garner that, for instance, in the non-governmental organizations, and I don't know where else that happens, what the impetus is to get that done. It really should.

In addition, and I believe we'd like to look into the idea of how you petition annotations to be added, or brought back on after the sunset. I mean, there's lots of places where we need to be able to do petitioning in places other than where the petitioner has a commercial advantage to do it, and I don't know how that happens.

CHAIRMAN DELGADO: Okay. Any other questions?

(No response.)

Thank you again.

MS. HOODES: Thank you.

CHAIRMAN DELGADO: Next is Kristy Korb, followed by Mark Cool.

MS. KORB: Hello. I am going to be
reading a letter on behalf of Miles McAvoy, the President of the National Association of State Organic Programs, and it's a very short letter. I'll be very brief, because it is 10 til 5:00, and unlike you all, I can leave and go to the bar at 5:00. So I will be very quick.

(Laughter.)

CHAIRMAN DELGADO: Thank you.

MS. KORB: In a vote taken at a regular business meeting on May 13th, 2008, the National Association of State Organic Programs Board of Directors voted unanimously to oppose the April 3rd, 2008 NOSB CCAC recommendation entitled, `Further Guidance on the Establishment of Commercial Availability of Organic Seed.'

I'd also like to clarify, Oregon Tilth agrees with this position of NASOP.

In the Board's view, the requirements proposed would be extremely burdensome to diversified organic row crop,
and vegetable productions, and organic certifying agents. Of special concern are vegetable farms, many of which produce tens or hundreds of vegetable varieties in a season. The additional recordkeeping burden contained in the CCA recommendation could force many of these farmers to abandon organic certification.

In our collective experience, organic growers understand the good faith and documented effort to source and use organic seed are required, and the costs cannot be used as a factor to determine commercial availability.

They have good systems in place to evaluate organic seed availability, and use information networks that include seed companies, farm input supply companies, and organic farmer peers.

They maintain reasonable documentation of whether the seed they use is organic or not, and there are efforts to
source organic.

It's a flexible system that is adapted to the needs of the individual organic operations, and it is working.

The CCAC recommendation would impose additional requirements that will cost organic growers time and money. The additional recordkeeping will not increase the availability of organic seeds.

The requirement that this information be submitted to the certifier, tabulated, and forwarded to a recognized organic seed trade association would be time-consuming and expensive to both the grower and the certifier. The NASOP Board does not support this recommendation.

Additionally - and this is Oregon Tilth speaking - our understanding is this issue is largely complaint-driven by the seed industry, and we encourage the program to address these issues where we believe this problem lies. In other words, if growers are
not required to use organic seeds, and have not sufficiently demonstrated that the specific seed is not commercially available, than the issue is with the certifier. It doesn't take this kind of prescriptive requirement. The program needs to address it on the certifier level.

Thank you.

CHAIRMAN DELGADO: Thank you.

Any questions?

(No response.)

Okay, thank you very much.

Next up is Mark Cool, followed by Pat Kane.

MR. COOL: Hi there. My name is Mark Cool with Seeds of Change. We are a 100 percent certified organic seed company.

Before I start, maybe a historical perspective: you all may not be aware that Baltimore actually is the home of America's first seed company. In the ESPN Zone building on the Inner Harbor, there is a building right
next to the ESPN Zone, which is the home of
the Clark Seed Company, which was founded in
1831, and that's where the first European
ships came into America, offloaded their seeds
for distribution to the American Northeast.
So we are at a very historical place, just so
you guys know. Of course, since then, we have
developed a very well-run American seed
business.

My comments today are going to be
on the commercial availability of seed,
205.204.

We are very thankful to the Crops
and CAC Joint Committee for their
recommendations, which I very strongly
support.

A comment was made a couple of
times today about the commercial availability
and use of organic seed and organic farming
systems. In vegetables, so in direct food
crops, there is still a very, very, very small
amount of the organic farms that are using
organic seed. So we've had an NOP program in place now for six years. So in the words of Dr. Phil, "How's it working for you?"

We're not really doing a very good job getting organic seed as a beginning of the chain into the conscience of America. And I believe that the current recommendation goes a long way to provide support for that.

I would ask that the NOSB vote in favor of this recommendation from the Joint CAC/Crops Committee, pass that to NOP. And one thing I will offer to NOP is, both from an organizational and association perspective, as well as from a private company perspective, we will offer all of our support in getting into the details of actually making some of these recommendations come to fruition. Implementation of this, of course, is the important part, and there's a lot of discussions about that.

What I want to do here briefly is step back a second, and maybe explain for the
Board's benefit some of the reasons why, as a seedsman, I believe that there should be more organic seed available.

Currently, all, literally all, in vegetables, of food crops, all of the seed that is used, all of the organic varieties that are being sold, are actually mimics of the conventional varieties. Someone takes either an heirloom, or a traditional or rare variety, which is available in conventional form, produces it organically, or nowadays, more and more people like ourselves are taking conventional hybrid varieties, which are needed by the growers, have uniformity, vigor, other characteristics, we're producing those one generation under NOP rules, and calling it organic seed, and selling that. It is perfectly legit.

That isn't the end goal of this industry. What we are doing is adding no real value. This is the first step in trying to develop what I call organic-specific
varieties.

It's ultra-important, in my mind, that we, as an organic industry, which is just fledgling and just beginning, that we actually try to, if we can, go back 50 years and, just like the conventional industry, start developing varieties which the farmers need.

So the goal that we have as an organic industry, and what you can do to support that, is we actually want to find out from the farmers what the traits are that they need. You can think of a whole number of characteristics and traits that organic varieties should have, very different than conventional varieties.

So the end goal, in my mind, and the vision I have for my company, is that we will develop what I call organic-specific, or low-inputs ag-specific varieties, products that do well, they are completely separate products that do well under an organic farming system. Then you're adding true value to the
organic farming community.

And by the way, those products also can be used by conventional farmers because they require less inputs, have higher quality traits, et cetera. And in my mind, that is going to form a basis for kind of a whole revolution in the way that we look at food production, food distribution, and food use in the USA.

So those are my comments on that point. I, again, would like to offer support to NOP for making this happen.

A couple of comments have been made about a couple of the concerns, or questions, or issues that people have about organic seed. No. 1 is there's a concern, there was a concern raised earlier about seed quality. Seed quality is very, very important for a farmer, obviously. A farmer has to have very high quality seed.

Seed quality isn't under the purview of NOSB. Seed quality is governed by
the Federal Seed Act, which has very specific regulations in place, and also has a recourse system in place if a farmer does not have high-quality seed. Organic seed, any other seed, has to meet Federal Seed Act requirements, period. That's not your job; that's someone else's job, but I just wanted to make that comment here.

Two other concerns that have been raised are the potential certifier liability, and I guess the confidentiality issues with growers. I believe those are important issues to think about and discuss. I don't believe those are things that are hurdles in our way towards the use of more organic seed.

A couple other comments that have been made are equivalency, and the burden of documentation. Briefly, equivalency, in my mind, is actually kind of, frankly, a moot point right now. Equivalency is something that seed companies and farmers talk about every single day.
When we go to a farmer to sell that person seed, we talk about equivalency. We don't call it that, but we talk about, how does this product do on the farm. It's very, very important for a seed company and a farmer to have an understanding of the requirements, both from a production, agronomic, and marketing perspective of how that variety does. So these are things that we well understand, we deal with every day.

A comment was made before to form a task force to actually look at these things, and I think it's a very good idea. The stakeholders, seed growers, seed companies, and farmers can sit down, in my opinion, very easily, and figure out a way to define equivalency.

With that, thank you. If there's any questions, I'd be happy to answer them.

CHAIRMAN DELGADO: Okay, questions?

Gerry?

MEMBER DAVIS: Mark, what do you
think of the comment that was made just a few minutes ago about, really, if the NOP would just enforce the rule through their accreditation, and ask the certifier more persistently, what are you doing to prompt your growers to keep making improvement in using more organic seed, what do you think of that concept as the way to solve the impasse in vegetable seeds, for example?

MR. COOL: Yes, you raise a very good question, and I think it's a very valid point. I think the NOP has a very strong role to play in that regard.

I believe that, you know, I'm very much in favor of the idea of deregations, like everyone else is, and I believe that the discussion should simply be a farmer sitting down with a certifier, and providing a list of the products that farmer wants to use, telling the certifier which ones he can't find organically and why not, NOP overseeing that process to make sure it's fair, and
transparent, and reasonable, and working that system from that perspective.

I think that the documentation requirement of then sending that list to someone, and we can discuss who someone is, in my opinion, really isn't a huge deal. Farmers write everything down they do anyway.

I believe in confidentiality. So we have to find a way to give that list to someone without disclosing private information. But I think NOP can have a strong role to play in actually kind of overseeing that to make sure that, indeed, those seed varieties are not available, and their training and their push to the certifiers should be to enforce the current legislation, frankly, as much as they can.

CHAIRMAN DELGADO: Any other questions? Joe?

MEMBER SMILLIE: Just following up what Gerry said, in our document, which we are hoping to tweak and get it right, do you think
that it's the seed company's responsibility to gather that data? We're hearing pushback from certification agents, and possibly from farmers that they represent, or that they speak for in some cases - we haven't heard from farmers directly as yet - that that's burdensome. It's burdensome, and not necessary.

Do you feel -- you know, where is the onus? Is it up to your trade associations and your members to go out and get that information, and not have the certification agents and growers provide that, or is that going to be essential for you to, for your industry to move forward?

MR. COOL: Well again, the comment is made that very little of the food production in America is produced using organic seed. So something is wrong.

I believe there's probably two answers to your question, Joe. One is, as a seedsman, my job is, indeed, to go to the
market and find out what farmers want. So we do surveys all the time. We talk to farmers all the time. We try to figure out what varieties, what traits, what characteristics, what's lost, et cetera. That's a very important part of our job, and we make those available.

The second thing is, there has to be some kind of a transparent, open, public system that gives lists of -- and we've called this before, opportunity list, so it gives an overview of what types of products are being searched for by farmers. And that is something I think that would benefit the industry, because the reality is very few people have stepped up and formed an organic seed company, and the reason is because we don't see what the demand is, and what the opportunity is. So we have to have some kind of a way of, I guess, promoting the idea that people do want organic seed, and then specifically what traits, and then we can
provide that for them.

So it's kind of a dual responsibility, in my belief.

MEMBER SMILLIE: I share your concerns. I mean, we always hear the comment, don't dilute the organic standards. And sometimes the suspected dilution is pretty, pretty small and narrow, but here we have something that is in the regulation: Thou shalt use organic seed. And yet, the compliance levels are the lowest compliance levels in the entire industry. For anything that we look at, the compliance level to that regulation is incredibly low.

MR. COOL: Yes.

MEMBER SMILLIE: So I think Mark's right, something's wrong, and this is our first attempt to add something to a regulation that is already in place, and to try and figure out without burdening farmers; that is the last thing we want to do. But we've got to get better compliance levels on the
MR. COOL: I believe, Joe, that you and Gerry's proposal, your recommendation, which hopefully you all vote on in favor, goes a long way towards doing that in following the intent of the NOP rule from '02.

An example would be the inputs industry, where fertilizers and pest control methods are currently certified organic, and there's full compliance and full availability of a lot of innovative new products that have been developed in the last six years because there's the requirements to actually use those. And because there's been the requirement, and the enforcement, and the compliance, this industry has grown to the benefit of the farmers. Farmers have access to a lot of new products.

That same thing doesn't yet exist in seed. And again, our vision is to eventually do that, within a couple of years, develop organic specific varieties which add
value to the farming and organic community.

CHAIRMAN DELGADO: Any other questions?

(No response.)

Okay, thank you very much.

MR. COOL: Thank you kindly.

CHAIRMAN DELGADO: At this point, I have been requested to take a break. I think our Board members need it. And we'll be back here in 10 minutes. That's 15 minutes after the hour.

(Whereupon, the foregoing matter went off the record at 5:05 p.m. and went back on the record at 5:16 p.m.)

CHAIRMAN DELGADO: We have a quorum.

Pat, please proceed.

MS. KANE: Thank you for providing the opportunity to comment today. I'm going to talk briefly about two issues from the Accredited Certifiers Association, for which I am the coordinator. We represent 40
First, I'd like to thank the NOP certification agencies.

for the trainings they provided earlier this year for us, and for addressing the materials review issue, and proceeding very swiftly to resolve that, and permit certifiers to contract for materials review. It will greatly help.

Thank you for the website, and we will continue to provide input on the website.

I am here to comment today on the commercial availability of organic seed recommendation. I did hand out our written comments.

We would like to stress that ACA members currently require that organic producers justify the use of non-organic seeds and monitor the recordkeeping of this effort maintained by the farmers. In our experience, the use of organic seed is growing steadily. Rather than expanding the requirements for all producers and certifiers, complaints regarding
a lack of enforcement of the organic seed requirement could be handled through the NOP accreditation process.

We feel that this document contains useful suggestions for monitoring the use of organic seeds, and we feel that accredited certifying agents, to request them to collect seed lists and forward this information to an organization, not knowing if the information will ever be utilized, is a requirement that does not have a regulatory basis either in the Organic Foods Production Act or the National Organic Program regulations.

In addition, requiring farmers to submit lists of their seeds to companies for verification of the lack of organic seed is burdensome and unnecessary, as the majority of seed companies produce catalogs which identify the organic seeds.

Currently, ACAs do monitor the use of organic seeds through the Organic System Plan. The OSP is then verified by the
inspector, and producer documentation is reviewed.

Producers must supply information on the seeds used on an annual basis. Many ACAs provide seed resource lists to producers.

The NOP regulations contain a definition of commercial availability. There is an increasing number of seed companies offering organic seeds. There is general agreement among ACAs that the use of organic seeds is increasing annually. Promoting and marketing of organic seed is not the responsibility of the ACA.

The requirement for producers to send their list of seeds to multiple companies for verification of lack of organic seed is burdensome. We do not have regulatory authority over seed company vendors and cannot monitor their activities. Since this will be done during a peak of seed ordering, it is likely that no response will be received from the companies.
We would like to suggest a more proactive approach by seed manufacturers and also the use of various seed database programs and opportunities such as through OMRI.

Increased participation by seed marketers in the OMRI seed listing website would provide more exposure for organic seeds. All marketers of organic seeds should be encouraged to participate in the website.

Additionally, one of our members based in Europe pointed out the European Union countries utilize seed databases that are easily searchable to determine if organic seed is available. Seed producers and traders introduce their available varieties; producers log in and search the varieties they need. They also can go to the website and fill out a form of why the variety they are desiring is not available, and they can send this to their certifier.

I would also like to comment briefly on multi-sites production. The
majority of ACA members feel that group certification should apply to only grower groups and should not be extended to retailers, handlers, processors, or restaurants.

We tried to answer the 13 questions and we didn't get to all of them. We needed more time. But I did supply the answers in my comments to you.

CHAIRMAN DELGADO: Okay, thank you.

Any questions? Joe?

MEMBER SMILLIE: Would it be possible in the near future that you could get us information from your European members who may be also NOP-accredited on exactly how it works in Europe? Because I have heard this, too, but, unfortunately, I don't have any real-life experience with it. It shouldn't be too hard to get, the EU database, the way it works in the EU.

MS. KANE: Right. Right. Well, it's in the individual countries.
MEMBER SMILLIE: The member states, yes.

MS. KANE: So I did go on the United Kingdom one, and it was really easy to use. I did provide the link in my comments. But I can do that.

MEMBER SMILLIE: Is this maintained by the member state regulatory authority?

MS. KANE: I believe it is, yes.

CHAIRMAN DELGADO: Any other questions?

(No response.)

Okay, well, thank you very much. Next is Woody Deryckx, followed by Brian Kozisek.

MR. DERYCKX: Hello, and thanks for pronouncing my name correctly. That's awesome. It's a rare treat.

CHAIRMAN DELGADO: I did? Well, wonderful.

MR. DERYCKX: Yes, my name is Woody Deryckx, and I'm real grateful for a chance to
talk to you wonderful people, and thank you for the good work you are doing. I am really grateful to be able to represent the membership of the Organic Seed Growers and Trade Association, also known affectionately as OSGATA. We might have been running short on acronyms featuring the letter "O", so we decided we would make another one.

We submitted our written comments on the seed availability issue. They're all available to everybody, is that right?

Ms. Francis: That was the Regulations Stockup.

Mr. Deryckx: The written comments we submitted? I'm sorry.

Ms. Francis: They were submitted to Regulations Stockup, correct?

Mr. Deryckx: Oh, okay.

Ms. Francis: Right? I think so. So they're in your books, yes.

Mr. Deryckx: I won't read them. I don't have time to read them. So I would like
to hit some of the high spots and just speak
directly then. You have those.

CHAIRMAN DELGADO: Yes.

MR. DERYCKX: Great. I ask if you
would attend to this. That's great. We
carefully chose our wording on those.

I'm an organic farmer in the
beautiful Skagit Valley of northwestern
Washington State, and I'm an organic seed
grower. In fact, since I heard the words,
"Thou shalt plant organic seeds," I decided
that was going to be my next chapter in life,
to grow seeds for organic farmers, to provide
my organic farming friends with good seeds.

OSGATA is our new trade
association. Our aim is to be nationwide in
scope and to promote the evolution of a
vibrant and diverse, high-quality organic seed
industry, so that all organic farmers can have
a wonderful selection of excellent seed
to grow.

Our membership on our board is

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dominated by organic producers, farmers, by our bylaws, but we also have seed companies and affiliates, organizations and regular farmers and consumers on our membership. So we are a membership organization.

We want to support your Joint Committee recommendations, both the original 2005 version and the one that is currently before you. We think it is a very good start. It takes our movement in the right direction.

However, we are concerned that there are a lot of challenges in the implementation. That is why our main point, I think, in our comments on this issue is that we call for formation of a dynamic task force with representation from the stakeholders in this issue to help NOP and NOSB work through the issues of implementation of this as things go along, as things change.

Overall, we support all five of your recommendations. I won't be able to go through them in detail here, but they are in
the written comments.

In the first place, recommendation one, the database, we have a few beginning databases, as you know, and they are really a refreshing addition to the system. People are using them, but they have a long way to go before they are really effective.

Most of it is just getting them used, getting people to come and use them, put their products on there, go to them to look for their seed needs. As Kelly Shea mentioned a little while ago, it would be really nice to have a counterflow where seed needs are posted as well. The OMRI list we feel is probably the best one right now. OSA, which is our sister organization, Organic Seed Alliance, we have one that works pretty well, and AFTA has one, and there's a few others. They are all really good and real helpful, and I think that is a really good start.

So your recommendation one is spot on. There may need to be issues about funding...
and supporting that, but it is certainly in the right direction.

Your second recommendation about equivalency, I want to break that into two parts here. The first part is seed quality, which has brought up by other people giving their testimony today.

Seed quality for us is absolutely a rock solid requirement that we are providing the very best quality seed that anybody could ever ask for, equivalent or superior to conventional in terms of all the parameters that are measurable.

You're kidding. I'm just getting started (in response to time signal).

(Laughter.)

All the parameters that are measured, in terms of purity and viability, germination and vigor.

But the other part of that issue, though, is suitability for agronomic and marketing considerations. That is where we
say we need this task force to help work this out over time, and so forth.

Your second or your third recommendation, I would like to say that reporting things back, as a grower, I can tell you that I am asked for an awful lot of information from my certifiers. I am pleased to provide it, but it would really be nice if there was a simplified, standardized instrument of reporting this vital information, and that everybody had the same thing and had it in advance, and they just had to check boxes and fill in blanks.

Most certification applications that I have dealt with are basically like this. So it is kind of a real convenient way to add this on, if the certifying community feels like they can do it. As a grower, gee, I feel like I'm already providing all this information. Let's use it. Let's have it usable in a way so that it passes on to a database that other people can use.
As a seed grower, I am really interested in what people need. I am really interested. We are actually developing new varieties and cleaning up the old heirlooms.

CHAIRMAN DELGADO: Woody, your time is up. Can you just wrap it up, please?

MR. DERYCKX: And we are doing this for the organic farmers.

I sure welcome any questions you might have.

CHAIRMAN DELGADO: Thank you.

We have Joe, followed by Jeff and Gerry.

MEMBER SMILLIE: Woody, what do you think of our recommendations four and five?

MR. DERYCKX: Thanks, Joe.

(Laughter.)

I think processor delineation on that is really right on. I spent 15 years in the organic vegetable and fruit processing industry, and I handled an awful lot of seed. If you had told me that I needed to go out and
get organic seed, I would have gone out and
gotten organic seed, just as when my boss
asked me to go out and get millions of pounds
of organic frozen IQF peas and okra, I did it.
You know, we went out and found the growers.
Yes, okra's not exempt. But, anyway, I like
that and we like that.

As for five, there again, we are
really excited about this reverse flow of data
back. We are concerned about growers' proprietory needs for privacy, and so forth, as has been pointed out. But if we can just get a database bringing us information of what is needed out there, we are going to develop the new varieties. We are breeding. We are going to produce this stuff.

I am always asking my customers -- my customers are catalog seed houses mostly -- what are your customers looking for; what are the traits you are looking for? I am going out and I am looking for genetic material, selecting out the most vigorous lines and
working on getting horizontal resistance to
the diseases that we face, and so forth, and
putting these out there as organic seeds.

MEMBER SMILLIE: Thank you.

CHAIRMAN DELGADO: Jeff?

VICE-CHAIR MOYER: Yes, Woody, as
sort of a quick survey of your association
members, how much organic seed currently goes
unsold?

MR. DERYCKX: Oh, very little, I'm
happy to say.

VICE-CHAIR MOYER: So you're
selling all you're producing?

MR. DERYCKX: Anything that doesn't
germ well goes unsold, anything that is not of
quality. But I am happy to say that I have a
few hundred pounds right now I would be happy
to sell you of some real high-quality spinach
seed, and it grieves me to know that organic
farmers are planting conventionally-grown
spinach out there while I've got sacks of it.

VICE-CHAIR MOYER: Well, that was
the reason I asked the question. Is there
seed that is going unsold that should be sold
to organic growers or are they buying
everything and there's really not that much
left?

MR. DERYCKX: I'm not an authority
on this, but my impression, Jeff, is that we
are trying to keep up with demand, to be
honest with you.

VICE-CHAIR MOYER: Thank you.
Okay.

MR. DERYCKX: But as a caveat to
that, let me say that I am not making a living
at this yet after working on it for four years
because my business is all real small seed
lots. You know, 200 pounds is about as big as
-- it is really a lot of detail work.

I think that we need to have a
little bit more encouragement on this in the
program and a little bit more broad-scale
adaption and uniformity across, so that it is
fairly applied, so some growers are not just
ignoring it and others are going out and really making an effort and paying more for seed and everything, so that we can move to the next step. There's a lot more potential there.

There's an awful lot of carrot seed, organically-grown carrot seed, produced in Washington State that goes all to Europe, and very little of it ever stays here and gets planted in the United States.

VICE-CHAIR MOYER: Okay.

MR. DERYCKX: They're real happy with that seed when it gets to Europe.

CHAIRMAN DELGADO: Gerry, followed by Kevin.

MEMBER DAVIS: Woody, your new seed organization -- OSGATA? --

MR. DERYCKX: OSGATA.

MEMBER DAVIS: We contacted OMRI to ask them, since they have a lot of experience with their database so far, with the mirror image, the needs database, not what's
available now, but what is needed. The gentleman I talked to mentioned that, in concept, they were okay with participating with that, as the one who maintains the database, but they estimated that it would take one full-time position, say $50,000-$60,000 a year, for one person to maintain that database and keep up with it.

What would your organization say about funding that? I mean, is that a reality with the size and scope of your association so far?

MR. DERICKX: Well, my organization is having a hard time finding two nickels to rub together right now. We are just starting up, and actually we are kind of mooching off of the Organic Seed Alliance, which is our sister organization that kind of spawns.

We would go look for funding. We would want to put together a broad-based consortium of interested parties to go out and try to find some support.
But, saying that, I really can't speak to that directly because Brian Baker is here from OMRI, and he knows all that and I really don't.

MEMBER DAVIS: Well, I just meant funding. Has your association talked about that like, well, what if they ask us to fund this? Does it seem doable or does it seem like way out of reach for a fledgling --

MR. DERYCKX: It costs money to run these databases. Again, I don't know how much because I'm not doing it.

I wish that, in your wisdom, when you suggest that we do things, great things like that, that you send a big check to cover the cost as well.

(Laughter.)

But we are really excited about trying to find resources in what comes out of the new farm bill, knock on wood, and other sources, private foundations, and so forth, and growers' fees, and so forth. You know,
the industry is going to grow; we are going to be making some money. We are going to be putting it back into infrastructure, but right now it is in the developmental stage.

So funding is a limiting factor on this kind of stuff. It costs money to do these databases, as I am sure it costs money to put the information in them.

CHAIRMAN DELGADO: All right, Kevin?

MEMBER ENGELBERT: Yes, briefly, Woody, when the organic industry got off the ground, there were no organic seeds. I used to buy conventional because it was all that was available, and I bought them a year ahead of time to let all the treatments supposedly lose their effectiveness. So that is where we started from with this rule, basically a loophole, if you will, of why you don't have to have organic seed.

Eventually, we would obviously hope you will have to have organic seed. How long
do you think that the industry may take the industry to be able to get to the point where, if the rule was changed to say organic growers must have organic seed, period, could the demand be met? How long would that take?

MR. DERYCKX: I think it would be amazingly head-spinning fast, if everybody wanted it to happen, if everybody really wanted it to happen.

As I look back over the last 30 years and have seen the growth in all the other aspects of this movement, it has been astonishing. I think in five to eight years we would have 90 percent, and we would not only have that, but we would have the beginnings of all new, wonderful kinds of varieties coming in and heirlooms restored and cleaned up, you know. It is a really exciting day.

This is why, after all the other things I have done in organic farming for 30 years, it is why I dropped everything and went
into growing organic seed, because it is the
most wonderful, exciting thing to come along,
and we are going to have a great time with it.
But we just need to keep it moving.
You are doing good things, and I
really recommend adopting the recommendations
that you have there and forming the task force
and letting us help.
CHAIRMAN DELGADO: Jennifer?
MEMBER HALL: So I find myself in a
really difficult spot because if I follow your
earlier logic about, if somebody tells me to
go find organic, I went and I found it -- and
I can't find it stipulated any clearer than it
already is in the rule that the mandate is
organic for seed and planting stock.
So I'm kind of caught because I am
quite reticent to saying something louder,
making it more expensive and more burdensome,
that I feel is already stipulated. So I am
trying to find, where is it really broken?
Because I don't think that this recommendation
necessarily resolves where we are right now in a productive way.

    This is going to cost considerable amounts of money, just like a databank would.
    That seems more valuable to me than sending paper all around.

So I feel really stuck because I feel like the very origination of organic integrity is to start with the seed. That is what we are then protecting along the chain of command or chain of custody.

But I don't know. I mean I don't want to vote no certainly on something that I think is such an important thing, but I don't feel like it is the right solution necessarily.

Can you comment on that? We have told people to go find organic. Based on what you said before, like you, I believe that demand should solve the problem. So where is that demand breakdown? And is telling someone to do it by filling out forms going to resolve
it?

MR. DERYCKX: I don't know. It is a big world out there. That is an interesting question.

If I may indulge your patience with an anecdote, I get out in the field quite a bit. One of the things I do is drive all the way across the State of Washington to the dryer parts to grow onions in a certified organic field on a mixed farm, a very large farm.

The field is all certified organic onions, and all that, except for a few hundred square feet out in the middle where I do my trials and grow my propagating bulbs, in collaboration with the farm owner, the manager, is all planted to hybrid conventionally-grown onion seed.

Considering that, you look out over this 100-acre field of onions and you realize that the seed came from a farm somewhere else where pesticides that are nowhere near safe on
food crops are sprayed and soluble fertilizers
used in great amounts, and so forth and so on,
it is all behind this; it is the footprint of
that seed that went into that field. It could
be, and should be in a few years, I think, all
organic. Don't you agree? It might as well
be. It ought to be.

That field gets inspected and
certified every year. I guess I am thinking
that, if they are showing progress in looking
for organic seed, if they are trialing
varieties, and they do it by my going out and
doing variety trials on their place for them,
but if they are trialing varieties, if they
are following the guidelines of your current
recommendation, they are going to be moving in
that direction. It won't be too long before
we will be supplying the seed for that farm as
organically-grown seed, and that would be a
good thing.

MEMBER HALL: Thanks.

MR. DERYCKX: Does that help at
(Laughter.)

MEMBER HALL: Thanks.

CHAIRMAN DELGADO: Dan?

MEMBER GIACOMINI: On another issue related to the Board, and I wish I had remembered to ask Mark this, do you individually, or your group, have a comment on Dextron?

MR. DERYCKX: I don't.

CHAIRMAN DELGADO: Okay, any other questions for Woody?

(No response.)

Okay, thank you very much.

MR. DERYCKX: Thank you. Thank you all.

CHAIRMAN DELGADO: And we are moving on to the proxy for Brian Kozisek. We don't know who that person is. No one present?

MEMBER HEINZE: They didn't get back to me about who that would be.
CHAIRMAN DELGADO: Okay.

MEMBER HEINZE: So he was going to be here, then he said he couldn't; he would send a proxy. They never let me know.

CHAIRMAN DELGADO: We will move on then.

The next one is Becky Goldburg, followed by Tom -- I can't read my own writing -- Richardson. Is it Tom?

MS. GOLDBURG: Thank you. I am Becky Goldburg, and I am going to speak on behalf of the Keep Antibiotics Working Coalition. I will distribute our comments.

I also have some aquaculture comments I didn't distribute earlier that are from Steve Craig, who is with Virginia Cobia Farms, and he asked me to pass them out, although they will not be presented orally.

Thank you.

Well, as I said, I'm Becky Goldburg. I spoke earlier. I am a biologist with the Environmental Defense Fund, a
national nonprofit organization. My comments now are made on behalf of something called the Keep Antibiotics Working Coalition, which is a coalition of health, consumer, agricultural, environmental, humane, and other organizations, including the Environmental Defense Fund, which has over 9 million members.

We at KAW are dedicated to eliminating antibiotic resistance due to agricultural uses of antibiotics, especially the inappropriate use of medically-important antibiotics in farm animals.

I am going to comment today in support of the Crops Committee's recommendation to deny the petition to include on the National List tetracycline for control of all diseases on crops as registered by the EPA.

I want to remind you that at the April 2006 NOSB meeting KAW commented in favor of sunsetting the antibiotic streptomyacin and
tetracycline to control fire blight on fruit trees. Unfortunately, on a split vote, the NOSB chose not to sunset these antibiotics because of their usefulness for fire blight control.

However, KAW's concerns about use of medically-important antibiotics for fruit production continue. We have two types of concerns.

Our first concern is that the use of antibiotics on fruit trees will likely make at least a small contribution to the growing crisis of antibiotic resistance in human medicine. Modern molecular tools for tracking the movement of genes make clear that antibiotic resistance is an ecological and not just a medical problem.

The use of antibiotics selects resistant bacteria, whether in orchards or hospitals. Even if these resistant bacteria are not human pathogens, gene transfer mechanisms special to bacteria allow these
microbes to spread their resistance genes from any particular orchard bacteria to other unrelated bacteria, including pathogens.

Although the odds are low that resistance genes from any particular orchard bacterium will end up in bacteria harmful to humans, such highly unlikely individual events become probable, given the vast numbers of bacteria present in soil, water, and living organisms.

In short, the antibiotics in orchards increases the load of antibiotic resistance genes in the environment, and thus, likely contributes, at least modestly, to medical problems with resistant bacteria.

Health agencies and experts have expressed strong concerns about the potential for pesticidal uses of antibiotics on fruit trees to contribute to resistance to medically-useful antibiotics.

In 1994, a company applied to EPA to register another antibiotic, Gentomyacin,
as a pesticide to control fire blight on apples and pears. The Centers for Disease Control and Prevention, Food and Drug Administration, and the American Society for Microbiology all expressed their disapproval of the proposed registration because Gentomyacin is an important human drug. The result was that the company withdrew its application in 1999.

Particularly relevant in one of its comments to EPA, the Centers for Disease Control and Prevention argued that, and I quote, "consideration should also be given to the reduction and eventual elimination of the environmental" -- in other words, pesticidal -- "use of streptomycin and tetracycline."

A second concern is that antibiotic use in organic fruit production is inconsistent with consumer expectations. Concerns about antibiotic use in animal agriculture led to the current prohibition of
antibiotic use in animals used to produce organic foods, a standard that the Keep Antibiotics Working Coalition strongly supports.

We expect that organic consumers no more want apples, pears, or peaches from antibiotic-treated trees than they want milk or hamburgers from antibiotic-treated cows. If there were to be broad publicity about antibiotic use in organic fruit production, the result might well be reduced sales of organic fruit.

The upshot is that expanding the use of tetracycline in organic fruit production would be wholly incompatible with both the principles of organic production and consumer expectations.

We urge the NOSB to support the Crops Committee's recommendation and not to allow on the National List a broadened use of tetracycline in organic fruit production.

Thanks.
CHAIRMAN DELGADO: Questions for Becky?

(No response.)

Well, thank you very much, Becky.

MS. GOLDBURG: Okay, thanks.

CHAIRMAN DELGADO: We move on to Tom Richardson, followed by Brian Baker.

MR. RICHARDSON: Good afternoon.

I'm Paul Richardson with Agro Source. I appreciate the opportunity to speak with you this afternoon.

We are here to discuss the petition that we made for oxytetracycline use under the organic rules and the listing by NOP. I wanted to step through that with you, but in order to sort of frame the argument and frame the case, I do want to be clear that what we want to do is really separate two issues.

One is the petition that we made for our oxytetracycline hydrochloride under the current listing that exists and being consistent with that versus the broader issue...
of whether oxytetracycline should be used generally for organic purposes. We think those are two different issues.

So, with the rebuttal we provided, the main things that I would like to discuss are the interchangeability of oxytetracycline, the petition that we provided, the sunset review that you conducted not too long ago, and then, finally, our request for approval of the petition.

When it comes to the interchangeability, first and foremost, both oxytetracycline hydrochloride and calcium are both oxytetracycline. From a regulatory perspective, when you look at the statements that EPA has made over many, many years, there's some real consistencies that show there.

In 1993, under the re-registration eligibility document, the READ on both molecules, which included both molecules, the EPA stated, and I quote, "There are no
differences for regulatory evaluation purposes between oxytetracycline hydrochloride and oxytetracycline calcium."

From a regulatory perspective, therefore, EPA recognizes oxytetracycline hydrochloride to be equivalent to oxytetracycline calcium.

Then, further, in 2006, under the tolerance reassessment that was done, the TREAD, EPA reviewed oxytetracycline hydrochloride and calcium within the same document and together and, again, made no regulatory distinction between the two. They used one interchangeably with the other, data for one to make decisions about the other in all cases.

Then, additionally, and even more importantly from the standpoint of the Board and the NOP, the oxytetracycline hydrochloride petition that we provided within the technical evaluation report cited oxytetracycline calcium and recognizes the two molecules as
equivalent.

The test states, and I quote here again, "In cases where no information is available specifically for calcium oxytetracycline, related and relevant information for the parent compounds, oxytetracycline and/or oxytetracycline hydrochloride, a closely-related compound, is provided and cited accordingly." Thus, the TP recognizes the interchangeability of the two molecules as well.

Then, finally, within the market itself commercially, both our product, Fireline 17, and the competitive product, Microshield 17, are both recognized as interchangeable for purposes of use.

That is also important from a couple of perspectives. Probably from your perspective, most importantly, is that we are not talking about changing the amount of oxytetracycline used. This is really more, from our perspective, it is just simply a
commercial competitive issue. They are either
going to use our product or they are going to
use the competitor's product because they view
them as interchangeable.

As far as our petition is
concerned, a denial of our petition for the
hydrochloride ignores the questions already
answered through relisting of oxytetracycline
through the Board's sunset review.

What we are trying to understand
is, if this denial occurs, it really
constitutes a favoring of one compound over
the other.

With the sunset review, I think you
know the things that occurred between 2006 and
2007, the approval of oxytetracycline calcium,
there are also things that have been approved
that don't even cite the salt, hydrochloride
versus calcium, or anything else. So it just
happens to be in this case that they have
listed specifically calcium, but, again, when
you look at the evidence, it is clear that
they are looked at equivalently.

Just to summarize, with the EPA READ, the TREAD, the NOP's decisions, and the TP commercial equivalency, we believe there is equivalency there. The relisting that has been done, we would ask that you give us, please give us consideration in this from this perspective. That is all we ask.

Thank you very much.

CHAIRMAN DELGADO: Thank you.

MR. RICHARDSON: We will be around.

If there are further questions, we will be happy to answer those.

CHAIRMAN DELGADO: Thank you for that.

Any questions from the Board? Hugh?

MEMBER KARREMAN: In the letter you sent out that we got, you mentioned that oxytetracycline, something about the essential need for it in organic agriculture. Truly essential?
MR. RICHARDSON: Fire blight is a devastating disease. It occurs under very specific circumstances of moisture and temperature and inoculant. When those things occur and fire blight takes off, it will kill trees; it will not only start destroying branches, leaves and branches and fruits, it will kill a tree, and it will kill whole blocks of trees. If you are next door with a farm to someone that has a fire blight outbreak, it can be devastating to you as well.

So it is a very serious problem. There are years where it really isn't a bad blight year and you might get by with very little treatment, very nominal treatments, without any use of oxytetracycline or streptomyacin or anything else like that. You might use things that are considered more benign.

But there are circumstances and there will always be times, and we have seen
this in other parts of the world where basically there is not a positive view of antibiotic use, but they will go a few years and then they will have a bad year, and the authorities will start to allow it again because it is so devastating.

MEMBER KARREMAN: So what do we say to veterinarians and farmers that are denied that use when you can use it on fruit trees?

MR. RICHARDSON: And again, we are not arguing whether it should or shouldn't be allowed by you. We are saying that you have allowed it in the sunset review. You relisted oxytetracycline in its calcium form. All we are saying is we should also be listed. If you decided on some other perspective on this, we are not trying to argue that it should be listed, that it should on crops and not in animals. We are just saying that, because it is listed, we should be listed. That is the only argument we are making.

We do not feel we will contribute
anything to the load that already exists of oxytetracycline that is used.

CHAIRMAN DELGADO: Gerry?

MEMBER DAVIS: I don't have a question, but I do have a clarification for the benefit of your company. I see in the comments that you put before us in writing, as well as what you talked about here, your emphasis on the oxytetracycline molecule being close enough to the same, handled the same, and the need for it in apples and pears.

I don't dispute what you are saying. The biggest issue we had with this material in the petition was that you asked for all EPA-registered uses to be allowed, which in your case, so far at least, only includes peaches and nectarines or other stone fruit?

MR. RICHARDSON: Ours included apples, pears, peaches, and nectarines.

MEMBER DAVIS: Peaches and nectarines?
MR. RICHARDSON: In the proposal, yes.

MEMBER DAVIS: Peaches and nectarines?

MR. RICHARDSON: Yes.

MEMBER DAVIS: So it was the expanded usage to peaches and nectarines which we deemed as not absolutely critical in peach and nectarine production. We checked with people and asked them that question: Is this really needed like it is in apples and pears? And there is no consensus in industry, in the organic industry, that it is needed for peaches and nectarines. We didn't take so much issue with your claim about some of the other stuff.

I also wanted to point out that, for the vote that was taken the last time for the sunset renewal at College Park, it was a split decision, and one vote less for the material, it would not have been relisted. So there was a considerable dispute over whether
it even should stay on the list, even for apples and pears. But, in my opinion, the only reason it passed was because it was so devastating, particularly on pears, that fire blight is so devastating that we didn't want to injure organic growers that truly didn't have another option.

MR. RICHARDSON: The peach and nectarine use is a new use, and I think it is perfectly appropriate for this Board to make that decision as to whether they believe it should or should not be --

MEMBER DAVIS: But, anyway, I didn't want your company to go away with not being informed of really what was the driving force behind our vote.

MR. RICHARDSON: Well, I appreciate that.

MEMBER DAVIS: Okay.

MR. RICHARDSON: I appreciate knowing it. Again, that follows with the logic of the argument that we have made. We
included that as part of our petition, but you may want to segregate that out and say we have a decision on peaches and pears; we have a decision on apples and -- or peaches and nectarines and a decision on apples and pears.

CHAIRMAN DELGADO: And tomorrow, Gerry, you will have more time to expand on that explanation and justification.

Any other questions?

(No response.)

Thank you very much.

MR. RICHARDSON: Thank you very much.

CHAIRMAN DELGADO: Next is Brian Baker, followed by Julia Sabin.

MR. BAKER: Thank you, Mr. Chair, members of the NOSB, members of the NOP. Brian Baker, Research Director, Organic Materials Review Institute.

OMRI appreciates the NOP's clarification on materials review and explicit public acknowledgment of our work issued
earlier this year. That acknowledgment circulated to NOP-accredited certifiers has helped answer many longstanding questions and enables us to better serve the NOP’s accredited certifying agents, the organic industry, and the public.

OMRI offers itself as a technical resource, institutional memory, and vehicle for information collection and dissemination on materials decisions made in organic production and handling. People need consistent and timely answers in a way that is readily understood, clearly explained, and broadly supported by all stakeholders.

OMRI serves as an information resource to the public, and we ask that the NOSB make decisions that are clear and consistent with precedent. We understand that there are many unresolved issues that need to be addressed, but it should be done in a way that does not create more confusion by being inconsistent with precedent and a widely-held
consensus of what is permitted and what is prohibited on organic production and handling.

Recommendations, decisions, and guidances that abruptly change the status of materials without opportunity for public comment can result in confusion, conflicting interpretation, and endless debates. We use citric acid, cheese wax, glycerin, and soy protein isolates as examples in our written comments submitted to you prior to the meeting. Classifying use as agricultural will have implications for the black mold used to make citric acid as well as for the yeast fed to livestock. If the NOSB decides that cheese wax is natural, then all kinds of petric chemical from benzene to xylene could be considered allowed in organic production.

Being animal drug formulators, they are always asking us what kind of glycerin they can use for formulations other than teat dips. The soy protein isolate petition has been before you for a number of years. Many
of you have been appointed since that petition was received, and it is awaiting clarification on what is synthetic and what is not synthetic.

OMRI urges the NOSB to conduct an independent TAP review on every petition received and make those findings open to the public prior to any making of recommendations to the NOP.

In our experience, petitions can have inaccuracies. They can omit relevant information. They don't always include the information needed to evaluate against the criteria. Like the petitions, the technical reviews themselves need to be subject to public review and comment.

The NOP and NOSB are urged to draw upon the scientific and technical resources that are in the organic community, not just OMRI, but look to the many fine researchers in the Agricultural Research Service who are doing work on organic systems, in the land
grant institutions, and public institutions, Organic Farming Research Foundation. There are a number of technical resources out there to draw upon, and we feel that resource needs to be better used.

Some petitions are technical. Reviews don't address the OFPA criteria at all, and we have found that most of the petitions for agricultural products do not contain the information on the pesticides and other farm chemicals that have an impact on the environment and human health.

These can't be casually dismissed as insignificant. Organic food cannot be presented as an alternative to conventional farming practices when practices used to produce ingredients used in organic products and carry the USDA label have been grown with conventional practices.

So OMRI asks the NOSB to hold up making recommendations on 606 items until the questions raised by public comments on the
June 27th, 2006 Federal Register notice are addressed. As OMRI begins to review items that are on 606, not organic agricultural ingredients on 606, for their compatibility with organic production, we need answers. I plan to comment more tomorrow.

Thank you.

CHAIRMAN DELGADO: Thank you, Brian.

Any questions from the Board?

Okay. You have one?

MEMBER HEINZE: Do you think consumers don't understand that the items on 606, when they are used in a finished product, are conventional when they are labeled as conventional on the ingredient listing? They are not labeled as organic. I guess it seems that consumers would understand the implications of that.

MR. BAKER: Do consumers know the pesticides that are used to grow those products? Do they know the pesticide residues...
contained on those products? Do they understand that, for example, non-organic peppers have a very high rate of non-compliance with the FDA's tolerances for illegal residues? I think not, and I don't see that information being reviewed by the NOSB. I don't think that information is being conveyed to the public.

MEMBER HEINZE: They clearly don't understand the specifics, but I think they do understand that those ingredients are no different than the other conventional. So if it is a conventional pepper used in an organic product, that is the same as going to the grocery store and buying a conventional pepper. So I think, from a risk, they might understand that.

MR. BAKER: Perhaps, but they see the USDA organic logo on the packaging. They think that the National Organic Standards Board is reviewing these things that are not organic for their implications on human health.
and the environment. They trust the system.

MEMBER HEINZE: Okay, thanks.

CHAIRMAN DELGADO: Any other questions? Yes, Julie?

MEMBER WEISMAN: Yes, I wanted to also address Brian's issue. Well, let me ask you a question. I think the issue that you are having is that, when things are approved for 606, you don't see where the issues of persistence of things in the environment are being addressed in the evaluations. That was the point that Jim Riddle made earlier.

I think that we do need to look at the petition. I think that there is some work that the Board has to do to look at the petition criteria evaluation checklist and be clear for ourselves, since 606 is a new process, it's not applicable to certain things and certain things it is. There may be some confusion that does have to be addressed. I think that there is a point there.

I think, also -- I'll leave it at
that. That is the end of mine.

MR. BAKER: Okay. Is there a question that I can answer there?

MEMBER WEISMAN: Well, okay. Not anything that is different than what Katrina asked you.

MR. BAKER: Okay. I think the message was heard.

CHAIRMAN DELGADO: Okay, any other questions?

(No response.)

Okay, thank you, Brian.

MR. BAKER: Thank you.

CHAIRMAN DELGADO: Up next is Julia Sabin, followed by Patrick Arndt.

MS. SABIN: Good afternoon or maybe good evening.

(Laughter.)

This will be very, very short and sweet.

CHAIRMAN DELGADO: Thank you.

MS. SABIN: My name is Julia Sabin,
and mainly I wanted to introduce myself to you as the new President for the Organic Trade Association's Board of Directors, and also to thank you, the National Organic Standards Board, for all the significant personal sacrifice and dedication that you give to this industry. It is very much appreciated. Volunteer boards require an immense amount of work, and I thank you.

Also, I wanted to thank the NOP, and specifically Barbara Robinson. She is not here, but please thank her for me, and her team for all the hard work and amazing commitment to the organic community as well.

Then, finally, the OTA staff remains very excited to continue to support and work hard for the organic community as we move forward together.

And that's it. So I get the award for the shortest statement today.

(Laughter.)

Thank you.
CHAIRMAN DELGADO: Thank you, Julia. Congratulations on your appointment.

Any questions for Julia before she leaves us?

(No response.)

No?

Thanks again.

Who's next? Patrick Arndt, followed by Peggy Miars.

MR. ARNDT: Hello, everyone. My name is Patrick Arndt. I am a Certification Specialist with Pennsylvania Certified Organic. As you can see, I am speaking as proxy today for Melanie Saffer. She is our Certification Director.

I would like to focus my comments on various materials issues before the Board. We filed more detailed comments previously that should be in your meeting book. Here are the key points:

No. 1, TAP reviews are needed for almost all materials, including any material
petition for 205.606 that is not a single ingredient raw agricultural commodity. We understand there have been budget issues, but now that more funding is available, we expect that these will resume.

It is not acceptable or adequate to rely on a petitioner's information, which quite naturally can be biased in favor of the petition's substance. This can lead to incorrect decisions and set precedents that cause more problems later. We have noted some specific errors in our submitted written comments.

No. 2, as a certification agency, we are required to have documented policies for decisionmaking and treat all clients equally. We make decisions daily regarding determination of compliance for inputs and ingredients for organic producers and handlers, and these decisions need to be consistent.

We feel that the NOSB should be
following similar standardized procedures when reviewing materials. Specifically, we request you complete your deliberations on agricultural versus non-agricultural definitions before any more materials are added to 205.606.

We also need clarification of the definitions of synthetic and non-synthetic substances.

No. 3, we have filed a joint comment with Oregon Tilth regarding the status of the 45 materials now listed on 205.606. When we review our clients' ingredients used in organic products, we need to understand better what the restrictions are for these substances.

These questions were asked last year, and now that we have been reviewing colors in detail, we are asking again. Can they be produced using synthetic solvent extraction? Can they be formulated with other non-list carriers and additives?
Colors can include other additives like maltodextrin or starch. Do these have to be organic?

Either NOSB should be reviewing the manufacturing process and additives used in more detail and considering these issues or it should be clear that certifiers need to review these substances and limit approval to products formulated only with substances on the National List. Certifiers are not all reviewing these substances the same way as is.

No. 4, specific crop and livestock materials. Cheese wax should be deferred for proper identification of the substances involved and correction of the evaluation form to indicate that petroleum products are, in fact, synthetic.

Dextrin for seed coating needs a TAP review before the decision is final.

Detracycline, we agree the annotation should not be changed.

Fenbendazol, we support addition as
a parasiticide.

Thank you.

CHAIRMAN DELGADO: Any questions?

(No response.)

Okay, thank you.

MR. ARNDT: Thank you.

CHAIRMAN DELGADO: Moving on with Peggy Miars, followed by Sam Welsch.

MS. MIARS: Good evening. Thank you for pronouncing my name correctly. I appreciate that.

CHAIRMAN DELGADO: Wonderful.

MS. MIARS: My name is Peggy Miars, and I'm Executive Director of California Certified Organic Farmers. CCOF is a nonprofit organization, and as you heard earlier, we represent more than 1800 certified operations and half a million acres in organic production. We certify nearly 80 percent of the organic farmland in the State of California.

Today I am briefly addressing three
topics. First is grower groups.

I would like to thank the Certification, Accreditation, and Compliance Committee for their work on the issue of grower groups. CCOF’s position remains unchanged from the last NOSB meeting.

CCOF has not and does not certify grower groups. We believe that, in order to uphold the integrity of organic and provide the oversight that consumers demand, that each grower should complete the full certification process, including an annual onsite inspection by an accredited certifier.

We believe that handlers, processors, retailers, and restaurants should not be allowed under group certification.

We do acknowledge that grower groups have been allowed, in order to enable small growers to achieve certification, which increases the amount of farmland under organic production. However, we believe that grower groups should be phased out of the NOP. As
long as they are allowed, participation should only be available to growers producing less than $5,000 in U.S. organic sales.

We do not believe that the proposed grower group model increases the ability to detect non-compliance. In fact, it might be easier to hide non-compliance issues if the operator wants to.

We have spent more than five years educating consumers about what organic means under the NOP and what organic certification means. Some consumers are already questioning the integrity of organic and the organic seal. We believe that the issue of grower groups will continue to confuse or add to the confusion of consumers and will add to the loss of confidence and trust in the organic seal, which would impact the entire organic marketplace.

Unfortunately, we have not been able to participate as part of a committee or a discussion group on this issue, but now that
we do have a full-time Policy Director, we are prepared to participate in continued discussion on this issue.

The second item is regarding the Methionine petition. We support the Livestock Committee's recommendation to add an annotation with the expiration of October 1, 2010, to enable time for commercial development of non-synthetic alternatives to Methionine. I understand a task force is currently working on researching alternatives, and we support those efforts.

And the third area is some miscellaneous items, primarily for the NOP staff. We do ask that the NOSB and NOP please remember that certified operations require proper notification and due process when rule changes are made. This includes clarity and interpretation and a clear timeline for communicating and implementing the changes. Making verbal comments in certifier trainings is not sufficient. Each certifier must be
notified in writing, so that all certifiers receive the same information at the same time.

We are still waiting for a pasture recommendation and a rule on origin of livestock. The lack of clarity is detrimental to livestock operations and the entire organic community.

We want to thank you for allowing certifiers to contract with OMRI and WSDA for materials review. We appreciate that very much.

We want to thank the NOP staff for their efforts to update the NOP website, as many people have said today. While improvements have been made, I know you realize that more improvements are needed. I won't go into detail here, but we probably will be submitting comments directly to the staff.

We congratulate you on the increase in the NOP budget, and we ask that you share with us how that money is going to be put to
good use to benefit the organic marketplace.

We appreciate the work of the NOSB and the NOP, and we thank you very much for your time and consideration.

CHAIRMAN DELGADO: Okay, thank you.

Any questions from the Board?

(No response.)

Okay, thank you.

MS. MIARS: Thank you.

CHAIRMAN DELGADO: Next is Sam Welsch, followed by Katherine DiMatteo.

MR. WELSCH: Hi. I'm Sam Welsch with One-Cert, one of the accredited organic certifiers.

I have already submitted written comments on hydroponics. They are not organic. Organic comes from the soil. Hydroponics has no soil. I think that message we have tried to make pretty clear.

Group certification we have supported for small holders, preferably those who are producing less than 5,000. Again, I
made more comments in writing. I won't read
those to you. I would be happy to answer any
questions you have about those issues, but
today I want to spend a few minutes talking
about some other topics.

Regarding materials, I hope we
don't mess with the definition of
agricultural. It may be difficult for some to
deal with the way it is, but we have enough
problems with confidence in the organic seal.
When we start messing with definitions like
agricultural that make sense to most
consumers, it is something that comes from the
farm. When we start to include microorganisms
and other things in the definition of
agricultural, I see that as doing nothing but
harming the overall advantage or overall image
of organics.

We already have a definition in
livestock that includes other non-plant life.
So if we need to have a way of certifying
yeast, it is already in the rule. It is other
non-plant life.

   It is certainly possible to have a separate section for the certification of yeast or other microorganisms that may need to be certified. So, very clearly, we have a continuum, agricultural on one end, non-agricultural on the other. It is not discrete baskets. There's a lot of things in between that may be somewhat less well-defined, but if we are looking at what can be certified, there may be another segment of the rule that we need to have that includes those things under the non-plant life that can be certified in definitions on what requirements go into that.

   We have heard that yeast is being certified because it is made with organic substrates, but yet, at the same time, other fungi are being certified with using conventional, even GMO, substrates to be grown on. That is what is currently allowed by the NOP, because there are no rules that have been developed for mushrooms, just like there's
been nothing for greenhouses, apiaries, beekeeping. Those are things that we were promised before the rule was fully implemented back in 2002, but are rules that have not yet been promulgated.

I just wanted to mention a separate issue. Somebody mentioned there was formula manufacturers. We do certify a formula manufacturer that does not use hexane fatty acids in their products. So it is possible. There is an organic product on the market for that.

Regarding group certification, we hear a lot about how an internal control system improves functioning or the oversight for retailers and other multi-site operations. I just want to point out that in 205.201(a)(3), it requires a description of monitoring practices and procedures to be performed and maintained. This is something that is required in an organic system plan of all operations. The fact that they do that
with an internal control system, with multiple sites, is very good, but nothing in that application or that type of monitoring says that those sites don’t all need to have an annual inspection.

So it is good to have the internal control systems in place regardless of the type of multi-site operation it is, but it doesn’t eliminate the requirement that an annual inspection take place in each of those.

I also wanted to endorse the comments of others who made statements today, such as Gwendolyn Wyard and Emily Brown-Rosen, about the clarification of ingredients on 606.

I also agree with the comments about the so-called cheese wax. I think we should actually call it synthetic hydrocarbon, which is its proper name. It is not made from cheese, just to be clear.

(Laughter.)

So if it is going to be listed, it should be listed properly. I think it was
misidentified in the recommendation from the Committee, and I think it needs to go back to Committee for a correction before it should be approved, if it is justified to be approved at all.

I also agree with the OMRI statements that additional rulemaking should be required before we add additional items to the list.

And I will add my voice to others who support the requirement that TAP reviews be conducted before many of these items be added.

CHAIRMAN DELGADO: All right, thank you.

Any questions? Joe?

MEMBER SMILLIE: Which option do you currently favor from the Materials Working Group, if any?

MR. WELSCH: None of the above.

MEMBER SMILLIE: Option A was status quo, wasn't it?
MR. WELSCH: Yes.

MEMBER SMILLIE: Is that what you are supporting?

MR. WELSCH: I am supporting that we actually need some rules for certification of some of these products that are not clearly crops or livestock --

MEMBER SMILLIE: Right.

MR. WELSCH: -- things like mushrooms, even greenhouses. You know, these have been on the table since before the rule was implemented and they are still not complete.

MEMBER SMILLIE: Right.

MR. WELSCH: It is just one of many things on the list that are creating problems today because they were not completed within that time limit.

MEMBER SMILLIE: Okay.

CHAIRMAN DELGADO: Dan, followed by Kevin.

MEMBER GIACOMINI: You mentioned
that we shouldn't mess with the definition of agriculture. One of the things in the process of what we are trying to do, and what the Working Group is trying to do, is find what we do need to do to move forward on this.

We actually don't have a definition for agriculture. Are you proposing that that is something we should do?

MR. WELSCH: I probably misspoke. I mean agricultural product. There is a definition in the law for that.

MEMBER GIACOMINI: But it doesn't mention anything about a farm.

MR. WELSCH: Well, I think if you look up the commonly-understood -- if you look up agricultural in any dictionary, you are going to have what is the commonly-understood meaning, which will include farm. We don't have to create meaning where it is commonly understood.

CHAIRMAN DELGADO: Kevin?

MEMBER ENGELBERT: Yes. Could you
give an example of fungi that is being grown on a GMO substrate, Sam, that you mentioned?

MR. WELSCH: Most mushrooms. It was a question that was asked or presented in training, "Can you use GMO substrate like corncobs for raising mushrooms?" And we were told yes.

CHAIRMAN DELGADO: Any other questions?

(No response.)

Thank you very much.

Moving on to Katherine DiMatteo, followed by Harriet Behar.

MS. DiMATTEO: Okay, thank you very much. My name is Katherine DiMatteo. I'm on the Board of the International Federation of Organic Agriculture Movements, which is, obviously, a global, democratic, membership-based organization that has been in existence since 1972 and has contributed to the worldwide discussion of organic standards and agricultural principles for organic.
I'm going to read this because it is long. So I apologize -- no eye contact.

IFOAM thanks the Certification, Accreditation, and Compliance Committee for the appendix to the discussion document on certifying operations with multiple production units, sites, and facilities, and for inviting discussion and comments from the organic community.

IFOAM appreciates the careful and thoughtful consideration that the CACC and the National Organic Standards Board are giving to this important recommendation.

IFOAM also thanks the National Organic Program for allowing the use of the 2002 NOSB recommendation on grower group certification as guidance for the certification of grower groups under the National Organic Program.

These comments address both the appendix and some of the questions posed by the Committee.
The guidance provided in the appendix greatly improves the understanding of how to implement appropriate and rigorous controls within operations with multiple production units, sites, and facilities. There is much in the appendix that IFOAM supports: Section 2, Section 3, especially the criteria for clustering of members or subunits into a production unit, including the guidance that an upper limit on the number of subunits included in a given production unit should be based on the feasibility of effective oversight by management personnel and factors such as size and accessibility of the subunits. We also support Section 4, No. (d), the role of the internal control system.

IFOAM does not agree with the key premise that there is a distinction between initial and renewal inspections of production units, sites, and facilities, presented in Section 4.

Although the language in Section
205.403 of the NOP rule appears to distinguish between initial and subsequent onsite inspections, IFOAM does not believe that it was the intent of this provision to suggest that subsequent onsite inspections might be less complete than the initial one. To make this distinction between initial and renewal inspections would diminish the rigor of the certification system for multi-site operations.

IFOAM recommends the NOP accredited certifying agents perform annual audits of the internal control system of the group, annual inspections of each production unit of the group that includes a sampling of members or subunits based on both risk assessment and random selection, and annual inspections of handling facilities and sites of the group and production units.

The internal control system personnel must directly observe and check all subunits at least annually to ensure that the
organic system plan is implemented.

    The criteria written in Section (c) under "Inspection" should be written to reflect factors appropriate to members or subunits rather than production units.

    IFOAM does support the recommendation and reasoning for random sampling, but would apply this to members and subunits rather than the production units.

    We applaud the Committee for their excellent work on the role of the internal control system, in particular, the statement for the person seeking organic certification to be in compliance with the NOP, all non-compliances detected at the production unit site and facility or at the subunit or member level are required to be reported to the certifying, not just to the internal control system.

    You have the rest of this in front of you, but I just want to read my last paragraph.
IFOAM urges you to recognize that multi-site operations are not simply a collection of individual farms that are collaborating to market crops or are organized to avoid rigorous certification oversight and verification. This system for certification of multi-site operations that includes having a functional internal quality assurance system together with an annual inspection and evaluation by an accredited certifying agent offers a sound and robust organic guarantee system that protects organic integrity. This system offers two levels of control as opposed to one. It also encourages group organization, which enhances the overall capacity of individual members within the group to institute and further develop good organic management practices.

The continuation of multi-site operations is critical to the organic community worldwide.

Thank you for the opportunity to
comment.

CHAIRMAN DELGADO: Oh, you are very welcome. Thank you.

Any questions?

(No response.)

All right. Okay, thanks again.

MS. DiMATTEO: Thank you.

CHAIRMAN DELGADO: Next up is Harriet Behar.

MS. BEHAR: Is everybody still awake?

CHAIRMAN DELGADO: We're still awake.

MS. BEHAR: Okay, I am going to give comments for the National Organic Coalition, of which MOSES is a member. It is on grower groups. There is only one copy of my comments, but I believe Liana is bringing you some more.

I would like to thank the NOSB Certification, Accreditation, and Compliance Committee for the further consideration of
these grower group certifications. However, we are very disappointed that the previous document presented in November has not been withdrawn or reworked to reflect the many public comments, including our own, that objected to this approach.

Instead, the Committee has presented a new appendix outlining guidance for certification of multi-site operations. The unnecessary inclusion of handlers, including retailers, into this proposal remains a great weakness that jeopardizes the protections needed for small farmers in the developing world who have successfully used the grower group model in order to have access to certification and the organic marketplace.

Handlers that operate multiple sites, locations, and facilities are currently certified as single operations under the existing regulations. There is no need for any guidance designed to weaken the inspection protocol for these entities.
There may be need for specific guidelines or regulations for retail certification, as this is voluntary, but this is a separate issue that should not be conflated with the problem at hand, which is a producer/grower group certification.

We are in general support of the OTA Group Certification Task Force comment on guidance for producer group certification. We believe this document provides the needed depth of consideration of important issues relative to certification of producer groups, including guidance on the preferred management structure of an internal control system, conflict of interest, and training, criteria for inclusion in a production unit, and the inspection protocol, including risk assessment.

We particularly support the OTA position that all production units are inspected annually, and discussion of what is a production unit, that definition, and how to
decide that is part of the larger document which you will get in due course, I hope.

I also want to answer some of the questions that you put out there, such as: Does a process of random external inspection levels based on risk criteria provide enough oversight of individual locations or is there a need to guarantee all locations are externally inspected at some minimum frequency?

Under that, we support the One-Cert discussion, and we feel that random selection is not sufficient. Selection must be first based on risk criteria with any farm in the group that is high-risk being inspected annually, with the remaining low-risk farms may be randomly selected using a method that guarantees no more than five years between external inspections on any farm.

Then I guess the other one here that I am going to answer is: How will the multi-site model improve the National Organic
Program? We feel that the multi-site model will not improve the National Organic Program. Retailers added to the existing structure will only improve the bottom line of retailers.

The grower group model with needed clarifications will continue to provide organic certification in an alternative model for small holders around the world who would otherwise not be able to certify with no loss of integrity of the USDA standards. The marketplace will be assured of continued availability of such important commodities as coffee, chocolate, bananas, et cetera.

In conclusion, the NOSB should work to adopt a consensus document that establishes guidelines for small holder group certification and limit this guidance to this arena only. There is no demonstrated need or convincing reason that handlers should be afforded eligibility under this proposal to weaken their protocol for the necessary
individual site inspections.

We hope that the organic retail community will take the necessary leadership in this discussion and insist on dropping this idea in order to protect consumer confidence in the organic certification of all items.

Growing groups represent some of the world's most vulnerable farmers. Therefore, it will be vital to exercise extreme caution, adequate implementation timelines, and full transparency, including adequate opportunities for public comment, when applying changes to the current model in place.

CHAIRMAN DELGADO: All right, very timely. Thank you.

Questions for Harriet?

MS. BEHAR: Again, that is from the National Organic Coalition.

CHAIRMAN DELGADO: Great. Thank you.

Next is Leslie Zuck, followed by
David Guggenheim.

MS. ZUCK: Hello. I thought would be last. I'm kind of used to being last with a name that starts with Z-U, you know, almost last anyway.

(Laughter.)

Hi. I'm Leslie Zuck, Executive Director of Pennsylvania Certified Organic. I have been sitting here all day just trying to think what I ought to comment on. So many issues, so little time.

(Laughter.)

But I decided that the best use of my time and yours would be to try to address some of the questions I have been hearing from the Board throughout the day. So I will do that.

I heard Joe say -- well, it wasn't really a question, but he is concerned that we need to get better compliance levels on the use of organic seed. I continue to be sort of confused about why it is perceived that this
is such a big problem warranting quite a lot of effort on the part of your Committee and Board.

I mean, are we seeing documented complaints? Is it mostly anecdotal information from seed companies that would really like us to help them meet the needs of growers and find the organic seeds that they really need?

Frankly, we have not really seen this as a problem, and the organic seed availability is not stagnating. It is certainly not slowing. At least what we are seeing is that it really does increase every year. I mean it started out -- and that is like since 2002. I mean it was non-existent before 2002. The first couple of years were pretty slow. I mean there really wasn't anything.

So we have been seeing it increasing every year really in the last three to four years. I am pretty amazed, actually,
that there is as much available that there is, knowing what it takes to develop seed.

There were several questions about the burden that your recommendation would place on the certifiers and producers. I think Zea and Harriet really responded to those questions well.

On my farm, I am certified by a very reputable ACA in Florida, and every December I sit down with my stack of seed catalogs and I start with the Johnny's and the Fedco and the Seedway catalogs. Johnny's and Fedco are in Maine. They are the major East Coast providers of organic seed. Seedway is in Pennsylvania. We certify them, and I know for a fact they work very hard to add organic seed to their line.

So I go through and I flip through the catalog, and if I see something that is what I want and the organic variety is available, I order it. So I will have the order form; I have the invoice, and
essentially that is my documentation.

Then the very well-qualified inspector from the reputable ACA arrives at my farm in the summer. I will show her -- she will look at all of that stack of seed catalogs. She will look at my invoice. She will look at my order form, and she will see that I have been using a significant or at least a reasonable amount of organic seed on my operation, and she will check a few things. She knows Brandywine tomatoes are available organically and Detroit dark beets, and she will just make sure that I am using those, and I am.

All the information to assess compliance is there. It is looked at, and a determination of good faith effort is placed in my inspection report that goes back to my certification agent. But if I am going to spend additional time to write all that down and make my list up, it is going to take several more hours on my part, and it may not
seem like a lot, but I am going to be asking why. As a certifier, I am going to be getting asked why by my several hundred clients who are going to want to know how I think that is a reasonable use of their time.

Because, so far, up until now, we have been managing fine without having them to send list of seeds that they want to the seed company. If I write out my list and send it to Johnny's and Fedco and Seedway, and say, "I'm interested in all these 80 or 90 varieties. Are they available?", they are going to think I'm daft. They are going to say, well, check our website, check our seed catalog; that's what they are there for. So that is kind of going to be a hard sell, at least to my clients, I think.

At the certifier level, there isn't anybody that really has a nanosecond to spare, much less a staff member to devote the time needed to collect and enter into a database seed lists containing hundreds of varieties.
from hundreds of farmers.

I figure at a minimum of 15 minutes each, that is over 100 staff hours, and these guys will tell you we're not afraid of work, but I do have a hard time convincing staff of the necessity of such a huge task to fix a problem that we really don't seem to see as being a big problem.

Okay, I feel as a certifier I really can't legally require a client to submit confidential business information to me that would be ultimately used for another purpose. I would have a problem with that. I could get sued. I don't want to get sued. So I would rather not have to do that.

Contract growers was asked -- I think it is already covered in the rule. Efforts to find organic seed have to be in their OSP, just as well as it has to be in any grower's OSP. So I think it is there. That was your No. 4.

If you have any questions about
multi-site -- I have one question and one
comment that is one-sentence long, which I
would be happy to answer.

CHAIRMAN DELGADO: Okay, any
questions for Leslie?

MS. FRANCIS: Do you have any other
comments?

(Laughter.)

MS. ZUCK: Just one really; it is
very short. I am wondering why the 36-month
phase-in period is there for the 100 percent
inspection every year. I mean 100 percent for
the initial year.

At least the rule I have back in my
file clearly requires that now. I think any
ACA that is not inspecting every production
unit prior to initial certification should be
politely questioned by NOP about why they are
not doing that now, because I can't read the
rule any other way.

So my question or my comment, that
was it.
CHAIRMAN DELGADO: Okay. Any other comments, questions?

(No response.)

Okay, thank you very much, Leslie.

MS. ZUCK: That's a first.

CHAIRMAN DELGADO: Next up is David Guggenheim. No pressure; you are the last one on the list.

MR. GUGGENHEIM: Can you hear me okay?

CHAIRMAN DELGADO: Yes.

MR. GUGGENHEIM: Okay, and I want to thank the Board for their flexibility in getting me in. I suppose I should thank the U.S. District Court for not calling me in for jury duty today. There was some uncertainty about that.

Good afternoon. Good evening.

I am Dr. David Guggenheim. I'm a principal in Aquaculture Development. It is based in Pittsburgh, Pennsylvania.

I think it is also relevant to
mention that I am President of One Planet One Ocean in Washington, D.C., a conservation organization.

Three and a half years ago, I left my post at the Ocean Conservancy as Vice President because I got very excited about the fact that I had a glimpse of the future: closed-containment, land-based aquaculture. These are systems, next-generation systems, that recirculate 99 percent of their effluent, have no discharge, use no chemicals and no antibiotics, can be located close to where their products are consumed. I saw this as the future of putting fish on the table. You may recall I made a presentation on this technology at the Aquaculture Workshop.

Today I want to talk about one point, and that is really focused on a request that the Board reconsider the inclusion of the sunset provision for the use of fish meal and fish oil in aquaculture.

The organic certification addresses
both concerns for human health as well as concerns for the health of the environment. In the long term, it is my belief that providing this flexibility will be a net benefit and significant benefit for the environment, and here's why:

Without question, from my experience and that of my colleagues, next-generation, closed-containment systems represent a quantum leap in the sustainability of aquaculture, both in terms of the attributes of aquaculture itself, but also in terms of, when scaled up, their capacity to actually reduce pressure on wild fish populations and ocean ecosystems.

The U.S. is far behind Europe and Asia in adopting this technology, and now we can add South America to the list. Our primary technology partner, UniAqua, based in Denmark, has just begun construction on two facilities in Chile, each 1,000 tons for salmon. These are facilities that will
support the complete rollout of salmon, completely contained land-based systems.

Over the past three and a half years, I have been on the front lines working with industry executives and potential investors who, despite a 15-year track record overseas, haven't really heard much about this technology, view it as something new and scary, and therefore, a high risk.

But the possibility of an organic certification for their product has been a major factor in bringing these potential investors closer. The challenge is that most of the commercially-viable species in this country are omnivores. Salmon represents about 60 percent of the fish that we eat, obviously, an omnivorous fish.

We at Aquaculture Developments are committed to eliminating completely the wild-caught feed component to the fish that we are growing. At the workshop, we committed to a five-year phaseout period, which I think was
faster than just about anybody else.

That is for two reasons: the time needed for research as well as time needed for economies of scale to kick in. It is technically possible for us to grow organic feed, essentially the prey species for these fish, but the economics don't work yet. The economics will work when there is enough of these facilities there. Therefore, it is a chicken-and-egg problem.

The sunset provision will have the effect of stimulating the right kind of industry for aquaculture and take a major step forward toward again protecting and restoring ocean ecosystems.

This is not about weakening the National Organic Program. Taking a larger and longer-term perspective, this is demonstrating leadership and profoundly transforming the way this country puts fish on the table.

Thank you.

CHAIRMAN DELGADO: Thank you.
Any questions? Yes, Hugh?

MEMBER KARREMAN: Thank you.

So even though when we are coming up, we are trying to come up with standards for all aquaculture species and not just salmon -- I've tried to kind of stay clear of just saying salmon because it is not just about salmon. But how would you answer some of the groups that would say, well, salmon have to have their natural runs to be in the organic, you know, to demonstrate their natural behavior, and whatnot? I mean, how would you answer that with the setup, you know, the system that you are proposing?

MR. GUGGENHEIM: I suppose there's two paths you can take in responding to that question. One is a biological and technical path, and the answer is that the technology now exists to grow these fish and grow them out to a commercially-viable size, and to do that completely in indoor contained systems.

So it is doable. These fish are
healthy from a physiological perspective, and they are commercially viable.

I think there is another path, and that may be an ethical path. That is more of a gray area, something I don't think I can respond to because I would be giving you my own personal feelings about that. But I think all of us would have different perspectives on that.

I think it really comes down to the individual species and what their needs are. I think, from my perspective, I have seen eels, I have seen baramundi, the Asian sea bass. I think personally it comes down to the physiological health of these animals. If you look at them and they look healthy, and they don't appear to be adversely impacted at a physiological level, I think that is a good indication -- again, this is my personal belief -- that they are doing well, even if some of their behaviors have been affected.

I think there are others who might
suggest that it is just wrong to do that, but
I think that is more of a personal choice.

CHAIRMAN DELGADO: Any other
comments, questions?

(No response.)

Well, thank you very much.

MR. GUGGENHEIM: Thank you again.

CHAIRMAN DELGADO: On that note,
ladies and gentlemen, members of the Board, we
are finished with the public comment section
for day one of our meeting.

We will recess until tomorrow
morning at eight o'clock a.m. I will ask the
Board members to be here 10 minutes before the
hour.

I also would like to ask the Board
members to gather here to discuss logistics
about dinner.

Thank you very much for all of you
who stayed behind to listen to our meeting.

Until tomorrow.

(Whereupon, at 6:47 p.m., the
proceedings in the above-entitled matter were
recessed for the day, to reconvene the
following day, Wednesday, May 21, 2008, at
8:00 a.m.)
The Meeting of the National Organic Standards Board convened in the Chesapeake Room, Holiday Inn Inner Harbor, 301 W. Lombard St, Baltimore, MD, pursuant to notice at 8:00 a.m., Rigoberto Delgado, Chairman, presiding.
BOARD MEMBERS PRESENT:

RIGOBERTO I. DELGADO, CHAIRMAN
JEFFREY W. MOYER, VICE-CHAIR
KATRINA HEINZE, SECRETARY
HUBERT J. KARREMAN
KEVIN ENGELBERT
JENNIFER M. HALL
JULIE S. WEISMAN
DANIEL G. GIACOMINI
GERALD A. DAVIS
KRISTINE ELLOR
TRACY MIEDEMA
JOSEPH SMILLIE
BARRY FLANN
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Adjourn
8:02 a.m.

CHAIRMAN DELGADO: Please take your places, we are about to start. Good morning to all and we're starting with day 2 of our meeting. And I am calling the meeting to order. Thank you, Madam Secretary, make it official. Thank you for that, as well, Julie. I hope you all had a pleasant rest last night. We have a heavy schedule today. We're going to start with a presentation on materials and recommendations on the part of all the committees, and then we'll follow with another session of public comment.

In the first place, I would like to ask the Chair of the Policy Committee, Dr. Barry Flann, to give us his presentation on the recommendations on both the changes to the policy and procedure manual and also to the new member guide. Barry.

MEMBER FLANN: I always need lots of help. Thank you. Thank you, Mr. Chair. The Policy Committee, everything we do is a real team
effort and the committee consists of Bea James, Hu Karreman and our Chair Rigo Delgado. And today it will be no different. I'll lead off with the first of our recommendations and then Hu is going to report on our other recommendations and then followed finally with Valerie Francis who always gives us tremendous help on every committee meeting and Valerie will make the final report on -- from the Policy Committee.

Our first recommendation is a change in the Policy Development Manual, on Section 1 page 6 of the NOSB Mission Statement under carrying out the mission, we propose adding the words, "or deletion from". The statement would then read, "Review petition materials for inclusion and/or deletion from the national list of approved and prohibited substances from the national list". This is to conform with the language in the regulations and yesterday there was a number of comments on this very subject.

The second recommendation, Section 1 page 6 of the NOSB Mission Statement under
carrying out the mission, combine Items 4 and 6, also add "timely" in the statement and "make full use of communication channels". The statement would then read, "Communicate with the organic community, including conducting public meetings, soliciting and taking public comments and provide timely information and education on the NOP, making full use of communication channels".

That's the recommended changes in the - the first recommended changes and Hu will carry on from here.

MEMBER KARREMAN: Thank you, Barry. The second change -- let's see, it's number 3, right, Barry?

MEMBER FLANN: Number 3.

MEMBER KARREMAN: On Section 8 of the National Organic Program material review process, we want to add the paragraph describing how we deal with petitions, their handling if they're withdrawn by the petitioner and the proposed paragraph would be placed immediately after Phase 6, page 35 and it would read regarding withdrawal
of petitions, "When a petition involving materials are withdrawn by the petitioner, the Board shall suspend its review and recommendation procedure. In the case of a petition not involving a material, board members have the option of completing its review and providing a recommendation or guidance. In the case of a petition previously withdrawn is then resubmitted, the Board should review it in the order that it is received. That means that a withdrawn petition should be considered a completely new request and then falls to the end of the queue of materials pending review. And of course, the petitioner can withdraw a petition at any moment during the process of review by the Board during public comment or prior to the Board's voting on the petition. So petitioner should have the opportunity to withdraw a petition with the intent of improving it, getting new information, new data, research and only that. It is the hope of the Board that petitioners will not abuse this privilege with the intent of finding agreeable
members in subsequent submissions as our Board changes over." So you can withdraw a petition to add research data, resubmit it, but it will go to the end of the line and you can do that at any time. Okay?

The other update we want to do to the New Member Guide is that we want some of the NOSB members suggested the addition of two sections to the New Member Guide which include adding hyperlinks to past Board recommendations and also a list of common technical sources that we can use as Board members and that should improve the process of conducting our business and training of incoming members to get them up to speed as needed.

So the recommendation would be -- recommends two updates to the New Member Guide document, addition to Chapter 5, Section B, suggested best practices, making the most of your conference calls and meetings, of a descriptive paragraph and a link to the final NOSB recommendation table and also addition to Chapter
5 suggested best practices of a new section called F, list of common technical sources used by NOSB members. So that's the two recommendations. I can go in a little more detail for Recommendation 1.

CHAIRMAN DELGADO: I think that will be enough.

MEMBER KARREMAN: Is that enough?

CHAIRMAN DELGADO: Anything else you want to add, Barry, to that?

MEMBER FLANN: No, not to that.

MEMBER KARREMAN: Yes, as Valerie is scrolling through there, there's a whole long list of hyper-links to various government agencies and NGOs and other professional societies that would be added into the New Member Guide which should be pretty helpful. And we should be open to adding to that kind of as needed. I don't know if that might have to be in the recommendation that it's open for updating.

CHAIRMAN DELGADO: It doesn't have to be in the recommendation and I think it is well-
understood that it will be a living document and updated as needed. Are there any questions for the members of the Policy Committee. Yes.

MEMBER FLANN: There's still one, we'll let Valerie make her report and --

CHAIRMAN DELGADO: I apologize for that.

MEMBER FLANN: -- and then we'll take questions.

CHAIRMAN DELGADO: Please, Mr. Chairman, continue. Before that, let me allow Mr. Richards to provide us some comment. I believe this might be relevant. Yes, sir.

MR. MATTHEWS: I just have one question with regard to the timing of the withdrawal.

CHAIRMAN DELGADO: Mr. Richards, can you hold on, on that, please? Matthews, I'm sorry. It's quite early. I apologize. Let's listen to the last item presented by the Policy Committee and then we'll come back and answer specific questions. Valerie, please.

MS. FRANCIS: One thing that's been
requested a lot is having a list of all historical recommendations by the NOSB and sort of their status. And some go back, way back, 1993, `94, `95. And as people ask questions, too, about recommendations that are sort of lost in the institutional memory, I've been collecting those questions and indicating where they are, in what meeting of what page, of what transcript, little by little and I've amassed quite a document.

They recently -- they've been going through a process of migrating the entire website, so now I'm going to have to go back and update all those links. And so just communicating the status of we're working towards it. It's one of those projects that you tuck in and you do as you go and it's -- I'm hoping it will be a useful thing. I'm not quite sure how it will all fit in on the new website but my webmaster will work with me on that as we get closer to bringing that forward. So, just to let you know, I'm working on it.

CHAIRMAN DELGADO: Okay, now, we're open to questions. Mr. Matthews.
MR. MATTHEWS: I just need a little clarification on the withdrawal and then resubmission. Clearly a petitioner can withdraw their petition at any time. But is it my understanding or is my understanding correct that once the Department has spent thousands of dollars reviewing the material, and the report comes out, that the person would be allowed to resubmit so the Department would spend thousands of dollars a second time?

MEMBER KARREMAN: I would -- can I try to answer that?

CHAIRMAN DELGADO: Please, yes.

MEMBER KARREMAN: I would think that with the resubmission process that it's limited to just new data that you would only need to take that into account on top of what was already accomplished. That would be my understanding, but -- or my thinking.

CHAIRMAN DELGADO: That seems to be the spirit of the proposal, is that correct, Mr. Chairman?
MEMBER FLANN: Yes.

CHAIRMAN DELGADO: Are you satisfied with that response?

MR. MATTHEWS: Yes, I'll want to think about it more, though. I mean, I just have a problem with, you know, spending thousands of taxpayer dollars to rereview something, so we'd have to work with the contractor to make sure that we weren't repaying for everything. It's still going to be expensive to re-analyze the material with the new data. So I mean, I will still cost us a lot of money.

CHAIRMAN DELGADO: But just to clarify, you're saying that you will not have to start from zero; is that correct?

MR. MATTHEWS: Oh, I would think we would not have to start from zero but I'm not saying that it wouldn't be of substantial cost to do it a second time.

CHAIRMAN DELGADO: We have Jennifer, correct, followed by Dan -- well, Dan, followed by Tina. Dan.
MEMBER GIACOMINI: Mr. Matthews, I believe the -- and maybe it would need some clarification. I believe the intention of the recommendation is regarding the NOSB. It's not a directive to the NOP that if it's a completed petition and it's been fully reviewed, the we're requesting that you re-review it. It's just a matter of us trying to prioritize the materials and the volume of materials that come to us that we try and deal -- get the older materials that have been sitting on our desk for a long period of time, we try and get those taken care of.

The intent, I believe in this, is simply saying that the date that we're going to look at is when we receive this document, when we receive the petition is not three years ago and now that the petitioner has said, "Reactivate that petition", we are faced with looking at something, "Well, that's -- we've had this for three years". It's to say that we've had this as of today and the one we got last month, we received from the program last month, has time-wise a higher
priority than this one which received today even
if this one has been in existence for three years.

I think it's an NOSB directive, not an NOP at all.

MR. MATTHEWS: Okay, so then I would
understand that what you're saying is that they
would withdraw the petition long enough to submit
additional information to the Board and the Board
would be acting on that without going back to the
contractor for additional work.

MEMBER GIACOMINI: That would be your
decision but it wouldn't be impacted by this
recommendation. That would be just, you know,
Bob's normal evaluation of petitions as they come
through and new material, new information comes
through.

MR. MATTHEWS: Okay.

MEMBER GIACOMINI: But we've had some
petitions in the recent past that have been
withdrawn and the petitioners just like come back
and say, "Okay, we want you to look at it again
now". I'm not even aware that they submitted any
new information.

MR. MATTHEWS: Okay.

CHAIRMAN DELGADO: Tina.

MEMBER ELLOR: Can I ask what happens now to petitions that are withdrawn officially? I guess that would be a question for Richard.

MR. MATTHEWS: That's going to depend on what had already taken place previously. I mean, if the petition came in and it was withdrawn before we did a TAP, well, then obviously, it would go to the Board and then they would create whatever questions they have for the reviewers, and then it would go out for the TAP review.

MEMBER ELLOR: If it was reinstated or withdrawn? So, yes, I think the issue is here, petitions that have gone through the process, it looked like it wasn't going to go the way the petitioner wanted, so they were withdrawn. What happens with those now?

MR. MATTHEWS: Bob? Normally, when they're withdrawn there's nothing that happens with them. They're done.
CHAIRMAN DELGADO: But I think the concern is, do you destroy those documents or the record has disappeared or what's happened? Is that your question?

MEMBER ELLOR: Right, yes, they're still on the -- you know, the spreadsheet with a -- sort of an open -- go ahead.

MR. POOLER: This is Bob Pooler, NOP. If the petition is withdrawn, then that is the end of that petition. Then a new petition -- if the substance were to be brought up again, a new petition would have to be submitted. If the petition is going to be considered at a later time, then the petition is deferred until such time as the supplemental information is provided and taken up and put back on the work plan of the respective committee.

MEMBER ELLOR: Okay, and deferred is a decision we make and withdrawal is a decision the petitioner makes.

MR. POOLER: Well, yes, essentially, yes.
CHAIRMAN DELGADO: Any other questions?

Kevin?

MEMBER ENGELBERT: Did the committee give any thought to -- with your concern that the petitioners will not abuse the privilege of being able to withdraw a petition until more favorable or agreeable members in subsequent meetings? Did you give any thought to not accepting a resubmission unless there was new material presented with the petition so that it couldn't simply be held?

MEMBER KARREMAN: I think he means, basically that if they resubmit it, there has to be new data. We need to require that instead of pulling it and sending it back in three years later when there's different board members. Is that what you're saying, Kevin, just to make sure there's new data, you know, as we're asking for specify that. Okay?

CHAIRMAN DELGADO: Okay, that is a proposal presented by one of the members, good. Well-articulated. Mr. Chairman, would you like to
add something to that?

MEMBER FLANN: Well, I think that was discussed and I believe we felt that we could not limit somebody submitting a petition. I mean, essentially, we're treating it like it's a new petition and they could submit anything they wanted to, so we really couldn't control it. But we did discuss that several times. So maybe that's either a legal point or a procedural point that could be cleared up, whether we could require that. I think I'm right, Rigo, that we thought in final that we could not limit what somebody submitted. It was up to them and not up to us to determine that. Am I correct?

CHAIRMAN DELGADO: That is correct and there is also a good proposal. My recommendation would be for the committee to get together and discuss that specific item and see if you need to make any additions to your current recommendation. Okay?

MEMBER FLANN: And I think we probably would need some guidance on that point.
CHAIRMAN DELGADO: Will do. So it's up to the committee and we'll be able to discuss that. Any other question for policy? Jennifer, followed by Dan.

MEMBER HALL: My comments have to do with the resource list and I think it will be quite helpful to new members, and I would just like to encourage and solicit the aquaculture working group to compose a list of links that we could add to this, that would be pertinent to those topics.

CHAIRMAN DELGADO: Thank you. Dan.

MEMBER GIACOMINI: I'm concerned with in recommendation number 2, on the Policy and Procedure Manual, the expectation that you're potentially placing on Board members with the statement "making full use of communication channels". We're all volunteer Board members. We have certain things that we can get to and certain things that we can't. I can kind of see this as becoming an expectation that we're going to be expected to be on all the O sites.
If someone calls and says, "I've got a meeting 500 miles away, come and tell us what's going on at the NOSB", it just seems like there's a potential expectation/burden that is -- could be placed on from this wording that I'm a little concerned with. We're volunteers and we're putting in all the time, sometimes more time than we can afford now.

CHAIRMAN DELGADO: Response.

MEMBER KARREMAN: I think I can answer that, Dan. The intent of that was not that. The intent is that to make full use of the internet, snail mail, all kinds of communication that way such that farmers that are not on the internet will be apprised of information. Wasn't that what we were talking about?

CHAIRMAN DELGADO: I believe that was the intent. Correct me if I'm wrong, Mr. Chairman.

MEMBER FLANN: No, that is correct. We wanted to make sure that as we go more and more in the internet communication, that we did not forget
about people that were not so connected, that we provide information to them also and it was felt that we -- I guess we never thought about it the way you're describing as putting a burden on it. We just wanted to make sure we had a policy of getting information out to all the stakeholders and all the publics we deal with and they receive this information in a timely manner, that it's meaningful and what they were doing. And it's -- and I think we feel that that is a role, an important role of the Board is the communication with the public. And we just -- we're trying to strengthen that a little bit in the manual.

CHAIRMAN DELGADO: Any clarifications that you would like to submit then? Was that a clear explanation?

MEMBER GIACOMINI: It's a clear explanation of your intent. I just -- I'm not sure that that's -- you know, a year down the road when someone is reading that, I'm not sure that that's going to be the same as what their expectation is going to be from reading that
statement.

CHAIRMAN DELGADO: Okay, thank you.

Jeff.

VICE-CHAIR MOYER: Thank you, Mr. Chairman. Hu, I've got a question for you regarding that same topic because you do tend to work with a lot of non-internet connected folks in your practice. Are they made aware of these meetings? Do they know they exist? Do they know they can make public comment? Do they choose not to? I know we did see one letter that was scanned into the system but is that something that they know they can do currently, since everything is posted on regulations.gov, which is not within their purview?

MEMBER KARREMAN: Since you asked about my farmers, let's say, my clients that I work with, I would say that in my personal communication with them out in the barns, they know a meeting is about to happen or has happened. They want to know what's going on. I would say you know, we had our meeting in State College,
which is about as close to Lancaster County where
I'm from, as it will ever be. Well, Baltimore is
pretty close, too, and they weren't really there.
So I think that's not because there's not
communication of meetings coming up. I'm not so
sure that they have time to get away or they have
the absolute interest that others may. But I
think they should not be neglected as far as
communication channels. Does that help?

I mean, that was the intent basically.

VICE-CHAIR MOYER: Well, just I'm a
little concerned, you know, with Dan's comment and
thinking about like what Valerie might have to do.
You're going to have to put a notice in the mail
of all these things? I mean, how are you going to
-- we don't have their addresses.

MEMBER KARREMAN: Well, I think what we
were -- the discussion, if I remember right, was
mainly talking about the internet and the
hyperlinks and it was kind of -- and I said,
"Whoa, whoa, whoa, hold on, you know, my farmers
don't use that", and that's why we came up with a
more inclusive statement rather than just kind of quick internet, you know, expression of the news or hyperlinks.

CHAIRMAN DELGADO: Is that clear?

Kevin.

MEMBER ENGELBERT: Yes, if I understand this recommendation properly, the only changes that are made are the underlying words "timely", and "making full use of communication channels". The italicized that aren't underlined were already part of the recommendation. So there's no real huge change as far as what's required. It's just the emphasis on using all means to communicate.

VICE-CHAIR MOYER: That was the intent.

CHAIRMAN DELGADO: Good clarification.

Any other comments, questions? Very well. Well, thank you very much. That was a clear presentation, lively discussion. Appreciate that and we can move onto the next topic which involved the Materials Committee and I will yield to my colleague, Mr. Dan Giacomini.

MEMBER GIACOMINI: Thank you, Mr.
Chairman. The presentation from the Materials Committee, we do not have a voting action item under discussion today for this meeting but this portion of the meeting will be a tag-team between myself and some members of -- the co-chairs of the Materials Working Group and so within our time frame, we're trying to devote as much time toward the discussion of that document as possible.

As a result, I'm going to give a short presentation, hopefully short presentation on the materials, an update on the material status of things, but it's not as complete as I've given in the past and I will -- I could possibly go over some things fairly quickly that are even on the slides purely as an essence of time, not a matter of trying to get around any information.

But we've gotten back in the habit of doing this on a regular basis at meetings and you can go back to prior meetings and look at those presentation documents for a more full explanation of things.

So to move onto that, we'll have a
brief discussion of the National List of Allowed and Proved Substances Petitioned and Sunset Review Items, the material view process, national list criteria, sunset review criteria and some final notes. Next slide.

The National List of Allowed and Proved Substances is broken down into crops, livestock and handling, Section 601, synthetic -- for crops it's synthetic allowed, 602 is non-synthetics prohibited. For livestock, Section 603 is synthetics allowed, 604 non-synthetics prohibited. For handling Section 605 is non-agricultural, non-organic substances allowed. Section A is non-synthetics and Section B is synthetic materials. So all non-agricultural, non-organic in processing as opposed to livestock and crops must be on the National List.

606 for handling non-organically produced agricultural products allowed as ingredients in or on processed products labeled inorganic. The petitioned items and sunset review items for this meeting, status at the time of this
meeting, we have recommendations for 601 with three items as listed. 603 has two items as listed, one of those having two separate recommendations. We have no 605 item recommendations being considered at this meeting.

Section 606, we have, I believe it is 20 items being considered at this meeting. Sunset items at this meeting, we have tartaric acid being reviewed for sunset, for its listing both on 605A and 605B and we will be reaffirming -- voting to reaffirm or not the sunset recommendations from the fall 2000 meeting, so that we are following the proper governmental guidelines that we give -- in case there was any consideration, reconsideration due to additional public comment that was allowed in the timing from the posting of the Federal Register Notice on sunset.

At the time of this meeting, in the NOSB pipeline, that's our pipeline not the NOP's pipeline, we have the substances listed by the sections shown. And you'll see underneath 606 is asterisk next to yeast, that is a petition to
consider the transferring of yeast from 605 to 606.

And the material review process, it is a minimum time frame for the National Review Materials' review of 145 days being an absolutely minimum. That's not necessarily what happens, but that is the minimum. Under the material review process a minimum of 14 working days for the petition to be received by the NOP and reviewed for completeness and upon determination of completeness by the NOP, the petition is forwarded to the NOSB materials chair. That is the optimal situation if the petition is perfect at its original submission. This could take much longer as communication goes back and forth between the program and the petitioner. Once the material is passed on, the petition is passed onto the NOSB and the materials chair, the materials chair forwards the petition to chairman of the designated NOSB committee, crops, livestock or handling that would be handling and evaluating that petition substance. The petition is re-
evaluated for completeness, determination of requesting a TAP and that information is passed back to the program.

So that is the time frame at the beginning of the process. At the end of the process, 60 days prior to the NOSB meeting, the TAPs have been received by the program and sent back to the -- they're sent onto the NOSB. The TAP is reviewed. It's posted on the NOP website for review and public comment. Committee recommendations are posted and within 45 days prior to the meeting, public comment is accepted by the NOP and posted on the website. So we have a beginning time line and an end time line. Do not assume that those two time lines that we're talking about are necessarily touching. There could be -- there's constant work on the petitions, but it does take time and that's why we're talking a minimum of 145 days.

At the NOSB meeting, the committee recommendations are submitted. Further comments are accepted from the public and all public
comments are taken into consideration, and action is taken by the full Board regarding the committee recommendation. During the entire process, we need to remind everyone that all communication between petitioners and the NOSB should go through the National Organic Program.

CHAIRMAN DELGADO: Okay, just a reminder, and excuse me. Let's make sure we have our phones off and we do have someone paying for drinks tonight. We'll take care of recording the name later. Please continue.

MEMBER GIACOMINI: National List criteria, and for all general substances, petition -- the potential of such substance for detrimental chemical interactions with other materials using organic farming, the toxicity and mode of action of the substance and of its breakdown products. Number 3, probability of environmental contamination from use or misuse and the effect of the substance on human health, and number 5, the effect of the substance on biological and chemical interactions in the agro-eco system.
Number 6, alternatives used to using
the substance and the compatibility with a system
of sustainable agriculture. The one section that
I did cut severely from previous documents is
discussed in the processing age and age events,
since we had none of those being discussed on the
National List at this meeting, for the matter of
time, I deleted that section and please refer to
the Fall 2007 Meeting Materials Presentation for
reference.

For 606 which is agriculture and
potential commercial unavailability or potential
fragility of supply, NOSB will consider why the
substance should be permitted in the production or
handling of organic product. Current industry
information regarding availability and history of
unavailability of the organic form and the
appropriate form quality or quantity of the
substance. The industry information includes but
is not limited to region of production and the
number of suppliers and amount produced.

Current and historical supplies related
to weather is also considered. Trade related issues and any other issues that may be present -- that may present a challenge to consistent supply. The sunset review criteria taken from OFPA, no exemption or prohibition contained in the National List shall be valid unless the National Organics Standards Board has reviewed such exemption or prohibition as provided in this section within five years of such exemption or prohibition being adopted or reviewed by the Secretary has renewed -- and the Secretary has renewed each exemption or prohibition. So everything needs to be reviewed by five years, reasserted by the program, by the Board in order for relisting.

The sunset process is not used to petition a new item or substance of the National List and it is not used to change an existing annotation. Now, the sunset review criteria, the NOSB must solicit information and comments to re-evaluate substances against the same criteria used for National List posting. New evidence must be presented to overturn a prior Board's decision and
remove an item from the National List. Exemptions were accepted because the evidence allowed showed substances were found to be not harmful to human health or the environment. The substances were necessary because of the unavailability of synthetic alternatives and/or the substances were consistent and compatible with organic practices.

Final note, all public comments are currently handled through regulations.gov website, handled according to the appropriate Federal Register docket and governmental agency. The new process sets deadlines for having public comment posted prior to the meeting and all public comment received by the NOP will be made available and is made available to the NOSB members for review in advance of the respective vote whenever possible.

And finally, a listing of relevant websites for the National Organic Program, National Organic Standards Board and regulations.gov. Thank you, Mr. Chairman.

CHAIRMAN DELGADO: You're welcome. Any questions? Julie?
MEMBER WEISMAN: Hello?

CHAIRMAN DELGADO: It is working.

MEMBER WEISMAN: Okay. I just -- I am very reluctant to take any time away from the second part of the materials presentation this morning. However, in terms of 606 and in light of some issues that have been raised during the written public comment period and the spoken public comment period yesterday, I wanted to acknowledge two situations.

One, the slide that was up there had a little note at the bottom that no TAP reviews for 606 items. And while that is the case currently, there was public -- there -- it has come to light through very thoughtful public comment in the last few months that some of the items on -- that notation assumed that single agricultural products, raw or processed, were what were being petitioned and that was a common sense notation, that those should not be TAP reviews. It has been pointed out that a number of the color materials that were petitioned at the last meeting are
formulated products and do need to be looked at further. So I just want to say that I think that, that -- not that there will be whole TAP reviews but it is understood that those materials need to be looked at more carefully, not just assumed that it's all agricultural product in there.

CHAIRMAN DELGADO: Just as a clarification, so you'll be treating each case on a case-by-case basis?

MEMBER WEISMAN: Well, I don't even -- you know, I think that we haven't even really -- we haven't had a full and depth of discussion as a committee even, the Handling Committee or enough discussion with the program yet about how to respond, but I did want to acknowledge these very well thought out comments were made and that was not ignorant of them.

The second thing that has come up during comment is that you read a list of the evaluation criteria for 606 items, and I also wanted to point out that more than one comment has been made in recent weeks about which of -- we put
a lot of work recently into the evaluation criteria that are specific to 606 in terms of evaluating the supply and the fragility of the supply. But there are other criteria, evaluation criteria, that do apply to 606 items just like 605 A and B items not the same ones, and many of them are not applicable and it may -- we will also need to look and make that more consistent and have it be very clear which ones are -- very clear, you know, like question by question by question and that that is also something that we are not -- we're not ignoring.

CHAIRMAN DELGADO: Dan.

MEMBER GIACOMINI: The development of the TAP process has evolved a bit. It's a fairly new development that I don't have a full grasp of but there was discussion at the program level with other branches of the government or other offices, I guess is the more proper term, regarding the TAP status of the 606 items that we did pass.

The absolute -- as I understand -- do you want me to deal with this, Barbara, or do you
want to try and attack this?

CHAIRMAN DELGADO: Barbara, can you clarify it, please?

MS. ROBINSON: The Board is the -- you are a technical advisory panel. You can do that TAPs on 606.

CHAIRMAN DELGADO: Dan, do you have -- was that clear enough? Do you want to comment some more?

MEMBER GIACOMINI: No, I mean, that's the status from the program and you know, there -- I think it's going to be an evolving situation. We'll just see how it goes, what does need to be further outside review.

CHAIRMAN DELGADO: And why way of clarification, we've discussed this at the Executive Committee level and we are in the process of redefining when to deal with the specific TAP, whether we need to farm it out to third parties or use our own resources within the program, because as pointed out, we have our in-house expertise and we can always tap into that.
Yes, Julie.

MEMBER WEISMAN: Well, also I wanted to introduce the language that -- of a technical review is a word that we've been using which is a bigger concept than just a TAP which is a very specific thing that we normally and historically have associated with outside contractors. Is that a fair distinction?

MS. ROBINSON: What's your question, Julie?

MEMBER WEISMAN: The technical review, as we have been discussing it lately as distinct from what we have historically farmed out to subcontractors which were always called TAPs.

MS. ROBINSON: Correct.

MEMBER WEISMAN: Okay.

CHAIRMAN DELGADO: And also the Policy Committee has part of their work plan to help out and develop the procedures as to -- to identify when to use those different resources, outside or inside resources. Any other questions? First of all, have you concluded? Okay, do you wish to
proceed with some other item?

MEMBER GIACOMINI: Yes. The next item under the material section for this morning is a presentation from the Materials Working Group. I believe Kim and Gwendolyn are going to offer up that presentation, if they would come up, please.

MS. DIETZ: Good morning. We practiced but we didn't figure out who was going to stand or sit. We're going to dance, too. Okay, good morning. My name is Kim Dietz and most of you know me but for the new member, I'm a past NOSB member, five years. I chaired the Materials Handling Group and was a Handler Representative. So at the last meeting, I kindly volunteered to handle something called -- or to form something called the Materials Working Group. And Gwendolyn and I co-chair that group.

I just want to read to you the summary. And you've all received a copy of our paper. On the last page, "The members of the Materials Working Group represent a broad spectrum of backgrounds and segments of the industry. All of
us have strong opinions about the subject with extensive implications for the meaning of an organic label and its potential for application to all aspects of food and agriculture, including a host of other consumer goods that were not considered with OFPA was drafted.

We recognize that it would not be easy to resolve many issues surrounding the definition of non-agricultural substances and its impacts on what products may or may not eventually be able to be organically produced." There's 22 individuals on this working group. Most of us have been in the industry for a very long time and to say the least, our conversations were heated many times, but I think we're working very good and functioning very well together.

I'd just like to take a moment to tell you that the group is independent. We're not an affiliation of a task force of the NOSB. We're not an organic trade association working group. We are individuals and the purpose of that was so that everybody could be welcome and we encourage
everybody to participate. So anybody out there who wants to join our group, please come see Gwendolyn and I at some point.

The other thing, I'd like to thank OTA because they did offer us to use their conference line weekly. Twenty-two people on a weekly basis was very expensive, I'm sure. So thank you, OTA. And they also volunteered Grace because she needs time to draft the documents. We couldn't have done it without Grace, so Grace, thank you as well.

With that, I'm going to just turn it over to Gwendolyn. We're going to kind of tag-team this a little bit. We want to get right into the meat of it because there was a lot of questions about the working group and the different alternatives, so Gwendolyn.

MS. WYARD: Okay, quite the topic for this early morning. Valerie, I'll just give you the key there when to turn over. I want to jump right into the definition of non-agricultural. This is the little bugger that's put us into this
fine mess. The definition is ambiguous. The first part of the definition, it has a couple examples. Mineral, minerals have gone largely uncontested. Bacterial cultures, on the other hand, that's really been the stumbling block for three plus years now. We haven't really moved the discussion forward.

The very important discussion that we've been having but it's been whether yeast and other micro-organisms that are cultured on organic substrate can be considered agricultural. That's really where the focus of the discussion has been. The second half of this definition is even more complicated. The idea expressed is that a fraction of an agricultural product can be non-agricultural if the agricultural identity is no longer recognizable. But how do we quantify or qualify words like "identity" or "unrecognizable"? Is it how it looks, how it tastes, how it smells? Is it DNA analysis? Is it memory? How do we recognize something? And if a picture tells 1,000 words, up in the left-hand, top left-hand corner
that's a quar plant and on the top right-hand corner is a pile of white powder. I can't tell what agricultural product that pile of white powder came from but it is in fact, quar gum. And gums are provided as an example as a non-agricultural product. However, quar gum is listed on 606 as an agricultural product.

Xanthan gum, however, is listed as a non-agricultural synthetic in 605. That's an orange down in the left-hand corner and you can't see it, but that's a little bowl of kind of an oily yellow substance. That's essential oil. I can't tell that it came from an orange, but I know that it came from an orange and natural flavors are listed on 605 as a non-agricultural product.

Essential oils meet the FDA definition of a natural flavor, readily available in organic form, but certifiers do not require people to use organic essential oil because they're listed on 605 as non-agricultural.

So the current fine mess, as I put it, derives from the presumption that a substance
categorized as a non-agricultural substance product, cannot be organically produced since Section 205-102 requires that only an agricultural product can be labeled as organic. However, substances listed as non-agricultural are available in organic form because they're either derived from an agricultural product which fits the definition of non-agricultural, or and this is very important, they're manufactured using at least 95 percent agricultural material by weight or volume at formulation.

So one or more of their components, 95 percent are agricultural. The whole kit and caboodle is not agricultural but it can be organic as long as the rest of the five percent complies with the composition requirements. So examples that we have are natural flavors, yeast, glycerine, that was the case with colors when they were on 605. So the status of a substance becomes hot to touch, because it determines its placement on the national list, its legibility for certification and whether it's subject to
commercial availability.

Another central and complicating factor in this discussion is that some of the substances listed on 605 and 606 such as kelp, yeast, bacteria, are permitted as non-synthetic additives and supplements in livestock feed. If they're classified as agricultural, processors can use them when they're commercially available in organic form, while livestock producers must use organic if they're agricultural, regardless of their availability in the right quantity, quality or form. So the composition requirements are different between processed products for humans versus the livestock composition requirement. It creates an inequity if you have processors allowed for commercial availability but livestock producers would have to use the organic form.

So that's the problem in a nutshell. This is the problem that this group tried to tackle and Kim's going to provide you with additional background on where we've come from. So next slide, please, thank you. And I forgot to
do that next slide, but I already said all that, so good morning, all right.

MS. DIETZ: Okay, very quickly, the background for this. The Materials Working Group, when we first started this, we took about a month to put together a binder, and Gwendolyn has a copy of that binder right there. It's a huge binder, but we felt was important that we had all the historical background on all of the issues regarding ag and non-ag. So we went back and gathered definitions. We went back and took past recommendations from the Board.

So we really wanted to make sure everybody started with the same foundation. Then we took and became what brought forward to you this paper. So just from a background from an NOSB perspective, in July 2005, there was some guidance on the definition of agricultural based on taxonomy. At that time, yeast was classified as a non-agricultural and not having any fruiting bodies. So this issue even goes back before that because I think Gwendolyn even through organ till
had brought up a discussion paper in 2003 or 2004.
So this is an ongoing issue.

In September 2006, public comment
demonstrated that yeast fit under livestock and
the recommendation at that time recognized yeast
to be agricultural. In October 2007, we had the
new paradigm, continuum approach and public
comment denoted that the past NOSB work was not
incorporated, so thus, we have the Materials
Working Group to help you so that you can fold in
all aspects. We know that we need to have a new
paradigm, but we also don't want to lose sight of
the past work that the Board has done.

And another one of the issues we have
is that this seemed to be focused around yeast,
when it's really not -- it is the problem but the
bigger problem is just the definition of
agricultural and non-agricultural. Next slide,
please.

Okay, from -- when we started this
project, we actually took that last paradigm
recommendation and we wanted to globally look at
synthetic, non-synthetic, ag, non-ag and a lot of the other issues that needed to be resolved.

However, in the sake of time and focus, Dan and I and the group said let's just work on ag and non-ag right now.

So what we did is we focused the group, we tried to develop a definition of agricultural that would enable everything else to be non-agricultural. So in the book or in the packet that you have, there's a great appendices of the different definitions of agricultural and Rich Stewart did a great job of putting that together for us.

Some of the discussion on if or how to eliminate the need to distinguish between agricultural and non-agricultural, and those are the options that Gwendolyn is going to go through in just a minute with you. We did have a lot of disagreement on whether an agricultural product must be produced on a soil-based farm which is also going on in some other discussions in other areas as well. And we also had ongoing
disagreement about whether all life is agricultural if managed by persons for human or livestock consumptions.

There's also included in our paper a list of questions that need further clarification and a lot of this discussion is -- will be vetted out in those questions and the group is committed to taking this the whole way and any other issues that you want us to help you vet out as well.

So our next slide is options to consider and we've put a chart together to help go through all of these different options. We don't have B plus or triple D or option F or organ tills on there. We stopped at a point which we knew you needed a recommendation or a paper to talk about but we will take everything that's based out of this meeting and take it back to the group and come forward again with probably just a couple options so that we don't have so many to consider.

MS. WYARD: Could you go back to A? There we go. Okay, I'm going to run through A, B, C, D, E and F, try to give you just the focus on
how it would effect commercial availability, the
definition of non-agricultural micro-organisms and
then the effect on livestock so that we can kind
of compare and contrast and get you comfortable
with what these options represent. But first, I
really want to drive home that these are ideas
that were discussed by the group as possible
scenarios. They're avenues to be explored.
They're not recommended actions. They're not
comprehensive and they're in no order of
preference, so there's the disclaimer. And also,
you know, additional analysis is needed in a huge
way on the potential impact of each of these on
the industry.

So this is really just to get
everybody's juices flowing, start looking at some
different solutions, possible solutions, some
working within the box, some outside the box. So
A is status quo. This is the current situation
that we're in. You know, it's been going on for
three plus years now. Most people don't really
find the current situation, the current definition
of non-agricultural to be acceptable. As we worked through all the various options and worked through our discussion, I think there were some people that said, "Actually status quo is not so bad, let's figure out a way to work this out through guidance documents, other discussion. Let's just keep it as it is," but, you know, we're in a situation where the materials that are on 605 and 606 don't represent definitions. They don't represent what's available out there in organic form. So I think that most people agree that there is going to need to be some regulation change. We don't want to touch OFPA but we think that there's going to need to be some regulation change.

So with Option B, Option B drops non-agricultural from the regulation all together. Okay, it removes the definition and it also removes the word "non-agricultural" from the heading of 605. Commercial availability would apply to all items listed on 605 and 606. Microorganisms would be retained on 605 unless they're
viewed as clearly agricultural. We still are retaining the word, "agricultural" in 606 but removing non-agricultural from 605. So basically, it leaves everything listed on 605 as ambiguous. We're not identifying it as being either agricultural or non-agricultural.

The -- so it still leaves us needing to determine what is clearly agricultural, which is a potential problem, and it also is a potential problem is if you don't clearly identify something as agricultural, if it was on 605, could it be organic, since 205-102 requires agricultural products to be organic. And then as far as how it affects livestock, it depends on you know, whether the substance in question is listed on 605 or 606, so that one wasn't really clear.

In C, the definition of non-agricultural is retained, but it's changed to drop bacterial culture. So mineral would be included. The whole second half of the definition, the problematic one that talks about isolated extracted, that whole part is lopped off.
Bacterial culture is dropped, mineral is retained as the only example.

So commercial availability, no change. It applies to 606 listings, and then microorganisms would be petitioned for listing on 606, because bacterial culture, the idea here, bacterial culture would be dropped, so they would be able to be petitioned to 606. And then, in that case, it would require organic yeast to be used in feed, and I put that asterisk there because there's some question as to the interpretation of whether or not supplements need, in livestock, need to be organic.

There's clarification on the NOP Q&A website that supplements do not need to be organic, but there's also clarification that any agricultural component of the feed needs to be organic. So an example is a lick bucket. The lick bucket, the mineral part of it wouldn't need to be organic, but the molasses in there would need to be organic. So, if you're requiring the agricultural carrier in a supplement or a mineral
to be organic, one would presume that, if you classify the supplement itself as agricultural, that would also need to be organic. But there is some question about that interpretation. So, and if there was a clarification that supplements are just either synthetic or non-synthetic, than this whole question of livestock supplements, agricultural yeast needing to be used, would go away.

Okay, next slide. Option D, Option D changes the definition of non-agricultural. It retains mineral and bacterial cultural. It applies -- commercial availability, then, would apply to 606, but not to 605. And the definition would be a substance that's not a product of agriculture, such as a mineral, or a bacterial culture. Micro-organisms would stay on 605, as per the guidance on the agricultural definition. So this Option D adopts the NOSB guidance on the definition of agricultural. This is guidance only. It's not a change to the OFPA definition on an agricultural product. It's just guidance that
talks about agricultural products being something
that are managed by humans, and then it goes on to
describe the types of organisms.

It breaks out, it looks at what
organisms photosynthesize, which ones have
fructifying bodies. So this is the guidance that
basiclly draws a line between fructifying bodies and
non-fructifying bodies, and it separates out, it
basiclly draws the line as yeast as being non-
agricultural, because they don't have fructifying
bodies.

Micro-organisms, and then the effect on
livestock; there would be no effect if they're
viewed as non-agricultural, and listed on 605.
So 605 items, they could be used in products that
are going to be organic, but items listed on 605
wouldn't have to be sourced in organic form.

E adds a definition of an agricultural
system. It adds a definition of an agricultural
system, and it adds a definition for a non-
agricultural system. The idea here is that, in
considering public policy, and the intention of
Congress, it becomes necessary to further define the systems of agriculture that express the principles of organic farming. So for this reason, a definition of agricultural systems would be added, and this change would effectively remove the issue of what is agricultural, and it would focus on which products could be produced by an organic system.

The definition of an agricultural system would then determine the environments where organic integrity could be established, and further, this definition prevents the unrelenting expansion of organic into systems in which the regulation has not provided standards for. This option that is presented, the definition, in this one, is that it's a land-based system that cultivates soil-producing crops, livestock or poultry. So this option would only remove the issue of what is agricultural if everyone would agree that an agricultural system is a land-based system that cultivates soil producing crops, livestock, or poultry.
Micro-organisms, in this case, would remain on 605 unless they're raised in an agricultural system, and non-organic micro-organisms would be allowed in feed, again, unless they're from an agricultural system. In F, we are merging 605 and 606. We're removing commercial availability from the regulation entirely, gone. It's either organic, or it's on the list.

Micro-organisms would be allowed as non-organic. They could be petitioned for removal specific to -- they could be petitioned for removal specific to available -- if they're available as organic, and then micro-organisms would remain on 605, 606, allowed as non-organic, removed, and if they were removed, the impact is not entirely clear.

So the idea here is that we're living in a world where, you know, our economy is based on supply and demand, and commercial availability doesn't work. So if you're using, either an organic ingredient, or something that's on the National List, and if the item on the National
List becomes available, then you petition to remove it, and we improve the system and the process for removing items from the National List once they become available in organic form.

So that's an overview of the options, and I want to -- as far as, at the end, with questions about these options, we want to invite members of our group up to address the various questions, because, you know, we all collectively had a hand in creating these different options, and certain individuals are going to be able to explain them much better than I can. So once we get to that point, all of you Material Working Group people out there, be ready, we might bring you on up here.

MS. DIETZ: Next slide. So in summary, you can see this is a very confusing issue. Clarification is crucial, and the list needs to be cleaned up accordingly. And that, as you can see by all the different options, and definitions and list requirements should encourage the development of organic food ingredients and feed. Changes to
the regulation should be minimized, and resolution
must be consistent with OFPA.

And this is for you folks; the NOSB
needs to address the discussion questions, and
further explore the impacts of the options
presented, and explore additional options, and we
certainly are there to help you with that, but our
vision, I guess, is that we take the fact, we
summarize even more so a couple of options, and
work closely with the NOSB to help guide us on
what you need from us next. And we're certainly
willing to do that.

So with that, the discussion questions,
and I know, just based for time, you get Nancy.
Dan?

CHAIRMAN DELGADO: Any questions? Dan?
MEMBER GIACOMINI: Yes. I, fortunately
or unfortunately, I'd like you to touch on one of
the sections of the document that you didn't
discuss that's outside of the options. One of the
debates that we had at the last meeting was the
concept of agricultural synthetic. I know, as a
member of the committee, and from reading the document, it looks like a product can lose its agricultural nature, and that an agricultural product can become a synthetic, according to this data, where it fits in our definitions.

Would -- could you, like, discuss that, and would you say whether -- is that a -- sort of the mind of the majority of the people, members on the committee, after that document was prepared?

MS. DIETZ: Would you just go to the next slide, because that is one of the questions that we do need to clarify. So if you look down on the third one, Can agricultural product also be synthetic, if so, can it also be certified organic? So yes, we did discuss that in length. I don't -- unless there's somebody else here, I don't think we actually came up with a definite answer. This was a question that we do need to answer to move forward, and I can't say whether or not we had a majority that felt that it could or couldn't. By the time we got to these questions, we were on some of the last calls. So I would say
that we'll take that back, and we will answer
these questions, as well, and hopefully, that's
good enough. Go ahead.

MS. WYARD: I don't have an answer, but
I just want to point to a little bit more of our
discussion, and also to a committee working draft,
an NOSB committee working draft document that
you'll receive in your notebook. And it goes back
to, it's the processing, handling and labeling
committee working draft from 1993 on the
organization, the setup of the National List, why
things were placed where they were placed, and the
thinking behind agricultural, non-agricultural,
synthetic, and non-synthetic.

And one of the ideas in that document,
which I just misplaced underneath of everything -
that was clever of me. Here we go. This is
verbatim from that document. It says, the term
synthetic should not include the effects of normal
food processing activities. In other words, the
term synthetic should not be applied to an
otherwise non-synthetic substance that's
formulated or manufactured by processing, as processing is defined in the Act. In this respect, there's no such thing as a synthetic -- wait, that stopped.

Okay, now I go on and say, "in this respect, taking that into consideration, there would be no such thing as a synthetic agricultural product, but a processed agricultural product. So, we have to keep in mind that, you know, that second part of the definition of non-agricultural is very, very important. If you decide to remove that second part, you're basically -- unless you provide guidance elsewhere, you're saying something starts out as agricultural, it's never going to lose its agricultural status. That second part is the part that you would want to point to and, you know, maybe work on further defining words like recognizable and identity. Can the agricultural ever be processed out of the agriculture?

And with the definition of processing that we have, lopping, chopping, mechanical, I
mean, it goes on and on and on, and ends up with saying, and otherwise manufacturing, we don't put any restrictions on processing. Some practices, yes, but generally speaking, you know, you can process the beegeegees out of something, and call it organic. So we have to be really careful if you -- you know, if you say something is synthetic, and it's organic. So, and I've always said, it's a processed agricultural product, versus a synthetic, because you have chemical changes.

If you look at the definition of synthetic, chemical changes occur, whether you're talking about the Maylard reaction, you know, cleaving of your -- if you're taking triglyceride, and, you know, breaking your fatty acids from your glycerine backbone, chemical change happens. It's my new bumper sticker. So I mean, that's just some food for thought in all of that.

CHAIRMAN DELGADO: All right, thank you. Any questions? We have the Secretary, followed by the Vice Chair.
SECRETARY HEINZE: I do not have a question, but I do have a thank you. Having participated on most of your calls, the amount of work contributed by everyone on the Material Working Group is astounding. I mean, you met for months every week. Everyone brought everything to those calls, and you had hefty debate. So it is greatly appreciated, and we're looking forward to partnering with you as we, hopefully, wrap this up sooner rather than later. So thank you.

MS. DIETZ: You're welcome.

CHAIRMAN DELGADO: Jeff.

VICE-CHAIR MOYER: I do have a question, Kim, but before I give you the question, I'd like to second what Katrina said. Having not been on any of these calls, but knowing the vast amount of work that these calls take, I also appreciate, along with the rest of the board, all the work you've done. But my question is really, I guess, for Gwen. Yesterday, you talked about the Tilth option, which was sort of a D plus, and somebody, I think it was Emily, talked about a B
plus version. How do those things change what you have in this summary chart, or what other things are in there that we might consider looking at?

MS. DIETZ: And we'll actually take those options back, as well, and add them on, and delete some off on these options, so that it's clear as a group recommendation, because we didn't look at the Tilth option, or the D plus, or the B as a group, so just out of process, we'll take that back, as well.

MS. WYARD: Okay, Valerie, can you go to the next slide for Option D? As far as addressing Emily's B plus, I would call Emily up here to cover that one. So Option Tilth is a variation of D. And the major changes is that we -- Option D adopts the 2005 clarification on the definition of agricultural, and that it goes on to split hairs, in my opinion, between the -- you know, basically looks at the taxonomy, and says, you know, this one photosynthesizes, and has fruiting bodies, therefore, it's agricultural, and this one does not, therefore, it's non-
agricultural. So we did not accept that entire
guidance on the definition of agricultural.

    The part that we did adopt, and again,
this was guidance, and I think there might have
been a misunderstanding yesterday. We're not
suggesting a change to the definition of
agricultural product at all. We're simply
adopting guidance that would further explain that
agricultural product, raw or processed, intended
for human or livestock consumption, there's the
OFPA definition. We're saying, further guidance
would say that agricultural products are those
that are managed by humans, and managed by humans
is the intentional act of gathering, producing,
raising, growing domestically in designated wild
harvest areas by persons for human or livestock
consumption. So that's the first changes that we
have lopped off part of that guidance.

    We've also changed the definition of
non-agricultural in Option Tilth, and that
definition was a substance that's not raised in or
derived from an agricultural system, such as a
mineral, or an atmospheric gas, and then we've
gone on, and we've said, for the purposes of this
part, an non-agricultural ingredient is also
anything technically impossible to be organically
produced. That's the same definition that Emily
has in B plus, but in Option D, we're still
retaining -- we're removing the word non-
agricultural from the 605 heading, so 605 become
just non-organic ingredients; 606 are agricultural
products.

We have a definition for non-
agricultural. 605 is for ingredients, substances
that cannot be organic. So in that list, you
would have minerals, atmospheric gas, things that
would be clearly non-agricultural. You also may
have items that are not agricultural, but perhaps
they could be organic, so citric acid. Because
currently, now in time, it's not technically
possible to have organic citric acid. People are
working on it, but it requires the use of
materials that aren't on the National List. So
that would be an example of something that
technically can't be -- you know, be produced in organic form, now in time, but that could change. So then citric acid would go over to 606 once it becomes available in organic form.

Option B plus just applies commercial availability to both 605 and 606. And Emily, did you want to -- Emily?

CHAIRMAN DELGADO: Before we -- Katrina, you had a question for Gwen.

SECRETARY HEINZE: I have a question about Option Tilth.

MS. WYARD: Okay.

SECRETARY HEINZE: So, if I understood what you just described correctly, would that mean that some of the items that we've recently put on 606 might better be on the --

MS. WYARD: 605?

SECRETARY HEINZE: -- the reclarified 605, so, for example, like, I'd have to think through some of the materials, but maybe something that couldn't be processed, and I'm going to make this up, so this may be factually incorrect, but
I'm hypothetical here, maybe like the soy protein concentrate, right, that starts as an agricultural, goes through some processing, cannot today be certified organic, but one could imagine in the future that it might be.

MS. WYARD: That's not --

SECRETARY HEINZE: Under Option Tilth, might that better exist under 605?

MS. WYARD: Yes, that's the idea, and it's an interesting discussion, because there are some people that feel that 606 items, they're -- they're just agricultural. Whether or not they can, you know, maybe they're not available at all, because they can't be. For example, fish oil. The standards aren't there.

SECRETARY HEINZE: Right.

MS. WYARD: Or they're available, but not in the quantity, quality or form. So there are some people that, it's an agricultural product, it goes on 606, period. But there's another school of thought that you can't put -- that anything that's on 606, it should be able to
be available in organic form. It should be able
to make or source it in organic form.

If you're requiring operators to source
it, well, there are no standards for it. If it's
not out there as organic, it shouldn't be on
there. So those are some --

SECRETARY HEINZE: But certainly some
of the recent comments we've had about, maybe
there's some processing aids, for lack of a better
word, that are used to make some of those 606
items, those might better belong on 605. It's an
interesting option.

MS. WYARD: Yes, that's what we were
getting at. So, fish oil, for example, would be
on --

SECRETARY HEINZE: That's lots to
debate.

MS. WYARD: Yes, yes.

CHAIRMAN DELGADO: We appear to have
two more questions, and I'd just remind you of the
time. It's 9:25 at the moment, and please be
brief. We'll start with --
MALE PARTICIPANT: I can wait till after.

CHAIRMAN DELGADO: Very good. Hu?

MEMBER KARREMAN: I was just wondering if it's possible to hear from Brian Baker from OMRI, because they review a lot of materials. Do you have any input?

CHAIRMAN DELGADO: Can we have a specific question, Hu?

MEMBER KARREMAN: Well, which option would you go for? If you want to hold off on --

CHAIRMAN DELGADO: Brian, excuse me. Brian, I think we can skip on that. This is a discussion item, and we would need a precise question to address that. So I apologize for that, and I would like to go for that. I'm sorry, we're moving forward with --

MEMBER KARREMAN: I did ask the question, actually.

CHAIRMAN DELGADO: Let's go ahead, please.

MR. BAKER: The answer is real short.
OMRI sent it to the Advisory Council; we're discussing it. We're not -- we are open to all the options, and even those that are not put forward today.

CHAIRMAN DELGADO: Great, appreciate that shortness. Okay, we'll proceed with --

MS. BROWN-ROSEN: So you wanted me to say what was different about B plus compared to the--

CHAIRMAN DELGADO: Yes.

MS. BROWN-ROSEN: It's very similar, it's very similar. The only difference really is that commercial availability applies to 605 -- did I lose you? You're scrolling up on the chart, okay -- on B, so basically, it's the same as B, you drop the title non-agricultural. So 605 is non-organic substances. We apply commercial availability to 605 and 606. So to me, what that does, I mean, it does all the benefits of what Gwendolyn was trying to promote there, same definition, but you don't have this crisis of, does it belong in 605 or 606. It's not as hard a
decision for the Board in the sense that, you know, wherever it is, if there's organic sources available, it has to be used.

And the fact that it's not clearly identified as agricultural, non-agricultural in 605, I don't think that's a big problem. Mr. Siegel thinks it's a problem, because he thinks that use must be identified as agricultural in order for it to be sold as organic, but with the proposed definition, I think it works. I mean, you have -- if it can be made organically, technically possible, then actually we would be considering it agricultural.

So, I mean, you know, not everything in the world is on 606, and yet we certify all these things. So, I think it's got flexibility. We probably need lawyers to look at this, but I just think it makes the decision making easier, and it -- we also did do these decision trees, which we can revise to show these new options. I would encourage you to go back to look at those. I think it will become much easier to work through
those once we've cleaned up this type of
definition.

CHAIRMAN DELGADO: Thank you. Follow-
up question. Yes, Joe?

MEMBER SMILLIE: It's a general
question to the group, and I'm sure you guys
thought of this, but did anybody consider --
because again, organic is like, considered a soil
base, but yet, you can do things organically for
some of these things that are not considered
agriculture.

Did anybody consider going beyond 607,
and creating a 608 for non-soil based, possibly
organically certified or grown products, such as
the infamous yeast, and many others?

MS. GERSHUNY: Well, we didn't discuss
that specifically, although Gwendolyn did make it
clear, I think in her, you know, not technically
possible discussion that some things, we might
say, are not technically possible, because we
don't know how they make bacteria or, you know,
what all the ingredients are. There might need to
be standards developed, you know, we might decide, or you might decide this is, actually, something we want to support or not, so I mean, that's where you could put new standards. You know, you could develop other sections, or in the body of the processing rule, too, if it was felt to be within the scope.

I mean, you know, we have seen a huge expansion of scope in, you know, cosmetics, shampoo, you know, all this stuff. So, I mean, if we had standards, and if there was agreement, that would be technically possible.

CHAIRMAN DELGADO: Okay, any other questions? I just want to say that also I'm really grateful for your participation to the group, Kim, Gwen, the OTA as well. This is a fantastic example of how the public can come in and provide constructive, synthesized input, and we're looking forward to the summary of the three solutions so we can review those. Thank you. Any other comments on your part, Mr. Chair?

MEMBER GIACOMINI: Materials is
Okay, we move onto the next topic, and that involves the Compliance, Accreditation and Certification Committee, and Mr. Smillie?

MEMBER SMILLIE: Well, in that vein, again, the public input to NOSB is the fuel on which we run. I mean, basically, we can sit as a group, and come up with our discussion papers and recommendations, but it's the input, that's the purpose of this meeting, and in that vein, that's where we are in the Certification, Accreditation and Compliance Committee's discussion paper.

And I just make sure everybody realizes, it's a discussion paper, not a recommendation yet, because we are seeking to build a public record on this very important and complex issue. We want to hear all the voices, and even though we really want to get to a place to make a recommendation, we don't want to rush. We want to make sure that all the voices that are out there are heard, and given time, because it is...
a global issue. I think it's one of the things that really affects the global organic agriculture, not just the U.S.

So we want to hear that, and basically, where we are at in the process is we are really getting fabulous input. We believe that the first discussion paper was presented. The overwhelming response that we heard was that we want more detail. We want to hear more -- you know, we don't understand some of the terms used. We don't understand some of the concepts, such as a single OSP, and an internal control system, and we want more detail on that.

So the committee, especially the lead author, Tracy, who will take over this presentation in a second, basically went back and provided our second discussion paper, which is part of -- it's Part 2 of the overall approach, and basically, we had a very robust discussion within our Certification Committee, which consists of six people. I won't go through it all, but it's listed, and we said, you know, there's also
a lot of discussion on a lot of these issues, and
what we want to do is go back, and be really
specific about which questions we want the
community, you know, the global community to
answer. So we created a list of questions that's
part of this document that we are seeking feedback
on.

So we are, once again, looking for the
public to give back to us direction, and we want
to continue that dialogue. So now I think I'll
let Tracy take over. Tracy is the principal
author, and has done enormous amounts of work, and
looking into globally, again, all of the people
who have -- whether it's ISO documents, or, you
know, years of work that IFPO has done on this
issue, and what she'll do now is present this
document once again, and we are seeking input on
it.

MEMBER MIEDEMA: Thank you very much,
Joe. Mr. Chair, my colleagues on the Board, and
members of the audience, I wanted to first start
out by thanking the people here who have submitted
comments, both written, and have come up to the
podium to present their comments. There was a lot
of commentary unrelated to the specific content of
the guidance document, and I wanted to address
that first. The guidance document itself is quite
lengthy. It's highly detailed. We really tried
to get into the nuts and bolts of how these
internal control systems work.

There's a lot of question marks around
whether or not adequate organic certification can
be achieved through some sort of sampling
protocol. And that's what this document gets
into, and I want to take time here, with my
colleagues on the Board, to walk you through that,
but it's important, first, that I acknowledge some
very strong opinions that are coming to us over
these couple days, and I expect to continue to
flow in.

First of all, I want to thank the OTA
task force. I've been participating with that
group as a non-voting member for about a year now,
and Grace Gershuny, Kim Dietz, and Tom Hutcheson
are really leading up that effort, and I expect they'll be submitting their comments tomorrow, and the work that this task force is doing.

And I'll tell you, you know, I've really been working lock step with them. They've been willing to take our questions from the committee, and draw on the strength of 20 people to flesh out those questions. Something -- you know, for instance, how do we address conflict of interest in an internal control system. And so you'll see some strong similarities between what appears here in the discussion documents, and, for instance, the OTA task force.

Many others, you know, like I said, about 20 people on that group. I wanted to thank Jim Riddle for his comments. You know, there is a characterization that this idea of looking at this issue as a multi-site certification is somehow a justification -- I think you said, a justification for one certifier's insistence on retailer certification. And you know, Jim, it's just -- that's just not the truth. That's just
not where this is coming from. You know, what was put on trial in October, 2006 with the appeal decision, was whether an internal control system, you know, could serve as some sort of proxy for inspection. And it turned out, when that appeal decision came down, that there were stakeholders affected throughout the industry.

And, you know, grower groups, it turns out they were on shaky legal ground. It turned out retailers that were using this construct were on shaky ground, and out of basic fairness, these multiple stakeholder groups need -- you know, need to be looked at. So, you know, there's just no hidden agenda. And I want to dispel that right up front.

I want to thank the work of the National Organic Coalition. Leanne, Joe Mendelson, Lynn Cody, I have felt like your following of this issue has been very thoughtful, very regulatory based, and I just know that we're reading those comments very closely.

Harriet, you continue to stay really
locked into this discussion, and I have followed your comments even before this came up. As a committee, you had given a comment. You were, I think, the very first person to comment, and I did want to respond to one thing you said about the high turnover rate among retailers, and that somehow being a barrier that's unique, and could pose problems for a sampling protocol, or an internal control system. And just, you know, somebody who works at a farm, and sees seasonal labor, and an organic farm, a certified organic farm, I see an awful lot of turnover every year with seasonal employees coming through, so I don't know if there's data to support that, but if you have it, I'd be happy to take a look at it.

CCOF, and Peggy Miars, again, a group that's been really engaged in this, and generally speaking, is not amenable to grower groups. I think yesterday, you characterized CCOF's position as wanting to phase out the concept of grower groups. Sam Welch, my takeaway is that you're of a similar mind, that they're just -- it would be
better if there was always direct independent third party inspection of the smallest divisible unit, which -- well, you're shaking your head, so I want to make sure I don't mischaracterize your position there, and I'll let you speak for yourself later.

I found, of course, an extremely important stakeholder in this discussion. They represent more of these grower groups than any other organization around the world. They have been the leaders, bar none, in the development of internal control systems, and really, you know, people getting together, clustering together under very rigorous criteria, and bringing organic to the marketplace.

Some others that have also weighed in, Pennsylvania Certified Organic, yesterday, I wanted to respond to one comment, which was, you know, the idea of the 36-month phase-in, and really, that was to allow folks to comply with the clustering of production -- of members, and of production units. The status quo can't go on.
You know, there are some problems out there in the way grower groups are run, and I'm going to get into that in a second.

But, you know, it's also, we don't want to yank the rug out from people. We've seen that. It happened. There was a big uproar. We're not going to take that strategy. So that's simply to allow a smooth assimilation of new standards, or new guidance. Accredited Certifiers Association, I know you're staying really close to this issue, and have very strong opinions about who should have access to an internal control system as a means of organic certification.

Lastly, Marty Mesh, I will be very disappointed if I don't get to hear a comment from you. You and I have had lots of very interesting conversations, so I look forward to continuing that. All right, well, so getting into the document itself, the idea of disadvantaged small holders having -- being the only ones to be able to get together as a group and get certified, flies in the face of rigorous organic standards.
I absolutely believe we should be promoting people around the world who are disadvantaged, and/or small holders being grower groups, but not because they're small or disadvantaged, but because they're organic. And if others can use that same construct, and still be organic, than the construct works. So what we have on the screen up there is a big fat table of contents of what this document goes through, and what have we got here, maybe 10 minutes left?

CHAIRMAN DELGADO: We have five minutes.

MEMBER MIEDEMA: Five minutes, okay. So let me just highlight some areas of the document that, you know, where there was some real depth of thinking. The first is, you know, what conditions have to be in place before you can even consider multi-site operation, you know, to seek USDA certification. So at the beginning there, you know, you must be organized as a person according to 7 CFR 205.2. So if you have a bunch of disparate
parts, first of all, you've got to legally be one.  
Second, you need to be seeking certification with 
a certification body that can actually handle the 
job. We've kicked around different ideas for how 
to get there, you know, should it be a separate 
category of certification. That idea has been 
tossed out there, and I've heard the program isn't 
necessarily amenable to that for some sound 
reasons, but we know it's got to be a certifier 
that knows how to peer into complex organizations, 
and they have to be able to demonstrate that to 
the NOP. The practices of these multi-site 
operations must be uniform, and reflect a 
consistent process or methodology using the same 
inputs and processes. 

For growers, participation in the 
multi-site operation is limited to those growers 
who sell all of their organic production through 
the group. Multi-site operations must use 
centralized processing distribution, marketing 
facilities and systems, and one last item here 
that's important; record keeping protocols must be
consistent. You can't have the record-keeping look different from place, to place, to place, because you're going to have one outside inspector. Your internal surveillance and review is going to happen through the internal control system, and consistency is going to be really important.

Okay, the next part of the paper really talks about the organization within the multi-site certification and, you know, I threw in this term clustering, so the clustering of members or subunits in the production unit. And what we did is we came up with quite an exhaustive list of what it takes to get together. You must be bound by a shared training regimen, for instance. You must operate under the single organic system plan, and that particular section that relates to your piece of the puzzle.

Now, that's going to require an adjustment to the status quo where members might be acting as autonomous members under a single OSP. You know, going forward, members are really
going to need to organize into production units to share best practices. And, you know, I know there was a feeling on the part of IFPO that maybe the training regimen we proposed was overly burdensome. I would push back on that, because I think training is really fundamental to this working.

Next, we go into the facility or site, and an area that I heard everyone on this board, in our comments and discussions we've had in the hall, et cetera, and I heard members of the audience say, there's not enough detail around retailer certification. The section that deals specifically with retailers is quite brief in this document. It's found on page 4. Grower groups have had 20 years to flesh this stuff out. Retailers have had about four years. So yes, there's history that's going to need to be drawn on for grower groups, and there's going to be criteria that are going to continue to need to be fleshed out.

OTA has volunteered to pull together a
task force in that regard. So, you know, we know we've got additional resources. Just moving through quickly a few other highlights; we're proposing that, in year one, this is looking at sampling protocol. I'm jumping ahead to now, year one, 100 percent inspection rate of all production units, sites or facilities. And that's giving credence to the importance of an extremely thorough audit off the bat, and an understanding of how much risk there is, because, you know, later, and I spent a lot of pages talking about -- a lot of information here talking about risk factors.

We need to get to those, and the only way to do that is to look at all the parts right off the bat. Segueing in there, moving into risk analysis, I believe it's 19 points we called out that help guide inspection. Inspection cannot just be a random scatter-shot thing. We need to focus our attention on hot spots, but it's not enough to just pinpoint. We do need a random -- we need to keep people on their toes. And people
need to know that, at any given year, you might get randomly selected. So, you know, the idea there was that, of the people selected for inspection, 25 percent would be random.

Another area the program asks for more help with, and fleshing out, was the role of conflict of interest, and so we exhaustively went into that. Jim, I know that was something that you said you wanted to see more data on, and I just -- I want to direct you to, you know, pages 8 and 9. There's a lot of information in there. And then lastly, we gave some pending issues that reflect some of our internal discussion that we were having in committee, and some unresolved questions among committee members that we continue to invite the public to respond to.

CHAIRMAN DELGADO: Okay, any questions from the Board? Yes, Jennifer?

MEMBER HALL: First, I'd like to thank Tracy. She did an exhaustive search, and real outsourcing to get a lot of information and input
to compile this guidance document. But I'd also
like to represent a faction of the committee that
did have a different voice, and as a result of us
not being unified, that is why the pending issues
are reflected here instead of kind of more
traditional minority opinion.

I would say that all of us -- and I
don't want to speak for everybody, but I think
that there is a half of the committee that
definitely sees the value in grower groups, and
sees the strength of a really good internal
control system, and Tracy did a great job of
really adding merit to that risk assessment, and
all the different components of that.

So we decided, instead of doing a
minority opinion, to try and get feedback on the
components that a variety of us, for different
reasons, had different questions about, and to
solicit those in a question format to try and get
specific feedback. So I just kind of wanted to
put that out there that, as a committee, like Joe
said, there was a lot of robust discussion, and I
I feel good about what's put out here, but I'm also very genuinely thankful for the feedback that we've gotten that will help direct us to our next phase.

CHAIRMAN DELGADO: Any other questions from the Board?

MEMBER FLANN: I'd just like to comment.

CHAIRMAN DELGADO: Barry, please.

MEMBER FLANN: I just want to echo what Jennifer just said, since I'm part of that half that she just described.

CHAIRMAN DELGADO: Very well. Tracy?

MEMBER MIEDEMA: Just one last note, I forgot to thank Oregon Tilth, and I thought it was noteworthy in yesterday's comments that both Tilth and IFOAM are not uncomfortable with the strength of an internal control system's role in other sectors of the organic world. They believe -- seem to believe that it's rigorous enough to stand up in different sectors of the industry, and happen to be the two organizations here who,
correct me if I'm wrong out there, represent the
most grower groups. I just wanted to add that.

CHAIRMAN DELGADO: Okay, any other
questions? Katrina, followed by Dan.

SECRETARY HEINZE: I haven't been part
of your discussions, but I did want to weigh in as
someone who is very familiar with internal control
systems. It's obviously something that a large
food processor, like the company I work for, uses
to manage our food safety programs, which,
arguably, are very critical. And I have a great
belief in the construct. It allows us to have
very firm control over the foods we produce. So,
from that perspective, I very much support the
effort that the committee has made in support of
that type of construct.

I am concerned about how the expansion,
outside of grower groups, would be viewed by our
organic community. Certainly, that is not a
technical, you know, perspective, but I think it
is a factor that we need to weigh as we make a
recommendation, because ultimately, we are a
marketing program, and we get judged by the
comfort our consumers have in what we do.

And I recognize that that's perhaps an
unresolvable problem, right? That it's a
construct I very much believe in. I think it can
work. I think it can work for all the different
types of groups that you've talked about, right?
Grower groups, retailers. It can absolutely work
in all those cases. I'm just not sure our
community will accept it in all those cases.

So I just wanted to get that
perspective out, because I do think that factor
weighs in the recommendation that we make, much as
we might get frustrated by that.

CHAIRMAN DELGADO: Do you have a
response?

MEMBER MIEDEMA: Yes, I do. It's an
important question, it's a worthwhile question,
and frankly, it can be looked at now. This is not
a future thing we're talking about. There are
retailers today certified using this construct.
So we don't have to wait until the future to find
out, you know, through some sort of survey.

Lots of us have done informal surveys.

Sam, I know you have your own -- you've talked to people, and believe that consumers are not at all friendly to the idea. I have found there -- I have had absolutely different findings at trade shows. I've just used those opportunities interacting with people to pose a question. So, you know, if somebody has formal data, independent third party data, that helps us get to that answer, I think that would be great to bring to bear.

CHAIRMAN DELGADO: Dan.

MEMBER GIACOMINI: Thank you. And again, thank you, committee, for all the work you've done on this. But I think, and I'll try to be extremely -- extra brief, because I think I'm sort of echoing Katrina's comments. But to say it slightly differently, I think, for me, this comes down to two questions, and it comes down to a question of concept, and it comes down to a question of scope.
I think it's one thing -- the ICS, as you discuss, is sort of the means that you're using to get there, but are we -- do we have agreement within the organic community, consumers, producers, stakeholders, regulations, and everything else, that a -- that a farmer that makes $5,001 in the United States has to pay for an annual inspection to get the benefits of being organic, but yet, I don't even know if they exist, Fair Trade Coffee in South America gets a bit of an exemption. And how are we going to handle that structure?

And we've had a lot of debate, and we've had guidance documents and things. I think, then, to take that to the next phase on a scope level, it is the same ICS format, but it's a different question, and different refinement, and really getting into the meat of the issue of how to make sure that it's going to work, and be accepted, just to pick another company, and I know they do exist, that how this thing will allow Whole Foods not to have to have every store
inspected annually.

I think there's a difference between the concept and the scope. We had public comment yesterday asking us to just -- the committee to just go back, finish off the grower groups, and then bring up multi-site, and I'm not so sure that I see a lot of -- that I see a problem in going that route.

CHAIRMAN DELGADO: Joe, followed by Jennifer.

MEMBER MIEDEMA: I just first wanted to respond to the 5,000 hurdle that you threw out. You know, what we're talking about here is the exemption for a producer that produces less than 5,000, and that gets thrown around a lot as sort of the, let's just limit this to producers that grow less than 5,000. And, you know, let's just return to why that exists here in our program.

That's to promote market entry, and to get people up and running. You could be a bagillionaire, and only sell $5,000 worth of organic, and still receive the exemption. It's
not a disadvantaged help out program, per se, and that's how it kind of gets framed as being used, and how it should get used internationally.

It's -- you know, this is agriculture marketing service, and this really promotes the marketing. So I am concerned about that number getting used as sort of the, you're no longer disadvantaged now, and you shouldn't get to be part of a group number.

MEMBER GIACOMINI: I don't see that number as a disadvantaged number; I see it as a number of a level of participation. And if, at that level of participation, which is not even adjusted for inflation, it doesn't matter how much money the guy has anywhere else, but if that's his participation in the organic industry, according to the regulation, if he's in this country, he has to pay for an annual inspection. It doesn't matter if the annual inspection is a burden for him or not, but he has to pay for it. Whereas, a grower group in some other part of the world, each guy doesn't have to pay it, regardless of how big
they might be individually.

CHAIRMAN DELGADO: Please wait to be recognized. We have Jennifer, followed by Joe.

You yielded to -- okay, Joe.

MEMBER SMILLIE: Just to follow-up on that, there's two -- the direction that the committee is going is clear. We're very much hoping that OTA and/or others will convene, you know, a working group for retailers to discuss -- to flesh out more of the supposed, you know, probable differences between the approaches.

And the word retailers has come to the fore because it seems to us, at this point in time, that they're the only other sector group that could fit the rigorous criteria that we've set down. Katrina mentioned, you know, that her system is for their processing facilities, and that's true. Processing facilities, everywhere between the producer and the retailer, have internal control systems quality, but there's also other criteria that I believe would eliminate them from consideration.
You know, the single OSP, that's -- and other factors that, if you go down through the criteria, I think, and I want to be pointed out if I'm incorrect, that everybody in between a retailer and a producer, just, I do not believe, with what we've set out, they could fit at all. The single OSP is a very sharp razor that will slice them out.

It just so happens, through whatever it is that's in intelligent design, that retailers and producers seem to be the ones that can fit these criteria. Our next task, as a committee, is to continue our work with this document, and to start to explore the retailers section with the help of OTA and/or others, individuals and groups, that will contribute to the discussion, and to see whether, indeed, the community will accept the proposition that - and I'll limit it to retailers in my discussion - will accept the proposition that retailers can function under a multi-site document or not. That will be our next step. That's where we'll go, and hopefully, we'll come
back with more information and erudition in November, not necessarily with a recommendation.

CHAIRMAN DELGADO: I like that clarification. Jennifer?

MEMBER HALL: There's been some discussion about scale neutral, and sector neutral, and I look at this a little bit differently. I don't question the merit of an internal control system, one that's good, and has a good background to it, and execution to it. However, I do see the rule, as published, as the bar that we aspire to, and that being independent operations, getting annual inspections, and I see it more analogous to when we allow a material with an annotation.

It's solving a specific problem with a specific solution, and so I see the application of grower groups as doing a similar thing, that, due to real issues with supply of certain products, that this is -- the grower groups is a potential solution to that specific problem. So that's where the scope of applying it -- otherwise, I
have challenges with that.

CHAIRMAN DELGADO: Any other comments? Any other comments from the chair, chairman of the -- thank you. We conclude that section. I appreciate that, and I encourage the chairman of the committee, and the members of the committee, to take the public input from the -- input from the Board, and incorporate that into the next step of your process.

Right, we are due for a break, and at the same time, we're running late, so let's break for five minutes. I know that's brief, but I want to get us back on schedule. So we'll see you here in five minutes.

(Whereupon, the above-entitled matter went off the record at 10:02 a.m. and resumed at 10:11 a.m.)

CHAIRMAN DELGADO: Board members, please take your places. Calling Board members, take your places, please. We will resume our meeting right now and it is the
turn of the Joint Crops and Compliance Committee to come and discuss their document on Commercial Availability of Seeds.

MEMBER KARREMAN: Rigo, I'm going to cede that to Gerry, that discussion, I mean, but he's not here right now. Okay.

CHAIRMAN DELGADO: Mr. Davis? All right, we have both committee chairs for the CACC and the Crops Committee. I'm assuming Mr. Davis will start with a presentation on the Commercial Availability Guidance for Seeds. Mr. Smillie.

MEMBER SMILLIE: Yes, I little history. It's a joint committee recommendation and that's because the Certification, Accreditation and Compliance Committee submitted a recommendation on commercial availability that included both seed and 606 items. The public feedback was clear and precise. They wanted us to bifurcate that recommendation, that's a fancy word. They wanted us to split that
recommendation and have separate recommendations. So listening to the public as we do, we said, yes, that's a reasonable request, so the CAC committee basically put forward and passed their recommendation on commercial availability and then passed the work that we had done up to that point on seeds to Gerry and the Crops Committee.

So, in a certain sense, Mr. Chair, we have -- our committee sort of done our work on it and passed it down to the Crops Committee and they were going to take their expertise in the agricultural realm and craft the recommendation for commercial availability on seeds.

CHAIRMAN DELGADO: Mr. Davis.

MEMBER DAVIS: Thank you, Mr. Chair. This is a complicated issue as we all know and I wanted to start the discussion by pointing out one of the -- a part of the discussion that was in the written recommendation. The Crops Committee and I,
myself in particular, don't feel that leaving this situation as it stands right now in status quo in many -- in several sectors of the seed availability issue, leaving it as it is will perpetuate the current situation which is that in certain sectors, like vegetable seed, there is little movement in the direction of increased supply of more organic seed.

And a lot of that in hearing from the organic seed industry at previous meetings, last fall and previous, was that this is because growers aren't telling their seed suppliers that, "I've got to have organic seed". They're just relying on the loophole and shuffling some papers to make it happen.

I acknowledge the many comments from several certifiers that say they see really good movement in increased organic seed availability for their growers that they're certifying. No doubt there probably is a lot of movement in the right direction with
agronomic crops such as soybeans, corn, the larger field crop type things that are more clear-cut and maybe less specialized on the requirements of what seed is required. But being a California grower and working in that realm with vegetables, the farm I work for, we do 30 different vegetables. It's probably up to more by now, and all kinds of different varieties within each individual vegetable.

The seed industry has -- I believe, has to have a clear call to want to produce more seed and if the loophole is in place, it's a big obstacle, and that's my opinion. The committee wanted to highlight that the further development of the organic seed industry is the key to increasing the commercial availability.

The goal is to promote the continued growth and improvement in organic seed production and subsequent usage by organic growers without hurting or putting undo burdens on those growers. Achieving the
goal of the healthy, viable organic seed industry is important, not just so we can comply with the regulation but it's important when considering that the pathway of the conventional seed industry is more and more geared towards genetically modified biotechnology, you know, developments that will continue to develop and progress and evolve to a much different type of seed program and breeding emphasis than organic growers need or will need for the long term. We would not -- the organically grown movement will not benefit from allowing the organic seed production industry to stagnate in the current situation in some sectors, vegetable seed, for example, to allow them to stagnate while the conventional seed production sector moves on to the likely future situation in which traditionally bred and produced seed is only an after-thought, sort of relic of bygone days, that they don't put much emphasis on and eventually, it could -- unforeseen things
1 could happen where we really jeopardize the organic movement seed supply.

A vibrant organic seed industry would be expected to be the best guardian of proven traditional seed varieties and methods as well as the likely source of new innovations in organic growing methods that will result in excellent quality seed, in sufficient quantities to supply the market need at reasonable cost. I understand in many ways that's not the case right now but I think as an advisory board, the NOSB should take the pulpit in some ways to nudge, help nudge the situation in a positive direction. And our approach that we took for this further guidance was to heavily suggest that giving the organic seed industry market information that they need to develop and help make it happen is a key step.

Some of the comments that were received that I think are especially relevant to the situation. Another key factor is...
making an even playing field for certifiers to be making sure that they review growers'
commercial availability searches for seeds the same way, that we don't have a situation where many of you certifier representatives who have stepped up and say, "Well, we see improvement. We're pushing our growers to improve on more and more organic seed"; but there may be other agencies, certifying agencies that don't take that tact at all and they're just shuffling a little bit of paper and saying, "Okay, you satisfied the requirement of proving that you couldn't get organic seed".

So but I think we -- how do I say this -- for the program I don't know if implementing enough ACA training consistently enough would really realistically change that situation where you have some certifiers actively involved in encouraging their growers to use more organic seeds and you have others who see no real enforcement issues, no problem off of their -- you know, coming from the
program as far as accreditation problems for
their certifying agency. So they -- the
squeaky wheel doesn't get any -- the non-
squeaky wheel doesn't get any grease if they
don't think it's a big issue that's being
thrown at them from the program, that they
need to make sure growers are showing an
improvement in how much seed they're accessing
if they're not already doing that.

Some of the -- I think this is kind
of a work in progress. Some of the
problematic points that I wanted to make sure
that I'm hearing correctly from members of the
industry who have provided written or oral
comments. One was that in the document, we
mentioned that there needs to be written
responses from seed suppliers to the producers
in response to their list that they supplied
to them and that more than one said that
getting written responses from seed suppliers
is not really dependable.

The grower can't count on that
supplier answering. You know, a small grower
can use the catalog itself to show the
response but there may be growers who don't
order from catalogs but also don't get a
response from their seed supplier showing that
certain varieties weren't available
organically.

I take note of the comments also on
growers' concern that their confidentially of
the varieties that they want to use, if they
feel their confidential and they don't want to
make that public knowledge, that they have
that right to not have it made public
knowledge.

Another good point, I thought, was
several of the certifiers saying that --
asking for all this grower and certifier
commitment of effort to gather these lists for
the grower to first make the list and put it
down in a form that is readable to someone
else and the supplying it to the certifier.
The certifier passing it onto whoever it's
going to go to, to commit to that effort
before a tabulation and publication vehicle
even exists is probably asking for too much
and I hear that comment.

Another good point was the need for
standardized list format, if we're going to go
there. We're requiring growers to do a list.
The tabulation of the data base of the organic
seed need would really be stumbled by not
having a standardized list format. And also
how do we create a uniform database,
harmonized database. I want to turn that back
to Joe Smillie to comment on that.

MEMBER SMILLIE: Yes, that's one of
the things that's come up and our
recommendation was criticized for being rather
fuzzy, throwing it out there to some
organization as unspecified. And I think we
need to do some work on that. To me, I would
like to see the NOP take some leadership on
that one and come up with a solution as how
they'd like to see that database created.
That doesn't mean the NOP has to run the database but I think that the NOP in concert with some of the organizations that have already stepped forward, either one or a combination of OMRI, ASA and OSGATA or whatever it is, Woody, OSGATA.

I mean, we've got the expertise in the community to put that together and I think that that's what we want to encourage. And I would just point out not being derogatory of the US's efforts but the EU has this organized. It's not perfect in the UE and I think we can learn from what they've done and learn some of the mistakes they've made in doing this, because there have been some flaws in the EU regulation, but in the EU each member state has that database and it's a fairly active one and our colleagues, our USDA accredited certification colleagues in Europe, don't have such the problem that we do. So I think that through some combination which the NOSB encourages, but doesn't necessarily want...
to format, we would encourage the NOP to take a leadership role in working with some of our organizations to create a harmonized, unified, you know, seed -- organic seed availability and demand database, because what was pointed out yesterday is the information has to flow both ways.

It's not just good enough to say, "That's what's in Johnny's catalog". I mean, Johnny might want to know, you know, what they should be -- where they should be heading also. So I think that that's one of the key factors that we want to promote. I'm not sure what role the NOSB will play in that but that's one of the things that we want to bring to the NOP's attention.

CHAIRMAN DELGADO: Jeff.

VICE-CHAIR MOYER: Thanks, Gerry and Joe. I think you did a great job of pulling that together. Having sat on that committee, I know there was a lot of discussion and it was difficult discussion on
how we're going to spread the burden around
because I think clearly we all agreed that we
wanted to give greater movement and faster
movement in the acceptance of using organic
seed and as a farmer, you know, the idea of
the burden that we were talking about placing
on farmers to collect those lists came up and
was discussed. But I know from talking to
other farmers that clearly they don't believe
that they really need to use organic seed and
we have to change that perspective. So we
needed to come up with some sort of a tool
that would allow us to do that. We also, in
terms of spreading the burden around, you
know, we were trying to put some of the burden
on the program both in terms of sort of giving
the input to the certifiers that this is an
important issue. We heard yesterday that many
of the certifiers felt like it's not part of
the audit trail. It's not part of what's
really discussed at training overly, and so
there's not a lot of great importance put on
that and so they don't see it pushing that
onto the farmers.

So I think that, you know, we put
some of the burden on the program for that and
as you heard, Joe suggests, you know, we're
asking the program to take up the challenge
and figure out some way of directing the
management of that list, whether you manage it
yourself or have somebody else do that, we try
to do that.

We also put some of the burden on
the certifiers by saying, "You need to make an
impact, an impression on your farmers so that
-- on your producers so that they are giving
you this seed list", and I think we're forcing
farmers to take up some of the burden by
creating that list.

I think farmers, the farmers I
talked to, are willing to do that if they felt
that their confidentiality was protected and
that the list actually went somewhere, meant
something, and did something. If it's just
another piece of paperwork and that they --
and energy that they have to expend to send a
list out into the black hole of data that they
never get a response from or have access to
use for, then I think it becomes a sad point
for them.

And by the same token, we're trying
to put some of the burden onto the seed
suppliers, forcing them to connect with that
list and with the farmers so that you know,
while I don't agree with everything in this
recommendation, it seemed to be the best tool
that we could come up with, with spreading the
burden uniformly across everybody and getting
off the dime and moving forward.

CHAIRMAN DELGADO: Any other
questions? Kevin?

MEMBER ENGELBERT: Yes, I'd like to
second that also and make people aware that we
just simply deny that there is still a
problem. It's disappointing that the seed
growth hasn't increased like it should,
organic seed usage, and it's a tremendous investment for these seed growers to develop and grow this seed and unlike conventional growers that can simply take leftover seed, retreat it, put it up for sale again next year, organic seed can't be treated and a lot of it goes bad.

So we just thought, we have to do something to move this industry forward. And like Jeff said, spread the burden around and get this moving. And again, farmers that use organic seed aren't going to be faced with any additional paperwork, any additional problems. It's only those that are trying to get around this regulation or these -- the intent of these rules that will have to really do more work to prove that they actually cannot get certified organic seed.

CHAIRMAN DELGADO: Jennifer.

MEMBER HALL: I kind of want to restate a little bit of what I said yesterday and I would -- my preference would be not to
institute more paperwork to solve the issue, 
that there were some comments, I think from 
Pat yesterday saying that certifiers should 
not be in the position of being a promoter or 
a marketer of organic seed and I fully agree 
with that. However, I do think they are there 
to enforce the regulations, and that as a 
certifier, they do need to make sure that the 
grower is following the letter of the law and 
it's clearly stipulated that every effort 
needs to be made to find organic seed. 

So I do think that the burden of 
proof is on the grower to do that and that it 
would only take a couple of times for the 
certifier to say, "You're not doing this and 
there is organic seed available and I'm sorry 
that it's in the ground already," but it's 
quite readily available and that certain item 
can't be sold as organic this year, which does 
not disband your entire production, but that 
it would just take one or two instances of 
that to overcome what's concerning to me that
growers don't -- I mean, in your words necessarily, see it as their number one concern, that it's something that they need to be really aware of and making sure they're doing their due diligence about.

And that, for me, it's tied together then with enforcement, that there are certainly a host of other things that this rule stipulates that are never questioned as important and they are very strongly enforced.

CHAIRMAN DELGADO: Yes, Tina.

MEMBER MIEDEMA: I have to say I had a lot of reservations about this recommendation but it was the three people on the committee who would actually be effected by this recommendation, that we're very much for it and thought that they could -- that the investment of their time would be worth the result that tipped my hand toward voting for it on the committee.

CHAIRMAN DELGADO: Julie.

MEMBER WEISMAN: Yes. Not being a
farmer or on the Crops Committee, I am struck
by the similarity between the struggles around
this issue and some of the questions that we
keep wrestling with and hearing about in the
handling community on issues around 606. And
it sounds to me like -- I guess I'm asking
this as a question to the rest of my fellow
board member; I hear two separate issues. One
is the question of seed that's available and
how to require people to use what's available.

But the second one is that in many
cases there is nothing available and there's
this question which is also critical in 606,
how does the supplier community become
incentivized to supply these items? And I
guess one thing that I'm not clear about is
like what percentage of crops are currently
being grown from organic seed right now, like
what is -- what percentage is available is
organic? Like, how far -- what additional has
to be created that's not there right now?

CHAIRMAN DELGADO: That's a fair
question. Gerry.

MEMBER DAVIS: I'll respond to it.

I would base it on comments received yesterday from the public on the amount that it is, you know, various certifiers said, "We see good progress in corn, soy beans, so on and so forth", whereas there's a fairly high percentage of those growers that grow those crops using organic seed.

A comment from CCUF from California that deals with a lot of vegetable growers that they're thinking it's probably only two or three percent of that market is organic seed, and they see it, it's doubled, I think the comment was over the last couple years, but it's gone from one or two percent to two or three and I know speaking for our farm, we access -- we already do something like this where we submit a list to our seed suppliers, and being a large farm, we get a response and they say what they can find for us organically and many of the varieties we use are organic
but a lot of the hybrid varieties is a big problem.

There's kind of a bit of a gridlock in vegetable seed hybrids on being organically produced, that of sufficient quality and quantity.

MEMBER DAVIS: Was that clear?

MEMBER WEISMAN: Yes, thank you.

CHAIRMAN DELGADO: Any other questions? Okay. Well, thank you very much, both of you. Then we can move onto the next topic which is again, the Crops Committee. Before that, I want to remind the public, if you have signed up for public comment today or tomorrow please go back and make sure that your signature appears on those sign-up sheets. And if your kind enough -- just the registration, I stand corrected. Go back, make sure that your signature appears in the registration, is that correct? Okay.

SECRETARY HEINZE: For each day
that you're here. We need a count of every
day we have to report who is here.

CHAIRMAN DELGADO: Thank you for
that clarification. Okay, back to Mr. Davis
to talk about Crops Committee.

MEMBER DAVIS: Okay, for out
petition materials for this meeting, we have
three, tetracycline, cheesewax and Dextrin and
I'd like to start with tetracycline. The
petition is for adding tetracycline which is
specifically oxytetracycline hydrochloride as
plant disease control for all diseases on the
crops registered by the US EPA on the National
List, adding it to 601, Item I-10 and with a
note we put in which would effectively remove
the current annotation if we were to do so, I
believe, but that is probably up to
discussion, but the committee voted six no,
zero yes, one absent to reject that petition
based on we felt that particularly with
reference to adding all crops which
effectively would add peaches and nectarines
to the crop list that could use these materials. In reference to that we felt it was not necessary. The reason tetracycline is on the list for apples and pears even though it's very contentious material, many, many people in the industry and consumers probably alike, shutter at the thought of antibiotics being sprayed on organic crops. So there's a lot of problems with -- a lot of resistance to the use of materials like this in organic.

So for that reason, we did not feel that for peaches and nectarines it was so needed that it could overcome the basic incompatibility and consistency with the rule. Apples and pears, the reason they're on there, as I started to say was that the damage from fire blight in pears specifically, is so devastating that entire orchards can be lost and the previous board that looked at this material last in Sunset a couple years ago, had a split decision, it was a very close vote and allowed it to stay on the list mainly
because of the dire need that pear growers particularly have for the material. Otherwise it would not have been relisted in my opinion because I was there.

This material, we rejected it basically because we did not want to add it to more crops. The petitioner is here and made comments yesterday that they would be willing to represent the material for just apples and pears and to change their petition. In trying to analyze this on the fly here at the meeting, I'm not exactly sure of the proper policy and the way it should be, but the best I can tell, probably if that is the petitioner's wish, they should come forward and state that for public record what their intent now is and we can decide what to do with the material.

CHAIRMAN DELGADO: Would the petitioner of tetracycline come up to the forum and state their intention for the petition, please? And if you can state your
name and your rank and file.

MR. RICHARDSON: Yes, Taw Richardson, President of AgriSource.

CHAIRMAN DELGADO: Can you get closer to the microphone, so our recorder can -- and if you would, spell your name, please.

MR. RICHARDSON: T-a-w, Taw Richardson, and yes, as stated, we are willing to withdraw the portion of our petition that deals with peaches and nectarines and limit it to pears and apples to facilitate a decision on the part of the Board related to the component.

CHAIRMAN DELGADO: Thank you. Any questions for the presenter? Mr. Davis?

MEMBER DAVIS: I have no further questions for Mr. Richardson.

CHAIRMAN DELGADO: Thank you very much.

MR. RICHARDSON: Thank you.

MEMBER DAVIS: I believe the proper thing to do would for the Crops Committee to
convene at this meeting, perhaps this evening and this afternoon, and discuss this development and decide whether we proceed with a vote on the recommendation as it stands or possibly defer it for the fall meeting.

CHAIRMAN DELGADO: Very good.

Questions no that specific topic? We have Tina first followed by Jeff.

MEMBER ELLOR: Well, while the whole group is here, our options are probably several. We could send it back for TAP because it is a different chemical, correct, or not a TAP, a Technical Review.

CHAIRMAN DELGADO: Technical review.

MEMBER ELLOR: Or is it possible to add it to the current listing rather than make a separate listing, either of those two possibilities.

CHAIRMAN DELGADO: Gerry, can you clarify that? What is the intent of --

MEMBER DAVIS: You're absolutely
correct. There have been statements made that
even though the EPA considers and regulates
tetracyclines, you know, the current one
that's on the list is Oxytetracycline calcium.
This one is Oxytetracycline hydrochloride.
The EPA considers them as the same and the
petitioner in written public comment went at
great length to explain all of that. But
there have been several comments saying that
this should have a technical review done in it
because it is a different material. I don't
have a comment on what's the right thing
there. It's beyond my expertise to say what
is right.

CHAIRMAN DELGADO: Very good, so
again, you will take that back to your
committee and make a decision by tomorrow.

MEMBER DAVIS: Right.

CHAIRMAN DELGADO: Jeff?

VICE-CHAIR MOYER: Yes, the other
question that the committee had really needs
to probably addressed by the program which was
if we do reconsider this material, obviously, we are going to do that, and put it on the list, given the fact that at the last Sunset process tetracycline barely passed by I believe it was a six to five vote if my memory serves me correctly. Would this necessitate or put this on the list for a five-year period at Sunset or would it simply be an addition of the new chemical compound name on this existing list in which case it would Sunset in only two and a half years along with the existing tetracycline?

CHAIRMAN DELGADO: That is a question for --

VICE-CHAIR MOYER: Does that make a difference in how the Board views this material? It would be nice to get a comment on that.

CHAIRMAN DELGADO: Can we have a comment from members of the program, please?

MR. POOLER: This is Bob Pooler, NOP. This essentially is a new material.
It's different from the calcium complex that's currently on the list, so it would have to be a separate material at this point.

CHAIRMAN DELGADO: So it is a separate material and the count will start again, correct, five years? Thank you for that. It does not effect the old one, that's correct. Next is Katrina. She passes and we have Dan.

MEMBER GIACOMINI: Gerry, for those of us that are not crops folks, on the list currently, could you give -- just clarify the way these two annotations are listed. We have streptomycin for fireblight control in apples and pears only and then we have tetracycline Oxy-Tech, calcium for fireblight control only. If we're putting the tetracycline, the new tetracycline in the -- sort of under the category of the existing Tet, what's the difference in those two annotations?

MEMBER DAVIS: They sound different but effectively, they aren't different because
fireblight only exists on apples and pears.

CHAIRMAN DELGADO: Right, any other questions?

MEMBER KARREMAN: I would think -- you were talking about the options you can take today, either having a committee meeting at some point, and I'm not on your committee, I realize that, but -- and maybe changing the annotation to what the petitioner wants, or deferring it. I would suggest we vote on it, vote on the material at this meeting and not defer it.

I don't think a TAP needs to be done. If the other Oxytetracycline is already on the list, functionally it's the same. And you know, I'd say we should vote on it, at this meeting.

CHAIRMAN DELGADO: Any other comments? Jeff?

VICE-CHAIR MOYER: Although that being said, Hu, we just heard from the program that it is a different material and is going
to be viewed within the program as a different material and it does have a different CAS number with the EPA.

MEMBER DAVIS: So that's an interesting quandary we're placed in with exactly what to do.

CHAIRMAN DELGADO: Again, that's a question for the committee to resolve. Any other questions from the Board? Okay.

MEMBER DAVIS: Moving onto the next material, Cheesewax, in response to some of the public comment received yesterday, specifically referring to some of the -- on the recommendation form, the responses, the documentation responses, the committee acknowledges that some of the comments made perhaps, should have been deleted and we are going to also convene on this and remove some items.

But I jumped ahead a little bit, excuse me. The petition is for inclusion of micro-crystalline Cheesewax and the CAS
numbers mentioned are three CAS numbers
because it's three different wax-type
materials, paraffin, a couple other things,
that account for those CAS numbers. And it's
added to the National List as a production aid
in log grown mushroom culture and with the
stipulation made without either ethylene,
propylene, co-polymer or synthetic colors.

We voted as a committee to put this
material on the list. It's very small usage
but effects dramatically a small segment of
the organic producer community. They are
asking for help on this because they are stuck
because they don't feel they have another
option. Some of the comments that we made in
the documentation section referring to
petroleum or crude oil that the petition
itself had some opinions about crude oil and
petroleum as semi or natural material and we
did not intend to construe that we agree with
that petitioner's position on that by our
responses in the documentation section.
So we will work on removing some of those specific things that don't change our answers specifically. They're just part of the documentation and the backup. So we will expunge those and show them at the meeting tomorrow before the vote.

The next material is -- oh, discussion, I'm sorry.

CHAIRMAN DELGADO: Yes, are there any questions from the Board? We have Tina followed by Steve, yes.

MEMBER ELLOR: I'd just like to say, I've looked at this petition exhaustively. I am in the mushroom industry. I work for a mushroom farm. We don't use this material. We don't grow mushrooms this way. This is used by a very small, very small growers, very small segment of the industry and they did a huge amount of work on this petition, and I have to say there was no obfuscation, however you pronounce that, on this petition. It was very straightforward.
They provided a tremendous amount of information. It just turned out to be a lot more complicated than I ever could have anticipated from such a simple-sounding substance. So I think with going through it thoroughly, looking thoroughly at all the CAS numbers that, you know, I feel pretty good that -- and I went out and talked to some of these small producers and mostly on their own, they don't use colored Cheesewax, but it would be good to eliminate that possibility.

CHAIRMAN DELGADO: Okay, Steve.

MEMBER DeMURI: Tina just answered my question. I was going to ask her specifically as a mushroom producer, for her opinion on this material and she just gave it, so --

CHAIRMAN DELGADO: Thank you.

Katrina?

SECRETARY HEINZE: I can't find it exactly right now, but there was one written public comment that gave a lot of detail on
this material and had questions about whether
the CAS numbers were accurate. I was
wondering, could you speak to the public
comment? I'm rifling through my binder. If
I find it, I'll be more helpful.

MEMBER ELLOR: Yes, I went through
the petition and there was, I don't know, 180
pages of it or something, and picked out every
CAS number I could find and looked it up, so
that's how we got the information that we
have. If I missed a CAS number, then, you
know, certainly I'd like to know that, but we
listed specifically only three CAS numbers
that we're going to allow on here and as far
as I know, I took those out of the petition.
I looked them up and if we made a mistake
there, then you know, whoever made that
comment maybe could come and see us.

CHAIRMAN DELGADO: Any other
questions? Okay, thank you. We can proceed
to the next one.

MEMBER DAVIS: Thank you. The next
material is for Dextrin petitioned to be used as a binder in seed coatings with placement on the National List 205601N as seed preparations. One change that I think the committee will agree to, we may have to vote on it, but it's a small one. In Section B there for substance fails criteria category, the sentence, "Non-synthetic starches", I wanted to changed that to "Binders".

And there was one other place in the documentation in further pages that says the same sentence essentially. What seed coating companies use for their binders and their materials in their process, I've learned from talking to several of them, are quite secret and they really won't give you specifics of what they are very much. So for us to say they're starches, I can't say I know that for sure. So we'll use a more generic term of binders.

We voted as a committee four no, zero yes to reject this petition in that we
felt that it failed criteria category 2 and 3, that it wasn't essential for producing organically approved seed coatings and that it -- for Category 3, it was not compatible with and consistent with organic regulations in that adding synthetics to the list when there is available options is not compatible with the rule.

And one -- there are currently a couple examples of organically approved seed coatings from two different companies that are on the market and although they were not willing to state what they are using, the -- and because of certifier confidentiality, the certifier that certifies that as organic can't tell us that either, but we are sure that they are all using organically approved materials.

So, the committee voted to reject this because there are other seed coatings using organically approved binders, not Dextrin. Any questions?

CHAIRMAN DELGADO: Questions from
the Board? Dan.

MEMBER GIACOMINI: In your notes on
the material, you referred to hydrochloric
acid as a source of a pH change or stabilizer.
They refer to food acids. I'm not sure that -
- or food approved, I forget their exact
terminology. Can you address the issue of
whether this is going in as a pH stabilizer or
is it initiating a chemical change?

MEMBER DAVIS: From reading the
petition and which I believe the petition does
not say hydrochloric acid, I believe that was
from an internet search that I did, but
regardless of the acid, the acid itself is not
a problem. It's the statement that the
petition made that the acid is sprayed on the
natural starch and a polymerization process is
initiated by that acid treatment. So it's not
a pH adjuster. It is actually the material
that stimulates a chemical change.

And I guess we could receive
comment if that is incorrect but I don't think
that's been put forth.

CHAIRMAN DELGADO: Okay, any other questions? Very good, thank you and I appreciate the work of all the members of the committee. I know you went out of your way to contact suppliers and talk to producers and did a thorough investigation. Right, moving on and also including Gerry, we have Dr. Karreman with Joint Crops and Livestock Committee.

Sunset material, I'm sorry, I was getting over-excited, thinking that we were ahead of the schedule. So my apologies. Back to you, Gerry.

MEMBER DAVIS: I was wondering what you were doing.

CHAIRMAN DELGADO: Yes, I tell you I have no excuse this time.

MEMBER DAVIS: For the Sunset material questions, there was additional public comment received after the November meeting vote on these materials, so we needed
as a committee ro reaffirm that we had looked at those public comments and that they did not effect in any way the outcome of our vote. So we -- that's what this item is about.

Just to say that in response to the additional comments received after the November 2007 NOSB meeting and vote, the committee reaffirms its recommendation of November 2007 for the relisting of the following substances in these use categories as published in the final rule; copper sulfate, ozone gas, parasitic acid. EPA lists three inerts for use in passive pheromone dispensers and calcium chloride. Any questions?

CHAIRMAN DELGADO: Questions from the Board? Okay. None. Very good. We'll proceed.

MEMBER DAVIS: Onto the next item, we have a discussion document. The hydroponics issue has been on the Crops Committee work plan since I believe 2001 and
probably because of the complexity and -- of the issue and it's not common knowledge with a lot of people. It's kind of sat there with some work being done on it, so we felt that we should begin the discussion again and move towards an eventual recommendation.

We -- the main -- and there were a lot of public comments received regarding this document. And I thought I should address those quickly, first of all. We -- it is not the committee's intent to certify as organic liquid-based hydroponic growth culture of terrestrial plants. So almost all the comments were addressing that topic that no, you can't go there, you can't go there, and we just wanted to say that through out discussion of it, that is not our intent to go to suggesting certifying terrestrial plants grown in truly liquid culture.

So the intent of this discussion item was to reopen the issue and get public comment from the industry on -- so we can
proceed forward with the proper determinations on should liquid-based, you know, terrestrial plant culture be allowed. I've already addressed that. What systems can be allowed, soiless systems, kind of dispensing with the hydroponic term because it's -- I think the committee feels that it's truly specific to liquid culture of terrestrial plants.

So what other soiless growing systems are possible? What can be certified as organic? I wanted to receive comment on that. In the hydroponic issue, there will need to be guidelines around such things as growing spiraling, you know, plants that are normally aquatic plants, other higher plants that are naturally water -- naturally aquatic species, things like that.

So really the whole intent of this was to stir the pot a little bit and it speaks for itself and just to get the issue opened back up again and start moving in a direction of some guidelines. The Europeans already
have guidelines on this subject. The
Canadians are moving towards -- they already
have some greenhouse guidelines that touch
upon these topics and I'm told that they are
moving towards adoption of standards in the
not too distant future, so we felt it was
timely for the US system to address the topic
and move towards recommendations also. Any
questions? Steve.

CHAIRMAN DELGADO: Steve.

MEMBER DeMURI: Do you know what
they're doing in Europe? Can you briefly
describe what the standards are there?

MEMBER DAVIS: I'm not sure. It
would take a little time to really spell it
out. There are some differences between what
the Canadians currently allow and what the
Europeans, and there's differences within what
the EU system overall says versus what
individual member states allow. It's a pretty
confusing situation. There was one public
comment, written comment submitted from
someone in the Netherlands that pointed out that currently in the EU overall system that it has -- the terrestrial plants have to be grown in soil but I'm told from investigating it, that that's not necessarily true in all member states. So I don't know where you go with that.

CHAIRMAN DELGADO: Joe?

MEMBER SMILLIE: I just wanted to be sure. You didn't touch on sprouts at all. This was not part of your consideration.

MEMBER DAVIS: No.

CHAIRMAN DELGADO: Any other questions? Okay, well, thank you very much. This time we can move onto to the Joint Crops and Livestock Committee report on the aquatic plants recommendations and Jeff, you'll be participating in that.

VICE-CHAIR MOYER: I will, thank you, Mr. Chairman. The reason that this particular item was handled by a Joint Committee of Crops and Livestock is that often
aquatic plants are grown strictly for the use in -- to sell directly for human consumption. The other use, of course, is for a feed source for fish or fish-type creatures, so that's why it was in a Joint Committee.

If you -- I'll direct your attention to either the board, the visual board, or your notebook item number 8. Basically what we did was we treated aquatic plants just as if they were any other crop, so they fall specifically under Section 205.258(c) in that they have to follow all the rules and regulations that any other crop would have to follow with the exceptions, and that's why I direct your attention to Section A and eventually Section B.

Under Section A you'll see that we are directing aquatic plants to be treated a little bit different. In Section A we're talking about a closed containment system. This would be a pond, a pond-type system that has, for the most part, a soil base. So if
you look at A1, you'll see that any pond with
soil from which aquatic plants are intended to
be represented as organic, must have no
prohibitive substances as listed in 205.201
for at least 36 months, again, treating it
just like we would a field crop because it is
a soil-based pond.

However, if the container or the
containment system is more like a greenhouse
in that it is a pool or a channel or some sort
of raceway, we are growing these plants, we
have indicated that you can have an approved
clean-out procedure to prevent contact or
contamination with prohibited materials, just
like you would in a greenhouse.

You don't have the three-year
transition period there because you're not
against the soil. Section A2 aquatic plants
may be provided dissolved macro nutrients and
micro nutrients including trace minerals and
vitamins listed in 205.601, just like any
other crop would. However, the dissolved
amounts shall not exceed those necessary for
the healthy growth of the plants and such a
culture medium shall be disposed of in any
manner that does not adversely impact the
environment.

And in Section 3, a pond or a
containment vessel must have a berm elevation
to protect any -- basically, it's a buffer
zone, just like you would in a field to
protect any run-off from the surrounding area
to come into the pond, and then item 4, and
this is an important one. We felt that often
times there's a pond or the pond might be
drained to collect the fish out of the pond.
You could not use that time of harvest as a
mechanism to dump the water into a receiving
waterway as a mechanism of purging the pond of
any collected environmental hazardous material
or dissolved fertilizers.

So if you are going to dump the
pond, you must -- the pond must -- the water
coming out of the pond must meet the standards
based on the total maximum daily load
requirement of the receiving waterway as
provided by the current state code. That
deals mainly with US based operations where
you would have TMDL.

In cases where there is no TMDL
metrics, if you look at Item 4(ii) you'll see
that we have listed there based on EPA
guidelines, a secondary treatment that's
listed as 30 milligrams per liter BOD, total
suspended solids where 85 percent removal of
the BOT is attained. Again, giving some
guidance to anybody who wants to grow aquatic
plants under this system, some idea of what
they can discharge into a waterway.

And my understanding from the EPA
folks is that this is sort of the lowest
common denominator that they accept anywhere
and again, we would want foreign certifiers to
adhere to that as well.

Section A5, talking about manure,
we're saying that in this recommendation that
manure from terrestrial animals may be used to fertilize aquatic plants intended to feed organic fish in aquaculture ponds for organic production systems provided the manure is composted in compliance with 205.203, which we had approved at an earlier date.

Aquatic plants may be grown in open water systems. This would be different from what we had just previously talked about with containment systems, in that they can be grown in open water but here you would not be able to use manure-based fertilizers because we don't want people just randomly going out there and dumping manure into open waterways that would have access to non-contained systems.

That, Mr. Chairman, is our recommendation.

CHAIRMAN DELGADO: Okay, questions? Joe?

MEMBER SMILLIE: Yes, I'm thinking about the B part. Was consideration of other
examples, like in open water, like nori
culture for example. In 606 we're working
with a lot of wild harvested aquatic plants
but I'm presuming in the very near future
we're going to be looking at you know, farmed
aquatic plants, and I can think of nori for
one, perhaps clorella, you know, I think is on
our work plan also.

How does this recommendation --
does that interface with that type of open
water organic farmed aquaculture, aquatic
plants?

VICE-CHAIR MOYER: Well, I think it
does. I mean, our main stipulation was when
you are in open water system, you have very
little control of the movement of the water
and we wanted to make sure that people weren't
somehow dumping manure-based fertilizers into
this open water, because that just -- I don't
even think even if we approved it, it would
not be approved by any other agency. You just
cannot do that.
I mean, Dan brought that up in your conversations during the meeting that putting manure in water to begin with is a touchy subject, and that's why we said it has to be composted but --

MEMBER SMILLIE: I don't mean that there's anything wrong with what you've said, it's just that we're going to need a bigger framework with a lot more points of, you know, open water contamination, all sorts of other things if we start to look at, I'll just use nori as an example, nori culture which has been practiced in Maine as well as Japan. Those are open water -- those are farm systems.

They hang out nets, they've got specifications on the culture and how they collect and harvest it. So it is farmed. It's not wild harvested and there will be, I think, other considerations.

VICE-CHAIR MOYER: Are they fertilizing those systems?
MEMBER SMILLIE: No, as far as I know, not.

VICE-CHAIR MOYER: We have not come across any point where they were but I don't know everything, obviously, on the subject.

MEMBER SMILLIE: But like the whole background contamination issues and that sort of thing. I just -- it's a big topic, farmed aquatic plants and there's a number of cultures that don't seem to fit into this recommendation.

VICE-CHAIR MOYER: Well, obviously, like with all of our documents, you know, this guidance document is a living document.

MEMBER SMILLIE: Yes.

VICE-CHAIR MOYER: And as issues come up, we would certainly be prepared as a Joint Committee to introduce those items for further discussion and recommendation.

MEMBER SMILLIE: Well, in our work plan, clorella is there and that is -- that's wild harvest, though, I guess. We don't know.
We'll find out.

MEMBER WEISMAN: There's two algaees, one is --

CHAIRMAN DELGADO: Wait to be recognized.

MEMBER WEISMAN: There are two algaees on our work plan. One is wild harvested and one is close containment and I forget which is which but there is definitely one that is wild harvested, so it will become an issue.

CHAIRMAN DELGADO: Again, I will ask you to be recognized first before you address the Board. No problem. We'll go with Dan and followed by Gerry.

MEMBER GIACOMINI: Thank you, Mr. Chairman. In A5, you're talking about manure and then qualifying it as composted. In B all you're talking about is manure. I would be comfortable and would it not be appropriate to include both manure and composted manure in B?

VICE-CHAIR MOYER: It would be and
we have no problem adding that. We thought we
covered that by saying "in any form." So we
were saying manure, whether it's composted,
raw. Any way you look at it, it could not be
applied, but if the Board felt more
comfortable adding the word "compost" there,
I don't think the Joint Committee would have
problems with that, but I put that to the
Board.

CHAIRMAN DELGADO: Okay, Gerry?

Okay, any other questions? All right, well,

thank you very much, both of you. And we move
on to -- we're on schedule, fantastic, ahead
of schedule in fact. We move onto the
Livestock Committee with Dr. Karreman.

MEMBER KARREMAN: All right, thank
you, Rigo. Our first material for discussion

is one that -- well, it's Fenbendazole and

that we -- let's see the Board had looked at

Fenbendazole as a wormer for ruminants back in

the late `90s in kind of a little trio of

compounds, Ivermectin, Levamisole and
Fenbendazole and I don't know the whole history of it except that Ivermectin passed at that point and Fenbendazole didn't. But regardless, a TAP review was done back then and we relied on that TAP review because at least nothing has changed to Fenbendazole that I know of just as a clinician but -- and I think that is accurate in general. The formulation hasn't changed.

So what we recommended after going through the checklist and everything, we did recommend to allow it in a vote of five in favor and zero opposed, two were absent, but also to maintain the annotation which is a paragraph long, I heard some resistance to those long annotations yesterday, but to keep the annotation as Ivermectin has it right now. Should I read that because -- okay, there is a slight addition to it, okay, right in the beginning.

And the beginning part that I added just from my experience being a farm vet, the
annotation would be for "Fenbendazole only to be used upon a written diagnosis of clinical infestation by a veterinarian," that's the new part. And then it goes on to say, "Prohibited in slaughter stock, allowed in emergency treatment for dairy and breeder stock when organic system plan approved preventive management does not prevent infestation. Milk or milk products from a treated animal cannot be labeled as provided in Subpart D of this part for 90 days following treatment and breeder stock treatment cannot occur during the last third of gestation of the progeny will be sold as organic and must not be used during the lactation period for breeding stock."

This -- we didn't -- we had discussion on this and it seemed to be pretty straight up. I guess the Committee was somewhat relying on my input being that I'm in contact with that realm quite a bit and I can say that it's -- one, it's better than
Ivermectin in the sense that I like that it's a more narrow spectrum. It's got a different mechanism of action. It doesn't affect the dung beetles in the manure. It only -- Fenbendazole only works during the grazing season and that's kind of good. You can't just use it on and on throughout the year but even so, you wouldn't be doing that in organics, but it's just a more limited type use of this compound for specifically gastrointestinal worms, whereas like Ivermectin you can use it for skin-type mange and lice and whatnot.

It's given orally. It's not given by injection or pour-on. There's no long-acting formulation. There's been no resistence to it even in regular conventional agriculture that's been noted. Very low toxicity due to the mechanism of action so it's a pretty safe compound. So anyway, that's the way we discussed it and there were no negative public comments. If anything, I
don't know how many, but they were all in favor of us recommending it.

CHAIRMAN DELGADO: Okay, any questions? Dan?

MEMBER GIACOMINI: As a member of the Committee, it's not a question, but just to make the statement that I don't think anyone on the Committee would want this to have the appearance that we're trying to continually add more parasiticides on the National List for dairy and breeder stock. I think the goal of the Committee is to get the best one. I think it's pretty universal within the industry that we're not -- the organic community and the livestock group Committee or part of that is not happy with Ivermectin.

The Board has passed Moxidectrin in past. It originally met resistance with the program as a macrolide antibiotic which is more a structural definition than an activity definition, and there seems to be some
movement there but how that will proceed is out of our hands.

So the Committee in looking at this wanted to -- decided to proceed with it and sort of when all the dust settles, will look and see what's on the list and hopefully then the community will come back and will look at taking off all but the best one, the best option we would have.

CHAIRMAN DELGADO: Comments to add?

MEMBER KARREMAN: Yes, that's correct.

CHAIRMAN DELGADO: Okay, Gerry.

MEMBER DAVIS: My question for Hu, commonly what is the circumstance when a material like this would be used? I hear all the restrictions of when it can't be used. What's the reality of how it is used?

MEMBER KARREMAN: Generally, I find the weakest link in livestock husbandry and organics and I do work with conventional herds still but not too many, is the young stock
that are weaned that are about one to two months away from weaning or that have been weaned and they're one or two months beyond that up to about 10 to 12 months old. Their natural immune competency is not up to snuff yet, their IGE to live in balance with worm challenge like adult cows can, and so as well, many times, I mean, a lot of farms, you know, the young stock, different batches of young stock go in the same area and parasites love that when animals are in the same area all the time.

And so that's the group that really needs it, really truly, and you know, I take manure samples, look under the microscope for the eggs, see how many eggs there are and if there's only very few and the animals look good, I say, "Don't even worm right now with Ivermectin," but if they look bad and they're heavily infested, I say, "Let's use the Ivermectin," and then start correcting things again in an organic manner. So it's for the
young stock.

MEMBER DAVIS: Thank you.

CHAIRMAN DELGADO: Jeff?

VICE-CHAIR MOYER: Yes, just one last comment, I wanted to second what Dan said in that we would hope that the community after this, assuming it does get approved, would petition the Board to either remove other substances or through the Sunset process get those other materials off so the goal is not to add more materials to the list, but to find the best product out there that fits with the organic production systems.

CHAIRMAN DELGADO: Good comment.

Dan.

MEMBER GIACOMINI: Yes, it's just that that can't happen until it's on the list. It's not -- it can't happen just based on our recommendation. It has to be based on post-final rule.

CHAIRMAN DELGADO: Good comment.

Steve.
MEMBER DeMURI: This is for Hu.

Not having a livestock background, this seems to be a fairly complicated annotation to me. Do you anticipate that any producers would have trouble maintaining documentation to prove these conditions were met?

MEMBER KARREMAN: The annotation, the bulk of the annotation there has been in place for the last -- well, since Ivermectin got on, whenever that was, and the program got started. So producers know that. They truly know that they can't give it to beef stock, beef animals that are going to be slaughtered as beef and they can't give it within 90 days of lactation. Okay.

The only thing that's added on here is that it's got -- the use has to be predicated on a written diagnosis by the veterinarian. You can say, "Well, it's given me work," but you know, honestly, it is an over-the-counter type product, as is Ivermectin, but I really think it's needed
only sometimes and I really think that the healthcare provider really should write down what they found, that they are infested and they need it.

CHAIRMAN DELGADO: All right, Barbara, I believe you had a comment.

MR. MATTHEWS: I have one concern. I recognize that we already say this in Ivermectin about when organic system plan improved preventive management does not prevent infestation. Now we're talking of putting that into a second annotation. That part of the annotation is totally unnecessary. And the reason why I say that is that we already have a regulation at 205.238(b) that says when preventive practices and veterinary biologics are inadequate to prevent sickness, a producer may administer synthetic medications provided that they're on 603. And if anything, what the Board might want to consider doing is what we've already done to 601, which was at the lead-in
paragraph to 601, we reminded everyone, "You have an obligation for fulfilling the practice standards first and when all else fails, you can use these materials. So rather than adding it into every single material or just some materials, you may want to consider putting it into the lead-in paragraph because this provision that you're talking about putting in and which we've already got in Ivermectin, is required of everything in 603.

MEMBER KARREMAN: I don't think it's everything because they can --

MR. MATTHEWS: Okay, you're right.

It's not everything. It's for the medications, yes, all medications are already required that way. And so the paragraph at the beginning would talk about which lettered sections or lettered paragraphs within the section would be applicable to following the practice standards first.

And it's really important that certifying agents be requiring that their
clients delineate in their organic systems plan how they're going to exercise their obligations for preventing sickness in advance. And if it's not in the organic systems plan and they're just allowing the use of the materials, then they're violating the regulations.

CHAIRMAN DELGADO: Hu?
MEMBER KARREMAN: That's fine.

We'll try to go that route. I would just say that perhaps then on any medicine that's listed on 603 but still just staying within Fenbendazole, I would say at least for Fenbendazole, only to be used upon written diagnosis of clinical infestation by a veterinarian. Is that an okay annotation, short and sweet like that?

MR. MATTHEWS: Sure.

CHAIRMAN DELGADO: But that would also imply that you need a second motion to put that clarification at the top of the section, if I interpret correctly. Are you
following that?

MEMBER KARREMAN: Well, I think we'll have to have a Livestock Committee meeting to reduce this bulky annotation here and then in the next few months, probably not in this meeting time, but well, okay, maybe at this meeting time by those faces, we can get that preamble onto 603.

MR. MATTHEWS: Don't get me wrong, I'm not criticizing the bulkiness of the annotation. What I'm clearly or trying to say is that there's a redundancy here because it's already required and if we feel that there needs to be a reminder, the best place to put it is at the beginning of the section so that everybody knows in advance where it's supposed to be.

I have no problem with saying you can't use it in slaughter stock. That needs to be clear. I have no problem with saying that it has to have a withdrawal period for dairy animals. That needs to be stated. So
it's not so much that I have a problem with the length of the annotation. It's the redundancy.

CHAIRMAN DELGADO: Very good. So that will be an action item for your Committee and you'll decide and tell us tomorrow. I believe there's another question, participant, Dan. Hu, do you want to add another comment to that?

MEMBER KARREMAN: No.

CHAIRMAN DELGADO: All right. If that's the case, we can proceed onto the next material.

MEMBER KARREMAN: All right, the next material, let me get that up here for a second, is Methionine. Methionine has an interesting history with the Board. I think it's the only livestock material that's been added since 2002, except for this last batch in December. It was renewed -- let's see the first time it came on and perhaps there's institutional history here but the first time
it came on, it had a three-year time limit put on it, from 2002 to 2005 in the hopes that there would be research to show that there could be non-synthetic Methionine available.

When that time was coming around there was a petition to extend it and right now, we've living under that time line and it would expire October of this year, 2008. So the petitioners requested that the time limit or -- it's not a Sunset but I don't know what you'd call it, just a removal date would just be --

CHAIRMAN DELGADO: Expiration, expiration date.

MEMBER KARREMAN: Expiration date, yes, would be deleted, that's it, so there's no expiration date on synthetic Methionine for use in poultry and I want to specify that it is only allowed in poultry and organic livestock, no other species.

The Committee voted five opposed to that and zero in favor of that action to
remove the deadline date. And we immediately, however, and believe me, we had a lot of discussion on this material, and we can get into that more, but we immediately came up with a new proposal or proposed removal date, expiration date of October 2010 to allow two more years of synthetic Methionine to be used in rations for certified organic poultry.

The reason we went for two years and not just taking the expiration date off totally is because of some work that has been happening and I went to the Upper Midwest Organic Framing Conference this past February and I sat in at Dr. Walter Goldstein's really informative talk on the agronomy of Methionine and high Methionine corn and from what I could glean from that talk, there's high Methionine corn, if everything is ideal commercially available in quantity hopefully within about three year's time. And so I took that into account and I shared that with our Livestock Committee.
And then also during the Aquaculture Symposium, there was a fellow from South Carolina, I forget the company, I apologize, but he talked about insect meal and that kind of thing and showed the analyses and there was Methionine in there and then I think there's some work having been done on fermentation to derive Methionine that way but there's not any hard data from what I understand but there's work on that.

Then, of course, the other way to look at Methionine is that the birds, you know, traditionally, I guess you could say, you know, get their Methionine from pecking at the ground for grubs and insects and whatnot.

So taking in those four factors, I think is why we decided not to allow the extent or the expiration date to just vanish, but to give two more years to hope that the industry, you know, can get over that hump that I think we're kind of almost at the top at from what I'm understanding and so that's
our reasoning on that.

CHAIRMAN DELGADO: Any questions?

Gerry?

MEMBER DAVIS: Hu, the talk that you listened to on the high Methionine corn, I remember getting some information off the internet two years ago on the high Methionine corn and it was probably from the supplier or the breeder of that particular variety or varieties. And they were asking for people to grow this corn so it would be more universally available for organic growers to use for poultry.

Did that talk address what's taking them -- you know, two years down the road, you would think there would be good development so far on that.

MEMBER KARREMAN: Dr. Goldstein is in the room. We can ask him to come up and address that briefly in a moment. I guess, you know, I'm just -- that question, you know, regarding, okay, if you're allowed to use
synthetic Methionine or if there is a loophole to get non-organic seed or other kind of little loopholes that kind of don't, you know, give the full stimulation of organic, you know, progress, I think we as a Board, like you're saying, somewhat are incumbent to maybe move the industry forward and so I think there may not be that many growers but I want to hear that from Dr. Goldstein first, or there may be, but if we don't have them at -- yes, that we have Methionine public comment. Yes, I know, there's a lot of folks here. So we'll hear from them, but to answer his question, perhaps Dr. Goldstein should --

CHAIRMAN DELGADO: Absolutely, I would like to call Dr. Goldstein to the podium if he is present.

DR. GOLDSTEIN: I'm Dr. Goldstein.

CHAIRMAN DELGADO: Thank you for responding. We have specific questions for you and as I recall correctly, the question is, do we have enough sources of Methionine
coming up in the near future?

MEMBER DAVIS: Yes, two years ago there was a call from this developer of the high Methionine corn to you know, we need to get this out here and grow the supply of this corn, so it can be available. What's happened in the last few years that makes it still in the status of not fully developed, I guess, as far as supply?

DR. GOLDSTEIN: Well, we have been moving forward in terms of trying to get seed for growers and we have produced seed, for example in Chile, with help from the Methionine task force this last winter. It's just arrived and we're about to get it out to farmers and to different people who will test it.

We are on a learning curve and a developmental curve with high Methionine corn and the learning not only is agronomic, it's also developmental in terms of getting farmers interested in it, getting seed growers
interested in it, getting the Methionine end user, the poultry producer, to invest in it. So it's bringing along the whole gamut of players that is, perhaps, the most difficult part of the whole thing.

MEMBER DAVIS: And your affiliation is?

DR. GOLDSTEIN: I work for Michael Fields Agricultural Institute. We're a non-governmental organization in Southeastern Wisconsin for sustainable and organic farming, and we've been breeding corn. Our project is a team project together with the USDA and --

MEMBER DAVIS: So your organization is the holder or the breeder of this type of corn.

DR. GOLDSTEIN: Right, we breed corn and we also use corn from our cooperators.

MEMBER DAVIS: Thank you.

CHAIRMAN DELGADO: All right, we have a question for the doctor from Katrina
followed by -- Katrina.

SECRETARY HEINZE: Could you just repeat your affiliation so I can get it down?

DR. GOLDSTEIN: Michael Fields Agricultural Institute.

SECRETARY HEINZE: Thank you.

CHAIRMAN DELGADO: Any other questions?

MEMBER KARREMAN: I have one question.

CHAIRMAN DELGADO: Hu.

MEMBER KARREMAN: I think, you know, with the expiration date, if we give two years now, we're recommending that, will that stimulate these growers that might be growing it or you know, is it just going to kind of keep kind of -- I don't know -- spinning wheels in a sense? I hate to put it that way but we want the high Methionine corn to come in as well as other methods of feeding the birds hopefully, in an organic way, so what's your feeling on, you know, the stimulus for
those corn growers to do that?

DR. GOLDSTEIN: I think the two years is certainly a stimulus. It's also a time in which we could, with the full backing of the industry, the poultry industry, we would be able to get quite a bit of seed produced, perhaps not sufficient for everyone but getting closer. And I have some figures that I'll present later at my presentation on that.

I think the whole thing has to be industry driven. There has to be buy-in from the poultry companies and I'm seeing that happening with the activity of the Methionine task force. I'm very excited about their inputs at this point.

CHAIRMAN DELGADO: Joe, followed by Tracy.

MEMBER SMILLIE: It's both for Walter and Hu. When I heard two years, I thought, you know, that's a short period of time. That's two growing seasons and I'm just
wondering why you picked two years, Hu, and
Dr. Goldstein, whether you think that that's
an adequate amount of time.

CHAIRMAN DELGADO: Hu?

MEMBER KARREMAN: I think the
reason we picked two years partially was based
on hearing your talk out in Wisconsin that in
three years' time if there's ideal conditions,
you have in Hawaii there's corn coming on and
there would be commercially available in
sufficient amounts. That was part of it, if
I remember that right. And that would be in
three years.

But then we also want to see -- I
guess, you know, representing the organic
community, I guess you know, we want to
hopefully see a diversity in diet and not just
-- you know, I mean poultry are omnivorous
animals. They're not herbivores and a lot of
the -- I think the organic birds are perhaps
being fed a fairly herbivorous diet with the
synthetic Methionine. And I think we need to
let the animals express their natural behavior
more and perhaps have a more diversified diet
and therefore, we put two years instead of
three so that some of these other factors that
I mentioned of those four would play in.

CHAIRMAN DELGADO: Do you want to
complement that answer, Kevin?

MEMBER ENGELBERT: Yes.

CHAIRMAN DELGADO: Please go ahead.

MEMBER ENGELBERT: Also, Joe, as
simple as it seems, the last time it was put
on was just for three years and we decided
that two would make it a full five for the
normal Sunset process and let that be the --

MEMBER SMILLIE: But this isn't a
Sunset process.

CHAIRMAN DELGADO: No, no, it's
not.

MEMBER SMILLIE: And I am a little
confused. Maybe I'll wait until tomorrow but
I'm not quite sure what we're going to be
voting on tomorrow but you'll fill us in on
that because this document simply is rejecting
the removal of the time limit.

MEMBER ENGELBERT: Yes, but then we
-- there's a second document we voted on
immediately afterwards, and I'm -- literally
immediately for a two-year extension after all
our discussions.

CHAIRMAN DELGADO: Okay, so there's
two motions, just to clarify. One is to
reject the petition and the other one is to
extend it two more years.

MEMBER SMILLIE: And I still would
like to get Dr. Goldstein's opinion on the two
years for seed development.

CHAIRMAN DELGADO: That's right,
that's pending. Please, can you answer that
question?

DR. GOLDSTEIN: Well, we're doing
somewhat of a rush job. We're taking the best
corn that we have, we're making trials on it
in different states. We're analyzing it.
We're doing the best we can to get the seed
out within the two years. Three years would be more comfortable. The problem is that we need to make some fundamental changes and fundamental things have to come into place.

We have a new product. We have a price issue, what's it going to cost? There has to be relationships established between seed companies and the poultry companies that aren't there in place right now. There has to be incentives for farmers to grow it, so the farmers are the other link that has to be worked out. Two years, we certainly could have quite a bit of seed there, particularly if industry was willing to invest in growing seed in Chile for a winter period, we probably would have sufficient seed.

So there's all these different factors that are in play here.

CHAIRMAN DELGADO: Okay. Tracy, followed by Jennifer.

MEMBER MIEDEMA: If we get it wrong in our prediction that there will be non-
synthetic alternatives available by October 2010, what will start happening and how soon to the chickens, the eggs, the organic egg industry?

MEMBER KARREMAN: Well, that's definitely why we didn't take the -- that's why we didn't allow the expiration date to actually take effect this October, okay, because we don't want to see just a disruption in the industry.

But we certainly want to have the stimulus to look for alternatives and this has been discussed twice before by two Boards and here we're discussing it again and Dr. Goldstein and others are trying to do as good a research as they can. But I'd like to -- Dan, do you mind if I -- you know, Tracy's question was regarding the health of the birds and whatnot and the nutrition. Do you have some thoughts on that?

CHAIRMAN DELGADO: Before we continue, do we have any more questions for
Dr. Goldstein. I want to make sure that's the case. Jennifer.

MEMBER HALL: Thank you. Dr. Goldstein, mine is similar and I'm curious in your trials, if it's strictly the growing of the corn or if it is -- if it does include trials on the impact of what I see as the end user which is the bird?

DR. GOLDSTEIN: Both. Agronomic trials to find out what the yield penalty might be for growing these corns relative to growing normal hybrids, but also feeding trials together with our colleagues from University of Minnesota, Organic Valley, we've done both broiler and layer trials with our corn, with quite favorable results.

CHAIRMAN DELGADO: Okay, any other questions for Dr. Goldstein? Tracy, are you satisfied with the answer so far?

MEMBER MIEDEMA: I don't know that I got an answer to, you know, how soon would we start seeing effects and what are the
effects, I mean, just in lay terms of someone not very familiar with what the benefits are of Methionine to eggs and to the birds? What would start happening, you know, say, two months in?

CHAIRMAN DELGADO: I believe, Dr. Goldstein, could you answer that and then --

DR. GOLDSTEIN: I believe my colleagues, who are going to give testimony a little bit later on will answer that. I think they're quite prepared in that direction.

MEMBER MIEDEMA: Okay, that's fine, thanks.

CHAIRMAN DELGADO: Okay, in that case, thank you very much for addressing our group. You have a comment, please proceed.

MEMBER GIACOMINI: Okay, the evolution of this petition was ongoing and rigorous, I think, and there was a minority opinion that's expressed and in the recommendation and I would just like to make a few points that led to that point as the one
no vote on the Livestock Committee and the
writer of that document, that part of the
document.

It was very disturbing to me,
number one, for the petition to be saying that
we're very close to an alternative but the
solution that we want you to deal with right
now is to take off the incentive and the push
to -- of any expiration date at all. That
didn't seem to make a lot of sense to me.

One person I was talking to
yesterday said that that was based on the
advice of an attorney and I guess all I'll say
for that is maybe sometimes you should talk to
another attorney because that does not go --
did not go over well with the Committee.

The second part of that, as we
looked at the data that was presented with the
document, and the possibility of looking at a
two-year expiration date, three year, whatever
we were going to look at, I'll repeat what I
said at the last meeting, that I would be --
I would never want to see a loss of the poultry industry or any part of it because of such a restriction and a loss of such a small amount of the diet as what we're doing with Methionine.

But that being said, we have to really need it, and the data that was presented with the petition was essentially -- it did discuss the theoretical pure diet type effects of having no Methionine; health, immunity, feathers, cannibalism, all sorts of things. But when the data was presented that looked at specific trials with additional -- the additional Methionine removed from the treatment, the only data that was presented was less growth. There was no immunity, there was no health issues presented.

And being someone who works in the industry and the livestock sector of this, the ability to match conventional performance rates is not a justification to add synthetic substances to the National List in my mind and
I don't think we do that in other sectors. So I'm more than welcome and I hope we have some presentation of some real health issues, not just theoretical of pure diets where no Methionine was present, but based on current diets with current feeds, modern feedstuffs, where we're looking at what that difference would be and I'm not even saying that it would take a lot.

There was one public testimony that was handwritten and scanned in where it was simply a gentleman saying, you know, "I raise birds, and birds will die." That's almost enough because it's a real testimony and it's not just theoretical. But if we are going to give a performance exemption on this product and we are going to go put it on in two years, simply for consistency and there's parts of the industry that will want to tear me apart on this, but simply for consistency I don't see limiting it to poultry. If we're going to -- if all the presentation that they can make
is performance, we've got aquaculture coming up, we've got pet food issues, we've got other things that will probably be coming up before this two-year expiration date is done and giving this exemption only for one small sector of the industry when the only data presented is performance, I don't think is consistent. But I would more than welcome and hope that we see some real health data presented.

CHAIRMAN DELGADO: Thank you for that comment. Any other questions related to the proposal? Okay, should we --

MEMBER KARREMAN: That's it for the livestock presentation right now.

CHAIRMAN DELGADO: Okay, thank you very much. It is now 10 before 12:00 o'clock which is very good. I appreciate the fact that we are ahead of schedule. The next item on the agenda is the welcome lunch period. So we'll recess for lunch and come back here exactly at 1:00 o'clock if you will, 1:10, so
we can continue with the scheduled agenda.

Thank you.

(Whereupon, a luncheon recess was taken at 11:51 a.m.)

A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

(1:05 p.m.)

CHAIR DELGADO: Okay. We have a quorum and we're back in session. We'll continue with the second part of our agenda for today, and that includes Livestock
Committee with Dr. Karreman talking about aquaculture.

DR. KARREMAN: All right. Thank you, Rigo. So we're going to talk about our recommendation, proposed recommendation for the use of fish meal and fish oil in the proposed aquaculture standards. It's posted up there on the screen.

So, basically, we needed to clarify the fish meal/fish oil issue since we put that on hold since last spring as a contentious issue that has to be kind of balanced within the organic community. And we had our symposium last November, which I think we all still feel was a very good educational day, and we learned a lot from that. And so then we, as Livestock Committee, re-huddled over many phone calls, definitely the vast majority of all our phone calls since December until early April about fish meal and fish oil, and taking into account what the Aquaculture Working Group had proposed, and came up with,
based on very sound science from their
producers and Ph.D. nutritionists, as well as
the symposium panelists, as well as, for sure,
public comment, the following points kind of
helped come up with this recommendation that
we posted, which has been posted already on
the site.

So while respecting current
knowledge of the nutritional needs of aquatic
animals for fish and fish oil, there are
potentially certifiable organic alternatives
becoming available, but to what extent is an
open question. Certified organic fish meal
and fish oil would be expected to become
increasingly available as the aquaculture
industry would grow. To insure that the diets
are nutritionally complete at the beginning of
any aquaculture program that might start, we
propose that the aquatic products of other
certification systems be allowed via 7 USC
6505, Section 2106(b).

By doing this, we would reduce the
depletion of existing wild caught fisheries as a direct feed to any industry that would start here, as well as promote aquatic products from organically managed and, hence, sustainable systems that are already elsewhere established, like with the Soil Association and Tourland, and that's what we're kind of -- that was our thinking there. This will allow the nascent USDA certified aquaculture industry the needed time to establish enough basic feed for itself.

And since aquatic species are considered livestock under OFPA, we should also promote their natural behaviors. And since many species of fish - and, honestly, the Livestock Committee certainly was looking at the whole spectrum of fish. I mean, not that we talked about every fish species, or family, or genus out there, but not one specific kind of fish that guided any of our thinking, it's to incorporate them all. But a lot of species are piscivorus, or eating
other fish in the ocean, and that should be a
goal of nutrition in organically managed
animals, so that they're eating a natural
diet.

And then we talked a little bit
about the fish oils that the organic consumers
that consume fish also don't want to probably
have any terrestrial type of animal parts
being fed to organic fish. We took that into
account. And, also, the need for the -- if we
only feed plant-based feeds to the marine
fish, their Omega-3 content, which is
something that the consumers look for, might
not be there, or in a different kind of fatty
acid profile.

An earlier version of what the
Livestock Committee was talking about would
have included that fish meal and fish oil from
wild caught fish, and other wild aquatic
animals produced from sustainable food grade
fisheries, or sustainably managed foraged
fisheries could be allowed in the following
step-wise levels. No more than 12 percent during year one through five, and then no more than six percent during year six through eight, and no more than three percent during year nine through ten, with the percentages being on average over the production cycle of the aquatic animal life. That is still retained in the Minority Report that is attached to the back of this proposal.

We also had talked about in our conference calls discussions between December and April about creating a provisional-type label until there would be enough fish oil/fish meal harvestable from certified organic fish. And that would have had a 10-year life span, as well. But that did not make it into our recommendation, so with all that background, we would like to insert - I'm going to do the aquaculture feed first, but we also have .251 we'd like to insert, the Origin of Aquaculture Animals, but I'm going to do the Aquaculture Feed first, and that's
205.252. Let's see. I don't need to read through all of them. Which one was that? Sorry, just trying to find where -- I don't have to go through all of them, do I?

(Off the record comments.)

DR. KARREMAN: Okay. Sorry. So we're recommending to insert .252 A-M as posted, and we voted yes, in favor, one opposed, and one absent, as far as aquatic feed. There was a minority opinion from the one no vote, and perhaps that dissenting opinion, you might want to talk about the minority opinion, so if I may give it to Dan.

CHAIR DELGADO: Dan.

MEMBER GIACOMINI: Thank you, Rigo, and Hugh. In reviewing this topic, and I apologize to everyone, appearing as Mr. Minority Opinion today, but I started looking at this, trying to consider all the stakeholders, and all the options, and from my own background, and education, and experience. And it seems to me that with the growing world
population, a diet of high Omega-3 fatty acids is going to continue to be a positive health aspect for the human population. And if we're going to meet that, we want to try and do that without devastating our ocean fisheries. And in order -- and if there are problems in conventional aquaculture, can we work with the fundamental basics of the organic principles? Granted, we're not dealing with soil, but can we use those principles to improve on the problems that we're seeing in the conventional aquaculture to help us achieve these goals. And so that was my framework, and where I'm coming from in trying to work through this information to come up with a workable solution.

My opposition in the wording of the existing report has a couple of points. Number one is that I question our ability to essentially tell the secretary what to do, to we currently do not have any full equivalency agreements on organic regulations with any
countries, as I understand it. Telling the
secretary to make it okay, and just call
organic, all the foreign organic fish meal and
fish oil seems very presumptuous to me.

I, also, am very uncomfortable with
the inequity that that puts on -- would put on
the U.S. Organic Aquaculture farmers part of
the industry; whereas, I could see fish meal
and fish oil being traded between the salmon
and the sea bass people in Chile, and the U.S.
farmers wouldn't have any access to it, but
Chile would be shipping in organic sea bass,
and organic salmon to our regulations.

When I further look at the
regulatory issues involved, and I look to
OFPA, Section -- we have the issue that we
keep coming back to of, if it's organic, it
has to have an organic diet. And the -- but
when I look to OFPA, it not only says that,
and even though in my reading it may say it a
little bit differently in OFPA than it says it
in the regulation, it also has Section 2107
that says that with certain consultations, the Secretary shall allow wild caught to be certified or labeled as organic. And with those two sections in there, I guess I'm going to give credit to Congress that maybe some other people wouldn't necessarily want to get. I think they were aware that both parts were in the Bill, and that the fact that that is there, maybe there is some intention of - I don't know what it is - but maybe there is a way through the regulatory process that this can be found, a working solution to this can be found. And I would like to give the industry and the regulators the opportunity to try and discover that, rather than just presenting them with a document that does not have those points.

Finally, I have a fundamental -- a final point that makes me extremely uncomfortable, on the one hand, but I think it's something we need to recognize on the other. We keep hearing that wild caught
cannot be organic because of a number of reasons. Some of that is contamination, but
the essence of it is that they are not managed, and that they are not "agricultured."
If wild caught fish, in my mind, are not agricultured, then they should not be considered livestock. And if they're not considered livestock, then the fish meal and fish oil from those would be viewed entirely differently as being sourced from livestock, and being sourced from an agricultural source.

So, I think that's an aspect that hasn't been looked at at all. And I realize that may not be a very popular idea, but I think when I really sit down and look at what OFPA says, the law says, that's kind of the conclusion I come to. That then brings us to the question of what is the definition of livestock, which just lists aquatic species, which seems to be a little contradictory in that sense also. But I -- to come around, I have a number of problems with the report,
with the recommendation.

I recommend that we go back and institute the step-down, insert the step-down language into the recommendation to give the rule making process and the stakeholders a chance to see if there's a workable solution that does fit in with the way we are currently looking at regulations and laws.

CHAIR DELGADO: Back to you, Hugh.

DR. KARREMAN: Thanks, Dan.

Certainly, those discussion items are very clear in my mind still from all our calls.

Under OFPA, livestock definition does include fish used for food, it's not just aquatics, so it's difficult with OFPA. But since it does say wild caught can basically be considered, that's why I think we came up with that foreign certified that may use live caught, or wild caught, just their carcasses, trimmings and whatnot could be used for fish feed, but never to be sold here in the U.S. as final human product, those fish, just the
trimmings. Because if the industry is going to start, it's got to have something to start with. You've got to feed the animals, and after a lot of deliberations, and you were part of it, we all were in Livestock, I think we feel that we came up with the best possible way to start the aquaculture industry, and honestly not just tilapia and catfish, because that could take a very, very long time. And if they're farmed, they might not have the right profile of essential fatty acids and whatnot, that other fish that might have been fed wild caught would have, that are certified organic under sustainable conditions and whatnot. And so that's how we came up with the foreign inclusion.

And, also, from public comment, actually, from George Lockwood and their public comment, is to go back to what they proposed last year, essentially. However, in a way, if we would consider foreign certified allowable, but also include our prohibitions
on the fish feed coming in as foreign certified, but that that fish, carcasses, viscera, and whatnot trimmings have to be from animals that were not give parasiticides, and not given any antibiotics. And, Joe, you mentioned that yesterday, how that's very limited, it sounds like. And perhaps they could do that in those areas, and then we would be relieved of that major hurdle with the antibiotics and parasiticide use.

We feel that this is our best try, after a lot of talking. And the minority report also reflects our thoughts and discussions, and we just -- I guess we need to know a little bit perhaps how the Program feels about looking at foreign sourced certified feed for fish. We haven't really gotten any feedback from the Program at all on that, but the provisional label, I think we got some feedback where that just probably won't fly.

CHAIR DELGADO: Would members of
the Program like to comment? The answer appears to be yes, but they need time to find the answer. Are you ready?

 PARTICIPANT: Not yet.

 CHAIR DELGADO: Let's continue with other questions, and then we can come back to pose that. Jeff?

 VICE CHAIR MOYER: Hugh, the other point that I think was brought up, I brought it up yesterday, but it was brought up a lot during our discussion, was that in light of the fact that we don't have a certification program for aquaculture currently, foreign certified fish products are being sold in the supermarket today in the United States as human food. And what we're talking about is taking a byproduct from them, and using them to feed fish that would now be certified under our standards, so I think the standard that we're proposing is quite a bit higher in terms of the proportion of the foreign certified material that would be consumed by humans in
this country from what it is, down to the current lack of any standard.

CHAIR DELGADO: Good point. Okay.

Dan, you had a comment.

MEMBER GIACOMINI: I just would like to clarify something that you just said a second ago there, Hugh. As I remember, the Aquatic Working Group said that they preferred their 12 and 12, but they would accept the step-down as a reasonable -


CHAIR DELGADO: Thank you. Any other comments? Joe.

MEMBER SMILLIE: I'd be pleased to provide a gap analysis of a limited number of foreign certification programs; namely, two, that shows where and when they could be out of compliance with our interpretation of the U.S. regulations, so there's two caveats there. It's just, it's an interpretation of where they could be out of compliance. But we could
-- I could come up with that document, if that
-- if the path that you're headed down proves
fruitful, and there is some consideration of
allowing it, we could come up with a gap
analysis that showed the difference between
current foreign and national aquaculture
programs that are -- where they could possibly
be out of compliance with the interpretation
of the current regulations; namely, the
parasiticides and antibiotics, if that channel
proves fruitful.

CHAIR DELGADO: Any comments on
your part? I believe Barbara is ready to give
a response. Please go ahead.

MS. ROBINSON: Let me understand
this. You want the Program, or you want to say
that the feed which is made from the fish,
which is not organic, you want to accept that.
All right? But the fish itself, the filet,
you're not going to allow as food for humans.

DR. KARREMAN: If this proposal is
accepted, yes. Once that would happen, if
this were to take place, that foreign
certified organic fish can be used as chum, or
feed.

MS. ROBINSON: Correct.

DR. KARREMAN: Then the Program
here would be rolling, and there would be no
more foreign certified filets on the market
anymore, because then the -- isn't that what
we're talking about? They'd have to meet our
standards. Sorry. Once the standards here
would be in place, the only foreign stuff
coming in would be to feed USDA certifiable
organic fish. There would be no not tour land
or whatever filets on the market in Florida or
whatever.

MS. ROBINSON: This is illogical.
You're not being logical about this, I don't
think. You know, it's not good enough for us
to eat, but it's okay to feed to fish.

DR. KARREMAN: Just for regulatory
purposes, yes.

MS. ROBINSON: All right.
(Laughter.)

CHAIR DELGADO: Let's have -

MS. ROBINSON: And, moreover, we have -- as I recall, excuse me. As I recall, we lost a lawsuit over this issue.

VICE CHAIR MOYER: If I could attempt to clarify the comment, Barbara, that Hugh is making, and that this proposal is making. What we are stating in this recommendation is not that we take uncertified product. We're taking product that is currently not certified by U.S. standards, because we have no U.S. standard.

MS. ROBINSON: Understood.

VICE CHAIR MOYER: And right now, there's currently fish on the market today that is being sold as certified organic, under private label in this country.

MS. ROBINSON: Right.

VICE CHAIR MOYER: What we're suggesting, the recommendation suggests is that we use the trimmings from that fish, not
the fish itself, but the trimmings from that fish to supplement, to be the portion of the feed that represents the fish oil and fish meal portion of the feed for fish that would then be certified under U.S. standards. All other portions of the feed would have to fit under the U.S. standard until the point where there is enough U.S. market to supply the oil and meal content portion. Does that help?

It's very confusing, I understand.

DR. KARREMAN: Would it also perhaps help to maybe call that, going back to the term "supplement", we have like a foreign certified organic fish meal and fish oil supplement.

VICE CHAIR MOYER: Well, it is, but

DR. KARREMAN: Instead of like a feed.

VICE CHAIR MOYER: It is, but at 24 percent of the -

DR. KARREMAN: I realize that.
VICE CHAIR MOYER: -- food, that's a heck of a supplement.

MS. ROBINSON: Well, we need to -

CHAIR DELGADO: Let's make sure. Barbara, are you going to answer that?

MS. ROBINSON: We need to think about this, but it's -- because -- let us think about this. You know, I'm loathe to give you answers just off the top of our head. We usually get into trouble here, but it's just -- because I really do want to make sure that there's a logic and consistency here.

Jeff, you raise a good point. I mean, I do need to know, first of all; we need to know are we just talking about the supplement part of this?

VICE CHAIR MOYER: Yes, we are talking about the 12 -- currently, what we're talking about is the 12 percent fish meal, 12 percent fish oil, which is -- if you add that up it's 24 percent, if my math is correct, so it is a fair chunk of the diet. Too much to
actually be called a supplement, but it is that portion of the feed that is unavailable currently from any organic source, because we have no organic standard in this country. And so, taking the fish that is currently being accepted by consumers as organic under private label, and taking just the portion of that that's not being sold here for human consumption that's currently the viscera and the trimmings, using that to create the oil and meal portion, because it is coming from a certified organic - it's not our standards, we understand that - but it is currently accepted by the public as certified organic, or as organic. Using that portion to fill that niche of that -

DR. KARREMAN: And we could have a phase-out, as well.

VICE CHAIR MOYER: Right. But once they want to sell fish in the U.S. to our standards, all of that material would have to meet our standards, so it's a very -- I mean,
it's hard to tell at this point what that window would be until even those trimmings would meet our standards. But if they intend to market any of their fish product here in the future, they would have to adhere to our label, thereby, those trimmings would have to adhere by our label, too. Gets us out of the wild caught version, and it also gets us away from the idea of a step-down version, which, in my mind, has tremendous potential for failure in the marketplace with consumers. If you have a step-down process, and the industry fails to meet that, by the rule, what would happen is one day it would be organic, and the next day it wouldn't. And consumers have a hard time understanding how the product they bought yesterday was certified, and the product they buy today doesn't have certification, because we didn't make the alternate sources of fish meal and fish oil available through research over the next seven to ten years, whatever it works out to be.
That's very confusing to people in the marketplace, I think. It would be to me.

CHAIR DELGADO: Okay.

MR. MATTHEWS: I would say that it's probably no more confusing than when we went from accepted standards worldwide to the NOP. And under the NOP and the Organic Foods Product Action of 1990, if you want to sell label or represent in the United States as organic, it has to be produced to our standards. So I really am having problems with producing to a different organic standard, and then representing it, selling it in the United States as an organic feed for fish.

I would, if I were on the outside, I would be arguing well, why can't I use Germany's feed for my dairy cows? Why can't I use Chile's feed for my hogs? Why can't I use New Zealand's feed for my lambs? But even if it is at a supplement level, I mean, it's still being represented as an agricultural
product, so why can't I use some other country's agricultural product in the production of any other livestock, other than an aquatic species?

I don't -- I'm not sure that the attorneys would tell us that that is legal. And I'm also suspicious that Mr. Harvey would file a second lawsuit on the feeding of non-organic feed to U.S. organic animals.

CHAIR DELGADO: Very good. Thank you. The Program will respond later, it's my understanding, so we'll move on to the next question. We have Kevin, followed by Katrina.

MEMBER ENGELBERT: I'd like to try to address a few of the points that are made. The first is, with the feed from a foreign source, this is simply trying to bring in an oil that's not available in the current system. We were told that a step-down system would not stand up to lawyer scrutiny, that wild caught would also not stand up to -- wild caught fish oil and fish meal would not stand
up to the scrutiny of all the regulatory
bodies that the measure would have to be
approved by. So this is what we've come up
with.

And as far as the feeding for
dairy, cattle, or any other product, this
market is already established in the United
States, and those feeds would have to meet
USDA NOP program requirements. If it did, and
somebody thought it was cost-effective to
import it from a foreign country, they could.
But right now, we don't have those standards,
and this was the only thing that we could come
up with that would allow that to take place.

CHAIR DELGADO: Right. Katrina.

SECRETARY HEINZE: This is a
complicated issue, so I'm trying to understand
it in my simple mind. This really is for fish
who are piscivorus. Is that right? And as I
understand it, what you're trying to do is
find a way to kick-start that industry. And
so you've looked at a couple of different
options, wild caught was one, this foreign is another, the step-down is another. And what you're struggling with is, which one will pass regulatory scrutiny. Am I getting it right?

CHAIR DELGADO: Kevin, you want to respond?

MEMBER ENGELBERT: Yes. We've been told that the foreign certified organic, they don't know. Everything else we've been told won't pass the scrutiny. And the one mistake we've made with our recommendation we need to add to, and Hugh will read it off, is under (A), we assumed that everything else would have to meet our standards. And we need to be specific about that, and add in this one section to (A) to make it perfectly clear that everything else about this foreign certified has to meet our standards as far as substances or prohibited materials, or anything like that.

CHAIR DELGADO: Okay. Katrina, you had a question?
SECRETARY HEINZE: Well, I was just going to follow-up with, it does seem then that an NOP response would be helpful to get you to how do we do that kick-start in the way that's right.

CHAIR DELGADO: I believe that Barbara wants to comment, please, and we'll follow with Julie.

MS. ROBINSON: I just would like to say, the Program has never said that - at least I hope we have never conveyed to you that there can be no wild caught standards. We have a law that says that there can be wild caught standards, and the Program has certainly never issued any kind of statement that said there can be no wild caught standards. And if you somehow have gotten that impression, that's a mistake.

DR. KARREMAN: Well, I apologize, but we have been under the impression, maybe from various other stakeholders or whatever, that that just won't fly.
MS. ROBINSON: Well, you know -

DR. KARREMAN: And I've always wondered about it.

MS. ROBINSON: We've heard that some consumers may not want wild caught standards, but USDA has never made that statement.

DR. KARREMAN: Yes. You know, and some of us have wondered about it, because it is sitting there in OFPA that it can be considered. But then, apparently, to make it into regulation, we've been under the impression that that just won't fly.

MR. MATTHEWS: Well, it's allowed by -

CHAIR DELGADO: Please wait to be recognized, please. Mr. Matthews.

MR. MATTHEWS: It's allowed by statute, and we've had a work plan on the book for years. In fact, it was just republished for wild caught, and that stimulated a lot of phone calls to me as to what's happening on
Well, the bottom line is nothing is happening on it. It's just that we renewed the work plan, and so basically a previous board said no. There's a work plan that's out there because after the board said no, the statute was amended. So if this board wanted to move forward with a different decision from what the previous board did, well, then that's perfectly within their right.

Right now, there's no wild caught because there's been no recommendation by the board to develop standards for it. But that doesn't mean there couldn't be, so we've never said you cannot do it. Only the board has said you cannot do it.

CHAIR DELGADO: All right. Julie.

MEMBER WEISMAN: Yes. This may be opening up a different can of worms, but what is the downside of setting the standard that for the moment, only herbivorous fish will meet? And then those fish are being produced as certified organic at some later date, there
will be a certified feed source available that will then allow piscivorus species to then be certified organic.

CHAIR DELGADO: Dan, do you want to address that point?

MEMBER GIACOMINI: I believe there's already enough of a recommend passed that would accomplish that, once it makes it through rule making, in the practical rule making side. The second part of what you asked there is the fact that you are what you eat, to a certain extent. And those fish do not eat the diet that raises their oil levels high enough to achieve the kind of numbers that they're going to need, that they're looking at to be needing to feed the piscivorus.

CHAIR DELGADO: Any other comments? Yes, Tracy.

MEMBER MIEDEMA: This is just a little bitty one, but we refer to these trimmings as imported certified organic, and
I think that's a point of confusion, because that makes it sounds like it's USDA certified organic, and happens to be imported, and so just as a clarification for language, if we said organic non-USDA certified.

DR. KARREMAN: Sure. We can figure that in.

CHAIR DELGADO: Okay. Joe, followed by Jennifer.

MEMBER SMILLIE: Well, this is itty bitty to the itty bitty. It shouldn't even be foreign, it should be private standards. That's the word you want to use.

DR. KARREMAN: Okay.

MEMBER SMILLIE: Private standards.

DR. KARREMAN: Very good.

CHAIR DELGADO: Jennifer. Any other comments, questions?

DR. KARREMAN: I think, George, did you have -- George Lockwood, did you want to say something?

CHAIR DELGADO: Mr. Lockwood, can
you -- Dr. Lockwood, please approach the
podium and address your -- do you have a
specific question, Hugh, or do you want to
allow -

DR. KARREMAN: I just thought I'd
let Mr. Lockwood have some input here, since
they put so much time into this, and he's head
of the Aquaculture Working Group.

CHAIR DELGADO: Please do, sir.

MR. LOCKWOOD: Thank you, Mr.
Chairman. I'm George Lockwood, Chair of the
Aquaculture Working Group, your Technical
Advisory Panel.

We have a number of concerns about
the proposal, and hopefully, maybe some
comments I can make will help clarify some of
your thinking. We are concerned about
implementation under 2105(b), it's never been
done. When you determine an equivalent
standard, are you going to have to go and
determine that all of Natureland's standards
are equivalent, or just that having to do with
fish meal?

We also have concerns about whether the fish that will be grown for fish meal and oil will be grown to equivalent U.S. standards. We have proposed to the Chair of the Livestock Committee to insert that actually you would grow to two standards, the U.S. standard, and to the foreign certified that you're going to import.

If, in fact, we're able to get through the implementation and equivalency issues, we see that there probably will be a source of meal coming from very large sloppier production around the world. There's already one grower that is seriously considering this. Sourcing oil is a major concern, because the only oil, the only source of oil is the ocean, practically speaking. There are no land crops that produce DHA and EPA which are the Omega-3 fatty acids that are so important.

I would like to give you an example here of salmon, for instance, how this would
apply to salmon aquaculture. Salmon is the third or fourth most consumed fish species in the American diet. The average American eats two to two and a half pounds per capita. It's a very high oil fish in nature and in culture. It requires somewhere between 10 and 20 percent oil for a healthy diet.

In the regulations that you've already adopted in your March 2007 meeting, you adopted under 205.252(j) the prescription of feeding fish the same, from the same genus. In other words, salmon can't be used to feed salmon. That means we would have to turn to some other species for oil. The only other species that will undoubtedly be grown, at least initially, in any quantities are shrimp, tilapia, and catfish. They are very low oil producing fish. We're talking about one, two, or three percent. So if we take the viscera from catfish, for instance, that only has one percent oil in it, we're not going to have much oil in order to develop a salmon
industry. It just won't work.

Another way of doing this would be to grow anchovies, for instance, for example, for the sole purpose of feeding to U.S. aquaculture, salmon, for instance. In other words, what we would do is take wild oil in Europe, grow anchovies, extract the oil and send it to the United States to be used as is proposed. We are, in essence, laundering the oil. That's all that we would be doing. And that just doesn't make sense to me.

As I said yesterday, upon our very careful review, and from a practical point, we just simply don't see how this is going to work. We have made recommendations, and we strongly urge that you seriously consider restoring to what we had proposed, and you acted on on March 27th of last year, our Paragraphs B, C, D, and I. And we suggest that you add Paragraph Q, which is from the Livestock Committee report, that would read something like the following. And I've made
an amendment, and I'll tell you when I get to it.

"Fish meal and oil from carcasses, viscera, and trimmings from the processing of foreign certified organic aquatic animals" - and I would add - "as provided under 2107(b), and otherwise produced in compliance with this section, will be considered organic for use in fish feed only."

So that, basically, is what we would recommend, that you support our recommendations that we labored over very hard, just as you have been doing. We think the Act fully supports this.

For instance, in 2103.11, the Act clearly intends for fish to qualify as organic. In Section 2114(f), provides for the harvesting of wild crops. Section 2107(c) allows wild fish to be organic. 2103.21 provides for products from naturally occurring biological processes. 2110(f) allows the use of supplements, or at least acknowledges the
use of supplements.

In conclusion, the Act states the intent for organic seafood, and provides the legal structure. To effectively eliminate fish oil, there will be no organic seafood. In the absence of a firm standard, foreign grown, foreign certified, foreign labeled salmon will continue to enjoy their harvest in the U.S. market for organic salmon.

Again, we urge the restoring of the paragraphs in our original proposal, which, incidentally, are in our public comment as Appendix A, and the ones that were withheld, they weren't deleted, they were withheld for further consideration, are italicized. Thank you, Mr. Chairman. Thank you.

CHAIR DELGADO: Any questions for George? Hugh? Any questions from the Board for George? Thank you very much.

MR. LOCKWOOD: Thank you.

CHAIR DELGADO: Okay. Any questions for the members of the Livestock
Committee on the part of the Board? Very good. Well, it seems to me that Chairman of the Livestock Committee, you probably need to do some reword, some rethinking.

DR. KARREMAN: Major, big time, probably.

CHAIR DELGADO: Very good. And that concludes your presentation. Do we have anything else?

DR. KARREMAN: That does. The only other thing was that discussion item on net pens, and we're working still with the Aquaculture Working Group on the main -- well, two of the issues are siting the pens, potentially. And, also, the manure nutrient effluent from those pens, and so we've asked the AWJ to be available to answer questions regarding that from the Livestock Committee in the coming months, and hopefully come up with a few alternatives to each of those questions that we can choose from in the public sphere.

CHAIR DELGADO: Very good. All
right. Thank you, again, and I look forward
to having those changes or modification
suggestions from the group.

We move on next to the Handling
Committee, with Mrs. Weisman.

MEMBER WEISMAN: Good afternoon.
Wow! Congratulations, Rigo, we're still on
schedule.

CHAIR DELGADO: We're on schedule,
yes.

MEMBER WEISMAN: I hope I'm not
going to mess it up, but there's a good chance
that I will.

(Laughter.)

MEMBER WEISMAN: We have on our
agenda two classes of things. We have
petition materials, and we have some sunset
items. I think the first thing that we have
on our agenda are the petition materials.

There were originally posted on the
agenda two items for 605, which have both been
deferred, one because we felt we did not have
sufficient time to -- in the case of calcium derived with seaweed, we did not feel we had enough time to adequately tease-out the issues. There was also sodium chloride acidified, and that was a late petition that did not really have adequate time for the TAP review that we felt was required, and for that reason it was deferred.

For 606, out of the 20 materials that are listed on the -- that are indicated on the agenda, 16 -- four were deferred, and actually one also was withdrawn in the weeks prior to this meeting, so I think that means that we have 15 petitions to present today.

Now, before we actually present the petitions, I did want to make a couple of some comments, some sort of opening comments about 606, in general, to attempt to address some of the comments that we have received, both written ahead of the meeting, and so far during our public meeting.

The first thing that I wanted to
clarify, from our point of view - no, not just from our point of view - I want to clarify, the Handling Committee and the NOSB in considering 606 petitions, is not deciding commercial availability. That is the job of the certifier. That's number one.

The second thing I wanted to clarify is that when materials are deemed appropriate for 606 by the Handling Committee, they will be listed based on the Board's finding, if either of two situations are found to exist; that it is not available as organic, period. Now that doesn't mean, necessarily, that the raw agricultural product may not be grown, but it's not available in the form that's needed for a processed product. The second is fragility of supply, so either it's not available, or the supply is fragile. One of those two situations has been found to exist.

The second issue that has been coming up very consistently is the question
about whether listing on 606 is an incentive
or a barrier to the stimulation of the
development of new organic materials to
replace the ones that are being listed on 606.
And the organic community, I think we have
seen, is sharply, and I think pretty evenly
divided on this issue.

I would like to offer a couple of
thoughts on this. As with many things in
life, the answer likely is not one or the
other. Both may be true, and the answer may
differ either case-by-case. I do appreciate
the comments that express concern over the
growth of -- the increase in items on the
National List, and the despair that it's only
going to get bigger, and it's never going to
get smaller. And I guess I want to remind
everyone that even though it feels like we've
been at this forever, because I think for many
people in the room, it's been most of your
adult lives, that the industry and the
regulation in the world of federal regulations
is very young. It's only been in effect for
five years. And I believe that the -- first
of all, as new products begin to understand
the regulation and want to participate, it is
natural that there are going to be materials
that are seen as needed, and petitioned on to
the list.

But I also think that we are going
to see very soon -- I think there are already
-- we are already hearing about petitions that
are being written and formed for specific
items. I'm not talking theoretically here.
I mean, there are specific items that we are
going to see petitioned off the list. And I
know that it seems like it's taking a long
time, but that doesn't mean that that is not
going to start happening with more frequency,
I believe.

The other -- there have been calls
in different ways for a moratorium for listing
any new items for a couple of reasons. One
that was mentioned was a concern about --
well, one was a suggestion that only raw agricultural products should be petitioned on to 606. We can certainly fully discuss all of these. I don't think that that's really a practical approach.

The other is that we refrain from listing items until we have clarification on what, besides the agricultural ingredient, is also included in a formulated product, in a multi-ingredient product. And I have two thoughts about that. One is that, I was very, very interested in the suggestion that Richard Matthews made earlier today, when we were discussing annotations on livestock. And I believe that something like that in the heading of 606 might help clarify what can and cannot be included in a multi-ingredient product on 606.

The second note I wanted to make is that of the 16 petition, of the live petitions as of today for 606, only six are going to be put forward as recommendations for listing by
the Handling Committee, and none of them are multi-ingredient products. So I believe that -- I want to allay people's concerns about the actual petitions that we may be considering for listing at this meeting.

I think that's probably enough opening comment. And I can move into actually looking at petitions, unless there are questions.

CHAIR DELGADO: Any questions for Julie? None. Please proceed.

MEMBER WEISMAN: Okay. I think the -- we have a list in our meeting books. It's in Alphabetical order. We are -- the first two items on that list are the alcohols, the fortified cooking wines. And I'm actually asking different members of the Handling Committee to present different of these petitions because there's so many of them, and you'll get really tired of hearing my voice.

The other note I wanted to say is that there was a whole group of petitions that
were submitted by one petitioner. They were somewhat boilerplate in their presentation, and they were so similar, and we pretty much, I think, are treating every single -- I mean, we had similar findings on all of them, without exception, pretty much, so the bulk of those are going to be presented by Katrina and Steve, with a few stragglers. So I think we'll proceed with Tracy on the cooking wines.

CHAIR DELGADO: Tracy.

MEMBER MIEDEMA: Thank you, Mr. Chair. Thank you, Julie.

I'd like to actually start with the second one. The first two petitions were submitted by the same petitioner, and they included a bunch of their evidence, lack of supply in the fortified cooking wine sherry that supports their petition for Marsala, so I thought it made sense to start with that one.

So we recommended unanimously for the inclusion of fortified cooking wine sherry
to 205.606 to the National List. We felt that it did satisfy in our evaluation criteria, one, two, and four, and number three was N/A, not applicable. Our Committee vote was six yes, zero no. And just a little bit about the petition.

This substance does have unique flavor and fragrance characteristics that are necessary for the prepared dishes that the petitioner makes in their prepared foods. And they were able to demonstrate that it had these unique properties. They also did an excellent job of thoroughly listing fortified wine producers that didn't have any organic available, and organic wine producers that didn't have any fortified wine available. So it was quite an exhaustive list of both of these types of producers. And just sort of as a check, we triangulate, use various means to check availability. Just doing Google searches, it was interesting. The only organic sherry I could find when I put quotes
around those two words, you'd think you've get 15,000 hits or something, just because it's a pretty typical phrase, the only hits I could find was the petitioner begging the industry to please produce some, so they seem to really be out there doing their due diligence, looking for someone to produce these two types of fortified wines, so opportunity out there. Hopefully, this would be one of those situations that we hope happens, where 606 is seen as an opportunity, and spurs an organic version to be made.

The petition for Marsala is almost identical, if I can move on to that one. The only difference is just the unique flavor, profile, and characteristics, some very slight differences in the way the wine is produced. And they use their, like I said, their evidence of going to wine producers and not being able to find any organic versions, going to organic wine producers and not being able to find those two varietals, as evidence. But
they only put that evidence in one petition, sherry. In their Marsala petition, they referred to their sherry petition, which was — procedurally, it would have been cleaner for the petitioner to have went ahead and just repeated that research, so it wasn't siloed off. One petition referring to another just isn't procedurally accurate. But we, as a Committee, agreed that it was sound. And on Marsala, we voted unanimously 6-0 to include fortified cooking wine Marsala on 205.606.

Any questions?

CHAIR DELGADO: Any questions for these two products? Jeff.

VICE CHAIR MOYER: Thank you, Mr. Chairman. My question isn't, necessarily, just for you, Tracy, but for the Handling Committee, in general. And not only specific for the cooking wines, because my question pertains to all of the products that I see listed in front of me. When you look at the list of criteria for every one of them, we
have that it meets the criteria for impact on humans and environment; yet, this is conventionally produced agricultural products, and so it leads me to wonder if there's no human or environmental impact from conventionally farmed products, why are we here? It would seem like just by definition, the fact that they're conventionally produced in the minds of an organic person, it doesn't meet those standards.

Whether we vote it on to the list or not, in my opinion, it fails that criteria. I'm not saying that's grounds to list or unlist it, I'm just saying I have a problem with that.

CHAIR DELGADO: Response from Julie Weisman.

MEMBER WEISMAN: Yes. Well, I think the -- for instance, some of the questions -- I do think that there is some cleaning up that has to be done, that some of these have been -- I mean, I do agree that has
to be looked at, but I also would like to
point out that some of the questions, there
are certain questions on these Category 1, 2,
and 3 of the evaluation criteria checklists
where the notation refers to 205.600(b) and
various numbers under (b). And those are
questions that are really meant only for
synthetic substances. Okay?

Some of these questions are meant
for synthetic and non-synthetic substances,
and I think that where something that would be
an agricultural product that's not organic
needs a little clarification where that fits
in. And I think that they've not been
considered exactly the same on each petition,
and that may, in fact, be something that does
have to be cleaned up.

CHAIR DELGADO: Okay. Tracy.

MEMBER MIEDEMA: I would agree with
Julie, and also add that when you look through
that list of questions, things like is there
a toxic or adverse action of the material or
its breakdown products? We're talking about what happens when that wine is in the environment, not what happens during its whole life span of the grapes being grown. And since 606 is non-organic, it is a given that we're potentially talking about conventional agricultural practices, so I think it's embedded in that we're talking about conventional.

CHAIR DELGADO: That is a key. I just want to clarify 606 is the allowance of non-organic products, agricultural products if there are no organic available, and that's sufficient for now. Jennifer.

MEMBER HALL: In the evaluation, do we consider the percentage of the composition of the product that the material we're allowing is? Is the Marsala or sherry 60 percent of -

MEMBER WEISMAN: This is only for the -

CHAIR DELGADO: Julie.
MEMBER WEISMAN: I didn't wait.

Sorry for jumping the gun, Rigo. It's only 5 percent of a finished product, so the Marsala wine at most can be 4.9 percent or something like that.

CHAIR DELGADO: Tracy.

MEMBER MIEDEMA: And the last thing I'll throw in here is that the petitioner stated very clearly this was for a Chicken Marsala product, and it really made me bristle that this is non-organic Marsala in a product calling itself Chicken Marsala. And my colleagues on the Committee reminded me that that's an enforcement issue, not within the purview of this Board or our Committee.

However, I was really impressed by the way the petitioner handles this, and they on their own website say we're looking for organic Marsala wine. We want everybody to know we're not trying to get away with something, and so it was very -- it was handled really well.

CHAIR DELGADO: Any other questions
on those two products? Thank you. Back to you, Mrs. Weisman.

MEMBER WEISMAN: On our list, which is alphabetical, the next four items that I'm just going to mention briefly are deferred. They are the two algaes that I mentioned earlier today, also black pepper extract and bucholt powder, those four items have been deferred.

I'm going to ask my colleague, Dr. Heinze, I like saying doctor, to present a group of petitions that were submitted by one petitioner.

CHAIR DELGADO: Madam Secretary.

SECRETARY HEINZE: Okay. Thank you for the Madam.

Okay. As Julie said, a number of materials petitioned for listing on 205.606 were submitted by the same petitioner, so I will be presenting five of them, then the rest will come. So the five materials that I am presenting are Chinese thistle daisy extract,
peony root extract, polygala root extract, polygonum root extract, and tangerine peel extract. On a personal note, I do thank the petitioner for the education I got reviewing these.

None of these - so kind of the top line, first - none of these materials are being recommended by the Handling Committee for listing because of not meeting the criteria for Category 4, so that's the commercial supply is fragile or potentially unavailable. We did not feel that the petitioner made that case.

So a little bit of background.

Yes, Kevin?

CHAIR DELGADO: Kevin.

MEMBER ENGELBERT: Yes. Katrina, could you please repeat what the five were that you were going -

SECRETARY HEINZE: I'd be happy to.

MEMBER ENGELBERT: Thank you. I was trying to find that page.
SECRETARY HEINZE: Okay. Chinese thistle daisy extract, peony root extract, polygala root extract, polygonum root extract, and tangerine peel extract. See, I even made Hugh chuckle. All my co-workers chuckled, too, while I was working on this.

Okay. Are we ready?

CHAIR DELGADO: Please continue.

SECRETARY HEINZE: So a little bit of background on these materials. In all cases, these ingredients are intended by the petitioner to be used as nutraceutical ingredients in dietary supplements and foods.

And then, again, in all cases, a little background on how they're produced. The raw agricultural material, so for example the Chinese thistle daisy root, is harvested, dried, shipped to a processor. It's milled, then extracted with water and ethanol. The extracted liquid is concentrated into essential oils. That will be important in a minute, so it becomes an essential oil. And
then it's standardized, mixed with organic -
I can't say this word again - astragalus root
carrier, spray dried and ground into a powder.
So they're all processed the same way.

Okay. So now we get to the heart
of the matter. In all cases, the
justification by the petitioner for the
organic not being available was the same.
What they said, and this is a paraphrase, was
that the sourcing department was continuously
searching for the organic forms, but had been
unable to find them. No information was
provided to explain why the organic ingredient
could not be available, so they just said
we're looking for them, we can't find them,
we're still looking. They didn't really
address this fragility, like what were the
underlying factors that could have made the
organic not available, which the Handling
Committee felt very strongly was necessary
information.

So, as an example, I, and probably
many of you can buy organic tangerines at my local co-op, so what are the technical hurdles that would prevent that peel from the tangerine being used to produce organic tangerine peel extract? And the petition didn't address that at all, which we felt was a problem.

Finally, in three cases, the Chinese thistle daisy, the peony root, and the polygala root, fairly simple internet search found organic forms of these materials. Now, not in this exact form, but either as an essential oil, or as the raw agricultural material. So, again, just because you can find it doesn't mean that it's in the right form, quality, or quantity, but certainly, we would have liked the petitioner to address that, and help us understand, again, what the technical hurdles were.

So to wrap that up, in each case, these materials were recommended for listing on 205.606 consistent with our past practice.
So, remember, motion to list, and then in each case, the Handling Committee vote result was in the negative resulting that we're not recommending them for listing. Did you follow that? Okay. So I am supposed to give you the vote results, so by material, Chinese thistle daisy extract, zero yeses, six nos; peony root, zero yeses, five nos, one absent; polygala root extract, zero yes, five no, one absent; polygonum root extract, one yes, four nos, one absent; tangerine peel extract, zero yes, six no.

CHAIR DELGADO: Any questions on these materials? Hugh.

DR. KARREMAN: Just a general question. Did I understand you right, in that they told you the process where they make the extract, so that they're buying the raw material and making the extract, or what?

SECRETARY HEINZE: I don't believe that's true. They just explained how it's made. I believe they're looking for the -
DR. KARREMAN: The final product.

SECRETARY HEINZE: The final product. From the petition, that would be how I read the petition.


MEMBER WEISMAN: Okay. Now I'm going to turn the mic over to Steve DeMuri, who has a group of similar petitions.

MEMBER DeMURI: Thank you, Julie.

These were all petitioned by the same petitioner that Katrina just had for her five, and these five are as follows; Codonopsis root extract, Jujube fruit extract, ligusticum root extract, Poria fungus extract, and Rehmannia root extract.

MEMBER WEISMAN: Can you do that again, slower? Thanks.

MEMBER DeMURI: Codonopsis root extract, Jujube fruit extract, ligusticum root extract, Poria fungus extract, and Rehmannia root extract. Everybody got those?
Just like the items that Katrina had, these ingredients were also intended to be used as nutraceutical ingredients in dietary supplements and foods. So this petitioner petitioned numerous items all to be used for the same end-use. And like Katrina's five, and these as well, the raw agricultural materials harvested, dried, shipped to a processor where it is milled, and then extracted with water and ethanol. The extracted liquid is concentrated into essential oils standardized to desired concentration, mixed with organic astragalus root carrier, spray dried, and then ground into a powder, so that's the process they supplied to us.

And, again, in all cases, the statements concerning organic non-availability was the same, that the sourcing department was looking for the items, but just could not find them. But, again, like the previous five, there is no information provided as to explain
why the organic ingredient cannot be available in organic form. In all five of these cases that I had, internet search, and also some follow-up phone calls revealed that there were organic forms of the raw agricultural materials available in all cases, but the petitions did not address the reasons or conditions that made their specific process forms unavailable. So for those reasons, all five of these materials failed Category 4 of the criteria.

In each case, the Handling Committee vote resulted in a negative for listing. And the vote results were as follows: for Codonoposis root extract, zero yes, six no, no absent, no abstentions; for Jujube fruit, zero yes, five nos, one absent, zero abstentions; for ligusticum root extract, zero yes, five no, one absent, zero abstentions; for Poria fungus, zero yes, four no, one absent, one abstention; and for Rehmannia root extract, zero yes, five no, one
absent. So that finishes up those five petitions.

There's one other one that Julie mentioned that I had on my list. That was oat bran concentrate that does show up in your list. That's the one that was withdrawn just a few weeks ago, so we do not plan to take any action on that. And that's it. I'll turn it back over to Julie, unless there's any questions.

CHAIR DELGADO: Are there any questions on these materials? Okay. Thank you. Back to you, Julie.

MEMBER WEISMAN: Okay. There's about two more materials that were part of this group from this petitioner, and Gerry is going to present one of them.

CHAIR DELGADO: Gerry.

MEMBER DAVIS: Thank you. The material petition that I went over was Camu-camu powdered extract, and it is from a berry produced in the Amazon, generally, South
America. And it's an extract slightly different than the ones mentioned. It's produced just from juicing and straining the berries, which is then concentrated and spray dried along with organic cassava starch.

The petitioner states that the extract is produced from juicing and straining these berries, and that it has -- the Camu berry has never been available as organic. The berry is harvested in remote wilderness areas of the Amazon flood plain over vast areas which have not been practical to manage under an organic system plan. Being that none of us were familiar with this type of wild harvest situation in South America, one of our members suggested I contact the Instituto Biodinômico, IBD, in Brazil. And in contacting them, they do certify wild harvested Camu-camu as organic, but when asked to check on it further, what they certify is organic Camu-camu as an ingredient of a liquid juice product, not as powdered extract form.
And they report that there is no domestic U.S. organically certified product available at this time. But since the petitioner did not really address why it's not -- that this organically produced Camu-camu from Brazil, why it can't be used, they didn't even talk about at all, they said it was not available. It never has been grown, which didn't seem to be accurate, versus what we found from IBD, so the Committee voted that Category 4 criteria was not met because the petition did not address why organic Camu-camu produced in Brazil cannot be used. So the vote was zero yes, five no, one abstention to not include it on the National List. Any questions?

CHAIR DELGADO: Questions on this material? None. Thank you. Back to you, Julie.

MEMBER WEISMAN: I would like to ask Joe Smillie to present three materials.

MEMBER SMILLIE: Val, we're going to do caramel first, then Kombu, then the
When we were dividing up these, just a little aside on this group. When we were dividing up these materials, those all had big names and looked hard, and so I thought I took the easy ones. Boy, was I wrong. But I'd also like to thank our Chair, who hearing the squeals of pain from the Handling Committee jumped in and brought in the calvary, and Gerry kindly, and Tracy joined the Handling Committee to help out with the materials. So once again, the group work and our wonderful Chair, we got through these materials.

So starting off with caramel color, it was a really interesting petition because the petition for the conventional caramel colors was actually petitioned by one of the manufacturers of organic caramel color. And that, right away, you don't usually see that, but when we got into the petition, and, again, going through Category 1 and 2, basically, in
Category 2 is the substance essential for organic production?

    Well, people in the U.S., at least, want their colas dark colored, so whether that's essential or not, I guess the marketplace says it is. I don't particularly feel it to be essential, but not being a cola drinker, I don't have that problem. But, nonetheless, we quickly got into the fact that various different manufacturing -- it's Category 2, number 5, is there an organic substitute? And I thought yes, there's organic caramel color available. There's at least two companies producing it. But when we got into it deeper, and the petitioner did an excellent job explaining it all, every different manufacturing process, and every different manufacturer has various different constraints, mostly to do with pH, and viscosity, and oh, boy. It's food science world out there on what can be used, and what can't be used. And the petitioner had nothing
to hide. I mean, they produce organic caramel
color, and they're saying we can't produce
this color for all the needs of the organic
manufacturing sector.

So, basically, the petitioner
claimed that these forms were needed. We
checked into the other major manufacturer that
we knew, just to see, check the voracity of
the petitioner's comments. And sure enough,
they backed it up. They said yes, that's the
case. And there's a lot of manufacturers in
this room that know more about this than I do,
but all caramel colors are not created equal.

So we looked at it, and we were
open to the idea. But when it got right down
to it, the main barrier to the production of
caramel color for different uses was it was
cost-prohibitive. That ended up, it wasn't
constrained by supply, because caramel color
is nothing but burnt sugar, basically, more or
less in layman's terms, so it wasn't
constricted by supply or civil unrest in the
sugar world, or any of the usual things. It was cost-prohibitive. And on that basis, we voted. Again, a motion was made to list it. The vote was zero yes, six no, no absent, and no abstentions.

We felt that cost of production was not a significant reason to add it to 606.

Okay. Thank you.

CHAIR DELGADO: Any questions for this material? None. Continue with the next one, please.

MEMBER SMILLIE: The second one. Simply enough, Kombu seaweed. Well, on the surface it's simple, but technically, it would Lamanaria Japonica, Lamanaria Japonica variety ochotensis, Lamanaria Angustate, Lamanaria Angustata variety longissima. We also had a very good public comment that said you can group these varieties into what's commonly called Pacific Kombu, as different from Atlantic so-called Kombu, which the Japanese aficionados would not call Kombu, but which
is called Kombu in the trade, being a type of Lamanaria, but not having those unique qualities of Kombu that are essential for the organic production of certain products.

So, again, is there organic substitute? The answer is there are organic certified seaweeds on the market, and some of them even are similar to Kombu, but they don't create the Kombu-like effect, which is essential for certain foods.

The petitioner did an excellent job, once again, in describing why these characteristics are needed, and why the current production of Kombu at this point in time cannot be certified. And, again, there exists for possibilities for the certification of Kombu under the wild harvest regulation, but for a variety of reasons, these have not been attempted as yet. And that was documented very well on the reasons why, and I haven't got the time to go into them all.

It's possible in the future, but it
doesn't look probable, and we shall see. Because, once again, as Julie said, once a supply of organic Kombu is available, that supplier can petition the Board to remove Kombu from the list. And that is, I believe, a very effective action, and I also believe, and I don't think it's been mentioned yet, but that action, that petition to remove takes precedence in the petition queue.

We followed up, and talked to five or six distributors of Kombu, and kelp, and seaweeds, and that thing. They all verified that they could not find, even though they've searched themselves, for organic Kombu. There was only petitioner, but many people, including some who have been certifying product for many, many years using Kombu in the process, even they, who are well-known for their diligence in finding organic ingredients, simply locate organic Kombu.

So the case seemed clear to us that it certainly met the criteria, and the vote
was for five yes, zero no, and one abstention.

CHAIR DELGADO: Okay. Any
questions? Can you repeat the vote, please.

MEMBER SMILLIE: Oh, five yes, zero
no, one absent, and zero abstentions.

CHAIR DELGADO: Very good. Any
questions on this material? Okay. Can you
please proceed with the next one.

MEMBER SMILLIE: Yes. I would be
happy to. If you believe that, I've got
shares to sell you and a bridge.

The next petition substance is
okra, specifically IQF frozen okra. The
petition was very long, and thoroughly
documented petition. And it basically said
that it's not available. There's certainly a
fragility of supply, but it also wasn't
available at this time. So the two criteria
for the actual consideration were both in
place.

It's an agricultural product, and

Jeff raised that argument that it's
conventionally raised, so, hence, we look at Category 1, Adverse Impacts in the Humans or Environment. We all agree that we're going to move along on that.

Was it essential for organic production? And the answer is yes. The word "gumbo" comes from the African root, which was the description of the vegetable okra. It's not simply a vegetable used for its taste, it's used for other properties, mucilaginous properties, which is why some people love gumbo, and other people can't stand it.

And, also, if you will humor me for a while, is what's called in New Orleans, filet gumbo. Well, in the winter when any okra was not available to the gumbo makers, they had to keep delivering gumbo, so instead of okra mucilaginous agent, they used sassafras leaf, and sassafras was called filet. And that's where the word "filet gumbo" comes from. It doesn't have okra, so perhaps the organic substitute could be
sassafras leaf, which is probably not
available organically either, but real gumbo
lovers are not going to go for it.

So we're on to Category 3, is it
compatible with organic production? One of
the questions we look at, and I know all the
NOSB followers love this one, is the primary
use to recreate, improve flavors, colors,
textures, and things of nutra values lost in
processing? And the answer, no. The value of
this product doesn't replace something lost in
processing. It brings something very unique
to the product.

So then we get to Category 4. Is
the commercial supply of an agricultural
substance as organic fragile or potentially
unavailable? And the answer, according to the
petitioner, was yes, and they documented that.
The petition actually contained long lists of
the different producers and IQF facilities
that they had contacted in the search for this
product.
We double-checked that, and talked to a lot of people. Now, we did not talk to the Southeast African American Farmers Organic Network, but we did talk to a lot of the certification agents, especially those that do a lot of work in areas that have 120 growing days. Marty, don't run out of the room. And they did not have qualified commercial supplies of organic okra available. There seemed to be a paucity of growers that were growing okra commercially. It's a difficult crop. It does not transport well. And matching up a very scarce supply with an even scarcer IQF capability was documented in the petition. That's about all I can say about that.

Quality is not particularly an issue. Quality of okra, doesn't transport well, and it isn't an issue in a fresh market, but in the IQF market, it wasn't such an issue. Quantity just did not seem to be there. And, again, back to the form argument,
what was asked for, and I'm not sure if the petition reflects this correctly, was frozen IQF okra. That was what the petition was for, not fresh okra. I'm not sure if we need to amend that or not.

We talked about it, and we said --

I said, you know, I'm telling you guys, when this goes on the list, there's going to be a human cry because you can grow okra organically. It's not -- it should be that difficult, but the petitioner was exhaustive. Our search of available IQF facilities and growers, and, again, our search was not globally worldwide. We did -- the petitioner did list foreign sources, as well, and we did our best to try and find it. And a couple of members of the Handling Committee, being growers also, worked through their networks, so I wouldn't say it was an exhaustive search, but it was a pretty good search. And based on what -- the document that we received, we voted five yes, zero no, zero abstentions,
zero abstain, and one recusal.

CHAIR DELGADO: Any questions on okra? Yes, Julie.

MEMBER WEISMAN: I just want to double-check. Let's see. Under Category 4, Question 3, the comment. I'm wondering if that was what you meant to write, or if there's a word that was omitted by error. Did you mean to say that fresh okra does keep well, or that it does not keep well.


MEMBER WEISMAN: Thank you.

CHAIR DELGADO: For the record, that correction is being made. And, Dan.

MEMBER GIACOMINI: As it is in a lot of cases, the issue comes down to the words used in the question. It seems -- the question is, is there any okra grown near the freezing facility? I mean, do you have the okra, do you have a freezing facility, or if you have a freezing facility, could you grow
the okra? Do you know how sort of -- I mean, do you think the right questions were asked?

MEMBER SMILLIE: Yes. Again, those -- if you have the okra in commercial supply, and there's not an IQF facility nearby, I still think you could get it done. It would be hard, but it could be done, so it wasn't that we had a lot of okra available, but no IQF facilities. That wasn't the case in this case.

MEMBER GIACOMINI: But what about the other way around?

MEMBER SMILLIE: A lot of IQF capacity, ready to go, and no suppliers? That wasn't the case either, at least not with all the IQF facilities that we contacted. And the list was exhaustive. I mean, I won't say we did the entire list, but we certainly did a big chunk, and none of them said that they never processed nor had abilities to process organic okra.

CHAIR DELGADO: Tracy.
MEMBER MIEDEMA: I just wanted to add. In trying to piece together a crop with a frozen facility is a real trick, and my -- the firm I work at is a large IQF processing facility, and we plan our crops very carefully for their distance from the facility based on the time of year. In the warmer months, our spinach can't travel further than 45 minutes from the field to the IQF facility, or its pretty slimy by the time it gets there. And okra was described to us as one of those crops that grows in a warm climate, and really gets slimy fast, and so I don't know exactly what the radius is. At our farm with about 30 crops, we have it all mapped out exactly how far they can travel, what the radius is. And I don't recall whether that was noted in the petition, but it's a very real issue.

CHAIR DELGADO: Yes, Steve.

MEMBER DeMURI: Just a comment. I can tell you, Dan, that I was involved in a project to try to source some IQF okra for my
company, and we couldn't find it either.

CHAIR DELGADO: Gerry.

MEMBER DAVIS: One other thing to add to the difficulty of putting an IQF facility together with a crop. I believe the farm that I work for was contacted, because we have IQF freezing, we have capacity, we have a very long growing season. We could grow okra if we chose, but one difficulty was that okra is only harvested a little bit each day. It's not grow a crop like peas, and you come through there, harvest it all and freeze it, or you can schedule freezing time. You'd have to be set up to pick a little bit this day, make a little run for an hour or two a day, and keep doing that on and on to make the crop economically feasible. And that might be another complicating factor in why they don't seem to fit together too well.

CHAIR DELGADO: Any other questions, comments? Joe.

MEMBER SMILLIE: I'm also hoping,
and we certainly heard some comments yesterday, and I would ask everyone to take the information you've heard from this Committee, and from the public, and also, hopefully, we'll get some more comments, and to sleep on it.

CHAIR DELGADO: Okay. Thank you.

Back to you, Julie.

MEMBER WEISMAN: Okay. It's my turn. I have one last material that's part of that group of petitions that were all submitted by one petitioner, that's the ginger root powdered extract. And as you have already heard, ginger root powdered extract is manufactured the same way as all of those other harder to pronounce root extracts that you heard about, in that it's extracted. The ginger rhizomes actually are dried and milled, and then they're placed into an extraction kettle with water and ethanol. The liquid is concentrated into essential oils, and standardized. And then those essential oils
are mixed with organic astragalus root, and then spray dried, and ground into a powder. And, again, this is a situation where the petitioner had the exact same comment, that their procurement department is always looking for organic forms unspecified, not mentioning any particular material. And an internet search found, of course, that much organic ginger root is being grown, extracted, and even dried, and none of this is -- not necessarily spray dried onto organic astragalus root, but because no acknowledgment is made by the petitioner that these forms are available, and they do not address why they're -- that they're available, but they're not in the form we need them. Because that simple comment isn't even made, we found this petition not to meet evaluation criteria number four. And the vote on that was zero yes, six no, there were no absent, no abstentions. And this being the last of that
group of petitions, I did want to make the
comment that we had hoped that when these
recommendations were posted ahead of the
meeting for public comment, that the
petitioner might have come to us with some
acknowledgment or some additional information.
That did not happen. We view this -- again,
I have said it before, that this whole 606
process is fairly new to us, and there's been
a learning curve on our part on how to deal
with it. And we believe that there's also a
learning curve out there in the organic
community about the way to petition for these,
so we somewhat view the petition process a
little bit as a conversation between the Board
and petitioners, as we come to a process that
we think meets regulatory requirements, and
the needs of the community.

So if there are no more questions
about that, I'm going to move on to the
petition for -

CHAIR DELGADO: Are there any
questions on ginger root? And we have a
question from the Executive Director.

MS. FRANCIS: Actually, more of a
comment, just to affirm also that the Program
sends out letters informing petitioners that
a recommendation has been made, inviting them
to make comment.

CHAIR DELGADO: And that
information includes the actual determination
from the Committee. Correct?

MR. POOLER: This is Bob Pooler,
NOP. The meeting notices went to all
petitioners notifying them that their petition
was going to be considered at this meeting,
and not the actual recommendation was
included, but I would just say information as
to where the recommendation was located on the
website was included within the letter. So
they were notified, and invited to provide
response.

CHAIR DELGADO: Thank you for that.

All right. Any questions on this material?
Okay. Thank you. Back to you.

MEMBER WEISMAN: All right. We're moving on to Pectin, low-methoxy, non-amidated. And I think that that requires a little bit of explanation and background.

Pectin, everyone should be aware, is listed in two places. It is listed in 605(b), where it's currently notated low-methoxy Pectin. And on 606, it's high-methoxy Pectin. And I think at the time that those listings were made, the reason why low-methoxy Pectin was found to be synthetic was because it was what is called "amidated". In other words, it is exposed to ammonia, and a chemical change takes place.

Pectin is a material that is used for texture to gel certain products. They could be dairy products. I know you can't make jam without Pectin. And, in fact, the petitioner is -- for this material is a jam manufacturer.

Now, what they are petitioning is
not a new material. They are actually petitioning for a certain form of low-methoxy Pectin to be reclassified as an agricultural product, so it may be that this did not exist at the time that low-methoxy Pectin was put on the list, or it may have been not adequately understood at the time, but this petitioner is describing the manufacture of a product that is available, that is low-methoxy Pectin, that is not amidated, that is, in fact, manufactured from apple pumice, which is a byproduct of the juice, the apple juice pressing industry.

So in terms of the evaluation criteria, we found that it met the applicable criteria. And, in fact, in terms of the environmental effect, I think that it seemed to us that the use of this material actually had a good effect on the environment, and that it provided a useful outlet for what would otherwise have been a waste stream that would have had to be disposed of.
And we also believe that in terms of the -- actually, subsequent to the -- yes, there has been no organic form of this Pectin available, because up until now, it has been included on -- low-methoxy Pectin is included on 605(b) as a synthetic. It was not reflected in the petition at the time the recommendation was made, but further discussion with the petitioner indicates that this petition is actually a preparation to the introduction and marketing of organic low-methoxy non-amidated Pectin. So they're actually preparing the ground for an organic form of this material to become available.

And I apologize that this information was not available to include in the recommendation. It was not -- it took place at a conversation that happened at a trade show after the close of the publication deadline, but I thought it was important to note. So the recommendation was made for this material to be listed, and the vote at the
time were five yes, zero no, and one absent.

CHAIR DELGADO: Any questions on this material? Steve.

MEMBER DeMURI: In your discussion with the petitioner, is their intention to petition to have it removed as soon as they have an organic form available?

MEMBER WEISMAN: That's an excellent question. I did not ask it. I was -- I guess I was so impressed that they were being proactive to prepare the ground for an organic material to be introduced, that I just did not have my wits about me. But we can find that out.

CHAIR DELGADO: Any other questions on this material? All right. Julie, does that conclude your section on 606?

MEMBER WEISMAN: If everyone is satisfied. Oh, no, no, it doesn't. No, we have one more material. I'm sorry.

CHAIR DELGADO: That's all right.

Lost track there.
MEMBER WEISMAN: I thought you meant on the material. Okay. Yes, we do. We have one more material that's being petitioned, which is Tragacanth Gum, which is what is called an exudite gum. This is being petitioned for inclusion on 606.

It is actually -- at one point, the Program asked us to consider whether this was already included in gums that are already listed on the National List, because they had been included in discussions at the time that gums were originally listed. And it was thought that it might have been an error that Tragacanth was left off the list. But we felt, especially after looking at the quality of the petition, that for good order sake, it made sense to treat it as a new material being petitioned.

And we found that it did meet all the evaluation criteria. In fact, it is -- the production process is identical to other gums that are already listed. What happens is
a cut is made in the bark of the tree, and the secretion hardens, and the chunk is harvested from the trees, and they are dried and ground into a powder. In fact, I think there was a picture up on the screen earlier during the materials presentation of guar gum, which is a relative, or produced in a very similar manner.

In terms of commercial supply being fragile of organic, there was a lot of information given in the petition about the fact that non-organic Tragacanth gum is even difficult to acquire. All the Tragacanth gum produced in the world comes from Iran right now, and neighboring countries. So, first of all, there are trade issues. No one is allowed to import it into the United States at the moment. However, non-organic Tragacanth gum that they currently use is coming from Turkey, and they are working closely with Turkish growers and processors to increase that supply. And they note that organic
agriculture in Turkey is increasing, and that
they feel that they can foresee in the not
distant future that there can be -- they will
be able to secure supply of organic Tragacanth
gum, but it's not currently available.

And in terms of why this would be --
if there are organic substitutes, there are
other gums available, but Tragacanth has some
unique qualities that other gums do not
exhibit, and that's why there is a call for
it.

So we made a motion that Tragacanth
gum is appropriate for listing -- we made a
motion to list Tragacanth gum on 606, and the
vote on that was six yes, zero no, that was a
unanimous vote.

Oh, yes. There is one annotation,
water-extracted only. Gums do get produced in
other ways. This one being petitioned is
water-extracted.

CHAIR DELGADO: Any questions on
this material? Okay. Thank you. Back to
you, Julie.

MEMBER WEISMAN: That concludes the presentation of materials for 606.

CHAIR DELGADO: Good. Can we proceed with the next section then, sunset materials.

MEMBER WEISMAN: Yes. I think on the -- we had a similar situation with some Handling Committee sunset materials that were voted on at the full meeting. You heard the situation described by the Crops Committee this morning, and the same situation existed for a number of materials that were recommended at the full meeting for re-listing on 605(a), which are Agar-Agar, animal enzymes, Calcium Sulfate, Carrageenan and Glucono Delta Lactone. And then also -- well, I'll do A and B separately.

What happened was because there was an additional ANPR for materials that were due to sunset, and the comment -- it was published in December after our meeting, and the comment
period closed in January, so we just need to acknowledge that comments that came in, in that period did not in any way call into question the recommendation that had already been made. So ahead of this meeting, the Handling Committee voted, five yes, one absent, to reaffirm those 605(a) sunset decisions from the full meeting. And the same is true for the material, Cellulose, to be reaffirmed for 605(b). That was also a five yes, and one absent.

CHAIR DELGADO: All right. Any questions on those documents? All right. Let's proceed to the next item.

MEMBER WEISMAN: Okay. Another situation we've been needing to clean up. When the -- in the multi-phase notice for sunset materials, Tartaric Acid should have been included on A and B with the materials that I just mentioned. And, in error, was not included in those ANPRs, and so, therefore, could not be considered at the full meeting.
And so this, I believe, may be our last opportunity to consider them now for sunset. We have two different forms of Tartaric Acid, one is one 605(a), made from grape wine, and one on 605(b) from Malic Acid. I did want to mention one thing regarding sunset, and acknowledge a comment that was made yesterday about the availability of organic -- we heard that there's organic Tartaric Acid available. And what I wanted to say is that this -- the recommendations were made and posted six weeks before this meeting, I believe. And the discussion about Tartaric Acid has been happening for at least two meetings before that, and so what I would like to say is that the petition for the removal of a newly available organic form of a listed material can be made at any time. I think that there was a lot of time when this information came forward, and getting it for the first time yesterday does not really help our process. So I want to
acknowledge that we did -- we appreciate being
informed that Tartaric Acid organic may be
available now. We have absolutely no
opportunity at this meeting to qualify that
statement. Well, I shouldn't say that we have
no opportunity. I suppose -- I think we
certainly have an opportunity to question the
person who made the comment, but I don't -- it
would still require time for us to verify, and
discuss, and talk about, so I would encourage
that if someone has organic Tartaric Acid
available, that it would have been helpful to
know about it at least in the last six weeks,
not just yesterday.

CHAIR DELGADO: Julie, do you plan
to change your recommendation?

MEMBER WEISMAN: I do not, no.

CHAIR DELGADO: Okay. Any
questions?

MEMBER WEISMAN: But I also didn't
finish saying what the recommendation was.

CHAIR DELGADO: Please.
MEMBER WEISMAN: Okay. I'm sorry.

The recommendation was to list, to re-list both on A and B. We did not receive any comments opposing this. And the vote was five yes, and one absent. There was no dissension on the Committee.

CHAIR DELGADO: Go ahead. Madam Secretary, please.

SECRETARY HEINZE: I wanted to add that our review was complicated by the fact that the current listings on the National List do not include the annotations made from grape wine, and made from Tartaric Acid, so we ended up doing quite a bit of research into past actions of Boards. In fact, went back to the 1995 transcripts, where these were originally voted on. And so one thing that we would ask is perhaps the Program could help with a technical correction to add those annotations, to clean it up for future boards.

We have tried to, in our recommendation, include all that history, so
that five years from now when some of us are not here, and they have to be reviewed, we've provided some guidance. But I think a technical correction might be helpful.


MEMBER GIACOMINI: Thank you, Mr. Chairman. On this technical correction issue, Tartaric Acid is not just sort of a two-way street, it's a three-way street. We have the Tartaric Acid on 605(a) from grapes, where we are modifying a natural product. Then there's also the Tartaric Acid that we have on B, which is coming from Malic Acid. Malic Acid, L-malate is on 605(a) coming from a natural source. Not on the National List is DL-malate from a synthetic source being butane.

We've done the best we can going directly to -- the Committee has done the best they can going directly back to the transcripts, but anyone here with any historical memory of whether that was actually
generic malate with no designation that was
reviewed and voted on for B, or whether the
intent was L-malate being the natural source,
and not allowing the petroleum source, any
historical memory of that would -- in public
comment, or some other form, would be
appreciated.

CHAIR DELGADO: Any other comments?

Julie.

MEMBER WEISMAN: I just wanted to
make one correction on the recommendation for
this. At the very, very bottom, I think it
just needs to be corrected that where it --
okay. She fixed it already. Never mind.

CHAIR DELGADO: What was the
correction?

MEMBER WEISMAN: Well, the correct
was the last three words were made from
Tartaric Acid. That's what's in our books,
and that was not -- it should have said made
from Malic Acid.

CHAIR DELGADO: Okay. Any
1 questions? Jeff.

2 VICE CHAIR MOYER: Just a question

3 for you, Julie, and I don't know if you can

4 answer it. Is the reason that there's two

5 listings there, because they're two totally

6 different materials that are used two totally

7 different ways, or was it a convenience for

8 end-user?

9 CHAIR DELGADO: Do you intend to

10 address that question?

11 MEMBER WEISMAN: Katrina is going

12 to address that.

13 CHAIR DELGADO: Katrina.

14 SECRETARY HEINZE: This gets a

15 little bit to the heart of the definition of

16 materials. It is the same material, but its

17 source is different. So something the

18 Material Working Group discussed in quite a

19 bit of detail, is that a material is not just

20 what you have in the glass, but it is what its

21 original source is, and how it was processed

22 to get to that final result.
Tartaric Acid is the poster child for that. Same material, same thing in the glass, two very different sources, one that the original board felt was a non-synthetic source, grape wine, and one that they felt was a synthetic source. Getting to Dan's comment that historical reasons why they felt it was a synthetic source are a little bit lost in history for us. Does that help?

VICE CHAIR MOYER: Well, it does help, but my question was, do we continue to need both materials, given the fact that one is synthetic, or at least listed as synthetic, and the other is a non-synthetic, if they're both -- and the indication of the report was that the majority of what's used out in the world is from the grape juice. Do we, indeed, continue to need the synthetic on the list?

CHAIR DELGADO: Dan.

MEMBER GIACOMINI: I have the same concerns that you do, Jeff. It's my understanding that there's a slightly
different way, and its characteristics and processing, and maybe we'll hear some comment on that later in the day.

VICE CHAIR MOYER: Thank you.

CHAIR DELGADO: Any other questions? Okay. Back to you, Julie.

MEMBER WEISMAN: That now does conclude my presentation.

CHAIR DELGADO: Okay. Well, thank you very much to you and the rest of the Committee members. Well done. And now we have concluded the review of recommendations and materials, and we're due for a break. It is quarter after the hour. We have a comment from Mr. Smillie.

MEMBER SMILLIE: Before you make a ruling, Mr. Chair, I would humbly submit that we don't lose that time. Would it be possible, unlike yesterday, to see who the first commentors are, and see if they would be ready to go.

CHAIR DELGADO: They are ready,
they say. Let me check with our Executive
Director, and this is a proposal about it. I
propose that we start calling people. If
they're here, fine. And if they're not, we'll
keep their name on the list in the order that
they had appeared, and we'll continue calling
them until we reach the agreed time of
initiation of the comment. Will that satisfy
our legal -

MS. FRANCIS: I have a feeling
they're all here.

CHAIR DELGADO: Okay. So we can
proceed.

MS. FRANCIS: It's the poultry
folks.

CHAIR DELGADO: And we have a
comment from the Secretary. Yes, ma'am.

SECRETARY HEINZE: A break before
public comment would be helpful, at least for
me.

CHAIR DELGADO: And well deserved,
absolutely. So it's quarter after the hour.
1 We'll see you here at 3:30 to start with
2 public comment. Thank you.
3 (Whereupon, the above-entitled
4 matter went off the record at 3:14 p.m. and
5 resumed at 3:37 p.m.)
6 CHAIR DELGADO: We have quorum, and
7 we will continue with our next item on the
8 agenda, and that is public comment. We'll
9 start. Do we have Valerie, have we heard from
10 Marty? They have agreed, so the first one up
11 is Marty Mesh, if you'll please proceed to the
12 podium. We're making some updates here. I
13 will remind the presenters to give your full
14 name and affiliation for the record.
15 MR. MESH: Are you guys ready?
16 CHAIR DELGADO: We are ready.
17 Please proceed.
18 MR. MESH: Marty Mesh, and I have
19 a proxy for Rom, who was supposed to speak
20 yesterday on aquaculture. If you can tell me
21 five minutes into one, then I'll know.
22 SECRETARY HEINZE: Okay. So you
I have two separate five minutes.

MR. MESH: Correct. And three, if you want to be really nice.

(Laughter.)

MR. MESH: So for the new person, Dr. Flann, I'm Marty Mesh. I started farming organically in 1972, on the larger scale in '76. Incidentally, Belleview Gardens Organic Farm has produced a small amount of quality organic okra ever since 1976. I have approximately 160 acres, and my partner has several hundred additional acres, but I can circle back to okra in just a minute.

I helped form Florida Organic Growers, and currently serve as Executive Director of FOG, which operates quality certification services at NACA. Additionally, I serve on the boards of the OTA, which none of my comments serve as official position of, the boards of the National Campaign for Sustainable Agriculture, the ACA, and as President of the board of the Southern
Sustainable Ag Working Group, which again may be relevant to your discussion about organic okra.

I want to welcome you to the board, as well as thank all of you for your tremendous time commitments on behalf of the whole organic community for all the NOSB members. I also want to thank the Department for its positive work on a very small budget, and hope with additional resources, which are long overdue and will increase with time, that the issue of funding is no longer the reason for inaction or delayed action by the Department.

While I'm sure I could focus on the positive work done by both the Department and the Board, let me at least touch on a few other concerns. First, to recap the lack of a simple pasture rule seems to be undermining faith in the U.S. National Organic program, and organic products in the marketplace. The community and industry have been in sync for
years, and the continued delay is negatively affecting the growth of organic agriculture, and the health of the industry.

QCS was the first certifier to certify organic shrimp after the USDA Program Director stated in a public workshop for the organic farmers that if one can produce shrimp organically using the rule, then by all means, put a USDA seal on it, and put it out in the market.

People have been producing organic mushrooms without specific standards, organic honey, and so we thought the statement by the Program Manager enabled a new sector of producers to differentiate product in the marketplace.

Producers invested hundreds of thousands of dollars. We, the certifier, made them source organic feed at considerable cost, and then shortly thereafter, because of the controversy surrounding salmon, USDA reversed its opinion, and said to the get seal off all
the seafood, including shrimp, tilapia. And that has caused considerable market disruption, confusion, and organic shrimp producers to go bankrupt, while foreign-produced shrimp and salmon, in some cases far from compliant with the U.S. regulation, but without the U.S. seal, has taken the place on the marketplace shelf.

And now the recommendation is to reward the producers and the certifiers with more market opportunities; this all in the name of refusing our many years ago suggestion to start with the basics, start with the low-hanging fruit, start with shrimp, tilapia, catfish, and build upwards, but to get started. Those several years to build an industry would have, by my calculations, been completed, if we had ever gotten started to begin with.

Shrimp continue to be held hostage to the more controversial complicated, and not easily solved salmon battles, which,
incidentally, once, if and when the feed
issues are wrestled down, net pens can
continue to hold up the simple peaceful
organic shrimp from gaining its rightful place
on a marketplace shelf. And now, adding insult
to injury, it seems that we need to move QCS
off-shore under the current recommendation.

      Now, the critical feedback from the
technical staff, who have much less baggage
than me, and are joyful at the progress being
made from the recommendations, and I can go
into the specifics on wording that they've
said, but you'll have to ask me later on,
because I'm going to run out of time. So let
me skip right to okra. And I'm happy to come
back and answer any questions on specific
wording suggestions on the aquaculture
recommendations. Or, as Tracy asked, on group
certification issues.

      Okra. As I've said, our farm is
certified, has certified organic okra. Okra
grows well in the south. On the petition it
says CCOF was checked with, and on behalf of agriculture outside of California, and yes, it does exist. And certifiers should maybe more on the ground in areas where okra grows well. You know, I have to raise concerns. I didn't see any list of who was called, and I don't believe I'm convinced that the petitioner has tried to find organic okra, where okra likes to grow. I think this petition may need to be voted down at this point.

At Southern SOG we have not received any communication or outreach looking for suppliers of organic okra. And if a fair and equitable contract was offered from companies like General Mills and Campbells, I believe there may be growers interested. There is certainly production, harvesting, and post-harvest challenges with okra. You have to pick it every other day by-hand, make it worth our while -

CHAIR DELGADO: Marty, your time is up. Can you wrap up, please.
MR. MESH: That's the first guy's wrapped up. Man, I'm ahead of schedule. I could have gone back and done the aquaculture one, but all right.

CHAIR DELGADO: Please continue.

MR. MESH: So make it worth our while as growers, and I'm sure there'll be some folks interested.

Let's see. You have to at least have the courtesy to talk to us in the south before putting conventional okra on the list. Liana mentioned Alrussio, a former member of this board, who now heads an effort to get more African American farmers in the South involved growing organically who had the email. Where is this kind of stuff heading? What would be next? Organic frozen okra ready for frying that doesn't contain organic okra? Call it gumbo made with something, call it whatever you want, but don't call it organic okra.

I believe the petitioner has the
corporate resources to find, or to get a facility located where you need to have it located, down south where we love okra, know how to grow it, know all the wonderful ways to prepare it, and where the differences between organic and non-organic production can be clear, so that organic okra that comes from there will not be confused.

Going back to the aquaculture stuff. Let me at least touch on organic seed. We had concerns on the recommendation, but hearing CCRF say that 2 percent of vegetable seeds are organic, and likely other west coast certifiers, if those numbers are consistent or similar for other organizations, we actually support ramping up the -- something needs to be done to make people use organic seed.

The CACC recommendation for Tracy, you'll have to ask me about. Tetracycline I think is off the list now. Methionine, I think I'm supportive of a three-year, not a two-year -- it didn't always -- things don't
always go perfect. In fact, most things don't, and I would be pleasantly surprised if a new variety can be grown and an infrastructure and relationship solidified within the two-year framework. I would think that highly unlikely given reality. So let's go back to fish.

Okay. On 205.208(b) aquatic plants may be grown in open water systems. You know, our comment was, it's not clear what open water system means. Are we talking about growing in public ponds, lakes, oceans? If that's the case, then this may better fall under the wild harvest area, and not farmed aquatic plants. And if wild harvested, then the staff thought that wild fish can't be part of it, but yet you're allowing wild aquatic plants. They thought there was a bit of a disparity among the two. They also were concerned about how one would manage the possible aggregate, cumulative effect of wild harvesting.
Going to the aquaculture one
itself, 205.2, organic certification for
foreign certifiers shouldn't be allowed for
several reasons. They identified the minority
opinion as being one that they support, that
you can't base it on foreign certifiers. As
of today, all the standards are currently
private standards, as Joe mentioned, and some
standards allow terrestrial animal byproducts
to be certified organic, and you're using it
for aquaculture feed.

I think our solution would be to
allow fish meal and fish oil from rendered
fish facilities to be used as a supplement.
Maybe that's a capital S, Supplement, and a
stair-step reduction method has been proposed
by the AWG, or utilize the statutory authority
to make wild caught fish renderings in organic
livestock feed product.

Live foods on D, clarification must
be provided what exactly constitutes live
foods, insects, worms, and are you saying that
they need to be certified organic, too, was
the question from our staff.

Lipids, they had a couple of
technical corrections on your wording on the
lipids one. And that is, feed for aquaculture
products for human consumption may, and they
thought it should say "must", or "shall not"
containing lipids from sources. That may doesn't
give the regulatory assurance of your desire.
Second line, line two, "except that other
lipids from organic sources", and it wasn't
clear whether or not those other lipids could
or couldn't be from terrestrial animals.

All right. So let's just go on.
If you want to know, you'll just have to ask
me. On the whole, they thought the livestock
recommendations had merits, and we're pretty
happy with them. On J -- well, if you want to
know the technical correction, you'll have to
ask.

CHAIR DELGADO: Any questions for
the presenter? Yes, Tina.
MEMBER ELLOR: Marty.

MR. MESH: Yes, Tina.

MEMBER ELLOR: You wouldn't have any specific recommendations for wording on aquaculture, would you?

MR. MESH: Funny you should ask, Tina. On L, where you have fish meal or fish oil may not be sourced, their wording suggestion was must not be sourced, as opposed to may.

CHAIR DELGADO: Any other questions for the presenter?

MR. MESH: Like on grower groups, maybe.

(Laughter.)

CHAIR DELGADO: Tracy, do you have a question?

MEMBER MIEDEMA: Marty, do you have any specific feedback on the document, the guidance document that was posted; for instance, in the area of conflict of interest, or internal control systems?
MR. MESH: Yes. Kudos goes to Tracy for her work, patience and willingness to listen to very divergent opinions on behalf of all this. We do have a paragraph typed out in red, but I think I have to say that our sense is that the grower group dilemma has evolved to group certification, and we really support it being focused to grower groups for now, and getting this one off the table. For those growers that outnumber all the other growers combined in the world, the most disadvantaged, the most at risk growers in the world for being left out of the organic marketplace, and that we really urge you to focus on what the original issue was, which was grower group certification, for now, and leave the other for another day to have a discussion about. And I'll try to -- we're concerned about throwing the baby out with the bath water.

CHAIR DELGADO: Tracy.

MEMBER MIEDEMA: May I ask a
follow-up question?

         MR. MESH: Sure. You can ask all
         you want, until he cuts you off.

         CHAIR DELGADO: Tracy, please.

         MEMBER MIEDEMA: Would you or FOG
         be able to articulate what the benefits are to
         grower groups of not allowing other groups
         that meet the rigorous criteria?

         MR. MESH: You know, Tracy, I think
         sometimes it's the confidence of a label is in
         the marketplace, and the confidence of those
         people supporting a label is in their hearts,
         or in their minds. And that we've all, in the
         organic industry, heard well, show me the
         science, or where's the science behind it?

         You go, we know it's better. Okay? It's in
         our heart, that sometimes some of these things
         may be passion, and that I'm concerned about
         the baby being thrown out with the bath water,
         that grower group certification may be lost if
         this board continues down the road of trying
         to essentially, for lack of a better word,
shove group certification down the consuming public's mind.

I saw how the pasture issues were framed in the press, or on the internet, and you could debate pasture all you want. But what I know is, it hurt the industry.

MEMBER MIEDEMA: Okay.

CHAIR DELGADO: Tracy, comments?

No. Any other comments from the board, questions? Okay. Well, thank you very much, Marty.

MR. MESH: Thank you all.

CHAIR DELGADO: Up next is Chris Pierce, and after Chris we have Dave Martinelli.

MR. MESH: And I wanted to thank Chris for allowing me to go before Methionine.

MR. MARTINELLI: We're actually just going to do this as a group Methionine presentation.

CHAIR DELGADO: Please.

SECRETARY HEINZE: And you are
which folks?

MR. MARTINELLI: I'm Dave Martinelli.

SECRETARY HEINZE: Okay.

MR. MARTINELLI: Coleman Natural, but I'm actually Chair of the Methionine Task Force.

SECRETARY HEINZE: So we have Chris, Dave, David, and David?

MR. PIERCE: That's correct. I am Chris Pierce.

SECRETARY HEINZE: Okay.

CHAIR DELGADO: You're Chris Pierce.

SECRETARY HEINZE: So you're combining your time.

MR. MARTINELLI: We're all members of the Task Force.

SECRETARY HEINZE: Okay.

MR. MARTINELLI: So what I'm going to do -

SECRETARY HEINZE: So you want 20
minutes.

MR. MARTINELLI: Correct.

SECRETARY HEINZE: This is just purely administrative questions on my part.

MR. MARTINELLI: Okay.

MS. FRANCIS: And could you please each walk up to the microphone and introduce yourself and your affiliation.

CHAIR DELGADO: At this point, yes, please.

MR. MARTINELLI: Okay. Dave Martinelli, Coleman Natural.

MR. PIERCE: I'm Chris Pierce with Heritage Poultry Management Services.

MR. WILL: David Will, Chino Valley Ranchers.

MR. BRUCE: David Bruce, Organic Valley.

CHAIR DELGADO: Okay. Thank you.

So who will start?

MR. MARTINELLI: So I will start. I'm going to go through this PowerPoint, and
then I'm going to turn it over to these three to give kind of their background and perspective, and their experience with trials. So what we'll do, there's maybe a 10 or 15-minute PowerPoint, they'll do their thing, and then we can open it up to Q&A.

CHAIR DELGADO: Very good.

MR. MARTINELLI: So just to kind of get everybody up to speed, I think everybody is familiar with the issue. Obviously, Methionine is a necessary nutrient for poultry production. There's some history with the board, twice you've approved a three-year annotation to allow Methionine in organic poultry production. The Task Force, of which I am Chair, has been working on this issue for the last six years, and I want to say thank you for the opportunity to update you. I had a chance to talk to you in November, kind of what the Task Force was all about. And you urged us to submit a petition at that time, so we've gone ahead and submitted the petition
that's before you. And we're active on a
number of fronts developing alternatives, and
that's what I really kind of want to talk
about today.

To give you a little sense of who
the Task Force is, these gentlemen will speak
with respect to their personal experience, but
it's really a volunteer group of organic
poultry producers. We've aligned ourselves
with partners through a variety of
universities. You're going to get a
presentation later today from Dr. Walter
Goldstein, who is not officially a member of
the Task Force, but we've obviously worked
very closely with him. And I'll hit on some
of the projects that we're currently under
development with him. But all these
institutions have helped us in some capacity,
either with literature review, research,
trials, what have you.

I also wanted to kind of frame it
up for everybody in terms of the scope of the
industry that we're talking about. This is kind of an interesting chart that was pulled together from some USDA data over the last 15 years, just kind of showing the growth of the organic ling and industry, and I've got -- the next slide shows a similar trend for the organic broilers, so I don't want to belabor these, but in both cases you see a significant growth in the last five years in this industry.

And the final point that I want to make around the organic poultry industry is that it touches a lot of other producers in this room. It's not strictly eggs and meat, but it's a variety of products that are, in turn, made from eggs and meat. So when we're talking about Methionine, the impact we're talking about is very significant and wide-ranging.

I think the question of the day is really why do organic poultry producers need Methionine, and is it purely a production
crutch, or are there legitimate bird health
and environmental concerns that appropriate
levels of Methionine in the diet ameliorate,
so we've got a number of studies here that I'm
just going to kind of run through them.

I've actually pulled together for
the board's benefit a listing of all the
reports that were cited in this slide show,
and I'll leave it with Valerie. There's a
variety of papers and presentations that came
out of the literature review which we had
conducted about a year ago by some folks at
Cal Poly Pomona.

This was a study from 1997,
Ambrosen and Petersen, indicating that
inadequate protein decreased feather plumage
and cannibalism in laying hens, so actually
that's decreased feather plumage, not
decreased cannibalism. It's actually
cannibalism laying hens, and actually they
kind of go through two scenarios, that if
you've got inadequate protein in the diet, at
a minimum, you're going to get poor feather
condition and feather pecking, in a most
highly evolved state you would have
cannibalism. Next slide, please.

The other big issue, in addition to
bird health, are environmental impacts. One
of the strategies to overcome low Methionine
diets would be to feed an excessive amount of
other proteins in the diet. And this, in
turn, is excreted by the hen typically as
nitrogen, and also creates ammonia emissions,
so there's been studies conducted at Iowa
State that indicate that for the amount of
protein increase that would be needed in the
diet to provide a higher level of Methionine
to the birds, you would have 150 percent
increase in the ammonia generation and
emission.

If you go to the next slide,
there's a series of reports out of Europe that
I'm going to touch on, because they've been
grappling with this issue, as well. This was
from a 2001 workshop that an inadequate supply of amino acids is not simply a production problem. There was a report from Owen in 2000 that feather pecking on each other feathers in search of amino acid is found when Methionine is deficient in the diet, and that obviously creates a bird welfare problem. Next slide, please.

There was an extensive study that I've got a copy of in this document that was done around organic poultry production in Ireland, where they concluded that obviously the prohibition in the EU on adding Methionine was a serious health concern. Again, around the same issues we're talking about, animal health and environmental welfare. And the fact that you've got to then formulate the diets to have excessive levels of protein.

This, again, is from the report out of Ireland, and I think the take-away here is that Dr. Owen Keene from Heritage Poultry Management Services recommends that Methionine
is needed in organic poultry production in
order to maintain the best nutrition and the
health of all the avian species.

This is a report out of Germany in
2004 on the impacts of raising organic poultry
without Methionine. And, again, copy of the
report in here, but their concluding remarks
are that the -- from the animal welfare and
environmental pollution perspective, synthetic
Methionine should be a legal feed component in
organic broiler production.

And then this is our last European
reference. There was a report done by DEFRA
in the UK, and they talk about without
additional organic Methionine rich protein
sources, Methionine deficiencies will become
more pronounced, and more widespread in
organic poultry production, as the level of
permitted non-organic proteinaceous
ingredients in the diet fall. This will
impact on bird health and welfare.

Also, one of the issues that was
pointed out in the Livestock Committee's review of our petition, and it's a great point, is have we looked Heritage breeds? Do Heritage breeds because they're slowing growing genotypes, do they offer an opportunity to avoid supplementing the diet with synthetic Methionine? And there's actually been some work done by Ann Fanatico out of the University of Arkansas. This is pulled from her latest body of work. There was an abstract done in 2006, where she indicates that the slower growing genotypes do not appear to have substantially lower Methionine requirements, which agrees with previous research, and it's consistent with the conversations our Task Forces had with her, as well.

One of the other points raised in the Livestock Committee's recommendation was about a pasture-based system; to the extent that would be able to provide supplemental Methionine to the birds. It's really -- we
kind of grouped it into two categories.

There's insects and earth worms, and there's
grass. And this slide specifically speaks to
the insects and earth worms.

And if you recall from our November
presentation, both insects and earth worms
carry an elevated level of Methionine, but in
and of themselves, especially in the
quantities found in nature, they don't
typically close the gap between what the
Methionine in the diet is, and what the bird's
actual nutritional requirement is.

Dr. Joe Moritz from the University
of West Virginia has also presented to the
Task Force about a year ago, his findings on
pastured poultry, and this is a take-away from
one of his reports, that Methionine
requirements -- he ran a no-Methionine group
of birds as part of his trial. And, again,
it's in the book here. Methionine
requirements of pastured no-Methionine birds
were not completely met by the forage.
And then this is a report out of Canada from the Manitoba Department of Agriculture, specifically talking about grass. And their point is that grass is not easily digestible by poultry, and so it's not as digestible as the typical poultry diet. And there are tremendous environmental benefits to having the birds outside and foraging, but from a nutritional standpoint, from the standpoint of closing the gap on Methionine, grass itself is not the answer either.

So I'm going to switch gears a little bit. We've talked about some of the problems with Methionine deficiencies, but I really also want to talk to you about the work that the Task Force is currently engaged in. And there's three specific alternatives that we're really focused on and getting funding for, and making some progress with.

I don't want to steal Walter's thunder. He's got a great presentation on high Methionine corn. And obviously you
engaged him a little bit earlier in some questions. I do want to point out that the Task Force has funded two projects this winter with the Michael Fields Agricultural Institute, the project in Chile and the project in Hawaii, and that seed is coming back to the U.S. and being used not only for feedstock development, but also for further hybrid development. And the Task Force has also signed up for this year to fund those, the planting of those seeds and the collection of seeds both for the hybrids and for the feedstock development.

And with the feedstock, what the Committee has agreed to do is we have agreed to buy that grain back and run trials with that, so we will get the benefit of his agronomic expertise. Can this corn be grown? And then we, in turn, will buy that feed, and feed it to birds to see what does it do in the diet, or what is the performance of the birds with that in the diet.
We also are very interested in the alternative of naturally produced or naturally fomented Methionine, and we currently have a proposal that's been put in front of us from the University of Arkansas to do a -- it's a study to do some research, a three-phase project around developing a natural source of Methionine. We've also been in contact with a private party who has -- supposedly is further along on this process, that we've asked to submit a proposal for additional research funding, put their project to us. And what we really want to do is get side-by-side proposals, see which group is further along, and then provide some funding to whichever group can get us to go quicker in terms of bringing this to fruition. We're really hopeful, this is a lot of theory in this concept, but I think from an overall efficacy standpoint, this one has a lot of merit. So this is one we're very keen on supporting and funding.
The third area that we're working in, and Dr. Karreman had brought this up in the November NOSB meeting, you all had a presentation from Neptune Industries, specifically around aquaculture at that point, but this is a company that's engaged in a pilot project to do insect meal. And I've had conversations with them. They are very interested in working with us, and we're very interested in working with them. Their time line is a little bit elongated. Originally, I think, at the NOSB meeting, they were talking about being in production in 2008. Now they're talking about maybe a pilot in 2008, but actually not in full-scale production until 2009. I have yet to see actual specs on what the product looks like, so we can get a nutritionist to look at it, see how it would work in the diet, so that's kind of the next step in this process. And then we can start talking about availabilities and pricings. And, obviously, the big thing
for us is to get it on the farm, do some farm
trials, and see how the birds perform with it.

So what we've tried to do here is
kind of indicate to you what -- address the
concerns that were raised by the Livestock
Committee, particularly, the minority opinion.

There is a full body of research that's been
done on this topic. We are going to continue
to do trials. We actually have a number of
trials in the pipeline on a sufficient scale
to be a viable trial, that we can hopefully
get some real meaningful data back on. We can
talk about that when these folks present
behind me.

Clearly, we've cited improved
performance in the petition. It's our
perspective that improved performance is just
the consequence of healthier birds. You're
not going to get better performance if the
birds aren't healthy, and our objective is
around the health and welfare of the birds.

And, lastly, the point I
illustrated earlier about the size of the industry and the impacts. This is just too important an issue to let go. There's a great concern out there by producers that they simply won't be able to raise organic poultry come the fall if we don't have an additional extension. And the ramifications and repercussions of that go well beyond just the poultry industry, it's really the entire industry that will be impacted.

One of the things that I don't think the Task Force has done a very good job with is communicating back with you folks. You've had a commitment to us to give us additional periods of time to get some work done, and we've kind of dropped the ball in terms of communicating back to you what we are doing. So I think the November meeting was kind of the first step in that. Hey, here's letting you know how your commitment of time is playing out, and our commitment of research and development. So one of the things we
wanted to leave you with is a time line that we've developed around actionable goals, specific trials that we're looking at running, when we're going to get those trials started. We still need to get turkey trials going. We need to get the turkey community kind of involved in this, as well. We've got specific due dates and actionable items for high Methionine corn, for the natural Methionine and for the insect meal. Next slide, Valerie.

I think the most important thing is at the bottom here, that it's our goal to provide regular updates to you all over the next 24 months at your meeting, if we can get a 5-minute slot, or 10-minute slot to say here's where we are, here's the projects we're working on, here's what we're finding out good or bad, here's the progress we're making on research and development. And we'll get Dr. Goldstein to present, as well. But I do want to keep that dialogue open and keep it going during an extension period so you're not left
in the dark wondering what the heck the Committee is up to, and what we're doing. So we'll pledge that to you, that we will keep that line of communication open.

I do want to give these folks a chance to introduce themselves and talk a little bit about their backgrounds, specifically around Methionine. We also have -- I do want to acknowledge, we have a number of producers in the room, as well, folks that we deal with on the East Coast. They're a little bit reluctant to come up here and actually do a full-blown presentation, but I do want to acknowledge the fact that they're here, and they're, again, very interested in this issue.

SECRETARY HEINZE: I'm just telling you, you've got five minutes.

MR. WILL: My name is David Will. I'm with Chino Valley Ranchers, and we're organic egg producers in California. We have actually been working with the Methionine Task
Force for about the last two years, and one of the things we've noticed is that the trial data on layers is very small to lacking, so our company has committed with help of the Task Force. We actually on May 14th set 22,000 layers of which 11,000 will be grown under our normal management program, and 11,000 will be grown with no added Methionine to their diet for the next 100 weeks, or as long as we can without seriously impacting the bird health.

We will be providing regular updates, both visual performance and health updates through the Methionine Task Force. And we'd like to invite any of you, if you're in southern California, we'd be more than happy to bring you out. You can take a look at the birds side-by-side. They will be in sister houses. We anticipate that they will be moved to lay sometime in early October, and have some sort of significant egg production numbers or comparisons some time in mid-December. So we hope to alleviate the
concerns that there hasn't been a full-scale trial with this program.

MR. BRUCE: My name is David Bruce, and contrary to popular opinion, you don't have to be named David to be part of the Task Force. The last time I testified to the NOSB was about outdoor access, 15 years ago when we were just starting the egg program in Organic Valley. Today, the co-op is now over 1,400 members strong. The egg program itself is 87 members in four states, primarily Midwest and here on the East Coast.

And I'm also representing the Poultry and Turkey Production for Organic Valley. So, obviously, our producers have a very strong interest in continuing the allowed use for at least another two, hopefully another three years.

We've been active for the last five to six years pursuing the whole list of alternatives, working closely with universities. We've done three different sets
of fairly small-scale trials, but one with a 
rice brand derivative, one with a potato 
protein, and then working very closely with 
Dr. Walter Goldstein on his high Methionine 
corn ones. And we're going to be continuing 
to do that this coming summer. Those have 
been fairly small-scale trials because of the 
amount of seed that's available, but we've 
been working with Dr. Goldstein and the 
University of Minnesota on that.

We actually talked to them about 
doing a small-scale trial with no Methionine 
in the ration whatsoever, and they were 
concerned about being able to get that through 
the administration because of the welfare 
issues, and the wellness of the birds involved 
in that study.

We are -- also, I'm the primary 
contact in contact with the private party who 
I don't think would mind being mentioned, is 
Dr. Joe Ward. He's on the Iowa State Organic 
Board and he works for a private feed company.
He's developed a bacterial method to do alternatives in Methionine. He's now entered commercial-scale production trials of that, and that will be the next stage, to see whether he can really bring that to market. He's very confident that at some point he'll be able to, so we're each keeping it brief so that we have time for a strong dialogue, so thank you.

CHAIR DELGADO: Thanks.

MR. PIERCE: Good afternoon. My name is Chris Pierce. I'm with Heritage Poultry Management Services. We're East Coast, we're in Pennsylvania. We are a management consulting company that we have a full-time poultry nutritionist on staff. That's Dr. Owen Keene. He finished graduate school at the University of Maryland in nutrition in 1955, and Dr. Keene's is around 72 years old, and he's still going strong. And he's made comment to you as board two times during the last seven years as this
issue has come up.

And from our standpoint, as we work with poultry, our first organic flock was in 1997. So as you remember that chart, as we look at where we were in `97 and move to 2007, we see a dramatic increase in the demand. But we are committed to be part of the Methionine Task Force, as we are only a small representation of many producers around the country that are trying to put the funds, the resources together from our own companies towards providing you the research. And from my behalf, we do not take this issue very lightly. We are committed, I think as you've seen in David's presentation, that we are very committed to serving and providing the answers to the questions you may have.

MR. MARTINELLI: So we'll stop there. And, obviously, if there's Q&A, I'd like these folks maybe to come up, and to the extent there's questions, engage -

CHAIR DELGADO: Okay. Questions?
Gerry.

MEMBER DAVIS: One slide you put up on insects and earth worms mentioned Methionine content was not exactly what you need from them, but then you went to mention the Neptune Industries. Are they selecting certain insects that are different than that?

MR. MARTINELLI: I don't know the exact answer. I suspect it's one of concentration, that in a natural environment the concentration of insects is not going to be anything like the concentration in a meal product, where it's going to be a higher percentage of their diet.

MEMBER DAVIS: So that slide didn't necessarily say the insect by weight is the wrong component of Methionine. It's just the ability to get enough insects, is the problem.

MR. MARTINELLI: Yes. I don't have it with me. There's a chart -- I mean, insects are probably three times the level of the more typical ingredients you'd find in
feed from a Methionine standpoint. But they're a fraction of what the benefit you get from a full Methionine supplementation is. So the idea is, in a normal diet, as a small percentage of the diet in a free ranging environment, you're not going to pick up enough earth worms or insects to make a difference. But if it's feed additive, you probably could make -- it, in theory, could make a difference. We really need to see the nutritional profile to know.

MR. BRUCE: I would just add that that's just one element that shows promise. Again, there's going to be issues like feeding fish meal at a certain level, you're going to have offsets in flavor and that kind of thing, so it's about a diversified source.

CHAIR DELGADO: Katrina, followed by Kevin.

SECRETARY HEINZE: We're back to Katrina's simple questions, don't know a lot about chickens. But I want to ask a question
about the insects and earthworms, as well.

Again, this is a consumer perspective. I'm a
city girl, but my parents retired on a farm,
and my mom has ten, so again, it's not the
same amount, hens. And they go out in the
grass, they go out in the snow in the winter.
She gives them corn, eggs are fine, chickens
are fine. So what are the hurdles to be able
to do that on a production scale?

MR. MARTINELLI: I guess I'm not
really familiar with what -- how many she's
raising, or what she's trying to do. I'm not
familiar enough with that operation to really
tell you.

SECRETARY HEINZE: Okay. Well,

don't worry about my mom's.

MR. MARTINELLI: Okay.

SECRETARY HEINZE: For a long time,
people raised chickens, and they raised them
without Methionine.

MR. MARTINELLI: Right.

SECRETARY HEINZE: And people had
eggs.

MR. MARTINELLI: Sure.

SECRETARY HEINZE: And it worked, so why doesn't it work now?

MR. MARTINELLI: We went back -- as part of our petition, actually, there's -- we pulled feed rations from the 1940s and 50s. And, I mean, the typical additive in feed rations were either table scraps, or some sort of meat meal or bone meal. I mean, in virtually all the diets you look at, that's what you'll find. So there's some way of getting that protein to the birds in the form of a meat byproduct, which is relatively rich in Methionine, and that's the compensating difference.

MR. PIERCE: Can I just add to that? Dr. Keene, who I mentioned earlier, talks about the good old days, the 50s, and 40s when he grew up, and he talked about how the mortality was significantly higher. The life standard and the quality of the bird's
life was much more difficult because of those
elements with feathering and with mortality.
So as we see mortality -- maybe that's not an
answer. The consumer wants to know the
chickens are going to kill each other, so
that's something that's important to the
chicken, so the quality of life is much
different in the 50s than it is today in
regard to the chickens that are surviving.

CHAIR DELGADO: Follow-up question.

SECRETARY HEINZE: And, again, I'm
sure I'm seeing this from a very simplified
version. The only thing killing my mom's
chickens is the fox. They're not killing each
other. I don't think she's feeding them meat.
So it is -- I think from a consumer
perspective, there's an optics thing. Right?
That I can go -- big thing in Minneapolis is
the neighborhood chicken. Everyone is getting
chickens now that they can put in their
backyards, and let them run around in the
grass, so I think it's an optics thing. But
it's hard for consumers to understand, and it
gets complicated by pasture for cows. So
maybe some help understanding that.

MR. MARTINELLI: Yes. I don't know
that we can answer a consumer perception
question. I mean, that's not really -- I
mean, we're more from a nutritional standpoint
looking at NRC values, looking at our history
in poultry production, and we've actually got
speakers following us that actually can speak
very specifically to the science behind it.
I cannot. So, I mean, we can address those
issues, but consumer perception and optics is
kind of out of my league.

MR. BRUCE: Can I just add one
brief amendment to that, and that is that --
to reiterate that Heritage breeds don't have
different Methionine needs. But one of the
ways that that's been approached in Europe is
to have -- it's a density issue, and it's to
have much smaller flocks, and be able to move
the flocks around so they have a much greater
outdoor area. But what they found even in those flocks is without supplementation there's feathering problems, and picking, and the feathering scores of those birds are fairly poor.

CHAIR DELGADO: All right. Kevin, followed by Tracy.

MEMBER ENGELBERT: You've touched on one of the questions that I had for you, but I'd like you to elaborate farther. Before the advent of synthetic Methionine, how were the needs of these birds met? And my second question is, any of these trials that you reference where the grass and these other materials or substances weren't meeting the Methionine needs of the birds, were they ever fed synthetic Methionine as chicks, and then taken off it and put into these trials? Do you know that, because they could develop a dependency on the synthetic, and then when you put them out on a trial and say well, this doesn't work, that could be the reason.
MR. PIERCE: I was going to say I now it was, you could share part of it, but from a diet standpoint, I know fish oil, fish meal, crab meal was an important part of the diet pre-synthetic Methionine to try to elevate those levels. And I know some of those products, of course, are not available at this point to us, so maybe you want to add to that.

MR. MARTINELLI: Again, that's covered in the petition about the diets from 40, 50 years ago. I don't know the answer to your question about whether the chicks were fed synthetic Methionine. We've got the report here. We can flip through it at the break or something and look. I mean, it's a great question. I just don't know.

CHAIR DELGADO: Tracy.

MEMBER MIEDEMA: Valerie, can you pull up the slide that shows the quarter-by-quarter projects. My question is for our Livestock Chair, and maybe for you all to
chime in on.

I heard earlier that the reason we put the, or were suggesting the two-year expiration is to try to light a fire under the development of non-synthetic Methionine. And the indications I'm getting is that there's a lot of irons in the fire out there, and so I'm wondering, at the two-year point, where we're going to be, and whether that's adequate.

CHAIR DELGADO: Hugh, would you like to respond?

DR. KARREMAN: I don't know where we're going to be, but they have a good time line up there for doing a lot of trials, and poultry trials don't take as long, usually, as some of the other large livestock, so that's helpful. The original petition is to take the expiration date off indefinitely. Right? If we did that, would you be doing this?

MR. MARTINELLI: It would still be subject to the five-year sunset.

DR. KARREMAN: No. There's
something weird about that, I think, isn't there?

MR. MARTINELLI: That wasn't our intent, so if it's weird, we didn't mean to be weird.

CHAIR DELGADO: He has a clarification. Dan.

DR. KARREMAN: I do have some questions about that whole thing, but is this two-year time line kind of because of our secondary recommendation here?

MR. MARTINELLI: In part. I mean, I am sincere. I mean, I think part of the problem is we haven't had a strong time line, and we certainly haven't communicated it to you guys. And, I mean, if you're going to give us any time, we need to tell you what we're going to do in that time, not just hey, we're going to work really hard.

DR. KARREMAN: Right.

MR. MARTINELLI: So I echo what Dr. Goldstein said earlier, that two years is a
bit of a rush. I mean, frankly, it's a bit of a rush. We will do the things we're committed to do up there, but I can't look you in the eye and say yes, and we will have an answer.

DR. KARREMAN: Right. Right. No, I understand that part. I just -- this is the second extension on Methionine. Y'all know that, or third, whatever it is. But we just want to -- I guess, we just don't want to keep having this discussion every two to three years. I remember in 2001 when the meeting was at the USDA building there was someone really needing Methionine, and now it's 2008. So, I guess, we just -- we want to make sure that this isn't just an ongoing thing, and that's why we're asking about alternatives and all that.

And, actually, my question, if I may is, what's the typical ration of layers, typical ration that you're feeding with each new batch of layers you get in?

MR. WILL: Depending on the age of
the bird, but our typical ration is the majority of it is an organic corn, limestone, alfalfa, natural salt, and soy. And then on a per ton basis, it's around 4 pounds per ton of Methionine.

DR. KARREMAN: That's pretty standard around?

MR. BRUCE: It's fairly standard, although I would just add to that by saying that our producers are really experimenting with a wide variety of things, field peas, wheat, barley, everything that they could think of because of the current livestock feed situation.

MEMBER HALL: Just wondering, though. I mean, if organics is to promote the natural behavior of the livestock species, I mean, poultry are not herbivores. I mentioned that earlier this morning, I think, and I think we'd like to get to that point. It's like the whole pasture discussion is because ruminants are herbivores, and they need to be
out there and whatnot. Well, poultry, it's a little bit the other way, so we want to see that -- I guess the Livestock Committee wants to see that come in. I'm glad to hear there's variety, but it's still all plant-based, and I guess we want to start seeing some more access to the outdoors, and perhaps some of what Katrina was getting at, incorporated. Not maybe basing all the Methionine on that, but not denying them that particular input as a Livestock Committee, and as a Board, perhaps.

MR. MARTINELLI: Am I hearing you right that it's -- so like the insect meal, earth worm meal, that kind of stuff is the direction you're going?

DR. KARREMAN: Well, I always like to call things when I give talks to farmers or vets, a multi-prong approach, not just reliance on the same inputs, like the ration that I just asked you about. So yes, you know, have a variety.
MR. BRUCE: I couldn't agree with you more, but we, nonetheless, have to address the issue right now. I'd encourage the NOSB to take up the issue of further defining outdoor access for poultry, but, nonetheless, we're on a long time line I'm sure with that, too.

CHAIR DELGADO: Our Director has a point to make. Please.

MS. FRANCIS: I just wanted to remind the Board why they were concerned about moving this material to a traditional sunset rule versus keeping the expiration date, and that the sunset rule puts more of the burden on you to be soliciting whether or not this is still needed. And keeping it on the list, rather than putting the burden on the industry to prove that they still need it.

CHAIR DELGADO: Thank you for that.

Dan, you had another similar comment? No. Okay. Jeff. Hugh, are you done?

DR. KARREMAN: Yes.
CHAIR DELGADO: Okay. Do you have a similar comment on that, or question? I have Jeff here.

SECRETARY HEINZE: Jeff can go first.

CHAIR DELGADO: Jeff, proceed, please.

VICE CHAIR MOYER: Thank you, Mr. Chairman. You mentioned in the beginning of your conversation that, and your points that you had some growers in the room. And I appreciate their reluctance maybe to come to the podium, but I would like to invite them to come up and give their name, something about their farm, briefly where they're from, just so we have some indication of who is here representing the poultry industry.

SECRETARY HEINZE: As you do this, please go very slowly. I'm going to have to write you all down.

MS. MITCHELL: Susan Mitchell. I'm from Lancaster County, and we have been
growing organic chickens broilers for three years.

VICE CHAIR MOYER: Are we allowed to ask questions or not?

CHAIR DELGADO: Yes, we are. Why don't we allow them to present themselves, and then we'll have questions for them.

MR. ZIMMERMAN: Earl Ray Zimmerman. I live in Lancaster County, I'm growing organic broilers for four years. I'd like to comment a little on grandma's backyard chickens. Big issue is phosphorous for the Chesapeake Bay.

CHAIR DELGADO: Excuse me. Katrina, you had a question.

SECRETARY HEINZE: Before you do that, can you spell your last name.

MR. ZIMMERMAN: Z-I-M-M-E-R-M-A-N. If we'd all have 50 chickens in our backyard, think how your backyard would look eventually.

CHAIR DELGADO: Okay. Thank you for that. Comment, next?
MR. MARTIN: Dennis Martin from Lancaster County, Pennsylvania. I've been growing organic broilers for just about two years now.

CHAIR DELGADO: Okay.

MR. STUMP: Lavere Stump from Adams County. I've been raising, I put up poultry barns a year and a half ago.

CHAIR DELGADO: Can you come back?

SECRETARY HEINZE: Spelling, again.

CHAIR DELGADO: Spell your name, please.

MR. STUMP: My first or last?

SECRETARY HEINZE: Both.


SECRETARY HEINZE: Thank you.

MR. KING: Matthew King, farm is in Chester County. And we actually have our first organic flock in the houses currently. We've been raising chickens, I'd be the second generation, broiler operation at this time.
or 15 years.

MR. RANK: My name is Ryan Rank. I'm the Grow-Out Manager with BC Natural Chicken. I'm not an actual farmer, but I'm here with the farmers today. We have many family farms represented with our operation where we grow organic birds. So I just wanted to give a general outlook on who we brought with us here today.

CHAIR DELGADO: All right. Thank you.

MR. FRAN: My name is Tom Fran. I'm from the southern California, work for MCM Poultry, and I have a Bachelor of Science in Poultry from Cal Poly St. Luis, and 34 consecutive years in the layer industry.

CHAIR DELGADO: Okay. Thank you. Any questions, follow-up questions -- one more? Several more. Please.

MS. MILLER: Hi. I'm Denise Miller with Dennis L. Miller farm. We've been growing organic chickens for almost a year.
We're from Hamburg, Pennsylvania, Berks County.

CHAIR DELGADO: Okay.

MR. SMELTER: My name is Steve Smelter, and I work for Kramer Feed, Incorporated in Kramer, Pennsylvania. We are a certified organic feed mill, and we make feeds for organic layers, organic broilers, organic turkeys. And we sell feed both to ourselves for our integrated growing program, and we sell to independent growers for the most part up and down the east coast from Maine to Florida. I work in the retail division, and have the experience, sometimes quite strange experience of dealing with the backyard grower like your mother. I'll come off the phone with a grower who has five chickens, and then I'll talk to some of our large independent retail customers who have 30 or 60,000 layers, so kind of gives us a unique perspective. But we've been doing this for 15 years now, so thank you.
SECRETARY HEINZE: Can you spell your last name?

MR. SMELTER: Smelter, S-M-E-L-T-E-R.

SECRETARY HEINZE: Thank you.

CHAIR DELGADO: Anyone else? Okay.

VICE CHAIR MOYER: I want to say thank you. I appreciate you coming up and giving us that information. It really does put a face on the industry for us. And now, I guess, it's up to you, whether the Board can ask questions.

CHAIR DELGADO: Absolutely. Are there any questions for our group of producers, and also members of the Methionine board?

DR. KARREMAN: I'm glad Lancaster County and Chester County is well represented here. Glad it wasn't a far drive.

I'm just wondering what -- I was hoping to hear what kind of size bird houses you have, and how much of your land is
certified organic with the farm that you have.

MR. STUMP: I've got, what is it, 88,000—no, I started 96,000 birds. I have four houses, and they do have access area on organic rye grass. They can go out and they have windows for natural light. And so yes, we're trying to raise the most healthy bird that we can.

SECRETARY HEINZE: Did you say your name?

MR. STUMP: Lavere Stump.

DR. KARREMAN: You don't have to all go through that, unless you want to.

MR. RANK: I can kind of speak for the group a little bit. We have various farms.

SECRETARY HEINZE: And your name?

MR. RANK: I'm Ryan Rank with PC Natural Chicken, Coleman Natural Foods. We have a variety of farm sizes, anywhere from small houses to a few thousands birds, up to large farms, which Mr. Stump just shared here.
Just give you kind of an overview of what we do.

CHAIR DELGADO: Okay. Any other questions from the Board? Dan, then Hugh.

MEMBER GIACOMINI: I'd like to go back to the Task Force on a couple of issues. I have a couple of different questions, if I can. You indicated that in your typical diet, you have about .2 percent Methionine inclusion rate. What percent of the Methionine that you're feeding is coming from synthetic Methionine?

MR. WILL: That is our added rate. There's a little bit in the feed that is on top of that. But we add about four pounds of synthetic Methionine to our ration.

MEMBER GIACOMINI: So then almost all of -- are you saying then -- I mean, you're not saying all the Methionine. I mean, there's Methionine coming from other feeds.

MR. WILL: Correct.

MEMBER GIACOMINI: What percentage
of the Methionine in the diet is synthetic?

MR. WILL: About two-thirds.

MEMBER GIACOMINI: Okay. Valerie, could you go to the, I believe it was a pasture slide on the Mortiz study. I guess I partly take exception to a statement you made, that just in a general sense, faster growing birds are healthier birds. That's kind of like saying the fastest growing birds, or anything that's not growing the fastest is not as healthy as something growing faster. We know in a general sense that slightly under-feeding is the healthiest animal in a species, so I take exception to that.

And in this study, it's looking what a -- stating a deficiency in Methionine. Is this based on the production level of the birds in the study, or based on a preferred growth level that they wanted to achieve? Were the birds out-performing their Methionine intake, or was it just less than what they would have liked to see the birds perform?
Because Methionine requirement is directly tied to the production level that you're trying to assume, and the production level comes down when the production level comes down, and I'm going to come back, again, as I started this question, disagree with your statement that the healthiest birds in the house are necessarily the fastest growing ones.

MR. MARTINELLI: Well, I would disagree with my own statement. If that's what I said, it's not what I meant. The point is that the slow growing genotypes don't necessarily have any different Methionine demand than the faster growing birds. And what I meant to say was that the birds, healthy birds are typically higher performing birds. So yes, you will see an incidence of higher performance out of birds that are given supplemental Methionine, but it's our belief that it's because the birds are healthier.

CHAIR DELGADO: Hugh, followed by
Kevin.

DR. KARREMAN: Last autumn, was it last autumn, Tina? Tina and I were shown a couple of poultry houses in our area, and I was glad to get those tours, and learn a lot from that. One thing I was a little worried about, when one of the owners was there, I just said well, how big is your farm? And he said, 88 acres or whatever it is. I said, certified. Right? No. It wasn't, and it really was kind of shocking that these two poultry houses were on not certified land. So that would -- I think in agriculture, and especially organic agriculture, you've got to have a tie between the animals and the land. That's the way it's always been, and that's what we try to do in organics, I believe.

I'm not saying all the time out there or anything, but I was like well, how are those poultry birds going to be getting their outdoor access as it is in 239(a), I think? It's a little bit -- it was
troublesome. Do most of -- I'll just leave it
at that. Just wanted to make a statement.

CHAIR DELGADO: Okay. Kevin.

MEMBER ENGELBERT: I'd like to get
back to the point of healthy birds and their
productivity, and how you measure that. I
mean, are you looking at mortality rates, or
what do you use to judge -- what criteria are
you using to make that statement?

MR. MARTINELLI: Well, the criteria
we looked at, the measurable things we could
observe were mortalities, egg size, rate of
lay, bird weight, feed conversion, all those
sort of things, a variety of metrics depending
upon the bird. Obviously, there's also
observation that goes into it, too. And our
field people could tell if we have birds that
we either withheld methionine or gave them
less than the targeted amount of methionine,
they will tell you they can just look at the
birds and tell which group was the low-
methionine and no-methionine group.
MR. WILL: I just want to add to this. We actually had an opportunity to walk into poultry houses in first-time producers about a month and a half ago, right after the OTA, and these birds were about 40 weeks old, and when we walked in, they were completely featherless from the backs of their necks to the vents. There were no feathers on the ground. They had been picked clean, because when we looked at the ration, these birds were low in methionine. It was about 15 percent low in the ration of methionine consisting based in their ration. Their production was excellent, but their health and general well-being, the mortality was just starting to shoot through the roof. They picked all the feathers off. And we actually just in that house for a short amount of time, actually saw cannibalism happening because those birds were having nutritional challenges.

CHAIR DELGADO: Kevin.

MEMBER ENGELBERT: Would the
concentration of birds in that house have any impact on that? And did they have any access to the outdoors?

MR. WILL: They had -- they were a cage-free flock, so they did not have access to the outdoors. However, they were not solid walls, so they did have the environment interacting with them. And their density was at or above industry-accepted standard.

CHAIR DELGADO: Any other questions? Dan.

MEMBER GIACOMINI: When we're looking at a compound that's supplying two-thirds of your requirement needs, I don't have a chance to go through an exhaustive search, but I just have -- as a nutritionist, I have a database for amino acids on my laptop here, and over the last couple of days, I've run a number of feeds.

Even if we look at one of the more enhanced versions of corn for Methionine being a corn gluten meal, you'd have to look at like
a 200 time increase over conventional to get anywhere close to the amount of Methionine that you'd be supplying.

I'm trying to understand how -- that doesn't seem like it's going to be -- I mean, it's going to help, but are you really sincerely coming to us and telling us that you think that in three to five years, between corn -- I mean, you're going to have to have exclusive processing centers, you're going to have to have supply chains that will just be incredible to manage, insects, a little bit of fish meal, worms, or are just going -- or are you going to come back, and are we going to need Methionine forever to meet the production levels that you really want with the health that you're claiming that you need.

MR. MARTINELLI: That's an extremely fair and legitimate question. For boilers, when we looked at the diets, you get really close with corn gluten meal, which is not approved for organic production, but which
you cited, and high-methionine corn. I mean, you get really close. And I guess my perspective would be, I'd like to try that diet and see what sort of -- see how the birds look, see what sort of results we get. But I think your question is great, because it really illustrates -- I know there's a lot of frustration around gosh, you've had three years, you had another three years, you guys aren't doing anything. And I don't -- it's not that we're not doing anything, it's we've got a tall order. I mean, what you're describing is the crux of the problem. This ain't easy, and it's -- we will do everything we possibly can, but I can't deliver you a two-years from now, 36 months from now we'll have the solution.

MEMBER GIACOMINI: Well, I think the crux of that problem is, on our side, at least on my side, is very close to an absolute commitment seeming to be on your part of wanting to maintain conventional growth rates.
And there doesn't -- I'm not hearing a great acceptance to well, we can come back 10 percent and we'll be able to do there, we'll be able to do this, we'll be able to go so many days longer, and this will make it work. I'm just hearing chickens are going to be killing each other if we don't keep our Methionine.

I don't -- as a nutritionist, I hope you keep trying, but I'm not really optimistic on any of these for you. So, granted I'm a ruminant nutritionist, not a poultry, but I still know nutrition.

Are you going to reach the point where if it -- I mean, we're just going to have to live with a lower performance level, production level?

MR. MARTINELLI: Yes. And I guess I want to go back. I mean, you're completely right. I mean, this is much more your realm than mine. Closing the gap. So, I mean, if we can get these alternatives in the system,
and we can close the gap, then if we get results that are close, yes, we can live with that. But right now you're talking about a wide gap that creates bird health issues, creates environmental issues.

The thinking would be if we could get some of these alternatives in place and get the gap to where at least we're not dealing with bird health issues, we're not dealing with environmental issues. You're maybe dealing with a loss of production, but you have to just manage your way through that.

CHAIR DELGADO: Hugh, followed by Tracy.

DR. KARREMAN: Just taking that into account, let's say in a few years you're using the alternatives, and gee whiz, you still need a little bit of methionine even for a reduced level of production, which is our problem right now, is just trying to keep production. I'd like to ask the Program, is it ever possible to say okay, synthetic
methionine, which is only for poultry, we're not allowing it for pet food, or fish, or nothing else. It's just poultry. If that can be at a smidge, a fraction of what you're doing now, if that would be allowable. Can we say that, because it is a vitamin or essential nutrient, but it's only for poultry. I was wondering, could we have an annotation on that? Let's say come up in three years or two years, whatever, if this happens again, or maybe work on that now. Just say you can have it at whatever, like 15 percent of the level you have it now, so that you are forced to use some other inputs and have a diverse diet.

CHAIR DELGADO: So you're proposing a scaled down -

DR. KARREMAN: Not a total phase-out, necessarily. I'm just saying is that an option of bringing it down, stepping it down so then the alternatives have an incentive to step up. That's what we're dealing with, fish oil, fish meal from the symposium. We were
talking about a phase-out, so then the people
with the new products for fish oil, fish meal
will have stimulus to go up, because they know
you're coming down. Is that legal, being an
essential nutrient, well, because you're
supposed to balance the rations, vitamins,
minerals, and all that.

CHAIR DELGADO: Can a member of the
Program address that point?

DR. KARREMAN: An annotation to
have a certain amount, no more.

MR. POOLER: This is Bob Pooler,
NOP. We're going to have to take a look at
that and get back to you on it.

CHAIR DELGADO: Okay. Thank you.

But that's an option that probably the
Committee should consider. Kevin.

MEMBER ENGELBERT: There's a
nutritional supplement company in Pennsylvania
that I'm sure you're familiar with that offers
a poultry nutri-balance or supplement without
methionine. Can you give any opinion on that?
MR. PIERCE: Yes. Kevin, I'm not familiar with -- I'm familiar with the company I think you're talking about, but I'm not familiar with that product, but we can include that in the Methionine Task Force information.

MR. SMELTER: That product was developed by Dr. Jack Robinette to -- was a colleague of mine going back to 1980 when I started in the feed industry. Jack had a great understanding of all species, one of the few nutritionists, I think, who could excel in all those fields, and he's up there in his elder age right now, but he's still providing information to specific companies.

The nutri-balancer comes two ways. It comes with Methionine, and without methionine. And Jeff is not here from that company to speak for it, but originally his company, Fortrell, provided feed supplements to the "natural grower" before the organic program existed. When organics came, they modified some of their pre-mixes.
The pre-mix with methionine is chosen by people who wish to use it in their birds, some of them wish to use the one without methionine. Some of those are natural growers who will use some other ingredients that the organic program is not allowed to use, so Fortrell has always had the natural people, many of whom use fish, some might even use meat and bone. Meat and bone hasn't been mentioned, but historically in the 40s and 50s that was the main carrier of methionine into these poultry rations, was tankage, whey, things that we call slaughter byproducts, which are not allowed in organic production today. So they do have both, and their pre-mix without methionine would just be the necessary vitamins and trace minerals, macro and micro minerals that the bird would need. So there would be a difference in how the birds would be able to survive and perform.

MEMBER ENGELBERT: They make the claim that they have replaced the methionine
with acceptable ingredients, one of which is kelp meal. Do you know what the methionine levels of that ration might be? And have you, or any of your growers used this product to compare the results?

MR. SMELTER: Well, as one of their chief competitors, I've looked at it very closely, and they would use that product to grow all types of poultry, with some minor modifications. For instance, for layers, they would bring in some added calcium from limestone or oyster shell to supplement that out. I'm sorry. Oh, the kelp meal.

I know that Jeff has experimented with recommending his organic growers to use fish meal and crab meal, which is allowed under organic rules, as long as the preservative is okay. And he gets good results, and he has -- in those recommendations with no methionine, he'll use have a fish and a crab recommendation. Kelp is a great natural vitamin and trace mineral
source, but not a source of methionine, of any
significance, other than the tiny amount of
sea life, animal life that might be in it,
which is very negligible, and not really
claimed.

CHAIR DELGADO: I understand that
Richard Matthews has a statement that might
add to the previous question that you had.

MR. SMELTER: My name is Steven
Smelter.

MR. MATTHEWS: Richard Matthews.
Hugh, I'm going to go out on a limb, and
remind the board that in Section 205.602 for
sodium nitrate, that there already is a cap on
the amount of sodium nitrate that can be used
to meet the nitrogen needs, so why not in
livestock production, as well? So if you
wanted to say that synthetic methionine is
capped at a certain level, you can surely
propose that.

CHAIR DELGADO: Thank you.

MR. MATTHEWS: Granted, I'm talking
-- you know, it's already been done for a
natural which is restricted, but there's no
reason why you can't also restrict the
synthetic that you allow.

CHAIR DELGADO: Thank you for that
comment. Gerry, you wanted to comment on
that.

MEMBER DAVIS: That's a major
difference. That's a prohibited natural
that's restricted to that amount. It's not
synthetic.

CHAIR DELGADO: Hugh.

DR. KARREMAN: It's still on the
list.

MEMBER DAVIS: It's a similar
precedent, but it's synthetic versus natural.

DR. KARREMAN: Yes, but we're also
talking living creatures.

CHAIR DELGADO: Very well. So,
again, this is an option that the Committee
might consider, and explore that further.

Yes, Dan. You can a comment.
MEMBER GIACOMINI: Kind of another question. Well, first of all, let me say as far as the things -- I think the biggest help that I would see is in the fermentation products, because that's where you're going to have the best chance of concentrating your methionine. But has there been any work done on finding an economical organically approvable hydrolysis procedure and isolation technique to isolate some of the methionine out of some existing protein sources?

MR. MARTINELLI: No. I don't know of any, let's put it that way.

CHAIR DELGADO: Follow-up question?

MEMBER GIACOMINI: No. I understand it might be an idea.

CHAIR DELGADO: Okay. Thank you. Tracy.

MEMBER MIEDEMA: I just wanted to switch gears a little bit and go back to the petitions that we have before us, which deal specifically with the changing of this
expiration date, which the Livestock Committee seemed to have made pretty strong recommendation on. And a lot of what we were dealing with was the date, and that we were looking at two-year extension.

One of the things that you mentioned earlier today was that two years was arrived at sort of loosely based on it was three, plus two, it's loosely tied to a sunset-type period, and I'm just wondering, since this is our only time to discuss this and tomorrow we just vote. Right? We're trying to confine our discussion to today.

CHAIR DELGADO: Right.

MEMBER MIEDEMA: If two years seems like enough, given the amount of work that's in the hopper right now, and where we're going to be at in two years. And whether we're going to go through this whole exercise just to say add one more year, when we could potentially just make it three.

CHAIR DELGADO: Okay. Hugh, if you
can answer that question, I really would like
to wrap this up and move on to the next topic.
So we'll have Hugh, followed by Joe.

DR. KARREMAN: Certainly, that's
possible. You've got to remember that the
Livestock Committee unanimously voted to not
take the petitioners recommendation or their
petition at all, meaning methionine would be
out this October.

MEMBER MIEDEMA: Okay.

DR. KARREMAN: We certainly do not
want to kill an industry, so we came up with
the two years, kind of like what you said with
these alternatives, and what's in the hopper
and all that. We could make it three years,
possibly, but I want to make sure that -- I
won't be on the board next time when this
happens, but that it won't happen again, that
another three years is needed. And, so, maybe
we can do something with a restricted amount,
a small amount of synthetic methionine,
possibly, to stimulate the growth of some of
these other alternatives into the diet, to get
some variety in the diet, as well, from the
natural sources of proteins and whatnot.
Anyway, it's possible for three years.
By the way, quick thing, Livestock
Committee meeting tonight at some point.
CHAIR DELGADO: We'll make that
announcement. And just as a reminder, there's
always -- prior to voting, there's a period of
comment on that specific item. And you'll
have more opportunities to comment on that.
MEMBER SMILLIE: I was simply going
to say the same thing. It seems two won't do,
meth free in three.
CHAIR DELGADO: That's it? Well,
any more questions? Thank you very much to
the group, and we'll continue on to the next
speaker.
MS. FRANCIS: The next speaker had
to leave to catch a flight, unfortunately, and
he has handouts, which I will pass around,
which are collated and everything. So I'm
assuming the next speaker is still here.

CHAIR DELGADO: And that will be Greg Herbruck. Is that correct?

MS. FRANCIS: Eric Gingerich is after -

CHAIR DELGADO: Okay. So we are moving on. Greg is gone. Right, Valerie?

Greg is the one who left. Next up -

MS. FRANCIS: Greg left.

CHAIR DELGADO: Next up will be Eric Gingerich.

MR. GINGERICH: That's right. Eric Gingerich from the University of Pennsylvania. I'm a veterinarian, and I have a handout that you will all get eventually.

I've been in the industry about 30 years as a poultry veterinarian. I work in the diagnostic lab portion at New Bolton Center. We work with a lot of the Lancaster County and surrounding area poultry producers, organic, conventional, everything. So I'm looking at these chickens, I do field
investigations, trying to figure out what's going on with some of these flocks. And I've seen some problems in the -- even present problems with organic flocks.

I have about a list of nine different things that I think could impact poultry health, assuming that we have no good alternative to synthetic methionine to add to these rations. The first one is poor feathering in egg layers. This is definitely a big problem, even with conventional cage-free birds, that once they lose their feathers they lose a protective cover to protect them from scratches, and things like that. These wounds allow bacteria into the system. We get E. coli infections quite often.

Also, once they lose their feathers, they become very nervous and more cannibalistic, and we get a lot of peck out mortality. Even with present day organic flocks, we've had some pretty high mortality rates, especially in open-type housing from...
peck outs, even with synthetic methionine in
the rations.

Another thing, poor feathering in
broilers is another thing that without the
synthetic methionine, we anticipate that we'd
have poor feathering problems there, also.
Broilers also need those feathers for
prevention of skin scratches, to prevent
gangrenous dermatitis, and E. coli infections,
as well.

Without synthetic methionine, the
rations are going to have a lot of excess
protein due to added soybean meal to raise the
methionine level trying to get near the
requirements, and this extra nitrogen is going
to go into the feces. And this extra nitrogen
is going to increase our ammonia levels in the
houses, and this will impact the respiratory
tract negatively. It reduces the ability of
the respiratory tract to rid itself of
bacteria. We're going to see more bacterial
infections.
Also, birds are very sensitive, especially brown egg layers are very sensitive to ammonia. They get corneal ulcers. We've even had some -- this winter we had some pretty significant losses of birds due to corneal ulcers from high ammonia in brown egg pullets.

Talk about decreased growth rate with lower methionine rations. This, in a veterinarian's eyes, you're going to have these birds out in the field longer, broilers and turkeys, by the way, going to have them out in the field longer so that exposes them to more disease risk. The longer they're out in the field, the more risk they have.

Kidney problems could be an issue also with the excess nitrogen that birds have to excrete. This puts a big stress on the kidneys, and we anticipate possibly more visceral gout problems, urolythiasis problems in poultry, especially layers due to the increased amount of soybean meal that's going
to be used. This increases the potassium level of the diet, and this potassium is very prone to cause wet droppings. And these wet droppings, wet litter in chickens is a very bad thing. It increased pathogen load, it increases the bacterial level of the litter, it increases the ammonia release from the litter, so it's got a lot of negatives to it.

Also, increased heat stress is a possibility with increased nitrogen crude protein in these rations, because of the heat, the metabolism is going to be increased. During real hot weather, we're going to have some probably more heat stress, and mortality due to heat-related problems.

Pododermatitis, which is ulcers on the bottom of the feet of birds, this is -- some research has been done that shows a significant increase in turkeys, where you use higher levels of soybean meal, higher crude protein levels. They didn't really say exactly what it was due to, if it was the wet litter
issue with potassium or what, but there was a big increase in foot problems.

Lastly, coccidiosis may be increased. The severity of coccidiosis, some research has been done that equated inadequate methionine to increased severity of coccidiosis.

So, in summary, I think without a good alternative to synthetic methionine, I think we're going to have some -- see more birds in the lab due to some of these health issues. Any questions?


DR. GOLDSTEIN: Right. There's a handout. I don't know if you've received it yet. If not, it will be coming around. And it will go more in depth into what I wanted to say. If I only have five minutes, there's only certain things I can deal with.
CHAIR DELGADO: Dr. Goldstein, can you just state your name, and your affiliation, please.

DR. GOLDSTEIN: Right. Walter Goldstein, Research Director, Michael Fields Agricultural Institute, East Troy, Wisconsin.

CHAIR DELGADO: Thank you.

DR. GOLDSTEIN: Okay. If we can look at the screen over there, I have a few slides for you. First off, I want to point out that the work that we're doing is actually a team effort that involves our institute, Iowa State University Serial Testing Lab, USDA ARS, especially the Corn Breeding Group at Ames, Iowa, Practical Farmers of Iowa, University of Minnesota, Lamberton, we're all doing research. We're doing it also together with Organic Valley and Methionine Task Force, so it's a nice team effort.

Looking at the actual methionine content, we've heard some discussion about what needs to be in a ration. What I'd like
to point out here is that we have three
different types of corn here. This data is on
the basis of total dry matter, and you can see
normal corn, this is average of 1,903 samples
from the Iowa State Grain Testing Lab. And we
have 28 samples of our hard kernel methionine
corn, and 16 samples of our soft kernel
methionine corn. And you can see that there
are some profound differences. We have a
higher protein content. The methionine
content is about half again more. Also, the
total sulfur amino acid content, which counts
for chickens, is higher. And the lysine
content is higher. In fact, it's almost twice
as high for our soft kernel corn as it is for
normal corn. Lysine is also very important
amino acid for balancing the ration for
chickens.

And you can see that's an average
of 28 samples, and 16 samples. These samples
are expensive. For a company to do these
analyses, it costs them $150 a sample. We
feel very excited that we've made a new breakthrough in testing of methionine and lysine with a near infrared spectroscopy. We've developed a new calibration that's broken the inherent correlation between protein and methionine and between protein and lysine. We've made a big breakthrough. And with this technology, it's going to be possible to measure methionine very cheaply, and quickly. And that's going to be an important ingredient in terms of bringing the high methionine corn forward as an alternative for organic producers. The grain handlers are going to be able to need to test the corn, and to see whether it's going to be meeting their specifications in terms of methionine. The next slide, please.

Okay. Here shows some yields. These are yields from last year, from Wisconsin, from Iowa, and from Minnesota with the Lamberton Station. And you can see that what we're looking at is three different
groups, and we're looking at the yields of commercial hybrid checks, mostly three checks, and our best three high methionine hybrids. And if you look at that, you'll see that with the hard kernel late group that we're producing yields that are 90 percent of that of the commercial hybrids. These are Blue River hybrids. With our hard kernel early, it's 80 percent of the same yield as the commercial hybrids, for the soft kernel it's 70 percent. Soft kernel has the best nutritional value, probably because of its high lysine content, but we're sitting here with our best hybrids, we're somewhere between 70 and 90 percent of the yields, depending on the hybrid. So what we're doing is mostly going forward in terms of seed production with the hard kernel late time. Next slide, please.

We've done feeding trials with broilers. I should say that Organic Valley has done, Nick Levendoski and his group of
farmers, a broiler feeding trial with Cornish cross cockerels, small experiment. Birds fed out from when they were chicks. This experiment was simply to replace normal corn plus synthetic methionine in a normal diet with our corn, with our high methionine corn. The gain was essentially the same. We also had a third treatment, which was potato extract, high methionine potato extract. It did not perform. We had higher mortality, and the birds did not grow as well.

The birds that received the high methionine corn, and the birds that received the normal corn plus synthetic methionine had essentially the same rate of gain. Feed to gain ratio was the same, but for the potato extract it was higher. It wasn't as efficient forage.

Do you want me to continue with this? I can wrap it up in say three more minutes? There's a layer trial.

CHAIR DELGADO: Just provide a
quick wrap-up sentence, please. And then we'll open up for questions. Can you wrap-up your comments, Doctor?

DR. GOLDSTEIN: I wanted to show you a layer trial, which I think is very pertinent to -- a 44-week layer trial. It would take me about another minute on that. And then I wanted to say where we are at in terms of our seed production.

CHAIR DELGADO: Let's go on to questions. Joe.

MEMBER SMILLIE: Dr. Goldstein, could you tell us about a layer trial, and where you're at with your seed projections?

DR. GOLDSTEIN: Okay. Next slide, please.

CHAIR DELGADO: Thank you, Joe.

DR. GOLDSTEIN: Feeding trial was a trial carried out by the University of Minnesota together with Organic Valley and ourselves. It took place with Bovan Brown pullets, six replicated pens per treatment.
We had the same setup with normal corn, plus synthetic methionine, versus our corn in the context of a normal diet. The birds were fed out from when they were chicks, and the gain feed consumption was essentially the same. Egg production was 2 to 5 percent less per pen for the high methionine corn. However, there were some other differences.

The birds that received the high methionine corn were more enthusiastic about their feed. They loved it. It had to be controlled, because the birds liked it so much that they would go into frenzies about it. By the end of the trial, half of the pens with the controlled feed had been progressively disqualified because the hens were eating their own eggs. This is for the controlled diet, not for the high methionine corn, where there was no problem on that. This is a switch on the cannibalism issue.

Anyway, this interest in the high methionine corn was also seen in the broiler
trial, and so that's what I have to report at this point. Forty-four weeks, small flock, essentially no differences in performance.

CHAIR DELGADO: Okay.

DR. GOLDSTEIN: Or feathering, for that matter.

CHAIR DELGADO: Very good. Any other questions? Gerry.

MEMBER DAVIS: Can you spell out the progress of your seed increase program, and particularly, I wanted to know, looking at the chart from the Task Force that they put up earlier on your plans, they had it laid out quarterly. By the fourth quarter of '09, I'm kind of curious to see what kind of volume that represents, versus the percent in the organic feed marketplace for the need that is, what would be needed?

DR. GOLDSTEIN: Well, I think the point is, is that we can make projections, and it's important also to realize that real life doesn't always follow through on them. But in
projections, and this handout, when you have
a chance to look at it, on page 6, we've given
projections of production for the two top
varieties that we're bringing back from Hawaii
this year, and which we're multiplying with
the help of the Methionine Task Force. They
paid for the seed, everything is going
forward.

And on that, you'll see that on
page 6 under 2010, we project that 3.1 million
bushels of corn could be produced at rather
conservative production assumptions for the
organic poultry industry by the end of 2010.
That is if everything goes right. And it has
been estimated that there is a total demand of
8 million bushels per acre.

MEMBER DAVIS: For organic.

DR. GOLDSTEIN: Organic poultry
over the whole nation. So that could be
accelerated by producing seed during the
winter in Chile in order to give a leg-up, or
the three-year -- the idea of extending the
two years to a three-year would give us a little bit more leeway in case things just don't go as well as we want.

There's a number of things that we haven't resolved fully. As I explained earlier, we're going as fast forward as we can, and everything is looking positive, so far. But there are -- some time will help us.

MEMBER DAVIS: So does the chart, the information contained in this explain that these numbers are based on winter time production in Chile and things like that?

DR. GOLDSTEIN: No. These are without wintertime production in Chile.

MEMBER DAVIS: These are without.

DR. GOLDSTEIN: Yes, that's -- the last wintertime production would have been this last winter. And now we're going forward from now.

MEMBER DAVIS: So these numbers are, if you did not do that, take those -

DR. GOLDSTEIN: That's right.
MEMBER DAVIS: -- extraordinary measures of getting essentially two seed crops a year.

DR. GOLDSTEIN: That's correct.

That's correct.

CHAIR DELGADO: Any other questions? Steve.

MEMBER DeMURI: With the current pressure on with corn production right now, do you anticipate you'll have any problems getting growers to grow this lower yielding corn for the organic poultry industry?

DR. GOLDSTEIN: Yes, that's a very good question. I do anticipate we will have problems. I do anticipate, because farmers are going to be trying something new, and because what's not in place now is a price incentive system which is clear. We need to have outreach, we need to have a clear set of contracts, and that all needs to be developed.

CHAIR DELGADO: Any other questions? Dan, followed by Jennifer.
MEMBER GIACOMINI: When we're looking at something like corn, and we're trying to deal with something like methionine, where we're talking about something basically plus or minus, a 10 percent protein level, we can improve methionine, but we're still talking about small amounts, unless we do something to that corn to process it to concentrate the methionine and the protein. Is your company looking at any processing possibilities to make this a little more utilizable, and work into the ration?

DR. GOLDSTEIN: Could you go to the next slide, please. Sorry. The next one after that. I'd like to emphasize that actually I don't think that's necessary, not for broilers and layers, at least that's not what our results are showing, that it's necessary to concentrate the feed.

Cromwell in '68 and Chee in '73 did trials with the same floury to corn that we have with layers and broilers. They had the
same results. It's possible, I believe, to feed corn with organic, not necessarily natural, organic corn, and to be able to get adequate production levels. I think that's what the life has been showing us, so I'm not sure that that assumption is actually true in reality.

MEMBER GIACOMINI: Okay.

CHAIR DELGADO: Okay. Jennifer is not asking a question. Anybody else? Okay. Well, thank you very much.

DR. GOLDSTEIN: Sure.

CHAIR DELGADO: Appreciate your comments.

DR. GOLDSTEIN: Yes.

CHAIR DELGADO: Next up is Brian Baker as proxy for Dave DeCou, and after that is Katherine DiMatteo.

MR. BAKER: Thank you, Mr. Chair, members of the NOSB, members of the NOP. I appreciate this second opportunity to comment, and I will try to get straight to the point.
OMRI appreciates the recognition of our work on the database, if you could back up to that slide.

We conducted a survey of accredited certifiers to find out how they were verifying commercial availability, and we found, as many of you are aware, that none of them are following the NOSB's recommendations. They're using supplier letter seed catalogues as their main references.

OMRI comes in behind producer logs, around half of the certifiers are using it. We wanted to know how to improve that, and we also asked what's out there. Anyone want to guess what the number one crop that certifiers said that they were saying their producers had a hard time finding organic seed?

PARTICIPANT: Corn.

PARTICIPANT: Okra.

MR. BAKER: You got it, yes. And there's a reason alfalfa -- alfalfa is the answer. You want to go to the next slide,
please. Alfalfa, a lot of people don't realize that alfalfa is really sold into two markets, and we think of hay, and the run up in demand for hay because of the increased dairy production, but there's also a vegetable market. And seed for sprouting is not allowed to be exempt, so alfalfa spout producers have still be able to find organic seed, but they've had to pay quite a bit of money to keep that going.

And we found out this past spring, we've been very pleased to say, and surprised, actually, that we're getting as many hits on our seed database as we were getting on our products list. And the thing that -- we've also noticed that we're getting a lot of hits on corn, and a lot of concern over the ability to get uncontaminated -- get corn seed that's not GMO contaminated.

Briefly, we've talked to individuals at FIBL, Soil Association, the Danish Ministry of Agriculture in the
development of our database and there are
limitations to adopting the European model
that would require changes in the way seeds
are regulated in the United States. And, so,
yes, the European Registry has certain
advantages, but that's a very different mind
set that they have, and how seed is regulated,
and what varieties are out there for farmers
to grow, so I caution against mandating a
European-style approach, without an
understanding of how that's connected to how
seeds are regulated in Europe. Switching over
to the other commercial availability issue,
the allowance of agricultural ingredients in
organic processing and handling creates some
interesting challenges in inspection and
labeling. Under OFPA, items that contain less
than 70 percent organic ingredients are exempt
from certification. And under 7 CFR
205.101(c)(3), that exemption is carried
forward in the regulation.

Now guess whose door people knock
on when they want to get their non-organic agricultural ingredients certified for use in organic production? Okay. So the ACAs don't want them. We're aware that not only colors, but also anti-foaming agents, flavors, fruit coatings, these things are coming to us, and they're formulated with items on 605A and B, items on 606, and organic agricultural ingredients, less than 70 percent organic agricultural ingredients.

We're getting mixed messages from subscribing certifiers in the industry about what we're supposed to do to gather, verify, and communicate information on these products that are clearly ineligible for organic certification. Specifically, how are people supposed to know the organic content of these non-organic ingredients, or should they just assume none of it's organic?

We also have to deal with the fact that organic claims and the labeling of such intermediate BtoB products are covered under
305 and 310. And the vendors want to keep this specific information proprietary. They don't want their customers to know it. They don't want certifiers to know it. They don't even want us to know it, but we'll get it. And then we don't know what to do with it, so we need guidance. We need help.

That's something where we're asking for your assistance, and we're also asking that the information -- that the increased funding for data collection be used to estimate the market for organic seed and non-organic agricultural ingredients, and I'd be willing to answer questions on tartaric acid and methionine.

CHAIR DELGADO: Okay. Any questions? Katrina.

SECRETARY HEINZE: I want to make sure I understood that list bit right.

MR. BAKER: I was trying to get it out in less than five minutes.

SECRETARY HEINZE: I know. You're
getting questions about the non-organic materials being used in products labeled as made with, so ones that are below 95 percent and above 70?

MR. BAKER: No. We're getting formulated products that are combinations of non-organic agricultural ingredients on 606, non-organic non-synthetic ingredients on 605A, non-organic synthetic ingredients on 605B, and organic agricultural ingredients that are combined in formulations that are, in turn, used in organic products that have over 95 percent organic content, and they want to sell these formulated packages to organic processors or packers. I mean, fruit coatings, what do you do with fruit coatings? You've got five ingredients in a fruit coating, and it's a black box. The company that formulates it doesn't want the packing house to know the specific ingredients or the percentages. And the fruit packer wants to sell their fruit as organic. Heck, they'd
like to sell it as 100 percent organic, but it's not 100 percent organic if it has a non-
organic coating that includes shellac and an organic vegetable oil. And I don't want to
give the whole formulation away.

SECRETARY HEINZE: Thank you for clarifying.

CHAIR DELGADO: Okay. Joe.

MEMBER SMILLIE: Has OMRI been working with the other seed databases that we've heard about?

MR. BAKER: Yes, we have. We've worked with the Organic Seed Alliance, and are very complementary to their's. We've talked extensively with Cricket Rakita, and Save our Seeds at the Organic Seed Conference. We were on a panel together. We think that there need to be multiple portals, and we don't want to see a single database. We want to see a diversity out there. I mean, our community thrives on diversity.

CHAIR DELGADO: Dan.
MEMBER GIACOMINI: Can you add anything of historical memory to the Tartaric Acid, A-B. If we're looking to make a technical correction, and we're going to make a request, I want to make sure that -- I want to increase the chance that we're getting it right. And, also, then knowing what we're voting.

MR. BAKER: Yes. Thank you for asking. I was one of the advisors to the National Organic Standards Board at the November 1995 meeting in Austin, Texas, where that was discussed. I pulled up the Minutes and what notes I could find, and the -- my recollection, having been there, was that the industry felt strongly that they needed to have all available sources of Tartaric Acid, all sources of Tartaric Acid available to them, including those made from synthetic sources. There was no distinction between the L and other isomers of Malic Acid as being the source.
That was a split vote to allow the synthetic from all sources, but you have to remember two things. One is that at that time, the NOSB was operating under the assumption of organic preference. If organic was available, you had to use it. If it wasn't available, you had to use the natural. If the natural wasn't available, only then could you use the synthetic, and so you had this assumption that orders of preference would be in the rule, and it would enforceable.

That fell out in 2000, five years after that recommendation was made. The second thing was that there was an assumption that the sunset process would take care of a lot of these substances that were controversial, and where there were split decisions. And that as the organic industry grew, these sources would become available, and the sunset process would take them off.

CHAIR DELGADO: Kevin.
MEMBER ENGELBERT: Hi, Brian.

Would you repeat again what your objective is with this, for example, the coating you gave and trying to call a product that's been used, have these 605s, 606s all put together. What exactly, again, do you want from the Board in that regard?

MR. BAKER: I think the most important thing is making sure that people have the information that they need in order to make decisions as to whether a given ingredient will meet the organic standards. So if it has a 606 item, it is very difficult for us to understand how the user of that ingredient will be able to assess commercial availability if that item is not conveyed to the processor, or the certifier. And that we think that 305 and 310 need to recognize that items that are agricultural and non-organic, and on 606, need to appear on the label. And I don't know if we can go so far as to say that the percentages of organic and non-
organic ingredients need to be declared. But, obviously, if you assume that the organic agricultural ingredients in this formulated product don't count as organic, then that's a conservative approach that insures compliance. Does that make sense, or is it -- yes. People need to know what they're getting.

CHAIR DELGADO: Any other questions? Julie.

MEMBER WEISMAN: I just want to go through this one more time to make sure. I want to phrase it a different way. So what you're saying is that there -- certain 606 items are making their way to processors, but their presence in the formulations that the processors are buying is currently hidden by the manufacturers.

MR. BAKER: Right. It's considered proprietary by the manufacturer, and they want -- and the ability of OMRI to require them to disclose that information to the processor and to the certifier of that processor is being
challenged.

MEMBER WEISMAN: Can I continue?

CHAIR DELGADO: Follow-up, yes.

MEMBER WEISMAN: So that because

the product that's being sold to the processor

is not being sold as organic, it is not being

subjected to any scrutiny.

MR. BAKER: Plant is not inspected.

MEMBER WEISMAN: And the person who

holds the certificate for the organic product

that it's going into, has no idea that there's

an ingredient in there where there's a burden

to source it organically.

MR. BAKER: That's correct.

MEMBER WEISMAN: Okay. I got it

now.

CHAIR DELGADO: Okay. Dan, then

Gerry.

MEMBER GIACOMINI: I'm going to

jump around, I guess, a little. We'll jump

around a little bit, I guess, here. I want to

go back on Tartaric Acid. In your review of
products, can you give us any insight into
what you see as A form, B form, or anything
along those lines?

MR. BAKER: Well, yes. I was a big
fan of order of preference. I mean, if it's
available organic, then it should be used from
organic sources. The annotation that was
proposed in '95 required that it come from
grapes, the 605A version come from grapes.
Now, I've been in plenty of organic vineyards,
and I know a little bit about how Tartaric
Acid is made, so I'm told there's organic
Tartaric Acid on the market. But, again,
we're put in a position where there's
something that's on 605A as being non-
agricultural when it comes from grapes.

MEMBER GIACOMINI: But of the A
versus B form that we do have in the rule now,
what are you seeing in products that you're
reviewing?

MR. BAKER: We're seeing both. And
it's not just cost-driven, it's quality-
driven, and there are certain technical and
functional requirements, but it's more often
the non-synthetic form that is the higher
quality, what we've been seeing. And, again,
I have to defer, in part, to our Advisory
Council Members. They've done more of that
work than I have.

CHAIR DELGADO: Gerry. Any other
questions? All right. Thank you very much,
Brian.

MR. BAKER: Thank you.

CHAIR DELGADO: Next is Katherine
DiMatteo, and then after her we'll have David
Bailey.

MS. DiMATTEO: Hello. Katherine
DiMatteo, Senior Associate, Wolf, DiMatteo &
Associates. And I'm giving up my Wolf,
DiMatteo & Associates time to read a letter
from one of our clients, Blue River Hybrids.

"Dear NOSB Members: Thank you for
the opportunity comment today. In addition to
the comments that Blue River submitted through
regulations.gov, on the recommendation on commercial availability of organic seed, I would like to add a personal experience to demonstrate how the current lack of enforcement of the NOP requirement to use organic seed impacts an organic business.

Within the past month, Blue River Hybrids has had 481 bags of organic corn seed returned from our dealer in the upper Midwest. The value of this returned seed is $62,193. The seed was from three hybrids, all of which were capable of good performance in the area, and the seed was shipped in a timely way, ready for delivery to organic farmers to plant this season.

Why was the seed returned? Because the organic farmers in the area told our organic dealer, who is also an organic farmer, that they would be allowed by their certifiers to plant conventional seed. This seed was being reserved for use by these customers, and because of the lateness of this decision, Blue
River lost the opportunity to sell this seed to other farmers. Had this decision been made in February, we would have sold the seed to other organic farmers wanting seed for these hybrids.

I understand that accredited certifiers, the NOSB, and perhaps even the NOP, do not want to impose undue burden on organic farmers who may already struggle to make a living farming, as well as complying with the NOP rules, and the paperwork requirements of certification. But organic seed is grown by organic farmers, and their livelihood and mine are just as precarious, and the requirements of NOP just as burdensome.

The NOSB recommendation that you are amending has been in place since 2005. In that time, the organic seed industry has grown, and the availability and the use of organic seed has increased, but the prevalent attitude among farmers and certifiers
continues to be that using organic seed is the exception, rather than the rule.

I believe there is more that can be done to verify that farmers seek available sources and use organic seed, and that certifiers enforce the use of organic seed as required by the NOP rule.

Better guidance about how to determine commercial availability and equivalent varieties is needed in your recommendation. Clear and coherent explanations of why an organic variety is not sufficient, must be provided by the farmer, and kept on record by the certifier.

The accredited certifiers should be held accountable for their decisions on the availability and use of organic seed during the audit by the National Organic Program. And, as a resource, a National List of available seed must be developed under the supervision of the USDA, National Organic Program, similar to the organic feed grain
producers and handlers list which is currently available on the NOP website.

As the largest certified organic field corn seed supplier in the United States, the implementation of effective protocols is of vital importance to our company, and to the integrity and growth of the organic industry. Thank you very much. Maury Johnson, Director of Production and Sales."

CHAIR DELGADO: Okay. Thank you.

Any questions? Joe.

MEMBER SMILLIE: Do you have personally any comments to make on the recommendation on seed availability, commercial availability?

MS. DiMATTEO: I think that there's a number of things about the recommendation -- the amendment doesn't go far enough to really make -- produce any incentives, or to really create any more information that's already been around since 2005. Like Maury said in his letter, the current recommendation has
been around, and we're amending it -- and
you're amending it in ways -- you're making
progress. I think that there's just more to
be done. And I don't like the idea of in a
recommendation mandating a non-governmental
organization as the source of where
information is going to be provided. And I
think that that can cause a lot of problems,
both for the people providing the information,
and for people accessing the information. And
I most definitely think for the certifiers,
and for the National Organic Program to do
that kind of thing.

I would hope that with the
additional money that NOP has, that maybe some
of this information can be available. And
they've done it once, as Maury has pointed out
in his letter, by having the feed grain
producers and handlers database on their site.
So perhaps that can be another way to at least
provide a resource for people looking for
seed.
And we've discussed it both as Wolf, DiMatteo & Associates, and with our client, Blue River Hybrids, about whether to ask you if you could have different protocols, or more emphasis on commodity seeds, like corn and soybeans, which are readily available in different forms and varieties that can be used in organic farms, versus the problem with the vegetable seeds.

I realize there's different levels of ability to be able to comply with this organic seed requirement, but we never could come up with an idea of what to suggest, so we haven't posed that. That just would add one more kind of imbalance to the whole system. So, basically, I haven't looked at what's being done in the EU. I know that there's some problems with their database system, but I also think that it has provided some incentive to use more organic seed, and for seed suppliers to go ahead and develop new varieties so that they can get posted on those
databases, and show that they're available.

CHAIR DELGADO: Thank you. Any other questions? Well, thank you very much.

MS. DiMATTEO: Thank you.

CHAIR DELGADO: At this point, we're going to take a quick 5-minute break. We have nine more speakers, and I know several of the Committees have to do some work and homework, so I'll ask the Board Members to stay close, and we'll start in five minutes.

Next up after our break will be David Bailey.

(Whereupon, the above-entitled matter went off the record at 5:37 p.m. and resumed at 5:46 p.m.)

CHAIR DELGADO: And I'm glad to hear that someone recognizes what we're talking about. Thank you so much, Mr. David Bailey.

MR. BAILEY: Good afternoon, Mr. Chairman. Thank you, and fellow members of the Board, and members of the NOP, at least those are still here. My name is David
Bailey. I am here representing Small Planet Foods, which is the organic division of General Mills. And I'm here to speak about the okra petition, which has my name on it.

We did submit that to add it to Section 205.606 of the National List. Most of my points that I'm going to hit right now were mentioned earlier in previous discussions, so bear with me as I just kind of hit them again.

First, critical. I want to repeat that our petition is not for okra in a blanket sense. Somehow, and I don't know how, the IQF, the Individually Quick Frozen annotation or whatever you want to call it was dropped, and I think that's caused a lot of the uproar and whispering I'm hearing. So I don't know what you need to do to make sure that that gets on before you bullet, but I just wanted to point that out, and why? Because that distinction between the fresh and frozen is critical for a petition.

We have never denied the existence
that there's organic fresh okra out there. The basis for our petition is that for over a year now we've been looking for it. We've been looking for frozen okra. We have an application which we want to use it. The frustration is not shared -- I mean, it's shared by us. We've been looking quite hard for it, too. And we would have found it, obviously, we would not have filed the petition.

We haven't been able to find it at a reliable processor. And one of the big issues, obviously, again, hit on earlier is perish-ability. The application which we want to use it makes it impossible for us to harvest fresh okra, transport it to our plant, because it doesn't travel well, as was, again, said earlier. And the window of production that we would have to make the product would be so small, if it would even exist at all, very difficult to do.

I also want to stress that we want
to make sure a source is obviously steady and reliable. And we are committed, again, we're committed to buying an Instant Quick Frozen okra as soon as one is available.

We have a sourcing group that's been working on this, like I said, for over a year. Their efforts are continuous. At the time we submitted the petition, none of the processors we contacted had seen nor heard of organic frozen okra. Since that time, I can contribute that we have seen some leads emerge, and I call them leads only because upon further digging, none of those have panned out, unfortunately, so we press on with this petition.

Often what we're getting back from processors regarding their -- either their reluctance or their inability to meet a request to freeze their organic okra, is a combination of a few factors. And, again, most of these have been brought up a short time ago in discussion.
Okra fields are not harvested in one clean shot. The pods have to be picked over a series of days as they ripen, so in that case, the volume that you need has to be amassed over a period of time. Again, the fresh okra is highly perishable. So point three is that freezers need a significant volume of products in order to make a minimum run happen. And to do that, just to get that minimum amount they're going to need a fairly large amount of acreage of organic okra to amass that volume quickly enough to avoid spoilage of the okra.

Consequently, right now our volume needs do not justify what they would need to make a minimum run. That's what they're telling us. So, again, I want to reiterate that we are committed to buying it as soon as it's available. Again, as soon as a reliable source is available. And I just want to thank you for the opportunity to address this with you.
CHAIR DELGADO: Before we move on, so we do have to make that clarification on the petition, as the petitioner has clarified to -- requested to add IQF into that petition. Is that correct?

MEMBER WEISMAN: Yes. It is my intent. That was an oversight. It is my intention when the motion is made tomorrow to include that. Is there anything procedurally that I would need to do before that?

CHAIR DELGADO: No. When you make the motion, as you stated, you will clarify that.

MEMBER WEISMAN: Okay.

CHAIR DELGADO: And it's on the record that the petitioner requested that.


MS. FRANCIS: You just said that you don't need to modify it, but actually in your Committee, you need to have a -- are you just looking at it as a typo, or is this --
are you going to motioning on the Committee
level before the Board vote? If it's going to
come to you -

CHAIR DELGADO: It will come to the
Board with IQF added to it, and you are
absolutely right. It will have to be handled
at the Committee level to make that change.

MEMBER WEISMAN: Okay. Well, HC
wants to get into the queue for a Committee
meeting tonight.

CHAIR DELGADO: Very good. Okay.
And we'll start with -- we'll continue. Thank
you for that, and we'll continue with Joe.
Jeff.

VICE CHAIR MOYER: I don't know
much about what you're going to be using the
okra for, or how that all works out, but we've
heard several people talking from southern
locations that say they have the okra, or
certainly could step up and produce okra. And
they do have access to freezer plants. Have
you checked in those regions, or what is -
MR. BAILEY: Personally, I haven't.

If they have access to a freezer, we're all ears. I'd love for them to step up and give me a card.

VICE CHAIR MOYER: Okay. Thank you.

CHAIR DELGADO: Any other questions? Joe.

MEMBER SMILLIE: Could you walk us through how -- you're saying that you are in the market to buy frozen IQF okra. But you're also -- your infrastructure and your capabilities is, you would be able to contract growers to grow that for -- are you asking the IQF processor to not only freeze the okra, but also find it, locate it, and manage it, or are you more involved than that in the process?

MR. BAILEY: We can be more involved in the process. The potential is there.

MEMBER SMILLIE: So if a group came to you and said this IQF freezer guy will do
this job for us. You would contract with the growers, or would you say hey, we'll buy the frozen, but you've got to do all the contracting and the ag work?

MR. BAILEY: I should clarify. We probably could help him. Okra is not one of our ag department specialties that's in our division. I'm sorry. I'm going to ask you to repeat the second part of your question.

MEMBER SMILLIE: Well, the fact of another HC meeting today has actively floored me, but I'm going out to eat first. But I guess the question was how involved will you be in the process? Are you just saying we want to buy frozen IQF okra, or are you saying that if there's a freezer in a group, you're willing to step in and contract that acreage, or do you demand that the IQF facility do that?

MR. BAILEY: At this point, we are demanding the IQF facility do that.

MEMBER SMILLIE: I've got another
question. We're only talking about 5 percent, so your product is going to have 5 percent or less, probably less, because there may be citric acid or something else in the product that needs that 5 percent, too. So the product you're making, is 5 percent enough to utilize the wonderful talents of this wonderful vegetable?

MR. BAILEY: The mucilaginous properties?

MEMBER SMILLIE: There you go.

MR. BAILEY: Yes, it is.

MEMBER SMILLIE: Okay.

CHAIR DELGADO: Jeff. Any other questions? I lost track. Okay. Thank you very much.

MR. BAILEY: Thank you.

CHAIR DELGADO: We move on to Kim Deitz, and followed by Grace Gershuny.

MS. DEITZ: Start you day with me, and end with it. How's that? If you could put 10 minutes on, I'm going to real quickly
do a Marty and change hats in the middle of my presentation.

CHAIR DELGADO: Kim, do you have a -

MS. DEITZ: I'm up, and Grace is right behind me, so we're going to actually -

CHAIR DELGADO: You're going to team up?

MS. DEITZ: We're Co-Chairs for the Multi Site, so I'm going to roll right into that.

CHAIR DELGADO: Excellent. Okay.

MS. DEITZ: Okay. Ready?

SECRETARY HEINZE: I'll try to do a better job than I did with Marty. Do you want to know when you have one minute left out of the ten?

MS. DEITZ: No. I'll just roll right through.

SECRETARY HEINZE: Okay.

CHAIR DELGADO: Great.

MS. DEITZ: Okay. I always like to
give personal comment from Kim Deitz, not on
behalf of Smuckers, or OTA, or anybody else
towards the end of a meeting on what I see
from a historical perspective with regards to
materials, so I hope this helps you.

There was some discussion earlier
about deferred materials, withdrawn petitions,
petitions, in general, so a deferred material,
either the NOSB or petitioner can request the
material be deferred for gathering more
information. Once the information is brought
back to the Board, then you review the
material and vote on it.

A withdrawn petition is most likely
a petitioner requesting the withdrawal. For
example, when we had Harvey, we got inundated
with petitions in light of Harvey not going
the way that it did. Those petitions should
be archived so that if we ever need them
again, we should never shred any documents.
That came up, what do we do with withdrawn
petitions? Should we shred them? I think
those just need to be archived, because some of them actually have TAP reports with them, as well.

And then, as usual, I get up here and I sit in the audience, and I get all agitated about the petition process. And I just want you to remember to follow the process, and I say that every meeting. It's in all of my Minute notes. Follow the process, especially for removing a material from the National List, or changing an annotation. You have it written down. There's Federal Register documents that tell you what to do, and what you need, and what the public needs, so please follow those processes.

While I appreciate and support organic alternatives out there, they need to demonstrate that they are in the form, quality, and quantity that the industry needs before they're just taken off the list, because it could be a business hardship.
606 materials, do you need a TAP review? That should be a case-by-case basis, and you are going to have to determine whether nor not you have enough information for that, whether you need it, or whether you don't. That's just my personal opinion, and we can talk later on that, if you want.

Tartaric Acid. Tartaric Acid, folks, is a sunset material. If you really don't have any way to change the annotation right now, to change it from the National List, to delete it from 605A or B, or anything, so if somebody wanted to change the Tartaric Acid right now, it would have to be a petition to remove it, a petition to move it, or petition to change the annotation. You're reviewing it under sunset, so unless you had somebody come forward and give you a reason why Tartaric Acid should be taken off the National List, you have to vote on what you've got, and that's public comment. So, again, there's specific reasons, and specific
things that are needed to remove a petition, or to remove a material during sunset.

Methionine, I was on the Board when we reviewed Methionine the first time. And I encourage you, we, at that time, gave them that window of opportunity to come forward as a Task Force, and to bring us data. I think they're doing a great job. I think they're almost there, they're just not quite there. So take that into consideration. If it's two years, or three years, give them what they need so that we finally have the answer to that, and don't hurt the industry in the meantime.

Okay. Other hat. Rolling into Multi-site Certification or Group Certification. Grace Gershuny and I Co-Chaired that group, another wild group, 29 people on this Committee, and all very, very opinionated and very strong voiced in their ideals, so we're going to split up the thing. Grace is going to go first and talk to you
about the OTA recommendation, and then I will
follow it up on the questions.

MS. GERSHUNY: Okay. We have a
summary overview. You should all have
received both the recommendations from the OTA
Group Certification Task Force, and much more
recently we submitted some responses to the
questions, the additional questions posed by
the CAC Committee. So I will just start out
by acknowledging the fact that Tracy was,
indeed, on just about all, if not all of the
calls that we had, and we had many. And that
the document that you folks have created does,
indeed, have a great deal of commonality with
our recommendations by some strange
coincidence. But there are a couple of things
that are different, and I just wanted to
mention the fact that our recommendations did
not call for a rule change, and did not call
for any distinction between initial and
subsequent inspections of multi-site
operations.
We did not in any case call for any reduction of 100 percent annual inspections of all production units. And we went to great lengths to identify ways in which a production unit made up of a whole bunch of sub-units would be inspected by sampling of the sub-units, so that not every sub-unit would be inspected every year.

So first requirement for a group would be that it's organized as a single legal entity. The certification is for the group, not for individual members. This is, therefore, not anything like a pass for any of those members who would otherwise become independently certified. In most cases, they would not be independently certified. They would not be in the organic market at all. The only way they're in the organic market is as segments or portions of this group entity.

All sites facilities and production units as called for in the current rule would be inspected annually. All production units
operate under a single organic system plan,
not just all the sub-units in a given
production unit, but all production units in
the group operate under a single organic
system plan.

Criteria for production unit that
we identified so that how you would identify
how many -- whether a given set of sub-units
really can qualify as one production unit, is
that there would be a maximum number, we
suggest 200, but that could be adjusted
depending on the type of operations, similar
geography, and access by the certifying agent,
similar type of crop and harvest season,
common harvest collection point marketing,
common internal control staff and office
oversight. And the handling facility part is
very important.

Our recommendation says that any
site that includes a handling facility, and
particularly if that handling facility
processes product from more than one producer,
that handling facility must be inspected annually, and must be considered a single production unit. And this is really with reference to things like the washing, packing, drying, coffee, berry processing, and so forth.

We did a great deal of work on internal control system requirements. We identified need for personnel training and qualifications, items that minimize conflict of interest. And I wanted to also mention that the Committee's recommendation had some good provisions for that, including protection for whistle blowers to not be penalized.

Okay. The five minutes.

CHAIR DELGADO: You have one minute left.

MS. GERSHUNY: Okay. We had some other requirements, including what the annual inspection should look like. And, in particular, the two-step process for sampling of sub-units based on risk analysis first, and
in higher risk units always inspected. And then a random sample of the lower risk units. And I'm going to let -- hopefully another minute.

MS. DEITZ: Okay. In summary with the questions, we did give you a paper on the pending question issues. We really didn't have a lot of time to go into that, but we did our best based on the paper and the group. We had one call. We tried to address some of those, and I'll run through those real quick.

Our recommendations are based only on producer groups, additional sectors should be considered separately. And you can read those, or ask me to read them, or ask me anything else.

CHAIR DELGADO: Any questions from the Board?

MEMBER SMILLIE: Can you please just finish that.

MS. DEITZ: Okay.

MEMBER SMILLIE: I'm tired of
playing games. Just finish the -

MS. DEITZ: Okay. Additional sectors should be considered separately,
including criteria for inclusion and inspection protocols. So, in other words,
retailers and handlers. Any site that includes a handling facility must be inspected annually. Samples for external inspection selection through two-step process of risk analysis and combined with random sample of low risk sub-units, as Grace just said. Ability to detect non-compliances not effected, assuming adequate oversight of certifying agencies by NOP.

With the consumers, consumers will accept group certification if integrity of the process is assured. International issues should be factored into the risk analysis, but not be discriminatory toward domestic or foreign operations. And internal control system staff does not function as a proxy for third-party inspectors provided in our
recommendation.

CHAIR DELGADO: Okay. Any other questions from the Board? Dan, followed by Katrina.

MEMBER GIACOMINI: On your statements regarding Tartaric Acid, we realize that it's sunset, and that it's dealing with them as they are listed.

MS. DEITZ: Right.

MEMBER GIACOMINI: But in the process of evaluating it, the Committee came up, found that there was a difference in the recommendation to the way it's listed. The discussion that we're having on what that annotation is, and the Program looking at that to evaluate what the technical correction would be is, in a way, what we're looking at for the next five years, because that would be done without an NOP review. Number one.

Number two is that it seems to me a potentially valid consideration. I'm not sure that I totally agree with it, but I can
see the point, is that if, as Brian stated, that this was put on the list during a time where the assumption was made of preference, and preference no longer exists, that one of the requirements that the substance were necessary because of the unavailability of wholly non-synthetic alternatives, has changed slightly.

MS. DEITZ: Okay. We are during sunset, though. And with regards to Tartaric Acid, I wrote an original technical correction to this when the proposed rule came out, so I have it in my archives at my desk, so I will definitely forward that to you. It got left off the National List, and then I recommended that it get put back on. And I'm not sure whether it was on A or B, but I'll send that to you, Dan. And I do have some other information, so I'll dig that up for you. But that's not going to happen at this meeting, because I wasn't aware that you needed that. Order of preference is nowhere in
the rule, and order of preference is for everything, so Tartaric Acid shouldn't be singled out just because it's an order of preference in 1995. And we all, hopefully, run our businesses in order of preference. I know that we do, so that's my comment with that. And I also know that there's different functionalities for synthetic Tartaric Acid, and non-synthetic forms in the processing plants, in the formulation. So they are needed from both, and as well with this -- I guess there's a new petition out there for the 606.


MR. POOLER: This is Bob Pooler, NOP. Tartaric Acid was added to the National List along with Agar-agar and Carrageenan in 2003 as a technical correction, because it was left off the list.

CHAIR DELGADO: Thank you.
Katrina.

SECRETARY HEINZE: Yes, that's correct. And that's reflected in our current recommendation, so you don't have to go find your records.

MS. DEITZ: Okay.

SECRETARY HEINZE: Because you did a great job, and I found them.

MS. DEITZ: Okay.

SECRETARY HEINZE: And they are in the recommendation.

MS. DEITZ: All right. Okay.

SECRETARY HEINZE: The reason we've asked for the technical correction is in the 1995 transcripts, when the original Board voted on these items, they had the annotations. But in the Federal Register notices that went with the addition in 2003, those annotations were not included.

MS. DEITZ: I guess I'm just confused if we're adding annotations and changing them during sunset, and that's
typically not what we've done.

SECRETARY HEINZE: Right.

MS. DEITZ: But now they're at the petition process, so -

SECRETARY HEINZE: And so our recommendation does not include them.

MS. DEITZ: Yes.

SECRETARY HEINZE: We're just asking the Program to look at that, and go through that history.

MS. DEITZ: Yes.

SECRETARY HEINZE: Yes. Our recommendation is without them, because we know we can't do that.

MS. DEITZ: Okay.

CHAIR DELGADO: Any other questions? Well, thank you both, and congratulations for being able to manage 29 members of your group. That is quite a challenge.

MS. DEITZ: It's very interesting.

I thought the NOSB work was hard. Well,
believe me -- thanks.

CHAIR DELGADO: Up next is Nicole

Dehne from Vermont Organic.

MS. DEHNE: So hello, members of

the Board, and NOP staff. Thank you for the

opportunity to speak tonight. I know it's

kind of late, and I apologize if my stomach

growls into the mic, and I mean no threat by

that. My name is Nicole Dehne, and I

coordinate the certification program for

Vermont Organic Farmers, which is part of the

NOF of Vermont.

I'm speaking on behalf of over 500

certified producers, and there are several

points that I wanted to make this evening.

But first I wanted to start out by thanking

the Board for all the hard work in creating

all these recommendations and guidance

documents for this meeting, and to tell you

that it's much appreciated.

So I thought I would start with

adding new materials. In general, VOF agrees
with NOSB and the Materials Working Group, which also deserves thanks for their hard work, but there's definitely ambiguity in regards to the finding ag, non-ag, synthetic, and non-synthetic. And we appreciate that the NOSB is working on providing clarity for these issues, as it's clearly needed, as we saw in the presentation today how convoluted they can get. But it seems that everybody wants a simple option, and since we're all saying what our favorite options are, I believe that the simplest option is Option E, which hasn't really been discussed much, which is adding a definition of agricultural system as a land-based system that cultivates soil, producing crops, livestock, or poultry.

So this option doesn't stretch the meaning of agricultural, and I think it's what consumers expect of an organic product. And then yeast and other micro organisms can then stay in 205.605, but can be added with an annotation that requires the use of an organic
substrate, much like how yeast exists right now in the National List with prohibition of petrochemical substrate and the sulfite waste liquor.

However, what's most essential, especially with all of these ambiguities, is to insure that all materials added to the National List receive a TAP review, as is required by OFPA. Just so you all know what exactly you're dealing with. And no matter what option is chosen, it seems to me that items without standards or NOSB recommendations on standards shouldn't be considered organic, because there hasn't been adequate discussion about what the details of what goes into making them organic are.

I also wanted to touch on animal welfare standards. With the public interest in animal welfare and treatment, as this continues to grow, and as new labels in this area are being developed, I feel like it's time for the organic industry to strengthen
our commitment to humane animal husbandry. And the organic label should really represent humane animal treatment for the consumer. And it's VOF's belief that the organic standards current address animal welfare issues, and have laid the background for humane practices in animal care. So it's our recommendation that a task force be developed to create additional guidances, for example, veterinary procedures, production systems and facilities, and wide range of other livestock-related welfare concerns.

As far as multi-site operations, despite the VOF not certifying multi-site operations, that's my disclaimer, VOF feels that there should be limitations on who is eligible for multi-site status. So grower group certification has been historically used for farmers in developing countries who have limited financial resources, and who are working together as a cooperative or group.

As the CACC Board pointed out in
their guidance report, a limiting factor to
the growth of the organic industry is the
supply of raw materials, but not necessarily
the processing of those raw materials. Thus,
it was because of the limited resources and
needed raw materials that this exemption, of
sorts, was granted to grower groups. And, in
contrast, retailers are not required to be
certified under the rule. If a retailer
chooses to get certified, it's an entirely
voluntary practice. So our thought is why
grant retailers this exemption when it's not
coming from a place of need.
Retailers are choosing to get
certified to assure their consumers that they
have implemented best management practices, to
insure the organic integrity of the organic
products they carry. And if they want to
assure their customers of their practices, why
not adopt the higher standard of having each
individual store go through the certification
process? And if this process seems too
rigorous, then the retailer can always choose not to get certified, as it's not required under the rule.

So, for commercial availability, I also wanted to comment on the NOSB's guidance document on the commercial availability of organic seed. And as we've talked about, there's definitely a delicate balance between supporting the organic seed industry, and supporting growers, without over-burdening them. And I know everyone is sensitive to that. And our growers believe that the organic seed industry is still in the growth and development phase, and that the supply and demand will push the organic seed companies to develop seeds on their own.

While a national database of organic seed could be useful for growers as an educational resource, it's not necessarily going to be useful for enforcement.

CHAIR DELGADO: All right.

Questions? Hugh.
DR. KARREMAN: Thank you, Nicole.

I'm glad you brought up the animal husbandry issue. That is on our work plan, and I was just wondering what you would think of - not to get into real specifics, we can work on that later - but veterinarians sometimes have to dispense not fully approved by FDA type medicines, in other words, alternative medicines, and they need to have a valid client/patient relationship to do that. And I've been wondering, and I wonder what your thought would be on this, about perhaps having some kind of requirement in order to maintain that valid client/patient relationship with organic farmers to perhaps have the vet on the farm at least twice a year, even if the farmer doesn't need the vet for a sick cow, but to make sure everything is going well for the welfare of the animals, records check, all that kind of stuff. Would that be within what you're thinking?

MS. DEHNE: Yes. I do think that
that would give the consumers a certain -- it would assure consumers that somebody is kind of looking out as far as animal husbandry. But we also have the inspection process that happens on an annual basis. And our inspectors are also looking for animal health, and welfare issues, so I don't know if we necessarily need that extra -- I feel like it would sound like another type of inspection. Or maybe a recommendation, instead of a requirement.

DR. KARREMAN: Well, but truly to maintain a legal relationship with that farm, there has to be -- I mean, that's under FDA Center for Veterinary Medicine rules and everything. And I think that could use some bolstering. I've got to admit, self-centered veterinarian here, but this is across the U.S. I mean, I know how to deal with organic farmers, but a lot of the other vets don't, and it would be good if they were staying in contact with the farmers.
1. CHAIR DELGADO:  Any other
2. questions? Okay. Thank you very much
3. MEMBER ENGELBERT: One quick
4. question.
5. CHAIR DELGADO: I'm sorry. Kevin.
6. MEMBER ENGELBERT: What's the
7. status in Vermont with your dairy farms, have
8. you seen a loss of farms, or farms going back
9. to conventional production because of this
10. pasture situation? Just where is Vermont at,
11. basically?
12. MS. DEHNE: We have a lot of
13. farmers who are seriously concerned about
14. their future because they don't know what is
15. going to happen with the pasture issue. As
16. far as -- we hadn't until this year had any
17. farms that had dropped out of the organic
18. program and gone back to conventional. And I
19. can't say that's necessarily all the pasture
20. issue, there's definitely some loss of hope in
21. the organic regs, I think is one level, but a
22. huge part of it is financial. So we've had a
few farms that have gone back to conventional,
and some that have just gone out of business.

CHAIR DELGADO: Question. Dan?

MEMBER GIACOMINI: I've got to follow-up on that. Is that as much feed cost, or is -

MS. DEHNE: Oh, yes.

MEMBER GIACOMINI: Okay. So it's not just the pasture issue.

MS. DEHNE: No.

MEMBER GIACOMINI: Feed cost.

MS. DEHNE: And I hope I just said that. Yes.

MEMBER GIACOMINI: Okay.

CHAIR DELGADO: Any other questions. Okay. Thank you, Nicole.

MS. DEHNE: Sure.

CHAIR DELGADO: Coming up is Sam Welsch, followed by Sue Baird. Sam is not here? Let's move on then to Sue Baird, and she will be followed by Miles Macavoy.

MS. BAIRD: Hi, I'm Sue Baird. I'm
with QAI, and I want to address several issues today. But my first issue I wanted to address, multi-site organic certification. We served on the OTA Grower Group Task Force, although I admit the last few times I've been out and traveling, didn't do as well. But we agree with the recommendation for implementing the Grower Group certification. We strongly agree that Group Certification should be made available for small growers who otherwise may not be able to afford organic certification on the individual basis.

Additionally, U.S. desires their products and many times we can't produce them here within our borders, and they would not be available for us to use without this method of organic certification.

Try to address some of the questions you asked, who are small farmers? And that's a tough one, I've heard that discussed back and forth both on the OTA and on the ACA. USDA NOP defines small farmers,
or they did define small farmers in the NOP preamble, and they said it was one with 25 acres and a gross income of $30,000. Since that's already been defined in the preamble, perhaps that's one that we all could live with.

I don't think it's practical to limit a small farmer to one that has less than $5,000 gross income as some have suggested. Those farmers are exempted from certification, and our goal is not to exempt more, but to bring a lot more farmers into organic certification.

Does Grower Group internal control systems improve organic oversight? Yes. Just as HACCP improves food safety, so does having persons that are familiar with local customs and operations improve the organic certification process. Someone who's familiar with the operation, and with those customs knows where to look for flaws and weaknesses. Do those internal control officers replace
third-party certification agent inspectors?
No. No. Just as a QA Department does not
take the place of FSIS or FDA, but serves as
an extension to assist those government
auditors to enforce food safety audits, so
does an internal control system serve as an
extra set of eyes to protect organic
integrity.

Are some mistakes made with
internal control multi-site organic
operations? Yes. Just as there are mistakes
made on individual farms by individual
farmers, but we all strive, and they make
continuous improvements in their organic
system plans to become more effective, just as
I've seen many individual farmers make great
improvements over time in their own individual
inspections, and their own individual
operations.

Even though some mistakes have been
made, QAI urges NOP to not throw out the baby
with the basket. Marty stole my words, I
already had that down. That's here. Let's just better develop stronger criteria for certifying this important constituent of the organic certification.

QAI acknowledges the reasoning of the organic task force, when it stated, let's just work on grower groups cooperatives for the present. We will address the need for further discussion of other multi-site groups at a later date. We understand that logic. We don't want to see and lose our small grower group cooperatives that have been formed all over the world. And NOP did threaten to totally eliminate grower certification. Everyone reacted with fear, but QAI urges NOSB and NOP to not forget that many retail store chains have been certified from the beginning, the last five years, six years under this system with accredited certifying agents.

These retail store corporations have spent thousands of dollars to develop comprehensive internal control systems under
which they implement their organic certificates. They have spent years developing their corporate images and their reputations around being certified organic. They are proud of their organic certification, and they take it very seriously. Consumers will be the losers if these retail stores surrender their exhibited certificates. Please continue to address multi-site certification to allow these businesses to operate as certified entities under their organic system plans.

Commercial availability, we support this recommendation, except please, please think about 5B and D. We think that's too labor-intensive for certifying agents and producers. I think that you'll see -- I started looking at that requirement. It may be another full-time employee at my office.

DL-Methionine, we support you to the Livestock Commission's second proposal to extend the use of DL-Methionine until October
1, 2010, or maybe even better if that's what you all think. Please allow us time. Okay.

Thank you.

CHAIR DELGADO: Questions from the Board? Okay. Thank you very much.

MS. BAIRD: Thank you.

CHAIR DELGADO: Next up is Miles Macavoy, followed by Katherine DiMatteo. I think she already went. Do we have Miles? No Miles. Alexis Bandenmeyer. I think we'll be able to finish sooner than we thought, folks.

(Off the record comments.)

CHAIR DELGADO: Okay. So Sebastian Belle. Sebastian has agreed to talk to the Committee only.

SECRETARY HEINZE: Give us a sec.

CHAIR DELGADO: Yes.

(Off the record comments.)

CHAIR DELGADO: Okay. So let's call Sebastian Belle, and that will be it for today. So no pressure, Sebastian.

MR. BELLE: Thank you very much.
Batting clean-up, that seems to be my role in life. My name is Sebastian Belle. I represent the Maine Aquaculture Association. We are the oldest state aquaculture association in the country. We represent both fin fish and shellfish growers, and yes, I plead guilty. One of my members is a father and two brothers who own a salmon farm, so I'm the Evil Empire Incarnate here.

I've been in this business for about 30 years, and I want to start by just saying that I have a tremendous amount of respect and thanks for the work that you folks do, and also recognize the hard work that the Livestock Committee under Dr. Karreman's leadership is doing. I realize it's often hard to wade through these issues, and particularly for new issues that we bring to the table, it's probably even more complicated, and at times more controversial than some of the other stuff.

I am a member of the Aquaculture
Working Group or Task Force under George Lockwood's leadership, and I also want to commend him for his leadership, and just strongly support the comments that he made earlier today, as well as the written comments that were submitted. And just indicate that we on the Working Group are really ready and willing to help the Livestock Committee in any way we can as you begin to go back and grapple with a number of the issues that you clearly have got to go back and rework on. And we're willing to do that in a constructive and non-invasive fashion, I think is the politically appropriate way to put that.

I also want to thank the NOP Program folks for their clarification earlier today on the use of fish meal and fish oil from wild sources. I think that was very helpful, and really helps, I think, some of the proposals that have been made by the Working Group, perhaps see the light of day. It's not, I think, a coincidence that the
minority report on the Livestock Committee was written by a nutritionist, and the point I want to leave you with today is that fish meal and fish oil, and particularly fish oil, is really problematic from a -- particularly a marine fin fish point of view. Animals that are being grown in marine environments.

The tilapia and catfish, which are the species that will probably make it through here under the current proposals, if you take byproducts from those organic fish and use them to generate fish meal or fish oil, they are not going to satisfy some of the basic amino acid profiles and lipid requirements for marine fin fish, and that's the conundrum we have. And, so, I respect that we're trying to increase organic production, and use those as feed ingredients, some of the byproducts from those fish. I think that's a great idea. We support that. But physiologically, we've got a problem. You're talking about going from a fresh water eco system and the species there
to a salt water eco system and species, and there are some fundamental differences, particularly during the start feeding phase for marine fin fish.

And what that means is, when a marine fin fish hatches from the egg, it has some internal source of nutrition, and it lives on that for some period of time. And then it has to begin to feed on exogenous sources of food. That is the highest mortality phase in marine fin fish, and we are very early on in the development of feeds for marine fin fish, because we don't know a lot of the nutritional requirements for those species. And, so, fish meal and fish oil are used in those species as kind of a safety factor in the diets, so they're put in there because that's what those animals begin to feed on in the wild. And they kind of are a fudge factor, if you will, and I use that with some trepidation because I'm not a nutritionist, but they're kind of a fudge
factor in the formulated feeds to insure that
you're not getting nutritional pathologies at
the very early start feeding phase of those
species.

I also want to make a point that
the allowing of private certified label
products and their use as ingredients in fish
feeds I think is very problematic. It sounds
like that may have been resolved, but the
point is, I have members that grow fish that
have never used antibiotics on their sites,
ever, in the entire history of that farm. And
they would be prohibited from reaching organic
certifications; and yet, people who were
feeding feeds with feed ingredients from
Europe in which they're allowed to use two,
and sometimes three times prior to harvest
antibiotics, those would be allowed, so that's
problematic, I think, from our point of view.

Thank you. Long day.

CHAIR DELGADO: Questions? Hugh,
followed by Dan.
DR. KARREMAN: Two questions, I guess. What kind of fish are those folks growing up in Maine that aren't using the antibiotics?

MR. BELLE: Salmon.

DR. KARREMAN: Okay. And as far as the fish oil being very, very important in the early growth on the exogenous feeding, when they just start out, we've heard that tilapia and catfish and shrimp don't have quite the right essential oil, or fish oils that are needed. When the fish are becoming more adult-like, would the tilapia-derived fish oil be okay for them, versus let's say the little guys that really need the strong stuff?

MR. BELLE: Honest answer, we don't really know.

DR. KARREMAN: What's your best educated guess?

MR. BELLE: I just -- I don't feel like I'm in a position to really answer that, Hugh. I think that -- we just don't know,
honestly.

DR. KARREMAN: Okay.

CHAIR DELGADO: Dan. And before we do that, I just want to announce that we have one more speaker after Sebastian, so please continue. What is your question?

MEMBER GIACOMINI: To Hugh's point, I believe the recommendation from the Aquaculture Working Group is the 12 and 12 on average over the production cycle, so that would be compensated and adjusted through that time frame.

One of the numbers that I'm having a hard time getting a hold of, Sebastian, and maybe you can help me, is - and partly, it's because of the nature, or the difference in the nature of our beast that we're familiar with. There are certainly standards, typical book values for fish meal, all that. But the fish meal that you would be looking to be utilizing, granted you can't feed salmon to salmon, but the fish meal that you would be
looking to utilize in your salmon farms, the number that I'm interested in finding out, and I've asked a couple of people and they don't know, or they're having too hard a time finding it, what is the lipid level on that? So not on book value fish meal, but on the fish meal that you're going to be feeding, what's the residual lipid level in that fish meal? Because one of the reasons I'm asking that is because we're starting to hear comments, we had one of the commenters in our packet address this total lipid content in the diet. I'd like to have a little better idea of where we stand on that when we are looking to combine the two.

MR. BELLE: I don't know the answer to that off the top of my head, but I'd be glad to go back to some of our nutritionists in the work group and get that number for you. I think that's a very fair questions.

MEMBER GIACOMINI: Thank you.

MR. BELLE: Okay.
CHAIR DELGADO:  Jennifer.

MEMBER HALL:  Thank you, Sebastian,

for being here.  Kind of given some of the new
information that we got earlier today, I have
a question for the Program.  We've been
operating lately under a couple of
assumptions, one being that wild source for
meal and oil was not something that we could
consider.  And, so, I've also, at least I
have, and we've discussed it in Committee,
that we've been operating under the assumption
that -- we have been told that all of the
aquaculture recommendation needs to be
submitted at once versus a piecemeal approach,
that a piecemeal approach is not something
that would be considered.  And I guess I want
to verify that assumption, because I continue
to hear more and more that in the piscivorus
requirements, that the nutrition values are
not well known at this time.  And, so, in the
interest of wanting to move some elements
forward where there is a greater knowledge and
security about what's happening there, could
the whole basket versus none be reconsidered?

CHAIR DELGADO: Can someone from
the Program comment on that?

MR. BRADLEY: Yes. Barbara will
have to comment on that from the Program
standpoint, because that would be a long-term
work plan management issue with the Board.

CHAIR DELGADO: Okay. We'll leave
that question open. Yes, you want to follow-
up?

MEMBER GIACOMINI: Just a little
clarifying, so we make sure that the answer
comes back to the right question. I believe
at the last meeting Barbara said that because
of fiscal issues, that the Program was
essentially sitting on the document that we
had already made a recommendation on, and
passed on to you, and was going to wait on
rule making until all of the aquaculture
issues had been passed to you. And so what
we're looking at now is whether, with the
additional funding, and the additional manpower resources, will that move up in the agenda, and could we possibly be seeing aquaculture regulations for what we've already passed without fish meal, fish oil, net pens, by valves, and those things being fully resolved?

MR. BRADLEY: As I recall, what Barbara said was that there's a lot of regulatory work ahead of aquaculture in the mill right now, and that we would get to it as soon as we can. If we can acquire additional resources, that will certainly help, but it wasn't a matter of we're going to wait on this until you get the whole thing done. Continue with your work, we'll continue with our's, and we'll begin working on that as soon as we can.

CHAIR DELGADO: Okay. Any follow-up questions? Hugh.

DR. KARREMAN: Well, I guess that means that shrimp, and tilapia, and catfish are in the mill. Yes, that's what we passed
last spring. Right. But you guys, we can hope, are going to be working on that before we might get the other parts in. That's what you're saying right now.

MR. BRADLEY: What we're saying right now is that we have pasture in front of us, and we have origin of livestock, and I'm sure aquaculture will be the next thing coming in. We also have sunset items that have to be done, so it's a workload thing, and we don't have resources added to the staff yet that can really take that burden off. We're not in a position to say that yet. It takes a bit of time to get people hired and then trained in a reg writing mode.

CHAIR DELGADO: Just to follow-up, as far as we're concerned, the Program has received all the materials, recommendations that have been approved. Correct? Related to aquaculture. Is that correct?

MR. BRADLEY: Yes.

CHAIR DELGADO: Okay. Thank you.
Any other questions? Thank you very much.

Now at this time, our very last speaker will be Dave Carter. And after that, we'll be done.

MR. CARTER: All right. I'm Dave Carter. It's late, you're tired, I'll be quick. I was asked to come up and just give a comment on the record. Grace Marroquin wanted me to come up and just address one of the issues that was identified by the Materials Working Group, and that was if you made the change on agricultural products and had designation of organic yeast, what would be the impact in some of the livestock feed, issues with the yeast, and then other microbial ingredients.

So in visiting with some of the folks who use livestock feed regimens, yeast is really what you would call an alternative ingredient. It's not really a mandatory ingredient. It's not like Methionine. Most of the feeders and the folks that I talk with
don't even use yeast at this point, so it's an alternative ingredient. If you were to have it designated as organic and put it into feed rations at the level that it's put in there, it would be about 9 cents a day per animal on beef, and so it just becomes a simple equation of over a 90-day feeding period does the animal put on X number of pounds to pay for that ingredient?

So in terms of some of the other microbial ingredients that are going in there that would then come under this definition, some of the things like the probiotics that are not now currently considered organic. They're not because they're growing them on yeast substrate, and it's not organic, and so I talked to probiotic producers, said yes, if we got this done, we would definitely move forward with that. So I just want to kind of lay that out there in terms of that.

Now, while I'm here, there's two other things, and I have to say number one is,
I've been working with folks on the Fenbendizole petition. I appreciate the work that was done on that, agree with what Rick Matthews said, just remember I think as one ingredient comes on there, I think it's time to get the other one off of there. I think that will be good.

And then, finally, the Pet Food Task Force gave you a very, very good report a while back, and before it gathers too much dust, it would be very good to see that move forward, because as I walked around Expo West, there are more organic seals popping up on pet food every single day, and it's really time to get the fence around that, and get that under control. So thank you.

CHAIR DELGADO: Okay. Thank you.

Questions? Dan.

MEMBER GIACOMINI: I completely agree with you that the yeast issue is in very small amounts, and it's not nutritional. That is the very reason why it makes a difference
in livestock. It is in as a digestive aid, not all yeast is yeast when it comes to the value as a digestive aid. Regarding species of action in the ruminant regarding the livability of getting it to the animal and through the feed system. That is part of the reason.

The second thing is, if your people are paying 9 cents, they ought to look around. The typical price on yeast is about 5-1/2 on most Tim Graham products.

MR. CARTER: Yes. No, I'm thinking organic. I'm going up the scale in terms of that, so if they can save some money. Actually, the best solution to everything is buy some buffalo, put them out on grass and forget about it.

CHAIR DELGADO: Okay. Katrina.
SECRETARY HEINZE: I just want your affiliation for the notes.
MR. CARTER: What's that?
SECRETARY HEINZE: Your
MR. CARTER: Oh, my affiliation. Actually, I'm representing myself. I'm with the National Bison Association, Crystal Springs Consulting, and Pet Promise.

CHAIR DELGADO: Okay. Any other questions? Julie.

MEMBER WEISMAN: I just wanted to address Dave on the issue of the pet food recommendation, and make sure that it known that we've already had two Handling Committee calls since the publication deadline for this meeting closed, including one that Emily Brown Rosen and the Chair of the Task Force, Nancy Cook, had been on. We have more in the pipeline as soon as this meeting ends, so that's -- it's definitely in gear now.

MR. CARTER: Thank you.

CHAIR DELGADO: Any other comments? Questions? Julie, thank you very much. That was very timely, and I'm really happy to hear that you're working so well with that. This
concludes --

MEMBER: I was going to make a
motion for adjournment.

CHAIR DELGADO: No need for that.

MEMBER: Can't adjourn the whole
meeting.

CHAIR DELGADO: This concludes Day
Two of our meeting. Yes?

MEMBER: Just so not everyone
scatters, Livestock Committee does have to
have a meeting tonight. How about dinner in
the restaurant here, or later at 8:00. Let's
just talk afterwards.

CHAIR DELGADO: Okay. Yes, please.

We have--I think the crowds will also have
those-- so we are officially -- yes?

(Off mic comment.)

CHAIR DELGADO: No Handling
meeting. Okay. We're in recess until
tomorrow at 8:00.

(Whereupon, the proceedings went
off the record at 6:45 p.m.)
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U.S. DEPARTMENT OF AGRICULTURE  
TRANSPORTATION AND MARKETING PROGRAMS  
+ + + + +  

NATIONAL ORGANIC PROGRAM  
+ + + + +  

NATIONAL ORGANIC STANDARDS BOARD MEETING  
+ + + + +  

THURSDAY  

MAY 22, 2008  
+ + + + +  

The Meeting of the National Organic Standards Board convened in the Chesapeake Room, Holiday Inn Inner Harbor, 301 W. Lombard St., Baltimore, MD, pursuant to notice at 8:00 a.m., Rigoberto Delgado, Chairman, presiding.

BOARD MEMBERS PRESENT:

RIGOBERTO I. DELGADO, CHAIRMAN  
JEFFREY W. MOYER, VICE-CHAIR  
KATRINA HEINZE, SECRETARY  
HUBERT J. KARREMAN  
KEVIN ENGELBERT  
JENNIFER M. HALL  
JULIE S. WEISMAN  
DANIEL G. GIACOMINI  
GERALD A. DAVIS  
KRISTINE ELLOR  
TRACY MIEDEMA  
JOSEPH SMILLIE  
BARRY FLANN

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CHAIRMAN DELGADO: The meeting will come to order. Good morning, ladies and gentlemen, members of the board.

This is day three of our meeting, and the first item on the agenda for today is to continue with public comment. We have 10 presenters today.

And I would like to call at this moment Ms. Lynn Coody followed by Emily Brown-Rosen.

Okay, Emily, if you would be kind enough to state your name and your affiliation.

PUBLIC COMMENT (CONTINUED)

MS. COODY: Okay, thank you.

My name is Lynn Coody, and for the record Coody is spelled C-o-o-d-y. And today I'm speaking for the Wild Farm Alliance, which is a nonprofit organization located in California.
And it is on a topic that you have not heard about yet in this meeting which is biodiversity. So remember, this is from Wild Farm Alliance.

We are coming back to the National Organic Standards Board on the issue of biodiversity conservation, which is part of the national organic program rule, a topic that the board had full agreement on in 2005.

At that time NOSB unanimously approved additions of field-tested biodiversity questions into its model organic farm plan. This plan now available through ATRA is a voluntary guidance document used by many certifiers during the inspection processes.

The endorsement of these questions by the NOSB was in a bigger sense the agreement by the board that biodiversity and natural resources are an integral part of the NOP.

The NOP's audit review and
compliance check list, which is entitled ARC 1025A is a document that guides audits of NOP accredited certification agents.

This document does not currently contain a requirement for verification that certification agents are implementing the natural resources standard in the rule which is Section 205-200. This standard states, production practices implemented in accordance with this subpart must maintain or improve the natural resources of the operation including soil and water quality.

Additional sections of the rule further define natural resources to include wetlands, woodlands and wildlife – in other words, not just farmland.

Other sections explain that producers must initiate practices to support biodiversity; in other words, be active about it.

And another provision requires a producer to incorporate biodiversity
conservation practices in his or her organic farm plan.

When considered together the various provisions point to the need for assessment systems that include review of the impacts of an organic farm's practices on natural environments in the vicinity of the farm.

In order the remedy the omission of this, of the NOP - NOP's omission on their check list, we have requested twice that the NOP amend the check list to include natural resources and biodiversity in three specific sections. And that's all that information was given in my written testimony, so you don't have to hear all that stuff right now.

With the funding from Organic Farming Research Foundation and assistance from a broad-based technical advisory committee, the Wild Farm Alliance published two guides for farmers and certification agencies describing practices and actions
farmers can take to conserve biodiversity.

In 2006 these guides were mailed to all organic farmers and certifier in the nation. Since the NOSB made this recommendation and the biodiversity guides were produced, the Rodale Institute now provides electronic versions of ATRA's farm plans for its transition to organics course and the Independent Organic Inspectors Association uses the updated farm plan along with WFA's biodiversity conservation certifier guide in their advanced inspector training sessions.

And recently Wild Farm Alliance has published another guidance document that is design – you should have copies of this now - that is designed to assist farmers and certifiers in identify noncompliances related to biodiversity, and to suggest positive approaches for complying with the standards related to this topic.

Currently certifier who inspect
about half of the organic farmers in the country are either now addressing biodiversity or say they would like to look into it more once they get some staff time.

However, some of the certifiers who are already implementing NOP's standards for biodiversity conservation have expressed concerns to WFA related to the fact that NOP's accreditation system is not currently holding all NOP-accredited certification agencies accountable for enforcing the biodiversity standards.

With the NOP's revision of the ARC's check list used to audit certification agencies as described above, both the letter and the intent of the NOP regulations will be implemented and organic certifiers will compete on an equitable basis.

Wild Farm Alliance encourages the NOSB to make a recommendation to the NOP that they incorporate the natural resources and biodiversity sections into the ARC check list.
1025A. By making this amendment NOP will ensure the consumers are getting what they pay for - I'm on my last sentence - pay for, organic products that only - that not only say they are environmentally friendly but also have the accreditation system to back it up.

CHAIRMAN DELGADO: Okay, thank you. Questions from the board?

MEMBER ENGELBERT: I agree with everything you said, but I just want to make sure you and your organization is aware, there is a cost for the farmer for that, to do all those things, and it's very difficult to extract that cost and put a figure on it and have it covered by the marketplace. But I agree with what you are saying.

MS. COODY: Well, hopefully, if you take a look at this booklet that we wrote, you'll see that the first page, the first chart gives a summary of what we consider to be the major nonconformances. However, the rest of the entire book is positive things
that farmers can do. And in many cases when we - really in most cases we see that farmers are already doing a lot of this compliance. It's only in a few cases that difficulties are occurring. In most organic farms, it's amazing.

CHAIRMAN DELGADO: Follow up?

MEMBER ENGELBERT: Yes, I agree, and we are doing that. We provide a very good diet for all the wild animals that are on our farm. I'm serious; they eat very well. We have hunters coming to us all the time because we have such a huge population of wildlife on our farm.

MS. COODY: I hope you have orange vests for your cows.

CHAIRMAN DELGADO: We have a question from Joe, and then one from Berry.

MEMBER SMILLIE: You want us to make a recommendation on this?

MS. COODY: See, this is a topic that hasn't come up very much. So it's hard
to know how to actually approach this.

But since we have already written
three letters to ARC and they had promised to
talk to NOP about it, and NOP did talk to them
about it, it's just been going back and forth
about what should happen.

MEMBER SMILLIE: Well, wouldn't the
crops committee put it on their work plan?
Would that be the correct direction?

CHAIRMAN DELGADO: I was just
thinking of that.

Jeff, you had a comment, and I
would also like to ask Jerry to comment as
well.

VICE CHAIR MOYER: I would suggest
that it would probably be a joint crop CAC
document.

MS. COODY: It isn't an
accreditation issue.

VICE CHAIR MOYER: Since it has to
do with accreditation and inspection.

MEMBER SMILLIE: I don't know, too
many joints.

CHAIRMAN DELGADO: Gerry agrees with that comment, Joe, I think.

VICE CHAIR MOYER: I think it's something we could discuss putting on our work plan.

MEMBER SMILLIE: That's today though, right?

CHAIRMAN DELGADO: Yes. Today we'll be discussing it.

MEMBER SMILLIE: Okay, I'll talk to you guys later.

CHAIRMAN DELGADO: And we'll have some time during lunch for that.

Are you satisfied with that response, Joe?

Okay, we have Barry followed by Hugh. You had a question?

MEMBER FLANN: Thank you, Joe. What would I do without Joe sitting next to me?

I just want to comment that I think this is an excellent piece of work, and I'm
delighted to see it.

Being a newcomer I don't have the slightest idea how we can implement it, but I'm certainly behind it, and I thank you for your work.

MS. COODY: Well, thank you.

CHAIRMAN DELGADO: Hugh?

MEMBER KARREMAN: It's interesting, Barry, you say that, because I remember back in 2005 I said about the exact same thing, this is a great idea. And it's kind of a fuzzy memory to me at this point. I'm glad you bring it up again.

And all I can say is that I think it would be helpful to also have like ag support people like extension and whatnot be aware of this maybe through the e-Extension website that is happening now.

Because I know whenever AI give talks to either farmer groups or veterinary groups, but I always talk about like stream bank fencing, that brings a lot of wild life
right back. It really does. And that's a
good erosion control and whatnot.

So I don't think the onus has to
just be on the certifier inspector farmer.
You've got to bring in more people and be more
biodiverse with your inputs of people.

MS. COODY: You are absolutely
right, and we are on that track already. We
have been working with the e-organic folks.
In fact Jim Riddle was one of the people on
the advisory committee.

So we have suggested that this be
on their website or a link to it already, and
this is available on Wild Farm Alliance's
website, so any farmer can access it - any
farmer with a computer can access it at any
time.

So they do a terrific job of trying
to get it out to as many people as possible.
But I totally agree with you, and I think it's
great if - you know, they have done trainings,
and a lot of the certifiers their inspector
training on this already. But there's lots of
folks out there, increasingly all the time,
that are knowing about it.

So I appreciated your support then
and I appreciate it again now. Thanks.

CHAIRMAN DELGADO: Any other
questions from the board?

Thank you very much.

Next is Emily Brown-Rosen followed
by Leslie Zuck

MS. BROWN-ROSEN: Thank you. My
name is Emily Brown-Rosen, and I work for
Pennsylvania Certified Organic.

I'd like to thank you again for the
opportunity today. In opening I just want to
say one thing, it may seem like a lot of us
are up here complaining or having problems or
pointing out all this work you have to do, and
we were having this discussion on our
certifier listserv, and one of our European
colleagues pointed out to us that what are you
guys complaining about? We don't have anybody
we can ask any questions of in Europe? There is nobody to go to.

So we are really blessed with this whole setup, and it's really a great setup. So forgive us for sounding kind of demanding, but we really got to keep that in mind.

Okay, a few points about the TAP reviews. It's been said that the board can serve as its own technical advisory panel, and I would like to point out the OFPA language, 6518-K3 which says, the board shall convene technical advisory panels to provide scientific evaluation of the materials considered for inclusion on the national list.

Such panels may include experts in agronomy, entomology, health sciences, and other relevant disciplines. Okay, that's one.

And then at 6518-L3 it says, quote, the board shall submit to the secretary along with the proposed national list or any proposed amendments to such list the results of the board's evaluation and the evaluation...
of the technical advisory panel, all substances considered for inclusion on the national list.

Now maybe it is possible for the NOSB to serve as its own TAP and take both roles. It's written up in the OFPA, but to me it sounds like there is a requirement to have TAPS, and a requirement that these are a different body with a different recommendation.

And I do not believe the intent of Congress, and it certainly does not meet the expectation of the organic community that we do not have to have reviews.

Many of us in the organic community have worked very diligently the last few years to obtain funding in appropriations for 2008, and in the farm bill, we're looking forward to that. And a product of that funding should be good, sound, scientific support for this group. You do a lot of hard work, and you deserve support, technical support, to
evaluate these complex issues on hundreds of
different topics that you can't possibly have
expertise in all of them.

So I think you have the authority
to refuse to evaluate materials, when you do
not have technical support or a TAP when it's
needed, and you should preserve that
authority.

Secondly, synthetic and
nonsynthetic clarification. A lot of people
have brought up the need to go back to this
document, revisit it. And we do have a
problem - one of the reasons we feel this is
needed is, we have a problem with a certain
number of materials that are not on the
national list that are currently being allowed
in organic food.

And this is due to certain
interpretations made in older decisions by the
program. For example sodium and potassium
lactate are antimicrobials used in processed
meat products, and they are ingredients that
are required to appear on the label of organic
say deli sliced meat. We see it out there all
the time. We've been requested to allow our
processors to use this. It's not on the
national list.

Neither potassium nor sodium lactate is on the national list. These are
two discrete chemical compounds with separate
CAS numbers.

The physicians substance database
says these are not prohibited, but it doesn't
give any reason.

Now the reason is that in an
earlier round there was an opinion in a letter
from NOP that this substance is allowed
because it was formed from two substances
where one is on the national list and one is
considered consistent with the national list.

But under this reasoning dozens of
food additives can be justified based on
substances on the national list that are
combined together. Forming a chemical
reaction and a new compound.

    We don't think this is consistent
with OFPA or with the board's authority that
they are the ones who can recommend all
synthetic substances allowed in food handling.

    So - but if we move forward on this
it's kind of hard to know how to petition to
take a substance off the list when it's not on
the list. So we can file complaints; there
can be lawsuits. But we'd rather not do that.
I mean that would be harmful for everybody,
and I think we can resolve this much more
simply.

    So if we move forward on your
synthetic framework, which was actually
reproposed back to you from the program in
2006, it clearly defines what's chemical
reaction and the need for individual CAS
numbers. And I think that would just really
clean things up, and we could move forward.

    So that's my compelling reasons.

Very quickly, the other loophole
area is accessory nutrients. You've heard testimony, people don't like the fact that these have been allowed. It's been a compliance decision, and you felt like you couldn't do anything.

Again, we can't petition to take something off that's not on, but you should go back and revisit that 1995 document on accessory nutrients, written before the rule, not consistent with the rule, and it should be rescinded.

Any questions? I had a few more points, but.

CHAIRMAN DELGADO: Questions from the board? Can?

MEMBER GIACOMINI: Thank you, Emily.

Just two things, on the synthetic and non-synthetic I believe that is part of the next step or maybe a subsequent step of the materials working group is to be looking at synthetic as we look at that whole entire thing.
And regarding your other issue of those items, one of the things I'm going to undertake as my job is that included in the request for any technical reviews will be an evaluation of what can be made with that substance when combined with other things that are on the national list.

I don't know how much more we can do with that right now, but that is part of an evaluation that I don't think was made, but we can at least evaluate it in new things that are coming before us.

MS. BROWN-ROSEN: Then you are going to need a lot of technical support to look at all the combinations of things that are on the list. Good.

One little response is that the materials working group, we need to go ahead. I think it would be very useful to have a way to post comments on ongoing issues like synthetic-nonsynthetic, like hydroponics that are asking for questions, in intervals between
meetings.

Like right now we can't post any comments until 30 days before when you have the thing open on regulations dot gov. So if there is a way to set up something on NOSB's website, it really helps to dialogue, to see other people's comments, and weigh them, and have more time to think about some of these long-term issues.

CHAIRMAN DELGADO: We had a question from Jerry followed by Kevin.

MEMBER DAVIS: Emily, could you send us more details on those materials that you see as - you made an example of the potassium lactate and so on, if there are some more items.

MS. BROWN-ROSEN: Actually, the board had a lot of correspondence on that subject. We can dig it all up and send it back to you.

MEMBER DAVIS: If everyone has that, that's great.
MS. BROWN-ROSEN: Okay.

CHAIRMAN DELGADO: Kevin.

MEMBER ENGELBERT: Yes, Emily, you said you had two more short points?

MS. BROWN-ROSEN: Yes, well, I just mentioned the one about between meetings. Then the last one was the petition substance database. We appreciate the new website, but it is not manageable right now. You have to click on the 26 different letters. You can't search. And there are some errors in there. It just needs updating where it says things are prohibited that are actually not prohibited, and then we have those points where it says prohibited, but it doesn't say why. So it's really difficult to use, and we hope it can be remediated.

CHAIRMAN DELGADO: Hugh?

MEMBER KARREMAN: Hi, Emily. Since you're a materials girl, I thought I'd ask you, I was wondering, I know that with the official release of the new Federal Register
release on December 12 of last year, that allows medicines in the livestock realm that previously weren't delineated.

What have you been doing, or what would you suggest, regarding 205.603(f) in respect to excipients that are now fortunately allowed in the regulations but they are more narrowly defined toward FDA regulations. And what are you doing about the excipients in USDA licensed biologics and vaccines? How are you looking at that as a certifier?

Because they are encouraged by 205(a)(6).

MS. BROWN-ROSEN: Right. My understanding is, we got clarification at the January certifier training in Kentucky that if it's a biologic or a vaccine that's USDA APHIS approved, then automatically all the excipients in there are considered approved. It's just a different regulatory scheme. It's not FDA ruling over those; it's USDA. So that was the intention, to cover those two.
So if it's a registered biologic, we do not question the excipients, because they have already been looked at.

MEMBER KARREMAN: Has that been written down yet, that you can refer to that?

MS. BROWN-ROSEN: No, actually we're waiting for the notes from the training. I believe NOP promised us after all of them were completed.

MEMBER KARREMAN: And that will be addressed at that point in black and white? Okay.

MS. BROWN-ROSEN: Well, they are also putting things on the AQSS, but I haven't seen that one yet.

MEMBER KARREMAN: Good. Also another question, regarding 205.603(d)(2) and (d)(3) under trace minerals and vitamins. There has been some problems with using trace minerals and vitamins, medically, injection for sick organic livestock because technically that's as a feed supplement or additive or
something like that; it's not technically allowed for injection. It's not referred to that way.

So what would you suggest should be done on that?

MS. BROWN-ROSEN: Well, we - and I think most certifiers do allow injectable vitamins as a valid health care material. It's really not specifically spelled out in the National List, and that would be helpful to that have additional use specified. I think there is discussion under health care about appropriate vitamins and minerals being required for health, so that is sort of our reasoning.

But it would be better to have a petition on injectable or medical use of vitamins and minerals, and maybe there needs to be some annotation, but we've all been too busy to do that I guess.

We have been applying the excipients' policy to those vitamins that are
used medically. And some vitamins do not meet that. So we have certain forms that are allowed and certain that aren't. So we are just investigating those and evaluating them on a case-by-case basis.

MEMBER KARREMAN: One last question if I may?

CHAIRMAN DELGADO: Yes. Any other from the board? Proceed.

MEMBER KARREMAN: Same realm. On 205.603(a)(23)(i)(I) regarding Xylozine being only used at an emergency situations, sometimes - well, these are real life - you know, we've had these discussions. Sometimes a farmer will buy in some cows or whatever that have horns and they need to have them taken off. And that is certainly not an emergency, but Xylozine is absolutely used to sedate the animal and for analgesia and whatnot along with lidocaine.

But it says under 23(I)(I) that it can only be used in an emergency, and that's
not really an emergency.

Do you have any suggestions for that so that people aren't caught up with minor noncompliances or written up?

MS. BROWN-ROSEN: So far as I know it hasn't come up yet specifically, or that I've come across my desk in our operations. I'm sure it will. That is a good question.

I would tend to look at it that horns in a large animal is a dangerous situation. It could be an emergency for the farmer. I might think of it that way. But I don't know if we need to re-address that annotation.

MEMBER KARREMAN: Well, that's a specific thing, the horns. But it might be castration or whatever.

MS. BROWN-ROSEN: That is a more routine thing, yes, right. So that is the only anaesthetic that would be suitable for that, you think?

MEMBER KARREMAN: Well, to sedate
them and get near them and work them.

MS. BROWN-ROSEN: Well, too bad you didn't change that when you recommended it.

MEMBER KARREMAN: It slipped by.

MS. BROWN-ROSEN: Well, maybe it has to get brought back up then.

MEMBER KARREMAN: Okay, thanks.

CHAIRMAN DELGADO: Any other question from the board?

Thank you, Emily.

MS. BROWN-ROSEN: You are welcome.

CHAIRMAN DELGADO: Next is Leslie Zuck followed by Kelly Shea.

MS. ZUCK: I'm glad Emily got all the hard questions.

I'm Leslie Zuck, z-u-c-k. And I'll first comment as chair of the Accredited Certifiers Association, the ACA met last night, and we had a good discussion on how our organization can most effectively assist the NOSB and NOP in your decision-making process.

And we are really impressed with
the work of the materials working group and
their presentation to the board, and ACA
decided that we could form some working groups
within our organization. And we made a pretty
long laundry list of topics which I will share
with you since you share your work plan with
us.

And that list is: grower groups;
origin of livestock; poultry living
conditions; animal welfare issues; materials
issues; private labeling; and some of the
missing standards - we call them missing
standards - and those would be honey or
apuaculture, mushrooms, and greenhouse
products.

And we will be responding to the
crops committee's questionnaire on
hydroponics, so we'll get back you on those.
We didn't really have enough time, because I
think we just kind of saw it a few days ago,
so we will respond to that.

And we do encourage the board
members and the national organic program staff
to contact Pat Kane with the ACA if you want
information or research assistance on topics
you're working on. And Pat will be sure to
get it out to our member certifiers to help
you out if you need our help.

There was one comment we'd like to
make on the commercial availability of seed,
and that is that we wholeheartedly agree with
the committee that it is important to support
the use of traditionally bred seed, but we
suggest that the data collection needed to
support your recommendation would best be done
by experts, which is not us. Such as the
Economic Research Service and other agencies
that have the means, expertise, and authority
to collect and collate that data for that
purpose.

I'm also commenting as executive
director of Pennsylvania Certified Organic,
PCO's concern that some certified organic
poultry operations are being permitted to
continuously confine poultry based on a veterinarian's recommendation that the bird's health, safety or well-being could be jeopardized if they are given outdoor access.

PCO certifies more than 100 poultry operations, and those include layers, broilers and turkey producers. You heard from quite a few of them yesterday I believe. And those producers produce more than 600,000 broilers; 800,000 layers; and 10,000 organic - all those - turkeys annually. And every one of those birds is required to have outdoor access during the season. They cannot be continuously confined.

And actually those numbers would be a lot higher in Pennsylvania if we as a certifier were not being so strict about outdoor access, because we actually have had large producers leave our program in favor of certification programs that allow continuous confinement.

So we have had those letters
presented to us as a justification for continuously confining poultry due to the risk of avian influenza being transmitted to domestic poultry from wild bird populations.

We got those letters. We did additional research to assess the risk, and we have shared that research with other certifiers; we are happy to share it with anyone. And we developed a process on temporary confinement due to the risk of high-path avian influenza - that's the HFN-1 strain, I think. And that was back in 2006.

We have seen no elevated risk since then, and we strongly disagree that there is justification for permitting continuous confinement.

In their 2005 letter to certifiers, the National Organic Program refers us to the APHIS guidance on protecting poultry from disease outbreaks. And even the APHIS guidance doesn't requirement confinement. It does give it as one option, but it
additionally allows restricting outside access by maintaining outdoor enclosures covered with solid roofs, wire mesh, netted sides, keeping your outdoor enclosures covered with wire mesh or netting in lower risk areas where solid roofing would not be required.

So there are alternatives to completely confining the birds, and that's on the USDA website, so that is there for anyone to look at.

So I'll conclude by saying that all certifiers in order to do our job effectively could benefit from more guidance on poultry living conditions, including indoor and outdoor space requirements, type of outdoor access, type of enclosures for outdoor access.

And we'd ask that the NOSB put this on your work plan. You have a recommendation out there from a number of years ago; you might want to get that out and dust it off and review it, and help us with this urgent problem that we have.
CHAIRMAN DELGADO: Hugh followed by Joe.

MEMBER KARREMAN: Thanks, Leslie.

We had, when Mike Lacey was on the board we were discussing the AI, high path AI issue. And it kind of came and went because that threat at that time came and went. But I think maybe informally we were discussing, but I could ask you, would you think it would be good is the NOSB were to have a policy or guidance that only during an AI outbreak and only when a Department of Agriculture, or state Department of Agriculture, Delaware, Maryland, Pennsylvania, whatever, declares an emergency, that animals can be kept inside until the emergency is done.

Would that be a good thing to have stated?

MS. ZUCK: Some type of policy would be excellent. PCO does have a policy that sort of reflects what you did state there, and it says, conditions warranting temporary
confinement. Our policy says that we will not wait until a local infection occurs. But we consider allowing the request if there is a documented occurrence in migratory birds in North America, or if state or federal authorities require birds to be kept inside.

During this time Pennsylvania Department of Agriculture had a workshop on it, invited everyone to come down there. And they were not requiring poultry, any poultry, conventional or otherwise, to be kept inside. So we thought it was really not responsible for us as an organic certifier to require or allow poultry to be kept inside.

And that basically there is a list of things that you would consider, so there are – there already are in place the Centers for Disease Control maintains a current alert posting website. FAO has one that every two weeks they put a map up on their website that shows where all the outbreaks are. And now they are all in Asia and other places, but
there have not been any here. At that time there hadn't been any in the Western hemisphere. And there are organizations monitoring that that we would defer to rather than us as a certifier to assess the risk. We don't need to do that; we could go to these agencies to do that.

MEMBER KARREMAN: Just to follow that, I think that if you are a certification agency and you are getting kind of dinged by people going away from you since you are actually reflecting the will and intent of the regulations for public health are, that's not right. You guys are obviously thinking about this. Pennsylvania is a big egg producing state and whatnot, and you have obviously done your homework, and you have people going away from your certification agency. That is not right.

MS. ZUCK: I think the regulation could use a little more teeth. It does say that the rules permit temporary confinement
under 205.239(b) based on conditions under which the animals' health, safety or well-being could be jeopardized. I mean that is pretty general. Leave them outside, they could be jeopardized. They could be eaten by a coyote. Lots of things could happen to them if you leave them outside, so it's not really that difficult to find somebody to write a letter to justify confinement. So I think we need additional guidelines under poultry.

MEMBER KARREMAN: But under 239(b) it doesn't say that if a veterinarian writes a letter that that then excuses that, does it?

MS. ZUCK: It would be justification that a certifier could responsibly use for justification. I'm not faulting the certifiers who are permitting this. I just feel they don't have enough tools with which to make their decision. And they need the support of the board and the program when they make strict decisions like we're making to do that. Because the producers are pretty
adamant about - we had them saying, do you want to be responsible for the first case of avian influenza being in an organic flock in Pennsylvania? You wouldn't want that, would you?

So as a certifier you're like, okay, well, maybe this sounds reasonable, yes. So that's kind of the things that we are up against. And they are your client, and you want to help them, and you don't want them to have problems with their production; it's a big issue. And we are completely sympathetic to their concerns. They've got a lot of birds to take care of.

MEMBER SMILLIE: Joe followed by Kevin. My line of questioning was exactly where Hugh went, and Leslie, I think you have answered it perfectly.

It's the problem Leslie has pointed out. Your very last point is the key point. Basically the regulation like we've seen in other parts of the regulation, the regulation
is not clear. And what she's cited is exactly what your clients and their lawyers will cite to you.

We have a responsible state veterinary who says they are in danger if they are going out in X situation. AI is just one of them. AI was like a good training course for permanent temporary confinement rule.

And that's what's happening. That's the reality we have to face. And Leslie's answer is a good answer, and that's the way certification agents should be pursuing it, but when faced with companies and their lawyers, saying, here is what the regulation says, and this is what we are going to hold you as a certification agent to, it's tough. So basically we would need support in further definition of the regulation as it now sits, not the spirit of the law, because the spirit of the law has no weight in court. It's the regulation that has the weight, and Leslie perfectly described the situation that
we face with that.

CHAIRMAN DELGADO: Kevin.

MEMBER ENGELBERT: It's obviously troubling to hear that you lose farms to another certifier. It's very similar to what's going on in some instances with the seed situation.

Other than coming before the board and stating that problem, are there any other actions that you do or that you take or that we could take?

MS. ZUCK: Like I said in this case I don't really fault the certifier. I feel like if we had additional guidance that would help us be a little more comfortable in our decision to require that. I'm not sure what the answer is, but I'd just like to work together with the board and with the program to try to solve this problem and I think if we - I don't know what the solution is.

CHAIRMAN DELGADO: Follow up?

MEMBER ENGELBERT: I guess what I
meant we'd want is, do you call the other
certifier and say, what are you doing?

    MS. ZUCK: Well, they've called us,
and they know that we've made that decision,
and we've shared this information with them,
but they still were really uncomfortable with
not having necessarily the support in the rule
as Joe states that is going to allow them to
really stand up to that.

    CHAIRMAN DELGADO: Comment from the
program?

    MR. MATTHEWS: Richard Matthews.

    I couldn't disagree more,
especially with the comments from Joe.

    All right, here is the issue.
205.238(a), producer must establish and
maintain preventive livestock health care
practices including, one, selection of species
and types of livestock with regard to
suitability for site specific conditions and
resistance to prevalent disease and parasites.

    Paragraph three: establishment of
appropriate housing, pasture conditions and sanitation practices to minimize the occurrence and spread of diseases and parasites.

Section 205.239, livestock living conditions: (a) the producer of an organic livestock operation must establish and maintain livestock living conditions which accommodate the health and natural behavior of animals including access to the outdoors.

I don't care what some lawyer is saying, the rules are clear. The birds are supposed to be outside, and I would also hold that if 95 certifying agents said, no, we are going to enforce the regulations, the birds would be outdoors.

The problem is that some certifying agents are not enforcing the regs, and therefore you have shopping.

Now the issue is, can we go on a porch? Well years ago, when I was the program manager, the board came up with a
recommendation that we turned into a policy statement. We were sued over that policy statement; we won. I emphasize, we won. Okay?

Now, you have chicken producers who have porches; not many, but you do have some. Now, that same provision is in the APHIS guidelines. You can put them out on a porch. So bottom line is, the regs are sufficient. The board has already had a recommendation. We developed a policy. It's time for certifying agents to enforce.

MS. ZUCK: I wasn't at the national - or the NOP training in Chicago, but I understand there was some discussion on temporary confinement, I don't know what it was called, continuous temporary confinement, or extended long-term temporary confinement. I wasn't there for that discussion but from what I understood that was supported by the rule and the program. And I'm a little unclear about how that would not conflict with
what Richard just said.

CHAIRMAN DELGADO: Question from Hugh.

MEMBER KARREMAN: Just a kind of a question of Richard I guess. Under 239(a)(1) with access to the outdoors, that's one of those nebulous terms. Are the chickens, if you have 16,000 in a house and you have got these doors that are one foot high and one foot wide and you've got three of them along one side and three along the other side, and maybe there are 100 birds out on a porch, and you've got 16,000 birds in the house, how often access? Like, you're saying the birds should be outside; I agree. I think a lot of us here in the organic community would agree with that. But it's still kind of like one of those nebulous terms like access to pasture - I hate to bring that up.

MR. MATTHEWS: Well, you know, we can debate back and forth on the issues, but the bottom line is, the reg says, the birds
have to go outside, and if you've got an area that is too small to allow the birds out, then you haven't met the requirements.

And this issue of what constitutes temporary, well, if the farmer has never created the space in which the bird would go out into, then they are clearly not meeting the requirement of providing access. It's a demonstration of a total unwillingness to provide the access in the event there isn't a threat.

So okay, so you want to keep them in when the geese are migrating over, because you think you have a real serious problem and the vet says there is a real serious problem. But my question is: is the access there at other times? And I think if you go out there you are going to find out the access it not there. They haven't prepared for the day that they can meet the requirement of putting the birds outside as they are required.

MEMBER KARREMAN: Just a quick
follow up. I guess then what I'd like to interpret that as is access for all the birds at one time, not just a fraction of them. That's I think what I'm - access to the outdoors for like cattle it would be like the whole herd goes out and grazes. Well, with poultry that might not be the case, not that I want them grazing necessarily, but just that a fraction are going out those very small doors out to the porches, and yet the massive amount of them are still in the house, and they can't all go out at once.

So are you saying that perhaps we need to clarify that a little bit? It's access to the outdoors for all of them at any time?

MR. MATTHEWS: Further clarification by the board would not be a bad thing. But all I'm saying is that we've got regulations that are already out there, and the problem is certifying agents, some of them, are not enforcing those requirements. And a
certifying agent who certifies somebody who
has no space for outside access, which a lot
of them have gone ahead and certified
operations without that space, they are in
violation of the regulations.

Temporary is just that - temporary.

And if a certifying agent certifies somebody
for production of poultry products and that
operation has no facilities for outside
access, that is a willful violation and
certifying agents should not be certifying
that.

Get the birds outdoors; that's what
the regs require.

CHAIRMAN DELGADO: Thank you for
that comment.

I just want to remind the members
of the board, we do have a schedule and I do
want to stick to it.

MEMBER SMILLIE: Just a
clarification, Richard, we are absolutely
totally in agreement, that's clear. Access to
the outdoors has to be there.

Temporary confinement is another complicated, more complicated issue. But we are absolutely clear that access to the outdoors has to be part of the whole OSP in plan that, has to be in place, the birds have to be able to get outdoors.

What the tricky part is is defining what can be allowed for temporary confinement. And just going back to the porches deal, that was the signal about what outdoors means that was not the interpretation of the organic world at that time that porches were outdoors, but that was the program's interpretation. And as you say you won in court on that issue. So porches were outdoors; that's clear too.

CHAIRMAN DELGADO: Any more questions, comments, the program? No? Thank you very much, Leslie.

We move on now to Kelly Shea followed by Susan Bassi.

I must clarify that Kelly does have
a proxy for Nancy Chapman, is that the case?

MS. SHEA: Yes. Just five, and probably less.

Good morning and congratulations to all of your West Coasters for holding on.

I'm Kelly Shea with Whiteway Foods, and I'm here today on behalf of the Soy Foods Association of North America, known as SANA. I have remarks from the Soy Foods Association on the reaffirmation of calcium sulfate and gluconodeltalactone as approved ingredients in organic.

SANA represents the interests of small and large soy food manufacturers, soy processes, ingredient suppliers, soybean farmers and other industry stakeholders.

SANA would like to thank the United States Department of Agriculture, Agricultural Marketing Service and the National Organic Standards Board for the relisting of calcium sulfate and gluconodeltalactone, GDL, as non-agricultural, non-organic substance
ingredients allowed in process products labeled organic.

These two substances are very important ingredients in the manufacturing process for organic tofu. Calcium sulfate used in tofu manufacturing for centuries is a coagulant that yields specific textural qualities of tofu that cannot be duplicated by any other coagulant.

This domestically produced naturally mined earth mineral also provides a natural source of calcium for consumers who eat tofu.

Gluconodeltalactone, GDL, is also a tofu coagulant prepared by direct crystallization from the aquacious solution of gluconic acid, which is produced by the oxidation of D-glucose.

When GDL is used along with other coagulants such as calcium chloride, calcium sulfate or magnesium chloride, these salts act together to coagulate soy milk and give it the
real silken smooth type of tofu.

SANA appreciates the opportunity for its member companies and other stakeholders to comment on the classification of these important ingredients, and SANA wishes to thank the NOSB handling committee for its thoughtful consideration and reaffirmation of the November 2007 recommendation for relisting calcium sulfate and GDL on the approved list of ingredients for organic products, as no risks to the environment, human or animal health as a result of the use or manufacture for these ingredients were found.

Again on behalf of SANA I thank the NOSB for its continued support of the organic industry, and careful consideration of the needs of soy food manufacturers.

Thank you.

CHAIRMAN DELGADO: Questions from the board.

Dan.
MEMBER GIA COMINI: Thank you, Kelly. Not a question, but maybe this is more directed toward Valerie.

Maybe in the future we could at least wait until after the first break to talking about coagulants. It's just a little too early right now.

CHAIRMAN DELGADO: Any other questions?

MS. SHEA: May I go on the record as saying that you are a goofball, Mr. Giacomini? Thank you.

MEMBER GIA COMINI: Thank you, Kelly.

CHAIRMAN DELGADO: Thank you.

Up next is Susan Bassi followed by Jim Pierce.

MS. BASSI: Good morning. My name is Susan Bassi, and I'm representing Agricoat out of Soledad, California. And we are a seed coating and enhancement company.

I'm here today to speak to you on a
number of seed-related issues that you have facing the board at this meeting.

Our company was established in 2002, and was created to offer seed products and services for organic production.

The majority of our products are NOP-compliant, and our California facility is duly certified as a processor-handler.

Agricoat also offers WSDA certificates for seed coating products applied to conventional seed and used in organic operations.

I'm here today to address a number of issues, but I want to begin with the issue before you on the justification for a new organic binder to support lettuce coating.

First I'd like to clarify a few terms that are routinely used in the seed industry, but may be less familiar to members of the organic community and the board.

Seed pelleting is also called coating. It is a process whereby mechanical
buildup of dry materials is used to increase the size and shape of a seed. Not all seed species are pelleted. Mainly high value vegetable seeds such as onion, lettuce, carrot and radicchio are pelleted or coated.

The decision to pallet is usually dependent on the seed size, shape and cost to the seed to be pelleted.

The binder: the binder is a material used to hold the ingredients together or intact, while allowing water and nutrient uptake such that seed germination is not negatively impacted.

Priming is a specialized process used to break photo or thermal dormancy of seed, and it is typically used on lettuce, onion and endive species. The process is cost-prohibitive for many other species.

When seed is primed it may be pelleted, but it is not necessary. In fact many growers have moved to raw planters, such that prime seed is often planted without a
coating.

Speaking specifically to the petition for adding Dextrin to the national list as a seed binder, it should be noted that our company along with a number of other companies are producing seed coating for organic production without the need for such an addition.

As to the issue of viability, it would be fair to state that initially pelleted products for organic production do not equate the performance of their conventional counterparts. It's a little fat in the beginning.

However, our company and others continue to work with NOP-compliant materials and processes such that today our products perform as well as other conventional counterparts.

In fact some of our growers hold a single inventory of products that can be used in either organic or conventional product, and
reduce costs associated with carrying dual inventories.

As to the data reported in the petition before you, the report demonstrates only that the binding product tested internally by one company vary in performance with their own priming process.

The data does not report any information on similar products currently available for organic production.

We set a dangerous precedent when we consider adding materials or making changes to NOP rules to benefit a single company rather than an entire industry.

Now I'd like to address some issues on organic seed which we are not producers of organic seed but we do process and handle a lot of materials that go into organic production, and so we work with a number of clients from producers to growers, so I just have a little input to give you on that issue, since I know it's important to the board.
I've listened to several thoughtful questions from board members on Tuesday related to paperwork, supply and demand, and the other issues that may create barriers to advancing the production and use of organic seed. And I thought a simple story from an organic seed producer might provide some valuable insight.

The producer recently shipped a dealer, supplied a dealer with organic corn seed in advance of spring planting orders and based on early estimates.

A grower who had previously and successfully used the organic seed found out just prior to planting that he would be allowed to use conventional seed in his production based on the seed exception allowance, and was granted such exception by his certifier.

Over $62,000 of seed then missed an important planting window, and it was too late to sell the seed to another grower, so the
seed was returned and did not make it into organic production.

As long as there is an exception it will be used, and there will be no impetus for change.

In conclusion we are at a good starting point for further discussion on seed technology and availability for organic production. As you move forward in your policies that impact seeds and use in organic production, I encourage you to set policies that are realistic and knowledge-based, that are clearly defined and communicated throughout the industry, and that are enforced through a clear and consistent message from certifiers to their clients.

Thank you.

CHAIRMAN DELGADO: Questions from the board.

None? Thank you very much.

Next is Jim Pierce, following by Karen Wilcox.
MR. PIERCE: Good morning. Nice to see you guys so engaged with public comment, it really is.

I've got my fish farmer hat on now, not Oregon Tilth, not Organic Valley. I'm a trout farmer. And I've been asked to read a comment by Dick Martin of Martin International Corporation, a Massachusetts corporation exporting and importing fresh and frozen seafood. And if there is a few minutes, I'm going to try to get some aquaculture comments from my own observations at this meeting. And if there is really a chance, I'll tell you about Grandma's chickens.

Okay, so from Martin International, I strongly -- Martin International supports the Livestock Committee minority position as follows.

I strongly support the original aquaculture working group's interim final report approved on March 7, specifically 205. 252 aquaculture feed. These considerations
and proposals offer practical solutions for the complex issue regarding the aquaculture, the organic culture of carnivorous aquatic organisms.

The modifications, the limitations proposed in the committee's report, which proscribe the use of fish meal and fish oil derived from foreign certified farmed aquatic animals is not a viable alternative from both the supply base and economic perspective. Jim agrees.

Simply put, there is not enough cultured aquatic species leave alone organic species that would qualify under the proposal by the livestock committee to generate sufficient fish meal and oil on a commercial scale.

Secondly, the production of organic species to create a basis for fish meal and organic -- and fish oil utilized by feed for another organic carnivorous species would create unbearable cost that would be
prohibitive on a commercial scale and unaffordable by a consumer.

Please be careful that what looks like a standard is not an insurmountable barrier. That is what this gentleman is saying.

As organic is a process claim, the current practice of the OU model utilizes a resource that is already produced. The fish are already being caught and utilized in human food production. The resource exists, and the required infrastructure is in place.

As organic is a process claim, so too should the process by which aquatic feed is produced and processed for use in cultured organic aquatic organisms.

To date all rules created have been restricted to terrestrial models which should not be bent to fit the aquatic model. A new approach is needed to allow for the unique issues that confront the NOSB in defining rules for aquatic species.
The diligence and perseverance of the NOSB in this effort should be recognized and commended as extraordinary. Yet a workable model on a practical and economic scale must be the outcome. Otherwise a non-workable model is yet another waste of energy on a human scale that does not benefit the consumer, the environment, or the industry.

End of Dick's comments.

It appears from the discussion yesterday that a door is open on the re-allowance of the use of wild-caught fish in aquaculture feeds. I think that is a good thing. I think you need to dredge up those five paragraphs that the aquaculture working group outlined. I believe that's that section 252 that they referred to, either as an expiration date which they recommended, or a step down which has also been tossed around.

Either one, I think, is going to be breaking new ground, but I think is compatible with a system of organic production; is a
system of continuous improvement.

The other thing I'd like to see is you to return to utilizing this aquaculture working group. Their efforts have been tremendous. They are willing to keep working with you. I believe that door has also been reopened. But plug them back in. I think they've seen with this materials group a model of presenting options rather than language, that they are ready to follow and give you some tools in order to turn the corner on this very difficult issue.

The other thing for both you and the program is, please, please move forward with the approval of standards that are already in the docket that appear to be workable and turn into rules. That would be the vegetarian fish and the gentle organic shrimp.

It will not only supply some feed resources, which, again, I don't agree that using food for fish food is going to be
economically viable, but it's a start. But more importantly, it will establish a presence with the USDA certified aquaculture products. That is important; that's very important.

Regarding Grandma's chickens, I sat here yesterday wishing you would ask me that question. Fifty years ago 50 to 60 percent of the U.S. population was farmers, and they raised 100 or 200 or so chickens at a time. But remember, Herbert Hoover promised a chicken in every pot because chicken was expensive. You know what people ate 50 or 60 years ago, poor people? They ate lobster and oyster stew; it's true, look it up. Chicken was a luxury. If you could get a chicken on a Sunday that was a big deal.

The other thing that Grandma did was she fed her chickens meat, beef, pork, whatever; table scraps, that's what they were eating. And they were also eating a lot of fish --

So this is a new paradigm. I think
I agree with Dan Giacomini that two years may be prolonging the agony, but I'm not sure it's enough. And I bring those comments to you because from the very beginning of the methionine discussion I've been involved with it.

So closing on behalf of the Milwaukee Organic Okra Growers and Bratwurst Gumbo Association, I thank you for your time.

(Laughter.)

CHAIRMAN DELGADO: Questions from the board?

Thank you.

Caren Wilcox followed by Alexis Baden-Mayer.

MS. WILCOX: Good morning, everybody.

This will be very brief. I am Caren Wilcox, and I am the outgoing executive director of the Organic Trade Association, and that's why I decided to speak to you today.

I wanted to thank you all for your
service and also for your interaction with OTA, which I think has been very productive over the last couple of years and, I should add, very transparent.

And I hoped to come today to say that the Farm Bill had passed. As you probably all know, we had a technological glitch yesterday in the Congress. And I'm not going to make a prediction about when it will pass, but hopefully it will.

And I would like to say that we at OTA and with many other people here in this room pressed very hard in the Farm Bill to have an increase of domestic production of organic in the United States. It's very, very important to us, we believe, in this market to increase our domestic supply.

We acknowledge of course that a great deal of product is coming in from overseas. We don't know how much, but we do know it is coming in. But we think it's very important for our consumers to understand that...
we are trying to increase domestic production.

    And we acknowledge that that is
going to put some pressure potentially on NOP
because there will be a lot more people
probably in this audience and pressing for new
interesting developments in organic and
potentially put some more pressure on all of
you.

    But we did press very hard also in
the bill to get new resources for NOP, so that
they will be able to maintain really strong
programs for the -- to maintain the standards
which are also incredibly important to the
whole consumer community and therefore to all
of us.

    So thank you very much. It's been
a pleasure to work with all of you.

    CHAIRMAN DELGADO: And thank you,
Caren, for your wonderful historic
achievements.

    Questions from the board?

    Thank you, Caren. Please, Joe.
MEMBER SMILLIE: I just want to thank OTA for making your services available for the working groups that have really assisted our process. We really think that that's the role of the trade association and that you have just done a fabulous job with supporting both -- the two that I can think of, the materials working group and the group certification, just as two examples of two groups that have had a profound influence on our thinking here.

MS. WILCOX: Well, we are very glad to be able to do that, and we have a great staff to do that backup.

CHAIRMAN DELGADO: Well said, Joe. Thank you.

Any other questions?

We'll proceed then to Alexis Baden-Mayer.

Bonnie Wideman.

Bonnie. She's coming. After her we have Foster, John Foster.
MS. WIDEMAN: Salutations, board and program. I'm Bonnie Wideman, and I'm director of Midwest Organic Services Association, MOSA. We serve around 1,100 clients, more than 900 farms, fewer than 200 handlers. Thank you for your work and the opportunity to comment.

In the organic handling arena, MOSA would like to have further clarification in two areas talked about at the NOP trainings: private labeling and flavors. We certify a number of food co-ops in the Midwest as retailers. These co-ops and their members were as incredulous as we at MOSA were to hear that their competitors, the big retail chains, were being certified as grower groups. Please stop this erosion of consumer confidence in organic and proceed with work with grower groups as originally intended.

It is, on the other hand, very gratifying to see before the NOSB the petition for the allowance of cheese wax for sealing the plugs in shiitake logs. For it is an
indication of the program's willingness to
listen to the needs of the little guy.

Most shitake production takes place
in plastic bags, not in logs, which is a whole
environment enveloped by synthetic
hydrocarbons, not just a plug. Please grant
this petition as it is needed by the small
but vibrant sector.

We also support Fenbenzadole as an
alternative to Ivermectin and the extension of
methionine both in time and by amount. Also,
speaking of birds, we would like clarification
if porches are outdoor access or if they are
temporary outdoor access, as was the
impression at the NOP training.

In regard to commercial
availability guidance regarding the sourcing
of organic seed, the measures proposed would
put an undue strain on both us and our
farmers. Our situation is very different from
what we hear described in different parts of
the country. Our vegetable operations are
much smaller in size, yet they grow a wider variety of crops, and they do provide us with full variety information and organic seed search documentation.

My staff estimates as high as 80 percent organic seed use in our vegetable operations. On the other hand we can say that only about 50 percent of the corn and beans used by our farmers is organic. And grasses and alfalfa are in short supply, and we would like to see better quality alfalfa in particular.

But we do see that the organic seeds use does keep increasing, and we feel this is due to our efforts to have our farmers search more for organic seed. We feel though that what they need is more awareness of where to buy organic seed, and we also need to encourage them to place their orders earlier.

A national database of organic seed would help us more than our farmers. We have confidence in what we are doing in requiring
organic seed search, and we would appreciate it if our systems weren't strained by new requirements. But, rather, if there is a way to support certifiers who are having challenges in this area we think it would be a better way to proceed.

My final comments have to do with dairy replacements. We have been assured that we will be getting what we need in relationship to pasture. When I use the word "we," in this case I'm referring to the over 450 dairy farms that we certify.

Our average herd size is 40 to 50. Our farmers raise their own replacements, and they raise most of their own feed. We would call them sustainable, yet sustaining them will be the responsibility of the NOP with the clarification of the replacements issue.

What do we need? We need a dairy replacements rule that is simply last third. At MOSA we see fewer dairies coming into organic, and we are seeing frustration grow
with our existing farmers as they face climate changes, rising expenses, and a challenge to the milk pay price. Please recognize this and take measures to bring change by stopping continual transition of dairy replacements.

CHAIRMAN DELGADO: Questions from the board? Julie?

MEMBER WEISMAN: Yes, Bonnie, it wasn't the most focused on part of your talk, but I was wondering if you could clarify a little bit -- if you could explain a little bit more about what in the area of flavors you want -- you would -- MOSA would find helpful and certifiers in general would find more helpful.

MS. WIDEMAN: We would find it helpful if we had a means of verifying the composition of flavors, which is so complicated, by using affidavits.

MEMBER WEISMAN: Thank you.

I wish that the -- I don't know if anyone from FEMA is still in the room, from
the Flavor and Extract Manufacturers Association is still in the room, but I thank you for putting it in the record.

MS. WIDEMAN: You're welcome.

CHAIRMAN DELGADO: Any other questions from the board?

Julie, would you like to call someone from FEMA?


CHAIRMAN DELGADO: Okay, thank you very much.

Moving on to John Foster, and after that we have Susie Bowman.

MR. FOSTER: Hi, I'm John Foster. I'm the senior manager of organic integrity for Earthbound Farms. I apologize for reading. There is no other way for me to stay on time or on track for that matter.

Thank you each for your hard work and dedication to the organic community and industry. It's no small feat. And also the
staff of NOP; also no small feat.

The discussion around commercial availability is a real conundrum for me as it pertains to seed in this case. We, Earthbound Farms, grows our own crops on around 200 acres in Carmel Valley, California. We are also a pretty large packer and shipper of a lot of organic produce, spring mix, leaf lettuce, et cetera. We contract with around 150 farms and ranches. Those range from five to 680 acres each throughout Western U.S., Canada, and Mexico.

My comments are also pretty heavily informed, having been an organic inspector for a number of years and a certifier in many capacities for about 15 years. I've seen either in person or reviewed organic system plans of a couple of thousand operations, the smallest quarter-acre backyard gardens to the largest manufacturers in the country. That's my perspective.

Our growers use a tremendous amount
of seed, many, many thousands of pounds every year. And in general they do a good job of trying to find organic seed before using non-organic seed. My conundrum is that it's also my job to really facilitate organic integrity and advance it for all of our growers small and large, and elevating whenever possible the practices our growers use in their work.

It's also my job to look out for smaller growers who aren't growing on a scale to allow them to do what I'm doing here. They are really pretty busy growing the food that allows most of us in the room to make a living. I really appreciate that. It's my job to help them be sustainable as a business so that they continue to be organic farmers.

To be very clear, the larger growers we work with will not have a problem complying with any of the recommendations. It will be very easy for them because they have the staff, they have infrastructure to do that.
It's the growers growing 20, 60, 120 different varieties of vegetables, flowers, herbs, often through most of the months of the year, that will need to characterize, search for, assess, trial, compare, contrast, and document them all. That's in the recommendation, all those mandates are in the recommendation.

The irony to me is that the work associated with the application of this recommendation will fall most heavily on the most diversified farms, generally speaking those are smaller farms. And the irony is that those are the farms closest to the ideal that many of us in the room, and certainly many consumers picture, when they think about organic farms. Those are the farms that they are thinking about. So to put that burden on them, I think it weighs on them unequally, and that's odd to me.

Specifically Part D of the third recommendation will create this unequal and
undue burden in my opinion. If the main problem is that growers are using claims of lack of commercial availability to veil wishes to pay less for non-organic seed, then I would suggest providing tools to certifiers to deal with that. That is a very specific issue, and I have heard that reflected in other comments.

205.103 specifies that records must be adapted to each particular business for a reason. And USDA through accreditation has granted certifiers the ability to assess compliance for a reason. We prefer more vigorous auditing and testing of certifiers' ability to do their job in assessing compliance with these of commercial availability provisions.

Generally speaking certifiers should and most often do have tools and talent to make the calls about applying clauses and guidance regarding commercial availability. They look at each farm on its own merits and weaknesses. I'm asking to let certifiers
continue to use their experience and good judgment to determine what is needed for each operation, particularly taking into account uniqueness, character, conditions found on each farm.

Guide them when they ask for it, or when they need it -- not always the same thing. And I think 3(d) is a fine prescription, but I think it's for the wrong ailment.

Thank you for hearing these comments from not only Earthbound Farms, but following in Jim's footsteps, from the Pacific Northwest Growers Alliance for the promotion of organic okra and really good salmon.

(Laughter.)

CHAIRMAN DELGADO: Questions from the board?

Gerry.

MEMBER DAVIS: John, what is Earthbound's experience been on trying to stimulate more organic seed being available?
I've heard some things spoken that you've tried some things and have had some failures, and I was kind of interested if you would share on that.

MR. FOSTER: Sure. The answer is it depends on the situation. In general our experience has been that the larger growers who have capacity -- infrastructure, land base, staff, financial resources -- to do real good experiments and get the attention of seed suppliers who have really good seed, fresh seed, good quality, have better luck, everything else being equal, have better luck finding varieties in an organic form.

I'm not sure that they are any better at trialing or researching than a smaller grower, but I think they have more capacity to allow access to resources to get the results they are looking for. That's true for larger growers. Moreover, the larger growers have the ability to do their own breeding onsite for site-specific conditions,
again, because they have the capacity to do so. And in those cases they've been able to breed -- spinach comes to mind as one that has been most heavily worked on by our growers. They have found five or six varieties that are proprietary varieties that do exceptionally well, and they are all organic. They are contracting their own organic seed grow out to do that.

Smaller growers, I would say the results are more variable. Sometimes they ask the right question at the right time at the right conference, and you get exactly what you need, but other times, I've seen a lot of growers struggle, very genuinely trying their best, and you know, sitting at the kitchen table with those farmers, their kitchen table and their office and their research facility all in one, you know they're trying really hard. They are looking at seed catalogs. They just don't have the -- I don't think they have the access to as many resources. So
their results are equally variable.

CHAIRMAN DELGADO: Joe?

MEMBER SMILLIE: I appreciate your comments, John, as usual, excellent. I'd like to hear your thoughts on how you would see a database and whether that would be useful and how you would advise us to proceed in our recommendation for a database.

MR. FOSTER: I think if I had the clearest picture I'd probably just do it because there would be a lot of people asking for it. My sense is that all of the motion that several organizations are working toward is probably -- I don't mean to be glib -- it's probably the most appropriate because it's a real organic process.

I don't know that a system could be imposed that would be any better. It's not quite open source, but it's approaching that here. I don't know that you could get a better system than one that takes time. I would suggest it's better to do it right than
right now. I mean I understand the pressure to get it done sooner rather than later, but a bad system or a system that is ineffective or removes confidence in the system is not -- should not be allowed here. I think it's too important.

MEMBER SMILLIE: So in other words, not trying to force one organization to just do it and give them the power to have the control of the database, more open, pollinated with a number of databases out there?

MR. FOSTER: I wouldn't preclude the idea of having one organization do it. But to date I haven't seen one that is able and willing. Both of those have to happen to do that.

I think it's coming, and it's events like this, it's having this agenda item, that does a lot. Because after this meeting everyone in this room is going to go back to their constituency, whoever that is, and say, they are really serious about this.
We need to be moving along. I do that for all of my folks, and everyone else in this room gets it. It's going to happen.

    Pushing it too hard, or pushing it in a way that disproportionately affects growers who are least able to flex to absorb it I think needs more work. Basically this is a plug for my ongoing certifier peer review thing that I always hit on whenever I get a chance. This is more of the same.

CHAIRMAN DELGADO: Thank you. Any other questions from the board?

    Thank you, John. Moving on to Susie Bowman.

MS. BOWMAN: Hello, everybody. And thank you once again for listening to me. I've missed you all in the last year that I haven't been at meetings.

    I'm Sissy Bowman, CEO of Indiana Certified Organic. We're located in Indiana obviously, and I'm going to keep this really short so we can stay on time. I was going to
read this. I have public input from an Amish man from Hillsboro, Wisconsin, who is our internal control person for a 79-member grower group.

And I do have it written here so I'll turn it in. It's a little bit lengthy, but the gist of it is, put the grower back in grower group. That's what it was intended to be. Handler certification is a different type of certification. We do need to have standards and clarification on grower groups, but we're really mixing things up when we try to broaden that scope.

With proper internal controls grower groups can be very well run. I do advocate inspecting all of them. We do that. And maintaining a very close communication with these groups to make sure that we do know what's going on.

He has a lot more to say about it and says it very well. And then the other thing I want to say is, just say yes to cheese
CHAIRMAN DELGADO: Questions from the board.

Joe?

MEMBER SMILLIE: Yes, it's your certification agency that has the growers that are using the infamous term, cheese wax?

MS. BOWMAN: My client is petitioner.

MEMBER SMILLIE: Oh, your client is petitioner? I didn't get quite enough information on that. Maybe I missed a comment on that.

But my understanding of the issue is that it's used as a plug, it's used basically as a prophylactic to prevent -- could you just go by it, through it again. It's not a processing aid.

MS. BOWMAN: No, it's not. Holes are drilled into the logs. The spawn is put in there, and it's used as a moisture barrier and to hold the spawn there. It doesn't
become part of the product.

And I would liken it to using a plastic pot to hold soil together so you can put a plant in it. And again in other non-log based production of mushrooms there are basically wood chips that are held together in a plastic bag, and that is allowed. So the cheese wax is there for the purpose of holding it together so it can grow and maintaining the moisture there so it can get started.

MEMBER SMILLIE: So it's almost like mulch, a plastic mulch for growers.

MS. BOWMAN: Right.

MEMBER SMILLIE: And this doesn't become part of the log later?

MS. BOWMAN: No, it comes out.

MEMBER SMILLIE: It comes out?

MS. BOWMAN: It comes out. It's not taken up by the mushroom in any way, shape or form. And as far as, yes, I think plastic mulch is far worse actually than this is.

CHAIRMAN DELGADO: Any other
questions? Dan?

MEMBER GIACOMINI: Just, after it comes out, it just falls out on the ground and stays there?

MS. BOWMAN: It's biodegradable.

MEMBER GIACOMINI: It is?

MS. BOWMAN: Yes. That's what I'm told. I've read the petition. It's quite lengthy.

MEMBER GIACOMINI: I know.

MS. BOWMAN: And it's also allowed -- organic cheese is dipped in cheese wax. It's allowed to be used for that purpose.

MEMBER GIACOMINI: Yes, but when we cut it off cheese we don't throw it out on the ground.

MS. BOWMAN: It's disposed of somewhere.

MEMBER GIACOMINI: But it's not just out in the woods. It goes to a landfill; it goes somewhere.

MS. BOWMAN: If you would want to
annotate it to say how it has to be removed --

MEMBER GIACOMINI: No, I'm just wanting clarification on whether -- just asking whether it was biodegradable or not.

CHAIRMAN DELGADO: Tina.

MEMBER ELLOR: I can address this now or later, but I might as well address it now. In the petition, which was an excellent petition full of great information, very unbiased, there is biodegradability information in the petition, and it is biodegradable. But maybe we should have spoken more about this during discussion yesterday. But this is by far the friendliest option, viable option, that these small growers have, and they have been using this for over 20 years now and producing the best mushrooms in the marketplace.

We don't produce that way. And I'll full admit that. We are large growers. We put our logs in plastic bags. The other options the outdoor growers have, and I have
seen this, are styrofoam plugs, which is a far less -- or they can put their whole outside log in a plastic bag. And this is by far the most environmentally friendly option.

CHAIRMAN DELGADO: Any other questions?

Thank you very much.

MS. BOWMAN: Thank you.

CHAIRMAN DELGADO: Calling Alexis Baden-Mayer, if she is here. And we have a 30-second request -- I'm sorry?

Calling again, Alexis Baden-Mayer.

Please approach.

MS. BADEN-MAYER: I'm Alexis Baden-Mayer; I'm with the Organic Consumers Association. I was typing out my notes on the train, my first train was cancelled, so sorry to be late.

So thank you to the members of the National Organic Standards Board and the representatives of the USDA National Organic Program, and to everyone in the room. It's
really exciting for me to be together with all of you. We are here representing an organic movement that is so needed right now in this time of crisis we are facing, an energy crisis, a food crisis, a climate crisis. The organic movement has the potential to solve all these problems, and we're leading the way.

So thank you for being part of that with me.

Okay, so another thing that is very special about the NOSB and the USDA National Organic Program is this democratic process. You won't find any other policy setting mechanism at the federal level that works like this. So it's kind of like a townhall meeting, and I'm a citizen, and I can just come and participate, and you all are citizens. And you set policy, the USDA looks at the policy and takes all of this input and adopts really good policies. I wish that every part of the federal government worked that way.

So I want to congratulate you all
on the budget increases and say a few words about how you might spend that money. Of course enforcement is a very good area. We support the petitions of the Cornucopia Institute in both dairy and hexane derived additives in infant formula; TAP reviews to help the NSB do their work, that is another good issue, good place to spend money; and I hope you also spend a little bit of your money on promoting yourself within USDA and to Congress. That's what federal agencies do once they get some power and some money, they use that power and money to promote themselves and get more of that.

And organic really is the solution to so many things, so I hope you let everybody at the USDA know what a great example this is for conservation and food safety, and encourage other programs to adopt pieces of the organic program.

All right, now I would just like to list the things that are the biggest threats
that we see to consumer confidence in the
organic industry in general. The first thing,
the NOSB, you guys, it's sort of out of your
control, but the rules for pasture and origin
of livestock. The delay in those rules has
been very damaging, and if those rules are
weak and are substandard to the best examples
out there, that is going to be very damaging
as well.

The other issue is lack of
enforcement of the word organic in the
personal care industry. OCA is spending a lot
of time working on this issue. We are taking
it to court in California. Companies are
using the word organic. They are not
certified organic, and some of their products
even have petroleum-based formulations that
contain carcinogens like 1,4-dioxane. So this
is real bad for the organic movement. You
wouldn't want -- like if this were happening
in food, you wouldn't let it happen because
it's so bad. But we can't let it happen in
personal care either.

And then back to issues that are before the NOSB, the certification of fish farming is probably one that is going to be -- it's very thorny. I know you are not dealing with the whole thing right now. But I kind of wish you would just look at it the way you did hydroponics. It's like, hydroponics, not organic. Farmed fish, not organic. And compare it to what else is out there. We have Alaskan wild salmon; is organic going to be more enticing to the consumer than that? If not, it's probably not a good idea to put something out there that's labeled organic that's not the very best example of food produced in compliance with or in union with a healthy ecosystem. And I guess I'll just stop there. I'll add more written comments to provide detail.

CHAIRMAN DELGADO: Okay, thank you.

Any comments, questions from the board?
Thank you very much.

That concludes the section -- Joe, please.

MEMBER SMILLIE: I'm glad you brought up the personal care issue. I just attended a meeting in New York on personal care, and it is a big issue. Certainly the USDA and NOP has got their hands full, but that word is out there in the personal care industry, and it is grossly, grossly misused. I'm not talking about minor noncompliance. As she said there is some major. And I think sooner or later we are going to have to deal with it as a board, and we should start to look at that issue.

Of course the NOP is probably aware of it, too, and as the lawsuits start flying, it'll be part of our deal, I'm sure, sooner or later to start to take a look at how we are going to approach that because my understanding, and this is what I said at the meeting, and I would love correction if I am
wrong, but USDA governs the use of the word, organic. The USDA NOP at this time is not enforcing the use of that word in the personal care industry, but I think the USDA reserves the right to enforce the use of the word organic in the personal care, health and beauty arena.

If I could get a comment from you if that is possible.

CHAIRMAN DELGADO: Comment, feedback from program?

MS. ROBINSON: Joe, we have issued a statement with regard to certification of non-food items in August of 2005, I believe, the sort of infamous scope statement.

And that is essentially about the only statement that the program has issued up to this point, and that is that if products are wholly comprised of agricultural ingredients they are eligible for certification, and if they meet the standards they may be certified, and then they may be
labeled according to the NOP regulations.

But we do not have standards for personal care products, as you know. So that's about the best that we can do at this point in time. We've had discussions with the Office of Management and Budget, and they asked us are you going to take on Revlon. This was back when we had six people in the office, and we said no. We had one million dollars in the budget. We now have the grand whopping total of $2.65 million in the budget.

Now, I ask you guys this all the time. What do you want us to work on? Aquaculture standards, fish standards, or cosmetics or pet food or pasture or what?

MEMBER SMILLIE: Well, of course; all of the above.

(Laughter.)

MS. ROBINSON: I understand. But that's why we issued the scope statement. At least -- but there are limits to the program's resources.
CHAIRMAN DELGADO: Any other questions from the board?

Well, thank you very much. We have one more presenter. He has promised to take less than a minute. The Chair will allow that. Please proceed.

MR. MESH: I wrote it down, so I don't have to deal with a computer because I feel like yesterday I was discombobulated because of the computer.

So Martin Mesh. I wanted to make sure because I'm not even sure that I said it yesterday, our position was to allow fish meal and fish oil from rendered fish facilities to be utilized as a supplement in the stair-step production method. It has been proposed prior by the aquaculture working group. Or utilize the statutory authority to make wild caught fish renderings and organic livestock feed in an effort to help establish an organic aquaculture industry that will have environmental benefits in that once they
I understand it, consumers I believe will embrace.

I wanted to touch on Katrina and my response to Tracy yesterday about grower groups. My hope has been to be sensitive to the landscape and environment while seeking solution to the grower group dilemma. I have and continue to advocate for separation between grower group certification and the proposed expansion aimed at other sectors like retailers and handlers.

I get concerned when I think about Katrina's comments, although she showed sensitivity to the current dilemma, when she talks about how General Mills utilizes an internal control system in a multibillion dollar company's food safety program, and we start to take that language and where the bar is set, and apply the same thing to group certification, and then expect certifiers to be able to verify that some of the world's poorest farmers, some illiterate, comply with
the standards.

And I fear that we are headed down a road of regulatory compliance burden that will drown producers and possibly certifiers. We say that there can be no scale bias, yet commercial availability is inherently just that in reverse manner as an unintended consequence.

I again request that we focus on solving grower group certification for those most at risk of being left out of the organic marketplace in a manner that actually works not only for consumers, consultants, and companies, but for the organic farmers themselves, those who this type of verification was originally created for.

I find it troubling that the Wisconsin bratwurst and okra growers, farmers and growers, ran out of time and now that I have, too. But I probably support their position on okra.

And then I have to close by saying,
John's comments were articulate, on target, and workable, and he is much more articulate than me, but he hit the nail right on the head. And I hope you guys really heard those comments as far as putting seed burden, you know, stuff on farmers, and the farmers that are least able to comply with an increasing record-keeping burden from the grower perspective.

Thanks for the time.

CHAIRMAN DELGADO: Questions from the board?

Thank you, Marty.

That concludes the section on public comment. I do appreciate everybody's constructive and productive input. I'm sure the members of the board have taken that into account, and I hope that will be reflected during the voting session which is about to start.

And having said that, we'll give the opportunity for the policy and development
MEMBER FLANN: Thank you.

As I reported yesterday, the policy and development committee has two sets of recommendations. The first is three changes in the policy development manual. I will just summarize those changes and then make a motion, and then that will be followed by a summary of the recommendations on the new member guide.

There are three recommendations for changes in the policy development manual. The first was under the mission statement to add "or deletion from" which would then read, "review petition materials for inclusion and/or deletion from the national list of approved and prohibited substances."

The second recommendation is one of strengthening language on communications and on page six of the mission statement essentially it says "communicate with organic
community including contacting public meetings and soliciting taking public comments and provide timely information." "Timely" is a new word. And then adding, "making full use of communication channels."

The third recommendation is instructions on withdrawal of petitions. The vote of the committee was four yes, no zero, abstention zero, and zero absent. Mr. Chairman, I'd like to make a motion that these changes be adopted.

CHAIRMAN DELGADO: Is there a second?

It is moved and seconded to introduce -- accept the changes recommended by the policy committee and incorporate those into the policies and procedures manual.

Discussion? Hugh followed by Dan.

MEMBER KARREMAN: Yesterday, actually maybe, Dan, you want to make it, I was going to refer to Dan's statement yesterday about maybe clarifying what our true
intent was regarding making full use of communication channels is basically making use of all manner of transmission of information. I don't know, Dan, maybe you have something better on that.

CHAIRMAN DELGADO: Dan?

MEMBER GIACOMINI: Thank you. You sort of handled the preamble of what I was going to say, so I'll just move in. I would move to amend the second part of section two to read, "making reasonable use of all communication channels."

CHAIRMAN DELGADO: Barry, do you accept that?

MEMBER FLANN: I accept that.

CHAIRMAN DELGADO: So it is a friendly amendment and it is --

MS. HEINZE: Can you repeat it so I can get it written down?

MEMBER GIACOMINI: Making reasonable use of all communication channels.

CHAIRMAN DELGADO: It is moved and
seconded, to amend the motion to -- let me make that -- to change the last sentence of the second proposal to read, making use of all reasonable use of communication channel, of all communication channels.

Discussion. Kevin?

MEMBER ENGELBERT: Yes, Dan, could you give an example of what you consider reasonable or unreasonable use, and why you think that is a necessary addition?

MEMBER GIACOMINI: I don't know that I can give you an example of reasonable. I can give you an example of the expectations that I can see the public could find in reading that statement two or three years to five years from now, and the burden that it would place on future members.

I think that the burden that that could place in their expectations, in their minds, is a huge burden on already very overworked people.

CHAIRMAN DELGADO: Jeff?
VICE CHAIR MOYER: Dan, I question your use of the word, "all." That's a very encompassing word, and does that put an undue burden on either the board or the program?

MEMBER GIACOMINI: Well, that was to match the use of the word, "full."

VICE CHAIR MOYER: I understand that. In my opinion using the word, "all," sounds like you've got to do it all.

MEMBER GIACOMINI: Full use of communication channels is all of everything.

VICE CHAIR MOYER: My suggestion would be that we keep the word, "reasonable use," take the word, "all," out of communication channels.

MEMBER GIACOMINI: If you want to make that motion that's fine with me.

CHAIRMAN DELGADO: Is that a motion?

VICE CHAIR MOYER: That is my friendly amendment.

CHAIRMAN DELGADO: There is a secondary motion to amend the primary motion.
The previous motion to amend, do you accept that?

MEMBER GIACOMINI: Yes.

CHAIRMAN DELGADO: That is accepted. And as it stands now, I'm not going to move with the voting on that, the motion to amend states as follows: to replace the last sentence on the proposed change to read, "making reasonable use of communication channels," is that correct?

VICE CHAIR MOYER: That is correct.

CHAIRMAN DELGADO: Striking out the word, "all," and that's been accepted by the proponent of the amendment.

We have Hugh followed by Tina.

MEMBER KARREMAN: Yes, the true intent is what we were talking about if I recall that day was making reasonable use of additional and electronic communication channels, available, traditional and electronic communication. That's what our intent was; I think everyone knows that. But
it was to make sure that traditional, like regular mail, that we get, and we read paper, everyone can get that, as well as electronic. It doesn't say we have to tell everybody on Earth; it's just that we don't want to just go to only electronic. That is the main thing we wanted to make sure.

CHAIRMAN DELGADO: We have Tina followed by Dan.

MEMBER ELLOR: Can I maybe temper this to take into account the intent, and maybe suggest another issue.

Maybe because if you take "all" out then you take out the variety of communications which we are trying to get at. Making reasonable use of a variety of communication channels.

And I know from my perspective, our certifier sends things out by mail and computer, because we have a lot of Amish farmers who don't have access to computers, so if we add a variety of communication channels,
maybe we can keep the original intent without being too absolute.

Can I suggest that as a friendly amendment?

CHAIRMAN DELGADO: It is amended, originally proposed by Dan. If that is how you want to proceed.

MEMBER ELLOR: If that is okay.

CHAIRMAN DELGADO: Well, we have to ask the proponent of the amendment. So I would like to ask do you agree with that?

MEMBER GIACOMINI: Could you restate that please?

MEMBER ELLOR: "Making reasonable use of a variety of communication channels." That way it's not -- not that we have to send out carrier pigeons, but we use a variety of communication channels.

MEMBER GIACOMINI: Yes.

CHAIRMAN DELGADO: That is approved, and so now the motion to amend reads, "making reasonable use of a variety of communication
MEMBER KARREMAN: I'll second that.

CHAIRMAN DELGADO: It's been accepted, so no need to second that.

Very well, we'll proceed with the amended motion. And we are at the point of accepting the amendment for the motion to -- amendment to the motion to accept changes one through three, and we are amending the last sentence, point two, of the motion.

MS. HEINZE: I had written down that we ask Barry if we accepted Dan's, so is Dan's a friendly amendment?

CHAIRMAN DELGADO: It was a friendly amendment. But we still have to --

CHAIRMAN DELGADO: We still have to go back and vote on that.

MEMBER ELLOR: Okay.

CHAIRMAN DELGADO: So we will vote on that amendment.

Yes.
MEMBER GIACOMINI: I would just, getting back to Kevin's question, I can just see in the original language of this, getting back to the example I used yesterday, of someone reading that and picking up the phone and calling the member and say, we want you to come to our meeting. Where is your meeting? Well, it's three hours away. I'm sorry I don't have time. Well it says in your bylaws -- it says in your procedure manual that you have to. And I'd just -- I just think the wording is pushing things a little too far.

CHAIRMAN DELGADO: Thanks for the clarification.

We will go on with the voting for the amendment to restate the last sentence of the second point of the motion.

We will start on the far right with Hugh.

MEMBER KARREMAN: Yes.

CHAIRMAN DELGADO: And I'll put the question again. The question is on the motion
to amend the last sentence on point two of the motion proposed by the policy and procedures manual as stated on the document dated April 3rd, 2008, to read: "making reasonable use of a variety of communication channels."

And we'll start with the vote with Dr. Karreman.

MEMBER KARREMAN: Yes.

CHAIRMAN DELGADO: Kevin?

MEMBER ENGELBERT: Yes.

CHAIRMAN DELGADO: Jennifer?

MEMBER ENGELBERT: Yes.

CHAIRMAN DELGADO: Steve?

MEMBER HALL: Yes.

CHAIRMAN DELGADO: Julie?

MEMBER WEISMAN: Yes.

CHAIRMAN DELGADO: Dan.

MEMBER GIACOMINI: Yes.

CHAIRMAN DELGADO: Katrina.

MS. HEINZE: Yes.

CHAIRMAN DELGADO: Jeff.

VICE CHAIR MOYER: Yes.
CHAIRMAN DELGADO: Gerry.
MEMBER DAVIS: Yes.
CHAIRMAN DELGADO: Tina is not present.
Tracy?
MEMBER MIEDEMA: Yes.
CHAIRMAN DELGADO: Joe.
MEMBER SMILLIE: Yes.
CHAIRMAN DELGADO: Barry?
MEMBER MIEDEMA: Yes.
CHAIRMAN DELGADO: And the chair says yes.
Now we can proceed then to the discussion on the original motion.
MEMBER GIACOMINI: Mr. Chairman, could you announce the vote for the record please?
CHAIRMAN DELGADO: Thanks for the -- the vote is as follows.
Thirteen yeses, one absent -- two absent, sorry, and the motion to amend is approved.
Moving on then to the original motion which is to accept the changes to the policy and procedures manual, I would like to continue with the discussion and ask the members of the board if there are any other questions. And are you ready for the question?

The question is on the motion to accept the changes as listed by -- summarized and listed by the chair of the policy and procedures manual, including the last change that we discussed.

And we are ready go to vote. We'll start with Kevin?

MEMBER ENGELBERT: Yes.
CHAIRMAN DELGADO: Jennifer.
MEMBER HALL: Yes.
CHAIRMAN DELGADO: Steve.
MEMBER DeMURI: Yes.
CHAIRMAN DELGADO: Julie?
MEMBER WEISMAN: Yes.
CHAIRMAN DELGADO: Dan?
MEMBER GIACOMINI: Yes.

CHAIRMAN DELGADO: Katrina.

MS. HEINZE: Yes.

CHAIRMAN DELGADO: Jeff.

VICE CHAIR MOYER: Yes.

CHAIRMAN DELGADO: Gerry.

MEMBER DAVIS: Yes.

CHAIRMAN DELGADO: Tina.

MEMBER ELLOR: Yes.

CHAIRMAN DELGADO: Tracy.

MEMBER MIEDEMA: Yes.

CHAIRMAN DELGADO: Joe.

MEMBER SMILLIE: Yes.

CHAIRMAN DELGADO: And Barry?

MEMBER FLANN: Yes.

CHAIRMAN DELGADO: And the chair says yes.

Hugh and the chair says yes.

And the total is 14 yes, 1 absent, and the motion is approved.

Back to you, Barry.

MEMBER FLANN: The second set of
recommendations involves changes to the new member guide. The first recommendation is an addition to chapter five, section B, and it's a descriptive paragraph on linking the final NOSB recommendation table.

And the second recommendation is on suggested best practices, and it gives a list of common technical sources. And the vote of the committee was four in favor, zero nos, zero absent.

CHAIRMAN DELGADO: Very well. Would you like to make a motion?

MEMBER FLANN: I move that these two recommendations of the policy development committee be accepted.

CHAIRMAN DELGADO: Is there a second?

MEMBER KARREMAN: Point of order.

CHAIRMAN DELGADO: Point of order.

MEMBER KARREMAN: The second recommendation wasn't actually read into the record.
CHAIRMAN DELGADO: Good point. Barry, would you please read the second recommendation which is the last paragraph on the statement.

MEMBER FLANN: It says, include a new section of chapter five listing common technical sources used by NOSB members. The proposed section would be located immediately after Section E, and would include the following.

And then there is a list of the common sources.

CHAIRMAN DELGADO: Thank you for that.

Is there a second to the motion?

MEMBER HALL: Second.

CHAIRMAN DELGADO: It is moved and seconded to accept the updates to the new member guide as summarized by the chair of the policy committee.

And we are open to discussion, questions, on the part of the board.
Are we ready for the question?

The question is on the motion to accept updates to the new member guide, as summarized by the chair of the policy committee on the April 3rd document.

And we will start with voting, and this time it will fall to Jennifer.

MEMBER HALL: Yes.
CHAIRMAN DELGADO: Steve.
MEMBER DeMURI: Yes.
CHAIRMAN DELGADO: Julie.
MEMBER WEISMAN: Yes.
CHAIRMAN DELGADO: Dan.
MEMBER GIACOMINI: Yes.
CHAIRMAN DELGADO: Katrina.
MS. HEINZE: Yes.
CHAIRMAN DELGADO: Jeff.
VICE CHAIR MOYER: Yes.
CHAIRMAN DELGADO: Gerry.
MEMBER DAVIS: Yes.
CHAIRMAN DELGADO: Tina.
MEMBER ELLOR: Yes.
CHAIRMAN DELGADO: Tracy.

MEMBER MIEDEMA: Yes.

CHAIRMAN DELGADO: Joe.

MEMBER SMILLIE: Yes.

CHAIRMAN DELGADO: Barry.

MEMBER FLANN: Yes.

CHAIRMAN DELGADO: And Hugh.

MEMBER KARREMAN: Yes.

CHAIRMAN DELGADO: Kevin?

MEMBER ENGELBERT: Yes.

CHAIRMAN DELGADO: And the chair votes yes. And correct me if I'm wrong, Madame Secretary, we have yes totals, one absent, and the motion is agreed to.

That -- is that all, Mr. Chairman?

MEMBER FLANN: That's all.

CHAIRMAN DELGADO: Very good, thank you very much. That concludes with the section for the policy development committee.

We are due for a well deserved break at this time, and we are running, according to my estimates, 13 minutes late,
but I think we'll be able to catch up.

So we'll take a 10-minute break.

We will see you here at 10 minutes after the hour.

Thank you.

(Whereupon, the above-entitled matter went off the record at 9:58 a.m. and resumed at 10:21 a.m.)

CHAIRMAN DELGADO: We are back now, and we'll continue with the crops committee.

Does the secretary want to make a comment?

MS. HEINZE: Just a brief comment. I had a request for voting sheets for the rest of the board so those are being passed around in case you would like one.

You will note that there is one line that is a voting item from last November that I neglected to delete, so when you see that don't panic.

CHAIRMAN DELGADO: Very good.

Continuing on with the chair of the
crops committee, Mr. Davis.

JOINT CROPS & COMPLIANCE, ACCREDITATION AND CERTIFICATION COMMITTEE

MEMBER DAVIS: Thank you, Mr. Chair.

The first topic that we are going to cover, again, is the joint crops and compliance accreditation and certification committee, further guidance on commercial availability of organic seed.

We appreciate the many many different public comment inputs from both or several points of view I guess I should say. We had hoped to present some of these new ideas that we added on to the previous guidance as a way of vetting those ideas and getting response from the community.

And we have decided to take those suggestions under advisement, and to defer this item until the fall meeting, and to fully give full credit and credence to the comments that we received.

And Joe Smillie is going to explain
more of that.

CHAIRMAN DELGADO: Joe.

MEMBER SMILLIE: Right.

I just want to summarize the last comment we had when John Foster said that everybody is the room was taking notice of this issue. We've opened the discussion, and that achieves a lot of our purpose. I mean that's what really the main drive of this recommendation has been to bring attention to this area and on all fronts, on everybody's front.

So I think that part of our aim has been achieved already. We will come up with a recommendation for the next meeting in November, and what we'll do is become a kind of an approach of recalculating the distribution fo the burden.

So what we'll do is, we'll go back and look at our calculation of the distribution of the burden and try and make sure that the burden is fairly distributed in
I think we will also rethink and refine our approach to the database which is the other key issue. We have a lot of good input, and we'll look for a bit more on that.

So basically just to anticipate just getting back on our work plan, and getting more engaged in those two areas.

CHAIRMAN DELGADO: Thank you both. I appreciate that you are taking into consideration public comment, and you are right, it is part of the process to do so, and if there is a need to make any changes, to proceed with that.

We are looking forward also to the final version, and the next meeting in the fall.

Any questions from the board for the two chairs?

None? If that's the case, let's move on to the specific topics of the crops committee, and that involves petition
MEMBER DAVIS: For the petition materials, I'd like to start with cheesewax and go alphabetically.

CHAIRMAN DELGADO: Very good.

MEMBER DAVIS: Again, the committee originally voted six yes, zero no to approve this material and put it on the national list, which is that motion is to include microcrystalline cheesewax with specific cast numbers which have been amended since yesterday's presentation, because it was noted that one item was incorrect. And the new one is cast the third one in the line, there, has been corrected from yesterday's presentation.

So including those cast numbers, and add that material on the national list, 205.601, as a production aid in log-grown mushroom culture made without the cheesewax, made without either ethylene copolymer or synthetic colors.

And the CAS numbers again reflect
what our true intent of which materials might be included in various cheesewax products.

These are the only ones that - any cheesewax product used for this purpose could only include these three CAS numbers in their ingredients.

We also received public comment on some of the responses in the documentation section on the evaluation criteria, and several of the - some things have been removed from yesterday. On category one, question one, the answer - the response to that - the answer is still the same, no. We removed a point that was talking about petroleum and whether it's naturally or chemically changed or not, and thought it was not appropriate.

We did not intend as the committee - it was meant as background information, the previous comments that were made, not as a statement about petroleum coming from the committee.

And also category two, similar
statements were removed. I'd like to read that one.

What it reads now is - previously we had said - answered the question yes and no, so we have changed the answer to question one to now say, just yes. The substance is formulated or manufactured by a chemical process.

Petroleum wax is derived from crude oil. The cracking process of crude oil refining is considered synthetic. That's an addition.

Also the part about the ethylene propylene copolymers is still there; that was from the original.

The other addition is also - the last sentence, the formulation of cheesewax listed in petition do not contain this component or any colors but do contain BHT which is a synthetic antioxidant preservative.

The other change is category two, question three. There were some statements in
the documentation section that we removed that were from the petition, again, referring to
the petitioner's thoughts on petroleum and what it is, and we didn't mean to have it show that the committee agreed with their statements; it was not necessary, so we removed it on the documentation section on question three.

The answer now is just no, is the substance created by naturally occurring biological processes. We didn't feel like the statement was really necessary to document that answer.

And that's the last of the changes that we made as a committee. We revoted on this last night, and it still does not change the vote. It's still six yes, zero no.

And I'd like to open it up for any questions or discussion.

CHAIRMAN DELGADO: Would you like to propose a motion?

MEMBER DAVIS: The motion would be
to include this material in the national list as stated in our recommendation.

    MEMBER GIACOMINI: I'll second that motion.

    CHAIRMAN DELGADO: It is moved and seconded to include microcrystalline cheesewax CAS number 6474242380090308 and 8002742 on the national list, section 2005 - 205.6010, as production aid in log-grown mushroom culture made without either ethylene/propylene, copolymer or synthetic colors.

    Discussion? Joe.

    MEMBER SMILLIE: Yes, once again I wasn't part of the committee so I don't have the full range of information that you had. That's a given.

    This is described as a plug. Is it solid when it's put on, or is it sprayed on as a liquid?

    CHAIRMAN DELGADO: Tina.

    MEMBER ELLOR: I can address that.

    It's melted down and painted on.
MEMBER SMILLIE: Painted on?

MEMBER ELLOR: Just over the inoculation point.

CHAIRMAN DELGADO: Any other questions.

MEMBER ELLOR: It does actually work just as a barrier to moisture.

MEMBER SMILLIE: Does it penetrate I guess is the question?

MEMBER ELLOR: No. It's on the outside of the bark. It touches the spawn. But it's a temporary protection from moisture loss.

MEMBER SMILLIE: If I could just have another question.

VICE CHAIR MOYER: I was going to say, it does penetrate enough to adhere to the bark; it doesn't soak into it. But it does - it has to penetrate it a slight amount so it can adhere to it.

MEMBER ELLOR: Yes, when you paint wax on anything.
MEMBER SMILLIE: I guess the second question is more general. With the use of this material, is there a significant difference between organic shitake production this way, and conventional shitake production? Just in general.

MEMBER ELLOR: Yes, there would be. There is a whole laundry list of things people do to prevent insects and slugs and other infestations.

CHAIRMAN DELGADO: Any other questions? Dan.

MEMBER GIACOMINI: With all due respect to Tina and her expertise and the fact that she was looking - she's in the industry. Her company does not do it in this way, and she is reviewing a petition essentially from a competitor.

I really respect everything that you have put together on this, and I fully accept that in the new format as a viable path. I'm just a little uncomfortable that we
Chairman Delgado: Question? Follow up? Tina.

Member Ellor: And I fully understand that. The petition was extensive, and very technical. What I appreciate about it is that these guys didn't try to hide anything. It was - there was no obfuscation. They spelled it all out. They had extensive and really good information. But I certainly can sympathize with that, because it was a very technical petition.

Chairman Delgado: Hugh?

Member Karreman: I mean just generally if we have expertise on the board to interpret reviews we should make full use of that, and I think it's wonderful Tina did that, and I'll try to do that when it comes to medicine and stuff. I think we all should do that in our own areas; that's why we're on the
CHAIRMAN DELGADO: Any other comments?

Gerry.

MEMBER DAVIS: Commenting on that issue, we felt that the detail in the petition was great, and combine that with having a mushroom expert on the committee, we felt that this was something that could perform the – as the program would say, we are the technical advisory panel I guess.

CHAIRMAN DELGADO: Kevin followed by Jeff.

MEMBER ENGELBERT: And we found nothing in our other research to contradict anything that was in the petitioner. Like Tina said, it was thorough and no holds barred.

CHAIRMAN DELGADO: Jeff.

VICE CHAIR MOYER: Yes, I just wanted to add to what Gerry said as well. The petition clearly spelled out all the
alternative products that could be used and what the pros and cons of those were, so it gave us an opportunity to weigh that against this material. And we've heard nothing that would indicate that there is anything else out there from either public comment or written comment that would indicate that petitioner had left something out deliberately or accidentally.

CHAIRMAN DELGADO: Any other questions, comments? Tina?

MEMBER ELLOR: I don't know if this is the appropriate time to do this, but should I recuse myself from this vote?

CHAIRMAN DELGADO: I was about to ask that. If there are no other comments on the part of the board members? Well, then the next question for my part would be if there is any conflict of interest that any of you would like to declare at this point.

Tina.

MEMBER ELLOR: I'm a mushroom geek.
I'm married to a mushroom grower, and I live in the mushroom capital of the world. We don't use this technology at all, so I don't feel like there is a conflict.

CHAIRMAN DELGADO: Any comments from the board members?

Sorry, we have Joe followed by Hugh. Yes.

MEMBER SMILLIE: No, I have no comment.

CHAIRMAN DELGADO: No comment? Hugh.

MEMBER KARREMAN: I think Dan pointed out that Tina is a competitor to this, and you know I just - and she is saying it's okay to go, so I don't see any reason for her to recuse herself.

CHAIRMAN DELGADO: Kevin.

MEMBER ENGELBERT: The only possible reason might be if you move to this type of production in the future, Tina.

MEMBER ELLOR: And there is really
probably very little possibility of that. But you know what? Just for safety sake I will recuse myself.

CHAIRMAN DELGADO: You will recuse yourself? Thank you for that.

Joe?

MEMBER SMILLIE: Well, I'll make a specific statement and a general statement.

We are a certification agent. We certify hundreds, possibly thousands of people, many of whom, some of whom certainly will use many, almost all of the materials that we are going to discuss today.

So as a general statement I do not feel that I have a conflict of interest in voting on cheesewax. I don't even - I don't know, but I don't think we certify any of these operations.

However, no matter which material is brought up, we will be certifying someone who uses these materials. I don't feel we have a conflict of interest whatsoever, but in
the past there has been some discussion about whether the certification agent has a conflict of interest in voting for the use of these materials.

So I would just put it to this board, I do not feel I have a conflict of interest, but I would ask the board.

CHAIRMAN DELGADO: Board members, do you feel there is a conflict of interest?

(Chorus of Nos.)

CHAIRMAN DELGADO: And the chair coincides.

Any other conflict to declare? Are you ready for the question?

The question that's on the motion to include microcrystalline cheesewax, CAS number 6474242380090308, and 8002742 as listed, to be listed on the national list Section 205.6010, as stated previously before.

And I'll start with the voting with Steve.

MEMBER DeMURI: Yes.
CHAIRMAN DELGADO: Julie.
MEMBER WEISMAN: Yes.
CHAIRMAN DELGADO: Dan.
MEMBER GIACOMINI: Abstain.
CHAIRMAN DELGADO: Katrina.
MS. HEINZE: Yes.
CHAIRMAN DELGADO: Jeff.
VICE CHAIR MOYER: Yes.
CHAIRMAN DELGADO: Gerry.
MEMBER DAVIS: Yes.
CHAIRMAN DELGADO: Tina.
MEMBER ELLOR: Recused.
CHAIRMAN DELGADO: Tracy.
MEMBER MIEDEMA: Yes.
CHAIRMAN DELGADO: Joe.
MEMBER SMILLIE: Yes.
CHAIRMAN DELGADO: Barry.
MEMBER FLANN: Yes.
CHAIRMAN DELGADO: Hugh.
MEMBER KARREMAN: Yes.
CHAIRMAN DELGADO: Kevin.
MEMBER ENDELBERT: Yes.
CHAIRMAN DELGADO: Jennifer.

MEMBER HALL: Yes.

CHAIRMAN DELGADO: And the chair says, yes.

I've asked both our secretary to keep track of the numbers to make sure that I don't get things confused. And the verdict is?

VICE CHAIR MOYER: We have 12 yeses, we have one recusal, and we have one abstention and one absent.

CHAIRMAN DELGADO: The motion is agreed to.

Mr. Davis, back to you.

MS. HEINZE: That would be 11 yeses.

CHAIRMAN DELGADO: We have one again - let's make sure we coincide that.

MS. HEINZE: There's 14 of you.

CHAIRMAN DELGADO: There is 14 of us. We have one absent. Two abstain.

VICE CHAIR MOYER: So we have one recusal, one abstention, one absent, and 12
yeses.

MS. HEINZE: I stand corrected.

MEMBER DAVIS: The next material will be dextrin, and the petition, it was petitioned for dextrin to be used as a binder in seed coatings with placement on the national list to apply to 601(n) as seed preparations.

Now I'll wait for Valerie to put up - there is one very small change to the document since yesterday, two places. Under Section B there, at the first page, Section B, where it says, substance fails criteria category, the comments, the words organic compliant binders have been put in there. Originally it said nonsynthetic starches, and we have chosen a more descriptive and a little broader term in calling them binders, because we with the secrecy around these seed coatings that the seed companies protect with their lives it was not proper to say for sure they are starches; we don't know that for sure.
So we just went to the generic term, binders, instead.

And that is also that same sentence is reflected in category two, question seven, so we changed it there also to say organic compliant binders rather than nonsynthetic starches.

And that's the only change. The committee revoted on that this morning, and the vote actually changes because there were six of us present, so the committee vote now stands at zero yes, six no, zero absent.

CHAIRMAN DELGADO: Would you like to make a motion?

MEMBER DAVIS: I move that we vote on this on whether to grant this petition or not. I'm unfamiliar with the wording I should use.

CHAIRMAN DELGADO: Why don't you read the petition as it is in the - so you move to -

MEMBER DAVIS: The motion is to
accept dextrin to be used as a binder in seed coatings with placement on the national list, section 205.601(n) as seed preparations.

CHAIRMAN DELGADO: Is there a second?

MEMBER ENGELBERT: I'll second.

CHAIRMAN DELGADO: It is moved and seconded to add dextrin to be used as a binder in seed coatings with placement on the national list, Section 205.601(n) as seed preparations.

Discussion? Questions from the board?

Hearing none, are there any conflicts of interest to declare?

None. Are you ready for the question?

Julie?

MEMBER WEISMAN: No.

CHAIRMAN DELGADO: I'm asking if you have any comments? You have no comments.

I'll put the question. The
question is on the motion to accept dextrin to
be used as a binder in seed coatings with
placement on the national list, Section
205.601(n) as seed preparation.

And we will start with the vote,
and this time, Julie.

MEMBER WEISMAN: No.
CHAIRMAN DELGADO: Dan.
MEMBER GIACOMINI: No.
CHAIRMAN DELGADO: Katrina.
MS. HEINZE: No.
CHAIRMAN DELGADO: Jeff.
VICE CHAIR MOYER: No.
CHAIRMAN DELGADO: Gerry?
MEMBER DAVIS: No.
CHAIRMAN DELGADO: Tina.
MEMBER ELLOR: No.
CHAIRMAN DELGADO: Tracy.
MEMBER MIEDEMA: No.
CHAIRMAN DELGADO: Joe.
MEMBER SMILLIE: No.
CHAIRMAN DELGADO: Barry.
MEMBER FLANN: No.

CHAIRMAN DELGADO: Hugh.

MEMBER KARREMAN: No.

CHAIRMAN DELGADO: Kevin.

MEMBER ENGELBERT: No.

CHAIRMAN DELGADO: Jennifer.

MEMBER HALL: No.

CHAIRMAN DELGADO: And the chair says no.

Sorry, Steve.

MEMBER DeMURI: No.

CHAIRMAN DELGADO: I have to change my symbols.

In the meantime, Mr. Vice Chair, can you please tell us?

VICE CHAIR MOYER: The vote is 14 nos, one absent.

CHAIRMAN DELGADO: The motion to list dextrin to be used as a binder in seed coatings and listed in Section 205.601(n) is not approved, is lost.

Back to you, Mr. Davis.
MEMBER DAVIS: Our last petition material is tetracycline, specifically oxy-tetracycline hydrochloride. There has been written comment and verbal comment from the petition requesting to change the motion, change the request or petition. So we have changed the wording from yesterday's presentation. We have dropped the reference to, for use in peaches and nectarines, by their request, the petitioner's request, and have changed it to "petitioner is to add tetracycline, oxy-tetracycline, hydrochloride for fire blight control only on the national list 205.601(I)," I believe -- is that "I" or "j"? It's "I", okay.

I wanted to read the -- can you move that up a bit so I can see it?

The committee originally voted as we explained yesterday to - voted no, and - but there has been additional wording added to clarify some of the - our position and some of the - and also reflecting changing the peaches
and nectarine part of it. So I'll read those.

  The substance still fails category two and three. The material only marginally satisfies criteria number one. It fails criteria number two, since other organically compliant disease control options exist. Herein apple growers exporting to Europe, where antibiotics are not allowed, are already achieving some measure of fire blight control without the material.

  It also fails criteria number three on compatibility with public perception that antibiotics are not used in organic production, and on consistency within the NOP regulations that do not allow antibiotic use in any other section of the rule.

  The committee views this incompatibility and inconsistency with organic farming principles as potentially damaging to the reputation of the organic label overall.

  It is the intention of the committee to recommend allowing tetracycline
and streptomycin to sunset for the national list in October of 2012. Adding this form of tetracycline to the list at this time would be counterproductive to that goal by extending this date even later than that October - the 2012 date.

As part of the petitioner's written comment to remove the peaches and nectarine crops from their petition, they also stated that they were willing to accept rather than adding their particular form of this material, to the list for a full five years they were willing to accept that it be coincided with the existing tetracycline calcium form that is already on the list that will sunset in 2012. They stated that they are willing to let their material be added and coincided with that expiration date.

The original TAP that was done for the oxy-tetracycline calcium material that is already on the list does cover oxy-tetracycline hydrochlorite in it. It touches
on it, explains it as a related compound, explains that the EPA considers - regulates them the same, considers them as similar compounds, and so we noted that, and that's why we felt that a new TAP was not needed for this material.

And I'm saying this in response to several public comments that said, you know, a TAP was necessary for this particular material, because it has a separate CAS number. We just wanted to point out that the original TAP for the calcium form of the material does include the hydrochloride in several references.

But the committee agreed this morning in discussing this new development from the petitioner, their written statement, because of the complexity of the issue and the situation we felt it would be improper to proceed forward with a vote on this material until we can take it back to review this new information, mainly regarding their change in
what their petition is.

It was significant enough in what they are proposing that we want to review it as new information, and we are going to defer this material to the fall meeting.

CHAIRMAN DELGADO: Very good. Any questions from the board? Joe.

MEMBER SMILLIE: That's good. I think that that is a wise decision. I don't know, do we have the power - once we grant it, doesn't it get the full five years? Do we have the ability to say, we can add this to our current material?

CHAIRMAN DELGADO: Yes, we do have the authority to add a notation specifying the expiration dates and the intent like expressed before.

Hugh?

MEMBER KARREMAN: I agree, it's very good that you are going to defer this. And I would say, it really leaves us in a quandary. But to avoid the extension of sunsetting
time, maybe the committee should consider the listing of the oxy-tetracycline calcium and remove that calcium part of that, so it's just oxy-tetracycline so this petitioner is not so you can get to where he wants to be to just be included in the sunset time of the existing oxy-tetracycline calcium, but if you take the calcium word out of that, then you know it would still sunset in three years or whatever it was since -

MEMBER DAVIS: I think that probably would require a petition though to make that correction on the calcium form, if I understand the regulations correctly.

CHAIRMAN DELGADO: We have comments from Katrina.

MS. HEINZE: I agree with Hugh, and was going to build on that to encourage you to perhaps get some perspective from the program on what our options within the regulation might be -

MEMBER DAVIS: For what aspect of
this?

MS. HEINZE: All the aspects. I am troubled by having a listing that is a competitive disadvantage for a company, but yet do not want to do something that ends up extending the use of the antibiotics. I think it is complicated enough that maybe getting some help on how we could accomplish those two goals, which today seems seemingly at odds, might be helpful.

MEMBER DAVIS: Right, and believe me, we did consult with the program staff extensively over the last 24 hours about this, in response to the new developments. But we felt it was inappropriate to vote on this until we sort this out a little better.

MS. HEINZE: I agree. It will take everyone some more time to think about it.

MEMBER DAVIS: Yes.

CHAIRMAN DELGADO: And I concur. It's a wise idea to defer that if the time is needed to think about it.
Back to you again, Mr. Davis, you still have items which sunset?

MEMBER DAVIS: The next materials item is the reaffirmation of the sunset 2008 materials. Excuse me a minute.

As explained yesterday this is to reaffirm that we analyzed the public comment that came in after the vote at the November 2007 NOSB meeting. And we analyzed that information, and felt that it did not change the status of the vote on any of these materials.

So I move that we accept this recommendation.

CHAIRMAN DELGADO: Can you just state that more clearly? You are moving to accept this document as proof of reaffirmation of the voting; is that the case?

MEMBER DAVIS: That is the case.

CHAIRMAN DELGADO: Okay, do we have a second?

VICE CHAIR MOYER: I'll second that
motion.

CHAIRMAN DELGADO: It is moved and seconded to accept a document presented by the chair of the crops committee as reaffirmation of the decisions taken in the fall meeting of 2007 with regards to the materials listed in the document.

Discussion?

MEMBER KARREMAN: I guess I wasn't keeping up on these particular materials, I apologize. But why is there a reaffirmation of something?

MEMBER DAVIS: Because of an ANPR that was announced and public comment period that was put out by the program concerning these materials. I don't fully understand how it came in after the meeting, so I can't really explain that.

CHAIRMAN DELGADO: We have - Julie, can you clarify the point?

MEMBER WEISMAN: Yes, because we have handling materials that are in the same
situation. There was an inconsistency in how the sunset of these materials were originally publicized, and so at the time that we came to the meeting people - there was no public comment because they had not been publicized in the way the community is used to looking for them.

And for good order's sake although we did get public comments at the meeting on all of these materials, but for good order's sake - an ANPR that was put out in the more consistent format was published in the Federal Register, I think in late December, and the comment period closed in January.

So it was important to reaffirm the votes at the fall meeting in light of public comment that was received subsequently, and certainly in your case, and we'll get to mine later, the handling later, in the case of the crops material there was no public comment that contradicted or was anything contrary to what the board had already decided.
CHAIRMAN DELGADO: Right. And thank you Julie for explaining that. I didn't feel like I could articulate that; you did a much better job. Thank you.

Hugh, you have a follow up question?

Kevin?

MEMBER ENGELBERT: Yes, you'd be going through these items one by one, Gerry?

MEMBER DAVIS: To list, to state them? No, perhaps I should read them all as a group for the public record.

The motion is to reaffirm that the public comment received after the original November, 2007 vote on these materials, did nothing to change -

CHAIRMAN DELGADO: Excuse me, you are just clarifying your motion? You just made one. Please, read those materials. You already read the motion. Point of order, please.

MS. HEINZE: I believe my
understanding is - someone more expert than I will have to clarify - that if we change - right, we can't change the wording of the motion, right?

So -

CHAIRMAN DELGADO: Let's go -

MS. HEINZE: And I don't actually have the wording of the original motion.

(Laughter.)

CHAIRMAN DELGADO: That's a good point.

MS. HEINZE: So my recommendation would be that we take a sec to think about what the wording should be. Then he could offer a friendly change if his second accepts it; then we're fine, we can proceed. But let's make sure we get the wording right, and if you could go very slowly so I can type it, thank you.

CHAIRMAN DELGADO: You hit the nail on the head. We do need to amend that motion, and I believe that is coming now, Mr. Davis.
There is clarification from our parliamentarian, in-house parliamentarian.

MEMBER GIACOMINI: Yes, just a question to the program. Since this is sort of a facilitation of your paperwork, do you want each individual item in the motion, or just a reference to the items that were petitioned and voted on at meeting X, or sunsetted, voted for sunset on meeting X?

CHAIRMAN DELGADO: Kevin, go ahead.

MEMBER ENGELBERT: And the reason being is that these items were anonymously approved at the last meeting, so we need to know if that needs to be clarified with votes now, or whether we can still just blanketly do this procedure without listing each of these individually and doing a revote is basically what we are trying to figure out.

CHAIRMAN DELGADO: Just to clarify, this is a reaffirmation. The committee is coming back to us saying that the public comment did not warrant any substantial
1 changes, so there shouldn't be any changes to
2 the ultimate vote. And that is what the whole
3 purpose of this is.
4
5 The program has a comment, though?
6
7 Do we need - the question was, do we need to
8 itemize the list of -
9
10 MR. MATTHEWS: No. What you are
11 simply doing is that you are saying, as Gerald
12 has already said, is that in light of
13 additional comments that came in we have
14 determined that there is no change to the
15 voting from last November, and the voting
16 stands.
17
18 CHAIRMAN DELGADO: And just to make
19 it clear, we'll ask the chair to restate that
20 motion and I know we are suspending some of
21 the traditional rules. I apologize to the
22 parliamentarian. But we need clarification,
23 and if you list the names then we'll have the
24 second accept that motion.
25
26 MEMBER DAVIS: The motion is to
27 reaffirm that in light of public comment
received after the November, 2007 sunset voting on these five materials, that the public comment does not warrant any changes in the original vote from the November, 2007.

CHAIRMAN DELGADO: And can you list the materials, please?

MEMBER DAVIS: The materials are copper sulfate; ozone gas; peracetic acid; EPA list three inerts for us in passive pheromone dispensers; and calcium chloride.

CHAIRMAN DELGADO: And it was seconded by -

VICE CHAIR MOYER: I'll second that motion.

CHAIRMAN DELGADO: You second? It is moved and seconded to reaffirm the votes for copper sulfate - I'm not going to read it as stated.

MS. HEINZE: It is to reaffirm that in light of public comment received after November 7, November of 2007 voting on these five materials public comment does not warrant
- and I lost it after that - a review of the votes.

    CHAIRMAN DELGADO: Does not warrant a review of the votes; is that right? A change in the votes?

    MS. HEINZE: Now we all know how fast I type, so when you do your motions bear that in mind, please.

    CHAIRMAN DELGADO: So in summarizing once again, it's reaffirmation for these five materials as previously mentioned by the chair, and confirmed by the secretary.

Questions? Discussion on the part of the board?

    Ready for the question?

    Mr. Matthews.

    MR. MATTHEWS: I have good news. This won't happen again next time, because the 2011 ANPR is already out and the comments have already been received, so we won't have this confusion the next go round.

    CHAIRMAN DELGADO: That is in the
record.

I'll put the question. The question is on the motion to accept the reaffirmation as stated by the chair for the materials, and I won't read the whole motion, I'll just mentioned the materials: copper sulfate; ozone gas; peracetic acid; EPA listed inerts, calcium chloride would be listed and sections 205.601, and for the case of calcium chloride, 205.602, and the vote is not changed.

And I'll start by taking the vote from Dan.

MEMBER GIACOMINI: Yes.
CHAIRMAN DELGADO: Katrina.
MS. HEINZE: Yes.
CHAIRMAN DELGADO: Jeff.
VICE CHAIR MOYER: Yes.
CHAIRMAN DELGADO: Gerry.
MEMBER DAVIS: Yes.
CHAIRMAN DELGADO: Tina.
MEMBER ELLOR: Yes.
CHAIRMAN DELGADO: Tracy.
MEMBER MIEDEMA: Yes.
CHAIRMAN DELGADO: Joe.
MEMBER SMILLIE: Yes.
CHAIRMAN DELGADO: Barry.
MEMBER FLANN: More than a yes or no, I was not a member at the time of the original vote, and I abstained in committee, so I planned to abstain on this vote, but the way the motion is worded it leaves me a little bit in doubt.

But I'll abstain.

CHAIRMAN DELGADO: Yes, it is the proper way. You abstain. Kevin - Hugh, sorry.

MEMBER KARREMAN: Yes.
CHAIRMAN DELGADO: Kevin.
MEMBER ENGELBERT: Yes.
CHAIRMAN DELGADO: Jennifer.
MEMBER HALL: Yes.
CHAIRMAN DELGADO: Steve.
MEMBER DeMURI: Yes.
CHAIRMAN DELGADO: Julie.

MEMBER WEISMAN: Yes.

CHAIRMAN DELGADO: And the chair says yes.

Mr. Vice Chair.

VICE CHAIR MOYER: We have 13 yeses, one abstention, and one absent.

CHAIRMAN DELGADO: The motion is approved. And we are back to you, Mr. Davis.

JOINT CROPS & LIVESTOCK COMMITTEE

MEMBER DAVIS: The next item is a joint crops and livestock committee item on aquatic plants.

MEMBER WEISMAN: Rigo, could you address my question I brought up to you?

CHAIRMAN DELGADO: The question you brought up?

MEMBER WEISMAN: Regarding the committee deferring on tetracycline.

CHAIRMAN DELGADO: Clarification on deferrals, we do not need to vote on whether to defer a material. It is considered, the
question still, at the committee level and it is committee, so we do not need to vote on it. It has not been brought forward to the board.

Any other questions in that respect? Okay, you may proceed, Mr. Davis.

MEMBER DAVIS: With that presentation will be the crops vice chair, Jeff Moyer.

CHAIRMAN DELGADO: Jeff.

VICE CHAIR MOYER: Thank you, Mr. Davis.

In regards to the aquatic aquaculture - I mean aquatic plants, in organic aquaculture, our proposal is to move forward with the document as read. I'm hoping I don't have to read it in its entirety. It is quite lengthy.

But the title is, recommendation to provide clarity to the issue of farmed aquatic plants in organic aquaculture, April 4th, 2008, with intention to provide clarity.

Again in summation, we are saying
that farmed aquatic plants need to follow all
the rules and regulations in the rule Section
205.200 up to and including 205.207, with the
exceptions as listed here, and I'll make note
to those.

In Section A, aquatic plants may be
grown in closed containment, organic systems
provided. We listed one, two, three and four
specific areas as we talked about it
yesterday.

Under item four we have two other
classifications, mainly talking about water
discharge standards.

Item five talks about manure made
from terrestrial animals and the composting
process.

And then Section B talks about
aquatic plants grown in open water systems.
One word change that we might want to consider
as a board, and it would have to be made as an
amendment I believe, from the floor yesterday
the comment came I believe that what we should
do is change the wording that says that, comma, manure from terrestrial animals, to include manure or compost. That was mentioned from the floor.

Other than that after further discussion the committee's recommendation stands as presented yesterday.

CHAIRMAN DELGADO: Are you making a motion? And if so are you actually including that change?

VICE CHAIR MOYER: I turn it back over to the chair to make that motion.

MEMBER DAVIS: I would offer a friendly amendment.

CHAIRMAN DELGADO: You have to state a motion first. You can motion to accept this document with the changes that he proposed.

MEMBER DAVIS: Okay, I move that we accept this document with the one change being that in Section 5B, and number one, that manure or compost from terrestrial - wow, I'm stuck.
MEMBER GIACOMINI: In any form, I am comfortable with the language in the document. We have it in the historical record, in the transcript of this meeting. The full intent is manure and composted manure. Does anyone in the program imagine that that would cause a problem in the future, that somebody will be putting compost in the ocean? No comment?

CHAIRMAN DELGADO: No comment. So you are saying you would be comfortable if we do not mess with - so back to you, Gerry. Perhaps you want to abstain from including that change?

MEMBER DAVIS: Yes, I'll abstain.

CHAIRMAN DELGADO: Very good. So we have a comment from Tina?

MEMBER ELLOR: I would actually like to see that change, and I am willing to motion that.

CHAIRMAN DELGADO: In that case you will have a motion to amend, and we should go back to the chair to state the motion. We do
not have a motion yet. That's what I'm looking for.

MEMBER ELLOR: Okay.

CHAIRMAN DELGADO: So Gerry?

MEMBER DAVIS: Gene has helped me clarify a good way to do it.

The sentence, I move that the document be voted on as it stands with one change that in that section five - no it's not section five, excuse me, it's Section B, item number one, excuse me, the sentence should read that manure or composted manure from terrestrial animals in any form may not be used to fertilize open water aquatic plants.

CHAIRMAN DELGADO: is there a second?

VICE CHAIR MOYER: I will second that motion.

CHAIRMAN DELGADO: It is moved and seconded to set the recommendation on farm aquatic plants in organic aquaculture as summarized by the chair. The document is a
result of a Joint Crops & Livestock Committees
and it is dated April 4, 2008.

Questions from the board. Julie?

MEMBER WEISMAN: I would like to
hear Tina's concerns that led her to want that
compost added.

CHAIRMAN DELGADO: Tina.

MEMBER ELLOR: I spend a lot of time
going around to school children talking about
mushrooms and mushroom compost, and they say,
don't those things grow on poop. I think that
manure and compost are different, and some
people do interpret it that way. So I'd
rather have them both listed there.

CHAIRMAN DELGADO: Joe.

MEMBER SMILLIE: I have no
disagreements with the document the way it is.

But I really am very uncomfortable with the B
section, because it seems to imply - it
implies to me that the only thing preventing
you from doing aquatic plants in the open
water in organic systems other than the rule
as it now says is this well worded point.

I think there are many other points. I don't think it's an inclusive document of all the conditions that should be there and beyond the regulation that we are currently working with.

And I believe that there are ocean organic aquatic systems that need a lot more guidance than simply you can't put manure in.

And again the examples I used yesterday aren't covered in this. Nori farming is a reality. I'm sure there are others that I'm not as familiar with.

But it's just not inclusive enough, and thereby it could imply that all you got to do is follow the reg as it exists, which is a terrestrial reg, and follow that rule and you are good to go. And I believe that there are a lot of other factors.

We have addressed those factors in the wild harvest section of the rule. The mapping, contamination, the - and so for wild
harvested aquatic plants I think we've got an adequate reg.

For organic aquaculture systems for aquatic plants I don't believe this is adequate. There is nothing wrong with it, but I don't think it's adequate, and hence it can lead to a misconception that that's all there is, and that's my - that's why I'm uncomfortable with this document.

CHAIRMAN DELGADO: Jeff.

VICE CHAIR MOYER: Yes, I think the committee understands and sympathizes with your concerns, because they were concerns that were voiced at the committee.

At this particular time we are considering this document a living dynamic document which can be amended and added to in the future as particular issues come to bear.

We were trying to address most specifically issues related to closed containment systems because those are at the forefront of what seems to be happening aside
from the few cases you mentioned.

The committee also felt fairly strongly that the sections 200 through 207 of the terrestrial code was a good start from which to build on, and we were mainly addressing the newer issues which in a - even in the containment system which in an open water system really are not an issue.

I do think there are other things that we could possibly consider down the road as those issues come up, and we are prepared to do that.

CHAIRMAN DELGADO: Julie.

MEMBER WEISMAN: With regard to Joe's concern, since this is I believe the only section of the recommendation that even makes any reference to open water aquatic systems, would it address Joe's what I think are very valid concerns, which is basically there is a whole standard for open water that has not been clarified.

Could this recommendation be
restated to apply to aquatic plants in closed containment organic aquaculture? And then leave this last B off?

CHAIRMAN DELGADO: You do have the option to amend, place a motion to amend by striking. But we want to hear from Jeff.

VICE CHAIR MOYER: As part of the committee that pulled that together, I would be reluctant to strike it completely mainly from the fact that it detracts from the position that we recognize this as a situation that either is occurring or could occur, and that we want to document here specifically at least for the manure and compost to say that that is not allowed in open water.

Open water could entail possibly rivers; it's not necessarily just oceans, but somewhere where water is moving continuously through the system, we want to make sure that nobody feels that they are allowed to apply manure or compost. This is really, when you read the document carefully, it's mainly about
manure and compost throughout the process, and it would be handled differently in the open water. We do not want any open water applications, or perception that we are thinking it could allow that in open waters.

CHAIRMAN DELGADO: Is that clear? Julie?

MEMBER WEISMAN: Okay, so alternate to what I said could we add some language to be that acknowledges that there is not a complete standard written yet, but that such a standard has to include this language, something like that.

CHAIRMAN DELGADO: Would you like to make a motion for that?

MEMBER WEISMAN: I need help with the wording.

CHAIRMAN DELGADO: Dan might come in for help.

MEMBER GIACOMINI: Well, I just would like to go back to what Jeff just said. This is a recommendation. It goes on the
program's docket for work. It's unlikely that it will reach the top of that pile on someone's desk before we have a chance to deal with that next issue.

And is it necessary, since it's not a complete section, is it necessary to put it in? Because it doesn't become regulation until they put it into the reg.

CHAIRMAN DELGADO: Joe, followed by Julie.

MEMBER SMILLIE: I recognize that reality, and I would think that if you can buy me off by putting it on your work plan to further develop the open water portions of this.

CHAIRMAN DELGADO: Julie.

MEMBER WEISMAN: And I would be more comfortable if there was some way to make clear that this statement should not be interpreted as an allowance or an acknowledgment that - I guess I would like to hear from my fellow board members whether they
feel that this statement, they feel that this statement the way it exists now could be misinterpreted as the - what - the only criteria that has to be met by ocean water aquiculture.

CHAIRMAN DELGADO: Okay, any comments to Julie? In that respect, Kevin?

MEMBER ENGELBERT: The concerns that were raised were ones that I had in committee, but was convinced that we could go forward. But as I think more, I'm not sure but what we should simply drop B, or state that there are further rules for open water aquatic plants forthcoming.

I'm still - becoming more and more uncomfortable with this listing now.

CHAIRMAN DELGADO: Tina.

MEMBER ELLOR: But if you read up, it's not the only stipulation. There are still all of the 205.200 - 00205.207, so you know, all of that is included as well, right?

CHAIRMAN DELGADO: Jeff?
VICE CHAIR MOYER: Yes, that's correct, Tina. We drug all of the terrestrial requirements, everyone of them in their entirety, into this document, but we wanted to make certain that there is a distinction between closed containment systems and open water systems in their ability to use compost and manure as a fertilizer substance, because that is allowed in the terrestrial system.

And we wanted to clarify that, and distinguish those areas, mainly because these aquatic plant production systems are moving forward. We do not want them to use - dissolve mineral fertilizers. I mean compost is the best way to fertilize these ponds, and we want to give those folks as quickly as possible the opportunity to do that.

Now I have no idea, we haven't discussed with the program, how fast this rulemaking, or this recommendation will surface to the top of their respective piles, but we didn't want to be holding back the
ability for people to fertilize ponds using composted terrestrial manures, and at the same
time we wanted to make sure that if they did use those composted terrestrial manures, that through the harvesting process it did not give them the ability, much like what happens with some of the conventional operations, it gives them the opportunity to flush their systems into the existing waterway.

So we are trying to head off at the pass some environmental issues that could take place rather shortly. Open water systems are different, and so manure is the big issue that we are dealing with in this particular regulation. There are no other real things that - in an effort to buy off Joe, we will go back and look at those other things.

CHAIRMAN DELGADO: Julie.

MEMBER WEISMAN: So is it the fact that I just was not aware that these concerns are addressed in other parts of the rule as Katrina mentioned, is that what I'm hearing?
I mean, I'm sorry, Tina.

CHAIRMAN DELGADO: Jeff.

VICE CHAIR MOYER: I personally believe that that is correct, that those things are covered. If you look at even the containment systems there are - may be other issues that come up in the future that aren't covered in this document. But we think we have covered our bases, because they are covered in the terrestrial system.

CHAIRMAN DELGADO: Any other questions? Kevin?

MEMBER ENGELBERT: For the board's benefit, let me read 205.207, which is included in this recommendation, wild crop harvesting practice standard.

A, wild crop that is intended to be sold, labeled, or represented as organic must be harvested from a designated area that has had no prohibited substances set forth in 205.105 applied to it for a period of three years immediately preceding the harvesting of
the wild crop.

B, a wild crop must be harvested in a manner that ensures that such harvesting or gathering will not be destructive to the environment, and will sustain the growth and production of the wild crop.

So we think that covers it.

CHAIRMAN DELGADO: Tina.

MEMBER ELLOR: It's section 200 through 207, not just 207.

CHAIRMAN DELGADO: Joe.

MEMBER SMILLIE: Again, I'm satisfied if we continue to work on them, I really am. And I think we can get a task force together - that's the wrong word - a working group together to help us with this with some experts and put some language in place.

207 is specific to wild crops; that's what it says, and that's what it means, wild crops. We are not talking about wild crops.
CHAIRMAN DELGADO: Any other questions? Jeff?

VICE CHAIR MOYER: The point we're making, if you look at the statement we made under 205.258 we said that you have to include all of those rules into a farm system as well. I mean I think that's the way we intended this to read.

So even though it refers to wild crops here we are dragging that into the aquatic rule as well, and those stipulations would through that statement then apply to all of the farmed aquatic species as well, whether they are open water or closed containment, which would mean ponds, raceways, streams, rivers - we tried to cover every body of water we could.

CHAIRMAN DELGADO: Any other questions? Gerry?

MEMBER DAVIS: Joe, on the problem phrase that you were struggling with, would it help in your mind if it were worded
differently, such as manure or composted manure from terrestrial animals may not be used to fertilize open water aquatic plants, and leave out that part where it starts with, aquatic plants may be grown in open water organic systems provided that. Does that make it seem less like we've left out all the other parts, and all we are addressing is the manure and composted manure?

CHAIRMAN DELGADO: Joe.

MEMBER SMILLIE: It does. I think that from that particular point of view, it does help.

MEMBER DAVIS: It becomes less - you take away the title, then it just deals with manure and compost. Again, I'm more than happy as long as we pursue this topic and add some more detail to it.

CHAIRMAN DELGADO: Gerry, do you want to make a motion?

MEMBER DAVIS: Yes, I'd like to - is
that a motion or an amendment?

CHAIRMAN DELGADO: You would have to make a motion to amend.

MS. HEINZE: Wait, wait.

CHAIRMAN DELGADO: We have a correction here. Are you ready?

MS. HEINZE: Yes.

MEMBER DAVIS: I would like to move that we amend the wording in section B1 - actually that we would strike the line that is titled item B, aquatic plants may be grown in open water organic systems provided that, we would strike all of that, and the new line delineated as number B would read: Manure from terrestrial animals - excuse me, manure or composted manure from terrestrial animals may not be used to fertilize open water aquatic plants.

CHAIRMAN DELGADO: Okay, you made the original motion, and we would like to hear from the second, do you agree with that?

VICE CHAIR MOYER: I do not accept
that motion.

CHAIRMAN DELGADO: Okay, we need a second to that amendment.

MEMBER GIACOMINI: Before a second, Gerald, would you consider on that motion renaming that double I rather than B?

VICE CHAIR MOYER: That won't work.

That will not work.

CHAIRMAN DELGADO: Let's wait for a report from Gerry, and then we will proceed with clarifications.

The motion is stated.

MEMBER DAVIS: The motion is to change the wording to read for item B to be, manure or composted manure from terrestrial animals may not be used to fertilize open water aquatic plants.

CHAIRMAN DELGADO: That's your motion.

Do we have a second for that?

MEMBER FLANN: I'll second.

CHAIRMAN DELGADO: There is a
second. Okay, it is moved and seconded to amend by striking point B of the recommendation on farmed aquatic plants in organic aquaculture and replace that with, manure or composted manure from terrestrial animals may not be used to fertilize open water aquatic plants.

That will replace point B.

Discussion? Jeff, followed by Dan and then Julie.

VICE CHAIR MOYER: Yes, the reason I wouldn't accept that motion, if you look at what Point A is, it specifically talks about plants grown in closed containment system. And if you get rid of B, then you no longer have a separate category for open water systems which is a category that I feel we need to retain.

We also need to retain it in the format that it is. If you want to change the sentence so that it opens the door for possibilities of more numbers to come under
there, I'm all in favor of that. That door remains open as well for closed containment systems.

Again, this document was designed or written to discuss manure and compost applications in these systems. And if there are other pieces of information that need to be included in the exceptions as listed in either closed containment systems or open water systems I would like to see provisions left open for that to be done.

CHAIRMAN DELGADO: Dan.

MEMBER GIACOMINI: Clarification of Gerry's motion. As Rigo read it, I'm not sure how Katrina typed it, did you intend to delete "in any form"?

MEMBER DAVIS: Yes.

MEMBER GIACOMINI: You deleted "in any form."

MEMBER DAVIS: Yes.

CHAIRMAN DELGADO: Katrina?

MS. HEINZE: I don't believe in your
original motion you deleted "in any form."

CHAIRMAN DELGADO: The amendment.

MS. HEINZE: Yes, way back at the beginning. Didn't we just add composted manure? I don't think we deleted "in any form."

CHAIRMAN DELGADO: In the motion that he's making now.

MS. HEINZE: Right, so my question is, are we rewording it now to get rid of "in any form?" Or was that the intention?

CHAIRMAN DELGADO: The open question, he just did it, that is the intention. But thank you for that clarification.

Julie.

MEMBER WEISMAN: To Jeff's concerns, if instead of striking B, we added some additional wording at the beginning. What I'm thinking of is, to the extent that aquatic plants may be grown in open water organic systems, and then strike "provided that."
Strike the "that" in - or, then manure, et cetera, et cetera, et cetera.

CHAIRMAN DELGADO: Hang on to that thought. We are discussing this motion to amend, and we might come back to your suggestion.

Barry.

MEMBER FLANN: A point of clarification, since I seconded it. I thought the motion to amend was to place that language as a new B. I didn't know we were eliminating B.

CHAIRMAN DELGADO: That is correct.

MEMBER FLANN: So I was a little confused by Jeff's comment. Because I certainly think that B ought to be retained to separate it from A.

CHAIRMAN DELGADO: That is correct.

Just to clarify the motion was to amend by striking the language that we have on point B at the moment and replace that with manure and composted manure and continue throughout that
That would become B, and one would disappear. That will be the clarification.

Jeff.

VICE CHAIR MOYER: But essentially through that language change you have eliminated the whole concept of open water systems. And if you look at A, we specifically discuss closed containment systems. And then when you jump to B, you change the language to an entirely - you talking about manure, it makes absolutely no sense that way, and you lose the whole train of thought, in my opinion, regarding open water systems versus closed systems which are the two predominant systems that at least this committee was aware of and that we were discussing in terms of bodies of water.

They were either closed so that they were managed specifically by humans for the production of food. You have complete control over what comes in and what goes out,
and that's why we said you have to have berms around them and other things. We specifically put that in on the closed containment system.

On an open water system, you have very little control about stream bank, river frontage if you had some kind of plants growing in a river, we wanted to make sure that you included that as well.

And by making the change that is now being suggested or being discussed you lose all of that language, and I don't support that.

CHAIRMAN DELGADO: Comments? Dan.

MEMBER GIACOMINI: We're talking about Gerald's amendment, and on that issue I agree with Jeff's point. But I agree with the direction that Julie is trying to make with her amendment. So I oppose Gerald's and I will support the presentation of Julie's amendment at the completion of that.

CHAIRMAN DELGADO: Very good. And my understanding is that it is a completely
different motion from what we are considering at the moment, so we will study that after we call the question.

Are we ready for the previous question?

VICE CHAIR MOYER: Can you - you can have an unfriendly amendment to an amendment, can you not? Or a friendly amendment to an amendment?

MEMBER GIACOMINI: It's too radical.

VICE CHAIR MOYER: It's too radical?

CHAIRMAN DELGADO: Yes, completely different.

Any other questions?

Let's proceed with voting. The question is on the motion to amend by striking the language in point B, and replace that with manure or composted manure from terrestrial animals may not be used to fertilize open water aquatic plants.

And we'll take the vote starting with Katrina.
MS. HEINZE: No.

CHAIRMAN DELGADO: Jeff.

VICE CHAIR MOYER: No.

CHAIRMAN DELGADO: Gerry.

MEMBER DAVIS: No.

CHAIRMAN DELGADO: Tina.

MEMBER ELLOR: No.

CHAIRMAN DELGADO: Tracy.

MEMBER MIEDEMA: Yes.

CHAIRMAN DELGADO: Joe.

MEMBER SMILLIE: No.

CHAIRMAN DELGADO: Barry.

MEMBER FLANN: No.

CHAIRMAN DELGADO: Hugh.

MEMBER KARREMAN: Yes.

CHAIRMAN DELGADO: Kevin.

MEMBER ENGELBERT: Abstain.

CHAIRMAN DELGADO: Jennifer.

MEMBER HALL: No.

CHAIRMAN DELGADO: Steve.

MEMBER DeMURI: No.

CHAIRMAN DELGADO: Julie.
MEMBER WEISMAN: No.

CHAIRMAN DELGADO: Dan.

MEMBER GIACOMINI: No.

CHAIRMAN DELGADO: And the chair votes no.

VICE CHAIR MOYER: Eleven nos, two yeses, and one abstention and one absent.

CHAIRMAN DELGADO: The motion to amend by striking is lost.

We go back to appending motion, Julie.

MEMBER WEISMAN: I move that we amend the recommendation on farmed aquatic plants and organic agriculture, dated April 4th, 2008, by adding after letter B the words, to the extent that, striking the word that from the end of that phrase.

And striking the "that" that appears before the number one.

So I will read how the two sentences would appear.

B, to the extent that aquatic
plants may be grown in open water organic systems, and manure and composted manure from terrestrial animals in any form may not be used to fertilize open water aquatic plants.

MEMBER FLANN: Second.

CHAIRMAN DELGADO: Right. It is moved and seconded to amend by including the words "to the extent that" on point B, first part of the sentence; strike "that" after the word provided for the same point B. Strike "provided that", stand corrected.

So that - and there it is - that sentence will read: To the extent that aquatic plants may be grown in open water organic systems provided - strike - and it will - and on point B1 the word "that" is struck.

Discussion? Jeff.

VICE CHAIR MOYER: I like it.

(Laughter.)

CHAIRMAN DELGADO: Other questions?

Joe? No.

MEMBER SMILLIE: I was just going to
call the question.

CHAIRMAN DELGADO: Joe, second, Julie. Are we ready for the question?

The question is on the motion to amend by adding the words "to the extent that" to sentence point B.

MEMBER ELLOR: Point of order.

CHAIRMAN DELGADO: Point of order.

MEMBER ELLOR: Isn't this a friendly amendment?

CHAIRMAN DELGADO: I forgot. No, it's not a friendly amendment, because - it was -

(Off-mike comments.)

CHAIRMAN DELGADO: Right, it was a friendly amendment; we did not need a second. I stand corrected. We have one. We can proceed.

I'll put the question once again. The question is on the motion to insert the words, "to the extent that" before the start of sentence on point B, and striking out the
words, "provided that," point B will lead to
the extent that aquatic plants may be grown in
open water organic systems and strike the
word, that, from point B1.

Ready to vote, and we'll start with
Jeff.

VICE CHAIR MOYER: Yes.
CHAIRMAN DELGADO: Gerry.
MEMBER DAVIS: Yes.
CHAIRMAN DELGADO: Tina.
MEMBER ELLOR: Yes.
CHAIRMAN DELGADO: Tracy.
MEMBER MIEDEMA: Yes.
CHAIRMAN DELGADO: Joe.
MEMBER SMILLIE: Yes.
CHAIRMAN DELGADO: Barry.
MEMBER FLANN: Yes.
CHAIRMAN DELGADO: Hugh.
MEMBER KARREMAN: Yes.
CHAIRMAN DELGADO: Kevin.
MEMBER ENGELBERT: Yes.
CHAIRMAN DELGADO: Jennifer.
MEMBER HALL: Yes.

CHAIRMAN DELGADO: Steve.

MEMBER DeMURI: Yes.

CHAIRMAN DELGADO: Julie.

MEMBER WEISMAN: Yes.

CHAIRMAN DELGADO: Dan.

MEMBER GIACOMINI: Yes.

CHAIRMAN DELGADO: Katrina.

MS. HEINZE: Yes.

CHAIRMAN DELGADO: And the chair says yes.

MEMBER ELLOR: I just have - I'm confused. I am not a parliamentarian. Do we have to vote on friendly amendments?

CHAIRMAN DELGADO: Yes, we do.

MEMBER ELLOR: We do? Okay.

VICE CHAIR MOYER: The vote was 14 yes, one abstention - I'm sorry, one absent.

CHAIRMAN DELGADO: The motion is approved. And we move now to the - back to the discussion on the actual recommendation on farmed aquatic plants in organic agriculture.
Are there any questions prior to the vote?

Ready for the question. The question is on the motion to accept the recommendation of farmed aquatic plants in organic agriculture as stated with the changes, and with the date, April 4th, 2008, and with today's - and including today's amendments.

We will start our vote with Gerry.

MEMBER DAVIS: Yes.

CHAIRMAN DELGADO: Tina.

MEMBER ELLOR: Yes.

CHAIRMAN DELGADO: Tracy.

MEMBER MIEDEMA: Yes.

CHAIRMAN DELGADO: Joe.

MEMBER SMILLIE: Yes.

CHAIRMAN DELGADO: Barry.

MEMBER FLANN: Yes.

CHAIRMAN DELGADO: Hugh.

MEMBER KARREMAN: Yes.

CHAIRMAN DELGADO: Kevin.

MEMBER ENGELBERT: Yes.
CHAIRMAN DELGADO: Jennifer.

MEMBER HALL: Yes.

CHAIRMAN DELGADO: Steve.

MEMBER DeMURI: Yes.

CHAIRMAN DELGADO: Julie.

MEMBER WEISMAN: Yes.

CHAIRMAN DELGADO: Dan.

MEMBER GIACOMINI: Yes.

CHAIRMAN DELGADO: Katrina.

MS. HEINZE: Yes.

CHAIRMAN DELGADO: Jeff.

VICE CHAIR MOYER: Yes.

CHAIRMAN DELGADO: And the chair votes yes.

VICE CHAIR MOYER: The vote is 14 yes, one absent.

CHAIRMAN DELGADO: The motion is agreed to.

Does that conclude your presentation for both crops and livestock committee?

Good, we can move on then to the
livestock committee, and Dr. Karreman.

LIVESTOCK COMMITTEE

MEMBER KARREMAN: Okay, thanks, Rigo.

The livestock committee was considered a petition for the inclusion of Fenbendazole on the national list at 205.603A18, parasiticides. And the - we didn't receive any unfavorable comments. And we are recommending that the inclusion of Fenbendazole on the national list at 205.603 parasiticides with the annotation as shown in C and the proposed annotation will help meet the criteria in A.

It is, I'll read the annotation: only to be used on written diagnosis of clinical infestation by a veterinarian. Prohibited in slaughter stock, allowed in emergency treatment for dairy and breeder stock when organic system plan approved preventive management does not prevent infestation.
Milk or milk products from a treated animal cannot be labeled as provided for in subpart D of this part for 90 days following treatment.

In breeder stock, treatment cannot occur during the last third of gestation if the progeny will be sold as organic, and must not be used during the lactation period of breeding stock.

So we - oh, we had a committee meeting last night, a short one, to discuss some things. And one of the things was that at the program Richard Matthews wanted the proposed annotation to precede - or no, he thought it was redundant I believe to a degree, and place it higher up on the list of 205.603.

We decided to not change our annotation at all, and recommend it as petitioned, as shown, as posted, as publicly commented on, and allow the program to do what it feels is needed for the annotation for the
intent of the annotation and deal with it as they get it.

CHAIRMAN DELGADO: Would you like to make a motion?

MEMBER KARREMAN: Yes, I would make a motion that the master organic standards board include Fenbendazole on the national list at 205.603 item A18 parasiticides.

MEMBER ENGELBERT: I'll second.

CHAIRMAN DELGADO: It is moved and seconded to include Fenbendazole in the national list section 205.603 parasiticides, with - I should clarify, with the amendment that has been read by the chair, is that correct? With the annotation, I'm sorry. Okay, discussion. Kevin.

MEMBER ENGELBERT: Just for the board members' knowledge, we saw no harm in having that annotation remain with - in its position that we are recommending. It's a very critical issue, and a lot of times farmers in their haste will simply go and look
up a material. And we didn't see any harm in keeping that annotation right with it. But the program can adjust as they deem necessary.

CHAIRMAN DELGADO: Any other questions? Julie?

MEMBER WEISMAN: Just because I'm not sure if - if we pass - if we pass a material with an annotation can the program - and actually I'm looking across the room, I don't know who can answer the question right now, but I'm curious, is there a precedent for that?

CHAIRMAN DELGADO: That the program what?

MEMBER WEISMAN: Will - well, I know that they can remove or alter annotations, but they can't add anything to the heading of the section in the rule without - they can?

CHAIRMAN DELGADO: No, they can't. They are supposed to interpret, and nobody is there - they are supposed to interpret our intent with the proposals.
Sorry, Hugh, you had a comment?

MEMBER KARREMAN: Yes, if they want to alter an annotation they certainly can do that with the medicines that were released on December 12th, 2007. That certainly occurred.

I don't think it hindered what the board's intent was for those medicines. I don't think they would do that with this, because there is precedent already with Ivermectin. So anyway.

CHAIRMAN DELGADO: Dan.

MEMBER GIACOMINI: I think there's a number of ways they could handle this, Julie. There's - this is the identical, except for the slight addition of veterinarian script, is the identical annotation with Ivermectin. They - it may be that they may put the annotation on the parasiticides, and put this as A and B. Or they may in working with us we may find on our work plan an input from the program to deal with this reorganization item.

CHAIRMAN DELGADO: Any other
questions? Gerry.

MEMBER DAVIS: Hugh, what is from your point of view the intended way of dropping Ivermectin from the list after this one is officially on?

MEMBER KARREMAN: Well, the official way would be to have a petition from the public. It could be anyone. And I would ask that that petition wait until actually Fenbendazole is in the Federal Register, because we don't know how long that may take.

But the full intent - and I will be off the board by the time probably Fenbendazole comes in, and I would personally petition Ivermectin to come off at that point.

But anyone can do that.

MEMBER DAVIS: That was my - would you expect that someone will do that?

MEMBER KARREMAN: Oh yes.

MEMBER DAVIS: They're motivated to do it?

MEMBER KARREMAN: Absolutely.
CHAIRMAN DELGADO: Dan?

MEMBER GIACOMINI: And that's the same depending on how the program proceeds with Moxidectin.

The intent of the committee I believe is to have only one on there. We just want the right one.

CHAIRMAN DELGADO: Any other questions? Are you ready for the question? The question is on the motion to include Fenbendazole on the national list Section 205.603, with the annotation that has been read.

We'll start the voting with Tina.

MEMBER ELLOR: Yes.

CHAIRMAN DELGADO: Tracy.

MEMBER MIEDEMA: Yes.

CHAIRMAN DELGADO: Joe.

MEMBER SMILLIE: Yes.

CHAIRMAN DELGADO: Barry.

MEMBER FLANN: Yes.

MEMBER KARREMAN: Hugh.
CHAIRMAN DELGADO: Kevin.

MEMBER ENGELBERT: Yes.

CHAIRMAN DELGADO: Jennifer.

MEMBER HALL: Yes.

CHAIRMAN DELGADO: Steve.

MEMBER DeMURI: Yes.

CHAIRMAN DELGADO: Julie.

MEMBER WEISMAN: Yes.

CHAIRMAN DELGADO: Dan.

MEMBER GIACOMINI: Yes.

CHAIRMAN DELGADO: Katrina.

MS. HEINZE: Yes.

CHAIRMAN DELGADO: Jeff.

VICE CHAIR MOYER: Yes.

MEMBER DAVIS: Yes.

CHAIRMAN DELGADO: And the chair says yes.

VICE CHAIR MOYER: The vote is 14 yeses, one absent.

CHAIRMAN DELGADO: The motion is agreed to.

Let's move on then to the next
material, Mr. Chairman.

MEMBER KARREMAN: Okay, the next material is the - you will see there are two methionine recommendations that the committee came up with.

The first one of course is the action the petitioner's request, which is, the petition was for removal of the annotation date of October 1st, 2008, for synthetic methionine on the national list.

And we felt that the substance failed criteria in category two and three, and in our comments there the committee wrote, rations that supply adequate naturally occurring methionine appear to exist, especially if poultry have true access to the outdoors.

Management practices are preferred to off-farm inputs in organic agriculture. Synthetic methionine is used primarily to increase growth rates in production, not only to maintain health.
And so the petitioner's request to remove the annotation date of October 1st, 2008, failed by a vote of five opposed to that and none in favor, and two were absent.

And the reason for the rejection at the committee level was exactly the same as the reason it failed category two and three.

So I guess we need to actually vote on that recommendation as it stands.

We do have a second one after we vote or have discussion.

CHAIRMAN DELGADO: That is correct.

So would you like to make a motion?

MEMBER KARREMAN: Oh, I'm sorry, yes.

The motion would be to remove the annotation date of October 1st, 2008, for synthetic methionine on the national list.

MEMBER ELLOR: Second.

CHAIRMAN DELGADO: It is moved and seconded to remove the annotation, the date of October 1st, 2008 for synthetic methionine on
the national list Section 205.603.

Discussion.

MEMBER GIACOMINI: I support the motion. I think we heard enough comment that would raise in question the - some of the language we are putting in on B, and if the language in B were completely true we would have a very hard time justifying the next motion coming back up of putting it on.

I think the statement of rations that supply adequate natural protein, naturally occurring methionine appear to exist would greatly deviate from the testimony that we have heard.

There is a lot of work to go in that direction, but the reason we are putting methionine and keeping it on, or voting to keep it on the list or considering that, is because of the testimony that says it's not.

MEMBER KARREMAN: That's the next recommendation.

MEMBER GIACOMINI: But I'm saying
that when you - like I say I support the motion but when we rework this document, when we go to submit this document the justification that we are putting in B I do not believe is accurate and would need to be a little reworked.

MEMBER KARREMAN: That can be done. Would you have a suggestion right now? Is any part of B accurate?

CHAIRMAN DELGADO: You don't have to do it now. Just take the comments. These are materials that you presented as backup for your motion and recommendations.

Kevin.

MEMBER ENGELBERT: You said you support the motion, Dan. The motion is to remove the annotation date so that it stays on the list.

MEMBER GIACOMINI: No, I support the recommendation from the committee. I just want the document to be correct.

MEMBER ENGELBERT: I just wanted to
be clear.

MEMBER GIACOMINI: Thank you.

CHAIRMAN DELGADO: Any other questions?

From the director.

MS. FRANCIS: I just wanted to offer to Dan that you can write additional narrative. But this was your committee recommendation at the time. You're not modifying this in your narrative or your final, you can address that.

CHAIRMAN DELGADO: Thank you for that clarification.

Any other questions? Hugh.

MEMBER KARREMAN: Just be very clear about how voting goes on this recommendation, what a vote means.

CHAIRMAN DELGADO: Okay, ready for the question?

Before that I would like to ask if there is any conflict of interest on the part of the board members, conflicts of interest to
declare?

(No response.)

CHAIRMAN DELGADO: Hearing none -
yes? Tina.

MEMBER ELLOR: Hugh, would you mind
just going over what the votes mean.

CHAIRMAN DELGADO: I will do that.

Any other questions in that
respect?

MEMBER ENGELBERT: As a livestock
producer there may be a conflict of interest.
I don't see one, but I guess I'll put that up
for the board's discretion.

CHAIRMAN DELGADO: Concerns from the
board?

MEMBER MIEDEMA: No.

CHAIRMAN DELGADO: None whatsoever,
Good. Okay, any other questions on the
conflict of interest, clarification on the
voting?

Ready for the question. The
question is on the petition to remove the
annotation date of October 1st, 2008, for synthetic methionine on the national list Section 205.603. I must clarify that the committee voted no. It was rejected and the question now is for us to decide.

Your vote for yes will be to remove the annotation. A vote of no will be to reject the petition.

Is that clear?

We'll start with the vote, and it's Tracy's turn.

MEMBER MIEDEMA: No.
CHAIRMAN DELGADO: Joe.
MEMBER SMILLIE: No.
CHAIRMAN DELGADO: Barry.
MEMBER FLANN: No.
CHAIRMAN DELGADO: Hugh
MEMBER KARREMAN: No.
CHAIRMAN DELGADO: Kevin.
MEMBER ENGELBERT: No.
CHAIRMAN DELGADO: Jennifer.
MEMBER HALL: No.
CHAIRMAN DELGADO: Steve.
MEMBER DeMURI: No.
CHAIRMAN DELGADO: Julie.
MEMBER WEISMAN: No.
CHAIRMAN DELGADO: Dan.
MEMBER GIACOMINI: No.
CHAIRMAN DELGADO: Katrina.
MS. HEINZE: No.
CHAIRMAN DELGADO: Jeff.
VICE CHAIR MOYER: No.
CHAIRMAN DELGADO: Gerry.
MEMBER DAVIS: No.
CHAIRMAN DELGADO: Tina.
MEMBER ELLOR: No.
CHAIRMAN DELGADO: And the chair says no.

VICE CHAIR MOYER: Mr. Chairman, that is 14 nos, one absent.

CHAIRMAN DELGADO: Okay. The motion to remove the annotation of October 1st, 2008, for synthetic methionine as stated on the national list, Section 205.603 is lost.
Back to you Dr. Karreman.

MEMBER KARREMAN: All right, so that means right now that - right now methionine will be coming off October 1st, 2008.

CHAIRMAN DELGADO: That is correct.

MEMBER KARREMAN: That is what that means, just so the board knows that, okay.

However, the livestock committee right away saw that that is not a practical plan at all and we then came forth with the next recommendation we'll be voting on that the - let's see, how do I state this - sorry - well, that the committee recommends that the annotation for synthetic methionine on the national list be October 1st, 2010.

That's pretty much straight up the recommendation.

CHAIRMAN DELGADO: Can you state that once more.

MEMBER KARREMAN: Okay. The livestock committee - I make a motion that the - okay, the livestock committee - I want to
make a motion that the expiration date for synthetic methionine be October 1st, 2010.

CHAIRMAN DELGADO: Second?

MEMBER ENGELBERT: I'll second.

CHAIRMAN DELGADO: It is moved and seconded to add an expiration date of October 1st, 2010, for synthetic methionine as listed on Section 205.603.

Discussion? Joe?

MEMBER SMILLIE: Yes, I'm not sure if it's friendly, I don't think it's radical, but I'd like to offer a motion to amend it to a three-year or make it 2011.

CHAIRMAN DELGADO: Hugh.

MEMBER KARREMAN: What are my choices? Yes or no?

CHAIRMAN DELGADO: Do you agree with that amendment? Do you accept that?

MEMBER KARREMAN: No, I do not agree to that.

CHAIRMAN DELGADO: Okay, so it is not a friendly amendment. Do you want to
proceed with a motion to extend.

MEMBER SMILLIE: I would like to move that we adopt it with - same motion but adopt it for 2011.

CHAIRMAN DELGADO: A second?

VOICE: I'll second.

CHAIRMAN DELGADO: There's a second.

It is moved and seconded to amend the motion to extend the date to 2011.

Discussion on that motion to amend?

Hugh?

MEMBER KARREMAN: I think the reason we - we talked about this last night in our committee meeting, two or three years. And we feel as a committee, and I think it was a unanimous vote if I remember correctly, that a two-year expiration date from October, 2010, really gives a strong signal to the poultry industry that the National Organic Standards Board is very firm in wanting to stimulate alternatives to synthetic methionine to come into practice.
We felt that a three-year date - there's been a third three-year extension or whatever expiration on methionine - well, let me back up a second.

On the two year, they also presented a very nice 24-month plan of their testing and what not. Granted, all the results may not be tabulated at that point or anything. But with some of the public comment regarding the high methionine corn and the Neptune Industry's insects, and the fermentation based methionine, natural methionine, we felt that it would get more stimulus to have that come in line.

Now, the other - have the alternatives come in line - one other reason we didn't go for a three-year is because the composition of this board will have changed dramatically enough that we want a lot of the same people on this board to see how their progress is coming in two years instead of having a whole lot of more new people on the
board in three years seeing it as a fresh problem.

I hate to say it that way, but we took that into account.

Now we also are - we would - we are also thinking about possibly as I mentioned yesterday a potential cap on perhaps perpetual synthetic methionine to be allowed for poultry but at a much reduced rate to help stimulate the natural alternatives that are being worked on.

That is not for this recommendation, but that played into our two-year expiration date versus the three.

Does that all help you?

CHAIRMAN DELGADO: Jeff.

VICE CHAIR MOYER: Yes, Joe, I just kind of wanted to second what Hugh was saying, make sure it was clear that the makeup of the livestock committee wants to track this over time, because there is some feeling among certain committee members that we may never
get away from some allowed limit of synthetic methionine.

But we didn't want it to continue too far down the road before we make that decision, and so we felt by giving ourselves two years there would not be this reeducation of whatever new committee members may be seated at that time on what that was, and we don't want to keep perpetuating the system where we continually give expiration dates of three years, two years, five years, or whatever it may be, and add confusion to a system.

So by tracking this over the next two years this committee felt like they'd have a much better opinion given the industry of us on where that project and program was heading and how we may vote at that time or present a petition at that time.

CHAIRMAN DELGADO: Dan.

MEMBER GIACOMINI: As a member of the livestock committee I completely agree
with Hugh and Jeff on this.

This is part of the - along with some of the materials that they presented that I'm willing to go on this as having been the writer of the minority opinion. And I think it's this kind of a statement that lets this industry know really how short of a leash they are on this in the minds of the livestock committee.

We - I know personally I do not expect another recommendation for methionine to come out with some pretty good caps on use, and it's not part of the motion or anything else but I really expect some timely updates at all future meetings between now and the expiration date of this recommendation to be hearing from the poultry group on how this is progressing.

CHAIRMAN DELGADO: Steve.

MEMBER DeMURI: Who that's currently on the livestock committee will be here in two years? Most of you?
CHAIRMAN DELGADO: Joe, followed by Kevin.

MEMBER SMILLIE: I respect the wisdom of the livestock committee and seek to withdraw my motion.

CHAIRMAN DELGADO: The second was Steve?

MEMBER DeMURI: I accept that.

CHAIRMAN DELGADO: You accept? Okay, the motion is withdraw, and we are back to the original question. He has accepted - the second has accepted the withdrawal of the motion.

So we are back to the original motion which is the year 2010. We have Kevin to comment.

MEMBER ENGELBERT: Mission accomplished. I don't need to comment.

CHAIRMAN DELGADO: Mission accomplished? Katrina?

MS. HEINZE: This is actually for
the methionine working group.

You committed yesterday to come back and give us reports at every one of our meetings. And certainly you have heard today how much we expect that.

After the conversation yesterday about my mother's chickens --

(Laughter.)

-- which I've got lots of nice hallway chatter about, so thank you, I know you said something yesterday that I'd like to challenge you on. You said that as processors it's up to us to know what the consumers expect, not you.

And I would challenge that. Your consumers are your customers. And you probably should know and do know what they expect.

I would like to see when you come back six months from now what you think outdoor access should look like; don't wait for us to tell you. Have that be part of your
solution on methionine. Tell us what your consumers expect for that, because I think it can be part of the solution. So I'm looking forward to hearing what you have to say on that.

CHAIRMAN DELGADO: Okay, that was a proactive call.

Dan, if you can stay focused on the pending question I would appreciate it.

Any other questions related to the motion?

Hearing none, are we ready for the question?

Joe? Okay, you're getting ready to vote. I'll put the question.

The question is on the motion to add an expiration date of October 1st, 2010 for synthetic methionine as listed in Section 205.603.

And we'll start the vote with Joe.

MEMBER SMILLIE: Yes.

CHAIRMAN DELGADO: Barry.
MEMBER FLANN: Yes.
CHAIRMAN DELGADO: Hugh.
MEMBER KARREMAN: Yes.
CHAIRMAN DELGADO: Kevin.
MEMBER ENGELBERT: Yes.
CHAIRMAN DELGADO: Jennifer.
MEMBER HALL: Yes.
CHAIRMAN DELGADO: Steve.
MEMBER DeMURI: Yes.
CHAIRMAN DELGADO: Julie.
MEMBER WEISMAN: Yes.
CHAIRMAN DELGADO: Dan.
MEMBER GIACOMINI: Yes.
CHAIRMAN DELGADO: Katrina.
MS. HEINZE: Yes.
CHAIRMAN DELGADO: Jeff.
VICE CHAIR MOYER: Yes.
CHAIRMAN DELGADO: Gerry.
MEMBER DAVIS: Yes.
CHAIRMAN DELGADO: Tina.
MEMBER ELLOR: Yes.
CHAIRMAN DELGADO: Tracy.
MEMBER MIEDEMA: Yes.

CHAIRMAN DELGADO: And the chair says yes.

VICE CHAIR MOYER: Mr. Chairman, the vote is 14 yeses and one absent.

CHAIRMAN DELGADO: The motion is agreed to.

Back to Dr. Karreman, are you done with petition materials?

MEMBER KARREMAN: I think we are done for now.

CHAIRMAN DELGADO: Very good. At this point we are scheduled to have a lunch break, a well deserved one. I appreciate your hard work, unless there is a correction?

We will resume here at exactly 1:00 o'clock, and I will ask the board members to be prompt.

(Whereupon, the above entitled matter went off the record at 12:09 p.m. and resumed at 1:11 p.m.)

CHAIRMAN DELGADO: All right, we are
ready to resume our meeting. Thank you.

So continuing with our agenda, we are back to Dr. Karreman to discuss aquaculture.

MEMBER KARREMAN: Aquaculture, well, we have had a recommendation which is posted on the screen, and I don't have it on my laptop right here.

So our recommendation to be honest, we are -- because of public comment and what the program has said about wild caught being a possible item that's in play, we will be deferring any action on this item, and we will be working diligently with the aquaculture working group over the next bunch of months to come up with a new recommendation.

There was a lot of public comment wondering about the foreign certified type deal that we thought was our only kind of possible attempt at getting it started. But the wild caught is certainly something that we want to look into. And perhaps a phase down
on that, step down over whatever, 10 year
time, that's somewhat mentioned, I think, in
the minority report.

So if it's okay with the board we
will defer on that action item unfortunately
until we have a better recommendation.

CHAIRMAN DELGADO: Just to clarify
that's an item still committed to Livestock
Committee, and if that is your direction it is
acceptable.

MEMBER KARREMAN: Thank you.

CHAIRMAN DELGADO: Any questions
from the board members?

Hearing none, Joe.

MEMBER SMILLIE: Well, just adding
to that, I think that was a little unfortunate
that that all happened, and that we need to
always follow the line that whatever we think
is the best way to do it is the way we should
do it, and if the program has trouble with
that I'm sure they'll tell us.

But getting too much information
sometimes at the beginning can be a bit of a problem.

CHAIRMAN DELGADO: Any other questions? Hugh?

MEMBER KARREMAN: What do you mean by getting too much information?

MEMBER SMILLIE: Well, getting indications that the way we're headed won't be acceptable, you know, we should head the way - - always head the way we think is the right way to head.

MEMBER KARREMAN: And if I may just add in, I think we have discussed this. I had quite a lot of phone calls with the AWG, and among the Livestock Committee. And we are very aware of a lot of the issues.

And it's going to still take some real work, but I think we are kind of like riding the wave on it, and we'll be able to blend in some of the new information we got at this meeting.

CHAIRMAN DELGADO: Very good. Jeff.
VICE CHAIR MOYER: Just a comment in reference to what Joe said.

I think the Livestock Committee, while it took in all accounts of information, there were many people on the committee that still feel that we were and are heading in the right direction. So I don't want to wish the committee to be portrayed as not having done what you said.

There is new information coming to us. We are going to reevaluate that against what we have currently on the table as a proposal.

CHAIRMAN DELGADO: Jeff, are you done?

VICE CHAIR MOYER: I am.

CHAIRMAN DELGADO: Point of order, please, let's concentrate on this.

Jeff is done. Someone else? Hugh? Do you want to respond to that?

MEMBER KARREMAN: I guess I just -- well, I just want to also talk -- can I talk
about net pens for a minute?

CHAIRMAN DELGADO: Are there any questions related to fish meal?

MEMBER KARREMAN: Fish meal and fish oil?

CHAIRMAN DELGADO: Fish feed. None. Okay. Then we can move on to the next topic.

MEMBER KARREMAN: Okay, and then it was only posted as a discussion item for the meeting, not an action item, on the net pens. But, again, we are going to work with the aquaculture working group, George and Sebastian are sitting out there, and they are very involved with this.

Regarding net pens as well as bivalves and molluscs, and we hope to have their input and have some alternatives given to us to choose from so we can juggle and balance things as we sit here on the board that we need to do.

Well, anyway -- oh, and the net pens, the items specifically were on siting of
net pens, one of the items, as well as the 
nutrient management, manure buildup potential 
was a second big item. And there might be 
more, but they are the two main ones that I 
think were stickers from when it came up 
before.

CHAIRMAN DELGADO: Jeff.

VICE CHAIR MOYER: Just to add to 
that, Hugh, there were a few other items. We 
had disease management. We had escapes. And 
those were the other two that make that up.

MEMBER KARREMAN: Thanks.


MEMBER GIACOMINI: Not questions but 
just sort of one more follow up. The major 
features of the bivalve document are the 
things that we are working on in the net pens 
document. And it -- we are hoping that we 
will be able to come together with those two 
items in a document at the next meeting and it 
won't be always one more meeting.

CHAIRMAN DELGADO: Hugh?
MEMBER KARREMAN: And one other thing that we need to verify as a board I guess as we go ahead is -- and I'm not sure if we got that already from the program here or not, if it's on a transcript, but whether or not, or whether they will move forward with what we already have passed to get the aquaculture industry already going for the catfish and the tilapia and the shrimp that are already possible to be organically aquacultured.

We hope as a committee, and perhaps as a board, that the program will start that and not wait until the whole package is done. That's our hope.

CHAIRMAN DELGADO: Any questions?

Okay, on that note.

MEMBER KARREMAN: That's it.

CHAIRMAN DELGADO: Does that conclude your presentation?

Thank you very much. At that point then we can move on to the Handling Committee,
and Ms. Weisman.

HANDLING COMMITTEE

MEMBER WEISMAN: I believe what we are scheduled to do is lead off with the petition materials, all of which are 606 items. And although we presented them in groups yesterday having to do with the petitioner, I don't see a reason why we can't just go through them in the alphabetical order that they are on our agendas for the purposes of voting, and I think it will make it less confusing for us to keep track of, so we'll do it that way.

CHAIRMAN DELGADO: Very good. Just to clarify, the part of the petition materials, 205.605, two are listed in the agenda, and those have been deferred.

MEMBER WEISMAN: You're right, okay, so we do have to speak to those.

CHAIRMAN DELGADO: Sodium chlorite acidified was one of them.

MEMBER WEISMAN: Right, okay, there
were -- yes, there were two petitioned items that were on the agenda for this meeting. I actually -- I'm not in the part of the agenda that has them listed so if I make a mistake somebody correct me.

But they were sodium chlorite acidified, and we could not move forward with that. It was a late entry, and the TAP could not be completed and received in time that we felt was necessary for us to evaluate this petition. So that is deferred to the fall meeting.

And also calcium from seaweed also had some complicated issues that we felt we needed additional time to consider and get more information about.

CHAIRMAN DELGADO: Very good.

Any questions on those materials? Dan?

MEMBER GIACOMINI: Not to dispute what Julie said, but I don't want it perceived that the board or the committee saw sodium
chlorite as a late addition to us. It was just in the timeframe of the meeting and the availability of the technical review that it was not able to be completed before we were needing to make a recommendation for this meeting.

CHAIRMAN DELGADO: Very good. Any other comments?

Okay. Back to you, Ms. Weisman.

MEMBER WEISMAN: Okay. So on that note I think that we are now clear to move ahead to the petition materials for Section 205.606. The first material that we are looking at is listed as alcohol, cooking wines, specifically marsala cooking wine.

This is an item as everyone heard yesterday, it was presented, a lot of detail was given about how it's used, about the efforts that the petitioner is going through to elicit organic forms of this material to be produced. We were satisfied that it is not commercially available as organic and that
it's needed for the use that the petitioner wants it and that it's appropriate for listing. We voted at the committee level unanimously for listing. So --

CHAIRMAN DELGADO: Would you like to make a motion?

MEMBER WEISMAN: Yes, I move that --

for the inclusion of fortified cooking wine, marsala, on the national list, Section 205.606.

MEMBER MIEDEMA: Second.

CHAIRMAN DELGADO: It is moved and second for the inclusion of fortified cooking wine, marsala, on the national list, Section 205.606.

Debate? Questions? Are we ready for the question?

The question is on the motion to include fortified cooking wine, marsala, on the national list, Section 205.606.

And we will start with -- in fact before we proceed with voting I would like to
call the board members to see if there is any
potential conflict of interest to declare?

Hearing none, I will -- yes.

MS. HEINZE: This is our Handling
Committee ritual. I work for a large handling
company who may or may not use some of the
materials that are before us.

With one exception, which would be
okra, I don't think that that poses a conflict
of interest. Clearly on okra I will be
recusing myself.

CHAIRMAN DELGADO: Very good.

Board members, any concerns,
questions, regarding potential conflict of
interest on the part of Katrina?

MEMBER GIACOMINI: On this one and
the next one in my household we do do a lot of
-- have wine with our cooking, and sometimes
we do put it in the food.

CHAIRMAN DELGADO: Are you bragging
or stating a conflict of interest? Going back
to Katrina, there is no reason to state
potential conflict of interest at this point.

I haven't heard any from any other member.

So we will proceed. I will restate, put the question forward. And it is for the inclusion of -- the motion to include fortified cooking wine, marsala, on the national list, Section 205.606, and we'll start the vote with Barry.

MEMBER FLANN: Yes.

CHAIRMAN DELGADO: Hugh?

MEMBER KARREMAN: Yes.

CHAIRMAN DELGADO: Kevin?

MEMBER ENGELBERT: Yes.

CHAIRMAN DELGADO: Jennifer?

MEMBER HALL: Yes.

CHAIRMAN DELGADO: Steve?

MEMBER DeMURI: Yes.

CHAIRMAN DELGADO: Julie?

MEMBER WEISMAN: Yes.

CHAIRMAN DELGADO: Dan?

MEMBER GIACOMINI: Yes.

CHAIRMAN DELGADO: Katrina?
MS. HEINZE: Yes.

CHAIRMAN DELGADO: Jeff?

VICE CHAIR MOYER: Yes.

CHAIRMAN DELGADO: Gerry?

MEMBER DAVIS: Yes.

CHAIRMAN DELGADO: Tina?

MEMBER ELLOR: Yes.

CHAIRMAN DELGADO: Tracy?

MEMBER MIEDEMA: Yes.

CHAIRMAN DELGADO: Joe?

MEMBER SMILLIE: Yes.

CHAIRMAN DELGADO: And the chair votes yes.

VICE CHAIR MOYER: Mr. Chairman, the vote is 14 yes, 1 absent.

CHAIRMAN DELGADO: The motion is agreed to. We can proceed to the next material.

MEMBER WEISMAN: Okay, the next material is fortified cooking wine, sherry. It is the same petitioner, and the same wealth of information was provided in that petition.
We felt that it met all of the applicable criteria, and it -- this material also was voted unanimously by the Handling Committee to list.

So I move for the inclusion of fortified cooking wine, sherry, on Section 205.606 of the national list.

MEMBER MIEDEMA: Second.

CHAIRMAN DELGADO: It is moved and seconded to include fortified cooking wine, sherry, on the national list, Section 205.606.

Questions? Hearing none, are there any conflicts of interest to declare?

All right, ready for the question.

The question is on the motion to include fortified cooking wine, sherry, on the national list, Section 205.606, and we'll start our vote with Hugh.

MEMBER KARREMAN: Yes.

CHAIRMAN DELGADO: Kevin?

MEMBER ENGELBERT: Yes.

CHAIRMAN DELGADO: Jennifer?
MEMBER HALL: Yes.

CHAIRMAN DELGADO: Steve?

MEMBER DeMURI: Yes.

CHAIRMAN DELGADO: Julie?

MEMBER WEISMAN: Yes.

CHAIRMAN DELGADO: Dan?

MEMBER GIACOMINI: Yes.

CHAIRMAN DELGADO: Katrina?

MS. HEINZE: Yes.

CHAIRMAN DELGADO: Jeff?

VICE CHAIR MOYER: Yes.

CHAIRMAN DELGADO: Gerry?

MEMBER DAVIS: Yes.

CHAIRMAN DELGADO: Tina?

MEMBER ELLOR: Yes.

CHAIRMAN DELGADO: Tracy?

MEMBER MIEDEMA: Yes.

CHAIRMAN DELGADO: Joe?

MEMBER SMILLIE: Yes.

CHAIRMAN DELGADO: Barry?

MEMBER FLANN: Yes.

CHAIRMAN DELGADO: And the chair
votes yes.

VICE CHAIR MOYER: Mr. Chairman, the vote is 14 yes, one absent.

CHAIRMAN DELGADO: The motion is agreed to.

We can move forward.

MEMBER WEISMAN: Okay. The next item is one of -- I'm losing track of exactly how many there were. I think there were 14 materials that were all petitioned by the same petitioner.

So I'll kind of go through the general idea once, and then I will just present pertinent details that may apply to only certain ones as they come up and my fellow Handling Committee members can feel free to point out if I'm omitting something important.

This next material is Camu Camu powdered extract. And it is an extract that was made from juicing and straining berries of the Camu Camu bush, which only grows in
Brazil. It's concentrated, and then spray dried onto organic kasava starch.

And the problem -- the criteria that this -- the important criteria that this material failed was in the area of commercial supply, and like most of the other materials that were petitioned by this petitioner, there was found to be organic forms of Camu Camu, and the petition, although they said in a boilerplate statement that they have a procurement department that is continuously searching for organic forms of the materials that they need, there was no acknowledgment of the existence of this material which was readily discoverable by those on the Handling Committee that were evaluating it.

So we did not feel that this petition could move forward because it doesn't even acknowledge the existence of an organic form, and so it failed 5-0 with one abstention at the Handling Committee level.

So in keeping a consistent form,
not to confuse everyone, the motion is for inclusion of non-organically produced -- is for the inclusion of Camu Camu powdered extract on Section 205.606 of the national list.

CHAIRMAN DELGADO: You move, the second?

MEMBER DAVIS: Second.

CHAIRMAN DELGADO: It is moved and seconded for the inclusion of non-organically produced Camu Camu extract on the national list, Section 205.606.

Discussion? Dan, followed by Gerry.

MEMBER GIACOMINI: Well, Gerry, maybe I'll be feeding it right back to you. You did additional work, fairly extensive, it sounds like, on this substance, calling the groups in Brazil. Could you sort of -- you had something where you found that it was available, but I thought you said something about not available by this group or
Could you clarify that again? We have a little bit -- we have a bunch of petitions by this group. And they're all -- we would like a more complete better petition from all of them. But it seems like we may have a little more information on this one than the others.

MEMBER DAVIS: Right, and you're right, I was going to bring up those points. As Julie mentioned this was from -- the petition is from a petitioner that sent in a lot of petitions, and the remainder of them used kind of a boilerplate method of saying our procurement department is seeking supplies of this and can't find any dah dah dah like that.

On this one they did not actually say that. Yes, on this -- this is the only one that I saw that they did not. They stated that there was no, and never has been any organically available -- organically produced
Camu Camu berry extract.

    In checking on that with the Brazilian certification agency that I check with, their first response by email was, well, yes, we do have Camu Camu berry extract -- well, he said Camu Camu berry certified as organic. Upon further checking and actually speaking with someone there, they checked into it further, and what they described was, we have a fruit juice drink that contains Camu Camu berry that I was led to believe it was fresh processed; it was not a dried and powdered extract like the petitioner described. It was included in their juice mix, but not derived from extract necessarily.

    And the certifying agent went on to say that he did checking and there is -- his statement was, there is currently no Camu Camu berry powdered extract available for export that he knows of in working with his group of certification. So I don't think this one is as clearcut as some of the others, and it
deserves a little closer consideration.

CHAIRMAN DELGADO: Questions?

Katrina?

MS. HEINZE: It's worth noting that this is a wild harvest material. The rest are not. So that's one of the differences and what does make this one a little more complicated than the others.

CHAIRMAN DELGADO: Any other questions?

Kevin?

MEMBER ENGELBERT: Has this changed the committee's position then? Have you revoted, or are you sticking with your original recommendation?

MEMBER DAVIS: My own personal vote? Is that appropriate?

CHAIRMAN DELGADO: It is appropriate if you are asking directly --

MEMBER ENGELBERT: No, I was asking the committee in general, whether you re-address the issue as a committee.
MEMBER WEISMAN: We did not meet following yesterday's presentation to address this issue, although I'm hearing it a little differently than I have heard it up until now, me, personally. But no, in answer to Kevin's question, we did not meet to revote this material since it was presented yesterday.

CHAIRMAN DELGADO: The question is, are you expecting to change the recommendation, the motion; is that correct, Kevin?

MEMBER WEISMAN: The motion's the same.

MEMBER ENGELBERT: The motion's the same. I just wondered whether they had re-addressed it and left their motion the same.

CHAIRMAN DELGADO: Okay, thank you for that then.

MEMBER WEISMAN: I have a clarifying question from a procedural point of view. Is it -- every member of the Handling Committee has the option, if they want, of voting
differently now than we did, okay, so I'm wondering then therefore is Kevin asking the members of the Handling Committee individually, do they feel differently about it now than they did before?

MEMBER ENGELBERT: Yes, I will ask that question then. What is the opinion?

CHAIRMAN DELGADO: Katrina?

MS. HEINZE: I am not changing my vote. But the reason for my statement is, I want to make sure that this material is clear for those folks who are not on the Handling Committee because given how many materials we have I know it's very confusing. So I just wanted to make sure that folks were aware that this one was a little different in the event that that affected your vote.

CHAIRMAN DELGADO: Other members of the Handling Committee? Steve?

MEMBER DeMURI: I do realize that this ingredient is a little different than the others that they petitioned. But the evidence
still wasn't compelling enough for me to change my vote. So I still vote no.

CHAIRMAN DELGADO: Joe?

MEMBER SMILLIE: Same for me. I think Gerry did more research than the committee presented in their petition. So I have not changed my vote.

MEMBER WEISMAN: Yes, and I'll just for the record, I will also add my voice that I think that the problem was not even acknowledging -- that the evidence that they presented in their petition wasn't compelling; it was -- the burden was on us to go out and ferret it out. And Gerry went to actually very great lengths to do that.

CHAIRMAN DELGADO: Okay, any other questions? Gerry?

MEMBER DAVIS: And this topic, this discussion we're having right now, was brought up right before we voted. And the conclusion of the committee, the general consensus seemed to be that we had to search this out. The
petitioner themselves did not really do due diligence to expose these things, so that they didn't address the issue properly, and that's why they still voted. So I want to point out, that was all covered; this is not a new development.

CHAIRMAN DELGADO: Okay, Tracy? Jeff?

VICE CHAIR MOYER: I was just going to ask the committee, and I assume that I already know the answer, the petitioner was made aware of the fact that your intention, or your suggestion and recommendation was to not put this on the list, and they were not here in front of us to make any other comment and have not submitted any other written comment; is that correct?

MEMBER WEISMAN: That's correct, but I will -- this question was asked yesterday, and I am going to ask Valerie Francis again to clarify what the -- once we hand in our recommendation, what steps the program then
CHAIRMAN DELGADO: Valerie?

MS. FRANCIS: Actually Bob, who
handles this part, I let him know that you
made your recommendation, that it's time to
inform the petitioner.

CHAIRMAN DELGADO: Bob, would you
please comment?

MR. POOLER: This is Bob Pooler of
the National Organic Program. Each petitioner
was notified that their petition was going to
be considered at this meeting. And they were
sent a notice, and the information in the
notice indicated where the recommendation was,
and they were invited to comment on it.

That was sent to every petitioner
that is being considered here today, including
-- the person's name was, I believe, Mr.
Hartwright. And Mr. Hartwright received both
an email and a letter and a fax.

CHAIRMAN DELGADO: And that was done
with the appropriate amount of time, I
suppose, as the recommendation was posted publicly, correct?

MR. POOLER: Actually when the recommendation was forwarded to me, the letters were sent out, and I believe this occurred prior to the Federal Register notice.

CHAIRMAN DELGADO: Thank you. Jeff?

VICE CHAIR MOYER: Thank you, Bob, thank you, Julie. I think for me that clarifies things very well.

CHAIRMAN DELGADO: Any other questions? Kevin?

MEMBER ENGELBERT: Just one. The committee, and especially Gerry, is to be commended for finding out additional information beyond what was petitioned, and I guess I understand why you kept your reasonings for not changing your vote the same, but not perfectly.

Would anybody like to delve a little bit more into the reasoning of that?

CHAIRMAN DELGADO: Would you like to
respond to that, Gerry? Or Katrina, are you
adding something?

MEMBER DAVIS: No, I'd rather not.

CHAIRMAN DELGADO: Katrina?

MS. HEINZE: I will speak for me as opposed to everyone on the Handling Committee.

We did the research so we could understand the material better, and certainly we found some evidence that would support the petitioner. I guess the concern I have is, we talked to one person. We certainly didn't do an exhaustive market search. And so there may very well be some available that we did not discover in Gerry's search, and that was a concern I had.

CHAIRMAN DELGADO: Thank you.

Any other questions? Dan.

MEMBER GIACOMINI: Is there -- in your research -- I'm hearing wild crop in the rainforest in Brazil, of which --

MEMBER DAVIS: Amazon in general.

MEMBER GIACOMINI: In the Amazon,
and absolutely no known organic crop. You found a juice, organic juice with juice in it.

MEMBER DAVIS: An organic juice that contains as a small fraction this material, but no reference to the powdered extract that could be something that could be exported.

MEMBER GIACOMINI: Right. I almost feel like this substance is being penalized for the inadequacy of the volume of the petition submitted by this submitter. I mean I don't see where we would have found -- where in the research where could we put together the possibility that there wouldn't be a potential commercial unavailability.

CHAIRMAN DELGADO: Gerry.

MEMBER DAVIS: All that I was able to find in doing an Internet search asking for Camu Camu berry extract, there were only references to nonorganic. There was no -- not even from small distributors. Usually you can find small quantities of stuff that claims organic, but for this I found none. And
that's why I took Joe's suggestion to call IBD in Brazil and give that a try. I emailed them first, but that was kind of flawed in the way that worked, so I wanted to call in the number to get a better response.

And the problem with that was, I called the day before we had to vote on it, and there was some additional information. But the general consensus of the committee was that this really doesn't change the fact that the petitioner themselves did not explain their case themselves. They just threw out a blanket statement and didn't really delve into any of this information that they could have done themselves.

CHAIRMAN DELGADO: Julie.

MEMBER WEISMAN: I also want to respond to Dan's remark. I don't think the petitioner is not being penalized because of the small quantity of material.

MEMBER GIACOMINI: No, this substance --
MEMBER WEISMAN: Oh, of the petition.

MEMBER GIACOMINI: -- is being penalized for the volume of the other petitions by this petitioner.

MEMBER WEISMAN: Right, and what I want to say about that is that it is true that we have looked at many materials before, and I am the first one to make the case that yes this material -- yes, we all know that this is grown organically but it is not being processed into the form or there are barriers to trade, none is getting exported.

I would say if the first step had been completed to the satisfaction of this committee, that's where we would be, and then I would feel very differently about it. But the first step wasn't done.

CHAIRMAN DELGADO: Any other questions? Tracy?

MEMBER MIEDEMA: This question applies to this substance and then all of
them. Julie, can you make sure I understand -- and I know the understanding, the burden of proof of whether or not a supply is potentially fragile, commercially available and if it's fragile, that burden is on the petitioner. And the burden is not on the committee. In a simple Google search and a few phone calls we find an organic version that the petitioner failed to even point out then we can reasonably say they have not met their burden of proof or carried their burden of proof.

CHAIRMAN DELGADO: Julie.

MEMBER WEISMAN: I would agree with that.

CHAIRMAN DELGADO: Joe?

MEMBER SMILLIE: And, again, it can be re-petitioned with a better petition, and in fact that was our action to the petitioners. We said, hey, give us -- we are not against what you are saying; you just didn't prove your case at all really. And in
what little time we had we got a lot more
information than you presented us.

So re-petition. And I would have
thought with that list that they would have
done that. They haven't done it yet, but they
still have the opportunity to do so.

CHAIRMAN DELGADO: Any other
questions?

Okay, are we ready for the
question?

The question is on the motion to
include nonorganically produced Camu Camu
extract on the national list Section 205.606.

We will start our voting with
Kevin.

MEMBER ENGELBERT: No.

CHAIRMAN DELGADO: Jennifer.

MEMBER HALL: No.

CHAIRMAN DELGADO: Steve.

MEMBER DeMURI: No.

CHAIRMAN DELGADO: Julie.

MEMBER WEISMAN: No.
CHAIRMAN DELGADO: Dan.

MEMBER GIACOMINI: Yes.

CHAIRMAN DELGADO: Katrina.

MS. HEINZE: No.

CHAIRMAN DELGADO: Jeff.

VICE CHAIR MOYER: No.

CHAIRMAN DELGADO: Gerry.

MEMBER DAVIS: Yes.

CHAIRMAN DELGADO: Tina.

MEMBER ELLOR: No.

CHAIRMAN DELGADO: Tracy.

MEMBER MIEDEMA: No.

CHAIRMAN DELGADO: Joe.

MEMBER SMILLIE: No.

CHAIRMAN DELGADO: Barry.

MEMBER FLANN: No.

CHAIRMAN DELGADO: Hugh.

MEMBER KARREMAN: Yes.

CHAIRMAN DELGADO: And the chair votes no.

VICE CHAIR MOYER: Bear with me a second, please, Mr. Chairman.
CHAIRMAN DELGADO: Yes.

VICE CHAIR MOYER: I have 11 nos, 3 yeses, one absent, Mr. Chairman.

CHAIRMAN DELGADO: The motion is agreed to, and we can move on to the next material.

MS. HEINZE: No, the motion failed.

CHAIRMAN DELGADO: Sorry, the motion failed; I apologize for that. And I'll just restate that.

The motion to include nonorganically produced Camu Camu extract on the national list section 205.606 is lost.

Let's move on to the next material.

MEMBER WEISMAN: The next item is caramel color. This material as Joe presented yesterday, we got a pretty far way in the evaluation of this material feeling like it was very -- a lot of information about the use of caramel, about -- let's see, it was actually petitioned by a manufacturer who is also a manufacturer of conventional caramel
color who basically was telling us that they can't make all forms organically that they are able to make conventionally, and that there was a call in the industry for a variety of forms. Not all caramels are created equal, or not all caramel colors are created equal.

And to make a long story short the committee stopped short when it arrived at the information that the problem with making the additional forms of caramel color that they already make conventionally was that it was cost prohibitive. And cost is not a criteria that is acceptable as a reason for finding something not commercially available. And so for that reason this material failed at committee level unanimously six to nothing.

CHAIRMAN DELGADO: Okay, would you like to make a motion?

MEMBER GIACOMINI: The motion is for the inclusion of caramel color on the national list Section 205.606.

CHAIRMAN DELGADO: Is there a
MEMBER ELLOR: Second.

CHAIRMAN DELGADO: Tina seconds. It is moved and seconded to include caramel color on the national list, Section 205.606.

Questions from the board. Jennifer?

Okay, we are ready for the question. The question is on the motion to include caramel color on the national list, Section 205.606, and we'll start our voting with Jennifer.

MEMBER HALL: No.

CHAIRMAN DELGADO: Steve.

MEMBER DeMURI: No.

CHAIRMAN DELGADO: Julie?

MEMBER WEISMAN: No.

CHAIRMAN DELGADO: Dan.

MEMBER GIACOMINI: No.

CHAIRMAN DELGADO: Katrina.

MS. HEINZE: No.

CHAIRMAN DELGADO: Jeff?
VICE CHAIR MOYER: No.

CHAIRMAN DELGADO: Gerry.

MEMBER DAVIS: No.

CHAIRMAN DELGADO: Tina.

MEMBER ELLOR: No.

CHAIRMAN DELGADO: Tracy.

MEMBER MIEDEMA: No.

CHAIRMAN DELGADO: Joe.

MEMBER SMILLIE: No.

CHAIRMAN DELGADO: Barry.

MEMBER FLANN: No.

CHAIRMAN DELGADO: Hugh.

MEMBER KARREMAN: No.

CHAIRMAN DELGADO: Kevin.

MEMBER ENGELBERT: No.

CHAIRMAN DELGADO: And the chair votes no.

VICE CHAIR MOYER: Mr. Chairman, we have 14 nos and one absent.

CHAIRMAN DELGADO: The motion to include caramel color on the national list, Section 205.606 is lost.
We can move on to the next material.

MEMBER GIACOMINI: Okay, the next material is Chinese thistle root, otherwise known as Atractylodes Rhizome, powdered extract. And this is a material in which the petitioner failed -- did not -- failed to acknowledge the existence of the fact that organic Chinese thistle daisy is being cultivated.

We don't know if it's being extracted and powdered, but it is certainly being grown, and this was not mentioned at all in the petition. They did not address the existence of the organic form, and so for this reason it failed unanimously at the committee level.

CHAIRMAN DELGADO: Would you like to state a motion?

MEMBER GIACOMINI: I move that Chinese thistle root powdered extract be included on section 205.606 of the national
list.

CHAIRMAN DELGADO: Is there a second?

MEMBER DeMURI: Second.

CHAIRMAN DELGADO: It is moved and seconded to include Chinese thistle root extract on the national list, Section 205.606.

Are there any questions? Ready for the question?

The question is on the motion to include Chinese thistle root extract on the national list, Section 205.606, and we'll start our vote with Steve.

MEMBER DeMURI: No.

CHAIRMAN DELGADO: Julie.

MEMBER WEISMAN: No.

CHAIRMAN DELGADO: Dan.

MEMBER GIGACOMINI: No.

CHAIRMAN DELGADO: Katrina.

MS. HEINZE: No.

CHAIRMAN DELGADO: Jeff.

VICE CHAIR MOYER: No.
CHAIRMAN DELGADO: Gerry.
MEMBER DAVIS: No.
CHAIRMAN DELGADO: Tina.
MEMBER ELLOR: No.
CHAIRMAN DELGADO: Tracy.
MEMBER MIEDEMA: No.
CHAIRMAN DELGADO: Joe.
MEMBER SMILLIE: No.
CHAIRMAN DELGADO: Barry.
MEMBER FLANN: No.
CHAIRMAN DELGADO: Hugh.
MEMBER KARREMAN: No.
CHAIRMAN DELGADO: Kevin.
MEMBER ENGELBERT: No.
CHAIRMAN DELGADO: Jennifer.
MEMBER HALL: No.
CHAIRMAN DELGADO: And the chair votes no.

VICE CHAIR MOYER: Mr. Chairman, the vote is 14 nos, one absent.

CHAIRMAN DELGADO: The motion to include Chinese thistle root extract on the
national list is lost.

We can proceed to the next material.

MEMBER WEISMAN: The next material is Codonopsis Root, powdered extract. Again, this is a petition in which organic forms of - - organic Codonopsis was found by the committee to be cultivated and grown in certified organic form, and no mention of this was made in the petition. And it failed unanimously at the committee level.

CHAIRMAN DELGADO: Would you like to make a motion?

MEMBER WEISMAN: I keep forgetting. You would think I'd figure that out by now.

I move that Codonopsis Root powdered extract be included on Section 205.606 of the national list.

CHAIRMAN DELGADO: Is there a second?

MEMBER DeMURI: Second.

CHAIRMAN DELGADO: It is moved and
seconded to include Codonopsis Root powdered extract on the national list, Section 205.606.

Debate?

Ready for the question? The question is on the motion to include Codonopsis Root powdered extract on the national list, Section 205.606, and we'll start our vote with Julie.

MEMBER WEISMAN: No.

CHAIRMAN DELGADO: Dan.

MEMBER GIACOMINI: No.

CHAIRMAN DELGADO: Katrina.

MS. HEINZE: No.

CHAIRMAN DELGADO: Jeff.

VICE CHAIR MOYER: No.

CHAIRMAN DELGADO: Gerry.

MEMBER DAVIS: No.

CHAIRMAN DELGADO: Tina.

MEMBER ELLOR: No.

CHAIRMAN DELGADO: Tracy.

MEMBER MIEDEMA: No.

CHAIRMAN DELGADO: Joe.
MEMBER SMILLIE: No.

CHAIRMAN DELGADO: Barry.

MEMBER FLANN: No.

CHAIRMAN DELGADO: Hugh.

MEMBER KARREMAN: No.

CHAIRMAN DELGADO: Kevin.

MEMBER ENGELBERT: No.

CHAIRMAN DELGADO: Jennifer.

MEMBER HALL: No.

CHAIRMAN DELGADO: Steve.

MEMBER DeMURI: No.

CHAIRMAN DELGADO: And the chair votes no.

VICE CHAIR MOYER: Mr. Chairman, the vote is 14 nos, one absent.

CHAIRMAN DELGADO: The motion to include Codonopsis Root powdered extract on the national list Section 205.606 is lost.

And we can proceed with the next material.

MEMBER WEISMAN: Ginger root powdered extract is the next material. Not
only is ginger root being cultivated widely organically, but the Handling Committee found very easily that it is being extracted. I cannot verify that it is available -- and I believe actually that it is in powdered form as well, as organic. And the petitioner made no mention of the existence of these organic forms of ginger root. And so it failed unanimously for that reason.

So I would like to make a motion at this time for the inclusion of ginger root powdered extract on Section 205.606 of the national list.

CHAIRMAN DELGADO: Is there a second?

MEMBER DeMURI: Second.

CHAIRMAN DELGADO: It is moved and seconded to include ginger root powdered extract on the national list, Section 205.606.

Questions from the board?

Debate? Ready for the question?

The question is on the motion to
include ginger root powdered extract on the national list, Section 205.606. And we'll start our vote with Dan.

MEMBER GIACOMINI: No.

CHAIRMAN DELGADO: Katrina.

MS. HEINZE: No.

CHAIRMAN DELGADO: Jeff.

VICE CHAIR MOYER: No.

CHAIRMAN DELGADO: Gerry.

MEMBER DAVIS: No.

CHAIRMAN DELGADO: Tina.

MEMBER ELLOR: No.

CHAIRMAN DELGADO: Tracy.

MEMBER MIEDEMA: No.

CHAIRMAN DELGADO: Joe.

MEMBER SMILLIE: No.

CHAIRMAN DELGADO: Barry.

MEMBER FLANN: No.

CHAIRMAN DELGADO: Hugh.

MEMBER KARREMAN: No.

CHAIRMAN DELGADO: Kevin.

MEMBER ENGELBERT: No.
CHAIRMAN DELGADO: Jennifer.

MEMBER HALL: No.

CHAIRMAN DELGADO: Steve.

MEMBER DeMURI: No.

CHAIRMAN DELGADO: Julie.

MEMBER WEISMAN: No.

CHAIRMAN DELGADO: And the chair votes no.

VICE CHAIR MOYER: Mr. Chairman, the vote is 14 nos, one absent.

CHAIRMAN DELGADO: The motion to include ginger root powdered extract on the national list, Section 205.606 is lost.

We can proceed to the next material.

MEMBER WEISMAN: The next material in our book is Jujube Fruit powdered extract. I would like to make a note though. I think that on our -- just a procedural note, on our vote sheets that are a few items missing. This one and the one that -- yes, there's quite a few. There's three I see so far.
MS. HEINZE: Yes, I see that.

MEMBER WEISMAN: Yes, there are three. So we'll just -- hopefully everyone will adjust accordingly. Does the secretary need a minute?

CHAIRMAN DELGADO: We will give the secretary a minute to adjust our note-taking, as well as to the vice chair who is kind enough tracking voting for us.

Ms. HEINZE: You can proceed with your introduction.

CHAIRMAN DELGADO: Jeff?

VICE CHAIR MOYER: Yes.

CHAIRMAN DELGADO: We're ready.

MEMBER WEISMAN: All right. Jujube Fruit powdered extract is being petitioned for inclusion on 606, and it is a material for which the Handling Committee with little difficulty was able to locate certified organically cultivated forms which was not mentioned in the petition, and for this reason it failed 5-0 with one absent at the time the
vote was taken.

CHAIRMAN DELGADO: Motion please.

MEMBER WEISMAN: I move for the inclusion of Jujube Fruit powdered extract on Section 205.606 of the national list.

CHAIRMAN DELGADO: Is there a second?

MEMBER DeMURI: Second.

CHAIRMAN DELGADO: It is moved and seconded to include Jujube Fruit powdered extract on the national list, Section 205.606.


MEMBER GIACOMINI: Just a question, Mr. Chairman.

Should we be asking for conflicts on each one, or do we just assume it was done at the beginning of the section?

CHAIRMAN DELGADO: I assume it was done at the beginning of the section, and I will be asking --

MEMBER GIACOMINI: Anyone can speak up as they need to?
CHAIRMAN DELGADO: I would ask that to be the case.

Any other questions?

Are we ready for the question? And since it was brought up, are there any conflicts of interest that you wish to declare at this point, members of the board?

Very well, the question is on the motion to include Jujube Fruit powdered extract on the national list, Section 205.606.

We will start our vote with Katrina.

MS. HEINZE: No.

CHAIRMAN DELGADO: Jeff.

VICE CHAIR MOYER: No.

CHAIRMAN DELGADO: Gerry.

MEMBER DAVIS: No.

CHAIRMAN DELGADO: Tina.

MEMBER ELLOR: No.

CHAIRMAN DELGADO: Tracy.

MEMBER MIEDEMA: No.

CHAIRMAN DELGADO: Joe.
MEMBER SMILLIE: No.
CHAIRMAN DELGADO: Barry.
MEMBER FLANN: No.
CHAIRMAN DELGADO: Hugh.
MEMBER KARREMAN: No.
CHAIRMAN DELGADO: Kevin.
MEMBER EN格尔BERT: No.
CHAIRMAN DELGADO: Jennifer.
MEMBER HALL: No.
CHAIRMAN DELGADO: Steve.
MEMBER DeMURI: No.
CHAIRMAN DELGADO: Julie.
MEMBER WEISMAN: No.
CHAIRMAN DELGADO: Dan.
MEMBER GIACOMINI: No.
CHAIRMAN DELGADO: And the chair votes no.

VICE CHAIR MOYER: The vice chair says you guys vote fast.

(Laughter.)

VICE CHAIR MOYER: Mr. Chairman, the vote is 14 nos, one absent.
CHAIRMAN DELGADO: The motion to include Jujube Fruit powdered extract on the national list, Section 205.606 is lost.

We can proceed to the next material.

MEMBER WEISMAN: The next item that we will discuss is the petition for Ligusticum Root powdered extract.

As you can probably guess, it was a petition made by the same petitioner as the last petition, and the Handling Committee was able to ascertain that it is being cultivated organically.

And so this material failed 5-0, and one absent.

CHAIRMAN DELGADO: Can I have a motion?

MEMBER WEISMAN: At this time I move for the inclusion of Ligusticum Root powdered extra on the national list Section 205.606.

CHAIRMAN DELGADO: Is there a second?
MEMBER DeMURI: Second.

CHAIRMAN DELGADO: It is moved and seconded to include Ligusticum Root powdered extract on the national list Section 205.606.

Questions? Debate?

We are ready for the question. The question is on the motion to include Ligusticum Root powdered extract on the national list Section 205.606. And very slowly we will start taking votes starting with Jeff.

VICE CHAIR MOYER: No.

CHAIRMAN DELGADO: Gerry.

MEMBER DAVIS: No.

CHAIRMAN DELGADO: Tina.

MEMBER ELLOR: No.

CHAIRMAN DELGADO: Tracy.

MEMBER MIEDEMA: No.

CHAIRMAN DELGADO: Joe.

MEMBER SMILLIE: No.

CHAIRMAN DELGADO: Barry.

MEMBER FLANN: No.
CHAIRMAN DELGADO: Hugh.
MEMBER KARREMAN: No.
CHAIRMAN DELGADO: Kevin.
MEMBER ENGELBERT: Ready, Jeff?
No.

(Laughter.)
CHAIRMAN DELGADO: Jennifer.
MEMBER HALL: No.
CHAIRMAN DELGADO: Steve.
MEMBER DeMURI: No.
CHAIRMAN DELGADO: Julie.
MEMBER WEISMAN: No.
CHAIRMAN DELGADO: Dan.
MEMBER GIACOMINI: No.
CHAIRMAN DELGADO: Katrina?
MS. HEINZE: No.
CHAIRMAN DELGADO: And the chair votes no.

VICE CHAIR MOYER: Mr. Chairman, the vote is four nos, one absent.

MS. HEINZE: Four?

VICE CHAIR MOYER: Fourteen.
MS. HEINZE: We're really going too fast.

CHAIRMAN DELGADO: The motion to include Ligusticum Root powdered extract on the national list Section 205.606 is lost.

We can proceed to the next material.

MEMBER WEISMAN: The next material for consideration is oat bran concentrate, and we actually received a letter during public comment from the petitioner asking that the petition be withdrawn, and that the program in NOSB expend no further time and resources on the consideration of the petition.

I believe all that is required is for me to have read that into the record.

Is that true?

As the chairman of the handling committee I accept the petitioner's request to withdraw.

CHAIRMAN DELGADO: So the petition has been withdrawn for oat bran concentrate,
and we can proceed to the next material.

MEMBER WEISMAN: The next material up for consideration is okra.

And there are two matters. One is the handling committee voted last night. It was an oversight on our part to submit this without listing it as okra IQF. That's how it was petitioned. And it was error on our part for us to not have handed the recommendation on that way because that is how we considered it.

So I think that that - I believe that - that was an amendment. We voted, the committee voted, six nothing. It was unanimous, the vote was unanimous to change the listing on the recommendation to okra IQF.

CHAIRMAN DELGADO: Very good. And six was that -

MEMBER WEISMAN: Oh, I'm sorry, you're right. Okay, it was unanimous, but it was five zero with one recusal.

CHAIRMAN DELGADO: So we have five
yes?

MEMBER WEISMAN: Five yes, zero nos, one recusal.

MS. HEINZE: Who was the first and second?

MEMBER WEISMAN: Yes.

CHAIRMAN DELGADO: We are ready for the motion.

MEMBER WEISMAN: Well, before I motion there was also - the petitioner spoke yesterday during public comment and requested permission to make something additional or to clarify a comment that he made during the discussion yesterday.

And I would like to grant - if it is within my authority - or I would like to ask you as chair if this permission can be granted?

CHAIRMAN DELGADO: It is granted. If the speaker will please approach the board. State your name and affiliation for the record.
MR. BAILEY: Sure, thank you.

Again, David Bailey for Small Planet Foods, General Mills.

And what I think I misspoke about yesterday, I was asked a question whether Small Planet Foods or General Mills worked with contracted growers or helped them, would a freezer be found in a general okra growing area? Would we help the contract growers?

At the time I didn't speak clearly on that.

I want to say, yes, we would, as the answer.

So that is my only clarification. We do have some experience in contract growing. We have a lot - it's not in okra, but our business. We do have that as one of our business models.

Thank you.

CHAIRMAN DELGADO: Any questions to the presenter? Please don't leave the board.

Julie? Tracy?
MEMBER MIEDEMA: With this flurry of organic okra growers we are hearing about and the potential to maybe, in the not too distant future, produce an IQF, would your organization petition to have it removed?

MR. BAILEY: Yes, I would either assist the freezer to do it or I'd do it myself.

MEMBER MIEDEMA: Thank you.

CHAIRMAN DELGADO: Gerry?

MEMBER DAVIS: Would it be appropriate to ask you if the product that the okra goes into actually carries the name gumbo in some fashion?

MR. BAILEY: It does.

CHAIRMAN DELGADO: Any other questions?

Thank you.

MR. BAILEY: Thank you.

CHAIRMAN DELGADO: Back to you, Ms. Weisman.

MEMBER WEISMAN: So this material
was found to meet the applicable criteria including that it is - that there is no commercial supply of organic okra in the individually quick frozen form. And as I mentioned it did pass by committee vote, five, zero nos, and one recusal.

So at this time I would like to make a motion for the inclusion of okra IQF on the national list Section 205.606.

MEMBER DeMURI: Second.

CHAIRMAN DELGADO: It is moved and seconded to include okra IQF on the national list Section 205.606.

Questions?

MEMBER DeMURI: Before we vote, I need to recuse myself as well. General Mills is a formidable competitor of ours, and we would also like to use this ingredient in some of our products. So it's a double-edged sword for Campbell's.

CHAIRMAN DELGADO: Okay, now that we bring that up are there any conflicts of
interest to declare?

We have Katrina followed by Barry and Joe.

MS. HEINZE: It does bear saying, I think everyone knows it, I work for the petitioner, so I will be recusing myself.

CHAIRMAN DELGADO: You will be recusing yourself? Thank you. Barry.

MEMBER FLANN: I was just going to ask a question.

CHAIRMAN DELGADO: Before we proceed with questions, Joe, you had a question?

MEMBER SMILLIE: I just want to repeat my statement of this morning, which was, we may or may not certify many companies that may or may not use this, and I just want to put that out there again.

I don't think there is a conflict of interest.

CHAIRMAN DELGADO: Board members, do you think there is a conflict of interest?

MEMBER FLANN: No.
CHAIRMAN DELGADO: Very good, we'll proceed now to the questions, debate. We will start with Barry followed by Gerry.

MEMBER FLANN: I'm sorry, this is one that has me kind of confused, and it's probably because of my lack of understanding of the system.

But the availability of organically grown okra troubles me that it seems like it's just the methods now that are being made available or are being used is a reason to add okra to the list of substances.

And that seems to open up all kinds of doors in other situations. But, like I say, I'll have to admit I don't fully understand this issue, so I'm kind of troubled.

Of course I'm influenced by the committee's acceptance of it, but I'm personally troubled by it.

CHAIRMAN DELGADO: Julie, would you like to respond?
MEMBER WEISMAN: Well, I just first want to say that this petition as we just voted to amend it, is not a blanket acceptance of okra as an agricultural product in organic food. It's only for individually quick frozen okra to be used.

In other words, because of the way food products are processed and where they are processed and what kind of facilities are used, and because of the scale that is required in the existing - and the location of the existing IQF facilities, it is not possible for okra to be -- there is no organic okra currently available in a close enough proximity to existing IQF facilities for manufacturers of organic gumbo products sold to - at retail to make use of the - I'm losing my clarity, I'm sorry about that. Somebody help me.

MEMBER FLANN: But that is the very part of this whole thing that troubles me, and I don't really - I don't have a handle on it,
and that sort of troubles me that that is a manufacturing thing. And I just could see other situations where that is used as a reason not to use organic.

CHAIRMAN DELGADO: Okay, we have a question from Gerry, followed by Jeff and Steve and Tina.

Gerry.

MEMBER DAVIS: A statement merely personally. After thinking about this more, I originally voted yes at the committee level, most of these six items, in fact all of them so far, have been items that are part of, they have to be part of the 5 percent non-organic, but most of them are not the key ingredient that identifies the product as what it is, being the one that is non-organic.

So because of that, that gumbo is gumbo because it has okra in it, and this product is going to have non-organic okra in it, I can't vote to list it myself.

CHAIRMAN DELGADO: Jeff.
VICE CHAIR MOYER: Yes, Gerry, I was going to say the same thing. I agree with that. And then in the context of that, we just failed to list Ligusticum Root because we said that there was some organic Ligusticum Root somewhere in the world but not necessarily in this form, we don't know.

We certainly know that there is okra, and given the fact that okra is on the name of the product, I have a real difficulty with this material.

CHAIRMAN DELGADO: Okay, we have Steve followed by Tina and Dan.

MEMBER DeMURI: I just want to remind everybody, especially Barry, since you are new, that there is also a commercial availability burden on the manufacturer or user to satisfy their certifier that there is none available as well. So it's a two-step process.

CHAIRMAN DELGADO: Tina.

MEMBER ELLOR: My issue with it, and
my question is this; once the okra is frozen, it's shelf stable for a certain amount of time, I'm assuming, and it could be accumulated. So if you can't get it all at one time, the possibility is that you could stockpile it until you have enough to do the production. And that it is okra, which is a fairly big commodity crop. I have a problem with it, and the same issue that Jeff and Gerry has, that it's in the name of the product.

CHAIRMAN DELGADO: Dan.

MEMBER GIACOMINI: I would like first of all to go back a little bit on Barry's. If you look at the list of items we have already put on 606 there is a historical precedent for what we are looking at with this item.

We have peppers but only those processed in the chipotle form. We have galanga, but only the frozen form.

There are a couple - I won't say a
number, but some - where it was the uniqueness of the process and what it took to do that that is the thing that put the substance, the agricultural product, on the list.

In this situation I've gone back and forth a lot. I've thought no. I've thought I can go along yes, if it's IQF.

In rethinking it, it seems that a significant part of the IQF problem comes down to being a financial issue and the fact of small amounts each day to be frozen, and that is a short-term thing not even taking into account, like Tina said, we have rejected some items, simply because we know the existence of their organic crop. We have rejected an item that we could not even find any evidence that it could be - was ever grown in an organic form.

And I have a hard time going along with this one.

CHAIRMAN DELGADO: Do you want to respond to that one?
MEMBER WEISMAN: I want to respond to one point of that. And there was also a question that was raised by Jeff.

The petition, for instance, for Ligusticum that we just voted on was not rejected because we found organic raw agricultural product being grown. It was because the petition was insufficient in that it did not acknowledge the existence and address the fact that, well, maybe the raw crop is being grown but it's not being processed into the form that is needed for our use.

CHAIRMAN DELGADO: Joe, followed by Tracy.

MEMBER SMILLIE: Julie made the point that I was going to make. The comparison Jeff drew is inaccurate. So we've got that one down.

To Dan's point, and again, it's important, you know, everything - it's like time or money, right. So everything can be
financial. But in this case it's not so much the financial cost. It's the method of harvesting of okra, and the fact that you can't do it all at once; it's got to be picked off. So you've got to have a very large, large supply of it in order to pick it off.

   And then you have to have freezer capacity that is timed to do that. If you've been there, it's got to all arrive, they've got to run it all at once. Because as a certifier, I'm telling them they've got to do a clean-up before they run - before they run organic.

   So all of these start to go together. And the petition, and this is why we are held by the criteria on which we judge the petition. And the criteria is, is there a fragility of supply, or is it not available at all?

   In this case, the IQF okra is clearly not available. It's not. And the petitioner documented that.
Is there a fragility? Definitely, also. Can it be overcome in the future? Absolutely possible.

And so those are the criteria that we as a committee have to work with. We can't just say, oh. You have to look at the criteria and make your judgment, and I think that's what we did as a committee.

And there are two safeguards in this system of checks and balances. And those safeguards are, just because we put it on 606, that's not the final word. The certifier has to rule on commercial availability; and as soon as IQF facility or a group of farmers say we can make this available, they can petition to have it removed, and that petition is granted preference over any other petition.

So I think that we have safeguards in place for it, and if you go by the criteria, that's the way you have to vote, is based on the criteria that are presented for 606.
CHAIRMAN DELGADO: Tracy.

MEMBER MIEDEMA: Two points.

One is that early on we brought up this question of whether the 606 list either spurs or spurns the industry stepping up and producing an organic version.

And it's one of those deals where we can't predict the future, but sometimes we can peer into that crystal ball a little bit. And this seems to be a situation that could really spur a whole new demand for organic okra, organic IQF okra that was never there before, and provide a new market for these organic okra growers that currently don't have anyone to sell it to other than their corner market, because this company or whomever it is, is able to get in, the market starts rolling.

And let's not forget, the label is going to be crystal clear. It will not say organic okra in the ingredients panel. It will say okra, and any organization that opts
to do that, even if it's a quintessential gumbo product, does so at their peril.

And maybe their consumers will reject that notion and put a lot of pressure on them externally to find that.

And so I think if we are going to look into our crystal ball, this might be a spur organic demand situation by the addition of it to 606.

CHAIRMAN DELGADO: Any other questions?


The question is on the motion to include okra IQF on the national list, Section 205.606.

We did have a motion.

MEMBER SMILLIE: Yes, made by Julie, seconded by Joe.

CHAIRMAN DELGADO: Once that is clarified, we'll proceed with a vote. And we'll start with Gerry.
MEMBER DAVIS: No.

CHAIRMAN DELGADO: Gerry said?

MEMBER DAVIS: No.

CHAIRMAN DELGADO: Tina.

MEMBER ELLOR: No.

CHAIRMAN DELGADO: Tracy.

MEMBER MIEDEMA: Yes.

CHAIRMAN DELGADO: Joe.

MEMBER SMILLIE: Yes.

CHAIRMAN DELGADO: Barry.

MEMBER FLANN: No.

CHAIRMAN DELGADO: Hugh.

MEMBER KARREMAN: No.

CHAIRMAN DELGADO: Kevin.

MEMBER ENGELBERT: No.

CHAIRMAN DELGADO: Jennifer.

MEMBER HALL: No.

CHAIRMAN DELGADO: Julie.

MEMBER WEISMAN: Yes.

CHAIRMAN DELGADO: Dan.

MEMBER GIACOMINI: No.

CHAIRMAN DELGADO: Katrina is
abstaining, recusing.

    Jeff.

VICE CHAIR MOYER: No.

CHAIRMAN DELGADO: And the chair votes no.

VICE CHAIR MOYER: I have eight nos, three yeses, one absent and two recusals.

    I stand corrected; it is nine nos, three yeses, one absent, and two recusals.

CHAIRMAN DELGADO: The motion to include okra IQF on the national list 205.606 is lost.

    We can proceed to the next material.

MEMBER WEISMAN: The next material for consideration is Pectin, low-methoxy, non-amidated, which currently is included in the listing for Pectin, low-methoxy, on 205.605(b).

    And the petitioner is asking for the non-amidated form of low-methoxy Pectin to be included on 606 of the national list where
high-methoxy Pectin also currently is located.

It is - was clear to the handling committee in reviewing the petition that this material which is basically isolated from - through mechanical means from apple pumice, which is a waste byproduct of the apple-pressing industry, and is used - it's critical for the production of jams and jellies and other dairy - other dairy products or anything that needs to be gelled. It is used to - for texture.

And it was seen - there certainly - none of this is available organically at this point, and in fact, when the petitioner was contacted, part of the reason for this petition is that they believe it is possible, that there is plenty of organic pumice available and that it would be possible to make this material organically but not unless it is recognized as an agricultural product on 606.

So this is a material that the
handling committee voted five yes, and one absent for inclusion on 606.

CHAIRMAN DELGADO: Would you like to make a motion?

MEMBER WEISMAN: At this time I would like to make a motion that Pectin, low-methoxy, non-amidated, be included on Section 205.606 of the national list.

CHAIRMAN DELGADO: Is there a second?

MEMBER DeMURI: Second.

CHAIRMAN DELGADO: It's moved and seconded to include Pectin, low-methoxy, non-amidated, on the list on section 205.606.

Debate. Jeff.

VICE CHAIR MOYER: Thank you, Mr. Chairman.

Julie, I have a question about a comment you just made here. You said there were plenty of organic pumice does exist, but -

MEMBER WEISMAN: Pumice, not pectin.
VICE CHAIR MOYER: Right, but they can't make it into pectin?

MEMBER WEISMAN: They can, but it can't be certified organic unless it's recognized as an agricultural product.

VICE CHAIR MOYER: This is confusing to me.

CHAIRMAN DELGADO: Dan?

MEMBER GIACOMINI: The listing on 605 is essentially, although it's not stated that way, is a two-part listing. It's Pectin, low-methoxy. There is amidated, and there is non-amidated. The amidated makes it synthetic. This claim is that the non-amidation keeps it agricultural as an agriculturally processed product. They want it identified and listed as an agricultural product via the 606 mechanism so they can make it and identify it as an organic product.

Does that answer your question?

VICE CHAIR MOYER: It does not. It confuses me even more. You are inferring
that, by moving it, it becomes non-synthetic when it is already –

CHAIRMAN DELGADO: Julie, do you want to –

MEMBER WEISMAN: I think I’m going to make a stab at constructing some history on this. And I think this speaks to the issue of how non-organic materials, how the market creates a demand for ingredients that no one ever bothered to consider how to make organically before.

When the national list was created, two kinds of Pectin was requested to be included for use in organic production. And at the time, two kinds of Pectin were identified: high-methoxy and low-methoxy. And all known forms of low-methoxy Pectin at that time were amidated, were reacted with ammonia in a way that makes them synthetic. So for that reason low-methoxy Pectin is - you find that on 205.605(b) which are synthetics-allowed.
It was also recognized at that time that high-methoxy Pectin had not been treated with ammonia; was not amidated; and so that was considered to be non-synthetic.

Now there are details that I'm probably missing, as to why it was - right, and that's why it's on 606. That's why it's on 606.

What the petitioner has brought to light is that, now there is high-methoxy Pectin being made that is not being amidated.

CHAIRMAN DELGADO: Low-methoxy.

MEMBER WEISMAN: I'm sorry, it does get confusing. There's low-methoxy Pectin now available which is not being amidated. And since it is a material that comes from an agricultural process through processes that are - that do not make it synthetic, they are isolated physically, it is - continues - it's basically a portion of the apple pumice.

VICE CHAIR MOYER: I understand that, but I guess my question would be, if it
is organic apple pumice, and it is not synthetically treated, why isn't it just allowed as it is right now, without being on this list?

CHAIRMAN DELGADO: Julie.

MEMBER WEISMAN: Because it's not the pumice itself that is being used. It is being - I have to think about that.

CHAIRMAN DELGADO: Gerry.

MEMBER DAVIS: Is there much potential of running into the problem of - there is a lot of organic apple pumice, but there is no processing space, or it's too small of an item for a processor to make into organic low-methoxy non-amidated Pectin. Or we'll have the same situation. There is organic pumice available, and yet we can make it into low-methoxy non-amidated pumice, but it's too small; no one is going to do it because it is too much of an inconvenience. No one can shut down their line long enough to make a batch.
MEMBER WEISMAN: It was not something that was included in the petition, but it came up in subsequent conversation, because I had an opportunity at a trade show to ask a question, the petitioner was exhibiting. And the reason why this petition was being made was because they, in fact, not themselves, but I guess their supplier, they have already been in conversation with their supplier of Pectin, it's a jam manufacturer, who - and they are preparing to do just that, but they don't want to proceed unless the hurdle is cleared that this can in fact be - that this will be eligible for certification.

CHAIRMAN DELGADO: At this moment I would like to recognize a member of the public. Can you please approach the podium and state your name.

MS. SONNABEND: Zea Sonnabend, and I was the TAP contractor at the time that the Pectins were put on the list. So I wanted to just clarify a little bit about the history.
You have to realize that when the National List was first created we didn't have a rule yet. And so there weren't these neat 205.605, 205.606 like that. It was just, does it belong on the list? And is it synthetic or non-synthetic. And there wasn't the big emphasis that there is now on agricultural versus non-agricultural and the fine distinction.

So it was considered more important to look about whether something was synthetic or non-synthetic, and the agricultural listing was only used for the things that were really raw agricultural things.

And then it was unclear until Mr. Harvey clarified it that the ingredients that were not available in organic form as ingredients had to be put on the list in their own section.

So that being said, it was determined that high-methoxy Pectin had not - was non-synthetic because it had not gone
through a chemical change in the extraction, but low-methoxy pectin had been—in some cases it's been precipitated with ammonium salts and alcohol, which is what precipitated the low-methoxy-ness of it, and therefore it was put on the list.

I do think that this is one where you may need a little further study to make sure that this form of pectin—it may be agricultural, but it may be synthetic agricultural, in which case maybe where it is on the list is okay. And depending on how you go with agricultural in the future, then maybe commercial availability will apply to everything on the list, and it could be sourced in organic form even if it might have gone through a synthetic step.

Anyway, I think you should really look at this carefully in light of that past history.

CHAIRMAN DELGADO: Okay, thank you for that clarification.
Julie followed by Joe.

MEMBER WEISMAN: Under category two, question one, that's the question that asks, is the substance formulated or manufactured by a chemical process. And the petition did include a description of how this material is made.

They say that the pectin present in the cell wall structure of the apple pumice is extracted with acidified water that is filtered or strained to remove any remaining insoluble materials.

So they are mentioning extraction and filtration which are both allowed processes.

Now I guess we may want to ask the question, are there other materials that non-amidated low-methoxy Pectin might come from that we don't want to include.

And if that were the case, I would say that we should limit our listing from apple pumice only.
CHAIRMAN DELGADO: Okay, Joe.

MEMBER SMILLIE: Well, I don't know if this is helpful or not, and maybe Zea might know. But if the case is that these are allowable processes and organic apple pumice is readily available, why is no one petitioning to remove high-methoxy Pectin off 606?

CHAIRMAN DELGADO: Julie.

MEMBER WEISMAN: You know I'm not the expert, and whatever I know about Pectin I learned from Kevin O'Rell who is not on the board anymore.

But my understanding is that there are -- different pectins are more forgiving than others, and I believe that the - I believe that the high-methoxy - the low-methoxy Pectins are more foolproof, and then the high-methoxy Pectins, you have to be - they are less forgiving. Like you could still end up with liquid in your jam if you don't do it exactly right.
CHAIRMAN DELGADO: Please wait to be recognized. Proceed.

MS. SONNABEND: Zea Sonnabend. My perception at the time, although it probably doesn't appear in the minutes, was that the high-methoxy Pectin was really not that useful in processing but it was put on the list because we'd rather have someone use the non-synthetic form if it would work in their situation. And almost everyone used the low-methoxy form.

CHAIRMAN DELGADO: Thank you.

Dan followed by Tina.

MEMBER GIACOMINI: Zea, could you please with your, the paperwork you have and whatever glasses you may need, does this process match the one that you found in your research as far as the making of the Pectin and the difference between the two?

CHAIRMAN DELGADO: Can you highlight it?

MS. SONNABEND: I forgot one point
in the last thing, which is that the lower methoxy Pectin works better with lower levels of sugar than high-methoxy, and that was decided to be desirable.

CHAIRMAN DELGADO: Okay, can you please identify yourself for the record.

MS. BROWN-ROSEN: I'm Emily Brown-Rosen with PCO. I happened to have a spreadsheet in my computer where I had looked at compiled information on these synthetics on the list. So I pulled out what I had dug up and also what was in the TAP reviews. And the thing is this old TAP review was not very good. So you have never really had a very good TAP review on these pectins. And I think they are - the manufacturing process, as it was originally considered, was not really - maybe Brian Baker maybe has more thoughts off the top of his head - but what I found was that TAP kind of - I didn't see - it lumped together high-methoxy, low-methoxy, and from reading up on it, my understanding is that
when you extract from rinds of citrus, apples, other fruits, with water or acid – here they are talking about extracting with acids, aqueous acid solutions, that was considered a processing agent that yielded the high-methoxy form, and that was considered by the board to be natural, not synthetic.

Then it was precipitated out with aluminum salts or alcohol. These were removed, and the board said high-methoxy, that's natural. Further, demethylation by acid or alkalitic to get to the low-methoxy Pectin.

And so that low-methoxy as a group was considered synthetic. It could be amidated or it could be not amidated.

And so my perception was they were lumped together.

But in my mind this is all – you know, there are a lot of ways to make pectin, and you don't really have a good TAP review, and I would just recommend getting a little
more detail on this, especially considering all the uncertainty about ag, non-ag and synthetic, non-synthetic at this point.

CHAIRMAN DELGADO: Dan, do you have a follow-up question?

MEMBER GIACOMINI: No, I think this one would be a good one to keep in mind as examples to run through when we are looking at the material working group.

CHAIRMAN DELGADO: Any other questions for the speaker? Julie?

Katrina.

MS. HEINZE: I'm wondering if this might be a material - and I don't know procedurally how to do this - that the committee might want to spend a little bit more time on.

So do I make a motion?

CHAIRMAN DELGADO: Well, right now the motion is with the chair of the committee. And we'll ask her to give us a decision.

You can definitely rescind the
motion, withdraw it, and request more time to consider, given the pending questions.

MEMBER WEISMAN: Although I am reluctant, because we received this petition quite some time ago, and it was deferred in the fray of considering 606 materials to replace colors that were falling off the list, and because it had a home, I'm reluctant to defer it further.

However, I recommend at this time that we defer consideration of this material.

CHAIRMAN DELGADO: Does the second concur?

MEMBER DeMURI: Yes, I do.

CHAIRMAN DELGADO: At this time we are suspending consideration of pectin, low-methoxy non-amidated.

And we'll continue on with the next material.

Back to you, Ms. Weisman.

MEMBER WEISMAN: The next material to be considered is Peony Root powdered
extract. It is also a material that was - which the committee felt did not provide - did not acknowledge the fact that - it did not include information that we found on our own, namely, that there is organic peony root - well, there is organic peony root, and they did not make mention of this in the petition.

And the vote on the handling committee was five against listing, one absent.

CHAIRMAN DELGADO: Okay, can I have a motion, please?

MEMBER WEISMAN: I move for the inclusion of peony root powdered extract on Section 205.606 of the national list.

MEMBER DeMURI: I'll second.

CHAIRMAN DELGADO: It is moved and seconded to include Peony Root powdered extract on the national list, Section 205.606.

Questions.

Ready for the question? The question is on the motion to include peony...
We will start the vote with Tina.

MEMBER ELLOR: No.

CHAIRMAN DELGADO: Tracy.

MEMBER MIEDEMA: No.

CHAIRMAN DELGADO: Joe.

MEMBER SMILLIE: No.

CHAIRMAN DELGADO: Barry.

MEMBER FLANN: No.

CHAIRMAN DELGADO: Hugh.

MEMBER KARREMAN: No.

CHAIRMAN DELGADO: Kevin.

MEMBER ENGELBERT: No.

CHAIRMAN DELGADO: Jennifer.

MEMBER HALL: No.

CHAIRMAN DELGADO: Steve.

MEMBER DeMURI: No.

CHAIRMAN DELGADO: Julie.

MEMBER WEISMAN: No.

CHAIRMAN DELGADO: Dan.

MEMBER GIACOMINI: No.
CHAIRMAN DELGADO: Katrina.

MS. HEINZE: No.

CHAIRMAN DELGADO: Jeff.

VICE CHAIR MOYER: We're slowing down. No.

(Laughter.)

CHAIRMAN DELGADO: Gerry.

MEMBER DAVIS: No.

CHAIRMAN DELGADO: And the chair votes no.

VICE CHAIR MOYER: Mr. Chairman, we have 14 nos, one absent.

CHAIRMAN DELGADO: The motion to include Peony Root powdered extract on the national list in Section 205.606 is lost.

We will proceed with the next material.

MEMBER WEISMAN: Polygala Root powdered extract, this is a material that was found by members of the handling committee to be sold in a liquid extract form, a point that was not acknowledged by the petitioner.
At this point I make a motion for the inclusion of Polygala Root powdered extract on Section 205.606 of the national list.

CHAIRMAN DELGADO: Is there a second?

MEMBER DeMURI: Second.

CHAIRMAN DELGADO: It's moved and seconded to include Polygala Root powdered extract on the national list, Section 205.606. Debate? Any questions on the board?

Ready for the question. The question is on the motion to list Polygala Root powdered extract on the national list Section 205.606, and we'll start our vote with Tracy.

MEMBER MIEDEMA: No.

CHAIRMAN DELGADO: Joe.

MEMBER SMILLIE: No.

CHAIRMAN DELGADO: Barry.

MEMBER FLANN: No.
CHAIRMAN DELGADO: Hugh.
MEMBER KARREMAN: No.
CHAIRMAN DELGADO: Kevin.
MEMBER ENGELBERT: No.
CHAIRMAN DELGADO: Jennifer.
MEMBER HALL: No.
CHAIRMAN DELGADO: Steve.
MEMBER DeMURI: No.
CHAIRMAN DELGADO: Julie.
MEMBER WEISMAN: No.
CHAIRMAN DELGADO: Dan.
MEMBER GIACOMINI: No.
CHAIRMAN DELGADO: Katrina.
MS. HEINZE: No.
CHAIRMAN DELGADO: Jeff.
VICE CHAIR MOYER: No.
CHAIRMAN DELGADO: Gerry.
MEMBER DAVIS: No.
CHAIRMAN DELGADO: Tina.
MEMBER ELLOR: No.
CHAIRMAN DELGADO: Tracy - oh, the chair votes no.
VICE CHAIR MOYER: Mr. Chairman, the vote is 14 nos, one absent.

CHAIRMAN DELGADO: The motion to include Polygala Root powdered extract on the national list Section 205.606 is lost.

We can proceed with the next material.

MEMBER WEISMAN: Not to be confused with Polygala Root powdered extract, we are now considered Polygonum Root powdered extract. And again, we felt that the petition did not acknowledge the existence of information available readily of the existence - that this material was being at least cultivated organically.

And we had the vote - the vote for this were four no, one yes and one absent.

At this time I would like to make a motion for the inclusion of Polygonum Root powdered extract on Section 205.606 of the national list.

CHAIRMAN DELGADO: Do we have a
MEMBER DeMURI: Second.

CHAIRMAN DELGADO: It's moved and seconded to included Polygonum Root powdered extract on the national list Section 205.606. Questions? Joe.

MEMBER SMILLIE: I'd like to hear from the member who voted yes.

CHAIRMAN DELGADO: Julie.

MEMBER WEISMAN: There was one. Okay, you know, actually, correct me if I'm wrong, it's coming back to me, there was no information available suggesting that it was being cultivated organically. And this was one of the - I think this was one of the early petitions that we looked at, so I voted yes because of that.

But subsequently, in the consideration of many other petitions that came after it, and it was basically I was having at that time the same question that Jeff had earlier, but the issue then became
for me was that the petitioner didn't - just used a boilerplate for 16 materials and didn't even - did not - before even - the petitioner had not been demonstrating an attempt, and so therefore, that was why I voted that way.

But I wouldn't vote that way now if I were reconsidering.

CHAIRMAN DELGADO: Any other questions?

Are we ready for the question? The question is on the motion to include Polygonum Root powdered extract on the national list, Section 205.606, and we'll start our vote with Joe.

MEMBER SMILLIE: No.

CHAIRMAN DELGADO: Barry.

MEMBER FLANN: No.

CHAIRMAN DELGADO: Hugh.

MEMBER KARREMAN: No.

CHAIRMAN DELGADO: Kevin.

MEMBER ENGELBERT: No.

CHAIRMAN DELGADO: Jennifer.
MEMBER HALL: No.

CHAIRMAN DELGADO: Steve.

MEMBER DeMURI: No.

CHAIRMAN DELGADO: Julie.

MEMBER WEISMAN: No.

CHAIRMAN DELGADO: Dan.

MEMBER GIACOMINI: No.

CHAIRMAN DELGADO: Katrina.

MS. HEINZE: No.

CHAIRMAN DELGADO: Jeff.

VICE CHAIR MOYER: No.

CHAIRMAN DELGADO: Gerry.

MEMBER DAVIS: No.

CHAIRMAN DELGADO: Tina.

MEMBER ELLOR: No.

CHAIRMAN DELGADO: Tracy.

MEMBER MIEDEMA: No.

CHAIRMAN DELGADO: And the chair

votes no.

VICE CHAIR MOYER: Mr. Chairman, the
vote is four nos, one absent - 14 nos, one
absent, I apologize.
CHAIRMAN DELGADO: The motion to include Polygonum Root powdered extract on the national list Section 205.606 is lost, and it is quarter to 3:00.

I think we are ready for a break at this point, and it will be for 10 minutes. And I ask the board to be prompt. We will be back here at 3:00 o'clock, and I'll ask the board to be prompt.

(Whereupon, the above-entitled matter went off the record at 2:48 p.m. and resumed at 3:09 p.m.)

CHAIRMAN DELGADO: We're back in session, and back to you, Ms. Weisman.

MEMBER WEISMAN: Okay, the next material to be considered is Poria Fungus powdered extract.

This is another petition in which the petitioner made a blanket statement that they always look for organic sources of materials that they need without specifying any of them in particular, and so we did not
find this petition compelling, did not feel that they had adequately addressed the question of whether this material is in fact available as organic.

The committee voted four no, one was absent, and one abstained.

And I'm wondering if Katrina also has a record of who the abstention was, and I'm hoping it wasn't me.

(Laughter.)

CHAIRMAN DELGADO: Katrina, can you respond to that?

MS. HEINZE: We would have to look at the handling committee minutes. Would you like me to do that?

MEMBER WEISMAN: I think we can proceed if everyone is comfortable.

CHAIRMAN DELGADO: Let's proceed.

MEMBER WEISMAN: All right. So therefore I would like to move at this time for the listing of Poria Fungus powdered extract on Section 205.606 of the national
MEMBER DeMURI: Second.

CHAIRMAN DELGADO: It is moved and seconded to include Poria Fungus powdered extract on the national list, Section 205.606.

Debate? Questions from the board?

Ready for the question. The question is on the motion to include Poria Fungus powdered extract on the national list Section 205.606, and we'll start taking our vote with Barry.

MEMBER FLANN: No.

CHAIRMAN DELGADO: Hugh.

MEMBER KARREMAN: No.

CHAIRMAN DELGADO: Kevin.

MEMBER ENGELBERT: No.

CHAIRMAN DELGADO: Jennifer.

MEMBER HALL: No.

CHAIRMAN DELGADO: Steve.

MEMBER DeMURI: No.

CHAIRMAN DELGADO: Julie.

MEMBER WEISMAN: No.
CHAIRMAN DELGADO: Dan.

MEMBER GIACOMINI: No.

CHAIRMAN DELGADO: Katrina.

MS. HEINZE: No.

CHAIRMAN DELGADO: Jeff.

VICE CHAIR MOYER: No.

CHAIRMAN DELGADO: Gerry.

MEMBER DAVIS: No.

CHAIRMAN DELGADO: Tina.

MEMBER ELLOR: No.

CHAIRMAN DELGADO: Tracy.

MEMBER MIEDEMA: No.

CHAIRMAN DELGADO: Joe.

MEMBER SMILLIE: No.

CHAIRMAN DELGADO: And the chair votes no.

VICE CHAIR MOYER: Mr. Chairman, the vote is 14 no, one absent.

CHAIRMAN DELGADO: The motion to include Poria Fungus powdered extract on the national list, Section 205.606 is lost.

And we can proceed to the next
MEMBER WEISMAN: The next material for consideration is Rehmannia Root powdered extract. You will not be surprised to know that it was petitioned by the same petitioner who petitioned many of the other root powdered extracts, and like its companions, this petition did not acknowledge the existence of organic Rehmannia root that was not difficult for members of the handling committee to locate, and for this reason it failed five no and one absent.

CHAIRMAN DELGADO: Do we have a motion?

MEMBER WEISMAN: I move that Rehmannia Root powdered extract be included on Section 205.606 of the national list.

MEMBER KARREMAN: Second.

CHAIRMAN DELGADO: Who was the second?

MEMBER DeMURI: Hugh.

CHAIRMAN DELGADO: Hugh was the
second.

It is moved and seconded to include Rehmannia Root powdered extract on the national list, Section 205.606.

Debate. Questions from the board?

Are you ready for the question, board members? The question is on the motion to include Rehmannia Root powdered extract on the national list Section 205.606.

And we'll start taking our vote with Hugh.

MEMBER KARREMAN: No.

CHAIRMAN DELGADO: Kevin.

MEMBER ENGELBERT: No.

CHAIRMAN DELGADO: Jennifer.

MEMBER HALL: No.

CHAIRMAN DELGADO: Steve.

MEMBER DeMURI: No.

CHAIRMAN DELGADO: Julie.

MEMBER WEISMAN: No.

CHAIRMAN DELGADO: Dan.

MEMBER GIACOMINI: No.
CHAIRMAN DELGADO: Katrina.

MS. HEINZE: No.

CHAIRMAN DELGADO: Jeff.

VICE CHAIR MOYER: No.

CHAIRMAN DELGADO: Gerry.

MEMBER DAVIS: No.

CHAIRMAN DELGADO: Tina.

MEMBER ELLOR: No.

CHAIRMAN DELGADO: Tracy.

MEMBER MIEDEMA: No.

CHAIRMAN DELGADO: Joe.

MEMBER SMILLIE: No.

CHAIRMAN DELGADO: Barry.

MEMBER FLANN: No.

CHAIRMAN DELGADO: And the chair votes no.

VICE CHAIR MOYER: Mr. Chairman the vote is 14 no, one absent.

CHAIRMAN DELGADO: The motion to include Rehmannia Root powdered extract on the national list, Section 205.606 is lost.

We can proceed with the next
MEMBER WEISMAN: The next material that we are considering is seaweed, specifically Kombu, which is also known by the names Lamanaria Japonica, Lamanaria Japonica var ochotensis, Lamanaria angustata, laminaria angustata longissima. I hope I got those right.

CHAIRMAN DELGADO: Joe?

MEMBER SMILLIE: There is a possible clarification. And that was because of a public comment we received that agreed with the petitioner, had no problem with them, but just wanted to differentiate, even though those variety names are correct, there is a general category called Pacific Kombu, which they all meet, which is in the trade differentiated from Atlantic Kombu. So they would like - I don't think they requested per se, but I think in honoring that input if we can put seaweed, Pacific Kombu, in there, it's certainly a friendly -
CHAIRMAN DELGADO: It's a comment at this point. And it's taken by the chair. Okay, any comment response on your part, Julie?

MEMBER WEISMAN: Just procedural. Should I continue with the presentation and then at the end of that time I will make a motion?

CHAIRMAN DELGADO: And then you can make the motion with the suggestion, or as you have it, and then it can be moved to amend; it's up to you.

MEMBER WEISMAN: Okay.

CHAIRMAN DELGADO: So complete your presentation, make the motion, and we'll proceed from there.

MEMBER WEISMAN: All right, this material is wild-harvested, hot-water extracted, condensed, heat sterilized and filtered. We found it to meet the criteria in terms of impact on humans in the environment, compatibility, consistency.
It is also a material that is an essential ingredient in traditional Japanese cuisine for centuries, and it - although there are other organic certified sea vegetables, Kombu has characteristics that those other seaweeds and sea vegetables do not.

We - wild crop certification is pretty complicated, and so this was pretty clearly documented as not available currently. There was - the handling committee did contact other distributors of Kombu in the U.S. who confirmed the information the petitioner gives regarding the availability.

And so we voted at the committee level five yes, zero nos, and one absent for the listing of this material on 606.

What I'm going to do right now actually is motion the material the way the recommendation was originally made and then entertain any amendments so that we can have discussion, because that discussion didn't happen in committee because the public comment
came afterwards.

So at this time I would like to move that seaweed Kombu be included on Section 205.606 of the national list.

MEMBER SMILLIE: Second.

CHAIRMAN DELGADO: It is moved and seconded, and the second came from Joe.

It is moved and seconded to include seaweed Kombu on the list, Section 205.606.

Comments, Jeff followed by Hugh.

VICE CHAIR MOYER: Yes, the question that I have pertains to the actual forms in which we're listing this. And my concern is that, if I came up with an organic version of Kombu that was a different variety name they would not have to use it because they would say, even if it satisfied all the culinary requirements that are solicited by the purchasing agent, they could conceivably say, oh we don't have to use that. We can circumvent because it's not the exact variety name.
So in general when we listed these things like carrot extract, we didn't list specific carrot varieties. Here we are going to some really specific details, and I have some concerns over that.

CHAIRMAN DELGADO: The motion as it stands just to clarify is seaweed Kombu. The varieties are listed in the background papers.

VICE CHAIR MOYER: They are listed right on here.

CHAIRMAN DELGADO: But the intent of the chair was to list the varieties here, or just seaweed Kombu.

MEMBER WEISMAN: I actually would like to ask a question of my handling committee colleague, Joe Smillie.

What would be the down side of not having these specific varieties listed?

MEMBER SMILLIE: Well, as I understand it, this is very specific because this is what the petitioner considers to be the precise type of Kombu. Because Kombu,
like seaweed if you really want to get specific, that's a terrible word because it doesn't really reflect any kind of reality within that trade. There is seaweed even of itself isn't a really good term. It's a sea vegetable or something like that.

But anyhow if we listed just seaweed Pacific Kombu I think it would accomplish the task. This would be a real clarification, because what you said, Jeff, was suppose someone came up with a Kombu that wasn't one of these species, the odds are that then it wouldn't fit the culinary need; it would be Atlantic so-called Kombu.

CHAIRMAN DELGADO: Hugh.

MEMBER KARREMAN: Actually, Jeff touches on what I want to point out, and it's a technicality. But if you are going to have a genus and species, genus is capitalized, species is not; and then you're going to go to a variety, what you can do is just have the genius and put, s-p-p for the species that
might fall under the laminaria. And then you are not going to only limit it to the variety ochotensis and longissima.

It's a technical thing, but you are getting at that, I think. So if they are all in the laminaria genus, just put laminara s-p-p dot, and that will cover other species like the Japonica and the angustata and maybe some other new one that is going to come in there, okay?

And actually you should do that on all the botanicals that you ever talk about, not just - you can't just call it carrot, you should actually have its Latin name.

CHAIRMAN DELGADO: Dan.

MEMBER GIACOMINI: I have a question for Joe. Do you know whether the use of the word, Pacific, here is an ocean term or is it essentially a culinary term where it is part of the characteristics that they are doing?

MEMBER SMILLIE: I did talk with a number of manufacturers on this one, and
distributors. It's a generally recognized term. Kombu itself is a generally recognized term in the culinary trade.

Whereas if we said, as Hugh pointed out, laminaria, that's a bigger, that's bigger than Kombu. That includes what is commonly called Atlantic Kombu which the culinary people don't regard as real Kombu. It's a similar species but it doesn't have the same characteristics as what is called in Japanese culinary tradition Kombu.

MEMBER GIACOMINI: So wouldn't the use of the Pacific Kombu protect the industry -

MEMBER SMILLIE: Yes.

MEMBER GIACOMINI: - even a little more so than listing species of genus, I would think.

MEMBER SMILLIE: I would agree.

MEMBER GIACOMINI: And the argument that Jeff is looking at of whether they are coming up with something that is acceptable or
not without having the specific genus, we are
talking about a culinary category more than an
ocean.

MEMBER SMILLIE: And I think that
was the public comment we got, which is in
your binder - maybe we should refer to it;
I'll have to find it first. But that was the
public comment, that they wanted to be really
sure that uses of - if other lamanaria would
suffice, that people would have to purchase
that lamanaria, which was certified but didn't
meet their definition of Kombu.

And if you want, I'd have to find
that public comment if you want to go to that,
but that's what my friendly motion will be is
to drop the species names and simply insert
Pacific Kombu, which is more of a trade term.

CHAIRMAN DELGADO: We are looking
for that reference.

MEMBER SMILLIE: I have it. You
want me to read the whole thing? It won't
take long.
Okay, it's ready docket number blah blah blah, seafood Kombu. Please accept this comment regarding the addition of seaweeds Kombu to Section 606. It should clearly restrict it only to the species specifically designated as listed in the public notice. Thorvin Inc., doing business as Thorvin Kelp is the largest US-based distributor of certified organic kelp products with certified organic aquatic plant products available in commercial quantities in excess of 1,000 blah blah.

I am writing to inform you that abundant supplies of certified organic Lamanaria digitata are commercially available. Lamanaria digitata is commonly known as Atlantic Kombu, and can be substituted for Kombu that originates in the Pacific Ocean for a number of functions, current inventories, blah blah blah.

I want to affirm that the petitioner who requested the addition of Kombu
to the national list accurately recognized the availability of lamanaria digitata.

Therefore we respectfully request that the listing clearly limit the category to Pacific Kombu, which is the species listed as the petitioner requested.

CHAIRMAN DELGADO: Any questions? Kevin, followed by Dan.

MEMBER ENGELBERT: We have two questions. We have certified Thorvin Kelp. How is that possible without aquaculture aquatic standards. And if that is certified organic why can't the Kombu be certified.

MEMBER SMILLIE: The answer is, it's certified under the wild harvest regulation, and that particular kelpery or whatever was able to be certified. The ones in the Pacific were not.

CHAIRMAN DELGADO: Dan.

MEMBER GIACOMINI: So it sounds like, if I heard what you were reading correctly, he wants both varieties - he wants
it listed as seaweed Pacific Kombu with the varieties -

MEMBER SMILLIE: That is correct.

CHAIRMAN DELGADO: Jeff.

VICE CHAIR MOYER: I guess I'm just curious, because if we list - I understand what he's saying now I think - and if we list them this way with these varieties, then in order to get these off the list you would have to come up with the exact varieties in organic form, as opposed to saying if, you know, I'm just wondering if they are trying to avoid using Atlantic Kombu that is certified organic. Because there is a - clearly, they state it themselves, that there is plenty of certified organic Kombu out there.

MEMBER SMILLIE: Right, but it doesn't fulfill the functions that Pacific Kombu fulfills. It fulfills other functions.

VICE CHAIR MOYER: I don't understand what those are.

MEMBER SMILLIE: Well, I don't know
either, quite frankly, feed or other - I don't know. But to use it - and I don't want to get specific - but it's a specific use within the Japanese culinary tradition. It's actually packaged in a well known brand of organic beans that uses Kombu, and this company is diligently finding organic ingredients every place they can.

So I figured, hey, if they can't find it, it ain't there. So we talked to them and they said, no, we'd love to be able to get it, and we've been pushing and pushing, but it simply can't be done at this time.

So what this - what my take on the petition is, what they're saying is, hey, don't just throw up Kombu there and then have someone come along and say, oops, I can't use your Kombu that's certified. I'll use conventional because it's on list 606.

They're saying, hey, protect our business, which doesn't want to be damaged by your incorrect listing, is my interpretation.
of that letter.

CHAIRMAN DELGADO: Julie.

MEMBER WEISMAN: I mean I think that between the petitioner's attempt to make it clear he doesn't want this listing to interfere with the Atlantic guy's business, and also the petitioner and the commenter who is involved in Atlantic Kombu is making very clear that I have organic certified Kombu of a different variety that is available and can be used for certain functions but not all of these functions.

So I think they are actually both kind of backing each other up and making sure that there will be markets for their products.

CHAIRMAN DELGADO: Jeff.

VICE CHAIR MOYER: Well, then in that regard I sort of have things backwards. It is actually more important that we be as specific as possible.

MEMBER SMILLIE: Pacific-specific.

VICE CHAIR MOYER: I apologize for
dragging everybody through that, but it helped me.

CHAIRMAN DELGADO: Any other questions in that respect?

So the motion stands as seaweed Kombu. Do we have another question, comment on that respect?

Hugh?

MEMBER KARREMAN: Okay, so you're going to have the Lamanaria Japonica ochotensis, right? And you don't need the Lamanaria Japonica just before that.

CHAIRMAN DELGADO: Just to clarify, we do have Lamanaria Japonica as well as lamanaria angustata, and each of those are specific varieties.

MEMBER KARREMAN: If all you want are those two varieties shown, that's the only two you really need to list. You don't – because there are going to be other varieties of lamanaria Japonica there before the comma, potentially.
CHAIRMAN DELGADO: I'd like to list it as the petitioner presented it.

MEMBER KARREMAN: Which is what? What I'm looking at?

CHAIRMAN DELGADO: Both, both lamanaria Japonica and lamanaria Japonica ta da da da da.

MEMBER KARREMAN: Okay.

VICE CHAIR MOYER: Was that the Latin form?

MEMBER SMILLIE: That was ig-pay atin-lay.

(Laughter.)

CHAIRMAN DELGADO: Okay, going back, as I said - Dan, go ahead.

MEMBER GIACOMINI: I'll step out on a limb here, not being a handling person. I would move to amend the motion to add the word, Pacific, between seaweed and Kombu, and following Kombu, add the - I'm not even going to try saying it - the species listed as they are on the recommendation.
CHAIRMAN DELGADO: Julie, do you agree with that?

MEMBER WEISMAN: I accept the amendment.

CHAIRMAN DELGADO: So it is a friendly amendment.

Do you want to say something before I state the amendment?

It is moved to amend the motion to include the word, Pacific, after seaweed - no, because Julie was the original proponent of the motion. She has accepted the amendment, and we don't need a second. It's a friendly amendment.

(Off-mike comment.)

CHAIRMAN DELGADO: I'm sorry, you're right, you're absolutely right.

MEMBER KARREMAN: Thank you, I accept.

CHAIRMAN DELGADO: Thank you for that friendly parliamentary check. And I'll continue stating the motion to amend.
It is moved and seconded to amend by including the word, Pacific, after seaweed, and the motion will remain as seaweed Pacific Kombu followed by lamanaria Japonica, lamanaria Japonica variety ochotensis, lamanaria angustata and lamanaria angustata variety longissima.

Debate? Hugh?

MEMBER KARREMAN: Well, not a debate.

CHAIRMAN DELGADO: Questions.

MEMBER KARREMAN: You got the word, seaweed, in there. To me that's like the whole kitchen sink. So why don't you just have the Pacific Kombu and the rest of it - just take that seaweed out of there.

CHAIRMAN DELGADO: At the moment we do have a motion to accept the inclusion of the word Pacific in the original motion. So let's take care of that unless you can make an amendment to amend the amendment to drop the word, seaweed.
Clarification, we have one from the point of the director followed by our parliamentarian.

MS. FRANCIS: I would just prefer that you refer to how it's listed in the roll where we have a category of seaweed. I think we should be consistent. We have a category of seaweed.

MEMBER GIACOMINI: Seaweed as it's listed now is not separated off. V is wakame seaweed, it's not seaweed wakame.

MS. FRANCIS: Really? Okay.

CHAIRMAN DELGADO: We will have to regain control. Going back to Dan, the original, you had a comment.

MEMBER GIACOMINI: The amendment was accepted in a friendly form. It is then accepted. It is now the motion on the table.

CHAIRMAN DELGADO: It is the motion on the table?

MEMBER GIACOMINI: It is not to amend the motion; it is the motion as amended.
CHAIRMAN DELGADO: As amended. I stand corrected. So we do have a proposal from Hugh. Was that a motion on your part? Can you state it as a motion, please?

MEMBER KARREMAN: I will make the motion to take the word, seaweed out of there for - forget the motion. Just don't worry about it.

CHAIRMAN DELGADO: Okay, any other comments? Dan?

MEMBER GIACOMINI: I believe when we did the wakame, we did it as seaweed wakame, and it came - did we not? We did it as wakame seaweed?

CHAIRMAN DELGADO: Bob, can you state that for the record?

MR. POOLER: Bob Pooler, NOP. It's wakame seaweed that's listed in the regulations.

MEMBER GIACOMINI: We are trying to see what our recommendation was.

MR. POOLER: I think it was wakame
seaweed. I'd have to check on that.

CHAIRMAN DELGADO: So Dan, back to you, the concern is that the position of the seaweed -

MEMBER GIACOMINI: My thinking was that they had slightly modified in an insignificant form, and they could certainly do that again. If they are held not to, then we would want to make sure we are consistent.

CHAIRMAN DELGADO: Okay. Our director is showing signs of frustration. Do you want to make a statement?

Hugh?

MEMBER KARREMAN: On 606 you have it listed under 2(v) wakame seaweed, and in parentheses, Hondaria. So I would say that on this here it should say Pacific Kombu seaweed, and then in parentheses the Latin botanical names, because you have precedence here.

CHAIRMAN DELGADO: Joe, and the question from the chair to the members, would we be changing significantly the intent of the
petition?

MEMBER SMILLIE: I think it's a friendly amendment.

CHAIRMAN DELGADO: It's a friendly amendment. Julie?

MEMBER WEISMAN: I'm still looking for the wakame recommendation. I'm sorry. No, no, not for listing; how we recommended it.

But in the meantime, could you please repeat the friendly amendment.

CHAIRMAN DELGADO: The friendly amendment is as follows, to change the position of the word, seaweed, to follow after Kombu, so it would read Pacific Kombu seaweed.

MEMBER WEISMAN: Can I ask a question before I decide whether to accept or not?

CHAIRMAN DELGADO: Yes, absolutely.

MEMBER WEISMAN: Hugh, do you think it would be very different to call it Kombu seaweed Pacific?
CHAIRMAN DELGADO: Hugh?

MEMBER KARREMAN: Mr. Chairman, I could live with that, if you have the Latin names after it; that's what really counts.

CHAIRMAN DELGADO: Dan, and followed by Mr. Matthews.

MEMBER GIACOMINI: Unfortunately, what I have is the recommendation out of committee, not the completed recommendation from the board. But from the committee it was wakame enduria species.

CHAIRMAN DELGADO: No mention of seaweed?

MEMBER GIACOMINI: No mention of seaweed.

CHAIRMAN DELGADO: Mr. Matthews, can you bring some clarity to the matter?

MR. MATTHEWS: Well, I don't know.

I don't know that I'm going to bring a whole lot of clarity. But the importance is the genus, the species, and if you go down to variety; that's what's
important.

The reason for the scientific names is because the common names vary so greatly from one region to another. So the important thing is, do you have the right genus, species, and if necessary, variety.

The common name is not that important.

CHAIRMAN DELGADO: Very well; thank you for that.

Back to Julie, you had a comment?

MEMBER WEISMAN: No, in that case I would accept the friendly amendment.

CHAIRMAN DELGADO: A friendly amendment is accepted by the original proponent of the motion, and also, I understand from the second of that motion, Joe, is that correct?

MEMBER SMILLIE: Yes.

CHAIRMAN DELGADO: Okay, so the motion now stands as Pacific Kombu seaweed followed by the specific genus, species and
varieties of the material.

Any other questions? You ready for the question?

The question is on the motion to list Pacific Kombu seaweed, lamanaria Japonica, lamanaria Japonica variety ochotensis, lamanaria angustata, lamanaria angustata variety longissima.

(Laughter.)

That's my pigeon Latin.

We'll start our vote with Kevin.

MEMBER ENGELBERT: Yes.

CHAIRMAN DELGADO: Jennifer.

MEMBER HALL: Yes.

CHAIRMAN DELGADO: Steve.

MEMBER DeMURI: Yes.

CHAIRMAN DELGADO: Julie.

MEMBER WEISMAN: Yes.

CHAIRMAN DELGADO: Dan.

MEMBER GIACOMINI: Yes.

CHAIRMAN DELGADO: Katrina.

MS. HEINZE: Yes.
CHAIRMAN DELGADO: Jeff.
VICE CHAIR MOYER: Yes.
CHAIRMAN DELGADO: Gerry.
MEMBER DAVIS: Yes.
CHAIRMAN DELGADO: Tina.
MEMBER ELLOR: Yes.
CHAIRMAN DELGADO: Tracy.
MEMBER MIEDEMA: Yes.
CHAIRMAN DELGADO: Joe.
MEMBER SMILLIE: Yes.
CHAIRMAN DELGADO: Barry.
MEMBER FLANN: Yes.
CHAIRMAN DELGADO: Hugh.
MEMBER KARREMAN: Yes.
CHAIRMAN DELGADO: And the chair votes yes.

VICE CHAIR MOYER: Mr. Chairman, the vote is 14 yes, one absent.

CHAIRMAN DELGADO: The motion is agreed to.

We can move on to the next material.
MEMBER WEISMAN: The next material is tangerine peel powdered extract. It was not difficult to know, despite the fact it wasn't mentioned in the petition at all, that there is plenty of organic tangerine being grown.

And because this was not mentioned in the petition, this failed unanimously at the committee level for inclusion on the national list.

So with that I move for the inclusion of tangerine peel powdered extract on section 205.606 of the national list.

CHAIRMAN DELGADO: Is there a second?

MEMBER DeMURI: Second.

CHAIRMAN DELGADO: It is moved and seconded to include tangerine peel powdered extract on the national list, Section 205.606. Discussion?

MEMBER KARREMAN: If I could just make a comment.
CHAIRMAN DELGADO: Hugh.

MEMBER KARREMAN: From what you were saying, Julie, it has nothing to do with the way the vote is going to go, but if the petitioner didn't even bother to realize that there are a lot of organic tangerines out there, isn't there a lot of time and energy that everyone has put into this to get to this point. It could have been evaluated a lot earlier and just kind of kicked back or something.

Maybe that is out of order. But there are a lot of organic oranges, tangerines, apples.

CHAIRMAN DELGADO: Julie.

MEMBER WEISMAN: Believe me, I am sitting here myself repeating the same thing over and over again, and it is a lot of time.

But I also think that the 606 process is fairly new, and entertaining petitions for it are new, and I don't think that petitioners necessarily realize what kind
of detail we are looking for.

So I think unfortunately it's an exercise that we have - it's the growing pains that we have to go through with a new category of materials that we are having to consider.

CHAIRMAN DELGADO: We have Joe followed by - yes, Steve.

MEMBER DeMURI: And I agree with that. But just because there are a lot of tangerines out there organically produced doesn't mean that they can be processed into the form that petitioner wants them. So we have to look at that aspect of it too.

If they had just petitioned for organic tangerines, then it probably wouldn't be a problem. Different story.

CHAIRMAN DELGADO: Julie.

MEMBER WEISMAN: And if they had acknowledged in their petitions the existence of organic tangerines, but the lack of anyone out there willing then to process them into the form that they need to use it, that would
have satisfied us. It would have satisfied us more. We might have still wanted more information. But that would have been much more satisfactory.

CHAIRMAN DELGADO: Kevin.

MEMBER ENGELBERT: Just a general comment.

All these petitioners from the - all these petitions from the same petitioner that have none of the homework done properly, even though 606 is new, I think what you may be getting at, could it have just been sent back and said, we are not going to address these; it's a lot of time to do this. And you need to do your homework before we do ours.

I think that is the general -

CHAIRMAN DELGADO: Julie.

MEMBER WEISMAN: Well, actually, this - the fact that we got all these separate petitions was exactly the result of sending - originally these were petitioned all on one petition as a category, with all of these
items listed on it.

And when we said, no, they have to be petitioned individually, as individual items, what they did was, they made 16 copies, and then they cut-and-pasted, and submitted it back to us that way.

So we had already sent them back, and this is what came back to us.

CHAIRMAN DELGADO: Dan.

MEMBER GIACOMINI: I think I'd like to recognize the humanity in this whole process. We are getting better and more sophisticated and more familiar with this process.

I think it's the same thing with the program. I know in my communication with Bob, there is a different level of evaluation of what he's considering, completeness in this round, than there was in the first group we had where we just had - fifty or whatever. I'm sure he's learning from this of what - what is going to be needed on the 606, because
it's a learning process for them too, and I don't necessarily know that a package like this would necessarily get passed on to us in the same way a year from now. They're learning from it too.

CHAIRMAN DELGADO: Katrina.

MS. HEINZE: Coupled with that is - we struggled with these. Do we send them back? Do we not send them back? What do we do?

The process of sending back creates quite a bit of work as well, and going back and forth. And we really struggled with the precedent that we would be sending. How do you decide which petitions you hand-hold the petitioner through and which you don't.

And we struggled, and I'm not sure we found the right answer on that. If we choose to send them back because it's not complete - we're still learning.

CHAIRMAN DELGADO: I would like to remind the board that we are concentrating on
a motion, and although it's a valid discussion on this point, we can always take that up after the voting.

Does the program wish to comment on the motion pending?

MS. ROBINSON: Just to say that, you know, in the past you generally concentrated obviously on synthetics, so you have good procedures for what has to be in a petition on synthetics, and now you are coming up against 606, you are coming up - you are evaluating agricultural materials.

And we can issue guidance - maybe what we need here is a better set of what kind of criteria, what kind of information needs to be put in the petition for the petitioners for submitting 606, because these are different - just the nature of them is different.

So but you know obviously that's something that we need to work on collaboratively. The board doesn't need to just go off and say, okay, here's what we
want. Because clearly you are dissatisfied with the information you've gotten. We would have been dissatisfied with that.

But you would have been dissatisfied if we had just said, out and out, petitions are no good, we're rejecting them.

So that's something that the board probably does need to begin thinking about and working on, otherwise everyone is wasting time as you said.

CHAIRMAN DELGADO: I can hear an action item from that point, and I like that for the work plan, though the chair agrees with me.

Kevin, do you have a question related to the motion, pending question?

Okay, pending question. Any other questions? Are you ready for the question?

The question is on the motion to include tangerine peel powdered extract on the national list Section 205.606, and we'll start taking our vote with Jennifer.
MEMBER HALL: No.
CHAIRMAN DELGADO: Steve.
MEMBER DeMURI: No.
CHAIRMAN DELGADO: Julie.
MEMBER WEISMAN: No.
CHAIRMAN DELGADO: Dan.
MEMBER GIACOMINI: No.
CHAIRMAN DELGADO: Katrina.
MS. HEINZE: No.
CHAIRMAN DELGADO: Jeff.
VICE CHAIR MOYER: No.
CHAIRMAN DELGADO: Gerry.
MEMBER DAVIS: No.
CHAIRMAN DELGADO: Tina.
MEMBER ELLOR: No.
CHAIRMAN DELGADO: Tracy.
MEMBER MIEDEMA: No.
CHAIRMAN DELGADO: Joe.
MEMBER SMILLIE: No.
CHAIRMAN DELGADO: Barry.
MEMBER FLANN: No.
CHAIRMAN DELGADO: Hugh.
MEMBER KARREMAN: No.

CHAIRMAN DELGADO: Kevin.

MEMBER ENGELBERT: No.

CHAIRMAN DELGADO: And the chair votes no.

VICE CHAIR MOYER: Mr. Chairman, the vote is 14 no, one absent.

CHAIRMAN DELGADO: The motion to include tangerine peel powdered extract on the national list Section 205.606 is lost.

We can move on to the next material.

MEMBER WEISMAN: The next material being petitioned is Tragacanth gum. And it doesn't say it on the substance listing, but it does say in the annotation section it would be water-extracted only.

This would be in addition to an already existing section on 205.606, and that is the annotation for the entire section.

There is a little history here, and actually when the petition first came before
the handling committee, we were asked if perhaps it already is included in the section, and there are documents showing that when gums were originally – water-extracted gums were originally being discussed for 606 that Tragacanth gum was among the gums that were being discussed at the time, and perhaps it was an oversight that it didn't make it onto the final list.

We decided that for good order's sake it was important to have it be a petition, and not to have it added as a technical correction.

But in fact, Tragacanth gum is produced in an identical manner to other gums that are already listed.

In addition there is a significant problem in terms of region and trade that make it not available right now organically.

The main growing area for this material is Iran, and we are not allowed to import products from Iran right now.
Conventional forms of this material - well, conventional forms of this material were described are grown and manufactured in Turkey, and the Turkish organic sector is growing, and the petitioner is working very closely with their suppliers in Turkey to develop certified organic forms of the material.

The Tragacanth gum does have functions that are unique to the other gums on the list, and for that reason we found the evidence compelling.

And it was voted by the handling committee unanimously, six nothing, for inclusion on the list.

So at this time I would like to make a motion that Tragacanth gum, water-extracted, be added - included on Section 205.606(b) of the national list, which are water-extracted only gums.

MEMBER SMILLIE: Second.

CHAIRMAN DELGADO: It's moved and
seconded to include Tragacanth water-extracted on the national list, Section 205.606.

Questions from the board? Are we ready for the question?

The question is on the motion to include Tragacanth water-extracted on the national list, Section 205.606, and we'll start taking our vote with Steve.

MEMBER DeMURI: Yes.

CHAIRMAN DELGADO: Julie.

MEMBER WEISMAN: Yes.

CHAIRMAN DELGADO: Dan.

MEMBER GIACOMINI: Yes.

CHAIRMAN DELGADO: Katrina.

MS. HEINZE: Yes.

CHAIRMAN DELGADO: Jeff.

VICE CHAIR MOYER: Yes.

CHAIRMAN DELGADO: Gerry.

MEMBER DAVIS: Yes.

CHAIRMAN DELGADO: Tina.

MEMBER ELLOR: Yes.

CHAIRMAN DELGADO: Tracy.
MEMBER MIEDEMA: Yes.

CHAIRMAN DELGADO: Joe.

MEMBER SMILLIE: Yes.

CHAIRMAN DELGADO: Barry.

MEMBER FLANN: Yes.

CHAIRMAN DELGADO: Hugh.

MEMBER KARREMAN: Yes.

CHAIRMAN DELGADO: Kevin.

MEMBER ENGELBERT: Yes.

CHAIRMAN DELGADO: Jennifer.

MEMBER HALL: Yes.

CHAIRMAN DELGADO: And the chair votes yes.

VICE CHAIR MOYER: Mr. Chairman, the vote is 14 yes, one absent.

CHAIRMAN DELGADO: The motion is agreed to, and we can move on to the next material.

MEMBER WEISMAN: This actually is the last of the petitioned materials for us to deal with.

With have other - we have sunset
materials. But this is the last of the petitioned materials.

CHAIRMAN DELGADO: Let's proceed with the sunset materials then.

MEMBER WEISMAN: The - I have two - we made two separate recommendations to reaffirm the sunset votes that were made at the November, 2007 -- we discussed this earlier in the day with regard to crops. I don't feel necessarily like I have to repeat that background information.

But the summary is that in the comment period that closed after the November vote, there were no comments that were in disagreement with the vote that we had already made, and so therefore, the handling committee recommends reaffirming the board's vote in November to continue listing on Section 205.605(a) agar-agar, animal enzymes, calcium sulfate, Carrageenan, and Glucono Delta Lactone.

MEMBER HALL: Second.
CHAIRMAN DELGADO: It is moved and seconded to reaffirm the votes obtained on the meeting of 2007 of this board.

And they were to continue the listing of the materials agar-agar, animal enzymes, calcium sulfate, Carrageenan, Glucono Delta Lactone in Section 205.605(a).

Discussion. No questions?

The second was Jennifer.

Are you ready for the question? The question is on the motion to reaffirm the votes. Confirming the listing of agar-agar, animal enzymes, Calcium sulfate, Carrageenan, Glucono Delta Lactone.

And we will start the vote with Julie.

MEMBER WEISMAN: And I vote yes.

CHAIRMAN DELGADO: Dan.

MEMBER GIACOMINI: Yes.

CHAIRMAN DELGADO: Katrina.

MS. HEINZE: Yes.

CHAIRMAN DELGADO: Jeff.
VICE CHAIR MOYER: Yes.
CHAIRMAN DELGADO: Gerry.
MEMBER DAVIS: Yes.
CHAIRMAN DELGADO: Tina.
MEMBER ELLOR: Yes.
CHAIRMAN DELGADO: Tracy.
MEMBER MIEDEMA: Yes.
CHAIRMAN DELGADO: Joe.
MEMBER SMILLIE: Yes.
CHAIRMAN DELGADO: Barry.
MEMBER FLANN: Abstain.
CHAIRMAN DELGADO: Hugh.
MEMBER KARREMAN: Yes.
CHAIRMAN DELGADO: Kevin.
MEMBER ENGELBERT: Yes.
CHAIRMAN DELGADO: Jennifer.
MEMBER HALL: Yes.
CHAIRMAN DELGADO: Steve.
MEMBER DeMURI: Yes.
CHAIRMAN DELGADO: And the chair votes yes.

VICE CHAIR MOYER: Mr. Chairman, we
have 13 yeses, one abstention, and one absent.

CHAIRMAN DELGADO: The motion is agreed to, and we can proceed with the next list of materials.

MEMBER WEISMAN: We also - I'm just going to move right into the motion.

I move that - I move for the affirmation of the board's decision at the November, 2007 meeting for the relisting on Section 205.605(b) of cellulose.

CHAIRMAN DELGADO: Cellulose? Is there a second.

MEMBER DeMURI: Second.

CHAIRMAN DELGADO: It's moved and seconded to reaffirm the votes from the November meeting concerning the listing of cellulose in Section 205.605(b).

Discussion? Questions?

Are you ready for the question? The question is on the motion to affirm the votes related to cellulose to be listed on Section - continue to be listed on Section
205.605(b).

We'll start taking our vote with Dan.

MEMBER GIACOMINI: Yes.

CHAIRMAN DELGADO: Katrina.

MS. HEINZE: Yes.

CHAIRMAN DELGADO: Jeff.

VICE CHAIR MOYER: Yes.

CHAIRMAN DELGADO: Gerry.

MEMBER DAVIS: Yes.

CHAIRMAN DELGADO: Tina.

MEMBER ELLOR: Yes.

CHAIRMAN DELGADO: Tracy.

MEMBER MIEDEMA: Yes.

CHAIRMAN DELGADO: Joe.

MEMBER SMILLIE: Yes.

CHAIRMAN DELGADO: Barry.

MEMBER FLANN: Abstain.

CHAIRMAN DELGADO: Hugh.

MEMBER KARREMAN: Yes.

CHAIRMAN DELGADO: Kevin.

MEMBER ENGELBERT: Yes.
CHAIRMAN DELGADO: Jennifer.

MEMBER HALL: Yes.

CHAIRMAN DELGADO: Steve.

MEMBER DeMURI: Yes.

CHAIRMAN DELGADO: Julie.

MEMBER WEISMAN: Yes.

CHAIRMAN DELGADO: And the chair votes yes.

VICE CHAIR MOYER: Mr. Chairman, the vote is 13 yes, one abstention and one absent.

CHAIRMAN DELGADO: The motion is agreed to. We can proceed to the next material.

MEMBER WEISMAN: The last thing we have before us is the recommendation for the relisting of tartaric acid on Sections 205.605(a) and 205.605(b).

We have – we spoke in detail yesterday about the rather circuitous history of this material being listed on both sections of the list.

I would like to just further
clarify that the listing on 605(a) would be tartaric acid from grapes, and the listing on 605(b) will be tartaric acid from malic acid.

I think that these were - I'm going to ask for some guidance. We actually at the handling committee these were voted on separately for A and B. Is that - I wrote one paper, but do we need to vote on them separately?

CHAIRMAN DELGADO: Yes, we do. And do you want to include in your motion the specific source of the acid, grapes and malic acid; is that the intent of the committee, Julie?

MEMBER WEISMAN: No. It's not.

CHAIRMAN DELGADO: So it's just a comment and a clarification.

Dan, you had a clarifying comment?

MEMBER GIACOMINI: Being sunset, it's the review of the current existing listing. That is, without the specification annotation on it, in the research of doing
that, the committee found, came across this additional information, of which, as I understand it, they are requesting the program to review that information for a technical correction.

But the sunset itself is as it is currently listed.

CHAIRMAN DELGADO: Any questions on that? Jeff, and then we'll have a response from Joe.

VICE CHAIR MOYER: My question is for you, Dan. Can you be more specific on what you mean about the information for technical review?

MEMBER GIACOMINI: Technical correction, not technical review.

VICE CHAIR MOYER: Oh, I’m sorry, I thought you said technical review.

CHAIRMAN DELGADO: Julie.

MEMBER WEISMAN: It’s a question. Does that mean that we have to remove that language from this recommendation before we
vote on it?

In other words if it came to this meeting with the language, with the technical correction and the annotation made for grape, we can't really do that, can we?

CHAIRMAN DELGADO: No, we can't, because we are talking about sunset.

MEMBER WEISMAN: Right.

CHAIRMAN DELGADO: And the comment made on the part of Dan is correct.

MEMBER WEISMAN: Okay, I haven't made the motion yet, I don't believe.

CHAIRMAN DELGADO: You have not.

MEMBER WEISMAN: So can -- I make the motion with the amendment if I want, correct, to remove -

CHAIRMAN DELGADO: Katrina.

MS. HEINZE: You can make a motion to list tartaric acid on 605(a) and that would cover it.

MEMBER WEISMAN: To relist?

MS. HEINZE: That's what I meant. I
got the second half right.

CHAIRMAN DELGADO: Very good. Is that clear, Julie?

MEMBER WEISMAN: So at this time I would like to make a motion to relist tartaric acid on Section 205.605(a) of the national list.

CHAIRMAN DELGADO: Is there a second?

MEMBER DeMURI: Second.

CHAIRMAN DELGADO: It is moved and seconded to relist tartaric acid Section 205.605(a).

Discussion. No questions? Ready for the question?

The question is on the motion to relist tartaric acid on Section 205.605(a).

We'll start taking our vote with Katrina.

MS. HEINZE: Yes.

CHAIRMAN DELGADO: Jeff.

VICE CHAIR MOYER: Yes.
CHAIRMAN DELGADO: Gerry.
MEMBER DAVIS: Yes.
CHAIRMAN DELGADO: Tina.
MEMBER ELLOR: Yes.
CHAIRMAN DELGADO: Tracy.
MEMBER MIEDEMA: Yes.
CHAIRMAN DELGADO: Joe.
MEMBER SMILLIE: Yes.
CHAIRMAN DELGADO: Barry.
MEMBER FLANN: Abstain.
CHAIRMAN DELGADO: Hugh.
MEMBER KARREMAN: Yes.
CHAIRMAN DELGADO: Kevin.
MEMBER ENGELBERT: Yes.
CHAIRMAN DELGADO: Jennifer.
MEMBER HALL: Yes.
CHAIRMAN DELGADO: Steve.
MEMBER DeMURI: Yes.
CHAIRMAN DELGADO: Julie.
MEMBER WEISMAN: Yes.
CHAIRMAN DELGADO: Dan.
MEMBER GIACOMINI: Yes.
CHAIRMAN DELGADO: And the chair votes yes.

VICE CHAIR MOYER: Mr. Chairman, we have 13 yeses, one abstention, and one absent.

CHAIRMAN DELGADO: The motion is agreed to. We can move on to the next material.

MEMBER GIACOMINI: Point of order, Mr. Chairman?

CHAIRMAN DELGADO: Yes, Dan.

MEMBER GIACOMINI: Question to Barry: this is not a reaffirmation of old votes. This is new right now that has not been done before.

Are you abstaining for the same reason you did before, or do you just want to abstain on this motion?

MEMBER FLANN: I'm just abstaining on this motion.

MEMBER GIACOMINI: Okay, I just wanted to make sure it wasn't because of it had been up before, which it had not.
CHAIRMAN DELGADO: Any other questions?

We can proceed to the next material.

MEMBER WEISMAN: At this time I would like to move for the relisting of tartaric acid on Section 205.605(b) of the national list.

CHAIRMAN DELGADO: Is there a second.

MEMBER DeMURI: Second.

CHAIRMAN DELGADO: It's moved and seconded to relist tartaric acid on Section 205.605(b).

Discussion? Dan, followed by Kevin.

MEMBER GIACOMINI: I -- on a couple of different levels, I find it troubling that we have this on the list under both A and B.

And that gives me trouble, and with the information that Brian provided in historical clarity I think there is
justification that there is some new information in the fact that the thought process of what is going on in the world of organic and regulations is different now than it was then.

However, there is - even though I feel that way and I would love to vote no on this, we did have I believe the plethora and overwhelming one comment in support and no comments opposed.

So based on the preponderance of the comments, I kind of feel that I am forced to - and staying with that, to support it.

CHAIRMAN DELGADO: Kevin.

MEMBER ENGELBERT: That was along my thought process exactly, and I'd like an explanation from somebody from the handling committee or somebody familiar with tartaric acid as to what the different properties are made from grape wine versus malic acid.

And even though there were no comments received, I'd still like a review of
why the handling committee believes it should remain on.

I understand the indications of the public comment, reasoning.

CHAIRMAN DELGADO: Katrina.

MS. HEINZE: You know the sunset process is a very limiting process. We are bound by having received evidence on the three points that there is a replacement available, or there is new evidence showing that it is harmful in a way that they did not know at the beginning.

We got no evidence, so therefore we are bound to relist is my understanding.

MEMBER ENGELBERT: I realize all that. I just want to entertain the possibility that maybe no one bothered to do that.

But I'd also still like an explanation of the differences in the properties, and why there is actually - why a synthetic version is needed.
CHAIRMAN DELGADO: Any responses to
- Julie?

MEMBER WEISMAN: I want to say that
I personally - I can't say that I know enough
about all the unique uses of all the different
forms of tartaric acid.

But we did hear comment during the
last three days confirming that they are
different qualities, and that they are used
for different purposes, and that although most
uses - it appears that most use of tartaric
acid is of the nonsynthetic variety, that
there are certain uses for which at this point
only the synthetic can be used.

And I apologize for not being able
to be more specific than that.

CHAIRMAN DELGADO: Dan.

MEMBER GIACOMINI: I just want to I
guess further clarify, and I was going to
repeat, I think it was Kim that said there's a
difference in the processing between two
sources.
I would not even have a problem with this being on the list on B along with what's on A with the consideration that there is a difference in processing.

But it seems that the historical memory that we have is for an insistence that it not only be the L-malic acid which as listed on 605(a) is nonsynthetic if it had been listed as L-malic, where it only could have been made synthetically from the nonsynthetic source.

But it seems the historical memory we have was an insistence that it be from all forms of malate, which includes synthetic malate which is not allowed on the list because it's not on 605(b) which is synthesized from butane.

So it's not only the fact of it being on A, but the fact of it's being on B with both L-malate and DL-malate being allowed as it source.

And I wish the board then had done
otherwise.

CHAIRMAN DELGADO: Any other comments?

Okay. Are we ready for the question?

The question is on the motion to relist tartaric acid under Section 205.605(b), and we'll start taking our vote with Jeff.

VICE CHAIR MOYER: No.

CHAIRMAN DELGADO: Gerry.

MEMBER DAVIS: Yes.

CHAIRMAN DELGADO: Tina.

MEMBER ELLOR: Yes.

CHAIRMAN DELGADO: Tracy.

MEMBER MIEDEMA: Yes.

CHAIRMAN DELGADO: Joe.

MEMBER SMILLIE: Yes.

CHAIRMAN DELGADO: Barry.

MEMBER FLANN: Abstain.

CHAIRMAN DELGADO: Hugh.

MEMBER KARREMAN: No.

CHAIRMAN DELGADO: Kevin.
MEMBER ENGELBERT: No.

CHAIRMAN DELGADO: Jennifer.

MEMBER HALL: No.

CHAIRMAN DELGADO: Steve.

MEMBER DeMURI: Yes.

CHAIRMAN DELGADO: Julie.

MEMBER WEISMAN: Yes.

CHAIRMAN DELGADO: Dan.

MEMBER GIACOMINI: Everything Kevin just said, but yes.

CHAIRMAN DELGADO: Katrina.

MS. HEINZE: Yes.

CHAIRMAN DELGADO: And the chair votes yes.

VICE CHAIR MOYER: Okay. Mr. Chairman, I have 3 nos, 10 yeses, 1 abstention and 1 absent.

CHAIRMAN DELGADO: The ayes have it, and the motion is agreed to.

We can proceed to the next material.

MEMBER WEISMAN: That's all folks.
CHAIRMAN DELGADO: That's it, fantastic.

(Applause.)

CHAIRMAN DELGADO: Well, thank you very much, Julie. That's a fantastic amount of work, and we do have a member of the program wishing to approach the board.

Mr. Matthews.

MR. MATTHEWS: The point I want to make is that there was some discussion early on about how you would like to annotate the tartaric acid.

I would suggest that you might want to go ahead and consider making that recommendation to the program, and that we can go ahead and consider your recommendation. If you don't make the recommendation and it goes back exactly the way it is, I'm not saying we are going to agree with you. I'm just saying you could make a recommendation to us on that if you wanted to.

MS. HEINZE: Is that something we
can do here? Now? Or does it have to come out of committee?

MR. MATTHEWS: That's exactly why I came up. So you guys could make that recommendation. Julie has already talked about it as the way they wanted to originally make the recommendation, and then she got talked out of doing it.

The thing is that if you really really want to do that, go ahead and make your recommendation; we will take it under consideration.

CHAIRMAN DELGADO: Question, Julie.

MEMBER WEISMAN: I just want to ask, and the reason we are able to do that at this sunset is because we are basically asking for a - an annotation as a technical correction?

MR. MATTHEWS: The way I understood it was that you felt that the original recommendations on these materials took those things into consideration when they were done, and one was from the grapes, the other one was
from malic acid. That's what I thought I heard.

MS. FRANCIS: Can I offer?

CHAIRMAN DELGADO: We have a clarification from the director.

MS. FRANCIS: Just looking at the institutional history on this, that is the original recommendation was as you had made it as a committee, more recently, wanting those annotations added. They were added as a technical correction later, but those annotations were left off, and I don't know if that was - it doesn't really seem clear from the record whether that was intended to leave those annotations off in the first place.

MR. MATTHEWS: That is my whole point of coming forward and saying, if you want to make that recommendation we can go back and look at the record and make that clarification if we feel that it is warranted.

CHAIRMAN DELGADO: We have Katrina wanting to participate.
MS. HEINZE: I just wanted to make
clear for the board, in 1995 when the first
board voted on these materials, they voted on
them with the annotations there. But tartaric
acid has just been kind of a poor orphan
child. It got left off for awhile, then it
finally got relisted, and those annotations
just got lost.

So this is really going back to the
original intent when they were originally
listed.

MR. MATTHEWS: Yes, poor tartaric
acid. I will be the first to admit, tartaric
acid has had a colorful history.

CHAIRMAN DELGADO: Julie, back to
you.

MEMBER WEISMAN: I just want to say
that I am inclined - I am going to need some
help procedurally from everybody because I
don't want to get in trouble here. But I am
inclined to try and preserve the original
decision, that included the annotation.
I do want to make clear, though, because it gets discussed over and over and over again, sunset, I do not want to set a precedent where people think that annotations can be changed during sunset. I'm very concerned about how that is going to appear.

CHAIRMAN DELGADO: Excellent question. Katrina, do you want to address?

MS. HEINZE: A suggestion perhaps that you make a recommendation that we ask the program to review the annotation history of these and make any necessary technical corrections.

CHAIRMAN DELGADO: Julie.

MEMBER WEISMAN: If I did that do you think we would have to make any new - can you make suggestions about the procedure for asking for that?

CHAIRMAN DELGADO: I believe that a simple request on the part of the committee that's saying to the rest of the vote, and on to the program, would be enough, but I would
like to have the input on the part of the director.

Is that correct?

MS. FRANCIS: I think that you should make a clear motion as to what you want the program to do.

CHAIRMAN DELGADO: Okay. So the answer is, let's treat it as a motion with a specific recommendation. That is what the director is suggesting.

Dan, do you have any other input?

MEMBER GIACOMINI: I think maybe part of the concern is the structure and the public. This was part of an – it was an underlying part of the original recommendation which in a way was phrased that we are voting to sunset and in the research we have realized that this technical correction may be justified.

That has been before the public. That has been open for public comment; that was in the Federal Register. I don't think we
need to worry about that, merely asking the
NOP to consider technical corrections, to have
the annotations as appropriate for tartaric
acid would be appropriate.

CHAIRMAN DELGADO: So just a
clarification. We think that this will be a-
by the second paragraph if you will, with a
proposal to add those annotations outside of
sunset; is that correct?

MEMBER GIACOMINI: This would be an
totally separate recommendation to the sunset
recommendation.

MEMBER WEISMAN: I'd like to make -
if the board is ready I would like to make a
stab at that recommendation.

CHAIRMAN DELGADO: I would like to
also comment on the part of the board members
to see if there is any objection to that
procedure? We have not stated that in the
agenda, and I don't want to run into any
problems.

So is there any objection on the
part of the board members to proceed with this potential motion?

Okay, if that's the case, Julie, let's go on.

MEMBER WEISMAN: I move that the annotations that were included in the original board recommendations for the listing of tartaric acid on 605(a) and (b) be restored to their listing, to their current listing.

CHAIRMAN DELGADO: Can you just list those annotations please.

MEMBER WEISMAN: Yes, I'm sorry.

Okay, I move for restoring the annotation made from grape wine to the annotation - to the listing of tartaric acid on 605(a).

CHAIRMAN DELGADO: Can you move up that? And just for clarity, Julie, we will take it like we did before, Section A first and then Section B later.

MEMBER WEISMAN: Okay. I would like to make a motion for the restoration of the
annotation that was included by the original board recommendation for the listing of tartaric acid on 605(a) to include made from grape wine.

CHAIRMAN DELGADO: Is there a second?

MEMBER DeMURI: I'll second it.

CHAIRMAN DELGADO: It is moved and seconded to add the annotation, made from grape wine, to the listing on the - to tartaric acid as listed in Section 205.605(a), and this will be the original annotation.

Discussion? Gerry?

MEMBER DAVIS: Can you pull the screen down just a couple of lines?

Okay, it's made from grape wine, not from grapes, right?

CHAIRMAN DELGADO: The motion is made from grape wine.

MEMBER DAVIS: That's how it was?

MEMBER WEISMAN: That's how it was.

CHAIRMAN DELGADO: Dan.
MEMBER GIACOMINI: Just for clarification, Katrina has a copy of the original document. Could we just verify that it was specifically grape wine.

MS. FRANCIS: It's in the original transcripts for 1995 that way.

CHAIRMAN DELGADO: Katrina.

MS. HEINZE: Valerie, do you have that transcript on your computer?

MS. FRANCIS: This is not my computer. It's on the Internet, and it can be looked up if somebody has access.

MS. HEINZE: Well, I was just thinking, it might make the board more comfortable if they could actually see it. That whole picture is worth a 1,000 words.

MS. FRANCIS: They could actually see it.

MS. HEINZE: I will bring it up on my computer as well.

CHAIRMAN DELGADO: The chair recognizes the member of the public. Please
introduce yourself.

MR. SIEGEL: Yes, I'm Richard Siegel, a lawyer from Washington, D.C., and I'm counsel to Marroquin Organic International.

When Ms. Grace Marroquin gave her comment on Monday, she referred to organic tartaric acid, and she said that it's organic grape juice extract, where the organic tartaric acid is coming from.

So if you used the word, wine, maybe you would be restricting the category unduly. Maybe you ought to just stick to grapes.

CHAIRMAN DELGADO: Julie, can you respond to that.

MR. SIEGEL: That's all I have to say.

MEMBER WEISMAN: Yes, if it is in fact - right now we are asking for a technical correction restoring an annotation as it previously existed, and I believe that is the
only choice we have right now, because we are not starting with new annotations; we are just asking to restore an old one.

CHAIRMAN DELGADO: Thank you.

Valerie, you had a point to make?

MS. FRANCIS: She made the point.

CHAIRMAN DELGADO: Okay. Have we found that?

MEMBER GIACOMINI: Yes, it does say grape wine.

CHAIRMAN DELGADO: It's been confirmed. So it's grape wine.

Any other questions on the board?

Any other questions?

Are we ready for the question?

MEMBER WEISMAN: I just want to see what Valerie typed from what I said. Because I think the motion should mention that this is being done as a technical correction.

CHAIRMAN DELGADO: Can you show us the way the motion will be printed?

MEMBER WEISMAN: Okay, I want to add
the words, after J.W. motions, that as a technical - okay.

I move - okay, here we go. I move that the NOP consider technical corrections to add the annotation to tartaric acid - sorry.

CHAIRMAN DELGADO: Well, wait a minute.

MEMBER WEISMAN: I move that as a technical correction the NOP restores the annotation included in the original listing of tartaric acid.

CHAIRMAN DELGADO: We have a motion pending already, Julie. Do you want to withdraw that motion and state a new one?

MEMBER WEISMAN: I'm sorry; it's getting late.

CHAIRMAN DELGADO: That's all right. Do you wish to make a clarification on the motion that you have already stated?

MEMBER WEISMAN: Yes, I wish to make a clarification.

CHAIRMAN DELGADO: What is your
concern?

MEMBER WEISMAN: I wish to clarify
that we are asking for this as a technical
correction.

CHAIRMAN DELGADO: Okay.

Any other questions? Discussion?

Are we ready for the question?

The question is on the motion to
add the annotation made from grape wines to
the listing for tartaric acid as found under
Section 205.605(a).

We'll start taking our vote with
Gerry.

MEMBER DAVIS: Yes.

CHAIRMAN DELGADO: Tina.

MEMBER ELLOR: Yes.

CHAIRMAN DELGADO: Tracy.

MEMBER MIEDEMA: Yes.

CHAIRMAN DELGADO: Joe.

MEMBER SMILLIE: Yes.

CHAIRMAN DELGADO: Barry.

MEMBER FLANN: Yes.
CHAIRMAN DELGADO: Hugh.
MEMBER KARREMAN: Yes.
CHAIRMAN DELGADO: Kevin.
MEMBER ENGELBERT: Yes.
CHAIRMAN DELGADO: Jennifer.
MEMBER HALL: Yes.
CHAIRMAN DELGADO: Steve.
MEMBER DeMURI: Yes.
CHAIRMAN DELGADO: Julie.
MEMBER WEISMAN: Yes.
CHAIRMAN DELGADO: Dan.
MEMBER GIACOMINI: Yes.
CHAIRMAN DELGADO: Katrina.
MS. HEINZE: Yes.
CHAIRMAN DELGADO: Jeff.
VICE CHAIR MOYER: Yes.
CHAIRMAN DELGADO: And the chair votes yes.
VICE CHAIR MOYER: Mr. Chairman, the vote is 14 yes, one absent.
CHAIRMAN DELGADO: The ayes have it, and the motion is agreed to.
We can proceed to the next motion, Julie.

MEMBER WEISMAN: I move that as a technical correction the NOP restore the annotation included in the original listing of tartaric acid made from malic acid to its listing on 605(b).

CHAIRMAN DELGADO: Is there a second?

MEMBER DeMURI: Second.

CHAIRMAN DELGADO: It is moved and seconded to ask the program to make the technical correction to add the annotation made from malic acid to tartaric acid as found in Section 205.605(b).

Discussion? Any questions from the board?

Are you ready for the question?

The question is on the motion to request the program to make the technical correction to the annotation made from malic acid to tartaric acid as listed under Section
205.605(b).

We'll start taking our vote with Tina.

MEMBER ELLOR: Yes.

CHAIRMAN DELGADO: Tracy.

MEMBER MIEDEMA: Yes.

CHAIRMAN DELGADO: Joe.

MEMBER SMILLIE: Yes.

CHAIRMAN DELGADO: Barry.

MEMBER FLANN: Yes.

CHAIRMAN DELGADO: Hugh.

MEMBER KARREMAN: Yes.

CHAIRMAN DELGADO: Kevin.

MEMBER ENGELBERT: Abstain.

CHAIRMAN DELGADO: Jennifer.

MEMBER HALL: Yes.

CHAIRMAN DELGADO: Steve.

MEMBER DeMURI: Yes.

CHAIRMAN DELGADO: Julie.

MEMBER WEISMAN: Yes.

CHAIRMAN DELGADO: Dan.

MEMBER GIACOMINI: Yes.
CHAIRMAN DELGADO: Katrina.

MS. HEINZE: Yes.

CHAIRMAN DELGADO: Jeff.

VICE CHAIR MOYER: Yes.

CHAIRMAN DELGADO: Gerry.

MEMBER DAVIS: Yes.

CHAIRMAN DELGADO: And the chair votes yes.

VICE CHAIR MOYER: Mr. Chairman, we have 13 yeses, one abstention, and one absent.

CHAIRMAN DELGADO: The ayes have it, and the motion is agreed to.

We can proceed with the next motion, Julie.

Are we done?

MEMBER WEISMAN: I don't think there is one.

CHAIRMAN DELGADO: I think we are done. Thank you very much for that excellent show of endurance.

Is there a question from the executive director? No? Very good.
Let's move on next to the next item on the agenda, and it is the committee work plans. We'll start doing those fairly quickly. We are running a little bit late behind schedule. So we will start with the lifestyle committee, Dr. Karreman.

**COMMITTEE WORK PLANS**

**MEMBER KARREMAN:** All right.

Of course we will be working on aquaculture, specifically the fish meal and fish oil recommendation that we deferred up on today, and the net pens with the questions we had, we still have on the table, and the bivalve molluscs, and is it appropriate to ask the program for any questions right now or not?

**CHAIRMAN DELGADO:** No, not at the moment.

**MEMBER KARREMAN:** Not at the moment, okay.

**CHAIRMAN DELGADO:** You can state them as work items in your work plan.
MEMBER KARREMAN: Will do.

Okay, and then previously on the work plan we have called a topic animal welfare, various issues that were species that were already being produced organically, and I think I would like to, in consultation with the chair of the board, change that term to animal husbandry. It seems to be a little more I don't know acceptable, politically correct - I hate being politically correct.

Anyway, and also I've been in touch with Temple Grandin who is a worldwide famous animal behaviorist and she and I talked at length about certain things in organics that might be able to be worked on as animal husbandry, so that is on the work plan.

And that's the two main things, and any materials that come up.

Well, under the animal husbandry, in poultry we want to look more specifically at the - to follow off of the natural behavior of the species and outdoor access, and that,
within poultry, and that might help with the methionine questions as well.

CHAIRMAN DELGADO: Okay. Any questions for the lifestyle committee?

Okay, we can move on then to the handling committee.

Julie?

MEMBER WEISMAN: Yes. On our work plan we will continue to work jointly with the materials committee on work towards what is now being called clarification of definitions on the national list, is that how we've been referring to it, which will of course include liaising with the materials working group. And I will continue to be on those calls.

Number - we also will - much higher on our list now is finalizing the pet food standards that were proposed by the Pet Foods Task Force. We have already been meeting as I had described earlier during public comment yesterday, and we will resume meeting now that this meeting is over and we will consult with...
the Pet Food Task Force, and with the Livestock Committee as we move towards a conclusion.

Third, is to continue to review petition materials. I believe what remains on our work plan now for 605 is calcium from seaweed, propionic acid, which I imagine now that there is some funding will see the TAP; sodium chlorite which we are also wanting to see a TAP on; yeast is still on the work plan, and we are— that is going to be contingent on clarifying the definition of non-ag, and then the status of the petition.

On 606 we have some deferred materials: Chlorella, an algae; Dumonticae, an algae; black pepper extract; buck hull powder. We have a new petitioned material, orange pulp, which we'll be considering. And from this meeting pectin low-methoxy nonamidated has been deferred.

In addition I think that we will need to work and— with the program to clarify
- to refine our 606 procedures.

I also have as a placeholder anyway materials for sunset review. But if I am correct, we do not have any materials coming up for sunset review again until the fall of 2011. But I do believe we have to get started on those, maybe not immediately, but within - I'll confer with Dan about the timeline, and I think it's a lot of materials.

CHAIRMAN DELGADO: Questions for the chair?

MEMBER WEISMAN: I'm not finished.

CHAIRMAN DELGADO: Oh, I'm sorry.

MEMBER WEISMAN: What is also still in my work plan lingering that was - is the issue of flavor guidance. I would like to confer with the program on that work plan item, and also the issue of food contact substances and fortification of food have been on our work plan for quite some time.

Now I'm done.

CHAIRMAN DELGADO: Okay. Questions?

Questions for Julie?
Okay, thank you, Julie.

Next to Dan, materials committee.

MEMBER GIACOMINI: Thank you, Mr. Chairman.

The materials committee on the work plan is the ongoing management of petitioned items. Included in that will be working with the program on seeing if there are any old board-deferred petitions that may have gone by the wayside that we need to pick up and finish.

The next one is continuing making sure that we stay on track, whether it's the time in the next six months or not, but staying on track with sunset items.

The clarifying issue that we need to resolve with that is working with the program on a change that was done in some of the formatting of the materials and exactly what materials are that we are going to be needing to look at to sunset at the appropriate time.
Number three is continuing work with the issue of the - I'll take Julie's new name for it - the clarification of definition of materials in cooperation with handling. And materials working group, and including in that with handling is a clarification on 606.

And also working with the policy committee in cooperation with the policy committee on material issues being considered for clarification and guidelines in the policy procedure manual.

CHAIRMAN DELGADO: Any questions for Dan?

Okay, just want to thank you both for the amount of work you've done, especially regarding the topic of materials. I know it's quite a difficult challenge for all of us, and I really admire the way you've been working with OTA.

Moving on to crops, Mr. Davis, what is the plan.

MEMBER DAVIS: Crops committee has
new and old materials to continue working on, 
defered material from this meeting, 
tetracycline, sort out the last details of 
that that came piling in at the last minute; 
sorbitol octanoate, I believe the TAP has been 
completed, and we are able to start on that, 
pretty close.

Pelargonic acid has been in our 
work plan, and I believe I'm hearing reports 
from the petitioner that they want to revise 
that.

Same situation with ammonium salts 
of fatty acid, which both of them are 
herbicides.

Several new materials for us to do 
sufficiency review and then start on would be 
isoparaffinic hydrocarbon, polycarboxlactone -

MEMBER GIACOMINI: Hold on, 
isoparaffinic what?

MEMBER DAVIS: Hydrocarbon.

MEMBER GIACOMINI: Thank you.

Polycarboxlactone, all one word. Ethylene
glycol, and tetramethyl - I don't know how to pronounce this word - d-e-c-y-n-e - dio, inert and pesticide formulations.

For other items, ongoing work with crops and CAC commercial availability of organic seed work; continue working on the soiless growing system subject; gathering information and working towards an eventual recommendation.

We are going to begin working on the mushroom standard, and also the commitment to at least study the biodiversity compliance assessment information that was provided by the Wild Farm Alliance; we will look at that and decide what and where to go with that.

CHAIRMAN DELGADO: Any questions? Steve?

MEMBER DeMURI: There was a lot of discussion about organic seed at this meeting. What do you guy see as your next steps in that process?

MEMBER DAVIS: Joe, do you want to
comment on that?

MEMBER SMILLIE: We're going to take a look at our - we're not going back to the drawing board. We think that we have the core of a good recommendation, and we are going to go back and look at it. And the two factors we've identified so far, there may be more.

And again we are going to have more for a joint meeting with both committees. It didn't quite work that way last time. We did our part and then passed it on. This time we are going to have joint meetings, and just hone right in on redistributing the burden, and making it valid and useful for everyone, and then looking at how we want to approach databases, how we want to let a thousand flowers bloom and guide the process and all that sort of thing.

So those are the two clear action items; there might be more. But we definitely will have a recommendation for the November meeting, and we'll try and get it out as early
as possible with lots of time for feedback.

CHAIRMAN DELGADO: Any other questions for crops?

Thank you, Gerry.

We'll move on then to Joe.

MEMBER SMILLIE: Well, number one on the list is continuing our work on the multisite certification; that's the primary job. We are hoping that we can get together as a committee and work something out so that we can get a recommendation ready for the November meeting.

That is certainly the target. We hope to meet that target. We've got some real challenges with that, and we are just hoping we can find the middle way on our committee. Because as you know the committee is pretty well split on it, and we're just going to explore ways that we can find to move it forward. That's about all I can say at this time. We've got a lot more feedback, but once again it's divided feedback also. That's
Number one.

Number two is, working directly with the crops committee on the commercial availability document. Certainly as representatives of the certifier community I would say the preponderance of comment on that document was from the certifier community. We work very closely with ACA and NASOP, to accomplish that task. And that will be my job, to liaison with those two already existing groups.

Then we are going to open up some new areas. We want to move forward with the biodiversity issue, as far as we see it, as far as enforcement certification issues of this very important part of the regulation is being enforced properly by certifiers, and we will work with the crops committee on that, hopefully jointly, again, so we've got two items for joint meetings so that we can schedule those and those will be useful.

And then I'm not sure, because I
haven't had a chance to talk to my committee,
and sometimes it's a little premature to say
what your work plan is when the group hasn't
gotten together, because there may be input
from other people.

But I'd like to take up, just pick
one issue that seems to affect the certifier
community. And we got also a response from
the NOP, that we are open to discussing it.
And that is the whole 100 percent claim that's
in the regulation that seems to be an issue
that is not fully vetted. So we are going to
jump into that and put that on our work plan.

So what used to be the sleepy CAC
committee is fully caffeinated and ready to
go.

(Laughter.)

CHAIRMAN DELGADO: Any questions for
Joe? Dan?

MEMBER GIACOMINI: I noticed your
first listing was multisite in the broad
sense, the global name. I don't think there
is much chance that there would ever be multisite if we didn't have multi-grower, and if we weren't multi-grower I would hate to lose it because of a resistance to the rest of multisite.

I would encourage you to consider the possibility of saving the baby before the house burns down.

MEMBER SMILLIE: You mean polishing the door knobs while the boat is sinking.

MEMBER GIACOMINI: Whichever, but if there is part of it that couldn't - that can move forward, I would encourage you to consider - just consider that.

CHAIRMAN DELGADO: Tracy.

MEMBER MIEDEMA: I would like to go ahead and respond. It would be great if you would join in some of our calls. It sounds like you have some very strong opinions. And it's easy to cave to loud voices, but right now we're still working on having a very firm legal underpinning for something that was on
extremely shaky ground. It's so shaky that the whole concept of a sampling protocol for certification was taken from grower groups, and it was taken from others who are also using that same method of certification.

So we're approaching this from a pragmatic standpoint and not an emotional standpoint.

CHAIRMAN DELGADO: Any other questions?

Joe? Something else?

MEMBER SMILLIE: We go as you know, you're chair, and some of the responsibilities and accountabilities of the chair. So what I'd like to do is to continue the process that we sort of started on halfway, and I would cordially invite you to attend the CAC meetings on a regular basis, because I believe that as chair you have shown good leadership, great impartiality, and I'd like to have you join our committee on a regular basis as we thrash through this incredibly difficult
issue.

CHAIRMAN DELGADO: That is an action item on my part, and I will definitely participate in your calls, looking forward. I know it's an incredibly difficult issue. It's an emotional issue too. We have to recognize that.

And as Dan said, there are opportunities. We can discuss those, to move forward. If not one item, all of the items they are considering. But definitely we will be participating in your conference calls.

Any other questions for Joe? No?

Let's move on then to the last of our committees, policy and development, with our newest member, Barry.

MEMBER FLANN: Sorry, Mr. Chairman, I had some important business.

The policy development committee has met by conference call and developed and proposed a work plan. Many of the items I'll go through here in a minute have been sort of
farmed out to us, so not all of them just came out of the committee's ideas. But let me just go through these. Maybe I can go down the list first, and then any questions that you have.

CHAIRMAN DELGADO: Yes.

MEMBER FLANN: Number one, procedures for handling public comments at NOSB meetings. To polish those. We have them now, but to improve on what we have if necessary.

Review the TAP procedures, and I'll say more about that.

Clarify the sunset procedures in the policy manual, and I myself found what was written in the policy manual very confusing as a new member. So I guess I kind of originated looking at that.

Preamble use in contact instructions for the manual, and that - I think we started thinking about that when we were thinking about a preamble to the
multisite paper and decided we didn't know when it really might be needed, or what a preamble consisted of.

CHAIRMAN DELGADO: Just to clarify, would it be a preamble for a motion, is that the intent?

MEMBER FLANN: A preamble for a policy paper or recommendation paper like the multisite paper that was written.

CHAIRMAN DELGADO: Okay.

MEMBER FLANN: Which it started out, we were calling I think - isn't that right, Jennifer - originally what we were preparing was called a preamble.

CHAIRMAN DELGADO: Excuse me, Valerie are you wanting to comment?

MS. FRANCIS: We didn't really get much further in our training along this thinking. We wanted to on Tuesday morning, but I think we have moved past just focusing on the preamble of a recommendation but the structure of a recommendation, including the
process for really approaching recommendations. Outside of materials recommendations, all the other recommendations.

CHAIRMAN DELGADO: We can refine that later with more clarification.

Please continue.

MEMBER FLANN: Number five is clarification and guidance on committee work plans.

Number six was new member guide update of website addresses and navigating the new NOP assisted, this to be in the new member guide.

Seven was NOSB member training needs to be included in new member guide; what is needed and what's expected and so forth.

Eight is election procedures for NOSB officers. And there were some questions raised that maybe the procedures - I don't know, help me out.

MEMBER KARREMAN: That's not fair
for you, because you haven't been through an
election within the board yet.

   But basically one of the policy
members was saying that perhaps the way we
conduct our elections for our own officers
here should be somewhat less maybe haphazard,
you know, just little pieces of paper going in
a cup. Just a little bit more respectful of
the people that are up for election.

CHAIRMAN DELGADO: More formal?

MEMBER FLANN: Okay, and then the
last one that we have on our work plan was a
technical corrections procedures and
priorities; how to deal with the need for
technical corrections.

   And I think obviously in the course
of this meeting there have been things that
have come up, probably assignments for the
policy committee. But they are not on the
list, and I want to talk to the whole
committee about it before doing anything.

MEMBER KARREMAN: Well, I think that
part of that last one is when the NOSB sends
up a recommendation, and then it eventually
gets into the Federal Register that if there
is some intent that wasn't translated as our
intent or maybe something was because of the
need for writing in the Federal Register a
certain way it didn't catch what we meant or
it omitted what we intended. There was some
policy to correct that, if possible sooner
rather than later, so that the certifiers
don't start wondering like what's up.

I don't know how else to put it,
but I'm just thinking like a few specific
things from the December 12th entry in the
Federal Register, and there are other times
too.

MEMBER FLANN: Anyway, to make sure
- I don't know - if there are any technical
corrections needed that we look at that and
deal with that as soon as possible in
something that has been published.

CHAIRMAN DELGADO: In something that
has been published already in the rule?

MEMBER FLANN: Yes.

CHAIRMAN DELGADO: And comparing the intent of what the board wanted with what's actually the result?

MEMBER FLANN: Yes.

CHAIRMAN DELGADO: Any questions?

First of all, does that conclude your presentation?

MEMBER FLANN: Yes.

CHAIRMAN DELGADO: Any questions for policy?

Okay, well, that concludes our presentation of work plans. So Mr. Vice Chair, do you want to -

VICE CHAIR MOYER: Are you going to adjourn the meeting?

CHAIRMAN DELGADO: Not quite. I still have some - we still have one more item, other business and closing remarks.

OTHER BUSINESS & CLOSING REMARKS

CHAIRMAN DELGADO: Just to remind
the chairs of the committees, we will be sending out the famous Excel spreadsheet that we use to keep track of our work plans. I'll be asking you to set priorities for all the items that you proposed so far, and we'll be addressing those as usual in our executive conference calls.

And emphasis on priorities. I know we have families and works to attend to, so please pay close attention to those, and we'll be able to define our target dates and our performance throughout the process.

And the other thing that I would also like to mention to the rest of the board members is, we have a calendar floating around to find availability for the full meeting. We are planning that, and as soon as we have everyone's dates, I know I'm the first one to not have answered Valerie's call, but once we have the final dates we will be able to define the target dates that we need for those motions, recommendations and discussion.
material. So that's key.

And that's on my part, I'd like to ask both of you, the secretary and the vice chair, to see if you have any other issues to consider as part of the other business items?

Jeff?

VICE CHAIR MOYER: Not really, Mr. Chairman. I just wanted to say before we adjourn this meeting that for reasons that you are probably all well aware of, I am very hesitant to speak on behalf of the entire board.

But in this case I will step out on a limb and say on behalf of the entire board, Rigo, I want to thank you, and I think the board wants to thank you, for running a very efficient, inclusive, and professional meeting. Thank you very much.

CHAIRMAN DELGADO: You are very welcome. Thank you.

(Applause.)

CHAIRMAN DELGADO: And I want to
take the opportunity to thank you, Jeff, and Katrina, for wonderful team that you have become, meeting practically every Monday, half an hour, with Valerie, to make sure that we are not dealing with any pop quizzes at the last minute. So I appreciate your time, devotion and dedication.

Also on the part of the board I am really happy with the level of commitment, professionalism and dedication that all of you have shown. Regardless of the issues, you are always willing to work and participate.

Yes, Joe.

MEMBER SMILLIE: I'm sorry if I missed something, but when that request for meeting dates which I haven't answered yet, and I really intend to, Val, did that talk about location at all?

CHAIRMAN DELGADO: No, it did.

MEMBER SMILLIE: You know, it's time we moved it out from Washington, D.C. I heard it loud and clear in all conversations. And I
think if the finances are there, which I am led to believe they are, that we should seriously considering moving the November meeting to the West Coast. I think it was promised to Seattle was it a year ago? Time flies when you're having fun, but I would like the NOSB to at least make that wish clear to the NOP, and if finance is willing, let's move her out of Washington for the next meeting.

CHAIRMAN DELGADO: That's an excellent suggestion. We will come up with a date first, and then as you suggested, we'll propose possibly several locations and see if the program has the budget to respond to our suggestions.

Any other comments?

As a last remark I want to say that this has been an extremely productive meeting. I'm really happy and impressed with the level of constructive participation that we had on the part of the public commenters, from the public in general.
So I hope you share with me the
happiness and emotion that I have for having
seen such a productive meeting today.

I want to wish you a happy return
to your homes, and the best for the rest of
the year. We will see you here in about six
months.

And I would like to call for a
motion to adjourn.

VICE CHAIR MOYER: I'll make that
motion.

MEMBER KARREMAN: And I'll second
it.

CHAIRMAN DELGADO: The meeting is
adjourned.

(Whereupon, at 5:01 p.m., the
proceeding in the above-entitled matter was
adjourned.)
UNITED STATES DEPARTMENT OF AGRICULTURE

NATIONAL ORGANIC STANDARDS BOARD

MEETING

MONDAY,
NOVEMBER 17, 2008

The board meeting was held at the Savoy Suites Hotel, 2505 Wisconsin Ave., NW, Washington, DC 20007, at 9:00 a.m., Rigoberto Delgado, Chairperson, presiding.

PRESENT:

RIGOBERTO I. DELGADO, Chair
JEFFREY W. MOYER, Vice Chair
GERALD DAVIS

STEVE DEMURI
KRISTINE ELLOR
KEVIN ENGELBERT
BARRY FLAMM
DANIEL G. GIACOMINI
JENNIFER M. HALL
BEA E. JAMES

HUBERT J. KARREMAN
TRACY MIEDEMA
JOSEPH SMILLIE
JULIE S. WEISMAN
STAFF PRESENT:

KATHERINE BENHAM  
VALERIE FRANCES  
ANDREW REGALADO  

BARBARA ROBINSON  
JUDITH RAGONESI  
MARK BRADLEY  
RICHARD MATTHEWS  
ROBERT POOLER  
SHANNON NALLY  
RUIHONG GUO  

VALERIE SCHMALE  
TAMMIE WILLBURN  
BABAK RASTGOUFARD  
ZAHA LOMAX  
SHAUNTA NEWBY
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## Adjourn
CHAIRPERSON DELGADO: After that understanding break, we are officially calling the meeting of the National Organic Standards Board to order. And we have a quorum. Everybody is in its place, and at this moment I will like to get straight into business and entertain a motion to approve today's agenda. It is my understanding that all the board members have had a chance and time to review it. And if there's someone who would like to move to approve the agenda, I will entertain that.

VICE CHAIRPERSON MOYER: I make a motion that we accept the agenda as posted.

CHAIRPERSON DELGADO: It's been moved and seconded to approve the agenda as posted. And we'll take a vote. All those in favor say aye.

(Chorus of ayes.)

CHAIRPERSON DELGADO: Opposed?
(No response.)

CHAIRPERSON DELGADO: Hearing none, we have our agenda. Thank you for that.

The second point is my welcoming remarks. And first of all, I want to welcome all the board members, members of the Program, as well as members of the public, very familiar faces by now and new faces. All of you are welcome.

It feels as if it's been only a couple of weeks since our last meeting back in November of '07, but that, to me, means two things. We have been extremely busy, and time has gone by very quickly. I think that the main theme of these last four months, for us at least on the board, has been focused on our work plans and maintaining our priorities straight and also finding ways of improving our performance. I think we're doing better ways of communicating among each other over the phone, over the net; and we're also using better tracking tools to make sure that we are
tracking our priorities as they should.

Above all, I think all of these exercises have allowed us to focus more on the issues and be more productive in that sense. We've been providing responses and papers on a timely manner, as our Executive Director might highlight sometime. We've been effective in following our action items and identifying those action items. And also we've been extremely professional I think in discussing the issues and not letting our own biases sometimes get in the way.

Throughout the last 12 months, we've been able to produce up to 70 or even more than 70 recommendations, and we've clocked more than 200 hours of conference calls and time on the phone. That doesn't include the time that we're spending preparing and doesn't include the time of the public involvement in our work, and we appreciate that.

The public has also been extremely
responsive. This session alone we've had over
360 comments that all of us have read and
reviewed carefully. Last May, we had 86
participants coming up to the forum and
expressing their views. And this session
we're expecting 91. So it's, by all means, a
great response and also a great deal of input
from the public, and we're grateful for that.

In summary, I think that this
board is extremely productive and effective.
And as our Executive Director likes to have on
many occasions, I think we continue to be the
best in class, and all of us should be proud
of that, and we thank you for that.

Okay. Having said that, I would
like to pause a minute to recognize one of our
members of our committee. Valerie?

MS. FRANCES: Welcome, everyone.
And I just received this news today myself.
Probably not everybody knows her, but I'm sure
many of us do and worked with her for many
years. Diane Joy Goodman passed Friday
unexpectedly. I won't go into any details because I really don't know them, but I just want to say that she was a joy to know, and I always appreciated her good humor and insight and just love of life. And she just was in there doing all she could. And so I just want to acknowledge that, and if we could just take a moment of silence for her.

CHAIRPERSON DELGADO: We will observe a minute of silence in memory of Diane starting now.

(Whereupon, a moment of silence was observed.)

CHAIRPERSON DELGADO: Thank you. I'd also like to make an announcement. The secretary, Dr. Katrina Heinze also suffered an accident, a broken ankle, this past Friday and is not able to attend this meeting and sends her regrets and best wishes for all the members in our productive session. I'd also like to take the opportunity to send Katrina best wishes for a fast recovery and someone
take good notes and make sure that she's up to
speed in terms of what happens here.

Introductions of individual Board
members. Traditionally, we'll start on that
side with Hugh Karreman, please.

MR. KARREMAN: I am Hugh Karreman.

My background is in, originally, soil and
science conservation and that morphed into
being a veterinarian. And I'm a vet in
Lancaster County with a lot of organic dairy
farms and work with many organic dairy farms
across the country.

CHAIRPERSON DELGADO: Thank you.

Mr. Engelbert?

MR. ENGELBERT: Good morning. I'm
Kevin Engelbert. I hold one of the producer
seats on the Board. (Speaking off mic.)

MS. HALL: (Speaking off mic.)

Good morning. My name is Jennifer Hall. I
serve on the consumer slot on the board. I
live in Spokane, Washington, and I'm currently
in the process of . . .
MR. DEMURI: Good morning. My name is Steve Demuri. I live in California, and I hold one of the handler positions on the Board. I'm employed by Campbell Soup Company, and this is my, I'm going into my third year in January on the Board.

MS. WEISMAN: I'm Julie Weisman. I hold one of the, the other handler position on the Board. I am going into my last year on the Board. I can't believe I'm saying that. And my background actually is in social work with a focus on groups, so you can imagine how handy that comes in. For the last decade and a half, I've been involved in flavor ingredients and especially organic flavor ingredients, both commercially for other manufacturers and also private ones, as well. And I'm glad to be here.

MR. GIACOMINI: My name is Dan Giacomini. I'm from Middletown, California. If you don't have to go there, there's no reason why you would know where that is
because it's not on the road to anyplace. But I serve as a consumer seat on the Board. And being in the Bay area, which is probably one of the more liberal areas in the country, I always tell people that if you come from the rest of the country as a Democrat you go to San Francisco and you find yourself a conservative.

So it's a very active place. I contact and work with and try to communicate with a lot of consumers. I'm an organic consumer myself and my family is. And we try and stay, I try and stay in touch with as many of those, that group as I possibly can.

VICE CHAIRPERSON MOYER: My name is Jeff Moyer. I hold a producer position on the Board. I'm also currently the Vice Chair of the Board. I'm the Director of Farm Operations for the Rodale Institute in Kutztown, Pennsylvania, and I manage my own small farm on the side.

CHAIRPERSON DELGADO: Bea James?
MS. JAMES: My name is Bea James, and I hold the retail seat on the Board. I've worked in various aspects of retail from co-ops to mass market to independent grocery stores for over 20 years. And my favorite past time is baking, and I used to own my own pastry shop. And I only have a year left on the Board, and I'm going to get back to making chocolate stuff.

CHAIRPERSON DELGADO: I'd also like to clarify that, in the absence of our Secretary, the Vice Chair and the Chair agree to request Bea that she functions as the secretary for this session, and she has gracefully agreed to that. Thank you. Going on with Mr. Davis.

MR. DAVIS: My name is Gerald Davis. I hold a producer seat on the Board. I am a long-time organic farming agronomist and work for a large family-owned vegetable farm in California working with 40 different vegetable crops and fruit: blueberries,
strawberries, tomatoes, green house crops. It's a very diversified farm, and I'm happy to be here to share whatever I can with this Board and lend some assistance.

MS. ELLOR: I'm Tina Ellor. I hold an environmental slot on the Board. I am Technical Director of Phillips Mushroom Farms. And I'm happy to be here, and I'm happy to see so many familiar faces.

MS. MIEDEMA: My name is Tracy Miedema, and I'm also happy to see so many friends here this morning. This is the end of my second year on the Board, which means it's my fourth of ten meetings, and it is truly an honor and a privilege to meet so many intelligent and very interested people and do the best I can to help with all of the causes that we're working on.

My personal interest in food really stems from growing up and eating wild food in the rural Pacific northwest. I still live far out in the sticks in Oregon, and I
keep bees. And my professional interest is studying consumer behavior, and my graduate work focused on consumer behavior in the organic food industry. And I hold one of the three consumer rep seats.

MR. SMILLIE: I'm Joe Smillie. I hold the certifier seat on the Board, and I'm Chair of the Certification, Accreditation and Compliance Committee, which used to be a very quiet committee and now is pretty active. I was a college graduate that returned to the farm, much to the consternation of my family who fought for three years to get off the farm and send somebody to get a degree. I was a back-to-the-lander, an organic farmer, a consultant, and then got into the regulatory world thinking that the vision of organic needed regulations.

So now I'm basically functioning as a USDA bureaucrat and very interested in all of the issues and very interested as I watch the vision of organics change as it
becomes a regulation because, you know, 30
percent means 30 percent, not 29.8. And so
working with the regulations has been quite an
experience, and I'm looking forward to trying
to make sure that the regulations reflect the
vision of organics.

I'm also, I'm happy to say, proud
to be an American citizen and might even get
a flag one of these days. So glad to be in
D.C. As I woke up this morning on the eighth
floor the sun was rising over the Washington
Monument, and it's a whole new day and I'm
glad to be here.

CHAIRPERSON DELGADO: Lastly, our
newest member of the Board, Barry Flamm.

MR. FLAMM: My name is Barry
Flamm. This is my first year on the Board.
I'm serving as a Chair of the Policy
Committee, and I serve with Joe on the
Certification Committee and with Jerry on the
Crops Committee. It's been a very interesting
and exciting year so far, and I'm amazed about
how much work this Board does. I've been involved in a lot of boards in my career, and this one I think is pretty incredible.

My background is in forestry and natural resource conservation and my specialty now is biodiversity conservation, which is how I earn some money to keep going as an international consultant now. I usually work in Asia and Africa and so forth doing biodiversity conservation work.

I've been an organic farmer and organic orchardist, which I really love doing. I'm not engaged in that hands-on right at the moment, which I miss and am going to get back to. I appreciate, as Tracy said, this incredible group of people that come here to present their comments and also all their written comments. I'm amazed at the carefulness and thoughtfulness of all of it, so it's very special. Thank you.

CHAIRPERSON DELGADO: Next, the Executive Director, Valerie Frances. Will you
introduce yourself, please?

MS. FRANCES: Valerie Frances, the Executive Director. And if you are signed up for public comment and have something that you want distributed or want to give me PowerPoint presentations, just try to drag me down. The public comment schedule is out on the table as you're coming into the room. And when you're on deck, try to be up here or, actually, if you're on this side -- it's just a little bit awkward because, you know, so you can check it. If you've got something to distribute, try to get them to me ahead of time. So far, I really don't have any space to put anything, so I'll just do the best I can and I'm sure we all will.

CHAIRPERSON DELGADO: All right.

Thank you.

DR. ROBINSON: I'm Barbara Robinson, Deputy Administrator for Transportation and Marketing Programs and the Acting Director for the National Organic
Program. And let's start with you, Bob.

MR. POOLER: Bob Pooler, National Organics Program.

MR. REGALADO: Andrew Regalado, National Organic Program, Compliance and Enforcement.

MS. NALLY: Shannon Nally, National Organic Program.

MR. BRADLEY: Mark Bradley, NOP, Auditing, Accreditation, and Training.

MS. BENHAM: Katherine Benham, National Organic Program.

MR. MATTHEWS: Richard Matthews, Standards Development and Review.

MS. RAGONESI: Judith Ragonesi with the National Organic Program, and I work in Compliance.

CHAIRPERSON DELGADO: Can you repeat your name, please?

MS. RAGONESI: Judith Ragonesi.

CHAIRPERSON DELGADO: Thank you.

Anyone else?
VICE CHAIRPERSON MOYER: Mr. Chairman, hopefully the recorder could capture those names. If they want to stop and --

DR. ROBINSON: Oh, I'll introduce them when I do the NOP.

CHAIRPERSON DELGADO: Thank you.

DR. ROBINSON: Because we do have a number of new staff.

CHAIRPERSON DELGADO: Very good. Excellent. And, lastly, for benefit of our secretary, I'm a producer from West Texas, and you all will recognize my accent. I'm very proud of it. I'm a parent of two kids. The youngest of the family is 14 years old; and the second, the oldest boy, is 17. We grow different crops, and I have my family heavily involved in that, including my father and mother even on some occasions.

So that concludes introductions.

We are somewhat behind schedule, and we'll move right into the Secretary's report.

MS. JAMES: Okay. I'll do my best
to represent Katrina's hard work here. The Secretary's Report consists of the acceptance of some of the minutes, so I would like to move to accept the November 2007 voting results.

CHAIRPERSON DELGADO: Is there a second?

MR. KARREMAN: Second.

CHAIRPERSON DELGADO: Okay. It's moved and seconded to approve the November meeting voting results. The voting results of November 2007; is that correct?

MS. JAMES: Yes, correct.

CHAIRPERSON DELGADO: So the motion is to approve the voting results for the November 2007 meeting. So we have a motion now, and the motion is to approve the voting results for November 2007. Any discussion?

(No response.)

CHAIRPERSON DELGADO: No discussion. Ready for the question? The
motion is on the question of approving the
voting results for the November 2007 results,
and we'll take a voice vote. All those in
favor, say aye.

(Chorus of ayes.)

CHAIRPERSON DELGADO: All those
opposed say no.

(No response.)

CHAIRPERSON DELGADO: Okay. The
motion passes.

MS. JAMES: Okay. Next is a
motion to accept the May 2008 meeting
transcripts.

CHAIRPERSON DELGADO: Is there a
second?

MS. HALL: Second.

CHAIRPERSON DELGADO: Jennifer has
seconded. Okay. And the motion is to approve
the May 2008 minutes.

MS. JAMES: Transcripts.

CHAIRPERSON DELGADO: Transcripts.

Sorry. And ready for discussion?
CHAIRPERSON DELGADO: No discussion. Ready for the question. The question is on the motion to approve the May 2008 meeting transcripts. Again, we'll take a voice vote. All those in favor say aye.

(CHorus of ayes.)

CHAIRPERSON DELGADO: All those opposed?

(No response.)

CHAIRPERSON DELGADO: Okay. Hearing none, the motion is agreed to.

MS. JAMES: Okay. So a motion to accept the May 2008 meeting summary, as well as the voting results.

CHAIRPERSON DELGADO: Okay. Is there a second?

VICE CHAIRPERSON MOYER: I'll second that.

CHAIRPERSON DELGADO: Vice Chair seconded that. Okay. It is moved and seconded to approve the meeting summary and
results. Is there discussion?

(No response.)

CHAIRPERSON DELGADO: Ready for the question. The question is the motion to approve the meeting summary results. We'll take a voice vote. All those in favor say aye.

(Chorus of ayes.)

CHAIRPERSON DELGADO: All those opposed say no.

(No response.)

CHAIRPERSON DELGADO: Okay. The motion is agreed to, and I think that concludes the Secretary's Report; is that correct?

MS. JAMES: Yes.

CHAIRPERSON DELGADO: Okay, thank you very much. And now to the next point. We would like to invite Dr. Barbara Robinson to provide us a report on the Program. As Dr. Robinson makes her way up to the podium, I'd like to point out two young ladies on the
right of the room.

MS. JAMES: Mr. Chairman, I have a question. If we're not recording does that affect the transcript?

MS. BENHAM: It's recording. She has mics.

CHAIRPERSON DELGADO: The mics are working.

MS. BENHAM: She has separate mics at the table.

CHAIRPERSON DELGADO: I'll ask the audience to be extremely careful, and I'll ask Dr. Robinson to address the group without a microphone.

DR. ROBINSON: I'm afraid to talk now. In all these years, this is what it took? This is all it took. Who knew?

Okay. Let me be brief, so we can stay on schedule here. First of all, let me make sure I do introduce my staff correctly. Since we met in May, we have hired six additional staff, bringing us up to 15, which
is a much nicer number to say for the National Organic Program. We now have three branches and three branch chiefs. So in addition to Rick Matthews and Mark Bradley, who head up, respectfully, Standards Development and Accreditation and Auditing, we also have the pleasure of bringing on Ruihong Guo. Ruihong, would you please stand up? Thank you. Ruihong is Branch Chief for Compliance and Enforcement, our newest branch that we've added to the NOP. In Ruihong's staff, we have Valerie Schmale, Judith Ragonesi, Tammie Wilburn, Andrew Regalado.

Then we also have Babak Rastgoufard, who's on detail from the Office of the General Counsel who's working on Rick's staff. Shannon Nally, Shannon, you were on board I think in May, correct? But Shannon came from the Compliance and Analysis staff in the Agency, so Shannon used to work on appeals. So now we had to replace her and we have done so, we think, quite capably with
Zaha Lomax way back there. So we're very glad to have Zaha. She does not report directly to me. However, she does work on the Appeals Board of the NOP.

We also hired Shaunta Newby. Shaunta, where are you? Oh, she's the young lady that you see when you come and sign up for public comment. She is the new secretary for the NOP.

So we're pretty excited that we have a lot more people. Still not enough, in my opinion, but much better than in the past. And that's thanks to getting a little more money from Congress.

So, let's see, what else have we done this year, besides hire new people? Oh, well, we did publish the access to pasture regulation on October 24, largely thanks to Rick Matthews' very hard work over the past couple of years. That comment period opened on October 24th, and it continues until December 23rd at this time.
Materials update. Let me see. We have -- hang on. I'll tell you what we have published. The proposed and final rules have been published; Sunset 2008; the ANPR proposed and final rules have been published; the 2011 Sunset; we have the ANPR published; the November 2007 and May 2008 Board recommendations, we're working on the proposed rule. And the 606 final rule is being redrafted; I'm not too happy about that, but that's where it is.

On our budget, we are stuck with a continuing resolution for fiscal year '09. Right now, we have a continuing resolution that goes through March. That's what was signed by the President. I kind of expect that, you know, well, we don't really expect, we have no expectations at this point. I don't have any other information to give you.

We do have a small increase in the NOP budget in the '09 budget, but since we're on a continuing resolution, you know, we have
no expectations to see that unless the Congress, you know, does something otherwise. But given the state of the economy, we're not holding our breath on this.

ACA renewals, we are coming through that process. We have most of the 2007 done, and we're working on the 2008 ACAs that need to be renewed. We continually make updates on the web site. I think we're pretty much caught up with the domestic ACAs, and there's a few foreign ACAs that we still need to finish up on from 2007, and it's just a case of getting, you know, catching up with the AHRQ reports. So we're working on that.

Cost share. As you know, we did get quite a big bump in cost share appropriations from Congress, 22 million in the national program through the Farm Bill. And we did get the cooperative agreements out to the states. And then we are going to do some cost share re-invention. Rick is working with Ruihong's group, and we do have some
plans to improve how we work with the states on cost share and improve, you know, management of that program over the next couple of years.

And one last thing is NOP training for certifying agents. We are going to spend a significant amount of funding from the Program in this coming calendar year out of FY09, FY08/09 spending to really improve our training for certifying agents. In the past, we've only been able to do three training sites per year. We will continue to attend All Things Organic in the coming year, but I don't think that's enough. What I'd like to do is open up the NOP and make it available first to certifying agents but then to anybody who wants to know what does this regulation really mean and what does it mean to be compliant with this regulation. And the idea would be to make the NOP operable and open 24/7.

So we have contracted with the AMS
Training Institute, which is just an excellent resource available to us in AMS. And, in fact, I asked Mark for his input, and he's given us a template to use. I wanted to start with the LSP because I think that is the root of the regulation, but we'll get working on that over the holidays. But we did have, you know, a template that we could at least give the Training Institute to get started with to give them our sense of what we mean with labeling.

The idea would be to take every section of this regulation and break it down and then put it together in a CD-ROM type of format but also a way that we can reach every certifying agent first, because that is our first obligation of course, and then to make training mandatory for all certifying agents but then, of course, make it user friendly enough so that, beyond certifying agents, producers, handlers, and even consumers who want to know what does it mean to be compliant
and what does it mean to be organic will understand this.

And then, of course, it won't just be, well, here's the CD, go. There will actually be training seminars. There will be actual hands-on training. But then this will also be a way to reach people who can't get to a session. As I said, we're going to spend some significant amounts of funding with this, but we had to start somewhere and we had to start sometime. And I think now is the time to do it, as we're coming through the first round of certifying agent renewals and we can see, you know, we can get some feedback from the audit reports what is it we're seeing both from the certifying agents and the on-site inspections and what is it we need to be communicating back to folks.

One of those, just kind of my own personal reaction is that organic is a conscious and a conscientious decision. You know, you've heard me say that on Executive
Committee calls. And so the OSP is going to be a significant component of this. We want to see accurate check sheets. We helped support those at the beginning, so we'll go back and use those workbooks that were put together. We will probably talk with and we already have been talking with ATTRA about using their site as a place to host this once we're done, to host the training.

So we're just at the early stages of this. We'll make it as live and interactive as we can, and so we're kind of excited about this.

But, at any rate, I've gone on a little too long. But that concludes the NOP update, Mr. Chairman. Do you have any questions?

CHAIRPERSON DELGADO: Any other questions? Mr. Smillie?

MR. SMILLIE: I think it's really good news, Barbara. It starts to sound like the long-awaited quality manual.
DR. ROBINSON: Yes, except there will be many of them, Joe. There won't be one. There will be one for every section of the regulation.

MR. SMILLIE: Well, I think that's really good news because that's what we're looking for to create the consistency and the whole idea of the training. And getting all the certifiers with the same, you know, interpretation is going to take a long time. To work up the reg is going to take a long time. So I think this is going to be a great step.

The second thing I think is that the relationship between the agents of the USD and the USDA, we really need to work on that. And if it's going to be a 24/7 thing, I think that's going to start to solve a lot of problems and we create a two-way communication because I agree with you. A lot of times the NOP trainings in the past have been good, but, you know, some of the people who needed to be
there weren't there. So I think the mandatory aspect I think is a good aspect, as long as it's convenient. I know we've heard a lot from some of the state programs this year, and they're saying that, you know, it's too bad that there won't be trainings this year, but the real bottom line was their budget cuts wouldn't even allow them to go anyhow. And I think in this era of budget cuts we can't give excuses to certifiers not to be on line.

So the idea of eventually creating a 24/7 exchange and leveling of interpretations is just going to be a really excellent move. And I think I can speak for the Certifier Committee in saying that I think that we really look forward, as agents of the USDA which is our single solitary position, that we look forward to this kind of cooperation.

DR. ROBINSON: Well, thanks. And I think part of this, we're not going to wait and put the whole thing together, too. We're
going to pilot this out. For example, we'll get a piece of it done, and then we're going to send it out and say, well, you know, how does this look? Does it work? Are we communicating? You know, so trust me when I say, for example, we'll get the labeling one done and it will be kind of, okay, here's what we mean when we say you must do this, or if we're following the inspector around or the certifying agent around in a plant and we pause the tape, the camera or something, and say what did he just do or what's wrong with this label? You know, and then we ship this out, and they say, you know, okay, did everybody get it? Because there's no point in sending it out, of course, and everybody looks at it and says, well, either that was like at the fifth grade level or the five-year-old level and, you know, that wasn't helpful, or nobody would get it.

So we're going to do some test marketing here, too, because we want to do it
right, and also we need something that is
easily update-able as we make changes because
it's also got to be cost effective, too. It's
got to be something that when we put it
together and it goes on the web that we can
also update it as we issue new guidance. For
example, there will be one on the National

But I think you see the idea.

And, yes, part of this problem is access to
training. Quite frankly, not everybody goes,
or an agent will send one person, maybe not
even the person that needs it or something
like that; or the same person comes to all
three trainings or the same person comes year
after year after year.

But we're not getting the right
kind of, you know, training in my opinion or
in the Program's opinion or from the results
that we're seeing. Everybody needs to be able
to hear from the Program; and, likewise, the
Program needs to be talking to all of its
agents. And then the agents, of course, need to be able to talk to their inspectors. And there is no reason, in this age of transparency, there is no reason in the world why producers or processors couldn't look at this and say, "Okay, do I meet the performance standards? I want to know." Why not? If the certifying agent or the inspector is going to come out to this plant or this operation, "Am I in compliance?" Why not? And why shouldn't consumers be able to look at the labeling or something else and say, "So what does it mean?"

MR. SMILLIE: Just a short follow-up. Barbara, any word on the Canada/US equivalency talks?

DR. ROBINSON: Oh, yes. We are trying right now just to set up another meeting, a follow-up meeting. They've had some, since their election -- we sent them a document in mid-September to respond to some other questions that they had, and so last I
I heard we were trying to set up a meeting.
We're just waiting for them. We were going to have a meeting this week, as a matter of fact.
And then they had some, what I heard was they had some food safety issues that caused them to ask could they wait until next week. So we're just waiting for them to pick a date; that's all. And we're ready to go whenever they are.

CHAIRPERSON DELGADO: Hugh?

MR. KARREMAN: Thank you, Barbara, for releasing the pasture rule. I think I can speak for the Board on that or at least the five of us who were on the Board back when the guidance in February 2005 were put out. Remember that way back then, that meeting, you guys? And I thank you very much for a very comprehensive rule, and it is not on the agenda to discuss the pasture rule. It is beyond the NOSB at this point. Just so everyone knows, it's obviously NOP level, so we're not going to be discussing it. But I
guess if people have public comment, that's public comment and that's fine. But we have a lot of other issues on the table to get at. So I just want to say that.

And then just one other thing would be, please, I strongly urge you to extend the comment period for an extra three months beyond December 23rd for the organic community to -- 90 days beyond. In any event, extend the comment period, please, so that the organic community can digest it. It's a very comprehensive document. It's very well thought out, but it needs some work. And I know, at least for my farmers back in Pennsylvania, they are not on line, you know. They basically get updated via, you know, word of mouth or whatever. So please, please, please do that, okay?

DR. ROBINSON: That's not a problem, Hugh. We'll accept any requests and any comments that's submitted to us. So that's not a problem.
Now, I did forget one other thing, Mr. Chairman. Dave Shipman, who is the Associate Administrator for AMS, is going to come down to the Board meeting probably around 10:30, and I will be happy to introduce him. But he just wanted to meet the Board and just say a few words and welcome you all here. If you remember Ken Clayton, he retired, and so Dave has taken his position as Associate Administrator. Jim Link, who was the former Administrator for the Grain Inspection Packers and Stockyards Administration, has come over to be our Acting Administrator now that Lloyd Day has resigned and left the agency.

But, at any rate, Dave is going to come down around 10:30 or so, give or take. It depends on his schedule. So he'd like to come.

CHAIRPERSON DELGADO: Steve, you had a question.

MR. DEMURI: Actually, Bill asked my question.
CHAIRPERSON DELGADO: Okay. Any other questions? Bea?

MS. JAMES: I just want to make one comment regarding your announcements. I really want to applaud the NOP for looking at improving the training and opening it up to consumers, handlers, producers, anybody who's interested, because, one, the transparency, as you mentioned; and then, two, it just helps with education, which is always a challenge at consumer level.

DR. ROBINSON: We totally agree. Everybody should know about this.

CHAIRPERSON DELGADO: Any other questions? Tracy?

MS. MIEDEMA: When we produce recommendations here, I sometimes wonder and I think others wonder where they go. Sometimes, it's clear that they're in process and there's some sort of action, but if you wouldn't mind just commenting a bit on what the various paths are that these
recommendations take when they leave this room.

DR. ROBINSON: Sure, sure. Of course, your materials recommendations are number one. Those take priority over everything because that is the National List and that's just the number-one priority. Anything that, you know, that we have asked you for would probably be number two in terms of what we would work. So recommendations that you made where we've asked you for standards development, recommendations where we've asked you, you know, we need more collaboration, we need your input on this, we're not going to move forward on something unless you give us a recommendation, then, you know, once you give us the recommendation, we look it over.

Generally speaking, we will then go talk, if we have some concerns about whether or not it needs, whether we can issue guidance versus whether or not it requires a
regulatory change, we'll go consult with OGC, the lawyers, for legal sufficiency, and then we'll act on it. If it's a recommendation that you're making and it wasn't even we asked for and we've just got a lot of other work that we're working on, it may sit for a while. You know, it's something that you want to do but -- and, by that, I don't mean that it will just sit because we don't care. It depends on our level of interest. You may come up with something that, like, "Wow, we hadn't thought about that, but that's very interesting," and then we may get to work on it.

Again, the same path would occur, though, Tracy. We have to go talk to lawyers to see is this, you know, is the way they've written it or what they've written or what we want to do about it, is there legal sufficiency? Does it fall within the law, fall within the regs? And then what do we have to do? Do we have to write a regulation, or can we issue guidance? What would we do?
So recommendations that you make that really deal with governance of the Board, how you will conduct yourselves, those sorts of things, we don't really have much to do with that. That's really more the purview of the Board, and that's all right with us.

But bear in mind there is a limit to our resources and there is a lot that we're trying to do, as well. So, obviously, it can take some time to get to those.

CHAIRPERSON DELGADO: Dan?

MR. GIACOMINI: Barbara, as a follow-up to that question, is there a way for the Board and the industry to become aware of the situations of old recommendations, of whether they're rejected, shelved, ignored, being processed? Is there a way to find out what the -- and that goes forward, too. That's not just the old ones in the past. Is there a way for us to be able to find out what the status of things are?

DR. ROBINSON: Well, my
understanding was that, actually, that Valerie
was working on, you know, trying to put
together a matrix. We've talked about this.
She's working on it and trying to track down
all of the historical Board recommendations,
and she had discussed about a way to, first of
all, try to organize them, get them in some
kind of way that we could cross-reference them
and not just do them chronologically because
that doesn't really help that much. That's
one way to organize them, but then that's not
always the most useful way, certainly not as
the Program matures.

And then to figure out the best
ways to organize them, for myself, what I
don't want to see happen is that the Board
starts repeating recommendations and piling up
old ground that's already been done. On the
other hand, the Board may find old
recommendations and say, "Okay, work has been
done on this. Certainly the Program may know
that work has been done this," but the Board
may say, "Hmm, we could take an old recommendation and improve it. Now's the time. Maybe the Program wasn't ready for it, couldn't do anything about it, didn't have the resources, and now the time is right," or, "Maybe the problem has been solved," whatever, I don't know.

So there's got to be a better way to go back and do the seminal work and organize these things in a way that, you know, you can take a look at them. But Valerie has started to do that and, you know, basically cataloging them, cataloging them in a useful way. They're not a secret, in other words.

CHAIRPERSON DELGADO: Joe?

MR. SMILLIE: Barbara, could you elaborate on the 606 rule re-draft? As you know, our Handling Committee, it's a challenge. And I'm not sure, you just had a short little thing about --

DR. ROBINSON: I know. I'm not happy about this either. We should have had
this out. You've got something to say about this, Rick, where we are with it? Is it stuck in RGC or --

MR. SMILLIE: What's your current thinking?

MR. MATTHEWS: Well, the comments have all been reviewed, a doc has been drafted. The doc has been drafted. It's pretty long. All the comments have been reviewed. I was not very happy with it. It's about three-quarters rewritten. It's still with the Program. It's on the plate as one of the things to do. We did get nine rule-making actions done, but that's one of them we haven't gotten done.

DR. ROBINSON: But it was published as an interim final.

MR. MATTHEWS: Yes. I mean, right now, you've got a final rule out there. It's an interim final and --

DR. ROBINSON: It's not that you're inoperable but it's --
MR. MATTHEWS: And the only thing that you're going to see happen is that either the material is going to stay on, or it's going to get pulled back up. That's what's going to happen.

DR. ROBINSON: Oh, the suspense.

MR. SMILLIE: You know, reading the tea leaves here, yes, we've got some problems with the list, as you know. There's things in wrong places, and we're trying to attack it piecemeal, and we're finding inconsistencies as we go forward on 606. There's a lot of inconsistencies. There's some materials that belong on 606 or some place else. And as we muddle through our Ag/Non-Ag resolution, which, hopefully, we're going to bring to a close, it points to the fact that, now that we know what we're doing as a regulation, we need to go back and look at 605 and 606, my two favorites, and just say, okay, let's re-organize these and get it right. Because it's just extremely difficult.
to get it right now when there's the layering
inconsistencies with what we were given
originally. I won't mention any in
particular.

MR. MATTHEWS: Well, I could not
agree more that there are huge problems with
the National List in the way it's structured.
The 606, though, from an interim final rule to
a final rule, however, doesn't solve any of
those problems. So, I mean, it may have
sounded flip before, but the bottom line is
with the 606 rule either the material is going
to stay on or it will come off because of
comment. And, of course, those who want it
off want to see that thing out as soon as
possible. We want to see it out, too, but
we've got to get it right, and it will have to
work through the system. So if it's not right
leaving the branch, it's going to take a whole
lot longer to get it through the system.

But, no, Joe, you're right. The
National List has got huge problems with it,
and I can see no better project for this Board
to be working on than restructuring that
National List.

CHAIRPERSON DELGADO: Kevin?

MR. ENGELBERT: I would like to
defer until this subject -- if anybody has any
questions about this then I will wait --

DR. ROBINSON: He wants to defer
the subject until a later time.

MR. ENGELBERT: I want to defer my
comments until this subject is fully vetted.
If there are any other questions pertaining to
what we're talking about now I'd prefer they
go ahead.

CHAIRPERSON DELGADO: Any other
questions relating to the topic? No other
questions.

MR. ENGELBERT: No other
questions. Well, in deference to Hugh, I'll
be brief. But to keep things fair and
balanced, I wanted to post a comment about the
fact rule, also. Obviously, the community is
thrilled that it's out there, and the people
that I talk with and myself don't see any
really type of postponement or extended
comment period. It's obvious that the rule
that's written is very comprehensive; but, to
me, it simply clarified the existing rule.
And while it does need tweaking, I think the
organic community can come to a consensus in
that length of time. And the people that I
talk with, the farmers, would hate to see
anything to slow this process down and that
may end up postponing its implementation even
longer than we've already waited.

CHAIRPERSON DELGADO: Any other
comments or questions? Two people are buying
beers tonight. Yes, Bea?

MS. JAMES: I know on one of our
calls we talked about Richard leaving the
Program in January, and I wonder if there's
been any thought as to -- I know you're
irreplaceable -- who might step into that
position?
DR. ROBINSON: No.

MR. MATTHEWS: Anybody who wants it.

(Laughter.)

CHAIRPERSON DELGADO: Any other questions? I just have one more. I'd like to say that nobody likes pop quizzes, and I do like the concept that you're presenting about having online year-round training, especially for the producers. I know a lot of people that want to do the right things but don't have access to the right information, and I think this is going to be a wonderful channel to solve those problems.

My question, as always, is time line, when do you think you'll be able to roll this out?

DR. ROBINSON: Well, as you know, and I'll only say it to you guys, I only have one more year left. And, you know, this is, you know, I always said my first priority was getting out a pasture regulation, and this is
kind of my next pet project for the Program.

I believe in this very much. That's why I'm willing to commit resources to it. I believe that we really have to put this out to the community. So, you know, I'm willing to give up Thanksgiving and Christmas to work on the OSP, to script it out. I really think this is important.

I don't have a time line for you, except to say that I would like to have the whole thing done next year, all of it, the whole regulation, all of the modules done. Because it will be modules. It will be separate modules. But, you know, first things first, we'll roll it out as we get it done. The labeling one would be done very quickly, I would hope early spring. And then as soon as we get one done, I'm hopeful that the rest of them will come out quickly. It's always, you know, getting the first one done is the hardest. But, yes, next year, I would like to get it all done.
CHAIRPERSON DELGADO: Any last questions, comments, for Dr. Robinson? Well, I would like to thank you very much, as well as Richard, for all your work you've done. We're going to miss you and wish you the best of luck. Thanks again.

Moving on the next point, we have Dan Giacomini talking about materials and the review process.

MR. GIACOMINI: Thank you, Mr. Chairman. I think, Barbara, the assistant secretary you said was coming --

DR. ROBINSON: Deputy Administrator.

MR. GIACOMINI: -- Administrator.

If they're on a tight schedule, you can just interrupt me and I'll finish up after their greeting, if that works.

DR. ROBINSON: He's not going to come until, I think, after the break, Dan.

MR. GIACOMINI: Okay. If you've seen this material presentation before, I'm
constantly trying to make it more complete and
more thorough and not dragging it out too
long. I did decide to change the background.
It didn't look good on that. It looks much
better on my computer. It's a sunrise or a
sunset, and it's not a statement on anything
organic of which one that is. It's just a
background. But it doesn't look good, so I'll
change it.

I'll be running through the
National List and what the sections are within
it; the petition items, where they stand at
this point in time; the material review
process; the criteria for both the National
List and the Sunset Review; a brief statement
on the Materials Working Group; and some final
notes.

Regarding the sections of the
National List, which are in the 600 section of
the rule, Section 205. 601 and 602 are crops,
with 601 being synthetics that are allowed;
602 non-synthetics that are prohibited.
Next slide. Livestock, 603 and 604 for livestock. 603 synthetics that are allowed, and 604 non-synthetics that are prohibited.

Handling. The National List requires listing of both, so of everything that is utilized and allowed. So on 605, non-agricultural non-organic substances allowed as ingredients in or processed products labeled as organic or made with organic. Section A being non-synthetics allowed, and B being synthetics allowed.

606 is the non-organically-produced agricultural products allowed as ingredients in or on processed products labeled as organic. Listed non-organically-produced agricultural products may be used as ingredients in or on processed products labeled as organic only in accordance with any restrictions specified in this section, and only when the product is not commercially-available in organic form.
The current status of National List items that are in review at this meeting, at the Fall `08, we are dealing with recommendations for, in Section 601 for crops, tetracycline hydrochloride, sorbitol octanoate, pelargonic acid, and ammonium salts of fatty acids. Section 603 for livestock-- there's currently no petition materials reviewed at this meeting. 605 is calcium from seaweed and an expanded use for ethylene. We have two algae, which are listed as a 605 and 606 on this. And for 606, buck hull powder, black pepper extract, and dried orange pulp.

Regarding some statements that were made in public comment, there was a couple of notes of an impression within the industry that petitions to change the annotation were not being accepted by the Program. I would just like to note that we have a couple of substances on the list for this discussion at this meeting, as we have in the past, of petitions that are essentially
annotation changes. So there were two
specific, I believe two specific questions or
examples of where petitions had been rejected
and where this idea was coming from. I will
work with Bob or whoever-- the Chairman of the
Materials Committee will work with Bob in the
next year before the next meeting to find the
status of those and try to resolve any
questions that are there.

Items that are up for
consideration that are on our list are listed
here. On the next slide, these are the ones
that the Board has received but we did not
have time for dealing with them at this
meeting. Some of them are on the list for
this meeting for discussion items. There was
a number of public comment presented on a few
of them, at least, but they are not up as
action items on this meeting.

In addition to those, we have a
few petitions that at one point in time we've
received and they've been sent back or pulled
back by the petitioner. If you go to the next slide, please, Valerie, those are listed there.

Next slide, please. Sunset items. There are no Sunset items up for review consideration at this meeting.

Next slide. The material review process, the guidelines to either add or delete substances to the National List with the Federal Register notice as listed there.

Next slide, please. The material review process, material petition process, is designed for substantially one of three things: adding new listings to National List; changing annotations of existing listings already on the National List; and removing items currently on the National List. Annotation change essentially comes down to a situation of expanding use or restricting use, and they're generally included in the writing and when it's explained and described as either being add or delete petitions. But
they all fit within that same framework.

Next slide. The National Review process has a minimum time frame for the National Review of 145 days, and this is really an absolute minimum optimal time frame, and it does not include time for rule-making. It is conditional upon the completeness of the petition on the initial submission, the manpower within the specific reviewing committees and the Board overall, time frame relative to the NOSB public meetings, and completion and review of technical reviews.

Day 1 through 14, and this day is a starting day of when the Program initially receives the petition. The petition is received by the NOP and reviewed for completeness. Issues determined not to be complete-- the NOP contacts the petitioner for completing the petition. Upon determination of completeness by the NOP, the petition is forwarded to the NOSB Materials Chairperson.

Next slide. Day 14 through 45, the
Materials Chairperson forwards the petition to the chairperson of the designated NOSB committee: crops, livestock, or handling. The petition is re-evaluated for completeness and determined if it will be forwarded for an external technical review. And specific questions which the committee wishes addressed in the technical review are submitted to the NOP.

Sixty days prior to the meeting at the NOSB, the technical reviews are sent to the NOSB. The TAP and the technical reviews are posted on the NOP web site for review and public comment, and the committee recommendations are posted for public comment. Prior to the meeting, the public comment is accepted by the NOP and posted on the web site.

At the NOSB meeting, the committee recommendations are submitted. Further comments are accepted from the public and all public comment are taken into consideration,
and action is taken by the full NOSB Board regarding committee recommendations. As a final note, on the material review process, all communications between petitioners and the NOSB should go through the NOP.

Regarding the National List criteria, there are two references there for anyone who wants to look at it more detailed. And the general National List criteria number one: potential of such substance for detrimental chemical interactions with other materials used in organic farming systems; the toxicity and mode of action of the substance and its breakdown product of any contaminants and their persistence in areas of concentration in the environment; number three, the probability of environmental contamination during manufacture, use, misuse, or disposal of each substance; the effect of the substance on human health; number five, the effect of the substance on biological and chemical interactions in the agroecosystem,
including physiological effects of the substance on soil microorganisms, crops, and livestock; six, the alternatives to using the substance in terms of practices and other available materials; and, seven, its compatibility with the system of sustainable agriculture.

Regarding processing aids and adjuvants criteria is, number one, the substance cannot be produced from a natural source and there is no organic substitute; two, the substance manufacture, use, and disposal do not have adverse effects on the environment and are done in a manner compatible with organic handling; three, the nutritional quality of the food is maintained when the substance is used and the substance itself or its breakdown products do not have an adverse effect on human health, as defined by applicable federal regulations; four, the substance's primary use is not as a preservative or to create or improve flavors,
colors, textures, or nutritive value lost
during processing, except whether replacement
of nutrients is required by law; four, the
substance is listed as generally recognized as
safe by the FDA when used in accordance with
FDA's good management manufacturing practices
and contains no residues of heavy metals or
other contaminants in excess of tolerances set
by the FDA; and, six, the substance is
essential for the handling of organically-
produced agricultural products.

The criteria for 606, which are
agricultural and potentially commercially-
unavailable, the NOSB will consider: A) why
the substance should be permitted in the
production of handling an organic product; B)
the current industry information regarding
availability and history of the unavailability
of an organic form in the appropriate form,
quality, and quantity of the substance;
information that includes but is not limited
to regions of production, including factors
such as climate and the number of regions, the
number of suppliers and amounts produced;
number three, current and historical supplies
related to weather events, such as hurricanes,
floods, and droughts that temporarily halt
production or destroy crops or supplies; four,
trade-related issues such as evidence of
hoarding, war, trade barriers, or civil unrest
that may temporarily restrict supplies; and,
five, other issues that may present a
challenge to a consistent supply.

Sunset Review criteria. The
Sunset provision, no exception or prohibition
contained in the National List shall be valid
unless the National Organics Standard Board
has reviewed such exemption or prohibition as
provided in the section within five years of
such exemption or prohibition being adopted or
reviewed and the secretary has reviewed such
exemption and prohibition. So the Sunset
Review process needs to be done every five
years.
Sunset Review criteria. The exemptions, which really is what the National List listing is, were accepted because the evidence available showed substances were found not harmful to human health or the environment; the substances were necessary because of the unavailability of wholly non-synthetic alternatives; and the substances were consistent and compatible with organic practices. The Sunset includes the opportunity to revisit the continued need for the exemption. If a review finds that the initial conditions still exist, the regulation is renewed for an additional period of time. Sunset Review is to determine if conditions relevant to the exception of the exemption have changed. The Sunset Review process is not to add new substances to the National List. It is not to change an existing annotation and is not the time to re-interpret unchanged information and conditions. These issues are best dealt with
in the petition process.

A note on the Materials Working Group: the Materials Working Group is working to help NOSB resolve issues, questions, and confusion regarding the classification and definition of materials. The members are from across the industry and have been meeting in conference calls on a regular basis. At the Fall `08 meeting, we'll receive a follow-up report on questions of Ag/Non-Ag as originally addressed at the Spring `08 NOSB public meeting. We will hopefully be looking at the Spring `09 meeting a synthetic/non-synthetic report. And hopefully, everything being perfect, at the Fall `09 meeting we will allow for the NOSB action on the MWG recommendations.

Final note regarding public comment: a reminder that all public comment is handled now via the www.regulations.gov web site. You search that according to the appropriate Federal Register docket and the
government agency, which for us is the AMS.

As an effort to bring processing of public comment to an equal level of efficiency for all departments and agencies -- I need to change that. It's no longer a new process, but it is a continually evolving process, as we have all learned. And all public comment received by the NOP is made available to the NOSB members for review in advance of the respective votes, whenever possible.

And, finally, just to have them posted so they are available, the web site listings for the National Organic Program, the NOSB web page, and the regulations.gov. And that, Mr. Chairman, concludes the material presentation, unless there are any questions.

CHAIRPERSON DELGADO: Are there any questions for the Chair of the Materials Committee? Mr. Chairman, I do have a question on the list of materials that we have in the pipeline. I count to 19; is that a correct
number? Pipeline for 2009.

MR. GIACOMINI: We just had three
more materials added to that pipeline on
Friday, and it's whatever is on that list. I
have the same number that you do.

CHAIRPERSON DELGADO: Okay, good.

MR. GIACOMINI: But that could
certainly change at any point in time. I
could -- by next Monday, Rob may have added
three or four more to the list, so--

CHAIRPERSON DELGADO: Okay. Thank
you for that. One more chance to ask
questions. All right. Thank you, Mr.
Chairman. And we'll move now to the next
point on the agenda, and that is a well-
deserved break, 10 minutes long. It's
actually 15, but we'll call it 10, so we'll be
here by a quarter to the hour.

(Whereupon, the foregoing matter
went off the record at 10:24 a.m. and went
back on the record at 10:49 a.m.)

CHAIRPERSON DELGADO: Okay. We
are back in session. And at this point, I would like to ask Dr. Robinson to introduce our special guest.

DR. ROBINSON: Thank you, Mr. Chairman. As I mentioned before, our Deputy Administrator, Dan Shipman.

MR. SHIPMAN: Thanks, Barbara, and thank you Board members. I know it takes a lot of your personal time to come and do something like this. Over the years that I've spent at USDA, I've been involved with a lot of boards, and what I've heard about this particular one, you really end up spending an awful lot of time and energy, and it's a five-year term. Most of them that I've dealt with have been three-year terms max. So thank you very much for the time that you provide. What you do really helps run the Organic Program.

So I just thought I'd take a few minutes, Barbara and her staff were gracious enough to give me some notes, and I've thrown those out and I'll use my own. But I wanted
to tell you a little bit about my background. I grew up in Connecticut, so I'm not your typical USDA guy that's from the Midwest. I grew up in Connecticut, not on a farm, but I did go to University of Connecticut and ended up getting a degree in biology and natural resources, so some of my roommates and so forth at school considered me kind of a tree-hugger.

But I've been in kind of mainstream agriculture most of my career. I started with USDA in '76, row crops primarily: grains; sorghum, we talked a little bit about sorghum; corn and soybeans and so forth; got involved with a number of farm bills over the years, and biotechnology as it entered the market and some of the regulatory process there. But as I learned more and more -- I came to AMS just six months ago. When Ken Clayton, Dr. Clayton retired, they asked me if I'd put my hat in the ring, and I did and I accepted the position.
And the group of people at USDA or at AMS that I've had the pleasure to work with have just been outstanding. I really think that the staff there—what makes a good agency to serve the American agriculture and the public at large is the staff that's built there, and under Ken Clayton's leadership and all of the administrators that have been there and the deputies, like Barbara. I think they've built a really fabulous staff, and it's been a pleasure to work with them.

As I've worked with all of the different programs at AMS, I don't find any more interesting than the Organic Program. At staff meetings on Monday morning, Barbara always has something interesting to share. Sometimes, it's good news; most of the time it's challenges. But it's certainly an interesting program, and I really do enjoy listening and starting to get involved in it.

I just want to share a little bit of kind of the principles that guide me and
will guide me as I work with Barbara regarding
the organics or any standards. First of all,
I believe that when you establish standards--
government standards-- you have to do it in a
transparent, open process, and I will support
that; and they have to be clear standards and
rules that you operate by. Ambiguity within
the marketplace creates risk and uncertainty,
and that doesn't benefit anybody in a
marketing system. So setting clear standards
in a transparent way is certainly of interest
to me, and you will have my support as you
move forward in that.

And then educating people and
reaching out and making sure they understand
those standards and rules is vitally
important. Again, whether you're talking
about organic standards or you're talking
about ethanol standards or any other standard
that the government may get involved with,
people have to understand what those rules
are.
And then when you come to enforcement, my philosophy is that you have to hold people responsible for those standards, but you have to use all of your enforcement tools that are in your toolbox. It's just not a one-fit solution. And you have to develop an environment where people that are in that market, in that industry, want to adhere to those standards, that it's in their best interest to adhere to those standards.

So set the standards by listening to folks, trying to build a consensus, make sure they're clear, and do it in a transparent way. Educate, outreach to people so that they know what those standards are. And then enforce those standards, and do it in a way where you use all the tools and authorities that are at your access.

So I'm just going to end it there. If anyone has any questions, I'd be more than happy to try to answer them. I know you have a very busy schedule. I see Lenny back there.
I've run across his path a few times in my days over in the corn and soybeans and so forth. Good to see you, Len. Any questions? If not, I again welcome you, and we can get on with your meeting.

CHAIRPERSON DELGADO: Thank you.

MR. SHIPMAN: Okay. Thanks.

CHAIRPERSON DELGADO: I'm going to ask the Board members to see if they have any questions. Thank you very much for taking time away from your busy schedule, and I appreciate you coming.

MR. SHIPMAN: I forgot, almost.

The listening sessions on pasture--two more--Barbara asked me to mention that. And I guess you mentioned you wanted to say something about transition team and what can be expected. One quick comment: at 3:00 today we meet for the first time with the transition team that's coming into USDA. We'll see how that goes. We're going to be providing information as far as what we do, what some of
the big challenges are for the first 90 days of the new administration coming in. This is the first session that we will have with them in the marketing and regulatory area, but they are here. They've already hit the ground and they're starting to meet with folks. So you can start to anticipate getting some feedback as to what's occurring over the next few months. Thanks, and enjoy your meeting.

CHAIRPERSON DELGADO: Thank you.

MS. FRANCES: The restaurant in the hotel, if you would like to eat there for lunch, they have pre-ordering. If you would like to order off that menu you need to basically do that now.

CHAIRPERSON DELGADO: Thank you.

Any other comments? Moving on with the agenda, we're going to start our public comment session. And before we do that, let me do the traditional thing that we do at the start of public comment, which is essentially reading the ground rules. If you're
interested, we have those on page 29 of the procedures manual for our Board.

There are several points. I'll skip to the most important one, which is individuals providing public comment will refrain from any personal attacks or remarks that otherwise fall on the character of the individual. And we're very strict with that. Folks, what we're looking for is constructive ideas that will help us improve the quality of our recommendations. Also, I want to touch upon the mission of our Board, which is to provide effective and constructive advice.

So, as you realize, we have a number of people presenting today. I think the list is over 60 today. We want to listen to all of you. We encourage you to stick to the five-minute limit that we invoke per individual. We are not trying to turn anybody away, by all means; we're interested in your comments and your ideas. But we would like to ask that you are specific-- concrete in giving
1 us your input and your ideas on what is it 
2 that we can do to make our work better. 
3 So, on that note, our first 
4 speaker of the day is Dave Martinelli, and he 
5 is representing the Methionine Task Force. 
6 And, again, for the ground rules, our acting 
7 secretary will give the speaker a one-minute 
8 notice, and that will be the indication that 
9 you have one minute left for wrapping up 
10 comments. 
11 After Mr. Martinelli, we have Dave 
12 Bruce, if you can be ready to move on to the 
13 podium. 
14 MR. MARTINELLI: Actually, David 
15 Bruce, I've got a proxy from David Bruce. 
16 And, actually, David Will is presenting from 
17 the Methionine Task Force, too, so we're going 
18 to try to use 10 to 15 minutes between the two 
19 of us. 
20 CHAIRPERSON DELGADO: So you have 
21 a proxy -- 
22 MR. MARTINELLI: My five minutes,
one proxy, and David's five.

CHAIRPERSON DELGADO: All right.

MS. FRANCES: It's on the list, so it's all there.

MR. MARTINELLI: And for the record, I'm Dave Martinelli with Coleman Natural Foods, and I'm here with David Will, and we're presenting for Methionine Task Force. I'll let him do his own introduction when it's his time.

Basically, methionine is not an agenda item for the NOSB at this time, but at the last NOSB meeting we had committed to you all that we were going to be actively engaged on kind of a 24-month work plan involving research on alternatives, as well as conducting some more field trials. So today is just the first in a series of updates that you'll get from us on what we're actively engaged on.

And just to kind of get everybody up to speed, just a quick primer here,
methionine is a necessary nutrient in poultry production. The NOSB has approved the use of synthetic methionine until October 2010, and the Task Force is currently involved in a number of projects looking at alternatives and seeing if we can raise chickens without synthetic methionine.

There was a specific question that came up between the last Board meeting and this meeting from you all regarding, how much synthetic methionine do we add to the diet? The question was asked in the open session at the last meeting, but there wasn't a whole lot of science behind our answer. So we went out and worked with Dr. Robert Schwartz, who's a member of the Task Force. He's a long-time poultry nutritionist. He has his own company and consults for companies on the East and West Coast. And we also brought in specific nutritionists that work with some of the Task Force members: Dr. Paul Twining who works in California and Pennsylvania, and Dr. Richard
Arnold in Texas.

So just kind of to do a quick overview of methionine, it is required to meet, we add synthetic methionine to the diet to meet both the methionine and cystine requirements of the birds. Both methionine and cystine are sulfur-containing amino acids, and birds have a high demand for cystine as part of the feathering process that they go through. And we do not add cystine in synthetic form, but the birds are able to take in the methionine that we provide them and metabolically convert it into cystine. So the reason that that's important is when you look at the methionine needs for the birds, you really need to look at both the methionine and the cystine needs.

This chart indicates, we went through different classes of poultry: layers, broilers, turkey, duck, and geese. And this is just kind of a general percentage. They're very specific numbers, but we tried to take
specific age groups of the birds. I mean, these percentages change throughout the life cycle of the animals, obviously, so we tried to take a snapshot in time for each of the different species to show you what the birds' total demand is and then how much is being provided from the grains and how much synthetic is being added.

I think the real take-away here is that, at most, we're adding one-quarter of one percent synthetic methionine to the diet, so it's an exceedingly small amount. It's, at most, about five pounds per ton of feed, so it's a very small percentage of the overall feed.

We also try to break it out not only as percentage of the diet, but I think the real question was, if a bird has a demand for methionine/cystine, how much of that demand is met from the organic grains in the diet and how much is met from the synthetics? And, again, this is a gross generalization,
but approximately 70 percent or more of the birds' dietary needs are met from their base diet, from the grains in the diet; and we're adding the synthetic to meet approximately 30 percent or less of their total methionine and cystine needs.

So now to kind of segue way into the active research that we're doing, as you recall, our most promising area of research is around high methionine corn, and you all had a presentation from Dr. Walter Goldstein at the last meeting. I actually have copies of his latest communication to us where he goes into much more detail about all the work that he's been doing on trials. I just summarized it here. We completed seed stock trials in Hawaii this spring. I think that might have even been done at the last meeting. And then plantings occurred in the Midwest in the spring, and they're just harvesting the crop now in Wisconsin, Iowa; and we actually have some East Coast plantings in Pennsylvania that
one of our Task Force members is doing, as well.

We, unfortunately, just because of timing, don't have any data on yields or thiamine levels or protein levels in the corn. We're just literally collecting that data now, so probably in 30 to 60 days we'll be able to have a report on that. And then we'll be able to assess how much grain is available for feeding trials and then how much has to be re-used for seed stock.

We are working with Dr. Goldstein's group, the Michael Fields Agricultural Institute, on trying to do a winter planting, you know, either in the southern hemisphere-- Chile is what we did last year-- or in the States, either Florida or Hawaii. We're trying to get two planting cycles a year to try to accelerate the development the hybrids.

The other area we've made good progress I think is we funded a grant through
the University of Arkansas with Dr. Steve Ricke, who's the Director of the Center of Food Safety. He is working on trying to isolate bacteria that will naturally produce methionine, and he's modeled a three-phase trial that will take about 12 months to complete. End of January he will start phase one, and the Task Force has agreed to underwrite that program. He would really be the best person to give you the updates on that trial. I think it's premature to get him here now, but maybe at next spring's meeting or next fall's meeting he can come in and give you a full presentation on what they've determined at that point, at least in the trial work that he's doing.

The third thing that we were committed to looking at was this notion of insect meal or ento-protein. There was a presentation a couple of meetings ago by Neptune Industries at the agriculture session. I would characterize this as really not a
viable alternative, currently. We've had some
discussions with the folks at Neptune. They
are at the very beginning level of pilot
programs. I mean, they're talking about
having maybe 20 pounds per week of this
product available sometime in the next three
to six months. So it's really not even on--
at that volume, it's really not even a trial-
able scale because this is not 100-percent
methionine; it's another feed source that has
an elevated level of methionine, probably
similar to fish meal. We've not been able to
get any specific specs from the company yet.
As soon as we can get some specs, and as soon
as they get to more commercially-viable
volumes, then we can take another look at it.

With that, I'm going to turn it
over here to David Will to talk about some of
the work they've been doing in the field with
birds on diets without methionine.

MR. WILL: Good morning. Thank
you. My name is David Will. I'm with Chino
Valley Ranchers/MCM Poultry, and we are actually conducting with the Methionine Task Force the first commercial-scale layer trial down in Lakeview, California. We're currently at 27 weeks of age on the birds. They were hatched the second week of May of this year. They are sisters: a total of 22,000 birds divided into two houses, 11,000 each. One flock is being raised under our normal practices. The second, we are adding no additional methionine to the ration. They are high-lying brown pullets and now our egg layers. They are cage-free, and our intent and commitment of our company is to run this through the full cycle of their life, which includes to the age of 105 weeks of age.

In our control group, we currently have fed them a total of 10,383 total grams of feed, of which 1,885 was protein, 52.52 grams of that were methionine which included 22.52 grams of added methionine. And for their four-week average, they've consumed a little
over 24 pounds of feed. And to date, we've received an average of 9.9 eggs per hen. The major differences on the birds that we've added no methionine: they've consumed 10,292 total grams of feed, 2,211 grams of protein, or about 17 percent more in order to compensate for the methionine. They've received 37.8 total grams of methionine or about 30 percent less to date, zero percent added synthetic methionine. Their four-week average of feed consumption is over 28 pounds, and we've received a total of 8.8 eggs per hen to date.

Both flocks started at 11,000 birds. The control group has a mortality so far of 538 total layers. The no methionine is at 678. And except for the first week, the mortality has been very, very similar and close. It was the first week the methionine group had a slightly higher loss, which we attribute to just poor hatchlings.

The control group has a uniformity
of 1,741 grams or 85 percent of body weight to our target plan. The no methionine group is at 1,707 grams and is at 70 percent uniformity, meaning out of 100 birds 70 percent are at target of the weight and 30 percent are not within. At the end of the brood, both flocks were within I believe 17 grams of each other, and in the last couple of weeks the no methionine-added group has started to really dive.

The control group-- we're currently at 75.3 percent production with an average egg weight of 57.8 grams, which is just slightly above a large; and our case weight is about 46 pounds. To date, the no methionine group this last week was at 65.6 percent production, and the average egg weight was 56 grams, and the case weight was about a pound lighter at 45.

Some general observations. The feathering in both houses looks great, and we have a lot of feathers on the ground, which is
one of the first warning signs. We anticipate to see that changing. We've had no added signs of cannibalism whatsoever. And in the no-added-methionine group, feed consumption is about 20 percent higher, egg production is 15 percent lower, and case weights are 3 percent lower as well.

Our last general observation, we are starting to become concerned about ammonia. Because we're in Southern California and we've had a very mild fall so far, we've been using natural ventilation with no concern. As we start getting colder now, we're going to be buttoning up the houses a little bit to control the birds' heating, and we anticipate ammonia problems due to the extra protein in the feed and in their urine and bodily function output. So we will be monitoring that. To date, we've done none because we haven't seen any.

And our other major concern is that the age of the birds, that we are just
starting to get into peak production and major
case weight, and we've been warned by our
veterinarian and our nutritionist that the
feed consumption is one of the first signs
that we're going to start having some issues
coming up in the near future.

CHAIRPERSON DELGADO: Are there
any questions? Kevin?

MR. ENGELBERT: Could you
elaborate a little bit on your hatching and
why you felt there was a difference in the
mortality between them? And were the parent
birds being fed methionine? And could you
also elaborate on your cage-free system? Do
the birds have access to the outdoors, or are
they simply in a barn with an open area to
roam?

MR. WILL: First, it's just a
random luck of the draw. You get great
hatchlings and you get less-than-standard
hatchlings from the hatchery. We don't hatch
our own birds. They came from one of the
traditional hatcheries in Southern California. I'm sure the parent stock was a standard methionine-fed flock.

As far as the system, it is a cage-free house. These birds are not on an organic ration. We weren't willing to commit that sort of money because we weren't sure how much these birds were going to crash as the program goes on. So they are on an open-house, no restrictions with movement, open sides, with ventilation and access to the ground.

CHAIRPERSON DELGADO: Hugh?

MR. KARREMAN: Thank you for that update, you guys. We really appreciate that, and you know we're watching you, and it's really good to see that you're following through. That's really important. Just wondering on the study you did -- you had the data there, which is great -- are they significant differences? I mean, that's your raw differences. Are they significant, you
know --

MR. WILL: Individually, no.

Cumulatively, they're starting to become a bit of a difference, yes.

MR. KARREMAN: And you'll censor the data from the hatchlings that didn't make it into your final numbers?

MR. WILL: Probably not, because that's just part of the, you know, the randomness of poultry. So I don't think we'll take that into account. It would be more from the moment of housing, which they both basically went in. To date, their livability has been excellent in both houses, so I think we'll only look at that as the number. We just wanted to make that an awareness at the start that there was that minor issue.

But, mainly, we'll be looking at consumption, conversion, and health. Number one will be health of the birds driving us.

MR. KARREMAN: As you're going into the more critical time, according to your
nutritionist and vet, can you still add in methionine as needed for the welfare of the birds? Or is it like, "Oops, too late, they're done?"

MR. WILL: If we had to pull in, we could add methionine. We've actually had some experiences where we've seen some production in the Midwest that we didn't know or didn't have any control over where that was the problem, they were methionine deficient, and the birds had really majorly crashed. Our nutritionist stepped in, and we actually were able to salvage that production and keep those birds in excellent shape.

So we are watching it. Our intent is to go as far as we can, and our hope is that we get to the end of this and have 105 weeks of data to present to you. But again, bird health has to be our number one issue.

MR. KARREMAN: Thanks.

CHAIRPERSON DELGADO: Dan?

MR. GIACOMINI: A couple of
questions. Will it be okay for Valerie to send copies of these out to us? I'd like to do some crunching on some numbers on those, if possible.

MS. FRANCES: They'll be posted on the web site.

MR. GIACOMINI: Okay, fantastic. Dave, you referred to your requirement as a methionine/cystine requirement. Is that the way the industry wants us to look at what we've been looking at as a methionine number? I know sometimes we talk about methionine and sometimes it's methionine/cystine. Is that the preferred way the industry wants to look at it?

MR. MARTINELLI: That's the feedback we got from all the nutritionists. They all basically said you need to look at them together. So I would say, you know, we've not done in that past and shame on us. But I think, going forward, we should try to look at it as a total.
MR. GIACOMINI: Okay, all right. And, finally, Dave, in your trial, the box is only so big when you have that kind of an increase in protein. What was your drop in energy? Or did you have a drop in energy, or was it absorbed somewhere else in this trial?

MR. WILL: So far we haven't seen a drop.

MR. GIACOMINI: No, but in the energy density of the diet, when you see that kind of an -- you had to take that space that you took up with more protein from something. Was it energy, or was it something else?

MR. WILL: I'll have to get back to you on that specifically.

MR. GIACOMINI: Okay.

CHAIRPERSON DELGADO: Kevin?

MR. ENGELBERT: Mr. Will, did I understand you correctly to say that the feed ration is off, it's conventionally fed ration to both groups of birds?

MR. WILL: Correct. Both groups
are conventional feed.

MR. ENGELBERT: To get a trial for organically-fed birds, wouldn't you want to try to have organic feed, given that the nutritional content and availability, at least from my own experience, for organic feed is significantly higher than conventional feed. Seriously, it would have a real impact on the outcome.

MR. WILL: I'm not sure that that's something that we looked at further down with the difference in the organic versus the non-organic, because we balance our rations to a set level of proteins. So I think, if anything, it would be a little bit of adjustment within the ration. But our main concern was, this never having been done before, growing birds from start at this level of scale, we had no idea what we were walking into. And as a financial commitment of the company, we felt that this was one that we were comfortable with to start with.
MR. ENGELBERT: I would certainly be interested in even a smaller scale trial where organic feed was the basis for the ration and see what the differences were then.

MR. MARTINELLI: You know, I could add for the broiler trials that we've done we've used organic feed, because it's a much smaller quantity of birds and a much shorter feeding cycle. I mean, I can totally appreciate what Dave is going through at 105 weeks. The math gets much different. But I think the thing would be let's see how these birds do over the next critical phase, and if the results are promising then I think the next thing to follow it up with would be maybe an organic-based trial with smaller numbers or something.

CHAIRPERSON DELGADO: Kevin?

MR. ENGELBERT: And thank you for your efforts and report.

CHAIRPERSON DELGADO: Bea?

MS. JAMES: I'm trying to
understand, do your birds see sunlight at all?
Do they go outside?

MR. WILL: No. Our cage-free birds do not go outside. However, they live in houses that are, none of the walls are solid. So they're ventilated by nature, and they interact, insects fly in, and receive the morning sun and the afternoon sun into the house.

MS. JAMES: Do you know of any research as far as what the nutritional needs are of birds that are actually outside versus the way you raise them?

MR. WILL: There have been several studies done with that, and as far as I've seen, I haven't seen major changes in any of those. As far as the amount of feed that they graze from the land, I haven't seen major differences.

CHAIRPERSON DELGADO: Any other questions? Okay. Well, thank you very much.
And moving on, we have Leslie Zuck. And after
Leslie, we have Miles McEvoy.

MS. ZUCK: In the interest of your long list, I'm going to relinquish my time.

CHAIRPERSON DELGADO: Thank you, Leslie. That being the case, we have Miles McEvoy, followed by John Foster.

MR. MCEVOY: I'm Miles McEvoy at the Washington State Department of Agriculture, and I'm also speaking on behalf of the National Association of State Organic Programs. I'm the President of the National Association of State Organic Programs, and we have comments on grower groups and commercial availability of organic seeds.

NASOP is a group of state organic programs and state certifiers. We have an annual meeting and training get-together to discuss issues that are important to state departments of agriculture in terms of supporting the organic industry through marketing, through clear standards, and through certification and enforcement.
The one thing that's really important to the state organic programs and to NASOP is protecting organic integrity, and I think that's one of the areas that really needs to be focused on in the National Organic Program. And there's a few different items around protecting organic integrity that I think should be strengthened and looked at, and one is enforcement. I think enforcement needs to be strong and rigorous. There is a lot of mislabeled products out there. There's fraud out there in the organic community. And that when we find fraud, civil penalties should be assessed. Civil penalties can be a real deterrent to fraud, and I think that that part of the National Organic Program should really be used to help to prevent further fraud. Surveillance needs to occur, including random sampling. States can help with doing surveillance inspections. Surveillance is a way to identify problems
that occur when you least expect it, and those unannounced inspections are really different than when you do an announced inspection and people know that you're coming. Unannounced inspections, surveillance inspections, those check-up inspections, those sampling, that's really important to do.

The other thing I think that we've heard is that there's a lack of consistency in terms of how the National Organic Program is implemented by different certifiers, different interpretations. And so I think it's really important that we have continued training from the National Organic Program. We need to hold certifiers accountable through the accreditation process, so bumping up the scheduling of the auditing process I think is really important. But I would also suggest that certifiers also could use some technical assistance, some direct meetings with National Organic Program staff in a non-auditory type of situation so that it's a little more of a
friendly atmosphere.

The work on the web-based training is going to be very important, and that's going to really help out in terms of getting consistent information out to certifiers, and I think that will help a lot. But there's other things that need to happen, as well.

So in terms of grower groups, NASOP does not support the current writing of the grower group. We support the concept of the multi-site certification of the grower group component, but we think there's some concerns with the way that the current proposal is written. And one would be to limit the multi-site certification to producers, limit it to small holders that are under $5,000 in organic sales, and make sure that what is certified through the multi-site process is a legal entity. We support the minority opinion that new growers should be inspected before they're joined into the multi-site certification prior to their
acceptance within the certification program.

And then one thing to keep in mind is that the organic system plans and the internal control system, those procedures are great and they help build integrity. But inspection is really critical. Violations in the states are found in unlikely places. When you do those surveillance inspections, when you're doing those inspections, you're finding things that actually help the operation. And we can't just rely on internal control systems and organic system plans to document and to ensure organic integrity.

So that's it for NASOP. Should I go on with the WSDA comments at this point?

We also have comments for WSDA, Washington State Department of Agriculture.

MS. FRANCES: The NASOP comments were down later in the day for a five-minute spot, and the WSDA comments were now.

CHAIRPERSON DELGADO: Let's proceed.
MR. MCEVOY: Okay, great. Five minutes for commercial availability of seeds. So this is a very important issue. The draft that has come out is much better than previous drafts, but there's still some problems with it from our perspective.

A couple of the problems are some of the assumptions that are made in the draft. One is that the organic seed industry is not growing, and I don't think there's adequate data to show that. I think that, from our experience in Washington State, that the organic seed industry is growing. There's a lot more organic seeds that are being used by growers of all sizes. Small, medium, and large-scale growers are using more and more organic seeds.

The other thing that's said in the draft is that organic growers are unwilling to use organic seeds. That's certainly not our experience. Organic growers are going to a lot of ends to try to find organic seeds to
use, to purchase organic seeds; and they don't use cost as a factor to not use organic seeds. We're not seeing that as a real impediment for organic growers to use organic seeds.

Certifiers that we know are not using cost as a factor to determine commercial availability. They're using the other aspects of the commercial availability and quality of the seeds.

So the proposal, we see it as being quite burdensome, especially for diversified growers. We certify about 800 growers in the state of Washington, and many of those are very diversified. Some of them are small acreage farms, and some of them are larger acreage farms that have hundreds of varieties. And this proposal would be very burdensome on them. When they're planting many different plantings on small acreage, it would be very difficult to meet the new regulatory requirements.

And then the other part of the
proposal is that there's an implied part of
the proposal that says that certifiers allow
the use of organic seeds. What happens is in
our process is that the organic grower has a
procedure in place to verify that they're
using organic seeds and they're only using
non-organic seeds when they're not
commercially-available. And they have
documentation to verify that those non-organic
seeds are not available.

The proposal implies that
certifiers are looking at each and every seed
choice and approving or allowing the use of a
non-organic seed. That's just not feasible.
When growers are using hundreds of seeds and
making lots of different choices on a very
short time frame, it's not possible.

So what we do is we review that
plan, we inspect that plan, and we audit that
plan to ensure that they're only using non-
organic seeds when organic seeds are not
available. And that system works, and it has
worked to increase the number of organic seeds that are being used by organic growers.

The other part of the proposal is to report on the percent of organic seeds used. Again, that's going to be very problematical for diversified row crop operations because of the number of seeds that they're using and the small acreages that they're planting on. And it's also not going to lead to any additional use of organic seeds.

Now, there are some problems with organic seeds being used by larger-scale processors in particular, growers that are getting seeds from the processing industry. There we're seeing not very many organic seeds are being used. So that would be a more targeted way of looking at this development of the organic seed industry. Identify those areas where the organic seed industry is not working or not developing and put our focus and our attention there.
And that might be an area, because it's larger acreage, it's usually a single planting on a larger acreage, we could report back, certifiers could report back on the acreage of the specific varieties that are in non-organic form, and that would give the information to the seed companies of, okay, here you have so much acreage of certain types of varieties that are non-organic, and then they could develop the organic seeds that then could be used.

So the only other thing I wanted to do was that the Puget Consumers Cooperative, 45,000 members in the Seattle area, they have some comments that they tried to submit on aquaculture standards, and so I'd like to submit those into the record. And that's it.

CHAIRPERSON DELGADO: Thank you.

Kevin?

MR. ENGELBERT: Thank you, Miles.

Could you elaborate a little bit when say that
your seed growers are trying to come up with seed in a short order of time? That hasn't been my experience with people that I talk to that that's generally the case and that's where we were coming from. We try to order our seed in the fall. We plan our rotations one, two, sometimes three years in advance. What is there about our proposal that you think couldn't be met in that regard?

MR. MCEVOY: Well, when a grower loses a planting, they want to plant something else to meet a market demand, when they see that there's something that's selling well. They make those kinds of choices on a pretty short time frame. So, yes, they'll have a general plan in terms of the kinds of seeds that they're planning on using during the upcoming growing season. But then as the market developments, as they have particular successes or failures with certain crops, then they are getting additional seeds to meet those changing conditions.
CHAIRPERSON DELGADO: Jerry?

MR. DAVIS: Miles, can you clear up in my thinking what you mean by this specific area that you thought with processors? What is that world you're speaking of? I'm not sure I understand what you mean.

MR. MCEVOY: Growers that are growing organic corn, peas, potatoes for processed organic vegetables, so for frozen vegetables in particular. So what is happening with the processor is providing the seed to the grower, so the processor is the one that has to get the commercial availability or unavailability documentation. The grower is not making the choice in terms of the type of seed that they're planting. The processor dictates what type of seed is being planted because of their harvest schedule.

MR. DAVIS: So when you say that that's an area that you're describing, the
wording we used for the document was the buyer of the organic product, which in this case would be the processor calls the shots on the seed and not the grower. Then it puts them in the loop to say this is what we accept from that entity, from the processor.

MR. MCEVOY: Yes, I think that's very important for certifiers to do that, to put that buyer of the product that's providing the seeds, they're the ones that need to find organic seeds or use their resources to try to develop organic seeds.

MR. DAVIS: And the grower component that you certify in Washington, you're saying the biggest problem you see is with that area versus the general grower?

MR. MCEVOY: Yes, on the smaller diversified farms, we're seeing lots of use of organic seeds, more and more every year. I don't have any specific figures for that; it would take a lot of resources --

MR. DAVIS: What if I told you the
MR. MCEVOY: The larger-scale, no, we're not seeing hardly any use of organic seed. And the excuse or the reason that's given is that they need to have specific varieties because of their harvest schedule because the processor is doing both organic and conventional production, and so they have a certain schedule of harvesting of all these different fields, and so they dictate exactly what variety they're going to plant in a planting day for that harvest schedule. And they use that as one of the reasons why organic seeds are not available.

MR. DAVIS: In the typical Washington state systems that you see, it's either smaller to medium-sized growers that are not sending to processors and tied into that scenario.

MR. MCEVOY: Right.

MR. DAVIS: And then there's the larger growers that all seem to be in that
group? There's not larger diversified growers
that market themselves?

MR. MCEVOY: Yes, they're usually
different types of farming operations. You
usually have larger scale that are going to
wholesale or in the processing industry and
then the smaller scale are doing more of the
direct bargaining, which some of those direct
bargaining operations can be quite large with
hundreds of growers and CSAs and many markets
that are covered.

MR. DAVIS: The Board would appear
to be singling out the large processor type
entities by saying we're going to focus on you
and not apply the same regulations to everyone
across the Board?

MR. MCEVOY: Yes, you would be
focusing on them but not singling them out as
being, giving them stricter regulations.
You'd be focusing on them because that's the
area where the organic seed industry has not
been developed. So understanding what is it
about that industry, why aren't they
developing organic seeds, and then making sure
that there's support structure and regulatory
structure to ensure that that occurs and not
putting all the burden on the small
diversified operations, a different problem,
and don't put that burden on operations that
the requirements, the additional requirements
imposed are not going to lead to increased
development, just reporting the percentage of
organic seeds used. Some of the other parts
of the proposal are quite good, and I have
written comments on this and made specific
recommendations of things to include and
things not.

MR. DAVIS: Thank you.

CHAIRPERSON DELGADO: Hugh?

MR. KARREMAN: Miles, thanks. At
the very end of your public comment, you
mentioned something about aquaculture. And I
was wondering if you could just simply either
summarize or, if it's short, like within two
paragraphs, if you could say what it is because it's going to be entered in the public comment I think we should know what it sounds like.

MR. MCEVOY: Okay. This is not comments from the Washington State Department of Agriculture. This is comments from the Puget Consumers Cooperative, a cooperative of 45,000 members in the Puget Sound area. And, basically, they imposed the recommendations on aquaculture, specifically around the open-water net pens. And they're citing that Washington State has been one of the key states -- I'm not saying that this is true, but this is what they're reporting -- that have allowed open-net pens and that there's been some significant environmental problems. And that's in their comments. It documents some of those specific environmental problems for those open-water net pens.

The other thing that they bring up in their comments is that the open-water net
pens have a negative effect or can have a negative effect on the wild fisheries, the family type of businesses that are quite prevalent in Washington and Alaska. There's a lot of trade or a lot of common businesses that are based in Seattle but work up in the Alaska fisheries. So they're saying that these open-water net pens have a negative effect on that industry.

CHAIRPERSON DELGADO: Steve?

MR. DEMURI: Hi, Miles. Thanks for your comments. On the sign-in sheet I have, it says you're on ethylene pears for organic pears. You're up there in the pear capital of the world. I'd be very interested in hearing your comments on that.

MR. MCEVOY: Well, our organic advisory board met and discussed this issue just two weeks ago. And the board, the state advisory board decided not to comment on ethylene, not to support it or to oppose it. There are a few fruit growers that did say
that that would extend the marketing season
for winter pears, so that's the real reason.
There was questions on, well, if it's allowed
for bananas, why not for winter pears?

There is a problem with winter
pears ripening. They don't ripen evenly, so
that's the whole concept is that if you allow
ethylene for organic winter pears they would
be able to have organic winter pears next to
conventional pears or be sold at the same time
of year as conventional pears. So that
currently can't occur with winter pears.
There's other types of pears that can be
marketed at that same time but not the winter
pears that need certain ripening. So what
they did with the organic pears is they put
them in a room and wait a couple of months
before they ripen and then they release them
to the market.

And the reason why the board
didn't feel comfortable commenting on this is
that, well, I guess they just didn't feel
comfortable. There wasn't consensus so . . .

MR. DEMURI: Do you have any personal opinion on it?

MR. MCEVOY: Well, it seems like if it's allowed for bananas why not for pears?

CHAIRPERSON DELGADO: Bea?

MS. JAMES: Do you have any comments for us as far as how the approval of ethylene for pears may affect the state of Washington's development of their pears with other importers bringing in pears at a greener stage for ripening?

MR. MCEVOY: I don't know specifically. I would say that probably we would be able to out-compete them for the winter pears. Pears grow quite well, just like apples, in Washington state. About ten percent of Washington's apples now are organic, and about five percent of our pear production is organic. And this would probably increase the amount of organic pear production in the state. I don't think it
would negatively impact. It would positively impact our state because it's mostly being promoted by the fruit packers in eastern Washington and by the Washington Horticultural Council, so they wouldn't be promoting this unless they thought it would be promoting Washington state pear production.

CHAIRPERSON DELGADO: Any other questions? Tracey?

MS. MIEDEMA: Thank you. Thank you, Miles. There seems to be a bit of a philosophical underpinning in your approach to the seed document, and you mentioned the burden on smaller farms to burden on certifiers. And I wondered if you could comment from that same philosophical feasibility perspective on the multi-site recommendation? You mentioned, generally, you were supportive but only in the very specific circumstances.

MR. MCEVOY: Yes. I think that NASOP and myself personally support the whole
And to have some way of bringing organic product into the U.S. market. But it needs to be done in a way that protects organic integrity, so we don't want to lose that integrity because then we would lose the confidence of the consumers. So I think that the proposal, as it's written, has a lot of very specific aspects in there, and maybe that just needs to be a little more tight than it currently is.

And that's what the specific proposal is: limited to producers, limited to small holders that are under $5,000 in sales. I know that people don't like that definition. There should be some kind of definition of what is a small holder so it's not available to everyone. And then it has to be a legal entity because, otherwise, the certifier has no body to take action against.

CHAIRPERSON DELGADO: Any other questions?
MR. GIACOMINI: Just a follow-up.

When you say $5,000 limit, do you want the individual members within the grower group to be under $5,000 or the grower group to be under $5,000.

MR. MCEVOY: No, the individual members of the grower group.

MR. GIACOMINI: Okay, all right.

MR. MCEVOY: And I don't know if $5,000 is the right number. But that would enable them to then market their products and still be certified organic.

CHAIRPERSON DELGADO: Any other questions? Thank you. Our next speaker will be John Foster, followed by Jim Pierce.

MR. FOSTER: Thanks to the Board and the Program for your continued energy and productivity. I know Earthbound really appreciates it, and you don't get enough gratitude for that. It's doing positive change, and we really appreciate that. Thank you.
My name is John Foster, and I'm the Senior Manager for Organic Integrity at Earthbound Farm. We're a large grower, packer, shipper or organic fruits and vegetables. Our main claim to fame is salad mixes. We also do a lot of private label work in Canada and the U.S. We also have a pretty full line of all-organic fruits and vegetables. We also do fresh sliced apples, dried fruit, some baked good, all in organic form. We pull products from around 200 suppliers and around 35,000 acres every year. Also, to be fair, prior to coming to Earthbound, I was involved pretty intimately for well over a decade in organic certification.

So I'm going to move real quickly. As some of you know, I don't like reading, but that's the only way I can get through this in five minutes, so forgive me.

First, on commercial availability, I've commented on this before, and I won't
reiterate that. I would only say that there needs to be more attention on what certifiers collect in their OSPs and of what operators often omit or obscure in their OSPs, Organic System Plans. That makes the certifier's job more difficult. That happens a lot, and it's very challenging for both operators and certifiers.

I also want to point out that there's a big difference between a certifier collecting commercial availability information in an OSP and having the resources the condense and verify it and regurgitate that. Those are two different things from a certifier's point of view. So, in short, I would ask that you hold certifiers accountable absolutely for what they're accredited for, but asking more than that you need to be real creative with providing resources to make that happen.

The second thing, on multiple site operations, again something I've commented and
I won't reiterate, if you're going ahead with this, first off I should say the current recommendation, obviously, it shows a lot of effort on this since the last iteration of it. I think that's a good thing, no matter how it turns out. The risk analysis provision I think is particularly important.

It's also my opinion, though, that there are a lot of accredited certifiers that I wonder about the qualifications of staff to implement that right now. So it would need a lot of training, a lot of training, more so than the regular training that's necessary on that subject.

As some of you know, I'm a little worried about the perception of the multiple site certification. So if you're going to do it, it needs to be done really, really cleanly, really tightly, because it's going to be the first place that someone is going to try and drive a wedge into the integrity of the Organic Program and industry.
Third, real quick, the biodiversity thing, Earthbound, we're very enmeshed in biodiversity and organic intersections, particularly as a function of the Leafy Greens Marketing Agreement. I spend a lot of my time solving problems that growers perceive as a function of conflicts. The LGMA metrics really aren't, they aren't mutually exclusive. It just takes more creativity on how you fix that. That's going to be an additional challenge to layer on just the simple features for organic compliance and biodiversity concerns. There's also in California and now Arizona also LGMA concerns that weigh heavily on this.

Lastly, the packaging/processing aids and 100-percent claims, I appreciate this as being a very complicated issue not easily addressed. I think I agree with recommendation number one. I would just ask for clarity on what the "it" refers to. I'm not sure if it means materials or equipment in
that. I'm not sure of the opening line of recommendation two. I don't think that's a true statement, certainly not all the time. The precedents of recommendation three are a little frightening to me, and the first clause of four needs clarity and I think accuracy.

My biggest fear, actually, is that, as written, I think it would motivate some less-knowledgeable growers and handlers to bypass essential food safety considerations. And I'm not saying they would do it deliberately or maliciously, but I think there's a lot of poor insufficiently-educated growers and handlers out there. And largely, in order to differentiate their product in their marketplace and make 100-percent organic claim, my fear is that they would fail to implement sufficient food safety protocols, and that's something Earthbound knows quite a bit about these days. So it would be something I would argue pretty forcefully for when the time comes. Thank you.
CHAIRPERSON DELGADO: Questions?

MR. SMILLIE: John, I really respect your experience and your current involvement in this, and one of the points, philosophical points behind 100 percent is not penalizing companies for doing proper food safety. Rather than saying if you do this operation to increase food safety, whether it's nitrogen flushing or sanitizers, then you lose the 100-percent label. Our intention was we want them to do the food safety operations, and we don't want them to lose 100 percent in some of our cases.

So having said that, recommendation one, can we just go through them quickly? Because you referred to them and I didn't have them in front of me. So recommendation one, sanitizers, what was your comment on that exactly?

MR. FOSTER: When you use the word "it" in there, and I'm not sure whether "it" refers to equipment or materials. It's toward
MR. SMILLIE: Okay. And number two?

MR. FOSTER: Yes, what about it?

MR. SMILLIE: What was your comment or recommendation on number two? When it says hybrid cooling of produce, we've said that if the microbials remain on the final product and consume with it then it would be a clue to 100 percent part.

MR. FOSTER: Yes, I think that first clause is, I think it says that the sanitizers do remain on the product, and that's not always true. And I think that, I'm not sure even if that's the right argument to be making. But in terms of syntax, that's not a true statement. Even if you use chlorine at ambient temperatures, it off-gasses very, very quickly. Citric acid might be different when it's used as a pH buffer, but the chlorine for sure.

MR. SMILLIE: So we should look at
that a little more carefully and be more specific?

MR. FOSTER: Yes.

MR. SMILLIE: Number three, the diatomaceous earth --

MR. FOSTER: Yes. Boy, my big worry with that is if you -- let's see. Two things. One, I think it's more important what the activity being done to the product is, rather than where it's being done to it. For example, we do a lot of field pack of celery hearts and romaine hearts. That's all done in the field, but we use chlorine as wash water in the field on the equipment but also in food contact. So as I'm reading that, I'm thinking that there's a lot of undiscovered country there about whether you're deciding what's processing versus what's post-harvest handling, and is that a function of location? Is it done in a processing facility? What if the farmer has a building that they do this thing in on the farm? Is that processing?
All of that, that's really murky in how this is written right now, and I think putting forward a recommendation like this without going through that thought process is going to be just another train wreck. Who's responsible for train wrecks? That will be very problematic. Again, both with respect to just clarity but also with respect to food safety concerns.

MR. SMILLIE: We agree. The Handling Committee did this, and our purview is -- CAC took this on, and we did not, we missed that. And we realized that that is a flaw in this document. We were addressing processing operations, and we did not take into account post-harvest handling on the farm, the different viewpoints that that comes from. So we have to go back and fix that. We agree, and we're looking for more comments. We've received some written comments on that issue. So what I'm hoping, and we'll find out in public comment because that's why you're
all here, is what parts of this have to go
back for re-work and what parts can be moved
forward.

Number four, did you have a
comment on that?

MR. FOSTER: I did, but I'm not
quite done with three yet, actually. The
other, it's not really philosophical but it's
more procedural, is the example that's used.
There's some, it's not just sanitation there.
There's some pest-control issues --

MR. SMILLIE: This one is just
that diatomaceous earth --

MR. FOSTER: Right. But its
utility is, in my experience, in that usage is
more pest control. Well, there's a whole
other -- what about pesticides applied in the
field? Obviously, that's an extreme example,
but by way of making a point --

MR. SMILLIE: Again, allowed
pesticides.

MR. FOSTER: Agreed. But it's
done in the field, and there seems to be a lot of agreement that, before you cut the product, that's a crop input, and then it gets hazy after that. And that's what needs to get really completely worked through the mill, I think.

MR. SMILLIE: Agreed.

MR. FOSTER: And then number four. Oh, boy, yes, when it says nitrogen, ozone, CO2, and other inert atmospheric acids, I want to be clear that, like, ozone is not an inert gas. That should be really clear in there. And carbon dioxide I would argue is not either, but it's less active than ozone.

But this goes back to the question I've asked a lot, which is when does something stop being what it is and start being something else? So when does manure, is there a magic moment where manure becomes compost? And that's what this gets to, particularly the second line where it says "are not incorporated into organic foods." Maybe with
argon that's true, but certainly not ozone, 
certainly not CO2. There's some kind of 
interaction there on some level. I would be 
happy to have a discussion about how to get 
through that. I don't have all the answers, 
but I know it needs to be a work-through. 
Otherwise, it's going to be yet another 
problem to contend with six months or a year 
down the road.

MR. SMILLIE: I apologize for 
taking so much time, but I wanted to get all 
this out.

CHAIRPERSON DELGADO: No, it was 
very constructive. I appreciate that. Bea?

MS. JAMES: You made a comment 
about the multi-site recommendation needing to 
be really, really, really tight or potential 
problems could arise and, you know, for us to 
make it so that no wedges could get in there. 
Can you give me a couple of examples of the 
way that the multi-site is written site is 
written currently where you see some openings
for problems happening?

MR. FOSTER: Where it's written currently, or where it's implemented currently?

MS. JAMES: The way that we have it written currently.

MR. FOSTER: Okay. The current. I'm not entirely, I have faith that the Program will provide adequate training documents, you know, as time goes on. I'm completely confident in that. But I think there's, let's see -- let me start over. Because there's a perception of kind of playing fast and loose sometimes with organic regulations, oftentimes outside of U.S., I think that the wedge I was talking about is that if someone, if a non-organic minded organization wanted to point fingers at failures in organic integrity, that would be an easy target if, in fact, there is a problem that shows up, say, with, I don't know, coffee or pick your commodity. It wouldn't really
matter the commodity, it would just matter it
would be more, if there is a failure, it could
be very public and I think very damaging
because it would make it easy, a very dramatic
example of someone being able to point and
say, "Well, see that stuff coming in from
overseas? That's not really organic." That
makes a lot of headlines and draws I think a
lot of negative press.

I'm not saying that the way it's
written right now, if it's implemented
perfectly, it's probably okay. But I think
it's more about the implementation of it, and
so the guidance about implementation and
training of certifiers and training of
inspectors would be, I think, more important
on this matter than it would be on some other
things only because the potential for negative
press for the organic brand as a whole is
pretty dramatic, pretty far-reaching.

CHAIRPERSON DELGADO: Any other
questions? Okay. Well, thank you very much.
At this moment, we're going to take a one-hour break for lunch. We are running somewhat late in time. And when we come back at exactly at 1:00, we'll have Jim Pierce start, followed by Brock Lundberg.

(Whereupon, the foregoing matter went off the record at 11:59 a.m. and went back on the record at 1:04 p.m.)

CHAIRPERSON DELGADO: We are ready to start. Mr. Jim Pierce.

MR. PIERCE: Mr. Chairman, thank you so much for putting me on after lunch. I feel like I'm saying a prayer before a circus, but here we go. For the record, I'm Jim Pierce, Global Certification Program Manager for Oregon Tilth Certified Organic, a non-profit organization that supports and promotes biologically-sound and socially-equitable agriculture through education, research, advocacy, and product certification. With 1200 certified operators, we are not the biggest NOP-accredited certifier, but we are
clearly the best.

Comments using the plural "we"
then refer to the universal "we," the queen's "we," or, in this case, the tsar's "we."
These verbal comments will serve to reinforce our written comments, which were included in the soon to be best-selling DVD. My highly-capable associate, Gwendolyn Wyard, will be commenting later on your recommendations pertaining to 100-percent organic materials and pet food.

For what it's worth, I will focus primarily on multi-site certification and commercial availability of seed. I will not discuss the very large elephant in this very small and very warm room, that being pasture.

I will preface my comments with these general observations. We commend you, the appointees of the NOSB, for coalescing into a group that is cranking out solid, well-vetted, on time recommendations. Gone are the five-day crams where we all grabbed printouts
on the way to the airport and wrote comments on cocktail napkins.

I'm long on record with the NOSB as a standards conservative and a materials liberal. By that, I mean I have for years encouraged this Board and Program to adopt strict enforceable policy that preserves organic integrity, while at the same time reviewing and approving materials that are appropriate for use in the system of organic production without being overly prescriptive, as with ethylene.

Today, I would go on record and challenge you with another foundation principles. Get your rock tablets and chisels ready. Intent is far more important in your recommendations than language. And I'll say that again: intent is more important than language. We need only to avail for a moment the pasture pachyderm to see that when the language of the NOSB and the NODPA group was processed defined by the rule to include
mixing, grinding, churning, separating, extracting, slaughtering, cutting, fermenting, distilling, and eviscerating, the language not only becomes as unrecognizable as a whole hog is to a bratwurst, but the intent is seriously jeopardized.

Like the pasture elephant in the room, there's an elephant in the multi-site recommendation. Although alluded to, the recommendation does not clearly define retail and process requirements. On the record and testifying in the past in support of multi-site certification. We currently certify grower groups in Latin America. We expect each and every farm the first year and, as expressed as a concern by the minority opinion, we inspect every new operation in subsequent years.

Internationally, the intent of grower groups is clearly stated on page two of that recommendation, "to assist producers and handlers from less-developed areas into
reaching organic markets." That said, please be clear, clear as in transparent. Address it head-on. Introduce us to the elephant. If this recommendation is intended to be applied to retailers and processors, then this recommendation must include language specific to that sector.

Regarding organic seed, which allows me to say, as written by the NOSB JCC ACC, as with grower groups, international perspective is important here. It's worth mentioning to you that the world watches as you make recommendations. The intent of the issue is not only clear but clearly stated in B3 of the recommendation, namely "verify that organic farmers are making a sincere and ongoing effort to find organic seed variety suitable to their farm." Whoever wrote that, raise your hand and be recognized.

Evaluating equivalency as a factor is a good idea, a great idea in fact. Non-organic seed varieties could arguably be
better suited to assist in organic farming
than organic high yield and hybrids, which
perform at the expense of biodiversity.

Yesterday at the Organic Coalition
meeting, my colleague, Jim Whittle, urged us
to support the allowance of treated foundation
seed in order to develop better organic seed
lines. We urge you, therefore, to consider
his comments.

In closing, I refer you back to
the written comments and urge you to continue
networking with and including your
constituents. By doing so, you will enhance
the hallmark of NOSB transparency. As long as
you continue to stay true to your
constituents, we all are on this Board, albeit
without the lavish expense account.

Finally, and I mean that, as
witnessed by pasture pachyderm, your term,
sentence if you will, as NOSB members
unfortunately does not end after five years.
You owe it to yourself, your fellow board
inmates, your constituents, and to the National Organic Program to remain engaged post-appointment, posthumously if necessary, as your recommendations are processed through the USDA sausage grinder in order to guarantee that the intent of your recommendations stays true. Thank you.

CHAIRPERSON DELGADO: Any questions? Kevin?

MR. ENGELBERT: Jim, thank you very much. How do you enforce intent?

MR. PIERCE: Well, Joe referred earlier to a spirit, which I think is as good as intent. My challenge to you would be to don't write rules for change. Write rules for the ones who intend to follow the intent, and let compliance and enforcement and the process which is in place, accreditation and enforcement, follow-up after the ones who are operating outside of the intent. It's a fine line, and I understand. And I think most of the recommendations you have come up with here
are true to that intent without being too overly prescriptive. I hesitate with that last part because that's where I think, in some cases, you've overstepped your purview by trying to write the rules for the cheaters, as opposed to the vast majority of organic farmers who are not.

MR. ENGELBERT: The reason I ask is because a lot of what we see is writing the rules that can't be attainable. But the intent is not being enforced.

MR. PIERCE: And that's absolutely true. I could argue that the intent of the current pasture rule could be enforced, it simply has not been enforced. We've heard that argument repeatedly. We're not talking about pastures but just, in short, as long as these follow-up recommendations in this proposed rule enforce and support that intent of the original rule, then it's fine. As they get further into new regulation, new record-keeper requirements, new certification
requirements, I think they become more of a burden than an aid. That's all. MR. ENGELBERT: Well, I agree. But if all we had to worry about was intent, this job would be much more simpler.

MR. PIERCE: So would the tax code, but I would challenge you to take a look at the tax code. And it's huge, and people still cheat. You know, at some point, you've just got to find your balance.

CHAIRPERSON DELGADO: Any other questions? Bea?

MS. JAMES: You mentioned that the retail sector wasn't the same from the multi-site recommendation. Does the Oregon Tilth support the idea of retailers following that kind of a platform?

MR. PIERCE: Yes. As long as it's clearly stated and where there's different requirements for growers versus processors and retailers, assuming what that says is acceptable, we would be willing to do that.
And I think Oregon Tilth is out of the main stream of certifiers when we say that. Now, I know, as part of the ACA, that's the position.

CHAIRPERSON DELGADO: Any other questions? Kevin?

MR. ENGELBERT: That brings up a question then. If you think that retail will fall in that purview, how are we allowing them to have, really protect the integrity of organics and benefit consumers?

MR. PIERCE: Well, the proposal, the recommendation that's out has been refined a couple of times. And I think by going back to that weighted scale of inspection and re-certification criteria, that helps a lot. And as long as everybody is inspected first time, new time, and with new inspectors and all the high-risk ones, I think we would probably internal control system, if it can be maintained. In fact, probably, because it's a first system what you're proposing there
with retailers and processors, they have systems in place, they have computerized records; whereas, the third world farmers and the emerging farmers typically do not. It would be easier for them to comply and to maintain that integrity and of consumer concern, as it is with the farms in the third world. And we've seen that model work. That's actually a high-risk model because there is less literacy and less first world knowledge of how to do an internal control system in audits and follow-ups, and, yet, it does work.

CHAIRPERSON DELGADO: Bea?

MS. JAMES: I just wanted to also comment to your question, Kevin, that retail certification is voluntary. And if we create a situation where it's too restrictive for retailers to be able to be certified, that compromises consumers' ability to have that additional enforcement for education.

CHAIRPERSON DELGADO: Any
questions? Well, thank you very much, John.
Next on is Mr. Lundberg, followed by Grace Marroquin.

MR. LUNDBERG: Okay. Thank you very much for allowing me to share my perspectives about our petition to include dried orange pulp and 205 606.

MS. FRANCES: Could you identify yourself?

MR. LUNDBERG: My name is Brock Lundberg, and I'm with Fiberstar, the Vice President of Technology for the company. And to give you a little bit of a background about Fiberstar, we're a privately-owned research and development company. Our objective is improving food freshness and nutrition to enhance natural fibers. We have an exclusive license that we license from the University of Minnesota, and the concept of our technology is to add value to agricultural byproducts and residues, and that's how the company was initially founded.
I worked on this project as a graduate student at the University of Minnesota, started in 1998. And then in 2001, we began commercializing the project. We actually built our first production plant in 2004. The dried orange pulp is the only product that we produce. It's a unique product with functionality and many different applications, for bakery to meat. The dried orange pulp is made only from orange cells. It's the same pulp that you see in orange juice, but we take the leftover pulp that the processor doesn't have that would otherwise go to cattle feed, and that's what we use as our raw material.

There's no chemicals in the process. It's just mechanical grinding and drying. The raw material has 95 percent moisture, so it has a lot of moisture to begin with that is very energy intensive in terms of just drying the product. That's how we get it in the final form.
And it's a unique fiber that isn't produced by other manufacturers. We have the patented technology for the process and for the fiber, and that's the functionality we offer to our customers for fat replacement, reducing calories, moisture retention, and bakery. And that's part of the reason why we're here is actually from requests specifically by our customers. Three or four of our customers specifically ask for being on the National List. And the product is also grass with GRN 154 and approved for use in certain USDA products.

I decided to show a photo of our production plant. We produce this product in Florida. You can see, here's a photo of the outside of the plant. Our raw material is pumped directly from the adjacent orange juice processing operation, so it flows over the bridge through the pipelines to our facility, and we immediately process it in this building right here. This is the facility that we
built in 2003 and 2004. You see the interior part of the plant, the processing equipment. This is the internal wet side, and then right after it's stabilized through the heat exchangers, we go through and we dry it and package it. This is a photo in our packaging room. So it's a fairly simple process, and this is where we produce the product, right next to the orange juice operation in Clewiston, Florida.

Our process, we make 20,000 pounds of dried product on a day, which equates to 400,000 wet pounds of pulp. That's our raw material. We pump the raw material from the adjacent Southern Gardens, and it arrives in less than ten minutes. Just basically from the time that it's squeezed, it goes through finishers, and we pump it over to our operation. We designed the operation this way so that we could reduce or prevent any deterioration in the raw material prior to its arrival to our plant.
The raw material has a high-
moisture content that's very thick. It has
residual sugars in it, and it just all is
conducive to high bacteria growth or enzyme
growth. And we process it on a continuous
basis, we don't operate in batches, just so
that we can keep the material flowing all the
way through the process. And we don't collect
or store or transport any pulp to our
operation in Clewiston, and the reason is
because of the high moisture content and the
rapid rate of decay of the raw material.

Okay. Concerning the availability
of organic orange pulp, first just starting
with the number of oranges measured in boxes,
there's 2.69 million boxes of oranges made in
the year and about 65 percent of that goes
into juice. And when we talked to the top
three organic processors in Florida, there's
250 to 375 pounds of pulp available on an
annual basis, which is, if you remember, less
than the amount that we can process in one day
at our plant. There's a lot of oranges grown, organic oranges grown, both in Florida and California. But we're not working with oranges, we're working with the pulp; that's our raw material, and we need to be close to the orange juice processing operation. And the pulp needs immediate treatment; otherwise, it's going to be deteriorating.

Here's a slide just showing a map in Florida where our operation is. This is right down here in the red, and the closest organic pulp operation is 108 miles away. And our raw material supplier doesn't produce organic oranges just because it's a large operation and they produce 20 million boxes --

CHAIRPERSON DELGADO: Your time is up.

MR. LUNDBERG: Okay. And there isn't the supply of organic fruit within the area. And then the transportation, just regarding, again, there's less than one day's organic pulp supply for us.
In conclusion, the organic orange pulp supply is not commercially available for us. There's no organic orange producers located next to our production facility, plus the amount of total organic orange pulp in Florida is not large enough for us to feasibly transport. The transportation is expensive, especially when the closest processor is 108 miles away and we're dealing with a material that's 95 percent moisture.

CHAIRPERSON DELGADO: Thank you.

Any questions?

MS. WEISMAN: Yes. I can definitely appreciate the difficulty of having equipment that requires, you know, vast quantities. But I'm wondering if you can make any comment about what are the obstacles to smaller-scale equipment being designed that would be more appropriate? I imagine that there's not even a market out there for the amount of organic dried orange pulp, even if the raw material were available.
MR. LUNDBERG: If the raw material were available, there is market available, definitely. So I do want to make that point. That's why I'm here is because of the needs and demand for organic orange pulp. It's not available, but we're trying to do the next best thing so that the suppliers, our customers, can have a functional ingredient they can use in organic products. But there is certainly equipment that could be used, but the amount, I mean it's less than, it's a half a truckload of finished product per year. And we're sending out, typically, every week, we're sending three to four truckloads out. So just the sheer numbers, it wouldn't work for anybody based on 20,000 pounds available in a year versus us being able to make three million pounds. So the problem is really just the size. It's in the numbers, the availability.

CHAIRPERSON DELGADO: Kevin?

MR. ENGELBERT: If this pulp was
transported, if any pulp was transported in a frozen state, or at 32 degrees, would that solve a problem with the transportation that would allow this organic pulp to be converted into the dried pulp?

MR. LUNDBERG: It is possible, but the other problem with transportation is, even at 95-percent moisture, the material looks like mashed potatoes, so it's not easily pumpable. It would have to go into something like drums, or something that you can dump so that you don't have to, because you can't put it in a tanker or anything like that. But it would have to be treated septic still, because it still has a very high amount of enzymes in there that, even if it's frozen or refrigerated, I guess frozen that you wouldn't have the growth, but even refrigerated conditions, it's still going to grow the enzymes.

But the cost still, and if you move a truckload, 40,000 pounds, you're going
to get 5,000 pounds of finished product. So that's the issue. But our 2,000 pounds of finished product based on a 40,000 pound load, so transporting that is going to add a dollar to your cost on a pound basis. It is possible if the numbers were there, but the problem is the numbers in terms of available raw material are so low that -- it's just a lot of technical issues that we have to deal with.

CHAIRPERSON DELGADO: Dan?

MR. GIACOMINI: If you could, as succinctly as you can, you gave us sort of the breakdown of what's it used for as far as fat replacement and that kind of thing, can you give us a little better picture than that of where and how it's being used in the industry, and to really see that it fits in as a place in the organic community?

MR. LUNDBERG: Sure. I would say there's two different categories. One is in fiber, like in general, fiber for, a lot of different fibers: the oat fiber, wheat fiber,
lots of different things like that.

And then the second area is in hydrocolloids, where you have different types of gums that are used for stabilizing, thickening, fat replacement, emulsification. Those are the general applications, but what our product is unique in what it offers is delivering that functionality with something that's extremely simple. And we don't use any chemicals. All it shows up is dried orange pulp on the label.

So we're delivering a functional product, but we're able to replace gums, whether they're chemically synthesized or not, we're replacing those things that have long names on them that people don't understand with a very label-friendly, all-natural dried orange pulp that everybody can understand.

And it's used, our biggest customer is actually a meat product for emulsifying and for providing thickening in a meat. Those are our biggest customer.

Bakery, in the 100-calorie packs that you see,
products where they're designing them to reduce calories, that's what our product does. It's just water and dried orange pulp that can be used as the filler to take out much higher caloric ingredients.

CHAIRPERSON DELGADO: Any other questions?

MS. ELLOR: A couple of questions. You mentioned that it's stabilized before it's processed?

MR. LUNDBERG: Yes.

MS. ELLOR: Okay. Then how long is that stabilized product -- how stable is the stabilized product? Could that be shipped? Taking out the moisture issue, that could be shipped?

MR. LUNDBERG: It could be shipped if it were refrigerated, yes.

MS. ELLOR: Okay. And here's the other question I have. How shelf stable is your final product?

MR. LUNDBERG: It's three years.
MS. ELLOR: Three years. So presumably, you could collect a mass of organic pulp, and then match that up with the demand for organic if the finished product has organic pulp?

MR. LUNDBERG: Yes. If the supply of organic pulp is available, yes.

MS. ELLOR: So you could process all the organic pulp available in an organic form and have --

MR. LUNDBERG: We could do it, yes. But if there was available organic pulp, we would, I mean, for efficiency reasons, we would do exactly what we've done at Southern Gardens, and that is to install a production plant adjacent to the raw material supplier in a central location. I mean, the best way is to pump it, and then we can avoid all the handling and deterioration costs. But yes, the answer to your question is yes.

CHAIRPERSON DELGADO: Steve?

MR. DEMURI: Tina asked part of
the question I have, but I want to make sure
I'm perfectly clear. If you brought all the
available organic orange pulp from the United
States to your plant, you still would not have
enough to produce on your equipment?

MR. LUNDBERG: No. According to
the numbers, there's 2.69 million boxes of
oranges produced in the United States that's
processed into orange juice, and that compares
to the operation, that's over the total United
States. At our citrus plant, they produce 20,
so it's not quite 10. Maybe it's 15 times
more production at Southern Gardens Citrus
compared to what there is in the entire United
States. So although it is a growing industry,
from what we understand, at this time it
doesn't have quantity available for us.

MR. DEMURI: To follow-up on what
Julie asked you, you don't think you could
design a smaller plant closer to a source?

MR. LUNDBERG: Yes, we could.

CHAIRPERSON DELGADO: Any other
questions? Thank you very much. We're moving on now to Grace Marroquin, and remind the Board that we still have 50 on the schedule, so let's concentrate on the issues. After Grace, we'll have Christine Bushway.

MS. MARROQUIN: Hello, everybody.

Good afternoon. My name is Grace Marroquin. I'm President and CEO of Marroquin Organic International in Santa Cruz, California. I founded my company in 1991. That's right, 17 years ago. And we are importers and suppliers of organic ingredients.

Once again, I'm back, and I'm here to address the Board, just as I have done almost every year since 2004, that's one, two, three, four years. Organic yeast was developed in Germany and introduced commercially in the 1990s. I have introduced many organic ingredients on the basis and principle of organic preference. When I learned that organic yeast was available, I was really excited, because this was another
breakthrough in organic ingredients. And I've been around since before organic sugar, since before organic non-fat, since before organic starch, even since before organic basil. And believe me, I was a baby. And I was there, and it was all done on the principle of organic preference. If it was available, it would be used.

Organic yeast is grown on the substrate of organic grains instead of conventional grains. And I know you've heard me say this, but I'm going to say it once again, that above all, organic yeast avoids many synthetic chemicals used in the production of organic yeast. And this is ammonia and ammonia salts, sulfuric acid, caustic soda lyes; all these are pH regulators, synthetic vitamins, and synthetic anti-foaming agents. These ingredients are not allowed in organic production in and of themselves, but yet they're coming in through the back door through organic yeast.
Because these chemicals are all used to produce conventional yeast, the waste water has to be heavily treated in order for it to be disposed of. In organic production, the waste water from the yeast is used to make further organic products.

Despite the fact that organic yeast is available and is not required as an organic ingredient because of the loophole, in order for it to be organic, yeast must be first considered agricultural. The NOP said in 2004 it would not require processors to use organic yeast, and told us that we had to petition to reclassify it. So this we did. So we were petitioning to reclassify it for non-agricultural in Section 205.605(a) to agricultural in 205.606.

Since 2004, we've been asking the Board to make this change. Very, very, very, very few companies would have persisted this long. Anybody with an innovative organic ingredient certainly would have backed down by
now, because it would not have been cost
effective, and they probably lack the
commitment, and they probably are not insane
enough to try this process for this long.

And when you're talking about the
ingredient, you're not just talking about the
one ingredient. They bring an innovative
ingredient to marketplace, and as a result,
more organic flour is being used, more organic
milk is being used, more organic sugar, nuts,
and it goes on and on; thus, more land goes
into organic production, and that's what, for
me, it's all about.

In September of `06, the Combined
Handling Materials Committee voted 8 to 0 to
yeast in 205.606. This was based on the
conclusion that yeast was an agricultural
product. According to the definitions of OFPA
and the NOP final rule, at the 2006 meeting
the Board discussed this recommendation and
voted not to act on it immediately because it
needed to examine two issues, and one was
that, if yeast was reclassified as an agricultural product, it would require yeast supplements in the livestock feed to be organic, and they wanted to examine the impact of this. And then the other issue was there adequate standards.

This was the Board’s plan in 2006, and since this, this has not been addressed. Meanwhile, in the last two years, the European Union has made great strides to recognize organic yeast. In 2007, the EU established that yeast is eligible to be organic both in food and in feed, and in fact, the EU has adopted the general standards. We just received word of this, and it’s going to be published at the end of this year into final rule.

In conclusion, we request that the Board do the following: on the livestock feed, we request that the Board do what it said two years ago, and to ask for public comment regarding the impact on yeast supplements in
the feed. On the question of standards for
production of yeast, we're asking that you
look at the EU standards which are about to be
published.

In addition, the Board may
recommend moving yeast to 205.606 without
specific standards being in place. Yeast is
a fungus and a mushroom. The beautiful little
mushroom is also another fungus that is being
certified right now without NOP standards.
Under the NOP policy statement of August 23rd,
2005, agricultural products may be certified
if they comply with the NOP standards without
specific standards in place. And thirdly, on
the question of recognizing the
microorganisms, we ask that you put this aside
from the yeast as an agricultural product.
We're requesting the Board to defer this. No
bacteria, including any dairy cultures, are
being produced organically. And until this
occurs, there is no basis for requiring that
all bacteria in feed be organic. So yeast is
a separate case, because organic yeast is available.

So ending, this is the approach that the EU has taken. The EU regulation singles out yeast from other microorganisms, and it declares that yeast is eligible to be organic, but does not do the same for bacteria, enzymes, or microorganisms. These remain on a restricted list on the organic materials that are permitted for the EU.

I thank you all. I know this has been very trying, just like for me, but we need to push through this. It's overdue.

Thank you.

CHAIRPERSON DELGADO: Any questions? Dan?

MR. GIACOMINI: I just think it's -- thank you for your comments. I think it's only fair that we do address that this is one of the main issues that's been tried to be tackled by the Materials Working Group of which you're part of. So to say that we have
not done anything, we helped set up that group. Members on this committee are working with that group, that group is coming back to us now for the second time and making recommendations to that. I think we've been looking at it to a certain extent. To say that we have done nothing on those two issues I think --

MS. MARROQUIN: I didn't mean it quite like that. I meant, regarding asking for comments from the livestock industry, nothing's been done on that, and that was asked two years ago. And yes, the Material Working Group has been informed. But we're tackling the entire universe of agriculture, and I know that we're trying to define it. But it's -- as I mentioned, it's pretty frustrating for a company trying to get into this. The commitment's not there. And to tell you the truth, I know that there are manufacturers of organic yeast who can produce organic yeast. And in fact, some of them are
producing organic yeast for feed, but they're
waiting. You know, there's no reason to raise
the bar right now. There is no motivation to
raise the bar, and it's unfortunate that we're
no longer operating from organic preference
like we used to. It used to be easy. If it
was agricultural, you could use a non-organic
if you could prove that, you know, no sewage
sludge, you know. It met, no GMOs, no
irradiation, and it could be used. And if all
the processes were in place and accepted, then
it could be used, and then the motivation came
to produce something organically, because then
you'd be the person on the market.

This guy with Fiberstar, there's
another citrus company doing this now, and
they're producing a product that, in the
organic industry, we need organic antioxidants
to preserve the shelf life of bread. This
replaces BHT and BHA. We need it, but where's
the motivation to do it? And is he going to
come up here for four years? I don't know.
I doubt it, but that's just my opinion.

But again, I really appreciate, because this is a tough process, and it's frustrating.

CHAIRPERSON DELGADO: Joe?

MR. SMILLIE: Well, as you know, Grace, I support your position, and I think that you're right. Unfortunately, as we discussed earlier, in the formation of the National List issues, you got stuck with this flaw. And what we're trying to do is very frustrating for you and for us, too, is we've got to fix it all. You know, we really have to fix the whole thing, because yeast is just a very good example of a material that's been abused because of the initial structure we were handed. And unfortunately, you know, you've suffered because of that.

But, again, we've made a couple of attempts to try and fix this little piece, and I guess the cumulative wisdom of the Board is we have to fix the whole thing, and that's
what the working group is for. And hopefully, I won't be off the Board, because I love hearing you every year. And hopefully, we'll get a fix that will not only bring justice to yeast producers, because I agree with you, you can produce yeast organically, and you can do it with the standards we currently have. The mushroom example is an example of that. I feel confident that a decent certification organization can create the rigor to justify its production as an agricultural product.

But we're sitting there face-to-face with the National List, and I think the Board has decided that we're going to fix the whole structure, and give yeast its proper place rather than just taking an action on yeast alone.

MS. MARROQUIN: Okay. Well, I thank you, and I guess I'm just here to urge it along.

CHAIRPERSON DELGADO: Hugh?

MR. KARREMAN: Yes. Grace, thanks
for coming in again, and I feel bad for you.

MS. MARROQUIN: I'll send you my

bill.

MR. KARREMAN: How exactly is it

that the Europeans did it? Can you somehow

figure out in the Materials Working Group how

they -- I mean, you explained how they did it,

but how you could somehow merge it, or somehow

with the way it is now, or until the Ag/Non-Ag

gets fixed? Because obviously, I guess

they've done it.

MR. MARROQUIN: Yes, well they did

it. And I think, because of all the

ingredients, part of its composition, I

believe, and you can correct me if I'm wrong,

but it's almost like 98 percent of all

ingredients in the yeast, if not 99, are all

organic. And what they did was, you know,

they just separated out, because it's really

the issues of bacteria and enzymes and

microorganisms that sends everybody spinning

out into outer space so that they can't, you
know -- I remember a long time ago we talked about the low-hanging fruit and the high-hanging fruit. Well, this is a low-hanging fruit. And what they did was they separated it out, and that was a way for them to be a little bit more clear about looking at the issue and being able to move it in a decision.

And actually, what's going to happen now is any organic product in the United States that's made that has yeast, and there's lots of them, there's crackers, and pretzels, all baked goods all have yeast in it, those products will not be able to be exported now to Europe once this rule is in place, which again, it's in its final coalition state at the end of the year, will not be able to go in that direction. So they're going to have to come up with a solution to be able to go that way.

MR. KARREMAN: Do you have a smart lawyer that can figure out the way they did it into our system?
MR. SIEGEL: This Board, in October of 2006, wrote a very clear, simple, straightforward policy recommendation that came out of the Combined Handling and Materials Committee 8 to 0. Yeast should become an agricultural product under 205.606 because that's what the definition in OFPA calls for. And that was a good start. There was a discussion of what the remaining outstanding issues were. One was standards, and the other was livestock feed, and those two issues we thought were going to be specifically addressed at that time to clean this matter up. And the past two years, nothing has happened in that direction.

MS. MARROQUIN: But regarding the EU, I know that was the question.

MR. SIEGEL: Yes. Well, the EU is different because it doesn't have the non-agricultural box that yeast is in. Yeast was one of a number of ingredients that could be used as non-agricultural, and the EU decided
yeast could be pulled out of the pack and

given a special status, and that's what they
did. And that's what this Board was ready to
do two years ago.

CHAIRPERSON DELGADO: Could you

identify yourself for the record?

MR. SIEGEL: Richard Siegel,
counsel to Marroquin Organic International.

CHAIRPERSON DELGADO: Thank you.

MS. MARROQUIN: Don't forget about


CHAIRPERSON DELGADO: Any other

questions? A question for the Chair of the

Materials Committee, remind us please, on the
target days to finalize the issue, and also
the follow-up to the Non-Ag? What is the

status of that?

MR. GIACOMINI: The goal is for,
hopefully, we will be able to come up with

something from the Board at the end of '09

before we start having a huge tremendous

turnover. Board members, again, will then
require a tremendous amount of re-education.

CHAIRPERSON DELGADO: And that would include the two questions?

MR. GIACOMINI: And that will be as much as we can possibly tackle.

CHAIRPERSON DELGADO: So we're addressing the issue, and we're trying to move forward on that one as soon as possible, so please bear with us.

MS. MARROQUIN: Thank you, everybody. You're doing a good job.

CHAIRPERSON DELGADO: Okay. Next on, we'll hear from Christine Bushway, and that is followed by Tom Hutcheson.

MS. BUSHWAY: Hi. I just wanted to take a minute to introduce myself. I'm the new Executive Director of the Organic Trade Association, and having been there about two months now, I can tell you it feels sort of like peeling an onion getting the whole organic industry under my belt. And as I get from layer to layer, I find there's more
layers. So I just wanted to say hello, and say that I look forward to working with you.

CHAIRPERSON DELGADO: So nice to meet you. Thank you very much --

MS. BUSHWAY: Thank you.

CHAIRPERSON DELGADO: -- for taking the time to introduce yourself. Any questions from the members of the Board? We certainly recognize the work the OTA has done all along in support of this Board, and we welcome you to your new post.

MS. BUSHWAY: Great. Thank you. I'm enjoying it. Thanks a lot.

CHAIRPERSON DELGADO: Dan?

MR. GIACOMINI: Yes. As Chairman of the Materials Committee, I would also like to thank you for the continuing support you've given to the Materials Working Group, and the resources that you've applied to that in offering us the conference call.

MS. BUSHWAY: Absolutely, we continue to do that. Anybody else? Thanks a
CHAIRPERSON DELGADO: Now we move on to Tom Hutcheson, followed by Ed Maltby.

MR. HUTCHESON: Good afternoon, everyone. Tom Hutcheson, Regulatory and Policy Manager for the Organic Trade Association, OTA. OTA is the membership-based business association for organic agriculture products in North America. Our over 1600 members include growers, processors, certifiers, farmers' associations, distributors, importers and exporters, retailers, and others. OTA's mission is to promote and protect the growth of organic trade to benefit the environment, farmers, the public, and the economy. If you're not a member and you want to, see me, or go online 24/7, OTA.com. Please refer to our written comments for more detail on all the issues covered here.

On technical reviews, it is our understanding that a qualified member of the
NOSB may undertake a technical review of the petitioned material, and that a subcommittee of the NOSB can constitute a technical advisory panel. We have provided suggested definition revisions in our written comments.

On the Materials Working Group document, OTA urges you to favorably consider option number two, which calls for a revision to the definition of non-agricultural, and which offers two alternate definitions. Please find our detailed rationale in our written comments, including some proposals concerning Section 606. We also hope you'll consider our recommendation revising the definition of non-agricultural, and initiate provisions for reclassifying as agricultural appropriate substances presently listed on 605.

On multi-site operation certification, we urge adoption of this document by the NOP as a guidance document. We do not support the minority opinion, as it
could pose an unfair burden on newly-forming producer groups, especially when a family member or former employee of an existing member whose experience with organic compliance might become a new member.

On the 100 percent recommendation, we agreed with the recommendation of neither sanitizers used on processing equipment, nor inert atmospheric gasses used as packaging aids, or carbon dioxide, I might add, ozone, which are already approved, should affect the use of the 100 percent organic label on a product. However, it may not be wise to require that substances used to meet food safety requirements affect the 100 percent organic claim. Diatomaceous earth is the primary product available to organic farmers for stored grain pest control. We request NOSB obtain additional information concerning the impact of such a change before making this recommendation. And as before, please note our written comments about this.
And on seed commercial availability guidance, more on the written comments, we suggest that the rest of the provisions of 205.204(a) be given similar attention, mainly the requirement for use of organically-produced perennial planting stock.

On biodiversity, we welcome attention to the principle of biodiversity in organic agriculture, and we agree that the implementation of this requirement should be strengthened, though we'll be cautious about imposing additional record-keeping burdens, and would urge identifying outcomes to be monitored in the organic system plan rather than through prescriptive practice standards.

On aquaculture, for fish feed, we're concerned about the 25 percent maximum of fish meal and fish oil from wild caught fish and other wild aquatic animals for the first five years, because it's unclear how the nutritional needs of aquatic species can be met from other sources. Until there's an
organic aquaculture industry to provide such byproducts, and since the Aquaculture Working Group has determined that terrestrial livestock byproducts cannot be used, this will be a serious stumbling block for organic aquaculture development. Use of wild fish byproducts is ecologically desirable, given the stringent monitoring and quality control requirements identified in this recommendation. We would suggest allowing a larger percentage of fish meal and fish oil to be derived from sustainably harvested wild caught sources, with a proportional stepwise reduction as an organic aquaculture industry becomes established.

On net pens, the requirement in 255G to minimize adverse environmental impacts from aquaculture production is essential. However, we believe that the performance target specified in (g)(i), of recycling a minimum of 50 percent of all nutrients is not feasible. Fifty percent is a laudable goal,
but accurate measurement is problematic. NOSB should instead propose measuring a simulative capacity by carbon deposits, benthic organisms, and other types of benthic analyses, rather than simply requiring retrieval of 50 percent of all output until a methodology is available for verifying such target.

On pet food standards, we support the proposal, given some important adjustments which are included in our written comments. And on other issues, we've convened a task force on nanotechnology, and hope to have information concerning the applicability of that technology to organic production for later discussion. Thank you.

CHAIRPERSON DELGADO: Questions?

Thank you, Tom. Moving on with Ed Maltby, followed by Dave Engel.

MR. MALTBY: Good afternoon. I am Ed Maltby. I directly represent over 180 producers -- organic dairy producers in the
east from Louisiana to Maine, and can speak on behalf of another 500 organic dairy producers across the country in the Federation of Organic Dairy Farmers or Food Farmers Coalition.

I'd like to thank the NOP, and especially Rick and Barbara for the work they've done in getting the access to pasture rule out. It's been a long time coming, but we're very grateful to have it, and we thank you for your work.

We were going to have a parade of cows coming through here, but the fish people beat us to it. And then we thought of ruminating cows, but the hotel wasn't too good about cleaning up the mess, so we didn't bother with ruminating cows.

We would also like to thank the NOP for holding the listening sessions, one that has happened, and the other two which are due to happen very shortly I understand in early December. It was a great opportunity
for producers to actually talk directly to NOP personnel, and rather than them being some evil bureaucrats sitting in the middle of D.C., they actually realized they were human beings struggling to do the right thing.

The organic community is being energized with the release of the access to pasture rule. And on behalf of over 1300 organic dairy producers across the country, and many other people that have been participating in the task force, for want of a better word, I want to clearly state that we do not need an extension. We are energized. We've had conference calls across the country from farmers, and producers, and interested consumers. They're so dedicated that we start at 8:30 at night Eastern time, and we pick up the Western producers as we go later, and at least most of the farmers now have learned how to click on the mute button, so as they drop off to sleep, we don't need to have to connect them. Now that's been
happening for the last, ever since the rule came out, and we are energized and ready to move forward taking part in the OTA task force, and working with the International Organic Coalition to come up with data, comments, and constructive dialogue.

We're waiting now for the origin of livestock, which we're glad to see is the priority for 2009, and we urge the NOSB Livestock Committee to work with us on some of the recommendations so that we can come up with a rule that meets the standards that we are asking for.

And lastly, we strongly urge that the NOSB or the NOP aggressively enforce the current rules to the best of their ability. It's great now that we've got five or six dedicated enforcers. They're the people with the baseball bats in the back of the room. And it is critical to the integrity of the label. We don't just need to write the rules, we need to get them enforced, and we need to
be able to protect the future incomes of family farmers across the country.

That's all. Thank you.

CHAIRPERSON DELGADO: Any questions? Thank you. Next is Dave Engel, followed by Will Fantle.

MR. ENGEL: My name is David Engel. I am a dairy farmer from Wisconsin, and contrary to the credit up there for Oregon Tilth, I am an Oregon Tilth employee, but I'm speaking with my dairy farmer hat on, and my Executive Director of Natures International Certification Services hat on. And I, too, want to thank the Board and the public for their interest in everything here. It is a critical part of this community that we belong to.

I have passed around my, which will be my submitted comments, more or less, for pasture. I don't want to dwell on them too much here. I do want to offer the perspective, though, as I have in the past
since this discussion began, that not all the
dairy farmers are being represented by the
1300 that Ed has proffered. There's been,
there are many -- Hugh mentioned one segment
of people that are not online, and the extent
that this proposed rule goes to is going to
throw many more people into that pot of people
that will not be able to comply.

You can look at my comments. You
can find me and talk with me later if you'd
like to know more.

The second thing that I would like
to briefly share with you, and is somewhat in
a way a reflection of this proposed pasture
rule, your proposal on the commercial
availability of seeds I think is good in its
intent, but it's very critical, just like with
the pasture rule, that we not put numbers in
the rule that set lines in the sand then that
have to be met or something happens.

I appreciated Miles' comments on
the commercial availability of seeds. I think
he's correct in looking at the different
segments. Another segment that I would add
into that would be what I would call the
commodity seed, the corn, beans, alfalfa.
These people could be buying more organic
seed. And as a certifier, personally, and as
an inspector, I make a specific point of
applying the rule, the 205.204 and the 205.2
commercially available definition. These
things have to be gone into with each grower.
It ends up on my exit interview with them.
And then next year, there's accountability,
and there's improvement. That's the purpose
of this rule, and it's a golden shining star
that we cannot lose sight of, or else we're
going to, in five years, may I say it, like
the banking industry, if we do certain things
now, there's going to be repercussions later.
So I won't say anything more about that.
The only other thing I'd like to
briefly share with you concerns Barbara's very
nice announcement this morning about training.
Again, I can see the progression here is, first of all, we have an AMS training center that is expert in training, putting materials together. And then we have the NOP, who is authorizing this, and they're expert in providing oversight and management. It's their responsibility.

My only concern is the expertise that goes into the content of the training. And the training is going to be on the rule, the content of the rule, and the experts in that area are certifiers, of course, the ACA. I've also thought that the USDA is supporting an eOrganic program that Mr. Riddle is a part of, and they have a wide range of resources there that could be accessed.

I think it's real critical, though, that the content has expertise going into it, just as the module of training itself, the infrastructure for training, and the program that's authorizing this, they have their expertise. But the content or the
training for that, of the content for that
training needs to be accessed appropriately,
too. Thank you.

CHAIRPERSON DELGADO: Questions?

Hugh?

MR. KARREMAN: Thanks, Dave. I'm just wondering, when you're saying there shouldn't be specific numbers in whatever, I guess seed availability or the pasture rule, how exactly -- well, and you know, someone mentioned earlier that the vast majority of organic farmers really truly are farming as the intent of the rule is laid out, but then I've also heard that there's all these people kind of at the margin probing where the weaknesses are.

So if you don't have some specific numbers, how is a certifier going to be backed up by, let's say, the NOP if something goes to court that someone has, you know, done something or not if you don't have some kind of numbers? I don't know. It's just a
question I have in general. I mean, what --

MR. ENGEL: Hugh, I know that's a
question, and I guess a couple of responses
would be, number one, the problem is a
political problem, and I think the enforcement
and the accreditation process should be taking
care of this. It takes care of many other
aspects of -- I mean, I was just visited. I
got a whole list of things as a certifier that
I'm supposed to be doing that they figured
that I wasn't doing properly. I accept that.
Why wasn't, for the individual certifiers that
were at that point at that time with those
herds, why wasn't this identified there?

The other thing that I will say as
a certifier, and this is anecdotal, I have a
very large herd, NICS has a very large herd
that's coming through the process, and they
haven't been, with their previous certifier,
being held to a stronger continual
improvement. This gentleman is putting in
place now, since I was there last year, a
$100,000 bridge that he will be able to get his cows to the other side of this thing that he's been using as an excuse. He'll have access to 200 more acres.

Now, he still will not be able to meet that 30 percent, but that's a continual improvement that he's put in place. And I don't think, my concern is that, with numbers in the rule, you're going to be disconnecting that producer and many smaller ones, particularly with the extent of the specificity that this proposed pasture rule proposes.

CHAIRPERSON DELGADO: Any other questions? Thank you. Next we have Will Fantle, followed by Alexis Baden-Mayer.

MR. FANTLE: Good afternoon. My name is Will Fantle. I'm the Co-Director of the Cornucopia Institute. Our organization has about 2500 members. A vast majority of those members are organic farmers.

I have a couple of areas that I
I want to comment on today. I'm actually not talking about the pasture rule at this point, but I'm going to talk about lecithin initially, and I understand that there's a petition before the NOP and the NOSB to remove lecithin from the National List. This is something that we support. We sent out a letter to Board members a couple of weeks ago. I won't bother to read from that letter, but I will highlight a couple of the points in it which I think are pertinent to this discussion.

First, we believe there is a supply of organic lecithin, a significant supply that can be offered to producers who want to use organic lecithin in their product. Second, by promoting the use of organic lecithin, you are removing from the pipeline a hexane extracted ingredient, something that is very important to getting hexane out of our products that are used in organics. Third, we believe this will level
the playing field. We believe that organic
lecithin may be perhaps more expensive, and we
don't want users of organic lecithin to be
penalized for doing the right thing. It's
important that the playing field be leveled so
that commercial entities are playing together
in a fair manner.

Finally, I would say that this
will send a strong and positive message to the
commercial community that products can be
developed that are organic, and I encourage
you to look at this closely, and I hope rise
to the challenge more quickly than what you've
done with the yeast issue.

Second area I want to talk about
is organic almonds. When I was last here a
year ago, I raised with the NOSB and the NOP
the rather draconian mandate that had been
imposed in California requiring the
pasteurization of all California raw almonds
sold in this country, sold as raw. We're now
a year into the implementation of that
measure, and as of yet, even though I
requested this a year ago, and saw nodding
heads from staff at the Program that they
would get a determination to us, we still
don't know whether or not one of the two
approved treatment alternatives, propylene
oxide, a toxic fumigant, is allowed in the
organic production for pasteurization. I
would still like an answer to that question
from staff at the NOP.

Let me talk a little bit about the
impact of this rule. We have since gone to
court. In September, we again filed, we
worked with farmers, since only farmers and
handlers are allowed to file a lawsuit
challenging this rule, we worked with farmers
to help them file a lawsuit seeking to
overturn this USDA mandate. We think it
stands a pretty good chance in court, but more
importantly, what the organic producers are
telling us, who had niche markets for raw
almonds in commercial entities around the
country, their markets have been destroyed. They are going out of business. More than one producer has told us that the organic sector is being destroyed by this rule. I think that's very important for the National Organic Program and you as Board members to be aware of, because there is going to be a cascade of food safety measures coming down the pipeline in the next few years, whether it's leafy greens, whether it's beef, or whether it's other fresh foods that we eat in the marketplace, there's going to be increasingly stringent requirements placed by the USDA, in some cases the FDA, that are going to govern our access to unadulterated raw foods.

It's very important that you get out in front of this, because you were not in front of this when it came to the almond issue. And we think this is still something that's very important that should be discussed inside the agency.

With that, I'm going to conclude.
And if anybody has any questions, I welcome those. If not, I have a proxy, and tomorrow I will be talking a little bit about the pasture issue.

CHAIRPERSON DELGADO: Questions?

Bea.

MS. JAMES: Could you explain a little bit about why the pasteurization of almonds has ruined sales for the organic almond farmer?

MR. FANTLE: There is a glaring and gigantic loophole in place that has made a huge difference, and then there's also the issue of consumer preference for an untreated product. The loophole that's in place has allowed a flood of imports coming into this country of raw almonds that don't have to be treated. So consumers in the marketplace are choosing those untreated nuts. There are large commercial entities that have switched their product lines away from California almonds, which I think everybody in the
industry recognizes is the gold standard. So the import loophole, and then even with the requirement in this country of the two treatment options, steam heat or propylene oxide, there are consumers that want an untreated product, raw product, and that has just made a huge difference.

I've talked with a number of, on this lawsuit there's 18 plaintiffs right now. A number of those are organic producers. Not all of them, though, are organic. There are raw conventional producers that are also being impacted by this that have joined this lawsuit. And the organic producers that I've talked with, and conventional producers that I've been talking to are telling me thousands and tens of thousands of pounds are in cold storage right now because they have no market for our product, and we need to be in front of this issue.

CHAIRPERSON DELGADO: Any other questions? Okay. Thank you. Moving on then
to Alexis Baden-Mayer, and followed by Devlin Reynolds.

MS. BADEN-MAYER: Hello. My name is Alexis Baden-Mayer. I'm with the Organic Consumers Association here in Washington, D.C. I'd like to talk today about grower groups, aquaculture, and the 100 percent organic claim. First, I want to thank you all for your hard work. I'm very encouraged by the National Organic Program's several new hires in compliance and enforcement, and the plans to make tradings more accessible and accessible to consumers. It's really great.

And I'm also very impressed by the work of the Board. You all are very productive. The grower group certification document is much improved. This September, I had the opportunity to go to Palestine to visit the Palestinian Fair Trade Association's certified organic olive oil production. It's in the area around Jenin. I saw olive trees that were a thousand years old, and I met
farmers whose families have literally been there for about a thousand years making their livings from those trees.

There are 1700 tiny family farms in the cooperative, and they all share a central processing facility. They're building a new processing facility, and it's probably the largest economic development project in the West Bank right now.

In Palestine, and a lot of other places in the global south, they're organic by default. They just don't have the money to take care of their crops the way that we would in the west with industrial inputs. So by banding together to share resources and access international markets, they're finally able to do things, or make it worthwhile to do things like fertilize their crop and clear the lands of trash. So in a place like Palestine, where economic development and self-sufficiency isn't just a path out of poverty but a path towards peace, you can't overestimate the
potential impact of projects like this. So I want to thank the committee for their great work, and urge you all to support the grower group certification recommendation. But I did also listen to the comments today of Miles McEvoy speaking for the National Association of State Organic Programs, and his comments recommending that this be explicitly limiting multi-site certification to producers, small holders, and legal entities. Those are all good suggestions, and I don't think they would change the character of this recommendation at all. I think the recommendation would probably be applied in this way anyway, but those are good recommendations to get in there before you approve that.

I'd also like to talk about the aquaculture standards. Organic consumers are now 69 percent of the population. We're a very diverse group of people, but we're consistent in our reasons for buying organic.
Organic food is safer, is healthier, and is more nutritious. The Organic Consumers Association also wants to turn on people to the bigger picture, and let people know that it's not only that it's safer, healthier, and more nutritious, but organic is also an important part of being able to feed the world, to turn back global warming, reduce food-borne illnesses and diet-related diseases, and ultimately, like I saw in Palestine, to increase stability, economic security, and peace in the world.

And in order to enlist organic consumers in these larger causes, we have to make sure that they continue to be true believers in organic as the way. And you know, there's a lot of green washing out there. There are a lot of competing marketplace claims. And the Organic Consumers Association is not going to change and become the Green Consumers Association, or the Sustainable Consumers Association, because we
believe that organic is the gold standard.

And it's one thing for a group like mine to say, go for organic plus, so organic plus fair trade, organic plus local, but it's very different if we were ever to have to face a competing food standard that actually guaranteed a higher quality of safety, health, and nutrition. And that's what I'm afraid about with the aquaculture standard.

We've got the Marine Stewardship Council certifications out there, and I really wonder what the Monterey Bay Aquarium Seafood Guide would say about organic certified salmon that's farmed in the Atlantic in open net pens. Are we going to create the first U.S. food production system where organic certification isn't the gold standard? Please don't let that happen. My recommendation would be to look at the fish that are already certified by the Marine Stewardship Council as sustainable, and give those organic
certification first. And then save the ones
that are on their bad list for later. There
may be a way to do that.

CHAIRPERSON DELGADO: Thank you.

Any questions? We now have Devlin Reynolds,
followed by Bob Smiley.

MR. REYNOLDS: Hi, thank you. My
name is Devlin Reynolds. I'm with Natural
Forces, and I'm here on behalf of the sorbitol
crystalline canola oil (SCCO) petition for the committee. I guess
I was told to tell a little bit about myself.
I grew up on a small farm in central Iowa, so
I guess I've been in agriculture since I was
born. And kind of what brought me here today
is some of us probably remember the FFA Creed,
and it's the first line, and that is, you
know, "I believe in the future of farming with
a faith born not of words but of deeds." And
my business, Natural Forces, is my deed.

And what we do in Natural Forces
is we go to farmers, producers, and we go to
them and say, look, tell us your problems, and
if you tell us what your problems are, if we
find a solution for it, will you buy it from
me? Pretty simple. And they go, of course,
solve our problems, we'll buy it from you.
Well, I guess it's a business model. Someone
told me last week it was, and that's how I got
to the sorbitol octanoate, the sugar ester
family.

And what I'd like to say is, the
sorbitol octanoate is compatible with the
organic agriculture, and clearly meets the
seven criteria for the addition on the
National List. Sorbitol octanoate is a soft
input. It does control soft-bodied insects,
and what's very good about it is it fits into
all of the IPM programs that I grew up around,
and what I learned, and it does fit a lot
better, I believe, and a lot of the other
growers believe, because it is, I don't want
to say safer, but easier on the environment
than some of the other standards that are in
there today.
And one point that I'd to make is, it was stated in there that we have enough products, that we don't want to just add products just to add products. I work with growers every day, and the one thing that I do know is they have more problems. They have problems everyday. There is a lot of people who won't go to organic production because they don't have the confidence that they can have all the tools they need. One grower can know how to use every tool that's out there today to solve every problem. But quite honestly, most of the producers that are out there cannot. They don't. And so that's why I state there are a lot of problems.

We don't know, and no one can judge. We can all budget, we can all plan, we can all do sterilization, cleaning, do everything we can culturally to prevent pest pressure. But what we can't do is we can't budget or we can't plan for drought. We can't plan for the next blue mold to come up in a
hurricane from the Caribbean. We can't plan on a ship landing in the Great Lakes that has an extra emerald ash borer. And that's why we need to continue to have innovation, because Mother Nature is going to continue to throw problems at us.

And that's why I'd like to state, you know, sorbitol octanoate is not the end of all be all of anything. But what it is is a product. It is a good tool that people can use to solve problems that is as close to benign as a lot of things that are out there today.

The other point is, quite honestly, I do have one product that is a sister product to sugar ester, it's sucrose octanoate, which is on the list. And it has been brought up that, hey, these products are the same. Why would you allow one in, and why would you need the second one? Well, it's kind of like my sister and I. We're from the same family, but we're not the same. She's
better at some things, I'm better at another.
She wouldn't agree with me, but she thinks she
can do it all.

And one example of that, I would
say, is mealy bugs. Now to anybody in this
room, you're like, a, what is a mealy bug,
and, b, who cares? Well, if you have a mealy
bug problem, you care. Sorbitol octanoate is
much better on mealy bugs than sucrose
octanoate. And on a flip side of the coin, if
you are a small producer, and where you do 90
percent of your applications with a one-gallon
pump-up sprayer, you want to use sucrose
octanoate. It's a better product because it
goes in suspension better. These are two very
simple things that might not seem like
anything to you guys in here, but to those two
people, one that has the mealy bugs, and one
that has a one-gallon pump-up sprayer, it's a
big difference.

So we can't just solve one problem
with one product. And what was crazy to me
was the discrepancy between the review recommendation in sucrose octanoate ester and sorbitol octanoate. And so all I ask you is, please look at my letter. And I know you see thousands of letters that are in there. What I would ask is if you'd please take time to look at it and read the points that I've made.

And the last thing I'd like to say is on innovation. You know, you've got several of the letters that are out there. We're so happy we have people like you in here today. You know, we're not Dow, we're not DuPont, we're not those guys. We focus on people that have problems. And Perol Farms is one of them that came to us and said, look, we need more products like sorbitol octanoate, because we have terrible mite problems. We can plan, we can budget, we do everything, but we need more products. And if the committee comes back and says, we have all the solutions to the problems, people like us, who are bringing small products to big problems aren't
going to be coming here anymore.

So what I'd like to say is, I thank you very much for your time, and I'll entertain any questions or comments.

CHAIRPERSON DELGADO: Any questions? Thank you very much. Let's move on then to Bob Smiley, followed by Taw Richardson.

MS. SMILEY: I'm actually not Bob Smiley. I'm Joan Smiley. My father is not well today, so I am here on his behalf. First, I want to introduce my co-presenter and long-time consultant and colleague, Professor Emeritus of wheat science from University of Maryland, Dr. Ed Bestie. So he's going to support me on some of the technical things.

Before I get started, I just want to thank the Board for your commitment, your hard work, your contributions as stewards of the industry but, more importantly, as decision-makers of the industry so that you can ensure the progress. Nothing in this
world stays static, so you, as stewards, making decisions, making sure the standards are held but also that we make progress is really very valuable and I thank you for that. I'm going to stay within my time frame so we can flip pretty fast. So I'd like to petition on ammonium nonanoate as an organic herbicide. The outline for what I want to share today is just ammonium nonanoate as a distinction and also the organic discussion distinctions of natural, organic, and synthetic and how those might overlap or coincide with the realm of synthetic and the organic domain rules are and the rationale to allow the substance for food use as organic. So the request is that our initial petition for ammonium salts or fatty acids be changed to just ammonium nonanoate, and the rationale for that is ammonium nonanoate is just one substance of many considered by the EPA to be a single substance known as ammonium salts or fatty acids. And of these many
substances, ammonium nonanoate is the most
effective as an herbicide and is also most
abundantly found in nature.

Ammonium nonanoate is continuously
produced in nature by the combination of
ammonia in the air or in the soil with
nonanoic acid, which is in nature in many
different ways. And I'll share a few points.

Ammonia is given off by all animal
waste. Most of us know that. It is a part of
the natural nitrogen cycle, and it's in both
our air and our soil at certain parts. That
is one component of the substance. Nonanoic
acid is found in nature in many different
ways, and I realize this is kind of a tough
slide to read, so I'll just make a few points.

Nonanoic acid is given off by green plant
leaves. It's in virtually all human diets.
It's given off by kiwi fruit, frying
hamburger. It's been found in many cities'
drinking waters, as well as many geographies'
rain water. It's been found in the air all
over the world in different studies, so it's all around us all the time.

So you might ask the question if it's all around us all the time and it's continuously produced in the environment, what would have it be natural versus synthetic? Well, the definition of synthetic is that it would need to be produced. It's in the environment all the time, but it biodegrades in less than 24 hours. So it never collects in any kind of harvestable quantity so, therefore, suggests that it could and should be made still for organic use.

So how it's made. It's made exactly the same way it is in nature. It can be made in a coffee cup, a steel drum, any kind of container at room temperature with adequate ventilation just because of the give-off of the ammonia. And it comes together in a solution in water, and it forms instantaneously with no added energy. And that's exactly the same way that it's made in
nature. And if it were not biodegraded in 24 hours, it would be harvestable and we wouldn't be having this conversation probably.

So the food use compatibility.

Ammonium nonanoate is a soap. Soaps are granted tolerance exemptions with minimal risk of active and inert ingredients. And the product that Falcon Lab has a patent on with ammonium nonanoate, there are no other ingredients in the product besides ammonium nonanoate and water. So it's very simply produced, and it's very pure in its substantive form. And, in fact, the EPA said that if there were residue found on food crops, ammonium nonanoate residue found on food crops, it would be undetectable, whether those were placed by human action or found there naturally just in natural residue as it's on the plant.

I'll skip over a couple of next slides, but the point I want to make is that the Senate did allow this group as decision-
makers to make decisions on synthetic products if they also met other organic standards. And I just appeal to you to be that decision-maker.

There was a preamble in the set up of the organic certification program to allow for synthetic exemptions. And one of those exceptions is in the category of soaps. Ammonium nonanoate is a soap, and soap is any salt of an edible acid and the human fatty acids consumption is 100 times higher than exposure to any other kind of soap or household cleaning products or in the environment. So what we might initially think of as soap we're actually ingesting everyday.

And as far as synthetic substances, allow for organic crop production from the EPA standards. EPA list four, which is in our submittable concern, are allowed on food use as pesticide products, and ammonium salts of C8 to C18 are on list 4A and the product ammonium nonanoate is, in fact, listed
for organic production with EPA.

So the difference that this would make for organic agriculture, weed control is the biggest challenge of all organic farmers. It's both an efficacy problem, as well as an economic problem. They're just looking for other ways to do this. We realize that there are alternatives, such as acetic acid or clove oil. Nonanoic acid can be used on a farm at one-fifth to one-third of the price of any of these other products with higher efficacy. And, in fact, USDA has funded tests on nonanoic acid for three straight years against acetic acid and clove oil. So at least part of the USDA is really trying to forward motion on this substance.

CHAIRPERSON DELGADO: Thank you.

Any questions? Kevin?

MR. ENGELBERT: Would you quickly review the beginning of your presentation about requesting a name change from ammonia salts and fatty acid to ammonium nonanoates
and what the difference is between the two?

MS. SMILEY: Sure. Our initial petition was for ammonium salts and fatty acids, but ammonium nonanoate, which is the distinct substance in our product, is one of many in the EPA category called ammonium salts or fatty acids. And in thinking through the decision responsibility of this group, rather than, you know, having a decision based on the burden of all of the inclusive items in ammonium salts of fatty acids, we decided to make a distinction and make a request that the consideration just be given to ammonium nonanoate.

CHAIRPERSON DELGADO: Any other questions?

MS. SMILEY: Did I answer your question?

MR. BESTIE: I think we should mention it is a contact herbicide, and we think it's very effective for what the organic farmers need. We do have it under review as
a 5th or 25B list, and we expect EPA to respond to that petition very soon. Ed Bestie.

CHAIRPERSON DELGADO: Thank you for that. No more questions from the Board? Julie?

MS. WEISMAN: I was just wondering if you could speak to the other items in that group that you are now trying to separate the ammonium nonanoate from. Are those other items you think would be not as environmentally friendly, not as acceptable or compatible with organic principles?

MR. BESTIE: I don't think there's much difference environmentally as far as the risk. The C9 carbons in the nonanoic acid molecule is the most active on green tissue, and it's the most active material to kill the weeds as a directed spray.

MS. WEISMAN: So because this is the most efficacious of those in the group, rather than that other things in the group are
less benign?

MR. BESTIE: Yes. Well, the C8, C9, and C10 molecules have been shown that they primarily have only high-toxicity response on green plants, so the C9 is the most active, and that's why we've chosen to use that in this product.

CHAIRPERSON DELGADO: Jerry?

MR. DAVIS: Could you clarify that little bit? From the petitioner's public comments, they've mentioned that there is approximately 13 materials listed by EPA that would all classify as ammonium salts or fatty acids and only three of them are herbicides. The rest are not biologically active to behave the same way.

So it seems valid what they're asking, to me. It could be more specific. It would have to have a specific CAS number anyway, and we didn't have that information readily at hand when we wrote up the initial recommendation, which is now two years old,
and just kind of edited and brought back up again here.

CHAIRPERSON DELGADO: Any other questions? Bea, followed by Kevin. Go ahead. Bea?

MS. JAMES: You went through your presentation pretty quickly, and I didn't quite, I started to read an area where you were talking about, there was something in there about the potential risks, environmental or health. Can you address that? Are there any --

MS. SMILEY: I don't know that there's anything in here about environmental risks or health.

CHAIRPERSON DELGADO: Kevin, do you want to follow-up with that?

MR. ENGELBERT: You mentioned that there's no detection differences whether it's naturally-occurring or whether it's been applied. But when is it applied relative to harvest? And if you do apply it, wouldn't
that increase the likelihood that it would be
detected upon a product?

MR. BESTIE: Well, since it's not
sprayed on the crop, it should not actually
show up in the product that's harvested. Your
other question about the risk in the
environment, it is toxic to aquatic life. But
at the same time, it forms in insoluble
material with calcium and magnesium. So that
immediately inactivates the molecule as far as
the biological activity in water, and we're
recommending not to apply it in areas near
water. We don't think it would ever end up in
the water streams or ditches.

MR. ENGELBERT: So is there any
chance of the breakdown products accumulating
in the soil?

MS. SMILEY: It bio-degrades in 24
hours.

MR. BESTIE: It degrades to carbon
dioxide. It's metabolized by the organisms in
the soil.
MS. SMILEY: There's no migration in the soil at all.

CHAIRPERSON DELGADO: Any other questions? Okay. Thank you very much.

Moving on, we have next Taw Richardson, followed by Bill Wolf.

MR. RICHARDSON: Good afternoon.

I'm Taw Richardson with Agrosource, and I appreciate the time of the Board and the NOP to discuss a petition that we've lodged related to the entry for tetracycline and amendment to that entry. So if we can proceed on with slide two.

A general outline of the comments that we have and to the core of what we're asking, the petition that we have is for clarification by amendment of the tetracycline entry to the National List through one of two ways. Currently, it's listed as tetracycline (oxytetracycline calcium complex). We would like to see removal of the parenthetical or, in turn, inclusion of oxytetracycline
hydrochloride within the parenthetical.

Other elements relevant to this are: the equivalence of the two materials, the hydrochloride and calcium, the fact that there will be no increase in use of antibiotics by this action, and that the clarification will result in fair treatment for our product within the market.

As you well know, the Sunset Review by the NOSB to the NOP was to accept renewal and was done back in June of 2006. And our point is that both oxytetracycline hydrochloride and calcium are both tetracycline. And so this petition just seeks to clarify that by amendment.

And further to that, there's no addition of use or product by this action. And per the feedback that we received from the Board back in May, we've removed peaches and nectarines, which would have been a new use, from the petition we have with you.

The basis for this clarification
in a little more detail, as I touched on earlier with both of these forms, hydrochloride and calcium, are considered equivalent materials. That's unambiguously documented in EPA's pre-registration eligibility document from 1993 and their tolerance re-registration eligibility document from 2006. And they make no regulatory distinction at all between oxytetracycline hydrochloride or calcium. And then, also, the NOSB itself, within it's TEP, recognizes oxytetracycline as an inclusive category for these things and also recognizes EPA's position of interchangeability and equivalence.

Also, there are many entries in the National List that do not specify a salt form. The closest most related to this would be streptomycin, and the National List does not specify a salt, so under that you could use streptomycin base, streptomycin sulfate, streptomycin nitrate, and there's no
distinction made.

Also, the issues that have been raised by the NOSB related to the use or the issues with the hydrochloride, they also, based on equivalence, would also relate directly to oxytetracycline calcium. So we believe that that equivalence also addresses all those issues that have been raised.

If we do get the approval of petition, we do think it will do several things. One, it will address the favoring of one equivalent commercial product over another and, secondly, allow for appropriate free trade with these products in organic and non-organic crop farming. There are two things that are relevant to that. One is with just distribution. Distributors will want to carry one product. If there's an organic designation for one and it doesn't have it for another, they're going to choose the one that has that designation. So that's a serious competitive disadvantage for us with an
equivalent product to them. And, secondly, the same thing with farmers. When they grow both organic and non-organic palm fruit they don't want to carry two products, one for each. They want to have one product in the barn that they use. So those are serious issues for us just to be able to compete fairly in the marketplace.

And then, finally, in this area, it will not increase the use of tetracycline in organic or, for that matter, non-organic palm fruit farming. There's basically, each year, going to be a certain size pie. It's all a matter of how that pie gets divided up, whether we're able to really participate effectively within that or whether we're precluded from doing that.

Next slide, please. And, in conclusion, a clarification via amendment to the National List is warranted in our opinion. Tetracycline has an entry on the National List via the Sunset Review. These are equivalent
tetracycline materials for regulatory purposes for EPA and for NOSB. There are direct examples of other National List entries that make no arbitrary distinctions between salts, and issues raised by NOSB apply to both oxytetracycline hydrochloride and to calcium. This action will not increase the use of oxytetracycline in any markets and just allow for normal competition to occur. An amendment ensures a time line consistent with current sunset in 2012. So we would not be on a new time line. We're on that tetracycline time line, and the decision is made accordingly. A clarification will allow free trade and create a level playing field for Agrosource, which is what we ask for. And approval of tetracycline to the National List, along with these facts presented, we believe warrant this clarification and amendment. And just to address it on a more fundamental basis, we agree with the decision
that the Board made in 2006 after sunset, because we know what growers need and we know how devastating a disease this is for growers, and that's our primary focus in the things we do. But also we understand what you're confronted with. We can read the tea leaves, organic growers can read them, non-organic growers can read them. You go into the supermarket and people see chicken antibiotic-free; they see these things. And so all of us have to look at that and project what is going to occur in the future and how we react to that.

But, today, tetracycline is approved for use on palm fruit, and we're just asking that we be given that same consideration. Thank you.

CHAIRPERSON DELGADO: Any questions? Jerry?

MR. DAVIS: Given that the organic pear and apple usage of antibiotics in general is pretty small compared to the conventional
market, the amount that is applied to
conventional fruit, from a marketing
standpoint, if streptomycin and tetracycline
came off the approved organic list and were no
longer available, that would probably be just
as helpful to you, wouldn't it? Because you
would no longer have that marketing impediment
of the competing product that has the organic
designation that yours currently does not.

MR. RICHARDSON: I'll say two
things for that. One, I know you're aware how
devastating a disease this is, so we want to
be very clear that we're very concerned about
growers. And we know that in certain
circumstances, these are the only things that
will keep them from having their orchard look
like it's been hit by a flamethrower. So we
know that.

But that being said, for us
personally, yes. We're being hurt more by the
fact that it's under the organic approval than
we are if it were not because we're being
precluded from the bigger portion of the
market by our competitor raising the fact that
we don't have approval from the Board.

CHAIRPERSON DELGADO: Hugh?

MR. KARREMAN: I agree with the
rationale on what you're saying up there, and
I think you understand our predicament here at
this level. But when it came up for sunset,
you do realize it was a very split vote on
that. It wasn't like a unanimous type thing.
And I guess, you know, to do so little -- I
guess I'll just stop there to save time. But
I agree with what Jerry was saying
essentially, after what I just mentioned.

CHAIRPERSON DELGADO: Any other
questions? Bea?

MS. JAMES: Towards the end, you
stated the real core issue is that
tetracycline is seen as an antibiotic, and
consumers don't associate that with organic
products. So for somebody who is in retail,
if consumers were educated that this was being
applied, how would you go about giving me
advice, as a retailer, that this application
is somehow different than antibiotics being
restricted in other areas?

MR. RICHARDSON: Well, I don't
think I would try to get into a strong defense
position of these from an organic standpoint.
I think that's why there's so much conflict
within the Board on how to deal with this and
why animal producers say we're not using,
we're not going to use this where a crop
producer is using it, why these arguments
arise. But, you know, it's a semi-synthetic
original, originally coming from a bacterium,
so it's naturally derived and it's altered for
handling. And that's the fundamentals, but
the desire, because of the broader issues
related to antibiotics in the entire food
chain and the implications to human health and
the prevailing attitudes that people have
about antibiotics, I don't think we would have
an easy time.
MS. JAMES: Yes. Just, you know, in comment to that, I have to say that it's hard enough to educate people about organic and the different tiers, let alone when consumers who are more educated and knowledgeable find out about things like this. It makes it very difficult to try to say that the organic seal really means what we say it's supposed to mean.

MR. RICHARDSON: And that's why our petition is for an amendment to an existing use. Whether we are applying our product or not is not changing the fact that tetracycline is being used on palm fruit. It's just keeping us from being able to compete in the marketplace and sell our product, not only in organic but broadly within the market. That is really the fundamental issue for us. We're not wanting to get into a judgment about making this decision today because it's not appropriate; it's a Sunset issue or a special issue for the
Board to address.

CHAIRPERSON DELGADO: Kevin,
followed by Dan and then Hugh.

MR. ENGELBERT: Have you seen any
resistance in the growers that are using your
competitor's product to the disease that it's
controlling? And do you think that adding
this additional product will -- I know you say
there's not going to be any more use of
tetracycline altogether. But adding another
product, will that increase or decrease the
likelihood that this disease is going to
develop resistance to it and increase or
decrease the likelihood that a more suitable
product would be developed?

MR. RICHARDSON: It would be
neutral, in my opinion, and we've looked at
this very, very carefully. There's about a
25-year history now, and a lot of
investigation on the part of researchers
independent of us that have done this work in
Washington State University and in California
and the like. Particularly in the Pacific Northwest, they've looked at this very closely and they don't see evidence of shifts in populations related to tetracycline. So that, we don't believe, is an issue. And because there will be no more used one way or another, we believe it's a neutral issue.

And your second question, I'm sorry, was?

MR. ENGELBERT: Would approval of this substance increase or decrease the likelihood that a substance that's more compatible with organic farming, that is it's not an antibiotic, be developed to control these?

MR. RICHARDSON: And that I can address very definitively, as well. We look all the time for replacements for these products because we recognize the trends that are occurring. Just exactly what we're talking about today is what is perfectly germane to us as we look forward and what we
can expect from these products in the future, how they might be used or might not be used. So we're constantly looking, not only because of issues related to use of antibiotics but also because of issues having the breadth of products that are acceptable to growers and consumers.

I was on the phone yesterday on the train down here after reading a paper from an international symposium combing through, looking for anything that someone might have identified that would be useful and more benign in the eyes of consumers for this purpose. But that's a very, that's been a very tough nut to crack.

CHAIRPERSON DELGADO: Hugh, followed by Dan.

MR. KARREMAN: I guess part of your rationale was you're getting squeezed out of the conventional industry because people that use maybe organic version of, you know, the tetracycline, if it's allowed for organic,
will not buy your product, so they'll just buy
the other company's product. And I feel like
it's almost like the organic industry on that
point is being used just for conventional, for
selling in the conventional industry. That
doesn't sit too right with me.

MR. RICHARDSON: It's having that
impact on us, yes.

MR. KARREMAN: Well, I think it
would be, I mean, to me, clearly, I'm just
saying this petition to be off the list, and
I would think that would stimulate orchard
growers to come up with alternative ways to
treat this problem, whatever it is, just like
in the livestock industry with real, living,
breathing animals we've had to do the same
thing.

MR. RICHARDSON: I understand the
comment. The only caution that I would make
is we are a privately-held smaller company
relative to most crop protection companies,
and this is an area that we look at very
intensively. We have not been able to find
candidates even to look at that we thought
were going to be effective or that didn't have
some problem we didn't want to try to address
in a regulatory process. We do look because
we get very focused on this, whereas for major
companies this is really very small. But we
do comb, so it's not that easy to find
something to replace this as with other areas
of disease or insect or for weed control.

MR. KARREMAN: Neither is it with
livestock, but it's been getting done by
certain people in the industry. Now, it's
slow, but it can happen. And if it's still in
there, it may not. It kind of caps the
stimulus to do so.

CHAIRPERSON DELGADO: Dan?

MR. GIACOMINI: Well, I mean,
that's been across the board in the organic.
I mean, if there's an organic version, a
version useable in organic and not useable in
organic and you're a retailer supplier with
conventional and organic, you bring in the one product that everybody can use. I mean, that's pretty typical of the industry.

Not even so much for yourself, but, Jerry, he's presenting here, essentially, an annotation change. Your recommendation to the Crops Committee is, in addition, a new listing. Is there anything else that you need to -- is there a consideration within Crops to look at it that way or is there anything else that you need to be able to do that?

MR. DAVIS: We discussed that scenario of making an annotation change and rejected it. And I can get into all that reasoning tomorrow during the presentation. I will be bringing up the ins and outs of what we discussed. Rather than just cover one small segment of it right now, I'd rather --

MR. GIACOMINI: Well, why we had him. I didn't know what his schedule was, so just whether you had, if that had been considered.
MR. DAVIS: We considered it and rejected it for various reasons. Mostly, it centered around we don't want to send the wrong signal to the consumers. We don't want to jeopardize here the organic seal, and that is the, I believe, in my opinion, the driving force behind this whole decision-making is this is a very threatening substance, it is not accepted, it is hated, and we did not want to take any action that would allow it to be thrust into the media or anywhere saying, well, look what the NOSB has done, in my opinion. But, again, I really didn't want to get into that right now.

MR. GIACOMINI: I just wondered whether there was anything else you needed to --

MR. DAVIS: No.

MR. GIACOMINI: -- look at that.

MR. DAVIS: No, we vetted all of that.

MR. GIACOMINI: Good.
MS. HALL: I just have one quick question. Is there any economic advantage that your product would offer growers? Since it seems like right now this is the only effective item that treats this. Is there any advantage in the competitive market, you know, looking at kind of how economics works? If there's options with your product being there, would it have the effect of lowering price for the input?

MR. RICHARDSON: I don't know that I can make that statement. We went into this business because there was a need for more stable, better formulations, and we knew this was a devastating disease and very much a niche market that could have devastating implications if the disease got out of hand, which it does frequently. And so we developed better formulations of the product that were more stable and better served the market, we felt, from that perspective. But we don't
think we could contend here, that it would be fair to contend that we're going to make some significant price reduction in the cost to growers.

CHAIRPERSON DELGADO: Any other questions? Okay. Thank you very much. Next is Bill Wolf, followed by Jo Kraemer.

MR. WOLF: Thank you for this opportunity. It's been many years since I've addressed the National Organic Standards Board. In fact, many of you I don't know. I'm Bill Wolf, and I'm President of Wolf, DiMatteo & Associates. I'm also an organic farmer. In the past, I've participated in many businesses and activities in the organic field, including the manufacturing of organic pest controls, the development of natural fertilizers, acting as the President of OTA, et cetera.

I've been very involved in materials we've used and in helping to develop some fundamentals. I'm going to talk very
briefly about the umbrella, starting with the
umbrella of continuous improvement and the
importance of continuous improvement from all
aspects of the regulations, especially
improving better farming, improving selection
of materials, and promoting organic
preference.

With only five minutes, I'm going
to jump straight to five requests that I urge
you to consider that's in the document that I
have shared with you and sent to the web.
One, I would like you to consider each new
proposed organic farming input on its merits
and their potential to provide growers with
innovative softer choices, not based on
numeric count on the current list. I'd like
you to take a look at the review process
that's now going on. I'm going to address
that in a little more detail today.

Two, I would encourage the support
of the development of organic ingredients and
applaud the fact that you've just received the
lecithin -- petition to remove lecithin from 605 and to remove liquid lecithin from 606.

Three, I applaud the Materials Working Group proposal and suggest that either options three or four make the most sense because the law and the intent of organic was not to separate out organic preference but to focus organic preference exclusively on all materials that are not organically produced now.

Four, I applaud the Joint Crops and CAC Committee recommendation to encourage the use of organic seeds. And I also approve and believe that the 100-percent labeling claim clarification from the CAC makes sense.

I'd like to drop back for a moment to the Crops Committee work and focus on that because that is an area I worked on for many years. And I'm very concerned about a fairly substantial policy shift that's occurred with this meeting that I don't think people are fully aware of. I believe it's a philosophy change, and it is basically saying that if
there are already materials on the list that serve to kill a given bug or control a given problem, then we don't have to add any more materials.

The NOSB itself has a policy board manual that passed October 17, 2001 that establishes criteria. The law establishes criteria, and the regulations establish criteria. The Federal Register established the criteria for reviewing materials. And those criteria are based on whether it's compatible with organic production, whether there's a need for it.

A quote from one of the rejections, the reform crops materials rejected by the Crops Committee in this round and presented to this meeting. With all due respect, I fundamentally disagree with the principles behind those rejections. I'll quote one of those. This material is not essential to organic farming as there are, quote, many alternative insect control methods
and materials already available. Adding another synthetic material to the National List in this case would be inconsistent with the original intent of OFPA, which severely limits the routine addition of exempted synthetics. In the case of this specific material, it's taken ten years for that material to come forward to the point where it's being considered at this Board meeting, and I wouldn't call that a routine addition of an exempted synthetic. So I respectfully disagree and believe that you really need to take a look at the original priorities.

I believe that this is a dangerous shift in policy for a number of reasons. One, I think it will reduce innovation. It will reduce the development of research and alternatives for farmers, and it would reduce funding directed at organic farming.

I worked very hard for a number of years to help create the first green bank in America called New Resource Bank, and its
purpose is to help fund and develop programs for organic and other green businesses. And I know that the repercussions are already occurring. People are going, whoa, I can't head in that direction of helping to develop products that would be used successfully in organic farming, because, in fact, it's almost impossible to get something through that process.

So, in closing, my concern is that I think you really need to take a look at what message that sends because I believe that one of our biggest priorities is to encourage organic farming and the expansion of acreage, and I think that this message does not do that.

CHAIRPERSON DELGADO: Any questions? Jerry?

MR. DAVIS: I'm trying to flesh out your last statement a little bit. I'm hearing that, in your opinion, the drift that the current committee or Board as a whole has
taken of rejecting materials is fairly routine and almost letting nothing past, your philosophy then would be better, that the organic movement would be better served to be a little more free to approve synthetic materials that are benign in nature rather than get hooked up on saying, synthetic. No, we don't want synthetics, and we're just going to say no unless there's really a compelling reason for it.

MR. WOLF: I think there has to be compelling, you know, basically, I think that there does have to be compelling reasons, and I think that the criteria that were developed over a very long period of time clearly articulate that. I mean, I'll get into the specifics as an example. Sorbitol, the decisions that were made by the committee as to how it fit the criteria differ on the very printout than the decisions that were made by the Crops Committee when it was chaired by Jim Riddle several years ago for sucrose
octanoate. Comparing those two, the materials are chemically very similar but have different effects in the environment on specific insects. But in terms of the criteria of whether it's compatible with organic agriculture, whether there is a need, the decisions that the Crops Committee made were different. There was a huge inconsistency in that regulatory decision process, and that sends a message that there's a tightening, that even if you met the criteria there's an opinion that it's very difficult to add materials to the list. And I think you really need to look at that process.

MR. DAVIS: I took part in the sucrose, the original sucrose deliberation, sucrose octanoate ester, as a very newborn member, albeit; but part of the reason the Crops Committee this time around with sorbitol octanoate, we approved the sucrose octanoate ester and saw the sorbitol material as, why do we want to add another one when we have
something so close? Yes, there are
differences, but is there a compelling reason
to add something that's just a little bit
different and risk jeopardizing the overall
perception of organic as very limited use of
synthetics? Let's not just keep adding, you
know, if we add two or three materials every
year, we're going to have a list that will
just be ridiculous at some point.

MS. WOLF: Okay. I see your
point. I don't agree with the premise, and
that is that we should be looking at what are
the materials that organic farming currently
uses that are harsher. I mean I believe some
of these materials can replace botanicals that
are natural that are one of our bigger risks,
like the use of pyrethrin is the most dominant
insecticide used in organic farming in
general, and it has much more environmental
negative impact than sorbitol does. Sorbitol
is the only one of those two that could be
used in greenhouses. I mean, I've looked at
the product and I've looked at both of them, and there are substantial differences in the use pattern and in specific insects.

And so the general question about sugar esters, it's kind of an oversimplified question. So I understand the conclusion. I disagree with it.

And I'm not worried about having a lot of materials on the list for growers to choose from. I hear from growers all the time who don't want to convert to organic because there are so few options in rotation for insect control and in economic control.

Personally, I'm a strong advocate, and I think the Crops Committee said this, that the fundamental principle should be good management, encouraging earth worms, encouraging beneficial insects. But the tools do have to be there. And I think you might be in a situation where if you approve sorbitol, you'd get hops off the 606, which I think would be a much bigger win for this Board.
MR. DAVIS: Some of the lack of information that we, as a committee, felt we were getting was the differences between the sucrose material and sorbitol material. The dominant thing that the petition put forth and what I could read in the web site information on the two materials is sorbitol is a lot cheaper, and that was the take-home message. I don't think it was really given to us that specifics are, okay, you just made one, sucrose octanoate is not registered for use in greenhouses or would not be a --

MR. WOLF: It has a much shorter withdrawal period. I shouldn't try to, there are technical people in the room who could answer those questions.

MR. DAVIS: Okay. We'll save that then.

CHAIRPERSON DELGADO: While we're discussing the philosophical differences. We have Hugh, followed by Jo.

MR. KARREMAN: Bill, thanks. Two
quick things. Your perception that maybe the
philosophy of the Board is changing a little
bit and it's tighter to get things on the
list, as it was to, let's say, compared to
five years ago, maybe that is correct in a
sense for various reasons but also that I
don't know if we want the list to get bigger
and bigger and bigger and bigger all the time.

But also perhaps that, for the
Sunset Review, at least from what we've been
talking about, it sounds like once something
gets on the list it's pretty much on there
unless new material evidence comes about to
take it off. So I think it should be harder
to get through the passing barriers to get on
the National List. At least that's my view on
the Sunset issue, and maybe that's why it's a
little bit harder to get on, as well as for
other reasons.

CHAIRPERSON DELGADO: Joe?

MR. SMILLIE: Well, one small
point. This is a very interesting
conversation. It's very constructive, this dialogue that's occurred. I just have to give you credit on the hops issue, having suffered through putting hops on 606. You know, I'll make that deal. I'll get on the Crops Committee and vote so we can get hops on 606. But it illustrates the point, you know, if that tool was there maybe we would win, you know, you lose in one area and you win in the other.

The other issue is more procedural, and that is, for those people who are experts in their field and are petitioning particular materials, like Devlin, I trust that you will be here tomorrow because I think Jerry's point is there's a whole body of stuff when we get to whatever it's called, sorbitol, when we get to that issue, it would be very instructive to have you here and have that time then when we're focused on that material.

CHAIRPERSON DELGADO: Any other questions? Thank you. I appreciate that.
I'm very conscious about the time. We're one speaker away from the break, and that is Jo Kraemer. And, Board members, I remind you that we still have about 40 speakers ahead of us.

MS. FRANCES: Rigo, should be at 3 and then 3:07, and I've got two people that have planes to catch and one that has to be out of his room by 3:30. So I'm just really conscious of that and want to take care of that.

MS. KRAEMER: I'll go later. That's fine.

CHAIRPERSON DELGADO: Can we do that?

MS. FRANCES: Tim Redman and Steve Mohr I know both have travel issues.

MR. REDMAN: I'm fine, and Steve Mohr is fine.

MS. FRANCES: Steve Mohr is okay, and Tim Redman I know has to be out of the room at 3:30.
CHAIRPERSON DELGADO: Joe, can you take a break and --

MS. FRANCES: There he is.

CHAIRPERSON DELGADO: We understand you're anxious to leave us. We are anxious to hear you. Please, five minutes.

MR. REDMAN: Thank you. I'm Tim Redman. I'm the President of Blue Horizon Organic Seafood Company. We started this company about three years ago, and we named it Blue Horizon Organic Seafood Company because we thought that we would do some work with organic seafood, and we haven't been able to do that yet.

That said, I want to commend you all for all of the volunteer work you do here on this Board. I think it's long, long-reaching and important, all the work that's being done by all these groups out here, the people carrying around the fish signs today, our watchdogs. I think that's all important.

I'm here to urge you, as a Board,
to pass through to lawmaking the seafood standards. There is a need in the marketplace. There is demand for what's called organic seafood because organic seafood will represent the consumers' clean, safe food. It will represent food that is also environmentally produced in an environmentally positive way. Those are two critical things that organic means to consumers. There's demand for it.

There's confusion in the marketplace galore right now. I know that because I talk about organic seafood to a lot of trade people and to a lot of consumers. You know, it's just amazing when you talk to a consumer about organic seafood how many blank stares you get or how many question marks just pop up in the eyeballs. It's there. The confusion is there, and it needs to be erased by a solid standard and definition. Trade is also being restricted.
There is no trade in organic seafood now.
There could be and there should be, so there is trade that's being hampered.

And also a high standard for seafood farming in particular needs to be set.
I disagree with the person up here who suggested that wild seafood be, I think she's gone, but that wild seafood be the first to be included within an organic definition. But a high bar needs to be set within the aquaculture industry. There are groups defining or doing their best to set seafood farming standards, and they address, primarily concerns for the environment, which is great. But that's just part of the picture, and the organic definition will, by far, exceed any standard, as it's being proposed now.

So I want to recommend to the Board that you adopt the seafood standard, that being recommended now by the Aquaculture Working Group. That group has done just a huge amount of background work in finding the
best definition. I think they've done that.

So that's basically it. There's
demand for organic seafood. There's confusion
and concern in the trade marketplace. There's
restraint of trade right now because of that,
and a high bar needs to be set. So I
encourage you to pass into lawmaking an
organic standard. Thank you.

MR. GIACOMINI: Just for
clarification, the Livestock Committee made
some changes to the AWG proposal. We also
presented it in two different formats: the
nutritional side and the net pen. Do you
support both of those, support changes to
them? What is your stand on those two
specifically?

MR. REDMAN: You mean you made
recommendations to the most recent
recommendations from the AWG, you made some
revisions to that? I haven't seen those, so
I'm sorry. We work primarily with shrimp,
which has no problem qualifying under the
current standards proposed.

MR. KARREMAN: Right. I read in your written comment that you posted you use a lot of organic shrimp, even though you don't have to, and that's very laudable. And the shrimp would make it; you're right. I guess we posted two documents. Are you referring to that as the AWG document? Because there are documents. What is up for vote at this meeting are two documents that the Livestock Committee is recommending to pass by the full Board. It's not specifically the AWG recommendation we base things off of, just so you realize that as a person immersed in the industry.

MR. REDMAN: Okay. Thanks.

CHAIRPERSON DELGADO: Any other questions? Thank you. We will take a five-minute break and come back at 20 after the hour so we can continue.

(Whereupon, the above-entitled matter went off the record at 3:15 p.m. and
resumed at 3:28 p.m.)

CHAIRPERSON DELGADO: As soon as
the rest of the Board comes quickly down to
take their positions, I would like to request
that Jo Kraemer please step up to the mic. If
you're coming up to introduce yourself and
also thank you for the patience.

MS. KRAEMER: I'd like to thank
you for the opportunity to let me offer
comment, but actually the reason I'm here is
to request comments from you, the Board, and
also the meeting participants.

CHAIRPERSON DELGADO: Excuse me.

Members of the public and members of the
Board, please, we're in session now. Can you
lower the volume? We can allow the speaker to
proceed. Go ahead.

MS. KRAEMER: Thank you. My name
again is Jo Kraemer. I'm a chemist and
sampling manager for AMS' pesticide data
program. I'm here today to tell you about a
new project that we're going to be doing.
Most of you know about PDP. If you don't, our program collects and analyzes samples from across the country, about 12,000 samples a year, for pesticide residues. We sample mostly fruits and vegetables, although we do do some processed commodities. We do fruits and juices. We do grains, meats, poultry, dairy products, even aquaculture. We're sampling catfish right now. We've done honey, specialty projects, pear juice concentrate, trizol projects, nuts, and also drinking water.

Our primary data user is the EPA. They use our data for their risk assessment. The samples are primarily collected from distribution centers and terminal markets throughout the country. Our collectors randomly collect samples from each of these places without regard to a grower, a distributor, whether it's organic or not. So everything is randomly collected, which brings me to the point of my comment here.
Looking at our database, we see that we have only about one or two percent of our data that is actually organic results. And I have read many, many papers that makes reference to and drawing conclusions from, say, only seven or ten organic commodities from a certain group, compared to the hundreds or tens of thousands of samples that we collect. So what we're going to do now is we need more organic samples.

What we're projecting to do is we're starting a pilot program starting in January. We're going to be collecting only organic samples. So my question to you all is -- we're in the process of developing it now. We're going to start at a half-sampling rate. We're going to start out with a commodity of bagged lettuce. We're not targeting any specific product that has anything to do with pesticides on it or not. It's mostly logistics.

Lettuce is a very high-consumption
item. It's also high-consumption for young children. It's already being collected by our microbiological data program, so, logistically, it's very easy for us to go ahead and collect right now. Also, it is readily available throughout the country. In some places, we collect, our small mom and pop places, just very small, so we want to make sure we get a commodity that we know is there organically.

My question to you all is -- we need some suggestions, questions, guidance, ideas, where to go with this project once we start it. If you all have any comments that you'd like to incorporate certain commodities or anything, we'd liked feedback from you. I'm here just to let you know that our web address, and plus you can look at, we have data on the web, if you'd like to write down the web address it's www.ams.usda.gov/pdp. You can see what we're sampling every year. You can contact me at
jo.kraemer@usda.gov or you can contact myself or Diane Haynes. Diane, would you stand up here? She's in the back there. She is our technical director and deputy director. So if you have any pesticide residue questions, you can contact her. I'll be here today and tomorrow. If you have any comments, we would like to take them for future directions for our testing of organic products. Thank you.

CHAIRPERSON DELGADO: You're welcome. Any questions? Steve?

MR. DEMURI: It doesn't sound like you had any specific plans for the data you collect, but if you happen to find something that was over, that had pesticides on it that was organic, would you give that information to the enforcement folks at the USDA?

MS. KRAEMER: Diana, what do we do with the data?

MS. HAYNES: (Talking off mic.)

MS. KRAEMER: We're not enforcement, we're a monitoring program, so we
would notify the proper agencies.

MR. DEMURI: And what would the
NOP do with that information? I mean, any
comments from the Program? If you receive
data from her group that there was an organic
product out there that had pesticides on it,
what would you do with that information?

DR. ROBINSON: I'm not sure. It's
not a zero tolerance program. We do know that
there are some levels of pesticides already.

My understanding is --

CHAIRPERSON DELGADO: Barbara --

DR. ROBINSON: Oh, I'm sorry. Jo,
correct me if I'm wrong, but my understanding
is you already do collect or do samples of
some organic products?

MS. KRAEMER: Yes, and it's a very
low percent.

DR. ROBINSON: Right. So they're
expanding their coverage. What are we going
to do with it?

CHAIRPERSON DELGADO: Is the
microphone on?

DR. ROBINSON: Yes. I mean, what are we going to do with it if we can get data on it? If the PDP were suddenly to find that there's a tremendously increased pesticide levels in organic produce, what we would do, I guess, is it, obviously, would increase our concerns and make us, you know, tell the compliance and enforcement people to start doing a more careful job of its enforcement and auditing. That would be something we'd start taking a look at more closely. But just to say that there's some pesticide residue in produce wouldn't do anything. It's not a zero tolerance program.

MS. KRAEMER: I was just going to say this might be something for you all to consider and help direct us on what you'd like to see done with the data.

CHAIRPERSON DELGADO: Okay, excellent. Hugh?

MR. KARREMAN: Is it just on crops
you're looking at or other organic products, as well? Because I got sent something to me in the mail the other month regarding organic milk and looking at, say, analytes.

MS. KRAEMER: We have in the past tested milk for pesticides, three different times actually in the history of our PDP program. We do have some organic samples which we found some residues, but it was low. What is your question exactly?

MR. KARREMAN: I'm just wondering if it was just crops or if you're actually going to be also looking at milk products, as well.

MS. KRAEMER: Well, in the past, we have just randomly, across the board, collected a few samples that amounts to about one or two percent per commodity that we tested. We test about 16 or 17 different commodities each quarter, and they're rotated every two years. We do have organic commodities in there that we test across the
board, whether it's grain, dairy, fruit and vegetables, drinking water, whatever. So we do test everything.

But what we're proposing to do to get more data out there that can be used by whoever wants to use it is to intensify and get some good data out there that can be used to determine what really is in those commodities. If this pilot project works, we'd like to continue it on year to year and switch commodities as we go.

CHAIRPERSON DELGADO: Okay. We have Julie, followed by Mark.

MS. WEISMAN: I have two questions, one to follow on what you were just saying. Would the hope be to get more refined baselines of what constitutes background pesticide, like, say, for certain types of crops as opposed to what would then be an indicator that something is going on that's not supposed to be? Is that --

MS. KRAEMER: Well, there are
certain environmental pesticides that are in there now that you can't do anything about, the metabolites and everything. We're just testing across the board. We have a list now, which I do have a list and I could show whoever wants to look at them, the analytes that we're going to be testing for lettuce is coming up. And, of course, it depends on what we found in lettuce in the past, what we think might be out there. It depends on the commodity.

MS. WEISMAN: And my second question is are you limited to domestically-grown crops, or are you going to be looking at things coming in from --

MS. KRAEMER: Very good question. We do both domestic and imported, and we show in our book, we find, actually, that a lot of imports have a little bit more than domestic. But, again, it depends on the commodity, but we will be testing both imports and domestic.

CHAIRPERSON DELGADO: Barbara,
followed by Jennifer.

DR. ROBINSON: The other thing to remember, too, is that, you know, in the past, when PDP reports the pesticides, you know, the other thing to consider is what pesticides? There's things like DVT or DVT's metabolites. Those things persist in the soil for 50 years, and you're not going to get rid of those things. And there can be extremely low levels, things like dioxin and stuff like that. We require that producers not apply prohibited substances for three years when they convert land. There's very little virgin land and probably no virgin land left in the United States.

So I don't want people to look at this as the, okay, gosh, PDP is out there and, you know, they've tested organic products and they find some levels of pesticides. That doesn't mean that producers are out there deliberately applying prohibited substances. I mean, the fact of the matter is there have
been chemicals applied that persist in the soil for many, many years. And the levels are reported, or you can get the levels reported because we've asked back to PDP because we get these questions occasionally and the nature of the exact pesticides. And they're low, they're old pesticides, they're stuff that's been applied in the soil previously. We're not seeing, you know, evidence, when we look at it, that there's evidence that people are not complying with the regulations.

CHAIRPERSON DELGADO: Jennifer?

MS. HALL: So I just want to clarify that you're looking to the Board and the organic community to give you feedback on different crops and products that we would find helpful --

MS. KRAEMER: Whatever input you'd like to give to us. We're just developing this project right now. We're starting out just with a small collection of one commodity, and we'd like to know where to go with it,
what data needs are out there, where you would
like to see it go.

MS. HALL: So what's to be tested
and then what sort of results we might be
curious about once that data is collected; is
that right?

MS. KRAEMER: Right.

MS. HALL: Okay.

CHAIRPERSON DELGADO: Any more
questions? Thank you very much. We're moving
on to Steve Mohr, followed by Brian Baker.
Just to let you know, we're on number 22 of
60.

MR. MOHR: Thank you for your time
today. My name is Steve Mohr from Onalaska,
Wisconsin. I'm here today representing my
company, which is Foundation Organic Seeds,
LLC. We are a grower and marketer of organic
seed, corn, alfalfa, clover, and organic
grasses. I'm wearing two hats today. I'm
also a member of the International Organic
Inspectors Association. I've been active for
five years doing that, so I get to see kind of both sides of what's going on in the market out there. I'd like to mention a few things today as it relates to some of your proposals.

I see in the discussion section, when I read that, it looked like, as a panel, you got it really nailed down and identified a lot of the problems and some things that might, long-term, really serve the industry, specifically if we could increase usage it will increase the availability and selection of organic seeds. We really need the money coming in and these guys buying and supporting us in order to support them with more and a better line of products.

But, unfortunately, as an inspector and a marketer, I do a lot of on-farm calls, especially with larger farmers in different states. You kind of target the bigger, what I call commercial organic producers, rather than the guys that are living organic as a lifestyle in the farm
they're in as a business. And I've noticed some actually going back to untreated seed, and this trend is disturbing because it looks like they're getting better educated on wording, with how the NOP rule is worded, and then we are doing a better job as certifiers, inspectors, and marketers of educating them how to get around the rule or just go by the letter rather than the spirit of the rule.

Some examples, just as marketers, here's a letter I got from one of my competitors in another state. Two organic producers fall this year. One section says, "This year, we have reduced quantities of organic corn available due to a shortage of available organic production agents, so we have produced some of our own corn hybrids conventionally as untreated seed. If you purchase this seed, we will provide you with the letter explaining the substitution to your certifier."

So they're doing the work for the
farmer and making it all okay. And I'm not
living in a glass house. I can't throw the
stones because I've done some of the same
stuff. Usually, though, when I have some
products that have specific traits, like corn-
borer resistant corn, leafhopper resistant
alfalfa, things the farmer needs to actually
get a crop, not an extra five bushels of yield
or save himself, you know, 30 bucks a bag,
what these folks will be doing.

And there's other examples I've
seen. They're doing inspections. There's a
large outfit in the Midwest. They've got
consultants out. They do soil tests. They
promote organic, but their seed line they sell
is conventional. And their explanation letter
to give to their farmer customers is, "Here's
this list of products, and we have determined
that these products are better under organic
situations than comparable organic varieties."
No evidence, no documentation, just the letter
saying we say it's so, and, of course, they're
selling. So we're kind of helping them along.

Unfortunately, I think they've
gotten to know Section 205.204(a)(1)
equivalent organic variety. They have a
different definition than most people. Most
farmers, when they talk equivalency, they're
referring to yield, which is money to them.
And if you can't meet or beat what they're
using then you don't get the business.

When I was up in Michigan, some of
the large farmers I called on in October, I've
already ordered their untreated seed, so you
can get on the farm if you can promise you'll
beat what they're using. And part of your
explanations today under what the farmer can
do, there is a word in there, a couple of
them, that says if he has on-farm yield trials
and can show that the untreated is better,
he's good. That just scares me to death
because I've got to compete with all that
DuPont corns, Monsanto corns, Syngenta corns,
and Dow corns. They own Pioneer, DeKalb,
Novartis, Syngenta. That means on-farm trial. My company has to beat any and all of them to get the business so they will buy organic. If I can't beat them, they don't have to buy organic. So that's what myself and the other organic producers are up against out here.

There is an answer. I think if we emphasize seed type instead of variety, emphasize seed traits, specific traits, and then de-emphasize the word equivalent. I think that will help give the certifiers here more to go on and less paperwork in doing it that way.

So, in conclusion, I'd ask please don't accept on-farm trials as the last word in whether they use organic or conventional.

CHAIRPERSON DELGADO: Any questions? Kevin?

MR. ENGELBERT: One thing you didn't touch on. Do you foresee any problems in the future obtaining the genetics that are currently being bought up by all the big seed
companies, or are they still going to be available for organic growers like yourself?

MR. MOHR: I have a conventional company, as well, that my seed license is through, and there are better hybrids available. If we have to compete with these untreated conventionals, we can compete with it, but we're going to have to get treated inbreds to do it because of the conventional list that's out there available to us who are licensed with these large, licensed with, like, some of the Syngentas and some of the big breeding outfits, they license out their stuff. You can get it, but only about half of it is available untreated. Some are off limits because whoever bred them, invented them, might be a chemical company, might be a smaller company, they don't want it out the door untreated. They know it's going organic and, for whatever reason, maybe it's purity issues, maybe it's lawsuits, maybe they don't like organic.
But if we would take those, grow them, and just sell them untreated, yes, then we could compete with these on-farm things and have a little better lineup. But just another point along with that, the products we have now, myself and my competitors at Blue River and some of the other ones, we're in like the University of Wisconsin field trials. We've got corns that go over 200 bushels an acre, which is probably 80 bushels higher than the average organic. But that's not good enough for an on-farm trial. It's what happens out there, what he's been using.

So the genetic potential is there now to do more than what most of these guys need, but we're fighting. When you get on that farm you've got to take it away from the untreated stuff in a lot of cases, not all of them. There's a lot of guys that do make an effort, and a lot of these farmers do a good job of sourcing organic. But we need a lot more volume to really increase for us to do a
better job than these organic growers.

CHAIRPERSON DELGADO: Any other questions? Joe?

MR. SMILLIE: I heard what you said. You've read our recommendation, and you had one specific about the on-farm trial. Did you have any other specific comments?

MR. MOHR: It would be nice if you could get away from the words "equivalent" and "variety." A lot of people misuse the term "variety." They say define your variety. I get calls, "Do you have organic Pioneer 37B08?" "Well, no, only Pioneer has got 37B08." "Well, I need that. I need that in organic variety or organic form," "Well, you're never going to get it because it's a chemical company." But they're using that, they're twisting it.

The same way with alfalfa, and alfalfas are really varieties. Alfalfa is a little different game than corn. We can get away from that and just say seed type, and
they think, well, type is corn, it's canola, it's millet, you know, it's more easily distinguishable. And then if they need a specific trait, I don't have a problem with them, especially if we can't get what they need, then, yes, they need seed to plant. But if we can just get away from some of the wording that's in there because the guys are twisting it to their favor.

CHAIRPERSON DELGADO: Any other questions? Okay. Well, thank you. We'll move on to Brian Baker, followed by Jean Mann. And it's my understanding that, Brian, you have a proxy?

MR. BAKER: Yes, that's right. I have a proxy from Miguel Guerrero. And, also, if it pleases the Chair, I would like to introduce Renee Mann, OMRI's Review Program Manager, and would ask if it's all right if she spoke first and then I followed after her and then you reserve your questions until after both of us have spoken. That will save
some time.

CHAIRPERSON DELGADO: We'll go on then with Ms. Mann, and you'll have five minutes.

MR. BAKER: She also has a proxy.

CHAIRPERSON DELGADO: You have a proxy, Jean?

MS. MANN: Renee Mann. I have a proxy from Dave Decou.

CHAIRPERSON DELGADO: Okay. So you'd have ten minutes.

MS. MANN: I won't take it all.

CHAIRPERSON DELGADO: Please.

MS. MANN: Okay. Again, my name is Renee Mann, and I'm the Review Program Manager at OMRI, the Organic Materials Review Institute. Thank you to the NOSB for being here and listening to our comments, and thank you for all of your hard work.

I just want to say something real quick about OMRI. We're an independent non-profit organization whose mission is to review
input materials for use in organic production.

We're very happy this year to have achieved ISO 65 accreditation and also to have been recognized as a reputable third party source for verifying input materials by the NOP. So we're very excited about that.

I was going to talk briefly about inerts and petitioned materials. So for inerts, we want to say that we support the NOSB in their re-opening the discussion on inerts, which is really important to us because we review a lot of pesticide materials. As you may know, we look at all the ingredients in pesticide materials, including active and inert ingredients. And, right now, because we're reviewing fully-formulated products, it's confusing to us what's going on with, well, not confusing but it has been a challenge to review input materials to the 2004 list.

So we don't actually have an opinion at this time about what should be done
with inerts, but we did want to point out --
great, huh? I did want to point out that
there's one recommendation to accept the 40
CFR 180.950 list, which I see makes sense.
Unfortunately, not all of the 4A material is
moved on to that list, so I wanted to point
out that some of them would not be allowed if
that was the only piece that you adopted into
the NOP rule or recommended.

I also needed to point out that
most of the 4Bs are not on that list. From
the products that we've reviewed, I know that
about or up to half of the pesticide materials
contain 4Bs, and so if you were to only accept
180.950 then a lot of the products would come
off of our list. I'm not saying that's a bad
thing. I'm just saying that that is a
consequence, a possible consequence.

So we're offering our assistance.
If you'd like to learn what kind of materials
on our list and what kind of inerts are in
those pesticide products we would be willing
to discuss that with the Board. Obviously, some of that information is confidential, but sometimes we can gather information together so that it doesn't relate to one particular pesticide product. So we can give you some of that information when you're developing your recommendation.

The other thing I want to talk about is petition substances. We don't have any specific comments on the petition substances, but I just wanted to ask that TAP reviews get posted to the web site because not all of them were available. So that's a little bit hard for us to comment when the TAP reviews aren't available.

Last is the procedure to handle technical reviews. I forgot I was going to mention that. OMRI considers the independent review of the materials important. We said this in our written comments, so I'm just repeating that. And aside from the issue of who actually conducts the TAP review, I wanted
to implore you all to make sure that when the
TAP reviews are done that they include
complete technical information. OMRI relies
on TAP reviews at times to clarify what has
been added to the National List. It's not an
ideal situation. Hopefully, the National List
makes sense on its own, but that's not always
ture. So we go back to TAP reviews. It's
extremely helpful to us when the TAP reviews
are not redacted and parts are confidential
information, but I understand that that
happens. Nevertheless, whatever public part
of the TAP review you could put on the web
site that would be fantastic for us.

The other thing is whatever
recommendation you make, please do put the CAS
numbers and the 1(a) taxonomic classification
in there. That's extremely helpful for us,
and that allows for a clear recommendation.

Finally, one example, the
information that you put into the TAP reviews
is important to us because we had to go back
in peracetic acid and processing to check to see what was intended when that material was added. And, unfortunately, when there's confusion, you end up communicating with the NOP back and forth a lot and spending a lot of time trying to figure out what was the intention of what was added to the list. Was it peracetic acid? Was it the stabilizers of peracetic acid, HEDP? There's other materials that we commonly see, so the very first thing that happened when that was added to the list is we had a number of products under review, and we couldn't list them because there was still confusion after peracetic acid was added to the list. So more clarification in the TAP reviews, more in-depth review of the formulations that are used to make those synthetic materials or non-synthetic materials is very important to OMRI.

I think that's it. Brian? Thank you.

MR. BAKER: And I'm Brian Baker,
the Research Director of the Organic Materials Review Institute. Mr. Chair, Madame Director, members of the NOSB, and staff of the NOP, thanks, again, for the opportunity to speak. I'm going to be speaking on materials, materials, and more materials, and I don't know if anyone expected anything else from me.

OMRI understands how difficult materials review can be, and you need all the help you can get. You should rely on the whole community that's here to help you. We're here to serve you and assist you to make well-informed, broadly-supported, and transparent recommendations. We ask you to not go it alone.

This isn't any reflection of your qualifications. We understand there are well-qualified experts on the NOSB. But in the interest of a better process, we respect the role that the NOSB plays as a stakeholder body, and there's an expert function that also needs to be played. And the intention was to
have a technical advisory panel that's separate from the NOSB that's convened by the NOSB in order to serve that expert function. Separation of function was a very important part of what the organic community put together. And we hope that you're not stretched beyond your limits in your volunteer work. Any recommendation to amend any section of the National List should be made only after you have an external technical review. We think that's good sense.

We found the notice to take petitions off the table a bit puzzling, and we're concerned why it's coming up at this point and what it means. All of the substances we found in the notice, the specific substances, these were all petitioned prior to July 13th, 2000 and the revision of the National List petition process. This may be semantics. I don't know if it's significant, but it looks, according to our records, these substances were all addressed.
They're not still on the table; and, in some cases, we have no record of them ever even being petitioned. And several of them had been not just completed, but they appear on the National List and our written testimony documents where they currently appear on the National List.

So we're just wondering what's up there. But, at the same time, there are a number of substances that appear to have fallen through the cracks. Some we see are on this meeting's agenda, but there are several that we think the NOSB should take up because they've never been fully addressed. These are also documented in our written testimony and include things like potassium carbonate, phosphoric acid, sodium lactate, potassium lactate, soy protein isolate in polymers.

We're aware that there was an effort to get clarification on synthetic/non-synthetic or what was currently on the National List. But we don't have anything
documenting the NOSB consideration of these clarifications. And there's just sort of, the petitions are still open from what we can tell. We are looking for clarification there.

OMRI applauds the Materials Working Group, Kim Dietz, Gwendolyn Wyard, and leading the Materials Working Group in that difficult task. OMRI's staff and members of the advisory council were involved in the process, but, at the present time, OMRI supports option one, which is no change in the status quo.

Can the National List, can the process be better? We think it can; there's no doubt. But there's no clear consensus for any of the alternative options, and we think that these all deserve to be developed more, discussed more by the organic community, and carefully considered before any of those options are adopted. All the stakeholders need to be consulted on it, and the people who will be impacted by the change that have not
been part of the discussion today, they need to be heard.

So I'm hoping that the Materials Working Group will come up and come and make us an option we can't refuse. What I ask for is the irresistible option and something that would have the broad consensus and support of the organic community would be embraced.

I would like to point out that the whole question of agriculture and non-agriculture is just the start. We really need guidance on what's synthetic and what's not synthetic and look to that project that got so far and still has not been finalized. We'd like to help bring that to completion.

There's also the distinction between what's production and what's processing, what's handling. And then what's an ingredient? What's a processing aid? What's a cleaner, sanitizer, and disinfectant? These categories in the rule, these categories on the National List are somewhat blurred and somewhat fuzzy.
We would like to have a bright line and understand there's a need for discretion, a need for ambiguity. But on the whole, life would be a lot simpler if we could just say what was what.

So we ask to reaffirm the previous recommendations made on synthetic and non-synthetic. We're seeing with the continued advance in technology questions about genetic engineering are getting more complicated and difficult to solve. It's not as clear-cut or as simple as it was in '97 or 2000. So that's another complicating factor that deserves attention. And contamination by prohibited substances, such as pesticides, we heard earlier from the PDP, this is also an issue that deserves attention and how we can deal with the incursion prohibited substances into organic food.

OMRI has not dealt with 100-percent organic label. We find ourselves completely outside of that discussion. We
don't review if a substance can be used in a 100-percent product. We just don't go there. Our written comments suggest five different ways to resolve the problem, and there may be others. But right now I think the proposal leaves more questions than answers.

With that, I'd just like to close with saying that OMRI was established for public benefit. We see a good working relationship with the NOSB and the NOP as essential to fulfill our mission. Please let us know how we can be of service. Thank you.

CHAIRPERSON DELGADO: Questions?

Okay. Thank you very much.

MR. BAKER: Thank you.

CHAIRPERSON DELGADO: Up next is Kim Dietz, followed by Emily Rosen.

MS. DIETZ: Good afternoon. My name is Kim Dietz, and I'm not going to be commenting on Materials Working Group yet, so you'll have to wait until tomorrow. I feel like there's suspension in the air. Gwendolyn
and I will be having a presentation about 8:45
or 9:00, somewhere in there in the morning.
And we'll try to summarize in 15 minutes about
54 pages of our work over the last year.

So I'm Kim Dietz. I'm with
Smucker Quality Beverage, and I'm going to be
making comments somewhat on behalf of my
company and then also take that hat off and
make comments as a past NOP member and
materials person.

So with that, from a company
standpoint, I wanted to just comment on
ethylene for pears. We do a lot of organic
pear juice, and we do not need ethylene. And
I believe I was on the Board when we
originally voted on that, so we specifically
have one intent for ethylene. We talked about
pears and all kinds of different things, but
we didn't feel it was needed at that time.
And I think from even Miles' comment in
Washington, I'm not sure whether people are
really using it that much. When you put pears
inside of a big room to ripen, they produce
their own ethylene. Now, it might not be
consistent, but do we need pears year-round?
I don't know. That's a question you'll have
to decide.

So my other comment to that would
be if you are going to change the annotation,
there was discussion about, well, if it's okay
for bananas and it's okay for pears then it's
okay for this, you should just consider
dropping the annotation all together.
Because, otherwise, somebody else is going to
come up in a year or so and say, "Well, what
about for this?" and you need to just kind of,
if you're going to allow it then allow it. If
you're going to limit it specifically for
something, limit it. But if you don't know
why it's okay for one and not the other then
drop the annotation all together.

Okay. As far as materials, I'll
take my company hat off for a minute, three
words of advice for you: process, history, and
consistency. Sitting in the audience is somewhat painful sometimes as a past person who's dealt a lot with materials. Use the tools you have, again; follow the process.

You have a lot of history here, a lot of different people who have worked on materials.

When I hear things like, well, we're just not going to put it on there because there's too many materials, yes, you're the keepers of the list. That's true. But if you're not going to add something, make sure you have a legal ramification not to do that. If there's a similar material on the list, then you need to really be specific why something shouldn't be allowed and have some legal something behind that. Don't just say there's two things. If you're not sure, if there's something that you need more information on, you need to defer the vote because you're not doing the people who come to these meetings a service if you vote on something you don't have all the information
that you need. Either you get it before the
meeting, get it at the meeting, or defer the
vote until you have everything.

        Just history again. There's a lot
of information out there on past history on
materials, how to do the process. You've got
a lot of tools out there for that and the
consistency, as well.

        Lastly, on the 100-percent
labeling, I really don't have any comments on.
I support your recommendation. I just believe
that you need to have something going out of
this meeting for the industry. We have
products on hold, labels on hold, waiting for
the decision to come out of this. So a lot of
people are somewhat working on changing 100-
percent off the labels, and some people have
already gone down that road. So there's a lot
of money being invested, a lot of time, based
on some of the other, I guess, people telling
you they need to change their labels. So I'm
not quite sure what's going on with that.
Oh, and, lastly, on materials, your Federal Register notice, we're waiting on a material, our company is waiting on a material that was petitioned in 2004. The recommendation was in 2007, and it's still not even in the Federal Register notice. So please make sure those keep getting through the process because we're holding off some new products for that.

Okay. Any questions?

CHAIRPERSON DELGADO: Any questions? Steve?

MR. DEMURI: Looking back, seeing where we distinctly describe why it was allowed for tropicals and not for pears or other fruits. And I can see your point and I agree with you that why have the annotation, but there really was no description of what the previous Board was thinking. Do you have any idea of what that might have been?

MS. DIETZ: Well, I believe the petition, I'm not sure, but I believe it was
for specific use at the time, and that's what we voted on. And that's why we went into it with the annotation.

CHAIRPERSON DELGADO: Joe?

MR. SMILLIE: Process information, your other coats, and then you say that we should get that 100 percent out the door. There's a conflict there. We realize that our intent, like a lot of intents for the 100 percent, was a good intent. But it has been pointed by a number of commenters, there's some technical inaccuracies in the recommendation. There's some murky area. There's some bad definitions. And to clean those up during this meeting is a possibility, but when we listen to public opinion until 9:00 at night, time disappears.

So although I agree with you, I'd like to get the 100-percent recommendation out the door, we would have to be able to do a lot of work on that document right now in order to get a more feasible document out the door. It
was my intention, as chair, to get what we could from those recommendations out. And if there were a couple of issues that were cloudy just drop those. But it looks right now, and I'm waiting to hear more opinion, whether it's right, whether the correct approach is to get it right and do it later or to get what we think is basically pretty close to good and get it out there because I realize, as you have stated, that there's a lot of people out there making decisions on their labels that involve a lot of money and a lot of product.

One of the decisions that isn't brought up, not whether to change the label from 100 percent or not, is to whether not to use, let's say an inert gas, like nitrogen, and just put the product out there for the shorter shelf life, for example, or not to use carbon dioxide to fumigate the berries and just hope they don't develop, you know, fungal spores or what have you. So there's a lot of things at stake here on that issue, and we
want to get it right and we want to serve the industry, and it looks like we have a lot of work to do to get it right before we can get our intent clear to put it out.

That's a long comment, but I'd like you to answer because you said follow the process.

MS. DIETZ: Right. And the reason that I said that about the 100-percent label is because there's been directed by the NOP to companies to change. So we're in the process of that change, and then, all of a sudden, there's a recommendation by the Board, so now we're in this limbo land. You know, we need to be able to have time to say, okay, well, let's just hold off and not do any label changes and wait another year and have 100-percent label claims out there and go as-is or come out of this meeting with a recommendation on what we're going to do moving forward.

Somewhere it needs to give. We need to know what to do; I guess that would be
my comment. Not to push it through, but we need direction coming out of this meeting where the 100-percent label claim stands. Are we just going to back off a little bit until the decision is made and people continue to label as-is; or do we move forward in changing labels?

MR. SMILLIE: I would like to ask the Program if they would want to comment on this issue.

CHAIRPERSON DELGADO: Any comment from the Program? Any questions?

MS. DIETZ: Thank you.

CHAIRPERSON DELGADO: Okay. Up next is Emily Brown Rosen, followed by Gwendolyn Wyard.

MS. ROSEN: Hi. I'm Emily Brown Rosen. I'm the Policy Director for Pennsylvania Certified Organic, an organic certification agency right around the corner here. Thank you for the opportunity to comment again and one more for your patience.
This, you know, it turned out to be a big deal
to comment at NOSB meetings, and it's great,
you know, that you're willing to seat here and
do this, and I think it's also very important
for the industry. I'm thinking maybe we could
schedule more listening sessions at some point
in the future because I can see how it's
getting hard for you to manage this. But
whatever. I'm glad to have an opportunity.

We have also provided written
comments, hopefully you've seen them, that are
more detailed. So I'm just going to kind of
summarize them here quickly. Oh, I do have a
proxy from Melanie Saffer. Did you get that
on your list? But, hopefully, I won't need
that full time.

MS. FRANCES: We put you down for
tomorrow.

MR. ROSEN: I might not need that.

Okay. So, number one, the Materials Working
Group, I was glad to participate in that
group, and I think we did great work. I
really thank Gwendolyn and Kim for providing
leadership and putting together some really
good information. As you can see, it's a very
large document.

We had a lot of diversity of
opinions. We did try to slim it down to tease
out some of the key points more this time
around. But, you know, it's a tough issue.

At this point, my feeling is that there's not
any option that's going to be perfect, but we
urge the Board to move forward quickly on
adopting a recommendation. I think the
Materials Working Group has done enough on
that topic and it's your turn to take it up
and hopefully get a recommendation for us next
meeting that we can all jump on board with.

In the meantime, we'd be happy to keep
working, speaking for myself at least, but I
think most of the group would like to keep
working on the synthetic/non-synthetic thing
and get something to you before the next
meeting, so we can move ahead on these
critical issues.

I had sort of a mental block after I worked on it all during the summer, so I didn't get you a written comment on this. But re-reading the other comments and reading Oregon Tilth's comment, I think option three is the best choice. That's my opinion. I think this is, you know, a bit of a change, but what this basically does is require commercial availability of all items on 205.605, and you change the title of 605 from being non-agricultural to just being non-organic substances. So they're not clearly agricultural or non-agricultural. I think this is doable because OFPA doesn't even mention the word "agricultural." You save 606 for all the things that are clearly agricultural.

Keep yeast and microorganisms and bacteria all in 605. There will still be a requirement to use them in processed food when they're commercially available. You can still
certify them as organic if you can produce them according to standards because they're just on the list as non-organic at the moment. They're not there as non-agricultural.

So, legally, I don't think that's a problem. And that way it's kind of the best of all worlds. It also does not interfere with the livestock requirements, which, you know, unfortunately, have a split system with the processing list. Everything has to be on the list. With the crops and livestock list, we have this open-ended list with, you know, synthetics on the list and then naturals that are not listed. So it kind of conflicts. That's part of our problem here, trying to make a rule that works for, a list that works for processing and doesn't conflict with the needs of our livestock and crop materials.

So I think that will work. It may not be perfect, but I think it will work. And it also bumps up this whole idea for organic preference, you know. When we can do it, when
the technology is there, when people are better at finding organic substrate for microorganisms or bacterial cultures, then it can be done, and we'll still keep pushing the envelope that way. So I know I'd just like to go forward. You know, whatever you do, we've got to go forward because we've got to try to be more consistent here.

Second, 100-percent organic label. We do agree with many commenters. And as certifiers, we've had a continuing round-robin about how difficult the 100-percent organic label is, how confusing it is, and really causes more problems than it's worth, it seems like. One solution would be to drop this category as a label claim. It's not in the OFPA. It's not permitted in Canada or the EU, and it causes a lot of confusion. People can still make truthful label claims about 100-percent organic ingredient content of their product. It just does not have to be a labeling claim category.
Right now, there are some products that are not even eligible for the 100-percent organic label claim, but they can claim 100-percent organic ingredients because, you know, all the ingredients are organic. You know, there's processing aids that don't end up in the final calculation. It's confusing because the calc rules and calculation are not the same as the description of the category. So, you know, we just lose the whole thing and a lot of the problem would go away.

If we are going to keep this category, there should be a very clear bright line. NOP gave us some guidance, like, two years ago, and I thought it was good. I thought it was very helpful at our certifier training. Basically, if a product is formulated or used or manufactured in any way with a substance that's on 205.605 or is on 606 and is not organic, then it's not 100-percent organic. It's got to be 100-percent organic ingredients. And that does include
things like antimicrobial washes. It does include, you know, things like inert gasses. So, you know, that's another easy way to enforce it, and it gives a very high standard for what it all means.

I did give you more details in my written comments. I think another breaking line would be that materials used in crop or livestock production for post-harvest handling that are on the list for that use or natural for that use. Those would be allowed as part of the crop or the livestock production. Once it goes to further handling off farm and is, you know, washed or sanitized or, you know, treated in some way, then it would lose its eligibility. But as I said, you know, that's getting into the weeds there.

I'd also like to say that in the National Organic Coalition comments on grower groups, there's a very good definition of post-harvest handling. You might want to take a look at that for future reference if you
1 decide to go that route.

2 Another problem with this paper,

3 which I would like you to pull back this

4 paper, is that it provides an implied

5 enforcement of the NOP policy statement on

6 food contact substances. I don't think you

7 meant to, but you opened a huge door into

8 another can of worms here, which is the whole

9 policy about antimicrobials washing, you know,

10 when does it have to be on the list and when

11 doesn't it? And I think that deserves a lot

12 more attention than you were able to do in

13 this review. So I just think you should

14 remove all that and just retest your thinking

15 there. And, in fact, in my comments, I gave

16 you a complete rewrite of your document, if

17 you just want to use it.

18

19 Number three, certifying

20 operations with multiple production unit sites

21 facilities, we remain concerned about the

22 general language in a number of places in this

document. We think it's greatly improved from
the last time around. It's very good on the
risk categories for grower groups, but still
we find that it's ambiguous. It still could
be interpreted to apply to handlers,
retailers, or any certified entity. I think
you should revise the document to make sure it
only applies to farmer/producer operations.
That was the theme of the vast majority of the
comments last time around, and I think that
your intent now was to move this forward for
grower groups. If you're going to take it up
separately, take it up separately. But don't
leave it ambiguous right now; I don't think
that's helpful.

Our concern that the proposed
changes in definitions, which are the only
regulatory changes you proposed here, would
have other ramifications not anticipated,
especially the narrow definition of "site."
In my reading, it says a site is an area where
production is managed. So, to me, it sounds
like you could go inspect the offices of a
company that has five different plants. And just, by itself, that definition I think will cause problems, so I think you need to think about how that would impact.

Fourthly, out of five, policy and procedures manual. Procedures to handle technical reviews, I ditto what Brian said about a need for independent reviews of petitions by experts. And in your document, I think you made an error on your procedure because it's the NOSB, not the NOP, that convenes the TAP. That's the language in the OFPA.

So you do need to work closely with the NOP to see that this happens. And if you need help from the community to make this happen, you should let us know, and we'll be out there, you know, talking to people and trying to make this happen or raising more money or whatever there needs to be for the Board to function properly. But it's really an important function.
Well, it's legally debatable whether NOSB can act as their own TAP. We ask that if you do intend to provide in-house TAP reviews and then the expertise of the subcommittee that's doing it should be documented. You also should be providing a written review compiled of the review that you've undertaken and indicate the reference material consulted. Right now, the use of current checklists may be adequate to document the Board decision, but it does not substitute for a TAP review. It requires that the Board submit to the secretary the results of the Board's evaluation and the evaluation of a technical advisory panel for all substances considered for inclusion on the National List.

So, you know, this is two different things. You know, they're not just one checklist. If there is no TAP review, I think you're putting yourself at liability because you do not have the separate independent review.
As an example, when there are no TAP reviews, we run into problems later down the road. For instance, ethylene for pears, that came up. Part of the reason you don't know, the history was that all the prior TAP reviews were not posted. I posted them in my comments. They were considered comments, which Claudia is going to present later, goes through quite a detail on the whole ethylene thing. It was considered, tomatoes was the first thing that, you know, people wanted to use that for, and that was always considered off the table because, you know, the whole point of organic is we don't have gassed tomatoes that are not ripe we need to market. There is a quality issue and an authenticity issue I should say.

So I don't think that this, since you didn't have a TAP review, I feel like you didn't do justice. I think you should delay that decision. It's just, you didn't have complete information. In fact, that ethylene
petition itself wasn't posted until, like, very late before the meeting. So I don't think there's a good chance for everyone to look at this.

Then the other point, as illustrated by the petition on seaweed-derived calcium, you're recommending to allow that based on the fact that it's a natural form of a mineral, which may be true, but the only information we have is from a petition where there's confidential business information that is redacted. So how do you know exactly how it's formed? How do we know how to evaluate similar products? That should just be off the table that you do not do a half review when there's confidential business information and we don't know how it's manufactured. So I have one more point here.

CHAIRPERSON DELGADO: Your time is up.

MS. ROSEN: Okay. Well, I have one more point, but it's brief. Okay. The
status of petition materials on the web site,
I think, you know, this whole point about the
missing petitions and the ancient ones that
are surfacing and then the recent ones that we
don't know where they are is just a symptom of
needing -- and I know NOP is working on it,
and I know poor Valerie is trying to get it
together, but we're willing to help. A
lot of us have historical information in our
files, but we really need a better method for,
like, when the petitions come in so that we
can have a long as period as possible to
collect information from the public. That
way, you'll get more and better diverse
information.

CHAIRPERSON DELGADO: Thank you.

Any questions? Hugh?

MR. KARREMAN: Thanks, Emily.

Just in regards to the TAP reviews, I tend to
agree with you that the fifteen of us on the
Board might not have the expertise to do
something, but then, again, we might. It
depends on the case. But your implication was that third-party groups would have the expertise. I tend to agree, at least with one particular group I'm thinking of. But what makes an expert an expert in reviewing things? Are you scientifically trained as far as agronomy, as far as medicine, as far as livestock? Or is it you know the organic rules really well? Or is it -- I don't know. How do you --

MS. ROSEN: On OFPA, there's criteria for technical expertise, and it lists a number of fields like, you know, agronomy, toxicology. I think there's four or five different general categories listed there.
The Board previously and the Program has a whole set of criteria for selecting contractors and statement of work. I mean, it's all been hashed out many times before. But, yes, they should have good scientific expertise. They should be able to address the particular sector of the topic, you know, if
it's veterinary, if it's agronomy, whatever. They should be able to demonstrate a range of expertise.

There may be, you know, within the USDA, there's probably some good science people that can help out, too. I just think there needs to be, like Brian was saying, an expert review and then your stakeholder review because it is inherent a little bit of conflict when some of your members are doing a review and then the other ones are supposed to be questioning you about your review. I mean, it's not necessarily the best setup.

CHAIRPERSON DELGADO: Joe, followed by . . .

MR. SMILLIE: As far as the multi-site document, your comments on that, I thought we were fairly clear that right now the document is mute on everything but growers. That was the intention and if you find language in there that doesn't meet that intention, we'll be glad to take a look at it.
But right now it is mute on anything but growers. It doesn't rule out possibilities in the future, but that was the intention of the committee at this point in time.

Second thing is I couldn't agree more with you on the 100-percent. Just drop the sucker. You know, cut the Gordian knot, whatever you want to do it. We didn't come up with that recommendation, but we'll be glad to consider it, and maybe the Program will be also. And we can save us a lot of pain going through all the different details and just drop it.

But that having been said, if that doesn't happen, I would disagree with your comments on the preclusion. I think that the rule, the regulation is clear when it says processing aid. And when I look at some of these substances, let's say nitrogen flush, that's not a processing agent. I think that you can -- the CFRs are becoming, to me, to appear like the Bible. You know, you can just
about get anything out of them you want. But, to me, when you just judge overall what the CFRs have to say, things like nitrogen flush aren't a processing aid, and the regulation says processing aids.

So I would like to push forward with that particular part of it and not reduce it to just inert gasses. We'll just drop the inert part of it and just go with the gasses because I think, you know, we're looking at food safety issues that are important, and we're looking at claims that are justified, and I would just disagree with your interpretation of the CFRs on that particular set of issues.

MS. ROSEN: If I could respond briefly, I think some of the gasses are used to prevent oxidation in packaging. But in that same definition of CFR, they're also used as propellants or as, you know, like carbon dioxide could be used as a carbonate. So depending on the use, it may or may not be a
processing aid. I mean, there's no distinction on the list. So I would say that's fine, but you need to make a distinction on the list of which things you feel are not processing aids for which uses because, otherwise, some people will be allowing it in some 100-percent labels and others will be allowing it in other human products. You know, it's not clear.

CHAIRPERSON DELGADO: Kevin?

MR. ENGELBERT: Thank you, Emily. I agree with your thoughts about the grower groups being strictly for producers, and I didn't get it from the document that that's all it was for. So I do think there's some tweaking needed there. But I'd also like some comment from you about --

CHAIRPERSON DELGADO: Kevin, can you say it on the microphone, please?

MR. ENGELBERT: Could you also give some comment briefly about the parameters for grower groups? We can't just go with
intent, I don't think. Where do we set the
limit for grower groups? Is it based on
income, size of the farm, number of
operations, the product? I don't remember
anything in your comments about that.

MS. ROSEN: I did support the
criteria that the CACC came up with. I think
they're a good start. It was contributed by
a lot of different groups, and I can see pros
and cons of the 5,000 K limit, but, you know,
I would not presume to know enough about how
those small holders operate. I do think the
intention is for small holders, but I'm not
sure what the best way to accomplish that is.

CHAIRPERSON DELGADO: Any other
questions? Thank you, Emily. Now we have
Gwendolyn Wyard, followed by Tim Redman.

Gwendolyn?

MS. WYARD: Good afternoon. I
believe I have a proxy, but I'm not so sure.
I don't see it up there. I have about seven
minutes.
MS. FRANCES: I think a lot of the people who have a proxy, if they want to go a second day. They want to go a little bit on Monday and a little bit on Tuesday, that may be the case.

CHAIRPERSON DELGADO: And members of the Board, I urge you to consider coming tomorrow. We have a lot of people ahead, and if you are talking about a similar topic don't hesitate to team up and come together. That would be most effective and most productive for us.

MS. WYARD: Thanks. My name is Gwendolyn Wyard. I'm speaking today on behalf of Oregon Tilth. We have over 700 members and over 1200 certified clients. My position, I'm the Processing Program Reviewer and Technical Specialist, also known as the fermentation expert.

So starting off with pet food, the comments while submitted by Oregon Tilth were actually written by my dog. We've been
attentively following the work of the Pet Food
Task Force since 2005, and she asked that I
personally come here and thank the Task Force
and the Board for the development of the
standards and that I point out a few technical
corrections that are needed, namely because
pet food standards were written prior to
205.606 changes and prior to the NOP
clarification on agricultural livestock feed
supplements and additives.

The proposed pet food standards
under 205.237, they imply that all
agricultural ingredients in the made-with
category must be organic. Number two, the
organic category, they do not provide an
exception for ingredients listed on 205.606.
And, number three, they don't specify whether
allowed supplements and additives under 603
need to simply be non-synthetic or whether
they need to be non-agricultural and non-
synthetic. This has been a very confusing
area in the livestock standards, and I want to
make sure we get it right in pet food standards.

So after close examination, Wula, the smarter-than-average dog, preferential carnivore and occasional grazer, finds the standards to be more akin to the regulations for human food versus livestock. Combining pet food with livestock under the same heading is a recipe for confusion. She, and, therefore, we, feel that petfood would be best placed under its own section.

We suggested 205.240 in our comments, but, at the time, Wula wasn't up to speed with the proposed pasture regulations. That spot is taken. But we believe that there are 28 more sections reserved and open, so let's talk about 205.241. The point is to put pet food into its own section and then combine that with the detailed composition standards of 301.

Our suggested technical corrections are spelled out in edit mode in
our written comments, and I'll be delighted to
answer any questions you have on those when my
five minutes are up.

Guidelines for the 100-percent
labeling claim, again, I thank the NOSB for
your work really on this doozy of a topic.
You have our six pages of written comments
complete with seven examples to demonstrate
our point. In short, we agree that materials
used on food contact surfaces and gasses used
for packaging applications should not affect
the 100-percent organic label. We disagree
that sanitizers used in produce rinses and
hydrocooling, as well as diatomaceous earth
used for post-harvest pest control, prevent
the product from being labeled 100-percent
organic. I might add that I asked my dog
about this, and she did just wave her paw and
say that 100-percent category is more trouble
than it's worth and trotted off after a
squirrel.

So the CACC Committee reasons that
the residue from pest control material or
sanitizer remaining on product is consumed as
part of the final product and is, in effect,
an ingredient, therefore disqualifying the
product from the 100-percent organic claim.
This line of thought does not account for how
and when the materials used. It ignores
classifications that are already in place by
the EPA, FDA, and USDA, and it does not take
into account how that now organic product will
then be factored into organic calculations.

With respect to labeling products
and determining the organic content of a
product, the regulations refer to ingredients
and processing aids only. Therefore, Oregon
Tilth's position is as follows: production
inputs, namely sanitizers and pest materials,
on agricultural commodities used during pre-
imposed harvest activity should not impact the
100-percent organic label. As supported by
the regulatory language in 301, loss of the
100-percent organic label occurs when a non-
1 organic substance is used during processing
2 and functions as a processing aid or as an
3 ingredient.
4
5 We run into the problem that the
6 heading on 605 and 606 refer to ingredients,
7 and all other remaining lists refer to crop
8 production and livestock production. So we
9 agree with OMRI's third and fourth options
10 that 205.601(l) could refer to post-harvest
11 handling and, the fourth, the heading of 605
12 could refer to substances. In other words,
13 strike the word ingredients, as several of the
14 materials on 605 are not ingredients.
15
16 There's a real void when it comes
17 to placing post-harvest pre-processing
18 materials. We are especially concerned that
19 the recommended guidance doesn't account for
20 how the organic content of a product is
21 calculated. The recommended guidance would
22 result in the revision of hundreds upon
23 hundreds of certificates. Most raw fruits and
24 vegetables would lose their 100-percent
organic status prior to being processed. Farm
certificates, which historically have been
viewed to represent 100-percent organic raw
products, would need to specify organic. And
the products listed would then need to be
defaulted to 95-percent organic when I'm
running calculations.

So how do we go back? How do we
know what the percentage -- how would you
calculate the percentage, especially if you're
pointing to pest materials and sanitizers as
ingredients? We would have to figure out how
to calculate those into products, and that
would be very problematic.

This is a significant divergence
from the understanding and practices the
industry has built itself around for the past
ten years, and we ask that the Committee
please reconsider their guidance on this
extremely important issue. Thank you.

CHAIRPERSON DELGADO: Questions?

Tracy, followed by John.
MS. MIEDEMA: Thanks Gwen. I have a question for Deputy Administrator Robinson while Gwen is up here. You made some excellent technical corrections to the organic pet food recommendation, and this comes up from time to time where a correction comes at just the right moment. Our typical way of dealing with this in committee is to have sort of a midnight scramble of redlining recommendations, putting the audience through a painful exercise of onboard editing, and then voting on the edited either slightly or significantly edited version.

And just from a process standpoint, if we have a recommendation, plus some excellent written comments, does the Program layer those together? Can you just take that forward, or should we continue with our midnight scramble inserting of important edits?

MS. WYARD: Or can I put my work on Valerie's computer and your computer and --
MS. MIEDEMA: And a follow-up, just to continue, you know, I know that type of thing is possible. And taking into account that we need to mete out what we feel really should be taken and added to the recommendation and what shouldn't. But I guess the follow-up there is that on a question like where should organic pet food reside in the regulation, that's ultimately going to be a programmatic decision. And so what I guess I'm trying to make sure we do is we don't spin our wheels when we shouldn't be, yet we give you the best possible data to work with.

DR. ROBINSON: The most important thing is that we get a clear recommendation from you, you know. That it's not just a question of we get the Board's recommendation and then we get a bunch of, oh, but then we got these suggestions and these suggestions, so we have addendums to that so that we're not sure what is it you want us to add to your
recommendation.

So the most important thing is that whatever you give us it's clear to us what it is you are recommending and why. There's not really any ambiguity there. We're not getting something that says, okay, we want the labeling like this and then there's option A, option B, and option C. Otherwise, we're just going to keep coming back to you and saying, why did you do this? What is it you want?

It's not the format that you give it to us in. I don't care if it's hand-scratched. I care that it's clear is what I'm saying.

CHAIRPERSON DELGADO: And the highlight then, the highlight is to make sure that a committee, when they're proposing a recommendation that their intentions are clear, so the Board is given time and will be able to vote on a clear intent., and then send that out.
We have Joe. Sorry. We have Tracy. Tracy is going to follow up with a comment.

MS. MIEDEMA: Just to add that to my colleagues that worked on the Organic Pet Food Task Force, we really do need to insert these recommendations and per Barbara's advice just now, so let's talk after today.

CHAIRPERSON DELGADO: On the basis of procedure, we do have the time available. If you feel uncomfortable with your recommendation, you can always withdraw that or work on it sometime tonight and present a different updated version. It's really up to the committee. Follow-up from Bea.

MS. JAMES: This is just a quick comment to that. I think I've heard Barbara say in the past it's better to do it right than to do it fast.

CHAIRPERSON DELGADO: Any other questions? Joe?

MR. SMILLIE: Personally, I agree
with your comment. I think your comment on
the 100 percent are good, and I would like to
take those forward with our committee.

Back to the issue of get it right,
the problem with our organization is we can't
meet in a week, get the recommendation fixed
and the move it forward. You know, it's going
to be delayed for a sizable period of time.
So that's a conundrum we face.

At the risk of, we opened the food
contact substances box, and we'll try and
close it as quickly as possible. Agreed with
that. But the difference between, again, I'm
not sure that the entire audience or the
community understands the two issues that you
brought up. There's a difference, at least in
my understanding, between the 100-percent
claim and the calculation. And you put them
together saying that if we take away the 100-
percent claim language that it will cause you
and me and every other certifier in the room
untold hours of work working on calculations.
You can have an organic product that is 100 percent but can't use the 100-percent claim, right?

MS. WYARD: It could contain a non-inorganic processing aid, so it can't be labeled as 100-percent organic, but it contains 100-percent organic ingredients in Section 302, the first two ingredients. So I think I can speak for, well, I'll speak for Oregon Tilth, the way that we've been doing calculations for years and years and years, we calculate ingredients. We don't calculate processing aids.

MR. SMILLIE: So how would this recommendation affect the calculations game?

MS. WYARD: Well, now, because we have clarification from the program, when we're doing calculations, the only way that we, you know, the formulation has 20-percent of an organic ingredient, unless I know the actual percentage of that ingredient, I'm going to take 20 percent times 0.95. Now, if
my client wants to track down the actual percentage, which is 97, now I'm going to take 0.97. Well, by that time, it's the 20 percent.

But the supply chain, if it's losing it's 100-percent label category, the certificates represent the label category. So I'm going to be sitting with a certificate that says organic, and now I'm going to go back to my client and say I need you to tell me what the actual percentage is, or we can just default to 95. There are going to be raw agricultural commodities that, for years in their formulations, have been factored in at 100 percent because they're single-ingredient raw agricultural commodities.

So it's just going to put everybody into this mode of having to chase down the actual percentage based on the use of, perhaps, a pest control material used in a grain silo. That type of information is never going to make it into a formula.
MR. SMILLIE: And I don't think it would. I think that if you look at the product profile, it will say apple, not apple with, you know, chlorine on it or wheat with one speck of diatomaceous earth on it. So it will lose, perhaps, its 100-percent claim, but it won't lose the 100 percent of the calculation.

MS. WYARD: I mean, with processing aids, you still consider them 100-percent organic ingredients, but part of the proposal that you're putting out there is that you're saying, well, there's residue, so they're kind of, in effect, ingredients. That's really problematic. They're not ingredients.

MR. SMILLIE: That's certainly not the intention of the recommendation.

MS. WYARD: So, I mean, if you were to go down the path of saying if it comes in contact, and we don't care if it's during washing, before processing, after processing,
it loses the 100 percent because it is used on, it comes in contact. Don't talk about ingredients. That way, we know, okay, it can't be labeled as 100-percent organic, but at least for calculation purposes we can use 100 percent if the only thing that's been used is the sanitizer and wash.

CHAIRPERSON DELGADO: Julie?

MS. WEISMAN: Can we conceive of the possibility, along the lines of making the distinction of losing the labeling category as far as retail products go without sacrificing what currently happens on certificates?

MS. WYARD: You know, you go on the products, you go down the shelves in the grocery store, there is very few products that use that 100-percent label. It's the calculation part that you're going to lose it on the certificates.

MS. WEISMAN: Does it help to separate those out?

MS. WYARD: Yes. I mean, we're
already in a situation now where we have to
figure out a better way to communicate,
certifiers communicate to one another,
operations communicate, getting that
percentage passed on forward so that everybody
is not in this chase-down game. I mean, if we
had known from the very beginning about the
clarification on calculations, we would have
put our certificates together differently. We
would have had that percentage right there.

I mean, I say throw out the 100
percent -- this is Gwendolyn Wyard -- throw
out the 100-percent category and just put the
percentage, the ingredient percentage on the
label. That tells the consumer, you know, 97-
percent organic. That's straightforward. But
I think we run in -- you know, throwing away
the 100-percent category, from a consumer
perspective, so they hear that, you know, the
NOSB, NOP, it was too hard; we just threw out
that 100-percent category all together, that's
going to be, that's --
CHAIRPERSON DELGADO: Any other questions?

MS. WYARD: I thank you for your time.

MR. ENGELBERT: You're saying that feed grain has been running to a bin and has had diatomaceous earth added to it loses its 100-percent organic status. What's the implication then? Because livestock had to be fed 100-percent organic feed.

CHAIRPERSON DELGADO: Can you repeat the question?

MR. ENGELBERT: If we say that 100-percent, that livestock have to be fed 100-percent organic feed, but you say in your recommendation that grain has been treated with diatomaceous earth will lose its 100-percent organic status, how are you going to resolve that conflict?

MR. SMILLIE: Again, it's 100-percent claim, not 100 percent. You've got to understand there's a 100-percent claim, and
then there's 100 percent. So grain does not lose its 100 percent. It's still 100 percent, but you couldn't sell it retail as 100-percent organic because the so-called processing aid, which Gwen and I do not believe is a processing aid but a pest-control material, would preclude it from the claim but not the calculation. It would still be 100 percent to a dairy farmer.

CHAIRPERSON DELGADO: Dan?

MR. GIACOMINI: The regulation right now says that agricultural products included in diet must be organic. The 100 percent is really not the issue, whether it's the agricultural product is a certified organic product. So, I mean, there would be legitimate and illegitimate things you could do to it, but that doesn't change the organic nature of the agricultural product.

CHAIRPERSON DELGADO: Richard?

MR. MATTHEWS: You know, I've answered this question somewhere in my history
with the program, and I know that, in fact, I told Tom Hutcheson probably less than a year ago that something like diatomaceous earth or the carbon dioxide used for pest control in a grain bin would not disqualify the grain product from being considered as organic in a 100-percent organic product. In other words, you could still label a product 100-percent organic even if the wheat in there had had diatomaceous earth in the grain bin. That's no different than any of the other synthetics that are on your list for pest control.

So pest control in the field, pest control in the grain bin, what's the difference? I mean, we're not going to say that a cherry pie made with 100-percent organic ingredients that didn't use any synthetic processing aids couldn't be called 100 percent because it had an allowed pesticide used on the strawberries, nor would we say that for the wheat that's used to make the pie crust. I mean, that's my position on
it.

MS. WYARD: That's Oregon Tilth's position, too. There you go.

CHAIRPERSON DELGADO: Thank you.

MS. WYARD: Okay. Thank you.

Thank you very much.

CHAIRPERSON DELGADO: Up next, we have Urvashi Rangan.

MS. RANGAN: This is going to be the first fish demonstration in a NOSB meeting. First demonstration ever. Good afternoon. I'm going to take this off so you don't stare at it and not listen to me, but I'll leave it right here.

Good afternoon. My name is Urvashi Rangan. I'm a Senior Scientist and Policy Analyst with the Consumers' Union. We're the non-profit publisher of Consumer Reports. And I'm here today because we're extremely disappointed with the recommendations on the aquaculture standards, and they fall significantly short of consumer
expectations. You've heard me up here before.

I'm going to go into a lot of those details again. We've run another national poll out this November with similar statistics to the one we ran in June 2007.

We acknowledge the years of work that have gone into this and that organic aquaculture needs different standards than other livestock. But we feel the recommendation a year ago was closer to what it needed to be than the recommendation that's come out for this meeting.

These recommendations do not meet the same bar for other organic livestock production. In fact, it's a lower bar, which, if enacted, will compromise organic quality and value and undermine consumer confidence, not only in the organic fish that they buy but in all the organic products that are out on the market. This is a significant deviation from what organic principles are and where the bar ought to be.
You acknowledge in the recommendation that consumers may not want organic fish to eat wild fish and propose an additional conditional organic label to differentiate certain fish from others. That violates Section 2102 of OFPA that ensures that organic production meets the consistent standard. You cannot alter that label just to differentiate a different production system.

Allowance of the 25 percent wild fish for fish meal fails to meet consumer expectations on multiple levels. It doesn't adequately address the contaminant issue. In June 2007, more than 90 percent of consumers in our poll said that they wanted organic fish to be free or low in contaminants.

Moreover, the 25-percent level may also compromise the nutritional value of that particular fish and not actually make it nutritionally equivalent to its conventional counterpart. It falls short of the 100-percent organic feed requirement. Our
November 2008 poll, and I'll be happy to provide those details and written comment, show that 93 percent of consumers agree that organic fish should be produced with 100-percent organic feed, like all organic animals. This is what consumer expectations are, and to deviate from that seriously undermines the integrity of this label. It also creates a far more complicated and defensive strategy to manage contamination and sustainability in fish meal. And the recommendations tend to rely on vague environmental principles and weak regulations to address the problem, specifically Section 2107(a) that requires periodic residue testing. That requirement is only once every five years. That is an inadequate standard to monitor contaminants in fish meal. Sourcing from sustainable, quote/unquote, fisheries that minimize environmental impact, these are vague principles, and we've seen what happened with
pasture when we don't have specific standards in place. It's not meaningful as a standard. There's no standardized definition of what those mean, and it's subject to a wide array of interpretations.

The stepwise decrease of fish meal also produces an unnecessarily complicated management system for fish meal. If you stick to the 100-percent organic feed requirement, you create clean channels for organic fish meal to be produced, and when there is enough for carnivorous fish to eat 100-percent organic fish meal you have a nice clean production channel. This stepwise decrease is really going to unnecessarily lead to more complication, and we don't think it's a feasible strategy.

Consumer confusion over this issue is summed up in your proposal under 205.612 that creates a gross exception by allowing the use of a prohibited material in all of these cases. It's very confusing to a consumer that
you are going to allow a prohibited material, up to 25 percent of it, for use in organic fish meal.

Finally, we want to comment about the wild fish amendment and the fact that that seems to be in play. National Organic Program, you haven't promulgated on this, and the public has not had an opportunity to comment on wild fish. We don't understand why it's in play if it isn't promulgated. When we ask about you regulating fraudulent organic fish claims, we were told, that hasn't been promulgated. We can't regulate fraudulent claims. Well, we can't cherry-pick what we can push forward from the OFPA that hasn't been promulgated and what hasn't.

And for all of these reasons, including the environmental pollution reasons, which I will defer to Food and Water Watch and CAAR, we believe that fish that are not fed 100-percent organic feed, that come from polluting systems, that may be contaminated
with mercury and PCBs, and may be
nutritionally-inferior to their conventionally
wild counterparts, don't add up to an organic
label on fish that consumers want. We also
respectfully submit 16,000 signatures to you
that echo the same sentiment from consumers.
Thank you.

CHAIRPERSON DELGADO: Questions?

Hugh?

MR. KARREMAN: Thanks, Urvashi.

We are listening to all public comment, of
course, very closely. And you didn't have a
written one, did you, this time?

MS. RANGAN: I'm sorry. I didn't
have time, but I will be submitting it during
this session, which, Valerie; is that correct?
You can enter it in the docket here.

MR. KARREMAN: I didn't want to
have missed it. Regarding the amendment in
OFPA that it's not been promulgated -- I can't
say that word too well. Sorry. But wouldn't
this regulation that we're trying to possibly
pass be the promulgation of that in the act?
I mean, everyone says that it has not been
initiated. This is the initiation of that
amendment.

Ms. Rangan: If that is the case,
I think, one, it's very slippery, and pardon
the fish pun. But, secondly, I do not read
this as being a promulgation of the wild fish.
If that's what it is, that's news to me and I
think it's news to the public. Wild fish, if
wild fish can then be certified as organic, I
haven't read that in any of the
recommendations.

Mr. Karreman: No, we're not
saying that. We're saying wild fish can only
be used as feed in a decreasing manner over
ten years I think it is, and that's it.
There's going to be the byproduct of the wild
fish that's already in the human food chain.
We're using byproducts of that and not letting
them go to waste. That's the wild. That's
how we're seeing this part of the act, the
increment, not as fillets. Never have wild-caught certified organic fillets. Never, never. Just so you know that.

MS. RANGAN: So just to respond to that, that part of the act is two sentences, I think, and says something about wild fish to be eligible to be labeled as organic. You can't splice that thing or split it into two and say we're only dealing with half of that statement for fish meal and not deal with the rest of it. If you're saying it's the basis for a rationale that you're using in promulgating these regulations and in making your recommendations, then that needs to be promulgated and needs to be publically debated first, so we can figure out if that's really a reasonable ruling of that particular part of the act. We haven't done that yet. That hasn't gone under public debate. And to use this to debate that I think is disingenuous.

CHAIRPERSON DELGADO: Any other questions? Bea?
MS. JAMES: With all the consumer feedback that you received, I hear in your comments that the consumers were really concerned and not supportive of the idea of wild fish being used as a feed for certified organic fish. So I also was wondering if, in any of the comments that you received, if there was any feedback around environmental issues? That all of the wild caught salmon for our purposes is one thing, but what about the wildlife and what would that do to the wildlife?

MS. RANGAN: Thanks for asking, Bea, and I had the one-minute mark-up, and I didn't really get to that point. But environmental pollution is very present on consumers' minds. They buy organic because they think that environmental standards are being considered and that the highest environmental standards are being enacted. And, in fact, over 90 percent of consumer response, both on a June 2007 poll as well as
the November 2008 poll, say that they do not want to buy organic fish that comes from systems that pollute, especially in the open ocean.

MS. JAMES: Yes, the pollution, but also just the depletion for, say, you know, the wildlife in Alaska, Canada?

MS. RANGAN: We didn't ask consumers that specific question, but the answer to that really lies with the scientific body of evidence. And I think groups like CAAR and Food and Water Watch are going to be able to share and have shared those scientific studies. In fact, even at the aquaculture symposium we were all at last year, it was very evident that the ramifications of open net pens in the ocean lead to many, many, many problems, including depleting the wild stocks around them, including sending disease and parasites out into the ocean. We don't want a toilet flush going on in organic production. It shouldn't be that way. It should be in
closed controlled systems where you can 
control the inputs and the outputs. That's 
what all other livestock are held to. It's 
what consumers expect of that standard.

CHAIRPERSON DELGADO: Any other 
questions?

MR. KARREMAN: As far as the net 
pens go, essentially what you just talked 
about, you know, aren't land-based 
agricultural animals also penned in? Aren't 
there discharges from farms, whether they're 
organic or conventional? Hopefully, less from 
organic. Aren't they breathing the air that's 
coming in from upstream or whatever? I mean, 
you know, there are parallels.

MS. RANGAN: You know, there are 
some parallels here, we can say, look, they 
all share the same air, and the air goes in 
and over and out. But there are scientific 
studies that show massive adverse effects to 
wild populations. If you look at farm salmon 
-- I can't even speak anymore -- salmon farmed
alone from open net pen systems, there are several cases where that intensive farming has crushed immediately into the ocean, disaffecting up to 90 percent of the wild populations around it. That doesn't happen in other livestock farming. And I think when you're talking about water systems, you're talking about a very different system. That's why it took so long to come up with these standards because it isn't a cow swimming in water. These are very different. But in terms of controlling as best you can the environmental pollution that stems from it, you've got a big problem on your hands if this recommendation goes through the way it is.

MR. KARREMAN: Can I --

CHAIRPERSON DELGADO: Hugh?

MR. KARREMAN: Is this okay?

CHAIRPERSON DELGADO: Yes.

MR. KARREMAN: So even with the proposal that stands -- you know, I think a lot of people have a lot of problems with the,
you know, so far with the organic potential of aquaculture because everyone is basing everything on the conventional salmon industry and what's gone so wrong with it. In our proposal, is it the exact same? I think our proposal has a lot tighter standards in it for the environment and a lot of other factors. And I just feel that a lot of people are just knee-jerk reflexively opposed to it because the conventional salmon industry and, you know, I don't think we're almost been given a fair shake in a sense. I mean, I think a lot of the people out there haven't even read the document. They're just like, can't do it.

MS. RANGAN: It's a great question. I mean, are you doing something better than conventional? Sure. Are you doing something that meets the high bar for organic? You're not. And I think that's where the crux of this issue comes into play, which is it doesn't go without question that everything should qualify to be organic. And
in this particular case, the line really does seem to be clearly drawn in terms of the fish production where these open net pen systems that flush their waste directly into the ocean, they may not be as loaded up with antibiotics, perhaps, as conventional farms but still cause problems. And they are not in line with what organic principles are.

And so our response to you, Hugh, is it may be better, use another label for it. It's not organic.

MR. KARREMAN: One last thing. It's always focusing on salmon. What about the fellow who's out in Hawaii that's come here a couple of times, Neil Sims, and his net pen system out there? Is that just as hellishly bad as the salmon?

MS. RANGAN: Salmon illustrates the problem. We think those production systems are wrong for any kind of fish. I think salmon is talked about a lot. It's obviously one of the most highly-consumed
fish. But it only illustrates the fact that
those open net production systems don't jive
with organics.

CHAIRPERSON DELGADO: Any other
questions. Okay. Thank you very much.

MS. RANGAN: Thank you.

CHAIRPERSON DELGADO: At this
point, we are due for a 15-minute break. The
Vice Chair is correct. We were due for a
dinner break. We will continue. I also would
like to encourage the remaining speakers, we
still have a long list. We're not even
halfway. If you can please team up. I notice
the number of speakers with concerns of
agriculture, if you can team up. The same
with multi-site. We do have still some work
to do ahead tonight, and we appreciate your
cooperation.

We're going now for a ten-minute
break, and we're coming back at 25 after.

(Whereupon, the foregoing matter
went off the record at 5:11 p.m. and went back
on the record at 5:28 p.m.)

CHAIRPERSON DELGADO: We'll start

with public comment again with Mr. Dick

Martin. Please proceed. Five minutes.

MR. MARTIN: My name is Dick

Martin. I'm with Martin International

Corporation, a seafood import/export company.

I'm educated as a marine biologist and have

been in the aquaculture industry for 30 years.

I'm commenting on aquaculture standards

tonight.

At the outset, it's my

understanding that the new recommendation by

the committee of the Board must present a

viable model on both practical and economic

scale. This must be made as a basic premise

if we're able to complete the recommendations

and move forward on this.

The latest recommendations, in my

opinion, are close, so close, but still

slightly impossible as they're written. The

proposal, as written, places burdens on the
aquatic system that aren't necessarily shared terrestrial systems and should be parallel and equitable to them.

In particular, on net pen issues, the proposed zero impact by predators is idealistic and untenable. We can seek to mitigate any impact, yet no one can guarantee the elimination of it. The language should be changed to include direct impact and eliminate unrealistic to zero impact.

Two, the proposed requirement to guarantee the recycling of 50 percent of all nutrient input is equally idealistic and untenable. The fact that one cannot obtain really reliable and accurate qualitative and quantitative data reduces that value, the value that variable as a sole determinant of environmental impact.

The recommendations should consider the ability of the local ecosystem to assimilate the portion of the nutrient input without which the proposal remains flawed and
unfair. Nutrient input is a single variable of environmental impact. Benthic analysis must also be included. I suggest the Board examine the parameters and techniques utilized in the study, *Eutrophication Assessment of Scottish Coastal Waters Supporting Aquaculture* presented at the OSPAR convention at the Hague in 2006 and include that technology in the type of analysis when considering the totality of an environmental impact. The key is to work within a similar capacity of the local ecosystem, which demands a case-by-case analysis and eliminates an idealistic one-size-fits-all concept that's currently in the recommendations.

Regarding the feed recommendations, point one, determining the definition of sustainability is clearly one of the most difficult challenges of this process, the one facing the industry at large. The various terms used in the paragraph are excellent considering elasticity of the
definition. It should be expanded to include the terminology managed responsibly, as to avoid conflicting opinion in the field between governmental and private organizations.

Two, the proposed limits of fish meal and fish oil in the recommendations are also idealistic and untenable. Provision must be made to eliminate arbitrary requirements that do not take realistic biological and economic variables into consideration.

Third, the recommendations limiting feed ratios and establishing FCRs for cultured species should not be held to a limit below the values established for similar species in the wild. Conservation of forage fisheries for use as feeding cultured aquatic species should be of a primary importance, yet the allowance of fish meal and oil in terrestrial models should be outlawed before limiting the use in aquatic models with the health benefits to the human consumer are preserved and maximized.
Additionally, I would like to be on record as supporting the various amendments and changes proposed by the AWG which modify the Livestock Committee's proposal. The changes proposed by the AWG modify the recommendations to the extent of becoming workable on all levels on a real-time basis.

Finally, I urge the NOSB to reach a tenable and workable conclusion at this meeting to ensure final rule-making on aquaculture standards that will proceed without further delay. Thank you.

CHAIRPERSON DELGADO: Any questions? Okay. Thank you very much. Up next is Douglas Low, followed by Tony Ruccio. Tony is not here. We can count him out.

MR. LOW: My name is Douglas Low, and I'm Managing Director of EWOS Scotland, and I thank you for this opportunity to comment on the proposed aquaculture standard. EWOS is a global aqua-feed manufacturer. The EWOS Scotland makes feed mostly for salmon,
and 15 percent of our output, about 8,000 tons, is compliant with organic standards set by European private standards bodies, such as Soil Association; OFF, Organic Food Federation; ABW; and Natural Land. We've been active in organic sector for ten years and are committed to further growth a significant niche market for smaller farmers.

We would like to contribute to the development of a workable U.S. organic standard that would include salmonids. It should allow for viable production of healthy salmon, fit with the principles of organic movement, and meet the concerns of environmentalists and consumers.

As the proposed standard stands, it would not be possible to produce organic salmon, but we believe that the standard could be changed in a way that would be possible to include salmon farming and remain true to organic principles.

I've got four things I'd like to
comment upon, and that is the acceptability criteria for wild fisheries used for fish meal and oil, permitted levels of fish meal and oils, on contaminants, and on nutritional requirements of salmonids.

As it stands at the moment, few feed forage fisheries meet the proposed criteria with regard to stock health and level of exploitation. The need for sustainability is recognized by stakeholders, and fisheries are being managed more responsibly. And when they are, we see stock health improvements or recovery. It's going to take time, and it will be universal.

What we see is an alternative approach which we would advocate, and that is the preferential and unrestricted use of trimmings, meals, and oils. These are the byproducts of fish for human consumption. The Aquaculture Working Group has also recommended this. It's a sensible use of a valuable resource, given the convention-efficiency of
fish. It's preferable to use these materials in aquaculture, rather than pig production or pig food. It does not increase pressure on feed fisheries. It differentiates organic from conventional. It is sustainable if the source fisheries are responsibly managed.

Here are some examples of the status of feed fisheries, and we could see that there are some fisheries, such as Atlantoscandian herring and Icelandic herring that would provide trimmings which meet requirements for being sustainable. In our industry, we do a lot of work in assessing the status of fish stocks that we use. And, basically, we try to responsibly source materials.

Next slide, please. The nutrition of salmonids is well understood, and it will soon be possible for the aquaculture industry and salmon farming to be net producers of marine protein and oil. We know that salmon can be reared on very low levels of fish meal
and oil, certainly less than ten percent, but
it requires the use of, for example, synthetic
amino acids, solvent extraction of plant
materials, and in the end product, in the
fish. All of the three is very limited.

We can't do this in the organic
confined diets without compromising growth and
health. Organic plant materials for feed are
limited in range and availability. It will
improve over time, but it will take several
years. We suggest step targets for plant
inclusion is an option that should be
considered.

Fish meal and oil is highly
digestible, and while excessive inclusion of
plant materials results in increased
environmental impact. Please note that the
achievable minimum of fish meal and oils is
about 70 percent.

On contaminants, North Atlantic
fish do accumulate contaminates, and this ends
up in meals and oils. Aquaculture is a
victim, not the cause. The fish meal industry has developed cleaning technologies and monitoring regimes, but these, in some cases, are not organic compliant. We, ourselves, wanted to monitor 14 environmental contaminants regularly. And it is possible to remove most contaminants, not all. In the finished article, the fish are found to have levels well inside EU regulatory limits.

You need to clarify the wording of the proposal again. The aquaculture working group has made these points, and that is we can remove most contaminants but not all.

Finally, on nutritional requirements of salmon, omega-3 and astaxanthin are accumulated from the natural diet in wild fish. They're essential in certain stages of the life cycle but not all. They bring significant health benefits to consumers and should not be restricted, and a change of wording in the proposal would be necessary.

I hope that this contribution will
help you in development of a workable standard
that does include salmonids. Thank you.

CHAIRPERSON DELGADO: Any
questions, please? Up next, we'll go past Tony
Ruccio who is not here, and Grant Cumming,
followed by Dick Martin.

MR. CUMMING: Hello. My name is
Grant Cumming. I'm representing Grieg Seafood
Hjaltland UK Limited. I would like to thank
the Standards Board for the opportunity to
make a representation today. We are a part of
a Grieg Seafood Group. We are the third-
largest producer of Scottish-farmed salmon,
and we are the largest UK producer of organic
salmon.

We are an integrated farming
company with processing and sales facilities,
as well. And we are certified organic salmon
by the Organic Food Federation, and the
Natural Land European Standards.

This is just a little background.
This is where we're based, off the North Coast
of Scotland, famous for Shetland ponies, Shetland sheepdogs, and I hope soon in the U.S., as well, for Shetland organic salmon.

I want to comment today on the net pens and related management issues. In general, I would like to say that we're very happy with the general approach. It seems to be based on planning and risk assessment, and that fits in very well with the organic certification in the EU as it stands just now.

What you're probably all aware of is that the same process that's currently happening inside the European union. And within the next I would guess three to four months, we will have aquatic organisms organic standard for Europe, as well. And I would urge yourselves, as I've urged the European standard makers, just to consult with each other, hopefully to make sure that we don't build any unnecessary contradictions into the two schemes.

Next slide please.
I'll take a little moment to go through one or two specific points. On the aquatic livestock health, I've got to say that the standards are challenging, but we're up for it. We're going to give it a go. And what I do need to say is it looks like the standards with regards to the therapeutics are going to be quite a bit tougher than the European standards. Now, we'll still give it a go and try and produce salmon to your standards, but it will probably affect the volume and the supply to the marketplace. But it becomes exceedingly important for us that the U.S. standards are harmonious with the EU standards. That there are no contradictions that prevent a supply in U.S. markets while meeting the EU standards.

On the aquatic living conditions sanction, I noticed that you're restricting the use of non-organic aquatic animals in the facilities to species either native to the environment or unable to breed successfully in
the environment. Now, it may be a given or I may have missed it somewhere, but I didn't see that for the actual organic species themselves. And I would suggest that what we should be looking to do is to produce native organic species in native waters. So I would suggest that we're not trying to produce Pacific salmonids in the Atlantic and we're not trying to produce Atlantic salmonids in the Pacific.

Next slide please.

On the section on aquaculture facilities, we've got the 50 percent recycling of nutrients input, which we have already touched on. Now, I'm guessing that this is really aimed at making sure that we maintain the balance the ecosystem and preserve the environment surrounding the immediate fish farm. So my question would be is 50 percent enough? And I think in order to answer that question, we have to look at specific cases because it will depend upon two things. It
will depend upon the amount of nutrients going into the environment and the environment's ability to assimilate the nutrients.

I want to just ask you what is going to be meant by recycling. A little bit vague. Does that mean I actually have to remove, as a farmer, 50 percent of the nutrients, recycle them myself? Or can we look at the environment's ability to recycle the nutrients? And exactly how we're going to measure whether or not 50 percent of the nutrients have been recycled is also a question I have. I think it's quite easy to measure the nutrients going in, but it's going to be almost impossible for the certifiers I think to measure whether or not we've taken 50 percent back out.

Now, the position in the UK with regard to nutrient inputs is pretty tough. We're required by the government to monitor the sediment, and water column, to ensure that we are not having an unacceptable impact upon
the environment. We have to do a lot of regular basic testing looking at redox potentials, looking at biodiversity, to ensure that the sediment is in good order. And the government is doing quite a lot of testing in the water column to make sure there's no eutrophication occurring.

Now, most of the work seems to show that we are generally within the balance of capacity. And where we're not, the government will actually reduce our tonnage or make us take steps to reduce our input into the environment.

In general, research seems to show in the UK that within three to 24 months of a site not being used any longer, the sea bed recovers to what they term a natural state. Water column monitoring studies around the UK and from around Shetland are showing that there's no different in the nutrient levels in the water with high aquaculture activity and the offshore control samples.
Next slide please.

I would suggest altering the wording of the phrase, with 50 percent, to read, the aquaculture facility must include a suitable waste management plan approach, which must, one, demonstrate a provision of scientific evidence that the facility is not having a long-term irreversible negative impact upon the surrounding ecosystem, benthic, or water column. It would be in the interest of the farmer to do the testing to prove that we're not damaging things.

I'll not touch on feed management because we really don't have the time. I've already got my one minute, so we'll move on to the next slide. I'll just urge you to speak to the feed manufacturers and make sure that we get a workable standard.

And I would just like to thank you again for the opportunity to speak. And if there's any questions, I'm happy to take them.

CHAIRPERSON DELGADO: Questions?
Thank you very much. We move now to Dick Martin, who has a proxy for Neil Sims.

MR. MARTIN: I tried to practice my Aussie accent, and it didn't come out very well, so I'll do my best. On behalf of Neil Sims from Kona Blue, the NOSB Livestock Committee and members of the Aquaculture Working Group are to be commended for their diligence and perseverance in developing draft organic standards for fish feed and net pen systems. This is a very political process, but it seems that we have been able to move towards broad general acceptance of the need for organic standards that include net pen culture of marine fish.

It may be helpful to recall that politics is the art of possible. In several cases, however, what is proposed in the Livestock Committee's recommendations is simply not possible. Organic standards were developed for terrestrial agriculture firstly by developing the practices on the farm and
then by codifying these practices within the organic rules.

Here, however, the Livestock Committee and others who have commented are proposing rules for organic aquaculture that have no basis in farm practices. It seems that the basis for some of these rules is an obtuse desire to wish into being a more holistic, biodynamic, ecosystem-based way of life. It's admirable, but it's illogical. And the standards are impossible to meet in two glaring ways. One, nutrient recovery. The requirement for a performance target recycling of a minimum of 50 percent of all nutrients has only ever been achieved in non-commercial research trials. Even if it were possible to do this, the adverse environmental impacts of growing that much algor or bybel biomass would be far worse than the impacts of the nutrients themselves.

The best approach to minimize adverse environmental impacts is to encourage
fish farmers to locate their net pens and sites with optimum water flow. Yet, this obligation for nutrient recapture compels the farmers to relocate their net pens in areas where nutrients will stay concentrated and available to other trophic levels.

Please remember all of the available evidence suggests that in open ocean aquaculture there's no measurable nutrient loading in the effluent. Please refer to the water quality monitoring data on our web site, konablue.com.

So if there's no impact, what are we trying to save and preserve here? Why should we not let nature assimilate the nutrients and use them as she sees fit? Why is there this compulsion to force the farmer to do in a concentrated fashion that which nature can accomplish far more effectively in her own diverse, disparate, and dispersed manner? Why must we be so self-absorbed to think that we humans must derive the benefit
of nutrient recycling? Is it not sufficient, is there not still intrinsic value to have the ecosystem cycle the nutrients through?

That's the key premise of the open ocean aquaculture: to work with the ocean's ecosystem. To insist on capturing the nutrient recycling for human use, is to say that open ocean aquaculture can never be organic.

I, therefore, propose that the wording for the nutrient recapture provision include an exception that provides for net pen sites in highly exposed offshore locations to be exempted from this requirement, that they can demonstrate that there's no appreciable increase in nutrients from farm operations.

Second, on fish meal and fish oil sources, the Livestock Committee has previously rejected the notion of using poultry or other organic terrestrial animal byproducts in fish feed primarily on the basis the European organic standards do not allow
the use of terrestrial byproducts. So why
then would Livestock Committee not embrace the
only meaningful alternative that's been
adopted by the Europeans and allow the use of
edible seafood byproducts from sustainable
fisheries?

Yes, Kona Blue has shown at a
research scale that we can reduce fish meal
and fish oil levels in the diets of Kona
Kampachi to a one-to-one ratio of wet fish in
to wet fish out exists. But, we can only do
this by using edible seafood byproducts from
a sustainably-managed British Columbian Hague
fishery and by using poultry's processing
byproducts, as well. What organic principle
does this offend? Is it recycling? Is it
reuse the nutrients? And is it impossible?

We would contend that organic feed
should rightly be able to be included in
edible seafood processing byproducts from
sustainably-managed fisheries and processing
byproducts from organic poultry in unlimited
quantities. If you feel so compelled that you must restrict one, then so be it. But you cannot prohibit both and expect to be able to encourage growth of an organic fish farming industry.

I rarely agree with Food and Water Watch. I wholeheartedly endorse Patricia Lovera's comments to the NOSB dated 11/3/2008, where she asserts that the goal of organic culture systems should be to minimize environmental impact and promote biodiversity. I believe that allowing for natural assimilation of nutrients in open ocean net pen systems and encouraging the use of edible seafood and organic poultry processing byproducts in fish diets helps to minimize environmental impacts and promotes biodiversity. Your rule-making should reflect this. Sincerely, Neil Sims.

CHAIRPERSON DELGADO: Thank you.

Any questions? Hugh?

MR. KARREMAN: Just a question.
What other species use net pens other than salmon? Like the Kona Kampachi obviously, but what other ones? Like what percent of the industry?

MR. MARTIN: The bass fisheries.

MR. KARREMAN: And are they near the shores, or are they -- he's out in the open water. He really means way out, right?

MR. MARTIN: Well, there's gray area there. Some are near the shore, and some are open water but they're still within, you know, it's not as if the horizon doesn't have land. They're not hundreds of miles offshore. They're still manageable by easy access, but they're considered the open ocean because they're not in protected area. You also have cobia production. That's just starting, but that's going to be a huge species that's going to be coming forward. You have, sable fish is now being experimented with, halibut is being raised, cod is being raised. They are a combination of in-shore and I wouldn't say
classically offshore like Neil's but somewhere in between.

Everyone would love to be offshore, but then you run into nature. You run into weather, and you run into practical situations. For example, aquaculture is a very low carbon, I would almost consider it a carbon-neutral industry. You're not burning fossil fuels to propel this industry forward. But if you start going offshore and you start using -- I mean, it's relative, but still it's a relatively, part of it is the management of being able to physically get there and back and manage the fish sensibly and practically.

MR. KARREMAN: So there is a growing market or growing industry of other species than the salmonids?

MR. MARTIN: Absolutely. Absolutely. We don't see it that much in this country. It is imported in this country, but it's mostly used as a whole fish. And here we don't consume that much whole fish, small
whole fish. We don't cook whole fish at home.

MR. KARREMAN: And are these other species that you're talking about, are they, do they migrate between salt and fresh water at all? Say in the salt water, they're permanently --

MR. MARTIN: No, not all. Not all. Bass and green do not. Cobia, I don't think cobia, I think that they exist just in the sea. They're a tropical breed, same as Neil's fish.

CHAIRPERSON DELGADO: Okay. Any other questions? Okay, thank you. We will recognize you in a minute. Thank you very much. Up next is Ramkrishnan Balasubramanian, and after that is Patty Lovera.

MR. BALASUBRAMANIAN: Well, thanks, Rigo, for trying to pronounce my first name and last name. Well, thanks, everyone. First of all, thanks for a good recommendation. My name is Ram, and I'm the Certification Program Director for QCS, and we
do operate a private aquaculture program.

The 2000 data from the Food and Agricultural Organization, FAO, and the status of aquaculture indicates two things: aquaculture is the way to go for the future, and more and more species are farm-raised. As we define and build the model for organic aquaculture, the aquaculture industry needs to have the allowance of fish meal and fish oil to get jump-started.

Between 2007 and 2008, there were a few peer-reviewed scientific articles published which was carefully studied by our program in which they evaluated different species with a different diet and have concluded the need for fish meal and fish oil for the carnivores. An exclusion of fish meal and fish oil will affect the quality of the final product. This paper identified a few alternatives. However, at this point of the time, it's not commercially-feasible.

Yes, QCS does support the AWG
recommendations, but we also want to be pragmatic and see the Livestock Committee's recommendation as to the way to move forward. However, we have concerns, and also a few clarifications on the existing recommendations.

First, the concerns. I don't know whether this is what the Board wanted to accomplish, the unintended consequences of catching fish species which was never intended to be caught for fish meal or fish oil purposes. And if that's not the case then I will withdraw what I said.

There have been several species, such as menhaden, which is not meant for consumption of human beings, that will be used or seven species which is not exploited in the past could be exploited under this provision. However, we have collected enormous data, and feel comfortable that many, if allowed under the regulation, you can expect in a typical situation the trimmings and fallout by any of
those species can vary up to 20 to 40 percentage. That could be used as the fish meal and fish oil as a compromising position.

And then we seek clarification on the following statements, especially the word, under the 205.252(b), the word minimize. There are several other language, similar wordings, than the word minimize in reference to minimizing the nutrient load into the river. Hugh brought up the question to one of the participants is what is the difference between a water body and the land systems? As many of you may know, 90 percent of the U.S. seafood consumption comes from externally. Some of them are systems that is exactly in a public land system that people use it as a drinking water source. It is being used to irrigate land-based system, land-based production systems, so that's the concern. So as a program, as a certification program, there are many certifiers here, we would have a problem in enforcing this to define what the
word minimize exactly means.

The next clarification we seek as a certification agency is what does the word, sustainable, mean? Sustainable what is to you may not be sustainable to us. It could be social, economic. And when we enforce this, if the rule is passed, it's going to be very difficult.

The third word we seek clarification is 205.252(i) is the phrase, the next recruitment cycle. Honestly, I didn't understand what the Committee is to trying to reference, and we seek clarification on that to be consistent, if this passes, to have a consistent interpretation. And, again, 205.252(m), the word, organic process to remove the contaminates, and I hope these words are better defined or we have more information on this for us as a certifier.

I know it's pretty much early in this part of the process. It still has to be published by the NOP, but I just want to make
sure these are addressed before it goes to NOP
so that you we don't have another chaotic
situation. Thank you.

CHAIRPERSON DELGADO: Questions?

Okay. Thank you very much. Moving on, Patty
Lovera. And after her, we will have Marianne
Cufone.

MS. CUFONE: In the interest of
time, Patty and I consolidated, and actually,
we're all from Food and Water Watch, so I'm
actually Marianne Cufone. Since we were using
props earlier, I thought I would bring one of
my own. We'll see if you can guess which one
is the farmed and which one is the wild. I'll
tell you afterwards.

My name is Marianne Cufone. I'm
here on behalf of Food and Water Watch. We're
a national non-profit consumer action
organization. I'm the director of their fish
program there. I'm also an environmental
attorney. I've been working on fish farming
issues for many years. I sat on the State of
Florida Advisory Panel when they created their aquaculture regulations. I was the Vice Chair of the Gulf of Mexico Fishery Management Council Advisory Panel on offshore aquaculture while they were developing their regulations, and I also testified in front of the National Ocean Policy Subcommittee for the U.S. Senate Commerce Committee when they were having hearings on the national offshore aquaculture legislation. So I have a pretty good history on this particular subject.

When I first heard that the Board was considering standards for organic seafood, I thought, well, it's impossible to label currently any seafood as organic in keeping with the principles of that label. And so I didn't believe that you were actually talking about this.

Then I learned the Board was actually considering labeling carnivorous fish farmed in open pens and cages as organic and, frankly, I was stunned. There's no
requirement to have organic seafood, and we shouldn't be grading on a curve here where better seafood production gets the organic label. That's not what organic is all about. What you're composing is far from what should be called organic, and I just heard people ask for an even lower standard because they don't believe they can meet what you're proposing currently. So I think that's really disturbing.

You asked Urvashi earlier about environmental issues associated with ocean fish farming or open water fish farming. I want to share some of those with you today and let you really consider whether this is something that should be called organic.

So open water fish farms can be really dirty. These farms allow free flow of water between the cages and open pens, so concentrated amounts of food, waste, diseases, and any chemicals or antibiotics that can be used on the cages or in the farms can flow
straight to the waters.

A report about one ocean fish farming facility affiliated with University of Hawaii, you were talking about Hawaii a lot earlier so I wanted to mention this, said that the farm grossly polluted the sea floor and severely depressed sea life. This is not no impact, according to Mr. Sims. This is not no impact. In Norway and British Columbia, numerous problems have occurred with parasites spreading from caged farm salmon to wild salmon.

Open water fish farms can also cause ecological damage. Pens and cages have escapes. There's no way to fully contain the wildlife. It can be due to human error, weather, equipment failure, and a variety of other things. Escapement can affect native populations. Farmed animals are often different than wild fish, whether or not they're the same species. They can change in captivity. A prime example is snapper farm
off of Culebra near Puerto Rico, which doesn't exist anymore, but they used to grow cobia, and the cobia didn't look like wild cobia at all. They were, arguably, the same species, local. But they just didn't look the same because sometimes they change in captivity because things are different in a farm than they are out in the wild.

So these fish can intermix with wild fish, change habits. A lot of fish have learned behaviors, like spawning or feeding. Those things can change when you intermix farm fish with wild fish.

Additionally, farm fish can overtake wild fish. Often, they're bred to be stronger, bigger, reproduce faster than wild fish. And when they get out into the regular population, they can overtake the wild species, and that can change the ecosystem completely over time.

Farm fish can increase fishing pressure on wild fish. We've been talking a
lot about the fish feed issue, and that's really significant. Already, major amounts of wild fish are removed from ocean waters. About 23 million to 33 million tons annually worldwide were used for feed in recent years. One-half of the world's fish meal already goes to aquaculture and nearly 90 percent of fish oil. This isn't organic. Calling fish organic that contain any amount of wild fish just isn't appropriate.

As part of the record of submitting a compilation of scientific and other pieces that discuss assorted concerns with open water fish farms, please review and consider them carefully prior to making any decision about organic seafood. And I'll be submitting those shortly.

I provided a lot of the same information to Congress when I testified before them, and the bill that they were considering wasn't passed. And one of the major reasons was because there were numerous
environmental and human health and economic concerns. To allow fish produced in open water pens and cages to be labeled organic isn't a responsible choice. It smacks in the face of what the organic label is supposed to be. This recommendation is about more than farmed fish. It's about consumers' trust in the organic label. And to change that could really change what people think of organic overall.

I urge you to reject the proposed standard. And we also have 15,000 consumers that urge you, as well. I wanted to submit for the record over 15,000 comments that we had to us to provide to you. I have those on electronic CD. We wanted to save some trees while we're saving some fish. And just also wanted to briefly show you that we also got several hundred postcards, they're included in these, from people that said that they're a U.S. citizen interested in where their seafood comes from, and they urge you not to undermine
the trust consumers have in the U.S. organic label. If fish can't meet the strict standards or organic production then there should not be an organic label. Thank you.

CHAIRPERSON DELGADO: Questions?

Hugh?

MR. KARREMAN: I'm not going to engage you that much I promise, you talked in front of Congress. But I'm just wondering a lot of people are saying, you know, aquaculture, even with the way we propose this in our documents, you know, the standards of aquaculture will be diminished and everything. What in general -- maybe this is a really stupid question, but what in general are people's perceptions of what organic agriculture is right now for livestock?

MS. CUFONE: Well, as long as you mention that, Dale Kelley actually is going to come up after me, and she sort of did a standing poll with people that she talked to on her way here from Alaska. She's come all
the way from Alaska to talk to you about this.

But, generally, people's expectations of organic are chemical-free and made in such a way where environmental standards are considered. Quite frankly, this document needs a lot of work. It doesn't meet the general perception of organic. You know, most consumers don't have the time to do the in-depth kind of study that folks like me do on food and seafood, and so I understand probably better than the average bear what organic actually means. But out in the general public, they think it means something special. And this particular standard that you're proposing is not special.

CHAIRPERSON DELGADO: Any other questions? Thank you. Next up is Dale Kelley, followed by Shauna McKinnon. Next, as I said, is Dale Kelley, followed by Shauna McKinnon.

MS. KELLEY: Good afternoon, and thanks for staying late to take our comments
today. My name is Dale Kelley. I'm the Executive Director of the Alaska Trollers Association. We represent hook-and-line salmon fishermen in Alaska. I'm also on the board of the United Fishermen of Alaska and an officer of Commercial Fishermen of America. And my comments today, such that they are, will represent those groups. And not that this is all about me -- oh, and our offices are located in Juno, Alaska. And, no, I can't see Russia from my house. Let's get that out of the way.

I think you should know just a little bit about me just so you can kind of put my remarks in context because, although I was kind of identified as Food and Water Watch and we work with them a lot, we work with a lot of people on a number of issues with regard to the marine environment.

My schooling includes pharmacy and fisheries biology. I spent ten years in pharmacy before I went over to the fish side.
I grew up ranching. I cultured fish, I've commercially fished, and I've caught fish on my fly rod. So there's many different ways that, as an individual but also as a representative of a large number of fishermen, I look at this issue.

We've been engaged in the fish farm issue from Alaska Trollers Association and United Fishermen of Alaska since the mid 80s when they began talking about farming fish off our coasts, and we didn't like that too much in the state. Our state is a very fish-reliant state, heavily dependent, 150 fisheries, not many more communities than that in the whole state. Most of them are reliant in some format on commercial fishing. My fleet, for instance, one out of every 35 people in my region works on the back deck of one of our boats, and that doesn't count all of the other 18,000 commercial fishermen in Alaska and certainly the 7,000 in my region.

So we are very concerned about the
health of the ocean, and wholesomeness and purity of products, because, quite honestly, people are confused when they go to the marketplace these days. They hear so much about fish. Is it endangered? Should I eat farmed? Should I eat wild? The organic label I think just is adding to some of that confusion, quite honestly.

So, as you heard, I did my little non-statistically relevant scientific sampling on my way from Alaska, and I asked everybody I could. My basic question was, What do you think organic is? What does that mean to you when you see organic? and their response, with one exception, was pesticide free. And I didn't count how many people; that's how bad my survey results were. But I know I asked at least 30, because I was pretty rigorous about it there for a while. We had a delay. The one other person said, her first response was expensive and her second response was pesticides.
So, obviously, people don't understand what the Organic Program really is about and what your standards are, and I'm learning quite a bit about it, and we learned more about it in the late 90s or early 2000s when Alaska fishermen, the state of Alaska even, asked this Board to certify our seafood as organic. There's pros and cons to all of that. I understand all those arguments of why this Board didn't do it, which makes it particularly confounding that our natural and wild product doesn't qualify but a fish in a net pen would. Because what I understand of your standard is that it's supposed to be natural and that these products are kept in a somewhat natural environment. Well, when I was raising full Herefords and they're grazing on a large pasture, you know, pretty low density, that's much more reminiscent of home on the range than high-loaded density net pens hung in an ocean.

Sustainable practices. One of the
reasons the bills have not passed, and I've
worked with our congressional delegation on
legislation for years, one of our major
counts is the managing agency, NOAA, has
gone from a code of conduct, voluntary code of
conduct, to statutes that really aren't
effective and don't involve a national set of
standards, like we have for our other ocean
regulatory processes, that kind of guide what
the national interest is in the ocean.

I see I have very little time
left, but one thing I do notice talking to a
couple folks here is that, obviously, part of
agriculture already manages aquaculture, and
you have a set terrestrial-based program that
I don't really understand very well and I'm
not going to pretend to tell you what I think
I know about it. But you don't have the same
regulatory process in the ocean yet. And I
believe you really need to get national
standards and statutes agreed to by the people
as a nation because once you put those fish in
the water -- we catch Atlantic salmon in our fishery a thousand miles a way from where they're produced. We don't allow fish farming, but we have nonindigenous species that we're catching that are coming from fish farms.

A host of issues. You've heard it all. But I would just announce that you might be very careful before you branch into the ocean for organic standards or anything else involving farmed fish. I'm not going to say good or bad about it; there's just a lot of work to be done before we involve ourselves. They don't seem very organic to me either, as a consumer.

CHAIRPERSON DELGADO: Thank you.

Any questions? Hugh?

MR. KARREMAN: What do you think of what we heard that the EU is doing as far as allowing the byproduct of edible fish to be used for feeding organic fish there in the EU? What do you think of that?
MS. KELLEY: Well, you know, obviously, for the EU, per se, but just full utilization of species is always a good. I mean, I'm all for that. I do think that there could be some pressure put on our regulatory agencies with respect to our TACs, our total allowable catch, in some of these fisheries. I notice in your proposal that it mentions pollock fishery off of Alaska, for instance. This year and probably next year they have taken deep cuts to their TAC from just stocked defines that they're not really sure about. So I do wonder if there would be increased pressure if you have another industry relying on the byproducts of the wild capture fishery to produce. So that's another thing you might not have thought of.

MR. KARREMAN: What if that industry was responsibly managed, or all the other kind of terminology that --

MS. KELLEY: Well, we believe ours is. We're really known for it. MSC, they
came to Alaska to certify our salmon fisheries, because we're known, we have sustainable built into our constitution. It's not even a choice. A voluntary code of ethics for conduct for fish farming was so appalling to me, I'd be embarrassed to ask for it. But, yes, obviously, it needs to be a sustainably-managed fishery. And if I was a fish farmer, if I put myself on the other side of that, and I'm relying on a product and suddenly it's not a deliverable, you know, when you do production over here that's relying on that fish.

CHAIRPERSON DELGADO: Any more questions? Okay. Next is Shauna McKinnon, followed by Rachael Hopkins.

MS. MCKINNON: I don't think that Rachael is going to be presenting. She was the next person. My name is Shauna McKinnon. I'm presenting on behalf of the Living Ocean Society. Living Oceans is the largest marine-dedicated conservation organization in Canada,
and we're based in British Columbia, and we're also one of the seven members of the Coastal Alliance for Aquaculture Reform. This is a coalition that was formed in 2001, and the mission of the coalition is to work together to address the impacts of open net cage salmon farming, and specifically trying to encourage industry and government to change practices to protect wild salmon and to protect marine ecosystems.

Maybe I'll just start by saying that this is the first time that I've presented to the NOSB in person, but I've been with my colleagues submitting submissions for two years now, and I know that the Board has put in a lot of thought to this issue and has a lot of dedication. So I thank you for doing that. And I'm thankful to be having this opportunity to present in-person today.

For the Coastal Alliance for Aquaculture Reform, because we're based in B.C., we spend a lot of time, a lot of
research capacity has gone into documenting
and researching the impacts of open net cage
salmon farms, so that's dealing with net cages
and carnivorous species. Because of this, in
B.C. there is a lot of awareness of the
negative impacts of the industry. So when
speaking in Canada, oftentimes I end up
talking more about the positive aspect of
aquaculture and where some of the
sustainability can be improved and some of the
success stories that are already there.

So I just would like to start with
that, from CAAR's perspective, we support the
development of organic aquaculture standards,
and we support that in types of aquaculture
where the fish farmers can be net producers of
fish protein. So the one-to-one fish in and
fish out would be the minimum standards. And
we also promote the development of aquaculture
where marine ecosystems and biodiversity can
be protected and promoted.

So in the submission that I have
handed in electronically, I deal with both the wild fisheries and the net pens issues, but my comments today are going to focus more on net pens. But if you have questions specifically around the wild fish, I encourage you to ask me questions.

So the reason why I'm here, coming all the way from Vancouver, is because Canada is one of the world's top producers of net pen farmed salmon. And, basically, all farm salmon production is done in net pens at the moment. Roughly 90 percent of the farm salmon produced in Canada is exported to the U.S., and that's why the standards that the NOSB is developing are very important to our own production systems.

So pretty much all of the fresh farmed salmon that you buy in the U.S. comes from Canada, and pretty much all of the frozen farmed salmon you find on your shelves will be coming from Chile. So this is an industry where you're very much relying on exports.
So because there is so much farmed salmon production in Canada, there is years of research that independent scientists and conservation groups have been engaged in to better understand the environmental impacts from hundreds of thousands of fish being raised in net pens. And there were questions earlier about why is there so much focus on salmon. Well, it's mainly because salmon is the biggest experiment that we've had in net pen fin fish production, so that's our best example of what some of the problems can be and how we need to address those.

So the results of these research really do not show an optimistic picture for making net pen production more sustainable. In fact, a global study conducted last year and published last year found that everywhere salmon are farmed in net pens wild salmon and trout suffer. From a metanalyses, they found that for every 1,000 metric tons of net pen salmon produced, wild salmon and trout
populations decreased by one percent. So in many areas, this translates to more than a 50 percent decline in wild stocks near farms.

I've gone way over time, so maybe I'll just quickly hit on some of the main points. For one of the standards that are in the proposed net pen standards, Section 205.255 states that net pens must be fitted to avoid migratory routes of native species and to avoid disturbing reproductive patterns of local species, I'm very happy to see that in there because it shows that the NOSB has been listening to the science, what the science is telling us, which is wild fish need to be separate from net pens. They cannot be in the same place because net pens do not offer ways to control the spread of parasites and disease between farmed and wild fish. Escapes cannot be controlled in net pens, and in organic production in Europe escapes are continuing. And that does have ecological implications for wild fish.
And maybe in closing what I would really like to focus on is that the U.S. does not need to take Europe's lead on certifying open net pens. Just as in U.S. organic livestock standards, you continue to prohibit use of antibiotic and chemical treatments, unlike in Europe. Net pens can be kept out of the U.S. standards.

Research is showing us that the most environmentally-sustainable aquaculture practices are those that use closed contained systems, like ponds and solid-wall tanks, on land or in the ocean because these systems offer ways to ensure waste is recycled, limit the flow of disease and parasites, control escapes, and reduce algae blooms. So these are all things that are needed to be done to control escapes. Thank you.

CHAIRPERSON DELGADO: Questions?

MR. KARREMAN: So how would you, what do you think about using byproducts from edible fish for salmon in containment tanks?
MS. MCKINNON: That's a good question. I think one of the things you need to look at is separating organic standards from what would be the most sustainable option because I think the questions around using wild fish in feed are very different for organics than if you were looking to create a single standard outside of organics. So just to speak from a sustainability perspective, yes, recycling nutrients is a good option. But as the speaker before me suggested, creating a demand for fish that may not always be there can be problematic, and you don't necessarily want to build your whole production on a resource that's not in your control.

CHAIRPERSON DELGADO: Any other questions? Thank you very much. Next is Jim Pierce, followed by --

MS. FRANCES: Actually, next is --

CHAIRPERSON DELGADO: Sorry.

Okay.
(Simultaneous speakers.)

MR. PIERCE: Then if it's okay, I can go ahead and split my five minutes with Mr. Israel Snir, who is a Honduran net pen tilapia producer. So you're going to lose all the humor out of this one. I'll try to keep it to two minutes. Ready?

Okay. For the record, I'm Jim Pierce, rainbow trout producer, in support of the aquaculture recommendations for fish meal net pens on behalf of the Aquaculture Association of Wisconsin. Good job, Livestock Committee, for consuming and digesting the myriad of information from the symposium and especially from us, the fish farmers, and for constructing tough love goal-based standards.

These recommendations, on a macro view, represent goal-based continuous improvement policy that clearly meet the tenets of organic farming through the established system of an auditable organic system plan, such as we encourage you to do.
Heed the producers, not the obstructionists, and please pass these recommendations.

The ten-year step down allowance for fish meal including stringent contamination testing and labeling for consumers is a bridge to a shifted paradigm where innovative fish farmers will be able to demonstrate to the world that, like pork and poultry, there are better practices than conventional and net pen production. There are better practices than conventional net pen production.

The idea of a separate section of aquaculture practices is a wonderful idea since siting, raising, feeding, and other practices are so very different. However, the creation of Section 611 and 612 as a separate list for approved aquaculture materials is not a good idea. Fish are livestock. The two lists can and should be combined.

I thought I would also rely on a prop. Again, thank you for your dogged
efforts to get these recommendations out. The Wisconsin Aquaculture Association feels that there's a valuable market niche and significant consumer allegiance to be captured with an organic label, not only for vegetarian species but for all farm-raised fish. We urge you to pass them, to include them with the recommendations that have been passed already and, most importantly, continue communicating with the fish farmers. And I will now cede to Mr. Israel.

MR. SNIR: Okay. Thank you, Jim, for inviting me on behalf of the AWG. I changed my plans to be able to share with you. I have three minutes, so I'll do it quickly, and I guess tomorrow I'll have a couple more minutes.

Okay. I represent the Regal Springs Group. We are the world's largest tilapia producer, fresh and frozen, 20 years in operation, over 50,000 metric tons in production in Honduras and Mexico. I'm not
here by myself. I'm here on behalf of the
more than 4,000 employees and tens of
thousands of their families and communities,
the people who are producing your food.

We all should agree that all
people, regardless where they are, the
language, the money they have, their religion,
all deserve to eat better and healthier food.
Regal Springs makes it happen every day and
night directly and indirectly. Regal Springs
tilapia is the world's largest net producer of
organic tilapia fillets. In El Cajon in an
artificial, fresh water hydroelectric
reservoir. In Honduras is where we work. Our
aquaculture facility is fully embedded with
people and nature, enough to mention that this
very lake is the home to 5,000 protected
crocodiles habitat, and we all live in peace
and harmony.

Organic, for us, is not the
product, it's a way of life. The goal is
organic communities producing organic food for
better health, better education, housing, nutrition, and more. Our company, Aquafinca, since four years ago is recognized and certified by two of the leading organic certifiers in Europe, Natural Land and Biospace for reproduction and processing of frozen and fresh tilapia fillets for the EU market. We can convert all Aquafinca conventional production to organic if it is readily available, and it is not. Our diet is vegetarian. We feed no animal products, byproducts; and, therefore, solely depend on organic grains and cereals byproducts for human consumption.

However, our desired market is America. Regal Springs has a supplemental interest and is eager to be able to service our natural markets and, therefore, seeking to be certified as soon as possible by the USDA. We have the ability in short terms to continuously provide you with our organic tilapia fillets to satisfy your very demanding
markets from our fully vertically integrated
truly organic tilapia fillet operation.

Along the years, Regal Springs
tilapia has developed, created and
demonstrated its own religion to make our
company sustainable. We believe we found the
balance between environment, people and the
economy to offer the new holy triangle for the
aquaculture industry. Our slogan, It is not
about fish, it is about people, became a
reality in our project. We speak five
languages. We operate in three continents.
We practice four religion. The tilapia is our
first and most common.

We close the cycle. We are closed
net producer. We have zero waste. We have
zero chemicals. Our lakes are stocked and
naturally populated with indigenous wildlife
creatures surviving on our feed also. All our
processed byproducts are utilized for fish
meal, oil. All of those could become organic.

We are operating in a reserved
area for the dramatic changes life of the
surrounding communities and for such better
preservation of the natural wildlife and
forests by the local communities. Our
communities are greener. Our water is
cleaner. Our people are healthier. We desire
to make our product available for your
markets. We fully support the proposed AWG
standards. We found them workable and really
seek for promoting the common goals. Thanks.

CHAIRPERSON DELGADO: Questions
for our speaker? Dan?

MR. GIACOMINI: Yes, Mr. Israel,
as host of AWG Livestock Committee net pen
recommendation, do you find that workable?

MR. SNIR: Very much so.

CHAIRPERSON DELGADO: Any other
questions? Thank you both. Up next is Becky
Goldburg. And, Marty Mesh, you decided to go
after? Marty will go after Becky.

MS. GOLDBURG: Well, thank you. I
want to begin by saying I'm, of course, Becky
Goldburg, and I am a member of AWG and a former member of the National Organic Standards Board. I recently moved to a new profession professionally as the Director of Marine Science at the Pew Charitable Trust. That said, I want to make very clear that I'm speaking today only for myself and not for Pew, which has not established a position on the proposed organic aquaculture standards.

I first want to thank the Livestock Committee for all their hard work on drafting standards for fish feed and net pens, and I really appreciate all the time you put in. I've seen it from a distance. That said, I think the draft standards could benefit some from further revisions, and I'm going to make a few suggestions today.

The first thing I want to do is, particularly to the net pen standards, to emphasize the importance of a utility of using performance standards. I think it's safe to say now that there's a wide agreement among
people who worked on environmental issues that it makes sense to use performance standards when possible. In other words, to specify as a standard a measure of impact that is de minimis or acceptable.

Such performance standards have several advantages. First of all, they help to spur innovation, as they're not prescriptive about which practices must be used to achieve a goal. Second, they also ensure that an environmental concern is addressed, rather than simply prescribing practices that must be followed and-- we hope-- address an environmental impact.

As you well know from just today and many other NOSB meetings, the environmental impacts of net pens in aquaculture are highly controversial. In my eyes, many of them are well documented, especially in salmon farming. Employing performance standards provides a means to ensure that these impacts are actually
addressed. And I'm delighted to see that the Livestock Committee has recommended at least some performance standards. The best example is the requirement for the 50 percent recycling of nutrients, by which I assume the Livestock Committee intends to be nitrogen and phosphorus, and a little clarity on that might be useful.

That said, by drafting such a measure, you're ensuring that environmental goals are met, and you will meet the high bar for organic production. Should the NOSB choose to further revise the net pen standards, I would really urge you to look towards additional performance measures where possible.

That said, I'd now like to talk briefly about three issues with the proposed feed standards. And as you're aware, there's some very good policy and ecological reasons not to allow wild fish in aquaculture feed used in organic production. Some of these
were well described in Mark Bittman's article on seafood which appeared in this Sunday's New York Times and, I gather, was distributed to you earlier this afternoon.

For practical reasons, the Livestock Committee and the AWG both have recommended a step-down provision to end the use of fisheries products and feeds— or at least wild fisheries products and feeds. However, I'm concerned about the ambiguity at the end of this step-down process as currently proposed.

The proposed standard in 205.612 reads, "The following non-synthetic substances may not be used in organic aquatic livestock production: fish meal and fish oil from wild caught fish and other wild aquatic animals, except"— and the except provides for 12 years of step-down, ending with an allowable five percent inclusion rate in years 11 and 12. But there's no mention of what happens in year 13.
So it's possible that this standard could be interpreted as continuing to allow fish meal and fish oil use. That's clearly problematic, and I urge the NOSB to clarify this language so it ambiguously steps down to no wild fish.

Another issue that's critical to address is the use of the word "sustainable" to describe fish used in feed. Sustainability is not so easy to determine, especially for small in the food chain or forage fish typically used in feed. Forage fish populations play critical roles in marine ecosystem health. Forage fish consume plankton and become food themselves, transferring energy throughout the marine food web up to top predators.

By conventional fishery management measures, most forage fisheries are actually not in trouble. This is largely because these measures focus on maintaining enough fish in the water to replenish populations. However,
what conventional single species fisheries management fails to recognize is the compelling scientific rationale to leave additional forage fish in the water to support marine food webs.

Setting what are called total allowable catch levels that account for the ecosystem roles of these fish appears critical to ecosystem health. The science of setting such catch levels is emerging, although several jurisdictions ranging from the state of Washington to the country of Peru are trying to do so. But the proposed standard does not make clear the need for such management. If the term "sustainable" is used, I urge that language be added to make clear that a sustainable forage fishery encompasses an ecosystem definition of fisheries management, not a single species one. Another alternative would be simply not to use the term "sustainable," but please don't leave the recommendation as it is.
The final point I'm going to make in two seconds, condense it, is that you have a requirement in 205.105(f), which is a provision that says that the amount of wild fish that goes into feeding aquatic animals cannot exceed one pound of wild fish product fed for every pound of live cultured aquatic animals harvested. You really should say wild fish fed for every pound of aquatic animals harvested. Otherwise, "wild fish product" could be interpreted as "dehydrated fish," and you end up with a lot more fish-in and fish-out. Thanks a lot.

CHAIRPERSON DELGADO: Questions?

Thank you. Next is Marty Mesh, followed by George Leonard.

MS. FRANCES: George Leonard sent me an email that he couldn't be here, and he offered to share with Shauna McKinnon. And I don't know if she's to deliver oral comments or just --

CHAIRPERSON DELGADO: Oral
comments. So next up will be George Kimbrall.

MR. MESH: My name is Marty Mesh, and I used to have Bellevue Gardens Organic Farm, which is still in existence. I serve on the board of the Southern Sustainable Agriculture Working Group on the board of the Organic Trade Association, and none of my comments should be interpreted as the OTA policy as the Executive Director of Florida Organic Growers and its certification program of QCS.

I want to thank the Board and the committees for all the work that you've done. Thanks goes to the department. Welcome to the new folks. It seems like they've already left. And I wanted to say thanks to Richard Matthews for his years of work if, indeed, this is the last meeting that we'll see him. Something tells me it probably isn't.

I did have a comment on the meeting space and, you know, the public's desire to have public comment and input and
watch and listen to the Board's work would
call for a little bit larger room that would
actually have people able to sit down.

I have some comments to make from
Elizabeth Henderson, an organic farmer, on
this seed issue, and so let me read those to
get them into the record. "I'd like to second
the comments in regard to commercial
availability and sourcing of organic seed (see
below), and I'd like to add the following
comments. As a farmer, I can tell you that
our farm has attempted to increase our use of
organically-produced seed. On our farm, we
grow a great diversity of crops and varieties
of those crops, over 250 varieties in all.
Every year, we try new varieties that are
organically-grown in our effort to replace
non-organically grown varieties. However, the
quality of at least some of those seeds is
really poor. For example, fully half of the
organic mammoth melting snow pea seed that we
used this year was not snow peas but some sort
of inferior shelling pea. Organic seed potatoes are in short supply, very high in price, and require expensive shipping. Repeatedly, we have been given our money back on organic potato seeds because it was diseased. We submit a long list of non-organic seed used to our certifier every year explaining these problems. The NOSB requirement to document calls, faxes, or e-mails to seed suppliers does not make sense for vegetable growers. We order seed from catalogues, hard copy or online, and we should be able to simply show that they consulted the seed catalogues of three or more companies that carry organic seed. Many thanks for your attention. Elizabeth Henderson."

In Vermont, I'm getting farmers who submitted formal comments that I have here to read, if you'd like. And if I do read them, you'll save yourself five minutes later on from the Vermont person who will also talk about pasture if I read them.
The bottom line is that we also have concerns about the seed issue and urges some caution as the young organic seed industry blossoms and finds balance with the regulatory overburden threat. I would like to suggest the possibility of forming a working group to come up with recommendations to include the seed industry folks, growers, and certifiers. I believe earlier today I did an informal poll on the re-certifiers, farmers, that were willing to serve on such a working group to try to come to some bottom ground by the organic seed industry folks, as well.

Fish. I'm hopeful that, as I have stated for years, that the opportunity to move forward with regulation for aquaculture, which would allow innovative pioneers to differentiate their products in the marketplace. These folks would serve as leaders and examples in how production teams can be adopted and approved to improve not only their own bottom line but as a solution
to global challenges in environmental damage. We hope an aquaculture standard serves as a challenge for aquaculturists, which many have stated publically they're willing to try and meet, not looking for a way to call what is being done as organic.

I urge my colleagues in the environmental and consumer communities to at least embrace an opportunity for paradigm change for an industry to be jump-started in aquaculture. We've advocated for years, and if we had gotten started then we would be years down the road towards having an organic aquaculture industry and the environmental benefits that go with it.

I have a response to the person on the orange pulp petition. I have a proxy. The orange pulp position-- I'd like some additional time to engage in discussions with the petitioner, to do some research, and talk to citrus folks in the organic industry to form a more updated opinion. I noticed some
of his figures were old and outdated with 1999
and 2003 references.

Which brings me to okra, an okra
update. A follow-up to the okra situation,
FOG, Florida Organic Growers-- and no southern
okra grower has ever been contacted by the
petitioner or Campbell's, who mentioned that
you guys were interested as well in the
organic okra product-- or the petitioner,
General Mills, that I know of, with any
specificity such as variety desired, amount to
be contracted for, or any talk about fair
pricing or contract details.

For comments directed to me about
the clock is ticking, they should be more
directed to the petitioner or companies
wishing to use non-organic okra as to the
progress of outreach undertaken by them. I
still believe that this could be a great
poster child of a project if companies would
act fairly, responsibly, and put as much
attention to sourcing organic okra as they did
to petition it.

Maybe the rest of it is for tomorrow. And if you want Vermont Organic Farmers' statements, I have those documents. I believe you've already received them in written form from Vermont Organic Farmers.

Oh, the 100-percent organic. I knew there was one more. We agree with Oregon Tilth's positions. To save time, we won't go into it. We certainly need clarity in the industry, and as long as that organic sharing pie that Richard was talking about could have the oxygen taken out and put nitrogen in so that it wouldn't spoil-- you know, the same way as the organic coffee producers that wanted to put nitrogen at the very top and take the oxygen out so the coffee beans stay fresh and call it 100-percent organic coffee, then we support the position, and I confirm that that was their intent as well, although she didn't talk about the packaging flush.

Thanks.
CHAIRPERSON DELGADO: Is there any questions, Steve?

MR. DEMURI: Do you have reason to believe that there’s a lot more organic orange pulp available than what the petitioner has told us?

MR. MESH: Without an opportunity to do some more investigation and really look at acreage and talk to people in the organic citrus industry, I wouldn’t want to go on the record. You know, but the speaker—again, some of the data they show is 1999. This is 2008. While I recognize that data takes years to sometimes assimilate, gather, and publish, 1999 data to encourage you all to approve a petition for non-organic material— or 2003 was the last reference, I believe, that I saw—seems at least to deserve a little bit more updated attention to data. And I offered to do that, and I offered to engage in conversations with them, as well.

CHAIRPERSON DELGADO: Any other
MR. MESH: We also have a transition program right now on organic citrus in Florida to help growers reduce or eliminate the use of pesticides. It's ongoing right now, and with the farm bill, you know, we believe that there's going to be more reason for growers to transition. If you put something on a list like that, you know, it's one less reason of a byproduct that would be available to them to sell.

CHAIRPERSON DELGADO: Any other questions? Thank you. Up next, George Kimbrall.

MS. MCKINNON: I'm actually going to deliver the comments for George Leonard. He prepared spoken comments, but it will be quite quick.

CHAIRPERSON DELGADO: You desire to get those comments out of the way?

MS. MCKINNON: Yes, I said that I would.
CHAIRPERSON DELGADO: All right.

Go ahead, please. You've got five minutes.

MS. MCKINNON: So I'm speaking today on behalf of George Leonard, who's the Aquaculture Director at the Ocean Conservancy, and he also submitted comments electronically, which hopefully can be distributed to everybody.

MS. FRANCES: You can e-mail today.

MS. MCKINNON: Great. Yes, I submitted them very late. So, on behalf of George, thank you for the opportunity to comment on the proposed organic aquaculture standards for feed in net pens. Ocean Conservancy has engaged in the NOSB's deliberations on these issues over the last several years through George Leonard's current affiliation with Ocean Conservancy, as well as previous affiliations with Monterey Bay Aquarium. We commend the National Organic Standards Board for their diligence in
 attempt to resolve these substantial
challenges surrounding the concept of organic
in open net pen farming.

As the Board is all too aware, the
issue is both intellectually complex and
politically charged. A large number of
conservation, fishing and consumer groups have
been and continue to be opposed to fish meal-
dependent species grown in open net fence
systems being unable to receive the coveted
USDA organic label. There is considerable
merit to the arguments that have been made to
date before the NOSB.

At this stage in the debate, NOSB
must make a decision about which of the two
potential paths to pursue to resolve this
issue. The first and simplest path is to
exclude net pens and fish meal and oil-
dependent species from consideration of the
USDA organic label at this time. This would
allow U.S. organic fish farming industries to
develop a low trophic level species, such as
catfish, tilapia, and shellfish, while a reliable source of organic feed is developed and sustainability solutions for net pen aquaculture are explored.

The second, and much riskier path, is to allow wild fish net pens to move forward, as reflected in the proposed organic aquaculture standards. The success of the second path is far from assured. It is highly dependent on developing successful compliance and verification procedures and seriously risks the reputation of the organic label through both consumer confusion and allowing environmental degradation to occur under the auspices of the USDA organic program.

Like many conservation groups, Ocean Conservancy remains troubled that the Board appear poised to pursue the second path. We believe the most prudent approach is to reject the proposed standards and return to recommendation to exclude wild caught fish in net pen systems at this time.
Should the NOSB move forward with its current approach, we conclude that it must fully embrace performance-based metrics throughout all of the standards, and build a robust mechanism for their verification for the resulting standards and certified product to be able to withstand public scrutiny. And more formally making our case, in our written comments we build on a discussion paper authored by Cory Pete and George Leonard and delivered at the NOSB Organic Aquaculture Symposium in October 2007.

We conclude that should the NOSB not be willing to fully embrace performance metrics for wild fish in net pens and fully support the development of a verification and compliance system, then we would strongly recommend that the Board choose to exclude wild fish in open net pen systems from consideration for organic status at this time.

Given the substantial environmental challenges of these production
systems and the high expectations of organic consumers, there's only one chance for the NOSB to get it right. If the Board has any doubt that these issues cannot be satisfactorily resolved, the proposed standards as written is ill-advised. Thank you for your consideration of our comments and for entertaining our written submission.

And I would just add one thing. If you do have a chance, in the full submission that George Leonard submitted last night, he goes into great detail of what performance metrics could be for each of the impact areas, and it's definitely worth reading through and considering.

MR. KARREMAN: George has given a very extensive review of performance metrics. I was just wondering, as far as everyone—well, a lot of the people that would be opposed to us moving forward on the second path, as you say, always say, "why don't we start slow and kind of explore net pens and
see how it goes." I just wonder what kind of
time frame would you think if we just had
tilapia and catfish starting in? What kind of
time frame do you think it would take in years
or decades to have enough fish meal and fish
oil for other species that need that for their
diet?

MS. MCKINNON: I'm definitely not
in the position to give you an answer on that
because I'm not an aquaculture researcher. I
can tell you that one of the biggest
innovation areas in aquaculture right now is
exploring the reduction of the use of wild
fish meal and oil because it's very expensive
and it's a limited resource. So there's a lot
of research going into substitutions,
including innovation and using algae. There's
one producer in B.C. that's looking at using
milk proteins as a substitute. You heard
earlier about Neptune Industries and using
insect feed as a protein source.

I mean, it's difficult to give an
answer to say what the innovation period would be, but it's definitely something that's moving ahead with or without the Organic Program.

MR. KARREMAN: But shouldn't we be, in general, for organic animals, feeding them through their natural instinct of needs? You know, at the symposium, we heard a lot about feeding corn and soybeans, and then we get the synthetic amino acids, and that sounds a lot like poultry, which right now in the organic industry are not fed actually their natural diet at all. And so, you know, philosophically, do you think it's ever going to be possible to feed fucivorous fish what they truly instinctively want, instead of giving them an alternative substitute that doesn't satisfy their natural behavior actually?

MS. MCKINNON: Well, if you're looking for a way to feed fucivorous fish that have been expressing their natural behavior
and eating their natural diet, then wild fish
would be the choice you would make. So it
does raise the question, if there are fish
that can't fit within the Organic Program and
the current organic standards then it does it
make sense to include them in the program?
But I'm not expressing the opinion of George
Leonard at the moment. I hope he would agree
with me but--

MR. KARREMAN: Probably.

MS. MCKINNON: I can't say that
for sure.

CHAIRPERSON DELGADO: Any other
questions. Thank you very much. Moving on to
George Kimbrall, followed by Deborah Brister.

MR. KIMBRALL: All right. Good
evening. It's not afternoon anymore. I'm
going to try to keep this brief. My name is
George Kimbrall. I'm an environmental
attorney with the Center for Food Safety, so
I'll keep it brief because I'm tired and so
you all must be exhausted. And, secondly,
many of the colleagues here that have come
from other, the alphabet soup of non-profits
that have been present have provided
substantial comment on these aquaculture
issues and the environmental impacts thereof.
Also, I'm a lawyer and not a scientist, so
I'll try to stick to that.

The Center for Food Safety is a
non-profit membership organization that works
to protect human health and the environment by
curbing the proliferation of harmful food
production technologies and promoting organic
and other forms of sustainable agriculture.
CFS represents members throughout the country
that support organic agriculture and regularly
purchase organic products.

We've been part of this process
throughout, I think working on it since 2001.
This is my first time presenting in front of
the Board, so I appreciate the opportunity to
comment here today. We did file substantial
comments on the proposal, 25 pages, 100
footnotes or so, so I also would fall back on
that, as well as our earlier comments, for
anything that I leave open.

So along with the people that have
presented from Food and Water Watch and
Consumers' Union and Ocean Conservency and
CAAR and anyone else that I left out, we're
opposed to the standards, and we stridently
urge the Board to rethink them and go back to
the drawing board on the standards. We don't
think they meet the high organic standard. We
think they undermine the organic standard.

With regards to the net pens,
you've heard quite a bit about the
environmental impacts. You know, the science,
I think, is pretty clear that escapes are
unavoidable, that there is the principle of
biodiversity and conserving that with regards
to organic that I think places another layer
on top of that and makes the idea of open
water net pens contrary in that way.

I mean, producing fish this way
may be the driving force behind the fish farming market. I think it is. But we don't think that's enough reason to mislead consumers by applying to it the organic label. Again, as others have said, we think fish in closed systems where inputs are organic and can be controlled and contained should be certified organic. That's where we would start.

One thing I haven't heard yet is the use of the natural behavior standard. It seems to me that the Committee's proposal is somewhat contrarian in that it uses it with regards to the feeds and expressly denies that it applies with regards to the net pens. This strikes me as classic arbitrary and capricious behavior if there was a regulation interpreting a statute. It cannot decide to abide by the standard when it chooses only when it suits its purpose, i.e. only for feeds but not for net pens.

With regards to the fish feed
issue, CFS again believes that only wild
caught fish should not be used to obtain
"organic fish meal and fish oil," and that
allowing to do so is contrary to OFPA, the
implementing regulations, and the prior
recommendations of NOSB.

Feed of up to 25 percent is not a
supplement in any common sense meaning of the
word. Moreover, the definition of "fish meal
and fish oil" is as feed, not as a supplement.
Under the proposed rule or the recommendation,
fish meal would be considered livestock, which
is an agricultural commodity and therefore
feed and not a feed supplement or a feed
additive. This loophole that's created by
this proposal we think is much larger than
just aquaculture and creates a very bad
precedent that undermines the entire organic
standard in this way.

Nor is requiring the "sustainably-
sourced" label on wild fish a remedy for this.
The public would still be led to believe that
USDA approves of this practice by the application of the organic seal. Since sustainably-sourced is an unenforceable and undefined standard, the label would be misleading.

It is true that the Stevens Act allows the possibility for wild fish to eventually be labeled organic. However, as we heard earlier today, we don't view this as an implementing regulation outlying that statute. Rather, we view it as an attempt to circumvent any possible regulation along those lines by using wild feed as a supplement as an end around that regulatory requirement.

The reality is, there are substantial, perhaps insurmountable, challenges to labeling wild as organic and that the wild label, as you heard earlier from the Alaskan fisherman that was here, no longer needs or wants it. Thank you.

In conclusion, CFS believes that aquaculture systems that do not deploy fish
meal and fish oil and can meet the recommended standards should be the first products to the organic market. There are substantial gains that can be made in displacing fish meal and fish oil in the diets of some marine species, and the desire to enter the organic market can serve to further stimulate urgently-needed research.

The Committee has stated that, to quote, "only allow organic certification of low trophic-level species would greatly limit organic aquaculture under USDA standards."

This cannot possibly be a basis upon which to allow organic certification. Yes, a different standard would be more limited, but it would also be meaningful.

So we call on the Board to reject these standards on fish feeds in open water net pens. Thank you.

CHAIRPERSON DELGADO: Any questions?

MR. KARREMAN: Just one question
on the arbitrary and capricious activity of
the Board regarding the natural behavior being
suppressed by net pens, if I understand it
right from salmon farming, they usually start
running at about six years old, and the salmon
that are usually filleted are about 22 months
before they would ever run and go spawn. So
in a sense, it's not inhibiting their natural
behavior at the time that they would be
slaughtered. But also, parallel to land-based
agriculture, certainly there are pens that
stop animals from running around. I mean,
calves, baby calves, I would think you would
push for, have to be on the mother cows. I
would think, just in your logic right there,
have to be with mother cows, so I --

MR. KIMBRALL: I think it's apples
and oranges, frankly. I think that's part of
the problem within organic aquaculture
standard. You know, it's a different beast
entirely. So you have to make those
logistical changes to address it, but we also
don't have wild herds of cows roaming around, we have to worry about becoming genetically deformed based on escapes of farm-raised cows. I mean, we have a surviving, thriving commercial hunting/gathering society here on the one hand, and the impacts there are going to have to be taken into consideration.

With regards to the natural behavior, I think you're respectfully, you know, cutting hairs. I mean, I think, yes, maybe there's a difference there, but no one is going to say that a salmon's natural habitat is in a confined net pen. They're migratory fish. They travel thousands of miles, you know, across the oceans. So I will respectfully disagree.

MR. KARREMAN: What do you think about closed containment for fish? Not net pens, but closed containment where they are steel barrel in a shed? Is that not hindering their natural behaviors?

MR. KIMBRALL: Well, I mean, I
think that's not what the proposal is in front of us.

MR. KARREMAN: But we're just talking about natural behavior. I know, I mean, with the net pens and all that, I'm not going there. I'm just saying you brought up the natural behavior, so I am, too.

MR. KIMBRALL: Well, I can only comment on the proposal in front of me, which, as I said, I think is an arbitrary and capricious interpretation of the standard if it was a proposed rule.

CHAIRPERSON DELGADO: Any other questions? Thank you. Moving on, we have Deborah Brister, followed by Lisa Engelbert.

MS. BRISTER: Hello. I'd like to thank the Board for the opportunity to speak to you today about organic aquaculture standards. My name is Deborah Brister, and I'm a research fellow at the University of Minnesota.

I stood before the Board nearly
ten years ago, and at that time I made recommendations of a greater degree of participation by those in the aquaculture sector and other stakeholders was needed for the development of organic aquaculture standards before they were implemented. This led to the first ever organic aquacultural workshop held at the University of Minnesota and the creation of a number of national and international organic aquaculture working groups. I'm happy to know that this recommendation has indeed come to fruition.

Today I'd like to share a few more comments that I have regarding the September 28 draft recommendations, and then let you know about a tool that we've developed at the University called an aquaculture sustainability matrix, which we're now using as a systematic way to compare various organic aquaculture standards.

So first my comments. I'd like to commend the Livestock Committee and the
Aquaculture Working Group for their excellent work on developing organic aquaculture recommendations. I'm glad to see that the NOP will now consider allowance of fish meal and oil as possible aquatic animal feed ingredients. It's never made sense to recommend that fish that are naturally piscivorous be required to consume feeds made from vegetable sources when they do not naturally eat them. Of all the types of equal labels out there for seafood, organic is the one equal label that should guarantee that organic piscivorous fish eat what they would normally eat in the wild.

I'd like to encourage the Livestock Committee to simplify one section in the recommendations that's difficult to understand, and it does need clarification. The section I'm referring to states this, and I'll read it because I think to hear it you can get a sense of the need for more clarification. Section 205.252(d) states,
"Feeds for aquaculture products for human consumption must contain lipids from fish oil or other omega-3 sources produced by microorganisms or other organic plants to meet the nutritional requirement of specific lipids for the particular aquatic species, except that other lipids from organic sources may be provided in feeds for aquatic animals that have specific dietary requirements for such ingredients to the extent necessary to meet the minimum requirement for that lipid in that aquatic animal." That's like the longest sentence I've ever seen. It does need some clarification. And one recommendation I would have would be maybe modify the section just above it, 205.252c, and state simply, "Aquatic animals must be provided with their natural feeds and lipids consistent with the need to optimize health and growth of the aquatic animal."

I'd also like to commend the Livestock Committee for including net pens
within the organic aquaculture standards recommendations. I think it's extremely important to provide an opportunity for all types of aquaculture systems to at least have an opportunity to try for organic certification as a goal. Not only does this encourage innovative thinking by aquaculturists who want to pursue organic certification, but it then demonstrates to the conventional aquaculture sector what is possible, thereby raising the bar for net pen operations overall.

I've got a couple of other -- how am I doing on time? I have one minute? Okay. So I do have a couple of other comments about the recommendations, so if you want to ask me after I'm done, I'll be happy to share it.

In my remaining time, I'd like to discuss with you a long-term project that we at the University have been developing for a number of years. The aquaculture sustainability matrix, which is a tool that
I've presented at a number of conferences in recent years, including most recently the United Nations Workshops on Aquaculture Certification held in Thailand, China, Brazil, India, and the United States. During the Brazil workshop, I presented this FA working paper that I've handed out to you just now, so you've got that in front of you.

Recently, I've been working with colleagues to do comparisons of independent organic aquaculture standards using the matrix, and I'm also currently using the tool to assess recommendations for organic aquaculture standards between the United States and Europe.

So as you know, especially from our previous speakers, the European organic aquaculture standards are actively being developed right now, and the European Commission is actually hoping to finalize those standards by January of 2009. Another gentleman said maybe in three or four months,
and I think that's actually more realistic right now.

But because of the market potential for organic aquaculture products in both the United States and Europe, we feel it's very important that the organic standards for aquaculture be as harmonized as possible to reduce potential trade barriers. Other organizations have done side-by-side comparisons between standards, but we feel there's a better way to assess these standards. The very nature of standards development usually involves taking previously established standards and then building on them. And in this way, it's possible to miss some elements of sustainability, which all --

CHAIRPERSON DELGADO: Your time is up. Wrap up, please.

MS. BRISTER: Okay. Which truly all organic standards should raise eventually if they're continuing to compete in the marketplace with other equal labels seafood.
So all I wanted to say is that I am doing a comparison right now. It will be done in approximately two weeks. I will be submitting it to the European Commission, and I would also like to submit it to the NOSB, as well.

Okay. Thank you very much.


MS. FRANCES: Lisa goes tomorrow.

CHAIRPERSON DELGADO: Tomorrow.

On both cases?

MS. FRANCES: Yes.

CHAIRPERSON DELGADO: Very good.

Thank you for that. Keith Olcott? Are you here? Great. Please, come up, and he will be followed by Peggy Miars.

MR. OLCOTT: Okay. I'm not here to talk about aquaculture. We're way back to multi-site certification. And I compliment you all on your endurance. I'm sure Dante
didn't have any clue about this particular circle of hell.

So I'll just preface this by saying Equal Exchange is one of the largest fair trade companies in the United States. We've been around for over 20 years now. We have direct relationships with growers, 33 small-scale organizations in 19 countries throughout Latin America, Africa, and Asia. And each year, many of our folks, purchasers, quality control staff visit our producer groups, virtually all of whom are cooperative and use what you allude to in your document as the multi-site certification. We would like to respectfully suggest that you call it group grower certification, because we would like the emphasis to be very much on growers exclusively, at least in this part of your program.

So we commend the CACC for incorporating many of the suggestions raised in the May `08 meeting. And since we've
already submitted a copy of our comments where we want to tweak that just a little bit, we think you're like 97 percent there. I just want to focus on a few points that other organizations have raised as concerns about the current recommendation, and I want to speak to those.

So specifically I'm referring to the recommendation for a $5,000 threshold for taking growers out of multi-certification status, the restriction on production units of 100 individuals or ten square kilometers, and the idea that multi-site certification should not be recognized as a distinct category of accreditation. This is an accretion from various groups speaking to various points.

All these points have been addressed to one degree or another in previous testimony at the November meeting and the May meeting. And the CACC presumably has digested that, and I actually don't see any of those presently stated in the current
recommendation, and we're pleased with that. These points were addressed, for example, by the National Organic Coalition, OCIA, IOIA, and IFOAM, not necessarily all of the points by all of these groups.

In our estimation, a well-executed internal control system can address the issues of scale, be they monetary, numerical, or geographical. The one notable exception that triggered all of these discussions about group grower certification, there was a long history of success employing this method of certification. Likewise, the intricacy and rigor involved in a well-designed internal control system is precisely why it should be recognized as a distinct category of accreditation, and other people spoke to that earlier today talking about the rigor that's involved and the training that should be involved with these ICS groups. So that's why we think it should be recognized as a distinct category.
We are concerned that the monetary, numeric, and/or geographical thresholds might make sense to employ in the United States--might make sense. But they're not necessarily appropriate or effective thresholds to employ across the board throughout the developing world.

So just a quick example with the $5,000 limitation. That could be a logistical and organizational hardship for some of our producer partner cooperatives because the value of some of the commodities we buy--for instance, coffee--can vary dramatically from year to year. And somebody had suggested perhaps you would average a two-year period, but that might not suffice either. So you can imagine the situation where if there's good crop years and bad crop years, people would be in and out, in and out of the organization and how would you keep track of that as a certifier?

And I think I'm just going to have
to wrap it up there as one example. There's more in that document that I gave you.

CHAIRPERSON DELGADO: Thank you.

Questions from the Board. All right. Thank you very much.

MR. OLCOTT: Thanks. Oh, there is a question.

CHAIRPERSON DELGADO: Tracy?

MS. MIEDEMA: Just very quickly. I read your comment very closely, you know, at the key stakeholder group, the coffee growers you represent, opinions really need to be brought to the floor. And I did want to ask you a question about-- in your written comment you referenced IFOAM World Board resolution back in June, and you characterize it as, basically, that the IFOAM World Board was strongly rejecting any possibility of an internal control system model being extended to any other groups besides grower groups. And the gist of your written comment really focused on keeping this construct solely for
growers, and then you stated the resolution, and I was just curious how you interpreted that motion 29.7 as strongly rejecting the possibility? I read it quite differently, and I just wanted you to connect the dots for me.

MR. OLCOTT: Well, now I might have to read it again now that you put it that way. Obviously, as part of the National Organic Coalition, that's something we came to all together. I know someone else can speak to that in their testimony. But the way I read it and the way you read it is so completely different, can somebody jump in on this? Okay. Maybe we should defer?

MS. MIEDEMA: We can wait until then. That's fine. Thank you.

CHAIRPERSON DELGADO: Another question from Dan.

MR. GIACOMINI: As you read the recommendation that was put forth, breaking the grower group into production units and then with subunits, what would be -- your
Equal Exchange is a grower group, is that right?

MR. OLCOTT: No, no. We're a fair trade wholesaler, basically in the United States. We buy --

MR. GIACOMINI: Okay, okay, okay.

I apologize for that.

MR. OLCOTT: That's okay.

MR. GIACOMINI: But in your experience of working with these groups, what proportion of the grower subunits in a typical production group would be over the 5,000 threshold in a typical year?

MR. OLCOTT: I don't have the statistics. It can vary from country to country. So I could try and get that information for you, but I can't say on average this number of people would be over. But in some years, in some countries for some products, it could be significant. For example, with cocoa right now, chocolate is through the roof, so it could be a significant
number of cocoa producers right now.

Alternatively, the bottom could fall out of
the market and then . . .

CHAIRPERSON DELGADO: Any other
questions? Bea?

MS. JAMES: Just as a follow-up to
Tracy's question, so does Equal Exchange, does
your organization have a position one way or
another as far as other sectors being able to
model multi-site certification?

MR. OLCOTT: We think right now it
should be, the recommendation as it currently
exists should apply only to grower groups, so
I'm not saying it should preclude other
groups, but I think it should be a separate
scope of work.

MS. JAMES: Okay. So the way that
it's written, just to have a specific one for
farmers but that you're saying that if there
was the possibility of a different construct
using that, that it should be addressed
separately?
MR. OLCOTT: Right.

MS. JAMES: Okay.

CHAIRPERSON DELGADO: Any other questions? Okay. Thank you very much. Up next is Peggy Miars, and I understand you have a proxy, correct?

MS. MIARS: I do have a proxy, but, don't worry, I'm not going to go anywhere near ten minutes. So good evening. It's kind of like being at a really great party and the hardy partiers are still here and the rest have wimped out. It's fun.

So I'm Peggy Miars. I'm Executive Director of California Certified Organic Farmers, and we are here representing 2,000 certified operations, a half a million acres in certified farmland, and 80 percent of the organic farmland in the state of California.

My first comments were going to be about the Sunset procedures, but I believe, Dan, you addressed our comments this morning, which seemed like yesterday, because our
comments were about how to amend an
annotation. And I believe what you said this
morning was to handle them through the
petition process. However, that isn't clear,
and we would request that it be clarified
somewhere in the policy manual, wherever it's
appropriate.

The next topic is the grower
groups, and we do want to thank the Committee
for the work that you've done on this issue.
And it is the third time that CCOF has
submitted comments opposing grower groups
under the NOP. And we believe strongly that,
in order to maintain the integrity of the
organic standards, that all producers must
complete the entire certification process,
including on-site annual inspections.

We do continue to oppose the
classification of multiple production units and,
therefore, oppose recommendations in this
document that imply acceptance of those units.
And I heard Joe a few times today say that the
document was intended to not include processors and retailers, but, as you heard from other presenters today, that's not clear. I think it should clearly exclude those groups under the NOP.

So we do want to state again that we have concerns about grower groups in general, and we do believe that the applicability of multi-production units to retail and processing is unacceptable. However, we do realize that we're in the minority, and so long as grower groups are allowed, we agree with the minority opinion that all new operations should be inspected when they enter the group. And as long as grower groups are allowed, we believe, as others have said, that they should only be allowed for small holders with less than $5,000 in U.S. organic sales.

The next topic is the list for inerts. And we do appreciate the fact that the Board is taking up this topic, and we're
eager to participate in future discussions and share the expertise that some of our folks in CCOF have. However, this discussion paper did come out a bit late before the comment period deadline, and we did not have time to assemble the information that was requested. Since most inerts in pesticide formulations are confidential, we typically rely on the organic materials from Washington State Department of Agriculture to obtain the disclosure of those inerts.

Of the few that we have reviewed, we do know that the inerts are used as carriers, adjuvants, anti-foaming agents, UV inhibitors, emulsifiers, and preservatives.

And we do have one brief comment about the concept of reviewing each inert individually. It's very hard to get the information to complete a petition or a TAP review for many of the inert substances. There's not much data about their effects in the environment, and because many of them are
considered to be trade secrets there's not that much data disclosed about the manufacturing methods. So a requirement to review each one could eliminate a huge number of products in the organic production. We do urge the NOSB and the NOP to work closely with the EPA to address this issue, and I understand that there is going to be someone from the EPA here.

Next item, pet food standards. We appreciate the work that's been done on this. We do believe that specific language is needed for pet food in the rule, which will enable that category to further grow. We do agree that the labeling should be similar to the labels for human food. Consumers that understand human food labeling will easily understand the pet food labeling.

And as far as where it falls in the rule, I know that Gwendolyn brought up possible separate section, so I would suggest that you take a look at that. So we're
pleased to support the proposed recommendation
and ask you to move those forward.

Very, very briefly on pasteurized
almonds. I wasn't going to talk about this,
but it was brought up earlier. That is a
major concern for almond growers in
California. It was explained this morning, so
I won't go into great detail, but there are
two things that are happening with organic
almond growers in California. You did hear
that California provides all the almonds for
the country, organic almonds. We're concerned
because, as you heard, imports from other
countries are allowed to be sold in the United
States unpasteurized, whereas growers in
California are required to pasteurize them, and
that's a major concern. I realize that's not
anything that you can do anything about, but
you need to be aware of that.

And as you heard, the organic
almond growers are losing market share because
of that, and they're really concerned. And
what I have heard from people is that if they continue to lose that market share, they're just going to get out of organic entirely, and we would hate to see that.

I, again, want to encourage this Board to hold meetings in other parts of the country. At the last meeting, I heard you say that you wanted to hear from more organic farmers. California has got more organic farmers and more organic acreage than any other state, and I urge you to hold a meeting in California or somewhere on the West Coast so that organic producers there have an opportunity to speak to you directly. And I would also say that we at CCOF would be really pleased to line up some organic farm tours for any of the committee members that are interested.

My last comments are probably more directed at the Program staff. Regarding the certifier training that's being talked about, as you heard earlier, the certifiers who
really need it don't tend to show up. So I would request that that be made some sort of a requirement, that it be addressed in the accreditation process, and handle it that way.

And then we're grateful about the budget increase and with the increased staff, which were really great to see. We urge you to focus on materials reviews and enforcement activities as your top priorities. Thank you.

CHAIRPERSON DELGADO: Questions?

Bea?

MS. JAMES: Thank you for your comments. I was wondering if you could elaborate why you think just retailers in particular, why that construct would not, that internal control system would be a higher risk than a farmer grower group?

MS. MIARS: Well, and I would put retailers and processors together into one group when I'm talking about this. And I don't know if the issue would be a higher risk so much as perception or, excuse me, the
intent of the original rule, which I believe was to support the small growers, primarily in the third world countries who couldn't either afford to do this or they were in areas that were so remote that it was going to be difficult to get to them for inspections. So that's how I would make that distinction.

MS. JAMES: So it mostly has to do with the cost that you think there's an association between the retailer having more funds available?

MS. MIARS: I would say so, yes.

MS. JAMES: But as far as just philosophically, a retailer being able to follow a good internal control system using a multi-site construct, would you think that that's something that would be acceptable?

MS. MIARS: Can you repeat that?

MS. JAMES: Just the concept, if you take away the piece that has to do with, you know, the financial capability of a retailer being able to do that, there are some
small retailers, co-ops, that own more than one location that don't necessarily have as much funds as some other retailers that perhaps would have more, so there are examples of that, that if you were to just remove that completely, the idea of a retailer being able to follow a good internal control system using a multi-site construct in their certification, is that something that you think would be feasible?

MS. MIARS: Well, I think I need to correct something that I just said, which is to put the retailers and the processors together. When you ask the question that way, I would separate them out because retailers, as you said earlier today, are not required to be certified. It's voluntary. Therefore, if it's voluntary, they should meet the highest standards of the rule, and they should be inspected annually. And as I said, the intent there was for the small growers and the retailers are optional. Am I making myself
clear there?

MS. JAMES: Yes. I'll probably

catch you afterwards.

MS. MIARS: Sorry. It's late.

CHAIRPERSON DELGADO: Any other

questions? Okay. Thank you very much. Let's

move on then to Katherine Dimatteo, followed

by Jim Riddle.

MS. DIMATTEO: Okay. Thank you

very much for waiting to hear from me all day.

My name is Katherine DiMatteo. Now that I

have ascended to the presidency of the IFOAM,

International Federation of Organic

Agriculture Movements, I have been corrected

by my Italian members that I have always

pronounced my name wrong.

So thank you very much for your

good work, your attentiveness. I have passed

around the comments that we submitted

electronically. I'm not sure if you've all

had a chance to read them. It's just for your

convenience. I'm also going to just summarize
quickly the comments that you did receive on group certification or multi-site certification. You received plenty of comments electronically, 19 of which supported the principles and concepts of the CACC recommendation. Many of those comments did so without any changes whatsoever. Ten of the twenty comments supported the IFOAM position, half of which did so unconditionally. So just a quick summary of what you received electronically in case you didn't read all of those.

I have a few things from my written comments just to emphasize. IFOAM thanks you, the CACC, for recognizing the variety of farms and farm organizations that exist worldwide. The continued acceptance of group certification is cortical for the growth of the organic sector and for securing and improving the livelihoods of thousands of small holders and thousands of growers, small or otherwise, in developing countries and in
other countries around the world.

IFOAM is pleased that the focus of this recommendation is on producer groups and believes that if multi-site certification is to be extended throughout the supply chain in the future, this will require the development of additional sector-specific criteria. So in answer to the question about our motion at the general assembly, that motion that was passed by the general assembly that was referred to in a number of comments said, basically, that our goal is to ensure that producer groups are able to continue to be certified organic under a group certification scheme but that we support the framework that allows for future consideration of additional criteria for the other sectors, and that's what our general assembly agreed on by majority vote and that is the position that we bring forward to you today.

I also want to emphasize that we cannot judge other people by the standards
that we set for ourselves economically here in the United States. And I think that it would be a travesty to set a $5,000 limit for the individual members of the grower groups. I think we have no basis for doing that. Are we wanting to say that they're limited in the income that they can ever have? Are we saying that they should never be part of a group, a collective, of people that are growing together and are learning together and are learning from each other's experiences, having continuous improvement by the benefit of being with other groups? So I really urge you not to try to limit this by using either geographic or monetary or other types of limitations. And, in fact, we very much support the way that the recommendation is currently written because it does, in its criteria for groups and in its criteria for sampling and for the internal control system, really addresses all those things. And as you read that recommendation, I think you need to
read it with that eye that the guidance is there for making the decisions about what can and cannot work in groups with smart management and how those groups should be divided so that they can be adequately and efficiently and effectively managed.

A few other points. We do not support the minority opinion that all new entrants are immediately a high risk location and that we recommend that the assessment of which members classify as high risk be left to the accredited certifying agent based on the criteria that's been recommended in the CACC recommendation.

And I think the last thing that I'd like to point out from my written comments is that IFOAM appreciates the overall reasoning for sampling, the attention given to risk factors and the determination of the sampling procedure, and the conclusive remark on the relevance of the internal control system to detect non-conformities. IFOAM
recognizes the efforts made by the CACC to reach agreement on sampling guidelines that are not overly prescriptive for certification bodies and that accommodate for various group conditions.

I really urge you to, in your deliberations and consideration, to move this recommendation forward and to not, again, lean towards prescription. One of the things that we used to say about agriculture when we all were talking about a different alternative system, including organic, we talked about the reductionist thinking that was applied to conventional agriculture. X amount of pounds of pesticides applied at periodic points during your production. Do that, and you will be, you know, you will be successful. You know, here's a formula, like a recipe, that you can follow on your farm. I'm really hoping that organic doesn't move in that direction where we rely solely and expect testing and/or very prescriptive requirements
to be the basis of what determines what an
organic system is. Thank you very much.

CHAIRPERSON DELGADO: Thank you,
Ms. DiMatteo, and congratulations on your
wonderful, wonderful election. Any questions
for Ms. DiMatteo? Yes, sir?

VICE CHAIRPERSON MOYER:
Katherine, thanks for your comments. One
question. Do you see the need to limit the
number of people who would be in a grower
group?

MS. DIMATTEO: I think that that -

VICE CHAIRPERSON MOYER: -- grower
group would be established?

MS. DIMATTEO: No. I don't think
you should limit a total number for the grower
group because I think that the situation is
going to be different everywhere we go. The
situation that, you know, of tea, for
instance, or cocoa or even coffee, you know,
there may only be one or two plants that are
part of a default group, so it would take a
large group to have sufficient quantity to be
efficient and to be able to sell to large
wholesalers who would want that product.
Otherwise, the cost wouldn't even, you know,
merit the farmer from selling the product, and
they wouldn't have that market.

So I think that the breakdown into
production units should handle that. So if
you have a very large group, you know, it
should be broken down into production units
that are based on either the geographic
region, the number of farmers, you know, in a
particular location or the number of farmers
that can be effectively managed through the
internal control system. And I think that
those are the things when a certifier is
looking at that plan from the group that they
should determine whether the decisions about
how to manage the group, whether those are
good decisions, and they should ask for
changes to those decisions about how to break
into production units, ask the group to change
those if the certifier believes that they're
not going to be able to manage the size of
their groups. Does that answer the question?
Okay.

CHAIRPERSON DELGADO: Any other
questions from the Board? Okay. Thank you
very much.

MS. DIMATTEO: Thank you.

CHAIRPERSON DELGADO: And up next
is Jim Riddle.

MR. RIDDLE: Say who's on deck
before I start?

MS. FRANCES: Sam Welsch is on
deck.

MR. RIDDLE: Thank you. Good
evening, and I do have a proxy from Joe Dietz,
OCIA seat committee chair. I want to thank
you all for being here still, and I especially
want to thank the NOP staff for your hard work
in getting the pasture proposed rule out. I
want to thank you, Rick, for all of your work
over the years. You've written a good rule.

I also am very appreciative of the new staff that's been brought on board, I think that's really a good move, and the training plans that I've heard about today.

I do encourage that, as that training moves forward, that it utilize existing technical experts, including IOIA, the International Organic Inspectors Association, as well as some of the emerging resources through extension, because that's USDA funded and let's really maximize our resources and put them to work well.

I am now Organic Outreach Coordinator at University of Minnesota. And when I appeared before you in May, I mentioned about the eOrganic project, developing organic information resources electronically through extension, and I'd just like to give an update and let you know that that is moving forward to launch with an official rollout at the Eco-Farm Conference on January 20th. So that is
moving forward.

So with that, I'll remove my

university identity and shift to some comments

in support of those from OCIA regarding the

seed recommendation. I do support the Crops

Committee's draft. I think you've heard a few

comments today to polish some parts of it.

That's fine, but I think that draft should

move forward. It provides some good guidance.

The one issue that it does not

address is the issue of treated seed and

limitations that places on access to genetic

materials. And I heard my name referenced

that I'm advocating that treated seeds be

allowed, and that's not exactly true. What I

am advocating is that the Crops Committee

consider an exemption to allow licensed seed

producers to use treated foundation seed stock

in the production of organic seed, to consider

it, to have a thorough discussion of this, and

to get the data to know how much of a problem

this is. I ask you to add this to your Crop
Committee work plan and consider forming a working group of seed industry, farmers, and others, certifiers, to really gather the information on this and some of the other issues not addressed in your current draft.

The thing that got me on this was the realization that an organic farmer has to try to get organic seed. But if they can't find it, it's not commercially available, they can use totally conventionally-grown untreated seed.

And the organic seed producer cannot do that to produce an organic seed. The system is rewarding the conventional seed industry using conventional practices to provide these untreated seeds that are being used to produce organic crops, and that's really unfair and it's not in anyone's best interest. So I think there's some discrepancies, discrimination, that needs to be addressed and look at this to see if there should be an allowance.
There's two ways of going about it. One would be a petition to place all these different possible seed treatments on the National List for a very limited annotation. But the other, to look at the rule in 205.204(a)(5), which currently allows the use of treated seed when application of materials required by federal or state sanitary regulation. That's a blanket allowance without listing those individual materials in a given situation.

So there already is a precedent for something similar where there could be consideration of a blanket allowance for licensed seed producers to used treated foundation stock seed when untreated foundation stock seed is not commercially available. And one of the problems is a lot of these foundation seeds are only grown out maybe every five years, and then they're treated and put in the bank. And for someone wanting access to those genetics, they simply
aren't available anymore.

So there's some limitations, but I want you to study it. I've received some anecdotal and some information be submitted tomorrow from OCIA, but I think it's a serious issue that should be on your work plan.

Okay. Some of the other things that are up for discussion or vote at this meeting I'd like to comment on. First, I would really like to thank the CACC for the improvements that you've made to the grower group certification recommendation. I think that it integrated the 2002 recommendation and then addressed some of the deficiencies in it and has really good criteria for regulating and moving that whole system forward.

I do think there is some confusion in the introductory paragraphs. They aren't in the guts of the recommendation, but that's where you heard some comments today where it still kind of goes back and forth of whether it's about processors or just producers. And
I hear that it's only producers, and that's what I read in the body, but there's some of the introduction that makes that unclear.

For retail chains, though, when I go into a store, say Super Target, and it says the name of an accredited certifier and it says inspected to guarantee compliance with U.S. standards and has the USDA seal, I understand that that store is actually inspected, and they haven't been. And I'm glad the NOP has cracked down through accreditation and said that's not allowed, but it is confusing and misleading to consumers.

But I invite you to be creative in how you address the retail situation. And one possibility, instead of applying this grower group model, would be to use the existing regulatory infrastructure. Retail stores get inspected all the time. Why can't the inspectors that go in those stores cover off organic compliance, just as well as health and accuracy of scales and all the other things
that they're regulating? Let's be creative
and look at different solutions without
weakening the consumer perception that a store
is indeed inspected.

I'm glad you have the biodiversity
on your work plan discussion document there.
I endorse the comments the Wild Farm Alliance
will be making and think that it is a
requirement in the rule. It's inherent in the
definition of organic production, and it
should be addressed during the accreditation
process to see what certifiers are doing to
check on those existing requirements.

I was pleased when Barbara said
earlier that the training will be based on
organic system plans for a portion of the
training. I think that's really smart. It's
something a lot of certifiers already have
adopted, the forms that the Board has
recommended and ATTRA has up. And this is
going to be increasingly important because
there will be a crosswalk between organic and
NRCS on the organic system plans. But in my comments I submitted before the meeting, it's come to my attention two important questions are not being asked about post-harvest handling on the farm OSPs about cleaning methods and pest control, and I provided those in detail.

My major concern, though, today, what you have before you is the materials review change to the Board policy manual that's being proposed. Defining a TAP, and this is from your language, "Group of third-party experts convened by the program to provide a technical review related to a material petitioned under review by the NOSB. A subcommittee of the NOSB may comprise a TAP." Two big problems with that.

First, the law says the Board shall convene technical advisory panels. Your draft says the Program, so I think you need to bring it into compliance with the law. You say it's a group of third-party experts. A
subcommittee of the Board is not third party. That's yourselves. You need a third-party expert. So those are a couple of problems I see with that. I ask you to just hold on that, give it further consideration.

Get legal counsel on this. If you haven't had OGC or some legal counsel, this is a huge legal issue. You need to comply with the law. It's not just a Board policy manual issue. Thank you.

CHAIRPERSON DELGADO: Thank you.

Any questions? Dan?

MR. GIACOMINI: Yes, Jim, we do need to do some tweaking on some of those things, but this document, the technical review document, actually does come from legal recommendations and the Program dealing with the process of TAPs and technical reviews in light of 606 and all those things. That's where this document comes from. It's not just us wanting to come up with another document and put more stuff in the policy and
procedures manual.

MR. RIDDLE: Well, a lot of the recommendations of the Board have background that cites the law, cites the regulation. This does not, and was that just the Program opinion or was this OGC saying --

MR. MATTHEWS: Office of General Counsel saying that the Board can do be its own TAP.

MR. RIDDLE: No, no. The question I have is about the Board shall convene TAPs, not the Program shall convene but the Board, the law says the Board --

MR. MATTHEWS: Oh, well, yes, the Board. But OGC has determined that the Board can convene a TAP committee of itself.

MR. RIDDLE: Okay. But then you should change the language because that would not be a third party.

CHAIRPERSON DELGADO: Any other questions? Bea?

MS. JAMES: You know, I like the
idea of thinking creative on how retailers can actually become certified, but I've heard a couple of inspection agencies come up here and say that they've had difficulty just getting their inspectors to attend training. How then would you envision state inspectors becoming educated enough to be able to perform these inspections?

            MR. RIDDLE: Yes. Well, there are states that are running functioning organic certification programs so state employees can conduct organic inspections right now, and they can multitask and do other things, as well. So I think the model is there. There are some states that could be, you know, looked at or piloted. We're going to have a lot more people trained throughout the system. NRCS is going to be doing a lot more training, extension are getting up to speed, and I think that the regulatory side can, as well.

            The certification of retailers is voluntary, so there's an opening here to do
something creative. They've already got plenty of inspectors coming in their door, and I think this has a lot more long-term sustainability. It cuts miles; you're not flying people all over the world to do these. These are already coming to the stores. Plus, it broadens the regulatory net, so to speak, of organic. It brings more people into that.

MS. JAMES: I don't disagree with that. I guess I just would want to go on record saying that we need a solution for retailers sooner than when I think that would probably be --

MR. RIDDLE: Yes, well, the solution is there, individual inspection of each operation.

CHAIRPERSON DELGADO: Julie?

MS. WEISMAN: That's okay because Bea actually asked a question that I had.

CHAIRPERSON DELGADO: Jennifer?

MS. HALL: Jim, with regard to grower groups, do you have a feeling on when--
MR. RIDDLE: Oh, on the new growers? Well, how do you ever start a grower group? That's my problem with it. I think you've created really good criteria that is risk-based and it empowers the certifier to make those determinations. If anything, there probably should be more unannounced inspections occurring of grower groups, you know, just as a check there because there is a larger risk factor that you've introduced. But as far as just new growers, if it's a functioning ICS, they're going to be getting the training, they're going to be using the inputs, they're part of a legal entity. I don't think that that's the biggest risk here. But it does put a limit on how do you start a new one as a grower group because they're all new members, so they all have to be individually inspected. Why would you ever start a new one if, you know, every operator has to be individually inspected to start off with? That's not a grower group anymore.
CHAIRPERSON DELGADO: Any other questions? Thank you.

MR. RIDDLE: Thank you.

CHAIRPERSON DELGADO: Moving on to, do we have Sam or not? No? Okay. Moving then to Beth --

MS. FRANCES: Claudia Reid.

CHAIRPERSON DELGADO: Claudia Reid.

MS. REID: Good evening. This is my very first NOSB meeting, so I was going to start off by asking you not to ask me any questions, but I think I don't have to say that. You probably don't want to ask me any questions. I do have a proxy, but I really doubt I'll need to use it.

I'm going to be speaking to four issues very briefly: materials procedures; procedures to handle technical reviews; tabled materials status; and one of the petitioned materials, ethylene on pears.

Our comments have, my set of
comments have to do with the materials procedures because, as you probably know, CCOF is one of the oldest and largest certification organizations, and we have provided the background for much of the work that you have all originally done here at the NOSB and by the industry for materials review. Thus, we feel uniquely concerned that the NOSB be able to continue to provide this thorough objective, high-quality evaluation of existing and new substances currently being considered for the National List.

My name is Claudia Reid, and I'm the new Policy Director for CCOF.

On procedures to handle technical reviews, CCOF agrees with the premise behind your recommendation that the NOSB often requires specialized expertise for review of petitions. The NOSB should not feel obligated to be a technical advisory panel, though.

We liked, you had five phases in that document and we liked numbers one, two,
three, four, and six, but we really felt that phase five was incomplete. We recommend that you add another bullet to that phase five, another bullet point to phase five, that would provide technical expertise in addition to the NOSB for reviewing the reports, especially when there's an alternative to the substance in the organic production system. I don't know if that makes sense now hearing all these other 12 hours' worth of comments. This was written before, 12 hours ago.

On the status of tabled materials, the recommendation to take from the table previously tabled petitioned substances, we really, really were impressed with the work that you did. And I know one of our staff was involved in that, and she is just amazed at how much work it was and how hard you all worked.

As you will see in our previously submitted written comments, we make a distinction between the materials listed in
your recommendation that were tabled and which we feel were already officially set aside following the 2000 Federal Register Notice and a number of other items that were actually petitioned but never dealt with by the NOSB. You heard somebody else bringing this up earlier this morning, too, this same issue. Our written comments list those materials along with a brief description of what we feel happened to each one of those petitions. And I'm not going to read those names to you. They were actually several of the names of the materials that were read earlier today.

Our clients are still waiting for answers on several of those items, and we urge the NOSB to move these petitioned items to the NOP for consideration instead of just setting them aside. Our comments on these items don't reflect a position one way or the other on the material. We just simply want to have them moved forward. We are requesting a full TAP
review of these materials and the appropriate NOSB evaluation for each of these before we take a position.

Clarification of the definitions on the National List. We have participated in the work of the Materials Committee, one of our staff people has, and we applaud your efforts on this hugely time-consuming job. We do have a concern that the amount of work that goes into this might take away valuable time and energy from the very basic work almost completed by NOSB in the year 2006 regarding synthetic and non-synthetic determinations and the associated terms, such as extraction, purification, and formulation.

Several petitions are being held up until this matter is finalized, and there are other petitions being held up until there is more guidance about the definitions.

We strongly urge you to take up the 2006 recommendations again. Put them up for public comment, if necessary, and take
action to resolve those unresolved issues.

And on ethylene and pears, using ethylene for ripening bananas and pineapples made sense to CCOF because neither one of those commodities are grown on the continent of the U.S. We do have organic citrus growers in California who would like to petition to remove ethylene for de-greening of citrus because it's being abused by importers. They are using it to mask unripe imported fruit and then it gives all of organic citrus a bad name, a bad reputation.

We would like to ask that the NOSB consider this type of situation potentially happening when you looked at ethylene for pears. The potential misuse of ethylene, was that considered in the review for pears?

We are dismayed at this statement in the NOSB recommendation that, quote, "Consumers miss out on several of organic pears because without the use of ethylene organic fruit of acceptable quality cannot be
distributed."

The consumer expectation of having access to pears all year long is not a criterion by which this petition should be judged. We also ask for a truly objective evaluation of alternatives to ethylene to be completed.

That was it. Nice and short. I think it was like six minutes.

CHAIRPERSON DELGADO: Any questions for our speaker? Well, thank you for your presentation. Next up we have Kathie Arnold. Okay. So next then we have our last speaker for the night, Barbara Blakistone.

MS. BLAKISTONE: Good evening. I'm Dr. Barbara Blakistone from National Fisheries Institute. I'm the Director of Scientific Affairs. The NFI is the nation's leading advocacy organization for the seafood industry. It's member companies represent every element of the industry from fishing vessels at sea to the national seafood
restaurant chains, from responsible agriculture to a marketplace supporting free trade, to ensuring consumers have the facts on the health benefits of fish and shellfish. NFI and its members support and promote sound public policy based on scientific research.

The National Fisheries Institute urges the Livestock Committee to complete its work so that final rule-making can begin on organic standards for aquaculture. We know consumers eagerly await the USDA organic label for aquaculture fish.

NFI looks to the Aquaculture Working Group as key advisors for the outstanding technical issues of net pens and fish feed. And so NFI supports the recommendation and asks the Livestock Committee to take them into serious consideration to enhance the organic standards process.

A number of AWGs recommendations have been incorporated. More important ones
are detailed in the AWG report that have not
been taken into account by the Livestock
Committee.

We note some of particular
significance to NFI in the AWG report on fish
feed and related management issues. Point
one, we find the term aquatic livestock and
aquatic crops oxymorons and worthy of
revisiting in the final language of the
proposed organic aquaculture standards. We
recognize that terms define livestock, part
205.2, must include aquatic animals in the
definition but agree with the Aquaculture
Working Group that nomenclature must carefully
differentiate aquatic from terrestrial. Terms
like aquatic livestock and aquatic crops are
not commonly used and are confusing, and we
favor terms such as aquatic animals and
aquatic plants.

Point number two, the Aquaculture
Working Group has recommended adding language
into part 205.252 that states a limit on the
amount of wild forage fish, menhaden, herring, anchovies, that can go into feeding aquatic animals, specifically one pound of wild fish fed for every pound of live weight of cultured aquatic animals at harvest. No limit is being proposed for recovered trimmings from wild fish in order to encourage use of the remaining carcass for organic fish feeds. NFI very much favors the effort towards sustainability, in this case recycling of the fish.

Point three, in the section noted in point two, the use of composted manure has been excluded from the test even after the Crops Committee carefully reviewed the use of compost manure to fertilize aquatic plants intended for organic fish and asserted that its use presents no health hazard to humans. NFI agrees with the AWG and commends the group in support of the use of this sustainable cycle, such as composting, to recover valuable nitrogen and carbon.
Point four, we will not argue that the organic seafood standards document might not be the place for this notation but wholeheartedly support AWG's point that if wild caught sustainably-sourced fish meal or oil fed to organic aquatic animals must be so designated on the package, then such fish meal or oil fed to organic terrestrial animals must also be designated. The organic consumer deserves a level playing field.

Again, as we commented above, NFI defers to the technical knowledge of the aquatic Aquaculture Working Group on the report on net pens and related management issues.

However, when AWG's comments red flag that a zero-impact standard for management of predators in part 205.254 is unnecessary, the total prevention of disease will never be achieved as required in part 205.255 and that a 50-percent minimum performance target for all nutrients is
unnecessary in part 205.255 to achieve
limiting discharge of macro nutrients. NFI
asks if the Livestock Committee has raised the
bar above what is reasonable. Where there are
overzealousness in these particular areas
block organic seafood standards for some years
to come.

NFI looks towards rule-making in
eyearly 2009 but only after the language
proposed in these standards by the Livestock
Committee reflects what is the current state
of science and technology of aquaculture.
Thank you for this opportunity to speak.

CHAIRPERSON DELGADO: Okay.

Questions?

Hugh?

MR. KARREMAN: Thanks for your
comments. And you started and you also
finished by saying the standard based on
science and, you know, that's always a good
sound basis to be in. But I know, just in the
public sphere, science doesn't always win the
day totally. And so, actually, and the opposing viewpoints also have their science, right? I mean, they do, and we've had a symposium. So I'm just kind of wondering, you're pretty much in favor of what we're proposing with some AWG language changes and all that, but how would you respond to all the opposition that's out there, as far as what they have to say? I'm just curious. We have to balance that out in our decisions, you know. It's pretty strong.

MS. BLAKISTONE: That's why I'm not on the Board.

MR. KARREMAN: Okay. Fair enough. I just thought I'd give you a possible ... 

MS. BLAKISTONE: I know the opposing views and, yes, they're very difficult to negotiate, and the process enters into the scientific process. We've got to find a medium. You'll never satisfy everyone, but you try to get the majority.

CHAIRPERSON DELGADO: Any other
questions? Well, thank you very much. That
concludes tonight's list of speakers. Thank
you, members of the Board, for your patience,
and thank you, members of the Board, for your
endurance.

We will meet tomorrow at 8:00
promptly, and I would remind the Board members
that our dinner is waiting for us outside, and
we'll be eating in this room.

(Whereupon, the foregoing matter
was adjourned at 8:08 p.m.)
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202-234-4433


UNITED STATES DEPARTMENT OF AGRICULTURE

NATIONAL ORGANIC STANDARDS BOARD

MEETING

TUESDAY,
NOVEMBER 18, 2008

The board meeting was held at the Savoy Suites Hotel, 2505 Wisconsin Avenue, NW, Washington, DC, 20007, at 8:00 a.m., Rigoberto Delgado, Chairperson, presiding.

PRESENT:

RIGOBERTO I. DELGADO, Chair
JEFFREY W. MOYER, Vice Chair
GERALD DAVIS

STEVE DEMURI
KRISTINE ELLOR
KEVIN ENGELBERT
BARRY FLAMM
DANIEL G. GIACOMINI
JENNIFER M. HALL
BEA E. JAMES

HUBERT J. KARREMAN
TRACY MIDEEMA
JOSEPH SMILLIE
JULIE S. WEISMAN
STAFF PRESENT:

KATHERINE BENHAM
VALERIE FRANCES
ANDREW REGALADO

BARBARA ROBINSON
JUDITH RAGONESI
MARK BRADLEY
RICHARD MATTHEWS
ROBERT POOLER
SHANNON NALLY
RUIHONG GUO

VALERIE SCHMALE
TAMMIE WILLBURN
BABAK RASTGOUFARD
ZAHAB LOMAX
SHAUNTA NEWBY
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Adjourn
MR. DELGADO: Good morning. We are starting this day two of our meeting. And first of all, we have Ms. Weisman, and I would like to thank whoever is responsible for these wonderful and extended tables. It's Al.

Thank you.

(Applause.)

Welcome to all of you to day two. We have also a busy schedule today, and we're going to start with a discussion on the recommendations on the part of all the committees.

With nothing else to say, and let's get back on schedule and start immediately with our Policy Development Committee chair, Dr. Barry Flamm, please.

POLICY DEVELOPMENT COMMITTEE

MR. FLAMM: The Policy Development Committee has 10 recommendations for new language in the policy development manual, the policy procedure manual and in the new member
guide.

All this is a team effort of the Policy Development Committee, so following that concept, each of the members of the committee will present. In most cases they took the lead on it, but like I said, all this was a team effort.

An important part of that team is our esteemed chairperson, and he is not available to make presentations, but he was a major part in the development of all this. So to lead off, Hugh, will you present the technical directions, please.

MR. KARREMAN: Yes. Thank you very much.

Okay. The first item we are going to discuss in policy development is the technical corrections. Basically technical corrections are those actions needed to slightly change some of the wording that perhaps happened or were placed in the Federal Register from a recommendation by the NOSB,
and then accepted by the Secretary. And those changes sometimes -- for example, like with the livestock medicines, the withholding times came in through a little bit differently than the NOSB recommended, and due to external reasons -- nothing the NOSB could have really done, because the FDA weighed in, but the recommendation came through differently in the Federal Register, and then was voted on by the NOSB.

As well as -- so that would be like one example. Something perhaps needing a technical correction or we need to be aware of sooner than later as a board.

A second example would be unforeseen consequences of a recommendation voted on by the board that might require more annotations to fit the needs of the industry. The example given is the absence of an explicit description of what methods of extraction are allowed for specific materials, and if it's not annotated correctly, it could
result in the unwanted use of materials
extracted using prohibited extraction such as
hexane with the colors on 606, using hexane
and ethanol. They were not reviewed, but
water and oil extraction were.

So basically, you know, the
recommendation needs maybe some tweaking, but
it's already gone into the Federal Register.

So what we recommend is -- it's an
internal NOSB thing within the policy and
procedures manual, and so what we are
recommending is to minimize the confusion in
the organic community, the board needs to
monitor and correct discrepancies between
items which have been voted on and their
subsequent insertion in the Register. When --
some examples I just mentioned.

So here are the three steps that
we would like to recommend. The secretary of
the board, with the assistance of the National
Organic Standards Board executive director,
shall review all additions to the Federal
Register and report to the board any discrepancies between board recommendations and those published in the Federal Register.

Two, when the program incorporates changes to recommendations voted and presented by the board, the program is expected to communicate these changes prior to final action by the program to the board chair, vice chair, and secretary.

The board chair, vice chair, and secretary will report such activities to the board and then work with the program in order to assist the program in stating the exact reasons for such deviations in the preamble to the rule for changes posted.

And then three, in the cases of unintended consequences, with a published recommendation, the chair of the board, with the approval of the executive committee, will assign an appropriate committee to resolve the issue.

The Policy Development Committee
moved three in favor and zero opposed to accept this part of our policy manual.

There you go, Barry.

MR. FLAMM: Thank you.

MR. DELGADO: Any public comments, please? Are there any questions? Why don't we wait until the end of the presentation and then we'll ask for comments and feedback from the board.

So proceed with our next item.

MS. JAMES: Mr. Chairman just asked me to summarize the recommendations so that we can get through these 10 quickly.

So the next one is procedures for handling public comments at NOSB meetings, and in a nutshell this recommendation was crafted based on the desire for the board to have dinner before 10.

(Laughter.)

MS. JAMES: And that summarizes it. No.

The recommendation takes a current
NOSB policy for public comment at NOSB meetings and it strengthens it by further defining public comment into eight points. I won't go into all of those eight points, but just talk mostly about the changes that are highlighted in the recommendation.

Point one remains the same.

Point two states that presenters are encouraged to submit public comment in advance so that the NOSB can review recommendations electronically and we can save on the paper distribution at meetings.

Point three states that all persons called upon who are absent from the room could miss their opportunity to speak.

Point four includes the addition of the discretion of the chair to extend time past five minutes of sign-up.

Point five requests presenters to state their name and affiliation at the beginning of their public comment.

Point six stays the same.
Point seven states that presenters should not speak for more than 10 minutes unless otherwise indicated by the chair. The main thing there was "unless otherwise indicated by the chair" was added.

And point eight stays the same.

There's also -- we also added additional suggestions from the board into three different bullet points, and to summarize those:

Point one is that the NOSB will attempt to accommodate all persons requesting public comment. However, if people sign up at the last minute or that -- okay. Persons who have signed up to address the NOSB for their five-minute slot and have also served as a proxy for another person will be placed on a waiting list if they wish to speak for a third time on the same topic and will be considered at the discretion of the chair, depending on the availability of the time. And this should allow more members of the public time to
present, and the main point there is really just to make sure that we're allowing all people, particularly people who haven't signed up to speak, the opportunity to speak.

And then the next bullet is that members of the public are asked to define clearly and succinctly the issues that they are trying to address so that we are -- at the beginning so that we are really clear on what it is that you are lobbying for.

And the third one is members of the public should be considerate about speaking more than one time on the same topic to allow more members of the public the opportunity to speak.

And those last three bullets that I just read are really in consideration. The board would like you to consider it. It's not something that is required.

That pretty much concludes the public comment recommendation.

MR. FLAMM: And next we continue
with the election of officers?

MS. JAMES: Yes. Okay,

recommendation for guidelines for developing -- let's see here -- for further process for the election of officers.

The main point of this recommendation is that during the election of officers, it's usually at the very end of our meetings, and we developed this so that we can actually get out of here to catch our flights.

So that's the main point of that recommendation.

The first part of the recommendation adds the election of officers as part of the officers' duties. That was never clearly defined in the policy and procedure manual.

The second part of the recommendation outlines a process for the election of officers, including defining exactly what those steps will be. We divided it up into point A, B, C, and D, which include
nominations.

Point A is nominations.

Point B, the voting schedule.

Point C, eligibility of the vote.

And Point D, counting procedures for the vote.

And there's further explanation of exactly what those points involve.

And unless there's questions later, that summarizes that recommendation.

MR. FLAMM: And finally the committee work plans.

MS. JAMES: Okay. The last recommendation is for the guidelines for developing committee work plans. This recommendation outlines that the committee chair, working with the committee, should follow three general steps in producing a work plan.

One, list all the issues before the committee.

Prioritize the issues.
Three, set a calendar or timeline to complete your plan.

And four, obtain feedback from the executive committee as well as the program.

And then further action points to assist these steps are also outlined on the recommendation.

MR. FLAMM: Thank you.

MR. KARREMAN: The next recommendations on sunset. I found when I came on the board earlier this year in reading the manual of -- both manuals that I found I was totally lost at what sunset was about.

There was not sufficient background, and the charts were confusing and so forth.

So we took on during this round to try to provide a clarification for the policy and procedure manual through outline of what has been done and present it in a simplified fashion, giving background and so forth.

One of the keys, I think, of a
beautiful flow chart that Rigo developed that
if you follow it closely and line it up with
the steps in the narrative, it pretty much
outlines what happens in the sunset.

Sunset is described and the sunset
procedure is required under the act. There
never was regulations actually issued on this,
so the procedures have evolved over time.

I think as you see -- and I won't
going into all the details, but what is outlined
here is I think a balanced process of
considering all the evidence from the previous
-- from the initial petition, TAPS, whatever
was available at that time, plus new
information, comments from the public, and the
expertise of the assigned committees.

So in summary this outlines the
process in ways that hopefully it's clear to
the public and clear to the members of the
board.

The next is recommendations.

Hugh, would you present that, please.
MR. KARREMAN: The next recommendation is -- it's to formulate. It's basically the structure of how to formulate a committee recommendation to provide consistency in the content of all NOSB recommendations.

Essentially there's six parts. The introduction basically is a brief summary of the recommendation.

Then a background section that should present the issues that justify the development of the recommendation, any relevant task work.

Third part would be relevant areas in the rules that the recommendation hinges upon or in OFPA.

And then a discussion which could expand on the intent of the recommendation, showing its strengths, weaknesses, opportunities, and threats.

And the fifth part is the recommendation itself, is the core or
deliverable of the recommendation.

And then the sixth part would show
the committee vote, and then if there's a
minority opinion, that would be attached after
where the committee vote is shown.

MR. FLAMM: And now we move to
recommendations. We have a couple of
recommendations with the new member guide.
Bea, would you discuss the recommendation on
training?

MS. JAMES: Yes. This is very
simple. With the new member guide, we just
added the addition of new members making sure
that they read the FACA training PowerPoint
that Valerie has put together, which is
located on the nationalegglosscenter.org Web
site.

That's it.

MR. FLAMM: Actually a fifth
member of our team -- we always treat her like
a member of the team -- is Valerie Frances,
and she works with us on all these
recommendations and makes the link, helps us,
certainly helps me continuously.

The last item for the new member
guide is a database update, and Valerie, would
you present that, please?

MS. FRANCES: Barbara alluded to
this yesterday. It's certainly in her report
in response to Tracy's questions to what
happens to all the recommendations. And this
has been an ongoing project since I began, and
back -- I archived, you know, to the best of
my ability on every recommendation made by the
board. I still find some as I go, and I
incorporated that into an Excel spreadsheet,
although I've had to go through the process
now of updating every link there because we
redid our entire Web site. So all my links
were how the Web site used to be set up.

I'm also now beginning a process
of creating worksheets within that that then
archive the history of specific issues, and so
anytime anybody asks me a question, I research
the issue and lay it all out on each worksheet, the whole history of that issue.

So working towards, really, a more workable -- I think of it as a Rubik's cube, you know, in how data works, and would like to get us to a place where we can utilize this and even put on the Web site somehow, but begin to look at those recommendations that are out there that were either guidances or rule changes that we just haven't gotten to, how to triage them, and what more work needs to be done or, you know, give us some sort of status, will work ever be done on it. Just try to bring everything up to date. And so that's an ongoing project that I'm working on. So that's where that's at.

MR. FLAMM: Thank you. Before I ask if there's any comments or questions from the board, I neglected to mention on sunset that we did receive a couple of public comments, two of which dealt with the question of annotations and the language in the
recommendation on annotations has been in the new member guide all along, which is that the material is evaluated in sunset as it was listed in the annotations.

I'm not sure whether the way we had this written confused the commenters or not, but in any case, we did have two questions that raised it, asking why didn't NOSB look at annotations after sunset, and in fact I think we do.

So I just wanted to add that to my previous comments.

So now I guess we'll entertain questions and comments, and you can direct your question to the -- at least initially to the person who made the report. Is that right, Mr. Chairman?

MR. DELGADO: That's fine. Any questions --

MR. FLAMM: How much time do we have for questions?

MR. DELGADO: Not very much, but
we're in discussion mode. So are there any questions for the Policy Development team?

Any clarifications? Yes. Tracy.

MS. MIEDEMA: I had one on just developing committee work plans. This has been something that's been a little bit confusing to me all along. It's sort of what seems to percolate to the surface, and I really am pleased to see more rigor to how we build our work plan.

But I don't see anything in here that talks about the NOP asking us to take up issues, and from what I heard yesterday, that those recommendations are actually the ones most likely to get acted upon.

I want to make sure that we are prioritizing that work. So if you could just help me understand. In the section it talks about identifying all issues, where that falls, what the program, or what the Secretary of Agriculture would like us to work on.

MS. JAMES: Tracy, it's the third
point down, special petitions from the National Organic Program, such as clarifications on a particular issue or guidance, but maybe we used the wrong word by saying special petitions.

MS. MIEDEMA: Because normally the way the NOP requests come to us is in a much less formal manner. It's usually on a conference call. It's in this room. And we're only talking about building our work plan, and the special petition goes from us to the team, the highest priority work landing on the work plan.

MS. JAMES: Maybe it should say request or suggestions from?

MR. FLAMM: I think we had discussions at our executive committee on how some of this will be sorted out, in discussions with her, and maybe that didn't come across as clear as we intended.

MR. DELGADO: Very good.

Wonderful question.
Any other -- Tracy, any others?
Dan?
MR. GIACOMINI: Thank you, Mr. Chairman.
I think there's just a few things on a couple of these that I think might do with some constructive tweaking. In the election of officers, under the voting schedule, we say new officers resume the position after the fall board meeting. I believe historically it has been after the election, at the conclusion of the meeting, and the new officers actually are the ones who close the meeting, if I have that -- if I remember that correctly.

Also down in the counting of votes, where we're dealing with ties and revotes, I think it would be good to have an allowance in there for a person to be able to withdraw, which is not there now. But that would help, be something that would help clarify.
On the sunset document, one of the things that I've noticed in the policy and procedure manual that I think is an overall view of something that we need to look at working on and clarifying is that it tends to say "approved" or "prohibited." Really, everything, as we're listing things on the national list, is what we approve, and it's whether we're allowing it or prohibiting it. It depends on what kind of a substance it is. That's in the background on the sunset review.

I would suggest something along the lines of continued listing of an exempted material already listed on the national list, rather than talking about approved or prohibited.

Also, I think it would be very constructive in the sunset process, since one of the aspects of the sunset process is what is new, is to include a review of the original recommendation.

And I would suggest that -- I
would recommend adding that to the document.

MR. FLAMM: That would definitely be in there, Dan. Maybe our language wasn't clear enough.

MR. DELGADO: Anything else, Dan?

Hugh?

MR. KARREMAN: It's kind of wordsmithing, just wondering on the discussion that as far as when we look at things for sunset and we re-review, you know, what was the original petition, Dan, what if at the time of the original petition, due to need for a particular product, whatever it is, you know, we look at the checklist and we look at all the information, and I think I'd be honest to say that sometimes things -- let's say there's like potential harm to the people in the factory that make a particular material, I think that is one of the checklist items, you know, and that's manufactured, that not all the checklist items seem to always be given equal weight, depending on what the
material is and what might be needed. And so that in the future at sunset, it may be -- it's going to be a different sitting board that, you know, that that item may mean something different, you know, harmful to the people in the manufacturing of material, than it did to the original board, and I think it would be okay to look at that differently by people on the future board, even though it's the same -- literally the same information, but it was just viewed differently previously.

MR. DELGADO: Dan?

MR. GIACOMINI: That's always a possibility, but we can't get there unless we include in the process of sunset the review of the original document. So I mean that's -- you know, this is what we're looking at here, is what do we put in this document, and I think we need to include that we should recommend that we go back and we get that original recommendation.

MR. KARREMAN: Agreed.
MR. DELGADO: Any other comments?

Does that conclude your presentation? Thank you very much, and I congratulate you on your wonderful work this year as chair of the Policy Committee. In spite of the fact that you're the newest member of the board, you had the courage to step up and take over the committee. I congratulate you for that.

Moving on then to the next point, we have a Joint Materials and Policy Development Committee work, and the chair of the Materials Committee will give us their presentation. Dan.

MR. GIACOMINI: Thank you, Mr. Chairman.

JOINT MATERIALS AND POLICY DEVELOPMENT COMMITTEE

MR. GIACOMINI: The evolution as the program and the industry has grown, we've had a number of inputs into that along the lines of lawsuits and changes in viewing of
how things and what things go on the national list and how they are required to be there, has forced the -- sort of the reevaluation of handling this process. It significantly came to the fore in the review of the 606 items on the question of whether they had been properly TAP'd as required by OFPA.

The program in consultation with general counsel, as Richard said yesterday, reviewed that and the determination has been that the board can serve, and members of the board, committees of the board, can serve as the TAP review, but at the same time we all recognize the need for additional expertise, and additional knowledge and outside of the board, and in some situations the workload would just be unbearable for the board to handle, even when we do have the expertise.

So this is a clarification of that development of the process. We do need to do some tweaking in this along the lines of who convenes the technical review, actually.
So -- and that is the process we're clarifying here, is that the -- in a sense the board is serving as a TAP when necessary, when possible. There are certain things in the 606, raw ingredient items and agriculture, that do not need generally the outside additional review.

But the -- so there's a clarification that the outside third party review is now being -- has been reviewed according to the program as the technical review to supplement the TAP when necessary. That's the essence. We also go into and review the process of developing questions, specific questions within the committee, to ask for the technical review and to ask for that technical review to be done, and we further list things to evaluate those reviews when they are completed.

That's the essence of the document. There are a few things that need to be tweaked from public comment, a few other
items that need to be worked on, but that is
the essence of it, and I think as extensive a
document as it is, if anyone has specific
questions, we can deal with those.

MR. DELGADO: Okay. Thank you.

And I also have to remind the board that we
are in the process of presenting
recommendations. We are not done with public
input yet, so there is opportunity to update
those, make any changes to your
recommendations, just as the chair of the
Materials Committee will be doing.

At this point are there any
questions for the chair of the Materials
Committee? Bea.

MS. JAMES: Dan, yesterday we
heard some people talk a little bit about
their concern that the NOSB would actually
perform a TAP, and I was wondering if you
could give me your, you know, perspective on
that.

MR. GIACOMINI: Well, we have been
told that we are able to perform the TAP, but
that is not the say -- that is not the end of
the process, necessarily, if there's not the
time, not the expertise, and I think most
members of the board would generally prefer in
a technical item, in most of the synthetics,
most of the things that would go on everything
except 606, and include some of the things
that will be coming up on 606, that an outside
technical review, external technical review,
will be requested.

There's no effort within this
document and no intent of the document to in
any way decrease the external technical review
process. It's merely a way of handling the
requirement of OFPA to have these reviews
within the change of 606, was the main
emphasis to this.

MR. DELGADO: Julie?

MS. WEISMAN: Yes, I actually
wanted to just add a comment that maybe would
put things in a little perspective because I
have heard a lot of the fear in many people on the board and in the room about this issue, which is that before we started actively needing and having to add materials onto 606, there was no even possibility -- like every material that was petitioned was going to need an outside third-party technical review. And when we first were presented with the situation where we were now going to be reviewing agricultural products, it only then occurred to us that it's possible that some things -- petition materials -- maybe don't need third-party technical reviews, if they're something very, you know, simple or raw or whatever.

And we have also on the board gone through a learning curve in realizing that just because it's an agricultural product doesn't mean that it's simple.

So there is no thought that just because something is being petitioned for 606, it will not get a third-party technical
review. It's only really that there is now
the possibility that sometimes there are
materials that will come along that perhaps
can be reviewed appropriately by the expertise
that's on the board if we have time to do it.

And so this is really only to open
up that possibility, not to propose some
radical change in how things have always been
done.

Is that fair?

MR. DELGADO: Any other questions,
comments? Dan.

MR. GIACOMINI: I'd just like to,
you know, if there's no questions, I'd like to
include that in addition to the issues brought
in public comment, the statement that I made
regarding the documents in -- other documents
in the policy and procedure manual is we will
try to go through this and clean up the
addition or removal, clarification that I
talked about, and also we are looking at on --
I can't tell you what page it is, because I
don't have -- Valerie, if you could go to the page after procedure for handling technical reviews. Next page.

We are looking at the C and E. We are very interested -- the board is very interested in knowing the effective interactions in light of what has affectionately been known as the Applegate decision.

So -- and what that says is that anything on the list, anything that interacts with it, that -- yes, if you combine and you create a new material, that new material is also considered on the list.

So we are very interested in including in the technical review what new substances we may be allowing, as much as possible, when any interactions and creation of new materials come -- arise from what else is on the national list.

But C and E is asking the question of what interactions come from everything else
in the universe. And that's a little burdensome, I think, in the technical review.

So we will be looking to modify that to include a request for the result of combinations of items already on the national list in the same section. There's also no value in knowing what interaction there is from an item on 605 with 601.

So we will try and keep it relevant. We will try and not over -- make it overburdensome, but we believe that it's very important that we know what those potential things are moving forward.

MR. DELGADO: Any other questions?

Kevin.

MR. ENGELBERT: Just one quick one as a reminder point, and maybe under definitions, under technical advisory panel you start out with a group of third-party experts, and then under technical review, you say a report prepared by a third-party expert, singular. Maybe those two should be
coordinated to avoid confusion, that the
technical review could also be done by a group
of experts.

MR. GIACOMINI: One of the changes
we need -- additional changes we need to make
is deleting third party from the definition of
technical of the TAP, because that -- what we
are saying in this document is that the TAP
can be the board.

MR. DELGADO: Any other questions?

All right. Thank you, Mr. Chairman. Now we
are moving on to the next point, also handled
by the Materials Committee, and specific
recommendations. Back to you.

MATERIALS COMMITTEE

MR. GIACOMINI: Thank you, Mr.
Chairman.

This is the discussion on the
document to take items from the table. This
is purely a parliamentary procedure to try and
get things right. We have been requested in
public comment numerous of times -- numerous
times over the years to find out and to satisfy and take care of all these old petitions that have in one way or another gone by the wayside and have never received full final action.

In the process of that -- we are working to do that, and we appreciate in the public comment the lists that various individuals have provided us of petitions that have not seen the end light of day.

We are working with the program on clarifying those, finding, figuring -- trying to establish the status of those, and when possible, if the interest is still within the petitioner, of moving ahead with those.

One of the things that we found in that process is that petitions were put aside in various ways, and in dealing with that, parliamentary -- within parliamentary procedure a very typical way of shelving something is to table it. It puts it up there and you don't act on it again until you take
it off the table. Legislatively that's the way a lot of things get killed, is to table because you cannot take action on them again legally within the rules of parliamentary procedure without taking them from the table.

In the process of evaluating and reviewing old petitions, we came across what we believe are items that were tabled at the board level. Therefore, they require action at the board level to take them off the table so that they can be reconsidered. That is not to say that we are immediately going to go into action on them; they will go back to the program, the program will, if they are multiple item petitions, be rejected. If they are -- if they are individual items, they will be -- the petitioner will be contacted to find out if they still want to continue. If they are very old petitions, the program may even request that a new petition be submitted.

But -- and likewise, if that action was taken at the committee level, then
it is the committee that can take the action
to take from the table.

But in this case, we believe that
these are -- it was not -- we tried to be as
inclusive and do as good a job as we could,
but we're not claiming in any way for anyone
think, and we certainly do not believe, that
this was an exhaustive process. We have not
reviewed the transcripts of every public
meeting of the NOSB since its inception, but
these seem to be items that we have found that
were tabled at the board level, and we are
merely trying to take the proper action to
bring them back into play.

Any questions?


MR. DAVIS: In referencing some of
the public comment, one that specifically
lists several materials, that -- a couple of
them seem to be ones that it was actually in
the NOSB court when it was -- I don't know if
it was officially tabled, but using that
verbiage, but they seemed to have been in the NOSB court, and now they are waiting for the synthetic, nonsynthetic issue to be resolved.

The two materials I reference, for example, would be phosphoric acid use in -- for pH adjustment in aquatic plant extracts, ammonium bicarbonate.

Were those ones that would or should be included on that list there, or is that something different? Different status, you think, than what you tried to list?

MR. GIACOMINI: I don't -- I was not able to go through and track -- we were not able to go through and track each of those items to a particular meeting, to a particular transcript.

But with the historical memory that we were able to communicate with, a number of these items, when they reached the board level, are pulled back by the committee. It's not the full formal vote of tabling at the board level that is what we need to deal
with here. If it was tabled within the
committee, the committee can take it off.

MR. DAVIS: No, I understand. The
list that you made was stuff that was
officially tabled by the full board?

MR. GIACOMINI: At the full board
level. Technically it requires full board
action to bring back into play.

MR. DAVIS: Okay.

MR. GIACOMINI: And again, one of
the questions that was asked yesterday, well,
where did this come from? It came from the
request that we've had at almost probably
every meeting since I've been on the board to
try and deal with these old petitions. That's
what we're trying to do.

MR. DELGADO: Any other questions?

Just to follow up, Dan, do you
have an idea of how many materials we have
tabled at the committee level? And if so,
what would be the action item on that? Are
you planning on contacting the committee
chairs to try to get those moving? Give us a
status.

MR. GIACOMINI: Well, a number of
those old petitions that are on those lists
are still in the process. A few of those are
coming up for a vote at this meeting, and we
will be continuing to work with the program in
cooperation with the program. It's
challenging enough to go through the
transcript records, much less going through
all of the old committee report records.

We may just need to allow the
committees to deal with those as we identify
them and find them and reestablish what the
status is.

As far as the number, I have no
idea.

MR. DELGADO: Okay. Thank you.

Any other questions for the
committee?

Thank you.

Well, thank you, Dan. That was
very good, and I applaud your efforts of trying to clean up the list of pending items. And we are on schedule, I'm reminded by my vice chair. We're ahead of schedule, and we're moving on to the next topic. You're actually not done, Dan. We're moving on to the clarification of the definition of the national list, so back to you.

MR. GIACOMINI: Thank you, Mr. Chairman.

We're not done, but this is not my part, a big part of my -- the big part of this is not my job right now.

Another issue that the board has been dealing with extensively over the years, the ag/non-ag question, the synthetic, nonsynthetic question, the concept of agricultural synthetics which could require that it's both on 606 and 605 at the same time, and the fact of resolving the issue of is it the substance or is it the process that
got that particular version of the substance that is the primary factor.

This came to -- in the efforts to resolve these issues, I believe a year ago at this meeting, we, in cooperation with a number of people from the public and the organic industry, former NOSB members, it was decided to convene a working group on this matter. It is open to everyone that wants to participate. It has been -- it's coordinated through the conference call system, and graciously provided by the Organic Trade Association, to allow these phone calls to occur, and that committee, that working group, has been on a very regular basis trying to deal with these issues.

They have now worked on the ag/non-ag issue for approximately a year, and they will be looking at the synthetic-nonsynthetic hopefully within this next six months before the spring meeting.

But right now what we are looking
at, what we are looking for, what we're going
to be doing, is a presentation by the cochairs
of that group, Kim Dietz and Gwendolyn Wyard,
to give us a presentation of where the
evolution and where we have ended up and where
they are in that process at this time.

MS. DIETZ: Good morning. There's
been a little bit of change of plans here.
Gwendolyn ate a bad piece of cantaloupe this
morning, so she's in the back, and I just cut
her off so she can go back to her room. So
we're going to meet in a little bit.

So we're going to kind of split up
the slides, and I'll do the introduction, and
then Emily and Rich will help me as well.
That's what a working group is all about,
right?

Okay. My name is Kim Dietz, and
I'm one of the original founders of the
Materials Working Group.
The Materials Working Group is an
ad hoc committee that represents a broad
spectrum of backgrounds in segments in the
organic industry. Participation in the group
is open to anyone who is interested.

The Materials Working Group was
formed following a November 2007 NOSB meeting
to work on clarifying issues surrounding the
definitions of nonagricultural, nonsynthetic,
synthetic and nonsynthetic, and to assist the
NOSB in developing recommendations and
guidance documents relating to those
definitions.

Meetings were held weekly during
the time leading up to the main meeting, and
a discussion paper was presented at that
meeting by myself and Gwendolyn.

In 2008, the group reconvened our
weekly conference calls with a goal to bring
forward more detailed discussion documents
regarding issues surrounding nonagricultural.

We'd like to thank the Organic
Trade Association for allowing the Materials
Working Group to use their teleconference
Additionally, special thanks go to the hard work and dedication of the participants, and I'm going to read their names, because I think it is important for you all to know who was involved in this committee.

Andrea Caroe, past chair of the NOSB; Brian Baker; Craig Weakley; Emily Brown Rosen; Grace Marroquin; Grace Gershuny; Jessica Walden; Julie Weisman; Katrina Heinze; Kelly Shea; Kevin Engelbert; Kevin O'Rell; Pat Pearson; Dan Giacomini; Rose Koenig; Richard Theuer; Sue Biard; Susan Ulery; Tom Hutcheson; Victoria Saavedra; and Zea Sonnebend.

We submitted 54 pages of documents, and you can tell by the list of the people on the committee, very technical group, and leading that group was very interesting, but we're doing it. So that's really my role, is to set the calls, set the agendas, work with Dan, try to figure out what timelines we
need, and get it done.

Couple of comments about the group. We are an independent group. We were formed that way, whether it's right, wrong, or indifferent. We're not necessarily an affiliate of the NOSB. We're here to assist freely. And we're not an affiliate of OTA, although OTA graciously allows us their staff time and conference calls.

And it's really the involvement, the work that we've done, and the involvement is what is the outcome.

I read a couple of comments, and they said there were some biased opinions. Well, you know, we've done the best we can, and my only response to that would be you have to participate and make sure you're engaged, and this is the outcome of it.

We will continue with the NOSB. Okay. So let's go through the slides. We're going to talk about status
quo, we're going to talk about our different options, we're going to talk about a survey that the group did.

In a nutshell, even with that wide list of people that you saw there, the names, we still can't even come up with a conclusion on the definition of ag/non-ag.

So what you have before you is a task, but we have narrowed it down one more time, so here is the status quo definition of nonagricultural.

Okay, the definition of nonagricultural is ambiguous. Not a product of agriculture, such as a mineral or bacteria culture, that is used as an ingredient in an agricultural product.

For the purpose of this part, it also includes any substance such as gums, citric acid, or peptin that is extracted from, isolated from, or a fraction of an ingredient product so that the identity of the agricultural product is unrecognizable in the
extract isolate refraction.

So that is what is currently being used as the definition of nonagricultural.

What you see up in the pictures up there are soybeans and then soy lecithin, so an example of something that's gone from agricultural to nonagricultural. And then we have gums up in the upper right corner.

Okay. Next.

Status quo. The rule states that agricultural products can be organic. Presumptions that nonagricultural is nonorganic only.

So a lot of even members of our group feel that if it's nonagricultural, then it means nonorganic.

Status quo determines one placement for material on the national list, whether it's eligible for certification, whether it's subject to commercial availability.

Current 205605 substances are
available as organic, consistent with -- so long as they're consistent with 95 percent organic agricultural ingredients or formulation, such as yeast flavors, dairy cultures. Extracted isolated derives from organic agricultural material, such as flavors, bleach lecithin, and glycerin. And that is again the status quo.

Next slide.

Some of our primary issues that the group discussed and really again couldn't come up with a definite conclusion was on agricultural origin. Where does it begin.

And this is probably the work of the board where you're going to take it from here.

A lot of discussion and controversy over whether or not agricultural has to be land-based. A wide variety of opinions there. Land-based activity related to plants, soil, and livestock in a traditional farm setting.

Other issue, broad range of
activities that include any living organism
intentionally raised or gathered by humans for
our own use.

And subpart (c) is divided into
crops, livestock, and handling. That's the
rule.

And then the definition of
livestock, however, includes other nonplant
life.

So there's really the four areas
that need to get resolved so the industry can
move forward.

The pictures on the bottom -- I
don't know if Gwendolyn is still in the back
of the room -- she's right next to me. Would
you like to chime in? Because these are
interesting.

MS. WYARD: Try to bear with me.
I'm kind of in and out of the bathroom here.
Okay. So what we've going on in
the pictures up at the top there that, you
know, most people look at those and they say,
well, that is an agricultural system, those
are traditional farms.

Down in the bottom, just to get
the old noggin rolling, we've got a picture of
chlorella, and that's the far left picture.
And then right next to it, that's chlorella
production. So controlled environments,
controlled tanks, where the chlorella is being
grown. And we picked that as an example
because chlorella was one that is being
petitioned for 606.

And, you know, noted in the
recommendation, the board did say, well, it's
a photosynthesizing plant, so that seemed to
be part of the criteria that we used in
deciding it was agricultural.

If you keep going over, you have a
yeast cell, and then right next to it, that is
yeast production. In fact, that's the lady
that's making the organic yeast in Germany.
Sourdough started there.

And that production -- a lot of
the conversations that have come up is that, you know, an agricultural product is soil based, it's connected to the land, and if you are growing an organism in a facility, in a tank, in a controlled environment, temperature-regulated, pH-regulated, that is not a farm, so to speak.

So if that's where your production is starting, that's where something is growing, that would be considered agricultural.

So these are the discussions and this really becomes very apparent, it's a very philosophical divide as to what is agricultural and what is not.

So the primary issues, this first one, where does it start. And this is really where the work has been hung up over the years. When OTCO submitted our proposal in 2004, for clarification on this issue, we submitted a flow chart in that first box, and said is it a plant, is it an animal, is it a
fungus. We really have never gotten past that first box. That's the discussions and about very much focused on yeast.

So we really need to look at the world of living organisms, and keeping in mind that we've got a regulation that talks about crops, livestock, and handling. Is that our world of agricultural? But then you have to look into those -- into the definition of crop, and when you go into livestock you see nonplant life, and so that really opens the door to, you know, a whole host of living organisms and what was intended by that.

Go on to the next slide, please.

So once you figure out where it starts, then you have to figure out if and when it stops. So does something lose its agricultural status? And if so, how? Is it because of a chemical change? Does it match up with the definition of synthetic? If that chemical change occurs, what if it's because of a biological process? What if it's
enzymatic? What if it's a mechanical method?

What if something is heated? What if bread is
baked and chemical changes occur, does that
make it nonagricultural?

The definition of agricultural
product in OFPA and in our regulation, it
really doesn't define itself, because it says
agricultural is an agricultural product,
either raw or processed.

So we know -- and this is very
important -- that it includes processed, and
we do have a definition of processing.

So if you take something that
starts out agricultural and you look at that
long, you know, eviscerating, cutting,
chopping, slicing, that definition, are all of
those methods okay, whatever that agricultural
product undergoes? Is that processing? Or
does that, even if a chemical change occurs,
does that make it synthetic and therefore
nonagricultural?

That's been a huge part of the
discussion, is does synthetic equal
nonagricultural?

Go on to the next slide, please.

Okay, things are heating up a little bit.

So one of the big hang-ups we've had when we start talking about changing the definitions of nonagricultural, providing clarity, we start looking at items that are listed on 605, and we say, well, okay, yeast. It is a living organism. It can be grown up on organic agricultural substrate. Maybe that is more appropriately listed on 606.

Maybe glycerin. Glycerin is derived from oil. It started out as agricultural. Goes through maybe high pressure, high heat, chemical changes occur. You have a split between the glycerin backbone and the fatty acids. It started out as olive oil or some sort of vegetable oil. Did those processes turn it into something that's nonagricultural?
You move things on to 606, and really the heart of this discussion has been about yeast. In the livestock world, commercial availability doesn't exist. So if you deem something agricultural, processors will have the ability to say, well, it's not available in the quality, quantity, or form that I need. However, the livestock producer will have to use organic. It doesn't have that commercial availability option.

So I think the community was ready to move yeast on to 606, but we saw a real inequity and looked at the burden that that would place on the livestock industry.

So we have in our paper, I believe on page 4, we explored some options, some potential regulatory changes where the main one is that you would make an exception, basically, for items that are on 606. Agricultural items on 606 could be fed to livestock, nonorganic, up to 5 percent. It was an option that was
explored. It's something that, you know, we encourage you to look at as well, what would be the implications of that, is it even possible. But we were looking for a way to somehow put the livestock sector and processors on a level playing field.

Okay. So I don't want to spend too much time on this, but I do want to demonstrate a little exercise that we went through where we started out -- and actually I'm just going to focus on the 11 materials.

We took the group and we picked 11 familiar materials that are on the national list, and we played with different definitions to see how that would affect our answers, namely that the consistency or lack thereof consistency.

So the first definition -- go ahead, please -- we took the whole second part of the nonagricultural definition that is so ambiguous and contradicting, and we just cut it out, and we said let's see what happens if
we just say it's not a product of agriculture, leave those two examples in there, mineral or bacterial culture. So that was the first revised definition.

The second one, we removed those examples of mineral and bacterial culture. Nobody -- so far we haven't found any disagreement on mineral. We haven't heard anybody argue that mineral is agricultural.

Bacterial culture, on the other hand, that's been a problem. So we said, well, let's just remove those examples and say it's not a product of agriculture. And let's also provide a new definition of an agricultural system, and let's tie it to the land. Let's say that it has to be soil based, soil-producing crops, livestock, or poultry.

Okay, that's the next definition.

Now we've included those examples -- well, the example of mineral. Another example that has gone undisputed is atmospheric gas. So mineral, atmospheric gas,
nonagricultural. Everybody was on the same page.

And then we took that agricultural system and we said, okay, this one is not connected to land or soil. This one is going to be any living organism, more or less, that anything that's managed by humans. And then we qualified managed -- intentional gathering, producing, raising, growing, domestically or in designated wild harvest areas, by persons for human or livestock consumption.

So another definition that we played with.

Go ahead.

And so this is the survey results, and so the first column, everybody looked at each one of those materials and just read the existing definition of agricultural product. And most people said yes. Lactose is agricultural. Egg white lysozymes.

In all cases, there was agreement.

For the most part, you can see where it kind
of separates out once you get down to fermented products, citric acid, fermented products, fermentation is a really important one to focus on. Kelp.

And there, with our existing definition, when you get into kelp, then people are saying, well, soil, water, agricultural.

Then you put the nonagricultural definition out there, and again, now there a lot of people are saying, well, it's also nonagricultural.

First, revision No. 1, is it nonagricultural. Several people said no. In all cases for the first three. But you can see it still jumps around.

Revision No. 2, it's jumping around, it's very inconsistent.

The third definition, that was -- we had the most consistency on that third one.

Go on to the next slide.

The exercise was somewhat
inclusive. It really deserved more attention and more discussion, which we didn't get to, but a few things that definitely came out of it is that you can, with our definitions, depending on which one you're reading, it can go to agricultural and nonagricultural.

And better definitions do yield more consistent differentiation, and of course we really had no consensus amongst our group.

So go ahead.

So we took those exercises and we said, well, we really do need to try to come up with definitions that have more examples, and more detail to it.

So what we are providing you -- and this -- change it on this slide, too. That's actually supposed to be A and B. We couldn't figure it out. When it's on my computer, it says A and B. When you put it on anybody else's computer, to goes to A and A.

(Laughter.)

Everybody kept saying, Gwen, you
got to change it. I have changed it.

MR. DELGADO: Gwen, I suggest A
and non-A.

(Laughter.)

MS. WYARD: All right. Okay, so
we're offering you two definitions to work
with. Definition A, we've stuck the examples
of mineral and atmospheric gas.
Noncontroversial examples, we think, so far.

We have said for the purpose of
this part, agricultural refers to the
production or handling of crops or livestock.

We are including that second part
to say let's exist within the context of OFPA
and the regulation. Let's use existing terms.
Let's focus on crops and parse that out and
say, well, is -- crop is defined as a plant in
our regulation, so there's going to be a need
to look at the term crop, plant, and does that
include -- is that chlorella, is it kelp, or
livestock.

And then once you go into the
livestock definition, you have to address nonplant life.

The second definition, non-A, we have stuck with the examples of mineral and atmospheric gas, and lopped off that whole confusing section part, and said it doesn't originate from agricultural system, and then we have provided this definition of agricultural system which is all-encompassing of all living organisms that are raised by humans.

We are not qualifying, defining where that happens, whether that be soil or air, water. We recognize that there are insects and lots of little critters that are extremely important food sources throughout the world, and the second definition is really embracing that. It could be any living organism.

You could essentially get there with definition A as well because of nonplant life, but definition non-A is more committal as
far as saying if you're a living organism that's being managed by humans for human or livestock consumption, it can be agricultural.

Okay, next slide, please.

I just went through this without -- you can go on to the next slide, too. That was just the explanation that I provided.

And again, that's the explanation that I provided, so you can go on to the next slide.

Okay, I'm going to pause, and I want to -- since I am one voice representing many others, I just want to make sure I haven't missed anything, or if there's anybody -- how many people on the group are out in the crowd? Would you raise your hands?

(Show of hands.)

Okay. Is there any -- are you sitting out just antsy, going she forgot to say something, she really needs to bring something up? Richard? Would you --

MR. THEUER: One point that we
concluded -- I'm Rich Theuer, North Carolina, former board member.

One of the points that we came to was that with certain definitions, something can be neither agricultural nor nonagricultural.

(Laughter.)

So you had some where it was both with some definitions, and with other definitions, it was neither because the definitions are not mutually exclusive.

MS. WYARD: And you have something that I -- it's not in our paper, and I don't know that anybody -- there are some things that are agish --

(Laughter.)

They are composed of agricultural and nonagricultural ingredients together, you know. I mean that's what we're looking at with yeast, and why is there organic yeast on the market. Because at formulation 95 percent of it is organic. So you have a combination.
So I'm going to run through the options.

The first option is a very important one to consider. Don't change anything. Oh, well, I guess we're not biased on this.

But it's very possible to provide clarity using guidance documents. The scope of agricultural, that certainly could be clarified with guidance documents.

The second part of the definition, if you feel that something does lose its agricultural status, then spend time on the second part of that definition, and you could provide guidance to clarify when does something lose its identity. How does something -- how do you lose the identity of the agricultural product.

So you -- those examples are problematic because you've got gums on 605 and 606, pectin on 605 and 606, and perhaps you just cut out the examples and provide guidance
that would further clarify that second part, and then rely on the petition process to get materials to where they need to go.

So, you know, considering keeping things as is and not making regulatory changes is number one to look at.

Number two. Okay. Okay, so option two, we are going to retain the current headings for 605 and 606. We are going to revise the definition of nonagricultural.

Now you get to choose door A or door B. For this option, A or B can fit. It will change things, but that's something the NOSB needs to look at, and then relist the items to correspond with the chosen definition.

And then we have also provided suggested criteria for adding items onto 205606. Number one, that it comes from agricultural origin. And if processed, it's done so using methods defined under 205.2. So the definition of processing.
An item that goes onto 606 does not contain a synthetic component unless allowed under 205605, and then for use in organic products, the clarification -- and this is something that we put out there for a while and we think it's really important that we get clarification from the program because it will help us in our determination of agricultural and nonagricultural, because we find that there are certain criteria or -- certain criteria for using agricultural ingredients in organic products that will sometimes get tied into or -- tied into a definition of agricultural when it really has more to do with what is allowed in an organic product than it does whether or not it's agricultural or nonagricultural.

So 606 items, can they be produced using synthetic solvents and synthetic processing aids? Can they contain synthetic components that aren't on the national list. We have requested -- I know Oregon
Tilth from PCO has been requesting clarification on this for two years, so with that clarification, we feel like that should be criteria that gets included on adding things to 606.

And then I just want to point out that you have an appendix B, and so for all of our suggested options, we've gone through and we've made -- we've demonstrated all the places in the regulation that would need to be revised if you go with this option. We've detailed it out. We've looked at every section in the rule, and crossed out, et cetera, et cetera.

Valerie, you can go on through this.

Option No. 3, in this one we are dropping the term nonagricultural from 605 and leaving reference to nonorganic -- really it should say nonorganic substances only. The ingredients can be problematic since we have more than just ingredients under 605, but the
point is to remove the term nonagricultural from the heading, so that you will have a list of nonorganic substances. These could be ones that are nonagricultural. They could be ones that are agish, such as yeast, microorganisms, recognizing that, well, they may not be the traditional farm-grown type of product, but they do -- their production does really on agricultural product, most of it. So it definitely has agricultural and environmental implications, and according to the composition standards of an organic product, it could be organic.

So this would be a way to not put yeast or microorganisms definitely under agricultural, and this is thinking of the livestock dilemma, but recognizing that they are agish, and apply commercial availability to 605, recognizing that you apply commercial availability to that list because of items such as yeast that have both -- are produced using both ag/non-ag components.
Suggested criteria for 606 remains the same, and again, in appendix B we have gone through and looked at every place in the regulation where the term nonagricultural is used in reference to 605 and crossed all that out, so you can see and really get a feel for the amount of rule change it would take to go with this option.

And then we have -- with this option we've plugged in definition A, which is the one that refers to crops and livestock.

So recognizing again that 605 could contain agricultural, agish, and nonagricultural, and I say agricultural as well. I think what's not up there, under the criteria that I believe is in the document, is that 605 would also be a place where you part substances that can't be organic because no standards exist. We feel like 606 should be reserved for ones that are clearly agricultural, meet that criteria, and standards exist for it.
We put the requirement for somebody to search for a commercially available organic ingredient, if there are no standards, they don't really -- there's no business for them to be on 606. So that's what this option is embracing.

Okay. Then option No. 4 -- and keeping in mind, too, these are in order of no change to the most change.

Option No. 4 combines 605 and 606, and it removes reference to ag and non-al altogether. You just have a list of allowed nonorganic substances that are either synthetic or nonsynthetic. We've removed the distinction of ag and non-ag because OFPA doesn't make that distinction. OFPA only makes the distinction between synthetic and nonsynthetic.

We have retained the definition of nonagricultural to further define agricultural product. So again you have, you know, option A or B, or definition A or B, that could be
plugged in here.

We have also separated out cleaners and sanitizers, so we -- again in option, or appendix B, we've completely rearranged the list. Basically we took everything under 606, assumed that that was nonsynthetic, but it's interesting. If you go through and look at how that list is now set up in appendix B, you do see some items that are listed as nonsynthetic and other items listed as synthetic. It's an interesting placement just to look at it that way and see where everything is set up.

Okay, let's go ahead and move on.

MS. FRANCES: We have sanitizers on 606?

MS. WYARD: Oh, yes. Thank you.

So we are using now 605 as the combined 205 and 606, and now 606 is its own list for cleaners and sanitizers. So we separated them out so it's clear which items are being used as either ingredients or processing aids, and
then we pulled out cleaners and sanitizers, and we feel like this -- the discussion here plays into the conversation about 100 percent organic, and having a place to put substances that are used in handling operations but not as ingredients or processing aids.

Thank you for asking that.

Go ahead.

Oh, yes, the lovely flow chart.

So this, down at this -- I'm not going to take you through this in detail because I think we're running short on time, but this is just an example.

One, this could be the guidance. This in addition to a narrative, this could be guidance that would maybe go in status quo. You could adopt concepts in a particular option and then explore whether or not you could provide clarification without rule change.

You know, obviously the -- we feel like there's going to need to be some rule
change. We really -- some of us.

(Laughter.)

I'll be very careful on that.

There was no consensus. We never reached full agreement.

But here what we have done is we have brought together option 3 and definition A, and it brings together the questions. We've taken the parts of the definitions and turned them into questions. Is it a proper livestock derivative intended for human or livestock consumption. Is it processed. If it's processed, has there been a chemical change. And if so, is that change a result of the processes described under 278.

So we are now saying, okay, there's been a chemical change, but it's a result of processing, and if it's in our definition of processing, then you could have an organic product that would undergo a chemical change. So we wanted to align chemical change with what is allowed under the
definition of processing.

And then the question about have any synthetic solvents, synthetic processing aids, that ties back into the criteria in 606.

So I think a flow chart along with a narrative, you know, along with rule change, we think that there's going to need to be a guidance document in addition to rule change, and this would be an example of how that would look.

Okay. Next slide, please.

MS. DIETZ: Okay. This is what the group feels the NOSB needs to clarify. The NOSB needs to clarify whether an agricultural product -- example, vegetable oil -- that undergoes a chemical change via mechanical or biological methods can still be agricultural.

Does an extract derived from an agricultural product, via hexane or synthetic solvent, become nonagricultural.

These are issues that the industry
has not been able to deal with for 20-
thing years.

Does an agricultural product
combined or reacted with a nonagricultural
substance become nonagricultural. That's been
an issue that hasn't been resolved in many
years.

What if the nonagricultural
substance is on the national list.

Is a product of fermentation
agricultural or nonagricultural.

These are some of the things the
NOSB needs to decide, if agricultural extends
to any living organism cultivated or gathered
by humans for humans or livestock consumption.
That's another land-based issue.

Next slide.

In summary, clarification is
crucial and the national list needs to be
cleaned up accordingly. This has been an
ongoing -- I think it's time, we've got some
of the meat on the bones, and we're ready to
deal with these issues.

Definitions and list requirements
should encourage the development of organic
food, ingredients, and feed.

Changes to the regulation should
be minimized, and the resolution must be
consistent with OFPA, so we've tried to look
at that in all of our definitions.

And the work on agricultural
versus nonagricultural cannot completed until
synthetic and nonsynthetic is completed.

And this goes back to Dan when we
talked about trying to look at it as a whole.
That's something you guys are going to have to
decide. Can you move forward with the ag/non-
ag as we move forward with the synthetic,
nonsynthetic, as an industry.

I think that's it. That's all the
slides.

Thank you. We appreciate the
effort devoted by the NOSB in moving forward,
moving toward a resolution of these complex
issues, and offer this discussion document as background to further work on the subject. We will continue to offer our support.

I don't know if we have time of questions or how you want to handle it from this point.

MR. GIACOMINI: Do we have time for a few? Yes, we do. Just before I open it to the floor, two things very briefly, hopefully. Just to clarify the status of the situation, I think probably one of the most shocking things I've ever heard since I was on this board was when we presented the document with the new paradigm and the possibility of considering continuing a year ago is that this is easy and it's all been done before, and you just have to compile all the old NOSB documents.

Is this easy?

(Laughter.)

Okay. Thank you.

Number two, Gwendolyn, the
statement I'm going to make now may have a lot of people heading for the door. You said that you have never had an issue of a mineral not being non-ag.

MS. WYARD: Never.

MR. GIACOMINI: We are considering at this meeting calcium from seaweed. This is technically -- the closest thing chemically to it would be a limestone carbonate. It is the structural part of the seaweed. The seaweed dies, falls to the floor, they pick it up off the floor, they grind it up, wash it, and send it out.

I can very easily imagine the interpretation of this limestone carbonate product being considered agricultural.

MS. WYARD: Well, if seaweed is agricultural and it's derived from seaweed --

MR. GIACOMINI: It's the structural part of the seaweed and there's no chemical change involved.

MS. WYARD: So it's a different
mineral than the mineral that went undisputed, ones that are mined from the --

MR. GIACOMINI: Yes.

MS. WYARD: Just when you think you --

(Laughter.)

MR. GIACOMINI: Not to have to go into a big discussion about it, but the possibilities do exist.

MS. ROSEN: Well, I would just add the natural source of the mineral. It doesn't matter if it's agricultural. It's -- there's no -- it came from seaweed, it's natural. It's for crop, livestock, whatever use you want to put it to. Or human use. But it's -- you know, we could have a whole separate debate on the certifiability of seaweed and kelp, too. I mean that's something could use a little bit of discussion.

MR. GIACOMINI: So opening up to the floor. Joe.

MR. SMILLIE: Well, first of all,
I want to thank the blue ribbon panel of the working group. You've done a fabulous job on an obviously difficult topic. And this is the kind of public participation that this board absolutely relies on to get its work done. So once again, our immense thanks.

Now we're down to five or six options. It's going to be tough and, you know, it's going to be tough to come to a decision, but I think we do -- I think this board does have to come to a decision because we've got to cut the knot on this one.

Two comments. One is I just don't feel that we really -- and I could be wrong on this -- have to decide the synthetic, nonsynthetic. I think if we go with this one first -- and I believe that since organic is about agricultural, we should make our decision on ag/non-ag, and let that lead us into our decision on synthetic, nonsynthetic, rather than trying to do both at the same time.
The second thing is a comment was made that you can't certify something unless there's a standard. And that's become pretty controversial these days.

(Laughter.)

And one thing I'd like to point out is we do have something that Tina is actually sitting here representing, and that's mushrooms. And, you know, we're certifying mushrooms --

MS. ELLOR: Under the crops standard.

MR. SMILLIE: Under the crops standard.

MS. ELLOR: Because they are a crop.

MR. SMILLIE: Because they are a crop. And they come from a compost pile, not necessarily from a co-ge chamber, and we don't have a specific mushroom standard.

So, Gwendolyn, did you want to follow up on that?
MS. WYARD: Right. Well, but some standards being used like -- so we're talking about say fish oil. There are no aquaculture standards. So that would be an example of fish oil, if you were to take the option where you remove the distinctions and you would put fish oil on the 605 without the non-ag distinction because there are no standards yet. So you don't put it on a list where people are supposed to go out and source it when it's not out there because there are no standards. That was the idea.

MR. SMILLIE: I don't want to drag it out, but if you go -- well, take a look at two of your favorites, yeast and kelp. You know, kelp does not come from the soil, so some of the definitions don't work, but yet we certified that.

MS. WYARD: Well, and we question how it's being certified.

MR. SMILLIE: Wild crop section.

MS. WYARD: Right, but we're still
questioning how contaminatin prevention can happen. But with yeast we have -- we are using standards. Again, we're using the processing standards.

But when you go through the regulations and you try to certify fish, you can't find a standard to plug it into.

MR. DELGADO: Barry?

MR. FLAMM: Yes. For a newcomer, this has been an extremely interesting topic of discussion for me. But I have a question which will probably show my ignorance, but I'll ask it, anyway.

I don't quite get why gathering -- and it may not have any consequence in what you come out with, but why is gathering considered agriculture? I always thought of a hunting-gathering society, and even today, as being preagriculture.

And like I say, it may not have any consequence, but almost everywhere I see, gatherer is part of a definition of
agriculture. And you can write this off if it's not of consequence.

MS. WYARD: Well, we have wild harvest in our regulation, so --

MR. FLAMM: But is it --

MS. WYARD: I understand, yes.

Well, and we were looking at the intentional act of -- because you are intentionally gathering food for consumption. I mean I get what you're saying, because when you look at history and how people collected their food, agricultural came after hunting and gathering and breeding.

MR. FLAMM: And without raising it.

MS. WYARD: No, we're gathering it. We're -- you know, we're finding an area and gathering it for food.

Julie, do you want to -- or anybody else?

MR. DELGADO: Julie.

MS. WEISMAN: Yes. I just think
it might be helpful for us to remember that
the statute that brings us here is the Organic
Food Production Act, and gathering as it's
practiced today is producing food, and I agree
-- I understand what you're getting at in
terms of hunter-gatherers, but that's a
sociology issue.

(Laughter.)

MR. FLAMM: Well, I mean today
there's a lot of gathering societies still
exist in the world and in our own country.

MS. WEISMAN: I'm not saying that
it's not a modern issue, but that's a
sociology construct, not an OFPA -- I'm asking
you to stick to the OFPA paradigm and not take
on all of the social sciences.

(Laughter.)

MR. DELGADO: We have a comment.

MR. GIACOMINI: Yes, in responding
to Joe's statement, the materials and working
with anyone else certainly on the board that
wants to work with us, we will take this and
consider what we can move forward on before
the working group reaches a completion.

One of the difficulties that we
have envisioned is if we decide that something
can be considered agriculturally synthetic, we
have a hard time seeing that we would move
ahead with one half without the other.

I mean there's implications there.
We have cellulose on 605(b) as a synthetic.
If we are going to say that that is an
agricultural synthetic, technically we may
need to put trees on 606.

So there are implications there
that we would need to look at which make it
difficult to move with only part of it.

MR. THEUER: Could I have just a
quick response? Some of the group also had
the same -- this is Rich Theuer -- had the
same objection to kelp as being agricultural,
for the same reasons that you raised.

MR. DELGADO: Hugh.

MR. KARREMAN: Just two things.
As part of the gathering, I don't know a thing about this, but at least it's kind of you're managing it in a circumstance, you're watching over it. It's not like you're just freely running around and you gather whatever you happen to find. I mean it's in a defined area that you're gathering from, so it's kind of managed, which is what organics is all about.

But I also -- I just hope that -- it was brought up briefly earlier in the presentation about using, I think it's items on 605, for livestock production.

MS. WYARD: It's on 606.

MR. KARREMAN: Yes, and that's been an ongoing issue as far as, you know, the yeast with the livestock and all that. So I would like to explore that a lot more, because, you know, with a 100 claim for human retail product, you know, the livestock kind of have it tougher than, you know -- it's got to be a 100 percent ag, and yet people can buy organic, USDA organic things on the shelf that
are not 100 percent ag and yet it still has a seal.

And I really think that livestock should have that same benefit.

MR. DELGADO: Dan.

MR. GIACOMINI: One of the things that we will hopefully see where the program stands on when I ask Barbara how to find the status of recommendations was that document -- and Kim may know the data on this document better than I do -- where the NOSB recommended that items on 605 be considered as allowed for livestock feed.

Complicating the issues of that is, number one, that was a pre-Harvey recommendation, which changes the whole structure of 605, 606.

The other thing is the consideration of there's a tremendous amount of byproduct flow through the food chain that could be used tremendously as livestock feed, which would be a tremendous reintroducing of
nutrients.

So a possibility would be whether
you can utilize those things as raw
ingredients, or whether you use them as part
of that byproduct stream, one way or the
other.

MR. DELGADO: Bea.

MS. JAMES: I want to thank you
guys for this document. I was so, you know,
impressed and actually when I -- I saved it
for last of all my reading materials because
I was intimidated, and I thought, well, okay,
here comes another complicated subject matter
in a document that's probably just going to
confuse me even more. But I felt like you
guys really looked at a lot of the different
options and that I have my own opinion about
what option I think would serve the industry
best, and I want to ask what your guys'
opinion is on the different options that you --
you know, if you as a group ever said, okay,
well, where do we stand as a group, what
option takes the majority?

MS. WYARD: That's why you have four.

MS. JAMES: But there's more than four people in your group, so there must be --

MS. WYARD: So that's a concern, which we put together, and we had all the definitions. We were more looking at what's more -- what's going to be more consistent, and that's really the answer.

We couldn't come to any conclusion as a group. We all have our own personal opinions on what we think would work as well. So I can't really answer that as a group. We don't have a consensus.

MS. JAMES: The main reason I ask is that some of those options look grueling as far as, wow, this is just going to take so much time and rule change, and -- but if it's the best possible option, I think that that's really --

MS. DIETZ: And that's what we
attempted to do with that chart, to see what is the best option. And so we may have to go -- I mean we think that there should be some rulemaking. That's me as the chair, but some of the other members don't feel that. The status quo is just as good. So that's really where you guys have to -- and I think really this has to go out to the public. We need public comment, and this is just some work to get some guidance to get some ideas out there so the public can take it and you can take it from there.

MS. JAMES: Just in closing, I want to thank you again and all the people that worked on this document. I remember back when we first started and Rose Koenig and, you know, the whole conversation and how complex it was, and I really appreciate your work on this.

MS. DIETZ: And it's been a good marriage of industry and board, and I think that it's worked very well, even though it's
not official or anything, but it's worked.

MR. DELGADO: Richard.

MR. MATTHEWS: Yes. I want to answer Dan's question with regard to whether or not we've acted on the recommendation relative to all materials in 605 being accepted in livestock. That recommendation was vetted with the FDA, and it is not accepted. And I believe that it was addressed in the proposed rule to the final rule on livestock materials that was published last design certification. The final rule was published then, but I believe that the preamble to that addressed that particular issue.

But it has been addressed in a rulemaking someplace, and it was rejected after consultations with FDA.

MR. DELGADO: Thank you. Any more questions? Hugh.

MR. KARREMAN: Maybe I should have known that, but that comes as a surprise. I
think that would be like where you could let
the board know, if possible, beforehand or
write when that has happened, like this is
what the FDA said, because I wouldn't have
asked my question. So thank you.

MR. DELGADO: Julie.

MS. WEISMAN: Just real quick. I
participated in this group, and I just want to
say to Kim and Gwendolyn that what's here is
impressive, even for someone who was involved
in the process; maybe more so, because there
were so -- there was so much material, so many
possibilities, so many permutations, and it is
-- even having participated in the process --
especially having participated in the process,
it's really helpful to see it all up here in
black and white. Thank you.

MR. DELGADO: Any other questions?

Kevin.

MR. ENGELBERT: Just for the
public record, if you don't mind the work on
synthetic and nonsynthetic, if anyone would
want to join the group at this point, would they be welcome? Would you consider it closed right now?

MS. DIETZ: Yes, the question was if anybody wanted to join the group to work on the synthetic-nonsynthetic, the answer is yes. Just contact me. I'll be here all day today and tomorrow, or Gwendolyn, and we'll get your e-mail address and add you to the list.

We have calls every week. So just contact us.

MR. DELGADO: Dan?

MR. GIACOMINI: And I would like to extend that special part of that request. The working group is industrywide, and there are people that are affiliated with all parts of it, but it is definitely certified and processing weighted. Any people with a more extensive background in crops or livestock would certainly be welcome on the group.

MR. DELGADO: And I have one question. I just want to join the choir here
and let you know that we're very grateful. We appreciate your work, both to the leadership of the group and to the members of the group that were part of this wonderful example of leveraging the popular know-how, if you will, and helping the board.

So thanks again.

(Applause.)

MR. DELGADO: On that note, we're going to have a well-deserved 10-minute break. We'll see you here at 10 o'clock.

(Recess.)

MR. DELGADO: Welcome back after this break. We are about to start our nonbreak session. And we'll start with -- Joe, are you ready? It is the turn of the Compliance, Accreditation, and Certification Committee to talk about their proposals, and I will yield to the chair, Joe Smillie.

MR. SMILLIE: Thank you, Mr. Chair.

We -- it's Certification,
Accreditation, and Compliance, just to be clear. We like to start with compliance, right.

CERTIFICATION, ACCREDITATION, AND COMPLIANCE COMMITTEE

MR. SMILLIE: Thank you, Mr. Chair.

Our committee has been working pretty hard on a number of issues. We have two recommendations for this meeting, the multisite recommendation and the 100 percent recommendation.

We're going to start off with the multisite recommendation. As a lot of you know and a lot of you have participated, this has been an important issue that is desperately needed by the industry to move forward with, and we've gone through a couple of iterations, and we are pretty happy with what we're presenting now.

We have been very happy with the public comment on it, and one of the things I
would like to point out -- or two things I'd like to point out about the document before Tracy leads us through a detailed analysis, is that the appendices are important. A lot of people -- the recommendation itself is pretty long and technical, but the appendices are a very important part of it, and I urge all of you with interest in the document and in its implementation, hopefully through the NOP, that these appendices are regarded as an integral part of the document. Because a lot of the details, which a number of people are worried about and concerned about, are contained in some of the selections we made as far as the appendix material, including the title and the multisite, which is an isoterminology, and we want to stay on that iso base and work it into the organic world as much as possible.

The second item I want to point out is that there is a minority report on this document, but as the minority report itself
says, the minority is in favor of the document in all but one instance.

The minority report reflects the opinion that there was one particular item out of maybe 100 items or less, but that they just couldn't agree with.

So, please, when you read the minority report, it is a minority report, but it is in favor of the entire document with one small change.

So with those two items, I'd like to ask Tracy Miedema to walk us through the document.

MS. MIEDEMA: Thank you, Mr. Chairman, and good morning, everyone.

This is the third time our committee has presented on what we call certifying multisite operations, and this topic is also known as community grower groups, it's known as certifying smallholders, and it's known as various other terms out there in the industry.
Nevertheless, it's a topic that has -- it's a means of certification that has been very well established in practice, but we discovered a problem. And the program really discovered a problem with what was happening in reality and with our regulation.

The reason we are here is because of a directive from the program, so I want to state right up front that based on what we heard yesterday from Deputy Administrator Robinson, this would be a priority recommendation that the program would be acting upon.

So the problem part of the regulation is section 205.403(a)(1), which states that a certifying agent must conduct an initial on-site inspection of each production unit, facility, and site.

Hence, our designation of grower groups as multisites. And we are just really trying to have our language fit with the regulation.
So, you know, therein lies the problem. This implies that every smallest divisible bit must get looked at by a boots-on-the-ground outside accredited certifying agent.

Well, that's not what was really happening. And so a year-and-a-half ago, we proposed a legal framework where in groups or multi-fed operations could continue to exist. And that requires a rule change. That requires, at the very least, some new definitions that are firmly acted upon through a guidance document.

Yesterday one of the commenters mentioned, well, this word "site" with its definition leaves a gaping loophole for very little inspection to occur, for inspection to only happen at the centralized managed facilities.

Well, in order for these groups to go forward, we need to define site as the centrally managed unit.
However, we go on for dozens of pages on what the inspection protocol should actually look like, and drilling down into each site, drilling into what can be called subunits or members and all of the risk analysis that needs to occur to the site -- who gets looked at, with what frequency.

We also go into great detail about how these members should be clustered in the production units.

So our first recommendation -- I'm sorry, our first guidance document a year-and-a-half ago provided a legal framework to deal head on with 205.403 in the fact that the reality didn't match the regulation.

We took a varied 30,000-foot view of an internal control system as a viable construct for doing organic certification, and we didn't look at it as a method of certification that was somehow subpar. Rather, what we tried to do was look at how can we ensure that it is never subpar.
We didn't take a biased approach and say, only impoverished Third World smallholders should have access to the construct. And, in fact, I have yet to hear a convincing argument for how the exclusion of others from using this construct actually helps smallholders.

However, this was the hot button issue, and what I'm referring here to is this idea that an internal control system being used as a means of inspection could get extended beyond the smallholder group.

It continues to get raised in this meeting, even though we went mute on the topic in this final recommendation that we're putting forth.

Now just, you know, moving into the timeline here of the last 18 months, what we did in one year or -- let's see, I guess that would be six months ago, we put forth detailed guidance. That was what you all are calling for here on the board and the public
asked us for it.

We said, okay, you've laid out the legal framework, now, you know, put some flesh on those bones. Tell us what these things really look like, how they should work. The program asked us for that information as well. Give us some guidance so we can train certifiers in how to go in, put these organic system plans to work together to build an organic system plan with groups and have something that's rigorous and valid in every instance.

So we also received an enormous amount of public comment that wanted to limit internal control systems and the notion of group certification very narrowly to farmers.

Yesterday Jim Pierce referred to this elephant in the room. We didn't intend this recommendation to have an elephant in the room marching around.

In fact, we are quite explicitly mute on the topic of producers and retailers
being able to use this construct in the future because we still think it's very possible, probable, it's happening right now, and there's many retailers that are certified in this manner that are scrambling trying to figure out what to do because of an item posted on the NOP Web site in May that quite unequivocally said that grower group model does not apply to retailers.

Unfortunately, retailers have not -- and, you know, any type of processor group is not going -- has not been granted the luxury of time that seems to be being granted to smallholder farming operations.

I also wanted to respond to one item yesterday that was raised during public comment that said, well, you know, we've got a situation here that's going to look really kind of -- it's going to look kind of sexy in the media if we have some imported organic product and there's fraud and, you know, here's a gaping area where problems -- let's -
- we need not to conflate these two issues of imported product and multisite operations. These are completely -- completely independent of one another.

If there's fraud from imported product or fraud on domestic product, that's an enforcement issue. Fraud can happen as surely in a single-producer operation as it could in a multisite, so implying that, you know, multisite is inherently a greater risk to consumer perception is -- I don't think it's true.

So this recommendation, we're beyond the guidance document stage. We put forth a couple of guidance documents. We had a minority opinion, as Joe mentioned, that stated every new entry, every new member who comes onboard should be looked at by an outside member. Keeping in mind there's a clear difference here between surveillance and review, that an internal control system does, and an outside inspector does.
What the minority opinion suggests is that every new member should get looked at by an outside inspector.

So we would like to put forth the recommendation with this minority opinion. Procedurally I believe we can vote on a recommendation in its entirety, including a minority opinion, and frankly let the program suss out which way they want to go on that.

But there's going to be some decisions made at the program level. We are not -- you know, we have not dotted every single "i" and crossed every single "t" on this issue, but we need to act. We need to move this forward.

There's a lot of stake, and we have seen that the program can move swiftly with groups that are using this construct that they have with retailers. If they were to move swiftly with smallholders, we could have, you know, tremendous upheaval for not just us organic coffee drinkers, but, you know,
vulnerable farmers around the world.

That's all I have.

MR. SMILLIE: Thanks, Tracy.

I'm just adding one thing.

There's a key component in this, and we originally proposed that it be a new scope of accreditation, that multisites certification be part of the -- be separate from crops, processing, livestock.

That was rejected at that time by the NOP, but we would like, as hopefully we get a positive vote on this recommendation, we would like the NOP, you know, to take it really seriously, that not every certification organization is going to be equipped or ready to take on this type of certification; that the training component that Barbara talked about yesterday, the training modules, are going to have to be very clear, because a risk analysis approach, which this is a lot based on, is a very, you know, highly technical domain that certifiers will have to get up to
speed on before, I think, they can start
getting into the business of multisite
certification.

So the scope of training and the
fact that not necessarily all certifiers will
be able to do this until they are up to speed
on it I think is very important, and we will
rely on the NOP that hopefully once this
recommendation is adopted by the board and
moved to the NOP, the NOP will, you know, make
that particular training available.

Because, as I said, in the
appendices, there's a lot of technical detail
on how this is going to happen.

Second item, second recommendation
that we have brought to the table is the 100
percent, and again I just want to clarify that
what this recommendation is about is the label
claim of 100 percent. We are not addressing
the issue of calculating components of a
multi-ingredient product in this
recommendation. Even though it may or may not
impact that calculations issue, that's not the
purpose of this recommendation, and we'll try
to make that clear as we move forward.

This was a response. This is the
kind of thing that the NOSB does when we hear
from the community there's an issue out there,
there's some problem, will you address it. We
took it up, we got into it, and we had all the
best intentions getting into it, and luckily
we have a wonderful community out there that
lets us know when we're on track and off
track, and we heard some excellent comments
yesterday in public comment on our
recommendation.

We listened very carefully, and we
will react, and I will ask Julie to give us
the update.

MS. WEISMAN: Well, as you know,
this committee did make a recommendation. It
was published. At the risk of repeating Joe's
comments, we were fortunate to receive very
thoughtful and valuable public comments about
it, and through that process it has become obvious that the CAC, maybe because of our composition or maybe for other reasons, approached the issue very narrowly with an eye only towards the 100 percent labeling category of the products that are packaged for retail, and without really considering what other impacts this -- what other issues, important issues, could be impacted by this recommendation.

What public comment has brought to light are very critical issues which I think narrow down to two things. One is the issue of materials that are used post-harvest versus materials that are used during processing.

The recommendation we have -- as we have proposed it would have very drastic consequences, obviously, now if post-harvest materials were considered ingredients -- considered as processing ingredients. And it would possibly, it sounds like, set up a very strong disincentive for using basic food
safety practices, and this is of grave concern to the committee now that we have realized that this is one possible outcome.

The other issue that is impacted, which Joe alluded to, and I'll keep comment about it brief, was that this recommendation would have an impact on how organic percentage is calculated, because if growers were to continue using the food safety practices that they have been using, it would knock a lot of the products that are currently listed on their organic certificates in the 100 percent category out of the 100 percent category and create mayhem in the rest of the industry in terms of how organic percentages are calculated.

That has already been a problematic issue that is still, you know, troublesome to sort out. So we do not want -- we are very concerned about adding to that difficulty.

So in light of these very valid
concerns, the committee, although we haven't met as a whole group, in just conversations since yesterday, I think that we want an opportunity to meet and decide whether we should move this recommendation forward as is, whether we should try and do like a midnight amendment process -- I hate those, but sometimes we've got to do them -- or to even discuss perhaps maybe whether this should be pulled back. But that's a question right now because the committee hasn't met yet.

So I think that it was the thought of the chair and myself, perhaps, that in the interest of time at this meeting today, because this recommendation may be substantially altered, not to present it as it is because it is has a lot of sort of very in-depth information that takes a lot of time to explain, and that maybe we should not present it at this time and pending our committee meeting later sometime today to decide what we do, how we do want to proceed with it.
Is that a fair summary?

MR. SMILLIE: Yes. And that concludes our presentation.

MR. DELGADO: Any questions from the board? Jennifer.

MS. HALL: For the benefit of the board and for the community, I would like to take the opportunity to share a little bit more about the spirit and intent of the minority opinion.

As Joe mentioned, I definitely feel very solid about the integrity of using a good strong internal control system as a management tool, but also as a manager of many organizations, to me, the long-term success of the organization or group, as it is described here, also rests on a really strong foundation of training up front.

So I think it's a little bit misinterpreted that I actually see new entrants as automatically high risk, and it really is more about the second half of the
paragraph that talks about it, and that it really is about trying to establish a more solid up-front training and foundation and particularly given the fact that these smaller locations can be independently held, that it's an opportunity up front to get them all on the same page.

MR. DELGADO: Any comments?

MR. SMILLIE: Thanks, Jennifer.

We do want to make one clarification in the document. I wanted to, you know, see if there were any other questions from the board first, but once that's cleared, then what we would like to do is do a little red-lining, which is little a clarification of one of the sections that's had the most confusion.

MR. DELGADO: Let's do that clarification now for the board.

MR. SMILLIE: Okay. So unless there's any other questions, we'll move to the clarification.
Tracy.

MS. MIEDEMA: Thank you.

Valerie, would you please go to page 7.

We wanted, in discussing sampling protocols, to make sure there was an element of random sampling. And when you start talking about percentages of percentages, it just can get confusing if you aren't crystal clear.

So what we went ahead and did -- and this was after the document was published, so for the benefit of the public and probably for the board, we wanted to show you that we have inserted a couple of examples of what we mean when we line out the sampling protocol.

So if you could scroll down a little bit. The page numbers may have shifted a bit. Okay.

So what we have said that was confusing was the high-risk sample of identified and inspected. Twenty-five percent
of the remaining subunits to be inspected should be selected randomly and so on.

So if you all would just turn your attention to the board. The way we have clarified this is to say once the annual sampling percentage rate is determined by the ACA -- so, you know, let's go -- let's just be clear right there -- the ACA determines the sampling rate based on a long list of risk criteria. The highest then, the highest risk subunits are identified and inspected.

Of the remaining samples to be inspected annually, at least 25 percent of these subunits should be selected at random.

You know, the reasoning behind that is that this helps to prevent the complacency that might be inadvertently encouraged by a certifier focusing only on higher risk members of the multisite operations.

Then we go through a couple of
MR. DELGADO: Does that conclude that item?

MR. SMILLIE: Yes.

MR. DELGADO: So we'll open it up to questions. Dan.

MR. GIACOMINI: Thank you, Mr. Chairman. Thanks, Joe and Tracy.

I agree with the philosophy of where we're going here, but as I go through the document and I listen to public comments and I hear -- you know, look at other situations, there are some things in this that I still have some problems with.

First of all, I think the justification for this, that is how inspections are being conducted currently, is a very weak argument; that if the problem is incomplete inspections being done, we need to
fix the inspection process rather than to create a document to justify it.

So I disagree with that comment as being partly behind where this is coming from.

Number two, on the specifics, I really object on page 2 to -- there's two places where it refers to the possibility of the "may reduce or eliminate the need for a direct inspection or observation."

I have a hard time going along with this document where we say -- where we are allowing a consideration that we may reach a point that the need for an inspection would be eliminated. That's in the first paragraph on page 2 right above the OSP at the end of the paragraph. Up at the top, Valerie. "May reduce or eliminate the need of a direct observation by inspection."

I don't -- I have a problem with that "eliminate," and it's duplicated down in the last paragraph right above the footnotes, "internal control systems that reduce or
eliminate the need for a direct observation."

I don't -- I can't -- I have a hard time agreeing with that direction, that implication of where that could go.

MS. MIEDEMA: May I respond.

MR. DELGADO: Tracy.

MS. MIEDEMA: I think that's an excellent catch, actually. And what we need to do there that could, I believe, allay your concerns, which are very valid, is where it says the word "subunit" and take out the word "or site." Because that's what we're talking about here. And that was an oversight on my editorial process. And that would then comport with the rest of the document.

MR. GIACOMINI: Personally I would prefer we add "eliminated" or "eliminate."

MS. MIEDEMA: Sure.

MR. GIACOMINI: The second point is in a question on page 8, at the bottom of page 8, "all noncompliances detected," go down through the sentence, "are required to be
I don't see here when that reporting is required to occur. Is it at the detection of the noncompliance? Is it just within the annual inspection? Because I can see some situations developing where, okay, we won't report this. If they find it in the inspection, then we'll report it, because I think there's some different teeth that can be involved in those implications.

MS. MIEDEMA: I'd like to respond to that one as well. This is actually enshrined in all organic that noncompliances should always be reported, and I think we are starting to get into an enforcement issue where, you know, this is really -- a noncompliance spotted here is no different than on a single, you know, production unit type operation. If it's wrong, it's wrong, and it needs to be pointed out in the same manner.

So getting as prescriptive as, you
know, reported within 24 hours or something like that, is more prescriptive than anything else that we line out for certifiers.

MR. GIACOMINI: Okay. Well, that brings me to my next point. When you say it's no different, I have a hard time looking at this document and not seeing a concession being made. There are concessions -- we have requirements, you know, that -- you know, if you're a small grower in the United States, at $5,001 you have to have an inspection. We are allowing certain ones, because of the structure of their organization, not to be inspected.

Now they do have the internal control unit, and that review, and I understand all that. But it is a -- there are concessions being made. And what I don't see in the document is really -- and I'm sorry if I'm being unfair here -- I don't see where we're getting anything back.

I think the consideration -- I
like the consideration of -- I like the -- I agree with the minority report of requiring that all new people must be done. I do not see a contradiction in requiring that all growers' subunits in a production system that earned more than $5,000 in the previous 12 months would have to be inspected, and part of the inspection outside the high-risk group.

I don't see any problem with requiring -- and this may be in there, I may have missed this, but just as I was making notes, requiring that every subunit that had a noncompliance has to be inspected in the next inspection period.

I don't see -- I like the addition you made at 25 percent. I think maybe we could -- you know, what I was thinking along the lines is a percentage of acres or a percentage of value of the production unit has to be included in that inspection sample.

Finally, I just wanted -- there's a couple of places where you deal with random
selection, and I agree with random selection, and it is a factor that would minimize the number of repeat inspections within the same subunit.

However, I'm not comfortable on a random basis, just by random chance. You could go 10 years without seeing a particular subunit. I think we need a maximum number of years between actual inspections of each subunit within a production system -- five years, six years, whatever, but I'm uncomfortable with the randomness allowing it -- random could be they're just never seen.

So if we're not going to require new ones and we don't have a maximum between inspections, you've got subunits in there that have never been inspected, seen by an inspector, and I have a hard time going along with that. Maybe it's too much.

MR. DELGADO: Response, Tracy?

MS. MIEDEMA: Thank you, Dan. You know, I think we start out from a little bit
of a different philosophical perspective on this, and then the chasm starts to widen as we get down into the details.

What I have seen is that, you know, if you look at the public comments submitted this time, 19 of 20 were generally supportive, and we're going to have -- you know, there is going to be some devil in the details, but, you know, all in all we had to - - we had to make a decision on one side or the other.

And all of the items that you pointed out are areas that we took public comment and took account very carefully. It's an issue of do we believe these are feasible, do we believe it's right, do we believe smallholders should have a role in organic? And if our general tilt at the beginning of that conversation is yes, then a lot of details fall out of that. And if the general philosophical bent is no, then the details sort of all in the other direction.
Then we can't quite bridge the divide if we start out from a -- you know, philosophical difference.

We started out believing that this can and should carry on as a viable certification if, and only if, a rigorous set of criteria were developed, and we believe that this set of criteria provide that rigor.

MR. DELGADO: Joe.

MR. SMILLIE: Yes. I think Tracy summed it up really well. You know, you can go both ways on this.

My personal belief is that if you look at the list of risk analysis, all the points you make could be added to that. I think that if ACA is doing their job, they will do those.

For example, anyone with a noncompliance in the past that corrected it would be a high risk and they would be inspected again.

But the idea -- eventually we get
to the point are we going to try and write a
prescriptive regulation in this document, or
are we setting forth a series of criteria by
which people are going to be judged?

We believe we have gone really
depth on a lot of these issues, and I think in
some cases too far. I think that basically
what our job is to do is to be clear in our
intent to the program, and not to get so
prescriptive as to tie the ACA.

For example, why I disagreed with
the minority opinion -- it sounds good that
every new member should be inspected and
welcomed into the group and have the visit of
the, you know, the third-party inspector.

But when you start to work that in
detail, it means that you're pulling away a
whole group of people. You know, some of
them, you know, don't need to be inspected, if
you look at a risk analysis benefit. And if
you include all of them, your sample gets big,
so the tendency then, from a certifier point
of view, well, we're doing all these new
people, so you cut back on some of the -- you
know, the guy high in the mountains, in the
low corner, or the guy near the border. You
cut back. And I think the risk analysis, the
importance of the risk analysis approach, is
that you really want to identify risk. And if
new members are risks, by all means, you know,
they need to be checked. They need to have
that inspection.

But if they are not, if there's
eight of them, all side by each, as we saw in
Kennebec, you know, that you don't really need
to do all eight.

So where you are going I'm not
disagreeing with, but I'm saying it becomes
very prescriptive, and I believe it's the
training of the ACA and the criteria that
needs to be put forward, and not to go down
the overly prescriptive route on this route.

But that's the way I -- we
approached it.
I also once again want to reiterate if you go to the appendices -- and I mean not that you'd want to, but there's a lot of detail there that we intend the program to go into.

So that's about as best as we can answer it at this point.

MS. FRANCES: Can I clarify something? In the appendices, there's actually a reference there.

MR. SMILLIE: Thank you.

MR. DELGADO: We have Bea, followed by Jeff.

MS. JAMES: Dan, I was wondering if you could elaborate a little bit more on the comment that if there's a current practice going on, and that we are trying to create a document to justify, maybe you could be more specific.

MR. DELGADO: Dan.

MR. GIACOMINI: Maybe I misheard part of Tracy's introduction to the document,
but I believe that's what -- the essence --

some of the essence of what she explained.

MS. JAMES: For this particular

recommendation?

MR. GIACOMINI: Yes. Just now.

MS. MIEDEMA: I believe you were

referring to 205.403, and it states that every

production unit site and facility must be

inspected. That's not what was happening in

reality, if we look at site being a small

divisible unit. There were not and are not

today boots on the ground at every small

divisible unit. And it totally addressed head

on 205.403. Every grower group in the world

is out of compliance.

So that's what I was talking about

making the language match the reality, not --

lots of integrity, but simply disallowing

another lawsuit because this went all the way

to appeal, and so, you know, we've got a

problem here, and that's why we decided to

address that head on.
MR. DELGADO: Jeff.

MR. MOYER: Yes. Joe and Tracy, I got some basic problems with this document that Dan really touched on very clearly.

One of the stringent arguments that we continuously use in the organic marketing program is that when we talk to consumers, we tell them that every farm is inspected all the time, so we have inspections.

I understand the internal control system steps in and takes over part of that role. However, talking with growers who are involved with internal control system inspections, they all have said -- not the inspectors, but the growers -- have said you don't really pay as much attention when it's the internal inspector as we do when it's the external inspector.

I've seen that -- my wife works in a microbiology lab, and they have internal control systems. But it's the same thing
there. When it's the internal inspector who you just had lunch with, it's a little bit different than when the outside inspector comes from ANSI or somebody else.

So I have concerns over the fact that, you know, as Dan pointed out earlier, you pointed out in your example, a random sampling of when you have 100 growers, two? Two are selected as random testing? Your chance of getting picked is almost as good as winning the lottery. I mean you're just -- you're not really not going to get selected that quickly.

And so Dan's suggestion of having a maximum number of years between inspections, while it does change this document and force us to have more boots on the field in terms of inspectors, I think when you're talking to consumers and you're trying to alleviate their fears that product is inspected -- when you're talking about -- you know, as you pointed out, Tracy, a lot of product that's coming from
overseas where there's already serious
concerns, I think that we are asleep at the
switch if we pass this regulation the way it's
stated. Representing the consumer.

MR. DELGADO: Any response?

Tracy.

MS. MIEDEMA: Well, a comment on
your metaphors there. Your wife's company.
You would need to extend that metaphor and say
that she has a lab that has an internal
inspection, and her lab has a whole bunch of
other labs they work with. And so the
pressure she has is not just from this gal she
had lunch with who's going to come look, but
if she falls down, she jeopardizes all the
other labs.

There's an enormous amount of
pressure within these systems to comport with
the law and keep the entire organization's
products organic.

So there's -- you know, it's not a
one to one, your metaphor there, I would
argue.

I also am concerned with this notion that you're looking at inspection as some sort of lottery system. We have accredited certifiers, agents of the government, that are in charge of these organic system plans. And what you're inferring is that they are unqualified to do their job, and that the entire system is flawed.

What I would, I guess, ask you to do is point within these criteria what is missing, rather than sort of blithely referring to it as a lottery system that confuses consumers. Because all inspection is sampling. I work at a farm that is about 5,000 acres. There are not boots marching over all 5,000 acres. All inspection is sampling. And if consumers believe that a pair of boots have trod over all 5,000 acres, that's a misperception out there, same as organic means no pesticides, something we
contend with, something we know there's an inherent risk when there's those misperceptions. But all inspection is sampling.

And that's not wrong, that's just what inspection has to be.

MR. DELGADO: No response to that? We have Hugh, followed by Dan.

MR. KARREMAN: Just a brief remark. I mean Dan had a lot of very exact points, but they're -- from random sampling you may never visit a subunit or a unit and you have to. I mean for me to like this document and go for it, you have to have some minimum that every single unit -- not all in the same year, but maybe in a rolling kind of fashion -- gets inspected, at least every five years or something. And they have their ICS happening, but you could really have some units falling through the cracks. Just -- that's got to change in the document.

MR. DELGADO: Dan.
MR. GIACOMINI: I realize I ran through a number of things, but one thing that I would like, you know, the committee to address -- and Joe, if you would -- I certainly do not agree with the concept that I tended to hear or I think I heard in some public comment that anyone -- any unit grower over $5,000 can't belong to a grower group. I don't necessarily agree with that, but could you address the issue, and if I can frame it this way, can you possibly discuss the situation that every grower in the United States with $5,001 has to be inspected on the ground by an NOP inspector annually, whereas someone who is part of a grower group in Venezuela or China or -- and makes twice that amount but since they're a part of the grower group, they would not have to be inspected annually? I can see that as an absolute media nightmare that will blow up in Barbara's face far more than hops ever did.
MR. SMILLIE: Well, I go back to the same basic thing. If you've got -- and again, there are so many different examples. People have to understand the wide range of different types of grower groups there are on that.

Certainly if you've got the classic situation which everybody imagines when we talk about grower groups, which is, let's say, the Central American coffee group, you've got people who farm exactly the same way and have roughly the same hectarage. Okay, they all have smallholding plots.

If there's a large group -- and also because of the social construct or something like that, there are some growers in there who have larger plots, they would show up as in the risk analysis. That's my belief, that they would show up, that if you looked on that list, which is right there, you go through that list, and, you know, there could be even more things added possibly to it that
are contained in the references. That's how you spot that. That's how -- you know, so there's like five big growers and like 800 little growers. Those five are, in my analysis, if the ACA is doing their job, they would be inspected every year because they're larger, because they stand out, because there's something different about them. Now they have to have the same OSP. Remember, all of these subunits are operating from the same OSP. If that big unit has a different OSP, they don't fit the criteria. They can't be part of the group, and they would be like, sorry, guys, you can't be part of this group; you're different. You've got a spraying machine; nobody else has a sprayer. So, therefore, you're out. Remember, you've got to go back to the real basics of this. The legal entity. Somebody said, well, we can't like this document because it has to be defined in public comment as a legal entity. That's a
given. You have to be a legal entity. You
have to operate from a single OSP, you have to
have a functioning ICS with all the
restrictions we place on it.

So in that sense I would believe
that they would be pointed out by -- through
the, you know, that list of risk analysis, of
why they would stand out as different.

MR. GIACOMINI: What if all the
subunits within a group were over 5,000? Then
only a part of them would.

MS. MIEDEMA: No, actually there's
no floors. It's quite possible that a third
party is going to come in and say, you know,
I'm looking at this organic system plan. One
hundred percent of the small statistical units
must be looked at every single year.

We don't say that, you know, it
has to be a small number. In fact, you know,
it's very likely that as this gets
implemented, the range is going to be very
broad. You know, maybe it's going to range
from 10 to 70 percent get looked at.

But, you know, that's this snowflake thing of the organic system plan.

They look very different here in the U.S.

Every organic farm's organic system plan looks different from every other organic system plan. We don't have a checklist system here with USDA organic, we have a system that actually conforms to geography, to crops, to individual circumstances.

Yet, like a snowflake, it has structure and logic to it. Every one of these organic system plans is going to look different and so are the inspection protocols and rates.

MR. DELGADO: We have a comment from Richard.

MR. MATTHEWS: Yes. I'm sitting here and I'm listening to this, and everybody is talking about the Third World countries. And Dan spoke to it specifically, about outside the United States.
Unfortunately, ladies and gentlemen, it is my understanding that there are certifying agents here in the United States that since this policy or recommendation was accepted by the Department, you now have grower groups certified in the United States.

And I guess I could use Steve as an example, in Campbell's Soup. He has lots of contracts, and unfortunately there's no definition of geographical proximity, so Steve, as Campbell's, could say, okay, everybody that we contracted with in North America is now a grower group. Campbell's forms a grower group. Is that what you want? That's what this document does.

MR. DELGADO: Response from Joe.

MR. SMILLIE: I respectfully disagree. If you look at the document, it will say "are located within geographic proximity is defined by access to the same collection or post-harvest handing facility in
common soils, water source, slope, topography, or other physical features."

That's just one of the guidelines. Steve would also have to put together an internal control system. Steve would also have to ensure that each tomato grower followed exactly the same OSP.

You cannot herd cats, and I doubt very much whether -- if I came and looked at Steve's system, I would find so many holes in it right off the bat, I believe that he wouldn't qualify.

MR. MATTHEWS: So -- but it's happening.

MR. SMILLIE: That's why we would like the NOP to adopt our recommendation and enforce a regulation which, in your wisdom, you will take our intent and come up with something that doesn't allow it to happen.

MR. DELGADO: Any other questions?

Bea.

MS. JAMES: Okay, now I can't
leave this conversation without just giving
another plug for the pink elephant in the
room, and I don't mean to beat the pink
elephant, you know, to death here, but I know
that the CAC heard loud and clear from public
comment around retailers and processors being
a part of this recommendation and that was
removed. It wasn't removed with the idea that
it would not ever be considered as a separate
recommendation that potentially the CACC would
look at.

I think one of the things that I
find interesting is that risk criteria have
not been developed for retailers at all, and
yet there's been this blanket decision that
100 percent inspection should happen at the
retail level. And to me, that just seems
unfair, and I think that retailers who have
voluntarily taken it upon themselves to become
certified so that they can help with education
at the consumer level have done so not because
they're trying to take a shortcut with
becoming certified, but because they want to be able to articulate what the USDA organic seal means in a way that has value and meaning.

And so I just want to pose that I think it's very important that the certifiers that we heard from in public comment and also some of the ones that spoke yesterday, who pointed out that they think retailers and processors should definitely not be a part of this recommendation, I think that that's already been addressed, but I also see the need for us to address it on a separate level so that we can develop risk criteria specifically for that sector and go forward with determining whether or not it's an opportunity for retailers and processors to use the construct of multisite.

MR. DELGADO: Comments?

MS. MIEDEMA: I'd like to just make one final comment addressing Mr. Matthews' scenario he described.
He described all the rewards and none of the risk, and these folks who decide to bind together share an enormous amount of risk. And it's a perverse logic to say that a bunch of production facilities are going to bind together when they don't have to, to save a few bucks on inspection. It's a perverse logic.

We can't look at this construct without looking at both the risks and the rewards, and what you laid out was only the reward side.

The risk applies an enormous amount of pressure to each individual player.

MR. DELGADO: Good. I think we're ready to move on to the next point. Thank you for a wonderful debate on both parts.

Let's move on then to our next point. We are about 29 minutes behind schedule, so hopefully we'll make it up soon.

Our next topic will be our Joint Crops & Compliance. I'm thinking that
involves commercial availability and biodiversity, and I understand that Mr. Davis will be in charge of leading the discussion.

MR. DAVIS: Yes.

JOINT CROPS & COMPLIANCE, ACCREDITATION, AND CERTIFICATION COMMITTEE

MR. DAVIS: This joint committee, there are two items that we'll be going over right now. The first one would be the commercial availability guidance regarding the sourcing of organic seed.

The second would be the biodiversity discussion and the initial work working on a guidance document concerning biodiversity and ongoing work that will be going forward from here.

I will do the presentation on the seed, with a little help from Joe Smillie, and just a heads-up to you, Barry, the biodiversity, you'll be doing that one.

Okay. On the commercial availability of organic seed, we are working
on, have been working on revisions and
hopefully improvements to a previous document
that was a recommendation from 2005 from the
board. So we have a -- do we have that up
there, Valerie?

Okay. And the changes that we
have made, the new changes, are highlighted in
blue. Do they show up on that screen that
way? Sort of. It's hard to see it as real
clear.

But before we go to the changes
specifically, I wanted to go to the overall
overview of why we are working on this. A lot
of public comment is received, that you get
the feeling that people, certifiers and
growers, would just prefer that this topic go
away and just leave us alone and let us do
what we're doing.

And then others say, no, no, this
is very important. We need to address some
issues here. And in discussions with the
committee, particularly in the Crops
Committee, but also when we worked in Joint Committee calls, was that we are attempting to encourage more usage of organic seed and in doing that we want to -- we do not want to single out any one group, meaning certifiers or growers or even the NOP, as all the work that would be required to implement these changes would be concentrated in any one area. We want to spread the responsibility and the workload out of accomplishing these recommendations.

I think it needs to be highlighted again why this is important. I'll just read a statement from the discussion part of the document.

The board highlights that further development of the organic seed industry is the key to increasing commercial availability of organically grown seeds and subsequent increased usage by growers. Again, the goal is to promote the continued growth and improvement in organic seed production and
subsequent usage by organic growers without
hurting or putting undue burdens on growers.

It is not the committee's
intention to have major noncompliances handed
down to farmers trying to abide by the seed
commercial availability section of the rule.

Achieving the goal of a healthy, viable
organic seed industry is important, especially
when considering the pathway the conventional
seed industry is taking toward increasing
inclusion of biotechnology, i.e., genetic
modification of seeds, which would all be
excluded methods in the organic rule. The
organically grown movement will not benefit
from allowing the organic seed production
industry to stagnate. The status quo would be
a big problem for the organic movement down
the road if we do not address this at this
time, in my opinion.

If we allow that industry, the
organic seed production sector, to stagnate
while the conventional seed production sector
moves on to the likely future situation in which traditionally bred and produced seed is only an afterthought, a relic of bygone days, the organic seed and the organic producers, these are the ones who can maintain and support viable varieties that work in organic and the production of the seed to support organic production.

Many people have made statements that -- well, I won't go there. Never mind. Too long. We're behind.

But, anyway, it is important, and I, as a spokesman for this group, hope that I haven't belabored this issue too much.

Moving on to the document itself, I wanted to go to the new changes, which is page 3 right there. Okay.

We separated in sections of the NOP rule the new role that we want to encourage, and I'll just read it quickly.

Emphasize protocols for determining commercial availability of organic
seeds during the accredited certifying agency training programs.

Currently we are told that it's not being emphasized and so certifiers don't see it as that important.

Number two, emphasize to ACAs that organic seed usage by clients must be monitored and improvement in percentage usage is expected and must also be monitored. Documentation of the levels of organic seed usage and evidence of improvement in their percentage versus total seed usage by the ACA's clientele should be audited as part of the NOP accreditation reviews.

Number three, inform ACAs during training sessions that the issuance of both minor and major noncompliance statements to growers on this issue is the tool to be considered in all audits as a method to incentivize growers to use more organic seed in their operations.

Now moving on to the ACA's role,
section B, number one. Continue to enforce requirements for use of organic seeds applying NOP guidance on commercial availability of seeds. Document the organic seed usage status of their clients and be prepared to present the information to the NOP as part of the ACA's accreditation audits.

Two, emphasize that seed price differentials between organically grown and conventionally grown seed are not a factor in determining commercial availability.

Three, verify that organic farmers are making a sincere and ongoing effort to find organic seed varieties suitable for their farm.

Four, impress upon growers and clients that if known sources of organic seed are available, they must be sought out and utilized or face the possibility of having individual crops decertified. This possibly could occur following the issuance of noncompliance
statements over a period of no less than two yearly audit cycles.

It is recognized that production of seed takes multiple years. You could make the decision one year to inform your organic seed supplier or other seed supplier that you want this particular organic seed. It would take -- it probably wouldn't be until the third year before you would actually get seed, even if you requested it, in many cases, because of the development time it takes to bring that seed through the production process.

The next change in the ACA section is not -- it's within an existing section, number five. We did make a couple of insertions on point B, the new part is -- I'll read it.

As part of the validation process, copies of the applicant's documentation from previous years should be consulted to determine if they are making any progress in
their search methods and results.

So that would be a new thing where the ACAs would need to consider previous inspections relevant to their organic seed acquisition and availability to determine if the current year's situation with the grower and their amount of organic seed usage is an improvement from previous years.

And then point D, we recommended a strikethrough on -- where it says maintain and submit upon request to the National Organic Program, and the strikethrough would be crop varieties permitted by each agency, and inserted instead the wording documentation -- maintain and submit documentation of the organic seed usage status, current percentage levels as compared to historic levels of uses by acres of each certified operator.

And I know I'm getting bogged down here with too many details. I'll get through this.

Moving on to the grower section,
section C. The certified growers' role in increasing organic seed use.

Number one, document annually all seed usage to determine the percentage of organic seed usage versus total seed usage on an acreage basis.

Number two, search for and request organic seed for all crops grown.

Three, document a diligent search for organic seed by listing and legitimately working with a minimum of three seed vendors that are known within the industry as organic seed suppliers.

So there's three different sections of responsibility, starting with the NOP program, moving to certifiers, and then to growers.

In public comment it was mentioned that perhaps buyers and/or processors who call the shots on what organic growers are -- what varieties are growing need to be brought into the loop and maybe delineated in that area of
the document and not be left to a reference at the end of the document.

The Joint Committee will discuss that possibility and see if we want to make an amendment at this meeting.

One more addition to the 2005 document was on page 4 -- or is it 5. Yes, on page 5. In reference to the database.

Further, the NOSB recommends and encourages the establishment of -- and we inserted new information of a two-way national database by an independent party. This database should provide public access to current information on the availability of organic seed varieties, and the new wording also would be and allow for the posting of requested varieties and quantities of organic seeds from growers in a manner that protects private company business information.

In other words, not just what seed is available by the different organic seed producers, which those databases already
exist, but also what is being requested that
is not available at this time. Again, just a
suggestion and a recommendation, not anything
we can really do much about as far as what the
NOP and NOSB can do.

That's the gist of the changes.
And I wanted to turn it over to Joe to discuss
the ACA's part of this. Most of the public
comment we have been receiving is coming from
the certifier saying mostly their objection to
a lot of this, so I thought I'd let Joe see if
he can deal with that.

MR. SMILLIE: All of a sudden, the
seat seems to get hotter here.

(Laughter.)

Yes, I represent the
Certification, Accreditation and Compliance
Committee, and these are certification,
accreditation, and compliance issues we are
talking about.

Number one, the overview is that
seed is really important. Seed is like
critical and essential to the survival of the organic industry. And as we all know, organic is an agricultural methodology. You know, it may be looked at as a labeling claim, but what it's about is about agriculture, and agriculture is about seed.

If we don't protect our future and protect organic seed, we are going to be very limited as to what we can do to affect agriculture around the world.

That's why even though this is an extremely complex and complicated issue, we must address it, and we have to be really firm about it.

It's going to cause a fair bit of pain, and what we're saying as the Joint Committee is we want everyone to share the pain. We are not trying to -- we don't want to have what so often occurs is, you know, called the circular firing squad, where the seed companies blame the growers, the growers blame this, the certification blames that,
everybody blames each other. You're not doing enough, and sort of a "not in my backyard" approach. Don't put the burden on me. I'm the poor grower. Don't put the burden on me. I'm just the seed company trying to survive.

And so what we have to do is bite the bullet and all agree that we have to address this issue. We had a public comment the other day that just rocked me, and I don't usually get rocked too often by public comments. But the guy said, yeah, we can put -- you know, we'll advertise, we'll put it in a letter to a grower that says how they can, you know, beat the certification analysis of did you search for organic seed. We'll even write the letter for you, so you can buy our conventional seed and get this letter that, you know, will suffice for the certification agent.

I mean, you know, it's got to stop. We've got to move forward on organic seed, and that's the principle which our
committee took, is that everybody has to share in the burden of doing it. Nobody wants to. It's going to be burdensome, but we have to do it. There's no choice on this issue.

So as far as the certifications, which I represent, which I'm sure they're not going to be happy with me, even though we're -- you know, certification organizations do have already, you know, a pretty large role in it, I think everything in this recommendation is doable.

Now, again, when you get to recommendation -- you know, this recommendation, you know, it has words like "verify" and "should" and, you know, it's a guidance document.

So what the NOP will be doing and what the certifiers will be doing will depend on I think a series of negotiations between the sectors. And what we're pointing out, I think, more than anything else is that there has to be negotiation on this. Nobody can
hide their head in the sand on this issue.

It's in the regulation. We have a regulation that's clear. It's clearer, I think, than 401(c). It says you should use organic seed, period.

MR. DAVIS: Must.

MR. SMILLIE: Must use organic seed. Thank you, Gerry.

You must use organic seed, and yet we're not. And we have to. And what we have to do is figure out the best way to leverage it bit by bit. Somebody does a little bit, then somebody else does a little bit more, and we leverage it all up.

The NOP has to dance with the partners on this one. This is going to require careful coordination. We don't want to see, you know, people coming and hitting the certification writer and saying you didn't enforce it. It says in the regulation you have to do this, you didn't do it, you know, you're going to lose your accreditation. We
don't want to see that happen to the grower,
we don't want to see that happen to the seed
companies. Everybody has to work together to
make this work.

I think this recommendation, even
though there's all sorts of issues with it,
and we did hear a lot of good public comment
on it, I think nonetheless as a guidance
document, we want to move this one forward at
this meeting and really start to tackle what
I think is a big problem in the organic
industry, and everybody has to share in the
work to get it done.

MR. DELGADO: Any questions? Jim,
followed by Kevin and Jennifer.

MR. MOYER: Thank you, Mr.
Chairman.

I just wanted to follow up on what
Joe said in that as we were working on this
document, the whole idea of shared pain was
really, really important, and this idea that
we do need to work together, particularly that
the program include this as part of their auditing of the ACAs, as we look at what they're doing and what their inspectors are doing with the boots on the ground, as we heard, they are the folks that are out there and can help collect this information.

At the same time, the ACAs need to enforce or need to impress upon their growers that this is something that's being taken seriously now, and that they do risk at some point decertification of a particular crop if they have shown repeatedly that they are not interested in finding seed that is known to be available.

So I think everybody shares in the burden this way, everybody has a little bit of extra work to do, but the outcome should be well worth the work.

MR. DELGADO: Kevin, followed by Jennifer.

MR. ENGELBERT: Briefly, I just wanted to add, there's no additional burden
for growers large or small that use organic seed. The situation continues to present itself where the intent of the rule in OFPA is clear. And we don't know how much farther we can go, how much more prescriptive we can be, and if we may eventually get to the point where we just recommend that organic seed must be used, period.

We don't think we're at that point, but we hope that the industry, the community of farmers, certifiers, realize that this is a serious issue because, like Joe said, organic agriculture begins with organic seed, and this industry has to move forward.

MR. DELGADO: Jennifer.

MS. HALL: I have three things. I'll start with the easiest one first.

One is just a correction on some language. On the last page, where it starts, "Further, the NOSB recommends and encourages," number one, just after the inserted language, where it stops, "private company business
information," I think due to the insertion into a prior document that there's a little bit lost in translation. It continues that "producers using nonorganic varieties not appearing on the database," which is a little bit incorrect in the sense that the way the database is described in the document, it would actually only list organic varieties available, so nonorganic would never appear on the database. So it just kind of needs to be finessed.

I think we get the intent, but the language is off.

The second point is that as I listened to the comment and I listened to -- reread from Gerry of the overriding goal of continuous improvement in the use of organic seed, that perhaps there is a way to keep all the components and put them in a little bit different order and really emphasize the improvement end of it, and that in inspections, if the inspector could first look
to demonstrated improvement. And since we've
inserted "looking at the last year's
inspection," if there is a percentage
improvement in the amount that that is
obviously displaying the intent of the grower
and the progress of the grower to go the right
direction, but only if there isn't some --
maybe there's some level of percentage you're
looking for before you would then go looking
for the documentation and kind of do the
deeper dive on all of the letters and all
those things, that would then supplement why
that person was not able to go and improve
their process. So opportunity there.

And then the third one is in
looking at this, as we also spotlight at this
meeting a little bit the conversation about
biodiversity, I think it is important to
remember that biodiversity is not just about
wildlife, but it is also about the
biodiversity in the crops that are grown, and
that not all of the crops that enhance that
fundamental equation right now are available in organic form, and I think it is a little bit dangerous to go marching too far and headlong into demanding organic seed, and then discriminate where heirlooms are not available organically right now, and where that biodiversity could then be diminished over time, and that right now organic certainly shares the halo that heirlooms convey with flavor, and it's great. In the public eye, it's a lot of consumer candy, if you will, to still want to go this direction. And I would hate to see that get decreased as a means of people wanting to support organic because it excludes some other really great things.

MR. DELGADO: Comments from the chairs?

Okay, any other questions? Dan.

MR. GIACOMINI: You know, based on the intent and what we're looking at here, I support the document. There's one little bit in it that I am concerned actually could slow
development of the usage, and that is expressed in A(2) and in 5(b) where we talk about the monitored improvement and calculating percentages.

If improvement is measured as going from five to 10 to 15 to 20, that's one thing. If improvement -- but that's not the way everybody buys seed. If you're a livestock producer and you have your pasture ground with your pasture crops and then you have, say, corn silage, that corn silage that year may take you from 20 to 80 percent, or 20 to 100 percent.

But even with field trials, or even on farm field trials with variations from year to year, with variations in germination rates, variations in contamination from weeds and other things, you may run a small trial that worked, and the next year you put all your corn in there, and it's a disaster.

The way we're describing the sort of requirement to constant improvement, that
guy took a huge risk in improvement, and it may be that the only thing -- the best thing he can do to survive -- he can't live with another year like that corn crop. He may need to go back to 20 percent next year. And I'm concerned that when we're monitoring these numbers and we're just looking at that percentage and saying, okay, it has to stay the same or it has to grow, well, then, the only way we're going to -- farmers is going to do that is by taking it in very small bites. If you were not -- if we're going to punish them for trying to take the big risk, I think there's a potential that we're actually going to be slowing the progress and the implementation of utilizing organic seed.

MR. DELGADO: Comments from the chairs?

MR. DAVIS: Dan, you make a good point. In certain situations where the grower only grows one item, you know, silage corn, for example, and he does take that big jump
and he says I like this variety, I'm going to buy all this organic seed -- I don't know how to answer that. That is a potential risk.

MR. GIACOMINI: Even though -- even from a case of somebody who grows 10 different crops at 10 percent each, I mean you make the commitment of trying an organic variety on one of those, it didn't work, you pull back and you go looking again over the next couple of years.

I can see it even in the case of other crops.

MR. DAVIS: Yes, and it can happen. You can have crop failures where a 100 percent of one crop one year could be all organic seed, and there's a crop failure and there's no seed of that available in the next year, then it makes you look bad if you only have one crop.

This is -- you know, it's an overall picture. So I guess -- me, personally, I didn't think of the more one-
1 dimensional grower that only has one thing and
2 what that would mean to -- you're right, he
3 would probably choose the more cautious course
4 of saying, okay, Mr. Seed Supplier, I want a
5 little more organic seed, give me this
6 variety, and they'll just slowly work up
7 rather than take the big jump.
8
9 MR. DELGADO: Jim.
10
11 MR. MOYER: Well, Dan, I think
12 we've tried to make some allowances within
13 this document for that -- not that we were
14 considering that very thing, because I mean it
15 could happen. But if you read -- if you
16 listened to what Gerry said initially when he
17 said it's not the committee's intention to
18 have major, minor, or noncompliances handed
19 down or decertification of a crop, that is the
20 intention is not to do that.
21
22 If you look at the certified
23 grower's role in increasing organic seed under
24 C(4)(a), it does allow for the justification
25 of the use of farmers under that circumstance
could justify why they changed their percentage, and again it's not the intention to file a major or a minor noncompliance. That's the relationship you have with the ACA and the inspector on the ground, and you work that out. That's the dance that I think Joe was talking about, and the program is going to recognize that when they do an audit of that ACA.

You know, if that particular item was selected and viewed during the audit, there would be a justification for it.

MR. GIACOMINI: I just felt that there was a need to sort of get that concept and that idea on the record so that those considerations would be made during the evaluation processes, that it wouldn't be a required of holding or increasing every year.

MR. DELGADO: Joe.

MR. SMILLIE: We agree, and it's a case by case, as Jeff pointed out. The key -- I think the key component is that we want to
see the ACAs have a monitoring tool. You know, in other words, that there's some -- if the crop is from 80 to 20, and you go out and he's got pictures of the crop fallen down or whatever, well, that's justified, and it's not an issue.

But we want to see the tool, the monitoring tool, being used.

MR. DELGADO: Comments from the program?

DR. ROBINSON: Well, I think, Dan, your point is more about results and not intent or effort, and I think this recommendation, and I think the question being asked and Joe's point about what the program would do or not do, is to look at effort and intent by the producer, and then by the ACA, and then of course by us, in order to get this thing going and ratchet it up.

There's certainly in crop production -- nobody can predict. You are never going to be able to predict the results.
I mean that's the nature of crop production. That's just what happens in agriculture. You can plant and, you know, there's always going to be crop failures, and that will happen. That is the nature of the risk of agriculture. So you can't penalize somebody for taking a risk. You can penalize them for not taking the risk in perpetuity or after a certain number of years, and that's what the recommendation is saying, you know. If your SOP demonstrates or fails to demonstrate that you do not make the attempt to source organic seed, then after, you know, a period of two years, first the ACA should take enforcement action, and then if the ACA fails to take the enforcement action, the program should step in and take the enforcement action. At least that's the way I'm reading this. And I think that's what you're trying to communicate. But if you take the action and, you know, the results fail, well, the results fail. At least you tried.
MR. DELGADO: Any other questions?

Julie.

MS. WEISMAN: I just wanted to make an observation as someone who has been involved in this process but not as a crops person, that -- and not -- and to pull the focus over to the issue of availability of seed for farmers to used, as opposed to what we were talking about just now, what happens after it's been available, that this issue of commercial availability of seed is -- but it is very similar to the issue of commercial availability when we are considering whether items should or shouldn't go on 606.

Basically it's the same problem of how can we encourage the -- the problem is encouraging, I'm going to just say cultivating, but that might confuse things. So the problem with encouraging the development of more and more varieties of organic seed is identical to the problem of encouraging processors to make organic minor
ingredients.

I think that -- I guess I'm encouraging everyone to keep that in mind, the crops people to keep that in mind as we start to continue to address the issues of commercial availability, not only with regard to putting things on the list but also with regard to taking things off the list.

Also I think that as that situation unfolds, there will also be tools, maybe, or lessons or things that will help inform the continued progress on this issue with seed.

That's it.

MR. DELGADO: Any other questions or comments?

Okay. Let's move on then to the next topic, Gerry, and I'll just remind the board that we are running late, and this is it. So if you can summarize it for us, please. Barry.

MR. FLAMM: I'll make it short.
This is a discussion document implementing biodiversity consummation to move forward requirements in the regulations, move forward guidance that the NOSB has already issued. I think the discussion document has worked to an extent, but we received about 60 public comments, and I've got to give special credit to the Wild Farm Alliance for all the work they've done on this. They have done some really excellent work.

I see some parallels to seed discussion we've had. For example, the regulation does state that we must consider biodiversity. This is, I think, not a conflict for the concepts of organic farming and, in fact, I think probably about everybody in this room agrees with the need to consider biodiversity, not for a larger human society but also the value it presents to their own farm.

So the discussion document gives the background and outlines four potential
avenues to pursue a recommendation this coming spring. And again it's sort of like the seed document. It's divided up so everybody is involved. I won't say pain, I'll say gain in this case. But in this case, it will be because of our material involvement has a particularly important role in something that in 2004 the board had issued guidance documents, but there's been sort of a gap in the follow-through because of our checklist on materials does not specifically address NOSB. You have probably all read this, and I think one of the emphases is on training at every level, but another emphasis is a follow-through by certainly a certifier, and there has already been for the OSP some great work done that can and should be used. And many inspectors and many certifiers are already using it, but it's not uniform, and I think part of what I would see the recommendation coming out of this is how to get more uniformity and further compliance.
So to accomplish that, there is a role spelled out for NOP, and also specifically on the audit policies.

So from the comments, most people must have read the document, so I don't think I have to go into any more detail on it at this time. We will be working on it with the intent of presenting recommendations at the spring meeting.

MR. DELGADO: Very good. Any questions from the board? Bea.

MS. JAMES: Just one suggestion. During your deliberation of the recommendation, I would recommend that you look at the possibility of adding biodiversity under 205.2, terms defined, so that we can eliminate that confusion that often comes out when we are talking about the word "it."

MR. FLAMM: It's -- we'll look at that. But the regulations themselves, biodiversity is addressed in several places already in the regulation, so it's my feeling
the regulation does not need any additions or
-- it's strong enough. I think to me the
emphasis is on looking forward and
implementing what we already have.

We'll look at everything, and I'll
call on you.

MR. DELGADO: Any other questions?

MR. FLAMM: She's included now.

(Laughter.)

MR. DELGADO: Any other questions?

Let's move on then. That concludes, Gerry,
with your Joint Committee work. I appreciate
both of you for that, and we will continue on
to the next point, always conscious of the
time budget we have here, so we appreciate
your briefness on this.

Gerry, we are going on to the
Crops Committee, and back to you, sir.

CROPS COMMITTEE

MR. DAVIS: The Crops Committee

has four items, four petition materials, that
is, on the agenda.
The first one would be tetracycline hydrochloride. The petition is for adding tetracycline, oxytetracycline hydrochloride, in particular, for control on the national list under section 205.601. I think that says.

Currently there is a tetracycline, a different formulation of tetracycline, on the list, so that the petitioner was quick to point out that this could be looked at as adding new material or actually just changing the specific annotation on the original material to not just oxytetracycline calcium as it currently lists, but all forms of oxytetracycline.

The committee considered it, and felt -- and went through the evaluation criteria, and felt that it maybe marginally satisfied criteria one. There was disagreement on that within the committee, but we, through consensus, agreed that, okay, it's relatively benign to the environment and
humans, but arguably there are some factors there that were considered that were not.

But the real gist of it, of the discussion centered on the fact that we felt the material failed both evaluation criteria two and three, and to give a little institutional history on this material, when tetracycline calcium, the form it's currently on the list, came up for sunset the last time and was voted on at the NOSB meeting, it barely, barely passed.

In fact, I distinctly remember the vote in that it was so close that the final person giving their vote I believe was Nancy Ostiguy, and she was actually counting in her head all the votes and analyzed -- she sat there for a minute deciding how she was going to vote because her vote either way would have either approved or killed the material.

So I only say that now to say that this material in general has been on the verge of being removed from the list, and many, many
people within the community would like to see it gone, and that's enough said about that.

We felt there are other alternatives that are beginning to be developed in the apple and pear production areas. Some growers in the Pacific Northwest, for example, are already exporting to Europe where this material is not allowed in crop production, so they are somehow accomplishing that, although with difficulty, I hear.

So there are other materials slowly in principles and practices becoming available that are coming into production to allow the use without this material -- I mean allow production without this material.

On category three, is it compatible and consistent with the organic regulation? This is where we felt as a committee it really falls down. There are no other instances in the rule anywhere that allow antibiotic use in livestock or anywhere else.
So we felt it is very inconsistent to leave these materials on the list, and the thought of adding another form of the same material, that was really the area that the Crops Committee just couldn't get past, and it's all spelled out up here in that section B for anyone that wanted to read the more detail of the reasoning.

The vote within the committee was zero yes and six no, and I'll open the floor to any questions or discussion on that. Hugh.

MR. KARREMAN: I'm not going to reiterate my feelings on this. I'm just wondering maybe as a procedural type thing, is the petitioner now asking for this to be recommended simply as tetracycline? Could you clarify it? Or was it tetracycline hydrochloride? I need to know that for the next question.

MR. DAVIS: Specifically the top line says in parentheses, oxytetracycline hydrochloride. That's the specific material.
MR. KARREMAN: Okay. Because --

well, at some point in the future I'm going to
do something about it, but if it was
tetracycline itself and only tetracycline, so
it covers both the salts of the tetracycline,
which this manufacturer makes the other one,
what's already on the list, and we voted a
straight-up vote on tetracycline here, and it
didn't make it at the board level, what would
that do to the tetracycline salt that's
already on the list?

MR. DELGADO: Jerry?

MR. DAVIS: I don't have an answer
for that. Dan probably does.

MR. GIACOMINI: The petition as
the Crop Committee presents it to the board
today is as the petition was originally
submitted, which is a new listing, a new
addition of an additional item.

The alternative that was what they
tried to propose, what the Crop Committee also
considered, would be considered an annotation
change. So it would either be presenting it
like this as a new item on a separate line, or
it would be, without getting my book out,
deleting the specification of the salt within
tetracycline listing.

MR. KARREMAN: Okay. So then if
someone were to make an amendment to just add
this, if it was -- I guess it would have be up
to the petitioner, I'm just asking if this
comes up to a board vote as tetracycline, and
then it doesn't pass, what would happen to the
other tetracycline that's already on the list?
That's really the question.

MR. GIACOMINI: If it had come up
as an annotation change and it failed, then
the existing listing would stand. Because
it's not a petition to remove.

MR. DELGADO: No, but the question
is what would happen if a motion is to list
tetracycline and it's --

MR. GIACOMINI: That's still
separate and in a petition to remove any
MR. DELGADO: Is that clear?

MR. KARREMAN: Yes, but how can that be if we vote no to tetracycline? I understand where you're coming from, but I mean how is it logically that we would both say vote no to tetracycline in general, at a current board in public, and then there's still a tetracycline on the list? That just can't -- that doesn't jive except for procedural technicalities.

MR. DELGADO: We were talking about a specific petition that is clear as to what they want. They're not asking for a renewal of material, so we would not be able to proceed with a hypothetical scenario that you're talking about.

Julie first, then followed by Gerry.

MS. WEISMAN: I just only want to reiterate what you already started to say, which is that removing a material requires
very specific criteria to be met that would in no way be met with this procedure.

MR. KARREMAN: And I guess I have a question.

MR. DELGADO: Excuse me, Gerry, and then we'll go back to you.

MR. DAVIS: Julie, your statement just now was referring to removing the annotation.

MS. WEISMAN: No, I'm following on his -- on the hypothetical, that if it gets -- the petition is tetracycline. Because of this specific petition for adding to the list, and it fails the board as tetracycline, he wants to know if then procedurally what's already on the list then goes away, has to come off the list, and I am saying things have to come off the list in a very certain specific way. And this can't be the way it happens.

MR. DAVIS: Okay, so my follow-up comment to that is the original, as Dan said, the original petition presented it as a
separate material, but in the statement from
the petitioner in public comment, you know,
now that they are learning more about the
process, they don't care if it's add the new
material or change the annotation, they're
willing to go either way.

MR. DELGADO: Thank you.

MR. KARREMAN: I apologize. I
just wanted to say how would they look at
that? I realize there's a whole separate
thing to take something off, but isn't there
some legal oddity if we -- at the program
level?

MR. DELGADO: Let's consider the
questions we have from Joe and Bea.

MR. SMILLIE: You know, that's an
issue and I understand the issue, but that's
not the place for this issue. The petition --
we have to address the petition. The petition
is asking for -- to add the material or change
the annotation. That's what we have to
address, and I think the board, regardless of
its feelings on tetracycline in general, has
to look at the petition for its own value, and
all they're saying is equal playing field for
material that's already allowed.

So, to me, unless the Crops Committee can demonstrate to me that there's
a reason why this material is different from - - and again, I didn't study this like you
guys, so I'm relying on you, but I'm asking
you as a committee explain to me why this
material would be rejected when a comparable
material has already been allowed. I need to
know the answer to that.

MR. DELGADO: Bea, followed by
Jeff.

MS. JAMES: Well, logically it
seems like, you know, what Hugh is pointing
out is there's a contradiction. But there's
a procedure also for how we remove petitions.

However, just because something is
already on the list doesn't mean that that's
justification for adding something similar to
that. It has to stand on its own accord. And
you can't say that just because tetracycline
is already on the list, why would we reject a
petition for another form of it to be added.
They are separate issues and they should be
looked at separately, in my opinion. Just
like petitioning for the removal is a separate
issue, petitioning for the addition should
also be looked at as its own petition and not
just because something is already on the list
similar to it.

MR. DELGADO: Jeff, followed by
Kim.

MR. MOYER: Yes. Joe, I think
what you're going to see with a lot of the
materials that we're starting to look at,
there's great similarities in the material,
but it does have a different CAS number, so it
is recognized as a separate material. You're
going to see that with sorbitol as well. I
mean we're starting to get different
iterations of the same material that was on
before, and eventually that list gets that very long. It's like, okay, you know, this, this, and this. And the next one on the list, this, this, and this, because they're all similar but yet they are different, and that's why they're being marketed that way.

MR. DELGADO: Gerry, please respond to that.

MR. DAVIS: I do want in fairness to this petitioner, this material, to compare sorbitol octanoate to sucrose octanoate and say they are similar, their relation to each other is the same as this, it's much, much more specifically the same than that analogy.

MR. DELGADO: Tina, followed by Kevin.

MS. ELLOR: Yes. And Jeff made my point. We chose to look at this as a separate material because it is a different CAS number, and we didn't send it out a separate TAP. So we chose not to do that. I mean, you know, but we are looking at it as a different
MR. DELGADO: Kevin, followed by Joe.

MR. ENGELBERT: We heard from Bob Pooler at our meeting, at our last meeting, and his quote from that meeting is, "It's different from the calcium complex that's currently on the list, so it would have to be a separate material."

MR. DELGADO: Joe.

MR. SMILLIE: Well, okay, I'm not going to beat this horse to death, but my understanding is the petition says to change the annotation as well as add the material, whichever the committee in its wisdom -- did you consider both of these?

MR. DELGADO: Gerry.

MR. DAVIS: The petition did not actually state to change the annotation. That was something that was brought up in committee discussions, that that was one way to accomplish their goal. You know, they're not
experts in the petition process, to understand
going into the process, which way to
accomplish that. So I believe the petition
itself -- but I guess the petitioner could
maybe -- you know your petition very well, and
maybe you could state that for the public
record, what it did say.

MR. DELGADO: Petitioner, can you
approach the microphone and identify yourself, please? And the question is very specific.
Are you willing to change your petition from
adding to the list to changing the annotation?

MR. DAVIS: I just was asking him
what did your petition state. Was it stated
as I want to add this material to the list, or
do I want to change the annotation?

MR. RICHARDSON: Taw Richardson
with Agrosource.
And the petition requested to
address tetracycline, the listing for
tetracycline, which is the listing. And we
initially, just as a piece of history,
initially we followed the guide -- what we
were asked to do by NOP for our petition.

That's why the original petition
was structured the way it was because we were
asked to do it -- we were told we had to do
it.

After going through the main
meeting, we realized, which we thought
initially, that it should have been dealt with
as tetracycline. So we came back with
specifically either -- and we used the term
"parenthetical" in our petition, which should
have in your vernacular been annotation, but
we asked that the annotation either be removed
or in the wisdom of the board, if they thought
it should be included as part of the
annotation, to use the calcium complex and
hydrochloride.

But our first preference was a
removal of the annotation. We thought that
was the best way to address it.

MR. DELGADO: Okay, okay?
MR. MOYER: Taw, your original petition was for expanded use as well?

MR. RICHARDSON: Yes. Yes. But, again, we didn't understand the implications of that at the time. That's why we withdrew that in this revised petition. So it strictly is related to apples and pears, which is the current usage for tetracycline.

MR. DELGADO: Any other questions for the petitioner? Okay, thank you very much.

MR. RICHARDSON: Thank you.

MR. DELGADO: Any other questions on the part of the board for this material?

Okay, Gerry, back to you.

MR. DAVIS: I have a question.

(Laughter.)

We did discuss whether we'd change the annotation or just leave it this way. There was -- I believe there was some uncertainty on the difficulty of changing the annotation versus just addressing this as a
stand-alone material, and I guess I would like input from the program on changing the annotation -- if this were amended to a vote for changing the annotation or not on the already listed material, are there problems with that procedure?

MR. DELGADO: Comment from --

MR. MATTHEWS: If you wanted to add it as a new item, then we would propose that. If you wanted to change the annotation in some way, we would propose a change to the annotation.

MR. DELGADO: Okay, at this point the chair would like to recommend that the committee get together and discuss this.

MR. DAVIS: Definitely.

MR. DELGADO: And find the motion that they want to bring to the table tomorrow.

MR. DAVIS: Okay. Moving on to the next material.

Sorbitol octanoate. The petition is for adding sorbitol octanoate as insect
control on the national list in section 205.601(e). The committee felt that it failed evaluation criteria 2 and 3, No. 2 being that it's not essential. This material is not essential to organic farming, as there are many alternative insect control methods and materials already available. Adding another synthetic material to the national list in this case would be inconsistent with the original intent of the OFPA, which was intended to severely limit the routine addition of exempted synthetics.

We put an attachment of that OFPA preamble to document that statement.

The petition was clear in its statement in that it was -- this is just like sucrose octanoate, pretty close, but it's a lot cheaper. And I guess the committee really objected to that, because it voted to add sucrose octanoate two or three years in a different board, different situation, that now we must accept another material that's not
identical but, you know, similar.

The vote was zero yes to add it to the list by nos or absent. Any discussion?

MR. DELGADO: Questions from the board? Hugh?

MR. KARREMAN: I certainly can understand why your committee didn't like the response that, well, it's going to be cheaper. I hear that a lot from my farmers, you know, alternatives when I'm out in the field, but also I just think we need to keep in mind what Jeff said, actually, about CAS numbers, and if this is a different material, even if it's a cousin, it's a different material.

MR. DELGADO: Dan?

MR. GIACOMINI: Could the Crops Committee address the issue of -- I understand how it's close and it's cheaper. I don't like buying the cheaper argument, either. Could you address the discussions of difference in solubility and difference in target organisms?

MR. DAVIS: Well, there was public
testimony yesterday that was brought to bear on the difference in target organisms a little bit, different crops, greenhouse production. It was mentioned that the sorbitol material would be more appropriate for that, and the sucrose material is not.

Evidently the sucrose material is not working on mite control in hops, so they have hop growers who are very interested in it. So there are differences in activity. They are not identical materials, but they are close. The same principle. It's a suffocant type soft-bodied insect control.

MR. DELGADO: Joe.

MR. SMILLIE: Well, again, the same issue. I want to hear from the Crops Committee because you guys studied it -- I didn't -- I want to hear what the criteria -- was the criteria you applied to this material different than the criteria that was applied to the other material?

MR. DELGADO: Gerry, do you want
to respond? Tina.

MR. DAVIS: I can respond to that.

But first I want to go into a little history on the sucrose material. That one was presented mainly as a livestock material at the -- I forget which year that was, my first year on the board, I believe, or second year -- for its benefits and perceived need in the apiculture production as a mite control for application to bees.

And so that was the big thrust of it. Nancy Ostiguy, former board member, the expert, spoke up for it, and the -- but it was determined at that time, well, if it's approved for crops, we probably should approve the crops usages also, so as not to have a discrepancy, and it kind of piggy-backed in on the perceived need in livestock, in my opinion.

So now we have another material piggy-backing on something that was piggy-backed on a livestock material.
MR. DELGADO: We have Tina, followed by Joe.

MS. ELLOR: And, you know, we always use the same checklist and the same criteria where, you know, the committee compositions constantly change, but we always use the same checklist, but what changes is that as we add materials to the list we have to consider those materials as we go through the checklist.

So we also looked at it that way, that there was already this other material. So in that way, you know, we did look at it differently. But we always use the same criteria.

MR. DAVIS: So to flesh that out a little more, the original sucrose material, it passed the criteria on is it essential, because there was nothing else available for mite control in bees. That was the driving force for that material being approved.

That is considerably different
than the criteria as it applies to the sorbitol material for general crop usage.

So that sucrose passed that criteria back then. It can be, you know, decided by the committee that the sorbitol material doesn't pass the general crop use criteria because there are several good materials as well as practices for insect, and particularly aphid, soft-bodied insect control.

So we are not being capricious in approving the one or the other. There are different circumstances.

MR. DELGADO: Joe.

MR. SMILLIE: As Rigo, in his list earlier, we still have more public comment to go. So I'm looking for the public to also comment on this issue in general. So I'll hold any more comments.

MR. DELGADO: Jeff.

MR. MOYER: Well, I was just going to say, Joe, that in the context of this
committee makeup, we do, as Tina said, follow
the same checklist that everybody follows, and
we look at that. But we do have to take into
account materials that were passed. We did
talk with Nancy about this particular
material. I went back and spoke with her
about it, and what her feeling was on it, on
the subject.

And then for better or for worse,
you know, this committee does look at OFPA and
say what is the intent of the rule which is,
in my opinion -- I speak for myself, not the
committee -- is to -- and we heard testimony
yesterday to the contrary -- but is to keep
the list small, and to not allow that many
synthetic materials on there.

So if there is a synthetic
material that is currently on the list, it's
not -- at least I don't feel it's in my best
interest, representing consumers, to try to
make that list as long as possible when
somebody else comes up with a material that's
similar and says, hey, about me, and then how about me, and how about me, and how about me, and how about me, and how about me. I can't help it.

That's my view.

MR. DELGADO: Joe.

MR. SMILLIE: That one I have trouble with, Jeff. I have trouble with that, that reasoning. I don't have trouble with the necessary needs for mites and honey. I didn't know that was part of the first reason, because essential needs are just that, and for all the mites and honey it is a big issue and important.

So that makes sense to me as a differentiation between the two materials.

Your second reason, going back to OFPA that doesn't want to allow synthetics, you have to go to the criteria, you know, not -- nothing else.

MR. MOYER: Right, but when you go to the criteria, those other materials on the
list, and that was my point. There's other materials on the list that do that.

MR. SMILLIE: Yes, but we've heard testimony that there's different effects on different things and, you know, being a hophead myself, you know, if the hop growers need this -- you know, I got blasted for getting hops on 606, which I think was a good decision, and I'd love to take it off. And if this material helps me get hops off 606, then God bless it.

MR. DELGADO: Any other comments from board members? Questions? Okay.

Well, we're done. We reached -- it's 12 o'clock right now, so I guess it's fair to take a lunch break of about one hour. We'll come back here at 1 o'clock, the scheduled time, and we'll proceed with discussion on the Crops Committee. An hour. See you at 1 o'clock.

(Whereupon, at 12:03 p.m., the meeting recessed for lunch, to reconvene at 1:00 p.m.)
MR. DELGADO: We'd like to resume the discussion of the Crops Committee, and we had just finished one item, and we are moving on to pelargonic acid and ammonium salts in fatty acids. While the Crops Committee chair is getting ready, please be mindful of the time. We are running half an hour late, and we have a lot to cover, and I know it's important to get feedback and provide input, but please bear that in mind.

We also have afterwards a session for public comment. We have a number of people who have already signed up for our discussion.

Are you ready, Mr. Chairman?

MR. DAVIS: Yes.

MR. DELGADO: Please proceed.

MR. DAVIS: The next material is pelargonic acid petitioned for use as an herbicide, with the condition of -- with the
existing annotation for use only in farmstead
maintenance, roadways, ditches, rights of way,
building perimeters, and ornamental crops.
It's on the national list 205.601(b)(1).

Another material that was
petitioned earlier, considered at another
meeting, and then withdrawn, similar to the
other herbicide. So some of this work is from
a little while back that the committee did.

The committee felt that it -- as
far as going through the evaluation criteria,
criterion one, impact on humans and
environment, we thought it was relatively
benign and satisfied the criteria for that.

On criterion two, whether it was
essential and availability criteria, the
committee agreed that they felt it did not
pass the criteria, as well as the number
three, the compatibility and consistency with
organic farming regulations. We felt that it
did not satisfy that, either.

On the criterion three, the main
reason that we felt it was inconsistent was
that they were petitioning for use as if it
was a soap-based herbicide, and we, after
investigating it and questioning the
petitioner for further information and
response from them, that they never did
support that it is in fact a soap, even though
it's in -- it's a fatty acid, but they never
did claim that it qualifies as a soap.

So that was one question we had to
answer.

The other thing on the -- is it
essential or not, the next -- this material
and the next material both called to question
the ideas are synthetic herbicides appropriate
in organic farming practice. Are they
necessary, are they essential, and some people
might say that herbicides would be helpful,
and some growers might say, yes, we would like
such a thing, although I fail to see a big
groundswell of public comment in the written
transmissions, at least, that spoke up for
that.

We just felt that there are a lot of weed control options other than adding synthetic chemicals to the national list to accommodate that.

Just basically that was why the committee voted zero yes, five no, to not add this to the list, the national list.

Any discussion or questions?

MR. DELGADO: Questions, comments from the board? No comments, questions? Okay. You can proceed with the next one.

MR. DAVIS: The next material, we compared to what was posted on the Web site. We -- I'm going to have to find it in a different spot here. Excuse me a minute.

We did make a -- based on input from the petitioner, who requested in their public comment yesterday, they asked that we change the name from ammonium salts of fatty acids to a more specific name, ammonium nonanoate, so that editing was done last
night, and the CAS number is actually put there in the -- where it says "petition is for," ammonium nonanoate, CAS number such and such, to be allowed as an herbicide in organic crop production.

As part of the committee deliberations, it was determined that this material is a soap-based herbicide. It does qualify as a soap, a true soap, going by EPA regulation and determination.

So we did put in here a comment that the -- we felt that the substance was not compatible with the provisions of the rules for general use on crops or cropland, but since this material is a soap-based herbicide, the current listing in 205.601(b)(1) as annotated would apply to this form of salt, which is ammonium salt of fatty acid.

So that was in effect a clarification for this material, specific material, that it would be eligible for use, for farmstead use, ditches, roadways, and
ornamental crops.

This has -- as far as the evaluation criteria, again, relatively benign in the environment; in fact, all these fatty acids would be consumed by soil bacteria and degraded very quickly. They would use it as a food source and actually grow on it, probably.

Criterion number two, is it essential for organic farming, and the committee voted that it was not, based on many, many alternative practices, and weed control. We list many of them. And also the fact that this material, as well as the pelargonic acid, we did not want to discourage the development of natural herbicide options that are coming to the fore, such as the -- an example would be lemon grass oil formulations that are fairly effective herbicides that are fairly new on the market.

We felt that approving synthetics out of hand would very readily squash the
development of natural herbicide options if that is what organic growers want, is a material to be able to spray on weeds to kill them. We did not want to select -- give preference to the synthetics over the development of naturals.

So in a nutshell that was, I believe, why the committee voted zero yes, five no, there was one absent, to reject this being put on the national list.

Any discussion or questions?

MR. DELGADO: Questions? No comments?

Yes, Julie.

MS. WEISMAN: I was just wondering, like you mentioned these lemon grass preparations. Are those -- do those specifically target the same kinds of weeds that the ammonium nonanoate would be attacking?

MR. DAVIS: They are -- the lemon grass oil formulations, that is brand new on
the market. I have tested it personally, just
beginning to develop by a company who has
provided input to us before, the Murone
Enterprise. I'm not sure of the exact company
name. But she has spoken before us before
several times.

Very broad spectrum, will burn
most anything they touch. I don't think they
would be -- I don't know -- I haven't tested
either one of them enough to speak to whether
they are all very broad spectrum or contact
herbicides.

MR. DELGADO: Any other questions?
Okay. There are no questions. Let's proceed
with the next item, please.

MR. DAVIS: Excuse me just a
minute.

The next item is the soilless
growing systems discussion item. It was not
posted. I would like to defer that to the
work plan section of the meeting tomorrow,
because essentially that is really all it is,
is just a work plan update for the Crops Committee. There's nothing new there.

MR. DELGADO: So you'll give us more details on that tomorrow?

MR. DAVIS: Yes.

MR. DELGADO: Very well. Let's move on then to the next topic, which is list 4 inerts.

MR. DAVIS: Okay. The background on this for list 4 inerts in pesticide formulations is that the EPA has changed their policy somewhat in that the national listing for the -- the organic national list references list 4 inerts used in pesticide formulations as a one-item entry that encompasses many, many materials as they are used in pesticides.

The EPA determined that they wanted to do away with that, that listing and nomenclature, and notified the program that the NOSB would have to look at changing that listing and coming up with something
different, because we could not allow the
status quo to continue because they were
changing their stats on it and their listing
of it.

They have since changed the
listing of these minimal risk type inerts --
I'd say that in quotes, minimal risk. They
have listed it specifically in section 40 CFR
180.950, titled as "Tolerance Exemptions for
Minimal Risk Active and Inert Ingredients,"
which is attached to the end of this document.

So we are seeking input from the
public to see what is the consensus, see if
there is a consensus on which way to go. Do
we -- and there are several options that we
list here as possible solutions. I'll read
them now.

The NOSB will begin public
discussion of these matters as this meeting,
November 2008. Public comment is invited to
comment on the possible solutions described
below. Public comment is heavily encouraged
to identify the number and nature of synthetic materials deemed to be vital in pesticide formulations used in organic farming. We are hoping to get some good input from various concerns that have that expertise.

Possible solution options. The NOP has suggested that a substitution of the language in the rule currently as list 4 with the new regulatory reference of 40 CFR 180.950, the minimal risk ingredients.

They do correlate, but they are not identical at all. There are a lot of materials that are on one that are not on the other, but they are similar, I guess.

Number two, adopt the original 2000 version of the list 4-A inerts, which is attached as attachment 1, as an itemized list with ongoing reassessment through the sunset process.

Number three, adopt the minimal risk ingredients currently found in 40 CFR 180.950. This would entail a one-time
adoption of the materials currently on this list, with ongoing reassessment through the sunset process.

Option four, eliminate blanket inerts lists and adopt a policy of requiring inerts and pesticides to be petitioned individually.

Five concerns the list 3 inerts currently used in passive pheromone dispensers. The current policy is that they need to be petitioned individually and are subject to regular sunset reevaluations, that has already been in place as an NOP policy for a couple years now, since we were first notified about the EPA change.

We wanted to throw this out to the community to where we get input and begin work on a possible recommendation for the spring 2009 meeting, and that was the purpose of this discussion document.

MR. DELGADO: Any questions?

Jeff.
MR. MOYER: One of the things that we wanted to mention that didn't make it into this document at posting was on item three, option three. What we were talking about doing there was a one-time acceptance of CFR 180.95, but then moving forward, any new materials that would be -- want to be added to the list would have to be petitioned.

And, furthermore, if EPA changes lists CFR 180.950, it would not affect this list. So in that regard, it begins to separate us from the EPA's list because there was a lot of things that they'll put on their list that we don't want to have on our list.

So it's a one-time acceptance by reference, but from then on any new materials would have to be petitioned to us. They would not automatically go on if EPA changed their list again in the future.

MR. DELGADO: Comments from --

Gerry?

MR. DAVIS: No, that's absolutely
MR. DELGADO: Dan?

MR. GIACOMINI: Just a question. As we go through this process, we don't really need to discuss it now, but I'd like to know what the answer is. What is going to be the implication, the impact on the pesticide formulations because of this change? Is the change that we're making going to fit in with what they're going to be forced to do or not forced to do because of these regulations, these numbering changes?

MR. DAVIS: Right. And there was some public comment that I'll call attention to from OMRI yesterday where they mentioned that they thought that the former list 4-B materials, which are not part of this new CFR listing with EPA -- generally they've been left off of that list -- the statement was made that fully 50 percent of their approved formulations contain list 4-B ingredients, which would be a problem.
MR. GIACOMINI: No, what I'm asking, though, is within the pesticide formulation industry, is this change that has gone on at EPA going to affect the way they formulate things?

MR. DAVIS: For even conventional agriculture, you mean?

MR. GIACOMINI: Yes. I mean, for instance, those formulations, are they likely to be changed because of this EPA change? That's sort of what I'm wondering in deciding how we can go about it.

It may be solved within what we're doing simply by knowing how -- what their forced reaction is going to be.

MR. DAVIS: Okay. There are people here that might be able to comment on that, but I can't speak for them.

MR. DELGADO: Gerry, you're calling someone specifically from the public?

MR. DAVIS: Emily.

MS. ROSEN: Well, I was just going
to say Chris Pfeifer from the EPA is going to be dealing with that.

MR. DAVIS: If he's willing, sure.

MR. DELGADO: Yes. Come to the microphone, please.

MS. FRANCES: I wanted to follow up on what Jeff said.

MR. DELGADO: Okay. Can you hang on, please.

MS. FRANCES: What we currently do is incorporate by reference. A one-time adoption would be an adoption of the list of individual items, and that's not the same language. I just wanted to make sure it was understood for the record.

MR. MOYER: I think that that's a very important point because that is what we talked about, was not doing it by reference as I stated. I apologize for that.

But reading the list over as a list of itemized materials, not bringing the list by reference number but bringing it over
as an itemized list of material, there is 83 materials on that list. And all of the 83 materials are listed individually so that they can be sunset as individual materials, and we can then deal with them as a board. Coming forward, the new materials, even though the EPA might put them on their list, we would not.

                    Thank you, Valerie. I appreciate that.

                  MR. DELGADO: Please identify yourself for the record.

                  MR. PFEIFER: Yes, my name is Chris Pfeifer. I'm the EPA's liaison to USDA NOP, and I work with the biopesticides program.

                  MR. DELGADO: We have specific questions for you. Dan, why don't you ask your question?

                  MR. GIACOMINI: Is the change that you've made in your listing, does that have a direct impact on how formulations of those
pesticides will be made?

MR. PFEIFER: No. List 4 has never been, or the list system, has never been a system that has actually determined how our pesticides were formulated. It was more or less a thumbnail way to do reassessment or a quick and dirty way to work with different programs, whether they were the organic program or unregulated pesticide program for 25(b)s.

So, no, the list system does not affect that. We have always used 40 CFR as our source material for pesticide formulation.

MR. DELGADO: Any other questions?

Gerry.

MR. DAVIS: I have a lot that in speaking with Mr. Pfeifer earlier I don't think he is prepared to answer my type of questions until he consults more with his associates.

MR. PFEIFER: To finalize, I just can't speak for the agency going forward. I
can give a little thought on the historical thinking.

The agency in the past has expressed an interest in narrowing the inerts list a little bit simply because they believe that it would reflect better on the integrity of the program, mainly because there has not been any ecological assessment attached with the inerts determinations in the past.

So list 4 as it was originally contrived was not really built around any ecological thinking, and as reassessment came again and it spoke more or less to human toxicology and didn't really address the ecological issues.

You know, again, this is USDA's program, but it's always been our feeling that it's a principal program built around both ecological and human health concerns.

So that's about as much as I'm prepared to say unless there are some specific questions.
MR. DELGADO: Any other questions?

Okay, well, thank you very much. We are going back to the schedule, and we have Tina next. Do you have a presentation?

MS. ELLOR: No, Gerry already covered it.

MR. DELGADO: Okay, any other questions? Very good. Does that conclude --

MR. DAVIS: That concludes our presentation.

MR. DELGADO: Thank you very much. We will proceed right away with the Livestock Committee. Dr. Karreman.

LIVESTOCK COMMITTEE

MR. KARREMAN: Okay, thank you, Mr. Chair.

I would like to discuss our recommendation for fish feed and net pens. This is a continuation of a rather lengthy assignment that the Livestock Committee of the National Organic Standards Board has had in conjunction with the agricultural working
After that, I would like to ask Jennifer to talk about the bivalves and due to time and everything, the animal husbandry discussion we'll just let go for now as a work plan like Gerry mentioned.

So I think everyone knows that the board passed a estimate of agriculture recommendations to send up to the board February 2007, and they are in the hopper right now. They have not been acted on by the board as far as we know.

Regardless of what happens with these recommendations in the next day when we vote, we would like to have the board start promulgating those recommendations that we have already passed on up to that in February 2007.

MR. SMILLIE: You mean the NOP program?

MR. KARREMAN: Yes. I'm sorry.

The program. I misspoke. Okay.
So we have that already on record.
And so before I get into the fish feed issue
document, which will be first, I just want to
say that, you know, we have a lot of science
on both sides of the issue, and hopefully
there's some nice middle ground as well, and
that's what we try to strive to attain here at
the board.

Okay, so for our document,
basically I already gave you the background
about where we're at and how the -- is that
hurting your eyes, Joe? I apologize. I don't
know what's up.

All right. I'll sit back. How's
that? I'm trying to hide behind this post,
you guys.

(Laughter.)

All right. How's that back here?

Is that okay? All right.

So what I want to get at is
basically I want to go over the discussion
points a little bit, and then get into the
regulatory framework, and then our recommendation, the red-letter changes that were already posted on the Web. Okay.

So we as a board, you know, wanted to respect the current knowledge of nutritional needs of aquatic animals for fish meal and fish oil that they need, if they need it, and we would expect a certified organic fish meal and fish oil would be becoming increasingly available in the future if this program starts.

We want to make sure that their diets are nutritionally complete, and we want to make sure as a board that the sourcing of fish meal and fish oil sources are from responsibly managed sustainably caught fish. And the sustainability of wild-caught fisheries is paramount. Okay.

And then we also discussed in the discussion part of the document still why we feel that marine-based fish oil is needed for potentially farmed organic aquaculture species
because plant-based oils, oils from plant-based feed, as well as even freshwater fish, may not have, according to what we know from the agriculture working group and other scientific folks, the correct -- the exact correct oils that are needed in the diets of fish.

Okay. All right. So that's somewhat the background discussion.

We believe that we have the regulatory framework to consider this document. Under OFPA 2102, section 2102, under the term livestock -- the term livestock means any cattle, goat, swine, poultry, equine animals used for food and the production of fish used for food, wild or domesticated game or other nonplant life.

We also relied upon OFPA section 2107(a), No. 6, that would require periodic residue testing by certifying agents of agricultural products.

Also then in 2107(c) of OFPA,
regarding wild seafood, in general
notwithstanding the requirement of
2107(a)(1)(a) requiring products to be
produced only on certified organic farms, the
Secretary shall allow through regulations
promulgated after public notice an opportunity
for comment, wild seafood to be certified as
labeled -- to be certified or labeled as
organic, in consultation and accommodation
with the Secretary of Commerce, the NOSB,
producers, processors, and sellers, and other
interested members of the public.

So we believe that we are at this
point potentially promulgating OFPA in regards
to fish oil or fish oils from wild-caught
species. We think we have that in OFPA to go
on.

And so the committee voted seven
in favor, zero opposed, to go ahead with this
document.

Okay. So now how do you want me
to go through the recommendations? I mean
there's quite a bit. Just the --

MR. DELGADO: Concentrate on the

highlights. You can review the comments of

the public and discuss what approaches to
take. You can incorporate those.

MR. KARREMAN: I'll do the

comments like that at the end but, you know,

there's a fair amount of red-lining here.

MR. DELGADO: I think the public

has had sufficient time to review the

recommendations.

MR. KARREMAN: Okay. All right.

MR. DELGADO: So just briefly

highlight them, the most important ones.

MR. KARREMAN: Well, basically

part of the public comment regarding this

issue of wild-caught fish oil has been based

on that it's not allowable in OFPA, and I just

mentioned that we believe it is, and that the

-- that livestock, which fish would fall

under, under OFPA, need to be fed 100 percent

organic feed, which we understand.
And the reason we put the exemption to use in a step-down fashion, fish oil derived from marine wild-caught fish in 612(a) essentially on the national list, and not in let's say 252 under the feed section, is because if it's in the feed section, it would have to be certified organic 100 percent for the animals that are eating it, whereas as an exemption on 612, we feel that it can be used but in a stepped-down, phase-out type situation in order to get the industry started.

That was actually in consultation with the program, and that's what we've done.

Okay. Is there any discussion at this point here?

MR. DELGADO: Any comments, questions? Please proceed.

MR. KARREMAN: Okay. We definitely -- we got a lot of public comment written -- go ahead, Valerie.

MS. FRANCES: I guess I'm just
wondering how you're going to put the aquatic animal versus the aquatic livestock terminology.

MR. KARREMAN: I think it was the AWG that's supposed to use aquatic animals instead of aquatic livestock, and we certainly -- I think we could make that change without any substantive, you know, meaning change.

So and just so the public knows, we have taken public comment seriously, and there's some very strong views on either side of this, and we do plan to have a Livestock Committee meeting this evening to take into account further public comment this afternoon as well.

So one thing that we definitely don't want to do is have byproducts of land-based livestock going into the fish because there's a lot of consumers that would not want to have that for organic fish. That's why we have kept it at a byproducts for edible fish or for fisheries. Okay. That has come up as
a question.

I think we need to define, perhaps, better the term sustainably, since we did say wild fisheries need -- the sustainability of the wild fisheries is paramount in potentially harvesting the byproduct.

We think that using the byproduct of edible fish is a good, complete usage of a resource that's already there. We were told by the agriculture working group that right now they actually use fish oil, they make it into diesel fuel and run it in their boats up there because it costs too much to bring it to the mainland, and we think it would be better used to feed fish than be used as diesel oil. That's part of the reason we want to use that.

Let's see. One thing, the Ocean Conservancy, George Leonard, gave a lot of valuable input at the symposium, and the idea of performance standards, which might apply more to net pens which I'll talk about in a
minute, but there were some good -- I think we could use some performance standards in our document that we might want to mention.

Let's see. There has been questioning about the extra label on products, on aquatic animal products that have been potentially fed these wild-caught trimmings.

Some people yesterday and also in a written comment said that it would be confusing to the consumer. We also know, however, that some consumers of organic fish may not want to buy that fish that was fed wild-caught, and yet other consumers we know would actually want that because they know that those fish have been fed a very complete natural diet. That may become certified.

Go ahead, Kevin.

MR. ENGELBERT: And we also wanted to make the point that by adding that label, there's no deception involved whatsoever. We want to be sure that also consumers realize that that organic fish was fed wild-caught
trimmings.

MR. KARREMAN: Okay. So I'm open to any discussion you guys want on this. I can go on to net pens.

MR. DELGADO: Questions on the topic of feed. No questions? Dan?

MR. GIACOMINI: Just one further statement, and I had a lot of work to do so you may have covered this, but in separating off the national list in consulting with the program, it was also -- it was pretty well established that even if fish and aquaculture stayed in 603, they wouldn't automatically be granted the use of everything that was on 603.

So by saying that by separating it off to this other section we would create this new work and new petitioning -- well, they would all pretty much have to be reconsidered, anyway, to the information that we received at that time.

MR. KARREMAN: That's a very good point. As a matter of fact, we are proposing
-- but you don't want me to go into all the
details -- section 609, 610, 611, and 612, and
I think it's very clear that there are no
other materials so far on that list, and they
will need petitioning. So it's not a
transfer. I just wanted to make that clear.

But we can't go there yet until
this might pass.

MR. GIACOMINI: We even looked at
the consideration of the possibility of
bringing over the things as generic as the
vitamins and minerals, and we were recommended
not to do that, either.

MR. KARREMAN: Well, we did bring
over the structure, though.

MR. GIACOMINI: The structure,
yes.

MR. KARREMAN: The structure is
all we brought over. So basically we're just
-- we're trying to have aquatic animals have
their own section in the rule because they are
very different than land-based animals. There
are some similarities, but as everyone has said, they're very different, so that's how we're -- that's why we created the new section.

MR. DELGADO: Any other questions, comments? Go on to next one.

MR. KARREMAN: All right. Net pens. So this is another part of the issue that was put off in February and March 2007, and we have come up with a recommendation based once again a lot on the agriculture working group, which they have been indispensible. They have been always willing to work with us every minute over time, and yet at some point we did have to say, hey, look, you know, now we have to work on it as the board, as the Livestock Committee.

So a lot of this has agriculture working group input, but we have also tempered it to try to take into account the organic community, because net pens have been historically kind of a hot button issue, as I
think we all know.

So basically -- first it should be said that -- I want to say, and I think I said yesterday, that net pens, everyone always associates net pens and salmon together, but there are other species out there that are grown in net pens. Tilapia is grown in net pens, just so everyone knows that. I heard that today. And so we have to be, you know, careful in accepting and think about ramifications of net pens not just for salmon, okay, because there are other species out there, too.

And, as well, just so people know, closed containment systems, if the program does enact rulemaking, we are already past at the March 2007 meeting. So we already have a containment type situation, and now we are looking at open water net pens.

So essentially what we believe we have done is looked at net pens and said, okay, we know how they've been used from the
aquaculture symposium; we know what is possible; and we tried to tighten up, and perhaps we can tighten more by more specific language, the performance metrics.

The issue of escapes, the issue of the nutrient management, some people have commented that the 50 percent nutrient recycling is not feasible. Some people say it is feasible.

So we are going to hopefully err on the side of the people that agree with us on the 50 percent nutrients are, you know, recyclable.

As far as the issue, I think we need to -- and in our document we do address the siting of net pens. Perhaps we need to tighten that up more or even preclude certain areas of having net pens.

But I think that a lot of the public comment posed on net pens has been really strongly based on existing conventional salmon farming in the Northwest, and our
proposal is truly a major improvement, we believe, and not even attainable by a lot of growers out there. And organics isn't for everybody, and I realize people will say not everything can be organic, and I would agree with that.

But if people can meet these standards that we have for these net pens -- and we're open to tightening up some language from the public comment we got -- then I believe that net pens can be done in an environmentally friendly fashion that improves the environment as well as provide food for people.

So I guess I'll take comments from rest of the board.

MR. DELGADO: Questions?

Questions from the board? None. I'm surprised.

MR. KARREMAN: Okay. Well, okay, that's fine. We're going to have public comment this afternoon, and I do look forward
to it. I guess yesterday I was pretty engaged
in public comment and with the aquaculture
commenters, and I apologize to anyone if I had
been a little bit too aggressive. I didn't
mean that, but I think it brought out really
a lot of good information that the whole board
can use as we deliberate on this before we
vote tomorrow. And we'll have some more this
afternoon.

So I guess if that's it for net
pens right now, then I would like to turn it
over to Jennifer to just briefly discuss the
discussion item on bivalves and mollusks.

MS. HALL: So I am presenting on
behalf of the Livestock Committee our current
state of art as it regards the interim final
report on bivalves and mollusks.

The committee has continued its
partnership with the aquaculture working group
to bring the organic community another
document for consideration in our attempt to
determine a correct fit for cultured aquatic
animals with the existing regulations, and we present here a revised interim final report on bivalve mollusks from the AWG for comment. It is a discussion document at this meeting. We have already voted to accept the report as it was presented by the AWG. They did receive, when it was open to comment, a fairly comprehensive comment from the Pacific Coast Shellfish Growers Association, and while the Livestock Committee continued pretty in-depth work on net pen and feed issues that we had delayed from prior meetings, we thought it best to allow their expertise to dig into the concerns raised by that comment and continue to revise the document for another submission. So that is what this is, is their final work that replies to the comments that were received.

So we are basically open for comment on this document. We have used much of the very strong and detailed language from the bivalve mollusk document to enhance our
presentations on the net pen one. Their siting language was much more detailed. It was very helpful as we tried to tighten our own language as we revised the net pens.

I would say that due to the complexity that has been raised by the community that sits before us today, as well as kind of in our own committee, as we move forward we will still wrestle I think perhaps even a little bit more in this piece of work with where it fits in the regulation vis-a-vis the management of inputs.

It does a pretty great job of raising the bar on siting and where to place these operations, and on managing the environmental impact. But due to the way they are cultured, it is not an intensive system of input management. And so that is something we will continue to discuss and invite comments as it regards that topic, too.

That's it. Discussion?

MR. DELGADO: Any questions?
Questions from the board? Okay, no questions.

Thank you.

MR. KARREMAN: That pretty much wraps it up, Rigo. That pretty much finishes the aquaculture presentation as we have it.

The animal welfare, as I mentioned, has been put off because of every Tuesday at 3 o'clock we were talking aquaculture since the last meeting, and we hope to get back to that, so we're going to put that off, but otherwise as everyone knows, we have a meeting tonight after dinner for livestock. Okay.

MR. DELGADO: Jim?

MR. MOYER: I just want to take this moment to put on the record to thank the entire Livestock Committee for the amount of work that they put into this aquaculture standard.

While it is only a few pages long, it represents a tremendous amount of work, not only in committee but working on subsequent
calls with the aquaculture working group, and also to thank Valerie for sitting in on all those calls as well. I think that there was a tremendous amount of work done here, and hopefully we can get something going. Thank you.

MR. DELGADO: Very good comments, and I join in those congratulations.

That does conclude the Livestock Committee, and we're going on to our next topic right away. We're almost on schedule, back on schedule, and it's now Julie Weisman, please.

HANDLING COMMITTEE

MS. WEISMAN: On schedule, you say? We can fix that.

(Laughter.)

MR. DELGADO: You were kidding.

MS. WEISMAN: Actually -- no.

Actually we have nine materials on our agenda, which is a record low for us, although it's a substantial amount of work.
I think what I want to address first, because it's come to my attention that it was cause for some consternation, is although there are nine materials on the agenda for the meeting, seven recommendations were delivered. And I think that because our -- I don't know. I don't want to get us off schedule, so I want to acknowledge that there are materials that we don't have recommendations for at this meeting that were on the agenda, and I understand that there are people who traveled down here particularly and especially and spent money and fare to be here for the recommendations.

So I want to acknowledge that there is some justified disappointment.

I also do want to say that I think that it's not the first time that this has happened, and that I think that we have a -- we're becoming more professional in getting agendas agreed on farther ahead before the meetings, and having them posted in time, and
this is I think an unfortunate consequence of that improvement in our procedures, that now all of our timelines have gotten pushed out. So I'll move on from there.

MR. DELGADO: Julie, just a clarification. Is it the intent of the committee then to include these materials in the work plan?

MS. WEISMAN: Absolutely.

MR. DELGADO: Great. Thank you.

MS. WEISMAN: Also -- this is what I meant when I said I'll take care of us being almost caught up. I wanted to say something -- I felt that it was warranted to say something about a petition or a couple of petitions that are not on the agenda for today's meeting. And those are -- there are two petitions for -- concerning lecithin.

We, everyone in this room, we have about almost 20 years of experience in looking at and thinking about and figuring out what should be required for a material to be
listed, to be added to the national list.

Throughout that time period, organic stakeholders have remained to this day, as of yesterday and including this afternoon, I'm sure, in continuing to inform the NOSB and the program on what the requirements should be and what that process should be.

In recent years, in the past couple of years since I've been on the board, we've been covering some new ground. The redefined requirement to list agricultural products on 606 has caused us to review those requirements anew and to look at things like commercial availability.

This summer the Handling Committee received their first petitions for the removal of a listed item. Now it's not the first time that the board has looked at petitions to remove, but in the past those have always been based on new information coming to light that had to do with the safety of the material or...
new information about toxicity, either to
to people or the environment. This is the first
time that we have looked at petitions to
remove on the basis of the commercial
availability of the organic version of a
listed item.

So we should be kind of used to
this by now. We are once again in virgin
territory.

Now it could be that I'm a little
short on history. That's possible, and if
that's the cause, I'm sure someone is going to
step forward and help me out. But there's
been alarmingly little, if any, precedent on
which the board right now can base this kind
of a decision. But we figured it out before
and I'm sure we'll figure it out now.

The issue is very intimately
related to the issue of items being listed on
606, and I will go on record as saying that
personally I did push for encouragement, I did
encourage people to have a positive attitude
towards listing items on 606, and because I personally believe that that spurs the development of organic ingredients.

That is with the ultimate goal being the delisting of nonorganic ingredients.

The other piece I'd like people to keep in mind is the current state of the national list, where there is no organic preference, and commercial availability does not apply to items on 605, and at times I have been concerned that some of my fellow non-handling board members don't realize that there's no incentive for manufacturers to put time and energy into developing organic ingredients if there is no incentive such as commercial availability or organic preference.

So developing potential, developers and manufacturers of organic ingredients won't remain engaged in that process very long if we don't figure out a way to -- if we don't figure out the ways to bring those things off the list when those materials
do get developed.

And if that happens, then everyone's fears become realized, that the listing of 606 ingredients does then become hollow and static and possibly detrimental to the organic industry.

But we're not there yet, and I don't think that's where we're going to go. The Handling Committee, in looking at this new territory, has a lot of questions that have come up. We have been already discussing this on committee calls since the summer, and I would like to share some of those questions because I would like to refine further the kind of public comment that we're getting about this.

One question is are TAPs as essential, are technical reviews as essential to the removal of an ingredient as they are to the listing. And if there is a difference, how are they different. If there's a difference in what should be in those
technical reviews, we would like to know what those differences -- what people think those differences should be.

Should commercial availability -- this is another question -- should commercial availability be considered in a different light for removal than it is currently for listing.

And then there are some factors probably that don't change with whether it's a petition for removal or a petition for addition.

An example of that would be how we weigh the competing views of different stakeholders, that that's probably going to remain the same.

But it's because of these kind of questions that the Handling Committee made -- took the unprecedented step of asking for public comment on an item which is not even on the agenda for this meeting. Because we are wanting to address this in a very timely
fashion.

The need to act expediently but methodically on this issue is great, and we felt compelled to begin the process of eliciting public comment way ahead of the spring meeting, which is where I am hoping we will be maybe taking action on these, but then we'll see how it goes.

And I will say that we did get a lot of comments, which I was heartened by. So, anyway, a lot has been said so far in the meeting about what I think of as a dialectical relationship between the board and the stakeholder community that takes place through the public comment process, and so I am asking all of you out there to remain as actively engaged as you have always been and consider the questions that we are posing to you, so that we can be that much farther along in our thinking, and our fleshing out of this issue by the spring meeting, that we will be able to make a well-considered recommendation based on
well-articulated criteria.

And with that, I will now -- we will plunge into the actual materials that are on the agenda for this meeting.

I'm going to start with the 605 materials. There are four of them on the agenda. Two of them are being deferred because the TAPS -- we were waiting for technical reviews, and they couldn't be completed in time.

Now, with that, I will say that in the old days, because I'm looking at my -- one of them -- the two materials in question, I'll specify them now, we had sodium chloride acidified that was being petitioned to 605(b) in the category of chlorine materials. And then we also have proprionic acid, also being petitioned to 605(b).

The agenda for this meeting was voted on at the executive committee call on August 8th. That is the date that the Handling Committee received the technical
review for sodium chloride acidified.

In the old days, probably we could have cranked that sucker out on the 30th day before the meeting date, with just like seconds to make the requirement for public comment.

But we've gotten more professional since then, and we don't fly on that tight a timeline. I apologize that I think the organic community and petitioners may not -- have no way of knowing that we're improving our processes.

So the way things are working now in late 2008, that's not enough time for us to turn around a recommendation. And with the propionic acid, actually, that technical review was received by the Handling Committee on October 9th, and I think that our publication deadline for recommendations had already passed by then, so that wasn't even a possibility. So I am sorry for anyone out there who was disappointed and was expecting
to hear recommendations on these today. And I am sure that we are -- well, around here I've learned not to ever say I'm totally sure, but I'm pretty sure we're going to have those delivered at the spring meeting.

That being said, I would like to move on now to recommendations that we do have. The first one is going to be calcium from seaweed, and actually Katrina Heinze was originally supposed to present this, so I'm kind of doing it on the fly here a little bit, but I think we'll be okay. I do miss Katrina right now, though.

Calcium derived from seaweed is produced from basically the skeleton of seaweed on the ocean floor that's mineralized. In this particular case it is harvested, if I can use that word, off the Irish coast.

This mineralized seaweed gets washed and it's hard, it gets milled into a powder, and the result is a substance that's intended to be used as an ingredient for
nutritional -- for added nutritional value, for its health benefit.

The chemical composition of this is over 95 percent the calcium and then the other 5 percent are kind of calcium-related compounds, calcium carbonate and magnesium carbonate.

We had a lot of discussion earlier today about minerals that potentially were agricultural products. There's a lot of issues based potentially, but the Handling Committee has managed to avoid them this time around because we believe that calcium for this use is included in the listing of nutrients, vitamins, and minerals already on 605(b).

So we did not feel that it was appropriate for this material to be added separately to the national list to 605(a) since the use of the material is currently allowed through that existing listing for nutrient minerals.
And this -- so that actually, that is our recommendation. Calcium seaweed derived as petitioned does not need to be considered for addition to the national list since the use of this material is currently allowed through the existing listing of nutrient minerals on the national list, section 205.605(b). That was passed by committee vote five yes, no dissenting, there was one absent that day.

MR. DELGADO: Questions, Dan?

MR. GIACOMINI: We've been discussing this quite a bit, and I just feel it's important and vital to the industry to understand this, what we're doing here.

The committee is determining that this is a nonsynthetic product. That's 605(a). They are saying that it is already allowed because of a listing on 605(b) for synthetics.

We have requested the program to address the issue of whether this is a blanket
crossover between 605(a) and (b) or a specific implementation because of the specific annotation for the minerals listed in 605(b).

Barbara, can you address that?

DR. ROBINSON: I did answer it before.

MR. GIACOMINI: Yes.

DR. ROBINSON: The FDA's regulations -- in fact, I think I sent you the citation there. It is in fact -- I can't remember the exact wording, but it is -- I think when I sent you back the citation from FDA's regulations, I don't remember the exact wording, but in the FDA regulations it's illegal to -- in fact, or of a fashion to discriminate or promote one nutrient over another because one is natural or one is nonsynthetic and one is synthetic.

So that nutrient, vitamins, and minerals, even though it shows up on our list under the synthetics, under FDA's regulations, those include both nonsynthetics and
synthetics.

So the fact that you determine it to be a nonsynthetic is of really -- doesn't matter.

MR. GIACOMINI: Right.

DR. ROBINSON: Okay.

MR. GIACOMINI: It's specific -- so that everyone here and it is in the record, it's specific to the annotation and not a blanket crossover, if it's listed on the one and it comes from the other, we can go use that over there.

DR. ROBINSON: Yes.

MR. GIACOMINI: Okay.

MR. DELGADO: Any other questions?

Thank you. Julie.

MS. WEISMAN: We have one other 605 material that's being petitioned for addition to the 605(b) synthetic, and that is ethylene for pears, and Steve DeMuri is going to present that.

MR. DeMURI: Thank you, Julie.
As Julie mentioned, we did have a petition for ethylene specifically for ripening of pears on the national list 205.605(b).

As you heard in public comment yesterday and in written comment, we want to note that it's been approved by previous boards for use in tropical fruits and for the degreening of citrus.

It is produced by pyrolysis of hydrocarbon feedstocks, such as natural gases. It includes crude oil. Or from ethanol. So it definitely is a synthetic material.

It is produced naturally by ripening fruits. However, this petition is specifically for synthetic ethylene, and the naturally occurring ethylene is not commercialized as a process, so making ethylene for use in post-harvest handling at this point.

We did receive a good amount of written and public comment, both during the
comment period and again yesterday. Thank you very much for that. Including a couple of folks who were able to provide some TAP information that was not available to us on the Web site previously. That was very helpful, and we appreciate those comments.

Many of the commenters believed that the approval of the use of ethylene for organic pears would increase that market. A lot more pears appear to be available as organic and also possibly increase the length of the season for the availability of organic pears. That was derived from several of the comments.

What the Handling Committee does is vote on the addition of this synthetic to the list, four yes, zero no, and two absent. Any questions?

MR. DELGADO: Questions? None.

Okay. Can you repeat the vote, please?

MR. DeMURI: The vote was four yes and zero no, two absent.
MR. DELGADO: Thank you. Any other questions? Julie.

MS. WEISMAN: Next I have two petitions which were petitions that were made with yet to be determined whether they were going to be appropriate more for 605(a) or for 606, and these are two algae. One is chlorella, and the second dumontiaceae.

I will make a general comment about this. Both of these petitions failed, I think unanimously. Both were -- and this is where, you know, petitioning onto 606 is still a new process and there is an exchange that is continuing and a feedback loop that is going on where it's actually through the petition process that we are getting a better handle on what these -- what 606 petitions need to contain in order to be viable petitions.

So this, like a number of petitions -- many petitions that were heard at the two previous meetings, there was a kind of a blanket statement made about searching
databases and not finding any mention of any of these being available organically. And we want more specific information than that.

So I'll start with the chlorella petition. Is that chlorella up there? Okay.

This is an algae. I think there have been times when it's been questioned as to whether that would be considered a potentially agricultural or a nonagricultural product, but the line up until now at least at the state that we're now is that anything that's photosynthesizing will be considered potentially agricultural and therefore eligible for 606.

So this is a red algae, a red-brown algae, which photosynthesizes. It is produced in tanks, and it is then -- in what is described in the petition as a hermetically sealed unit, and it's collected, extracted, and spray-dried onto astragalus root, and then ground. And it is a powder that is used for health benefits.
Our biggest problem with this petition and where it did not -- it actually -- we felt that it met criteria as being agricultural, and the problem is that there is certified organic chlorella out there. Now it may not be in the form that this petitioner wants it, but the petition didn't make any mention of the existence of this organic material, and so -- and therefore did not even address why the organic material wasn't adequate for their use and what might be the obstacles towards making a form that was available for their use.

So this voted -- this was a -- this failed to pass a recommendation at the committee level. The vote was zero yes, four no, and two people were absent that day.

I do want to say, though, that in light of the -- this also raises some issues that came up this morning in the material working group presentation which is the question of an agricultural product, and does
it have to be land based, or is it a system
that's managed, and the question of whether we
have standards for that management. And these
are all issues that are swirling around these
two. Even though they're not passing this
time, I think that the issues that they raised
are important to point out.

So before I -- should I just move
into the next algae? Okay. We're going to
move on to the dumontiacae. I think I've been
pronouncing that right.

MR. DAVIS: It would probably be
"dumontiacae" (pronouncing).

(Laughter.)

MS. WEISMAN: Okay, I'm going to
try this again. Dumontiacae is also a red --
a photosynthesizing red algae which is
indigenous to Pacific coastal areas of North
America from Alaska down to southern
California. Unlike the previous algae we
discussed, this is -- and I'm quoting the
petitioner here -- ethically wild harvested
from the ocean floor in the Pacific, and it is then air dried and packaged. I don't think the process gets too much more simple.

But we did have questions about what was meant by ethically wild harvested. It is also a material that would be added for nutritional and health benefit added ingredient.

Once again, we did not -- as with the other petition, we did not feel that the petitioner's broad statement that they had, you know, checked a couple of well-known places that -- I think I'm not allowed to say specifically because then -- anyway. It didn't state the usual places that we all look, and didn't find anything, and didn't look any further or make any other comment about why the wild harvested could not -- you know, what the obstacles might be of that being certified organic.

And so we did not feel that there was -- that the evidence -- that they really
had done their homework, and so this petition also failed for the same reasons as the other. I believe by the same vote. It was zero yes, four nos, and two were absent that day.

MR. DELGADO: Any questions?

Hugh.

MR. KARREMAN: This is something I brought up a few meetings ago when you spoke the Latin names, Rigo, of the petitions at that time, but I really would like to see on petitions with plants the Latin binomial name. We had this discussion before, and Richard agreed, or the program agreed, I should say, sorry, that the Latin binomial name is the preferred thing. Because this is a very -- I don't know what level, you know, terminology that is, but that's a much more big-umbrella term than the Latin binomial. So, please -- maybe that should be in the policy and procedure manual or something, I don't know.

MR. FLAMM: That's a family name.

MR. KARREMAN: Well, I would
recommend --

MR. FLAMM: The ending always the family. So it's the same for every plant family.

MR. KARREMAN: Extremely. And so it should be the genus and species, and however many of them they want, just not the family name, or higher. I mean it's just kind of vague, that's all.

MR. DELGADO: Any other questions?

MR. KARREMAN: One other thing that Kevin just mentioned also, if that is what they petition for, for that family name, then they're even on a weaker kind of basis because, you know -- I mean there's that much more they could be looking for in the organic availability.

MR. DELGADO: Any other comments, questions? Very well. You can go to the next.

MS. WEISMAN: Okay. We also had three materials that we looked at this time
around that were being petitioned for 606.
And they are buck hull powder, black pepper extract, and dried orange pulp.

Gerry, I just had a moment of panic as to whether -- are you prepared to present the buck hull powder?

MR. DAVIS: Sure.

MS. WEISMAN: Okay. Okay. I couldn't remember if I asked you or not. I would like to ask my colleague Gerry to present the recommendation for buck hull powder.

MR. DAVIS: The buck hull powder refers to the hulls of buckwheat. When the grain is milled, they typically pull the outer black hull off of it, and this particular petitioner was petitioning -- the use was it's a colorant for soba noodles, buckwheat noodles, and we checked into claims of commercial unavailability and felt that the petitioner did not provide sufficient information on their investigation of global
supplies from other buckwheat production areas.

They mentioned at the bottom of page 1, we kind of put it in a nutshell or a buckwheat shell, the petition provided information on the obstacles for growing and importing organic buckwheat to Australia where the petitioner, being a manufacturer of soba noodles, is located.

However, the petition does not address the fact that the organic soba noodles are currently made and sold in the U.S. from certified organic buckwheat. They refer to Chinese supplies of buckwheat and Japanese millers and they kind of focused on that sector, and did not consider the global supply, or they considered it and they did not put it in their petition that they considered it, and explained anything about it.

So we felt they did not do the job, and going to page -- the last page, category four, some pertinent -- the grain is
produced all over the place, and they just did 
not investigate why other areas of the globe 
could not be a potential supply.

There may be reasons, but they 
didn't spell it out. And the fact that we 
were able to find soba noodles produced in the 
U.S. from Canadian grain sources that were 
certified organic, those two things 
especially caused the committee to vote to 
deny the petition and not include it on 606.

MR. DELGADO: Any questions on 
that? Okay. Julie.

MS. WEISMAN: Okay, I'd like to 
now look at the black pepper extract powder, 
and Joe Smillie is going to talk about that 
recommendation.

MR. SMILLIE: Right. This 
petition basically is -- was denied. The 
petition does not provide sufficient 
information to demonstrate the material cannot 
be obtained organically in the appropriate 
form, quality, or quantity.
So it meets the first three criteria, no problem, but criteria No. 4, we had issues with, in a similar sense of a lot of the things we have discussed.

Basically, we felt that the search by this petitioner was not exhaustive in the least, and that we felt that it would be -- that they did not present us a convincing argument that they could not use currently available organic black pepper, both fruit and oil extract, for further processing.

The petition was very complete. I mean the technical information was good. They went into great detail about this product, which is used as a -- in the sense of a black pepper as a flavor or a condiment. It's used to increase bioavailability of other nutrients, and hence it's processed in three or four steps, and they said that the final step product wasn't available, but going back two steps, there is black pepper available and there is black pepper oil available, and why
this couldn't be contracted for further processing -- I mean it's possible that it can't. But they did not present that argument, and we can't fill in blanks. We have to see that as a major part.

All the rest of the petition was accurate and thorough, but again the exhaustive search.

So moving to the last page once again, good old category four, which seems to be -- I mean we need to put out -- we need to get the information out to petitioners to point out that they are continually failing on the same issue.

In other words, show us that you can't get organic. You know, the information is always good on, you know, the process and grass and all the other things, but it always fails when it comes down to why couldn't you get it orgg. And we, you know, off in this magical world of ours of, you know, Google and all these other search engines, we go out
there and we see it there, you know. So we
know it's there. Maybe it's not there in
sufficient quantities, and we have gone this
argument with other materials, but again, the
petitioner didn't present any kind of detailed
information on why the current organic black
pepper supplies and black pepper oil supplies
couldn't fill this need.

I can't find the voting on my
document. Valerie, can you -- So it was
petitioned to be added, and it was zero yes,
six no, no absent, and no abstained and no
recused.

MR. DELGADO: Any questions?

Okay. Yes?

MS. FRANCES: I just wanted for
the record to state to put these
recommendations out there, and petitioners
have the opportunity to provide you with that
additional information during the public
comment process, either through
writtencommentsandregulations.gov, or here, or
come to the meeting and tell us more. So I
just wanted to say that. So it's not a done
deal once the committee makes its
recommendations.

MR. DELGADO: Good comment. Yes.

Julie, do you want to add

something else to that?

MS. WEISMAN: You know, what I can
-- I'll -- we have one more material, and
Steve is going to present that, and you know,
and actually I think at that time I'll say
something more general about the 606
petitions.

MR. DeMURI: Okay. The last one
for the Handling Committee today is dried
orange pulp, and we had a petition for
205.606. It is used as a moisture retention
agent and that substitute in baked goods,
pastas, salad dressings, confectionery,
processed cheese spreads, and frozen food
entrees.

As you heard yesterday, it's a
fairly benign process to make this stuff. It's -- the material is a byproduct of orange juice processing. It's kind of what's left over from the physical extraction process to make orange juice, and basically what the producer does is heat treat it to stabilize it. They mix it, dry it, and mill it, physically mill it. So it's a pretty simple process.

It did pass fine categories one through three, impact on humans, environment, essential and available, and compatibility and consistency, but again like the previous material, it failed category four in our minds because the petitioner did not provide sufficient information to demonstrate that material could not be obtained organically in an appropriate form, quantity, or quality.

Now there were two things with this petition. First of all, we weren't convinced that there weren't enough organic oranges out there to produce the dried orange
pulp in an organic form. And also there was
an equipment issue. That came up a couple
times yesterday during the public comment
period, that this particular producer has very
large equipment, which is understood, but
never really was answered on the question why
couldn't you build something on a little bit
smaller scale to produce the organic version
of this dried orange pulp.

So it did fail based on that
criteria No. 4.

There was a little bit of public
comment on that. We thank you for that. Mr.
Lundberg did a good job yesterday of giving us
background on the material. Thank you. That
was very good.

The committee vote was zero yes,
five no, and one absent.

MR. DELGADO: Okay, any questions
on that material? Gerry.

MR. DAVIS: The one question left
in my mind from the public comment yesterday
was we discussed the fact that the data
presented on the amount of organic orange
juice being produced in Florida was fairly old
data. I'm not sure how much more is there now
that the organic marketplace has grown.

But also I never really got an
impression of if smaller equipment was built
and installed next to an organic source, that
would fulfill their requirements on quick
handling and so forth.

With newer data of what's
available for orange pulp from organic orange
juice, how much of a percentage of their -- of
the marketplace for orange juice in organic
products would that represent? I'm not sure
that was made clear. I don't know if anyone
else on the board heard something that I
missed.

MR. DeMURI: I did not have an
answer to that myself. Is the petitioner in
the audience today? Can you let him answer
that?
MR. DELGADO: Yes. Please come up to the microphone.

MR. DAVIS: And I guess the question would be, to try to boil it down, if you first exhausted the supply of orange pulp from organic orange juice with one installation of the equipment, then how much additional would have to come from conventional?

MR. LUNDBERG: Well, first, the --

MR. DELGADO: State your name, please.

MR. LUNDBERG: Brock Lundberg with Fiberstar, petitioner for the dried orange pulp.

First regarding the data, the amount of available orange pulp, it is a half a truckload is the current number, 20,000 pounds on a dry basis, and I'm not sure how it got misunderstood that that was old data. I apologize for that. But it actually is current data. We did talk to the largest
orange juice processors in Florida about this information, and that's where the source came. That's less than a month old, that information.

I did talk to Marty Mesh about that, too, to confirm, and he didn't disagree that that is reliable numbers. He's with the Florida Organic Association.

And regarding that 20,000 pounds, that would represent roughly 1 percent of our total market, and that's now -- that's only after three years of manufacturing. Our business is growing and the organic is going to be a large part of the business. That's approximately at least 10 percent of our business opportunity is in the organic area.

We have many large manufacturers that have been asking for us to be on the list, and large and small, I should say, and but the reasons for the availability -- I mean there's two different reasons. We get -- when there's orange pulp, we get 20 times less. We
have a 100 pounds of raw pulp, we get five pounds of finished product. That's the first thing.

Secondly is all of the pulp has much higher value when it's used in juice, and most of the pulp does go back into making juice, organic juice is a growing industry. But a lot of the pulp that's used goes back in the juice.

We use the byproduct that's left over and made into otherwise cattle feed, so we are -- essentially when the organic industry -- we'll benefit the organic juice manufacturers, when there is growth, by providing them with added value for their product stream.

But -- go ahead.

MR. DAVIS: So while that might help us to understand the small amount of supply then that you just highlighted was the organically grown and produced orange juice typically retains most of the pulp and is not
as much being pulled out.

MR. LUNDBERG: Exactly. The majority of the pulp goes into orange juice. Exactly.

Thank you.

MR. DELGADO: There were a few comments. Hugh.

MR. KARREMAN: I apologize. How many orange growers are there in Florida, and what percent are organic, certified organic, and is there a major difference in size of the groves between certified organic and conventional?

MR. LUNDBERG: Sure. Yes, there is a difference in supply. There's two different issues regarding supply.

First there's -- on a -- I don't know that I know the acres off the top of my head, but I know in terms of total oranges produced. There's approximately 2.7 million boxes of fruit produced in the United States, and most of that is in Florida, and the pulp
is -- the pulp goes into juice, but regarding what that represents compared to the total, the total is in the range of approximately 20 million boxes is produced in -- I'm sorry, not 20, 20 is at Southern Gardens Citrus. Two hundred million -- Southern Gardens Citrus, which is where our processing operation is at, includes that 200 million boxes is the total amount produced of the standard nonorganic variety of oranges that goes into juice.

That's about -- yes. Yes, that
2.69 is there on that slide.

MR. DELGADO: Jennifer.

MS. HALL: Yes, thank you.

Do I remember correctly that yesterday you said that the function of this organic pulp is as a thickener, and that it can potentially replace chemically derived options that are currently used?

MR. LUNDBERG: Exactly. And that's what -- that's why so many organic producers or food ingredient manufacturers
like the product, is just because of the functionality it delivers of normal -- of a lot of chemically derived preservatives, stabilizers, emulsifiers. It's got a very creamy mouth feel, and it's unique compared to a lot of gums because of the cleanness of both the label, as well as the mouth feel of the product.

MS. HALL: Thanks.

MR. DELGADO: Barbara.

DR. ROBINSON: I just -- did I hear the committee say that you thought was an alternative was having the company make smaller equipment?

MS. WEISMAN: That was just me yesterday. You can't pin that on the committee. That was just my personal question.

DR. ROBINSON: Okay. All right.

MR. DELGADO: So the answer to your question is yes, we were looking at an alternative.
MS. WEISMAN: That was my question why can't it be done on a smaller scale. I'd like to elaborate, okay, because I think that sometimes we get petitions from the end user who has no control over how this is going to be manufactured, and I looked at that differently than when the petition comes from a manufacturer.

I'm a manufacturer, and the scale on which I do organic production, I do much smaller than what I did conventional production. And so I'm trying to understand why that can't happen in this instance.

DR. ROBINSON: Okay. I was just hoping we weren't making -- we weren't voting against something because of the scale. We could ask them to make smaller equipment, and then we'd reconsider this.

MR. DAVIS: That was why I asked the question, Barbara, of what percentage of your marketplace, if you were to build equipment to exhaust all that organic orange
pulp that there is, if you did that first and then moved on to conventional for the additional, I wanted to see what is that marketplace. And he said only about 1 percent of what we need for our organic -- for your organic customers or all customers?

DR. ROBINSON: Right, but you also want to consider the potential market, too.

MR. DAVIS: Right. True. True.

MS. WEISMAN: And that's very important because there is this dynamic relationship between the demand and then supplying. When the supply starts to come, then the demand follows.

DR. ROBINSON: Correct.

MR. DELGADO: Okay. Let's go back to Dan.

MR. GIACOMINI: I think what Julie was saying is important here. I think another factor that's important is that this is a proprietary process, and by putting it on the list, we are allowing them to say we'll never
have to.

DR. ROBINSON: Never have to what?

MR. GIACOMINI: Never have to have
an organic source because no one can ever push
us into having one. There will never be a
commercial availability -- there's a
possibility of never having a commercial
availability of an organic source when they
own the process of making this product.

MR. DELGADO: Tracy.

MS. MIEDEMA: I sense that we are
so engaged in this topic, like we were with
okra, because something intuitive feels like,
hey, there's an organic version of that
commodity. Come on. And we're really not
looking at the processing side.

And as someone who works for a
large organic processor who processes millions
and millions of pounds, I understand that. We
don't flip on our "on" switch for anything
under 20,000 pounds, and we can't. It's just
not feasible.
You know, what we're really getting to here -- and this is to your comment, Dan -- is this philosophy behind statistics, whether it spurs or spurns demand -- or sorry, supply of organic products out there in the marketplace.

If you use 606 as an opportunity list, then we think it spurs the supply of new organic product.

So, you know, in the case of okra, Marty came up here and made this very compelling argument that, hey, nobody has come to me and asked for organic okra. Well, what if organic IQF -- I'm sorry, what if IQF okra had been put on 606? Some products that developed? Guess what. Now there's this opportunity list of organic growers who'd say I get to go to the front of the line, and that manufacturer has to buy my organic okra.

Somebody can look at dried orange pulp, for instance, on 606 and say, hey, I want to make that, and I'll beat Fiberstar
because those manufacturers have to come to me
for the organic version.

So, you know, we don't have enough
evidence yet to know how often it spurs and
how often it spurns the supply, but we're
going to start accumulating that evidence, and
it's reasonable to think that in many
instances we will have more organic products
because of its presence on 606.

MR. DELGADO: Dan.

MR. GIACOMINI: I completely agree
with what you're saying, but anybody can grow
okra, relatively. But in the case where you
own the proprietary rights to process, that
makes it a little bit different.

MS. MIEDEMA: A point of order.
And I -- it was not okra, and it's not organic
oranges, it's not oranges we're talking about.
It was IQF okra, and this says dried orange
pulp. And there are some very specific things
that happen in processing about heat and
transportation, and you don't get to just sort
of accumulate a bunch of this stuff and set it aside over a year's time and wait to turn your processing machine on.

What Brock was explaining to us is if little dribs and drabs of organic oranges showed up, they can't kind of turn on their machines for those 100 pounds each day as it shows up.

So we have to keep in mind the specific item that's being petitioned.

MR. LUNDBERG: Just one follow-up comment. I do know other processors coming out with dried orange pulp, and it's -- and I don't know whether or not that would infringe patents. I can't comment on that, but certainly it has been made before. It's been made before us, and just that alone would mean that there's ways that other people can produce it.

MR. DELGADO: Steve, followed by Bea.

MR. DeMURI: In my mind, the
process worked here because when we first --
when we visited about a few months ago we
didn't have all the information we needed.
You saw that, came and gave us more
information, and backed it up, and now we can
make a more informed decision.

So I commend you for that. For
future reference, I think for anybody here
that wants to petition us, it also helps to
get back-up from the people you're selling to.
If they come to us and say we need this, then
we know that it's necessary for the industry.

MR. DELGADO: Am I to understand
that the committee will be changing their
position on this?

MR. DeMURI: We'll talk about it.

MR. DELGADO: Very good. We have
Bea, followed by Jennifer.

MS. JAMES: Under the evaluation
criteria, it says here that it is produced by
taking the pulp and washing it with water,
stabilizing with heat and water, mixing,
drying, grinding. I'm just curious as a stabilizer and an emulsifier, is the flavor in there, so everything you use it for would have an orange --

MR. LUNDBERG: No, it's very bland. We remove the flavors in the washing, so that allows us more market and that it can be used in more products, because of the bland flavor and neutral odor.

MS. JAMES: So there's no chemicals used when you take the flavor out?

MR. LUNDBERG: It's just water.

MR. DELGADO: Any other questions?

Jennifer.

MS. HALL: In addition, I think it's helpful to, if there are specific items that might be able to be removed from the list as the result of the addition that are more harmful, it's helpful to know that.

MR. LUNDBERG: Okay.

MR. DELGADO: Any other comments, questions?
MS. JAMES: Well, you know, to just kind of -- off of what Jennifer just said, do you know offhand what other items on the list could potentially be affected by this being added?

MR. LUNDBERG: I'm sorry, I don't know offhand. I could come back up and probably in an hour's time and tell you that.

MS. JAMES: Will you be here tomorrow?

MR. LUNDBERG: Yes.

MR. DELGADO: Any other questions, comments? Okay, Julie, back to you.

MS. WEISMAN: We're done with materials, but we have -- oh, I'm sorry. Yes, we're done. Thank you very much for being here.

MR. DELGADO: Right. So we can move on to the next item, which is --

MS. WEISMAN: Right. The next item is the pet food recommendation. And for that presentation, I'm going to turn it over
to Tracy Miedema.

MR. DELGADO: Tracy.

MS. MIEDEMA: I'm so glad we have something warm and fuzzy to talk about.

(Laughter.)

I hope.

Okay, the National Organic Program came to us four years ago and asked for the recommendations that we are presenting today - - Barbara's over there telling me, and we thought they were slow.

(Laughter.)

Six months later, a task force had been formed, and this group was comprised of experts from industry and certification, and some other groups, 12 people. They spent about a year coming up with a task force recommendation and brought it to the board, and to this board in April 2006.

Just a little bit of background ground. Pet food regulations are quite baffling, actually. All 50 states have their
own rubric certification, and you really need
a professional consultant every time you build
a pet food package because you have to build
a label that cuts across all 50 states.

Then, you know, what we were doing
is layering on top of that our regulations.
So it was very complex, and this group did a
fantastic job of threading the needle.

But something happened after April
2006 which was the Harvey case, and we had to
reevaluate the way this recommendation by the
task force was written.

Frankly, it languished. This
recommendation languished in a back room for
about a year, and tremendous demand for this
information has been coming from the industry,
but just an anecdote here. A few days at one
of the country's biggest pet food product
shows in Las Vegas, called Superzoo, a couple
of months ago, and I talked with a lot of
people about organic pet food, and just kind
of beating the bushes and finding out how
people were feeling about what was happening there, and a tremendous amount of confusion, anxiety. They feel like they were in neutral. They had invested money in developing organic pet food, and so what we have is a little subindustry here that wants to grow and wants to fulfill its destiny, and it's time we really give them what they need.

So what our committee did in conjunction -- we've still been working with the task force -- is revise the organic pet food task force recommendation to reflect changes based on Harvey. Based on some excellent comment that has come in in the last few weeks, we even made a few more tweaks which, Valerie, when she pulls our recommendation, I'm going to show those additional highlights, because we really wanted to get this right.

It's a very technical recommendation. One thing that I would say to the organic pet food people out there is that
just like an organic shortbread cookie might not be more nutritious than a regular old conventional shortbread cookie, the organic pet food does not present itself as somehow having a nutritionally superior line of pet food, and that was one of the main points of confusion I found at that pet food show.

So, you know, this is talking about the practices and everything that's been tried in OFPA and not reinventing pet food, per se. However, we do comply with everything in AAFCO in this recommendation. That takes primacy to what we did here.

In terms of the -- you know, some of the highlights of the proposed rule change, we're talking about putting this regulation in the pet food -- or, sorry, in the Livestock section, because we're feeding animals, but the label claims labeled the same way human food does, because it's humans that are buying it. So that's why that split has occurred.

And at this point I would like to
invite Emily Brown Rosen up to the podium because no doubt there could or will be questions that Emily can do much a better job answering than I can.

MR. DELGADO: Emily, can you approach, please.

MS. MIEDEMA: One other highlight I guess I wanted to make based on some comment that came in yesterday is how 606 items would appear, and we proposed parsing 606 into A and B, and we got help from the program on how this should be parsed, so that a bunch of pet food-sounding ingredients didn't kind of get commingled with the other 606 items. It's just an appearances thing.

And with that, I would turn it over to the board.

MR. DELGADO: Questions? Questions from the board? Jeff?

MR. MOYER: Yes, I was just going to say sitting in on the few calls that I did sit in on, I was completely amazed at how
complex the basic pet food industry is in terms of labeling and the way they work, and for us to have dovetailed into there like we did I think was just a real credit to those people that did much more work than I did. So it's a very well thought-out document.

MS. ROSEN: I think it was a challenge, because I've -- I mean I've already given presentations to AAFCO on what organic means, but we're going to need more presentations to organic to what AAFCO means, because there's two sets of regulations that they have to comply with, and it's a little bit of a puzzle.

MR. MOYER: I think after reading this, my dog should apply for another home because my dog gets what he gets and this is --

(Laughter.)

MR. MOYER: -- much more complex.

MS. ROSEN: These are just little minor changes that we picked out where we
missed a few spots on the 606 changes. So it's basically what you saw earlier.

MR. DELGADO: Are you going to review those changes?

MS. MIEDEMA: Sure. Let's just go through those very quickly. There's three items, and comments came up from our eagle eye, Gwendolyn Wyard, and were seconded by Emily, who was vice chair of the organic pet food task force. So I went ahead and layered those in.

One of the additional comments was to propose an entirely different section of the regulation devoted to organic pet food, and we are not recommending that because I feel that that's a programmatic decision that the program can opt to do or not do later on.

So if you look at -- what page are we on there, Valerie?

MR. MOYER: Seven.

MS. MIEDEMA: Okay.

MS. ROSEN: This is 237(c), and
this fits in with the livestock section which we are now calling livestock feed and pet food, so we've added this new step (c) which was in addition to the -- I should back up a little bit.

The 237(b) are things that are not prohibited for organic livestock operations, but not prohibited for pet food formulations. So this is a separate addition.

Pet food must be composed of agricultural products that are organically produced and, if applicable, organically handled, except that nonagricultural nonsynthetic substances and synthetic substances are allowed under 603 and 605 may be used as food supplements.

And so this goes along with the proposed change in the livestock feed pasture rules, actually, so that we are just identifying that items on 603 or 605 that are natural, nonsynthetic, but they're not agricultural, they'll be allowed for use. If
they're agricultural, they still have to go through the 606 process. So this was put in more to clear that up, which has been a little bit of a -- livestock feed and also now it's trying to be all the same with the Harvey thing.

And then it goes on to add that nonorganic agricultural ingredients allowed under 606 may be used in products labeled organic provided they are commercially unavailable in organic form and allowed by FDA for animal feed.

So it just covers all bases. It's not -- it was our intent to do this, but we had missed it before.

MS. FRANCES: The addition for the livestock community's benefit was (b)(7), the feed, it cannot feed organic pet food to livestock was requested.

MS. ROSEN: That happened over the summer. That was earlier.

MS. FRANCES: Yes. Just to make
sure people didn't see that.

MS. ROSEN: That should be underlined also, actually, yes. Because that's not in the -- that was a concern to the committee that somehow, you know, this loophole for like maybe they're getting pet food or it will end up in the livestock feedstream, which does happen. In the real world there is what they call salvage or distressed pet food that ends up as livestock feed. So that's a prohibition here.

MR. DELGADO: Any questions?

Jeff.

MR. MOYER: I just have one question, Tracy. I'm going well outside my realm of expertise, but in terms of definition that you have on page 2, at the very end of that we say that this does not apply to the zoo animals, and I understand that, but as I think about the near term and what's happen with the -- sort of the greening of all industries and the whole claims of
sustainability, I can see where in the near
future zoos would be very interested in
feeding organic diets to their animals. Is
this the groundwork for that, or is that way
outside --

MS. MIEDEMA: That came from the
pet food industry. They didn't -- I guess
they're feeling there's a whole different
nutrient recommendations for zoo animals, and
they just felt like this is the bread-and-
butter, this is cats and dogs, and you know,
minor other species, and we just -- they had
their reasons they didn't want to throw that
in here because I think it's still undeveloped
in the natural world, too, and the committee
really talked about it, didn't want to add
that to the mix right now.

You know, it's not really pressing
at this moment, and we need to get this thing
done first. So I mean we could take it up
later if there became a pressing need for it.

MR. DELGADO: Any other comments,
questions? Tracy, anything else?

    MS. ROSEN: Oh, well, there was a few other changes we didn't finish.

    MS. FRANCES: One thing I just did, the language that was recommended for another program for 605 and 606 to be offered, because that wasn't really -- it was incorporated as a concept in the Handling Committee's recommendation, but not the actual wording for 605 and 606. Do I just drop that into this document?

    MS. ROSEN: Oh, you mean this change that actually happened?

    MS. FRANCES: How it will actually impact the rules. I just wanted to -- just so people understand the language. Okay.

    MS. ROSEN: Where are you putting that? In the regulatory part in the beginning, or are you just --

    MS. FRANCES: Yes, the 605 includes pet food.

    MS. MIEDEMA: Valerie, I would
rather you didn't do that. We did discuss this very point in committee, and we preferred to keep it as a note that the Handling Committee recommends, and since we discussed it already, I just prefer we keep it out of there.

MS. FRANCES: But just for people to see how it would look. You can take it out if you want, out of your recommendation, but this was what was discussed as to how it would ultimately appear.

MS. MIEDEMA: I think we're going to get --

MR. DELGADO: When you come to a decision, it's up to the committee to decide what is it that they want to vote on.

Any other questions on the part of the board? And we thank you very much for all your help. We appreciate it.

Back to you, Julie. Does that conclude this segment?

MS. WEISMAN: That's all, folks.
MR. DELGADO: Fantastic. Thank you very much. We are only a couple of minutes off schedule, and we are due for a nice break.

(Recess.)

MR. DELGADO: We're ready for the board members to come and take your places so we can start the public comment.

(Pause.)

Okay, we're ready to start with our public comment section, day two, of our meeting, and the first person up to provide comment is Carrie Brownstein. If you could please approach the podium, and followed by Urvashi Rangan.

Carrie Brownstein, please approach the podium. Carrie will be followed by Urvashi Rangan and Brian Connolly.

While our presenter makes her way up to the podium, I would like to remind the board members that we have an hour and 45 minutes of public comment scheduled, but we
have 35 presenters.

Carrie, can you please introduce

yourself for the record, and your comments

start right now.

MS. BROWNSTEIN: Five minutes?

MR. DELGADO: Five minutes, yes.

MS. BROWNSTEIN: Okay.

PUBLIC COMMENT ON NOSB ACTION AND

DISCUSSION ITEMS

MS. BROWNSTEIN: I am Carrie

Brownstein from Whole Foods Market.

I submitted comments and posted

them to the site, the NOSB site, so I probably

will not read through all of my comments, but

hopefully the group has a chance to look at

those comments.

There are a couple points that I

wanted to make that I made in my printed

comments. I think that there is some greater

clarity needed on a few of the proposed

standards with respect to how some of the

terms are defined and greater specificity
needed on some of the standards.

So just a couple examples of this.

In the aquatic livestock feed, livestock feed, about using wild fish, and calculating the -- you know, figuring out how much wild fish is acceptable, I think that it needs to be specified whether the trimmings from fish processing will be counted in a calculation, and in our standards at Whole Foods Market, we do not require that trimmings or processing wastes are calculated in what we call the fish-in, fish-out. So I think that could use some specification.

Around contaminants, I think the important point is that environmental contaminants, is that the standard refers to regulatory levels, but -- for allowable levels of contaminants, but there are no regulatory levels really, and so as it's written it's kind of unclear whether the group was talking about following European regulatory levels or if there was an error in assuming that there
are established standards for PCBs, mercury
and things like that, in feed.

So I just wanted to mention that.

The term sustainably sourced for
the fish meal, fish oil that goes into feed,
I really think that needs to be defined. It's
-- for Whole Foods Market, we have reserved
the term sustainable for just products that
are certified by the Marine Stewardship
Council. You know, as you know, in terms of
production fisheries, you know, there aren't
really that many that would qualify from the
MSC group.

So I think that's just -- that
kind of specificity is needed.

And when it comes to the net pen
category, there's a bunch of areas where I
think more clarification is needed. For
example, will hormones for sex reversal be
prohibited for grow-out stock only, or also
for brood stock? That's important. It's used
for brood stock in trout, but, okay, I have to
hurry.

So there's a couple of really quick points then.

The aquaculture working group had a couple of interesting comments, so I agree with them that the aquatic plants and aquatic animals are good terms to use rather than livestock and crops when you're talking about aquaculture.

I also like some of the specifics that they put in their comments, like the use of acoustic harassment devices should be prohibited. Those are the kinds of specifics in our Whole Foods Market's standards that we try to put in so that people knew exactly what kinds of practices on the farm are allowed and are not allowed.

So I also like this point that in the rules for fish meal and fish oil that they should apply to terrestrial livestock. I thought that was an interesting point as well.

Finally, it's really a great thing
to have performance targets, and we tried to
do this in our standards as much as possible.
But regarding the nutrient reduction of 50
percent through cycling, I'm just a little
curious where that number came from. I tried
to find numbers as we were working on our
standard that we could do, and I wasn't quite
sure if there was science supporting that
particular number, because I think it's great
to have a performance target, but if it's
arbitrary, I'm not sure if that gets you
necessarily where you want to go in terms of
on-the-farm performance level.

So I do please hope that you can
check out the printed comments that we
submitted online, and hopefully find
opportunities for greater specificity,
especially on things like predator standards,
where there are specific things that you could
require, like no acoustic harassment devices
and greater definition on those kinds of
standards.
Thank you.

MR. DELGADO: questions, Dan?

MR. GIACOMINI: Carrie, excuse me.

MS. BROWNSTEIN: Sir.

MR. GIACOMINI: Yes. I notice when I go into your stores, you do have accredited farm fishing program. Without going into the specifics of it, I have talked to some of the guys behind your fish counters at some of your various stores, and -- but as from your perspective, the store's perspective, how is that program -- how is it going, how is it being accepted by the consumer to be dealing with these kind of things, which we're being told are not acceptable by the consumer? What are you seeing?

MS. BROWNSTEIN: Well, we just released the new aquaculture standards in July of 2008, so they are new. But the feedback that we have received has been really positive, and in terms of the implementation
of the standards, we are in the implementation phase.

So, you know, it's going to take a little while, but the point is that all of the farms will have to be operating completely under those standards. And so, you know, it's a process of getting everybody up to speed, and so far I think it's going really well. We've got some great relationships with these producers that are working really hard to make this happen.

MR. DELGADO: Any other questions? Joe?

MR. SMILLIE: Yes, I just wanted to clarify, you guys have the ability to note a sustainability standard you can adhere to. We lack that ability. We can't refer to a nongovernmental sustainability standard. We explored that earlier because that's one of the things that we wanted to do is pin it to sustainability as far as the feed mill goes, but basically it's difficult for us
to have a nongovernmental standard and a governmental regulation.

So until such time as the community create, you know, sustainability standards that are acceptable, we are stuck without, you know, a donkey to pin the tail to as far as our desire for sustainability.

Isn't that correct, Hugh?

MR. DELGADO: Jeff?

MR. MOYER: Yes. Carrie, I was just wondering if you can expand just briefly on what your waste management standards are. You brought up the 50 percent recycling. What exactly is doing that?

MS. BROWNSTEIN: We looked at it from the input side in terms of looking for the producers to reduce the amount of nutrient inputs in the form of feed and fertilizer.

We did not put a 50 percent reduction or a particular percentage reduction on that particular standard. But we did look at it from the input side, especially because
of the context of net pens and open water systems, it seemed a little bit easier to keep track of the inputs.  

But we are looking -- I mean I think there's a lot of consistency here in terms of what we are trying to achieve, you know, in terms of recycling nutrients. We are looking to producers to find ways to recycle these nutrients, and so, you know, the kinds of integrated multitrophe, integrated aquaculture systems that I think you probably had in mind in this standard, I think those are fantastic, and we're looking to find producers who can do that. It was just that that particular number of 50 percent of reduction, we just had a little trouble finding, you know, a justification for that exact number.

MR. MOYER: Thank you.

MR. DELGADO: Kevin.

MR. ENGELBERT: How many producers are you working with? Do you know, off the
top of your head? And what types of seafood --

MS. BROWNSTEIN: So our

aquaculture standards cover all farm fish
except for mullet. So we're talking about
salmon, Arctic char, steelhead, tilapia,
farmed shrimp, and then, you know, those are
really the big ones, and then there's
obviously some fish that are not quite as
popular. You know, here we're talking about
Mediterranean sea bass, sea bream, and of
course there's cod, we don't really deal much
with farmed cod.

But there are other species that
are covered under the standards, but the
standards were really designed for those big
ones.

And in terms of producers, I don't
have the number of producers offhand. It's
not an enormous number because we try to
develop long-term partnerships with our
suppliers that are working to, you know, be a
part of our firm.
MR. DELGADO: Kevin.

MR. ENGELBERT: And how are you finding the enforcement of your standards working out? Are you having trouble doing it, or is it -- or are you able to follow through on these standards?

MS. BROWNSTEIN: It's going okay so far, and you know, in the beginning there were some producers that had to be eliminated because they weren't meeting the standards, but many of our producers have already had the same kind of outlook on how aquaculture should be done, and we've had long-term relationships with these suppliers.

So many of these suppliers were really already on this honor program before we had a chance to release them. But there were some that, you know, that didn't make it.

MR. DELGADO: Bea.

MS. JAMES: On your Web site, you have a page that's devoted to seafoods and talk about Whole Foods' commitment to making
sure that you are committed to sustainable practices and you talk about supporting fishing practices that ensure the ecological health of oceans and the abundance of marine life.

Do you consider the ocean net pen farming method be one that does not?

MS. BROWNSTEIN: Well, I think with net pen aquaculture, there's a huge range in the kind of practices that are out there. So I think if it's done well, it can be a good source of seafood, and I don't use the term sustainable in general, but we tend to say environmentally responsible, environmentally friendly.

But it's -- you know, I think with net pen aquaculture specifically, because that sounds like what you're specifically interested in, it's a question of finding people that are doing it right. And so, you know, with our -- we talk about suppliers on our Web site a bit. We have a blog on our
site, if you check it out we have a couple
features. You know, we're only working with
maybe three salmon suppliers, you know, so
it's not like we're speaking about the rest of
the universe in the salmon industry.

But I think it can be done well.

MR. DELGADO: Bea.

MS. JAMES: Another follow-up
question.

I know in your stores, when I go
into your stores, that there is an emphasis,
a heavy emphasis on sustainability in your
fish department, and if you ask the guy behind
the counter, they usually have answers that
focus around that aspect of the fish that you
sell.

Do you have consumers that are
asking for organic fish, or is the main
concern for consumers that you see at Whole
Foods around sustainability?

MS. BROWNSTEIN: Well, we have had
a policy for a little while now that we don't
sell fish that is labeled organic, and we do
have people asking us sometimes why, and we
explain it to them. And, you know, we do
provide this kind of information to our
customers in various formats.

We did a podcast and we explained
this to our customers, and we respond to
customer e-mails about these kinds of
questions. But we have people asking about,
you know, all aspects of seafood, whether it's
from questions about sustainability, or
whether it's questions about contaminants, or
whether it's, you know, about aquaculture. We
get all kinds of questions. We have pretty
engaged customers that, you know, really want
to know. Maybe they're a representative
sample of the general people, so we see all
kinds of things.

MR. DELGADO: Hugh.

MR. KARREMAN: I apologize,
Carrie, for not being in the room when you
spoke, but I did read your written comments,
so I'm happy to have them.

I just wanted to -- so maybe you've already mentioned this, but of your producers that you have in your program right now, would they be able to -- how do our standards -- I'm not trying to compare standards with NOSB and you guys, but would your producers be able to produce also certified organic by these standards that we are proposing, or, you know, amending slightly?

MS. BROWNSTEIN: Well, I think that's a good question because in the process of developing my comments, I did speak to a number of our producers, the ones who I know would be interested in producing under an organic standard. So I was very curious about what their perspective on it would be.

So specifically related to the net pen standard, one of our most engaged producers said, you know, it's not clear to me from many of these standards exactly how we
can or can't produce fish.

And so that -- I tried to address some of those things in my comments about the need for greater specificity.

You know, for example, under the predator standards of how you handle predators, it doesn't say whether you can use acoustic deterrent devices or not, and it doesn't explain I think quite enough on how things can or can't be done.

And I know you don't want to be too prescriptive, I'm sure, but at the same time I think there was in the net pen standards a little too much vagueness. And that was coming, you know, from some of the producers who said it's not totally clear to me if I would comply with these standards.

I'm not sure what I can and can't do.

MR. DELGADO: Hugh?

MR. KARREMAN: Just a follow-up.

I really appreciate everyone's comments for sure, and I -- George Leonard
from the Ocean Conservancy now, did you consult with him or to look to their -- to what he always is talking about, performance metrics, and how do you feel about that, performance metrics to show compliance?

MS. BROWNSTEIN: Right. Well, in the development of our standards, we did talk a lot with George Leonard and folks at other organizations, and obviously there's a lot of support for having performance metrics, and we try to do that in our work as much as we can, as long as we can find a performance metric that seemed logical and not arbitrary. So I think they're really good to have if you can -- if there's one that's sensible, I think it's a great idea.

It makes it, you know, a lot easier to interpret the standards and informs the producers more specifically as to what they need to work toward.

MR. KARREMAN: Okay. Thanks.

MR. DELGADO: Bea?
MS. JAMES: Sorry, one more question. I know and respect that you -- Whole Foods stopped selling live lobster because of the inhumane standards that you felt were not being followed for that, and do you see net pen or pond-raised as being humane for aquaculture?

MS. BROWNSTEIN: Well, as you know, we have a very big effort under way on animal welfare for farm animals under our five-step program, and this is something that we have not yet addressed in our aquaculture standards. We felt like there was a lot to tackle in the first round of standards for farmed fish so, you know, in terms of, you know, what it looks like right now, I mean I think that there are questions to look into and say -- there are arguments on both sides of it. We spent two years doing research on the sustainability components of aquaculture, so without spending a little time looking into
the animal welfare aspects of it, you know, it's really hard for me to say because I understand that, you know, in some people's perspective, it's more natural or more humane to be in an open water pen than it would be to be in a tank.

And on the other side, you know, there's other points. So it's difficult to say yet.

MS. JAMES: Is that something that Whole Foods plans on doing some research on?

MS. BROWNSTEIN: I'm sure we'll look into that. Our next big project, I know you mentioned wild fish, and the sustainability. Right now we're focusing our efforts on developing our guidelines for wild-capture fisheries.

MS. JAMES: Thank you.

MR. DELGADO: Any other questions?

Thank you very much, Carrie.

Next is Urvashi Rangan, followed by Brian Connolly.
MS. RANGAN: Thank you. I sound a little different because I'm sick from my baby, but I'm going to try and make it through these comments.

The first thing I want to do is stress -- my name is Urvashi Rangan. I'm a senior scientist at Consumers Union. We publish Consumer Reports magazine, which reaches over seven million people.

Consumers Union opposes the use of animal byproducts in the pet food recommendation. We feel that pet food should be in line with the livestock feed recommendations, that consumers will not understand why they are not the same, and at the very least we would like to see the loophole or the allowance for conventional animal byproducts in the nonorganic portion of pet food to be omitted.

The fact of the matter is that cats are also subject to mad cow disease.

There are studies on this in the UK, at least...
100 cases of mad cat, and the primary vector for mad cow disease is the transference of animal byproducts in the feed. So we would like to see that closed. And I'm happy to provide those references for you.

I would like to now turn my comments to what we heard during the Livestock Committee's discussion of aquaculture. And, Hugh, my comments are responding to your comments.

We don't think the job of this board is to find a middle ground. Your job is to uphold the principles of the National Organic Program, and not to dilute the standards so that a substandard market can cash in and charge consumers a premium price for something that isn't as organic as other organic food that they are buying.

And an extra labeling proviso is not an answer, and it's not legal, and your obligation under section 2102 is to provide consistency to the meaning of that label. The
standards you have currently for aquaculture do not do that.

American consumers have in fact overwhelmingly, more than 90 percent, said they expect organic fish to be produced with 100 percent of organic feed.

I don't understand how you have arrived at that some consumers maybe will be happy about wild fish food or happy about less than 100 percent, but we have two national polls that indicate that that is not the case.

Environmental pollution from open net fish farms is not limited to the Pacific Northwest. They are in fact widespread problems that happen in Norway, in Scotland, in Ireland. There are plenty of scientific studies to document that, and Chile as well. And that's just to name a few.

So we are concerned about what is being considered here in terms of science and fact in these recommendations.

Let's just be clear, too, about
open net pen systems. We are not just talking
about salmon. We are talking about a system
that is an open system into the natural
environment. No matter what you farm in it,
you flush it into the environment and that is
not in line with organic principles that
control for waste management. It's just not
in line with that.

We think that the use of the
amendment for wild fish feed in this
recommendation is erroneous. If you are
promulgating on that amendment, I would like
that to be made clear that those are the
recommendations you are making so that the
USDA can in fact promulgate, and what part of
it you are trying to promulgate.

But to say that you are doing that
and then to shoehorn this into the national
list because if you looked at the 100 percent
organic feed requirement under livestock, it
wouldn't work, and it would require 100
percent organic feed.
So to now allow a prohibited substance on the national list as a fix to that for fish? It's a disservice to the organic marketplace, it's a disservice to consumers. It's not in fact following the job that you need to do. It sets a really bad precedent.

We have had other industries in here try to get their exemptions to the 100 percent organic feed requirement. Consumers were vociferous about their opposition to that, and what you are doing here is setting a precedent to show how other industries can therefore go about it again.

This is a serious dilution of the organic standards. If enacted, we will have no choice but to advise consumers through our Advice and Consumer Reports, through our advice to the public, that they should not buy organic fish.

Thank you.

MR. ENGELBERT: Urvashi, we've been told by people in the agriculture business that the only way to get these necessary nutrients into the start-up industry is to allow these wild-caught fish oils and fish meals to be included.

Am I jumping to a conclusion by saying that you don't think there's any way that aquaculture could ever be certified as organic?

MS. RANGAN: No. This isn't a jump-start program, though. This is a program that allows a label for any fashion that they qualify for it, and then to charge a premium price for the value that they've added.

You are trying to create a sliding value scale here. That's not what the organic program is about, and it's like consumers pay more for it. They pay more for it because it meets a consistent high bar. We are not saying that you will not be able to produce 100 percent organic fish meal with organic
certified fish. We welcome it. That's how it should be done.

But the bar needs to be set at 100 percent and let the industry innovate to get to that point. By giving them this jump-start, this sort of dilution in the standard so that they can capture this label before they are really ready to is basically allowing a product on the market that will be inconsistent in meaning, that will not have eaten the same 100 percent feed as other livestock, that could be contaminated, that may have come from polluting systems.

It's not what consumers want from the organic fish that they buy, and they have registered that sentiment overwhelmingly.

MR. DELGADO: Hugh.

MR. KARREMAN: On this topic right here right now, we would foresee that farms that produce with the organic feed right at the outset, which would be some but not a whole lot, would indeed even given a higher
premium than those that are having to use some wild caught, and there would be incentive to go as fast as they could to the fully organic fed, you know, type version, and not use that label.

It is also -- I think a lot of the commenters have, I think, forgotten that it is a step-down, prescribed step-down. It's not like it's going to be there forever. And I agree, it is a jump-start. I think that's your term, or maybe Kevin's, or whatever. But it is.

And we -- it's not to lower the bar of organics at all. It is to help an industry start and hopefully get to that 100 percent as quickly as possible. That's our intent. With the step-down and that label.

Okay. I don't know if that label will stick or not, but that is the intent there.

MS. RANGAN: I mean I appreciate that, Hugh. The first thing is unfortunately
you don't set what a premium can be, and so
anyone can set the premium where they want to.
And where deception comes in the marketplace
is people who do try to capture that premium,
and they will, they will exploit it to charge
that premium.

If it says USDA organic, people
are not going to differentiate, and that is
significant. And I don't know how to keep
explaining that this isn't a jump-start
program. This is a program that consumers
expect a certain bar achieved, and you are in
fact lowering that bar. You are not requiring
100 percent organic feed. You have lowered
that bar, and you have done it in a way that
circumvents the livestock feed requirement by
amending the national list. That's not the
way to address this issue.

MR. DELGADO: Bea.

MS. JAMES: So what I think I hear
you saying is that it's not speed to shelf
that you're looking for; that you would
rather, and the consumers that you have gotten feedback from, would rather see a recommendation that would put forward the development of organic seafeed that was truly organic, with organic fish feed, even if it takes the industry five, six, seven years to get to the point where the fish meal is available for producing organic fish.

MS. RANGAN: That is correct. That is what we are trying to do. And in order -- and just to sort of flip this, you come out with this and a consumer says, wow, and they hear all this controversy and they can't quite understand what the debate is about. And so someone like me is trying to educate consumers, says, well, there are certain kinds of fish they do eat 100 percent, and for other kinds they don't eat 100 percent, and a consumer says, why isn't it the same?

And I say because the National Organic Standards Board wanted to cast the net
as widely as possible to jump-start the market. That's not an answer that consumers want to hear, and they're not willing to pay more for that, and in fact it can undermine consumer confidence not only in that organic fish but they will translate that to other organic food products that they buy.

MR. DELGADO: Kevin.

MR. ENGELBERT: Urvashi, I know this isn't an exact analogy, but the dairy industry was given a huge, in your terminology, jump-start by allowing dairy animals to transition into organic production and then produce certified organic milk.

Is this really that big a leap, that big a difference, in your mind, from the aid that was given to the dairy industry to get started, and with enough volume that the plants could have enough product to process that consumers could go to the store, knowing that it was there, knowing that these animals transitioned to organic production over a
period of originally nine months, now 12 months?

MS. RANGAN: Well, Kevin, consumers don't perceive that as a jump-start, they perceive it as a loophole. And we have survey data to show that consumers do not want this shifting going around, with these conventional animals coming on the farm, and after 12 months milking them for organic milk. We have survey data to show that. They would never have accepted it had it been presented to them as a jump-start program. It was, frankly, a loophole, and we perceived it as that, and one that needed to be closed. It wasn't the case for other organic livestock, so why was it the case for dairy farms?

So, frankly, that's been another piece of information that's sort of been flying under the radar but, you know, consumers do want to know how come some organic milk is cheaper than others? And we
constantly have to say because some of them aren't getting pasture, actually, and so that allows a farm to produce a cheaper milk to be sold as a cheaper organic milk, and that's what's happening. And consumers aren't happy about that.

Let's fix these loopholes. Let's not use one loophole as a precedent for another one. That's not the way this program needs to be operating, and I'll tell you, it's really frustrating, and it's really undermining the quality of what organics should be out there.

MR. DELGADO: Hugh, this is the last question.

MR. KARREMAN: Yes. I just want to clarify what Kevin was getting at. It's not what you're talking about now with the original livestock that were coming in. I don't want to get into pasture and all that right now, but it was the old way to get in with the last third of gestation, and you had
to feed 100 percent organic for the last three months. That's what he was talking about.
Just so you know that. Just so you know that.

Now the other thing I wanted to ask you, though, is if in the European system they allow, let's say, poultry byproducts -- we're not going to be allowed to do that here, but just philosophically, would you be in favor of that to feed agriculture -- poultry byproducts?

MS. RANGAN: No. Animal byproducts are prohibited in this program.

MR. DELGADO: Any other questions?

All right. Thank you very much.

Next up is Brian Connolly, followed by Greg Aldrich.

MR. CONNOLLY: Thank you to the committee. My name is Brian Connolly. I was on the pet food task force, and I'll be very brief.

My company is based in Portland, Oregon, called Caster Pollux. We formulate
and produce organic pet food, and I just
wanted to thank the NOSB as well as the USDA
for forming the pet food task force, allowing
us to have a say in these regulations, and for
as when of you decide to adopt the
regulations, it really will help level the
playing field out there. I think there's a
lot of consumer confusion, the way some brands
have chosen to label and package and produce
their food. So I applaud the committee and
thank you again for allowing our input from
the industry.

MR. DELGADO: Any questions? All
right.

MR. CONNOLLY: Thank you.

MR. DELGADO: We'll move on next
to Greg Aldrich, followed by Kristy Korb.

MR. ALDRICH: Good afternoon. My
name is Greg Aldrich. I am an independent
nutritionist in the pet food industry. I am
also a columnist for the pet food industry
magazine, and I write a column every month on
ingredient issues.

I am also an adjunct professor of animal sciences at Kansas State University.

I am here as an independent nutritionist to give comments briefly on these rules that the task force has put together as it relates to the NOSB for pet food as an organic amendment, and generally speaking, I want to first off encourage the committee to accept the standards that were recommended by the task force.

What I want to do is remind everybody that pet foods are complete and balanced, are 100 percent of the animal's daily requirements today, so we will combine typically anywhere from 40 to 60 different ingredients to meet 40 to 60 different nutrients on a given animal's requirement on an every-day basis.

These pets now, there are some 170 million in the United States, living in one out of every two homes. The industry
represents somewhere between $15 billion in
the U.S. to $30 billion annually on a global
sales volume.

The organic opportunity is
somewhere in the neighborhood of 5 percent,
and we are probably now somewhere around a
half percent.

There is tremendous opportunity to
grow this industry, but the consumer has to
understand what organic is, and currently they
feel pretty good about what the ingredient
rules and regulations are under the livestock
guidelines, outlined by AAFCO, the American
Association of Feed Control Officials.

Most of those restrictions and
guidelines give us specific identification for
ingredients that we use on a regular basis and
also nutrients that we have to meet.

One thing I also want to bring to
the committee's attention is that in 2006, the
nutrient -- or National Research Council came
out with the 2006 nutrient requirements for
dogs and cats, and that will now promulgate
the change and update for the AAFCO nutrient
profiles for dog and cat foods over the next
couple of years.

The only change that really will
manifest itself in those upcoming nutrient
requirements is an increase or a recognition
now for a conditional requirement for omega-3
fatty acids, and in some of the discussions
earlier in this room, talking about
aquaculture, some of the same ingredients that
aquaculture uses to fortify diets with omega-3
fatty acids from fish or marine oil sources
are going to be required for dog and cat diets
as well.

To the committee's question
earlier about zoo and exotic animals, those
are not under the auspices of the American
Association of Feed Control Officials or the
FDA as livestock or domestic animals.

So with that, I will answer any
questions.
MR. DELGADO: Questions, comments?

Thank you very much.

MR. ALDRICH: Thank you.

MR. DELGADO: Okay. We do have a question here.

MR. ALDRICH: Yes.

MS. JAMES: Do you work with Caster and Pollux? Are you -- with regards to the other -- no? Yes?

MR. ALDRICH: Yes and no. First off, Brian, I'm going to disclose that I work with Caster and Pollux. I ordinarily do not disclose who my clients are. I'm here today to represent the dog and cat, though. That's it.

MS. JAMES: Okay. Okay. Well, my question was actually more directed on the organics, so I'll ask you at a break.

MR. ALDRICH: Yes. Thank you.

MR. DELGADO: Next, Kristy Korb, followed by Dennis Kihlstadius. Kristy?

Gwen?
MS. WYARD: Kristy couldn't make it to the meeting today, so I'm going to take her place.

Gwendolyn Wyard. I'm a processing reviewer technical specialist for Oregon Tilth.

I'll try to be brief. Thank you.

I'm going to talk about the material working group clarifications, give you a personal perspective from Oregon Tilth, where we're at in this issue.

If possible, we encourage NOSB to minimize regulatory changes, and clarify the definitions via guidance documents. The guidance documents that are circulated for public comment approved by the NOP and clearly posted to the NOP Web site as official guidance. The decision tree that was provided in appendix C. We feel that that is a great example of how this could be accomplished.

This was the original idea that was submitted by Oregon Tilth in 2004. At
that time we didn't suggest any regulatory
changes, but rather a flow chart accompanied
by a narrative.

With respect to agricultural and
nonagricultural, there are two primary issues
that we think can be clarified with minimal
changes to the regulation. At this point we
do feel that change to the definition of
nonagricultural is necessary.

We support the concept that an
agricultural product extends to any living
organism that's raised, cultivated, or
gathered by humans, for human or livestock
consumption, and we find that the NOP
definitions of crop, livestock, and wild
harvest cover the spectrum from itty bitty
little creatures to large creatures living in
soil, air, or water. So this concept, we
feel, is captured by the nonagricultural
definition A.

And then whether or not living
organisms can be certified depends on whether
appropriate standards exist, so you first
determine whether it can be agricultural, and
then you ask whether it can be certified.

The second issue is at what point
something stops being agricultural. In the
context of OFPA, we do believe that the loss
of agricultural identity is connected to the
term synthetic, but it also aligns with the
processing standards.

The OFPA definition of
agricultural includes raw or processed. The
term synthetic should not include the effects
of normal food processing activities. In
other words, the term synthetic should not be
applied to an otherwise nonsynthetic substance
that's formulated or manufactured by
processing.

In this respect, there is no such
thing as a synthetic agricultural product, but
rather a processed agricultural product.

We also encourage the material
working group and the board to persevere with
the NOSB documents of August 2005 and the NOP recommended framework document of March of 2006 to clarify the definitions of synthetic and nonsynthetic.

On the yeast front, we also would like to reiterate the message we have stood by for many years. Yeast are living organisms and their production relies primarily on agricultural material that is available in organic form.

Yeast may not be grown on a farm in the traditional sense, but yeast can be manufactured in accordance with the composition standards for processed organic product.

We recognize that there are agricultural and environmental implications, and we feel that these should be addressed by applying organic principles to yeast used in organic food.

In this respect, yeast should be eligible for organic certification, and
labeled as organic yeast.

While we strongly believe that the handling requirements in 205.270 provide adequate standards, we accept that the larger community may feel more comfortable if organic yeast guidelines are in place, and the appropriate place to house such guidelines is in a guidance document, and we offer our assistance in helping to create such guidelines.

I have a background degree in fermentation science. I'm very familiar with raising yeast, and that is an area where Oregon Tilth and myself could assist the board.

In respect to lecithin, we do not support the removal of bleached or unbleached lecithin from the national list. We applaud the petition. We think it's excellent that somebody has petitioned to have it removed.

However, we think that bleached
lecithin should be listed on 606. It is importantly available in organic form. Therefore, its listing as a nonagricultural substance is no longer appropriate.

Complete removal of one or all the forms is premature with the stable market availability. The supply is fragile. To date there's one supplier for organic lecithin, and based on the information that we diligently collect from our clients, the products offered are in some cases still in testing phase, not consistently available, or they are available in a form that is not suitable.

So we ask that both forms, all forms that are regulated under 21 CFR 184.1400 remain listed, and the commercial availability, form, quality, and quantity left to the discretion of accredited certifiers.

And then finally I just want to point out a little nuance with the algaes that were petitioned for 606. We understand that they are not being recommended for addition.
I am aware that chlorella and nonorganic chlorella is currently being used in organic products. While they were classified or they were referred to as being photosynthesizing plants, they are being petitioned to 606, they also can be categorized as a microorganism, and this is going to get back to the job of agricultural and nonagricultural. We don't have a very good TAP review on microorganisms, so while they're not going to be added to 606, they still can be allowed if somebody submits them and points to the listing of microorganisms on 605.

We don't think that microorganisms, when they are placed on 605, were necessarily meant to extend onto certain types of algae, but it is covered under that category.

With respect to the certification of algae, the one that was harvested from the bottom of the Pacific Ocean, when we look at
wild harvest practice standards, we are not sure how this could ever be certified.

We really believe that items that go on the 606 standards should be -- should exist. We're not sure how contamination prevention could take place at the bottom of the Pacific Ocean, so that's just another nuance to take into consideration.

Thank you very much. And if I don't have any questions --

MR. DELGADO: Questions from the board?

Moving on then, we have Dennis Kihlstadius, followed by Ron Gonsalves.

MR. KIHLSTADIUS: Good afternoon.

Thank you.

My name is Dennis Kihlstadius. I have a company called Produce Technical Services in, of all places, Bemidji, Minnesota, and I work for different commodity groups on ripening fruit.

If you sit on an airplane and tell
somebody you work in ripening fruit, they laugh at you.

So this is your traditional -- I'm sure you've all done this, put some fruit in a bag, have a ripening bowl, either a banana or an apple, and I'm here to tell you to use an apple, bang it, bruise it, it produces 10 times more ethylene than the apple does. The apple produces four times more ethylene than the banana.

So -- and there used to be an old rule that you always had to ripen bananas with ethylene, and they will ripen on their own, but not consistently, and what the retailers want -- I'm going to read you something out of a Post Harvest Technology of Horticulture Crops, published by UC-Davis. It's kind of the authority in ripening in the horticulture for post harvest world, and ethylene, which is C2H4.

The simplest of organic compounds affecting the physiology processes of plants
is a natural product of plant metabolism and it's produced by all tissues of higher plants and by some microorganisms. As a plant hormone, C2H4, ethylene, regulates many aspects of growth, development, senescence, and ripening.

And I just wanted for you to understand that. We have tried in many different ways to produce ripened fruit with let's say a bin of rotting apples or a bin of rotting pears. So it's very consistent, and you can't really do it, because when you're dealing with ripening, you're dealing with parts per million.

So what we found is we can produce this -- and I've read it said synthetically, but what you do is you can break down an ethyl gel and you can create water, carbon oxide, and ethylene. And the ethylene is taken in from the fruit. The fruit doesn't care where it comes from. The group of fruit needs ethylene to have starch-to-sugar conversion.
Without it, you will not have sugar into the fruit, and I'm sure everyone here has had a banana. You wanted it and you ate it, and it was just pasty tasting. There was really no flavor to it. It was a banana, yes, but there was no flavor.

I can guarantee you that was a banana that was ripened at too high of a temperature, where the ethylene receptor site was shut down and it was not received into the banana to convert starch to sugar.

So the pear industry, what we found on the conventional side -- I've been working with the pear industry for over 12 years -- that we can take some of the pears that have high starch content, and instead of putting them into storage for two months and then selling them in the market, we can take them basically off the harvest line, put them in an ethylene process, send them to the retailer, and the consumer will have a good tasting pear. And I'm not asking them to put
it in this bag and eat it in five days. I don't know what product you'd ever want that you can buy on Monday but you can't enjoy it until Friday or Saturday. That's just not the way it works.

Avocados. I worked for the avocado industry for seven-and-a-half years, and ethylene is approved on avocados for organic.

Well, the recipe for pears is the same as avocados and it's the same as bananas. By recipe, I mean the process it would take to condition the pears with ethylene process.

I am just here to say that I think what it will do is increase the use of organic pears on the consumer level, because there is a gap from the time of harvesting until the time of going to market right now for organic pears.

We have proven it with the Anjou pear on the conventional side. We can actually go to market roughly five to six
weeks sooner than we could in the past. And that just means that the consumer can have a pear, you know, that's usable.

Fruit comes from different parts of the world, and during that time, that gap, the offshore pears that would come into the United States during that time, it takes 21 days to get here, first, but they've been off the tree roughly for about four months anyway. So there is no place that we can source pears around the world in the beginning of our season because it's already done in the other season. It's almost six-month reversals of seasons for pears around the world.

So I'm asking that you take a serious look at this. It is used on other products already, organic products, and I think it would be very good for the pear industry.

I have no economic incentive, whether you approve it or not. I don't get paid whether one retailer goes on this program
or not. I'm just here to educate and to bring up, you know, the points that -- or answer questions that you might have about this.

MR. DELGADO: Questions from the board? Gerry.

MR. DAVIS: Could you speak to the comment that we received that they referred to the degreening of citrus using ethylene and the effect it had on imported fruit coming in often in unripe status, and then used to color up with ethylene, but it's not flavorful. Would that exist at all in the pear realm, coming from other northern hemisphere sources?

MR. KIHLSTADIUS: It's very interesting. When you talk about degreening of citrus or the degreening of pineapple, once you pick citrus and once you pick pineapple, you cannot make them taste any better. It's strictly appearance.

And to me, it's kind of the old shell game. You're just painting it a different color. You're not going to do
anything for the flavor of it.

On a pear, you can actually affect
the flavor of it. But as I said, during that
time of the season, when we would really like
this to be used -- we don't use it through a
whole season.

On the conventional side, we will
stop adding ethylene to the pears probably
about February, maybe even April, and that's
because the starch in the fruit is pretty well
used up, so there's not a real economic gain
in the fruit.

And I'm here to tell you if you
can store pears -- I don't care what it is, if
you can store any fruit for 12 months, your
flavor life may be only 10 months. That last
end of any fruit, I don't care what it is,
it's just not going to have the flavor that it
does in the beginning.

The fruit has vigor in it and has
life, and if you can give that pear or that
banana or that apple -- even apples use
ethylene to convert starch to sugar. If you can give to the beginning, you have a better
tasting piece of fruit.

So to answer your question, no, there's really nothing in -- when I hear -- sit in in grocery stores or I talk to people at grocery stores and they talk about ripening this or how do I tell the pineapple, and they're pulling a leaf on it, that means the leaf is loose. That pineapple isn't going to get any better, you know, once it's sitting there.

So you cannot make it better. It's just the degreening. Now you use probably five to seven parts per million to degree citrus. We use 100 parts per billion to ripen pears or bananas or mangoes, papaya.

MR. DAVIS: So it's not an apples-to-apples comparison, to compare degreeing citrus --

MR. KIHLSTADIUS: Exactly.

Exactly. It's a whole separate process.
MR. DAVIS: -- to pears.

MR. KIHLSTADIUS: It's -- ethylene is used to green tobacco. I mean it's on that same principle. You're degreening the chlorophyl.

MR. DAVIS: Thank you.

MR. KIHLSTADIUS: You're welcome.

MR. DELGADO: Any other comments, questions? Well, thank you very much.

MR. KIHLSTADIUS: Thank you.

MR. DELGADO: Next is Ron Gonsalves, followed by Deborah Carter.

MR. GONSALVES: Good afternoon.

As a representative of the organic pear growers, I'd like to thank the organic standards board for the opportunity to speak today in support of the petition to allow the use of ethylene for post-harvest ripening of organic pears.

My name is Ron Gonsalves. I'm the president of Bluebird, a Peshastin, Washington tree fruit packing co-op, a grower's co-op of
over 200 growers celebrating our 95th anniversary.

Bluebird's historical reputation has been that of a dynamic leader of the Pacific Northwest pear industry, currently packing and shipping approximately 7 percent of the Northwest total pear crop.

Many of Bluebird's growers are second- and third-generation pear and apple growers. Bluebird growers are located throughout the state of Washington, harvesting multiple varieties of pears, apples, cherries, and apricots.

Within that varietal tree fruit mix, Bluebird growers follow conventional as well as organic practices.

The Bluebird co-op is also unique in that in addition to its member-growers, the co-op owns and operates over 750 acres of orchard, with half of that acreage in certified organic production.

Bluebird packs and ships fruit
from 51 certified organic tree fruit growers, of which 18 growers farm organic winter and summer pears.

I'm trying to set the stage here as far as our involvement in the tree fruit industry, especially the pear industry.

Bluebird has been involved in packing certified organic pears and apples for over 20 years at our dedicated organic packing facility located in Wenatchee, Washington.

Bluebird's board of directors has invested considerable capital to provide for its growers a dedicated organic packing facility that has helped to position its growers for success in a very fast and expanding organic tree fruit market.

Our dedicated facility also helps to assure that the retailer and ultimately the consumer, that their organic purchase has been packed and handled following strict adherence to both WSDA organic standards as well as national retail fruit safety requirements.
During the past 12 years, the Pacific Northwest has seen significant increases in the organic pear production with Bluebird being an industry leader.

With the current 2008 crop that has just been finished harvesting, Bluebird will pack approximately 10 million pounds of organic pears. This will represent roughly 20 percent of the total Northwest organic pear production.

The consumer demand for conventional winter pears has seen significant increases over the past five years, with all major U.S. retailers committing more retail shelf space to all pear varieties.

One of the reasons for the increased consumption of winter pears has been directly attributed to the increased use of ethylene for conditioning.

The actual ethylene treatment is being done by the pear packer prior to the shipments on on-site ripening rooms and
affordable ripening trailers for following
delivery by the retailer at their regional
distribution centers.

In-store consumer testing

conducted by the Pear Bureau of the Northwest
at major retail stores across the country has
found that pears ripened by the use of
ethylene takes the guesswork out of as to
whether a pear is ripe.

For example, when most produce
ripens, it changes colors and textures.
Pears, on the other hand, do not significantly
change color, therefore making it more
confusing to the average consumer as to when
the best time to eat a pear might be.

Consumers have expressed an
enhanced eating experience when they try pears
that have been conditioned with ethylene and
are more inclined to repeat the purchase of
all pears.

Additional research has shown that
pears harvested from different orchard
locations throughout the Northwest do not ripen evenly under normal cold storage.

The diversity of the large geographic growing regions in the Northwest makes it impossible for all winter pears to be harvested in exactly the same maturity and storage quality.

Ethylene conditioning affects the ripening process without altering or changing the natural inherent aspects of the fruit, such as texture, aroma, or flavor.

Ethylene treatment has allowed for a more uniform ripening of the pear. It also increases the rate of ripening, thus resulting in a more consistent pear to be offered to the consumer sooner each year following the completion of harvest.

Organic production of the Northwest is increasing not only with traditional varieties, such as the Anjou and Bartlett pears, but also with new varieties such as the Concord and Comice pear.
While the conventional pear growers have seen benefits with the increased use of ethylene for conditioning pears, not having this tool available for organic growers and shippers can put them at a disadvantage in today's marketplace.

As more acreage is transitioned into organic farming, the increased production will also be at a disadvantage in the future.

The benefits that the conventional pear growers have experienced and that the consumer has expressed should also be available to the organic growers and the consumer of all pears.

This board has heard and read the petition to use ethylene for ripening organic pears presented by the Northwest Council and the Pear Bureau of the Northwest.

The petition speaks of the scientific considerations and specifically references that ethylene is currently approved for ripening of organic tropical fruits,
organic bananas, and organic citrus in the U.S.

The petition further states that ethylene is consistent with the principles of organic production and is widely accepted in other countries and by other governing bodies.

As a representative of the organic pear growers of the Pacific Northwest, I would like to ask that the National Organic Standards Board consider this petition and support the use of ethylene on organic pears.

I strongly believe that the ethylene would be an important tool for the organic pear growers in a very competitive produce arena.

I also believe that the consumer would be provided a better product when they purchase organic pears that have been conditioned with ethylene.

MR. DELGADO: Your time is up.

Can you wrap up?

MR. GONSALVES: I'm finished.
MR. DELGADO: Thank you.

MS. HALL: So I live in Spokane.

MR. GONSALVES: Yes.

MS. HALL: And there is an organic pear grower just north of me, very well known throughout the state, smaller, but sells direct at farmers markets, and I have consistently bought from that farm and enjoyed it.

I have never really had issues even buying in I mean what I consider bulk on a personal level with uneven ripening to a large degree, and I'm just curious if there is an issue of scale, if it's different for a smaller producer versus large in how you harvest that has some implication on that uneven ripening?

I mean I know pears are really fragile, so I'm just curious how that measures up.

MR. GONSALVES: Well, I think on a scale basis, you know, there obviously is a
scale issue there because of the amount of
pears that are truly grown in the Northwest,
and we can't diminish the fact that that
volume of pears is actually being grown.
And so in our harvesting
procedures, we actually are looking at a pear
that is being harvested to being marketed over
a six- to seven-month period.
So as we get into the volumes that
we currently have, as well as additional
volumes that are being transitioned into
pears, I don't think it's strictly just an
issue of scope or how large this industry has
become, is the fact that we are here now. We
are here with significant volumes of organic
pears, and I think the consideration needs to
be given of how best to deliver that pear to
the consumer and ultimately enhance that
eating experience.
As it's been said earlier, the use
of ethylene has been certified for other
produce. If you buy organic bananas, it is
more than likely that your organic bananas
that you may feed your children are being
ripened by ethylene as well.

So it's not something that we're
here petitioning the fact that this is
something new that we want to use just on
pears, but the actual reality is that we do
have large volumes of pears coming out of the
Northwest, a large volume of organic pears,
and I have seen what the research as far as
the conventional pears that the consumer has
benefited by that -- by the volume of the
pears that are currently available to them on
a conventional level that have been ripened by
ethylene.

MS. HALL: But it is fundamentally
about holding time and extending the season?

MR. GONSALVES: No, not strictly,
because the biggest -- the use of ethylene
would be more on the front end of the season
as opposed to the tail end of the season. As
Dennis said, there comes a point late in the
season where ethylene is not needed.

The primary benefit of ethylene is to get pears to the market sooner because as the biggest pear variety, be it Anjou pears -- not sooner in the sense of it being harvested sooner, but all pears, all Anjou pears are -- their natural quality issue needs to remain in storage, an Anjou pear needs to remain in storage from 30 to 45 days after harvest before it will trigger maturity to ripen.

So the Northwest is confronted with the fact that the Anjou pear being the primary organic pear, to hold that pear in storage for that period of time, 30 to 45 days.

We have seen increased demand by the consumer to get Anjou pears on the market, into the market, sooner each year as they become available.

So the grower that you made reference of, you know, as small as he may be or as big as he may be, he may have advantages
with his harvesting that is unique to him and
is unique to his specific marketplace. But
he's potentially selling pears early into the
season that may or may not be properly
ripened, or may not be in a position to be
properly ripened.

MR. DELGADO: Any other questions,
comments? Tracy.

MS. MIEDEMA: I have another
question. If you have an organic pear and you
put it in the paper bag and five days later
you took it out of the bag, and you have
another organic pear, and you put ethylene
around it and it ripened in -- I don't know
what the duration is, like 24 hours?

MR. GONSALVES: It takes about a
three-day period to ripen.

MS. MIEDEMA: Okay. So after
two and a half days, I'd have the ethylene-ripened pear
and the paper bag-ripened pear, both organic,
and if I sent them to a lab for analysis,
would the scientist be able to tell the
difference in some sort of chemical change to the artificially ethylene versus the good old home paper bag pear?

MR. GONSALVES: Well, what you're ripening that pear with in that paper bag is ethylene. You're ripening it with ethylene that the pear is actually producing in a small confined environment. It's not being -- it's not ripened because it's in a paper bag and it's dark; it's ripened because the pear is giving off ethylene and you're trapping that ethylene into that small container, which is your paper bag. And so the ethylene that you are ripening in that paper bag is very similar to the ethylene that we would use on a large scale to ripen a whole trailer of pears.

The advantage you would have is that you as a consumer would be able to go to the marketplace and, as Dennis said, you can purchase a preripened pear on Monday and take it home and eat it that evening.

On the nonconditioned pear you may
purchase on Monday and take it home and be able to eat it on Friday.

So it's a matter of you as a consumer having the basic knowledge about a ripened pear and five or six other consumers who don't have that background as far as ripening a pear. You may take that pear home and put it in a bag and have an enjoyable eating experience, whereas the average consumer may take that pear home and try to eat it in the current state that it's in and may not enjoy it as much as they would if that pear had been conditioned.

MS. MIEDEMA: Okay. And specifically to my question, I realize it's the ethylene trapped in the bag that's making it ripen. What I'm trying to get at is from an organic consumer's perspective, am I eating a different fruit? You know, our concern is going to be something around -- you know --

MR. GONSALVES: Is there good ethylene and bad ethylene?
MS. MIEDEMA: Specifically to the question would a chemist look at those two pieces of fruit and tell -- could they tell the difference?

MR. GONSALVES: That would be more for the chemist to answer that question, but it is my understanding that ethylene is ethylene, regardless of how it is produced. The molecular structure of ethylene is the same whether or not it's given out by produce or it's generated from ethanol, from corn-based ethanol, which is also a source of ethylene. So there are multiple sources of ethylene that can be used for the conditioning.

So ethylene is ethylene in the sense of where the source may come from is the question in hand is whether or not that's certifiable, but the ethylene itself, whether you trap it in a bag that's being produced by the pear itself, or that it's been produced off site somewhere, and used in a commercial
scale, that ethylene is still the same ethylene.

MR. DELGADO: Jerry.

MR. DAVIS: I'd like to ask you within your production system, are you using -- - what form of starting material are you using to make the ethylene? Is it corn-based ethanol or is it something different?

MR. GONSALVES: The ethylene that we use on our conventional pears today is from an ethanol-based corn that we use in our catalytic generators that then produces the vapor that allows the chamber to be conditioned.

MR. DAVIS: But it is starting as ethanol, not some other method of doing it?

MR. GONSALVES: Yes, that's exactly right.

MR. DAVIS: How common is that with your competitors? Is that the same generally or --

MR. GONSALVES: Yes, I would say
that on the conventional pears, using that as
the gauge, that the source of ethylene is
pretty much a one-dimensional source, and
everybody uses that same source
conventionally. So I would imagine that would
just carry over into the organic arena.

MR. DAVIS: Okay.

MR. DELGADO: Any other questions?

MR. MOYER: Well, yes, now you
bring that up, Gerry, it brings to mind the
question are there any other materials that
outgas or are generated along with the ethanol
that would not happen from the ethanol that's
given off by the pear itself? Because you're
using ethanol, which is something totally
different.

MR. GONSALVES: No, no, no, we're
not using ethanol. We're using ethanol as a
source of ethylene, so there's a process that
the ethanol is converted through a chemical
reaction, the ethanol is converted into
ethylene.
MR. MOYER: I understand that, but along with that process, what else moves with it?

MR. GONSALVES: We don't convert it on site. We actually purchase containers that are 100 percent ethylene that we use for ripening. So we're not converting it from ethanol. On site. We're purchasing a product that's --

MR. DAVIS: I think maybe we might want to ask Mr. Kihlstadius that question.

MS. CARTER: I'm a chemist, and I might be able to answer that.

MR. DELGADO: You're a chemist?

MS. CARTER: Yes, I'm a chemist, and I probably can answer your question for you.

MR. DELGADO: Would you state your name, please.

MS. CARTER: Yes. I'm Deborah Carter with Northwest Horticultural Council in Yakima, Washington. I am the next speaker.
MR. DELGADO: Why don't you get started?

MR. GONSALVES: Have you got any other additional questions?

MS. CARTER: Sure.

MR. DELGADO: And go on with your presentation, and we might come up with a question for you.

MS. CARTER: Okay. The first question, though, that was asked was about whether ethylene generated by fruit is the same as ethylene generated by any other process, whether it be a cogenerator or -- the fruit sees it as C2HR, so it sees it as ethylene rather -- no matter how it's generated, that's how the fruit sees it.

And if you would take it to a lab and you had cut a piece of organic fruit up and you cut a conventional piece of fruit up, both of them would be C2H4. Both of them would be ethylene.

Now as far as the catalytic
generator is concerned, that was another question, the way that operates is that the ethanol that is produced comes from non-GMO corn, and so the ethanol is non-GMO derived, and what it is, it's put into a box which has a zeolite -- has zeolite laying in the bottom of the box. The ethanol is sent into the box, and the temperature is raised, and what happens is that when the temperature is raised, CO2 and water is given off, and ethylene is produced.

And so what happens is the zeolite, or the zeolite that's in the bottom of the containers, picks up the water and picks up the CO2 and leaves the ethylene.

MR. DELGADO: Any questions?
Steve.

MR. DeMURI: The TAP reports that were submitted to us indicated there are other methods of manufacture for that?

MS. CARTER: That's correct.

MR. DeMURI: Like crude oil. Do
you use any of those methods?

MS. CARTER: Not that I know of in our industry. I do know that in the banana industry, they do use those other methods, but Ron is right, in our industry, most people use what's called the epogen for conventional ethylene production, and that's for the ethanol process.

I don't know, maybe there's somebody out there in a small company who's doing it, but most of the ones in the Pacific Northwest do use that process.

MR. DAVIS: So just to clarify, in the actual storages where the pears are stored, are most growers purchasing ethylene made from that process, or they actually have converters in the storage that are doing it on site?

MS. CARTER: Most people have converters. Most of the producers in our area use the converters, ethanol --

MR. GONSALVES: No, no, but the
converter is to convert the liquid ethylene into a vapor process that releases the ethylene.

MR. DAVIS: Most growers are starting with ethanol.

MS. CARTER: Yes.

MR. DAVIS: Putting it in the converter on site at the farm.

MS. CARTER: Yes.

MR. DAVIS: Storage area. Okay.

MR. GONSALVES: Yes. So she's clarifying that technical point that I'm not as clear on as far as that.

MR. DELGADO: Kevin.

MR. ENGELBERT: Ron, I had trouble with your statement that the use of ethanol is compatible with organic agriculture. Most consumers walk into a store and purchase a pear, an organic pear, under the assumption that there's a minimum amount of any type of treatment or processing from the time the pear is grown, harvested, and put on that shelf.
How can you explain the reasoning behind the statement?

MR. GONSALVES: Well, again, as Dennis said, and as well as Deborah mentioned, all pears are ripened by ethanol -- by ethylene. All pears are ripened by ethylene, whether that pear produces it itself or whether we trigger that process by putting it in an environment with ethylene generated creating more of an environment for ethylene.

So all pears are producing, all apples are producing its own ethylene for a natural ripening process. And so when I say it's -- it follows that standard is that ethylene is ethylene, as Deborah said, and whether that pear is producing that ethylene and being trapped in a paper bag, or whether we're producing that ethylene in ripening a greater volume of pears, triggering its natural production of ethylene, because it's all a trigger response, and Dennis could probably talk about that more specifically.
But the ethylene is triggering the receptors within that pear to begin the ripening process.

So as that pear stays in storage for that 30 to 40-day period, it's those receptors that are maturing during that period of time that then will then start producing its own ethylene.

What we are saying is that we would like to be in an environment where we can trigger those receptors sooner to allow that ripening to take place earlier in the season so that we can then market organic pears sooner to the consumer, as opposed to having to wait that 30 to 45-day period in regular cold storage.

MR. DELGADO: Any other questions?

MR. DAVIS: I have one.

MR. DELGADO: Gerry.

MR. DAVIS: Pears that are ripened without the use of ethylene for that 30 to 45-day period, their eventual storage ability,
the length of time they will stay in storage,

can you comment to, either one of you, on does

the nonethylene -- does it start the clock to

where they store the same amount of time

either way, you just have a more limited

marketing period? That's the question.

MR. GONSALVES: There's two ways

that we obviously store pears. One is just
cold storage, cold treatment, whereas we're
putting that pear in a 30-degree environment,
we store pears at 30 degrees, 30 to 32
degrees, but primarily 30 degrees.

That temperature is one way we
store pears. The other way we store pears,
organic, conventional, whatever, is under
controlled atmosphere, where you're all
familiar with controlled atmosphere, where we
take the oxygen out of the environment and we
store the pears at a reduced level of oxygen.

So pears have a certain shelf life
is what I think you're getting to, is how we
actually store the pear at the beginning of
the season.

So when we say we hold that pear for 30 to 45 days, that pear is in cold storage basically going through its maturation that it does in normal storage.

Once we begin to pack that pear, then those receptors are more mature and they begin to develop ethylene themselves.

When you break that cold chain is when that ethylene may or may not be triggered in a more rapid way in the sense of that pear ripening a lot faster than if you maintain the cold chain and keep that pear under cold storage.

You can maintain the quality of a pear for about 90 days under just cold storage. Under CA conditions you can probably hold a pear up to seven months.

So, again, how we store and where the cold chain is broken is really when those receptors start to trigger the ripening process. But they have to sit in the 30 to
45-day period just to allow those receptors to mature and that pear be put in position to mature.

If I could just make one quick comment just briefly on pear and apple production.

We can't turn back the clock as far as the amount of pears and apples that are being produced. The Northwest currently is looking at the largest organic apple crop ever produced, and we are looking at large increases on the pear volumes as well.

As we go forward with these productions, we need to keep pace with what is going to allow us to market, to make these products available to the consumer. We have to keep pace to allow that the quality as well as the "eatability" to be marketed to the consumer. Because at the end of each season over the last five years, we run out of pears. The demand for organic pears exceeds the supply that we're currently under. So as more
and more pears become transitioned, is the sole benefit of sustaining the demand that exists currently as we go forward.

And so we need to maintain these tools that are going to allow us to market a quality pear to the consumer.

MR. DELGADO: Okay. We have to move on. Deborah, would you like to go ahead?

Thank you, Ron.

MS. CARTER: As I mentioned, my name is Deborah Carter with Northwest Horticultural Council.

On behalf of the organic pear industry of the West Coast I would like to thank you for the opportunity to speak in support of the petition to allow the use of ethylene on post-harvest ripening pears.

The Northwest Horticultural Council represents the pear grower and shippers of Idaho, Oregon, and Washington on technical matters, national and international policy issues, trade and food safety concerns.
The California Pear Advisory Board has also allowed me to speak on their behalf.

Oregon and Washington produce 84 percent of the pear crop produced in the United States, and if we add California to that, 98 percent of the U.S. pear crop is produced on the West Coast, and so I am representing 98 percent of the pear crop produced in the United States.

California, Oregon, and Washington have about 2,000 organic pear acres, and there are another 700 acres in transition to organic.

In 2007, 2008, these states produced about 17,000 tons of marketable organic pears. The average pear farm is less than 20 acres.

Like tomatoes, avocados, and bananas, pears are climacteric, and that means that there is a marked respiration that accompanies the onset of ripening, so that's the conversion of starch to sugar.
Both the ripening and the increase of climacteric respiration are triggered by endogenous production of ethylene, which is a natural plant hormone, which is what one of the questions was about earlier.

Pears are harvested at a mature but not a ripe stage, which is very different from degreening pineapple and also degreening citrus.

If left on the trees, pears tend to soften from the inside out, so the center will become mushy by the time the outside flesh is ready.

A mature pear ready for harvest is fully formed but still hard. It can require up to two months of cold storage, depending on the variety, to complete the physiological changes that drive the ripening process.

This is particularly true for pear varieties, our winter pear varieties, and that's basically everything of the Barlett cultivar.
Both ripening and respiration processes are stimulated to occur by an exogenous application of ethylene, and sources of ethylene do vary. But no matter the source, whether natural or external, the pear interacts with the molecule of ethylene as C2H4.

Externally applied ethylene set at about 100 parts per million triggers the pear to start producing its own ethylene. So what's ripening the pear is the pear's own ethylene. What we add to it only triggers the pear to start to produce its own.

Now some may suggest that ethylene is not compatible with organic certification, but as we look at ethylene in the organic scheme, we see that the use of ethylene is consistent with organic practices.

The NOSB's definition states that organic agriculture promotes and enhances biologic cycles, and on a molecular scale this is exactly what ethylene does when it triggers
the ripening process in a pear.

In fact, this board has already approved the use of ethylene for degreening organic pineapple, bananas, citrus, as already discussed.

Exogenously applied ethylene causes no adverse effect on the fruit's biological processes. Research has indicated, and it's been reported in our petition, that although exogenous ethylene may be introduced, the fruit has an internal self-limiting step which inhibits too much ethylene from being produced.

Now this is important. Exogenous ethylene is simply the trigger for the fruit to do what it does naturally. Exogenously applied ethylene does not physiologically alter the ripening process which is consistent with organic production.

You may ask why we need ethylene. We know that increased volumes, as Ron mentioned, it allows producers to reach out to
a broader organic consumer. We all know that consumer demands for organic products are growing, and it's grown probably 20 percent per year over the last 10 years.

We know that researchers in Oregon State University have developed a plan to ship pears which are delivered to the market can be ripened to eating quality in about five days, and maintain a normal shelf life, eliminating the consumer guesswork.

But this process is best obtained using exogenously applied ethylene. If ethylene could be used for organic pears, this same process could be implemented providing the organic consumer a better quality product with no guesswork.

And this process also helps the retailer to better manage his stock.

MR. DELGADO: Deborah, your time is up.

MS. CARTER: Thank you very much.

MR. DELGADO: Any questions from
the board? Okay. Thank you very much. Next is Brian Kozisek. After Brian, we have Maury Johnson.

MR. KOZISEK: Hello. I'm Brian Kozisek with the Organic Crop Improvement Association.

We certify approximately 100 grower groups and I'm here to speak a little bit on grower certification. One of the key ideas behind grower certification is that a group operates as a single unit, even though it's made up of discrete individual production units.

They agree with the stated prerequisites and the organizational requirements with a strong emphasis on geographic proximity for the individual units.

While there is strong evidence that supports the use of the square root group size for sampling, we feel that using the square of principle is not effective for groups larger than 100.
One of the reasons is that sample size for inspections can be an effective tool to manage groups that have a struggling internal control system and other issues that contribute to higher risk.

Increasing sample for the inspections based on risk gives a greater assurance that the organic integrity is maintained, but also has the residual effect of placing economic pressures on the group that encourages ICS development and functioning.

For well-managed groups with good ICS, reduced external inspections should contribute to the financial success of the individual operators.

We feel that for these reasons that the lower limit for required sample size be no less than 15 percent, with no established upper limit.

This would be set at the discretion of the certifier. In practice, OCA
typically uses 20 percent as the size of the sample for even established groups, with the idea that all members will have been inspected at least once in a five-year period.

We feel that a good compromise with the minority opinion is to have all new entrants be inspected but to also include this in the count towards the total for the sample size.

It is our belief that a responsible certifier will consider the number of new entrants into a grower group and adjust the risk evaluation for a higher sampling rate as needed.

The use of subunits may be a tool to manage large group size, but it must not be a subunit in name only. The recommendation should establish a maximum size for a subunit and firm criteria, rather than relying on the certifier to establish this.

As a tool for training by the certifier, we recommend that a minimum of
three of the inspections conducted by a new internal control staff be witnessed by the external inspector in the form of witness audits. This way they identify inconsistencies and also serve as a training tool for the ICS.

Any questions?

MR. DELGADO: Questions from the board?

MR. KOZISEK: Okay, thank you.

MR. DELGADO: Thank you very much.

Moving on, we have Maury Johnson, followed by Matthew Johnson.

MR. HOWARD: I'm Luke Howard. I'm here as a representative for Maury from Blue River Hybrids.

Blue River Hybrids is an organic seed company that produces corn and soybeans, organic corn and soybeans, a little bit of red clover, and a little bit of alfalfa. And so we are here to comment on your further guidance on commercial availability of organic
seed.

We want to thank you for your continuing to discuss the important issues of organic seed and organic crop production under the NOP.

There are several comments and points that we would like to make regarding this document.

The first one. Although it is true that for certain species, the supply of organic seed is limited or nonexistent, it should be recognized and noted that some species -- for instance, field corn -- is sufficiently available, and only about 60 to 65 percent of organic corn acres today are planted with organic field corn seeds.

Supplies are available to plant a higher percentage, and if growers used organic rather than conventional seed, that would be available.

Companies and individuals providing conventional seed to the organic
market often have a significant financial incentive to continue marketing conventional rather than organic seed.

Conventional seed is cheaper to produce and involves less risk, and can be sold to the organic marketplace at a lower price and a better profit margin than organic seed.

Point number three. The document correctly notes that there have been issues of substandard organic seed. A first step to correct this problem would be to emphasize that the organic seed must comply with all Federal and state seed laws, especially when it comes to labeling.

We appreciate that the Joint Committee members recognize in the document that the conventional seed business is moving in the direction of biotechnology, and that it is of utmost importance for organic farmers to recognize that by supporting the organic seed suppliers and growers today, they will have a
better and more secure organic seed supply in
the future.

I really want to emphasize the
point that there’s no justifiable excuses for
certifiers to accept not using organic seed.
We appreciate the efforts of the NOSB Joint
Committee to prepare this document and to
consider the public comments that have been
submitted on previous versions.

Because this topic has had such
serious consideration by the NOSB and has been
openly discussed at NOSB meetings, we have
noticed that certifiers and growers are
becoming more responsible in their
consideration and decisions on their use and
availability of organic seed.

I also want to switch hats a
little bit and I have an organic farm on the
eastern shore of Maryland, where we grow about
200 acres of grain and five acres of
vegetables, fresh market vegetables, so we
kind of do both things. And the name of that
farm is Homestead Farms. And my wife and I
own that.

So when I look at the seed issue,
I see two different issues. I see the row
crops issue and I see the vegetables issue.
And when it comes to row crops, and we talk
about different varieties, one of the things
you need to keep in mind is that when we speak
of varieties in corn and soybeans, we talk
about maturity length. And so we really can't
compare Blue River XYZ hybrid to Pioneer ABC
hybrid because if they are in different
maturity length -- if one is a 98 day and the
other one is a 120 day, they really don't
compare. But if they are in the same maturity
length, then really they do compare.

So if one is a 110 day and one is
a 112 day, they are a comparable hybrid.

The other thing to remember is
that in vegetables, a lot of things are done
in taste and texture and consumer driven. And
again, having the five acres of fresh market
vegetables, I know that sometimes a consumer really wants a certain tomato, and if we can't find that organically, we really need to plant that tomato for our marketing aspect.

So those are really two different issues that you need to evaluate as you look at this.

Really, finding organic seed from a corn and soybean standpoint is not impossible and it's not even difficult today. And when we have competitors out there who are marketing conventional seed against some like a Blue River, it really discredits the situation.

Some of the field testing -- as a farmer, I want to say that some of the field testing that goes on to compare organic hybrids against conventional hybrids, I think is a little slanted to one side.

I've been on several farms where they've planted an organic hybrid next to their favorite conventional untreated hybrid,
and they put that organic hybrid in the lowest
spot in the field or the driest spot in the
field to kind of weigh the results. And
that's a little frustrating.

As a grower, I try to do the right
thing.

Another thing, the percent of seed
used on a farm -- and as some of the
discussions were going on earlier, I was
thinking about my own farm and having just
gone through inspection, and at the risk of my
certifier being in the room, I don't want to
get too deep into it, but --

(Laughter.)

-- the question was asked what
percentage of organic seed do I use. Well,
because we have 200 acres of organic field
crops that are all organic seed and we have
five acres of fresh market vegetables, it's an
unfair weighted example.

And so I just caution you going
forward that you reevaluate that. I know you
want probably some sort of measurement tool, but just be careful with that because it would be easy for me to say, well, I plant 200 of my 205 acres organically. So just another point.

MR. DELGADO: Your time is up.

MR. HOWARD: Any questions?

MR. DELGADO: Any questions from the board? That's it. Okay, Jim, followed by Gerry.

MR. SMILLIE: Do you have any other specific comments to make on the recommendation itself? I really appreciated all your comments, and you know, that's where we are headed with this recommendation.

But I mean from your point of view, like, for example, the database, the two-way database, as a seed producer, is there anything in this recommendation that you think needs tweaking as far as your perspective?

MR. HOWARD: I'm glad you brought up the database because I know there have been some comments made in the written statements
that some farmers don't have access to Internet. We do have electricity at my house and we do have a computer, and we do have access to Internet, and I have never used the database.

Really, I don't see that as an important tool for me. Now if it helps 50 or 75 percent of the other farmers, then that's not saying it's a bad tool. But developing that database, I don't think should limit the enforcement of using organic seed. I see it as a tool and I feel like the excuse is being used as a crutch.

MR. DELGADO: Gerry.

MR. DAVIS: So in the sample of your farm that uses all organic seed on 200 acres of grain, and on the 5 percent that is vegetables -- five acres, excuse me -- in your case what the recommendation is calling for is that we would ask your certifier to check with you on the five acres of vegetables to see if you are showing any improvement at all working
towards more organic seed. Do you have an
issue with that?

MR. HOWARD: Yes. You know, as a
producer we evaluate that every year, and I
would say of the vegetable varieties -- I mean
we all kind of know what a market garden is.
You know, it's all these different varieties,
and my wife kind of manages that, so I try not
to get too deep into choosing varieties.

But we know that there are dozens
of varieties, and I would say off the top of
my head, looking down the list of seeds we
bought this year, a third to 40 percent -- I
don't want to say 50 percent because I think
that's stretching it, but I would say over a
third are certified organic seeds.

And, you know, when we want to try
something new, we try it on a very small
scale, try to find it organically; if it's not
available organically we then use it
conventional and treat it. And hopefully with
the seed suppliers that we have in place today
you know, they're pretty gung-ho at producing organic seed, and that's really been very helpful.

I would say five years ago or four years ago, it was a different situation, but today it's a much easier situation. Not perfect, but much easier.

MR. DELGADO: Any other questions?

Thank you very much.

MR. HOWARD: Thank you.

MS. FRANCES: I just want to say one thing. Rick is actually signed up right now. He had himself, so you cut him off at five minutes. I didn't know if you really didn't have anything more to add, or just wanted to say that he was on as a proxy as well as himself. So just to offer that.

MR. DELGADO: Next is Matt Dillon. And I would like to point out for the board members, we are running extremely late. I would like to move on as fast as possible. We do have a total of 27 speakers. We've got 10
wait-listed there, and we might not have time
to go to them, but, please, measure your
questions.

Please proceed, sir.

MR. DILLON: At first I had
comments today, but after this morning's
session when I heard such goodwill towards
organic seed by the committee, I felt the need
to amend my manifesto and maybe tone things
down a bit.

First, I want to thank the board
for their work, particularly the Joint and CAC
Committees. I also want to thank all the
folks here. This is my first time attending,
and your persistence is awe inspiring. It's
something.

While it's my first time here, I'm
not new to organics and I'm not new to seed.
My first organic crop was in 1982 at a
Benedictine monastery where I lived and went
to school in Elkhorn, Nebraska. I bring that
up because in '82, we didn't have NOSB
guidance, but the monks claimed we had divine
guidance --

(Laughter.)

-- and as often as I keep hearing

about us bringing in the devil in the details,

I'm a little nervous about my loss of faith,

and I think I might need that.

(Laughter.)

I also as the director of an

heirloom seed nonprofit, Abundant Life Seed

Foundation and Organic Seed Catalogue, founder

and the current director of Advocacy for the

Organic Seed Alliance, which is an educational

research nonprofit that's published also

things like a guide for on-farm variety

trials, which might be very useful for some

farmers after the last comments.

I am currently also the policy

analyst for the Organic Seed Growers and Trade

Association on whose behalf I am here today.

You heard from Woody Dericks of

the Organic Seed Growers Trade Association
last in the spring, and I'm going to touch on some of his comments, but go further.

First let me say that OSGATA, as we call the Organic Seed Growers and Trade Association, OSGATA develops, protects, and promotes the organic seed trade and its growers and assures that the organic community has access to excellent quality organic seed that's free of contaminants and adapted to the diverse needs of local organic agriculture.

Now we are a new organization starting in January 2009, but already very diverse with plant readers, seed producers, seed companies, and 47 members at present, a variety of scale from people like Blue River and Seeds of Change to people like Judy Owsowitz in Montana and Brian Campbell in Washington, who are seed producers but also fresh market producers, producing dozens -- Judy produces 78 different varieties of fresh market crops. So we are a diverse group.

So I first want to talk about the
reasons to use organic seed, and Joe did a
good job of that this morning, but I just want
to touch on it real quickly. There are three,
as I see it.

One is because it's the rule.

It's the NOP rule, and the producers need to
use the seed with some allowance, and also
there's also the approved 2005 guidance
recommendations requiring full reporting of
allowances to use nonorganic seed.

Second, because of contamination.

By contamination I don't just mean transgenic,
I also mean chemical contamination. If you
lived in my neck of the woods, where the vast
majority of the world's veg seed is produced,
you would see the chemical contamination
occurring in our waterways, and I'm happy to
provide anybody with an Excel spreadsheet of
some very toxic chemicals that go into
conventional seed production.

There's also transgenic
contamination, and at present the seed we are
planting in our fields, particularly in corn, is helping to contaminate organic food products, both from the conventional seed and also some of the organic seed companies are releasing conventional lines are releasing conventional and knowingly selling contaminated seed. And there are no rules to prevent that.

Third, really the most important reason is the benefit. And the benefit is multiple. It's a benefit primarily to organic producers. It's also a benefit to the markets, and it's really a benefit to the overall spirit of the organic rule and organic integrity.

Now that said, as an association we recognize the need for allowances to plant conventional untreated seed. We understand the folly of drop-dead deadlines, and do not support restricting usage to European style registry that would damage genetic diversity.

And obviously the organic seed
sector would not profit by growers losing
their certification or leaving certification
altogether because of the rules. We want this
to work for one and all.

And as such, we are happy to hear
the recommendations, but we really think we
need to continue to work together on
implementation.

To the recommendations at hand:

Enforcement. We support the recommendation of
the committees that the NOP auditors better
monitor the ACA's use of exemptions.

We also support reporting
percentage use but with some caveats that I
don't think I'll have time to get to, and we
do see that with that reporting of the ACAs,
it needs to be a full reporting of all
varieties for which there is an allowance.

Data collection. The database,
the two-way database is a great idea, it needs
to have crop variety and treat data, not just
variety name data.
Third, on the buyers of organic products --

MR. DELGADO: Your time is up.

MR. DILLON: The last minute went fast. Questions?

MR. DELGADO: Questions? Yes, Julie.

MS. WEISMAN: You went through really quickly, and I appreciate why you did that, because you were trying to get everything in, but I just want to -- when you were talking about transgenic contamination, can you repeat more slowly the part that came there's no rule for that? Can you repeat slowly the --

MR. DILLON: Well, there's currently a rule on transgenic seed, correct, biotech seed, that's currently in the rule. A farmer, an organic farmer cannot plant genetically modified transgenic seed. However, it's being done. The way it's being done is that our corn lines are
contaminated with transgenic. The conventional lines that we're using to create organic lines, as well as the conventional seed that's being planted by organic farmers who are not using the organic seed that Blue River is producing.

And that seed then gets, you know, into the fields and into organic products. So the seed industry is helping contaminate organically.

Seed companies are not required to report to their customers that they don't test for contamination. Last year there was a sweet corn variety tested positive for contamination. One seed company came forward and reported that hybrid variety had been contaminated and pulled it. The other seed companies who bought from that producer did not.

So organic farmers planted contaminated organic sweet corn seed last year. There's nothing to stop that. Seed
companies are not required to reveal that, but it's breaking the rule, and the farmers are now planting transgenic seed.

We're going to be back here again. I mean this exemption -- that regulatory piece is one piece where there's been great effort to move forward. I applaud that. And we need to all work together to continue to work on the regulatory piece.

But we need a seed task force because there are so many complexities, as Luke pointed out, crop-specific complexities, technology complexities in producing hybrid seed, complexities of contamination.

And the seed issue is not going to go away just with these recommendations. We went over it with the ACAs and the farmers to work on solutions together.

MR. DELGADO: Any other questions?

All right, Gerry.

MR. DAVIS: In the public comments, it was brought up about foundation
seed and a request to be able to use treated seed from foundation seed growers. Do you have any comments on that?

MR. DILLON: I think that is a slippery slope. I think it's pretty clear that is not allowed, again it's using conventional seed and it's not supporting the organic industry.

I think particularly in corn there is plenty of public material in red lines available. It's not an issue of availability of germplasm, and so I see no reason for that exemption.

Any other questions?

MR. DELGADO: Any other questions?

MR. DILLON: Okay. Thank you all for your work.

MR. DELGADO: Thank you. Next is Marc Cool, followed by DeEtta Bilek.

MR. COOL: Hi, everybody. My name is Marc Cool with Seasons Change of Santa Fe, New Mexico. I would like to thank the board
and program for allowing us to continue to talk with the seed issue here.

I'll talk about the commercial supply of organic seed.

I put a couple of comments on the Web, on your site. You can read those and talk a little bit more about some other things here.

First of all, it was said today earlier by Joe why we need organic seed, and frankly, ditto. That's the whole story right there. So thanks, Joe, for that.

You also mentioned shared pain. I would like to say that I see it much more as shared gain. If there's more organic seed being used because of regulations and enforcements, that's going to drive the organic seed industry. They will produce more organic seed of specific varieties for growers who will be more successful in the enterprise, producing higher quality products for the end consumer, who then has confidence in the
organic business.

In my mind, that is a gain that we are trying to push here from the beginning, the first link of the food chain, which is seed, indeed. So that's how I see it.

The recommendation as put forth in my mind with one small exception is quite good, and I thank the two committees, Gerry and Joe, for doing that, with everyone that helped with that.

You clearly understand the issue, you describe it very well, you know all the pluses and minuses. You have heard all the stakeholders. We've had a number of meetings here. We've talked about this issue. You have voted as two committees very often to support the recommendation. It's not yet passed the full NOSB board.

And on the one hand, it's a little disappointing because it's taken so much. On the other hand, due process has been followed and public comment has been heard, and there's
been slight modifications made to the recommendation to comply with all the requests and needs of all the different stakeholders.

I believe we are there now, and I would strongly encourage the full board tomorrow to vote in favor of this current Joint Committee proposal.

One thing I would like to add is -- I'm not sure if this is intentionally left out or just purposely -- is that in the two-way reporting section, it talks about -- it no longer talks about the requirements to report derogations.

I feel that if there is on the OSP a list of varieties which are being planted by a grower which are not organic and there is justification to the certifier in their communication on why they are not using organic varieties, I believe that information should be written down and it should also be passed to an organization or in some fashion to NOP, and we could talk in detail about what
that is, but that opportunity list, as we've
called it often, is in my mind very important
to show the organic industry what organic seed
varieties growers want, and therefore what we
need to do in our development or to achieve
that.

So I'd like to ask if that
reporting requirement of derogations could be
reincluded before you vote on that tomorrow.

There's a couple of comments that
have been made in the last couple of days I'd
like to I guess respond to.

One is about biodiversity in
organic. I very strongly -- in fact, in our
company biodiversity is part of our mission
statement. I very strongly want to encourage
biodiversity.

In fact, as I have explained last
May, a very important part of what I see as
the future organic seed industry is developing
organic specific varieties which use
biodiversity available from the past as a way
to bring genes back in that will allow plants
to be adapted to low input conditions and also
have end consumer trades that are very
valuable.

So biodiversity, in my mind, and
organics actually go hand in hand, and they
are not at all in conflict with each other.

A comment was made also that
certification done by certifiers on farms in
many cases is -- it's kind of scary, frankly,
to say --- in many cases it's done on a basis
of has process been followed versus has every
single variety been looked at to determine if
it's organic or not. That, frankly, is wrong.
Every single input, as we all know, on an
organic farm has to comply with organic
standards, including every single variety.

That clearly, to me, is the
current rule and the way it should happen.

People have said there's a large
number of varieties available for farmers, and
many farmers plant a large number of
varieties. Absolutely true.

It doesn't mean, however, it's
difficult for farmers to write down on their
OSP what varieties they use. Farmers know
exactly what varieties they use. They write
it down all the time. They know exactly what
they used last year, the year before, next
year, et cetera. Writing down what they are
using is not a big deal at all.

Organic seed supplies have
increased. Two years ago I commented to the
board that less than 1 percent of fruit and
vegetables organic farms were using organic
seed. That's not somewhere up towards 5 and
6 percent. It's improving; it's doing better.
But after six years, we can still do a lot
better, in my opinion.

So I'd like to ask you to please
vote in favor of this recommendation. What we
will then do as a seed industry is work with
program, work with ACAs, work with growers,
work with yourselves to find a way to
accomplish the goals that you put forth, and then you can move on in your deliberations onto a lot of other important issues.

So with that, thank you, and I have a few questions.

MR. DELGADO: Joe.

MR. SMILLIE: Yes. Marc, the section you're referring to on reporting of -- I love that European word, derogations. We often get compared to the Europeans, and you know, sometimes we don't realize that the role of derogations in the European system is a fairly interesting topic. But that's a different topic.

We are on 5(d) right now. Val, could you put that one up there for everyone, on the CA document, 5(d).

MS. FRANCES: Oh, okay.

MR. SMILLIE: And I've got to ask help from Gerry and Jeff on this, because basically what was said in the earlier recommendation was maintain and submit upon
request to the National Organic Program crop
varieties permitted by each agency.

We struck "crop varieties
permitted by each agency" and substituted
"maintain and submit upon request to the
National Organic Program documentation of the
organic seed usage status current percent
levels as compared to historic levels of usage
by acre of each certified operator."

MR. DAVIS: I'm taking your
question as concerning why don't we have a
specific reporting to the program on what all
these varieties are and so forth in there any
more? Is that what you're saying?

MR. SMILLIE: I think what Marc is
after -- and correct me if I'm wrong, Marc --
is like lots of -- well, what were the
allowances made? What seed was granted
permission -- what varieties were granted
permission to be used conventionally rather
than organically?

And your reason for that, Marc, is
to try and get a fix on --

MR. COOL: Opportunities, demands.

MR. DELGADO: Jim.

MR. MOYER: Well, two things, Joe, that came up. At the last meeting, the ACAs and the growers, they said that's too much work for both sides to handle. So I was wondering --

MR. DAVIS: And the program.

MR. MOYER: Not the programmers, the ACAs and the growers.

MR. DAVIS: No, no, the program also.

MR. MOYER: Well, and the program.

Everybody pushed back on that and said that was a lot of extra work, a lot of extra paperwork. Growers that we spoke to also said it's not their job to do their job for marketing. If you want to find out what growers want, you go ask them. It's not their job to make this list of opportunities for the seed industry.
So we got pushback in a lot of different areas, and so we came to this decision that within the context of what we're trying to do, which is grow the entire seed industry, checking percentages is an easier way for everybody to say I know whether I do 100 percent of my seed as organic, I don't have to write anything down except 100 percent. I know I'm doing 50 percent or 10 percent. I mean we know what that is, and it's very easy for everybody to track that across the board.

Unless you get to the point where there's somebody willing to handle a database, then that would work. But to this point in time nobody has stepped up and said we're going to fund the opportunity -- that database which would then create that opportunity list.

MR. COOL: Is there a question there for me somewhere?

(Laughter.)

MR. DAVIS: Are you a sharing
company? Are you going to share some of that
--

MR. COOL: I'm not sure if it was
May this year or November last year or some
other time, I actually did offer to help with
the program on the database. I believe that's
a huge deal. I believe it's really
straightforward. I'll bet 10 bucks that we
can get Anita's coalition together to help
with that if necessary in both resources and
everything else.

MR. DELGADO: Jerry?

MR. DAVIS: From the committee's
point of view, the Crops Committee at least,
that is what we attempted to hand to you in
the last version of this in previous meetings.
The industry -- because the NOP said that it's
not our role, that is not -- it's just going
to get -- it's go nowhere. They have told us
repeatedly that is going nowhere for the
program to administer that database.

So we didn't want the important
step of improving organic seed availability
hindered by the program saying this isn't
going anywhere.

So we came out with a second step
of, okay, let's see if the industry will fund
it and have a third party such as OMRI or
someone like that do the leg work with the
organic seed industry to fund it. It went
nowhere. No one made any comments at the last
meeting to step up to the plate to say, yes,
we'll do that.

Maybe you guys weren't ready yet,
it was too soon, but that's what we perceive
as what happened.

MR. DELGADO: Tracy.

MS. MIEDEMA: I just think we need
to be very frank here about basic economics
and supply and demand requires transparency.
And the certifiers have come back to us loud
and clear that it is overly burdensome, really
put their foot down at the last two meetings,
that they do not want to report back that
information, it's just overly cumbersome. And without transparency to match up buyers and sellers in any economic model, you have failure.

I think our failure to develop organic seed is evidence that we just don't have transparency. This recommendation doesn't get us there, either, on that one point of transparency. To answer his question very specifically, yes, it was left out deliberately because it got killed by certifiers in the last two meetings.

MR. COOL: Could I respond to that very briefly?

MR. DELGADO: Please respond very quickly.

MR. COOL: So I'm not asking that we develop a database tomorrow. I'm saying I think in the recommendation that we work towards a database with all stakeholders, I think would be a good direction.

MR. DELGADO: Thank you very much.
DeEtta Bilek, and after that we'll have a short break to recover.

MS. BILEK: I want to thank you for this opportunity. I am DeEtta Bilek. I am an organic farmer from Minnesota, and I am currently the second vice president of the OCIA International Board of Directors.

I also chair the Education Committee for the Minnesota Chapter, and our farmer members would disagree with what has been stated here, that there's plenty of corn available to them.

They live in northwest Minnesota, so the climate is definitely different than out east or in Nebraska, and they have not been able to find short season specialty corn, they tell us. They talk about soybean qualities that they can plant there for seed.

So they have brought this concern to the chapter committee, and then we brought it to the International Seed Committee for their discussion.
We also discovered that OCIA International does certify Blue River hybrids, and they certify Lakeland organic seed.

A Lakeland organic seed member has brought forward that they are not able to find foundation seed stock in qualities with diversity that they can produce seed for organic farmers.

So I'd have to disagree a little bit with -- or I'm kind of the opposite of a couple of the speakers prior to me.

OCIA International is a certification agency based in Nebraska. We have been operating for more than 20 years. We certify nearly 1500 chapter members in the U.S. and Canada, plus 700 direct associates, and of those Blue River and Lakeland organic seeds as licensed seed producers for organic corn.

We agree with NOSB that further development of the organic seed industry is key to increasing commercial availability of
organically grown seeds and subsequent increased usage by growers.

While OCIA supports the draft recommendation, we believe that an important issue has not been addressed, and that is being the seed sourcing for seed producers.

Seed companies purchase foundation seed varieties that they cross-breed to produce various hybrids which are harvested and processed for resale the following year. So they have one year to provide seed to farmers.

Several regional seed companies that provide the germplasm and treats have been purchased so now there are only a few remaining that are providing that form in an untreated form for the seed producers.

Nearly all foundation seed stock purchased for seed production has been treated with material that is currently prohibited by NOP. These treatments that are mentioned by our committee are names like Captain and
Apron. They are fungicides and insecticides that are used to protect seed from seed diseases, including seed rot.

There is a statement that's in my full -- in our full comment from Walter Goldstein that indicates minimal adverse ecological effects from these treatments.

Maury Johnson from Blue River has a statement in our full comment. Also he has stated that the seed stock landscape has changed a lot in the last two to five years.

This concern was brought to NOSB a number of years ago. I think, if I remember right, it was 2001, so it is from what our seed producers are telling us, it's more of a concern now than ever.

Seed grower Ray Boughton of Lakeland Seeds states that the organic seed producer has a very limited access to quality nontreated seed.

Our concern is that as long as organic seed producers can only use untreated
seed stock, most foundation seed continues to be available only as treated, organic hybrid developers and organic producers will be very limited in their hybrid selections.

Organic farmers are allowed to plant untreated seed which was grown by conventional seed companies, using treated foundation seed stock commercial fertilizers and chemical pesticides. And this is what Jim Riddle mentioned yesterday.

This is a very unrealistic situation for the organic seed producer. So we are asking that you consider changing 205, 204, to allow treated seed stock.

Thank you.

MR. DELGADO: Thank you. Any questions? Thank you very much.

We are due for a well-deserved break. We are halfway there with the list of speakers, and I would ask you to come back promptly in 20 minutes from now -- five. (Laughter.)
I will say let's do 10.

(Recess.)

MR. DELGADO: Let's start with public comment. Board members, please.

Robin.

MS. ALLAN: In the interest of time, I'm going to read this, and I'll try to do it fast.

Thank you to the board for this opportunity to comment, to all of the committees for all their hard work on all these important topics.

My name is Robin Allan. I'm the grower and livestock certification supervisor with CCOF, an accredited certification agency based out of Santa Cruz, California.

I would like to comment today on behalf of CCOF on three subjects -- biodiversity, commercial availability of organic seed, and 100 percent organic labeling.

First, biodiversity. Of course,
CCOF supports the preservation of biodiversity in organic farm systems. We agree with the Wild Farm Alliance that the NOP regulations as written require organic farmers to protect and preserve biodiversity and preserve natural resources.

In the pursuit of this goal, CCOF includes questions in our inspection reports that specifically address biodiversity issues, and we have been communicating with our clients the need to take biodiversity issues into consideration in their farming systems.

While we agree with the stated goal of the committee discussion paper to improve and increase biodiversity conservation, we do not agree with the No. 2 under the section titled "Main Points of Possible Recommendation," which points the way to biodiversity conservation through the development and implementation of a template organic system plan.

Each accredited certification
agency develops their own organic system plan documents, which are approved by the NOP via the accreditation process.

Requiring specific questions or wording for organic system plans regarding biodiversity would circumvent this process and create additional paperwork burdens for certifiers and growers which are not justified at this time.

The contents of the organic system plan should be left to the certifier to develop and should continue to be approved through the accreditation process and not through additional regulations that mandate specific language to be used.

It is important to note the biodiversity concerns often intersect with other laws, regulations, or industry agreements, such as the California Leafy Greens Marketing Agreement.

While it is important to take biodiversity concern into consideration, it is
also essential that we do not put growers into a catch-22 position by forcing conditions for organic certification which are in direct contradiction with other production requirements.

Again, I reiterate CCOF's support for increased attention to the biodiversity concerns and organic production, and we will comply with any requirements imposed by the NOP equally on all certifiers.

We strongly urge the NOP to notify all certifiers at the same time in writing of any new requirements.

Second, I would like to comment on the document titled "Further Guidance on Commercial Availability of Organic Seed," dated September 22nd.

CCOF is grateful to the committee for the time and effort that they have obviously put into considering the comments they have received on the previous version of this document. We appreciate the revisions
made and believe that this version is a step in the right direction.

CCOF continues to support the growth and development of the organic seed industry, and we are pleased to see the efforts made on multiple fronts to encourage more use of organic seed by organic growers.

While it is clear to us that this version of the guidance is an improvement over the previous version, the recommendation still appears to be based on a few fundamental assumptions that are incorrect.

While the recommendation states that the committee "acknowledges that only a small proportion of the seed currently used by organic growers is certified organically grown seed," CCOF questions the validity of this assumption. Many of our growers are purchasing all or most of their seed from organic sources or growing and seeding their organic seed.

We also strongly disagree that
comparing the percent of organic seed used from year to year is a legitimate or accurate way to measure the increase in the use of organic seed.

Many of our farmers plant 100 if not more varieties of seed each year, and if a grower changes varieties or changes the crops they're planting altogether, comparing whether or not the seed is organic from year to year does not give you an accurate picture of whether or not the grower is properly seeking out organic seed.

We strongly caution against relying on this information to determine a grower's compliance with the regulation.

I have a proxy also.

While we do not think that percentages are a way to get an accurate reading on the state of the organic seed industry, we do recognize that obtaining information on organic seed use will require an increased paperwork burden on the part of
organic growers and accredited certifiers, and we are willing to collect and report the data needed if it is required of all certifiers. We believe organic seed use is an important part of certification, and we all need to do our part to encourage the use of organic seed by organic growers.

Another flawed assumption in this document is that certifiers are approving the use of nonorganic seed for each variety of seed used. Certifiers cannot possibly do this.

Instead we approve the producers' management plan for seeking organic seeds in the marketplace.

While on-site inspectors review the documentation for all seed purchased, requiring explicit certifier approval for all varieties would create a mass burden for certification agencies. It would unduly affect small farmers who plant a large number of different seed varieties.
As was mentioned earlier today, there is an inevitable burden to be shared by all members, including growers, the NOP, and certifiers.

It is the ACA's job to review and inspect and certify the management system of growers, and if the grower describes in their organic system plan their method of seeking organic seed and determining when it is not commercially available, certifiers should not be expected to individually approve specific varieties.

So, finally, as a proxy for Jody Bergeal -- she's Jeff's handler certification supervisor -- I'm going to comment on the recommended guidelines for the use of packaging and processing aids with products labeled and sold as 100 percent organic.

The 100 percent category is unique to the NOP, and the level of complexity required to implement is avoided under other organic standards that do not include this
CCOF often wonders if continuing to allow the 100 percent organic claim is worth the time and energy we spend interpreting it.

However, since the provisions of the 100 percent organic labeling claim do currently exist, it is essential that all stakeholders be completely clear with what the requirements for its use are.

The small business owner who would like to use the 100 percent organic label on their product cannot be expected to meet a standard that is so complex and convoluted as to require high levels of research to understand.

The level of complexity in the proposed guidelines and lack of understanding in the marketplace makes the certifiers' jobs much more difficult as we must then spend time untangling the knots of regulation for our clients in order to allow them to comply.
CCOF feels that the recommended guidelines, while thorough and knowledgeable, are focused on some points that confuse the issue instead of clarifying it. Including information about several other regulations and their interaction with the organic standards is unnecessary.

NOP regulation section 205.301 says nothing may be used to produce a 100 percent organic product except organic ingredients and processing aids.

Therefore, we understand that all components of a 100 percent organic product, regardless of function, must be organic in order for the product to be labeled as a 100 percent organic, and no synthetic or nonorganic processing aids may be used.

Any additional nonorganic material, whether defined as a processing aid, an additive, a sanitizer, a microbial, would preclude the product from being called 100 percent organic.
Therefore, there is no need in the recommendation to differentiate between processing aids, antimicrobials, sanitizers, or additives, as the regulation does not distinguish between these classes of materials.

The spirit of the 100 percent organic category was intended for unadulterated, unprocessed product. Continuing the use of our current interpretation would assure consumers the the products they are purchasing are free of all nonorganic materials.

CCOF presents this step toward consistency in certifying to the 100 percent labeling category. However, we suggest taking a deep breath and a step back and simplifying the approach.

We are glad to hear that the committee has taken the previous public comment into account and may reconsider the current recommendation.
Additional changes to the recommendation should be based on the tenets of the NOP, not on other food safety or production regulations.

They should consider the spirit and philosophy in which the NOP and OFPA were written and be comprehensible by organic operators and consumers.

In the long term we should ask ourselves if the 100 percent organic claim is worth the time and energy spent interpreting it.

Please see our written comments for further discussion on this issue.

Thank you very much for your time.

MR. DELGADO: Any questions?

Julie.

MS. WEISMAN: Well, I think you're very clear about the use of sanitizer -- your position about sanitizers in the 100 percent claim for retail packaged products. Do you have -- do you look at differently how it
impacts say on farm processing?

MS. ALLAN: We do. We don't -- if it's not going to -- if that product is not going to be labeled as 100 percent organic, we don't feel that the use of sanitizers or microbials is an issue in the post-harvest handling.

MR. DELGADO: Any other questions? Hugh.

MR. KARREMAN: I'm not sure if I heard it or not, did you speak at all on animal husbandry?

MS. ALLAN: No. I don't have anything to say about that.

MR. SMILLIE: I want to thank you and CCOF for supporting the commercial availability and being willing to do your share to carry the load. I really appreciate that from accredited certifiers.

Your comments on the 100 percent, I couldn't agree more. I think that, you know, we're going to go back and look at it,
and I think one of the things we will suggest is just eliminating it because the candle doesn't seem to be worth the flame in this case.

But we have to also provide alternatives, and we would like to get some input from CCOF, especially on the post-harvest handling part of it rather than the processing. And again, that's the mistake -- one of the mistakes we made in the document as not sufficiently -- you know, the difference between post-harvest handling and processing is there, and you guys do a lot of that, so we'll look forward to working with you to get some comments specifically on that.

You said that the sanitizers, the microbials basically if they are not making a 100 percent claim, could you just go through what you said there again in answer to Julie's question?

MS. ALLAN: Sure. I guess what I'm saying is I'm referencing when you're
calculating a percentage of organic product. I'm assuming that's what your question was going toward.

MR. SMILLIE: Right.

MS. ALLAN: That if that individual ingredient is not being labeled as 100 percent organic, it's going into a final product, we don't have a problem assuming that that is a 100 percent product.

MR. SMILLIE: Got it.

MR. DELGADO: Bea.

MS. JAMES: You mentioned that you thought -- CCOF feels that the 100 percent claim should just be eliminated, it's too complicated. It was intended for unadulterated products like -- give me an example. Are there still some out there? I mean you're basically saying like produce and nothing really -- or your standards qualify for that anymore?

MS. ALLAN: No, I think there are definitely products that can meet the 100
percent requirements. I think that we're talking about the spirit of it, and I think that's what we're trying to say, is you don't necessarily need a 100 percent -- you don't need highly processed products to be able to be labeled as 100 percent organic. And that is okay if we don't have that.

MR. DELGADO: Any other questions?

Thank you very much.

MS. ALLAN: Thank you.

MR. DELGADO: Next is Kelly Shea, followed by Coni Francis.

MS. SHEA: Hi, there. I'm Kelly Shea with White Wave Foods, and you know us as Horizon Organic Dairy and Silk Soy Milk.

Mr. Chair, in the interest of time, if the board members would review the written comments that we submitted, I would be willing to not take my full five minutes up here.

Instead, I just want to thank the NOSB, both past NOSB boards and present NOSB
board, for the work that you have done around
the pasture rulemaking.

I sat down and looked a little
back in history, and do you realize that
beginning in 1994, with subsequent work in
'95, '98, 2000, 2001, twice in 2005, and then
again with the ANPR in the symposium in April
2006, this board has attempted to help USDA
and help the community address this issue?

So I thank you very much for not
giving up.

We have finally a proposed rule on
pasture we can celebrate. It's not perfect,
but I think it will be a very, very workable
rule.

As well, we are not looking for an
extension on this, and I know that this
rulemaking is not in your hands, but I really
do want to think this board for everything
they've done.

I think we also commend the USDA
for their stated intent to begin further
rulemaking to deal with the uneven playing
field on original of livestock in the rule.
So we are going to continue to
follow that as well, and we are asking the
NOSB that you would as well continue to follow
that issue, and urge the USDA to move forward
with the next piece of rulemaking that we're
waiting for.

Okay. So thank you guys for
everything you do. I know it's a lot of hard,
rough hours, and we really appreciate it.

MR. DELGADO: Thank you. Any
questions? Thanks. Moving on then to Coni
Francis, followed by Rich Theuer.

MS. FRANCIS: I think Valerie is
putting up my little presentation for you, but
I can start with saying that my name is Coni
Francis, and I represent GTC Nutrition. GTC
Nutrition is a manufacturer and supplier of
science-based nutritional ingredients to the
traditional and organic food markets, and one
of the things that I want to do is to thank
the board for the opportunity to comment today, and I especially want to thank the Handling Committee for all their hard work in reviewing the petition materials. I know that this takes a lot of your time, and I know you take your work very seriously.

My comment is on calcium from seaweed, and although yesterday we did hear comments regarding the thoroughness of the review process in regards to the manufacturing of petition materials, in my experience the Handling Committee is quite thorough in their review process and, in fact, they look very seriously at the manufacturing of the materials that are petitioned.

In addition, the material, the calcium from seaweed, has undergone GRAS review, which requires extensive manufacturing information and has received a "no questions" letter from GRAS with the petition GRN-00028.

Further, this material has been certified by the Organic Trust, Ltd., which is
an EU organic body that is there, and if we
could go to the next slide.

The petition material is calcium
that comes from a seaweed. It's produced
actually from a red algae, lithothamnium, and
it grows for about four to five years in the
ocean naturally. It absorbs the essential
minerals and nutrients from the sea, and then
when it is mineralized, the portion drops to
the ocean floor and then it's harvested,
washed, and milled for use as an ingredient in
foods.

The composition of this substance
is over 95 percent minerals. The rest is
essentially moisture that's there.

The mineralized seaweed, in fact,
is a very positive organism in terms of the
fact that this is a very sustainable process
because we don't touch the living seaweed. We
only take that that has died, and so it
continues to produce, and we aren't, you know,
touching them by plant at all.
If I could go to the next slide.

So just to give you a real quick history of the petition for those of you who didn't sit on the Handling Committee, in the spring of 2007 we did send this petition in and asked that it be put on the national list. We asked for it specifically because we weren't sure where to place it and wanted to make sure that we were putting it in the right place.

In September of 2008, it was reviewed by the Handling Committee -- if you'd go to next slide -- and the Handling Committee, as you heard here today, believes that this is a nutrient mineral in accordance with 21 CFR 104.2, and they recommend that this petition doesn't need to be considered and it is currently allowed through the existing things in the 205.605(b).

The next two slides that I have will show you just some composition data so that you can see. The first is looking at
cations and anions, and you can see that largely it is calcium that we are looking at, with small amounts of other minerals that are there.

And then the next slide. This just shows in terms of daily contribution. Since most manufacturers will be using this product to provide either a good or an excellent source of calcium in their product, what you would likely see is that they are going to be looking at that 10 or 20 percent level of calcium, and therefore, as you can see here, if we have a good source of calcium, that's going to provide about 10 percent calcium, and really the only other nutrient that's going to be in very large amounts would be iodine at 7 percent, and an excellent source, you're going to have calcium at 20 percent and iodine at less than 15 percent. So it is largely calcium that we are talking about.

Next slide, please.
So, in summary, this is mainly a source of calcium. We appreciate the consideration of this material, and we want to applaud the Handling Committee for their recommendation not to crowd the list with materials that are already covered under another category. And we feel that it has been correctly classified and support what the Handling Committee has recommended.

Are there any questions?

MR. DELGADO: Any questions?

Okay, thanks very much.

MS. FRANCIS: Thank you.

MR. DELGADO: We now have Rich Theuer, followed by Lynn Coody.

MR. THEUER: Thank you very much for hanging in. I admire your stamina and applaud your dedication.

As you may know, I am Rich Theuer, and I have a presentation.

The reason I am coming to talk to you today is basically to bring to your
attention to the NOP an issue relating to micronutrients in organic crop production.

There currently is a section in the rule 205.601(j) that I believe is being misinterpreted by all of the certifiers, or at least many of them, and since we work on the paradigm that healthy soil creates healthy plants that create healthy animals, we should think of that as we go through what I have to say.

This is the regulation. It describes micronutrients, and then gets into two, Roman numeral I and Roman numeral II.

Can I have the next?

If you look at this, the J61 and J62 mention specific nutrients. Most certifiers are interpreting the 1 and 2 as constituting list of allowed synthetic micronutrients. And the question, the basic question, are those the only specific micronutrients, the ones mentioned, are they the only ones allowed, or do these
subparagraphs pertain simply to the mentioned micronutrients?

In other words, where it says -- it lists zinc and a bunch of others, it doesn't mention, for example, nickle, and nickle is an essential nutrient.

Can I have the next one.

In the regulatory world, for fertilizers, part 205 governs organic crop production, but fertilizers are regulated on a state-by-state basis, not by the Federal government, and AAPFCO, the American Association of Plant Food Control Officials, is the one that establishes standards for fertilizer.

Could I have the next.

In their terms, in their standards, they have this particular definition, and I would like to call your attention to two things:

One, it's essential for the normal growth of plants -- they're agronomists, and
they don't mention animals. And they mention certain nutrients that they consider the microplant nutrients.

Can I have the next.

Well, we got two problems. One is a fuzzy definition of a micronutrient. J6 talks to soil, the fish, and the sea. The AAPFCO standard talks to microplant nutrients essential for the normal growth of plants.

So what micronutrients are we talking about in the regulation?

The other thing is that there's a conflicting list of allowable micronutrients where the rule is inconsistent with the AAPFCO fertilizer standard.

Could I have the next.

So what should be the definition of micronutrient? Is it a nutrient needed in micro amounts for normal growth of plants? Is it also a nutrient needed in micro amounts for the normal growth of animals and humans consuming the plants?
The example there is selenium, which is actually in the rule.

Now 205.601, you refer to soil deficiency, you do not refer to plant deficiency. That gives me hope that we are talking also about the animals that eat the plants, not just the plants.

Can I have the next.

You also have conflicting lists, that they're not the same.

Could I have the next.

These are okay. Chlorine, you get enough naturally, you don't need synthetic.

Next.

These are the same. Sodium, again it's like chlorine.

But now we get to four nutrients in the next slide -- cobalt, selenium, nickel, and iodine.

Cobalt is listed in both places, but if you apply a standard that what is enough for a plant is enough, you're going --
you can have a problem with the animals consuming the pasture, sheep, livestock, ruminants, and so you can have wonderful pasture and dead sheep. And that can occur.

On selenium, somehow the selenium is mentioned in 205.601. It's not listed in the AAPFCO standard. There are some hints that it might be important for plants, but the other side would be it's definitely needed for animals, so I have to talk to the AAPFCO next. I have already been in correspondence with them.

Nickle is not on your list in the NOP, in the rule, but AAPFCO approved it a year ago.

And iodine is not in either. Can I have the next.

And so nickle is essential according to AAPFCO. It's a documented deficiency. Certifiers are not permitting organic growers to use nickle supplemented fertilizers when soil deficiency is
documented.

   Why? J6 is considered an exclusive list. If it's not on the list, they're saying, no, you can't have it, even if it's documented.

   The next is iodine. And that's -- I'm a nutritionist by training. There's a goiter belt in the United States, cretinism is a source of mental retardation.

   OMRI last week just dropped iodine from its listing of acceptable micronutrients. Why? Because the provisions of this rule are considered an exclusive list. If it's not in the list, the certifiers are using that as their exclusive list in forbidding any other additions. And I thought both the Secretary and his representatives should know it, and I thought it would be useful for you to be aware of that as well.

   Thank you.


   MR. SMILLIE: I think we've been
around this before, right, in the gums issue.

And I thought the intention of the board at that point was that if it's -- that your interpretation of what the certifiers are interpreting is correct. This is an exclusive list, because it doesn't say "including but not limited to" kind of language.

But, Dan, I'll defer to you on it.

MR. DELGADO: Dan.

MR. GIACOMINI: The one thing that I would like would be the language that had been in the list originally with the animal mineral listing and see how that language compared. I really don't know where it stands right now, and it would be up to interpretation, you know.

MR. THEUER: In the absence of the Roman numeral I and Roman numeral II sections, the deficiency is documented. So if you just take the 6 without subparagraph I and II, it would actually not be an exclusive.

Thank you.
MR. DELGADO: Any other questions?

Next we have Lynn Coody, followed by Lynn Clarkson.

MS. COODY: Hi, everyone. I'm here to talk today about biodiversity. I'm presenting testimony for the Wild Farm Alliance.

Wild Farm Alliance is a California-based organization working to promote healthy viable agriculture that protects and restores wild nature.

Our activities in the realm of organic agriculture are varied and include publication of two booklets on biodiversity conservation, which I brought copies of if anybody would like to see them. I've brought them here before, but if you'd take a closer look, you may.

They're also available on the Web site free, and they'll be happy to send you copies if you'd like copies of it. They'd like to distribute them widely.
The latest publication is a document that contains specific suggestions about differentiating major and minor noncompliances related to implementation of the biodiversity standard, so it's very specific.

Wild Farm Alliance would like to express thanks to the NOSB's Joint Committee for its discussion paper on biodiversity, and to the NOSB as a whole for taking action on the points we presented in our public comments during the board's meeting last May.

Today I would like to present comments on four topics raised in the Joint Committee's discussion paper.

So the first topic is considering biodiversity during the materials review process. Wild Farm Alliance concurs with the Joint Committee's recommendation that NOSB fully implement a decision made by the board in 2004 to adopt a criterion for a materials evaluation that would ensure that materials on
the national list have a positive impact on biodiversity. That's what the NOSB had passed, and we would like to see that included now.

So Wild Farm Alliance notes the paper's findings, that the evaluation criterion has been added to the materials -- has not been added to the materials checklist used by the committees in evaluating materials. This in spite of the fact that this recommendation received strong support by all commenters.

We ask the NOSB to take all necessary steps to incorporate this criterion when evaluating materials for addition or removal from the national list as well as for decisions related to the sunsetting process.

Topic two. Revising AHRQ's checklist to include assessment of biodiversity. This is the point that we spoke about last May.

We strongly support the Joint
Committee's point that NOP should work with the audit review and compliance branch to revise the checklist used to audit certification agents.

This change would support implementation of the biodiversity standards by all NOP accredited certifiers.

Last May, Wild Farm Alliance came before the NOSB with testimony about our organization's efforts to bring this issue to the attention of both AHRQ and NOP. At that time we identified three specific changes in the checklist that we believe would completely correct this problem.

We have resubmitted the details of this proposal in our written testimony, which hopefully you have on the Web site, and we believe that revisions of AHRQ's checklist represent a critically important step toward implementing NOP regulations for biodiversity in conservation of natural resources.

Taking this step will allow
certifiers to compete on an equitable basis. It will ensure that consumers are getting what they pay for, organic products whose claims of environmental friendliness are backed by accreditation and certification systems that verify these claims.

The third topic is implementation of the biodiversity standard through the organization system plan. We support all the suggestions by the committee about methods for implementing the biodiversity standard through certification and accreditation systems.

We included an attachment to our written comments that provides detailed marked-up versions of the committee's paper containing more suggestions on this topic.

And the fourth and last one is training with regard to the suggestion that the role of NOP in providing training about biodiversity. We have contributed some specific ideas about the contents of such trainings in our written comments and, as
mentioned earlier, Wild Farm Alliance has published booklets designed to provide practical information, suggestions, and examples about implementation of biodiversity standard, so if desired, we would be happy to supply these documents as background information for NOP trainings.

In closing, I would like to thank again the committee and we appreciate the opportunity to review and provide comments on the document and to work with you as additional resources for information if you would like.

Thank you.

MR. DELGADO: Questions? Barry?

MR. FLAMM: Just a comment. I want to publicly thank you, Lynn, and Wild Farm Alliance for the great work that they've done, and also I want to extend my appreciation to everyone that provided comments, and we'll be going over them -- we've already read them, but we'll be going
over them carefully as we prepare our paper.

MS. COODY: Thanks, Barry. I look forward to working you some more.

MR. DELGADO: Any other comments, questions? We go now to Lynn Clarkson, followed by Bill Wolf.

MR. CLARKSON: Good evening. My name is Lynn Clarkson. I'm managing director of Clarkson Soy Products. My company's name is on two petitions that have been submitted to your board, and the petitions are quite complete. We are quite pleased with the way they came out.

I'm here to give you some insight into why we timed our petitions as we did, and to address Julie Weisman's comments about how you encourage an organic ingredients supplier to step into this marketplace.

To do that, I have to give you a little history. Lecithin, which many of you probably can't spell real well, but will be by the time you're done, lecithin is principally
an emulsifier. It's used in almost every process and product on the grocery store shelf.

When the national list started, there was no organic source of lecithin. Why did we get into it? Because we were challenged by a major food company who was in this room a little earlier today who wanted, who embraced the organic policy. They wanted organic lecithin. They asked us if we could try and make it.

Three years later, having fallen off the learning curve at least five times and broken our financial neck at least twice, we learned how to make it. We have been providing commercial lecithin since 2004.

It is in baby food, it is in candy bars, it's in chocolate, it's in energy bars, it's in oil sprays, it's in baked goods, it's in ice cream, and somebody on my way up here just handed me this topic, which is a 70 committee organic product using organic
lecithin. This is one of the companies that cares.

Okay. I'd like you to invite you for a virtual hike down the hill to an organic grocery store that looks a lot like the ones that are actually down there.

We can walk up to almost any category of product on the grocery store shelf. We can walk up and I can put my hand on product A, let's say vegetable oil spray, hand it to you, you read the label, organic lecithin.

Immediately to the left or right of that, I can put my hand on product B, C, and D, hand it to you. You will not be able as a consumer to tell the difference in those products, but those other three products are using conventional lecithin.

I can do this time and time again. We have been relying on the organic-first policy, we have relying on NOP, and we have been relying on certifiers, and I would guess
that there are probably four times as many people scamming the system as really embracing the policy of organic first.

So what are the consequences of that? The organic food chain stays open to the use of hexane, which is a volatile synthetic solvent and a neurotoxic. There's no need for that.

The organic food chain stays open to nonorganic soybeans. No need for that.

Every pesticide that's allowed by the USDA, still involved in the organic food chain. No need for that.

Who wins, who loses? Well, who loses, the organic consumer, the organic farmer, he doesn't get supported, the organic manufacturer of foods who really embraces organic first, and the organic ingredient supplier.

Who wins? The guy who wins is the guy that's gaming the system and looking for the lowest common denominator to get him into
a label category.

What approach have other bodies taken? Take a look at the Soil Association. Effective January 1, 2009, they will certify no product as organic unless it has -- if it's a product that uses lecithin, unless it has organic lecithin in it. None.

Now that's a polar position.

Take a look at the Canadian rule. The Canadians have done something interesting. They've said if you have to have a form of lecithin that's not available organically, it's okay as long as you start with organic lecithin. Soy lecithin. Thank you.

So that removes 99 percent of the incentive for gaming the system because you have to start with organic lecithin. And everybody's organic lecithin starts as a fluid, and then you modify it.

So what we are basically saying is we have lost complete faith in the regulatory system as we have it today to encourage people
to be organic first. We would like something that's clear enough that the NOP knows how and can enforce it without being tied up for years in controversial arguments, at their discretion and judgment and reason.

So that's why we're asking two invitations to you. We are one of the world's lecithin experts, third party. We are available to you in your deliberations if it would be helpful.

If any of you wish to visit the plant where this is done at some time, to help your deliberations, tell us.

Thanks.


MR. SMILLIE: Good presentation, Lynn. I know exactly what you mean. You can see that on the shelves. It's there for everyone to see. But let's cut to the case, two big issues. We have heard presentations from certification agencies saying that their clients are telling them that the organic
lecithin doesn't meet their needs, form, quality, function. That's number one.

Let me get both of them. The second one is this new -- I shouldn't be surprised, but the allergen issue, okay. It's only soy lecithin that you're providing and that there is an allergen issue up there also, that other forms of lecithin or lecithin replacements.

So I'd like to hear you address those two issues.

MR. CLARKSON: Number one, many people said the quality won't work, you have a cognate product that's almost identical. So I wonder.

Secondly, we intercept a lot of e-mails we never intended to as we hit the "respond to all" key.

(Laughter.)

Every one of those goes back to an economic issue, not a quality issue. So I'm saying there are no issues. I'm saying it
puzzles me greatly why three candy bars have to use conventional and another one that just looks like is using organic.

The second thing is I don't know what to do about the allergen issue. Ninety-nine percent of all the lecithin used in the world is soy-based lecithin, so I don't really know how to address that other than cut out a niche for it. I don't know what to do about that.

MR. DELGADO: Any other questions?

Bea.

MS. JAMES: Is your lecithin 100 percent organic?

MR. CLARKSON: We have been offering 100 percent organic lecithin --

MS. JAMES: Unadulterated, 100 percent organic?

MR. CLARKSON: Unadulterated. Now if you want the yeast lecithin, that's at 95 percent.

MR. DELGADO: Any other questions?
Thank you very much. Gerry, you have a question?

MR. DAVIS: Sorry. I was just a little slow. You were speaking quickly in the area of talking about the Canadian system, and I want to make sure I understood what you said, if you could slow down and repeat that about it's okay as long as you start with 100 percent.

MR. CLARKSON: The draft version of the Canadian rule that was supposed to go into effect a month or so about now, it now looks like it's coming into effect the middle of next year, said addressing the issue of bleach lecithin, said if you wish to bleach lecithin and it's not available organically, it's okay to bleach lecithin as long as you start on organic lecithin.

Now that would get us out of the situation where people run to the conventional supplier, and that would be faithful to the consumer, blah, blah, blah.
So there is one. We're not -- and I need to make the point we're not asking to rule out every form of lecithin from the national list. But we can do it the way the Canadians do, and say as long as you start with organic lecithin, it's okay then to use acetone. But right now everything conventional is using hexane, and if it's the oil, they're using acetone.

MR. DAVIS: Joe, could you go back to the expert and how that would be available to the Handling Committee if we have questions?

MR. SMILLIE: We went to the University of Illinois Soy Food and said who is a retired expert who hasn't spent his life on phosphate lipids that we could consult. We have him as part of our presentation in our petitions. He has no tie to us. His reputation is far broader than us. If you wish to put him into debate with anyone, if you wish to ask him questions, we will be
happy to make him available to you.

MR. DELGADO: Any other questions?

Thank you very much.

MR. CLARKSON: You're welcome.

MR. DELGADO: Now Bill Wolf, and followed by Patti Bursten-Deutsch.

MR. WOLF: Hello again. First of all, I am proxying for -- I need to speak very briefly on behalf of Blue River Hybrids, thus the hat.

I am Bill Wolf, and I will get into some other of the issues I was originally planning to talk about, but first I'd like to make a statement for Blue River because of some of the comments and clarify it. This is really for clarification.

MR. DELGADO: You're saying you have a proxy in addition to this time, or you actually --

MR. WOLF: I am going to make every effort to stay within five minutes because I really feel for you guys. This is
just horrible.

MR. DELGADO: Thank you. Thank you.

MR. WOLF: Two issues. One, Blue River is not in favor of using treated seed stock to grow organic seed. They have been referenced as though they were.

Two, Blue River has multiple varieties of corn and soybeans for the north central part of the country, and those were just clarifications because there were implications or statements in other testimony that implied that Blue River was -- that was not the case.

I'd like to take my hat off and switch to some tough topics that you are facing, but first I want to say that the first NOSB meeting I attended was the first NOSB meeting. It was just over the bridge in Key Bridge. And there were 15 board members, one person from the USDA, and four people, four presenters, and I'm -- I just want to say that
the continuous improvement in public comment
and interaction is extraordinary, and the
issues have gotten way more complicated.

I would like to talk first about
the -- as you recall, I submitted and handed
out to everyone a comment that was submitted.
Has everybody got copies of it? If they
don't, I have additional copies.

But I talked about the fact that
the ag-non-ag debate is a debater's heaven,
and if I were a debate coach, I would say now
there's the issue you can debate every year
and you will always have a different outcome
of the debating team, depending on who is
really good at it.

And that's why we at Wolf-DiMatteo
strongly recommended that you look at option
three or four of the materials working group,
because it wasn't intended to be a loophole
for organic preference, and that's what is
happening in many areas on 605, and you will
continue to have that problem unless you solve
the structural problem of having one materials
list with organic preference required on all
materials.

    Item two, I had listed five
specific recommendations we had. I'm going to
add a sixth, and that is that I strongly
encourage you to go forward with the multisite
recommendation pretty much the way it is
presented with some of the editing, minor
edits that I've heard about, and I'm going to
talk from my own experience.

    I have been involved in my own
certifications, helping others being
certified, writing robust organic system
plans, and reviewing operating systems of
grower groups.

    I have never seen an inspection
that looked closely at every field, at every
corner of a barn. The most important part of
the organic certification is the organic
system plan and the audit of that plan, and
reviewing and verifying it and reviewing and
having a really tight internal control system.

In fact, my company believes that everybody who is certified should have their own OSP, like a HASOP plan, not a form that was filled out, and I'm really glad to hear that the NOP is going to tackle as its first guidance document what an OSP contains.

And finally, the last item I need to clarify a few things about materials in sorbitol, and the general -- the statement I made yesterday about the fact that I think there is some issues around materials are being reviewed are substantially structurally different.

I think you all received a copy of seven letters from growers and from PCOs asking for sorbitol to be approved.

I am concerned that the actual process for reviewing has shifted. In the case of sorbitol, it differed radically from the sucrose in that it was declared that it wasn't compatible with organic production on
the petition.

The second point I'd like to make is since some of the comments were made, I went back and looked at the sucrose vote and comments in the 2005 discussion by the board, and this was really a chain of events about how the product was registered.

It was first registered, then the petition was submitted, then the petition was amended to add crops because EPA in fact approved it for those crops. And the only reason sorbitol wasn't applied for at that time is because there was no EPA registration.

So I think I am really concerned that you follow your protocols of consistent review and look closely at the need dynamic, and that's really what I had to say.

Thank you.

MR. DELGADO: Any questions from the board? Thank you.

MR. WOLF: I do have one statement that was your -- when I spoke yesterday, you
said -- someone said, oh, can you tell the
difference between sucrose and sorbitol? And
I said I shouldn't be speaking to that, I
don't know, you should ask the petitioner.
And I was told it would come up during the
committee's discussed deliberation or
presentation of the sorbitol conversation
yesterday. My understanding is that because -
- I mean today, right before lunch. My
understanding is that that difference still
has not been described to you. So I wasn't
able to answer that question yesterday. I'm
sorry it didn't come up at noon time today.
But I do know that the petitioner changed his
flight to be available for either now or for
tomorrow if there are any questions.

MR. DELGADO: Gerry.

MR. DAVIS: I hear what you're
saying, and I think it would be worthwhile to
have them delineate the difference, because I
think the petition that we saw was fairly
deficient in explaining the difference between
MR. DELGADO: Is the petitioner here? Can you please come up to the podium and identify yourself?

MR. REYNOLDS: Sure. Thank you very much. Again, Devlin Reynolds with Natural Forces.

I'll cut right to the crux of the matter.

The first thing I want to point out is in the letters sent to you from the growers, I just want to read one paragraph from a hops grower. It appears hops is a big item here. This is from Tim Perault, if you want to call him. He's in Washington State, if you all know him.

"There are not enough insect control substances on the NOP national list to warrant an investment in additional organic hop acres. A shortage of organic production of hops exists today as the industry cannot produce enough to keep up with demand."
Without additional materials approved for use, we cannot grow our business and meet the demand of the consumer by increasing our organic acreages to help meet the demand."

I don't know any simpler than that. The difference between the two products, first of all, one, the REI. I think we all understand what that is. You spray today, how soon can you go back in and work as a handler or a harvester.

Sucrose octanoate ester has a 48-hour REI based upon the U.S. EPA standards. Sorbitol octanoate is 24 hours.

Everybody here who grows a crop that's perishable understands the difference between 24 and 48 hours. If you have berries, if you have greenhouse vegetables, if you have a you-pick operation, you can't spray day one at 6 a.m. and your crop is ripe and have to wait 48 hours before you can let anybody in there.

So that is a giant difference when
you're talking about perishable crops at the end of the season.

You've got instances that are in those letters from a grape grower in North Carolina. We've got hurricanes coming in, we've got fruit flies, what can we spray in there that we can get out?

Well, they need a product they can spray and get out of there that they haven't already applied this year that socked their beneficials. That's one. And that's the biggest deal.

Leafy vegetables. We all know what we're talking about. Perishable goods.

The second thing is in sustainable agriculture, the processing and the making of sucrose octanoate ester involves recovering the use of solvents. It also has about a 10 X energy use rate to be able to make sucrose versus sorbitol. Sorbitol is a much simpler process. There is no use of solvent, there's no solvent recovery. It's a much more
sustainable type product.

The third thing is the insect control. The two active ingredients -- you know, the one is marketed as a 40 percent AI, the other is a 90 percent AI. Just the consistency of the materials, sorbitol is heavier. When it attacks a larger insect, it will burn a bigger hole in the insect. Don't mean to be crude, but the way it works is it eats the cuticle layer of an insect, burn it out, uncontrollable loss of moisture, okay.

A thinner product does a better job on certain insects, but a thicker product does a much better job -- going back to my mealy bug example. When you have a larger insect, you need something that's going to be stronger on that insect, and that is what sorbitol does that sucrose cannot do.

That's probably not the case with bee mites, but it is the case with mealy bugs, it is the case with leps, it is the case with some of the stronger insects that cannot be
controlled by sucrose.

And so those are the three primary differences. And my question is if we can't vote to allow it now, I'd like to see if we could at least allow for, you know, a review of the product or at least table it.

MR. DELGADO: Gerry.

MR. DAVIS: The question on the two materials on mite control in bees, is it sucrose only?

MR. REYNOLDS: Sucrose is the only one that's registered today for bee control.

MR. DAVIS: That wasn't real clear to us when we were going through it.

MR. REYNOLDS: No, it's -- I'm just saying mathematically from a chemistry standpoint, the molecules in sorbitol probably would not be as good on bee control of mites than sucrose is. But it is not registered today for been control.

MR. DAVIS: And what would have been the scenario if both of those materials
received EPA registration at the same time?

             MR. REYNOLDS: I have absolutely no idea.

             MR. DAVIS: I mean as far as your submitting them for organic consideration.

Would you have submitted them at the same time?

             MR. REYNOLDS: I would have, yes.

             MR. DAVIS: The only reason we -- it's taken a few years longer for us to see sorbitol is because you did not have an EPA registration at the time that the sucrose petition was put in.

             MR. REYNOLDS: It was my understanding -- and again, I was not part of the process when they put it in, so you're asking me something that I have no idea about, and you're asking me if it was me. It's my understanding we can't submit anything until we get an EPA registration, period.

             MR. DAVIS: Right, yes, I understand that. But that explains the delay
in -- because now the issue is, well, we already have sucrose octanoate on the list, why should we allow sorbitol. That's one of the reasons.

MR. REYNOLDS: Sure. Exactly. And again, my reason is because they are two different products doing two different things. Again, you have white sugar and brown sugar. When you make molasses cookies, do you make them with white sugar? No. You make them with brown. Same difference with insect control.

MR. DELGADO: Any questions, comments? Okay. Thank you very much. We will now continue with Patti Bursten-Deutsch, followed by Grace Marroquin.


It is my plan to comment in five
sentences, and this is now two. Will the verification of the 30 percent DMI requirement be based on an assumption of how much each cow is consuming, or is each producer required to demonstrate in some explicit way that each cow actually consumed 30 percent dry matter?

Please consider this and provide clear, concise, and unambiguous guidance to farmers, inspectors, and certifiers.

I appreciate very much all of your earnestness and hard work in what I hope is not a thankless effort.

MR. DELGADO: Very good. Are you addressing that to the board at the moment?

MS. BURSTEN-DEUTSCH: I was hoping Richard would be here, and I feel like it needs to be inserted in the public comment.

MR. DELGADO: Yes.

MS. BURSTEN-DEUTSCH: Thank you.

MR. DELGADO: As I also remind the public, there is always the option of submitting written comments, questions.
Going on with Grace Marroquin.

MS. MARROQUIN: I'm Grace Marroquin with Marroquin Organic, International. I promise I'm not going to talk about yeast. I promise.

Besides being an organic ingredients supplier, I also have a reputation for minor ingredient suppliers. That means those ingredients that are generally used from a half to 3 or 4 percent. And of course, yeast -- I did say the word once -- fits into that category.

But I am here actually because you are discussing citrus pulp, and there were some questions raised in this discussion, and I want to give some support to this issue because I think, Dan, you brought up the question about other companies -- because they have these five patents out there, there wouldn't be this incentive for anyone to do this.

Well, I represent a company called
the Marma Corporation, and they are based in Labelle, Florida, and we are producing a product, we're calling it citrus hummus, which is comprised of citrus pulp and membrane, which is the same product, in addition to the flavino, which is the orange part of the orange, and albedo, which is the white part of the orange. Very similar in action, but it has other additional properties.

But already there is another company standing in there, and at one point it was our understanding that China was producing the citrus-type hummus product a long time ago.

So I want to give them support to the idea also about the problem with raw material availability. Their product, as he mentioned to you, has a 20-to-1 ratio. The product that we are producing is an 8-to-1 ratio, and I called my supplier here about an hour and a half ago to confirm what they had told me, which is there's not enough organic
fruit to be able to do this organically yet.

Now I wouldn't have even aligned myself with the Marma Corporation if it wasn't because I thought there was a possibility of bringing this product out organically, because that's what we do. And there's not too many companies as foolish as ours who look at that little minor ingredient and goes after it, because we feel that with the idea of organic preferences, you put it on 606, and it motivates companies to produce things. And just as if you put this on it, and you're going to find that there will be other companies who will be looking at it, and they may be coming in from Honduras or El Salvador where maybe they have more control of smaller production and they will be able to do it.

But this is how this industry grew, this is why we are here where we are today is because of organic preference.

The industry needs things like shelf life extenders and antioxidants and
preservatives. This product gives them an opportunity for shelf life extenders.

Our product, when we bring it out, will be also a powerful antioxidant. I didn't know they were going to be here today, and I was trying to get my guts up to be able to do another petition which, you know -- and it is a daunting process, but at least if you put something on the 606, there's the opportunity then to produce something organic.

That's all I have to say. And how am I going to petition this? That would be my next question. If someone is petitioning for pulp, then we go pulp and fiber and albedo and flavedo, you know -- but you can talk to me about that separately.

But, again, I just wanted to give some support.

MR. DELGADO: Thank you.

Questions?

MS. MARROQUIN: Thank you all, and good luck tonight.
MR. DELGADO: I guess there's a question. Joe.

MR. SMILLIE: I'll keep it brief.

I have a comment that I believe that the evidence is slowly turning that when you put something on 606, it spurs the growth of organic, and I think that we're starting -- I think the Handling Committee, dealing with this every day, that's what we're seeing.

MR. DELGADO: Thank you. Next we have Katherine DiMatteo.

MS. DIMATTEO: Thank you. Hello. My name is Katherine DiMatteo, and I'm with Wolf, DiMatteo & Associates today.

I like being sort of at the end of the list because I'm picking up the bits and pieces of things that haven't come up yet, I hope.

What I wanted to say is that National Organic Coalition, which is made up of a broad group of environmental and organic farming organizations, including Beyond
In it, they do support the current recommendation with some suggestions for changes to make clear that the recommendation and the criteria are about producer groups now.

So I just wanted to make you aware that this broad coalition in their comment also supports the current statement with some suggestions for changes, and if you can get your hands on that, I think you've seen that -
- some of those suggestions already.

    And I just want to -- I bring that up because I wanted to say that over the course of the last year, we in the community have come closer together on supporting the recommendation.

    So a lot of suggestions that we had come out individually in terms of how to define what a smallholder is, how to define to do the samples, how to put requiring limits on the five-year having -- making sure that everyone got inspected once every five years -- what you are seeing now with the support for the current recommendation is that we have come closer together to support the criteria and the protocols that are being set up in that recommendation.

    I would just caution you, a number of people have said this on different issues during this -- these meetings, that we -- the organic sector is defining ourselves out of existence if we're not careful about how much
we write in as prescription as opposed to process and to clear criterion protocol.

We must be careful. Don't let ourselves be destroyed by lack of trust and giving up on the process-based system that we really believe in.

And I want to add to that comment, I want to read from Grace Keshuni's comment. She had to leave. She was also one of the people who have fallen off the list, but I'm reading this from Grace's comment, which you have, because I agree with it.

Again, now I'm Grace.

"Once upon a time when I was an activist and small organic farmer, organic standards were a self-imposed system of rules developed primarily by organic farmers, those who had to work with them on the ground. Consumer expectations have always figured into organic standards, but there was a general understanding that consumer perceptions of what is pure and natural did not always fit
the reality of organic farming, let alone food processing. Organic standards were not just about marketing products, either. We thought that consumers might well be ignorant about farming and food production, but they could learn. It was more important to support farmers who did the right thing than to pander to consumer fears. Today no one seems bothered by the assertion that consumer expectations, even those grounded in ignorance, are all that matters. Add to that the argument that consumers cannot understand and could care less about the nuances of organic methods and only want to be assured that organic products meet the toughest possible standards. What it often adds up to is unparalleled hypocrisy and betrayal of the early vision of organic in the name of an ideological anticorporate agenda that actually works against the interest of both small farmers and ordinary citizens. In fact, tightening the rules creates more obstacles
for small players to enter the market than for large players who are accustomed to meeting bureaucratic requirements and have paid compliance staffs. They actually prefer to have tighter standards to protect the substantial investment needed to get in. With the myriad crisis we face, not least of them climate change, why on Earth would anyone want to limit the possibility of the broadest possible transition to organic methods without delay."

Thank you very much.

MR. DELGADO: Questions for Katherine? Tracy.

MS. MIEDEMA: Just a quick clarification. Valerie did e-mail out the National Organic Coalition comments, and I have spoken with Lynn Coody about specific wording confusion. So we are on top of that.

MS. DiMATTEO: Okay.

MR. DELGADO: Joe.

MR. SMILLIE: I just wanted to
say, Katherine, you mentioned a fairly large group of people, and you are saying that there was consensus and support of the multisite document, and you said there was a few issues. Could you just briefly hit those ones? We're on top of --

MS. DiMATTEO: Lynn or Emily -- I don't have it in front of me.

MR. SMILLIE: Brief. Well, we've got the one that says change -- oh, my brain.

MS. DiMATTEO: Change post-harvest handling.

MR. SMILLIE: Yes. Change handling to post-harvest handling. We've got that one. If we could just get the titles.

MS. DiMATTEO: Yes. Yes.

MS. ROSEN: Okay, page 1, the title, and all references to multisite to grower groups.

Page 4, change definitions of -- well, there's an insertion of farmer livestock producers in a few places. Definitions. Add
the definition of post-harvest handling.

Production unit. Change the definition to include -- so it says, portion of an organic operation where agricultural products are produced, delete "and/or handled." I mean, you know, if you want us to, we can print it out and give it to you.

MR. SMILLIE: Yes, if you could, that would be great.

I think -- but again we're not talking big ticket items here.

MR. DELGADO: We have Bea.

MS. JAMES: Thank you for your comments, Katherine. Does the group that you are representing, do you know if they support the idea of addressing the multisite construct for retailers and/or processors?

MS. DiMATTEO: Okay, let me just clarify. I am not representing the National Organic Coalition. Wouldn't that be lovely.

(Laughter.)

But I brought them up because I
I thought it was -- I felt it was important that this -- the group, the National Organic Coalition, and some of the other positions that have been presented over time, which were further apart, we have come closer together on. And I think that the National Organic Coalition's position now still would prefer to make it unambiguous that currently this is not a recommendation about handlers or retailers.

MS. JAMES: Separate, as a separate --

MS. DiMATTEO: Well, I'm not going to answer for them on the separate. Personally, for me, Wolf, DiMatteo & Associates, I support that there can be criteria developed that is specific and appropriate for other types of growers.

MS. JAMES: We would love to work with the NOC.

MS. DiMATTEO: Thank you.

MR. DELGADO: Any other questions?

Thank you very much, Katherine. Let's move on
then to Will Fantle, and you have a proxy.

MR. FANTLE: Yes, I have a proxy from Mark Kastel, the codirector of the Cornucopia Institute. I gave that to Valerie earlier today some time.

MR. DELGADO: Please.

MR. FANTLE: I am speaking for Mark Kastel of the Cornucopia Institute, our codirector, and I am going to be talking about the livestock rule. Yes, the livestock rule.

What began as an exercise many years ago in the middle of the last decade to address the problems, the interpretations between pasture and dairy, morphed somehow. It got transformed into the rule that was delivered to us on the 23rd, the proposal that we are calling the livestock rule for its inclusion of additional species under livestock, fish, bee, only, not bees but bee, its take on how we should treat beef, finishing of beef.

In fact, we will suggest that this
is an overly broad and sweeping revision of many, many parts that extend far beyond the problem that has been identified of pasture and dairy.

It is our opinion that the implementation of the rule as proposed will put out of business hundreds of legitimate organic livestock producers. This is something that we need to consider.

And we are left in somewhat of an awkward position with this because our citizen advisers here haven't had the opportunity to comment and weigh in on this rule on many of the provisions -- the new definitions, the rewrites, the new language, that have not been fully discussed, publicly vetted in our hearing process. This is very disappointing.

What that has left us to do, as the organic community consisting of farmers, processors, handlers, certifiers, and retailers, to try and identify what this rule means.
We have been reading hard, we have been trying to pull together different ideas and alternatives and thoughts on what to do, but it's a difficult proposition for us, with so much never being publicly discussed before, and trying to weigh its implications.

The other thing that leaves, at least in the opinion of the Cornucopia Institute, is for the current rule to continue to be enforced.

That means investigations cannot be deferred, as has happened in the past. We have FOIA documents from the NOP indicating that investigations were deferred several years ago because a pasture rule rewrite was underway. This is unacceptable.

We know this rule can be enforced, the existing rule. We have the incident of the Vanderick Farm, the 10,000 herd operation in California that was decertified under this rule. We know that the Aurora Facilities and the findings of fact that were found by the
NOP investigators, 14 willful violations of organic law, further evidence that this existing rule can be enforced, can be used to manage our process. This still needs to be done over the next foreseeable future, for however long this takes to be vetted.

We know that even under the optimistic scenario that this rule, if everything were to sail through as soon as possible, would not take effect until the growing season of 2010.

We have some other specific concerns that I'm going to make a comment on.

Pasturing of cattle for the entire grazing season is important, not just for 120 days, but the entire grazing season.

We know this would be a challenge in parts of the country, in parts of California where the rainfall is much more compressed into perhaps a two-month period of time. We met with dairy farmers last week out there, and we heard this would be a challenge
to them to even meet the 120 days, but they
were willing to do it, to try and make their
best effort at doing that.

The desert dairies in the
Southwest, some of the larger dairies, we
think their pasture must be required to be
irrigated much like any other crop that's
grown in that region. Irrigation is
fundamental to keep that playing field level
so that they can't use lack of pasture as an
excuse to haul those animals off the range or
the pasture.

We would also suggest that three
times a day milking be prohibited. It's a
challenge logistically for any farmer to bring
animals in and out, in and out, in and out,
with a three time a day milking scheme.

If it is allowed in the
continuation, it's not proposed to be
eliminated, we are suggesting it should be, we
think there needs to be more strenuous
auditing done by certifiers to ensure that
this rule is not being cheated on.

The origin of livestock is a
biggie. The proposed language that is in this
rule is not acceptable. In fact, it flies in
the face of what has been suggested by the
NOSB in their recommendation.

We would suggest that the last
recommendation from the NOSB, looking at last
third of gestation, be substituted for the
language that is currently in the rule.

Lastly, I just want to talk a
little bit about the process on this. We have
formally asked for a 30-day extension on this.
We think this is important. The community is
still trying to figure this out. I know there
is not even harmony within the community on
whether or not we need an extension. It's our
opinion we do.

Farmers we know that we're talking
with are still just learning of this rule and
looking at it. Transparency and inclusion
have been hallmarks of the organic process.
This needs to be brought to the sweeping rule to make sure that all of its ramifications are looked at by the process.

Barbara Robinson, the acting program director, just yesterday, when talking about the philosophy of the NOP, said it's better to do it right than quick. Her exact words.

We think that should be applied to this rule as well. Whatever emerges out of the back end of this, Cornucopia wants this rule to be strict. We also want this rule to be enforced.

Thank you.

MR. DELGADO: Thank you.

Questions? Thank you. And that is the last of the listed official speakers.

MS. FRANCES: Lisa Engelbert postponed her comment to give you space last night.

MR. DELGADO: All right. We have
a couple of speakers that signed up recently.

We will allow them to go, and I will ask the board members to consider being economical with your questions. I'm concerned about the time. I know the committees need to work on the specific change, and I would appreciate the members to be brief and concentrate on the issues. That's what we are looking for.

Yes, Tracy?

MS. MIEDEMA: How many more?

MR. DELGADO: We have one, two, three, four, five, six. Yes.

MS. MIEDEMA: Mr. Chair, with all due respect, I move that we adjourn simply to prevent fatigue for tomorrow when we are voting.

MR. DELGADO: The Chair will intend to take up the rest of them here, and we will have an extension of 10 minutes, 15 minutes, to allow a couple of speakers. Hugh?

MR. KARREMAN: I know that someone from the AWG came down from Maine. I'd like
to hear him, Sebastian Belle, if possible. If he's on the list. I think he is.

MR. DELGADO: I really don't know.

If we allow one, we have to allow all of them, and we do have six of them. So if the question was --

MR. KARREMAN: There is a motion. I mean there's a motion that you were asking if there was any questions. I did not second it.

MR. DELGADO: Indeed we have a motion that we adjourn, and we ask if there is a second. Do we have a second? We don't.

We are going up to 20 minutes after the hour, and try to get as many people as possible, and members of the public, I would request that you limit your time as much as possible and concentrate issues so we can be productive and allow this board to go concentrate on dinner.

Up next then we have Luke Howard.

Is he here? Okay, let's move on to Lisa
Engelbert. And after Lisa we're going to have
Harriet Behar.


I definitely will be brief. I'm hungry, too.

A few things that I'd like to comment on, multisite certification. I'm still not clear if the recommendation includes retail establishments. I heard two different comments that took it both ways.

So we don't believe retail establishments should be included in multisite certification. Retail establishments should not be exempt from inspection each year. We feel that there is a high potential for fraud, mainly due to high employee turnover in retail establishments.

Multisite certification should be limited to producers outside the U.S. Anybody inside the U.S. really should be inspected
each year.

            NOP training. Thank you for --
glad to hear that we're going to be having
additional face-to-face trainings. We were a
little concerned that we were going to Web-
based training format, and we weren't really
happy about that, so thank you. It's
important to have the face to face with the
NOP in training.

            Ethylene gas for ripening pears.

We don't agree that it should be added to list
for ripening pears. We don't believe it's
necessary to add substances to make things
easier or faster or get them on the shelf
sooner or keep them on the shelf longer.
That's not really what organic is all about.

            Organic consumers want less
processing and fewer substances used on their
products, not more.

            And quite honestly, if organic
consumers really truly understood some of the
things that are on the list that are being
used, they probably wouldn't be buying those
products.

The NOSB is a gatekeeper in the
organic industry. It's really up to you guys
what goes on the list and what really truly is
needed in this industry.

If unnecessary substances keep
getting added to the national list, at some
point the word "organic" will become
meaningless.

Hundred percent organic label.

Overall, we agree with the recommendation. I
don't like seeing livestock feed labeling
lumped in with human feed labeling. They're
really kind of two different issues there. So
hopefully you'll take that into consideration.

Most feed mills are not labeling
their feed as 100 percent organic. Obviously
anything going into an animal has to be 100
percent organic if it's an agricultural
product, to which you can add allowed
substances, like minerals and things like
that.

Commercial availability of seeds.

We overall agree with the recommendation, but the section -- it's B5D, I believe -- requiring certifiers to submit historical data on acreage and percent of organic seeds used for each producer is problematic.

I really can't imagine the amount of staff time that that is going to take. It's going to be additional staff people needed as certifiers for that one recommendation.

Hopefully this can be handled through ACA trainings and through the accreditation process. Our experience at NOFA New York is producers seem to be using more seeds each year. We are not allowing cost as a factor in determining commercial availability.

I'm not going to comment on the proposed pasture rule. I've already commented in Auburn at the listening session, and we are
going to be submitting written comments on
that, other than saying thank you for getting
it out to the NOP.

Lastly, I would like to comment on
civil penalties. I know they are not being
assessed to operations that are being revoked,
that are found to be fraudulent. I've said
this in prior public comments. I really
believe that's the only way we're going to
stop some of the fraud that's potentially
going on.

A lot of these operations are in
it for the money. They don't care about the
organic integrity. They don't care about the
organic industry. They care about their
bottom line. If they can take short-cuts,
they're going to do it. If they do it and
they get caught and it's jeopardizing the
integrity of organic products in the
marketplace, they need to pay the penalty for
that. Revocation is not enough. They have
already made their money on the organic
system. They don't care if they lose their
certification at that point. They need to be
fined.

That's all I have. Thank you.


MS. JAMES: Thank you for your
comments. I have a question for you. If we
can't make multisite certification work within
our own country, how can you justify that it's
a construct that can work internationally?

MS. ENGELBERT: I would prefer to
see every operation inspected every year,
actually. I realize in some of the Third
World countries there are some small grower
groups in close proximity, all under the same
organic system plan. They have a strong
internal control system, where people say it
can work. We're not certifying any of them.
I can't really comment on that.

MS. JAMES: But you support the
idea of multisite certification for --

MS. ENGELBERT: Those really small
operations that are under really close supervision.

MR. DELGADO: Any other questions?

Thank you.

MS. ENGELBERT: Thank you.

MR. DELGADO: Jennifer, you have a question?

MS. BEHAR: Hello. I'm Harriet Behar, and I believe you all have my comments in front of you. Is that right?

MR. DELGADO: We do.

MS. BEHAR: Okay. Technical review panels. The organic community has lobbied hard to get more NOP funds to cover costs for third-party TAP reviews, so dollars should not be an issue here.

The NOSB puts in many hours working together and strives for a continual atmosphere, making it difficult to challenge the work of another member. With no third-party TAPs, the board is relying on the petitioner as their only source of outside
The board itself is one organism and cannot do TAPs and approve them as complete. This is an inherent conflict of interest, as well as not meeting both the letter and the intent of the OFPA.

The NOSB is a stakeholder board and should not be converted into a board of experts. The OFPA gives the guardianship of the national list to the NOSB as well as giving them the tools to perform this responsibility with the depth and expert input that is necessary.

Please err on the side of more information rather than less. Do not put a responsibility on your shoulders that is not required in the OFPA, nor acceptable for a volunteer board.

Judging a material as straightforward that does not need an outside TAP review assumes that you already know the status of the material before it has gone
through the review.

Again, I ask the NOSB to pressure
the NOP, as I look at Mark Bradley, for the
implementation of the peer review panel as
required in the OFPA, as well as a transparent
program manual as required by ISO.

This should include a clear
procedure that informs the NOSB and the public
on how best to make --

MR. DELGADO: Excuse me, can you
just --

MS. BEHAR: Am I too far away?

MR. DELGADO: -- move closer to
the microphone.

MS. BEHAR: Okay. -- make
recommendations on specific standards they are
drafting on the content as well as the
timeline for the NOP to respond, or ask for
further information to move the
recommendations forward.

The NOSB and the public spend
massive hours on these recommendations and are
frustrated when the NOP decides they are not a priority.

Having a written transparent process for the NOP and the NOSB with communication will help both groups understand each other's priorities in order to move the recommendations forward.

I'm going to skip down to biodiversity.

I support the rewording of the document as presented by Lynn Coody for the Wild Farm Alliance. This does not burden farmers. Biodiversity is the basis of organic farming, a system that mimics natural processes.

There are multiple ecological services provided to farmers such as lower insect problems, as well as improved quality of life and ecosystem when the farmer consciously works to enhance and expand biodiversity on their farm.

And this brings me to materials
and the view of organic as a functioning organic system. Tetracycline, I agree with the committee recommendation to reject this, especially with the thought that two other related items should remove when they sunset.

There is documented evidence of resistance in orchards to these antibiotics as well as ongoing research in both the organic and nonorganic community to find alternatives which include technologically sophisticated monitoring paired with more benign inputs.

Approving this product sends the wrong message that this family of products is not problematic.

Sorbitol. I agree with the committee recommendation to reject this product. While I appreciate growers would like less expensive inputs for insect control, adding more products to the national list sends the wrong message, approving synthetics rather then encouraging the management of insect problems with a systems approach.
Pelargonic acid. This is the same issue. The longer that organic farmers work with their systems, the less weeds are an issue. We do not want to offer material crutches that can be used on farms to cover up poor management rather than having farmers learn their own systems that are site specific for control of their specific weed challenges.

I am also concerned about removing weeds from roadsides and ditches and the negative effect this has on biodiversity and soil erosion.

Ethylene for ripening pears --

MR. DELGADO: Your time is up.

MS. BEHAR: Okay. You have my comments.

MR. DELGADO: Any questions?

Let's move on then to -- we have Barbara Blakistone, followed by Sebastian Belle. Barbara, are you with us? We don't see her. Sebastian, please step to the microphone. Marty Mesh will follow Sebastian, and then we
1
have Brock Lundberg.

MR. BELLE: Good evening, I think.

2
I don't know how you guys do it. I'm very
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impressed, I have to say, and my sympathies
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are with you.

5
I'm going to be very brief. Dr. Karreman, thank you very much for mentioning
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me in recognizing that I was in the room. I appreciate that.

7
I just wanted to make a couple of comments. One is, first and foremost,
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recognize the hard work and long time that the Livestock Committee has put in on the
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aquaculture issues. I know this is an issue which you would probably at this stage of the
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game would much rather see go down the road and not coming back, and I don't blame you.
11
So my apologies for being the source of some hard work and angst there.

12
I also recognize and appreciate the fact that the Livestock Committee, or at
13
least that the AGW may have become
overengaged, and that the Livestock Committee
has needed to have an independent and rigorous
discussion amongst themselves, without the AWG
engaging, and I want to recognize that and
appreciate that.

Having said that, I want to make a
couple comments. I want to make clear that
I'm not commenting on behalf of the AWG. I am
commenting as a person who works for the Maine
Aquaculture Association. We represent about
140, 150 farms on any given year. We are old-
family owned, and we are very small, so I am
not probably the best commenter from the
aquaculture perspective, but I do represent a
group of growers.

At the risk of alienating the
Livestock Committee members, because I'm
coming from the AWG side, I would like to
suggest that you very seriously look carefully
at the latest AWG comments. Those comments
were made respectfully and in the spirit of
trying to take our technical expertise and
seeking to help the Livestock Committee
achieve the goals that they had articulated,
but making sure that the way you did that was
technically sound. And I think that's the key
piece.

I'll highlight a couple things.
One, on the feeds. Recycling processing
waste. Our interpretation, at least my
interpretation is that the one-to-one wild
fish to cultured fish ratio as it's currently
crafted in the standards applies to processing
waste as well as fish coming from industrial
commercial fisheries. We think that is a
mistake. I think that's a mistake.

We should try to reward processors
who are trying to take byproducts that would
normally be thrown away and put in landfills
and allow them to put as much of that as they
can in, and we shouldn't hold them to this
one-to-one wild fish to cultured fish ratio
for processing byproducts.

I certainly support the one-to-one
ratio for the industrial fish commercial end
of things.

Also under the feeds, the
requirement that all pollutants are removed.
I would respectfully assert that there is no
feed in the world and, in fact, no grazing
system in the world that could achieve that
standard. I think that's just not possible.

So AWG did have some language that
they submitted to try to highlight the need to
deal with pollutants and make sure that the
standard was higher than anything else, but
didn't fall into the trap of this all-or-
nothing trap, which I think from a
certification point of view you're just not
going to be able to certify anything.

Net pens. Three key points. Zero
impact on predators, and I think is probably
an unintended consequence, but the reality is
the rest of the standards establish very
strict control and standards with respect to
predator interactions and requires farmers to
maintain biodiversity and establish a proactive predator deterrence program.

Specifically, effective deterrence inherently implies impacts. Okay. Because you are talking about either exclusion or behavioral modification of predators. So you cannot have a zero impact standard and still have a predator deterrence program.

The term "prevent the spread of disease in a facility or to surrounding ecosystems and populations," I would argue that no culture system in the world can prevent. They can seek to prevent, but they cannot prevent, and so that was a modification that AWG put forward.

And finally, the waste management plan. The 50 percent recycling requirement, very high standard. I think when that rolls out, we're going to find that even fish which are so-called from rivers, are going to have a very hard time meeting that. It's going to be very complicated to measure. I don't
oppose that. I would only ask that you have
a phase-in period much the same way as you had
a phase-out period for fish meal and fish oil.
I think that accomplishes, sets the goal,
holds people to it clearly, allows them to
work toward something --

MR. DELGADO:  Sebastian, your time
is up.

MR. BELLE:  Thank you.

MR. DELGADO:  Any questions?

Hugh.

MR. KARREMAN:  Thanks for coming,
Sebastian. I was just wondering -- two
questions. One real quick. Demographics of
your farmers up there that you work with, like
what do they grow, and are they using a lot of
net pens or not? I just want to have an idea
what it looks like up in Maine.

MR. BELLE:  Yes. Fifteen species
we grow. Most of my members are actually
shellfish growers, but we do also grow salmon,
halibut, and cod. Our halibut farms are land
based. Our cod and salmon farms are net pen based. We have 40 sites that are net pen based in the state. On any given year, about a third of those are used, because we rotate between sites on a three-year cycle, so we do crop rotation. I don't know if that helps.

MR. KARREMAN: And then also I did read all your comments, and there are a lot of technical details that the program -- if this gets up to the program, they will take care of some of those details. Okay.

But are you in -- with George Leonard's performance metrics, how do you feel about that kind of approach?

MR. BELLE: Thank you for asking that question. Performance standards are -- well, just as a little bit of background. I engage in the World Wildlife Fund dialogue. I sit on the ISO standards, a committee which is promulgating aquaculture standards for ISO. I sit on the Standards Oversight Committee for the Global Aquaculture Alliance. All of those
groups are debating performance standards.

The AWG talked about performance standards for probably three-and-a-half to four months. The conclusion we came to is if you're really going to do it, it's got to be species specific and it's very complicated, and it's very easy to promulgate performance standards which work for one species and are completely unworkable for another species.

I'll give you an example. Zero interaction genetically between farmed animals and wild animals. In fin fish, there are ways that you can come very close to that. In shellfish, which are broadcast spawners, or in pelagic marine fin fish, which are also broadcast spawners, probably the only way to even get close to that is to use triploids to induce sterility, currently prohibited under the organic standards.

So that's a case where you've got to kind of go through it on a case-by-case basis.
Performance standards are very sexy, I think. They're very -- I mean who can argue against performance standards? But when you really get down into the weeds, they are very, very, very difficult to work through.

MR. DELGADO: Any other questions?

Jennifer.

MS. HALL: It's not a question, Sebastian, but just a thank you to you and all your colleagues on the aquaculture working group. Thanking us for our commitment is -- it's not comparable to what you guys have committed to this cause, and I appreciate you and several others who have also made the trip to this meeting several times personally to share your wisdom with us.

MR. BELLE: Well, I appreciate that. Thank you.

MR. DELGADO: Any other questions?

Thank you very much. We are moving on to Marty Mesh. He's not here. We're moving on to Brock Lundberg.
MR. LUNDBERG: Hi. Good to see

you again.

As an engineer, instead of saying

I'm going to keep it brief, I'm going to say

one minute. One minute.

Okay. I just wanted to provide a

follow-up response to the question asked about

possible replacements for gums or possible

replacements on the ingredients that show up

on 605 or the 606 list.

I did take a look and some of the

possible replacements -- it's not necessarily

going to be exact one-to-one replacements, but

it's all going to be low usage level, and

there are some functionality for fat

replacement in emulsifying, and those

ingredients are alginates, pectin, xanthan

gum, and then the wider extract gums that show

up on the list as well as the gelatins. So

those are the possible replacements. I don't

have exact data specifically how it works, but

just conceptually those are some of the items.
MR. DELGADO: Any questions?

Thank you very much.

Well, that concludes this session.

(Applause.)

I thank all of you for your patience and input from the public. Yes, Joe?

MR. SMILLIE: I don't know if anybody else has got announcements, but I'd like to say that I'd really like to see a CACC meeting tomorrow morning 20 minutes before we start. Twenty minutes before the start of tomorrow morning's CACC.

MR. DELGADO: We start tomorrow at 8 o'clock.

MR. SMILLIE: Not tonight. So 7:40, CACC meeting. Attendance is not optional.

MR. DELGADO: Julie.

MS. WEISMAN: The Handling Committee -- unfortunately we need to find a way to pal out tonight, hopefully not for too long.
MR. DELGADO:  Specific time?

MS. WEISMAN:  Right now, I guess, you know, we need to eat.

MR. DELGADO:  Talk to Julie after dinner, see if they have a specific time for the meeting.

MR. KARREMAN:  We can do it after dinner. That's fine with me. Nine o'clock in here?

(Whereupon, at 7:22 p.m., the meeting was adjourned.)
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UNITED STATES DEPARTMENT OF AGRICULTURE

NATIONAL ORGANIC STANDARDS BOARD

MEETING

TUESDAY, NOVEMBER 19, 2008

The board meeting was held at the Savoy Suites Hotel, 2505 Wisconsin Ave., NW, Washington, DC 20007, at 8:00 a.m., Rigoberto Delgado, Chairperson, presiding.

PRESENT:

RIGOBERTO I. DELGADO, Chair
JEFFREY W. MOYER, Vice Chair
GERALD DAVIS

STEVE DEMURI
KRISTINE ELLOR
KEVIN ENGELBERT
BARRY FLAMM
DANIEL G. GIACOMINI
JENNIFER M. HALL
BEA E. JAMES

HUBERT J. KARREMAN
TRACY MIEDEMA
JOSEPH SMILLIE
JULIE S. WEISMAN
STAFF PRESENT:

KATHERINE BENHAM
VALERIE FRANCES
ANDREW REGALADO

BARBARA ROBINSON
JUDITH RAGONESI
MARK BRADLEY
RICHARD MATTHEWS
ROBERT POOLER
SHANNON NALLY
RUIHONG GUO

VALERIE SCHMALE
TAMMIE WILLBURN
BABAK RASTGOUFARD
ZAHA LOMAX
SHAUNTA NEWBY
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Adjourn
MR. DELGADO: Good morning. Just as a reminder for our visitors, we do have a sign-in sheet at the back of the room, and we are required by higher powers that everybody has to sign in to have a record of who attended. If you don't agree with me please talk to Katherine, she'll give you the details. But please do sign in.

And we are going to start now with the third day of our meeting. We had the last two days to present our proposal to receive public input, and definitely had a long night, some of us, last night, to incorporate public comment into our recommendations.

And the time has come to discuss those and propose them as recommendations for the board to consider.

Just to remind the board, every - by rules and regulations, two-thirds votes is what we need to pass a motion. That's for
recommendations going out to the program. For those recommendations that deal with the running of the board itself, that we only need a majority.

Joe, you have a question.

MR. SMILLIE: Yes, I just want to clarify it. That means if a person is absent that it would require 10 votes?

MR. DELGADO: That is correct. We do have 14 members present today, and two-thirds would be 9.3, so -

MR. SMILLIE: Right, so if someone said, well, I'm one-third in favor of it and two-thirds against it, that would -

MR. DELGADO: Hopefully we won't get to that situation.

MR. SMILLIE: I'm not fooling around here. I'm serious. I mean if people really want to vote against something, they can't split their votes?

MR. DELGADO: No. They are whole votes, and it's two thirds votes passed. So
if somebody decides to abstain we will have to turn on the calculator and find out what of two-thirds we have.

All right, any questions? Yes, sir.

MR. KARREMAN: How does it work with abstentions in the count? Because at that Penn State meeting I thought we switched something about things go when abstention happens.

MR. DELGADO: If you recall our policy manual does state that it will be counting on the cast votes, and that does not include abstentions. If someone is abstaining, we will have to count the number of actual votes, and consider that as part of the count. Okay. So absentees, abstentions, are not counting toward the vote that CAS number. Is that clear?

MS. JAMES: But you said cast votes under your -- numbers that represents a majority of the people in the room, but it's
not a yes or a no. It is that we voted.

MR. DELGADO: Any other questions?

MS. JAMES: I have one, Mr. Chairman. If you could please also clarify on the votes if a recommendation came from the committee as voting against something, then that means you are voting for that recommendation or for a position. So if you could clarify that.

MR. DELGADO: The recommendations from the committee will always come as stated by the petitioner.

MS. JAMES: Right. So you are either voting for or against the committee -

MR. DELGADO: No, you are against the material.

MR. DELGADO: And the motion will be stated as -

(Simultaneous speakers.)

MR. DELGADO: Do we have a question here? Look, if there is a petition - we'll come up with an example to make things clear -
if there is a petition to include material X on the list, the motion presented by the committee will be, in that situation, right, we move to approve the listing material X on the list, section 202, so and so, right, regardless of what the committee's vote was.

Now I urge you to consider what the committee's vote was, because that will give you an indication of what was the feeling in the rationale for that vote. The committee might have said yes, which essentially was approving what the petitioner was requesting.

If the committee said no, then they would be going against what the petitioner said or requested. So yes, any questions? Julie.

MS. WEISMAN: Just to add to the clarification that this is because a decision was made in the last couple of years to always pose the recommendation as a recommendation for listing, so that it would always be consistent with the quorums and the yeses and
the noes and all that stuff.

MR. DELGADO: That's very good.

Thank you. Any questions.

(Simultaneous speakers.)

MS. WEISMAN: That's part of the reason. It's so that the whole board can vote.

MR. DELGADO: And another point to clean up is, once the committee presents a recommendation to the board, at that point it is out of the hands of the committee. It forms part of the board in any amendments can be actually incorporated into that document.

Obviously the committee will have the right to declare that in a friendly amendment or not, and that will determine whether we are going to debate or not, adding that amendment. So if it's a friendly amendment we will skip the debate, if it's not we will have to vote on considering that amendment. Is that clear?

Any other questions on the ground
rules? Yes, our executive director seems confused.

MS. FRANCES: No, you mentioned that the first thing up is the technical corrections, recommendation that there were changes on it, that what you gave me did not -

I don't have anything that indicates changes to that recommendation. It's only changes to the technical review I think. So I think that is where I think the confusion is. Because I looked at the junk drive gave me - so you said the first one up was the technical corrections, and that there was a change, but there is no change. So I just wanted to make sure we are clear on that.

MR. DELGADO: I think we're fine. And we'll rely on Barry to guide us through that if there are changes.

I have my cheat sheet here as to votes cast that our parliamentarian - that our unofficial parliamentarian has kindly shared with us. And here is a way quickly back to
the number of votes, if we have 14 cast votes, the two-thirds will be 10; if we have 13 cast votes the two-thirds will be 9; 12, 9; 11, against the votes cast, the two-thirds will be 8; and if there were only 10 votes cast, two-thirds would be 7. Thank you for that.

That's going to be our cheat sheet there.

Any questions before we proceed with the board?

Okay, and again urging members of the public who came in late, please sign in, and we'll start with the process.

On that note then we are only nine minutes behind schedule, we will start with the Policy Committee, and Dr. Flamm, if you're kind enough to walk us through the process.

JOINT POLICY DEVELOPMENT COMMITTEE

MR. FLAMM: Good morning.

The policy committee met with materials, represented by the Chair, Dan, last night, and reviewed both public comments on the policy committee's recommendations, plus
the comments that we received from the board,
and also we reviewed comments in the -
comments from the board in our joint
recommendations Dan will cover later.

At the same time the
recommendations are packaged, and we'll just
call for a vote on the total package.

We'll start the ballot with the
technical corrections. If you would go to the
recommendations, there were no changes made in
that document so what you have in your package
is what we will be presenting as our
recommendation.

I won't - my eyes are still blurry
so I won't even try to read that to you. I
hope you can see it.

Okay, there are no changes, so
let's go to the next recommendation, which is
- which is that one? Help me out. Okay, and
I don't believe we had any changes on that one
either, is that correct?

So let's move to the next one.
Okay, election of officers, we did have some changes there. Dee, do you know what those changes were, if you would just summarize it?

MS. JAMES: Under bullet point number two, we accepted the board members' recommendations that clarify that the newly appointed officers will resume their positions at their conclusion of the trial board meeting pursuant to the election.

So that was the change. We took out - we took after the fall board meeting, and replaced it with the conclusion.

MR. FLAMM: Just to clarify when the meeting officers actually took their seat.

MS. JAMES: When the gavel goes down, people take over.

MR. DELGADO: We have a question -- Julie?

MS. WEISMAN: Just, as I read it it should be, they will assume their position after the conclusion because they are newly appointed, not recent.
MR. FLAMM: We'll accept that as a friendly amendment.

MR. DELGADO: All right, would you move to the next one please.

MS. JAMES: The next one is under point B, the counting of the votes. We moved that the executive director may be given the opportunity to vote to break a tie, and we just clarified that the re-vote will take place until the tie is broken, or a candidate will be given the opportunity to withdraw at their discretion.

MR. DELGADO: And those were the only changes?

MS. JAMES: Those were the only two changes.

MR. DELGADO: Any changes? Are those changes clear to the board? Any questions? Can we move on to the next recommendation?

MS. JAMES: Committee work plans.

MR. FLAMM: Committee work plans.
MR. ENGELBERT: Can we back up one moment? Whose responsibility is it to count the votes?

MS. JAMES: The secretary.

MR. ENGELBERT: Then I would recommend that the votes be disposed of by the secretary, not the chair, or secretary, to make sure that that responsibility is delegated and doesn't get neglected.

MR. DELGADO: So there is a comment here regarding votes.

MS. JAMES: It says under point D votes will be disposed of by the chair or secretary.

MR. ENGELBERT: And I would recommend that that be set just be the secretary's responsibility. That's the person responsible for counting the votes -

MS. JAMES: The chair and the secretary count together.

MR. ENGELBERT: They both count?

MS. JAMES: Yes.
MR. ENGELBERT: Okay.

MR. DELGADO: Any other questions?

Are you satisfied?

MR. ENGELBERT: Yes, I thought the secretary alone counted the votes, but they both do, that's fine.

MS. JAMES: Under step one we accepted the friendly amendment from Tracy, the third bullet point down, clarification. We've eliminated special petitions from the national organic program such as clarifications on a particular issue or guidance on enforcement, and we replaced that with requests for suggestions from the NOB.

And that is the only change.

MR. FLAMM: Okay, can we move to the next one, Valerie, please?

MS. JAMES: I think the next one is sunset procedures.

MATERIALS COMMITTEE

MR. FLAMM: The next one is sunset?

MS. JAMES: Oh, the structure
recommendations.

MR. FLAMM: I don't believe there were any changes on structure recommendations. What we presented is a - is what the committee is still presenting as a recommendation. I think we'd move to the next one, please.

MR. DELGADO: And that's sunset?

MR. FLAMM: Sunset.

MS. JAMES: And perhaps Dan or Hugh has the changes on that.

MR. FLAMM: Yes, there were clarification changes, recommended by the materials committee on - just on the front page, on the background, yes, thank you Dan. And it was reworded - oops, what happened to it.

Okay, actually there were no changes. We agreed to a little clarification on the listing material. It was just a language clarification that Dan had suggested. But there is no substantive change in the sunset procedure.
Oh, yes, thank you, Dan. Again, this is something I guess we had implied in our wording we really intended, and Dan pointed out that it was missing. We want in looking at the sunset material we want to look at all sorts of information including what the committee considered in the initial review. So we put that in to make sure that it was clear that that would be looked at. So I don't know what happened.

MR. DELGADO: Dan, can you give your -

MR. GIACOMINI: I didn't mark down exactly where you plugged it in.

MR. FLAMM: Well, it's right at the right point there, following this includes, and then the wording is missing.

MR. GIACOMINI: It should be, this includes the original recommendation from the board to list. From the board.

MS. JAMES: Valerie, are you tracking this?
MS. FRANCES: It came up red, so I'd say track changes may not be on since all the font there is red. But it did come up underlined, so I'm not sure.

MR. DELGADO: And you are keeping track of those changes, right?

MS. FRANCES: Well, I just highlighted it in yellow for you.

MR. FLAMM: That was the only changes on sunset. Go to the next one please, Valerie.

MS. JAMES: There's the new member guide.

MR. FLAMM: Yes, new member guide. There's no changes in that.

MR. DELGADO: So Mr. Chairman, you have reviewed the changes that you make to the three documents from your recommendations for the policy and procedures manual?

MR. FLAMM: That is correct. And I move that the board accept these policy committee recommendations and add these
amended recommendations to the policy development - policy procedure manual.

Ms. James: Second.

Mr. Delgado: The motion has been moved and been seconded. It is moved and seconded to accept changes to the policy and procedures manual and its highlighting as described by the chair of the policy committee.

Discussion? Are there any questions or discussion on the topic?

Are we ready for the vote? The vice chair is asking if I need the remind the board members of any potential conflict of interest. I don't think it is proper or necessary at this point given that it is an internal work document, so we will move on, and I appreciate that.

Ready for the question? The question is on the motion - do we have a question here? The question is on the motion to accept the changes to the policy and
procedures many as described by the chair of
the Policy and Development Committee.

And we'll start taking the vote
this way from aisle C with Dr. Karreman.

MR. KARREMAN: Clarification

please.

MR. DELGADO: Yes.

MR. KARREMAN: I just want to make
sure that people know that there were two,
three, four, five, there are six different
documents for the policy procedure manual, and
we are voting on all those changes at once.

MR. DELGADO: Thank you for that
clarification. Any other questions on that
point?

We'll begin the vote.

Dr. Karreman?

MR. KARREMAN: Yes.

MR. DELGADO: Kevin.

MR. ENGELBERT: Yes.

MR. DELGADO: Jennifer.

MS. HALL: Yes.
MR. DELGADO: Steve.

MR. DeMURI: Yes.

MR. DELGADO: Julie.

MS. WEISMAN: Yes.

MR. DELGADO: Dan.

MR. GIACOMINI: Yes.

MR. DELGADO: Jeff.

MR. MOYER: Yes.

MR. DELGADO: Bea.

MS. JAMES: Yes.

MR. DELGADO: Jerry.

MR. DAVIS: Yes.

MR. DELGADO: Tina.

MS. ELLOR: Yes.

MR. DELGADO: Tracy.

MS. MIEDEMA: Yes.

MR. DELGADO: Joe.

MR. SMILLIE: Yes.

MR. DELGADO: Barry.

MR. FLAMM: Yes.

MR. DELGADO: And the chair votes yes.
MR. MOYER: Mr. Chairman, that is 14 yeses; one absent. It passes.

MR. DELGADO: The ayes have it, and the motion is agreed to.

Let's move on to the next topic, Mr. Chairman.

MR. FLAMM: We have one recommendation for inclusion in the new member guide. It involves training. And I don't believe, Steve, there are any changes in that.

So I move that the policy committee's recommendation on training additional to the new member guide be approved.

MS. JAMES: Second.

MR. DELGADO: It is moved and second to approve changes to the new member guide as described by the Policy and Development Committee chair.

Discussion? Any questions?

Waiting for the question. The question is on the motion to approve the
updates to the new member guide as described by the Policy and Development Committee chair. And we will start our vote with Kevin.

MR. ENGELBERT: Yes.

MR. DELGADO: Jennifer.

MS. HALL: Yes.

MR. DELGADO: Steve.

MR. DeMURI: Yes.

MR. DELGADO: Julie.

MS. WEISMAN: Yes.

MR. DELGADO: Dan.

MR. GIACOMINI: Yes.

MR. DELGADO: Jeff.

MR. MOYER: Yes.

MR. DELGADO: Bea.

MS. JAMES: Yes.

MR. DELGADO: Jerry.

MR. DAVIS: Yes.

MR. DELGADO: Tina.

MS. ELLOR: Yes.

MR. DELGADO: Tracy.
MS. MIEDEMA: Yes.

MR. DELGADO: Joe.

MR. SMILLIE: Yes.

MR. DELGADO: Barry.

MR. DELGADO: Hugh.

MR. KARREMAN: Yes.

MR. DELGADO: And the chair votes yes.

MR. MOYER: Again, Mr. Chairman, that's zero noes, 14 yeses, one absent.

MR. DELGADO: The ayes have it, and the motion is agreed to.

Does that conclude your presentation, Mr. Chairman?

MR. FLAMM: That concludes my presentation.

MR. DELGADO: Thank you very much.

Congratulations.

Let's move on to the next point, which also includes the policy committee, but I understand that the chair of the materials committee will be handling this matter, Mr.
MR. GIACOMINI: Thank you, Mr. Chairman. The document or procedure for handling technical reviews. A few changes. At the introduction adding the information possibly requested in the technical review for a third party specializing in the scientific know-how or with market availability on the issue.

Going to the next, top of page two, Valerie, procedure of the NOSB, the first section, the last sentence was obviously an artifact from somewhere. And we're looking to remove that.

The material review process, adding the qualified of NL on national list, and adding the sentence dealing with the clarification on petition to change annotation as it essentially is a petition to add or remove a substance.

Technical advisory panel definition removing the - where are we here? -
changing that it is convened by the board, and deleting the last sentence.

Yes?

MS. WEISMAN: A question. Does eliminating that other language by the substitution, I just want to make sure that that does not in any way - what's the right word? - that the NOP is still obligated to use the funds that are - they must still hire a panel, an expert panel?

MR. GIACOMINI: Do you sign the check? Yes -

MS. WEISMAN: I just want to make sure that this does not get interpreted as changing any of the current responsibilities that resides with the NOP for making funds available through the National Organic Program to pay for such expert panels.

MR. DELGADO: Dan. Dan you respond to that?

MR. GIACOMINI: No, I believe this is just a clarification requested by public,
in public comment, clarifying that we convene it, but they are certainly the ones that sign the contract - make the contract and sign the check.

MR. DELGADO: Julie, does that answer it?

MS. WEISMAN: Frankly, can I propose a friendly amendment?

MR. DELGADO: Yes. Well, actually on this one we can't because we are still in the clarification process.

MS. WEISMAN: Okay.

MR. DELGADO: So you will be able to once -

MS. WEISMAN: Okay.

MR. GIACOMINI: Phase three -

MR. DELGADO: And just for clarification this is an internal document. It is part of the workings of the board and should not be considered as affecting the workings of the program.

MR. GIACOMINI: Phase 3, Valerie.
The first bullet point there, scroll up, Valerie, the first bullet point I believe was moved to the end of phase 2. That's dealing with a notification between the program and the petitioner. It belonged up in phase 2 rather than the section dealing with the third party expert.

Let's see, after phase 6, and then the procedures for handling technical reviews, the bottom of that page, the bottom – up – where did we go? On two – oh, no, my mistake. Next page.

In the request of information regarding combination with other materials, we are confining that request in general to other materials that are on the national list in the same section; no need to look for combinations of materials between Section 601 and 605. That is the change in Section – in B and in the new C or the old D.

The old C and the old E requesting information on the combinations of all the
things in the universe seemed way too broad
and way too burdensome to be a reasonable
request.

And then on the last bullet point
there, modifying that slightly, environmental
risks and hazards including but not limited to
legalese language.

Following down on that same page,
number three, as regarding requesting of a
third party expert, the requesting of the
technical review, there are times - generally
that is done by the chairman of the committee
reviewing that material, but sometimes it's
done, and it's allowed to be done by the
materials committee.

Down - I believe that is - no, we
have one more. Oh yes, we haven't gotten
there. A clarification on number four, the
decision to define the expertise needed, and
the third party expert is the responsibility
of the committee reviewing the material or
issue.
And I think that was it.

Mr. Chairman, if Julie could -

okay. Are you happy?

MS. WEISMAN: Yes.

MR. DELGADO: We'll be able to make any corrections once we have moved it.

MS. WEISMAN: No, I'm not going to move. I'm staying right here.

MR. DELGADO: All right, state the motion.

MR. GIACOMINI: Mr. Chairman, I move we accept the - where is my - it's not on there. I need to get to the beginning of the document so I know what it's called. I move we accept the recommendation to amend the policy and procedure manual regarding the procedure for handling technical reviews.

MR. FLAMM: Second.

MR. DELGADO: It is moved and seconded to amend the policy and procedures manual to - Barry seconded and it is moved and seconded to amend the policy and procedures
manual to include the section called procedures for handling technical reviews.

Discuss. Now at this point we can make amendments, clarify it, any questions?

Ready for the question? The question is on the motion to amend the policy and procedures manual to include a section called procedures for handling technical reviews.

And we will start taking our vote with Jennifer.

MS. HALL: Yes.
MR. DELGADO: Steve.
MR. DeMURI: Yes.
MR. DELGADO: Julie.
MS. WEISMAN: Yes.
MR. DELGADO: Dan.
MR. GIACOMINI: Yes.
MR. DELGADO: Jeff.
MR. MOYER: Yes.
MR. DELGADO: Bea.
MS. JAMES: Yes.
MR. DELGADO: Jerry.

MR. DAVIS: Yes.

MR. DELGADO: Tina.

MS. ELLOR: Yes.

MR. DELGADO: Tracy.

MR. MATTHEWS: Yes.

MR. DELGADO: Joe.

MR. SMILLIE: Yes.

MR. DELGADO: Barry.

MR. FLAMM: Yes.

MR. DELGADO: Hugh.

MR. KARREMAN: Yes.

MR. DELGADO: Kevin.

MR. ENGELBERT: Yes.

MR. DELGADO: And the chair votes yes.

MR. MOYER: Again Mr. Chairman there were zero noes, 14 yeses, one absent.

MR. DELGADO: The ayes have it, and the motion is agreed to.

Let's move on to the next section,

Mr. Chairman.
MR. GIACOMINI: Thank you, Mr. Chairman. The parliamentary procedure of bringing some sidetracked petitions back into consideration in - due to the fact that they were formally - had been formally tabled by the board.

We have no changes in this recommendation.

I move that we accept the recommendation to take from the table the petition materials.

MR. DELGADO: Is there a second?

MS. ELLOR: I'll second.

MR. DELGADO: Tina has seconded.

It is moved and seconded to take from the table the list of selected materials as discussed by the chair of the materials committee.

Discussion? Bea?

MS. JAMES: Dan, CCOF had made a really good point in their public comment about, take from the table, that in the past
tabled materials were incomplete, and that they actually shouldn't have been tabled, but they said they should have been rejected, but they didn't have the terminology at that point.

And also Whit Wave suggested that we should check with the petitioner to see if the material is still necessary or there is an interest for it to be brought back. And I believe that items tabled for so long should follow some kind of reinstatement or some kind of a process that you might want to address in the policy and procedures manual. But something about pulling these in and reinstating them just doesn't really quite seem to be following an accurate process to me.

MR. GIACOMINI: The use of the procedure to table is classically a procedure to kill. So it may have been that that was some of the intention. However it's difficult to sometimes pull that out of the record.
In an effort to expedite the situation due to the continuing request from the public to deal with all of these old petitions, we felt that it was an action that was reasonable to take at this time in being able to just bring them back and look at them.

Now regarding the next point, none of these will automatically go onto a committee's work plan. They are all going back to the program. The program will look at them and evaluate them. If there are multiple petitions, they will just be rejected. If they are - the old petitions that are not multiple will be - the petitioner will be contacted. The normal procedure from that, if it's a real old petition I would assume the program may even suggest that a new petition be submitted.

We decided to go with the entire group that we knew at the time, and we hope that we don't find more, we decided to go with the whole group so we would not be - so it
would be as transparent as possible and not be accused of trying to bury certain things, and certain old things. This was the list we found. There may actually be none of them that ever come before this board again based on this petition. It's just a procedural way of bringing it back to reconsider and look at it.

MS. JAMES: So can I ask you what your position is on the public comment that stated that there are nine other materials dating as far back as 2002 that weren't on your current take from the table but are still out there in cyberspace or wherever.

MR. GIACOMINI: We have not had an opportunity to look at each one of those through transcripts and records. I believe that we did find a couple of them that it was not a formal full board tabling that was the final action. Again if it's tabled at the committee level, then it's the committee that can do that.
These are just the ones that we found that were done at the final board. We will review those lists, and again, we think the public comment that brought all those lists to us for further things for us to look up and try and track down. And hopefully we will resolve all of these old petitions that have gone by the wayside, fallen through the cracks. And we are not looking to increase the workload. We are simply looking to respond to the public comment that said go back and deal with these issues.

This was a procedural thing that was done that we came across at the full board level that technically to be correct required full board action to bring them back into play.

MR. DELGADO: Okay.

MS. JAMES: Yes, I definitely appreciate that the materials committee did that. I guess I would like to hear from the program as far as what their thoughts are on
resuming old petitions that have been out there for five or six years that we are now looking at again. Can we do that? Do they need to be re-petitioned?

MR. MATTHEWS: Well, first of all, I don't think you are re-looking at them. I think what Dan has said is that he's sending us a list of them, and he wants us to check on the status, and to advise the board on what that status is, and then the board can make up its own mind as to what it wants to do there.

Yes, Barbara is right, it's a housekeeping activity to make sure that something that should have been done but hasn't been done would get done if it needs to be. So it's a housekeeping.

MR. DELGADO: Joe followed by Kevin.

MR. ENGELBERT: Dan would it be appropriate in your motion to not list one of the following -- and include the others that were brought forth that haven't been missed so
you can just say you are going to do this with all that you find, or else list every one of them that you know of right now?

MR. GIACOMINI: I'm the most comfortable only doing the ones we know of. I don't know how proper it would be to just include a blanket statement that between now and the next meeting, anything else we find is considered removed from the table.

MR. DELGADO: Do you want to make that amendment?

MR. GIACOMINI: I don't think anybody is going to sue us over it, so we'll go on.

MR. DELGADO: Was that a yes?

MR. GIACOMINI: Is the program comfortable with that amendment?

MR. DELGADO: Okay, so it is amended.

MR. GIACOMINI: So it'd be these and anything else.

MS. FRANCES: Can you clarify the
amendment for me?

MR. GIACOMINI: I think maybe the easiest way to do that, Valerie, is just on the bold area, hopefully I'm not saying anything from the rest of the thing, but just in the bold area if you just put, identified at this time.

MR. DELGADO: Kevin, is that suitable?

MR. ENGELBERT: That satisfies it.

MR. DELGADO: Very good.

MR. GIACOMINI: And we are not trying to undo any action of former boards to kill these. We are just trying to respond to deal with things - housecleaning of things that went by.

MR. DELGADO: Very good. Did you have a question?

MS. JAMES: So I just want to get clarification from you, Dan, on the backgrounds, the last paragraph.

A positive vote on a motion to
take from the table these petition materials will allow the NOSB to resume consideration of the materials within proper parliamentary procedures.

So maybe you could explain to me a little bit about - just because you are looking at them doesn't mean that a petition is all of a sudden going to be - you mentioned earlier that you were going to contact the petitioner?

MR. GIACOMINI: The action by the board is all of these petitions are sent back to the program.

MR. DELGADO: And what is going to happen once it reaches the program?

MR. GIACOMINI: The program will reject the multiples, and will contact the petitioner. We may even try to see if we can - well, actually now that we are taking from the table, it would be difficult to undo that in the sense of whether it was the intent to kill. But nothing is going to be taken up by
the board immediately. It's going to be re-reviewed, house cleaned up by the program, and if it's considered complete and ready for the board to deal with then it will come back to us.

But the first action by the board and the materials committee will be sending it back to the program.

MR. DELGADO: Bea, did you have any question or was that clear enough?

MS. JAMES: It is. I'm not so sure it's clear how it's stated in that sentence I just read. But I'm willing to just -

MR. DELGADO: Okay, any other questions? Comments?

Ready for the question? The question is on the motion to take from the table a select list of materials highlighted by the committee chair as well as the amendment to that list.

And we will start our vote with Steve.
MR. DeMURI: Yes.

MR. DELGADO: Julie.

MS. WEISMAN: Yes.

MR. DELGADO: Dan.

MR. GIACOMINI: Yes.

MR. DELGADO: Jeff.

MR. MOYER: Yes.

MR. DELGADO: Bea.

MS. JAMES: Abstain.

MR. DELGADO: Jerry.

MR. DAVIS: Yes.

MR. DELGADO: Tina.

MS. ELLOR: Yes.

MR. DELGADO: Tracy.

MS. MIEDEMA: Yes.

MR. DELGADO: Joe.

MR. SMILLIE: Yes.

MR. DELGADO: Barry.

MR. FLAMM: Yes.

MR. DELGADO: Hugh.

MR. KARREMAN: Yes.

MR. DELGADO: Kevin.
MR. ENGELBERT: Yes.

MR. DELGADO: Jennifer.

MS. HALL: Yes.

MR. DELGADO: And the chair says yes.

MR. MOYER: Mr. Chairman, I have zero noes, 13 yeses, one abstention and one absent.

MR. DELGADO: The ayes have it, and the motion is agreed to.

Back to you, Mr. Chairman.

MR. GIACOMINI: I believe I'm done.

MR. DELGADO: You are done? Well, thank you very much, and we are actually ahead of schedule, and thank you for your time and clarification.

Moving on to the next point, it is the compliance and certification committee, and if Mr. Smillie, the chair, can be so kind as to walk us through the motion.
MR. SMILLIE: Thank you, Mr. Chair.

The first item we are going to consider is our first recommendation, certifying operations with multiple production unit sites and facilities under the National Organic Program.

We have a number of edits to make to the document. They are not exhaustive.

MS. FRANCES: Okay, I didn't get one with that.

MR. SMILLIE: We will have to do it on - I don't think it will take a lot of time. And I will ask Tracy to lock the board and Val through some of the --

MS. MIEDEMA: Thank you very much.

We have five minor copy edits that are significant in their meaning, and I have marked up these five edits and numbered them as such, and I'm going to hand that to you, Valerie, and then that will facilitate this editing process a little bit.

The first edit is based on Stan's
suggestion yesterday that we remove the words, or eliminate, in discussing the role of the ICS and its implications having to do with inspection. So that is on page two I believe.

The next four edits are all very similar, and it was a clarification to the word, handling, that was aptly pointed out by the National Organic Coalition and others, to change the words, handling, proposed harvest handling.

The wordsmithing involved in making these four changes varies only slightly in their syntax to make the sentences flow. So there are four instances, and Valerie, I'll let you speak each of those.

MS. FRANCES: So handled post-harvest handling.

MS. MIEDEMA: The editor number, one through five. So if you'd just go to each one.

MS. FRANCES: That's what I'm asking. Was the ones that are handled, post-
harvest handling?

MS. MIEDEMA: Yes. In that one, remove the word, handled. Well, that one - Mr. Chair, do you mind if I stand next to Valerie to make this as painless as possible. Handled post harvest. And later in this paragraph the word, handling, becomes post-harvest handling.

MS. FRANCES: We're almost there, folks. If you can jump back to page two, Dan just pointed out another instance of the words, or eliminated, that I would also like to strike.

Which paragraph was that Dan?

MR. GIACOMINI: Second to last line of the text before the footnote.

MS. MIEDEMA: We've already removed that.

MR. GIACOMINI: Okay.

MS. MIEDEMA: We welcome language from the minority opinion to be incorporated into the document as part and parcel of the
document, if any member of the minority opinion would like to propose that language.

MR. DELGADO: You have to move it first. It has to be submitted open for questions.

MR. SMILLIE: Mr. Chair, I would like to move this recommendation.

MR. DELGADO: Is there a second?

MS. MIEDEMA: Second.

MR. DELGADO: It is moved and seconded. And the motion was to improve the document called Certifying Operations with Multiple Productive Unit Sites and Facilities Under the National Organic Program.

Discussion. This one we can entertain changes, and there is a motion from Jennifer.

MS. HALL: I would like to make a friendly amendment from the minority opinion.

MR. DELGADO: State your amendment, please.

MR. SMILLIE: I'll second that.
MR. DELGADO: No, let's make sure that the proponent of the motion agrees with the amendment, and if you can state the amendment.

MS. HALL: Okay, I would like to, instead of consider new entrants to the production unit a risk factor, I would like to incorporate it into the document as mandatory inspections in their inter-year.

MR. SMILLIE: And you accept that as a friendly amendment.

MS. MIEDEMA: Jennifer, would it be acceptable to excerpt the second to the last paragraph of the minority opinion and insert that directly back into the document?

MR. DELGADO: The minority opinion, second to last paragraph, and that should be at the very end.

MS. MIEDEMA: I'll say that - first let's get to that paragraph at the very end of the minority opinion.

MS. HALL: Sure, we can do that.
MR. DELGADO: So what is it that we are looking for?

MS. MIEDEMA: Would you like to read that?

MS. HALL: It states: all new entrants to a producer unit should automatically qualify as a high risk location if an automatic external inspection for each new member. This process would train all new entrants immediately as to the importance of organic certification, and prevent any new and less familiar producers in the group from not passing it.

MS. MIEDEMA: The section that you identified as that - that would fit is on page seven under inspection sampling and risk analysis.

MS. HALL: Dan, do you have a comment?

MR. DELGADO: Dan, you have a comment?

MR. GIACOMINI: Just for
clarification, do you want the new member inspections as a separate subject, or do you want them included as the proportion of high risk? I mean they'll definitely be done, but do you want them to be considered a portion of the high risk or a totally separate group?

MS. HALL: That's a good clarification. They are a separate group in my mind.

MR. GIACOMINI: I think that brings them in as part of the high risk group.

MS. HALL: Okay. I have other language that we adapted that might work as well. Are you willing to entertain that.

MR. DELGADO: So let's look basically at another way of going. And we will phrase it the way you want it, Jennifer, and we will see if the proponent of the motion agrees, and we will move forward.

MS. HALL: Under Section D, Inspecting the Producer Group Operation, the second paragraph, the end of the first
sentence, it ends with meaningful sample of subunits within - I'll read the whole sentence. Verification of the OSP is largely accomplished by a thorough audit of the functioning of the Internet control system. The company by a physical examination of every producer unit. Generally the headquarters are a common regional handling or collection facility, and a meaningful sample of subunits within any given production unit.

I would like to add, parentheses, with one exception, and insert, all new entrants to a production unit must be inspected in their first year with the group. In subsequent years all successfully certified operations will be inspected per the sampling method described below.

MS. FRANCES: Go a little slower.

MS. HALL: Sorry. Must be inspected in their first year with the group, period. In subsequent years, comma, all successfully certified operations will be
inspected per the sampling method described below.

Keep the last sentence. And then under number one, inspection sampling, enriched analysis, no go back up, sorry, just right in that paragraph, it starts, the certifying agent must have policies and procedures for determining how many of the subunits within a production unit must receive an annual inspection by a certifying agent.

Right here I'd like to insert one sentence - or part of a sentence. Are you ready?

In addition to mandatory inspection of new entrants to the production unit, comma, and then just change the T to a little t.

MR. GIACOMINI: Did she get the first part of that?

MS. HALL: Yes.

MR. DELGADO: Jennifer, does that conclude your -
MS. HALL: It does. I mean that's in addition to the new entrants, and then there is identifying the harvest population.

MR. SMILLIE: Well, I say it's acceptable in the presumption that then at this point in time, once we agree to this change, then the minority opinion as an attached document will disappear.

MR. DELGADO: So we're beginning the minority opinion document. Did you have a question, Jerry?

MR. DAVIS: Just a grammatical question on that very last entry you made. If you could go back up to that when you get a chance.

MR. DELGADO: Any other questions? Very good. Any other discussion? We are in the discussion of this motion. Clarifications? Questions? Jeff?

MR. MOYER: Yes, Joe, I'm wondering if your committee gave any consideration to the discussion we had yesterday regarding some
sort of concession on the idea of a $5,000 limit. Although I know internationally that seems like an arbitrary number, internally with our program it does alleviate some of the fears that I have that there could be some very large growers lumped in with some very small growers, which could indeed have many employers escape inspection.

I'm just wondering what you guys think about that.

MR. DELGADO: Joe?

MR. SMILLIE: Well, two different responses. One, I'm not sure that I can speak for the committee, because I think we did talk about it.

My opinion is that although in essence I wouldn't personally have a problem with it, because I think, you know, some of the growers that we're tied in with, if they could pay $5,000 they'd be in hog heaven. So I don't think in essence it's become an issue. But it does become incredibly burdensome and
difficult and almost like cultural imperialism from my point of view to start to put arbitrary U.S. dollars on that. The idea, the intent of that, I think, is good. But to try and put that in the regulation I think would be burdensome and difficult, and I wouldn't want to do that with this recommendation.

MR. DELGADO: Tracy.

MS. MIEDEMA: To your specific question, Jeff, of whether we discussed it yesterday, we have actually discussed it for 18 months, that very question, with great detail with literally people all over the world, in meetings all over the world.

So it has been very well vetted, hashed, discussed. And one thing to keep in mind when you think about that, it is a tremendous disincentive for a smallholder to succeed if they reach - they sell one too many tomatoes, and they lose their status as being part of a group.
Now assuming that a flag bearer role in their group is actually someone who is
doing well, they would be a knowledge holder and a leader, and putting in a disincentive threshold like that would be counter to the group itself.

MR. DELGADO: Jeff, followed by Jerry.

MR. MOYER: I don't understand how that is any more of a disincentive than it is in this country where if you earn more than $5000 you have to be inspected. And as Joe said there aren't that many. But I don't see that - I think it alleviates - it certainly alleviates my fear, I don't want to speak for anybody else.

MR. SMILLIE: I understand that, Jeff. My understanding is that it wouldn't necessarily put them out of the group. It would just necessitate that they have boots on the ground.

MR. MOYER: No, not at all. In my
opinion it would not put them out of the
group. What - it would put them in the group
that is inspected.

MR. DELGADO: Jerry followed by
Jennifer. Jennifer?

MS. HALL: I just wanted to mention
that we did have that conversation quite a
bit. And I think there is an equal part of
the community that is a little bit frustrated
with how arbitrary the 5,000 has gotten,
because it hasn't been updated, and so instead
took the tack of trying to add more rigor,
which we didn't focus on a lot. We focused a
lot on the risk factors that help identify the
sampling unit; But we did not talk much in
this discussion about the rigor of how you
qualify to even come together as a cluster,
and how those - how those operations have to
meet qualifications to become a group, and
then once they do, it is really part of the
certifiers job to also keep an eye on how
realistic that is.
And the last sentence in Section C, it should be, at the top of page seven on my - it does say that an upper limit on the number of members or subunits included in a given production unit should be based on the feasibility of effective oversight by management personnel and factors such as size and acceptability of the subunits.

So there is more in there than I think got its due attention as to the different roles, and how that needs to be administered. But I understand the point.

MR. DELGADO: Dan.

MR. GIACOMINI: Regarding one thing that Jennifer just said there, and I'm not saying that I don't think this will change the committee, but the 5,000 is in OFPA. It's set by Congress. It would have to be changed by Congress. Like I say, I would be comfortable if we say that each subunit is held to the same standard for inspection as required by OFPA, however we want to put that. That would
allow for Congress to make an amendment to
bring that more into modern dollars if that
ever occurs without us having to go back and
change this recommendation.

MR. DELGADO: Joe.

MR. SMILLIE: Our opinion, and I
think the absolute majority consensus opinion
is that this truly is covered under risk
analysis, as Jennifer clearly pointed out. We
think it's covered, and we think it's a better
way to do it than the $5,000 - that's what we
arrived at in consultation with a lot of
different people.

MR. DELGADO: Huge followed by
Jerry and Tracy.

MR. KARREMAN: I'm just wondering,
is this only for outside the U.S. in
developing countries? Or could this be in the
U.S.? Because I'm just asking, what if there
is a farmer who is cooperative in the U.S.,
and it's really large, and they got people.
And then they say, well, as a coop we have
these certain protocols and ICS and all that, I'm just wondering, would this apply to them as well?

MR. DELGADO: Clarification, Tracy?

MS. MIEDEMA: There's no limitations on who - what nationality would get to use an internal control system.

MR. SMILLIE: As Barbara said, Indiana or India, it's the same regulation.

MR. DELGADO: Jerry.

MR. DAVIS: So I defer initially waiting to hear comments like what Jennifer said. That portion of the document that she cited is really the only part of the document you think that covers that concern of how do you keep a large grower from plopping himself into a grower group?

MR. SMILLIE: I believe the entire document covers that, the entire scope and intent of the document, properly executed by a trained certification agent, covers it. In many more ways than an arbitrary number figure.
would.

MR. DELGADO: Clarification by the executive director?

MS. FRANCES: I would encourage you to perhaps read this list out loud, the criteria for clustering.

MR. DELGADO: Tracy.

MS. MIEDEMA: In response to your question, Jerry, as well, the entire presentation and clarification process are further checks on what you are saying. If a certifier were to wantonly - you know had some hodge-podge internal control system with a faulty organic system plan, puts their very status as an agent of the government at risk. So I mean we have multiple, multiple layers of checks built in. And then when we drill down into the detail level, the criteria for clustering these members into subunits takes into accounts details that would cover something like what you are talking about.
So I can read this list, or you can read this list. We can also read through the list of risk factors. But we have got a macros system, and we've got the micro details, and we really - I think someone said it very eloquently a day or two ago that we can't constantly live in fear of the offenders. We have to write rules assuming that the enforcement capabilities sitting here at the table in front of us will do their job just like it's our job to help give the guidance.

MR. DELGADO: Tina.

MS. ELLOR: But the enforcement people are telling us, Richard and Laura, that you don't see any reason why any size growers can't form their own group.

MR. DELGADO: Richard.

MR. MATTHEWS: Well, I'm not an attorney, but I think an attorney would drive a semi right through this thing, and get a huge grower group, a coop. I mean you heard
from one commenter yesterday that was a coop
for pears that had 100 units. So what is
going to stop that one from doing it?
This - this - I don't see that
this would stand up in a legal challenge. But
I'm not a lawyer. I'm not an attorney. I'm
not a lawyer. But that's my belief.

MR. DELGADO: Tracy.

MS. MIEDEMA: When we talk about
inspection, we always talk about sampling.
And there is a semi truck that could be driven
through every 5,000 acre farm in the United
States that has one member and one organic
system plan. And if what we are saying is, we
are so afraid of fraud that our intent today
is to disallow market access to small holders
around the world, then we should embrace this
sort of fear, right now today, we have small
holder operations around the world that are
strong and rigorous and important and they
belong. We are strengthening the ability of
our program to oversee these operations
through this document. They already exist, and we are making it stronger today.

We are not throwing care to the wind here. We are strengthening what already exists, and we are providing a legal means for this to carry on and even get stronger.

The National Organic Program can take our recommendations, they can dot more I's and they can cross more T's, but we have got to bring this group certification into the National Organic Program as a legitimate means of certification going forward.

MR. DELGADO: Jeff.

MR. MOYER: Tracy, I couldn't agree with you more that when it comes to small holders I think your point is very well made. When it comes to large holders, I don't think your point is well made. I think that I am not still naive to think that the Richard Bransons of his world who are forming large grower groups in India with literally millions of acres, turning millions and millions of
dollars that want to drive through the loophole that Richard just identified over there.

I am not willing to take that risk, and I would hate to throw out the baby with the bathwater on this, and that's why I'd like to consider putting in a - I know the 5,000 seems globally arbitrary. I understand, I was at the IFOAM conference too. I understand what is happening at the IFOAM level.

But this is the US, the aid program, and this is the National Organic Standards Board, and we do as Dan mentioned have a number that we could all argue is arbitrary or outdated. But we do have a $5,000 number that in this country is applicable. I don't think it's imperialistic to place that on international growers that want to do business in this country.

If they are making more than that, it in no way disparages from getting to that
size. They are just going to get inspected.

What is the fear in getting inspected? I
don't have a problem with that, and at some
point I'm going to make a motion, probably
unfriendly, to insert that language.

MR. DELGADO: Tina, and then Dan.

MS. ELLOR: I actually like the way
Dan put it. Maybe you could restate that,
Dan, about we are not necessarily saying
5,000, but holding everyone to the same
standard.

MR. DELGADO: Dan?

MR. GIACOMINI: Boy, I'm lucky to
get something out once. So I have a different
way of looking at it right now, if you would
like me to address that issue.

Joe, is it correct that all high
risk subunits get inspected?

MR. SMILLIE: Yes.

MR. GIACOMINI: Okay, if you were
saying that everybody over $5,000 would be in
the high risk group, they would get inspected,
MR. SMILLIE: It's quite possible.

Let me just go back a second on the 5,000, okay. Right now what you are doing is comparing apples to oranges here, and I just want to point it out. People under 5,000 in the U.S. don't get inspected, and can legitimately sell as organic.

We are talking about these people being inspected, okay.

MR. GIACOMINI: No, what I'm talking about is the public relations semi truck train wreck that could occur on this thing when it comes out in the New York Times that product selling in the United States from someone in China making over $10,000 a year is not being inspected, when a grower in Vermont making 5,000 and I is having to. That is what I'm comparing. I'm not comparing apples and oranges. I don't see it's imperialistic. I don't even see it's arbitrary. It's the law. And if they are already going to be part of
the high risk group in whatever high percentage of times, I don't see the problem with separating them out and saying it to prevent that wreck from occurring, which I can see occurring in absolutely no time at all.

MR. DELGADO: Let's have a response.

MR. SMILLIE: It would take me about a day to respond. The whole point of this is that you have to understand how certification works, and we have to go back to the very beginning of this argument. We are not talking about not inspecting again. We are not talking about - we are talking about a different system that complies with the law that throws the full force of vigor of the regulation into play. And right now you are talking about a detail of it. I don't know what to do with it. So it's a big picture discussion. And you are focusing on one of the details. Again, the fear that seems to be
driving - and you have expressed it clearly, it's fear - we are afraid of a scandal, we are afraid of a train wreck, and all that sort of thing. And if you try to over-regulate, I guarantee you people, you will cause the train wreck by overprescriptive - and I think we are seeing that happen.

That is just a - let me finish. Basically what you have to do is look at the document that we have created. I do not think large growers are going to try and get into groups that have to follow a single OSP. As I talked about yesterday, they have to follow the same OSP, and I don't think they are going to want to get in, and even if they do, if you look at the risk factors, I think they will be identified as a risk and have that additional third party inspection. That's what this document does.

MR. GIACOMINI: Then why are you afraid of separating -

MR. DELGADO: We have Jennifer,
followed by Craig.

MS. HALL: Thank you, Mr. Chairman.

At the outset, Joe, I heard you say that you were open to the $5,000 limit, and just - let me finish - so what I heard Dan saying as a bit of a concession that he is not saying that there needs to be a dollar limit on who clusters together, but if they do, and they do reach over 5,000, then it's a mandatory inspection, which seems to be a feasible compromise, and taking into the reality of different sorts of currency, wherever, however.

MR. DELGADO: Joe, do you want to respond to that?

MS. MIEDEMA: Okay. Esteemed colleagues, I implore you to curb the hyperbole and come back down to earth and look at what the real implications are of this recommendation.

What Dan I believe is referring to is a fundamental misunderstanding of consumers
today of all inspections. The scenario he
describes of consumers being aghast of a field
not getting looked at where some fraudulent
products came from exists today. Those of us
with 1,000-plus acre farms are very aware of
where the inspector is on inspection day. A
lot of that time is in the conference room.
And that does not diminish the strength of the
organic system plan or what inspection really
is.

But let's face facts: inspection
is not well understood by consumers. So the
fear that Dan is expressing exists already
today completing setting aside grower groups.

Five years ago my husband and I
had a small under $5,000 organic farm. We
sold our products into restaurants, and it was
a nice back of the trunk bring organic produce
into restaurants. It was wonderful. And if
we had sold too many herbs and flowers we
would have got bumped up above that, and we
would have felt a little pain that we would
have had to pay that inspection fee. That is the scenario here in the U.S.

The scenario that you got into, the woman who is farming coffee organically and who has access to the U.S. organic market through her certification and earns $5,001 and now is denied access to the U.S. market because she sold one pound too much coffee is a completely different scenario.

So when you start putting these thresholds in and calling these two scenarios equal, we are talking about two separate things. Because if you are talking about she has to now at the $5,000 point pay for an outside Western inspection every year - I see a lot of heads nodding.

MR. DELGADO: Can you finish your statement.

MS. MIEDEMA: The comparison you are making is not equal.

MR. DELGADO: Tina.

MS. ELLOR: But if I understand it
correctly, she wouldn't be bumped out of the
group and have to pay the inspection. It's
just that as part of the group she would be
inspected.

MR. DELGADO: Is that clarification
- 

MS. MIEDEMA: Well, what we're
capturing with that is the cost being
allocated. Maybe they will get spread
throughout the group. It could bring a burden
to bear exponentially when that is the entire
market access to organic.

And what is inherently more risky
about running $5,001 on one of these group
certification operations, so why would we
arbitrarily assign that as always being higher
risk.

MR. SMILLIE: You have to know that
we are certifying the group. These people are
subunits or members of the group, okay. So if
the group makes the money, they pool together,
they sell the coffee or whatever it is and
they all get the money. Each member of that
group gets their share of the total income
less the fees to the group.

If you try to do record keeping
for each member of the group, to try and force
it, it would be possible, and I think the
system could accommodate it as a risk factor.
And I believe it is in there. I believe your
concerns are addressed in this document.

MR. DELGADO: Dan followed by Julie
and then Jennifer, Kevin.

MR. ENGELBERT: I'm trying to get
around this, and all the work that you have
done and I appreciate it. But we still have -
maybe we could drop this $5,000 impasse by
simply having every production unit inspected
every year.

I understand where you are coming
from with the thousands of acres. Counting
all the acres on my farm, pasture, woodland,
cropland, we have 1,400 acres under
management. In another country that might
support 3,000 people. We still have to have every acre looked at every single year.

So you still have an open-ended system where in your proposed recommendation a farm could never be inspected by - based on random sampling.

But theoretically that is another train wreck waiting to happen. If you have a product coming into this country that is contaminated that is traced back to an organic farm subunit that has never had an inspector walked by and look. And trained inspectors can notice different things on different farms simply by driving through.

It seems like it's just a time factor that you are saying, we can't inspect every subunit every year. It can't be done. But I don't like that as an excuse.

MR. DELGADO: Point of clarification.

MR. MOYER: When you say inspected, you mean third party inspection, not internal
control system inspection?

MR. ENGELBERT: Yes.

MR. DELGADO: Julie, followed by Jennifer.

MS. WEISMAN: My point that I wanted to make was actually following up on Tracy's point, although I think that this is an important line of discussion and I am sort of reluctant to interrupt it.

But I also wanted to point out that outside of this - there are certain crops which vary widely in very short periods of time, vanilla being one of them, cocoa being one of them. So factors that don't have anything to do with anything that the farmer did, in other words, from one year the value of the crop - of every person in that production unit would go up and push them over that $5,000 mark, and though individual farmers are not necessarily the ones that are seeing that value.

So I just wanted to point out that
there are factors, global factors of changes in exchange rate, and that certain commodities vary wildly from year to year that will cause additional undue burden to people in those groups.

MR. DELGADO: Jennifer.

MS. HALL: On that same point, and I recognize that it does change around the globe, but I also understand the hesitancy of people who are trying to grapple with it, because it is a global thing. So if it is applied here, in that scenario, at least they don't get bounced out of the group. If the FOPA rule is assigned as a risk criteria, and they may be more expensive within that year, which is unfortunate, in that they would have to have a higher level of inspection. But at least here, when it is applied, there would be parity, and at least that loophole is eliminated ideally.

MR. DELGADO: Any other questions, comments? Barry?
MR. FLAMM: I had originally the same concerns about size and dollar amounts as Jeff, and Dan, and others have raised. And I guess I still have some of those concerns. I became convinced that the structure of this covered it, and that provided the flexibility. But the trouble is, we need flexibility but we don't need loopholes either. And that is where I'm struggling with. I guess I'm still attracted to the suggestions put forward by Jeff and Dan and expressed by Jennifer as a possible alternative to this.

But I think what Joe says in terms of - it's filled in, the committee hasn't ignored these concerns. It's just not as specific as others might like.

So that's all I have to say right now.

MR. DELGADO: Joe.

MR. SMILLIE: I'm going to take Valerie's suggestion. Could you just scroll
down to the risk analysis - down a bit,
actually, you are close.

Val often has many good words of
wisdom; I should learn to pay more attention
to her. The number of production units and
production subsites and facilities,
participating in the -

MR. GIACOMINI: Can you go back and
tell us what this list is?

MR. SMILLIE: Oh, I thought you all
had been very conversant with the document.

Oh, boy, my eyeballs. The
certifying agent must have policies and
procedures for determining how many of the
subunits within a production unit must receive
an annual inspection by the certifying agent,
in addition to the mandatory inspection of new
entrants into the production unit. The
certifying agent must also have policies and
procedures for determining which subunits
present the greatest risks of noncompliance.

Various risk assessment methods
are used, and I refer again to the reference material at the end of this document, are used to both determine sample size and select the appropriate subunits to examine. Higher levels of overall risk for a production unit would dictate a higher proportion of components to be sampled.

The factors below will assist inspection both in determining the sample size and in deciding which components he/she should inspect annually.

It is a responsibility of the ACA to instruct the inspection on which high risk subunits must be inspected, and the number of lower risk subunits that should be sampled, based on their determination of the group's overall risk. The ACA will ensure that this protocol is transparent.

And again this system, all certification systems, rely on the competence of the certifying agent, and their monitoring by the program. And we are seeing that today
as we go through the five year renewal.

The program staff has increased
the compliance and enforcement section
dramatically and significantly, and we have to
keep the faith that everybody in the system is
going to do their role, and we can't
overprescribe for anyone else what they need
to do.

It's not Sunday, is it? Okay.

Here are some of the risk factors.
The number of production units and subunits,
sites and facilities, participating in the
producer group operation. How big is it?
That's important.
The size of the average production
unit and subunits, there we go; that is one of
the first indicators. We are going to look at
the size of them. If there are eight guys
who have a hectare and one guy who's got four
hectares, he's going to get the visit, in my
opinion, my opinion as an ACA.

Maybe somebody else may else may
not look at it that way. I don't know. The size - the degree of uniformity among the subunits within the production - the degree of uniformity. Those eight guys are all on a hectare. They've all got the same amount of bananas. The other guy, he's got bananas, and he's got more. So again he's not uniform. You know it's the nail that rises above the rest. Obviously another reason, that you are going to look at the uniformity. If somebody is not uniform, they are going to be a risk factor.

The complexity of the production system. These guys just harvest their coffee and take it to the grinding machine that takes the cherry off the coffee. This guy has got his own grinder. It's a little different. He's following the same OSP, but he's got his own, whatever it's called, that machine that takes the cherry off the coffee.

Anyhow, the complexity of the production system, the management structure of
the internal control system, how do they function. One of the things that is really important for a certification agent is not just the subunits which everybody is focused on. They are going to focus on the internal control system. They are going to examine that internal control system with a fine-tooth comb, because that is one of their keys. And how that internal control system functions is also going to dictate where the risks show up.

Prohibited materials applied adjacent to a subunit within the previous year, again, that is for every farm, as you know, Kevin. If you've got a neighbor that's spraying on your border, man, that inspector better check out that border real well. Same thing here.

The new entrants - well, now that's enshrined institutionally. Significant expansion of the size of the subunit, obviously a big risk factor, if all of a sudden there was a split or parallel
production. Again, split means two different
crops, parallel same crop; conventional and
unconventional - well, that is obviously a
huge risk factor. That's got to be taken into
account right away.

The number of years the producer
group has functioned - you know, their
training. I mean let's face it, an inspector
goes on a farm, if it's like, you can see the
weed control machinery out there. It's all
shiny. It's been worked. You see the wheat
in the field. You start to get real
comfortable.

You go to a field that's got no
weeds, and the discs are rusty, you are not
comfortable; you start digging. And that's
what inspectors do; that's what ACAs do. The
same thing applies here. They dig. They do
their job.

It is the rate of growth in new
members, previous problems with the
functionings of the ICS. They are
accountable; they are responsible. They are watching staff turnover. ICS totally changes, whoa, we got a problem.

These are all key elements in how risk is assigned.

Potential conflict of interest: all of a sudden there are three brothers on the ICS, and that family, you know, hm, better look at that. Complexity in the types of subunits and/or products marketed - again, there is your indication once again that those larger over $5,000 U.S. units are going to be identified.

The prevalence of conventional production of the same type in the region - very important obviously for everything - whether post-harvest handling or livestock facility is included. Any of the big - you know, let's just use coffee as our favorite example, although maybe we should use ginger and china, it might be more appropriate consider the signs of the times - but whatever
it is, you look at whatever is going to be the hot ticket item. And again, any facilities within the group are going to be boots on the ground third-party stuff. They are not going to skip those.

Okay, compliance with internal frame. You know the ICS takes their job seriously. And everybody has got this idea that the ICS is like, oh yes, I'll take it, don't worry about it. No, these guys are serious. These people are serious. They are protecting the investment and the work of their entire community. If somebody screws up in that group the whole gang can go down.

These people are pledged to protect that; that is their job as an ICS. They take it seriously. They know more about what's going on in that community than any parachuted gringo will ever know. Trust me on that. Well, you don't have to trust me. Legislate it.

Frequency of minor noncompliances.
We see a lot of minor noncompliances. Well, they didn't do this, they didn't do that. Bang, sampling size goes up. That is the job of the ACA. That's what ACAs do, and that is what they are accredited to do.

And again, one of the pleas that perhaps if there is a real problem with this document, to me what you pointed out is not a real problem - it's a problem but it's not a real problem - the real problem is, I think we need a separate scope of accreditation for certifiers that - you know there are crops, livestock processing, and there should be also multi-site. It should be a separate scope of accreditation, taken very seriously. A number of organizations are currently doing it that don't have a big volume of it. They realize what's involved. They say, we're out of this. Let the professional ACAs who do this work all over the world carry it out.

Sorry for the long-winded thing,

but as always, Valerie had a valid point.
So that's the answer to your questions the best way that we can phrase it.

MR. DELGADO: Huge.

MR. KARREMAN: Thank you, Joe, for going through that. That is very reassuring except on one point, and maybe it's just me, but I am very concerned about having a split operation in a grower group. Can you address that? I just - either - well, I'm just very concerned about that.

MR. DELGADO: Joe?

MS. MIEDEMA: Well, it's addressed in a couple of ways. One is, all of the organic product must be sold only through the group. And where I heard this come up was the acknowledgment of family sustenance, and not necessarily a strict adherence to organic practices for their own food to eat. They're a coffee grower, but you know, they have got a little patch of corn or something. And I feel maybe a little - to speak to this more clearly - but this was really left in as a
survival item.

MR. KARREMAN: This is in the U.S. as well. I understand – I mean I understand what you're saying. That's totally fine. But there is something just to me that – I know split operations are allowed and everything. But they ought to be raked over the coals. Every single one of them in this country or elsewhere. Because there are some sitting on farms that really need looking at real hard if they are split operations.

MS. MIEDEMA: I work for a split operation, and am aware of how clearly delineated organic borders need to be, and the extra scrutiny that comes from that, and if that is represented by the notation here as that being an additional risk factor.

MS. JAMES: Well, I think one of the elephants in the room here is that we have to look at economy and supply scale. I'm not an inspector, I'm not a farmer. But I do represent the endpoint where a lot of these
products are sold. And currently 100 percent inspection of all farms is not something that is being practiced. And I would be very concerned that if we couldn't come up with a multisite recommendation that the program as well as the board is comfortable with, that it's going to cloud the system. That if all of a sudden we turn around and we say, 100 percent inspection of all farm sites, that would seriously affect the supply.

And I am not opposed at all - I think I probably side with Barry a little bit - I think some of the feedback has been really good, and especially if the program is sitting over there telling us that we can drive a semi truck through this recommendation, that we shouldn't hold onto it so tightly that we are not willing to look at ways that we might be able to change it so that the rest of the board felt more comfortable with it.

And I want to point out some things that I heard in public comment, and
that I read in a lot of the comments that were posted, and that is, that I think there is a serious concern about sites exceeding a long time limit, without being inspected. I think that that is something that we need to possibly look at.

I think that the definition of selection unit, that maybe we need to look at the idea of that not exceeding 100 individual growers.

I think we also - we did make a - we did acquiesce by adding in the minority opinion which I think is great, that new sites are under a high risk. And defining the size of the average production unit is probably something that should be addressed as well.

Because my concern is that if this recommendation passed and went to the program that they would reject it and then here we are back at ground zero.

So I just want -

MR. DELGADO: Do you have a quick
response, Joe?

MR. SMILLIE: No, nothing is going
to be quick here.

MR. DELGADO: Okay, a response to
the point.

MR. SMILLIE: Number one, that kind
of wholesale reexamination we can't do today.
So let me just try and point out one big
thing. If we do this, you will be drinking
sustainable coffee, not organic coffee. You
will be having sustainable vanilla and
sustainable sugar; not get a recommendation
through that allows for group certification.

Just be very clear what the
ramifications of this are internationally and
for the entire organic industry. I would just
urge you to think about that.

Number two is, if in order to get
this through, and I love open transparent
democratic processes, we have to make a deal
to include in the risk factors that mandatory
inspection for anyone exceeding $5,000 U.S. -
luckily that is dropping like a stone everyday
- if that is the deal-breaker, then we are
willing to discuss it as - to put it in the
risk factor, not as mandatory, but to add it
specifically to the risk factor. Any member
or subunit making more than $5,000 is
highlighted as a risk factor; I'm willing to
consider that as a friendly amendment.

MR. DELGADO: I'd remind the board,
speaking of action items, we haven't
considered any amendments, unfriendly or
friendly, after the first two. So that is a
way to get things through.

So if I understand correctly, are
you making an amendment yourself?

MR. SMILLIE: I don't think I can.

MR. DELGADO: You can, because this
now is a document before the floor.

MR. SMILLIE: Okay, if I could
recognize myself as friendly. Gets a little
schizzy on that.

(Laughter.)
MR. DELGADO: Jeff.

MR. MOYER: Joe, while I had jotted down a comment, I would like to make an amendment to your document. But based on just your recent comment, I don't know if you will like it or not. Because I was not going to call it a risk factor. My suggestion is to put it in the paragraph right above this unit. So my motion is to accept this language placed in page seven, D1 following the - right in the center of the paragraph right in front of where it says, various, is where the sentence would go. And this is the sentence I'm proposing as a motion.

All subunits that gross over $5,000 in organic sales in any year must be inspected by third party during the next inspection cycle - that's in U.S. dollars.

MR. GIACOMINI: Second.

MR. DELGADO: Second. Is that a friendly amendment?

MS. FRANCES: Can you repeat that,
please?

MR. MOYER: I certainly can.

The sentence that I wrote said:

all subunits that gross over $5,000 U.S. dollars in organic sales in any year must have third party inspection at the next inspection cycle.

MR. DELGADO: And that is an amendment to assert.

MR. MOYER: And that was seconded by Dan.

MR. DELGADO: Seconded by Dan. Is that a friendly amendment?

MR. SMILLIE: Can we have the discussion first?

MR. DELGADO: Absolutely. It's been moved and seconded. And it's going to be followed by a discussion. So it's been moved and seconded to amend by inserting the words:

all subunits that gross over $5,000 U.S. in organic sales in any year must have third party inspection in the following year.
MR. MOYER: I said in the following inspection cycle.

MR. DELGADO: And discussion on the amendment?

Tracy followed by Tina then Joe.

MS. MIEDEMA: I believe this is overly prescriptive, and that we are going to prescribe ourselves out of the construct actually working the way it does now, and should continue to work around the world.

And just a quick history on this issue, folks. This board cast a recommendation on criteria for certification of grower groups in 2002. It was quite rigorous, and in fact, in its entirety it has found a home in our recommendation.

It did nothing to prevent the plug being pulled on grower groups around the world, and frankly, whatever we send to the program today they are still going to be able to make mincemeat of - they are going to be able to take or leave. We are giving a
recommendation.

But if our intent today is to tear apart what's happening out there in the world right now, then we should start layering in items like this. If we are to make it more rigorous and give the program our intention, then we should move forward with what it is.

I think our recommendation would not be weakened by including the 5,000 threshold as simply a risk factor, and leaving discretion in the hands of certifiers. In our system, we here, USDA organic, we embrace an organic system plan that is flexible and melds to every farm here in the U.S., single operations. We do not have a one-size-fits-all organic system plan. Let's keep it as a risk factor and allow our spirit of organic to live in the same way in these groups.

Have it be a risk factor and not a prescription.

MR. DELGADO: Tina.

MS. ELLOR: Yes, from some of the
comments we heard, I am a little bit concerned that this would be very very onerous in terms of record keeping. So I'm comfortable with making it a risk factor myself.

MR. DELGADO: Huge.

MR. KARREMAN: Yes, I'd be comfortable with risk factor as well, and I think $5,000 is in OFPA. I think it's fine to have that in there, as some kind of awareness level. But in your sentence, Jeff, if it sits in there or it goes down into the risk factors, the third party inspection following inspection cycle they have to have. But they they are kind of in the risk - not the risk but the general random samples after that inspection, is that what you were saying? Oh, every year - okay, I gotcha, I can read that.

MR. DELGADO: Jim.

MR. MOYER: Well, just so we're clear that if you put this into the list of risk factors, it just gets pooled with the many. It could mean that a farm that earns -
that makes $400,000 may never get inspected by a third party inspection. It just - if - Joe, if there are 10 farms that all earn that much in a large coop, that could easily happen. You are telling me it can't happen?

MR. SMILLIE: The laws of economics, those guys are not going to get together as a group. They are going to get individually certified.

MR. MOYER: They don't have to.

MR. SMILLIE: No, it's much more difficult -

MR. MOYER: I didn't say it's not difficult.

MR. DELGADO: Bea, followed by Tracy.

MS. JAMES: I have a question that maybe you can answer, Joe. Is having a $5,000 sales, would that basically pretty much say that in the United States it's 100 percent inspection?

MR. DAVIS: Grower groups in the
MS. JAMES: Yes, grower groups in the United States, would that be pretty close to creating a 100 percent inspection framework? Close to it?

MS. MIEDEMA: If it's a risk factor, or if it's -

MS. JAMES: No, if it's listed like it is now.

MR. DELGADO: Tracy, you want to clarify that?

MS. MIEDEMA: Most likely if that were listed as Jeff was lining it out, it would do just exactly what it says it's going to do. But it sounds like we are starting to gain some consensus around the idea that there is some riskiness. It's an indication of being bigger. It's an indication of risk; let's let it be that, and add it where it sounds like we are getting some agreement on.

MS. JAMES: Well, my question is really around whether or not we are excluding...
the United States from a multi-site framework because of that?

MR. DELGADO: Dan.

MS. JAMES: Can Joe?

MR. GIACOMINI: If I can respond to Bea, what I see it doing is, it puts the producers in the U.S. in line with federal law. It - there is nothing within that regulation that prevents them from forming a production unit, a grower group. It doesn't prevent them from doing it. It's just that if they are in a group, they conform to the law of if they are over five grand they get inspected. They can still be part of it; they can still benefit from the ICS. They can still have all those benefits, but they get inspected.

MR. DELGADO: Tina, followed by Jerry.

MS. ELLOR: So I'm still not clear where - neither one of these seems to solve both of the problems, the record keeping
problems we heard about and the hole that the
truck can drive through. Neither one of those
seems to me to address those two issues.

Is there some way that you can
think of that we -

MR. DELGADO: I'd remind you that
we are considering an amendment, and we should
focus on that.

On that note, if you want to chime
in and provide comments?

DR. ROBINSON: First of all, if you
are below $5,000 in the United States or any
place else for that matter you do not have to
get inspected or certified; you are exempt
from this law, except for record keeping.

Secondly, if you do not give us
anything, no one will be driving a truck
through anything at all. The longer you
delay, the longer you wait, and that's Rick's
opinion off the top of his head about whether
or not you drive a truck through something.

We got to walk down the hall and
go sit down and talk with legal counsel about what you give us. This is a pretty hefty document. And one of the things I hear up here that I don't really like what I hear is statements to the effect of this: well, since we can't do complete inspections today, why don't we just concede the point that we can't completely do inspections, and just - we'll do something like less than full inspections. And consumers are being misled anyway, so we are going to do something a little bit different.

I don't really like that sentiment about this program. That is not the way this law was written, and that is not the way this regulation was developed. And I hope that is not what consumers are being informed about, because the fundamental - the fundamentals of this program are that it is about inspection. It is about an annual inspection in this program.

It is true, no one expects that an
inspector walks up and down each foot of each acre of each farm; yes, of course not, that is kind of ridiculous. Nobody expects that. I don't think anybody is that naive.

But the fundamentals of this program are that an inspector comes out to every operation every year. You know I get - I'm constantly called by the media, and one of the things I am always asked is, how do consumers know that somebody - that a product or that an operation is in compliance with this program? And my standard answer is, because a certifying agent sends an inspector to an operation. We don't certify the product; we certify the operation. It's the operation that we hold accountable.

So I really don't - I'm sorry, I know this is a little bit of me being on my soapbox, but I don't like hearing that, well, you know, accreditation - I mean certification that just takes place in a conference room. Our auditors don't think it takes place in a
conference room. In fact they write up
noncompliances if they hear the inspector say,
I don't have to go out on the processing
floor. I don't have to go out on the field;
I was there last year. That's considered a
noncompliance and they get written up for it.

MR. DELGADO: Joe, followed by -
DR. ROBINSON: I'm sorry, I wasn't
done, Rigo.

So I don't like to hear that just
because you can't walk the field, or just
because we can't inspect we shouldn't inspect.
We do inspect in my opinion. In the program's
opinion.

Now how we inspect, how thoroughly
we inspect and what we do I'm not saying that
inspection is not also a sampling process. It
is. The thoroughness of it, and we can take
this recommendation and we can do something
with it. We can work with the board, and we
can work with our attorneys. And yes, risk
factors are important. Income can be a risk
factor. The degree of uniformity in my opinion can encompass size and income.

But you know, you guys, you got to come up with something, you have to give us something or we are not going to get anywhere.

MR. DELGADO: Just in the interests of time and moving forward, I want to highlight those points from Barbara. If we give something to the program, we can work on it and perfect it and come up with an end product. I think that was a point to highlight.

Joe, followed by Jerry.

MR. SMILLIE: Thank you, Barbara. I couldn't agree more. I cannot accept this as a friendly amendment.

MR. DELGADO: Jerry.

MR. SMILLIE: To finish that, I could accept it as an addition to the risk factor grouping. But I would like it removed from -

MR. DELGADO: Well, we do have an
amendment - a motion to amend that is already moved and seconded. So it stands as it is, so we are going to vote.

MR. SMILLIE: No, I have a right to deny it as a friendly amendment, don't I?

MR. DELGADO: Not after it's been moved.

MS. MIEDEMA: An outside person can't simply amend -

MR. DELGADO: Yes, they can. This document now before the board, it was made by Jeff, seconded by Dan. And -

MS. MIEDEMA: The person who made the motion has the discretion of whether to accept it - even after seconded.

MR. DELGADO: As a friendly amendment. Which you did not, so we are going to vote. You just stated that it's an informal amendment. You don't agree with it. But it is now before the board, and it's been stated, and we had a discussion about the amendment, and after the discussion we'll put
it in.

Yes.

MR. DAVIS: That goes to my question of the procedural question, as a voting member of the board, do we have to vote yes or not on that particular amendment, or can it be simultaneous with the idea that there is going to be this other amendment -

MR. DELGADO: No. We have to vote on this amendment, approve it or reject it. If it is approved it will be incorporated into this document, and then if there is no other amendment, we will have to vote on that document as it is.

Any other clarifications? Hugh?

MR. KARREMAN: What Barbara just said, I think that that amendment Jeff made has to stay in there, because $5,000 is the threshold for inspections. And if the whole program is based on inspections, or is a fundamental part of it, if you are making more than five grand, you've got to get inspected.
MR. DELGADO: Any other comments or questions?

MR. SMILLIE: Sorry, back to basics again. This is a unit. This is being inspected. The group is a production unit; it is being inspected. What you are talking about is subunits, members of this production unit.

The unit -

MR. KARREMAN: I'm saying a subunit of some 100 unit coop if some subunit is making more than five grand they should get inspected every year.

MR. DELGADO: Dan.

MR. GIACOMINI: In agreement with you and agreement with Jeff I second the motion, the subunit in question here is the farmer. The grower group is not the farmer. That's the ICS; that's the group; that's the over thing, just as we talked about, whether we do it in the coop. This is the farmer; this is the guy at five grand that I think
should be inspected to be in compliance with federal law and not have the train wreck that will occur when something happens.

MR. DELGADO: Any questions?

Any other comments? Are we ready for the question?

The question is on the motion to -

MR. GIACOMINI: Point of order, Mr. Chairman. Clarification: would this be considered a substantive motion at this point, the act of the amendment?

MR. DELGADO: Substantive motion?

Can you clarify?

MR. GIACOMINI: Substantive motion of issues going to the program are two-thirds. Just for clarification, typically an amendment is a majority. I think I would be considered to have a conflict of interest, but in my experience with parliamentary procedure, and I believe in past references with the program on amendments, they are not considered substantive motions that require two thirds.
Do you agree?

MR. DELGADO: I agree with your intent. This is going to be a majority vote. It is an amendment. We are still working on an internal document that has not been presented to the board.

MS. FRANCES: So Dan has a conflict of interest?

MR. GIACOMINI: No, my conflict of interest was in my interpretation of parliamentary procedure, since I have - I believe in one side or the other. So that is where someone could say, well, you have a conflict of interest so your interpretation of parliamentary procedure is not as valid. So I just wanted to qualify that. But I do not have a conflict of interest regarding voting on the amendment.

MR. DELGADO: And once again I'll put the question. The question is on the motion to amend by inserting the words, all subunits that grossed over $5,000 U.S. in
organic sales in a year must have third party inspection in the following inspection cycle. And that will be inserted in paragraph one, inspection, sampling and risk analysis. And we will start taking the vote -

MS. FRANCES: For clarify, we are voting that this would be added?

MR. DELGADO: For clarify purposes you are voting on the amendment -

MS. FRANCES: - to add that?

MR. DELGADO: - to amend by inserting that sentence. And we will start with - are there any questions on that regard before we start the vote? Yes.

MR. KARREMAN: I'm not sure if you said it or not, but in that location.

MR. DELGADO: In that location as stated in the screen.

We will start the vote now with Julie.
MS. WEISMAN: No.

MR. DELGADO: Dan.

MR. GIACOMINI: Yes.

MR. DELGADO: Jeff.

MR. MOYER: Yes.

MR. DELGADO: Bea.

MS. JAMES: No.

MR. DELGADO: Jerry.

MR. DAVIS: No.

MR. DELGADO: Tina.

MS. ELLOR: No.

MR. DELGADO: Tracy.

MS. MIEDEMA: No.

MR. DELGADO: Joe.

MR. SMILLIE: No.

MR. DELGADO: Barry.

MR. FLAMM: Abstain.

MR. DELGADO: Abstain.

Kevin? Hugh - sorry.

MR. KARREMAN: Yes.

MR. DELGADO: Kevin?

MR. ENGELBERT: Abstain.
MR. DELGADO: Jennifer.

MS. HALL: No.

MR. DELGADO: Steve.

MR. DeMURI: No.

MR. DELGADO: And the chair votes yes.

MS. WEISMAN: Let's see, we have two abstentions, one absent, and seven noes, and four yeses.

MS. JAMES: I count eight noes.

MR. DELGADO: So the noes have it, and the motion to amend by inserting the statement already described is lost.

Going back to the discussion,

Tracy followed by Joe.

MS. MIEDEMA: I would like to propose a friendly amendment that we add to our list of risk criteria the factor that any subunit or member earning $5,000 or more per year presents a higher risk.

MR. DELGADO: Second?

MR. SMILLIE: Second.
MR. DELGADO: Can you state specifically where you want that?

MS. MIEDEMA: I'll restate that that should be listed among the risk factors for inspection.

MR. DELGADO: Let's talk about the document location specifically.

MS. MIEDEMA: That would be number one, page seven I believe, sampling and risk analysis, the bulleted list.

They are not in hierarchical order.

MR. DELGADO: And it's going to be in exactly the same sentence we had before, correct, Tracy?

MS. MIEDEMA: Yes. Actually to be consistent with the way this list is written, it should say simply, earning $5,000 per year or more.

MS. FRANCES: Grossing?

MS. MIEDEMA: Grossing.

MR. DELGADO: Clarification from
Julie, yes? Tracy, are you aware of that, 5,000 or more? Right?

MS. MIEDEMA: Yes.

MR. DELGADO: Okay, it is moved and seconded to amend by inserting the sentence, grossing $5,000 or more in U.S. organic sales per year in the section titled, one-point inspection, sampling and risk analysis.

Discussion? Steve followed by Gary?

MR. DeMURI: I like this compromise. I think it's a good place to put it. It puts the onus on the certifiers where it belongs. I think they are all conscientious; they want to do the right thing. And I think this is a great compromise. We need to give the program something they can work with.

MR. DELGADO: Hugh.

MR. KARREMAN: I'd like to call the question at this time.

(Simultaneous speakers.)
MR. DELGADO: The previous question you're talking about?

MR. KARREMAN: The vote. I'd like to vote on this document.

MR. SMILLIE: I will accept that as a friendly amendment.

MR. DELGADO: Okay, you accept it as a friendly amendment. So we don't have to vote -- we do have a second, so we do have to vote and proceed.

Plus I want to make sure that we have the previous question. Was that the intent of your previous question?

MR. KARREMAN: I apologize, Joe, I thought that it was seconded, and we were in discussions, to discuss this. And I said I'd like to call the question on the whole document.

MR. DELGADO: We are doing an amendment.

(Simultaneous speakers.)

MR. DELGADO: If it is agreed with
by the board, we can consider this an
amendment and forget about --

MR. SMILLIE: I accept it.

MR. DELGADO: Any other - yes, sir.

MR. GIACOMINI: I just had one

question. We've had the change underneath
that. I was wanting to ask Valerie if she
could scroll down and see what essentially the
replacement to that first sentence has become.

The highest risk subunits are
identified and inspected.

MS. MIEDEMA: Actually that is
striked out, and we are voting on -- it begins
--

MR. GIACOMINI: No, no, no, once
the annual inspection for fringe rate is
determined the highest risk subunits are
identified and inspected.

MR. SMILLIE: That's correct.

MR. DELGADO: Questions? Do you
have a specific question?

We do have a friendly amendment,
and it's been stated, and now we have - you
are calling the previous question? Now we are
talking about the whole document here. Hugh
had called for the previous question.

MR. KARREMAN: Yes, I even have a
second.

MR. DELGADO: Called and seconded.

The previous question has been ordered - has
been moved.

All those in favor of voting on
the previous question -

MR. SMILLIE: I'll defer to Dan,
but once he calls the question.

MR. DELGADO: The previous question
has been moved on.

Yes?

MR. GIACOMINI: If there is - it
was not a motion to call the previous
question. It was calling for the question.

Unless someone speaks up and continues
debating, you can call it without the added
vote.
MR. DELGADO: I'll take that as a direction, and I'll open the questions to the board of any opposition to the previous question?

If not, I'll put the question.

And the question is on the motion to approve the document called Certifying Operations with Multiple Production Units, Sites and Facilities under the National Organic Program as described by the chair of the CACC, the committee.

And we will start our vote with Dan.

MR. GIACOMINI: Yes.

MR. DELGADO: Jeff.

MR. MOYER: No.

MR. DELGADO: Bea.

MS. JAMES: Yes.

MR. DELGADO: Jerry.

MR. DAVIS: Yes.

MR. DELGADO: Tina.

MS. ELLOR: Yes.
MR. DELGADO: Tracy.

MS. MIEDEMA: Yes.

MR. DELGADO: Joe.

MR. SMILLIE: Yes.

MR. DELGADO: Barry.

MR. FLAMM: Yes.

MR. DELGADO: Hugh.

MR. KARREMAN: Yes.

MR. DELGADO: Kevin.

MR. ENGELBERT: No.

MR. DELGADO: Jennifer.

MR. DELGADO: Steve.

MR. DeMURI: Yes.

MR. DELGADO: Julie.

MS. WEISMAN: Yes.

MR. DELGADO: And the chair votes yes.

MR. MOYER: Okay, Mr. Chairman, we have two noes, 12 yeses, and one absent.

MR. DELGADO: Okay, the yeas have it, and the motion is agreed to. And congratulations to all of us for what
wonderful discussion.

We can move on to a well-deserved break. We are way behind schedule, and we'll take - oops, sorry, that's right, I guess we have a request from the chair of the CACC, and you want to proceed with the next.

MS. FRANCES: I need a break.

MR. DELGADO: Make it quick.

MR. SMILLIE: At this time the committee in its meeting has reconsidered our recommendation for 100 percent, and we'd like to withdraw that recommendation and take it back to committee for further use based on the excellent public input we got on that.

So we'll bring that forward at the spring meeting.

MR. DELGADO: And it is the understanding that you will add that to your work plan.

MR. SMILLIE: Absolutely.

MR. DELGADO: On that note, let's take a well deserved break. Five minutes.
We'll see you in here at 10:23.

(Whereupon, the above-entitled matter went off the record at 10:20 a.m. and resumed at 10:33 a.m.)

MR. DELGADO: All right, we are continuing with our program, and now it's the turn of the crops committee to discuss the proposals. And on that note, Mr. Davis.

JOINT CROPS & COMPLIANCE, ACCREDITATION AND CERTIFICATION COMMITTEE

MR. DAVIS: Thank you, Mr. Chair.

The first action is a joint crops and CACC committee document with further guidance on commercial availability of organic seed.

The joint committee would like to present a couple small edits to the document which Valerie should have on screen.

The only changes are on page four - no it's actually on page five, the last page. I pointed out yesterday there is kind
of a relict artifact left from a previous addition of this. So the sentence was deleted as shown in strike-through there: producers using nonorganic varieties not appearing on the database will need to provide justification for such use. It does not make any sense in there anymore. Once we - that's from a previous addition and now does not belong there any more.

The only other change would be in point number two there on the same page, where it says, buyers of organic agricultural products. For additional clarity we wanted to add, buyers and/or processors. Processors are buyers, but some of the public comment kind of pointed out that that was an important point, so we added that. And again, two other places in that same paragraph: buyer/processor was inserted there.

Other than that we are satisfied as a joint committee with this document, and I move that the board accept this
recommendation.

MR. MOYER: I'll second that motion.

MR. DELGADO: It is moved and seconded to approve the document called: Commercial availability guidance regarding the sourcing of organic seed.

Discussion? Any questions? Steve.

MR. DeMURI: I would like to hear your thinking behind the additional processor statement in the organic seed.

MR. DELGADO: Jerry.

MR. DAVIS: The thinking is that in that section it involves the buyers of organic agricultural products. We feel that by adding that extra statement, processors, it's not changing anything. The processor in this case is the buyer. It's just whether - it doesn't change it at all, it just highlights the processors as one example of a buyer.

MR. SMILLIE: And it brings them
into the picture, also. We want them to be --
to share the pain, or the gain.

(Laughter.)

MR. DELGADO: Thank you. Any other
questions? Comments? Ready for the question?

And the question is on the motion
to approve -- guidance regarding the sourcing
of organic seed, Section 205.204.

And I'll start taking the vote

with Dan - I'm sorry, Jeff.

MR. MOYER: Yes.

MR. DELGADO: Bean.

MS. JAMES: Yes.

MR. DELGADO: Jerry.

MR. DAVIS: Yes.

MR. DELGADO: Tina.

MS. ELLOR: Yes.

MR. DELGADO: Tracy.

MS. MIEDEMA: Yes.

MR. DELGADO: Joe.

MR. SMILLIE: Yes.

MR. DELGADO: Barry.
MR. FLAMM: Yes.

MR. DELGADO: Hugh.

MR. KARREMAN: Yes.

MR. DELGADO: Kevin.

MR. ENGELBERT: Yes.

MR. DELGADO: Jennifer.

MS. HALL: Yes.

MR. DELGADO: Steve.

MR. DeMURI: Yes.

MR. DELGADO: Julie.

MS. WEISMAN: Yes.

MR. DELGADO: Dan.

MR. GIACOMINI: Yes.

MR. DELGADO: And the chair votes yes.

MR. MOYER: Mr. Chairman, we had zero noes, 14 yeses, one absent.

MR. DELGADO: The ayes have it, and the motion is agreed to. Let's go on to the next point. We continue with the crops committee.

MR. DAVIS: The next one would be
materials. The first one on the list would be tetracycline, tetracycline hydrochloride to be specific. The committee met this morning and discussed the public comment that was received and the discussions yesterday on the relative merits of leaving the petition as is for — as a petition for adding tetracycline — oxytetracycline hydrochloride specifically, for fire blight control only on the national lands to apply 601I leaving it as it stands versus the idea of changing it to amend the annotation of the existing material on the list, which is tetracycline — oxytetracycline calcium. This is a different material, different CAS number, we felt it would be problematic to go about it that way to list — to present it as a — just an addendum change — an annotations change, excuse me — and prefer to just let it go forward as is.

MR. DELGADO: So you want to state the motion?

MR. DAVIS: The motion would be to
MR. DELGADO: You are moving to add? You are going with the addition of this material, correct?

MR. DAVIS: Right. The motion is to add this material to the national list as stated on the recommendation.

MR. MOYER: I'll second it.

MR. DELGADO: Seconded. It is moved and seconded that - you have a question?

State the question?

Let me state the question. I was confused by the indication there. It is moved and seconded to add tetracycline - oxytetracycline hydrochloride for fire blight control only onto the national list, Section 205.601(I).

Discussion? Joe?

MR. SMILLIE: Sorry, but I'm a little bit confused on this in two areas. The first area is, and correct me where I'm wrong, Jerry and Jeff, but the first area is, if we
added it as an annotation which you are not going to do, but if we had done that then it would provide a level playing field for the petitioner but would not extend the use of tetracycline in general; it would sunset at the same time as the current material is going to sunset; is that correct?

MR. DAVIS: That is correct.

MR. SMILLIE: But you decided not to do that? You have decided not to change the annotation?

MR. DAVIS: We went with the original petition which was to add this material?

MR. GIACOMINI: Could we check with the program on that issue? It seems to me a reevaluation of this substance and this listing by the board could reset that clock. Could we please ask the program for clarification on that?

MR. DELGADO: Certainly -- comment on that for us. If we change the annotation
would it extend in anyway the sunset provisions on that? Of the calcium materials in this case?

MR. GIACOMINI: If it's a reevaluation of an existing list to change an annotation, is that considered a review by this committee of this substance? And if that annotation is changed in the Federal Register would that reset the clock?

MR. MATTHEWS: We don't believe it would.

MR. DELGADO: The program does not believe that would be affected. So Joe, with that statement, is that clarified?

MR. SMILLIE: Rather than get caught up in parliamentary language, here is my intent, and sorry, maybe I'm not phrasing it properly. My intent is to offer a level playing field to the petitioner. That doesn't extend to the use of tetracycline. So my vote would be, I want to see the petitioner get a level playing field, but if that means
extending the use of tetracycline I would vote no.

So I want to vote my intention, which is to give the petitioner a level playing field with a competitor who uses the same product currently allowed under the regulation, but if that's best accomplished by adding this material, then I could be comfortable with that. But if by adding the material we move the sunsetting of that tetracycline farther along then I wouldn't be comfortable.

Am I explaining myself correct?

MR. DELGADO: Hugh.

MR. KARREMAN: I understand what you're saying totally, Joe, and as to the rationale, I feel the same way. I think that we need to look at this material in the way we're looking at it, and it's tetracycline is the active compound. The salt of this particular tetracycline is kind of to level the playing field, but the active is...
tetracycline. So if it doesn't reset the clock
- and it shouldn't, it should not, because
tetracycline is already on there, and we are
just kind of saying, well, this color of
tetracycline is -- not to get any color,
sorry, sorry -- but you know that this is just
embellishing what is already there, but the
main top one is going to go away, whenever it
does. I agree with that and I hope it is that
way, if that is the motion; I want to hear
that for sure.

MR. DELGADO: Dan and Jeff.

MR. GIACOMINI: I agree with Joe
and Hugh, and I think that as Gerry described,
whether it was problematic depends on how the
annotation is attacked. If the annotation is
attacked by adding this substance to the list
that is already there, of adding a second item
in the parentheses, you have a CAS number
problem, and you have other problems.

If the annotation is attacked by
deleting that in the parentheses, I don't
think you have that problem. I think you accomplish the same thing. I think you level the playing field, and I am - maybe I'm being a little schizophrenic, but I have a problem adding a separate listing. I'm not comfortable adding another item in the annotation. I'm very comfortable deleting that between the parentheses, and at the same time I have no problem at all if at the next meeting we have a petition to remove tetracycline, and I vote for that to happen. I have no contradictions in all those things.

MR. DELGADO: Joe.

MR. MOYER: Yes, two points. One is, I believe at the last meeting when this was discussed, the program did tell us that it reset the clock. So I do think I'd want a clarification on that before we vote.

The second point is, I think removing bracketed information on annotations is a little bit of a risky slippery slope.
There are reasons that many of these annotations were put on, and different formulations of different material react differently in the environment, and within the context within which they are being applied.

And I just think we have to be careful as we look at all these materials that we don't just look at base ingredients and assume that everything else that is being done there is okay moving forward.

MR. DELGADO: Bea followed by Hugh.

MS. JAMES: I would agree with what Jeff just said, and because it was clear yesterday during comment that it was a separate CAS number that it should be looked at separately.

MR. DELGADO: Hugh?

MR. KARREMAN: I'm not an agronomist, obviously, but I would honestly, I understand what you are saying, Jeff, but it's tetracycline; it's not the hydrochloride. And it's a different CAS number. It could
reset the clock. I would rather just see that parenthesis taken out of there. And it's tetracycline, whoever set it, let's kill it soon, but let's not reset clocks and all that if we don't have to.

MR. DELGADO: Barbara?

DR. ROBINSON: Well, I think to your point, Jeff, on the annotation, I think the point is that the annotation is for the purpose of the tetracycline, and the purpose is for fire blight control only. That's really what you are annotating here. It's tetracycline for fire blight control; that's what you want.

MR. DELGADO: It's actually not the annotation. Just for clarification, it's actually the title -

DR. ROBINSON: The original annotation says, tetracycline in parenthesis, oxytetracycline calcium complex. What you want - what you'd be doing is just removing that parenthetical, oxytetracycline calcium
complex. So you'd be left with tetracycline
for fire blight control only, which would
allow the forms of tetracycline, which is what
the petitioner has asked for: tetracycline.

       MR. MOYER: But it does have a
6    separate CAS number, and is for all intents
7    and purposes.

       DR. ROBINSON: Right, but EPA says
8    that these forms are all functionally
equivalent for fire blight control. That's
9    what the petitioners said, so that's what we'd
10   be allowing under the same clock.

       MR. MOYER: And the second question
13   was whether the clock will be reset as you
14   stated, Jeff, and the question again is no -
15   the answer is no.

       DR. ROBINSON: And that's what we
18   would put in the rule. That the clock does
19   not change.

       MR. DELGADO: The clock does not
21   change. Bea followed by Jennifer and then
22   Jerry.
MS. JAMES: So my question for Jerry then is, by creating this level playing field are we then making it so that there are two forms of tetracycline that are being used?

MR. DELGADO: Jerry?

MR. DAVIS: Effectively I think the petitioner stated it accurately when they said that there would be two forms of tetracycline, but the overall use pattern of tetracycline would not increase. There would just be a substitutionary effect at the whim of the marketplace on which one they wanted to choose.

MR. DELGADO: Jennifer.

MS. HALL: Just for clarification, the -- is not here, did -- oh, he said he was leaving, sorry -- he did assess this and say yesterday that he did not intend to reset the clock; that the standing sense, that was fine.

MR. DELGADO: Steve.

MR. DeMURI: Jerry, there are other members that are experts in this area, are
there other forms of tetracycline that would fall into this category later on?

MR. DELGADO: Jerry.

MR. DAVIS: I can't state that for sure. I don't remember from the EPA documents that we went over whether there are additional forms. You'd have to ask that maybe of the petitioner if you wanted to know that. There's none on the marketplace that I know, but I don't know if there are technical forms that could arise.

MR. DELGADO: Could the petitioner please address that question?

MR. RICHARDSON: Paul Richardson with AgroSource. And there are currently only the oxytetracycline base material, oxytetracycline hydrochloride and oxytetracycline calcium registered with EPA. And those are the only forms that I would be aware of that would potentially be used in agriculture, and even the base is not used in agriculture, because its form is really just
the hydrochloride or the calcium.

MR. DELGADO: Tina.

MS. ELLOR: And that was basically question and what came up in our discussions is that we didn't know how many forms there were, and if you took the parenthetical, you know -- we didn't know what kind of door we'd be opening, and really felt like we had to review all of those individually for their effects on the environment.

MR. DELGADO: Bea.

MR. DAVIS: In reading the EPA documentation they do not delineate the different forms of tetracycline as having any different environmental or human health effects.

MR. DELGADO: Bea?

MS. JAMES: My question is, why do we want to create a level playing field for a material that we don't think should be on the list anyway - some of us?

MR. DELGADO: Joe.
MR. SMILLIE: Because it's just fair.

MS. JAMES: In one aspect.

MR. DELGADO: Hugh.

MR. KARREMAN: Bea, I guess the intent, roughly stated by a few of us here, is to get rid of tetracycline. His petition and his public comment basically said, he's squeezed out of market price because it's to be just and fair. That's why I agree. And I'm not even in favor of this material, but I agree with that rationale.

MS. JAMES: So is our duty to be just and fair to the manufacturer or to the organic principles?

MR. KARREMAN: Well, right now, an organic producer, whatever the crop it's used on will be buying it from the other guy. It's not like they are not going to use it. He's just asking that he has fair competition in the marketplace. It's not like it's not allowed right now in organic production; it
is.

MR. DELGADO: Barry.

MR. FLAMM: One of the things we discussed at length in committee was the intent to remove them - these substances through the sunset process. And in that connection we discussed what kind of message approving any new form.

And the petition we had before us is what we addressed, and addressed carefully the second go-round. We did it at the last meeting, and then pulled the vote at the last minute, and we are sort of going around the same block again.

I'm concerned if we change the committee's deliberation on this.

MR. DELGADO: Barbara.

DR. ROBINSON: Mr. Chairman, we just consulted with our attorney, and it will change the clock. It will change the clock.

It will change the clock. Your annotation change does change the clock.
MR. MATTHEWS: Yes, it's considered - even by removing the annotation it's looked at as if you have reconsidered the material and therefore the clock resets.

DR. ROBINSON: I apologize.

MR. DELGADO: Dan.

MR. GIACOMINI: If we are held to the standard of only reevaluating new material at sunset, and I understand that everybody is allowed to make their vote - I'm not aware of a lot of new information that has come to light or will or likely will come to light. We know what this does, and we would like to get it off. The way to get it off is a petition to remove. It's still a matter of what is fair and just and equitable. We're not adding anything new.

I question whether we are affecting the rate - the point in time when we can remove it by the fact that we are changing - resetting the clock and redoing sunset. I still think it's the right thing to do. I
still hope somebody submits a petition to remove it.

MR. DELGADO: Hugh.

MR. KARREMAN: When is the sunset - when will the current listing go?

MR. DELGADO: Jeff.

MR. MOYER: Just to follow up on what Barry said, I think as a board we have to be careful about the message we send to the community when we reevaluate this, and that is what we are doing is reevaluating it and extending the life expectancy of this material for another two years, we have to be careful about that. And that did come up in our deliberations in our committee - five more years. Three from the previous.

MR. DELGADO: Any other questions or comments?

The motion stands then as it is? Okay, I'll put the motion, and the question is on the motion to list tetracycline - oxytetracycline hydrochloride for fire blight
control only on the national list, Section 205.601.

And we'll start taking the vote with Bea?

MS. JAMES: No.
MR. DELGADO: Jerry.
MR. DAVIS: No.
MR. DELGADO: Tina.
MS. ELLOR: No.
MR. DELGADO: Tracy.
MS. MIEDEMA: Yes.
MR. DELGADO: Joe.
MR. SMILLIE: No.
MR. DELGADO: Barry.
MR. FLAMM: No.
MR. DELGADO: Hugh.
MR. KARREMAN: No.
MR. DELGADO: Kevin.
MR. ENGELBERT: No.
MR. DELGADO: Jennifer.
MS. HALL: No.
MR. DELGADO: Steve.
MR. DeMURI: No.

MR. DELGADO: Julie.

MS. WEISMAN: No.

MR. DELGADO: Dan.

MR. GIACOMINI: No.

MR. DELGADO: Jeff.

MR. MOYER: No.

MR. DELGADO: And the chair votes no.

MR. MOYER: Mr. Chairman, we have one yes, 13 noes, and one absent.

MR. DELGADO: The noes have it, and the motion to list tetracycline oxytetracycline hydrochloride in Section 205.601(I) of the list is lost.

Let's proceed with the next.

MR. DAVIS: The next material is sorbitol octanoate, and the petition is - states, to add sorbitol octanoate as insect control on the national list, Section 205.601(e).

We have no further statement to
make about this as a committee. We believe that to add it because it is like sucrose octanoate ester a little bit, and that it's some of the reasoning that was presented in public comment is not sufficient to overturn our original recommendation, and would like to present - have it be accepted by the board for a vote.

MR. DELGADO: Okay, make the motion, please.

MR. DAVIS: I move that we vote on adding sorbitol octanoate as an insect control on the national list, Section 205.601(e).

MR. DELGADO: Any second?

MS. ELLOR: Second.

MR. DELGADO: Seconded by Tina. It is moved and seconded to add sorbitol octanoate as insect control on the national list on Section 205.601(e).

Discussion?

MR. SMILLIE: Was there a TAP done on this?
MR. DELGADO: Jerry?

MR. DAVIS: Yes.

MR. DELGADO: Any other questions? Comments?

Ready for the question? Joe? No? The question is on the motion to list sorbital octanoate as an insect control on the national list, Section 205.601(e). And we will start taking the vote with Jerry.

MR. DAVIS: No.

MR. DELGADO: Kristine.

MS. ELLOR: No.

MR. DELGADO: Tracy.

MS. MIEDEMA: Yes.

MR. DELGADO: Joe.

MR. SMILLIE: Yes.

MR. DELGADO: Barry.

MR. FLAMM: No.

MR. DELGADO: Hugh.

MR. KARREMAN: Yes.

MR. DELGADO: Kevin.

MR. ENGELBERT: No.
MR. DELGADO: Jennifer.

MS. HALL: Yes.

MR. DELGADO: Steve.

MR. DeMURI: Yes.

MR. DELGADO: Julie.

MS. WEISMAN: Yes.

MR. DELGADO: Dan.

MR. GIACOMINI: Yes.

MR. DELGADO: Jeff.

MR. MOYER: No.

MR. DELGADO: Bea.

MS. JAMES: No.

MR. DELGADO: And the chair votes no.

MR. MOYER: I have seven noes, seven yeses, one abstention - I'm sorry, one absent, not abstention.

MR. DELGADO: The noes have it and the motion to list sorbitol octanoate as insect control on the national list, Section 205.601(e) is lost.

Go on to the next section, please.
Jerry, you seem to have a question.

MR. SMILLIE: I just wanted to review it. The motion was to list, and the motion did not gain two thirds?

MR. DELGADO: Correct. We had seven -

(Simultaneous speakers.)

MR. DELGADO: The motion was lost. The motion was to list, and did not have the necessary votes for that.

Any other questions on that matter? Very well, let's continue with the next point, Mr. Chairman.

MR. DAVIS: The next petition is for adding pelargonic acid as an herbicide in farm -- maintenance, roadways, ditches, right of ways, building perimeters, and ornamental crops on the national list, Section 205.601(e)(1).

I have a question for the materials committee chair. On this material,
premeeting the petitioner anticipating - well, after seeing the board - I mean the committee recommendation and that this committee was rejected at the committee level had asked that it be removed from consideration. And the committee considered that and discussed it. Your thoughts on that topic?

MR. DELGADO: So the petitioner, just to clarify, the petitioner would withdraw the petition?

MR. GIACOMINI: The petitioner requested to withdraw the petition. I'm not aware of anything in either from the program or within our policy and procedure manual which gives us definitive direction on that matter. I would think that serious consideration should be given to the wishes of the petitioner in this type of request. However, I believe that all the matters involved should be considered in granting that request. The petition is in the hands of the committee right now for a vote as it was at
the last meeting when the committee was going
to recommend a no vote. Is that correct?

MR. DELGADO: Yes.

MR. GIACOMINI: And the petitioner

withdrew it at that time. They brought it
forth again with some new information. The
committee has again voted to not recommend;
the petitioner has decided to withdraw it
again.

While I fully respect the - I

think the committee and the board should fully
respect the issues of the petitioner, there
are certainly considerations in regard to work
hours, man hours performed, effort put into
this petition, the extended review that has
been done twice, and the potential whiplash
effect that we could be feeling as a board if
it got to the point where every time a
petition was coming up no, it'd just get
pulled back and resent in at the next meeting.

So with no specific guideline to
follow I think that is pretty much in the
hands of the crops committee.

MR. DELGADO: I'd like to ask the policy committee chair if he has any input in the matter.

MR. FLAMM: I'm trying to confirm whether the policy manual says anything specifically on this point. But I know this is one of the work items for spring to clarify the handling of petitions and so forth.

I think I'll have to defer, and have to leave it up to the chair to call it, which I think has been called already by the committee.

MR. GIACOMINI: Mr. Chairman?

MR. DELGADO: Yes.

MR. GIACOMINI: Did you ask the program if they offered any guidance on this matter?

MR. DELGADO: Barbara, would you like to add to this?

DR. ROBINSON: I apologize, I was conferring with Rick about something - another
option that we could consider, and another
vote that we had already made. So I don't
know what your question is?

MR. GIACOMINI: We have a petition
that has been reviewed now twice, and each
time it gets to the board level with a
recommendation to not list it, the petitioner
pulls it back.

We acknowledged that request the
first time and did not vote. There wasn't
anything formal. To do that I think we should
generally acknowledge and recognize requests
by petitioners, but in consideration of
manpower and potential down the road of
continuing whiplash I think it's up to the
chairman of the cross-committee to decide
whether to proceed with that vote or not.

DR. ROBINSON: I would concur with
that.

MR. DAVIS: With all that being
said the crops committee discussed that
request from the petitioner, and for the
reasons highlighted by Dan, we decided to proceed with presenting this making the motion to present this recommendation and be accepted by the board.

MR. DELGADO: Okay, can you state the motion, please.

MR. DAVIS: The motion is, again, to add pelargonic acid for use as an herbicide in farmstead maintenance, roadways, ditches, right of ways, building perimeters, and ornamental crops on the national list, Section 205.601(b)(1).

MR. DELGADO: Is there a second?

MR. MOYER: I'll second that.

MR. DELGADO: Seconded by Jeff.

It's been moved and seconded to add pelargonic acid for use as a herbicide in farmstead maintenance, roadways, ditches, right of ways, building perimeters and ornamental crops on the national list, Section 205.601(b)(1).

Discussion? Tina, followed by Tracy.
MS. ELLOR: This is more a concern, and maybe the policy committee can take this up, that did petitioner know we could not withdraw the petition? The petitioner knew we were going to consider it at this meeting?

MR. DELGADO: Tina, can you get closer to the microphone?

MS. ELLOR: Did the petitioner know that we were going to be considering this at this meeting?

MR. DAVIS: It's on the agenda.

MS. ELLOR: Oh, okay, that's fine.

MR. GIACOMINI: Mr. Chairman, the request to withdraw was only, what, two weeks ago? About? Since all of this has been published.

MR. DELGADO: So the committee knew the outcome of the committee decision for a considerable time.

MS. ELLOR: Okay.

MR. DELGADO: Okay, we're going back to Tracy.
MS. MIEDEMA: During the intervening two weeks was the petitioner notified that we were in fact going to proceed with the vote so they knew to be here today to provide additional information?

MR. DELGADO: Valerie, can you answer that question?

MS. FRANCES: Bob just said that Fisher was invited to the meeting via the meeting notice.

MR. DELGADO: Does that clear it up, Tracy?

MS. MIEDEMA: I guess I feel the petitioner should be granted due process, and they did fulfill their end of the bargain. They withdrew their petition. They came back with additional information in the process, and seemed to be indicating that they believed they can continue to flesh out their case. And it's quite a burden on the petitioner to do this. I don't know that we are going to see a rash of people that would be this
engaged.

But I do understand what we are kind of setting ourselves up for. In any event, I am going to abstain from this because I feel I don't have enough information from petitioner.

MR. DELGADO: Very well. Jerry, would you like to comment on that?

MR. DAVIS: No, I think the discussion is health, and am willing to let everyone state their case.

MR. DELGADO: Okay, any other questions? Comments? Ready for the question?

MR. DAVIS: I would say one thing.

MR. DELGADO: Yes, Gerry.

MR. DAVIS: I am concerned that considering that this is - the petitioner is Dow Chemical I believe, very large company. I'm shocked that they did not come. So I think that in a way makes a statement that perhaps they are under the impression that it was not going to be voted on and given serious
consideration.

MR. DELGADO: Any other questions, comments? Ben?

MR. GIACOMINI: I think we need to recognize that there - within the motion there is no statement - no vote to withdraw. Even an abstention is just setting yourself aside and calling yourself absent - I mean calling yourself present, and allowing the rest of the vote to go to two thirds. It is still an up or down vote of whether it is listed or rejected. It is not within the motion that we are considering right now to have the option to withdraw, and to not take action at this time. Second time they've done it.

MR. DELGADO: Yes, Valerie.

MS. FRANCES: I would just like for the committee to state for the record whether they thought the additional information provided by the petitioner for this second review of this material was truly new information.
MR. DELGADO: Jerry.

MR. DAVIS: In our opinion, no.

The information they submitted was not new information. We asked them to - well, let me back up just a little bit. This section of the national list pertains to herbicides, and specifically soap-based herbicides. So far at least that is the only classification of synthetic herbicides on the national list. So which is why it has the non-crop usage and ornamental crop only designation on it.

The additional information we asked for was, can you tell us if this is a soap? Can it be classified as a soap? And they never answered that question. They did submit more information, but it was more of the same. It was additional information, label information, various things. But it didn't address the question of, where do we put this? What part of the list does this go on?

And through our own study on what
soaps are, and particularly since we had it in another petitioner, petitioning ammonium nonanoate, it's a soap. That's a soap; that fits within the EPA classification of a soap. But we don't understand why the petitioner for pelargonic acid never said, no, this really isn't a soap, or it is. They just did not answer the question.

MR. DELGADO: Dan, you want to clarify?

MR. GIACOMINI: Just for clarification on what Jerry just said, the listing of soap-based herbicides is a listing - specific listing on the national list, but it's not just a listing on a national list. It is the listing within OFPA of allowable herbicides, allowable synthetic herbicides. So not being a soap is not just a matter of what we already have on the national list; it is significant implications to OFPA.

MR. DELGADO: Kevin followed by Joe.
MR. ENGELBERT: I just want to reiterate to the board the amount of time that has been spent on this. And there are a lot of other materials that we have to deal with in the crop committee, and the time spent on this takes away from that. If the motion continues through and this is defeated, it's not gone forever. It can be re-petitioned at some point. That's why the board has decided to move forward. We've put a lot of time and effort into this. A vote needs to be taken in our opinion, and then if there is new information available at some point in time, it may come back.

But we think this is one of those things that as you were talking about earlier about pulling things off the table, it's time for a full board vote on this item for this material.

MR. DELGADO: Can.

MR. GIACOMINI: But the way this vote is, that will be a precedent setting
action of either listing or denying. That's different than as I talked about on the tabled issues, just moving to lay this petition on the table would essentially kill it and set it aside and we never have to see it again, until a petition is refiled. But that would not have the same precedent-setting status of having been rejected at the board level.

MR. KARREMAN: Sorry for being a little slow, Dan, following you, but could you repeat what you said about how this affect OFPA, or somehow the interaction there, please?

MR. GIACOMINI: Well, the listing in OFPA, the soap-based herbicide is the category listing in OFPA. It's not just that it's a current category on the national list. It's OFPA. And that is the only listing of herbicides I believe for synthetic in OFPA. So the fact that it is not a soap is significant.

MR. DELGADO: Jeff.
MR. KARREMAN: So it's not a soap.

MR. MOYER: Thanks, Dan, that's what I was going to say. This is not a soap; it's an acid. And they could not prove to us that it was a soap, so there is no place to put it. It's not allowed even in OFPA. There is no category to put it under.

MR. DELGADO: Any questions?

Barbara, you wanted to add to the comment?

DR. ROBINSON: The production contains an active synthetic ingredient in one of the following categories and soaps is one of them.

MR. DELGADO: Barbara, can you get closer to a microphone.

DR. ROBINSON: Oh, sorry. Hugh, in order to be put on the national list in crops, the substance is used in production under the law, the substance is used in production and must contain an active synthetic ingredient in one of the following categories, and one of those is soaps.
Well, it is a soap. I mean it would have to be a soap, or it would have to fall in one of the other categories. And that was the question, that was apparently the question the petitioner failed to answer.

MR. DELGADO: Jerry.

MR. DAVIS: It's a problem of nomenclature a little bit. I was handed a document that has on the EPA 40 CFR what is that 180.950 listing of inerts of minimal concern for the ammonium nonanoate. And right next to it they put in parentheses, pelargonic acid. Now I'm totally confused, because they are not identical, but nomenclature wise it seems like there is a little bit of overlap here. I really wouldn't mind asking a question of Brian Baker if you had any comment at all on helping us sort this out?

MR. DELGADO: Brian?

MR. SMILLIE: I just want to double check. You had a TAP on this, right?

MR. DAVIS: Oh, yes.
MR. SMILLIE: And the TAP didn't answer that question?

MR. DAVIS: The TAP did not support it was a soap.

MR. SMILLIE: Oh, so the TAP asserted it was not a soap?

MR. DELGADO: Brian Banker, please, step up to the microphone.

MR. BAKER: Brian Baker, research director, Organic Materials Review Institute. We've looked at this particular active substance. It is OMRI's opinion that soaps are alkali salts of fatty acids, and that the fatty acid component by itself is not a soap. It is OMRI's opinion that pelargonic acid is not a soap.

MR. DELGADO: Thank you. Jerry?

MR. DAVIS: Yes, that repeats our concern at the committee level of venturing into new territory, trying to add a material that does not fit an OFPA category because it is not a true soap-based herbicide. And that
is why we did not want to deal with it and just let it be withdraw. We wouldn't like to see a future board have to go through this all again, because it is quite confusing and not easy to sort out. I thought it was time to deal with it.

MR. DELGADO: Valerie.

MS. FRANCES: In EPA's own document it declared that pelargonic acid is not a soap. They indicate it's a precursor, can be used as a precursor to a soap, and they do indicate that. But clearly the board needs to get clarification from EPA as to why it is on the inert of minimal concern there as a parentheses. Is that something that you feel is essential to the question.

MR. DAVIS: That is brand new information that was just handed to me.

MR. DELGADO: Hugh.

MR. KARREMAN: Thank you for that, but I don't think that is germane to this petition not being a soap to get on OFPA. It
is interesting, but that is not the question right here.


MR. SMILLIE: Call the question.

MR. DELGADO: The question is on the motion to list pelargonic acid for use as a herbicide in farmstead maintenance, roadways, layaways, building permitters and ornamental crops on the national list, Section 205.601(b)(1).

Start the vote with Tina.

MS. ELLOR: No.

MR. DELGADO: Tracy.

MS. MIEDEMA: No.

MR. DELGADO: Joe.

MR. SMILLIE: No.

MR. DELGADO: Barry.

MR. FLAMM: No.

MR. DELGADO: Hugh.

MR. KARREMAN: No.

MR. DELGADO: Kevin.
MR. ENGELBERT: No.

MR. DELGADO: Jennifer.

MS. HALL: No.

MR. DELGADO: Steve.

MR. DeMURI: No.

MR. DELGADO: Julie.

MS. WEISMAN: No.

MR. DELGADO: Dan.

MR. GIACOMINI: No.

MR. DELGADO: Jeff.

MR. SMILLIE: No.

MR. DELGADO: Bea.

MS. JAMES: No.

MR. DELGADO: Jerry.

MR. DAVIS: No.

MR. DELGADO: And the chair votes no.

MR. MOYER: Mr. Chairman, you have 14 noes and zero yeses, and one absent.

MR. DELGADO: The noes have it, and the motion to list pelargonic acid in Section 205.601(e)(1) of the list is lost.
The next item.

MR. DAVIS: The next material is ammonium nonanoate, which does involve a change - excuse me just a moment - which we presented yesterday as a change, so we can proceed. I don't need to go over that again. Just a nomenclature change. It was originally an ammonium salts of fatty acid, which is what showed on the meeting notice. The petitioner asked it be changed to ammonium nonanoate. We did that nomenclature change and also added the CAS number on the recommendation.

This material is a soap-based herbicide. It does fit the classification. And because of that, that is part of our explanation on the recommendation. We put in there that since this material is a soap-based herbicide, the current listing in 205.061(b)(1) as annotated would apply to this material which was part of their request is initially, it was only the potassium salts of fatty acids that were listed prior to this.
And they wanted their ammonium salts of fatty acids considered the same.

Again, we made our presentation yesterday and have not changed our - as a committee changed our stance on this, and would move that the board adopt the recommendation for to add ammonium nonanoate CAS number 63718-65-0 to be allowed as herbicides in organic crop production - excuse me - yes that is the way the petition reads. They want it for all crop production, not just farmstead maintenance.

So the motion is to add ammonium nonanoate to be on the national list as herbicide in organic crop production on the national list 205.601.

MR. DELGADO: Is there a second?

MR. MOYER: I'll second that.

MR. DELGADO: It is moved and seconded to add ammonium nonanoate as a herbicide in organic crop production, CAS number specified by the chair and listed on
Section 205.601(b)(1) of the list.

Discussion? Jeff?

MR. MOYER: Point of clarification.

Jerry, according to what our working committee came to the conclusion, this material can already be used for farmstead maintenance.

MR. DAVIS: Correct.

MR. MOYER: As it is it already is on the list and can be used. What they are petitioning for is to now use it on all crop land.

MR. DAVIS: Yes, to use it within crops.

MR. MOYER: Yes.

MR. DELGADO: Any questions on that clarification? Dan?

MR. GIACOMINI: I understand, Jerry, I understand you are not a regulation writer, but how do you envision that - I mean is understanding how this would be listed, does that matter - Barbara, I guess, I'll ask you the question.
The request is – they are looking at it under (b)(1), and (b)(1) is specifically for homestead. It seems it would have to be in a separate section besides (b)(1) if it was going to get generally used.

DR. ROBINSON: Correct. I mean if you want – what, the petition is to add it, say, to be used as an herbicide.

MR. DAVIS: No restriction.

DR. ROBINSON: So you'd be changing the annotation?

MR. DAVIS: Essentially, yes.

DR. ROBINSON: Yes, and then of course we'd be resetting the clock.

MR. GIACOMINI: Well, but they don't want all herbicide soap based. They are specifically only requesting their substance. And they are specifically – they are not wanting this annotation anyway to the overall group.

DR. ROBINSON: What does the current annotation say?
MR. GIACOMINI: Well, the current annotation is listed under B, which is, as herbicides, weed barriers, as applicable. And then one is herbicide soap based for use on farmstead maintenance, roadway ditches, right of way, closing perimeters, and ornamental crops.

I'm just confused how this - not that it really matters to us - but I'm not clear how this would be listed if it did pass.

MR. DELGADO: Jeff?

MR. MOYER: Well, you bring up a very good point, Dan. I mean as a committee reviewing this material there is no allowance in the material for using soaps on crops.

MR. GIACOMINI: There is an allowance within OFPA though.

MR. MOYER: It's not stated within OFPA. It just says soap-based herbicides allowed. It says, for farmstead maintenance.
And then we look at what the rule is trying to say. We are looking at a system that is based
on a set of production practices, not on products. So there are many other things you can use, and we state those in our evaluation of the petition.

There is no allowance in the rule for -

MR. GIACOMINI: Well, there is a restriction. In OFPA there is no restriction.

MR. MOYER: In the rule there is no allowance.

MR. GIACOMINI: Right, there is no place currently to put it.

DR. ROBINSON: It's being used as an herbicide.

MR. GIACOMINI: Yes, but not within any of those qualifying -

MR. MOYER: But not in crops.

DR. ROBINSON: On ornamental crops.

(Simultaneous speakers.)

MR. DELGADO: Point of order.

MR. DAVIS: In OFPA soap-based herbicides is a potentially exemptable
synthetic material. That's all they say about it. The previous board dealt with one form of a soap-based herbicide previously and added it to the list based on OFPA, with that annotation restricting it to noncrop or no crop use only.

So we don't want to get confused between what OFPA says versus what is in the regulations.

DR. ROBINSON: OFPA - set aside OFPA, that is the authorization. In order to put it on the national list it had to be in the law, okay? That is the criteria. Now under the regulations there is an allowance for soap-based herbicides. The use is for farmstead maintenance and ornamental crops. And these are herbicides. It is to be used as an herbicide. What has the petitioner asked for?

MR. DAVIS: They want to use it - to have that restriction removed.

DR. ROBINSON: Without restriction.
Without restriction. So you are in effect considering a soap-based herbicide without restriction? All right, so that is what you are being asked to vote on.

MR. MOYER: That's a synthetic soap-based herbicide, yes.

DR. ROBINSON: Sure.

MR. MOYER: It's a synthetic herbicide.

DR. ROBINSON: That's what you are voting.

MR. DELGADO: Tracy.

DR. ROBINSON: Now you can do that. You are not being asked to replace something here - whatever - you can just vote on that.

MR. DELGADO: Tracy.

MS. MIEDEMA: It seems like the regulation has laid a contour to OFPA already, and that that clearly guides our way on this petition, that it cannot be used on food, and on organic crop production. It's very clearly contoured to be as Barbara said ornamentals
only.

DR. ROBINSON: And to some extent what you could be saying, the regulation already permits soap-based herbicides to be used on ornamental crops. You are being asked whether or not you want to expand the use of soap-based herbicides. You could - in effect you could say, well, there is already an allowance; we don't need to expand it any further. Or: yes you do want to expand it. That is the question before you.

MR. DELGADO: Hugh.

MS. FRANCES: Although the petitioner did narrow the question to not all soap-based herbicides but just theirs.

MR. DAVIS: That will invite other forms of the soaps and fatty acids to say, okay, us too.

MR. DELGADO: Any other questions or comments? Bob?

MR. POOLER: Bob Pooler, National Organic Program. A couple of points of
clarification here.

MR. DELGADO: Use a microphone.

MR. POOLER: A few points of clarification here. I believe with the annotation that is currently listed in the regulation reflects EPA's restrictions, and that's why that particular annotation was inserted into the regulations.

The question is, the question to you is, did the petitioner get an additional allowance from the EPA, and I don't know if that information is within that petition or not, and the petitioner is not in the room to answer that question.

MR. DELGADO: So just to clarify, the petitioner does not have that allowance from the EPA?

DR. ROBINSON: I don't know that, and that is something I assume that you - that I have not received.

MR. DELGADO: Question from Gerry

MR. DAVIS: I'm unclear on what Bob
was just saying. Are you talking about the mishap with the listing as approved for organic on the product label. Or are you talking about just general crop usage for nonorganic purposes?

MR. POOLER: Well, EPA restricts herbicides, soap-based, for farm use maintenance and for ornamental products. That was the EPA's restrictions on soap-based herbicides.

MR. DAVIS: Historically.

MR. POOLER: Historically.

MR. DAVIS: And you are saying that is what covered the initial board's - that was part of the consideration for why they put that annotation on there?

DR. ROBINSON: Correct; this is EPA's restriction.

MS. ELLOR: I'd like to request Emily Brown Rosen to address the board on the subject.

MR. DELGADO: Emily, if you could
approach a microphone.

MS. ROSEN: Emily Rosen, PCO. The petitioner's label, I don't know, it should be in your packet, it's this product Razor. They do have a label that says for use on crop production. Originally I think in '95, when the board first looked at soaps, there was not a label for crop production. But this one has a label on crop production.

And also the Razor label says that EPA approved it for organic production, even though that was a mistake.

MR. DELGADO: Valerie?

MS. FRANCES: If I may offer or submit a comment by a couple of commenters and attached to regulations.gov comments that you may have reviewed, or EPA did this, and it was brought up because people were concerned about it, not because they were in favor of it, but a concern..

MR. DELGADO: Jerry, any comments?

MR. DAVIS: I think it's very clear
what we face here. Bob did clarify that the
reason for the original annotation which is
new information to me and the committee, I
believe, we did not go over that, the new
information that we are receiving is that that
annotation for noncrop usage only was based on
a previous EPA restriction for all crops,
organic or not, and that is in a period of
time changed to where for conventional crops
there is now a labeled usage of this within
crops, and that's what - probably why we are
being asked to consider the change for
organic. It's up to the board to decide if
they think that is a valid request.

MR. GIACOMINI: Does that affect
the Crop Committee's desire to proceed with
this motion or potentially to withdraw it?

MR. DAVIS: It doesn't prompt - you
either withdraw it - but it does definitely
provides new information that we did not
include within our recommendation, historical
information on where the original annotation
came from.

MR. DELGADO: Do you think there is a need to withdraw the recommendation now and study it further? That's Dan's question.

MR. GIACOMINI: Can I do it differently?

MR. DELGADO: Yes.

MR. GIACOMINI: Mr. Chairman, I move that we postpone the vote on this matter until after the Crops Committee has a chance to review the EPA listing on this issue.

MR. DELGADO: We have a motion pending, so we will have to -

MR. GIACOMINI: The motion pending is a general motion. This is a superseding motion that if it's seconded it would go for a vote.

MR. DELGADO: Okay, do we have a second? The motion is for later discussion. No second? Proceed. Steve, you have a question.

MR. DeMURI: Just because the EPA
changes its position it doesn't change OPFA's position.

MR. DAVIS: The only change that I see that's new is that perhaps, and I don't know this for a fact unless someone in the audience was actually there at the NOLB meeting where this was approved, as annotated. We don't know if the - we don't know if the original board - if it had been allowed for crop usage how they would have voted, whether they would have annotated it that way, or if it's only annotated that way as a result of the EPA restriction, just as a matter of course.

As far as I know what the committee believes about this material, and we really vetted it and went over and over it, it's another material that got considered twice. It's not like we haven't gone over it a lot. The reason question still remains: this new information is interesting. It might color the vote a little bit and change
people's mind, but still the basic question is
the same. Should we allowed general use of
soap-based herbicides within organic crops.

MR. FLAMM: The committee carefully
reviewed this material and I don't think this
information from Bob would change our decision
whatsoever. The impacts, the criteria we went
through, I don't think would change at all.

MR. DAVIS: That's what I just – I
appreciate you backing me up on that. The
rest of the Crops Committee is free to chime
in.

MR. DELGADO: Kevin.

MR. ENGELBERT: I would chime in
also, and it doesn't change my opinion at all.
I'd also like to read a quote from Barbara
Robinson from a year ago, at an NOSB meeting,
when we were considering sodium carbonate or
oxyhydrate, our original crop recommendation
was to not approve that for admission. We
moved during a meeting that could substitute
for copper sulfate in rice production. And we
all know the consequences of the continued of copper sulfate.

And Jeff made a statement that the Crops Committee tends to be prejudiced toward putting synthetics on the national list. And that was just simply our position. And Barbara replied: I really want to applaud the committee for exactly what you did. I understand and the board should be prejudiced against synthetics. That is the nature of - that your charge by law. You are supposed to be prejudiced against putting synthetics on the national list. I hope you are.

We take that to heart.

(Simultaneous speakers.)

MS. MIEDEMA: I'd like to call the question.

MR. DELGADO: Calls the question.

The question is on the motion to list ammonium nonanoate on section 205.601(b)(1) with applications described by the chair of the Crops Committee.
And we'll start taking the vote with none other than Tracy.

MS. MIEDEMA: No.

MR. DELGADO: Joe.

MR. SMILLIE: No.

MR. DELGADO: Barry.

MR. FLAMM: No.

MR. DELGADO: Hugh.

MR. KARREMAN:

MR. DELGADO: Kevin.

MR. ENGELBERT: No.

MR. DELGADO: Jennifer.

MS. HALL: No.

MR. DELGADO: Steve.

MR. DeMURI: No.

MR. DELGADO: Julie.

MS. WEISMAN: No.

MR. DELGADO: Dan.

MR. GIACOMINI: Yes.

MR. DELGADO: Jeff.

MR. MOYER: No.

MR. DELGADO: Bea.
MS. JAMES: No.

MR. DELGADO: Jerry.

MR. DAVIS: No.

MR. DELGADO: Tina.

MS. ELLOR: No.

MR. DELGADO: And the chair votes no.

MR. MOYER: Mr. Chairman, you have 13 noes, one yes, and one absent.

MR. DELGADO: The noes have it, and the motion to list ammonium nonanoate on Section 205.601(b)(1) of the list for uses described by the chair of the Crops Committee is lost.

MR. DAVIS: That concludes our presentation.

MR. DELGADO: That concludes the documents presented by the Crops Committee.

(Simultaneous speakers.)

MR. DELGADO: And that earns us the right for a lunch break. We'll resume at 1:00 o'clock so we can continue on with livestock
followed by handling.

Thank you.

(Whereupon, the above-entitled matter went off the record at 11:41 a.m. and resumed at 1:03 p.m.)

MR. DELGADO: Board members, please take your places. We are about to resume the next portion of our meeting. We seem to be on schedule, very surprised and happy.

Before we proceed I would like to make a special parentheses here to recognize a very special person on our team. On behalf of the organic community, Paula and board members, we'd like to recognize our esteemed executive director, Valerie Francis.

(Applause.)

MR. DELGADO: Let's move on to our next topic. But before that, it is my understanding that the chair of the Materials Committee would like to make a special motion; is that the case?
MR. GIACOMINI: Mr. Chairman, I move to reconsider the vote on the listing of tetracycline.

MR. SMILLIE: Second.

MR. DELGADO: It is moved and seconded to reconsider the vote on tetracycline.

MR. FLAMM: Discussion? Mr. Chairman, would you please explain the reasoning for that?

MR. GIACOMINI: We have new information regarding possible action on this petition that we think is worth considering at this time.

MR. DELGADO: Can we have background about the new information? And I would request the program to address that.

MR. GIACOMINI: Do we want to address that now or do we want to do that at the point in time that that further motion is made, the motion to reconsider?

MR. DELGADO: To reconsider, we'll
do that and then we'll go on to vote that if
the motion passes.

Any questions? Are we ready for
the question on the motion? The question is
on the motion to reconsider tetracycline.

This is the vote that we just
took. Is there any doubt on the part of the
board as to what we are doing?

Okay, and the question is on the
motion to reconsider the vote on tetracycline.

And I'll start the vote with Joe.

MR. SMILLIE: Yes.

MR. DELGADO: Barry.

MR. FLAMM: We're not going to have
an explanation of why we are doing that?

(Simultaneous speakers.)

MR. DELGADO: Once again we are
going through the motion to reconsider
evidence on tetracycline.

Once we have approved the motion,
if it is approved, then we will continue on to
reconsider the motion and do the vote again.
That's where we are.

It is the understanding -

(Simultaneous speakers.)

MR. FLAMM: Abstain.

MR. DELGADO: We'll continue then with Hugh.

MR. KARREMAN: Yes.

MR. DELGADO: Kevin.

MR. ENGELBERT: No.

MR. DELGADO: Jennifer.

MS. HALL: Yes.

MR. DELGADO: Steve.

MR. DeMURI: Yes.

MR. DELGADO: Julie.

MS. WEISMAN: Yes.

MR. DELGADO: Dan.

MR. GIACOMINI: Yes.

MR. DELGADO: Jeff.

MR. MOYER: Yes.

MR. DELGADO: Bea.

MS. JAMES: Abstain.

MR. DELGADO: Jerry
MR. DAVIS: Yes.

MR. DELGADO: Tina.

MS. ELLOR: Yes.

MR. DELGADO: Tracy.

MS. MIEDEMA: Yes.

MR. DELGADO: And the chair votes yes.

MR. MOYER: Okay, Mr. Chairman, we have 11 yeses and one absent and two abstentions.

MR. DELGADO: The yeses have it, and the motion is agreed to.

MR. GIACOMINI: Mr. Chairman.

MR. DELGADO: Let us just confirm that we have the right number here.

The yeses have it, and the motion is agreed to.

And we'll start immediately with a motion, tetracycline if that's the case. Are you going to move that?

MR. GIACOMINI: I move to amend the motion on the listing of tetracycline to read,
to change the annotation - the listing and
annotation of tetracycline to read:
tetracycline for use only in organic crop
production for fire blight control until
October 21st, 2012.

MR. DELGADO: Is there a second?

MS. MIEDEMA: Second.

MR. DELGADO: It is moved and seconded to - and let me make sure that I state this right - remove the annotation and replacing that with, for use - tetracycline for use only for fire blight control until October 21st, 2012, as listed on the national list, Section 205.601(I).

Is that correct?

MR. GIACOMINI: Yes.

MR. DELGADO: But we are replacing that with the annotation that it can be used only until October 21st, 2001. You have it there? Great.

Any other questions. Barry.

MR. FLAMM: Does that mean that all
forms of tetracycline? And that changes the
current list? And how do we do that?

MR. DELGADO: Good question, dan.

MR. GIACOMINI: This motion to
change the annotation does a couple of
different things, how many depends on how you
add them up. The first thing that it does is,
it removes the qualifier of what type of
tetracycline can be used at this time.

The next thing that it does is, it
sets an expiration date for the use of
tetracycline in crop production for fire
blight control.

The implication of that is that it
pulls tetracycline out of the normal sunset
process, and - i.e. think Methionine - it is
now an expiration date for the use of
tetracycline for this use. It is not a sunset
item. And in order for it to continue use
after that date it would have to be re-
petitioned, as we do with methionine, as we
did at the last meeting.
Those are the things that this amendment would accomplish.

MR. FLAMM: But just for the record and for clarification, what we're voting on is all forms of tetracycline that will have the expiration date as listed; therefore, not requiring the normal sunset process.

MR. GIACOMINI: It moves it out of the normal sunset.

MR. FLAMM: Okay, so our vote would be based on those conditions.

MR. GIACOMINI: The first vote is the amendment to change the original motion. If this fails we would then need to revote on the original motion because we are looking to reconsider it. So the first thing is whether we are agreeing to change the original motion. The next vote that will be required is to vote on the new listing motion.

MR. FLAMM: But I think we ought to be what's in the record, what we are intending to do, so that it doesn't get changed down the
road somehow.

MR. DELGADO: Okay, so with the comments of the materials chair, the intent is clear.

Would you like to add another - just as a comment. Kevin?

Can you repeat that, we are having problems hearing you?

MR. ENGELBERT: I'm just concerned about the process that we're going through putting it back on the table after it has already been voted down.

MR. DELGADO: Hugh followed by Judy.

MR. KARREMAN: Let me ask this. If we are opening this back up, can we - I apologize for my scratchy voice today - okay, we put the date whatever it is something 2012, I mean technically right now could we make it 2010?

MR. GIACOMINI: The date - we could make it any date we want. The date chosen is
the expiration date of the current sunset.

MR. KARREMAN: So in other words if this is alive and well right now it may not be shortly. If I were to make an amendment to make it die in 2009. I mean is that possible to do at this time if we are opening this back up? I just wanted to know that.

MR. DELGADO: Bea.

MS. JAMES: I support Hugh's suggestion.

MR. DELGADO: You haven't made an amendment, have you?

MR. KARREMAN: I just wanted to know if it's possible. I did not make an amendment. I just wanted to know if it was possible.

MR. DELGADO: Hugh.

MR. KARREMAN: All right, I will make an amendment. I will move that tetracycline's expiration date be changed from what's showing on the screen, if you could show that please, Valerie, from October 21st,

MR. DELGADO: Dan?

MR. GIACOMINI: I don't oppose it, but I think it's worth a board vote on that, so I'll say no.

MR. DELGADO: Okay. So we have a friendly amendment. Is there a second?

MS. JAMES: I second it.

MR. DELGADO: It has been moved and seconded to amend the motion by striking out the date of 10/21/2012 by December 31st, 2009.

Discussion? Jerry?

MR. DAVIS: I can appreciate the board members who really would like to see this material be off the list. I do not think that is fair to the pear growers to - unless they supposedly should have been, could have been, maybe found some other alternatives by now but they haven't. They are in their infancy in the alternate control measures, and they could really use the extra time to get it done.
MR. DELGADO: The program, followed by Joe.

DR. ROBINSON: Well, now you are going to veer off into some other areas, once you do this. Now you - a couple of things. Number one, if you do this, and you are successful just as a practical matter you are pushing the program on the rulemaking side of things, 2009.

And number two, the original tetracycline was on until 2012, even if we were successful in getting the rule out, first of all we'd have to answer to OGC as to now why we are doing that, and then you are liable to get a lot of push back in public comment for why you are interfering with an existing annotation there. It looks a little arbitrary and capricious on that side. Whereas before you were just taking advantage of an opportunity to do what - to eliminate a synthetic that you don't what on the list.

So - yes.
MR. DELGADO: Joe followed by Hugh.

MR. SMILLIE: I agree with what Gerry and Barbara have got to say. I think that the key, though, that's going too far, it's not being fair. Think about the methionine, that's an example, I think about this case. And we are going to act judiciously. We all agree we want it to go, but I don't think we should use this to push back. We've got 2012 already. We are sticking with 2012. We're just leveling the playing field. But then we get a drop-dead date, which is better than where we were before.

MR. SMILLIE: I agree with that, and if possible, I guess I will withdraw that amendment, if that's parliamentary -- possible, and stick with the date that we have here to allow the growers to hopefully find substitutes for that material prior to the end of 2012.

MR. DELGADO: Do you agree to
withdraw the motion?

MR. KARREMAN: I am withdrawing the motion. If it is possible.

MR. DELGADO: It is possible. You have to have agreement of the second to do so. Any pressure?

MS. JAMES: I feel a lot of pressure, because I don't see what the benefit is of us making this change and reopening it if we -

MR. DELGADO: Tina?

MS. ELLOR: The benefit would be that it would no longer be subject to the normal sunsets, and it would drop off. To me, that's a pretty significant benefit.

MS. JAMES: Well, I guess in my short time in observing sunset, things don't just drop off. And there's no point in not agreeing to go ahead and withdraw it, because if everybody else is saying, let's do it, it'd be a waste of a vote. So I accept that.

MR. DELGADO: It is withdrawn, and
we're going back to the original motion of October 21st of 2012.

MR. KARREMAN: Is that date, correct date, program?

MR. DELGADO: It's been confirmed by the director.

Tracy, you had a question there?

Any other questions on this motion to amend? And I have to clarify that. Your motion was to amend the --

MR. GIACOMINI: The recommendation.

MR. DELGADO: -- the recommendation. So, and I want to make sure I understand, because your motion to amend the recommendation presented by the Crops Committee, once it's amended, we'll have to do --

MR. GIACOMINI: We vote on the new recommendation as amended.

MR. DELGADO: Perfectly stated, and we'll do that.

So ready for the question. The
question is on the amendment - on the motion
to amend by adding the - by adding
tetracycline for fire blight control only on
the national list 205.601(I) until October

And we'll start our vote with
Barry.

MR. FLAMM: Could you please
restate the motion?

MR. DELGADO: We are voting to
consider a motion to amend the recommendation
of the Crops Committee by adding October 21st,
2012, as -

MR. FLAMM: And eliminating the -

MR. DELGADO: - and eliminating
the different forms of tetracycline.

MR. KARREMAN: And eliminating
sunset too.

MR. FLAMM: And all forms of
tetracycline will be subject to this
expiration date?

MR. DELGADO: As it's stated in the
motion, you will have that expiration.

MR. FLAMM: And that expiration date is?


MR. FLAMM: I just want to make sure it's in the record.

MR. DELGADO: Any questions from the rest of the board?

We'll start with the vote. Barry?

MR. FLAMM: I vote yes.

MR. DELGADO: Hugh.

MR. KARREMAN: Yes.

MR. DELGADO: Kevin.

MR. ENGELBERT: Abstain.

MR. DELGADO: Kevin abstain was the last one?

Jennifer.

MS. HALL: Yes.

MR. DELGADO: Steve.

MR. DeMURI: Yes.

MR. DELGADO: Julie.

MS. WEISMAN: Yes.
MR. DELGADO: Dan.

MR. GIACOMINI: Yes.

MR. DELGADO: Jeff.

MR. MOYER:

MR. DELGADO: Bea.

MS. JAMES: Yes.

MR. DELGADO: Jerry.

MR. DAVIS: Yes.

MR. DELGADO: Tina.

MS. ELLOR: Yes.

MR. DELGADO: Tracy.

MS. MIEDEMA: Yes.

MR. DELGADO: Joe.

MR. SMILLIE: Yes.

MR. DELGADO: And the Chair votes yes.

MR. MOYER: Mr. Chairman, we have 13 yeses, one abstention, and one absent.

MR. DELGADO: The motion to amend is agreed to. Now we can go on to a discussion of the recommendation as amended.

(Simultaneous speakers.)
MR. GIACOMINI: We have amended the recommendation. Now we have to vote on the amended recommendation.

MR. DELGADO: It's procedure so, Mr. Chairman would you like to submit the amended motion.

MR. GIACOMINI: It is on the record as - the motion has been made as it is.

MR. DELGADO: Without amending, before we amended it.

MR. GIACOMINI: The motion is in play. The motion is on the table already.

MR. DELGADO: The motion is on the table. So we don't have to present it to the board. Our parliamentarian here is stating that we have it before the board. So we have discussion -- it has been stated. Now the motion is to set - to list tetracycline - adding tetracycline for fire blight control only on the national list 205.601(I) until October 21st, 2012. That's the motion.

Questions?
MR. GIACOMINI: Clarification, is that the proper wording for the program to recognize that as an annotation change, saying, adding rather than - and that it's any kind of a separation.

DR. ROBINSON: We'll just change -- we understand it. It just changes the annotation. We got it.


MR. DAVIS: Why is the 2012 date not attached to the part directly --

MS. FRANCES: It's just formatting.

MR. DAVIS: No, I mean why is it not part of that upper sentence?

MR. GIACOMINI: She just rewrote it under your other vote.

MS. FRANCES: That was an earlier committee vote.

MR. DAVIS: Okay, I get you. It's not going to show in two places when we're done. That's my question.

MS. FRANCES: I mean, obviously
you're going to give me a final version of this.

MR. GIACOMINI: It'll only have one line saying what it is not.

MS. FRANCES: We'll get all this right.

MR. DELGADO: Ready for the question?

The question is on the motion to add tetracycline for fire blight control only on the national list Section 205.601(I) until October 21st, 2012.

And we'll start our vote with Hugh.

MR. KARREMAN: Yes.

MR. DELGADO: Kevin.

MR. ENGELBERT: Abstain.

MR. DELGADO: Jennifer.

MS. HALL: Yes.

MR. DELGADO: Steve.

MR. DeMURI: Yes.

MR. DELGADO: Julie.
MS. WEISMAN: Yes.

MR. DELGADO: Dan.

MR. GIACOMINI: Yes.

MR. DELGADO: Jeff.

MR. MOYER: Yes.

MR. DELGADO: Bea.

MS. JAMES: Yes.

MR. DELGADO: Jerry.

MR. DAVIS: Yes.

MR. DELGADO: Tina.

MS. ELLOR: Yes.

MR. DELGADO: Tracy.

MS. MIEDEMA: Yes.

MR. DELGADO: Joe.

MR. SMILLIE: Yes.

MR. DELGADO: Barry.

MR. FLAMM: Yes.

MR. DELGADO: And the chair votes yes.

MR. MOYER: Mr. Chairman, we have 13 yeses, one abstention, and one absent.

MR. DELGADO: The ayes have it and
the motion is agreed. Right.

Well, that concludes our
discussion and presentation on crops related
materials, and we are free to continue on with
livestock, and Dr. Karreman.

LIVESTOCK COMMITTEE

MR. KARREMAN: Thank you, Mr.
Chairman.

We have - our first action item
we're going to vote on here today will be the
proposed fish feed and related management
issues. It is posted up there on the board,
on the screen. Beside the colors aren't
exactly right.

But anyway, first I'd just like to
say last night the Livestock Committee had a
meeting after we all had convened, or the
audience did. We had another two hour meeting
between 9:00 and 11:00 to discuss aquaculture.
And I just want to say that the livestock
committee is an excellent excellent team. I
mean we all really did well.
And I don't know if this will pass, but it is really a pleasure to work with everybody and the good collegiality and constructive input.

So with that said we did take into account input, written input, up to the time of this meeting, public comment, everything. And the only changes, we made a couple of changes that in our view tighten this up even further. And we can go through them.

They were passed by the committee last evening.

So one thing we did was we changed the kind of minor thing, off, wherever it says aquatic livestock we changed it to be aquatic animals. That was something the AWG wanted, and we thought that was pretty neutral, we did.

And then on to page let's see, the recommendation itself. I'm scrolling down on my computer, I apologize. If you could go to page four, Valerie, the recommendation.
We didn't do too much with it.

Actually on page six we inserted a letter, M, and this had to do with basically testing for environmental contaminants, that unfortunately fish in the ocean and farming, and whatnot, can be exposed to, just as regular livestock I think can as well. But anyway we reinserted what the AWG wanted to have in there. It's not much different from what we had, but it's what the AWG wanted in there, as well as what the Ocean Conservancy wanted in there, so we put that in.

And then letter N we added in so that it is very peculiar that fish meal and fish oil cannot be derived from forage fisheries nor or non-organic aquatic feed products not specifically allowed in this section. Okay? So that was another addition.

Okay, besides little aquatic animal insertions there. Okay, on page eight -- yes, Jennifer.

MS. HALL: My question here is
whether or not we want to strike forage fisheries, because further edits will show that we actually strike their availability totally.

MR. KARREMAN: For clarity's sake, you're saying, right?

MS. HALL: Right.

MR. KARREMAN: Okay, for clarity and technicality, yes.

Okay, so then on page eight, regarding the potential labeling of fish, potentially certified organic fish, from using the step-down fashion that we have - we have shown - we want to propose a label that says, environmentally responsible wild-caught fish. The environmentally responsible is from the Ocean Conservancy, that term. That's George Leonard's group that he's with now.

And then more aquatic animal insertions there.

So on 612(a) essentially we were just tightening it up with aquatic animal
insertions again. And then the exception --

okay, so 612(a) is -- I'll read that.

612 says, non-synthetic substances

prohibited for use in organic aquatic animal

production.

The following non-synthetic

substances may not be used in organic aquatic

animal production: A, fish meal and fish oil

from wild caught fish and other wild aquatic

animals except if produced from

environmentally responsible food grade wild

catch fisheries and fed in the following

step-wise levels, a maximum combined total of

25 percent during one year, one through five,
after this regulation is implemented. A

maximum combined total of 15 percent during

the year six through eight, and a maximum

combined total of 10 percent during the year

nine through 10, and a maximum combined total

of 5 percent during the year 11 and 12.

And the rest stays the same. And

that was from the Ocean Conservancy, so it's
not like 25 percent, 25 percent, but it's all
a combined number.

MS. HALL: Sorry, one more
question. Since we are explicitly saying non-
synthetic substances that are not allowed, do
we want to add the forage fisheries?

MR. KARREMAN: Sure, we can do
that. I mean it is already in there in a
sense but we can explicitly say that.

MS. HALL: I mean that is our
intent?

MR. KARREMAN: That is our intent,
and it should be explicit in there.

Sorry, okay, for 612(b), where it
says, B to Z reserved, Jennifer is suggesting
that we have 612(b) to reiterate that feed
from foraged fisheries is prohibited. From
612 itself the whole heading is non-synthetics
that are prohibited from use. So in a sense
we don't need it, but we can put it in.

MS. HALL: That's up to you. If
you feel it's clear.
MR. GIACOMINI: I don't think we need it there, but if you don't want it in the other place that's fine.

MR. KARREMAN: That's fine with me.

Are there other livestock people? Okay, just for clarity and reinsertion. Okay.

Well, that is the document.

So the motion on the floor then is to accept the proposed organic aquaculture standards for fish feed and related management issues as presented here at this time.

MR. MOYER: I'll second.

MR. DELGADO: Jeff seconds, Hugh moved, and it is moved and seconded.

Discussion?

Steve.

MR. DeMURI: How would the committee define environmentally responsible?

MR. KARREMAN: I think that is mentioned earlier in the document before the recommendation itself in the background. In the discussion section I think.
MR. DELGADO: Jim, I believe what you are looking for is in - Jim.

MR. MOYER: In section 205 and 252 L and M, those discuss that.

MR. KARREMAN: Okay, and therefore, Steve, that document that Jeff is talking about is a net-pen document.

MR. MOYER: It's right here.

MR. KARREMAN: Oh, sorry.

MR. MOYER: If you look at L, it discusses -

MR. KARREMAN: Yes, correct.

MR. DELGADO: Steve, is that clear.

We have Jeff followed by Dan.

MR. MOYER: Yes, just to respond to Steve's question again, I think what we're trying to do is avoid the word sustainable and sustainability, because those words have a lot of baggage. That can mean many things to many people. Environmentally responsible is not completely cool; we understand that. But it certainly looks like a duck and quacks like a
duck and we think we know it when we see it
kind of thing. And it really does address the
word environmental, which is what we were
trying to get at.

MR. DELGADO: Dan.

MR. GIACOMINI: I'd just like to
touch on that other amendment; where did you
put that one? The one that Jennifer changed?
Regarding the restriction - there we go, that
one - it came to our attention as we were
working on this, actually we just sort of
remembered, at the aquaculture symposium one
of the presenters that was a researcher, they
had done work on the 12 and 12, fish meal and
fish oil, research, and almost all his work
unaccounted to that but in addition was a
certain percentage of I believe it was squid
meal. And we just wanted to make sure that
those kind of soft issues were taken care of
and not considered potential loopholes down
the line.

MR. DELGADO: Thank you, Dan.
Any questions?

MS. JAMES: I'm just wondering if the committee could respond to how much public comment there was with the opposition of wild feed? I think I counted 14 witness-submitted comments from the public who all adamantly opposed that. And then we also heard yesterday that there were a lot of petitions that were signed in opposition to that.

MR. KARREMAN: I'll try to answer that. Basically we believe at the Livestock Committee that we are promulgating OFPA, the section that talks about wild seafood. This is the promulgation of that part of the Act, and it is only to be - and we believe we have outlined it well here, bright line around it - that it's only to be considered for the byproducts of edible fish, and it shall never be for, as outlined in our document here, never shall wild caught be considered as primary food for humans. It's only to feed certified - potentially certified organic fish
to help the industry get going.

And there is one thing that is pretty important to consider, and that is, a lot of fish need marine oils in their diet, and even if only vegetarian type raised fish are used in the future to provide -- their byproducts to provide feed for certified organic more piscivorous fish, that they will not be providing essential lipids that those piscivorous fish need. And that's something that I don't think was taken into account by the commenters that were talking about that issue.

MR. DELGADO: Any other questions?

Ken?

MR. GIACOMINI: I think I'd like to continue on with Hugh's statement there regarding the fish oil. If you don't do the test fish oil, they won't have fish oil; they'll have something else. If you give fish corn oil, they pretty much have corn oil. So if we want the organic fish to be fish and
provide the benefits in the human diet that
people are eating then we have to provide that
to them. We did consider that and all the
comments that were made. We reviewed as many
of them as we could, and we certainly can't do
anything other than take the number of
signatures at face value.

But those have been part of the
ongoing discussion from the day we started
this process, and the day each one of us
entered it, that's pretty much the first set
of questions we asked.

And for the most part the
information provided in those arguments at
this meeting did not constitute any new
information that we have not considered in our
own deliberations.

MR. DELGADO: Kevin.

MR. ENGELBERT: I also would like
to expound on this for the whole board. The
day - I believe the day after I was lucky
enough to be appointed to the NOSB, the new
members of the livestock committee received emails from Hugh, telling us, you've got to read through this. This aquaculture issue is huge. It takes a long time to get up to speed. And in the nearly three years that I have been studying this we have never had one presentation from anyone telling us how we can get these marine oils and these lipids into organic production in any other way.

We have bounced off every possible wall and direction that we could think of, and this is the only solution that appears to be viable by the program. And we have tried to take a long term approach to this. We are not trying to deceive the public. If people don't want to buy these certified organic products that have been fed wild fish they don't have to. But in 12 years from the time of implementation there will be certified organic fish on the market that have been fed nothing but certified organic feed.

We couldn't find any other way to
get to that point and improve the conditions
of the aquaculture industry. It seemed to be
our only option. We have never been presented
with another viable one. We are confident in
the work that we have done. We think we have
reached, again, without patting ourselves on
the back, we think we have reached the best
possible conclusion.

MR. DELGADO: Bea.

MS. JAMES: Well, first of all I
respect how much work and time has gone into
this recommendation. I would like to hear
from the committee how to address consumer
perception of organic fish not being fed
organic food. But that I think at the end
point of where this product is going to go is
what we end up having to address, what we end
up trying to communicate to the consumer that
the USDA organic really does mean organic, but
I'm sorry, this is different, and it doesn't
have organic feed.

And I know you need this time
stretch, but there is - you say you weren't
proposed any possible scenarios on the fish
oil, but there is the action of not having
this organic fish. That is another option.

MR. DELGADO: You want to respond
to that? Go ahead, Kevin.

MR. ENGELBERT: I agree. But we
don't know what the program will do. We don't
know for sure that this is a viable option,
but this is the best that we have been able to
come up with. And what the program does with
it after this, after consulting with their
lawyers and everything, that will be the final
determining factor.

MS. JAMES: Well, just to respond
to that really quickly, I would say that the
program relies on us to help bring forward
something that we think is credible in the
eyes of the consumer. And if we are not ready
to be able to do that, that's when we get them
in trouble. So we are putting forward
something to them and asking them to make the
final decision with their lawyers on whether
or not we can really do this as organic.

So -

MR. DELGADO: Jeff, followed by
Dan.

MR. MOYER: Well, I had another
comment, but I will quickly respond to Bea, in
that if you look at 205.301 - I'm sorry, 203,
we did put in there that this material that is
fed in with this system must be labeled as
such so that consumers - at least it's as
transparent as we can make it so that
consumers know they are presumably ingesting
some wild-caught material through the organic
process. So that they are made aware that we
did not want it to be slipping through in some
way that we are somehow being perceived as -
I don't want to say duping, but not being
fully forthright in the labeling.

So we are requiring that this
material be labeled at the point.

MS. JAMES: I want to respond to
that. As a retailer, that is what we - if that passes, that is going to be a very difficult thing to have to confront the natural food stores. There is so much confusion around organic fish in the first place, and how we educate them on the differences between sustainable and organic and non-organic, that that - it's a setup for really pointing the finger at, we are coming forward with saying something is organic when it is truly - I mean livestock doesn't get away with this in a lot of their areas, and I think that we need to be careful about what we are doing with fish when there are other criteria that the consumer expects around what the final product is really -

MR. DELGADO: Dan.

MR. MOYER: Well, the point I wanted to make is, it relates to this feed document, and it's going to relate again to the net-pen document, and that is, that these standards we feel at least at the Livestock
Committee level are extremely difficult for the livestock - for the aquatic animal industry to meet and adhere to. This is not going to be an easy breeze walkthrough that we have created - I don't think - at least we didn't attempt to try to create something. And we're hearing push back from the AWG quite a bit that this is going to be tough if they can even do it. And they think they can, but it's difficult. And I want to be fair to the committee to say we have gone well out of our way to try to find something that they could possibly do but was not by any stretch of the imagination easy. And just to respond to your comment on feed, I do think the consumers are going to decide ultimately if this is a doable system or not.

MR. DELGADO: Dan.

MR. GIACOMINI: A couple of things. Number one, to follow on in the part of the discussion that Kevin had regarding the fish oil, on the fish meal side the alternatives we
were presented with were either cholesterol slaughter byproducts or significant amounts of synthetic amino acids. Neither one of those seemed viable or acceptable to anyone in any part of the industry.

Regarding the label I think I was probably the person on the committee who was the least comfortable with the label, not that I have any problem with what this label says, but what it's not saying. Because if you have any of these fish and you don't feed them fish meal and fish oil, the diet they are getting is not a natural diet. So we are having a label that is making something look - in order to be transparent we are having a label to explain what something is and how the consumer may want to consider that; at the same time we don't have a label that says - what the meaning of the other side is.

So I understand what you're saying, Bea, and it's just one of those things. We are trying to be transparent. We
are trying to be up front. We don't even know if it will fly with legal. But we did the best we could.

MR. DELGADO: Julie.

MS. WEISMAN: Yes, and actually I'm not on the committee, so you asked for an answer from someone on the committee. But I feel because I am not on the committee it helps me take a step back. And when we talk about terrestrial organic agriculture, there are organic products. There is also - we struggle often around the issue of consumer perception. But there is not, for instance, a guarantee that organically farmed products will be pesticide free. We just aren't going to do anything - we are going to do the least amount possible to make a worse problem than exists in conventional agriculture.

And I think consumers, notwithstanding all the comments that we have heard, and there have been many many of them, I do also feel like there are a large group of
consumers who may not be as vociferous, who
would much rather have a choice of these -- or
organically raised fish according to a
standard like this than having to buy
conventional fish.

MR. DELGADO: Jennifer.

MS. HALL: This is not new but just
kind of a rephrasing of it. Because I
completely hear Bea and the consumer end of
it. And so I would start with our original
intent to try and establish a label in lieu of
there not being one and that being confusing,
because there are other products with an
organic label that is not USDA, so trying to
find one that delivers that expectation while
also still being quite rigorous.

So on the feed end where we did
end up is exactly how Dan said, that our
overriding desire is to try and establish as
much of a natural diet as possible, given that
there is no supply to do that effectively
right now, trying to phase that in. And I
will admit, I am the champion of the label
from a consumer perspective of trying to be
transparent in that. So there isn't an
explosion when that gets uncovered, and then
there is like this whole, "Oh my gosh, you
duped us again."

And so giving them the choice up
front, and hopefully that the education piece
being that our number one priority being that
they have a natural diet, and that we are
fighting that in so many other arenas where
organic is trying to bring animals back to
that, and that this is a new regulation
overall. So we saw an opportunity to make it
fairly strong, and over time get better at it.

MR. DELGADO: Bea.

MS. JAMES: Okay, going back to
Dan, I guess I respectfully agree to disagree
around the recommendation. And that I think
I -- maybe my position is truly representing
a lot of what we heard from consumers, and
that saying that the best we can do is not a
standard for organics. That organic standards
are organic standards and if we can't meet
those then we shouldn't put forward a
recommendation saying, here is an organic
standard, because then it is truly not.

In response to Julie, saying that
consumers want this instead of nothing at all,
our consumers want organic, and if we don't
provide them with what we know is true to be
organic according to regulations, then to
Jennifer's point, there will be an explosion -
- I think we got a little piece of that here
at this meeting.

So I'm just raising a red flag. I
think that the recommendation has a lot of
really excellent components to it, but maybe
perhaps it's not for all kinds of fish, and
that we really need to look at managing a
recommendation that, no matter how long it
takes, that will truly provide in the end an
organic product labeled as organic that's
organic.
MR. DELGADO: Dan followed by Joe.

MR. GIACOMINI: One of the things that we did a number of years ago when we first started looking at fish oil, and I think it's relevant to any explosions and other things that can happen, was "That's the response from the rest of the industry, and how you feel about this." And frankly, in all this time we really haven't heard any. So I think that is a significant aspect.

The other part of what organic is organic and all these things, I mean even the things that we have dealt with in the last two meetings, we don't have labels on everything, on any parts of the industry that have been allowed to use tetracycline, which is an antibiotic, which is probably -- while there is the big three in the rule, there's also probably the big three for the consumer, and that is one of theirs.

We don't have a label in any part
of the poultry industry that they are adding synthetic methionine.

I think you know I think some of that is real and some of that becomes created.

MS. JAMES: Are you suggesting that that is what we need?

MR. SMILLIE: Tell me if I'm mistaking what you said. The regulations were created by the NOP out of OFPA with our input. In OFPA there exists from what I understand grounds to create an organic aquaculture regulation. When the NOP with NOSB advice created the current regulation, they for whatever reasons didn't choose to make the aquaculture regulation.

Now it's come up. They are asking for our advice to go back to OFPA and create an organic regulation for aquaculture.

So to say that this recommendation doesn't meet the regulation, that would be correct, because the regulation didn't include aquaculture. But this regulation goes back to
OFPA and with our advice gives the program something so that they can create an organic aquaculture regulation.

MS. JAMES: Well, I get that, but we're talking about the standard itself.

MS. MIEDEMA: What I really like about in this recommendation and also the net-pen recommendation is that it does bring us to a crossroads finally. And it's a vastly improved version of aquaculture for both the feed and for the net-pen situation. And if what we can do is tremendously raise the bar, we've seen this in terrestrial agriculture, where the conventional folks really take a page from our book.

And we have the opportunity to tremendously raise the bar. And to know, it's not perfect. Just like aspects of terrestrial organic farming are not perfect. We drive tractors full of diesel, etcetera. And that's real life; that's real food production. But at least we now have the opportunity at this
crossroads to build a vastly improved, yet
imperfect, version of aquaculture or decide
not to have organic aquaculture. We can
decide that today too.

If we don't think we want to go
with something that is less than perfect then
we can say no today. But it seems like we
have actually arrived here, and we can move
this forward.

MR. KARREMAN: I guess Bea, in
response, to being right out of the retail on
the floor there, 2107(c), wild seafood, in the
Organic Food Production Act, in general,
notwithstanding the requirement of Section
2107(a)(1)(a) requiring products be produced
only on certified organic farms, the Secretary
shall allow through regulations promulgated
after public notice and opportunity for
comment wild seafood to be certified for label
as organic.

Wait wait, let me just add on,
sorry. And we are limiting that to not only
the byproduct of human grade fish, we are recycling it. And we think that is environmentally responsible. We feel that this, what I've just stated from OFPA fits, and we are doing exactly what the NLSB is supposed to do on anything regarding OFPA.

I don't understand. I guess I just see the cup half full, not half empty.

DR. ROBINSON: As I said to you earlier today on the multi-site recommendation, let me just say one more time, and particularly in this case, you know, we asked you to develop or to propose standards, which you appear to be close to doing.

You can continue to work on these; that's true. You can also give it to the program, and we may - yes, there is controversy with this; that's clear and that is evident. If you are not satisfied with your work at this point you can pull it back. You can also give it to the program. We can proceed for example with an ANPR, and an
advanced notice of proposed rulemaking.

You know we aren't going to rush
out the door with this thing in a week. You
know us. We obviously move at glacial speed
and sometimes not that fast.

An ANPR, asking the industry,
asking consumers, should we proceed with
rulemaking, should we not, you have given us
grist for the mill.

Again, I guess what I'm saying is,
maybe you should set aside the issue of should
we or should we not; that is the program's --
actually that is our responsibility. That's
the question we then go out and ask on
everyone's behalf, should we open up this
rule.

You provided suggestions. The
question is not done by a long shot.

MR. GIACOMINI: Okay, I wanted to
respond to something Joe said and clarify what
Hugh just read.

First of all fish were not
included in OFPA 90; fish were included in a later amendment. In the later amendment fish used for food were added as a part of the livestock definition in OFPA, okay.

Then, from what Hugh read, the promulgation of the consideration of wild seafood to be considered as organic. We need to be clear what we are doing here. That is not what we are doing. What we are allowing as feed for organically raised fish is the trimmings from environmentally sourced wild caught fish within the same category that wild caught fish have been considered from the inception of the rule, and that is, as a non-agricultural. We are listing it in the section of 612, which is the same as 602 and 604, the restriction of non-ag. What we are doing is initially allowing a significant part of the diet, granted, to come from this source with a step down to the point that is actually probably more restrictive than it would be if we had just left it out.
Is that -- do you understand what we are saying? We are allowing 25, but we are actually getting to the point where it may be zero, even though it stays, never becoming certified organic wild caught. We are never saying that. We are saying that this wild caught from this group of fish is non-ag, and it only that small part of it is allowed as feed.

MR. DELGADO: Jennifer followed by Hugh.

MS. HALL: Small correction on what Ann just said, and that is where we are allowing it is as a nonsynthetic, not as a non-ag.

MS. JAMES: I wanted to respond to Barbara's comments, because yes, I totally and fully trust when our recommendations go into the hands of the program that they are meticulously gone through so that a final recommendation is put forward that represents what the industry wants.
I do feel somewhat protective about how recommendations from us are given to you because I think we are seen as giving you the beginning starting point of that deliberation. And if we are telling you that here is a proposal for you to create an organic product that's not fed organic feed, that in essence we are telling you that that's acceptable. And I'm just - I know I'm in a minority here, but I'm just saying that for me, from a consumer standpoint, that that would be unacceptable. And I think that's what we saw in comments from consumers as well.

MR. DELGADO: Any other questions?

MR. MOYER: I just wanted to follow up on what Tracy is saying in that even if we vote this down, farm-raised fish are going to take place. Consumers say they want that product; they are buying it today. This standard that we are proposing here on both the feed and the net-pens sets the bar
extremely high, and I agree with Tracy, what it will do hopefully is drive the conventional market in this direction, because they are going to see how high this standard is. And if there is a preference shown in the marketplace for this product, they will have to begin to move in this direction.

And I think if our goal is to - part of our goal is to improve the environment this certainly goes a long way toward doing that.

It's like if we vote this down there will be no fish being fed. They will be fed, and they will be fed in net pens. So this raises the bar very high.

MR. DELGADO: Any other comments, questions? Are we ready for the question?

The question is on the motion to approve the document titled, "Proposed Organic Aquaculture Standards, Fish Feed and Related Management Issues."

MS. FRANCES: Question - I'm sorry
to interrupt.

MR. DELGADO: Yes.

MS. FRANCES: I went through, and you had not corrected every aspect of this document in regards to the use of the term, environmentally responsible food-grade wild-caught fish, in all the little label cases in the 301, and I went through with that - I don't want to interrupt as I'm doing this - I just wanted to clarify that I did that.

MR. MOYER: It was late at night.

MS. FRANCES: I understand.

MR. DELGADO: And it was the intent of the committee.

MS. FRANCES: Yes, sorry.

MR. DELGADO: Thank you for that.

Going back to putting the motion is to approve the document titled, "Proposed Organic Aquaculture Standards, Fish Feed and Related Management Issues" as described by the chair of the Livestock Committee.

And we'll start our vote with
Kevin.

MR. ENGELBERT: Yes.

MR. DELGADO: Jennifer.

MS. HALL: Yes.

MR. DELGADO: Steve.

MR. DeMURI: Yes.

MR. DELGADO: Julie.

MS. WEISMAN: Yes.

MR. DELGADO: Dan.

MR. GIACOMINI: Yes.

MR. DELGADO: Jeff.

MR. MOYER: Yes.

MR. DELGADO: Bea.

MS. JAMES: No.

MR. DELGADO: Jerry.

MR. DAVIS: Yes.

MR. DELGADO: Tina.

MS. ELLOR: Yes.

MR. DELGADO: Tracy.

MS. MIEDEMA: Yes.

MR. DELGADO: Joe.

MR. SMILLIE: Yes.
MR. DELGADO: Barry.

MR. FLAMM: Yes.

MR. DELGADO: And the chair votes yes.

MR. KARREMAN: This chair votes not at all though.

MR. DELGADO: Yes, Hugh.

MR. MOYER: Mr. Chairman, we have 13 yeses, one no, and one absent.

MR. DELGADO: Then the motion is agreed.

MR. KARREMAN: Thank you, Mr. Chair. The next topic is the other document for dealing with aquaculture today, "Proposed Organic Aquaculture Standards for Net-Pens and Related Management Issues."

Once again this was worked on a little bit last night. We don't believe there is substantive changes; more just kind of tightening of things, raising the bar higher. Again, really good input from Carrie Brownstein, George Leonard at the Ocean
Conservancy, public comment, and the AWG, taking that into account, areas highlighted in blue are what we added since we talked about this at the discussion yesterday.

The first one, Valerie, is on page five of 10, I believe, under the section 253(c), the producer of organic aquaculture products must not -- (7) whether or not diseased fish are treated they may not be sold as organic. Does that need some syntax changes? But the idea is that you just cannot sell diseased fish as organic, whether or not they are treated.

The next addition we put in to clarify things for the act is under point two 54 aquaculture living conditions, the first sentence saying, a comprehensive integrated predatory management plan which employs non-lethal deterrence as the first course of action shall be developed and implemented as part of the organic system plan.

And we added under there on (b)(3)
we added - okay I'll read three altogether:
lethal measures may be taken only when
predators threaten human safety or are
necessary for predator welfare, and must
include appropriate documentation. Lethal
measures must be in compliance with local laws
and the laws of the United States.

And this is what we added last
evening: there is an absolute prohibition on
predator mortality if the species is listed
nationally or globally as vulnerable,
endangered or critically endangered, i.e.
present on the IUCN red list.

Yes, Valerie?

MS. FRANCES: What does IUCN -

MR. FLAMM: International Union for
Conservation of Nature.

MR. DELGADO: Barry, could you
repeat that?

MR. FLAMM: It stands for
Actually the name is a little -- the official
name now is longer, but anybody would know --

conservation of nature.

MR. KARREMAN: And number four

right below that, the next number is four, we

added number four. This would be underwater

acoustic deterrent devices of any kind shall

not be permitted. I guess I'll have to watch

where they site pens or whatever with the

navy.

The document is for net pens,

okay, so everybody should keep that in mind;

it's not for ponds or containment tanks.

The next part we added to clarify

something was at 255(g)(1), little "I", Becky

Goldberg mentioned this. We made a

performance target of recycling, a minimum of

50 percent of all nutrients which we did hear

from public comment is possible but very
difficult but possible. And we added in

nitrogen and phosphorous.

MR. GIACOMINI: We should delete

the "all."
MR. KARREMAN: Say what?

MR. GIACOMINI: We should delete the "all" for quantifying as nutrients such as nitrogen, phosphorus.

MR. KARREMAN: Okay, yes. So let's delete "all" in front of nutrients and put nitrogen and phosphorous. Should we just have 50 percent of nitrogen and phosphorous.

Going down to K(2), this is where it gets more specific on open water net-pens. And this number two here, just so people know, is that this is so that conventional industry right now uses a lot of Atlantic salmon in the Pacific. This here number two will prohibit that. It would have to be Pacific salmon in the Pacific only, okay? So just want to -- go ahead.

MR. GIACOMINI: Pacific salmon in the Pacific that have not been significantly bred out of captivity.

MR. KARREMAN: So let me read it then. That's why we put this in here, so
we're not getting what's happening in the conventional industry at all.

Number two, only native fish of local genotype shall be cultured. Non-native species or native species with significant genetic divergence compared to wild stock, i.e. due to selective breeding or other processes, may not be certified as organic if produced in net-pens. Operations with escapes greater than 0.5 percent of cultured stock within each containment device over the course of the growing season shall have their organic status revoked.

That's pretty clear I think. All right?

The next section -

MR. DELGADO: Question from the program.

MR. MATTHEWS: If we could go back up to what you were just doing.

MR. KARREMAN: You don't like that "revoked."
MR. MATTHEWS: No, no, operations with escapes greater than a half a percent of cultured stock within each containment device - I could read that to mean 5 percent each. Are you saying that - half a percent of each. Just clarify for me, if they've got 10 containment devices, what would trigger the revocation.

MR. DELGADO: Hugh?

MR. KARREMAN: I know the intent there. I mean maybe revocation is too strong a word for what we are creating here. But go ahead.

MR. MOYER: I think what we've done is, we have got the wrong word in there. Instead of saying, within each, it should say, within any. If it said within any containment device, then it's the individual containment device that we are concerned with. So you can't have one containment device that's leaking, and seven others are all good. I see what you are getting at. Each should be any.
MR. KARREMAN: All right, so let's tighten that up. The next area would be --

MR. MOYER: Hugh, while you are still back on that other spot, we should mention that there was concern and discussion among the group talking about the native fish and genotype rule, because it pertains specifically to some other fish that could be raised in net pens. Net pens aren't only in the salmon. I mean there are other fish in other bodies of water. They could be in bays, they could be in lakes, they could be in rivers, could be in other areas. I think there was concern about that, and maybe we want to discuss that further.

I mean the idea of not being able to raise tilapia anywhere but Egypt or wherever they came from is a little disconcerting.

MR. KARREMAN: It is, but then the tilapia people can come back and ask for what they need.
MR. MOYER: Well that was our discussion yesterday that who's going to come back? You have heard me saying that it's certainly possible that those could still come back to us and say, "Okay, there is no room for us in here." I suppose that could be done. But that discussion did take place at length.

MR. DELGADO: Okay, that's a good clarification. Can we continue with a description?

MR. KARREMAN: Okay, (7)(i): If a species of aquatic plants and animals are used, they must be native species or local genotypes, and that has to do with the recycling of nutrients.

Number (8), farm level effluents and the potential influence of other aquatic farms must be shown not to exceed the natural assimilative capacity of the surrounding ecosystem.

Number (9), in all cases benthic
habitats surrounding net-pens, not just below net pens, surrounding them - must be shown to have significant measurable changes in chemistry and biodiversity. To not have -- I apologize. To not have.

And I do believe that would complete the document and the changes we made last night. Yes.

MR. DELGADO: So would you like to make a motion?

MR. KARREMAN: Yes, I move that the "Proposed Organic Aquaculture Standard for Net-Pens and Related Management Issues" be -- I move that we vote on that.

MR. DELGADO: Is there a second?

MR. MOYER: I'll second it.

MR. DELGADO: There's a second to approve this document entitled "Proposed Organic Aquaculture Standards for Net-Pens and Related Management Issues."


MR. FLAMM: From my standpoint, and
from an ecological, biodiversity conservation standpoint, this is the most important decision that we're facing at this meeting. And I recognize there has been a tremendous amount of work done on this, but I have a great reservation about net-pens themselves in terms of the risk involved, the biological risk. I have particular concerns with net-pens in marine environments, but most concerned with the consequences to the salmon fisheries.

And I'm just wondering what consideration the committee most recently made of perhaps this initial go-round of restricting or limiting at least net-pens to certain species in certain areas where the environmental risks are less.

MR. DELGADO: Jeff.

MR. MOYER: Yes, Barry, I think the committee was extremely sensitive to that discussion, and we've been working on it as you know for years. If you look at Section
205.255(k), we do specifically try at least to
discuss the location of these net-pens, making
it we felt an extremely high bar for anyone to
come into an organic operation of this type to
adhere to.

We also are aware of course that
we have no control over the conventional net-
pen industry, and those are existing or
growing without this type of high bar standard
that again we are putting in front of the
board.

Our goal would be that down the
road those conventional net-pens would have to
begin to adhere to this standard if they
intend to sell fish into the market.

So if you read that, we are very
sensitive to that, and did try to take the
environment and the location of those pens
into consideration. It's going to be
difficult to locate them and satisfy this
rule.

MR. DELGADO: Dan.
MR. GIACOMINI: Yes, just to be a little more specific, Barry, under that item, (k), number one, affects where we could put the net-pens, specifically out of the migratory routes. I believe it's the new number two specifies what they can put in the net-pens, native species not bred to be significantly different than the native populations.

Then we have the recycling issues. We did the disease issues, the anti-fouling, we've done -- we could not come up with a reasonable way that we felt we could justify to say, okay, everything but salmon. So we worked extensively to make it as -- if salmon can do it within these regulations these come as close to satisfying all the arguments -- most of the arguments that we heard that we could conceive.

MR. DELGADO: Jennifer.

MS. HALL: I would like to echo some of Jeff's comments, and actually as the
squeaky wheel on the committee, really, I'm grateful for the sensitivity that has been shown in this document, and it's ever-increasing strength, and I'm glad that there are portions of the aquaculture industry with what has been passed so far that can get into action.

That said, I still really wrestle with the difficulty between deciding between tighter control of inputs and outputs that are a component of closed containment systems, versus a desire for aquatic animals to have their most natural environment, and the ever-increasing demand for seafood overall, versus protecting the environment.

And despite the strong controls that are in place in this recommendation, at the end of the day there still is waste added, and more aquatic species considered predators that could be potentially killed as a result of the presence of net-pens.

And I am not comfortable at this
point with that being considered certified organic net-pens, and I would prefer to start a little bit slower and allow the whole industry time to begin the certifier and producer community to gain some experience and perhaps add a member to the board who brings some expertise to the area.

And while I do believe the recommendation improves conditions from present reality, and I know that is not going to stop, I cannot in good conscience incentivize more of it by putting a seal of organic on it.

MR. DELGADO: Any other comments or questions?

Bea?

MS. JAMES: Well, I have a question for Hugh, because he is the champion behind committee standards, what your position would be for net-pens for fish? I mean do you see that as a place where they would be exercising their natural behavior?
MR. KARREMAN: Well, I think more than in containment tanks. And that's already allowed. But I actually was thinking earlier in discussions, I think a year or more now, stocking density for the net-pens. And yet we were -- we've learned from the people in the industry that apparently very very light stocking densities are not -- I forget the reason - good for the health of the fish. I forget what it was, to be honest, Bea.

Schooling behavior, okay, yes. So I kind of said, "Okay, fine." And I'll be honest, I've kind of been on the fence with the net-pens, but the way this document is written now, especially with what we put in last night, like Dan was saying, we can't really say -- maybe we could say, no salmon, but this is pretty tight. And like you can't site pens in a migratory route; that cuts out that whole Broughton Archipelago that we talked about so much in the symposium. There will not be certified organic net-pen salmon
or any net-pens probably in that area, from this, from what we put in.

So you know, and then like Jennifer was saying, I have to kind of balance out the wild caught, everyone -- there is a growing demand for fish in the world. What are we going to do, just overfish the wild caught out there? And then the other end of the spectrum is, you know, the conventional net-pens which don't look too good.

And so I do believe this strikes a balance in the favor of the environment, and as far as -- back to what you were saying, I apologize, the humane treatment of the fish, net-pens -- I've used this before in public comment with someone -- it does help you manage those fish better than just wild caught. It's a perimeter that you say, okay, that's that unit, we can really manage them and watch them and check for them, pull fish out and look at how they are doing. So I think it really does help with the health of
the animals. Stocking density I was in favor of, but I don't know, it's not good for the schooling behavior, I guess.

MR. DELGADO: Jeff.

MR. MOYER: Well, just to address that, if you look at 205.254(a)(2) three little i's, we do address stocking densities right there. We talk about under the living conditions appropriate population or biomass densities as recommended by species. So each species would have individual stocking densities that fit within their own cultural - - natural cultural behavior that promotes the behaviors of limited aggressiveness, dominant behavior, you can read it for yourself.

But we do address that in there by each species. And further up in that document, in 205.254(a), just "a" in general we talked about the living conditions in the organic system pen, how that has to work into accommodating the health and natural behavior of fish. In two we talk about the need for
exercise, their normal swimming behavior.

So I think we have tried our best
to accommodate all of those natural living
conditions.

MR. KARREMAN: But as far as you
know 254(a)(2)iii, the -- maybe we could
insert something at this point that the least
possible stocking density should be done. I
don't know.

MR. KARREMAN: Yes, I like
appropriate.

MR. DELGADO: Kevin.

MR. ENGELBERT: I am personally
convinced that with this document we are not
creating net pen capos. We are not creating
concentrated animal feeding operations through
these net pens. It will not be allowed.

MR. DELGADO: Bea.

MS. JAMES: Would you consider not
pushing this recommendation, this part of the
recommendation forward for further work?

MR. KARREMAN: To be honest, Bea, I
want to have a vote on this document. If it passes, it does; if it doesn't, it doesn't. We have worked on this for eight years with Agriculture as the NOSB. This I really don't think -- you could give us the next 20 years, Bea, and go around and around in the room with everybody and everything, but we really thought about this a lot of different ways, and there is -- the short answer is no.

MR. DELGADO: Dan.

MR. GIACOMINI: I think the no A is that we did talk about this, the option to not take this to a vote is putting it on a shelf for probably at least two years. With the make up of the livestock committee right now really feels that they have done -- we've done what we can on it, and we don't see a lot of progress being made to continue working on it. In consideration for the manpower that it takes to work on this project and the other issues regarding livestock that are not being dealt with.
And I think that until there would be a fairly significant turnover of members on the livestock committee, I am not sure it would be worth the time as compared to other issues to just turn it over again and try to come back next time.

MR. DELGADO: Barry.

MR. FLAMM: I agree with what Dan and Hugh said about the vote. I think there's been a tremendous amount of work, and I appreciate the efforts last night to try to make this more environmentally sensitive.

I think the vote comes down to how much risk the committee wants to take. Because there are in this system environmental, ecological and risk to biodiversity.

And I wish that we were only talking about starting a net-pen industry. Of course it's already there, and this proposal no doubt vastly improves what is going on. So I'm torn with the fact that maybe this -- I
mean this will make -- the organic part would make things better and less environmentally impact -- so that is very compelling.

On the other hand from an organic standpoint, the high bar that we have on all things organic, this in my opinion doesn't meet that, and frankly I don't think especially for -- I never can pronounce anadromous. What is it? It sounds like I'm talking about love rather than fish that go upstream to spawn. But in any case, salmon and steelhead and those kind of fish, I don't know if they would ever fit this.

I'm a great supporter of aquaculture, and for certain systems, I've been around it in tilapia and carp and all these things, and they are really an important protein source. But this net-pens in marines and open waters really bothers me, and I don't know if I could -- no matter how long you worked on it I don't know if I could in due conscience ever vote for it.
But I'm torn, because I know this is going to do a better job than maybe, as Tracy said, it will pull the other system along. But I guess I have to stay with the high bar, and if we can't do what we think is right for organic, then it shouldn't be labeled organic.

MR. DELGADO: Tracy.

MS. MIEDEMA: Mr. Chair, I'd like to call for the question.

MR. DELGADO: I was hoping you would.

MS. MIEDEMA: But I realize there are other colleagues of mine in line.

MR. DELGADO: Dan.

MS. FRANCES: I have a question I would like to ask the livestock committee. In your preparation, up until the creation of this document before posting it, you were considering language on the genotype and origin of aquatic animals in fact going back to the hatchlings, and that you did not want
to do this part just yet because there was so
much more to consider.

And I just wonder if you really
are ready to do this one little section, K(2).

MR. GIACOMINI: We discussed that.

We did have an overall consideration for the
origin of livestock for all of aquaculture
that we were considering up that point which
we pulled out. This is a specific aspect
relative to net-pens. This is not an overall
origin of livestock, origin of aquaculture
animals. It's just specific, so it is in
addition to what we currently have, which is
from some metamorphic stage. This is not
changing that aspect. It's merely saying what
the genetic background of the animals that go
into the net-pens is going to be, and we did
not feel that that was out of bounds in
dealing with specifically the net-pen issue.

Regarding, Barry, I go through
many of the same things that you - concerns
that you have with this, Barry, and I hear all
of the public comment regarding organic principles, and we can make a list of 1,000 organic principles, but for me it comes down to one thing, and that is, the overall sometimes gradual sometimes quick improvement of the way things are now.

And if organic farming can make those improvements from over conventional farming and conventional agriculture and conventional aquaculture, I am very comfortable with even small progress that is being made.

MR. DELGADO: Hugh.

MR. KARREMAN: I guess I would ask you, Barry, and Bea and Jennifer, is it the net-pens themselves - I kind of know your answer, Jennifer, from us talking - but is it the net-pens themselves, or is it the salmon net-pens which we have heard loud, loud and clear. Because if it's the salmon net-pens we can make a deal happen, but if it's net-pens in general that is a philosophical change that
we just won't be able to bridge I think.

    MR. FLAMM: Hugh, as I said before,
I do have a problem generally with net-pens,
but I think those are -- many of those are --
can be dealt with. I don't believe in the
salmon pen they can be dealt with. So I will
separate the two. Am I making myself clear,
that if salmon was adequately addressed or
eliminated I would have much less trouble with
the net-pens.

    MS. HALL: For me it is definitely
net-pens overall, and their environmental
impact on the fragility of the marine system.

    MR. DELGADO: Bea.

    MS. JAMES: I would second that.

    MR. DELGADO: So in conclusion, in
answer to your question, we do have two who
would vote on concern about the concept of
net-pens and a third who would assent.

    MR. FLAMM: Well, I do have
concerns about net-pens. I'm saying that that
would have to be addressed on an individual
species, and practices might deal with those.  
But I can't see it being dealt with at all in salmon fish.

MR. DELGADO: Is that a call to any action, or can we proceed with voting.

MR. KARREMAN: No, that can go to vote.

MR. DELGADO: The question is on the motion to accept the document entitled, "Proposed Organic Aquaculture Standards, Net-pens and Related Management Issues as described by the chair of the Livestock Committee."

We will start the vote with Jennifer.

MS. HALL: No.

MR. DELGADO: Steve.

MR. DeMURI: Yes.

MR. DELGADO: Julie.

MS. WEISMAN: Yes.

MR. DELGADO: Dan.

MR. GIACOMINI: Yes.
MR. DELGADO: Jeff.
MR. MOYER: Yes.
MR. DELGADO: Bea.
MS. JAMES: No.
MR. DELGADO: Jerry.
MR. DAVIS: Yes.
MR. DELGADO: Tina.
MS. ELLOR: Yes.
MR. DELGADO: Tracy.
MR. DELGADO: Yes.
MR. DELGADO: Joe.
MR. SMILLIE: Yes.
MR. DELGADO: Barry.
MR. FLAMM: No.
MR. DELGADO: Barry.
MR. FLAMM: No.
MR. DELGADO: Hugh.
MR. KARREMAN: Yes.
MR. DELGADO: Kevin.
MR. ENGELBERT: No.
MR. DELGADO: And the chair votes yes.
MR. MOYER: We have four noes, 10 yeses, and one absent.

MR. DELGADO: The yeses have it, and the motion is agreed to.

And does that conclude, Mr. Chairman, with your topics?

MR. KARREMAN: Yes, thank you.

MR. DELGADO: Okay, we are somewhat behind schedule, and we are going to move right on to the Handling Committee with Ms. Weisman.

Julie, do you need extra time?

MS. WEISMAN: Let's take a break now, but it doesn't need to be 15 whole minutes.

MR. DELGADO: Okay, let's break for 10 minutes, 10 real minutes.

(Whereupon, the above-entitled matter went off the record at 2:45 p.m. and resumed at 3:03 p.m.)

HANDLING COMMITTEE

MR. DELGADO: Okay we are about to
1 start with our next topic, which is the
2 handling. Members of the body, please be
3 quiet.
4
5 We need to continue with our
6 agenda, conscious of the fact that we are
7 behind schedule.
8
9 And Ms. Weisman, if you will be so
10 kind as to proceed with the topics of the
11 Handling Committee.
12
13 MS. WEISMAN: We have some
14 materials that we have recommendations on.
15 Everyone heard discussions yesterday, and I'm
16 going to start with materials petitioned for
17 Section 205.605(b), non-agricultural materials
18 that are synthetic, the first of which is
19 calcium from seaweed.
20
21 And it was in brief the Handling
22 committee's recommendation is that calcium
23 seaweed derived, as petitioned, does not need
24 to be considered for addition to the national
25 list since the use of this material is
26 currently allowed through the existing listing
of nutrient minerals on the national list.

Also on 205.605(b) this recommendation passed at committee, five yes, zero no, there was one absent, and we heard from the petitioner yesterday that the petitioner even agrees, is satisfied with this recommendation.

I do also want to mention that one of the concerns raised by my fellow board member was not wanting to set a precedent for the interchangeability of synthetic and non-synthetics, and we were assured that it is only because of an FDA rule applying to this category, nutrients and minerals, that this what appears to us to be a non-synthetic is covered under a category listed on synthetic lists. So it would not apply to all of 605 to address that concern.

So therefore, until -- I never get these procedures right, but I always know Dan or Rigo is going to get me right.

Are we ready for a motion?
MR. DELGADO: Yes, we are.

MS. WEISMAN: I move that we accept the recommendation.

MR. DELGADO: Which is?

MS. WEISMAN: That calcium seaweed-derived does not need to be considered for addition to the national list, since it is use is already covered through existing listing.

MR. DELGADO: That is moved.

MR. MOYER: I'll second.

MR. DELGADO: It's moved and seconded to agree that calcium seaweed derived in this petition does not need to be considered for addition to the national list in Section 205.605(b).

That is what we are voting on. To support the statement that we do not need to list it, correct?

Discussion? Any questions? Are we ready for the question?

The question is on the motion to recommend that calcium seaweed derived as
petitioned does not need to be considered for addition to the national list in Section 205.605(b), and we'll start with Steve.

MR. DeMURI: Yes.

MR. DELGADO: Julie.

MS. WEISMAN: Yes.

MR. DELGADO: Dan.

MR. GIACOMINI: Yes.

MR. DELGADO: Yes.

MR. MOYER: Yes.

MR. DELGADO: Bea.

MS. JAMES: Yes.

MR. DELGADO: Jerry.

MR. DAVIS: Yes.

MR. DELGADO: Tina.

MS. ELLOR: Yes.

MR. DELGADO: Tracy.

MS. MIEDEMA: Yes.

MR. DELGADO: Joe.

MR. SMILLIE: Yes.

MR. DELGADO: Barry.

MR. FLAMM: Yes.
MR. DELGADO: Hugh.

MR. KARREMAN: Yes.

MR. DELGADO: Kevin.

MR. ENGELBERT: Yes.

MR. DELGADO: Jennifer.

MS. HALL: Yes.

MR. DELGADO: And the chair votes yes.

MR. MOYER: Mr. Chairman, there are zero noes, 14 yeses, one absent.

MR. DELGADO: The ayes have it, and the motion is agreed to. Let's continue on to the next topic.

MS. WEISMAN: The next item on the agenda is sodium chloride acidified, and that was as we mentioned yesterday that is deferred at this time. There will be no vote. And the same is true for propionic acid. Those are both high on our list of materials for - well, they are on our list; they are definitely on our list, our work plan.

MR. DELGADO: Let's proceed then
to the next item to vote on.

MS. WEISMAN: Right. Our next item is ethylene for pears, also to be petitioned for Section 205.605(b).

And this is actually a proposal to amend the current listing of 205.605(b) which is ethylene to include the post-harvest ripening of pears. It currently reads, tropical fruits and degraining of citrus. And this would add to that annotation, the ripening of pears post-harvest.

This is also something that we have heard a lot of public comment about. A lot of it has been in favor, but also valid questions have been raised about the need to add a synthetic for the purpose of extending the marketing season. This material actually passed at the committee level by a vote, five yes, zero no, and there was one absent. So I do put forward the motion now that the listing of the ethylene on 205.605(b) be amended to include the post-harvest ripening of pears.
MS. MIEDEMA: Second.

MR. DELGADO: It’s moved and seconded to amend the listing of 205.605(b) to include ethylene for ripening of pears.

Discussion?

MS. HALL: Based on some of the comments yesterday I question the necessity for it from the perspective of, many of the requests were based on improving the experience at the consumer level, yet despite a large supply, the same commenter also said that they consistently sell out.

So I don’t see where the problem is right now.

MR. DELGADO: Any other questions or comments? Jerry.

MR. FLAMM: While it's clear it's not necessary for either pear production or pear marketing or handling, as a pear grower myself I never found it necessary to use ethylene. Certain smaller growers don't have the facilities. It's only a benefit perhaps
to some of the largest producers of pears, and if anything it just gives an advantage to the large over the small.

MR. DELGADO: Any other questions?

Tracy.

MS. MIEDEMA: I'm from a pear-growing state, Oregon, and what I heard yesterday is that there are 30 percent more organic pear trees in transition. There is a tremendous amount of fruit that all comes to the market at the same time, and this substance, which we heard yesterday, is precisely the same thing that would show up if you put your organic pears in a bag. It helps these organic farmers who are committing to converting more acreage to have a market to sell their products.

And from a consumer perspective, and as a mom that buys an enormous amount of fruit for her kids' lunch bags, I really don't plan well enough on Sunday night when I'm grocery shopping to have pears in the lunch
bag on Monday morning. And all this sounds really sort of petty or irrelevant until you think about how consumers really behave out there, and what we are trying to create, an entire system from the organic farmer to the consumer. And it seems like a very benign tool to continue growing this organic crop.

MR. DELGADO: Julie.

MS. WEISMAN: I have a question, actually, and I hoping some of the pear growers in the room, someone will be able to come forward. If extending the market -

MR. DELGADO: Can you state your name, please?

MR. GONSALVES: Yes, my name is Ron Gonsalves from Peshastin, Washington.

MS. WEISMAN: My question is, would the extension of the marketing period for organic pears if they were available in a more usable form for more months of the year, would that have any impact on the amount of organic pears that maybe are coming from outside the
United States?

What market would it be taking away from?

MR. GONSALVES: I don't think it would take away from either market, because I think right now the amount of pears that we have we are marketing in basically a six-month window, say a seven-month window. So as the crops continue to grow as it was stated with the production increasing in the transitional acreage, what we intend to do is that we will continue to market the northwest pears in that same seven-month window. So as these crops get larger we are not looking to extending the marketing in the sense of taking pears further into the spring. We are looking to - our challenge would be to market increased volumes of pears in that same seven-month window that we are currently marketing pears into.

So following that seven-month period is where we start to see the increase in imported pears.
So we are really not taking away from any market. We are actually looking to market increased pears in that same window.

MR. DELGADO: Jeff.

MR. MOYER: Yes, we just heard yesterday, and we heard yesterday, I believe it was from you, that you are already selling out of pears, and you are selling everything you have currently.

MR. GONSALVES: Well, we do sell out of pears. We sell out of as I mentioned earlier, not to confuse the two items, but we currently harvested the largest apple crop ever in the Northwest, and we will sell all the apples at the end of the season. We will sell all the pears that we are currently growing right now. But at the same time the use of ethylene isn't to extend the marketing; it's to enhance the quality of the pears that we deliver to the market in the same market window.

So we are not looking to change
the window at all; we are looking to - we are looking to market a pear that's been enhanced by conditioning the same way.

So I think there is some confusion, and I think some of the letters that were written that talked about extending it, it was never the intention of the industry to look to extend the marketing window of pears, but actually to, the pears that are currently being marketed in that seven-month window, to enhance the pears that are delivered to the retailer and ultimately the consumer.

MR. DELGADO: Jerry - Kevin.

MR. ENGELBERT: I have two questions. Are there currently organic pears being imported into the United States during the periods of the year that you do not have organic pears available?

MR. GONSALVES: There is a substantial amount of import, mostly coming from South America, that begin arriving in
that April time period. So as the Northwest pear crop dwindles, because our ability to store - we are obviously able to store conventional pears longer than we are able to store organic pears. So as the organic pear comes to an end in April, just due to condition issues, the imports begin to show up from South America. And we are beginning to see increased volumes of imported pears. If you are buying a pear - I would say if you are buying a pear from May to August, more than likely you are buying an imported pear.

MR. ENGELBERT: Do you known the companies that import conventional pears into the United States, what they produce their ethylene from?

MR. GONSALVES: For imported pears?

MR. ENGELBERT: Yes.

MR. GONSALVES: I don't know with any certainty that imported pears are being conditioned prior to coming into the United States. A lot of the retailers today, a lot
of your conventional retailers, as well as your organic retailers, have the ability to ripen pears on site in their distribution centers.

So as pears are being delivered to them, as pears are coming into the ports, the imported pears, those pears are then delivered to the distribution centers of your major retailers, and conditioning is taking place on site similar to bananas. Bananas are being conditioned domestically as bananas arrive in the country, and it's the same thing with imported pears.

MR. DELGADO: Steve.

MR. DeMURI: My question was pretty much answered by Kevin's question. But let me ask it a different way. Certain times of the year, are there organic pears and conventional pears side by side, and the conventional pears are of better quality, and you believe the consumers are picking the conventional over the organic because of that?
MR. GONSALVES: If the consumer goes in there, the consumer has identified the fact that their preference is a conditioned pear, I do feel that, over time, that consumer is going to buy the pear that they prefer, which is a conditioned pear, over an organic pear.

MR. DELGADO: Hugh.

MR. KARREMAN: So then I just heard you say that bananas that are coming into this country are conditioned with the ethylene once they are here at the port? Is that correct?

MR. GONSALVES: Yes, that's correct.

MR. KARREMAN: I thought the ethylene was being used in the other countries so that they would survive shipping to here.

MR. DELGADO: Joe, would you like to clarify that?

MR. SMILLIE: You wouldn't want to ripen them, and then ship them. You want to ship them green, and then ripen them.
MR. KARREMAN: Okay, so basically it's like the ethylene is being used already in this country for certified organic bananas, and you are asking for the certified organic pears which would also be in this country.

MR. GONSALVES: Correct. If you had an opportunity to visit a distribution center of a major retailer in this country, you will see all of them have onsite banana conditioning rooms. And as far as conventional pears, that is where the majority of pears are being conditioned is on site at distribution centers prior to going into retail stores.

MR. DELGADO: Jim?

MR. MOYER: I'm just trying to understand what the ramifications of this whole thing might be. If what you're saying is that the treatment with ethylene gets you into the market earlier --

MR. GONSALVES: That's one of the benefits, yes.
MR. MOYER: What does that do to local tree-ripened fruit on a small scale?

MR. GONSALVES: Well again, you have to take into it the the question that was asked yesterday about the scope of the industry. You know, I visited the Whole Foods down the street this morning, and there was Northwest pears in there. So our Northwest pears are being distributed all across the country. The fact that we have tree-ripened, and pears don't really tree ripen, because of the way that the climatic conditions -- they don't really tree ripen.

So we've got to continue to have markets for those pears, those small growers that are growing and satisfying local fruit stands. But at the same time, we're talking about the Northwest pear industry that is transitioning more fruit into the organic arena, and is generating and growing more organic pears that are being sold from coast to coast domestically from the Atlantic to the
Pacific, to the north to the south, as well as exported to Europe and to the UK.

So we are talking about a major industry that is looking to utilize a tool that is currently certified already for the use of organic bananas and other tropical fruit as well as citrus. We are just asking to be included in there, because we do think that it will benefit the industry in the long run as well as provide the consumer an enhanced product.

MR. MOYER: Quick follow up. You don't see that that is going to displace - I want to recognize the ramifications of my vote on local pears, small scale local pear growers.

MR. GONSALVES: No, I don't see where it would impact the small grower as well as the grower who takes his fruit to the local fruit stand to retail. I don't see that is where it's going to challenge them.

MR. DELGADO: Okay, Jennifer.
MS. HALL: I just want to ask a little bit more on this, because typically in a marketplace the first one to market commands the higher price, and people are anticipating a product that has seasonality to it.

And do you not believe then that - on a local grower level - that would potentially not afford them some of that premium?

MR. GONSALVES: No, because the grower, I think that local grower, the local fruit stand grower has a secure customer base. I don't think we are looking to change his opportunities as far as competing with him. We're looking to be able to satisfy the movement of a large volume of pears.

Because that local grower, if he's a five or 10-acre grower, he is going to continue to succeed. We have small growers within our coop as I mentioned yesterday, we have over 200 growers. We have small and large growers within that mix.
Some growers, some small growers choose to retail their apples or pears or soft fruits at a fruit stand. Other small growers choose to become part of the greater system to where their fruit is all pooled with larger growers and take advantage of that market as well.

So the small and the large isn't just from a fruit stand standpoint; it truly is within the industry.

MR. DELGADO: Bea.

MS. JAMES: How many days of ripening do you think that being able to use ethylene would save the tree pears? Because you still can't ship them when they are fully ripe. Any grocery store is going to be bringing them in when they are green enough that they are not going to be damaged in storage.

MR. GONZALEZ: You've got to remember what we are talking about as far as this ethylene treatment is to trigger the
natural production of the ethylene that a pear is going to be emitting itself. So again our process is strictly a triggering mechanism as opposed to a true ripening method.

So it takes three days in treatment. The shelf life of that pear isn't jeopardized in the sense that, the pear doesn't arrive to the retailer in a ripened state. The ripening begins - we trigger the ripening, and the ripening begins over that same - because again if we are shipping pears from the West Coast to the East Coast, it's a five-day travel time, that pear is beginning that ripening process similar to what it would be if it stayed in storage for that same 40-day period.

MS. JAMES: So for clarification then, the ethylene for pears is really used to help increase and trigger so that the sweetness -- is that correct?

MR. GONSALVES: It's used to trigger the receptors, the natural receptors
that each pear and apple has - in this case, pears - the natural receptor that then triggers the release of its own internal ethylene that continues the ripening process. And that conversion is ultimately what it's doing when it converts the starch to the sugar, and that's where the sweetness comes in as far as the pears.

MR. DELGADO: Any other questions?

Jennifer.

MS. HALL: Sorry, I just have one last one. I do want to be careful, because it's a product that is big for my area and I want to support it. But I would just be a lot more sensitive if you tell me you are sitting on a mountain of unsold product. I just don't see that for the expansion of a synthetic application. So it's difficult for me, I have to say.

MR. GONSALVES: Again, the utilization of the ethylene is to trigger the ripening so that we are able to deliver a pear
that is in a state of being able to ripen
sooner at the consumer level. The fact that
we are not looking to change the marketing
window, we are going to sell all of our pears
with or without ethylene, so I don't want to
confuse that element. I'm willing to say that
outright. We will sell all of our pears with
or without ethylene. We are looking to have
the use of ethylene to be able to enhance the
quality of the pear that is delivered to the
marketplace earlier in the season.

So we are not looking to modify
anything that we are currently doing. The
crops continue to grow. We will market those
crops with or without ethylene.

We are looking for the benefit of
the use of ethylene to be able to enhance that
pear to get a better quality eating pear to
the marketplace sooner than we would have.
It's used conventionally. The pears that you
are buying in retail on the conventional level
more than likely have been conditioned. All
1 of your bananas that you are buying have been conditioned. All of your organic bananas that you are currently buying have been conditioned.

So we are looking to utilize it, to utilize the tool of ethylene in the same manner that bananas and tropical fruit are currently utilizing ethylene in that manner.

MR. DELGADO: Joe.

MR. SMILLIE: So to grow the pear market, you've got so much that you are going to sell as organic, unconditioned or not. To grow a market to those consumers who aren't die-hard organic consumers, they are going to judge the pear on the eating quality, not it's ecological benefit. So therefore to grow the pear market this tool will help consumers get organic pears and help pear growers convert to organic, is the way I look at it.

MR. DELGADO: Bea.

MS. JAMES: So just to also to go off on what Joe is saying is that that then --
the organic pear then becomes more competitive in quality with the conventional?

MR. GONSALVES: It allows that pear to be -- the consumer that ultimately purchases a conditioned pear could have that opportunity in the organic arena similar to what we are currently providing in the conventional.

MS. JAMES: As a retailer, I can tell you that is one of the biggest problems we have with pears is the quality, even though the organic consumer usually doesn't want to trade down for the conventional. But the quality oftentimes isn't there unless it is from somebody who is local.

MR. GONSALVES: And as you all know, we package to the same grade standards that USDA regulates us in the same grade standards whether we are packing conventional or organic. So we are putting the same product out there as far as appearance. It is internal quality that we are trying to enhance.
with having the utilization of ethylene on organic pears similar to what we are doing with conventional.

MR. FLAMM: Well, I wouldn't agree that organic pears have a lower quality or organic pears ripened without artificial ethylene, and have less quality. As a previous pear grower I will admit that growing organic or non-organic pears and ripening without the aid of ethylene takes a little more time and a little more skill and it's a little tricky. You've got to know your species, and you have to know the timing.

But I think you can certainly do it and have a high quality pear.

And in terms of Jeff's comment, I certainly - in Montana the Washington pears and apples can compete. It depends on the year and the time, especially they compete in the bigger marketplaces.

The same thing, you can develop your niche markets if you work hard at it.
But still I think the small grower is being put at a disadvantage.

MR. DELGADO: Jennifer.

MS. HALL: So if you come to market earlier, you are - I recently eliminated myself - but saying that organic would be able to displace some conventional sales?

MR. GONSALVES: We sell to retailers that handle both organic and conventional. We sell to retailers that handle just organic produce, but at the same time it's enhancing the quality of the fruit we are delivering. We are not doing it solely to compete with the conventional, but it will enhance the quality of the organic pear that we are delivering to the marketplace.

And again, back to the small grower-large grower, as a coop of 200 growers, we have growers in our coop that are pooled with larger growers, that are as small as the growers that Jennifer is concerned with that are currently satisfying fruit stands.
So it's a grower's independent choice whether he wants to sell locally, or whether that small grower wants to pool his fruit with other growers that are then selling across the whole domestic field, or even export.

So the range of growers are still out there, and the fact that we are a coop that work with large growers, because of our make up and the choice of what we have done, we also service small growers that just choose to do their retailing or their actual selling, not their retail, but do their selling through the coop as opposed to local fruit stands.

So we are supporting small growers and large growers with our current makeup.

MR. DELGADO: Jerry followed by Bea and I believe Steve also wants to make a statement. Please identify yourself.

MR. KIHISTADIUS: My name's Dennis Kihistadius. And I - Ron works basically at the plant, and I get to go travel with
retailers. So I'd like to kind of address what you are saying.

And you are exactly right: the old-time produce men knew what to do with pears. They took them out of the cooler before they put them on the store shelf. I mean they rotated the fruit, and they worked like the fruit stands that's she talking about. We don't have that expertise anymore.

And we are talking about getting into retailers like - Bea likes to hear Wal-Mart, but Wal-Mart does sell organics. And they condition their pears when they come in. And they literally have increased their pear sales double digits in the past five years because of this program. Kroger, Safeway, we just don't have that expertise at store level anymore.

So what we want to do, it's basically priming the pump. We let the fruit get a little bit of ethylene, and then we basically, unlike the banana, we can put it
asleep with temperature. And we ship it to the store cold. And this program is so that when the fruit is on the store shelf, it warms up and it starts to ripen, and then you get a natural rotation as the store level, or if you as the consumer take it home and put it in a paper bag or put it on your shelf, as long as you keep it out of the refrigerator, it will ripen.

So we've lost this produce guy that was there for 20 - 30 years. I mean in high school I worked for a Super Value, never knowing that I'd work with fruit after I got through with the military. And it's just amazing the expertise that we have lost that's gone to either some of the fruit stands you probably buy your fruit from. And these people know their product. They know how to do it. But the mass market that we are trying to hit it's lost, it's gone. You got a kid in high school working there.

MR. DELGADO: Jerry.
MR. DAVIS: Bartlett pears, what's the rule there?

MR. KIHISTADIUS: Yes, Bartlett pears and California -- I worked in both industries. But the California growers' fruit, when it's harvested, it's dead green. It's hard as a rock. And it won't ripen for 21 days on its own even. So the University of Davis, we work real close with Dr. Mitchum there, found that if you can give them an ethylene treatment, you can get them to the market sooner. By that I mean, let's say they harvest on June 30th, instead of waiting until July 21st, when you will have an edible pear, we can shorten that window down to maybe July 10th or July 12th. But it's really critical, on the California river pears, especially the Delta. Lake County, not so much, because of their growing conditions.

MR. DAVIS: So that leads to my next question of, overlap between winter pears - marketing overlap that is - and the early
season small grower in there with Bartlett pears.

MR. GONSALVES: Can I answer that?

MR. DAVIS: Yes, please.

MR. GONSALVES: Most of our pear growers grow winter and summer pears as well, because most of our Anjou pears, which is our primary winter pears are being cross-pollinated by the Bartlett pear. So most of our growers that grow Anjous also grow Bartlett. So the sensitivity of overlapping the crops really becomes, what's evolved is a consumer preference. And what is happening is, on the conventional as well as the organic side, we are selling winter pears earlier each year, not to the detriment of summer pears, but we are selling winter pears earlier each year because the consumer preference is there to have both pears available to it.

So consumers are purchasing one of two different varieties of pears, and that's where the expansion, and that's where the
growth is coming in to the pear dealers, the consumers would buy one pear on a seasonal basis, a Bartlett, until they ran out; then they would buy a winter pear until late in the season. The consumer's preference now is to buy multiple varieties of pears, and when they go into the store their purchasing habits have changed in the sense that pears have become much more of an accepted commodity for them. So the consumer is looking for more than one pear at a time, and that's what we are trying to do by making winter pears available to them earlier.

MR. DELGADO: Bea.

MS. JAMES: Just a couple of points that I wanted to point out is that we are talking about organic pears, and that a local supplier may or may not be growing organically. And if they weren't, then they would be competing with conventional. And then secondly I would - I know that we talk about a level playing field. And so since we
do get bananas, and we have other categories, this seems like more of a harmless entry to add pears to that.

MR. DELGADO: Any other questions?

MR. KARREMAN: I think ethylene was reviewed for tomatoes a long time ago. Is Emily Brown Rosen here? She might know something about that.

MS. ROSEN: Tomatoes?

MR. KARREMAN: Well, it was reviewed previously.

MR. DELGADO: Emily? Any specific questions, Hugh? Why it was rejected, that's the question. For tomatoes.

MS. ROSEN: I think it was '95, '96 that they were looking at pears, tomatoes, bananas. Tomatoes was rejected because it was felt like it was used to artificially ripen tomatoes, you know, so that poor quality tomatoes would be shipped green, and not have the benefit of ripening. Pears, they felt like it wasn't necessary. Bananas, it was the
only way to get bananas shipped into this
country as a -- so that was where it seemed an
essential, necessary element. We did later
add the de-greening of citrus and the tropical
fruits came later in ’99, and that was because
when they were doing bananas they also were
doing the mangoes and the papayas at the same
time in these gassing rooms. And it was the
same shipping problem coming into the country.
But pineapple was never approved for a -- I
think someone mentioned that it was mentioned
as a possible de-greening use in pineapple.
It did not have that use. It only is used in
crop production, you know, like a year ahead
of when you harvest the pineapples. And I
don't think avocados are actually approved
either, because they are considered a
subtropical fruit, not a tropical fruit.
I may it may something that is
done, but it shouldn't be.

MR. KIHOSTADIUS: I worked in the
avocado industry for 7-1/2 years and they have
been doing it since `92, organic.

(Simultaneous speakers.)

MR. KARREMAN: This sounds a little bit different than what tomatoes were kind of looked at back then. It sounds like a little bit different. You are not speeding up ripening per se. I mean I don't want to go into the details, but there are several different - why it was rejected for tomatoes.

MR. GONSALVES: And I think what you did mention in that same time period, `92 - `93 when pears were looked at previously and said it wasn't necessary. The industry has changed considerably, and the use of ethylene on conventional pears was a minor consideration back in that time period as well.

The increase in the benefits that have been evaluated with ethylene has really taken place in the last five or six years.

MR. DELGADO: Conscious of the time here, do we have any other questions? We are
ready for the question. The question is, on the amendment of ethylene for ripening pears for listing on Section 205.605(b), and we are going to start our vote with Julie.

MS. WEISMAN: I'm going to stick with my original vote, yes.

MR. DELGADO: Thank you. Dan.

MR. GIACOMINI: No.

MR. DELGADO: Jeff.

MR. MOYER: No.

MR. DELGADO: Bea.

MS. JAMES: Abstain.

MR. DELGADO: Jerry.

MR. DAVIS: Yes.

MR. DELGADO: Tina.

MS. ELLOR: Yes.

MR. DELGADO: Tracy.

MS. MIEDEMA: Yes.

MR. DELGADO: Joe.

MR. SMILLIE: Yes.

MR. DELGADO: Barry.

MR. FLAMM: No.
MR. DELGADO: Hugh.

MR. KARREMAN: Yes.

MR. DELGADO: Kevin.

MR. ENGELBERT: No.

MR. DELGADO: Jennifer.

MS. HALL: No.

MR. DELGADO: Steve.

MR. DeMURI: Yes.

MR. DELGADO: And the chair votes yes.

MR. MOYER: Okay, we have five noes, one abstention, and one absent, and nine yeses. I stand corrected, it is eight.

MR. DELGADO: Okay, the motion to amend for ethylene for ripening pears for listing on Section 205.605(b) is lost. Let's move on to the next topic. Julie.

MS. WEISMAN: Okay, next we have algae - we'll start with chlorella --

MR. DELGADO: Julie.

MS. WEISMAN: Okay, the next material is a petition for the algae
chlorella. That's how it was petitioned.

I do want to recognize that in the future - it was actually chlorella powder. And I want to recognize that we will make an effort in the future to come up with the names on these types of things.

And it was petitioned to add powdered chlorella to Section 205.606 of the national list. The petition failed. It was zero yes, four no. There were two absent. And it failed to be - basically we were aware that there is certified organic chlorella available, and the petition did not address these specific organic chlorella and why it could not be made into the form that the petitioner required.

And so the recommendation failed at the committee level.

So the motion is for -- to recommend the listing of chlorella to Section 205.606 of the national list.

MR. DELGADO: Is there a second?
MS. JAMES: Second.

MR. DELGADO: It's been moved and seconded to list algae chlorella powder in Section 205.606 of the list.

Discussion? Ready for the question?

The question is on the motion to list algae chlorella powder in Section 205.606. And we will start the vote with Dan.

MR. GIACOMINI: No.

MR. DELGADO: Jeff.

MR. MOYER: No.

MR. DELGADO: Bea.

MS. JAMES: No.

MR. DELGADO: Jerry.

MR. DAVIS: No.

MR. DELGADO: Tina.

MS. ELLOR: No.

MR. DELGADO: Tracy.

MS. MIEDEMA: No.

MR. DELGADO: Joe.

MR. SMILLIE: Joe.
MR. DELGADO: Barry.

MR. FLAMM: No.

MR. DELGADO: Hugh.

MR. KARREMAN: No.

MR. DELGADO: Kevin.

MR. ENGELBERT: No.

MR. DELGADO: Jennifer.

MS. HALL: No.

MR. DELGADO: Steve.

MR. DeMURI: No.

MR. DELGADO: Julie.

MS. WEISMAN: No.

MR. DELGADO: And the chair votes no.

MR. MOYER: Mr. Secretary, we have 14 noes, one absent.

MR. DELGADO: The noes have it, and the motion to list algae chlorella powder in Section 205.606 of the list is lost. Let's go on to the next.

MS. WEISMAN: Okay, the next is the second algae dumontiaceae was petitioned for
Section 205.605 or 606, and it failed - it was determined - it was recommended by committee for addition to 606, however it failed because there was no information in the petition addressing what the obstacle is to the availability of organic.

Not to take up any more time, but I just want to emphasize for future petitioners to 606 that the committee feels like it's really important that if you are petitioning something and you are going to say it's not available as organic, the petition needs to include information on what the obstacle is. So that 606 listing will be a tool to move the organic industry forward, and include -- and encourage the availability of organic ingredients.

With that I recommend the addition -

MR. DELGADO: You move?

MS. WEISMAN: I move to - I move for the addition of algae dumontiacae powder
to Section 205.606 of the national list.

MR. DELGADO: Is there a second?

MR. SMILLIE: Second.

MR. DELGADO: Joe seconded, and the motion has been moved and seconded to add algae dumontiaceae powder to the list on Section 205.606.

Questions? Discussion? Ready for the question?

The question is on the motion to list algae dumontiaceae powder in Section 205.606 of the national list, and we will start our vote with Jeff.

MR. MOYER: No.

MR. DELGADO: Bea.

MS. JAMES: No.

MR. DELGADO: Jerry.

MR. DAVIS: No.

MR. DELGADO: Tina.

MS. ELLOR: No.

MR. DELGADO: Tracy.

MS. MIEDEMA: No.
MR. DELGADO: Joe.

MR. SMILLIE: No.

MR. DELGADO: Barry.

MR. FLAMM: No.

MR. DELGADO: Hugh.

MR. KARREMAN: No.

MR. DELGADO: Kevin.

MR. ENGELBERT: No.

MR. DELGADO: Jennifer.

MS. HALL: No.

MR. DELGADO: Steven.

MR. DeMURI: No.

MR. DELGADO: Julie.

MS. WEISMAN: No.

MR. DELGADO: Dan.

MR. GIACOMINI: No.

MR. DELGADO: And the chair votes no.

MR. MOYER: Mr. Chairman, again, we have 14 noes, zero yeses, one absent.

MR. DELGADO: The noes have it, and the motion to list algae dumontiaceae powder in
Section 205.606 of the list is lost.

Let's move on to the next.

MS. WEISMAN: Okay, the next material that we are going to vote on was a petition for - to add buck hull powder to Section 205.606.

I think that there - that the main issue here was that this was to be used to add color to certified organic buck wheat noodles, and I think it was very well presented yesterday, so all I will say is that the main issue for us was that there is certified organic buck wheat noodles being manufactured and sold in the United States. This was a foreign - petitioner is a foreign manufacturer of that product, who did not do a very good job of explaining why they couldn't source the material.

And it failed unanimously six no, zero yes. There were no absent or abstentions at the committee level.

So at this time I would like to
make the motion for the recommendation to add buck hull powder to the national list on Section 205.606.

MR. DELGADO: Is there a second?

MS. JAMES: Second.

MR. DELGADO: Bea seconds, and it is moved and seconded to add buck hull powder to the national list Section 205.606.

Discussion? Questions? Are we ready for the vote? Tina, did you have a question?

Okay, the question is on the motion to add buck hull powder, black powder, on the list Section 205.606.

We are ready to take our vote, and we will start with Bea.

MS. JAMES: No.

MR. DELGADO: Jerry.

MR. DAVIS: No.

MR. DELGADO: Tina.

MS. ELLOR: No.

MR. DELGADO: Tracy.
MS. MIEDEMA: No.

MR. DELGADO: Joe.

MR. SMILLIE: No.

MR. DELGADO: Barry.

MR. FLAMM: No.

MR. DELGADO: Hugh.

MR. KARREMAN: No.

MR. DELGADO: Kevin.

MR. ENGELBERT: No.

MR. DELGADO: Jennifer.

MS. HALL: Yes.

MR. DELGADO: Steve.

MR. DeMURI: No.

MR. DELGADO: Julie.

MS. WEISMAN: No.

MR. DELGADO: Dan.

MR. GIACOMINI: No.

MR. DELGADO: Jeff.

MR. MOYER: No.

MR. DELGADO: And the chair votes

no.

MR. MOYER: Mr. Chairman, we have
14 noes, zero yeses, one absent.

MR. DELGADO: The noes have it, and the motion to list buck hull powder, black powder, on the national list Section 205.606 is lost, and we are ready to move on to the next material.

MS. WEISMAN: The next material, just for a point of order, it's black pepper extract powder, and that's an error on my part that it is not listed that way on the committee recommendation. But I think it's important to correct. And this was - this petition like the last few did not provide sufficient information to demonstrate why this material couldn't be obtained organically in the form that this petitioner needed, because it was again it was readily apparent to committee members that organic pepper is being grown, and also organic pepper extract is available. And the petition did not even acknowledge the existence of these materials much less why
they can't be - much less identifying the obstacles to them being turned into the form that they needed.

So this material also failed unanimously at the committee level.

So at this time I'd like to state the recommendation which is for the addition of black pepper, extract powder, for listing on Section 205.606 of the national list.

MR. DELGADO: It has been moved.
Is there a second?
MR. GIACOMINI: I'll second.
MR. DELGADO: It's moved and seconded to add black pepper extract powder on the national list Section 205.606.
Discussion? Ready for the question? The question is on the motion to list black pepper extract powder on the national list Section 205.606, and we will start our vote with Jerry.

MR. DAVIS: No.
MR. DELGADO: Tina.
MS. ELLOR: No.
MR. DELGADO: Tracy.
MS. MIEDEMA: No.
MR. DELGADO: Joe.
MR. SMILLIE: No.
MR. DELGADO: Barry.
MR. FLAMM: No.
MR. DELGADO: Hugh.
MR. KARREMAN: No.
MR. DELGADO: Kevin.
MR. ENGELBERT: No.
MR. DELGADO: Jennifer.
MS. HALL: No.
MR. DELGADO: Steve.
MR. DeMURI: No.
MR. DELGADO: Julie.
MS. WEISMAN: No.
MR. DELGADO: Dan.
MR. GIACOMINI: No.
MR. DELGADO: Jeff.
MR. MOYER: No.
MR. DELGADO: Bea.
MS. JAMES: No.

MR. DELGADO: And the chair votes no.

MR. MOYER: Mr. Chairman, we have 14 noes, zero yeses, one absent.

MR. DELGADO: The noes have it, and the motion to list black pepper extract powder in Section 205.606 of the list is lost.

Let's move on to the next one.

MS. WEISMAN: Okay, now, in case you were all starting to fall asleep here, the next material is dried orange pulp.

Originally the committee voted no because we felt that at the time the petition did not really help us understand why this material given a supply of organic oranges being grown in this country why this material could not be made organically.

And I think that - long story short, the Handling committee met last night, and we voted to reconsider. And we voted five yes, zero no, for this material to reverse our
previous decision, because originally it was
a unanimous vote against listing.

The members of the Handling
committee that are here, it was now a
unanimous vote in favor of listing this
material on 606. And I think it's - we had a
couple, and this is another good example of how
the public comment process works well and does
its job, because the petitioner was here. We
had an opportunity to ask a lot of questions,
get a lot of information over the period of
the last three days, or the two days that
preceded last night's vote.

So I would like to move now on a
recommendation to add dried orange pulp powder
to Section 205.606 of the national list.

MR. DELGADO: Is there a second?

MR. SMILLIE: Second.

MR. DELGADO: Joe seconds, and it
is moved and seconded to include orange pulp
dried on the national list, Section 205.606.

Discussion? Joe?
MR. SMILLIE: Yes, the reason why I want to open this up is, we are coming - our Handling committee was coming to the conclusion that including - and I want to just put this on the record; you've heard me say it before - but we are coming to the conclusion that listing things on 606 does spur the growth of organic. And in that sense we fully anticipate organic orange pulp to be on the market, whether it includes slightly different formulations, or whether this company sees the opportunity to go organic.

By listing it we can replace current conventional byproducts that are being used and in the future have organic product in place for the other processing industry.

MR. DELGADO: Okay, Jeff.

MS. WEISMAN: Thank you, because it follows on Joe's point. I think the other thing that was important for me to hear was also that this is replacing - not just conventional but synthetic materials. It will
be replacement, so I see this as an opportunity even before it's there organically, it will open up the possibility that some synthetics we maybe won't have a need for anymore.

MR. DELGADO: Jeff.

MR. MOYER: My question is for either Julie or Joe. It seemed like yesterday that I heard some discussion that what we are actually certifying is a proprietary process. That of course leads to a product. But it brings up concerns in my mind based on what Grace came up with later when she talked about orange - it's just a little mixed up in my head.

MS. WEISMAN: I think it happens a lot in manufacturing that some very very specific process will be patented, but it does not mean, and I was certainly convinced yesterday by Grace and a few other comments that were made, that other people are in line to make things that are very similar, and will
function in an identical way, even if it's not
by the patented process. It will be something
very close, and there will be competition in
the marketplace.

MR. SMILLIE: And our motion does
not include those patent-specific processes.
It's simply for dried orange pulp.

MR. DELGADO: Dan.

MR. GIACOMINI: I don't know if we
can go back to the transcript, or matter of
just clarify - I think I heard you say orange
pulp - dried orange pulp powder?

MS. WEISMAN: I don't have - it's
dried.

MR. GIACOMINI: So just orange pulp
dried?

MS. WEISMAN: I didn't pull it up
because - yes, and that -

MR. GIACOMINI: I heard correctly
when she said powder?

MS. WEISMAN: I meant to. Thank
you for that correction.
MR. DELGADO: Any questions?

Comments?

Are we ready for the question?

The question is on the motion to list orange pulp dried on the list on Section 205.606, and we will start our vote with Tina.

MS. ELLOR: Yes.

MR. DELGADO: Tracy.

MS. MIEDEMA: Yes.

MR. DELGADO: Joe.

MR. SMILLIE: Yes.

MR. DELGADO: Barry.

MR. FLAMM: Yes.

MR. DELGADO: Hugh.

MR. KARREMAN: Yes.

MR. DELGADO: Kevin.

MR. ENGELBERT: Yes.

MR. DELGADO: Jennifer.

MS. HALL: Yes.

MR. DELGADO: Steve.

MR. DeMURI: Yes.

MR. DELGADO: Julie.
MS. WEISMAN: Yes.

MR. DELGADO: Dan.

MR. GIACOMINI: No.

MR. DELGADO: Jeff.

MR. MOYER: Yes.

MR. DELGADO: Bea.

MS. JAMES: Yes.

MR. DELGADO: And the chair votes yes.

Did I miss somebody? Sorry, that's the second time. Gerry, you said?

MR. DAVIS: Yes.

MR. MOYER: Mr. Chairman, we have 13 yeses and one no and one absent.

MR. DELGADO: The ayes have it, and the motion is agreed to.

Any other materials that we need to discuss, Mr. Weisman?

MS. WEISMAN: That is not the last recommendation on the Handling committee agenda, but it is the last material.

We - I am - yes, I am pleased to
say that we are moving onto pet food after
what really has been too long a time, through
no fault of the pet food industry or the pet
food task force, who did very fine work very
early on and then kind of got sidelined in
light of other events that happened in the
organic industry. And I'm glad that we got
back to this, and I especially want to thank
Tracy Miedema who embraced this recommendation
and breathed life back into it. And for Emily
Brown Rosen and Nancy Cook who is not here for
helping us do that.

We are introducing this
recommendation after some - I hope I'm not
going out on a limb here saying relatively
minor edits that were made yesterday. So I
would just like to go ahead and move that for
the acceptance of this Handling committee
recommendation for the adoption of standards
for the production and labeling of organic pet
food.

MR. GIACOMINI: Second.
MR. DELGADO: It has been moved and seconded, and our friends make a motion to accept the document entitled Organic Pet Food Recommendation as described by the chair of the Handling committee.

Yes, questions? Tracy?

MS. MIEDEMA: I'll just go ahead and point out the syntactical change we made so that it is clear to everyone.

On page five, I inserted a pretty klunky notation to the program in describing how to - how 606 could be parsed to be very clear. The -- potentially commercially unavailable pet food only items should be lined out in the program.

This is per the program's advice, but in our recommendation, I -- let's see, Valerie, it's in subpart B, 105. And why I'd like some help with is just in pulling out the way I had inserted this note. You can see right there in call caps. And actually just showing the way that the sections would be
labeled. It's the same thing that the program
suggested to us as a numerical name for the
sections.

And then, Val, can you flip to the
edits that we just received earlier today.
Did you include those earlier?

(Simultaneous speakers.)

MR. DELGADO: Why don't you
describe them?

MS. MIEDEMA: I'll just describe
them. Actually, Emily, would you please --
would you mind approaching, because it's going
to be hard for me to pull these out.

So let's get back to that section.

What we're simply doing is
translating the note that describes this to
actionable language.

Now while these guys are taking
care of business over there, I'll address one
other concern that was raised yesterday by
Urvashi Rangan about the inclusion of
slaughter byproducts. And after having a
conversation with her, and making sure she understood that any items that comprise a small portion, you know, this is either made with or organic, any slaughter byproducts that weren't organic would still have to be on 606. So it doesn't open the door wide open for any conventional slaughter byproducts. They would still have to be listed on 606, one by one.

And after that conversation, Urvashi said, okay. So I wanted to make sure that we skip over that for now.

That was the only concern that I heard in any of the public comments.

MR. DELGADO: Jeff.

MR. MOYER: Tracy, I was just wondering if you could direct Valerie to point out where it had the section that -- I know Kevin and I wanted to make sure it was in there about feeding pet food to livestock.

It's in there somewhere. I just want to double check and make sure for my clarification.

MS. FRANCES: 237(b)7.
MR. DELGADO: Thank you.

Ready with those updates? Tracy, could you describe those for us?

MS. MIEDEMA: You know, I don't think we really need to belabor this. Basically what we describe is the parsing of 606, and we made a notation in the document to show it rather than describe it.

MR. DELGADO: So that's the extent of the change?

MS. MIEDEMA: That's the extent of the change.

MS. ROSEN: Including pet food, in the title of 605. And the word including pet food in the title of 606, and then 606 will have a section A, allowed for all processed products; and then B, allowed for pet food only. So there would be no confusion where you put things there.

MR. GIACOMINI: So 606 would say all processed?

MS. WEISMAN: No, 606 will be now
divided into --

MR. GIACOMINI: But 606(a) will say processed product?

MS. WEISMAN: That's what it's for. Handling.

MR. DELGADO: Any other questions?

MR. GIACOMINI: I think I have one.

MR. DELGADO: Yes.

MR. GIACOMINI: I fully support the document. I just want to make a quick statement. There was one issue in this document that I didn't like from the beginning, and I think it's worth saying now.

The document, when it feels like going to 603, it goes to 603. When it feels like going to 605, it goes to 605. When it feels like going to 606. I just wish the document could have been structured to have a little bit more - I understand why you did it.

MS. ROSEN: Yes, that was discussed that maybe - I think what you are referring to is having it all in one separate pet food
MR. GIACOMINI: Yes, just so it's not - you know, cruising through the regulation, find something wherever you wanted to find something.

MS. ROSEN: We had no problem with it being reorganized like that, the pet food task - this is just the way we did it, and if the program wants to reorganize it for easier reading by the industry or whatever, that can be done.

MR. DELGADO: Richard, do you have a question?

MR. MATTHEWS: Yes, clarification. Is it intended for, A, all the products used in A to also be used in pet food?

MS. MIEDEMA: Say it again, please.

MR. MATTHEWS: Are you intending for all the materials in A to also be eligible for use in pet food?

MS. MIEDEMA: There could be a pet food item in A. B is pet food only.
MR. MATTHEWS: Okay, I just wanted to clarify.

MR. DELGADO: Any other questions?

MR. MATTHEWS: And the reason why I was clarifying that is because pet food is also a processed product.

MS. MIEDEMA: Right, and that's just to acknowledge the fact that cats are obligate carnivores, and there are going to be certain items that need to be in there as pets only.

MR. DELGADO: Any questions?

So are we ready for the question? The question is on the motion to approve the document entitled Organic Pet Food as described by the chair of the Handling Committee.

And we'll start our vote with Tina. I'm sorry, Tracy.

MS. MIEDEMA: Yes.

MR. DELGADO: Joe.

MR. DELGADO: Yes.
MR. DELGADO: Barry.

MR. FLAMM: Yes.

MR. DELGADO: Hugh.

(No response.)

MR. DELGADO: Kevin.

MR. ENGELBERT: Yes.

MR. DELGADO: Jennifer.

MS. HALL: Yes.

MR. DELGADO: Steve.

MR. DeMURI: Yes.

MR. DELGADO: Julie.

MS. WEISMAN: Yes.

MR. DELGADO: Dan.

MR. DELGADO: Yes.

MR. DELGADO: Jeff.

MR. MOYER: Yes.

MR. DELGADO: Bea.

MS. JAMES: Yes.

MR. DELGADO: Jerry.

MR. DAVIS: Yes.

MR. DELGADO: Tina.

MS. ELLOR: Yes.
MR. DELGADO: And the chair votes yes.

MR. MOYER: Mr. Chairman, we have 13 yeses, one absent - I'm sorry, two absent.

MR. DELGADO: Can you restate that, please.

MR. MOYER: Yes, we have zero noes, 13 yeses, and two absent.

MR. DELGADO: The ayes have it, and the motion is agreed to. Very good.

Madam Chair, does that conclude your participation?

MS. WEISMAN: That's all.

MR. DELGADO: Well, thank you very much, and congratulations to all of the chairs for the outcome of the voting, and we are late.

Let's move on straight ahead to the next topic which is election of new officers. And following the procedures which we approved this morning, our acting secretary has prepared some ballots.
ELECTION OF NEW OFFICERS

MR. DELGADO: And the order of the election will be as follows. I'm referring to the policy and procedures manual, please correct me if I'm not doing the right job. But we will start with the elections of the chair, followed by the vice chair after the election, and finally the secretary.

Right now the secretary is distributing ballots, and we will take nominations. Our director will put those nominations up on the screen. We will be numbering those nominations, and that's how we are requesting that you vote. If you approve of nominee one, two or three, circle that individual on the ballot, fold it, and we'll collect those.

These do not have names. That's why I'm asking the board members to observe the list that we will be posting up there, depending on the nominees for the position.

MS. FRANCES: Starting with the
chair, vice chair and the secretary, in that order?

MR. DELGADO: Start with the chairman. Once we vote on that position we'll move on to the next one.

MR. KARREMAN: And are we -- is the list -- she's going to type it as we say it, right? It's not the email the other week?

MS. JAMES: Okay, so to clarify, this new and improved organized process for elections is that somebody will be nominated by one of their colleagues, and Valerie will type up nomination -- under chair, she'll say chair one, and then she'll put the name.

So then you don't want to write anything on here. You select the number of the person in order of how Valerie puts it up here for your vote, and then I'll collect them. Does that make sense?

MR. DELGADO: And the whole intent is to make this process somewhat more professional and efficient. Any other
questions? And we don't have chads here, so -
- questions? Okay, Hugh.

At this point, then, we would like
to contemplate nominations for the chair.

MR. SMILLIE: I'd like to nominate
Tracy Miedema for chair.

MR. DELGADO: Very good. Tracy, do
you accept the nomination?

MS. MIEDEMA: I accept.

MR. DELGADO: Very good. Hugh?

MR. KARREMAN: I'd like to nominate
Jeff Moyer.

MR. DELGADO: Mr. Moyer, do you
accept the challenge?

MR. MOYER: I do.

MR. DELGADO: Okay, any other
names? Any questions?

MR. DAVIS: I nominate Dan
Giacomini.

MR. DELGADO: Dan?

MR. GIACOMINI: I would rather not
split the voting three ways.
MR. DELGADO: So Dan is declining his name on the list.

So folks, there we have it. We have the two candidates for the position of chair. Please circle the one you are voting for, and fold it, and we'll collect them.

After the votes are counted, we will announce the person with the highest number of votes, and the secretary will discard the votes - the ballots, that is.

(Whereupon, the above-entitled matter went off the record at 4:15 p.m. and resumed at 4:15 p.m.)

MR. DELGADO: Congratulations, Mr. Jeff Moyer. You have been elected our new chair.

(Applause.)

MR. DELGADO: We will now proceed with the second position, the second officer's position, which is the vice chair. And I remind the board members that we can nominate individuals that had already run for another
So we'll turn the ballot at this point. So at this point, we need a couple of more.

(Simultaneous speakers.)

MR. DELGADO: Okay, at this point I would like to entertain nominations for those - the position of vice chair. We'll start with Hugh.

MR. KARREMAN: I'd like to nominate Dan Giacomini for vice chair.

MR. DELGADO: Dan Giacomini is nominated.

Julie?

MS. WEISMAN: I would like to nominate Tracy Miedema for vice chair.

MR. DELGADO: Tracy is nominated.

Any other nominees for this position?

Dan, you're willing to run? And Tracy? So there we have it, folks. Number one will be Dan, and number two, Tracy.
So again.

(Whereupon, the above-entitled matter went off the record at 4:18 p.m. and resumed at 4:20 p.m.)

MR. DELGADO: Congratulations to our new vice chair, Mr. Dan Giacomini.

(Appause.)

MR. DELGADO: Our third position is that of secretary, and I would like to entertain nominations?

Bea.

MS. JAMES: I would like to nominate Julie Weisman.

MR. DELGADO: Julie, do you accept the challenge?

MS. WEISMAN: Yes.

MR. DELGADO: Dan.

MR. GIACOMINI: I nominate Rigo.

(Laughter.)

MR. DELGADO: I'm sorry, I have to withdraw. I appreciate the honor. However, I promised to help Julie - well, strike that
comment.

Any other nominations?

MS. JAMES: I would just like to ask if Katrina expressed to you, Mr. Chair, any --

MR. DELGADO: She has expressed her wish not to run this year.

DR. ROBINSON: Mr. Chairman, I have to go get my car out of hock, so I'm going to leave you. I just want to say thank you all once again for your service to the department. And goodbye. I'll see you.

MR. DELGADO: Thank you very much for all your support. And for secretary, we only have one nominee. And we won't do it by ballot. Okay, so by voice I guess we all agree that it will be Julie, our new secretary. And I want to congratulate her for that.

(Applause.)

MR. DELGADO: Moving on to the next topic is committee work plans, and we'll start
with those right away.

I warn the board members that we
are 45 minutes behind schedule, so this is our
chance to make sure that we finish on time.
And we'll start with Handling. Do you need
more time? You're still with materials? Why
don't we stay with materials then while we
give time to Julie to -

COMMITTEE WORKPLANS

MR. GIACOMINI: The items for the
workplan for the Materials Committee --
assuming I'm still Materials chair, Jeff.
Anyway, I guess that's still -- we'll work
that out.

Okay, in no particular order,
because these are all occurring at various
times and simultaneously, continuing work on
petitions and sunset items and as part of that
continuing work to work with the program on
old petitions that can be dealt with, would
come up, including the list received in public
comment.
Continuing to work on improving the tracking system and level of communication regarding petitions, and between the board and the program.

And number three, working with the materials working group and examining the document that we have to see if there is anything we can move forward on at the next meeting, and continuing to work with the group regarding the synthetic-nonsynthetic questions.

Thank you, Mr. Chairman.

MR. DELGADO: Thank you. We move on then to livestock.

MR. KARREMAN: Thank you, Mr. Chair.

We will finish up on the bivalves, and also embark upon the animal husbandry animal welfare topic. And I guess poultry outdoor access is kind of part of that.

And then there is one other thing that has come up. I guess it would come under
things that happen out in the organic community. It's a material type thing. So the topic of vitamins and minerals used therapeutically that are not feed additives, but they are injectable. We would like to look at that as a topic. So injectable vitamins and minerals.

MR. DELGADO: Can you repeat that?

MR. KARREMAN: Injectable vitamins and minerals for livestock.

Dan has something there?

MR. DELGADO: Clarification?

MR. GIACOMINI: Yes, the Livestock Committee will be looking at that. It may lead us to a point where a petition would need to be submitted for listing on a national list. We are just looking to - there are some other vitamin and mineral issues that we are sort of going to be grappling with in that whole evaluation.

MR. DELGADO: anything else? Okay, any questions for livestock?
I didn't ask the same about materials. Any questions for the materials chairman?

MR. SMILLIE: I just want to be clear, Hugh, the aquaculture recommendation that passed today which adds on to the previous one, is that moving forward, or does that have to sit and wait until the bivalve piece is added.

MR. KARREMAN: I think the program would have to answer that. But when we were in discussion yesterday I specifically asked that - whatever happened today, that what we already worked in past March, 2007 starts getting implemented, and then with what happened today hopefully everything can. It's not up to me; it's up to the program of course.

MR. SMILLIE: But that is your understanding?

MR. KARREMAN: The intent for us is to get things started now.
MR. DELGADO: Any other questions?

Bea.

MS. JAMES: I'm sorry, Hugh. I think I captured everything, but did you mention humane standards for livestock?

MR. KARREMAN: Animal husbandry and animal welfare.

MR. DELGADO: Any other questions for livestock?

Okay, thank you very much. Joe?

MR. SMILLIE: Not necessarily in order, we will prioritize however on our first meeting, but certainly 100 percent on having a recommendation for spring, a recommendation hopefully in spring for biodiversity. We will take up, and again the title is important, retail criteria for certification. Retail criteria for certification - or criteria for retail certification is a better way of putting it. Criteria for retail certification, which as you know is currently exempt or excluded from the regulation.
And the last item is peer review.

MR. DELGADO: Anything else?

MR. KARREMAN: That's it.

MR. DELGADO: Okay, any questions?

Let's move on then to crops. Mr. Davis.

MR. DAVIS: The Crops Committee work plan will be - several petitioned substances, kind of a group of several inert materials, inerts and pesticides. Ethylene glycol, tetramethyl decyne-diol, polycaprolactone, isoparrifinic hydrocarbon, those are the four inerts. And then glycine betaine, peracetic acid, an to expand use petition, and sulfurous acid.

Also we have several sunset materials that are due to sunset in 2011. I don't have them here to list. There's a short list, not many.

Other recommendations we'll be undertaking, we'll be working with in the joint committee efforts on the biodiversity document, and list for inerts and pesticide
formulation document also should be a joint committee with materials I would guess, Dan, don't you think, on the list for inerts and pesticides?

MR. GIACOMINI: Oh, that just sounds like a blast.

MR. DAVIS: We with our resident mushroom specialist on board, in the crops committee we are going to relook at mushroom standards, and also revisit and continue the work on soilless growing systems in terrestrial plants. And that is all that is on the work plan at this point.

MR. DELGADO: Any questions for the chair of the crops committee?

Very good. Let's move on then to Handling.

(Simultaneous speakers.)

MS. WEISMAN: So the Handling Committee workplan is headed up by work on the clarification of materials, definition of materials on the national list, to now take
the hand off the materials working group on
the ag-non-ag suggestions that were made at
this meeting, and continue to participate in
their process as they start to delve into the
synthetic non-synthetic piece of materials on
the national list.

And then of course as always we
will continue to review petition materials,
and on 205.605 we're looking at lecithin
bleached, tissue for removal; we will be
looking at sodium chlorite acidified, for
which we now have the technical review that we
had asked for; and the same for propionic
acid for which we now also have the technical
review. Yeast is still on the list, waiting -
I was going to say patiently, but not
patiently really, and shouldn't be patiently -
for the clarification of the Ag/Non-Ag before
we can move ahead with the status of that
petition.

And then on 606 we have a petition
for the removal of fluid lecithin - lecithin
fluid unbleached for removal. We still have
the petition for pectic low-methoxy non-
amidated, to be moved from 605 to 606.

And I think we requested the
technical review for that, and I think we will
wait for that. I think that is in the
pipeline.

And I also have — we have work to
do to refine our review of 606 materials,
specifically to work on clarifying — some
guidance to clarify the use of what we are
calling accessory ingredients in formulated
agricultural products. That came up when we
were adding colored materials onto 606 and
realizing that — what's in the marketplace may
be one form — something was petitioned with
what was considered a relatively benign
solvent or carrier, but that was actually
being manufactured in a variety of ways, so we
want to take a look at that.

We also just to give you a preview
we do have some new petition materials in the
pipeline that have already been handed off to
the - passed to the Handling committee.

For 605 we are looking at
glucosamine, and also propane as a processing
aid. That is going to be fun.

And then for 606 we now have a
petition for chicory root. And also for - in
the category of colors we have a petition for
red corn. We have a petition for myrrh
essential oil, and for wheat germ.

Then fourth item on our Handling -
you see we get big things off, but it seems
like - we also have materials that are for
sunset review in the fall of 2011. We have
nine items. The AMPR for this was already
published.

And for 605(a) we'll be looking -
we'll need to start looking at egg white
lysozyme, almalic acid and microorganisms.

For 605(b) we are looking at
activated charcoal, and Jerry I feel for you
with the pronunciations, cyclohexylamine,
diethylaminoethanol, and octadecylamine, and those are boiler additives. Don't everybody freak out; they are for boilers.

We also have paracetic acid and sodium acid phosphate.

And also continuing to hover here at the bottom of the list structure of the national list, which I believe is going to be part of working with this clarification materials in the definition. It looks like we may have some impact there.

Labor guidance, which I think is also going to be impacted by this Ag/Non-Ag definition. And food contact substances is still on the workplan.

MR. DELGADO: Okay, questions for the board?

Julie, is that it?

MS. WEISMAN: That's it.

MR. DELGADO: Okay, an impressive list. Any questions for our chair? No?

MR. KARREMAN: I just wanted to add
something for livestock. Kevin brought up here, when I said, we hardly ever have any materials for livestock, after Julie has gone through her list, and Jerry has gone through his list. There may be some sunset materials; I need to look at that. I apologize.

We're not used to looking at materials on livestock, plain and pure.

MR. DELGADO: Okay, let's move on to policy.

MR. FLAMM: Okay, what I read off is what the committee agreed to and was presented at the last committee meeting, so it won't be new.

The first item is to clarify and define the concept of priority for petitions. I think that came up in our discussion - oh by the way, this is for the policy and procedures manual.

Continue the systematic review of the policy and procedure manual. We are looking at sections one and two - one and two
has already been done. Reviewing first
Section three, and with particular attention
to the discussion on meeting sites which is
discussed on page 15. Review section four
with particular attention to examining what is
now the assigned responsibilities of the
policy committee to determine whether those
are really what the board wants the policy
committee to be doing.
And then three is evaluation
criterion for - it's in the policy and
procedure manual on page 46, examine that to
see that it addresses biodiversity protection
needs as may be determined when we make
recommendations on the biodiversity paper. So
it'll be cross-checked to make sure it gets
into the proper place in the policy and
procedures manual.
Then under the new member guide --
MR. DELGADO: Does that include the
criteria?
MR. FLAMM: I'm sorry?
MR. DELGADO: Does that include the criteria for the evaluation of the --

MR. FLAMM: Evaluation, excuse me -- that's just -- there is no attention to it specifically for biodiversity in that listing on page 46.

In the new member guide it's proposed to develop a glossary of acronyms for the benefit of new members; and secondly, chat room, if that's what we continue to call it, procedures and restrictions be included in the new member guide.

MS. FRANCES: Not chat board but bulletin board.

MR. FLAMM: Bulletin board now. I knew we had changed the name. That's all I have.

MR. DELGADO: Any questions for the chair of the policy committee?

Well, then that is it. That concludes our points on workplans. And let's move on to the next item which is other
business.

OTHER BUSINESS & CLOSING REMARKS

MR. DELGADO: Any other pending issues that we should be considering? Board members, this is our chance.

Yes, or closing remarks. But I would like to first of all contemplate if there is any other business that we need to consider at this moment.

Okay, hearing none we will move on to closing remarks.

And Bea?

MS. JAMES: I would like to thank Rigo for his year of service as chair of the board, and you stepped up and did an excellent job.

MR. DELGADO: Thank you very much.

(Appause.)

MR. DELGADO: On that note, I guess that's my cue, I would like to say it's been a real honor. And I've been extremely impressed by not only the work within this
group, the board - I think that was expected when you are appointed at this level you are expected to have the highest level of professionalism by most of the press, by the way the community, the organic community, is willing to participate and come out and help us. That public comment, that feedback, that assessment of whatever we do, is unique. I appreciate that enormously.

I want to thank our newly elected chair for his advice and patience and comments as well as Katrina's, the secretary. We will - and Barry of course - we were having calls every week on Mondays just to stay ahead of the game. We hated pop quizzes; I think that was the issue. And that demonstrated a level of commitment that I have not seen very often.

I think we were successful - I said this at the very beginning - we implemented new changes that brought us to a higher level. I think we are more efficient. And that is for all of the work that all of
you have given. And I thank you for that.

I know I have 14 friends for life, and many more from the public. And that is fantastic for me.

So have a nice break. I appreciate that. And if there are no other comments from the public - yes.

MR. MATTHEWS: Just one thing. I understand we want to have a board meeting in April; is that right?

MR. DELGADO: We are looking at the calendar. And the final date of that meeting will have to be defined in the next executive call -- actually the January executive call. So that's an item to be voted on. Is that correct?

MS. FRANCES: Not December.

MR. MATTHEWS: My only point is that we are going to be coming into a time when tourism will pick up again in the spring. We often have difficulty in locating hotels. So the sooner we know the better, so that we
can book a hotel as soon as possible.

MR. DELGADO: We do have a tentative date in answer to that question. We just need to go ahead and finalize it.

MR. SMILLIE: I think there's lots of room out West.

(Applause.)

MS. FRANCES: On the meeting questions, the January 7 call, if you are really thinking in terms of April, you need to have your agenda pretty much decided in order to get it at all.

MR. DELGADO: Any other questions? If that's the case, I would entertain a motion to adjourn.

MR. DeMURI: Mr. Chairman, I move we adjourn.

MR. DELGADO: Okay, this meeting is adjourned. Please have a safe trip back home. Thanks again. Happy Holidays.

(Whereupon, the above-entitled matter concluded at 4:46 p.m.)
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UNITED STATES DEPARTMENT OF AGRICULTURE

NATIONAL ORGANIC STANDARDS BOARD MEETING

Monday, May 4, 2009

The National Organic Standards Board met in the Franklin and Adams Rooms in the Washington Plaza Hotel, 10 Thomas Circle, Washington, D.C., at 9:00 a.m., Jeff Moyer, Chairman, presiding.

PRESENT:

JEFF MOYER, Chairman
DAN GIACOMINI, Vice Chairman
JULIE WEISMAN, Secretary
KATRINA HEINZE, Member
GERRY DAVIS, Member
TINA ELLOR, Member
BARRY FLAMM, Member
TRACY MIEDEMA, Member
JOE SMILLIE, Member
STEVE DeMURI, Member
BEA JAMES, Member
KEVIN ENGELBERT, Member
HUE KARREMAN, Member

STAFF PRESENT:

VALERIE FRANCES, Staff
BARBARA ROBINSON, Staff
RICHARD MATTHEWS, Staff
DEMARIS WILSON, Staff
ROBERT POOLER, Staff
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CHAIRMAN MOYER: Good morning, everybody. I'd like to officially call the May 4th meeting of the National Organic Standards Board to order.

We have a quorum. The Board members are all seated, and I'd like to get directly to the business of approving our agenda.

We have an agenda that was presented to the Board members. It was presented to the program and posted for the public to view. So at this time what I'd like to do is ask the Board if somebody would make a motion to approve our agenda.

MEMBER ELLOR: So moved.

CHAIRMAN MOYER: Tina made a motion.

SECRETARY WEISMAN: I'll second.

CHAIRMAN MOYER: And Julie seconded that. Any discussion about the
agenda or changes? Anybody see anything wrong
with it?

(No response.)

CHAIRMAN MOYER: Not hearing
anything, I'll call for a vote. All those in
favor of approving the agenda say aye.

(Chorus of ayes.)

CHAIRMAN MOYER: Opposed?

(No response.)

CHAIRMAN MOYER: Hearing none, we
have an agenda. Thank you, everybody.

Appreciate that.

What I'd like to do is welcome
everybody to this meeting, members of the
Board, program staff that's in attendance, and
the general public seated in the gallery. On
behalf of the entire Board, we appreciate you
all being here.

For me I have to say it's a real
honor to sit on this Board today. We've been
extremely busy over the past few months
working very diligently on the items that you
see in the agenda that we've just approved,
and like every working session before us,
we've spent literally hundreds of hours on
conference calls and countless more hours
reading, writing, and thinking about the
complex issues that we're going to be
discussing over the next three days.

And while some of you will agree
with things that we vote on and some of you
will not agree with things that we vote on, I
can assure you that the members of this Board
have worked tirelessly and put their best
effort forward, and I'm extremely proud of
this Board and the work that we've
accomplished here.

And my time is up.

(Laughter.)

CHAIRMAN MOYER: We've recorded
and posted, I believe, Valerie, over 400
written comments for the Board members to read
and educate themselves with, and we expect to
have dozens of comments here over the next
three days or two days given in person. So it's clear that you, the members of the extended organic community have also been doing your work, and we appreciate that and all the effort that you've made to stay connected to the issues that are in front of this Board.

I will say as the organic industry matures, it is becoming increasingly more difficult to find a balance between the integrity of the word "organic" and the desire for the industry to grow and produce and make new products in new product areas.

Words like "nanotechnology" and the concept of linking organic to the cosmetic industry weren't even in the equation when the law was passed however many years ago, but today these are real challenges to this Board and to the program.

The organic industry faces new challenges. Several Board members I know have been deeply involved in some of these
challenges. To date over a dozen food safety bills have been introduced into Congress.

From traceability to the FDA and USDA reorganizations, these pieces of legislation take various approaches to reforming the food and food safety system.

In recent weeks there's been a great deal of misinformation circulated about the impact that some of these bills would have on our industry, and I know that the Organic Trade Association has been engaged in some of these issues and has been sending out information assuring folks that are members of the OTA that these major bills that have been introduced would not put an end to the organic industry as some of the critics have claimed.

By the same token, organic certification does not nor is it intended to be a substitute for compliance with the weather and the spirit of good agricultural practices and good manufacturing practices that insure safe food for consumers.
So I look forward to discussing how the organic standard can support new and existing practices that help insure the safety standard consumers have every right to expect.

As an industry, we have seen serious issues of fraud and cheating over the last several months. Many of you are aware of that, pointing to the need for continued vigilance, and we all have a role to play.

It's important for us all to step up and protect the integrity of the word and the meaning of the word "organic."

Improving consumer confidence in the food industry is paramount to this Board, and if we all do our jobs, we can minimize the impact of organizations and individuals that they might try to have whose efforts are counterproductive to the mission of this Board.

In light of this, our industry continues to shine as a beacon light in an otherwise failing food system. Data from
research around the country now is conclusive that organic production systems not only produce high quality food products, but also through carbon sequestration can have a positive impact on climate change. And finally, we should take pride in the fact that we now have an organic garden on the front lawn of the USDA building. Thank you, program. (Applause.)

CHAIRMAN MOYER: Only a few months ago that would not have been possible, and it's pretty exciting to see that take place. And now what I'd like to do is end my comments and go right to introductions and give each of the Board members the opportunity to introduce him or herself and give a brief summary of your individual position and your representation on the Board. And if we might start with Joe, Joe, would that be all right? Joe.

MEMBER SMILLIE: Well, pardon the
laryngitis, but glad to be here again.
Looking forward to this meeting. Joe Smillie
and the senior VP at Quality Assurance
International, and I represent certifiers on
the Board.

And we have one recommendation
coming up on peer review and three discussion
papers, which I think should prove
interesting.

I'd also like to thank the
consortium of people out there who put up the
money so that you could all have Internet
access while you are at this meeting.

That's it.

CHAIRMAN MOYER: Thank you, Joe.

Tracy.

MEMBER MIEDEMA: Good morning. My
name is Tracy Miedema. I work at a large
pharm in Oregon called Sawbush Island Farms.
About 1,500 of our acres are certified
organic.

My own food journey really comes
from being privileged to live in the Pacific Northwest and be raised on wild food. I still have a strong connection with being as close to the source of food as possible. I'm one of the consumer reps., and I want to help keep the food sources transparent for consumers as possible.

CHAIRMAN MOYER: Thank you, Tracy.

Barry.

MEMBER FLAMM: I'm Barry Flamm from Polson, Montana on Flathead Lake. I'm in one of the environmental positions, and my term goes to 2013. As you can tell, I've only been on the Board a little over a year now, and I chair the Policy Committee.

CHAIRMAN MOYER: Thank you, Barry.

Rigoberto Delgado will not be with us this morning. Due to travel arrangements, he'll be here later on this evening, as will Jennifer Hall.

Tina.

MEMBER ELLOR: Hi. Tina Ellor
from Kennett Square, Pennsylvania. I'm technical director of Phillips Mushroom Farms, and I'm fill the environmental slot on the Board, and my term -- not that we're counting, Barry, are we? -- ends in 2012.

I've been chairing the Crops Committee, which has been an incredible privilege.

Thank you.

CHAIRMAN MOYER: Gerry.

MEMBER DAVIS: Gerald Davis from Arvin, California. I'm a grower representative on the Board. This is my last year on the Board, and I work for a very large still family owned and operated vegetable farm in California.

CHAIRMAN MOYER: Thank you, Gerry.

Katrina.

MEMBER HEINZE: Good morning. I'm Katrina Heinze from Plymouth, Minnesota. I hold the scientist position on the Board, and this is the beginning of my third year. My
background is in chemistry, but my current position is I lead food safety, regulatory compliance, and product quality for Small Planet Foods.

I am a long time organic consumer and mother of two children. So certainly consumer confidence in the organic label is very important to me.

I would like to apologize to my fellow Board members for my absence, unplanned absence, at the last meeting and really a very big thank you to Bea for stepping in and taking on the Secretary responsibilities while I was gone. I know it is a ton of work, and I appreciate it.

CHAIRMAN MOYER: Thank you, Katrina. Well said.

Dan.

MEMBER GIACOMINI: Dan Giacomini, one of the consumer seats on the Board. I'm trained as an animal nutritionist. I live in northern California, in Middletown not far
from San Francisco and the Bay area. I do a lot of work with both conventional and organic livestock and farming and a lot of work in the feed industry and consulting, and being in that area I'm able to be around and in contact with a very vocal and active and politically aware and liberal and all those things consumer group, which you have in the San Francisco Bay area.

CHAIRMAN MOYER: Thank you, Dan.

Julie.

SECRETARY WEISMAN: Good morning. I'm Julie Weisman. I hold one of the handler positions on the Board. I'm actually the former chair of the Handling Committee, but this year I have passed the torch on to Steve. Also have been Vice Chair of the Board and am currently the Secretary, and this is also unbelievably my fifth and last year on the Board. Boy, time flies when you're having a good time.

I have two flavor companies, Elan
Vanilla and Flavorganics, and I am also the mother of children, and since way before I was dealing with flavors, I've been buying organic food for my family and myself.

And I can't believe that this is getting to be the end. Enough said.

CHAIRMAN MOYER: Thank you, Julie.

I'm not sure why you and Gerry sound so happy.

Steve.

MEMBER DeMURI: Good morning, Everybody. My name is Steve DeMuri. I live in Carmichael, California, which is near Sacramento for those of you that aren't familiar with California. I am the fledgling Chairman of the Handling Committee under the tutelage of Julie here, and I work for an "um-um good" soup company. My office is in California, but our corporate office is in New Jersey. So I can give you a hint who it is.

We do have quite a stable of organic products. I do hold one of the handler positions, and this is going on my
third year on the Board as well.

CHAIRMAN MOYER: Thank you, Steve.

Bea.

MEMBER JAMES: Good morning. My name is Bea James. I hold the retailers seat.

Previously I have been the Secretary, and I'm very excited to be at this meeting, to not have to take notes. Thank you, Julie.

I work for a company out in Minneapolis, Minnesota, a 21-store upscale grocery chain called Lunds and Byerly's, and I am the senior manager of organic natural and HBc programs there.

I'm also the mother of two boys, Forest and Harvest. So I really do have roots in Crunchy Granola Bell, and they are very excited when I leave because their grandparents get to give them all the food we're not advocating for today.

(Laughter.)

CHAIRMAN MOYER: Thank you, Bea.

MEMBER ENGELBERT: Good morning.
My name is Kevin Engelbert. I hold a producer seat on the Board. This is my fourth year. My family and I operate a 120-cow dairy farm in Nichols, New York. We also have a retail meat business, and we've just recently started up an organic grain business.

I serve as Vice Chair of the Livestock Committee. I'm on the Crops Committee and also the Materials Committee. A difficult time of year for me to be here, and again, I'd like to thank my sons and now my brother for covering for me so that I can attend the meeting, and it's certainly, again, still a privilege to be here.

CHAIRMAN MOYER: Thank you, Kevin.

Hugh.

MEMBER KARREMAN: My name is Hubert Karreman. I'm a dairy veterinarian, among a lot of certified organic dairy farmers in Lancaster County, Pennsylvania. I hold an environmentalist seat here, probably partly due to my past in soil conservation with the
USDA Soil Conservation Service, and I'm Chair of the Livestock Committee, and I guess we'll leave it at that.

CHAIRMAN MOYER: Thank you.

Kevin.

MEMBER ENGELBERT: I'd like to add one more thing on a personal note. Those of you who know me know my wife Lisa is always at these meetings, but she's not in attendance. Our middle son, his wife is eight days overdue. She couldn't bring herself to come to the meeting with a baby imminent. So if I break into a big smile, you'll know that I've gotten a text message, and I'm a grandfather again.

(Laughter and applause.)

CHAIRMAN MOYER: Thank you, Kevin and Hugh.

And lastly, I'm Jeff Moyer. I'm the Board Chair. I am also the research farm director for the Rodale Institute in Burks County, Pennsylvania. I have my own farm,
about 53 acres. We raise crops and some beef cattle, and it's a pleasure to be here.

I have one other announcement. I would like to ask that members in attendance try to refrain from E-mailing individual Board members during the voting process that will take place on Wednesday. Apparently that has happened, and we'd like to not have that happen. It's not an official policy statement; just a request from the Board.

Next on our agenda, we'd like to go over and just for the record state the mission of this Board, the vision and the mission of this Board, and I'm just going to read it directly as it is written in our policy and procedures manual.

The National organic Standards Board's vision is an agricultural community rooted in organic principles and values that instills trust among consumers, producers, processors, retailers, and other stakeholders.

Consistent and sustainable organic standard
guard and advance the integrity of organic
products and practices.

The NOSB mission statement: to
provide effective and constructive advice,
clarification, and guidance to the Secretary
of Agriculture concerning national organic
program and consensus to the organic
community.

In carrying out the mission, key
activities of the Board include assist in the
development and maintenance of organic
standards and regulations; review petitioned
materials for inclusion on the national list
of approved and prohibited substances;
recommend changes to the national list;
communicate with the organic community,
including conducting public meetings,
soliciting and taking public comments;
communicate, support, and coordinate with the
National Organic Program staff; and provide
information and education on the National
Organic Program.
That is our vision and our mission, and we're pleased to be able to bring that to you today.

The other thing that I will mention is that unlike my previous illustrious predecessors, being Pennsylvania Dutch, I'm going to tell you in advance that I'm going to butcher and bolix every name from somebody who comes up to give public comment. I will do my best not to discriminate against anybody and will probably do it equally to everyone. So I apologize in advance for that.

And now, if we could have the Secretary's report. Julie.

SECRETARY WEISMAN: Yes. We have I'm sure whether to count it as one or two separate things, but I will call them out as two, and we may vote as one if that's appropriate.

We generally vote to accept in the past it was the minutes that were taken by the Secretary, but we have now been practicing for
the last two years using the transcripts from
the meeting and accepting those as the
official record.

In addition, we have passed around
to everyone on the Board this spring the
voting results and tallies from the November
meeting. Actually this was done in the
winter, and I think everyone reviewed and made
amendments at that time.

The Executive Committee on its
last call on April 17th voted to accept the
tally as it was last circulated, and so at
this time we can entertain motions to accept
the meeting transcript and those voting
results as an official record of the 2008
meeting.

I don't know if there's
discussion.

CHAIRMAN MOYER: Will somebody
make that motion or did you make the motion,
Julie?

SECRETARY WEISMAN: I move that we
accept the meeting transcripts and the voting
results that were voted on at the last EC call
as official record of the last NOSB meeting in
November.

CHAIRMAN MOYER: Thank you, Julie.

We have a motion. Would there be
a second?

MEMBER HEINZE: Second.

CHAIRMAN MOYER: Katrina seconds
that motion.

Is there discussion?

(No response.)

CHAIRMAN MOYER: Hearing none, I
call for the vote. All in favor say aye.

(Chorus of ayes.)

CHAIRMAN MOYER: Opposed, if any?

(No response.)

CHAIRMAN MOYER: Hearing none,
that motion is approved and passed, and we
have a Secretary's report.

Thank you very much, Julie.

Now what I'd like to do is ask
Barbara if you might be willing to introduce
your staff or allow them to introduce
themselves and give your report.

MS. ROBINSON: Sure. I'm Barbara Robinson, Deputy Administrator for
Transportation and Marketing Programs, and
presently the Acting Director for the National
Organic Program.

MS. WILSON: I'm Demaris Wilson,
the Associate Deputy Administrator for
Transportation and Marketing Programs.

MS. GUO: I'm Ruihong Guo, the
Chief of Compliance and the Enforcement NOP.

MR. MATTHEWS: Richard Matthews,
Branch Chief, Standards Development and
Review.

MS. SCHMALE: Valerie Schmale.
I'm with Compliance and Enforcement staff.
(Additional introductions made off
microphone.)

MS. FRANCES: Valerie Frances,
Executive Director of the National Organic
Standards Board, and garden coordinator.

(Laughter.)

CHAIRMAN MOYER: And we couldn't live without Valerie. Thank you.

(Additional introductions made off microphone.)

CHAIRMAN MOYER: I'm sorry, but some of the Board didn't hear, and if you could stand up when you introduce yourself in the back. We can't see you.

(Additional introductions made off microphone.)

CHAIRMAN MOYER: Thank you, everybody, for the introduction.

Dr. Robinson.

MS. ROBINSON: Okay. Good morning, Mr. Chairman. Just a few things. First of all, I have some sad news to announce. I don't know how many of you remember Beth Hayden. She used to work with this program and then with the ARC Branch. She was in a glider with a friend of hers,
Alan Melendie, and was missing April 24th, and I just got word last evening that they are confirmed dead. So I am very sorry about that.

Anyway, Beth did do a lot of work for the NOP, and we will miss her. So our prayers go out to her family.

Let me just go on with the NOP update. Our budget this year was increased by $630,000 for FY '09, and we are very pleased about that. We didn't get that budget increase until March, of course. So you know, we're scrambling to make the most productive use of it as possible.

The good news, of course, is that with the new administration and the limelight on sustainability and organic and small and local, we do expect with the appropriations hearings that the NOP budget will be doubled for the 2010 budget.

Now, so that will take us to $6 million in 2010. Now, except that I don't
know, given the way Congress has been acting, whether we'll get that budget in October. It could well be that we don't see that budget increase again until next March, but still that would increase the base of the NOP budget in the outgoing years. So that will be good.

In the meantime we have put out an announcement for a multiple hire at the GS-9 through 12 level. That is out on the street now. So we hope to -- we're going to hire as many people as we can afford right at the moment and try and continue to increase that staff.

I also put forward a memo, a proposal to the administration to separate the National Organic Program as its own program in the agency. I just believe it's time for the NOP to stand on its own. I think it has the resources and the responsibility and the legs, frankly, to do that, and that initiative is being given serious consideration in the administration. So we'll just, you know,
watch and see what happens with that.

The Inspector General is continuing to review the NOP. They did a review of the program in 2005. They are reviewing the program again. They expect to complete the review probably by the end of the fiscal year.

After they complete their review, of course, then we'll respond to that review.

The People's Garden, as you may have heard, there is a People's Garden around the Whitten Complex. The Whitten Complex is USDA Headquarters, the big, white building across from the South Building. Contained within the People's Garden, of course, is a smaller section of that, which is being converted, transitioned to organic, and on Earth Day, there was quite, you know, a celebration of that.

And I did ask Valerie if she would be our point of contact. She is the point of contact for all of AMS for that, for the
organic portion of the People's Garden, and
she willingly agreed to take that on in
addition to her duties as your Executive
Director. So I don't know when she's
sleeping, but she's doing a very, very good
job at that, and I'm quite proud of what she's
doing there.

And thanks very much to the
Rodale Institute, who jumped right in and
delivered ten cubic yards of compost so that
we could get that garden up and started right
away.

PARTICIPANT: (Speaking off
microphone.)

MS. ROBINSON: Yes, and sage
advice. That's true.

And Seeds of Change delivered
what, 24,000 seed packets, and Southern Seeds
Exchange, yes.

Well, we had a lot of seeds
donated, yes, yes. But at any rate, we've had
just a tremendous amount of interest in the
garden, and people walking by, they're just fascinated by this. So we view it as a teachable moment, that it will be just something that we can explain to people what organic is and what it isn't.

Pasture rulemaking, you know, we asked the organic community to please give us substantive comments. So they did, very substantive comments. We got 19,000 comments on this rulemaking.

So we are writing as we go, writing as we analyze, but we really did get some hefty comments this time. We have, I think, I have because I've asked for copies of them, I think, three three-ring binders that are at least two inches thick of the comments. So we got what we asked for this time. So it's pretty significant feedback from the industry. So we expect to publish something later this year.

I've asked Shannon Ellie on my staff to begin work to work on the proposed
rulemaking for original livestock and get that underway.

ACA training, we talked about this at the last meeting, that we want to do Web-based training, and we have sent out an invitation to the ACAs for the all things organic session in Chicago. This is not going to be an NOP A to Z type of training. Instead, we're going to demo some of our training that we've developed so far.

We'll have training sessions on labeling, certification, investigations and complaints. We'll have a general one on labeling, and we'll have one that zooms in a little more in depth on labeling for alcoholic beverages because that's an area that we see continued problems in with TTB, and so we've developed a more detailed how to approve labeling for alcoholic beverages.

And then if we have some more time, later in the afternoon we've got a list of topics that we think continue to be raised...
by ACAs and that we continue to see issues
with dealing with the health and safety
statement that we just put out, fertilizers,
something called "What's in the other 30
percent?" that sort of thing, flavors, and a
few other little fun things that we continue
to see pop up.

We are going to hold an NOP
retreat, program retreat, the first full week
of July, right after the 4th of July holiday.
Because the program is growing, because we
have increased the staff, because we will
increase the staff, because the budget is
increasing, because the spotlight continues to
shine on this program, this program needs to
figure out where it's going, and I really
think a retreat is in order, strategic
planning session for this program.

So it's kind of a Tuesday,
Wednesday, Thursday, maybe, you know, late in
the morning and then go through Thursday
midday. We're going to go off site and have
a facilitated retreat.

I have invited Jeff Moyer to come to part of this retreat as chair of the Board, as I have invited the ARC branch, the Appeals staff, and OGC because I think that we need to reach out and touch all of the folks that we work with, all of the people that we interact with, all of the various staff that we do interact with, maybe not for the entire retreat, but certainly for a good portion of it.

And that leads me to a couple of other things that I think are important, and this thing is really driving me nuts. Let me fix that.

I have discussed this a little bit with my staff, and that is recommendations by the NOSB, and I had asked Valerie to give me a summary of this, and I had discussed this briefly with the Executive Committee of the Board, and I think that they have agreed with me about this.
Since 2002, this Board has made 65 non-material recommendations to the program, and I can tell you in all confidence that we haven't worked on those. I know that we have not worked on those, and I can only imagine that by this time, you know, there must be a certain amount of frustration growing on your side of the table. There is certainly a level of frustration on our side of the table.

It strikes me that, you know, I just have to wonder why are we doing this. Why do we continue to do this? You know, I think maybe what we ought to do is kind of just call a time out here. This may stem from some rational thing in the past, but it doesn't make a lot of sense to me to continue to do this in the future.

We will always work on materials recommendations as a priority. Sunset will come first, and then new materials will come second. That will always be our first priority because that is always the priority,
of course, of the Board and of the industry.

But then it does seem to me that here's 15 of you and now there's, you know, so many of us; it does seem to me to just make logical sense that we should have a working session or some kind of get-together and say, "What do we want to work on? What's important to you? What's important to us? What do you want us to work on?"

Now, you know, we can sit around and say, "Well, how come we haven't done this? And how come we haven't done that?" You know, we can do that, and maybe we should, but once we get beyond that and we want to get to the constructive part of the conversation, you know -- and I'm not saying I have the answers here, but I am saying don't you think we ought to get to that constructive part where we say, you know, "What are your priorities? What are our priorities? What two or three things during the year do you think are the most important and you would like us to pay
attention to?"

I mean, we see work coming from you, but you know, I don't get a sense from you about what is the most important thing. Maybe that's because you're organized by committee, you know. I don't know.

In any event, where I guess I'm going with this is perhaps we should also have a strategic planning session of this Board in concert with the program. I'm not talking about the one we're having in July. I'm saying maybe at a later time this year, and there's a couple of ways we can do it.

A simple one would be to tack it onto an upcoming Board meeting. Another way we could do this, and we did discuss this, because we have a problem with operating in the sunshine and the public may want and may feel strongly that if we all go behind a closed door or something and say, "Well, we're all going to have a strategic planning session with the Board," and the public may say,
"Well, no, you're not. We want to know what the Board is going to work on."

Well, okay. We could do something like we did a couple of years ago with the symposium, the dairy symposium, where we say fine. We'll all go and we're going to have a strategic planning session. The public is free to sit in and observe while we all sit around and work. So nobody is shut out. They can watch us all work, but it's not like a meeting like we're having right now.

So no offense to everybody in the room, and maybe there's a time when you can throw three-by-five cards up and say, "We don't like that idea. We don't want you working on that. You know, bad idea," so that you get some input from the public, but meanwhile everybody is just sitting around working and we have it facilitated or something, right?

Anyway, I'm just tossing this out.

I'm not telling you what to do. I'm just
saying it does bother me and it must bother
you that you keep doing these recommendations
and nothing ever happens. I mean, you must be
getting frustrated.

So that's just my thought. I just
worry about this, and I just think it seems
like we ought to do something more than just
you do this stuff and you feel as though no
one is paying any attention. It's not that
we're not.

We do still have a small standards
staff, by the way. I want to hire more people
there, but until we get more people, we're
busy trying to go after cheaters and
miscalibrators and, as some people out there call
them, Scott laws, and so you know, I just
think we should work on this.

Anyway, on to my next thing. I'm
taking too long.

Nominations for new members.
Katherine is working on those. They are
beginning to trickle in. Please do encourage
people, especially those of you who are so eager to leave, that there might be merit in sitting on this Board. Please encourage people to apply, to volunteer for a thrilling five-year ride on the Board.

Materials dockets. We had one just come back from OGC with six materials on it which will go out as a proposed rule. I think that has gellan gum, tragacanth gum, aqueous potassium silicate, marsala and sherry cooking wines, sodium carbonate, peroxhydrate. I think that's it. I think I've got it.

And a couple of last things. Let's see. Mark wanted me to tell you, and I'm going to butcher this, Mark. So help me out. The ARC Branch just received a peer review for NIST accreditation. Did I say that right?

And last but not least, okay, flavors, fertilizer and renewal dates on certificates. We are going to -- oh, yes. On
the new members, we're calling for two

producers, one retailer, one handler, and one

environmentalist.

Hugh, that must be you. Oh, no.

PARTICIPANT: (Speaking off

microphone.)

MS. RICHARDSON: We've had two

applications and 22 inquiries. Okay. My, all

right, okay.

CHAIRMAN MOYER: Barbara, I think

one of the reasons that we have so few people

throwing their hat in the ring is what you

were just discussing earlier. There is a

sense of frustration at the Board, and we are,
as some of the Board members have mentioned in

our meetings, we are overworked, and when

people from the outside look in and go, "Well,
you're signing up for a lot of work," it does

kind of shrink the pool.

MS. ROBINSON: Well, maybe we can

work that.

CHAIRMAN MOYER: I think if we can
1 streamline that it will make it much better.
2             MS. ROBINSON: Maybe we can work
3 on that.
4             CHAIRMAN MOYER: That's right.
5             MS. ROBINSON: All right.
6 Flavors, fertilizers and renewal dates. We
7 have had a flavor affidavit submitted to us by
8 FEMA, a task force and industry group out
9 there. We want to just go ahead and allow
10 that to be used right now. We're going to
11 approve that.
12             We have always said this. We
13 don't like affidavits. However, we're going
14 to work on a generic affidavit from the
15 program, and we're going to get OMB's approval
16 because we're going to put some toothy little
17 language on it, and we would like to see ACAs
18 start using this, and that little language I'm
19 referring to is something if you've ever been
20 on our Website and you've seen something
21 called the TM-11 form on the export
22 arrangement portion of the NOP Website, up in
the corner of the TM-11 form is some language
that says basically if you are signing this
form and you are falsifying a statement to the
federal government, to an ACA -- I
affectionately refer to it as the hanging
language -- that you can be hung or shot or
put in front a firing squad.

I don't know whether you should
write this down. Anyway, it's where you can't
falsify language to a federal official or you
can be subject to fines and imprisonment.

And so we are going to get that
language approved for affidavits that ACAs
have to use where they have to collect
information of a somewhat voluntary nature on
our behalf in order to make sure that folks
are in compliance with these regulations.

So the flavor affidavit that's
been submitted to us has some variation of
that language, and so we're going to go ahead
and approve that.

The fertilizer recommendation, the
OTA task force has submitted some recommendations to us, and we're giving those very positive consideration right now. We're leaning towards approving those.

Our only concern, and those recommendations, frankly, deal with addressing the 100 yard requirement out there that we've put in place. Our concern on the 100 yard requirement is that if an ACA can verify an auditable plan, an auditable, trace-back plan from a fertilizer manufacturer, they can approve it. If they cannot, the 100 yard physical requirement should stay in place. It's just that simple.

If you can't verify that a company is cheating, don't approve them. I just think it's that simple.

And finally, on renewal dates on certificates, I understand certifying agents want to standardize certificates. We don't have any problem with that. Our only objection is that expiration dates are not
allowed on certificates, but you know, we've seen so many bogus certificates, people saying, "Yes, I'm certified by, you know, PCO." They are not. You know, they've come up with some bogus certificate that they manufactured by PCO, and they're certified by NOFA-New York, but they made one up so that they could go out and, you know -- they said so they could go out and find out milk prices, which had nothing whatsoever to do with finding out milk prices.

You know, we would just as soon ACAs go ahead and put, you know, renewed, last date of renewal, scope of renewal. Go ahead. Put the information on there. Make your certificates standard, but I don't see that we need to standardize your certificate.

If your certificate, you know, you want to have your company on it, that's fine. If you want to have a renewal date on there, the last date of inspection, go ahead. The burden is going to be on you to make sure you
get out there and make sure it's up to date.

I don't have a problem with that.

So like I said, you can't have an expiration date on there, but you may certainly have a renewal date on.

So that's all I have unless you have questions for me.

CHAIRMAN MOYER: Are there any questions? I saw Steve, then Kevin, then Joe.

Thank you.

MEMBER DeMURI: Thanks, Barbara.

Good report.

Can you comment on how things are going with the Canadian equivalency discussions?

MS. ROBINSON: Swimmingly.

They're going very well, Steve. We are confident that -- in fact, we have invited -- we are both planning to meet in June. We agreed in March to our public statement that it was our mutual intention to sign an agreement before the Canadians implement their
1 standards by June 30th.
2
3 MEMBER DeMURI: Thank you.
4
5 CHAIRMAN MOYER: Okay. Kevin.
6
7 MEMBER ENGELBERT: Thank you, Barbara, especially for the update on the
8 pasture role. I can't tell you the
9 frustration that exists out in the dairy
10 community involving that. I'm not going to go
11 into a diatribe about it.
12
13 I also wonder if you could just
14 touch briefly on getting the program to stand
15 on its own two feet I assume is a good thing,
16 but what exactly do you hope to gain from
17 that? Is it something as simple as being able
18 to get your offices all in one spot so you can
19 work more efficiently, or will it give you
20 more clout when you go to other agencies and
21 need work done, or what exactly do you hope to
22 see happen if that does take place?
23
24 MS. ROBINSON: Well, some of it is
25 optics, to use an overused word, I suppose,
26 Kevin. You know, I've come before this Board
now I don't know for how many years, and you
know, as the Deputy Administrator for
Transportation and Marketing, and I'm sure
people are like, "What is that?" You know,
where is that?

And I guess I'm just to the point
where I thought it would be nice if -- and
I've heard this industry ask for many years if
this program could be -- they've asked for a
program to be housed in the Secretary's
office. You've wanted your own office, your
own place in USDA.

And so I guess this is kind of my
way of sort of a happy medium between those to
say that this program should be managed as its
own program within the department. It would
still be in the Ag. Marketing Service, but it
would report to the Administrator of AMS, and
so, I mean, to some extent maybe it is a
little bit optics, but it would be on par
with, say, the dairy programs or livestock and
seed or transportation and marketing, but it
would be the National Organic Program would have its own office in USDA.

Yes, I do think it gives it more recognition, maybe a little more clout. It is going to continue to attract resources down the road. If the resources that are authorized by the farm bill continue to be appropriated, then I just think this program should have its own address.

CHAIRMAN MOYER: Kevin, did you have a follow-up?

MEMBER ENGELBERT: Yes. Would that be something that you would like this Board or the public to take part in encouraging that to happen, or is this something strictly internal in USDA that has to take place?

MS. ROBINSON: I don't think that the Board needs to do anything at this time about it. I think it is being given very serious consideration in the department. I think you have leadership in the department
now that welcomes these kinds of ideas. So I don't think that you have to do anything about it.

CHAIRMAN MOYER: Thank you, Barbara.

The Chair recognizes Joe.

MEMBER SMILLIE: Thank you, Barbara for the update.

The Canadian news is definitely interesting. A lot of people are hanging. It's getting close.

MS. ROBINSON: For about two months.

MEMBER SMILLIE: I know. Labels take a long time to create, but that is good news and hopefully that will continue.

Also, the flavor affidavit, I can't tell you how important that is. It has become a real issue with certification, and I think your approach on, you know, tough language when someone signs an affidavit is a valid compromise because we do need affidavits
because, once again, they are conventional materials, not organic materials.

So I think that that will work. I look forward to getting that out on the street as soon as possible.

As far as renewal dates and expiration of certificates, I understand that you're hemmed in by the language of the regulation and the enabling legislation on expiration dates, and that, you know, they can only be surrendered, voluntary surrender, revoked or suspended, and that we'll live with.

It is a problem with renewals because a lot of times some people have noncompliances, and they don't get their certificate until they rectify those noncompliances, and other people are trading in those materials.

So it does create a problem, but we can deal with it, and again, working together between the ACAs and the program we
can iron out those difficulties and educate all of our certified clients as to what it means because they want the up to date certificate, and they say, "No, we can't accept it until we get an up to date certificate."

And we have to read them, no, it's still valid, you know. So it's a problem, but we'll deal with it. It's not a huge problem, but hopefully with the education we'll start to solve it so that the certified entities could understand what renewal means.

As far as standardization, it's not an issue of who's name is on the top. There's some real basic issues, and I think our recommendation, I would urge you to just take another look at it because there's some core information that we need to be standardized in the certificate.

For example, there is no, from what I understood consistently from the program, that the certificate does not have to
say in accordance with National Organic
Program regulations. They all now are
starting to say that because many of us won't
accept it unless they say that, but we would
like to see that enshrined formally, that the
certificate must say in compliance with the
program. That's a small item.

Then the other issue is, you know,
that we tackled as a group is that the
certificate could say grain. It could say
corn. It could say blue corn, yellow corn,
feed corn. You know, we do need the program
to give guidance to the ACAs as to just
ballpark what you want to see on that
certificate because there's a lot of
frustration really because some sort of filers
will just say, you know, this company is
certified for grain, you know. Then other
people will get more specific. Other people
want to get, in my opinion, too specific and
say Pioneer 365A.

But we need something to get
people a little closer together. Now, maybe that can happen through the work of the ACA self-discipline and that, but we'd like you to take another look at that document to see if we could try and get towards a more standardized certificate from your point of view also, what you would like to see as core information on the certificate. How specific is the listing?

CHAIRMAN MOYER: Thank you, Joe.

MS. ROBINSON: Yes, that's fair enough.

CHAIRMAN MOYER: Yes. Hopefully the program can take that advice. I think it's great advice.

Hugh and then Bea.

MEMBER KARREMAN: Thanks for your update, Barbara.

I just wanted to add something or ask something totally different from what you've been talking about. Livestock Committee and the Executive Board, I think,
knows, but we've been in conversation with the NOP about the topic of vaccines and how some certifiers are starting to look at vaccines differently than has been done for the last seven years since the program was officially started.

I was wondering if you have any official statement on what the program might be thinking about as far as vaccines to prevent disease in organic livestock.

MS. ROBINSON: Are we going to take this up as a discussion item during the meeting?

MEMBER KARREMAN: I don't think it's on the agenda for that.

CHAIRMAN MOYER: It is not on the agenda.

MEMBER KARREMAN: That's why I wanted to ask you about it because --

CHAIRMAN MOYER: It did not come up in our discussions until after the agenda was approved and posted.
MS. ROBINSON: Okay. You know, I want to work with -- yes, we do want to make a statement about that, but I'll tell you what. Let me work with Rick because I don't have something written down as well. Let me make sure that I've got something because I don't want to misspeak. Okay? Because we have discussed this, and I want to make it clear and clearly state what our position is on vaccines. Okay?

So I will do that, but I want to get with Rick and you, and then I'll make a public statement about that.

And before --

CHAIRMAN MOYER: Do you know when you'll be ready to make that statement, Barbara?

MR. ROBINSON: Yes. Well, no. I mean, during the meeting some time.

CHAIRMAN MOYER: It will be today?

I'm just wondering for the members.

MS. ROBINSON: Yes, we can do it
today.

CHAIRMAN MOYER: Thank you.

MS. ROBINSON: And before I

forget, two other things. Of course, some of

you are going to meet with the Science and

Tech folks after the meeting. Jeff, neither

one of us mentioned that, to get together to

discuss to improve the TAP review process,

which is great.

And we are working on a petition

substance database, trying to improve that.

We've got a statement of work with Science and

Tech. They are trying to develop the database

for us and improve that because I know I went

on there and say, "Oh, God, this is terrible."

So we are working to improve that as well.

CHAIRMAN MOYER: Thank you for

bringing that up, Barbara. I should have

mentioned that, that the Board was invited to

sit down and meet with the program and with

the Office of Science and Technology to review

the process and procedures that we'll be using
for TAPs or technical reviews that we've been
going from that office.

There are some concerns that we
need to go over and address, and we're going
to be meeting on Thursday with that group.

Thank you.

Bea, then Julie.

MEMBER JAMES: Thank you for the
update, Barbara. I'm really encouraged to
hear you bring up kind of the pink elephant in
the room, which is that the Board is weighted
down with a lot of work and that working on
prioritization would help us all make sure
that we're doing thoughtful work.

I just wanted to comment that I
believe that slowing down and doing thoughtful
work that is applicable will go farther than
racing to a finish line weighted down with too
many recommendations that we can't really
implement.

And the one thing I wanted to
point out is that after the next meeting, five
of us will be going off, and if there's any
way to have that meeting about working on a
way of prioritizing, I don't want to speak for
my other fellow Board members, but it seems
like it would be valuable to take the wisdom
of the people who have been on the Board and
know how much work there is to do.

MS. ROBINSON: I agree.

CHAIRMAN MOYER: Thank you, Bea.

The Board recognizes Julie.

SECRETARY WEISMAN: Yes. I
actually, going back to the issue about the
meeting with S&T and the going over the
technical review process, I did want to
mention that in public comments before this
meeting as before many meetings, a number of
people had part of their comments that were
directed to how the technical reviews either
are in regards to various issues that we are
working on, specific comments and suggestions
about how those could be addressed and
clarified through the technical review
process, and I wanted people who made such comments to know that we have, you know, collected all of those, and we do intend to incorporate that as well as our own observations and working with the technical review into that meeting.

So I think I've said enough.

CHAIRMAN MOYER: Thank you, Julie.

That's correct, yes.

Any other questions for the program?

(No response.)

CHAIRMAN MOYER: Hearing none, thank you, Dr. Robinson. I appreciate that.

Next on our agenda we have Dan, Materials Committee or materials review process update, if you're ready for that.

MEMBER GIACOMINI: If Valerie is ready for that, thank you, Mr. Chairman.

Materials review update, when I started this, was asked to do this about two years ago, it had been a number of years since...
it had been done at a meeting to review this process. It has been at every meeting sine then.

So if at any point in time people are starting to get bored with it and want to break, just let us know.

Next slide, please.

What we'll review today is a national list of allowed and permitted substances, the petition, and sunset review items, the material review process, the national list criteria, sunset review criteria, an overview of the Materials Working Group, and some final notes.

next slide.

For the national list of allowed and permitted substances, Section 205.601 for crops, are synthetic substances allowed for use in organic crop production, with Section 602 being non-synthetic substances prohibited for use in organic crop production.

Livestock, 603, synthetic
substances allowed for use in organic livestock production; 604, non-synthetic substances prohibited.

Section 605 for handling, non-agricultural, non-organic substances allowed as ingredients in or on processed products labeled as organic or made with organic specific ingredient or food groups: (a) non-synthetics allowed and (b) synthetics allowed.

Section 606, non-organically produced agricultural products allowed as ingredients in or on processed products labeled as organic. Listed non-organically produced agricultural products may be used as ingredients in or on processed products labeled as organic only in accordance with any restrictions specified in this section and only when the product is not commercially available in organic form.

Petition and sunset review items under consideration at this time. Petitioned items for this meeting, spring 2009 meeting,
for 601 of crops, isoparaffinic hydrocarbon, sulfurous acid, and a parasitic acid and list for inerts are two items for discussion only.

Section 603 for livestock, propionic acid and injected use of vitamins and minerals.

Section 605, propionic acid, sodium chloride acidified, propane, and Lecithin bleached petition for removal.

And 606, chicory root, red corn color, Murr essential oil, wheat germ, and another petition to remove Lecithin fluid unbleached.

Other petitioned items that are under review at this time, they have been there in the technical review process or we have received them too late to deal with at this meeting. Tetramethyl -- I won't even try these. You can just read those, folks.

Six, oh, one, 603, clarification on vaccines; 605, glucosamine HCl and a pectin non-aminated which has also been under TAP
review, TR, technical review.

Some additional items of petitioned substances, Mr. Bob Pooler is now the terminator. The petition for potassium phosphate for 603 for livestock after dealing back and forth with the petitioner, I'm sure, over a significant period of time, that petition was determined to be terminated.

Deferred petitions by the petitioners which note no further action at this time are sulfuric acid and yeast.

We are beginning to look at items for 2011 for sunset there under this meeting for discussion, 602 items for 601, nothing for 603. Six, oh, five (a) has three substances listed, and a number for 605(b) and none for 606.

The material review process, the petition process is under the guidelines to either add or delete substances from the national list according to this Federal Register notice.
The material review process is designed for adding new listings to the national list, changing annotations of existing listings already on the national list, or removing items currently on the national list.

The material review process is a minimum -- and that's very minimum, ideal situation which has never and never will be seen -- but an absolute minimum time frame with the national list material review was 145 days, and that does not include rulemaking. That is conditional on completeness of the petition on initial submission, manpower within the specific reviewing committees and the Board overall, time frame relative to the NOSB public meetings on when this substance petition is received, and completion and review of technical reviews.

The material review process day one through 14-plus -- and that plus is significant in later slide -- the petition is
received by the NOP and reviewed for completeness. Issues determined to not be complete and the NOP contacts the petitioner to complete the petition, and under termination of completeness by the NOP, the petition is forwarded to the NOSB materials chairperson.

Day 14 through 45, so essentially that is saying for a minimum of the next 30 days after completion of the previous slide. So if the previous slide takes six months, there is no way that we can complete this next session in 45 days. So it's 30 days from when this -- a minimum of 35 days from when this is received.

The material chairperson forwards the petition to the chairperson of the designated NOSB committee. The petition is reevaluated for completeness to determine if it will be forwarded for an external technical review, and specific issues and questions which the committee wishes addressed in the
technical review are submitted to the NOP.

You jump now to the 60 days prior to the NOSB meeting where technical reviews are sent to the NOSB. TAP and technical reviews are posted on the NOP Website for review and public comment. Committee recommendations are posted for public comment, and 30-day period prior to the meeting where public comment is accepted by the NOP and posted on the Website.

At the NOSB meeting, committee recommendations are submitted. Further comments are accepted from the public, and all public comments are taken into consideration, and action is taken by the full NOPSB Board regarding committee recommendations.

As a final note, during the entire process, all communication between petitioners and the NOSB should go through the NOP office.

National list criteria as according to the Organic Foods Production Act of 1990, as amended, and the NOP regulations,
Section 205.600. In general, item number one, the potential of each substance for detrimental chemical interactions with other materials used in organic farming systems.

Number two, the toxicity and mode of action of the substance and of its breakdown products of any contaminants and their persistence in areas of concentration in the environment.

Three, the probability of environmental contamination during manufacture, use, misuse, or disposal of such substances.

Four, the effect of the substance on human health.

Five, the effect of the substance on biological and chemical interactions in the agroecosystem, including the physiological, including the physiological effects of the substance on soil organisms, including the salt index and the solubility of the soil crops and livestock.
Six, the alternatives to using the substance in terms of practices and other available materials.

And, seven, compatibility with a system of sustainable agriculture, according to the Federal Register docket there, and if anyone would like to reference that, they are certainly welcome.

National list criteria for processing aid or adjuvants, the synthetic substance cannot be produced from a natural source, and there is no organic substitute.

Two, the substance manufacture, use and disposal do not have adverse effects on the environment and are done in a manner compatible with organic handling.

Three, the nutritional quality of the food is maintained when the substance is used, and the substance itself or its breakdown products do not have an adverse effect on human health as defined by applicable federal regulations.
Four, the substance's primary use is not as a preservative or to recreate or improve flavors, textures, colors, nutritive value lost during processing, except where the replacement of nutrients is required by law.

Five, the substance is listed as generally recognized as safe by the FDA when used in accordance with the FDA's good manufacturing practices and contains no residues or heavy metal or other contaminants in excess of tolerance set by FDA.

And, six, the substance is essential for the handling of organically produced agricultural products.

National list criteria for Section 606, agricultural and potentially commercially unavailable. The NOSB considers why the substance should be permitted in the production or handling of an organic product.

The current industry information regarding availability and history of unavailability of an organic form in the appropriate form,
quality and quantity, and this information includes, but is not limited to, regions of production, including factors such as climate and number of regions; the number of suppliers and amount produced; current and historical supplies related to weather events, such as hurricanes, floods, droughts, that may temporarily halt production or destroy crops or supplies; trade related events, such as evidence of hoarding, war, trade barriers or civil unrest that may temporarily restrict supplies; and other issues which may be present which may present a challenge to a consistent supply.

The sunset provision criteria. The sunset provision, according to OFPA is no exemption, which is the listing on the national list, or prohibition contained in the national list shall be valid unless the National Organics Standards Board has reviewed such exemption or prohibition as provided in this section within five years of each
exemption or prohibition being adopted or reviewed, and the Secretary has renewed such exemption for prohibition.

The sunset review criteria for exemptions' national listings were accepted because the evidence available showed the substances were found not harmful to human health or the environment. Substances were necessary because of the unavailability of wholly non-synthetic alternatives, and the substances were consistent and compatible with organic practices.

The sunset review criteria includes the opportunity to revisit the continued need for the exemption. If the review finds that the initial conditions still exist, the regulation is renewed for an additional period of time.

Sunset review is to determine if conditions relevant to the acceptance of the exemption have changed. The sunset review process is not to add a new substance to the
1 national list. It is not to change an
2 existing annotation, and it is not the time to
3 reinterpret unchanged information and
4 conditions. These issues are dealt with in
5 the petition process.
6
7 In working with the Materials
8 Working Group, the Materials Working Group was
9 formed to help the NOSB resolve the issues,
10 questions and confusion regarding the
11 classification and the definition of
12 materials. It includes members from across
13 the organic industry.
14
15 In the spring and fall '08
16 meetings, they issued reports to this body
17 regarding questions on the ag/non-ag question.
18 At this meeting they will issue a report on
19 the synthetic/non-synthetic questions, and
20 which will hopefully allow this Board for the
21 fall '09 meeting to take action on hopefully
22 as many of these recommendations as possible.
23
24 A final note. Public comment is
25 handled via www.regulations.gov. It is to
bring processing of public comment to an equal level across agencies. This process sets a deadline for public comment posted two weeks prior to public meetings.

However, we want to recognize that all public comments received by the NOP is made available to NOSB members for review in advance of the respective vote whenever possible.

And as a final note, again, posting the relevant Websites for the NOP, the NOSB and for the posting of public comment.

Thank you, Mr. Chairman. Are there any questions?

CHAIRMAN MOYER: Are there any questions from the Board to Dan regarding his report and update on materials?

(No response.)

CHAIRMAN MOYER: Okay. There being none, unless the Board has a problem, Richard Matthews would like to add an addendum to the program report dealing with the comment
on vaccines. Any problems from the Board?

(No response.)

CHAIRMAN MOYER: Richard, the mic is yours if you care to take it.

MR. MATTHEWS: This deals with the issue that was raised by Hugh. For a minute there I had a brain freeze. I couldn't remember your name, Hugh.

Two, oh, five, one, oh, five addresses the fact that excluded methods are prohibited under the National Organic Program, and in there it talks about except for vaccines, but it then goes on to say provided that the vaccines are approved in accordance with 205.600(a).

We've looked at this because it has come to our attention that at this point some certifying agents are starting to look closer at vaccines today than they did at any other time since the program was implemented, and some vaccines that have historically been allowed under the program are suddenly being
called into question.

I think there's a multitude of ways that this could be addressed. One of the ways that this could be addressed would be to amend Section 105 to take out the language that occurs after "vaccine." So one option would be where it currently says -- I lost my spot again already. The pages flipped on themselves -- "excluded methods except for vaccines," that could be where the period goes. That would take a recommendation from the Board.

So I would suggest that the Board take that into consideration as to whether or not they want to amend the regulations at 205.105 to allow all vaccines regardless of how they're manufactured.

Quite frankly, for the last seven years, that's how it has been.

Now, just for a little history, the preamble to the final rule addresses 205.105(a)(6) as to how it was structured, and
it basically said, as I said earlier, that if you had a vaccine that was created using an excluded method it was okay as long as the material was reviewed and added to the national list.

And that was done because we had no information as to how prevalent the use of vaccines was -- I mean how prevalent the use of excluded methods was in the production of vaccines. We are no more knowledgeable on that today than we were back when the regulation was written in 2000.

And so the question is: do you want to allow what has been in place really since these regulations were written, or do you now want to start putting extra scrutiny on materials that historically have been allowed under the program, which is exactly what is happening from some certifying agents?

So that's the issue. I mean, do you want us reviewing or do you want to review every vaccine or do you want to amend 105?
CHAIRMAN MOYER: Thank you, Richard.

If you'd stay by the mic for a moment, I believe there are some questions. Hugh.

MEMBER KARREMAN: Thanks a lot, Richard. I think as Chair of Livestock Committee I will take that suggestion to amend 105(e) and work with that within the committee and then hopefully bring it up for a recommendation as vote at the November meeting.

CHAIRMAN MOYER: Bea.

MEMBER JAMES: I just want your opinion. Hypothetically speaking, let's say we had all of the staff we needed; we had all the resources that we needed. If we did, would this part where it says "provided that the vaccines are approved in accordance with 205.600" stay?

MR. MATTHEWS: I think that's up to the Board. I mean, right now it's in there
and that would be the requirement. I personally, if you're asking for my personal opinion, I have a problem with suddenly telling farmers that vaccines that they've been allowed to use for all these years are suddenly no longer good enough. I mean because they've been good enough up to this date, and so why all of a sudden are they no good? Well, it's because somebody discovered that it was made through an excluded method.

We've got to remember that vaccines are there for our safety, as well as the safety of the animals, and so the statute itself says vaccines are allowed. It doesn't say unless they're made using an excluded method. It says vaccines are allowed.

It was a reaction to GMOs that created the exclusion. So the question that this body needs to determine is how important is that exclusion. I mean, up to this point it apparently has not been important because nobody is worried about it, and suddenly we've
got some ACAs that are cracking the whip on it.

CHAIRMAN MOYER: Richard, I think the other issue that the Livestock Committee was looking for some guidance from the program on is in the interim between now and when the Livestock Committee has a chance to act on this, is there some sort of language or stay that can be put in place so that farmers can continue to do what they have been doing at least until November when we have a vote on something. Otherwise ACAs could immediately close the door on that.

MR. MATTHEWS: Yes, we've talked about that as well, and it would be a directive that would go out to the ACAs. You can probably call it an action alert, that would tell them to not start disqualifying things that have been previously approved and to allow the rulemaking process to run its course.

CHAIRMAN MOYER: Am I to
I understand then that that's an official statement and that that will be happening for the purposes of the ACAs in the room?

MR. MATTHEWS: Barbara is shaking her head yes. Yes, it will happen.

CHAIRMAN MOYER: Okay. Thank you for that.

Hugh, you had another comment.

MEMBER KARREMAN: No, just thank you very much for hitting the nail on the head and describing the situation as it is, and we'll be working on it from our part, too.

CHAIRMAN MOYER: Any other questions from the Board for Richard Matthews?

(No response.)

CHAIRMAN MOYER: Thank you, Richard.

We're now scheduled to take a brief break, and we will take a 15 minute break. When we come back, we will be getting a status report from the Methionine Task Force, and then entering into public comment.
1 If you're signed up, please be
2 here and be prepared to speak at the assigned
3 time.
4 Thank you.
5 (Whereupon, the above-entitled
6 matter
7 went off the record at 10:30 a.m.
8 and resumed at 10:49 a.m.)
9 CHAIRMAN MOYER: If folks in the
10 back of the room could please quiet down, I
11 would appreciate that.
12 Before we start with public
13 comment, I am going to take the time to read
14 the policy manual's handbook on public comment
15 because it's relevant and pertinent. I'm just
16 going to read it exactly as it comes from our
17 handbook.
18 All persons wishing to comment at
19 the National Organic Standards Board meeting
20 during public comment period must sign up in
21 advance per the instructions in the Federal
22 Register notice for the meeting. All
presenters are encouraged to submit public comment in writing according to the Federal Register notice.

Advanced submissions allow NOSB member the opportunity to read comments in advance electronically and decrease the need for paper copies to be distributed during the meeting.

Persons will be called upon to speak in the order they sign up. Persons called upon who are absent from the room could potentially miss their opportunity for public comment.

We do have a lot of public comment over the next few days, and your consideration to our timeliness is important to us.

Each person will be given five minutes to speak unless otherwise indicated by the chair. Persons must give their names, affiliation for the record at the beginning of the public comment period.

A person may submit a written
proxy to the National Organic Program or the National Organic Standards Board requesting that another person speak on his or her behalf. No persons will be allowed to speak during the public comment period for more than ten minutes unless otherwise indicated by the chair.

Individuals providing public comment will refrain from any personal attacks or other remark that otherwise impugn the character of any individual, and the Chair will not tolerate that either.

The National Organic Standards Board will attempt to accommodate all persons requesting public comment time. However, persons requesting time after the closing date of the meeting notice or during last minute sign-ups at the meeting will be placed on a waiting list and will be considered at the discretion of the Board Chair depending on availability of time.

Similarly, persons who have signed
up to address the National Organic Standards Board for their five minute slot and have also served as a proxy for another person will be placed on a waiting list if they wish to speak for a third time on the same topic and will be considered at the discretion of the Board Chair, depending on availability of time. This should allow more members from the public the time they need to present.

Members of the public are asked to define clearly and succinctly the issues they wish to present before the Board. This will give NOSB Board members a comprehensible understanding of the speaker's concerns.

And finally, members of the public should be considerate about speaking more than once on the same topic to allow more members of the public the opportunity to speak.

Julie will be your timekeeper. We will be keeping track of the time.

I also want to remind people to please turn off your cell phones. It is
disruptive. I don't think we should have to
mention that in 2009, but sometimes it doesn't
hurt.

MEMBER DAVIS: Mr. Chair.

CHAIRMAN MOYER: Gerry.

MEMBER DAVIS: A quick suggestion
on handling that microphone over there. I
changed it so for shorter or taller people,
rather than pull down on it, which over time
causes it to not want to stay in position,
just spin the cross-arm. Just rotate it,
which will cause the mic to go up or down
versus your height.

CHAIRMAN MOYER: A little
housekeeping. Thank you. Gerry knows his
microphones because I don't. So just take the
microphone and turn it downwards. Rotate it
in its socket. Don't pull the whole thing
down.

Thank you, Gerry. Appreciate
that. It should help things along.

The Board would now like to call
the Methionine Task Force, Dave Martinelli, to
come to microphone, please, for an update.

MR. MARTINELLI: Dave Martinelli,
Coleman Natural Foods and chairing the
Methionine Task Force.

I'd also like to introduce. We
have another task force member here today, Mel
Gehman with Heritage Poultry.

I'm going to be doing the
presentation and Mel will come up for the Q&A
period if there's any specific questions. His
background is much more on the layer side,
whereas our company is broilers.

If you go to the next slide,
Valerie.

I've only got ten minutes. I've
got my own time and a proxy for an additional
five minutes and a lot of material to try to
cover. So I apologize in advance. I'm going
to move through this very quickly.

But just to kind of set the stage,
we had promised and committed to you all that
we would give you regular updates on our progress on alternatives to synthetic methionine, whether it's high methionine corn or naturally produced methionine, and the results of our feeding trials.

So today what we've got is just a quick reminder of why we need methionine and an established report on a variety of alternatives, some information on three different feeding trials and then kind of a looking ahead at what's coming at us in the next year or so with methionine.

Again, a reminder that methionine is an essential nutrient in organic poultry production. It's the first limiting amino acid. As we talked about at the last meeting, we feed supplemental synthetic methionine to cover both the methionine deficiencies in the diet as well as to make up for cystine deficiencies, and the total inclusion rate of synthetic methionine is extremely small. It's about one-quarter of one percent, anywhere
from two to five pounds per ton of feed.

The majority of the bird's needs are met through the grains in their diet. About 70 percent of their methionine and cystine needs are met through the other elements of the diet.

Dr. Walter Goldstein is not going to be here to present today. He's with the Michael Fields Agricultural Institute. We've had a number of dialogues with him back and forth, and I think this is important to try to understand.

There's basically three different types of corn seed that he is working on. There is the soft endosperm, flowery 2, and the hard endosperm, both of which he discussed at the last meeting.

The flowery 2 shows a lot of promise from a methionine content perspective, but there have been some issues in terms of yield drag and high moisture levels in the corn from an agronomic perspective, and those
yields are running about 35 percent less than typical organic corn yields.

We did have a planting project with this corn in Pennsylvania that only yielded about 50 bushels to the acre. So there's still some pretty significant yield drag issues, and obviously farmers fairly enough need to be compensated for any yield loss they've got. So the price premium gets borne by the feed user, and it becomes really prohibitive.

The hard endosperm varieties actually have a less severe yield drag, approximately 20 percent based on the five-year trials. At their best the methionine levels are very comparable to the soft endosperm flowery 2, but there's a tremendous amount of variation in the methionine levels so you don't tend to know with as much specificity how much methionine you've got in the hard endosperm varieties.
Agricultural Institute has come across is a new strain of the soft endosperm that is not a flowery 2. It's an opaque variety. This is very preliminary data, but it would appear that they've got similar consistent methionine levels to the flowery 2 with the yield characteristics more of the hard endosperm. So it's kind of a good balance between the two, and we'll get back to that in a little bit.

I've outlined for you all what we're working on currently in 2009. There's a couple different fronts. The first is the seed corn front. The Michael Fields group is working on 18 different test sites where they're going to be working on 15 different hybrids for planting in the U.S. in the Midwest. They're working a variety of seed companies and universities to get this done. Separately, the Methionine Task Force and the Michael Fields group is partnering with a group of farmers in Indiana
to do seed multiplication trials with seed that we've generated in both Chile and Hawaii over the last two years. And the idea is that they'll do seed multiplication with the seed stock, and then the task force will get back some of the hybrids, the more promising hybrids for further seed multiplication and development.

On the feed corn side -- next slide, please -- we are working on a partnership with the Michael Fields group and also SunOpta to get 90 acres of high methionine corn planted for feeding trials in the Midwest. We've identified growers. We've agreed upon a price premium, and the idea is that the task force will buy this corn back from those farmers and then we've got some different test flocks that we'll be able to run in the fall on a more significant scale feeding high methionine corn.

There's also one of the task force members, Herbrucks Poultry Farms, that have
planted 18 acres of high methionine corn or
are planning on planting 18 acres of high
methionine corn for feeding trials this year
as well.

Lastly, I mentioned about the
opaque variety of corn offering significant
potential. So we're strategizing right now
with the Michael Fields group about doing some
over winter trials in the southern hemisphere
or Hawaii again to try to get seed
multiplication going of this.

Ideally, we'd like to see a little
more field test results before we went to seed
multiplication, but because of the time line
we are under we feel we need to move pretty
aggressively on this, and to the extent we've
seen some very promising results in the lab,
we think this is something we need to put some
effort and time toward and try to jump start
the process a little bit about bringing this
up to a commercial scale.

Segueing away from high methionine
corn into some of the other alternatives, we continue to look at naturally produced methionine. There's really two different avenues we're going down there. We've engaged with the University of Arkansas, Dr. Steve Ricke, on a pilot project to try to find bacteria that produce natural methionine and that we can replicate this on a commercial scale. They are just in the first phase of a three phase research project but have already talked to Dr. Ricke about having him present to you all in the fall and you can hear first hand on what progress they're making on that front.

There is some private party interest in naturally produced methionine as well. We've had one private party in particular that continually expresses to us that they have a solution, but we've been unable to get any specifics about specs or cost or time line, and these are the things
that really make us feel it's viable.

So we're very open to that, but we just can't seem to get a whole lot of traction with kind of the leading party in this.

We have received some information on one potential promising product, an alfalfa nutrient concentrate. I actually believe these folks are presenting here today as well. Much higher methionine levels than soybean meal, which is the primary source of methionine in the diet currently, but when you look at methionine plus cystine, it actually comes out very close. You can see 1.6 percent methionine plus cystine versus 1.39 percent for soybean meal.

So I'm not sure from a methionine plus cystine perspective it really gives us what we need. We had some comments back from our nutritionist, and the whole comment is there, but I'll just read the part in red highlight. Really there's very little difference with the methionine plus cystine
levels. So that still becomes a limiting fact at least with respect to broiler diets.

There is some calcium benefit in this which doesn't really help broilers, but could be of some interest to egg producers. I'm not sure it really solves the methionine issue, but just as an overall dietary inclusion point, it might make some sense.

This product is not yet approved for organic production, but I understand these folks are working with OMRI to get that approval, and not currently produced in the U.S., but again, I believe they're working on that as well.

There was also some discussion about maybe hydrolizing grains to isolate methionine. It doesn't appear currently.

Again, we ran this by some of our nutritionists that we work with in the task force. It does not appear that we're able to cleave off the particular amino acid strains.

At present it seems to be more of enzymatic
solution here than really doing anything with hydrolizing grains.

We'll continue to look at this, but the initial feedback from nutritionists was not particularly promising that we could get a lot of value out of it.

Next slide, please.

So I'm going to move into the trials that we've been running. I unfortunately don't have a lot of information on this trial. I just received this literally over the weekend, but there was an Italian heritage breed, a red-feathered bird broiler trial done in Pennsylvania.

Just to give you a little bit of background, these birds typically are raised for about ten weeks before they're brought to market. They ran a group of no methionine birds, no added synthetic methionine in the diet, and they waited an additional two weeks before bringing the birds in, and they were still not -- even at 12 weeks, they really
didn't have the right muscle structure, and
they weren't really meaty.

And I only raise the question that
relative to some of the animal welfare
standards we're going to be looking at that we
may have some issues with this.

Five minutes or ten? On the full
ten? Okay. I'll to move as quickly as I can
here.

The next slide, this is the layer
trial that you saw last time. These birds are
now at 50 weeks old. In the interest of time
we'll kind of keep moving along here.

There's basically no methionine
group, no added methionine and a control
group. You can see the production levels are
actually relatively close. The no methionine
group is only about five points behind the
control group. So we're seeing some loss in
production, but it might not be as significant
as you would think.

But I think the next slide really
1 illustrates the point that even the control
2 group is significantly lagging what you would
3 normally expect for organic hens to produce at
4 this point in their cycle.

      Normally you'd have about 192 eggs
6 produced at the 50 week mark. The control
7 group is only at 135, and the no methionine
8 group is at 123. So the problem is we don't
9 know if it's a problem with the environment or
10 the chick quality or whatever. We do know
11 they're lagging significantly.
12
13 I'm happy to take any questions
14 about some additional things I can inform you
15 on for layer trials if you would be
16 interested.

16 CHAIRMAN MOYER: Are there any
17 questions or comments from the Board?
18
19 MEMBER SMILLIE: Just a point of
20 order. Since this is the working group that
21 we commissioned, are they held to the ten
22 minute rule on this, Jeff? I mean, it's not
22 --
CHAIRMAN MOYER: That was a decision that the administrative team made early on. If we want to allow Dave Martinelli, certainly it's the Board's discretion to do that.

Opinions? Hugh.

MEMBER KARREMAN: If possible, I would move that we allow him to keep going with his presentation if it's not more than, let's say, five more minutes.

SECRETARY WEISMAN: I just want to ask a question. But the next two speakers, are they also part of your presentation or are they completely independent of you?

MR. MARTINELLI: I know Dr. Goldstein is not going to be here. The other two folks are separate.

SECRETARY WEISMAN: Okay.

CHAIRMAN MOYER: I think it's the Board's opinion that you continue, please.

MR. MARTINELLI: Okay. I'll move as quickly as I can.
CHAIRMAN MOYER: We'll set the clock for another five minutes and hopefully that will be enough.

MR. MARTINELLI: Okay. That's great.

CHAIRMAN MOYER: Thank you.

MR. MARTINELLI: It will easily be done by then.

As you can see, there's some really good stuff here though. There's no significant differences in mortality between the two groups, which I think is a positive. No signs of cannibalism, which we, frankly, expected to find. Feathering looks very good in both groups. No differences in the egg weights, which is another surprising find. That may be somewhat a function of the breed that was used, the high lines. And no noticeable ammonia levels, which again was something we thought we might run into. That may be a function of where the trials were held since they were in Southern California.
You may have different issues in the Northeast if you're trying to run those trials.

So, again, just a quick synopsis of the layer trials: 105 percent feed cost; 91 percent egg production relative to the control group and only 65 percent of normal. The birds are exhibiting some kind of strange nervous behavior, but that's not really quantifiable. The key is that we need to do more trials. We need to get some replication and try to understand why the control group was off so significantly as well as the new methionine group.

I also mentioned that we need -- and you brought this up last time -- that we need trials with organic feed and outdoor access. So there is a new trial that just started with Herbrucks that's identified here. They're doing it in conjunction with Michigan State and a professor emeritus from Clemson University, Woody Williams.

They raised the birds with
methionine in the diet, but they're in the egg production cycle with no synthetic methionine in the diet. They are going to do some pullet trials, but they literally just kind of pulled this together after the last meeting.

I think the important thing is these birds are on organic feed. They do have access to the outdoors, and actually they have extensive outdoor access, three times kind of the normal standard for what Herbrucks runs.

The other important thing is we will be collecting behavioral data, quantifiable behavioral data on these flocks to see if there's any difference in the birds that don't have methionine in their diet.

We are working with Herbrucks in trying to get some additional test flocks going using fish meal as well.

Next slide, please.

I just wanted to point out there's a little bit of noise that's come to our attention out of the EU. They currently have
a standard that allows them to feed ten percent non-organic feed in the diet, and they've been satisfying the methionine requirements in the birds by using fish meal and corn gluten meal, and there's already some discussion in the U.K. particularly about as they ratchet down from a ten percent allowance to a five percent allowance and eventually phase out of non-organic feed ingredients whether they're going to have a problem satisfying the nutritional needs of the birds without methionine.

And basically Dr. Cliff Nixie from the British Poultry Council presented in February at a symposium in Europe and indicated that already you've got an imbalanced diet. So he's got some real concerns about whether as Europe goes through the phase-down, whether they're going to be able to meet the nutritional needs of the birds.

So just looking ahead, this is
kind of what's on our plate in terms of we've
got to get some additional fund raising done.
We've got to work on some additional trial
designs, monitoring the corn planting progress
both here and in the southern hemisphere, and
then also try to get more specifics around
some of the research that's been done in the
University of Arkansas. They naturally
produce methionine and ever mindful of the
fact that we're 17 months away and the clock
is ticking towards our 2010 deadline.
So I think that's within my five
minutes, and I'll take any questions.
CHAIRMAN MOYER: It was. Thank
you very much, Dave. We appreciate that.
A question from Kevin.
MEMBER ENGELBERT: Thank you, Mr.
Martinelli. Would you please explain on that
last chart you spoke of three times the
outdoor access? Would you describe exactly
what the outdoor access was, the area, how
many birds, you know, what stage of their life
MR. MARTINELLI: I'd have to get back to you on that. That's Herbert's trial, and I just don't have the specifics, but I could certainly get that and provide it for the group.

CHAIRMAN MOYER: Thank you, Kevin.

Dan.

MEMBER GIACOMINI: Thanks, Dave.

Just a couple of things. Again, it is not a sunset. There is a cutoff date, and while that date is 70 months away, you're going to need to start working on that petition again soon.

The second thing is I don't think I'm speaking too far out of turn with the members of the Board that I've talked to where we commend you for the work you've been doing, and we encourage you to move ahead on that, but I think the ideal, ultimate achievement of what you're trying to do is probably well out into the future of really trying to put
rations together without the methionine.

So what I would ask you to do is I think in those conversations, again, a full blanket, free wheeling use of synthetic methionine in the next go-round is probably not as likely as you've had before, and so next time come to us with a lot more data on the amount of synthetic methionine that's being used in diets.

You've presented with us now for two meetings in a row that you want it viewed as synthetic methionine plus cystine. Present it to us in that format if that's the way you want us to look at and give us something to start being able to start putting a fence around.

MR. MARTINELLI: Would there be an opportunity to work directly with the Livestock Committee on that, too? I mean, how would we go about engaging in that dialogue? Any suggestions?

CHAIRMAN MOYER: Now, wait. Bob
Pooler has a comment on that.

I'm sorry, Bob. It's hard for me
to see you through the projector. I
apologize.

MR. POOLER: As a petitioner, you
would need to work with the program and work
with me in particular, and then I would work
with the Livestock Committee. Because we
don't know the makeup of the Livestock
Committee when the new members come on.

CHAIRMAN MOYER: Thank you, Bob.
That's correct. We don't have
direct interaction between petitioners and the
Board.

MR. MARTINELLI: That's' fine.

CHAIRMAN MOYER: Gerry. The Board
recognizes Gerry.

MEMBER DAVIS: I was wondering as
part of your presentation you mentioned a
supplier of an alternate methionine source
that hasn't really come up with what they
promise. Is that referring to the
commercially reared insect producer guy?

MR. MARTINELLI: No. This product would be maybe not 100 percent methionine, but an extremely high percentage of methionine. It would just be a natural source of what we currently use in synthetic form.

The insect meal, it's high relative to typical feed inputs, but I think it's like three percent methionine or two and a half percent methionine, and that project has never come to fruition either.

MEMBER DAVIS: So you have checked on the progress of that company --

MR. MARTINELLI: Yes.

MEMBER DAVIS: -- and they haven't.

MR. MARTINELLI: Yes. I mean, they were going to have possibly at some point this year the capacity to produce five pounds a week. So we didn't have enough to do a trial with, frankly.

CHAIRMAN MOYER: Thank you, Gerry.
The Chair recognizes Kevin, then Hugh.

MEMBER ENGELBERT: Dan brings up a point that leads me to ask the use of methionine at a rate of two to five pounds seems like a huge variance for such a powerful amino acid. Is it strictly a variance because of the different feeds that are used or the different time of year or the different types of birds or is it simply a production quantitative figure?

MR. MARTINELLI: It's the different types of birds. I mean, one is layers. One is broilers. One is turkeys, and you know, even ducks and geese and all the other fowl are going to have different standards as well, but it's really specific to the type of bird.

CHAIRMAN MOYER: Thank you, Dave. The Chair recognizes Hugh.

MEMBER KARREMAN: Dave, I was glad to see I think one of the trials with the
layers that the eggs were the same weight, I
guess, quality.

MR. MARTINELLI: Size, yes.

MEMBER KARREMAN: Size, right, and

you know, I guess in organics, you know, we
try to perhaps look more at quality than
necessarily quantity, and you guys are showing
equivalent quality, and that to me counts more
than you guys getting what the conventional
levels are of egg production. So I was glad
to see that.

MR. MARTINELLI: Good.

CHAIRMAN MOYER: Any other

questions for Dave?

(No response.)

CHAIRMAN MOYER: Thank you.

Now we have Walter Goldstein, but
I understand he's not here; is that correct,
Valerie?

MS. FRANCES: Right.

CHAIRMAN MOYER: Then we have

Ralph Emerson and John Emerson on deck.
MR. RALPH EMERSON: Hello. I am Ralph Emerson. I hope my transit time is not deducted from here to there.

CHAIRMAN MOYER: No.

(Laughter.)

MR. RALPH EMERSON: I am in an association, a consultant with VITALFA, which is part of Brewster Foods, California based, and a longstanding organic, if you will, vitamin health food company that's been around for 60 years.

I'm with Innovations Technology. I work in neutroceuticals. We work in immunology with the Defense Department and with the NFL, and our interests are in unique plant based products. And I've been working with the VITALFA group looking at their products derived from French production, and David described it very well a little bit earlier.

And the purpose of my being here is to present more about the availability of
the alfalfa nutrient concentrates, alfalfa derived products from the EU, and ask a question, which is what I know you all certainly need is another question.

The VITALFA, as I mentioned, USA, is an exclusive supplier of alfalfa nutrient concentrate, is its acronym, and a press cake to the natural, if you will, the product feed industry. It's currently AVCO approved, which I'll get into later, and it's in the companion animal area feed.

And both the products, the ANC, which is the concentrated nutrient, which is extremely high in methionine but also in vitamins and other particular chemicals of interest, is separate. It's a process that we describe up on the PowerPoint here as a Pro-San process. The Pro-San process is actually a USDA technology. It was developed up by Berkeley and Albany by Bennie Nuchols. Dr. Nuchols spent -- it sounds like a comic book
character -- but Bennie is a very good research agronomist, scientist -- and they had some time on their hands and decided that alfalfa was a nice crop and could they mechanically -- no chemical extractions -- develop a product.

Well, they did a marvelous job, but unfortunately it was not seized by the industry, and the French decided to take it over and develop it, which they did, and they produce mechanically ECOCERT, ECOCERTIFIED organic, non-GMO, mechanically processed products.

And, on one hand, the ANC is the liquid again, and the press cake, of course, is the solid phase of the fiber.

The methionine in the ANC, the liquid concentrate and formulated in feed is both economic and meets nutritional requirements. This is per work we've done with Foster Farms, which is one of the fifth or sixth ranked poultry industry corporations
based out of Livingston, California, and their
comments follow.

VITALFA, as I said earlier, it's
an ECOCERT France CEE 2092-91 product, and the
good the French have is to dramatically
increase their certified organic growing
fields, and you'll have a letter to that
effect later from Mr. Brewster when he
arrives. He's been delayed. The French have
written and asked for consideration.

Moreover, they're most excited
about fostering our NOP relationship with them
and reciprocities and all of that business.

As I mentioned earlier, Brewster
Foods has a long history, again, in 1939 in
alfalfa research.

Yes, thank you.

MS. FRANCES: His son is giving
his time to his father.

MR. EMERSON: Mr. Brewster is
delayed courtesy of Delta Airlines, I think,
coming from the coast.
Brewster -- and VITALFA entertains them, but VITALFA is the principal corporation -- was the first company to really pioneer the alfalfa health food industry and did so in the '40s quite successfully for humans, and continued that research. The research is one of the reasons that I got involved with what they're doing, largely because of George Gailey's work out of OSU, Oregon State. George is a toxicologist. We did a lot of work, aflatoxin induced tumors, for NIEHS at the time, and it turns out that the alfalfa-chlorophyll-chlorofins business as a separate issue was very intriguing as an anti-carcinogen. And so that has been published by George, who is now my age and emeritus, but that led me into looking at alfalfa, and found a very long history of its use in not only food, but in medicinal chemistries. I went to Dr. Alfonso Morales. Alfonso, Foster Farms, is an immunologist,
nutritionist, and Director of Research, and
his comments are posted. He feels that the
high protein alfalfa meal, again, feed is a
proper step in the right direction,
elimination of other methionines, and I see it
more broadly than that, but those are
Alfonso's feelings.

Foster has a significant and
growing interest in creating more organic
farms in California, assuming it's there next
week.

He feels a high protein alfalfa
meal in the concentrate is an excellent source
of protein, limiting amino acid. You heard
all of that earlier. You've heard about the
synthetic methionine, and in his opinion, the
viable poultry feed formulation, some VITALFA
products have been developed by Foster Farms
and the use of their ingredients.

His preliminary work suggests that
alfalfa meal usage has a potential in the
methionine issue to be used for both the
1 finishers and for the growers. In addition,
2 he has really elucidated other benefits in our
3 discussion in scientific mutual research.
4
5 The xanthophyll issue, naturally
6 beneficial for poultry immunity, and may
7 stimulate feed consumption in pouls on the
8 turkey side for a number of very interesting
9 chemical-biological reasons.
10
11 Moreover, the high nutrient
12 vitamin concentrations are of particular
13 interest, and he has used the Pro-San
14 materials before at Foster Farms. In his
15 opinion, they have been around 25 years, which
16 ties back into Dr. Nuchols' work at the USDA
17 in Albany.
18
19 They found no detrimental effects,
20 and he feels in his opinion -- and I quote
21 from him -- there should be no problems in
22 implementing this product. And they go into
23 shadow prices and how you count in mls in that
24 industry. So I am pleased that he said that.
25
26 The last slide. It's, again, a
reiteration of the Pro-San process, and as I mentioned, they're AFCO approved, and a source naturally rich in vitamins, minerals for animal feed, and Mr. Brewster will bring these compendiums for you. They are strongly committed and a stainable egg environment, organic principles, and we would understand this needs to be certified to the NOP that said it's an alfalfa.

However, this is the point of my whole -- it is a mechanically derived juice high in vitamins, minerals, used certified organic, and the question to you as a group is could this be included in organic poultry rations under those appropriate sections.

And with that I'll conclude early.

CHAIRMAN MOYER: Thank you, Mr. Emerson.

MR. RALPH EMERSON: Thank you.

CHAIRMAN MOYER: We appreciate that. If you'll just stand there, I think we have a few questions.
MR. RALPH EMERSON: Thank you.

CHAIRMAN MOYER: I just wanted to mention to your son my son never would have given the floor up to me. So that's --

(Laughter.)

CHAIRMAN MOYER: -- to your credit.

MR. RALPH EMERSON: Yes, but you notice I had a cane.

(Laughter.)

CHAIRMAN MOYER: Joe.

MEMBER SMILLIE: Maybe I'm missing something, but there is no equivalency agreement with the EU to the EU standard, but on crop productions, the standards are very similar, very little difference between them. ECOCERT is an accredited USDA certifier. I see no problem in approaching ECOCERT and asking them to certify this process to the NOP standard.

MR. RALPH EMERSON: They've sent a letter to that effect, but there was a long
trail of who should talk with whom and how we
get there from here wasn't necessarily a
straight line.

MEMBER SMILLIE: Right. I think
you cut the Gordian Knot really quickly by
just getting ECOCERT to certify that product
to the NOP standard. I don't know, but I
doubt that there's serious technical issues
there. I think it can be done.

Certainly the chances of this
route are pretty much nil because, you know,
the regulation is clear it has to be to the
U.S. standard.

MR. RALPH EMERSON: Yes, very
good. Thank you.

CHAIRMAN MOYER: Good point, Joe.

I think you're right, but if it is produced
organically, it could work.

Hugh, you had your hand up.

MEMBER KARREMAN: I just would
like to see other ingredients in the poultry
nations that include some plant material,
other plant materials than just grains. So I was glad to see this presentation. Hopefully the idea still is to get the birds outside a little and get the real green stuff, but short of that or in complement to that, I think having an alfalfa derived product would be a wonderful thing if it fits poultry nutrition.

CHAIRMAN MOYER: Any other questions by the Board?

(No response.)

CHAIRMAN MOYER: Okay. Thank you.

MR. RALPH EMERSON: Thank you.

CHAIRMAN MOYER: And now we have Mr. Luke Howard and then Liana Hoodes is on deck.

MS. FRANCES: Luke was moved to later in the day because he asked me to make sure -- I know he's here, but if you look on the list, I rearranged it, on the screen. It's a scheduling change.

CHAIRMAN MOYER: I'm getting motions from both sides. Mr. Howard is in the
room and he's trying to get your attention.

MR. HOWARD: I'm ready to go.

MS. FRANCES: Well, you asked me to change your time. So I readjusted.

MR. HOWARD: No, I needed to go this morning because I have farming to do this afternoon.

MS. FRANCES: Okay.

MR. HOWARD: Is that okay? Is that okay with the Board?

MS. FRANCES: All right.

CHAIRMAN MOYER: Yes, please go ahead.

MR. HOWARD: Thank you for accommodating me, and I apologize for the confusion.

My name is Luke Howard, and I'm here representing Blue River Hybrids. You have heard from us before about organic seed issues.

And, of course, we are an organic seed and corn and soybean company based in
Kelley, Iowa, and we distribute seeds nationally from the north to the south, from the east to the west.

And I want to thank you for your time and your attention to the organic seed issues, and your guidance document from last year was excellent, and we really appreciate all of those efforts.

But the purpose of this report is I really want to give you kind of the state of the organic seed industry report. So this is a 2009 update.

For many years we've been seeing an increased usage of organic seed, but this year we've seen a real decline in organic seed usage, especially in the Midwest. For example, we had about 650 -- let me get my facts straight here -- 650 farmers were surveyed throughout the Midwest, basically Michigan, Indiana, Illinois, Iowa, and Nebraska, and of those farmers, most of them said that they were not going to use organic
1 seed to grow corn and soybeans because of
2 price, and that they were actually going to
3 use conventional, untreated seed.

So we're seeing a decline,

especially in the Midwest and the West, and
our sales show that as well. And when we
communicate with other organic seed companies,
we're hearing that same message echoed.

So we have some real concerns.

For example, our company has equal -- we have
had no growth this year as far as our corn
seed sales, and actually in some places we're
down in corn seed sales. These are difficult
times, especially with the volatility of the
grain market, and we can certainly understand
farmers wanting to decrease their input costs.

However, when we look at the
difference between conventional untreated seed
and organic seed, we see about a $40 a bag
differential. Those are very general terms.
Sometimes they are $30; sometimes they are 50
or $60.
So I'm wondering, you know. This translates to about $10 to $15 an acre input cost increase by using organic seed. If you think about the return that the farmers get on their grain, it's still double if not more than double of conventional pricing, and so that $10 extra input cost becomes pretty significant when you're looking at a return of possibly 1,000 or $1,500 an acre.

We've been told that some certifiers are allowing this exemption, and some of the larger farms are really certifying certifier shopping, finding a certifier that will accommodate their needs because they have a favorite hybrid from a Pioneer or another seed company and allowing them to use that product.

We've also heard that hybrids aren't available for their geographic region. We have seed grown in southern Alabama. We have seed grown in Quebec and Ontario. We have seed grown in Maine, and seed grown in
California. So that excuse sometimes is a little frustrating.

I guess in conclusion, because I don't want to take up too much of your time based on the confusion that just happened, we again want to thank you for your support of the organic seed rule, but we would also like to encourage the NOP staff to enforce this rule. It's very important that we really live by our rule because it would be comparable to a farmer maybe not using other organic inputs when they're available.

We would ask the certifiers really enforce this rule, and that they possibly could post this information on the Web when they make an exemption for a farm. So if Farmer A decides to use conventional untreated, possibly that could be posted for the public, and we realize that's a lot of work for certifiers, and we're not going to make any friends saying that statement, but we feel it's important to know that the public
knows what farmers are using when they're not
using organic seed.

        I think that pretty much is it.
If there are any questions, I'll be glad to
answer them based on our experience at Blue
River.

        CHAIRMAN MOYER: Any questions
from members of the Board? Kevin.

        MEMBER ENGELBERT: What did your
prices do from last year to this year for a
bag of soybean and a bag of corn?

        MR. HOWARD: Our prices increased
rather dramatically, just like the price of
corn increased rather dramatically, and so the
price that we increased was maybe about $40 a
bag, but you also need to keep in mind that
when we increase that price, the farmer
growing our seed got most of that increase, if
not all of that increase.

        CHAIRMAN MOYER: I have a question
for the program. Yes, I was just wondering
where are we with the recommendation that we
passed and this Board approved on seed? I believe it was in 2008.

And then you have a comment, too, Richard.

MR. MATTHEWS: Yes. Well, just for starters, price is not a factor, and certifying agents are supposed to insure that their clients are doing due diligence to obtain organic seed. So if there's organic seed out there, they have to use it.

And so it's one of those areas that we're looking at back at the department and trying to come up with some solutions to it, but it is an area that we will be doing more due diligence on our own behalf to make sure that the auditors are looking for certifying agent compliance with the requirements that they require their clients to source organic seed.

And, again, getting back to the question that was raised, price is not a factor. It doesn't matter what the price is.
You have to use the organic seed.

CHAIRMAN MOYER: Yes, I think this Board made it clear in their recommendation that that is the direction we wish to head.

Just a minute, Kevin. Barbara, you have a follow-up?

MS. ROBINSON: Rick and I just met with ASTA last week, American Sea Trade Association, and we did talk with them about what they could do along with the program to help facilitate this a little better, and they're going to help build a database reporting the availability of organic seed, who's got the organic seed, and then we're going to try and work, you know. We've got the ACA database that we've sent out to all of our ACAs. We're going to work with Mike Smith. Poor Mike doesn't know this yet, but we're going to see if we can use that same kind of reporting mechanism, work with ASTA, get that out to seed suppliers, and then get them to report back to ASTA.
They'll, you know, collect all of the information in a usable format and then get it to us. We can, like we did with the hay, the feed suppliers back at the beginning of the program, and then post that on our Website because I think a lot of this is, you know, the more we can report it, we have something that starts growing, a database. We can start closing this noncompliance and get people -- you know, people have less ability to say, "Oh, I didn't know. You know, I don't know that there's any seed out there," and that sort of thing.

We can say, "Well, well, there's the database out there, and you've got to go," and the auditors will be able to say, "Where have you been? You know, did you go and look on this database? And show us your records," and that sort of thin.

CHAIRMAN MOYER: I figure database is a great idea, but it seems from Mr. Howard's report that farmers know the seeds
available and are choosing not to use it anyway. So that wouldn't solve that problem. I think we need the joint action from the accreditation and auditing side to follow up with that.

But, Kevin, you had a comment as well.

MEMBER ENGELBERT: Yes, I want to clarify why I asked that question about price. I'm not saying it should matter at all when you purchase and it shouldn't, but in our little corner of the world, I've learned from other organic farmers that they have saved their own soybean seed, and that might be why your sales are down, because of the huge increase in price and also because they have found seed from a different company that is less expensive. Just from talking to the farmers in my area I know that to be the case, and everyone is expecting because of the lower price that dairy farmers are being paid, the demand for grain has lessened, and they're
expecting the price of organic grains to be substantially lower this fall.

So at least in my corner of the Northeast, I know that a lot of the demand has dropped simply for those reasons. That's the reason I brought that up.

MR. HOWARD: And if corn acres do decrease nationally, then certainly our sales should be down, but we're not hearing that, and we're hearing our statements echoed in other seed companies that are pretty close to the same price for their seed as we are.

So I hear what you're saying, and certainly saving soybean seed is easy enough to do, but saving hybrid corn seed would be pretty tough to do.

Thank you for your time.

CHAIRMAN MOYER: Our pleasure.

Thank you, Mr. Howard.

Michael Sligh for Liana Hoodes,

and Harriet Behar on deck.

MR. SLIGH: Good morning,
everybody. I am Michael Sligh. I am here representing the National Organic Coalition. We're a national alliance of organizations representing farmers, environmentalists, consumers and other organic industry members with the goal of insuring organic integrity is maintained and consumer confidence is preserved.

We have submitted or are in the process of submitting comments on about seven different areas that are before the Board, two of which I want to devote the bulk of my time to today, that being peer review panel and nanotechnology.

We also have provided comments on encouraging greater incorporation of biodiversity as has been reported by the Wild Farm Alliance, animal welfare discussion that NODPA will cover, also mentioning about retail certification, cosmetics, and the 100 percent label requirement linked to materials review.

But for the purposes of my time,
I'm hoping that I can zero in on these two issues of both peer review and nanotechnology. This is, I think, the 17th anniversary of the founding meeting of the NOSB. I'm glad to see that peer review is starting to get traction. We had it in the legislation. We had it in the regulation, and we think it is the cornerstone issue in integrity for the national program.

We applaud Mark and his work in getting ARC recognized by NIST, and we know that's a couple of years of work, but we would like to see the National Organic Program recognized by NIST, including the ISO-17011, and we believe that that is the cornerstone. That is the Holy Grail we're looking for here, and this is what we want to encourage.

And while we do applaud the NOSB for willing to lay their body down to do that work themselves, I know full well that that is way more work that you really can do or should do, and that we strongly urge you not to
1 recommend to look at either ANSI or the OIG as
2 a replacement for NIST oversight.
3 And I want to talk briefly about
4 what you get with NIST that you can't get with
5 those other two recommendations. The main
6 benefit that you get from the NIST recognition
7 is that it is an ongoing relationship. So in
8 order to keep that relationship, it requires
9 you to make and correct your noncompliances
10 with a clearly delineated period of time and
11 allows for regular surveillance of the
12 accreditation program in order to maintain the
13 recognition. These other programs will not
14 provide that level of rigor or accountability.
15 It also gives you independent
16 third party verification free from conflict of
17 interest. It also, I think, in many ways
18 gives this opportunity for the NOSB to play a
19 proper role, which would be to look at these
20 ongoing evaluations and to see if, indeed,
21 there are recommendations that you should be
22 making to improve the accreditation program
So that's a very sound job for you, and not one that I think will add unduly to your burden.

So we strongly recommend this. We concur with Lynn Cody's excellent comments that she has sent you on this topic, and we hasten you to make this recommendation and for the department to move forward on this piece.

I also note that Congress has, I believe, at least three times in their annual appropriations language to the department urged them to put in place peer review.

On nanotechnology, I would just say that this is very much a parallel to biotechnology in the sense that it is both novel and unregulated technology, and organic is a conservative, precautionary approach to agriculture. We urge that you exclude, prohibit or otherwise disallow the use of both nanotechnology, nanomaterials, including those in packaging as well as those that would be in
food or come in contact with food.

The reason that we're here today celebrating the continued growth of organic is partially because the original NOSB made a very good decision about biotechnology. This is your moment in history where you can make yet again a very wise decision about the future of organic, and we urge you to say no to nanotechnology.

I will take any questions if there's time. Thank you.

CHAIRMAN MOYER: Thank you, Michael.

Joe.

MEMBER SMILLIE: Yes, we got Lynn's comments, and we will implement them, and I'll roll that out tomorrow. We'll have a committee meeting to verify that. We do agree.

As far as our role, our role in the recommendation is exactly as you described it. We're not taking over the evaluation of
the NOP program whatsoever. We're simply putting a body in place to make sure that the review by the NOSB is part of its regular function.

MR. SLIGH: That's great, and the NIST will also get you witness audits, which is quite a valuable tool as well.

CHAIRMAN MOYER: Any other questions from the Board? Hugh.

MEMBER KARREMAN: Just one question. Maybe I don't have it right, but I think in dairy production in the processing, making ice cream and various other things, things get refractionated and whatnot. Isn't that nanotechnology already being used, from what I understand? It's already happening that way.

MR. SLIGH: Well, even more so for you to be definitive about the issue because I can clearly tell you without consultation that part of what draws customers to organic is they are looking for an alternative to GMO,
and in many cases nanotechnology is a platform for linkage to GMO into the future.

So you need to be very cautious, and if indeed you believe there is activity already, then I say there is some remedial work that needs to be done on the part of the Board, and this issue.

CHAIRMAN MOYER: Just a minute, Michael. The Chair recognizes Dan.

MEMBER GIACOMINI: Yes, we'll get into this more when we do the nanotechnology discussion, but I just last week had a conversation with a professor at the Dairy Technology Center at CalPoly University, and he confirmed that nanosized particles are naturally created in homogenization. There are also a lot of very simple processes where they are also created in other ways.

So one of the things that we're going to be struggling with in doing that is how to define and how to isolate what we're really talking about. I mean not wanting
something that will -- you know, and then we also have the issues of what we might be required of in the future. But those are part of what makes it difficult just from drawing a line and cutting things up.

MR. SLIGH: Right, but I would caution you not to fall prey to substantially equivalent and also keep in mind that this is like biotechnology in the sense that there is no statutory authority or any regulatory oversight. So you would be stepping out into very, very novel territory to encourage or condone that direction. It may come back to hurt our sales and our farmers in the future.

CHAIRMAN MOYER: Any other questions from the Board?

(No response.)

CHAIRMAN MOYER: Thank you, Michael.

MR. SLIGH: Yes, thank you.

Congratulations to those of you retiring and thank you for your service. I fully
1 understand your commitment.
2
3 Thank you.
4
5 SECRETARY WEISMAN: We do still
6 have one more meeting after this.
7
8 (Laughter.)
9
10 CHAIRMAN MOYER: Harriet, please.
11
12 MS. BEHAR: Good morning. I am
13 going to address something. I gave you
14 written comments, and I'm going to go past the
15 peer review panel just to say that I'm happy
16 to hear that NIST is working with ARC and
17 looking forward to a long and fruitful
18 relationship there.
19
20 I am Harriet Behar, a long time
21 certified organic farmer, organic educator,
22 organic inspector, and most importantly, an
23 organic consumer.
24
25 I appreciate the transparency and
26 exchange of ideas that occurs during these
27 NOSB meetings.
28
29 I would like to address what
30 Richard Matthews talked about with the GMO
vaccine. I really think that the rule already
has a way for GMO vaccines for livestock to be
approved on and put on the national list, and
I believe that they should go through the
process that that -- we shouldn't just blanket
allow all vaccines, GMO or not.

GMOs are different than
conventional, and we do have an allowance to
approve GMOs if they go through the
transparent petition and review process.

Now on technical review panels,
another favorite topic. I'm happy to see that
there has been some use now of outside TAPs,
and I'm optimistic that over time these could
improve as the agency becomes more
knowledgeable about organic production both
here and around the world. I think they need
to be looking at European and other countries
as well.

However, not all petitioned
substances have had TAP reviews, and this
should be rectified. Items requested for
inclusion on 606 should also have TAP reviews
with the handling committee's decision to put
wheat germ on 606 as a good example.

The NOSB should not be put in the
position of having to judge if their fellow
members have done a good job thoroughly
researching a petitioned material. The
organic community has lobbied long and hard
and continues to lobby for more funding for
the NOP. Shortcuts based on lack of funds
should not be taken, especially for this
primary and important function of the NOSB,
which is to decide what is on and what is not
on the national list.

Wheat germ on 606, this item
should not be included on 606. There is
sufficient organic wheat available, and I
believe the petitioner could facilitate the
production of this organic wheat germ. Just
because the organic product is not available
after a few phone calls does not warrant the
inclusion on 606.
Putting wheat germ on 606 would also do a disservice to the many organic producers of organic wheat and processors of wheat products by shrinking their marketplace. Too much emphasis was given on the petitioner's statements of their projected needs and not enough on whether the product was truly unattainable.

Biodiversity. I support the committee's recommendation and believe that this does not put any undue burden on farmers. Many long time, successful organic farmers understand the immense benefits they receive by conserving and enhancing biodiversity on their farms, and a little nudging to others who do not see biodiversity as important will improve their farming systems as well as the environment for all live.

The NOP should make sure that certifiers are verifying conservation of biodiversity during their accreditation visits and desk audits, and this should be
incorporated into the auditor's checklist.

Animal welfare. I agree with much of the document, but I prefer to see the evaluation of the farm and livestock done as a system with body scoring just one of the many evaluation tools. Inspectors can currently verify husbandry by reviewing health records, viewing the housing and outdoor areas and viewing the animals. The current recommendation, I believe, puts too much emphasis on body scoring.

Injectable vitamins, et cetera. I disagree that these should be added to the national list as written. Each item should be reviewed against the off-book criteria and not be given a full class of items such as electrolytes.

Inerts. Put the current items on the national list and have them go through the unset process. When applicable, all new inerts reviewed on a case-by-case basis.

Nanotechnology. The NOSB should
clearly state that nanotechnology is incompatible with organic and is not allowed in food packaging or other materials that are in contact with organic products. The precautionary principle should be used with this novel technology.

Personal care products. The NOSB should stress to the NOP the importance of protecting the organic label in the marketplace and not allow the organic label on body care products that do not meet NOP standards. This is confusing to the consumer and encourages profiteering at the expense of legitimate organic producers.

Voluntary retail certification. I believe the current handling standards can be applied to retailers with no special procedures necessary. I agree with other committee recommendations for propionic acid, propane, bleach Lecithin, chicory root, and red corn color.

I got through just about all of
it. So as you see, I was looking over many of
the things on your docket and gave you my
little piece on each of them.

CHAIRMAN MOYER: Thank you,
Harriet.

Questions or comments from the
Board? Bea and then --

MEMBER JAMES: Thank you, Harriet.

Hi.

I was wondering if you could
comment if you believe from your experience
that retailers understand how to market USDA
retail certification.

MS. BEHAR: You mean do they
understand what the USDA seal meals on --

MEMBER JAMES: Do they understand
once they're certified? Do they understand
how to market that certification at retail?

MS. BEHAR: Yes, I believe that
they then advertise to their customers that
their handling practices in their stores are
having that extra oversight, whereas other
stores that do not have that oversight cannot make that statement.

And as many of us who have worked in retail know, there can be a lot of abuse at retail as far as having iced conventional broccoli dripping onto conventional salad mix below. I've seen this myself at stores.

So those people are not certified, and those consumers buying in those stores hopefully would be aware that maybe they want to go to a certified handler retailer for their purchase of organic foods.

CHAIRMAN MOYER: Thank you, Harriet.

Hugh, you had your hand up.

MEMBER KARREMAN: Thanks for your comments, Harriet.

I just wanted to remind, I guess, the group in general, the organic community, that the animal welfare document is a discussion document this time. So nothing is set in stone. We're trying to get all of your
information, and I'll go into it more
tomorrow. I just want to remind you of that.
Okay?

MS. BEHAR: Okay. I'm discussing here.

MEMBER KARREMAN: Right. No,

that's fine.

And injectable vitamins and minerals, the reason we're looking at that as a section, it's kind of to mirror the Section 603(d)(2) and (d)(3), which allow vitamins and minerals as feed additives, period, the end.

MS. BEHAR: I was concerned really more about the electrolytes.

MEMBER KARREMAN: The electrolytes are allowed on 603 already.

MS. BEHAR: Yes.

CHAIRMAN MOYER: Okay. Thank you,

Harriet.

The Board recognizes Jim Pierce,

Leslie Zuck on deck.

MR. PIERCE: You guys are going to
get a stiff neck over on this side. You
deserve it.

Okay. Ready? For the record I am
Jim Pierce, Global Certification Program
manager for Oregon Tilth, and for the record,
Oregon Tilth is the best certifier.

(Laughter.)

MR. PIERCE: Oregon Tilth has
prepared written comments which are now mired
in regulations.gov, the cyber equivalent of
the La Brea tar pits.

My comments begin by asking you to
pay particular attention to comments of two
women who I learned long ago to obey without
question and whom I suggest you do the same.
First is Beth Unger from Organic Valley, who
will comment on how the Livestock Committee
proposals will affect nearly 1,400 actual
certified organic farmers. My colleague and
genius, Gwen Wired, is the five-year Sisyphus
of the ag/non-ag synthetic/non-synthetic
project. Pay close attention. It's slightly
more difficult than rocket science, and there
will be a quiz.

It may be raining, but the sun is
shining. This is the first time that I/we
have had an NOSB meeting under the "yes, we
can" umbrella of hope and change that comes
from an administration openly favorable to
organic agriculture. As proof, witness that
a USDA parking lot is now an organic garden;
that the chair of the NOSB can drive in and
dump a truckload of what was during the last
administration actually coming out of the back
end of a bull and be commended and
photographed instead ofuffed and
fingerprinted.

The author of the Organic Food
Production Act is now Deputy Secretary of the
USDA. Now, Kathleen Merrigan is no more a
savior to the NOP than Barack Obama is to the
Supreme Court, but the potential is as
exciting as if Jackie Robinson had just been
appointed Commissioner of baseball. Things
are going to change.

Hit the anvil hard then while the iron is hot. Don't blow your credibility by getting political or pandering to personal agenda, but don't be afraid to work for positive change.

As a Board, you have two more meetings together. Make it your legacy to put the NOSB and the NOP on a path of continuous improvement that is the guiding principle, the Holy Grail, of organic farming.

To that end, I would draw your attention to a pearl contained in your ambitious agenda that, if acted upon properly, will manifest the fundamental changes that will make the NOP stronger, higher quality and more respected and so will, as a result, make the yeoman task of the NOSB inmates easier, more effective and possible -- think about this -- fun.

The pearl is not in the bivalve mollusk standard as one might suspect, but
rather in the peer review proposal. To
harvest the pearl, however, you need to
reconsider the proposal in front of you.
You've heard a little bit of this already.

The madness has merit, but the
method is misaligned. Peer review of the NOP
is a federally mandated good idea. However,
offense, but the NOSB members are not up to
the task. Put OPCO in with the cacophony of
voices that favor ISO-17011, accreditation of
NOP through the NIST process. Proper peer
review needs to be the highest priority in
order to minimize miscommunication and
misinformation.

Most of the ongoing challenges
between our public servants and we whom they
serve, challenges such as idle petitions,
inactive recommendations, inconsistent and
unvetted interpretations, delayed rule
implementations, and a nonexistent practice
manual will be addressed with this one action.

Please, harvest the pearl, plant
the seed, nurture it, cultivate it, water it
till first it flowers, and then it bears
fruit.

In the 100 words or so that I have left, I would like to note digress but drill down. The Livestock Committee has a proposal that will clarify the allowance of injectable vitamins and minerals. Good, great, fantastic. But it's important to realize if you do not already that injectable vitamins and minerals are currently right now today commonly administered to organic livestock as needed. It's important that you not only approve the use of injectable vitamins but insist on language that clearly continues to allow this practice.

The consequences of eliminating this proactive nutrition tool from organic farmers would be significant, possibly devastating.

As easy as it is to complain, we have a lot to be thankful for, including a
solid organic regulation foundation and now an
administration willing to advance our agenda.
We are thankful for the long hours and
dedication that you suffer on our behalf, and
for this avenue of transparent public comment.
Thank you for listening.

CHAIRMAN MOYER: Thank you, Jim.

Questions or comments from the
Board?

(No response.)

CHAIRMAN MOYER: Thank you.

We'll try to get in one more
presenter before lunch. Leslie. We have a
lot of folks to get through this afternoon
yet.

MS. ZUCK: Hi. I am Leslie Zuck,
Executive Director of Pennsylvania Certified
Organic, and it says up there I'm going to
talk about livestock issues and various
topics.

So I did want to bring up the
People's Garden because Valerie did a really
1 great job. I was actually there. She did
2 plant a beautiful garden, and not only that.
3 She put together an entire organic system
4 plan. It was really nice. So a beautiful day
5 despite the hail.
6 (Laughter.)
7 MS. ZUCK: I'm not sure what that
8 means, but it was a great attempt.
9 And you've been hearing from
10 various certifiers about various topics.
11 That's typical of these meetings. In the
12 future Pat Kane will be talking about this a
13 little bit. ACA has formed a number of
14 working groups on a lot of the topics you're
15 working on. I'd really like to see some
16 direct collaboration between your committees
17 and the working groups. She'll be talking to
18 you a little bit about that and how you can
19 connect with them.
20 Animal welfare recommendation is
21 good, a good issue, good topics. Let's put
22 some more about poultry in there and remember
that it is really difficult to identify each and every bird in a flock. So we do have an ACA working group speaking or working on poultry, particularly with animal welfare, and that case has lots to do with the density and the outdoor access. We need to go there.

Peer review, I'm not going to say much on that because everyone else seems to want to, but it is good to see it coming up. I'm sure you'll hear from Lynn Cody on this topic.

I just want to remind you that the rule does require an annual review, and the recommendation talks about three years and then it talks about a review every two years and every other year. So I think you probably should really make sure it's annually. Once we get that going and they are accredited, we want to look at that on an annual basis.

Certifiers have to; ARC has to; everybody has to. So we think that's a good idea.

On the 100 percent labeling
claims, just I want to remind you of the purpose of that claim and to be clear that there really isn't any reason. If you're uncomfortable with loosening the rules on that, don't worry about -- I mean, you should be uncomfortable about it. You know, there's no reason to go there except for to assist some of the manufacturers of these products to market their products. The purpose of that claim really is to provide consumer with a choice that is more restrictive than the usual organic product. It's going to be made without any -- you know, it has to have all organic ingredients, and so we'd like to make sure that you keep that differentiation and understand the reason for the difference.

It's not as though you're prohibiting the use of organic on those labels.

So the last topic I had just came up, this GMO vaccines. I just felt like I should say something about it since it was our
actions that kind of brought this to the fore,
and to clarify that PCO does not
philosophically oppose GMO vaccines. We
really do understand the importance of
vaccines in organic livestock management.

So actually in the 12 years that
we've been certifying, I guess we've kind of
been blissfully unaware that GMO vaccines were
being marketed for livestock. So we had not
been reviewing vaccines at all, and it was our
policy vaccines in the rule says vaccines are
cool. So we allow vaccines.

We literally stumbled across
information that one of the vaccines being
used was genetically modified, and so we
looked at the rule, and we realized that GMO
vaccines are prohibited. So we prohibited
that particular vaccine, and we don't know if
all vaccines are GMOS. We've been told that
most of them or a lot of them are, but you
know, if that's the case, then what we need is
a list of them which may be available working
with APHIS, but you know, in the onset of that particular action, because the results of the particular action that we took, we've kind of been accused of splitting hairs over this, and I guess as a certifier we'd like to know, you know, if there was another decision we should have made or could have made in that situation. It would be really helpful to have that list, as we said.

You know, we're not opposed to the use of the GMO vaccines, but I am worried about, you know, the public maelstrom that could result if we do get a directive or an action item coming from USDA saying that GMOs are excluded methods are patently allowed now despite language in the rule that specifically prohibits them.

So let's work on this and figure out what we can do, and I think one of the first steps is to find out what the situation really is. Are all the vaccines out there that are being used on dairy cows and
everything else and organic agriculture right now, are they genetically modified or are they allowed?

And let us as certifiers know what we should be doing because we don't want to, you know, cut people off from that important livestock management tool any more than anybody else here does, but we also don't want to just like look the other way when the rule says they should be prohibited.

CHAIRMAN MOYER: Thank you, Leslie.

Any question from the -- Hugh.

MS. ZUCK: I warned you.

MEMBER KARREMAN: That's fine. We always have good back and forth Leslie.

Regarding the vaccine topic, I think your concern is valid absolutely within the organic community regarding the excluded methods topic. That's kind of half of it, and a big half of it, but there's also the other part of the society that would probably be
agghast that vaccines would be prohibited from
use for prevention of disease in livestock and
organic livestock.

You know, like right now with this
particular flu that is in Mexico mainly, I
guess, but anyway, you know, if a vaccine is
produced or needed to be produced in a quick
way, in a quick fashion, current science
technological advance would probably indicate
they would go through genetically engineered
process to get a very quick vaccine to prevent
outbreaks of, let's say, foot and mouth or
avian influenza or whatever if they need to
because the traditional vaccine production
takes about -- I don't know -- three or four
months or something like that to get going,
and that's the case right now with what
they're doing with the seed stock vaccine that
they're talking about currently.

So, you know, I think we do have
to keep in mind the absolutely excluded method
topic within the organic world, but we also
have to think in even a bigger picture, you know, in agriculture in general, which organics is part of that.

You know, if genetically engineered vaccines were mandated to be used or had to be by law, you know, the organic community would be favorable at least to that in a limited fashion if they're licensed, let's say, or something. It goes beyond just organics in a sense. It's within organics, but it goes beyond that.

CHAIRMAN MOYER: Thank you, Hugh.

Dan.

MEMBER GIACOMINI: Hi, Leslie.

You know, when this first came up, I sat down and I read the rule. I didn't go back and review every page in the preamble. I will admit that, but I think it's sincere to say that there's a difference of opinion on whether GMO vaccines are prohibited, and I think that's a reasonable statement to make.

One, oh, five requests that they
be approved according to 600, and 600 is stating that things need to be on the national list, and under 603 for livestock, biologic vaccines, there's no listing of it; there's no quantifying of it. It doesn't say non-GMO vaccines. It says vaccines. So I think there is a fair interpretation and a reasonable interpretation to say that they are allowed, and to just say that the rule obviously says that they're not allowed and making a statement clarifying and giving it a blanket clearance is a little bit out of line, there are other interpretations and I think they're just as reasonable. But we do need clarity on this certainly, but where we stand right now is not just one point of view that needs to be fixed but multiple points of views.

MS. ZUCK: Sure. And when there is a difference in a rule, if there are different areas -- and Rick Matthews, maybe we agree or disagree. I don't know -- if there's
two contradictory parts of the rule, that's
where usually as a lawyer I would go to the
preamble to try to find out why the rule was
written that way.

We know that the preamble is not
the regulation, but it is useful in
interpreting the regulation. So if there is,
you know, a gray area or if something does
seem to be contradictory, you can go and read
that part, and it is on page, if you would
like to read it, it is on page of the Federal
Register 80554.

"Based on comments received and
because of the potential impact of the
prohibition on the use of excluded methods, it
is still uncertain. We have created the
possibility at Section 205.105(e) for the NOSB
to exercise one very narrow exception to allow
the use of animal vaccines produced using
excluded methods, but only if they are
explicitly approved on the national list."

And they have some really good
discussion in there, and I think that they're saying, yes, it's a good idea, but we don't want to tell everybody that now because there's this big backlash against GMOs. But we're going to give the NOSB the opportunity to add those to the list.

CHAIRMAN MOYER: Thank you, Leslie. I think that's good advice to go back and check the preamble.

Hugh, you had one last question before we break for lunch.

MEMBER KARREMAN: Just being lawyerly, I guess, and I've learned some paralegal maneuvers here on the Board, but doesn't the Act of 1990 precede the preamble of the regulations? So in Section 2110 or USC 6509, under animal production practices and materials, health care, D, and then C under that, you cannot administer a medication other than vaccinations in the absence of illness. Does that not preempt the preamble if that's in the act? I mean just saying that
vaccines are allowed.

MS. ZUCK: I'm not arguing with you that you can allow vaccines.

MEMBER KARREMAN: And there are three other --

MS. ZUCK: It's just like anything else that you allow. You can allow feed to feed the cows, too, but we have restrictions on what kind of feed you can use.

CHAIRMAN MOYER: Okay. Thank you, Leslie.

What we're going to do now is we're going to adjourn this meeting until 1:15. We will be starting promptly at 1:15 with Ed Maltby ready to go and Beth Unger on deck.

So we'll see you in about an hour.

Thank you.

(Whereupon, the above-entitled matter went off the record at 12:10 p.m., and resumed at 1:15 p.m.)
A-F-T-E-R-N-O-O-N  S-E-S-S-I-O-N

(l:18 p.m.)

CHAIRMAN MOYER: This meeting is back in session.

Would Ed Maltby please come to the podium? And Beth Unger is on deck. Once we get our technical difficulties straightened out, Ed, we'll be with you.

Ed, can you continue without the audiovisual?

MR. MALTBY: Oh, I don't know.

That might be difficult, but I can try.

CHAIRMAN MOYER: I think the Board would appreciate if you would go ahead and try to do that. I apologize for that inconvenience.

MR. MALTBY: That's no problem.

My name is Ed Maltby, Executive Director of Northeast Organic Dairy Producers Alliance and Administrator for the Federation of Organic Dairy Farmers.

Unfortunately, the two people I
I want to speak to most directly aren't here, but -- ah, Barbara is there as well.

I would like to make a plea from the 1,800 organic dairy producers across the country that Richard Matthews does nothing but write the access to pasture rule.

(Laughter.)

MR. MALTBY: From the time he gets into work at eight o'clock in the morning to when he leaves at eight o'clock at night, he has no other duties at all.

And the NOSB Livestock Committee provide recommendations relating to organic dairy replacements. We feel both of these issues or the access to pasture issue is something critical both for the integrity of organic livestock and for the future economic security of an industry that is now being devastated by low prices both for organic milk and organic beef.

It's very interesting listening to these other comments where you have certifiers
arguing about the minutia. The unfortunate thing is that when it comes down to -- oh, Mr. Karreman, pleased to see you. That's okay.

Arguing about the minutia and the lingering interpretation of different parts of a preamble to a preamble to a preamble, and I think one of the essential ingredients that sometimes is missed is that these have to be interpreted by farmers who spend their days working, who actually want to do the job right, who invested vast amounts of capital to get it right, and we owe it to those farmers to have clear and understandable criteria for what they can and can't use and not to unilaterally make changes as different things get discovered.

I know my board of directors wanted to know, well, if they want us to do this other stuff, when are they going to give us the access to pasture rule. You give us the access to pasture rule, then we'll start doing a bit more on that side. Perhaps that's
the way to negotiate. We've tried everything else.

I'd like to thank the NOSB Livestock Committee for introducing a discussion document about animal welfare. It is a critical area of all livestock farming, both conventional and organic, and we applaud the start of that discussion.

We also recognize the depth and breadth of that discussion, and we would request from the NOSB that they set up a task force to consider and evaluate what standards can be put in fairly quickly because there is consensus and what standards need further investigation.

We're reluctant to take it to the level of rulemaking because rulemaking as we've learned can take three months, fourth months, four years, five years to get common sense policies in place.

I'm not going to read all of this, but I think from the point of view of
livestock producers we strongly believe that organic animal welfare guidance and standards must be sensible, reasonable, and based in the realities of farming, good husbandry, grazing, natural animal behavior, and natural healing. Obviously the prime one of those is cows should be out on pasture.

Sorry I'm getting a bit repetitive, but they say you've got to repeat it 17 times to get what you want.

One of the issues raised in the discussion document was around the treatment of sick animals, and we agree and have actively advocated for all possible measures to use to treat sick animals, even at the expense of their organic status.

What we do need, apart from new guidance perhaps, is the education of new entrants who have limited knowledge, who mean well, but might not necessarily understand the implications of what they're doing.

Education of inspectors and
certifiers as to what they should be looking for; more education of veterinarians so that organic livestock farmers have veterinarians available and can use them on a regular basis; and of course, high levels of profitability for organic livestock operations to provide an adequate return for the cost of organic production.

Do you want me to stop? I only got started. Do I get three minutes because you got me delayed?

CHAIRMAN MOYER: No.

(Laughter.)

MR. MALTBY: How unreasonable.

CHAIRMAN MOYER: Are there any questions for Mr. Maltby? Hugh, go ahead, please.

MEMBER KARREMAN: Ed, thanks for your input, and I read the Food Farmers' input previous to your comments here. You mentioned just earlier that some items would be in the animal welfare, I
think, contentious. What are they exactly?

MR. MALTBY: I don't think necessarily contentious, but need examination by all of the stakeholders, that we need to understand consumer concerns, but we ought to balance that with scientific knowledge and good husbandry. And I think a further, more detailed analysis of those issues, and I think that by using a task force we can get to the root of some of the easy ones, put them out there, keep up with what is happening in industry, and I think the conventional livestock industry leading the way in some of these things, and we should at least be able to catch up with them and implement some of their standards. A lot of them are already written within the existing rule. They just need to be implemented well.

So I don't really want to get into any distinct specifics right now, but I think that is a discussion that we should be having as a task force or whichever way the NOSB
wants to handle it.

    MEMBER KARREMAN: As far as only
having it as guidance versus regulation due to
the length of time regulation can take to get
through, and I know that from the medicines
that are now thankfully approved after all the
years.

    In the regulations, let's say --
I'm just thinking of I forget the exact number
-- you know, clean and dry bedding must be
provided, but there's no endpoint, you know,
no measurable metric that what we inserted
was clean and dry bedding must be provided so
the animals are clean. I mean because there
are sometimes concerns about that.

    So, I mean, that's a regulatory
change. Is that too much to ask or do you
want to keep that as guidance or I mean --

    MR. MALTBY: From the point of
view of keeping up with the whole marketplace
where you do have at least three or four
labels out there specifically geared to
livestock welfare, I think it would be good to get some of those guidance out there.

   You know, what is a clean animal?

In the winter a clean animal might have some manure on the sides, on the back end. Going out to pasture, the manure might be on the back end. You know, so that then requires a level of skill from the inspector and the certifier to judge which production practice is being used, what time of year.

   So there's all these caveats within there that I know when we looked at the access to pasture and there as some very prescriptive language in there, we had an intense discussion about, okay, how much should be prescriptive, how much should be left up to the certifier, and what is pure common sense?

   Unfortunately, pure common sense, you know, has to be administered in good faith on both sides, which as we know is not always the case.
So I think it would be good to have some guidance through the NOSB on livestock welfare standards that can be relatively easily implemented and can enhance the integrity of the organic seal. I wouldn't like to see us in any way saying that conventional livestock is badly treated or worse treated than organic, but I think it's incumbent upon us to have some of that guidance there to guide consumers that we are, in fact, keeping up with the general trend of marketing.

CHAIRMAN MOYER: Okay. Thank you. Are there any other comments by Board members?

(No response.)

CHAIRMAN MOYER: Thank you, Ed.

MR. MALTBY: You're welcome.

CHAIRMAN MOYER: Beth Unger next and Will Fantle on deck.

MS. UNGER: Hello. I'm Beth Unger from CROPP Cooperative.
We appreciate the opportunity to submit comments for today's agenda. CROPP is a marketing cooperative serving farmers producing organic farm products. We have over 1,300 farmer members located in 32 states. CROPP currently markets over 500 different products bearing CROPP's Organic Valley Family of Farms label and Organic Prairie's label.

I'm going to primarily stay to the animal welfare topic because I see you're very serious about your time limitations, and so going on with that, we believe that the consumers of today are engaged in a dynamic learning process. They are taking on the task of learning for themselves about where their food comes from, how it is produced and processed, and what goes into their food.

CROPP seeks to have the consumer continue to view the organic seal as the gold standard of all labels, and therefore, it is critical that we as an industry see the issues that are important to our consumers and are
willing to take on those issues.

Animal husbandry is very important in our cooperative, as evidenced by some of the policies that we have on our full manual that really do go above and beyond the NOP standards.

We have adopted animal husbandry standards within our cooperative. Development of these standards was not an easy process. But once the standards were adopted, our farmers have worked to improve their operations to meet the standards. Our field staff has received training and visual material to score livestock. The staff is currently working with some of our members scoring their livestock to set the stage for continuous improvement on each farm.

Organic is the gold standard of labels because it integrates the whole system. Therefore, if one portion of the system breaks down, it has ripple effects throughout the system. If the soil is not healthy, the feed
grown for the livestock will be lacking in some fundamental way, and the animal's health will suffer.

A healthy, organic system is a system that already incorporates by necessity many of the animal husbandry standards that are advocated in the labeling world.

In the testimony submitted in November 2007, Kathleen Merrigan and William Lockhertz recommended adoption of the following five straightforward animal husbandry standards as a starting point for clarifying the role of animal welfare in the organic standards.

They are purchase for poultry, prohibition of forest molting; development of standards for spacing in livestock feed lots; and banning of swine gestation crates. These recommendations are a part of the recognition that these production methodologies are not conducive to healthy, overall successful organic systems.
We encourage the Livestock Committee to consider these recommendations put forth in this testimony. Strengthening the standards will provide more meaning to the USDA seal and promote consumer confidence that the organic seal continues to be the gold standard of all labels.

The Livestock Committee's discussion documents successfully hurdling the difficulty in marrying the need to have clear, enforceable standards and the recognition that every livestock operation is different, different animals, different production systems, different regions.

Accordingly, language adopted in the rule should always be outcome oriented, and the rule change language suggested by the Livestock Committee is clearly outcome oriented.

We support these proposed rule changes. However, in looking at the guidances, we do have some concerns regarding
an appropriate infrastructure to support this proposal. The Livestock Committee's guidance proposals contemplate a significant increase in the role of the inspectors to provide oversight of animal welfare standards. There is currently a shortage of good livestock inspectors. The skill level of livestock inspectors must increase to appropriately score livestock to assure compliance.

The cost of organic certification will increase due to the extra time spent on inspections. Therefore, we do not support requiring inspectors to individually score all animals.

Thank you, and I had a little more, but.

CHAIRMAN MOYER: Okay. Thank you. Any questions or comments from the Board? Hugh.

MEMBER KARREMAN: Thank you. And applaud Organic Valley for the welfare animal husbandry standards you've
developed, very detailed, in depth, and I know
that I think your person within the
cooperative was a student of Temple Brandon,
and just so you know that the guidance that we
are discussing at this meeting was taken
straight from Temple Brandon. Okay? She was
on some conference calls we had. So I guess
there's a whatever.

Anyway, as far as the inspectors
needing extra training, I guess so possibly,
but I also have to say that I have given a
talk or two at inspector trainings for IOIA
and have basically put like regulatory
statements on top of the slide and had
pictures of like how it looks good and
pictures of how it looks bad. And more than
a couple of inspectors have thanked me after
the talk and said, "Gee, Hugh, thanks for
showing that because now I know what to look
for."

So it wouldn't take that much
because, you know, they continue to say, "You
know, sometimes I get onto farms and I leave
with kind of an odd feeling like something is
not right," and it just takes some pictures at
an IOIA training session to do that, and I
don't think that inspectors are going to have
to body condition score each and every animal.
Definitely not. That's not the intent. It's
basically to get an overall picture, a
holistic view of what's going on.

Is it clean in the barn? Are the
animals generally in good condition? Are
there just not too many that are limping
around and they're all walking well so they
can go graze on the pasture?

Those kind of bigger picture
things are what I think we want to get at, not
crack the whip on a guy who has, you know,
three lame cows and hone in on that, although
it should be seen by the inspector.

So it's just kind of, you know,
making them more aware of what should be done.

And if you look at the discussion document,
the regulatory language change we're proposing is only on like three or four things and it's only a few words. It's the guidance that I think people are starting to think the inspectors are really going to have to learn a lot about, and like I said, some inspectors have thanked me for showing pictures that show good compliance and bad compliance. I don't think it will be that hard.

MS. UNGER: Thank you for finishing my presentation for me.

(Laughter.)

MS. UNGER: Because that's essentially where I was going with it, you know, with that whole outcome based business, that it is a general impression, and as I stated earlier in my remarks, you know, it's the visual materials that really make a difference. It's how our full staff has been trained to do this very thing.

But it does take experience, too.

Showing them a picture and the reality of
going out on a farm in the varying conditions that Ed had mentioned does make a difference.

And I think that you have to agree that we do tend to have a shortage of good livestock inspectors.

CHAIRMAN MOYER: Okay. Any other questions from Board members?

(No response.)

CHAIRMAN MOYER: Okay. Thank you, Beth.

Will Fantle and Michael McGuffin on deck.

MR. FANTLE: My name is Will Fantle. I'm the Co-Director of the Cornucopia Institute.

We have approximately 3,000 members scattered across the country. The majority of those members, a strong majority, are organic farmers.

I'm going to talk about something a little bit different today than what we've been talking about in the past as we have come
before you. Most of our farmers understand that any organic food that they grow and they can't sell direct, they require the assistance of handlers and processors and, in particular, retailers to bring to the market.

So we wanted to talk a little bit today about the discussion document that was put out from the committee talking about retail certification, and what I brought with me based upon that discussion that we had with retailers in the community concerned about the interest of farmers. I'm going to read some select excerpts of that.

This is a sign-on letter. Approximately 50 retailers from across the country signed onto this from corner to corner across the United States.

It says, "The undersigned retailers of organic food have the following" -- I'm going to have to read this differently -- "have been following the multi-site retailer organic certification discussion. We
support the granting of organic certification status to the retailers of organic food on a store-by-store basis with annual inspections of each store listed on an organic certification."

Now, this is important because this is different from the discussion document and the recommendations made in that. I understand there's not going to be a vote on that, but I wanted to bring this to your attention.

There are several reasons itemized in this. There are some good things in this discussion document. The identification of the need for a strong internal control system, very important, needed, but one of our concerns articulated in this letter and brought forth is the creation of basically a two-tier system.

Some of the signators of this letter have multiple stores, retail stores, and they get those annually inspected, and
they have certification for each one of those
stores. So they are on there as well as
single store operations.

And I just want to close this part
of the letter by saying we are concerned with
equity and fairness, a certification program
that creates a different tier of store
inspection rates for large chains as opposed
to single store or smaller retail operations
creates a competitive advantage based on cost
for the larger operations.

So we're concerned about
integrity, ethics and the confidence of
consumers as they continue to go out, explore
and buy organic food in the marketplace. We
think the individual store certification, as
noted in this letter, provides a premium
value. It's something that retailers can
point to and show their customers. We are
about organics. We've made the effort. We've
gone forward. We're looking at each one of
our stores, and we're working with our
management employees to make sure that they understand organics and are handling it in the proper form.

I want to also just add one other point about some retailers that we have called attention to in the past that haven't been doing this right, in particular, Wal-Mart. We filed a complaint based upon systemic violations of the display and presentation of organics in their stores. The State of Wisconsin Consumer Protection Office reached an agreement with Wal-Mart to stop those practices, as did the USDA.

So again, this type of practice, we believe, allows for the stores that are truly interested to demonstrate to their customers that they are willing to take that extra step to do it right.

One other quick comment on a totally separate subject. I mean, I go back to the organic livestock rule, which we, too, are waiting for, and we support the work of
Mr. Matthews on that. Our one addition to the discussion that we've heard so far is that we want the rule done right. It's not enough just to get it out fast. We want it done right.

So with that I'll close, and if there are any questions that anybody has, I'd be happy to take those.

CHAIRMAN MOYER: Questions or comments from the Board. Bea, then Tracy.

MEMBER JAMES: Thank you for your comments. Appreciate that.

I wanted to ask you if you think that the noncompliance issue with Wal-Mart perhaps could have been due to a lack of understanding or a lack of clarity as far as what was expected of them for retail certification.

MR. FANTLE: It was clearly due to that. We found this in multiple stores in five states, these types of practices. It was at a management level and their reluctance or
1 unwillingness to invest in employee and
2 management training in their chains, in their
3 stores in their chain across the country that
4 contributed to that problem. Their employees
5 did not know how to present organics, did not
6 know the difference between natural or
7 certified organic problems.

8 CHAIRMAN MOYER: Bea, a follow-up?
9 MEMBER JAMES: Yes. So I guess I
10 want to just put it out on the table right now
11 that I think that the heart of where the
12 discussion document is really trying to go is
13 in getting more clarification around what
14 voluntary retail certification means so that
15 all retailers whether it's a single or a
16 multi-site retailer understands exactly what's
17 expected of them.

18 And I think because originally the
19 recommendation was tied in with the farmer
20 grower group that there seems to be some
21 concern with the public and its duly noted
22 that perhaps the recommendation is trying to
find a way to circumvent that construct into
the retailer piece, and we'll discuss this
more tomorrow when the CACC really reviews the
document a little bit more.

But I think that where the
recommendation is trying or the discussion
document is trying to go is just seeing where
the industry has comment and understanding as
far as what does retail certification mean and
how are retailers supporting that.

And I think from a lot of the
comments that I've heard and read regarding
violation, when you have more than one store,
it clearly comes from a lack of understanding,
and so it's the goal of the discussion
document to get to a point where we can more
clearly define some guidance around voluntary
retail certification.

MR. FANTLE: I think you're
correct in that. I think the discussion
document does get at the internal controls and
the management procedures to be put in place
1 to help with that issue, and for that the discussion document is very valuable.
2 Our difference is on the multi-
3 store and the frequency of inspections.
4 CHAIRMAN MOYER: Thank you, Bea.
5 The Chair recognizes Tracy. Your question was answered? Thank you.
6 Anybody else on the Board,
7 questions?
8 (No response.)
9 CHAIRMAN MOYER: Thank you, Will.
10 Michael McGuffin and then Lorna Badman on deck.
11 MR. McGUFFIN: What do I have,
12 five minutes or ten? What is it?
13 CHAIRMAN MOYER: You have five minutes.
14 MR. McGUFFIN: Okay. Good afternoon. My name is Michael McGuffin. I'm president of the American Herbal Products Association, or AHPA.
15 Our members market products. They
sell organic food products like teas. They sell organic supplements, dietary supplements like tablets and tinctures. They sell organic herbal cosmetics like salves and soaps, and we also represent companies that grow organic herbs.

I'm here to discuss the document that was issued by CACC on March 13th where they recommended organic cosmetics and personal care products be recognized explicitly by the NOP and more specifically, I'm here to express support for the stated purpose of that document, which is to present the topic for public discussion and comment and then to incorporate feedback.

I last addressed this Board on a different topic, dietary supplements. At that time NOP had said dietary supplements can't comply with NOP. We argued that we should be able to. That issue was resolved in August of 2005 when USDA issued a memorandum stating that it clarified its position that the issue
or products that meet the NOP program standard
for organic products is based on content
irrespective of the end use.

We think that should also be
applicable to cosmetics generally.

That memorandum in '05 went on to
acknowledge that products may be certified.
Dietary supplement products may be certified.
Cosmetic products may be certified under the
NOP and also closed by stating that if
additional rulemaking is required to address
labeling issues or the use of synthetics and
such products, NOP would pursue rulemaking
expeditiously.

So we've known for four years that
cosmetics and personal care products may be
marketed as organic, and there now are NOP
compliant organic cosmetics in the
marketplace. These are agricultural products
since they're derived from organically grown
plants. There has been much less clarity on
and, in fact, controversy as to whether or not
cosmetics and related products are allowed to bear the word "organic" outside of the NOP, not in full compliance with the NOP.

Some companies view the NOP as designed primarily to deal with foods and believe it to be incapable in its current form of addressing many of the ingredients used in cosmetics even when derived from organicly grown herbs and other plants because they'll fall into the definition of synthetic.

And while the NOP has a process for dealing with some synthetics, many companies don't see an option for marketing organic cosmetics under the NOP. But the continuing interest in this class of organic cosmetics has led to the development of private standards, and in just April of '08 NOP issued a document on cosmetics, body care, products and personal care products in which it stated that these products may be certified to private standards and be marketed to these private standards in the U.S. and that USDA's
NOP does not regulate these labels at this time.

Now, we have member companies that have been involved in the development of the private standards. We have other member companies who think that USDA is abdicating its responsibility to protect the integrity of the organic mark across all classes of goods, and what we do have though is a consensus, is that it's clear that additional effort must be given to making the NOP work for all agricultural products to fix the NOP so that it works even for organic cosmetics and body care and personal care products.

So, again, we support the purpose of presenting this topic for discussion. We have some suggestions for modifying the specific recommendations that are outlined on page 2 of that document. I don't know that I have time to articulate those. So let me see. If I have a few seconds left, I'll come back to that if I do.
But I think another thing that we all agree on is we want to maximize the use of the marketplace for organically grown herbal crops. Our vision is more and more and more acres of organic herbs. It may now be time for USDA's NOP to be called upon to pursue the additional rulemaking that it promised back in 2005 to address labeling issues and the use of synthetics.

Let me just mention one of the points that we would add to modifying the existing regulation. I think we should look at whether or not we can add a new paragraph to 205.605. Right now there's a natural ingredient, synthetic ingredient, and maybe we need a class of synthetics used in cosmetics and include in that not just the ingredient, but something about the processing because what we're looking for is a way to make the NOP work for cosmetics, and that's the key issue, is how do we deal with these synthetics.
I do have other comments, and they'll be in my written comments that I submit to whomever I'm supposed to send those to.

Thank you.

CHAIRMAN MOYER: Thank you, Michael.

Any questions from the Board for Michael? Joe.

MEMBER SMILLIE: In 605(b), rather than creating a different section, although I think maybe in the end run eventually I'd like to have a section that's devoted to personal care; I think that might be appropriate. We have livestock; we have processing; we have crops, and maybe this could be split off. But we can certainly do annotations. So it's a possibility in the future that certain essential ingredients that perhaps are considered synthetic but come from organic ingredients could be annotated for personal care use only. I mean, that's an
option that we would have in the future, to
create a set of allowable synthetics, because
that's probably going to be what's going to be
needed, regardless of where we end up on the
synthetic/non-synthetic debate.

I think probably most of these
things will end up being regarding the
synthetic, but we have got that ability to
create allowable synthetics, and we have the
ability to annotate them for specific uses.

So that's a possible future way without
changing the regulation whatsoever I don't
think.

We could create the possibility of
an enlarged organic personal care industry.

We also can't annotate certain substances that
can be allowed and made with organic
ingredients and not allowed in organic.

So there are possibilities. There
is flexibility within the regulations to
accommodate the personal care industry and its
needs. Again, whether this will be considered
by some people as diluting the organic
standard is the political and social issue we
will have to face.

In your specific comments, which
direction in general does your industry want
to go? Does it want to just work with the
605(b)?

MR. McGUFFIN: What I know is that
the companies that have invested resources in
developing these private standards are not
interested in being able to only put their
product on the back of the package. They want
to be able to grand the product as organic on
the PDP. I don't stand here as knowledgeable
about the complexities of the regulation, as
many of you. So as much as anything my hope
was just to put it forward that I know that I
represent a community that's interested in
trying to make the NOP function so that we can
brand organic products without diluting the
quality of the brand.

And I think one of the issues in
terms of these four specific recommendations,
to add the words "or cosmetics," one thing
that we think is that it would be a whole lot
better to revise the definition of the term
"agricultural product" so that it uses that
language that USDA has used before, that it
says that the term as used herein without
regard to the end use of the product, and
maybe even say "for example, foods, cosmetics,
dietary supplements, and any other product
made from an agricultural crop."

I think that could resolve this a
little cleaner.

CHAIRMAN MOYER: Thank you, Mr.
McGuffin.

MR. McGUFFIN: Thank you very
much.

CHAIRMAN MOYER: Any other
questions?

(No response.)

CHAIRMAN MOYER: Thank you.

Lorna Badman and then Lynn
MS. BADMAN: Good afternoon. My name is Lorna Badman, and I am the senior standards developer at NSF International.

Thank you for your time today.

NSF International would like to inform the NOSB that an American national standard for organic personal care products has been adopted through a consensus process after five years of work. NSF has actively facilitated the diligent work of a volunteer stakeholder group in the development of a personal care standard which follows the example of the NOP and encourages the use of NOP certified ingredients in the development and production of personal care products.

This volunteer stakeholder group remained cognizant of the scope of the national organic program. It was the desire of this group to create a standard that followed the rules of the NOP, but expanded the scope to cover processes that are specific
1 to the production of personal care products.
2 
3 An example would be
4 esterification, the reaction of a carboxylic
5 acid and an alcohol in the presence of an
6 acidic substance which is allowed under NSC
7 ANSI 305, but not the USDA NOP. Products
8 intended to be labeled with the organic
9 processing claims currently defined under the
10 USDA NOP, including 100 percent organic,
11 organic and made with organic, are not covered
12 by NSF ANSI 305.
13 NSF International, an independent,
14 not for profit organization, is a public
15 health and safety company headquartered in Ann
16 Arbor, Michigan. NSF's primary focus is to
17 improve human health through standards
18 developments, testing and certification
19 services that help to improve air and water
20 quality, food safety, and environmental
21 preservation.
22 Since its founding 1944, NSF has
23 adopted 49 ANSI accredited standards, many of
which are referenced in local state and federal regulations.

NSF ANSI 305 was developed by the Joint Committee on Organic Personal Care, which is comprised of a balanced representation of stakeholders, including industry, public health and regulatory officials, academia, and non-government organizations, users, consumers, advocates, and trade associations.

NSF International administered the committee in accordance with the American National Standards Institute's accredited standards development process. ANSI is a private, nonprofit organization that administers and coordinates the U.S. voluntary standardization and conformity assessment system.

ANSI accredits NSF's volunteer consensus standards development process. This accreditation verifies that NSF develops public standards in a manner which insures
openness and due process, allowing for equity and fair play.

The intention of this standard is to address the organic personal care labeling misconception that currently exists in the market. Products not certified to the NOP but claim to be organic which have little organic content are prevalent in grocery and retail stores. NSF invites you to review the standard and take part in the NSF standards development process.

Should you decide to expand the scope of the National Organic Program to cover cosmetics and personal care products, NSF welcomes your review and consideration of a reference to the NSF ANSI 305 in the NOP.

Thank you.

CHAIRMAN MOYER: Thank you. That was very well done.

Any questions? Tracy, please.

MEMBER ELLOR: Ms. Badman, I just had a comment for you. I wanted to make sure
you knew that did circulate the NSF draft, the January 2009 draft, which we thought we had access to as opposed to the final standard, which I know has copyright protection, and so every member of this Board has a copy of that.

MS. BADMAN: Okay, good.

CHAIRMAN MOYER: Thank you, Tracy.

Any other questions or comments from the Board?

(No response.)

CHAIRMAN MOYER: Thank you.

Lynn Clarkson and then Dr. Szuhaj.

DR. SZUHAJ. Szuhaj.

CHAIRMAN MOYER: Szuhaj will be on deck.

MR. CLARKSON: Good afternoon, Board members. I want to take you on a walk through organic evolution of an ingredient, lecithin.

Below the line, when the NOP took its first breath, soybeans existed, but the material above it didn't and that's all
organic lecithin. We support the Handling Committee's recommendation to remove bleached lecithin from 605(b) for a classic reason: an organic version exists.

Number two, we support the Handling Committee's recommendation to remove fluid unbleached lecithin from 205.606. Classic reason: it exists and has been in commercial use since 2004.

We accept the annotation to leave de-oiled lecithin on the national list because de-oiled organic lecithin is not commercially available at this time. Some time in the future it may be, but not at this time.

Next.

These are the organic lecithins that are available at this time. The upper bowl is your standard lecithin used in commerce. Lower left is bleached. Across from it is what we would call a dry lecithin. It does not mean de-oiled. It means that a fluid lecithin was absorbed on a carrier, such
as a multi-dextrin and can be used in a dry situation. It is not de-oiled, which many people confuse between dry and de-oiled.

And at the bottom you have the very low micro lecithin currently in use by cosmetic companies who are concerned that some of the lecithin will get in the eye which lacks the protection of the stomach.

Next.

Since bleached lecithin is of key concern here, I thought you would like to see it being made. The picture on the left is where lecithin in gums is coming out of a process line and being bleached. That is the only time where you can bleach lecithin.

You can de-oil lecithin later. You can take organic lecithin and de-oil it later with acetone. You cannot remove it and later bleach it. It has to be bleached now.

On the right-hand side, finished product, bleached lecithin ready to go into commerce.
Next.

Now, organic lecithin availability. Where does lecithin come from? Typically it comes from an oil seed. On the right-hand side you've got your crop sources, your primary, soybeans, canola and sunflowers. From the source of organic soy, we have fluid, bleached fluid, and dry blend, every one available in organic form.

We have made organic canola lecithin and fluid bleached and dry blend form. I would not say it is commercially available at this time. We're awaiting orders. We have not had any orders for it. We have it sitting on an inventory floor.

Organic sunflower lecithin we have made, but it is not commercially available at this time. It's under development.

Now, out of any of those sources, de-oiled version is not available. So it's appropriate to retain.

Next.
Lecithin under the USDA seal. It should mean organic. It doesn't. You can walk into any store in the country, walk through the grocery store shelves, and looking at the seal you will not know whether organic lecithin or non-organic lecithin is in the product that uses lecithin. You have to read the ingredient package.

The ingredient panel, well, it would be nice to use the seal as a shorthand way to know what you're buying.

Non-organic lecithin, the production system is non-organic farming. Our production system, organic. With the non-organic farming system, any pesticide in use is going to be out in that farm. We will allow pesticides only if they're on the national list. An extraction of almost all of the oil from which lecithin is extracted from the non-organic is hexane. We use pressure and heat. Everything else about what we do is organic.
Next.

Uses: food supplements, release sprays, personal care and industrial. I could lead you through examples in many of these categories starting with infant, toddler and right on through to cookies, but neither you nor I have the time for that. So I've picked a few to show you.

Please, next.

Organic formulas for infants and toddlers. Some use organic lecithin; others don't. If you'll follow the green arrow, it will carry you to a panel showing organic soy lecithin. If you'll follow the red arrow, it'll be a non-organic soy lecithin.

The upper canister on the left is a dry product. You've been told in some comments that it's impossible to mix a fluid lecithin with a dry product. Huh, really? It doesn't look impossible to me.

The lower canister on the left is not under the National Organic Program. It is
a baby food that belongs to a Korean company that very much wanted to be organic. They were our first client for organic lecithin in 2004. They continue to be a client today. That is one of the world's more organic products.

Next.

Chocolate bars using organic lecithin. Some do and everyone on this page does. Every arrow is green. If you'll look at the one on the lower left, you'll see an arrow going to soy lecithin with an asterisk. The asterisk says that it's organic.

Next.

Chocolate bars not using organic lecithin. Now, from a consumer standpoint, these chocolate bars are essentially interchangeable. The marketing department of every company will argue, but they're essentially interchangeable with the one on the prior slide. Not a one of these uses organic lecithin, despite being quite aware of
its existence.

Next.

Certified organic vegetable oil sprays. Lecithin plays a significant role in this. You've got two with organic lecithin and three without.

Next.

So what conclusions can you make from a brief visit through the store and reading panels? I think it would be safe to say organic lecithin now meets commercial quality and supply standards, has penetrated the market significantly.

Two, I think continuing allowance for non-organic lecithin, bleached and unbleached, encourages a wide range of interpretation by vendors, processors and certifiers, all gathered together under the USDA seal.

The NOP rules should encourage organic production and use of organic ingredients, agriculturally grown organic
ingredients. So we would like to ask that the

NOSB support the recommendations of your

Handling Committee. Your decision in favor of

removing bleached lecithin and unbleached

fluid lecithin, as proposed, supports the

organic first principle. It increases market

for organic crops, and it will encourage

innovation and competition.

Final. One more.

We tend to forget often in our
discussions one of the foundation stones, and
that's the organic farm. On the right you've
got one from central Illinois standing in an
organic bean field, growing organic beans,
looking for organic markets.

We have seen an evolution in at
least this ingredient, and I think you'll see
it in other ingredients, and I think we have
now reached the time we need an evolution in
the rules to make it clearer what's acceptable
in the marketplace and what's not.

Now, how do I know what I'm
telling you is the truth? Truth is an elusive concept in many locations. Well, we've monitored our penetration of the market. We talked to users. We talked to people who aren't users, and we reached out to see if we couldn't find an impartial party that knew a lot about phospholipids and lecithin, and we reached out to a gentleman by the name of Dr. Bernie Szuhaj, and we've asked him to speak to you today.

He has a reputation for expertise in this field that's worldwide and goes way beyond my company or this particular discussion. So I would hope that you would regard him as a neutral party of science.

Questions?

CHAIRMAN MOYER: Questions or comments from Board members? I'm sorry. Katrina and then Joe.

MEMBER HEINZE: As we've tried to understand lecithin in all its varieties, I want to make sure I understood correctly that
de-oiled in either an unbleached or bleached form is not currently commercially available.

MR. CLARKSON: The only reliable and high quality method of producing de-oiled amino right now uses acetone, which we cannot use under organic certification. So the answer is we do not currently know how.

There are a couple of techniques that were studied that might work, but those are probably a year to two years away, and I can't tell you that they work.

So the short answer to your question is we can't make, we don't know how to make it right now.

MEMBER HEINZE: So I have a follow-up to that, but then I think what I heard was that it is possible to have organic bleached lecithin.

MR. CLARKSON: Yes, we have it today.

MEMBER HEINZE: So one option that might be available to us would be to move
bleached lecithin to 606 with an annotation
only the dry de-oiled.

MR. CLARKSON: That would be possible.

MEMBER HEINZE: Thank you.

MR. CLARKSON: You're welcome.

CHAIRMAN MOYER: Joe.

MEMBER SMILLIE: My main question was answered. Katrina had the same question, but a follow-up. Could you just walk me through once again how the dry is created from a fluid sprayed on a substance?

MR. CLARKSON: Okay. Whether you're dealing with a conventional or an organic lecithin, you're starting with a base dock of fluid lecithin. It has a very, very low moisture level. All right? So you're not going to dry it with heat. You need to take the oil out to de-oil it.

But to provide you a dry form, you put it on a multi-dextrin or flour as a carrier, as a neutral carrier. In that case
you could make it out of organically certified multi-dextrins or flours, and you would have a dry form of organic lecithin. It would not be de-oiled, and many people that submitted comments and were concerned about using access to a particular form of lecithin were addressing you, in my mind about de-oiled lecithin.

MEMBER SMILLIE: So also as far as the carrier goes, you can choose from a variety of carriers then. You're not restricted to multi-dextrin.

MR. CLARKSON: Correct.

MEMBER SMILLIE: Okay.

CHAIRMAN MOYER: Thank you, Joe. Dan.

MEMBER GIACOMINI: Thanks, Lynn. Regarding the petition for 606, fluid, unbleached lecithin, you have the product.

MR. CLARKSON: Yes.

MEMBER GIACOMINI: It's not
extensively being utilized.

MR. CLARKSON: Excuse me. Did you say unbleached or bleached?

MEMBER GIACOMINI: The unbleached, the petition for 606 right now.

MR. CLARKSON: It is being reasonably extensively utilized. We have set up a table in the back with a number of products you are certainly free to sample, and we've been shipping it commercially since 2004.

CHAIRMAN MOYER: Okay. Thank you. Tracy.

MEMBER MIEDEMA: Is there any difference in the quality or form of this that hasn't been captured yet in your presentation around flavor or mixability that would warrant it staying on 606?

MR. CLARKSON: I am unaware of any differences, but the better person to answer that one would be Dr. Szuhaj. You might be inviting a comment about is there a difference
in flavor color or quality from other sources
of lecithin, such as sunflower lecithin or
canola lecithin, and all I can tell you is
that the people who make those lecithins
publicly announce that they're
interchangeable. There's no difference in
terms of color, flavor or functionality.

CHAIRMAN MOYER: Okay. Thank you,
Lynn.

MR. CLARKSON: You're welcome.

Thank you.

CHAIRMAN MOYER: I just want to
remind the Board that we've gone through 15
presenters and we have about 48 to go yet. So
make sure that your comments and questions are
pointed. We certainly want to get everybody
to have the information that they need as we
move into the decision making process
tomorrow.

Dr. Szuhaj.

DR. SZUHAJ: Thank you very much.

For the sake of clarity, my name
is pronounced "shuhi." Just think of high shoes and reverse it, "shuhi."

I am here to present technical comments on organic lecithin to the Board, and I am the president and owner of Szuhaj & Associates.

Next slide.

Not to bore you with my key technical qualifications, I have my Ph.D. in biochemistry from Penn State University in 1996. I have over 40 years of experience in lecithin and lipids. I have several publications and patents, and I'm past chairman and president of the American -- this is wrong -- that should be the International Lecithin and Phospholipid Society. This would be a promotion. Sorry. I'll send you a corrected.

Okay. Next slide. This is a tough one. This is not the one we should have. This is going to confuse a lot of people because the other one we have is green
and red, and is better. We want that one, the one that looks like that.

I know this is two o'clock in the afternoon and everybody is half asleep, but this will get you awake now. We need to go to the right one. All right. There we are.

Okay. Thank you.

Okay. To clarify some of the questions we're going to talk about, this is the simplified production process for different types of lecithin. Here you can see the oil seeds which might be soy, canola or sunflower, and they go through this process of either being expelled or hexane extraction. Now, the things that are green are organic. The ones that are red are non-organic, and then you can see a combination of organic and non-organic.

What happens is the lecithin is expressed out, and you have crude oil. You add water to this crude oil and you get the gums.
Okay. From here you can take the gums and Lynn said, and you can bleach them, and you can go have a bleached lecithin, or you can take the bleached product and come down here and move remove the oil with acetone.

You can also take the materials from the gums and have the standard fluid lecithin product here and you can blend it. And then when you blend it, you can make the dry product, and I think that's being passed around.

Now, I'd like to correct something here. In the industry the word "dry" is not used. It is just "de-oiled." I don't know where that came from, but that's a misnomer to call it dry, and I think they come up with this because you have a food product and you have the granules. So, therefore, you call it dry, but really in the industry it is called de-oiled.

This one, however, is considered
as a dry product because you have lecithin coated onto a multi-dextrin.

I should mention something here in the area of bleaching. I think some people might think that when we're talking about bleach we're talking about sodium hypochlorite, which is a normal bleaching agent, and you might be using that as part of the discussion here.

Here we're talking about hydrogen peroxide. This is the bleaching agent that's used to lighten the color, and the only thing you're impacting here are the chromophores that are present, primarily the pigments.

Next slide. Oops, we have to go back to the other one. No, we just need to go to one that looks like this. Oh, well, it's apparently not in that. I don't know where it went.

Okay. Well, let me say what's on this sheet, for the Board members here, this was to cover the estimated world's share of
lecithin products. You need to know that there are approximately 250 to 300 million pounds of lecithin worldwide, and liquid lecithins make up about 80 percent, 27 percent which are standard fluid; 38 percent are reacted or modified. The remaining 20 percent is de-oiled, and of that 80 percent goes into the nutritional supplement market and 20 percent goes into the food sector.

Now we can go to the last one that says organic standard fluid products. Okay. Apparently this is the wrong thing that got in here, but what I wanted to say about the organic standardized fluid lecithin, the Board needs to understand that functionality is based on phospholipid composition, not color, not necessarily viscosity or flavor, and the same thing goes with organic bleach. It's the phospholipid composition that makes a difference. Lecithin is bleach with hydrogen peroxide to lighten the color and not to reduce microbes. Microbes are controlled in
the gum drying process.

CHAIRMAN MOYER: Okay. Thank you.

Questions? Joe.

MEMBER SMILLIE: Well, where does the hexane come from in organic lecithin?

DR. SZUHAJ: If you're looking at this word "hexane" here, this is the test method that's used. Use hexane to dissolve the lecithin, and you collect the particle matter on the filter. So there's no hexane in lecithin. That's just a test method.

MEMBER SMILLIE: Oh, okay.

CHAIRMAN MOYER: Thank you, Joe.

Does anybody else have any questions? Tracy, please.

MEMBER MIEDEMA: Would you mind just repeating that bit about the functionality is the phospholipid composition?

DR. SZUHAJ: Right.

MEMBER MIEDEMA: Can you just elaborate a little bit on that?

DR. SZUHAJ: Yes, I can. The
phospholipid content is what makes lecithin do
its function, and the phospholipids are
phosphocholine, phosphoethylnolamine, and
phosphotilenostol. There are three major
phospholipids in lecithin. These are the same
three that you find in almost all of the oil
seeds that were shown up there, sunflower,
canola, and corn, cotton seed. They all have
the phospholipids as the functioning agent in
the product.

CHAIRMAN MOYER: Okay. Thank you very much.

Katherine DiMatteo and then we have Lulu Kurman on deck.

MS. DIMATTEO: All right. Thank you, and I think the microphone is the right height for me.

My name is Katherine DiMatteo. I'm with the consulting firm of Wolf, DiMatteo & Associates, and I have been working with Lynn Clarkson and learning a lot from Dr. Szuhaj about lecithins, and I don't know that
I can answer all of the questions that they have, but I certainly have begun to understand a lot more about it. But what I want to say in particular is urging you to take bleached lecithins off of 605 because you can make lecithins using hydrogen peroxide, which is allowed under the National Organic Program, and you can start with an organic agricultural ingredient, whether that's organic soy or organic canola or organic sunflower. So you can end up with a bleached lecithin in compliance with the regulation.

I also want to urge removing the fluid lecithins from 606, again, because they are commercially available and because your annotation, especially if it says de-oiled, which seems to be the correct annotation or dry de-oiled, would allow for both what is not commercially available and for anybody who is producing something with allergens that can be available in a de-oiled form.
But mainly I wanted to say it's your decision. You have to be decisive, and there's a lot of arguments that have come forward about what is needed by the processing industry, and for many of those who know me and some of you who don't, I'm almost always the one who is characterized as representing the processor and allowing for use of almost everything so that processors can make as much organic product as possible. Because I believe that we shouldn't put artificial barriers in the way so that more farm products are sold. If we can sell as much farm product through processed products, that's great.

But I always believed that because I also always believed that when something was available in an organic form, it would be used, and that when the proof came forward to the National Organic Standards Board, things that were on the list would get taken off, and that's why I would argue strongly always for processors to be allowed to make as much
processed product as they possible could following the rule and even allowing the processing aids that they needed to have.

Now we have a great case. You have a great example right here and an opportunity to move forward and to really follow through on this balance of integrity and growth. We've had the growth. We can maintain the integrity now by taking those lecithins off that no longer are needed to be on the list.

And the last thing I wanted to say, that it really is the time for you to make this decision. Please don't delay this any longer, and here's why. If you make this decision today, it's likely that it won't be implemented or off the list for about two years, and not because of anybody's fault. It's just that it's a long process.

We just heard that the materials that you approved in November of 2007 will soon come out as a proposed rule. So if you
take this off today, there is time for people
in the industry to make adjustments if they
need to to use organic lecithin or to use the
dry de-oiled lecithins in the forms that they
need for their products.

Thank you very much.

CHAIRMAN MOYER: Thank you,
Katherine.

Comment or question? By Joe.

MEMBER SMILLIE: So now that we're
educated about the de-oiled versus the dry,
what you're saying is that if we leave de-
oiled lecithin on 606, that will allow the so-
called allergy concerns to be met.

MS. DiMATTEO: Allergy, yes, and
the de-oiled needs.

MEMBER SMILLIE: De-oiled needs
because we can't de-oiled organic.

MS. DiMATTEO: Right.

MEMBER SMILLIE: Okay. So some
people might move to de-oiled lecithin because
they don't want to pay the price for organic
lecithin, but it does provide that window for those needs that are truthful.

MS. DiMATTEO: Right.

MEMBER SMILLIE: We haven't discussed the whole allergy thing yet, and I think that that's one of the inputs that we got, and you're probably not an allergy expert. So I guess we'll wait on that, but I just wanted to remind the Board that one of the concerns we had about removing lecithin is that people who were allergic or who maybe were truly allergic to soy or maybe allergic to reading soy on a label, maybe it's not really an allergy concern and Katrina may have something to say about that, but that way they could have something on a label that wouldn't affect their allergy concerns, real or perceived.

So I think we'll have to have that discussion once we have someone, if we have someone, that objects to us removing lecithin from the list based on allergy concerns.
MS. DiMATTEO: Right, and I'm not an allergy expert.

MEMBER SMILLIE: Right.

MS. DiMATTEO: I don't even have an allergy.

(Laughter.)

MS. DiMATTEO: But what I would have to say is, and again, this may be surprising for some of you in the room who know me, I don't know that the organic rule has to solve all the problems that are out there. It's about organic. It's not about allergies, and even though, you know, it would be wonderful to meet every single processor's need and every single person's need about the particular kinds of products that they want to have, I don't know that that's the job that you're asked to do.

Thank you.

CHAIRMAN MOYER: Thank you.

Just a minute, Katherine. Julie.

A question from Julie.
MEMBER MIEDEMA: It's actually not specifically a question for Katherine, but I just wanted to be sure that -- I wanted to know if during the discussion period when the Handling Committee is going to be discussing this tomorrow if Dr. Szuhaj is going to still be here tomorrow.

MS. DIMATTEO: Yes.

MEMBER MIEDEMA: Was that yes?

CHAIRMAN MOYER: He indicated yes.

MEMBER MIEDEMA: Thank you. So then I feel more comfortable about moving on because I know we'll still have resources available.

MS. DIMATTEO: Lastly, in the back of the room we've got a display of products with and without organic soy.

CHAIRMAN MOYER: Thank you, Katherine.

Lulu Kurman and Zareb Herman on deck.

MS. KURMAN: My name is Lulu
Kurman, and I'm the manager of Regulatory and Scientific Affairs at Solae, a manufacturer of non-organic bleached de-oiled lecithin sold to producers of products labeled as organic or made with organic. We also sell quite a bit to the conventional food market as well.

I would like to thank the NOSB Committee for allowing me the opportunity to speak today.

Solae would like to express its concern with the Clarkson's soy products petition to remove lecithin, bleached, from Title VII, Part 205.605(b) of the Code of Federal Regulations. As Solae is not aware of any certified organic emulsifier or other substance currently on the national list that provides equivalent functionality to bleached de-oiled lecithin.

In addition, Solae's concerns about the removal of all forms of bleached lecithin from the national list is heightened as we are not aware of any suppliers of non-
Finally, we would like to emphasize the significant difference in form and function between de-oiled lecithin and powdered lecithin, a distinction which we feel is not clearly made in the Clarkson Soy Products petition.

De-oiled lecithin is an emulsifier that exists in powder form. In the production of de-oiled lecithin, liquid lecithin is treated with hydrogen peroxide as a precaution to guard against microbial growth before the de-oiling process commences. A secondary effect of the antimicrobial hydrogen peroxide treatment is a slight bleaching of the lecithin.

The acetone insolubles, or AI, is the active portion of de-oiled lecithin. It consists of a complex mixture of polar molecules, primarily phospholipids. The minimum AI of Solae de-oiled bleached lecithin is typically 97 percent, while the AI of
organic liquid lecithin is typically no greater than 65 percent.

De-oiled lecithin is simply lecithin and does not contain carrier ingredients such as multi-dextrin, which dilute the AI. Other dry lecithin products, however, such as the Clarkson Soy Products granules are produced by combining fluid lecithin with a carrier.

Bleached de-oiled lecithin is used in many food emulsions where water is the continuous phase into which oil is dispersed, known as oil and water emulsions. Examples of product applications can be found in beverage, sauce, soup, dairy product, and frozen dessert categories. The apparent hydrophilic, lipophilic balance, or HLB, of de-oiled lecithin is seven, making it water dispersable and very effective at emulsifying oil into a continuous water phase.

Standard lecithin, such as typical organic liquid lecithin has an apparent HLB of
four. Emulsifiers with HLBs less than six are generally ineffective for making oil and water emulsions.

Powered lecithin that has not been de-oiled is not water dispersable, nor is it an effective emulsifier for oil and water emulsions. Aside from its increased functionality compared to standard lecithin in many food applications, bleached de-oiled lecithin has a blander flavor. The de-oiling process removes much of the bitter and beany tasting components of standard lecithin, making de-oiled more readily usable in foods with a delicate flavor.

The Clarkson Soy Products granules which are not de-oiled cannot be expected to have the same bland flavor profile as de-oiled lecithin.

Aside from the inability of the Clarkson Soy Products granules to function similarly to non-organic bleached de-oiled lecithin, we further question the validity of
the petition to remove lecithin, bleached,
from the national list as Clarkson Soy Products is not offering an organic equivalent that can be labeled as lecithin in compliance with the U.S. food labeling laws.

The Clarkson Soy Products specification for organic soy lecithin granules dated April 2008 states that the product meets lecithin requirements under Title 21, Part 184.1400 of the CFR. The Clarkson specification, however, states the hexane insolubles are less than one percent.

The food chemicals Codex specification for lecithin, which is referenced in 184.1400 of the CFR, lists a requirement for hexane insolubles to be less than 0.3 percent.

In order for a lecithin to truly be called a lecithin or declared as lecithin in an ingredient statement, the additive must meet the food chemical's Codex specification. If a producer of organic products were to use the Clarkson granules in their formula, they
would be required to declare soy phospholipid 
emulsifier or some other adequately 
descriptive and non-misleading name on their 
product label.

Thank you for your attention.

CHAIRMAN MOYER: Thank you.

Any questions or comments from 
Board members? Yes, the Chair recognizes Joe.

MEMBER SMILLIE: Are you going to 
be here tomorrow?

MS. KURMAN: What time?

MEMBER SMILLIE: What time is the 
HC?

CHAIRMAN MOYER: I'm sorry. I 
don't have that part of the agenda. It's in 
the afternoon.

PARTICIPANTS: Two o'clock.

CHAIRMAN MOYER: Two o'clock.

MS. KURMAN: My flight leaves at 
5:15.

MEMBER SMILLIE: You'll be here.

CHAIRMAN MOYER: That's a
1 definitely maybe. Okay. Thank you very much.
2 Appreciate that.
3          MS. KURMAN: Thank you.
4          CHAIRMAN MOYER: The Board
5 recognizes Zareb Herman, and then Amy Nankivil
6 is on deck.
7          MS. FRANCES: Hey, Jeff or
8 commenters, when you are on deck, that's the
9 time to give me the written materials that I
10 can pass out.
11          CHAIRMAN MOYER: Thank you,
12 Valerie.
13          Anything that can save this Board
14 time we certainly will appreciate it as the
15 day wears on. We do have a lot of commenters
16 and presenters to get through.
17          MR. HERMAN: I do have a proxy
18 from Paul Standing of Bloomfield Baker. So I
19 should have ten minutes to share, although my
20 comments should only take about seven minutes.
21          And excuse my hoarse voice. I
22 just have a little case of the swine flu.
(Laughter.)

MR. HERMAN: Just kidding, just kidding.

Can you hear me better?

My name is Zareb Herman, and I am representing the Hain Celestial Group, one of the largest producers of organic products in the United States. We sell over 900 organic products under many brand names, including Arrowhead Mills, Earth's Best, Health Valley, Spectrum, and many others.

Our history of promoting the organic movement in the United States goes back over 50 years. I'm also here today representing Bloomfield Bakers, who produce a large number of organic products at their two manufacturing facilities in California.

In addition, my comments have been endorsed by Country Choice Organics, a manufacturer of organic bakery products.

I'm here to comment on the two lecithin petitions. On the first page of your
handout is a chart that shows some of the categories of our organic products that utilize lecithin as a vitally important processing aid.

In our organic chocolate products, we use lecithin in liquid form. The organic form is available and we have been using organic liquid lecithin for a number of years. The same holds true for our organic spray oils. We use the organic liquid form.

For the next two categories of products, organic frozen desserts and low fat bars and cereals, these manufacturing processes require the use of an IP powdered, de-oiled water dispersable lecithin. This form of lecithin is not available in organic form. There is an organic granular lecithin sold by Clarkson, and I did bring a sample, but that's okay. And this product is, as has been acknowledged, just liquid lecithin that has been plated onto multi-dextrin and rice
flour. It is not de-oiled. It is not a true powdered, water dispersable lecithin, and it does not work in our applications.

Now, if I could direct your attention to page 3 of the handout and toward the middle of the page, and if you could read along with me I'd appreciate it, and this concerns the 606 petition.

The Handling Committee has acknowledged that there is not an adequate supply of organic dry, they call it, dry unbleached lecithin. However, besides the organic granular lecithin that does not work, this is what we know. Nearly all of the powdered lecithin commercially available is bleached. We very recently located one unbleached de-oiled powered lecithin that is sold in Europe. We have not been able to test it.

Now, because the current supply of powdered lecithin is bleached and because it needs to be de-oiled to work, we strongly urge
the Board to keep bleached lecithin on the 605(b) list. If bleached lecithin is removed, we and other companies will most likely have nothing to use in these applications.

If we are able to obtain a source of powdered unbleached lecithin, we recommend that unbleached de-oiled powdered lecithin be added to the list. I guess it would be the 606 list, but one alternative would be to add both the bleached and unbleached powdered lecithin on 605(b). That would be one option.

Now, regarding the use of hydrogen peroxide as a bleaching agent, the majority of suppliers we contacted said that they use it primarily to lower microbial contamination, an important food safety concern. They said that they use it secondarily to lighten the color. However, two of the companies stated that they use it primarily to lighten the color. However, with one exception, the product sold in Europea, they are all using hydrogen peroxide, but it is not present in the
finished ingredient. So it poses no health risk.

I want to make one point about GMOs. I've seen in some of the comments some proponents of these petitions claimed that non-organic lecithin that is used in organic products is sourced from genetically modified soybeans. This is not true. Our organic certifiers require us to use lecithin derived from non-GMO identity preserved soybeans.

Some claims have been made that gums can take the place of lecithin in food products. This is not true. Lecithin is primarily an emulsifier, while gums are used to bind water. We often use gums and lecithin together in the same products.

Some people claim that non-organic de-oiled lecithin contains hexane. This is also not true. Our two principal suppliers of powdered lecithin guarantee less than one part per million hexane residue, and the other suppliers guarantee that residues will be in
the low parts per million range.

When you consider that lecithin is used at less than one percent in food products, and when you consider that nearly all of these products are heated during processing, there is virtually no hexane that can be detected in the food.

We would all like to live in an environment totally free of organic solvents, but unfortunately the technology is just not there yet, but in terms of exposure, pumping one tank of gas into your car will probably expose you to more hexane than a lifetime of eating products made with non-organic de-oiled lecithin.

If you could return to the chart on page 1, there is one additional category of our products, organic baby cereals. We currently product these products in Germany. However, we did find a U.S. company that could produce it using liquid sunflower lecithin as a processing aid. They will not introduce soy
lecithin into their facility because they are concerned that their equipment will be contaminated with soy protein allergens.

And if you've ever worked with fluid lecithin, it's very sticky, and it's really hard to get off your equipment.

Now, the organic liquid soy lecithin that is currently available does test positive for soy protein, and it's a protein that is the allergenic agent in the food.

Now, regarding the sunflower lecithin, to our knowledge, it is not available, commercially available in organic form. If the NOP decides that all liquid or fluid lecithin must be organic, soy free facilities and products that are soy free will not be able to use liquid lecithin in those organic products.

And just to answer a question, de-oiling does not remove soy allergens.

Personally, I am a strong proponent of organic foods. I even managed a
health food store my college days, but as a scientist I make decisions based on facts, not on emotions. We sincerely hope that the Board will make a decision based on facts, not on smoke screens and we believe in some cases misleading information.

Lecithin if a vital ingredient in many organic food products. To deny companies the right to use DOL powered bleached lecithin will result in the loss of many organic products from the marketplace. This will negatively impact farmers, processors, retailers and, most importantly, consumers who will not be able to purchase these products. Many of these products have been consumer favorites for years, and we're talking about millions of pounds of organic ingredients and millions of dollars in sales on these products.

For this reason we strongly urge the Board to keep bleached lecithin on the 605(b) list or you may want to put it on the
606 list, however you work it out.

Regarding the 606 petition and liquid lecithin, we have been using organic liquid soy lecithin from one company, Clarkson, and the supply has been reliable. However, we do have serious reservations about giving a near monopoly to one company. The contacts we have had with these other organic liquid lecithin suppliers have not been good. We contacted the company in India recently, and they told us that they hoped to have organic certification in two to three months. We contacted a French company and spoke with a Fabian. Excuse my French or pardon my French. Anyway, she explained to us that they do not have NOP certificated organic lecithin. We found a U.S. supplier which supposedly was going to sell organic fluid lecithin, but I was not able even to get a specification out of them. So it was not encouraging.
Just one final comment. It's that for companies needing to use lecithin that is free of soy protein allergens, non-organic liquid sunflower lecithin and sunflower lecithin we recommend be added to the 606 list.

Thank you.

CHAIRMAN MOYER: Okay. Thank you, Zareb.

Are there comments or questions?

Bea and then Tracy.

MEMBER JAMES: Thank you for your comments.

My question was I was surprised to see Ersvest products that do not have organic lecithin in them, and the baby formula, in particular, and that Nature's One is able to make that with organic lecithin, and so I'm wondering why you're not.

MR. HERMAN: Well, that particular formula is packed for us. We essentially purchase that formula from that supplier, and
the particular methodology that they use, they explained to us that they cannot use that form. So, you know, for the baby formula products, we really are stuck with this formula provided to us.

And infant formula products go through a lengthy period of approval by the FDA and to introduce any change to one of those takes a very long time.

CHAIRMAN MOYER: Okay. Thank you.

Tracy.

MEMBER MIEDEMA: I just had a question. I'm trying to synthesize this data in real time here while it's coming in as opposed to on day three when we're a little bleary-eyed. And what I'm hearing first from the petitioner and, Lynn, jump up and correct me here if I'm wrong; you said the words it would be appropriate to retain de-oiled lecithin on 606.

MR. CLARKSON: I did.

MEMBER MIEDEMA: Okay, and then
the council from Solae sounded like her company needed the same thing, needed de-oiled, and I'm not sure whether they're talking about needing both bleached and bleached, but it sounds like, yes, both bleached.

MR. HERMAN: Yes.

CHAIRMAN MOYER: Please stand up and state your name for the --

MS. KURMAN: Lulu Kurman from Solae.

We do not make an unbleached de-oiled --

MEMBER MIEDEMA: Okay.

MR. HERMAN: Yes, and that's what we have also found. No one is making unbleached de-oiled lecithin. I shared we found one company that's selling some in Europe, but we haven't had a chance to test it. You know, I know the Handling Committee had recommended that unbleached powdered lecithin we retained, but there is no
unbleached. So it doesn't do us any good. It has to be bleached because that's what's available.

MEMBER MIEDEMA: Okay.

CHAIRMAN MOYER: Valerie, program?

MS. FRANCES: I just wanted to remind folks that when public comment is coming in off the floor and not on the mics it's not captured in the transcript.

CHAIRMAN MOYER: Yes, thank you, Valerie.

MEMBER MIEDEMA: then I'll go ahead and restate that in the audience Lynn Clarkson did affirm that, and he's the petitioner, that he's comfortable with the retention of bleached de-oiled lecithin, and that would be on 606, right?

MR. HERMAN: Yes.

MEMBER MIEDEMA: Okay, and that's workable for both of the commenters that we've just heard from as well. So I'm just trying to find where there's consensus among people
and synthesize.

MR. HERMAN: Well, yes. So then you're saying you could move the bleach from 605(b) to 606. Is that what you're saying you're going to do?

MEMBER MIEDEMA: I'm basically looking at it if we were somehow able to wipe the slate clean and do what is best, you know, what that would look like. So I don't know whether from a regulatory standpoint rearranging things on the list is possible, but we can cross that bridge a little later.

CHAIRMAN MOYER: I think you're right, Tracy. We can wipe the slate clean in that regard and start.

The Chair recognizes Julie.

SECRETARY WEISMAN: Yes, there were two things that just came up from me. I do believe that some questions that the Handling Committee put out just ahead of this meeting regarding -- we have some other information to look at about the microbial
issue and bleaching because I think we do have some conflicting information that we need to sort through.

Secondly, Ms. Kurman from Solae mentioned that they used to make an unbleached de-oiled lecithin a long time ago and that there was no demand for it then, and I have heard also Mr. Zareb also talking about how there's no unbleached dry -- Mr -- wait. That's your first name. Mr. Herman. I'm sorry.

MR. HERMAN: That's all right.

SECRETARY WEISMAN: That there is no unbleached de-oiled lecithin available, and this is an issue that we contend with all the time when we're considering 606 petitions. It doesn't mean that it can't be done, and the fact that I hear that it was done a long time ago and it wasn't being -- but none was sold, that was then and this is now. So I would like to encourage everyone to also keep in mind that maybe I believe for sure there was
no market for it many years ago, but I don't think that would be the case today.

MR. HERMAN: Currently, it is not commercially available. So, you know, we're sort of stuck right now.

SECRETARY WEISMAN: So our job here is now to ask why not. That's what information we need now.

MR. HERMAN: Well, and I have asked these questions of the suppliers, and like I mentioned, the majority of them say that it's there to reduce the microbial count, and so, you know, that's a really important concern in food safety.

SECRETARY WEISMAN: Thank you.

CHAIRMAN MOYER: Thank you, Mr. Herman.

The Board recognized Amy Nankivil and Methias Rebmann is on deck.

MS. NANKIVIL: Thank you.

Many of the points I was going to bring up have been brought up. So I will try
to keep this short and concise.

I am Amy Nankivil. I'm with Northland Organic Foods. Thank you for the opportunity to speak today. I think it's great to finally get everybody together to actually figure this deal out.

So I'd like to make a few comments regarding the Handling Committee's recommendation to remove bleached lecithin as an allowed substance on the national list under 205.605(b). This is the only part of it that I'm dealing with. I'm not dealing with the unbleached part of this.

The last time this issue came before the Board in 2006, the committee summarized its final decision stating it has become clear that although there are plentiful non-synthetic and organic alternatives to synthetic bleached lecithin in liquid form, there is current no such alternative for bleached lecithin in dry de-oiled form. The Board strongly hopes a petition will be
presented in short order to restrict the use of bleached lecithin to dry forms only. My first comment is to point out that nothing has changed regarding the availability of organic forms of dried de-oiled bleached lecithin, the form of dry lecithin that is used as a minor ingredient by almost all organic food manufacturers. I have not seen any information prior to today or today presented by the petitioner to prove otherwise.

I believe the petitioner and his consultant have based their petition to remove bleached lecithin from the national list on three major sources of misinformation. Again, I'm speaking specifically about the dry form. I'm not speaking about the fluid form.

Number one, these are quotes from their petition. There are now certified organic lecithins available to replace the need for non-organic bleached lecithin.

Number two, bleached lecithin is
functionally identical to unbleached lecithin. It differs only in color. The primary reason for bleaching lecithin is only to alter the color of an otherwise agricultural product. And number three, there are very limited applications for bleached de-oiled lecithin in granular or powered form. There are two forms of de-oiled lecithin, bleached and unbleached. Bleached de-oiled lecithin is rarely used.

I'd like to ask your patience while I quickly respond to each of these claims. Number one, unless the petitioner can prove there's a dry de-oiled form of organic bleached lecithin commercially available, then this statement is not true. I have seen nothing in the petition proving there is any such product in which case bleached lecithin dry forms must be left on the national list. Number two, lecithin is not bleached primarily to change the color of the product. Lecithin is bleached as a food
safety issue to control the microbial count. The microbial values being controlled by the use of hydrogen peroxide are total plate count, coliforms, E. coli, salmonella, yeast and mold.

I don't know why Dr. Szuhaj has disputed the fact when he contributed the well known and well respected soy processing book called Practical Handbook of Soy Processing and Utilization, which clearly states hydrogen peroxide is used to bleach the lecithin in order to control microbial count.

In Chapter 10, page 179 under production of lecithin, it states, "The wet gums coming from centrifugation will contain about 50 percent water. The wet gums are susceptible to microbial fermentation and require immediate drying or treatment with a preservative such as a dilute solution of hydrogen peroxide. Required dosages will depend on expected storage time, ambient temperature, sanitary conditions, microbial
types and load."

Dr. Szuhaj actually contributed to this particular chapter in that book. The third point, without exception every single organic food manufacturer I've spoken to has confirmed they're using bleached lecithin, not unbleached, and without exception each of the four primary manufacturers of de-oiled lecithin has confirmed that their products are bleached.

Dr. Szuhaj says in his April 20th comment, "I'm not aware of significant amounts of bleached dry lecithin being generally used in food or personal care items. As an expert in the area I'm not aware of production or use of bleached dry lecithin."

In addition to Solae, there are three other primarily de-oiling facilities that produce dry forms of lecithin: Cargil, Adium and Riceland. I have a letter which I've submitted to you from Riceland foods who has been in the de-oiled lecithin business for
over 30 years. They confirm that over 99 percent of all the raw material they've ever used has been bleached crude lecithin. The quote from their manager states, "In our experience, every time the crude lecithin has not been bleached, microbial problems inevitably result. Unbleached lecithin usually came from inexperienced suppliers or is an operating mishap. The problem always carries over to the final product."

Also included in that packet is a letter from IMCOPA, the largest IP non-fluid lecithin producer, also stating that they bleach all of their crude lecithin which is going into de-oiled product for microbial reasons.

In closing, based on the information that I and many others in the organic industry have supplied, I'd like to request that the same annotation that was recommended for unbleached lecithin under 205.606 be added to the recommendation for
bleached lecithin under 205.605(b), that is, there's not enough information available at this time about the commercial availability of dry forms of organic bleached lecithin. If there's any doubt about this, I suggest putting this off to a future time.

CHAIRMAN MOYER: Thank you, Amy.

Any questions or comments? Joe and then Katrina.

MEMBER SMILLIE: Well, we're going to have to take some time to digest all of this lecithin. That's for sure. What about the argument that we see in the marketplace, that we've seen and that we as a certifier also see all the time, some people making similar products, some use organic and some don't?

MS. NANKIVIL: I'm not a food manufacturer, but I talk to a lot of them.

MEMBER SMILLIE: Right.

MS. NANKIVIL: And I can tell you from one to the next their formulations are
very different. Again, if it's a fluid type product, that's one thing. If it's a dry type mix, that's a complete different issue.

So the fact that there's a fluid bleached lecithin available, that's great. Take it off the list, but it cannot be used in the dry forms, in dry formulations. It simply can't be, and what they're talking about is a different product that's attached to a carrier.

As Solae pointed out, this is not a de-oiled emulsifier.

MEMBER SMILLIE: No, we learned that one. We got that one.

MS. NANKIVIL: Okay.

MEMBER SMILLIE: If in the world of possibilities we could leave de-oiled lecithin on 606, would that solve the problem?

MS. NANKIVIL: No, because 606 is only referring to unbleached de-oiled lecithin, and that's not commercially available. Nobody is making it. Nobody is
using it.

So the bleached form needs to have
the annotation that it should stay on the
list. Whether it goes under 205.605(b) or
205.606, I don't know.

MEMBER SMILLIE: See, the beauty
of 606 is we've got the commercial
availability issue. We can bring that into
play, whereas in 605 we can't touch it, and
that's one of the problem, is that some people
rightly or wrongly -- and I certainly wouldn't
want to judge -- use that. So the way we're
heading is to get rid of the 605. At least
that's what the Handling Committee is
recommending. Get rid of the 605 and think
long and clear about what we're going to put
on 606.

We don't want to shut down the
industry. That's the last thing we want to
do. At the same time we'll honor the
principle of getting as much organic in as
possible.
So yours and other comments should help us in the direction that we want to go, which is get it off 605 and put the right collection of words, the right annotations on 606.

MS. NANKIVIL: I understand.

CHAIRMAN MOYER: Thank you.

MS. NANKIVIL: So may I just comment on mine? Then I would like to retract, if it makes a difference where this is. This isn't my comment; it's only if it's going to be put back on 205.605(b) am I pushing this.

I would like it to remain on the national list of allowed substances. Where that category is I don't know.

CHAIRMAN MOYER: Thank you.

The Chair recognizes Katrina.

MEMBER HEINZE: What a lovely segue into my question. My question has to do with where bleached lecithin belongs on the list, and it has to do with the hydrogen
peroxide, and you may not know the answer today, but certainly I think by the time we make our decision it would be nice to have an answer, which is how much of the hydrogen peroxide remains in the finished ingredient, and kind of to better understand that bleaching process because we'll need to understand that better as we decide where it properly belongs.

MS. NANKIVIL: Well, I think even the Clarkson petition, their fluid is bleached as well. So you'll be addressing that with their product as well because it's using hydrogen peroxide as well.

MEMBER HEINZE: Okay.

MS. NANKIVIL: So yes, and I can't tell you. Lulu or Dr. Szuhaj or someone else may be able to answer that question.

MEMBER HEINZE: Or perhaps a general comment to the public if you could think about that overnight that would be helpful for us.
CHAIRMAN MOYER: Thank you, Amy.

MS. NANKIVIL: thank you.

CHAIRMAN MOYER: Appreciate your time.

Methias Rebmann to the podium. Is Methias here?

(No response.)

CHAIRMAN MOYER: Okay. Moving on, Charlotte Vallaeys, and Charlotte has a proxy and then Tom Harding, I believe, yes.

MS. VALLAEYS: Good afternoon. I also want to comment about soy lecithin, and I wanted to just start off by saying that this is an exciting opportunity to help the organic industry evolve. You know, when there's organic ingredients that become available when they weren't before, it's a great opportunity to show companies that it's worth the investment. You know, if they see that there's something on the national list that's not available organically and they think that they can make an organic version of that,
they're not going to be motivated to do that if this process takes years and years and might eventually never reward them for those investments. So, you know, I think that's something important to think about.

Also, from the point of view of organic consumers who do expect if there is an organic version available of an ingredient, they just expect that the organic label will reflect that and that they can trust that, that they don't have to look at those ingredients lists to see, you know, is it organic soy lecithin or is it not. So that's another thing to think about.

But I wanted to respond to some comments or some things that have been brought up. For example, about hexane residues in soy lecithin, I know that that's true. The residues will be extremely, extremely small, probably not any concern to public health.

But organic is not just about residues. We all know that. It's about the
process of how you make food, and if you
extract it with hexane, there are hexane
emissions that is a concern, and for example,
the Solae plant, according to EPA data, emits
one million pounds of hexane into the
atmosphere every year. So that's a concern.

If we want to have organic food reflect a
better way of making food, then we should
courage the companies that are doing it
without hexane.

And another issue that was brought
up is that it will hurt the organic industry
if a lot of products will no longer be
available organically, if they can't use the
conventional lecithin. But we've seen how
many products are currently out there that are
not using the organic when right next to it on
store shelves is the exact same product,
whether it be chocolate, infant formula that
is using the organic. So it's important to
think about that as well.

And I want to bring up infant
formula because another argument was that, for example, Earth's Best. It takes years and years for the Infant Formula Act because it's true. It's highly regulated, to change your product.

But if you turn over a can of Earth's Best infant formula, you see that it says PVM, Vermont, which means that it's made by PVM Nutritionals, which also makes all the other kinds of formula, and they manage to get DHA and ARA, which I will comment on later; they manage to get that into infant formula. It took them just a couple of years.

Babies Only, which also makes infant formula, has added the organic lecithin since 2004, January 2004. So it has been five and a half years that PVM has had that opportunity. If they really wanted to change their formulation, well, they could. They've had five and a half years to do it.

They managed to do it in way less time than that for another ingredient. So I
I don't see why they can't do it for organic lecithin.

The other thing that was brought up was concerns about monopoly, that Clarkson Grain by now has a monopoly. Well, their plant is running at about a ten percent capacity, meaning that they have so much organic lecithin that is not being used, why would another company right now start offering organic lecithin unless the regulations change to show companies it's worth it to invest in that?

And besides, if I understand this correctly, their process is not patented. So other companies are welcome to start making organic lecithin.

Okay. My next comment is also related to ingredients that are currently not organic that are in organic foods. It's about DHA and ARA, which I know I brought up last year.

I'm happy to see that it is on the
work plan that I will be discussing, at least
microorganisms, which I'm assuming also refers
to DHA and ARA.

And I just wanted to bring up
that, you know, last year when I brought this
up, I actually thought that these synthetic
oils, which are not on the national list, that
they were put in organic infant formula, that
that was an honest mistake, and I've sine
learned a lot of things; that this is not an
honest mistake. I have some documents here
showing that the Compliance Office actually
came to the conclusion that these DHA and ARA
ingredients are not approved for use under the
NOP regulations. That letter was ordered to
be rewritten by the Acting Director of the NOP
to say that they are allowed using the 1995
Board recommendation for nutrient, vitamins
and minerals.

So I don't really know what to ask
for because they're not on the national list.
They're making babies sick. We keep getting
adverse reaction reports from mothers who give organic infant formula to their babies. These babies are getting sick, and it is a subset of the infant populations. So I'm not saying that all babies are getting sick from this, but organics should be a refuge from ingredients that have not been reviewed, that are novel ingredients, that are hexane extracted, and if they're just put in without review to be on the national list before they're added, it really hurts consumer confidence in organics.

So I was going to ask maybe that the Board consider rescinding the 1995 recommendation, which is what is currently used as the justification for allowing these in organic infant formula or maybe a recommendation that Board recommendations do not supersede the actual federal regulations; that that's what certifiers and manufacturers need to follow, is what it actually says, what the federal regulations actually say, and that
a Board recommendation doesn't allow or
doesn't take precedence over the accepted
regulations.

You know, why this is important,
you might be wondering why am I bringing this
up. You know, I'd like just mention, again,
that we are getting adverse reaction reports.
Babies are getting sick from this. It's a
serious issue.

And I know a lot of you out there,
you mentioned when you were introducing
yourselves. The women, you're mothers. You
know, that it's important. It's terrifying to
watch your baby in pain, to watch an infant
screaming, and when I read these adverse
reaction reports, it just -- I mean, it's
chilling to read those.

So I really urge you to consider
this, and I guess that's it.

CHAIRMAN MOYER: Okay. Thank you.

Any questions for Charlotte? Bea, I'm sorry.
I didn't see you. Bea.
MEMBER JAMES: The adverse reaction reports, is that something that you could send to Valerie so she could share it with us?

MS. VALLAEYS: Oh, sure, yes.

CHAIRMAN MOYER: Thank you, Bea.

What we're going to do now, Tom, if you don't mind, we're going to take our break, and we'll start with Tom Harding immediately following the break.

Fifteen minutes, which puts us back here a little before 3:25.

Thank you.

(Whereupon, the above-entitled matter went off the record at 3:09 p.m. and resumed at 3:26 p.m.)

CHAIRMAN MOYER: We do have a quorum on the Board. If we could get started.

Just one minute, Tom.

MR. HARDING: Yes, sir.

CHAIRMAN MOYER: Okay. Quite down
in the back please. Any discussions, take them outside.

Tom. The Board recognizes Tom Harding.

MR. HARDING: Thank you, Mr. Chairman, and good afternoon.

First of all, my name is Tom Harding, Agrisystems International. We're organic program consultants, one for our client who is here today, EcoLab, and for a number of producers and manufacturers who serve the organic industry.

I first want to say that I have been to almost every one of these meetings, I just want to tell you that I really appreciate what you folks have done. This Board has been really involved and very committed, as have all the Boards, and I don't think anyone knows the kind of work that you are really putting in. I want you to know that all of us very much appreciate it.

And that also goes for the
1 National Organic Program. We very much
2 appreciate this partnership. It's important
3 to us. Hopefully it will only grow stronger
4 and stronger, and I hope that we will move
5 toward the release of redundancy and more into
6 the consistency of getting right down to the
7 nitty-gritty.
8             I'm here to speak in favor of
9 adding acidified sodium chlorite to the
10 national list of materials for handling and
11 processing.
12             Our petition was submitted in
13 2006. You all have had a chance to look at
14 it. As you know, it's in the chlorine family,
15 but it acts very differently.
16             You had my comments, which I
17 submitted both in November and we have
18 resubmitted again. They're pretty much the
19 same, and I'll let my client really get into
20 the very specific aspects, but I wanted to
21 point out a couple of things.
22             One of the issues that's really
important to us is that we have a multiple
choice, in other words, a few very effective
food safety materials in the organic
community, and there are a very limited list,
as you know, on the national list, and
secondly, not any of them are really approved
for meat, poultry, seafood, and other things,
including hard surface.

So it's really important that we
have a good battery, particularly with the
consciousness that we have now in the
marketplace, and I'm looking at the proposed
bills on the Hill at the moment on food
safety, and I get real nervous. They're bound
with fees, and they certainly are not bound
with helping aids that really help to get into
the preventative side of our business.

So this is a really important
action. 1 This material here, ASC is a
preventative material. It's really important
that it's used as it's labeled. It has been
approved by almost every authority throughout
the world, and we really support that.

The third point is that I want to support the annotation that the working group and the committees have come forward with. We support the annotation. There's only one concern I have, and I'm not sure why you added the aspect that it had to meet the chlorine requirements of four parts per million because technically speaking, and I'll let Dan speak more specifically from the technology standpoint, we're not talking about chlorine residue. We're really talking about salt as a remainder once this material is used as effective.

Other than that, the annotation looks fairly good and we hope it can go forward on that basis.

The other thing that's very important is that we have the understanding that has been approved by all authorities, as I was saying, but equally important, it has very little if used properly environmental
impact. In fact, it's one of the safest materials we've been using. You probably don't know, but it's almost in everything we drink in one form or another, and certainly it's a lot in animal husbandry as well.

But I encourage you to vote in favor of adding acidified sodium chlorite to the list, and I hope that you will do so, and following me immediately is Mr. Dan Dahlman, who is from EcoLab, if you have any technical questions, but otherwise I want to thank you very much, and I want to give the rest of my time to Mr. Dahlman.

Thank you all and, again, thank you for your good work.

CHAIRMAN MOYER: Thank you, Tom. Any questions or comments from Board members to Tom?

(No response.)

CHAIRMAN MOYER: Thank you, Tom. The Board recognizes Dan Dahlman and Kim Dietz is on deck.
MR. DAHLMAN: Good afternoon. My name is Dan Dahlman. I work for EcoLab, headquarters in St. Paul, Minnesota. I work in the Regulatory Affairs Department there.

I'd first like to not only thank the Board for the opportunity to speak here today, but also for all of your hard work and commitment to the organic industry.

My intention here today is to speak on behalf of EcoLab to support the addition of acidified sodium chlorite solution, or ASC, to the national list and convey to the Board the importance of ASC as an antimicrobial intervention step in the organic food processing industry.

EcoLab petitioned, as Tom said, for the inclusion of ASC back in October 26th of 2006. ASC meets the FDA's definition of a food contact substance and is a processing aid used to control microbes on the surfaces of a variety of products, including meat, poultry, seafood, fruits and vegetables, and hard
surfaces.

ASC has also been fairly tested and proven effective against some of the most serious and infectious pathogenic and spoilage organisms that threaten the food system today. These tests have been thoroughly reviewed by FDA CFSAN and USDA FSIS.

ASC has been accepted by the FDA and is published in 21 CFR 173.325 as a secondary direct antimicrobial food treatment in the processing of poultry, red meat, comminuted and formed meat products, seafood and fruits and vegetables.

The USDA FSIS has also accepted ASC and added it to the safe and suitable directive 7120.1 for use on red meat and poultry.

In addition to the FDA and USDA clearances, the U.S. EPA has evaluated the chemistry, toxicology, and efficacy data of ASC. As a result of these safety reviews, EcoLab's Sonova brand product has been
registered under the EPA registration number of 1677-219 as an antimicrobial agent to reduce the growth of microorganisms that cause spoilage on raw fruits and vegetables, otherwise known as RACS.

EPA has also issued a food tolerance exemption for sodium chlorite in 40 CFR 180.

Organic consumers can have confidence that the use of acidified sodium chlorite is safe for the food supply. ASC breaks down to citric acid, water, and common table salt. ASC solutions do not chlorinate organics and, therefore, have an advantage over treatment with chlorine which can seriously damage aquatic life and form chlorinated hydrocarbons with mutagenetic or carcinogenic properties.

I'd also like to stress today to the Board that there is no one antimicrobial intervention that does it all. EcoLab strongly believes that there's no single
product chemistry that is appropriate for such
a wide variety of intervention points and
application methods present in the processing
industry today.

The food industry itself has
adopted a multi-hurdle approach to food safety
intervention since the implementation of the
HASAP standards in the 1990s. We believe that
offering processors multiple interventions
will allow for each individual processor to
tailor its intervention to the facility's
specific needs. Our goal is to provide our
customers with enough intervention options to
help meet those needs and insure a safer food
supply for the people.

It was mentioned in the technical
evaluation report for ASC that peracetic acid
can be substituted for ASC. I would oppose
this viewpoint as does EcoLab. While both
substances exhibit an oxidative chemistry to
control bacterial growth, each substance has
its place in the processing environment and
each provides its own advantages.

For example, a typical poultry processor may purchase both a peracetic acid product and acidified sodium chlorite product for their facility. EcoLab currently markets a peracetic acid product called Inspects 100, and an acidified sodium chlorite product called Sonova. Inspects 100 is typically used in poultry chillers when a low temperature and longer contact time occurs to insure the greatest reduction in bacterial contamination.

Sonova, on the other hand, is used in situations where a much shorter contact time is required, and typically is used in a pre-chill or post-chill situation or processing steps -- excuse me -- where contact time is limited.

Inspects 100 and Sonova are both effective against Salmonella typhimurium, Campolabacta dejuni, Listeria monocytogenes, and E. coli 015787, and depending on the customer's needs, EcoLab can adapt and tailor
its product line to satisfy those specific needs and offer an antimicrobial control package at each step in the processing line.

We believe that the inclusion of ASC on the national list for processors and handlers is justified and meets the criteria of a synthetic used in organic processing and handling. In the interest of food safety, we urge the NOSB to vote to include acidified sodium chlorite in the national list of allowable substances as a synthetic ingredient allowed in or on processed products in organic or made with organic.

Thank you. Any questions?

CHAIRMAN MOYER: Okay. Thank you, Dan.

Questions by Joe.

MEMBER SMILLIE: Tom mentioned earlier that there's the annotation on the four parts per million chlorine. Could you speak to that?

MR. DAHLMAN: Well, I'm not a
chemist and I don't claim to be, but the breakdown of components would not break down into chlorine. So I don't know what the purpose was to add that in the annotation.

MEMBER SMILLIE: Can I ask the committee?

CHAIRMAN MOYER: Please follow up from Joe to the Handling Committee on the question of ASC or food scientist, yes, absolutely.

MEMBER HEINZE: Remember I was a chemist, not I am a chemist. The purpose of the annotation was to try to make a recommendation consistent with the NOSB Processing Committee recommendation of April 30, 2003. In that recommendation, the Processing committee took up the annotations for all of the chlorine materials that are currently listed.

I won't read the whole five or six pages to you, but I would have that available if anyone wants to read it.
But really it had to do with sanitizers that were used in food contact applications and a desire to limit the chlorine levels in contact with the organic commodity. So I'll read this sentence. It says, "The intent of the original NOSB recommendation for chlorine methyl compliance was to insure that chlorine levels of water in contact with the organic commodity do not exceed four milligrams per liter or four parts per million of residual chlorine."

So then it goes on for quite a bit of discussion. So the conclusion of this recommendation was that there was the original annotations, but there had been quite a bit of confusion in how those annotations had been interpreted. So this recommendation tried to clarify. So then in the recommendation we tried to use this language which obviously didn't help because everyone was confused by
it. So we need to try to get back to this intent and perhaps a little bit more study on the annotation.

CHAIRMAN MOYER: Did that help clarify things, Joe?

MEMBER SMILLIE: Yes. It was just a question. I understand the reason for the annotation, but I'm trying to connect it to this particular product, and the petitioner is saying that it doesn't leave residual or --

MEMBER HEINZE: The intent is not what's remaining, but what contacts the food. So what happens, what's in solution before it touches the food, not after, and what you addressed was after, citric acid and water and table salt.

MR. DAHLMAN: Right, the breakdown, yes.

CHAIRMAN MOYER: Okay. Thank you. Any other questions?

(No response.)

CHAIRMAN MOYER: Thank you, Dan.
Kim Dietz next, Emily Brown-Rosen on deck.

MS. DIETZ: I think I'm short enough I don't have to move the mic.

Good afternoon. My name is Kim Dietz. I'm the regulatory manager for Smucker quality Beverages.

The first thing I want to just announce is that our company has changed our name. So we're not Smucker Natural Foods. So if you see anything from me, you'll see instead of SQB it will be Smucker Natural Foods, SNF.

Mainly we're just growing out of just beverages into other products as well. My background, as you know, most of you know, I was the handling representative from 2000 to 2005, and I worked with the materials group as chair for four years while I was on the Board.

Just a couple of comments today.

I'm going to start off with the materials
discussion document. We have a very limited
time tomorrow, 15 minutes with our group. So
I just want to talk a little bit about the
Materials Working Group.

First of all, I want to just thank
the Board for letting us work with you and the
industry. It's been a very good thing for us.

Our role at this point has been to
bring you the historical perspective on
materials and recommendations, and I think we
all agree that moving forward, we're just
going to be in the background and try to give
you comments once you bring us
recommendations. So we look forward
continuing to work with you.

I'd like to really thank Gwendolyn
because I haven't formally done that. When we
started this group, Gwendolyn and I had never
even worked together, and over the last couple
of years, weekly calls and off calls and
weekends and at night. It's been a really
good friendship. So I appreciate all of your
work that you do with that, and all members as well.

And particularly I want to just thank Organic Trade Association because they've given us their conference call weekly numerous times for many years. So I appreciate that.

Formal comments. I support all of the sunset materials that are moving forward and the continuation of those, and I just want to remind the Board that there is a formal process to remove materials since you're going through a lot of heavy debate this time. I think that's our first petition that I can remember to remove a material.

So just go through your processes. I always say that. Support the 100 percent label recommendation. I think that's also very well.

Some examples, you asked for examples. We used to produce a product, not organic, but a recharged product, which is a
non-carbonated beverage in a can. So we
needed nitrogen to keep the can rigid.

See, there's a lot of applications
out there that you need those inert gases for
packaging.

My other comments, thank you for
the docket on gellan gum. I think I've been
-- the upcoming docket. That material was
petitioned in 2004 and voted on in 2007, and
quite honestly, we had a product formulated to
use that, and labels were almost all the way
through the process. I keep saying, "Oh,
it'll be on the national list. It'll be on
the national list." And we actually has to
reformulate because it's not. So we're
waiting for that, for a new product to come
out. So hopefully that's soon.

Colors. I say this at every
meeting, and I guess I just have to do
petitions to change the annotations on those.
All of those colors that we put on 606, none
of the cast numbers match. If you try to
match those CAS numbers with the colors, there's no correlation. So we have the wrong annotation on all of those colors. I don't know how people are using them out there.

And specifically, I could tell you all them, but I'll go ahead and put something through. It could be a technical correction from the Board, but again, those CAS numbers are wrong.

Specifically I'm going to be working on the beta carotene because we would like to use beta carotene in some of our products, and right now there's no such thing as beta carotene derived from carrots. It's not out there. So that annotation is also incorrect, and it needs to be changed.

I'm just going to make a comment on the lecithin because I think I'm causing a little bit of an uproar. As past materials, I see three ways for you to change the national list. You can petition to add a material to the national list. You can
petition to remove a material from the
country list, and you can petition to change
an annotation.

And I have no personal use. Our
company doesn't use lecithin, and I have not
really paid attention at all before coming to
this meeting, and it seems there's a lot of
controversy on, you know, what's commercially
available, what isn't available, as well as
what you're trying to do.

And I just sat in the back and I
looked up the national list, you know, where
they are. Six, oh, five says bleached and 606
says unbleached, and I looked at the
petitions, and they're both to remove. Okay?

Now, one specifically, 606, is
petitioned to remove a certain form of
lecithin, but it's not in the annotation. So
it seems to me like you either need a friendly
amendment to change that petition to change
the annotation versus remove it. You almost
need to vote on the petitions, and maybe the
organic needs to get involved in this or not, but you're trying to look at changing the annotations, not removing materials, it seems to me.

CHAIRMAN MOYER: Thank you, Kim. Any questions, comments from the Board to Kim?

(No response.)

CHAIRMAN MOYER: Okay. Thank you very much, Kim.

MEMBER HEINZE: Wait.

CHAIRMAN MOYER: Oh, I'm sorry, Katrina. I didn't see you.

MEMBER HEINZE: Just in case we don't get a chance tomorrow, thank you for all of your help with the Material Working Group.

MS. DIETZ: You're welcome.

CHAIRMAN MOYER: Okay. Tracy. Kim, if you have one more moment.

MEMBER MIEDEMA: Okay. So since the petitioner is asking for the removal of fluid lecithin, but the word "fluid lecithin"
isn't actually on the list. That's our clunky thing we're trying to figure out.

Does that mean -- walk us through what our options were if, for instance, we were interested in -- I guess, how do we deal with that?

CHAIRMAN MOYER: Okay. Thank you, Kim.

Valerie, could we do something about the microphone? I don't think it's going through. They're not picking it up over in the corner.

Okay. Thank you, Kim.

Emily Brown-Rosen and Gwendolyn Wyard on deck.

Okay. Thank you, Hugh and Valerie. We'll continue and get started here.

Emily, if you're ready, thank you.

MS. ROSEN: Okay. How's that?

Okay. My name is Emily Brown-Rosen. I'm with Pennsylvania Certified Organic Policy Director.
I have quite a few materials, things I want to talk through here today. So hopefully I can get through them.

First of all, thank you for announcing you're working on the process and you're working with Science and Technology. That's a big step. We have a lot of trouble right now finding the petitions. It's hard to see what's on your agenda for the materials. Like Dan whips through his list here and then we never see that list again. So we'd really appreciate to see a summary of the Materials Committee work regularly because there's no other way to really find it on the NOP Website.

So great that you're working on better communication and better prioritizing and better information because we're really suffering out here trying to keep up with what you're doing.

And things do get lost. We've made comments. CCOF made comments. AMRY made
comments about quite a number of petitions that have kind of gotten lost in the system. So we want to get past that and help prioritize those.

Number two, the docket on 606, where's the final rule on 606? No one asked that question. We have an interim final rule from two and a half years ago, I think it was. Was it 2007? 2007, the 38 new colors and stuff that are on 606. We only got an interim final rule. A lot of us wrote comments to say things like, you know, the CAS numbers are wrong. The annotation on characters is wrong. Those comments were never addressed because we never had a final docket.

So I think if we get that final docket, that will help answer some of our questions, and also will help us to review products because we don't know even -- you know, it's very difficult out here in the certifier world to review products when all of these things are wrong or unanswered.
questions.

For instance, something that came up here today quite suddenly was that synthetic solvents like acetone are being used to extract products on 605 and possibly be put on 606. We have been asking this question, which Gwendolyn and I have filed for the last two years-plus straight. What are synthetic solvents and other synthetic carriers or non-organic carriers allowed in the 606 products? And we have not gotten an answer yet, but it seems like you're going to go ahead and decide something sort of by example without a decision, and that would be the wrong way to do it. So one issue brings up another issue.

Lost petitions, for instance, potassium and sodium lactate as a food additive, these are being put in organic food; was petitioned in 2002, has never been reviewed; and there was one letter that's no longer posted saying this is allowed even though it's not on the national list. It
should be a high priority to review this.

We're really glad you took up acidified sodium chlorite because this is another kind of substance that's been in limbo. It was petitioned, and that's the right thing to do, is to review it and consider it on its merits, not let it be allowed sort of by some back room method. Moxydectin for livestock use, you made a good recommendation to allow it. It got stalled at NOP. I think you need to follow up on that. There's no reason it can't go forward in the rulemaking docket. They have some references in here to help you with that.

More, as public records of all decisions including your synthetic or non-synthetic decisions, we're hoping this will come along with the improved database of substances, and possibly consider a mechanism where people can petition to have you determine if something is synthetic or not.
Sometimes we get hung up in the crops and livestock world on is it just allowed or not, and then we could maybe not go through the whole process to put it on the list.

But where they get us in a synthetic/non-synthetic decision and get it reported and then that's it, I mean, if they're interested in something being ruled non-synthetic so that it can be used.

Okay. Vitamins and minerals in livestock materials. I kind of understand your limitation with putting this under health care because of conflicts with FDA, but we appreciate that you're working to put this on. We do miss the TAP review. We need those TAP reviews so that when we go off in the future to know what we're reviewing, we know what we're reviewing.

It becomes a very large category that's not well identified, and we really appreciate getting TAP reviews on these things.
The existing restriction on excipients does limit them to those approved by FDA and food additives, and so it won't mean all injectables are allowed. I have a list here. I have a few copies. We went through our database. We have 35 improved injectable vitamins. There are about five that we find do not meet these FDA requirements. So the bulk of them are okay, but we do need more clarification on excipients, and I think a number of us would be willing to meet with you to work out how to apply these rules on excipients to multiple products.

Okay. I'll stop there.

CHAIRMAN MOYER: Thank you, Emily.

Comments, questions from the Board to Emily?

(No response.)

CHAIRMAN MOYER: Seeing no hands, thank you, Emily. Appreciate that.

Gwendolyn, the Board recognizes
you, and Grace Marroquin is on deck.

MS. WYARD: Okay. Good afternoon.

For the record, my name is Gwendolyn Wyard.

I am the processing program technical specialist for Oregon Tilth. We are a nonprofit organization dedicated to supporting biologically sound, socially equity agriculture, and I'm here representing over 700 members and 1,200 certified operators.

I'll be drawing your attention to select portions of our written comments submitted to regulations.gov. For further elaborations, detail, and inspiration, we invite you to revisit and study those comments prior to your vote on Wednesday.

The first issue I'd like to draw your attention to is a request for clarification related to the review of materials on 205.606. So this is the issue that Emily was just discussing. PCO and Oregon Tilth, we've requested clarification for the past two years, and to date received
zero clarification. The large majority of the colors on 606 that we're reviewing, they're formulated products. They contain agricultural carriers, standardizing agents like apple juice concentrate, also various non-agricultural carriers and stabilizers.

We'd like to understand how we should be reviewing those formulation aids because they were not reviewed by the NOSB.

Your focus has primarily been on source material and extraction. So that's very important to us to understand how we should be looking at formulated products on 205.606.

On the topic of agricultural versus non-agricultural, we'd like to address the joint committee's rejection of the classification of agricultural synthetic. This concept dates back to the '90s where it was discussed in Senate committee reports. It was embraced by the Handling Committee in 1993 and adopted in the 2005 NOSB guidance document on the clarification of synthetic.
Rejecting this concept will reject history and create a barrier to the development of organic ingredients and products.

The NOP definition of processing and the allowed materials on 205.605 and 606 can and will continue to bring about chemical changes when applied to agriculture raw material.

And the NOP definition of synthetic is based on the occurrence of chemical change. So as a result, minor ingredients derived from agricultural material may be evaluated by the NOSP and placed on the list as a non-agricultural synthetic.

However, it's entirely feasible that the same ingredient classified as synthetic could be produced now in a certified handling facility using organic agricultural substrate and non-organic materials on the national list, and in this scenario the product will have undergone chemical changes.
but those changes are the result of processing methods and materials that are allowed in the OFPA and in the NOP regulation. So Oregon Tilth ask that the NOSB reconsider this topic and clarify that non-organic input classified as synthetic can also be considered agricultural and organic when it's produced in a certified handling facility.

Microorganisms and products of microbial fermentation. Please be more specific with terminology in your final recommendation. There are microorganisms and there are products of microbial fermentation. They should not be discussed as one and the same.

We were surprised to learn that the Board is currently viewing beer, yogurt, and other products of microbial fermentation as non-agricultural. We suggest that the NOSB identify the materials and processes that would result in a non-agricultural
fermentation byproduct. Otherwise, fermentation products consumed by humans and livestock should generally be considered agricultural.

Microorganisms. Oregon Tilth does not believe the use of annotations will clean up the debate. For example, yeast manufacturers would invest significant resources into the use of organic substrate and compliant materials, essentially meeting the requirements for an organic product, but they wouldn't have the benefits of marketing their products as organic. And even more, annotations are extremely difficult to enforce.

We believe the problem can be addressed by the following approach. Continue to list microorganisms and yeast as non-agricultural while organic production standards are developed. Once standards are developed, microorganisms can be classified as agricultural, and this will allow a transition
period for the entire industry, particularly for the livestock sector.

In the interim, the NOP should clarify that yeast and other microorganisms can currently be certified based on the product composition requirements, 205.301, and the handling requirements of 205.270. This is consistent with the allowance to certify natural flavors. If flavors can be listed as non-agricultural and be certified as organic, yeast should also be granted this exception.

And finally, we would like to end by discussing some of the guidance documents that have been recommended by the Board where no regulatory change is needed. It would be extremely useful if the NOP could address the work of the NOSB and approve those guidance documents and prominently post them on the NOP Website, namely, commercial availability guidance documents.

Thank you very much. We offer our support.
CHAIRMAN MOYER: Thank you, Gwendolyn.

Questions, comments? I have one question. Am I to understand that you said that this Board should list microorganisms and yeast as non-ag temporarily, and then once the standard is adjusted re-list them as ag?

MS. WYARD: Keep them listed where they're at as non-agricultural while standards are being developed, and once those standards are developed, then reclassify them as agricultural, once you have those production standards in place.

CHAIRMAN MOYER: Thank you.

The Chair recognizes Kevin.

MEMBER ENGELBERT: Gwen, why wouldn't you want them to have their own separate category? Why eventually agricultural?

MS. WYARD: So that they can be formally recognized and certified as organic.

It's my understanding the barrier to
certifying them as organic is the non-
agricultural classification. Now they're
being certified or we believe that it's
totally feasible to certify yeast based on
the composition standards because you're
looking a formulation that is identical to
many of the other organic products out there.
You have 95 percent organic substrate, and the
rest of the five percent is on the national
list.

So we feel that there is a way
right now to certify yeast. I think we need
to address how they're labeled, how those
yeast products are labeled, but eventually if
we can get standards in place, classify them
as agricultural, you could call them organic
yeast.

Clear as dark beer?
(Laughter.)

MS. WYARD: Made with organic

yeast?

CHAIRMAN MOYER: Thank you,
Gwendolyn.

MS. WYARD: Should I try to better explain that?

MEMBER ENGELBERT: No, no, that was fine.

CHAIRMAN MOYER: Okay. Thank you, Gwendolyn.

The Board recognizes Grace and George Kalogridis is on deck.

MS. MARROQUIN: Can I go yet?

CHAIRMAN MOYER: Please.

MS. MARROQUIN: Okay. Good afternoon. My name is Grace Marroquin. I'm president and CEO of Marroquin Organic International based in Santa Cruz, California, as many of you know, and we are importers and suppliers of organic ingredients.

Once again, I'm here to address the Board. Guess what. Yeast. In response to the specific questions in the discussion document, please refer to our extensive written comments, number 0377.
Let me say that the discussion document is a definite step forward because in the second option it recognizes yeast as an agricultural product. However, it still leaves a long way to go before the Board resolves the issue. Organic yeast was developed in Germany and introduced in the 1990s. I have introduced many organic ingredients of the last 18 years while I was still a baby on the basis of organic preference. When I learned that organic yeast was available, I was really excited because this was a breakthrough for organic ingredients. Organic yeast is grown on a substrate of organic grains instead of conventional, and I'm sorry I have to repeat this, but I do because this is really important. It's production uses no synthetic chemicals. By contrast, conventional yeast uses ammonia, not allowed on the national
list; sulfuric acid, not allowed on the national list; caustic soda, not allowed on the national list; also synthetic vitamins and synthetic anti-foaming agents allowed.

Because of these chemicals used in the production, the conventional yeast waste water is contaminated, and you have to treat it before you can dispose it, whereas the yeast from organic production has no chemicals. None are used, and the waste water is pure and can be reused for organic products.

Now I want to tell you why I've been coming here since 2004, besides being crazy, is I'm simply waiting for the Board to act in accordance with OFPA. Under the definition of agricultural product in OFPA, yeast is an agricultural product.

The proper legal place for yeast on the national list is in 205.606 as an agricultural product. This will make organic yeast a preferred organic ingredient and processors will have to use it if it is
commercially available.

But yeast is still not on 606.

This is a loophole on the list. The national list is not intended to keep organic ingredients off the market. That's not its purpose. This is the loophole. The national list has yeast in 205.605 as a non-agriculture ingredient, and this allows food processors to label their products as organic while using conventional yeast.

Okay. I would like now to address the objections that have been raised. First, the major barrier to classifying yeast as an agricultural product has not been in the impact of yeast on food processing. It has been the impact and the fear that this is going to have on livestock feed. This is why this is being held back, and I understand it.

In the NOP regulations for feed, all agricultural products and livestock feed must be organic. There's no exceptions allowed even if the ingredient is minor. This
is a rigid rule, and in the EU the rule for composition of organic yeast is not as strict. So the main reason the Board has not reclassified yeast as an agricultural product is food is because of the rules on feed. As a food ingredient, organic yeast is being held hostage. The problem here is not yeast, but the rule on feed. Yeast is only a minor ingredient in feed. It is used to aid the digestion in the animals rather than for nutrition. It is one of a number of alternatives for this purpose.

Last year the NOP ruled that molasses in feed was an agricultural product and had to be organic. This created a greater demand for organic molasses and thus leads to greater supply.

The same thing will occur with yeast. Once there is a strict requirement many yeast companies will supply organic yeast for feed. One company, Midwest Bioag, tried to do this back in 2002 and three, and it
I could not sell any of it because there weren't any regulations mandating it.

I know, and I mean I know, that the big boys are right now working on this, and they could implement rather quickly if they had to, but they don't have to right now. They're doing a wait and see.

Standards, yes, we could have standards, but right now, as Gwendolyn mentioned, the August 23rd, 2005, the NOP issued that policy that it would require specialized products to have specific standards as long as they're certified under existing NOP standards.

NOP allows mushrooms, greenhouse, epiculture to be certified to be certified even though they do not have specialized standards.

I'm going to jump.

This is the approach. The EU under the Regulation 834, 2007, singles out yeast from other microorganisms. It declares
that yeast is eligible to be organic in food
and feed, and it does not do this for
bacteria, enzymes or microorganisms. These
remain on a restricted list of organic
materials that are permitted in the EU, and by
the way, Japan has now recognized yeast as
agricultural and, thus, organic.

I thank you all for everything, on
your patients for letting me come here year
after year after year, and for all your hard
work. If you have any questions, I'll be
happy to answer them.

CHAIRMAN MOYER: It's always a
pleasure to have you here, Grace.

(Laughter.)

MS. MARROQUIN: I promise I'll
keep coming back.

CHAIRMAN MOYER: Kevin.

MEMBER ENGELBERT: My sentiments
exactly, but I'd just like to make clear,
Grace, that I don't think that the livestock
issue is what's holding this back. If organic
1 yeast becomes available or becomes part of the
2 rule, then it will become available for
3 livestock. I think there are other issues
4 involved besides that. I don't think that's
5 what's holding us back.
6 MS. MARROQUIN: You know, I
7 appreciate that. I tend to disagree because
8 I know if I were to say to 50 percent of the
9 people sitting in here how many of you think
10 yeast is agriculture, they probably all would
11 say yes, but the concerns that come back is
12 because of the impact on feed.
13 MEMBER ENGELBERT: I didn't
14 address whether it's agricultural or not.
15 That I'm not sure about still, and I
16 definitely don't think it's livestock.
17 (Laughter.)
18 MEMBER ENGELBERT: But if it does
19 become certified organic, you know, the
20 product will become available, and farmers
21 will use it.
22 CHAIRMAN MOYER: The Chair
recognizes Joe.

MEMBER SMILLIE: Well, I hate to get on my soapbox, but the last two presentations I couldn't be in agreement more with. I think that we've done a great disservice to this industry by not recognizing the organic production of fermentation products and yeast. I mean, if we are really going down the path of looking at microbial fermentation that's not agricultural, I think we're making a huge mistake.

I really believe that organic systems plans for yeast and other productions, such as cogi are there and available, and I think we need to recognize them, and I know I've been bleeding this out for the last four years along with Grace, and I just want to get this Board before I leave it to finally recognize the agricultural production and the agricultural nature of microbial fermentations because humankind has been growing these things since we got out of the caves.
MS. MARROQUIN: It's true.

CHAIRMAN MOYER: The Chair recognizes Bea.

MEMBER JAMES: I just want to thank you for coming again, and, okay, so you've been coming since 2004. That's ten written public comments that you do fresh every time, and so maybe you could just maybe take pieces of the different recommendations.

Anyway, thank you for your comments.

MS. MARROQUIN: Thank you. Thank you again.

CHAIRMAN MOYER: Thank you, Grace. The Board recognizes George Kalogridis and Patrick Arnt is on deck.

MR. KALOGRIDIS: I'm George Kalogridis with the GCK Group.

I want to make a brief comment regarding lecithin, not specifically. To me the issue there is a proactive approach by these companies with what they've done to
replace this solvent extracted product that they're using, and had they taken the time and financial resources to try and keep this product they're using as opposed to working with Clarkson Grain to develop what they need for their products, I think that would have been the solution.

I'm talking today about the term of synthetics. I know this Board asked the Material Working Group to try and come up with some definitions of synthetic. I, along with Grace Trashuni, were part of that. The Board did some extraordinarily good work, but the two of us felt that we had gone down a path that was ultimately not that productive.

We recognize the fact that the organic standards were codified in the 1980s; that the law was passed in '90; and the rule was implemented in 2001. A lot has changed since we started this journey, and what we thought was organic and the issues around organic have changed quite dramatically.
The discussions that we had on the Materials Working Group about what is and was not synthetic started to boil down to the nature of chemistry and specifically about which electrons were being cleaved or not being cleaved and who were they coming back into the product after they had been molecularly changed.

Grace and I believe that if we start down the path of telling consumers that something is organic based on molecular chemistry, then we have truly lost our way in organic.

Our proposal is rather simple, but very controversial in that we believe that the best thing to do is to go back to the AHPA, to open it up, to open it up and make substantial changes there as opposed to the continued work-around that we keep doing time and time again in trying to figure out what synthetic really means.

Our proposal is basically to
change the AHPA such that we have synthetic
defined as manufactured from a petrochemical
or mined hydrocarbon resource.

The second alternative would be to modify the term "synthetic chemicals" where it appears in 605.041 and, two, to say "synthetic petrochemicals" and a definition of "petrochemicals," and this would avoid the objection that changing the definition of a commonly understood term, such as "synthetic," would violate public expectations of the clarity and consistency of the law.

The only other section of the AHPA that would need to be changed would be 605.08(b)(1) and 605.08(b)(2). Section 605.08(b)(1) to be amended to prohibit synthetic petrochemicals rather than synthetic ingredients as fertilizers, while synthetic nitrogen produced by the Haber process would not be prohibited.

Section 605.08(b)(2) could be revised to reflect the original intent, which
was to specifically prohibit any synthetic source of nitrogen.

Our believe is that if we go down the road of molecular chemistry that we will end up with discussions like we're having about the lecithin right now with various different technical people discussing whether or not that electron truly is removed or not removed from a product, and I think that we will have lost our organic consumers at that point.

Thank you very much.

CHAIRMAN MOYER: Thank you, George.

Questions or comments from Board members?

(No response.)

CHAIRMAN MOYER: Okay. Thank you, George.

MR. KALOGRIDIS: Thank you.

CHAIRMAN MOYER: Emily Brown Rosen for Patrick Arnt.
MS. BROWN-ROSEN: Thank you.

I will just make a couple more points, and Patrick couldn't be here. So I'll fill in on a couple of the handling points.

On the injectable vitamins, one last point I wanted to make was that for livestock use, that as you proposed it, I mean, it would work, but I really don't think we want to put electrolytes as a stand alone category. Electrolytes are already on the list for health care. They already can use excipients, and the problem if you put them in as some sort of supplement is that we see a lot of formulations that have amino acids and other things that are not approved. Right now we reject the ones that are full of amino acids.

So they are already covered. They're already there. I just wouldn't include them in your recommendation.

Sodium chlorite, acidified. I really appreciate that you went back and
I looked at the 2003 recommendation on chlorine. I think that was a good piece of work, and it's one of those high priority, old NOSB recommendations that needs to come to the top when you restrategize on this.

We have a huge confusion over chlorine in general, in food processing and food sanitation. Certifiers are doing all different things. So you know, you were right. That was the intent, was, you know, originally to limit direct chlorine contact, but the context was more municipal water that's treated with a chlorine product as safe drinking water standard was allowed.

So for free chlorine, CL2, that standard is four parts per million. For chlorite, sodium chlorite, the standard is one part per million of the Safe Drinking Water Act. The product that's being petitioned is being used at something like 500 to 1,200 parts per million for poultry, and I believe they're not supposed to rinse it afterwards.
That's not quite clear to me, but I think that is the use there, no rinsing.

So that's something to consider.

I think that the ACS may be a better product than sodium hypochlorite in terms of the trihalomethane carcinogenic type properties. That does sound better.

TAP didn't have any information about the volatile chlorine. Where does this chlorine go when they're putting it on? I mean, it's very volatile when you mix those solutions. You release chlorine dioxide; you release hypochlorous acid.

So I don't know the recovery rate on the chlorine. Do they get it all or not? I don't know, but certainly it's worthy of consideration. The TAP review was not real detailed.

And I'm also finding that as we look at chlorine in general there's other issues where we've been trying to apply a policy along those lines. For vegetable and
fruit washing, carcass washing, people can use higher than the four parts per million of chlorine product provided there's a rinse with potable water at, you know, four parts or less.

However, some other regulations seem to conflict. That leads to a problem with chlorine on eggs, for instance, egg washing. They use 200 parts per million, and there's various egg grading, Grade A eggs marketing rules under AMS that say you can rinse, you can't rinse, and also EPA is involved.

So there's multiple agencies involved, and I'm still trying to track down who's in charge, but we may need to modify that earlier 2003 piece to look at where are there some exceptions that we may have to grant because we have no choice or else until there are other products available.

There is peracetic acid available on the carcass washing. For eggs peracetic
acid is not labeled. So there's these little
wrinkles here. I mean, we all want safe food,
but we all need help in finding out where the
other regulations are that affect this, too,
and it should be clear so everyone is doing
the same thing.

So right now we don't have that
situation. I think it can be approved. I'm
just going to stop there. That's enough, but
if you have more questions, let me know.

CHAIRMAN MOYER: Thank you, Emily.

Anybody have -- Bea has a question
for you, Emily.

MEMBER JAMES: Emily, in your
comments that you submitted you had said a few
things about retailer certification, and I was
wondering if you could just elaborate a little
bit.

MS. BROWN-ROSEN: Sure. My point
there was mainly that we've had a lot of
controversy in the certification community
about how to do retailer certification and I
think a lot of people feel you can just apply processing rules and are doing that successfully. I mean the handling rules as exist.

However, there has been, I think, some valid legal arguments made whether handlers were excluded; retailers who do not process food are excluded from the definition of handler. If you look at the definition of handler, it says except for retailers who do not process food. So there is some question whether you can even certify them at all because the AHPA and the regulation says that. So we'd just like to get a legal opinion from whoever you get it from on that issue.

CHAIRMAN MOYER: Follow-up, Bea?

MEMBER JAMES: Just as a follow-up, I guess, I would like to ask Barbara if she wouldn't mind making comment on the question that you specifically put in your comments, which was can retailers that don't process be certified. So if the program could
comment on your position with that, please.

MS. ROBINSON: Well, you know,

we've come to sort of a point here, I guess,

where because we issued a scope statement

where we pretty much said that products,

regardless of their end use, could be

certified, we got to a point where we

recognized that just for consistency sake we

know that the rule says that retailers are

exempt from certification, but our position

has gotten to the point, I believe where we

would rather have entities under the

regulatory umbrella than outside the

regulatory umbrella.

And the mere fact that they do not

have to be certified does not mean that they

cannot be certified. They may be certified.

They may seek certification under this

regulation.

CHAIRMAN MOYER: Thank you,

Barbara.

Joe has a comment.
MEMBER SMILLIE: This isn't the retail argument, but I have to go back. Emily, could you go back? I missed. It was in the early part of your comments about chlorine washes can be allowed without a rinse. Could you just repeat that again?

MS. BROWN-ROSEN: Well, the question was can they be allowed without a rinse.

MEMBER SMILLIE: Right. Depending on the concentration.

MS. BROWN-ROSEN: Right. Well, in direct contact with food. We have been interpreting the two or three position, which was, you know, very clearly worked out, to mean, you know, you test at the point of contact with the food, and the final rinse water should be no more than four parts per million or Safe Drinking Water Act for that material. Like chlorine dioxide is only .8 parts per million, and sodium chloride is one and chlorine is four. They have different
Anyway, that should be no higher than Safe Drinking Water Act says. So that's what we've been trying to apply, and then we did run into a few conflicts with certain regulated products like eggs and dairy processing.

MEMBER SMILLIE: And you wouldn't consider washing surfaces direct contact with food?

MS. BROWN-ROSEN: Well, we do. I mean, we'd like clarity on that, too, actually. We require rinsing with potable water, yes, or approved with no restriction like peracetic acid doesn't require rinsing.

MEMBER SMILLIE: And an intervening event couldn't be time.

MS. BROWN-ROSEN: Well, it could be time if they were willing to test for us and show there was absolutely no residue. We do provide alternate paths for them to put that, yes.
CHAIRMAN MOYER: The chair recognizes Hugh.

MEMBER KARREMAN: Emily, just a question on the injectable vitamins and minerals. On the proposed section heading, I think we were trying to say formulate injectable supplements of trace minerals per 603(d)(2), vitamins per 603(d)(3), and electrolytes per 603(a)(8), just in reference to those things, not re-allowing electrolytes. It's more like in reference to those already allowed.

That's all I wanted.

MS. BROWN-ROSEN: Well, I understand that, but I think injectable, I mean, electrolytes is on the list at 603 whatever. It just says electrolytes. It doesn't say oral. It doesn't say injectable. So we assume that means however you want to apply them as a health material.

You know, unless you were going to restrict it otherwise, we've always assumed
that injectables were allowed. And, you know, why would we need to re-mention it?

MEMBER KARREMAN: I guess I would have thought that electrolytes, as stated in (a)(8), would me actually oral. So we want to make sure that the injectable forms would be allowed.

But we can go over that more, but I just want to -- that was our thinking.

MS. BROWN-ROSEN: Okay.

CHAIRMAN MOYER: Thank you, Emily.

Appreciate your time.

MS. BROWN-ROSEN: Thanks.

CHAIRMAN MOYER: The Board recognizes Mark Kastel. Is Mark here?

MR. FANTLE: Not here.

CHAIRMAN MOYER: Thank you, Will.

Patty Lovera and Lisa Bunin on deck.

MS. LOVERA: Hi. My name is Patty Lovera. I'm with the consumer group Food and Water Watch. So I have to talk about a couple
of things quickly. So I'll try to make it
through all of them.

The first one is nanotechnology.

You heard a lot about it today. I think
you're going to hear more, and for us it's a
very basic issue of answering that first
question that you asked in discussion. You
asked about whether nanotechnology is
compatible with organic, and we think the
answer is no, and we think a lot of consumers
think the answer is no.

FDA doesn't have a handle on this
technology. It's essentially unregulated, and
it's exploding into the marketplace for food
through a lot of channels, through packaging,
through additives and flavorings through
contact surfaces and disinfectants, and as
consumer awareness of the technology grows,
they're going to look for a place that doesn't
have it. We believe that organic should be
that place. So this is the opportunity to
figure that out.
And the last point I'll make on that is that, you know, this is similar, we think, to the genetic engineering issue with the cloning issue. We have to find ways in all of the channels of organic, all of the different venues it could make its way in to make sure that it doesn't.

Another topic to cover quickly is the aquaculture for bivalve issue. In the discussion draft, we thought that the Livestock Committee asked very good questions of the Aquaculture Working Group, those five questions, and that really brought up the same issues we're always talking about with aquaculture, is whether this is compatible with the systems approach of organic and we think that just like with other things you've heard from me before about aquaculture, you know, these open water systems where you're not able to control the inputs because the inputs are the ocean or some kind of open body of water, aren't meeting that compatibility
test of organic.

So I thought those were good questions that you all asked of the working group.

On animal welfare, again, you've heard good stuff about this today, and it's incredibly clear from the marketplace that consumers are really interested in this. So obviously it's time for organic to deal with it.

We will just inject into that discussion that access to pasture and the outdoors is a piece of animal welfare, especially in the perception that consumers have about the way animals are raised, and another really important piece of that is density. It's stocking density and how many are put in there.

And as you have this conversation about how to do animal welfare and we've heard good discussion today about whether it's measuring something at the end or it;'s a
systems approach, you know, a piece of that system has to be thinking about that density.

We also wanted to speak quickly just in support of the biodiversity recommendation. That's another issue it's past time for organic to tackle. It is really important to consumers, and we're happy to see that we're about to get there.

And then on personal care products, I think the biggest and most immediate need for consumers is some enforcement which you all pointed out in the document that you write. It's kind of a free for all out there in the marketplace of what's labeled, what's not labeled. I think Urvashi Rangan from Consumers Union is going to get into more detail on this in her comment later on.

But one thing I will throw out there from the consumer perspective that we hear from people is that they're concerned about all of the ingredients in something that
bills itself as organic in any category, whether it's made with organic ingredients or just has organic stuff on the label. They're concerned about all of it. They don't want it to be a vehicle for things that may not be, you know, healthy enough or make their kind of cut for what should be in organic, not just the stuff that is, you know, under that cap of organic ingredients.

And then finally, I will just say that we're a member of the National Organic Coalition, and so we support all of the recommendations they made, especially the ones on peer review and retail certification. They're really important issues to the credibility and integrity of the program, and consumers are obviously very interested in that.

So that was kind of lightning speed.

CHAIRMAN MOYER: Thank you, Patty. Questions or comments, again, from
Board members for Patty?

MS. LOVERA: Thanks.

(No response.)

CHAIRMAN MOYER: Hearing none,

thank you.

Lisa Bunin at the podium and Sam Welsch on deck. Lisa.

MS. BUNIN: Good afternoon. My name is Lisa Bunin, and I'm the campaigns coordinator for the Center for Food Safety, a nonprofit membership organization that works to protect human health and the environment by curving the proliferation of harmful food production technologies and by promoting organic and sustainable agriculture.

CFS represents people across the country who support organic food and farming, grow organic food and regularly purchase organic products.

My comments today address the issues of biodiversity, peer review and nanotechnology. CFS urges the NOSB to support
the guidance document recommendations on the implementation of biodiversity conservation. In the fact of global warming challenges, biodiversity conservation practices can help create the agroecological conditions under which food production systems can adapt to climate change and still maintain their productivity. Biological conservation measures can mitigate global warming impacts by sequestering carbon through the planting of cover crops, perennial crops, native vegetation, and intercropping.

These same practices increase soil microbial activity and diversity and create habitats for beneficial insects and predators, all of which enhance the resiliency of farming systems and the surrounding environment to adapt to climate change. Diverse farm systems are less vulnerable to new pests, the loss of beneficial insects and drought. We urge the NOSB to fully support the committee's
recommendations on biodiversity.

CFS is pleased to see that the NOSB is directly addressing the issue of peer review and certification accreditation. Over the years CFS and others have urged USDA to comply with the mandatory standards and procedures of OFPA to insure that certifying agents operating on the act are accredited and in full compliance.

On October 16th, 2002, CFS and four other NGOs petitioned USDA to create an accreditation peer review panel for the National Organic Program. We have not yet received a formal reply to our petition. We filed the petition in response to growing public concern about whether the NOP was properly performing its role as an accreditor of organic certifying organizations. Our petition was intended to highlight the critically important oversight role that peer review panels play in insuring the integrity of the organic label and in maintaining public
confidence in the organic products labeled with the USDA certified organic seal.

We feel strongly that the panel must be comprised of individuals who not only have expertise in organic production, handling and certification procedures, but also that have experience with methods used to audit against ISO 1711, the industry standard for evaluating accreditation bodies.

CFS agrees with the comments of others and NOC that the peer review panel should not be a task force of the NOSB. Instead we urge you to enlist the services of the U.S. Department of Commerce's National Institute of Standards and Technology to manage the program.

This formal recognition will instill credibility in the NOP certified organic label both nationally and internationally. We urge the establishment of a peer review panel without delay.

The position of CFS on
nanotechnology is that it should be listed as an excluded method under the organic rules because nanotechnology creates novel patented substances that do not meet the OFPA's definition of organic.

Intentionally engineered and manufactured nanomaterials have the capacity to be fundamentally different than the bulk materials from which they are derived by exhibiting new chemical, physical and biological properties at the atomic and molecular level. As such, nanomaterials should be defined as synthetic and prohibited under the organic rules.

It's worth noting that there is a precedent for prohibiting nanotechnology and organics. In 2007, the U.K. Soil Association, one of the world's largest organic certifiers, prohibited manufactured nanoparticles in organically certified products.

Commercial applications of nanotechnology in food and agriculture are
quickly expanding without government oversight or labeling in the absence of adequate risk and ethics research. It's quite possible that certain sectors of the organic industry may already be considering applying these nanotechnology applications, such as in food packaging.

We urge the NOSB and NOP to act now to take a precautionary approach to nanotechnology and protect the integrity of organic by prohibiting nanotechnologies and nanomaterials.

Thank you.

CHAIRMAN MOYER: Thank you, Lisa.

Questions or comments again from Board members?

(No response.)

CHAIRMAN MOYER: Seeing no hands, thank you, Lisa. Appreciate that.

The Board recognizes Sam Welsch and Michael Fiery on deck.

MR. WELSCH: Hello, everyone. I
certainly appreciate all the work that you go
through. It's a lot of work just to prepare
for these meetings on the items we're
interested in. You have to look at
everything, even those you may not be quite so
interested in.

I have a few comments. In the
prepared ones I sent I'll just highlight, and
then I have a couple of other things I wanted
to add.

I'll start with voluntary retail
certification comments. Although there have
been other things added to the scope of the
NOP, like cosmetics and pet food and other
items, they're different from retailers that
are not doing processing because Congress
specifically excluded retailers that did not
process from the definition of handling
operations. And if they're not included in
the definition of handling operation, they
cannot be certified.

That doesn't mean there isn't
plenty of room for voluntary retail
certification because retailers do many things
that are processing for which they could be
certified, such as meat cutting, baking, deli
operations, et cetera. I don't think there's
any specific regulations that are needed for
retail certification of that type. It's the
same type of processing activities that are
done by other handlers. They can be certified
in the same way, including an annual
inspection of each site that's to be
certified.

In fact, I think that's even more
important for retail stores because they have
less separation in terms of time and space
between the organic and non-organic handling
that they do. They are usually a split
operation handling both organic and non-
organic products, and unlike other handlers
that dedicate a certain amount of time or
space exclusively to organic, it's not as
clearly separated in most retail operations.
So I think it's very important that every store that wants to be certified be inspected.

In terms of soilless growing systems, I was very pleased to see the discussion document that came out that essentially said as I've been saying for years: hydroponics cannot be certified because there's no soil involved. As OFPA states, fertility must primarily come through management of organic content of the soil, organic content of the soil. No soil; nothing to certify.

So I would ask that in your discussions, you request that the NOP immediately remove from its Website the answer yes to the question that says, "Can hydroponic operations be certified?" I think it's time for that to be removed and to give notice to those certifiers that have certified such operations that it's time to tell them to get soil in their system or not be renewed in
their organic operations because there are hydroponic operations out there that are being certified, and at the store you can't tell if it was grown in soil or if it was grown in liquid fertilizer, unfortunately many of which are no longer being allowed by the NOP because of the scandals in California.

So I think it's high time to get rid of the soilless operations that have been certified.

Under cosmetic and personal care, I do agree with the main recommendation that they be included under the scope of the NOP. Simply changing one word in the policy that was put out a couple of years ago which said they may be certified, saying they must be certified if you're going to use the organic claim would be a good start.

I know there are problems with many of the items that substances people want to use as ingredients, but I think the process of requesting that those be added to the
national list is the best one to use. Right now it's very confusing to consumers, myself included. You know, I like to be able to look at the label. I don't always read ingredient labels. Sometimes I like to go shop and just see "organic" on the front and know it's organic. It's not true in the personal care aisle. You don't know if it's actually certified to the NOP or if it's certified to some -- well, I use the word not "bogus certification." You know, if it's not NOP, I don't think it's organic in the U.S., and I think that's the way it ought to stay.

Regarding some of the other comments people have made, I am pleased to see that there is support for moving lecithin from the national list. I think it's a good step when we have things that are on there that people have invested in developing and creating organic forms, that we can actually see some of those agriculture products removed.
Regarding comments very early in the day, if you still remember, somebody talked about vaccines. We were one of the certifiers when we started certifying livestock we asked if the vaccines were from GMO sources or not and asked the manufacturers to identify whether the microorganisms or whatever was used in making the vaccines were from GMOs or not.

So that's it. All right. I won't talk about seeds.

CHAIRMAN MOYER: Thank you, Sam. We appreciate your comments.

Hugh and the Kevin.

MEMBER KARREMAN: Sam, since you ended with the vaccine topic and you've been looking at these you told me out there since October 21st, 2002 or whatever, right?

MR. WELSCH: Since I was accredited in 2003.

MEMBER KARREMAN: Okay. Roughly how many do you think in your review, maybe
just off the top of your head if you could,
have been disqualified because of being
genetically engineered versus traditional?
Any numbers roughly?

MR. WELSCH: Well, I'm going to
check the ones that PCO found, but we have not
had any that have been identified as GMO. It
doesn't mean they may not be and they just
haven't informed us of that, but we do look.
It's difficult because of the way most inputs
are reviewed that we don't always have as much
information as we would like, but to date we
have not rejected anyone for that.

MEMBER KARREMAN: Just a quick
follow-up?

CHAIRMAN MOYER: Follow-up again?
Go ahead, Hugh. Follow up.

MEMBER KARREMAN: They're all
licensed products by USDA. So they are kind
of, you know, checkable rather than just
asking the manufacturer. I think there's an
easy way to do that.
MR. WELSCH: We've done some searches on the USDA sites as well. Fortunately, I have other staff who look into those details.

CHAIRMAN MOYER: Thank you.

Kevin.

MEMBER ENGELBERT: I just wanted you to finish your thought on the GMO vaccines and what your opinion is, Sam, and give you the opportunity to finish that subject that you were on.

MR. WELSCH: Well, I think under the current way the rule is written it should go if there's a GMO vaccine on the market that wants to use an organic production, it should be petitioned, and if it's going to be allowed, then it should be approved by this Board.

As far as whether they should or should not be approved, you know, I'm somewhat neutral on that. Generally I don't support the use of GMOs, but this might be a special
case if there are not other alternatives available, but I think right now the rule is written, we cannot approve them if they're made with prohibited methods.

CHAIRMAN MOYER: Thank you, Sam.

Bea. Go ahead, Bea.

MEMBER JAMES: Sam, thank you for your comments, extensive comments on retail, and I will certainly look at those and take those into consideration, but the question I have for you is actually on body care, and I'm wondering if you believe that body care, organic body care should be agricultural, for agricultural products only, ingredients.

MR. WELSCH: Could you say the question again?

MEMBER JAMES: Do you believe that body care that is going to be certified as organic should be for 100 percent agricultural based ingredients?

MR. WELSCH: Well, I think like we currently allow synthetics and other products,
so I think the same kind of mix would be allowed in cosmetics or personal care products, that if it's not agriculture, if it's not a certified organic agricultural ingredient, then it should be on the national list if it's going to be in an organic or a made with organic product, and then if there are substances that are needed in the personal care industry in order to achieve certain functions, then those things should be petitioned and added to the national list. I've heard recommendations that there would actually be a separate portion of 205.605 specifically for body care cosmetic products. So it's easily distinguished from those who are allowed in food.

CHAIRMAN MOYER: Thank you, Sam.

MR. WELSCH: Thanks, Jeff.

CHAIRMAN MOYER: You're welcome.

Michael Fiery to the podium, and Lisa Nichols on deck.

MS. FRANCES: Jeff.
1            CHAIRMAN MOYER: Yes.
2            MS. FRANCES: There is a women,
3            Lendy Banister. I'm not sure if she's here,
4            but there were some travel issue for her.
5            CHAIRMAN MOYER: I apologize. Is
6            Lendy Banister here?
7            (No response.)
8            CHAIRMAN MOYER: No, I don't
9            believe so. Thank you, Valerie.
10           Go ahead, Michael.
11           MR. FIERY: Thank you.
12           Members of the National Organic
13           Standards Board, my name is Michael Fiery. I
14           am vice president in charge of product
15           development currently at Miller Chemical and
16           Fertilizer Corporation.
17           Since this is my first time making
18           a public comment, I feel it's my duty to be
19           brief, and I promise to do so.
20           We've been honored to serve
21           organic growers and certifiers since the mid-
22           1980s with polymer based resins under the
trade name of Nu Film. I appreciate the opportunity to comment on the list for approved inert materials issue currently being discussed.

Miller previously received a letter in 2005 from the U.S. EPA regarding an inert polymer which was completed through reassessment being approved and classified as a List 4(b) inert. EPA acknowledged that the public list of 4(b) inerts had not been updated, but this chemical would be included in the next 4(b) update.

Well, we recognized, of course, in 2005 that EPA had no plans to update that list. This inert polymer was approved for organic use by organic certifiers through the confidential statement formula process, which included the signed document from EPA until the USDA letter specifying that only 2004 inert materials would be accepted.

The current inert polymer in question is cleared under 40 CFR 180.960 as an
inert ingredient in pesticide formulations
applied pre and post harvest to food crops as
a low risk polymer. One of the current
options being discussed at the NOSB or was
discussed at the NOSB November meeting was to
adopt the minimal toxicity inert cleared under
40 CFR 180.950. Since polymers are safe and
non-toxic, along with the fact that EPA
notified us in writing that they would have
placed the polymer on List 4(b) if and when it
was updated, we would respectfully respect
that the NOSB consider accepting polymers
under 40 CFR 180.960 in addition to the
minimal inerts cleared under 40 CFR 180.950.
As a manufacturer who supplies the
required confidential statement of formulas
and manufacturing processes to any and all
certifiers, we believe that the certifiers do
a thorough job of reviewing the documentation
submitted.
One option might be to allow
accredited certifiers to accept documented
letters from EPA on reassessed or new inerts that would meet the minimal risks or criteria of List 4(b).

Finally, we agree that the EPA and NOP and NOSB should work closely to maintain safe, compliant products and establish fair and equitable methods based on science which might allow the USDA, NOP and their certifiers options for retaining or adding new inerts, which are vital for the success and global growth of organic farming.

I thank you for your continued service to the industry.

CHAIRMAN MOYER: Thank you, Michael.

Questions. Gerry.

MEMBER DAVIS: Are you familiar with a -- your material is extracted from pine trees of some fashion, correct?

MR. FIERY: The main resin is an extract from the cellular conifer pine tree stump. That is correct.
MEMBER DAVIS: Are you familiar with a class of like compounds called tall oil and if they are related to your material? They are also pine extracted resins.

MR. FIERY: Tall oil resins, turpentine, there's a whole class of compounds that would be considered, let's say, terpene polymers. I think the difference is, again, in the extraction of how they're extracted and is it a polymer or, in the case of a tall oil, fatty acid, what's the chemistry behind that actual material

What we particularly work with is the actual polymer.

MEMBER DAVIS: Okay.

MR. FIERY: What I'm discussing here now is not so much that polymer as it is an inert ingredient that might be used in that polymer or an inert ingredient that might be used in any pesticide formulation that would be accepted or compliant under the national organic program.
And our concern is that currently only using the old 2004 list, there have been a lot of new inerts since then that have come before EPA or have been reassessed by EPA and commented back to a manufacturer like ourself, and what we're trying to determine is how to take that information, do a reassessment or a new inert being listed as what would be a 4(b) material; how to get those materials allowed for use.

MEMBER DAVIS: Right. The Crops Committee is considering the whole List 4 inert and pesticide issue, and I know your material is somewhat wrapped up in the entire problem, and I was just wanting to ask a few more questions --

MR. FIERY: Sure.

MEMBER DAVIS: -- because I was keeping your material in the back of my mind as one example of something that's already been affected, and we don't want to stumble into a ruling that might affect a whole bunch
MR. FIERY: No, I agree, and again, the List 4 or the inert issue because it's so broad, it's not a particular compound or nothing. I think the one that you're particularly referencing to ours, which was a material that we actually petitioned or went through the petition process, it was sent in 2005 up to the NOSB through the petition process. That was relating to the polymer itself, and from what I understand, that petition was never acted upon. It is on the list as approved or those polymers are approved because of information that had been forwarded, also stating that they were compliant under List 4(b) as low risk polymers at the time.

CHAIRMAN MOYER: The Chair recognizes Kevin.

MEMBER ENGELBERT: I'd like to ask you as a layman and a Crops Committee member one of the things that we're dealing with as
we look at these List 4 inerts is their level in the final product. The inerts that you deal with, can they all get to the point if they have a certain level that they are no longer inert and their properties can be considered an active ingredient? Are these inerts in the --

MR. FIERY: The inerts are used actually in the formulation in this particular situation in order to be able to get that polymer to actually dissolve in water. Normally the polymers we work with are insoluble in water. So part of the function that that polymer resin is playing is allowing the main active polymer which might be 95 to 96 percent of that formulation to stay emulsified in water, and then upon applying to a plant surface, allow the polymer to polymerize properly on the surface over time.

So it is in there as an inert, but it is an important inert because if it was not in the particular product, the product would
not function in the manner which growers have
come to acknowledge its use.

And, you know, often that's been a
comment someone has come back. They would say,
"Well, why don't you just replace that? Do
you know how easy it would be if you just took
that inert out, go back to the 2004 list,
replace it with something that's there?"

And while that could be done, the
product itself and the product performance
would change, and I think the importance in
growers that work with these compounds, you
know, we're not going to for the sake of
selling something. We want to put a product
in the grower's hands that especially under a
brand name have come to recognize that brand
name of giving them performance.

So rather than just putting an
inert in that would be on the '04 list, we
basically feel it's important to keep the
integrity of an inert that got reassessed,
making sure that it is in the product so that
the product's performance wouldn't be affected.

But it is as an inert.

CHAIRMAN MOYER: Thank you, Michael.

MR. FIERY: Thank you.

CHAIRMAN MOYER: Lisa Nichols or Andy LaVigne.

MS. FRANCES: I literally just got an E-mail from Andy LaVigne saying he's not here, and so I told him he's on deck, but we got it.

CHAIRMAN MOYER: Okay. Thank you. I will mention to the Board that I don't think we'll plan on taking a break at five. So just individually as you need to, just in the essence of time, we still have about 18 people to go through yet.


Thank you, Renee.
MS. MANN: Good afternoon or early evening, and thank you for the opportunity to comment.

My name is Renee Mann, and I'm the review program manager of OMRI, the Organic Materials Review Institute.

I'll be commenting on the topics of the definition of materials, petitions that have been overlooked, inerts, and peracetic acid.

First I'll touch on the definition of materials and the discussion surrounding agricultural/non-agricultural and synthetic versus non-synthetic.

OMRI supports the work that's been conducted thus far to clearly define these terms because these definitions have serious implications for the future of the organic industry.

How these issues are resolved requires tremendous deliberation, and I won't say much more than that because OMRI
participated in the Materials Working Group, and there will be others that will express the details of the results of that working group. Regarding overlooked petitions, both OMRI and CCOF submitted lists of overlooked petitions. OMRI would like to remind the Board and the NOP of these petitions, and we encourage you to give a high priority to either continuing the petition review process or updating the petition's substances database to show how the petitions were dealt with.

In general, all of the petitions need to be clearly reviewed. Otherwise the system loses credibility, also, considering these petitions would help OMRI resolve a couple of lingering issues that have been lingering for years with us as well.

I have one small note on petition materials that I made at the last NOSB meeting as well, and that is that OMRI recommends that any material that's added to the national list
include when possible either its CAS number or the Lannean taxonomic identity.

There's many biological materials that don't have really good CAS numbers of Lannean taxonomic identification for them. So I understand that's not going to work every time, but when possible, please do use these.

I notice that some of the NOSB Committee recommendations for consideration at this agenda contain CAS numbers. So thanks for trying to use those.

I'm going to touch on my notes now. Without the allowance for List 4(b) inerts, many currently used inputs would be lost to organic farmers. We went back through our list of products and determined that about 65 percent of the pesticide products that OMRI currently lists contain EPA List 4(b) inerts. This number comes from a data gathering that we did just a couple of weeks ago.

Another point I'd like to make is that the soon to be implemented Canadian
organics standards reference the Health Canada list of inerts, which designated List 4(a) and 4(b) inerts as allowed. So their list was set to correlate to EPA List 4(a) and 4(b), and with the high probability of equivalency between the USA and Canada regulations, it would be good if we kept with our list 4(a) and 4(b) allowed materials that we have right now.

That being said, how do we preserve the status quo? The only way that OMRI sees that we could preserve the status quo would be to include the 2004 EPA List 4(a) and 4(b) in the national list for both crops and livestock, and then allow those materials to be sunset every five years.

You could also accept 189.50, but note that that's not even 4(a) inerts. That's actually a smaller subset of 4(a) inerts. So we have a problem if we go with the recommendation to just accept what's at 189.50.
Okay. And there is always the option to simply currently allow all of the materials at 18900 through 960 by reference.

Okay, and regarding the petition for a peracetic acid in crop production, OMRI support the final recommendation at this time. Because of the urgency of the situation, those formulated products using hydrogen peroxide and that contain peracetic acid, that now is considered an active ingredient, and these materials must be pulled off OMRI's list if peracetic acid is being used as an active and it's not allowed on the national list.

So at this time OMRI supports the annotation change that's been suggested by the committee and hope that there can be a final recommendation at this meeting instead of just a discussion.

And I'm done. So any questions?

CHAIRMAN MOYER: Okay. There are some questions for you, Renee.

Joe and then Gerry.
MEMBER SMILLIE: Actually my question is for the Chair. I've heard twice now about lost petitions. Could we get some clarification on that?

MS. MANN: do you want that from me or --

MEMBER SMILLIE: Whoever.

CHAIRMAN MOYER: What I'd like to do is turn that over to the Executive Director, Valerie Frances for an answer.

MS. FRANCES: Well, this is something that Dan and I and others have talked about. We addressed it somewhat in the last meeting sa well, where we were asking people to bring forth their list.

I don't think there's so much loss as that all sorts of different types of action were take, and they just want them to be revisited and reassessed, brought forward, tabled permanently.

There was this whole group of tabled petitions or no action. So I think
that's what that's referring to, not so much
lost.

MEMBER SMILLIE: They're not lost.

MS. MANN: No.

MEMBER SMILLIE: They're in
process.

MS. FRANCS: Well, they were not
being acted upon.

PARTICIPANT: Stuck in limbo.

MEMBER SMILLIE: Oh, there's a lot
of people in limbo. There are a lot of, a lot
of things in limbo. So okay. That's what I
meant. They're not lost.

CHAIRMAN MOYER: Thank you.

Gerry, if you could just hang on a

MR. MATTHEWS: Just to add onto
that, as Barbara mentioned this morning, we
have a statement of work that we've put out
with Science and Tech to help us develop an
improved database for the recording of all of
the actions that have taken place on all of
the materials, and they are currently working on that project.

CHAIRMAN MOYER:  Thank you,

Richard, for that point of clarification.

MS. FRANCES:  And they've had lots of input from me on making that happen.

CHAIRMAN MOYER:  Does that clarify your question, Joe?

MEMBER SMILLIE:  Yes.

CHAIRMAN MOYER:  Thank you.  Good.

MR. MATTHEWS:  And if anybody needs more details on it, I'm sure Shannon would be more than happy to speak on it because she's the one who's been working with Science and Tech.

CHAIRMAN MOYER:  Thank you.

The Chair recognizes Gerry.

MEMBER DAVIS:  Renee, listening to their responses I don't remember exactly the context of what you said in your last sentence, but if you remember, can you repeat it because I couldn't quite catch part of it?
MS. MANN: I'm sorry. We support the Materials Committee or not Materials Committee, the Crops Committee making a final recommendation at this meeting or this week.

MEMBER DAVIS: Making a final recommendation at this meeting?

MS. MANN: yes, on peracetic acid instead of just discussing, if possible.

CHAIRMAN MOYER: The Chair recognizes Tina.

MEMBER ELLOR: While we have you here, Renee, do you want to comment on the annotation or, you know, limiting the percentage? Would that be -- how does OMRI feel about that?

MS. MANN: I didn't look into detail into that.

MEMBER ELLOR: Okay.

MS. MANN: But it looked acceptable from off the top of my head. I could look into it some more tonight.

MS. FRANCES: and a comment on
1 their request. We can't make a
2 recommendation.

3 CHAIRMAN MOYER: That's correct.
4 One we've posted what our mode of action will
5 be, we cannot change that. So it will remain
6 a discussion item, contrary to your hopes and
7 wishes.

8 MS. MANN: Okay.
9
10 CHAIRMAN MOYER: Any other
11 questions for Renee?

12 (No response.)

13 CHAIRMAN MOYER: Thank you, Renee.
14 MS. MANN: Thank you.
15
16 CHAIRMAN MOYER: Kristen Knox, and
17 Patrick Carr on deck.

18 MS. KNOX: Good afternoon,
19 everyone. That was a very nice segue from
20 OMRI since I'm going to be discussing
21 peracetic acid and the inerts issue as well.
22 We are the petitioners, Biosafe
23 Systems, for the inclusion of peracetic acid
24 to be on 205.601 without annotation. We also
I understand that the committee came back with a recommendation as Tina alluded to to allow it but with a limitation of two percent.

I did submit comment to all of the recommendations, and that is on the posting. I hope you've had a chance to look at that. This is not going to be a complete going through everything that was in the letter because it was rather lengthy, and otherwise I'd like to just summarize the extent of that letter.

Peracetic acid cannot exist without hydrogen peroxide. Therefore we'd like to see it represented in the same manner as hydrogen peroxide, as an oxidizer without any restrictions other than exhausting the other options for organic farming.

We believe it is compatible with organic farming practices, and it is also discussed in the posted comments.

We also believe that there is no true alternative to hydrogen
peroxide/peracetic acid formulations for the immediate knockdown of any pests without residue, without toxicity, and without mutational resistance.

In regards to the issue of HEDP, I know that was a concern, and the recommendations list that it is either a one, two, or three list inert. I don't know where that is on those lists, but it is on the EPA's 2004 List 4(b).

HEDP, just for a little bit more information about it, biodegrades into carbon and phosphorus. The FDA found not concerns for environmental toxicity with HEDP for food contact uses, and it is listed in the 21 CFR along with hydrogen peroxide and peracetic acid to address different food contact applications.

As far as toxicity of HEDP goes, when it's used at its labeled rates, it is far below the indicated EC-50 or NOEC values demonstrated in two different submitted
reports, including the Herr report for phosphates, and with the exception of algae. We do get the algae, but then, again, that's one of our targets. So we don't mind.

And in regards to the inerts issue, we feel very strongly that the list should be inclusive of List 4(b). It affects all of our products and several other products that we know that are out there on the market, and we addressed this as well in a separate letter to the NOSB.

The EPA has already determined that these inerts are of no toxicological concern when they're used at the labeled rates, and in many instances we've gone through a lot of trial and error with finding the correct inerts to be used in our formulations, especially this HEDP, which is a very specific stabilizer that keeps the hydrogen peroxide/peracetic acid in its balance, for lack of a better word.

And the -- I lost my train of
There are many 4(b)s that are on the 180.910, 920, 930, that all have tolerance exemptions for inerts, but they're just not on 950 yet, and why they haven't been evaluated we're not sure, but to just limit it to 950 would exclude, as OMRI alluded to, a lot of products that are out there.

And in many instances there are no substitutions for the inerts that are on the 4(b) or the 950 because that's even more exclusive.

And that's about all I have. Does anyone have any questions?

CHAIRMAN MOYER: Thank you, Kristen.

Questions? Tina.

MEMBER ELLOR: This is a question that would be really helpful if you could answer for us. It was our understanding, and I think Gerry probably was the one who ferreted out this information, about the two
percent limitation. It's our understanding that the products that are on the market now that you make don't contain more than two percent anyway, right?

MS. KNOX: That's true. Well, that's true and it's not true. We do. Two of our main products that are used in the organic agricultural community do contain two percent peracetic acid, and thank you for saying that because I forgot to mention as part of my comments that if it absolutely has to be annotated, that we would like to see it limited to the ppms, parts per million, of the peracetic acid that's in the formulation as opposed to the percentage of the concentrate because we think this is a much more accurate way to get a handle on how much peracetic acid is being applied.

We have a five percent product that's also approved for post harvest washes and for agricultural irrigation, and a 12 percent product that's approved for
agricultural irrigation waters as well, and if
we limit it to the two percent, then those
products are gone.

And when you dilute down either
the five percent or the 12 percent products to
their one to 1,000 at the very least ratios,
you end up with minuscule amounts of peracetic
acid, even less.

The worst case scenario would be
200 parts per million, and that's in a two
percent product at a one to 100 dilution.
Everything else, any of the other
applications, the amount of peracetic acid
goes down.

MEMBER ELLOR: So are there any
applications you could think of that would use
high concentrations of peracetic acid on crops
in the field? MS. KNOX: No. It's just to
treat the irrigation waters. And it's not at
high dilution rates.

MEMBER ELLOR: And if you had to
put a ppm annotation on, what would it be?
MS. KNOX: 200.

MEMBER ELLOR: 200? And that is in the final dilution to use on the crop?

MS. KNOX: Yes. That's the highest application rate for--to our field crop product, at 1 to 100.

MEMBER ELLOR: Okay. Thank you.

MS. KNOX: Okay.

CHAIR MOYER: The chair recognizes Gerry.

MEMBER DAVIS: So let me clarify it to myself, at least what you just said. Your company's wish is, if we put it on a ppm basis, based on rate per acre, not in what it says on the label; correct?

MS. KNOX: No. This is based on what it says on the label. It's a 1 to 100 dilution--

MEMBER DAVIS: No, no, no. I mean, what it says on the ingredients page of the label. Let me clarify myself.

How would a certifier verify, if
we say 200 ppm, how would you envision that

happening? If we base it on 200 ppm--no more

than 200 ppm can be applied to a crop. Is

that what you're suggesting?

MS. KNOX: Yes. I understand what

you're saying now. Yes. With the new

products that are coming out, it's going to

list peracetic acid as an active ingredient at

2 percent. So if you do the math, at 1 to

100, it comes out to the 200 ppm per million

per application.

MEMBER DAVIS: Okay. Then my

follow-up question is 200 ppm applied to--in

the soil water, being washed into the soil,

was our -- from the research we had done and

talked with different people, read a lot of

information coming from other sources other

than BioSafe, the petitioner, was that

peracetic acid is a polar molecule compared to

hydrogen peroxide; correct?

MS. KNOX: I'm not a chemist. I'm

sorry. I can't answer that.
MEMBER DAVIS: Okay. It's a much more active concentration per concentration than hydrogen peroxide as far as sanitizer or germ killing—it takes a much higher concentration of hydrogen peroxide to kill organisms than it does peracetic acid to kill the same organisms; correct?

MS. KNOX: Correct. That's very true, and it's a synergistic effect. The peracetic acid breaks down the cell wall and the hydrogen peroxide then just comes in right behind it and oxidizes the organic matter.

MEMBER DAVIS: So our concern was the effects of—we hadn't thought of limiting it to a 200 ppm application rate to the field, but our concern was that we would--our decision, if we allowed too much peracetic acid beyond what was necessary to maintain the hydrogen peroxide formulations that currently exist, was that—I'm getting confused on how to word this.

There's a potential, whether they
exist now on your label rates and everything, at this moment, there's the potential,
depending on what we allowed, that some day we could have peracetic acid formulations being irrigated on organic crops that would effectively be biocides, killing beneficial and parasitic organisms in the soil at some level. And we thought that was not compatible with organic, to be treating the soil with nonselective biocides. Yes, they kill some things easier than others, but they will kill some beneficials as well as parasites, according to your comments that you submitted, the written comments that you submitted at least.

MS. KNOX: From April? The most recent letter?

MEMBER DAVIS: Yes.

MS. KNOX: Yes. That's our plant pathologist, Vijay Tropicala, had indicated to me that the beneficials are stronger and use a little bit of the p.a., actually, knocks
down the harmful pathogens and gives them a little bit more breathing room, for lack of a better word, to repopulate.

MEMBER DAVIS: Anyway, that was our rationale, was concern about the soil effects of opening the door wide open to potential future parasitic acid formulations labeled in different ways than exist today.

MS. KNOX: I should point out, though, that the product that I'm talking about, where we're using at a 1 to 100 dilution or 200 ppm of the peracetic acid, is mostly filler. It has nothing to do with the soil applications. Our product for soil, Terraclean, is a 1 to 1000 dilution of a 5 percent p.a. product.

MEMBER DAVIS: I understand. We just didn't want to approve something now that would give a company like Biosafe, or others running--you know, "rope" to just--if they could convince EPA it's okay, to bring on to the organic market biocidal soil-applied
1 materials.
2 
3 MS. KNOX: No; we're not looking
to do that; but I understand your concern.
4 
5 CHAIR MOYER: Thank you, Kristen.

Patrick Carr and Terry Gong on

6 deck.

7 MR. CARR: Ladies and gentlemen,

8 I'm Patrick Carr with Diatech. My brief

9 comments are regarding the Diatech petition on

10 isoparaffinic hydrocarbon, and on the inert

11 four list, both of which are before the Crop

12 Committee and the NOSB.

13 The List 4 issue that the NOP has

14 with the EPA was attributing effect on

15 Diatech's petition. I urge the Crop Committee

16 and the NOSB to move toward an expeditious

17 resolution of this problem, that allows the

18 use of inerts that have been vetted by the EPA

19 and not to cause adverse effects to the public

20 health or the environment.

21 This list must be dynamic and

22 responsive to the determinations made by the
EPA in their assessments. Accepting the status quo is not in the best interest of organic agriculture, in my opinion, and the petition process, also in my experience, takes years, and as I will comment later in my comments, appears to lack the technical rigor that goes into an EPA health and safety assessment.

As was made in my written comments, I believe that neither the Crop Committee nor the NOSB can fulfill their responsibilities of duty of care, especially to the standard of being reasonably informed, given the problems with the TAP Report on this issue. The TAP Report contains significant errors and shows a superficial understanding of pyrethrins and its processing, at best.

Judgments made by the Crop Committee based on this TAP Report can only be flawed. Moreover, the multiple errors in the TAP—if the multiple errors in the TAP were corrected, I suspect many of the unfavorable
responses in evaluation criteria would be reversed.

These are distilled down into two problems. First, contrary to what the TA Report says, there is not pyrethrins available to pesticide formulators that the NOP finds acceptable. Thus, the actions of the NOP in this matter have created a monopoly in organic pyrethrins which is not in the best interest of organic farmers in terms of price or product availability.

Second, much of what is in the TAP about the availability of pyrethrins via supercritical extraction is in error. This again reinforces a lack of understanding the TAP has about the processing of pyrethrins. Yes, there is a patent but there are a great many patents and a patent does not make a commercially-available product. I believe there is no supercritical extractive pyrethrins available on the market. I have looked. The TAP premise about the
availability of this supercritical extracted pyrethrins is in error, and it's one of the bases for not believing that the approval of the isoparaffinic hydrocarbon is important.

In closing, the reliance of the Crop Committee on the NOSB--excuse me. The reliance of the Crop Committee and the NOSB on the TAP will cause an injustice to organic farmers that do not wish to be limited to one product and will stifle product improvements that could benefit organic farmers and consumers.

I urge the Crop Committee, at the very least, to postpone a decision on this petition till such time that they have full and accurate information.

I thank you for your time and consideration. I'd only like to make one other brief comment regarding lost petitions, and to quote Daniel Boone, he once made the comment, "I was never lost but I was mighty confused for three days."
And I know my petition very confused for a number of months, until we made a lot of effort to have it located. thank you.

CHAIR MOYER: Thank you, Patrick. The chair recognizes Kevin.

MEMBER ENGELBERT: Thank you, Mr. Carr. Did you post comments, electronically?

MR. CARR: Yes, I did, sir.

MEMBER ENGELBERT: You did?

MR. CARR: In detail.

CHAIR MOYER: The chair recognizes Gerry.

MEMBER DAVIS: Mr. Carr, do you know the extraction method used for the pyrethrins in your competitor's product, MGK?

MR. CARR: No, sir. I don't. I know there's proprietary and that's as far as I know. I also know they won't make it available to outsiders.

MEMBER DAVIS: And are you saying, then, that you mean you don't know what they
use, but you're saying you don't know if
you're using the supercritical extraction
method that you said is not available?

MR. CARR: My understanding, from
talking to a number of people in the industry,
is that that supercritical extraction is not
being used in a commercial process, that MGK
is using some other method, the best of my
knowledge.

MEMBER DAVIS: Thank you.

CHAIR MOYER: Thank you, Mr. Carr.

Terry Gong and then Brad McElroy

on deck.

MR. GONG: Hello. My name is

Terry Gong. I'm a partner with Harmon Systems
International, and I'd like to thank the Crop
Committee for moving this on to where we are
now. Our quest to achieve sustainability has
taken us on a wondrous journey of learning.
We never know what we'll discover along the
way. If we view knowledge that we've amassed
as the building blocks, we'll discover some
things new. We'll even start to discover that maybe something that we thought to be true may not be.

And so I think we all need to look at this as that we don't have to abandon some of the knowledge we have, but that we can fine-tune it, and to reinforce and buttress the things that we know to be correct. Next slide, please.

When we examine the various ecosystems, the truth of nature becomes apparent to what that foundation is. Most people think it's water, but it really is not. If you look at a cave, there's no rain, there's no sun, and so forth.

But as you see, once you get out in the open, there's some rain that occurs, and then there's some rain that occurs a lot, like the rain forest.

But it really isn't so much the water. It is, in my view, the hydrogen that is delivered to that ecosystem. After all,
how could the Earth's soils or these ecosystems be created if rainwater were neutral? Next slide.

Normally, rainwater has a pH of 5.6. I had an opportunity to speak with a NASA scientist at Ames Research, where they're trying to go to Mars, and they actually thought that the rain pH, normal throughout the world, was 5.2.

And I thought, well, that's fine because we're pretty much in the same ball park. And the reason why I bring this up is because I think there's a myth or a notion that rainwater is supposed to be a neutral pH, and it really has never been, because if rainwater were neutral, again, how long do you think it would have taken to create the Earth's soils and our ecosystems. Next slide.

Normal rainwater gets its acidity, mostly, from natural volcanic activity. I've got some images of Kilauea in volcano--excuse me--the Kilauea volcano in Hawaii, and that is
1 purported to product at least 2000 tons of SO2
2 into the atmosphere per day. It's one of--
3 well, last year, there were about 64 active
4 volcanoes among 590 on the surface. Next
5 slide.
6 We don't even know all of the
7 volcanoes and the hydrothermal vents that are
8 going on underneath the ocean, at the ocean
9 floor, under the seas. Less than one percent
10 of the Earth has been mapped, and we're now
11 just starting to find out more about that with
12 robotics and submersibles.
13 Now, clearly, sulfur, in its
14 various forms, has a major role to play in the
15 regulation of life on this planet.
16 The natural acidity of rainfall
17 explains why areas of high rainfall have
18 acidic soils and why areas with low rainfall,
19 the soils are alkaline and basic.
20 Soil always takes on the
21 characteristics of the materials applied upon
22 it, and eons of years has created these soils,
and I think that a lot of these soils, especially here in the East Coast, because you receive such an abundant amount of rain, more than let's say the Western states, long before the Industrial Age and the burning of coal, these soils were probably already acidic. The next slide, please. And with the coal burning, because that 5.2, 5.6 rainwater falls through a plume of SO2 coming from a coal-burning power plant, it falls uncontrolled on to the ecosystem. One minute left. Wow!

Anyway. The point is that this is why acidifying water is so important compared to the East Coast, that the Western states that are dealing with alkaline soil and alkaline water, and there virtually is no way in the world that they can provide enough acidity—and I'll just conclude since I've got the one minute sign—that if we think about it, sulfuric acid absorbed in rainwater has probably more natural—it's the most natural way of acidifying a system.
I've yet to see sulfur fall from the sky, or acidic acid, or the various other approved forms. But we do see rainwater.

CHAIR MOYER: Thank you, Terry.

Questions from the board. Tracy.

MEMBER MIEDEMA: If you could just kind of finish your thought and connect the dots for me. It sounds like you're a real expert on sulfur and pH in the soil, and how rain interacts with that. What is your opinion on the Committee's recommendation, and why?

MR. GONG: The Crop Committee?

MEMBER MIEDEMA: Yes.

MR. GONG: Well, I think that my petition that I wrote, I think it really explains rainwater and the effect of sulfur in the ecosystem. I think it really speaks for itself. I mean, I can't really say everything in five minutes but you go back to the beginning of time, I mean, it's--you'll be able to see if if you look at the petition
carefully.

CHAIR MOYER: Any other questions?

Thank you, Terry. Appreciate your time.

Brian McElroy to the podium and Michael Christensen on deck.

MR. McELROY: Mr. Moyer, can I address you on a point of order, outside of my five minutes, please.

CHAIR MOYER: Certainly.

MR. McELROY: Yes. We have Michael Christensen in the air. It was our impression that we were speaking on Tuesday. So both John Rapp and Michael Christensen, growers, who have gone much out of their way to try to address this body, are not available this afternoon. So if there's any way to accommodate them tomorrow, it would be much appreciated.

CHAIR MOYER: We'll certainly do our best.

MR. McELROY: Okay.
MS. FRANCES: There's no actual space.

MR. McELROY: I understand that.

CHAIR MOYER: Let us talk among ourselves later, and we'll do our best to accommodate that, but I can't guarantee anything at this point.

MR. McELROY: Appreciate your understanding. Brian McElroy. I work with Driscoll Strawberry Associates. We grow raspberries, blackberries, blueberries, strawberries, and we believe that this material, sulfuric acid, provides our growers with an opportunity to improve soil fertility, improve the quality of the uptake of nutrients in the soil by improving the quality of the water we use.

Driscoll's growers, they are independent family growers, family farmers. We grow organic in Florida, California, Mexico, North Carolina, Washington, Oregon, Chile, and a number of places, and we see
applications of this equipment in those areas. We see the benefits of this coming to irrigation system cleaning and maintenance of irrigation systems. Water quality management. Being able to bring water to a pH that is more conducive to crop production. As you know, much of the water in the Western United States can be high in bicarbonates, or slightly on the alkali level.

So balancing that water allows us to balance the soils and make better use of the nutrients.

We also think that this will lead to more efficient use of agricultural inputs and fertility. The current tools that are available, there are some current tools, we recognize them, we use them, organic matter, bringing in additional organic matter, soil sulphur, citric acid, vinegar.

Unfortunately, soil sulphur's not always a good solution because it may require tillage that is not always the best of
solutions, additional tillage, and it may not
work in permanent crop situations.

Citric acid is a very low
efficiency product, and when the product is
low efficiency and you have to use more, it
basically leads to growers asking themselves
why they're using this material so much. So
the low efficiency leads to a nonuse.

Vinegar, clearly, is also a low-efficiency
material and not readily available in the kind
of quantity producers would want to use.

We do see that this process of
burning sulphur is a pretty simple process.
Burn some sulphur, take that and move it in.

It was actually allowed by a number of
certifiers, up until kind of fine reading of
the regulation led a number of people to the
conclusion that there needed to be a petition
on the product for use. So there is a history
of this use being consistent with organic
production practices.

And that really is it. We do see
that this, allowance of this material,
allowance of this equipment to give us this
material is going to allow us to solve some
soil fertility issues on farm. The material
and equipment is available by several sources.

A number of our growers are
familiar with this process because it was used
historically in their region and they're
looking at possibly getting some of that old
equipment out of the barn and tuning it back
up.

So that is my appeal to you to
approve the petition. Thank you.

CHAIR MOYER: Thank you.
Mr. Joe.

Thank you, Brian. You have a
question, Joe?

MEMBER SMILLIE: I can't resist,
Brian. Did you allow it when you were at
CCLF?

MR. McELROY: Yes, we did.

MEMBER SMILLIE: I thought so.
Well, that puts you in a good space then.

MR. McELROY: We allowed it until we didn't allow it.

MEMBER SMILLIE: North Carolina.

You don't use this in North Carolina; right?

MR. McELROY: I don't specifically know if there would be an application in North Carolina. I doubt it.

MEMBER SMILLIE: So combined with the charts that the previous gentleman set up, it's really a low rainfall, high pH soil, that requires this treatment?

MR. McELROY: My understanding is that some producers on the East Coast might use it in greenhouse situations, where you're not getting the acid rain.

MEMBER SMILLIE: Gee, I never thought it would be so good to have acid rain, let me tell you!

CHAIR MOYER: Thank you, Joe.

Gerry.

MEMBER DAVIS: Brian, you
mentioned the growers acknowledged there are several sources of elemental sulfur that's pure enough to be appropriate to fit into the recommendation that the Crops Committee has.

MR. McELROY: Sorry. The soil sulfur?

MEMBER DAVIS: The elemental sulfur for burning.

MR. McELROY: Oh. No, there's--we're--I'm saying there's other sources, other than just the equipment that Harmon Systems is offering.

MEMBER DAVIS: I see.

MR. McELROY: There are other people that manufacture similar equipment.

MEMBER DAVIS: Similar equipment.

MR. McELROY: And there's equipment historically, sitting around on various farms, that was used--my understanding--was used prior to broader use of--now I'm going to blank on it. The other acid on the conventional side. Sulfuric acid.
MEMBER DAVIS: Okay. I misunderstood you. Thanks.


MEMBER KARREMAN: Just a question.

I haven't kept up on the Crops Committee, and sulfuric acid--can't you just use elemental sulfur pattern? I'm just wondering.

MR. McELROY: Well, you can but that's what I said. That requires tillage. So maybe you can go in and put that in, first round on tillage, but if you've got a permanent crop--and then you kind of have to ask about the efficiency thing too, and is that really better for long-term soil?

I mean, what we see with this product is the ability to build better soils, and we're not just talking about adding sulfur. We're talking about places where we've got salt buildup, that this could help us move that through.

We're talking about not losing...
organic ground that's currently certified,
that if we can't rectify the soil fertility
issues, we're going to have to drop that round
and move on, and, you know, it's hard to make
organic round. It takes three years.

CHAIR MOYER: Thank you, Brian.

Appreciate your time.

MR. McELROY: Thank you.

CHAIR MOYER: The Board would like
to call Bryan Sakuma to the podium.

He's on the plane as well.

[off-mike remarks]

MS. FRANCES: I made some
suggestions.

CHAIR MOYER: We have Renee Mann.

Is that correct, Valerie? Renee had spoken
earlier.

MS. FRANCES: She said she went
sufficiently.

CHAIR MOYER: Thank you. On our
list next I have Will Fantle again. Will is
going to give it to the farmers tomorrow, too.
The Board would like to call Tom Hutchinson to the podium and Peggy Miars will be on deck.

MR. HUTCHINSON: Thank you. I'm Tom Hutchinson, regulatory and policy manager for the Organic Trade Association. Our written comments are considerably fuller than what I can mention here, and I urge you to review them as you consider your agenda items, including comments on inerts and the 100 percent label, retail certification, soil-less growing systems, animal welfare and biodiversity.

A couple of other issues. On personal care, or you have "cosmetics," please note that the term "personal care," as OTA uses it, includes soaps as well as cosmetics. The FDA term, cosmetics, does not include soaps, as I understand.

And while NOP regulation is a worthwhile eventual goal, the proposal as it stands does not seem sufficient to resolve
several issues. OTA therefore recommends that NOSB form a task force similar to aquaculture to address the numerous issues raised in our written comments and others that might arise.

On materials and the definition of synthetic, our primary objective in seeking clarification here is to facilitate the expansion of organic producers, land under organic management and the range of organic products on the market.

Clarification will reduce or eliminate significant uncertainty in the crop, livestock and handling input industry, and potentially make more organically-compatible tools available to organic farmers and handlers.

Clarification will also help reduce consumer uncertainty about the meaning of the organic label, and we're confident that our suggestions would not compromise the integrity of the organic label in any way.

Rather, greater clarification will
make the whole organic system more robust and consistent.

We disagree with the conclusion reached in the final paragraph of page two concerning the question of whether an agricultural raw material that is processed, so that it becomes synthetic, is still agricultural. The Materials Working Group did not recommend a classification of agricultural synthetic, and while the realm of potential certified organic synthetic products might represent a small fraction of organic agriculture, several approaches have been suggested to address this issue, including requiring that all handling substances included on the national list in Section 605 and 606 be subject to commercial availability, regardless of their classification.

It would also help for livestock feed requirements to be revised, to be consistent with human food rules, by permitting up to 5 percent nonorganic
agricultural product as livestock feed, also
subject to commercial availability.

Finally, microbiological
production can be considered agricultural and
organic. We note that there currently exists
certified organic products of microbiological
fermentation, including yeast and alcohol.

Finally, I'd like to spend some
time just mentioning that OTA has formed a
food safety legislation task force, and we are
requesting input from the entire organic
community, especially we're looking for input
regarding production or handling research or
practices, including the use of manure that
could help us make the case for preventive,
outcome-based requirements that will not
disadvantage the organic system, both in
production and handling.

We're looking for any kind of
research that anybody might have on food
safety and organic production, and we want the
bad news as well as the good, and the more the
merrier, and anything that anybody can do to help us out in that is more than welcome,
because as has been noted before, there's a lot of activity up there on the Hill and we need to be prepared as soon as possible. We are working with what's going on, and hope to be able to get them the best information we can as soon as possible.

So, please, if anybody has anything like that, you can send it to me directly. Thank you. That's all I have.

CHAIR MOYER: Thank you, Tom.

Any questions or comments for Tom from the board members?

[No response]

CHAIR MOYER: Okay. Thank you, Tom. The chair recognizes Valerie Frances.

MS. FRANCES: I was just told that John Rapp is in fact here. The sulfuric acid seeker; or one of them.

CHAIR MOYER: Okay. The board would recognize John Rapp. Thank you,
Valerie.

MR. RAPP: John Rapp, and I farm with Olsen brothers in Washington State.

We're farming organic blueberries. We have used sulfur burners in the past. We did that to mitigate some of the mineral residue that come out of the wells. Since the introduction of sulfuric acid, we have not done that, but that's in a conventional sense. We have some of the equipment.

It would work well to use in the blueberries. Initially, in our area, we have to buffer the soil down from about 7.5 pH down to about five. That's an initial application of sulfur. Over time, though, you know, ten years, we're not sure that we'll be able to keep that soil down at about 5 pH. It's going to naturally want to come back up.

The use of a sulfur burner would be a very sustainable way to keep this pH down at a lower level, so that we could continue to farm the organic blueberries.
We have experience with a lot of crops' hops. Apples, blueberries, cherries, wine grapes. And sulfur's very common. We use sulfur in organic applications via sprayers on our organic crops of Concors. It's considered organic for our purposes. The basic sulfur applications. But this would a very nice way to very friendly with the soil, we've been there a long time, and it's truly going to be a sustainable way to keep our production going.

Any question?

CHAIR MOYER: Yes, we do have a few questions for you, John. Kevin, and then Katrina.

MEMBER ENGELBERT: Did you say how long you've been certified organic?

MR. RAPP: In the blueberries, we've been certified organic for about three years. In Concord, it's about ten years. Blueberries are very new.

CHAIR MOYER: Katrina.
MS. HEINZE: If you didn't have the sulfur burner as an option, what would you do to lower the pH of the soil?

MR. RAPP: We would probably be using a citric acid application.

CHAIR MOYER: Yes. Katrina, a follow-up?

MS. HEINZE: And why would you consider that less sustainable?

MR. RAPP: That product, the majority of that I think we'd get out of China. The expense of it is getting higher, and I'm not sure what direction that industry is going to go in the future.

MS. HEINZE: Thank you.

CHAIR MOYER: The chair recognizes Tina.

MEMBER ELLOR: I don't know if this is a good time to bring this up, and "beat me down" if it's not. But we had some questions, you know, that we had asked to be answered by our technical review and they
didn't. But it's possible you could help us with this. You said you're using citric acid from China, and we had some questions surrounding whether that's a more sustainable method than this, and we had questions around, you know, how that's produced. Is it non-GMO? You know, a lot of questions about citric acid as a viable substitute for sulfuric acid.

Also we had some questions about why vinegar is not a good substitute, and this might be beyond the scope of anyone in the room but we wanted to know the quantitative differences between citric acid, acidic acid, and sulfuric acid, and their ability to neutralize carbonates and bicarbonates in irrigation water.

So just for the record, we had those questions, you know, so that if anyone can seek us out and answer those questions, that would be great.

MR. RAPP: I'll pass on that.

CHAIR MOYER: John, I had one
question for you. I'm just trying to maybe
get your opinion or your idea about the
concept. That you said mainly you would be
using the sulfur in blueberries cause you have
to get your soil pH from 7.5, or something,
down to 5.0.

What's your thoughts on whether or
not some soils just weren't meant to grow
blueberries? And maybe that's not what we
should be growing there.

MR. RAPP: Well, that is true.

Mother Nature, in our area, gave us a pH that
is not conducive to growing blueberries. The
one thing that turns out to be very
interesting--we get a very good production and
we do not have the typical associated problems
with blueberry production. An example.

Mildew.

Most places that grow blueberries
have a tremendous amount of rain. That is how
the pH gets lowered. But also with that, you
have a lot of mildew problems and product to
market is an iffy thing. In the area that we are, we do not have a lot of rain. We can consistently bring to market a very nice product with just fooling Mother Nature on the pH of the soil. Other than that, the blueberries absolutely love to grow in that area.

CHAIR MOYER: A follow-up question. What's your feeling, then, about whether or not you think you might be creating an unfair advantage for East Coast blueberry growers, or something, where it does rain and they are designed to grow?

I mean, it's always an issue that comes up.

MR. RAPP: You know, since blueberries are fresh product, it's largely a degree of timing, and so I'm not sure that we're going to hit the timing, and along with the transportation costs, I think it's going to equal out.

CHAIR MOYER: Thank you.
Gerry had a follow-up to that, Joe, and then I did recognize you.

MEMBER DAVIS: When you look at blueberry production in the United States, Florida and California production is the earliest. They tend to hit the market at similar timeframes. Columbia Basin, where this gentleman is, I'm assuming...?

MR. RAPP: Yes.

MEMBER DAVIS: --comes in after that, and then the East Coast, a lot of these--you may be in the market the same time as like North Carolina or somewhere like that; right?

MR. RAPP: A portion of; yes.

MEMBER DAVIS: Say that again.

MR. RAPP: Yes; just a portion of, though.

MEMBER DAVIS: Right. And then the more northern areas have their own market timing. You're done by then because it's too warm at that point, and--
MR. RAPP: That's correct.

MEMBER DAVIS: --you do not compete with the bulk of the Northeast growers.

CHAIR MOYER: Thank you, Jerry; appreciate that.

Joe.

MEMBER SMILLIE: Just want to note. Yes, if they use sulfur too, put sulfur into the soil, and to lower the soil pH in order to grow blueberries, we use a lot of limestone, Jeff, to get our calcium into the soil and to raise our pH. So, you know, it's not as if that area's not meant for blueberries. Maybe our area isn't meant for broccoli. But thank God for limestone; right?

CHAIR MOYER: No, I understand, I appreciate that. I just wanted to get his opinion. Thank you.

Any other questions for John?

[No response]

CHAIR MOYER: John, we appreciate your traveling to come and speak with us here
today.

MR. RAPP: Thank you very much.

CHAIR MOYER: Our pleasure to have you here. The board would like Peggy Miars to come to the podium. Or Zea. You don't look like Peggy.

MS. SONNABEND: I don't look like Peggy but I'm trading with her so I can go to the certifier meeting, and she'll go in my spot; if that's okay.

CHAIR MOYER: The board has no problem with that.

MS. SONNABEND: Thank you. I'm Zea Sonnabend with California Certified Organic--

CHAIR MOYER: One moment, Zea. Will you be using your proxy as well?

MS. SONNABEND: Yes.

CHAIR MOYER: Thank you.

MS. SONNABEND: I have a proxy from Jody. I don't think I have a full ten minutes but a little over five.
Anyway, I'm Zea Sonnabend with CCOF, and I've been here many times, and I'm here today to talk to you about materials. So let's get started cause there's a lot of materials on your agenda.

I wanted to say one thing about your document, about priority of petitions. I really raised a question, on the second paragraph of that document, where you said you were going to take petitions to remove over-petitions, to add, even if the petition didn't raise substantive issues about health, and the environment, and that makes it sound to me like you're willing to forgo some of the criteria that you have to fulfill in order to have a petition to remove, and I'd like you to take another look at that second part of petitions to remove, and make it more clear, what you're talking about, and why you wouldn't have to have evidence supporting removal that affects human health and the environment.
I also suggested an additional priority, which I call 2A, which is the petitions received that were never taken up by the NOSB. I never called these "lost."

They're not lost. But they were never taken up by the NOSB.

Consequently, they will not be in past minutes of the NOSB, and I wish Dan was here. Maybe one of you can convey this to Dan when he gets back. They're not in the minutes because they got stalled somewhere in the NOP process, for various reasons.

The list is in my written comments but the most pressing one, that you've heard something about today, a little bit, is the one for turpine polymers, because turpine polymers is stuck in the whole EPA inerts conundrum.

But the petition for turpine polymers that was never taken up because it was ruled to be an inert and reclassified by the EPA, is actually not an inert. It's an
active ingredient in the product, in the way that it's used. And therefore, as an active ingredient, it needs to be addressed by the NOSB, as a petition, to put it on the national list.

So that got further complicated by the EPA ruling because it got reclassified to EPA List 4 in 2005, and yet the statement from NOP only recognized inerts as of 2004. So turpine polymers is a petition that, really, you need to take up, it was a complete petition as far as I recall, all you need to do is send it for a TAP review, and let's please get it on to the agenda. It's the turpine polymers from pine trees have a long history of use in organic as adjuvants, and we really want you to take it up as a petition item for an active.

What Mr. Fiery was commenting on was an additional ingredient that is an inert, that is along with the turpines in his product formulation, and that is under the inerts
policy and needs to be treated as such. But
the polymers themselves are the active
ingredients in those products.

Okay. On to other petition
materials. CCOF supports the addition of
sulfuric acid to the national list. As Brian
said in his testimony, this is not just one
company who makes it. We had every intention,
when we let growers use it before the NOP rule
came in, of having it be in full compliance
with the rule.

We didn't get a straight answer to
of NOP at the beginning, when the rule was
first implemented, about whether it needed to
be petitioned or whether it was just okay, and
when we finally got the answer, which we were
left waiting on for a long time, it was not
the answer that will enable us to keep
allowing it to be used.

So we're happy to see that this is
one of those "dusted off" ones that has come
back to you, and we do hope that you can act
If I had more time, I'd talk about the bicarbonate thing, and that's later; but don't have enough time.

We also support the peracetic acid to be allowed in the equilibrium with hydrogen peroxide. Not necessarily for blanket use. We feel like we need to know more about that. But we were really confused by the way that you posed those documents as discussion items. It wasn't really made that clear to me, what you were trying to get discussed, and if it wasn't that clear to me, it probably wasn't clear to a lot of other people also.

So we understand what the urgent problem is, which is that it's reclassified as active. It is in stasis with hydrogen peroxide. Whatever amount of it needs to be recognized to keep achieving the stasis, we would support the continued allowance of hydrogen peroxide.
Okay. I have one thing to say about the clarification of definitions. I will be taking a little part of the Materials Working Group tomorrow. So the one thing I want to say about the definitions of materials is please just make a decision. I don't care so much what the decision is. We just want a clear decision. Then we'll come back and see the parts that don't work. But a decision would really help us, whatever it happens to be. Thank you.

Now on to the subject of inerts. Well, because it's not easy to come up for the information that you ask for in your request for discussion, as I'm sure you know, I went ahead and just hand-counted the items on the OMRI list that were in the categories that would be allowed to have inert ingredients in them, which is the categories of pest and disease control.

I came up with 346 products listed. Now I will disclaim OMRI on this.
because they had nothing to do with my counting it. I just took the printed list and counted it.

But in order to find out which things have which inert is a huge and laborious process that the OMRI database is not really equipped to do at this time.

However, suffice it to say that any of those things may have an inert and they may have more than one inert, and those inerts might be on 4A, and they might be on 4B.

Renee just did give you the statistic. Approximately 65 percent of those, they think, are ones that have List 4B inert, which would not be transferred over under any of your existing options that only recognized 180.950 of the EPA, or List 4A, as it stands right now, and not List 4B.

So if you can do the math, 346, give or take, by 65 percent, some of which have more, some of which have less inert, you're looking at several hundred inerts,
minimum. So you don't have that great of a
track record of reviewing inerts,
individually.

I hate to say it, but in the whole
time of the NOSB, I think you've done three,
and then we have the fourth one of turpentine
polymers, that we're hoping will come back.
But you've got to pick up the pace if you're
planning to review the inerts individually.

Also, the reason that more haven't
come to you is many inerts do not have a full
amount of studies done on them, especially the
ones that were not moved over in the
reorganization of the EPA list to 180.950.
The ones that were moved over had
a whole--I can never get the acronym right--
but, you know, have had the whole process done
under FQPA or FPQA, or whatever. So thy have
studies. But the other ones don't have in
that's accessible to most of us, and sometimes
that isn't even accessible to the formulators
of the products because they're just buying an
inert package called Surewet or MoreGrow, or, you know, some other thing from another company, and are only buying it for functional effect, and get an assurance from the other company that it's 4B, but they don't necessarily know exactly very much information about it. And so reviewing each inert is very, very difficult.

I made a couple of recommendations. Of course our main goal is we'd like to have as little disruption to the organic industry and the materials review process as it stands right now, because we've worked up a pretty good scheme, and although we need some clarification and some dealing with petitions, but we do have quite a few products available for growers to use that have been reviewed.

So we would like you to, at least as an interim proposal, adopt all of List 4A and 4B, whether that be on the national list, or some addendum. We hope. Then we suggest
that you find some funding, or help find some
funding for OMRI and/or the EPA to complete a
comprehensive database, so you can get a full
idea of what inerts are out there, how many,
what kind.

And third of all, we'd like you to
take more seriously the clause in OFPA that
says, the NOSB shall work with manufacturers.
And then another part of it says, work with
the EPA to fully disclose all the inerts that
are in all of these products. Because if we
had full disclosure, then we wouldn't have
quite so much problem about confidential
information.

CHAIR MOYER: Thank you. Thank
you, Zea. Questions or comments from board
members?

[No response]

CHAIR MOYER: Thank you, Zea. We
appreciate your time.

Peggy Miars will be next up, and
Claudia Reid on deck.
MR. FEDER: I'm Sean and they wanted to switch with me, so that I could go to the certifier meetings, if that's okay.

CHAIR MOYER: The board recognizes Sean Feder, then, in place of Peggy.

MR. FEDER: Thank you.

MS. FRANCES: Do you have a proxy?

MR. FEDER: I do have a proxy for Robin Allen. That's correct.

CHAIR MOYER: Thank you.

MR. FEDER: My name is Sean Feder and I am the inspection operations director for California Certified Organic Farmers, an accredited, certified certification agency. I've been involved with organic certification since 1991. Thanks to the board for this opportunity to comment, and for all of your hard work and diligence in addressing these topics.

And as I mentioned, I will also be commenting for Robin Allen who is CCOF's grower and livestock certification supervisor.
And I'm going to comment on four topics. One is the implementation of biodiversity, and then three livestock topics which I won't list now but I will get to. So first, then, I will comment on the joint crops compliance, accreditation, certification committee's March 5th document, Implementation of Biodiversity Conservation in Organic Agriculture Systems.

CCOF strongly supports the widespread implementation of the NOP regulations regarding natural resource conservation, and so we therefore welcome and support this NOSB guidance proposal. In particular, we believe that implementation of these NOP regulations will be enabled and greatly accelerated when the NOP accreditation check list requires that accredited certifiers implement organic system plans, and inspection reports which address the national resource conservation requirements of the NOP regulations.
And on the whole, we believe that this part of the regulation, in particular, would benefit from strong leadership on the part of the NOP, such as guidelines for issuing noncompliances and specific deadlines for implementation of relevant OSP sections by accredited certifiers.

Another point I'd like to make is that we confer with the accredited certifier association comments, which actually, I was on the committee that helped to draft those, regarding the reemphasis of the term, natural resources over biodiversity, and the reason is because the former, natural resources, is a more practical and familiar term to most farmers.

And biodiversity is of course a vitally important term and concept; however, it tends to connote a particular method of scientific measurement that is not widely applicable to organic farm management or organic farm certification.
And the term natural resources better reflects the actual language used in the key sections of the NOP.

For example, natural resources of the operation is included in the definitions section, 205.2, whereas the term biodiversity is not.

So not that we shouldn't use the term, biodiversity, but just that in our experience as certifiers, we seem to get a better reaction and more understanding and buy-in from the farmers when we think about it in terms of natural resources, and sometimes when we talk about biodiversity, they think about like counting egg shells, or counting the number of species of grass, which is all great and important but not as practical.

Okay. I'm going to move on. And I'd like to briefly report to you on the state of where CCOF is with regards to treatment of the natural resources conservation and biodiversity in our certification program.
We have a natural resource and biodiversity section in our farm inspection form. At this stage, these verification questions aim to identify practices that may fall short of maintaining or improving the natural resources of the certified operation.

And we take really seriously our obligation to require remedial actions of certified operations who do not meet these requirements, and we are also working at the same time to refine and develop our response and compliance thresholds in this area.

We also provide relevant training and reference material to our inspectors, and certified operations. Our organic system plan, while it has always addressed certain aspects of conservation and stewardship, but from the angle of soil management, such as questions about soil erosion and cover cropping, and though we favor the concept, we have not yet incorporated a specific organic system plan section on natural resource
conservation.

It is substantially challenging for both us, and our certified clients, to distribute, collect, and approve new organic system sections for existing clients.

We will eventually implement this into our OSP, and again, we would like to see this be a requirement for all certifiers through the accreditation process.

Next, I'd like to move on to the Livestock Committee's proposed recommendation on the petition to include propionic acid on the national list.

CCOF has reviewed this petition and agrees with the Livestock Committee, that propionic acid as a mold inhibitor for animal feed, does not meet the evaluation criteria for addition to the national list.

The second livestock issue that I wish to address--I wish I had some volcano slides at this point, because I know you guys shave had a long day, but I don't, so you'll
The second livestock issue that I wish to address is the Livestock Committee's proposed recommendation to add new section 205.603(g) regarding the injectable vitamins, minerals and electrolytes.

CCOF applauds the Livestock Committee for taking on this issue and we believe that these products are essential to maintain the health and welfare of organic livestock, and that they are consistent with the Act.

Most--and I think this was mentioned earlier this morning by another certifier. But it is our understanding that most, if not all accredited certifying agencies, are already allowing their certified livestock researchers to use injectable vitamins and minerals as part of their preventative health care systems, and so we will be most happy to see these products added as explicitly allowed.
Our written comments discuss the manner in which the NOP regulations are unclear in the approach to animal drugs, and while these nutritional supplements, under recommendation, are not and should not be commonly thought of as drugs, we are a little concerned that they could possibly be misconstrued as falling under the restrictions of the NOP 205.238(c), which requires there to be illness to administer a drug. So we have a specific request, or suggestion, recommendation, that the proposed wording of the section change include—or start with the term, "as nutritive supplements, colon, formulated injectable supplements."

And that would also actually be consistent with the way that that whole section of the rule is written. Each list is as a particular purpose, and that would ensure that it was intended to be allowed as a nutritive supplement.

Okay. In the interest of time,
I'm going to--I had a little more on that, but I'm going to move on to the last livestock topic, and that's the committee's proposed organic animal welfare guidance and standards.

Of course CCOF strongly believes that animal welfare is an important element of the organic regulations, and the standards have not been super clearly defined, and we understand that intelligent people can disagree on what are the adequate measures taken by livestock producers to ensure animal welfare.

That said, we believe that one of the most significant threats to the perceived value of organic livestock products is the nonspecific requirements concerning animal welfare and living conditions.

While it seems that the intent of the regulations is to provide humane care to animals, the lack of specific requirements prevents consistent interpretation of the requirements and allows for a broad range of
livestock operations to be certified organic.

And so we welcome and encourage

the Livestock Committee in addressing this

issue and attempting to provide some guidance

and metrics to the organic community. And

let's see. We see the discussion regarding

the measurable scoring elements, such as body

condition and cleanliness, as a good first

step. However, CCOF would support more

explicit requirements regarding animal welfare

standards. We encourage the Livestock

Committee to continue their work to ensure

appropriate living conditions in health care

by developing more comprehensive language that

speaks specifically to such issues as animal

density, indoors and outdoors, access to the

outdoors and the allowance of various physical

alterations.

If the regulations can be modified

to clearly identify requirements for livestock

operations, we believe the consumer confidence

in organic livestock will also increase.
1 Thank you.

2 CHAIR MOYER: Thank you, Sean; appreciate your cutting it short.

3 Questions or comments from the board for Sean?

4 Hugh Karreman.

5 MEMBER KARREMAN: Just a comment.

6 Thank you for the constructive addition on -- as nutritive supplements for the proposed new section heading. That's right on.

7 CHAIR MOYER: Thank you, Sean.

8 Finally, Peggy. I said your name three times, and now you finally get to go.

9 Claudia Reid on deck.

10 MS. MIARS: I'm Peggy Miars, executive director of CCOF. Thank you for allowing us to change the order, so that Zea and Sean could get to their meeting.

11 CHAIR MOYER: You're welcome.

12 MS. MIARS: And you'll be happy to know, the longer the day got on, the more I cut my comments. So thank you for the work
that the CACC has done on various issues and
for this opportunity to comment on the
committee's four agenda items today.

Regarding the issue of peer
review, we did submit written comments, and
after discussion with others here at the
meeting, I'd like to amend those to support
the effort to contract with NIST to do an
evaluation of the program, and I think that
undertaking a peer review program will
ultimately solve man of the current issues
surrounding differing interpretations of the
standards, lack of transparency, and a lack of
an NOP quality manual.

A 100 percent organic labeling
claim. The scope of the discussion document,
first of all, was very limited, and certain
uses for atmospheric gases were not even
included. They were left out entirely. So we
wanted to mention that. And we feel that the
simple answer to the 100 percent issue is that
any product--excuse me--use of any product on
605 would remove the final product from the 100 percent organic category, and this is the cleanest way to ensure consistent application of the claim.

And we suggest that the committee consider a qualitative descriptor rather than a quantitative 100 percent statement.

For example, a super duper organic, or ultra organic, or premium organic, or a totally organic dude would be fine, unless you decide to drop the 100 percent claim, entirely, which would not disappoint us, at all.

And we request that you produce a recommendation that's easy to explain, that's able to be applied consistently, and that does not manipulate the rule for specific situations.

We need a document that will help certifiers to regulate the variety of products that are encountered every day, from organic greens in storage, to bag salad, to fresh-
washed product, to canned tomatoes.

Retail certification. We appreciate the fact that retail certification has been removed from the grower discussion. However, we do disagree that NOP guidance or regulatory changes are required to certify retailers.

Other than perhaps an issue that was brought up today about the definition of handler, that does not include retailers, and perhaps that definition could be changed.

CCOF has been applying the organic standards to retailers, locally and nationally, since 2003, without any problems. Some minor clarifications may be helpful in the future regarding employee training and signage, which I know have been some issues.

But overall, we think the rule is sufficient to certify retailers today.

We do continue to oppose less than 100 percent annual inspection by a third party for retail operations, with multiple
locations. The largest chains we're aware of have a few hundred stores, and it is possible to possible to inspect them all each year.

In fact, CCOF has just done so. We recently completed nearly 300 individual store inspections for one chain in about five months.

Retail stores regularly face annual inspections for food safety compliance, so we see no reason why they couldn't also have annual inspections for organic certification.

So we urge you to uphold the existing organic standards by requiring 100 percent third party inspection of retail locations.

And cosmetic, personal care products. In general, we support the inclusion of cosmetics and personal care products within the organic standards, rather than standards that are developed and administered by private businesses.
We recommend as few changes to the rule as possible, the addition of a definition of "cosmetic" and adding the word, cosmetics, to the list of products that can use the organic label, should be sufficient for now.

And lastly, I'm going to make another pitch for the board to hold a meeting on the West Coast. You'll get a different perspective from very passionate and very vocal individuals, I can guarantee you that, and I really do urge you, assuming the budget can allow to meet on the West Coast, because I think it would be a different experience for you, and like I said, a totally different perspective on issues.

So thank you for this opportunity to comment.

CHAIR MOYER: Thank you, Peggy.

The chair recognizes Kevin.

MEMBER ENGELBERT: Thank you.

Would you repeat your comment about--I couldn't quite catch what you said
about any material that's used, that's not a 605, would disallow a substance from, or a food product from being called 100 percent organic.

MS. MIARS: Yes. That was it.

That if you use any product on 605, that the final product should not be able to use 100 percent claim, because it would be a nonorganic ingredient, or--

MEMBER ENGELBERT: But used in what way? As a disinfectant for equipment? Or in the product itself? Or in the packaging? What, exactly, are you referring to? I guess is what I'm not clear on.

MS. MIARS: All of the above.

CHAIR MOYER: The chair recognizes Tracy; then Katrina.

MEMBER MIEDEMA: What about diatomaceous earth in a green silo?

MS. MIARS: And it would be coming in contact with the product; correct?

MEMBER MIEDEMA: Green. Yes.
There'd be no way of removing that diatomaceous earth at any--

MS. MIARS: Yes. Then it should not be able to be labeled 100 percent.

MEMBER MIEDEMA: And if it were the case that most grains were stored that way, preventing 100 percent organic grain, that's your final thought?

MS. MIARS: Well, yes. In fact the 100 percent claim, as you know, isn't really used that much, and so, quite frankly, should probably just go away, and the grain should be called organic.

MEMBER MIEDEMA: Okay. I just wanted to make sure. Thank you very much.

CHAIR MOYER: Katrina.

MEMBER HEINZE: Maybe you just answered this question for me, but, really, you mean that if we use the sanitizer, the product shouldn't be a 100 percent organic?

MS. MIARS: Yes. Because there's too much room for inconsistent interpretation,
and quite frankly, the 100 percent--
personally, I don't think there should be a
100 percent category.

MEMBER HEINZE: Well, that's what
I meant by it. I think you maybe jus answered
the question.

MS. MIARS: yes.

MEMBER HEINZE: I think it's
confusing for consumers, that buy lettuce that
has been appropriately washed. It seems like
it should be 100 percent organic. But maybe
it's just that the label is unclear. Thank
you.

CHAIR MOYER: The chair recognizes
Kevin.

MEMBER ENGELBERT: Yes. I'd like
to get back to that again. Does CCOF certify
any milk plants that use sanitizers in their
pipelines and then process and package organic
dairy products?

MS. MIARS: Yes.

MEMBER ENGELBERT: That seems
inconsistent with your statement to me.

MS. MIARS: Okay. Well, I'll be honest with you. This is a question that'd be better answered by our handler staff, who, unfortunately, we don't have here today.

CHAIR MOYER: My question would be, Peggy, if you use Tracy's example of diatomaceous earth in grain, livestock must be fed a 100 percent organic feed, are you saying that all grain that has diatomaceous earth in the storage tank would not be considered useful for livestock feed?

MS. MIARS: Well, in that situation then, I believe then that the rest of the rule would have to be--rather than saying a 100 percent, you would say organic.

CHAIR MOYER: Okay. The chair recognizes Julie.

SECRETARY WEISMAN: I think that's a very important point that you just made, Peggy. The 195, and made with our labeling claims that are used on the labels of
processed products, almost--mostly, really
sold at retail, I do not believe that those
categories apply to agricultural inputs.
Maybe I'm using the wrong terminology. I
forget it. I hate using the word input.

CHAIR MOYER: Raw.

SECRETARY WEISMAN: Raw materials.

I don't think that those categories apply.

MS. MIARS: And I apologize for my
ignorance, but does it currently say 100
percent organic feed or does it say organic
feed?

CHAIR MOYER: It says 100 percent
organic feed.

MS. MIARS: Okay.

MEMBER MIEDEMA: But we know
that's not true, just based on our use
discussion earlier. I think what we're
talking about with 100 percent labeling
composition is different. In a sense of a
livestock requirement is saying the word "all"
and using the word "100 percent," or else
there wouldn't--

CHAIR MOYER: Yeast is not considered feed, though.

MEMBER MIEDEMA: It is not. Okay.

CHAIR MOYER: Bea, you had your hand up. Please.

MEMBER JAMES: Okay. Sorry. I guess you're getting a "grilling."

I'm not advocating for the multisite construct with retailers, but I'm trying to understand, and I really appreciate your comments that you had about retail certification. What I heard CCOF say is that currently, injectable vitamins are not allowed but they're being used. And that you recognize that they are currently being used, and it could be a detriment if injectable vitamins were not put through by the NOSB. Please allow that to happen.

Yet, on the other hand, retail certification under the multisite construct was also being used and was being practiced.
But I hear CCOF say that they don't support that and that that's not part of what the rule is.

Well, neither was injectable vitamins. And so I'm trying to understand, if you could help me understand how you quantify what should be enforced and what shouldn't be.

MS. MIARS: That is a good question and I didn't write the comments about the injectable vitamins, so I can't really address that aspect of our comments.

CHAIR MOYER: Thank you, Peggy.

We appreciate your patience for us.

The board would like Claudia Reid to come to the podium and Joann Baumgartner is on deck.

MS. REID: Good evening and thank you for the opportunity to once again come and make comments before you.

My name is Claudia Reid, and I'm the policy and program director for CCOF. I will speak to three agenda items today.
Soilless growing systems, lecithin, both bleached and unbleached, and nanotechnology.

The Crops Committee did a really good job of writing this soilless growing systems document that we reviewed, and our staff had a difficult time writing complete comments on it without the full framework of the greenhouse production standards recommendation that was mentioned in the document.

So instead of making your job easier, we're going to make it a little more difficulty by simply asking some additional questions that we'd like you to consider.

Are you referring only to mature crop production in soilless media? Many transplants are grown in media consisting of vermiculite and peat, or core fiber, and in our mind would be soilless.

We would not support a proposal requiring transplants to be grown in soil or compost since they have plenty of time, once
transplanted, to interact with the soil.

Second question. Exactly how much compost is needed in a, quote, compost-based growing media. End quote. CCOF has certified greenhouse production plants for mature crops, such as tomatoes and cucumbers, with a grow-bag type system in which most nutrients are added through water.

But some compost, and other biologically-active substances are added to the media. We would need clarification on the minimum requirement for compost, and whether alternatives like humates, peat, and other approved materials, would be acceptable.

Final question on the soilless-growing systems. Since it's possible to meet every other provision of the NOP rule, other than the soil improvement standard, with soilless media, and, in fact, potentially provide more optimum nutrients--nutrition--sorry, two crops--in the controlled environment than they would get in the field,
thus making the food from them more nutritious, maybe it would be best to suggest allowing such crops to be certified with an alternate label.

A label such as, quote, made with soilless organic inputs, end quote. For certifiers, it comes to the same thing as for all growers. Is there an organic system plan that can be verified, monitored, and enforced? If there is, then there could be some type of certification allowed, even if it wasn't the full NOP organic seal.

For lecithin, bleached and unbleached, and for purposes of our comments, we are not making any distinction between the synthetic and the nonsynthetic lecithin. We support the movement—CCOF supports the movement from nonorganic to organic ingredients, if there is solid evidence of an adequate supply of organic lecithin in an appropriate form and of appropriate quality.

Our comments today are on behalf
of some of our clients. Our comments from our clients indicate that there is not necessarily an adequate supply of organic lecithin in appropriate form or quality.

We have heard from many of our clients, that the quality is what is a problem for them in the manufacture of some of their products. If the supply is not adequate, either in quantity or quality, it might be premature to remove it from the list.

We know that it's going to take a little bit longer for this whole issue to be settled, and we're hoping during the amount of time that it will probably take for this, for you guys to make your recommendation, better quality alternatives will become available in the meantime.

Zea mentioned to me that any of you who had questions about the allergy to soy, which in her case is real, it's not an allergy to the word soy on the label, but a real allergy to soy--she is available to
answer those questions. Obviously, she's not here now.

On nanotechnology, what I want to do, in the interest of time, is you asked specific questions in your document, and we did submit written comments on all of these subject matters. So I just want to go through your written questions and tell you what our answers were.

You asked: As currently understood, is nanotechnology compatible with organic? We believe that nanotechnology is not compatible with organic.

You asked: If not, are the current standards keeping nanoparticles out? And we commented that we believe the current standards do not necessary keep nanoparticles out.

Are any sectors of the organic industry already using nanotechnology? Because labeling is not required, we don't know the answer to that question.
What are the concerns about nanotechnology in food? Our concerns expand on what the Materials Committee document articulated. Lack of a clear definition. Lack of understanding of the atomic and molecular changes that can take place, and that are not well-documented or researched at this time. Inability of current regulatory structure to deal with potential human health and safety threats. Lack of current regulatory structure that could rein in unscrupulous actions by some manufacturers. Lack of knowledge about long-term impacts of nanotechnology use. And I'll stop there. Any questions?

CHAIR MOYER: Thank you, Claudia.

Questions or comments from members?

Steve.

MEMBER DEMURI: Thanks, Claudia. Did your clients indicate which forms of lecithin they're using? Or is it just a blanket statement?
MS. REID: Well, of course I learned a lot about lecithin today, way more than I ever probably needed to know, and I was not interacting directly with the client, and our handler person, who gave me the information, referred to the particular form of the lecithin in a way that I didn't hear mentioned today. I suspect it might have been the oilless. And I'll get back to you on that.

MEMBER DEMURI: Okay. If we could have that information for tomorrow, that would be helpful.

MS. REID: Yes. Okay. I'll e-mail Jody tonight and get it for you.

MEMBER DEMURI: Great.

CHAIR MOYER: Claudia, I had one comment regarding your soilless mix comment, and that was in discussions with the Crops Committee, I think there's a strong feeling that our thought would be that terrestrial plants are designed to grow in soil, not in
1 bags of media where liquid is poured in. So
2 if that went through the way--I think it
3 should--that operation would not be certified
4 as organic.

5 MS. REID: Okay.
6 CHAIR MOYER: That's my personal
7 feeling, not necessarily that of the entire
8 committee.
9 MS. REID: And we'll hear more
10 about this tomorrow, then?
11 CHAIR MOYER: We will.
12 MS. REID: Thank you. All right.
13 CHAIR MOYER: Thank you, Claudia.
14 Joann. And Alexis Baden-Mayer is
15 on deck.
16 MS. BAUMGARTNER: Thank you,
17 members of the board, for the opportunity to
18 give input on biodiversity, conservation and
19 NOP. I'm Joann Baumgartner, the Wild Farm
20 Alliance. We promote a healthy, viable
21 agriculture that protects and restores wild
22 nature, and we encourage you to fully adopt
the recommendation of your Joint Crops and Compliance Accreditation and Certification Committees.

As I'm talking, there's slides up here showing some farms that are conserving biodiversity, and of biological diversity itself.

Writers of the organic act and rule instituted principles and standards that are models for achieving balance of our technological and natural worlds. We live in extraordinary times. While we have the fastest communication yet, which brings quick, positive changes to our world, we are hitting our ecological limits, experiencing global warming, an unsafe food supply, river pollution resulting in 500 oceanic dead zones, unparalleled species extinctions and a pollination crisis.

What is required in NOP to conserve biodiversity and to maintain or improve the natural resources, including soil,
water, wetlands, woodlands and wildlife, helps to address these interrelated critical situations.

Dated vegetation on farms, when conserved on road edges, and tracks too marginal for good yields, or in riparian forests or wetlands, helps to capture excess nitrogen before it off-gases or pollutes waterways, filters pathogens like E.coli, hence making our food safer, slows water down for better groundwater recharge, provides food and cover and corridors for wildlife. Farms that conserve or plant native species that flower throughout the growing season benefit from native bees, which augment honeybee pollination, and in some cases surpasses it.

Economic values can be realized when habitat is present for beneficial insects, rodent-eating predators, and insectivorous birds and bats. Studies show that biodiversity is greater on organic farms than conventional production. This is partly
a function of less-toxic pesticides being used, and partly because of diverse cropping situations, including cover crops.

In different regions of the world, organic farms have better pollination services by native bees, greater success of fledgling birds, a larger abundance of birds and bats and butterflies and spiders than on conventional farms. Additionally, because organic livestock must be raised on pasture during part of the year, grassland birds, like bobolinks, that are in decline, benefit from this habitat.

In 2008, the Farm Bill dedicated significantly more funds to organic farming than in the past. Especially important for biodiversity is the conservation stewardship program that now streamlines applications for organic farmers.

Some certifiers have called attention to the fact that biodiversity is not defined in the rule, and they would like to
I want to point out that there are a lot of words, such as management, monitoring, mulching, hormones, and antibiotics that are not defined, yet they are critical components for certification and compliance.

In addition, the preamble makes it clear that biodiversity is not just a cursory word, but it has intent behind it when it says, "The use of conserve establishes that the producer must initiate practices to support biodiversity and to avoid, to the extent practical, any activities that would diminish it."

The term, natural resources, typically refers to management and extraction, where biodiversity describes values of nature that exist, not only for our benefit, but for the sake of native species and ecological processes. Both terms are important and one
should not be emphasized over the other.

We believe it's crucial for biodiversity and natural resources conservation to be fully developed and implemented. By doing so, the organic community will become more efficient at addressing the intent of the rule and better equipped to benefit from all that nature provides. There's a couple more slides.

These are some slides of farms. Thank you.

CHAIR MOYER: Thank you, Joann. I thought your slides were beautiful, and I tend to agree with you, that the two words are not interchangeable, and we need them both. But comments, other comments from the board? Suggestions?

[No response]

CHAIR MOYER: Thank you very much for your presentation.

Alexis Baden-Mayer in the room?

[No response]

CHAIR MOYER: If not, Marty Mesh.
Mr. MESH: I'm going to let Andy go first.

CHAIR MOYER: Well, then by all means, Andy LaVigne.

MR. LAVIGNE: I brought the microphone for you, Marty, so you're going to have to stand in the middle of the room. And being given the floor by Marty really does concern me since he's behind me. But we do have a little bit of a history in the Florida Organic Advisory Committee.

I appreciate the opportunity and the indulgence with my outlook file and my electronic incapability this afternoon to keep up with myself. But I'm Andy LaVigne, the president and CEO of the American Seed Trade Association, and we appreciate the opportunity to be here with you today.

The American Seed Trade Association is a very diverse group. We have over 715 member companies. Obviously, the seed industry in the U.S. is a multibillion
dollar industry. We represent all sectors of seed production for propagation, organic, conventional and biotech.

We've got a lot of--a growing Biotech Seed Committee, and very active in this area, and working both with the NOP staff and the industry to meet the needs of the growers, and also to begin addressing the area within the National Organic Program dealing with the use of organic seed in the exception.

And my comments today are with respect to the List 4 inerts and List 4A section, specifically, of inerts, and how we deal with that, going forward.

And I want to read a few comments, and then I've got our prepared statement for the record.

We acknowledge that there are complex issues surrounding seed use in today's organic operations, and that these issues are compounded by the underdeveloped organic seed sector within the greater seed industry.
In 2005, the NOSB statement specifically recognized gaps in the organic seed industry by stating--I quote: "That further development of the organic seed industry is the key to increasing commercial availability of organically-grown seeds. and subsequent increased usage by growers. In an effort to advance the organic seed industry, ASTA has worked to encourage the development of organic seed markets, and increase member participation in such markets. Recently, ASTA formally committed members and resources to providing better communication, information and training related to seed production, seed sourcing and seed inputs to the organic community. ASTA believes these efforts will further advance the availability of organic seed, to provide the expertise and knowledge necessary for the organic community to effectively deal with seed, the seed inputs in organic operations.
Our efforts here, and the products on List 4A are important to the organic seed industry, and we feel ultimately are important to the organic grower. As the NOSB and the NOP staff at USDA look at how to deal with this issue, we feel that adoption of the current List 4A inert is the way to go, and if a review needs to be done, then all products should be reviewed in a scientific manner through the resources that—or the sources that AMS, NOP and the AMS have available to them.

Just four quick topics on the areas of interest for the seed industry.

One is the issue of coatings that comes along with the seed industry. It's important for size, buildup, and planting, the uniformity issues, precision planting, as you look to use more advanced material, or implements to plant the seeds, as well as seed placement to ensure better germination.

Seed also is an efficient delivery
mechanism for materials such as micronutrients and amendments that may improve seed viability and performance for the grower, and under certain conditions, as we all know, seed may require both processing inputs to make seed viable.

For example, many lettuce varieties may present photo or thermal dormancy, such that it will not grow under many normal growing conditions. Dormancy must be broken through process and the use of inputs. Otherwise, the seed simply may not germinate.

And lastly, when seed-born pathogens are present, NOP-compliant materials may play an important role in reducing these pathogens, such that the seed viability is improved and disease transmission to the soil is eliminated.

The seed industry is moving to expand organic seed production. However, the use of NOP-compliant materials and technology
will be necessary for the seed industry to ultimately meet the needs of organic production. Therefore, we ask that the NOSB adopt solution option number two from the November 2008 discussion document, which provides to adopt the original 2004 List 4A inerts as an itemized list, with ongoing reassessment through the sunset process. I appreciate the opportunity to submit our comments and we look forward to working with NOSB, and I will attempt to take any questions that you may have this evening. Thank you.

CHAIR MOYER: Thank you, Andy. We appreciate your time. Any questions or comments from board members for Andy?

[No response]

CHAIR MOYER: Hearing none, we appreciate your time.

Marty Mesh.

MR. MESH: Marty Mesh, Florida Growers. I see the glazed looks, lasting between me and happy hour, and so I'm going to
be really brief. Just a technical correction
for Jim. Jim's statement earlier was not
based in science. It was his personal
opinion, and he gets paid to have such an
opinion on OTCO's superiority as a certifier.
So I do want to raise a concern about the
multiple accreditation costs from the
certifier's perspective. We probably spent
over $30,000 in staff time, this year, dealing
with NOP ISO Canadian, and lately, the OIG
audit, accreditation audits, and it's a
tremendous burden on small, nonprofit
certification programs.
I raise concern about George and
Grace's suggestions about opening up OFPA. Be
careful what you want to do. It caused a
great deal of concern from my viewpoint at
least. Brian's request for two farmers to be
heard. I would always urge this board to make
time for farmers, and maybe there'll be one
tomorrow.
This room. You know, with the
additional money that this industry has tried
to get for the NOP, you know, I mean, there's
room now, but the whole day, there are people
out in the hall kind of taking turns, standing
up in back. It's pitiful to think that
without USDA staff time being-- and lodging
costs and travel costs, going somewhere else,
California was mentioned, that we don't have
a room big enough, and that we had to take up
a collection out in the audience to get
wireless, so that people could pull up
documents, you know, and NOP positions or NOSB
recommendations, to be able to share in the
audience as this meeting took place.

And for the record, I've never e-
mailed any NOSB member about any vote. I
barely know how to do e-mails as well. I
think substantively, aquaculture standards, if
Grace is going to bring up yeast again, then
I'm going to bring up shrimp, and urge this
board to move forward with aquaculture
standards, you know, and out of concern for at
least managed aquaculture. The sunset
materials. We want to support them being
relisted. We also support the biodiversity
effort, and when we certify retailers, we
inspect every store.

And then last but not least, a
nonorganic okra update. We still, to this
date, have never been contacted by the
petitioner, by a yet-to-be-named "hmm-hmm
good" soup company that expressed interest, or
anybody else, as far as--you know--not as far
as organic okra, IQF, and I've said it at
every meeting. I will continue to say it.

It's up to the industry that wants
to source a product to contact farmers, maybe,
about hey, how can we make this work? It's
not up to, you know, us to come, keep stuff
from being listed. Nonorganic agriculture
products from being listed. But that's what
we had to do, and I've been waiting, somewhat
patiently, and somewhat not, for the phone to
ring or the e-mail to come, expressing
interest, and there's certainly farmers in the South that grow okra every single year and will continue to do so, and would be happy to work with a company on a fair and equitable long-term relationship.

With that, you guys have done great as usual, and see you next time.

CHAIR MOYER: Thank you, Marty.

Any questions or comments that board members may have for Marty on any of the topics he brought up?

MR. MESH: Nonorganic okra comments.

CHAIR MOYER: Just a minute.

Steve doe shave a comment.

MEMBER DEMURI: I was going to comment that your--I thought we were going to get away without an okra comment. I thought you were going to disappoint me; but you didn't. So thank you.

CHAIR MOYER: Okay. Thank you very much. Thank you, board members. With
that last presenter, this board stands adjourned until promptly, 8:00 o'clock tomorrow morning, when we will reconvene. Thank you very much.

(Whereupon, the above-entitled matter went off the record at 6:42 p.m.)
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UNITED STATES DEPARTMENT OF AGRICULTURE

NATIONAL ORGANIC STANDARDS BOARD MEETING

Tuesday, May 5, 2009

The National Organic Standards Board met in the Franklin and Adams Rooms in the Washington Plaza Hotel, 10 Thomas Circle, Washington, D.C., at 8:00 a.m., Jeff Moyer, Chairman, presiding.

PRESENT:

JEFF MOYER, Chairman
DAN GIACOMINI, Vice Chairman
JULIE WEISMAN, Secretary
KATRINA HEINZE, Member
GERRY DAVIS, Member
TINA ELLOR, Member
BARRY FLAMM, Member
TRACY MIEDEMA, Member
JOE SMILLIE, Member
JENNIFER HALL, Member
STEVE DEMURI, Member
BEA JAMES, Member
KEVIN ENGELBERT, Member
HUE KARREMAN, Member

STAFF PRESENT:

VALERIE FRANCES, Staff
BARBARA ROBINSON, Staff
RICHARD MATTHEWS, Staff
DEMARIS WILSON, Staff
ROBERT POOLER, Staff
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PROCEEDINGS

(8:03 a.m.)

CHAIRMAN MOYER: Okay, everyone.

The Board is seated, and we're ready to take care of our business. One brief announcement before we get started. I think everybody on the Board knows, but just for the benefit of everyone, Rigo Delgado will not be joining us today, as he had planned and expected. His work project has kept him away, so he won't be joining us at all this week.

All right. If we turn our attention to the agenda, we're ready to start our presentations and discussions by the Committees. And we're going to start this morning with the Policy Development Committee, Chairman Barry Flamm. Barry, if you're ready to go, you're on.

MEMBER FLAMM: Thank you. Good morning. As always, the Policy Development Committee work is a team effort, and in line with that this morning, the presentations of
our recommendations will also be done by team members. And Rigo has always been a valuable member, and we really miss him.

In any case, the first recommendation that we have involves a new addition to the New Member Guide, and this was sort of a pet thing that I thought of when I came on the Board. I was overwhelmed by the number of acronyms, and wanted, for my own personal use, to make a glossary. This ended up on our work plan, and thanks to Tom Hutchinson of OTA, he gave me a great start. He sent a list that he had used to help himself. So, in any case, this first recommendation is a list of acronyms.

The recommendation states that this could be amended at any time without going back for a vote. It's a working tool, and already received several very helpful comments from the public on name changes, and organizations, additions, and that, which will be incorporated before posting. So, that's
the first recommendation.

The second one, Hue will present.

MEMBER KARREMAN: Time for me to present. All right. Thanks, Barry.

This is another addition to the New Member Support Guide, and I think it will be really good for the new five people coming on next year, as the Board is getting on board to the bulletin board, where documents can be worked on in real time, people can add things at any point, and not get lost on updates and emails alone. And, basically, that's it. And it's recommended that this particular section, which, in our notes, shows basic computer screen shots of how to jump around within it. It's the NOSB e-Bulletin Board, titled, and this section will be added to the New Member Guide in Chapter 5, "Suggested Best Practices", immediately after Section E, "Tracking Changes in Word Documents." And then it will be titled, "List of Common Technical Sources Used by NOSB Members." It
will become Section G.

MEMBER FLAMM: Thank you, Hue.

The next section is additions, changes to the Procedure and Policy Manual.

First up is Priority Petition Inclusion in New Member Guide, and Steve has worked on that, and will present it to the Board.

MEMBER DeMURI: Thank you, Barry.

The original document that most of you saw has been modified based on some very good comments we got from the public, both written and orally yesterday, so we met as a Committee this morning and talked about those. Valerie, do you have the revised one? Yes.

Okay.

It's kind of hard to tell, but everything that's in red is a revision from the previous version. The comments revolved around two main themes. The first one was that there could be a potential for petitioners to resubmit petitions, to add or remove substances to or from the list without
new substantive information. So, that was a
very good comment that several people made,
and we wanted to try to tighten that up, so
that we wouldn't have people just continually
repetitioning things over, and over, and over
again, without some kind of new information
coming to the front. So, we did tighten up
some of the sections of the guideline to keep
that from happening, hopefully.

The second comments, the main
theme revolved around old petitions that have
been into the black hole of the NOP/NOSB for
a number of years now. There were some folks
that thought maybe we should include those
into this guideline.

What we decided to do as a
Committee was to leave that as a separate
issue that the NOSB and NOP are addressing.
We heard comments yesterday from the program
that they were going to work with Science and
Technology to try to address those. I think
Valerie is going to address that in her update
this morning. So, we felt that was really a separate issue that we did not include in this document.

MEMBER FLAMM: Thanks, Steve.

MEMBER DeMURI: So, one more thing.

MEMBER FLAMM: Oh.

MEMBER DeMURI: Trying to cut me off there. One thing that's important to remember is that this is just a guideline, so if something comes up that's out of the ordinary, the Committee Chairs, working with the Materials Committee and NOP, can make judgment calls as they need to for unusual circumstances, so this is only a guideline. It's not set in stone. It's not going to take an act of Congress to change, and it could be modified as we go forward, as well.

MEMBER FLAMM: Thanks, Steve.

CHAIRMAN MOYER: Mr. Chairman, do you want your Board members that have questions or comments to present them as each
person presents their particular item, or
would you prefer they wait until the end and
ask questions?

MEMBER FLAMM: Maybe in this case it would be well to take questions now,
because the petition did have a number of issues. So, does any Board member have questions?

CHAIRMAN MOYER: I have one question on the previous presentation.

MEMBER FLAMM: Oh, okay.

CHAIRMAN MOYER: So, I guess I'll ask that now. On the e-Bulletin Board, Hue, I just was wondering if we shouldn't - I'm not sure how to put it in there - but make a statement that folks should make sure they pay attention to emails coming from the e-Bulletin Board Administrator about changing your password, because it seems to be an issue where even with you, people neglect those emails, and suddenly you can't gain access to the site. Just a question.
MEMBER KARREMAN: I think that would be fine, and I have tried a couple of times earlier. But, I agree with you that that should be put in there. Joe?

MEMBER SMILLIE: When I go off the Board, you'll probably have full compliance, because changing passwords, maybe I'm getting old, but I can't remember what the passwords were. And I just finally said goodbye. It's like just too much for me to keep changing my password. And they don't let you use an old one, you can't like rotate, so it's like -- I said goodbye, so I apologize.

MEMBER SMILLIE: No apology necessary, Joe. I'm in the same boat. And it is hard to keep thinking of new passwords. I have them like taped to my wall, and I draw a line through them so I don't use them over again.

MEMBER FLAMM: I think it was Katrina that gave me a tip that works. I don't -- it's just 1, 2, 3 and each, but I
1 keep the same password and go to the next
2 number. Any other questions?
3 Member James: Maybe what we
4 should do is make sure that it's clear that
5 you want to continue to do your dialogue
6 through email, because that seems to be the
7 primary way that we're communicating right
8 now. And that the e-Bulletin does have the
9 passwords that need to be updated frequently,
10 and it's not a substitute for making sure that
11 you look at email, as well. So, we can
12 finesse that wordage.
13 Chairman Moyer: Yes. I didn't
14 want to distract everybody from what we were
15 doing here with Steve. It's just, it's
16 something that comes up. And, you're right,
17 we do most of our current business by email,
18 and then post documents onto the Bulletin
19 Board so other Committees can see what we're
20 working on. That's how we've been using it,
21 anyway. But without a password, it's really
22 useless. Thank you.
MEMBER FLAMM: Part of this material I think Hue already covered, but re-emphasize, this was material developed by Rigo, and it was used in our training session, so it's pretty much moving it over to the New Member Guide. And it doesn't create any policy or things like that. Yes, Dan?

MEMBER GIACOMINI: Yes. Just on the petition guideline, I think it is only a guideline, and it's for our sort of internal paperwork. But I think it's good to clarify that in setting up -- and this priority -- we're really just formalizing the priority list that we've sort of always had. But I think it's good to clarify that simply by having this priority list, everything still moves forward. Nothing becomes shelved because something has a higher priority.

We may try to take faster action on it, but if it is bogged down, for whatever reason, technical reviews, confusion issues, whatever, that action of a bogging down of a
higher priority doesn't derail anything else.
Everything is still moving forward. And
tings from number three may come up before
tings from number one. It's just we try to
push harder on them, but everything still
moves.

MEMBER FLAMM: That's correct.

And as Steve pointed out, in the final
analysis it's a judgment of the Committee and
the Board on where things go. But, as Hue
pointed out, what we're trying to do, some of
these instructions were written some time ago,
especially priority of -- to delist, but it
never found its way into the Policy and
Procedures Manual, so a lot of people either
forgot, or didn't know about it. So, we're
trying to put this together as a reference
point, as a guide, and not anything to
hamstring, because there has to be -- the
Committee will use judgment in determining it.

Okay. Moving on, the next item

for the revision of the Policy and Procedure
Manual. We've been systematically going through the Policy and Procedure Manual trying to update it, and bring things forward, decisions that are already made, or practices in place that weren't reflected in the manual.

In Section 3, which deals with duties of an Executive Director, and of the Officers, and also meetings, we did some updating. There's a more complete description of the role of the Executive Director, and it's trying to reflect what the Executive Director does at this time. The Executive Committee duties were updated and changed, and the wording was replaced as follows. "Only the Full Board" - and this is, I think, a clarification, and I believe better stated - "Only the Full Board may make decisive action on guidance and other policy recommendation from the Committees, including the status of materials proposed for addition or deletion on the National List."

That replaces wording that said,
"Except, the Executive Committee shall not take any action on a recommendation to the Secretary, including status of materials, and on the National List." I think this new wording is clear.

It also clearly assigns the Executive Committee to sort of oversee the proposed work plans of the Committee, and the language is that, "The Executive Committee will provide guidance and feedback to Committees on their proposed work plan." And we took that out of the Policy Committee duties, which the Policy Committee wasn't doing, and we thought more appropriately was a role of the Executive Committee.

The language for Secretary -- actually, this was agreed to at and passed at the last meeting, those duties, you can see up there, which involved technical corrections. The Secretary sort of tracks that, makes sure that what decisions of the Board and what's published in the Federal Register is the same.
And if there isn't, to alert the Board for action to be taken. But this was passed at the last meeting. We're just moving that up into the Policy and Procedure Manual.

Then, finally, the meetings description was much out of date, unclear in terms of FACA requirement, and also when the statement was that the Board determines on its own where the next meeting will be, and sets the schedule. And that hasn't been happening, so this language clarifies the FACA responsibility, and public notification. It also clarifies what does actually come under FACA notification; like we can have get-togethers, certain kinds of get-togethers that are outside the requirements of FACA.

And, then scheduling the Board meeting, this has been reworded to say, "The date and location of periodic full in-person Board meetings normally twice a year will, to the extent possible, be set by consensus of the Board, and in consultation with NOP."
So, that's the changes proposed for Section 3. Any questions on this? Yes, Tracy.

MEMBER MIEDEMA: I have a question back under the Executive Director duties section. It talks about participation of the Executive Director, and that's never been a serious issue, because our Executive Director is immensely gracious, and very good at her job. But there's the risk of sort of a privileged member of the public being a 16th Board Member because of the level of participation of the Executive Director. So, we don't have anything in here that sort of says what that person's role is not. And that's a little bit of a concern, that we don't say they are not to influence the Board in X, Y, or Z. And maybe that's not necessary, but the only word in here that does give me pause is the word "participating" in officer calls, which implies a real, I guess, participation. And I think that we might be
1 able to use a word that better -- facilitates, 
2 for instance, right there to be a little more 
3 clear about what the role is.  
4 MEMBER FLAMM: Thank you for those 
5 comments, Tracy. And we'll consider that. 
6 So, the duties reflects pretty much what's 
7 happening now, but I understand the point 
8 you're making. Thank you. 
9 If there's no more questions, Bea, 
10 would you address Section 4? 
11 MEMBER JAMES: As part of a 
12 systematic review, we're also just trying to 
13 make our way through the Policy and Procedure 
14 Manual, as Barry mentioned, and update it. 
15 So, Section 4 is a description of the Standing 
16 Committee duties, for the most part. It's 
17 very broad, and we updated that for each 
18 Committee to more clearly reflect what those 
19 Committees are doing. And I do have, based on 
20 some public comment, and also some comments 
21 from the Board members, some friendly 
22 amendments that I'd like to be able to make on
this recommendation.

Under the first Committee certification accreditation, it was suggested, because we had it in some of the other Committees, and we missed it on a few, under "The Board is to provide guidance, clarification, or proposed standards of certification, accreditation, and compliance sections of the Organic Regulation." And then after that it should say, "and OFPA." And then on the Crops Committee, after 7 CFR Part 205, we'd like to also add, "and OFPA."

And then we had a public comment that we actually missed removing technical reviews out of the Crops Committee. And we had a public comment that reminded us that technical reviews is not used in OFPA, the Final Rule. And it should be deleted, so that we have consistent language in our description, which is Technical Advisory Panel reports. So, we'd like to just leave it at Technical Advisory Panel reports, and take out
under Crops, "technical reviews." That's the only place we need to take it out.

MS. FRANCES: I just have a question, why wouldn't you want an additional form of information included in the Committee's description?

MEMBER JAMES: Is there an issue with it not being the language that's used in OFPA, or the Final Rule?

MS. FRANCES: This is your policy manual.

MEMBER JAMES: I'll defer to Barry on a final decision for that.

MEMBER FLAMM: Well, we're trying to be responsive to the public comments, and I think since it was only the Crops Committee that this is an issue, and we didn't put it in the other two, that we were being inconsistent. So, we should either put it in all or just drop it. And it was our decision this morning in the Committee to go ahead and drop that in response to concerns expressed,
which doesn't change the content. Jeff?

CHAIRMAN MOYER: Barry, maybe we could get a comment from Barbara or the Program, because I think technical reviews is a term that you folks started to use, and presented to us. Instead of TAPS, we started calling them TRs. Is that -- and that language for TRs, Technical Reviews, isn't in the rule. Is there a reason why you've chosen that language? Should we include that in here? What's your feeling?

MR. MATTHEWS: To tell you the truth, I don't know. And I guess the question that I would pose is, is there a difference between technical review, and Technical Advisory Panel?

CHAIRMAN MOYER: I'm not sure if there is, or isn't. But I know -- I just know from conversations we've had, technical reviews is language that you folks starting using to the Board, and we just adopted it, and started using it in our normal protocols.
MR. MATTHEWS: If there's no
difference, I would suggest going ahead and
removing the language, as suggested.

MEMBER KARREMAN: I think the
technical review term came up only just in the
brief like last few months, so that if Board
members felt they could do it, we wouldn't
have -- that we all could stand as Technical
Advisory Panel. I think that's where it all
came from.

CHAIRMAN MOYER: I think Barry's
got the floor, so he should acknowledge the
commentors. I think Valerie had a comment,
too, Barry.

MEMBER FLAMM: Valerie, did you
want to make a comment?

MS. FRANCES: I wanted to offer --
you use technical review elsewhere in your
policy manual to describe your Materials
Review process, and the addition of technical
reports as being different than Technical
Advisory Panels, because they're done by a
consulting body, rather than a panel convened
to give you feedback on the materials. And it
was partly due to, also, the issue of 606,
where you are serving, in many cases, as your
own Technical Advisory Panel, so I think it
just shows a richer, broader range of input.
And you've been using it elsewhere in your
Materials Review process, so it just seems
odd, if you're going to use it elsewhere, to
not describe it in your Committee Review
process, as well.

MEMBER ELLOR: And that's pretty
much the point I wanted to make, is that, to
me, there's a very profound difference between
Technical Review, and a Technical Advisory
Panel, because a Technical Advisory Panel, as
Valerie indicated, indicates that there's more
than one mind at work reviewing the material.
I think there's a big difference.

CHAIRMAN MOYER: Yes, Bob?

MR. POOLER: Bob Pooler, National
Organic Program. The term "Technical Review",

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came about from the argument, or public
comment that was presented that items for 205-
606 did not have TAP reviews. And it was the
opinion of the Program, or dialogue between
the Program and the NOSB that the Handling
Committee was, essentially, the Technical
Advisory Panel, and that the reports from
contractors were the technical reviews to be
used by the Committees, the Technical Advisory
Panels for all petitions. Essentially, that's
where the terminology came about.

MEMBER FLAMM: Bea.

MEMBER JAMES: Barry, I would like
to suggest at this time that we table the
topic of Technical Reviews for our Committee
to further explore, and that perhaps we
consider removing it at this time, and that we
put on the work plan for the Policy Committee
to look at technical reviews, how they're
discussed in the Policy and Procedure Manual,
and come up with a more consistent, and clear
understanding of how we're going to be putting
it forward in the description of the
Committees.

MEMBER FLAMM: I think it was the
last meeting, the Policy Committee did review,
and I think with Materials, the TAP, and
technical reviews, so we do have a new
statement on that. I think the points have
been made here are valid, and maybe we should
look at it again. We were, this morning,
trying to be consistent, but also responsive
to the public. But I think maybe we better
look at the removal. It seemed like a simple
thing to do, it was more -- almost like an
editorial thing, but I see that that's not the
case. We'll look at it again.

CHAIRMAN MOYER: Barry, the
Program has a comment.

MR. MATTHEWS: Yes, I just wanted
to remind you that our attorneys have
determined that the Board can serve as its own
TAP.

MEMBER FLAMM: But, I think we
took note of that, but it doesn't, necessarily, mean we would decide that's the proper course to take, but that we have that authority, I think we realize that.

MEMBER JAMES: Okay. So, the Committee will discuss further today the issue of technical reviews being in the descriptions, and, hopefully, be able to talk about that tomorrow then.

Additional changes are moving down to the Handling Committee. Again, after 7 CFR Part 205, we'd like to add, "and OFPA". And then the same for the Livestock Committee. And those are the only additional friendly amendments to the description of the Committees.

MEMBER FLAMM: Thank you, Bea. The next item, very briefly, addition to the Policy and Procedure Manual by diversity requirements. And this will -- I'm passing on this until the actual decision on the -- that the Board makes about our bio
diversity recommendation. But there are several places in the Policy and Procedure Manual that deals with bio diversity, so that would need to be updated when a decision is made.

And, finally, Valerie is going to give a report on the, I guess, Steve said earlier, the black hole. Is that -- sorry, Valerie.

MS. FRANCES: I'm just providing an update on the effort I've been making in terms of tracking recommendations. And I wasn't going to try to clarify the black hole of Material recommendations and reviews. I was actually focusing on the Non-Material, so I'm not quite addressing probably what you referred to earlier, Steve.

But just to expand a little further on what Barbara raised in her report yesterday, which was looking at since 2002 there's been 65 Non-Material recommendations. And I want to offer further that 12 of those
have gone forward with rule making or
guidance, 29 were taken up again and worked
through, and revised, and worked on, and
elements of that would be the 606 work towards
commercial availability requirements, all the
aquaculture, stages of recommendations,
aquatic plants. There's just been an array of
things that you've worked on and improved,
and, so, the example of the 606 commercial
availability as a recommendation did go
forward with guidance. And that came out in
the Federal Register notice on submitting a
petition.
And then, there is the area,
though, of things that have -- need some kind
of additional action or response, and there
are 27 of those. And aquaculture, pet food
are examples of those, along with some of the
discussion that you had yesterday about the
certificates, and expiration, renewal dates,
standardization. Those sorts of things, I
think, are still sort of on the table to be
figured out. But I just wanted to provide a little more of a description of where things are at, and working towards getting some more resolution on how to strategically move forward on those things. So, that's just a little more information.

MEMBER Thank you, Valerie. Sorry for characterizing it that way. That completes the Policy Committee's report on its recommendations.

CHAIRMAN MOYER: Thank you, Barry. We appreciate that report, and your team's hard work, as well.

Moving on, we're going to go to the Compliance, Accreditation, and Certification Committee. Chairman Joe Smillie. Joe, the floor is your's.

MEMBER SMILLIE: Good morning, everyone. We'll follow it in the order that it's presented.

First item is going to be our recommendation on peer review system. And
you'll notice it says "system", because what
we're looking to create is a systemized
approach. I'm not going to go through the
document. It's been posted for quite a while.
I presume the Board and interested public have
read it.

The commentators really didn't
take issue with any of the history or the
regulation citation, per se. But there were
a number of comments on this, mostly in
support, with some additional guidance. The
comments really, quite amazingly, all stemmed
from one fountainhead, the lady known as Lynn
Cody. Her comments were very precise,
succinct, and highly evolved. Most of the
commentators simply cited her comment in their
comment. And we took note of that comment.

The only comment that really
veered from Lynn's core points was the OTA
comment. And that was absolutely technically
correct. OTA pointed out that the peer
review, as mentioned in both OFPA, and the
regulation citations you can read, was set up to evaluate candidates for accreditation. And that was the original intent of OFPA, and the regulation. However, we have evolved to a system that I think is basically universally agreed that it just isn't appropriate for a Peer Review Panel to be evaluating candidates for accreditation; that the real role that we're looking for, and it is an evolution from OFPA and the regulation, is an oversight of the accreditation of the NOP program, itself. And, so, while technically correct, we respectfully disagree with the OTA comment. And we will proceed in our recommendation to talk about the Peer Review System as an evaluation of NOP accreditation.

Basically, if we want to go -- the Committee met and has decided upon a number of additions to our recommendation, and those are underlined above. What we are looking for now in the discussion is an evaluation by ANSI, or the National Institute of Standards and
Technology, NIST, program called the "National Voluntary Conformity Assessment System Evaluation", NVCASE Program II, the ISO 17011 standard.

We also think that evaluations by OIG should be utilized by ANSI or NIST as part of their evaluation, and I would add "system", if you could just add system, Val.

Now, we decided to leave ANSI in as an option for a couple of good reasons. One is, the excellence of the job they did in 2004-2005, and, also, ANSI is the U.S. sole representative at the ISO table. I'm not sure of NIST's involvement in that, but I know that ANSI is the U.S. rep at ISO. We think that's important, and we think ANSI has good credibility. And we certainly wouldn't want to straight jacket our dear friends at the National Organic program. We'd like to give them options to pursue in consultation with the NOSB, and, of course, the public.

We also feel very strongly, based
on recent experiences by a number of accredited certifiers, including my company, that the OIG evaluation is, although internal, and not necessarily directed towards 17-011, extremely valuable, thorough, and competent. And that should be part of the mix. So, any evaluation of the NOP should include the internal evaluation by OIG.

They've been very busy for the last couple of months, and I'm sure we all anxiously await their public report. And we believe that either NIST, or ANSI, should take that into consideration.

So that's basically it. If you can move down, Val, to the recommendation, we've simply added NIST, save type space, to the mix. The other comment that was made orally, I'm not sure that it was a written comment, was that it should be annual. We don't feel that that's appropriate. The accreditation cycle for certifiers is every five years, not every one year, as someone
stated yesterday. And a three-year cycle
gives enough time for the evaluation review,
response, counter-proposal, whatever. It
takes time to go through this, and three years
is plenty. It could be even enlarged, I
believe, to four, possibly even five. But
we'll stick with three for the time being,
since that's the number of years it takes to
qualify as Organic. It's an historically
significant number.

So, to keep it short, that's it.

We accept the public comment that NIST should
be certainly considered, and, actually, as we
heard at the beginning yesterday, if you
weren't here, that the ARC branch,
Accreditation, Review, and Compliance --
Audit Review - I'm sorry - Audit, Review, and
Compliance has achieved NIST accreditation.
So, obviously, the NOP is on their game, and
they're ready to take the next step to fulfill
the regulation and OFPA. I'm done. I'm done
in more ways than one.
(Laughter.)

CHAIRMAN MOYER: Joe, I just wanted to say that I think this is an excellent example of how a Committee does its work, presents it to the public, gets response from the public, incorporates it into their document, makes the changes, and it's a better document because of it, so great work to you.

MEMBER SMILLIE: I will turn it over to Julie.

SECRETARY WEISMAN: Can I make a request?

MEMBER SMILLIE: Sure.

SECRETARY WEISMAN: Can I move down in schedule? I am having a lot of trouble integrating my role as Board Secretary with other responsibilities that I have, including presenting this. And I don't have all my -

MEMBER SMILLIE: Ducks in a row.

SECRETARY WEISMAN: -- documents up, so I would appreciate being able to -
MEMBER SMILLIE: In addition to your work on the Handling Committee, I might add.

SECRETARY WEISMAN: Yes. Thanks.

MEMBER SMILLIE: So, we go from A to Bea.

SECRETARY WEISMAN: I'm sorry, Bea.

MEMBER JAMES: Good one, Joe.

Okay. I'll be talking about our discussion document, Voluntary Retail Certification. And I guess I'd just like to start with posing the question that I think most people had in the public comments, which is, why are we looking at Voluntary Retail Certification?

I think the simple answer is to improve and strengthen retail certification, and to make sure that the Program is providing clear guidance, so that retailers, and certifiers, and consumers know exactly what organic system plan, inspection protocol, and
consumer marketing messages are expected of retailers.

The more complex answer stems from many public comments that we received and heard yesterday, that asked the question, "can retailers be certified, at all, if they are not processing?" Which the Program, I believe, clarified yesterday by stating that, "Continued retailer certification is best served under the umbrella of the Program. And, additionally, the CACC believes that Voluntary Retail Certification is enforceable within the guidelines of the regulation. But that, perhaps the Committee will explore this issue further." And as one of the commentors suggested yesterday, we'd like to ascertain what departments are best served under the current regulation for Voluntary Retail Certification.

I, also, would like to acknowledge that many comments regarding retailer certification were strongly opposed to a
multi-site construct applied to retailers. We definitely heard that message loud and clear. And I'd like to reiterate that the core of this recommendation is to explore how we can strengthen and clarify Voluntary Retail Certification. And it is not to try to scheme a route to create an inspection protocol that would mimic the farmer grower groups.

Our opportunity for addressing retail certification is now, and the Committee absolutely appreciates all the public comments to help steer us in the direction of a discussion document towards a recommendation that we hope to be able to propose at the November meeting. Retailers want to be certified, and have invested heavily in trying to create good organic handling from farm-to-store, so our consumers feel confident about the products that they purchase with the USDA seal.

And just to wrap it up, I'd also like to mention that many commentors also
welcomed, and expressed the need for consistent guidance and regulation to support the continuation of USDA Voluntary Retail Certification. And it's the goal of the CACC to explore this issue so that retail certification is supported by the industry, and understood by consumers. That's all I have to say, and I will take any questions.

MEMBER GIACOMINI: There was a -- I don't remember how many. There are a number of comments suggesting that we -- even though it's voluntary, we write regulations for retailer certification. Where does the Committee stand on that idea?

MEMBER SMILLIE: We're going to look at that. We're going to look at it by departments. Certainly, if any processing, which includes re-labeling and re-packing, I would carefully add, if they're already processing, we believe that they are handlers, so we'll look at it department by department. We may come to the conclusion that the grocery
aisle doesn't qualify, but that the deli, produce, bulk, what else? Bakery, would all qualify as processors, and may not need more specifics.

Again, the specifics, when you get right down to it, might be left up to certification organizations, which are currently doing it now, anyhow, but we might want to add those items to our -

MEMBER JAMES: And I just want to also comment on that. It's actually a lot more complex than that, because bulk foods is often found within the grocery aisle, so it might just be that the grocery aisle would be included. And I know that there are several retailers that have invested in having the grocery department certified, because bulk foods is within the packaged grocery department.

MEMBER GIACOMINI: It just seems that over the past few years, some of the biggest problems we've seem to have had are in
signage. We always talk about the dripping ice, but we have -- and that's what I call physical contamination. Well, I'm just as concerned with what I'll call mental contamination, with bad signage, misrepresentation in advertising, and all those issues. And I think if we're going to go that route and really strengthen the voluntary program, I think we need to really look at those issues.

MEMBER JAMES: I would like to respond to that by saying that I couldn't -- I can speak on behalf of the Committee, that we couldn't agree with you more. And that a lot of the inconsistencies that we see with voluntary retail certification is a misunderstanding of some retailers on what the marketing message needs to be for the consumer. So, we hope to be able to address that by clarifying that, and what our recommendation will be at the November meeting, so thank you for those comments.
MEMBER MIEDEMA: Good morning.

This is a discussion document, and I guess I'll start out by saying that about five years ago, a woman came before our Board, and she did something very dramatic and memorable.

She stood up and she took a bite of a bar of soap, and it lives on in the annals of presentations before this Board.

Well, I brought a bar of soap today, and I'm not going to take a bite of it. And no one is going to wash my mouth with it, but this bar of soap was in our hotel room at the last meeting. And it was -- it says "Organic bar" on it. And this is a mislabeled organic product. And, of course, it was this supremely ironic thing that all of these National Organic Standards Board members were stocked with improperly labeled organic products, and probably completely bogus organic products. There's nothing on here that talks about who certifies it. It just says, "organic", and it says, "Made in China"
on the back. And it was a clever marketing
term for somebody who packaged this up. They
felt completely unfettered in their use of it.
The person buying it wasn't working under any
constraints that they were too worried about,
so it really galvanized my interest in looking
at this issue a lot more closely, and decided
to investigate.

I'm not going to, in making this
presentation, present myself as an expert.

Joe actually has a lot more expertise on the
topic. And there are many members of the
public who are here today, who have devoted
their lives, their entire adult professional
lives to developing standards, and really to
developing healthier personal care products.
But the status quo, it's very confused.

In 2005, the Program issued a
document essentially saying organic personal
care products will move forward. And they
made one comment that's at the very end of
this memo, August 23rd, 2005, that is often
quoted. "The NOP will pursue such rule making
as expeditiously as possible." But things
change, times change. There is a new guidance
issued in April of 2008, that said, "Any
cosmetic body care product or personal care
product that does not meet the production
handling, processing, labeling, and
certification standards described above may
not state, imply, or convey in any way that
the product is USDA certified organic, or
meets the USDA organic standards."

It sounds like drawing a line in
the sand, but there's a giant caveat, and the
giant caveat is what's giving a lot of people
pause in the industry. And here's our thicket
of competing regulations. Because USDA went
on to say that, "USDA has no authority over
the production and labeling of cosmetics, body
care products, and personal care products that
are not made up of agricultural ingredients,
or do not make any claims to meeting USDA
organic standards." So, now we started to
tiptoe into some murky waters. Very much at
the crux of our synthetic/non-synthetic,
ag/non-ag discussions that we're having as
well.

Lastly, the NOP said that,
"Cosmetics, body care products, and personal
care products may be certified to other
private standards, and be marketed to those
private standards within our borders in the
United States. These standards might include
foreign organic standards, eco labels, earth-
friendly", et cetera. USDA's NOP does not
regulate these labels at this time.

So with that sort of rubric in
mind right now, I look back at this soap, and
maybe it is legal. Maybe it was fine, because
maybe there is a certifier at the end of this
who doesn't require their name be printed.
The truth is, I have no idea.

I was at a kids' soccer game a
week or so ago, and was talking with a friend
and colleague of mine about what I was doing
in D.C. this week. And she said oh, I'm not going to buy any of that organic stuff. I just -- it seems all over the place. I don't know if it's really organic. And she was somebody who was very motivated, and wanted to really upgrade her purchases of personal care. And I think it sums up a lot of consumer's feeling right now, is that they just don't -- they don't know what organic means in this realm of products.

Now, it's one of the bright spots in the industry. It's one of the highest growth areas. There's a lot of urgency. There's a lot of interest in companies investing money. And, in fact, a lot of money has been invested. We have this ground swell of attention around the new ANSI Made With Standard, and that'll kind of take its own life, and start, I guess, being used, and adopted.

What we tried to do in this discussion document, first and foremost, was
give a forum for public comment, and get some
public comment on the record for us all to
look at together. But what we state is pretty
bold. I mean, we're saying NOP, own the word
"organic", so that there's no confusion, no
more confusion for consumers. And take that
step.

All of the enormous amount of
regulation that we'd need to write would need
to follow. Maybe there would need to be a
task force. There's certainly a wealth of
informed people to draw from. We didn't
advocate for a task force in our discussion
document. We went right to the heart of the
matter, found places in the regulation that
would need language changes. If you could
scroll down a little bit, Valerie.

We tried to, just the facts,
ma'am, get right to where in the regulation
would need to be changed in order for these
products to have a home in the National
MEMBER JAMES: I don't know if we're capable of even answering this question or not, but one of the concerns that I have is with organic body care, or cosmetics. What is the likelihood that we'll end up needing to have a lot of synthetic, non-agricultural ingredients on the National List, in order to support cosmetics?

MEMBER MIEDEMA: I have some thoughts on that. I'm going to defer to Joe, though, on this one.

MEMBER SMILLIE: My opinion is that it's got to be agricultural. Okay? But it will be, also, definitely synthetic. In other words, you're going to take -- in order to achieve efficacy, the personal care companies have pushed as far as they can push, I think, and we've got some experts in the room, to achieve a certain body of products that meet the NOP standard. To go passed that, to get shampoos and other things, they need essential ingredients, which can be
derived from certified organic agricultural ingredients. But the processes that these ingredients would go through are undeniably synthetic processes. They create chemical change, with even the most liberal interpretations of synthetic, which is not the way we're going. But with the most liberal interpretation of synthetic, they would still be synthetic. And what I would advocate is a separate section of 605C, which would be annotated for personal care use only.

Now, the chemists in the personal care world know a lot about this. And they can come to agreement about which processes are called, in a loose term, "green chemistry." In other words, there's -- originally, and I won't bore you to tears with all this technical stuff, but get ready for it. You're going to have to learn some more chemistry. Barbara, bring out that old manual again on the chemistry thing, because what it is, is that there's -- you can achieve
the same end result through different ways.
It's still esterification, and maybe we'll have some good examples in the public comment, but there is better ways to do it. There's less invasive, less polluting, less irritating ways of achieving that. And those could be qualified, and quantified. So, it's possible, but it will be synthetic. If the NOP takes it on in cooperation with the FDA, or however they work that out, then, basically, we will see a lot of products petitioned to be added to 605. But, again, I believe that it's doable, because we can annotate them for personal care use only.

CHAIRMAN MOYER: I believe Tracy has the floor.

MEMBER MIEDEMA: Kevin.

MEMBER ENGELBERT: I'm interested in what your thoughts are concerning soap. You're going to use cosmetics, rather than personal care products, and you exempt soap from your recommendation, and that was your
example. Is that the only personal care product that doesn't qualify as a cosmetic?
And where do you think that will come into play with your recommendation, or will you eventually talk about, or just deal with the soap?

MEMBER MIEDEMA: It's a great question, Kevin. The reason we used cosmetics, which does include soap, as you -- or exclude soap, as you pointed out, was to really bridge USDA and FDA, so we used this very precise definition that FDA uses. Based on some of the public comment that we're hearing, we probably need to expand what we're talking about here outside of the word "cosmetics."

I think it just gives a lot of people pause, and they're not seeing that as the FDA -- it seems more like makeup, instead of the FDA version, which includes lotions, and shampoos. So, we most likely need to write a definition of personal care. And
there are some good ones. There's a good one
even in the ANSI standard already that we
could turn to, and to make sure soap doesn't
get left out. Katrina.

MEMBER HEINZE: Certainly, as a
consumer who has been confused by this, I
empathize with the goal, and support the goal.
I guess what I'm struggling with, and I'd be
interested in the Program's perspective on
this, is whether it's even within our
jurisdiction, or an option available, since
it's the Organic Food Act. And we certainly
had a number of public comments on that topic.

MS. ROBINSON: We did discuss this
with our legal counsel, because I had that
same reaction, actually, Katrina. My first
reaction was, it is outside of our
jurisdiction. And I believe I raised that on
an Executive Committee call. So, I did
consult with our attorneys, and ask if we had
this jurisdiction. And their reply was
actually, yes, we do, that these are merely
processed products. That's what they would be. And the simple way to approach this, is that -- the way that I came to understand it was that what we would be doing is basically expanding the National List for a broader set of processed products; namely, personal care products that are largely agricultural in their origin, but require additional synthetics in order to be finally produced, and then labeled under our labeling scheme.

So, for example, you could take the NSF standard, the ANSI standard 305 out there, give it to the Board and say do you guys want to incorporate this by reference, and turn around and make a recommendation to NOP that we expand the National List with all of these synthetics, and their annotations, and proceed with rule making to allow for these products to come under the labeling scheme of the NOP regulations.

MEMBER HEINZE: Thank you. I do have a follow-up. I think then as we consider
moving forward, there are several lines of products that have been introduced that do carry the USDA NOP certification, where they've found a creative, innovative, technically sound solution. And, certainly that should be encouraged and rewarded. So, then how do you create a path forward for other products without diminishing a standard?

MEMBER MIEDEMA: Joe.

MEMBER SMILLIE: I would say that the use of the word "organic" on a product means that they've achieved that, and the "Made with" would be the option for a lot of products that won't be able to achieve 95 percent.

The soap example is a good one, Kevin. We even had some comment, if you look at it, to talk about whether you really could certify soap currently. There are, right now, certified soaps, because 605B allows the use of sodium hydroxide. And soap is some sort of palm oil, some vegetable oil reacted with
sodium hydroxide. Now, how much sodium
hydroxide, you get into the calculation game,
and that's one of the problems that we will
face in dealing with personal care products,
is you thought it was hard calculating multi-
ingredient food, start trying to calculate
this stuff. So, some people believe that you
can certify soap, other people believe that
you can't based on how the calculation is
done. So, soap is kind of a good example,
because we do have USDA NOP "Made with" soaps
out there right now. And I think there may
even be organic soaps out there. I'm not
sure, under the NOP label, depending on how
the certifier did the calculations of the
sodium hydroxide.

MEMBER MIEDEMA: Jeff.

CHAIRMAN MOYER: The two questions
I have are, what would we do with cosmetic
products that don't start with an agricultural
base, and don't fall under this category?
Would they then be able to use the word
"organic" without having to be certified, and still add to the confusion? Because they don't fall under this guideline, and we have no authority over it, if it has no agricultural background.

And then the second question I have is how -- the cosmetic industry, from my understanding, seems to be really moving in the direction of nanotechnology. How is that going to impact this whole statement, because we are already seeing all those kinds of products being made virtually invisible through nano-technology.

MEMBER MIEDEMA: Well, these are all excellent questions, Jeff. And the short answer is that if it's not organic, it won't be able to be labeled organic. What this discussion document proposes is planting a flag in the regulation so that we can move forward and answer those questions in detail. We've done things the other direction, which is build a whole thicket of regulation, and
then come to the program, and ask if we can do this at all.

I really wanted to start with the buy-in from the public, and make sure this is the direction the public wanted to go, that it was feasible for the program. I'm very encouraged to hear today that it is, in fact, feasible for the program. And plant that flag in the regulation. It would certainly have to be agriculturally based in some manner. But we don't have to sit here this morning and figure this out. There's people, like I said, who have devoted their entire professional lives. And, for the most part, these questions have been sorted out, and there's debate amongst the companies that are currently producing products that they feel are organic.

It's fascinating to listen to these really smart people debate. There's quite a schism even amongst these folks, but that can all be sorted out.
CHAIRMAN MOYER: Yes. I recognize we won't solve those problems all today. I think part of the reason for this discussion that folks have is to get these questions on the record, so that the public can start to react and respond to them. So, thank you, appreciate that.

MEMBER SMILLIE: The key thing, though, is the USDA owns the word "organic", so nobody can use that word unless they meet what the USDA decides as a regulation.

CHAIRMAN MOYER: Only as it pertains to agricultural products, though.

MEMBER SMILLIE: Right.

CHAIRMAN MOYER: They don't own the word in terms of manufacturing of computers or something.

MEMBER SMILLIE: Correct. We're only talking about agricultural products.

CHAIRMAN MOYER: Right. But some cosmetics don't have any agricultural products in them, is my concern.
MEMBER SMILLIE: Well, then

that'll be FTC's job.

CHAIRMAN MOYER: Barbara has a

response, I believe.

MS. ROBINSON: Well, I think one

of the things -- just sitting here discussing

this. One of the things -- if you go down

this road, one of the things you may want to

really consider, because we'll always confront

the problem, and we've talked about this.

We're going to continue to confront this

problem as this industry grows, of people

wanting to use the generic word "organic" for

products for which we do not regulate. That's

just going to happen. And to cut down on that

green noise, and the devaluation of that word,

I think you really should start contemplating

an additional seal, or an additional label to

go along with the "Made with", that the "Made

with" label also has its own -- we've not

allowed the seal to go on a "Made with"

product, but any kind of USDA recognition on
that product. And I think that's where, if
you would start to give some thought to that,
putting USDA on a "Made with" product, you
would close that door for the non-agricultural
products out there, because then consumers
could see clearly that even a "Made with"
organic product, if it has USDA on it, it's
ours. It belongs to us. And then we can say,
you can say when we're doing education and
outreach, look for USDA's name on a product.
If you don't see USDA on it, it's not ours,
and we don't regulate it. Until we get to
that point, "Made with organic" out there is
a fuzzy world, and it always will be.

MEMBER MIEDEMA: Valerie, and then
Bea.

MS. FRANCES: This is actually a
question for Barbara. You referenced -- well,
you said earlier that we could incorporate a
private standard by reference into our
regulation. Is that really the case?

MS. ROBINSON: I said the Board
could make a recommendation, because there is a private standard out there, and the Board can simply take that private standard, if they chose to, if they liked that private standard. And they can give it to the program as a recommendation. That's all.

MEMBER MIEDEMA: Bea.

MEMBER JAMES: Yes. Tracy, I just wanted to -- I know you're following the OTA, I think you are, the OTA Cosmetic Discussion Board, and I've been watching that, too. And just their last discussion was very similar to what Barbara is referencing. Is there a way for us to have a different way of communicating on a cosmetic label without it being perceived by the consumer that it's the exact same thing as an agricultural product. And it seemed like some of the -- as you mentioned, big companies, highly intelligent companies who have been behind this for a long time -- were supportive of that idea.

MEMBER MIEDEMA: Thanks. Any
other questions? Comments? Thank you.

        MS. FRANCES: I do have one more question. This problem of products that don't contain agricultural ingredients that somehow can use the term organic and be okay, because it's outside our scope of authority, I'm just going to throw the question, is there a way to address that in any other way? And I don't know the answer at all.

        MEMBER MIEDEMA: Go ahead, Joe.

        MEMBER SMILLIE: I don't know, and I'd like some advice from the government people here. But, to me, if someone says "organic", and it's non-agricultural, and it's got an agricultural claim, it's got an organic claim on it, to me, that's misleading the consumer. And that's an FTC area. Am I wrong? So if someone made a complaint about a polyester sweater that said organic -- buy this organic sweater, and it was made of polyester, and some consumer thinking that it was an organic sweater bought it, they could...
take that case to the FTC, because they were misled. But correct me if I'm wrong, government people.

MR. MATTHEWS: I would say that that would be the place to go.

CHAIRMAN MOYER: Barbara, did you want the floor now?

MS. ROBINSON: Sure.

CHAIRMAN MOYER: Okay.

MS. ROBINSON: Ladies and gentlemen, Chairman, members of the Board, it's my honor and my privilege to introduce to you the Deputy Secretary of Agriculture, Kathleen Merrigan.

(Applause.)

DEPUTY SECRETARY MERRIGAN: Whoa, whoa, hey, everybody. Old home week, huh? So, I'm Deputy now. Unbelievable. So, thanks for letting me interrupt, and thanks for inviting me to come to your -- or maybe you didn't know you invited me to come to your meeting. Or maybe even I said I wanted to
come to the meeting. I'm not exactly sure how
all that came together, but I'm glad to be
here, and it's familiar stomping grounds. A
lot of hard work. I feel like I know what
it's like to be in your shoes.

Twenty years ago I was approached
by Mark Lipson and others when I was working
for Senator Leahy to write the Organic Foods
Production Act. And fourteen years ago, I was
on the other side of the table sitting where
you all are today, because I was an appointed
NOSB member, and almost served out my five
years as an environmental representative, but
then became AMS Administrator, and had to go
take care of that little rule, so I was a
little short of serving five years.

So, let me first say thanks to all
the NOSB members for your service. I know how
much hard work it is, what kind of passion you
put in, the long hours, and the pretty active
constituency that we have here, loyal people
that come to every NOSB meeting, and follow
all the iterations, and really give a lot of
important input into the process. I really
want to thank you all. I know it's a long,
long process, and there's no end in sight.

(Laughter.)

DEPUTY SECRETARY MERRIGAN: So, I
want you to know that I think there's a lot of
people at USDA listening, and looking for
opportunities to work with the organic
community in new and important ways.
Secretary Vilsack has been a great, great
leader already. I've been really excited to
be working with him at USDA. He's committed
to achieving greater sustainability throughout
USDA's programs and policies, the National
Organic Program and Body Sustainability. We
are really interested in what you do here.

I notice on your meeting agenda,
one of the things that you have to debate is
bio- diversity. Oh, whoa, that's a big
important issue for the organic world. It's
a principle that a lot of us hold dear. But
I also remember when we were putting out the second proposed rule, and then the final rule, how difficult it was to negotiate that word, just the word "biodiversity" in the definition of organic, what we thought of organic, because OMB and others kept saying well, how are you going to measure it? How are you going to enforce it? These are tough questions, but I know you've got a lot of able minds in the room, and I will welcome whatever recommendations that you come up with in that area.

Let's see. What am I supposed to say to you guys? Well, I want to make a few announcements. First is, I think all of you are familiar with the People's Garden, so some of these are things that you've heard. But in case you haven't, I wanted to bring you up to speed.

The People's Garden was something that was initiated by Secretary Vilsack before I arrived at the Department on April 14th. It
is on the Whitten Lawn. There is a vegetable garden there, pollinated garden, all organic. Valerie was there with a bunch -- a bunch of the staff was there from -- Barbara Robinson, I saw a picture of you with a hoe, or a shovel, or something. I don't know. I think that the organic staff was pretty involved in that. And we have a Secretary of Agriculture who is out there saying, here's the People's Garden, and it's an organic garden. And challenging USDA facilities across this country and abroad to also take on their own gardening activities on their facilities.

Of course, when the press probed me afterwards at the close, I said are you saying that all USDA facilities should be organic gardens? I said no, these are not decisions dictated by headquarters, but we're going to use this garden to help us talk about the role of organic agriculture, and American agriculture, and the importance of standards, and use it as an educational tool.
So, I just want to make sure,
first of all, that you all know about that
initiative. It's exciting. It had a lot of
buzz, and I think there will be a good flow of
events and information that comes from that
over the years.

The second thing, and I'm sure
most of you saw this, an announcement about
the census of agriculture, that USDA is
putting out a survey to all organic farmers,
and we're asking that -- I think they're going
out this week or next -- and we're asking that
the results be turned in in mid-June. Does
that sound right, Barbara? She's shaking her
head. I've got my -- I'm fuzzy on the dates,
but I'm hoping everybody helps us get that
word out, and make sure that happens, because
that data will help us orient USDA programs
appropriately. It's a great opportunity.

And, again, that was something -- I had no
input in that. Secretary Vilsack was on top
of that, and that happened before I got to the
Department. I think that's great.

The third thing I want to announce is that the organic program has grown up.

We've all grown up in a lot of ways. Some of us have grayer hair, some of us have less hair. We know each other well. And I think that considering the growth in the industry, and the demands this program puts on USDA -- I don't mean that in a bad way -- the demands that this program puts on USDA, that I think it's time that we have a Senior Executive Service employee dedicated just to the National Organic program.

Barbara has been doing a great job. We've asked her, though, to do double duty. The National Organic program isn't the only thing she has to do. She has this whole other Division of Transportation and Marketing in an area where I think a lot of our interests in local foods that comes on down from the President, through the Secretary, to me, a lot of those issues are going to blossom
in Transportation and Marketing. And I'm worried about an overload on that system, so we're going to move forward with that, and there'll be an announcement of the position -- and things will be advertised and followed, that sort of thing.

The fourth, and most exciting thing, I think right now that I wanted to announce for today is a big pot of money. How does that sound? A big pot of money always sounds good. Okay. We're announcing today $50 million in funding to encourage greater production in organic food, $50 million to the EQIP program, Environmental Qualities Incentive Program. I know some of you fought for this in the Farm Bill. We're up against a fiscal year clock, and so we need to get the money out of Dodge, and get it spent before we lose it.

This is important financial assistance to help people who are committed to organic production to put those methods and
actions into play. It will be for current certified organic producers, as well as people in transition. A portion of this $50 million will be allocated to every state.

For this current year, because we're up against a fiscal year clock, use it or lose it -- I know some of you probably are in organizations where you're familiar with that situation -- we're using the allocation formula that we've used for the overall EQIP program, so you may look at the allocations, and say why does that have -- why does that state have that big chunk of money, and this state has more organic producers has less? It's just because we're under the gun, and Tom Christiansen -- did I say it right? Okay. -- from NRC, I probably met a thousand times, and he's being very kind, and not reminding me of that, is with me from NRC. That's in case you have the tough questions. But for this year, we needed to do that, because we have time to come up with an organic-only allocation.
formula. But that's the plan for the coming years. And the good news, too, is if there's a state that has a bigger pot than there's an organic demand, the Chief and the staff are planning on reallocating that money to where the greater need is. So, we don't plan on having money sit out of this pot of $50 million unused. We want to get it out there, and we want everyone to benefit from it.

It's going to be available exclusively through a special sign-up. And it's going to be focused on six core practices, conservation, crop rotation, cover crops, nutrient management, pest management, prescribed grazing, and forage harvest management. So, these core practices were identified in meetings that the NRC has had with the organic community, as where the money should be placed.

The funding for every producer is capped at $20,000 a year. This is for this particular organic pot of money. The cap
doesn't apply -- say you may already be
getting EQIP funding, or you might -- I hope
all of you know about the EQIP program. It is
a big pot of money. And this $50 million that
we're talking about that's an allocation for
individual farmers is not inclusive of also
the money that we'll put into technical
assistance, the technical service providers
component of that. And we'll be talking about
that more in the coming weeks.

So, the $20,000 cap is for this
organic pot of money. You might say well,
heck, the regular EQIP doesn't have a $20,000
cap, why is that? Well, that was because we
heard from the organic community that they
wanted that cap there to insure that a few big
operations didn't get the hog share of the
money, that it would be widely distributed,
and available to a lot of small producers.
So, I believe that's reflective of the input
that we received from all of you. And, again,
it's a cap only on that pot of funding.
So, the sign-up for these special organic contracts is going to begin May 11th, and it's going to end on May 29th. And, at that point, applications will be ranked, and we'll figure out what to do. So, time is short. I know, I apologize for that. I know when people are out there in the field, it's really hard to turn those things around. So, what I'm asking all of you is to get the word out right away, to do what you can systematically as organizations, as leaders in the organic industry, to help producers figure out how to navigate this. And, hopefully, we'll have some good come of it.

So, that's what I'm here to say today. I think those are all great things.

(Applause.)

DEPUTY SECRETARY MERRIGAN: Yes.

Thanks.

I do want to say that lastly, I'm holding office hours tonight from 4 to 8 at the Deputy's office for all of you. And I
think Barbara has volunteered a staffer, I
don't know who it is, to sort of sign you guys
up thinking maybe on the 15-minute mark, would
be great fun. I don't have wine and cheese.
It's just going to be a water fountain and me,
but if you want to come by and say hello, or
whisper in my ear, scream at me, that's the
time for it. I could have made it maybe
easier for you, if I had just taken a room
here and had you all come there. But part of
it is, I sort of want you to feel like you
have a little bit of ownership on that corner
office on the Mall. It's been a long time
coming, and so I thought if you want to come
down and visit me there, you're more than
welcome. If people don't sign up for this
time, or there's a big hour gap, or whatever,
I'm not offended. I just wanted to make that
opportunity for all of you. And just looking
at the crowd, if each one of you took a 15-
minute slot, obviously, that's not going to
work. So, to the extent that if people are
coming over, if there are obvious groupings,
that might make sense. Okay?

And then my last message to you
is, I want to be there for you. I want to be
a spokesperson for organic. I'm going to
certainly be tasked by this administration to
be "sustainability central" at USDA. That
said, I'm going to say to you guys the same
thing I told to people from other streams of
agriculture. Organic is just one thing in a
larger portfolio of what I need to do. And,
so, if everyone sort of overwhelms me, that's
not going to work, either. I want to be there
for you, but I've got to be there for a lot of
things. And I'm not quite sure, I'm just
getting my sea legs on the job. I'm not quite
sure how I'm going to do it all. I'm going to
try. So just, if you could help me out, and
be respectful of that, and figure out what
really needs to bubble to the top, and what it
is that you can continue to work through the
processes that you have in place now at USDA,
because I think you have some great staff who work really very long hours. Hopefully, not any more all-nighters. Are we done with the all-nighters? We're done with those. But not only in AMS, but also Tom, people over at NRC asked, there's a lot of enthusiasm about what you do, and I think that you need to knock on those doors, and work out things as you can. Okay?

So, I'm open for some questions, or comments, if people would like. Yes?

Well, I won't pick a particular thing, but let me say this, that -- and it's something that I try to say to myself every day, just general advice, -- the perfect is the enemy of the good. So, the perfect is the enemy -- because you've got public meeting, and you have to --

Okay. So, the perfect is the enemy of the good. And sometimes I think -- and I been a part of this myself, and organically failed in that. We want to get everything perfect, and we want 100 percent
consensus, and all of that. And we've missed some opportunities to move forward. And the market keeps moving forward no matter what. We need to recognize that. And I was here at an NOSB meeting -- Hue, how long ago was it when I testified, two years? Two years ago when I talked about opportunities that I saw in animal care. And we could have a whole comprehensive package on animal care, or we could sort of go for some of the low-hanging fruit approach, and sort of do it in iterations. And I know that there are advantages to do the whole package, the comprehensive approach, but sometimes that means it's going to take several years. In the meantime, the market is making decisions for you. So that would be an example of the perfect being enemy of the good. I think that will stop all questions. I don't know.

CHAIRMAN MOYER: Not to interrupt, Kathleen, but if somebody has a question, please step up to the mic so that the recorder
1 can capture it, or use your mic at your desk
2 here, if you're a Board member.
3
4 MICHAEL: Hi. I just wondered if
5 you had any thought -
6
7 MS. FRANCES: Your name is?
8 (Laughter.)
9
10 MICHAEL: I'm still Michael.
11 (Applause.)
12
13 MICHAEL: I just wonder if you
14 have any thoughts about -- one of the issues
15 we struggled with in the past is how to
16 coordinate across the agency on this topic, so
17 that cross-compliance, and cross-coordination
18 could be a bit more synergistic across the
19 Department. It's a little early, but I wonder
20 if you have any thoughts about that.
21
22 DEPUTY SECRETARY MERRIGAN: Well,
23 I do think that just today coming to talk to
24 all of you, I had some talking points from
25 NRCS, some talking points from NASS, some
26 talking points from AMS, and that is partly a
27 function of me, because I said Barbara put
together some great talking points for me. I said, okay, but there's this other thing, this other thing. And, we really are at the point in time when organic crosses all areas of USDA.

Tom and I, on the drive over here, we were talking about well, okay this is EQIP. What's going on with CSP? What are the opportunities there, the Conservation and Stewardship program, the Conservation and Security program, and so, I guess, some of that has really got to fall at the level of the Secretary or myself. And, particularly, me in terms of being a sort of sustainability coordinator to look across the agencies. And I know, Michael, that was something that we tried to do at the end of the Clinton administration, when we put out the Final Rule. We included a promissory note, if you will, of items we wanted to say to organic farmers and ranchers across the country, and processors, it's not just here's the rule, and
how we're going to enforce it. But, here is
the menu of ways USDA can help you in your
efforts. And, so, I think that's sort of the
orientation I come to the job with.

I don't know exactly how to
conquer the stovepipe organizational barriers
that every kind of large organization has, but
that at least gives you a sense of my mindset.

Katherine?

CHAIRMAN MOYER: Just a minute,
Valerie. We have a question from the Board.

MEMBER SMILLIE: Well, I'm
following up with what Michael is saying.
We're seeing difficulty in the coordination
between FDA and USDA, and any help on that
area would be gratefully accepted.

The other issue that's come up is
how we're going to interact with all the food
safety initiatives. And I just wonder --
there's a lot of talk about getting those all
together under one roof. And I'd like to hear
your views on the interface between
sustainability, and organic farming, and some
of the food safety issues that have arisen
lately.

DEPUTY SECRETARY MERRIGAN: Well,
I haven't yet engaged in the food safety
issues. I'm getting briefed this week from
staff in terms of what's gone on in this
administration before I walked in the door, so
it's a bit premature for me to comment much.
But I will say just being on the Internet,
there is a lot of hysteria over different
legislation that I don't think was necessarily
fact-based. And I just caution everybody in
a highly volatile public arena that we check
facts, and carefully navigate those waters,
because your credibility is everything in
Washington, and anywhere. Right? And, so,
you don't want to lose that. And when the
organic voice is brought into that debate, we
want to make sure it's well researched and
strategic.

MS. DiMATTEO: Katherine DiMatteo,
and this hat that I'll wear with this question is my IFOOAM hat, International Federation of Organic Agriculture Movements. And I just wondered if there -- if you see that there could be more discussion from the Secretary's office at Secretary's levels, and colleagues in other countries, on organic, and the issues of organic development, and mutual support, equivalency and harmonization.

I know that for an agriculture service, and, of course, USTR takes the lead on most of those international discussions, and on trade issues, but when I was on APAC many years back, that there were issues that were discussed out of the Secretary's office. And I just hope and wonder, from your point of view, if organic can be some of those issues that get talked about, and are represented by the Secretary's office and, perhaps, yourself in the international community.

DEPUTY SECRETARY MERRIGAN: I, perhaps, see a Merrigan Worldwide Tour in my
future.

(Laughter.)

DEPUTY SECRETARY MERRIGAN: No.

Absolutely. I take your point, Katherine. I think that there's still a lot of standards work that the NOSB needs to work on, and there will always be. I mean, we always are going to have petitions about materials, and there's still a lot of areas of the rule that can be fleshed out, either through specific rules, or guidance, and that sort of thing. But if I had to sort of look to the future, I'd say we're entering the era of enforcement and equivalency. So, it's about how are we going to facilitate global trade, and make sure that what's coming into this country as organic, is really organic. And what we're sending forward is the same. I think that we're coming closest on agreements with the Canadians, and I think that's exciting, assuming the rule is done. So, anyhow, I think that that's the era we're in. And I
also think that this is now -- first you don't want to come down hard on people when a new rule has been birthed, but 2002, 2009, it's time.

CHAIRMAN MOYER: We have a question, Valerie, from Board Member Kevin Engelbert, if you don't mind.

MEMBER ENGELBERT: Thank you for coming. I appreciate the notice on the EQIP program for organic farmers. I think there's a potential for that to do a lot of good, especially if it's available for farmers that are transitioning to organic. Many of the organic farmers already have made all those changes in their operation to become certified.

My concern since I've been on the Board is that the National Organic program has always been the ugly stepchild since its inception. And with the growth in the organic industry, the Board is continuing to deal with new things from pet food, to now cosmetics,
and aquaculture. I'm wondering if there's any possibility, given the chance that it might be a stand-alone program, to dramatically increase the funding to the program. Because, in spite of the extreme confidence and hard work of the people on the Board, or on the program, I'm concerned it's just going to continue to fall behind with the work that needs to be done, because of the lack of the funding in previous years.

DEPUTY SECRETARY MERRIGAN: Yes.

I hear what you're saying, and certainly, when I came in as AMS administrator and the rule had just sort of got stuck, and I was brought in to help rewrite it, I found that there was a band, a very small number of program staff people working around the clock in a very unsustainable, unhealthy way. And being beaten up, frankly, by the organic community in ways that oftentimes were very unfair. But everyone was frustrated, inside and outside the building, about what was going on. And,
so, as AMS administrator, I had the power to
just cherry-pick people from other parts of
AMS to augment the staff, to make that rule-
making process happen.

I know Barbara wasn't involved in
the program then, but, Barbara, I think I got
you to write some piece of that rule. One of
those OMB -- I don't know what it was -- or
you rewrote it, probably, because Barbara is
a great writer. And, Mark, did I get you
involved? You were in Fruit and Vegetable.
No, you were in Livestock and Seed, so you
were involved in the accreditation portion.
Okay. So there are other people in other
parts of the Department I just sort of pulled
-- some of them landed here, eventually, but
I pulled -- and I think -- I mean, that's
something to think about. And that's
something I need to talk to Barbara in more
detail about.

Everybody wants more money for
their things. And now, as Deputy, I'm in
charge of the budget. USDA this year has a budget of $120 billion. We have somewhere between 104-- and 120,000 employees, depending how you count. I have a really hard time going up to Congress and saying, we need more money. I'd much prefer to look at what our allocations are, and figure about how can we restructure, and make things work. And how can we task people with multiple objectives, and create teams so things work?

That said, I think that just the announcement that the NOP is at the point where it needs to stand on its own in a different way, may mean that there's some reallocation there. I can't make any promises. But I think that we all have to understand that this is a horrible time for the economy, and people are losing their jobs. And I'm going to be very hesitant to be making a lot of Hill visits talking about more money.

Yes, Marty.

MR. MESH: You don't have to talk
about more money. What about just parity, market sharing the problems that organic has. We've been saying the same thing for research funding for a while. You said something about a hundred and something billion dollars? If organic had just whatever that, four to five, if you include farmers' market, direct marketing, and 6 percent of that, I think we could make it work.

DEPUTY SECRETARY MERRIGAN: Yes, I should be care. The $120 billion is this year. That's rolling in the stimulus funds. Normally, USDA operations are just a mere $95 billion a year. My husband won't even let me use our checkbook. He doesn't trust me.

(Laughter.)

DEPUTY SECRETARY MERRIGAN: So, anyhow, things change. I understand, and I've made those parity arguments, Marty. And I will continue to make them internally. But what I'm saying is there -- and after saying animal welfare is important, I hope you
1   forgive this expression, but there many ways
2   to skin the cat.
3
4   (Laughter.)
5
6   PARTICIPANT: Welcome from
7   Massachusetts, which you chose to leave to
8   come to this beautiful city.
9
10  DEPUTY SECRETARY MERRIGAN: Good
11   to see you, Ed.
12
13  PARTICIPANT: Yes. Ed Moltby,
14   NOPA. Just to give you some priority, the
15   Access to Pasture Rule, as you probably know,
16   is being --
17
18  DEPUTY SECRETARY MERRIGAN: I've
19   heard of that.
20
21  PARTICIPANT: Yes. Good. And the
22   Replacement Rule, you've heard of that one.
23   And whatever you can do to push it through the
24   different departments of review. And I had
25   suggested yesterday that Rick should go back
26   under overtime, and should do -- pull a few
27   all-nighters. I will bring the food to his
28   office, and advise him whenever he wants.
PARTICIPANT: But just whatever you can do from the point of view of all these rules and regulations to guide him through the various departments of review in USDA. Organic milk, we've got farmers who are in the same position as conventional dairy farmers now, who are losing money, who are going out of organic. And the quicker we can speed up some of these processes would encourage more livestock farmers to transition. Thanks.

DEPUTY SECRETARY MERRIGAN: Fair enough. I know that you've had a lot of comments already. What's the number up to, Barbara?

MS. ROBINSON: Around nineteen thousand.

DEPUTY SECRETARY MERRIGAN: Nineteen thousand and counting, whatever. Nineteen thousand is a lot. We'll try to do the best we can. And one thing I certainly am committed to, as is the staff, is to make our
decisions fully transparent. I mean, I think that the organic rule-making process that we did under my watch in AMS, I'm very proud of, because a lot of the decisions we made you may not have agreed with, but I think we set up a way where we articulated our rationale in the preamble to the rule, so you knew where we were coming from. You knew the areas where we thought there might be a need for evolutionary thinking. Now, it's like, this is where we're at now, but we understand there's a whole -- or there may be future specifics that will be added on to this.

I think that's really important, and it's our responsibility in our shoes at USDA to use the rule-making process, not just to dictate the rules of the land, but to establish a dialogue with the affected communities so they understand what it is we're hearing, and why we're acting the way we are. And sometimes you all may say one thing, and do something else, but the onus is on us
to explain that, and to provide the rationale.
And to give you enough information to sink us, if you need it. I mean, that's our job. We need to provide it.

CHAIRMAN MOYER: Kathleen, we have a question from Board Member Jennifer Hall.
MEMBER HALL: Hi. Thanks for being here. I am thrilled that you're an ally of the Animal Welfare topics. And I'm curious where you might see a fit for not just as it pertains to organic, but where it pertains to the full gamut of animal production in all of agriculture here, and industrialized production. And where USDA might partner more with EPA to enforce the laws that already exist on the pollution violations that are chronic in that arena as a means of -- taking it from another angle, as well, and not having to create new law to still achieve really good objectives about animal welfare, and how all of that food is produced.

DEPUTY SECRETARY MERRIGAN: Well,
part of my job -- it's a really cool part of
the job, actually -- is I get to go to the
White House quite a bit. I was in a Cabinet-
level meeting yesterday. I mean, I sat around
the table with, I think there were eight
Cabinet Secretaries there, the head of the FBI
was to my right. You know, if you get through
the vetting process, I mean, I think the FBI
investigated me six or seven weeks -- I wanted
to say to them, what do you know about me that
I don't?

(Laughter.)

DEPUTY SECRETARY MERRIGAN: So the
part of having that kind of seat at the table
means be able to reach across departments and
agencies and say, what about this? So,
yesterday I was also sitting next to David
Hays, who is the designee for Deputy Secretary
of Interior. We've got a lot of common
issues, as it relates to forested land in this
country, and BLM land, and grazing, and all of
that. I said, "Let's have lunch." And the
same way, I hope to establish a relationship
with our new EPA Administrator, so where that
all falls out, I don't know. But, I guess
that's part of my job, is to help facilitate
those conversations.

I think animal agriculture in this
country is reeling from Proposition 2 in
California. And when I spoke at a dinner
meeting a couple of weeks ago in front of the
National Meat Association, I said, "This is a
wake-up call. I think it's really important
as you develop standards in animal welfare,
that you continue the track that we all
decided to set 25 years ago or more, where you
don't disparage other production systems, but
you say we're trying to establish a market
that's distinct, and that consumers are
demanding. And we're going to clearly
articulate our standards and label for that,
and then just see what happens. But I imagine
what you do will have an impact on the rest of
agriculture, just as we've seen on the crop
I always say that organic farmers are some of our most under-valued, and certainly not rewarded researchers. (Applause.)

DEPUTY SECRETARY MERRIGAN: Tom, tell them about that part of EQIP. They should know. You remember we were talking in the car. You have to come to the mic, though. You have to be recorded for posterity.

PARTICIPANT: I'm sorry. The component of EQIP?

DEPUTY SECRETARY MERRIGAN: You know, the competitive grant part.

PARTICIPANT: Oh, I'm sorry. Yes. Yes, in EQIP we have Conservation Innovation Grants. It's funded typically at the national level, about $20 million per year. The main purpose is to work with producers on their farm on innovative conservation practices, or approaches to conservation. And we're in the selection process for this year's grants right
DEPUTY SECRETARY MERRIGAN: So, part of it -- part of what I'm going to be doing is -- for not just organic, but for our initiatives, we used to call it local foods -- but now we say, the Secretary would start it out by saying, "Buy Fresh, Buy Local", and he was told that's a copyright or a trademark thing -- so now we say, "Know Your Farmer, Know Your Food", which I actually like better, because I think it's more inclusive, because sometimes the local stuff, the local ward stuff is a little over the edge for me. So, I think this is going to be great. But anything to do in the sustainability world, this is what I'm going to be mentally doing every day that I'm in the job, is sort of cataloguing opportunities, and making sure people hear about them. So, just talking about that on the ride over, it was like oh, you know what, I've done a lot of research on the EQIP program, but somehow that one just
1 went over my head, and I need to learn more
2 about that. So, now it can be on your
3 homework list, too.

PARTICIPANT: From Consumers

4 Union.

DEPUTY SECRETARY MERRIGAN: Old,
5 but not senile -- yet.
6 (Laughter.)

9 PARTICIPANT: I have two questions
10 for you. The first one is about your
11 perspective on consistency in this program.
12 As new products are considered, whether it's
13 aquaculture, personal care, the standards that
14 they have to meet currently on the market sort
15 of languish behind what the food standards
16 are. And consumers are confused, at the
17 least, and feeling misled and deceived, at the
18 worst. And, so, I'm wondering about your
19 perspective on consistency of the application
20 of the bar to various products, because
21 there's a lot of debate about that. And
22 whether you pull the bar down so that you can
increase market capture across new product sectors, or you keep the bar consistent with what other organic products have to meet, and create an incentive for the market in that respect to meet a high bar. So, that's my first question.

And my second question has to do with other labels under USDA that are also very confusing, like the "Naturally Raised", like the discussions around natural. And I'd just like to hear your perspective on the incubation of those label standards, and making sure that they have similar rigor, or some rigor to them in terms of not misleading the public.

DEPUTY SECRETARY MERRIGAN: I love labeling issues, generally, I'll say that. And not just the labeling issues that you may have right now, Consumers Union might have on their plate, but I met with Chairman Joseph Brings Plenty on the inauguration of the People's Garden. He gave a traditional
blessing, that was from the LaCota tribe, I believe. And gave us a story, and song in his native tongue, which was really -- it was really quite lovely, because the Native Americans are the first farmers of this country. It was really quite moving, I thought. And he brought the issue of some of the rice that the Indians were producing, and how other companies who had no association with that kind of rice, were using the label, anyhow. And, so, I have a feeling. just given my history in labeling and consumer right-to-know, that a lot of these issues are going to end up on my desk. I think it's premature to talk about that whole host of labeling issues that are before the department. I'm aware of it, and I haven't gotten into it yet.

You're probably not going to like my answer on your first question in terms of pet care, natural care, because in some ways, things have moved beyond the Kathleen Merrigan stage of writing the law. But when we were
writing the law, was there, again, a Food Production Act? And I guess I wasn't really thinking about food for pets. I mean, that is food, and there's certainly a lot of implications for sustainability, particularly around seafood, I think, when it comes to pet food. But I certainly never thought about cosmetics, because there was already a whole lot of stuff out in the marketplace that was labeled organic that was fairly meaningless at the time we were drafting the legislation. And that just wasn't in our scope.

In part, it was a jurisdictional issue, because it wasn't clear -- some of those issues would fall within the scope of the Committee on Agriculture, Nutrition, and Forestry, and part we just chose not to do it for whatever reason. Some of you in this room were with me in those meetings when we talked this all out. But time has moved on beyond my input in that, so I don't have in my heart of hearts strong feelings that I can articulate
here today about natural care products, to
tell you the truth. I probably could use
some, I know that, but beyond that, I'm not
ready to weigh in.

Okay. A couple of more questions,
and then I'll head out. A compound one. Yes,
Marty. Come on.

PARTICIPANT: An idea for you with
your sustainability network role in your new
job, I'd urge you, I've emailed you already,
but I'd like to share it with all the people
here, is to bring Secretary Vilsack out to
NAL, the National Agricultural Library, a good
person to pry away with that is Senator Tester
of Montana. He knows about you. I made sure
of that myself. He's our organic farmer in
the Senate. He's planting wheat. His people
are out there planting wheat while he's
dealing with the Senate.

The National Ag Library has a
terrific database in the alternative farming
system coordinated and directed by Bill
Thomas. Anybody with a computer here can go on-line to the NAL@USDA website to the alternative farming system, and access and print out some terrific extensive bibliographies on topics such as the history of organics, food safety, food quality, the enhanced nutritive value of organic foods.

Everybody here know about farm parity, and we want to get library parity for NAL. Senator Harkin knows about this. He lit up when I told him about this at an integrative medicine hearing a couple of months back. We want to get NAL on parity in the digital age with National Library of Medicine. Med goes around the world, but if we can get library parity with NLM for NAL, we could revolutionize the whole USDA extension system. Everybody has a computer, which in the Internet age puts people right on the frontier of their own understanding and capacity. And we can do this through NAL, which a subset of which is the Alternative
Farming System. So thanks for being here, thanks for listening. God bless you.

DEPUTY SECRETARY MERRIGAN: Sure.

The National Ag Library is a great resource. And certainly in my last eight years as a Democrat in exile up in Massachusetts, as a college professor I relied upon it a great deal.

MR. HUTCHINSON: Tom Hutchinson with the Organic Trade Association. Living very near Beacon Field in beautiful Greenfield, Massachusetts, where all the trees are flowering at this very moment, and similarly, this idea of sustainability seems to be flowering. And it's very good to hear you taking on that role in USDA.

I think everyone here has the faith that organic would score high on any sustainability scorecard. To increase that confidence in our ecological production management system, it would help to have more fundamental research done on the energy use in
organic, the materials cycling issues, and such. And with the new reorganization of REE, I'm wondering whether or not there might be a generally broader redirection of research within USDA to deal with some of those issues from which organic would certainly benefit. And I think would benefit proportionally more than other systems of agriculture that are not used to thinking in those terms. This also has to do with the siloing question that Michael brought up, and I also appreciate that. This is really an opportunity to do a little bit more, and just wondering your thoughts about how a general shift in research.

One final point, I asked ERS, do you know how much agricultural product in the country is used for food, versus non-food uses? And there was not an easy answer to that. And as we move forward with more consideration of agricultural products as feedstock for our own civilization, the
sustainability question will be even greater.
So, basic research for sustainability I think
would proportionately benefit organic. Do you
see hope in that direction?

DEPUTY SECRETARY MERRIGAN: I
think Mark Lipson, who you probably all know
is one of my best friends, has done a really
great job watch-dogging, I mean, along with a
lot of you, but he's done a particularly great
job. It's taping me in some sort of crazy
way. I don't know what's going on there. But
he's done a really great job watch-dogging the
ag research side of the house, and trying to
point out opportunities for the Ag Research
Service, in particular, to move forward with
an organic agenda. And that network that OFRF
has developed of agricultural scientists and
extension agents score, to think about those
issues, I think has been really quite helpful.
I do think that there are going to be
increasing opportunities. This Farm Bill put
a lot of new emphasis on fruit and vegetables,
and I think that's an opportunity for organic. I always argue the sustainable system has a livestock component, too.

We have a confirmation hearing tomorrow, and one of the four people up for a job at USDA is our nominee to be Under Secretary for REE, Rod Shaw, who comes from the Gates Foundation. I think he's pretty exciting. I think he's going to be an innovator. And when I met him, I shook hands, and I said, "We're going to do a lot of creative things together." I think that's going to be true.

CHAIRMAN MOYER: Kathleen, if you have time for one more question, Board Member Bea James.

DEPUTY SECRETARY MERRIGAN: Two more questions.

CHAIRMAN MOYER: Okay. Bea James has a question.

MEMBER JAMES: Thank you so much for coming, and I just want to acknowledge
that you being here represents some of the change that we're all excited about.

I represent the retail sector, and I think one of the concerns that many retailers have is the potential funding and support for large agrifarms compared to some of the smaller family farms that a lot of retailers work directly with. And will the Department find ways to keep small family farms thriving, as we grow, and seek to feed the demand for organic?

DEPUTY SECRETARY MERRIGAN: Well, I guess it's just saying what you all know, is the census shows us quite dramatically, there's this upsurge of very small farm operations, a lot of them focus on alternative methods. A lot of them are women-led, which I think is kind of cool. And then, there's also a greater number of the larger scale operations, and it's that -- Frank Kirschman talks about all the time, that sort of started the ball rolling, the disappearing middle that
we're all concerned about. A lot of those are your small to moderate-size family farmers. How do we throw a lifeline out to them, whether they're organic, or following other production methods, I think is certainly something that Secretary Vilsack and I are talking about regularly. You know, I certainly -- again, to re-emphasize, the President, one of the very things he said about agriculture, and consistently said about agriculture on the campaign trail, was that he was very interested in revigorating local food systems. And we know the First Lady has a great interest in issues around healthy eating for children. She's very concerned about, as we all are, the obesity epidemic, and how it's affecting children.

I don't know if you've been to the White House garden yet, but it's in the most highly visible spot. You know, when you see the pictures of the White House, people are lined up against that fence, and you see the
fountain there? Okay. The People's Garden is right there where you can see it. And not only that, they have something we don't have, the First Lady's garden, they have something we don't have at USDA, is they have a beehive, pollinators right there, which I think is great. But they're enclosed a little bit -- because we've got a lot of kids running around the Mall -- and say, oh, that's cool. So, a little bit different.

But he really talked about local food systems, and so everyone is looking to me and they say, cool, Kathleen, what are you going to do? Whoa. That just is so structurally challenging to the system that we have in place. And if I want to do something that's more than cosmetic, what is it? I mean, one of the things I'm thinking about is slaughter capacity, because that's, to me, a real bottleneck in the system. But there are definitely others. And I'm really interested, if you want to write me a letter with your
best ideas about how I move forward in that
agenda, I'd certainly appreciate it.

PARTICIPANT: Very quick question.

With all the activity happening across the
USDA and other agencies as well -- RMA, FSA,
NRCS -- have you thought about having a
position within the USDA that coordinates --
someone who is the organic point person that
helps disseminate the information between
those energies, and helps coalesce that
information right there within the USDA,
between all the various agencies. Because,
sometimes, the NRCS doesn't always talk to the
FSA, and that sort of thing. So, have you
thought about that?

DEPUTY SECRETARY MERRIGAN: I've
thought about that, and it's certainly
something I advocated when I was on the
outside during the transition. I think to
some extent people think that's me at some
level, so I've got to make it such that -- I
mean, I know you guys would like a full-time
person doing that, and, certainly, I won't be
doi...g that full-time. But, actually, I have
a little bit of power, so it's not a bad
trade-off. So we'll see how things evolve.
You know, we'll see how things work over the
coming months.

MS. ROBINSON: I'm so happy to see
you there. Thank you, Kathleen.

DEPUTY SECRETARY MERRIGAN: All
right, guys. Have a good meeting.

(Applause.)

CHAIRMAN MOYER: At this time,
what we're going to do as a Board, because
there is a much needed break, we're going to
take a 15-minute break, and we will reconvene
at that point. Thank you for your kind
attention. That will be at about 10:20.

(Whereupon, the above-entitled
matter went off the record at 10:08 a.m. and
resumed at 10:22 a.m.)

CHAIR MOYER: Okay, if we could
quiet down in the back, we have a quorum of
the Board, and the Board is seated. We're ready to go back into session, and we're going to finish up with compliance, accreditation and certification committee work, starting with 100% label claim.

MEMBER HEINZE: Jeff.

CHAIR MOYER: Katrina.

MEMBER HEINZE: So I recognize that Joe and Tracy are not here, but I believe that they wanted to wrap up cosmetics real quick.

CHAIR MOYER: Joe is in the room now.

MEMBER HEINZE: So we may just have to go back to that.

CHAIR MOYER: Personal care?

MEMBER HEINZE: Yes, they wanted to wrap that up real quick.

CHAIR MOYER: Okay. Before we jump into 100 percent label claim, Joe, are we finished with personal body care standards? Or do you have something you need to wrap up
on that?

MEMBER SMILLIE: We are not finished, but we are ended for today.

CHAIR MOYER: Okay, thank you very much.

Julie, if you are prepared with 100 percent claim, we'll start on that.

THE 100 PERCENT LABEL CLAIM

SECRETARY WEISMAN: This is actually something that is also on the agenda at this spring meeting as a discussion document. And I think that we introduced this -- Joe, correct me if I'm wrong -- we introduced this initially last fall?

MEMBER SMILLIE: Yes.

SECRETARY WEISMAN: Or before that? Okay, it was last fall. And it was carried over from then --

MEMBER SMILLIE: It was last spring, actually?

SECRETARY WEISMAN: It was a year ago? Okay. So the issue came up because
certifiers were being required to make decisions that were costly to manufacturers regarding whether they can make a 100 percent claim on their retail labels based on the use of inert atmospheric gases, in other words gases that are part of our atmosphere anyway, in what was called modified atmospheric packaging.

And so what this -- what the recommendation document tries to do, or the discussion document, is lay out the history of why that was a practice that had been going on for some time. It was -- certifiers were required to change it following clarification at certifier trainings; that the program's interpretation, based on all their consultations, was that that voids a claim of 100 percent organic.

What -- and we were actually asked by the program then to clarify that -- to try and give some guidance and clarify that situation.
And so the -- I think the short story on this discussion as it's encapsulated in this document is that CAC reviewed the regulatory language in 7 CFR in OFPA. Also we went back to 21 CFR to look at -- and other parts of the FDA regulations to look at definitions of food additives, ingredients, packaging aids, various definitions. And we purposely made a document that was focused very narrowly on this issue of packaging aids. And we came to the conclusion that the use of modified atmosphere packaging was not an ingredient; was not a processing aid; and that it should not negate a claim of 100 percent.

We had some modest comment on this recommendation. I don't mean modest, I just mean in terms of numbers of comments, compared to other things, the volume of comments on other things that we are going to be talking about at this meeting. And really there were actually three comments that were specifically about the 100 percent claim, and then there
were some other discussions of this recommendation embedded in some of the multiple topics.

But two of the three people that specifically commented about the use of inert gases in 100 percent labeled retail products were food manufacturers -- I think one was an oil manufacturer and one was a coffee manufacturer -- and so they supported this recommendation.

We also had in comments given by some of the certifiers particularly, a more broad request and questioning of the idea that there should even be a 100 percent labeling category. And we agree that that query has merit, but that was not intended to be the scope of this document, and I'm not even sure if it could appropriately be the purview of solely the CAC.

I think that question would have to be taken up either by a different committee or a joint committee would have to be convened.
for that.

The other question that a lot of commenters have wanted to pull in and have requested that our deliberation on this subject include is a whole comprehensive look at all of food contact substance issues that take place post-harvest. That was certainly - and that is also not something that the CAC by itself would ever attempt to address.

So that being said we continue to present this to the rest of the board as a very narrowly focused document only on the topic of modified atmosphere packaging or inert gases in 100 percent labeled retail products.

MEMBER DeMURI: What about the use of these inert gases as overpressure? For instance nitrogen is used quite often in vessels in aseptic processing as overpressure to maintain sterility of those products.

Would you consider including that as part of this document, or would this just be for the
packaging part of it?

SECRETARY WEISMAN: I think we really were envisioning what goes in a final retail package, and what comes into contact with the food product that the consumer is going to eat. And we were really trying to make a line between -- you know, that there is a section that is post-harvest and pre-final packaging that we didn't really feel like it was -- I mean that is almost more of I think probably a handling issue.

MEMBER SMILLIE: Even though I see your point, Steve, it would have to be looked at as a processing aid, and the way we look at nitrogen in the packaging thing is, it's not a processing aid per FDA and CFRs, it's a packaging aid. So hence we believe it could carry the 100 percent, whereas if you are talking about it used in processing you would have to look at it as a processing aid, and hence it would remove that product from 100 percent claim.
SECRETARY WEISMAN: And I also want to remind everybody that this is not a voting item at this meeting. So whatever you want to have be discussed as part of a public discourse, I encourage people to ask their questions now, not that I want to prolong today's agenda.

MEMBER GIACOMINI: Just one quick thing. I was a bit -- when we were talking about the 100 percent document, I was not aware of what the document was actually about. So maybe next time when we continue on this, focus on the atmospheric gas side of it rather than the 100 percent claims, which has a whole other discussion area.

SECRETARY WEISMAN: Yes, and I would like to apologize, because there was a point where we did change the name of the document to inert atmospheric gases, and somehow it still lived on in the agenda as 100 percent, and I'm sorry that we didn't catch that.
MS. FRANCES: It's in the notice that way, when you approved the naming of this document at that time. I think you were still thinking it was going to be a recommendation.

CHAIR MOYER: Anything else, Mr. Chairman, for the compliance, accreditation and certification committee? Do you have anything else?

MEMBER SMILLIE: Nope, that's it.

CHAIR MOYER: Okay, thank you.

Before we move on to the next committee report, I want to mention that we are off schedule a little bit as you are all aware. We will do our best to work toward a slightly new agenda. We are off between 45 minutes to an hour. We are going to work towards that. We will make sure that we have time for public comment at the end of the day like we had planned.

However I did take the opportunity of working with Mark to set up a time for us as a board to meet with the deputy secretary
at 7:30. We have a time slot as a board to go
over there and meet with Kathleen. So
hopefully we will get done in time to do that,
and we certainly hope that the public will
allow us to get done. We need to get out of
here around 6:30 to take the Metro a few stops
down to meet with Kathleen. So that's where
we're at as a board.

Valerie, do you have a comment?

MS. FRANCES: And just to add a
note that pretty much everyone that signed up
for public comment this afternoon are
commenting on discussion documents. And
nothing is on the table for being voted on
with the exception of the two growers that
missed yesterday and want to speak a little
bit today on sulphurous acid. And those
really are the two. And I think one other
person wants to address some of the petition
materials, but it's not detailed in their sign
up what those are.

CHAIR MOYER: Thank you, Valerie,
that's a good point. And I should also point out that if you want to submit written comment the program has agreed to give you a few weeks to get something in to Valerie in writing if you don't get a chance or don't feel you got a chance to get all of your verbal comments out here today. And if you could just be considerate of the Board's need to get out of here by 6:30, we certainly do appreciate that.

Okay, moving on, Joint Crops and Compliance Accreditation and Certification Committee on Biodiversity.

I'm not sure, Tina, are you starting, or Joe?

MEMBER SMILLIE: Well, actually Tina and I are going to let the progenitor -- no, that's the wrong word -- but the person responsible for the document take the lead on this.

CHAIR MOYER: Thank you very much.

JOINT CROPS AND COMPLIANCE ACCREDITATION AND
CERTIFICATION COMMITTEE ON BIODIVERSITY

MEMBER FLAMM: That's almost as bad an introduction as I gave Valerie, Joe.

(Laughter)

But we did have a terrific introduction to this subject by our new deputy secretary, and it was wonderful to hear her endorse so strongly biodiversity conservation.

And she also -- I addressed issues that they faced during the writing of the regulations, and they are still around today; they still haven't been solved.

I also appreciated her comment on the perfect is the enemy of the good. And one of the commenters on the biodiversity paper made the exact same comment. A colleague of mine from Montana, Becky Weed, who has a predator-friendly farm, and in her supportive comments she concluded with the very same line.

The joint committee is presenting a recommendation for a guidance document, and
not any regulatory change. And I think the
terms recommendation and guidance has led to
some confusion among at least one commenter.
But I don't know if there is any question
among the Board about what this is about.
But in any case it's our guidance
document rather than any kind of
recommendation for regulation. So I hope that
is clear.

The -- I think this whole process
is evolutionary. It certainly goes way back
in organic thinking. But it is incorporated
in the regulations, and is incorporated in
much action by the Board over the years, going
back to 2001, and something I had missed, and
Jim Riddle had pointed out, action taken by
the Board at that time.

In 2000 -- but guidance statements
were made by the Board on biodiversity
conservation implementation, both in 2004,
2006.

So the objective of this
recommendation is really to implement what has been agreed to in the past. It really is not so much new policy, or you might say no new policy. It's just trying to get a framework for moving forward and getting everybody on the organic team from -- to share in the -- I would like to say the glory of implementing biodiversity conservation.

We are all so deeply involved in this subject, myself my whole life has been in natural resource management, biodiversity conservation, organic farming. My undergraduate in forestry, and a Ph.D. in biodiversity conservation is what my Ph.D. is in. So I've been really wrapped up in this. I have a lot of -- excuse me if I show too much passion for the subject, but it is something I personally care about deeply, and everybody in this room does. I think the comments we got all show that everybody recognizes both the need and the concern for it. We wouldn't even -- there wouldn't be
agriculture at all if it wasn't for biodiversity, and there wouldn't be -- we wouldn't even have life without biodiversity.

There is a tendency sometimes when we are talking about it for people to think about just the pretty little things that we all love, the pretty birds and so forth, being the biodiversity. But actually most biodiversity is every form of life. It's at three levels which is often neglected: ecosystem diversity; then species diversity which people mostly think of; and genetic diversity which is extremely important, and particularly important in agriculture.

But we also forget about what's below what -- what we don't see below ground. That is critical. In fact there is probably more, in numbers, there is more biodiversity at the microscopic level than there is at the macro level.

But anyway we can't have sustainable agriculture without maintaining
biodiversity, and I think everybody here knows that.

Just to repeat now what is said in the rule, that the use of conserve establishes that the producer must initiate practices, support biodiversity and avoid to the extent possible any activities which diminish it. That's in the regs.

Moving on, in implementing this there has been much work done by lots of different people. But I particularly want to give credit to great work that the Wild Farm Alliance has done in terms of their publication, and trying to provide farmers and certifiers tools to help move this along in a practical way.

In our -- in the recommendation however we view these things as tools, and not as iron clad -- they are not regulations that you have to follow. They are tools, and people can substitute their own tools.

I think just to piece -- you
remember a year ago is when in fact it was
Lynn Cody that made a fine presentation that
urged the -- asked the Board to revisit
biodiversity because she and the Wild Farm
Alliance felt that the program and us hadn't
followed up on it. And the Board at that time
directed the joint committee to look into it,
determine whether something needed to be done.

The joint committee determined
there was -- a discussion paper was sent out.
It was -- got about 60 comments, all of which
were supported with some good ideas. And to
the extent possible those comments were
included in the revised discussion paper.

Let me just summarize. The
guidance really approaches it in three ways I
think. To achieve the goals of improved
biodiversity conservation, number one, the
most important, is to increase education and
information. I think that is where the focus
needs to be, on learning by farmers,
inspectors and certifiers, and trying to get
uniformity in the inspection and certification process. I think that is real high on the list.

And then the second group includes biodiversity in the accreditation audits. And make sure this is addressed when certifying agencies are audited.

And then thirdly is the area of when we review materials, which can have, of course, an effect on the environment. We all looked at that. But more specifically to look at criteria, so that when we review the materials that we consider biodiversity. So those are sort of the three categories.

So in the -- I think if I counted right we received 53 comments on the recommendation that is before you now. I think it's fair to say that there was -- everybody supports conserving biodiversity. Many of the commenters supported the recommendation that was presented, as presented.
As you heard yesterday one concern that was initially expressed by -- I have this, CAC, Certified -- give me the right initials, Joe - ACA, I knew I had it out of order, thank you. That's the reason I had that glossary of acronyms. (Laughter) I should have it in front of me right now.

They supported all the recommendations that are in there. But in their -- they were the ones that raised the confusion about guidance and recommendation.

But also the terminology that -- the term, natural resources, was a more familiar term to farmers than biodiversity. And they actually urged a de-emphasis of the use of that term.

And you heard yesterday that the California certification agency supported that part, while strongly supporting biodiversity conservation. All of them did not -- but that was one issue.

The other was, there was some, at least one commenter commented on the criteria
1 checklist. And that was something that we
2 kicked around quite a bit in the committee on
3 how to best incorporate biodiversity and what
4 language to use in the criteria checklist.
5 Some probably thought it was too general and
6 others I know we had some who thought it was
7 not general enough.
8 But as it stands now biodiversity
9 is inserted in the criteria in a couple of
10 places about the same way as the environment.
11 So it takes a lot of judgment by whoever is
12 reviewing it. It's not a cookie-cutter kind
13 of thing. It takes as almost all the criteria
14 review does.
15 So that essentially you have --
16 leave the recommendations up there now.
17 That's recommendation one on the materials
18 review portion, and it shows in the section
19 you can see there, and biodiversity. And it
20 was in several other places. The comments at
21 the committee level caused some of them to be
22 changed and deleted.
Then go I think the next place it's at is on the third sheet. Let's see, is it compatible with organic production? And it's included there, very general.

The second part is to develop implementation, the organic systems plan. Again each certifier and grower and producer, they are given a -- each given a role. You see that up there. I don't know if I should take the time to read that, the highlights. I think one of the things that was added that came out of the reviews and discussion was the issue of conversion of, virgin land you might say, to organic production, rather than going from farmland and transitioning from farmland to organic production.

And the language that was added was conversion of native habitat to crop production has consequences for biodiversity that must be considered, and producers should discuss such planned conversion with his or
her certifier before action is taken. This is going to take a lot of judgment, and it is kind of -- certainly a difficult issue but a very important one, and we didn't want that overlooked.

Inspectors, a lot of the emphasis here is on training. And in -- with the certifiers, it's having the certifiers look to see what kind of progress farmers, producers, are making. Are they thinking about and including -- and each place is going to be different. And I have to say, there are several different templates or plans out there. But I think the work that people at ATTRA and the Wild Farm Alliance, they've got good guidelines that really help to think about it when you are out there.

Then finally the NOP looks at biodiversity when they do their audits.

I think I'll take questions now, Mr. Chairman.

CHAIR MOYER: Why don't you do
it?

MEMBER FLAMM: Or I guess -- I can do it. Yes, Katrina.

MEMBER HEINZE: You mentioned several times, and so I'm glad to hear it, the need for judgment that is created by your recommendation. And to be honest I'm really concerned about that. As an industry we don't have a great track record of consistency in our judgment. And just like every other commenter, obviously we support -- I support biodiversity and the goals. And I get that we don't want the perfect to be the enemy of the good. And so I'm struggling with that.

But as I look -- and actually I'll start with your recommendation about converting native habitat to cropland. Later on you talk about certifiers, and I'll find the language, you talk about certifiers should document the degree to which producers are addressing this, and only severe violations would lead to suspension or revocation.
So where is the guidance that would help the certifier decide that converting native -- you know, natural habitat to cropland is not or is a severe violation? So I worry about the details. And I'm wondering how you envision providing that guidance and ensuring consistency. I see it as well in the material criteria where you talk about -- how does it affect biodiversity? I think is the question you provide. Is the substance harmful to biodiversity? So if you look at a literal and strict interpretation, you could imagine eliminating a lot of material that folks are using today, vinegar and soap-based natural herbicides. They reduce plant biodiversity. They are plants we don't want there. And clearly we're going to use those materials. But who is to say that some certifier isn't later going to decide that that is not harmful to biodiversity? So we totally get that we want to
increase biodiversity, but it's that consistency of judgment that I think is a very hard to encourage, and like I said we don't have a good track record.

So I'm wondering how you would envision getting to that consistency on something where judgment is incredibly difficult and very gray.

MEMBER FLAMM: Jeff, would you like to say something before I respond?

CHAIR MOYER: Yes, I just wanted to address Katrina's comment a little bit about materials. Materials is just one piece of what would be looked at under this guidance. And certainly if you are going to use one of the materials that you mentioned, what are you doing to mitigate that problem or to enhance biodiversity in some other aspect of your operation.

So it just brings in this whole context of biodiversity. And yes, it's a little bit tricky to say it's a judgment call,
1 because in some cases it will be. But at
2 least it puts it on the plate and on the audit
3 trail of the program. So when they are
4 looking at ACAs, and when ACAs present their
5 thing, they say, look, nobody that you are
6 certifying is doing anything to enhance
7 biodiversity. Everything that someone else is
8 doing is doing that. You are going to get
9 dinged on your accreditation. You know it
10 just pushes it downhill. So it puts it in the
11 forefront for everybody. It's going to be
12 almost impossible because of the depth and
13 breadth of the nation. We talked about
14 natural resources. That's a piece of it. But
15 the biodiversity that can live within those
16 natural resources is just phenomenal. It'd be
17 impossible I think to write a standard that
18 was really really homed in and said you must
19 do this, you must do that.
20 MEMBER HEINZE: I do get that
21 piece. The question is are there things that
22 we need to do? Should this recommendation or
recommended guidance get approved by the Board? Are there things we need to do after that to help with the judgment piece? To help, you know, I'm looking at some -- I've got definition materials staring me in the forehead. Five years from now are we going to be staring at biodiversity and having certifiers up here saying, well, this certifier gave me a severe violation because I converted natural habitat or whatever it's called, and this certifier did this.

And you know, I just worry about the Pandora's Box. So are there things we can do to try to improve the consistency of a naturally hard topic?

CHAIR MOYER: I think Joe wanted to address that.

MEMBER SMILLIE: Yes, I certainly don't speak for all certifiers, but since I'm in the seat representing certifiers, I will be forced to.

I would say that the way it is
going to evolve, and I would look to that -- as you have carefully noted, Katrina, applying hard and fast rules are going to be very very difficult, and I don't think we want to. I think what Barry is talking, it puts it on the table for discussion. And the ACAs will be discussing it. There will be inconsistencies in the interpretation, and that, I won't say it's a good thing, but it's a natural thing. And certain people will take leadership. And the NOP will be sitting back auditing these things saying, well, these guys approached it this way and these guys this way.

So I see it as a slow continuous evolution to best management practices. And as different people step up and create their interpretation, others will be challenged to not have the same interpretation.

So I think in five years, absolutely. As Kathleen said among her many other great statements, there is no end in sight.
So it will be an evolution of best practices and interpretations. And the NOP won't, I don't think, will be drawing hard and fast auditing rules. They will be watching to see the performance of the ACAs, and leadership will be exercised by different people at different times. And we'll just grow that experience.

MEMBER FLAMM: Let me make a comment before I call on Dan. But I'd like to point out that, again, that this is, as far as materials, is just trying to implement a decision that was already made by the Board. So this is not a new decision.

Now it doesn't mean we couldn't revisit that decision. But this is not something new. It just hadn't been implemented by any kind of -- it's actually in the policy manual right now, and the decision was made. It was just never -- the step of adding to the checklist so we could think about it.
And I don't think -- when we say, is a substance harmful to the environment. Boy, that takes a lot of thinking by the committee. When you are going around and I think adding biodiversity, of course biodiversity is part of the environment, but it just tries to highlight, let's think about this a little more closely than perhaps we have in the past. So that's the way I look at it.

Dan, you have a comment.

MEMBER GIACOMINI: Yes, I thought, when I first read the document, I thought it was terrific. And then as I was putting together my material presentation, most of the things that you talk about are already in our criteria list of the things -- of looking at that.

But the -- I think toward a rephrasing the concern that I think I hear coming from Katrina is a concern that I got from reading some of the public comments, is
an interest by a lot of the comments to take 
this from a tool and a piece of the puzzle to 
it being the primary factor.
And it's part of that evolution, 
and we will just have to see where it goes. 
I think we are making a great start, but you 
know, I under -- and I recognize it's an 
extremely underappreciated and under-
emphasized part of it even though it's been 
there all the time.

But it's becoming the primary 
factor is down the road, it makes me nervous. 

MEMBER HEINZE: One more 
question. I'm sorry, I'm still struggling 
with this one. Are there specific practices 
that are happening today that are of concern 
and that we are trying to prevent with this 
recommendation? Maybe folks on the Board 
could help me understand that better? 

MEMBER FLAMM: Well, I can say 
yes, but I'm not going to go into specifics. 

But there certainly are. I don't know if
there are any other -- would you like to?

MEMBER SMILLIE: Sure. One of our adversaries whose name I will not mention continually points out that organic isn't sustainable because it gobbles up jungle or CRP land because it hasn't been treated with a prohibited substance for three years conveniently qualify for organic.

So you clear the land -- bingo, you've got an organic crop coming right off it. Whereas if you had farmed land it takes three years. So there is a financial motivation to clear land.

That's a simple example. There are more complicated and tricky examples. And you get into crop rotation. There you get into an argument that Barry is very fond of, if we ain't got the water we can't have a rotation argument. So there is no biodiversity on large Western wheat farms because they haven't got enough rainfall for cover crops. And you get that argument.
You get into, well, do we really enforce rotations argument. There's a lot of biodiversity that extends into those areas, and those are really gray area calls for a certifier. It's really tough to make those calls. Because technically when you are clearing jungle land to grow soybeans in Brazil -- I shouldn't pick on any one country, it can apply to any country. Is that increasing biodiversity? It'd be pretty hard to answer yes.

CHAIR MOYER: Barry, I believe Barbara from the program had a comment she wanted to make.

MS. ROBINSON: I just think that when you start to talk about noncompliances or how you are going to use this, I guess the program, you're probably going to be looking at this, first of all, we'd want to see certifying agents build this into OSPs, of course. That's where you really want to -- that would be the first place you'd want to
see this being used.

And we tend to look at these things certainly from the lens of what would hold up in an enforcement action. And you can easily see where certifying agents start getting nervous, because they think, oh sure, we issue a noncompliance because somebody had what we think is an egregious violation. They weren't -- we didn't think it was very biodiverse here.

And we can see where down the road, oh boy, that is not going to hold up on appeal. There is nothing specific in the regulation to support this.

Well, I guess that's not what we'd really want to see. What we'd want to see is a robust organic systems plan approved from the beginning that reflects biodiversity. And I think that's really where you are trying to go here, and that's what makes more sense. That's where you'd want this to evolve.

And I think that would address
Katrina's issues, and that would certainly address our issues.

And Joe is right, things like -- we've gotten this question. We got this question during the farm bill. Can land come right out of the CRP and be eligible for certification. We thought that was kind of -- we really had to sit back in our chairs and say, well, gosh, if it was such fragile land to go into the CRP, do we want that land to go into organic production? That seemed kind of an odd question to us to ponder. We are not soil experts, just on the face of it it seemed kind of strange to us. Same with fragile wetlands and that sort of thing. If you've got to put that land into a designated program because of its fragility somehow, we would expect a certifying agent to really give some pause as to why would that land come into organic production? How is it going to be handled, those sorts of things, and be reflected in the OSP. That's where you'd see
these measures.

And so then that would give a certifying agent or a producer much firmer ground, pardon the pun, on which to stand for taking action down the road then. Because you would have the commitment for the biodiversity. If you see where I'm going.

CHAIR MOYER: Barry, and I think to Katrina's question, and I agree 100 percent with what Barbara just said. It allows this document and this checklist kind of process will allow ACAs to initiate the conversation and the discussion with farmers when they are filling out their plan or updating their system plan.

I gave a talk on biodiversity this past winter, and I asked farmers in the room, and some were organic and some were not, what they did to enhance biodiversity. And one farmer said, well, I don't shoot deer out of season.

If that is the answer the ACA
gets, you know biodiversity isn't on the forefront of their mind, and you might want to encourage them to start looking at ways of managing habitat to increase biodiversity.

So I think that is what we are trying to do. And I think you start with those big problems and those egregious errors in judgment and work your way toward something much more concrete.

But I think this just gives -- is a tool to give people the opportunity to do that.

And I would also suggest that in contrary or deference to the comment we heard yesterday about using natural resources as opposed to biodiversity because farmers are more used to that word, I think farmers will become used to the word, biodiversity, when we use it. And I think they are two totally different things. Natural resources is more like the structure that houses the biodiversity, and biodiversity can live or
flourish within that structure. But water
doesn't necessarily disappear if you take out
the biodiversity. So I think they are two
separate words that are connected and joined,
but we should keep them.

MS. ROBINSON: Thank you for that
comment. Tina has a comment.

MEMBER ELLOR: Another area where
this has come to the forefront is -- has to do
with food safety and food safety issues that
lots of biodiversity applications are being
wiped out by the concern that you can't have
any wildlife on your farm because it's going
to poop on something. So that is another area
where this has come up quite a bit recently.

MEMBER JAMES: Barry, I was just
curious why biodiversity wasn't included in
the terms defined.

MEMBER FLAMM: I'm sorry, would
you repeat that?

MEMBER JAMES: I don't know what
that is. There's a mouse in the house.
You have recommended terms defined, and I was curious why biodiversity itself was not included in the terms defined that you are proposing.

MEMBER FLAMM: The terms defined are those right out of the regulation to show what's in the regulation. And biodiversity along with other terms were not specifically defined in the regulations. So it's covered under the organic system plan, and it's discussed in the preamble and elsewhere. Pieces of biodiversity is included in other definitions. But there is no specific definition for biodiversity that's in the reg. And that listing just showed -- was an example of that, and that's the reason it's not in there.

And since there was a decision early on to not go in -- decision not to go for regulatory change we felt that that wasn't really necessary. So it isn't in there. It isn't in the recommendation for that reason.
This was just a background, what you are reading is in the background of what was in the regulation. I'm sorry if that wasn't clear.

MEMBER JAMES: Right. I guess my question still stands, as to whether or not you would consider adding that to terms defined. If we are asking inspectors to look at biodiversity to be clear, or maybe it's too broad of a topic to be able to put into terms defined, I don't know.

MEMBER FLAMM: Well, like I say, since we are not going for regulatory change, and that would be a regulatory change to add that to the regulation -- that's the reason it's not in the recommendation. I guess I'm not explaining it correctly.

CHAIR MOYER: I think maybe I can clarify it. What Barry did was, he took the definitions out of the front of this book, and there is none for biodiversity. And in order to create one you have to go through...
regulatory change, and that is a long
cumbersome process, and we chose as a group to
not do that, and not write a hard and fast
rule on what biodiversity was, but define it
in terms of those check sheets, and let each
farmer define it themselves.

MEMBER FLAMM: But the discussion
document gives kind of a definition right up
front of what we're talking about in terms of
biodiversity, but that is not part of the
regulation, and it's not part of the
recommendation to do that.

CHAIR MOYER: If the board, okay,
I was just going to mention that we are
running further and further behind time.
There is a comment from Wild Farm Alliance,
does the Board want to entertain that comment,
Barry? You have the floor.

MEMBER FLAMM: Yes, I would like
to entertain the Wild Farm Alliance's comment.

CHAIR MOYER: Please be very
brief with your comment.
MS. BAUMGARTNER: Joann Baumgartner, Wild Farm Alliance.

Natural resources is defined in the rule. So it says you must maintain or improve the natural resources including soil, water, wetlands, woodland and wildlife. And as Jeff said, biodiversity falls within that. So there is really distinct guidance on that.

CHAIR MOYER: Thank you, Joann. Okay, is there any other conversation or discussion on this item for Barry? Kevin.

MEMBER ENGELBERT: Just very briefly for Katrina's sake, I don't ever see this becoming a huge problem, simply because farming organically promotes biodiversity, the lack of chemicals, pesticides, herbicides. Every organic farmer you can speak to will tell you they've seen an increase in biodiversity simply by becoming organic.

MEMBER FLAMM: Part of what I'm struggling with is exactly that statement,
that just the nature of being organic
increases biodiversity. So why then this
recommendation, which led to my question of,
are there more specific things we are trying
to prevent. And then should a recommendation
more specifically target those.

    I do appreciate the robust
discussion on this topic. Maybe I'm the only
one struggling, in which case maybe we don't
need quite so much robust discussion.

    CHAIR MOYER:   Well, I think the
discussion is warranted. But I disagree with
Kevin's comment, that I've been on many
organic farms that do not encourage or enhance
biodiversity. They are simply large
monoculture farms that use a one-to-one
substitution.

    You may argue that they are not
truly organic farms, but they just use a one-to-one substitution of an approved product for
a non-approved product, and they go ahead and
they monoculture raspberries or whatever they
might be doing, I don't want to pick on any one particular crop, and it isn't like your farm or mine. So I don't think you can necessarily make that -- and what is what we are trying to correct with this guidance document to say, what are those individual operations doing to begin to encourage and increase biodiversity on farms.

MEMBER ENGELBERT: I'd defer to your experience in traveling and seeing different farms. I was basically speaking from our own -- my own little corner of the world, northeast, and what I've seen on local farms in my area, and just the geographic, the way things lay with the hills, the mountains, the streams, the woodland, it's always going to be part of our terrain. And watching flocks of migrating birds fly over conventional fields and congregate on mine year after year after year because they have learned there's higher quality feed on those fields to glean and safer feed than there is
on the neighboring operations.

MEMBER FLAMM: If I could close

with one -- repeating a statement made earlier
by our new deputy secretary, let's don't make
the perfect the enemy of the good.

CHAIR MOYER: Thank you, Barry,

for a good presentation.

Now we are going to move on to the
crops committee, Tina Ellor, chairperson.

Tina, the floor is yours.

CROPS COMMITTEE

MEMBER ELLOR: Thank you.

First, I'd like to thank the Crops
Committee officially for all the work we put
into the few substances that we have up here.

I'm new as chairman, and Gerry has been
mentoring me through, and a lot of these
things came on board before I was chair, and
coincidentally Gerry did most of the lead work
on isoparaffinic hydrocarbon, sulfurous acid,
paracetic acid, and also the soil systems.

Kevin took point on ferric phosphate, and Rigo
took point on hydrogen chloride. The list for inerts we've all been working on.

So I'd like to say right up front that we've had some challenges with the technical reviews. But on the committee we have a great deal of expertise, and we are trying to work through those deficiencies, what we consider deficiencies in the technical reviews. And we have gone -- certainly we always go outside the TAP for information, technical review, for information and the TAP for information when we had them.

So we have done our best to remedy those deficiencies, and we are working with Dan Opie and Science and Tech in getting more of what we need. But it's been a tremendous challenge working on materials with these technical reviews.

That being said I think they did a very thorough job, which I'm sure will come out in the discussion.

So I'm going to hand it over to
Gerry to go through the recommendations and highlight some of the points of discussion we had. And we'll kind of tag team back and forth talking about the public comments we've gotten on these things and some of the discussion that has gone on since then.

Take it away, Gerry.

MEMBER DAVIS: Thank you, Tina.

The first material is tissue material, isoparrafainic hydrocarbon. The petition is for inclusion of isoparrafainc hydrocarbon under synthetic substances allowed for use in organic crop production. It's an inert extractant used for the extraction of pyrethrins for insect control.

And we looked at it as a committee and voted unanimously that of the three evaluation criteria that it failed all three. And we wanted to highlight a few of the points about the material and for those that didn't read everything.

Isoparrafainic hydrocarbon, also
known in the industry as an Exxon Mobil product called isopar M, it's very common solvent. It's a petroleum distillate. It's a carbon chain in the range of 12 to 16 carbons, mostly C14 I think. And it is used to extract the pyrethrin from the African daisy raw material. Concentration of the pyrethrin extract as produced in Africa I believe is standardized at 20 percent pyrethrin and 80 percent isopar M. And that's the way the petitioner and manufacturer of the finished product receives it I believe in this country. And then they reformulate it into a pesticide product which contains .5 percent pyrethrin, along with diatomaceous earth. The maximum use rate of the material is six pounds per acre, and as a licensed pest control advisory in the state of California, I'm very familiar with the material itself, the formulated material. And six pounds per acre is the typical use rate to
get it to function as a -- for insect control.

At this rate a producer would be applying, when you figure out the fraction of .5 percent pyrethrin versus the solvent carrier that it was extracted with, at that six pound application rate of the formulated product, you would be applying, a grower would be applying, 1.92 ounces of isopar M to the certified organic crop.

Multiple applications are common with these pyrethrin materials as they are most typically used for difficult to control insects such as many beetle species.

The crops committee, we discussed this at length, and we did not consider this fact of almost two pounds of petroleum distillate per acre per application to be an acceptable practice in the organic marketing program.

We discussed that consumer confidence and support for the organic system and marketing order is very important, and I
don't think if it was common knowledge -- we
didn't think, that is -- that if it was common
knowledge that two ounces per acre petroleum
distillate solvent applications to come,
organic crops, edible crops, was a good idea.
So that is the foundation of, I
think, why we rejected it. Why we recommend
rejecting it.
Some of the other points is that
there are other pyrethrin formulations on the
market that are extracted with different
materials. That information of precisely what
materials they use for their extraction was
not available to us because it's proprietary
information and no one would tell us.
Alternative possible extraction
methods also exist using supercritical methods
using high pressure carbon dioxide, liquid
carbon dioxide, to extract the material.
But we were unable to determine if
those were actually used in the industry or
are they just a possible way of formulating
pyrethrins or extracting pyrethrins.

With that I'd like to open it up to any questions? Yes.

MEMBER ELLOR: I just wanted to comment that we do try to read all the public comments, and we had one comment saying that - it was from the manufacturer, with a lot of reasons why they thought we should delay the decision on this or reasons that it should be listed. We didn't have any comments supporting listing it besides that, but we had many comments supporting our decision not to list it.

And there was some great work done on this petition by the whole committee.

MEMBER DAVIS: Seeing no other questions I'll move on to the next material, which would be sulfurous acid.

Bear with me just a moment.

(Pause)

The petition is to include sulfurous acid in the national list at 205601
J, which is the listing for elemental sulfur at this point I believe.

The committee voted unanimously that the material satisfied all the evaluation criteria, criteria one, two, and three, as long as it could be annotated as follows, that the proposed annotation would be on farm generation of the substance using 99 percent purity elemental sulfur per Section 205601(j)(2) only.

The on-farm generation of the substance acknowledges that the material is, under current technology at least, is very transient, and has a -- when produced the acid itself has a half-life measured in hours, so it can't be produced off site and shipped to the farm.

The 99 percent purity portion of that annotation was because that purity of sulfur is readily available in the marketplace from multiple supplies, and it was intended to optimize the on-farm production of the acid.
with the smallest possible environmental impact from the burning of sulfur which produces sulfur dioxide which is injected into the irrigation stream which produces sulfurous acid.

Sulfur dioxide is the compound present in the natural environment that gets into water and the atmosphere producing sulfurous acid and the net effect of pH 5.2 to 5.5 rainwater as the petitioner presented yesterday.

Unfortunately you were not able to get through your entire presentation, so I'm going to try to fill in a few holes for the benefit of the audience and the rest of the Board.

We wanted to respond to some of the public comments, the written comments submitted. First one was a common point that was made by a couple of commenters was that there was no TAP or technical report used for this recommendation. And that is not entirely
correct. The crops committee was anticipating the arrival of the technical report leading up to our deliberations. At the time at the very latest date that we could get this recommendation done prior to posting it had still not arrived.

We had agreed as a committee to -- we were anticipating the technical report to arrive before this meeting, which it did. So we committed to present any new information that was in the technical report as part of our presentation today to account for not having the technical report on hand when we voted.

We did not -- when it did arrive and we analyzed it we did not see new information that we did not go over; so there was nothing to present from that technical report that we did not present in the recommendation, in the evaluation criteria forms.

We made the decision to go ahead
and vote on it before the technical report arrived because we had lots of information on this fairly simple and straightforward material. We had available to us a reasonably thorough and complete petition, a very large and informative U.S. Geological Survey document on sulfur, the base material; and lots of sources for the historical use of the material from when it was an approved input on certification systems such as what CCOF had in California prior to the national rule.

Another comment that was received was concerning the source of the elemental sulfur, and if you could refer to category two, question two, Valerie, would answer some of that comment.

The comment was, when the elemental sulfur on the market comes from petroleum or natural gas, so why do we want to approve this usage.

The substance can be produced from burning naturally occurring mine sulfur, which
is the subject of question two in the evaluation criteria. Is the substance formulated or manufactured by a process that chemically changes a substance from a mineral, naturally occurring mineral source.

Unfortunately, and that was one of the main things we got from the U.S. Geological Survey document was that due to air pollution abatement laws in the 1970s that required oil and natural gas producers to scrub the elemental sulfur out of the oil and gas it put all of the natural elemental sulfur mines out of business because it was far cheaper material than what they could produce by mining, and that was well documented in that report.

So and I think the petition also pointed out that when natural gas and oil disappear, and are no longer in commonplace usage, that the elemental sulfur mines are still there to be reopened and used once again. And in fact I contacted one sulfur
producer in the Gulf states, and I asked him that question about when they shut down their mines and so forth, and the answer I got was that with the high price of oil and gas last year, the price of elemental sulfur to the farm went very high as well. And they actually looked at reopening their mines briefly because the price of sulfur was high enough that they could justify it.

But now things have changed, and the price has gone down to a more normal level, and that's not going to happen anytime soon, so the oil and gas are gone at least. So all elemental sulfur for use as a soil applied elemental sulfur, it comes from petroleum and natural gas, and that's all we have to work with.

So that leads into the last public comment of, well, we have alternate methods here. Why don't we just apply elemental sulfur to the soil? And I wanted to refer to category two, question nine, for that. Is
there an alternative substance? Yes, there are. Soil application of elemental sulfur is possible, and it is used routinely in the Western United States by organic growers to lower the pH of their soil and deal with their high pH irrigation waters. The problem with that is, it's not as desirable as using the sulfurous acid, as with the sulfurous acid you can control, put on a very little bit at a time to basically match your irrigation water with natural rainwater without putting large amounts of elemental sulfur on the soil, which does have impacts on microbial soil life at the rates that you have to spread it and broadcast it on the field to accomplish the desired effect.

So this material would actually soften the blow to the microbiological life in the soil, being that it can be controlled and be applied incrementally at levels that are not as hazardous to that microbial life.

The other natural materials or
alternative substances would be citric acid, which is commonly used now. I think one of the commenters yesterday mentioned using it in blueberries. And it is a very weak acid and requires huge quantities of it. And we analyzed that at the committee level, and I submitted information from the farm that I work for with our high pH irrigation waters that, to amend our well water to rainwater levels, would require -- at the amount of water we apply for a blueberry crop -- would use about 6,700 pounds of citric acid per acre per year. So it is a huge quantity of a very weak acid you have to apply to accomplish the same thing, versus a very small amount of this elemental-sulfur derived sulfurous acid.

So hopefully that gives you -- the commenters -- a broad picture, and the commenters and the Board a broad picture of how thoroughly we went over this and hashed it all about, and didn't just very quickly decide to vote to recommend approval of this
material.

Next would be questions on that.

Steve.

MEMBER DeMURY: Gerry, the use of citric, are there other problems with that besides -- assuming the cost is much higher because you would have to use so much. But are there application issues? Are there other issues that would keep you from using citric over this new substance?

MEMBER DAVIS: Citric acid is always being questioned on whether it is truly natural or not, in the way it is produced. That is one question we analyzed and tried to get some information on that. We didn't get the full answer from the technical report that we asked for on that, on the way that citric acid is made, and the sources of it, where it's coming from. We were told that in general it comes mostly from China because their manufacturing costs are cheaper and they ship it here. So oversight of the production
of it is maybe a little limited. We are concerned about that.

That huge quantity -- 6,000 pounds or more of citric acid -- is well beyond the profit potential of a blueberry crop. You could spend that money and not make any money on the crop, if you were trying to do that.

Seeing no other questions, I guess we'll more on to peracetic acid. The petition was requesting to remove the annotations from the listings for peracetic acid, which currently on the list, 205601(a)(6), 205601(I)(7).

And based on that request to remove the annotations -- which would essentially place no restriction on peracetic acid use in organic farming -- the committee voted unanimously that, based on that criteria that it does not fit, did not satisfy any of the evaluation criteria of impact on humans, environment, is it essential, or is it compatible and consistent with organic and
We acknowledge that we did not want to see the Board reject the material entirely, the petition, because peracetic acid is a component of hydrogen peroxide formulations that are currently widely used in organic production and very important to a lot of people, a lot of farmers. So we did not want to throw that material, that related material and usage, into jeopardy by throwing out the material completely. The main reason that we did not want to remove the annotation to allow expanded use of the material was that -- I mentioned this yesterday -- we were concerned that although the labels on the market today for hydrogen peroxide peracetic acid formulations, they are what they are right now. But if we just gave a blanket approval of the material, it would allow any formulators or producers of the material to -- depending on EPA registrations and so forth -- come up with very strong peracetic acid
formulations that could conceivably be used as
soil biocides -- watered into the soil --
which would have dramatic effects on organic
sustainability and the whole concept of
ecological farming and the biodiversity of
microbial and other life in the soil.

So we just didn't want to open the
barn door and say, yes, do what you are going
to do someday. Right now it may not have been
a problem, but we could very easily see that
it would one day lead to very expanded and
high usage of peracetic acid in a soil
drenched type of application. I hope I'm
explaining this correctly.

So we proposed a separate
recommendation, and that's up there. I don't
think I can read it from here. So based on a
different annotation, an annotation change
from the current, we voted as a committee,
also unanimously, that it changed whether the
valuation criteria were satisfied. We felt
that it changed the impact on humans and
environment, and it also changed the essential 
unavailability criteria.

So I think the comments contained 
there in Section B I already pretty much 
explained in my discourse a minute or two ago.
We did not want to jeopardize the currently 
available hydrogen peroxide formulations that 
rely on that small amount of peracetic acid 
being there to be effective. So we 
recommended that we limit it to no more than 
two percent concentration, which was based on 
the most common and invasive hydrogen peroxide 
formulation that is on the market right now, 
so as not to jeopardize that type of product 
that is currently used a lot.

Any questions? Jeff.

CHAIR MOYER: More a comment than 
a question. What essentially we were trying 
to do as a committee was keep the status quo, 
which by default we had to make this change 
because they changed the way this material 
needs to be listed -- it no longer can be
listed as an inert; it's an active ingredient.

So we have to make some change, we can't just not do something.

MEMBER DAVIS: Yes, I neglected to say that the EPA has changed its regulation, which has forced the hydrogen peroxide formulators to declare peracetic acid as an active ingredient rather than an inert. So that is the big change, and that is what prompted the petition. And we wanted to respect that and try to keep those products that many growers we are told rely on on the marketplace so they could still use them.

We posted these as discussion items rather than for vote, because we are really seeking more public comment and information on the use of these materials, and also on -- there is a stabilizer that has to be in these formulations, that was mentioned yesterday in the public comment. It's called HEDP. It's a phosphate-containing stabilizer that regulates the balance between hydrogen
peroxide and peracetic acid in these formulations, because it is a two way reaction when you mix hydrogen peroxide with acetic acid which forms the peracetic acid.

We were not able to find what we felt was good information on the HEDP as far as its environmental impact and what it's all about. So we didn't feel comfortable voting on it this time around. We wanted to get more information on the HEDP, as well as input from the organic community on the use of these materials, and importance of them to organic growers.

Any other questions?

I turn it back.

MEMBER ELLOR: Thanks Gerry for your yeoman services. We do spend, and everyone on the Board, I don't even need to say this, a tremendous amount of time reviewing these materials, and it's been a real challenge.

The next thing on our list, and
Kevin and I were just talking about this a little bit, was the sunset 2011. And I won't say too much about that, except to say that we've been following the public comments on ferric phosphate and hydrogen chloride, and like I said Kevin is taking point on ferric phosphate. We've had some discussion in committee on that. And Rigo is taking point on hydrogen chloride, and we have also been discussion that a little bit. We haven't done any formal documents on them yet, but so far all the public comments that we have received have been in favor of keeping those on the list. So I don't think I need to say anything more about that. Does anybody want to add anything to that or have any questions about it?

And then, also a discussion document, I have to turn it back to Gerry, because he has been the main author on the soil list systems document. And that is just a discussion document, so we probably don't
have to spend too much time on it. We have
gotten some comments, but that is just a
discussion document.

So in terms of time spent maybe we
can just have a brief talk on that, and list
four, inerts, and pesticides, once again
that's something we received a lot of public
comment, and we are going to be taking that
back into committee and working very hard on
coming up with more on that.

So back to you, Gerry.

MEMBER DAVIS: On the soilless
growing system, this was an old crops
committee agenda item that had been passed on
and passed on, and shoved to the back burner
for a number of years, and we have been
attempting to work this through and get things
voted on and presented.

One central theme that has come up
that we wanted to address at this meeting by
putting it in a discussion item so it would
hopefully prompt public comment, was the idea
that for typically greenhouse growing systems, that hydroponics and aeroponics, variations of those production methods, should not be considered compliant with organic farming regulations, because of the lack of soil. These methods of growing crops is either roots in an inert base substrate, that is not a soil; it could be rock wool or something. Just a place for the plants to attach their roots. Or suspending them in water itself, and let the roots dangle in water. Aeroponics would be roots suspended in air, just mist it with water under plastic covers. So those right now there is a gray area in our rules. It's not specifically mentioned if that is okay or not. So there is beginning to be some emergence of those types of production methods, attempting at least to be certified as organic.

We were unable to determine if there really are any actual operations certified in this country, but it is coming
closer certainly. And so it's time to deal with that issue.

And so we presented this document. It talks about why that -- those methods would not be considered organic, but it also presents the idea for containerized growing of terrestrial crops in, most typically, greenhouses where there is a compostable substrate base of natural materials where all the normal microbial life and soil in vertebrates and beneficial nematodes and on and on, fungi, if it's a type of media where all those can grow and subsist like regular organic farm soils in the field, then it should have the potential at least to be considered as a soil because of the nature of the ecology that grows there, not because it's dirt, but that's what's the same as out of doors farm soil out in the field, and containerized greenhouse media, if they both generate the same soil ecology, we wanted to present the idea for comment of considering
those situations soil. How would you certify
that? How would you -- what would the organic
system plan and all that for that type of
ting, it would need to be developed and
presented hopefully this fall as part of an
update on the NOSB greenhouse standards, which
initially were voted on and approved by the
Board in 2001. They were never adopted or put
into regulation. And there is some interest
now in reviving them and getting some U.S.
greenhouse standards.

We are lagging a bit behind. The
Canadians have their own, and they were
questioning the program on why we don't have
our standards. And I guess, Barb, if you want
to make a comment on that.

MS. ROBINSON: When we met with
Canada in March as a matter of fact they did
ask us whether we had hydroponic standards,
whether we recognized hydroponics. I did speak
with Gerry. I got the crops committee work at
that time.
I told Canada that although we do not specifically prohibit hydroponic production, that it was my understanding that we don't approve hydroponic what I referred to as crops in a bucket in this country.

But I also committed to Canada because they did ask us, they said, can you -- they said, what are you doing? I said, well, actually, we are looking at yours, which made them very happy.

And they asked how soon we could come up with something as guidance, which is all I really could commit to at the time.

They asked if we could come up with something within a year. So I said yes.

My goal is equivalence, so, I said -- well, plus we are going to use theirs.

They've already written something.

So why not? Anything to get them over the line, right? So that is why I was talking with the crops committee, and was interested in this. But I don't see why not.
MEMBER DAVIS: Thank you, Barbara.

So I believe that is all we really wanted to say about this. I would make one response to a public comment, I believe it came from CCOF, about everyone -- the few comments that we did receive on this mentioned, well, we haven't seen these greenhouse standards, so how can we really comment on this.

So granted, we'll see how the greenhouse standards recommendation comes along for this fall meeting.

One question that was mentioned about well, what about transplants, vegetable transplants for example grown for transplanting out in organic production fields. And we as a committee didn't discuss this, but I can think of a response myself, in that working for a farm that uses a lot of vegetable transplants, and it's also in the greenhouse business as well starting this year.
I believe that the soil ecology that is talked about and kind of thrown out here in this discussion item for consideration by the committee and hopefully response and input, the soil ecology that it talks about I believe certifiably we should push our vegetable transplant producers to work towards viable organic soil ecology type principles in their transplant media; not just vermiculite and plants popped in there.

Because the soil ecology as it interacts with the plant and colonizes the plant roots, that all begins right from germination. In fact that is probably the most important time for those plant-symbiotic relationships to form, not -- they collect that for no reason just because it is not really that convenient to construct a properly well balanced compost base at least, or at least -- I'm getting off track here.

So in answer to that public comment, yes, I think it should be more than
just vermiculite. It should be a soil-like media that contains viable soil ecology of microorganisms.

And any questions on this? Tracy?

MEMBER MIEDEMA: Gerry, what about sprouts, edible sprouts? I know we already made special provisions in requiring organic seed for edible sprouts. They have gotten special treatment before. But should your recommendation make organic edible sprout growers nervous?

MEMBER DAVIS: No. Again, that's not -- we pointed out in an earlier incarnation of this work at previous meetings that organic sprouts are not -- that is a different topic that is not part of this work and this discussion.

It's -- already has its set of rules, and hopefully satisfies the needs of that area of production, and we don't need to readdress anything more other than what I think has already been addressed.
Joe, do you have a comment on that? Or something different?

MEMBER SMILLIE: No, your answer satisfies me on that one. You may just want to put it back in so there is no confusion, but that is up to you.

MEMBER DAVIS: Just to say what -- to delineate that idea?

MEMBER SMILLIE: Yes, it's food production, not crops, it's handling or whatever.

I just want a clarification. This will become a recommendation, this document. And you will also come out with a revised greenhouse growing document. There are going to be two recommendations coming out?

MEMBER DAVIS: No, I would anticipate it would be one.

MEMBER SMILLIE: So you are going to take what was done before and blend it into this?

MEMBER DAVIS: Exactly. We have
1 looked at what was done before, and we will do
2 more work on that, make it more complete
3 including work on what constitutes a proper
4 soil media in a greenhouse, get specific about
5 what can be used, what principles should be
6 adhered to. So to give certifiers something
7 to certify.

8 CHAIR MOYER: Joe, this was a
9 missing piece in that greenhouse document that
10 are going back and trying to fill in.

11 MEMBER DAVIS: And again, it's
12 designed to elicit public comment and input to
13 get more information on doing it the right way
14 when we come out this fall.

15 MEMBER SMILLIE: Yes, and parts
16 of the NLP will have to recuse themselves as
17 the people's garden is planning to have their
18 containerized pots certified, as I understand
19 it.

20 MEMBER DAVIS: Dan.

21 MEMBER GIACOMINI: Gerry, you
22 structured this document around the concept of
organic principles. We generally have the
discussion around agriculture. Was there a
lot of public comment that addressed those two
points? Or did the committee do any
consideration on the difference in those two
points? Or did they see any?

MEMBER DAVIS: I'm not sure I
understand your question.

MEMBER GIACOMINI: Well, I think
it's pretty hard to justify, at least it would
be for me, to most consumers, that one tomato
is that different from another tomato. And I
think it would be hard to say that one -- I
think most people would say that both tomatoes
are agriculture.

You used the concept of organic
principles to carve out a section and say, we
don't think that fits with organic. I'm just
-- pertaining to hydroponics, specifically,
I'm just wondering if there was any discussion
about that?

MEMBER DAVIS: Yes, a lot. I
think, Jeff, you probably would be a good commenter on that.

CHAIR MOYER: Well, I don't want to take up too much time, but your answer is accurate. Yes, there was a lot of discussion about that in the context of the fact we're looking at terrestrial plants that need to be grown in a terrestrial situation. It does fit in with the organic principles, and they are both tomatoes, but there are gross differences in the way the tomato acts and responds to its environment.

So we did spend a lot of time discussing that. Kevin, you had your hand up.

MEMBER ENGELBERT: Yes, I was going to bring that up before your point, Dan. We hope the comments that we receive have reasoning behind them, because this is extremely difficult subject. And we are going to begin looking at cosmetics and pet food and all these other things. And the argument that we receive is, if we are not using any
prohibited substances, or doing any prohibited practices, why can't we call hydroponics organic.

So we are hoping the comments that we receive are going to help guide us so that we can come to a sound -- like Gerry said, sound conclusion. And keep these -- this label the way it should be.

MEMBER DAVIS: I'm going to be very interested to see how that discussion goes, because I can see where this format of really focusing on the organic principles rather than just whether something should be considered agricultural or not, could have a huge impact on discussion of other items that we are looking at down the road.

CHAIR MOYER: Tina, back to you.

MEMBER ELLOR: Okay. Well, I think in the interests of maybe trying to get back on schedule, if there is no more discussion we could move on to the livestock committee.
MS. FRANCES: One small point. I just noticed in this soilless discussion document you refer to aquatic plants recommendation, or aquatic plant production standards. And you already made a recommendation on aquatic plants. I didn't really see that phrase.

MEMBER ELLOR: I don't believe we did yet. That would have been --


MEMBER ELLOR: Right, okay.

MS. FRANCES: So just for the record, that's all.

CHAIR MOYER: Tiny, did you want to discuss anything about list for inerts yet?

MEMBER ELLOR: No, only to say that it's constantly in our committee. We are constantly looking for public comment. We got a lot of great information from Henri and from OMRI and from CCOF, and we'll be continuing to work on that unless somebody else has some
discussion about that.

CHAIR MOYER: Okay, what we are
going to do now is, we are going to break for
lunch. Before you go, Barbara has a comment,
and then I'll be back.

MS. ROBINSON: I just wanted to
let everybody know, if you have signed up to
go see Deputy Secretary Merrigan this
afternoon, remember her office is in the
Witten Building. Her office is 202B, but you
need to enter on the Jefferson Street side.
That is the side that faces the mall. The
national mall. You have to check in at the
guard station. You will have to enter where
it says visitors. Mark is going to be down
there, Mark Bradley is going to be down there,
so he'll help everybody who wants to come in.

We have given everybody's name to
Marilyn Pisch, who is Kathleen's secretary,
and so you will have to get cleared in. You
know if you have come down to see us before
they go to put you through the security and
all that jazz. So anyway, that's again, 202B
is her building -- I mean her office -- her
building. She does have the building, though.
Anyway so that is just up on the second floor,
right up next to what we used to call the
cage. So just check in at the guard station.
Your name will be there. If your name is not
there, you're not there. So okay.

CHAIR MOYER: Thank you, Barbara.
This meeting is temporarily
adjourned -- I'm sorry, Valerie has one more
comment.

MS. FRANCES: On the list for
inert question, Chris Fiefer from EPA is here
if you wanted to ask any questions of him.

CHAIR MOYER: Were there any
questions from the Board for Chris Fiefer on
lists for inerts? Yes, we do have one
question. Kevin.

MEMBER ENGELBERT: Could he come
to the microphone and just give a brief
description of why they did away with a
listing of the inerts, those four inerts.

CHAIR MOYER: So you want to know why your life suddenly got miserable?

MR. FIEFER: Hi, I'm Chris Fiefer.

I am not actually authorized to speak with regard to agency policy. I want to get that out of the way right now. It seems like I'm brought up here whenever that is the case.

Let me go back. I think I covered this briefly last time I was here; I spoke a little bit about the back story of the list.

The list was never a statutory list for the EPA; it was kind of a cocktail napkin list developed for our own tolerance reassessments. It was not created with the NOP in mind, nor was it really created with our food tolerances in mind.

That said the list was practical with regard to this program, because the human toxicity of most of the inerts were very well considered.

But as your program has evolved,
and as this list has lost any of its statutory basis, that's the reason why I believe you are being called at to look at a new list system.

CHAIR MOYER: Does anybody else have any questions for Mr. Fiefer while he's in our midst?

I don't hear any. Okay, thank you very much. I appreciate your coming and participating.

We are adjourned until 1:00 o'clock.

(Whereupon, the above-entitled matter went off the record at 12:01 p.m. and resumed at 1:06 p.m.)

CHAIR MOYER: Okay, everybody the Board is seated. We have a quorum, and we are officially back in session. If we could please quiet down in the back of the room we'd appreciate that.

We will continue with our committee work starting with the Livestock
Committee, Hue Karreman, chairman, if you are ready Hue? Please, the floor is yours.

LIVESTOCK COMMITTEE

MEMBER KARREMAN: Yes, okay.

Thank you, Mr. Chair.

We have four items for the Livestock Committee to present for discussion here within the Board today.

The first one that we've been working on is a petition for propionic acid. Some people call it proprionic acid sometimes, but anyway, we are talking about the same thing. And the petitioner was asking for it to be an animal feed preservative as a mold inhibitor, and briefly to kind of cut to the chase I guess, preservatives -- well, first of all we deemed this to be synthetic, and synthetic preservatives are not allowed under 205600(b)(4), which is shown in the cover page there somewhere near, under (d) I think.

So it was a unanimous call on the vote. However we did really talk about this
quite a lot. And we declined the petition, and that was unanimous. In our discussion on it, however, we looked at the propionic acid technical review done by S&T as well as another older petition for calcium propionate that has been reviewed by the Board earlier. And we just happened to see quite clearly the difference of quality in petitions, or technical reviews, I'm sorry.

So it just kind of highlighted to us the quality of the petitions. So even though this substance we are not recommending to be allowed, it helped us look at petition quality. I'll leave it at that, because I know tomorrow part of the board will be meeting with S&T about that topic.

CHAIR MOYER: That's correct. Any questions?

MEMBER KARREMAN: It's a synthetic, preservative, not allowed.

MEMBER GIACOMINI: Not all propionate, propionic acid, is synthetic,
but this was the synthetic form to be listed on 603, so that was what we were looking at.

It was requested as a preservative; that's what we were looking at, within those two boxes that this was a fairly easy decision.

**MEMBER KARREMAN:** Thank you, Dan.

And there are natural forms of propionic acid, and of course they would be allowed if they are natural.

Okay. The next thing up, is a recommendation for -- I'll have to look at my hard copy here, I apologize -- recommendation to add a new section to the national list for synthetics for livestock. The section is proposed 603(g), formulated injectible supplements of trace minerals for 205.603(d)(2). Vitamins per 603(d)(3), and electrolytes per 603 (a)(8), with excipients per 603(f) in accordance with FDA restricted to use by or on the order of a licensed veterinarian.

Note that it is for injected forms
of those materials which have already been on
the list, okay.

The reason the committee came up
with this proposal is that some certifiers are
being selective on injectible vitamins and
minerals, usually based on the excipients or
the carriers or preservatives, and generally
farmers don't really understand that. They
see something as vitamin B complex or vitamin
C injectible, you know, whatever brand, they
are like well, that's vitamin C or vitamin B
complex, or whatever. And they, the farmers,
are looking at using these injectible type
items and minerals for nutritive needs for
their livestock.

They have been generally allowed,
almost grandfathered I guess in a sense. They
are widely used, but once some certifiers
start kind of picking and choosing which brand
names are okay due to excipients and carriage
preservatives, then it gets a little bit
muddled.
And we'd like to clarify that, and that is why we are proposing this section. Basically -- let's see, oh, it is a whole category, and the reason we went that route, there is precedent for that in the list as you all know, 603(d)(2), 603(d)(3), and the excipient ruling, which is actually new at (f), are all category type uses without specific items being listed or not listed.

Now the excipient ruling came out just December, 2007, and if I remember correctly there were not many complaints from the organic community about that category heading coming in.

And so that is why part of the reason we are looking at adding a whole category. The other reason is that in doing some homework on this I think I counted up very easily about 24 different manufacturers of vitamins and minerals, injectible vitamins and minerals. And their processes of making the injectible vitamins and minerals are not
necessarily obtainable. The formulation processes to make injectibles are generally only obtainable when they are in the public domain from patents from the 1950s through the 1970s, and maybe through the '80s. And the injectible vitamins and minerals that a farmer may have in his cabinet right now today may not use that process.

So I did not feel that that would lead to a final conclusion on this, and in relation to the other three categories, categorical allowances under (d)(2), (d)(3) and (f), a new section (g) was and is being proposed.

On public comment generally they were all positive. There were some concerns of course. But VOF had one of their -- I don't know what VOF exactly stands for. I know it's the Vermont Organic Group. They wanted to amend the -- in the very last sentence that they thought it was too stringent to have a veterinarian only order or
administer the injectible vitamins and minerals, and they would like to see it restricted to use by any person trained in the administration of the injectible supplement.

And let's see here, generally in favor, but then there are some people like yesterday during public comment that do want to see every injectible vitamin and mineral TAP reviewed; at least that was my understanding from public comment yesterday.

PCO would like that, and I think Harriet Behar had mentioned that. OTGO in Oregon supports the proposal as is. Kelly Shea is in favor of it as well, and has some extra comments relate to it but not directly so. And CCOF was supportive of it, however they would like to add the term as nutritive supplements in the beginning of the statement.

The reason -- and then I think VCO was mentioning that perhaps this should go under Section A, the medications clause, in 603. The reason we don't want to put it under
the medications clause is that we had an hour, hour and a half long conference call, the Livestock Committee, with some NOP input as well as the FDA Center for Veterinary Medicine, and the moment you start making claims or insinuating medical treatment about these injectible vitamins and minerals, it kind of crosses the line from being nutritional supplement type material into actual treating disease, and that triggers some extra FDA input. And so we would -- the reason we had that conference call with the FDA was to get ahead of things, this time, instead of the medicines that were approved in 2007 where there was a lot of back and forth for a number of years. And they fortunately got approved, but we would like to prevent excessive time going by, because these injectible vitamins and minerals are commonly used as everyone does acknowledge. So that's pretty much the injectible vitamins and minerals document.
round up. Yep, Dan.

MEMBER GIACOMINI: Yes, Hue. I believe it was CCOF made a comment, we unfortunately have not had a chance to go over it, but I'm wondering if you have with any other members of the Livestock Committee, regarding listing this being a nutritional supplement listing including excipients which the language on the excipients is specifically for drugs. Did you ever come up with a way of clarifying that?

MEMBER KARREMAN: Good point. The -- what CCOF said on top of their kind of three word beginning of, as nutritive supplements, formulated injectibles, they also did mention that the excipient wording in (f) the word drug should be replaced with something other than that like health care items. And the reason being that the NOP rule says that you cannot treat animals in the absence of illness, except for vaccines.

And these are nutritive
supplements for whatever reason they are being used, and I think that is what they would like to see so that animal health care products -- and this does dovetail into animal welfare which we'll get into -- are allowed if their carriers or whatnot are GRAS, if they are FDA approved food additives, or they are part of an NADA new animal drug application formulation.

And I believe there was another comment regarding the excipients as well if we are going to look at that, which was overlooked in the 2007 edition, that the excipients we were looking at compounds at that point in that petition process that were all of them happened to be FDA-type compounds with FDA oversight, but there are other ones with USDA oversight, through the APHIS, Animal Plant Health Inspection Service, their excipients for vaccines and biologics that we should add into that excipient clause as well.

So I don't know if we can open up
the excipient clause at this meeting. It is germane to the injectible vitamins and minerals, but I don't know if we can.

MEMBER GIACOMINI: I'd certainly like to hear from the program. My impression would be that this being the national list and that being a separate listing that that may cause a problem in trying to have a recommendation to add a listing and amend a listing at the same time, but if we could hear from the program.

CHAIR MOYER: Richard, would you care to comment, please?

MR. MATTHEWS: You could go ahead and discuss at this time, but you can't take any action because it wasn't on the agenda as an action item. So you can talk about what you want to do for the next meeting. But it does need to be addressed; we are aware of it, and we encourage you to go ahead and address that issue.

MEMBER GIACOMINI: So we can say
that our intent will be once the excipient language is corrected that this is for all nutrient supplement vitamins and minerals that are not restricted by FDA.

MEMBER KARREMAN: Yes, it would include the excipients that are regulated by FDA as well as APHIS. That is the intent.

MR. MATTHEWS: Which by the way was the intent was to cover everything, but what happened was that we failed to make sure that all those that were regulated by APHIS were included. But it was always the intent of both the Board and the department that the excipients cover everything. But there is the technicality that because of the wording in the statement that we cleared through FDA that it didn't include APHIS.

MEMBER KARREMAN: And that was actually part of my fault being the petitioner for them for not also looking at that.

MR. MATTHEWS: No matter what the fault, the bottom line is that we always
intended it to apply to everything, but it has been brought to our attention that there are some that we didn't adequately cover.

MEMBER KARREMAN: So I guess we can take action, and we will, on this recommendation. And only change any wording from public comment or how we see it needed on the actual proposed language addition for the category; not the excipient language, although that will be on the work plan; it has to be now for the next meeting.

Any other questions?

CHAIR MOYER: Okay, next item.

MEMBER KARREMAN: The next item on the list there is aquaculture, and I'm happy to say that Jennifer Hall will be addressing the discussion document with the bivalves.

MEMBER HALL: Thank you, Hugh.

Thank you, Mr. Chair.

I am presenting where the Livestock Committee is with its progress on the proposed organic standards for bivalve and
mollusc production. And I think everyone saw both of the documents that were posted on the agenda. First, the kind of status report of where the Livestock Committee is in its discussions, and kind of trials and tribulations with trying to figure out where and how the bivalve mollusc production fits with organic standards.

And then the AWG's response to those five points of concern or further exploration. Those five points, just to reiterate, are feed control, water quality input, control of harvest sediment, using sanitation measures as indicators, and containment.

I want to say before I go into it that I am personally really glad to be presenting this on behalf of the Board. Our committee has worked with the AWG to really try to understand this whole new arena of organic food production, that aquaculture represents. And with their patience and
continued efforts to educate us, we continue
to learn more and get better at asking the
right questions and exploring areas of
concern.

We appreciate the frustrations
this might create, and are grateful for the
aquaculture working group's consistent
availability and patience.

Comments on what has been posted
have been pretty sparse, which just kind of as
an opening I think reflects the lack of
experience on these topics in the organic
community as a whole in the U.S.

And so I for one hope that our
capacity to respond, approve and recommend
upcoming topics of this nature is enhanced by
the addition of the board member in this
present round of recruitment that brings his
expertise a little bit more. It's been
difficult for all concerned to kind of rifle
through it, and our ability to deal with it
would clearly be enhanced if there were
someone who would better represent the community as a stakeholder.

I participated in a number of the conversations that the AWG had on the phone as the document was coming together originally, and definitely came to appreciate several things. The dedication of the group of professionals involved, the struggle that present law to accommodate the productions of some that is proposed, a true desire to create standards that actually do raise the bar, versus conventional bivalve mollusc production and a great understanding of the already stringent requirements on this type of production.

The AWG has made it a priority to establish measurable opportunities to make their production more organic, from origin of life to siting to control of contaminants, the proposal does make advances in production techniques more suitable to the goals of organic ideals.
And in fact of course as you must know it even goes so far as to stipulate transport requirements and addresses a bit of consumer fraud that doing that incorrectly could lead to. So it actually did go through quite a rigorous process, and took to hear the desire for an organic model to be adopted where they needed to be better than conventional production.

So I just kind of want to go through the points quickly, and just again kind of get the staff's report a little bit beyond what was mentioned in our document.

Number one, with feed control, I would say that a number of items of concern. These five were shared back with AWG and the organic community. But I would say that it is this one that probably represents the largest hurdle, and greatest area of concern. And that it is I think an evolving conversation. We definitely appreciate the AWG's response to this and other points, and we will take that
in general it's just -- it's difficult for us
to kind of wrap our heads around -- if it's in
the livestock area, and typically with most of
what we deal with there is a greater level of
control over what the animals are eating than
in this scenario. So I think it makes it a
little more fluid, and when you talk about
organic and its management and factoring that
into an OSP that just got regular in and out
of water and nutrients that these bivalve
molluscs would be intaking, it's just a bit
hard to figure you could kind of truly manage.
And I think that that, and the fact that it is
not necessarily certified organic feed, that
would be going into them as well.
So I would say that that is
probably the number one issue that still
remains.

On water quality, the siting
requirements definitely do add much more rigor
than -- since there are very few in
conventional production, the stipulations that
they have for really looking at your entire environment, and whether or not it is appropriate for this type of production, it has added considerable merit to -- or considerable value to actually having it be organically certified, and looking at the impacts of that siting, not just on the item being produced, but as with all of the conversation about biodiversity the impacts on that farm as it were on surrounding community of life.

So -- and I think we've kind of gotten stuck a little bit in this new category of production, of aquaculture, and in an effort to understand it better, and not to keep drilling -- Katherine's words -- but definitely kind of looking at the perfect versus the greater good scenario.

But you know we get that management, and all of organic management doesn't necessarily insinuate 100 percent prevention. And that we need to continue to
dialog about where the management is consistent with the label, not just prevention and trying to protect everything; that in farming, in terrestrial, definitely we have an impact. We till fields, we do things that have effect. So to insinuate that we wouldn't in this sort of -- in aquaculture production would be kind of out of bounds really.

On control of harvest sediment, similar but also I think we were looking for some feedback on how much is too much, and that fortunately the AWG did recommend several prohibited practices that really do stretch the habitat. And that is good; I think we were looking for perhaps a little bit more, that there were still some that were feeling like they were on the line. And just kind of using geoduck as an example that the extraction of it seems pretty intrusive to the environment. And so maybe instead of coming forward with a common united front, which we totally understand the committee's desire to
do that, that there may be a need to identify
certain species either from a production or
from a harvest perspective that just don't
quite qualify; something about how they need
to be produced and/or harvested, it just
doesn't work with the bigger picture.

On sanitation the hydrologic zone
of influence, and really defining that along
with coastlines and following even the current
existing regulations they have to follow, they
adequately gave us more information I think
that we were seeking on that, and I think that
even if you with all of these points
containment as well, I sort of came full
circle as I was thinking about it yesterday.
And it's interesting, because we have
approached the entire conversation from the
framework of livestock of course, because
that's where it was coming to us, and that's
what we were asked to do, and it made sense in
our conversation. But we asked them, we asked
AWG to put together that great chart, so it
could be really a lot more clear and really illustrate the differences between conventional bivalve mollusc production and what they are suggesting. And I am very grateful for that. I think it really did start to drill down to a level of comprehension that was really easier to absorb and to really identify those distinctions. And as I went through it I personally started to think about the whole conversation in just a little bit different way. Not that I am suggesting that we punt this issue from our committee, but that if you really think about what bivalve molluscs are, and the AWG has brought this up, that they are analogous to plants, on terrestrial, that plants are kind of filters of the air; that bivalve molluscs have always kind of been filters of the water. And so the passing through of fluid with all this other management to try and control for the quality of that fluid going through, that perhaps it's
using just a little bit of a different framework of thinking about it, and I'm not settled with it. But it definitely brought me to a point of looking at it from a different perspective, and allowing for it to kind of sit in our discussions when we take it back to committee in a different way.

So I would like to talk about that with my committee members when we revisit it a little bit. I don't think it's out of the realm of possibility, and I definitely appreciate the work and, again, the patience of the aquaculture working group to help get us to this point. It has been much appreciated.

So our call really in kind of providing this update is to let you know we haven't put it to the side at all. There have been other issues we certainly needed to address in the meantime. But it is a really deep and ongoing conversation that we have just tried to get more information about.
And so this is kind of another phase of that conversation, but we do hope with these answers I think to come back with a more solid recommendation next time.

So any input, please. Questions?

CHAIR MOYER: I think the Crops Committee doesn't want it dumped on them.

(Laughter.)

No other questions?

Next item, Mr. Chairman.

MEMBER KARREMAN: Okay, thank you very much, Jennifer. And I just want to reiterate, we really have talked about the bivalves quite a lot, and we really appreciate as you mentioned the AWG's response to our questions and hopefully we could have maybe a recommendation for the November meeting. That is the plan.

So the next topic is proposed organic animal welfare guidance and standards, animal health and living conditions. We took this up, this has been on the work plan for a
couple of years now, and as Deputy Secretary Merrigan asked how long has it been, about two years. And she used the term for this, the animal welfare. Let's not make the perfect being the enemy of the good, and therefore go for the long-hanging fruit.

And she did use that in terms of animal welfare, just to keep that straight. I know it's a great term for everything, but it was in terms of animal welfare.

So she brought that up with Margaret Wittenberg two years ago at the November, 2007 meeting, when we had the agriculture symposium. That was kind of a different issue. And basically so we are looking at this partly due to that, but also because the conventional dairy sector is addressing animal welfare, and I just really believe that the organic sector needs to be on a par at least with the conventional sector especially in this topic and perhaps a little bit more if only -- well if only for that
reason, but also to ensure the organic customers of organic dairy products that the animals that are producing the product are being well taken care of.

And I guess as kind of a slight secondary or maybe tertiary to help ensure that some of the NGOs that are focusing on animal agriculture and kind of taking aim at it, you know, can't take aim too easily at organics. I want to ensure that we have the wording in place in case it's ever looked at closely.

So basically we have presented this and there are in consultation I guess maybe informally with the program if this was a few years ago I guess out in maybe during a break, that you know if we feel we need to make any regulatory changes, try and keep it very short, the words, not big paragraphs of things. And so a few, there are a few items — well, let me back up.

We basically in section 238, which
is the health care section, you know there are some questions that come up even with what is written now in the regulation. Such as it is required at a feed ration sufficient to meet the nutritional requirements of being fed. But is it? How do the animals look? And like public comment addressed yesterday in a positive way we are trying to show objective metrics, endpoints, goals, so that inspectors can verify that the animals are indeed being well taken care of.

Also in other parts of 238, some other questions come up that the regulations currently as they are don't necessarily ensure that the animals are clean or not lame or whatever. So we are trying to address those kind of things.

As far as regulatory changes, one that I always cite is 239 under livestock living conditions, let's say. You know, (a)(3), that appropriate clean dry bedding is provided, and if the bedding is typically
consumed it's got to be organic and whatnot.

But it doesn't necessarily ensure that there is a lot of bedding, or any bedding, or much bedding, and are the animals clean, okay.

And as well as for access to the outdoors, shade, shelter, exercise areas, fresh air and direct sunlight suitable to the species in (a)(1). In the case of poultry what kind of access to the outdoors and what areas have direct sunlight. I know I'm jumping around a little. But it's only a discussion document okay.

So there is just basically some unresolved or -- not unresolved, but just some issues that perhaps need clarification.

The public comment on this has been generally good. I haven't seen a public comment of anyone being opposed to animal welfare; that's a good thing. But of course there were concerns raised yesterday regarding some of the guidance that we are also proposing to describe how the animals look,
lameness, fur coat, feathering and whatnot.

And how we need to look at the realities of
different stages of lactation for dairy cows,
and how they change, and body condition, and
we are well aware of that and will be working
on that, and how dairy is different from beef
cattle. And the food farmers have nicely
submitted their comment, and given pictures of
dairy cows and how they -- and body condition
scores that perhaps we can add in for guidance
if we can.

One of the concerns we heard
yesterday, and also in writing was about
inspector training, because it is the
inspector who ensures the system is working
within the OSP and every thing. So the
inspector training we should address more as
well as there were concerns about having to
look at every animal or every chicken, and I
mentioned yesterday in response it's kind of
to look at the big picture, and not get hung
up on the minutiae, at least in animal
welfare, unless there are obvious problems; then they shouldn't be ignored.

And that's why we are trying to make sure that if there are obvious problems that they are not going to be ignored.

The food farmers, Ed Maltby who as here wanted to have a task force on animal welfare. I think informally the Livestock Committee members I've talked with don't really want to see a task force get started on this, because we don't -- I guess we believe we can get their input as well as any other people's input on our Tuesday afternoon conference calls. And let's see, th AVMA submitted a comment, the American Veterinary Medical Association, as well. And that will be put into the public record at some point.

They want to make sure that there is a valid client-patient relationship, veterinarian for the farm, to make sure that indeed the animals are being well taken care of from a third party standpoint, on top of
And both the ABMA and the food farmers refer to the National Dairy Animal Well-Being Initiative being started by the conventional industry. So we will look at that as well.

I could go on and on. I mean animal welfare is a major big issue, just the whole topic, philosophy; but that about sums it up for now in our discussion document; just so people know, we are taking public comment without doubt, and it will be definitely infused into the document.

CHAIR MOYER: Thank you, Hue. Are there questions or comments for Hue on animal welfare? Kevin?

MEMBER ENGELBERT: There is one specific area that we really are looking for public comment in, and that is the outdoor access to poultry, and where the industry and where the Board wants to go with that.

We heard yesterday from the
methionine task force, and the efforts of that
task force are simply to come up with
methionine that is not synthetic that will
allow the current production standards to
continue. And we need to hear from the
community. Is that what we are really after
with the outdoor access for poultry, and what
the response should be from the Livestock
Committee to this issue.

MEMBER KARREMAN: Good point, Kevin. I mentioned it briefly, but thanks for
bringing that up again.

CHAIR MOYER: Dan.

MEMBER GIACOMINI: Yes, I've heard a lot of -- a fair amount of formal here and
informally of concerns from certifiers and
various groups on the scoring systems that we
are listing here and using those types of
things.

A lot of concern that there is not
going to be adequate training; that it is
going to be too difficult to do, like Hue
mentioned of having to look at all the
animals.

And I've done body condition
scoring for 30 years, and it's definitely
evolved. But in doing it it's obvious that
what we are looking at here is not an overall
evaluation of the body condition of hurt
animals. We are looking for the outliers; we
are looking for the problems.

And I think when we go back and we
do this document -- work this document over,
on the body condition scoring we are really
worrying about the ones and the fives; we are
worrying about the cows that are skin and
bones and tremendously -- grossly obese.

When we are looking at the
lameness scoring, we are looking at the
animals that are for the most part
significantly obviously lame. Whether the
animals that are not visually lame are a one
or a two, maybe a three, that is not going to
matter. Because what we are trying to do here
is find a mechanism to find the problems, and
to improve them.

And just like when we start
looking, and another item we've talked with
Temple Grandin on is on hoof lesions and body
lesions, hips and legs and all that kind of
stuff. It's going to be that same thing.
It's going to be giving a tool to help you
find and identify the problem.

You are not going to have to go in
and evaluate all the animals and say, 10
percent, 30 percent, 60 percent, it's going to
be how much of a problem, and over time are we
working -- are the producers working to
improve and lessen that problem.

I think that is where we are going
here. So the discussion like on body score,
oh, we don't have enough training to look at
that, and on and on. Believe me, I can sit
down with somebody in front of three or four
cows, if I can pick the cows out that we are
looking at, you give me the chance to pick
four cows, I can show you in about five
minutes how to do body condition scoring that
is the only thing you will need to worry about
in discussing this type of project.

So it's not going to be that hard
of a process.

CHAIR MOYER: Back to you, Hue.

Or --

MEMBER SMILLIE: I don't usually
ask livestock questions. But are you guys, in
looking at this, are you looking at stocking
densities at all as part of this? As a metric
of --

MEMBER KARREMAN: Not in relation
to dairy cows, I don't think, because that's
in a pasture rule.

MEMBER SMILLIE: I'm thinking
more about poultry.

MEMBER KARREMAN: Well, you bring
up an idea, Joe.

MEMBER SMILLIE: Because that, I
think, I don't want to show my ignorance, but
the Canadians, which we are having an equivalency agreement, aren't they working off that?

MEMBER KARREMAN: They absolutely are. I've been to Canada a bunch lately and they are; they told me that.

Kevin?

MEMBER ENGELBERT: Yes, Joe, they are, that's why I asked the question of the presenter yesterday about what his densities were, the areas of outdoor access, things like that. Yes, it will be part of what we look at.

MEMBER KARREMAN: Just one last thing. Also you know thank you Dan, for those comments; very succinct, and now I can just go off on tangents on this particular topic, because I'm out in the trenches everyday on a lot of farms.

But you know -- you are too, exactly -- but I want to just make sure that people know it's not, at least from my
viewpoint, it's not like if you can do something in organics. I mean organic agriculture is part of agriculture. And it's not if you can do something with your animals; it's how you do it. That's also what we want to look at. As far as procedures done, making sure that proper anesthesia is done, which is why exactly I petitioned for those medicines to be allowed to reduce pain and suffering.

And that plays in, which I didn't even mention, to 238 (c)(7) which is to make sure that animals are treated in a timely manner. And that is what Dan was basically talking about, make sure that the obvious problems are not happening over and over. And if you see something, then the inspector can say, okay, here is the line here. This doesn't fly. And then it has to be addressed. Because some inspectors have told me, like I said yesterday, they leave a farm and they kind of know something is wrong, but they can't put their finger on a reg or a guidance.
And that's why we want to make sure that the extremes are not happening.

CHAIR MOYER: Thank you, Hue. I believe we are prepared to move on to our next point of order, which would be the Joint Materials and Handling Committees, co-chairs Dan Giacomini and Steve DeMuri. I'm not sure, Dan, Steve? Dan's got it.

JOIN MATERIALS AND HANDLING COMMITTEES

MEMBER GIACOMINI: I take the ball from Steve, and I pass it on to Katrina.

MEMBER HEINZE: Well, thank you. I'm not passing it on -- well, at least for the first part.

I know that we have heard a lot on this subject of definition of materials over the last couple of years. And I appreciate the diligence of my fellow board members. I know I have heard from several of you privately that you are sick and tired of this subject and just wish it would go away, and it is so esoteric.
But it is a foundation for many of
the decisions that we make, both as a Board,
and more importantly, that the certifiers are
making, and that our farmers and producers are
making everyday.

So we have 45 minutes for this
subject. We will try to get through it in a
timely way.

There are two things: I will be
reviewing the discussion document on the
definition of materials that the Joint
Committee prepared. I'll try to take 10 or 15
minutes for that. And then we've got a
presentation by the material working group,
and then we should have plenty of time for
discussion.

So with that, to get to our
discussion document, the classification
materials has been debated since before OFPA.
But really it's been the last couple of years
where the NOSB has actively reengaged in this
subject. And there have been a number of
recommendations. There has been a ton of public comment. And there has been lots of thoughtful debate.

The Joint Committee got together I think about a year ago to review all these discussions, all of this input, all the information that the material working group has given us. And our goal is to have a recommendation for a decision at the November meeting.

So really the purpose of our discussion document was to solicit public comment and discussion from the Board to guide us as we develop our November recommendation.

I do want to acknowledge the material working group. They have put a ton of time over the last year into this subject, and particularly you will see the presentation on synthetic-nonsynthetic, they met every Monday for an hour and a half and had intense debate on this subject. So I do want to recognize the amazing contributions made by
those folks.

So a bit of background for that.

The final recommendation on this topic has proved elusive due to very specific materials that illustrate gaps in the current and proposed definitions.

I think a great example of that is all the discussion we had with lecithin yesterday. You know does it belong on 605(b), does it belong on 606, which form, which source, which this. And we always have those kinds of materials that befuddle us is probably the right word.

We have heard a number of public comments and certainly this has been acknowledged by many of us who are intimately involved with this, that there is resounding agreement on virtually all the materials.

It is really just the few that continue to confound us. And it is those few that lead to inconsistent decisions, and the perception of inconsistency in the regulation.
And they get used as examples to demonstrate why consumers shouldn't have confidence in what we do.

So that is really what we are aiming to get at.

Our goal, connected to that, our goal in developing a recommendation is not to rewrite the national list. We expect that our recommendation will confirm and support the vast majority of decisions, and certainly that is our intent.

Okay, so we have worked to look at all these comments and all the information we have been provided. And there are some things that we do agree on, while there are some things that we still disagree on. So I wanted to kind of highlight for you where there is agreement and where there is disagreement.

First we agree that a material is defined both from its source and the process used to make the material. So lecithin, since we are so familiar with that we use that as an
example, lecithin, made from soybeans, we all agree that soybeans are an agricultural material. So their source is agricultural. But depending on how you process it, it could remain agricultural, or it could kind of lose that in its final classification. And there are certainly some other examples as well.

Currently on the list is pectin, again, sourced from apple peel; pretty clear that that is agricultural. But if you -- let's see, if you extract it with hexane and then chemically modify it with ammonia, to make it -- and Joe, you will have to jump in here to make sure I get it right -- but to make a low methoxy pectin, it's listed as synthetic. So it is both source and process. And in general the joint committee agrees that both of those need to be considered when deciding on the final classification of the material.

So because of that, because source and process matter, we generally agree that a
single material, pectin or lecithin, can exist in multiple places on the list. And it exists there because of either source or process.

Let's see. So then that brings us to an area where we disagree. So that would be the matter of microbes, what we call microbial materials. And we are still working on that, on the wording on some of this, or the products of microbiological fermentation.

I want to acknowledge to our fellow board members, those of you who haven't been in these conversations and to the public, we are greatly divided on this subject. We have been divided on this subject for many years, and we continue to be, and we know we need to make a decision and come forward with a recommendation that is a decision, despite our great division.

So the division really stems from two things. Some of the committee members want to find a path to encourage the use of
organic inputs and prevent where possible the
use of synthetics. I think most of us agree
with that, but struggle to find a path to do
that.

Others feel that these materials
are used in such a small percentage, that
organic integrity is not greatly compromised
by their inclusion, and we should not let
these few very small use materials get in the
way of making a decision.

So in our discussion paper we
presented two alternative recommendations that
we were discussing and asked for public
comment to help us with these two options.

So one option is to leave these
microbiological materials or the products of
their fermentation where appropriate, to leave
those on 605, and then use annotations to
encourage the use of inputs that we felt were
appropriate, or to restrict inputs that we
didn't want to use. So that is one option;
leave them as non-ag, and use annotations to
encourage the kinds of behaviors and processing that we want to encourage.

The second option would be to define these as agricultural, but to say that at this time they can't be certified organic because the standard for their production does not exist.

A third option was presented by public comment yesterday, which would be to leave them on 605, but to say that certified organic options did exist, similar to natural flavors as they exist today; so that was a third option that we did not have in our discussion document.

So we requested public comment, and we do appreciate, we got a handful of those, and we know that we will get more. So I wanted to highlight for my fellow Board members the questions we asked.

So we had three areas of conversation that we wanted public comment on.

The first was, we wanted specific examples
where organic principles would be upheld or
organic consumer expectations would be better
met through a clarification of the definition
of materials. And this was really an attempt
to understand why we were working on this, and
why there was so much public interest at our
meetings on this topic, and to really figure
out what is it we are trying to fix to make
sure that our recommendation actually fixes
what we are trying to fix.

The second question related to
that is what do the members of the organic
community hope to see accomplished by
clarifying the classification of materials.
What will be prevented, and what should be
encouraged. Again this is a bit of an
esoteric topic, and for us to spend so much
time on it we want to make sure that we are
actually improving things.

And then finally specific to the
microbes and products of microbiological
fermentation, we really wanted to understand
the benefits and drawbacks of each of our
options that we presented, to understand the
unintended consequences resulting from either
or both of them.

And then we wanted to better
understand, one of the things that does come
up and that we discussed yesterday specific to
yeast is their use in livestock feed. So we
wanted to understand what would be gained if
the materials were to be agricultural, should
they -- when they are used in livestock feed,
should they be required to be 100 percent
organic? And then what were the economic
implications if they are required to be
organic and used in livestock feed.

So those were our questions. So
just to wrap up I wanted to let you know what
we have heard so far from the public. We got
five or six really detailed public comments on
this subject that I would encourage everyone
to read as we move forward in our
conversations.
Every commenter said that we do need to keep working on this, and that resolution on this discussion was needed to improve consistency in decisions, and to increase the transparency, particularly for things that aren't on the list, on the national list of crops and livestock materials that are determined to be nonsynthetic, so those decisions are made not very transparently, so if we have a very consistent process the public comments felt that that would be important.

Several of the commenters noted that most materials are classified by the certifiers when deciding whether materials allowed for use in crops and livestock. So I wanted to specifically read what one commenter wrote.

They said the lack of clear criteria is causing inconsistent decision making throughout the industry. This leads to certifier shopping, embarrassment, lawsuits,
headaches, disenchanted organic consumers, and constant complaining.

So then I did want to thank those folks who commented and gave us a list of the problematic materials for us to use as we evaluate our recommendation.

We did have one commenter who reminded us that for synthetic and nonsynthetic the decision is most always clear. The real debate is whether the material should be listed or not. So they didn't want us to confuse this question of where does it get classified with where should it get listed; that those are very separate decisions. And I think that is an important point that I think has muddled our conversation, that we have perhaps been leery of having things end up being synthetic, because then, oh, they are not going to be listed. Or conversely if something is nonsynthetic, well then it is automatically going to be used, that we do have a mechanism
to allow or prevent use of materials. So I thought that that was a comment to keep close to our thoughts.

So then while they agreed, while our commenters unanimously agreed that we had work to do in this area, and that they really wanted a decision, they of course disagreed greatly on the direction that our solution should take.

We had commenters who disagreed on our perspective on agricultural synthetics, and that actually you could have an agricultural synthetic that was allowed. We had one commenter who supported the idea that wasn't in our discussion document but had been suggested by the material working group in November, that we merge 605 and 606, and apply commercial availability to the entire list. So that is something for us to consider.

One commenter cautioned us to really carefully evaluate the options, because they felt that particularly in the area of
synthetic and nonsynthetic that the suggestion that you will hear from the material working group would cause a lot of previously classified nonsynthetic materials to move to synthetic. And you heard some of that in public comment yesterday as well.

I did want to highlight the suggestion that was made yesterday, that we should limit the definition of synthetic to materials sourced from petrochemicals, so that is out there as well. What I would say is all the comments that have been provided have been very thoughtful, and we do need to really buckle down and think about them and understand them, and make some decisions.

Specific to our friends the microbes and their products, the commenters were as divided as the committee. In general they said the unintended consequences are difficult to predict. Both options have merits and drawbacks. One commenter preferred the second option; someone else preferred the
So I want to wrap up by saying that there is strong agreement from the public, and board members, that we need to make a decision and we need to put this behind us and get to consistent decision making.

I think we all heard the commenter yesterday, and I appreciate this comment greatly, that said, just make a decision. I don't even care if it's the right decision. Right, consistency is better than inconsistency I think is how I would summarize that.

We acknowledge that there are considered differences of opinion and now it is our job. We can't hand it off to the public anymore. It is our job as the NOSB to make a decision. Some people will like our decision; some people will not like our decision. And I think this serves as my public advisory comment, whatever it is, those
1. ads that you see on TV, to my fellow board members, that that is our job.

   So we are going to go. We are going to consider everything we've heard, and we will make a decision, and we appreciate those of you who will continue to be in dialog with us on that. And we appreciate everyone's active participation.

   So we will have a recommendation, for better or for worse, right or wrong, but it will be consistent, at the November meeting.

   So the specific things that we know we need to work on, so you will know what to expect. We will be working with the program to determine feasibility of a couple of things. The feasibility of using annotations for items that are currently on the list to clarify their sourcing process.

   So is that feasible? Is it not feasible? If that is our recommendation, how do we get from here to there?
The idea of how feasible would it be to apply commercial availability to both 605 and 606. We have heard that several times. I know that it is an idea that gets a lot of good discussion that people are very interested in. So we want to understand, is that really an option available to us.

We will develop a decision tree that could serve as guidance for determining the classification of materials, which reminds me, there is one really important concept I forgot to talk about, so I'll get back to that in a second.

And then finally we will finalize our recommendation for the whole microbes, products of microbes, on that hotly debated topic. So that is what we will be looking at.

Let me get back to one really important concept that I skipped in my little notes here. I talked about source and process. We have historically treated this idea of agricultural non-ag and synthetic
nonsynthetic as two separate unrelated

Because we believe source and

process both contribute, the joint committee
generally agrees that these need to be --
these can't be handled as separate and
distinct questions. They need to be handled
linearly. And we think the synthetic-

nonsynthetic needs to come first, and then the
ag/non-ag. So if you get to an agricultural
product that gets crazily processed in some
way that I'm not going to get into the
details, it becomes synthetic, and it may

still have been sourced agriculturally, but at

this point it is a synthetic.

But then from your nonsynthetic

materials to pull out those that are ag and

those that are a mineral or things like that.

And the public comment we received generally

supported that idea that those needed to be

handled in a linear fashion.

So the decision tree will -- that
we will be working on will have those listed that way.

So any questions or comments from the Board? Things you want us to consider?

CHAIR MOYER: Katrina, I'll just say that for once the Board put itself in a position where we can't make a mistake. That is wonderful. Nicely done to that Joint Committee. We've worn the public down, so they will just take anything that we give them.

(Laughter)

MEMBER HEINZE: That wasn't our intent.

CHAIR MOYER: It was not.

MEMBER SMILLIE: This continues as a joint materials and handling committee task, correct?

MEMBER HEINZE: I believe so, yes.

CHAIR MOYER: That is correct, Joe.
MEMBER HEINZE: You want to make sure your voice is heard.

MEMBER SMILLIE: You got that right.

MEMBER HEINZE: Other comments, questions?

CHAIR MOYER: Bea.

MEMBER JAMES: One of the things that you mentioned, Katrina, was that some members of the Board and some commenters feel like it's such a small minutiae amount, why should it matter. I guess just for the record I want to put it out there and say that there is no small percentage in the eye of the consumer, especially as we carve the path forward. And I think that we have to at this juncture be very careful and make sure that we take that into consideration. Thank you.

CHAIR MOYER: Julie?

SECRETARY WEISMAN: Yes, I was going to go back to something specific, that I just want to make sure that I understood.
In your discussion about microbes and the products of microbial fermentation, which I do agree with you that the whole issue of microorganisms has been a big divide across which various of us here and there have been standing.

But products of microbial fermentation, I'm not remembering that discussion. Because I mean for instance organic wine, organic alcohol, are all products of microbial fermentation, and I don't believe that those have been under question by anybody on this board. So I just wanted that to be for the record, that we are not talking about those types of -- yes?

MEMBER HEINZE: You know when we wrote this document those weren't the products that we had in mind. We had things like citric acid and there are some others that aren't coming to me, you guys know I always have these critical moment memory faults. But citric acid, there are five or six others. Is
gelling gum one of them as well? I think that is my favorite. Someone out there can nod at me.

But there is a number of materials on the list that are products of fermentation. It wasn't beer, wine and cheese, those guys. And we just didn't consider that in our document. So that is something that will have to be pulled out when we do this.

CHAIR MOYER: Dan.

MEMBER GIACOMINI: We did have one conversation though where in reviewing the document we were asking the question what is the difference in beer as a result of fermentation being organic, and citric acid if it comes from an organic source being the result of a fermentation, being nonsynthetic. So we did have those conversations.

By no means are we looking to say that beer and wine and those things are not, but there has to be a justification for drawing the line. It can't just be, because
that's where I want to draw it. The
discussion as it went into this document I
think was more to figure out the way that we -
- if we are going to draw a line we need a
justification for it, and we just can't just
make it up.

A couple of other things, and I'll
try to be as brief as I can. But it's -- I'm
always interested when I come to these
meetings and it's not exactly something for
this document, but it was certainly brought up
in your discussion and we hear it every time
I come. And I'm not from the certifier area
of the world. But I always find it intriguing
that almost every certifier comes up and has
at some point in time they will tell us
something that justifies how they are
different than other certifiers. They either
have more animal welfare issues in their
procedure, or they have more bio-security
issues in their procedures, or more
biodiversity issues in their procedures.
But the minute anyone looks at those things and uses them to decide between certifiers, I start hearing all the screaming about shopping around.

And it's just an interesting dichotomy that someone who is not from the certifier realm that I hear at these meetings. I think that is it.

CHAIR MOYER: Hue.

MEMBER KARREMAN: Just back on, I let you guys do all the committee work on that stuff. Like you don't talk about livestock too much.

But one thing, as far as the beer and cheese and all that, can't you just say products that are made -- traditionally longstanding products made from fermentation are different than citric acid? Just a suggestion. Maybe you already thought of that a long time ago.

MEMBER HEINZE: Well, I appreciate the suggestion, because we didn't
I think about it that much.

You know it was so clear to us that beer wasn't what we were worried about that we didn't even address it in our document. So I appreciate the suggestion.

CHAIR MOYER: Any other folks with questions or comments for katrina?

Thank you, Katrina.

MEMBER HEINZE: Well, we still have the material working group. So I think that is Kim and Gwendolyn, right? So while they make their way here, I will publicly tell you guys, these two folks did an amazing job wrangling, I think, at some times the calls had maybe 25-30 people on them, all with great opinions and active, the most active email debate I've been involved in in a long time; anyone who was on their email list would get to work on Monday morning if you hadn't turned on your computer and be flooded, literally. I think one morning I had 63 emails on material working group on a Monday morning,
which is not a good way to start the week.

But Gwendolyn and Kim really
should be commended for their efforts. I did
tease them. I recently changed jobs, and as
a reward was presented a bottle of wine with
the brand, Herding Cats. And I thought maybe
you two deserved a bottle of that as well.

I'll bring it to the next meeting.
I haven't opened it yet.

CHAIR MOYER: Kim, I'm not sure
that microphone is turned on. Would you check
that please?

MS. DIETZ: Okay, with that we'll
go ahead and get started. We are going to try
as much as we can into 15 minutes. So just
from a logistic standpoint I'll open it up.

Gwendolyn is going to go through definitions,
current definitions, and then some proposed
definitions. And then we are going to ask Zia
and Emily to come up, and they are going to
take you through some decision trees, the fun
part, and we will actually have a couple of
examples of materials to help walk you through so you get to really see what is going on with it.

So as we have all been talking about these last couple of meetings, we started this group in 2007 really with the purpose to bring to you the historical perspective, of the work of the past boards, as well as the industry perspective.

We participated a lot, as Katrina has said, and yes, it was like herding cats. Sometimes Gwendelyn and I would get on the calls, and I'd say, okay, you call them, and I'll call them. And I guess that is my HR background, because you have to really love what you do, and the people have passion. And as long as they have passion, it's all worth it. So I'm proud of the work that we've done. So let's go ahead and see the next slide, please.

As you can see we have a very large group of participants. And from the
ag/non-ag to the synthetic documents we added about 30 percent of the number of people onto our calls. Not all of these people participated, but they all certainly got the emails. Whether that is good or bad, if you weren't on the calls you didn't necessarily understand exactly what was going on. But the dynamics were there, and everybody on that list is very highly skilled in their specific areas. So I want to thank them, and also thank the OTI again for sponsoring our weekly conference calls.

So with that, the background papers that we have used, we really went back to the 2005 documents that you see up there. We used the NOSB guidance document on the definition of synthetic, from 2005, as background. We were asked really in collaboration with the board to focus on the NOP evaluation from March, 2006, specifically the questions that the NOP had asked us. So that is really the framework for the
recommendation that we gave to you.

We looked at and used the March 9, 2006 document as well, and then we just analyzed all of those together, and gave to you our proposals.

So the main focus, though, really was looking at that 2006 document and going forward from there. There has been 20 years of work done on these topics, but we all agree, we are almost there, folks, so let's keep working with it.

So with that I'll turn it over to Gwendolyn, and she will go through the definitions, and then we will take you through the decision tree.

MS. WYARD: Okay, thanks Kim. I get the fun stuff.

All right, so if you have the paper in front of you, what I might suggest is keeping the definition of synthetic just right out in front of you the entire time.

Because as Kim mentioned, all of
the definitions that we are going to present
to you, I think we have only included one.
All of the definitions were -- they started
out as part of the NOSB recommendation. And
then there were new proposed definitions that
came from the NOP, specifically the NOSB
recommendation was analyzed by the AMS science
division.

So all we've done is further
refine the proposed definitions that were in
the March 9th, 2006 document. So I just want
to be really clear that we haven't made up
these definitions, but we have refined them.

And what I'm also going to try to
do is provide some commentary that is not
necessarily in the discussion document, some
commentary that will speak to the progression
that occurred, going from the NOSB guidance
document of 2005, to the NOP document of 2006,
to the discussion document that was submitted
to you.

Up on the screen we have relevant
existing definitions, certainly synthetic, which is the definition that we are going to be working with. All of the proposed definitions are terms that are within the definition of synthetic. So we have recognize that, in trying to apply the definition of synthetic in making decisions about what materials should or should not go on the national list, there have been problems in trying to apply different phrases within the definition of synthetic. So we are really parsing out the definition of synthetic, breaking it apart, taking each phrase and defining those phrases.

Non-synthetic certainly is relevant, and then -- next slide, please -- the definition of processing. This definition is going to come up when we are talking about formulation and manufacture.

So we are starting with natural source. This definition was not used. Natural source is not used in the definition
of synthetic. However it was suggested by the
AMS, because the term, natural source, was
used in their definition they came up with of
extraction.

Now we refined the definition of
extraction such that we have removed that
term, natural source. However it is still
important to us, because one of the questions
that the AMS asked the NOSB to consider is
whether microbiological or fungal material
would be considered natural.

So the definition of non-synthetic
refers to mineral, plant or animal matter. So
what we have done in the definition of natural
source - now the AMS definition said mineral,
plant or animal matter -- we have taken plant,
animal, microbiologic and fungal and we have
wrapped that altogether into the phrase,
biological matter.

So naturally occurring mineral or
biological matter used to obtain non-synthetic
inputs for organic production or handling. So
really the creation of this term, natural source, is to help further clarify that which is non-synthetic.

So we are going to go in the order of easiest to most difficult. So that one should be pretty straightforward.

Now moving on to extraction, this is a big topic. The AMS document took the NOSB recommendation on the meaning of extraction and they broke it down into its various concepts and conditions. The NOSB document had a long paragraph that described what extraction meant as well as various conditions that would result in a non-synthetic substance.

So the AMS document came up with the term, extraction, and then went on to list out the specific conditions.

So we are suggesting that the verb form, going from extraction to extract, is more helpful when you are trying to clarify the distinction between extraction and
chemical change. So we are letting extract
stand more on its own.

There is -- to separate, withdraw,
or obtain one or more essential constituents
of an organism, substance or mixture, by use
of solvents or mechanical or physical methods.
So you can extract, and then once that
extraction has occurred, you look at that
extraction process and decide whether a
chemical change has occurred.

So here we have the conditions.
I'm just going to go ahead and read down
through them. These are going to be
definitely an area for everybody to focus on
and comment on.

An extracted substance is non-
synthetic if it's extracted from a natural
source. That is square one; first and most
important question. It has to come from a
natural source.

We have added the condition, it is
present in the same form in the natural
source. It is not chemically changed into a
different substance during extraction. It
comes from a natural source, has a chemical
change occurred.

And also the process of extraction
does not alter the substance into a chemical
form that does not occur in nature.

Important functional properties of
the substance are not altered by extraction.

And finally, it's not contaminated
with a significant level of synthetic
substance that is not on the national list.

Now this last part, so significant
level in this context, and this was, again,
this was what was set forth both with the NOSB
and the AMS document that a significant level
is the amount capable of producing the
functional or technical effect.

So this -- any significant levels
then of the solvent, let's say, that was used,
the chemical that was used to extract -- well,
let me back up first and say that -- and this
is really an important point here, because this comes up in discussion, and we are going to talk about this. You are going to be talking about this with respect to lecithin, but this has been the historical thought, is that the chemicals that are used in the extraction process do not necessarily have to be non-synthetic.

So, you can use a synthetic chemical to extract a substance, and that is okay so long as the substance is not chemically changed.

Now we are going to revisit that concept when we are talking about handling materials versus crop and livestock. This definitely applies to crop and livestock materials. We are going to look at where there may be an exception with handling materials based on a portion of the handling regulations.

What we've also added here with respect to insignificant levels is that it may
be problematic trying to focus on what a technical or functional effect is.

Some examples, you can take aquatic plant extracts and humic acid derivatives. Those are on the national list as synthetic, because they have large amounts of potassium left in them and they have a technical or functional effect, versus let's say hexane, that may be used in the extraction process but it doesn't remain in the product; it doesn't have a technical or functional effect.

There may be other areas that need to be considered, specifically, looking at the applicable regulatory limits that might be set for a particular livestock material or crop material. Maybe FDA or AFCO will set certain contaminants levels. So that is an additional consideration that we are suggesting needs to be looked at.

Okay. Formulation and manufacturing. If you look at the definition
of synthetic, it says a substance that is formulated or manufactured. So in the NOSB recommendation they said that once a substance is extracted, if it then undergoes a chemical reaction as it's processed, formulated or manufactured, it would be considered synthetic.

They also said that formulation or manufacturing, formulation or manufacturing, is not intended to address the processing of an agricultural product by a certified handling operation.

So they have got formulation, manufacturing and processing. And the AMS science division said, let's break this down further. Let's distinguish formulation as a process separate from extraction and processing. Let's provide a definition for formulation. And let's explain the relationship between formulation and synthetic.

The definition that they proposed,
they decided that formulation and
manufacturing, it would be more clear to view
them as synonyms. So they have come up with
this definition that talks about the
manufacturing of an agricultural or handling
input that is derived from a substance,
extracted from a natural source or produced by
a naturally occurring biological process.

They really just went for the
gusto here. They tried to wrap almost all the
requirements that you might consider for what
would be non-synthetic into this general
definition of formulation used synonymously
with manufacturing.

And we're saying let's break this
apart even further. Let's use the verb form
of manufacture. Let's view manufacture and
formulate as two separate things for lack of
a better word.

To manufacture is to make a crop,
livestock or handling input from raw
materials. That is the creation of a
substance. Where to formulate is combining
different materials according to a recipe or
formula to prepare the product being
evaluated.

We see those as being two separate
things, both of which need to be evaluated,
separately.

And then here is the definition
that we have added, another new proposed
definition is to further define the term,
generic, since we do use it in, I think in the
next slide you will see it come up. So that
definition is the common and familiar non-
proprietary name, of a substance.

Next slide. I think I have jumped
ahead here, so we are going to be able to save
some time, and go on with the next slide.

Okay, so some more discussion on
the term, formulate. Formulate generic
substances such as enzymes. Flavors are
examples of formulated products that must be
reviewed for inclusion on the national list.
So much like extraction we have set up conditions for formulated products. So it's a non-synthetic formulated product, contains only non-synthetic substances.

And the process of formulation doesn't transform a component into a difference substance via chemical change, with the exception of substances formed via naturally occurring biological process. That is always the exception for synthetic. Chemical change occurs, that's synthetic except if that chemical change is a result of a naturally occurring biological process.

And then finally the process of formulation results in the retention of important functional properties of active ingredients.

Okay so, manufacture, formally manufacturing, here is where the term, generic input, is used. Formulation is the combining of substances to produce a generic input.

This next part, manufacturing in
this context is not intended to address the
processing of an agricultural product by
handling operation for human or animal
consumption.

So it's really important to stress
that when evaluating substances, manufacturing
applies to non-organic inputs used in crop
handling or livestock operations. Once you
are talking about a certified handling
operation that is making a food product or an
agricultural product, it was processed. So if
it undergoes a chemical change it is not
considered synthetic, but rather a processed
product.

Substance is not defined by OFPA
or in the NOP rule, but it is used in the
definition of synthetic and non-synthetic. It
is used in the new proposed definition. It is
used in the regulation. And it is used
throughout our paper.

The NOSB defined substance in
their 2005 recommendation, and the AMS found
it to be scientifically sound. Namely, it allows for minor variations in the atomic composition or molecular weight of complex bio-molecules.

So really the point here is that the definition of substance, what it is recognizing is that substances don't necessarily have a uniform or static atomic, molecular composition. Therefore the substances are distinguished one from another based on identities. And there are identities that are assigned by the independent naming or regulatory bodies, such as the Chemical Abstract Society, CAS numbers.

And such identities may be based on chemical, technical or functional properties. And this distinction is important as it relates to the definition of chemical change.

Naturally occurring biological process -- this is another one NOSB defined in their documents. AMS found it to be
1 scientifically sound. Their only suggestion
2 is that if you separate it out from the policy
3 stating that substances created this way be
4 considered non-synthetic. So just to be
5 really clear that this is a non-synthetic
6 source, non-synthetic process.
7             MEMBER HEINZE: We want to make
8 sure we have time to see some things go
9 through the decision tree.
10             MS. WYARD: Oh, I'm just getting
11 started.
12             MEMBER HEINZE: I know. So maybe
13 if you could skim the rest of the definition
14 so we could have five minutes for -- I know we
15 are getting close. Just a time check.
16             MS. WYARD: That's perfect then.
17 I'll just say then for chemical change
18 probably the best thing with chemical change,
19 Rather than trying to drill down at all, this
20 was the area that troubled us the most. I'm
21 pretty sure that we all went through a
22 chemical change.
We formed the chemical change committee. Undoubtedly many of us were rendered synthetic. So this -- I'll just say that this is one you are really going to need to focus on. This has always been a problem area, and we have provided plenty of commentary and description in our paper. So next slide.

So finally in closing there were additional concerns, one has come up, this is 205.270(c)(2). This is where the split occurs from solvents that -- chemicals that might be used in the extraction of a crop or a livestock material, where historical thinking is that's fine so long as there is not a chemical change.

But that section of the regulation prohibits the use of volatile synthetic solvents in synthetic processing aids. But it is unclear exactly who that applies to, whether it applies to the certified handler or to the manufacturer of the non-organic
ingredient. It's very ambiguous, but very
very important figuring out in terms of how
you apply that then to the evaluation of
synthetic and non-synthetic materials for
handling operations.

Chemical change, there was some
comments yesterday. George, you know, there
were some members that had a very different
way of thinking about the definition of
synthetic, completely redefining it, going
into OFPA, making constructive changes there.
That was -- came up. We decided not to focus
on that since our focus was on the 2006 paper.
And that's a wrap on additional concerns
there.

So what I will do is exit stage
left, and call up Emily and Zea. They are
going to work some examples through the
decision tree if there is time for that.

We are going to look at citric
acid and we are going to look at soy protein
isolate using the decision tree that was put
together, using all of these new proposed
definitions that I presented here today.

Thank you very much.

MEMBER HEINZE: Thank you,

Gwendolyn. And just a time check. As you
guys know, we went into this an hour behind,
and we are trying to gain time.

So if you could just point --

focus on areas of maybe disagreement, and we
will give about five minutes for the whole
discussion.

Thanks.

MS. SONNABEND: Zea Sonnabend,

member of the materials working group.

I'm giving the example of citric

acid. And I hope you can all see the steps in

the decision tree up there.

This morning it came up in one of

your discussions of alternatives to the

petition. Where is citric acid really from?

How is it made? We are going to look at that

right now.
I happened to be here 14 years ago, and shepherded the initial TAP review of citric acid, and had this discussion with the NOSB 14 years ago along with several original members.

So it seemed appropriate that we go through it again.

Citric acid is used in many uses in organic crops and handling. Acidulant buffer, chelating agent, pH adjuster, foam inhibitor, sequestering agent, mordant, anti-coagulant.

The first question on our decision tree: is the substance manufactured, created, or extracted from a natural source?

And in your handouts we've underlined those terms that are defined in our previous definitions, so you can look back to those definitions.

So the answer to this is yes. The organism that is the source of citric acid is aspergillus niger. It has been grown on a
media that consists mostly of molasses and sugars. While the fermentation media contains some synthetic substances, these are either metabolized or removed by the extraction process.

Question two on the decision tree: does the substance undergo a chemical change? Well, the answer is yes for the end result, but along the way -- I mean the answer is yes in the process, but the end result, the end product, is not chemically changed from the starting material.

Explain: calcium hydroxide is added to the fermented carbohydrate media. Calcium citrate precipitates out and then sulfuric acid is used to remove the calcium as insoluble calcium sulfate and pure citric acid. The substance is therefore precipitated as a salt; ends up back as the same acid in which it began.

One of the controversial areas that we did not fully resolve in our
discussion is whether this so-called
displacement reaction where a salt comes in
and precipitates out being displaced, one ion
displaces the other; and whether in all
circumstances that results in a chemically
changed material. Some of us say no; some of
us say yes; and that might need a little bit
of further work.

But for the purposes of this, what
this particular material, what the NOSB then
went on to say before is to go to question
three. Is the substance produced by a
naturally occurring biological process? And
the answer is yes, aspergillus niger is the
naturally occurring biological process. If
you look back in your definition of synthetic,
it says except for those things produced by
naturally occurring biological process.

So therefore we proceed to step
four: has it been formulated further to
produce an additional generic substance? And
the answer is no.
So the conclusion is that citric acid is non-synthetic because it is part of the exception for naturally occurred biological processes that created the material in the first place, even though some steps that create chemical change have occurred along the way of its extraction and processing.

MEMBER HEINZE: Thank you. Are there any questions for Zea? Comments?

Do folks understand how their proposed decision tree applied in that case?

Thank you, Zea.

Emily.

MS. BROWN-ROSEN: Hi, I'm Emily Brown-Rosen from Pennsylvania Certified Organic.

Okay, so the example they threw in my lap is this one that's been kicking around for along time called soy protein isolate.

So if you look on your -- we gave the Board a handout on this, on the back page,
I pulled out a little description of the manufacturing process that I dug out of some old supplements to supplements of TAP reviews; I think there were three various technical reports on this in 2003 and 4. So and I wanted to do that to illustrate one point, too, is that when you are going through a decision tree it is really really important that you have a good clear understanding of the manufacturing process. I mean, the more information you have the better you can answer these questions, and it all depends on information, how you answer those questions. So that is really worth getting at and working with the contractors I think to get really good manufacturing process.

Okay so in this case question number one -- well, back up a second, and say this was petitioned as a fertilizer soil amendment. It's a derivative of soybeans used as like a nitrogen supplement fertilizer.
Although it also does have a lot of food additive uses as well, but it was not petitioned for that.

Is the substance manufactured, created or extracted from a natural source? And the answer to number one would be yes. We start out with soybeans; that's pretty natural. Pretty obvious.

Number two, does the substance undergo a chemical change? The answer here is yes, and the explanation is that they take the defatted soybeans, which are hexane extracted, pressed, soybean flakes -- this is done like in big conventional soybean plants. They use alkalide acid hydrolysis. There is an alternate method that uses something called poly isopoprylacrylamide gel to do the separation.

But this, the most common is this hydrolysis process, and that is described as hydrolysis of soybeans by a strong base sodium hydroxide, and then a strong acid,
1 hydrochloric acid, which denatures and changes 
2 the chemical properties of the protein in the 
3 soybean meal.

4 The proteins are rendered more 
5 water soluble by these different stages of 
6 chemical processing. In the case of the 
7 polyacrylamide gel, that also changes the 
8 chemical properties, and I think the 
9 solubility of the soy protein.

10 Another reason to consider that 
11 there was a change is that soybean meal has 
12 one CAS number and soy protein isolate has a 
13 different CAS number suggesting that they are 
14 considered two different chemical compounds, 
15 they have different functional properties.

16 So in this case the answer to the 
17 question, yes, it says proceed to question 
18 number three. Then the next question, did 
19 this chemical change, was it caused by a 
20 naturally occurring biological process? No, 
21 in this case it was a direct chemical process, 
22 so the answer is no, and that's where you
would stop and say this substance is in fact synthetic. So that one is fairly straightforward.

Any questions?

MEMBER HEINZE: Thank you. Any questions for Emily? Do you folks get how that went through the decision tree that has been proposed?

Okay, well thank you. Is that it for you guys? Great, well, thank you very much. I appreciate all the hard work and all the education.

CHAIR MOYER: And the Board thanks the materials working group a great deal. Thank you very much.

Katrina, does that conclude your presentation?

(Applause)

MEMBER HEINZE: Hey, you all are clapping because you are glad it's over.

Thank you, everyone.

We are done, Jeff.
CHAIR MOYER: Thank you, thank you very much.

Moving on to the next topic in front of the Board, the Materials Committee, Dan Giacomini, chairman.

Dan.

MATERIALS COMMITTEE

MEMBER GIACOMINI: Thank you, Mr. Chairman.

The materials committee was cruising along between the last meeting and this, and the issue of nanotechnology, its use in all various forms and products, started becoming more and more obvious, and with just a little bit of investigating we went from, boy, maybe we ought to start looking at this before the horse is too far out of the barn, to, wow, the horse is already out of the barn.

So it became -- it moved up on our work plan significantly. But we felt that it was something that we definitely needed to at least start discussion on with the organic
community.

The background, this is a discussion document. And within it we asked a number of specific questions which I won't go into each one, itemizing each one at this time. But we did have fairly uniform agreement with the comments that were presented that nanotechnology is not compatible with organic principles and the organic industry.

What there was not clear agreement on is what is the definition, and where should that line be drawn of what is nanotechnology. There is the issue of the nano-sized particles, the use that it -- what it is used for, and whether there is a change in original use. And there may be other things that come up as this industry continues to develop.

The -- so we had a fairly good agreement, I think, with the comments that we had that we need to consider looking at this, and trying to figure out a way to best define
or to find the agency that is far smarter than us that has done the best job at defining nanotechnology for our purposes.

We certainly are not experts in this field by any means, and we are relying on all the expert help that we can. We did a tremendous amount of work in searching things through from some of the national initiatives on the Internet, and we had tremendous support and help from OTA on some of their background information that they worked on through their nanotechnology task force.

The one thing that I will address based on comment is that we had a number of public comments that felt that nanotechnology should be included now under excluded methods, and that it is already covered. While that may have some intuitive logic to it, when you actually look at the definition of excluded methods, it's fairly exclusive to dealing in genetic and cellular terms. And oftentimes when we are dealing with things like nano-
silver and other products along those lines,
it's -- right now it does not appear that the
definition we have for excluded methods
includes those compounds.

So, Mr. Chairman, it's a fascinating topic. We do have the discussion
document, but I think in the essence of time
I will go to any questions you may have,
questions or comments.

CHAIR MOYER: Thank you, Dan.

Julie.

SECRETARY WEISMAN: I think I certainly have -- we got a lot of written
public comment, some written public comment
about the nanotechnology, and we certainly
heard quite a bit said yesterday during oral
public comments. And most of that rightly
points out that there is a lot that is not
known about the results of the kinds of
particles that could be created by
nanotechnology.

However, I think the reason why
this -- we did not consider this to be a no-brainer is because it is also the case that some very traditional longstanding methods have been in use that do fall under the current definition of nanotechnology, and I'm thinking about homogenizing milk.

So I guess I just want to emphasize that parts of nanotechnology I think are no-brainers in terms of deserving very close scrutiny. But to me it's not the same kind of no-brainer as cloning was, for instance, when we made our statement about that.

So I just want to caution everyone that we have to be really mindful that there are technologies that have been around since -- there are practices that have been around since before the idea of nanotechnology was even dreamed of, and we don't want to do anything -- we want to be very careful about what -- not throwing out babies with bathwater.
MEMBER GIACOMINI: I'll agree with you to a certain extent, Julie, but I think your comment gets to the essence of the problem in the definition. One of the more predominant definitions that we list in the document has three points to it, and it says, in their definition -- within the definition they say that it needs to meet all three points to be nanotechnology, and that is the small particle size of between one and 100 nanometers in size, creating or using structures, devices, and systems that have novel properties and functions, because of the small or intermediate size; and the ability to control or manipulate on the atomic scale.

I think the example you gave, for instance, with the homogenizing of milk, fits number one. There are particles of that size created. But I'm -- I would question whether they meet number two and three. And if they have to meet all three, then they would -- yes, it's nanoparticle size, but it's not
nanotechnology. And that is all part of the problem in trying to figure out what is the definition and where do we draw the line.

And there are many other ones.

There are products you can find in the marketplace. There is a product I found on the Internet that described itself as a nanotechnology ice cream. They make their ice cream and they deep freeze it in liquid nitrogen to create smaller crystal particles.

They are creating nanotechnology size, but even if we question some of the other things, are we -- would we want to not allow liquid nitrogen freezing in the organic industry that would -- that would take some discussion.

There was another soil or plant crop additive -- I don't remember whether it was soil or plant -- that used homeopathic concentrations in the water -- in the irrigation supply. They describe themselves as nanotechnology, but then they talk about it
as homeopathic. They didn't really say whether they were nanotechnology because they were homeopathic, or they were nanotechnology because of what they did to the particle before they went through the homeopathic dilutions.

So it's used -- the term is used as much in marketing as it is in reality and science, and it's sometimes using right now, it's being used to sell as much as it is to truly explain. So that is another part of the problem.

Anything else? If there is no more, Mr. Chairman, back to you.

MEMBER SMILLIE: Joe, what is your plan for this document?

MEMBER GIACOMINI: We will try to keep this document as high on the priority list as we possibly can, but it is definitely going to be secondary to the definition and classification of materials. We would like to say that we could get a recommendation for the
fall, but it will -- we will not -- we won't
allow it to displace timeframe on the other.
The other is, we are not saying this is small,
but that one is longer.

CHAIR MOYER: Any other questions
or comments for Dan?

There being none, I think we are
in need of a brief break. We will take 15
minutes. Be back here please at 3:15, Board
members, ready to take your seats.

(Whereupon at 3:00 p.m. the
proceedings in the above-entitled
matter went off the record to
return on the record at 3:18 p.m.)

CHAIR MOYER: Okay, we have a
quorum. We are going to get started.

Our meeting is back in session,
and we will get started with our next order of
business before this board which would be the
handling committee report, Steve DeMuri,
chairperson.

Steve, if you're ready, the floor
1 is yours.

2 HANDLING COMMITTEE

3 MEMBER DeMURI: I am ready, thank

4 you, Mr. Chairman.

5 Well, it's been a very busy six

6 months on the Handling Committee. We've got

7 a number petitioned items we are going to

8 discuss today.

9 And first of all I'd like to thank

10 the other members of the committee for all

11 their hard work over the last six months.

12 We've had a lot of meetings, done a lot of

13 document reading, a lot of public comment

14 review. And it's been very invigorating and

15 a little bit tiring.

16 I especially want to thank Julie

17 who in addition to being the Board secretary

18 and member, I think, of every other committee,

19 she has also helped to push me out of the nest

20 as the Handling Committee chairman. So thank

21 you very much, Julie, I appreciate that.

22 This is somewhat of a historic
meeting for this Committee and the Board actually because we are considering petitions to actually remove items from the national list. So I think we do -- we know that we need to be fairly quick here because we are late, but we want to make sure that we give everybody enough time to ask questions on these important items. So we will try to be as expeditious as possible here.

We do have nine different petitions that we are reviewing today. For 605(b) we have proprionic acid, sodium chlorite acidified, propane, and bleached lecithin for removal.

For 606 we have chicory root, red corn color, myrrh essential oil, wheat germ, all to add; and lecithin fluid, unbleached, to remove.

We did divvy these up as a committee, and we will go in order of the agenda items, and each committee member that was responsible for doing the bulk of the work
on each item will present those to you.

The first one is proprionic acid, and that happened to be mine. This petition was very similar to the petition you heard about for the livestock committee. It was petitioned as a mold inhibitor in feeds and grains, almost exactly the same as the petition to livestock. The petition is for the synthetic form of proprionic acid; I want to make that very clear, that there are natural forms available. This petition is for the synthetic form only, so that is a very important distinction.

As I mentioned, there are natural forms available.

The few public comments that we received on this item seemed to agree with the committee recommendation. And our recommendation was to not list, and that was a vote that was four no, one absent, one recusal.

I think that is all I need to say.
about this, because you've heard a lot about
the particular substance with the livestock
report. So any questions at this point on
proprionic acid?

No? Okay. The next item we have
on the agenda is sodium chlorite, acidified,
and I will pass the mike on to Katrina.

MEMBER HEINZE: Thanks. Okay,
sodium chlorite, acidified, has been
petitioned for addition to 605(b). I'm going
to give a brief background of what it is, how
it's used, it's regulatory approval and then
some of the conversation that we had as a
committee as we evaluated this, and then
review some of the public comments.

And it is our recommendation to
list this material.

So sodium chlorite, acidified, is
used for direct food contact and indirect food
contact surface sanitation. It is solutions
that are made onsite, and on demand, by mixing
a solution of sodium chlorite with natural
citric acid. So the users of this would have two tanks onsite. One would have about 25 percent sodium chlorite, and the other would have about 50 percent citric acid. When they are ready to use it, they are pumped together with a water dilution, and then used at the point of use.

As you heard yesterday in public comment, the solution breaks down to citric acid, water, and common table salt. And that is one of its advantages over similar materials that are already on the list, that it's breakdown materials are, frankly, pretty benign.

It has regulatory approval very widely, by FDA, USDA's food, safety and inspection service, EPA, and multiple other food safety clearances around the world. Just wanted to read some highlights from our recommendation. So Valerie, perhaps you could go to category one, question two.
It is manufactured in a manner very similar to other materials that are already on the national list, and so as we evaluated its environmental and human health impacts, we considered the fact that there are similar materials that previous boards have said there are maybe some impacts, but frankly those are impacts that we think we can live with given the food safety benefits of this material.

One concern that two materials that are currently on the list have, and those are sodium and calcium hypochlorite, one concern with those that previous boards have is that they have the potential to form trihalomethane compounds when they react with organic material in the environment. And the European food safety authority has reviewed this material, the sodium chlorite, acidified, and determined that those halomethanes have not reported to be formed when this material is used. So again that is a benefit over
currently listed materials.

We did, and we discussed this yesterday, in our recommendation we were --
wanted to reflect that we understood that in 2003 the NOSB processing committee had made a recommendation on the clarification of chlorine contact with organic food. There is quite a history on the annotations of these materials that reflect some confusion about whether or not they can be used in direct food contact, or cannot be used in direct food contact, and then at what levels. And so we wanted to recognize that and be consistent with that recommendation.

We did receive some public comment that asked that in general for the chlorine materials that those imitations be cleared up. So we will be regrouping tonight to have an annotation to either confirm that our annotation we think is consistent with that 2003 recommendation or to adjust it slightly. So more to come on that tomorrow.
The most important thing I think for my fellow Board members to understand is, our recommendation really reflects that we believe that adding the appropriate tools, but adding tools to the tool box of food safety interventions is really really important. As this business grows, as the complexity grows, handlers really need to have the best tools possible in that food safety tool kit.

We heard yesterday from the petitioner that while there are similar materials to the sodium chlorite acidified on the list, that this really is a unique tool that is used by a lot of manufacturers in a multi-layer approach, and that is important. Also it's used at very dilute concentrations, so it is perceived as being more environmentally benign than some other options on the list like sodium hypochlorite. But again, often needs to be used as a multi-layered approach to ensure food safety.

Finally the 2003 recommendation
that I talked about before, specifically speaks to the NOSB wanting to encourage exploration of other methods, beyond the materials that are on the list, for disinfecting the water that is in crop contact. So they do mention ozone hydrogen peroxide, and peracetic acid. So there -- as these sanitizers continue to evolve and there continues to be innovation, I think we need to encourage that by listing things that are other tools in the tool box.

So finally on public comment we did receive five public comments on this material. All of them spoke to the need to better understand the annotations. So as I said we do need to work on that.

Most provided some specific suggestions. One specifically said that current annotations for chlorine materials in general are not clear with regard to direct food contact, and said that the annotations should be made consistent with practice or
practice consistent with the annotations. So that is perhaps some homework for us. So again our recommendation is to list this material.

Questions? Yes, Jeff.

CHAIR MOYER: Katrina, I notice on your recommendation form that your vote was split, and I was just wondering if either you or someone from the committee could explain that.

MEMBER HEINZE: I'm not remembering that. So perhaps my fellow members.

CHAIR MOYER: It was three to one with one abstention, so there was a no vote there; I'm just wondering what that position represents?

MEMBER HEINZE: Does anyone remember that? Miraculously, this was not a just in time recommendation. So our memory is failing us.

CHAIR MOYER: Unless somebody --
1 I mean maybe somebody else on the Board, 
2 whoever voted no, could explain why they did 
3 it, or maybe they don't remember? 
4 MEMBER HEINZE: Does anybody 
5 remember voting no on this? 
6 CHAIR MOYER: I'm curious what 
7 their opinion was that they voted no on. I'd 
8 be curious. 
9 MEMBER MIEDEMA: Katrina, I 
10 remember the argument being that there were 
11 substitutes, but I don't remember how I voted, 
12 sorry. 
13 SECRETARY WEISMAN: I was going 
14 to say, I don't remember how I voted either. 
15 But I do remember the discussion. It had 
16 something to do with the fact that why do we 
17 need this when we already have other things on 
18 the list that serve the same purpose. And 
19 there was a lot of back and forth about 
20 whether this was more benign than things that 
21 were already listed. 
22 MEMBER HEINZE: We did at one
point go back to the petitioner with that specific question that said, there are other things on the list that are perceived to be good substitutes. Why are they not good substitutes? Why do we really need this? And if I remember we had not gotten that answer when we took our vote. But the petitioner sent us a very nice couple page response that articulated very specific examples where producers or handlers need to use this in addition to the things already on the list, specifically peracetic acid. The technical review had said peracetic acid could be used in place of this material, and the petitioner came back and said in fact that is not the case, and here are some examples, and I could make that available if you are interested.

CHAIR MOYER: I appreciate that,

thank you.

MEMBER HEINZE: Any other questions?
Thank you.

MEMBER DeMURI: Thank you, Katrina.

The next item on the list were 205.605(b) is propane, and it's not for barbecuing organic chicken. It was petitioned as a propellant for organic cooking sprays.

Propane is a constituent of natural gas and crude petroleum, and is separated during the production of gasoline using fractional distillation under pressure. We consider it to be a synthetic for that reason.

There are a couple of other reasons why we did vote to not list this substance on 605(b). CO2 is already listed for this use and is used in the industry as a propellant for various kinds of sprays including organic cooking oil now. And there's even probably a better application than that is just a regular old hand pump sprayer that may of us have that you can use
1 to pump oils out onto a cooking pan or
2 something to coat your cooking pans with
3 organic oil.
4 So as a committee we felt that
5 this was not an item that we should recommend
6 to be listed for those major reasons.
7 So the vote on this particular
8 substance was zero yes, five no, and one
9 absent.
10 Any questions on propane?
11 Okay, the next one, one of the
12 most complicated on the list here, this one
13 for 605(b) is lecithin bleached, and I'll pass
14 the baton on to Julie to discuss this item.
15 SECRETARY WEISMAN: The moment
16 you all have been waiting for.
17 I'm going to give Valerie a chance
18 to bring this up on the list.
19 This was both exciting and
20 challenging to work on for a number of
21 reasons. One of the challenging reasons we
22 discovered is that these criteria evaluation
checklists were developed really for the purpose of adding materials to the list, and we had to make some amendments to them which I think probably we would be -- do well to incorporate, and I will point them out to you as we go along -- but we had to make some amendments to be able to use them for the purpose of removal from the national list.

The first one that you see actually -- why does yours look different than mine?

MS. FRANCES: I just did that for the benefit of the audience.

SECRETARY WEISMAN: Okay. That's because I'm not far enough down. Sorry.

So you can see that -- we added a box that didn't use to be there, because it used to be we were only talking about things that were allowed or rejected. So that was one liberty that we took.

But I don't want to spend the whole time talking about the criteria.
evaluation checklist.

The bottom line here is that -- well let's move -- let's move down. And then we will go back to the vote.

In terms of category one, I think that is big enough, that we see that there are now alternatives available, notably organic alternatives, which would address some of the concerns about the use of hexane and peroxides, where we have already seen legislation that may restrict the oil processing operations that use them.

And that same applies to the second item about environmental contamination. And we are talking here obviously about the use of the listed material that we are considering removing.

I'm going to skip down now a little bit. I mean it was a fascinating process, considering all of these from a different perspective, but I don't really -- we want to move ahead because of time.
In terms of the material that we are considering removing in a technical review I'm using -- I'm going to question two here in category two, is the substance formulated by a process that chemically changes the substance extracted, and that crude soy that is obtained in conventional lecithin is obtained from hexane extraction of soy flakes. And then it's de-oiled using acetone.

The lecithin is bleached using hydrogen peroxide and benzel peroxide. I do want to note that in terms of hydrogen peroxide actually is allowed for organic production even, but the benzel peroxide is not.

Question number four, I am referencing the fifth item in category two, which is, is there an organic substitute? Yes, that there are numerous forms of organic lecithin, and several different manufacturers. I'm sure we are going to have a little bit of discussion about that. There has already been
1 public comment. I know we are going to be
2 going back to that.
3
4 Is the substance essential for
5 handling of organically produced agricultural
6 products? We -- the discussion that we had at
7 the time, even though we have heard public
8 comment that questions this, is that we found
9 that there are a wide variety of organic
10 products that are currently available that
11 can't be made without an emulsifier, and that
12 lecithin is the primary emulsifier used in
13 those products; but again, I think the
14 question is, is the organic lecithins are
15 available for that purpose?
16
17 Is there a wholly natural
18 substitute product? The organic forms are the
19 only forms of lecithin that are being produced
20 without synthetic solvents and bleaching
21 agents. And we thought that that was an
22 important -- that makes them an important
23 alternative to the 605(b) listed materials.
24
25 I'm not -- you know I'm not sure -
- I'm feeling the time pressure.

CHAIR MOYER: No, no, you're fine.

SECRETARY WEISMAN: The question, are there alternative substances, again, we know that there are forms of organic lecithin which achieve light color without bleaching; that those are available in commercial quantities; and that there also are other organic and conventional non-synthetic materials, such as gum, which could serve similar functions in certain cases.

Is there another practice that would make the substance unnecessary? Again, the organic version is obtained by expeller press instead of hexane extraction. Using different varieties of soy yielding lighter colored oil, combined with filtration, have been used to achieve the same effect as bleaching.

So I'm going to move now into category three, is the substance compatible
1 with organic handling? We never really -- we
2 never questioned that. Is it consistent with
3 organic handling? Again, we didn't ever
4 question that.
5 Is it compatible with a system of
6 sustainable agriculture? And that is not
7 applicable, because this is a handling, not a
8 production material.
9 Nutritional qualities, it's the
10 same either way. Not primarily used as a
11 preservative, not primarily used to recreate
12 flavors, colors, textures, or nutritive values
13 lost in processing.
14 And I'm going to skip seven
15 because that really more applies to on-farm
16 inputs.
17 Here's the fun one: commercial
18 availability, category four. Basically the
19 issue is that there are -- we see that there
20 are new methods for making organic lecithin
21 that is light in color using only allowed
22 methods.
There are numerous varieties of light-colored certified lecithin, and in terms of the quality the petitioner and the technical review concurred that products that are made with organic lecithin and the listed material are indistinguishable. In other words, looking at finished products that are made with both.

Panel testing has been conducted which confirms this. Then the question of is there quantity sufficient, and the petitioner states that there is currently unsold inventory, and besides that additional capacity available to make organic lecithin sufficient to meet current requirements.

I imagine this is something that will be part of our discussion -- I hope it's going to be part of our further discussion on this.

Regions of production, climate, we did not think were applicable here. We do see that there are at least four suppliers that
were identified of organic forms of -- organic
forms of lecithin.

    It did not seem that weather is a
factor or trade-related issues. There were no
other issues that were presented which would
make us think -- and please keep in mind that
when we answered this set of questions in a
petition to remove, here we are evaluating the
organic form, the availability of the organic
form, as opposed to when this is part of
listing a 606 item.

    Actually I'm not sure that that
was -- confusing, I hope it wasn't. But
anyway, based on our answers to these
questions on the criteria evaluation
checklist, we found by a vote of five no --
five voted in favor of removing, no one voted
against it, and there was one absent.

    And we felt the reason why this
substance -- again, now, when it says the
substance failed criteria, it means that the
listed substance now -- in other words if we
were evaluating the listed substance for addition now, based on the information that was given in the petition, we would find that it was failing the criteria in category two, and also category four, because there are organic -- two, because there are organic alternatives available, and four, because we believe that there is a commercially available supply of the organic substitute.

And that's the story. Questions?

Questions? Gerry.

So this is for bleached fluid lecithin, correct?

No, this is all bleached lecithin.

This is all bleached lecithin, okay.

All non-organic bleached lecithin of any form to be removed.

There was a lot of discussion yesterday and in public
1 comment. Did any of that affect the
2 committee's view?

3 SECRETARY WEISMAN: Thank you. I
4 neglected a very important part of this
5 presentation, which is, yes, there was
6 actually I think there were a total of 267
7 written comments received on regulations.gov
8 ahead of the meeting for this material, not
9 counting comments that were made yesterday and
10 that we may still be hearing later today.
11 I want to say that of those 267
12 comments 240 -- let's see, do I have this
13 right? 243 of them were one template. That
14 was in support of removal, but they were all
15 identical comments.
16 There appear to have been a second
17 template that was being used also in support
18 of removal, and that was -- there were five of
19 those. And then there were -- and this is of
20 the comments that were specifically on the
21 removal of lecithin.
22 There were other comments made
referring to lecithin that were embedded in multiple topic comments that were made, and I haven't even included those in this tally.

But anyway of the original comments that were made, five of -- there were 15 of those -- five supported removal and five opposed, because they felt they needed what they were referring to as the de-oiled varieties. And there were also five that felt that they needed non-soy varieties in order to have -- the issue of allergies was basically being raised. And there was some concern which I think -- we do -- we take seriously, that there may be non-soy varieties that are not available as organics, so we will want to figure out how to address that as well.

I guess -- I think there were also -- I apologize that I probably am not giving a lot of -- so much -- there may be -- have been other comments that were part of the multiple comment things, and I would say that they were on both sides of the board. Some of
the lecithin comments were from the multiple
commenters were in favor of removal, and some
were opposed to removal. One of the reasons
people gave for opposing the removal was that
there were -- that there weren't enough
suppliers. And I think that we agree and we
understand that there aren't many. But I also
have to say that it doesn't -- there is a lot
of organic lecithin available; a lot of
varieties of organic lecithin available; and
you know, because this is new territory,
assessing commercial availability about a
product we are considering removing, I don't
think that it is going to get any better than
this. I mean perhaps one could argue that
with flavors there may be even more variety of
organic flavors available, and yet it still,
you know, is on the national list.

But I -- I think that if we are
not in a position to remove a product with
this -- from the national list with this
amount of organic alternative already in the
marketplace -- I'm not saying that there
doesn't need to be more, but I think that it's
going to take the act of deciding to remove it
to stimulate those additional suppliers that
we want to see.

And I can tell you as a
manufacturer and a developer of an organic
minor ingredient that I am lucky if I can be
the only player in the marketplace for more
than a year. And I would say that two years
is a maximum that I can hold on to my
advantage before other people are in there
nipping at my heels. And I believe firmly
that the same situation will be created for
this material if we vote to remove it.

MEMBER JAMES: And Julie, correct
me if I'm wrong, but didn't somebody say
yesterday that even if we did remove it it
would take time for that to actually happen?

SECRETARY WEISMAN: Well, I think
that we have to put our own sort of memory
together. I think that there is -- the time
between when we -- historically between when we have made a decision -- and up to now they have all been decisions to list -- has been I think a minimum of 18 months and usually much more than that. I mean we had a comment even yesterday asking where is the docket for this, where is the docket for that. It was decided on two years ago.

And I'm not saying this to put any kind of pressure -- I know the challenge the program is up against in making all this happen. And the only exception I will say where they came through phenomenally was where we made the 606 listings. I think three months or four months later there was an interim rule published. And the only reason that happened was because they were already working on whatever they have to do over there to make Federal Register notices be published before we had even made our votes with the idea that if they had to take things out and delete them they would.
So I would say that if we vote tomorrow, it doesn't mean that the use of the material goes away tomorrow. There is a good 18 months, two years, maybe more -- hopefully not more -- before it actually becomes a final rule. And I guess someone from the program could correct me if I'm wrong. There would be an interim rule first for something like this, or not necessarily?

CHAIR MOYER: The Chair recognizes Richard.

MR. MATTHEWS: It would be a proposed rule.

SECRETARY WEISMAN: It would be?

MR. MATTHEWS: A proposed rule.

SECRETARY WEISMAN: A proposed rule, so there would even still be -- we would be getting some -- probably some feedback once that was already a proposed rule.

MR. MATTHEWS: Yes, the only reason the other one went as an interim file rule was because of the Harvey suit.
SECRETARY WEISMAN: Right.

MR. MATTHEWS: OJC is not real keen on letting us do any materials dockets that don't first go through a proposal.

SECRETARY WEISMAN: Okay.

CHAIR MOYER: Joe, you had a question. Then I had Hue second and then Tracy and then Dan. Hue?

MEMBER KARREMAN: Maybe I missed it, but I don't think so. But wasn't there discussion yesterday about the de-oiled variety and how that would be kind of cut off from this, if that would be okay with the petitioner and everything? Or is that a different material?

SECRETARY WEISMAN: That's -- we actually have another lecithin material that we are going to be discussing, and there is a little bit of complexity. And we will, when we -- I will be making some comments in my later presentation that is going to address that.
1     CHAIR MOYER:   Tracy.
2     MEMBER MIEDEMA:   I have a process
3     question. Just for the most continuity in
4     this discussion, could we move up the 606 item
5     on lecithin and talk about them together?
6     CHAIR MOYER:   Let Dan have his
7     comment first.
8     MEMBER GIACOMINI:   Yes, when I
9     was reviewing the public comments on these and
10    just transferring them over to my computer
11    since I don't have online here, it seemed that
12    a lot of those public comments, while they
13    were form letters, they were very specific in
14    stating that there is organic soy lecithin
15    available, and that please not allow the
16    hexane varieties to continue in organic
17    production.
18    With that, and with the comments
19    from yesterday and some other speakers, is
20    there any consideration to limit this to only
21    taking off the soy portion?
22    SECRETARY WEISMAN:   The issue of
hexane extraction has nothing to do with soy.
The soy piece goes to the issue of allergens,
unless I'm misunderstanding your question,
Dan.

MEMBER GIACOMINI: Removing this
from the list as you have, I don't know that part, (b), taking all bleached
lecithin off the list, it would also take all canola bleached lecithin off the list and all sunflower bleached lecithin off the list even from conventional sources.

There is minimal -- we had very limited evidence that that is available in any kind of a commercial form. I'm just wondering unless I misunderstood, I'm just wondering, since much of the comment was related to organic soy lecithin being available, and there is whether we agree with the allergen issue or not, there seems to be a consumer demand for other types of lecithin. And I'm concerned with a blanket elimination.

SECRETARY WEISMAN: I understand,
and I think maybe Tracy's suggestion that we move into the other lecithin petition, because I think that your -- I think that will be addressed.

CHAIR MOYER: Steve, do you have a problem with moving the other item up now?

MEMBER DeMURI: No, I don't. I think that's a great idea. I do have one comment to answer Dan's question. It's kind of the chicken and the egg syndrome again, that there is organic canola available and organic sunflower. There is no reason why manufacturers can't make organic lecithin out of those organic sources.

CHAIR MOYER: In light of the comments we just had, Julie, would you please review the lecithin fluid unbleached? Valerie, can you bring that up? I know we are jumping out of order, I apologize.

SECRETARY WEISMAN: But we were moving into 606 anyway; this just moves it up the list of 606 items. Okay.
The way this was petitioned, I guess I first want to address the way this was petitioned, the petitioner petitioned for the removal for the listing of lecithin -- for the removal of fluid lecithin, unbleached lecithin from 606. In other words it was their intention to only remove the fluid forms of unbleached lecithin.

And it has been pointed out over the last day -- okay -- I wonder if I'm jumping the gun, if I should just go through the petition.

Actually I think these -- the criteria evaluation checklists for these two things were pretty similar. So I think I'm not going to go through them all item by item, because I think a lot of it was covered. I hope I'm not making a procedural error here.

CHAIR MOYER: You might use it to address Hue's question regarding the comment yesterday.

SECRETARY WEISMAN: Remind me
again.

MEMBER KARREMAN: There was talk about the de-oiled form either being allowed or not. Petitioner was amenable to keeping that allowed. So if you could --

SECRETARY WEISMAN: Right, so at the time we voted on this, what we voted to do was actually to -- we agreed with the petition to remove the fluid portion of unbleached lecithin, and what that would cause us to do in effect would be for there to be an annotation that says dry forms only.

I think we also -- and that is in section C if you go back to the cover sheet of this, if you can scroll back, what we've done is -- what we are saying here is that numerous varieties of organic fluid lecithin are now commercially available that perform the same function as fluid lecithin that is included in the current lecithin unbleached.

And so to make that distinction that you are talking about we proposed the
annotation listed under C there as that dry forms only would be added to the current listing of lecithin unbleached.

Now I think at this time I want to -- so let me ask, does that -- and we heard public comment from experts yesterday that explained to us that dry is de-oiled; that those are basically the same thing.

MEMBER KARREMAN: As long as the petitioner is okay with that.

SECRETARY WEISMAN: Now we are going to have a request I think for the petitioner at this point, because a point that was raised yesterday not during public comment, which is why I want to make it public now, is that the handling committee in coming up with this -- in voting this way, in making this recommendation, we were actually doing something other than what we were petitioned to do. What was petitioned was the removal of fluid lecithin from 606. The only problem is that there is no annotation on 606 that says
anything about fluid or dry. So we made something up -- well, first of all, the petitioner asked for something that wasn't actually part of the listing, and then we made something up to address that. And that may not be a good precedent to set, to have the Board come up with things that are not part of what's petitioned, even though it was meant to serve the function of what was petitioned.

So we want to -- the handling committee discussed this, and we believe that if we could suggest a friendly amendment --

CHAIR MOYER: Tracy, please.

MEMBER MIEDEMA: Julie, I'm not sure if I heard you right, but I want to make possibly a technical correction here.

What I believe we heard yesterday from the public was that de-oiled and dry were definitely not the same. And so de-oiled was a process using a solvent removed the oil, whereas dry was taking and spraying it onto an augur or inert, so I think I just maybe heard
you say that they were the same.

SECRETARY WEISMAN: No, the conventional, the non-organic lecithin that is available as dry is all -- is de-oiled lecithin. The only dry lecithin that is being marketed is this organic lecithin that is being spray dried onto say maltodextrin or possibly could be spray dried onto other carriers.

So anyway what we think would be a cleaner process that doesn't set maybe unwanted precedents for future Boards is if the petitioner would agree to a friendly amendment that they amend what they're petitioning in the following way, that rather than petitioning for the removal of fluid lecithin from the listing of lecithin unbleached on 606, that they petition to -- that they accept the idea that this petition is really to change the listing, of lecithin, from lecithin unbleached to read, lecithin de-oiled forms only. We believed that that would
serve the same function.

So is there --

CHAIR MOYER: At this point I think what we should do is call the petitioner to the podium and ask him if he would accept that amendment.

Is the petitioner here? The Board recognizes Lynn Clarkson.

MR. CLARKSON: Dear NOSB, we would accept that amendment. We think that makes it clearer. We think that provides flexibility, and addresses the issues that were brought up by opposing comments yesterday, and supports the development of more organic ingredients.

So we accept.

CHAIR MOYER: Questions from the Board to the petitioner?

MEMBER KARREMAN: So could that officially be said, what the amendment is just at this time since he is right up here.

SECRETARY WEISMAN: Yes, so
therefore, the item that we will be voting on
tomorrow is going to be a petition to change
the listing of lecithin on 606 to de-oiled
forms only.

CHAIR MOYER: Point of order, the
executive director has a question or a point.

MS. FRANCES: I guess in light of
all this discussion going on regarding
synthetic and non-synthetic and non-ag and ag
and the fact that the de-oiled forms are using
solvents such as hexane and acetone, whether
that would really render this appropriate to
be listed de-oiled only on 606, and whether or
not it should be 605(b) and commercial
availability applied to that instead.

SECRETARY WEISMAN: I'll take a
stab at it, and I'll turn it over to you if
you don't think -- it actually -- as far as I
understand all of the conventional lecithin,
including that currently listed on 606, also
includes -- is also produced using those
ingredients. So it would not be putting
anything different on 606 than what is already there.

CHAIR MOYER: Joe.

MEMBER SMILLIE: I also believe that that is an important issue. It was addressed by the materials working group. It's an open question. I don't want to get the two issues together.

What we want to deal with is the lecithin issue. The whole question of solvents used on 606 materials is an important question but it's a different question. So I don't want to deal with both questions at once.

So I would say let's stick with the way we're going, and the annotation, the new petition, and not get into what is a separate and distinct issue as far as the nature of processing for 606 materials.

CHAIR MOYER: Are there any questions for Lynn that he might be excused?

MR. CLARKSON: Let me add that I
I agree with what Julie and Joe said, that it's a separate issue. You are not -- it's already there; it's being used in that form today. You are not putting something new into the pool that wasn't there before. So I accept that. I agree that the solvent extraction issue is an important issue to be taken up at some future time. So I accept your amendment as read.

CHAIR MOYER: Thank you, Mr. Clarkson.

Julie?

SECRETARY WEISMAN: I also wanted to make one more clarification that might not be obvious from this wording change that has been proposed. By making this change we have also taken the word, unbleached, out of the listing, which means we are leaving room for bleached forms of lecithin as they -- to be also included, and it also leaves room for -- within that de-oiled, it can be from any seed.
source. It can be from canola, it can be from
sunflower, it can be from other sources that
would not pose allergy problems for people who
are trying to avoid soy.

CHAIR MOYER: Dan.

MEMBER GIACOMINI: I didn't hear
the very end of what you were saying there,
Julie; I apologize for that, because the first
part of it caught me.

If we go to that chart that Dr.
Szuham gave us, and you look at de-oiled only,
that does not include bleached. That does not
include -- oh bleached, de-oiled only, but no
other forms of bleached. Okay, all right.

SECRETARY WEISMAN: I mean I will
clarify. I think that the presentation that
we saw yesterday clarified that the bleaching
is done with the use of hydrogen -- to the
extent that the bleaching is done with
hydrogen peroxide it will not be a problem for
a 606 listing, because hydrogen peroxide is an
allowed material in organic production, let
alone on a non-organic ingredient.

CHAIR MOYER:  Steve and then Joe.

MEMBER DeMURI:  The other important distinction here is that it moves all the lecithin to 606, and it subjects it to commercial availability scrutiny by the certifiers as well. So it is definitely a tightening of the listing.

CHAIR MOYER:  Joe.

MEMBER SMILLIE:  Well, both Julie and Steve have made the points that I was going to make. But there is one final point, and that is, some of the presentation that was given yesterday that was captured in these documents, the majority, I'm not saying all of it but the majority, for example from Amy's Kitchen, from Hane, their request was, I'll just use one, to deny companies the right to use de-oiled, powder bleached lecithin will result in the loss of many organic products from the marketplace.

I think we solved that particular
comment, and another one saying this company
currently uses de-oiled lecithin in several
made-with organic products. This lecithin is
an important ingredient.

So I think -- I'm not saying it's
a perfect solution, but I think it answers the
majority of both the petitioners and the
people who originally opposed the petition and
did these presentations.

I've gone through all the
presentations, and I'm not saying it's 100
percent, but the great bulk of it is simply
asking for the de-oiled.

CHAIR MOYER: Thank you, Joe,
that's a very good point.

Any other comments for Julie
before we move on to chicory root? Steve, the
floor is back to you.

MEMBER DeMURI: Thank you. Good
job, Julie, on a couple of very complicated
petitions. But now that you've caught your
breath you are up again for chicory root for
SECRETARY WEISMAN: All right.

This actually we can make quite short and sweet. We received a petition quite some time ago for the addition of chicory root extract to 606. And it did kick around between the handling committee and the program for awhile trying to figure out exactly whether it was already covered, whether it was not.

But the determination that we made upon reviewing the petition is that the -- even though chicory root extract as a broad category was what the petitioner was asking to have listed, the manufacturing process that they described in the body of the petition really actually described the manufacturing processes for inolin and okeofructose, both of which are derived from chicory extract. And the handling -- both of these are materials that were previously petitioned for inclusion on 606. So we felt that the petition was redundant.
So we went back to the petitioner and asked, just to make sure, are you wanting something other than these two already listed items to be added to the list. And they said no.

So we found that the petition didn't really require any further action because they materials that they were really looking for are already on the list.

In addition to that I would also like to add on the note of commercial availability that organic chicory root extract is widely available and being used currently. So if they wanted that organic chicory root as a broad category for 606 we probably would have voted no, because it is commercially available.

Questions?

CHAIR MOYER: Next item, Mr. Chairman.

MEMBER DeMURI: Thank you again, Julie.
The next item on our docket here for 606 is red corn color. That was one that I reviewed.

And it's petitioned as a use as a color in a variety of organic foods, beverages, so confectionary, there were a whole host of things that they were asking to be able to use this color in.

It is produced by a simple extraction process. The petition did have some CPI information in it. But in conferring with the program when I was reviewing this, Mr. Pooler verified that it was a fairly benign process, simple extraction process, without the use of any synthetic solvents or other prohibited materials. So it did meet the category one and three criteria, so that was not an issue for us for this particular substance.

But the petition did not sufficiently address the availability criteria in our mind. There are already several red
color extracts available, beets and a few other things that can be used to color organic foods red. The petition did not address why they could not use those colors; they are already listed on 606.

Additionally we know that there is a good amount of red corn available on the market in organic form, and the petitioner did not address why they could not source the organic red corn and find a processor or a manufacturer that could make a color for them out of that organic available corn.

So based on that we did not feel it was sufficient in its availability criteria, and we did vote to reject this particular substance for 606. The vote was zero yeses, four noes, one absent, and one abstention.

Any questions on red corn color?

Okay, the next item we have up is going to be presented by the handling committee wise man, Gerry Davis: myrrh.
MEMBER DAVIS: Where's the frankincense? The petition is for the inclusion of myrrh essential, commiphora myrrha because there are more than one plant that some people use the name myrrh on, for use in perfume.

Going to category one on the evaluation form, all of it was pretty straightforward as far as effects on humans or the environment. And we felt there were no issues there.

Category two we found that question one is it formulated by a chemical process? No, it's just steam distillation of a resin from the plant sap of this particular tree. And it's not changed chemically in question two, the substance used is the material extracted from the natural plant source with no chemical change.

Question five: Is there an organic substitute? No. Petitioner claims that no organically produced myrrh oil is available.
Handling committee members -- more than just myself -- checked with Internet searches and found no evidence of any organic sources.

Is it essential for handling the organically produced agricultural product?

Yes, petitioner claims the substance is a vital component of certain perfumes, and that there is no wholly natural substitute product because the fragrances are specific to this plant material.

The material is produced in regions of the world such as Somalia and Yemen -- two of the biggest producers of it. So in question 10, is there another practice that would make the substance unnecessary -- it seemed like it would be a good candidate for - - if there were fair trade marketing efforts exerted on those regions, to work directly with the indigenous harvesters of this wild plant. There could be some data certified organic wild harvested product, but it doesn't exist today.
Category three, important point, question one, is the substance compatible with organic handling? We said yes, but it's conditioned on something that should be obvious but needs to be pointed out. As long as this substance is used as a component of organically certified perfumes and is part of the 5 percent non-organic portion, and the resultant perfume product cannot have myrrh in the name.

So that was information for the complete for the certifiers and petitioner alike that they can't turn around and call this myrrh perfume if they use this material.

CHAIR MOYER: Point of clarification from Julie.

SECRETARY WEISMAN: Yes, the reason why that comment is included here is because you cannot use the word, organic, to modify the name of something that was not, an ingredient that was not actually organic. So you could call it myrrh perfume, you just
1 couldn't call it organic myrrh perfume. And
2 you could call the product organic whatever
3 lotion the myrrh -- well, I don't want to get
4 into the whole personal care thing, but say
5 hypothetically it's a body oil, you could call
6 it -- which I think actually is what it is
7 being used in -- you could call it organic
8 body oil, and then some place else on the
9 label it could say that this is myrrh, but you
10 can't organic myrrh body oil because the myrrh
11 is not organic.

  MEMBER DAVIS: Thank you for that
12 clarification.
13
14 So going down to category four,
15 the commercial availability, we felt that the
16 description provided by the petitioner was
17 plausible, that the material in its necessary
18 form and quality and quantity is not currently
19 available in organic form. And part of the
20 reason was on question five, number D, that is
21 related to trade-related issues such as civil
22 unrest. It may temporarily restrict supplies.
The petitioner made the case for the difficulty of establishing a certified organic supply due to the inherent civil unrest of the main regions of production such as Somalia and Yemen.

So going back to the front page, the committee voted four yes, zero no, two absent, to allow the inclusion of myrrh essential oil for the use in perfume on the national list in Section 606.

Any questions? Hue.

MEMBER KARREMAN: Not really a question, but I bring this up at other times with plant names. You have a Latin binomial there, and I think it should specify commiphora myrrha, because there is commiphora momo which is also called myrrh. In other words, use the Latin binomial, and we've discussed this before.

MEMBER DAVIS: That's what that is, but I didn't realize there was another species that they also call myrrh. The
information that I went over had a completely
different genus and species, one plant could
be used as myrrh.

CHAIR MOYER: Hugh, you want it
different than the way it's stated up there in
that gray box?

MEMBER HALL: If we have done it
this way before, if you say myrrh essential
oil up there.

SECRETARY WEISMAN: We went
through this with seaweeds also.

MEMBER KARREMAN: Yes, we did.

And we said that we gave the actual Latin
binomial itself and that was it I thought. Or
how did we do that? However we did it before,
let's do it the same away again, that's all
I'm saying.

SECRETARY WEISMAN: Let's go back
to the video, and tomorrow it will be
corrected.

MEMBER DAVIS: So let me try to
understand your question. You are saying
besides commiphora myrrha, there is also
another commiphora different species that is
also a myrrh?

MEMBER KARREMAN: Correct. To
the best of my knowledge from an in vivo
eperiment done with sheep parasites in Egypt.

(Off mike remarks)

CHAIR MOYER: Okay, well, Julie.

SECRETARY WEISMAN: I just also
wanted to sort of highlight one issue that
there are a few historical things that are
going on with petitioned materials for
handling in this meeting, and myrrh is also
one of them. Because I think this is the
first time we've had a material petitioned
onto the national list that was not for a food
product. But this as far as I know this
doesn't have any food uses. It's really
specifically being asked for because it's used
in personal care.

CHAIR MOYER: Dan.

MEMBER GIACOMINI: Yes, on the
question of the listing --

CHAIR MOYER: You can sit way back, I think, and still come in.

MEMBER GIACOMINI: On the question of the listing, we have listing of seaweed, and then with the Latin name in parentheses; we have a listing of hops, and the Latin name in parentheses. I don't see the other seaweed that we have listed here, but there are two examples.

We also did the same with the alvia, with the common name and the Latin name in parentheses. So I think you're fine.

CHAIR MOYER: Any other questions or comments? Kevin.

MEMBER ENGELBERT: I am just curious, given the fact that this is one of the first petitions or the first petitioned material for anything other than a food or a food contact substance, why you didn't request a TAP, or what gave you the confidence that you could find out enough about it without a
TAP?

MEMBER DAVIS: I think this is a good example of a very simple material. If you read the information provided and do searches of information that are available, this is a good example where it's simple enough that just the normal expertise of the committee would function as the advisory panel.

It just didn't seem to be complicated, and I didn't hear any public comments saying otherwise.

MEMBER ENGELBERT: That was my assumption, but I wanted to make sure that I was correct.

CHAIR MOYER: Tracy.

MEMBER MIEDEMA: As I look at this now, and in light of the personal care discussion, I have a little bit of a problem with our annotation about it being for perfume. I think it is very narrowly construed, and there is no reason if we were
going to go ahead and list it on 606 that someone couldn't put it in some other type of personal care product. Or maybe it is edible. I just don't know that we should start labeling it that way.

CHAIR MOYER: Was that what the petitioner specifically asked for?

MEMBER DAVIS: That's what they asked for, so that is the only reason it's on there. But it's a very good point, I agree.

CHAIR MOYER: Tina.

MEMBER ELLOR: I just looked it up on the food chemicals codex and it's listed as a flavoring agent.

CHAIR MOYER: Bea.

MEMBER JAMES: I agree with what Tracy just mentioned, but I know that at retail there are a whole line of essential oils that are agricultural that are certified organic that a lot of retailers are currently selling.

MEMBER DAVIS: And we considered
and looked at sources of myrrh essential oil as part of the literature search looking for organic forms. And there were a couple of suppliers that had very extensive organic essential oil listings, on and on and on, but when it came to the myrrh, not organic.

CHAIR MOYER: Gerry, is that because there is no organic myrrh, or just because there is no organic myrrh oil? We just want to avoid where Marty Mesh comes back and for the next five years and tells me he has organic myrrh, and nobody ever asked for organic myrrh oil. So there is no organic myrrh; is that what you're saying?

MEMBER DAVIS: The presentation that the petitioner made concerning the fact that there is no infrastructure or certification efforts being made to work with that indigenous wild harvested supply of the raw material. So it's a step that could be made. Perhaps the 606 listing will encourage that. But at this point there is just nothing
that has been drawn together to deal with that
wild harvested issue.

CHAIR MOYER: I think this is a very good case for those folks who said 606 is a shopping list for entrepreneurs, that would bring them out. Tracy.

MEMBER MIEDEMA: So procedurally when it's time to vote tomorrow, can I make the motion without the word, perfume?

CHAIR MOYER: I am just not sure -- because the petitioner specifically asked for it this way, can we change the petitioner's request?

SECRETARY WEISMAN: I'm going to ask a clarifying question.

CHAIR MOYER: Wait, let me get the program to answer that.

MR. MATTHEWS: Yes, if you decide it's something that can go onto the list, their recommendation can be for whatever uses are there; it doesn't have to be just for the petitioned use. So if you want to open it up
to all cosmetics or all body care products, or
all cosmetics and body care, that is perfectly
all right for us.

MS. ROBINSON: Jeff, let's not create a single use. That also permits in effect a monopoly use for one outlet there, just to be used for perfume. There may be other uses that we just aren't aware of.

MR. MATTHEWS: And the other thing is, if you say for perfume only, you may in three months get a recommendation that you now approve it for hand lotion, or you may then get another one after that that wants to put it into Tracy's soap.

MS. ROBINSON: Don't annotate the use; recommend the substance.

CHAIR MOYER: I think that is good advice. So there is the answer to your question, Tracy.

MR. MATTHEWS: You do realize though if you take it out without any comment you would be including it in food? Okay.
CHAIR MOYER: Joe.

MEMBER SMILLIE: Tina, does it have a CAS number?

MEMBER ELLOR: Let me pull it up again. Yes, it did have a CAS number. I didn't know what it was.

CHAIR MOYER: Any other questions or discussions on the myrrh?

MEMBER DeMURI: Just wanted -- I did do a literature search on myrrh as well, and I did find some references to it being used in beverages. So it potentially could be used in food.

CHAIR MOYER: Why not?

Steve, back to you.

MEMBER DeMURI: Thank you.

Hugh is another wise man on the Board apparently after his myrrh expose.

Okay, the last item we have for today is another 606 item. It's wheat germ, and Katrina was the reviewer of that substance, so Katrina.
MEMBER HEINZE: I'm really excited about this after all that conversation.

Okay, wheat germ, a material that I think hopefully most people are familiar with, was petitioned for listing on 606. It's intended use is as a flavor or to add nutrition, supplemental nutrition, not remove nutrition, in baked goods.

The petitioner did acknowledge that organic wheat germ is sometimes available. They were just not able to find a quantity or consistency of supply necessary to meet their needs.

So if you remember on 606 there are three things: form, quality and quantity. So this is a quantity.

So their justification was that they contacted the five largest suppliers of organic wheat flour, you know folks who should have a lot of wheat germ hanging around, and were unable to source. They need about 10,000
1 pounds a year; they were able to get 4,000
2 pounds.
3 So I can hear the eyebrows going
4 up in the crowd, and going up on the panel,
5 and ours did as well. We were quite surprised
6 by this, and we all said, oh, that can't be
7 right, so we did our standard Internet search.
8 On my weekly shopping trip to my local coop I
9 said, oh for sure I can find organic wheat
10 germ somewhere in this store. Nope, I took
11 twice as long to go shopping but couldn't find
12 it.
13 So then we did some deeper
14 research and really did an investigation to
15 evaluate this, and we did find support for the
16 petitioner's claim.
17 So I'll take you through that real
18 quick. So organic wheat germ is 2 to 2-1/2
19 percent of the wheat berry. In a typical
20 flour million operation you will reasonably
21 remove a much smaller percentage, so maybe
22 half to 1 percent of the berry will come off
as germ.

    The germ is very high fat, so it

has a very, very short shelf life, as little

as three days. So in a conventional operation

you would take that wheat berry off. Then you

have to send it off to be stabilized to

prevent rancidity. So the methods to

stabilize that are commonly used are steam

either direct or indirect, you toast, use

infrared, or there is chemical treatment,

although even in a conventional stream that

chemical treatment is used for non-food-grade

applications. So really the stabilization

that you would be talking about would be steam

toasting or infrared.

    And that stabilization has to

happen really at the milling operation because

of that short shelf life. Or you need to have

a high quantity of germ that is coming off

your mill to be able to ship it expeditiously

and get it stabilized.

    So what the petitioner said and
was supported by my investigation is, handlers
of organic wheat fine tune their mills to
direct their waste streams. So you have a
choice in a milling operation to divert your
germ stream as well as your bran stream. You
can either divert it to waste, or you can
divert it to go into your flour stream, the
bulk of organic flour millers divert it into
their flour stream so that they are not losing
material. And they just consider it value
added. So in effect when you're buying white
flour you are getting some germ, so it's a
little bit more whole wheat than it would be
otherwise.

So that's typically where it goes.

It goes straight into the white flour and gets
sold.

So of the five handlers that the
petitioner contacted, four send the germ into
the white flour and sell it that way, and one
diverts it to animal food.

So given the small amounts that
come from the mill balanced with the new need,
that is where the petitioner ran into trouble
with this material. And a large organic flour
mill today would produce maybe 2,000 pounds of
organic germ in a day's production. So to
meet the petitioner's need, that's five days
of production. And it just at that point
becomes impractical for that organic flour
miller to build the infrastructure to process
the germ. You are talking, you might run your
mill 360 days a year, and for only five days
you are going to build this huge
infrastructure to process the germ. And now
you are talking one miller out of the many
millers who might be doing this.
So this is a matter of matching
need to demand. You need to create a higher
need in order to create just the practicality
of building that infrastructure to stabilize
the wheat germ.
So really the conundrum here is
that consumers need to purchase more organic
products that have wheat germ in it in order to drive this. And consumers of this product, the petitioner has sold these organic products with wheat germ in them for 25 years, so their concern obviously is having to take this product off the market.

So our recommendation reflects that despite our surprise we felt that petitioner's justification was supported by our independent investigation.

So I want to go back to our recommendation. I didn't do this with the sodium chlorite, but I'll go back and look at the first page.

Obviously this is an agricultural product. It just goes through the mill, so there is -- if it meets the criteria for impact on humans and environment, we felt that it met the criteria for essential unavailability as well as compatibility and consistency. And we did feel that the petitioner demonstrated the fragility of
supply in this case, since there were -- we thought they had gone to quite a bit of work to try to find the 10,000 pounds they needed. So we voted I think six to zero to list this material.

CHAIR MOYER: Any questions or comments from the Board? Kevin?

MEMBER ENGELBERT: Yes, it's very unusual for -- you said part of the supply went to livestock feed?

MEMBER HEINZE: Yep, and I will in full disclosure say, I work for the company that does that. So we, to meet our quality specs in our flours, we don't put the germ into the white flour that we sell, so we divert it and sell it to conventional animal feed.

MEMBER ENGELBERT: Because it doesn't meet the quality specs for this buyer also? Or it doesn't meet your quality specs?

MEMBER HEINZE: No, to meet our white flour quality specs, we do not divert
our germ stream back into the white flour.
So therefore it's a waste stream from our
milling operation, and our waste stream is
solid to animal feed.

MEMBER ENGELBERT: And explain
again what that isn't available to another
purchaser?

MEMBER HEINZE: Because you have
to stabilize it. Someone could buy it. So on
the once a month that we run organic flour
someone could drive up a truck, they could buy
the 2,000 pounds. They would then have to
ship it someplace where they could stabilize
it. It has to be stabilized within three
days. They would have to convince the company
that stabilizes it to do a run of 2,000
pounds, and it's such a small run that it's a
size problem. I see I am not making sense on
that.

MEMBER ENGELBERT: Well, you are.

But this harks back to the problem we had last
year with the -- I mean it seems like if there
is a will, there's a way. And if it's available, rather than divert it to livestock feed, which normally is where things go because it's cheap or there is some type of defect, if this company coordinated, not just with your company, but all the processors of organic wheat or even contracted with growers of organic wheat, that they could make that happen.

MEMBER HEINZE: There is no lack of organic wheat; that is not the issue.

I did, and I'll be fully transparent, I said, hey, cool, there is a market for us on this; go team go. And I got laughed at.

They said that in order to make this practical the need would have to be like 100 or 1,000 times more to even make it practical. Just the amount of resources to build that, it is just -- the need is just not there.

CHAIR MOYER: Barry.
(Off microphone comments)

MEMBER HEINZE: There was no technical review again. On a material like this it's pretty straightforward. If you worked in milling --

MEMBER GIACONINI: Barry,

microphone.

MEMBER FLAMM: Oh, thank you. My question was, is there a TAP on this material? Katrina, I think you answered that you didn't see the need because it was straightforward. And to me it doesn't seem straightforward. I'm not very convinced by what I've heard so far, and I don't -- where is the location of this petitioner?

MEMBER HEINZE: I'll let them --

MR. FLACK: In any case I know in Montana there is, as you point out, a huge acreage of organic wheat growing all the time. There are a million facilities and they are looking for new types of markets.

So I just --
MEMBER HEINZE: But again the petitioner went to quite a bit of work to try to find someone who would do this for them, and had no one step up to the plate. So this is the debate we have every time with these 606 materials. If you put them on the list does that create someone who says, I actually can do that. In this case the petitioner tried.

CHAIR MOYER: We have a bunch of folks that want to comment. Bob.

MR. POOLER: Yes, Bob Pooler. I just wanted to address Barry's question about petitioner location. Bountiful Berry is located or headquartered in the state of Maine.

CHAIR MOYER: Thank you.

Dan you had your hand up, then Tracy.

MEMBER GIACOMINI: Yes, I apologize if I talk too much here for a second. We are looking at a product here that
we know we have a tremendous amount of organic raw material, but there are problems in the processing and stabilizing and that thing. So we are looking to put it on 606.

At this very same meeting -- and we are saying we are doing it because of low quantity -- at the very same meeting we are running through a couple of voting manipulations to take away what has been in the marketplace an alternative source of lecithin that has been conventional, that is not traditionally from soybean, with no information on whether there is enough of that product to really be making organic lecithin from those sources. And when the first -- the first two years ago I believe it was we had a petition here for I believe it was instant powdered milk. The petitioner had done a tremendous amount of work going through all the different milk powdering facilities they could. Everybody would make powdered milk, but nobody would make instant milk. They
found one facility that would make instant milk but they wanted them to buy like a four-year supply a tremendously high price. We rejected that petition and not allow them to use a conventional, so in a sense they are taking products off the market. I believe it was used in baking. I think if we go along with what we are looking to do today on the lecithin and looking at what we've done in the past, this sounds like a real exception to our historic record.

CHAIR MOYER: Tracy.

MEMBER MIEDEMA: I guess I just wanted to point out, this is some of the hardest stuff we do. And it's really the no fun part, because there's going to be losers in this no matter what. And we really have to face the fact that if we put this on 606 a small bakery will have to buy the organic version whereas a very large bakery would get a free past.

However if we don't put it on 606,
there's all kinds of manufacturers out there that want to get in organic, and there is no opportunity list out there spurring the organic version to be produced. And a most likely scenario is that wheat germ will languish along, and an organic version will be less likely to surface in the marketplace.

The impetus just may not be there.

So we don't know how the chips are going to fall when we do this, and frankly there can and will be winners and losers no matter what we do.

CHAIR MOYER: Julie.

SECRETARY WEISMAN: Yes, I just wanted to see if I could possibly help Dan not see as opposing actions the fact that we are recommending the listing of this on 606 at the same time that we -- actually that is part of the same progression. And I -- you don't get to the point where you are able -- consider taking something off of 606 unless you have done something to spur a need for that
material being used, to allow it to be used in its non-organic form. And currently the only way to do that is to list it on 606.

I almost am tempted to ask Lynn Clarkson to step back up to the podium, because I would be interested in his comments about if lecithin were not on the national list would he ever have dreamed of making the investment and engaging in the entrepreneurial activity that he's engaged in that makes organic lecithin available. I see that he's willing to do it, but I guess maybe I'm making my point.

CHAIR MOYER: Given the timeframe we are operating under, the chair is hesitant to call anybody to the podium at this particular moment.

Gerry, you were next. Hue. Tracy.

MEMBER MIEDEMA: One last comment, I did vote yes to 606, so despite my comments about small bakeries being forced to
organic, I endorsed the spurring of the
creation of organic wheat germ. And I think
that is how we should vote.

CHAIR MOYER: I also have a hard
time imagining that the petitioner is the only
potential customer for this product. And I
understand what you are saying about 606 but
you see the problem we have getting material
off the list once we get it on; it is not easy
to do. So you don't see it as a problem, I
know. Okay, but it's difficult to get it off
the list once it's on the list, and that's a
concern I believe some of us have on this
Board.

Katrina.

MEMBER HEINZE: I'll just make
two comments, one in my traipse about my
natural foods coop, there is a lot of wheat
germ I can buy but none of it is organic. And
then second, just a reminder, because it's on
606, and the handling committee says this
every time, doesn't mean that folks can just
use the conventional. They have to prove to
their certifier that they were unable to
identify any, right, so commercial
availability. So good debate, folks.

CHAIR MOYER: Okay, any other
comments or questions from the Board?

Steve, back to you.

MEMBER DeMURI: Okay, thank you
everybody. That concludes the petition
recommendations for us for today.

But I do want to mention, we have
10 sunset items coming up in 2011. There are
three for 205.605(a), and seven for
205.605(b). I won't take the time to explain
any of those, but please we do want public
comments over the next few months on those, so
we would greatly encourage you to do that.
And that will conclude our discussion for the
day from the handling committee.

CHAIR MOYER: Thank you, Steve,
and the handling committee.

The chair recognizes Richard
Matthews from the program.

MR. MATTHEWS: Yes, and I would recommend that the Board move expeditiously on these 10 materials, because in 2012 you will have to have completed your review of some 160 other materials. So early next year we will be putting out an AMPR on that one as well. So time is short.

CHAIR MOYER: Well, if you were trying to make us feel good, Richard, you didn't.

(Laughter)

MR. MATTHEWS: 174 materials, Barbara tells me. No, that's payback for black hole.

(Laughter)

CHAIR MOYER: Okay, thank you very much. That concludes our work plans and the committee reports. The chair wishes to thank all the committees and their members for their tremendous effort and tireless dedication to these issues and these
If you have never sat on a committee, and some of you in the audience haven't, you have no idea how much work and dedication went into this. And whether you agree or disagree with the outcome, as I mentioned in my opening comments yesterday you cannot fault this Board for the tremendous amount of work they did.

So the Chair wishes to thank all of you.

We are going to take literally a five-minute break to the bathroom, and we are going to be back with public comment.

And please, I mean five minutes. We have to get out of here by 6:30 for this Board to be able to get over to Kathleen Merrigan's office, and we will be leaving on time.

(Whereupon at 4:56 p.m. the proceeding in the above-entitled matter went off the record to
return on the record at 5:02 p.m.)

CHAIR MOYER: Okay, the Board is seated. We have a quorum. Valerie, we are going to get started.

Before we start with the list of public commenters, I do want to mention that during the break Harriet Behar let me know that they made a phone call from the back of the room to a food supplier, SK Foods, don’t know them, never heard of them. And they said 10,000 pounds of certified organic wheat germ, no problem, got it. So it runs a little contrary to what we were hearing earlier today. So there is a phone number and a name if somebody wants to call. But it does let you know that the product quite possibly is available in the quantity and quality that the petitioner is looking for.

Thank you, Harriet, and whoever in the back of the room supplied us with that information.

Okay, moving along, public
comment. We are going to start with the list
as we have it posted here.

I will mention that the Board has
an appointment with Kathleen Merrigan. We
fully intend to make that appointment, and we
appreciate the public commenters keeping to
time and the Board minimizing the questions
and comments to specifically extracting
information from the presenter and not
necessarily from making windy comments. I
won't gavel anybody down, but I do appreciate
that, because we certainly want to make our
appointment.

I believe Joann Baumgartner is
number one on the list, is that correct? My
list is outdated.

I'm sorry, Deborah White. Is
Deborah in the room? And Joe Dickson on deck.

PUBLIC COMMENT

MS. WHITE: Good afternoon and
thank you for your time.

We are the Food Marketing
Institute believe these organic issues are very important and we appreciate your volunteer service in advancing the role of the place of organic products in society.

As you may know FMI represents grocery stores and food distributors in the United States and also around the world. Large grocery stores are some of our membership, but fully three-quarters of our members are small independent mom-and-pops and regional chains.

FMI has an organics committee, and we are pleased that Bea James has served on that committee. But it's a very diverse group, and I think that reflects our membership, the diversity of the retail industry, and the diversity of the consumers that our members serve.

For example on our committee we have companies like Mustard Seed, Hannaford, Sprouts Farmers Markets, Publix, Wild Berries Markets, Lund's Whole Wheatery, Ukrops, New Leaf Community Markets -- a read diversity.
And I think that reflects that fact that consumers in a lot of different segments, a lot of different markets, are interested in organic products.

Our members do their best to provide a safe, abundant, affordable, and diverse food supply for their customers. Organic food and products are an important part of the mix. Although not every consumer will prefer organic foods, they are important and should be readily available to everyone, even to those who maybe just want to pick up a couple of organic tomatoes while they are buying their toilet paper and all the rest of their household goods.

Neither the Organic Food Production Act nor the NOP regulations require final retailers that only handle but do not process agricultural commodities to be certified if they want to have organic products. That is, they can sell or package organic products, and no certification is
required.

Nonetheless, the preamble to the final rule expressly recognizes that retailers may choose to be certified, specifically -- and I went back and pulled this out of the preamble, quote: operations that qualify as exempt or excluded operations can voluntarily choose to be certified. So final retailers under the statute and under the regulations are excluded -- or exempt, rather -- from the certification requirements if all they do is handle but do not process. And final retailers that choose to do some additional types of activities are still considered excluded, and certification is not required.

Therefore the issue on the table really is what type of program is necessary to ensure that retailers that voluntarily choose to be certified can do so in a manner that is consistent with OFPA.

More specifically the question is whether a retailer that seeks to obtain a
1 voluntary certification must have all of its
2 stores certified or whether the retail entity
3 as a whole can be certified based on a multi-
4 site audit profile.

And I know from talking with Bea
5 James that this is an issue that you guys had
6 debated for awhile.

8 FMI respectfully suggests that
9 this establishes a false choice. You don't
10 need to choose one or the other. It doesn't
11 have to be either every store or a multi-site
12 audit system. Your recommendations could
13 encompass both.

14 We understand that NOSB has
15 already recognized the value of multi-state
16 audit, so there is no per se prohibition that
17 you guys see.

18 Moreover you guys have recognized
19 multi-state certification or multi-site audit
20 as a valid basis for establishing the organic
21 basis of producers, of entities that are
22 required to be certified under OFPA
specifically for farming communities.

If NOSB can accept use of multi-site as permissible manner to ensure organic standards are met for entities that are required to be certified, certainly it should be a possibility for entities that are doing this voluntarily to also rely on multi-site certification.

So the question then would be what parameters do you need to support retailer certification if they do it by having multi-site rather than every site audits?

FMI supports and expects that regulatory programs will be fair; that the rules won't be rigged in order to preference one type of entity over another; and that they will be consistent. If you will permit this type of regime as sufficient for farmers, then it should also be so for retailers.

So we encourage you to carefully consider this. Retailers can assist in ensuring that more organic products are in
more consumers' homes, and we recommend that
you consider what types of parameters would
make a multi-site inspection service adequate
in your view.

Do you have any questions?

CHAIR MOYER: Any questions or
comments from the Board?

Thank you, Deborah, we appreciate
your time.

Joe Dickson and Timothy Kapsner on
deck.

Is Joe Dickson here?

Timothy? Is Timothy Kapsner here?

And then David Brauner on deck.

MR. KAPSNER: Hi, I'm Tim Kapsner
from Aveda Corporation which is a division of
Estee Lauder. And if you bear with me I'm
going to read my statement so I get it right.

I come here today speaking as a
scientist who has worked in the cosmetic
industry for over three decades. I've spent
many challenging and productive years
1 developing products and ingredients that come  
2 from plant sources. Our industry can help  
3 greatly promote the use of organic  
4 agricultural materials by making highly  
5 functional certified organic products with  
6 plant-derived ingredients.  
7
8 The definition of synthetic and  
9 the concept of synthetic materials were  
10 created in OFPA and the NOP as an input  
11 screening tool. Ingredients and processing  
12 aids used to make food products are classified  
13 as being synthetic or non-synthetic to help  
14 sort them to determine if and how they can be  
15 used in organic agriculture or organic food  
16 processing.  
17
18 Food processing is described as  
19 heating, baking, distilling and many other  
20 physical processes. The concept of a process  
21 resulting in a chemical change and thus  
22 creating synthetic materials was not addressed  
23 either in the law or in the rule. This has  
24 created years of confusion and struggle to
reconcile the current certification and approval system with what the law and the rule actually say.

Examples of this confusion can be found in current NOP national list. The citric acid example discussed a few minutes ago exemplifies this problem perfectly.

Another ingredient which exemplifies this issue is ethyl acetate, manufactured by combining grain alcohol and vinegar in a way that causes a chemical reaction called esterification. If someone were to apply for a certification of an organic product and describe it as a combination of organic grain alcohol and organic vinegar, the product could be certified to the NOP. But if that ethyl acetate is sold as an ingredient to a cosmetic manufacturer it would be considered synthetic as per the NOP definition and prohibited from use in an NOP organic product.

This means that, dependent on
where in the process the rules are being applied, a different answer will result.

There are many examples like this in the cosmetic industry of products made by chemical reactions that can be synthesized within the constraints of the NOP. These materials fit the definition of synthetic, and therefore shouldn't be allowed as ingredients in an NOP-certified organic cosmetic product.

Potential additions to an allowed materials list are always evaluated in the context of their intended use. Annotations can be used to restrict the allowance to a specific use, but a heavy dependence on annotations makes the list difficult to regulate.

However, minimizing or eliminating annotations makes it more likely that a material will be used in a way that was clearly not the intent of its original approval. This is a difficult balance within a single industry such as foods. Adding a new
industry such as cosmetics to a food standard will force this issue into territories that the rule may not be prepared to handle.

Under the NOP the terms ingredient, processing aid, substance and adjuvant are confused and conflated. This has made it impossible to distinguish appropriately one from the other, and to treat them distinctly depending on how they are being used in a specific instance.

Materials such as sodium hydroxide used to make soap combines with the oil and that combination is changed chemically into a new compound. In this process the sodium hydroxide is used as an ingredient, not a catalyst or a processing aid.

All of these issues, which are central to the cosmetics industry, are being handled quite well in all of the independent cosmetic standards currently in development or in use.

The NOP is currently considering
the development of organic standards for several other industries, such as pet food and aquaculture. At the same time the organic food industry is struggling to address some of the issues by the law that initiated it. Living in a house while you are trying to fix the foundation is difficult, but to do that and try to add three additional stories on at the same time is asking for trouble.

Expanding the application of the NOP food standard to cosmetics should not be done at this time.

Thank you for letting us speak.

CHAIR MOYER: Thank you, Tim, those are great comments. We appreciate that.

Questions? Tracy?

MEMBER MIEDEMA: Just a real quick one. Do you think it should be done ever?

MR. KAPSNER: Well, on my statement here at the very end, it originally said, should not be done at this time or maybe
ever. But I cut that out. So I'd have to say, I'm not sure. I think that the industry should be allowed to continue the development of its own standards, as the food industry did. And if at some time the industry can come up with standards that make sense, then it may be time to regulate it. But that hasn't happened yet.

CHAIR MOYER: Kevin and then Joe.

MEMBER ENGELBERT: What's your thoughts on the problems that are going on right now with consumer fraud in cosmetics and personal care products, organic, that truly are?

MR. KAPSNER: Well, that's the whole thing we want to try and avoid. And what I've been trying to do for 12 years now, I've been trying to develop these standards since 1997, is to create a standard that people will get behind, people will recognize, it would be on the label, that people would look for, and that label would be in my mind
created by the cosmetic industry, and then
consumers could look for that label. The
process would be transparent. People could
trust that these means that these standards
had been through a process of industry
consensus. And then they can look for that
label, and the industry can help create some
weight behind something, so that all these
companies that are making unsubstantiated
organic claims would be -- would go away.

CHAIR MOYER: Joe.

MEMBER SMILLIE: Some of what I
wanted to ask was just answered. But Tim,
appreciate all the great work you've done for
the last 12 years and all the committees
you've served on. And I urge you to run for
the NOSB as a scientist and help guide
personal care products into this format.
Because unfortunately the organic food
industry did have that time to develop and
build our foundation on independent third
party certification, get the house ready, and
then when the time came to put the stories on,
we put them on, we put them on quick.

Unfortunately, and some of it may
be due to historical-cultural differences, you
don't have that time. It's a mess out there.
We all know it's a mess. And your solution of
letting industry define a standard and getting
consumers to get behind it, and I'll agree, we
kind of tried that in the food industry. And
we came to the conclusion that we needed
government to get in and get a regulation and
get consistency and conformity in the use of
the word, organic. And they've done that.

So unfortunately, I don't think
you've got the time to let the industry grow
on its own accord, because we are seeing label
claims out in the marketplace, and by
competing organizations. And they are not
going to say, oh, you're better than us; we'll
support you. They are going to hold onto
their turf. Companies are going to hold on to
their turf, and we need, like immediately I
think, a consistent standard for personal care items, because consumers want it, and they expect organic to mean organic. And that's unfortunately the way I think it is.

But I urge you to bring all of the knowledge which you have greatly contributed to, especially your knowledge of synthetics and how we can have good synthetic products, and put it through the NOSB so that we can help a good standard that you would be proud of for consumers and for companies like yours.

MR. KAPSNER: I agree to a certain extent, but the question still remains as to whether the issues that I brought up about the definition of synthetic -- I tried in all of my standards, one of my first objectives was to eliminate the use of the word, synthetic. Just because it's a non-issue, because synthesis means bringing two things together and making something new, and that goes for making babies and making bread and creating new words in the English language
as well as making chemical compounds.

So if you are stuck with a food world view of synthetic being something that is bad, and something that has this definition in the food world, that is going to give us a different perspective than the cosmetic industry has on what synthesis is.

MEMBER SMILLIE: I couldn't agree with you more.

CHAIR MOYER: Brief followup.

MEMBER SMILLIE: Okay, brief followup, I couldn't agree with you more. That is what we are debating right now. We are not against what you are saying. There is a group trying to broaden that understanding of what synthetic means, and we are right in the middle of it. It's a perfect time.

CHAIR MOYER: Thank you, Joe.

Bea.

MEMBER JAMES: Just real quickly, did you submit your comments to Valerie?

MR. KAPSNER: No, I have to do
that yet.

MEMBER JAMES: And I also was hoping that Deborah White would be able to do that as well.

MR. KAPSNER: In it's current form it's barely readable. But I'll clean it up and get it to her, electronically.

CHAIR MOYER: Thank you, Bea.

Any other Board members with questions or comments?

Tim, we appreciate your time.

Thank you very much.

David Bronner, and Diana Kay on deck.

MR. BRONNER: Thank you, Mr. Chair. Thank you, NOSB Board.

This is a day I've been waiting for for a long time. Actually I've had a serious possibly of federal regulation in the personal care space. As the CCAC document notes it's a disaster. The term, organic, is as meaningless as natural.
It was interesting, you guys were talking about myrrh, and how you couldn't say organic myrrh perfume because myrrh wasn't organic, but even if the perfume itself was 95 percent and otherwise known as a product -- here we have such a ridiculous situation it's beyond belief.

This is organic fair trade certified cocoa butter body wash where the only organic ingredient is the cocoa butter. Everything else in this product is not organic. It leads with water and sodium sulfate, cacoaminopropyl hydroxysulfane, glycerine, cocoa MEA, acolytes, copolymer and then cocoa butter, organic cocoa butter. I mean it's like way down. This product doesn't meet -- it doesn't meet any private standard in the world, regulation. There's not a private standard this product complies with. And because we don't have a single standard, it enables companies that do not comply with even the most permissive standard.
And that's what we have. It's not a question OASIS or NSF. It's just like -- it's just a mess out there.

And then in regards the intent -- I mean there is a certain basic set of processes that everyone more or less agrees on should be included -- not everyone, I should say, there is a spectrum of opinion. But insofar as there are additional processes not currently allowed in the NOP, they are understood to be processes that don't use petrocarbon and use an inorganic reagent like hydrogen or sulfur trioxide, or certain things that if you don't get petrocarbon, you can use it as organic agriculture material.

And the debate is, if you make like sodium cacao sulfate, which is a well described well understood process within various industry efforts, is it -- can it be an organic personal care product? Or should it be restricted to a made-with-organic personal care product?
And that is basically where we are at. It's an irreconcilable difference. It is not going to be solved by having competing industry standards. So basically the private standards out there all have the same set of processes give or take one; they have a similar set of preservative allowances, and it's just a category debate. Is it organic, or is it made with organic?

And that is the situation, and just allowing competing standards is not the solution. And basically this decision needs to be made. And insofar as soap, we make soap, both 070 soap primarily, also 95 soap products. We are willing to see soap come down to 07. We don't want to see it be wedged, allowing all kinds of synthetics, having organic, certain cocoa sulfate shampoo. I mean we are willing to see the chips fall. But we do want to see a federal regulation and just clean up the mess.
Thank you.

CHAIR MOYER: Thank you, David, appreciate those comments.

Questions or comments from the board? Tracy?

MEMBER MIEDEMA: So how, David, would you answer the question about the lack of say foundation that the prior commenter made, in building these additional floors? How do you see this actually feasibly happening?

And that may be an unfair question because you are not part of the program, but from your perspective, how do you see something like this going forward?

MR. BRONNER: The foundation has been laid. I mean we all spent the last 10 years laying, okay, here is the set of processes, additional processes we want and we know what they are. And there is such a thing as organic personal care that is not made with organic. And the compromise that got worked
out in NSF is okay, when you start using green
chemistry and pulling apart ingredients,
putting them back together and all this stuff
that industry wants to do, well, there should
still be a distinction been an unhydrogenated
organic lotion where you are just -- organic
oil, organic cocoa oil and a natural
emulsifier versus a product that is
hydrogenating organic oil, that is making
ester products and doing XYZ chemical
processing, it's like, okay, well, that should
be a category distinction.

So we know what these processes
are. We know what green chemistry is. It's
all worked out. Is it organic or is it made
with organic? And a decision is easily made,
and that's right now what the fight is, is two
standards, and had the same processes, and one
is organic and one is made with organic.

MEMBER SMILLIE: Do you see it --
CHAIR MOYER: Go ahead.

MEMBER SMILLIE: Do you see it
possible that the OASIS work or the NSF work could be dropped into 605(b)? Is it that simple?

MR. BRONNER: Yes, I would say that you could have an annotated list specific to personal care. You'd list the conditional processes, hydrogenation, sulfation, you know the associated reagents, just like NSF standard, annually released standards, have been written.

And really, I mean Tim, myself, we all worked real hard in generating this foundation. And unfortunately things kind of flamed out in the category debate.

But yes, I think it's pretty straightforward to bring in regulation. And these private standards are by like ECOCERT, Soil Association, they are food certifiers. And they are also making and certifying cosmetic standards. There isn't this wide gulf between the two, quote process standards, and it's about additional process allowances.
And these ingredients are a little -- I mean you have to kind of look at them as multi-ingredient ingredients, like these that we are talking about, like these processes like sulfation, bring in sulfur trioxide and attaching it to an organic fatty chain. So there is an organic component, but it's an inorganic.

So that's why --

MEMBER SMILLIE: The calculations, are they going to be beyond mathematical grasp?

MR. BRONNER: No, we addressed that in NSF by just assigning values. Like we say, okay, use this process, sulfation, rather than say okay well, the molecular weight difference is lower over acetyl fatty acid chain is whatever, like you just say it's going to count, contribute, if the sulfate of fatty alcohol contributed 60 percent of its weight to the product, we really went through all this stuff over 10 years, like all these
1 issues were hashed out. And it's interesting
2 where I am. I'm in between the kind of
3 perspectives. Usually I'm not the pragmatist,
4 but in this case --
5
6 CHAIR MOYER: Okay, thank you
7 very much, David, appreciate your time.
8
9 In fairness to all the presenters,
10 I just should let the Board know that I have
11 20 names on my list, and we have one hour. So
12 I don't know how many are actually on this
13 list, Valerie, but let's just try to be as
14 expeditious as possible. I apologize for
15 that.
16
17 MS. FRANCES: There's been a few
18 adjustments.
19
20 CHAIR MOYER: Okay, thank you.
21 Dianna Kay and Sebastian.
22
23 MS. KAY: Hi. For anybody who
24 doesn't know me I am Diana Kay, and I
25 represent today our company Terressentials.
26 We are USDA-certified organic processor of
27 certified organic body care products.
I too have been in this industry for 18 years, and I was a member of these committees. And I'm going to kind of deviate just a little from my written comments, which I will leave here. But I feel after listening to the two previous presenters that I must put back in what I cut out. I hope you can all hear me.

I have observed, and I speak for a smaller part of the industry, not the industry, and I'm going to articulate that. Because one of the things that we saw, and what we feel, not just opinionwise, is that these committees were not balanced. I know there was one submission that said this was a balanced committee. And whether anybody wants to hear it or not, it was not. Consumers were not represented, and I'm going to disagree with all of these people.

Just one example, this was an ongoing argument. You cannot have a body care product without chemical preservatives. This
is a book called Preservative Free and Self-
Preserving Cosmetics and Drugs: Principles and
Practices. It is available on Amazon.com,
and I'd say that if there is any chemist out
there who doesn't have this book and they are
making products for somebody, perhaps they
should invest and buy this book.

Okay, I've heard a whole lot of
stories about the surfactants and emulsifying
agents that can be used. We don't need these.
The industry -- the industry needs them
because it affects their bottom line. They
can use totally natural products that haven't
been processed, and we've proven that it can
be done. And they are choosing not to because
they need to have these inexpensive
ingredients that will last on a shelf for five
years.

That is why they want to use
hydrogenated materials, because once they
strip out of the oily component that can go
rancid -- and I think that is what we were
1 talking about with wheat germ oil, or wheat
germ, stabilizing it -- once you strip that
out, okay, then you have a product that is
left basically a wax, that would be alive
forever. And that is what they want.

Does that suit the consumer, and
what the consumers want as real organic? No,
it doesn't, and it doesn't need to happen. So
I'm here speaking for them.

But I also have a few other
points, so I'm going to kind of jump back with
some of those. And kind of try and talk back
and forth here. I hope you can all hear me.

We were pleased though to read
about the CACC's recommendation, I think it's
great. I do have one caveat with that, and
that is that I don't believe that there should
be a category of made-with-organic that
forgives body care companies from not being
certified. I think it has to go all the way,
just like it is for food. And here is why.

We have lip balm products that are products
that people eat. I know Julie is over there, she has been supplying us for years with certified organic materials, so she know where the real deal is.

Medical creams, for mothers who are breast feeding, this is a product that babies will ingest. Do they need to have a made with organic product that has hydrogenated fat that a woman will rub on her breast for her child to ingest? We could have potential residues here of nanoparticle -- we all know that there is a catalyst that is involved. This is why hydrogenated products are not approved under the NOP. We don't want these kinds of things in our organic -- 100 percent organic or made with organic. We say, go strict all the way. And let's bring everything back home where it belongs to the food standards. Because we have 100 products right now, we've got 100 more right now waiting to come out that don't involve the synthesis that everyone else is talking about.
And these are products that our customers are screaming for. They are demanding it. They are writing us letters telling us what they want.

I have to point out a couple of things, thank you for the reminder. We also agree with registration of stores and certification, but I want to point out, I have some handouts here, we are seeing the proliferation of organic being used not just on body care products but on stores. One of the problems we are running into is organic salons. If you google organic salon you will be shocked to see what is coming up. We have stores that are calling themselves organic marketplace, organic this. Customers, consumers, are going into these stores believing that these stores are certified stores selling these products. We really would like to see the NOP come down on these stores and make a major crackdown.

We also have website businesses
that are using the word, organic, and trying
to sell products that are not certified.

I agree, we need to take immediate
action, and I would like to see that now. So
that is the point that I wanted to make about
that. Try to rush through here.

CHAIR MOYER: Diana, I think
you've rush as much as you can rush. You
bring up great information. Valerie could you
get the name of that book for the Board before
we leave.

Other questions for Diana from the
Board?

MS. KAY: Not a single question?

CHAIR MOYER: It wasn't because
your presentation lacked information, I can
assure you.

MS. KAY: Unfortunately I didn't
get to all of it. But I will leave a copy for
you.

CHAIR MOYER: Okay, thank you
very much, Diana.
Sebastian.

MS. FRANCES: Please, there's been a change in order.

CHAIR MOYER: Thank you, Valerie.

I didn't see that. Joanna Baumgartner on deck.

MR. BELLE: Good evening, folks.

Sebastian Belle from Maine Aquaculture Association. Thank you very much.

I'm going to be very brief.

You've had a long day as always. Our association is a producer association. We represent both shell fish and fin fish growers, about 147 farms in the state of Maine; about 70-30 shell fish-fin fish is the makeup of our association.

I'm also a member of the aquaculture working group. And all I want to do today is thank the livestock committee for their willingness to consider our input in trying to address their concerns. We really appreciate it from the AWG's point of view.
that you were willing to listen to our suggestions.

I want to also communicate greetings from George Lockwood. He says hello to everybody. He couldn't come here. But I do think our response to your concerns was kind of a sincere effort to try and solve some of your concerns.

A couple of responses are quite technical, and so I would just ask if the livestock committee in your deliberations has questions, please don't hesitate to reach out to us and use us as a resource, and we are more than willing to explain, and particularly the hydrologic zone of influence, that gets kind of funky when you really delve into it. But it is a very important piece I think of our response. So we'd be glad to explain that further.

And finally we really hope that you as a committee continue to use us as a resource, and continue to have a dialogue as
you go forward in your deliberations, because
we think it's a positive way to do things.

Thanks very much for your efforts,
and thank everybody on the Board, for your
efforts, because you've had a long day, and
you've put a lot of time and effort in.

CHAIR MOYER: Thank you,
Sebastian. I believe we may have some
questions for you. Question from Jennifer?

MEMBER HALL: Yes, Sebastian, I
just have one question. And I do appreciate
all the diligence, and you bring up a good
point about the hydrologic zone of influence,
and the details that are involved in that.

Is it realistic to think all those
things are measurable, that a certifier can
use those tools in real life?

MR. BELLE: We had a lot of
discussion about that, and we actually reached
outside the group to a bunch of physical
oceanographical modelers, and asked them
specifically is what we are proposing crazy?
Is it achievable? If it is achievable, how would you then check that it had been achieved, and how would a certifier approach that?

So we had a lot of debate, and we reached out to, there was one modeler up in our neck of the woods, in the northeast who is really a world renowned oceanographic modeler, we'd be glad to give you their names directly. You can have your own discussion directly with them. And then we also had a West Coast modeler.

And the answer we got back basically was, our first try was a good try but it was technically flawed in a couple of ways. And so we adjusted it before we submitted our comments. And they both said that particularly the zone of influence stuff is difficult but it is achievable, and it's also something that because it is quantitative and you have a lot of data there, that a certifier could go in and audit that, the
results of that process, and verify that in fact what you are asserting as a producer you had actually achieved. So that is the short answer.

CHAIR MOYER: Follow up, Jennifer?

MEMBER HALL: Yes, not directly. But I do want to reiterate, if there is any way that the AWG can encourage applicants to the Board that I think that would be a good idea.

CHAIR MOYER: Okay. One more question that I have for you, Sebastian, in two minutes or less. We continuously get stuck on bivalves with the whole concept of the fact that we are not feeding them, they eat what washes by. Can you convince this Board that that, how can we get around that issue? It's the biggest stumbling block for us. You and the rest of the AWG have done an excellent job in your rebuttal, but that thing just keeps hitting us flesh in the face.
MR. BELLE: Not surprisingly, we struggled a lot with that. And there are a lot of people in the traditional shellfish community who frankly are just mystified by that concern.

And we took, certainly those of us who represent growers frankly took a lot of -- from our members about even suggesting that what they were doing wasn't organic and perfect in some way.

The hydrologic zone of influence was part of the response to that concern. Basically what we did was, we did not want to -- we had a lot of discussion about whether or not we should go kind of the product testing route. And we recognize that within the organic community that's something that people are very uncomfortable with. And it's really a process certification as opposed to a product certification. So we tried to kind of combine those approaches.

And the purpose of the hydrologic
zone of influence is basically to document all the possible sources of contaminants that would impact the feed that those bivalves are consuming, and then to include in that a routine testing of those feed sources. So that although we are not testing the finished product, we are actually testing the feed sources and then using sentinel animals as kind of if you will a fence around the farm. So that is how we approached it.

I recognize that it is not perfect. We are not culturing the algae organically that we are feeding to the animals. We do have provisions in the proposal to allow for that kind of shellfish operation to occur on land and do that, so there is an ability to do that. But the reality is that land-based aquaculture is extremely capital intensive, and to suggest that a small owner-operator is going to build a land-based farm and then culture algae and feed them algae is probably unrealistic from
a reality point of view.

CHAIR MOYER: Dan.

MEMBER GIACOMINI: Hi Sebastian,

there was a couple of comments questioning
your, what you were just talking about of
surveying that possible contaminants. They
were basically saying there is no way you can
get far enough up the watershed. What do you
project in there specifically?

MR. BELLE: Yes, what we did was,
in that circumstance we reached out to actual
feeding rate experts on bivalves, and
phytoplankton culture experts. And we said,
given these parameters from a temperature
point of view, what is the lifespan of a
single celled algae phytoplankton and what is
the feeding rate for a bivalve?

And then we looked at flow rates,
and went back to our oceanographic modelers
and said, well, what we've been told by the
phytoplankton experts and from the feeding
rate experts is that phytoplankton under this
1 set of temperature regimes lives and basically
divides at this rate. So how far away do we
have to go given the flushing rates?
And so obviously it is dependent
on temperature and flushing rates and the
lifespan of the phytoplankton that you are
concerned about. And so that is why in the
hydrographic zone you actually have to come up
with -- you have to define based on those
parameters how far away from the farm you have
to go in order to predict whether or not a
phytoplankton has been exposed to something.
And there is a margin of safety in there as
well. So you go further than that zone of
influence.

CHAIR MOYER: Thank you,
Sebastian. I think I speak for the entire
board, and certainly the livestock committee,
when I say we look forward to participating in
these conversations as we move forward over
the next few months.

MR. BELLE: Well, thank you very
much for your time.

CHAIR MOYER: Thank you for your time and for being here.

Joanna, and then I don't have the list up there, but is it Michael Henson? Well, let's just leave it at that. Thank you.

MS. BAUMGARTNER: Okay, thank you.

SECRETARY WEISMAN: Is this with a proxy or as a proxy?

CHAIR MOYER: This is as a proxy.

Five minutes.

MS. BAUMGARTNER: Yes, but I'm going to make it shorter.

CHAIR MOYER: Thank you. The Board appreciates that.

MS. FRANCES: She has a proxy from Sam Earnshaw, Community Alliance with Family Farmers, and then someone moved and traded places with her so she could go sooner so she could leave.

CHAIR MOYER: Thank you.
MS. BAUMGARTNER: Yes. So of course I'm up here to encourage you to fully support and adopt the biodiversity conservation recommendation.

It's been since 2002 that we began working on this issue with a broad community of certifiers and inspectors and conservationists. So there is lots of materials out there. There's these guys that we worked on with folks. We heard from certifiers that they actually wanted noncompliance spelled out, so we came up with this guide with Lynn Cody's help and she brought this to you last year.

I passed this around to you also. So this is the summary of the 12 major noncompliances. And this page shows the most egregious instances that would warrant certifiers' actions, the one that could give the organic community a black eye.

They probably rarely occurred. In most cases of noncompliance certifiers can
notify their farmers that they need to fix
problems within a given time and they will do
so, and their certification will not be
revoked.

The rest of this guide, minus that
one page, is -- has 20 pages of compliances
that farmers can do that help certifiers
understand all the thing that do work for
biodiversity conservation.

ATTRA, which holds the model
organic inspection questions that the NOSB
approved in 2005 on their website, they have
recently created an OSP that has those
questions answered. And this is it. Next
slide.

I wanted to point out that the way
those questions, they are model questions
certifiers, don't have to use them, but some
certifiers are. The way that it is set up is
that it starts with natural resources, and
then subsequently there are different sections
of biodiversity, biodiversity management for
whole farm issues. For uncultivated areas, for cropland area biodiversity. Next.

When livestock are involved. Next. And when wild crop harvesting enterprises are involved.

They have also created this wannabe organic farms plan, and so it's just an example, but it helps farmers understand what they can do. And so like here they say, we are going to deal with invasive species. We are going to plant beneficial insect refuges. We are going to plant some native vegetation buffers on two sides of the farm. And we are going to put up a bat box.

So but not only does ATTRA have this on their website, Rodale Institute also does. And there's going to be two other documents like this. This one is for small farmers. There is going to be one for large field crop farmers, and then one for livestock.

So I just want to end saying that
we encourage you to approve this
recommendation, and I think it will do a lot
for organic farming.

Thank you.

CHAIR MOYER: Thank you, Joanna.

Any questions for Joanna or comments from the Board?

Thank you. We appreciate your time. I will mention as the next presenter comes up to the Board that we do have a series of taxicabs for Board members that will be waiting out front at 7:00 o'clock. But we have to pack up and get out of this room and get there so we can go en masse down to the Witten Building and we will do that.

Michael. Do I have the correct person? Dag. I'm sorry, Dag Falck.

MR. FALCK: Thank you. It's Dag Falck. Thank you very much for taking the time to take our comments and it's very interesting watching the process here from Canada.
We are doing very similar things to what you are doing, but you are way ahead of us, so we are learning so much, so you better be careful because we might catch up.

I am bringing comments from Nature's Path. I work for Nature's Path. We are the largest certified organic cereal producer in North America. And it's a bigger issue, when you get bogged down with all the details that I see you are working with, similar to what we are working with in Canada, you can lose sight of the bigger issues sometimes. But they also are important because they can overtake you.

And for us what we want to bring to your attention is natural claims infringing on the organic market. And we found that misleading and unverified marketing claims that may imply organic method productions are used, these claims are being seen more and more in the marketplace, and many consumers are confused between natural and organic.
With some of these Natural Brands communications we see claims that imply organic production to the natural sphere. We actually have evidence of one of the brands stating on their website, natural foods are foods without pesticides or artificial additives, as well as minimally processed and preservative free.

So as an industry we have -- and we must -- go to great efforts to educate the consumer about what organic production and processing means, and why consumers can trust the organic label.

And our comment to the NOSB is to ask for a task force or a committee or whatever structure you want to be working with with a mandate to prepare a recommendation to the USDA NOP to protect this certified organic label in the marketplace, specifically by defining natural for all product categories that are currently covered by the NOP, and to establish and pass a natural labels claims act.
or regulation, not just a policy with no enforcement authority. Because that's what we've got right now. We've got a situation where there is no definition out there. The most common definition referred to dates back to 1982, to relate to natural, and it's called -- it's written in policy memo #0055, natural claims. But it only applies to meats and poultry, and it's also very weak in its definition.

So there have been many many comments given over the years saying that this is a serious issue, that we need to have a definition for natural, so that people are wanting to claim natural, they know what the guidelines are so their consumers will also be happier knowing what it is, and also it won't be infringing on what we have worked so hard to create.

I've looked through the national grant programs regulatory assessment, and the -- picked up some of the language there for
why the NOP was originally developed, and organically produced food cannot be
distinguished visually from conventional food, and cannot necessarily be distinguished by
taste. Therefore consumers must rely on
labels and other advertising tools for product
information.

However consumers face -- I'm jumping around a little bit here -- consumers face difficulties in discerning the organic attributes of a product, and many producers and handlers have sought third party certification of organic claims. So part of the reason that brought us to where we are today was to clarify the confusion in the marketplace.

And in the benefits of the final rule, also from the regulatory assessment, one of the points is providing a common set of definitions and organic attributes. So this idea of organic attributes I feel the natural confusion is kind of infringing in on the
organic attributes saying that things are done organically -- they don't use the word organic, but they use all the words, like no pesticides, no fertilizer, no this and no that. And they can't be verified, and they can't be -- we can't take anybody to task for it and say, hey, that's not right, because there is no common definition.

So to summarize, the lack of a clear guidance and a binding regulation or act to enforce consistent labeling in the marketplace that does not infringe on lawful certified organic claims has been brought up for many years by many different parties in the organic industry, even companies marketing natural but not organic products have asked for clear guidance to help the consumer to select products that are what they say they are.

We feel that it is time for this issue to be thoroughly addressed before it threatens the success of organic products.
And we particularly saw the evidence of this in the marketplace that we're in with the recent recession. A lot of companies took more advantage of this confusion, and actually kind of manufactured confusion to their advantage. So and I will hand you a copy of that. Thank you.

CHAIR MOYER: Thank you, Dag. We have a couple of comments or questions. Bea and then Katrina.

MEMBER JAMES: Thank you for bringing that up. I recognize that that is absolutely an issue in the marketplace, the distinction between natural and organic. I guess my question to you would be, how would you envision merging that definition between the conventional market and the natural market? It's such a huge request that you ask, and this Board's focus is really on organic, and we are still grappling with trying to define that.

MR. FALCK: Yes, I mean that is
the big question is how are the mechanics
going to work on this. But first of all we
want to bring up the importance of the issue.
And then some of the solutions might include
the NOP working within other government
departments to request that we need this, not
that the NOP is responsible for developing it,
because it is outside the organic -- it has
nothing to do with organic, and that's the
point. So but where organic is being
infringed on, and since the NOP is here to
protect organic trade and to clear up
confusion in the consumer, well, that
confusion that we originally clarified by
having the organic claim being verified and
all that, well, that confusion is now re-
happening. But it is not re-happening with
conventional; it's re-happening with natural.

MEMBER HEINZE: You covered most
of it. While I am sympathetic to your
comments, I just wanted to make sure that
everyone knew that natural is clearly under
the FDA jurisdiction, and is actively being worked on.

MR. FALCK: Okay, any more questions?

Okay, thank you very much.

CHAIR MOYER: Thank you. I believe Jay Hanson is next, Jaydee Hanson, I apologize. And Kathy Jo Wetter is on deck.

MR. HANSON: Well, good afternoon, or good evening, whichever we're at now. Thank you for your long service on this committee today and all the other days you work on.

The Center for Food Safety which I am representing both on behalf of myself, on behalf of George Kimbrell, our senior attorney, is a nonprofit membership organization that works to protect human health and the environment by curbing the proliferation of harmful food production technologies, and promoting organic and other forms of sustainable agriculture.
We have about 40,000 members around the country, and some in Canada. With our sister organization, the International Center for Technology Assessment, we've worked on the issue of nanotechnology for some time.

The International Center for Technology Assessment works primarily on new technologies and trying to assess them to see how they benefit or don't benefit the public.

We have a particular project on nanotechnology called Nanoaction, through which we coordinate campaigns and represent our members.

You have I hope enough of you, I hope there are enough copies, to have a copy of principles for the oversight of nanotechnologies and nanomaterials. This document has now been endorsed by over 80 organizations on six continents. If you'd like it in Spanish, French, German, Japanese or Chinese, it is now available on the Nanoaction website.

We have also been together with
International Center for Technology Assessment, the lead organization, filing two legal petitions, one with the FDA in 2006, and one with the EPA in 2008. Our petitions request those agencies to use their existing authorities to address issues created by the rapid commercialization of nanotechnologies in various sectors.

We -- one of the products you've talked about some here today is the subject of the petition to the EPA. And that is nanosilver as a antimicrobial agent. A little parenthetical comment: we will probably submit to you later some more comments on synthetic and your definition of synthetic.

A couple of things that I think are going to become more and more problematic with nanotechnology, one is percentages. Nanotechnology may be an extremely small percentage of a product, but because of the activity that is enabled through nanotechnology may have a greater effect on
the product than the volume, and volume
challenges I think will come up. But we will
talk some more about that later. You all have
our 10-page long comments, so I'm not going to
go through them.

But in summary, we believe that
nanotechnology is contrary to organic
principles. Nanotechnology will further
entrench an industrial chemical agriculture
and industrial foods as dominant paradigms to
the detriment of public health and the
environment, and as such we think that
nanotechnology is antithetical to organic
principles and should be prohibited from the
USDA organic standard.

We think that because
nanotechnology involves the manipulation of
materials and creation of structures and
systems at the scale of atoms and molecules,
the mere fact that a larger scale version of
material is a permitted substance -- do I have
one minute, or do I have both of the five
minutes? Okay.

We think the mere fact that the larger scale is permitted doesn't mean the nanoscale should be permitted. Intentionally created nanomaterials are novel, frequently patented substances that have the capacity to be fundamentally different in ways the scientific community has not fully understood.

As such engineered and manufactured nanomaterials should be defined as synthetic and prohibited substances, and should be presumed excluded.

One of my mentors was a man named Harrison Brown who was the geochemist for the Manhattan Project, and the man who first discovered how to isolate plutonium. Harrison Brown would turn over in his grave listening to some of the discussions of nanotechnology.

You will hear people say, well, nanotechnology is all around you; you shouldn't worry about it. Harrison would say, yes, radiation is all around you. That
1. doesn't mean you shouldn't worry about it.
2. There are going to be processes
3. that create incidentally nanomaterials. What
4. we are talking about is intentionally created
5. nanoparticles and nano materials, and that's
6. really what we think you have before you.
7. The time to act, we think, is now.
8. Nanotechnology is being rapidly
9. commercialized. The U.S. government and other
10. governments are putting lots of money into it.
11. Very little money is going to the health and
12. safety aspects of it.
13. The standard for the size of nano
14. particles I think is going to be an important
15. element. I've recommended to a committee in
16. the state legislature of California that they
17. actually use 300 nanometers, not the 200
18. nanometers that the soil association uses, or
19. the 100 nanometers that the National
20. Nanotechnology Initiative uses. I believe the
21. key issue is, does the changed substance have
22. properties that change how it worked
chemically and how it worked physically. Has its quantum physics changed? Has its optics changed? Those questions are going to be important.

That being said our organization does support the Soil Association of the UK's standard in 2007. I -- try to very quickly not run out of time -- we've answered all of your questions. And in general you should understand that we don't think nano belongs in organic.

We have pages and pages of scientific argument that we will be happy to provide you. And our petitions to the FDA, and our petitions to the EPA, could help you unpack that.

I would also be happy to give you the comments that I have passed on to a committee in California. Those are J.D. Hanson's comments, not the comments of the Center for Food Safety at this point. And I thank you.
CHAIR MOYER: Thank you, Jaydee.

We appreciate those comments, and the time you spent bringing that information to us. And anything you can pass on to the program, they will make sure that the materials committee gets that, and we will review that and include it in our thought process.

MR. HANSON: Please note in our written comments we have made page by page comments sometimes on your discussion draft where we have some questions on that. I know it's late, and you are tired and everybody else is, so I'll stop now, and thank you very much.

CHAIR MOYER: Any questions or comments for Jaydee? Again, we appreciate your time coming to us today and bringing that information.

MR. HANSON: One last thing: I chair, or I'm the U.S. co-chair for the Trans-Atlantic Consumers Dialog Committee on Nanotechnology, and through that I've had a
chance to interact with a number of the European groups. And I assume you have on your radar screen that the European Commission is dealing with two things related to nano, a nano cosmetics directive is coming out fairly soon, it's almost finalized. I believe it's got one more reading in the European Parliament. That will be requiring labeling. Likewise there is a nano food directive that is going to come out by the end of the year, that will also require labeling of nano substances. So you have the possibility if you don't exclude nano from organic products here, that you will have organic products, in order to be sold in Europe, that will have to be labeled. And I think that is going to raise confusion on the part of people here.

Thank you.

CHAIR MOYER: Okay, thank you very much, Jaydee. Appreciate that.

Kathy Jo Wetter, and then Valerie,
if you can tell me who's next, Urvashi Rangan, that's who's next. Thank you very much.

No Kathy Jo? Or Urvashi? And then John Foster. Is John here? He left?

MS. RANGAN: Good evening. I'm speaking for Michael Hanson and myself. We are both from Consumers Union, and I'm going to try and make it fast.

Good evening, my name is Urvashi Rangan. I am just recently director of technical policy in the technical department for Consumers Union. We publish Consumer Reports magazine.

I'm here to hit a lot of topics, so let me just get started.

The first is nanotechnology, and there's been a lot of discussion. We don't agree it's compatible with organic systems. Here's where I think a line could be drawn, which is in the intentional manufacturing of nano-engineered materials for use in organic production. I think if you can draw that line
there, it will then forgive the nano particles generated in homogenization and other production methods that are currently in use while prohibiting the intentional manufacturing of nano materials for use in organic production. I think that is one way at least to get around this.

One thing this does bring up, though, is the generation of nano particles from physical methods, so you can grind something and pulverize it until you get a nano particle. And I think we would regard that as a chemical biophysical change to that particle. And that plays into the synthetics definition as well. So it needs to be tracked all the way through.

We think that that method used to generate a nano material ought to be prohibited so that you can't grind silver into nanosilver, or titanium into nanotitanium, and use it in organic products.

But I think if we can phrase this
and draw the line at intention to manufacture, that may be one way to at least get this beast off the deck and start at least drawing the lines in the sand as to where it is prohibited, and in the case of homogenization, where it would just be acceptable.

With genetically engineered vaccines, that came up. We generally believe that genetic engineering doesn't play a role in organic production. And we understand, in my conversations with Harriet, that there may be a part in the regulations that requires, at the very least, a review of vaccines that may be genetically modified, just like a synthetic material.

At the very least that requirement should be enforced. But we think actually the Board ought to consider full prohibition on genetically engineered vaccines. It's a prohibited method, consumers don't expect anything used in organic production to contain genetic engineering. And that will be a very
complicated education task going forward as this bubbles to the surface.

Definition of synthetic materials:

we were really pleased to see the presentation that went up based on Rosie Koenig's original draft of what synthetic is and what it isn't. We do not agree, we strongly disagree with the previous comments that the OFPA should be opened up; that synthetic materials should just be limited to petrochemical-derived compounds. That is simply completely out of line with consumer expectations and with science. Whether it's in a personal care product or whether it's in food, a synthetic substance is a synthetic substance. You can pull it out of a coconut, and if you chemically process it into something and you change the chemical nature, that is a synthetic ingredient. And that is the scientific basis of that; that's chemistry 101. So to futz with that constantly in these conversations is really to do a disservice to
the organic program. And a change like that
would really undermine the integrity of what
organic has come to be. So we strongly
disagree with that, and we are quite
supportive of the document that was presented
today by the working group. We would just
encourage you to look at the pulverization and
the generation of nano materials within that
document as well.

On personal care products,
fascinating discussion today. We also believe
that that product class has to come in line
with food for all the labeling tiers, not just
for one or two of them, for all of them; and
that means creation of sections on the
national list that will deal with the
synthetic materials that are used in the non-
organic portion of those products.

There are a lot of examples for
why you should do this. I'm going to submit
the written comments to Valerie, including
thallates and fragrances, though, and that
even means for your organic tier. You've got a fragrance, you've got thallates in it. That could be used under the 5 percent portion. Same with the made-with organic ingredients. Consumers are looking to these products so they can mitigate their exposure to some of these harmful chemicals that are on the market, whether it's perabins, whether it's thallates, whether it's EDTA, and whether it's even a synthetic ingredient that is derived from a natural material. There are plenty of synthetic substances that come from coconuts that are highly irritating in personal care products. We think those materials ought to be reviewed by this Board and listed one way or the other, or simply not used at all, because that's what a synthetic material is. That's what the job of this Board is to do. And we don't want to see any non-organic portion of any product category be able to sort of be a Wild Wild West of ingredients. So I'll leave my comments on
personal care products at that.

I will also just say that the FDA does not require any pre-market approval of cosmetics. So while you are looking to FDA for some guidances, they don't have a very good track on personal care products, in addition to the labeling problems that someone brought up, that Nature's Path brought up for food, those same problems exist for personal care products. Hypoallergenic, fragrance free, natural -- all don't mean anything on that product category. They all fall under the jurisdiction of FDA.

So it's something for this Board to keep in mind. Because if organic is going to mean something more, then it shouldn't be diluted by those other claims that are currently out there.

Biodiversity, we strongly support that biodiversity document. We think, however, a line needs to be added in 205.200, and that production practices dot dot dot must
be able to demonstrate that they maintain or improve the natural resources of the operation including soil and water quality. If you can't demonstrate it, there should be not a not-applicable section, a not-applicable box. We think that these principles ought to apply to all production systems that come under the national organic program.

We also think biodiversity should be included in the checklist for the accreditation process so that all certifiers are aware of the requirement and deemed as having the expertise and competence to verify it.

We really do applaud, though, that document as being a progression of the organic standard, and really serves the organic marketplace very well.

As new products are added to the scope, however, that document is going to need to be updated. And I can't get away without talking about aquaculture. If you look at
open net pens, and you start to read the biodiversity document, those two things don't fall in line with one another, and neither does the bivalve recommendation at this point.

So if we are moving toward aquaculture at some point those -- we believe the biodiversity document needs to be augmented to also include production practices that go on in aquaculture, and whether or not they are really compatible with organic production.

On animal welfare, we again commend this board for putting out an animal welfare document; it's been a long time coming. Consumers really expect that this program is taking animal welfare issues seriously, and we would just agree with the comments made by Patty Lavera from Food and Water Watch and many others that there is more to it than just that. And while we are really pleased that Temple Grandin's input was accepted and put into this, Temple Grandin has
1 actually participated in the development of
2 several animal welfare standards, many of
3 which have much more robust standards than
4 this particular discussion document contains
5 right now. And we would really encourage you
6 to look at the programs that are out there,
7 certified humane, whole foods animal welfare
8 standards. There are many programs out there
9 right now that have space requirements,
10 density requirements, animal treatment
11 standards regarding tail docking and de-
12 beaking. We think those things have to be
13 considered, and we want this Board to use
14 what's out there as a base for your
15 deliberations around that topic.

16 Finally on retailer certification,
17 we strongly support retailer certification for
18 organic. There are so many confusing things
19 when consumers get to the store, and it is a
20 way for stores to differentiate themselves,
21 and we also agree that there is a lot of
22 natural organic commingling at the retail
stores that really does need to be dealt with. I'm not sure based on the last comment that you all can take on natural and agree that that is something that has got to be dealt with at a higher level than this agency. But that is an important part of distinguishing organic from natural in the marketplace, and something we work on all the time in trying to educate consumers around that topic.

And finally, I would just maybe urge that you might consider what retailers should not be using the organic label. I also have seen organic dry cleaning, organic lawn care services. And this is a real problem. We get questions all the time from consumers about the variety of retailers offering organic services. If they don't meet an NOP program, we just think they shouldn't be allowed to use that term. And again, we encourage this Board and the national organic program to stop the allowance of people using
the organic claim whether it's on fish today, dry cleaning tomorrow. It shouldn't be out there. It mucks up the marketplace.

    Thank you.

CHAIR MOYER: Thank you, Urvashi.

Any questions or comments? Hugh?

MEMBER KARREMAN: Just a quick comment, Urvashi, on the animal welfare. We are definitely going to be taking a lot of input. We just wanted to get something out there to start the conversation.

MS. RANGAN: And we are glad it's out there, thank you.

CHAIR MOYER: Kevin.

MEMBER ENGELBERT: We'd also appreciate some specific comments with regard to the biodiversity document and the aquaculture issues we are working on.

MS. RANGAN: For the language changes, Kevin, that I recommended, I have it here in the written document. Thanks.

CHAIR MOYER: Any other questions
or comments? Thank you, Urvashi. Appreciate your time very much.

Next we have Bill Wolf and then Kelly Schea on deck.

Bill.

MR. WOLF: Hi. You guys have had a long day. I want to give you a gift. I use it pretty regularly. My staff tells me that it actually has helped a lot, and they have thanked the manufacturer or the producer of it for improving my mood in the office periodically. But that is not what I was going to talk about.

We submitted, Wolf, DiMatteo and Associates submitted written comments to you about a number of items: removal of lecithin from the national list, inert atmospheric gases, the sunset of materials, biodiversity, list for inerts, clarification of definitions of the national list.

Today I really want to talk very briefly about -- kind of an umbrella concept
that you all face in some of your decision making, and some of my personal experiences around that. And before I do I want to introduce Oliver the earthworm. Oliver was introduced to me by -- actually by Jeff when he brought 10 yards of compost to the people's garden in D.C., and I had the pleasure of helping to shovel some of it into wheelbarrows with Valerie, and we --

CHAIR MOYER: I was wondering where Oliver got to, so thank you.

MR. WOLF: He is being cared for very well from what I understand. Is he in the peas? He lives with the peas. Anyhow Joan took a picture of Oliver, and I wanted to share him with you.

And I wanted to talk about some concepts behind organic agriculture being about healthy soil and the dynamics of biodiversity, of ecosystems and of how earthworms like different materials.

So that really comes back to a
long historic precedent around how many organic policy decisions were viewed back over the years. And thinking like an earthworm is a phrase that I've used personally for 30-something years. And people go, what are you talking about? All it really is is to say, put yourself in the role of saying, well, what would earthworms like? What would be better for earthworms on this planet? And how can we measure our ability to improve the system by the number of earthworms we have encouraged -- number more earthworms.

So I think that is an interesting principle behind decisions about organic regulations.

With that in mind, actually, I want to go back to our earthworm for a second, because yesterday you heard quite a bit about a range of topics. One of them was around organic field seed, and there were some questions about the potential decline in the percentage of use in organic seed. And
actually I read some reports and looked at some of the surveys, and conventional untreated field seed now represents a slight increase this year in the percentage of acreage from completely uninspected facilities. We don't even really know if they are really untreated seed, because that is very difficult to determine. There is no inspection. I mention that, because I think we need to take a look at how all inputs are reviewed, and there is a task force addressing that within OTA. But it raises questions about the whole process of exceptions, exceptions being anything that isn't organic in our system, whether it's on any of the national lists. So to the next slide, briefly I want to summarize by saying, I as part of continuous improvement we strongly encourage you at this meeting to, one, remove lecithin from 605; two, amend the lecithin listing on
606 to read de-oiled only; and longer term I'd like to place three ideas out there for further consideration.

One, the posting of all exceptions that are granted by certifiers, so that we understand what commercial availability decisions are being made.

Right now we are doing it in the opposite, we're saying you have to list everything that is organic that is available. We should be looking at the opposite, I think, the exceptions.

Two, we continue to say, and we said this in November, we believe that merging 605 and 606 and applying organic preference to all materials would make a massive difference in how the system is gamed by producers.

And finally, issue and enforce the organic seed guidance.

Thank you.

CHAIR MOYER: Thank you, Bill.

And thank you for the mind bomb. Anybody have
any questions or comments for Bill? Joe.

MEMBER SMILLIE: Merging 605 and 606, could you just go into detail about how it might solve the problems where we say we have a no-win situation?

MR. WOLF: Well, we are spending a lot of time in the debate about synthetic versus non-synthetic and ag versus non-ag, where to put it on the list. And instead we'd be saying, okay, if it's not a clearly natural material it needs to be -- if it is not -- in the case of 605 and 606, if it's not certified organic, and it's going to be in an organic food product, then it has to be on this list, and this list is complete, and if there is a commercially available organic form of that item, then it should be used instead. It would be a much simpler process, and it would solve your problem about yeast; it would solve your problem about debating where to put lecithin, et cetera.

It would be a rule change, but it
is one of the suggestions that the materials working group presented in its report last November, and we supported it in our comments.

MEMBER SMILLIE: Second follow up, when you say certifiers have to declare the exceptions, you mean all rulings on commercial availability?

MR. WOLF: Yes, and I've discussed this with a number of certifiers. And I realize that that is a burden. But if it were done in a structured and grouped way, so that we understood the volume of decisions, it would encourage production to fill in those gaps, and it would make the whole system accountable. The certifiers are agents of us, of the USDA and of the people. And to know what those decisions are rather than -- I'm not talking who it was for, or the specifics of which item it was or what field, but generically.

MEMBER SMILLIE: But you don't mean exceptions, you mean commercial
availability.

MR. WOLF: Commercial available -

- I'm calling it exceptions to being organic.

Anything that is commercial, not organic that
you made a decision, it's okay to use that.

CHAIR MOYER: Thank you very

much, Bill. Kelly, and then Dave Rogers on
deck.

MS. SCHEA: Kelly Schea with

White Way Foods. I'll make a deal with you

all, in the interests of time. If you will

read the comments I submitted to regulations

dot gov, I will be really really brief right

now. Is that a deal?

Okay, so I submitted comments

about sunset materials, and specifically

listed the sunset materials that we would like

to stay on the list.

As well I submitted comments to

the policy development committee on their

priority of petitions, specifically asking you

to remember that the secretary can develop
emergency procedures, and that should be your number one priority, because that is only a 12-month exception, right. And secondly, where issues like livestock health care items come up like this issue about vitamins and minerals, that should be a top priority.

So I do understand that it was just a prioritization guideline, but I'd like you to take that into account.

The livestock committee did put forward the proposed recommendation for vitamins and minerals that might be given to animals either intramuscular or subcutaneously, and I really want you to remember that before OFPA, since OFPA, since the regulations. This is happening every single day on farms. It's widely accepted. It's on certifiers' websites as something farmers are allowed to do. Extension agents, veterinarians and consultants all recommend this. So there needs to be a mechanism, and I'm staring down at you, Richard Matthews,
needs to be a mechanism for making sure that
this continues to be allowed as you go through
and do your work, okay, that is very
important.

And it also should be a category.

Do not start reviewing and TAP reviewing every
single vitamin and mineral that is already
allowed to go in the mouth of a cow just
because it is going to be injected in them for
herd health purposes.

And lastly, I just really want to
give a friendly reminder to the Board that
your raison d'etre, so to speak, your number
one responsibility, is materials. You have
been given statutory authority by Congress for
materials in organic. And so I think that the
community never wants to see the Board short
shift the amount of time they give to
discussing materials, the national list, how
that should be done, how that should be
organized, because that is your number one
responsibility and why you are sitting in
1 those chairs.

2 Okay? Thank you very much.

3 CHAIR MOYER: Question by Joe and then Hugh.

4 MEMBER SMILLIE: Nice try, Kelly.

5 MS. SCHEA: What did I try? Ask her how many minutes I shaved off for you all.

6 MEMBER SMILLIE: Well, you are not going to get away that easily.

7 Speaking of materials you also commented upon the lecithin issue. I just want to know if the way we are going if you could offer your comments on that.

8 MS. SCHEA: What I heard the Board say, and what I heard the petitioner, Mr. Clarkson, say is that not all forms of lecithin are available, and he was mainly focused on soy. He did say that the sunflower product was not available. So as long as whatever way you organize this that the liquid sunflower lecithin that I commented about is still available, then do it whatever way works
for you.

MEMBER SMILLIE: Is it de-oiled?

MS. SCHEA: Let me look here and I'll tell you. It is -- I don't have anything about de-oiled. All I know is it's liquid, fluid, lecithin. I don't know. Okay, it's not de-oiled then; I don't know.

CHAIR MOYER: Hugh.

MEMBER HEINZE: Just one thing, Kelly, per the injectable vitamins and minerals, it's not just subcu or IM, it's also for IV use; it's any kind of injection.

MS. SCHEA: Yes. Well, the IV is put in either subcu or IM, right? Okay, I'm not a vet, and I'm not an R&D person.

Anything else for Kelly? Okay, thank you very much.

CHAIR MOYER: Anything else?

Thank you, Kelly, appreciate your time.

Dave Rogers. Dave Rogers is not here.

Harriet Behar.
MS. BEHAR: And I can get you this in written form tomorrow after I print it out.

I am Harriet Behar, and I will do my best to channel Lynn Cody in her fervor for quality systems and ISO accreditation.

First I want to clarify that there are two parts to the accreditation puzzle. The first is AHRQ which accredits organic certifiers to ISO Guide 65.

They are now -- and they are now in that process of being recognized by NIST for doing that type of accreditation. This is a terrific step forward.

The second is the accreditation of national organic program itself by NIST. This would include how they work with stakeholders, the way policies and procedures are set, as well as the transparency and consistency of the implementation of those policies and procedures as presented in their quality manual. In order to have the accountability
and the continual improvement necessary for a consistent program that implements the organic regulation, it is important that the national organic program itself in addition to AHRQ go through the NIST recognition process.

Joe is right in that ANSI is the U.S. rep to the ISO process, but NIST also works very closely with the process. ANSI is an accreditation body but not a recognition body. Guess who oversees ANSI to make sure that ANSI complies with ISO 17-01-11. It's NIST. Okay? ANSI is recognized by NIST.

ANSI services would best be used by the NOP if they wanted to hire a third party to do an internal audit identifying what is okay and where there are problems. ANSI cannot grant recognition and would provide no continual oversight of NOP's corrective actions, timely input to implementation, continued quality improvements. ANSI would only come to audit NOP when NOP voluntarily asks them to do so with no set timeline, no
follow up. They simply submit an audit report
to the NOP and that is that; NOP is not
required to do anything after an ANSI audit.

NIST provides the formal
recognition program which does provide that
regular oversight. And I will submit with my
comments all the things that NIST does, which
is quite a bit.

This recognition that they provide
is very important. This is what they are
looking for internationally.

So I just want to say in summary,
because I know everyone is tired, that it is
important that we look at having NIST do the
recognition of both AHRQ and the NOP, and that
if you want to use ANSI, that they would do
internal audits but not do the actual
oversight of the NOP. That should be done by
NIST. And Lynn offers that anyone can call
her at any time. If you need her phone number
it will be in the written comment. She is so
anxiously out there on the West Coast waiting.
So if you have any questions about why we didn't agree with the inclusion of ANSI as a choice between NIST and ANSI, I'm trying to give you the difference there.

CHAIR MOYER: Thank you, Harriet, I appreciate that.

Yes, sir.

MEMBER SMILLIE: Again, part of the recommendation allows for NIST?

MS. BEHAR: Yes.

MEMBER SMILLIE: As far as ANSI goes, it says it asks for a three-year cycle. So yes, ANSI won't enforce. But we can put it on a three-year cycle, just the same as NIST is on a three-year cycle.

MS. BEHAR: Right, but ANSI will not give you the recognition internationally that NIST will.

MEMBER SMILLIE: My gut feeling is that USDA, we need a good evaluation program that is going to work, and I'm sure NIST would work, and I think ANSI will work
too. And as far as recognition, I don't think
the USDA is really horribly worried about it
quite frankly.

CHAIR MOYER: Okay, thank you
very much, Harriet. The Board appreciates you
being here.

The Board would now recognize
Lindy Bannister.

MS. FRANCES: And Jeff, not to
forget Michael Christensen and Brian over on
the right, the sulfurous acid commenters.

CHAIR MOYER: I'm doing my best.

MS. BANNISTER: Thank you very
much.

I'm going to make it really quick.

I know that we started with FMI, talking from
a retailer's point of view. I'm the general
manager of the Wedge Coop in Minneapolis.
It's the largest single store coop in the
United States. We do about $30 million out of
our retail business out of an 11,000 square
foot store. We have a warehouse that is
45,000 square feet. We do another $10 million out of that, and we have a 100-acre organic farm.

All of our process is certified organic. And from a retailer's point of view, having that certification in our store is a very long process. Our staff is very involved. They spend hundreds of hours a year making sure that what we put out is what we say we are going to put out; that our certification process is complete from the time we bring the product from the farm to the consumers' hand. It's not a point of differentiation for us to be certified, it's a point of pride.

And it's a point of pride that we can take a producer, a manufacturer or a grower's product from the time they hand it over to our drivers, bring it to our warehouse, bring it to our store, and we hand it to the consumer.

So when we are talking about the
multi-site rule, and I know that you spoke
about it yesterday, certification for an
individual retail store should be a living,
breathing document that lives in the
departments in the store, and it cannot happen
in a conventional huge chain. I've worked in
conventional stores for 20 years before I got
to the world of coops. The chain of command
and the trickle-down effect does not work the
way it needs to work for certified organic.
Whatever you translate the word coming from
above, every manager translates that
differently, and the education is not
available in the conventional stores for the
staff or for the consumers to be able to get
the whole word about what organics is.

And I really urge you when we are
talking about certification for retailers,
that you really look at that process. Thank
you very much for listening.

CHAIR MOYER: Thank you, Linda,
we appreciate those comments. Any questions
for Lindy from members of the Board? Or comments?

Thank you. We appreciate your comments and being brief.

Okay, finally, Michael Christensen or Brian Sakuma or both of you if whoever --

MR. CHRISTENSEN: Good evening.

Thanks for squeezing me in here. And I appreciate your efforts in putting in these long days in the name of organic agriculture.

So I too will be brief.

CHAIR MOYER: Could you identify yourself for the record?

MR. CHRISTENSEN: I'm sorry, Michael Christensen, I work for Reiter Affiliated Companies. We're based in California, and we grow about 1,000 acres of organic berries, and then several thousand more acres non-organic.

I'm here in support of the addition of the sulfurous acid to the materials list. In the -- our growing in
California, we are semi-arid, we have some water quality issues there that aren't very favorable for growing berries as far as pH, and this sulfurous acid could help us do a better job applying fertilizers and being more efficient users of these amendments when we get this soil pH into the right range of 6.5 to 7.0, then the fertilizers become more available to the plant, and we can use less of them, and be better stewards of the soil through the use of that.

And let's see, what else? This also should help us with our efficient use of water. The sulfurous acid will help in the maintenance of the drip irrigation systems. And when those are maintained well and they provide uniform application, then we should be able to use less water and be more efficient with it.

I will leave it at that. I appreciate the time late in the day. Thank you.
CHAIR MOYER: Michael, we appreciate you taking the time to come all this way and be as patient as you have been to present your information to us.

Steve.

MEMBER DeMURI: As an actual grower, what would prevent you from using citric acid for the same use?

MR. CHRISTENSEN: We do use it on a small scale. From what I understand it's largely a matter of practicality, because it was mentioned earlier about the volumes required to make a substantial change in the pH, or more than negligible change in the pH.

We did a quick survey of our organic growers, and we are using citric acid on, say, less than 10 percent of our organic acres right now. And when we ask our entire group of growing management how many would use it, it went up to something like 800 of the 1,000 acres. So everybody wants to be able to use pH adjustment to be a better fertilizer.
user. That citric acid tool just isn't there
from a practical standpoint.

CHAIR MOYER: Thank you, Michael.

This Board always appreciates farmer comments
above and beyond many others. And we
appreciate your time and effort to come out
here. We know it's a hardship.

Any other business before the
Board before we adjourn for the evening?

Then we are adjourned, and we will
meet out front. Taxi cabs will leave for the
Witten Building exactly at 7:00. Please don't
be late.

(Whereupon at 6:38 p.m. the
proceeding in the above-entitled
matter was adjourned.)
UNITED STATES DEPARTMENT OF AGRICULTURE

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NATIONAL ORGANIC STANDARDS BOARD MEETING

+ + + + +

Wednesday, May 6, 2009

+ + + + +

The National Organic Standards Board met in the Franklin and Adams Rooms in the Washington Plaza Hotel, 10 Thomas Circle, Washington, D.C., at 8:00 a.m., Jeff Moyer, Chairman, presiding.

PRESENT:

JEFF MOYER, Chairman
DAN GIACOMINI, Vice Chairman
JULIE WEISMAN, Secretary
KATRINA HEINZE, Member
GERRY DAVIS, Member
TINA ELLOR, Member
BARRY FLAMM, Member

TRACY MIEDEMA, Member
JOE SMILLIE, Member
JENNIFER HALL, Member
STEVE DEMURI, Member
BEA JAMES, Member
KEVIN ENGELBERT, Member
HUE KARREMAN, Member

STAFF PRESENT:

VALERIE FRANCES, Staff
BARBARA ROBINSON, Staff
RICHARD MATTHEWS, Staff
DEMARIS WILSON, Staff

ROBERT POOLER, Staff
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CHAIRMAN MOYER: Good morning.

The Board is seated and we have a quorum. We're ready to conduct business. Good morning everyone. That didn't sound very energetic. Thank you. Okay. I trust everybody on the Board has accomplished their work last evening and is ready to go and get to work.

So we'll get started right away with our voting schedule on our action items, starting with the Policy and Development Committee, Barry Flamm, chairman. Barry, if you want to bring up your first item.

MEMBER FLAMM: Thank you, good morning. First on the agenda is the Policy Committee's recommendations to add to the new member guide a glossary of acronyms and also e-bulletin board procedures, and we would like to combine that into just one vote. It's mostly procedural material for members and the glossary I'd like to point out will be kind of
a living document and we already have some excellent suggestions and corrections that will be made before it's posted.

So with that I'd like to move that the Policy Committee's recommendations to add glossary acronyms and e-bulletin board procedures to the new member guide be approved. Do I have a second?

MEMBER JAMES: Second.

MEMBER FLAMM: Is there any discussion? Apparently no discussion. I'd like to call for a vote. Is that your prerogative?

CHAIRMAN MOYER: I believe that is my prerogative but that's all right.

MEMBER FLAMM: Sorry.

CHAIRMAN MOYER: No, that's not a problem at all. I heard no discussion so we will call for a vote starting with Joe Smillie.

MEMBER SMILLIE: Yes.

MEMBER MIEDEMA: Yes.
1             MEMBER FLAMM:    Yes.
2             MEMBER ELLOR:    Yes.
3             MEMBER DAVIS:    Yes.
4             MEMBER HEINZE:   Yes.
5             VICE CHAIR GIACOMINI:  Yes.
6             SECRETARY WEISMAN:  Yes.
7             MEMBER DEMURI:   Yes.
8             MEMBER HALL:     Yes.
9             MEMBER JAMES:   Yes.
10            MEMBER ENGELBERT:  Yes.
11            MEMBER KARREMAN:  Yes.
12            CHAIRMAN MOYER:  And the Chair
13 votes yes. The motion passes. Mr. Vice
14 Chair, what is the vote?
15            VICE CHAIR GIACOMINI:  The vote
16 is zero no and 14 yes and one absent.
17            CHAIRMAN MOYER:   Thank you Mr.
18            Vice Chair.
19            VICE CHAIR GIACOMINI:  That was
20 zero no, 14 yes and one absent.
21            CHAIRMAN MOYER:   Okay. Mr. Flamm,
22 your next item?
MEMBER FLAMM: The next policy committee recommendation is changes to the policy and procedure manual, revamped petition and priority policy statements and changes to Section 3 and Section 4 of the manual.

We do have a couple of changes that we and the committee have agreed to and would like to make that are based on comments that we heard yesterday. And Steve, if you would just briefly explain what the changes are for the petition priority policy.

MEMBER DEMURI: Certainly I can do that. As Barry mentioned, we made a few changes based on public comment and discussions within our committee. If you look on the document up on the screen there, in Section 1(b) we added a statement to the effect that petition to remove material presently on the national list not based on serious health, environmental or regulatory concerns, but based on other new information such as commercial availability status will be
assigned a priority too and the reason we stuck that in there was because there was some concern that possibly there could be some re-petitioning of items for no apparent reason other than just re-petitioning them hoping to get them through maybe with a new Board or something. So we did clarify that a little bit.

And then the bottom of that same section in the last sentence it says, "if the resubmitted petition contains substantive new information to warrant reconsideration," so it just kind of bolsters the statement up above in Section (b).

And then moving down to Section 3 of the document, petitions to reconsider material for addition to the national list, add a sentence at the bottom that says, petitions for listing a substance that have been previously rejected by the Board must contain substantive new information to warrant reconsideration.
So those are the changes to the document from the earlier version that was posted on the web site.

MEMBER FLAMM: Thank you, Steve. Is there any questions, well I'll get to that later. Next in Section 3 we did have a comment on the executive director position and we discussed it in committee but I think it was something that we want to give more consideration to. We're not going to ignore that comment but at this time we're just proposing what was presented yesterday in Section 3.

In Section 4 we have a couple of changes. And Bea if you would explain those please.

MEMBER JAMES: The changes are the same as what we had proposed yesterday. We are actually going to remove technical reviews at this time and will evaluate whether or not we want to add that into all of the committee positions at another time. But for
now the changes stand as they are, so Valerie
if you could remove technical reviews.

MEMBER FLAMM: Thank you Bea. So
with the changes in priority of petition
statement and what Bea just explained, I'd
like to move that the Board adopt the revamped
priority policy statement and the changes in
Sections 3 and 4. I so move.

MEMBER JAMES: Second.

CHAIRMAN MOYER: We have a motion
on the floor and a second by Bea. Is there
any discussion? Hearing no discussion, the
Chair calls for a vote and after you vote if
you can wait until I call your name to vote so
that the recorder can capture who's voting I
would appreciate that. The voting will start
with Tracy Tracy Miedema. Tracy?

MEMBER MIEDEMA: No.

CHAIRMAN MOYER: Barry?

MEMBER FLAMM: Yes.

CHAIRMAN MOYER: Tina Ellor?

MEMBER ELLOR: Yes.
CHAIRMAN MOYER: Mr. Davis?

MEMBER Davis: Yes.

CHAIRMAN MOYER: Ms. Heinze?

MEMBER HEINZE: Yes.

CHAIRMAN MOYER: Mr. Giacomini?

VICE CHAIR GIACOMINI: Yes.

CHAIRMAN MOYER: Ms. Weisman?

SECRETARY WEISMAN: Yes.

CHAIRMAN MOYER: Mr. DeMuri?

MEMBER DEMURI: Yes.

CHAIRMAN MOYER: Ms. Hall?

MEMBER HALL: Yes.

CHAIRMAN MOYER: Ms. James?

MEMBER JAMES: Yes.

CHAIRMAN MOYER: Mr. Engelbert?

MEMBER ENGELBERT: You can call me Kevin. Yes.

CHAIRMAN MOYER: Mr. Karreman?

MEMBER KARREMAN: Yes.

CHAIRMAN MOYER: Thank you for that correction. And the Chair-- I apologize. Mr. Smillie?
MEMBER SMILLIE: Yes.

CHAIRMAN MOYER: And the Chair votes yes.

VICE CHAIR GIACOMINI: One no, 13 yes and one absent.

CHAIRMAN MOYER: Thank you Mr. Vice Chair. I believe that concludes the Policy and Development Committee's voting agenda.

We'll move on to the Compliance, Accreditation and Certification Committee, Chairperson Mr. Joe Smillie.

MEMBER SMILLIE: We will be holding on the peer review system's recommendation. I really don't have much to add after what I said yesterday. But I'd like to motion that the Board accept the document for guidance on a peer review system.

SECRETARY WEISMAN: Second.

CHAIRMAN MOYER: We have a motion made by Joe and a second by Julie. Is there any discussion? Hearing no discussion -- I
apologize. Tracy? Oh okay. Hearing no further discussion the Chair will the vote starting with Barry.

MEMBER FLAMM: Yes.

CHAIRMAN MOYER: Tina?

MEMBER ELLOR: Yes.

CHAIRMAN MOYER: Gerry?

MEMBER DAVIS: Yes.

CHAIRMAN MOYER: Katrina?

MEMBER HEINZE: Yes.

CHAIRMAN MOYER: Dan?

VICE CHAIR GIACOMINI: Yes.

CHAIRMAN MOYER: Julie?

SECRETARY WEISMAN: Yes.

CHAIRMAN MOYER: Steve?

MEMBER DEMURI: Yes.

CHAIRMAN MOYER: Jennifer?

MEMBER HALL: Yes.

CHAIRMAN MOYER: Bea?

MEMBER JAMES: Yes.

CHAIRMAN MOYER: Mr. Engelbert?

MEMBER ENGELBERT: Kevin replies
yes.

CHAIRMAN MOYER: Hue?

MEMBER KARREMAN: Yes.

CHAIRMAN MOYER: Joe?

MEMBER SMILLIE: Yes.

CHAIRMAN MOYER: And Tracy?

MEMBER MIDEMA: Yes.

CHAIRMAN MOYER: Thank you everybody. I believe that concludes the compliance—

MEMBER SMILLIE: Does the chair vote?

CHAIRMAN MOYER: The Chair votes yes. Thank you very much.

VICE CHAIR GIACOMINI: Zero no,

14 yes, one absent.

CHAIRMAN MOYER: I believe that concludes the compliance, accreditation and certification committees voting docket.

We will move on to the Joint Crops and Compliance Accreditation and Certification Committee vote on biodiversity and I'm not
sure if Tina or Joe is handling that discussion. Joe?

MEMBER SMILLIE: Does the Chair have to present it?

CHAIRMAN MOYER: No, not at all. It's just that in the Chair's docket and so one of the chairs can hand it off to--

MEMBER SMILLIE: We both agreed to let Barry present it.

CHAIRMAN MOYER: Barry?

MEMBER FLAMM: The biodiversity recommendation was I think well vetted by both the public and the members sitting here yesterday. I move that the biodiversity recommendation as approved by the Joint Committee be approved by the full Board.

MEMBER HALL: Second.

CHAIRMAN MOYER: We have a motion on the floor and a second. Is there any discussion on the biodiversity docket?

Katrina?

MEMBER HEINZE: I just want to
make sure I know what I'm voting for. As I review your document it looks like there are two categories of recommendation so the first is to add the word "biodiversity" in two questions on our material review sheet. And then the second category is a list of actions that must occur. So that producers need to incorporate biodiversity and the OSP inspectors receiving training. Certifiers have to adopt an OSP that includes this. And then some action to the national program, so those are our requirements now if we vote yes.

Is that correct?

MEMBER FLAMM: That is correct and that was an excellent summary. Thank you.

CHAIRMAN MOYER: Is there any other discussion? Hearing none, the Chair will call for a vote and it's been pointed out to me that before we have each vote I will ask if there is a conflict on the interest on the item that we're voting on. I apologize for not doing that in the first few items.
So is there a conflict of interest on this voting item? Hearing none, we will begin with the vote with Tina.

MEMBER ELLOR: Yes.
CHAIRMAN MOYER: Gerry?
MEMBER DAVIS: Yes.
CHAIRMAN MOYER: Katrina?
MEMBER HEINZ: Yes.
CHAIRMAN MOYER: Dan?
VICE CHAIR GIACOMINI: Yes.
CHAIRMAN MOYER: Julie?
SECRETARY WEISMAN: Yes.
CHAIRMAN MOYER: Steve?
MEMBER DEMURI: Yes.
CHAIRMAN MOYER: Jennifer?
MEMBER HALL: Yes.
CHAIRMAN MOYER: Bea?
MEMBER JAMES: Yes.
CHAIRMAN MOYER: Kevin?
MEMBER ENGELBERT: Yes.
CHAIRMAN MOYER: Hue?
MEMBER KARREMAN: Yes.
1            CHAIRMAN MOYER:   Joe?
2            MEMBER SMILLIE:   Yes.
3            CHAIRMAN MOYER:   Tracy?
4            MEMBER MIEDEMA:   Yes.
5            CHAIRMAN MOYER:   Barry?
6            MEMBER FLAMM:   Yes.
7            CHAIRMAN MOYER:   And the Chair
8            votes yes.
9            VICE CHAIR GIACOMINI:   Zero no,
10           14 yes and one absent.
11           CHAIRMAN MOYER:   Thank you Mr.
12           Vice Chair, the motion passes.
13           MS. FRANCES:   Just a quick
14           question. Who seconded?
15           VICE CHAIR GIACOMINI:   Jennifer.
16           CHAIRMAN MOYER:   And co-chairs, I
17           believe that concludes the voting docket for
18           the Joint Crops and Compliance Accreditation
19           and Certification Committee vote. We are
20           moving well ahead of schedule, this is great.
21           We will start our work now with
22           the Crops Committee, Tina Ellor.
MEMBER ELLOR: The first material on our docket is isoparrainfinic hydrocarbon.
The petition is for inclusion of isoparrainfinic hydrocarbon under synthetic substances allowed for use in organic crop production in list 205601. The petitioner yesterday made the request for him to withdraw the petition which, you know, since we've given this considerable consideration, spent the money, spent the time, we as the crop committee decided to go on with the vote and I'm going to hand it over to Jeff for further explanation on that.

We did consult with Barbara and Richard on this and they said it's fine for you to go ahead with it.

CHAIRMAN MOYER: Thank you, Tina.

Yes, the crops committee in particular and the Board in general has spent a lot of time on this particular material. The program has spent money on this material and the petitioner late yesterday requested that we
remove the petition from our voting docket this morning.

The committee in discussion among itself, and in consultation with the program, has decided because of the time, the energy and money already spent, that we will move forward with this material and the petitioner will have the right to take any action they want after the vote to re-petition or move forward in whatever direction they'd like to move forward with.

So we will be moving forward and voting on this particular item. Any questions from the Board on that action? Yes, Katrina?

MEMBER HEINZE: The petitioner presented in their public comment quite a bit of technical information that they felt was not reviewed in a technical review. Could the committee maybe articulate why we don't need to consider that?

CHAIRMAN MOYER: Certainly. I'll turn the microphone and the floor back over to
Tina.

MEMBER ELLOR: We did consider the comments and we were well aware of the deficiencies in the technical review. And we did our best and with a lot of research and a lot of time, to make up for those deficiencies in the technical review and we feel like we have the expertise on the crops committee to have filled in those deficiencies in that technical review. And we also sent it back to Science and Tech for additional information and to get some information back, and we'll be going over this.

But none of the additional information changed how we would have voted or how we voted on this material.

CHAIRMAN MOYER: Katrina?

MEMBER HEINZE: It would maybe help me if you could briefly go over what the petitioner submitted and kind of talk about why it doesn't affect your recommendation.

MEMBER ELLOR: Okay. Gerry's
going to take this.

What they actually submitted then, did you read that? What they did was they went through by point where they thought the tab was deficient. We had already done that in committee for ourselves, you know, before we ever voted on this item and we did spend many hours going over the technical information and doing a lot of work on the internet, doing a lot on the material lists.

And we as committee, you know, it did not change our mind on how this substance is used and the alternatives available.

MEMBER HEINZE: I'm certainly not putting that in doubt. I'm just not a crops expert so this is more a matter of educating me so I can properly balance your recommendation with what the petitioner says. This is in no way a disparagement of your work and your review, I just need a little bit more education.

CHAIRMAN MOYER: The Chair
recognizes Gerry Davis.

MEMBER DAVIS: As Ms. Ellor said, we did go over individually the petitioner's written comments that they submitted and the main area of contention that I saw that there's a potential that the petitioner had a point was the unknown nature of the other main supplier of pyrethrin in this country who has a labeled and organically approved formulation. What extractant they do use is an unknown, we don't know.

And for your benefit I would say if let's say the petitioner decides well this isn't fair and calls into question the other companies extractant and say this is really no different than what we have, we'll be looking at that again later on to see if that one warrants coming off the list as well.

That doesn't change the fact that putting a petroleum distillate on it of almost two ounces per acre for every single application in this material does not make
sense in the organic rules at all. And that's
the main point that the crop committee took
issue with.

MEMBER HEINZE: Is there any
collection that voting not to list this material
has the potential to have pyrethrin not be
available? In the event that the other
supplier is using this material and we don't
know it.

MEMBER DAVIS: We did consult
with OMRI who does list the other material and
because of confidential information they could
not tell us what the extractant is but they
assured us that it is not the isoparrafinic
hydrocarbon. And I asked for a qualitative
statement from them on do you anticipate
issues with the extractant that they use and
they said no, to us it is in a different not
quite like the isoparrafinic hydrocarbon as
far as having issues and what EPA lists of
inerts it was on, and it does seem to have a
better chance of staying on the list.
And that's the best information we could get because of this mess of confidential business information that it's hard to break through and people don't want to say what their inerts are unless they have to.

CHAIRMAN MOYER: Tina?

MEMBER ELLOR: The other thing that we considered is that we have no other comments urging us to list this except for the petitioner. So we didn't have farmers you know lining up to say they really needed this. So that weighs heavily on our decision as well.

CHAIRMAN MOYER: The Chair recognizes Valerie Frances, executive director.

MS. FRANCES: I just wanted to turn your attention to category 2 and number seven's answer which offered a little more information about pyrethrins.

MEMBER DAVIS: One more comment I had was there is a patent out there for liquid
carbon dioxide extraction of pyrethrin. We're not sure if that's what these other two suppliers that are mentioned up here use as their extractant but at least it is a potential method. And if the organic crop production and safer brand products are called into question at a later date and their inert is also problematic that they're using for extraction, there are other options out there for development within the industry if they so choose to stay on the market.

CHAIRMAN MOYER: Are there any other points of discussion that anyone wants to record. Katrina, are you satisfied?

MEMBER HEINZE: I would just beg your indulgence. I'm trying to pull up the public comment from the petitioner real quick.

CHAIRMAN MOYER: I'm sorry?

MEMBER HEINZE: I just need a couple of minutes to pull up the public comment.

CHAIRMAN MOYER: That's fine.
1 Take your time. The Chair recognizes Bob
2 Pooler from the program. Mr. Pooler?
3 MR. POOLER: Yes. Gerry and Tina,
4 I just wanted to know how you considered the
5 EPA information on this substance, whether
6 you've delved into it and looked at it because
7 I believe at one time they wanted to classify
8 this as a list four. So if you could comment
9 on that please.
10 MEMBER DAVIS: We did consult
11 that information but I don't remember the
12 details Bob. I got conflicting stories on what
13 list they were originally on. Brian Baker
14 from OMRI said in his opinion he believed it
15 was on list 2 or 3 at one point and managed to
16 get on list 4 at a later date. But I don't
17 know that I had official documented evidence
18 to say what list it was on at any point.
19 I read all the EPA information
20 supplied, I just don't recall what magic list
21 it was on. I went through all the
22 information as far as the toxicity and what
CFR it's under and on and on and on. And we did consult all that information and go through it. But it didn't change the committee's opinion that it's definitely a problematic material in organic. The EPA says one thing but we have a different standard as far as is what's acceptable to EPA in conventional agriculture acceptable to organic.

CHAIRMAN MOYER: The chair recognizes Tina.

MEMBER ELLOR: And if you look at question No. 8 on category 1, it goes into some of that information. U.S. EPA 2008 table 3, 40 CFR part 63, that gives some information that we considered when we were looking at this.

CHAIRMAN MOYER: I will mention that the Chair, in consultation with the crop committee and the program, are reluctant to send a message to the community that when they see the direction that a vote is going at a
very late date choose to withdraw a petition
at great expense in terms of time and real
dollars to the program and the Board, only to
bring this back when a new and different Board
is seated here and go through the entire
process again with quite possibly additional
final expense to the program and certainly
time and expense to the Board.

And I think the petitioners had
ample opportunity to make their decisions at
a much earlier date or work in consultation
with the program to move information to us
more readily if they thought they had
something.

But we felt we did a very thorough
job of filling in the gaps that were missing
in the tap of the technical reviews that were
supplied and the information from the
petitioner. Dan?

VICE CHAIR GIACOMINI: Yes, I
think if it really looked like there was some
and different information that also came down
that those are reasonable requests. But if
the committee and the Board are comfortable
with the decision and the positioning and
placement of that new information with what
they've already had and it fits in and, you
know it's nothing really new, that we can
certainly move ahead.

CHAIRMAN MOYER: Katrina?

MEMBER HEINZE: One last
question. Thank you for your indulgence. In
the petitioners' public comments they say that
even today with the other technology there's
not enough pyrethrin on the market to fit the
need. Did you have a chance to evaluate that?
I know you did so thank you.

MEMBER ELLOR: Yes, we did. And
this is a problem we've had with deficiencies
in the technical reviews. You have to count
on more than the petitioner's word, you know,
to get at this information. And we have lots
of resources to do that. We may not feel like
we should have to do that but we do. So, yes,
we did.

MEMBER HEINZE: And what did you learn?

MEMBER ELLOR: We learned that there is pyrethrin available on the market and once again we had no farmers lining up to assure you that they really needed this.

MEMBER DAVIS: In 15 years of working with pyrethrin on a large organic vegetable farm, we have never ever been told that there was a short supply or pyrethrin. Not once. This particular company our farm has used the material, they push hard. They push very hard in their marketing strategy to say the least. Very high pressure. And it's not just our farm, it's happened to Ms. Ellor, it's happened to other people I've consulted with in California. They push very hard to make sure that they move their product. So it doesn't look like a short supply situation to me.

CHAIRMAN MOYER: Is the committee
1 chair ready to make a motion?
2 MEMBER ELLOR: Let me get back to
3 my main document here so I can do this
4 properly. I'd like to make a motion to vote
5 on the petition material for inclusion of
6 isoparrafinic hydrocarbon under synthetic
7 substances allowed for use in organic crop
8 production on the national list 205601. Do I
9 have a second?
10 CHAIRMAN MOYER: The motion is to
11 list the material. Is there a second?
12 MEMBER FLAMM: I second.
13 CHAIRMAN MOYER: Barry seconds
14 that. Is there any other points of
15 discussion? Is there a conflict of interest
16 on this material? Hearing none, the Chair
17 calls for the vote starting with Gerry Davis.
18 MEMBER DAVIS: No.
19 CHAIRMAN MOYER: Katrina?
20 MEMBER HEINZE: No.
21 CHAIRMAN MOYER: Dan?
22 VICE CHAIR GIACOMINI: No.
CHAIRMAN MOYER: Julie?
SECRETARY WEISMAN: No.
CHAIRMAN MOYER: Steve?
MEMBER DEMURI: No.
CHAIRMAN MOYER: Jennifer?
MEMBER HALL: No.
CHAIRMAN MOYER: Bea?
MEMBER JAMES: No.
CHAIRMAN MOYER: Kevin?
MEMBER ENGELBERT: No.
CHAIRMAN MOYER: Hue?
MEMBER KARREMAN: No.
CHAIRMAN MOYER: Joe?
MEMBER SMILLIE: No.
CHAIRMAN MOYER: Tracy?
MEMBER MIEDEMA: No.
CHAIRMAN MOYER: Barry:
MEMBER FLAMM: No.
CHAIRMAN MOYER: Tina?
MEMBER ELLOR: No.
CHAIRMAN MOYER: And the Chair votes no. Mr. Vice Chair?
VICE CHAIR GIACOMINI: 14 no, zero yes, one absent.

CHAIRMAN MOYER: The motion to list isoparaffinic hydrocarbon has been defeated. Next material Tina?

MEMBER ELLOR: The next material on our agenda is sulfurous acid and the petition is to include sulfurous acid on the national list 205.601.

I did get some additional information from the petitioner this morning and if we need to bring that up in discussion I can do that.

CHAIRMAN MOYER: Do you think that information is relevant to the Board? And does it affect you and the committee's--

MEMBER ELLOR: It may be and I'll read it out in the record just because it answers some of the questions we had forwarded to the technical committee. Once again we need to consider the source to be even handed here, but we can make our own judgment on
that.

Our question was what are the relative advantages and disadvantages of using acetic acid or citric acid, vinegar or citric acid, weaker acids to do the same job. And I'll read into the record his answer to that, unless Valerie has it and can put it up.

The issue concerning sulfurous acid versus current organically approved acid such as acetic and citric go beyond a simple comparison as to their efficacy. It also invokes the fundamental question as to which method best represents the most natural way to accomplish and provide what is needed as well.

I have attempted to point out a few of these differences and they are as follows. Number one, and it's up on the board there is you want to read along. When elemental sulfur is oxidized into sulfur dioxide, each mole has the propensity to bond with the mole of water to form the unstable compound of weak acid known as sulfurous acid.
which results in causing the two original hydrogen ions from the water to sequentially unlock as free active hydrogen and sulfate in the irrigation solution, and the equation is up there.

Since the hydrogen is already present and readily available as water, the major advantage for onsite production of sulfurous acid is that it eliminates the need for growers to import acid-containing materials. This is because sulfurous acid users can unlock all of the hydrogen ions needed for acidification and pH adjustment directly from the grower's own water source located onsite. The only imported material needed will be the OMRI approved elemental sulfur and the equipment to oxidize it.

And I don't know if I need to rred through this. Let's skip down to No. 4.

CHAIRMAN MOYER: The Chair recognizes Valerie Frances.

MS. FRANCES: I'm sorry.
Apparently I have the wrong version up. I didn't realize that so let me try to go back into my e-mail and find the corrected one and download that.

MEMBER ELLOR: Okay. In the meantime I'll continue on to Point 4, which is we need to ask ourselves the basic fundamental question as to which method represents the most natural and sustainable way to introduce this into a farming system, and he goes through the options that we went through yesterday, applying elemental sulfur on soil, and the crops committee did discuss this point and some of the problems with that and Rigo and Gerry had a lot to contribute to this point. That when you apply it to the soil it does require tillage and also there's a much greater chance of run off, you know, that it just runs off with the rain.

Using acetic and citric acid, which we also looked into, it just takes tremendous amounts and we had questions about
which is the better more sustainable method importing huge quantities of citric acid to apply or you know generating on the farm. And we as a committee kind of thought that generating it on the farm was the more sustainable practice. Or onsite manufacturing the use of sulfurous acid. I'm trying to think of the other things.

The other thing that appealed to me about this I suppose is that it's using a waste material, you know, a very pure form of sulfur that's recovered from smokestacks in pollution control which appealed to me, but that's more on a personal note.

Gerry, do you have anything to add?

MEMBER DAVIS: Just on that last point about it being a recovery material. The 99 percent pure elemental sulfurs that are pulled out of natural gas and oil supplies, are essentially pure sulfur and they're indistinguishable from sulfur that would have
been mined, I haven't seen any, it hasn't been
mined for so many years that I don't even
remember or know what mined sulfur looked like
or what its impurity level was. But I don't
imagine it's any more pure than what they're
able to extract from these sources.

CHAIRMAN MOYER: I'm sorry,
Richard Matthews from the program.

MR. MATTHEWS: I really don't
know anything about this material so I'll say
that right up front.

But I do have a question for you.
What I have to ask is could this material come
onto the farm and be used other than through
burning? I'm just trying to anticipate
something down the road, okay, because the
annotation doesn't mention that it's created
through the burning. It just talks about on
farm. And so what I want to know is could
this come in through a means other than
through the burning of sulfur on the farm
because it sounds like what you've wanted to
do is allow on farm burning, not necessarily having it come in on a tanker truck or whatever or barrels or whatever.

So I'm just asking for that clarification because we're going to have to answer that question down the road probably.

CHAIRMAN MOYER: Yes, that was a point that the committee discussed and Gerry if you want to address that.

MEMBER DAVIS: Yes, I alluded to that yesterday but I know there wasn't enough time to really go into it. We went over that extensively and I studied it in the literature very extensively to make sure that sulfurous acid, according to the claim of the petitioner, it's not that it cannot be manufactured in a factory and shipped somewhere, it just is unstable.

It has a half life measured in hours so the degradation of it is so rapid once it is formed in a water solution that there is absolutely no way that there's time
to formulate it offsite and ship it to the farm. And we annotated saying on farm generation of the material because at this point with current technology that's the only way to produce it.

And you know I studied data bases and looked at all kinds of wild ways that they have considered and tested trying to stabilize the material and essentially the bottom line message was that we can't do it yet. Maybe some day. This is why we put it in the annotation so the "some day" doesn't come.

CHAIRMAN MOYER: The Chair recognizes Kevin then Katrina?

MEMBER ENGELBERT: On the Crop Committee's recommendation I was the member that abstained because being from the Northeast this problem of having too high a pH is completely foreign to me. And so I've tried to learn all I can about but I still have concerns and I'd like to voice them. I wouldn't be fulfilling my responsibilities if
I didn't.

I abstained because we were hoping to get a thorough TAP to learn about any possible environmental impacts with the use of this material and having it burned on the environment and on human health. That was not forthcoming.

We got something from SNT but it still didn't address my concerns.

Another concern I have is with the burning of the sulfur. That to me isn't really compatible with organic principles. And also technically because this sulfur is from petroleum or natural gas based products it's a synthetic and we're not allowed to use synthetic fertilizers.

Joe made the point yesterday that we have lime to deal with our acid problems in the Northeast, and that's true, but we can't burn it, we can't use it hydrated lime and we can't use lime that's a byproduct of manufacturing. Those uses are limited to
conventional farmers. And I mean I understand all the points about the benefits of doing that but I still have all those concerns and I wanted to voice them.

CHAIRMAN MOYER: Thank you Kevin.

Katrina?

MEMBER HEINZE: I think I heard you say this but I just wanted to confirm. There is no other way to on-farm generate besides burning? Is that correct? And then I have a follow up question.

MEMBER DAVIS: At least according to the petition, the petitioner, this is the only way to produce it on farm. Again, there's some highly technical ways of farming it in a manufacturing facility but it is not stable and does not maintain itself long enough to ship it somewhere.

MEMBER HEINZE: And then my follow up, is there a reason that in your annotation you said that on farm generation instead of more specifically calling out the
burning process?

MEMBER DAVIS: No, no specific reason, just that's the verbiage that came out when we tried to figure out a way to annotate it. And it was only annotated that way based on what if some day they come up with some really strange, highly synthetic with stabilizers and all kinds of stuff, some way of formulating this stuff and we didn't want to allow for that in the "some day."

CHAIRMAN MOYER: Tina?

MEMBER ELLOR: And it's also historically the way it's been done and it's been allowed, you know, by certifiers in the west. And we had a lot of people come forward and actually say that they would really like to use this and they had used it in the past until there was a clarification about it. And now they couldn't. So I think that's really why.

CHAIRMAN MOYER: Joe?

MEMBER SMILLIE: Yes, sorry about
this. But what's this burning problem?

Richard mentioned it and everybody's mentioned it. Well they burn it, I mean last I remember burning wasn't the worst thing in the world. I mean what's this burning issue? What's the burning issue there?

CHAIRMAN MOYER: Well I think part of it refers to what Kevin mentioned about why but let me turn the floor over to Katrina.

MEMBER SMILLIE: Well hydrated lime is allowed.

CHAIRMAN MOYER: Yes, for certain things. Katrina?

MEMBER HEINZE: I want to clarify my question. My concern is not the burning. I strongly support this material. My question is do we have the right annotation to make sure that this material is allowed and everyone understands that we've listed what we wanted to list. I don't have the burning question, I have the annotation question.
CHAIRMAN MOYER: The Chair recognizes Richard Matthews from the program.

MR. MATTHEWS: Yes. I didn't have a problem. I wasn't expressing an opinion on the burning. What my concern was that we have to write the preamble and then we have to interpret this later on when questions come up and, quite frankly, I really appreciate the discussion that you've just had because that's going to help a whole lot when we go to the write the rule if you voted, I mean I don't know what your vote is, but if you vote to put it on, all of this conversation will help us greatly in creating the discussion in the preamble which will later then help in the interpretation as well. Thank you.

CHAIRMAN MOYER: That is the reason we have the discussion too. We want to help you out Richard. Gerry?

MEMBER DAVIS: Unfortunately, the petitioner's presentation yesterday premised
unfamiliarity with the time constraints and how quickly time can get away from you when you're trying to speak.

He wasn't able to really show what type of apparatus performs this and it's not just a simple burning thing where you burn it and throw it in the water. It's rather detailed and I don't know if the Board would like to see the specifics of what is done to give a little more information.

CHAIRMAN MOYER: Would that help the Board in their decision making?

MEMBER SMILLIE: That's what I was going to request. I think we have the petitioners here, at least a couple of them anyhow.

CHAIRMAN MOYER: If the Board thinks that's helpful the Chair is willing to entertain that. Katrina?

MEMBER HEINZE: I have no opinion on that question. I am interested in knowing if anyone else on the Board has a question
about the annotation because if everyone else
thinks the annotation is the right one I'm
satisfied with our discussion at this point.

CHAIRMAN MOYER: Anybody on the
Board have an opinion to support or discuss
the annotation? Joe?

MEMBER SMILLIE: Could you read
it again please.

CHAIRMAN MOYER: Certainly.

Tina?

MEMBER ELLOR: On-farm generation
of substance utilizing 99 percent purity
elemental sulfur per 205.601 J2 only.

CHAIRMAN MOYER: Just as it's
stated up there on line C. Gerry?

MEMBER DAVIS: Again, if the
petitioner, if he was interested in obtaining
one, he could explain that this is, he would
probably say I would expect, this is the only
way to produce this material and this is how
it's done.

CHAIRMAN MOYER: The chair
recognizes Hue?

MEMBER KARREMAN: I bought a bag of, if I'm reading this right, it says 99 percent purity elemental sulfur you can use and the source is what you've been talking about, you burn that on the farm. Right?

Okay.

So I bought a bag of elemental sulfur for topical use and livestock, totally different. You can buy elemental sulfur 99 percent pure in a bag so you could do the same thing, right, that's a natural. So burning it would seem fine because you could do it with the natural or whatever material you're talking about originally.

MEMBER DAVIS: Well unfortunately there is no natural source of elemental sulfur. All the mines have been put out of business by the petroleum and natural gas recovery programs for clean air laws. And when that industry phases out some time in the future and there's no longer that need to
1 recover all that sulfur from the oil and gas,
2 the industry for sulfur will have to revert to
3 steam extraction of elemental sulfur from
4 subsurface sulfur mines, which is the way it
5 was done.
6
7 CHAIRMAN MOYER: The chair
8 recognizes Jennifer?
9
10 MEMBER HALL: Thank you Mr. Chair. I just kind of wanted to give the Board
11 feedback based on a comment that Tina made in
12 the last material. And that is that I think
13 we do certainly look at petitions a little bit
differently when they have strong backing from
14 the farmer community. And I don't typically
15 get a lot of direct e-mail from my own area
16 about particular items. And I did definitely
17 get several e-mails supporting this material
18 from our constituents up in the Northwest as
19 a really helpful item. And so I just kind of
20 wanted to add that into the conversation.
21
22 CHAIRMAN MOYER: The chair
23 recognizes Katrina then Steve.
MEMBER HEINZE: Again, I want to reiterate I support the material; my question is do we have the right wording in the annotation to properly articulate our intention to allow it? And I haven't heard anyone say anything so I'm assuming everyone's happy with it. Also I haven't heard anyone say anything about the annotation.

CHAIRMAN MOYER: My conclusion Katrina is that everyone else is happy with that annotation. I appreciate that question. Steve?

MEMBER DEMURI: I think I understood you Gerry but just to reiterate. You said there was no other way to make this other than burning, so somebody couldn't bring on a little chemical lab onto their farm and produce this substance, correct?

MEMBER DAVIS: What is needed to produce the sulfur dioxide so it can be injected into the irrigation stream which produces the sulfurous acid, I wouldn't claim
to say that burning is the only way to produce sulfur dioxide on a farm, I can't picture any way to do it naturally with natural materials but I could be wrong.

CHAIRMAN MOYER: It sounds like maybe Katrina and other members of the Board would feel more comfortable if we adjust the annotation to include the word "burning." Can the committee suggest some language while Joe makes a comment.

MEMBER SMILLIE: I still have the burning issue. What's the deal? Why does burning -- is it like a chemical change you guys are concerned about?

CHAIRMAN MOYER: Julie?

SECRETARY WEISMAN: Joe, I just want to try, I think I can clarify for Joe. The issue is not having a problem with burning; the issue is making sure that it could not be done any other way. We want it to be limited to burning. I believe that's the concern of the other of our colleagues.
CHAIRMAN MOYER: I believe that is the current concern is to make sure that there would not be some other on farm method of generating that would be in violation of other phases of the rule that because of this lack of the word "burning" in the annotation could sneak in. And I think that's a very good point. Jennifer?

MEMBER HALL: Yes. I would like to suggest a friendly amendment to the Crop Committee to change the annotation read "produced by on farm burning."

Or Gerry just suggested maybe "on farm generation of substance burning 99 percent purity elemental sulfur." Would that work as well?

CHAIRMAN MOYER: I think putting the word "only" behind burning might help.

MEMBER HALL: Burning only? On farm generation of substance by only burning 99 percent? "On farm generation of substance, by burning only 99 percent elemental sulfur."
So do we need a motion to accept that or can the Crops--

CHAIRMAN MOYER: Is there still some discussion Joe?

MEMBER SMILLIE: Just a process question. Do we or do we not need to consult the petitioner when we are in the act of changing the petition?

CHAIRMAN MOYER: I don't think we do Joe. I'll refer you to the--

MR. MATTHEWS: No.

MEMBER ELLOR: Because we're not changing the petition, we're changing the annotation.

CHAIRMAN MOYER: That's correct. We're making our annotation. I'm sorry, Hue?

MEMBER KARREMAN: So that's the motion right there, right?

CHAIRMAN MOYER: I believe we have a friendly amendment and I want to make sure that it's been accepted by the committee.

MEMBER ELLOR: Well, I can't
1 speak for the whole committee but it's fine
2 with me. How is the rest of the committee
3 feeling?
4
5 CHAIRMAN MOYER: Gerry?
6
7 MEMBER DAVIS: I think that's
8 appropriate. It was not left out on purpose
9 but it is more specific.
10
11 CHAIRMAN MOYER: A further word
12 from Dan?
13
14 VICE CHAIR GIACOMINI: Mr.
15 Chairman, at this point in time I don't
16 believe we actually have the motion on the
17 table, so this is just a discussion item for
18 them to include in their motion.
19
20 CHAIRMAN MOYER: Thank you. You
21 are correct.
22
23 MEMBER ELLOR: I can make a
24 motion that we list -- the motion is to
25 include sulfurous acid on the national list
26 205.601(j) with the annotation "on farm
27 generation of substance, by burning only 99
28 percent elemental sulfur per 205.601(j)(ii)
only."

CHAIRMAN MOYER: Is there a second to that motion?

MEMBER KARREMAN: Second.

CHAIRMAN MOYER: Second by Hue.

Any other discussion? Hearing none, is there a conflict of interest on this particular material? Hearing none we'll start the vote with Katrina.

MEMBER HEINZE: Thank you everyone for your indulgence. Yes.

CHAIRMAN MOYER: Dan?

VICE CHAIR GIACOMINI: Yes.

CHAIRMAN MOYER: Julie?

SECRETARY WEISMAN: Yes.

CHAIRMAN MOYER: Steve?

MEMBER DEMURI: Yes.

CHAIRMAN MOYER: Jennifer?

MEMBER HALL: Yes.

CHAIRMAN MOYER: Bea?

MEMBER JAMES: No.

CHAIRMAN MOYER: Kevin?
MEMBER ENGELBERT: No.

CHAIRMAN MOYER: Hue?

MEMBER KARREMAN: Yes.

CHAIRMAN MOYER: Joe?

MEMBER SMILLIE: Yes.

CHAIRMAN MOYER: Tracy?

MEMBER MIEDEMA: Yes.

CHAIRMAN MOYER: Barry?

MEMBER FLAMM: Yes.

CHAIRMAN MOYER: Tina?

MEMBER ELLOR: Yes.

CHAIRMAN MOYER: Gerry?

MEMBER DAVIS: Yes.

CHAIRMAN MOYER: And the Chair votes yes. Mr. Vice Chair?

VICE CHAIR GIACOMINI: Two no, 12 yes, one absent.

CHAIRMAN MOYER: And the motion to include sulfurous acid with the annotation passes.

CHAIRMAN MOYER: I believe that concludes the voting docket for the Crops
Committee and we will move on to the Livestock Committee. Mr. Karreman if you're ready.

MEMBER KARREMAN: Okay.

Livestock Committee wants to recommend, well we'll make a motion at some point here to add Propionic Acid to the national list on 205.603. And of course petitioned as an animal feed preservative as a mold inhibitor. So the list 603 is a synthetic allowed but it is a preservative and keep that in mind with the voting.

The committee unanimously voted to not recommend to list this. That's it, Mr. Chair. Any questions? Or that's up to you.

CHAIRMAN MOYER: Thank you. Are you bringing that in the form of a motion now?

MEMBER KARREMAN: I will now.

Okay. So the motion is to list propionic acid on 205.603 as an animal feed preservative.

CHAIRMAN MOYER: Thank you. Is there a second to that motion?
MEMBER ENGELBERT: I will second that.

CHAIRMAN MOYER: Second by Kevin.

Any discussion on this particular item? Hearing none the Chair will call for a vote but before that is there a conflict of interest for any Board member on this particular material? Hearing none we'll start our vote and the vote will start with Dan.

VICE CHAIR GIACOMINI: I'm making sure, the motion is to list it?

MEMBER KARREMAN: The motion is to list. If you want to list it, it would be a yes vote.

CHAIRMAN MOYER: That's correct.

VICE CHAIR GIACOMINI: No.

CHAIRMAN MOYER: Julie?

SECRETARY WEISMAN: No.

CHAIRMAN MOYER: Steve?

MEMBER DEMURI: No.

CHAIRMAN MOYER: Jennifer?
1 MEMBER HALL: No.

2 CHAIRMAN MOYER: Bea?

3 MEMBER JAMES: No.

4 CHAIRMAN MOYER: Kevin?

5 MEMBER ENGELBERT: No.

6 CHAIRMAN MOYER: Hue?

7 MEMBER KARREMAN: No.

8 CHAIRMAN MOYER: Joe? Joe is absent. Tracy?

9 MEMBER MIEDEMA: No.

10 CHAIRMAN MOYER: Barry?

11 MEMBER FLAMM: No.

12 CHAIRMAN MOYER: Tina?

13 MEMBER ELLOR: Yes.

14 CHAIRMAN MOYER: Gerry?

15 MEMBER DAVIS: No.

16 CHAIRMAN MOYER: Katrina?

17 MEMBER HEINZE: No.

18 CHAIRMAN MOYER: And the Chair votes no. Mr. Vice Chair?

19 VICE CHAIR GIACOMINI: 13 no,

20 zero yes, 2 absent.
CHAIRMAN MOYER: And the motion to list Propionic Acid has been defeated. This Board will now take a brief recess for 15 minutes and we'll be back.

(Whereupon, the above-entitled matter briefly went off the record.)

CHAIRMAN MOYER: Okay. Hue, if you want to resume your work on materials and I think we're at vitamins and minerals injected as supplements.

MEMBER KARREMAN: Thank you, Mr. Chair. The Livestock Committee has proposed, and we discussed yesterday, about adding a section to the national list on 603 regarding injectable forms of already approved vitamins and minerals and electrolytes that are on the list and as you all heard from testimony most certifiers were very much in favor of this. It's already happening out there, it's kind of been grandfathered.

What we talked about yesterday was
that due to consideration of FDA concerns and requests and interaction as this will be worked through the system with the NOP in consultation of course with FDA, that we make sure that this listing is termed in such a way that these are nutritive supplements and not medical treatments -- and they are.

They're vitamins and minerals, okay, and electrolytes, and since we're also looking at the excipients in this new section to be added we need to make sure, and I want to have it here on the record, that we will be as the Livestock Committee working on making a really simple change in the excipient clause that exists right now for the November meeting so that we're not only talking about drugs per se because drugs are treatments and as we all know you cannot treat any organic livestock in the absence of illness. Okay?

And these are nutritive supplements that we're looking at on this proposal therefore to include the excipient
clause within the new section we need to make sure that the excipient clause says let's say it for animal health products instead of just drugs. Okay? Just so that's out there and people know we're going to make it all blend together correctly but we can't work on that excipient clause at this meeting because it was not put on the agenda. Okay?

All right. So with that the Livestock Committee is presenting this recommendation and I move that we accept a new section, add a new section to the list at 205.603(g) potentially formulated injectable supplements of trace minerals for 205.603(d)(ii) vitamins per 205.603(d)(iii) and electrolytes per 205.603(a)(viii) with excipients per 205.603(f) in accordance with FDA and restricted to use by on the order of licensed veterinarian.

MEMBER JAMES: I'll second.

CHAIRMAN MOYER: We have a motion on the floor and a second. Is there a
1 discussion? Kevin?

2 MEMBER ENGELBERT: Yes, I'd like

3 to offer a friendly amendment. I would like to

4 propose that we begin the wording with "as

5 nutritional supplements" and then pick up with

6 "formulated injectable."

7 CHAIRMAN MOYER: There's a

8 friendly amendment on the floor. Hue, do you

9 accept that amendment?

10 MEMBER KARREMAN: Absolutely.

11 CHAIRMAN MOYER: Valerie, can you

12 type that in so the rest of the Board can see

13 it as Kevin mentioned it. Hue?

14 MEMBER KARREMAN: Well maybe Dan

15 will get on this here. Should it be

16 nutritional or nutritive because on a lot of

17 vitamin and mineral bottles it says as a

18 nutritive source. So I think we need to

19 have, if the friendly amendment would allow.

20 Okay. Make that as nutritive supplements,

21 that would be more in line with what's

22 already-- I think just as nutritive
supplements actually because we're talking about vitamins and minerals?

CHAIRMAN MOYER: Dan?

VICE CHAIR GIACOMINI: Yes. I just want to make sure we have some clarity in the record.

MEMBER KARREMAN: Okay. Just a last little continuation of that rewrite there. As nutritive supplements, formulated injectables -- take off the injectables and take away supplements there since it was already mentioned.

CHAIRMAN MOYER: Thank you for that clarification Hue. Dan?

VICE CHAIR GIACOMINI: I just want to make sure that we have it in the record in case this can help the program in their preamble issues.

Again, the reason we did this was to make sure that everything was as clear and as straight with FDA as possible. That we needed to list it as a nutritive supplement so
that it did not require that it was only in
the treatment of a disease, and so that it did
not require that whatever was being used was
specifically listed and approved for that use.

No. 1.

No. 2 is that in going this route
we are by no means prohibiting the use of this
substance in the treatment of a disease
because use of these in the treatment of a
disease would be because of a nutrient
imbalance. So it's not that by this wording
someone can look at it and say well it's only
for nutritional uses, it's only if they're a
little deficient, not if they're sick. So
it's for nutritional supplements as needed bt
also if the vet says that cow's sick and this
is what we want to treat her with, that's part
of it.

CHAIRMAN MOYER: Thank you Dan.

Hue?

MEMBER KARREMAN: Yes, just to
add to that to bring clarity maybe for the
preamble. This is not for infectious disease.
It's more for a metabolic imbalance that can
be readily corrected and that's not
necessarily a disease. It just might need a
nutritional boost. It's not for an infectious
type problem.

CHAIRMAN MOYER: Thank you Hue.

Barry?

MEMBER FLAMM: Hue, there were
comments from the public on the GMO question.
How did the committee discuss that?

MEMBER KARREMAN: That Barry was
actually in the vaccine topic that came up.
This is not vaccines. We have to deal with
that, that's going to be on the work plan for
next--

MEMBER FLAMM: Thank you for the
clarification.

CHAIRMAN MOYER: I have a
question for you Hue. We had heard some
comment yesterday about the fact that the
words "licensed veterinarian" were in there in
the changes, did the committee discuss that at all?

MEMBER KARREMAN: Yes. I think it was VOF wanted to have it just as you know trained person that can administer it.

Basically, that wording restricted to be used by or on the order of a licensed veterinarian is kind of there to work with the FDA, okay, because that's a term they recognize. The other thing is it doesn't mean that oh gosh, I've got to call the veterinarian to give a shot of Vitamin B? No. Because it says to use by the vet but also on the order of a vet.

So if a vet says, hey John, you really need to give this cow some Vitamin A, D and E or selenium and E, they can do it themselves without the vet having to do it. It's more for the wording for the FDA.

CHAIRMAN MOYER: I appreciate that on the record, thank you Hue. We have a motion on the floor and a second, is there any
other discussion? Bea?

MEMBER JAMES: I have some questions and you know -- strike that. I just need some information about would the vitamins need to be listed individually or could they be listed as a group or would they need to be listed at all?

MEMBER KARREMAN: Okay. The reason they need to be listed at all, to answer that one first Bea, is because right now on the under (d)(ii) and (d)(iii) it says vitamins and minerals under those two listings as feed additives. And that's been told to me in no uncertain terms by a certifier that that's the only way that vitamins and minerals can be used at this point. Thus this recommendation.

As far as I think you had three questions there. The other one was listing each individual vitamin and mineral and electrolyte individually. Okay? Yesterday I mentioned how precedent has already been set
by d(ii) d(iii) and f and (a)(viii) and that whole categories have been allowed. This is just for the injectable forms of those categories. Okay? So you know that.

Regarding looking at each brand manufacturer of each vitamin formulation, which they do vary, okay, they do vary quite a bit and I think in my original homework on this I saw about 24 manufacturers of vitamins and minerals of injectables. Okay. And basically they have their own private formulation processes that would have to be looked at.

So in a nutshell it would be like hundreds of pages for us to go look at each individual vitamin, mineral as the injectable form of what's already on this list for feed additives. And notice also that the vitamin and mineral injectable formulation manufacturers have not petitioned this. Who is petitioning this are the end users, the veterinarians and the farmers who do not have
access to that information, that's confidential information and seeing that and only having the old patents available in the public domain and then realizing like, hey, precedent has been set by these other categorical listings and that's the reason that this is being presented.

MEMBER JAMES: Thank you for that clarification.

CHAIRMAN MOYER: Dan?

VICE CHAIR GIACOMINI: Yes.

Thank you for asking that question. I think this a good time to throw out a very related topic to this and as material Chair and also on the Livestock Committee dealing with this, the process for putting items on the national list has become a process of single substance items with the requirement of what's supplied being extremely favorable to the manufacturer of that substance.

What we were dealing with here was a substance of not only a group of things, No.
1, but a process No. 2 and the need for it coming from someone who was not the manufacturer, No. 3.

We tried to address those issues with the program as how do we work around the process that has been set up? And it just became a matter of time that we didn't have the time to figure out a way to resolve all those issues in a universal global setting in order to get this done for this meeting.

That is still something that we are going to need to sit down and try and figure out because, as I look at the material process, you know, and the process that we have in place, there are certain unintended biases that have gone into it. And something coming and being called for by the people who need to be using the product are at a disadvantage from the people who are trying to sell and make a profit.

And it's really something that we need to address.
MEMBER JAMES: If I could just respond back to that. I appreciate that comment and I think it's really great to get that out on the record because I support this recommendation but I see down the road if we weren't to address it that it could potentially be a problem.

CHAIRMAN MOYER: Thank you.

Katrina, did you have your hand up? No.

Julie?

SECRETARY WEISMAN: Just as an aside. I think this is a very good example of not letting the perfect defeat the good.

CHAIRMAN MOYER: Thank you. Any more discussion? We have a motion and a second and I'm going to call for the vote. Is there a conflict of interest on this group of materials? Dr. Karreman?

MEMBER KARREMAN: You can judge it as you want but you have a farmer who might be using these and a veterinarian who does use these sitting on the Board here; we're the end
users as Dan was just mentioning. I'm not the manufacturer. And the nutritionist that recommends it but I don't make anything off of it.

CHAIRMAN MOYER: Does the Board have a problem with them voting? The Chair does not. Hearing no comment vote or abstain as you see fit. Okay. The vote will start with Julie?

SECRETARY WEISMAN: I vote yes.

CHAIRMAN MOYER: Steve?

MEMBER DEMURI: Yes.

CHAIRMAN MOYER: Jennifer?

MEMBER HALL: Yes.

CHAIRMAN MOYER: Bea?

MEMBER JAMES: Yes.

CHAIRMAN MOYER: Kevin?

MEMBER ENGELBERT: Yes.

CHAIRMAN MOYER: Hue?

MEMBER KARREMAN: Yes.

CHAIRMAN MOYER: Joe?

MEMBER SMILLIE: Yes.
CHAIRMAN MOYER: Tracy?

MEMBER MIEDEMA: Yes.

CHAIRMAN MOYER: Barry?

MEMBER FLAMM: Yes.

CHAIRMAN MOYER: Tina?

MEMBER ELLOR: Yes.

CHAIRMAN MOYER: Gerry?

MEMBER DAVIS: Yes.

CHAIRMAN MOYER: Katrina?

MEMBER HEINZE: Yes.

CHAIRMAN MOYER: Dan?

VICE CHAIR GIACOMINI: Yes.

CHAIRMAN MOYER: And the Chair votes yes. Mr. Vice Chair?

VICE CHAIR GIACOMINI: Zero no,

14 yes.

CHAIRMAN MOYER: One absent.

VICE CHAIR GIACOMINI: One absent.

CHAIRMAN MOYER: Thank you. The motion to include vitamins and minerals injectables as supplements as stated in the
motion passes. Thank you. And I believe that concludes the voting docket for the Livestock Committee.

Moving ahead on our agenda we'll move to the Handling Committee, Steve DeMuri, chairperson. Steve, the floor is yours.

MEMBER DEMURI: Thank you Mr. Chairman. Okay, here we go. We have nine items on the agenda this morning to be voted on. The committee members gave detailed descriptions of these items yesterday. As we go through them I'm going to direct most of the reiteration of what we talked about yesterday to the people that actually worked on these because they're the experts. They're expected to dive into these and learn as much as they can and help the rest of the committee make a recommendation. So I'll direct a lot of this to them as each individual item comes up.

The first one on our list propionic acid, CAS No. 79094. And this is
exactly the same substance that was voted down
by the Livestock Committee just 45 minutes
ago.

It was petitioned as a use as
preservative, a mold inhibitor for feeds and
grains for human consumption and it failed on
a couple of accounts, primarily because it is
a preservative and there are alternatives out
there that can be used.

So having said that, is there any
discussion, any questions?

CHAIRMAN MOYER: Would you like
to make a motion?

MEMBER DEMURI: I would. I
would like to move that propionic acid be
added to the national list under Section
205.605(b).

CHAIRMAN MOYER: Do I hear a
second to that motion?

SECRETARY WEISMAN: Second.

CHAIRMAN MOYER: Seconded by
Julie. There is a motion on the floor with a
1 second; is there any discussion on this
2 particular material? Hearing none I will
3 call for a vote. Is there a conflict of
4 interest on this material before we vote?
5 Again hearing none, we will start the vote
6 with Steve?

7 MEMBER DEMURI: No.
8 CHAIRMAN MOYER: Jennifer?
9 MEMBER HALL: No.
10 CHAIRMAN MOYER: Bea?
11 MEMBER JAMES: No.
12 CHAIRMAN MOYER: Kevin?
13 MEMBER ENGELBERT: No.
14 CHAIRMAN MOYER: Hue?
15 MEMBER KARREMAN: No.
16 CHAIRMAN MOYER: Joe?
17 MEMBER SMILLIE: No.
18 CHAIRMAN MOYER: Tracy?
19 MEMBER MIEDEMA: No.
20 CHAIRMAN MOYER: Barry?
21 MEMBER FLAMM: No.
22 CHAIRMAN MOYER: Tina?
MEMBER ELLOR: No.

CHAIRMAN MOYER: Gerry?

MEMBER DAVIS: No.

CHAIRMAN MOYER: Katrina?

MEMBER HEINZE: No.

CHAIRMAN MOYER: Dan?

VICE CHAIR GIACOMINI: No.

CHAIRMAN MOYER: Julie?

SECRETARY WEISMAN: No.

CHAIRMAN MOYER: And the Chair votes no. Mr. Vice Chair?

MS. FRANCES: I hate to bring this up but Julie did recuse herself from this material.

SECRETARY WEISMAN: Oh God, I'm so sorry.

MS. FRANCES: And it just popped in my head and I know you've already voted.

CHAIRMAN MOYER: Thank you Valerie for bringing that to the attention of the Board. Julie?

SECRETARY WEISMAN: I'm
multitasking in a way. I have never had to do it before but it actually true that at the committee level I did recuse myself from the vote because I am a manufacturer of national propionic acid which it would definitely affect -- the outcome of this would affect the sales of my product.

CHAIRMAN MOYER: You might want to consider changing your vote to an abstention?

SECRETARY WEISMAN: No, I think I need to be recused. This is pretty clear, this is pretty clear.

CHAIRMAN MOYER: Thank you Valerie and thank you Julie. If the vice chair would make a note of that and the secretary change that vote to a recusal. And now Mr. Vice Chair, the vote please?

VICE CHAIR GIACOMINI: 13 no, zero yes, one absent and one recuse.

CHAIRMAN MOYER: Thank you Mr. Vice Chair. With that vote propionic acid is
voted down and the motion is defeated. Your next material Steve?

MEMBER DEMURI: Thank you. The next one for 205.605(b) is sodium chlorite acidified and I'd like to ask Katrina to give a brief summary of the material, summarize what she said yesterday. And then we'll ask for a discussion.

MEMBER HEIZE: Thank you. So just a reminder that this material has been petitioned for listing on 605(b). It is in essence a mixture of two things so at the facility they'll have two tanks, one will be sodium chlorite, one will be citric acid. They mix them and dilute with water at point of use.

I'm not going to go through all the discussion but just highlight it. The committee did recommend by a vote of three yeses, one no, one absent and one abstain to list this material with an annotation. And our rationale for that was that this is a more
benign environmentally and human health material than some of the other chlorine materials that are on the list. It is a very important new tool in the food safety tool box. That's kind of the short version of that.

So there's two things that I wanted to highlight after our discussion yesterday. One was we had had a question from the Chair about our committee vote to better understand that discussion, and I went back and looked at the notes last night and in fact we had not gotten the response from the petitioner on our questions regarding how this tool was different than the tools that were already on the list. Just because of the time crunch we were under we had to take the vote ahead of that.

And so when the petitioner came back they were able to articulate that there are uses where this material is used instead of peracetic acid which was the material that the technical review said could be
substituted. So there are situations which the
petitioner could articulate where users are
using either both peracetic acid and this
material or whether they can use this and not
peracetic acid.

And the reasons for that, if I can
find them, hold on a sec. I'm waiting for it
to open on my computer. The reason is that
this material is used in situations where a
much shorter contact time is required than
peracetic acid. So it has to do with kind of
the processing conditions.

So are there any questions on that
topic?

CHAIRMAN MOYER: Hearing none,
the Chair would entertain a motion.

MEMBER HEINZE: So then we have
the annotation which we did talk about as a
committee. So I would draw your attention,
there are three parts to the annotation. So
the first part talks about use which our
annotation says this is for a secondary direct
anti-microbial food treatment and indirect food contact surface sanitizing.

And we're so specific in that, that the current materials are listed for indirect food contact surface sanitizing but in 2003 the SOB processing committee met or made a recommendation that said that that really did not reflect the original intent for the current listings of chlorine materials and certainly that's a matter that needs to be addressed.

But we wanted to be clear in our recommendation that this could be used for direct anti-microbial food treatment.

The second part of the annotation has to do with the residual chlorine levels in the water and again going back to the 2003 recommendation, this really stems from a concern that the Board had at the time about residual chlorine on food that consumers would consume and you know the belief that consumers maybe don't want to be eating bleach. That
really after further review is not relevant to this material. Once it comes in contact with the food it breaks down to citric acid and table salt. So we'll be having a discussion about removing that part of the annotation.

Then the third part of the annotation speaks to the citric acid that is used as part of the sodium chlorite solution, and we did feel that we wanted to make a note that the citric acid that they couldn't just use any citric acid, that they should use the citric acid that was allowed for use in organic, and that's the citric acid listed on 605(a). Any questions?

CHAIRMAN MOYER: Bea?

MEMBER JAMES: Katrina, in your recommendation form it says that under Section Category 1 No. 13, the manufacturing process employed in the production of sodium chlorite does not include any specific purification stats, heavy metal, lead and the final production as a result of their occurrence in
the starting material that are obtained from
the natural sources.

And I'm wondering what your
committee stats were on that.

MEMBER HEINZE: We wanted to be
transparent. That was reflected in the
technical review that we received. Our
evaluation of that was that that is no
different than the materials currently on the
list. This material is processed very similar
to the materials already on the list so we
felt that that was equivalent to materials
that previous Boards had chosen to list.

And as a scientist, I'm searching
for the words to say this the right way, I
felt that this was a very technical evaluation
of the situation. Firstly speaking as a
scientist you're trained to say I'm 95 percent
certain within statistical allowance that this
is a true statement. I think that this is a
caveat statement, that in fact there is no
documented evidence that heavy metals are
there but because they couldn't find evidence
that they weren't there, they felt that they
had to make this statement. Does this make
sense?

CHAIRMAN MOYER: The Chair recognizes Joe.

MEMBER SMILLIE: I agree. Is the annotation going too far in specifying the
use of the citric acid?

CHAIRMAN MOYER: The Chair had the same question. It seems very, very
complex as an annotation.

MEMBER SMILLIE: Yes, well you know I was tutelaged by Miss No Annotations
Chair and man that's a lot of annotations.

And I'm just wondering we're asking them to
use a citric acid and I'm just wondering is that going too far? Or is that what they
petitioned for?

MEMBER HEINZE: That is not what they petitioned for. I did want to say, and
I need process help on this piece, in informal
conversations it is the intention of the
Handling Committee to recommend that we not
have the second part of the annotation. We
feel that it is perhaps confusing and not
necessary for this material. So in my motion
can I just drop that or is that something that
since it's a change from our recommendation
that we need a motion to do.

CHAIRMAN MOYER: Comment from Dan
and then Joe.

VICE CHAIR GIACOMINI: If that's
agreed to by the committee you have not yet
made your motion.

MEMBER HEINZE: We have not
formally voted on that.

CHAIRMAN MOYER: Joe?

MEMBER SMILLIE: I would like to
make a friendly amendment to remove that
annotation.

CHAIRMAN MOYER: I think you need
a response from Katrina before Dan can--

VICE CHAIR GIACOMINI: We haven't
had a motion. There's no motion currently on the Board.

CHAIRMAN MOYER: Right Dan. It does not need to be put in the form of a friendly amendment, just make your suggested language change.

MEMBER HEINZE: Does anyone on the Handling Committee disagree with removing that when I make my motion?

MEMBER DAVIS: I'm okay with it.

CHAIRMAN MOYER: Gerry?

MEMBER DAVIS: Just to make sure I understand. The reason for taking that out is because unlike the sodium hypochlorite materials that required that type of annotation, this material is different in that the chlorine is deactivated and converted to chloride as part of the usage of the material. Do I understand it correctly?

MEMBER HEINZE: Yes and no. Yes, I think there is some debate when we consider the sanitation for the other materials and
whether it's necessary for them as well. It was compromised language as I went back and re-read and re-read and re-read the 2003 recommendation yesterday. It was compromised language to reflect that the Board was uncomfortable with having chlorine materials on the list but felt very strongly that having them on the list from a food safety perspective was very important. So they wanted an annotation to reflect that perspective, I don't think it serves any technical value. It was more of a message. Does that make sense?

CHAIRMAN MOYER: Dan?

VICE CHAIR GIACOMINI: It seems from what I'm hearing the committee say in their recommendation that this actually may be one of the more preferred chlorine compounds to be using. If that is the case, I'm confused with any annotation that is more severe and more strict than what is listed currently under chlorine materials in general.
And I would also like to ask the program in the listing of this item would this go in as a separate listing or would this just be a new item listed within the parentheses of chlorine materials as it's currently listed on the list?

CHAIRMAN MOYER: Comment from the program?

MEMBER DEMURI: I believe it would just go in as its own separate item.

CHAIRMAN MOYER: Thank you.

MEMBER HEINZE: To answer your first question Dan, to be honest when I reviewed this material and tried to be complete in my evaluation, I biased towards trying to be respectful of a previous Board's recommendation and as we discussed this morning got public comment on Monday. I think we've come to understand that recommendation better. And to make sure our recommendation today not to have that annotation.

MEMBER DEMURI: So how much of
the annotation are we looking to eliminate

MEMBER HEINZE: We haven't
discussed part 3, the citric acid. Joe had
raised the question that whether we were too
restrictive in that portion. Are there any
comments on that piece?

To your point it is a better
alternative than other things on the list so
I think Joe's point is well taken that perhaps
this is too restrictive. I would support that
change but I'm interested in other
perspectives.

CHAIRMAN MOYER: Tina?

MEMBER ELLOR: Can this be
acidified with others acids that are on the
list and if it can would there any downside to
using those other listed acids?

MEMBER HEINZE: That matter is
addressed in either the technical review of
the petition. Let me check real quickly.

CHAIRMAN MOYER: Kevin?

MEMBER ENGELBERT: Could you
repeat, I can't remember whether you said this or not but under chlorine materials there's calcium hypochlorite, chlorine dioxide, sodium hypochlorite and there's also peracetic acid, peroxyacetic acid and hydrogen peroxide. Did you receive comments from end users of these products saying that they needed another, as you said yesterday, tool in their tool box?

MEMBER HEINZE: We did receive comment from end users. I do believe we did receive some public comments supporting this.

CHAIRMAN MOYER: Any other questions or comments? Jennifer?

MEMBER HALL: Yes. Katrina, if you could please and I don't mean to belabor this but if you could just reiterate for me how it is better than current options.

MEMBER HEINZE: Certainly. It is used at a lower concentration, at a very low concentration because of the dilution factor. And then also its breakdown products are citric acid and table salt. I'm wondering
1 Geoff from the guidance whispered in my ear,
2 I was wondering the petitioner could you
3 answer the question about whether it can be
4 acidified with other things?
5             CHAIRMAN MOYER:   If the
6 petitioner will come forward the Board will
7 recognize them. Just please state your name.
8             MR. DAHLMAN:    Yes. The current
9 FDA listing for sodium chlorite allows for any
10 grass acid to be used. We currently use
11 sulfuric acid ad sodium acid sulfate as well
12 as citric acid, so the preferred option here
13 would obviously be the citric acid because
14 it's already listed.
15             CHAIRMAN MOYER:   A question from
16 Bea and then Julie.
17             MEMBER JAMES:   Well as long as
18 you're up here. We received public comment
19 where there was a concern that the toxicology
20 reports in the recommendation and in the
21 review were not adequate and I'm wondering if
22 you could or if you have any information about
environmental or human health effects that might educate me a little bit more.

MR. DAHLMAN: As far as any studies that I've seen, the breakdown components create no chloromethanes or chlorohalogen. There's no environmental effects that we have seen. The breakdown components are benign.

CHAIRMAN MOYER: Does that satisfy your answer? Okay. Katrina?

MEMBER HEINZE: Both the technical review and the petition provided an abundance of research papers supporting that there aren't any environmental, negative environmental impacts.

There was one to Jennifer's question that I forgot to bring up that the technical report did mention that a downside of the other chlorine materials on the list is that they can form trihalomethanes which are you know not viewed positively from an environmental impact. This material does not
form those.

CHAIRMAN MOYER:  Do we have any other questions for the petitioner?  Jennifer?

MEMBER HALL:  I guess my question for you then is, is this your company's attempt to provide industry with a better alternative than is presently there.

MR. DAHLMAN:  I don't necessarily say it's better but, like Katrina said, it's another tool in the toolbox.  It has its application along with peracetic, for example, in a poultry processing plant; acidified sodium chlorate has a much shorter contact time so when birds are being processed on the line you can spray it and make that quick kill, get your knockdown of the pathogens and move on.  Whereas the peracetic is more used in the chiller bath when the birds are soaking and cooling down half of that processing step and the peracetic is used for longer contact times.

So they both have their
1 application.

 MEMBER HALL:   Thanks.

 CHAIRMAN MOYER:   Gerry?

 MEMBER DAVIS:   And I apologize ahead of time in case the answer to this question was in the material. But are there other suppliers of this material besides your company?

 MR. DAHLMAN:   I believe so, yes.

 MEMBER DAVIS:   As far as you know is there any hindrance in the marketplace to keep other companies from supplying this material to the industry?

 MR. DAHLMAN:   No.

 CHAIRMAN MOYER:   Steve?

 MEMBER DEMURI:   Yes. Gerry, I can confirm that there definitely are other suppliers as we've looked into it.

 CHAIRMAN MOYER:   Are there any other questions for the petitioner?

 Thank you for your time.

 Appreciate your help in clarifying those
questions.

VICE CHAIR GIACOMINI: I have one more for the petitioner. This product also has uses in animal agriculture, I understand you plan to come forth and bring forth a livestock petition and it involves direct contact with the animals. Do you have any data that there is any problem at all with that direct contact that we would be interested in?

MR. DAHLMAN: No, not to my knowledge. That petition will be coming soon and we've looked at both options for peracetic and ASC specifically in poultry drinking water and are working on that right now.

CHAIRMAN MOYER: Katrina?

MEMBER HEINZE: I wanted to get back to the citric acid part of it. No one has any questions for the petitioner.

CHAIRMAN MOYER: Thank you, you're excused. Thank you Katrina.

MEMBER HEINZE: I thank the
petitioner for his comments. I think given
that I do think it is appropriate to have a
petition that limits the acidifier, I'm not
sure that's a word, to citric acid.

CHAIRMAN MOYER: Tina?

MEMBER ELLOR: I think the
annotation may not be necessary as what's on
the list will limit what acidifier you can
use. So it would seem more appropriate, if we
need an annotation which I really don't think
we do because if it's not on the list you
can't use it as an acidifier, to say limit it
to listed acidifiers. Oh Julie's got a
problem with that, sorry.

CHAIRMAN MOYER: Julie?

SECRETARY WEISMAN: Yes. I don't
believe that's true. The list that exists
where citric acid is, is a list of things that
can be used in an organic product in the 5
percent of an organic product. If this
material is listed this way, they are not
limited particularly; in other words, they're
not limited to using other things on the list because this is not an organic product.

CHAIRMAN MOYER: Joe?

MEMBER SMILLIE: I think the process we should follow is that I will make a motion to accept this. Then I'll get a second, then we'll have a discussion and if there is friendly amendments we'll make them then and then we'll vote.

So hearing no disagreement, I'd like to make a motion to accept the petition with the annotations as is in front of us.

CHAIRMAN MOYER: Thank you, Joe. Is there a second to that motion? We have a motion on the floor.

MEMBER DEMURI: I'll second.

CHAIRMAN MOYER: Steve seconds that motion. Discussion please.

MEMBER HEINZE: I'd like to offer a friendly amendment to remove the sentence that starts with "Residual chlorine" and ends with "water act."
MEMBER FLAMM: Second.

CHAIRMAN MOYER: We had a friendly amendment and it was accepted. Valerie, if you can or Joe if you want to read or somebody read exactly what we're going to be voting on. Joe since it's your motion. Do you need new glasses? Steve, do you want to read it?

MEMBER DEMURI: I can read it.

The motion is to accept a listing for sodium chlorite acidified on 205.605(b) with the annotation, secondary direct antimicrobial good treatment and indirect food contact surface sanitizing. Citric acid used must meet requirements as listed in 205.605(a).

CHAIRMAN MOYER: Is that the amendment, the friendly amendment that you have made Katrina?

MEMBER HEINZE: Yes.

CHAIRMAN MOYER: Thank you.

Julie?

SECRETARY WEISMAN: Can I raise a
discussion item separate than this amendment
having to do with the last part of the
annotation? Is that appropriate or do I have
to raise it as a friendly amendment and then
we have discussion? Okay.

I propose a friendly amendment
that we remove the last annotation as well.

MEMBER SMILLIE: Second.

CHAIRMAN MOYER: Okay. We have a
motion with two friendly amendments on the
floor. Valerie, if you can strike the last
line. Gerry?

MEMBER DAVIS: What if I don't
agree with that? Where do we address that?

CHAIRMAN MOYER: Discussion
please. I just had her draw a line through it
so we could see what we were looking at.

Gerry, go ahead.

MEMBER DAVIS: I need to have it
explained to me why we don't need that.

CHAIRMAN MOYER: Julie?

SECRETARY WEISMAN: Yes. 605(a)
is a list of ingredients that can be used up
to 5 percent in a product that's labeled
organic. Okay. It is not a list of
ingredients that are ingredients in materials.
And Katrina can state it more clearly.

CHAIRMAN MOYER: Katrina?

MEMBER HEINZE: I wasn't going to
say it more clearly. I was going to offer a
friendly amendment on top of yours, I'm sorry,
to add an annotation that says "acidified with
citric acid only" because I think that
addresses the acidified question.

MEMBER SMILLIE: Second.

CHAIRMAN MOYER: I heard another
friendly amendment and a second. Do you accept
that? Yes. Okay. Could we Valerie please,
I know you're having trouble keeping up with
this it's not easy, if you could add the
language that Katrina just mentioned so that
the Board can view that. Acidified with
acetic acid only. I'm sorry citric acid only.
Thank you. Gerry, then Dan then Katrina.
MEMBER DAVIS: It's a follow up to what just happened. I'm taking it that the issue you had with the original sentence, citric acid used must meet requirements as listed in 205.605(a) is the 205.605(a) part of that, not the idea of acidifying with citric acid? Okay.

CHAIRMAN MOYER: Thank you, Gerry. That is correct. Dan?

VICE CHAIR GIACOMINI: Yes, we now have an annotation that I understand. And the way it had been written I would be very concerned that we would have someone coming in and saying okay but you can only acidify at the 5 percent level. And I don't think that's where we wanted to be going.

And if we're just saying you know whatever the manufacturer says is that you need to acidify, this is what you're going to acidify with, we know that's already something they use. Like I say it's something I understand and I think it's very reasonable.
CHAIRMAN MOYER: Program has a comment. Barbara?

MS. ROBINSON: You know a simple way to fix this is that currently under 605(b) where we have chlorine materials and the annotation reads "disinfecting and sanitizing food contact surfaces" and then it has the business about residual chlorine levels.

We were discussing this and we said what you could do is just amend that particular category to read as follows: "Disinfecting and sanitizing food and food contact surfaces." Then just add this material to the end.

CHAIRMAN MOYER: Thank you, Barbara. Katrina then Joe.

MEMBER HEINZE: We appreciate the suggestion. I guess a process question we didn't feel that was within the scope of this petition, that that topic was addressed in the 2003 recommendation and since for this specific petition our technical review only
addressed the sodium chlorite acidified, we
greeted that our recommendation needed to be more
narrowly focused.

MR. MATTHEWS: The only thing
that we're saying here is for example this
category is already used for the antimicrobial
properties for sprouts so you know direct with
food is already covered in this. It's not
very explicit so if you added the words
"related to antimicrobial" and then added the
substance at the end, that may be a solution.

I'm not saying that it definitely
is but right now the three that are already
there would be allowed for contact with the
food. We've already been allowing that and
sprouts is the example that I can think of
readily.

So all we're saying is that if you
just wanted to clarify it with the sanitation
plus add the material you could do it that
way. Otherwise, you would have to do it as
a separate item which is again up to you as to
how you want to recommend it.

CHAIRMAN MOYER: Joe?

MEMBER SMILLIE: I agree with Katrina. I think we should move forward with the process we have and the program certainly can you know add those to the regulation. But I think we should stick with what we're doing right now rather than starting all over again because there may be some unforeseen interpretation of that that we're not dealing with. If we stick with this product and this annotation and get it in, we can deal with the other later.

CHAIRMAN MOYER: Dan, you had a comment?

VICE CHAIR GIACOMINI: Thank you.

CHAIRMAN MOYER: I think you addressed Dan's comment. Kevin?

MEMBER ENGELBERT: I have two questions and I apologize for being late with them. They're probably more appropriate for the petitioner but maybe the committee can
handle them. I don't want to make an assumption but I'm assuming that this material is relatively new and that's why (1) it wasn't already on the list and (2) that it's not recognized as grass, generally recognized as safe.

CHAIRMAN MOYER: Yes. Katrina?

MEMBER HEINZE: Both those statements are correct, so it is relatively new and it goes to the new grass process where you self recognize and have the science behind it which the petitioner supported.

CHAIRMAN MOYER: Program.

Barbara?

MS. ROBINSON: If you leave it in as a separate category you should leave your residual chlorine level statement back in there.

MR. MATTHEWS: Because this is going to be sprayed in but then there's going to be runoff so the runoff would have to meet the safe water drinking. That's what you've
1 got in here for the rest. I mean you can use
2 higher concentrations but with the residual
3 water it has to be brought down. So if you're
4 going to have a separate section it's our
5 belief you would have to have that statement
6 in there.

7 CHAIRMAN MOYER: Okay. Yes, we
8 have a motion on the floor. We have several
9 friendly amendments that have already been
10 made and accepted. I think we're going to
11 need somebody on the Board to make another
12 friendly. Dan?

13 VICE CHAIR GIACOMINI: I just
14 have-- before I'm comfortable in how I want to
15 go here, by adding food to the existing
16 annotation, that would by no means change the
17 current allowed usage of the three chlorine
18 items?

19 MR. MATTHEWS: No, because we've
20 already been allowing it to go directly onto
21 food and then the example that comes to mind
22 real quickly is sprouts. And when you have
sprouts you do use a much higher concentration and then you have the safe drinking water level as the residual water.

CHAIRMAN MOYER: Thank you, Richard. I believe the Board would like to recognize the petitioner for one more moment if you could maybe shed some light on this as we struggle with the language.

MR. DAHLMAN: Dan Dahlman EcoLab. The chlorine residual is very confusing, especially with this substance. The residuals are broken down from two components, UV light and organic load, so the second and literally within seconds of contacting organics, this stuff breaks down. It's gone. You won't find it.

So adding that chlorine residual level annotation really is just going to confuse certifiers I believe.

CHAIRMAN MOYER: Thank you for that comment. Tina, then Joe.

MEMBER ELLOR: So if I understand
you correctly there essentially is no chlorine residual with this substance?

MR. DAHLMAN: Not after breakdown no. Once it contacts this organic load and hits UV light, you'll be hard pressed to find it.

CHAIRMAN MOYER: Joe and then Valerie.

MEMBER SMILLIE: That was my understanding yesterday. That was my complete and total understanding. And that's we moved to friendly amendment. That's what I understood about this material. There isn't a chlorine residue.

CHAIRMAN MOYER: Thank you, Joe. The Chair recognizes Valerie Frances.

MS. FRANCES: I just would like him to restate the specific breakdown products.

MR. DAHLMAN: No problem. With citric acid obviously citric acid and table salt and water, you have the chloride from the
table salt and then there's a chlorate and a chlorite ion I believe but those are both under 0.1 ppm. So to use an HPLC method analysis you're not going to find it. And furthermore to run that kind of test you're in the $50,000 dollar range just to run that test.

CHAIRMAN MOYER: Okay. Thank you. We have another question or a comment from Richard Matthews.

MR. MATTHEWS: The explanation seems to take away our concern.

CHAIRMAN MOYER: Thank you. Dan, you had question?

VICE CHAIR GIACOMINI: No.

CHAIRMAN MOYER: Katrina?

MEMBER HEINZE: I appreciate all the discussion. I think too there's a lot of puzzled looks around the table so I think where we are right now is that we have a motion to list sodium chlorite acidified for secondary direct antimicrobial food treatment.
and indirect food contact surface sanitizing acidified with citric acid only, and I just want to reiterate, this is a lot of technical conversation so I just want to go back to where I started. This is a good addition to the food safety tool kit and is a better option than a lot of things currently on the list despite its complicated annotation.

CHAIRMAN MOYER: Thank you Katrina. We have a motion on the floor and a second and we have friendly amendments that have been approved and I would like to call for the vote unless there's further discussion. Gerry?

MEMBER DAVIS: Question for the petitioner. Does this material used as good contact substance could it replace the hypochlorite materials altogether in the industry?

MR. DAHLMAN: Yes. I would say yes, it could. They're all multiple interventions, they all have their
applications and obviously if you had discussions this is a much better alternative when you consider the carcinogenic effects of chlorine.

CHAIRMAN MOYER: Thank you to the petitioner. Okay. We have a motion on the floor, we have a second. We have friendly amendments that have been addressed and accepted. I would like to call a vote.

Before I do that, is there a conflict of interest at all in this material? Hearing none we will start the vote with Jennifer?

MEMBER HALL: Yes.

CHAIRMAN MOYER: Okay. Thank you for allowing the secretaries to catch up. Jennifer voted yes. Bea?

MEMBER JAMES: No.

CHAIRMAN MOYER: Kevin?

MEMBER ENGELBERT: No.

CHAIRMAN MOYER: Hue?

MEMBER KARREMAN: Yes.
1  CHAIRMAN MOYER:  Joe?
2  MEMBER SMILLIE:  Yes.
3  CHAIRMAN MOYER:  Tracy?
4  MEMBER MIEDEMA:  Yes.
5  CHAIRMAN MOYER:  Barry?
6  MEMBER FLAMM:  Yes.
7  CHAIRMAN MOYER:  Tina?
8  MEMBER ELLOR:  Yes.
9  CHAIRMAN MOYER:  Gerry?
10  MEMBER DAVIS:  Yes.
11  CHAIRMAN MOYER:  Katrina?
12  MEMBER HEINZE:  Yes.
13  CHAIRMAN MOYER:  Dan?
14  VICE CHAIR GIACOMINI:  Yes.
15  CHAIRMAN MOYER:  Julie?
16  SECRETARY WEISMAN:  Yes.
17  CHAIRMAN MOYER:  Steve?
18  MEMBER DEMURI:  Yes.
19  CHAIRMAN MOYER:  And the Chair
20  votes yes.  Mr. Vice Chair, the vote?
21  VICE CHAIR GIACOMINI:  Two no, 12
22  yes, one absent.
CHAIRMAN MOYER: Thank you Mr. Vice Chair. With that vote sodium chloride acidified is recommended to be put on the list with the annotation as stated. Thank you. Before we move on to the next item I would like to step back to the vote on propionic acid under the livestock committee because Julie Weisman has recognized that she should have recused herself from that vote which will change the vote but not the outcome of that vote and I suggest we go back and acknowledge that. So if both the Secretary, the Executive Director and the Vice Chair could make that adjustment on their vote sheets I would appreciate it. It does not change the outcome of the vote. MS. FRANCES: Question. CHAIRMAN MOYER: Question from Valerie and then Dan. MS. FRANCES: Is there a need to redo the vote entirely?
CHAIRMAN MOYER: I don't believe so because we're all still seated here and I don't think that's an issue. If it had affected the outcome of the vote I would agree with you. Dan?

VICE CHAIR GIACOMINI: The attested vote is 12 no, zero yes, two absent, one recused.

CHAIRMAN MOYER: Julie?

SECRETARY WEISMAN: I just sincerely want to apologize for dragging everybody down.

CHAIRMAN MOYER: No need Julie, you're doing a lot of work here and it's hard to keep everything straight on what we're doing.

MR. MATTEWS: Didn't you already do that originally? There's 14 of you there and if you got one recusal--

SECRETARY WEISMAN: We voted twice. It got voted as a livestock material and we didn't catch it until we went on as a
handling material.

MR. MATTHEWS: Oh okay. Thanks

for the clarification.

CHAIRMAN MOYER: Certainly,
you're welcome Richard.

What I plan to do now is we are
ahead of schedule, we're going to follow up
with one more material this morning, propane,
and then we will be taking an extended lunch
break to make sure that all the petitioners
for the afternoon items are in the room. We
knew that the petitioner for sodium chlorite
acidified was in the room so we moved forward
with that. But I think we're going to move
forward with this one more material on the
recommendation of the Handling Committee and
then we will be breaking and get back on
schedule to allow all the petitioners or folks
that were looking for that in the afternoon to
get on board. Question by Joe?

MEMBER SMILLIE: Procedural

question. Yesterday we moved lecithin on 606
to the top, I'm just wondering beforehand if we're going to follow that same format.

So that we would be dealing with the removal of lecithin from 605 then we would be dealing directly right after it with the addition of lecithin 606.

CHAIRMAN MOYER: It's the Chair's opinion that that does make sense. It worked yesterday and the items are closely enough linked that unless the Handling Committee has a problem with that I think that's an excellent--

MEMBER ENGELBERT: It's fine with me.

CHAIRMAN MOYER: Great.

MEMBER ENGELBERT: No, I think that is a very good suggestion. Since we are running ahead of schedule that would also—we hope the lecithin petitioners will be here for the first discussion and that will give the petitioners of the other items more time to catch up with the advancement of the
agenda.

CHAIRMAN MOYER: Joe? Oh I'm sorry, the chair recognizes Andrea Caroe.

Andrea?

MS. CAROE: Thank you.

CHAIRMAN MOYER: Could you please make sure the mic is turned on and then state your name for the recorder.

MS. CAROE: I'm a past member of this Board and I just want to offer you a suggestion as you're discussing these items and getting ready to vote on them procedurally that I think will make things go a little bit faster for you.

As the committee brings their recommendation in, the committee voted recommendation should be a motion immediately. Then your discussion, then your amendments and then your vote. You're doing a lot of discussion before you actually have a motion the table and it's affecting the motion that you want to put on the table but that is still
in committee; you haven't brought it to the
table yet.

So just bring it to the table, as
imperfect as it may be, you have the
opportunity during the discussion to make
those amendments. It just will go a lot
easier. I see you guys spinning trying to
perfect if before you put it on the table and
you don't have your committees together here.
So I just offer that for what it's worth.

CHAIRMAN MOYER: Thank you. The
Chair appreciates that comment.

Moving forward, Handling
Committee, Steve.

MEMBER DEMURI: Thank you Mr.
Chairman. I move that we list propane CAS
74.986 to the national list under 205.605 (b).

SECRETARY WEISMAN: Second.

CHAIRMAN MOYER: We have a motion
and a second. Is there discussion on this
material? Hearing none, I will call for a
close.
VICE CHAIR GIACOMINI: Question, Mr. Chairman, I have a question. I would like the statement from the committee on what their recommendation is on this.

MEMBER DEMURI: Certainly. Our committee recommendation was an unanimous vote to not list propane.

CHAIRMAN MOYER: Thank you, Steve. Now we call for the vote. Is there a conflict of interest on this material? Hearing none we'll move forward with the vote starting with Bea?

MEMBER JAMES: No.

CHAIRMAN MOYER: Kevin?

MEMBER ENGELBERT: No.

CHAIRMAN MOYER: Hue?

MEMBER KARREMAN: No.

CHAIRMAN MOYER: Joe?

MEMBER SMILLIE: No.

CHAIRMAN MOYER: Tracy?

MEMBER MIEDEMA: No.

CHAIRMAN MOYER: Barry?
MEMBER FLAMM: No.

CHAIRMAN MOYER: Tina?

MEMBER ELLOR: No.

CHAIRMAN MOYER: Gerry?

MEMBER DAVIS: No.

CHAIRMAN MOYER: Katrina?

MEMBER HEINZE: No.

CHAIRMAN MOYER: Dan?

VICE CHAIR GIACOMINI: No.

CHAIRMAN MOYER: Julie?

SECRETARY WEISMAN: No.

CHAIRMAN MOYER: Steve?

MEMBER DEMURI: No.

CHAIRMAN MOYER: Jennifer?

MEMBER HALL: No.

CHAIRMAN MOYER: And the Chair votes no. Mr. Vice Chair?

VICE CHAIR GIACOMINI: 14 no, zero yes, one absent.

CHAIRMAN MOYER: Thank you Mr. Vice Chair. With that vote the motion to list propane on the national list failed.
This Board will now stand in recess until one o'clock so we have an extended lunch period. And we'll be back then to get back on schedule. Thank you.

(Whereupon, the above-entitled matter went off the record at 11:09 a.m. and resumed at 1:06 p.m.)

CHAIRMAN MOYER: Okay. If Board members could all take their seats and the members in the back of the room could quiet down.

Okay. Board Members we're back in session. We have a quorum, we're seated and we're ready. At this point we're going to turn the meeting over to Steve DeMuri as chair person of the Handling Committee to continue with the materials on your list. Steve, I believe we're on lecithin bleached.

MEMBER DEMURI: That is correct.

Thank you Mr. Chairman. We're on the last 205.605(b) item, lecithin bleached, and to
that I move that we remove lecithin bleached
from the national list 205.605(b).

MEMBER KARREMAN: Second.

CHAIRMAN MOYER: I'm sorry, who
seconded that?

MEMBER KARREMAN: Me.

CHAIRMAN MOYER: Hue gave us the
second. Thank you. We have a motion on the
floor and we have a second and the floor is
now open for discussion. Are there questions
or comments. Steve?

MEMBER DEMURI: Yes. Ms. Julie
Weisman here is the expert on lecithin on this
petition and she would be happy to answer any
questions that your Board might have.

CHAIRMAN MOYER: We have a motion
by Steve, a second by Hue Karreman and the
floor is now open for discussion. Joe and
then Tina?

MEMBER SMILLIE: We received a
lot of comments on this and I went through all
the comments and I can't read all of them but
there was a consistent strain in the comments that opposed removal. There was a lot of comments as everybody's heard from people who supported the motion to remove. A lot of comments. Some of them were very short and others were more lengthy. There was a lot of short ones.

And so that's good and we looked at all of those but we also looked very carefully at the ones who did opposed the removal. And they're pretty consistent. I won't say 100 percent but they're pretty consistent, up in the 90s, that basically these companies, and I'm not going to read their names, but basically we used the de-oiled lecithin and several made with products that lecithin is an important ingredient should not be replaced by standard lecithin for the reasons stated above. We request the oil lecithin continue to be listed as an allowable ingredient.

The comments are all in that vein,
to deny companies the right to use the oil, powered, bleached lecithin will result in the loss of many organic products. So I think that the arguments against removing lecithin from 605 are based on the need for a de-oiled lecithin. So even though right now the motion on the table is to consider removal, we really have to in our responsibility look at this as a package and the package will be presented in two parts. But the package is removal of lecithin from 605(b) and the addition of de-oiled lecithin to 606.

So it really is a package so if we act to remove it from 605(b) I think everyone votes with their conscience but we also need to add it to 606. So I just wanted to put that over-arching comment out there for discussion also as well as the motion on the table to remove lecithin.

And one of the commenters I thought gave us a very useful chart that I really just love seeing. Basically. They
listed the categories of their products and
the form of lecithin used, and then the third
column talked about the organic form
available. And so for some of their products
the liquid, the organic forms available, they
use it. For others they needed a de-oiled and
organic wasn't available and they couldn't use
it.

So the company has done their due
diligence and sometimes it works and sometimes
it doesn't. So I would ask the Board really
as they go through this particular motion to
remember that there is a motion going to
follow to add de-oiled lecithin to 606 and we
really have to look at the two in a certain
sense together even though we vote on them
separately.

CHAIRMAN MOYER: Thank you, Joe.

Other questions or comments. Dan?

VICE CHAIR GIACOMINI: Thank you

Mr. Chairman. Thank you, Joe, for recognizing
and to bring right to the table that this is
a package because I think that's very critical and important for us to recognize. And it's in that structure of the package that I think there's a couple of things that we need to think about.

Right now all forms of lecithin are allowed from all sources. In taking (b) off and restricting (b) listing, No. 1, I heard there was a number of comments discussing wanting to take off the soy lecithin products. There is an organic soy lecithin available, please do not allow hexane processed lecithin in our products.

Between that and the fact that we've really had no information to evaluate on the alternative sources, I have a hard time blanket taking off, you know, totally excluding those other sources. I just don't think it was part of what we adequately reviewed.

The other thing is that and what we're seeming to do in this package is that we
are moving bleached lecithin from 605(b) to 606. This Board removed bleached lecithin, even de-oiled bleached, and said that it was a 605 substance. We're now saying that it's 606. If the Board wants to say that, that's fine but I think we need to be clear that we are not restricting the use of de-oiled bleached lecithin and we're not outlawing bleached lecithin in removing bleached lecithin totally from the list.

CHAIRMAN MOYER: Joe?

MEMBER SMILLIE: Yes. Well let's go through this carefully. We're removing bleached lecithin from 605, we're not putting bleached lecithin on 606, we're putting de-oiled lecithin on 606. Bleached, unbleached, dry, liquid.

VICE CHAIR GIACOMINI: Those who have not been part of all this discussion will just see bleached coming off the list, and I think we just need to be careful in how we describe what we're doing that we're not going
to create a problem down the road of even
maybe some certifier saying bleached lecithin
is synthetic, I can't certify that.

CHAIRMAN MOYER: Katrina then Bea.

MEMBER HEINZE: Sorry, I was
doing the school thing where you keep your
hand up until the teacher calls on you.

Valerie, do you have the green and
red lecithin chart that you could put up. As
with every other commenter I'm glad we're
talking about this as a package. I'm
wondering if we're, I'm not good at analogies,
if we're starting at the front of the problem
instead of the end of the problem.

It seems like all the information
we have, and I am grateful for all the public
comment because I feel like we've learned a
lot. What we want to do is start with once
we're done with this process and done with our
motions and voting, what do we want to remain
on the list? And then work backwards from
there to figure out what our annotation should say.

So I'll put a stab out here. My understanding is that what we would like to have stay on the list is that red box on the right in the middle, the bleached de-oiled lecithin as well as the unbleached de-oiled lecithin so the red box underneath it. And we haven't talked about this yet but I also believe that we've gotten some comments with regards to the source of the lecithin, some comments wanting the non-soy options available, in which case that would be for all forms is the question I'm not totally clear on that.

So if we identify what on this chart we want on, then it seems like we could in a more straightforward process say, okay, which annotations would do that, where on the list would be my suggestion.

CHAIRMAN MOYER: Bea, you had a question or a comment?
MEMBER JAMES: Just a point of clarification. The actual petition that we have is for the removal of lecithin correct from 605?

CHAIRMAN MOYER: Bleached.

MEMBER JAMES: Bleached. Is there a petition for the addition of de-oiled and if there is not a petition is it under our purview?

SECRETARY WEISMAN: I'll answer that. Can I?

CHAIRMAN MOYER: Let me get a comment from the program first Julie. Bob Pooler please.

MR. POOLER: Okay. You have two petitions for removal. You have a petition to remove the bleached lecithin from 605, you have a petition modified I believe yesterday to remove fluid unbleached lecithin. I understand the petitioner accepted as a friendly amendment to have the fluid to be changed to de-oiled. Not correct? All right
1  go ahead Julie you can continue.
2   SECRETARY WEISMAN:  Okay.
3  Technically what was agreed to, and I guess
4  the petitioner will tell me if I'm
5  interpreting it wrong, was that the friendly
6  amendment was instead of the petition being
7  for the removal of fluid lecithin, because
8  that's actually not the way the listing is
9  annotated, they agreed to the friendly
10  amendment that the current listing of lecithin
11  be amended to read lecithin de-oiled forms
12  only.
13   MR. POOLER:   Okay, if I can
14  continue. But the second petition was for the
15  unbleached sources.
16   SECRETARY WEISMAN:  I'm talking
17  about the second petition. The first petition
18  is still for removal from 605(b).
19   MR. POOLER:   Right. And that
20  refers to the bleached.
21   SECRETARY WEISMAN:  And that
22  refers to what is listed right now as lecithin
bleached. And that is still for removal.

CHAIRMAN MOYER: Katrina?

MEMBER HEINZE: I'm noticing some frowns across from me so maybe just to clarify it. We have two petitions, removal of lecithin bleached from 605(b) with all the changes yesterday, a petition to change the annotation on 606 from lecithin unbleached to lecithin de-oiled forms only. Does that help?

Okay.

CHAIRMAN MOYER: Further discussion. Kevin?

MEMBER ENGELBERT: So that means under 606 the de-oiled can be either bleached or unbleached and even though in the diagram anything that is bleached is considered non-organic.

SECRETARY WEISMAN: No, look at the diagram, Kevin, that's not true.

MEMBER ENGELBERT: Okay.

SECRETARY WEISMAN: It's not the bleaching that makes it -- okay.
MEMBER ENGELBERT: It's the de-oiling, I wanted to be clear on that. That's all yes.

CHAIRMAN MOYER: Katrina?

MEMBER HEINZE: Hence my suggestion that maybe we need to go backwards instead of forwards. I think if we figure out what we want to leave on the list, then we figure out how it should be classified, I think that might make the process less headache-inducing.

CHAIRMAN MOYER: Another comment from the program. Bob?

MR. POOLER: Should the annotation read "de-oiled unbleached lecithin" or less than whatever.

CHAIRMAN MOYER: No, Bob, I don't think that's what we want. I think we have it the way we want it. That's my understanding and I see the petitioner nodding his head in the gallery so I think we have the petition right. Okay. Tracy then Joe?
MEMBER MIEDEMA: The effect of this is that we are breaking from a prior Board's precedent that bleached belongs on 605. And as long as we're very open with fully acknowledging that that's what we're doing, then we can move forward.

CHAIRMAN MOYER: Thank you, Tracy. Joe?

MEMBER SMILLIE: Yes. I agree. We're fully aware of that. I also want to point out again that both the petitioner and those that, at least those present that objected, those that were here at this meeting that objected to the removal, are both comfortable with our approach.

CHAIRMAN MOYER: Julie and then Kevin?

SECRETARY WEISMAN: I wanted to follow up what Tracy's trying to make sure we all are clear about, that what we understand, would this Board understand any depth of information that we have now today about all
the forms of lecithin and how they're made and the different streams is way beyond anything that was understood at the time that these listing decisions were originally made and at least by the methods that are used now it's clear to me that it isn't whether bleached or unbleached that makes something synthetic or not synthetic.

CHAIRMAN MOYER: Kevin?

MEMBER ENGELBERT: I'd like another clarification if you would please. The de-oiled where the oil's been removed with either acetone or hexane, doesn't prevent this from being listed under 606? It's still an agricultural material?

CHAIRMAN MOYER: Julie?

SECRETARY WEISMAN: It prevents it from even being organic. You could not have an organic de-oiled lecithin in which acetone had been used. But the non-organic forms that are currently available, in other words those are not organic products.
MEMBER ENGELBERT: But it's still considered agricultural.

SECRETARY WEISMAN: Well, we're going to continue working on that. That was part of some of the open questions that the materials working group raised yesterday, that we should be reexamining.

CHAIRMAN MOYER: Okay. I have Dan and then Katrina and then Tracy.

VICE CHAIR GIACOMINI: As far as what you're looking at, Kevin, that's something that's beyond this discussion. That's part of the whole materials and all that other thing. I disagree a little bit with what Joe said about all what we've heard and everything. We still have a commenter in this room that yesterday was requesting alternative sources of non-organic lecithin besides soy. And we're eliminating those with this listing.

CHAIRMAN MOYER: Let me get Katrina's comment. Katrina?
MEMBER HEINZE: This is directed at Kevin's question. If the lecithin de-oiled is on 605(b), commercial availability does not apply. So if at a later date someone does develop a de-oiled lecithin that can be certified organic, they are not required to use it because the listing is on 605(b).

MEMBER ENGELBERT: Right. I wanted just to make sure that everything is out, that we're all clear on everything and everything is examined. That's all.

CHAIRMAN MOYER: Tracy? Joe, you were next.

MEMBER SMILLIE: Could you repeat your objection again Dan. I just want to be real clear on this.

VICE CHAIR GIACOMINI: We have commenters requesting a form of lecithin from non-soy sources that do not seem to be available in the marketplace in an organic form. We are not allowing them to be used in organic with this listing except for the de-
MEMBER SMILLIE: Well, partially true. My understanding and again this is just my understanding and we may want to start calling some of the petitioners and people who have also made comments to the mic to get it absolutely clear, and that's an option we have because they're in the room.

So the motion to remove removes from 605 any non-soy product. Agreed? Putting de-oiled on 606 allows for non-soy de-oiled product and, of course, if organic bleached or unbleached is produced, that of course is allowed. So we're not closing the doors, we're definitely making smaller doors, but they're not closed.

And from what I understand from the testimony, depending on the type of non-soy, that there is available fluid, non-soy lecithin currently.

CHAIRMAN MOYER: Dan and then Julie.
SECRETARY WEISMAN: I hate to bring this up to point this out, but the listing that we are contemplating would not allow any fluid non-organic lecithin.

MEMBER SMILLIE: So it would have to be organic?

SECRETARY WEISMAN: Right. Yes. Correct.

VICE CHAIR GIACOMINI: The comments that I understood hearing was that there is a wealth, there may be a wealth of organic source material canola sunflower, but I heard absolutely nothing that I remember saying that there is any lecithin from those.

MEMBER SMILLIE: Can I ask the petitioner to have the mic?

CHAIRMAN MOYER: That's what I was going to do right now is going to ask if Mr. Clarkson and if Dr. Szuhaj wants to come with him to the podium to address those concerns it might help the Board.

Please state your name or names
when you get to the podium.

MR. CLARKSON: Yes. My name is Lynn Clarkson, Clarkson Soy Products and I'd be happy to address your question in a broad statement for which I would ask calibration any errors I make from Dr. Szuhaj. If you're taking lecithin from a vegetable oil source, then no matter whether you're pulling it out of a sunflower, a canola, or a soy bean, the lecithins are interchangeable. There may be some very subtle distinctions but for all practical purposes they are identical.

If they're identical, then the functionality is the same. So if you're going to tell me you want a sunflower lecithin, that's the a serious argument? It can't be a functionality argument, it has to be an allergen argument.

We have several responses to that. One is we offer canola lecithin in fluid form, non-allergenic. Now why would you not typically to go a sun or a canola? Because
the lecithin yield coming out of the oil is roughly half of what it is coming out of soy.
Okay.

No. 2, the functionality of a de-oiled lecithin is identical to the functionality of a fluid lecithin. The distinction is in the convenience for the handler.

So anybody that wants to use a conventional path here, for any purposes, could use a de-oiled lecithin and put it in solution whatever they wanted to do.

And the third argument I would have is the organic label is preeminently an organic label. It is not an non-allergen label, it's not an anything else label.

So No. 1 we're offering the alternatives, the amendment to the rule--

VICE CHAIR GIACOMINI: You're offering organic alternatives to soy?

MR. CLARKSON: Yes. The amendment leaves the commercial world open to
conventional sources from whatever plant material. I don't see that you've restricted much of anything here but you have helped the development of organic ingredients. Any science question you want I'll be happy to ask Dr. Szuhaj to address because he's the guy I go to when we get beyond the mundane liberal arts sort of things that I deal with.

CHAIRMAN MOYER: Dan?

VICE CHAIR GIACOMINI: I don't want to touch the allergen issue, the debate of whether there's allergen particles in there, what the concentration is, what the detectability level is. I'm not touching it. What I will touch, and we are a marketing program, is consumer preference. And there seems to be a consumer preference for some of the alternative forms in some products. And I'm concerned of just cutting all of those off with this action.

MR. CLARKSON: Reasonable concern, we have fluid canola in addition to
fluid soy. We don't have on a regular basis fluid sun. There's millions of dollars that need to be spent in some development that we don't know how it will turn out. But by leaving the de-oiled lecithin option in, in the amendment to change 606, everything is available.

CHAIRMAN MOYER: Katrina?

MEMBER HEINZE: I do not have a question for the petitioner.

CHAIRMAN MOYER: Are there any other questions for the petitioner or Dr. Szuhaj? Kevin?

MEMBER ENGELBERT: Again, I want to be clear on one thing. So you're saying that the de-oiled could be put back into solution to provide a fluid option?

MR. CLARKSON: Yes, I am clearly saying that.

CHAIRMAN MOYER: Gerry has a question.

MEMBER DAVIS: Mr. Clarkson, then
if costs might be a determining factor for producers and handlers wanting to use non-organic de-oiled lecithin, is cost of handling that material and changing it back to a fluid, is there a cost advantage for them to do that rather than just buy the organic fluid from a company like yours?

MR. CLARKSON: If you can source conventionally you've got a cost advantage. When you de-oil, the acetone treatment is expensive. It can probably double the cost of a convention fluid lecithin but it would still be less expensive than your basic organic fluid lecithin.

CHAIRMAN MOYER: Are there any other questions from the Board to the petitioner? Hearing none, you gentlemen are excused. Thank you very much. Any other points of discussion? Katrina?

MEMBER HEINZE: I want to make sure, I agree with Dan that we do have public comment that expressed concern with us
removing non-soy sources of fluid lecithin
from the list and, despite the petitioner's
comments that there is perhaps this re-
fluidizing of the de-oiled, he obviously
benefits from that perspective. And I'm
wondering if either of the public commenters
who commented on the need for non-soy sources
who could give us an alternate perspective to
make sure that we've heard both positions.

CHAIRMAN MOYER: Are any of the
commenters who commented on non-soy sources
available for comment? Okay. If you approach
the podium and give your name.

MR. HERMAN: I'm Zareb Herman
from the Haynes Celestial Group and just to
clarify a point that has come up. Can you
hear me all right? Okay. I believe Mr.
Clarkson said that someone could take a de-
oiled lecithin and put it back into solution
and use it as a liquid although I'm not
personally aware of de-oiled sunflower or de-
oiled canola being available but I haven't
looked into it because if it's an allergen concern then you're going to want to use a non-soy source. And so I personally don't know how that would work because I'm not aware that it's available, those non-soy forms are available as de-oiled.

So I just thought I'd clarify that point. I know you're kind of in a hard place here.

In terms of my own company I mean we did some R&D with a facility that was insisting on using liquid sunflower lecithin but we are currently manufacturing at another location and for our own personal interests we can continue manufacturing there but not move it as we were looking into. So I don't want that you know I'm okay with it representing my company.

CHAIRMAN MOYER: Katrina?

MEMBER HEINZE: So if the result of our actions today was that there was would be no lecithin listed on 605(b) and lecithin
de-oiled was listed on 606, that would be acceptable to you?

MR. HERMAN: Yes. To the interests of my company and the others that I am representing here today.

MEMBER HEINZE: I appreciate your comments. Thank you.

CHAIRMAN MOYER: We have additional commenters that would like to --

Zea?

MS. SONNABEND: Zea Sonnabend.

I'm wearing my consumer hat here and in no way represent CCOF in this comment. I'm speaking as a person who is allergic to soy beans and I am allergic to soy lecithin. And I hate the fact that I can't eat most chocolate bars because there's lecithin in them. But I appreciate the fact that at least now they label that it's from soy rather than it being from some other source.

The main thing that I wanted to say, you know, I definitely want to push
organic forward and I understand how this
pushes organic forward, and I absolutely think
that it's necessary to label the source of the
lecithin. But even if Mr. Clarkson is able
to produce lecithin from non-soy sources, his
clients are not us consumers. I can't go
there and find a non-soy chocolate bar. If he
is selling to other handlers and it's up to
them to want to make a non-soy chocolate bar,
and there aren't any that I know of that use
non-soy lecithin.

Now it was mentioned to me in
dairy products they do use a lecithin that is
non-soy and so this might become relevant for
dairy products but I can't even tell you how
many products I can't eat because lecithin is
in most bread, most baked goods in general,
lots of lecithin. I don't have a problem if
you take this off the list because I think the
market will drive it; those who care about
allergies will formulate for us allergy
sufferers and those who won't won't.
CHAIRMAN MOYER: Any questions from the Board for Zea before she leaves?
Joe, you had a comment or a question?
MEMBER SMILLIE: Yes. The point which we haven't really discussed yet, well we did, but the point is I'm glad Zea you included that the industry will rise to the occasion because, remember, we don't know exactly how much time before this gets enacted. But maybe we should review that process to make sure we're not speaking out of turn. But there will be from what I've heard, rumor wise, at least 18 months to two years before this gets enacted. And that to me seems like enough time if we already have one manufacturer that's making onsite fluid, it sounds like there could be more in a hurry to me.
It sounds like it's not unexplored, it's not like a whole new thing that people are going to start, it's already been started so I would like to ask the
program if that expectation is reasonable as far as the time between if and when we pass this recommendation and when it is enacted in law.

CHAIRMAN MOYER: Richard, do you have a comment from the program?

MR. MATTHEWS: Yes. Last year we got all caught up with all the material stuff, now we're falling behind again and we're going to be pushing through the summer to get caught up again.

So I would hope that whatever you do today would take no more than 12 months because we've got one docket that is working through final signatures, we've got another docket with some materials that we had some issues with that is being drafted and then we'll be taking up this one as well. So 12 months, hopefully, max. No guarantees but that's the goal.

CHAIRMAN MOYER: Thank you from the program. Julie?
SECRETARY WEISMAN: Just in terms of the timing issue, not that I don't understand what Herculean efforts and rings you jump through sometimes to keep these things moving along but 12 months would be great. Also, historically, that sounds quite optimistic. It would be great, and I support you in it, but it also would be a big improvement over much of what we've seen in the past. So I encourage you.

MR. MATTHEWS: I totally agree with what you just said. We're trying to close that part of the black hole.

The thing that takes so long is that it would have to go out as a proposed rule and it would have to go out as a final rule, you'd have 60 days for comment. It has to go to the attorneys twice. It has to go through departmental clearance twice. It has to have at least a week at the Federal Register twice. Plus we've got to write it twice.
So with all of that and factoring in conversations up front with FDA, EPA on materials, that's kind of the process and it takes a lot of time. But Shannon's pretty good now. We've got Shannon on and she's learning to be our reg writer and she's our material girl.

CHAIRMAN MOYER: Thank you, Richard. I understand Grace that you have a comment, I'm sorry Hue Karreman, you have a question first?

MEMBER KARREMAN: I was just wondering if Zea was wanting to make sure, since she's allergic to the soy, that you know is the soy really removed and not the sunflower or safflower or canola. Are you allergic to them too?

MS. SONNABEND: No, just soy.

MEMBER KARREMAN: That's worse.

So does that -- so what would she like to see?

SECRETARY WEISMAN: She would like to see us take the actions because she
feels that it will maybe move the organic
industry forward to come back with more non-
soy forms of what she would like to eat.

 MEMBER KARREMAN: And not just
have it listed as soy only to be removed?

 MS. SONNABEND: No, that isn't a
question. It seems that others aren't really
even available.

 CHAIRMAN MOYER: Thank you, Hue.

 Grace?

 MS. MARROQUIN: Grace Marroquin.

 A quick comment. I was one of the petitioners
that supported Lynn Clarkson but also made a
nod to the fact that not all lecithins were
the same and that sunflower should not be
removed with all the lecithins because of the
allergen issue. And even though some could
say there's no known allergen left, being not
a consumer I don't have a problem with it but
I do work with manufacturers day in and day
out and we do work with manufacturers that
just will not allow soy at all into their
plants or run them on their lines. 

So by leaving the de-oiled lecithin on 606 as you're saying is correct. 

I don't know anything about the reconstitution, how that works, a manufacturer would be able to comment on that. I do work with one of the suppliers on sunflower lecithin and we have asked for almost three years to produce an organic sunflower lecithin and they haven't been able to. They want to but they clearly say even though, yes, there are sunflowers all over the place and lots of it, as Lynn mentioned, the ratios that they gave me was if you have 100 gallons of soy you get approximately 5 kilos of soy, at least in their production. With sun you have 100 gallons of oil and you end up with 0.5 kilos of sunflower lecithin. 

So you're talking about a greater amount of raw material plus the manufacturing process so I just wanted to support that.

CHAIRMAN MOYER: Joe, you have
one question?

MEMBER SMILLIE: How do I phrase this? If canola was available would that meet the manufacturer's needs, why is it specifically sunflower?

MS. MARROQUIN: No, it's not a matter of-- there isn't any de-oiled canola that I know of available. I know there's four companies that have de-oiled sun. In fact, the company that we work with won't even have it for a while, probably in the fall. What they have now is the one that was talked about in this meeting where the carrier of rice flower or a multidextrine in it at about anywhere from 45 to 55 percent, but that's not what we're talking about.

The de-oiled is virtually 100 percent lecithin so I don't know, and maybe Lynn knows if there's a de-oiled canola. I don't know. But I know that there are de-oiled sun.

So, again, the way you're
proceeding with 606 leaving de-oiled in there is good and you should because then that allows options for manufacturers and consumers. And regarding the fluid, again, I can't speak to the reconstitution on it. But I just wanted to give some support.

CHAIRMAN MOYER: Thank you.

MS. MARROQUIN: And 606, again I said this for four or five or six years, 606 is what drives companies like mine to go and make organic ingredients become available. It has to be on it.

CHAIRMAN MOYER: Thank you, Grace. Katrina?

MEMBER HEINZE: I just wanted to clarify in my head where we are in the process. So we have a motion to remove lecithin bleach from 605(b)?

CHAIRMAN MOYER: Yes.

MEMBER HEINZE: And that's been seconded? And then we proceed to vote on that and then we'll follow with a motion to change
the annotation on 606?

CHAIRMAN MOYER: That is correct.

That is the process.

MEMBER HEINZE: Thank you.

CHAIRMAN MOYER: Valerie?

MS. FRANCES: I am just going to ask this one more time. Why aren't you considering adding a commercial availability annotation to a 605(b) material since this is extracted in the de-oiled form with hexane and acetone?

CHAIRMAN MOYER: Julie?

SECRETARY WEISMAN: The non-organic lecithin that's currently allowed on 606, that's also using, in other words that uses the same, that's also the hexane extracted. The only lecithin that's not hexane extracted is the organic, the organic's being expelled or pressed.

If you leave lecithin on 605(b) it's not subject to any commercial availability requirement so there will be no
impetus for-- in other words, we've come up with a solution that's going to cover what's required in the industry. We're still I guess maybe not totally finished with the non-soy discussion but I think we're getting there.

MS. FRANCES: I guess I'm asking why not annotate it to do commercial--

SECRETARY WEISMAN: Well you know what, I would love to still have that in our bag of tricks somewhere along the line. I do think that's a possibility but I don't think we need to do in this case because there are so many other alternatives.

MS. FRANCES: Even if you annotate it?

SECRETARY WEISMAN: I think what we're planning to do is a better impetus than that.

CHAIRMAN MOYER: Okay. We have a motion of the floor and we have a second. I am prepared to call for a vote on that. Is there any conflict of interest before we vote
on this material? Hearing none, we will start
the vote with Kevin? I'm sorry?

MEMBER HEINZE: Usually I do my
standard little, we make a boatload of organic
products and at any time may or may not use
some of these materials. So typically you
guys say vote since you're a handler, but I
just wanted to make everyone aware we do use
lecithin, we use organic.

CHAIRMAN MOYER: Thank you for
that honesty. The Board appreciate that. Bea?

MEMBER JAMES: Jeff, could you
please restate the motion?

CHAIRMAN MOYER: Certainly.

Would the person who made the motion, Katrina,
would you--

MEMBER DEMURI: That was me.

CHAIRMAN MOYER: I'm sorry.

Steve. Would you please restate the motion?

MEMBER DEMURI: Sure. The motion

is to remove lecithin bleached from the

national list 205.605(b).
CHAIRMAN MOYER: Thank you Steve.

We're prepared to vote and we'll start the vote with Kevin.

MEMBER ENGELBERT: Yes.

CHAIRMAN MOYER: Hue?

MEMBER KARREMAN: Yes.

CHAIRMAN MOYER: Joe?

MEMBER SMILLIE: Yes.

CHAIRMAN MOYER: Tracy?

MEMBER MIEDEMA: Yes.

CHAIRMAN MOYER: Barry?

MEMBER FLAMM: Yes.

CHAIRMAN MOYER: Tina?

MEMBER ELLOR: Yes.

CHAIRMAN MOYER: Gerry?

MEMBER DAVIS: Yes.

CHAIRMAN MOYER: Katrina?

MEMBER HEINZE: Yes.

CHAIRMAN MOYER: Dan?

VICE CHAIR GIACOMINI: No.

CHAIRMAN MOYER: Julie?

SECRETARY WEISMAN: Yes.
CHAIRMAN MOYER: Steve?

MEMBER DEMURI: Yes.

CHAIRMAN MOYER: Jennifer?

MEMBER HALL: Yes.

CHAIRMAN MOYER: And Bea?

MEMBER JAMES: Yes.

CHAIRMAN MOYER: And the Chair votes yes. Mr. Vice Chair?

VICE CHAIR GIACOMINI: One no, 13 yes, one absent.

CHAIRMAN MOYER: And with that vote the motion to remove bleached lecithin from 605(b) has passed.

And now Mr. Chairman of the Handling Committee, we are moving your petition on 606 lecithin de-oiled ahead of schedule so please take care of that.

MEMBER DEMURI: That's correct.

We're going to move up the unbleached lecithin petition on 606 up now.

CHAIRMAN MOYER: Will you make a motion to that effect please?
MEMBER DEMURI: Yes. I move that we move the vote for lecithin unbleached fluid, let me restate that. I move that we remove lecithin unbleached fluid from the national list 205.606.

CHAIRMAN MOYER: Are you sure that's the motion you want to make? I don't think it is.

MEMBER DEMURI: What's the motion I want to make? Are we moving to move it up?

CHAIRMAN MOYER: No, would you allow Julie to make that motion for you?

MEMBER DEMURI: I certainly would.

CHAIRMAN MOYER: Thank you.

SECRETARY WEISMAN: Okay. I still may need help in terms of point of order but I believe that the business we took care of yesterday was determining that the petitioner was agreeing to our friendly amendment and perhaps we're going to need to change what's on the criteria evaluation. But this is no
longer a petition to remove fluid lecithin.

What we are considering now, based
on the petitioner's acceptance of our friendly
amendment, is a petition to change the listing
of lecithin on 606 so that it will no longer
be lecithin unbleached, it will now be
lecithin de-oiled.

CHAIRMAN MOYER: Would you please
put that in the form of a motion?

SECRETARY WEISMAN: I move that
we change the annotation of lecithin on 606 to
read "lecithin de-oiled."

CHAIRMAN MOYER: Do I hear a
second on that motion?

MEMBER SMILLIE: Second.

CHAIRMAN MOYER: Joe seconds
that. Discussion? Does everybody understand?

Gerry?

MEMBER DAVIS: So now on Section
C of the page up there you'll need to change
the dry forms only comment to de-oil.

SECRETARY WEISMAN: Actually, you
know what, let's do this now. Let's get it out of the way. Go all the way to top. The petition is no longer for removal. It's not for removal. To amend the listing, can we say amend or do we have to say change? Lecithin de-oiled and just take the word fluid off. That's it.

Point of order, does that have to say the way the current listing is?

CHAIRMAN MOYER: Yes.

SECRETARY WEISMAN: Anybody from the program have a comment?

CHAIRMAN MOYER: The Chair recognizes Dan.

VICE CHAIR GIACOMINI: I think the substance of this is an amendment since this is an amendment to the annotation. The substance listing should be the current listing. So just go back to where you were, undo what you did I think.

CHAIRMAN MOYER: The current listing is lethicin unbleached in the
regulation, it that what were you referring to?

SECRETARY WEISMAN: Yes. The world "fluid" doesn't belong on the top.
Okay. Now we have to go to C I think.

CHAIRMAN MOYER: The chair recognizes Gerry then Tracy.

MEMBER DAVIS: Would it not be most proper in the Section where it says petition is for, you would want to amend the current listing of, or I think change sounds better, to change the listing of lecithin unbleached and then go on to say what the change is.

SECRETARY WEISMAN: Or we could say to amend the listing of lecithin to de-oiled only. Okay, that's good.

CHAIRMAN MOYER: Tracy?

Great. Thank you. Hue?

MEMBER KARREMAN: But wouldn't they still be allowed to use-- I thought we were talking earlier that they'd be allowed to
use the bleached or unbleached so why is this
only unbleached here?

SECRETARY WEISMAN:  No, that's
going to go away. That's just restating what
the current listing is and then what it's
going to be changed to.

MEMBER KARREMAN:  All right.

You're still just at what it currently is.

Okay. But I think we're want to lose the
"only" don't we?

SECRETARY WEISMAN:  Yes. We want
to lose that second "only." Right. That
looks right.

CHAIRMAN MOYER:  The Chair
recognizes Richard Matthews from the program.

MR. MATTHEWS:  The wording starts
out "the amend the," I think you want to say
"to amend the."

CHAIRMAN MOYER:  Okay. Bea?

MEMBER JAMES:  You would remove
the "to" because it says this petition is for
amending. And then pick up right to amending
and take the "the" out.

SECRETARY WEISMAN: Yes. We're in English class here.

CHAIRMAN MOYER: Okay. Do we have the wording correct to satisfy Board member? If so we have a motion on the floor, we have a second. Is there discussion? Bea?

MEMBER JAMES: I'm wondering if Section B needs to be-- Would Section B stay the same then?

CHAIRMAN MOYER: Well that's got to change now.

MEMBER JAMES: Yes, I think it needs to be done now.

CHAIRMAN MOYER: Yes, well let's clean that up before we vote so everyone knows what they're voting on. Tracy, you have suggested language?

MEMBER MIEDEMA: Actually we're voting on a motion, we're not voting on all of the criteria included so I would suggest that the committee goes back through and
incorporates the feedback that appropriately justifies what we're talking about moving.

CHAIRMAN MOYER: Thank you, Tracy. That's an excellent suggestion. Let's vote on the motion that we have on the floor and the second and we'll adjust that language in the evaluation forum later. If we're ready for a vote is there anybody who has a conflict of interest on this material? Other than that one that Katrina already mentioned because of her usage of the material?

In that case I'm ready to call the vote and we'll start with Hue?

MEMBER KARREMAN: So the affirmative is to change?

CHAIRMAN MOYER: The affirmative is to make the change.

MEMBER KARREMAN: Yes.

CHAIRMAN MOYER: Thank you. Joe?

MEMBER SMILLIE: Yes.

CHAIRMAN MOYER: Tracy?

MEMBER MIEDEMA: Yes.
CHAIRMAN MOYER: Barry?
MEMBER FLAMM: Yes.

CHAIRMAN MOYER: Tina?
MEMBER ELLOR: Yes.

CHAIRMAN MOYER: Gerry?
MEMBER DAVIS: Yes.

CHAIRMAN MOYER: Katrina?
MEMBER HEINZE: Yes.

CHAIRMAN MOYER: Dan?

VICE CHAIR GIACOMINI: No.

CHAIRMAN MOYER: Julie?

SECRETARY WEISMAN: Yes.

CHAIRMAN MOYER: Steve?

MEMBER DEMURI: Yes.

CHAIRMAN MOYER: Jennifer?

MEMBER HALL: Yes.

CHAIRMAN MOYER: Bea?

MEMBER JAMES: Yes.

CHAIRMAN MOYER: Kevin?

MEMBER ENGELBERT: Yes.

CHAIRMAN MOYER: And the Chair votes yes. Mr. Vice Chair if we can have the
tally.

VICE CHAIR GIACOMINI: One no, 13
yes, one absent.

CHAIRMAN MOYER: Thank you Mr. Vice Chair and with that motion and vote, the motion to change the annotation on lecithin in 206.606 to read lecithin de-oiled passes.

Thank you. Mr. Chairman, the rest of your 606 items?

MEMBER DEMURI: Thank you, Mr. Chairman. We'll go on to the next 606 item and I'll see if I can get this one right. It is for the listing of red corn color to 205.606 -- oh chicory. Getting ahead of myself here. Chicory root, excuse me.

So I move for no further action on chicory root to the addition of the national list 205.606.

CHAIRMAN MOYER: Is there a second for that motion? Tracy seconds that motion. We have a motion on the floor to take no action on this material and a second. Is
there any need for discussion? There being none, is there any conflict of interest on this material? Again, being none we will call for a vote on that motion starting with Joe Smillie. Joe?

MEMBER SMILLIE: Yes.

CHAIRMAN MOYER: Tracy?

MEMBER MIEDEMA: Yes.

CHAIRMAN MOYER: Barry?

MEMBER FLAMM: Yes.

CHAIRMAN MOYER: Tina?

MEMBER ELLOR: Yes.

CHAIRMAN MOYER: Gerry?

MEMBER DAVIS: Yes.

CHAIRMAN MOYER: Katrina?

MEMBER HEINZE: Yes.

CHAIRMAN MOYER: Dan?

VICE CHAIR GIACOMINI: Yes.

CHAIRMAN MOYER: Julie?

SECRETARY WEISMAN: Yes.

CHAIRMAN MOYER: Steve?

MEMBER DEMURI: Yes.
CHAIRMAN MOYER: Jennifer?

MEMBER HALL: Yes.

CHAIRMAN MOYER: Bea?

MEMBER JAMES: Yes.

CHAIRMAN MOYER: Kevin?

MEMBER ENGELBERT: Yes.

CHAIRMAN MOYER: Hue?

MEMBER KARREMAN: Yes.

CHAIRMAN MOYER: And the Chair votes yes.

VICE CHAIR GIACOMINI: Zero no, 14 yes, one absent.

CHAIRMAN MOYER: Motion passes and no action will be taken on chicory root. Next material Mr. Chairman?

MEMBER DEMURI: Thank you Mr. Chairman. The next material for 205.606 is color red corn and I move for the addition of red corn color to the nation list 205.606.

CHAIRMAN MOYER: Is there a second on that motion?

MEMBER HEINZE: Second.
CHAIRMAN MOYER: Katrina seconds that motion. Discussion on color red corn? Hue?

MEMBER KARREMAN: What was the committee's recommendation again? I think it was to not?

MEMBER DEMURI: The committee recommendation was a unanimous to not list it.

CHAIRMAN MOYER: Any further discussion on this item with this material? Is there a conflict of interest between any Board members and voting on this material? Hearing none, we will move directly to the vote and I will call the vote starting with Tracy.

MEMBER MIEDEMA: No.

CHAIRMAN MOYER: Barry?

MEMBER FLAMM: No.

CHAIRMAN MOYER: Tina?

MEMBER ELLOR: No.

CHAIRMAN MOYER: Gerry?

MEMBER DAVIS: No.
CHAIRMAN MOYER: Katrina?

MEMBER HEINZE: No.

CHAIRMAN MOYER: Dan?

VICE CHAIR GIACOMINI: No.

CHAIRMAN MOYER: Julie?

SECRETARY WEISMAN: No.

CHAIRMAN MOYER: Steve?

MEMBER DEMURI: No.

CHAIRMAN MOYER: Jennifer?

MEMBER HOWARD: No.

CHAIRMAN MOYER: Bea?

MEMBER JAMES: No.

CHAIRMAN MOYER: Kevin?

MEMBER ENGELBERT: No.

CHAIRMAN MOYER: Hue?

MEMBER KARREMAN: No.

CHAIRMAN MOYER: Joe?

MEMBER SMILLIE: No.

CHAIRMAN MOYER: And the Chair votes no. Mr. Vice Chair?

VICE CHAIR GIACOMINI: 14 no, zero yes, one absent.
CHAIRMAN MOYER: And with that vote the color of red corner fails and will not be added to the list. Mr. Chairman, your next material.

MEMBER DEMURI: The next material is also a listing for a sentence on 205.606, it's myrrh essential oil. I move for the addition of myrrh essential oil to the national list on 205.606.

CHAIRMAN MOYER: Do I have a second?

SECRETARY WEISMAN: Second.

CHAIRMAN MOYER: Julie seconds that. We have a motion on the floor to list myrrh essential oil and a second. Discussion? Tina and then Katrina and then Dan.

MEMBER ELLOR: And I know we talked about this yesterday and I just wanted to be clear. This is just for perfume?

Okay. So should we take the perfume part off then?

MEMBER DEMURI: Yes, we need a
friendly amendment from somebody.

VICE CHAIR GIACOMINI: Well he didn't list that so officially right now it's off.

CHAIRMAN MOYER: Even though it's written there.

VICE CHAIR GIACOMINI: Well his statement was propane. Rocket fuel essential. Everybody wants a little propane in their perfume.

CHAIRMAN MOYER: Okay. If we could stay focused here. We have a motion that was accurately read but not accurately worded on the form. That was seconded by Julie.

SECRETARY WEISMAN: So the vote we're taking is just to put it on the list not to restrict it to perfume?

CHAIRMAN MOYER: That's the way the motion is read.

SECRETARY WEISMAN: Okay.

CHAIRMAN MOYER: Katrina?
MEMBER HEINZE: Point of order.

Since the Handling Committee recommendation was for the longer annotation, do we need to go back and fix all that or we're good?

CHAIRMAN MOYER: I believe we're good. Dan you had a question?

VICE CHAIR GIACOMINI: No, I was just clarifying on that.

CHAIRMAN MOYER: Barry?

MEMBER FLAMM: I'd just like to clarify the availability of supply and the lack therefore, that this species only grows in the area that's described in the petition?

I'm sorry, I should know myself but I didn't have time to really look into it. So could that be confirmed that there is no other area where this grows?

CHAIRMAN MOYER: Steve?

MEMBER DEMURI: I'll defer that to Gerry, he's the one that did all the research on this one.

MEMBER DAVIS: The information
that can be found in the petition as well as looking through internet available information showed that the plants are native to the region of Ethiopia, Somalia, Yemen, portions of Saudi Arabia possibly but it was not mentioned as a main area. And I believe there may be a related plant in India that you can find references to myrrh being made from it but it's not the same species I believe from memory. That's the extent of the information we have as far as the regions of where the plant is native to.

And it's presented as a wild harvested, it's not plantations of this planted out as far as we can tell.

MEMBER FLAMM: I trust your looking at this but was the source some authoritative plant distribution source, or was it just a Google source?

MEMBER DAVIS: No, it was just a Google search of available supplies and where they come from. Various information being
put up by suppliers of myrrh essential oil.
And the petition what they say.

CHAIRMAN MOYER: Bea?

MEMBER JAMES: I think you may have answered this yesterday. But why did the committee decide not to call for a tap on this?

MEMBER DAVIS: Well, what I saw yesterday was that it is not a complex material. The supply problem with it is not based on the material itself, but it is more in the realm of where it's grown. The wild nature of the distribution of the trees and it didn't seem like a TAP, at least the TAPs we've been getting, would give us any information. I don't want to sound negative but I don't think it was going to be effective to ask for a TAP.

MEMBER JAMES: Okay. I guess I was just trying to reference maybe more objectionable data to support the decision so that we know for sure that there is no organic
form of this. We know about the availability.

CHAIRMAN MOYER: Julie and then Dan.

SECRETARY WEISMAN: Yes. I think that you're right, this is an issue that's come up before. But this is not about the fact that there's organic material being grown. It's got a complex processing that requires expensive equipment. It's about where the plant that this comes from is grown, it's grown in areas that are very difficult to have organic certification infrastructure in place.

They're very politically unstable and you'll see if you look on 4 that trade basically and political events are really probably the most serious barrier to having a certified organic supply available. Does that sound right?

CHAIRMAN MOYER: Dan and then Gerry.

VICE CHAIR GIACOMINI: I just
I want to sort of reword Barry's question maybe.

Not that it was a Google search but it's better than a Wikipedia reference right?

MEMBER DAVIS: Yes. I'm sorry I don't remember the details of what I'm thinking of as far as where the information came from. I know where the information came from but I don't remember where those sources that are based on the marketing of myrrh, they may have referenced technical plant distribution information but I don't recall.

I know I didn't go straight to a source of botanical information to find out this information.

MEMBER DAVIS: One other thing to point out, if you do a quick Google search and Ms. Ellor did it yesterday and just asked for organic myrrh essential oil, entries do come up. But when you look into it there's no documentation that it's actually organic. No mention of certifiers. Nothing. It's part of that realm of cosmetics and personal care.
things that people have referenced. There's a lot of organic claims being put out there but when you look for any documentation and all the suppliers that I could identify of myrrh oil as well as other essential oils had very good documentation on who certifies this oil and where it's from and on and on and on. But when it came to their listing of myrrh, there's nothing there. No organic.

CHAIRMAN MOYER: Any further discussion on this material? Julie?

SECRETARY WEISMAN: Can we scroll back to the top because even though I seconded the motion I mean I would actually prefer that it reflect what was the motion that was made and seconded. Oh you struck it. Thank you. Okay. I'm good.

CHAIRMAN MOYER: Steve?

MEMBER DEMURI: Yes, I just want to comment for the rest of the Board. The committee vote was four yes, zero no, two absent.
CHAIRMAN MOYER: Thank you Steve.

If you could restate the motion one time and then we're going to vote on it. I'm sorry, Katrina, I didn't see your hand. Steve?

MEMBER DEMURI: Okay. The motion is to list myrrh essential oil to the national list 205.606.

CHAIRMAN MOYER: Katrina?

MEMBER HEINZE: I'd like to offer a friendly amendment. Could you go back to that sheet? I can't offer my friendly amendment from my head. I believe we need to use the Latin name so my friendly amendment would be to list myrrh essential oil, we just didn't read it out loud right, so then it's not part of the motion.

VICE CHAIR GIACOMINI: She is right.

MEMBER DEMURI: So I will restate the motion. The motion is to list--

MEMBER HEINZE: I think you just need to accept my friendly amendment, correct?
And then the seconder needs to accept it.

MEMBER DEMURI: I do accept your friendly amendment. Thank you.

SECRETARY WEISMAN: I do as well.

CHAIRMAN MOYER: Thank you. We have a motion on the table that's been seconded. There's a friendly amendment that has also been seconded and accepted. Is there a conflict of interest between this material and any of the members on this board? No myrrh growers here. Okay. Being none I call for the vote and will start with Tracy. I apologize, Barry.

MEMBER FLAMM: No.

CHAIRMAN MOYER: Tina?

MEMBER ELLOR: Yes.

CHAIRMAN MOYER: Gerry?

MEMBER DAVIS: Yes.

CHAIRMAN MOYER: Katrina?

MEMBER HEINZE: Yes.

CHAIRMAN MOYER: Dan?

VICE CHAIR GIACOMINI: Yes.
CHAIRMAN MOYER: Julie?
SECRETARY WEISMAN: Yes.
CHAIRMAN MOYER: Steve?
MEMBER DEMURI: Yes.
CHAIRMAN MOYER: Jennifer?
MEMBER HALL: Yes.
CHAIRMAN MOYER: Bea?
MEMBER JAMES: Abstain.
CHAIRMAN MOYER: Kevin?
MEMBER ENGELBERT: No.
CHAIRMAN MOYER: Hue?
MEMBER KARREMAN: Yes.
CHAIRMAN MOYER: Joe?
MEMBER SMILLIE: Yes.
CHAIRMAN MOYER: Tracy?
MEMBER MIEDEMA: Yes.
CHAIRMAN MOYER: And the Chair votes yes. Mr. Vice Chair the tally?
VICE CHAIR GIACOMINI: Two no, 11 yes, one abstain, one absent.
CHAIRMAN MOYER: Thank you. And with that vote the motion to list myrrh
essential oil on 205.606 passes. Next material Mr. Chairman.

MEMBER DEMURI: Thank you. The last material for today is also a 606 item. It's wheat germ and I move that we list wheat germ on the national list 205.606.

CHAIRMAN MOYER: Do I have a second on that?

MEMBER HEINZE: Second.

CHAIRMAN MOYER: Katrina seconds that. We have a motion and a second so we're open for discussion on this material. Bea?

MEMBER JAMES: Point of clarification. I know I asked this yesterday but I'm just going to ask it again. In your recommendation category 4, No. 3, you checked not applicable for obtained organically in the appropriate form. And yet the comments say organic wheat germ in the appropriate quality can be obtained. So I'm confused.

CHAIRMAN MOYER: Katrina please.

MEMBER HEINZE: Not really sure
why the X is there. We may have said that
that was not applicable to our decision
because we're really evaluating the question
on quality. It could technically also say that
yes it is available in the appropriate form
and quality.

MEMBER JAMES: In organic form?

MEMBER HEINZE: Yes, the
petitioner acknowledges that they were able to
find 4,000 pounds. That just did not meet
their need for the full production that they
need. So the petitioner is not saying that
they could not find any, they just could not
find enough. And we did have some information
that came to light yesterday that we've done
a little bit more research on. Joe did you
want to talk to that or did you want me to?

MEMBER SMILLIE: No, I'll be
glad to, I did the phone calls. I followed
up on the information that we received
yesterday and contacted the people who
supposedly had it available and these are
brokers and I'm not going to disparage brokers, but brokers tend to be very positive about availability, let's leave it at that.

And when I questioned them they said well no actually they didn't have it available. And I said could they have it available? And they said well no their source had dried up but they were working on a new source and hope to have it available in the near future. That was just one call. That's just the one that was given to me and it was announced publicly yesterday that I followed up on.

We've made other calls, I'm sure we haven't phoned every mill in the United States and Canada and Argentina and Australia.

SECRETARY WEISMAN: Could I ask if the source that you contacted was Grain Millers?

MEMBER SMILLIE: No. It was the one that was brought up publicly yesterday.

CHAIRMAN MOYER: Katrina?
MEMBER HEINZE: The petitioner did contact Grain Millers? I do have a list. I could open that if you're interested of who they did contact. We went back. In addition to the independent research that we did to kind of understand what they'd said, we had asked them to give us the name of the millers that they contacted for sourcing the organic wheat germ. They were Grain Millers, Grain Place Foods, Heartland Mills, Rocky Mountain Milling, ConAg and as I told you they contacted General Mills.

We also asked them to better explain why it couldn't be available or what their challenges were in the supply chain. And then we asked them on their perspective on other issues that would present a challenge to a consistent supply. And they really talked about this choice that millers make to divert the wheat germ into their white flour that is you know that reduces their white strain so most millers do that.
CHAIRMAN MOYER: Steve?

MEMBER DEMURI: I was going to reiterate what Katrina said. I also sent an e-mail to one of our purchasing bulldogs last night, just got an answer back about half an hour ago and they claim that they've searched high and low with millers and could not find any.

CHAIRMAN MOYER: Joe?

MEMBER SMILLIE: You know, we've had a few others like it. Again, it just goes down to your personal philosophy as to whether placing a 606 item on 606 spurs organic production or allows loopholes.

And, you know, in some cases it can do it truthfully but I believe by and large what we're seeing is it does spur production. And now that we've created the historical precedent of removing something from the list, I think that we can now say that's fully operational and that if we do decide to put it on the list, if that becomes
available, that we could see a petition to remove wheat germ from the list with a demonstration of availability. And I think that's the way it should work.

So coming into this meeting you know we had to decide what to do. I wasn't comfortable last night voting either yes or no, and I have to admit I was thinking about the cowardly way out of abstaining, you know, because I just didn't want to take the political heat of putting wheat germ on the list and having every blogosphere, the blogospheres say oh my God, look what they've done. They've put wheat germ on the list. Those bozos at the NOSB, don't they know that organic wheat is all over the place?

But that's not the correct path to choose, and so I believe that if we put it on 606, my personal belief is if we put something on 606 we serve notice to the industry, hey guys, here's an opportunity. Deliver and we will gladly accept a petition for removal.
1 CHAIRMAN MOYER: Bea?
2 MEMBER JAMES: Just a point of
3 clarification that abstaining is not cowardly.
4 It's oftentimes when somebody can't make a
5 good decision one way or another.
6 MEMBER SMILLIE: I wasn't tutored
7 that way.
8 CHAIRMAN MOYER: Thank you Bea.
9 Katrina?
10 MEMBER HEINZE: I just to bring
11 up that the petitioner has been selling
12 products, these products certified organic,
13 with wheat germ in them for 25 years and it is
14 meeting a consumer need presumably for the
15 product. And then concur with Joe. This is
16 about philosophy and we heard Grace Marroquin
17 say to her this is the list. So Grace there's
18 a high need for organic wheat germ, please
19 help us.
20 CHAIRMAN MOYER: Okay. We have a
21 motion on the floor and a second. Is there
22 any further discussion? If not, I'd ask if
there's a conflict of interest between this material and any of the members of the Board? Katrina?

MEMBER HEINZE: I work for a large flour miller in the United States. We do not produce organic wheat germ but a suggestion from the Board on whether I should recuse myself or not.

MEMBER KARREMAN: I thought yesterday you said you did make wheat germ oil and there's no outlet for it so it goes somewhere else.

MEMBER HEINZE: You make wheat germ just because you're a flour miller. We don't sell would be the proper, we do not sell wheat germ because you mill flour you have to be in the wheat germ business. It kind of together.

MEMBER KARREMAN: But that's organic wheat you're using.

MEMBER HEINZE: We do not sell. We throw it away. The organic wheat germ.
CHAIRMAN MOYER: Katrina thanks for being honest. Joe?

MEMBER SMILLIE: I think you should recuse yourself. I think it would be an egregious mistake not to recuse yourself.

CHAIRMAN MOYER: I think that's fair.

MEMBER HEINZE: I will recuse myself.

CHAIRMAN MOYER: Thank you Katrina for your honesty. Okay, I will now call for the vote and we'll start the vote with Tina?

MEMBER ELLOR: No.

CHAIRMAN MOYER: Gerry?

MEMBER DAVIS: Yes.

CHAIRMAN MOYER: Katrina?

MEMBER HEINZE: Recuse.

CHAIRMAN MOYER: Dan?

VICE CHAIR GIACOMINI: No.

CHAIRMAN MOYER: Julie?

SECRETARY WEISMAN: Yes.
CHAIRMAN MOYER: Steve?

MEMBER DEMURI: Yes.

CHAIRMAN MOYER: Jennifer?

MEMBER HALL: Yes.

CHAIRMAN MOYER: Bea?

MEMBER JAMES: Well I was going to abstain but I'm going to vote no.

CHAIRMAN MOYER: Thank you Bea.

Kevin?

MEMBER ENGELBERT: No.

CHAIRMAN MOYER: Hue?

MEMBER KARREMAN: No.

CHAIRMAN MOYER: Joe?

MEMBER SMILLIE: Yes.

CHAIRMAN MOYER: Tracy?

MEMBER MIEDEMA: Yes.

CHAIRMAN MOYER: Barry?

MEMBER FLAMM: No.

CHAIRMAN MOYER: And the Chair votes no. Mr. Vice Chair the tally please.

VICE CHAIR GIACOMINI: Six no, six yes, no absent, one recuse.
CHAIRMAN MOYER: Thank you Mr. Vice Chair and if my math is correct with that vote wheat germ has been defeated as a motion and will not be listed on 206.606.

SECRETARY WEISMAN: Actually, I think that count is seven yes, six no. It doesn't change the outcome but does it add up to 15 votes.

MEMBER SMILLIE: Mr. Chair, I demand a recount.

CHAIRMAN MOYER: You may.

SECRETARY WEISMAN: Seven no, six yes.

VICE CHAIR GIACOMINI: You know when you have to go that second hand it's just a pain in the neck.

SECRETARY WEISMAN: Just clarifying. I have one other little comment more general.

CHAIRMAN MOYER: Wait till we're finished with this. Do you agree with that count, Mr. Vice Chair?
MS. FRANCES: Can we go round again?

CHAIRMAN MOYER: No, we're not going to revote.

MS. FRANCES: No, no I don't mean re-vote. Can people re-say what they voted because I have an official record to keep here.

CHAIRMAN MOYER: Well afterwards you can check. We have two other records, we're not going to go round the room and do that.

VICE CHAIR GIACOMINI: Yes, I confirm.

CHAIRMAN MOYER: Thank you Mr. Vice Chair, and that does not change the outcome of the election. We have a question or a comment from the executive.

MS. FRANCES: Just noticing on this form the question that Bea had asked regarding the response to category 4 No. 2, the non-applicable answer regarding this
material should have raised the question for me that perhaps this question needs to be a two part question, which does the current and historical industry information and research or evidence explain.

CHAIRMAN MOYER: I'm not sure I understand. Are you talking about changing the form?

MS. FRANCES: Yes, I'm just offering just for some clarity because of the way that this was answered, not applicable and then organic wheat germ is appropriate form can be obtained. I think the problem is the question is so loaded that it's hard to answer yes or no.

CHAIRMAN MOYER: Yes, moving forward that's probably something we may want to address.

MS. FRANCES: Just addressing that. To break it into a two part question.

CHAIRMAN MOYER: Okay. Thank you. But with that vote the voting portion of
this meeting is completed and I think the committee will now take a much needed brief break and we will reconvene here at 2:45 ready to start with our committee work plans for the fall of 2009. Thank you Board Members.

(Whereupon, the above-entitled matter briefly went off the record.)

CHAIRMAN MOYER: Okay. If Board Members could please take their seats. Okay. Board Members are almost seated. We have a quorum. The Board is back in session. Thank you everybody. We're seated and we have a quorum and we'll get back to the business at hand. Even though the voting is done we are not complete yet.

I do appreciate everybody's attention to detail as we went through the voting items and the thoughtful discussion.

A comment from Joe?

MEMBER SMILLIE: Point of order Mr. Chair?
CHAIRMAN MOYER: Yes.

MEMBER SMILLIE: I would like to personally apologize to Bea and anyone else who voted abstaining for their conscience. It is not a cowardly act. It would have been a cowardly act had I done so today. I did not mean to demean anyone who abstains from voting.

CHAIRMAN MOYER: All through history? You're suggesting history.

MEMBER JAMES: Thank you Joe.

And, yes, now you can have your sushi.

CHAIRMAN MOYER: That took courage Joe yes. Okay. Thank you for starting us off with that levity. All right. The next order of business in front of this Board is our committee work plans for the session leading up to our fall meeting. And what I'd like to do now is go committee by committee and I'm choosing to go in the order that we voted because that's how my agenda reads here.
And so we'll start with the Policy Development Committee. Barry as committee chair, unless you delegate, could you please go over your work plans for the rest of 2009.

MEMBER FLAMM: With pleasure.

These items have been submitted to you in advance so it hasn't changed from what I presented at the Executive Committee.

Okay. Our proposed draft work plan for the Policy and Development Committee is as follows:

Action item 1. Continue the systematic review of the Policy and Procedure manual, reviewing Section 5, Duties of Committee and Chairs in Section 6 miscellaneous policies.

Action item 2. In Section 3, which we had on the schedule this time and voted some revisions but we feel in retrospect there is a need to clarify the secretary's duties or discuss making a change regarding taking the Minutes at Board meetings. So the
1 committee will look at that and make a
2 recommendation to the Board.
3
4 Action item 3 is to add to the
5 Policy and Procedure manual clarification of
6 appropriate contact by NOSB members with
7 legislatures, legislators excuse me, such as
8 making invitations to Board meetings.
9
10 Action item 4 will be to
11 incorporate the decisions made at this meeting
12 regarding biodiversity conservation criterion
13 to be added to the evaluation of petition
14 materials.
15
16 Action item 5 is to try again deal
17 with the petition disposition process. This
18 was tabled as our past work plan as not being
19 timely, and the intent is to include in the
20 Policy and Procedure manual procedures for
21 tracking petitions. And these are the ones
22 being developed by the materials committee and
23 already approved by the Board. This would be
24 making sure they got properly in the Policy
Action item 6 is exam again the public comment proxy and the process that's going on.

And we have a couple of other items that have come up at this meeting that we'll discuss in our committee and may come back to the Executive Committee for possible addition to our work plan.

That's where the Policy Committee's work plan stands at this point in time.

CHAIRMAN MOYER: Thank you, Mr. Chairman. Question by Bea?

MEMBER JAMES: Although I am on the Policy Committee I'm unfamiliar with the third point and I was wondering if you could describe a little bit more about what that's about, probably to the whole Board.

MEMBER FLAMM: The clarification with contacting legislators?

MEMBER JAMES: Yes.

MEMBER FLAMM: This was brought
up I believe in Executive Committee, a
question about how or the appropriateness of
individual board member extending invitations
and I think it was sort of asked that the
policy committee look at this and put a
procedure in. Do you want to comment on that
further Jeff?

CHAIRMAN MOYER: I might be able
to clarify that for you Bea. I'm not sure.
During one of the Executive Committee calls it
came to the attention from more than one board
member that was on the call that certain
individuals had contacts with congressional
folks, representatives of their state. And
they want to know what the procedure or policy
would be if they wanted to invite that person,
just as we had Kathleen Merrigan come, come to
this meeting, take the podium and address the
Board.

I think we can see that there
could be benefit to that but there can also be
distraction. So we wanted to make sure that
we had talked about it as a group and that we
came up with a policy, a set of procedures
that you would go through to make sure that
the program knew, that somebody just didn't
call up their Congressman and have them show
up and catch people off guard. It was a point
of discussion.

I don't think it's a big item but
it is something that the program and the
executive committee at that meeting suggested
maybe we should do. I see Hue's hand up and
I think I saw Katrina's.

MEMBER KARREMAN: Just for
clarity's sake then, to clarify this,
regarding contact by NOSB members to invite
elected officials to an NOSB meeting or
something if that's what you're saying.

CHAIRMAN MOYER: Yes. That is
what I'm saying and maybe we have the wording
of that wrong, I'm not sure. But yes, whether
it a Congressman or Senator or President
Obama, you know, what's our policy? I mean he
could be somebody's personal friend here and
maybe we can get him here but we need to know
how to work that in. Just so 15 people don't
go off doing their own thing. That was the
concern.

MEMBER KARREMAN: Well to add to
that if I may Jeff, and I know in the past I
think there's been some question about after
an NOSB meeting a member going up to the Hill
and contacting Congress as an NOSB member.
Should that be addressed or is that allowed or
is that like you're going as yourself? Or
like hey I'm Chair of--

CHAIRMAN MOYER: Can I go along?

MEMBER KARREMAN: I don't know.

I mean should that be addressed as well? I
know there was a problem in the past in 2004
I believe.

CHAIRMAN MOYER: Okay. I don't
think that that's the purview of this
particular board or committee to tell people
how to act as private individuals and if they
1 say they're on this board then they say that.
2 That's just my personal feeling but we can
3 certainly discuss that. Katrina?
4 MEMBER HEINZE: My comment was on
5 a different topic. Is that okay? It related
6 to this work plan.
7 CHAIRMAN MOYER: Are we done with
8 that topic?
9 MEMBER FLAMM: Let me just make
10 one point. These are more notes from our
11 committee meeting. I'm not sure whether you
12 were on that particular one but I apologize if
13 my wording wasn't too precise here. But I
14 think we get the point and thank you for the
15 clarification because that's where it came
16 from and that's how it got on our work plans.
17 CHAIRMAN MOYER: Katrina?
18 MEMBER HEINZE: I was going to
19 make a request. In your discussion on
20 biodiversity you referenced, and I don't have
21 it in front of me, a past recommendation that
22 talked about compatibility with production and
handling I think that was made that had a list of questions to aid us in our evaluation of that compatibility question. And I'm embarrassed to say I have not seen that material before and maybe it's in the policy manual and maybe it's not.

But I think those were very good questions that could aid us as we evaluate materials and I was wondering if perhaps the Policy Committee could look at which of our manuals it would be appropriate to put that list of questions in so that future members would not discover them in an untimely like I did.

MEMBER FLAMM: The criterion sheet are in the manual now and this recommendation's intent was to take what was done and proved today and make sure it got in the manual; it wasn't so much to do a new manual but I'd like to talk separately to understand that--

MEMBER HEINZE: This is a request
for action. Another work plan item for you. It's the list of questions that you reference in your discussion document that talks about compatibility and figuring out where to put those questions, I will show you what I mean, and I think make them more accessible to everyone on the Board.

MEMBER FLAMM: Okay.

MEMBER HEINZE: Because they were very useful.

MEMBER FLAMM: Okay. I'll talk to you later and make sure I understand the point.

CHAIRMAN MOYER: Okay. Tracy?

MEMBER MIEDEMA: I had a suggested work plan item for you all to consider and I think this would be in conjunction with the handling committee. And that would be for Board protocols for investigating potential fragility of supply when we're considering 606 items. We do it in a diligent but uneven manner currently and it
would be nice to have some protocols.

CHAIRMAN MOYER: I might suggest that that's something the Handling Committee wants to take up and bring to the Policy Committee once they have something. Does that seem reasonable? The Handling Committee can at least make mental note of that at this point.

MEMBER DAVIS: Yes, I'll put it on the work plan. It's probably going to be down on the priority list a little bit but it's something we can look into.

CHAIRMAN MOYER: Anything else on Policy and Development? Thank you Mr. Chairman.

Moving on to the Compliance, Accreditation and Certification Committee.

Chairman Joe Smillie.

MEMBER SMILLIE: Well, we are lined up to deliver three recommendations at the November meeting. These were discussion papers and we got very good input, spectacular
input in some cases from the public. So we are planning to have recommendations on retail. I'm not going to title it, the scope of that is still to be determined. But there will be a retail recommendation.

There also will be a personal care recommendation in our new style of recommendation that Tracy outlined the other day.

There also will be 100 percent recommendation, finally, and we're on target with all of those so your little percentage sheet we'll keep making sure, Jeff, that you're informed as to where we're at with each of those as we go along.

We're also going to investigate, look at and probably have a discussion paper on a "made with organic" label possibility that has been a recent topic that surfaced which we think is our purview but if any other committee wants to take it we certainly can have a discussion with them. But kind of feel
that's our territory so we're going to look at that.

Other things may occur. And under the topic of other things may occur, it wasn't really noticed I don't think by the Board that much but the association of accredited certifiers has developed a new program and format in creating working groups of certifiers to deal with topics that they feel need to be addressed.

And I think it's an ideal system and, hopefully, rather than just having comments from certifiers on our issues, we can start to work more closely with the certifier community as these working groups are working on topics that we are also possibly working on such as you know the poultry animal welfare, they have a group on that. So it's not just our committee but since we do represent the certification committee I'd like to bring it to the attention of all committees to please check in with the association of
accredited certifiers as you work on your work plan so that you can see if there's possible working groups there that are doing some of the same work.

For example, in the past we've checked in with OTA working groups on personal care, multi-site and other topics in the past and I think that also the ACA has a lot to offer since these are the people who are actually dealing with sort of the regulations that we helped formulate.

So I just bring that to everybody's attention, leave it up to the chairs to check in with the ACA, Pat Kane is the Executive Director so check in with Pat or via certifier that you're aware of or whatever, and let's use their knowledge to help us create good recommendations and discussion papers.

And so I'll start that off by working with the ACA and finding out what's on the list and trying to make it available to
the rest of the Board.

CHAIRMAN MOYER: Thank you Mr. Chairman, any questions for the CACC committee? Hue?

MEMBER KARREMAN: On that topic I'm just wondering, you know, when there's official convened task forces like the Agricultural Working Group, it's a working group, or the methionine task force. Now I don't know if that's officially convened by us or not. Does it affect-- We listen to the public, that's one of our mains especially for materials, but does it affect in any way if they're officially convened or if they're like ad hoc groups? I'm just asking. As far as official input type stuff like AWG the Agricultural Working Group they were selected I think by the Secretary and I'm just wondering about that kind of stuff.

CHAIRMAN MOYER: Yes, my understanding would be that certain working groups that are officially convened by the
Secretary would have different standing in front of the program or the Board than would an external group that was convened around a certain or particular topic. But that does not mean that this Board should not take advantage of those expertise that are out there in the world that we can garner information from.

And I think we've done that and we will continue to do that. But they would not have the same recognition in front of the program or the Secretary as would a board that he convened, an official working group. Thank you Hue and thank you Mr. Chairman.

Okay. Next group would be the Crops Committee. Chairperson Tina.

MEMBER ELLOR: We have an extensive work plan so I don't think we're going to get out of the fall meeting but we have a lot of materials in front of us. We have ethylene glycol which is waiting for TR. Tetramethyl, well we'll just call it
tetramethyl if you don't mind. Review TR first efficiency which we did and we're waiting to hear back on that one.

Polycaprolactone waiting for technical review.

Glycine betaine waiting for a technical review.

Peracetic acid, we've heard a lot of great comment on that and I hope we're going to bring that back for a recommendation in the fall.

We talked about bringing terpenes back out of the big black hole maybe for consideration again, but we'll decide that as a committee as we do.

We've just had three more materials forwarded to us from the Materials Committee. Ethylene DDA, difluorothane, manganese sulfate monohydrate. We haven't taken any action on that, we'll be looking at the petitions for sufficiency and deciding whether to forward them on for a TAP. That's
where we are for that.

Oh I'm sorry, I forgot to mention,
we are looking at tall oil which is on Kevin's
work plan for the Crops Committee. We've
reviewed that for sufficiency and sent it out
for a technical review.

Sunset materials. This is going
to be a big hairy one. For 2011 we have
ferrous phosphate which Kevin's also looking
at and hydrogen chloride which Rigo has said
he will take point on.

2012 Sunset materials, I hope I
don't have to read all those but if anybody
wants to know what's on the 2012 Sunset I
would be happy to do that. There's an
extensive list which we will get started on,
we don't plan to leave it for the last minute
so in the Crops Committee meetings coming up
we'll divide that and try and start to conquer
that extensive 2012 Sunset list.

On our other recommendations we
have soilless systems, greenhouse which
Gerry's been working on and we hope to bring that forward for recommendation in the fall.

Our first priority is the list for inerts and pesticides issue which we will hope to have something ready for the fall. We've had a lot of great comments on that as well.

Mushroom standards. That would be me. And last but not least we talked as a committee about bringing food safety issues up and I don't know if Jeff wants to talk more about what he had in mind for that because that's got his name on it. He's totally not paying attention to me.

CHAIRMAN MOYER: No, I'm paying attention. I'm trying to look like I'm not paying attention. We're hoping to have a discussion document at best for that.

MEMBER ELLOR: Okay. Does anybody have anything to add?

CHAIRMAN MOYER: I think one of the things that the program will notice and members of the organic community is that give
the time frame that we're operating under,
there seems to be a new sort of shift in the
way work plans are being organized in that we
will have probably a lot more discussion items
at the spring meeting and a lot more voting
items, just as we saw with the CAC Committee
where we brought things forward at this
meeting for the committee to discuss, take
that back and come back with a full
recommendation.

Just given the time frame that we
have to work on things between the fall
meeting and when we have to post things for
this meeting, there's a very small window of
time that we have to work on things. And we
really want to have everybody's input, public
comment and input into these materials and
items. So fall will be a difficult meeting for
all of us in terms of voting. Bob?

MR. POOLER: I just want to let
the Crops Committee know that there will be
changes in the petitions that you're going to
be reviewing. For instance, glycine bentene
has been withdrawn and so there's no technical
report on that. But there are other petitions
that are in the pipeline that are going to be
coming to you.

MEMBER ELLOR: So what you're
saying is you took one away and you're going
to give us many more? Thank you.

MR. POOLER: What can I say?

CHAIRMAN MOYER: Thank you Bob.

Are there any other comments for Tina? Thank
you Tina. Appreciate that and we will move on
to the Livestock Committee. Hue?

MEMBER KARREMAN: Okay. Livestock
committee on the work plan, what's been on the
work plan and there's a couple of extra things
now due to this meeting.

Anyway, the discussion documents
we had on animal welfare, we're going to be
working on and taking in, hopefully, a lot of
input from various sections of the industry.

And bi-valves, hopefully we'll come to some
conclusion on that by November.

The vaccine issue we're going to
be working on, that has to be resolved. And
then we also have to look at making that minor
word change in the excipient section of
606(iii)(f) to change the word "drugs" to I
think "animal health products" or something
like that because of the vitamin and mineral
injectables that we just voted on today.

Of course any materials that might
pop up that we need to review that are
petitioned. And also it's always on the work
plan but apiculture or bees. Always seems to
be on there but doesn't rise to the top yet
unfortunately.

I don't think we have any sunset
items for next year. Do we have to look up to
2012 yet? Okay. Well for 2012, that will be
five years after all those wonderful medicines
got on the list so I guess their time will
have to be reviewed at that point, but I don't
know if we need to start looking at them at
MR. MATTHEWS: I think the Committee needs to begin to address those otherwise there's too many to wait.

MEMBER KARREMAN: It's not that many Richard is it? Okay. Anyway I guess we'll have to address the sunset 2012.

CHAIRMAN MOYER: Question by Dan.

VICE CHAIR GIACOMINI: Is that Federal Register Notice is out also? It's not. Do you know when that's--

MR. MATTHEWS: That will be coming out this year.

VICE CHAIR GIACOMINI: For posting for the November meeting?

MR. MATTHEWS: Well if you're going to start discussing them in November we'll have it out before November.

VICE CHAIR GIACOMINI: That would be good. If we can pre-load any of those into November would be--

CHAIRMAN MOYER: Thank you
Richard. Julie?

SECRETARY WEISMAN: Not that it's specific to livestock but because Hue brought it up, I think that this issue of sunset and there's some 2011 items and 2012 items and maybe we should have a general discussion about that when we finish the work plans for other business, so that everybody can sort of be in the right mind frame as they go into the next period of time before the next meeting.

CHAIRMAN MOYER: Duly noted and we'll bring that up later on. Thank you. Anything else? Bob Pooler also has another--

MEMBER KARREMAN: Just one quick thing. On the excipients we also want to make that change that was not done on the 2007 edition to include aphis or animal plant health inspection service biologics license biologic excipients. You know what I mean Valerie, right.

CHAIRMAN MOYER: Mr. Pooler?

MR. POOLER: This is Bob Pooler.
What I'd like to have, this is for all committees for any sunset item, I would like to receive requests for new technical reports on any items that are going to be reviewed for 2011 and 2012, especially for 2012 we need to begin developing these reports this year.

Thank you.

CHAIRMAN MOYER: Thank you Mr. Pooler. Any other discussion for the Livestock Committee? Okay. Moving on we have the Joint Materials and Handling Committees, Dan Giacomini and Steve DeMuri. Dan, did you want to--

VICE CHAIR GIACOMINI: Definition and classification materials, we will work on that. We've been dealing with this for probably a decade, over a decade in various forms. I think people are to the point where they just want something and they're probably even willing to take it if it's wrong. They won't agree with us if it's wrong and we'll certainly hear about it but I think we've
reached that point of frustration and work.

But it's by no means going to be easy. And I'm going to ask, and maybe this is more appropriate in the session at the end of all the work plans, but we have a tremendous number of sunsets coming up and we have this project for the next meeting. And we may need to pull some of the time that some of your members of the other committees put into other committees working to get this done. And we'd just ask for the consideration of all the other chairs that to get this accomplished it may impact some of what you're looking to be able to complete.

CHAIRMAN MOYER: So that summer vacation, it's off. Thank you Mr. Chairman. Do you also now want to comment on the Materials Committee, I believe you have nanotechnology.

VICE CHAIR GIACOMINI: Yes. For the Materials Committee, first and foremost always is the petition and the sunset process.
Sunset is going to be moving much quicker. We have a short list of 2011 and a big list of 2012. We will have already listed the definition of materials in the joint committee even though that's always part of our discussions.

We will do what we can with nanotechnology. I've been discussing it with a couple of people that made comments and with some people that know the rule and if it looks like we may be able to get a satisfactory recommendation with the least amount of pain involved, we will certainly work to get that done and I think that's a real possibility.

And then No. 4 or 3, however you're adding it up, we have always had in conjunction with what Barry said on our work plan, working to continue to improve communication with the program and tracking petitions and things like that. We will continue to work on that as we have time but it's also going to become more important again.
as we start looking back on and dealing with all the sunsets of new TAPs, questions for new TAPs and all the things involved with that, making sure that we have a good trail of information that gets where it needs to be going and that it's seen once it's there.

CHAIRMAN MOYER: Thank you, Mr. Chairman. Any discussion for the Joint Committee or the Materials Committee on their work plan? Okay. Handling Committee, Steve DeMuiyi chairperson.

MEMBER DEMURI: Thanks Jeff. As Dan mentioned, we're closely with the Materials Committee jointly on classification of materials. I think enough has been said about that but that is one of our top priorities over the next six months.

We still have two petition materials that we're waiting for technical reviews on, one for glucosamine that Tracy's going to handle as soon as we get that, and pectin that Mr. Smillie's going to work on
when we get that technical review.

We have ten 2011 sunset items.

For 605(a) we have egg white lysozyme, L-malic acid and microorganisms.

For 205.605(b) activated charcoal, cyclohexylamine, diethylamino ethanol and octadecylamine, those three are boiler additives. Peracetic acid, sodium acid phosphate and tetrasodium pyrophosphate. So those are the ten items we have for 2011.

We have a good list for 2012 as well that we're not going to start working on right away so we've got a full few months ahead of us. Those will be my top three priorities but we also have some other things on our work plan that we will hopefully try to get to as soon as we can.

Flavor guidance, which hopefully we can get Julie to get us with while she's on the committee and even after she leaves the board. Food contact substances, and then knowing that nanotechnology is probably used
more in handling than it is in most of the
other committees on this board. We would work
with materials on the nanotechnology work as
well.

And then last we have the one that
Tracy asked for us for today and that's
looking into protocol for commercial
availability research for 606 petition items.
And since Tracy's on the Handling Committee I
know just who's going to work on that one.

CHAIRMAN MOYER: Okay. Thank
you, Mr. Chairman, any discussion on this?
Julie and then Hue.

SECRETARY WEISMAN: In the area
of 606 in addition to the commercial
availability matter that got raised, did we
also not have something about protocol for
looking at other, I guess different methods of
manufacturing? In other words the other
materials that may be used along with what's
being petitioned. Right?

MEMBER DEMURI: Yes. My
apologies. What I did was I had circled that  
and moved it down and I forgot to go back up  
and pick it up. I do have refine 606  
procedures. Thank you. And that's to clarify  
use of accessory ingredients in formulated egg  
products. That would be like volatile  
solvents, synthetic carriers, that type of  
thing that are not on the national list.  
Thank you for your good memory.

CHAIRMAN MOYER: Hue?

MEMBER KARREMAN: This is not  
specific to handling, it can wait, it's more  
about sunset.

CHAIRMAN MOYER: Okay. We'll  
wait and bring it up under other business  
because I have it down there. Katrina?

MEMBER HEINZE: Julie handled my  
comment. Thank you Julie.

CHAIRMAN MOYER: Thank you. Any  
other points for the Handling Committee?  
Valerie?

MS. FRANCES: It may not really
just be for the handling committee but the evaluation criteria checklist petitions for removal, dealing with the forms to better address those.

MEMBER DEMURI: I was going to ask that under potential new business because that is something we need to do for removal. List for removal and then maybe revamping the one for adding things to the list. I don't know whose committee that would fall under.

CHAIRMAN MOYER: Well let's bring it up now. Let's jump into other business and we'll start out with forms and a checklist for items to be removed from the national list. It is a topic that came up during our meeting, it came up in the evaluation sessions that I sat in on saying that the checklist just doesn't necessarily work for removal as well as it maybe could. Is that something Policy and Handling want to work on together? How do we want to go about doing that? Materials? Dan?
VICE CHAIR GIACOMINI: Mr. Chairman, I would like us to maybe just set that aside for now. I understand that you're looking for where is it going to be put but I can't imagine anybody's going to get to it in the next six months anyway.

CHAIRMAN MOYER: No, the other place we could put it is we could put it on the program and ask them to take a stab at it and see if the program could come up with a better form that would handle that for us.

I'm sorry, Valerie?

MS. FRANCES: There are also some questions that came up when I believe it was Livestock Committee was trying to answer some of the questions and feeling like things did apply to them. There were some questions being asked on the forms that currently says you know this is not applicable. And when people were really--

CHAIRMAN MOYER: You're right.

There were some items that the Livestock
Committee reviewed and in the evaluation forms there were things that we felt did apply but the form basically put them under Handling and said they didn't apply to Livestock.

I would suggest that maybe those are items that we could review with Richard Matthews and see if the program could maybe come up with some remedies. Dan?

VICE CHAIR GIACOMINI: Maybe if the chairman for each of the committees maybe in a quick meeting with the rest of their committee could sort of review the things that they've come across over the last year, funnel those to me as Chairman of the Materials and we'll send those to the material boy. We'll send those to Bob.

CHAIRMAN MOYER: Yes, I think let's put some work back on to the program if we can. Those are things that should be addressed soon but we don't have the time to do them.

MR. MATTHEWS: You're shifting
that in the wrong direction.

CHAIRMAN MOYER: Pardon me?

MR. MATTHEWS: You're shifting

that in the wrong direction.

CHAIRMAN MOYER: Why is that?

MR. MATTHEWS: We don't need any

more work.

CHAIRMAN MOYER: Neither do we.

Okay. What we'll do is if we agree to follow

up on that recommendation if committee chairs

when they have their next committee meetings

can just funnel some information to Dan, he

can be our clearinghouse to the program with

those things. Julie? A suggestion?

SECRETARY WEISMAN: Yes. I mean

this is a general materials issue and the vice

chairs to represent each committee on the

materials committee so would it not, I mean it

seems to me like this is pretty appropriate

for them to be the conduit and for it to be

addressed in regular material committee

meetings.
VICE CHAIR GIACOMINI: Okay. The chairs can deal with it at their next meeting and give the information to their vice chairs for the next materials committee meeting.

SECRETARY WEISMAN: Okay.

CHAIRMAN MOYER: So let it be written, so let it be done. Okay. Hue?

MEMBER KARREMAN: One thing on the sunset, on the Livestock, we have sunset and we're going to start looking at, if I get it right, for things that are coming off in 2012. So let's see, right now they've been on the list for a year and a half and we have to start looking at taking them off already? I know it's five years. So the things that came on in December 2007 we're not even in December 2009 right we have to start looking at.

CHAIRMAN MOYER: A comment from Julie. We do have a lot of other stuff to do.

MEMBER KARREMAN: Yes, that's the whole thing. I mean there's a lot to do. And they just came on a year and a half ago
technically and it's like, hey, we've got
front burner stuff. I mean it's going to get
done but by the November meeting in 2009 or
what?

MR. POOLER: Nobody said you had
to have it done--

CHAIRMAN MOYER: It's a two year
process.

MEMBER KARREMAN: Right. So we
need to state what they are and that's that?
That's easy.

MR. MATTHEWS: Well, we will come
out with an announcement with a Federal
Register Notice, saying that you're going to
be looking at them. Then you'll have about
three years to get 170 some materials done so
that you have it published on time in 2012.

MEMBER KARREMAN: That's fine.
I'm just thinking of the Livestock Committee.
I mean that's like not 170, that's like--
That's fine. I just thought it was kind of
early to be looking at things that were
essentially just placed on a year and a half ago at the time of this meeting right now.

CHAIRMAN MOYER: The Chair recognizes Julie and then Dan.

SECRETARY WEISMAN: Hue, I'd like for you to like remember way back to our first NOSB meeting. That was February 2005. Yes.

But it wasn't only the pasture meeting. That's right. But other things did happen at that meeting. And one of those things was that we were under the gun and feeling like already the train wreck was coming unless quick action was taken to begin dealing with the materials that were on the original file rule that became final in 2002 which were due to sunset in 2007.

But we only arrived in 2005, they had already been talking about it before we got there.

MEMBER KARREMAN: Yes, it's really closer to a three year process working through all of them.
CHAIRMAN MOYER: Okay. That's fine.

MEMBER KARREMAN: I just wanted to bring it up, that's all.

CHAIRMAN MOYER: You've been outvoted. Dan?

VICE CHAIR GIACOMINI: Well I think it's important to remember No. 1 the Livestock Committee doesn't have nearly as many to go over as Handling does. We wouldn't want Handling to try and conquer all these just between one set of meetings.

No. 2, as Bob said, we're looking at the possibility of needing some new TAP reports. We want to know what substances on the list do we want a new TAP report with. What are the questions we want answered in those new TAP reports and we need to get those requests in to get that TAP report back in time to make the adequate decision in the time frame that you think is more comfortable in your mind.
So there's a lot of things, we can't wait until mid 2010 to start requesting those TAPs or even to start looking at them because when we have a petition and we don't get the TAP report in time, we can just set it aside and it could stand at the next meeting.

We won't be able to put things off. You can't put things off on sunset once we're down to that last meeting when things are going to have to get re-posted.

MEMBER KARREMAN: You have all made your point. I stand corrected.

CHAIRMAN MOYER: The Chair recognizes Julie.

SECRETARY WEISMAN: Actually I'm not sure if I want to rub it in any more. But you know just that it bears to be said because it's following up where Dan just left off, which is that we actually are aiming to make sunset decisions not in time for October of 2012 in the case of those materials. We're looking to have those decisions made you know
even more than, maybe three meetings ahead of
that because our experience last time was that
there were some problem children that took a
while and I believe that we made the final
decision for the 2007 materials, there were
one or two stragglers left that we had to
clean up at that full meeting. So we'd have
to leave room for stuff like that.

MS. FRANCES: And you added more
handling materials in 2007 to 606 and you
added the livestock materials, so any rate
there's even more materials.

SECRETARY WEISMAN: But are they
final-- When does the clock start?

MS. FRANCES: Well that's a good
question.

MR. MATTHEWS: And let's not
forget the rule making process.

CHAIRMAN MOYER: Okay. Dan, you
have another comment?

VICE CHAIR GIACOMINI: No, that
is just the question. When does the clock
start on the 606 when we're still on an interim final rule?

MR. MATTHEWS: It's a good question but I think it would start when 606 was first put out, so the clock is already ticking.

SECRETARY WEISMAN: So June.

CHAIRMAN MOYER: Okay. I think all the committees are well aware of their work plans and their work load. We discussed sunset, the forms, is there any other business that needs to come before this Board? Bea?

MEMBER JAMES: I was wondering, Barbara had mentioned on Monday that there's the possibility of having an additional day added to the November meeting so that we could discuss, as a group, how we prioritize and how we want to go forward deciding on exactly what needs to be worked on by committee and when will the program know whether or not that's going to happen?

MR. MATTHEWS: Well, I don't have
an answer for that. But it is something that I would expect Barbara to be working pretty closely with Jeff on so I'm sure that discussions will start there and then work through the Executive Committee and then a decision will be made whether or not that will be part of the November or even maybe a separate meeting.

CHAIRMAN MOYER: Yes.

SECRETARY WEISMAN: Yes, she had mentioned the summer as an option as well.

MR. MATTHEWS: Yes. You know, we haven't fleshed that out yet but I'm sure that she'll be talking very closely with Jeff as to ideas on that.

CHAIRMAN MOYER: Any other business that needs to come before this Board? If not, before we adjourn I certainly wanted to thank everybody, I'm sorry, Andrea?

MS. CAROE: No, you didn't do anything wrong. I'm listening to you go through the work plans and you all seem
overwhelmed by the work that's on them. I just wanted to bring up a couple of things and you know this but materials are your work plan. All the rest of this stuff, although I know you want to get to it, is secondary. And I would really suggest, since you all represent constituents within the organic industry, that you reach out, use OTA, use the ACAs, use anything you can for subgroups that can do some of the work for you and bring you the tools to make your life easier.

I'm looking at things like flavors, and food contact substances and issues like that, that you can spin your wheels and burn a lot of time or you can give to the industry to bring you summary information so that you can make your recommendations as efficiently as possible and still have all the time that you need to do your first thing, which is materials, materials, materials. So I just wanted to make that point for whatever it's worth. And
by the way I'm Andrea Caroe, former member of
the Board.

CHAIRMAN MOYER: Thank you,
Andrea. Okay. Before we disperse here today,
I did want to take the time to thank the
program and the program staff in attendance.
We couldn't do this work without you. We also
couldn't do this work without the members of
the general public who take the time out of
their busy schedules to attend this meeting or
send in written comment. We depend on that,
we need it, and we certainly appreciate it.
And, as Andrea just mentioned, we
certainly look forward to working closely with
all of you on our work plans as we move
forward in the future.

I also mentioned when we started
this meeting that some folks would be happy
with the outcomes of the votes and some people
wouldn't, but I also mentioned that this Board
would work diligently and hard in the best
interest of the organic community and the word
organic, and I hope you've seen that we've
done that.

So at this moment I would
entertain a motion to adjourn this meeting but
I have something from Kevin and Dan. Kevin?

MEMBER ENGELBERT: You won't
regret it. I just want to thank you for
running a great meeting. It's been very
enjoyable and we appreciate all your efforts,
all your efforts also.

(Applause.)

CHAIRMAN MOYER: Thank you,
Kevin. Dan, the last word before the gavel
falls.

VICE CHAIR GIACOMINI: On the
introductions Kevin always makes a statement
thanking his family. And I think the entire
industry would be good to thank all of our
families because the work load on this is
tremendous and their sacrifice is sometimes
bigger than ours.

CHAIRMAN MOYER: Kevin?
MEMBER ENGELBERT: Speaking of family, two centimeters, things apparently starting to progress.

(Applause.)

CHAIRMAN MOYER: Could I have a motion to adjourn?

SECRETARY WEISMAN: I move that we adjourn.

CHAIRMAN MOYER: I will second.

This meeting is adjourned.

(Whereupon, the above-entitled matter went off the record at 3:35 p.m.)
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The National Organic Standards Board convened at 9:00 a.m., in the Monroe and Jefferson Rooms of the Washington Plaza Hotel, located at 10 Thomas Circle, N.W., Washington, D.C., Jeffrey W. Moyer, Chairperson, presiding.
MEMBERS PRESENT:

JEFFREY W. MOYER, Chairperson
DANIEL G. GIACOMINI, Vice Chairperson
JULIE S. WEISMAN, Secretary
RIGOBERTO I. DELGADO
STEVE DeMURI
KRISTINE ELLOR
KEVIN ENGELBERT
BARRY FLAMM
KATRINA HEINZE
BEA E. JAMES
HUBERT J. KARREMAN
TRACY MIEDEMA
JOSEPH R. SMILLIE

STAFF PRESENT:

BARBARA ROBINSON
MILES McEVOY
VALERIE FRANCES
MARK BRADLEY
SHANNON NALLY
RUIHONG GUO
VALERIE SCHMALE
J.D. MELVIN

KATHERINE BENHAM

ROBERT POOLER

JUDITH RAGONESI

TAMMIE WILBURN

ANDREW REGALADO

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and
also representing
The Monterey Bay Aquarium
(9:02 a.m.)

CHAIRPERSON MOYER: Good morning, everybody.

Okay, I would like to officially call the November 3rd meeting of the NOSB to order. We have a quorum. The Board is seated.

I would like to move directly to the business of the Board.

We have an agenda that was presented to the Board, to the program, and posted to the public. At this time, I would like to call upon the Board to approve that agenda. If someone would like to make a motion to approve that agenda, I would entertain that.

MEMBER ELLOR: So moved.

CHAIRPERSON MOYER: Tina has made a motion. Do I have a second?

SECRETARY WEISMAN: I will second it.
CHAIRPERSON MOYER: Julie has seconded the motion to accept the agenda as presented.

Are there any additions or corrections to that agenda?

Madam Secretary?

SECRETARY WEISMAN: Yes. One of the things that is on the agenda for a few minutes from now is for us to vote to accept the voting results of the May 2009 meeting as official record. That actually was ratified. It hasn't been posted yet, but it has been ratified, as of midnight last night. So it is now available for posting. I suggest that we move that to later in the meeting, just that one vote.

CHAIRPERSON MOYER: Yes, I suggest we put it on Thursday morning as the first item of our voting around at eight o'clock.

Do I hear any discussion on that?

(No response.)

Okay. Hearing none, I call for
the vote to accept the agenda with that one additional change.

All those in favor say aye.

(Chorus of ayes.)

Any opposed?

(No response.)

Hearing none, we have an agenda, and we are ready to go. Thank you.

I would like to take a brief moment here, if I could, to welcome the Board members, the program staff in attendance, and the general public. Thank you all for being here. I know we have worked hard; you've worked hard, and we are real excited to be here to take care of the business in front of the Board.

I would also like to take this opportunity, on behalf of the Board, to be the first to welcome Miles, the new Deputy Administrator, to the program and to this meeting.

Miles, nice to have you here.
(Applause.)

You realize this is the first of many applauses. So you have to get used to that.

(Laughter.)

Just for the first meeting. After that, you know, the gloves come off later.

(Laughter.)

But this Board really does look forward to working with Miles and with the program under new leadership as we move forward with a lot of the challenging issues in front of us.

As you can see from the agenda we have just approved, the Board has been extremely busy over the past six months. We focused our attention on several materials, which we are going to vote on later this week, and some very specific recommendations that came out of each of our committees.

Like every Committee session before us, we have logged -- I didn't get the
exact number from Valerie yet, but I know it
is hundreds of hours of conference calls over
the last six months and countless more hours
reading, writing, and in many cases laying
awake at night thinking about these particular
items that we are all working on here over the
next three days.

While many of you will agree or
disagree with the outcomes of the votes that
we present here, I can assure you that the
members of this Board have put forth their
very best effort, and I am extremely proud to
be part of this Board and the hard work that
everybody has done here. So I appreciate
that.

We have also recorded over 300 --
I don't know how many, Valerie, 360 or
something -- public comments. Not that many?
Three-hundred-and-something.

MS. FRANCES: Two hundred and one.

Then there were the thousands that were
petitions and various other.
CHAIRPERSON MOYER: Okay. It's a lot.

(Laughter.)

A lot of written comments. We know that there's a large attendance in the room today that wants to speak and present information to us verbally over the next few days. So we know that you have been working just as hard as we have, and we certainly appreciate all of that effort.

One glance at the agenda will give you an idea of the great diversity and complexity of the issues that we have struggled with over the past six months. This Board has not backed away from dealing with the most difficult tasks.

We have tackled head-on the issues of personal body care, retail certification, nanotechnology, animal welfare, bivalves, inerts, and the classification and definitions.

Every member of this Board has
stepped up and contributed in many ways to all these issues related to their particular segment of the community.

Now, in order to move many of these recommendations to the next level, we will need to partner with other government agencies, like the EPA and the FDA, and we know that this will require additional efforts on behalf of the program and the Board as we work to educate these agencies on what the organic standards mean, as well as the expectations of the greater organic community.

All this activity has not gone unnoticed by Congress. The National Organic Program has been allocated additional funds to support the work being placed on our program staff.

Over the next several months, the program is expected to grow, I believe, from 14 people to 31 people, is the number that I heard. Additional program staff will certainly make the workload challenging in the
beginning, as we work to educate them, but then, hopefully, make the work flow much more smoothly over time.

In addition, the Organic Program has been given full status as a separate program, no longer blended into other programs. So that gives us more credibility and, of course, more prominence and more attention.

Much is changing across all of our industry. Managing the change in the marketplace is a very real challenge. Consumers are being asked daily to make choices between labels for natural products, alternative certifications, grass-fed, or pesticide-free. There are also hundreds of confusing labels designed to look just like the USDA organic seal.

That further confuses consumers, as they try to capture more of the organic food dollar. Any actions taken by this Board that further adds to the disillusionment or
confusion of consumers only makes matters worse. To that end, we must all focus our energy on keeping this industry strong, on keeping the word "organic" meaningful, and also on keeping the door open for the growth of what we all want and need. Therefore, the word "integrity" comes to mind, as we all work on the issues that are in front of this Board and in front of your particular communities.

Now what I would like to do is continue by giving each of the Board members the opportunity to introduce themselves, him or herself, giving a brief summary of your individual position, your representation on the Board, and maybe a little something about your background and how you fit into the organic community.

I guess we will start with -- Joe, do you mind starting over on your side of the table, introduction of who you are and your position on the Board?

   MEMBER SMILLIE: Joe Smillie, and
this will be my last year on the NOSB. I represent the certifier, accredited certifiers, basically representing the certification organization. I am also Chair of the Certification, Accreditation and Compliance Committee, which has been pretty busy the last few years.

Serving on the NOSB has been a remarkable experience. There is always that joke: there's two things you don't want to see being made. One is sausages and the other is regulations.

(Laughter.)

Now I fully, completely understand that old saying. It is a real balancing act. I am just very proud of this Board for working together as one unit. In spite of the wide variety of opinion we have, we are always able to work together and there's no factions on this Board, which I am especially proud of and glad to serve with this Board.

There's been a lot of issues. I
I think we are at a point now where all the easy work has been done. Now we've just got very difficult choices. Just going through the classification of materials showed us how difficult our job now is and how attentive you have to be to the issues.

So, in working this year, I found it to be a real challenge to stay on top of everything. One of the worries I have for the NOSB is that we get so involved in our own work that we are not really able to fully participate in some of the other committees' work as we go along.

So sometimes we come to meetings, and we certainly know a lot about our areas, but we haven't been fully briefed on other committees' work. That is one of the concerns I have for the future of the NOSB. As we go deeper and deeper into the crack, that we are able to work out some system that we can keep in touch with each other and the Committee.

But that is my speech for today.
I will leave it to Tracy.

CHAIRPERSON MOYER: Tracy?

MEMBER MIEDEMA: Good morning, everyone.

My name is Tracy Miedema, and I work for a farm in Oregon. We farm about 5,000 acres, about a third of which is certified organic by Oregon Tilth.

I am a consumer rep on the Board and have two more years here of doing work on the NOSB.

I am really, I think, looking forward to hearing everyone's comments and talking with you in the hall and in our breaks and such.

I also wanted to let folks know about something that we are pretty proud of in Oregon. We are making energy from fruit and vegetable byproduct. Our farm is now fully energy-independent.

So I am interested in organic and also some other areas of sustainability,
issues of hunger, and energy independence. I am thrilled to have the chance to serve two more years.

CHAIRPERSON MOYER: Bea?

MEMBER JAMES: My name is Bea James. I live in Minneapolis, Minnesota. I hold the retailer representative seat, and this is my last meeting. Somebody out in the hall said, "Can you run again?"

(Laughter.)

And I said, "You can run away."

(Laughter.)

Yes, but you can't hide.

It has really been an honor to serve on the Board. I just am in awe of the people that I have been able to work with and learn and grow with. Everybody here just does an amazing amount of work. You really don't realize how much work goes into being on the Board until you actually sit on it and you see people try to balance professional, personal, and then this job. So it is a lot, and it has
been great.

I no longer will lay awake at night wondering whether or not bacteria will someday be classified as livestock. So I am going to sleep a lot better.

(Laughter.)

CHAIRPERSON MOYER: Thank you, Bea.

Barry?

MEMBER FLAMM: My name is Barry Flamm. I'm from Montana, Paulson, Montana, beautiful Flathead Lake.

I was appointed to the Board in January of 2008 and came in alone, and have been the junior member up until right now. So I am losing my distinction and special treatment I have received from the Board, the great people on the Board.

As I mentioned, I was appointed in one of the three environmentalist positions. I am Chair of the Policy Committee and serve on the Crops Committee and on the big alphabet
committee with Joe, certification and other
things.

I had owned and managed the first
certified cherry orchard in Montana, which is
something I was pretty proud of, and also grew
certified apples and other fruits and
vegetables.

I have been very involved in the
organic community in Montana and helped put
together the State program, the State
certification program, run by the State
Department of Agriculture, and helped form the
Montana Organic Association.

As I have found in Montana and
everywhere, there is, I think, no greater
group of people than the people in the organic
community. I have been an environmentalist
and a conservationist all my life, but organic
people not only have the right kind of values
and beliefs, but also they are working at it
every day. So I am just delighted to be part
of such a great group. Thank you for being
I look forward to working with the new Board members. I know we've got work all lined out before they even get officially here.

So thank you for the opportunity to serve.

CHAIRPERSON MOYER: Thank you, Barry.

Steve?

MEMBER DeMURI: Thank you, Jeff. My name is Steve DeMuri. I live in Sacramento, California, and I work for a certain unnamed, "Um-um, good" soup company. 

(Laughter.)

My background in organics dates back to about 1989 or 1990, when I was on the startup team for Muir Glen. I have transitioned to another company since then. But I have really enjoyed my time on the Board here. It has been wonderful. It has been invigorating, tiring at times, but,
as Joe mentioned, we do work very well
together, which I find very, very refreshing
in this day and age. We are able to get some
things done, and we have a lot more to do, of
course.

I would like to welcome the four
new members that are coming on. I know at
least one is here today. So get ready for
some fun. We are looking forward to having
you.

And to the four that are leaving,
thank you very much for all your hard work the
last five years, the four that are leaving,
the five that are leaving. Is there five
leaving? I thought it was four leaving.
Five? Okay. Does one of you want to stay?
Thank you for your hard work. It
has been a privilege to work with you, and for
the tutelage you provided to me and the other
newbies as we have come on, we appreciate
that, too. So thank you very much.

CHAIRPERSON MOYER: Thanks, Steve.
Julie?

SECRETARY WEISMAN: My name is Julie Weisman. I am from Tenafly, New Jersey, just up 95 a ways, a piece.

I am currently the Secretary of the NOSB. I am one of the handling representatives. I am also currently and have previously been Vice Chair of the Handling Committee as well as having chaired it prior to my colleague Steve's tenure.

This is also my last meeting. I can't believe it. I don't want to add a lot, you know, take a lot of time out of the agenda. Already things I wanted to say have been said. What a complete privilege it has been to be working with these people and to be part of -- and I don't just mean the Board; I also mean the people that are sitting opposite me from the program.

I don't know how I lucked out to be on the Board during this time that really has felt to me like this is really what
democracy is all about. I am sure this is what it was meant to be. I don't know how many places in government it really does work like this, but I am happy that I got a chance to experience it.

For that reason, I am relieved, at least at the fantasy that I think I will have less work to do; I don't know if that is really going to happen. But it is also bittersweet for me because I have really, really -- being part of this process has profoundly affected me, and I am really thankful for that.

CHAIRPERSON MOYER: Thank you, Julie.

Dan?

VICE CHAIRPERSON GIACOMINI: Thank you, Jeff.

My name is Dan Giacomini. I hold one of the consumer seats on the Board. This is the end of my fourth year. So I will have one more year.
I come from a livestock background. I have worked with dairy animals all my life. But if you spend any time around the San Francisco Bay area, it is impossible not to stay in touch with the consumer.

I think I have said before, you can be a Democrat anywhere else in the country and you come to San Francisco and you find yourself a conservative Republican almost. I have always said, the slogan there is "Where the left is right." They can be so far left that just being basically left is to the right of them. So it is a very active place, very consumer-driven. They are probably some of the most politically- and socially-active people around. It is really impossible not to keep in very tight touch with what's going on in that group.

Also, being a consumer, we purchase all the stuff we need that we can with organic, with some exceptions, but for the most part.
It is a pleasure being on this Board. I have enjoyed the time. It has been a tremendous amount of time, but you just hope that at the end of five years it has all been worth it.

CHAIRPERSON MOYER: Thank you, Dan.

Katrina?

MEMBER HEINZE: Good morning. My name is Katrina Heinz. I am also from Minneapolis, Minnesota. I was raised in that place where the left is right.

(Laughter.)

I don't disagree. I am in my third year on the NOSB, finishing my third year, in the scientist slot. I serve on the Handling and Materials Committee, and had the distinct honor and pleasure -- I think that would be the right word -- to chair the Joint Handling and Materials Committee over the last six months.
I work for General Mills. I don't know our tag line, so I can't do that like the "Um-um, good" soup company.

(Laughter.)

I work for General Mills in our Small Planet Foods Division. I have the responsibility for product safety, regulatory compliance, and quality for our Cascadian Farm, Muir Glen, and Larabar brands.

I grew up in Marin County, just north of San Francisco, raised by a mother who was dedicated to organic and home-grown produce. I can remember her driving an hour to go buy organic milk from Straus Family Farms and me arguing with her about the environmental irresponsibility of that action.

So it has been a long time committed to taking care of the planet.

Because I am the mother of two children, Kayla and Victor, nine and five, who join me on the journey, and I will say they are very proud of the fact that they don't
They shop at Lakewinds Natural Foods Co-ops, and they know what is organic. I have trained them to recognize the seal, so that they know what to buy and what not to buy, and they can do their own shopping.

So that is why I serve on the Board and why it has been a distinct pleasure to work with Board members who are leaving and everyone else, and looking forward to our five new members.

Thanks.

CHAIRPERSON MOYER: Thank you, Katrina.

Rigo?

MEMBER DELGADO: Thank you, Mr. Chairman.

My name is Rigoberto Delgado. And for the last time and just to please my colleague Bea, it is "Rigoberto".

(Laughter.)

I have been giving Spanish lessons
for five years to my colleagues here on the Board.

I am from west Texas. I am a producer representative. I normally wear light, colorful sweaters when I am very happy because I am part of the fantastic five that are leaving at the end of January.

(Laughter.)

Nonetheless, I have to say that it has been a real pleasure to work on this Board. I really made friends for life.

We dealt with a lot of difficult issues, with a lot of challenges, and all the time I think we remained objective and maintained our civility to the best of possibilities.

I am also very impressed with the organic community. This Board cannot do many things without the input that is coming from all of these people in this room. So that is impressive.

I am also very proud to have
formed part of this organic and dynamic
democratic process.

I hope to see you soon in Texas.

We have a brand-new adobe house, and we need
help with goats and the lamb that we are
moving into it.

(Laughter.)

Thank you.

CHAIRPERSON MOYER: Thank you,

Rigo.

Tina?

MEMBER ELLOR: There's not much I
can add to any of that. All of you are very
hard acts to follow.

I am Tina Ellor. I am sitting in
an environmentalist seat. I work for Phillips
Mushroom Farms in southeastern Pennsylvanian.

You can't help but be changed by
the experience of the NOSB. I hope everyone
in the audience gets a chance to sit up here
someday.

Thanks.
CHAIRPERSON MOYER: Thanks, Tina.

Kevin?

MEMBER ENGELBERT: Thanks, Jeff.

Good morning, everyone.

My name is Kevin Engelbert. I operate a certified organic dairy farm in upstate Nichols, New York, along with my family. We have downsized a little bit on cow numbers with what is happening with the dairy industry right now. So we only have about 100 cows.

But our organic beef herd has expanded to up to 60 animals and we still fatten off a few hogs for our retail meat market.

I sit on the Livestock Committee, the Crops Committee, and also the Materials Committee.

Echoing what Tina said, I can't add much to what everybody else has said. It is just simply a pleasure and an honor to serve on this Board and to interact with the
organic community.

I look forward to working with the new members, and I will be sad to see the old members go. They are just a great group of people. It is a pleasure to have worked with them.

We have two new interesting developments on our farm since the last meeting. One is we have started our own cheese label. We are having specialty cheese made under our own Organic Farms label now.

The other development is my youngest son is a junior at Alfred University, and he has made the decision over the summer to come back to the farm full-time when he graduates in May of 2011. So that is going to be three sons on the farm full-time.

As you all know, I have to thank them immensely for allowing me to serve, to put in the time that I do on this Board. We all work 80 to 100 hours a week year-round. For me to commit to the time that I have, it
1 has been a big sacrifice for them. I am very
grateful.

CHAIRPERSON MOYER: Thank you,

Kevin.

Hue?

MEMBER KARREMAN: Do I get the

last word? I never do.

(Laughter.)

CHAIRPERSON MOYER: Sometimes.

MEMBER KARREMAN: My name is Hue

Karreman. I am a veterinarian in Lancaster

County, PA.

I sit on the environmental seat.

All I can say is that the last five years have

been quite a life-changing experience. It has

been a true learning experience as well as a

real honor, and also to learn how the

democratic process works here in the United

States.

I was interviewed by the Lancaster

papers yesterday about my role on the Board

here. One thing that I remembered was, when
we had the Aquaculture Symposium, afterwards I guess I heard some people say, the Europeans say, "Wow, it is so different here. You have so much public input." In Europe, you know, it is all done by committee, not behind closed doors, but not as much public input as we have here.

I know what it is like to be out there. I used to come to the meetings prior to sitting on the Board, and I plan to sit out there again after I am done being here on the Board, to give comment, not so much as maybe a veterinarian, but as a consumer of organic products, and keeping in mind what I know about organic dairy farms.

I guess the one last thing I would say is that pretty much on almost all my decisions up here I have always thought, what would the organic consumer think about what we are doing? But, also, as a veterinarian to 80 to 100 certified organic dairy farmers in Lancaster County, I have, hopefully, served
them well here and brought up issues which
will enable them to take better care of their
cows and general livestock. Some of those
issues will be brought up here at this
meeting.

So let's let the meeting get

going.

CHAIRPERSON MOYER: Thank you,

Hue.

I would also like to mention that
there are two Board members who could not be
with us today because of issues in their own
personal lives. Outgoing Board member Jerry
Davis, he is from California, sits on the
Crops and Handling Committees, could not be
with us, and fourth year Board member Jennifer
Hall from the State of Washington, who sits on
the Livestock and I believe the CAC Committee,
could also not be with us today. But their
work should not go unnoticed by the folks in
the gallery.

Okay. I guess I should introduce
myself, too. Jeff Moyer. I am the current Chair of the Board. I sit on the Livestock Committee and the Crops Committee. I am in my fourth year on the Board.

I am the Farm Director for the Rodale Institute. I have been there, not as Director, but I have been at the Institute since 1976. So they tell me that is a long time, but it seemed to go fairly fast.

And it is a pleasure to be with you today.

The next item on our agenda is to address and look at the mission statement of this Board. Because of the work that we do, I think that it is important that we take just a few minutes, and I am going to read that mission statement. You can all find it in the Policy and Procedures Manual in Section 1, page 6. I encourage you to look at the Policy and Procedures Manual for the Board at your leisure, but I am going to take a moment just to read what we have here.
"The NOSB Vision Statement.

NOSB's vision is an agricultural community rooted in organic principles and values that instills trust among consumers, producers, processors, retailers, and other stakeholders. Consistent and sustainable organic standards guard and advance the integrity of organic products and practices.

"Our statutory mission is to assist in the development of standards for substances to be used in organic production and to advise the Secretary on any other aspects of the implementation of this title."

And the title is OFPA Section 2119(a).

"The NOSB mission statement is to provide effective and constructive advice, clarification, and guidance to the Secretary of Agriculture concerning the National Organic Program and the consensus of the organic community. In carrying out the mission, key activities of the Board include: assist in
the development and maintenance of organic standards and regulations; review petition materials for inclusion on the national list of approved and prohibited substances, known as the National List; recommend changes to the National List; communicate with the organic community, including conducting public meetings, soliciting and taking public comments," which is what we are here for today, "communicate, support, and coordinate with the NOP staff, and to provide information and education to the National Organic Program."

That is our mission. That is what we strive to do over time, and that is what we are going to try to work on today.

I should also mention, before we move on to the next item on the agenda, that this Board and this Chair will not tolerate any personal attacks or disparaging remarks directed to individuals in the audience or to any specific Board member. We certainly
expect everyone to treat each other with respect and dignity, and we won't tolerate anything but that behavior.

Okay, the next item on the agenda would be the Secretary's report by Julie Weisman.

Julie?

SECRETARY WEISMAN: Yes, we have traditionally two things that happen during the Secretary's report. We vote to accept the official transcript of the last meeting, the transcript of the November 2009 (sic) as the official record of the meeting, and the other thing which we referred to earlier would be voting to accept the voting summary that we have been circulating for a couple of months now as the official record of the voting on the recommendations at that meeting. That second part, the voting summary, we already agreed is going to happen on Tuesday.

So, at this time, I move that we accept the transcripts of the May 2009 NOSB
meeting as the official record of that
meeting.

CHAIRPERSON MOYER: We have a
motion on the floor to accept the transcripts
of our previous meeting in May of 2009. Is
there a second to that?

MEMBER HEINZE: I second.

CHAIRPERSON MOYER: Katrina
seconds that.

All in favor of accepting that say
aye.

(Chorus of ayes.)

Anybody opposed?

(No response.)

We have done that. Thank you.

Now what I would like to do is
shift the attention from the Board to the
program. I would like if Barbara Robinson
could come up to the front of the room. Then
we will have the program introduce themselves
as well.

Barbara?
I'm sorry. Hue?

MEMBER KARREMAN: I was just wondering, with the speakers all being way over in there in the corner, is there any way we could have it more in the center here, just for Kevin and Tina and my -- it is going to be all day.

CHAIRPERSON MOYER: I understand that. We will work on that, Hue. Thank you.

MS. ROBINSON: No, you have to turn around, Hue.

Mr. Chairman, I guess I have to introduce myself first. Barbara Robinson, Deputy Administrator, Transportation and Marketing Programs.

Mr. Chairman, I just wanted to remind you, back this spring, we talked about we had proposed to separate the National Organic Program from Transportation and Marketing programs and establish it on its own two feet. That proposal had been accepted by the Administration.
Along with that proposal, we also proposed that the National Organic Program be managed by a senior executive in the Department, and that was also accepted.

So it is my pleasure that, having those proposals accepted, the Deputy also came before you in May and said that she would be moving ahead with that very expeditiously, and she did.

So, on October 1st, we did what is called the magical 1010 in the Department, which is the paperwork terminology, and NOP was officially separated from the Transportation and Marketing programs.

We had a very amicable divorce. No child support, no alimony, no visitation rights, either, I want to say.

(Laughter.)

Although they have been trying very much; they sneak down every now and then to the office.

But, no, it has been very
amicable. The Deputy did select from many, many candidates one, and that is Miles McEvoy. I am very pleased to hand over the reins officially here at this meeting.

It has been my pleasure to serve as the Deputy Administrator and for the past two years as the Acting Program Director for the National Organic Program. I have really enjoyed this job. I have really enjoyed working with all of you. It has been, and you have heard me say this many, many times, to me, this program has been the ultimate Rubik's cube. You could get five sides all perfect and turn it over, and it's, oh, it's an ungodly mess. But you start all over again because it is just one of those things you just can't walk away from.

But it has been a lot of fun. It has been interesting. It has been a challenge. And just to be honest, it has been, personally, probably for a third of my career been the thing that I have loved most
in my career to do. It was hard to walk away
from, but, well, I didn't have a choice.

(Laughter.)

But it really has been fun working
with all of you and working with this program.

Before I do introduce Miles, I
just want to say thank you to Joe and to Rigo,
to Hue and to Bea and to Julie for your five
years of service. I won't be here in January
when I hope that you do come back, but I won't
be here to give you your official goodbye, and
to welcome Jay Feldman, John Foster, Joe
Dickson, Annette Riherd and Wendy Fulwider,
who are the new members who will be coming
onboard, whom I think you will tremendously
enjoy.

They come with just great
backgrounds and a true, true commitment to not
just organic production, but to production
agriculture, to local, to firm-to-consumer
direct marketing, just to the whole ball of
wax. I mean they are in it all the way.
So your commitment is going to be carried out; I am fully, fully confident of it.

But Miles McEvoy brings, also, a strong commitment to this program and to this community. For over two decades, he was the head of the Washington State Department of Agriculture's organic program. He also was the head of NASOP for a number of years.

So there's not a doubt in my mind that he has 100 percent commitment to making sure that the National Organic Program is successful. As I told my staff, and I would give you the same words, you know, good managers, good leaders, it is up to everybody to help them when they come onboard, to show them around.

Working in the federal government isn't easy. Just because you worked in the state government doesn't mean it is, okay, just come onboard and it is the same transfer. It is not. It is difficult. So, if we all do
our best and help Miles find his way around,
then we are all going to help him succeed that
much quicker.

But I have no doubt about his
commitment. I am sure you won't either, as
you get to know him and work with him.

So that is all you will hear from
me today until our new Administrator, Rayne
Pegg, comes down this afternoon. I will stick
around just to introduce her because she also
wants to meet you all.

So, without any more from me, I
would like you to welcome Miles McEvoy.

(Applause.)

MR. McEVOY: It is great to be
here. I am thrilled to be here.

But I want to recognize Barbara's
contributions over the years. She has done an
amazing thing to keep this program together
with very limited resources.

I used to be on the outside
looking at NOP. You know, you have a lot of
opinions about what they are up to. But now, actually being here for a month and realizing the commitment that Barbara had to keep this program together, and the accomplishments that she made with the very limited resources -- and you will see that in the presentation in a few minutes, the really limited resources that she had to work with -- is really a tribute to her work.

I just want to recognize you. We have a certificate of appreciation. It is modeled just like an accreditation certificate.

(Laughter.)

So we are accrediting her as a certifying agent for the future, and it is to Dr. Barbara Robinson, for service to the organic food industry, and specifically, for the negotiation of the U.S./Canadian Equivalency Agreement in June of 2009; for developing the capacity of the NOP compliance and enforcement activities; for the access to
pasture proposed rule, and for the liquid fertilizer directive, and many, many other things.

So thank you so much, Barbara, for your service.

(Applause.)

MS. ROBINSON: Thank you very much.

CHAIRPERSON MOYER: Thank you, Barbara.

And, Miles, the floor is yours.

MR. McEVOY: Okay. Thank you.

So I am very thrilled to be here. I am actually having a pretty good time at USDA. It was pretty scary at first, but it is government. So I am used to state government. The federal government is much larger; many more steps to getting things approved. But the people at USDA have been fantastic. They have been really great to work with. I have a lot of support from the Administration, from the other AMS Deputy Administrators; they have
been really great. The NOP staff is really fantastic.

I want to recognize Valerie Frances and Katherine Benham for putting this meeting together. They have done amazing work to pull this all together. So I think they deserve a round of applause for that.

(Applause.)

Okay. So I am Miles McEvoy. As Barbara said, I have worked for the Washington State Department of Agriculture for over 20 years. I have been involved in organic certification work for a long period of time.

I just moved to Washington, D.C., in mid-September, getting settled in. This is a great place to live. We are looking for hiring people. So I have a lot of great things to say about Washington, D.C. It is a great city, lots of exciting things to do, good bike trails. The weather is pretty good. So really think about it; it is a good place to be.
The next slide.

So I want to start with some founding principles and values that I bring to the NOP.

First of all, I believe that to be successful the NOP needs to collaborate with the organic community, and especially with the certifiers who implement the program. I believe the rules need to be clear and consistent, so that certifiers, producers, and handlers understand the rules that they are working under. If they understand the standards, it is much easier for them to be in compliance.

It is not just the certifiers that need to have clear understanding. It is also the producers and handlers. So that is one of the things that we are really going to work for, is to have the program manual completed and have clear standards available to everyone.

I plan to be as open and
transparent as possible. Organic agriculture prides itself on having a transparent decisionmaking process. I will provide as much information as possible about the program's activities.

"Strict and sensible" is a term coined by Leslie Zuck of Pennsylvania Certified Organic. This refers to the goal of upholding high organic standards, enforcing those standards, but being sensible in the application and enforcement of those standards. So both of those things need to be true.

The regulations can kill us. We have to really be careful that we are strict in terms of enforcing them, but we have to be sensible and practical.

Finally, the program should be as organic as possible, remembering where it came from, paying attention to the biological and interconnected aspects of organic agriculture, and staying true to organic principles that
are well-articulated. For example, IFOAM's principles of care, health, ecology, and fairness. So that is one thing that I hope to bring, is a continual context of having those principles in mind.

Next slide.

In terms of input and collaboration, I have received a lot from various sources about the goals and challenges of the NOP. I have listened to USDA senior staff, reviewed USDA strategic priorities, worked with NOP staff, and reviewed the ANSI 2004 audit and received some preliminary information about the current OIG audit.

I have also received input from NOSB, the National Organic Coalition, the Accredited Certifiers Association, the Organic Trade Association, and the Northeast Organic Dairy Producers Alliance.

I look forward to hearing the priorities from NASOP, Cornucopia, Organic Consumers Association, and IFOAM. So I am
really looking forward to what people want out of this program.

Next slide.

So, in terms of priorities, we have developed some initial priorities for the program. They include publishing the access to pasture final rule, developing a strategic plan -- we hope to do this in January with the National Organic Standards Board -- implementing a peer review process through being assessed by NIST, the National Institute of Standards and Technology, and implementing the corrective actions and obtaining ISO guides 17011 accreditation within the next couple of years.

Revise and update the website to make it more user-friendly, complete and accurate, and up-to-date. There was already some work going on in terms of updating the website. We hope to finish that by early next year.

Hire additional staff for rule
writing, for creating a quality manual, and

conduct more training for staff

and also for ASAs. Create additional training

modules. We plan to do six to nine trainings

in 2010.

Implement or respond to all of the

NOSB recommendations.

Develop and publish a quality

manual for the program.

Develop a program manual of

policies and procedures to provide guidance to

certifiers, producers, and handlers on

interpretations of the NOP. Include the NOSB

recommendations on commercial availability of

seeds, for instance. So there's a number of

NOSB recommendations that don't require

rulemaking. The idea is to incorporate those

into the program manual.

Then, finally, and probably most

importantly, uphold and enforce the organic

standards.
So we have developed a work plan for the program. Some highlights of that work plan include working with the Science and Technology Program to create a petition substances database that will ensure better tracking of the petitions. The database is almost completed. It will be completed by February of next year.

We are developing a training module for the access to pasture final rule that will be completed by the publication date. So, when the access to pasture final rule comes out, there will be some background material and some training information about that.

We are meeting with our Canadian colleagues to ensure smooth implementation of the U.S/Canada Equivalency Agreement.

We are completing rulemaking on the NOSB material recommendations.

Complete the assessment of two
state organic programs, Utah and California, by early 2010.

Developing a penalty matrix and procedures for utilizing civil penalties for willful violations by February of 2010.

These are just a few of the activities that we are engaged in.

In terms of decisionmaking, I want to review our plans on how I plan to handle decisionmaking. There's a lot of decisions that need to be made in the interim between NOSB meetings.

So the plan that we started yesterday with the organic labeling concept is that, when we identify issues, we will attain all of the information that we can, draft a policy. The policy will be based on the NOP regulations. It will be reviewed by the AMS Administrator and the Office of General Counsel. The draft policy will be provided to the NOSB and ACAs for review and feedback.

Once we are satisfied that we have
the best policy possible with the current
information, we will publish it as interim
policy. It will be sent to all ACAs, state
organic programs, and foreign governments that
have recognition agreements, as well as being
posted on the NOP website.

The interim policy will be put on
the next NOSB agenda for review and public
comment, and then, once approved by the NOSB,
incorporated into the NOP program manual as a
final policy.

Next slide.

So the age of enforcement is
something that Deputy Secretary Kathleen
Merrigan has talked about. What does this
mean? How will that be implemented?

So, first of all, as I said, we
plan to create a penalty matrix that will
include civil penalties for violations,
provide clarity on access to pasture with the
new rule, and will be clarifying labeling
requirements. These items will be enforced by
working with the ACAs and through the complaint process.

We are looking at some new initiatives to enhance the NOP's ability to protect organic integrity. These include conducting market surveillance of organic labels and the organic market. We may collaborate with the certifiers, with states, or with other AMS programs that already have staff around the country, to have more eyes reviewing organic labeling claims and ensuring that those are accurate and truthful claims.

We are also looking at requiring ACAs to conduct a certain percentage of unannounced inspections, as, for instance, is required in the IFOAM accreditation criteria. You might want to look at that. I think it is a little interesting in that the organic certification process, which is a very good, robust process to verify organic standards, that for the most part, inspections are announced. You always tell the person when
you are going to get there to do the
inspection. In most regulatory programs,
inspections are not announced. People just
show up, and you have to have your paperwork
in order.

So I think that there is room for
at least some of the inspections in the
organic certification process to be
unannounced inspections, to help to bring more
integrity to the system.

We also plan to utilize pesticide
residue sampling, as required by OFPA, to
identify problems and improve organic
integrity. It is not a zero residue standard,
but pesticide residue sampling can help to
bring more integrity to the system. It
identifies problems.

We also are looking at developing
a system of risk-based inspections to focus
resources on areas with the greatest risk to
organic integrity. For instance, split
operations would probably have a greater risk
than 100 percent organic operations. So maybe
more of the inspections should be focused on
those higher-risk areas.

Next slide.

So a little bit about the
organizational structure of the NOP. It is
organized into four parts: the Office of the
Deputy Administrator, the Standards Branch,
the Accreditation and International Branch,
and the Compliance and Enforcement Branch.

There are also two other AMS
programs that we work very closely with. The
ARC Branch and the Livestock and Seed program
is responsible for all the NOP and ISO audits,
and then the NOP Appeals staff is part of the
AMS Compliance and Analysis Program. So they
are very critical for the compliance
procedures, but they are not directly part of
the NOP.

A little bit about the staffing
plan. Next slide.

So, for the Office of the Deputy
Administrator, it is responsible for the NOSB budget, web page, quality management, personnel, public affairs, congressional inquiries, strategic planning, and overall management and leadership of the NOP.

The plan is for seven FTEs, including three in the NOSB support group, and then some new hires in that group would be an Associate Deputy Administrator, a secretary, which we don't have currently, and a quality manager to handle the quality management system and develop a quality manual for the program.

The Accreditation and International Branch will have six FTEs. That is responsible for accreditation, recognition and equivalency agreements, state organic programs, and also training. It has a Branch Chief, an accreditation manager, and accreditation assistant. So we are looking at, I think, three new hires in that area, and international managers can focus on the
recognition and equivalency agreement; another review specialist to help with the audit review, and a training manager to put together the online training and the onsite training.

The Compliance and Enforcement Branch currently has five FTEs. We actually just hired a sixth one in the College Career Intern Program, and we will be adding one more staff to that area. They are responsible for investigating complaints and enforcing the organic standards.

Next slide.

In the Standards Branch, we are looking at having nine FTEs. That Branch is responsible for rule writing and the NOP program manual. We plan to add six staff to this Branch in order to implement the NOSB recommendations and to complete a program manual to provide clarity and consistency for the NOP regulations.

We plan to hire organic technical specialists in cropping systems, livestock,
and processing, as well as a customer service specialist and a few more rule writers.

We are getting some people in USDA detailed to the program to get some initial work done on the materials docket and to help out with some other initiatives, but we will be doing a fair amount of hiring in that area.

There are also three staff people that we have in NOP Appeals, or funded by the program that are in the NOP Appeals staff.

There is a lot of other budget considerations in terms of costs. One of the ideas was to have a dedicated attorney in the Office of General Counsel because there is so much legal work to do in the National Organic Program.

So that is one of the options that we are looking at.

We don't have our own administrative officer who does a lot of the HR type of work, budget officer. We might need database and web developers and other administrative support.
So what we are looking at is getting that support from other AMS programs, but there is a cost involved in that, as you will see when I review the budget.

Next slide.

Other USDA resources that are important to keep in mind is the AMS Administrator, Rayne Pegg, who will be here this afternoon; Under Secretary of Marketing and Regulatory Programs, Ed Avalos from New Mexico, who just started last week. He will be here, I think, on Wednesday afternoon to introduce himself. Deputy Secretary Kathleen Merrigan and Secretary Tom Vilsack. These are all people that are very supportive of what we are doing in the National Organic Program and good resources for us.

Other USDA offices include our Legal Counsel in the Office of General Counsel; the Livestock and Seed ARC Branch, who conducts the audits; the NOP Appeals team; the AMS Public Affairs and Legislative Office.
that assists with media and congressional inquiries, and also, the AMS Science and Technology Program that is providing the technical reports for the petition substances and also has developed the petitions database for the National Organic Program.

Okay, next slide.

This is a snapshot of the budget and staffing from 2002 to 2010. You can see that there was very limited resources until very recently, six to eight employees, a budget of between $1 million and $1.6 million between 2002 and 2007.

So it really helps to explain, at least for me, why it was so difficult for the National Organic Program to take a lot of recommendations and implement them into rulemaking. They just didn't have very many people to get the work done.

So, with the additional resources that are coming into the program, up to $3.87 million last year and $6.97 million for 2010,
we are looking to have 31 staff in the program. So I feel very lucky to be coming into the program at this time with these additional resources. It will make things a lot easier.

Next slide.

This is very preliminary budget numbers, very rough. The budget was signed last week or the week before; $6.97 million is what we have available.

The first thing that they do is they take 12 percent off for overhead, for a variety of different essential services that AMS provides. Then, beyond that, there's also other administrative services that we have to pay for to get our various work done in personnel or for travel or for all those things that are important.

So we have split up the offices and branches. On the left side, Office of the Deputy Administrator, NOSB, Accreditation and International, Compliance and Enforcement.
Most of the costs are going to be in the salaries and benefits realm. NOSB meetings is a separate line item for $77,000.

But, if you look at it this way, with the three support members that specifically support the work of the NOSB, it is about $717,000 on this very rough estimate of what it costs to run the National Organic Standards Board.

I wouldn't get too hung up with this because this is very, very preliminary. So we will just give you a snapshot and move on.

In terms of training, we are continuing to develop the online training modules. We plan a training manager, as I said, by the end of the year.

We have posted four of the draft modules on labeling, certification, compliance, and investigation online. Those will have continual development. We plan to have a training on the access to pasture final
rule when that comes out.

For 2010, we are looking at three
to five U.S. training events and three to four
foreign events. The training will be
available to organic producers, handlers, and
other interested parties as space permits.

Next slide.

See, this slide shows where the
current certifiers are in the United States.
There's various clusters. We are looking at
having one in California. We are already
committed to the ACA NASOP training in Georgia
and, also, the Upper Midwest Conference, we
will be doing a training there. But then
there's other clusters in the Northwest and
the Northeast that we might also do trainings
in.

Next slide.

In terms of foreign trainings, we
have BOFOC in February. We can catch a lot of
the certifiers there. So we plan to do a
training there.
There's also a big cluster of certifiers in Europe. There's also a big cluster in India, Argentina, and Australia. We are looking to do three to four foreign trainings in 2010 as well.

Next slide.

Recognition agreements. There's nine recognition agreements, but the Canadian Equivalency Agreement makes three of those moot, that we don't really need to concern ourselves with those because they are covered now by the Equivalency Agreement.

So we have six agreements with Japan, New Zealand, United Kingdom, India, Denmark, and Israel. Four out of those six agreements have been assessed, and Denmark and Israel are the two that have not. They will be done by spring of 2010.

Next slide.

In terms of equivalence, we will be meeting with the Canadian Food Inspection Agency in early December to work out some of
the details, some of the issues that have come up with the Equivalency Agreement, to make sure that that continues to run smoothly and meets the needs of the industry in both Canada and the U.S.

We have also gotten a lot of requests from other countries for equivalency agreements, recognition agreements. We have some interest from Europe. So there might be the possibility of restarting work with the European Union on an equivalency agreement, which would be our highest priority since that is the biggest market.

Next slide.

In terms of accreditation, there's currently 100 certifying agents. The newest agents include the Oregon Department of Agriculture, OIA North America, BioHellas in Greece, and AUS-QUAL in Australia, and there's one onsite accreditation audit that still has not been completed. That is Agrior in Israel. That is scheduled for early 2010.
In terms of the Compliance and Enforcement Branch, they have four main functions: managing the NOP compliant system; enforcing organic production, handling, and labeling standards; processing and investigating complaints alleging violations of NOP regulations, and initiating compliance and outreach activities. So, for instance, the compliance and investigation training modules were largely put together by the Compliance and Enforcement Branch.

What they have accomplished: over the last year, they have established standard operating procedures for the complaint-handling process; developed and maintained a complaint tracking and management system; developed enforcement guidelines to ensure consistency in enforcement actions; established branch management systems to increase accountability; developed the
investigation and training module for
certifying agents; conducted compliance-
monitoring activities, and trained and
continue to train staff.

Now this Branch has really been
developed in really the last year. So they
have done a lot of great work in the last
year. They still have a lot to do. There's
a backlog of complaints that they have been
working on. The next slide will show some of
their specific activities.

They received 160 complaints in
fiscal year '09, between October and September
of '09. They closed 95 of those complaints.
They also resolved 30 of the old complaints
that came from AMS compliance. Their average
time to resolve a complaint is 75 days. So we
will see how that goes in the future. We will
keep reporting on these kinds of numbers at
future Board meetings.

They issued 34 warning letters to
non-certified operations, 10 notices of non-
1. compliance to accredited certifying agents,
2. and three notices of proposed suspension or
3. revocation to accredited certifying agents.
4. So they have been very busy.

   Next slide.

   Then their impact has been, from
7. this compliance action, 23 cases resulted in
8. product label changes and, within those 23
9. cases, 185 product labels were changed to
10. bring them back into compliance with organic
11. standards.

   Twelve cases resulted in
12. production process changes, and 31 cases
13. resulted in website changes, and four
14. operations that weren't certified making
15. organic claims became certified. So a busy
17. group of people.

   Moving on to the NOSB
19. recommendations, there's been a lot of concern
20. about that there is a backlog of NOSB
21. recommendations that the NOP has not been able
22. to do rulemaking or implement. What we have
done is we have analyzed those and put them into these three different categories:
standards rulemaking that are significant rules, like the access to pasture rule;
materials, which are additions/deletions to the National List, the sunset materials, and the tabled materials, and then policy and guidance, where no rulemaking is required. I will get into more of the details here.

So, in regard to the practice standards, these are the ones that we have identified that are going to require rulemaking. These are NOSB recommendations.

Origin of livestock was going to be the next one that we took on, and we would attempt to include cloning within that rulemaking docket.

Then there are a number of other recommendations. Apiculture I think is the oldest. Mushrooms, standardization and expiration of certificates, pet food, aquaculture, and greenhouses.
So there's a lot of work here. We can't do it all at once. We have a budget increase, but we won't be able to do all these at the same time. So we are going to look to the NOSB to help us to identify priorities. Which ones do you want us to do first? Do you want us to do the oldest ones first? So that is up to you guys to try to come up with a list for us.

Next slide.

In terms of materials, these are the recommendations that you have made on crops, livestock, handling, and sunset materials. The materials in bold are ones that have already gone through the proposed rule status and are waiting for final rule. Then the ones that are not in bold, tetracycline, peracetic acid, sulfurous acid for crops, those are the ones that we still have to go through the proposed rulemaking process.

The idea on the crop materials, if
I am right, Shannon, is that we will have the proposed rule through, let's see -- no, starting the clearance process by the end of November. Then that process, the clearance process, takes about two months. Then it goes to Office of Management and Budget. That takes 45 to 90 days. So getting a proposed rule on those materials out sometime in the spring. Then we get comments. Then we have to respond to the comments and go through that whole process again.

So the whole process of doing a relatively simple rulemaking, from my understanding, my limited time here at the NOP, is about a year for a simple rulemaking process. So it takes a long time.

Okay, next slide.

Recommendations not needing rulemaking. We made this really small, so you couldn't really see.

(Laughter.)

So I will read the list, and we
will provide this to the Board and probably post it on the website. I am sure there will be ones that people will find that aren't on this list, but these are the ones that we could identify over the last few weeks.

Commercial availability of seeds, peer review, biodiversity, multiple sites for the grower group recommendation, organic research, and there's two recommendations around organic research. There's a lot of recommendations concerning compost, processed manure, compost tea and vermicompost; organic system plans; livestock medications; chelates as feed additives; outdoor access for poultry; planning stock; transitional products; chlorine; wax boxes, and name of the certifying agent on the package, kind of the private label recommendation.

So all of these recommendations, at least our preliminary is that they will not require rulemaking. We can do these in the program manual, and that is what we plan to
1 do. I think we have the target of about June
2 of next year publishing the program manual.
3     Next slide.
4 Tabled materials. Take from the
5 table recommendation I think was from
6 September 2008 recommendation. Our plan there
7 is to evaluate that list and work with the
8 NOSB to determine the next steps. I think in
9 a lot of situations it might require another
10 technical report to be done on these
11 materials.
12     The materials that are included in
13 that for crops include methanol, amino acids,
14 ash coal, creosote, ethephon, controlled
15 atmosphere lime and potassium permanganate for
16 livestock, methanol and amino acids, and for
17 handling amino acids, baking powder,
18 attapulgite clay, magnesium carbonate, non-
19 modified starch, and waxes. So there is a
20 bunch of work there to coordinate with the
21 NOSB the next steps on those materials.
22     Next slide.
A little information on petitions and technical reports. We were working with the AMS Science and Technology Program. They are doing the technical reports for the National List petitions. It costs us $6,000 each for those reports. There's 27 petitions that are in process. S&T has completed four technical reports and has six additional reports that they are working on.

Seven of the reports from S&T have been received by the NOP and they are under review by the NOP and the NOSB. We got them, I think, a little bit late, so they couldn't be on the docket for this meeting.

Then seven petitions do not need a technical report because they are on a 606 list, is what I understand. We also have three petitions that have not been sent to the S&T for a technical report at this point.

Next slide.

Okay, spring NOSB meeting, we are going to have a few requests for the NOSB to
work on a few issues. One is the accessory
nutrients. Clarification of the 1995
recommendation is needed. There's been a lot
of questions about what is included in the
accessory nutrients, a lot of concerns about
that. So we would like the NOSB to relook at
that to clarify that 1995 recommendation and
how broad is your recommendation. What does
that include?

So, depending on what
recommendation you come up with, that could
lead to rulemaking to clarify what accessory
nutrients really are allowed in processed
organic foods.

Other issues: pesticide residues
and compost, corn steep liquor, oversight of
material evaluation programs. I am going to
talk about each of those issues a little bit
here to give you a little primer for the
spring.

Then the plan is to have the next
meeting in California. California represents
1 about a third of U.S. organic ag production.

2 (Applause.)

3 So it just seems appropriate that
4 we should have a meeting out there.
5
6 What I would like to do is have
7 the meetings around the country, so the
8 organic community can have a much easier
9 access to participating in the NOSB meetings.
10
11 All right. Next, soap. Oh, boy,
12 this is a fun one. So, back in July, the NOP
13 posted a draft guidance document for comments
14 regarding the labeling of soap made with
15 organic ingredients. We received, I think, 90
16 comments on that draft. Those comments I
17 think are being posted this week. I don't
18 think they are quite posted yet, but we are
19 posting those comments.
20
21 The comments were not conclusive.
22 They ranged anywhere from we love organic soap
23 to soap is a synthetic and should not be
24 certified organic, to the NOP regulations were
25 not written for soap.
Further, we have been consulting with the FDA. Those conversations have revealed that there may be conflicts between the FDA regulations and the NOP regulations when you try to reconcile the two different regulations and try to find a way to label soap in a way that complies with both regulations. So, basically, it is that Rubik's Cube that Barbara was talking about. It is really a challenge.

So the bottom line: certifiers are responsible for ensuring that products labeled as organic under the NOP regulations are labeled in compliance with the NOP regulations. If ACAs cannot work with the clients to create a product that meets those regulations, you shouldn't be certifying the product. So that is the soap.

Next slide.

Pesticide residues in composts.

Over the summer, random pesticide testing found bifenthrin residues in organic
wheatgrass. When they went back and looked more closely, they found that it wasn't the organic wheatgrass that had the residues; it was the compost that was being used to grow the wheatgrass that contained the bifenthrin residues.

So, due to the amount of bifenthrin that was found in the compost, CFA, California Department of Food and Agriculture, which is a State organic program, notified the organic community and the certifiers that this particular compost or these three composts could not be used in organic production. They did consult with the NOP on that, and we supported their restriction on the use of these composts.

So this is a very challenging issue. We have been trying to come up with some kind of guidance that makes sense because the standard is not a zero tolerance standard for input materials, but there also are things in the rule that say that you can't
contaminate the soil, water, or crops, and
that composites that contain prohibited
substances, synthetic substances, is
prohibited.

So the residues of bifenthrin
ranged from .1 to .4 parts per million. The
EPA tolerance level for bifenthrin in crops
for peanuts and pistachios is .05 parts per
million. So the residues in the compost was
higher than the lowest level for crops.

So what we are looking at doing is
developing a policy that would establish a
UREC level, the Unavoidable Residual
Environmental Contaminant level. We would set
that at 5 percent of the lowest EPA tolerance
level for pesticides detected.

The Washington State Department of
Agriculture, actually, has used this. They
established this level for compost for the
international program. If you know the
Canadian regulations, the Canadian regulations
required the use of organic compost and
organic manure. When Washington State was
developing an equivalent program to get
accredited under the Canadian standards, they
said, well, we can't do that, so we're going
to look at a different way of addressing their
concerns, which was that conventional CAFO
manure and compost was contaminated. We would
do that through testing.

So they established that level of
5 percent of the EPA tolerance level. It
worked fairly well in Washington State. So
that is what we are looking at doing, is
establishing a UREC level at 5 percent of the
lowest EPA tolerance level for a crop,
established on that crop, for compost for
input materials.

So, obviously, this is a very
complex issue. We look forward to further
discussions in the spring.

Okay, the next slide.

Use of the term "organic" on the
principal display panel of products that are
in the made-with-organic-ingredient labeling category. Component staff have noticed that there is an increasingly liberal use of the term "organic" on the principal display panel for products in the made-with category. The made-with category, under 205.304, restricts the use of the term "organic" in made-with products to a certain font size and format.

The NOP plans to clarify that the term "organic" is restricted to the use specified in 205.304, and the use of the term "organic" in a brand name or company name must meet those requirements. Some labels will need to change, and we will allow a transitional time period to allow companies to use up existing labels to comply with this clarification.

So we sent this out. This was trying to follow that new policy; we sent that out to the Board and the ACAs yesterday, and we are starting to get some good feedback on that.
Corn steep liquor. Corn steep liquor is a product of the wet milling process. Other products of wet milling include corn gluten, cornmeal, corn syrup, and corn starch.

OMRI, WSDA, and others have accepted the use of corn steep liquor as a non-synthetic for many years. The NOP hasn't specifically addressed corn steep liquor, as far as I know, but they have allowed the use of corn steep liquor by not addressing it in their accreditation audits.

The addition of sulfur dioxide is part of the wet milling process. There is debate about whether the addition of that sulfur dioxide causes chemical changes to the corn and then would make it a synthetic.

As of November 2nd, WSDA is no longer allowing products with corn steep liquor. My understanding is OMRI is in the process of removing all of their products from
the OMRI list, all the products that contain corn steep liquor from their list.

In the meantime, what we have is a problem of one certifier saying that these products are not allowed and OMRI saying that some of these products are allowed. So that is not a good thing. We need consistency in terms of what products are allowed. It is either allowed or it is not allowed.

Next slide.

So what we are suggesting is that we should continue to allow corn steep liquor until the NOSB makes a determination on whether it is a synthetic at the spring meeting. We think that is the best route to go because it has been allowed within the organic community for many years by the NOP, by certifiers, by OMRI, and that there are other input products that are considered non-synthetic that use synthetics during the manufacturing process. Fish fertilizer, for instance, is allowed that has ethoxyquin in
it. Synthetics can be used during the
manufacturing if they are removed from the
final product. Finally, there is significant
debate on whether corn steep liquor is natural
or synthetic.

We need a transparent and fair
process to remove products from the approved
list, so that when we remove products from the
approved list, everybody gets the same message
at the same time. All products that contain
corn steep liquor would come off the list at
the same time.

So the idea is that let's let the
NOSB make that decision, put it on the agenda.
If the NOSB decides it is a non-synthetic,
from that point forward, that product couldn't
be used. Or, no, if you determine it is a
non-synthetic, it could continue to be used.
If you determine it is a synthetic, and don't
want to add it to the National List, then it
would be prohibited. If you say it is a
synthetic and you want to add it to the
National List, it would be prohibited until we did rulemaking to add it officially to the National List. So that is what we are recommending on corn steep liquor.

Next, I just want to talk about problems with materials. There's inconsistency in approved materials. Some certifiers allow some materials; whereas, some others may be prohibiting them.

OMRI is the best source by far for a consistent list of approved materials, but there are other lists out there. There should be one list. Everybody should be following the same set of approved materials.

And when things come off the list, for various reasons, we get more information, that needs to be done in an orderly fashion, in a way that the industry can be informed, that businesses that have products that were previously approved, that they can have an orderly way of dealing with that. There's an impact on the certified organic farms that
have purchased product. They have product onsite that is, all of a sudden, now potentially prohibited, and, also, the impact on certified organic farms that use products that were approved and are now prohibited.

One of the other problems with materials is the NOP lacks authority over material manufacturers. We get to decide what is used in production, what the certifiers can approve, but we don't have any direct authority over the material manufacturers.

So this is an issue that I think that the NOSB really needs to grapple with. I think that we really need to look at having an NOP either adoption of the OMRI generic list or some way of creating a National Organic Program generic list. Then, if it is not on the list, it is not allowed. So, for instance, on corn steep liquor, it is either on this generic list or it is not.

Then allow OMRI or others to do the brand-name process, but that has to follow
some kind of federal procedures, so that everybody is on the same page, and things, when they get off the list, everybody gets the same message. They all get off the list at the same time.

So that is something to think about, something to work on for the next few months.

I would just like to end the talk with a quote from Wendell Barry, which is sort of about materials or not about materials. This is from 1982, one of my favorite quotes about an organic farm.

And he says, "An organic farm, properly speaking, is not one that uses certain methods and substances and avoids others. It is a farm whose structure is formed in imitation of the structure of a natural system that has the integrity, the independence, and the benign dependence of an organism."

So that's it. Thank you very
(Applause.)

So you might have a few questions,

I would think.

CHAIRPERSON MOYER: Yes, a question from the Board? Joe?

MEMBER SMILLIE: Thanks, Miles.

Wow, the age of enforcement. It sounds exciting, and everything you presented makes a lot of sense.

I think we are all very interested in participating in this, and especially the NOSB has got a number of specified roles that you have lined out, which I think we really welcome and look forward to.

I know there's a million questions on everything. I just wanted to get two up there.

I think the unannounced inspection idea is fantastic. I would like to see that linked to the risk-based assessment.

MR. McEVOY: Right.
MEMBER SMILLIE: I think those two go together.

MR. McEVOY: Right.

MEMBER SMILLIE: Rather than just picking it out of a hat. I think that those two should be targeted.

The pesticide testing has become more and more important as time goes on. We have to work out some equitable way of sharing the cost. Currently, for a certification organization to just straight-up pay for those costs makes it not-a-well-used tool, for obvious reasons. We have to figure out an equitable way of doing that.

And the last thing is a favorite subject, which one of my mentors 30 years ago said he wasn't going to talk about anymore. That's Chilean nitrate. Well, we have to talk about it.

It is now impacting the Equivalency Agreement in a number of ways, and it is coming up for sunset. So the NOSB has
got some serious thinking to do on the nagging problem of Chilean nitrate, which it seems will never go away.

Comments on a lot of the other things, but those are the ones that first come to mind, and I don't want to delay break too much. So I will end there.

MR. McEVOY: Sounds good.

Yes, linking risk-based and unannounced inspections is a great idea, yes.

CHAIRPERSON MOYER: Thank you, Joe.

Any other questions or comments to Miles from Board members? I'm sorry. Barry, please.

MEMBER FLAMM: Miles, have you had any discussion about GMOs and any refinement of the policies and what we are going to do about residues and commingling, and so forth?

MR. McEVOY: That is a very challenging area. Yes, I am not sure what to do about GMOs. There's no tolerance set for
GMOs, but maybe that is something to look into.

That is a very difficult area.

So, no, we haven't really talked about that, of where we are going to go with GMO residues.

CHAIRPERSON MOYER: Any other questions? The Chair recognizes Rigo.

MEMBER DELGADO: Kudos on transparency goals. Fantastic. Being a numbers man, I like the metrics that you are putting up there. I look forward to seeing more of those. Otherwise, fantastic presentation.

MR. McEVOY: Thank you.

CHAIRPERSON MOYER: Okay, if there's no further questions, Miles, I would like if you would take a moment to introduce your team at the table, so that everyone knows who is here from the program side.

MR. McEVOY: Okay. First of all, Valerie Frances, NOSB Executive Director. I think a lot of the Board knows Valerie.
Mark Bradley, Branch Chief of the Accreditation and International Program.

Do you want to stand up?

CHAIRPERSON MOYER: It is your one chance, Mark.

MR. McEVOY: Shannon Nally is the Acting Branch Chief for the Standards Branch. She has been doing lots of extra work on the access to pasture final rule. It is a lot of work. Yes, it takes time.

Ruihong Guo is the Branch Chief for Compliance and Enforcement and has done a lot of the great work of really bringing the procedures and standards together for that part of the NOP, done really great work over the year. So thanks, Ruihong.

Next we have Valerie Schmale, who is with the Compliance -- well, the reason why I hesitate is because she is with the Compliance and Enforcement Branch, but she has been temporarily detailed to the Accreditation Branch to help with our NIST work. So she has
been getting some of our quality manuals
together for that.

Then we have J.D. Melvin, who is the Accreditation Manager and does a lot of the work on the recognition and equivalency work. So J.D. has been really fantastic on moving those things forward.

Then we have Katherine Benham, down at the end, who does all of the administrative support, all of the work that puts this meeting together. Without her work, we wouldn't be here. So thank you.

And there's probably a few more hiding in the back.

Oh, Bob Pooler heads up the Petitions and National List, and also has been doing the Cost-Share Program.

You notice I didn't mention the Cost-Share Program?

(Laughter.)

It is not that it is not important. It is just that we are trying to
get another branch to take on the responsibility of administering the Cost-Share Program. So we will see how that works.

Judy Ragonesi with the Compliance and Enforcement Branch.

And anyone else? Tammie Wilson and Andrew Regalado.

Wilburn, Tammie Wilburn, yes. See, I'm so new, I can't even remember everybody's name.

(Laughter.)

And Tony Strother is in the back as well.

So there's a few of us here.

CHAIRPERSON MOYER: Thank you, Miles.

I recognize now that it was a bit of a test, knowing that you were only here for a month.

(Laughter.)

And I think you did very well.

MR. McEVOY: Okay. Thank you.

CHAIRPERSON MOYER: I believe Hue
has one question. The Chair recognizes Hue

Karreman.

MEMBER KARREMAN: Yes, just one

question, Miles, on the access to pasture

rule. I realize it is not out the door yet, 

but where in the process is it right now? Is

it in OGC or OMB? Can you tell us? Are you

still writing it? Or can you let us know

something on it?

MR. McEVOY: It is almost at OMB.

MEMBER KARREMAN: Almost?

MR. McEVOY: Almost at OMB. I

think it might get there today. It might get

there this week, yes.

MEMBER KARREMAN: Okay. It is

just my farmers always ask after every

meeting --

MR. McEVOY: Yes.

MEMBER KARREMAN: -- what is

happening with ir.

MR. McEVOY: We were hoping it

would be out by the end of the year. It is
more likely January.

CHAIRPERSON MOYER: Okay. Thank you very much.

The next item on our agenda is to take a break. Amazingly, we are on time. I am sure that is going to change as the day goes on.

But, in respect of time, we will be reconvening promptly at 10:45. Please be here then. Thank you.

We are adjourned for 15 minutes.

(Whereupon, the above-entitled matter went off the record at 10:32 a.m. and resumed at 10:50 a.m.)

CHAIRPERSON MOYER: Thank you. If Board members could finish and get seated, we will get started.

The hotel has asked me to make one housekeeping message to all of you. During break periods, if you want to have conversations, they would appreciate it if you keep the conversations away from the
conference room. Our discussion in the hall is bothering a conference that is going on next door to us, and I am sure they would appreciate it if we can keep the volume down. So just move your conversation either outside or further down the hallway toward the lobby. Before I call the first person to the podium, I just want to make one little, brief announcement. That is that I am sure during the course of today and tomorrow, when we have public comment, I will butcher somebody or everybody's name. I will attempt to do it unilaterally and not pick on any one individual or race or creed in particular. I am just not good with names, and I apologize in advance to everyone in the room. We will get started. The first person that we have on our agenda is Rick Mathews. Rick Mathews, if you want to come to the podium? Good morning.
MR. MATHEWS: Good morning.

I think I might be making people nervous. I notice that OIG is here, the Office of Compliance is here, and the Office of General Counsel is here. So I hope I don't make them too nervous.

My name is Richard Mathews. I am President and CEO of NOP Solutions.

Over a decade of my more than three decades of public service at the USDA were devoted to creation, implementation, and administration of the National Organic Program.

My time with the NOP included four years of service as Program Manager, where I guided the program through implementation in the early years of administration.

I have firsthand knowledge of the hard work and dedication of this Board, previous Boards, and the NOP staff. I commend both bodies for their hard work and dedication. Each has done its best to fulfill
the purposes of the Organic Foods Production Act of 1990, AKA OFPA.

The first section of the Organic Foods Production Act states that its purpose is to establish national standards governing the marketing of certain agricultural products as organically-produced products.

In seven weeks, we will reach the ninth anniversary of publication of the NOP final rules establishing those standards. Just two weeks ago, we reached the seventh anniversary of full implementation of those national standards.

OFPA also states that its purpose is to assure consumers that organically-produced products meet a consistent standard. Regrettably, that mandate has not been fulfilled.

The evidence is found in the diverse applications of the standards by the 100 accredited certifying agents. The evidence is found in the numerous enforcement
actions before the NOP compliance and
enforcement staff. The evidence is found in
the nearly three-year backlog of appeal cases
before the NOP appeals staff. It is evidenced
by the diverse comments to the pasture rule
submitted by accredited certifying agents and
their associations.

Accredited certifying agents are
the face and the voice of the USDA seal to
certified entities and consumers, and as such,
they are the backbone of the program.

Certifying agents must fairly and evenly apply
and enforce the standards as written.

For the program to be successful,
there must be consistency across all 100
certifying agents. Accordingly, the NOSB and
USDA must together work to create a clear and
unified voice conveying a single regulatory
meaning to standards that need clarification,
a voice heard and a meaning implemented
consistently by all accredited certifying
agents.
In carrying out its training, accreditation, enforcement, appeals, and standards development and implementation functions, the NOP is regularly confronted with issues demonstrating the need for standards clarification.

The NOP and the NOSB should get together and work together to resolve these differences. The NOP should provide the NOSB with a periodic report describing issues demonstrating a need for standards clarification. This reporting should be done on a regular schedule and in a manner that would not reveal sensitive information. Using this information, the NOSB and the NOP should work together to develop guidance and policy statements convey a single stance for application by the NOP and all accredited certifying agents.

All guidance and policy statements intended to clarify regulatory language should be followed by rulemaking, so as to codify the
clarifications, thereby assuring their enforcement. We have to be conscious that there are attorneys out there who will try to pick apart the guidance statements and undermine the intentions of this Board and the consumers.

Consumers and certifying agents are counting on you and the NOP to fulfill the consistent standard mandate of OFPA. Please rise to the challenge.

CHAIRPERSON MOYER: Thank you, Richard.

Any questions for Richard from the Board? Comments?

(No response.)

The Board recognizes Kim Dietz.

MS. FRANCES: Can I make a quick comment? If you've got items that you would like to pass out to the Board, please, when you are on deck, bring them over to me before you are actually up, and I will help do that. Okay?
CHAIRPERSON MOYER: Thank you.

I should mention that Urvashi

Rangan is on deck.

MS. DIETZ: Ready? Okay.

Good morning.

My name is Kim Dietz. I am here
today just talking as myself and not as my
employer. It gets confusing sometimes. I
want to clarify that.

Thank you for the opportunity to
provide you with public comments. These are
my personal comments.

I already submitted comments on
the sunset process and hope that all of you
take a look at those before your vote on the
boiler materials.

What I want to talk to you today
about is just the history of this vote and
these materials because I think it is
important that you understand where we went
with this.

In 2000, I was appointed as a
handler representative to the National Organic Standards Board. During my first year on the Board, we were asked to identify materials that were currently being used by the industry but not on the National List. At that time, the Handling Committee identified boiler materials because there was confusion on how steam was being used in the industry.

A joint committee was formed between the handling materials and certified representatives to determine the best course of action. The Chair of the Handling Committee, Mr. Steven Harper, and Certifier Representative Jim Riddle together drafted surveys to gather industry use on steam.

The NOSB also asked for the industry to submit petitions on these materials. Because no petitions were received, the industry worked together with NOSB Board members and submitted petitions.

At the October 2001 NOSB meeting, Steven Harper showed the results of those
surveys. Fifty-six processors responded, and 43 stated that they used steam in direct contact with food. Thirteen processors used steam that did not come in contact with food, steam-jacketed kettles and packaging sterilization.

With regards to volatile immunes, and those are the boiler materials that are on the National List today, out of the 43 processors who used direct contact, 21 of those processors turned off the chemicals, and 11 processors did not. Those who did not turn off the steam were certified handlers.

The certifying information shared by Jim Riddle, 13 certification agencies responded. No certifiers allowed direct food contact with steam that contained the volatile immunes. Out of those certifiers surveyed, only three certified handlers used indirect steam. This practice was allowed because the steam did not have direct contact with the food.
TAP reports were compiled by OMRI.

Unfortunately, the TAP reports didn't have enough information for the NOSB to make a recommendation. We, therefore, hired Mr. Richard Theuer to do a supplemental report, and I put this in there because I don't think the Board has that information. I have hard copies. I spoke to Richard, and he actually has the detailed information. We would be happy to supply it to you so you can review it.

He was paid to conduct an independent review of the TAP reports against the NOP work agreement and criteria as well as the petitions to make sure they were thorough and complete. Mr. Theuer's work closed all the loopholes in the TAP and petition process.

It is clear by the results of the surveys and the TAP reports that direct food contact should not be allowed. However, indirect was a practice in certified handling operations. That is why the annotation
allowing for food packaging sterilization was proposed and voted on for allowance by the Board. This annotation was specific to clarify how steam could and could not be used. It should also be noted that those Board members who didn't vote on materials due to conflict of interest, it was solely because they were directly involved in the petition process. I was one of those. I abstained from the vote.

It is my personal opinion that the NOSB did a great job of gathering facts to settle a very controversial issue. Furthermore, the organic industry didn't know to what depth materials were subject to review. Was it limited to ingredients and processing aids or were all materials that came in contact with food required to be on the National List? What category did steam fall into?

We really came forth as an industry to clarify this, so that we could use
those tools and make sure that everybody was consistent with what we did.

I am going to jump forward.

After the vote on the boiler materials, the NOP came out with a policy statement on synthetic substances subject to review. I also suggest you look at that.

Boiler chemicals fall under secondary direct materials. Under that CFR, they are allowed to have direct food contact with the steam.

The annotation by the Board actually took that one step further and restricted direct food contact with the steam.

So, in some ways, again, the question was, did these materials actually even need to be petitioned? Did they even need to be on the National List?

The industry asked the Board to vote on those, so that we could have clarification once and for all.

Anyway, I urge you to reconsider
your recommendation to remove these materials from the National List. The current annotations are restricting their use for non-direct steam application. You can see there is a lot more information in my review that I hope you take into consideration.

By removing these materials, we are just going to further confuse the industry. Again, whether or not these even need to be placed on the National List is a question. But leaving them on there with that restricted annotation is really serving the industry best.

Thank you.

CHAIRPERSON MOYER: Thank you. Thank you, Kim.

Any questions? Yes, Tracy and then Steve.

MEMBER MIEDEMA: Just a quick one, and, Kim, you may know the answer to this. If an additive is secondary direct --

MS. DIETZ: Yes.
MEMBER MIEDEMA: -- and it is added to an organic product, does that preclude it from becoming 100 percent organic?

MS. DIETZ: No. Oh, does it preclude it from the 100 percent label?

MEMBER MIEDEMA: Yes.

MS. DIETZ: Yes. Yes. Yes, it has to be non-synthetic to be used in 100 percent organic.

MEMBER MIEDEMA: It is not the same as packaging, for instance?

MS. DIETZ: Pardon me?

MEMBER MIEDEMA: It is in no way the same as packaging-type contact? Okay.

MS. DIETZ: No, and most of the packaging is in that secondary direct and also in your food contact substances materials.

CHAIRPERSON MOYER: Steve?

MS. DIETZ: Hi, Steve.

MEMBER DeMURI: Kim, thank you very much for your comments, both today and the written comments that you provided. It
has been very helpful, and this is very
helpful as well.

MS. DIETZ: Thank you.

MEMBER DeMURI: I would like to
see Richard's report sometime today, if
possible.

MS. DIETZ: Sure. We can email it
to you.

MEMBER DeMURI: Okay. Thank you.

MS. DIETZ: That would be best.

You're welcome.

MEMBER DeMURI: That's perfect.

Secondly, you were on the Board
when this was originally listed.

MS. DIETZ: Yes.

MEMBER DeMURI: Can you provide
for me and the other Board members a little
bit about the history or how the discussions
went during the listing process? Because in
reviewing the transcripts from that meeting,
there appeared to be some dissension amongst
some Board members --
MS. DIETZ: Right.

MEMBER DeMURI: -- on whether or not this should be allowed or not.

MS. DIETZ: Right. Well, the evolution was whether or not direct steam contact should be allowed. And I have the transcripts, because I read them again myself.

But most of that discussion was really a lot of processors use direct steam to soften apples or soften fruit. So that discussion was with regard to the direct food application. The non-direct steam, which is for the sterilization of packaging and kettles and those types of things, was kind of a separate discussion. That is why we came up with that annotation. So, yes, the Board clearly wanted to prohibit the direct food contact.

So does that answer your question?

MEMBER DeMURI: It does.

MS. DIETZ: Okay.

CHAIRPERSON MOYER: Thank you.
Any other questions or comments from Board members?

MEMBER SMILLIE: Well, just to follow up with what Steve said, also, in that transcript was the expressed, not written consent, no, the expressed desire by the NOSB at the time to see these materials come off the list. That was mentioned.

MS. DIETZ: Yes, the sunset, and if you look at the transcripts, the sunset discussion, we changed the recommendation; we changed the vote. There was a lot of back and forth on what actually should be placed on the National List with these materials.

To my knowledge, the removal and the early sunset of those was if it was direct food contact, not steam for packaging or sterilization. Because, in reality, if you look at the 2002 recommendation for synthetics to be placed on the National List, something that is not even directly contacting food might not even need to be placed on the
National List.

We asked for it to be there, so that it could clarify it, because inspectors were going into plants and saying no steam, but we were using it to temper glass and for packaging.

So, if we had wanted to put a sunset, we would have put it in the annotation, and we didn't.

CHAIRPERSON MOYER: Kevin?

MEMBER ENGELBERT: Kim, could you clarify a little bit for me the concept of direct or indirect contact? I mean, to me, it is either there is or there isn't.

MS. DIETZ: Yes. In this document, I have actually referred to the CFRs. If you want the policy statement, I can show you that as well.

In food, you have categories in CFRs that identify the type of food, whether they are ingredients, processing aids, direct food contact materials, or indirect. So they
are categories. Then we also have the infamous food contact substances.

So it really kind of clearly defines how a food should be used and limited use, if applicable. So it is there as a reference under the Code of Federal Regulations.

The indirect use, there's thousands of materials that are under those CFRs for indirect use. It was mainly a way for the program and the Board to say, how do we get our arms around defining what is subject to review? We said anything that is in the food or comes in contact with the food definitely, and anything that may still be left in the food, in other words, processing aids, or what have you, needs to be subject to review.

MEMBER DeMURI: One followup to that.

CHAIRPERSON MOYER: Certainly.

MEMBER DeMURI: Were there any
discussions during that first meeting or in Richard's report regarding some incidental residue that could be left? For instance, if you are steaming a glass jar, some of that steam is going to condense on the inside of the jar.

MS. DIETZ: Yes.

MEMBER DeMURI: Unless you do something to remove that condensed steam, which would then be liquid, you could potentially have minute amounts of those volatile immunes in that, correct?

MS. DIETZ: We did not get down to that level because it was being petitioned so that we could use it. You know, we didn't talk about that. I mean anything on the National List could be left in there.

MEMBER DeMURI: Right.

MS. DIETZ: No, we didn't.

MEMBER DeMURI: Okay.

MS. DIETZ: Not that I remember.

CHAIRPERSON MOYER: Thank you,
Kim.

MS. DIETZ: Thank you.

CHAIRPERSON MOYER: We appreciate your time.

The Chair recognizes Urvashi Rangan, and Tom Hutcheson on deck.

MR. HANSEN: Hi. I realize I am not Urvashi Rangan, but I am filling in for her. My name is Michael Hansen. I am a Senior Scientist at Consumers Union.

CHAIRPERSON MOYER: Okay.

MR. HANSEN: And I would like to, since we have two sections, I should be able to do this.

It is actually S-E-N.

CHAIRPERSON MOYER: Am I to understand that you have a proxy, then, for --

MR. HANSEN: Pardon?

CHAIRPERSON MOYER: Do you have a proxy? You said two sessions. What did you --

MR. HANSEN: Well, no, it is just,
you see, that there is --

CHAIRPERSON MOYER: Oh, I see.

Okay. Thank you.

MR. HANSEN: I am up as well, staff member.

CHAIRPERSON MOYER: Okay.

MR. HANSEN: I will try to get rid of this in as short a time possible.

CHAIRPERSON MOYER: I am just trying to get the timekeeper squared away. So you have 10 minutes.

MR. HANSEN: Okay. I don't think I will need that.

CHAIRPERSON MOYER: Thank you.

MR. HANSEN: All right. So, first, I would like to thank the NOSB for this opportunity to make comments.

The first comment I would like to make is on the recommendations of the Materials Committee on nanotechnology. Consumers Union fully supports the recommendations of the Materials Committee
that the NOP should, quote, "implement a rule
to clarify that at present the use of
nanotechnology is excluded from all organic
production, processing, and packaging except
as required by law." End quote.

Since we are assuming that the NOP
will follow through on the recommendations of
the Materials Committee, we are not going to
provide detailed comments on the potential
health and environmental problems associated
with engineered nanoparticles. If the NOSB
did decide against this recommendation, we
will be glad to present detailed evidence of
these potential environmental and human health
problems.

In general, Consumers Union
supports the language in the Materials
Committee recommendation with a couple of
exceptions.

One, that under the definition of
nanotechnology, we think you should make it
clear that the size range of concern is not
just 1 to 100 nanometers, but it goes up to 300 nanometers, and that is because particles in that size range have also been shown to have unique properties that could cause adverse effects.

In addition, also as part of the definition, it should be made clear that an engineered particle or structure is considered to be nanotechnology if any dimension that is engineered is less than 300 nanometers; that is even if it later agglomerates, and that is due to the greater increased surface area of the nanomaterials, even when it is tightly clustered together, and also because of some of the problems with trying to figure out whether agglomeration is happening in the product itself or is an artifact of the way you look at the nanoparticles. We ran into this when we looked at sun care products. We also strongly opposed the Materials Committee minority opinion position, which would treat nanomaterials as a synthetic
substance. We think that is a very dangerous proposition because, first, for a number of reasons, first, we think it wrongly confuses naturally-occurring nanoparticles, such as those produced during milk homogenization, with engineered nanomaterials. We are specifically concerned with the deliberate intent to use nanotechnology, not with the inadvertent creation of nanoparticles, in the NOP.

That minority position, which treats engineered nanomaterials as a synthetic substance, would allow a case-by-case determination on whether it is a prohibited material, as companies could petition NOSB to allow such materials as a, quote, "permitted synthetic". This would, in our view, lead to inconsistencies among organic labeled products with some nanomaterials being prohibited and others potentially permitted synthetics.

Thus, you would have an inconsistent definition of organic. We think
that organic should mean no intentional use of engineered nanomaterials, not, quote, "almost no use" or, quote, "subject to discretion". We would point out that, as with genetic engineering, consumers do not expect that organic products they buy will contain deliberately-engineered nanomaterials, and they should not be confused by an inconsistent policy on organics that would allow some engineered nanomaterials, but not others.

For other recommendations, on the recommendation about vaccines, we are not supporting that recommendation. We think the genetically-engineered vaccines, that, basically, they should maintain the status quo; that is, they shouldn't be completely exempted. They should be required to go through the approval process that is laid out in accordance with Section 205.600(a).

The reason for that is it isn't the case that you can't do agriculture without engineered vaccines. There's still a number
of problems that do need to be worked out with
the genetically-engineered vaccines.

I was part of an expert consultation that WHO and FAO put on. One of our recommendations, and this was on engineered animals, we did actually recommend that WHO, FAO, and OIE really need to look at the issue of engineered vaccines because they do raise safety issues. Because there is data that suggests some of these engineered vaccines can hang around for much longer than previously thought.

So, in that area, again, we are not supporting the recommendations to basically give carte blanche to engineered vaccines. We are actually asking you to maintain the status quo.

Then, third, on the personal care products, our basic position is that no organic claims should appear on any personal care product that does not come under the purview of NOP. So that means, we believe,
that for personal care products there should 
be the same standard as food.

We understand that there may be 
some alternative standards for, quote, "made 
with organic" or other non-USDA organic 
products, but we believe that that is not in 
line with the NOP. So we think the NOP has to 
make a decision. You either have to take it 
all on -- that means for all categories -- or 
do none of it.

We think you should take it all 
on, so as to have consistency in the meaning 
of organic, not only within personal care 
products, but also in a consumer's comparison 
of what that product label means vis-a-vis 
food.

There should be one standard, 
whether it is for personal care products or 
food. So one way we think this could be done 
is that there should be a section on the 
National List for, quote, "made with organic",
end quote, and, quote, "organic". So there
should be sections on the National List for these personal care products.

Then, finally, one other recommendation which we wholeheartedly support, and that is the recommendation on retail certification.

I will end there.

CHAIRPERSON MOYER: Thank you, Michael.

Are there some questions? I see Kevin, then Dan, and then Katrina.

MEMBER ENGELBERT: Just briefly, could you tell us how you arrived at 300-nanometer upper limit? Do you think that will eventually rise as more is learned about nanotechnology?

MR. HANSEN: Well, no. There's actually a lot of discussion internationally. Folks had done the 1 to 100, but I know that the National Nanotech Initiative here hasn't come up with a definition. Some of the international folks are also concerned with
that strong cutoff because there are particles in the 200-to-300-nanometer range that have been shown to cause adverse effects. So that is why we think a clear cutoff shouldn't be the 100 nanometers.

I can supply -- I mean I will go back. I can actually get you a couple of those papers, if you would like to see them.

CHAIRPERSON MOYER: The Chair recognizes Dan.

VICE CHAIRPERSON GIACOMINI: Yes, Michael, I think we are going to be doing a little working to tighten up on the definition.

MR. HANSEN: Yes.

VICE CHAIRPERSON GIACOMINI: You used the term "engineered" --

MR. HANSEN: Nanomaterials.

VICE CHAIRPERSON GIACOMINI: -- "nanomaterials". Is that the preferred, most understood within the industry, as small and developing an industry as it is, and without
knowing exactly where it is going to go? Is that the tightest thing we can --

MR. HANSEN: Within the regulatory community and in the technical community, that is what people refer to, is engineered nanomaterials. That is to make it very clear that what you are talking about is intentionality is, of course, important.

VICE CHAIRPERSON GIACOMINI: We are not talking about something you get from the mouth field from deep freeze, from liquid nitrogen freezing and homogenization, and those kinds of things?

MR. HANSEN: No. No.

VICE CHAIRPERSON GIACOMINI: Okay.

MR. HANSEN: When you are talking about, part of the reason that nanotechnology is an issue is because people want to take advantage of the fact that materials at the nano-scale, you basically have quantum effects coming into the case and this dramatically-increased service-area-to-volume ratio. So
people want to take advantage of these novel characteristics of nanomaterials. So we point out that that means that there could be changes. If there are changes in the behavior of a component, there could also be changes in the environmental or health status.

CHAIRPERSON MOYER: Thank you.

Katrina?

MEMBER HEINZE: Nanotechnology is, obviously, a very new technology, in its infancy, and there is a lot that we don't know, particularly about its health effects.

Can you envision a situation in the future where we do know more about their health effects and their benefits, where a specific nanotech particle or technology would bring benefits to the organic industry?

MR. HANSEN: Well, I guess my response to that is it is really ultimately not about whether something is safe or not. The idea of organic is that it is a method. You could have a synthetic chemical. You
could have citric acid produced synthetically, but you don't allow that. It has to come from a natural source.

So I think, yes, you could, if you want to think of it theoretically, you can think of a number of products that might be developed out of engineered nanomaterials that might be very useful, but does that really fit in with the whole philosophy of organic?

I should point out that a lot of the scientists, the World Society of the UK, they are all recommending that there should be actually moratoriums on release of free nanoparticles until we know a lot more.

But I could actually see some beneficial uses in tracking disease and actually identifying disease pathogens and other things that might be used.

CHAIRPERSON MOYER: Thank you.

The Chair recognizes Bea.

MEMBER JAMES: Thank you for your comments. Did you submit them in writing?
MR. HANSEN: The comments on nanotechnology, yes.

MEMBER JAMES: Okay, because you had made a comment that you supported the retailer recommendation at the end of your --

MR. HANSEN: Wait a minute. Say that again?

MEMBER JAMES: At the very end, you had made a comment that you supported the retail recommendation that is out there currently.

MR. HANSEN: Yes.

MEMBER JAMES: Or did I mis-hear you?

MR. HANSEN: The retail certification.

MEMBER JAMES: Yes. Can you give us a little bit more detail on that?

MR. HANSEN: That was just one thing I had with a short conversation with Urvashi yesterday before I left. She said that is one thing that we should comment on.
We think that that is actually a good program to have certification for retailers. We think it is something that is needed. If you would like more details, I can get you those in written form.

CHAIRPERSON MOYER: Thank you, Bea, and thank you, Michael.

Any other comments for Michael?

(No response.)

Thank you for your time.

MR. HANSEN: Thank you.

CHAIRPERSON MOYER: Tom Hutcheson, and then Forest Eidbo on deck.

MR. HUTCHESON: Good morning.

I am Tom Hutcheson, Regulatory and Policy Manager for the Organic Trade Association, OTA. OTA is the membership-based business association for organic agriculture and products in North America. OTA's Board of Directors is democratically elected by its members.

We thank the National Organic
Standards Board for the opportunity to provide comment.

Please refer to our written comments for details.

On animal welfare, OTA agrees that animal welfare is a basic principle of organic production, and the rule needs substantial clarification, especially in regard to poultry, as ruminants will be covered in the access to pasture rulemaking.

Nonetheless, OTA supports the call of many of other commenters not to move this recommendation forward. There has not been adequate time for stakeholders to consider and respond appropriately to this new recommendation.

OTA suggests that NOSB maintain the direction provided last May articulating more clearly the principles on which organic animal welfare standards should be based, and then requesting NOP to undertake rulemaking. NOP would then be able to craft a proposed
rule that works for all stakeholders,
producers, certifiers, the trade, consumers,
and, of course, the animals.

On personal care, OTA agrees there needs to be a greater consistency in the labeling of organic personal care products.

We support both our members who are certified to the NOP rule and those who have chosen to be third-party certified to private standards.

OTA supports the rule changes in the recommendation to the extent that they simply codify existing NOP policy. But if any processed product, regardless of end use, meets the rule, it may be certified. However, it is premature to recommend NOP regulation because of unanswered jurisdictional issues, implications for the National List and international trade, needed additional research on consumer expectations and understanding, and the need to more carefully examine other solutions.

OTA has submitted a white paper on
personal care as part of our written comments,
which we hope will serve both as background
for interested parties and as an aid to
discussion on a range of policy approaches
that might address the current situation.

On definitions, OTA requests that
NOSB defer this recommendation. The
recommendation does not cover several
necessary aspects of the problem.

OTA does support the proposed
changes to the definition of non-synthetic,
deleting "or bacterial culture" and the entire
last sentence of the definition, or even to
delete the definition of non-agricultural
entirely, revising Section 605 to require
organic preference.

We disagree with the suggestion
that a substance may not be both synthetic and
agricultural or even both synthetic and
organic. The definition of agricultural
product in OFPA and the NOP rule includes
processing, and accepted processing methods
can and do create synthetics according to the definition.

On sunset materials, OTA does not support the recommendation that boiler chemicals be removed from the National List, as the alternatives identified are not demonstrated to be viable, and NOSB should examine the impacts on the trade before taking such a step and assuming that an adjustment from current methods will be easy or even possible.

On nanotechnology, although NOSB does not intend to include nano-scale particles incidentally created through normal processing, the definition outlined does not convey that and would include the ability to control or manipulate at the atomic scale, which could be a description of emulsification.

The minority opinion expressed in the recommendation is a better approach. This recommendation is premature. Any products of
nanotechnology that NOSB wishes to prohibit beyond engineering synthetics should be individually considered.

On enclosed or containerized production, OTA supports this recommendation, but notes that it does not provide for the possibility of organic greenhouse production based on aquaponics, the ecologically-complex, integrated culture of aquatic animals and terrestrial plants.

Although not soil-based, aquaponics seems consistent with organic production principles. Such systems have the potential to produce two types of organic products, and therefore, offer the potential for expanded organic production.

On bivalves, we welcome this step and urge you to move this forward to NOP for rulemaking. We understand this will complete the requirements for moving ahead to rulemaking for that.

On retailer certification, looking
at the definition of "raw" and "ready to eat" is important, as is exploring whether there is a distinction in processing for deli, bakery, or any other department in the retail handling operations. We can work with you on that with our good organic retail handling practices manual.

Thank you very much.

CHAIRPERSON MOYER: Thank you, Tom. We appreciate your time.

Any questions for Tom? Steve and then Katrina.

MEMBER DeMURI: Tom, thanks for your comments.

Did you receive any comments from your membership on the boiler chemical sunsetting that we don't already have from folks that responded directly to us?

MR. HUTCHESON: I believe our members would be the same ones who have commented to you on this.

MEMBER DeMURI: Okay. I was just
trying to get an idea if there's others that we weren't aware of.

Okay. Thank you.

CHAIRPERSON MOYER: The Chair recognizes Katrina.

MEMBER HEINZE: Thank you, Tom, for your comments.

I have two questions on the classification of materials. So, in your comments here just a second ago, you said that you supported our definition of non-synthetic. I am wondering if you meant our definition of non --


MEMBER HEINZE: Okay. Then what I heard you say is you support possibly eliminating it altogether? Did I hear that properly?

MR. HUTCHESON: That would be possible if organic preference were required for 605.
MEMBER HEINZE: Okay. So my second question had to do with your position not supporting -- I'm sorry, I am struggling with phrasing here -- our determination around ag synthetics, that we rejected the term that acknowledged the concept.

We had a number of public comments to that point. I am trying to understand the concern.

Is the concern that, if an allowed synthetic was used at under 5 percent with 95 percent organic agricultural inputs, that what we have come up with would classify that as synthetic, the final material? Is that the concern? Or am I misunderstanding the concern?

MR. HUTCHESON: The broader concern is that the definition of synthetic in OFPA is so broad that some agricultural products, when processed, would under the law, the definition in the law and the rule, be synthetic product.
Cooked eggs would be a good example of that. So, then, if you wanted to use that in a multi-ingredient product, all of a sudden your cooked eggs are --

MEMBER HEINZE: You are in a bind?

MR. HUTCHESON: -- non-agricultural, and that doesn't seem consistent.

MEMBER HEINZE: So I am understanding it right, that there are a number of materials or products that are created in full compliance with the final rule, that if you applied a strict, letter-of-the-law interpretation, would be classified as synthetic? Then we would end up in a muck?

MR. HUTCHESON: That is our understanding, yes.

MEMBER HEINZE: Okay. Thank you.

That helps me.

CHAIRPERSON MOYER: Any other questions from Board members?

(No response.)
Hearing none, we will move on.

Thank you, Tom. We appreciate that.

Forest Eidbo next, and Curtis Bel on deck.

MR. EIDBO: For the record, my name is Forest Eidbo.

Good afternoon, NOSB members, Mr. Chairman, USDA, and National Organic Program staff.

Thank you for your work toward regulating a very important sector of our agriculture. I appreciate your commitment to serve for five years on a government board.

The development of true, sound, and accurate organic regulation is a very important part of the future success of organics, and your contribution toward that is to be commended.

I am 16 years old, go to Cooper High School in New Hope, Minnesota. I am here to give you the perspective of someone who
wants to support organics, but sometimes has a hard time understanding the value of organic compared to non-organic.

Let me give you an example. Not long ago, I went to the farmers' market where I approached a local apple farmer. I asked him if his apples were organic, to which he replied, "No, but they were grown sustainably and are local."

Then I asked him, "What does it mean that your apples are grown sustainably?" He told me farmers who take the sustainable approach substitute knowledge for pesticides and fertilizers. They use crop rotations and other agricultural adjustments to solve problems.

For example, soil enrichment produces healthy plants that resist disease, cover crops retard erosion and control weeds, and natural predators such as lady bugs and beneficial bacteria help control pests.

The result is that farmers are
able to minimize their use of pesticides and
fertilizers, thereby saving money and
protecting the environment, similar to what I
imagine organic agriculture is like.

He also told me that he never uses
pesticides or harmful chemicals in his apple
orchard. His apples are only $1.49 a pound
and were of high quality.

Then I thought, why is my local
grocer charging me $2.99 a pound for organic
apples when I can get sustainably-local-grown
apples at the farmers' market? Maybe there is
an additional benefit to certified organic
apples I just didn't know about.

I inquired with the produce
manager at my local grocer. He told me that
organically-grown apples are inspected by an
agency that is accredited by the USDA National
Organic Program. He told me that the
inspection process assures that apples have
been grown according to strict organic
regulation. That was assuring.
But then I told him about the local apple farmer at the farmers' market and that he gave me his word that he never uses his pesticides or synthetic chemicals, but he was not certified organic.

I asked if the USDA National Organic Program gives the same guarantee. This is where my confusion set in.

He told me, "Well, sort of, but there's a thing called the National List of Approved Synthetic Substances," that some stuff listed there might not be completely pure.

My first reaction was this guy, obviously, doesn't know what he talking about. But then I did my own research and I found that he was right. I was about to pay $2.99 for USDA-certified organics that could have been treated with antibiotics. There goes my guarantee.

Under 205.601, tetracycline and streptomycin are listed for use in organic
apple and pear production. I am not an expert in this area by any stretch, but I feel it is important that I come to you to say that some of your decisions are confusing me and possibly other consumers that want to trust organics.

Why is it that in 205.238(c)(1) it states, "The producer of an organic livestock operation must not sell, treat, or represent as organic any animal or edible product derived from any animal treated with antibiotics."? Yet, in organic crops, two antibiotics are allowed.

The regulatory hand of the NOP needs to follow the text of the final rule, which states that the NOP must, quote, "Assure the consumer that organically-produced food meets consistent and uniform standards," unquote.

I am asking you, the NOSB, to make sure that we, the consumers, understand your decisions, so that we can feel good about
putting our dollars toward organic purchases.

Thank you for your time.

CHAIRPERSON MOYER: Thank you very much, Forest. I appreciate those comments, as does the rest of the Board.

Are there any questions for Forest? Bea?

MEMBER JAMES: I just wanted to say good job and thank you for coming up and making your public comment.

CHAIRPERSON MOYER: The Chair recognizes Joe.

MEMBER SMILLIE: Forest, those are good points, and I know Hue agrees with you on the antibiotics. If he can't have them for livestock, why should we have them for apples, right?

(Laughter.)

So these issues aren't new. I am glad you spotted them because it is a complicated issue. I know that sounds like we are covering it over.
But sticking with apples, there may or may not be a good reason for the antibiotics. For example, I really like it when orchardists use a synthetic pesticide. Why is that? Synthetics are evil, right? Not necessarily. And the point I always like to make out is that synthetic pheromone mating disruptives, under FIFRA, it is a synthetic pesticide. It is used to disrupt the mating by causing a blocking of the signals of one coddling moth to another, so that they don't mate and lay the egg in the apple, which causes the worm. It is a synthetic pesticide. So we can't say that our organic orchardists don't use synthetic pesticides. I hope they do use this one because we don't like worms in our apples. But it is an example of why all synthetics aren't necessarily bad and, at the same time, why you can't say that we don't use synthetic pesticides.
It is a benign, non-toxic, excellent solution to what had been a huge problem. How can you tell the apple is organic? Well, there's a worm in it, you know. We didn't like it. We didn't like it in those days that our apples weren't up to snuff.

But because of scientific research, we were able to develop a synthetic pesticide that was allowed by the National Organic Program. So, if that confuses you more, that is okay, because if you are confused, you are right with the rest of us. It is confusing to try to define what is a living, dynamic system. The hard-and-fast rules sometimes cut off the feet to fit the bed.

So you are right, it is confusing, but our intentions are good.

(Laughter.)

MR. EIDBO: Thank you.

CHAIRPERSON MOYER: Thank you,
Joe, I think.

(Laughter.)

The Chair recognizes Dan.

VICE CHAIRPERSON GIACOMINI: I just hope the transcript's got what Joe said about those apples.

Forest, I see you are 16, finishing high school, maybe going off to college. When you are all done with all that, if you stayed in touch with organics and you still have all this interest, keep in mind a possible seat for you up here someday.

(Laughter.)

I think you are off to a great start.

MR. EIDBO: Thank you.

CHAIRPERSON MOYER: Thank you, Forest.

I also would like to comment that I think it is important and you should be commended for taking steps to connect with your food system, to ask those questions.
Some of the questions that you asked of your local producers show that, when you connect with the people who actually produce the food, you can have a great impact.

So, again, you are to be commended for that, and for coming and presenting to the Board. Thank you very much.

MR. EIDBO: Thank you.

CHAIRPERSON MOYER: Okay. Thank you.

The Chair recognizes Curtis Bell, and Jessica Waldon on deck. Curtis Bell?

(No response.)

Okay. Jessica Waldon, and Joe Dickson on deck.

MS. WALDEN: Hello. My name is Jessica Walden. I work for Quality Assurance International. I am going to comment on a few things.

The first thing is the definition of materials. Thank you very much, thanks to the Committee for broaching this topic. It is
extremely complex, and you have done a wonderful job getting through it all.

We generally support the proposed changes. We see that, initially, if the changes are adopted, that it will affect how the made-with organic products are assessed in terms of that 30 percent of known organic ingredients that are allowed.

We know that the non-agricultural ingredients do have to be on the National List, but the difficulty has been determining what is agricultural. We have had a lot of manufacturers approach us with various ingredients stating that they are agricultural. It has been very difficult for us to try to determine whether they are or they aren't, whether they should be on the National List or whether they don't need to be.

In the long-term, we see that these changes will also improve the methods by which items on 605 and 606 are evaluated. We
see that probably some items on 605 will move
to 606, and then eventually even start to be
produced organically. So we see that that is
a move in the right direction.

We don't see that these
recommendations will detrimentally affect
materials used in crop and livestock
production systems because synthetics have to
be on the National List. So we see that it is
all fine so far.

We agree with the approach that a
material is defined by both the source and
also the process by which it is produced. We
also agree with the approach that we first
decide whether or not it is synthetic. Once
it is synthetic, it has to be on the National
List. If it is non-synthetic, then it is much
easier for us to determine whether or not it
fits under the agricultural or non-
agricultural category.

However, there is another change
that needs to be made to the regulation.
Under the heading of 605, currently, the heading does state the acceptable non-agricultural ingredients allowed in organic and made-with products. So that would need further refinement to say something like non-synthetic, non-agricultural and synthetic ingredients that are approved.

We generally accept the definitions of synthetic, how you arrive at that. However, we don't agree with the last point on page 6, I believe, that says that a material is synthetic if it contains at a significant level a synthetic substance not on the National List. That is ambiguous. A significant level doesn't tell us very much. Then, again, we start on this whole problem of where certifiers are inconsistently applying the regulation.

So, instead of including that additional point there, we think that you should, since the rule is already being changed, let's go in further into
205.270(c)(2) and clarify the language there. In that section of the regulation, it talks about synthetic volatile solvents and synthetic processing aids not being allowed for use to produce organic products or ingredients. What we think the intention of that part of the regulation is saying, that any non-organic ingredient used in an organic product cannot be produced using synthetic solvents or synthetic processing aids not on the National List.

However, that part of the regulation doesn't specifically say that. So going into that part of the regulation and clarifying exactly what the intent is would perhaps bring more benefit to this whole argument.

That same section of the regulation also talks about made-with product and, basically, says that volatile synthetic solvents and synthetic processing aids not on the National List can be used for non-organic
ingredients that are used in made-with products. So it does make that distinction. So going and finetuning that language would be a great benefit for the certifiers and the clients that want to get their products certified.

We agree with the proposed definitions in general. We do see that, within the definition of non-agricultural, that agricultural system does need to be defined. There's some question there about what that really needs.

We generally agree with the use of -- I do have a proxy as well. So another six minutes?

We do agree with greater use of annotations. We feel that that will inspire the NOSB to delve further into the many different ways certain materials can be made. Sometimes they can be made in synthetic ways, sometimes not. The source material also can differ.
So we would appreciate further annotations on materials, so that we know where we are going with materials, and also for formulated products that are already on the National List, 205.605, like enzymes, dairy cultures, flavors, we also appreciate annotations there because you have a lot of incidental additives into those materials. Again, certifiers are not sure how far to go with that, when to actually draw the line and say, no, materials not allowed, things like dyes, preservatives, that sort of thing.

In terms of microorganisms and their products, we understand the Committee's rationale behind holding off on classifying them, microorganisms and their products. However, we do feel that currently, if a microorganism or yeast can be certified to the regulation as written currently, that it should be allowed to be certified. And I don't feel that this regulation actually -- or sorry -- this
recommendation was actually trying to address whether or not an organic product that potentially could also be synthetic, according to the definition, I don't feel that this recommendation was actually even trying to cover that at this stage. It does probably deserve some discussion, but I don't think this recommendation was discussing that.

So, just quickly, I wanted to comment on animal welfare and temporary confinement for outdoor poultry. In general, QAI supports amending the sections of the NOP regulation that pertain to livestock, so the intent of the regulation is clear and we can enforce that.

We also support the view, though, of the ACA and the OTA and others that this document should serve as a discussion document for now, until we have more information, in order to make these very important decisions on the regulation itself.

We do, though, ask for further
clarification -- and this is really from the
NOP -- to the interpretation of the NOP
regulations with regard to outdoor access for
poultry.

As a result of this year's round
of audits by the NOP staff, several ACAs, but
not all, were issued non-compliances because
they were allowing their poultry clients to
use specifically-established conditions
described in the regulations to justify
temporary confinement beyond an initial three
weeks of the feathering-out period.

It caused considerable confusion
in going back to clients, where we had to try
to explain that confinement couldn't go beyond
three weeks of the initial feathering-out
period. We were not able to point to the part
of the regulation that actually substantiated
that.

So we need clear guidance, and we
need to be consistent with how certifiers are
meant to follow the regulation. But, more
than that, the guidance needs a phase to be an opportunity for comment, and then we need to go our clients after that time. There's too much confusion.

That also goes to the CDFA banning of composts. We are excited to see that the next agenda is going to include more information on composts and the use of organic in the brand name on made-with products, and several other topics.

Again, though, encouraging that the guidance is put out, that there is enough time to comment, and that it is solidified before we start enforcing, because it causes great confusion, and not everyone who is affected is able to comment.

Then, just to really put it on the radar -- this is not a part of the agenda this time -- is the use of Chilean nitrate in organic farming operations, that all the other standards of the world don't allow it. It also has been linked with perchlorate
contamination, which is a serious issue. So it is something that really needs to be addressed sooner rather than later.

That's it. Thank you very much for your time.

CHAIRPERSON MOYER: Thank you, Jessica.

Questions? Hue, and then Steve, then Dan.

MEMBER KARREMAN: Thanks for your comments.

Over here.

I am not going to get specific on the animal welfare with you right now. Just there is a common thread among a lot of the comments on animal welfare that there wasn't enough time to comment.

All of our recommendations that are put out -- this is not you specifically -- but all the recommendations that are put out by the Board have to be in by a certain date, posted, and there's a certain amount of time
that people can comment.

So, granted, the animal welfare document that we put out is, you know, a lot. We were talking about it earlier in the year. Granted, we changed things from that discussion document, but it is not like we did a surprise attack and you have 35 days just to look at it, and that's it. I mean that is with any recommendation we put out. So I just want to state that.

MS. WALDEN: Noted.

CHAIRPERSON MOYER: Thank you, Hue.

Steve?

MEMBER DeMURI: Thanks for your comments, Jessica.

I gathered from your comments that QAI is against Chilean nitrate being listed. Why wouldn't you put in a petition to have it delisted?

MS. WALDEN: Well, generally, we tend not to petition ourselves, just because
we are meant to represent a huge body of certified producers and handlers. It is really just to sort of put it out there to discuss and sort of sowing the seed, essentially.

CHAIRPERSON MOYER: Thank you, Steve.

The Chair recognizes Dan.

VICE CHAIRPERSON GIACOMINI: Yes.

Hi, Jessica.

On your comments on microbes and feeling that if -- I think you used the example yeast in that case, but it is really to be any of them -- that if they can be grown meeting the regulations, that they should be able to be certified.

Is it in your opinion that there are any now that can meet what the regulations currently state that could be certified? I am specifically looking at the conversion period and whether it fits under origin of livestock, but that whole aspect of it. I am wondering,
if you see anything that can qualify now, how
you view those sections?

MS. WALDEN: You know, QAI doesn't
actually certify any microorganisms or yeast
products at all. So I would imagine it would
even be under something that would be
considered more like a mushroom. It is
something that straddles both the production
and handling aspects of the regulation.

But, again, I don't know in terms
of having to go so far as to change the
regulation completely now. It appears that
some products already are certified. So,
obviously, the certifiers have managed to find
the section of the regulation that does allow
that, those products to be certified.

So I apologize for not knowing
anything else, but --

VICE CHAIRPERSON GIACOMINI: No,
that's okay. That's okay. I was just
wondering, and not even whether QAI did --

MS. WALDEN: Yes.
VICE CHAIRPERSON GIACOMINI: --

but just if you see any -- I don't understand

how any of them would be getting through that.

I mean mushrooms I can understand. It is in

the soil at start. But in some of these where

it is such a start and stop, and stainless

steel tanks, and all the other things, I am

just confused on how they are getting that

through now.

MS. WALDEN: Yes.

VICE CHAIRPERSON GIACOMINI: So it

was just a question of how they are getting

around that part of the regs.

MS. WALDEN: Yes. I don't know

specifics.

CHAIRPERSON MOYER: Thank you,

Dan.

Any other questions from Board

members or comments?

(No response.)

Thank you, Jessica.

A couple of changes here. Joe
Dickson has agreed to move to comment tomorrow. So that puts Liana Hoodes at the podium and Susan Prolman on deck.

Liana?

MS. HOODES: I am Liana Hoodes, National Organic Coalition.

I first would like to apologize that I don't have my written comments completed. I will get them to you later today.

The National Organic Coalition is a national alliance of organizations representing farmers, environmentalists, other organic industry members, and consumers concerned about the integrity of the national organic standards.

The goal of the coalition is to assure that organic integrity is maintained, that consumers' confidence is preserved, and that policies are fair, equitable, and encourage diversity of participation and access.
NOC would like to thank its ongoing, long hard work in reviewing materials issues pertinent to the integrity of this label.

We would also like to take the opportunity to thank, in particular, the outgoing members of the Board for devoting so much of your time during the past four years to the work of the Board: Rigoberto Delgado, Hue Karreman, Gerald Davis, Julie Weisman, and Bea James. Thanks.

And we would also like to welcome our long-time colleague Miles to the leadership of the program. It is great. Good luck.

(Laughter.)

I have to say that that was quite a presentation that really was substantive and gave us a really good feeling that this program is going into its next phase and going to really ramp up what it can do.

In regard to that with TAP
reviews, NOC, we have said this again and again, that Technical Advisory Panel review to be an essential part of the materials petition process. We hope that that would be increased in the budget numbers, that we can see those to be for every material that will go along with the petition.

The petitions and the TAP reviews need to be posted for public to reference prior to the close of the comment period. I also saw in Miles' presentation that I think website stuff will be improved.

Just to note, in the additional money granted by Congress, they did include report language about TAP reviews, talking about comprehensive, scientific review. So that additional budget money was also for scientific review.

List for inerts. We thank the Board for continuing to work on this topic. We recognize that many questions exist as to how the review of inerts will proceed, and
that this discussion paper is the beginning of a process to resolve the issues.

NOP regulations must be amended to reflect the changes made to inert classifications and do so in a manner consistent with OFPA and the criteria in OFPA.

In current thinking at the EPA and elsewhere, we understand that the distinction between active or inert ingredients is becoming less meaningful. It may be that the organic label will take the lead in listing all product ingredients.

NOC has not taken a position on exactly how NOP should proceed with the inerts. We look forward to further discussions by the NOSB and the public, as well as from new, incoming Board members. Specifically, Jay Feldman has a lot of experience in working with the EPA on this. That should really help in furthering this discussion.

We do note that there may be a
longer timeline needed for compliance on this. It will have a big effect on producers in crops, and we need to be really aware of that. We want to see rigor in the review of inerts, but we also want to be able to continue, farmers continue growing.

So classification of materials.

NOC applauds the work of both the NOSB and the long slog of that Materials Working Group in finally laying out basically principles and definitions of synthetics and non-synthetics, as well as the decisionmaking matrix for first determining whether a material is synthetic or non-synthetic, and then determining whether the non-synthetic is agricultural.

We agree, as we have stated before, that annotations are useful and sometimes necessary in clarifying which forms of a substance are reviewed and approved. We are pleased to see the proposal to bring back the practice of first voting on whether the substance is synthetic or not. Kudos again.
It is a big deal, we believe.

Nanotechnology. NOC does not support the use of nanotechnology in organic. We agree with the comments that you will hear by the Center for Food Safety. We also agree about using the precautionary principle in the issue of size.

GMO vaccines. We disagree with the recommendation. Jim Riddle will make some detailed comments on this. We think that, basically, the NOSB should step back, follow established policies and procedures, and amend the recommendation to call for TAP review of GMO vaccines to determine if they are compatible with organic.

Is that it? Okay. Thank you very much.

Any questions?

CHAIRPERSON MOYER: Thank you. Any questions? Katrina, and then Hue.

MEMBER HEINZE: Thank you for your
comments on the classification of materials, especially the kudos.

MS. HOODES: Yes.

MEMBER HEINZE: It was a long slog for the Committee.

MS. HOODES: Yes.

MEMBER HEINZE: So what I heard is you have no concerns. Did I hear that correctly?

MS. HOODES: I think it is very detailed and most of it out of my area of expertise. It lays the foundation.

MEMBER HEINZE: Okay.

MS. HOODES: I think there are probably some issues, but this is the foundation that you can move forward with. So we do agree with --

MEMBER HEINZE: Great. Thank you.

CHAIRPERSON MOYER: The Chair recognizes Hue.

MEMBER KARREMAN: Hi, Liana.

MS. HOODES: Hi.
MEMBER KARREMAN: Regarding the vaccines, do people understand that they have, all vaccines that have been being used since 2002 without much review because it is a preventative? So just keep that in mind. I mean they are already in.

MS. HOODES: Well, there's a couple of thoughts on that. One is that there hasn't been a real review of whether there are non-GMO vaccines available of the same ones. So, if there are, and this is an evolving industry, if there are non-GMO vaccines available, then I think it behooves the organic to not use GMO vaccines.

So I think there needs to be an evaluation of the state of the industry right now and availability.

I also think that GMOs are a special class and they need to be reviewed. Anytime that an excluded method is considered to be used, extra special care needs to be taken. I think that individual reviews do
need to be done, even if the vaccines are already used.

CHAIRPERSON MOYER: A followup, Hue?

MEMBER KARREMAN: So, if someone wanted to use, a poultry producer wanted to use avian encephalomyelitis-fowl pox-laryngotracheitis vaccine made by a specific company, and it is the only one and it is genetically-engineered, and they have a proven outbreak, what would the organic producer do?

MS. HOODES: Well, I think the guidance needs to come from the program on what to do. But if it is the only vaccine, and the issue is a vaccine for AI or keeping all your birds inside, the evaluation may be very well that it needs to be used. But there would be an individual evaluation of that product and whether there is a non-GMO aniline.

MEMBER KARREMAN: Followup, one more?
So let's just say for a fact I know that there's no alternative to that one.

MS. HOODES: Right.

MEMBER KARREMAN: I am looking at the listing right here.

Let's see, Miles mentioned that it is a year's time for a simple review process --

MS. HOODES: Yes.

MEMBER KARREMAN: -- and any time longer, let's say six years for like the medicines that got approved.

So, okay, you have an outbreak happening. What do you do? And it is the only one. Right now, vaccines have been allowed by most certifiers to this point. I am just curious, what do you do for the welfare of the animals in that birdhouse?

MS. HOODES: I think what I am talking about is process, Hue. You said that most certifiers are using it. That is a problem for us. Most are, but some aren't.
1 Because why? This needs to be a consistent part of the regulation.

2 Now, as far as the outcome and the health issues, they do need to be dealt with. First of all, in emergency cases, there are some emergency provisions. I am not sure how those apply. But I think that consistency of evaluation and whether certifiers are using that is important. Maybe there is a way to expedite medicines and vaccines that are needed.

3 Yes, there is a disconnect in how long it takes, but the process has to be transparent and consistent and address the excluded methods and whether or not they are appropriate for organic.

4 So I think there's two parts to that, and one shouldn't supersede the other. I think, as the program grows, these emergency situations or situations that are needed to have decisions right away, there needs to be a process for that.
CHAIRPERSON MOYER: The Chair recognizes Kevin.

MEMBER ENGELBERT: Hi, Liana.

MS. HOODES: Hi, Kevin.

MEMBER ENGELBERT: Hue was trying to get you to answer a simple question. If there's an outbreak of a disease, and he gave the example of this vaccine that is the only one available, should the operation be allowed to use it on their birds?

MS. HOODES: I think there needs to be some evaluation. I really am not qualified to answer that. I do know that outbreaks are a serious issue. I also understand on the AI issue it may be the best way to go, which is to have vaccine rather than have the birds everywhere die. But we want to see evaluation.

And I don't know on the specifics of this. It is not my area.

CHAIRPERSON MOYER: Okay, thank you.
Any other questions for Liana?

(No response.)

Hearing none, we will move on to our next presenter, Susan Prolman, and that will be our last presenter for the morning session. We will start in the afternoon promptly with Beth Unger then.

So, Susan?

MS. PROLMAN: Hello. Thank you very much.

Yes, I am Susan Prolman. I am with the Humane Society of the United States. It is the nation's largest animal protection organization, representing 11 million supporters.

My comments today concern the animal welfare provisions. I have submitted them in writing in great detail. So what I am going to try to do today in five minutes is sort of hit some of the high notes on it.

To start with, I would like to applaud the Livestock Committee for its hard
work and for doing a very good job on this, and ask the NOSB to move forward with the recommended edits that we have submitted.

The Humane Society of the United States agrees that animal welfare is a basic principle of organic production and that this area warrants effective regulation.

We suggest that the rule be accompanied by a guidance document to assist producers in meeting the requirements and to provide further explanation of animal welfare concepts and concerns.

Such a document could help producers comply with NOSB's animal welfare standards and would also allow for the inclusion of information that would be much too detailed if written into the rule.

For example, we applaud the measures that would not allow the use of tail docking and beak trimming, but think that some producers may need additional guidance to prevent tail biting and injurious pecking.
behaviors, such as cannibalism.

Such a guidance document could also help to address monitoring methods and reducing lameness in dairy cattle.

We also ask that the rule explicitly contain a statement of zero tolerance policy for willful acts of neglect and abuse of animals. We believe that, in order to assure that animal welfare standards are being met, it is imperative that organic inspectors make some of their visits unannounced.

Just to start going through some of the provisions, in regard to Section 205.238(a)(2), which is talking about feed, we recommend that it be amended to include the requirement that nutritional content and rationing of feed result in appropriate body condition.

In regard to surgical procedures, we find the language of Section 205.238(a)(5) too vague. We recommend incorporating the
We recommend that the NOSB consider separate requirements relating to the use of anesthetics, analgesics, and sedatives for each species and each surgical procedure. The HSUS offers to develop recommended requirements for the use of these substances for each species and each surgical procedure, if requested by the NOSB or the Livestock Committee of the NOSB.

We also recommend that the NOSB consider requiring the use of pulled cattle in order to eliminate any need for dehorning and disbutting.

In regard to Section 205.238(a)(6), we recommend that there be an addition that each physical alteration shall be recorded in individual animal health records with dates, reasons the physical alteration is needed, and methods of the alteration. We also recommend adding a prohibition on mulesing of sheep.
We believe that the phrase "competent persons" should be better defined to explain the exact training required, and details of such training requirements is the type of thing that could be included in the guidance document.

In regard to Section 205.238(a)(8), we recommend monitoring for lameness and keeping written records on the percent of herd suffering from lameness and the causes. And again, the guidance document could go into approaches to addressing lameness issues.

The HSUS recommends that slow-growing heritage, hardy chicken breeds be used or, at a minimum, encouraged.

We applaud the -- well, excuse me.

Let me back up.

The provision regarding the withholding of medical treatment for sick animals, that it should not be done, we applaud that. We think it is important for
the inspector to evaluate how the animals are being treated, as well as corrective actions being taken and any intentions of the producers to market meat, eggs, or milk from these animals as non-organic.

I am sorry, I have to stop, but the rest of the information is in our comments.

Thank you.

CHAIRPERSON MOYER: Thank you, Susan.

Questions? The Chair recognizes Hue.

MEMBER KARREMAN: Thanks for coming in, Susan.

As I leave the Board, I hope I can help the HSUS and the organic livestock sector, if you want.

My question would be, how would you propose that we make sure that the neglect of individual animals does not happen?

Certifiers just go on the farm once a year.
We have heard there will be stepped-up surprise inspections. I am a cow doc and I like working on individual animals. I am not a herd-oriented person, although you have to be, but it is the individual animals that make up the herd.

So how would you propose that we could state somehow or another about the neglect, that it doesn't happen? It is not an easy thing to answer.

MS. PROLMAN: Yes, yes.

MEMBER KARREMAN: But you did bring it up. How should we go about that?

MS. PROLMAN: Yes. No, I agree, it is not easy to address. I think that, as we say, unannounced inspections are something that we recommend, you know, and explicit statements against neglect can be helpful.

Yes, I am sorry if I don't have a better answer for you.

MEMBER KARREMAN: I caught you by surprise, but it is something that I am
always, always thinking about. Hopefully, the Board in the future, whatever can come out, something about that, because it needs to be addressed.

MS. PROLMAN: Thank you. I agree.

Thank you.

CHAIRPERSON MOYER: Any other questions from Board members for Susan?

(No response.)

Okay. Hearing none, thank you, Susan.

MS. PROLMAN: Thank you.

CHAIRPERSON MOYER: This Board will adjourn for lunch. We will reconvene promptly at 1:30.

We have a lot of comment to go through yet today and we would prefer to get out of here before breakfast.

So we are adjourned until 1:30.

(Whereupon, the above-entitled matter went off the record at 12:11 p.m. and resumed at 1:31 p.m.)
CHAIRPERSON MOYER: Okay. Good afternoon, everybody. Our Board meeting is back in session.

We are ready to resume public comment. I would like to say once again that we have a lot of folks who want to give public comment. The Board does have work to do this evening, and we do have dinner reservations for eight o'clock that we would like to meet, and we appreciate if you can cooperate with us and see that we can get out the door in time to make that meeting.

We understand that your comment is extremely important as well. So we do look forward to that.

So we will start with Beth Unger, and Charlotte Vallaeys is on deck. Thank you.

MS. UNGER: Good afternoon. Thank you so much for this opportunity.

I am Beth Unger from CROPP
1 Cooperative. We are a farmer-owned
2 cooperative with over 1300 member owners in 35
3 states, with a lot of organic dairy producers,
4 egg producers, pork producers, beef producers,
5 all marketing under CROPP Organic Valley Brand
6 and CROPP subsidiary, the organic meat
7 company, marketing under the Organic Prairie
8 brand.

9 I came here today to talk about
10 your animal welfare recommendation. I very
11 much appreciate the work that you have put
12 into this. It is more than due to strengthen
13 the animal welfare. It is out there. The
14 consumers are asking for it.
15
16 There's many labels that are
17 coming out with certified humane, American
18 humane, and I am sure soon the Global Animal
19 Partnership certification. So I applaud you
20 for your work on the Livestock Committee in
21 addressing these issues.
22
23 I would also like to support OTA,
24 CCOF, and the ACA comments, and many other
comments that you will hear today regarding this particular document.

I don't think that this is the time to put forward the recommendation as presented. It needs to be a discussion document, so that you can hear from a lot of the folks who are assembled here today to take a look at this.

We posted our public comment online.

I really appreciate the fact that you spend time reading over 200 documents before you come to this meeting, on top of all of the telephone calls. It is amazing work, and bless you for what you are doing for the organic community.

But we just wanted to respectfully request that you withdraw this recommendation. Keep it as a discussion document and bring it back at another time.

I remember very clearly the proposed rulemaking for the pasture standard
and the amount of comments that that
generated. You take a look at that and other
documents that have come out that have a lot
of prescriptive language in it, and you get
the same general outcry about this is an
outcome-based regulation, and based on
process.

We cannot undermine the importance
of an organic system plan that each producer
and handler generates, and the relationship
that that has with the certifier.

All of this looks -- well, I
should say most of this document that you
created really is very good work. We really
agree with the large part of it, but it is
guidance, you know. We want to keep this
outcome-based. We want to have the importance
of the relationship between each certified
entity and their certifier, and allow farmers
to farm in their own production model, paying
attention to the goals, achieving the goals,
and not being told precisely how to do it.
That is less than five minutes,
and that is in honor of your dinner
engagement.

(Laughter.)

CHAIRPERSON MOYER: Thank you.
The Board certainly appreciates that.

Are there questions for Beth?

Hue?

MS. UNGER: Yes, I knew it.

MEMBER KARREMAN: I like asking questions, you know.

MS. UNGER: I know you do.

MEMBER KARREMAN: Hopefully, I get to a point. But I am sorry I walked in late,
but I read your written comments. I also heard your last half.

So you want us to pull back this
document to be a discussion document because there's just a whole lot of prescriptive-type
information in it, or whatever requirements.

Do you think there's anything in this document that is worth keeping, Beth, as far as no tail
docking of cows? Or should we like pull back
on that and say, "Um, we need to think about
that for the next two years."

MS. UNGER: No.

(Laughter.)

MEMBER KARREMAN: I mean the
Governor of California has signed a law --

MS. UNGER: Yes.

MEMBER KARREMAN: -- that has said
no tail docking of cows. So I think in
organics we should be doing that.

MS. UNGER: Absolutely. I agree
with you. As I said at the beginning, the
part you missed, I think a lot of what you put
in here is very important and right on. Yes,
that should be in there, and from a personal
perspective, I like the idea of purchase for
laying hens, as far as that goes.

But, you know, when you go back to
your discussion document that you put out last
May, the language recommendations that you are
putting in there I thought were very
appropriate in regard to the way the rule has been constructed and has been administered all this time.

It is when you have things in there like a half an acre per thousand pounds of ruminant, to me, that doesn't work in all areas of the country. There are different growing situations, and there are some areas where it is nowhere near enough.

MEMBER KARREMAN: A follow-up one?

CHAIRPERSON MOYER: Certainly, Hue.

MEMBER KARREMAN: So I guess we will be going over all this tomorrow or the next day, of course, making amendments and whatnot. But I would hope that we will be able to keep some things that are not contested at all. So it is a first step.

Then the contested-type things or things that need more discussion, hey, we will discuss more, and we have got a lot of time here; everyone else does; I will be gone.
(Laughter.)

I guess the reason we pulled back from what we had on the discussion document with inspectors doing measuring of lameness and cleanliness, and that kind of thing, body condition scoring, is because on one of our phone calls with inspectors, they said that is really difficult to do. I mean to train people to do that.

So we pulled back from that.

Instead, we are saying cows have to be clean. Cows have to have their tails. Those kind of end goals, so that the farmer can figure it out how to get there.

Now there are other areas, I agree, that we do have specific things which people are worried about and need more discussion. But I do believe there are some end goals that should be in everyone's organic system production plan, since that is the big thing.

We are just making sure that it
has got to be in there in the organic realm,
so that consumers, not just the farmers and
certifiers together, but consumers looking at
the organic world can say, you know, we know
that they are not docking tails; we know they
are keeping their animals clean. And we will
let the farmers figure out how to keep them
clean.

Does that make any sense?

MS. UNGER: Yes.

MEMBER KARREMAN: Okay.

CHAIRPERSON MOYER: Any other
questions for Beth?

(No response.)

Hearing none, thank you, Beth.

Charlotte Vallaey is up.

And you have a proxy?

I'm sorry, could we just wait one
moment, Charlotte?

Barbara?

MS. ROBINSON: Yes.

CHAIRPERSON MOYER: Barbara,
MS. ROBINSON: Mr. Chairman,

members of the Board, thanks for letting me
interrupt just briefly.

I would like to take a moment to
introduce the new Administrator for the
Agricultural Marketing Service, Ms. Rayne
Pegg.

If you just will allow me briefly
to mention Rayne's considerable qualifications
that she brings to this job, because I think
you will find a very, very formidable ally and
a very qualified advocate for this program and
your industry.

Rayne, very interestingly -- I
didn't realize this, either, until we just had
our senior management retreat a couple of
weeks ago -- I knew that Rayne had spent some
portion of her life growing up in that State
known as California, which you guys are
somewhat familiar with. But Rayne also spent
a good portion of her life also growing up the
other side of the country in Maryland as well.

So she is familiar both with the eastern and
the western shores.

Rayne most recently served as the
Deputy Secretary of Legislation and Policy for
CDFA. In that role, she was an advisor to
both the Secretary of the Department and the
Governor of California on legislative and
policy issues.

Rayne represented the Department
before the California legislature, regulating
bodies, and interested parties on issues that
potentially impacted the Department's
programs.

She has worked with growers and
the public to find common ground and reach
agreement on many controversial issues. She
has worked on legislation and public policy
that address invasive species, the Farm Bill,
the Department's budget, organic production,
food safety, farmers' markets, government
oversight, and trade barriers.
Rayne has also had some experience in U.S./Korea free trade negotiations. She has worked with USDA to resolve phytosanitary barriers that restrict the movement of California products to foreign and domestic markets. She has been heavily involved in the fertilizer issues out in California and the Leafy Greens Marketing Agreement.

So if you will join me in welcoming our newest Administrator Rayne Pegg, thank you very much.

(Applause.)

MS. PEGG: Hi. I feel awkward standing here with my back to the crowd, but I will do my best anyway.

It is very nice to finally see all of you. I have heard so much about you, and I am looking forward to getting to know you better as well as the new members that will be joining the Board in January. I understand probably quite a few of them are here today.

This program is clearly a program
that is under a watchful eye, which is good.

It has grown tremendously, and it has been built on limited resources.

The plan is, moving forward, that we increase those resources, we dedicate more funds to this program, to ensure that it can be there for the future and the future problems and questions that it is coming under.

You know, where does this program need to go? I think when it was originally enacted, the NOP didn't really know some of the questions that are coming before it. I know that you, Miles, has laid out a very strict agenda moving forward on some of the things that we need to tackle.

Inputs, what are we going to do about inputs? What are we going to do about consistency in the program and how we apply that consistency throughout not only those producers here in the United States, but the rest of the world?
The biggest thing that we have to protect is the integrity of this program and the integrity of the National Organic Seal when you see it on your grocery store shelves. I know that I am dedicated to that. Miles is definitely dedicated to that. Clearly, the Department is dedicated to that. That is why we have increased its funding so dramatically in the 2010 budget, and we plan to only increase it even more.

I think it will help not only people gain further trust of the organic seal and the organic program; I think it will help us tackle issues more quickly and with a better knowledge base, as we bring more people on with that diversity, and what we need in order to tackle some of the things that we didn't realize we were going to have to tackle and some of these questions that are coming before us.

I look forward to working with all of you. I always have an open door. Please
I feel free to call me at any point, anything that you want to share.

There's a lot of discussion that goes on behind the issues that the NOP is facing, and we need to have those. We need to have those as open discussions. We need your input, and we need you to be a part of the process as we review all of these things and we make decisions in terms of what we are going to do and how we are going to address these things that everyone is asking.

So thank you very much. Thank you very much for your service. We look forward to working with you over the next four years, and then four more, hopefully.

(Laughter.)

So thank you very much.

(Applause.)

CHAIRPERSON MOYER: Thank you, Rayne. I know the Board looks forward to having you in that position and working with you closely, along with Miles, as we move
forward on all of these challenging issues.
So thank you for coming and addressing it. We appreciate that.
Okay. We will resume our public comment now with Charlotte.
Charlotte, I believe you have a proxy? Is that correct?
MS. VALLAEYS: Yes.
CHAIRPERSON MOYER: Okay. And Dave Will will be on deck.
MS. VALLAEYS: Thank you for the opportunity to comment.
My name is Charlotte Vallaeys. I am Policy Analyst with the Cornucopia Institute. I will also be commenting on behalf of Mark Kastel, our Senior Farm Policy Analyst. Mark is in Missouri this week presenting at a conference and couldn't be here.
I wasn't planning on commenting on this, but Miles mentioned the 1995 recommendation for accessory nutrients. So I
I thought I would just remind the Board that this issue includes DHA and ARA, which I have mentioned before at previous meetings.

We have found that these additives, which are currently put in as accessory nutrients, are creating some problems in some infants. So just to be aware of that when you are looking at this, coming up with this perhaps new recommendation. Just keep in mind there is a lot of research out there, and we would be happy to help you and share any information that we have on that.

Next I would like to comment on animal welfare. Cornucopia agrees with the Livestock Committee that animal welfare is a basic principle of organic production and warrants appropriate and effective regulation.

We wholeheartedly support the Livestock Committee's initiative and urge the adoption of stronger, more effective regulations for improving animal welfare.

Thank you to the members of the
Livestock Committee for your work in coming up with these recommendations.

We support stronger animal welfare regulations, but we also believe that the Board should invite and consider input from all stakeholders, which will probably result in even stronger recommendations, regulations consistent with current and common best practices widely adopted in the industry.

From our own research and conversations with our organic livestock producer members, we would like to make the following suggestions for strengthening the animal welfare recommendations:

First, we strongly support the minority position and encourage the Board to consider its adoption. We agree that milking dairy cows more than two times in a 24-hour period is not compatible with fundamental organic management principles, and request that this restriction be included in the recommendation. Pushing cows for high
production results in short, stressful lives and does not meet the expectations of organic consumers.

Accordingly, the provisions in the minority proposal for restricting replacement cow acquisition are also important, since high turnover is indicative of burnout from pushing for high production.

The minority opinion also eloquently articulates the daily cycle and the relationship of a cow's behavior to the pattern of the sun, when cows and other ruminants are allowed to exhibit their natural behavior. The trend of confinement dairy operations to incorporate bright lighting, sometimes 24 hours a day, should be analyzed for its impact on the health and welfare of dairy animals. Again, we believe the minority opinion should be incorporated in its entirety in the final recommendations.

Moreover, Cornucopia requests that the NOSB solicit input from organic dairy
producers on the following recommendations, since we have received mixed feedback:

The first is the provision that animals must be kept clean during all stages of life with the use of clean, dry bedding, when necessary. Some producers worry that an organic operation with cows out on pasture, for example, mud season in Vermont, may not be able to keep their cows totally clean at all times.

The second provision we ask the NOSB to look into further states that the producer must have valid veterinary client/patient relationship with a licensed veterinarian. This measure may be hard on some producers who live in areas where veterinarians familiar with organic practices are hard to find.

Next up, poultry. Since the current standards have been easily interpreted by some certifying agents as allowing producers to keep chickens indoors, it is
important for the new rules to clearly offer no room for loose interpretation. As such, we offer the following suggestions for strengthening the rules:

One obstacle remains to granting true outdoor access, which is the size and number of pop holes. Doors to the outdoor area must be easily accessible to every bird in the house, and this is best achieved through quantitative rules.

We recommend taking a look at the European organic standards as a guide. They require doors with a combined length of at least 4 meters per hundred square meter area of the house available to the birds.

Second, the current recommendation says that poultry reared in houses shall have complete access to pasture, open-air runs, and water, or other exercise areas. We are concerned that this language remains too vague, and the phrase "or other exercise areas" could easily be interpreted as meaning
an enclosed concrete porch, as is currently common. By deleting "or other exercise areas", the recommended rule becomes much more firm and less open to selective interpretation. All poultry should have access to either pasture or open-air runs.

Cornucopia has no comments at this time regarding the recommendations for animals other than dairy cows and poultry. However, we are confident that organic producers involved in raising other livestock animals, such as hogs, sheep, and goats, would be able to provide valuable input. Again, we encourage the Board to solicit input from all organic stakeholders before finalizing the recommendations.

Last, we anticipate that operators of industrial-scale farms will fight stronger regulations that will benefit animal welfare at the expense of their large-scale production model and profits. We strongly encourage the Board to vote on behalf of organic principles,
family-scale producers, respecting consumer expectations in animal welfare, instead of accommodating industrial-scale producers that may oppose stronger regulation.

Some may argue that chickens must be kept indoors to protect their health. Research has shown that overcrowding contributes to stress, which weakens the immune system of animals, and therefore, contributes to disease.

The argument that animals should be kept indoors to promote their health is not only scientifically-invalid, but is also in direct opposition to the kind of production system that organic consumers expect when they pay a price premium for organics.

It is also important to note that during disease outbreaks, such as avian influenza, producers may be required to keep their birds inside. This should be a temporary scenario for emergencies. In no way should producers build houses without outdoor
access and argue that this grants their birds permanent protection. Keeping birds confined will not protect from viruses such as avian influenza, which can be transferred into a biosecure operation on someone's clothing. When consumers, who are increasingly hungry for the story behind their food, learn the reality of some organic production, they lose confidence in the organic label. This harms the entire organic community.

Making sure the reality of organic production is consistent with realistic consumer expectations of organic production, for which they pay a significant premium in the marketplace, should be seen as a positive step.

For these reasons, it is important to move ahead with strong animal welfare standards. However, the input of rank-and-file, family-scale organic livestock producers must be taken into consideration. The timing
of this proposal did not permit its evaluation and two-way dialog with farmers and ranchers around the country who did not have access to the internet.

I would like to note that about 30 to 40 percent of Cornucopia members, for example, do not typically use email. This includes many of our Amish farmers. A 30-day period to them is not adequate time to provide input on this proposal.

Furthermore, because of the controversy subsequent to the release last fall of a wholesale rewrite of the organic livestock regulations, and the impending release of the rewritten draft, we would encourage tabling the animal welfare proposal until final livestock rulemaking is completed.

At that point, industry stakeholders should be invited to participate in shaping the final NOSB animal welfare recommendations. Let's take a minimum amount of time and get this right.
We need to protect ethical practitioners in this industry and close the loopholes that are currently being exploited on industrial-scale operations.

But, just like the proposed rewrite of the livestock standards, animal welfare provisions must not create regulations that are unworkable in real-world conditions. Taking the time now for a collaboration with farmers and ranchers will assure a successful initiative.

Next I would like to comment on vaccines. According to OFPA, the NOSB shall convene Technical Advisory Panels to provide scientific evaluation of the materials considered for inclusion in the National List. This applies to GMO vaccines which must be reviewed and added to the National List in order to be used in organic production. The preamble to the final rule is clear on this.

We do not agree with the Livestock Committee's recommendation that the NOP ignore
the law and regulation in recommending that the NOP should require that any vaccines previously allowed stay allowed, including those derived from excluded methods, until the rulemaking is completed.

We do not agree that the NOP should allow the use of prohibited substances until rulemaking is completed. Doing so would undermine the authority of the NOP and harm the reputation of the NOSB.

One of the Livestock Committee's arguments for allowing GMO vaccines without individual review is to be prepared for an infectious disease outbreak. But, under NOP Section 205.672, emergency pest or disease treatment, such a scenario is already addressed.

In the event of a mandated -- well, I will skip this because my time is -- all right, I'll stop.

Thank you.

CHAIRPERSON MOYER: Thank you,
Questions or comments? The Chair recognizes Hue.

MEMBER KARREMAN: Thanks, Charlotte.

So do I understand that Cornucopia is in favor of specific numbers? I think you said that early on. So, in essence, prescriptive-type regulatory language versus the former speaker said don't do that; just stick with the OSP pretty much.

MS. VALLAEYS: Right.

MEMBER KARREMAN: Sorry, I'm paraphrasing, but how do you reconcile that?

MS. VALLAEYS: Do you mean our position with the previous speaker's position?

MEMBER KARREMAN: Yes, yes.

MS. VALLAEYS: Do I have to reconcile it?

(Laughter.)

MEMBER KARREMAN: You don't have to reconcile it. Sorry. You don't have to
reconcile it.

CHAIRPERSON MOYER: You don't; we do. You don't; we do, yes.

MEMBER KARREMAN: I'm sorry. But you are, basically, saying you do want hard-and-fast numbers for certain things? Okay.

CHAIRPERSON MOYER: Thank you, Hue.

Any other comments or questions for Charlotte?

(No response.)

Thank you.

MS. VALLAEYS: Thank you.

CHAIRPERSON MOYER: Dave Will, and Mark McCay is on deck.

MR. WILL: Good afternoon. How are all of you?

My name is David Will. I am the General Manager, Chino Valley Ranchers. This is Chris Nichols, Vice President of Chino Valley Ranchers, and will soon be the owner of Chino Valley Ranchers once his father retires,
maybe soon. It depends on you.

We are a southern California-based organic and free-range egg producer. Our company has been in business since the late 1950s and has been certified organic since March of 1997.

I wanted you to meet Chris and to know that, if you pass the animal welfare as written, that you will put out of business our third-generation farm, and one of Chris' first business programs will be to actually terminate our employees and close down our ranches.

I brought a label for you, just to kind of see something that, when we read this, that we kicked around. At the start, Mr. Chairman, you said that the goal of this group was not to confuse consumers and to continue to grow the industry, as I wrote down.

This is something we have actually toyed with and looked at. If you could scan that, please? Going to a natural egg that is
fed a certified organic diet. We don't know where else to go, unfortunately. That is something that we are actually going to consider. It has actually tested well, too, which scares us.

It is not that we don't want or need standards to protect the word "organic"; we do. But we need one that reflects the past 12 years of growth and investment since we have started to produce a certified organic egg.

Consumer demand has forced us to expand, and in California we are not able to purchase vacant land zoned for poultry. We have grown the only way possible, which is to buy existing operations, gutting them, and turning them into an organic facility.

All of our organic houses have outside access, but these areas are defined by the existing footprints of the ranches purchased. To get the space required of three feet per bird outside is impossible due to
existing buildings, roads, range areas of other houses, or property lines that we just cannot change.

In addition to the outside space that you are requesting, you are also requesting a change in the inside space from an industry standard of 1.5 to 2 feet per layer. The current 1.5 is used and supported by the free-farm standards, the humane farm standards, and it is also supported by the Humane Society and the new cage-free standards published by the United Egg Producers, which have all gone through lengthy scientific review and standard reviews as well.

The new standard of 2 feet per layer will have a serious impact on our production cost with little or no gain on animal welfare. Layers prey. They flock together for safety by instinct. Adding a half a foot of space per layer will only add empty space at one end of our barns that no birds will utilize, increasing our heating
cost and increasing our fixed cost by 25 percent, due to the flock size reductions.

Don't get us wrong; we do believe that all organic layers need and demand outside access, and that the 1.5 foot per bird inside space is acceptable. In fact, that requirement of having outside access is why we chose CCOF as our organic certifier back in 1997.

We are pleased that the National Organic Standards Board is looking into this issue and making all organic production equal, and to protect the word "organic" with consumers. But we need a reasonable standard that reflects the lack of specific standards for the past 12 years.

Our last concern is that the new standards need to be adapted for layers and broilers. Their life cycle and growth patterns are quite different, and we urge the separation in the standards for the issue of outside access.
Boilers, on average, have a 45-day life cycle, which is much more different than that of an 80-to-110-week layer. We have a much longer life to protect and a much more rigorous vaccine schedule that is regional as well.

We would urge language that allows to keep the pullets inside until their vaccines are administered and it becomes effective and active in the bird. This should come as a regional, depending on each individual producer's and veterinarian concerns.

I know Chris had a couple of things to add.

MR. NICHOLS: Thank you for letting me have a word here.

I have been raised with this business my whole life. We have had cage-free birds since I was born in the late seventies. I have seen it. I have seen how it works. We have moved to organic. I see
the birds, how they act.

In response to space outside for birds, it is very evident, once you go into these production facilities.

A lot of these standards, I would love for everyone here, we invite you publicly now, if you want to come see our farms, if you want to come see the birds, we invite you to do so. That way, you are not just taking our word for it; you are seeing it in front of your face. It is not just something we are saying.

But everything needs to be regulated well. We just want to make sure it is done correctly.

And I appreciate your time.

CHAIRPERSON MOYER: Thank you.

Perfect timing, yes.

Questions for Dave or Chris?

Kevin?

MEMBER ENGELBERT: I want to be careful how I phrase this because I don't want
to give the impression that I am just jumping
down your throat. But your label up here
intrigues me in that you chose to use a small,
little barn with a silo, a landscape, and one
chicken.

(Laughter.)

Does that represent your
operation? Do you think you may be deceiving
consumers with that type of label as opposed
to an image of your current facilities on that
label?

MR. WILL: Absolutely not. That
is just a mockup. We haven't even looked at
the imagery of it at all. It is mainly just
the words that we were using for the value of
the fact that, under these standards, you are
going to force us and a majority of the
business out of the organic certified egg
program, and we will have to become a natural
egg, which has a huge resonance with
consumers.

I have seen many studies by the
Fancy Food Association that natural actually outperforms organic in certain markets. This is an option that we may have to look at if the standard goes into effect as written, that we would have to go to a natural egg, which has absolutely no meaning, no longer carry the USDA seal, and go to fed a certified organic diet, which in a way is kind of a win because it will save us a huge amount of certification cost as well.

But we don't want to do it, and I don't think the consumer wants it done. I think it would be terrible for the marketplace to have it happen.

CHAIRPERSON MOYER: Thank you.

The Chair recognizes Rigo.

MEMBER DELGADO: Yes, you were talking about an increment of 25 percent in your production cost.

MR. WILL: Fixed cost.

MEMBER DELGADO: Fixed cost? What is that in relation to your overall cost?
MR. WILL: Well, our fixed cost would be, if we had a house that was geared for 1.5 foot per bird and we had to go to 2 feet per bird, we are going to lower the number of birds in that facility. So we are going to have less production out of that in number of eggs per day.

So we will have a higher cost of the employee. The utilities really won't change. In fact, they will go up. The taxes on the facility, the mortgage on the facility, all of those costs will go up due to the lower production, and that is going to be passed onto the consumer.

MEMBER DELGADO: In terms of your overall total cost of production, fixed cost is what percent?

MR. WILL: Can I get back to you this afternoon and put a pencil to it?

MEMBER DELGADO: Sure. Because that is critical, yes.

MR. WILL: Ten percent? Feed is,
obviously, the No. 1 cost.

MEMBER DELGADO: I would assume that.

MR. NICHOLS: Increased labor as well.

MR. WILL: Yes. Put on the spot, I --

MEMBER DELGADO: Okay. Is that the only -- a followup, if I may, Mr. Chairman?

CHAIRPERSON MOYER: Certainly.

MEMBER DELGADO: Is that the only objection you have to this document, that the space is too much, or what?

MR. WILL: Our main concern is the outside access and the inside access space per bird, defining that so strict.

The rest of the document, with the changes that have been proposed by the other groups, we basically support. In five minutes, it was hard to get into the fact of the no-force molting and the beak trimming.
I think other people after us are going to cover those as well.

Part of it is we think that you have come in with Canadian standards because you have mirrored them so well, but, unfortunately, in Canada they have an Egg Marketing Association that mandates the number of birds each producer can have. It is not a free market system like we have in the United States.

We also fully support outside access for poultry. We think it is important to have, but we think that, for the last 12 years, you have allowed the businesses to grow. In California, we have been forced to grow the only way that is an option for us. That has space requirements.

To suddenly now change the rules, or to define them further, yes, that is the issue we have. Everything else, for the fact of the requirement of outside access, the requirement of space inside, we think that is
great, yes.

MR. NICHOLS: One thing I have to add: about your outside access, one thing that was presented in that regulation was feeders and waterers outside. Currently, we don't do that because migratory birds are the No. 1 cause of disease for our birds. If we have our drinkers outside, and we have sparrows or blackbirds, or whoever, bringing disease to those pans, and then our birds go over and feed and drink with them, you are just increasing the risk.

This was all based upon science previously to make a safe food product. By adding just the waters and feeders alone, you are adding a lot more risk to the flock.

CHAIRPERSON MOYER: Thank you.

The Chair recognizes Hue.

MEMBER KARREMAN: Just since you brought that up, so then I try to think about, okay, well, I realize chickens aren't cows, but cows have to be outside out on pasture and
there's waterers out there and everything like that. So that has been going on a long time. Sometimes they drop some manure in the water, and it happens. There's not a whole lot of increased disease and mortality on animals that are outside other than chickens.

So I don't always buy the argument that chickens should not be outside because they are going to get parasites from pecking the ground and all that. I know I am going to hear that, but I don't buy that argument because I don't see it with cattle, and there's a lot of them out there.

One question I wanted to ask is, though, the vaccines, you said you are worried how long they have got to be outside because you want to wait until the vaccines take. I am just curious, how often do you vaccinate the birds? How many vaccines are they getting?

MR. NICHOLS: I don't think we made that comment.
MEMBER KARREMAN: No, no, you did, I believe.

MR. WILL: We did a little bit, yes.

First, to your first part of the comment, I don't think we oppose the outside access to birds, either. I don't think we said that there was going to be a risk of increased disease by having the birds outside that concerns us.

As far as the vaccination schedule, in California, I can get you the specific list. It is done by our veterinarian, and I may have it; I am not sure.

But up to about 14-15 weeks, we are vaccinating for different things, Coryza, Salmonella, and a variety of other illnesses.

MR. NICHOLS: Newcastle.

MR. WILL: Newcastle.

CHAIRPERSON MOYER: Okay, the Chair recognizes Kevin.
Mark, just so you will know, we will take drink orders a little bit later on.

(Laughter.)

MEMBER ENGELBERT: The outside access that you provide for your birds right now allows these birds to interact with sparrows or blackbirds or any other bird that flies into that area? It is not caged? It is all --

MR. WILL: No, it is open to the environment.

MEMBER ENGELBERT: So what prevents your birds from leaving?

MR. WILL: We have a side fence that is high enough that they can't get over.

That's it.

MEMBER ENGELBERT: That's it?

CHAIRPERSON MOYER: The Chair recognizes Bea.

MEMBER JAMES: My question has to do with your growth. How long have you been in business?
MR. WILL: The company has been in business since 1953, and then we have been owned by the current owner since the mid-1980s.

MEMBER JAMES: And your annual percent growth per year is, on average?

MR. WILL: Before this year? On average, 18 to 25 percent.

MEMBER JAMES: As you have grown almost 20 percent annually, how often do you have to add new barns?

MR. WILL: We have actually added new facilities, not specifically barns. Since I have been with the company in 2001, we have bought four properties.

MEMBER JAMES: Okay. So, if you were to have to adapt to a larger space per bird, and with a 20 percent annual growth, knowing that you would probably have to add more facilities, would that cost be that much different if you were planning for larger space per bird? How much time of a transition
would you need in order to do that?

MR. WILL: Excellent question.

First, a majority of our existing facilities could never conform. So we would immediately have to scrap all those and go to somewhere else, which would then limit cash flow in order to invest into the new facilities and finding the space.

Unfortunately, again, like I said, in California, we don't have access to zoned agricultural poultry land. It is almost impossible to buy vacant land and go in and do that. Plus, the cost is ridiculously high, land in California in general.

I don't know what we would do if we were painted into that picture as a business. I honestly feel our option would be to perhaps pursue a cage-free certification with some sort of organic feed claim, like we have shown, or go out of business. I honestly don't know what the owners would do at that point.
MEMBER JAMES: So you don't think that, if there was a transition period for existing producers, that that would work for you?

MR. WILL: I don't know that we have the options in some of the facilities. We are hemmed in with other buildings. We are hemmed in with property lines. I don't know how we would get the space in certain facilities, and I don't know that we have enough other facilities that we could open it up.

When you buy a commercial operation that has gone under, you don't have the ability to go in and design from the beginning.

CHAIRPERSON MOYER: Thank you, Bea.

The Chair recognizes Dan.

VICE CHAIRPERSON GIACOMINI: You commented on the 1.5 inside, preferring the 2. Are you comfortable with any number for the
outside?

MR. WILL: Yes. In our public comment, we wrote that we think not 100 percent of the birds will utilize outside access on any given day. We leave our open access for 24/7, and at the peak of the day, we have about 25 to 30 percent of the birds out there.

We felt that, if you start with a square foot per bird as outside access, since you have about a 25 to 30 percent usage, that really translates to 3, 3.5 foot per bird in the entire facility. We were comfortable with that as a number, and put that in our public comment, sir.

Thank you.

CHAIRPERSON MOYER: Okay. The Chair recognizes Hue, then Kevin.

MEMBER KARREMAN: Just a quick question.

CHAIRPERSON MOYER: Briefly, if you can, please.
MEMBER KARREMAN: Yes. What is the lifespan of a chicken house? It kind of adds onto Bea's. What is the lifespan where you are going to redo that chicken house anyway to maybe new standards?

MR. WILL: We have some that were built in the fifties that are still in use. We have just modified their existence.

The ranches we have bought, I don't think any of those were built before the seventies. When we go into a ranch, we leave the walls alone and everything else is torn out.

MEMBER KARREMAN: What is the average for the industry?

MR. WILL: You will probably get some people after me that may have a better answer for that. I'm sorry.

But I would say, you know, what is the amortization? Thirty years? So a minimum of that.

CHAIRPERSON MOYER: The Chair
recognizes Kevin again, briefly, if you can.

MEMBER ENGELBERT: Yes, very briefly.

Just to try to get a better handle on your operation or operations, do you grow any of your own feed? If so, what percentage? And what do you do with your waste that you produce at your facility?

MR. WILL: We do not grow any of our feed. We do have certified organic mills at all of our locations, and we mill all of our own feed that we bring in to our specific standards.

And all of our manure is collected several times during the life of the birds. Then some ranches compost. Most just take and sell it out as fertilizer.

CHAIRPERSON MOYER: Okay, thank you.

MR. WILL: Thank you.

CHAIRPERSON MOYER: We appreciate both of you for your time.
MR. WILL: Thank you very much.

CHAIRPERSON MOYER: You're welcome.

Mark McCay is next, and Greg Herbruck is on deck.

MR. McCAY: I'm certain the Board expected to see Dave Martinelli talking about methionine. I am going to stand in for him today and give an update on the Methionine Task Force. We have a PowerPoint presentation that I will try to go through quickly.

Methionine, the task force was formed about five years ago. Over the past two years, after we got the extension to the annotation, we put together a 24-month work plan. It included three things that we were going to specifically work to address from trying to generate different options for being able to provide the methionine needed for the diets for all poultry production. That is broilers, layers, and turkeys are covered in this.
So we talk about options for high methionine in corn. We sponsored research around naturally producing methionine. Then we are also doing some commercial trials, both on broilers and on layers, with different types of diets to try to see how birds perform with different options for supplemental methionine in a non-synthetic form.

We also committed, obviously, to making regular updates to the NOSB.

For this meeting, discussion of the petition. In August, we made a petition to extend the annotation period to 2015. I will talk about that as well.

There are some additions, there are some changes that we would recommend in terms of how we would position that for getting approval for that extension.

I will go through the updates on the research alternatives, and then get a little bit ahead of what we are going to talk about again in the spring meeting.
So the petition -- and there is a copy on what Valerie has. I have attached it as part of the materials. So it is something that we could provide. It was provided on August 2nd. We would expect that it would be something that would be on the agenda for the spring meeting.

But, basically, a little bit of background on methionine: it is an essential amino acid in poultry. Poultry cannot make it themselves. It has to come from feed.

What currently is happening is that organic poultry aren't able to satisfy the entire nutrient or methionine demands from the sources that we are able to feed them. We supplement about 30 to 40 percent of the required amount of methionine, is in supplemental synthetic form currently.

A little bit of background, also, that poultry and birds are omnivores. We would have expected, typically, that if you go back historically kind of within the 20th
In the 20th century, that broiler and layer feeding programs were actually the supplemental or the additional methionine that the birds needed typically came from bonemeal, meat meal, blood meal, other types of things like that, which are precluded from use in organic feeding regimens. And prior to that, birds which were omnivores, forest-dwellers, would have been able to pick up the necessary methionine through their feeding practices and their scavenging practices, probably from meat-based sources.

Next page.

We talked about that we have submitted the petition to extend the annotation date to 2015. Combined with that, though, the Methionine Task Force has proposed a cap on the usage.

The usages are listed here. This is the total amount of synthetic methionine in the diet over the lifespan of the birds, based on a per-ton-of-feed basis. The next page
actually explains it a little bit better

Actually, the next two pages explain it a little bit better.

As part of the TAP review, in 1994, we -- let's go back one more. No, the other way. Yes, perfect. Sorry.

As part of the TAP review, the National Research Council stated what they thought were the nutritional diet requirements for methionine in the diet of different types of poultry. They were basically the minimal levels that were required not to optimize growth, not to make the birds grow faster, not to increase production, but, basically, just to maintain the general productive activities of the different types of poultry.

Next page.

Down at the bottom are the NRC values for methionine and cystine. A little bit here about why we -- and I think this came up in the last meeting as well. We talked about methionine and cystine in combination.
Methionine in the birds actually converts to cystine. So the cystine requirements of the birds was actually one of the main building blocks for the feathering process. The methionine will meet the cystine requirements of the bird.

So, for both laying chickens and broiler chickens -- I am sorry we didn't have it for turkeys -- those are the NRC values. You can see that the average for laying chickens is .6. The average requirement in the diet for broiler chickens is .75.

The proposed cap requirements -- and I didn't mention on the previous page, but the previous page, the NRC says or commented that, typically, about 60 percent of the methionine requirement in poultry's diets can be provided by the grains and the feeds. The balance, that remaining 40 percent, needs to be provided in a supplemental form.

The proposed caps on these actually represent 33 percent of the NRC
average values. So the average value on
broiler chicken is .6. I am sorry. For a
laying chicken is .6. The .2 percent
represents a 33 percent -- okay, sorry. Going
too quickly.

I have more material that we can
provide on the corn trials, the high
methionine corn trials, and also a little bit
more detail about the grow-out broiler and
layer trials. There is detail and appendices
in the back of the materials that were
provided as well.

The Methionine Task Force also
commented on animal welfare as part of the
public comment period, and that was posted as
part of your packet as well.

CHAIRPERSON MOYER: Okay.

MR. McCAY: Sure.

CHAIRPERSON MOYER: Thank you,

Mark.

I see we have some questions.

Tina, then Katrina.
MEMBER ELLOR: I know this has come up before. Was any of this work done on chickens that had outdoor access?

MR. McCAY: There is one study that has just started off at Herbruck's poultry farm that the birds will have outdoor access availability.

On the broiler pen trials that were originally done, none of those birds had outdoor access. We do now have a research barn in Marin County in California and will start a research trial that will allow the birds to have outdoor access.

MEMBER ELLOR: Can I ask a followup?

CHAIRPERSON MOYER: Sure.

MEMBER ELLOR: What kind of outdoor access?

MR. McCAY: I won't be able to comment on what is going to be available for the layer trial. For the broiler trial, it is what I would call pasture/forage area that
would meet any kind of outdoor access or current organic standards.

CHAIRPERSON MOYER: Thank you, Tina.

Katrina?

MEMBER HEINZE: I was wondering if we can get a copy of your presentation.

MR. McCAY: Absolutely.

MEMBER HEINZE: Valerie can send it to us. That would be great.

MR. McCAY: After the meeting?

MEMBER HEINZE: After the meeting?

MR. McCAY: Yes, we can unplug, and it is on a flash drive.

MEMBER HEINZE: Okay. Great.

Thank you.

MR. McCAY: Sure. Yes.

CHAIRPERSON MOYER: Okay. Thank you, Mark. We appreciate your time.

MR. McCAY: Thank you.

CHAIRPERSON MOYER: Greg Herbruck is up, and Kurt Lausecker is on deck.
MR. HERBRUCK: Good afternoon.

My name is Greg Herbruck. I am an egg producer in Michigan.

I appreciate the chance to comment. I appreciate, also, the effort the Board has put forth, recognizing the need for animal welfare standards for laying hens and all animals.

I think it is in our best interest to be interested as a producer in animal welfare. I think we are on a path of recognizing we need to head in that direction.

We have been an organic egg producer for a little over 11 years. I am a third generation. My family has been in the egg business for over 50.

We have been a part of the growth of the organic business in the last few years. To answer a question, we started with 7,000 organic hens. We are up to about 700,000 in that 11 years. So it has been a huge growth.

Some of these things that we did,
in the last year, my family and I invested $13 million in a dedicated organic site. If you do the math on that, it is about $40 a chicken we have invested.

These new guidelines, as David had mentioned, they weren't designed to give the -- the main restriction is the outside access. It is just, if we give them that much space, they are going to be into drainage issues.

You are going to have environmental issues.

Basically, with the guidelines the way they stand, we would have to double that outside access with a rule requiring letting it set fallow, so you can regrow grass and all that sort of thing. So you are almost going to have an either/or scenario.

That is why we strongly disapprove of the guidelines as recommended. I think there are some things in agreement, we can agree on.

It mentions that they were science-based. I serve on one of our egg
businesses and egg producer animal welfare
committees, and also the audit committee. So
I am intimately involved in animal welfare
issues for our entire industry.

To a person, none of these people
were contacted and our group wasn't. So we
deal with all the scientists and researchers
in animal welfare, and as well as third-party
certification agencies. To a person, none of
them were contacted for input on this thing.

I think that is something that
should be considered in the future, in looking
at this again, as many others have pointed
out, a discussion document to look forward.

So I think there are a few points
we agree on. There are some of the animal
care things, practices, how we take care of,
that I think should consider molting. Feed
withdrawal molting should be banned. The
research would point to molting is a natural
process. There is a basal feed-type molting
where you feed a different protein, mimic the
fall period when birds actually molt, and
allow the practice.

Beak trimming, there are options
other than the blunt blade. You should
consider the infrared effect. It is an
important management tool to prevent two birds
-- if you have two birds together, one may
pick if they've got a strong beak and in a
situation.

But there are several of the other
treatment guidelines we agree with. The main
issues are with the outside access with us.
I don't believe they can be met. As Dave Will
had mentioned also, our facilities weren't
designed -- to put us in that position, we
would not be able to produce organic eggs or
we would have to do, to make that assignment,
we would have to go to 5 to 10 percent of the
capacities to allow for that outside access as
proposed. So, as I mentioned earlier, the
investment we have put into this, we would not
be in the organic business.
Some of the other things we don't agree with, the third of the life. We are in Michigan. Birds are going to sleep inside one-third of their life. The other two-thirds have to be split over 365 days. We have at least five months when the temperature for a high doesn't get over 50 degrees. That doesn't support animal health. To force a chicken to go outside in the winter months, you are risking them to be more exposed to health issues at that point.

Access to the soil. It talks about insects and things like that. We provide a full nutrition in the feed inside. That is one thing that gets them to come back in. If we have some of these outside access rules, the birds will lay a lot of eggs outside, and it will be a matter of trying to find those things. I would not be wanting a consumer to get that egg that took a week or so to find because it got laid outside in some corner of the pasture area.
Wire floors, I think that is an important part of a system.

In summary, I think we should move forward with recognizing this is a base document to start with. I think the USDA program has a base to promote programs. I think some of these things, as proposed, would be a detriment to that.

I think we should consider some of the professionals in this area that are -- in the absence of NOP standards, most producers went to a third party to assure our customers that we are caring for the animals. So I think you should consider the American Humane Association, Humane Farm Animal Care. They have a science-based standard already. Almost everybody to a person, to a company, is doing it now. It may be a base to work from because there are some codified standards that are out there.

I see my time is nearly up. So I will conclude there.
CHAIRPERSON MOYER: Thank you, Greg.

Some questions? Tina?

MEMBER ELLOR: What kind of outdoor access do you provide now spacewise, approximately?

MR. HERBRUCK: Right now, it is around 10 to 25 percent, depending on the design. We have many buildings over the time.

MEMBER ELLOR: Ten to 25 percent of the --

MR. HERBRUCK: Of the inside space, of the living space. Some of that is based on -- what is not recognized is there are different systems. We mentioned 1.5 square feet. Different systems, a lot of these other standards recognize a flat floor space, a raised floor, an aviary style, that enhance the bird health and the birds enjoy being on them.

We have, if you come and look at our outside access, on any day, the birds when
they are growing are outside, and there may be 30, 40, 50 percent of them out at any one time. You put them in a properly-designed system; we may have 50 birds outside. And they have full access. They enjoy it when they come out there, but they enjoy being inside. They have it safer. As Dave Will mentioned, they are prey animals. They tend to find a spot where they feel comfortable.

So, if you properly design a system, they don't go out as much. However, again, we give them that access. They come out; they enjoy it. They do their scratching and all that sort of thing.

MEMBER ELLOR: Can I follow up?

CHAIRPERSON MOYER: Sure.

MEMBER ELLOR: Do they derive any food from their outdoor access?

MR. HERBRUCK: No.

CHAIRPERSON MOYER: The Chair recognizes Hue for a question. If we can be brief, only because we have a lot of
commenters to get through.

MEMBER KARREMAN: A quick question: are you certified like a third-party animal welfare certification? I don't know if you said that or not.

MR. HERBRUCK: Yes. We have the American Humane Association and Humane Farm Animal Care, both of them, as well as United Egg Producers.

So we have to supply all our customers with assurance that we are caring. We have all three of them that we have available to the egg industry.

MEMBER KARREMAN: Because there was a written comment, and I don't know by whom, that said, you know, basically, certified organic poultry operations simply should be also certified to an animal welfare organization.

MR. HERBRUCK: I think the Board should consider they are the trained experts.

Our current inspectors, it is tough enough to
teach them what a chicken life cycle is.

These third-party people are experts in animal welfare, and they come and audit us on those very descriptive issues.

CHAIRPERSON MOYER: Okay.

MR. HERBRUCK: Thank you.

CHAIRPERSON MOYER: Thank you, Greg. We appreciate your time in coming.

The Board would now like to call Kurt Lausecker to the podium, and Bob Beauregard will be on deck.

MR. LAUSECKER: Thank you for allowing me to comment on the proposed NOSB animal welfare recommendations for organic laying hens.

My name is Kurt Lausecker. I am the owner of Nature Pure LLC, an organic egg farm in Raymond, Ohio.

I worked for 30 years as manager of Daley Egg Farm, a layer operation with 2 million laying hens in cages and with 200,000 cage-free organic laying hens.
I have a strong commitment to animal welfare and served on the Animal Welfare Committee of the United Egg Producers. I also like organic food.

Two years ago, I was able to buy the organic part of Daley Egg Farm, including an organic feed mill. The investment at the time was several million dollars. This is my life now and the life of my family. A dream came true when I invested in organic food production.

My farm consists of six laying buildings for 32,000 layers each and one processing room with an egg crater and a cooler. I also have one organic pullet house, and I employ 35 people.

All buildings have state-of-the-art equipment for cage-free organic egg production and were furnished according to current organic and cage-free rules and regulations, as outlined by the AHC and by the National Organic Program.
I agree with the written and verbal comments of my peers which address the many contradictions and potential disease risks associated with the proposed recommendations. I also submitted my concerns, comments, and recommendations to the NOSB in writing.

Today I am just here to let you know what these recommendations would do to my company. I cannot comply. I just do not have additional outside space available.

When the original transition from cage-laying hens to cage-free organic laying hens was made, the existing buildings were utilized. While I am in compliance with the current requirements for outside access, I am very restricted on outside space.

The proposed recommendations would reduce the number of hens in my houses from 32,000 to 3,076. My young company is highly leveraged, and our financing is spread out over the useful life of the buildings and the
If the recommendations will be implemented as proposed without grandfathering or without adequate compensation for my substantial investment, they would force my company out of business and me into bankruptcy. Thirty-five employees would lose their job, and many local organic grain farmers would have to look for another market.

As Miles, the new Deputy Administrator, said earlier, regulations can kill you. I just hope it is not me who gets killed.

Thank you for your consideration.

CHAIRPERSON MOYER: Thank you, Kurt. We appreciate those comments very much. Are there any questions or comments from Board members?

(No response.)

All right. Hearing none, we appreciate your time in coming. Thank you very much.
Bob Beauregard, and George Bass on
dock.

MR. BEAUREGARD: Good afternoon.

CHAIRPERSON MOYER: Good

afternoon.

MR. BEAUREGARD: My name is Bob

Beauregard. I am the manager of the Country

Hen.

The following is in response to

the Livestock Committee's request for public

comment on their recommendations for animal

welfare. Our comments represent the opinion

of George Bass, the owner, and the TCH staff.

The Country Hen, located in

Hubbardston, Mass, supplies supermarkets

across the United States with the first

commercially-produced organic omega-3-enriched

egg.

The Country Hen spent countless

hours developing our organic system plan

months before the implementation date. We

devised a system of providing our hens with
safe, protected access to the outdoors via porches.

As many of you are aware, we encountered difficulties with our then-certifying agency regarding this design, and our organic certification was rejected on this basis. We appealed this decision to Washington, and our appeal was sustained by the USDA AMS.

Based upon this decision, the verification that our outdoor access plan was in keeping with the rule, we quickly implemented this outdoor access design into our organic system plan.

Since this time, we have spent over a million dollars in capital improvements, including all of our porches on existing buildings, two new two-story buildings with their own porches, and initial preparation work to construct our next layer house for future expansion.

We feel strongly that we do comply
with CFR Part 205. It seems unfathomable that a different set of rules could be written at this stage, ones that would completely undermine everything that we have built our organic system plan around for the past seven years.

With specific regard to these proposed recommendations, we would like to thank the Committee for your commitment toward organic integrity.

With that being said, we would hope the committees creating the recommendations will consider, first and foremost, animal health and welfare, biosecurity on poultry farms, protecting poultry from disease, food safety, food production, volume, and price.

From our own experience, birds confined to housing due to weather or other conditions at 1.5 square feet per bird experience prevalent pecking. When cannibalism occurs, it is very hard to watch.
It is cruel. Birds suffer, which is the exact environment that 205.238(a)(5) seems to be attempting to avoid.

We believe layers should be allowed to be peck trimmed and, as new standards, methods, and/or traits can be bred out of the birds, the subject could then be revisited.

The Country Hen is concerned about bird health in a free-range system for several reasons. Although high-path avian influenza, H5N1, has not been introduced in the United States, most experts agree it is just a question of when it will be. Other strains of low-path viruses are somewhat common and characteristically can mutate the highly pathogenic very quickly.

Non-domesticated avian species are common carriers of AI, such as waterfowl, geese, ducks, and/or wild turkeys. They don't exhibit any symptoms, but carry these diseases commonly. The risk is high, and given what
has happened in Europe and Asia in the last few years, it seems to be just a matter of time before we experience it here in the United States.

The recommendation suggests that feed and water be provided in the outdoor areas. Implementing this suggestion would seem contradictory to the health and safety of the hens. It would be inviting natural predators, insects to uncontrollable levels, and rodents.

Experienced farmers know that, when you invite with feed and water, most everyone will show up. They will be sure to bring along something with them, such as Salmonella, E. coli, rabies, ticks, lice, bedbugs. We do not believe that this is in keeping with the best health and safety conditions for the hens at stake.

Biosecurity on poultry farms, and from our experience, again, of farming in a somewhat rural area, you would think that
biosecurity would be simple to control and maintain. Biosecurity practices are the most important means of preventing outbreaks in poultry. This includes preventing access of wild birds to domestic flocks and limiting access to farm buildings. The three most potential hazards are people, trucks, and other avian species.

We, as farmers, use every preventative measure allowed in organic livestock production to maintain healthy flocks. These measures include vaccinations, probiotics, feed additives, et cetera. We believe that our porch system helps to protect the hens from potential poultry diseases.

The FDA has also stepped up the regulations for Salmonella prevention. New regulations require that measures that are designed to prevent Salmonella enteritidis be adopted by virtually all egg producers with 3,000 or more laying hens whose shell eggs are not processed with a treatment such as
pasteurization to ensure their safety.

Free-ranging our layers at 3 square feet per bird on the ground is not in keeping with the health and safety in mind.

The land to range the hens properly would not be practical, nor would the hens be safe from natural predators.

Establishing and maintaining pest control, rodent control, and biosecurity measures outdoors to prevent people and equipment from spreading bacteria throughout the farm would be stringent and would likely not be successful.

It is more detailed in our comment that we submitted.

CHAIRPERSON MOYER: Okay. Thank you, Bob.

I know Hue has a question, and then Bea.

MEMBER KARREMAN: Just another quick question, Jeff.

Is the land -- you are using
porches. I don't want to get into that whole thing. I know there is a history on that. But is the land that your farm is on, is that all certified organic land?

MR. BEAUREGARD: Yes, it is.

CHAIRPERSON MOYER: Thank you, Hue.

Bea?

MEMBER JAMES: I just was wondering how you manage the health and vitality of the chickens if they never have outdoor access.

MR. BEAUREGARD: Well, they are still free-ranged. They are free-ranged in the barn.

MEMBER JAMES: But they can go in and out?

MR. BEAUREGARD: They can go in and out of the barn.

MEMBER JAMES: So other pests and predators can go in and out, too?

MR. BEAUREGARD: No. No.
Actually, they're screened-in porches.

MEMBER JAMES: Okay. So that is kind of outside, but not really outside.

MR. BEAUREGARD: Exactly.

Exactly.

CHAIRPERSON MOYER: That is the issue, Bea, yes.

MEMBER JAMES: Yes.

CHAIRPERSON MOYER: Okay. Thank you, Bob. We appreciate your time.

Next we have George Bass, and Kurt Kreher on deck.

MR. BASS: Thank you very much.

We appreciate what you have done and the opportunity of speaking.

I had a little bit of a stroke.

So some of the times I am not very good, but I hope I can do it.

Thank you. Thank you.

We have had the porches from '02.

Therefore, we had problems with the certifies.

But we worked and worked and worked, and
finally, it was the USDA Agricultural
Marketing Services. In '02, we finally had
it, and it is okay.

So really what happens, and I
think it works, and it works very, very good,
I think. And I will explain about the
porches.

But the big thing that I don't
know if you have ever seen it, about this, but
there are 250 million birds are dead. Now I
don't know if you know that, but there are 250
million birds, about maybe three or four years
ago, in Asia. That is the big thing that
really that does it, is this wild birds. They
go with the connections with the other birds,
and that is really what happens. You should
not get those seabirds with the other
chickens. So that is really what happens. So
it is avian influenza.

Of course, as you know, it is
very, very highly pathogenic of these H5N1,
and that is really what happens in Asia. That
is really what happens.

So I will explain about four

things that we did, trying to get through on

the people and also the NOP and the NOSB.

That is really what we did, and I think it was

okay. So I am going to talk about four

different points.

One is the dirt, the barren dirt.

Then there's the disease and the animals. We

always get the animals. Then you've got the

pandemic. Right now, at this moment, we've

got this pandemic.

So, if you put those chickens on

the barren dirt, it is a little bit crazy. If

you really want to put those chickens on the

grass, the fellow that did it way down in

1924, he was a professor and said they should

have put 100 chickens in an acre. That sounds

crazy. One hundred acres. But that is really

very good for the hens. So, if we would be

doing something like that, we would have to

get acres and acres and acres and acres
because they are very good for the grass. Now
that was 1924.

Now, also, at Cornell, they had
another expert at that time at Cornell
University. They thought it was very, very
good for the grass, to think about the grass.
Really, alfalfa or clover and grass. So that
is really what they should.

Then another, Bob that just was
right here and talked to you people, we did
it. He sent a little expert, and it took a
little time. We got about 50 birds and, all
of a sudden, what happened? The birds were
done. There weren't anything else. There was
birds. So that is one of the problems.

So, anyway, the other one is
you've got disease, which is cocci and
neuritis and worms, intestinal. So, if you
put it outside, that is what you are going to
have, some of the problems.

Then, also, you've got to get
those animals that are going to work, and
you've got the owls. You've got the hawks.

So that is really what is happening.

We thought and thought because the devil of -- we thought that there was really a problem in this Asian, of course. But the big thing in the United States, we don't have anything. We really don't. The United States is free. There's no humans and there's no chickens, and then, evidently, there are no wild birds. But anything at any time could happen. So that is really what happens.

Now they've got about 50-60 countries that have that stuff. Right now, probably I think it is another -- I found 80 acres mentioned about that whole stuff.

We did at one time in the United States, we had three different times.

Thank you very, very much.

Appreciate it. It's wonderful, the time to talk.

CHAIRPERSON MOYER: Thank you, George. We appreciate your time.
Any questions for the presenter from the Board?  
(No response.)

Okay. Thank you very much, George.

Kurt Kreher is next, and Howard Magwire is on deck.

MR. KREHER: Actually, I am Hal Kreher. My brother is Kurt.

Thank you for the opportunity to comment on the proposed livestock welfare recommendations. I appreciate the hard work that went into producing this document. It might not sound like that when I pick at it a little bit, but I do appreciate that a lot of work went into it.

My brother Kurt has already provided written comment.

My name is Hal Kreher. I am a third-generation poultry farmer from Buffalo, New York. I am quite proud of the business that my family has built from a subsistence
farm in the 1930s to one of the few surviving family-owned commercial egg producers in New York State.

There are very few folks left who saw the advances in poultry housing in egg production from the time we grew chickens on the range to the modern-style egg production. It seems that the reasons and research that led to the current system have been lost over the years.

For instance, few of us remember the predation by foxes that required trapping to control. Few of us remember the parasites, both external and internal, that resulted from barnyard life. Few of us remember the heartbreak of a pileup in a floored building, taking away the pullets that you worked so hard to raise. Few of us remember the improvements in health and mortality that came with the separation of birds from their excrement by using wire flooring. Few of us remember the improvements that came from
better drinker designs.

My point is that the current animal welfare recommendations by the Livestock Committee go too far in trying to eliminate practices such as wire flooring that are actually beneficial to the health and welfare of the chickens.

Another example is beak trimming. If left to grow unchecked, a chicken's beak would grow to look much like an eagle's beak. You can all picture that. It is a sharp, hooked weapon.

Chickens naturally have a pecking order, and you have heard that expression before. What it means is that the chickens enforce their dominance by pecking each other. They are not civil in this. If it leads to bloodshed and the chickens do not have their beaks blunted, then not only the initial injured birds, but several others may be injured in the ensuing melee.

There is a new egg safety rule,
CFR 118. Among the requirements is environmental testing for Salmonella enteritidis. I do not know of the incidence of this bacteria in a barnyard, although I have been told, if you look for it, you will find it. But if it is found, then eggs must also be tested to make sure that they are okay.

If the eggs are all right, the area will still need to be disinfected after the flock, according to the rule. How will a pasture be disinfected?

Another requirement of the egg safety rule is that a biosecurity program is in place to, quote, "prevent stray poultry, wild birds, cats, and other animals from entering poultry houses," end quote.

This is difficult to do if the poultry have complete access to the pasture, as required by the proposed animal welfare recommendations. It would also have complete access to the inside for anything outside,
Another requirement of the egg safety rule applies to rodent control, flies, and other pest control. It requires you to, quote, "remove debris within a poultry house and vegetation and debris outside a poultry house that may provide harborage for pests."
This is in direct conflict with the proposed recommendations for open-air runs described in Section 205.239(a)(3).

If organic eggs are raised in a manner where there is evidence to support the possibility of significant contamination by Salmonella, is this a good thing? I don't think so.

There are standards for humane care for poultry which already exist. The American Humane Association has a very comprehensive program for cage-free housing.
There are other standards as well.
Rather than developing a completely separate program, perhaps requiring
producers to follow existing standards off a list of acceptable standards, similar to how the NOP uses different certifiers, would be a better solution.

In closing, I would like to add that eggs are an organic product that could be widely available to the consumer. They could be a gateway organic food. However, the current recommendations would severely limit the ability to supply such a market.

Thank you.

CHAIRPERSON MOYER: Thank you, Hal.

Are there any questions for Hal?

I see Hue and then Dan.

MEMBER KARREMAN: Question: what is the percentage or prevalence of bumblefoot Staph aureus infection in the chickens in wire floor caged houses in general in the industry?

MR. KREHER: I think it is much reduced compared to chickens that are running around on the floor. I don't have figures to
1 cite, but I can give you my own personal
2 observations.
3
4 When I was a child, actually,
5 until the mid-eighties, we had a floor house
6 that had 10,000 birds in it. Every flock you
7 would see one or two birds, and their feet
8 would be all swelled up. You could see they
9 were in pain.
10
11 In a properly-maintained wire
12 floor facility, a caged facility, it is
13 virtually non-existent, you know, if things
14 are properly maintained. Yes, you can cite
15 places that haven't been maintained.
16
17 CHAIRPERSON MOYER: Dan?
18 VICE CHAIRPERSON GIACOMINI: That
19 humane program that you have there --
20 MR. KREHER: Yes, sir.
21 VICE CHAIRPERSON GIACOMINI: --
22 can we have that?
23 MR. KREHER: Sure. It is
24 available online, and I can leave a copy for
25 you.
CHAIRPERSON MOYER: A question for you, Hal, then. Are you inferring in your comments, then, Hal, that you would prefer to have no access to the outdoors at all? Is that what you are saying?

MR. KREHER: No, I didn't mention that.

CHAIRPERSON MOYER: Okay.

MR. KREHER: I mean I think it needs to be controlled access. Having them run around where they can get access to -- I know Hue doesn't believe the parasites that are out there, but, you know, I wish my dad was still around to come to you and tell you what he found in the forties and fifties. And he would explain to you what they did.

I can still remember we used to have a bag. You know, it wasn't used anymore. It was stuck in the barn from long ago. We got rid of it since then. Nicotine powder, that was commonly used to control fowl mites.

You know, if they go outside, they
are going to get that thing. They can go outside into an enclosed area that has screening to keep the other birds from coming in.

Nobody wants to see another Newcastle outbreak like we had in California a few years ago.

CHAIRPERSON MOYER: The Chair recognizes Hue and then Kevin.

MEMBER KARREMAN: Just to clarify, it is not that I don't think there's parasites outside. I just don't think that that should be the automatic barrier, that animals should not go outside. Because you can manage things in such a way that there is an optimal life for the animals outside without them getting parasitized. There's ways to do it, believe me. I have seen it with cattle. I am sure you can do it with chickens.

And anyway, by the way, nicotine is not a prohibited natural for livestock use in organic, not that I would recommend it, but
it is not a prohibited natural for livestock use. For crops it is prohibited, not for livestock, no; just strychnine.

CHAIRPERSON MOYER: Kevin?

MEMBER ENGELBERT: Hal, thank you for your time.

I know we are pressed, but how do we rectify this problem with consumers believing that organic poultry is held not only to a slightly higher standard, but a far higher standard than conventional poultry houses, that they are fed more -- that it is not just simply feeding organic feed, that they are actually animals and they are meant to be outdoors, and that is how they exhibit their natural behavior? When a consumer purchases an organic product, that is what they expect. That is how they expect that animal is raised.

Any thoughts on how we get around this dilemma?

MR. KREHER: Well, you know, that
is a difficult one. Because I think if people think all your food came from a small farm where there's chickens in the barnyard and you go around with your apron and collect the eggs in it, I don't know how you get around that. Because who wants the eggs that are picked up outside in the barnyard? You do? Well, hopefully, they were clean.

CHAIRPERSON MOYER: You asked the wrong group, yes.

(Laughter.)

MR. KREHER: Hopefully, they were clean.

CHAIRPERSON MOYER: Thank you, Hal. We appreciate it.

MR. KREHER: You know, just as a little background, we used to have a lot of tracebacks on eggs. Twenty years ago, you heard about a lot of tracebacks on eggs for Salmonella. You are not seeing it anymore. The reason is because the industry, the commercial egg industry, has
cleaned up their act in regard to rodent control and that sort of thing. We don't have that disease vector. We have eliminated the rodents, which was the big disease vector. It is going to be difficult to do under this system.

So you are bringing back that disease vector that we have strived so hard — in fact, they have passed a law, you know, the egg safety rule, in regards to it.

So I don't know how you get those two, you know, a rule on one hand and a rule on the other hand, how do you get those two to work out?

Thank you.

CHAIRPERSON MOYER: Thank you for that point.

MR. KREHER: And I didn't mean any disrespect to you.

CHAIRPERSON MOYER: Okay. We have Howard Magwire, and then Dr. James Barton on deck.
MR. MAGWIRE: Thank you.

This is the second time I have attended one of your meetings, although when Barbara Robinson was in here, it reminded me of many years ago, before you had to have certification to organic rule, there was a poultry company -- I'll not name them; many of you know it -- I happened to run poultry programs at USDA at that time, and Barbara and I were peers.

But they had long been advertising organic chickens. All of a sudden, USDA said, "Hey, you have to have that certified."

They said, "Fine."

"You have to have organic feed."

"What do you mean organic feed? There's not that amount of organic feed around."

I think they even went to the Hill. So, as they used to say, you've come a long way, baby, or we have, I guess, in this. So accolades to that.
I want to address the Livestock Committee recommendations.

My name is Howard Magwire. I am with United Egg Producers. I work for the farmers that produce 97 percent of the eggs in the United States. You have heard six or seven of my bosses speak this afternoon so far. Be kind to me.

Anyway, I want to speak to the livestock recommendations. Rather than try to address points that my bosses can address much better than I, is to urge you to go beyond the 35 days and give this much further consideration.

As I said, we represent 97 percent of the layer production in the United States. So we have some knowledge about it.

I think, Dr. Karreman, you have our attention. I don't know, maybe we were following melamine or we were watching cap and trade on the Hill, or whatever, but we are ready to be engaged in this thing now and
appreciate you listening to us now. We've got
to be part of the discussion.

The equivalency with Canada thing,
one of the speakers mentioned that. Yes,
Canada has a controlled market. They
guarantee to cover cost, everything else. In
fact, the only time we see Canadian eggs is
when they decide that they've got more than
they can sell at the set prices up there, and
they dump them down here. So it is quite a
different thing.

Right now, we are dealing with
other things like carbon footprint. So, as we
talk expanding acreage to put housing and
birds, that is the other side of the coin that
we have to deal with, too, as somebody called
the EPA.

The producers have made many good
points. As I said, I am not going to try to
go over them. But we need a discussion.

Dr. Karreman, I am not picking on
you again, but you picked on us a little bit.
(Laughter.)

So one of the earlier speakers talked about vaccine. That is just an example there. We have alluded to high-path AI. We have an active group. We have been working for probably four years now. We talk every two weeks on controlling high-path AI in the United States. Vaccination is part of that. Biosecurity is part of that.

The FDA new egg safety rule that goes into effect next summer, in fact, I've got to head out of here tomorrow afternoon and go to Atlanta for a meeting on that. We have committees that look at that, too. Biosecurity is a big part of it, and vaccine is. Probably by next summer, most of the egg producers in the United States, other than some that are exempted from complying with the rule next summer, are going to have to vaccinate for Salmonella enteritidis or FDA is not going to let them market their eggs.
You asked the number of times.

Four times at least, probably three live and one dead, to be effective, so that we can assure FDA and our customers that Salmonella enteritidis is not in the shell of eggs. That is why we need to talk to you.

UEP has standards. They have been referenced. Our standards, we don't care if they are organic or not organic. We believe in animal welfare. Over 80 percent of the layers in this country are in our program; now they may be on some other programs also, but over 80 percent of them on our program -- it doesn't matter if they are organic, if they are free-range, if they are caged -- one minute; I will be quick.

There is science-based, and I can talk about the scientists, but the scientists also go to veterinarians, like you here, and our poultry veterinarians. You heard scientists today, and that's those folks that have been working with it all their life.
They know when the chicken's happy and when it's not, and when it is healthy and when it is not.

I just want to finish up here by saying that we appreciate the grandfathered in this or the discussion of the grandfathered thing and some of the questions, but it is bigger than that.

If we want organic to continue to grow, as it has over the last many years, we've got to have science-based rules, not go by somebody else's agenda, but look at the whole thing and say, how do we meet the science for animal welfare, not animal rights -- I didn't say, "animal rights" -- animal welfare, environmental, carbon footprints, family farms?

It is like President Obama said last fall when he was campaigning, "Yes, we can," and I know that we can, if we all talk about it and work together.

Thank you very much.
Right on time.

CHAIRPERSON MOYER: Thank you, Howard.

A couple of questions. I see Hue and then Joe.

MEMBER SMILLIE: I actually would like to probe this. The Canada card keeps being played here, both Hue and yourself.

We are going to great lengths to describe how the egg marketing system controls that and how their costs are certainly covered to a certain extent. Is that, Hue, because your recommendation is similar to the current Canadian regulation? Have they implemented what you are proposing to some degree?

MEMBER KARREMAN: We based a lot of the animal welfare regulations on the Canadian regs that have now come in because of equivalence. We know it is not compliance.

We realize that, but equivalence.

Those regs have been based on various animal behavior, animal welfare groups
from the University of British Columbia, Guelph, and various other places up there. So the science is actually in the Canadian standards which we have extracted from.

Now, as far as their marketing goes, I don't know. I know they have a quota system on eggs, but not broilers.

MEMBER SMILLIE: Well, I was up attending a couple of trade shows in Canada, and this issue came up. There is this fear in Canada that their egg market is going to get flooded with U.S. organic eggs. That was expressed, and they were greatly interested in our agreement, whereby we are reporting stocking density, herd density, you know, the layers per square foot.

So my understanding was that the different marketing scheme was actually important in this since there is some sort of guarantee that they have that our egg producers don't have, and I don't quite understand how an egg marketing board could
make it easier for Canadians to allow more
foot per bird than a U.S. regulator. I don't
quite get the connection, but, apparently, it
is there.

MR. MAGWIRE: In Canada, unlike in
the U.S., the Board agrees on how many
chickens there will be. If there's 10 million
chickens and they're saying, "We can't cover
our cost and producer profit," -- I don't know
if I turned this off or not -- you cut down
the number of chickens.

We talk about $40 in
capitalization per bird. In Canada, I know
going back 20 years the value of the bird was
$40 because you have to buy the right to raise
the bird, and that is how they control the
market.

This is not an economic thing. I
know it is to us if we have a family that is
going out of business. Organic is organic.
Animal welfare is animal welfare. You've got
to treat your animals right.
But there you can raise the standard to whatever you want, even if it doesn't make scientific sense, and maybe it does fit somebody's agenda, because they still are going to be able to produce an egg and sell it and get their cost back.

And as far as U.S. product dumping on that market, they have quotas. It is just not going to happen that some kind of substandard U.S. product is going to go up there.

Canada has very restrictive SE requirements also. So there's a lot of hurdles we face to put eggs up there.

CHAIRPERSON MOYER: Hue?

MEMBER KARREMAN: Question: I hear with a lot of the poultry folks the vaccines that are needed and everything. I understand that.

If I may ask, what is your thought on the vaccine proposal that is here? Because a lot of the genetically-engineered vaccines
that have been being used for the last seven years in organics actually fall under the poultry?

MR. MAGWIRE: And I am not qualified to speak to that, so I will just be honest.

My point on that is, if there is a concern about what can be used as a vaccine, then we need to extend this discussion and talk about it because we are forced by another agency, a sister agency to USDA, to use a vaccine, not by regulation.

When we commented on the FDA egg safety rule back in 2004, we said you ought to give our producers an incentive to vaccinate because we know it works, and not money, but maybe you come visit them less often. Everybody is afraid of an FDA visit. Maybe we have to sample less. It is very expensive.

We do some very expensive and intensive sampling.

They didn't. When the final rule
1 came out this summer, they didn't give any
2 incentive for vaccination.
3 And I met with FDA and I said, "I
4 guess you really did, didn't you?" And they
5 smiled because they knew they had made the
6 rule so tough that we have to have two things,
7 absolutely strong biosecurity and a
8 vaccination program, or we can't comply.
9
10 CHAIRPERSON MOYER: Okay. Thank
11 you, Howard.
12
13 MR. MAGWIRE: Thank you very much.
14
15 CHAIRPERSON MOYER: We appreciate
16 that.
17
18 At this point in time, the Board
19 is going to take a brief, very brief, break.
20 Keep in mind that we will get back into our
21 seats by 20 after 3:00 on the dot because we
22 have a lot to go through today yet, and the
23 clock keeps ticking.
24 Thank you.
25
26 (Whereupon, the above-entitled
27 matter went off the record at 3:09 p.m. and
resumed at 3:23 p.m.)

CHAIRPERSON MOYER: Okay, we are ready to go. We are back in session.

Dr. Barton, I presume?

DR. BARTON: Yes, sir.

CHAIRPERSON MOYER: Dr. Barton, if you will, we are ready to go.

DR. BARTON: All right. Thank you, Mr. Chairman. Thank you, Committee.

My name is James Barton. I am a Board-certified poultry veterinarian. I have got 19 years of experience. I have worked in commercial poultry farming, veterinary diagnostic labs. I have done scientific investigation, and I have done some teaching.

I am also a certified animal welfare auditor, and I am the immediate Past President of PAACO, the Professional Animal Auditor Certification Organization.

PAACO, through its work training animal welfare auditors, certifying auditors, and certifying animal welfare audits, it has
become the recognized authority on quality animal welfare auditing practices.

I conduct about 20 animal welfare audits every year, and I provide veterinary consulting services to conventional and organic poultry farms.

I am also an AVMA member, and I am a member of the American Association of Avian Pathologists, AAAP. I have the privilege of serving on their Animal Welfare Committee.

One part of my background that I would like to mention, because I think it is pertinent to this group, my family raised vegetables on a small truck farm, if you will, in northwest Arkansas for much of my childhood and early adulthood. In fact, my veterinary school tuition fees and living expenses were paid through the scholarship provided by the hard work of my family raising corn, tomatoes, cantaloupes, watermelons, blackberries, and other crops.

I have been involved in small
farming for most of my life. I spent
innumerable mornings and Saturdays selling
produce at the farmers' market.

I am here at the request of the
AAAP Animal Welfare Committee. My comments
are going to be regarding the welfare needs
associated with organic management of poultry
raised for food production.

General comments: a review of the
proposed welfare recommendations suggests many
of these recommendations are intended to
address behavioral concerns. This is
commendable. However, some of these changes
will have the unintended effect of impairing
physiologic needs that outweigh the potential
improvements in behavior.

We believe organic farmers want to
protect the physical health and welfare of
animals under their care. In looking at how
different housing systems protect the welfare
of animals, it is important to consider all
the factors contributing to the animals'

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The proposed recommendations contain criteria that are not directly related to organic requirements, if you will, and will significantly negatively impact the welfare of animals in these systems. The new rules, if implemented, will make organic poultry farming uneconomical and will also adversely affect the health and welfare of chickens and turkeys.

Specifically addressing 205.238, Section (a)-(c), livestock healthcare practice standards regarding beak trimming, there are alternative methods for preventing flock behavior issues such as persecution or cannibalism, but many of these methods are not yet available, such as genetic selection. They may not be consistent with the intent of organic farming, such as the use of synthetic methionine treatment, or they may require a high capital investment, such as specific housing for low light intensity.
So, until alternatives are fully available to farmers, beak trimming and other procedures designed to prevent injuries must be allowed.

The draft recommendations lump all avian species into one category, and the proposal to prohibit beak trimming and toe trimming across all categories of poultry are in error.

The Board should consider amending the proposed rule to prohibit beak and toe trimming in broilers intended for short growing periods, less than eight weeks. However, animals intended for longer-term production, such as older broilers or roasters that are greater than eight weeks old, turkeys, breeding flocks, and egg production flocks, beak trimming should be specifically permitted to control feather pecking and cannibalism.

Additionally, for male poultry being raised for breeding purposes, trimming
the rear toe on each foot should be allowed to
prevent injury to the females during multiple
mating acts that are common in poultry.

Only trained personnel should
perform beak trimming, using proper equipment
and procedures that minimize pain, excessive
bleeding, promoting rapid healing, and prevent
infection.

On Section 205.239(a)(2)(i), space
requirements, lower flock density is not
always directly related to better welfare for
the flocks. In many regions, hen body heat is
important to keep the birds warm, to reduce
the amount of fossil fuel that is burned. If
farmers can't purchase this fossil fuel, this
will lead to higher mortality due to cases of
birds piling.

Required for outdoor access.
Raising poultry indoors has a proven track
record for better poultry health, not to
mention reducing the potential implications
for public health.
With almost certain increases in disease incidence, with the associated negative welfare impact in organic farms, spillover of disease into large commercial farms in the vicinity is likely. The AAAP is particularly concerned about this proposed change.

I will refer you to my written comments for further information.

CHAIRPERSON MOYER: Thank you very much, James.

Questions for James? Kevin?

MEMBER ENGELBERT: Do you know from your studies how long beak trimming has been used in the poultry industry?

DR. BARTON: Well, I can tell you it has been used for my entire career in laying hens and breeder hens. It has not been used in broilers in commercial production for a long period of time. The only discussion of late that has made any mention of the need to beak trim broiler chickens is because of the
resurgence of the heritage breeds. They are much slower-growing. So they actually reach maturity before they reach a marketable weight.

CHAIRPERSON MOYER: Followup, Kevin?

MEMBER ENGELBERT: So could you make an educated case, then, on what caused that practice to be developed? Obviously, it started at some point in time, even though we can't pinpoint when that was.

DR. BARTON: I can tell you that cannibalism and persecution is the highest cause of mortality in cage-free birds today, even with beak trimming. So I am certain that the reason that beaks began to be trimmed for commercial birds was due to the intent of reducing the implications of their attempt to attain a pecking order.

MEMBER ENGELBERT: One more quickly.

CHAIRPERSON MOYER: Go ahead,
Kevin.

MEMBER ENGELBERT: So the keyword there for me was "commercial". What do you mean by the commercial birds? That seems to be the word that has triggered the use of the debeaking practice.

DR. BARTON: People that are raising poultry with the intent of selling them to make money, or selling their eggs to make money, that is commercial.

MEMBER ENGELBERT: At any scale?

DR. BARTON: At any scale. If they invest money in the purchase of that bird with the intent of selling it later, or selling their eggs over a period of time, they are intending to get a return on their investment. Otherwise, it is a hobby. If it is a hobby, then we can talk about all sorts of requirements that really the economic level has no importance.

CHAIRPERSON MOYER: Go ahead, Kevin.
MEMBER ENGELBERT: I failed in my argument, but I do want to make the point that I do know people that are growing birds in my area on a commercial scale that don't do any trimming or debeaking whatsoever.

DR. BARTON: And that may be true, and I can tell you that in Europe peak trimming is uncommon or not done, but they also use other things that mitigate it. For example, in turkey production in Europe, they use extremely low light conditions to keep the birds from persecuting one another.

MEMBER ENGELBERT: Thank you.

CHAIRPERSON MOYER: Any other questions for James? Rigo?

MEMBER DELGADO: Can we talk about practices that could be combined to avoid certain things like beak trimming? I am asking specifically, say, a lower bird population, access to outdoors? Would that influence the level of attack among birds or not? And if your question is affirmative or
negative, do we have any evidence pointing to that fact?

DR. BARTON: I am not sure that we have any real evidence. I know that in situations where birds have access to the outside of doors, they have access to bright sunlight, they tend to be a little bit more aggressive, a little more violent. One of the methods to keep birds from persecuting one another is to keep them under low light conditions.

CHAIRPERSON MOYER: Okay. Thank you very much, James.

DR. BARTON: Thank you.

CHAIRPERSON MOYER: We appreciate it.

I'm sorry, there was one other question? Rigo, please.

MEMBER DELGADO: Just to follow up.

CHAIRPERSON MOYER: Sorry.

MEMBER DELGADO: Now explain to me, how do you define the welfare in the
context of trying to control birds from
attacking each other or trying to keep low
levels of light? You are a certifier of
welfare, animal welfare.

DR. BARTON: Yes, sir.

MEMBER DELGADO: How do you define
that?

DR. BARTON: Welfare is difficult
to define, and it really does depend on who is
defining it. I define welfare based on the
bird's ability to exhibit most of their
natural tendencies and freedom from
preventable causes of distress. For example,
freedom from disease is just as important as
the ability to step outside and see the
sunshine, perhaps more important.

CHAIRPERSON MOYER: Okay. Thank
you very much, James.

DR. BARTON: Thank you for your
time.

CHAIRPERSON MOYER: We appreciate
your time.
The Board calls Mark McCay to the podium and Frank Hurtig is on deck.

MR. McCAY: Back again, last time as a representative for the Methionine Task Force; this time specifically as a representative for Coleman Natural Foods.

Coleman Natural is one of the largest organic broiler producers in the nation. We have organic operations both on the East and the West Coast.

We fully support the NOSB's objective of developing quantifiable animal welfare standards as part of the NOP. We would, however, propose that recommended standards actually be modified in two important ways.

The first is develop the standards for measuring the outcome of the actions proposed in terms of both the animal husbandry, rather than focusing on the structure and the engineering, focus on what does that do to the welfare of the animal.
Combined with that, then pare back the current recommended, what we would consider to be, best practices to include a smaller set of minimum standards for all producers.

The minority opinion that was attached to the recommendation suggested that there are outcome-based metrics that can be used to monitor the health and welfare of livestock: cull rates, veterinary calls, disease frequency. And we agree.

While the minority opinion seemed targeted more towards dairy animals, we would propose our own set of outcome-based metrics for broiler operations. And I have some examples.

On the farm, we can measure the health of the flock through mortality or livability rates. We can measure hardiness and nutrition through lameness and gait scores.

If transportation is involved from
a farming area to a processing plant, that is part of the life cycle of the birds. We would consider that to be a very important area for the health and welfare of the animals to be measured as well.

We can measure the DOA and the trauma that is caused through that process and, also, if the birds are at a processing plant, through the USDA FSIS inspection system. We can also measure health through condemnation rates, also, at the processing facility.

We could measure how well the conditions of the housing, the bedding, the ventilation, and litter management programs were effective, through checking both the foot and hocks for burns or other kinds of conditions.

We believe there should be a smaller list of minimum standards that producers could be reasonably expected to meet. To use examples from the final rule,
there's no use of antibiotics, 100 percent organic feed, et cetera.

We believe that individual producers may need to actually exceed these minimums in order to meet the performance and outcome results that we think should be specified.

Since we are primarily a broiler company, we will also make some specific recommendations to a few areas.

The requirements for the birds to be outside for one-third of their lives should be preempted, we believe, by the current exception of temporary confinement during inclement weather. We actually believe that inclement weather can be defined and should be in the rules.

We don't believe that feeders should be required in the outdoor areas because we actually feel that this conflicts with the objective of outdoor access to encourage the birds to forage naturally in the
soil and the grass.

Producers should be required to provide as much space outside the house as inside the house. Using the current recommendation for broilers, this would be 10 birds for every 12 square feet of space in the open areas. And in addition to that, producers -- and this was mentioned earlier as well -- producers should be required to provide easy access from the indoor area to the outdoor space. We think that is very important.

We appreciate the opportunity to comment on these recommendations.

CHAIRPERSON MOYER: Thank you, Mark.

Any questions for Mark?

(No response.)

Okay. Thank you for your time.

Frank Hurtig, the Board calls you to the podium, and Ed Maltby on deck.

MR. HURTIG: Thank you very much.
As my slides come up here for you to review as I am going through, I want to thank you, and thank you for the opportunity to speak on something besides poultry for a few minutes.

With that, the next slide, please.

I would like to bring to the attention of the Board here for consideration four points relative to eprinomectin and as compared to moxidectin.

First, the environmental footprint, the parasite spectrum, then persistence in the animal, and human safety as things to look at in consideration and reconsideration of inclusion of eprinomectin on the National List.

Next slide, please.

In looking through -- and my apologies because I think the bottom of the page is not showing up there for you -- but in looking through the FOI and various other publicly-available documents, as well as the applications to this Committee, first off, I
would like to call attention to one of the
issues, which is the binding of these products
in the soil.

In fact, when one looks at the
literature, anytime the binding coefficient is
greater than 1,000, that indicates that these
products, these compounds, will not be readily
moved by water in the soil, but that does not
preclude their breakdown in the soil. And in
fact, when one looks at the aerobic breakdown
of these products, both of them break down in
64 or 63 days. Therefore, there is no
persistence of either one of these products in
the soil.

When one looks at, then, other
impacts, especially looking at manure and the
impact on degradation of manure, in fact, one
of the concerns that has been raised and is a
PR issue from some companies is dung beetles,
and especially looking at the larvae of those
particular organisms. When one looks at the
actual impact of dung beetles, even in areas
where they are very common, which happens to be mainly the southern U.S., they do account for probably no more than 10 percent, and often quite a bit less than 10 percent, of the actual degradation.

So, then, we go on down the list here to look at some of these other organisms. Earthworms, plants, soil microbes, and birds. In fact, those, along with cattle themselves actually trampling the manure, are probably some of the bigger -- in fact, they are the bigger -- impacts on degradation of manure.

So, when we look at both of these compounds, in fact, the science would say that there is absolutely no difference in the impact of either of these compounds on degradation of manure.

It is very well spelled out in all the documents filed with the various government organizations, FOIs, et cetera, that both these compounds, when free, can be toxic to aquatic species. However, the good
news is that neither of these compounds, once they are put on an animal, will wash off the animal, even when applying two inches of rain per hour to them, to any greater than a fraction of 1 percent. So, even if an animal was standing in a watershed, there would still be very little, and in fact, it does bind, both of these compounds would bind to the organic matter in the bottom of a watershed and be tied up.

I would call the Board's attention to the fact that, of course, neither of these compounds are ivermectin, which has been, of course, on the list and I know is being reviewed for sunsetting. But they should not, either one, be considered as the same thing or having even many of the similar characteristics.

Finally, the last point, I would call your attention, and it is certainly publicly available, to a letter that Wyeth has received relative to moxidectin and its
environmental impact.

Next slide, please.

Briefly, on the parasite spectra, the main thing here is they are both essentially the same. I call your attention that both of them have a label indication for control of horn flies, which is my next slide then.

That is looking at persistent effects. One of the things that I think this particular slide brings out is how long each of these drugs lasts in and on the animal. That is very easily and quite readily reflected in the number of days' control that are on the label.

Going down through the list, moxidectin is at least twice for everything but horn flies. In fact, there is an effect on horn flies, and that is in the FOI for that product, out through seven days and beyond. It just was simply not enough to get a label point.
So, with that, I would move on to the next slide.

One of the things that has been readily noted in the standards is that there is a withdrawal time for any of these products used in a milking cow for 90 days. In fact, perhaps it would be worth the Board's taking a look at some of the pharmacokinetics of these products.

This particular study by Lanuza, et cetera, shows dormectin, ivermectin, and moxidectin. As one can see, the study went out to 80 days. At the end of 80 days, both ivermectin and dormectin were below the limit of detection; whereas, moxidectin was not.

The next slide, and actually, please skip to the next one. Both of these are the same. The first one shows the data. This looks at the persistence of moxidectin and eprinomectin in the milk. This happens to be a water buffalo study, but it is the only side-by-side study that is out there.
I wish I had one in dairy cows, but it doesn't exist.

The main thing to look at here is that tall bar, which is the area under the curve. That is the amount of moxidectin that is put out in the milk in the 20-day study, and there were a number of animals in the study where at 20 days moxidectin was still seen.

The next slide, please.

This one looks at the human safety.

In conclusion, the last slide, I would say that, first, there is no significant difference between these two products when it comes to environmental footprint. We do have a slightly different spectrum of parasites. There is less persistence of eprinomectin in animal and tissues as well as in milk for eprinomectin versus moxidectin, and there is a higher allowable ADI for eprinomectin.

Thank you.
CHAIRPERSON MOYER: Thank you.

Any questions from Board members for Frank? Let me guess. Hue?

(Laughter.)

MEMBER KARREMAN: Thanks for that presentation.

MR. HURTIG: You're welcome.

MEMBER KARREMAN: I am glad we got to see that, the comparative things. I read through the whole FOIA document for when eprinomectin got approved, and wherever in Pennsylvania, you know, at those labs there.

It is not so much that moxidectin is better or worse than eprinomectin. There's two issues involved with the avermectins, in general, as a family. One is technically, but we have been told that it doesn't matter at this point, technically, there are macrocyclic lactones that are antibiotics. That is on paper.

But this Board has a certain stand on antibiotics except for crops, I think.
(Laughter.)

Sorry, sorry, sorry.

(Laughter.)

But the other thing is this: the intention when moxidectin was put on, and it hasn't come through the process yet, to have ivermectin come off, once moxidectin gets put on.

Since that time, we have had fenbendazole petitioned, and we have voted to allow that to come on, with the intent of moxidectin not being on and ivermectin not being on, or any avermectin.

So it is not that -- eprinomectin looks better on the comparison studies without a doubt. It just that it falls into a certain category of things that we don't want to be expanding the list on.

It is a comment. I am sorry, it is not a question.

CHAIRPERSON MOYER: Thank you, Hue.
MR. HURTIG: And I appreciate that. I guess it was my understanding that the Board had answered the questions relative to macrocyclic lactones and antibiotic, quote/unquote, "status", and that that had been resolved. So am I to understand that that has not been resolved at this point?

MEMBER KARREMAN: The NOP has told us last year or the year before that they will be proceeding with rulemaking for moxidectin, and that because it is only a technicality with the macrocyclic lactone fact, that they are going to proceed with the rulemaking.

But, since then, fenbendazole has been petitioned, and we kind of all can live with that better, at least we have as a Board.

CHAIRPERSON MOYER: Thank you.

MR. HURTIG: So perhaps I guess, then, my petition would be, if there is a possibility for reconsidering eprinomectin, and if some of these other issues would weigh more heavily to allow that, that it be given
consideration.

Thank you.

CHAIRPERSON MOYER: Thank you, Frank.

Ed Maltby to the podium, and Robin Allan on deck.

MR. MALTBY: Good afternoon. It is so wonderful to come up here when you are talking about chickens and not milk all the time. I come here as a minority interest, which is great.

I want to thank those Board members that are leaving. It has been great to work with you. I have worked a lot more with one in particular, but I will continue to do that.

Access to pasture, FOOD Farmers has a request to the NOSB that they recommend to NOP that that rule be effective one day after publication in The Federal Register.

We are very encouraged that the NOP is planning to do educational sessions for
certifiers and inspectors, but we believe that after eight-ten years, then it should become effective the day after publication. That, obviously, allows time for all the implementation, but it is effective immediately.

Animal welfare, just to bring it home, I got a call this morning from AP press wanting to know my comments on the organic slaughterhouse that was closed down in Vermont for animal cruelty. They quoted a person in Vermont that had said that the NOSB is meeting this week in D.C. to sort out animal welfare for organic livestock. Not to put any pressure on you guys.

In our comments which we didn't have time to get to you ahead of time, but we put in writing, we basically ask for the return to a discussion on a lot of these issues. The pasture rule is not yet out. Some of them will be covered by that.

Realities of organic production,
many different production systems, and the emotional tie that organic dairy farmers have with their livestock. We have had our regular annual meetings across the country. I raised the issue of animal welfare, and after they bombarded me with not quite abuse, but "Why should we question what they are already doing?", and I know the answer to that, but it is still something that we have to bear in mind, that we should be positive about what organic agriculture does currently for animal welfare, and not be on the defensive.

Within the existing regulations, a lot of the issues are covered. What we need to do is to look and see how they can be applied.

Altering livestock for cutting off tails is already covered and has been the subject of prosecution in the past, or so I have been told, reliably, by somebody who knows the regulations far better than I do.

So where we can find in the
existing regulations that can be enforced, we have a big gap in educating certifiers and inspectors. If you look at what Whole Foods does with their animal welfare, it is a two- or three-day visit to a farm annually with highly-qualified inspectors that are trained in animal welfare and go down through a checklist. So we are not talking about something that can be easily taught.

Also, to proceed with caution.

When we had the solution to the Harvey lawsuit, it was a quick fix, and we are now suffering dramatically in the organic dairy.

To quickly move on to GMO vaccines, it is a quandary. We need vaccines. Vaccines is the basis of organic livestock.

Some certifiers say yes; some certifiers say no.

We would suggest that you put a moratorium on doing anything. Maintain the status quo while you do investigation, so neither the producers who are currently using
those vaccines will suffer or we don't get a headline in the newspapers that NOSB approves GMO, which does happen at times, from the point of view of taking one small part of a meeting and blowing it out of proportion. I can stop and answer any questions.

CHAIRPERSON MOYER: Thank you. Thank you. The Board certainly always appreciates brevity of comment.

(Laughter.)

But well presented.

Any questions from the Board for Ed regarding the comments he made?

(No response.)

Hearing none --

MR. MALTBY: Thank you.

CHAIRPERSON MOYER: -- we appreciate your time very much. Thank you very much.

Now the Board would like to call Robin Allan to the podium.
And you have a proxy?

MS. ALLAN: I do have a proxy for Jake Lewin. I am going to try really hard not to use it.

CHAIRPERSON MOYER: We certainly appreciate that.

You can set your time, yet.

And Robert Yang will be on deck.

MS. ALLAN: All right. Good afternoon.

My name is Robin Allan. I am here representing CCOF. I am the Director of Grower and Livestock Certification.

We are a nonprofit, accredited certification agency located in Santa Cruz, California. We currently certify about 122 livestock operations, representing over 50,000 organic ruminants and close to a million organic poultry.

Let me begin with my sincere thanks to Dan, Kevin, and Hue, the Livestock Committee members, for your obvious hard work.
To start with the easy stuff --

I'm sorry, and Rigo and Jennifer. Seven of you? Okay. It is the three of you I hear asking all the questions. I thank you all for all of your work.

CHAIRPERSON MOYER: There you go.

MS. ALLAN: All right. So, for the easy stuff, we fully support your Committee recommendation on zylazine, chlorhexidine, eprinomectin, and vaccines.

All right. So, regarding the recommendation on excipients, we do support the recommendation as written. However, we do think that additional guidance is still needed to clarify how we should be applying this section of the rule as certifiers.

It is unclear to us, and I think to other certifiers also, whether an excipient is allowed if it is included in the new animal drug application or new drug application for any branded product or only for the product
for which it is being reviewed.

Additionally, it is unclear whether FDA approval as an indirect food additive is adequate for approval. We would appreciate written guidance on this from the NOSB or the NOP on this subject.

From the recent NOSB comments on excipients in these recommendations, it appears as though the Committee is taking the approach of recommending allowance of any excipient currently used in animal healthcare products. While this approach will ensure there's a wide variety of healthcare products that are approved for use, it does appear to inhibit the development of a market for products specific to organic livestock production.

Organic crop producers have had to seek out formulations of allowed pesticide products, such as dust and sulfur, which do not contain prohibited synthetic inert ingredients. We are concerned that the
approach of allowing all excipients in livestock products may be harmful to the organic industry in the long run.

Additionally, while there may not be other attractive options at this time, we caution against the reliance of basing NOP approval on listing by other government agencies such as FDA or APHIS. As we have seen with the EPA who has an inert conundrum regarding pesticides, reliance on outside agencies can lead to unforeseen difficulties down the road.

Now addressing the animal welfare recommendation, we strongly recommend that the Committee does not present this document to the entire NOSB for a vote this week. We request that it be treated as a discussion document and not as a final recommendation.

As this new animal welfare recommendation is radically different than the discussion document presented at the May 2009 meeting and has wide-reaching effects on the
organic industry, the stakeholders, including producers, consumers, and certifiers, need more time to adequately review the recommendation in full.

I hope that you have had, or will have, a chance to read my full written comments. These proposed recommendations contain language in much greater depth and breadth than the previous documents, and our written comments contain many details which I will not have time to discuss here. I will touch on only a few major points.

First, we strongly support the inclusion of numeric measures in the rule in areas that have clear, quantifiable measurements, such as square feet per animal, specific stocking rates, or minimum age for outdoor access. Clear thresholds for compliance can allow certification to be granted in a more consistent and equitable fashion. We cannot and have not supported numeric measures that are based on estimates,
such as dry matter intake from grazing or impose a massive documentation burden on the producer.

We believe that the vast majority of certified organic livestock producers utilize management practices which protect and promote animal welfare, and that we should not require additional paperwork burdens on producers unless there is a clear need and obvious benefit.

We appreciate the desire to align the NOP requirements with the new Canadian and EU standards. However, we are not convinced that shoehorning the new Canadian specific requirements into the existing NOP regulations is the best approach.

Other organizations have developed humane certification standards outside of organic, and it may make more sense to refer to the requirements of these humane standards rather than the Canadian's or European organic laws.
While much fuss about the specificity of the EU and Canadian prescriptive metrics has been made, it should also be noted that the Canadian requirements are still in an implementation period and are untested in the real world, while in the EU, member states have the authority to grant exceptions to the requirements based on regional issues.

We must be careful to temper our desire for measurable limits with the continued flexibility that can be equally applied to livestock producers worldwide.

We are also concerned that the proposed recommendation might contain language which would conflict with or overlap with the forthcoming pasture regulation, such as specific stocking rates or densities. We strongly recommend that the Livestock Committee ensure that any final recommendation be harmonized with the upcoming pasture regulation.
In our evaluation of which practices to require and what practices to prohibit, we must understand that there may be some tradeoffs between requirements and consequences for animal welfare. Requiring pasture for poultry may lead to increased mortality from disease and predators. Allowing poultry to express its natural behavior of the pecking order while prohibiting beak trimming may lead to increased mortality from cannibalism. Requiring physical alterations to be performed at the youngest age possible may not be in the animal's best interest.

We recommend that the community be granted additional time to come to some relative agreement about how to handle these tradeoffs, many of which were clearly explained in the AVMA's public comments on this topic.

Last, but certainly not least, the current proposed regulation contains language
which appears to require pasture for poultry. This is an entirely new requirement which would have serious, if not catastrophic, effects on currently certified organic poultry producers, due to infrastructure investments and limitations, as you have heard from a number of people here earlier.

We firmly support poultry producers who provide pasture conditions to their birds. However, we do not believe it should be required.

There are a number of other sections in the proposed recommendation which need to be hashed out among the stakeholders, such as whether bedding must be organic if it is not consumed by animals, what constitutes forced molting, and whether it is necessary to disinfect animal housing in which there has been no disease outbreak, just to name a few.

The current document is also missing requirements for animal welfare during transport and slaughter.
Again, we respectfully request additional time for the community to discuss this document and review both the overall approach and the details.

Thanks very much for the opportunity to present these comments.

CHAIRPERSON MOYER: Thank you, Robin.

Questions from the Board for Robin? Hue and then Kevin.

MEMBER KARREMAN: Hi, Robin.

Okay, a couple of questions.

On the specific numbers we have proposed for whatever in the animal welfare section, the reason we did that is, talking to inspectors on a conference call, it is a lot easier for inspectors to say, okay, there's 100 animals in this square feet. How many square feet is that per animal? That is why we did that, for ease of inspection. Okay?

That's why.

MS. ALLAN: And we would agree, we
do support the inclusion of specific metrics for something that is measurable like that.

MEMBER KARREMAN: Okay.

MS. ALLAN: I don't have a comment right now about the actual metrics you proposed.

MEMBER KARREMAN: Right, right.

MS. ALLAN: I think for the number of different measurements that were included, we would need additional time to really see whether or not those are appropriate.

MEMBER KARREMAN: And one of the third-party animal welfare groups -- I won't name it -- but, anyway, on a page, says that their hens, "do not require that hens have access to range, but when range is provided...," and it goes into all this.

So, you know, I am a little bit hesitant now. I was kind of leaning toward like having third-party animal welfare certified on top of organic. But, you know, this first sentence says they don't have to be
out on the range, and that's not good, I don't think.

MS. ALLAN: Well, we do see a big difference between outdoor access and what might be considered rangeland or pasture. For the most part, at the densities at which poultry are outside, they pretty much will destroy any vegetation very quickly. So the type of outdoor land in which they are doing their dust bathing would not be considered rangeland or pasture.

MEMBER KARREMAN: And one on the excipients, if I may?

CHAIRPERSON MOYER: Certainly, the Board will indulge that.

MEMBER KARREMAN: Yes, the excipients, just a brand-new topic for the day.

(Laughter.)

What do you think about allowing, let's say, excipients that are approved in an NADA or NDA, or whatever, to be also, okay,
well, if they are an excipient in that formulation and it has been approved, can it be also, then, an excipient? What do you think about that, I guess as a certifier?

MS. ALLAN: I think what we have seen is that the intent of the allowance is to allow as many excipients as possible. And we have, therefore, taken the approach of, if it is allowed in any, in an NADA or NDA, we will allow it in a product, whether or not it is specific to that product. That is based on the ability to also search by things that are approved in any NADA or NDA.

CHAIRPERSON MOYER: Thank you.

The Chair recognizes Kevin.

MEMBER ENGELBERT: Three things, Robin, and, first, thank you.

Do you think that organic poultry should be required to have outdoor access?

MS. ALLAN: Yes.

MEMBER ENGELBERT: You say no to pasture.
MS. ALLAN: Yes.

MEMBER ENGELBERT: And can you give a specific matrix, not right now, but along those lines? Even though we are not talking about pasture and the document still has to come out, pasture intake is a measurable parameter because all farmers measure what they feed to their cows. Simply by subtracting that out, you can come up with the amount of feed that is being delivered or gathered by the animal in pasture.

Three, are there any other, quickly, radical changes in this proposal that you didn't have time to touch on?

MS. ALLAN: Hopefully, I did list quite a number, I think maybe 15 or 20 in my written comments, off the top of my head, going backwards in answering your question.

Specifically, I think we would support limited amounts of beak trimming and detoeing, as previously noted, for when it does promote animal safety and welfare.
Going back to your second question, we have, very at length and quite publicly, discussed this issue of measuring DMI with Rigo and Dan during the pasture regulation. So I would be happy to discuss more with you, but I respectfully disagree with your assessment of the ability to measure DMI accurately without making estimates.

And No. 1, going back -- sorry -- I don't at this time have any specific requirements that I would ask to be included as far as space. But I think that, as a community, we could come up with one relatively easily and painlessly, and possibly based on what I would think the various humane standards require right now.

CHAIRPERSON MOYER: Okay. Any other questions from the Board for Robin?

(No response.)

Thank you, Robin. We appreciate your time.

Robert Yang, to the podium, if you
would, and Lisa Bunin on deck.

MR. YANG: Good afternoon.

My name is Robert Yang. I work with the Pennsylvania Certified Organic. PCO, as a USDA-accredited organic certification agency, currently certifies about 520 operations; 265 of them are dairy producers, and 100 of them are poultry operations.

And as many others have commented here at the podium, we also acknowledge that animal welfare is currently a topic of great concern for both the producer and consumers, and we are also very thankful for all the hard work that the Livestock Committee has put into putting this proposal together. So we definitely welcome the Livestock Committee's proposal for improving such provisions in the NOP regulations.

However, for this past 30-day comment period, we have personally experienced that it has just been only a limited
opportunity that we have been able to consult
with our own membership, our own producers, on
these requirements that may, in the end, cause
a major change in their current practices.

So our recommendation is to be
able to provide a full opportunity for public
consideration. We respectfully request that
this document be considered for discussion and
not voting at this meeting. So that is our
main recommendation.

We have submitted our comments in
writing to the Committee. I think I would
just take a few minutes here to touch upon a
few points that we have commented on.

I know there has already been a
lot of discussion. A lot of producers came
out here, and they have already, actually,
expressed their views. So I am going to make
it as brief as possible.

Regarding livestock living
conditions, an operator of an organic poultry
operation shall establish and retain perches
of usable height, length, and diameter appropriate for the species, shall be provided.

Our producers express that the language is just too vague. Perches should be required for layer hens, but what if they are in pasture based on mobile housing? What would be required then? And in some cases, perches are not usually needed for the broilers or the turkeys.

So we, in our view, support the humane farm animal care requirements, which is six inches per hen with space available for 55 percent of the flock when in multi-story buildings.

Another comment that we had was for poultry reared in houses shall have complete access to pasture, open-air runs, and water, other exercise areas, subject to the species, on and on. Our comment is that the requirement for pasture for poultry represents definitely a major change in current organic
production practices. We really feel that
this needs much more discussion and
consideration.

Some points that may need to be
considered is whether open-air runs are
sufficient or organic poultry should have
access to vegetation that supplies some
nutrient needs.

And we would also like to point
out that it is not clear in the language
whether confinement for inclement weather will
be accepted for broilers who are slaughtered
at seven to ten weeks, especially if they are
raised in the winter months.

One other thing is the physical
alterations in 205.238(a)(6). I know there
has already been a lot of discussion on that.

We found out that our certified
poultry producers, they do practice limited
beak trimming. They have expressed that they
believe it is a necessary practice to prevent
bird injury.
Many of these producers, they are already certified by the Humane Farm Animal Care, HFAC, which does, actually, currently permit tipping of the beak at less than 10 days. Current PCO policy is actually to allow beak trimming up to 10 days.

So we currently support, also, the Accredited Certified Association language which states that minimal beak trimming is allowed for protection of the flock and must be done in a manner that minimizes pain and stress, no later than 10 days. Debeaking, severe beak trimming is prohibited.

In closing, I would just like to add that PCO does support the comments filed by the Accredited Certifiers Association. We have actively participated in a working group that developed the guidance document on poultry production.

We also request that the NOSB consider whether some components of the animal welfare recommendation might be better suited
as guidance documents and organized according to the animal species. The reason being is, since all of the producers are familiar that the NOP regulations do allow some degree of flexibility in achieving compliance, it would give them more of a guidance to be able to come into compliance.

So that is our final proposal. The only last concern that we have is that maybe these proposed changes may overlap or conflict with the final regulation change on pasture requirements. So perhaps these changes should be tabled until publication of the pasture rule.

Thank you.

CHAIRPERSON MOYER: Thank you, Robert.

Questions from the Board for Robert? (No response.)

Seeing none, we appreciate your time. Thank you very much.
MR. YANG: Thank you.

CHAIRPERSON MOYER: The Board would like to call Lisa Bunin to the podium, and Emily Brown-Rosen on deck.

MS. BUNIN: Good afternoon.

My name is Lisa Bunin. I am the Organic Policy Coordinator for the Center for Food Safety.

CFS is a nonprofit membership organization that works to protect human health and the environment by curbing the proliferation of harmful food production technologies and by promoting organic and other forms of sustainable agriculture.

My remarks today will address animal welfare, GMO vaccines, and nanotechnology. Later, my colleague, Jaydee Hanson, will provide more detailed comments on nanotechnology and be available to answer technical questions.

The humane treatment of animals is an important issue for CFS and its members,
and so is the urgent need to promulgate explicit guidance and standards for organic livestock and poultry management.

Consumer awareness about the ethical treatment of animals in food production is at an all-time high, due in large part to the Humane Society's documentation of the despicable animal-handling practices on a large CAFO and similar footage shown in the movie "Food, Inc."

State battles over the labeling of milk from cows injected with rBGH to produce more milk in less time also has contributed to this national concern.

The time is right for the NOSB to set the bar high for animal welfare practices in organic and for organic farmers to capitalize on this aspect of organic as a competitive advantage over conventional livestock operations.

An important issue for CFS is that organic milking cycles protect the comfort of
animals and that they do not disrupt their natural patterns, which includes access to pasture. Evidence from case studies in Europe and New Zealand demonstrates that two milkings per day not only protect the welfare of lactating animals, but they also are sufficient for producers to obtain acceptable milk yields to remain economically viable.

In terms of livestock stocking rates, we urge the NOSB to include in its definition a measurement of the long-term carrying capacity of pasture based upon available nutrients, climate, and potential ecosystem impacts. When determining a stocking rate for a given producer, the biodiversity impacts associated with pasturing should be evaluated in accordance with the NOP biodiversity conservation guidance document.

We further urge the NOSB to formally recognize the many ecosystem services and benefits that good pasture management affords, including carbon sequestration,
protection from manure runoff, pollution of waterways, soil erosion, and the maintenance of native grasses and species' habitats.

CFS supports the Livestock Committee's recommendation for including clear and specific language detailing the types of animal alterations that are prohibited and allowed by the NOP. It sends a strong message to organic consumers and the livestock industry as a whole that egregious animal welfare practices will not be tolerated in organic production.

CFS supports the Committee's recommendation to ban confinement of laying hens in cages. We also recommend the adoption of nesting, perching, and litter requirements for laying hens to allow them to exhibit their natural behavior. We support complete access to pasture, open-air runs, and continuous access to clean water.

CFS opposes the Committee's inadequate proposed calf housing standard that
would allow six months of calf isolation after birth. Scientific research demonstrates that calves benefit from environments corresponding to their needs as a herd-living species, and the proposed standard severely and unnecessarily limits their natural activity.

We, instead, support the EU's existing eight-week standard of allowable calf isolation as an exemplary welfare practice which allows for consistency with EU regulations, an important consideration for organic food exporters.

CFS does not support the Livestock Committee's recommendation on GMO vaccines, and we urge the NOSB, instead, to follow the required procedures detailed in the final NOP rule for conducting a TAP review of GMO vaccines.

CFS supports the National Organic Coalition and others in their call for the Board to critically evaluate GMO vaccines and organic production, and urge the Board to
address the seven health and environmental
criteria required by OFPA to be used as a
basis for determining whether to allow GMO
vaccines in organics.

CFS believes that the public has
the right to review, evaluate, and comment on
scientific data used to allow GMO vaccines in
organic livestock production. We urge the
NOSB to make the TAP review a priority.

CFS supports the Materials
Committee's recommendation that nanotechnology
is prohibited as an excluded method in organic
production. We urge the Board to formally
acknowledge the many potential health,
environmental, and broad social risks of
nanotechnology presented in CFS's written
comments, and they will be discussed by Jaydee
later today.

CFS strongly opposes the Materials
Committee minority opinion and urges that it
is excluded from the final Board
recommendation. Prohibiting nanotechnology is
the only way to protect organic integrity now and in the future, and it is not expected by organic consumers in their products.

Thank you.

CHAIRPERSON MOYER: Thank you, Lisa.

Questions from the Board? The Board recognizes Dan.

VICE CHAIRPERSON GIACOMINI: Thank you, Lisa.

Under your section on milkings per day, could you get us copies of those case studies?

MS. BUNIN: I absolutely can.

VICE CHAIRPERSON GIACOMINI: Could you please get those to Valerie when you have a chance?

MS. BUNIN: Sure. They are also referenced in our detailed comments.

VICE CHAIRPERSON GIACOMINI: Are they specified as --

MS. BUNIN: They are not attached,
though.

VICE CHAIRPERSON GIACOMINI: They are not attached? Is there at least a link?

MS. BUNIN: I think so, but I will check on it for you.

VICE CHAIRPERSON GIACOMINI: Okay.

If you can't get the actual study, at the very least, a reliable link. Thanks.

MS. BUNIN: Absolutely.

CHAIRPERSON MOYER: Okay.

Katrina?

MEMBER HEINZE: On your comments on nanotech, the minority opinion would have the same effect of not allowing nanotech to be used today, but would allow flexibility in the future, should we learn more, as the science develops.

So I guess I am wondering, since the effect is the same, why the strong opposition?

MS. BUNIN: I think I am going to leave that to my colleague, Jaydees Hanson,
when he comes in and gives his remarks on nanotechnology.

MEMBER HEINZE: Okay.

CHAIRPERSON MOYER: Thank you, Lisa.

MS. BUNIN: Thank you.

CHAIRPERSON MOYER: We appreciate your time.

Emily Brown-Rosen, the Board will entertain you at the podium, and Dave Decou on deck.

MS. BROWN-ROSEN: Good afternoon.

Thank you, and I just want to say I am from Pennsylvania Certified Organic. We thank you for the diligent, extensive work at this meeting. You guys have been really busy. It has been a lot of work to keep up and read it all, but it is great progress. So I am really grateful that you put the time into it.

I know it is a lot of work.

We have submitted our comments in writing. I am going to focus on materials
issues and just highlight a few things, a
couple of new things that came up since I had
more chance to read things. So I will just
ty to hit the highlights. Feel free to ask
any questions.

Also, I don't want to be remiss in
welcoming Miles to his job. It is wonderful
to have an experienced materials guy here, and
we look forward to working with him and all of
you in the future, except for those of you who
have to leave and I am sure you will still be
around to give your advice.

No. 1, list of inerts, I am glad
you put this out there for our discussion. It
is a really important issue. It has been
really hard to figure out where to go with
this, but at least we are talking or getting
more ideas, because we have kind of forced the
discussion here.

We share OMRI's concern. They
have identified a minimum of 250 inert
ingredients that are in pesticide products
that they review. In addition to OMRI review, there's EPA review, there's WSDA review, there's PCO review.

There's a lot of products out there; we don't know exactly how many there are or how many would bother to petition and come forward, but we do agree with the concept that they need to be looked at. We need a new system. We are not sure what is the best option.

I don't think necessarily putting them all on the National List is going to be a great idea. Then you have to sunset review them every five years also, and it is just a huge amount of technical work.

One point I would like to make is I have just been made aware by Jay Feldman, your next incoming Board member, that there are major changes underway at EPA. They have just issued a notice. They are planning to require all inerts in pesticides to be disclosed on labels.
So this is an amazing thing. We have been trying to get this done for like 20 years. You know this, Joe.

So this is a result of lawsuits that NCAP and a couple of environmental groups filed years ago, but with our new Administration, they are just suddenly going to change. So it will take some time, and I am sure there will be opposition, but if it happens, it will make a big difference. We won't have the secrecy thing. We will be able to look at these things, consumers will be able to look at them, and that will have an impact, I think, on what people want to spray on their crops, once they know.

But, as far as options, I am encouraging further consultation with EPA. We had one of the EPA egg people who was here earlier who had to leave, but he will be here tomorrow to answer questions.

I think they are going to be more open to collaborating, and if there is any way
we can possibly work out some kind of sharing
deal where they do reviews of inerts, but we
get an agreement that they can review for
organic products, improve the organic
production label that they currently -- I mean
they currently have a program for organic
production or gardening on labels, meeting the
NOP requirements.

And frankly, they are not doing
the best job right now with that program, but
I think there's new interest in there.
Hopefully, we can get them to improve that
program and maybe take on some of this inerts
review to the OFPA criteria and have a whole
sort of banner, green chemistry kind of label.
So that is the ideal goal. I don't know if we
can get there.

But we need to have those kinds of
discussions. That would be a way to work
collaboratively with the other agencies and
maybe not burden you with this technical
review of inerts.
So we will hear more about that tomorrow, and I have some sort of imaginary ideas about how you could rewrite the rules, but I don't think we are there yet. I just put it in because I know you like language.

Other items: peracetic acid, I am a little concerned about the annotation. Part of the problem is that the petition, the links are broken. I know we have problems with the website, and we are really looking forward to that getting fixed because it made it really hard to review some of these materials before this meeting.

I don't really understand the annotation of 5 percent. I read the petitioner's comments, and I think you probably want to listen to what he says because some of their products are concentrates. Okay? They are 12 percent, but when you dilute them on the farm, they are less than 20 parts per million.

You have to clarify what you are
after here. Are you looking at actual
application rate, which is kind of hard for us
certifiers to -- oh, one minute left. All
right.

Anyway, skipping on, vaccines. We
appreciate that you have provided some
information, but we remain very concerned
there's no TAP review. We think this is a
big-deal issue. I don't take a position one
side or another. Maybe you should approve all
vaccines irregardless of their GMO or not. I
mean I think that could be argued, but I just
don't feel like we have the evidence in front
of us to support it and justify it to the
larger community at this point.

I understand you have been doing
more research and review, and it is just not
there for us to see. So I would like you to
delay or rephrase this, so that we get a TAP
review or more information to justify it. I
think we are going to run into a lot of
trouble with the consumers on this until we do
the required TAP reviews to the OFPA criteria.

I think it is a big issue.

Well, okay, there's a few more things I would like to say, but I guess I ran out of time.

So any questions?

CHAIRPERSON MOYER: Thank you, Emily.

Any questions from Board members for Emily? Hue?

MEMBER KARREMAN: Emily, vaccines.

What would you think if we were to say something to the effect that non-GE vaccines need to be used if they are available?

MS. BROWN-ROSEN: That would probably be a reasonable thing if we are trying to promote non-GMO vaccines, yes. Yes.

MEMBER KARREMAN: Because that is maybe where we go with this because there are some vaccines -- I mean I've got the whole list -- where the only vaccine for that particular problem is a genetically-engineered
vaccine. You know, we are trying to be good
to the animals and not tie the farmers too
tight with their hands both behind their
backs. They already can't use the
antibiotics.

So that seems to be reasonable?

MS. BROWN-ROSEN: Well, I think
that is a reasonable way to go about it, but
I still feel like we need to be able to
justify this to the consumers. I am concerned
that we haven't -- I don't know, maybe what
downsides there are to GE vaccines. I feel
like the report that you posted was very
interesting. It stresses all the benefits
and, of course, we are struggling with
fighting disease, which is really important.

But when you have a TAP review,
you look at what are the risks? What are the
risks to the environment? What are the risks
to the animals, to the humans, to health?

I just haven't seen that anywhere.

Maybe it wouldn't take much to provide that
information, but I don't feel like we -- you
know, when we are down the road and we have to
justify GMO vaccines to consumers
particularly, and we say, well, just look at
this very well-written TAP review that tells
you why and the lack of alternatives; plus, we
are requiring non-GMO whenever possible, and
we are trying to protect the health of the
animals and prevent epidemics. But then you
have something to say to people.

And I also would just like to say
that we have only identified two so far that
have come across our desk, and we are not
penalizing growers for them now because this
is sort of a whole new development and
everything is so up in the air.

So I don't think taking the time
to do a review, and I think most of the
certifiers are allowing them at this point
because they are just not aware -- it is very
hard to find out exactly -- from our end, we
don't have guidance on identifying them,
either.

So, if we could step back and make the policy and make it real deliberative, I don't think it would be harmful to the producers.

CHAIRPERSON MOYER: Kevin, the Chair recognizes Kevin.

MEMBER ENGELBERT: I would just like to play devil's advocate, Emily, and trying to look at all sides of the issue, and two quick points.

One, farmers don't always have the time with an outbreak to wait a week, a month, a year for any type of decision like that.

And, two, we all understand the public relations nightmare. Like someone said earlier, "NOSB allows GMO vaccines."

But we also have to deal with the dilemma of the public relations nightmare if -- Hue used the avian example, but, also, if a hoof-and-mouth disease outbreak occurred in this country like it has in Europe, and
organic animals are either put down or suffer because they weren't allowed to be vaccinated. So I agree, it is a conundrum.

MS. BROWN-ROSEN: Yes.

CHAIRPERSON MOYER: The Chair recognizes Hue.

MEMBER KARREMAN: You know, what do we say to the organic consumers right now with all the animals that have been vaccinated with possibly genetically-engineered vaccines since the last seven years? That is one thing to ponder because it has been happening, period; the end. It's been happening. It is nothing new.

The second thing is the EU allows genetically-engineered vaccines in organics. And that is I don't know how many millions of people over there in their marketplace.

MS. BROWN-ROSEN: Well, my answer to your first -- do I get to answer your first question? Or was that just a rhetorical question? Okay.
You know, organic is continuous improvement. We find this all the time with materials, that we find out something new that we didn't used to know. We didn't used to know.

I mean it is very difficult. They are not required to label genetically-engineered on their labels. We generally accept these vaccines as a good, preventative thing.

When the rules was written, the staff reviewed and there weren't any approved at that time. So we haven't been looking. So now we know there has been a change. So we just tell people we are researching it, identifying it, and moving on. If we find it harmful, we will say no. If it seems the benefits are better than the risks, then we say yes. I mean that is how we always make rules.

MEMBER KARREMAN: I have to add one thing.
CHAIRPERSON MOYER: Hue, briefly, please.

MEMBER KARREMAN: In 2002, when this rule was implemented, there were 32 genetically-engineered vaccines already in the marketplace that were for livestock.

MS. BROWN-ROSEN: Well, then it would have been nice to know that. We didn't know that.

MEMBER KARREMAN: And they are all labeled with an "R" in the totally public biologics listing of APHIS CVB.

CHAIRPERSON MOYER: The Chair recognizes Rigo.

MEMBER DELGADO: Just to follow up on Hue's point, Hue has had considerable experience. We discussed those points at the Committee level.

You brought up the fact that you have experience with those vaccines, the same as Dan, and so forth. So we felt comfortable at this point that there was enough evidence
out there, probably not as strict with going out to a third party, but at least within the Committee we had enough experience to move forward with our recommendation.

MS. BROWN-ROSEN: Well, I appreciate that you collected evidence, but I would like to see a report, so we have something after you are gone to look at. You know, we don't have that.

CHAIRPERSON MOYER: Okay.

MS. BROWN-ROSEN: Thank you.

CHAIRPERSON MOYER: Thank you, Emily.

MS. BROWN-ROSEN: Yes.

CHAIRPERSON MOYER: Dave Decou, if you could come to the podium, we would appreciate it, and Richard Theuer on deck.

MR. DECOU: Good afternoon.

Dave Decou, the Executive Director of OMRI.

Careful; you're going to have two tall guys in a row, so you get to strain your
neck the other way.

I really appreciate the efforts that you guys all go to. I hear a lot of discussion about, it seems like, other projects like, why not review all the inerts and how about personal care products and review all the ingredients that are going to go there? No wonder you all want to retire.

I also very much appreciate the NOP stepping up, planning on getting the petitioned substances database updated and hope to keep it current. That is one of those things we at OMRI use a great deal with a lot of other information.

TAP reviews being a very important piece of our work because, as Emily just indicated, the history of the thought is very important to us. When you guys make a decision and we can't find the history, we don't know what to do five years later when you've all retired.

So I would actually recommend that
you have TAP reviews for anything that goes on
606 as well because I don't know what the
thought process was. Often that becomes an
important issue in the future. If you are
trying to get into the subtleties of a
material issue, some of that becomes very
important.

I am going to talk very briefly
about inerts, List 4. I think one of the
issues that I think is kind of not really
thought of very often, the Canadian organic
regulation cites List 4 in the PMRA, which was
probably originally the same list as the List
4 in the U.S. EPA.

If we go radically far from it, we
are going to have a different set of inerts
from what they are using, what they are
allowing under equivalency. If that is a
concern to anybody, that might be a concern.
My associate is going to talk further about
inerts.

Ferric phosphate is listed as
something to discuss under sunset. Having
read the petition to remove it, it appears the
petition is not arguing about ferric
phosphate, but about EDTA. EDTA, under the
EPA regulations, is listed as an inert under
the products that are used under ferric
phosphate, and EDTA is a List 4B inert.

Unless we can change that
structure or separate ourselves from the EPA's
structure, I don't see a way to change the use
of ferric phosphate, which is also a very
important tool for growers in areas where
slugs are a big problem, California being
probably the biggest one. I live in Oregon
where we raise them bigger.

(Laughter.)

So just a couple of more points.

Miles McEvoy pointed out this problem with
compost with bifenthrin in it, and the
suggested policy that they came up with was to
go for the 5 percent of the lowest EPA
tolerance for any commodity.
OMRI has looked into this. We are kind of living in this big question mark. I think everybody needs to recognize that probably in California, where we have a lot of products that we know a lot about in the composted, probably most of the products that are composted that are using green waste as a source material for their feedstock are going to be prohibited under that line that they are suggesting. I am not saying the line is wrong. I am just saying the reality is that a whole lot of compost is going to become unavailable.

Partly the reality is that California, as a state -- and this is where we in the organic industry kind of fit in a very funny juxtaposition. Everybody wants to save the universe, do recycling. California has a law that is trying to get most of your organic material out of the landfills. So what do you do with it? Well, the best thing to do with it is compost it.
At this point, the organic industry is saying, well, that's a good idea, but don't let us use it. It is sort of what we are going to go on.

We are going to end up in the green, and the organic juxtaposition is going to go on over and over again. Fortunately, you guys get to decide it. Thank you.

I would also like to say that Miles also suggested a resolution with an issue that probably isn't widely known around corn steep liquor. I would like to commend him. That is probably a good consideration, to have corn steep liquor continue to be used until you and the NOSB get to work it through. We would probably like to see a TAP review again.

Thank you.

CHAIRPERSON MOYER: Thank you, Dave.

Questions for Dave from Board members? Joe?
MEMBER SMILLIE: Yes, Dave, you're scaring me here. On what do you base your conclusion that a lot of the green matter waste that goes into compost production is not going to qualify? We are talking about herbicided lawn waste? Or are we talking about agricultural waste?

MR. DECOU: Well, when I say, "green waste", it is usually lawns and clippings --

MEMBER SMILLIE: It is? Okay.

MR. DECOU: -- yard clippings, and so forth.

The reality of this situation has arisen because EPA banned a very commonly-used pesticide, chlorpyrifos --

MEMBER SMILLIE: Right.

MR. DECOU: -- from various uses, maybe completely. I haven't really paid attention to the deeper details.

So I think it is a third-
used, which is this bifenthrin. It has only
recently been allowed to be used on lawns and
gardens.

It happens to be highly persistent
in the sense that it doesn't break down under
soils or microbes. It only breaks down in
sunlight. And it is an insecticide. It is
not an herbicide.

The particular case that came up
was one in which, as Miles pointed out,
wheatgrass was grown in pure compost. The
testing that originated this problem was to
actually take the compost and the wheatgrass
together as the sample. They tested it. It
showed up bifenthrin. Later tests indicated
that the compost had all the bifenthrin, and
none of it had gone up into the wheatgrass.

So this is a very complex issue,
just like vaccines. It is not an easy
question because the public doesn't want us to
have prohibited materials used on the land
that somebody might grow organic crops, but we
live in a world that isn't perfectly clean.  

MEMBER SMILLIE: Yes, that is my concern. We don't get our vegetables from Pluto, as I was quoted as saying, I think, in a recent article.

(Laughter.)

But the whole thing of throwing things to testing is just going to increase the expense. It is going to keep people from composting because, if they are going to be required to do a whole series, a battery of tests to prove that their compost qualifies, we are going to get back into that game where we have to prove we are good by spending money for testing, as in other areas. I am just really nervous about taking that step.

It is one thing like organic to me is composting. That is like one of the key tools that we have, and it is one of the key tools that farmers have. A lot of farmers don't have enough material. They have got to bring in their compost.
You know, segregated compost yards, organic -- I don't know. I am very worried about the path we are taking, going down, to start requiring the testing for all compost. I understand the fears, but I think the downside is also dangerous because, as you said, everything moves around the planet, and we are part of the solution. If we start taking away these tools because we are fearful of consumer expectations, if we define organic by consumer expectations, I think that we could get ourselves without any tools left to fix.

MR. DECOU: That is a possibility.

CHAIRPERSON MOYER: Well said, Joe.

Hue and then Kevin. I'm sorry. You've got to get faster, Kevin.

(Laughter.)

MEMBER KARREMAN: Dave, you mentioned vaccines when you looked over here. I am just wondering what the listing is in the
OMRI Generic Materials Book about vaccines.

MR. DECOU: I can ask my associate

because I don't have a copy with me right now.

I would assume it -- actually, I don't know.

I shouldn't say. As soon as I make a

statement that "I assume", I am in trouble.

(Laughter.)

CHAIRPERSON MOYER: Thank you,

Hue.

The Chair recognizes Kevin.

MEMBER ENGELBERT: Very briefly,

Dave, a new subject, the EDTA. I wanted to

just give you a brief update on where the

Crops Committee was coming from, why this is

a discussion item. We will get into it more

when that comes up.

But when that was approved, we had

learned that the EDTA was not revealed to be

part of that product. Even though it is

listed as a List 4 inert, it is essential for

the product to work. So, in the Crops

Committee's mind, that is not an inert.
That is part of the whole conundrum of looking at all of them and seeing, are they really inerts or not? This is probably the first material that is going to be scrutinized because of that realization. If it essential for the product to work, in our minds, at least the current Crops Committee's minds, it is not an inert.

MR. DECOU: And I can't argue with you, except I deal with EPA definitions. When OMRI does its work, it can't be trying to figure out what the mind of the Crops Committee is at that time.

And it is probably not the first. It is at least the second. Peracetic acid is the exact same issue, only EPA decided to change their minds. That is why it has gone to you, because it was there all along. It was considered an inert until EPA decided, no, it's an active now.

So it is an ongoing issue. I always think these materials issues will just
settle down and go to sleep. They don't.

CHAIRPERSON MOYER: Thank you, Dave. We appreciate your time.

The Board will now call Richard Theuer to the podium; Renee Mann on deck.

I will remind both the gallery and the Board that it is 4:30 in the afternoon and we are now halfway done with our list. So, if everybody can be mindful of the time, both from the gallery and from the Board, I would appreciate it.

MR. THEUER: Thank you. My name is Richard Theuer. I am a retired scientist from North Carolina and a former member of the Board.

A year ago, I came here to ask the question about micronutrients in organic crop production, and specifically, whether the 601(j)(2), where they list zinc, copper, iron, manganese, molybdenum, selenium and cobalt, was an exclusive list or not.

Can I have the next?
Well, when it is considered an exclusive list, several micronutrients that are required for production of crops are eliminated.

Can I go to the next? The one I mentioned of several last year was nickel. AAPFCO recognizes nickel is essential. Certifiers are not permitting it. Nickel deficiency is being found in organic orchards.

Why is it not being permitted? Because the wording of the statute or the law is that it is an exclusive list.

Last year I had two comments after my presentation, and I am back to answer, respond to those comments. Joe Smillie said it is an exclusive list because it doesn't say it is an inclusive list, and I will respond to that. And Dan asked a question, that he would like to see the language that had been in the animal mineral listing to see how that
So I went to the preamble for the regulation. In fact, for the livestock production, when it gets to minerals, it is an extremely science-based approach. It says, "The producer must provide a feed ration including minerals." The definition of feed additive includes minerals.

The next slide. Next. Next.

And the preamble says these additions make the livestock healthcare practice standard more consistent with the NRC's Committee on Animal Nutrition's nutrient requirement series. So there is an authoritative standard that you have for the regulation.

The next slide shows that the section of the regulation is extremely simple and straightforward. Trace minerals are allowed, used for enrichment or fortification, when FDA approved.

When we get to the crops side, it
is very, very different. This one section talks about maintaining the chemical/biological condition of the soil, managing soil fertility, crop nutrients. It doesn't even mention mineral materials.

The next slide.

It says a producer may apply a crop nutrient or soil amendment if it is included on the list in the case of a synthetic.

The next section, also, the producer may not use any -- it confirms Joe's point last year. This (j)(6)(ii) is an exclusive list.

The next. And the next.

Now the question is, there is a section that relates to disease. So is there a disease related to micronutrient deficiency? And the answer is, yes, there is. And disease conditions can be controlled through the application when certain practices are insufficient by application of a synthetic
substance that is allowed on the National
List.

Let me go to the next, and you
might want to look at the board. If you look
at the leaves on the left, you will notice
black around the edges. That is the condition
called mouseear. That is related to a buildup
in urea levels at the edge of the leaf. The
urease, the enzyme that breaks down urea, is
a nickel metalloenzyme. No nickel, no enzyme.
Buildup. Necrosis.
The next slide gives another
picture of the nickel-deficient on the left
and the normal on the right.
That meant, since (j)(6) is an
exclusive list, and we need to have nickel put
on the National List, I filed a petition.
Hopefully, that will wind its way to you over
the next few months. I ask that the NOSB
Crops Committee add this to its work plan when
it comes through the system, so that pecan
growers are not forced to choose between being
organic and being successful.

CHAIRPERSON MOYER: Thank you, Richard.

Any questions for Richard? Kevin?

MEMBER ENGELBERT: I know, time.

What causes the buildup of urea that can't be controlled any other way, right?

MR. THEUER: Well, the buildup of urea -- okay, the pecan plant and a few others, tree nuts, river birch, transport nitrogen from the ground to the leaves in the form of ureides, arginine, that have the urea component in the molecule.

So, when it gets to the top of the leaf, you have to have ureides to break it down to ammonia, so the plant at that edge can do some good. So you have urea because you don't have the nickel enzyme, the urease to break it down into the ammonia that the plant can utilize for protein synthesis, et cetera.

CHAIRPERSON MOYER: I'm surprised you didn't know that, Kevin.
MR. THEUER: Does that answer your question, Kevin?

MEMBER ENGELBERT: Well, no. I am still trying to get at why there's a surplus of the urea. Has there been an application that --

MR. THEUER: No, no. No, nitrogen is transported to the leaf in the form of a urea-derivative by the plant. When it gets there, because there's not enough urease, it can't break it down.

CHAIRPERSON MOYER: Thank you, Richard. We appreciate your time.

MR. THEUER: Thank you.

CHAIRPERSON MOYER: Renee Mann to the podium, if you would, and Keith Pitts on deck.

MS. MANN: Good afternoon. Thank you for the opportunity to address the Board, and thank you all for your hard work.

I am Renee Mann, and I work for
OMRI as the Review Program Manager. I was going to address just a few topics here for inerts.

We really appreciate the hard work that the Crops Committee has put into clarify and put together a recommendation for inerts. We recognize the balance that you are trying to strike between putting a huge list of materials on the National List or reviewing each individual one. So I don't really have an answer for you except to say, please consider that there are a minimum of 258 inerts on OMRI's list. These are inerts confidentially within products that we have reviewed.

So, if you were go to forward with this recommendation to review these materials, you might have that many that come to you within the next six months. Then I think you have given yourself a total of a year and a half to review them. I am not really sure of your whole process of review, but you could be
looking at that many inert materials.

Peracetic acid, I really recommend that you speak with the petitioner Kristin Knox, who is coming up in a couple of comments, about what she thinks is a feasible annotation for peracetic acid. In our comments, we recommended 100 parts per million in the application rate instead of the 5 percent annotation that was recommended.

Then excipients, I just wanted to touch on a little bit. Thank you for tackling the issue of excipients. It has been an issue since it got on the National List.

We agree with the addition of the APHIS-considered excipients. One question I have for the Board is whether you could or would or would like to reconsider the statement of adding healthcare products. I know that you are trying to expand the use from excipients just in drugs to excipients in healthcare products, but healthcare products includes a huge number of materials. It seems
like more than what was recommended or what was mentioned in the recommendation.

So, just from my glancing at the OMRI generic materials list and seeing every single product that is considered a livestock healthcare product, there are a heck of a lot of materials. You might want to open the generic materials list and look, to consider what is going to happen if you add healthcare products -- or excipients allowed in healthcare products to the National List, because we may be looking at a huge expansion of excipients allowed in things like vitamins that are fed instead of just vitamins that are injected.

Then, to address Hue's question about vaccines, in our generic materials list we say that vaccines may be used against problems that are endemic. Those derived from excluded methods must be approved in accordance with 205.600(a). And that's it. And we reference a couple of sections of the
rule, but that is basically it.

Thank you.

CHAIRPERSON MOYER: Okay. Thank you very much, Renee.

Any questions for Renee? Hue?

MEMBER KARREMAN: Thanks for that from your generic materials book.

The reason for the animal healthcare products -- I think that is the term we use -- is because in organics you are not allowed to give any kind of treatment or anything like that to organic livestock unless they are sick. You can't give drugs unless they are sick.

So a lot of farmers will give health enhancements, we'll say, to an animal.

It's all in the wording, Joe.

So there's a lot of products out there, I fully agree and we know that.

However, you know, there always seems to be a whole lot of focus on the excipients rather than the active ingredient, which might be
essential oil of peppermint for some of these lotions that are out there that farmers rub on the udder. It seems an undue focus, like you are throwing out the baby with the bath water with the excipients.

So, keeping that in mind, plus, that drugs aren't allowed for organic cows unless they are sick, we wanted to say animal healthcare products. That is the reason. I think we stated it in there.

But, yes, we know it is going to increase the list, but it is still within the parameters of what is defined in 603(f), "F" like "Frank". Okay?

MS. MANN: Yes.

CHAIRPERSON MOYER: Thank you, Hue.

Any other questions for Renee?

(No response.)

Thank you, Renee.

If Keith Pitts could come to the podium, and Kristin Knox is on deck.
MR. PITTS: I thank you for the time to speak before you.

I am Keith Pitts and work for Marrone Bio Innovations. We are a biopesticide firm based in Davis, California; has been established since 2006, primarily focused on microbial pesticides, but we do do some work and development on plant-based extracts as well.

We are developing our products for agriculture on the whole, in hopes of lowering the toxicity profile of pest management in general. We do have a commitment to formulate, so the products are available for organic agriculture. So, certainly, that is a goal of ours.

That said, even if we were not to pursue an organic label, we would continue to work from the 4B and A list as it exists today, just to keep using minimal-risk products.

In general, I notice OMRI's
comments and support the approach they have
put before the Committee. I think we all know
that EPA recently completed an inerts review
process and, by and large, the regulatory
status of the inerts that are currently
available to us hasn't changed. There are a
few that are going to be taken off, I imagine;
a few that potentially could be added on, if
someone wanted to petition.

So that is probably the most
discrete and, using Miles' sensible and
practical test, that may be the most immediate
way to deal with the issue of housekeeping
between EPA and USDA.

Unfortunately, we didn't go into
this process with an understanding of how the
EPA decisions were going to impact NOSB
decisions. It would have been nice to have
known that early on. That said, we appreciate
the fact that the Board is trying to tackle
this and come up with something that can work
for everyone.
There seems to be an underlying issue that maybe an approach or a philosophy or thinking has changed on these inerts or is evolving. If that is the case, I just would ask that we have a little bit clearer sense of what the rationale is for the change, as well as the criteria that would be used for judging the products.

It appears that their proposal is setting up a new review process for these inerts, mainly, I would assume, to deal with the volume. But I think just having clarity on why we may be going down a different path would help inform all of us.

As far as the timelines, I can't speak to the resources that would be necessary for the NOSB to complete its work, but just I would like you to keep in mind that it can take several months to a year or longer just to nail down a formulation. We are working on some products now that we haven't quite figured out how to stabilize the active...
ingredient.

So reformulation presents challenges to us from an R&D perspective, in addition to the four to six months it would take at best to get an EPA review of a new formulation.

Then we have to go to states and get the new formulation approved, and that, quickly, it can happen in two months. We have some states where it takes over a year now to get the product approved after EPA approval.

Then we have to go to OMRI and get the reformulated product okayed. That can take four months to I think we have one that has taken about 10 months to get the new OMRI label, which we appreciate.

Then, if we do get the new label, we have to go back to EPA with a new label after the new formulation is approved, which can run anywhere from four to eight months. I think some companies have talked about it taking longer to get a label amendment.
through.

And I did not realize the Canada issue. That was new to me. I just will say that we do license products from time to time, and we see things that are IFOAM-certified that have inerts in them that would not be approved here. So I think there is a cascading effect that we need to be mindful of any time we start changing any of these lists.

We look forward to working with you.

CHAIRPERSON MOYER: Thank you, Keith.

Any questions from the Board members for Keith?

(No response.)

Seeing none, I appreciate your time.

Kristin Knox, if you could come to the podium, we would appreciate it, and Michael Fiery on deck.

MS. KNOX: Good afternoon. Almost
good evening, I guess.

My comments right now I understand were distributed, and they are in addition to what was posted for comments back in October to the Crops Committee and to the NOSB Board.

Thank you again for the opportunity to speak here today. We want to thank you, as everyone else is clearly understanding the magnitude of what you do, your dedication to the preservation of organic farming and to the careful consideration of the synthetic substances that you do allow as part of the organic system plan.

As a company, BioSafe Systems strives to provide environmentally-sustainable alternatives to the harsh chemicals that have been traditionally available and, for organics, tools that were never available before.

We hope that we have demonstrated in our previous submissions for the PAA petition that it is safe to the environment
and to humans. There truly are no other organic alternatives to PAA that provide immediate knockdown of the plant pathogenic organisms without mutational resistance, phytotoxicity, or persistence in the environment.

One of the basic principles of organic farming is to sustain and enhance the health of ecosystems and organisms, from the smallest in the soil to human beings. Obviously, the most desirable course to follow would be strict adherence to IPM practices such as crop rotation, cultivar selection, and proper site selection.

We understand and support the respect for soil and the natural growing environment, and we also understand the concern for the effects that PAA might potentially have on the beneficials in the ecosystem.

There are times, however, when conditions will rise that can prove to be
economically devastating. One such example occurred in the Northeast U.S. this past summer when late blight destroyed much of the tomato crops belonging to conventional and organic farmers alike.

Our hydrogen peroxide peracetic acid products have proven to be highly effective against late blight. When applied during high pressure or first sign of damage, PAA chemistry has demonstrated well against phytophthora, both in the soil and on the plant surfaces.

We are not advocating that the chemistry should be used with every irrigation cycle, although it can be. We merely want to make sure that this is a valuable, versatile chemistry that will continue to be available to organic farmers who trust and rely on our products.

Peracetic acid is currently limited to the treatment of fire blight under 205.601(i)(7) and for the disinfection of
equipment, seeds, and asexually-propagating plant material under 205.601(a)(6).

In the most recent Crops Committee recommendations for peracetic acid, dated September 11th of '09, the annotation would state that peracetic acid can be used in hydrogen peroxide solutions up to 5 percent, but the current restrictions to the fire blight and other applications are not addressed.

We would like to emphasize that this petition was originally submitted to include the use of PAA for treatment of all crops or a broad spectrum of plant pathogens and also as an algicide for irrigation waters.

We are very concerned that this current annotation does not sufficiently address these uses, and we would appreciate the Committee taking this item up for discussion as part of this meeting.

We would also like to again urge the Committee to consider listing peracetic
acid as approved in use dilutions up to 200 parts per million, instead of concentrations up to 5 percent. We have demonstrated in previous submissions that peracetic acid at 200 ppm's has a negligible effect on insects and soil nematodes.

Also, our plant pathologist, Dr. Vijay Choppakatla, has provided comments that there is very little effect on beneficial organisms on plant surfaces and in the soil at 200 ppm's. At this level, PAA sufficiently suppresses the plant pathogenic organisms while leaving the beneficials to flourish.

Please take this opportunity to limit the amount of peracetic acid that can be applied as opposed to limiting the concentration percentage, which could potentially be applied at even higher ppm's. We would like to thank OMRI and Dave Decou for the comments that were posted, and for Renee's recent comments as well, on multiple topics, including their support for
On page 2 of his comments, Mr. Decou writes that peracetic acid "is an important tool for farmers to control crop diseases in high-value crops." It also helps reduce the food safety issues originating in production fields.

The two considerations that OMRI wanted the NOSB to consider are, No. 1, listing PAA in ppm's, as the FDA and EPA both limit the permissible amounts of PAA this way, and, No. 2, that peracetic acid be considered in ratio to the amount of hydrogen peroxide.

The concern about the ratio to hydrogen peroxide seems to be for higher concentrations of hydrogen peroxide that can be present within the higher concentrations of peracetic acid. We appreciate the concern, but we want to clarify that, when peracetic acid is created in situ between hydrogen peroxide and acetic acid, as the acetic acid is added in, hydrogen peroxide is taken away.
The peracetic acid actually steals the molecules. So you will never have any combinations with higher hydrogen peroxide and peracetic acid. It has to be converse.

Thank you, again, for your time and consideration of this petition to include peracetic acid for a wider range of use in organic crop production. This is exciting chemistry with an enormous amount of potential.

Emily Brown-Rosen of Pennsylvania Certified Organics indicated in her written comments, also, that peracetic acid products have promise as fungicides to replace the more persistent materials such as copper sulfate or other objectionable products.

Peracetic acid is gaining in acceptance among the organic community, and we are very optimistic about its versatile role in organic agriculture.

I am happy to answer any questions that I can.
1          CHAIRPERSON MOYER: Thank you,
2  Kristin.
3  Tina?
4          MEMBER ELLOR: I have a couple of
5  questions.
6  There is a discrepancy between the
7  OMRI recommendation of 100 ppm as a ceiling
8  and your 200.
9  Also, as a very broad spectrum
10  oxidate, or whatever, I don't really
11  understand how it can take out the bad guys
12  and leave the good guys alone.
13          MS. KNOX: Okay, let's see if I
14  can answer those questions in order.
15          First of all, I can't speak for
16  OMRI's annotation for the 100. I can only
17  speak for our annotation of the 200 ppm's.
18  The 200 ppm's of the PAA is what is present in
19  a 1-to-100 dilution of our product oxidate or
20  StorOx, the 2 percent peracetic acid products.
21  We also have a 5 percent product, which is
22  what the Committee was originally considering
limiting it to, and a 12 percent product, which is mostly for agricultural processing waters.

But, as you go up in the peracetic acid percentage, the dilutions are so high that your ppm's go way down. So there would never ever be more that we could see, 200 ppm's necessary to be added into the concentration -- from the concentration into the dilution, I mean. And we also have submitted data at the 200 ppm level showing that the beneficials do still thrive well. The pathogenic ones are taken care of.

I defer to Dr. Vijay Choppakatla, who also presented comments that you folks should have. If you don't, I can get them again. He discusses that in much better detail, as a plant pathologist, than I ever can, on the likelihood of the soil and on the plant surface.

Did I answer all your questions?

CHAIRPERSON MOYER: Tina, do you
have additional questions?

MEMBER ELLOR: You did, and there was extensive discussion about this in the Crops Committee, and we will probably be discussing it more. But our concern was unleashing this very broad-based germicidal thing, even though it is far more benevolent than other things available, and we certainly take that into account as well.

MS. KNOX: Yes.

MEMBER ELLOR: So we will be discussing it more, and we really appreciate your input.

MS. KNOX: Yes. Dr. Choppakatla does discuss that, how at the 200 ppm level, which I think you really have an opportunity to limit how much can be applied up to a ppm level. By going to the 5 percent concentrations or 12 percent concentrations that are out there, or 15 percents that are out there, you could apply it at a 1-to-100 dilution and be putting way too much down.
there, and then, yes, you will kill absolutely
everything in there.

The way that we have formulated
it, it is so that it is at the level where we
will get the bad guys but not the good guys.

Okay?

CHAIRPERSON MOYER: Any other
questions from any of the Board members? Joe?

MEMBER SMILLIE: Sorry, I haven't
kept up with your work on the Crops Committee,
but your recommendation right now for this
material, she is asking for a broader
application for it. The current Crops
Committee recommendation limits that?

MEMBER ELLOR: Yes, we actually
had two that we voted on. I was counting on
Gerry to be here because he was really the
architect of this. But we weren't comfortable
with broadening the usage of this very broad-
based germicidal thing.

And this is the important
background that is probably missing. It used
to be considered an inert. It was
reclassified as an active. So, as an inert,
it is in many products that are used by
organic farmers. As an active, it had to be
reconsidered. That is really why --

MEMBER SMILLIE: I guess my
question is not the dosage, but the
application. In other words, there are two
issues. One is the percentage that you are
going to allow, like the maximum levels, and
the other is the usage of the material, right?

MS. KNOX: Yes.

MEMBER ELLOR: Right.

MS. KNOX: Because that is the way
I am reading the annotation, is that it is
just still restricted to fire blight, so we
gain nothing.

MEMBER ELLOR: No, it can still be
used is what you have gained. Because,
otherwise, as -- now it is an active, not an
inert.

MS. KNOX: Yes.
MEMBER ELLOR: So it would have to
be repetitioned and go through the whole
process. That is the difference.

CHAIRPERSON MOYER: It is an
oxidizer, Joe.

MEMBER SMILLIE: Yes.

CHAIRPERSON MOYER: It chews up
organic matter like crazy when it is applied
to the soil. It burns up organic matter. So
it is kind of counterintuitive to what we are
trying to do in organic with soil if it is
applied through irrigation systems at high
levels. That is the --

MEMBER SMILLIE: You're talking to
somebody who sprayed sulfur in orchards and
used copper sulfate on grapevines. And if I
can find an effective fungicide for late
blight, that is an incredibly wonderful tool.
Because, as they mentioned, this fall in the
Northeast crops just like died. Right, Steve?
The tomatoes, they didn't get sick; they just
died.
CHAIRPERSON MOYER: Mine did, too, yes.

MEMBER SMILLIE: I don't know. I am not arguing the dose. I think that the deliberation -- I am not on the Crops Committee, and I apologize for jumping in at the last minute, but this one interests me a lot because, to me, the argument should be about the dosage, what is going to hit the target and not damage the beneficials of the soil microorganism. We can work on the dose. But I don't understand the restriction on the usage. That is my question, but I will leave that up to you guys.

CHAIRPERSON MOYER: Well, there is plenty of time for discussion of that tomorrow.

MEMBER SMILLIE: Okay.

CHAIRPERSON MOYER: If we have questions for Kristin, we will entertain those.
Otherwise, thank you, Kristin.

MS. KNOX: Okay. Thank you.

CHAIRPERSON MOYER: We appreciate your time.

Michael Fiery, if you are in the room, come to the podium.

(No response.)

Okay. Michael is not here.

Lisa Nichols? Is Lisa Nichols here?

(No response.)

Fred Betz? If Fred Betz is here, if he would come to the podium?

(No response.)

Okay. We are making progress here.

(Laughter.)

I'm going to start making up names here.

(Laughter.)

Maria Herrero -- I apologize -- Herrero. Is Marie Herrero in the room?
(No response.)

They're leaving.

Chris Dively? Is Chris Dively here?

(No response.)

Leslie Zuck? I know Leslie is back there.

(Laughter.)

Caught you offguard, did we, Leslie?

MS. ZUCK: I'm not sleeping yet.

CHAIRPERSON MOYER: That's what they said when they missed the flight in the Twin Cities, that they weren't sleeping.

(Laughter.)

MS. ZUCK: All right. Bear with me here a minute. I'll be right with you.

Okay.

Hi, everyone. I'm Leslie Zuck, Executive Director of Pennsylvania Certified Organic and, as of today, a famous advocate of strict and sensible standards.
(Laughter.)

Thanks, Miles.

I would like to take a few minutes, five, to be exact, to discuss your discussion document on terrestrial plants grown in containers and enclosures.

PCO certifies operations that would be affected by such a standard, including greenhouses, sprouts, mushrooms, hydroponics, and some combinations of the above.

As an organic greenhouse producer myself, certified by the venerable organization QCS, my own operation would be affected by the recommended standards. So that inspired me -- you know, I'm usually a real quiet and meek bystander -- to actually come up here and offer a few comments on the subject.

The discussion document is very thorough and does a good job, thank you, of addressing most issues, but we do have a few
1 friendly suggestions.

   First, we are going to need a
2 bunch of definitions. You kind of may be
3 aware of that. Aeroponics is something that
4 we haven't talked about before and a few
5 things like that.

    We actually see an amazing amount
6 of very innovative materials and production
7 techniques out there. I am worried that we
8 are going to need more guidance and
9 definitions to really determine if these
10 operations fall under the definition of
11 container- or enclosure-grown crops. Things
12 like unheated cold frames, high tunnels, field
13 tunnels, low tunnels, shade houses, hay
14 groves, you know, are these enclosures? Are
15 they included or meant to be or not meant to
16 be? So I think a little more clarification on
17 that would be helpful because there's some
18 amazing things that people are trying out
19 there.

20 I think it would also be helpful
to have a definition of container. I actually
didn't check the definition on the original
rule. Maybe it is in there. But I think what
you are thinking about, pots, and I am
wondering whether these really large, wooden
boxes people grow sweet potatoes in and raised
beds that are lined with plastic, whether
those would be considered containers because
they go the whole length of the greenhouse.

We certify several acres of
tomatoes that are grown in these really long,
plastic sort of bag-like things that are
filled with compost. So the question is,
would they be subject to crop rotations and
cover cropping or not? You know, how are we
going to kind of apply these good suggestions
and standards to those systems?

I think defining aeroponics and
hydroponics would be useful, and then some
guidance on whether sprouts and micro-greens
are included in the standards. Sprouts, we
know are allowed or already in the rule, and
they are grown in water with no nutrients added. So we probably should at least mention how those are either included or not in this standard.

And micro-greens are grown in flats with little or no nutrients added, depending on the type of micro-greens. So it would actually be a soil-less mix that they are growing in. These would seem to be prohibited under the proposed standard. I just want to get a sense of whether that is where we are going with those because they are quite popular, and a lot of people do grow them and provide those to restaurants and stores.

And another issue you might want to consider is growers purchasing plant stocks or perennial transplants, bringing those conventional -- now we are talking conventional, planting stock and perennial transplants, that they are allowed to buy if organic is commercially unavailable. So they
bring those transplants into their organic
greenhouse operation or their nursery. They
repot it into approved potting mix and then
proceed to resell it as certified organic.

Neither the rule nor this
discussion document appears to prohibit this
practice. Yet, something doesn't quite seem
right about that. So let's try to look at
that, and we can work with you on that.

Because in the past we have tried to have some
guidelines on it, like at least they have to
grow it for a certain amount of time before
they can actually resell it as certified
organic. But, right now, the way we have
things, it isn't really prohibited.

Would the prohibition against
growing medium devoid of sufficient organic
matter prohibit growing certified organic
seedlings in flats filled with an approved
potting mix? These mixes are, by definition,
soil-less, no nutrients. They contain peat
moss, perlite sand, and would meet that test
for nutrient deficiencies.

Growers could add soil or compost, but a lot of times they don't want to because nutrients aren't really necessary at that stage of growth, so it would be a waste. And the soil can introduce pathogens that they don't want inside their greenhouses.

Then I am going to bring up something that some of you may remember. The American Organic Standards, remember that. The American Organic Standards, I am not going to read them here. I was going to, but I don't have enough time.

Any proxies out there? No.

In seven short paragraphs, they really do what you are trying to do here, and I could say some more about that, if people have questions, but the language is really simple and easy to understand and enforceable.

Then you have to add a few more definitions. My suggestion is to draft something similar to the AOS language that we
can refer to because it does include the
field-grown crop regulations, and then it is
not redundant or adding additional regulations
that we don't have in the field-grown crops,
which some of the other certifiers have
commented on, and then leave some of the
specific guidance to the program manual to
really kind of interpret that, which would
alleviate the redundancies on potting mix,
treated wood, commingling, and some of the
complications that we have seen by including
requirements that are not actually required
for field-grown crops, like the sprayers and
the GMO pollen drip.

Any questions?

CHAIRPERSON MOYER: Thank you,

Leslie.

Are there any questions from Board
members for Leslie?

(No response.)

Seeing no hands, we appreciate

your time.
MS. ZUCK: Well, thanks. It is really good work. We appreciate it.

CHAIRPERSON MOYER: Thank you, Leslie. We appreciate that, the comments.

Zea Sonneband at the podium, if you would, and Peggy Miars on deck.

Hi, Zea.

MS. SONNEBAND: Hi. Good afternoon, everyone.

I am Zea Sonneband from California Certified Organic Farmers.

Thank you for the opportunity to address you.

Welcome, Miles. We are looking forward to working with you.

I am getting half my time out of the way by seconding everything that Leslie just said about the plants in containers. There's some things that need further clarification and some very odd things that go beyond farm requirements, like the dedicated sprayer clause. We hope that you will look at
our written comments on that, which second
what Leslie said.

Okay. On the definition and clarification of materials document, we really appreciate that you are finally trying to bring this work to fruition, and we really appreciate the paper and agree with most of it.

We strongly encourage you to start working right away on a decision tree-type model to go along with the clarifications on your materials because you are really going to need it when you review corn steep liquor at your next meeting, as Miles is trying to bring forward.

We also strongly urge that a TAP review be prepared for corn steep liquor because, being part of the group that works with OMRI on this, it is a very complicated situation. We hope to give it some due consideration.

I want to talk briefly about the
petition process. I really am glad that Miles has prioritized dealing with petitions in a more systematic way.

In addition to the category, though, of petitions that he wants to take off the table, there is the category of petitions that are commented on at the previous meetings which were never on the table, and I am calling them petitions that were never taken up by the NOSB, even though they have come in over the years.

I have identified six things that are still left in this category, including terpene polymers; phosphoric acid as fertilizer as part of aquatic plant products; potassium carbonate in aquatic plant products; sulfuric acid as fertilizer, as a manure treatment; sodium and potassium lactate as handling ingredients.

So there are historic petitions on these. They need to get taken up to the NOSB and reviewed.
On the inerts paper, I hope you realized that what you proposed really isn't workable. Emily led me to think that maybe you realized it wasn't and you just had to throw something out.

I supervised the NOSB through the initial TAP review period, and the most we ever did at a meeting was 40 input reviews. So the fact that you are going to do 286 potential inert reviews in addition to reclassifying things between 605 and 606, we need a better idea.

So the best idea is really to try to take the reference out of the rule and put some sort of inert policy in the program manual, I think, because then it will be more flexible to some extent. You can work with the EPA. It can evolve without having to go through the very formal sunset review process. Or you can develop an in-house mini-EPA for organic, if you want to, to look at these inerts.
I also hope that you will address
with a little bit more clarity the liquid
fertilizer directive. Perhaps maybe this is
just NOP and not the NOSB, but I heard
Barbara, and we all heard Barbara, say at the
last meeting that the 100-yard requirement
might be considered to be flexible if there
was a sufficient audit trail.

I believe it, but we have a lot of
people out there who are very squeamish
because that has never appeared in writing,
even though she said it on numerous occasions.
So something really needs to appear in writing
to make the companies -- there are many
companies who do meet every requirement except
the 100 yards, and it would make them feel
more comfortable.

So, since Leslie covered the
greenhouse, I am going to use one minute on
ferric phosphate. If I had a quarter for
every time someone said, "This inert is an
important part of the formulation," and then
has to be reviewed with it, I would be fairly
well off and would take everyone to dinner.

        Many inerts are really active, and
many of them need to be reviewed with it, but
they are not because of the way the inerts
policy is. So, until you change the inerts
policy, you have to stick with ferric
phosphate the way it is, I think, and you
can't just do a separate review of an inert in
one thing and not review the inerts that are
associated with many of the other things that
are already on the National List.

        So thank you.

        CHAIRPERSON MOYER: Thank you,
Zea.

    Any questions from Board members?
Katrina?

    MEMBER HEINZE: So I am trying to
understand that ferric phosphate situation a
little bit more. I will be honest, I don't
understand the inerts policy.

    MS. SONNEBAND: Okay.
MEMBER HEINZE: Could you elaborate on that last 30 seconds that you said?

MS. SONNEBAND: Yes. Ferric phosphate, as it originally was put on the list in 2005, was just ferric phosphate generic thing. In order to formulate a product that is going to work on slugs and snails -- i.e., Sluggo is the main one -- they put it with EDTA and other inert ingredients.

So the NOSB just put ferric phosphate on the list. OMRI or the certifiers look at the formulated package and decide whether or not it is okay.

Apparently, another product had the word "EDTA" in its name, which means they can't really call the EDTA inert; they have to call it active. So, then, that product had to be reviewed as though it was an active, and was turned down by the NOSB.

The petition to remove is because the -- I mean you can't tell who submitted the
petition because it is from a lawyer, but my
guess, just from reading the petition, it was
the competing product that got removed that
doesn't like it that the other one was on
there, and says that it should be removed
because of harmful effects on earthworms.

Well, the removal petition did not
present sufficient evidence of that. So, at
the very least, it would take a TAP review.
But, nonetheless, it is back to the old it's
an inert; it can't be looked at.

MEMBER HEINZE: So, if I am
understanding, because of the list for inerts
on the list, if they are present in a
formulation, they are not part of the review.
Is that the inerts policy?

MS. SONNEBAND: They would be part
of OMRI's review, but they would not be part
of the NOSB's review.

MEMBER HEINZE: Got it. Thanks.

MS. SONNEBAND: Now what that
cOMPANY should have done is a petition to
1 prohibit EDTA. That would be the proper form
2 for you to take it up in, because, then, it is
3 something that is a list for a synthetic, and
4 you could review it and specifically prohibit
5 something on List 4, if you wanted to, but not
6 the generic ferric phosphate just because it
7 is used with.

8 Other questions?
9
10 questions for Zea?
11
12 (No response.)
13
14 MS. SONNEBAND: Thank you.
15
16 CHAIRPERSON MOYER: Thank you,
17
18 Zea.
19
20 Peggy, if you can come to the
21 podium, and Bill Wolf on deck.
22
23 MS. MIARS: I am striving to win
24 the brevity award of the day.
25
26 CHAIRPERSON MOYER: Thank you.
27
28 MS. MIARS: Thank you for this
29 opportunity to provide comments on retail
30 certification. We did not submit comments in
advance. So you just got them handed to you.

CCOF certification services certifies about six retail establishments, ranging from a single store to a chain of about 275 stores.

We appreciate the hard work of the Compliance, Accreditation and Certification Committee, who have been working on this issue for over a year.

We believe the regulations sufficiently define the issue areas of commingling, contamination, and recordkeeping enough to apply them to retailers at this time.

The Committee did bring up the question of labeling, but we are not sure that these concerns are problematic or pervasive enough to warrant significant discussion by the organic community, as evidenced by the very few comments that were received on this topic.

Continued discussion will result
in multiple versions of a recommendation, public comment, handing it off to the NOP for further deliberation and implementation. And instead, we prefer that the NOP use its resources to survey the marketplace to ensure that there is not overt or misleading labeling.

Our written comments address how CCOF has dealt with the scenarios discussed by the Committee. I will let you read those on your own.

We fully support the actions of the Committee and will engage in any further discussion on retail certification, if the organic community warrants it. Our main concern at this time is that the Committee's suggested measures for retailers levy greater requirements on retailers than on certified growers or processors.

I am actually not discussing the other two issues that are up there.

The last thing I wanted to say is
that Miles or someone at USDA took the wind out of what I was going to say as my last comment. You have heard me say before that we would like to see the NOSB meet on the West Coast. As we heard earlier, that is going to happen in the spring. So thank you to whoever made that happen. We appreciate that.

The NOSB should be more accessible to certified operations, and this is one way to do so. CCFO will encourage our members to participate in the process to experience the full scope of how organic regulations are created and amended, and we will tell them to be very brief in their comments.

Thank you.

Did I win?

CHAIRPERSON MOYER: Thank you, Peggy. I believe you did.

Any questions for Peggy? I'm sorry, Bea.

MEMBER JAMES: Thank you for your comments.
Help me understand how, to communicate as a retailer to the consumer, the difference between a deli operation that is selling a salad with organic ingredients and calling it organic, and they are not certified, and a certified organic deli that is going to the trouble to go through all of the certification process following compliance, and also being able to call their salads certified, but they can say, "certified organic" instead of the deli that is not certified that can say, "organic salad".

MS. MIARS: Okay.

MEMBER JAMES: So my question is, from the consumer perspective, they don't really pay attention to the word "certified". They are just paying attention to the fact that it is being called out as organic.

So the deli that is going to the trouble to be certified is not getting any kind of extra competitive advantage next to another retail operation that is selling the
same thing and not certified.

    MS. MIARS: Well, in our comments

at the bottom of the page 1, I think we
address what you are talking about. So, a
multi-ingredient salad that is made in an
uncertified kitchen, we would not call
"organic".

    MEMBER JAMES: "We" as in?

    MS. MIARS: CCOF. Excuse me.

CCOF certification services would not call
that "organic salad".

    MEMBER JAMES: Right, but,
currently, the retailer that is not certified
in a deli or a bakery operation is allowed to
call those products "organic" even though they
are not certified. They just can't say,
"certified organic".

    MS. MIARS: Okay.

    MEMBER JAMES: So the issue that
we see as a potential disadvantage and
confusion is that there's mixed messages for
the consumer who might shop both locations.
MS. MIARS: I think that is an education of the consumer that the retailer needs to do, whether it is through their newsletters or through more clear signage. I think it is an education issue of consumers. I think that is what I would recommend doing.

MEMBER JAMES: So the retailer that is not certified should tell their consumers that they're not certified but they are selling an organic salad anyway? I just --

MS. MIARS: Yes, I see what you are saying.

MEMBER JAMES: Yes. I bring it up because I live in a State that has the highest population of natural food co-ops than any other state. So a lot of them are certified. Some of them are not. They are competing with larger other retailers that are certified in some departments and not in others, and there's this competing disadvantage.

And if we want to encourage
certification at retail, which we want to do --

MS. MIARS: Yes.

MEMBER JAMES: -- we want to make sure that the people that go to the trouble to be in compliance educate their staff and their consumers, put their OSPs in place, that they are getting a value from that, that they are getting an advantage to that, and that consumers are getting a fair message.

MS. MIARS: Yes, yes, I see your point, and we will continue to participate in that discussion. Thank you.

MEMBER JAMES: Thank you.

CHAIRPERSON MOYER: Thank you, Peggy.

Any other questions from members of the Board?

(No response.)

Hearing none, we appreciate your time.

As Bill makes his way to the
podium, I will mention that, as Board members, we are subject to the same organic biological processes as the plants and animals we are talking about. But, in an effort to remain -- I guess we are woefully behind schedule -- so we won't say that to remain on schedule, we will not take a scheduled break, but people can just leave, program and Board members just leave as you need to, hopefully, maintaining a quorum at the table. So we need nine, I believe, to have a quorum. So come and go as you need to, but we are going to keep moving.

Bill?

MR. WOLF: I will not try to compete with Peggy, but I will try to be brief.

First, I really want to thank this Board for all of the hard work and extraordinary number of issues you are grappling with, and all of the documents that were brought forward.

We have submitted written comment
on a number of issues, but today I would really like to go back to some of the roots of organic regulations around the issues of the National List.

I do have a few slides, very briefly, talking about those roots as really being in the soil, and the next slide really addresses some of the principles behind decisions about organic regulations.

That is that, from the beginning, we have thought in terms of what practices encourage biological systems, not static, mechanical systems, but biologically-active systems. The challenges have been, how do you quantify and regulate a philosophy based on that principle?

I think that the discussion of -- next slide, please -- the whole idea of continuous improvement has been captured very well in the regulations. There are a number of places where the regs really talk about having organic system plans that require
continuously-improving soil systems.

I see the regulations continuously improving as well. I am not going to try to go through those examples in the regs where it documents that type of improvement, not only in crop rotation or fertility, but I would like to talk in terms of encouraging the process now.

I have got a couple of broad requests to make that I don't think can all be addressed at this meeting. One is to challenge all of us to encourage innovation. To encourage innovation in the regulatory process, I suggest that we need to, one, have the program require that all commercial availability decisions be publicly available, meaning that those exceptions are available so that we can drive towards the development of those non-organic ingredients that are currently not available, so that we all know what is going on and how those decision are made. So it is completely transparent.
My second suggestion is that organic preference has to be applied to all ingredients on the National List. I applaud the Canadian reg from that point of view because that will push the system further.

As a part of that, I believe that it would be valuable to merge 605 and 606 as one list, and I believe that that is how OFPA was originally discussed and envisioned, and that this is a construct. In the construct that has been established in the rule, we spent a lot of time debating the ag/non-ag, synthetic/non-synthetic, especially around materials.

Those three broad recommendations I just would like to put in front of you. Some of them are captured to an extent in the evolving document that I would like to talk about next.

That is the National List clarification of materials. I think the working document that was posted is
extraordinary. It is real progress in clarifying and articulating the issues.

I think there are areas that have been addressed by some of the commenters today and in the posted comment that suggest some additional improvements. I think that there are one or two definitions we may be able to even drop out, and I am looking forward to the discussion tomorrow of hearing how the Board is viewing those.

But I am concerned about one thing, and that is that the definition of synthetic and the definition of chemical change was specifically intended to capture the precautionary principle and to have us have a vehicle for identifying any manmade synthesized compounds, and requiring that those compounds be reviewed for placement on the National List, so that it is a transparent process.

The challenge is that in today's society there are many, many materials that
touch synthetics and then are used in organic.

That is the nature of inputs in agriculture today.

I have worked in the field of all aspects of organic agriculture, including in a past life being an organic pesticide manufacturer. I've got to tell you that what goes on in the processing of fertilizers and pest controls, as an example, if you tighten that definition too tight, you won't have any inputs. That is one of the risks here, and we need to be conscious of that.

So I am suggesting, if you could identify a way to have that intent be in the document, you have passed.

Finally, I have articulated in my comments the CAS issues, and not requiring the CAS because there are broad categories like insecticidal soaps. That is my two comments there.

I want to honor Oliver the Earthworm at the organic garden at the USDA.
Thank you.

CHAIRPERSON MOYER: Thank you, Bill.

We have some questions here. Katrina and Joe.

MEMBER HEINZE: Thank you for your comments. I really appreciate them.

Your concern about the definition of synthetic and chemical change, does that mirror the concern that was brought up earlier that it could be misinterpreted to apply to products that apply to the final rule? Or is it a separate concern?

MR. WOLF: Well, my concern is that, if you look closely enough at any process for segregating a natural material used today in any quantity, you do have the potential of defining it or arguing that there is chemical change or contact with synthetic compounds.

If we become chemophobes over this issue, then we risk a radical narrowing of
options for organic production and processing, and we end up with a very convoluted process for a huge number of things being looked at on the National List that can't be handled.

MEMBER HEINZE: Can I ask a followup?

CHAIRPERSON MOYER: Please.

MEMBER HEINZE: So, specific to your concern, you would want us to add something to the definition that limits it to manmade synthesized compounds? Am I understanding that properly?

MR. WOLF: Yes.

MEMBER HEINZE: Okay.

MR. WOLF: And whether that is in the description of the intent as part of your document or whether you can actually incorporate it in the actual definition, you guys are much closer to how that would work.

MEMBER HEINZE: Thank you very much.

MR. WOLF: Yes.
CHAIRPERSON MOYER: The Chair recognizes Joe.

MEMBER SMILLIE: I appreciated your comments, Bill, especially the 605 and 606. I think that that's where I will personally want to head also because commercial availability was what drives innovation.

I just saw a recent article that talked about a new organic inulin that is going to be on the market, which is one of our 606 items. Julie and I are steadfast in that posting something on 606 drive innovation. I hope that the manufacturers back us up on that, like the new inulin project.

My question to you, on behalf of the certification community, is when you say you want transparency in the declaration of commercial availability decisions, do you mean that when we grant a 606 item for use, that we have examined, how we have examined or how we justified that they can use that as
conventional because there is no organic available? Is that what you are asking for?

MR. WOLF: No. What I am asking for is that there be a site on the NOP site where every material that has been determined not available in an organic form is listed, and it just says, "cert", and it lists the certifier that has made that decision. It doesn't have to go into a lot of details. Or the numbers of certifiers or some way to have it be publicly available, so that that will drive the research and development of options.

I don't know the detail; we need to work on whether it should be how many times that decision has been made or how many products or how many labels. But I am not looking for it to be by product or even how that decision was made, but have some availability of that information, so that anyone can look at it and say, "Whoa, I'm going to go out and make an organic inulin" because, in fact, there's 47 labels of
MEMBER SMILLIE: Okay, as long as we recognize the fact that it could be granted in one case and not in another, farm quality/quantity. Right?

MR. WOLF: Got it.

MEMBER SMILLIE: Okay.

CHAIRPERSON MOYER: Any other questions for Bill?

(No response.)

Thank you, Bill.

MR. WOLF: Thank you.

CHAIRPERSON MOYER: We appreciate your time.

Grace, if you could come to the podium, we would appreciate it, and Gwen Wyard is on deck.

MS. MARROQUIN: Hello. My name is Grace Marroquin. I am CEO and President of Marroquin Organic International, based in Santa Cruz, California. We have been importers and suppliers of organic ingredients
I have addressed this Board at almost every meeting since 2004, happily. Once again, I am here to talk about organic yeast.

I appreciate the comments of Oregon Tilth and Wolf, DiMatteo and Associates in support of reclassifying yeast on the National List as an agricultural product.

Yeast is a fungus, a living microorganism. Some may believe that fungi, such as yeast and mushrooms, are plants, but fungi are not plants. Now here is the definition of livestock in the Organic Foods Production Act. I am sorry for those people, I know you know this already, but this is for the record. I quote:

"The term livestock means any cattle, sheep, goats, swine, poultry, equine animals used for food or in the production of food, fish used for foods, wild or domestic game, or other non-plant life."
Other non-plant life means living microorganisms such as yeast. The NOP final rule has the same definition of livestock.

Now here is the OFPA definition of agricultural product, and I quote:

"The term agricultural product means any agricultural commodity or product, whether raw or processed, including any commodity or product derived from livestock that is marketed in the United States for human or livestock consumption." End of quote.

These definitions make it clear that under OFPA yeast is livestock, and the products of yeast are agricultural products. However, there is confusion, understandably so, because the National List has yeast listed on Section 205.605(a) as a non-agricultural substance.

The National List is only one part of the final rule. The National List may not make a listing that would conflict with these
1 definitions.
2 The listing of yeast as non-
3 agricultural was a mistake. The National List
4 needs to be amended so that yeast is corrected
5 as an agricultural product and put onto
6 205.606.
7 The Joint Committee recommendation
8 is written as though this definition does not
9 exist in OFPA. At the Board meeting in 2006,
10 the Joint Handling and Materials Committee
11 recommended unanimously, 8-to-0 -- 8-to-0 --
12 to move yeast and dairy cultures to 205.606.
13 The decision was based on OFPA.
14 The Board heard public comment
15 warning that, if yeast was recognized as
16 agricultural, this would require yeast and
17 dairy feed to be organic. The Board said it
18 wanted to review this before it acted,
19 understandably so.
20 This stopped all of the momentum
21 on the Joint Committee to move it to 606.
22 Three years later, the Joint Committee present
recommendation does not offer a solution, just a proposal for further study.

We recognize that putting yeast on 606 could be a problem for the dairy feed. When the NOP wrote the existing standards for 205.237(a), it did not anticipate that microorganisms used in feed would someday be recognized as agricultural products. Now that day is here, and an amendment is needed to 205.237(a).

This amendment should allow non-organic yeast and microorganisms to continue to be used as additives and supplements until organic versions are available.

I know that there are some that fear that any change to the feed standard would give the perception of a weakening of the standard. This amendment would not weaken any existing standard. It would simply allow non-organic microorganisms to continue as supplements, as they presently are now, until there are organic versions available.
I would like to conclude with a few more points. As long as yeast remains listed on 205.605(a), processors are free to use conventional yeast and are not required to seek out organic yeast.

I need to remind you, and it is really important, that presently the reason the Europeans developed organic yeast was because conventional yeast is manufactured using synthetic chemicals, such as ammonia, sulfuric acid, caustic soda lye, synthetic vitamins, synthetic anti-foaming agents. None of these are allowed in organic production; yet, they are being used this way.

The wastewater, you have to have special licenses to treat it. In the organic yeast, the wastewater is used for further organic production, and the substrate is 100 percent organic grains.

I am here on behalf of an organic ingredient, trying to get it recognized. My business and the entire industry grew because
of organic preference. I say viva organic preference.

(Laughter.)

Somebody has some question?

CHAIRPERSON MOYER: The Chair recognizes Joe.

MEMBER SMILLIE: Grace, I guess I will be retired when you come to your next couple of meetings.

(Laughter.)

But you know I am an advocate. I truly believe that yeast is an agricultural substance. I truly believe it can be certified, and I think we can create an OSP or organic compliance plan that will fit.

I think our recommendation, even though it doesn't wholeheartedly endorse what you want, is another, I hate to say it, but another step toward the final liberation of organic yeast.

What is your situation vis-a-vis the petition process, though? At one point in
1 time, you petitioned it.

2 MS. MARROQUIN: The petition is

3 back in. It has been in.

4 MEMBER SMILLIE: Oh.

5 MS. MARROQUIN: It is there. It

6 is in.

7 MEMBER SMILLIE: Do we know about

8 this?

9 MS. MARROQUIN: We mentioned this

10 last time, that it was pulled temporarily --

11 MEMBER SMILLIE: Right.

12 MS. MARROQUIN: -- and put back.

13 It was put back in. We never pulled it --

14 MEMBER SMILLIE: When?

15 MS. MARROQUIN: We never -- that

16 was, what? Dick, do you remember?

17 We pulled it when we thought a

18 vote was going to go down that was really

19 going to shelf this whole thing.

20 MEMBER SMILLIE: Right.

21 MS. MARROQUIN: So we pulled it

22 out temporarily. We just pulled it and put it
back.

CHAIRPERSON MOYER: Right, that's what happened.

The Chair recognizes Katrina.

MEMBER HEINZE: We are looking forward to having it back.

To elaborate on what Joe said, as we went through the classification of materials and we talked about these nebulous things I am going to call biological stuff, for lack of better terms right now, what we realized is there is a lot of different sources, and we talked a lot about yeast.

So there is clearly yeast that we all think can be certified organic and classified as agricultural, but there are production methods that we are not comfortable classifying as agricultural.

To be honest, we lack the technical depth to be able to categorically make a decision. So what we want is a petition that will help us do that. Because
we do believe that your yeast is certified organic, and we want to make that decision. We need help with the technical, though. So a petition would help us with that.

MS. MARROQUIN: So you are talking about submitting another petition?

MEMBER HEINZE: Well, we don't have your petition right now.

MS. MARROQUIN: Where did it go?

MEMBER HEINZE: Because you pulled it.

MS. MARROQUIN: But we put it back on the table.

MS. FRANCES: Pause. It is available to the Committee. It hasn't gone anywhere. It is a document.

MEMBER HEINZE: We can't take action on it.

CHAIRPERSON MOYER: We can't take action until it's --

MS. FRANCES: They withdrew it.

VICE CHAIRPERSON GIACOMINI: It
has not been resubmitted to this Board for action from the program.

CHAIRPERSON MOYER: Or from the petitioner, because the petitioner pulled it from the table.

MS. FRANCES: I have always understood it that it was just within the Handling Committee and they just were not dealing with it until this was resolved.

VICE CHAIRPERSON GIACOMINI: It has never been resubmitted to this Board by the program.

MS. FRANCES: It is available to everyone. It is not like it went anywhere.

MS. MARROQUIN: Exactly.

CHAIRPERSON MOYER: But, technically, the petitioner had pulled it, and only the petitioner can put it back into our table.

MS. FRANCES: And they did.

MS. MARROQUIN: And we did.

CHAIRPERSON MOYER: It wasn't
notified; I don't know anything about it.

MS. FRANCES: It occurred at this meeting.

VICE CHAIRPERSON GIACOMINI: We receive petitions through the program, not from petitioners. It was never resubmitted to us from the program.

CHAIRPERSON MOYER: The Chair recognizes Dan. You had a comment, Dan?

VICE CHAIRPERSON GIACOMINI: Yes, I would like to actually not talk about yeast for a minute because I think I am really excited about the recommendation that you, what you are proposing in amending 237.

The way 237 -- I was just trying to find it through OFPA -- the way 237 is written is actually a slight deviation from the way it was originally written in OFPA. I believe OFPA is a far more correct and reasonable writing.

The problem is OFPA has subtlety and gray areas. Unfortunately, there are so
many times in this industry where we don't want subtleties and gray areas. We want black and white, period. If you don't give me black and white, I don't know how to do anything. I don't even know how to do anything besides the gray. It all becomes gray.

I would really like us to sit down and see if there is a way that we can figure out how to craft that language that would be acceptable to the program, that would stay within OFPA. Because, quite frankly, there are a lot of issues that are involved in this, including other issues, things that will be moved around in the classification of material document, recommendation, that we are working on that could face some problems.

I think this is an area that we need to look at. Unfortunately, it is subtleties, and they are not always welcome.

MS. MARROQUIN: Thank you for saying that.

CHAIRPERSON MOYER: The Chair
recognizes Katrina.

MEMBER HEINZE: No questions.

CHAIRPERSON MOYER: Okay. Then

Tracy.

MEMBER MIEDEMA: This is, Grace, to you and also to Dan. I think we have to wrap our heads around the irony of the fact that the only way we can give preference for organic yeast would be to allow non-organic yeast as a feed additive with some commercial availability stipulation.

I think it is hard for us to wrap our head around the irony of that and to take the risk of how that looks in the media, but it's --

MS. MARROQUIN: But you already allow it.

MEMBER MIEDEMA: Pardon me?

MS. MARROQUIN: It's already allowed, non-organic yeast.

MEMBER MIEDEMA: Exactly. So, therein lies the irony.
MS. MARROQUIN: Yes. Yes. I have to mention that the EU, as of January -- I mean, as we are having these equivalency talks, you have to bear in mind, January 2010, the EU recognizes yeast as organic. They have given the industry four years by saying, in 2014, organic yeast is going to be required in feed and in food. The only thing left on the table in discussions right now is the Holy Grail itself, yeast for beer and wine. But, otherwise, it is going to be required in feed.

You can be sure, absolutely positive, that all those yeast companies, all the major ones are over in Europe, are all working and developing this already. I mean it is already being done for this purpose.

I just want to back up what Bill brought up, which is this industry has grown, and the innovation that has taken place is because of commercial availability, because of organic preference.

So I just say one more time, viva
organic preference.

CHAIRPERSON MOYER: Okay. Any other questions for Grace?
(No response.)

Thank you, Grace.

Gwen, if you could come to the podium, we would appreciate it, and John Ashby is on deck.

MS. WYARD: Okay. Well, good afternoon. I made it to the after-5:00 club. Where is the happy hour? Viva la beer.

My name is Gwendolyn Wyard. I am the Processing Program Technical Specialist for Oregon Tilth.

We are a nonprofit dedicated to promoting biologically-sound agriculture. We accomplish this through research, education, advocacy, and certification of products. I am here representing over 700 members and 1200 certified operators.

You have our comments in writing.

We submitted over 20 pages. I am going to be
summarizing portions of the comments on the clarification of materials, retailer certification, and personal body care standards, if I have time.

We are generally in favor of the recommendation for the clarification of materials. I came to this Board five years ago, in October of 2004, requesting clarification of the definitions of agricultural and non-agricultural. So I am pleased to be standing here today, and I am pleased to say that I really think the recommendation is good. I think some of the minor points that need to be worked out could very well be worked out in the guidance document that are mentioned in the next steps.

I think the recommendation does lay a good foundation for us to move forward. So we would like to see several portions of this recommendation passed at this meeting.

We fully support the first two guiding principles; namely, that the
classification of a material is determined by both source and process, and the same material can be agricultural, non-synthetic, and synthetic.

We are assuming that the first two guiding principles extend to the third guiding principle, but we would like to see the recommendations specifically address whether an organically-sourced material that undergoes chemical changes during processing or as a function of materials that are allowed on the National List could be organic, if produced in accordance with the regulations. We think the answer is yes, and we think that that has been communicated by past Boards, dating all the way back to the mid-nineties. But it is important that it is clarified.

Hot-topic examples of this situation include bleached, de-oiled lecithin in dry form, soy protein isolate, glycerin soap, and products of corn wet milling.

We want to note that, with the
third guiding principle, if something is sourced from agricultural material, and it is rendered synthetic via a chemical change, we need to take a look at the bleached soy lecithin, the bleached de-oiled soy lecithin that has been recommended for 606. Because if you ask that question first, it needs to stay on 605(b). You are putting it over onto 606 to encourage organic production.

So, with that third guiding principle, you are going to inhibit the production of organic ingredients that could be organic. So that is something that needs to be dealt with.

In terms of NOSB practices, we think they are great. We support the recommendation. We do have some concerns about the increased use of the annotations. They create a lot of work for certifiers, not that we are not up for it, but at the end of the day we don't have authority over these non-organic ingredient manufacturers,
1 regulating enforcement.
2
3 We receive usually a statement or
4 an affidavit of some sort saying these are the
5 practices we have or haven't used. So we do
6 have some concerns. We see that they are
7 necessary, but we would like to see them be
8 used as a last-resort stop, if and when they
9 are absolutely necessary.
10
11 We support all of the related
12 definitions proposed in the recommendation to
13 clarify the definition of synthetic. Okay?
14 All of those are fantastic.
15
16 We do not, unfortunately, support
17 the proposed definition of non-agricultural,
18 primarily because it makes reference to an
19 agricultural system which is not defined. It
20 also contradict's the Committee's proposed
21 third guiding principle as it would relate to
22 handling materials.
23
24 There might be a slight
25 misunderstanding on our behalf as far as the
26 contradiction that I am going to talk about.
Jessica Walden, she may have addressed it in amending the heading of 605. But if you classify something as synthetic and you put it under 605, now you have just classified it as non-agricultural, and your definition of non-agricultural states that it is a product that has not derived from an agricultural system. So it is contradicting itself.

And as far as the definition of agricultural system, I believe you pull the definition that was suggested by the Materials Working Group. Only with that definition, the Materials Working Group offered up a couple of definitions to choose from with respect to agricultural system.

So we agree with the minority, too, that without a definition of an agricultural system, non-agricultural has not been fully defined, and the true issue of what qualifies to be organic has not been addressed.

We support the removal of or the
deletion of "or bacterial culture". We recognize that microorganisms can be certified organic. We support their classification as agricultural.

And if you have any questions as far as how they could be certified or any questions about personal body care standards or retailer certification, I would be happy to answer those at this time. Thank you.

Katrina?

MEMBER HEINZE: Thank you for your comments.

Does your concern about the definition of non-agricultural and some of the conflicts go away if we just eliminate that definition?

MS. WYARD: If you eliminate the definition of non-agricultural, then, as certifiers, we are going to be in a tough spot when we have to evaluate made-with products because we do need criteria for differentiating between agricultural and non-
agricultural because, in that 30 percent, non-
agricultural will have to be on the list.

    MEMBER HEINZE: Does that go away

if not ag is really not classified as ag?

    MS. WYARD: If non-ag is not
classified as ag? You mean if you just simply
call it synthetic and remove distinction as --

    MEMBER HEINZE: So maybe,
actually, hold that thought, and after we talk
through the recommendation tomorrow --

    MS. WYARD: Yes.

    MEMBER HEINZE: -- if you like
that, maybe you could let us know.

    MS. WYARD: Sure.

    MEMBER HEINZE: Okay.

    MS. WYARD: Tomorrow. We will get
back to you on that.

    (Laughter.)

    CHAIRPERSON MOYER: Any other
questions or comments from Board members? I'm
sorry, Bea.

    MEMBER JAMES: Well, I have to
thank you for your great comment on the retail recommendation because you really were thorough. I appreciate everything that you had in your comments.

The one question I have for you is, how do we educate non-certified deli and bakery departments that are selling their products as organic because they know that they can? You know, as you mentioned, they are exempt. So they can sell these products as an organic even though they are not certified.

You also made comment that, you know, if the world of retail was truly educated, a lot of this would be happening a lot more.

But what I see happening is the advantage of a store knowing how to certify one department brings them the knowledge to know how to market organic or not market it in other departments. So, then, that is the proliferation of a lot of incorrect marketing.
of the organic term on products that may not
be fully organic or coming from a non-
certified department.

So how do we get to that point
where we can be more clear for the consumer?

MS. WYARD: I don't know; maybe
the program wants to send out an announcement
to all exempt and excluded operations
reminding them that they are exempt and
excluded from certification, but not from
following the Act and the regulations.

So these retailers should be
following the regulations. That was our
comment: that if they were, if they really
understood that, then they are just a stone's
throw from certification, and they would want
to get certified because they would be better
educated and they would be able to market to
their consumers that extra layer that they go
through.

But I think, once retailers
recognize and really, truly understand that
they are just exempt and excluded from certification, and if there were to be some enforcement, going in and doing surprise inspections for retailers that are making organic claims and aren't certified, that might get at the problem. That is an idea.

MEMBER SMILLIE: And that civil penalty would serve notice to the retailer community.

MEMBER JAMES: But, currently, I mean a deli department doesn't have to be certified to call their salad "organic". They just can't call it "certified organic".

MS. WYARD: No, they don't have to be certified to call it "organic", but they need to have records to support the use of all those ingredients going into it, not only the certification, but the quantities used. They need to be able to demonstrate the commingling and contamination preventions that were used, and la-de-da-de-da --

MEMBER JAMES: Right.
MS. WYARD: -- and the recordkeeping. All of the requirements that certifieds are held to, they are, too.

MEMBER JAMES: And how many retailers do you think are actually doing that?

MS. WYARD: I get the feeling that, well, shoot, by numbers, I think some do a very good job at it, but I also hear retailers say, "Well, we don't really want to get certified because we don't want to have to do all that recordkeeping."

MEMBER JAMES: Yes. And I don't want to take up any more time because I know there is a dinner appointment. But I would like to talk to you, maybe outside of this, about your ideas on the deli and the bakeries with the three tiers, 100 percent, 95 percent, and 70 percent. I have questions about that.

MS. WYARD: Yes. Yes, I would love to. I have put together several presentations for retailers on how they can go
about marketing and labeling their products.

It is an area I really enjoy. So I would be happy to.

CHAIRPERSON MOYER: Thank you.

MS. WYARD: Thank you very much.

Thank you so much for all your work.

CHAIRPERSON MOYER: You bring up some excellent points that we need to address, and I appreciate it.

Next will be John Ashby, and Alexis Baden-Mayer is on deck.

MR. ASHBY: Hi. I'm John Ashby, General Manager of California Natural Products.

I am really rather scared because I am fully aware I am one of the very few left standing between everybody and their first beer. So I am going to try to be brief.

I want to comment, actually, on three separate things. One is on nanotechnology. It is a lot of scary stuff that shouldn't be in regular food, much less
shouldn't be in organic food. However, you have got to be real careful what definition you decide to apply.

The definition in the proposal is you just change a few words around, substitute "homogenization" for a couple of words in the definition. If I were lecturing at a food product development class at UC Davis, where I talk a lot, you would get a "B". It is that close to homogenization.

So you are really putting homogenization at risk. And it is not just me saying this. I think it was two months ago, an article in Institute of Food Technology magazine, they talk about how homogenization and fine milling results in nanoparticle formation.

So you have got to be careful that you are not throwing out dairy's ability to homogenize things with the definition. The definition as it stands, as I say, I would give a student a "B" if we just substitute a
a couple of words. It is close enough to homogenization. Very, very risky.

I am not particularly happy with the minority position, either. I think we need to put a lot more care into the definition of the term.

Regarding boiler chemicals, boy, do we use a lot of boiler steam. We not only don't use any of the volatile means, but when I was talking with my plant engineer about it, it looked like he had migraine, the way he grabbed his head, he dislikes it so much.

However, the fact that I don't need to use them doesn't mean that a lot of people don't need them. Whereas some people are able to get away without them, a lot, particularly in the jarring and canning, when you are putting on some kind of a lid, some kind of a hot pack, it is used, and there aren't a lot of substitutes.

I am afraid you are going to really just be kicking a lot of people out of
the program, and a lot of potential people who are maybe looking at putting some organic products into the processing facility. They go to go the engineer, and they say, "We've got to take this out." You will run it, and that will just be the end of it.

So, basically, I am just concurring with pretty much everything Kim said, except adding a little more to it. I think there are a lot of people that are going to have trouble with this. I think it is going to deter a lot of people in the future.

We don't have enough technology that everybody can just easily get around this right now. We just don't have it.

And third, I am going to add the thought that the bifenthrin compost problem in California is a bigger deal. Because I talked to one of the environmental scientists who has been working on this before we found it -- and I'm on the COPAC Committee in California -- before we found it in the wheatgrass. It is
starting to show up everywhere. It is in water. It is in dirt, everywhere.

If you end up with a really, really restrictive definition on the compost, you could end up wiping out everything fast. So I would just encourage some attention to moving in that direction.

None of us want to see this stuff there. The problem is it is like DDT; it is there now. So how do we deal with it?

Any questions? Any answers?

CHAIRPERSON MOYER: Any questions for John? Steve?

MEMBER DeMURI: Yes. Thanks for your comments, John.

Has your company ever used any of those three boiler chemicals?

MR. ASHBY: Gosh, you know, we have been making organic stuff since before the California rule. My history doesn't go back that far.

This plant engineer hates them.
We are so specific about it that we have a process that requires roughly 10 people to approve changing anything.

In fact, today, via an email, I had to approve the use of a chemical in a piece of equipment that doesn't touch food ever. That is how rigid we are about it at this time.

To my knowledge, no, but I have only worked there for six years. So I don't have any skin in the game other than the rest of the organic industry. That is my concern here.

CHAIRPERSON MOYER: Any other questions? Dan?

VICE CHAIRPERSON GIACOMINI: Yes.

Hi, John.

I forget where he was from, the scientist this morning. Were you here then?

MR. ASHBY: Yes. Yes.

VICE CHAIRPERSON GIACOMINI: He talked about including terminology of
"engineered" into the definition of nanotech. I mean this is very close to NNI and the Canadian regs.

MR. ASHBY: And I think they are both huge mistakes --

VICE CHAIRPERSON GIACOMINI: Okay.

MR. ASHBY: -- and going to lead to problems.

I spoke with him about it afterwards. I don't want to be putting words into his mouth, but -- how to put this gently? -- he was not disagreeing with me that the definition needs to be changed.

Maybe I can help by giving you like what I would think would be the "A" answer in a food product development class about homogenization.

Homogenization would be using technology to intentionally reduce the particle size, yes, down into the nano range, so that the product behaves differently than it did before homogenization. That is real,
real close to what is in that definition.

VICE CHAIRPERSON GIACOMINI:

Almost.

MR. ASHBY: Pardon me?

VICE CHAIRPERSON GIACOMINI:

Close. Yes, close.

MR. ASHBY: Yes, that is really, really, very, very close. In fact, the article talks about how you create some freaky stuff, freaky nano-scale stuff, by homogenization.

VICE CHAIRPERSON GIACOMINI: Could you give us, even just on a piece of paper, possibly your recommended improvement for this?

MR. ASHBY: I will make an offer to do that. I am not sure there is a simple solution to it because it is more complicated. You know, once you have heard the definition of what homogenization -- it is intentional; the size happens.

VICE CHAIRPERSON GIACOMINI:
Control of the small size is --

MR. ASHBY: Oh, the whole purpose of homogenizing is to control the small size.

VICE CHAIRPERSON GIACOMINI: Right.

MR. ASHBY: I mean that is the whole purpose of it.

VICE CHAIRPERSON GIACOMINI: But the inadvertent things that are created are the small size, though, not --

MR. ASHBY: No. No. You are purposefully creating small sizes when you homogenize because the particles react differently in the liquid.

VICE CHAIRPERSON GIACOMINI: But the maximum amount that you are trying -- the maximum size you are trying to reach is not a nanoparticle.

MR. ASHBY: That is not always true, no. No, it is not. Sometimes you do -- and remember, when you are homogenizing, you are not creating one size of a particle.
VICE CHAIRPERSON GIACOMINI:

Correct.

MR. ASHBY: You are creating a bell-shaped curve.

VICE CHAIRPERSON GIACOMINI:

Right.

MR. ASHBY: And you've got plenty of nanoparticles. In fact, in the first few microseconds, after the first stage of homogenization, you have got a whole bunch of little nanoparticles. Then some of them recoalesce. That is why most really precise homogenization systems do it again, so it blasts those things apart again. You've got lots of really little particles, and you've got nanoparticles remaining.

CHAIRPERSON MOYER: Are there any other questions from the Board for John?

MR. ASHBY: I will try to do something. I'm not --

CHAIRPERSON MOYER: Rigo?

MEMBER DELGADO: I have a
technical question. When you are trying to
reduce the size of those molecules or
particles --

MR. ASHBY: Particles.

MEMBER DELGADO: -- you are trying
to change some of the behavior of that milk or
that product.

MR. ASHBY: Whatever it is, yes.

MEMBER DELGADO: What if you keep
decreasing the size of those? Would it
eventually turn into something completely
different that you did not expect?

I am going back to what you said,
the intent of --

MR. ASHBY: Okay.

MEMBER DELGADO: -- bringing down
the size of those particles.

MR. ASHBY: Eventually, yes, and
especially as we are learning more about
nanoparticles, we are getting more and more
surprised by what happens when you make some
of these things small.
But what you are really doing in a traditional milk homogenization, which is not the only way homogenization is used in foods right now, but what you are really trying to do is what -- what was his name? -- Michael this morning talked about. Remember the things? It is theoretically nanotechnology manipulation.

You are trying to manipulate the surface area relative to the volume. Because when you change the surface area relative to the volume, the charges on the surface become stronger than the charges inside the big particle that causes it to break apart, and the cream flows to the surface. That is the simplest way to describe it.

So the scientific answer to your question is, yes, you keep going smaller; you get all sorts of different responses. There are limits to standard homogenization equipment and processes. It is hard to average one nanometer coming out, but there
are homogenizers that can get it down there, not in the quantity that you can run milk, and they are very difficult to run, but there are homogenizers that can do that.

CHAIRPERSON MOYER: The Chair recognizes Dan.

VICE CHAIRPERSON GIACOMINI: Here again, if we were to allow, within the definition of nanotechnology, specifically state that nano-sized particles created from process allowed in organic production are not included, would that --

MR. ASHBY: I am going to give you this because --

VICE CHAIRPERSON GIACOMINI: Okay.

MR. ASHBY: -- that is how they create some of these freaky particles, too.

VICE CHAIRPERSON GIACOMINI: Okay.

MR. ASHBY: That is why I am having trouble thinking I can -- I can't think I can come up with an easy solution. I will try to help you in thinking it through.
VICE CHAIRPERSON GIACOMINI: I mean I've got this here, and it is dealing with the all other really high-end stuff.

MR. ASHBY: Right.

VICE CHAIRPERSON GIACOMINI: This is the freaky stuff we are trying to make sure that we deal with.

MR. ASHBY: Exactly. You know, that brings us closer, but then it does allow, it will allow some freaky things.

Some of these really small particles that you create through homogenizing do go across cell walls in weird ways. So it doesn't completely solve the problem, but it better solves it, yes.

CHAIRPERSON MOYER: The Chair recognizes Kevin.

MEMBER ENGELBERT: What size does the homogenization take most of these nanoparticles down to, and is there any other techniques besides homogenization that concern you with this recommendation?
We heard earlier 300 nanometers and lower.

MR. ASHBY: Right.

MEMBER ENGELBERT: Where does milk fall? Homogenization of milk?

MR. ASHBY: On average, much bigger than that, but it is picking up a big end of the tail in that, in the distribution of size; there is a significant number of particles in the nano range.

MEMBER ENGELBERT: There are?

MR. ASHBY: Yes. Depending on how you define it.

CHAIRPERSON MOYER: The Chair recognizes Rigo. You had another question?

MEMBER DELGADO: Well, I was just thinking. Are you still talking about milk at that level, below the 300 nanos, or not?

MR. ASHBY: The homogenization creates a distribution of particle sizes.

MEMBER DELGADO: Okay.

MR. ASHBY: And so, yes,
MEMBER DELGADO: So we are not talking about a completely different product, are we? Or if it changes its properties, you can probably identify those to a certain extent, correct?

MR. ASHBY: Well, you see, as a scientist --

MEMBER DELGADO: I am not getting oil out of this or gasoline or something like that?

MR. ASHBY: As a scientist, I am looking at what the definition of homogenization is relative to how we are trying to define nanotechnology. You are meeting all the criteria of this definition. You are purposefully applying a technology in order to control the particle size, in order that the product acts differently than it does if you don't apply that technology. It is not causing quantum effects, which is one of the freaky things that happens
with some of these particles. They become waves instead of particles, act like waves instead of particles. You are not doing that, that I know of. But, yes, it is acting differently.

CHAIRPERSON MOYER: John, are you going to be around tomorrow?

MR. ASHBY: Yes, I am.

CHAIRPERSON MOYER: Okay. Maybe what we can do is bring John or at least be available to come to the podium for some questions when we discuss this tomorrow in greater detail.

MR. ASHBY: I will let you pick my brain to whatever degree there is anything left to pick.

CHAIRPERSON MOYER: We appreciate that greatly.

MR. ASHBY: Thank you.

CHAIRPERSON MOYER: Thank you.

Okay, Alexis Baden-Mayer, and Steve Frogget on deck.
MS. BADEN-MAYER: Hello. Thank you for allowing me to present testimony today.

I am Alexis Baden-Mayer. I represent the Organic Consumers Association. Nearly 25,000 of our members have sent comments on the issues that are before you this week. Two thousand of those people personalized their letters. So I will try to summarize for you the points that they raised.

Our members strongly support the recommendation for solving the problem of mislabeled organic personal care products. We know it isn't easy to regulate the organic industry. It has grown very fast, and the resources for enforcement have not been adequate.

There have been some tough choices made about where to focus the program's efforts, but if USDA organic certification is going to be meaningful to consumers, it is important to get ahead of the growth in new
sectors and make sure that the law is enforced.

As a consumer, it is still very difficult to make the commitment to buy organic. You have to go out of your way to find organic products. There is less selection, and you have to pay more often.

Consumers who go to the trouble of buying organic are going to be very angry and disillusioned if they find that something they thought was organic isn't actually organic. It doesn't really matter what that product, shampoo or dog food or produce.

Our members' comments described the way they felt about this. They described mislabeled organic personal care as fraud, false advertising, and grand larceny. Many of our members were particularly annoyed by non-certified brands that put "organic" into their name.

So the Committee recommendation is a very simple and elegant way of addressing
this problem. It is not necessary to decide here what the standards ideally for personal care should be, but it is essential that the USDA announce that this is one of their sectors that they are regulating and that they will enforce the law in this category. That is what the recommendation proposes.

On the subject of animal welfare standards, our members strongly support this recommendation for the humane treatment of animals. Our members raise moral and ethical reasons, food safety, and food quality reasons, and also environmental reasons for improving animal welfare.

Our members commonly say that they buy organic for their own health as well as the health of the planet. So, as consumers become more aware of the environmental impact of confinement animal farming, they are looking for alternatives.

Pastures and restorative grazing techniques have great potential to build soil,
reverse erosion, improve water quality, and
sequester global greenhouse gas emissions.
But we can't assume that the industry is going
to take the high road here without explicit
guidance.

The joke in the organic movement
used to be the idea of the organic Twinkie.
We are getting really close to that. Today,
listening to comments, I started to get
concerned about organic Kentucky Fried
Chicken.

Will the organic industry evolve
to produce animal products on the same scale
and in the same manner of modern industrial
dairy, egg, and meat production? We need to
have environmental and animal welfare measures
in place to ensure that organic offers a true
alternative.

Adopting this animal welfare
recommendation is an important first step to
upholding organic as the ethical and
environmental gold standard.
You have heard some really good feedback on the recommendation today. If you all were to adopt the recommendation as is, I am confident that that feedback could be incorporated through the regulatory process.

On the subject of nanotechnology, the Organic Consumers Association strongly supports the recommendation to keep nanotech out of organic. The organic standards have become for many consumers the regulation of last resort. In the absence of precautionary investigations into the safety of new technologies, and in the absence of labeling that would inform consumers of the presence of these new, untested technologies, consumers rely on organic certification.

Consumers don't want to be guinea pigs. They want to have a choice. And right now, the only place they are finding it is in organic.

As one of our members wrote, "I think in 100 years humanity will look back at
today's rampant use of chemicals, genetic engineering, and nanotechnology in the food industry and wonder how we could have ever been so shortsighted. One of the few safe havens people have for these unsafe methods is in choosing organic foods." End quote.

So we are also very much opposed to the idea of deregulating genetically-modified vaccines.

To respond to the question that was given earlier about what to do in a disease outbreak, in a disease outbreak, if the only way you can handle it is through a vaccine, then farmers are going to save their animals and they are going to give those animals the vaccines. At that point, it won't be organic if that vaccine hasn't been approved for use. But that is the same situation that farmers are in with antibiotics. We are looking at public safety and the health of one's animals, and I just can't imagine a farmer not making the choice
to use that necessary vaccine, even if it were not approved in organic use and it meant not be certified for those animals.

CHAIRPERSON MOYER: Thank you, Alexis.

Joe and then Hue.

MEMBER SMILLIE: Thanks for bringing up the personal care issue. Since Miles has been valiant enough to stick to the end, and since he seems to be the last person standing to represent the program -- I would like to ask the program what their current take on the personal care issue is. Not whether they believe it should be part of the regulation, but in this age of enforcement, what the program intends to do about all the products out there labeled "organic" that are on natural food store shelves and everywhere else.

MR. McEVOY: Yes, I think it is a very important issue. It is important to protect the organic label. It is a very
complex issue, and it has some jurisdictional
issues that we need to work out.

It is something that I have not
had time to study over the last month. So it
is something that we need to look into. It is
not on the top 10 in terms of our priority
list, but it is certainly really important.
We will certainly get around to addressing it
sometime. After we hire 15 more people,
right, exactly.

(Laughter.)

CHAIRPERSON MOYER: I think we are
working, Joe, to move it up on their priority
list.

Hue?

MEMBER KARREMAN: Thank you,
Alexis, for the first broad blessing of the
animal welfare document that we have
submitted.

(Laughter.)

It will go under some revision;
that's for sure. But thank you for that.
And actually, also, thank you for saying that about the vaccines, as far as what you would do in an emergency, because that is the correct answer; you win.

Someone ducked it earlier. You have to do what is right for the animals, regardless if they retain their organic certification. So thank you.

CHAIRPERSON MOYER: Than you, Hue. Thank you, Alexis.

Any other questions from the Board?

(No response.) Thank you.

MS. BADEN-MAYER: Thank you.
CHAIRPERSON MOYER: We appreciate your time.

Steve Froggett to the podium, if you would, and Jaydee Hanson on deck.

MS. FRANCES: Can I comment?

Steve Froggett had to leave. He is with the Foreign Ag Service. He will come back
tomorrow and listen to your presentation, but he wanted to give comment from the Foreign Ag Service's point of view, along with Codex. He will submit them electronically, and I will get them to you. We will post them later.

CHAIRPERSON MOYER: Thank you, Valerie. We appreciate that.

Jaydee Hanson? Diana Kaye? Oh, I'm sorry, I didn't see you. Diana Kaye will be on deck.

MR. HANSON: Good evening. I recognize that I am standing between people and beer, and I will not prolong my comments. You have our written comments. Let me also note that you are going to save some time because I am also representing my colleague, George Kimbrell. George is having to deal with a legal matter and can't be here. So I am representing both he and I.

I want to say that the Center for Food Safety and the International Center for
Technology Assessment both have worked on the issue of nanotechnology for some time. The International Center for Technology Assessment is dedicated to providing the public with full assessments and analyses of technological impacts on society. However, and this is where I think the organic program comes in, even the best risk assessments cannot deal with unanticipated consequences.

I think one of the reasons that consumers do go to organic is because they are worried about the unanticipated consequences of some of the ways we have of producing food. So I want to say we applaud the majority that says that nanotechnology is not one of those technologies that should be in organic. We could go on that longer, but you have got our comments, and we appreciate where the majority is.

We think the Committee definition should be changed a little bit because there
are a number of chemicals that change their properties at a size higher than 100 nanometers. I have challenged Mike Roco on this at the National Science Foundation. He heads the National Nanotechnology Initiative.

I said, "Mike, your statement of 100 nanometers is the least scientific statement the National Science Foundation makes."

This is a faith-based statement, not a science-based statement. You believe that magically chemicals change at 100 nanometers. Well, they don't.

Some chemicals are below that, are well below that before they get the properties you are looking for for nano. A number are well above that.

One that is already used in food products as coloring, titanium dioxide, in the 200- and 300-nanometer range, it gets new properties, not down at 100.

So, if you want a science-based
definition that includes 99 percent of what is nano, I would kick it up to 300. The UK Soil Association has 200. I believe the Canadians have 200.

Let me, because you have all the other things there, let me raise the question of the minority report. I think it is very dangerous to believe all the hype there is out there in nano. There's two reasons why it is dangerous.

One, there are claims of nano that aren't nano. I mean people using it as a marketing tool. So that is their problem. If you decide nano can't be in organic, then they are out of that market right away.

There's an agricultural economist, though -- excuse me -- agricultural ethicist that is going around talking to food safety people and food technologists and saying, "Learn from the GMO people. Just don't tell them it's got nano in it."

If you want Paul Thompson to
I testify before you, he will tell you that he has done that. Paul and I are friends; we just disagree on that.

One of my professors was the man who learned to isolate plutonium. I can't imagine him going before a group saying, "Radiation, no real problem with radiation. It's just natural."

What was unique about plutonium was it was an engineered product. What is really unique about this kind of nano is that it is engineered.

We are not talking about smoke. Smoke changes. You burn it. You can use it to cure hams, and it's got nanoparticles in it. We are not talking about that.

We are talking about things that are deliberately engineered for their nano principles. We are not talking about homogenization, unless they have got a better process than I know of that would get it all down in the nano scale.
CHAIRPERSON MOYER: Okay. Thank you. Thank you very much, Jaydee. We appreciate those comments.

I see we do have a few questions. Dan and then Katrina.

VICE CHAIRPERSON GIACOMINI: When you were talking about the change in size, you said that there were things in the 200 and 300 range. Is 300 the right line, though? I mean, on the one hand, we tried to write the definition so that size was part of it, but size isn't all of it. I mean I have heard people make claims up to 500.

MR. HANSON: Yes. Yes. I would say that there are things that will still have changes in their toxicity, changes in their solubility, changes in their quantum things, if you went up that high.

I think you would get 99 percent if you went up to 300. You've got some that are out there. That would be the kind of thing that, at 500 nanometers, that would be
okay under your recommendation. So I wouldn't worry about that.

And if you saw those principles in that remaining 1 percent, you can deal with that under your synthetics. That is where the approach of the minority might be right. But I think if you went to 300, you are going to get most.

CHAIRPERSON MOYER: The Chair recognizes Katrina.

MEMBER HEINZE: So I think we can all agree that today any perceived benefits of nanotechnology, clearly, do not outweigh the unknown risks of nanotechnology.

So my first question is, do you agree with that statement? And my second question is, can you envision a future where that would not be true, where there is some benefit of nanotechnology that is critical in organic? And we know the risks.

MR. HANSON: I can't imagine a future in organics, you know, unless you think
the nano encapsulation of caffeine in chewing
gum, as the military has done, is a great
idea, and you want to have nano gum that can
deliver five times the level of caffeine of
NoDoz now.

But, no. I mean I am being flip,
and you don't have time for me to be flip
I can't at this point, with all
the products I have looked at, see one that
adds something to the organic brand.

CHAIRPERSON MOYER: Okay. Thank
you.

The Chair recognizes Rigo.

MEMBER DELGADO: Can you give us a
nice definition of engineered nanotechnology,
and how do you compare that to homogenization?

MR. HANSON: I would say
engineered to be at the nano scale. I mean,
you know, some of these properties are very
specific. We are not talking about gold here,
but I think it is 40 nanometers, it glows red.
If you have it 50, it doesn't. So some of
these properties are very particular in size. Others aren't; it is everything below that level.  

So, basically, if you can't engineer it to get the property that you claim it has at the nano scale, then I think you are committing fraud. I think there are some products out there that are.

CHAIRPERSON MOYER: I'm sorry, Rigo.

MEMBER DELGADO: A followup: how is that compared to homogenization of milk, for example?

MR. HANSON: Well, homogenization, you know, the last two people before was an expert on that. But homogenization doesn't put everything in the nano scale. It is not intended to put everything in the nano scale. What we are talking about are things that are engineered to be in the nano scale because of the unique properties you get at the nano scale. Some of these properties
are quite powerful and they do work. I am just saying, like some other things that work, you know, genetic engineering works, but you don't put it into organic food.

CHAIRPERSON MOYER: Thank you, Jaydee. We appreciate your comments and your time.

MR. HANSON: Okay. Thank you.

CHAIRPERSON MOYER: You're welcome.

MR. HANSON: I will leave copies for other people out there. I think the Committee has already got copies of our testimony, but I will leave them out at the table.

Also, I have left some copies of the principles of that. If anybody wants it in Spanish, German, French, or Chinese, or Japanese, we've got that, too.

Thank you.

CHAIRPERSON MOYER: Thank you very much, Jaydee. We appreciate it.
MR. HANSON: Have a good night.

Have a good beer.

(Laughter.)

CHAIRPERSON MOYER: Thank you.

The Board recognizes Diana Kaye to

the podium, and Farah Ahmed is on deck.

MS. KAYE: Hi. Thanks for all you

folks hanging out here so late.

Would you like some 100 percent

certified organic cocoa butter to go with

those nuts and chews that you've been eating?

Because I've got it.

Really, I need to stop eating my

products to prove that a person can be organic

because, as I told Bea earlier, I have gained

35 pounds from eating my products.

So can we wrap this up?

I want to start with a quote, if

that is okay with you all. This is quote from

the September 1998 issue of the Natural Foods

Merchandiser. Valerie has the actual copy of

that article.
This is the quote: "Ninety-five percent of a product's ingredients should be organic if the whole product is labeled organic,' says Catherine D'Amadio, Executive Director of OTA. Most natural cosmetics manufacturers agree that the industry should be guided by the proposed national standards for organic foods." Again, that was 1998.

So, if somebody over there on that side of the room might be saying -- I guess I am addressing this to you, Joe, because you brought up the subject and kind of took the wind out of my sails a little earlier, where we were saying that perhaps this might be addressed sometime. Twelve years. We have been waiting 12 years and beyond, okay, for this to be fixed.

We are a little company, and we are getting creamed. Is that right? And I am going to give you some examples. Because, if you notice, in the packet you all have -- this is really punchy -- ingredients for some of
these products.

Are you sure you all don't want a bite? I've got two different products here. One is really great. Both are 100 percent organic. This is cocoa butter and cocoa butter body cream.

This is a product that is on your list. This one says, "organic" and "fair trade certified", and it says, "cocoa butter cream". Wow, it competes with my product.

Please take a look at the ingredients on there. The interesting thing is that, at least in this one product, there is an ingredient that is organic.

Then we have this product, cocoa butter. Cocoa butter, okay? Cocoa butter. Oh, I forgot. It says, "Pure, natural and organic cocoa butter" and this says, "cocoa butter", except it's got a whole bunch of other stuff in it. And it says, "Keep out of reach of children."

That is what we are competing
against. We can't wait another minute. This needs to be fixed because people are buying this. "Keep out of reach of children." Why? It says, "cocoa butter". This is cocoa butter.

Okay, this is a really interesting product. This says, "cocoa butter". However, now it also says, and this is a really nice company, "raw white cacao butter", same thing. That is the Latin name, Theobroma cacao.

On the back -- this is sold in all the food aisles of health food stores across this country -- but it also has instructions for body care use. So tell me, guys, is this a body care product or a food? Is the USDA -- well, I wish there was somebody here. Is somebody going to protect this product? Because we have been abandoned. So which product is it? Food? Body care? Food? Body care?

Sorry. I am so fried with all this.
And, yes, I'm still not done.

Okay, I love this one because this one says, "Pure, natural and organic cocoa butter". And again, we've got cocoa butter. There is no cocoa butter in this cocoa butter. Okay?

Are you all content to sit and let this happen? I know you're not because you guys wrote that great document, and we love it, and we thank you very much for that.

But can you help us work on Valerie and the empty table here? Because we need them to like get the bat and start swinging.

So, really, I would like to end up with one additional quote. This one I really like, too. This is from the Whole Foods magazine, July 2003 issue.

It says, "Going certified organic is now possible because there are rules. In the past many companies had their own interpretation of what organic was and were not competing fairly in the personal care
natural marketplace,' said Jeffrey Light,
Jason's founder and chairman."

And again, that was July 2003. So

hooray, there are organic rules.

Thanks, guys. I appreciate your

patience with me and all this popping.

(Laughter.)

CHAIRPERSON MOYER: Thank you,

Diana.

MS. KAYE: Are you sure you don't

want a bite?

(Laughter.)

CHAIRPERSON MOYER: Any questions

from Board members for Diana?

(No response.)

Okay. Thank you very much. We

appreciate your time in coming to speak with

us.

MS. KAYE: You're very welcome.

Thanks.

CHAIRPERSON MOYER: The Board

would now recognize Farah Ahmed to the podium.
1 (No response.)

2 Jeff Anshus? Thank you. I apologize.

3 MR. ANSHUS: Thank you.

4 My name is Jeff Anshus. I work at Intelligent Nutrients in Minneapolis,

5 Minnesota.

6 We are a small personal care company. We were founded by Horst

7 Rechelbacher, who founded and sold Aveda to Estee Lauder 10 years ago. So this is his

8 project. It is his vision to move the industry, the cosmetics industry, away from the current paradigm that there is and move it to something good, something that is sustainable, and something that is more real.

9 I am here representing all of that.

10 I will be brief because I want to go, too.

11 (Laughter.)

12 We have over 30 products. They are all certified to the NOP standards. We
I have the seal, and we are very proud of it.

We use it as a competitive advantage in the marketplace.

So there are a lot of products out there that you can make. You can't make everything. We get that. You can't compete in the things that you can't compete with, but for the things that are out there, we are very proud of it.

I wanted to thank you guys for your time, energy, and effort, and the opportunity for comment. I think it is very important. I also thank you very much for solving the problem of mislabeled organic personal care products.

I am a chemist and I am a consumer of these goods. I just want to reiterate the problem that a consumer has when they are shopping at a store and they go down an aisle and, suddenly, they enter this mysterious world where organic does not mean organic. That is what is happening. They are shopping
at -- it is in my written comments -- they are shopping at Whole Foods. They are buying their apples, and then they turn the corner and they buy their organic shampoo and there is nothing organic about it.

The NOSB, the vision statement called for consistent and sustainable standards. Rayne mentioned protecting the integrity of the word "organic". That is really what we are talking about, the protection of that word.

We wholeheartedly support the position statement that you guys have. The NOP and consumers are harmed every time a consumer, as she mentioned, every time a consumer purchases products which are mislabeled.

And that's all I've got.

CHAIRPERSON MOYER: Thank you, Jeff.

Any questions or comments? Joe?

MEMBER SMILLIE: Ah, a chemist.
MR. ANSHUS: I am a chemist.

MEMBER SMILLIE: Okay. You've admitted it. So how is the efficacity of your product, the product line that will require surfactants, emollients, and what is your shelf life, stability, in lieu of even the most benign, under the NOP, preservatives, surfactants, emollients, et cetera?

MR. ANSHUS: Sure. Well, we have had to be really smart about it. What we have done personally is we use air-free packaging, so that you are not inoculating the substance over and over again with a preservative system that can't take it.

We have proprietary -- you know, we have worked very, very hard to use -- we've spent, I don't know, well over $200,000 just on testing our goods for preservative testing on them. We came up with the right combination of what we use to preserve our products.

So we have shelf life that is
1 comparable to anything that is on the market.
2 When we have European, the can on there, we
3 put 12 months, which is in line with what
4 other cosmetic goods are.
5
6 What else did you ask?
7 Surfactants, emollients? Of course, we would
8 like more emulsifiers. We would love more
9 surfactant.
10
11 There’s a consumer perception in
12 the world of what a shampoo should be or what
13 a lotion should feel like, and we are
14 constantly telling people that those are
15 chemicals which are created for that specific
16 thing. You know, foaming in shampoo, there
17 are for connecting those things, the oil and
18 the water together, but you have to be smart
19 about how you use energy, how you mix it
20 together, and getting it to emulsify.
21
22 So we are in business. We are
23 selling the stuff. We are not taking them all
24 back. We have a lot of really happy customers
25 out there.
I have done the consumer testing myself and had a really -- you know, people who want the organic products want the implicit message behind what is the certified organic. It is good for the environment, good for them, good for people.

Horst is very fond of saying, "What goes on us goes in us." There is no difference between those.

CHAIRPERSON MOYER: Any other questions for Jeff from Board members?

(No response.)

MR. ANSHUS: Can I just say one other thing, since I had extra time?

CHAIRPERSON MOYER: Certainly.

MR. ANSHUS: I don't know a thing about nanotechnology. I don't. But I do know about aerosol hairsprays, and I know that that sounds really weird. But when you guys are talking about the bell curve, it is exactly what they have debated at length in what makes hairspray safe, or really any aerosol. If you
have WD-40 or aerosol hairspray, or whatever,
the bell curve that they were talking about
earlier, granted there's only a couple of
aerosol manufacturers in the United States
because they keep blowing up, and they won't
let them make any more. It's true.

(Laughter.)

CHAIRPERSON MOYER: That was worth
it.

(Laughter.)

Yes, we never would have asked
that.

MR. ANSHUS: But they do keep
blowing up accidentally, and then they don't
let them fill any more.

But what they are talking about
there is that bell curve about the intent of
what the particle size is. Sometimes aerosol
hairsprays have particles which would lodge in
your lungs and actually choke you to death,
but it is at such an innocuous level that,
while it may be present -- and I think that is
what you guys are talking about when you are talking about the nano stuff. It is about what the intent of the molecule is, if it is a certain size, if that helps. I can talk about aerosol hairsprays a lot, but that's not the point. (Laughter.) I can also tell you I saw an explosion. (Laughter.)

CHAIRPERSON MOYER: I was just wondering how he was getting WD-40 and hairspray in the same sentence, but -- (Laughter.)

MR. ANSHUS: Well, WD-40 and hairsprays are made in the exact same facilities, the same propellant. (Laughter.)

CHAIRPERSON MOYER: Thank you very much, Jeff. I appreciate that.

We needed that.

If Lynn Betz would come to the
podium, we would appreciate it.

MR. ANSHUS: Oh, Lynn, I have Lynn's five minutes, too.

(Laughter.)

CHAIRPERSON MOYER: Thank you.

MR. ANSHUS: In fact, she has the flu and she didn't want to infect you all.

CHAIRPERSON MOYER: Thank you. We appreciate that from her and from you. Thank you. Thank you, Jeff.

David Bronner to the podium. Is David here? Yes. And then John DiLoreto on deck.

MR. BRONNER: Hello. I think I may have to start with what Jeff was talking about. I think people are used to, say, a feel of a synthetic silicone oil in a lotion, but synthetic silicone has a certain feel, and people are used to that, but it has nothing to do with agricultural oil, period, let alone organic agricultural oil.

So like there's an educational
process of like, you know, this is what an
organic jojoba oil feels like; it works. You
are not going to get that what is basically
motor oil feel, but it is organic.

It is just like the education
process -- we all go through like, oh, brown
rice is better than white, and whole wheat
versus, you know, Wonder bread. So there is
that hole, and then once that kind of shift
happens, people come around, and they embrace
it; this is good, you know, and it is not the
bad silicone-feeling stuff, right? So there
is a perceptual shift.

Our soaps, we are the leading
brand of body wash in natural soap, and we
beat all those synthetic, detergent-based
products that are calling themselves organic.

I believe Tracy last time shared
that I guess the impetus behind the current
recommendation was that the soaps in the hotel
said, "certified organic soap" and "made in
China", and they actually had nothing organic.
So I don't know if this is the brand. You know, there's hundreds out there. It says, "made in China". This has "organic" in the brand name, and it says, "certified organic". It is just a pure petroleum-driven, petroleum surfactant-driven product.

I think to the NOP statement, I mean I think the idea is that, like if you came here and a cup said it was certified organic and it wasn't, or the chair you're on said it was certified organic and it wasn't, ideally, NOP would just say, "Look, we have a standard for organic agricultural products across product sectors."

You could say in this product it is made with certified organic aloe vera, or whatever it actually organic about it. Or if the chair is made with some sort of an organic wood, but if it is using lacquer, that is prohibited; don't call it a certified organic chair.

I think in my written comments I
talk a lot of the opposition to opening up the NOP list to a bunch of allowances for personal care. Well, I think that the NOP approach with textile is that, if you say, "organic T-shirt", then it has to be USDA organic, but if it is made with organic cotton, leave it alone. You know, it's a made-with -- we are not getting into and open the NOP list to all the textile stuff. We are just going to let it alone. But if you are going to call it an "organic T-shirt", then it's got to be 095. So I feel like the same approach should be taken with personal care. Okay, let's not worry about trying -- you know, don't let the perfect be the enemy of the good. Let's not worry about made-with organic. It is not so injurious. If this product says, "made with organic aloe vera", that is not so bad. I mean it is a totally lame product, but at least it is not calling itself a certified organic product. It is just saying what is actually organic in it.
And I think Oregon Tilth,
actually, I want to just mention that,
similarly, to not let the perfect be the enemy
of the good, I know there is like this ongoing
debate of synthetic and non-ag, and whatever,
and how that all shakes out. I think Oregon
Tilth's written comments are like we have got
to deal with that first before we can apply
the program to personal care and other product
sectors. I think that can go in parallel.
I personally am fine if soap falls
out of 095 and it is in 070, I mean fine.
However that whole ag/synthetic thing works
out, you know, I don't think that should hold
up the move to regulate the personal care
space.
That's it.
CHAIRPERSON MOYER: Thank you,
David. We appreciate those comments.
Are there any questions for David
from the Board members?
(No response.)
Thank you very much. We appreciate your time.

MR. BRONNER: Yes.

CHAIRPERSON MOYER: John DiLoreto, and Betty Bugusu is on deck.

MR. DILORETO: Well, I was going to say good afternoon, but it is good evening. I will try to make my comments brief because I really don't want to stand between you and dinner.

My name is John DiLoreto.

First, let me thank you for the opportunity to provide my insight and comments today. Because I have significant professional experience in both the organic foods industry and the field of technology, nanotechnology, I feel that I am really uniquely positioned in that respect, after hearing all the comments today. I have heard folks from both sides of the aisle, but I haven't heard very many people who really have experience in both areas. So, hopefully, I
I am a chemical engineer by training, but in 1991 I founded a certified organic bakery in the State of Maryland, and I had the pleasure of serving on the State of Maryland's Organic Certification Advisory Committee for six years. So I have had the opportunity to sit in your shoes at the State level as a certifier.

And the organic foods industry was fairly young at that time. I know you are dealing with a lot of questions today, but I can reflect back to those days, and we dealt with a lot more questions than we had today. At least you have had some time to flesh many of the issues out.

But in my current position, I am the owner of NanoReg, a professional services firm that specializes in nanotechnology regulatory policy and environmental health and safety.

So we have this crossover between
organics and nanotechnology, environmental health and safety, and what nanotechnology really is. And it doesn't hurt that I stayed at a Holiday Inn Express last night.

So under consideration by the Board is a prohibition for nanotechnology, to keep it out of organic foods, 100 percent organic foods. I find this a bit troublesome from the standpoint that you are using the term "nanotechnology". Nanotechnology is not a product. It is not an ingredient. It is not a food substance. In fact, it's chemistry, and chemistry is something that you deal with on a daily basis.

You have lists of substances that are allowed, lists of substances that are not allowed. You have dealt with them as individual chemical substances on a case-by-case basis, and nanotechnology is no different.

Products in nanotechnology are a broad range of chemical substances. Some have
unique properties at the nano scale, but all are separate and distinct substances. And I want to make a real important point here because I have heard nanotechnology demonized to a fairly large extent today, about how bad it is. I heard the term "freaky", which I am not sure is a regulatory term.

But nanotechnology has created some unique circumstances, but not all of the properties that are created through creating nano-scale materials are very different, and they are not very substantive.

The example that I heard before was very interesting because I heard it described as, well, at one size, nanomaterials, they glow, and the other size, they don't. That is false. They do not glow. The difference is that different size particles reflect light differently. So, when you have a smaller particle, you see it as one color. When you see a different size
nanoparticle, you see it as a completely different color. Now those are optical reflective properties. Nothing freaky about that.

Anybody that has seen a glacier and seen where it meets the water and seen that blue glow, that is light reflection. That is just a characteristic of physics.

So I would like to recommend that the Board consider them as distinct materials and deal with them on a case-by-case basis, as you have done with other substances, such as ingredients, additives, pesticides, and herbicides.

I would also like to recommend the Board consider adopting a policy of using internationally-accepted terminology and accepted standards that have already been developed by several standard-setting organizations. The NNI is not such an organization. I work with them fairly regularly.
and they have done a great job of promoting
the use, the benefits, and the development of
applications of nanotechnology. That is what
they do.

So it is important to understand
where some of these terms are being used and
how they are being thrown around.

And let's look for a moment at
what nanomaterials are. That generally-
accepted standard of 100 nanometers is
really -- I am trying to remember the
terminology that was used before -- a
definition of faith. It really was meant to
be a starting point because nanomaterials,
properties of nanomaterials change, some at
100, some at 500, some at 300, which is why it
is important they are dealt with as individual
substances.

I have never liked the concept of
including packaging as an element of food
processing, particularly when I was a
certifier. They are very different. As a
chemical engineer, I have seen hundreds of processes that are the sum total of a variety of specific unit operations. It is difficult for me to compare what goes on a distillation column with what goes on a paper bag. I think that, if you lump them together, you really create an issue that is difficult to resolve.

One point I would like to make has to do with packaging. There are many applications -- I think I have heard the question about nanotechnology: do we ever see a moment when nanotechnology can play a part in organics? It can play a part, and does play a part today. Active packaging, there's a lot of nanomaterials being used on packaging.

If you use this definition where you prohibit nanotechnology, you prohibit the use of RFID devices printed with nano-scale materials that are used for tracking of inventory; you prohibit active displays on paper bags; you prohibit many things beyond
the use of nanomaterials within the processes.

So I think that is my key point.

It is important to look at the fact that we've got different nanomaterials, different uses, and I think they need to be dealt with in a scientific way on a case-by-case basis.

Thank you.

CHAIRPERSON MOYER: Thank you.

Thank you, John.

Are there any questions from Board members for John? Katrina, please, and then Joe.

MEMBER HEINZE: You mentioned using existing standards. I know something we have heard a lot about today is this struggle of the Committee to come up with a definition. Do you have a standard that we should look at that would be helpful to us?

MR. DILORETO: ISO and ASTM both have published standards for nanomaterials, nanoparticles. Those definitions exist. They are published. They are on the web.
MEMBER HEINZE: Great. Thanks.

CHAIRPERSON MOYER: The Chair recognizes Joe.

MEMBER SMILLIE: Explain the RFID example. I was going to ask you which benefits of nanotechnology would you like to see petitioned. Are you familiar with the minority report on --

MR. DiLORETO: Yes, I am.

MEMBER SMILLIE: Okay. So I take it you support the minority report on this?

MR. DiLORETO: Yes.

MEMBER SMILLIE: So, if you were petitioning, just as an example, how would you petition the RFID nano -- the use of nanotechnology in RFID?

MR. DiLORETO: Well, you know, a radio frequency identification tag is put on packages, put on pallets. It is meant to be able to track products throughout the manufacturing, delivery. In fact, Walmart has been requiring it even on the pallets that are
Nano-scale materials are being used to print, to literally print the nanomaterials on paper that will create an electronic circuit where the electronic circuit can be active and act as an RFID tag just by printing the circuit on the package. It is a case where nanomaterials can be used without impacting the integrity of the organic product. And there are other examples of that, but I highlight that one because it is really easy to see how the integrity of the product is not impacted at all.

I haven't even gotten into active displays or active or intelligent packaging that can tell you when a package has gone bad, where the nanomaterials never come into contact with the organic food. So it is important to understand that, certainly from a packaging aspect, an argument can be made that nanomaterials have
a place in the industry and can be used without impacting the integrity of the organic standards.

CHAIRPERSON MOYER: The Chair recognizes Kevin.

MEMBER ENGELBERT: So you speak of these nanoparticles that are used to track packages. Have any studies been done to what the impact is when these packages are discarded and where those nanoparticles end up, what they interact with, and how they are dealt with, whether they are recycled, composted, put into a solid waste disposal facility, whether they are incinerated? Has anything been done to track these particles, regardless of whether or not they come in contact with food, but where they end up when the packaging is no longer used?

MR. DiLORETO: That kind of work is underway at several different facilities, particularly the academic side, USC, University of California Santa Barbara,
Arizona State. Those kinds of studies are underway, where they are now not only tracking where the nanomaterials are ending up in terms of migration pathways, but also what the potential impact is of any of the nanomaterials that make it into the environment and what happens to them.

Some of the studies have already been completed. There are some nanomaterials where they have already been able to see, and I know that the aspect of agglomeration and aggregation was discounted this morning by a speaker. It is important to understand that, for instance, carbon nanotubes, that when they enter the environment, they get into sediments, sludges. They immediately agglomerate into a much larger particle.

They have found that this agglomeration actually acts to make it innocuous because it is no longer small enough to pass through cells. It is no longer small enough to pass through the blood/brain.
1 barrier.

2 So they are finding that some of
3 these materials can be recycled just with
4 other materials, and there really is no
5 negative effect at all. Now I don't want to
6 make that a blanket statement because it is
7 important that we understand that all
8 nanomaterials are not created equal, and that
9 not all of them are going to behave in that
10 way.

11 Even the definition of what is
12 engineered and what is not is an important
13 distinction because I own a bakery. I use a
14 lot of flour. And I've got to tell you all
15 that milled flour and a lot of dust flying
16 around created a lot of nano-scale flour that
17 was in the air in my bakery.

18 Now did they intentionally create
19 nanomaterials? No, not really, but it is
20 engineered.

21 So it is important that we
22 understand that the definition that is being
used in this recommendation is so broad that, from a regulatory perspective, not only is it going to be difficult to enforce, it is going to be difficult to really allow the appropriate uses of nanotechnology in the organic arena.

CHAIRPERSON MOYER: Thank you, John. We appreciate your comments very much.

MR. DiLORETO: Thank you.

CHAIRPERSON MOYER: Thank you.

The Board would recognize Betty Bugusu at the podium, and Marcelo Secco is on deck.

MS. BUGUSU: Good afternoon.

Thank you very much for your patience and for your diligence this evening, actually.

My name is Betty Bugusu. I am a research scientist with the Institute of Food Technologists, otherwise IFT.

First of all, I would like to thank the Board for this opportunity or for
giving IFT the opportunity to comment on the
standards and the recommendations that they
are putting forward on nanotechnology.

I would like to start by thanking
the speaker who just left the podium, and
potentially for making my work easier here.

I think that, before he came on, I was really
a little worried about how to address some of
the scary words that I had heard earlier on
today. But I think I have been in a better
position, and I couldn't agree more with his
comments, as I give more additional comments
from the IFT perspective.

So I will take a minute to tell
you about IFT, for those of you who don't know
us. We are a nonprofit organization,
scientific organization, with about 20,000
individual members working in the area of food
science, food technology, and other related
professions like nutrition. Our members are
drawn from industry, academia, and also from
government.
IFT was founded in 1939. Our mission, IFT’s mission is to advance the science of food, and our long-range vision is to ensure a safe and abundant food supply, contributing to healthier people everywhere.

And my comments are generic, so I will try to kind of put a little bit of flavor as regards to nanotechnology.

So IFT champions the use of science-based solutions across the food chain through knowledge-sharing, education, advocacy, and furthering the advancement of the food science profession.

With regard to nanotechnology, IFT has taken a leadership role in terms of us looking at how nanotechnology can be used in food. This has been done through the establishment of a Food Nanoscience Advisory Panel that consists of members drawn from across our membership categorization.

IFT further recognizes the importance of nano-scale science, engineering,
and technology to positively impact the food and agricultural sector. Therefore, we support objective and well-designed research and development efforts in that sector.

I will just take another minute to kind of enlighten you on some of the potential benefits of nanotechnology in food.

As John already alluded to, food packaging is one of the areas that nanotechnology has great potential for applications. He talked about RFID. I would add other technologies like nano-composite materials. These are materials that are incorporated in our food contact materials for packaging, and they have high quality like increased strength and also they have high barrier properties, which are important in packaging. Definitely he mentioned smarter intelligent packaging, as he discussed.

Another potential area for application is in the area of food quality, safety, and defense. Here we are talking
things like nanosensors, things that would
tell you when the food is bad or if the food
has expired, or something like that.

Then, of course, we have heard
antimicrobial, things that will deal with the
food microorganisms that are important to the
human health.

Another special area is in the
area of food ingredients delivery systems. We
have heard about the availability of some of
micronutrients; particularly those of plant
source is very low. We know people around the
world who are suffering from malnutrition.

Nanotechnology has the potential
to make those materials readily available,
bioavailable, to those consumers and,
therefore, help alleviate malnutrition in
various parts of the world.

Other systems are nano-emulsions.

People have talked here about homogenization.

I would like to add to the fact that
homogenization intent is never to come up with
nanoparticles. However, those are the unintentional result of homogenization.

What this tells us is that we, as humans, have consumed some nanoparticles to some extent following this unintentional production of the materials.

Further, nanotechnology also appears in nature, in products like milk, like has been discussed. The milk proteins, caseins, and what have you, have nanotechnology in them.

And finally, food processing, and this is kind of an enabling technology where you use nanotechnology to produce your materials, but the end products do not consist of nanoparticles.

So I see that my time is up. I have one minute.

The next thing, I want to say that we also recognize that there are challenges and issues that face this technology that need to be addressed. And as I said, IFT is very
active in championing responsible research, so
that all these areas of environment, health,
and safety are addressed.

To that extent, you know, we
advocate for further finding in that area. At
this moment, as we speak, IFT is in the
process of compiling a report to give us the
state of the science in terms of safety of
nanomaterials in food use. That report will
be available the end of this year, and we can
share it with the Board, if necessary.

Finally, I would like to just say
that IFT strongly encourages the Board to
reject the conclusion of the Materials
Committee, and I quote, "exclude and prohibit
the use of nanotechnology and products of
nanotechnology in certified organic
production, processing, handling, and
packaging." End of quote.

Instead, IFT supports the adoption
of our petition that allows for consideration
of each potential application of
nanotechnology on a case-by-case basis. So, ideally, our recommendations are keeping in the minority opinion, submitted by some of the members of the Board.

And finally, as I said, IFT advocates and supports science-based solutions, public policy and legislation initiatives, and especially as they relate to production, processing, and packing of food. So we encourage the Board to consider science-based policy decisions when it regards the use of nanotechnology in organic foods.

CHAIRPERSON MOYER: Thank you.

MS. BUGUSU: And finally, IFT's idea is to enhance collaborative efforts with other stakeholders, both domestically and internationally.

And finally, IFT is happy to work with you to provide background information to help inform your decisionmaking.

CHAIRPERSON MOYER: Thank you.

MS. BUGUSU: Thank you.
CHAIRPERSON MOYER: Thank you, Betty. We appreciate your comments and your time.

Are there any questions from the Board for Betty?

(No response.)

Thank you very much. We appreciate your time in coming to speak with us.

MS. BUGUSU: Okay. We didn't submit the comments, but I will pass copies around and we are happy to send them electronically.

Thank you.

CHAIRPERSON MOYER: We did get those. Thank you very much.

Next up will be Marcelo Secco, and then last on our list is George Lockwood on deck.

MR. SECCO: Good evening, ladies and gentlemen.

CHAIRPERSON MOYER: Good evening.
MR. SECCO: First of all, I would like to thank the Committee to give an opportunity to let us know what is happening with the organic beef production in Uruguay.

Thanks to Valerie, for she is trying to help me in my presentation.

Uruguay is a very small country, so far from here, between Argentina and Brazil and the Atlantic Ocean, with only 3 million people. Mainly, it is an agricultural country, and it is not there, but we have 11 million beef animals and 8 million sheep and lambs. So we are overexposed in that for our history.

Concerning the situation of the vaccination, also exporting into the U.S., BSE-free, and also it has been very well-recognized. It is a collaborating center on animal welfare for the whole Latin America.

Considering environmental, we are in the first place concerning it. This is one of the studies that Yale University and
Columbia are performing in our country, in 146 countries.

And also, we have certain specific characteristics of our grass-fed beef.

PULSA and Tacuarembo are two groups that develop -- they are the only group performing organic beef production in Uruguay, and the way to offer this product all over the world, we were working on that for more than 10 years.

Also, I am one of the farmers of that program involving more than 250 farmers and a lot of services. Also, INIA, it is a national entity of research, that it is involved in supporting the project. And it was, of course, quite a challenge for us.

We are approved for the European Union since the beginning of 2001, and approved by NOP since 2003.

SKAL and, after that, the Control Union is a company that it is a witness of all the effort that the farmers are doing.
Just to show you the charge, the farmers are the ones who really support the program, and all the structure concerning researching, controlling, of course, all affecting that in terms of the U.S., USDA, FSIS; this controls all the activities in Uruguay concerning organic or not, and also supporting that program.

Our production system, in Uruguay's free-range grass-fed is extensive, like biodiversity that we still promote and keep.

In Uruguay, it is very common to combine beef and lamb in terms of production with a long production cycle. And some other characteristic is that we are, in Uruguay, traceback since 2006, and hormones are prohibited by law and controlled by law, and also antibiotics in feed.

Just to give a figure that here in America is more common, we have two separate fields that each beef animal can enjoy over
the year.

But we have some limitations. Our pastures are quite different between the systems, with low production in winter. We don't have as strong a winter as yours, but we have quite a strong winter. Low native pasture quality, mainly in winter and in spring and summer; we were exposed in all the climate changes to some adverse effects like drought in the last two years. Of course, animals in that, it lowers the conditions for consuming grass and strong climate. Animals were really affected concerning their welfare.

So we ask for the National Institute of Regulatory Research to analyze this for you. This is the paper that we have already sent to you two weeks ago. We have some recommendations to be considered here in three areas: sanity, supplementing, and calf supplying.

Sanity, mainly, we have non-allopathic treatment up to now with good
success in Uruguay. We are still developing this since more than five years ago, but up to now we cannot reach the target we need. The recommendations are on the restriction to use some allopathic treatment in the first beginning of the calf's production, previous to any research, just to check with an official lab the copro-parasites, and increasing, of course, the waiting time, as time is necessary, supported by our long production cycle.

On supplementation, it is mainly non-organic, we don't have a non-organic market.

Just for to finish, concerning the calving, just to consider that in the way of our production some weaning calves of nature production can go inside an organic farming production.

That is, of course, mainly the suggestions that we would like to make.

CHAIRPERSON MOYER: Okay. Thank
you, Marcelo.

Are there some questions for Marcelo? Kevin and then Hue. Oh, no, I'm sorry. Hue? Hue, please.

MEMBER KARREMAN: Just a quick question then: what are you saying to us or asking or commenting on, our animal welfare proposal, or are you letting us know what is happening in Uruguay? It looks really good.

MR. SECCO: I'm sorry.

MEMBER KARREMAN: Your presentation --

MR. SECCO: Yes.

MEMBER KARREMAN: -- you are commenting to the Board here about what specifically? Maybe I am really thick. I'm sorry.

MR. SECCO: No, no, no.

MEMBER KARREMAN: I apologize, but are you commenting on the animal welfare document we have proposed and how it affects your production down there?
MR. SECCO: No. Mainly, on the way of the Committee to consider that, concerning all the situations that we have in climate, system of production, an organic farming situation in Uruguay, just to consider if any of these three recommendations concerning sanity, supplementation, and calving replacement should be considered in the future.

It is not a question -- it is a question of animal welfare, the consequences, but it is not a question of the animal welfare, because we were, since 1993, we are, for example, all rated, and whatever, every year. It is not a question of specific welfare. It is just a question of the organic standards, NOP standards for our production.

MEMBER KARREMAN: Okay.

CHAIRPERSON MOYER: Thank you, Marcelo.

MR. SECCO: Thank you.

CHAIRPERSON MOYER: We appreciate
your coming. We know you came a long way to
comment to us, and we appreciate that.

Before you jump up, just one
second.

Valerie, do we have somebody else
on the list that I don't have? Bonnie --

MS. FRANCES: No, it is for

MS. FRANCES: There is no more

signup today out there.

CHAIRPERSON MOYER: George, the

podium is yours. Thank you very much.

MR. LOCKWOOD: Thank you, Mr.

Chair, and thank you for the opportunity to
testify.

I am George Lockwood, Chair of
your Aquaculture Working Group. I am also the

invited proxy for the Monterey Bay Aquarium to

read a comment that they have.

Tomorrow the National Organic
Standards Board will consider the Aquaculture Working Group proposal that is also the recommendation of the Livestock Committee for bivalve mollusks.

I would call to your attention in the report of the Livestock Committee, on page 13, there begins four pages of how our proposal is substantially differentiated from conventional bivalve production. I will comment on three of those differentiations.

First of all, we require a rather sophisticated modeling of the hydraulic zone of influence, which is where in the area where the phytoplankton, which feeds oysters, clams, and other bivalves, grows. We look at the exchange of water, all the different sources of potential contamination, and require that this all be sophisticatedly documented.

We also substantially increased the monitoring that is now going on or is required under the National Shellfish Sanitation Program for coliform indicators of
contamination. These are indicator organisms of a wide range of contamination, not just coliforms themselves.

We have placed on the grower substantially new activities that they must carry out, and have developed what we think is a high management system.

But we have also added one rather novel feature. That is, we have adopted from the National Oceanic and Atmospheric Administration's Mussel Watch Program the requirement to monitor some 230 different compounds that are contaminants in the ocean.

The Mussel Watch Program has 300 locations around the United States where periodically the tissue of mussels or oysters are monitored for these 230 different compounds that include metals and metalloids, PCBs, other industrial chemicals, pesticides, and, most recently, flame retardants.

This program has been very effective in locating the areas where the
waters are highly contaminated and areas where there is very, very little contamination. It is also a very effective program to monitor any changes that are occurring in those areas. Basically, there are two sources of contamination of this long list of compounds. One is from human activities. Where there is a great deal of human activity in high population areas, like New York Harbor, contamination is very great. Where there is very little human activity, such as off coastal Maine, there is very little, if any, detectable contamination.
The other source is from aerosols. Geographically, there is no limitation to where or no concentration of where that might be. It is the same aerosols that contaminate our fields and streams in terrestrial agriculture that are contributing to aquaculture in the ocean.

New in our discussions is the positive environmental effects that having a
A healthy bivalve population will have in the ecosystem. What happens is the bivalves, being filter feeders, are cleaning out the particulate matter which prevents sunlight from reaching to the bottom, for the growing healthy seagrass colonies, for instance. And when you have healthy seagrass, you also have a healthy diversity of other organisms. This is well-documented.

In the case of the Chesapeake Bay, I can remember when the waters were very clear; you could see the bottom a long time ago. What was happening then is the water was being turned over by a healthy bivalve population every 3.3 days, is the estimate. Now that the oysters have been killed off by diseases and other factors to a very, very large extent, it is not 3.3 days; it is over 300 days. As a result, we have a very turbid environment in the Chesapeake Bay with much less biological activity than existed before.

Three weeks ago, the Monterey Bay
Aquarium introduced -- and that is an organization well-known to the Organic Standards Board -- introduced a new rating of super-green for farmed aquatic animals. They picked eight aquatic animals they believe are rated deserving of the super-green rating. These included farmed mussels and farmed oysters.

They have three major criteria for super-green determinations. One is that these organisms are sustainably harvested and grown. Secondly, that they do not contribute substantially or significantly to contamination in the human food chain, and that they have high levels of human health sources such as omega-3 fatty acids.

Monterey Bay Aquarium has asked me to read a statement, and I have handed it out. Did it get around to everybody?

And can I do that, sir?

CHAIRPERSON MOYER: Yes, you have whatever time limit we have. You have four
minutes and 45 seconds.

MR. LOCKWOOD: It won't take very long.

CHAIRPERSON MOYER: It's your four minutes.

MR. LOCKWOOD: This is the Monterey Bay Aquarium's comments on proposed National Organic Standards recommendation on molluscan shellfish standards by the Monterey Bay Aquarium, dated October 30, 2009.

"To whom it may concern:"

And incidentally, the person writing this, Peter Bridgson, until about six months ago, worked for the Soil Association in the United Kingdom as the Aquaculture Program Manager, which developed their aquaculture standards. He is very knowledgeable on a wide range of aquaculture programs and standards throughout Europe and the world.

And here is what their comments are:

"The Monterey Bay Aquarium
recently published a report on seafood sustainability titled, 'Turning the Tide: the State of Seafood'. Of particular interest to the NOSB hearing is a new analysis and set of recommendations for a super-green seafood list; that is, seafood that has been sustainably produced, has significant levels of marine omega-3 fatty acids, and is low in environmental contaminants.

"Of the eight items of this list, produced in conjunction with the Environmental Defense Fund and the Harvard School of Public Health, two are farmed bivalve shellfish, mussels and oysters. The report is publicly available on the Aquarium's website.

"The Monterey Bay Aquarium's Seafood Watch Program has also published three reports on farmed shellfish covering mussels, oysters, and clams that is also available on the Aquarium's website.

"After a detailed assessment of the available science on the environmental
impacts of shellfish culture and the regulatory structure overseeing production, all three shellfish groups are recommended as best choices for consumers.

"The clear conclusion from these reports is that farmed molluscan shellfish are a healthy and sustainably produced source of food.

"The super-green list focuses on contamination by mercury and PCBs, both of which are typically of concern for human health and organisms higher in the food chain due to bioaccumulation. Despite being selective filter feeders, that is, having the ability to selectively ingest and discard particles filtered from the water column near the bottom of the food chain, we recognize that in polluted or contaminated water bodies shellfish are able to accumulate potential harmful levels of a variety of bacterial or chemical pollutants and toxins.

"Close control of the location of
shellfish farms and robust monitoring of both water quality and food safety are, therefore, essential and now integral parts of modern shellfish production. The additional contaminant-monitoring requirements specified in the proposed standards for organic bivalve mollusk places a significant burden on the organic shellfish producer, but presents considerable additional protection for organic consumers and for their trust in the safety of organic products.

"Clearly, the challenge in the case of filter-feeding organic shellfish is in determining the source and heritage of these planktonic and, therefore, mobile feedstuffs. In this respect, we recognize the length with which the proposed molluscan shellfish standards have gone to establishing a highly-managed production system, and specifically, for the inclusion of a protective hydrodynamic zone of influence around the shellfish farm.

"We consider these developments to
be far beyond any other farmed shellfish production standards that the Monterey Bay Aquarium is aware of. The requirements relating to the ACI also place considerable additional demands on organic shellfish producers, but provide a unique solution to address concerns over the source of feed for organic shellfish stocks.

"We consider that, in addition to the locational guidelines for food safety monitoring requirements of the National Shellfish Sanitation Program, the requirements of the draft molluscan shellfish standards will produce a safe, sustainable, and nutritious product that closely aligns with the principles and philosophies on which the organic movement is found."

Signed Peter Bridgson, Aquaculture Research Manager, Monterey Bay Aquarium.

And in closing, Mr. Chair, I simply want to ask tomorrow that you do carefully consider and adopt the Livestock...
Committee's recommendations.

I want to thank you, the Livestock Committee, and the National Organic Standards Board for your patience over the last five years as we have gone through a whole suite of aquaculture standards. Some of you are graduating. We, too, are graduating, the Aquaculture Working Group, but we go on to the joy of the final rulemaking program with the National Organic Program, and we look forward to that.

Thank you for your patience, your perseverance. It has been a great privilege working with you.

CHAIRPERSON MOYER: Thank you, George. The same goes for us; it has been a privilege.

I assume you are going to be here tomorrow to address questions.

MR. LOCKWOOD: I will be here if there are any questions.

CHAIRPERSON MOYER: I am sure
there will be.

We can entertain a few brief questions. I am going to make an announcement that our taxi is going to be out front in 10 minutes.

(Laughter.)

We will be there or I will be there; I don't know where you are going to be.

So, if you have a few questions, it has got to be extremely brief. I saw Tina's hand first, and then Kevin.

MEMBER ELLOR: I just want to say I want to reverse everything you just said. I am so grateful for the work and the persistence that you guys put into this. It is amazing. I want everyone to know that.

MR. LOCKWOOD: Thank you.

CHAIRPERSON MOYER: Thank you, Tina. I appreciate that.

Kevin?

MEMBER ENGELBERT: Ditto. The questions will be tomorrow.
CHAIRPERSON MOYER: Thank you, Kevin. I appreciate that comment.

Hue?

MEMBER KARREMAN: Yes, ditto, George. Just there's light at the end of the tunnel on this one.

(Laughter.)

This issue was here when I first came on the Board, and it is actually going to be done when I leave the Board, unlike pasture.

(Laughter.)

But I am glad we could complete it together. Thanks.

MR. LOCKWOOD: Thank you, Hue.

CHAIRPERSON MOYER: Thank you, Hue.

Thank you, George.

This Board now stands adjourned until eight o'clock tomorrow morning.

(Whereupon, at 7:33 p.m., the above-entitled matter went off the record.)
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The National Organic Standards Board convened at 8:00 a.m., in the Monroe and Jefferson Rooms of the Washington Plaza Hotel, located at 10 Thomas Circle, N.W., Washington, D.C., Jeffrey W. Moyer, Chairperson, presiding.

MEMBERS PRESENT:
JEFFREY W. MOYER, Chairperson
DANIEL G. GIACOMINI, Vice Chairperson

JULIE S. WEISMAN, Secretary
RIGOBERTO I. DELGADO
STEVE DeMURI
KRISTINE ELLOR
KEVIN ENGELBERT
BARRY FLAMM
KATRINA HEINZE
BEA E. JAMES
HUBERT J. KARREMAN
TRACY MIEDEMA
JOSEPH R. SMILLIE

STAFF PRESENT:

MILES McEVOY
VALERIE FRANCES
MARK BRADLEY
SHANNON NALLY
RUIHONG GUO
VALERIE SCHMALE
J.D. MELVIN

ROBERT POOLER
JUDITH RAGONESI
TAMMIE WILBURN
ANDREW REGALADO
TONI STROTHER
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Adjourn
WELCOME AND INTRODUCTION

CHAIRPERSON MOYER: Good morning, everybody. Good morning, board members.

I'd like to welcome everybody back to day two of our session of our November meeting. I'd like to call the meeting to order, and we don't have - for the benefit of the gallery, we don't have any speeches lined up for this morning. We are going to jump right into our business.

And if you look at the agenda, you will see that we are going to start our meeting with discussions and presentations by committee, starting with the policy committee, so Chairman Barry, if you are ready to get started with your presentation, or your team's presentation, we'd like to jump right into the business of the board.

REPORT OF POLICY COMMITTEE

MEMBER FLAMM: Thank you. Good
The policy development committee has four action items to modify, to strengthen the policy and procedure manual.

Our committee, the policy committee, always works as a team. And in keeping with that this morning, each of the committee members will present one of the action items. And Bea James will lead off.

Bea.

MEMBER JAMES: Thank you, Barry.

The first recommendation is on a clarification of Section 3 in the Policy and Procedure Manual, executive director responsibilities. So what we've done here is just slightly strengthen the language related to the general function of the NOSB executive director, aka Valerie.

And the only change that we made is in the first sentence before all of the bullet points of those duties, and that is that the executive director is to facilitate
the operation of the board while helping to
maintain and strengthen its independence,
other specific functions. And the main reason
for this was to clarify that the executive
director's role is to be facilitator and to
not manage the board per se. And that is
pretty much it on the executive director, if
anybody has any questions.

Okay, going on to the other change
in Section 3 that I think people will be very
happy about is the secretary's duties, which
we lightened up to not include having to take
minutes at the meetings. Oh, do you have an
opposition to that, Julie?

SECRETARY WEISMAN: No. I have
no opposition. Does that mean that I can stop
filling in what we're doing right now?

MEMBER JAMES: Well, you have to
wait until we vote on it.

Because we have transcripts that
are very easy to search now, and because we
have Valerie, we felt that the secretary
duties could be lightened so they could pay more attention to public speaking, and be more engaged and involved. And so that is probably the main change in the secretary's duties.

And those are the updates to Section 3.

MEMBER FLAMM: Thank you, Bea.

The next action item was the review of Section 5 of the Policy and Procedures Manual. And Rigo will present our recommendations.

Rigo.

MEMBER DELGADO: All right, thank you, Mr. Chair.

Again, the purpose of the changes is to keep this living document up to date, and we've done several things to make it clear what was the intent of that Section was, and we added some. For example, the main introductory section that is - we just rearranged some of the wording to make it clear.
The next section duties of committee chairs has the second bullet, you'll see we added the executive committee. This is with the intent of making sure that plans at the committee level have been reviewed and agreed upon with the executive committee. In other words we just want to make sure that there is communication going back and forth.

We added let's see this next subsection, duties of committee vice chairs, we added one more duty, which is the second bullet point that you see right there, highlighted in light blue, and that is a system reviewing the committee meetings for accuracy.

Going on to the following page, the changes that you see there are simply made to allow for better comprehension and parallel form, and in the section called procedures for completing committee recommendations, you will see at the bottom of that we added the line, this time is needed to allow the program to
publish in ANPR and allow for public comment.
That was in relation to a 45-day period that we are asking the committees to submit their recommendations in advance to the program.
Moving forward we have --
MS. FRANCES: Could I say one thing?
MEMBER DELGADO: Yes, ma'am.
MS. FRANCES: I didn't notice this before where it says, ANPR. It's not in ANPR, it's just a Federal meeting notice.
It's just a meeting notice.
MEMBER DELGADO: Okay, so what shall we do, and what is the action item?
MS. FRANCES: Just change the wording.
MEMBER DELGADO: Change the wording, will do. Thank you for the clarification. It's just the meeting then.
Moving forward, again, we've just made sure that when we eliminate some of those words like outline on the following page, if
you move further down there you go, we just wanted to make it consistent and have parallel construction flow better. For those of you English majors, I'm sure you'll be happy.

And then I want to point to the underlined section there that says, recommendations related to materials. Further up. The section called writing committee recommendations, and we split it in two. We had this original section, which is, recommendations not related to material petitions and sunset reviews, and we've seen this, you already approved that.

Then we added the following section, and it's not highlighted as it should be, and we'll blame the gods of the Internet for that. But it's called - Valerie, if you bear with me - it's called - it's right after minority discussion, further down, don't go too fast, further up, one page up, a little more, there. If you highlight that, starting with recommendations related to material
petitions and sunset reviews. And we added
that section just so we could have some - a
guide of how to present those specific
recommendations. And I would like to
highlight the fact that we are adding in the
committee summary a section that explains how
we arrived at that recommendation, which goes
back to one of the comments from the
presenters yesterday. We had presented a
description of what was a rationale for a
specific recommendation, and the public and
the committee - and the board members would
have been more aware of what we followed, so
we think that should be fixing that problem.

And the rest is just again
following page is trying to make everything
even and nice looking. And that is it; no
more changes for Section 5. We were intending
on working with another section that explains
how the board works with the program, but we
decided to wait for that until the next
meeting.
Any questions?

CHAIRPERSON MOYER: Yes, Dan,

just a note, asking on page three, procedures
for completing committee recommendations,
number two, should that be draft
recommendation or committee recommendation?

We are not posting the draft; we are posting
the final committee recommendation, aren't we?

MEMBER DELGADO: Yes, we are.

And that's - just to follow up - that would be

--

VICE CHAIRPERSON GIACOMINI:

Procedures for completing committee
recommendations.

MEMBER DELGADO: Correct. Point
number two, yes, you are absolutely right. So
we should change that. Middle of page three.

Where it says the draft there. We need a
final recommendation. Any other questions?

CHAIRPERSON MOYER: Any other

comments? Questions for Rigo?

Barry, back to you.
MEMBER FLAMM: Thank you.

The next section, Section 6, involves some updates and changes but has a new section, and Steve will present our work and recommendations. Steve.

MEMBER DeMURI: Thank you, Barry.

As Barry mentioned, this is miscellaneous policy, Section 6. There are some changes to some existing policies that have been in the manual for awhile, and some brand new policies in this section. So I'll go over the new ones in a little more detail than the ones that are just revisions.

But the first one is NOSB policy for presenters invited by committees. And a couple of minor changes on this one. On point one, the need to invite a presenter to an NOSB committee meeting must be determined at the committee level. That was a change on that point.

And then on number two we took out the 45-day timeline that was detailed on
that point earlier, and just put it with

enough notice to allow adequate time to

accommodate the schedule of the presenting

party and the NOSB. So rather than have a

strict timeline in there we left it a little

bit more open-ended to accommodate different

situations.

On the next page, and this is a

brand new policy, NOSB policy for members of

the U.S. Congress invited by committees.

Occasionally some of us on the board may want

to invite somebody from the Hill to come and

speak to us for different reasons, and we were

asked to put together a policy for those

procedures to invite somebody. So let me go

through those in a little more detail.

Point number one, need for the

presentation established within the

appropriate committee by the committee

chairperson.

Number two would be that the

committee chairperson should notify the NOSB
chair with a request to issue an invitation
with enough notice to allow adequate time
accommodate the schedules of the presenting
congressional member and the NOSB. Exceptions
are at the discretion of the NOSB chair. This
request should be made before any contact with
the office of the congressional member is
made.

Number three, upon receipt of the
request from the committee chairperson, the
NOSB chairperson will notify the NOP
administrator, and the NOSB executive
director, and a discussion of the request will
be scheduled as an agenda item for the next
regularly scheduled NOSB executive committee
conference calls.

If the original requester is not a
member of the EC, that person may be asked to
attend the EC conference call to provide
background information and describe the
purpose for the invitation at the discretion
of the chairperson.
Number four, approval or denial of the invitation request will be by the NOSB executive committee. When the invitation request has either been approved or denied, the chairperson of the NOSB will notify the original requester of the decision. If denied no further action will be taken; if approved, the invitation can be delivered to the congressional member or staff by either the original requester or by the chairperson of the NOSB at the chairperson's discretion.

Number five, the executive director of the NOSB will work with the member of Congress or staff person to schedule the approved NOSB meeting occurrence at a date and time mutually agreeable to all parties.

And the last point: reasons for presentation, subject area, and bio-slash-resume of presenters to be circulated via email to the entire board at least two weeks prior to the meeting.

So a lot of words there. Just to
try to wrap up procedures for inviting congress people to speak to us at meetings.

The next policy is NOSB policy for public comment at NOSB meetings. One change in this section in point number six we added the proxy request should be submitted in writing; this is in regard to proxies, to the executive director, and include the name of the presenter, presenter's topic, reason for need of a proxy, and be limited to the five-minute specified timeframe. So we are trying to shore up the proxy procedures a little bit there.

So the last section we had changes to was actually an addition, and this is NOSB policies or surveys conducted on behalf of NOSB committees. Occasionally we do need surveys to be taken to do our work, and this policy was put in place to put some rigor around that. An official public survey may be required by an NOSB committee in order to gather critical data necessary for the
development of NOSB recommendations. However, surveys may be costly and must follow strict time consuming review procedures within the USDA and the Office of Management and Budget, OMB. Any survey carried out by the NOSB is considered by the OMB to represent the executive branch and falls within the arena of an ANPR. The Federal Register notice process is the legally recognized method of giving notice to the public, and all surveys must show that every effort was made to allow the public the opportunity to respond with comments.

Therefore the NOSB committee should consider carefully all possible alternative means for obtaining the needed data. If an official survey is concluded to be essential to the committee's work, the surveys including the electronic versions conducted must be approved by the NOSB executive committee before they are submitted for approval to USDA and OMB, and a written
report summarizing the results of the survey must be submitted to the full board and NOP as soon as possible at their completion.

So that was a brand new miscellaneous policy that was added to Section 6, and that is the of the changes and additions to the section. Anyone have any questions.

MEMBER FLAMM: Questions for Steven? Yes, Tracy.

MEMBER MIEDEMA: This is a tiny technical correction. On the part where we were inviting folks from Congress, I think you said NOP administrator, and if we are talking about Miles, I think his title is deputy administrator.

MEMBER DeMURI: Let me find that. Do you have that Valerie?

CHAIRPERSON MOYER: Do you know what line that's on, Tracy?

MEMBER FLAMM: Number Three.

MEMBER DeMURI: Deputy
1 administrator. Did you catch that, Val?

2 CHAIRPERSON MOYER: Any other

3 questions for Steve?

4 Barry, back to you.

5 MEMBER FLAMM: Thank you, Steve.

6 The next and last one involves

7 kind of completing the work that we did at the

8 May meeting. At the May meeting the

9 biodiversity action item was presented, and

10 approved, by the board. As part of that

11 recommendation it involved making changes in

12 our material criteria list which essentially

13 included just being more specific - that's a

14 word I struggled with all my life; I used to

15 say "pacific" and cough when I said it. In

16 any case our addition is to add the words,

17 biodiversity, to category one of the criteria,

18 under item three, and again adding category -

19 under category three, number two to add

20 biodiversity. This like I said was actually

21 approved at the May meeting, and we are now to

22 a point of formally adding it to the policy
and procedure manual, and we felt this extra step was probably necessary in order to do any necessary coordination with the materials committee.

So that concludes our presentation. Are there any questions on this addition to the criteria, or any other questions from the board?

CHAIRPERSON MOYER: I don't see any, Barry, so thank you for your presentations. Very well done; appreciate that.

We will now move directly on to the Compliance, Accreditation and Certification Committee. Joe Smillie, chairperson. Joe.

COMPLIANCE, ACCREDITATION AND CERTIFICATION COMMITTEE

MEMBER SMILLIE: Thank you, Mr. Chair.

The Compliance, Accreditation and Certification Committee welcomes the age of
enforcement. And in responding to that, we
have two recommendations, one is on retail and
one is on personal care, and basically I'll
let the people that were the principal authors
of these documents conduct the review.

We will start with Bea, and slight
clarification: the title of this
recommendation will be, Clarification of
Voluntary Retail Certification.

Bea.

MEMBER JAMES: Thank you, Joe.

The CACC recommendation,
clarification for voluntary retail
certification, is really a starting point for
a more complete guidance document that will
provide direction for retailers. Consistent
compliance guidelines for inspectors and
uniform application of the USDA organic seal
at retail.

The guidance document was
developed in a way that introduces the
complexity of the issues that currently
surround voluntary retail certification, and the recommendation's primary objective is really three-pronged: to acknowledge the existing issues taking place at retail; to clarify by providing answers in the form of a final guidance document; and to support retailers with strong certification clarification, certifiers with consistent correction, and consumers with a clear message.

So the guidance - if the guidance document passes, which we hope it will, the hope is that the NOP will provide answers to many of the questions posed, or they will support continued work on the recommendations for the CACC to develop the answers with the help of the industry.

I'll just summarize some of the key issues that need clarification around this subject.

One, products labeled as organic in perishable departments that are handling
and/or processing, so on the first page of the recommendation background section, this really kind of stems from the Q&A that was posed in April 4, 2008, where somebody submitted a question, may a retail operation be certified. And the NOP responded with the following.

Under NOP regulations, retail operations are generally considered an excluded entity, and therefore do not have to be certified. However a retailer may voluntarily become certified for the products which it handles in accordance with NOP regulations, and if a retailer has an in-store bakery or delicatessen which processes products which are sold as certified organic, that portion of the retail operation must be certified as a handling operation in order to sell, label or represent those products as certified organic.

So yesterday we talked a little about this with some of the public comment that came up, that the problem is that
retailers really are not in a deli or bakery
selling a product that says certified organic;
it just says organic. So there is really not
a huge difference between a deli that is
selling a certified salad that is actually
certified - or not certified, but selling an
organic salad and they are certified, and a
deli that is not certified, and has the
ability to sell off a salad as organic. So
clarification around that.

Second point is that certification
of a grocery department where all products are
pre-packaged and commingling is limited or
nonexistent. There was a lot of public
comment from a - well, there was one from one
cert that they felt that the center store
shouldn't be certified at all because they are
not processing or handling, and they have
given some information there about citing the
rule as to why a grocery department that just
has prepackaged products would not be. But
then Oregon Tilth also had comments about the
fact that it does add extra guarantee for a
grocery store that wants to track all the
products that they are putting in the aisle,
which I can tell you is a lot of work, and I'm
not so sure that that is realistic.

And then three, labeling of
organic cheeses, cut in the cheese department,
where the department is not certified but is
being supplied with USDA organic labels from
the cheese manufacturer for application to
each cut piece of cheese. So a cheese cutter
will get a box that has a big wheel of cheese,
and inside of it it will have the logo and the
label of that manufacturer, that usually
includes if they're organic, certified organic
stickers that go on the sheets. So cutting
cheese is processing, so if you are not
certified and you are cutting that cheese in
the cheese department and you are applying
those labels, then it implies that it's still
a certified organic product. So clarification
around that.
Clear and consistent compliance expectations for the retailers from their certifiers. So inclusion of marking plans and programs are part of the retailers' OSP. Cross inspections of all departments, and not just the one that is being certified. So some certifiers might be coming in to do an inspection for a produce department, and that produce department might be cross-merchandising some certified organic products in another department, or have a scale labeled that says they're certified organic. And then they might be cross-merchandising as well that scale for somebody else to use, and that organic message is coming out of the scale, as certified organic on products that may not be certified organic.

And then lastly training and education courses for retailers, certified or not certified, so that they can be deployment-ready for understanding their role and supporting voluntary retail certification.

Right now there is just not a lot of support
for retailers to continue to be educated, to make sure that they understand. I think it would be great if the industry OTA I know offered to provide an update to their gort manual. They hope to do that in 2010. But there needs to be more education and materials for resources for retailers that are certified or not certified to go to so they fully understand how they should be marketing the message of the USDA organic.

And then lastly, I just want to thank those that provided public comment on this subject. There were eight comments, of which most offered very thorough and extensive answers to many of the questions posed in the recommendation. OTA CCOF, OneCert, MOSA, Oregon Tilth, the Wedge and Whole Foods all provided great insight and expertise to help answer many of the questions in the document. I think one unified message in all the public comment received was the request for more clarity around the questions posed by
the CACC. And that - and support for education for retailers.

And additional comments acknowledged that the rule provides all the necessary regulations for retailers, but just that additional guidance would add more clarity which almost everybody supported.

And Joe, I don't know if you wanted to comment on anything about the regulation?

MEMBER SMILLIE: Right. I think one of the key messages is that only in retail do we have organic and certified organic. Everywhere else organic means certified organic, but in retail you can have organic and certified organic. And I think that can lead to public confusion.

The other important point is that retailers, although exempt and excluded in certain areas, nevertheless have to be in compliance with the regulation. And that is sometimes missed. The exclusion exemption
doesn't exempt them from the regulation. It exempts them from certification. So I think that this document is really important in getting the message out to consumers and retailers, and hopefully seeing an increase which was the real intent of bringing retailers not necessarily into compliance, which would be helpful, but also just bringing them into the loop so that they understand. And with this age of enforcement that is beginning, we may see some added stimulus to the retail community to get involved with certification.

So I think that this document is really important as a step in the beginning, and I do believe, unlike some of my colleagues in the certification industry, that we do need more consistency and clarity in applying the processing and handling regulations to the retail situation. There are some distinctive differences in retail that are different than distributors or processors, and I think that
we probably need not a rule change but
certainly some guidance for that. And I think
that is where we are headed with this.

Bea.

MEMBER JAMES: Thanks, Joe. And
then I also want to acknowledge that Oregon
Tilth really provided a lot of really good
insight and answers to a lot of the questions
that we posed. So I would like to recommend
that that document really be looked at by the
CACC, and since I'm off the board after this
meeting I won't be able to push that agenda,
so I'm saying it now.

And then in closing I also wanted
to just read something that the Oregon Tilth
pointed out, in a second, they said, we also
urge the NOSB to develop a procedure for the
approval and posting of guidance documents to
ensure a conclusive home for your work. It
would be very beneficial to the industry if
the NOP website contained a home for
officially approved NOSB guidance documents.
We are concerned about the status of several other guidance documents that have not to date been addressed by the program. Accordingly we question the fate of the proposed retailer guidance and the worth of everyone's time. We are urging the CACC to follow up on the status of recommended guidance documents, and for the NOP to address the work of the NOSB.

And then they list some specific guidance documents that they are asking about. But I think that is a really good point, to make sure that we actually have a place where people can go and find the resources for guidance to get more information since it doesn't actually go, not something that is officially part of the rule.

So with that I will take any questions, and CACC will take any questions.

CHAIRPERSON MOYER: Dan.

VICE CHAIRPERSON GIACOMINI: Thanks, Bea.

A couple of questions just for
clarity. As I've said before when we go to
this level I'm as interested in what I for
lack of a better term call intellectual
contamination as physical contamination. When
you talk about cross inspection between
departments, does that include signage? Or
looking for inaccurate representation, dairy
case, cereal aisle, things that are pre-
packaged?

MEMBER JAMES: Okay, so when you
say pre-packaged, are you talking about just
like cereal on the shelf? Or are you talking
about things that would be pre-packaged by --

VICE CHAIRPERSON GIACOMINI:
Cereal on a shelf, milk in a carton, those
kind of things that can be there in organic
form, non-organic form, with inaccurate
deceptive signage.

MEMBER JAMES: Yes, I think that
is a really good point. And I would say that
that is something that should be acknowledged
as part of the additional guidance that is
needed for certifiers to do when they are in
cross-inspecting a department. For example
private label products oftentimes don't always
have accurate labeling, and that's one of the
things that could be noticed by an inspection
coming in to do a department.

VICE CHAIRPERSON GIACOMINI: And
then the other question I have is regarding
chains. Are all the stores within a chain if
one is going to be certified are they all
going to be required? Or is there going to be
some, again, intellectual contamination
concerns regarding how it's used in
advertising. I can easily see where you have
anywhere from three in a chain to 500 in a
chain. You certify one, you put it on all
your advertising, and you say that you have a
certified store, but you only did one.

MEMBER JAMES: I'll let Joe
answer this, since there were some recent
changes.

MEMBER SMILLIE: Yes, one of the
real points of this document is how to market their certification. And that is one of the areas we found that there has been abuse; there is no question. Not only within a store, like one department is certified, and then it can sound like the whole store is certified. So that's what this document addresses.

And also with chains, I think you know we are certainly not going to tie people up saying, if you certify one store in chain they all have to be certified. We don't want to go in that direction. We want chains to say, okay, these are the stores that are going to get certified, and that will encourage them to move along. But they just have to be specific in their presentation that this store is certified and not other ones.

VICE CHAIRPERSON GIACOMINI: But that advertising and how they are specific in that assertion is part of this review?

MEMBER SMILLIE: Absolutely. And
actually I think that is one of the key components of this guidance document is after you certify a store you've got very little control over their marketing, and we are recommending that that is part of their organic system plan, that the marketing piece has to be part of that OSB.

CHAIRPERSON MOYER: I think that's an excellent point, Joe, that that is what this does. Bea?

MEMBER JAMES: No, I was just going to point out to Dan on the last page of the guidance document under point (b)(c), should certifiers require retailers to include marketing plans slash programs as part of their OSB as Joe stated.

CHAIRPERSON MOYER: I had one question for you, Bea, in terms of - I'm not too familiar with the retail side of the business, but in terms of the training of the actual staff that does the cutting of the cheese, how much of that goes on today, and
what kind of training support tools would they need to actually make it function better?

    MEMBER JAMES:   Well, I can't speak for all retailers, but I can say that it's just kind of a sliding scale, that it varies. There are retailers, and such as the one that I work for, a 21-store chain, and we only have one department that is certified, and we go through extensive annual education and training as well as testing that takes place four times a year. And those tests go into the file, and the certifier looks at that.

    I don't know if that is consistent with all retailers. I think if there was an expectation of making sure that there was education in place for certified retailers, that that would help the process. So.

    CHAIRPERSON MOYER:   Yes, I guess my concern stems from what Dan was saying about cross-contamination, not only in signage but physical cross-contamination from the
staff that doesn't fully understand the
time. In a farming operation generally
speaking you've got staff that are working on
an organic farm, and they understand at least
the basics of what they are trying to
accomplish. But in a store you've got such a
variety of products on that scale. That was
the reason for my question.

MEMBER JAMES: Well, I'll let Joe
take that. But the rule is clear. If you
certify your department you have to follow
certain steps as far as cleaning, and
handling, and tracking.

MEMBER SMILLIE: Yes, it's been
my experience, and I think the other
certification industry would back me up on
this, is that a lot of times retailers get
involved in it because they want it for
marketing purposes. They find out that the
real value in certification is helping them
increase their liability as far as compliance,
and the staff really get into it. I mean it
really becomes a huge empowerment sort of thing with retailers, and it also enables retailers - and this is not quite understood - as retailers understand their liabilities, and hence, we see a lot of organic product that is in a bag, and it's not produce display, it's like in a bag because they are really worried about cross-contamination.

So it makes them - it gives them an environment, well, we've got to keep the organic sort of bagged and separate, and not open and bounteous in displays and all that. So I think it enables them to - with certification to get the knowledge and go beyond and start to really understand how the system works. And it creates benefits to them in every area.

CHAIRPERSON MOYER: Yes, I was more concerned about the stores, or the retail outlets that are not certified but they are still selling the organic product, and without going through that certification process. The
farms don't do that, but they don't understand either; that was my point.

MEMBER JAMES: That's - I'll bring it back to some of the suggestions from Oregon Tilth in their response to the recommendation, is that if we could create educational platforms for retailers, that they would get some kind of diploma, or certificate, that would help them kind of train the trainer back at store level whether they are certified or not that that would add a lot of value.

CHAIRPERSON MOYER: Katrina.

MEMBER HEINZE: Help me understand a little bit what happens if we pass this recommendation. So I look at your document in the recommendation section, it's a bunch of questions. So I'm trying to understand what a yes vote means.

MEMBER JAMES: Well, as I mentioned earlier, the point of this recommendation is really to try to get support
from the NOP to delve into this further. And we really also wanted to get public comment and insight. We didn't just want to come out with a guidance document that answered all these questions. We wanted to see how our different industry experts would answer the questions. So we have a broad spectrum.

I think one of the things that was in several of the responses in the public comment was concern about being too over regulated. So it's a fine line between making sure that we give guidance without being over prescriptive. So the next step would be if this passes then it would go to the NOP. The NOP could choose to answer the questions on their own, or they could send it back to the CACC and say, we would like you to create an actual guidance document that answers all these questions.

MEMBER HEINZE: How is that different than a discussion document? Is it that you want us to vote so that it goes to
the NOP to get a decision from them? Is that really what you are looking for?

MEMBER SMILLIE: Yes.

MEMBER HEINZE: Thank you.

CHAIRPERSON MOYER: Any other questions for Bea or Joe? Thank you, Bea, Joe.

The next document I want to draw attention - the next recommendation, to the title. The title is, solving the problem of mislabeled organic personal care products. And this deviates slightly from our usual titling, and there is a reason behind that, and I'll let Tracy explain.

SOLVING THE PROBLEM OF MISLABELED ORGANIC PERSONAL CARE PRODUCTS

MEMBER MIEDEMA: Good morning, everyone. Thanks, Joe.

Well, I'd like to start out by stating the purpose of our recommendation. We say the certification, accreditation and compliance committee recommends that organic
personal care products be recognized explicitly by the national organic program to ensure consumers and businesses alike that the products have an unquestioned home in a USDA national organic program.

This sounds pretty simple: we are trying to plant the flag within the program so that the program stakes claims and regulates products that carry the word, organic.

Seems pretty straightforward, and actually we are proposing quite a brief recommendation and insertion of language that would plant that flag in the regulation.

But it's a much more complicated issue than that, and I want to bring to light why this issue is contentious. First of all, FDA did not regulate the term, organic, as it applies to cosmetics, body care, personal care products. But they do regulate that class of products.

USDA regulates the term, organic, as it applies to agricultural products.
Now allow me for a moment here to brief you on the history over the last few years in 2005 on how NOP has tried to bridge that divide, and the divide I'm talking about is not having regulatory purview necessarily over this category of products, but needing to regulate the word organic.

So in 2005 NOP produced a memorandum - and by the way the three documents I'm going to refer to that came from USDA are from the NOP were never put through the federal rulemaking process. They were published online, and became a tacit rulebook. These are not part of 7 CFR 205. NOP can change their mind. But in 2005 the key aspect of this memo was that - and I'm going to quote again - NOP said there are agricultural products, including personal care products, that by virtue of their organic agricultural product content may meet the NOP standards and be labeled as 100 percent organic, quote organic, or may be made organic pursuant to
the NOP regulations.

Now what this did was it pulls personal care products that were being labeled organic out of sort of criminal status, and it leads into the world of being allowed to carry the label. And I use that term, criminal, pejoratively here. There was a lawsuit. The NOP needed to bring some clarity to the fact that hey, if you are producing an agricultural organic product that complies with 7 CFR 205, you are not going to get in trouble, ACAs, if you go ahead and certify that operation.

So we are going along, the industry is starting to develop. Now let me just branch off here and take you back to yesterday's conversation with a parallel industry that grew up where there was some limbo in regulation. And I'm going to refer to the animal welfare and to poultry specifically.

These poultry farmers were toeing the line as they knew it. The regulation
meanwhile was sort of silently developing in the background where we think things were really going to go someday. And the producers, and the folks investing in animal welfare for poultry, were continuing to invest their life savings, hire 35 people, build farms, toeing the line as they knew it. Nine years elapsed, and then we and the program were sort of coming to the fact that we needed to actually be explicit in what the rules are. Meanwhile where people thought they should be following the rule, and where the program and possibly the board thought we needed to be — the gap has grown. And we are where we are today with a great big gap between where some people are and where some people think the industry needs to be.

That gap is starting to form now in personal care products. So what I just referred to, the NOP memorandum stating that, go ahead and use the seal on organic personal care products so long as they meet 7 CFR 205,
that was a little over four years ago. 2008

so a little over a year ago a document showed
up on the web, on the NOP site, that expanded
the use of organic on personal care products
to be okay if you use a foreign certifier or
a private certifier. You can't say USDA
organic. You can't say the word, certified
organic. You can't use the seal. But you can
say the word, organic. Essentially the NOP
was saying, listen, we don't have a body of
regulations in this category. We don't really
have regulatory purview, because that is FDA's
stuff over there.

So private and foreign certifiers
for the time being are okay. Now we've had
another year of that gap widening. Products
being developed. Investment happening against
private and foreign certifiers.

Let's go to the consumers here
now, and ask ourselves honestly, do consumers
really parse the difference between organic
and organic? A moment ago we were asking the
question, do they know the difference between certified organic and organic. Well, when it came to personal care products, you may have two products side by side that both say organic. Because you don't have to use the seal. If you read the fine print, a certified organic product will list the name of the certifier. That might be the only different. So these products that appear side by side could have completely different you know secret decoder rings if you will behind what the word organic means on the product. Now this is no criticism of these businesses taking giant strides to create better, safer products for the marketplace. They are toeing the line. They are doing what the program says is okay, and they are doing wonderful things. It's just that these very businesses that are doing great things are at a tremendous risk right now. Because we don't know what the next guidance document could be. It could be, well, say, foreign and private certifications,
that is not working for us anymore. In fact
we are going to make a rule change. We're in
a limbo land that is not safe for business.

I haven't spent much time talking
about consumer confusion, mainly because it
feels like stating the obvious. When you walk
into a grocery aisle, and you see products
carrying the word, organic, and it doesn't
actually have a regulation behind it, this is
such a clear case of consumer confusion.

Hopefully that is really self-evident.

So what we are recommending is
simply that the NOP explicitly recognize these
personal care products in the regulation. And
to do that some definitions will need to be
added. So you would be talking about a real
rule change, and moving out of the realm of
web-based guidance documents published and to
real rulemaking.

There is precedence for these
different branches of government - not
branches, departments of government - to work
together. USDA has gained memorandums of understanding before, such as when we produced organic alcohol, under ATF. So also with livestock medicines as well. We have precedent for working with other departments. We know that's possible. We can bring that forward in this recommendation if folks need us to note that what we think NOP should do is gain an memorandum of understanding with FDA. That is kind of how they will need to make sausage. But we have heard some feedback that that would be a good thing to have in our recommendation that we don't have in there currently, kind of what the process is going to need to be for NOP.

But we feel that by inserting these definitions, we would bring clarity for consumers, if the word organic has a regulatory underpinning that is consistent every time it's used, and we would help businesses have a solid foundation to work from instead of the really shaky foundations
that is in place right now.

Any questions?

CHAIRPERSON MOYER: Thank you, Tracy. I have one comment that I will make as I look around the room for more questions. I wish Miles was here, because I think yesterday we saw his priority list, and this was not on his priority list. I believe as you clearly stated, Tracy, that consumer confusion could easily be the downfall of this industry. We heard Barbara Robinson say, we own the word. We've heard Kathleen Merrigan say, this is a food document, not a personal care document; we are not interested in going there. So we've heard both sides of the tale from the program. And I really think that we need to get on Miles' priority list, because it is extremely important. It's not a food issue; it's not a food item. But we got to get it there - that's my opinion. It's incredibly important because consumer confusion, as I said in my opening comments,
we are on a thin line here. We heard from
Katrina yesterday that the word, natural, is
gaining momentum, because people don't
understand what is happening in organic. And
as you put it, organic products that are
organic sitting on the shelf with products
that are not organic, and they say the same
things. And consumers don't understand that.
It's very scary. Just a comment, not
necessarily a question, Joe.

MEMBER SMILLIE: Yes, it's a very
complex issue. Let me be very clear about
that. And there are a lot of dangers. There
are downsides to the document too. For the
NOSB and anyone I would strongly recommend the
OTA white paper. They have pulled together a
lot of people. There are a lot of different
sources of information of how we can make the
organic regulation more personal care
friendly, and that is one of the downsides.
One of the downsides is that if we move
through this process and NOP does take - stand
up and take some kind of ownership of the word, organic, there will have to be some compromises down the road, and one of those I think one of the best routes to follow will be slowly petitioning for the addition of more synthetic materials on the list, which is the downside. Right? Everybody is oh, no, no, we are diluting the rule and you are adding more synthetics. But to make it more personal care friendly and enabling the industry to grow that will be one of the downsides; let me be very clear about that.

I personally believe that if we have a section rather than annotations but a section for personal care use only, and since some - that terrible word again - synthetics are added, I don't think that's a bad thing. I think that's a good thing. But some people don't.

The other direction, there are other possible directions we could go, I think that is the best direction to take: slow but
steady, bring it into the house, is part of it. Because I still go back, we have disagreements on this, but OFPA is about agricultural commodities. It's about agriculture. It's not about necessarily food. It's just as much about cotton and hemp, there's the Washington hempsters here, it's about cotton and hemp and it's about all agriculture commodities. And personal care products are based on agricultural commodities. It's not like these things are made in a vat which is chemicals. We can encourage the growth of organic agriculture by allowing personal care companies to support that organic growth, and they've got money. They have margins on these products. They can pay good prices for lavender and all of the things, aloe vera and all of the things that they need. So we would be behooving the growth of organic agriculture, which as far as I'm concerned is what we are about. So I think it's a step in the right direction to
bring personal care products into the house,
and again hopefully in our prioritization
meeting, Mr. Chair, with the NOP, which is
projected to happen, I think we can work with
them. So Tracy, the CACC recommendation is
the first step toward bringing this large
group of products and industry into the house,
and I think it's a step we need to take.

CHIEF PERSON MOYER: Dan, then
Katrina.

VICE CHAIRPERSON GIACOMINI: Yes,
either Joe or Tracy. Is there a reason why
you went the route in this document of
exclusively personal care versus following
theme of whatever document from the NOP was of
non-food use. Which would then include
linens, textiles, whatever.

MEMBER MIEDEMA: It was really
based on the depth of expertise on this
category that was available, and the fact that
NOP had issued guidance documents that were
starting to I guess get rolling. This was
developed and that has a discrete category
that we addressed it discretely.

MEMBER SMILLIE: Just to add to
that, like the soap, the recent NOP directive
on soap. That is you know, I don't know if
you are familiar with that document, but they
came out and asked some questions about how do
we classify soapmaking. You are right in the
wheel house right there of personal care.
Specifically.

MEMBER MIEDEMA: And I'll add one
thing. It's really not fair to the folks who
are producing cleaning products and want us or
others, want the NOP to weigh in on their
organic products. We're just not there yet.

CHAIRPERSON MOYER: Katrina.

MEMBER HEINZE: When I look at
public comment, we had kind of a split in the
public comment. There were a number of folks
who either didn't support the document or
asked that it be deferred or withdrawn. Could
you kind of summarize why people are against?
MEMBER MIEDEMA: Excellent question, Katrina, I apologize for not shedding light on some of that. Okay, a lot of the comments referred to what they believe an outcome would be of planting this flag and the regulation. And for those companies who are using synthetics that are not right now allowed, and they are not on the national list anywhere, there would be reformulation - yes, if what happened is that there was a swift rulemaking, and no - and no allowances made for this class of products to develop with a list of synthetics. Now there's a precedent for category-specific synthetics. We made that recommendation anyhow with pet food.

And there are some things that we carved out and want to allow in organic pet food that we are not saying that we want to start entering the stream of organic human food. So we knew there was a precedent for that. That is probably the biggest problem people have with it is the disruption of
business. Folks have started really
developing this category. They've had four or
five years, and they have invested a lot of
money, and it feels like getting cut off at
the knees. And we empathize, and that's what
I try to bring forward is that planting this
flag in the regulation helps rebuild a solid
foundation or build one where there isn't one.

A couple of other issues that were
brought up: equivalency in the future, again
if we were to have a separate list of
synthetics that got built into 7 CFR 205, the
EU carves off its personal care, organic
personal care products into a little bit
different regulation, as a stand alone. So
would we have an equivalency issues. That's
another problem.

The fact that we've got this
problem with oversight by USDA, what business
does USDA have getting into personal care
products. That's not what they do. They
don't have the chemists. They don't have the
expertise. They don't understand esterfication, saponification, all these chemical processes that are necessary to create all these products, and they should just stay out, stick to their knitting, and let FDA have it later on as appropriate.

And there was also just sort of, this is happening too fast. Give it time.

Okay we are starting the discussion here, but let's kind of see where this goes. Let's not be too hasty. I think those were the main arguments.

CHAIRPERSON MOYER: Katrina,

follow up?

MEMBER HEINZE: So as a consumer who has tried to make decisions in this aisle, it is perplexing. Thank goodness I know the regulation, right. So I am very sympathetic with the impact that that consumer confusion has for us.

Did you consider - so it seems like the purpose of your recommendation is to
try to move this up on the priority list for
NOP, get some action out of them. Did you
consider an alternate option of asking them to
come back in the spring and tell us what they
are going to do about this, rather than
passing this recommendation? Was that a
different option?

MEMBER MIEDEMA: We are
essentially doing what you just asked by
making this recommendation and saying, we
recommend that you claim this category in
which your word and your seal appears on, we
are asking that question. And when we do this
sort of thing, NOP can still tell us to take
a hike, and they can still do nothing. There
are all kinds of paths that could go forward,
but we wanted to make a clear statement that
is it not sustainable where it's at, and I
think that is one thing we can all agree on
that we are on a path right now that doesn't
have - it's not headed in the right direction.

CHAIRPERSON MOYER: Exactly, we
I have a program decision that needs to be made.

I have Julie and then Kevin and Bea.

SECRETARY WEISMAN: Yes, I just wanted to - I think that the path that we are headed down is the issue, and the risk of losing what we have now. And the ownership of the term, organic, I won't take up more time. I just walked down what is that over there, you walk to Whole Foods, I pass at least two dry cleaners that say organic dry cleaning. Now I am not recommending that the USDA try and encompass that in the regulation, although it is problematic. I know lawyers who recommend that a suit be filed, but the fact that that happens - the fact that that happens is why - sorry, I'm a little slow - the fact that that happens is why Tina's point - I forget if it was Tina or Katrina - about the word, natural, starting to have more meaning for consumers even though it is completely unregulated. That is a problem.

CHAIRPERSON MOYER: Thank you,
Julie. I have Kevin.

MEMBER ENGELBERT: Yes, two things. One, I like the recommendation. I like your analogy of the first step and that we are trying to protect organic. I am obviously concerned, Joe, about your approach, what will happen with putting more synthetics on, and that to me is not - is - would be a wrong turn, but I'll be long gone by the time those decisions are made, so there is no point belaboring it right now.

But the one question I do have, I'd be very interested to know under your definitions why you chose the word, under one, an article intended to be rubbed. Why you settled on article. There must be a reason why it's not substance or material. It is just curious.

MEMBER MIEDEMA: To the degree possible we really tied to FDA definitions, so that when memorandum of understanding time came around we didn't have as big a bridge to
MEMBER ENGELBERT: There must be a reason, but I just wondered what it was.

CHAIRPERSON MOYER: Let's save the humor for 4:00 o'clock when we need it. I think that is an excellent point though. I think tying this to FDA and recognizing that we are going to have to partner with FDA whatever the program decides to do is extremely important.

MEMBER SMILLIE: One of the people that was supposed to speak yesterday and I can't pronounce her name, Farah from the personal care counsel, her submission is on the record, and I really recommend everyone to read it, because she represents that industry, the trade association for personal care industry. And her comments were very pointed. Stay out of our industry.

And I think we should take that comment. I was disappointed that she wasn't here to give the oral presentation. Oh, she
is here today? Wonderful. Well, perhaps you can re-up and get back on the list, because we do want to understand where your industry is coming from on this issue. Thanks.

CHAIRPERSON MOYER: Okay, the chair recognizes Bea.

MEMBER JAMES: I just wanted to kind of add to the discussion by saying from the retailer perspective that consumers are looking for preventative solutions, and organic and natural foods have kind of created this natural progression of people who want healthy choices for prevention, and they oftentimes migrate outside of the food area into the HBC department for those concentrated added you know Nutriceutical solutions for being healthy. And the FDA I think that their roots in cosmetics and personal care really lean more towards the conventional side of things, and that over the years the natural industry has just started - has tried to develop these better than products that are
very similar to everything else that sold in a natural food store. So to not have the USDA recognize that this is an area that consumers are wanting an alternative to what has traditionally been seen as a conventional type of product that is regulated by FDA, wanting to move it towards, I'll say, not always but food for the skin, and if it ends up having synthetics to create more of that healthy alternative, that that provides a solution for that consumer that we are trying to help make regulations for, and to ignore personal care could be a misstep on our part, because if you go to any natural food store that is I'll say Whole Foods, their HBC department is huge, and it's well staffed, and it's obviously a stake in the ground that these consumers are looking for these types of choices, so that we should be involved and help make sure that we can provide them with those alternatives.

CHAIRPERSON MOYER: I agree, Bea. I mean I think that we are - this whole
process is a logical conclusion of our own success. So it's - that's what's driving us. And certainly it is going to require some training of FDA folks just like we're doing with EPA or like we're doing with science and tech and trying to get them to understand what are the expectations of our consuming public so that we can drive that train in education.

Any other questions for Bea or Joe? Thank you, Mr. Chairman, and your team, for great work on some difficult topics.

Moving right along we will move to the Materials Committee. Dan Giacomini, chairperson. Dan.

MATERIALS COMMITTEE

VICE CHAIRPERSON GIACOMINI:

Thank you, Mr. Chairman.

The materials committee has one document for consideration at this meeting regarding nanotechnology.

There was a significant amount of - well, let me go back. The - as a follow up
to our discussion document, at the main
meeting this document was presented, written
as a prohibition of the products of
nanotechnology in organic production and
handling. We also wrote the document to
include packaging which some commenters and
some people feel may be outside of our
jurisdiction. The reason that we included
that is because of the extremely high
possibility that this - products of this
technology through general packaging of what
we have in normal processed food and materials
is a potential source of contamination of the
product.

But we include packaging on there,
and we are very comfortable, most of the
committee is very comfortable that we have
that right to make that point.

Public comment was fairly
significant from Organic Consumers
Association, the Center for Food Safety, and
Friends of the Earth. It was impossible to be
absolutely in counting them all; it would have taken all the time that I took in reviewing the materials, and it would have been even further impossible to check for any possible overlaps. But the Organic Consumers Association, a compilation of letters which were I'm estimating were somewhere in the number around 1,500 of specific fairly detailed in some cases. I'm sure it may have started with a boilerplate, but they were in some cases they were fairly elaborate in their comments.

Also a spreadsheet database of 6,817 I believe names of people opposing - supporting the document, opposing nanotechnology in organic production. Center for Food Safety submitted somewhere around 9,000 public comments supporting the recommendation. And Friends of the Earth also supported that. I'm certainly not avoiding anyone else here.
OCA had a further one of 4,800;
that was including a number of different
issues not specifically limited to
nanotechnology.

There were comments from
certifiers, which the majority of them
supported the document. There were some that
supported the minority recommendation. There
were a fair amount of commenters that
suggested that we increased the number, the
size limits in the definition to 300, and
there was some concern in those opposing the
documents, the majority of the opposition was
a concern not to get in the same situation
we're in right now in dealing with vaccines on
the GMO issue.

That the track taken by the
minority opinion was a safer track in that
regard.

But overall the majority of public
comment supported for the most part the
opposition of nanotechnology in organic
productions and handling. We realized that from particularly from public comment that there are some questions over the definitions, and we are trying to decide within committee, and we would be open to any comments from the rest of the board regarding modification of that definition.

The main statement as I said regarding packaging was a concern over contamination. While some people would like the organic industry to save the world and the planet, our concern was not necessarily regarding the bag that people carry home their products from the store in, nor was it a piece of paper that is stapled to a palette that you transport material. We even had a box up here, a little four-pack that someone used to bring coffee in this morning. We didn't write this as a concern for that box, but as a concern more for the cup that the coffee was actually in.

And we are looking at the
possibility of adding language to clarify that point.

The - again the two tracks between the majority opinion and the minority opinion is whether we stay with a complete prohibition or we go through a track of classifying all products of nanotechnology with a very specific definition as synthetic and allowing them to proceed through the case by case review process to eliminate the situation we have with the GMO vaccines.

So with that I'd like to open debate from the rest of the board.

CHAIRPERSON MOYER: Discussion from the board. I have Barry and then Steve and then Joe.

MEMBER FLAMM: Dan, my question involves the comments regarding the size of the nanoparticles. I think that's what struck me the most in going through the comments that were supporting the recommendation. What do you and the committee think about increasing
the size range to 300?

VICE CHAIRPERSON GIACOMINI: We have not had a chance to deal with the real specifics, but I don't think there would be a tremendous objection to that.

CHAIRPERSON MOYER: Steve.

MEMBER DeMURI: Barry touched on something I was going to, but I have another comment too. You answered my question, I had a question on packaging, Dan, in this document. I'm glad to hear that you are not considering RFID tags stuck to a palette to be a problem. So to fix that you can probably just insert the word, primary, in front of packaging where you have it listed, and that should take care of that.

CHAIRPERSON MOYER: Good suggestion.

VICE CHAIRPERSON GIACOMINI: Thank you. Also going back to we were aware of - going back to the size issue, we were aware of the possibility and I think - I think
it's reasonable to say that I have studied this issue and the more we study - the more this issue is studied and researched, the larger particles we will find that carry these characteristics. I would not be surprised in the years ahead that we get at least into the 500 range of size items. That is why when we did this definition we included the word, typically, in the size scale of approximately to allow for a certain amount of wiggle and wobble. So it gives us a good idea, but without absolutely nailing this to the wall.

CHAIRPERSON MOYER: Anything else, Steve?

Chair recognizes Joe.

MEMBER SMILLIE: Steve made the exact point I was going to make.

CHAIRPERSON MOYER: Thank you, Joe.

Chair recognizes Rigo.

MEMBER DELGADO: Yes, Dan, I
think in your terms you define it, you talk
about the intent of nanotechnology. However
in the minority opinion it appears that the
intent of the committee was to include or
prohibit naturally occurring nanoparticles
that come from milk and grain mill and so
forth. Is that the case, or am I failing to
see something here?

VICE CHAIRPERSON GIACOMINI: I
would say that intent is - intent is only as
good as the words in the final result. I
think intent is great, but if it's not what
the regulation says, the regulation is what's
the regulation and not the intent. The intent
of the committee was to not include those.
It's the feeling I believe, and that person
can address that, that we did not
satisfactorily eliminate those substances.
That's part of the situation of
dealing with the definition. To a large
extent the nanotechnology research community
itself seems to be having - just struggling
with the definition. A majority of the committee was concerned that the longer we wait for them to decide on what their definition of nanotechnology really is, as they say the horse is farther and farther out of the barn. We have more situations like we have with animal welfare and poultry where you can't change us now as oppose to the deputy administrator telling us a few years ago that if we didn't include animal welfare in OFPA, but now is the time to add it.

So we have those problem - timeline problems that are always going to exist. The majority of the committee felt that we wanted to be as out in front of this as we possibly could, but no, homogenization in milk, grinding of flour, were not the substances that we were looking to include, and we tried as well as we could to not include them. Maybe we were not as successful as we should have been.

CHAIRPERSON MOYER: The chair
recognizes Julie.

SECRETARY WEISMAN: Well, that's actually a good lead in for my question. And it's again going back to the definition. I recall that there was a lot of comment yesterday, and you've already spoken to that a little bit, about objection to the definition being that specific, you know, one to 100 nanomicrons as the particle size. And I think that I remember a thread that covered a lot of different comments. I can't say for sure that it was the majority, but it seems to be a consistent theme to me that the definition suggesting that the definition be not so much focused on particle size, because - that it should be focusing more on engineering to a particular particle size to achieve a certain function, something like that, and so I guess my question is, is this recommendation, are we thinking of crafting some alternative language for the definition?

VICE CHAIRPERSON GIACOMINI: Most
of the definitions of nanotechnology that I have seen actually lead with the size issue. We did somewhat in an attempt to deflate that emphasis by putting it at the end, and trying to start with the engineering and the intended use.

We did receive after our request from one of the commenters yesterday, and alternative definition. Is it okay if I read this? Product engineered to be in the nanoscale because of specific unique properties that result only in that nanoscale. I don't know where that would sit with all those other official public, I forget what the agencies were that we could look up. But I like this simply because it's so far out of the box. Which is where I like to start thinking from.

CHAIRPERSON MOYER: Chair recognizes Hugh.

MEMBER KARREMAN: Kind of outside of that box, but you are talking RFID on some
things, right? There is our RFID tags that are put in cattle, correct? Is this part of that or just a totally different question? Is that nanotechnology? I don't know, I heard RFID.

VICE CHAIRPERSON GIACOMINI: Good question.

CHAIRPERSON MOYER: Not a good answer, I guess.

(Laughter.)

CHAIRPERSON MOYER: No, no, it's difficult. I was just being a smart ass.

VICE CHAIRPERSON GIACOMINI: That's on the record.

(Laughter.)

CHAIRPERSON MOYER: It's the truth.

VICE CHAIRPERSON GIACOMINI: So if this recommendation were passed the way it is, and that is a nanotechnology, it wouldn't be allowed except in situations where it's required by law. If that is part of the
animal ID issue, the debate of whether that is
going to be required or not is still under
discussion.

CHAIRPERSON MOYER: Julie has a
clarification on the RFID.

SECRETARY WEISMAN: Yes, I just
want to clarify that not all RFID is
nanotechnology. That is a very new
development, and I doubt very seriously
whether the RFID that's being used on herds
now is that. But it could happen, and that's
why we have to have a discussion.

CHAIRPERSON MOYER: The board
recognizes Katrina.

MEMBER HEINZE: Kevin, I yield to
you if your comment is about size. Okay. I
did not vote for this recommendation, and
drafted the minority opinion, and I wanted to
explain that a little bit, and maybe expand on
that after all the public comment we've heard.

It is clear to me, and I do not
disagree, that our stakeholders do not today
I want nanotech in the organic foods that they are purchasing. My concern with the recommendation was not that we prohibit that use today but how we do it.

What I worry about is that we create a situation where organic is known as no-nanotechnology forever, and that in the future, because science evolves, and science is not bad; good things come from science, lots of good things. Like laptops, that we all have sitting here that we all adjust to, right? And science can develop things that are good for the earth, that help with the safety, deliver features that consumers desire in their products. And I don't want to create a situation where in the future those advantages are not available to our organic consumers.

So clearly we don't know enough about the science today, and we should prohibit the use of nanotechnology today while we better understand the science. But I want
to create a situation where in the future this board is not seen as weakening the standards because all of a sudden we are letting nanotechnology, that evil thing that we excluded, into organic. The way we are talking this week about GMO vaccines. We've branded GMO as evil forever, and now we are putting our farmers in a bind. And it's a tough decision, and I want to avoid that in the future, because we don't know what's going to evolve.

So that was my original concern.

So what I proposed as an alternative is that we say all nanotech is synthetic, because it's synthetic, it is prohibited unless this board in whom I have great faith, reviews it, understands the science, understands the benefits and the risks, and approves it.

So the effect would be the same.

It would be prohibited, but it creates a path forward for flexibility. So that was my minority opinion.
I will say after having heard all the discussion this week I am more concerned about the definition than I was when I started. I had concerns originally about how these natural processes would be included, but I kind of thought we could work through that. But having heard all the discussion, I do think that the committee needs to spend some time, and hopefully in the next day and a half, coming up with the definition that more closely matches internationally recognized standards.

CHAIRPERSON MOYER: Thank you, Katrina.

Chair recognizes Kevin.

MEMBER ENGELBERT: Yes, I was going to respond to Julie, but since she is gone I will postpone that and respond a little bit to Katrina and what the majority of the board had the opinion we did.

Like you said it's obvious the public does not nanotechnology in organics.
They want an alternative. Leave nanotechnology to conventional food and agricultural production. By a strict ban in the future that could be overturned, but it will be harder to do than if it's just simply looked at - if nanotechnology is simply looked at as a synthetic.

So either way we are banning it, but I am in favor of the approach that is a stricter ban that makes it harder for it ever to come in, because I don't believe that humans will ever be able to know exactly - or as much as they think they do about these nanoparticles, and how they will interact with other nanoparticles and other chemicals in all these different types of situations.

So that's the reason that at least I myself was more in favor of it, and still abide by that line.

And to address Julie's point about homogenization in flour, we don't believe we excluded those methods right now, because it's
simply part of the process. It's already been
acknowledged and going on. If you were to
take the nanoparticles that were created by
milling, separate them out and try to apply
them to something else, or the few
nanoparticles of fat that become available by
homogenizing, it's something separate, then we
think you are crossing the line. But just
simply those processes right now we don't
think crosses it. We do have to work on the
definition and we will, but that was our
logic; that's where we were coming from with
our recommendation.

CHAIRPERSON MOYER: I had myself
on the list to comment and follow up on what
Kevin was saying, then I'll turn it over to
Katrina.

I agree with what Kevin was
saying, and if you look at the science of
genetic engineering or cloning, clearly there
are probably some things that could be
considered positive in the future. By
eliminating them as we did, as a total process, we have removed from the discussion 99.9 percent of the conversation. Yes, we are discussing it in the context of vaccines, but we are not discussing it in the context of seed or animals in the system.

I think the same thing would clearly happen here, if we discussed the issues on the periphery that affect packaging, or that affect animal tracking, or some of the other tools, we certainly discuss that, but we would not be needing to discuss every point of process that comes along because it's an excluded method. Does that make sense to you, and I'll turn it back to you.

MEMBER HEINZE: It does; I just don't agree with it. I think either way it's going to come to the board. And I think it's clear that the hurdle for a nanotech synthetic to be approved by the board is remarkably high. So I don't think we are going to be reviewing every XYZ nanotech because I think
people know: our consumers don't want it. So it would have to be something that was incredibly compelling for it even to come before the board. So I just think that creates a path that allows us to educate our consumers and engage them in the process.

With regard to your comment, Kevin, about what we intended to do, I know in committee discussion we did not intend to exclude the naturally occurring particles, I just don't think our recommendation does that. If you look at the definition, there are lots of different examples. The favorite one, and I'm sorry this is from conventional, but it could be from organic as well, is Edy's Slow Churned Ice Cream. If anyone has had this, it's 50 percent plus fat standard ice cream. It is created with a perfectly nice process, a slow cooled process that's churned. It creates very much smaller particle size than normal churned ice cream, so it feels in the mouth like a high fat product, even though it
doesn't have the fat. That is, it's engineered to create a different function, and it's what consumers want.

And by the way consumers should be eating less fat and that's a great way to deliver that. And our definition would in my mind clearly capture that. So I just think we have to be very careful of the definition.

CHAIRPERSON MOYER: Thank you, Katrina. I certainly agree that we have to clarify that definition. I guess going back to my previous comment, I think one of the fears that I have, as we look at nanotechnology, because it is so complex, and inherent in some processes, we could end up in a situation unlike we do with GE where it would be a don't-tell-if-they-don't-ask. It could be very difficult to determine whether or not the process involved in producing a particular product involved nanotechnology.

If they don't have to put it on a label, it's not going to be labeled, so how do
you know if it's even in there as a process?
Let me get Tracy, and then you may comment on both of those. Tracy.

MEMBER MIEDEMA: Just quickly to connect the dots to the recommendation we are talking about earlier, on personal care products, this is one of the categories where there is some well developed use of engineered nanoparticles, in products like sunscreen and as long as we allow organic to be used with other certifications, schemas, we're potentially allowing nanoparticles in that category of organic products.

CHAIRPERSON MOYER: Very good point, Tracy. Thank you.

Katrina.

MEMBER HEINZE: To your point, I think our certifiers are pretty good. They have to look at the formula for every product, and that is true across the board. I think they are going to know.

CHAIRPERSON MOYER: Good thank
you. Joe.

MEMBER SMILLIE: Formulas and process we look at.

CHAIRPERSON MOYER: Thank you, Joe.

Any further discussion on this particular item? I think we all had an opportunity to get our opinion out there. There was a lot of discussion, good points.

Thank you Dan. Does that complete your report?

VICE CHAIRPERSON GIACOMINI: That completes the report from the Materials Committee.

CHAIRPERSON MOYER: Thank you very much.

At this point in time I would like to take an adjournment, a bit of a break here. We will take 15 minutes and be back here - well, we'll start promptly at 10:00. Thank you.

(Whereupon, at 9:43 a.m., the
above-entitled matter went off the record and resumed at 10:03 a.m.)

CHAIRPERSON MOYER: Okay, next order of business is to move on to the Crops Committee, Tina Ellor, chairperson. Tina, if you are ready.

CROPS COMMITTEE

MEMBER ELLOR: Thank you, Jeff. The first thing we have on the agenda is manganese sulfate monohydrate, and we decided unanimously as a committee that this is already on the list under - unfortunately we didn't put the proper identification in there. A plant or soil amendment, sulfate, carbonates, oxides or silicates of zinc, copper, iron, manganese, molybdenum, selenium and cobalt; it does not specify the form. And looking it up on the Internet and doing more research they are used interchangeably. So that one is fairly simple. Any questions?

CHAIRPERSON MOYER: Chair
1 recognizes Julie.

SECRETARY WEISMAN: Which one are

2 we talking about? The manganese?

MEMBER ELLOR: Manganese sulfate

3 monohydrate.

SECRETARY WEISMAN: Okay.

4 CHAIRPERSON MOYER: Any other

5 questions for Tina?

Tina, your next item? Oh, I'm

6 sorry, I apologize, Katrina.

MEMBER HEINZE: Sorry. Any

7 public comment?

MEMBER ELLOR: We did have I

8 think one public comment saying that the CAS

9 number is different. But since it doesn't

10 specify a CAS number in the body of the rule,

11 and they are used interchangeably.

12 CHAIRPERSON MOYER: Any further

13 questions for Tina?

Tina, next item, please.

15 MEMBER ELLOR: The next one is a

16 much more complicated one, and one that we
discussed a lot. A little history behind this, and I'm really sorry Gerry is not here because he did so much research and work on this. And there was one point that we were all a little bit unsure of how he had arrived at that number. But we accepted that he had done a lot of research and arrived at this 5 percent number.

We had a lot of public comment on this. And what I want people to understand is that the petition was to expand the uses of peracetic acid and remove all the annotations, so it would be allowed in any application in organic agriculture applied to the soil. We want to keep peracetic acid as a part of hydrogen peroxide formulations, and the two don't exist without the other. And I think where he came up with the 5 percent formulation as opposed to the - and what happened is that peracetic acid was classified as an inert in hydrogen peroxide formulations. That classification changed. We didn't want
to lose the hydrogen peroxide formulations,
but we didn't feel comfortable expanding the
use of peracetic acid throughout all organic
agriculture. It's a strong oxidizer, and I
think the whole committee really didn't buy
that you could just kill the bad things and
leave the good things alone. We thought it
had a pretty big impact on soil ecology.

So I think where the 5 percent
came from is that he somehow ascertained
talking to people in the industry.
Unfortunately I tried to get hold of him, and
I couldn't, who he talked to or where he got
that number, that that was the most common
formulation in hydrogen peroxide was 5 percent
peracetic acid.

If it's not on the label as an
active, which I guess from now on it will have
to be, then you can see how much peracetic
acid there is in any formulation and do a
calculation to 200 parts per million. I'm not
sure, and hopefully we will hear more public
comment about that later, what might be a good solution for that issue.

So the first document that we have on the table is directly to the petition to expand the use of peracetic acid, going to the checklist, we filled in three categories - impact on the environment, essential unavailability criteria, compatibility and consistency, and the comment is, criteria failures all based on the prospect of expanding use of the material to unrestricted crop disease control. It would still be available for fire blight as part of hydrogen peroxide formulation. See attached companion recommendation for peracetic acid in hydrogen peroxide formulations.

So this first document, the motion was to remove the annotation from the listing for peracetic acid on national list 20.061(a)(6), and 205.601(I)(7). We voted as a committee, yes, zero, six no.

And moving on to the next
recommendation, which was our - what we came up to keep peracetic acid so that we could keep hydrogen peroxide. This is peracetic acid annotation change, and our comments on this were the material fails criteria based on the prospect of expanding use of the material to unrestricted crop disease control. And then we reference category one, six, and category three, number two and three. The EPA has changed its regulation whereby small concentrations of peracetic acid formally allowed as an inert ingredient in hydrogen peroxide formulations must now be designated as part of the active ingredients. The Crops Committee does not wish to jeopardize the availability of hydrogen peroxide formulations currently used by many growers - it is very commonly used, and people do want to keep it - knowing that these formulations all contain small formally allowed as inert concentrations of peracetic acid.

The Crops Committee recommendation
pertains to allowing peracetic acid in hydrogen peroxide formulations limited to no more than 5 percent. And where he came up with the 5 percent was from industry people that he talked to that he said that was the most common formulation, to keep these hydrogen peroxide formulations available to growers or users.

So the motion is to amend the annotation from the listing for peracetic acid from the national list, 205.601(a)(6) and 205.601(I)(7), to add to the words in each section, permitted in hydrogen peroxide formulations at concentrations no more than 5 percent. And once again, the committee vote was unanimous to accept these annotations.

And I'm not sure if I've articulated that clearly, and we had many public comments on this, sort of objecting to the 5 percent formulation rule, but that is a 5 percent of the hydrogen peroxide formulation. And I think what our concern is
if we make it 200 parts per million peracetic acid in a hydrogen peroxide formulation that is going to be hard to do, as an end user. And that was I think the rationale behind that.

We had I think that I know, and you can correct me if I'm wrong, we read through all the comments very carefully. One comment that would - and I think it was from PCO - that would like to see the usage expanded on this. Otherwise we didn't really hear any comments asking us to expand the usage on peracetic acid.

The petitioner made a point that had we anticipated that this could have been used again late blight, which was a real problem in the northeast. So we might want to consider that as well.

So if you have questions, and I'm going to ask, since Gerry really was the point man on this but we all talked about it a lot, that the rest of the Crops Committee jump in
and answer these questions too.

Thank you.


VICE CHAIRPERSON GIOACOMINI: A couple of points. First of all, what is the basis for the difference answers in your evaluation criteria in the two formats?

MEMBER ELLOR: Based on the - the petition was to expand the usage. The annotation is to keep the uses that we have already in hydrogen formulations. So I think that is what we were - what the --

VICE CHAIRPERSON GIOACOMINI: So the things we are looking at then use the use of a 5 percent product at unlimited limitations for a single problem, versus what was it, 200 parts per million application rate at a wide use. Is that essentially it?

MEMBER ELLOR: Essentially we as a committee did not want to see the usage expanded to cover the - you know it would be
an option I guess to allow expanded usage and limit the concentration. But still at 200 parts per million it's a very broad sanitizer fungicide bug killer. So 200 parts per million in the soil would have quite a big impact. It's not allowed - in hydrogen peroxide formulations it's not allowed for that use as it stands now.

VICE CHAIRPERSON GIOACOMINI:

When the TAP report was done on this, was it a general review of peracetic acid for crops, or was it limited to the petitioned use at that time?

MEMBER ELLOR: It was limited to the petitioned use at that time.

VICE CHAIRPERSON GIOACOMINI: We don't have a new TR for expanded use.

MEMBER ELLOR: Right. The original TAP was very very thorough. It is one of our good examples of really great TAP reviews, but it was only for use on fire blight and sanitizing equipment and any other
uses that are in the rule now.

CHAIRPERSON MOYER: The chair recognizes Joe.

MEMBER SMILLIE: Conventional use, is it used in say late blight conventionally? Is it licensed for use conventionally?

MEMBER ELLOR: That we would have to ask the petitioner. I do not know.

MEMBER SMILLIE: Could we do that?

MEMBER ELLOR: Yes. Is anyone from BioSafe here?

CHAIRPERSON MOYER: If someone from the petitioner is present in the room and wants to come forward and address that answer, we would agree to entertain it.

Please introduce yourself.

MS. KNOX: Kristin Knox with BioSafe systems. Yes, our labels do include late blight among many other - it's a broad spectrum, algacide fungicide bactericide, but
not an insecticide.

CHAIRPERSON MOYER: Thank you very much. Appreciate that.

Any other questions from board members? Katrina?

MEMBER HEINZE: Could you help me better understand the committee's concern with changing the concentration annotation?

MEMBER ELLOR: We were actually adding a limitation on the concentration. Otherwise, what our fear was, and I think Jeff might be able to articulate this better, is that we would end up with a 95 percent peracetic acid and 5 percent hydrogen peroxide – I don't even know if it's possible that it would happen in nature. So that it wouldn't be coming at it from the side, I suppose.

CHAIRPERSON MOYER: Katrina.

MEMBER HEINZE: I didn't ask my question properly, I'm sorry. So I get why you made the recommendation to add an annotation for concentration. But we heard
public comment that that annotation was not clear. And so - but what I heard when you talked was that the committee is not sure about whether they should react to the public comment or not. So I'm trying to understand that piece better.

MEMBER ELLOR: Okay. We always try to react to public comment, or at least take it in. And unfortunately Gerry did the research on this. And I think what his concern was is that since this was considered an inert in hydrogen peroxide formulations, how is the end user going to figure out, if they are working off peroxide concentrations, are they going to be able to figure out what the peracetic acid parts per million is.

So if we are limiting it to 5 peracetic acid within a hydrogen peroxide formulation, then asking for parts per million of the peracetic acid seems like it would be a difficult thing to do. That was the thinking, and that kind of makes sense to me.
And if I'm not articulating it so it makes sense to everybody then I'll have to say it a different way or have Jeff try it.

CHAIRPERSON MOYER: Any other questions? Dan.

VICE CHAIRPERSON GIOACOMINI: The 5 percent is essentially the concentration rate of the marketed product, the packaged product, correct?

MEMBER ELLOR: Yes.

VICE CHAIRPERSON GIOACOMINI: So if - and then it's diluted into an irrigation system; correct?

MEMBER ELLOR: As a sanitizer, it can be. But it's based on the hydrogen peroxide concentration, not the peracetic acid concentration. The two don't really exist one without the other. We don't want to lose hydrogen peroxide, but we didn't --

VICE CHAIRPERSON GIOACOMINI: If we are using it in the crop situation, on the fire blight type of thing, that's in the water
CHAIRPERSON MOYER: It could be, but not necessarily.

VICE CHAIRPERSON GIOACOMINI:
Okay. I'm just wondering if it's diluted out on application why are we tying the producers' hands at what package he can buy, what form he has to buy the packaging. I don't understand it.

MEMBER ELLOR: It's mostly because this was considered an inert; it's classification was changed. The way it's being used in the industry now is that part of hydrogen peroxide formulation is at 5 percent, so they would be using the same packaging they used all along.

VICE CHAIRPERSON GIOACOMINI:
Less than 12 percent packaging as an inert?

CHAIRPERSON MOYER: No, because the goal was not to have the peracetic acid be the main ingredient. It was just an inert. It was for hydrogen peroxide, in order to have
hydrogen peroxide function you have to have a minimal amount of peracetic acid, and 5 percent seems to be what really makes that work in the industry. Does that make sense? I'm probably not explaining it well either.

VICE CHAIRPERSON GIOACOMINI:

Application is what makes sense to me, and I don't understand why if we are dealing with - if we are concerned with application of how much is used in the environment on the plant that we are trying the hands of the producer of what form of a package he buys.

CHAIRPERSON MOYER: What we are trying to do, Dan, is to basically maintain the status quo. We have to make a change and an adjustment because the rules have changed. It is no longer viewed as an inert. So what we are trying to do is to protect hydrogen peroxide, the way it's being used in the industry today, and thus protect peracetic acid the way it's being used in the industry today but not to expand the use. So that you
would not be able to create a formulation, as Tina said, that was predominantly geared to using peracetic acid instead of the hydrogen peroxide. Does that make sense?

MEMBER HEINZE: Okay, so what I heard was that the concern was that the end user - if they limit the concentration to 200 parts per million at end use, the concern by the committee is that the end user isn't going to know if they're in compliance with that or not, because the amount of peracetic acid is not listed on the package. Did I hear that properly?

CHAIRPERSON MOYER: I believe that is part of it, yes.

MEMBER ELLOR: And since it's been reclassified as an active, I imagine what it's going to be now is probably two active ingredients. So I suppose that active ingredient now could go to - and this is in the tab - the proportion of active ingredient to now active ingredient could change. It
could be a whole lot more peracetic acid. We are not comfortable with that. So that's why we - we are trying to maintain the status quo to say it's 5 percent peracetic acid, which is now an active ingredient. But it could come in a package that's 50-50. Then do you base your application rate on the hydrogen peroxide active ingredient, or the peracetic acid active ingredient. And I don't really - I think that causes much more confusion, anyway, depending on what you are doing.

CHAIRPERSON MOYER: Follow up, Katrina?

MEMBER HEINZE: No.

CHAIRPERSON MOYER: Okay, thank you.

The chair recognizes Barry.

MEMBER FLAMM: I'm probably saying the same thing over again. But the focus was we didn't want to expand the use of peracetic acid. And it came to our attention then that peracetic acid was this component of
hydrogen peroxide which we wanted to continue
to use. So simply the second part of the
recommendation was to allow the continued use
of hydrogen peroxide, but the focus was not to
expand the peracetic acid use. I'm repeating
what's been said in a different way.

CHAIRPERSON MOYER: Thank you,

Barry.

Any other different discussions?

Chair recognizes Julie.

SECRETARY WEISMAN: I just wanted
to make sure of my understanding that these
were actually - either you are for one or the
other of these - no, they go together? Okay,
they are a package deal. Okay.

CHAIRPERSON MOYER: For those who
couldn't see or hear may head nodding, yes,
you are correct, Julie. They are to be a
package deal.

MEMBER HEINZE: I'm sorry, I'm
getting confused again. So are they a
package deal? So the first one expands the
use. So if I thought the use should be expanded, I should vote yes for that, and if I didn't I would vote no. And the second has to deal with hydrogen peroxide concentrations. So I don't have to vote yes for both or no for both; I can make independent decisions, right? They're solving different problems.

CHAIRPERSON MOYER: I'll let the chairperson answer that one.

MEMBER ELLOR: You could, but if you voted no on the first one and no on the second one, we would lose hydrogen peroxide as a tool. That's why they go together.

CHAIRPERSON MOYER: Thank you, everybody.

Tina, back to you.

MEMBER ELLOR: Next on the list is hydrogen chloride for delinting cotton seed. I'm going to turn this one over to Rigo.

MEMBER DELGADO: Thank you, Madam Chair.
We are talking about a sunset product. It's used for delinting. It was first linted in 205.601 (n) back in April 2004, and last what was it a year ago we started receiving public input, a lot of public input especially from the area of Texas, supporting the relisting of this product.

Being that it sunset, our approach was very simple. We just wanted to know two things: one, are there any - is there any new information that tells the committee that this product is too dangerous that it should not be used any longer; and the second point was are there any other technologies or products that could replace this hydrogen chloride.

And we did our homework as follows. We consulted several experts in the university areas, as well as current users of delinting plants, and found that there basically are no alternatives, both mechanical and chemical, that can replace this product,
and the actual use of this HCl is actually a better substitute for what industry is using. They're currently using sulfuric acid. So the committee at that point felt that it was - that we had enough information to recommend relisting this product. It coincides with numerous suggestions that we got from the public input.

The vote was as follows: six in favor, no abstentions, no absences, and no negatives.

So I'm open for questions. Before I continue I should mention that we even went to the extent of contacting manufacturing companies of mechanical delinting processes to see if there was any alternative. And the answer was no. We did check several patents. There seems to be several products in the pipeline, but they are not ready or available in the marketplace. Currently the mechanical procedures tend to break a great deal of the seed, creating a great deal of damage through
heat, and so the mechanical alternative is nonexistent at the moment.

That is my report.

CHAIRPERSON MOYER: Thank you, Rigo. Points of discussion, anybody?

Chair recognizes Dan.

VICE CHAIRPERSON GIOACOMINI: Not a point of discussion, but just a statement. As an animal nutritionist working with organic dairy farmers I can't tell you how many times in the last year I've been contacted wanting to know if I have any producers that would be interested in feeding delinted cotton to their cows, because there wasn't enough of a demand for planting that product within the industry. They all seemed extremely surprised when I told them it wasn't allowed if it was HCl delinted. So just maybe a notice to the program and the certifiers that this is a listing for HCl delinted cotton on the crops side. As I understand the regulation and the national list, that doesn't qualify it
necessarily to cover for the feed issue.

MEMBER DELGADO: Mr. Chairman?

CHAIRPERSON MOYER: Chair recognizes Rigo.

MEMBER DELGADO: To that it is listed on the 601(n), and states clearly that it is only for delinting cotton.

CHAIRPERSON MOYER: Thank you for that clarification, Rigo.

Any other questions on this particular material? Joe?

Hearing none, Tina, I turn the floor back over to you.

MEMBER ELLOR: The next one on the list is ferric phosphate, and the petition to remove it, and the trouble with this is I don't think we've seen the petition to remove it. So I think as a discussion document, we are just going to jump over that one for now unless Kevin wants to add something.

CHAIRPERSON MOYER: Kevin.

MEMBER ENGELBERT: Well, there
was a petition to remove. I think we have seen it. But the problem with it is when ferric phosphate was put on the list it contained a substance that wasn't made known to the committee, Crops Committee at that time, EDTA. So we don't know whether this is a political business move by another company or what. But someone has petitioned to removed it. We have sent it out for another TAP, and hopefully this will be more thorough, so we can understand the way it is actually formulated.

We are hoping to solicit public comment. We've gotten some on this product, and we will hopefully deal with this in the spring of 2010.

CHAIRPERSON MOYER: Joe, you had your hand up.

MEMBER SMILLIE: Yes, I'm sorry, maybe I'm confused. Did we miss manganese sulfate monohydrate?

CHAIRPERSON MOYER: That was the
first material that we covered.

MEMBER SMILLIE: Sorry.

CHAIRPERSON MOYER: The board recognizes Hugh.

MEMBER KARREMAN: On the ferric phosphate, being a good I guess mollusckicide for snails, I don't know if I'll be here at the next meeting for public comment. But being able to use ferric phosphate just for the record as a boundary type thing to keep snails away is very, very, very good. For cattle on pastures to reduce liver fluke, because the liver fluke goes through the snail, as a vector, and the cows eat them up in wet pasture where there's little dikes or canals and whatnot. So just keep it in mind, Kevin, for next year, okay.

CHAIRPERSON MOYER: Chair recognizes Steve.

MEMBER DeMURI: I have a question for the committee. So ferric phosphate is supposed to sunset in 2011? But there is a
petition to remove it in the meantime?

MEMBER ENGELBERT: Yes.

MEMBER DeMURI: What happens if you don't get the petitioner removed before 2011?

MEMBER ENGELBERT: I'm not sure, to be honest with you. I'm not going to try to bluff an answer. We are hoping that we can get through it and decide and then see.

MEMBER DeMURI: How long ago did you put in for a TAP review?

MEMBER ENGELBERT: I think we put in for a TAP review in January.

CHAIRPERSON MOYER: Chair recognizes Valerie from the program for a comment.

MS. FRANCES: I just wanted to remind you that you did look at the petition on ferric phosphate, and you did ask questions, and you did send it for TAP, and it was in question somewhat because it wasn't posted online, and it is now there, and so
anyone can review that too. So if there is
anyone that wants to provide any other
reviewing comments to that, they can.

CHAIRPERSON MOYER: Does that
address your point?

MEMBER DeMURI: Well, so we do
run the risk possibly that it could go off the
risk if the petition to remove isn't
completed?

MEMBER ENGELBERT: I think so.

This is new ground, having someone renew a
petition on an item that sunsets. It's
uncharted waters so to speak.

CHAIRPERSON MOYER: Chair
recognizes Dan.

VICE CHAIRPERSON GIOACOMINI:
Anything in the petition to renew that would
be considered new material would be material
valid for consideration during sunset. So it
can be processed one way or the other, and
still reach the same conclusion.

CHAIRPERSON MOYER: Thank you,
Dan, I believe that is correct.

Tiny.

MEMBER ELLOR: And I think the issue was because we had a petition to add ferric phosphate sodium EDTA or something which we rejected because of the status of EDTA, is it an active, why is it part of the formulation, and what that gentleman said and I think that petitioner is the one who filed a petition to renew, is that it it's in all ferric phosphate, that it's stable and should sunset. But we've since heard that there are formulations of ferric phosphate that don't have it. So these are the issues we've be hashing out in Crops Committee calls. Hopefully we can present it next meeting.

CHAIRPERSON MOYER: Thank you, Madam Chairperson.

Any other comments on ferric phosphate?

Back to you, Tina.

MEMBER ELLOR: Okay. And the
next item on our list, and we've had a
tremendous amount of comment on this, and I'm
going to turn it over to Jeff, because he was
the main architect of that document, is List
4 inerts.

CHAIRPERSON MOYER: Thank you,
Madam Chairperson. I'm sure we'll have no
discussion on this item.

Let me start by saying that in
many ways the attention of the committee by
posting this document have already been met,
and that was to stimulate the conversation and
discussion and get it front and center on
people's radar screen and we have done that.

In review of the document I'd like
to draw everybody's attention to page two of
our recommendation. We talk about the
definitions, and we have an EPA definition for
what an active ingredient is and what an inert
ingredient is. And I won't take the time to
read that now, but I suggest that everybody
take a quick look at that and read it, because
it really pertains to where we are heading
with our particular document.

In looking at the problem that we
have in front of us, which was the changing -
and if you look at the history and background
we put it in there - is EPA's changing of the
List 4 status, it became very clear to our
committee at least that we were not inclined
to take all the materials previously listed on
EPA List 4 list, and that is attached as an
appendix to our document and I don't know how
many hundreds there are there; I didn't go
through and count them all. Actually, I
started to count them all, then I got
sidetracked. There are hundreds and hundreds
of them.

It is not the intent or the
inclination of this committee to list all 700
- 800 of those materials on the national list
in lieu of the List 4 being there as a one-
line item and then it's going to appear that
we put 800 new materials on the list. So our
committee is not inclined to do that.

By the same token our committee recognizes the limitation of time in reviewing a large portion of this list through the petition process and having TRs done, and that was brought up through the public comment that even if we pair that list down to - I've heard different numbers but say 258 - materials, clearly more work than the board, science and technology, all the money that we've got allocated from Congress would go into TRs, and so we had a problem there.

What we were looking for was some middle ground. That is what we attempted to do in this document we pulled together. We tried to take a very complex and complicated issue and make it fairly simple.

And so what we said was - the question we are really asking in this recommendation is, is there a process that could be in place that would bring the manufacturers of these products into the
equation - clearly they know what they are using - is there a tool or mechanism in place that would allow them to make in a confidential format, bring those materials forward in front of this committee and this board, so that - and we chose the word, review, and that's been a very complicated word, because I understand we do have a review process, which is the TAP review process. We were looking at a way to short-circuit that, and really review the products to see - some of them for example could be natural, and already theoretically on the list, just the way they are now. So this is a real simplified way that we could get to at least 80 percent of the materials with 20 percent of the work, and try to maintain a little bit of the status quo. We certainly are not as a committee inclined to remove all the tools from the toolbox that growers and farmers are currently using. That would not be in the
industry's best interests either. So we are attempting to, again, bring the manufacturers into the puzzle and say, give us a list of what you are actually using today. Is there a way we can get those on the list through the creation of a subset list which is either housed by USDA NOP, or by EPA, so that we are going to put one new list, we are going to create that list, put it on as one item, so in effect what we are doing is shrinking the current list of 800 materials down to 250, but listing it as one item.

That was our goal. Whether we achieved it or not is what we are going to discuss now. And I think at this point I would like to turn it over for questions. And I can moderate those questions if people don't find that a conflict of interest.

The chair recognizes Tina.

MEMBER ELLOR: We've had a lot of comments about working with the NOP and the EPA to find a solution to this. And I think
that Chris Pfeifer was in the gallery?

CHAIRPERSON MOYER: Yes, the
chair was going to call Chris to the podium, and this might be an opportune time to do that. Chris, if you would, if you'd come up and maybe fill us in on where the EPA is. Again, like I said, we've already had much of our desired effect, because shortly after we posted this document EPA got engaged in the conversation, program got more engaged, the general public got more engaged, and that's really what we wanted to do.

MR. PFEIFER: Good morning. Let me start with my normal disclaimer. The ACC has no stated position with regard to --

CHAIRPERSON MOYER: Chris, if you don't mind, if you could state your name and your affiliation for the recorder.

MR. PFEIFER: Yes, sorry about that. My name is Chris Pfeifer. I am a regulatory agent with the biopesticides division. I'm also a liaison to the organic
program.

CHAIRPERSON MOYER: Thank you.

MR. PFEIFER: Well, I think the most helpful thing to do, and where the agency can help as you are starting to develop this process, is kind of give you an idea of where List 4 is sufficient. As a practical matter I see a lot of handwringing over how it got formed and what List 4 was all about. But it was a very expedient and I think good way to get the program started. That said, List 4 was never a product of any assessment. Rather it was a wish list or a prioritization list for our reassessment or assessment. Because there is no data to back List 4.

Now you can say for the most part in reassessments what you had was essentially some nontoxic inerts. However in the decision making process to reassess there was never any consideration for either eco-toxicity or persistence. So the deal that you have in doing an inert assessment for List 4, you are
starting from scratch on essentially what are the values that you want to put into this. We don't know, but we are willing to help to the degree we can.

It's - I would have to say that when you look at List 4 you will note that there are a lot of naturals and that it is relatively safe, but there are a fair amount of industrial chemicals on there. Somewhere it talks about picking the lowest hanging fruit. And that will be easy enough. But you really need to have a programmatic lens, I think, on what you are going to do, what are your interests in seeing the inerts out there?

And that's I guess our take on it.

CHAIRPERSON MOYER: Questions or comments directed to Chris.

Tina.

MEMBER ELLOR: I would say what our first question is that we don't even really know what the inerts are in the products we're using. It would help for
someone to have that information, and for us
to somehow you know take a look at that and
see what we actually need or is being used.
And then we could begin to see what we can
take off the list to start with.

MR. PFEIFER: I think you will
find that the majority of the inerts are
probably in the various formulations. I think
that is a good starting point. We have been
through several reassessment programs with our
inerts, and with our active ingredients. And
what we discover is that people come out of
the woodwork all the time with various
ingredients that were in formulations, or were
not initially supported. But again I think
that is why it's a good place to start.

CHAIRPERSON MOYER: Yes, our goal
was to bring those materials out of the
woodwork so we could look at what's currently
being used, evaluate them for whether they are
naturals or whether they are synthetics, and
needed - create a list that we could use to
keep the industry moving forward, and from
that point on, any new materials that would be
suggested to be used in formulations would
have to go through the standard petition
process with TAP reviews.

We have to start somewhere. We
have to prioritize the work. And I think
working with EPA maybe we can do that.

MR. PFEIFER: Our inerts branch
has offered to help to the degree that they
can. I think depending on how this is
structured, there might be some - there might
be the necessity for some additional manpower.
I'm not sure how that would work out, or to
the degree EPA can involve itself. But we are
very happy to be part of that dialogue.

CHAIRPERSON MOYER: Chair
recognizes Valerie from the program.

MS. FRANCES: Hi, Chris. I
wanted to make sure that you had looked at the
evaluation criteria checklist that the NRC
currently uses to review materials, and
whether there was anything that you would -
when you look at that, add to that or change
it or whatever input you could provide.

MR. PFEIFER: You know, I haven't
looked at it really closely. But I would say
that if you applied that lens to the inerts,
you would lose a lot of the inerts. And I
think that's what I'm talking about is finding
that fine balance between your process for
accepting synthetic inerts, and reassessing
inerts that are presently in formulations so
that there can be some kind of comparison
between the two.

CHAIRPERSON MOYER: And that
certainly was at least my position, and that
is my fear, that we will lose too many of
those materials that have been on the list
since its inception, that as Tracy mentioned
earlier, they are almost - they should be
grandfathered in, because they are being used.
How we present that to the public is quite
challenging for this board, because the
perception could be certainly, and most likely
would be taken in many cases, in the wrong
way. So it's a fine line that we are going to
have to walk to keep the industry moving
forward, to allow growers to have the tools
that they have become accustomed to using
that are very much needed. But then moving
forward we would be using that lens for all
new materials coming in. It may seem unfair,
but I learned when I was about 10 years old
that life isn't fair. And so maybe that is
the best place for us to jump off, and that is
what we were thinking in presenting this
document. And I know there are many who
disagree with that course of action.

MR. PFEIFER: Well, just in
conversation with staff, I have heard some
very interesting ideas about approaching this
in a number of ways in terms of identifying
kind of a hit list of industrial chemicals
that are suspect or that have known
environmental persistence. Also there is an
intriguing idea of kind of structuring a
filter process where you say, okay, with these
inerts, these synthetic inerts have no known
human toxicity, and if provided you can
demonstrate a lack of ecological concern
relative to them then you might be able to
kind of formulate a tiered process for
determinations.

CHAIRPERSON MOYER: And our goal
was to as quickly as we could, almost
immediately, shrink the list from 800
materials that I have on my pages here down to
258 or whatever that number is, so that you
could then take that sublist, evaluate it
against that criteria that you just mentioned,
and get a list of — which I think is going to
be a relatively small list, I hope — of things
that we really might want to go out and create
a hit list and get them out of the system.
But in the short term keep the industry moving
forward. So that was the goal of this
document as we wrote it.
Any other questions or comments

for Chris? Kevin?

MEMBER ENGELBERT: Just a quick one, Chris. You touched on it earlier. One of the concerns of our committee is the actual definition of inert. If a substance is included, and as you say it's necessary - or the definition says it's necessary for the effectiveness or to penetrate, in our minds that is not inert. And we are concerned about these substances that actually do play a role in the effectiveness of a product or its ability to do what is intended. To me an inert would be if you have a 50 percent hydrogen peroxide solution, that other 50 percent is still water. It's not impacting the effectiveness or what that does. But when you take something and add it to it that it has to have to be effective, to me that's not inert. And that is one of the things we want to look at, even though we can't do all 800 like Ken said. That is going to be important
to what we look at.

MR. PFEIFER: I hear you. Let's just start off by saying, you see the definition of inerts. But inerts is just kind of a shorthand. The agency actually is supposed to call those other ingredients, because inerts, one might not necessarily be entirely inert in the formulation. It might just not act against the task that they are intended to act against. Oftentimes the devil is more in the inert. Inert makes it sound like a benign term. So the preferred term is other ingredients.

But with regards to what you are talking about, defining inerts relative to active ingredients, the deal with that is any inert that has a synergistic effect should be considered an active ingredient and we do. If the ingredient is active the way we do the reviews, the onus is on the applicant to demonstrate that it is indeed not an active part of the formulation.
That said, a lot of that is missed in some of the reviews, because frankly that can be an academic exercise. So you will probably see some more of that. I've heard several mentions of ingredients, and we struggled there, EPA, peracetic acid. I've been involved in the conversations going back and forth with those. It's very complicated. So we do look at it, but there are misses.

CHAIRPERSON MOYER: Kevin, that's why I specifically drew people's attention to the existing definitions that EPA has, because clearly in our conversations at the committee level we recognized that inerts are not inert in the formulation; and again, that's another reason why we tried to bring in the manufacturers, because until we know the formulation that it's in, or the way it's being used, or whether we know it as a board or whether because of confidential business information it stays at the EPA or the program, we are comfortable with that.
relationship. But somehow we need to know how
it's being used in the formulation to
determine whether or not it really is active
or inert. Because that makes all - the devil
is in the detail for sure. And only the
manufacturers know that detail. To unravel
that puzzle for all these materials would be
just impossible.

Chair recognizes Barry.

MEMBER FLAMM: Chris, I may be
mistaken, but I thought I heard somebody
mention yesterday that EPA planned to list all
the ingredients on the label. Is that
correct?

MR. PFEIFER: Well, that is not
totally correct, as I understand it. The
notice that is referred to was all
ingredients, inert ingredients of
toxicological concern, which I really don't
think would apply to most of the things that
we are dealing with. And I think there was a
list of examples on there, I'm not absolutely
sure. But I will try and inform staff about it. But I\'m almost positive it is only those of toxicological concern, and how that is defined I don\'t think has been developed yet.

CHAIRPERSON MOYER: Chair recognizes Dan.

VICE CHAIRPERSON GIOACOMINI: Yes, I would just like to remind the board that most of the work on this has been done by the Crops Committee. I think we all certainly appreciate that. But to remind us, and especially in livestock, this is essentially the exact same listing on 603 as it is on 601. It is for List 4 inerts with pesticides. So livestock is also going to have to participate in this. And any relisting that is done is going to have to be done on 603 as well as 601.

CHAIRPERSON MOYER: And the Crops Committee did discuss that as we moved forward in the process that the Livestock Committee would have to be brought in. We were
fortunate that there are several members that cross over both teams, or both committees, and we did recognize that the process would have to be expanded to include livestock.

Any other questions or comments for Chris? Any other points of discussion?

Thank you, Chris, we appreciate your time and energy.

MR. PFEIFER: Thank you. I just had one more comment that I thought might be helpful in developing this process. In the national list you have some broad defining criteria for what you expect out of your pesticidal formulations or your inputs. I believe that probably some kind of general selection criteria relative to this process would also aid in developing the requirements that ultimately you are going to make of these ingredients.

CHAIRPERSON MOYER: Thank you, Chris. Tina.

MEMBER ELLOR: So is what you're
saying that we should have a different set or slightly adjust the set of criteria to look at inerts?

MR. PFEIFER: Well, I would say that it would need to be slightly adjusted so that you maintain some of these tools in the arsenal. So yes, that would be my take, it would be too perhaps restrictive.

CHAIRPERSON MOYER: Chair recognizes Valerie Francis from the program.

MS. FRANCES: This is why I ask about, have you looked at the evaluation criteria checklist. That would really help to get specifics back on that form.

MR. PFEIFER: Okay, but I think what I'm referring to is more the criteria that would set out for the active ingredients. So but yes, I will.

CHAIRPERSON MOYER: Thank you, Chris, we appreciate your time. If there are no other questions or discussion on inerts, I'd turn the program
back over to Tina.

MEMBER ELLOR: I believe the last thing we have to discuss, and I'm not going to say too much about this because we got a lot of great comments, and very detailed comments, so I think what we will be doing with this discussion document is taking it back to committee, looking at all the comments, and please keep in touch, those people who had comments and we'll keep in touch with you, and rework the document to take some of those concerns into account.

And of course I should say what we are talking about is production standards for terrestrial plants and containers and enclosures. And unless someone else would like to say more about that. Jeff?

CHAIRPERSON MOYER: I would just like to mention that we heard particularly from PCO yesterday in their public comment, the idea of a need for better definitions. And I would ask that if people from the
general public or the ACAs or someone who has specific language that might help us in that regard, we would certainly entertain those submissions in helping us define specifically what makes sense in your own particular operations. I think that would be helpful, because our goal is to not come back in spring and discuss it again. We want to have a voting document, so don't wait until you see the next posting to say you don't like something, if you can be a little pro-active in getting us some information, not just you, but you brought it up, and we are very receptive to that on this committee. Thanks, Tina.

MEMBER ELLOR: That's a very good point. And Gerry, once again, was the major architect on this document. And he did a tremendous amount of work, and we talked about this for many hours on the phone. And I really appreciate everybody's input on it. We had quite a lot of pressure
from above. Barbara is not here, so I can't look at her, to get this out because of the Canadian equivalency was a big part of that. So I think, unless there are more questions or discussion about that, then we are done.

CHAIRPERSON MOYER: Thank you, Madam Chairperson.

We will be moving on to our next committee which is Livestock Committee, chairperson Hue Karreman. Hue. Oh, if you could wait just one second I have a question from the floor. Chair recognizes Bob Pooler to the podium.

MR. POOLER: I'm Bob Pooler, National Organic Program. I do want to remind you the Crops Committee that do have here on the agenda item sunset for 2012, and I kinda wish that you would discuss that a little bit. It is an important item.

MEMBER ELLOR: Okay, I'm sorry, and Kevin just pointed that out as well. Yes,
that has been on our radar and on our workplan for several months now, and getting busy prepared for this meeting I think where we left it last is we are all going to take a look at that sunset list, and the next step we are going to take is decide which ones we want to get new tabs on, and move forward from there. But you can bet it's on our radar, and on our work plan, and we have been working on it. I don't know if you want more details on that.

CHAIRPERSON MOYER: Hue, if we could hold off on your report for just one moment, following up on the inerts evaluation and assessments, I understand that someone else is here from EPA, Kerry Leifer. If Kerry could come to the podium and explain a little bit about where the EPA is in inerts reassessment, I believe that would be useful to us. Yes, please, to the podium, and state your name and your affiliation for the record.

MR. LEIFER: Good morning, my
name is Kerry Leifer. I'm with the EPA's Office of Pesticide's programs, registration division. Specific to the inert ingredient reassessments, we as part of our responsibilities for the Food Quality Protection Act we reassess the tolerance—well not only the tolerance exemptions for all inert ingredients for which tolerance exemptions were established post-1996. That was basically our mandate under the Food Quality Protection Act. And basically what we were doing was evaluating the data to determine if we could make the reasonable certainty of no harm safety standard related to potential residues of these inert ingredients in food. This is done under our Food Drug & Cosmetic Act authority.

So essentially what we did was kind of a human health risk assessments to make determinations as to whether or not these tolerance exemptions could remain in place, or if they needed to be revoked, or somehow
We basically finished up in 2006, although there were a number of substances which we identified as having an insufficient database, and we basically - we revoked those tolerance exemptions with an expiration date that was two years out, August, 2008. And this was to provide interested parties the opportunity to develop or obtain data. We weren't saying that these things were problematic, just that we didn't have sufficient data to make the finding. So to that end a consortium was formed of both pesticide registrants and inert ingredient manufacturers to support a number of those substances. There were about 132 tolerance exemptions that were on that revocation list, and over half of them were supported with data, either newly generated data or identified data that hadn't previously been made available to EPA. So we used that data, and in August 2009 we ended up extending the
effective date another year. In August 2009 we completed the reassessments for both substances as well.

So basically we made the human health finding under FFDCA and FQPA to establish those. So those are now codified.

A number of the tolerance exemption descriptors changed. Some substances got kind of read in or read out. Because a lot of the descriptors were kind of grouping, class oriented. We have modified some of those. We have also included CAS registering numbers with all these reassessments that we've done.

So that's now codified in the code of federal regulations under 40 CFR Part 180, where we have our tolerance exemptions.

CHAIRPERSON MOYER: Thank you, Kerry.

Are there any questions or points of comments? Chair recognizes Rigo.

MEMBER DELGADO: So I'm trying to understand. You did this analysis on the 600-
odd items that were previously recognized as inert; is that correct?

MR. LEIFER: No, these were - we basically reassessed chemicals that were already in use, that were already listed as food use ingredients for which there were tolerance exemptions, basically an exemption means there was no established maximum permitted level. This is similar to what we do with active ingredients where we establish typically a tolerance with a maximum permitted level, 5 ppm on tomatoes, something of that nature. Most inert ingredients with a few exemptions, most inert ingredients have exemptions from the requirement, but that has to be in place for that material to be used in a food use pesticide formulation. We won't register a product that contains an inert ingredient that doesn't have the appropriate tolerances.

Now these chemicals were already under -- we were evaluating some things which
we had initially established those tolerance
exemptions prior to 1996.

CHAIRPERSON MOYER: Chair recognizes Tina.

MEMBER ELLOR: How does this list slot in with List 4, or is it something completely different? And how many did you look at?

MR. LEIFER: It's not completely different. There is a fair degree of overlap, but they are not one and the same, because some of the - when we put together the initial List 4 there was no consideration to food use versus non-food use. There are some substances on this board that don't have tolerance exemptions for whatever reasons. No one had an interest in using them, they were never petitioned for, therefore a tolerance exemption was never established. And conversely, there were substances that had tolerance exemptions that weren't part of List 4. They were something in the neighborhood of
about 870 line item tolerance exemptions which
probably corresponds to maybe 1,000 chemicals.
Again, some of these tolerance exemptions
cover more than one chemical entity. But - I
can't remember the actual numbers there -
there is a high degree of overlap, but not
complete overlap.

CHAIRPERSON MOYER: Follow up,
Tina.

MEMBER ELLOR: If I wanted to
take a look at this list, what would I look
for? What is this list called?

MR. LEIFER: Well, the substances
that have undergone the reassessment would
appear in the current version of the Code of
Federal Regulations. So 40 CFR Part 180.910,
920, 930, 940, 950.

MEMBER ELLOR: Okay, got it.

MR. LEIFER: The ECFR site has
the most up to date information, because some
of these regulations, the final rules were
just published in September of this year. So
if you are using a dog-eared version of a printed Code of Federal Regulations, it may not appear there. It does appear on the electronic set. So all those substances that are on there have either undergone reassessments or were established post-1996, which meant that the FQPA requirements were in place. We had to make the same findings related to – so special sensitivities to infants and children, aggregate exposure, all of what FQPA had put forth in terms of what we needed to look at.

CHAIRPERSON MOYER: Any other points? Yes, Tracy, Chair recognizes Tracy.

MEMBER MIEDEMA: And this question is for Tina and for the speaker. Do we think that we will be able to take our list of what we have called List 4 inert and determine whether there is eco-toxicity or persistent based on the analysis that EPA has done so far when they come back to the board?

MR. LEIFER: I want to make it
clear that when we did the tolerance reassessment we were focusing on the human health implications of these substances used in food use pesticide formulations. So we didn't explicitly, because it wasn't part of the mandate under FQPA, consider environmental effects. That is typically under our FIFRA authority. We don't have the authority to consider eco effects when we are making a tolerance exemption type determination. So it wasn't really part of that exercise.

Now there are some chemicals on which we have information. We haven't had a program analogous to tolerance reassessment where we've gone through in a systematic fashion and evaluated chemical by chemical basis potential eco hazards. And ultimately typically when we do these things in the pesticide program, under FIFRA, the risk-benefit based statute, we would have to consider risks on a product-by-product basis. So for example a chemical may be - have
concerns for aquatic organisms. However the use patterns of the product is such that it's indoor only, or in some sort of commercial applications that would never find its way to aquatic exposures that might be acceptable. Obviously if that produce were rice herbicide or something like that where it's applied to water may be a concern.

MEMBER ELLOR: And I think that was the point Chris was making about somehow having assessment, working with EPA, having a separate assessment for inerts that is related to the assessment that we use for actives. Somehow - I think that is a vague idea still, it's something we are going to have to take a look at also with the program.

CHAIRPERSON MOYER: Yes, I think Tracy it's one screen that we would certainly look at, but formulation has a huge impact on that, particularly on the environmental impacts that we need to look at.

Any other questions for Kerry?
MR. LEIFER: Actually I have one comment that was made yesterday, and I just wanted to clarify a little bit related to the agency's inert degree disclosure initiatives if you will. We are preparing to issue what's known as an advanced notice of proposed rulemaking, an ANPRN, related to inert ingredient disclosure. That does not commit us to any particular regulatory action. In fact there could be some nonregulatory actions. So we are - when that goes out, it should be by the end of the year, the calendar year, we will talk about disclosing hazardous inert ingredients because we have received a petition, a rulemaking petition, on that. And that's something to address that aspect as well as a broader disclosure. The ANPRN has a number of questions that are posed to solicit comments specific to the various issues related to disclosure of all inert ingredients, disclosure of some subset of inert ingredients, labeling issues, et cetera,
et cetera. So I want to be clear that we
haven't committee to any particular course of
action at this point.

CHAIRPERSON MOYER: So
collectively we won't hold our breath waiting
to see that on the label? I got it.
Okay, anything else from the
board?
Thank you, Kerry. We appreciate
your time in coming to visit us.
Katrina?

MEMBER HEINZE: So what happens
next is you guys are taking this back to
committee to discuss, and we'll get it in the
spring?

CHAIRPERSON MOYER: This is a
discussion document and not a voting document.
We will be taking it back. But the goal will
be to bring it forward by spring with some
kind of resolution, certainly.

MEMBER HEINZE: Would you be
doing that with the livestock committee, or
crops go first?

CHAIRPERSON MOYER: I think the process will be the same, so we will be doing it jointly, and of course working with the program and with obviously EPA. That is our plan.

Dr. Karreman, back to you. I appreciate your patience.

LIVESTOCK COMMITTEE
MEMBER KARREMAN: You are going to have to have some patience for this.

All right, Livestock Committee. We’ve been pretty busy this past half year, or this whole year actually. Probably has the most things on a livestock docket in a few meetings. Our first one we looked at, the only petitioned material we had, was Eprinomectin for a parasiticide. And it was - the petitioner wanted it to be allowed for livestock health care. And we went through the checklist sheet as a committee, and yesterday we heard some public testimony from
the petitioner that actually showed some nice comparisons between Eprinomectin versus moxidectin versus ivermectin, and if you were here in the room listening to that, and then I commented that it looks good for Eprinomectin except that we don't want to be expanding the list in that particular family of parasiticides.

So basically the petition was to add eprinomectin to the list on six of the three. And the Livestock Committee voted unanimously to not allow it on, and that's eprinomectin.

Jeff is gone. Yes, sir. So that is it for eprinomectin. Any questions?

SECRETARY WEISMAN: I see the evaluation criteria checklist, but I was just looking to see what categories it failed that led to the no vote.

MEMBER KARREMAN: Well, essential and availability criteria I think should have been a no. Sorry about that. Because other
very close relatives to that are already on.

Thank you.

VICE CHAIRPERSON GIOACOMINI: I think Item B is correct up there, but the check box was missed.

MEMBER KARREMAN: Yep, right.

Okay? All right, moving along to - oops, sorry.

CHAIRPERSON MOYER: Did Steve have a question?

MEMBER DeMURI: My question was actually the same as Julie's. Great minds think alike.

CHAIRPERSON MOYER: I saw that happening. Katrina.

MEMBER HEINZE: Could you give me a layman's explanation for why we don't let this class of things --

MEMBER KARREMAN: A layman's explanation? Actually there is a technical explanation as to the one that we have been using. Ivermectin is on the list already.
The board already also approved moxidectin to be on the list, which is not yet; somewhere in the hurdles and whatnot of rulemaking. And eprinomectin is also just like moxidectin in a sense and ivermectin in that they are all avermectins, and they are all macrocyclic lactones, which are technically a class of antibiotics, and that kind of put a little bit of sand in the gears, and so while moxidectin was going through rulemaking - it's still not out yet - fenbendazole was petitioned as a parasiticide. And that had a full TAP review back in 1999 with ivermectin levamisole. For whatever reason back then in 1999 they went with ivermectin. Fenbendazole, I think all of us were on the board when it went through, I'm not certain. But we are hoping that once the fenbendazole comes on - it's not at all any kind of antibiotic - that the ivermectin comes off and the moxidectin won't be there and the eprinomectin won't be getting on base. Is that layman enough?
MEMBER HEINZE: Not layman, but I followed it.

MEMBER KARREMAN: Okay, I can speak rationally, good.

CHAIRPERSON MOYER: If there is no further discussion, it's still in your court, Hue.

MEMBER KARREMAN: So the next one is vaccines, which we have heard a fair amount about in public comment, actually on both sides of the issue if I may say. Certifiers have commented that they want to see our recommended changes happen for the most part, and then there have been folks who say no, don't do that.

So a little background on this.

This vaccine recommendation is not a discussion of should we use vaccines in certified organic agriculture. Some of the public comment definitely said that, which is, shouldn't be using vaccines at all, and that's not this discussion.
The reason this came about basically was actually a farmer of mine called me first thing this year, first call I had, and he said, hey Karreman, my certifier won't let me use a certain vaccine any more. What should I do? And he told me why, because it's genetically engineered. And he's been using it for the last five years, been certified five years out of the seven that the program has been going. So it was kind of like a change in midstream from what the guy was used to. So all of a sudden I was like made aware of that.

I can tell you right now that my own personal views on vaccines that I don't hardly recommend them to my farmers. There's like maybe one or two. I truly don't. I've always had very very low vaccine sales. I don't even bring it up, because it is an issue. But this is not the discussion whether we should vaccinate our animals or kids or not. It's specific to the one of five,
205.105(e) section.

But we do need to have preventatives. So even though I don't even recommend vaccines all that much, I realize we have to have prevention here in organics. And there are times when unfortunately - and I will list these vaccines here shortly - that only one - the only vaccine is actually genetically engineered. There is no conventional. And it's going to be used maybe one to two times a year at most; it's not like GMO crops where they are in the ground pollinating and all that with massive acreage. It's a prevention. It's used extremely rarely.

The review paper that we have attached to the document is that, it's exactly that. It's a review paper. And review papers and science are basically, they state what the history of the problem is, whatever it is, or the issue, the topic, what's happening now, and future directions. So it's a review
paper, it's actually a pretty good review
paper, although it's only one, but it kind of
summates what's happening.

It should be stated that
genetically engineered vaccines are allowed in
the European Union certified organic system.

Some of the swine flu vaccine that
is being produced right now in our country is
genetically engineered, and that should be
kept in mind.

And then there were questions on -
for a TAP, and then the question would be on
what exactly. Because most TAPs are one
specific compound like ferric phosphate or
peracetic acid or eprinomectin. These
genetically engineered vaccines are kind of an
umbrella of different production methods, not
just one production method by any means. And
there could be more in the future.

This whole document is more almost
of a legal interpretation of what already
exists than something new because honestly,
the horse, the cow, the chicken on this issue
they are all out of the barn. These vaccines
have been used since 2002, not exclusively by
any means, but they certainly have. That's
all fact, and I don't know if I need to the
apologize to the organic consumers, but if
they didn't know that that's not my problem.
They've been being used, so it's not like,
hey, don't even start this.

And the ACAs have generally all
been allowing them in the Northeast, Upper
Midwest, West Coast. And we have some written
comments, and they agree with our
recommendation.

So let's see, so I want to give
some examples of the vaccines that are out
there and their availability, if you don't
mind, so there was a written comment asking,
or saying that we didn't state what the
vaccines are. This is a listing from the USDA
animal plant health inspection service, Center
for Veterinary Biologics, publicly available,
transparent, anyone can click on it and see it.

I can tell you this, that in March, 2001 there were 47 recombinant vaccines listed on this particular agency site of which 32 are for agriculture, agricultural species. And then in June of 2009, now there are like 100 manufacturers, licensed manufacturers of vaccines in general, and I think it's 38 for agriculture. In 2001 there were 21 genetically engineered vaccines being used for poultry. There were three for bovine, cow, seven for swine, pigs, three for horses, and horses can be certified organic, just so you all know that, and then canine twelve, and feline, seven, and the rabies vaccine, which there is none for large animals but people do use it for large animals, there were four.

They use it off-label for rabies. I know up in Vermont they have a pretty big rabies vaccination type - not program, but a lot of farmers do it up there.
Some of these, I mentioned a few yesterday, but there is only one for avian encephalomyelitis-fowl pox-laryngotracheitis. There is only one, and these are all genetically engineered, so if the poultry house has this problem there is no conventional one to look to. Avian encephalomyelitis-fowl pox-gallisepticum, avian influenza H9N2, avian influenza-fowl pox.

Equine, there is an influence, equine influenza vaccine. For E.coli two of the three available are recombinant. There is more for poultry. Laryngotracheitis, Merrick's Disease, two for two, the only two, they are both genetically engineered. Fowl pox, laryngotracheitis, pox-mycoplasma gallisepticum, Merrick's Type 1 and 3, Merrick's Newcastle, three for three are genetically engineered. Newcastle Fowl Pox, one for one, and cercovirus in pigs, two for two are genetically engineered.
Salmonella dublin, the only Salmonella dublin vaccine there is, and it affects people, it affects all mammals, it affects poultry; the only one is genetically engineered.

So anyway our recommendation, having all that in mind, is to truncate the 205.105(e), which I am trying to find, which is up on the screen, and our logical progression, since I kind of mentioned it is a legal reading of this, and these vaccines are already being used, folks, okay, it's not like it's just starting.

Relevant areas in the rule,

Section 6509(d)(1)(C) of the Organic Food Production Act of 1990 authorizes the use of vaccinations as an allowed health care practice in the production of organic livestock. This authorization was implemented for regulation at 205.238 (a)(6) of the National Organic Program Standards. Those standards were published in the Federal
Register on December 21, 2000. 205.238(a)(6) provides that producers must establish and maintain preventive livestock health care practices, including the administration of vaccines and other veterinary biologics. Further vaccines are approved by NOSB as a group at 205.603(a)(4) and ultimately put on the list without annotation where some other materials listed do specify or limit the amounts of production. It is clear that 6509(d)(1)(C), 205.238(a)(6), and 205.603(a)(4) don't mention about vaccines produced by excluded methods needing to be individually petitioned.

And we do acknowledge that 205.105(a)(6) does provide that organic products must be produced and handled without the use of excluded methods except for vaccines; provided that the vaccines are approved in accordance with 205.600(a).

But even if - even by reading Section 205.105(e) as it is currently written,
the logical progression of reading the
regulation shows that 205.105 allow the
prohibited substances, methods and ingredients
in organic production or handling to be sold
or labeled as 100 percent organic, organic, or
made with organic, the product must be
produced and handled without the use of (e)
excluded methods, except for vaccines,
provided that the vaccines are approved in
accordance with 205.600(a). So we'll go to
205.600.

Evaluation criteria for allowed
and prohibited substances, methods and
ingredients: the following criteria will be
utilized in the evaluation of substances or
ingredients for the organic production and
handling sections of the National List.
Synthetic and non-synthetic substances
considered for inclusion on or deletion from
the National List. Allowed and prohibited
substances will be evaluated using the
criteria specified in the act.
And then on 603 synthetic substances allowed for use in organic livestock production in accordance with the restrictions specified in the section, the following synthetic substances may be used in organic livestock production, A, as disinfectants, sanitizers, medical treatments as applicable for biologics and vaccines.

So in conclusion for the special situation with vaccines and vaccines only, the Livestock Committee would like to permanently clarify that the situation on vaccines, by truncating 105(e) to no longer make reference to excluded methods.

That is our recommendation.

Discussion?

CHAIRPERSON MOYER: Thank you, Mr. Chairperson.

Points of discussion? I see Dan.

VICE CHAIRPERSON GIOACOMINI: I first of all I feel for the court reporter over there trying to get through the names of
all those vaccines.

MEMBER KARREMAN: I will help you later.

(Laughter.)

VICE CHAIRPERSON GIOACOMINI: I completely support this recommendation. The problem that I have with it is that the origin of the problem came from a change of interpretation from what the vast majority of the industry seemed to have been reading the rule and upon further review a reading of the preamble, where there seems to be some discrepancy.

I fully respect intent, and I believe that is what the preamble was doing. But the letter of the law to me seems to be the letter of the law. And if the law does not support the intent, I think a better action would have been for portions of the community to come to the board and ask us to clarify that issue and to resolve the discrepancy, rather than changing the
interpretation to try and make what the letter of the law was saying match the intent, which it does not seem to do.

So I'm a little bit disappointed with the way we had to go about doing this. I completely support what the committee is doing. I completely support what this document is doing to meet the goal of allowing these products to still be used, which they have been used all through the past, and to maintain the ultimate concern for the animal, for the welfare and the health of the animal.

That all being said, I wish we didn't have to make this change, because I think the first connection from Section 105 through Section 603 the continuity is held together much better with this language kept in. But if this is the way we have to go about making sure that these tools are available to keep the animals healthy so they don't get sick so we don't need to use all these antibiotics that nobody wants us to use,
and the animals would be disqualified from
production, then I'm more than happy in
supporting this document to do it.

But I wish we had not had to go
this route.

CHAIRPERSON MOYER: Thank you,
Dan. Chair recognizes Barry.

MEMBER FLAMM: Thank you.

I think the committee has done a
lot of work and made some very persuasive
arguments for allowing GMO vaccines on the
market. And I know there has been a very
passionate exchange. But it probably - this
troubles me more than anything on the agenda.
For one thing it seems to me we've kind of
failed. GMO vaccines are widely used, so
we're saying we're in a corner; we ought to
let it continue. It seems like we as an
organic community that we are surrendering to
GMOs. And this is a problem in other areas,
in growing, we've discussed that when we
worked on the seed document. If we don't do
something there won't be an independent seed industry.

And I just wondered, whatever happened that we allowed the regular vaccines to be taken over by GMOs.

MEMBER KARREMAN: Yes, may I answer?

MEMBER FLAMM: And I'm sorry, I'm making more of a comment than a question. Please answer. I hate to raise issues and raise criticisms without having an answer I can propose. But I'm just very troubled with the blanket allowance. And you made credible arguments for doing it and a very logical one. I'm through.

CHAIRPERSON MOYER: Thank you, Barry. Chair recognizes Hue for rebuttal.

MEMBER KARREMAN: Yes. Basically you are kind of likening it to the seed availability thing, where if you don't force that, to have organic seeds. The vaccine industry, not that I know that much about it,
but I really don't think they are going to bend to the organic industry on this. The vaccine industry is geared to large populations of animals and people. The organic industry is a smidge. I don't think they are going to specifically say, ooh, let's go only make vaccines because then we can get the organic market. That is just my feeling, my understanding. It's just not quite the same as like, well, if we say there can't be any then they are going to start making them for us in the organic industry.

CHAIRPERSON MOYER: Chair recognizes Julie.

SECRETARY WEISMAN: I'm going to remind everyone, there's something that came up in a comment yesterday about this issue. And if there is a legacy I would like to be remembered for as I leave the board, it's going to be as a champion of commercial availability. And I think that what you say is true, though vaccine producers are big boys
and girls in the conventional world, and they have no incentive whatsoever to go out of their way to make anything that we need, but creating an incentive to use non-GMO vaccines if they are made available creates an entrepreneurial opportunity for folks, and I think that we should give that concept serious consideration for adding to this recommendation some kind of language.

CHAIRPERSON MOYER: Thank you, Julie. Board recognizes Bea.

MEMBER JAMES: Thank you. And also, thank you, Hue, and the Livestock Committee for all your work on this recommendation. I know it wasn't easy to put the thoughts together around this topic.

I guess I would just echo what Barry and Julie are saying. Because if repetition of an act creates status quo does that then all of a sudden justify status quo as being acceptable and right. And that's one of the questions that I think was maybe missed
in the recommendation was addressing that particular issue. And I don't know if there is anyway to backtrack the pervasive use of GMO vaccines now. And from what I'm hearing you say, Hue, it sounds like we are kind of in a corner to do something that we don't have a choice. And if as Julie suggests that we try to get into the recommendation something that would create a demand or a need for an alternative, can we do that?

CHAIRPERSON MOYER: Chair recognizes Hue to respond. Can you talk about that?

MEMBER KARREMAN: Yep, I think we can, and I already have it in my head and written down on paper. But also even if we go to the middle ground I would call it, and that's fine with me, I mean what I have, thinking here. You know, I hate to put the dark specter up there, but if there was a foot and mouth disease outbreak here in this country, and if we are allowed to use vaccine
for it, which traditionally USDA has not
allowed, but they have actually discussed it
in background papers and whatnot, I can nearly
guarantee you that that foot and mouth vaccine
is going to be genetically engineered. I
don't think there is going to be a company
saying, hm, the organic folks need a
conventional foot in mouth vaccine, let's make
it right now. And foot and mouth, just to use
that one particular one, and there has been an
outbreak in Britain twice, and that got onto
the continent in Holland, and it's real, that
is a highly - just like the flu, it changes
it's antigenicity all the time. So these
vaccines that are produced, basically are
constantly being produced kind of new all the
time. It's not like some kind of set formula
to make flunixin or ferric phosphate or
whatever. I mean it's a constantly kind of
changing thing. And the way the industry is
going, there is going to be conventional;
there will be. But there is more and more of
this genetic engineered type vaccine. That is all there is to it.

We can stick our heads in the sand but that's the way it is. So just keep that in mind. So even if we do - okay, the middle ground would be this. Oh, you want some more questions?

CHAIRPERSON MOYER: There are some other points of discussion if you want to hold off until you get done.

MEMBER KARREMAN: All right, then, I'm not sure if the wording would be quite right or not, but let's see, so on the recommendation it would say, excluded methods except for vaccines something to the point that conventional vaccines must be used unless none exist. I mean that you must use conventional vaccines - if there are two out of five right now for whatever the vaccines, you got to find those three that are not genetically engineered. But there are other ones like I listed here, one out of one is
genetically engineered; two out of two are genetically engineered for swine circovirus.

So the middle ground, I don't know we'd want to - we can do that tomorrow. But you have to use conventional vaccine, if you are going to use vaccine, if it's available. Otherwise you can use the genetically engineered.

SECRETARY WEISMAN: Hue, would it be more appropriate to say non-GMO vaccines instead of conventional?

CHAIRPERSON MOYER: Yes, the question is conventional and GMO. People don't understand what you mean by conventional.

MEMBER KARREMAN: Sorry. All right.

CHAIRPERSON MOYER: In this case conventional is good.

MEMBER KARREMAN: So non-GMO vaccines must be used unless none exist. I can live with that.
CHAIRPERSON MOYER: Or vaccines made without excluded methods.

MEMBER KARREMAN: Do you want to do this now or tomorrow as an amendment?

CHAIRPERSON MOYER: You can write it tomorrow. I think we know where you are going.

The chair recognizes Joe.

MEMBER SMILLIE: Just use commercially available to be consistent with our usual format, rather than none exists.

CHAIRPERSON MOYER: Chair recognizes Dan.

VICE CHAIRPERSON GIOACOMINI: Two things. One, commercial availability has certain things that means to the program and the regulation, and we have always been limited to 606 on that before of agricultural. If using that term, I want to make sure we get it cleared with the program first.

CHAIRPERSON MOYER: It's always been Julie's and my intention to get
commercial availability into everything.

VICE CHAIRPERSON GIOACOMINI: But the other point I wanted to make in response is to Barry's question of why is GMO, in this instance, why is GE in this instance, so prevalent? The nature of a vaccine is to get something into the body usually into a cell that the body then recognizes as foreign. So that it can mount an immune response to it. In the general historical sense of the conventional vaccines, we used the virus, or a modified virus, or we used the killed virus, or we used the bacteria. Those are – can be very successful vaccines, but at the same time they also can carry a tremendous amount of risk that with a mutation that modified the transferred back to inactive, or that with the transferring of genetic material that dead is even transferred into an active bacteria. And the value of the GMO vaccines, and one of the reasons they are taking off is that they are able to use smaller and smaller
portions of the genetic material from the
diseased microbe or whatever you are talking
about to initiate that immune response without
the risk of it creating an outbreak of the
disease at the same time.

CHAIRPERSON MOYER: Response by
Hue?

MEMBER KARREMAN: Can I add to
that? A lot of the genetic vaccines now,
let's say, you'd be able to differentiate a
vaccinated bison near Montana, Wyoming, the
national park there I can't think of right
away, from the real disease if you vaccinate
them with a subunit vaccine. I'm just
thinking conventional, okay; nothing organic
here. You could tell that that animal
actually had the real Brucella to infect all
those cow herds in Montana, or was it
vaccinated by Brucella, when you are looking
at the blood test for the antibodies in it.
So there is a way to differentiate between hot
virus carrying animal versus one that has been
vaccinated. That is going to happen more and more. And that is what they can do with foot and mouth as well. Say, that one has really got it. Oh, this one by its bloodwork was vaccinated.

CHAIRPERSON MOYER: Barry, chair recognizes Barry. Would you use your microphone, Barry?

MEMBER FLAMM: Are you saying that you can only do that with the GE vaccine, that recognition? You cannot recognize a vaccine agent in a buffalo with a conventional non-GMO vaccine?

MEMBER KARREMAN: Some you can. Actually Brucella has an RB 17 and you can, okay, so I shouldn't have mentioned Brucella. I'm just trying to say that most of them are deletion unit vaccines where they are taking out the hot part that would confuse an antibody test if you are testing two animals, which one had the real disease, versus which one got the vaccine. Most of them are being
actually genetically engineered now, and these regular vaccines you couldn't tell.

CHAIRPERSON MOYER: Chair recognizes Bea for a comment or question.

MEMBER JAMES: It's a question.

I'm kind of - actually, I'm going to wait until this topic is done.

CHAIRPERSON MOYER: Thank you, Bea. Any other questions on this particular topic? Chair recognizes Kevin.

MEMBER ENGELBERT: I think it goes without saying, but I'm going to say it anyway: this is a no-win situation for us. If we vote to approve this vaccine then the headlines are going to be that the scumbags on the livestock committee convinced the rest of the NOSB to allow GMO vaccines in organic production. If we vote it down and there is an outbreak of a serious disease in any region of the country then we are going to be condemned for our poor position on animal welfare in allowing these farmers to keep
their animals from being treated. They will have to leave organic production and be replaced by conventional animals that transition in that did receive the vaccine to protect their animals. It's an extremely troubling issue. It's an unfortunate one. It's what we're faced with.

CHAIRPERSON MOYER: That's why you get paid the big bucks.

(Laughter.)

CHAIRPERSON MOYER: Follow up by Barry.

MEMBER FLAMM: Kevin, does the so-called middle ground solve that problem?

MEMBER ENGELBERT: Hue and I talked yesterday. I think that is our best option, is to put that clause in there. If a non-GMO vaccine is available, it must be used. And a GMO vaccine can only be used in an emergency situation. Or if they don't.

CHAIRPERSON MOYER: Question by Tina.
MEMBER ELLOR: I guess I'd like to side with the commercial availability people. Because there might be some available; there might not be enough available. So I'd like to cover that contingency as well.

CHAIRPERSON MOYER: Thank you, Tina.

Okay, Mr. Chairman, back to you - and that was some of the easy stuff we went through, right? We didn't get to the good stuff right? I believe you are at excipients?

MEMBER KARREMAN: Excipients, let's see. All right, so the next thing we are recommending is I guess a clarification. I'm not sure how it's mentioned in the agenda, but a clarification to 603(f), F like Frank, that came into being on December 12th, 2007 when the medicines came in. And basically and they talked a little bit about this yesterday that there are two terms in here that simply - not simply, maybe - but need to be looked at.
And essentially what we are recommending is, the current one reads, excipients only for use in the manufacture of drugs, used to treat organic livestock, when the excipient is identified by the FDA as generally recognized as safe, approved by the FDA as a food additive, or included in the FDA review and approval of a new animal drug application or a new drug application.

And so, and I mentioned this yesterday to one of the commenters, there is a lot of stuff out there in barns that I've seen, I mean lots of stuff, that you know they are not for like a sick cow or sick calf. They are to enhance the digestion of a calf. They are to enhance the suppleness of a cow's udder; whatever. The animal is not sick, so technically they can't use these things, technically, on these animals. And they're animal health care products. Now animal health care products, their excipients are not specifically stated in what I just read. So
that's why we want to change the word from drug to animal health care products. And then it's highly unfortunate that during that whole process of the six years of the medicines coming through the pipeline that we since the raw FDA in that realm didn't think about the animal plant health inspection service Center for Veterinary Biologic Vaccines, normal vaccines folks, with their excipients for preservatives and all that, that wasn't added in. So we would like to add that in at the very end, semicolon at the end, or approved by APHIS, the excipients. So excipients only for use in the manufacture of animal health care products, used to treat organic livestock when the excipient is blah blah blah, or approved by APHIS.

That is the reasoning. That is what we are proposing.

CHAIRPERSON MOYER: Thank you, Mr. Chairman. Other points of discussion? Chair recognizes Dan.
VICE CHAIRPERSON GIOACOMINI: The way you went through that discussion, just for clarification, the way you went through that discussion, you created in my mind anyway you created a separation between drugs and animal health care products. Are we covering drugs with animal health care products, or should we say animal?

MEMBER KARREMAN: I would - I would say that animal health care products is the more universal term. I would say you don't have to have an "and." If you want an "and" in there, fine. But I would think it would cover or. I mean maybe because we do specifically refer to FDA-type nomenclature after that, so maybe we should keep the drugs in there and animal health care products so - okay, or animal health care products.

CHAIRPERSON MOYER: Thank you, Dan, thank you, Hue. Any other comments or questions for the Livestock Committee on excipients?
Seeing no hands or hearing none,
Mr. Chairman, your next item please.

MEMBER KARREMAN: All right, the next one in my stack of paper here is annotation change for chlorhexidine, which is already on the list at 603(a)(6). The current reading is that chlorhexidine is allowed for surgical procedures conducted by a veterinarian, allowed for use as a teat dip when alternative germicidal agents and/or physical barriers have lost their effectiveness.

Chlorhexidine is a very common disinfectant. It's already allowed for teat dips in surgical procedures. Farmers do use it to cleanse cuts and wounds on animals from barbed wire or whatever. So the thinking is, as it reads now, it can only be used for surgical procedures by a vet or as a teat dip. So what we are thinking of doing is to recommend this change to say then, allowed as a germicide for medical and procedures. So we
are just putting the medical on top of not only surgical. Okay? That is the annotation change.

CHAIRPERSON MOYER: Thank you, Mr. Chairman.

Questions for Hue on chlorhexidine? Seeing or hearing none, Mr. Chairman, your next item?

MEMBER KARREMAN: Okay, next one on the list here is xylazine. This is also an annotation change to xylazine which is already listed at 603(a)(23). Xylazine is the way it's listed here with the annotations, the - it basically the annotation is, use by or on the lawful written order of a licensed veterinarian; or two, the existence of an emergency, and three, it goes through the withholding times. What this recommendation seeks to do is to delete the term, the existence of an emergency. Why is that? That is because Xylazine is actually used, first of all, it's infrequently used, but when it's
used it's not always for emergency. Such as,
if some farmer gets 10 new heifers in that are
a year old and they are not dehorned, and all
his cows are dehorned or foaled or whatever,
and those animals start using their horns on
the animals and really making a problem,
chances are someone is going to get called to
come in and take those horns off. Standard
procedure would be to sedate the animal with
xylazine, and then use a lidocaine, which we
have on the list already, and a local
anaesthetic block, and take the horns off.
That is not an emergency. That can be done
next week; that could be done in three weeks.
So that is kind of why we want to take off
only in the existence of an emergency.
I mean there are other things too.
There are emergencies of course where it is
used to sedate an animal, like with cut milk
vein where you don't want to get kicked in the
head when you are stitching it. But also
let's say a calf with a navel infection or an
umbilical hernia, you want to sedate it to
turn it upside down to do the surgery. That
is not an emergency. There are other examples
like that.

CHAIRPERSON MOYER: Thank you,
Mr. Chairman.

Any questions for Hue? Steve?

MEMBER DeMURI: Any idea why the
original listing said it was only for
emergencies?

MEMBER KARREMAN: Well, you
should read the background that was written.
I wrote the background. It's actually,
someone commented in a written comment where
it was really well spelled out. Because
basically I look back at the 2002 September
and October transcripts. They actually had
two meetings a month apart, and that was right
before implementation. And all those
medicines were just getting into the pipeline
that, eventually, six years later, got
approved. And the board did its best I'll
just say to understand how these pain
relievers and sedatives would work in a
regulatory setting like we sit at. And
butorphanol got on, that's synthetic morphine.
That is not under an emergency clause.
Because one of the board members said, you
know, we should let the vets do what they do.
They know what they are doing with these
prescriptive things. With xylazine they first
said only once in a lifetime. Then they said,
well we'll make it just for emergencies.
So it's an interesting transcript
to read. Anyway that is how it got on that
list.

CHAIRPERSON MOYER: Any other
questions or comments for Hue on the issue of
zylazine? Bea.

MEMBER JAMES: Just a quick
question, because I have no idea. The
withdraw period, does that seem right to you?
I'm just curious.

MEMBER KARREMAN: Yes, the
withdrawal period on zylazine and butorphanol,
that came on in totlazoline and flunixin and
some other long syllable words that are used
to relieve pain and suffering. All are twice
as long as the legal requirement for
conventional.

CHAIRPERSON MOYER: Thank you, everybody.

Mr. Chairman, we will turn the program back over to you again for your next item, keeping in mind that we may not get through this item before we need to take a lunch break, I'm not sure. So let's get started, and see where we end up. I know we are going to get off schedule here probably, but your next item.

MEMBER KARREMAN: All right.

Animal welfare.
A passion not of only mine, but of all the Livestock Committee members that I know of, and also one that is not here. And Jennifer is not here, and at some point I want
to read a little snippet she said for me to read if I remember how to do it.

Okay, animal welfare. First of all, there was some comment, I forget if it was written or verbal, that we are overstretching ourselves as a livestock committee to look into animal welfare and everything. And it should be reminded, and Deputy Secretary Merrigan did say this either two years ago or this past spring that they did not work on the animal welfare at that point because crops and retail type things were really the main things in organic, and they kind of left this door kind of be open, and now we have been walking through it.

But in OFPA 2110(d)(2) it says the NOSB shall recommend to the Secretary standards in addition to those in paragraph one for the care of livestock to ensure that such livestock is organically produced.

So we do have in the statute some backing for going in that literally animal
welfare.

We've been working on this for a full year with the discussion document in May and a recommendation now. And it was brought up originally in November of 2007 when Margaret Wittenberg and Kathleen Merrigan and Willie Lockeretz gave a formal presentation.

So what two years at this point.

The Livestock Committee, from comment, a lot of people are saying, hey, pull back, make it a discussion document. And we have been talking over the last day, and we do not feel we will pull back and make it a discussion document. We want to act on it at this meeting, at least as a first step. It doesn't have to be the whole shebang, but we want to - we have been working on this, and I agree 35 days or whatever it is, 40 days, is not a whole lot of time to comment. But it's also - we do a lot of work before that posting time, so then the commenters have to do a lot of work in that time they have.
It's unfortunate; I'm sorry. But - and sometimes we take too long and it's got to be faster.

Anyway, okay, due to the public comment, those written and oral, last night I reworked the document to take into account a - I think a majority of the public comment that has been presented, both written and oral. And I might have one that last night just for this meeting, just to help us go along. But I want to stress that the entire Livestock Committee really truly worked together as a team very cohesively on this through many Tuesday afternoons starting at 3:00 o'clock to 4:00, 4:30, every week.

And I want to also thank Rigo for writing the introductory parts to what we are having. That is not going to change at all. Okay, Rigo? Okay.

So let's see, so one of the things - so basically we want to make sure that there is a bright line in the everyday lives of
organic livestock so we can hopefully say and 
back up with regulations that organic 
livestock do enjoy a good life while they are 
alive on our certified organic farms and under 
our care. And we need to ensure and maintain 
the consumer confidence; that is a primary 
thing as far as this board goes, I believe. 
I guess I don't have to read 
Jennifer's comment, but that's okay. How 
about we get into it, since we got a lot to 
get into to, okay. 
So if we look at the 
recommendation as posted, and - sorry, I got 
to draw that up -- 
MEMBER JAMES: Hue, would you 
mind Jennifer's comment around just to the 
board at least so we can read it? 
MEMBER KARREMAN: It's 
electronic. It's just an email exchange. 
Okay, I'll read it. 
CHAIRPERSON MOYER: Yes, please, 
because Jennifer can't be here, and she was
invaluable in the discussion. If you can get her comments on the record it would be useful.

MEMBER KARREMAN: Okay. She says, hi, how are you doing, all that. I so wish I could be there for the cause and to thank you personally for so much great progress on the animal issues. I am stunned by the significantly negative response, and I admit that I haven't sifted through all of it but I've sifted through a lot.

My first response is that improvements must happen in farm animal care.

For those calling for a gutting of this, what is it that they want to achieve? If there is a real difference in animal treatment and health, starting from scratch right now will cause unthinkable delay. It has taken this long for group to attempt to address the issues. We started from a well vetted place - the new Canadian rice - crafted the rec in such a way as to minimize controversial rule change, and with the benefit of four daily
hands-on livestock professionals on the committee, granted weighted on bovines, but my response is, why not do all the very basic — why not do all these very basic things now. Get improvements in the lives of these animals and respect for life now, particularly one raised and taken purely for our benefit, and I'm not a vegetarian.

If there are legitimate issues remaining, it won't be difficult to find the support to overhaul later, but that will take years. Of concern, what is most important to the consumer? I represent a growing tide of omnivores who based on the questionable practices of the farm animal agriculture, prefer to purchase locally. It's not just a buy local movement, I can promise you. It's the assurance that I know, and I extend that comfort to my friends and my customers, the farmer, the animals, the conditions, et cetera, and that minimal or no suffering or undue harm, knocking, clipping, et cetera,
what nature gave them to survive, was a part of their life; or withholding treatment that would quickly cure something they do get. I seriously don't think that most people would mind if a farm animal raised for meat or producing eggs or milk got treated once or twice in their life for legitimate illness. It's the insanity of prolonged prophylactic treatment that got people so sensitized on the issue, and so desensitized hermetically to human antibodies. Treating them for things that they do not have purely because the conditions they live in are so subpar. I wouldn't change this about the rule, don't get me wrong. But pooling antibiotics acts as a backdoor and weak attempt to improve living conditions without taking it head on. We were finally taking it head on.

I believe that humane care matters more to people than whether the hay they eat is organic. Clearly whether they eat other animals or an all-grain diet for forging
animals matter. The slightly fertilized forage seems a little lesser harm than many things that occur and still carry the organic label.

Not to minimize the requirements of organic inputs, but it so marginalizes the many other life factors of a living animal.

There are plenty of films out there rapidly educating the public about living conditions and treatment of farm animals raised for food. It discourages me greatly that I cannot share with people any comfort that purchasing organic meats necessarily means they are directing their dollars to a higher bar of production when it comes to living conditions. They are required 100 percent organic food, which is great. But that food need not be the diet nature intended, nor does it guarantee living conditions or physical treatment of a higher caliber. Not enough that it seems enforceable, and not nearly enough to right the wrongs that can happen. I recognize
maltreatment may not be rampant, but I believe the percentage is likely consistent across organic and conventional if you take the sheer volume of animals. I believe a higher percentage of individual farmers in organic likely have higher standards on average. But it's still the big corporate outfits even in organic, that literally pump livestock of all kinds through their systems at unreasonable rates with low oversight or real care for the living animal.

I would very much - last paragraph - I would very much like to have minimum standards of care for organic livestock that are far superior to conventional, and that make a difference in pain and suffering and the quality of life the animal leads. That would justify a doubling of price, not the fact that organic feed just happens to be so hard to come by and inflates the price of a still potentially miserable existence.

I need a better guarantee. I need
more respect for life. I am not alone.

CHAIRPERSON MOYER: Thank you very much, Hue. I think that is extremely well written by Jennifer, and just an indication of the type of valuable contribution that all the committee members made during those seemingly endless hours of discussion to get to this point; certainly not made in a vacuum.

Joe, you also had a question?

MEMBER SMILLIE: The rewrite, has this been run through the committee yet? The rewrite that we are about to see?

MEMBER KARREMAN: No, but it's from public comment. I mean we are going to have to have a committee meeting I would think for this.

CHAIRPERSON MOYER: Chair recognizes Kevin and then Tina.

MEMBER ENGELBERT: No, just to answer, it hasn't, but it will. In the interests of time we want to get through it
right now with everybody, and then the
committee will reevaluate it.

CHAIRPERSON MOYER: All right,
Tina had a question.

MEMBER ELLOR: Pretty much the
same thing. We all have it in our email and
have had a chance to look at it.

CHAIRPERSON MOYER: Thank you.
Chair recognizes Dan.

VICE CHAIRPERSON GIOACOMINI: We
haven't seen the result of this, but we have
had conversations that led to this. So it's
not that it has been outside of the rest of
the committee just by the chair.

CHAIRPERSON MOYER: Thank you for
that clarification, that's correct.

MEMBER KARREMAN: I'm trying to
find that.

CHAIRPERSON MOYER: That's fine,
take your time.

MEMBER KARREMAN: And actually I
think that the public will like this a whole
lot better, than what they did. So if you go
down to the livestock health care practice
standard, 238, page four.

CHAIRPERSON MOYER: You didn't do
anything with terms defined?

MEMBER KARREMAN: No, I didn't do
anything with terms defined. Someone did say
they wanted a definition for carrying
capacity. I figured we had the group
together, we could get one out today, although
there are standard definitions for that in
ecology type books.

Okay, so on 238(a) where it said
that the producer must have a valid veterinary
client-patient relationship with a licensed
vet, I as a veterinarian, gutted that, okay,
because people didn't like that. But the
producer must have a working relationship with
a veterinarian or nutritionist, all right.

That would be new. So that for those areas
that you can't get a vet in easily, hopefully
you are feeding your animals correctly, and
it's not just totally by the seat of your pants. Hopefully there is some professional oversight.

In (a)(2) the Humane Society wanted in blue - that's the new additions. They want the feed rations sufficient basically to have resulting in appropriate body conditions. So that is where we addressed body condition, folks, and guidance can come up later. We can figure that out.

The food farmers didn't like the word, crowding, because possibly that would impinge mob grazing and other intensive grazing that is actually very good. So I added the word, indoor crowding, so that mob grazing could be done.

Okay, anything in red here, folks, is still what the committee put in earlier. The Human Society here in blue on five, once that procedure is undertaken employed best management practices and there were a few public comments saying that we should add in
the word, analgesics, to not leave them out.

That doesn't come up as well on my screen here. Are you guys looking at that at all on your computers? All right.

Physical alterations, number six, I added in blue, among the sheep tail docking and pig teeth trimming and castration, I added in beak tipping. And in number (6)(I) I struck beak trimming and, I struck those words, but we kept the de-toeing of birds is prohibited.

So the beak tipping is in for everybody that was talking about that, writing and verbally talking about it.

Someone mentioned in public comment yesterday that sheep museling, which is something I've never seen, but essentially you cut out the flesh on either side of the tail, I believe, for I don't know what ungodly reason. But they do it; I don't know why.

But anyway, that should be prohibited; that is now in there. Someone knows why they do it,
let me know.

MEMBER KARREMAN: For a fly strike, okay.

CHAIRPERSON MOYER: Just a minute. If there is a comment from the floor, Hue, and you want to hear it, if they would please approach the podium, state their name for the record, and what the comment would be, we'll entertain that.

MEMBER KARREMAN: Okay.

CHAIRPERSON MOYER: Do you want them to come up?

MEMBER KARREMAN: No, that's okay, museling is for fly strike. But so is tail docking, and we are allowing tail docking.

Go back to (I) up there, Valerie, (6)(I), where we now allow beak tipping - that is the correct word, right, poultry folks, beak tipping. On (6)(I) then we want to still actually keep beak - de-beaking is prohibited. So we could put in de-beaking and de-toeing is
Okay, so we had a V for museling of sheep is prohibited. Number seven stays the same. Number eight, added in from the Humane Society, monitoring of lameness, so we are talking about lameness, but not exactly how, just monitoring of lameness and keeping records of the percent of the herd or flock suffering from lameness and the cause.

We are not saying how much is the limit. We are not saying how you go about looking at it. We are just saying you better be monitoring lameness.

There was a small beef producer from Southern California I believe --

CHAIRPERSON MOYER: Hue, if I can interrupt you for a moment, I think we are getting ahead of --

MEMBER KARREMAN: All right, I'm just going down the page.

MEMBER HEINZE: You got ahead of Valerie.
MEMBER KARREMAN: I'm sorry.

MEMBER HEINZE: And apparently I'm the only person looking on this screen.

MEMBER KARREMAN: How far ahead am I?

MEMBER HEINZE: Did you catch that de-beaking? Okay.

CHAIRPERSON MOYER: It was just hard for folks to see what was going on on the screen while you were reading one thing, and something different was on the screen. We are caught up. Thank you, Hue.

MEMBER KARREMAN: Okay, so now we are on (b)(1) talking about phytotherapeutic. We struck the words, excluding antibiotics, because it was confusing from written and verbal comment. And the person in Southern California with some beef cattle mentioned, the same word, shall use the alternative products, really shouldn't be, but we put in, are encouraged to, so it's not like you must use the alternative treatments, but you are
encouraged to do that.

And then I think the AVMA mentioned something about these treatments as well. They are not proven or anything, so how can you say they are working. So I struck the word, working, and I put so that - provided that their therapeutic effect for the condition for which the treatment is intended is improving, clinically, and the farmer can see that.

Someone also again took issue that phytotherapeutic homeopathic are similar products, really are not proven to be effective. So I struck the effectively treating and put in promptly alleviating.

Someone else wanted to strike that the vet has to be there again, so me as a vet, I gutted, under veterinary supervision. So the farmers can just use things however they want.

Let's see, nothing has changed from our - oh, okay, number three, organic
livestock operations shall have a comprehensive plan to minimize internal parasite problems in livestock. Plan will include preventive measures such as pasture management, fecal monitoring and emergency measures in the event of a parasite outbreak. Parasite control plans shall be approved by the certification body.

We think, as the Livestock Committee, that is good. We think it was a certifier or some comments that shouldn't be in there. And I can tell you as a vet out in the field, the weakest link in the chain for organic livestock production with cattle is parasites, hands down, nothing else. So we're taking into account a lot of public comment, but some things do stay.

If you go down, Valerie, to (c)(1), the food farmers were asking in red there. It did say milk and meat from sick animals. They were asking, and probably rightfully so, what is a sick animal exactly?
Is it a Johne's cow, or is it a high somatic cell count cow? So they suggested just simply milk from animals undergoing treatment with prohibited substances cannot be sold as organic or fed to livestock - organic livestock. Makes sense.

On two, again we added the word, analgesics, because we hadn't done that, and they should be in there along with anesthetics and sedatives for surgical procedures.

Am I doing this okay, guys?

CHAIRPERSON MOYER: You are doing fine, thank you.

MEMBER KARREMAN: We jump down to number eight, and that stays like we posted it, that you cannot withhold individual treatment designed to minimize pain and suffering for injured, diseased or sick animals, which may include forms of euthanasia as recommended by the APMA.

Number nine, someone commented that, you know, the government already makes
sure that diseased livestock are not
slaughtered so we struck that, and we are
keeping sick or injured animals must be
identified and treatment recorded in animal
health records.

And then number 10, practice
forced molting or withdrawal of feed to induce
molting; that was a public written comment I
believe.

And then from the minority opinion
I brought up that essentially (d)(I), (ii) and
(iii), basically keeping track of why animals
had left the operation, keeping a list, you
know, why have animals left? What has been
wrong?

MEMBER MIEDEMA: Hue, what is the
number of that?

MEMBER KARREMAN: Ten, 10 then
goes to D. Okay? Are we all good? This will
be presented again tomorrow, folks, in the
gallery. So this is mainly for our discussion
here, so we're all on the same basis.
CHAIRPERSON MOYER: Dan has a comment.

VICE CHAIRPERSON GIOACOMINI: Hue, on number nine, that's under (c) which ends in must not, so you are saying you must not must identify. We are going to have to reword that one.

MEMBER KARREMAN: Thank you. That's simple. That is simple. Can you make a note of that?

So then that is the health care live 238 section, okay. Now what I did --

CHAIRPERSON MOYER: Hue, would you like to stop there maybe and get comments on those particular pieces?

MEMBER KARREMAN: Sure.

CHAIRPERSON MOYER: Rather than take the document in whole, because it is a rather lengthy document.

MEMBER KARREMAN: Yes, not a problem.

CHAIRPERSON MOYER: We covered a
lot of ground there. Just to see if there is any comment from the board.

Okay, so hearing none.

MEMBER JAMES: You guys are going so fast.

MEMBER KARREMAN: I apologize.

CHAIRPERSON MOYER: Question by Bea.

MEMBER JAMES: I just want, because you went fast, Hue, and it's in the one that you emailed us, under 6(I) you did put in there that debeaking is prohibited, correct?

MEMBER KARREMAN: Yes, that is the intent. I think I asked Valerie to put that back in.

MEMBER JAMES: Okay.

MEMBER KARREMAN: But we allow tipping, which is the more common practice apparently, the beak tipping.

MEMBER JAMES: Right, okay.

MEMBER KARREMAN: But not the --
MEMBER JAMES: Okay, I was just confirming that. And then on (b)(2) you took out synthetic medications may be administered, period. And you took out under veterinary supervision because?

MEMBER KARREMAN: Someone objected to that.

MEMBER JAMES: And all of the Livestock Committee agreed with that?

MEMBER KARREMAN: Well, let's put it this way. Like with the excipients, farmers use things for animal health care that are in their cabinet. They got some jug of blue juice stuff. They're going to use stuff without the vet being there. That's acknowledged.

MEMBER JAMES: The only reason I bring it up is because as we add more things to the list, like we are looking at doing tomorrow, I just want to make sure that that is the right direction; that it might --

MEMBER KARREMAN: (b)(2), you
said, Bea? Oh, there. Well, actually that's in direct reference to phytotherapeutic or botanical herbal medicines, and homeopathics. Oh, no, that's actually with synthetic medications may be administered.

I don't mind keeping that in. I was just responding to public comment.

CHAIRPERSON MOYER: Comment by Dan on the same subject, I assume.

VICE CHAIRPERSON GIOACOMINI: Yes. I think there are a lot of cases where an animal has gone down, or an animal is injured, or has an illness. The veterinarian gives the farmer one of these types of treatments. It works on that animal. Next time the farmer has a similar type animal, he is just going to go try that treatment, and he is probably not going to call the veterinarian before he does that. So I think in that case that is not under his administration and supervision, but it was under, you know, under that relationship that we sort of already - we
already had to pull out.

MEMBER KARREMAN: If you want to put a word in there like initially under veterinary supervision. Because you will always have some medicine left over, and that's exactly what they do. That's reality.

CHAIRPERSON MOYER: I think we heard yesterday that some folks don't have the luxury of having a veterinarian that understands the organic process nearly as much as some other folks may have access to. And our response was, our reaction was in response to the general public that made those comments.

Chair recognizes Kevin.

MEMBER ENGELBERT: Bea, I want to clarify, these are items that are on 603. And every farmer has to have a list of medications that they use. And there are instances and times when farmers are perfectly capable of making a decision on what an animal needs. And the time elapsed between trying to get a
1 vet there to confirm it and the time that it
2 is administered can make the difference in
3 whether the animal recovers or not. But it's
4 just simply giving the farmer the ability to
5 treat their animals on their own when they
6 know they have the ability to do so; that's
7 all it is.
8 I know your concern is about
9 abuse, but I don't see that.
10 CHAIRPERSON MOYER: And it's all
11 part of the organic system plan, materials are
12 all listed.
13 Okay, hearing no other comments,
14 let's move on to Section 205.239.
15 MEMBER KARREMAN: All right. So
16 for the livestock living conditions. What I
17 essentially did, you guys, was separate out a
18 mammal section from an avian section, okay.
19 I don't think it would behoove us to do every
20 species. We have aquaculture coming in, and
21 it's aquaculture. And they got their
22 sections. So I just called it mammal. And
then another section down later, avian, for living conditions.

Someone objected to 239(a)(1), rotational pasture, because the pasture rule is coming out; don't even touch that word. So it got struck. Also, and I renumbered these as I went down, because I took out the poultry, which would have been right below that number one. So anyway, the next one down, number two, is access to pasture for ruminants. I struck everything as far as the - what is it, animals per acre, stocking rate. Struck it all because of the pasture rule coming out. Everybody happy?

Let's see, number three, animals must be kept clean during all stages of life. I think that is a fair statement. They don't say how to do it. You guys can figure it out. Building areas for bedding and resting are sufficiently large, solidly built, and comfortable so the animals are kept clean, dry and free of lesions.
1 If bedding is an agricultural
2 product it's got to be in compliance with 237.
3
4 Number four, exercise areas for
5 swine shall permit rooting. We haven't head
6 from any swine people, so everything for swine
7 stayed in. So. Let's see, (b)(1), shelter
8 design to allow for, one, (I), basically I
9 added in from the Humane Society the terms, to
10 turn around, to fully stretch their limbs
11 without touching other animals or the sides of
12 the enclosure. So they're not cramped.
13
14 On going down to number two there,
15 I added in, housing pens, runs, equipment,
16 utensils, shall be properly cleaned and
17 disinfected as needed with approved materials.
18
19 So it's not, when you clean out
20 house every time or whatever, and that's why
21 number three got struck. And so that is too
22 prescriptive. And number four should become
23 number three, thank you, Kevin. Okay,
24 Valerie, everyone?
25
26 Number four it says, calves may be
housed in individual pens under the following conditions - it should be number three. Okay, so people objected to the "until six months of age." And I think the reason we were at the six months of age, because that is a legal time where right now the rule, they have to be allowed to go outside. And in all reality most people use the individual pens or housing until weaning; that is really the way it is, either two months or three months or whatever. But then they start bringing them together, if they haven't already had them in groups. But it's that weaning that the hutch-raised animals usually go to a group.

So that is why six months of age was struck, and weaning was put in, which will mean two or three months for most people; and again, struck at (I) and (ii).

Nothing else has changed from the posted document down through there except the numbering.

C, on page nine, the producer of
an organic livestock operation may provide temporary confinement for an animal - new wording here from the Humane Society - for the following reasons: temporary confinement may last no longer than necessary to safely perform the procedure or address the condition, as opposed to, we had in there, milking, shearing, breeding, hoof trimming or health care procedures, and I added in, and recuperation from an illness. They would allowed to be temporarily confined.

Someone wanted to have us define the term, dangerous, for dangerous weather. Gosh, I don't know, but someone did want us to define dangerous.

And then we go down to number five, (I), and we are looking at that table from the Canadians. And you can see that all the avian stuff has been struck out, because there was a lot of comment about that. But the mammal stuff is still in there. And we didn't hear much comment, or read about it,
about the mammalian space requirements. So the rabbit people weren't here yesterday to talk about their space requirements, they are down there.

Okay, that's the mammalian livestock section. What do you want to do?

CHAIRPERSON MOYER: We are going to take some comments here, and then we might break for lunch.

Comments on 205.239, Dan?

VICE CHAIRPERSON GIOACOMINI: One of the issues that was brought up yesterday, and we'll have to wait and see how you handled it entirely through the poultry, is a factor of investment versus the required change that this would institute, that these things would institute.

In - I'm trying to find it here, I apologize - (d)(1) in 239(b)(1) we add additional language to the ability to lie down. That would be included in what we can do - the housing of calves in number four, in
what is now (b)(3). The language that we
added I would certainly like the producers and
producer groups and certifiers to look at what
we did there and I know we are not looking at
costs; we are looking at animal welfare and
all those things; but the impact of what that
would allow for the size of a calf hutch
concerns me, and I would like - I would
courage the people coming up to give
comments on this today to include that
consideration.

CHAIRPERSON MOYER: Any other
questions or comments on 205.239? Chair
recognizes Bea.

MEMBER JAMES: The removal of -
under livestock living conditions,
205.239(a)(1) and (2), removal of reference to
pasture, pasture is coming but it's not here.
So we really don't know, it's a pretty big
leap of faith that we are assuming it's going
to be right around the corner.

MEMBER KARREMAN: I fully agree,
Bea, and that is why we originally put it in.

But there was very strong public comment to get that out of there; very strong. And I have to trust our new leader - he's gone - Miles, that this will happen.

CHAIRPERSON MOYER: Hue, I might suggest that what we do is put the word, pasture, back in, not necessarily using the word, rotational, put the word, pasture, in. Put brackets around it, and say, pending the NOP recommendations. So at least we have it as a placeholder so we are not ignoring the fact that it's critical to the conversation. So if we could just bracket it and put the word, pending, in there, we can move forward as a solid placeholder knowing that it's coming.

Chair recognizes Kevin.

MEMBER ENGELBERT: This is going to be a major rewrite. So there is going to be an ANPR and then public comment, et cetera, et cetera. And I would hope the pasture rule
is out long before this ever gets written as

a final rule.

CHAIRPERSON MOYER: You would

hope.

Follow up by Bea.

MEMBER JAMES: All the more

reason to make sure that we have it in there

with brackets. So you would put that under

one and two?

MEMBER KARREMAN: It's already in

two as access to pasture. And that's - a

lot of people say, ah, you know, the rule

could already be enforced, site two. So it's

already there. You know that whole stocking

rate thing essentially drove people nuts, and

that's why I took it out. To be honest.

CHAIRPERSON MOYER: Chair

recognizes Tracy.

MEMBER MIEDEMA: This is a

question for Hue, and a corollary to

Jennifer's impassioned advocacy on behalf of

the animals. On behalf of the farmers in this
new area, age of enforcement, we might see
rulemaking happen a little faster. And I
wondered if this recommendation had proposed
generous timelines for farmers?

MEMBER KARREMAN: Okay, that's an
interesting point. It brings up something we
had talked about in the hall a little bit
yesterday, some of us on the committee, is
that - and we are thinking mainly of the
poultry folks - that perhaps a middle ground -
again, I like middle ground - would be that
you know, I don't know how you would word it,
but basically how you have been being
certified up to this point with your existing
house as it is would be grandfathered. But
you build any more new houses, or let's say
you do a major new renovation, it's going to
be done with the new rules.

So I don't know if grandfathering
can be done, but that is something some of us
have talked about as a middle ground. Because
a fellow from Ohio who was here who told us
really a compelling story, and we don't want
to put anybody out of business. But we also
want to raise the bar, so that if he does get
another new house, then he would have to do it
according to this. But he can still have
however many houses he has and being certified
the way he is.

Does that help any?

CHAIRPERSON MOYER: That is
something we discussed.

Tracy, follow up?

MEMBER MIEDEMA: Yes, and I guess
this sort of argues against the point I was
just making, but I think we would create some
barriers to entry and we would create some
pretty serious competitiveness issues with
farms wanted to enter the market if the
established farmers had such a significant
advantage. I'd be more in favor of the kinds
of changes you are making, extremely generous
timelines to implement any changes; and also
just that we very careful to avoid
anthropomorphizing chickens, and that we don't
- you know, the fact that we like sunshine and
fresh air that we don't immediately assume
that chickens want to feel the sun on their
faces. Maybe they like their shadows, I don't
know. But I do really like the idea of the
outcome base matrix.

CHAIRPERSON MOYER: Joe, and then
Barry.

MEMBER SMILLIE: Yes, in adopting
a lot of your material from the Canadian
regulations, I think that was a very
interesting move. And I just want to report
that that regulation is being now implemented
in Canada, and it's going through bumps in the
road. And I was at regulatory meetings in
Canada when we had the same kind of
impassioned speeches from Canadian livestock,
including swine people I might add, quite a
few people who raised swine, and like the
dislocation of the actual facilities is having
a major impact. So I wouldn't be surprised to
see them have to take some actions like what
is being talked about under the word,
grandfathering, to allow for some sort of
orderly change.

So they have hit the bumps in the
road in terms of how they are going to deal
with them. I think the Livestock Committee
should keep track of it also, because you seem
to have hitched your wagon to their
interpretation of this.

CHAIRPERSON MOYER: Follow up by
Hue.

MEMBER KARREMAN: Just a quick
point on that. We have hitched our wagon to
it. We were encouraged to look at the
Canadian regs.

MEMBER SMILLIE: Just for general
information, just so everyone knows, all
certification agents are charged by the NOP
with reporting their current certification of
livestock and reporting on the stocking rates
for all U.S. certified entities, and that is
like part of the commitment from the U.S. to
Canada on the equivalency deal.

So we are reporting on our
stocking rates for future use.

CHAIRPERSON MOYER: The chair recognizes Barry, and then we will break for
lunch. Barry.

MEMBER FLAMM: Although I may be
sympathetic to the dilemma of the people you
refer to in proposing a middle ground. But I
think to add on to what Tracy said, there is
already a competitive disadvantage of so-called factory poultry producing and egg
producers have over the people that are
actually following or closely following what
we are proposing right now.

And I see it right in the market
place how you can get organic eggs for maybe
$1.50, $1.75 a dozen, and the local organic
producer has to sell it at a considerably
higher price. So there is already an
advantage, and I hate to see that continued,
even though I'm sympathetic. But you also
have to think that those decisions were made
with some judgment of what they were getting
into.

I like - I kind of lean towards
what Tracy said in terms of maybe having a
liberal timeline towards enforcement, but not
a grandfather; I don't think that's right.

CHAIRPERSON MOYER: Very good
discussion, and good points, Barry and Tracy,
appreciate that.

At this point in time the board is
going to adjourn for a one hour lunch,
roughly. Let's try to be back here at 1:30 if
we can. We are adjourned until then.

Oh, I apologize, I have one more
message I am supposed to read here. Katrina
needs the Joint Handling and Materials
Committee for one to two minutes before you
run out to lunch. One to two minutes. Thank
you. We are adjourned.

(Whereupon, at 12:39 p.m., the
above-entitled matter went off the record and resumed at 1:41 p.m.)

CHAIRPERSON MOYER: This meeting is back in session. We will continue our conversations with livestock.

Hue, if you want to carry on the conversation, I think we are still taking comments and questions on Section 205.239, that’s where we left off. If you want to continue that conversation Hue.

Are there any further question or comments from board members on Section 205.239 as presented by Hue just before we broke for lunch. If there isn't any conversation on that, I would suggest we move on to the minority opinion on the back. Oh, you still have more?

MEMBER KARREMAN: We have poultry to do.

CHAIRPERSON MOYER: I apologize.

Let's move on to poultry.

MEMBER KARREMAN: So the chart
has all the mammal space and outdoor run and pen space requirements. We struck out all the poultry again, the avian, and yep, now we are on - okay, the avian section on page 10 of 17 here, this was the part that was proposed and posted by the Livestock Committee, kind of short, but it's also been highly contentious as recognized by public comment both verbal and written.

I didn't do too much with it --

VICE CHAIRPERSON GIOACOMINI:

Point of clarification. You said page 10. Is that a new page that you have added?

MEMBER KARREMAN: Well, page 10 of 17 in mine here.

VICE CHAIRPERSON GIOACOMINI: You put it after the minority reports?

MEMBER KARREMAN: Oh, you want the minority reports --

CHAIRPERSON MOYER: No, no, we're just trying to find out where you are on our documents.
VICE CHAIRPERSON GIOACOMINI:

Where is it? You put it after minority opinions?

MEMBER KARREMAN: Yes. You want minority opinions right now?

CHAIRPERSON MOYER: No, no.

MEMBER KARREMAN: It's on page 15.

CHAIRPERSON MOYER: No, we're just trying to find out where you are at.

MEMBER KARREMAN: But we are not doing the minority opinion now.

CHAIRPERSON MOYER: No, we're not.

MEMBER KARREMAN: We are on page 10 out of 17.

CHAIRPERSON MOYER: Thank you.

MEMBER KARREMAN: Does that work?

Is everyone there?

So I didn't do much with the Livestock Committee proposal as such since there was a lot of comment. I did strike on
(d)(I), or on wire flooring, I struck that.

I added some blue written stuff from the Humane Society in (ii) and (iii).

But the main thing I want to get at, folks, is this. I came to the realization that the ACA group did a whole lot of homework on this poultry issue, and I had read their public comment before at home, and I read it again last night or this morning, I don't know what it was, and I said, you know, why don't we look at that, because the ACAs as a group interacted with the poultry producers from what I think, if they are certifiers, interact with farmers and all that; then as a group, there are like seven of them, I don't know off the top of my head, that came up with really I think probably reasonable standards. So I did the smartest thing to do, I just copied and pasted the whole thing, okay. So that the - on page 10 below where we had some contentious things about outdoor access as proposed by the Livestock Committee, and the
grass re-growing and all that, below there is the alternative from the ACAs. And we can go right all through that, but it is really copied and pasted from the public comment that was written, submitted; and the square footage for the pullets, the layers, the broilers, the turkeys and large birds are the numbers from that. And there are citations to the Canadian standards of humane farm animal care and the soil association. They also go into some detail about access to outdoors. Did you want me to go through every single one of these steps? I mean it is submitted written public comment, and it's been inserted.

What would you like?

CHAIRPERSON MOYER: I think a little more detail than you just did, but maybe not everything.

MEMBER KARREMAN: Okay, no problem.

So under (d), the operator of an organic poultry operation shall establish and
maintain poultry living conditions that accommodate the health and natural behavior, and then one, access to materials for dust bathing, adequate floor space areas, outdoor run areas to escape from predators, perches, and then they go and talk about - they kind of describe the perches somewhat, and that there shall be at least 55 percent of the birds at any one time on perches. Access to the outdoors, number two, they talk very nicely in number three about, ventilation must be adequate to prevent buildup of ammonia. We had nothing on that in our proposal.

CHAIRPERSON MOYER: Could you discuss outdoor access, because that was an issue yesterday.

MEMBER KARREMAN: It says access to the outdoors, shade, shelter, exercise areas, fresh air, direct sunlight suitable to the age of the poultry, climate and environment.

I think there is more on that, and
we can take questions of course.

For layers and mature birds artificial light may be used to prolong the day length up to 16 hours. Light intensity should be lowered gradually to encourage hens to move to perches or settle for the night.

Natural light should be sufficient indoors on sunny days so that any inspector can read and write with the lights turned off. So that the lighting issue, which is nice.

Suitable flooring: mesh or slatted flooring under drinking areas to provide drainage. That's it; we didn't have that. That makes sense. Houses with slatted cores must have minimum of 30 percent of solid core area available with sufficient litter for dust baths. That's good.

Litter must be provided and maintained in a dry manner. Birds must have sufficient exit areas appropriately distributed around the building to ensure that all birds have ready access to the outdoors.
Exit areas must allow the passage of not just one but more than one bird at a time, so it can't be these tiny little like cat doors where they can go in and out.

Complete cleanout of poultry house, we were trying to get that as well in ours. It was required if there's been adverse health issues from a previous flock. Otherwise it's got to be changed to maintain a sanitary environment, and then the table with the space allowance is shown. That was on page 11 of 17.

Access to the outdoors, under letter it, and I sequenced these letters in the form - so we went from D to E to F to G to H to K to L, whatever the alphabet is. Okay, so access to outdoors. Outside access and door spacing must be designed to promote and encourage outside access to all birds on a daily basis weather permitting. Producers must provide access to the outdoors at an early age, in order to encourage and train
birds to go outdoors.

We talked about pullets. Once layers are accustomed to going outdoors, a brief confinement period to allow for nest box training is permitted. Okay, this one I really liked, number two. Birds must not be confined to the house due to the quote unquote threat of an outbreak of disease. There must be a documented occurrence of an outbreak in the region or a relevant migratory pathway or state or federal advisory in order to confine birds. And I like that because there is not this perpetual threat out there that, oh, we got to keep the birds in all the time because there is AI, and there are some pigeons, and sorry, that don't fly for organic. But if a state's department of agriculture or federal officials say, we have a declared emergency in Delaware, in Maryland, fine. Then in those areas the birds can stay in. Makes total sense; but not continuously, because we know that's been a problem for some time.
Certifiers have mentioned that.

Producers must maintain record stock documenting periods of confinement, and identify in the organic system plan how they plan to protect the birds from disease and predators. Pasture-based type birds must be provided with access to a variety of vegetation, management must be - pasture areas must be compliance with 203 through 206. And they must be protected from natural predators.

Health care basically refers back to 238, letter J, health care, refers back to 238. Minimal trimming is allowed for protection of the flock, and must be done in a manner that minimizes pain and stress, not later than 10 days old. De-beaking and severe beak trimming is prohibited, which we wanted. Toe clipping or other surgical alterations are prohibited. And I do believe there will probably be some public comment or there was that some toe clipping is needed I think with older birds or breeding birds or something.
But we can revisit that again.

And here forced molting in poultry is prohibited. Withdrawal of feed to induce molting is prohibited.

This is nice, the next section as well. K, with the euthanasia, basically goes through allowed methods of euthanasia, and unallowed methods. I don't have to get too graphic on them, but they are all right there.

And then also carcass disposal,

what do you do with dead birds which of course do happen?

So basically that is the ACA's 239, inserted right there, and it actually, I think it pretty well speaks to what we were trying to get at as a committee. There may be some modifications minorly so that we might want to do. But I think that really does raise the bar in the way we want to go in a way that I know that certifiers were talking with the producers, at least that's my assumption. And therefore hopefully there is
public feedback on this one.

And then the final letter, N, the producers in organic livestock operations must manage manure in a manner that does not contribute to the contamination of crops, soil or water, under plant nutrients, heavy metals or pathogenic organisms, and optimizes recycling of nutrients. And that is in the rule already.

That's it, folks. Any questions?

CHAIRPERSON MOYER: Questions from the board, particularly on the poultry portion of this. Chair recognizes Bea.

MEMBER JAMES: I just want to compliment the Livestock Committee period for doing this. I think it's great, and it's a really excellent starting point for something that should have been implemented a long time ago.

CHAIRPERSON MOYER: Thank you, Bea.

MEMBER KARREMAN: Thanks, Bea.
Talking about starting points long time ago,
when we were talking about grandfathering,
when we were walking as a group for lunch,
probable the grandfathering would not be the
way to go. It would be more like a long lead-
in period. Otherwise if you grandfather, you
keep doing the same thing over and over
repeatedly forever, and we really want to see
the betterment. So somewhere we will put in
some time frame to get there..

CHAIRPERSON MOYER: Chair
recognizes Joe.

VICE CHAIRPERSON GIOACOMINI:
This is difficult. I really like in general
the recommendation. I think it's good. I
think we've got to go there. I'm a little
concerned about the process of rewriting it,
with dropping in whole alternatives at the
last minute. I think the process, I'd like to
see a little more input from the community on
this, especially as you guys are rewriting it
on the fly. We do that too, but this is some
big chunks of rewrite here, and they would
affect other comments that have been made.
I know you have taken into
consideration all the comments, but obviously
don't always agree with each other. And
I'm a little nervous on some of the
prescriptive stocking rates also. I know
that's caused consternation in the area. I
think the straight up animal - well, how do I
describe it? Some of the things in the
document I think are good and ready to go, the
de-beaking, I think that has been thought
through. But the stocking rates really don't
have that much experience with them, and I'm
a little bit hesitant to see the whole thing
go through as a recommendation without some
further discussion on it.

Again, while I do think that the
ACA proposal is an excellent one, that hasn't
had a chance to be commented on, and I just
don't know how much that was created in
conference with poultry growers. I know they
all were here yesterday, and their testimony was, you know, very interesting, and I just think we need a bit more time and thought on this one. I'm hesitant to push it through as the whole package right now because of the last minute writing of it.

CHAIRPERSON MOYER: Thank you, Joe. Do you have a comment on that, Hue, at all?

MEMBER KARREMAN: Should we ask if there are any poultry people here to ask what they might think about the ACA?

CHAIRPERSON MOYER: I'm hesitant to open the door for too much public comment. But I did paint that – maybe what we'd like to do if we can do it rather briefly, I believe Howard Magwire is still in the back of the room. If you could come to the podium and just answer one or two brief questions, and we do want to keep it brief.

I'm hesitant to have anybody speak for the entire industry.
MR. MAGWIRE: Yes, I am too.

CHAIRPERSON MOYER: But I know you do represent the United Egg Producers and so maybe you can address some of the issues that - Hue, you have a question.

MEMBER KARREMAN: The question would be, did you work at all, or do you know what the ACA has proposed, I guess.

MR. MAGWIRE: We also had this discussion at lunch. And again, not speaking for the entire industry, we still have a few companies here, not as many as yesterday, and some are very familiar with the ACA requirements or proposals, and we do think that going that way, I certainly want to echo what Joe said over here about the spacing thing. But we think that you've made tremendous good changes as opposed to I don't want to belittle what you did, but I think these are some good changes you've got in here. And at least when you first started this morning, we - oh my god, they're just
going to move forward with it and no further
discussion. But you have made it very clear
that there can be further discussions through
an advanced notice of proposed rulemaking, and
I think now that there is a document with the
changes you are talking about, is a document
that we can discuss and that's a good place to
go. And it's recognizing comments from both
the activists which I don't very often agree
with, but you very well heard from the people
who are actually involved in animal
agriculture, and we respect that.

CHAIRPERSON MOYER: Thank you.

MR. MAGWIRE: Did that make any
sense to you?

CHAIRPERSON MOYER: It did. If
there are any other questions for Howard,
again, I don't want to open the door for a
great deal of discussion with the public at
this time, but Rigo, if you had a question.

MEMBER DELGADO: Did you have any
input into the stocking rates table?
MR. MAGWIRE: No. May I ask for one correction?

CHAIRPERSON MOYER: Yes.

MR. MAGWIRE: It's contradictory in there, I know you didn't mean it, where it talks about induced molting or forced molting. And the second part of the wording is right, induced molting should only be used if there is not feed withdrawal. That is something that the industry is probably 100 percent of them are there now or they should be.

CHAIRPERSON MOYER: Okay, we can take a look at that particular line item. I think as you sort of indicated, as this process moves forward there will be other opportunities to make adjustments to things, as we present things, even if we vote on it today and it goes to the program, that point it's not carved in stone. They are going to work on it, rewrite it, put it out for more public comment. So there is opportunities for people to have input into the details of the
document once it comes off our table and goes onto theirs. So I would encourage you to stay engaged and your industry to stay engaged as this moves forward, and not to wait and sit back and wait for things to happen but to be a little more pro-active at this point, because it's obvious that it is the intention of this board to move that segment of the organic industry in line with the other segments as well, and we've been encouraged by the community to do that, and it is important to stay engaged from your side.

The chair recognizes Joe. Oh, just a minute, Hue, do you have another question?

MEMBER KARREMAN: Yes, on the wording on that, that was under (j)(4), health care, so it says, forced molting of poultry is prohibited, withdrawal of feed to induce molting is prohibited. So the second sentence you liked?

MR. MAGWIRE: Second sentence,
yes. So you induce molting but you don't withdraw feed which is a common practice until probably just a couple of years ago.

MEMBER KARREMAN: Is that different than the conventional egg producers if we have that in there?

MR. MAGWIRE: Conventional egg producers, if they are not on an animal welfare program, which is very few, they could still use feed withdrawal. The conventional egg producers must do it without withdrawing feed, to more emulate what happens naturally. And basically what you are doing, induce molting, as you know, doctor, you cause it all to happen at the same time rather than here or there. And the poultry experts out there, eating as much food, we just cause it to happen at one time. Whereas you can do it a lot quicker if you withdraw feed. But we know that is not the right way to do it.

CHAIRPERSON MOYER: Okay, thank you very much for coming to the podium. If
you could just restate your name and affiliation for the transcriber.

MR. MAGWIRE: Sure, Howard Magwire with United Egg Producers.

CHAIRPERSON MOYER: Thank you very much.

MR. MAGWIRE: And like I said yesterday, you have our attention. We will be engaged. Thank you.

CHAIRPERSON MOYER: Good. Yes, Joe?

MEMBER SMILLIE: Just for clarity I'd like to ask Pat Kane if she would to give us some background on the ACA alternative. I don't know if you have talked directly with her or not, Hue, but she can clarify how many people were engaged in that.

CHAIRPERSON MOYER: Thank you, Pat, if you could come to the podium, state your name and affiliation for the transcriber. And then if you could keep this brief, I'd appreciate it. Thank you.
MS. KANE: I'm Pat Kane. I'm the coordinator of ACA. We did try to engage as many people as possible. I believe we had about 10 clients that actively submitted comments. We also had comments from animal husbandry specialists that worked with organic producers. We did receive comments from the United Egg Producers, from IOIA folks, and some other inspectors.

CHAIRPERSON MOYER: Okay, questions in specific, Hue?

MEMBER KARREMAN: Specifically to that about how many egg producers or chickens or whatever would that represent? With your ACAs that were signed on to that, there were like seven or eight of them, can you give us a guess, estimate?

MS. KANE: I believe it was about 2 million birds we figured.

MEMBER KARREMAN: How many organic birds in the U.S.? What percent is that, roughly? I have no idea.
MS. KANE: I don't know.

MEMBER KARREMAN: Six million birds? So you got about 2 million, 30 percent, that's significant. Thank you.

MS. KANE: Any other questions?

CHAIRPERSON MOYER: Rigo?

MEMBER DELGADO: Yes, can I ask you a question.

CHAIRPERSON MOYER: Pat, if you could return to the podium, we have one more question from a board member.

Rigo, if you have your question for Pat.

MEMBER DELGADO: Yes, you did have input into the stocking rates table, correct?

MS. KANE: I'm sorry?

MEMBER DELGADO: The table here with the stocking rates, can you give us more background on how you came up with those numbers?

MS. KANE: Yes, our stocking
rates, we looked at EU figures, we looked at
the Canadian figures, and some figures from
the Soil Association. Initially our rates
were - our outdoor rates were as they are in
the table now - I'm sorry, the indoor rates
were as they are in the table now. Our
outdoor rates were considerably larger. And
based on the comments, we did reduce it to
equal the indoor rate, because most of the
producers said that not all of the birds go
outdoors at the same time. So we did adjust
it back towards the same rate as indoors. And
I believe those are the same requirements as
the Canadians.

MEMBER DELGADO: They are
somewhat smaller. I'm looking at the
chickens, for example. Canadian is two, and
you came up with 1.8 for layers. If my
numbers are correct.

MS. KANE: We didn't think they
were two; we thought they were 1.8.

MEMBER DELGADO: Nonetheless you
were able to compare different standards from different countries and come up with an estimate?

MS. KANE: Yes.

CHAIRPERSON MOYER: Rebuttal from Hue?

MEMBER KARREMAN: Rigo, there was a comment somewhere, written or verbal, it's all mashed in my head here, but someone said they thought we pretty just rounded up the 1.8 to 2 square feet that we had, and that would make a significant difference on a gazillion birds. So even though we thought it was like 1.8 to 2 ain't that much, let's just round up, it makes a difference.

CHAIRPERSON MOYER: Thank you, Pat, the board appreciates your time.

Any other questions for Hue?

Katrina?

MEMBER HEINZE: I just wanted to concur with what Joe said, that given all the public comment it is a little bit hard to
digest. So I support the idea of moving forward. But I'm just wondering if like there is some sections that had less comment and some had more comment, if maybe we could move forward, if we desire to do something, to move forward with some, and then table other parts might be an option.

My real question - that was a comment - my real question had to do with milking times per day. I know that was brought up in the minority opinion, and I believe we had some public comment on it. Did you make any changes in reaction to that?

CHAIRPERSON MOYER: If we could finish the poultry piece before we move on to that, I'd appreciate it. But then we will get to the minority opinion. Dan did you have a comment?

VICE CHAIRPERSON GIOACOMINI: I'm very comfortable with the vast majority of what we did. Moving forward, I am a little - not quite sure where I stand on this stocking
density. I'm wondering if that may be a part
that we can just pull back and rework and work
with industry. But we still get the majority
of things outside of crowding, the majority of
the issues of animal welfare into it. That
seems to be a big part of it. I don't know
how that goes over with the rest of the group.

CHAIRPERSON MOYER: I would
suggest that the Livestock Committee is going
to meet this evening, I know that, and we'll
regroup and make our presentation to the full
board tomorrow.

Hue?

MEMBER KARREMAN: Well, on that,
so you are saying basically that table with
the square footage out for now, let it be
worked on, but everything else seems okay to
you? Just so the public knows that that might
be what we are doing.

CHAIRPERSON MOYER: Now, I
believe the next order of business for Hue
would be the minority opinion on that document
and addresses what Katrina was leading into.

MEMBER KARREMAN: The minority opinion is on page 15 of 17. And basically the minority opinion agreed with the original opinion that we had written, but it didn't go far enough with regard to ensuring the health and well being of animals on organic dairy farms to exceed that on conventional farms.

I'm going to cede the floor to Kevin, since he was the author of the majority opinion.

MEMBER ENGELBERT: I don't want to read the whole minority opinion; just some key points.

The minority opinion believes that measurable numbers exist that can be used to monitor the progress an organic dairy farm makes for providing their animals with a stress free and healthy life. These numbers are tied together, and they are also influenced with each other. I believe that certifiers should provide their animals with
a list - or the dairy should provide their
certifiers a list of animals every year, and
also list what animals that have left the
farm. Right now there are some current
certifiers, if I understand it correctly,
don't even have to provide a list of animals.
If you are going to monitor the herd health in
a dairy farm, you need to have an image of the
animals that are on the farm in any given year
and the ones that leave the farm, the reasons
why they left the farm, and how those animals
are replaced.

It's been my experience that the
longer a farm remains organic, the healthier
the soils of that farm, and healthy soils lead
to healthy animals. So you should be very
easily be able to see the improvements in the
health of the animals and a lessening of the
amount of medicines that are used, and a
lessening of the amount of veterinary care
that is required. If these aren't being
observed, then it's my opinion from experience
that there are serious problems with the
operation; that too many times the welfare of
an animal isn't being monitored closely enough
by these figures.

It's also my opinion that a three-
times-a-day milking schedule, or a schedule
that is more than two times a day, is more
stressful on an animal, and it shouldn't be
allowed. There are implications to
reproductive health, to the overall health and
well-being of an animal; that the three times
a day, or a milking of more than twice in a
24-hour period is just too stressful for these
animals. They have to be healthy to milk
three times a day, that's true; but in the
overall picture they have a shorter life span;
they have more health issues; they don't breed
back as well; and they just simply don't leave
- we aren't maximizing their welfare or their
health and minimizing the amount of stress on
their lives. To milk more than twice a day
requires an increase in grain feeding, and
cows are ruminants, they are not meant to eat seeds, i.e. grain. And the more grain they eat the more stress they are under, the more likely they are to have health problems, to be constantly fighting acidosis, and the whole production mode just doesn't jibe with organic agriculture, and what consumers expect when they purchase organic diary products.

Lastly, we all know that providing proper veterinary care is an important part of animal welfare, but an even more important indicator of the concern for animal welfare are management practices that lessen the need for veterinary care. As a safeguard the consumers may purchase organic dairy products knowing that organic dairy animals are indeed treated with respect, and a true caring for their well-being. The minority opinion suggests the following additions to the Livestock Committee's recommendation.

In 205.238, livestock health care practice standard, (c) the producer of an
organic livestock operation must not, milk dairy animals more than twice in any given 24-hour period; (d) organic livestock producers must provide their certifier with the following list each year; (I) all animals on the operation during the current year, including a separate list of all purchased animals; (ii), all animals that have left the operation during the past year and the reason for their departure; (iii) all animals that have had a health issue, including hoof care, and the treatments that the animal received.

And then I offered a guidance document for certifiers, which states: the numbers provided to certifiers in the proposal to add 238(d)(I), (ii) and (iii) should be monitored, to determine the ongoing welfare status of the animals. If animals must be purchased and maintained in overall numbers, if animals continue to leave an operation for the same reasons, or if the same number of animals continue to require treatments or hoof
trimming each year, then there is reason to believe that the care of those animals is not up to organic standards.

Organic livestock operations that are following the letter and spirit of the law should show gradual improvement in these areas over time. Given the diverse nature of livestock operations, the differing health of their soils, and the different types and breeds of animals on individual farms, no set timeline can be established, but each operation should show real improvement.

The one area that I didn't address with this minority opinion is robotic milkers, which are not prohibited under organic livestock operations. And if this was to be adopted the two times a day milking, there might be something along those lines added that says, cows can't be forced to be milked more than two times a day, which under a robotic milking system that would still be allowed to be more than twice a day, because
they enter the robotic system on their own. 
Or if we wanted to keep this, then the robots 
can be set up so that the cows aren't allowed 
to be milked more than two times a day, they 
come into the milking stall, and if it's too 
soon they are simply pushed on through without 
being milked or without being given any grain. 
Grain is used as an enticement to 
bring these animals into these robotic 
milkers, and that therefore would also cut 
down on the amount of grain fat and therefore 
also lead to an improvement in the animal's - 
the health of the animal and their stress free 
- more of a stress-free life. 
CHAIRPERSON MOYER: Okay, that is 
the minority opinion to this livestock welfare 
document. Questions and comments? I see Bea 
and then Barry and Katrina and Hue. Bea. 
MEMBER JAMES: I was hoping to 
hear from maybe Hue or other members of the 
Livestock Committee as to why you did not 
adopt (d) (I), (ii) and (iii).
MEMBER KARREMAN: We did. That's what I wanted to - I raised my hand for Jeff. We copied that right up into - I'll find the page in a minute, but that was taken right into the majority opinion.

CHAIRPERSON MOYER: In our rewrite we pulled those three items out. We did not pull the two times a day milking out.

MEMBER KARREMAN: If I may respond, the food farmers did not mention anything on the two times a day milking. I understand Kevin's viewpoint. I personally don't agree with it, but it's controversial - it's not controversial, but I mean I understand it, but I don't - I don't agree with it. But the others, the (d)(I), the (ii) or (iii) are right in there.

CHAIRPERSON MOYER: Chair recognizes Barry.

MEMBER FLAMM: Thank you. This will be brief. Kevin, you really already covered what I was going to raise, but kind of
reinforces it. I have a European colleague, an organic farmer from Norway, and he raised the – he liked what you did. In fact he understood why you were recommending two times a day and thought that was a good idea. But he did point out the robotic milkers and how they may duplicate natural calf feeding and so forth. So he suggested to me that we ought to allow for that possibility and not rule it out, and you have already discussed that. So I wanted to reinforce that point.

But I generally support what you have done in that minority report.

CHAIRPERSON MOYER: Chair recognizes Katrina? Hue? Any other questions or comments regarding the minority opinion?

Okay, thank you. I guess at this point we would like to ask Miles McEvoy to come to the podium.

MR. McEVOY: Good afternoon. Nice to here. I have the pleasure to welcome Undersecretary Ed Avalos to the board. Ed has
been with the department now for I think two
weeks now? So I'm actually more experienced
than he is at this point. So he really wanted
to have a chance to meet the National Organic
Standards Board. And Ed, this is a really
amazing board that does an amazing amount of
work for the Department of Agriculture and the
organic community. They dedicate countless
hours to working on these issues of organic
agriculture, and come from all over the
country to devote their time to it.

Thanks for coming, and look
forward to hearing your remarks.

REMARKS BY UNDERSECRETARY EDWARD AVALOS

UNDERSECRETARY AVALOS: So

anyway, I'm Edward Avalos. And it is day
eight, and I'm excited to be on board. And I
have heard good things about this board. I
have some friends in the organic business.
They said really good things about the board,
and really pleased to be here.

You probably want to know that
today I did sign up on the Pasture Rule.

(Appplause.)

Where it goes from my desk I'm not really sure yet, but it's progress anyway. It's moving forward.

And I just wanted to emphasize that this administration is really focused on organics, the National Organic Program. We have tremendous support from Secretary Vilsack and Deputy Secretary Merrigan. And I want to assure the board that I also am very much in support of this program, and I work with Miles - I like that name, don't you like the name, Miles? It reminds me of somebody that should be out West.

But anyway, I pledge to work with him and move forward. And I think it's really great that the National Organic Program stands alone. In fact I was touring the offices yesterday trying to meet the personnel. You know USDA is huge. I didn't realize how large USDA was. And I was over at AMS, and I was
just kind of meet and greet with the employees, I wanted to introduce myself as a new undersecretary. And I saw the new facilities for your facility housing; it's very nice. It's nicer than my office. But anyway I just wanted to introduce myself, and the door is open if you have any questions any time, any of you who have concerns, call me, come see me.

Thank you very much.

CHAIRPERSON MOYER: Thank you. A pleasure to have you here today.

(Applause.)

CHAIRPERSON MOYER: Okay, Hue, the floor is back to you for your next item.

MEMBER KARREMAN: Okay, well, that was great news to hears.

CHAIRPERSON MOYER: Yes, it was, wasn't it? Since the livestock is still on the table.

MEMBER KARREMAN: Yes, wow.

Let's see, we are on to
agriculture. I'm trying to draw this up here, sorry. I had it. There it is. Is that me?

That all right? Okay. So we have finally come to the end of the agricultural saga, something like that. After many long years of the AWG working with various renditions of this board, we are pleased to present the recommendation for the bivalves or molluscan shellfish standards. The committee basically has accepted the agriculture working group's latest document submitted to us, which included them answering five very important questions which we posed to them last April I think it was. And you heard George Lockwood yesterday also mentioning the Monterrey Bay Aquarium's embracing the sustainability and the greenness of bivalves. Granted, that is not certified organic, but it lends good credence to their document.

I should mention, and I can go through this, but basically we had a split opinion on this document. And it left our
committee four to three; real split. And why was that split? That was due to a philosophical issue that basically just got played out in the vote. And it is that the majority, or what we are presenting as the majority from committee is saying that bivalves can be grown in very monitored protected as much as possible open water, like in bays and estuaries. Whereas the minority opinion or the other philosophy was essentially saying, hey, look we need a strict a management as possible for all inputs as well, because that is where organics is is the input to make a final product, and so the minority opinion generally was saying, shellfish are okay if they are on land or in ponds and containment tanks, that kind of thing.

Did that sum it up pretty good, Jeff?

CHAIRPERSON MOYER: Well, yes and no. We also included them in the minority
opinion as grown as part of a polyculture system in open waters where they are feeding mainly on the excess feed material from the fin fish operation or whatever other aquaculture crop is being grown with them in that polyculture situation.

MEMBER KARREMAN: Actually, to be honest, I apologize, I thought that was in the majority document.

CHAIRPERSON MOYER: It's in the minority as well. The main point of the minority opinion was that bivalves are filter feeders. They take whatever comes by in terms of the flow of water and are generally produced in tidal waters for the most part where you have tides moving in and out so you have water moving through the system. Very difficult to control, you can monitor but very difficult to control what passes through that system. Because it's not a highly managed system in terms of feeding the bivalves; they eat what comes by, and therein lies the
consummation with the committee.

MEMBER KARREMAN: But in the majority opinion people wanted to see the bivalves in their natural environment more than just on land and in tanks. So it was kind of like bivalves are technically livestock; they got to graze. They got to be out there. That kind of thing.

And also in the document on page 13 of the 24 pages, which we are not going to go all through if that's okay for time, but there is a very nice table of how conventional agriculture, all these different factors in management. And it shows a comparison contrast between conventional agriculture in one column and the proposed organic standard in the other. And that pretty much brought it home to the committee like this is truly very much different than conventional shellfish, bivalve aquaculture, and so that was a good addition that the AWG put in.

CHAIRPERSON MOYER: Thank you,
1 Hue.

   Any questions or comments or
2 points of discussion on this topic? Tina?
3             MEMBER ELLOR:   I'd just like to
4 say that Jennifer and I, and I'm just talking
5 with Jennifer here on the email, were very
6 strongly in favor of the AWG working group
7 recommendation, as it was written. We were
8 really happy and satisfied with the answers
9 they gave us to the questions, and we thought
10 that going to a containment system with all
11 controlled inputs was just headed in the wrong
12 direction for organic. We felt like it was
13 stockyard agriculture for clams.
14             CHAIRPERSON MOYER: Chair
15 recognizes Dan.
16             VICE CHAIRPERSON GIOACOMINI:
17 Yes, we had a number of different options,
18 even --
19             MS. FRANCES: I've asked for
20 help.
21             VICE CHAIRPERSON GIOACOMINI:
Okay. Even within the one minority report we had plans for possibly carving out two or three different versions of that. Yes, Dan Gioacomini, NOSB. Even I think a significant factor was public comment. We had only two public comments on the entire recommendation; both of them were strongly in favor. And we haven't heard a single sound of anyone objecting to this. In many ways it's a bit of a surprise, but it's substantial.

CHAIRPERSON MOYER: Any other questions? Chair recognizes Joe.

MEMBER SMILLIE: Yes, the comment yesterday that really talked about the turbidity of Chesapeake Bay and how creating an organic aquaculture bivalve system was like not only producing organic product in bays and estuaries, but also helping clean them up. And I really agree with Jennifer and Tina's comments, that put them into a CAFO operations is the wrong way to go. And I think we want to bring organic agriculture to the open bays
and estuaries like Chesapeake Bay, and this
one, good lord, we are not being picketed on
this one? You have a lot of support on it, so
I think it's really wonderful to be able to
move forward on this one.

And I just wanted to quote Winston
Churchill in opposition to Hue there, it may
not be the beginning of the end, but it is the
end of the beginning.

CHAIRPERSON MOYER: Okay, I'll
just comment a little bit on the minority
opinion and what our thought process was. It
wasn't to create bivalve CAFOs. No matter how
they are produced or where they are produced
they live in the same type environment. Our
goal was to include them in polyculture
systems where they are produced with fish. If
you look at what we said with net pens and fin
fish we indicated strongly that we felt
polycultures as a mechanism for cleaning up
and maintaining the environmental integrity of
those systems, bivalves could serve a very
integral part, so we saw them being in there.

The whole idea and the concept that we were discussing was that in conventional terrestrial livestock production we feed our animals 100 percent organic feed. When you are feeding fish we determined that they had to be fed 100 percent organic feed with the oil and fish meal concentration allowances that we made in our recommendation.

In the other parts of the aquaculture system again, all of them had to be fed 100 percent organic feed. If you are not feeding these animals, and we are not just talking about clams, we are talking about Dewey ducks and all sorts of things that can burrow deep into the tidal pools, several feet, how do we determine what they are eating? We can monitor what is passing by. We can tell what kind of contamination is there. We can't stop it. We can't change it; we can only determine that an event happened if we monitored the right point in time. But
1 knowing that tidal waters can move very
2 quickly it's very difficult to say that they
3 are eating, certainly not eating anything that
4 is organic, they are eating whatever passes
5 by. It could be construed as wild harvest in
6 a way, that they are harvesting wild. And so
7 in the context of that we thought that we
8 wanted to bring forward the minority opinion
9 to discuss and put on the table that point of
10 discussion. You don't just turn cows loose in
11 the woods to eat whatever they eat. We feed
12 them. And so it's a fed, managed and fed
13 system, organic is with livestock.
14
15 The chair recognizes Kevin.
16
17 MEMBER ENGELBERT: I also wanted
18 to present another perspective from the
19 minority view, just so you understand a little
20 bit more where we are coming from and how we
21 got to the point that Jeff just described. We
22 looked at these shellfish, they are livestock,
23 but the way they are grown is more like a
24 plant. They are planted, they are essentially
planted in the ground. They don't graze; they
don't move; they don't nurture their young;
they don't have faces. They can not
distinguish whether they are sitting in the
Chesapeake Bay or a confined system where
their feed is controlled.

If you took some out of a confined
system and put them into the bay, nothing
would happen. They won't move. They simply
are controlled in and out. And the minority
opinion got to that point by saying, well,
give those choices we would prefer to control
everything that they eat, because like Jeff
said, that is what organic is all about, is
managing - you are not guaranteeing the final
product, but you are the process. And we
thought we ought to at least bring to the
table that people think about, there are in
this instance because of the type of lifestyle
I guess you'd say or the way these animals are
raised we would prefer to see them the way we
described in the minority opinion.
CHAIRPERSON MOYER: Just one follow up sentence. The conversation did sort of analogize them to a greenhouse operation more than - you know if they are plants that are seeded, there is a little more control.

Dan.

VICE CHAIRPERSON GIOACOMINI:

Yes, the livestock committee worked pretty hard on this, and went around and around a lot of times, and we looked at probably close to at least four different potential scenarios, and the AWG recommendation came forth with as much the good faith of the board as wanting to give it the respect it was due. It did come forth four to three. I don't think that any of those other versions that we talked about would have come up to five votes. That is how divided the committee was with different points of view. The recommendation and separation from conventional, not having really organic feed to containment, the CAFO greenhouse situation of these kind of
creatures. I don't know if anything we would
have come up with would have had five votes.

        CHAIRPERSON MOYER: Chair
recognizes Tina then Hue.

        MEMBER ELLOR: And as the
Monterey Bay Aquarium comment pointed out,
this system is much more highly managed than
anything that is available in conventional
grown farm shellfish, and I think one thing
that Jennifer and I felt very strongly about
is that it would be really hard to reproduce
the great things that are in seawater in this
highly managed situation where they are
gathering their feed. I can't imagine
figuring out what's in there and palletizing
it would be a step in the right direction.
There is well managed, well sited, situations
that could be done really well, and it's very
clear from the recommendations where that
separation is.

        And the other thing we were
thinking about is these shellfish in
containment, and the disease and sanitation
issues that would bring up. And we just
innately very strongly felt more comfortable
with something that was closer to their
natural habitat, even their natural food, but
controlled. And monitored. And it's very
well controlled - not very well controlled,
it's well controlled. Better controlled than
any other system out there, and very well
monitored.

CHAIRPERSON MOYER: Chair
recognizes Katrina.

MEMBER HEINZE: I have a detailed
question, and thank you to whoever put this
table together to help us understand the
differences between conventional and what is
being proposed. This is actually the first
time I actually understand the difference.

CHAIRPERSON MOYER: That was AWG.

MEMBER HEINZE: It is incredibly
helpful.

I do have one question that now I
see highlighted looking at the table, on organic control points. One of the things saying this in the proposed standard is documentation of adjacent land uses including affidavits from contiguous land users that prohibited substances have not been applied during the past three years. Is that really practical and enforceable? So if I'm understanding that, that means I'm a bivalve farmer, whatever you would call it, so my neighbors, there are restrictions what my neighbors can do on their property? Am I reading that properly?

MEMBER KARREMAN: Perhaps someone from AWG could just answer that?

CHAIRPERSON MOYER: We do have George Lockwood in the audience. And if George would come to the podium, state your name and affiliation, and I think George can address that question better than anybody.

MR. LOCKWOOD: George Lockwood, chair of the Aquaculture Working Group. I'd
ask Sebastian Bell, who is also a member, if he's available to answer this.

Katrina, what is your question?

What page are you on?

MEMBER HEINZE: I'm on page 13. It's appendix A, it's your lovely comparison table. Under organic control points, fourth one down. And really this is a practical question about if we vote for this recommendation can it be implemented and enforced? Or is this little sentence going to be --

MR. LOCKWOOD: Basically what is going to happen here is, to meet the standards if anybody can, it's going to have to be a very rural and remote kind of operation. Chances are a grower might be up against a national forest, or a national park, and the aviary, the bee people, have the same problem, that oftentimes the certifiers will require them to get affidavits from the adjacent land owners that they are not using prohibited
substances.

So that is what we are insisting on here. And chances are it's going to be in a very undeveloped kind of an area, because everything else forces that. And what we are saying is, just demonstrate that there are no prohibited substances that are being applied on shore that are going to wash into the area.

MEMBER HEINZE: Thank you, that's helpful.

CHAIRPERSON MOYER: Chair recognizes Hue.

MEMBER KARREMAN: I'm thinking of Great Bay in southeastern New Hampshire, Durham area where I used to live and all. How does that work with contiguous landowners there? Because like the land, it's varied land uses. And yet you have - I mean how far into the land would that have to be? Is it right at the edge? Is it 25 feet back like a little buffer zone that you have an affidavit. Or is it the whole seven acres that that
landowner has? I'm just kind of curious now
that you brought it up.

MR. LOCKWOOD: And Hue, I don't
think in the situation you described you are
going to find somebody meeting these criteria.
It's going to be a remote area, something away
from development, where these proposed
standards are going to work. We have excluded
a lot of potential coastline.

MEMBER KARREMAN: Well, the
question though, with the adjacent land use,
I mean there are buffer strips in organics
between land. So let's say you have a
homeowner, and they've got seven acres. But
right along the water line, for whatever
reason, they just don't do anything, it's
natural. So is that bit, or is it the whole
seven acres the guy owns and he put some
pesticide on his lawn out front?

CHAIRPERSON MOYER: Well, Hue, if
you are looking at me, I think that gets to
the heart of the matter of why we had the
minority opinion, recognizing that upstream
and downstream as the water moves it brings in
material it could be from miles away that come
into the Chesapeake Bay. I mean there is no
way of knowing, and that gets to the
philosophical part of our differences, and why
we had a minority opinion.

Chair recognizes Joe.

MEMBER SMILLIE: I know we've had
this argument many times, but the same thing
happens in the land-terrestrial agriculture.
The air moves around the whole planet. Water
moves around the whole planet. People who
irrigate from the Colorado River have the same
issues that anybody setting up in aquaculture
has. Water is the only medium through which
contaminants are carried.

CHAIRPERSON MOYER: I understand
what you are saying. But these things, they
can't move, they just sit there the whole
time. And air moves relatively quickly. They
sit there in the water.
MEMBER SMILLIE: Crops don't move either, and they can get contaminated.

CHAIRPERSON MOYER: I understand what you are saying. That was the point that - a good discussion point that we had.

I'm sorry, Kevin and then Barry.

MEMBER ENGELBERT: Just one quick point, though, Joe, is that the air that is moving around, people are also subject to that. We are talking about them buying a product that has been subject to contaminants that they aren't exposed to where they're living for the most part. That is the difference. I understand your argument, but there is a difference because the contaminants that these shellfish may be exposed to sitting in the Chesapeake Bay, someone that purchases them up in Vermont isn't exposed to unless they buy that shellfish.

CHAIRPERSON MOYER: Chair recognizes Barry then Tiny.

MEMBER FLAMM: I think George
really addressed the question we are talking about right now, because he said the areas that qualify are very limited if any, I think you said, and that they are essentially probably wild areas. And you mentioned parks or national forests, areas in which the headwaters could in fact be pretty much pristine.

So I think George pretty well laid out the parameters that are quite limited. I got competition here. That's okay.

Anyway, I just urge that you think about and hear what he said, and then some of this discussion is not necessary.

CHAIRPERSON MOYER: Chair recognizes Tina.

MEMBER ELLOR: And also consider that we are providing an alternative to conventionally grown shellfish, which is a much better alternative.

CHAIRPERSON MOYER: Any other questions for George? Or George, do you have
a final comment?

MR. LOCKWOOD: Well, a couple of times the Chesapeake Bay has been cited. I seriously doubt if there are very many areas of the Chesapeake Bay if any at all that would pass the mussel watch tests that we're requiring. This really is a substantial difference in these big bodies of water that are adjacent to human activity than remote areas which is off – an island off the coast of Maine, for instance, where there is very little activity. And if the island is off the coast of Maine, remote islands, we think that is where these standards will be practiced.

CHAIRPERSON MOYER: Thank you, George, I think that's valuable information.

Final comment, Hue?

MEMBER KARREMAN: The final comment, the technical thing I was going to say is that what we plan to do tomorrow is, you know, put our majority opinion up for vote for the board, and if it passes, great; if it
doesn't we are going to have to do some mechanism so we vote on the minority one, okay, just so people know that ahead of time, and Dan will figure out how to do that.  

CHIEF JUDGE MOYER:  Okay, thank you, Hue.  Next item on your livestock report, anything to say about 2012 sunset materials?  Nothing really?  

Hue, Dan has volunteered to do that for you.  

VICE CHIEF JUDGE GIOACOMINI:  Everything on 603 and 604 is up for sunset next year, here, except for methionine which has to drop dead.  But everything listed regardless of how it got there, over about half a dozen different documents, they were '07 for '12.  

CHIEF JUDGE MOYER:  Thank you.  Hue, my understanding is, that completes your report?  Thank you.  

Chair recognizes that we are only about two hours behind schedule now.  And we
1 still have some difficult items to go over.
2 At this point in time I turn the podium over
3 to Katrina for the Joint Materials Handling
4 Committee.
5 Katrina, the floor is yours.
6 JOINT MATERIALS & HANDLING COMMITTEES
7 MEMBER HEINZE: Thank you. And
8 you all thought that was fun.
9 Valerie, before I start, do you
10 have the presentation I emailed you a couple
11 of minutes ago? Hang tight, everyone. I
12 recommend everyone stand up, stretch their
13 hands really high to the sky, we are not
14 taking a break; we are just getting the blood
15 flowing.
16 That was great.
17 Okay, everybody.
18 CHAIRPERSON MOYER: Enough
19 stretching. Take your seats. We are going to
20 get started right away.
21 MEMBER HEINZE: So when I do that
22 in a manufacturing plant third shift, none of
them do it. So I'm very operated. Our
operators on the third shift, when I ask them
to stretch never do.

We are now going to move on with a
hopefully lively discussion on classification
of materials. So as Valerie brings up our
presentation, I just want to say that this has
been a long and passionate debate for the four
years that I have either been watching or had
the honor of being on the NOSB.

Yes. And you can be on slide #2.

We have had really wonderful engagement by
lots of different folks; lots of different
recommendations; lots of public comments. I
really want to thank the members of the
Materials Working Group led by Kim Deitz and
Gwendolyn Wyard, for their countless,
countless hours over the last year and a half
of meetings and discussions and debate and
papers. I am not going to go over the
recommendation page by page. I am just going
to hit the intents and the highlights. But I
would ask people to look at all those
documents that are referenced in our document.

Okay, so moving on to our
recommendation, that before we kind of get
into the nuts and bolts, we have had some
really good detailed public comment. And so
it is the intention of our committee, we met
this morning, so you will see some changes
later that we made then. Reaction to public
comment, we are going to meet one more time
before tomorrow. We have a couple of other
things to wrap up.

But I will try to highlight those
comments. Okay.

So next slide, Valerie. So our
recommendation is really divided into four
parts. So there is guiding principles, there
is some regulatory language change related to
synthetic and non-synthetic, there is
regulatory language change associated with
agricultural and non-agricultural, and then
there are some NOSB practices that we are
recommending that this board take up. So first to start with the guiding principles. And really there are three, and these are very similar if not identical to the ones we talked about in May. So the first is that interest in process are equally important in determining the classifications of materials. So that second, as a result, the same material, depending on its source or process, can be either agricultural, non-synthetic or synthetic.

And then our third guiding principle, and this is one that we are still having some discussion on, it was our intention with the scope of our document to really make sure that folks knew this third one, what the intent was of the third one. And we obviously from public comment didn't do as good a job on that as we wanted to. But the intent of the third guiding principle is that if a material is classified as synthetic, then regardless of
source it is synthetic. So I have a visual that will address this in a sec. But if you look at the second bullet point which is something we've added, it is that if a material is manufactured in full compliance with the final rule, it was our intent that that be outside the scope of this principle and our document. So the status of those materials with regard to their use in organics should not be affected by our recommendation.

Next slide, Valerie. So this is not a decision tree; not a decision tree. This is just a pictorial representation of what we are trying to do. So if you start at the top square, we have all materials, so the whole universe of materials. And then based on a set of definitions, which you can see in our recommendations, that world is divided into synthetic materials and non-synthetic materials. Okay? And then from there those non-synthetic materials are again divided into those that are agricultural, and those that
are non-agriculture, again, through a series
of definitions. So that is what we are trying
to do.

Next slide, Valerie. So first
let's look at synthetic and non-synthetic.
And again the definitions are in the
recommendation, and we can pull them up during
our discussion later.

What the majority recommendation
says is that a material is classified as
synthetic if the use of a synthetic leads to
a chemical change in the process or there is
a synthetic present and that synthetic is not
on the national list.

So what does this really mean? So
extraction, we talked a lot about extraction,
and that was discussed in great detail by the
material working group. So if a material is
extracted with a synthetic that is not on the
national list, it's - the material is not
necessarily synthetic. It would only be
synthetic if chemical change happened or that
synthetic was in the final material at a significant level.

Then second, extraction is broadly defined by these definitions. It's not just solvent extraction; it's also mechanical and physical separation, so the example there would be if you centrifuged, pH adjustment is one that will come up later. Oh, yes, so that would be the third point. Chemical change does not necessarily include processes like iron exchange or pH adjustment if the final material is not different from the initial material. Right? So something that is pH adjusted and pH adjusted back and you get the same thing at the end, that is not chemical change.

And then there is formulated products. So there are materials on the list - dairy cultures would be an example, vitamins and minerals are examples - where the material doesn't really exist by itself. It exists where you purchase it or use it in a
1 formulated product. The other ingredients in
2 that formulated product have to be non-
3 synthetic, if they are synthetic then the
4 material is synthetic.
5
6 And then finally in our
7 recommendation we know that the definition of
8 significant level is really important, because
9 we are saying that if the synthetic is not
10 there at a significant level than the
11 materials non-synthetic. The material working
12 group had a lot of debate on significant
13 level; we had debate on significant level. We
14 tried to come up with something that worked.
15 We did get public comment that we need more
16 work on significant level, and so it's our
17 intention to continue with that.
18
19 So let me explain our rationale a
20 little bit. So we went with this
21 recommendation for several reasons. One, it's
22 most closely aligned with what's happening in
23 the industry today, and has been since pretty
24 much the beginning. So if you look back at
early boards, this is how they made decisions about synthetic or non-synthetic, starting in about '95. So this is very consistent with how decisions have been made in this industry. It maintains the status quo, so it's the least destructive to the list, both to the list and to the practices. Because if you remember, most classification decisions are not made by this board and don't show up on the list. They happen everyday in crops and livestock, when someone is looking at whether a material is non-synthetic and can be used in crops or livestock. So this matches what's been happening there. Okay, next slide.

But we do have a minority opinion, and I wanted to highlight this because it reflects a lot of discussion that happened at the material working group, and a lot of discussion that happened in our committee, and I want to make sure the board has time to discuss it as well.
So the minority opinion as kind of paraphrased by me and hopefully during discussion we can talk about this as well, is that if a synthetic is used, then the material should be classified as synthetic, period. So the arguments for this is this is really about transparency. This is black and white; it's very clear to a consumer. We are not going to have a lot of disagreement about this classification. But it has really significant impact. There would be a lot of materials that would be reclassified that are in use today that would be reclassified from non-synthetic to synthetic. So at the end of the day while something this clear is attractive, we just did not feel that this was practical, and it would reverse years of practice in our industry.

So that's synthetic/non-synthetic.

So if you go - next slide, Valerie - okay, so now if you take that definition of synthetic, so there is chemical change or it's formulated...
and has a synthetic in it, all those are now synthetic. What's left is the non-synthetics, and so from those non-synthetics we have to decide which are agricultural and which are non-agricultural. So next slide, Valerie.

Okay, so we are going to take a little time out for products with naturally occurring biological processes. These have troubled us throughout this whole discussion, and even so fundamentally that we don't know what to call them. So first a little arrow, I'm just going to bring the board's attention to this that we got some public comment that said, what's included in this category, what's not. We had discussion among the committee. We are calling them products with naturally occurring biological processes. We don't have a better term. These include the microorganisms as well. So we just beg your patience that we don't have a good term. This morning off the record I called them the biological thingies. We just don't have a
good term. But the microorganisms and the products and their processes.

So what we said about them is, the source and processes are highly varied, so if you look at something as relatively straightforward as yeast, there is the yeast where in Belgium you can take your pot of whatever and capture your yeast and make some of the world's best beer to something sitting in a vat in a chemical laboratory; a huge variety in source. Similarly you have a huge variety in process.

The reality today is that if you look at the technical reports that we've looked at on these materials, they lack the depth and breadth to help us understand all those sources and processes. So we didn't really feel that today we had enough information to categorically make decisions, to say all yeast is this way, all bacterial cultures or dairy cultures are this way and should be classified this way. We need more
information. So we are really taking a pass on these right now.

So our recommendation is to defer making categorical decisions, develop the technical information that we need, but we want to create a pathway so that those products in naturally occurring biological processes could be classified as agricultural, because we believe some of them are. So to do that we are recommending deleting "or bacterial culture" from the definition of non-agricultural, so that those could be agricultural. Maintain the classifications on the national list where they are today, but ask for a petition.

So we are signing up for more work, we acknowledge that. We want petitions on these biological things so that we can better understand source and process, and start sorting through the complexity. And to do that will allow us to be more transparent in how those are classified. So that is our
We heard some public comment yesterday from Grace Marroquin on yeast. We have asked her to make sure that the petition is resubmitted, so that we can really do a deep dive, and make a classification decision. So that is what we are doing on products in naturally occurring biological processes.

Okay, so next slide. So we are back to our pretty picture. We've taken on synthetic. We have pulled out all the biological things. Now we are left with ag/nonag. Next slide. And really we said, this is pretty easy now. Things that are sourced from agriculture get classified as agricultural. Everything else is not agricultural, or nonag.

There is a pretty big effect, so we wanted to highlight that. PNOBP is products of naturally occurring biological processes, sorry.
Okay. So the effect of our recommendation in agricultural/non-agricultural is that the agriculturally sourced materials currently - or some of the agriculturally sourced materials currently on 205.605(a) which his non-synthetics, would move to 606., because they are non-synthetic, and they are agriculturally sorted.

We think this is a great thing because it means commercial availability is in effect now for those. We think handlers should step up to the plate and prove that an organic option isn't available. But that would be the effect of doing that.

So we do have a definition of non-agricultural substance that we recommended. Now it's time for a mea culpa. We had a copy and paste error in our recommendation which led to lots of public comment, so we apologize for that, but thank you for reading it.

What we proposed is that non-agricultural substance - you see the current
definition up there - we deleted "or bacterial culture." We deleted the second sentence, which is about kind of the substantially transformed. What we proposed was a product such as a mineral or an atmospheric acid does not originate from an agricultural system. We had a lot of comments that, well now you have to define agricultural system.

What we meant to propose was that it's a product such as a mineral or atmospheric gas that does not originate from agriculture. For the purposes of this part agricultural refers to the production or handling of crops or livestock, so we haven't had time as a committee to get together and make sure that we all really meant to do that. That is what we talked about doing, but like I said, we made a copy and paste error in our final document.

So hopefully by tomorrow we will have this fixed. Okay. So to walk us through - next slide - some examples, so to walk us
through some examples I want to highlight first the green row. WE also got a lot of public comment about the synthetic definition and its impact on materials that meet the final rule. And Gwendolyn yesterday brought out the bleached soy lecithin that is not commercially available and what that would mean.

So we have been playing around in the last 48 hours with adding a sentence to the definition of chemical change, and that is reflected here in this green row. So I'll just walk you through it. So soy lecithin bleached just a quick reminder, which you should all know from our last meeting, this material is, you have a physical separation of the either solvent extraction physical separation of the soybean oil from the soybean meal. The oil is then extracted. You get soy lecithin which you can bleach.

So the first question is, does the substance undergo a chemical changed? It's
bleached, so yes it is a chemical change. If you look at kind of our intended modification, the question would be, is that an allowed synthetic or not. In this case it is, so the answer would be yes. So the next question is, is the substance created by an actually occurring biological process? No. Is the substance formulated with a synthetic? Not on 205.605(b)? No. So then is the source of the material agricultural? Yes.

So the first questions have to deal with, is it synthetic or not? And then the last question is, is it ag or not. So this was if you say the hydrogen peroxide is a chemical change that meets our definition, then it's synthetic. If you go with a little change you are recommending, then it would not be synthetic. So this one is a little bit tricky and will require more discussion.

So let's look at soy lecithin, deoiled. This one is much more straightforward. So does the substance
undergo a chemical change? Here the answer is no; this is acetone extracted, the acetone does not change the lecithin and is not present at a significant level. So today there is no other method to extract the oil. But wouldn't it be great if someone could come up with a way to do that. So because acetone is used this material cannot be certified organic. The classification isn't about certification, it's about how a material is classified.

So soy lecithin deoiled, there is no chemical change with the definitions and the recommendation. So that chemical change stuff goes away. Not from a naturally occurring biological process. And the product is not formulated.

So it is not synthetic. But it is sourced from agriculture, so it is classified as agricultural. So as a handling material, this would go on 606, commercial availability applies. Handlers have to now, each time they
use it, demonstrate that an organic version is not available. Hopefully that will put pressure on the industry to come up with a way to do this without acetone extraction. And that's our desire.

Okay, the last one I'm going to go through is soy protein isolate. Hopefully I'll get this right. So the key to this one is that in the process an acid is used and a base is used to do pH adjustment. The first one precipitates the soy protein out of solution, so you can do some washing and rinsing and other things. The second pH adjustment puts it back into solution. I think that is right. The material doesn't change. You are just adding and taking off protons. So no chemical change, and then it flows like the soy lecithin, deoiled. Again, this is agricultural. So those are some examples.

I can see lots of frowns in the crowd, so hopefully you will have good
questions for us. So that's how our
definitions play out.

And again pretty consistent with
what's happening today. I tried to pick some
of our troubled ingredients to highlight how
the committee made their decision. So we'll
let that cook in everyone's brain there for
awhile.

I want to just wrap up talking a
little bit about NOSB practices. We made
recommendations on three practices that we
think the NOSB needs to take up so that
classification can be more consistent.

One is we want to go back to
taking two votes on all materials, and this
got strong public comment in favor of it. If
you go back and look at transcripts from early
on in NOSB history they always took two votes
on every material. So the first vote was, how
should it be classified? So someone would
move and say, I move that - name your material
- is classified as synthetic, and there would
be a vote.

Once it was determined what the classification was, then there was a second vote to determine if it should be - what should happen to it. Should it be listed, not listed, printed, allowed, whatever needed to happen.

I think having two separate votes, and the committee felt having the two separate votes added clarity to the classification, and kept the two decisions from getting muddled together. Because classification is not about, should it be allowed to be used or not. It's just classification.

Our second recommendation is annotations, and we recognize that a full out use of annotations is not the way we want to go. We are just saying we want to course correct a little bit, that there are some places where annotations are really important to highlight what source and what process was reviewed, and is being listed; that if we
don't - there are cases where not using an annotation is just as confusing as not using it. So we want to be mindful of that, and be more thoughtful in our decisions about annotations.

And finally what we've learned through all this is, materials are very hard and they are really complicated and there is a lot of detail. We just really need to refocus as a board on really understanding those details, and this is really about having good TAP reviews, and we got resounding comments from the public that we should do that.

Okay, so finally just some public comment. Generally everyone supported the document. There were some concerns about scope that we heard talked about yesterday with regards to, did it affect things like soy lecithin bleached? What about a material that is 95 percent organic agricultural inputs and 5 percent things on the list? So we need to
do some tweaking to adjust to that.

Strong support for developing a guidance document. The NOSB practices, there were a few comments concerned about the direction of the minority opinion, but even more broadly the majority opinion of reclassifying so many things as synthetic that we just put industry at risk. So we had some comments that way.

There was a question about commercial availability, and applying that to 205.605. That was a recommendation that has been made several times by the material working group, or it's been one of the options. And I apologize we neglected to kind of cover that in our recommendation. We did talk to the program, and that is just not an option that they felt was available to us at this point, so that's why that wasn't our recommendation.

There was a concern about CAS numbers. One of the definitions that talks
about the identity of a substance, use CAS numbers as an example of how identities could be determined. It was purely meant to be an example, so you'll see some changes trying to clarify that.

We already talked about concerns with the definition of agricultural. That was brought up by a number of commenters. And there is a comment specific to yeast, that you heard yesterday, that yeast is non-plant life. There is a couple of comments asking us to clarify 205.270(c)(2). We do know that that's out there, and that that question exists. It is our intention to collaborate with the program and address that in our guidance document. So I don't want you to think we have forgotten that request.

And then finally we need a better definition of significant.

So with all that, here is what we are recommending needs to happen next. We need to do a little bit more work on the
definition of nonag. We need to take a little
look at the definition of chemical change with
regards to scope. Hopefully we will have
those done by tomorrow.

After that we need some rule
change that we would collaborate with the
program on. Most importantly we need a
guidance document so we will be working on
that. Our recommendation has some very
specific comments about timing. We don't want
to hopefully pass the recommendation tomorrow
and then have ACAs going out and making all
sorts of decisions that are disruptive to the
industry. So it's our intention that the
recommendation not be implemented until a
guidance document is issued officially and
finally by the program. In the meantime
everything would stay as it is on the list.

We do know there are some changes
to the list, so the recommendation kind of
talks about timing to execute that. And then
we have more work on those biological things.
So that is it. I know it's a lot, I know it's a lot to digest. We really appreciate the folks who read it and their comments, and all the questions we have gotten from board members since our recommendation has come out. So there you go.

CHAIRPERSON MOYER: Thank you, Katrina, very well done.

I remember soon after I started on the board somebody said to me, it's so simple, just write the definition and vote on it. It ain't so simple. I really want to commend Katrina, her joint committee members, and the greater community for all the countless hours of working on this. If you just heard that report and your head isn't spinning, imagine hours and hours of trying to get to this point. I mean I gave up long, long before these folks did, and I commend them for staying at it. It's important work, but it is extremely complex and complicated. So Katrina, I appreciate all your hard work and
your team that you assembled to do that,
inside the board and out, is extremely
important.

Okay, what I'd like to do is see
if there are any comments or questions. I
know all of the board members have gone
through this process more than once, so that
we could do it online. We did it in some
conference calls. We did it on Webinars. We
did it every which way we could. It is
complex and confusing, and it still leaves me
wondering how we did it.

MEMBER HEINZE: So what I was
going to suggest, if Valerie could put up that
part two document I sent you. So this is our
recommendation with the few modifications that
we made this morning, that I can go over when
folks want. And we can open it up for
discussion.

CHAIRPERSON MOYER: Okay, and you
might want to - I know there are two minority
opinions?
MEMBER HEINZE: Oh, yes.

CHAIRPERSON MOYER: So I think we should probably hit on those too. But before we go to the minority opinions, is there any questions or comments that board members would like to make in regards to what Katrina just presented? Everybody has had their shots?

Okay, I don't hear any, Katrina, so the minority opinions.

MEMBER HEINZE: That just means I confused everyone.

CHAIRPERSON MOYER: No, I don't think so, you've done a great job of unconfusing us.

Do you want to go over the minority opinions?

MEMBER HEINZE: I guess I would leave it for folks. I kind of felt like I did those in my discussion.

CHAIRPERSON MOYER: Okay.

MEMBER HEINZE: We had two of them. One was more specific to our
synthetic/non-synthetic. They wanted it to
more broadly include more things in synthetic.
The other was the definition of nonag, I
suppose more the definition of agricultural,
that it shrunk non-synthetics, and that would
have an impact on crops and livestock.

CHAIRPERSON MOYER: Do you know
if the writers of those minority opinions want
to make any comments?

MEMBER HEINZE: I do not.

CHAIRPERSON MOYER: Bea?

MEMBER JAMES: I would like to
hear from the people who did write those, and
just get their input as to some of their
concerns.

CHAIRPERSON MOYER: Yes, I think
they are sort of hanging out there, and I'd
like to get a little more information. I
guess that was what I was trying to do. Dan.

VICE CHAIRPERSON GIOACOMINI: I
wrote minority number one. My concern with
the document, and I agree with 99 percent of
it I would say, but it does create a shrinking of the nonag portion of non-synthetic. There - in the writing of the regulations as I've gone over them a number of times the past couple of weeks most of these restrictions with on the crops side are written as non-synthetic. So using the first criteria cutoff if you remember of the box on the right being non-synthetic, if we agree that what the thing talked about in the crops regulations were fit into that box, I think we are reasonably okay. On the livestock side, however, we still get back to the things that were touched on a little bit with Grace yesterday. We have the change in the way the regulation was written from OFPA that all feeds must be organic, to all agricultural products must be organic. And when we shrink that non-synthetic section and we say, or which - in this - the way we are talking here becomes the lower criteria, set of questions. When we are looking at the things on the bottom right, that box in
regards to feeding livestock gets much much smaller. And the number of things that are kept in the just simply the agricultural box gets much larger. She's got it up there now. And I'm concerned that we could have a tremendous amount of problems and implications down the road because of that. I understand the basis of the recommendation, the handling and processing side, and the value of commercial availability. I wish there were some other things - there may be some other things we can talk to the program about also, but I'm concerned with the livestock side. We have a requirement that if it's ag, it has to be organic. And we have just expanded the things that are in that ag square, because we have eliminated the transition. There is no transition when you are dealing with anything to do with livestock the things that you see on 605(a) of the egg white lysozyme and all those other items, they are not non-synthetic anymore. They are
either synthetic or they are agricultural.

And I am just concerned with what it's going
to mean. I can't give you an example because
I don't know, but it makes me very very
uncomfortable.

CHAIRPERSON MOYER: Thank you, Dan.

Katrina?

MEMBER HEINZE: So Dan your

concern, we've talked about this before but I
just want to make sure, I'm still hearing it
right, your concern is that with making those
non-synthetics that are non-agricultural very
small, we've in essence increased those non-
synthetics that are ag, and the impact for
livestock is, if used in feed they have to be
organic.

And so you're concerned about the
unintended consequences of that down the road?

VICE CHAIRPERSON GIOACOMINI:

Well, there's two sides to that actually. One
is as you say the unintended consequences of
that. Essentially everything - most of the
things - how do I put this? - if they were
from an ag origin and they were in that non-
synthetic box, they are now either
agriculture, and would have to be organic, or
synthetic and have to be on the list. We lose
them both ways. So they would either have to
be relisted on 603, or we can't use them
unless we have organic, because of the way
things are written. All agricultural
products, and we don't have commercial
availability for feed.

And I'm not promoting that we do;
I'm just saying there might be some subtle
ways of looking at things that would not
necessarily be causing huge loopholes.

CHAIRPERSON MOYER: Chair
recognizes Katrina.

MEMBER HEINZE: So is the fix for
that how we classify them, or figure out how
to address the feed requirement?

CHAIRPERSON MOYER: Dan.
VICE CHAIRPERSON GIOACOMINI: I think the answer to that would be how ingrained the industry and the program is in ever looking at that change that was made. My concern is that the willingness to do that is probably small.

CHAIRPERSON MOYER: Is there anyone on the board who would like to speak representing minority opinion #2? Kevin?

MEMBER ENGELBERT: Yes, I wrote minority opinion #2. Briefly I'd like to touch on what Dan spoke of. As those of you who have been at these meetings know, I don't share the concerns that Dan does on minority opinion #1. In the interests of transparency, if these materials become available and they have to be organic, the industry will adapt, and they will become available to dairy farmers or any type of farmer, crop or livestock. So I don't share that deep concern. But I understand why Dan does.

The minority opinion #2 basically
I think this results from, as we heard a speaker say yesterday, if you are a chemophobe then you might not agree with this recommendation. And I guess that I will probably say I am a chemophobe. As part of — without going into details I know what exposure to chemicals can do to you at a young age all the way up to early adulthood, what it can do to your metabolism, and the implications on your health. And I think that organic agriculture, while we are not a zero-tolerance program, and we don't guarantee an end product that should still be our goal.

And the first paragraph of this minority opinion #2, there is a big typo. I'll just read through this first paragraph because I can't really add much to it. First and foremost is there is a decision to define synthetics in such a way that even those that are on the national list are allowed in processing as long as there is no chemical change and the synthetic is not present in the
final material at a significant level.

Somehow the word "not" got added into that first sentence, and it shouldn't be there. Even synthetics on the national list are contaminants, albeit those that are acceptable for a specific use and hopefully only until a more satisfactory alternative becomes available.

In my opinion the NOSB should not be attempting to determine significant levels. If a synthetic is present at all the material should be deemed synthetic. And because humans cannot measure all substance levels precisely enough if a synthetic is used the resulting material should also be considered synthetic.

And again back to what I lead in with, organic consumers expect organic food they purchase to be different from conventional food, and to remain true to organics and organic principles. Even though no chemical change regardless of how it's
defined takes place, the use of synthetics
violates the trust that consumers place in the
organic label.

Another opinion has to do - or
minority opinion has to do with the definition
of non-agricultural substance. That is
somewhat alleviated since we discovered our
faux pas. And that is not as much a concern
now as it was an hour ago.

And lastly the minority opinion
there is also - has a minority opinion that
care should be taken to differentiate between
substances used in crop and livestock
production, and those that are used in
handling, processing or packaging of food.
The decision on substance is made by the crops
committee on October of 1994 to allow
synthetically derived botanicals as non-
synthetics and unlisted might have been
misguided. The NOSB should not use that
decision today to justify the use of processed
material which could end up on store shelves,
either through decoding or packaging, or in 
the processing of those foods.

There is a big difference between 
using a substance to produce food and using a 
substance that may end up being directly 
consumed by humans due to its presence in the 
food or on the packaging. The substances 
should be brought out into the open and not 
hidden behind the veil of inerts or 
biological processes, or a so-called lack of 
chemical change. All ingredients in an 
organic product should be classified and 
listed on the label regardless of their 
origin, how little may be found in the 
product, or if the material was used in 
handling and processing.

And that pretty much sums it up.

CHAIRPERSON MOYER: Thank you, 
Kevin. Thank you, Bea, for asking for that.

Are there any comments? The chair 
recognizes Katrina.

MEMBER HEINZE: I just wanted to
thank both Dan and Kevin for writing a
minority opinion. It was so important given
all the debate we had that that debate be
transparent, and that the rest of the board
understand it. These are not easy decisions.
There are no wrong perspectives. It's just
that the decisions have effects, or
ramifications, that we need to understand. So
we wanted to make sure that those
ramifications really got discussed and people
really understood them as they made a
decision. So we have been told - I don't
think asked is the right word - told by you
out there sitting at the tables that we need
to make a decision, and we need to make a
decision two years ago. So we understand
that. What we have also come to understand
is, not everyone is going to agree with it.
So we just have to - it's our job sitting up
here to make that decision.

So we wanted to make sure those
minority opinions got expressed so people
understood them. So thank you for doing that.

I know it was extra work.

CHAIRPERSON MOYER: Chair recognizes Dan - I'm sorry, recognizes Bea.

MEMBER JAMES: Katrina, wow, that's great work. It's kind of mind boggling. So bear with me on some of my questions, because I'm not an expert by any stretch of the imagination.

Can you elaborate a little bit more on the point that you made on one of the minority opinions about the use of a synthetic not on the national list of approved synthetics should result in a material being classified as a synthetic? And that you had made a comment that that would have drastic ramifications with a lot of reclassification and work. Just explain that a little bit more if you would.

MEMBER HEINZE: Sure. So I'm not a crops and livestock expert. And I'm not going to pretend to be one. But when we
looked at it for awhile in our debates we called them option #1 and option #2, so I'm going to use that terminology. So option #2 is the minority opinion. When we were looking at option #2 really what it says is, if you use a synthetic then the material becomes synthetic. So if you use hexane to extract it or acetone to extract it, or you use sodium hydroxide to do a pH adjustment. And in handling that doesn't have a lot of effect because everything we use have to be on the list somewhere, so it just moves them around on the list. So there is going to be work for the board, but it's not like there is a whole bunch of new materials that have be evaluated. They just need to be moved around.

But the concern came up on crops and livestock where non-synthetics are mostly not on the list today. And as we look back at the historical records, the first ones that came to our attention was botanical pesticides, so pyrethrum would be an example.
So it is extracted with hexane, the hexane is not present in the finished product. So it has been for many many years classified as a non-synthetic. So if we went with option #2 that material - and I have a couple of other examples, but I'm sure other people have much more comprehensive lists than I do - that material would be reclassified as synthetic. The people who are using it today, they have been using it. They don't use it without limitations. Those - people still have to use their organic system plan. They still have to have all their good practices in place before they use stuff like that. But it is in use today. So today the hexane extracted non-synthetic is in use. Because presumably people need it in their collection operations. So if we went with option #2, here is what I think would happen. A whole bunch of those materials would get reclassified as synthetic. The people who need them for their livelihoods and for their operations would petition the
board to have those listed. So the board would have to review the materials, and they would get put on the list, presumably that's what's going to happen.

And I'm not saying we shouldn't do the work, but that is going to be a lot of work to kind of maintain what's happening today. And then the other concern we had is, we get these all the time, for putting all the synthetics on the list. And that's going to be a lot of beating up for maintaining the status quo. In my opinion. That is not necessarily the committee's opinion.

CHAIRPERSON MOYER: Bea, you had a follow up question?

MEMBER JAMES: So by not doing that we are just not telling the public that there is some synthetics, but by doing that we would be transparent; am I hearing you right?

MEMBER HEINZE: Well, we're still telling them, because we are saying here is how a synthetic is defined, and here is how a
non-synthetic is defined.

MEMBER JAMES: But you just said that it's currently happening and if we had to list everything it would take a long time, and it would result in a big list which wouldn't look good but we are doing it.

MEMBER HEINZE: That's why we have a minority opinion. There are differences of opinion on that.

CHAIRPERSON MOYER: Chair recognizes Julie.

SECRETARY WEISMAN: I just wanted to follow up for Bea. I get the feeling that you think that the "it" that we are doing right now is non-synthetics are allowed in crop production. And the definition that has been functioning all this time has been, except where it's annotated on the list, okay, because there are some things that are for use where it specifically says, non-synthetic solvents only. But other than that things can be extracted with synthetic solvents. And it
has been that way all along.

CHAIRPERSON MOYER: Any further questions or discussion? Barry?

MEMBER FLAMM: I'd actually like Kevin to respond to the latest comments on the extraction. I find your minority opinion very compelling, straightforward, easy to understand, and it seems like that's what we ought to be doing and should be doing. But - and I don't see in what you've said that perhaps this extraction problem is really an issue. But I wish you'd address that.

CHAIRPERSON MOYER: Kevin.

MEMBER ENGELBERT: I will as best I can. It's my belief that the human body is more sensitive to chemicals and substances than we can measure. We are sensitive to things down to the level of parts per billion that can't be measured. So even though we would say that this was extracted with a synthetic, and it's all removed, I don't really think technically we can absolutely
guarantee that down to the micro levels that a human body can detect, or can - is susceptible to. And that is basically my point. I think that our organic needs to be an extremely high bar. I don't think that consumers when they purchase a product expect something to contain a substance that was extracted with a synthetic or a chemical. But if it is, even though there may be some pain involved for the industry, I think that needs to be transparent, that that should be - we should be up front about it.

CHAIRPERSON MOYER: Did that answer your question, Barry?

MEMBER FLAMM: Yes.

CHAIRPERSON MOYER: Chair recognizes Bea.

MEMBER JAMES: So maybe these two things aren't related. But I'm trying to get my head around that we are saying nanotechnology and nanoparticles are bad, and we are saying that we should go ahead and let
synthetic extractants be used, and that's just
the way it's always been.

Chairperson Moyer: Katrina,

would you address that?

Member Heinze: We're not letting
solvent extractions be used. We are codifying
what's happening. And has been.

Member James: But we're not
classifying them as a synthetic, and we are
saying that we shouldn't go down that road.

Member Heinze: Because they are
not present in the final material. So in my
mind they are not present. We said if they
are present, it's synthetic. But they are not
there any more.

Chairperson Moyer: Chair
recognizes Julie.

Secretary Weisman: I think to
some extent this - the expectation is that
there are no synthetic ingredients. Right?
And so this is the debate about processing.
What is processing and what is an ingredient.
And it's not any - I guess I feel the way you are asking the question makes it sound like there has been some subterfuge going on which I don't think is the case. OFPA is very clear about synthetic ingredients not being used in organic food. And what we are talking about right now are not ingredients. Maybe that is what you are questioning, but that is what I would say.

MEMBER JAMES: In my opinion, if I could just respond, if you use a chemical, a synthetic chemical to extract hexane for instance on what was it soy protein, okay, there is a fine line between it being an ingredient and it being part of the process, and do we pay attention to that, and that is my point.

CHAIRPERSON MOYER: Thank you, Bea.

Katrina.

MEMBER HEINZE: So I want to make sure the board is clear on this. Remember
this is classification and not allowed or prohibited. So ingredients in food are 605 and 606. They are handling. You have to be on the list. Right? So if there is material that is hexane extracted it is not certified organic; cannot be certified organic. So it must, if it's going to be used in food, be reviewed by this board. So that is handling.

If you're crops and livestock,

different deal. So pyrethrum is a good example. Your hexane extracted. You can be applied to a crop. Because it's not, the material is not synthetic; the hexane is not there at a significant level when that material is used. But also on crops and livestock you are - those - it's not like someone is injecting the pyrethrum into the - I know nothing about crops - is the apple? I'm sorry, I just have to make this up.

Right. It's not like people are injecting it into the produce, and so it is one step removed. It's not in the food. So I think if
you look at those early boards who made that decision I think that is how they thought about it.

But this is classification; it's not - are people going to ingest it. Because if they're ingesting it, it's on the list, it's in handling.

CHAIRPERSON MOYER: Chair recognizes Tina.

MEMBER ELLOR: So based on what you just said, let me ask this question, so any insecticide such as pyrethrum that are formulated with inerts, which all pesticides are, all of a sudden will become synthetics because they contain synthetics?

MEMBER HEINZE: That's correct.

MEMBER ELLOR: So all botanical pesticides that contain inerts or are extracted will now become not natural but synthetic, or not non-synthetic?

MEMBER HEINZE: The inerts are allowed synthetics. So then - right? So
since they are allowed synthetics, so that's okay. Her response was a heavy sigh.

CHAIRPERSON MOYER: Okay, chair recognizes Dan.

VICE CHAIRPERSON GIOACOMINI:
Yes, going back to the big picture on this, just something that I've thought about with it, and we've addressed one issue with the program, and they came back with a very legalistic no. But I'd like them to reconsider it, and I'd like the people who find the study of materials in organic part of their elixir for immortality and what keeps them going to think about this, that in this recognition of source and process it's very likely that in the current structure of the national list, unless it has also changed, we would also have something with the same name, in three different places within the handling framework of the list. Something could be on 606, 605(a) and 605(b). We understand the statement, the program has already said that
commercial availability is mainly part of 606, the agricultural. And we also understand that the program has basically discounted order of preference.

What I've thought about, to save this board and future boards, because it will be much more long after I'm gone, I can just imagine that when this goes through the absolute bombardment of petitions that we are going to get so that something can be listed in every possible place. And I would like the program to consider and people who really look at this stuff to consider the possibility that the listing on the handling portion of the national list, not commercial availability and not order of preference, in a way it would be the reverse of that, but it's for lack of a better term the worst possible version allowed. So that if it is listed on 606, only the agricultural version is allowed. If it is listed on 605(a) an agricultural version of the product is allowed, and a non-synthetic
version of the substance is allowed. And if it's on 605(b) it can be any of the three. I know there are implications within OFPA and review and every thing else. But maybe there is a way that we can creatively structure our review process so that that can become the result, because otherwise we are going to get bombarded where with everything that is already on there, we are going to get two or three more petitions, two more petitions, and everything that comes before us is going to come forward in two or three forms.

CHAIRPERSON MOYER: I'm going to ask that that be the final word for now on this topic. I know we could go around for days and days and days; we have, we will. We are already as I mentioned about two hours behind schedule. I am going to suggest we take a break now until 4:05. We will resume promptly at 4:05, and start with the handling committee report.
Keep in mind, we do have public comments this afternoon and evening yet, and we'll already be here until 7:00 by this clock. So please be prompt to return to your seats.

(Whereupon, at 3:51 p.m., the above-entitled matter went off the record and resumed at 4:09 p.m.)

CHAIRPERSON MOYER: This session of the board meeting is reconvened. And we'd like to start immediately with the report from the Handling Committee, Steve DeMuri, chairperson. Steve, if you are ready, the floor is yours.

HANDLING COMMITTEE

MEMBER DeMURI: I am ready.

Thank you, Jeff

Want to first thank Katrina for the great work she did on that last session.

(Applause.)

MEMBER DeMURI: Can you hear back there? Is that better? I will have to put
the mike in my mouth I guess.

What I was saying was, I wanted to first congratulate Katrina on a great job on the Joint Materials and Handling work that she has taken on, very very complicated and complex subject, and we all appreciate it very much.

What we have on the docket today for the Handling Committee are 10 sunset items. There are three in 205.605(a), seven in 605(b) and nothing from 606. And what we did was, we split these up over almost a year ago now to start looking at them and investigating them. So I will have the folks that did the primary investigation on these items explain them to the rest of the board in preparation for tomorrow's vote.

So we'd like to start off first of with egg white lysozyme for 605(a), and that is Tracy.

MEMBER MIEDEMA: Thank you, Steve.
Egg white lysozome was added to the national list in fall of 2006, and it was added to 205.605(a). Right off the bat I will tell you that we are recommending relisting.

I guess technical aspect of this that is a little unusual is that a TAP review was performed on enzymes, plants and fungal, and that is what our colleagues back in 2003 use to review this material. So I just want to be very upfront on that point. We have a tradition here of accepting - we have a precedent of accepting the work of past boards. And they deemed that TAP sufficient.

How much detail shall I go into about this material itself?

CHAIRPERSON MOYER: Well, in the interests of time, I know we are way behind, why don't you try to keep it brief. I think everybody has probably read the recommendations.

MEMBER MIEDEMA: Okay.

CHAIRPERSON MOYER: So if there
are any questions after you are done, we can
pick up any questions there.

MEMBER MIEDEMA: Sure, okay.

Egg white lysozyme is a purified
enzyme preparation. It's extracted from hen
egg whites. It's a natural enzyme microbial.
The most typical food applications are for
cheese and wine. The materials that are
alternatives for this are generally considered
to be more harsh preservatives such as
formaldehyde, nitrates, nitrin or hydrogen
peroxide.

We - those of us who were present
unanimously voted to relist, and one person
was absent.

CHAIRPERSON MOYER: Thank you.

Good summary. Anyone have any questions for
Tracy?

I've got one question, Tracy. I'm
assuming that you have reviewed the 2003 TAP
and you also determined that you didn't need
any additional information?
MEMBER MIEDEMA: As a class of handling materials it seemed to cover what needed to be covered.

CHAIRPERSON MOYER: Thank you. Steve?

MEMBER DeMURI: Thank you, Tracy. Hearing no questions on that one we will move to L-malic acid. Katrina handled that one for us.

MEMBER HEINZE: I just wanted to start by saying that if I get to be known as the classification person I'm going to be grumpy.

Okay, L-malic acid, we reviewed L-malic acid for relisting on 605(a), non-synthetics allowed. L-malic acid was added to the national list, also in the fall of 2006. After review by the NOSB. This is the first time that it's up for sunset.

L-malic acid is used as a flavor enhancer, flavoring agent, and for pH control in a variety of foods. The original TAP in
2003 actually reviewed three forms of malic acid. The TAP determined that DL-malic acid was synthetic, and recommended that it not be included on the national list. So in reaction to that, and after more work on the TAP, the TAP determined that L-malic, so the L version of malic acid, was naturally occurring and non-synthetic. So it's naturally occurring in fruits such as apples or cherries. So given that it was non-synthetic, it's commercially produced from the fermentation of fumaric acid, which is produced by fermentation of glucose.

There are alternatives such as vinegar or citric acid, but the L-malic does provide some unique properties. The TAP did not find any unacceptable risks.

When we did our review we had no new information. We deeded the TAP sufficient. We did receive two public comments supporting, and no public comments opposed to relisting. So the committee
recommended relisting L-malic acid, and the
version I have in front of me does not have
the vote. By a vote of four yeses, no noes,
and two absents.

Any questions?

CHAIRPERSON MOYER: Any questions
from the board for Katrina? Chair recognizes
Kevin.

MEMBER ENGELBERT: Just one quick
one. This material and the previous one, were
they put on with a three-year sunset? Why are
they being reviewed for sunset?

MEMBER HEINZE: They're 2011
sunset. But we have to review them now to
have enough time to work it through the
process.

CHAIRPERSON MOYER: Any other
questions for Katrina?

Thank you, board. Steve, thank
you.

MEMBER DeMURI: Thank you,
Katrina. We have one more 205.605(a) item
that is up for sunset in 2011. That's microorganisms, and that's one of Joe's favorite subjects so he took that one.

MEMBER SMILLIE: Right. They were petitioned in 2002, and added to the list on September 12th, 2006. Basically microorganisms are essential for the production of many fermented foods, and there are many examples. The TAP review of 2002 reviewed microorganisms. It also reviewed previous TAPs on dairy cultures, yeast and enzymes, and it felt there was no need to review microorganisms individually.

Basically it's noncontroversial. There were no public comments received opposing the use of microorganisms, and many supporting their use. There was one specific comment we received and posted that said we should define more the breadth and scope of microorganisms, which of course we would just love to do, but unfortunately since it's a sunset review item, I don't think that is part of the sunset
1 review process, to change the listing.
2 So we've regretfully declined to
3 take on that task. And basically we recommend
4 the continued use and listing of
5 microorganisms in 205.605(a). The committee
6 vote was five yes, zero no, one absent, zero
7 abstains or recusals. So basically we
8 recommend its relisting.
9 Any questions?
10 CHAIRPERSON MOYER: Any questions
11 for Joe regarding that item? Chair recognizes
12 Tina.
13 MEMBER ELLOR: Just a comment.
14 Microorganism has a definition, right? Maybe
15 not within OFPA, but it's a microscopic
16 organism, especially a bacterium or virus or
17 fungus. I have a school dictionary on my
18 computer.
19 CHAIRPERSON MOYER: Good. That's
20 nice. Any other comments for Joe? Questions
21 or comments? If not, thank you, Joe. Steve,
22 back to you.
MEMBER DeMURI: Thank you, Jeff.

Now we move into the 205.605(b), items up for sunset in 2011. The first one that is on the list is activated charcoal.

Gerry Davis actually did the investigation and review of that material. He is not with us today so I will take that one.

Activated charcoal was first petitioned in 2002. And added to the national list with the annotation, only from vegetative sources for use only as a filtering agent.

The TAP report in August of 2002 reviewed activated charcoal to determine that if it was synthetic that it met fully the criteria of 205.605(b) and should be included in the national list with the annotation that I noted.

We did not receive any new information above and beyond what was already known, that was discussed in the original listing. We did receive six public comments in support of the relisting of activated
charcoal. We did not receive any public comments that were opposed to the relisting of activated charcoal with the annotation.

So based on that information the Handling Committee voted five yes, zero no, one absent, and no abstentions or recusals for the relisting of activated charcoal.

CHAIRPERSON MOYER: Any questions for Steve on this item?

Seeing and hearing none, Steve, back to you.

MEMBER DeMURI: Okay, thank you.

The next item is also 205.605(b), and I'm going to take the next three together, because they are highly related, very closely related. They are all boiler chemicals. The first one is cyclohexylamine. The second one is diethylamineoethanol, and the third one is octadecylamine. So we will talk about those three together.

I wanted to make a couple of comments regarding the sunset process, and I
was waiting for Miles to walk back in, and I'm glad he did. It became very obvious in our discussions in the committee that the sunset process is still a little bit nebulous to us with regards to procedures for determining sunset. When you go back and look through transcripts from old board meetings and even talk to previous board members that were on at different times, there is a little bit of differences in the interpretation of what sunset rule means.

To some folks it means that sunset would mean that if a listed item is not brought before the board and specifically asked to be relisted, that it just goes away, it goes into the sunset, which is kind of the traditional meaning of sunset in other areas. To others it's more of an evergreen type process where it just continues to be listed until somebody comes up, or unless somebody lets the board know that it should not be relisted for some reason, due to new
So what we are asking of the program is maybe to recenter us a little bit on what sunset procedures really should be, give us some definitions of sunset for us to help us and future boards to delve into sunset listings.

This is only really the second time we've had to do sunset, so it kind of needless, and it's going to be happening more and more as years go by. We have a huge set of sunset materials for 2012, so I think it's important now that we get this squared away once and for all.

Any other committee members want to throw their - you're not a committee member, but you can talk about it.

CHAIRPERSON MOYER: Joe, anybody else?

MEMBER SMILLIE: Yes, again, especially with input from Kim Dietz, we've come - we understand now that the procedure is
to relist unless alternative methods become really available and unless there is definitive arguments that - you disconnected me. Right, where was I?

So there were a couple of factors, and we discussed this at our meeting when we got those boiler additives. We also felt that we didn't get - that we had some opinion on the boiler additives saying, yes, these should be relisted, but nothing - no information. So within the committee we canvassed a number of people, a number of organizations, to say are there alternatives now, and we felt there were some approaching. So we decided in committee to not vote for relisting. Again, we weren't 100 percent committed to that, but we wanted to test the process. We wanted to invigorate and get a vigorous discussion on these items, because there was some evidence, again, we need some clarification on that, but these items originally when they were voted on that NOSB membership felt that while they
voted them on but they really felt they should come off when they expressed their opinion as such on the documents that we read.

So we decided, knowingly, consenting adults, that we weren't going to vote for relisting, because we wanted to really get to the bottom of some of the issues that Steve asked the program to address. Is it evergreen, or is it sunset? Exactly what information has to be provided? Is it beyond the shadow of a doubt, or what is the exact rule?

So we were playing a bit of devil's advocate on this, but for a real purpose, because we realized as Steve just mentioned, we've got a lot of sunset materials coming up, and we wanted to get some real clear lines drawn on how we deal with sunset for the future.

So we decided to take that action because we didn't have strong compelling evidence from the public comments that these
should be relisted, and I'll let Steve finish that. But now we've gotten some comments, but even now having reviewed all these public comments, everybody says, yes, relist it, I don't need it but I think the industry needs it. But did we get anyone that said, I need it?

MEMBER DeMURI: No, actually we didn't. Nobody came up and said I have to have this in order to be able to continue processing. There were some allusions to that, but nobody actually said that.

Can I ask him to come up, Joe?

CHAIRPERSON MOYER: Certainly, if the committee chairman wants Kim Dietz to come to the podium, the board will recognize her.

Kim, if you would, please state your name and your affiliation for the transcriber?

MS. DIETZ: I'm Kim Dietz, and I did submit public comments to a past Materials chair. If you look at the Federal Register
notice for sunset there is a process of material review. There is a process to renew the materials, and then there is a process for those who want to continue to use materials. And that is the public process. So I don't know if you have my comments. But I submitted them and the board certainly has them.

So anyway there is a process to remove a material; there has to be evidence by the public that provides an alternative. So to my knowledge there was nothing received through the sunset process on these materials.

So then the second piece is, those people who want to continue to use them just need to submit comments that they want their continued use, and there were quite a few comments submitted for continued use. So there were six due to Federal Register notices, and then for this meeting I believe there were like 10 probably, including the Juice Processors Association.

So there is evidence that the
industry still needs these materials. And then the other thing I just want to mention is that due to sunset procedures, it's not the boards' rule to actually go back and hash out the TAP report and to hash out a new listing. It's either you vote to relist them or you vote to take them off if there is evidence to take them off.

So if you are confused, then you probably should take a few minutes and pull up the CFR, pull up the Federal Register notice, go through the process, and also go through the process on your board policy manual because it is outlined there as well.

CHAIRPERSON MOYER: Thank you, Kim. If there are some questions, I see Rigo and Dan and Hue and Barry. Start with Rigo.

MEMBER DELGADO: I was just going to echo what Kim just said. We do have a process clearly stated in the policy manual that says exactly that. And the other point that I would add to that process is, if there
is evidence that there is a replacement element, product or procedure, that should also be an argument to delist this. It's all clearly stated I think in the policy and materials manual. Maybe we can go back and make it more clear or specific. We are fortunate to have Steve on the committee, so he can help us with that.

CHAIRPERSON MOYER: Chair recognizes Hue.

MEMBER KARREMAN: Just wondering, on a sunset item, there is no new horrible information that came out, and 35 people say, you know, we really don't need this, but one person says, you know, I really still need this, how should the committee reviewing that weigh it? Because it got on the list. It's kind of like, is it evergreen or not? But one person says, you know, we really need this. Does that outweigh the 35 who say, yes, we don't really need it and there is no compelling evidence to take it off.
MS. DIETZ: I think you need to look at the process, look at that Federal Register notice, because there are specific things you have to provide in the public comment to provide evidence that there is a replacement. So the industry has a chance to go back and say, oh, I didn't know that was there; maybe I can use this. So again the process to remove a material through sunset is much more technical than keeping a material. So you really have to provide the evidence to the industry, and there are like six criteria, and I apologize I don't have that in front of me, I didn't realize I was going to come up and do this. But I can certainly give it to you, and it's in my public comments, exactly what you are supposed to provide the industry if there is an alternative.

CHAIRPERSON MOYER: Chair recognizes Dan.

VICE CHAIRPERSON GIOACOMINI: Kim. I'm surprised, it's only been what five
years since you've been on the board, and you
don't have that right off the top of your
head.

MS. DIETZ: I'm sorry, I don't.

I should, huh?

VICE CHAIRPERSON GIOACOMINI: I
would only - I agree with 99 percent of what
you said. There was only one little bit that
I - I'm not questioning what you said, but I'm
questioning the implication of it. And that's
what you said about the old TAP reviews. I
think going back and looking at the old
recommendation and the old TAP reviews is
vitally important. Because what we are
needing to look at is what's new. And unless
we go back and look at what was old, there is
no way of knowing what is new. So I don't
think it's going back to review it and rehash
it and reevaluate it, but we haven't to
understand what it said.

MS. DIETZ: And I agree with you
there. But what you can't do is say, like
with the boiler materials, say, okay, well,
the alternative was stainless steel pipes. Or
the alternative was water rinsing. That was
reviewed at the original TAP review. But
that's not new material. So you are exactly
right - you do need to look at the old to see
what is new, I agree with you there.

CHAIRPERSON MOYER: The chair
recognizes Barry.

MEMBER FLAMM: Yes, I kind of
want to reiterate what Rigo said. A year ago,
because of the same questions that are coming
up right now, the Policy Development Committee
took on examining the sunset procedures and
worked at clarifying them. We worked with the
Materials Committee, and I had the pertinent
language in front of me but I lent it to
Miles. So I can only - but it's a little more
comprehensive than what's been alluded to
here. Certainly - thank you - let me just
read the whole thing so you - and this is what
was approved at last year's November meeting.
It says the appropriate NOSB committee begins review of the material with the intent of providing a recommendation to the entire board for the material's removal or renewal. The remove is constructed based on force of evidence as presented by the board members, public comment and scientific data from other sources. And this includes the original recommendation of the board and the TAP. So the committee may request a third party and another technical review is they like, and if needed verify scientific evidence and claims made during the public comment.

So that is a little more comprehensive. In the final analysis it's still up to the judgment of that committee right now, and I think whether they may have known it or not, I think that the committee proceeded properly, so I don't think that the criticism that the committee somehow didn't follow procedures is correct, because they were really following what was the instruction
MS. DIETZ: I guess where I was concerned was just with the word, evidence. The Federal Register docket, which is the one that the public sees, requires specific evidence to be provided to the industry. I could read that to you if you want me to, but that is what we see.

MEMBER FLAMM: Well, that is true, and maybe that is governing. But you also - the public - this recommendation and approval was public, and it's been public, so it's also officially reviewed in the policy and procedure manual which is our way of conducting business through the board. So I appreciate your pointing out the regulations though.

MS. DIETZ: Yes, again, I think that we just didn't - that evidence - your flow chart actually on page 59 that --

MEMBER FLAMM: Yes, you did see that.
MS. DIETZ: And evidence from public input, and the recommendation didn't say it was from public input, that evidence. It just said it was the sense that there was alternatives. So that's, again, it's could just be wording. But all in all I'm glad this happened. I'm glad that we could clarify sunset. I'm glad that it will get us all on the same page because that is all part of learning. So I'm sorry if my comments were harsh. But I just want to make sure that everybody understands the sunset process, and we can't just take a material off the national list through sunset, because we don't want it on there anymore. We have to provide the evidence to the industry that those alternatives that you list are viable alternatives, to give us a chance to look at those.

CHAIRPERSON MOYER: Very good points, Kim.

Chair recognizes Joe.
MEMBER SMILLIE: Well, wouldn't you agree, it's more of an evergreen process.

MS. DIETZ: Oh, yes.

MEMBER SMILLIE: It's just misnamed.

CHAIRPERSON MOYER: An evergreen process with review.

MEMBER FLAMM: Can I make a comment?

CHAIRPERSON MOYER: Yes.

MEMBER FLAMM: You know the only place it appears is in the law, and the statement is rather brief. You could interpret it that way, but I don't think there - nothing I see in the legislative history that would suggest that this sunset is any different than other sunsets, which usually mean that you have to have a process of reinstatement stricter than anything we are doing right now. So I think we may have trended toward what has been characterized as evergreen, but I don't know if there is any
basis for that trend. And what we were trying
to do in the new procedures, which were
approved, is to say let's take a look at - we
are not throwing out the old, but on the other
hand we have to have room for what is
happening now and allow judgment on the
current committee. And I appreciate your
allowing this discussion.

CHAIRPERSON MOYER: Chair
recognizes Julie.

SECRETARY WEISMAN: Yes, there
was also something that - I agree, this was
important and good in its way that this
happened now, because we are about to go into
a whole new slug, which I'm sorry I won't be
here for, but there was something else that
went on that doesn't have to do with how we
interpret sunset that was different than what
has gone on in the past. The ANPR for this
sunset came out uncharacteristically early.
I believe the ANPR was published on March
14th, 2008, a year and a half ago, and public
comment was received in the 60 days after
that, or maybe - within a month and a half
that followed. And in that period there were	hree comments, but it had been so long ago,
and it's never happened that way before, that
at the committee it was like that was outside
of our memory, and we weren't even aware that
part of our discussion was, that oh, we
haven't gotten any public comment about this,
but that was actually erroneous. There had
already been public comment, and then we
published our recommendation, and there was
more public comment ahead of this meeting. So
the body of evidence is quite different than
we felt it was at the time we were having
these deliberations.

CHAIRPERSON MOYER: Thank you,

Kim.

MS. DIETZ: So that clears up

sunset.

CHAIRPERSON MOYER: I think it

was.
MS. DIETZ: And again, it's in my comments exactly what is required to remove material.

MEMBER DeMURI: Right, and part of my reason to bring it up - I hesitated to bring it up at all, but I wanted to get it on the table, because it is going to be important to our discussion. Those of you who went through and read the recommendation are going to see in the recommendation that the original board, when they made the decision back in 2001 to list it, there was some language in that recommendation that they hoped that future boards would be able to delist these three chemicals because they were toxic. So that also weighed into our original decision to recommend not relisting these three items.

Since that time we got together again and based on the public comment we received since we posted that original recommendation plus what we heard over the last couple of days, we met again today and we
I did vote to recommend relisting all three of these, because we do believe there is some evidence that it is still necessary in the industry for processors.

So on all three of these, the cyclohexylamine, the diethylaminoethanol, and the octadecylamine, we voted five yes, zero no, and one absent to relist.

CHAIRPERSON MOYER: Thank you, Steve. Appreciate that process as well as the presentation.

Your next material, Mr. Chairman? I'm sorry, I thought we had covered that. Are there any more questions for Steve regarding those materials? Or the reasons that the committee chose to vote the way they did.

Thank you.

Back to you, Steve.

MEMBER DeMURI: Okay, thank you.

The next item is also a 205.605(b) item. It's peracetic acid, and Katrina handled that one for us.
MEMBER HEINZE: Okay, we reviewed peracetic acid also known as peroxyacetic acid for delisting on 205.605(b) synthetics allowed. Peracetic acid, that's what I'll call it, was added to the list again in the fall of 2006 based on a review by the NOSB.

So just some historical information. The NOSB reviewed Peracetic acid, but in the proposed rule the program added the equivalent word, perocyacetic acid, because that is how FDA regulations lists the material. So using both common names helps avoid confusion.

This is the first time that Peracetic acid has been reviewed through the sunset process. It's used in the food industry as a sanitizer, to control deposits, odors, biofilms, and then as well, a microbial control agent for food contact surfaces and direct contact with fruit and vegetables.

The TAP review was completed in November, 2000. Everyone agreed that the
material was synthetic but should be allowed with annotation for use in organic handling. I was going to review the annotation for that. So the annotation for this material is for use in wash and/or rinse water according to FDA limitations; for use as a sanitizer on food contact surfaces.

The reason the original board listed this and the TAP reviewers recommended it for listing is the control of food-borne pathogens, and how it effective this material is for that purpose. There are alternatives, but each alternative has drawbacks when compared to Peracetic acid. So some of the alternatives are steam or hot water, which are not incredibly effective sanitizers in all cases.

In the case of other sanitizers and disinfectants, they are certainly no worse with regards to human health, but Peracetic acid is no worse, but certainly it is viewed as being more benign environmentally because
its breakdown products are acetic and hydrogen peroxide.

The TAP review also showed that this material was more effective than others previously recommended by the board.

So the Handling Committee had no new information that would cause us to reevaluate this material. We did receive 11 public comments in support of, and no public comments opposed to, relisting Peracetic acid.

So by a vote of five yes, zero noes, and one absent, we are recommending relisting of Peracetic acid, peroxyacetic acid, on 205.605(b).

CHAIRPERSON MOYER: Thank you, Katrina. Any questions or points of discussion of these materials which I won't pronounce?

Hearing none, back to you, Mr. Chairman.

MEMBER DeMURI: Thank you, Katrina and Jeff.
The next time is also a 205.605(b) substance. It's sodium acid pyrophosphate. It was first petitioned in October of 2002. And added to the national list effective September 12th, 2006. Sodium acid pyrophosphate was originally petitioned for use as a leavening acid in baked goods, and was given annotation at the time of listing for use only as a leavening agent. One that was originally recommended for listing by the NOSB.

We did review the TAP, and did not receive any information. Didn't see anything in the TAP that would have changed since then, since they did the TAP. We did receive three public comments prior to the posting of our recommendation that were in support of relisting sodium acid pyrophosphate, and there were no public comments opposed to it. But since that original recommendation was posted, we did receive a comment from PCO that supported removing the material since it was
not considered to be nonessential, which
wouldn't probably be considered new
information since the original TAP was done.
The committee vote at the
committee level for this substance was for
relisting, yes, give, no zero and one absent;
no abstentions or recusals.

CHAIRPERSON MOYER: Thank you,
Steve.

Any questions from board members
for Steve, or comments regarding this
material?

Seeing and hearing none, back to
you, Steve.

MEMBER DeMURI: Thank you.

The last item for sunset for
handling for 2011, another 605(b) substance,
tetrasodium pyrophosphate, or TSPP it's
commonly known as, it was added to the
national list effective September 12th, 2006.
Based on an NOSB recommendation that was made
in April, 2004. And it also has an
annotation, tetrasodium pyrophosphate has the annotation for use only in meat analog products.

It was originally petitioned for use as a pH buffer, and a dough conditioner for use in organic meat alternative products. It's relatively comment, it's GRAS, it has USDA and FDA approval. Had a fairly thorough TAP done on it at the time of listing. And again a review of that did not point out anything that has changed since that original TAP, and the original decision for listing was made.

We did again receive three public comments in support of, and no public comments opposed to relisting TSPP prior to our posting of our original committee recommendation.

Since that time again, PCO made a comment that allowing TSPP should not be relisted because it is not compatible with NOP criterion 205.600(b)(4).

But again not any new information
1 since it was originally listed.
2   So the committee voted on this a couple of months ago, back in September. We voted yes, five, no zero, and one absent, no abstentions. There were four recusals.
3 CHAIRPERSON MOYER: Thank you, Steve.
4 Any questions or comments from board members regarding this particular material? Again, hearing none, is there anything else in your report, Steve?
5 MEMBER DeMURI: I'd like to talk briefly about sunset, 2012. Let me pull out my big stack of papers here.
6 We have a total of 95 materials that are coming up for sunset in 2012, and we have started talking about these at the committee level. We have 19 205.605 color substances that `well be sunsetting in 2012, and we had 22 other 606 items. There are 20 205.605(a) items, and 30 205.605(b) materials.
7 So we have our work cut out for us
over the next year, or year and a half, in reviewing these 95 materials for sunset in 2012. So like I said we have already started our discussions on these. We have split them up into groups and made some assignments. So we are starting to work on these.

CHAIRPERSON MOYER: Thank you, Steve, for that report. Any final questions from board members for Steve?

If not, that concludes the business of the committees in front of this board, and the next item on our agenda is public comment. I will remind the board and the gallery that it is 10:05, so we have 10 minutes to get through all of those comments.

We have 25 commenters. So I'd just remind people that the board does have a lot of work to do tonight on revising our work load for tomorrow, our recommendations for voting. We want to be sure we have some time and brain capacity left for that, not to
detract from people's making their public comments.

I think we will start right away with public comment and get going.

PUBLIC COMMENT

CHAIRPERSON MOYER: First on the list is Will Fantle from Cornucopia, and Richard Siegel will be on deck. If Will is here? I don't see Will.

We'll take Richard Siegel for now, and Kelly Shea on deck.

MR. SIEGEL: Good afternoon. I'm Richard Siegel, a lawyer here in Washington, D.C. But I'm not going to be making any comment. I am offering my time to Kim Dietz. I gave my proxy to Kim Dietz.

CHAIRPERSON MOYER: Thank you, Richard.

If Kim will come to the podium?

Thank you, Kim.
MS. DIETZ: I'll be very brief.

Another materials process issue that I have to do. I was sitting in the back today with the livestock, and realized that you are trying to change some annotations to materials on the National List, and you are calling them technical corrections, as well as clarifications.

So again there are some procedures in place for changing annotations that have been there for a long time, and so I'm just going to read this.

The Livestock Committee's recommendation to change annotations on materials already on the National List is going against the materials process as defined by 7 CFR Part 205 national list petition process, and annotation to materials currently on the National List can only be changed through the petition process.

NOSB's policy manual as well, on page 50, defines the guidelines for a
technical correction. It requires that a technical correction can only be made if there is an error in the annotation between the timeframe of the original NOSB vote and recommendation and the Federal Register notice recommending the material's placement on the National List.

So in order words if there is actually an error made in the typing or the processing of the annotation. So that is truly a technical correction. And we have battled this for years, really what is a technical correction. But it is really just a transfer of information to the Federal Register notice that is wrong.

So if this board votes on the recommended annotation changes, then you are going against the materials process and setting precedent that any annotation can be changed by committee recommendations. And we have never been able to do that.

The materials process has been
established for consistency, and I would suggest that the vote on these materials be deferred until a petition is received. The NOSB does not have the ability to change annotations as a recommendation or a technical correction unless they meet either of those guidelines.

And I can give those to you if you like. But that is all I have to say. And then thank you, Katrina, for your hard work on the document. It's been 20-plus years that we have battled with materials between synthetic and non-synthetic and ag and nonag, and we are getting there, so I thank you very much, and everybody actually.

CHAIRPERSON MOYER: Thank you, Kim.

Chair recognizes Hue.

MEMBER KARREMAN: We asked the program about this, being that we are individual citizens sitting at the table. We were told that we can submit - whether we have
the way we have - to do a clarification,
although the person who said that is no longer
in the program, although the person is in the
room. I don't know if the person wants to
speak to that at all.

MS. DIETZ: I don't know how you
can go against process. If you make this
decision to allow this, then at any time
committees can change annotations and I'm not
sure that's a transparent and fair process.

CHAIRPERSON MOYER: Would
somebody from the program, Miles, would you
like to address that, or someone from your
staff?

MS. FRANCES: I would only offer
a little information that the question was put
to the Office of General Counsel on a number
of these questions and they felt that these
were all the kind of changes that could be
made.

CHAIRPERSON MOYER: That was the
livestock's understanding.
MS. DIETZ: Well, then, it should be in the petition process.

CHAIRPERSON MOYER: Chair recognizes Bob Pooler from the program. If you could come to the podium. Thank you, Kim.

MR. POOLER: I'm Bob Pooler, National Organic Program. Just want to remind the board that there are petition guidelines out there that were published in the Federal Register, that describe that the only way to amend the National List is through the petition process or through sunset. We did not receive petitions for these materials, so we do not have recognized petitions for these kinds of changes that we are going through.

Thank you.

CHAIRPERSON MOYER: Thank you, Bob.

MR. McEVOY: So it sounds like the program is saying two different things, so I think we have to clarify the facts here.

CHAIRPERSON MOYER: I just heard
two different messages here.

MR. McEVOY: I did too. So something I guess we need to figure out and get back to you with one clear message, because --

CHAIRPERSON MOYER: And you need to do it fast.

MR. McEVOY: Yes.

CHAIRPERSON MOYER: Thank you.

Chair recognizes Hue.

MEMBER KARREMAN: I just want to say that we would not have gone through this process had we not gotten a green light from somewhere in the program. Believe me, we would not have undertaken this to present it at the board, put it on the agenda, get the agenda approved, blah blah blah. So obviously I'm somewhat upset to learn this from Kim, but that is the - all I'm saying is that we were going on good word, maybe we should have gotten it in writing. But that is why we did what we did.
Chair recognizes Dan.

VICE CHAIRPERSON GIOACOMINI: In many ways, Miles, if you are running out on this - well, one more thing, though, this is the - I think this would be the exact same situation we dealt with that we had at the last meeting with injectables. So in a way the precedent was already set, I'm sorry. But I'm not sure that that is entirely - I believe that is the umbrella of where all this started from. It was a little different, in that I think that may have been an entirely new listing as opposed to an annotation change. But that was also not doing through the typical public submitted petition.

MR. McEVOY: Bob just said that the injectables was done through a petition process.

CHAIRPERSON MOYER: Chair just recognizes --

MEMBER KARREMAN: I would say
that the injectables that we voted on as a
full board last time was done this exact same
way, came out of committee.

CHAIRPERSON MOYER: Chair

recognizes Bob Pooler from the program.

MR. POOLER: Bob Pooler, National Organic Program. We did receive a petition
from Dr. Karreman on injectable vitamins and
minerals. I reviewed that petition and I did
reject that petition as incomplete. I sent
you that notice, and I believe essentially you
appealed to the program and found another
method to review that petition and at the last
meeting you had a vote on it. That's the
history of that.

So there was a petition for
injectable vitamins and minerals, if you want
to call it that. But anyway, we did have a
petition for that, so that is not setting
precedent.

CHAIRPERSON MOYER: Thank you for
that clarification. Hue can respond, and then
you, Dan.

MEMBER KARREMAN: When that petition was rejected, Bob, I let it go. I did not correct that petition so that it was officially accepted.

CHAIRPERSON MOYER: Thank you, Hue.

Chair recognizes Dan.

VICE CHAIRPERSON GIOACOMINI: In the normal process we did not receive that petition from the program to review as he said. We proceeded with a different method. Under the approval of the program.

CHAIRPERSON MOYER: Okay, chair recognizes Rigo.

MEMBER DELGADO: Just one technical question. We have on the Crops Committee a petition to remove annotation. Our response as a committee was to reject that petition. But we responded with a second follow up, additional annotation. What is the status of that? Is it affected as well given
the new developments?

CHAIRPERSON MOYER: Technically, yes, I believe so. Chair recognizes Kevin for a comment.

MEMBER ENGELBERT: The Crops Committee got approval from the program.

CHAIRPERSON MOYER: Yes, we did.

MEMBER ENGELBERT: To make that change in annotation just like the Livestock Committee did to change these annotations.

CHAIRPERSON MOYER: Miles, this comment is directed towards the program. I believe that we need some clarification on this and some guidance in the next few hours if you could.

MR. McEVOY: Yes, I need some clarification and guidance as well, so we are working on it.

CHAIRPERSON MOYER: Okay, we appreciate those comments, Kim, sort of. No, we want to get this right, and we appreciate that guidance.
Dan, one more comment.

VICE CHAIRPERSON GIOACOMINI:

Part of Kim's statement is the listing - I'm assuming it's also listed that way on the recommendation unfortunately. Again we had discussion of whether this should be listed as a technical correction. And again I believe we got a recommendation from the program that it was okay to list it in that format on the recommendation and the agenda, and that it was no problem.

CHAIRPERSON MOYER: Thank you, Dan.

The Chair will now call Will Fantle to the program.

MR. FANTLE: My name is Will Fantle. I'm the co-director for the Cornucopia Institute. We are an organization advocating for social justice for family farmers. We have about 3,000 members across the country, the majority of whom are organic farmers. We have hundreds of dairy organic
farmers as well, and just to remind the committee of the testimony that was presented yesterday by policy analyst Charlotte Vallaeys, we did support as well a two times a day milking strategy for dairy.

I had some comments about the website first. I am going to leave some comments with Valerie that were unable to be electronically filed by people who had an interest in the livestock issue. And this was disappointing to us. This was not the first time we've heard this, and I'm going to ask you as a board, and ask the staff at the NOB to see if there is some help that can be done or created on this to make it truly an interactive website so that the public can use this. It is very cumbersome, difficult to use. I have said this before, and it inhibits the ability of people to interact with important officials such as yourself.

So I will leave these additional comments on the proposed livestock regulations.
with Valerie; perhaps they can get into the
record.

I want to turn to the pasture
livestock rule, or the livestock rule as we
call it. This is the third meeting now that
this board has had since the draft rule was
released last year. You still have not had an
opportunity to comment on any of its
iterations. Our organization would like the
NOSB to be involved with such an important
rule, particularly since this rule morphed or
changed from what I think was initially
expected by people across the country who were
looking at this, a rule that became much
broader in scope than just a few tweaks to
dairy and on pasture.

So we hope in the future when
important changes come that there will be
allowances made for your input. We think
that betters the function and process.

I'm going to read a portion of a
letter that we sent to Secretary Vilsack last
1 week regarding the pasture or livestock rule.
2 We are delighted it's out, and moving forward
3 from USDA. We want to see improvements made.
4 But we think that given the gravity of the
5 changes that were initially proposed that it
6 would – and this is what we asked Secretary
7 Vilsack - we respectfully request that you
8 would consider releasing this as an interim
9 final rule, allowing the public to have one
10 last opportunity for input. This approach
11 would allow for the immediate implementation
12 of the rule.
13 Now I know that this board
14 probably can't take any action on that. I'm
15 speaking as much to staff here hoping that
16 they can encourage others at the USDA to
17 approve this as an interim final rule.
18 We are suggesting this because of
19 what happened last year. The rule, and I'm
20 going to read again a portion of this, the
21 draft rule was nearly universally rejected.
22 Whatever the department now
releases will - we assume - be materially
different than the draft version. We believe
that this experience suggests that it would
appropriate to have one last opportunity to
critique and tweak if necessary the rules.

Those of you who are close to
dairy and those of you who are interested in
organic sitting on this board know that we
have a crisis in the dairy community across
this country, both in conventional and
organic, farmers are truly stressed by a
decrease in prices. And it's our contention
that in organics much of that surplus that is
occurring and causing the diminished price in
organics is due to the confined animal
operations that we've been talking so strongly
about being in violation of the rules. So we
think that their milk is helping to depress
the prices that ethical family farmers who are
following the organic rules are now being
forced to suffer under.

So I appreciate your indulgence in
this. I want to offer one last comment here, and that is for the departing members on this board. We appreciate your service. I've talked to a number of you; I know how much work is involved in this, and it's a challenge for you to do this, to take time out to do this in your own lives, and we thank you for that service.

CHAIRPERSON MOYER: Thank you, Will. Questions from the board for Will? Dan?

VICE CHAIRPERSON GIOACOMINI: Thanks, Will.

Let me just say that I think probably to a person on this board we echo your feelings on the occasional frustration with regulations dot gov. I will say though that if you call the help desk, they're really nice, because I had to do that in order to be able to get on and review the document.

MR. FANTLE: That speaks to how difficult it is.
CHAIRPERSON MOYER: Any other questions or comments for Will?

Thank you, Will.

Could Kelly Shea come to the podium, and Joe Dixon on deck?

MS. SHEA: Hello, Kelly Shea with White Wave Foods.

In light of the fact that most of my comments have already been spoken by my colleagues, I will cede my time back to the board, and I will just thank all the members of the board for their incredible hard work, and especially those of you who have put in a great five years.

So thank you very much.

CHAIRPERSON MOYER: Thank you for coming to the podium. We appreciate your time.

Joe Dixon? I thought for a minute you were running away. It's too late for that.

MR. DICKSON: I was counting on a
few more speakers while I finished writing my
comments.

My name is Joe Dickson. I am
quality standards coordinator of Whole Foods
Market. I'm also holding a proxy from
Margaret Wittenberg who was originally
scheduled for this slot, but I don't think I'm
going to use it because it is already after
5:00.

Good evening, members of the
board, NOP staff, and the organic community.
Thank you very much to all the outgoing board
members for all your hard work these years,
and for those of you who aren't leaving I'm
very excited to be joining you in the spring.

Congratulations to Miles on his
new position and to everyone at the USDA for
showing more support for organic and local and
sustainable agriculture in the first year of
the administration, and we've seen it a long
time. It's incredibly uplifting to be a part
of this community in this room at this time.
Since this is my last chance to
give public comment until the beginning of
2016, I thought I'd just use the opportunity
one last time.

First off on the personal care
products recommendation we heard from a lot of
commenters yesterday that noted that the
landscape of organic personal care claims is
sort of a wild west. It's very haphazard and
unregulated, and we see products in stores
making all kinds of organic claims with
varying levels of organic ingredients and
oftentimes very little substantiation.

We know that there is some
potential for further exploration of what
federal agency has the jurisdiction and the
teeth to regulate this. We believe very
strongly that some federal agency needs to
regulate organic personal care claims, and we
hope that the NOB, the NOSB, this community,
the industry, will work together and continue
forward momentum to figure out what path we
need to take to get to a place where organic personal care products are regulated.

Our shoppers don't expect to walk into the personal care aisle from the produce aisle and have to deal with a different definition of organic. I suspect very strongly that other consumers feel very much the same way. It's a very basic problem with the market that does need to be addressed, and I look forward to working with everyone who is interested to get to where we need to get on that.

On retail certification, we also heard a lot of really good comments on that issue yesterday, and support specifically the position of the CCOF, Oregon Tilth and the Organic Trade Association. In general we believe that surveillance, enforcement and education of noncertified and certified retailers would support organic integrity in the industry far better than focusing only on voluntarily certified retailers who are
already under the supervision of a certifying agent.

The certifying agent for a certified retailer is responsible for visiting the stores, evaluating compliance, and in our experience, does a very very diligent job of keeping us on our toes and making sure that our stores are in compliance.

The recommendation asks a series of questions about signage and label claims that we feel are already answered in the rules. There are questions that we have asked and answered with our certifying agents since 2003, and the answers are there.

We don't believe that there needs to be some sort of proscriptive guidance that is focused on retailers. Other than the fact that retailers are exempted from the certification requirement, there is no other basis in the rule that differentiates retailers from any other type of handler.

The rules about commingling,
contamination, documentation, all that stuff is in there, and it's taken some teasing for us as a retailer to make sure that we are in compliance. And it's a lot of work. But the answers are there.

However we do agree with the board or the committee that the certified organic retailer plan does need to be clarified. There are stores out there that have one department certified that we see making certified organic retailer claims that seem to apply to the own store. In our own stores actually every department is certified, and we do claim to be a certified organic retailer. But we feel substantiated in doing that, because we've had every department that handles organic food get certified.

However again there is no reason to single out retailers. The same issue could apply to a certified farm, a certified organic warehouse, a certified organic soup factory. There are all sorts of claims out there that
could apply to an entire operation, and we feel it would probably be more productive to come up with a general recommendation for that type of plan for any type of operation, and not again just focus on retailers.

On animal welfare, consumers expect that organic meat and dairy products come from animals that are treated humanely and allowed to fulfill their natural behaviors. We totally support the fact that this is coming to the forefront of the NOSB agenda, and we support working on the issue.

The current recommendation which we detailed in our written comments which were acknowledged today, the recommendation as it was originally advanced requires substantial clarification and refinement, in a number of areas. We covered those in our comments, and we still feel very strongly that there are a number of stakeholders on this issue that are not here at this meeting.

As you guys noted yesterday, there
were entire categories of producers such as swine producers that didn't comment at all. Which could have been because they weren't aware of this recommendation. We feel that there continues to be an opportunity for a larger stakeholder group of animal welfare advocates, every producer group, retailers, to at least weigh in. And we are not suggesting that the process be bogged down over several years, and continually discussed. But we feel that there still is an opportunity for some sort of a multi-stakeholder group to take on this issue, and it shouldn't be rushed.

I also just passed out - and I apologize we didn't get these in before the discussion today - our comments on bivalve mollusks. That is an issue where we totally support the board's recommendation, with a few opportunities for clarification that will be in our written comments that we believe would make that recommendation much clearer. But in general it's very good that this issue has
been taken up, and we do support the  
recommendation overall.  

And that's all. Thank you very  
much for your time.  

CHAIRPERSON MOYER: Thank you,  
Joe. Any questions from the board or  
comments?  

MEMBER SMILLIE: While I agree  
with you, Joe, on your statement that  
basically the processing and handling parts of  
the regulation adequately cover retailers, I  
think the other part of your statement that  
you've managed over the years working with  
your certifying organizations to deal with it  
and get a really clear understanding, I think  
that is what we want the program to do in its  
guidance documents for those certifiers and  
those retailers who haven't had perhaps your  
experience in interpreting processing and  
handling regulations that are in the  
regulations to specific retail things.  

So I think in a way, certainly in
the macro, I agree with you. It's already covered. But I think the devil is in the
details, and that you've had the experience,
you've worked it out and defined it, and what we just want is for the NOPs through all the
public input to just put that in their guidance document.

MR. DICKSON: And I totally agree. And if there are areas where it seems that different certifiers are interpreting the regulations differently for different retailers, that does sound like an opportunity for some clearer guidance from the program.

CHAIRPERSON MOYER: Chair recognizes Kevin.

MEMBER ENGELBERT: Hi, Joe, welcome aboard.

MR. DICKSON: Thanks.

MEMBER ENGELBERT: I'm a little troubled by your comments that because the swine growers or any other animal operation isn't represented here that we need to
postpone what we hoped to accomplish. This recommendation has been out long enough that we believe that if there was tremendous concern about it they would be represented here, and we are concerned about the delay of such important rulemaking that postponing for another six months would apply. Because as was mentioned earlier, this still will have to go through an ANPR; there still will be a lot of time for public comment; and quite frankly because they aren't here we don't look at that as a justification for saying, oh well, I guess we'll have to wait until they decide to come and express their concerns.

MR. DICKSON: And I think the fact that this board meets every six months and if something gets postponed that means it won't be considered again for another half a year, and I totally agree with what you are saying. Our hope is that if this moves forward as part of the rulemaking process, that we all reach out to make sure that any
voices that might have a perspective on the issue are heard from. And ideally it would have included more of a multi-stakeholder group to begin with.

CHAIRPERSON MOYER: Chair recognizes Hue.

MEMBER KARREMAN: Yes, welcome to the board, Joe, and you will be here getting - you can get the questions next time you're here, and when I'm at the podium you can nail me.

I'm sure you all will. Fair is fair.

I guess - I lost my train of thought, sorry. But you know, with all the stakeholders and over a year's time, I just don't see - I mean they had - there has been input. I mean we have given from last spring - it's amazing, this is what I want to say actually - you know, I guess we really whacked the hornet's nest on this one, because we really got a lot of input from the public on
this recommendation, because it's a recommendation. It seems when there is a discussion document, you get some people interested in it, but they know nothing is really going to move, kind of like, yo, everybody we are going to do something, but you are not really doing it until there is a recommendation like we have.

And you know the process is the process, and I'll just reiterate what Kevin said. There is going to be an ANPR. This whole thing for animal welfare at this meeting if it passes out of this meeting - I don't know if it will or won't - but if it does, just step one. There is a lot more to do. So there will be a lot of time for more input. We are just trying to lay the foundation to get the bar higher.

CHAIRPERSON MOYER: Thank you, Hue.

Any other questions or comments?

Bea?
MEMBER JAMES: Welcome to the jungle.

MR. DICKSON: Thank you.

MEMBER JAMES: I just wanted to say thank you for the comments that you submitted, and one of the things that I'm really looking forward to is kind of passing off that guidance document to you, because of your depth and breadth and experience - I didn't mean it that way - well kind of - because of the depth and breadth of experience that you bring with the magnitude of certification that Whole Foods has done throughout the entire store is really going to add a lot of value to helping to educate all the other retailers out there.

And I think that the recommendation is more of an expose on some of the struggles that are happening in some retail formats that maybe don't have that depth and breadth that potentially - that obviously Whole Foods has got. So I think
that you coming in is excellent timing, and I hope that you will reconsider your statement around the focus on retailers, although I do see that restaurants and probably some other venues that could benefit as well if you broaden that scope, but to grow retail certification is the benefit of creating a guidance document that will serve all retailers so that there is kind of a layman's document out there to help with guidance and understanding.

And I really truly do look forward to your work on that. I think you will do an excellent job.

CHAIRPERSON MOYER: Thank you, Bea. Thank you, Joe, appreciate your time.

The board will call Jim Riddle to the podium, Pat Kane on deck.

MR. McEVOY: I apologize. It won't take long. I apologize for not knowing the process, and just want you to know that the process is important, and I will know
this next time.

But I think what I understand is

that the excipients, that recommendation is

okay because it is a clarification of an

existing recommendation, but the other ones

would require a petition, and I think Rick can

explain it a lot better.

CHAIRPERSON MOYER: Richard, if

you could state your name and position for the

transcriber.

MR. MATHEWS: Richard Mathews,

former with the NOP, now with NOP Solutions.

Anybody that needs help, I need cash.

Hue is correct. On the excipients

I did tell him that he would be able to go

forward with this one, because what happened

was that there was a petition on excipients.

It went through the board; it went through the

rulemaking process. During the comment period

we received no comments that said anything

about our missing APHIS. But after the rule

came out in final form it was brought to our
attention that some of the drugs that are used 
on livestock were missed, and those were the 
one from APHIS, because the annotations that 
put - that states what excipients are allowed 
 inadvertently missed mentioning APHIS, because 
it was intended, excipients was intended to 
cover all drugs, but because of the way the 
annotation is worded it has excluded all of 
the drugs that are actually approved by APHIS. 

So the intent was to go ahead and 
fix that problem. So it is a correction. 
It's a correction to make it expansive and 
cover all of them which was the original 
intent through the petition process. 

Now on the other ones, the 
xylazine for example, that would be a change 
and you need a petition for that. 

CHAIRPERSON MOYER: Chair 
recognizes Hue. 

MEMBER KARREMAN: Even though 
it's already on the list, and it's an 
an annotation change, it's been reviewed. I mean
I know what you are saying, but it did have a full TAP, went through the FDA. You know all about that, Rick.

MR. MATHEWS: In that case somebody should send in a petition saying we need to change that annotation because, and tell us why it needs to be changed. In the case of the excipients you weren't changing the annotation, you were fixing an oversight. In the case of the excipients you are actually changing the substance in the annotation.

MEMBER KARREMAN: So let's just say then, what was presented and posted but coming from a private citizen, a board member who is also a private citizen, be considered as a petition? Do I have to go through a whole --

MR. MATHEWS: You would have to go through the regular procedures. Everybody that has come up here has been right. I mean Bob has been right, Valerie has been right, you've been right. Everybody is right, but
they are talking about different substances.

So in the case of the excipients, what you are doing works. In the case the other substances you need to be following the procedures that Bob laid out and Kim laid out.

MEMBER KARREMAN: What I'm asking, just briefly then, what was posted for xylazine and chlorhexidine, if that gives the reasons for everything, that could be a petition? I mean resubmitted.

CHAIRPERSON MOYER: If you go through the process.

MR. MATHEWS: Yes, it needs to go through the process. But now you need to talk to Bob on that. I can't speak for the department.

CHAIRPERSON MOYER: The chair recognizes Dan.

VICE CHAIRPERSON GIOACOMINI: Okay, so I understand where we stand on the chlorhexidie and the xylazine. On the excipients, we are making two minor changes.
1 You said one is okay. Is the second one okay?
2
3          MR. MATHEWS:   I'm really only
4 familiar with the APHIS part.
5
6          VICE CHAIRPERSON GIOACOMINI:
7 We're changing drugs to drugs or health care
8 products.
9
10         MR. MATHEWS:   That is going
11 beyond the original scope I believe.
12
13         VICE CHAIRPERSON GIOACOMINI:   So
14 we can only make the APHIS change at this
15 point in time?
16
17         MR. MATHEWS:   Off the top of my
18 head I would say that in the case of the drugs
19 and health care, you are expanding the
20 annotation. In the case of just adding APHIS,
21 you are clarifying the original intent, and I
22 wouldn't think you would need a petition for
23 that. But if you are going to expand it
24 beyond drugs, then you are going to have to
25 petition to have the annotation amended to add
26 the health care products.
27
28         VICE CHAIRPERSON GIOACOMINI:
Okay. When we were setting up the agenda, I lost the argument that I did not feel that vaccine petition should be listed as under the category of either materials or technical corrections or clarifications; that it was a change in the regulation at 105.

MR. MATHEWS: And that is my understanding as well.

VICE CHAIRPERSON GIOACOMINI: So even - so contrary to the way it's listed in the agenda, it is still okay to proceed with that?

MR. MATHEWS: Yes. Because you are not changing 603. You are actually changing 105. Correct?

VICE CHAIRPERSON GIOACOMINI: Just asking clarification.

MR. MATHEWS: Well, by changing 105 you are not changing the National List. The listing in 603 remains the same.

VICE CHAIRPERSON GIOACOMINI: That was my - that's why I didn't want it
listed there.

MR. MATHEWS: To put it here as a materials annotation is actually an error in the agenda.

CHAIRPERSON MOYER: That would be an error. Chair recognizes Kevin.

MEMBER ENGELBERT: Dan asked the question. I wanted that clarification. I didn't think that was a change in annotation.

CHAIRPERSON MOYER: Thank you, Kevin.

Chair recognizes Hue and then Tina.

MEMBER KARREMAN: I guess I was just wondering. For those six years that those medicines were going through, Rick, we didn't at all think about USDA stuff. And oh my gosh, afterwards, wow, gee whiz, what a shame. Just to play devil's advocate against what I want to go through, just for a clear process, was it actually - not an oversight, but if we add this APHIS materials, wouldn't
that be - was that part of the intent?

MR. MATHEWS: Well, you were the petitioner.

MEMBER KARREMAN: I was with a couple of people.

MR. MATHEWS: Was that the intent?

MEMBER KARREMAN: Yes, that was the intent.

MR. MATHEWS: All right. You just answered your own question.

CHAIRPERSON MOYER: To stay on time, let's move on. Tina, we have a lot to go through here today.

MEMBER ELLOR: Quick like a bunny, how does this affect the peracetic acid situation?

CHAIRPERSON MOYER: I'm sorry, I didn't hear that question.

MEMBER ELLOR: How does this affect the peracetic acid? Because it's the same issue.
CHAIRPERSON MOYER: It's a question that Rigo brought up. I don't know, Richard, are you prepared to answer that question, peracetic acid, when we are changing that we also need to adjust the annotation of hydrogen peroxide, because if we vote the way the committee voted by default, hydrogen peroxide would fall off the list, and that is not our intent. But because peracetic acid is in formulation with hydrogen peroxide, we feel the need to change the annotation to hydrogen peroxide to keep it on the list. We don't want to vote - I'm not speaking for the board, I'm speaking for the committee.

MR. MATHEWS: So you had a petition to change the peracetic acid.

CHAIRPERSON MOYER: To expand the use of peracetic acid.

MEMBER ELLOR: To remove the annotation.

CHAIRPERSON MOYER: To remove the annotation.
MR. MATHEWS: To remove the annotation from peracetic acid.

MEMBER ELLOR: Right, and we decided what we would do is change the annotation on hydrogen peroxide and peracetic acid instead.

CHAIRPERSON MOYER: If the room could please remain quiet.

MR. MATHEWS: To do both instead of just the one.

CHAIRPERSON MOYER: Right.

MR. MATHEWS: One isn't dependent on the other?

CHAIRPERSON MOYER: No, they are.

MEMBER ELLOR: They are.

CHAIRPERSON MOYER: They are intertwined.

MEMBER ELLOR: They can't be separated.

MR. MATHEWS: In that case, since you had a petition to do the peracetic acid, and you think or you believe that the two are
related, I would suggest - but again you may
want to turn to Miles on this - my reaction
would be, you go ahead and proceed with it,
because the attorneys would let us know
whether or not we could do it.

CHAIRPERSON MOYER: Yes, the door
was opened.

MR. MATHEWS: I've got to break
the habit of the "we" word, though.

CHAIRPERSON MOYER: Briefly, if
we can, the chair recognizes Valerie from the
program.

MS. FRANCES: This very same
question came up with the petition to expand
the use of tetracycline. And it was then -
there was a consult with OGC on that question,
whether you could go ahead and expand the use
of tetracycline in that case, and also add an
expiration date which was not petitioned to
do.

CHAIRPERSON MOYER: But the door
was opened.
MS. FRANCES: The door was opened.

CHAIRPERSON MOYER: Chair recognizes Dan.

VICE CHAIRPERSON GIOACOMINI: I respectfully disagree with you, Valerie. The situation here is that they are recommending an annotation change on something that wasn't petitioned, correct? We are only on the peracetic.

MEMBER ELLOR: Because of the reclassification of peracetic acid from inert to active, they are inextricably linked; they cannot be separated. One cannot exist without the other.

VICE CHAIRPERSON GIOACOMINI: But you are recommending an annotation change for what ingredient?

MEMBER ELLOR: Hydrogen peroxide.

VICE CHAIRPERSON GIOACOMINI: So they are recommending an annotation change for a substance that was not petitioned or part of
the petition.

CHAIRPERSON MOYER: It is part of a petition.

MR. MATHEWS: You just have to explain it real well in your recommendation to the department, and they will go through the rulemaking process, and the attorneys will let you know whether or not you can.

CHAIRPERSON MOYER: Thank you, Richard, I appreciate your time.

Moving on, I apologize, Jim, and appreciate your patience with the board. Jim Riddle and Pat Kane on deck.

MR. RIDDLE: Jim Riddle, University of Minnesota, and I offer my comments on my own behalf, and as a recovering NOSB member, I would like to add for personal privilege for a moment to say a few words before I start my comments, Mr. Chair.

CHAIRPERSON MOYER: That permission is granted.

MR. RIDDLE: Thank you.
Bea, Julie, Rigo, Hue, and for the record, Gerry, wherever you are, I served two years with all of you, and I just want to - it means a lot to me to be here today to thank you for the five years of effort that you all have put in. Everytime I come to one of these meetings I am just blown away by the depth of the issues that are considered, and by the thoughtfulness that this board over the years - different people come and go - but thoughtfulness that this board and the respect that this board shows for each other and for the people that come before you. So I just want to thank you for that service, and I also want to thank all the other board members, and the incoming board members. It's great to have four new appointees here - I know there are five coming on, but four of them are here on their own dime just getting up to speed so they can hit the ground running. And I think that is a really good sign.

I also want to thank Valerie for
sticking with the board, and all that you have
done to keep things flowing and keep things
moving.

I want to thank the program, and
Miles, congratulate you and look forward to
your leadership. And thank Rick, maybe he
left, and wish him well in his retirement.

And I did bring a little something
to share with the program, and this is a
product that my wife purchased October 20th at
the Wal-Mart in Winona. It's HOMS brand Bio
Block organic pest control, big words, organic
pest control - oh, look a USDA organic seal on
this product. Not a single organic
ingredient. Not a name of a certifier. So we
have problems beyond personal care and some
others. So I'll be turning this over to the
program to take a look at.

Also on my flight here yesterday
on US Air in the flight magazine BMD organic
honey throat drops, USDA organic seal on this,
and I'm assured - it doesn't say who it's
certified by, hopefully it is, because it is a food product more or less – but what are the honey standards? We didn't certify honey, but to what standards?

So that just reinforces – I know one of the priorities for the program is moving forward with the aquaculture standards. But just to pass these two things on. Enjoy.

Okay, now for my comments. The organic agriculture and the standards themselves are the very embodiment of the precautionary principle. Look before you leap; know the consequences to the maximum extent possible before adopting new practices or new inputs.

I find that the Livestock Committee's recommendation to allow GMO vaccines with no restrictions, no technical review, no consideration of OFPA criteria, and very little time for engagement of the public, totally turns the precautionary principle upside down. Throw precaution to the wind.
Allow any of this new class—these are novel recombinant substances—into organic agriculture without performing due diligence, the OFPA criteria.

There was just talk about whether this is a national list issue or not, and I'd like to remind you that the National List is empowered by Section 105. That is the holy grail. The National List is a list of exceptions that are only allowed because 105 allows their consideration. And that is where the GMO, the excluded method vaccine language, appears. So you know, you have to consider it as a material recommendation, which is exactly what the USDA has said. And to me that means that the board must consider the OFPA criteria to have both a legally valid and a defensible recommendation that stakeholders can support.

What is the potential for detrimental interactions with other substances? What are the toxicity mode of action, breakdown products, contaminants,
persistence, concentrations in the environment? Probability of environmental contamination during manufacture or use, misuse, or disposal. Possible effects on human health. Effects on the agro-ecosystem. What are the available alternatives? And are these substances compatible with organic production?

None of these have been addressed in the committee's recommendation. There has been a little more discussion today of some of the alternatives, but not put in the context of the universe of vaccines, and how few of those are actually even genetically engineered currently.

The committee's recommendation did not - it makes a passing reference to the preamble, but I find it very helpful to actually read the preamble, which is what I did when the rule came out. I read the language of the rule, and the preamble, and it's always been very clear to me that the
only opening for GMOs is the allowance for consideration to place them on the National List for vaccines. They have never been allowed.

And when you read this language from the preamble, based on comments received, and because of the potential impact of the prohibition of the use of excluded methods is still uncertain, we have created the possibility of Section 105(e) for the NOSB to exercise one very narrow exception to allow use of animal vaccines produced using excluded methods, but only if they are explicitly approved on the National List.

We believe the issue of animal vaccines requires further deliberation as most appropriate to consider it through the National List process which mandates review by the NOSB and technical advisory panels.

Consideration of animal vaccines produced using excluded methods is appropriate for the National List review process, because
animal vaccines we believe are most appropriately considered synthetic material. That is what USDA said. It's pretty unequivocal, and there was some talk today about a middle ground, potentially putting some kind of commercial availability or order of preference language. But we have commercial availability in 606 and in seeds, and it's problematic. And it becomes very subjective of what is a good faith effort. And so I don't see that really as workable. But I think the middle ground already exists, and a win-win; it's not lose-lose, Kevin. There is a middle ground which is for the board to request for these substances, or the classes of substances you identify in the review paper, that those classes of GMO vaccines be - undergo a full technical review, build stakeholders with you, be fully legal, and get this information about this technology transparent and out in the public. It shouldn't be based on one review
paper written by authors in Australia and Europe and with no context of use in organic agriculture.

I just think that is rushing things forward. We are not sitting at a crisis right now. This is a very significant change to the rule. USDA has said, organic prohibits GMOs. If this moves forward, it will change it to in marketing terms, organics prohibits most GMOs. And that's not a very strong stand, and I think we are looking at the possibility of consumer backlash going down this road. Thank you.

CHAIRPERSON MOYER: Chair recognizes Kevin.

MEMBER ENGELBERT: Before we get into your comments, my first question is, you say you are recovering NOSB member. How long do you expect the recovery to take?

MR. RIDDLE: I think it's for life. One day at a time.

CHAIRPERSON MOYER: Did you have
any additional questions, Kevin?

The chair recognizes Hue.

MEMBER KARREMAN: Thanks for your comments, Jim. I kind of had an idea of what might be coming from your written comments. And I truly appreciate them, and it is you know, it's a tough position we are in. Because my question to you is, what do we do with any of the animals that have been treated over the last seven years with these vaccines that technically are prohibited? I guess they should all be identified and taken out of production, because they have to be permanently removed at this point, and how do we deal with the fact that they are already being used, and the consumers haven't said anything? I understand totally what you are saying about, you know, the GMOs, like well, organics might allow some. That's not cool. But you know in reality out in the barns, out in the countryside, I know they have been used, and I don't know to what point, but how
do you address that, because that is reality.

MR. RIDDLE: Well, I think with education and more information, where there are alternatives, different products to meet the same vaccination, you just say you have been using this. It's not appropriate. This is new information that has come to our awareness, and you shift, but are there some that there are no alternatives? I don't think we know that really yet, and are they being used in organic animals where there are absolutely no alternatives? I mean those are the ones to target, that get reviewed either individually or those classes as you have identified, and move them through the process.

It may feel satisfying to vote on this now and think you are done with it. But you are not done with it. It's just going to start rulemaking, no matter what you do. So to call for a full review, it gets all of us together, rather than a risk of significant potential backlash.
But I think through education of producers, of inspectors, of certifiers, and not a heavy hand, because it's not like someone has been trying to cheat. This is not a willful violation. This is not fraud. This is basically an oversight, and to keep that in perspective.

CHAIRPERSON MOYER: Chair recognizes Dan.

VICE CHAIRPERSON GIOACOMINI: Thank you, Jim. I just want to take what you just said a little bit and redirect it back to the program. Because this is another example of something that Miles is going to have to look at and have the program review. The evolution of the petition process is single substances. I don't know if they would readily accept a class of vaccine petition. Number two, the nature of the process and the things requested in that petition process is tremendously biased to the manufacturer. The users of something like
this will never - they are the ones that have
to make the petition saying I need that
vaccine, or I need that group of vaccines -
they will n ever get the information that is
requested - currently requested in the
petition process for it ever get through the
program and get to this board. It just won't
happen.

I know I have pounded the table a
number of times, but we have two huge biases
that are - one is the nature of, that was one
of the problems we had with the injectables,
is they were not going to - what they were
insisting on for a group petition was just
absolutely unwieldy, and the information they
were requesting coming from users or
representatives of users as opposed to
manufacturers, was information that they were
just never going to get it.

So that is another one of those
things that, if this is the way we have to go,
is the producer coming in and saying I need
this vaccine, the petition will never get out of the program.

MR. RIDDLE: If I could respond, I understand your concerns, Dan, and I mean you do have someone coming off the board who is extremely knowledgeable and passionate about this who maybe could represent those producers in helping put together a petition that is targeted at meeting their needs. So I don't see that in this instance as being a huge obstacle.

And there have been classes of substances considered. You bring up the vitamins and minerals, but also amino acids were petitioned and considered as a class, and it came out that methionine was the one that moved forward, but it started off as a class.

So it's not at all unprecedented that that happened.

VICE CHAIRPERSON GIOACOMINI: It would have to involve that.

MR. RIDDLE: Well, it's gone
either way. I would say. I wouldn't say it's evolved.

CHAIRPERSON MOYER: Thank you. I just want to remind the board that at this rate we'll be here until 11:00 o'clock at night, judging by the numbers I'm looking at.

So --

MEMBER KARREMAN: As far as a petition like a person or a farmer petitioning, I agree completely with what Dan said. The reason that the petition for whatever it was that I submitted to Bob, injectables, before got rejected was because let's see there were about 35 manufacturers of injectables that all have CBI or confidential business information, old patents, the new ones you can't get it. I mean it was just humanly impossible to do that petition. I'm just telling you that.

So I don't see it any easier for this particular group of products either.

MR. RIDDLE: If you look at the
language in 105, though, it's provided that the vaccines are approved in accordance with 205.600. It doesn't say individual vaccines, so you can certainly read the regulation either way.

CHAIRPERSON MOYER: Thank you, Jim, we very much appreciate that.

Again, I just want to remind the board that just doing some simple math here we calculate that at this rate we will seriously be here at 11:00 o'clock at night. That is how many people we have to go. We've gone through four in an hour. So.

Pat Kane to the podium and Sam Welsch on deck.

MS. KANE: Hi, my name is Pat Kane, and I am coordinator of the Accredited Certifiers Association, a non profit organization representing 40 USDA accredited certifying agencies.

I would like to thank the NOSB for the opportunity to comment today, and for all
the work that you folks do on behalf of the
organic community. And thanks especially to
all of you who are not going to be here at the
next meeting for your work.

We would like to congratulate
Miles on his appointment as the program
director, and also extend our willingness to
NOP to help with anything that we can help
with.

We also thank the NOP for their
upcoming participation with our professional
development training for the certifiers to be
held in January.

ACA did submit comments to the
NOSB Livestock Committee regarding the animal
welfare recommendation, and we very much
appreciated the work that you folks did on
this work, to start it moving. We believe the
document addresses a very important aspect of
the organic standards, and when complete will
provide a very good background with which to
address the animal welfare requirements.
We also spent the last few months working with our members to draft a guidance for organic poultry production. As part of the poultry work of the ACA poultry outside access working group we did create a comparison chart of various stocking densities, looking at different standards for who required beak trimming, toenail clipping, wing clipping, lighting requirements, perch requirements and pasture.

I can forward the chart to the board if you think that would be helpful, and any further work you might do.

We appreciate the Livestock Committee's willingness to incorporate portions of the ACA guidance document into the livestock recommendation. However we are also concerned about the process used. The major revisions done today also need public comment, which we would hope would result in recommendations that would be more widely accepted and supported.
Thank you to the committee for initiating this work. We hope when complete this recommendation will provide the needed clarity regarding the issue of animal welfare.

At this time Valerie has distributed to you a draft of our organic apiculture guidance document that we have also been working on. Various members of the ACA spent a lot of time and effort to pull this together. It was based on the original NOSB recommendation for 2001, but we did expand it somewhat.

So we hope that the board or the NOP can begin work on this topic, because there is organic honey being marketed, but without definitive standards.

So we would urge the board and livestock committee to begin work on the topic in the near future.

I'd also like to remind the board of the ACA's WWW606 organic dot com website.

This is the organic alternatives to the 606
listings.

We have a few up there. We are getting more everyday, so if you are looking for alternatives and want to know what is currently available in discussions about sunset and all that for 606 materials, please monitor the website. Hopefully we'll be adding more listings.

Thank you for the opportunity to provide comments.

CHAIRPERSON MOYER: Thank you, Pat.

Any questions or comments from board members for Pat? Hearing or seeing none, we appreciate your time.

If Sam Welsch is in the room and would come to the podium.

Joe Casey? And Carissa Gigliotti on deck.

MR. CASEY: My name is Joe Casey.

I'm director of North American Lecithin at Solae LLC. Solae is a manufacturer if
nonorganic bleached doiled soy lecithin sold
for use in products labeled as organic or made
with organic.

I have given Ms. Frances copies of
my prepared statements, but after sitting here
today I decided to deviate from them a bit.

I am aware of the decisions made -
of the decision made during the May meeting to
move deoiled lecithin to 205.606, and I am
also aware of the decision to remove lecithin
bleach from 205.605(b).

But by doing this you are actually
disallowing the use of deoiled lecithin,
because all commercially available deoiled
lecithin today is currently lightly bleached
as an anti-microbial step. Thus if you delist
lecithin bleached from 605(b) without
simultaneously having deoiled lecithin bleach
listed in 606 or 605(b) organic food producers
will not be able to use deoiled lecithin, and
as you have already learned there is currently
no functionally comparable alternative.
After those deviations, I will -

the rest of the time I have I will move back
to some of my prepared statements.

Solae would like to emphasize the
significant differences in form and function
between deoiled lecithin and what is being
marketed as powdered organic lecithin, a
distinction which we feel may not be clearly
defined.

The functional portion of lecithin
consists of a complex mixture of polar
molecules, primarily phospholipids. This is
the basic - can be considered the active
ingredient in the lecithin, or AI.

The purpose of the deoiling
process is to concentrate the active portion
of the lecithin or AI. The minimum AI for
Solae or any deoiled lecithin is 97 percent,
while the AI of organic liquid lecithin is
typically no greater than 65 percent; that is
the liquid product.

Powdered organic lecithin is just
1 liquid organic lecithin that has been plated
2 onto some form of carry out. Thus powdered
3 organic lecithin does not undergo the deoiling
4 process, and the functional portion of the
5 lecithin is even further reduced even less
6 than liquid lecithin.
7
8 Aside from the inability of
9 currently available organic lecithin
10 ingredients to function similarly to
11 nonorganic bleached deoiled lecithin, we
12 further question the compliance of these
13 organic lecithins with US food labeling laws.
14 We have reviewed several product
15 specifications for organic lecithin products
16 that list the hexane insolubles as less than
17 1 percent. Title XXI, Part 184.1400 of the
18 Code of Federal Regulations, however, states
19 that the food chemicals code of specification
20 for lecithin must be referenced to determine
21 if an ingredient meets the requirements to be
22 identified as lecithin.
23
24 The FCC specification for lecithin
lists the requirement for hexane insolubles to be less than point three percent, not less than 1 percent. In order for lecithin to be truly called lecithin or declared as lecithin in an ingredient statement, the additive must meet the food chemicals code of specification.

So now in the interests of time I'll conclude my remarks.

CHAIRPERSON MOYER: Thank you very much, Joe.

Are there questions for Joe regarding his comments? Any questions or comments for Joe?

Hearing or seeing none, appreciate your time. Thank you very much.

Carissa.

MS. BROWN-ROSEN: I tried to get her to talk to you about materials, but she really wouldn't do it. I'm here again. I have a proxy.

CHAIRPERSON MOYER: So if you would just state your name.
MS. BROWN-ROSEN: Emily Brown-Rosen, Pennsylvania Certified Organic, I'm the policy director.

CHAIRPERSON MOYER: Thank you very much.

MS. BROWN-ROSEN: I'm going to talk about classification of materials. I do have one small comment about bivalves, but if I run out of time you can also ask me about it.

We support the proposal that's written that we reviewed, and our comments, we submitted comments in writing in support of the committee.

Now I'm not in support necessarily of some of these proposed changes we have been talking about. I think that would radically change my perspective. But particularly we were in support of the whole extraction idea, limited use of synthetics and extraction, provided there is no chemical change. That's fine, that's historic, that's the way things
have been.

We're not in favor of adding the criteria if a synthetic on the National List is used and it affects change, that it's somehow not synthetic. You know we don't care if it's on the list or not; if you are using - if you are causing a chemical change with a synthetic substance it's synthetic. So that's - I would just invite you to hold off on that additional change. But otherwise I was really pretty pleased with the document. We really agree with the principles. I think Jessica Walden from QAI provided some really good suggestions about modifying the heading of 605. Perhaps if you could call that nonorganic, that could be the home temporarily for things that are derived from agricultural substances, have been changed chemically, and they need a home to go to on the list.

And then later if they are able to be made organically they can just be petitioned to be removed. So I think that may
handle that little paradox.

We agree also with Tilth, the critical details need to be worked out, and the guidance, particularly the decision trees. I also got kind of lost and didn't necessarily follow the rationale on some of these examples here. So there is more work, but basically the way it's written I'm very happy. I think it needs to go forward so we can do the next step of the work.

We agree, many substitutes can be agricultural yet processed in a way that renders them synthetic, and we believe in the case of food ingredients these should specifically be reviewed and approved for use as synthetics that appear on 605.

We agree also that the annotations are useful for clarifying which forms are required, and appreciate as much detail as possible when substances are reviewed, preferably with TAP reviews so that we can refer back to these reviews when we are
evaluating new material, or similar formulations.

We are also glad to see the proposal to bring back the practice of voting first whether it is synthetic or not. This is key, and sometimes that's an important debate to have before you go any further, listing or not listing.

I think - well, we supported the original definition of nonagricultural, except with the amendment to add a definition of agricultural systems. This may be moot we will probably find with the new definitions.

The only problem with putting agricultural items that are - I think you call them derived from agriculture but processed so as to render them synthetic and put them in 605 is of course then we have no incentive to make them organic. So this is where we are back to, we would really much prefer combining 605 and 606 preference. Maybe we can still talk about how to do that, or get another
legal opinion. Because it would just help
with having to split all these hairs.

Now I have another topic that was
off the table here today but I think it's
important to think about for your work plans
on this. It involves personal care also in
the sense that you are saying the scope, we
are only talking about synthetic in terms of
inputs, not products that can be certified,
and that's fine, I agree with that.

But I do realize there is a
crossover. When certified products are
actually ingredients, so we are certifying
ingredients that are then used in organic
processes, food products that become certified
organic. We talk about innovative producers
out there making more and more organic
product, which is great, the manufacturers,
but it is also sort of a loophole in some
sense. If you are worried about synthetics
and the amount of synthetics being in organic
food, if everybody is out there creating novel
ingredients, using organic agricultural
ingredients, like soil, biological mechanical
processes, and then substances on the list,
you can make all kinds of things, and you can
certify them organic, and get them approved,
and they turn up in the product and they never
were reviewed as a synthetic thing that could
be in organic food. For instance there are
people out there with websites selling
emulsifiers, sucrose cocoates, hydrolyzed
protein, glycerin, long chain fatty acid,
steaeric acid - these are all certified
organic. None of these in an non-organic form
would be allowed in organic food.

So it's tricky, do we want to
control this? Can we control this? Is it
desirable to control it? I think it is. I
think we need to talk about some sort of
guidance, what can be certified? Particularly
on these minor food additive ingredients, or
otherwise the door just blows open, because we
do have so many creative manufacturers out
there. So that is a thought for the future.

I did have suggested wording in

my soap comments, so that is it.

Any questions.

CHAIRPERSON MOYER: Thank you

very much, Emily.

Are there questions for Emily from

the board or comments?

Seeing and hearing none,

appreciate your time, Emily, thanks for

coming.

The board will now call Nichelle

Harriet and Sebastian Bell is on deck.

MS. HARRIET: My name is Nichelle

Harriet. I'm with Beyond Pesticides, a

nonprofit group right here in D.C.

First of all Beyond Pesticides

would like to thank the NOSB for all your hard

work, and we are pleased that Jay Feldman, our

executive director, will be joining the board.

I look forward to working with you on these

issues.
Many of our comments have been expressed here earlier, so I'm going to keep this very brief.

First on inert, Beyond Pesticies believes that full disclosure and review of all ingredients only serves to strengthen organic standards and public support for the organic program and legal. The NOSB is having this in its discussion in a period when the manner in which EPA handles inert ingredient disclosure has changed and is continuing to change. And this section 25(b) of FIFRA products meeting the standards for exemption including inert ingredients previously listed on List 4 must be on the label identifying the name and percentage of each active ingredient, and the name of each inert ingredient.

So the distinction between type of ingredient active versus inerts is becoming less meaningful.

Similarly as you know EPA at the end of September announced that it will be
considering the disclosure of all inert ingredients on pesticide labels thus further blurring the distinction between active and inert ingredients.

Full listing of product ingredients goes hand in hand of full review and assessments. We believe that the NOSB and the NOP must work closely with EPA to utilize its staff to conduct assessments. Discussions between NOP and NOSB and EPA should result in a collaboration that utilizes EPA's assessment capability.

Devoting additional resources in EPA's Office of Pesticide programs certainly fits with ongoing efforts to shift the agency's priorities to registering and labeling FIFRA minimum risk pesticides and green approaches to pest management.

In addition the technical advisory panel review process can help inform environmental effects decisions made by the NOSB. Additional funds appropriated by
Congress for TAP reviews serve to emphasize the importance of higher and higher levels of scientific scrutiny.

On GM vaccines, it has been proposed that genetically modified vaccines be allowed in the NOP without significant review. We agree with submitted comments by the National Organic Coalition and Jim Riddle that vaccines that are compatible with organic production and which meet the evaluation criteria as stated in OFPA be subjected to technical review, with transparent and inclusive rulemaking.

We also believe that a petition must be written to consider the various classes of GM vaccines. As laid out by OFPA, GM vaccines regardless of their ubiquity in the marketplace, as suggested in the proposed recommendation, must be evaluated like any other synthetic substance in order to be determined compatible with the principles and
Finally we thank you for the opportunity to comment, and would like our written comments to be entered into the record.

CHAIRPERSON MOYER: Thank you very much, Nichelle.

Any questions or comments? Okay, thank you very much. We appreciate that.

Sebastian Bell and Chris Nelson on deck.

MR. BELL: I don't think Chris is here. I'm not sure, but I suspect he may not be.

Sebastian Bell from the Maine Aquaculture Association. We represent in any given year about 140 - 150 farms in the state of Maine that grow 15 different species, but our principal species are salmon, cod, halibut, mussels and oysters, making comments on the shellfish standards.

And just really wanted to answer a
couple of questions that came up in the committee discussion earlier today, and then also wanted to take the time from the Hue's point of view to thank NOSB and all your time and effort on the aquaculture issue. I know it's been at times an uncomfortable one, but certainly from the aquaculture community we appreciate your efforts.

Also wanted to thank the livestock committee under Hue's leadership, I think at times we were a testy workgroup for him, but he did an able job in managing us and making sure that we stayed on track.

And finally I want to recognize and thank George Lockwood for his leadership on the committee. Many of you who aren't in aquaculture don't know what a pioneer George is in the aquaculture industry, and I think the fact that he is so involved in the organics movement really confirms that he is still way ahead of the curve, even after being in the field for a lot of years. So he
1 deserves a lot of credit.

2 I wanted to offer to folks who
3 have concerns about the lack of control, I'm
4 just going to offer as a sideline if people
5 would like to talk to me about that in the
6 have-the-answer questions. I'm more than
7 willing to do that. I'm not going to do that
8 tonight. We have a long day. But I did want
9 to comment, because I think there are actually
10 some answers to those concerns, and I'd be
11 more than willing to talk about that.

12 I wanted to talk a little bit
13 about land-based production, and just put kind
14 of some reality in that proposal.

15 I went to my shellfish folks and
16 asked them to do back-of-the-envelope
17 calculations on what kind of a facility that
18 entailed for a relatively small food
19 production farm. So an oyster farm for
20 example that was going to grow on land in
21 tanks.

22 And there are two parts to that
facility. The first is the hatchery part where you are supplying seed for it, and that exists in the industry now, and is pretty standard practice.

But the actual grow out part, you have to do two things. You have to grow the algae that you are going to feed to those organisms, and because we have a three-year production cycle on shellfish, most shellfish, that means you have to have three separate year classes in a land-based system. So you have to have triple your annual harvest in that facility.

What that boils down to is that for about a 500-ton farm, which is a relatively small shellfish farm, you would have to build an algae culture facility the size of probably the middle-sized Budweiser brewing plant. That is the first piece of it.

And then when you actually had the tanks for the animals, you are talking about kind of a small oil refinery scale operation
with very large tanks and very large volumes
of water.

So I think it's important for
people to understand when you are talking
about that as an approach I can understand
conceptually how that answers the control
thing, but you are really talking about a
facility which is probably about 50 to 100
acres of very high intensive energy use,
because you have to use lights, to culture the
algae; huge amounts of electricity; very high
energy use for pumping water; so it really is
an industrial firm at that point. It is not
a kind of mom-and-pop operation. And I think
it's unrealistic to expect a small producer to
do that. You are talking about really I would
argue a big CAFO essentially, basically. Even
though I know that wasn't the intent, that's
what you would end up. So just as a point of
clarification.

And thank you.

CHAIRPERSON MOYER: Thank you,
Sebastian, we appreciate those comments.

Are there questions for Sebastian, or comments for him? Okay, thank you.

Hearing none, I think if Bonnie Wideman is in the room, Bonnie, we would entertain you at the podium, and Nicole Dineen on deck. Also gone? I'm sorry. Then we would have Dave Rogers, also gone. Jim Piece. Thank you.

Bonnie.

MS. WIDEMAN: All right, thank you.

My name is Bonnie Wideman, and I'm the director of Midwest Organic Services Association, known as MOSA. And being as we have submitted comments on handling and livestock, and out of our 1,300 clients about 645 of them have livestock, I want to focus on the animal welfare recommendation.

And I know it's hard to please everyone. We were told that the new pasture rule will please everyone, and that will truly be a work of art, because we recognize that
some certifiers are calling for more specificity, and some don't want specificity and they don't want numbers. So how can you please everyone?

And mostly we would like enough specificity that when we have an issue with a client's - with the animal welfare in their operation, on the health of their animals, on concerns about how well they are fed, we have something to hang that noncompliance on.

At the same time we are concerned about too much specificity when items do not apply to all types of livestock, and I wanted to illustrate these. Part of my illustration will also be that I'm not only the director of MOSA but I also have a certified organic sheep and beef farm. So I'll separate the comments.

We sent out the recommendation in our newsletter, and we received a few comments, not a whole lot. Most of them were from poultry producers. And we believe that they will be very happy with the ACA
guidelines.

But many of our comments had to do with the vet relationship, and those were also from the poultry producers. And as I reread what you had, in that it said we have to have that relationship, a herd health plan, and maintain preventive livestock health care practices, I think maybe some of our producers who don't have dairy didn't know that that would apply to them. And I'm wondering in your proposed revisions if you will be striking or modifying the herd health plan, because we have flocks, too.

Okay, well, I will go on here so I don't lose my time. Another just a few little other comments that were made by farmers. A farmer called from Upper Michigan and said, do they know how hard it is to keep animals clean on pasture? I can't tell them where to lie down and whatnot. I took a load of steers to a buyer, and they went running off the trailer, and they said, well, Bonnie, you had
them on some lush pasture.

So you know pastured animals are
going to be dirty sometimes, and this is just
a call for practicality in that regard.

Also we do have some grazers or
primarily dairy farmers who will pasture but
not always have water in front of their
animals all the time. And I think it needs
to be recognized that it is possible to graze
for a period of time and then have them come
back to the barn for water when they come up
to the facilities.

Not everyone is set up with water
in all paddocks is my observation.

Let's see, what else here. The
most important thing though is the working
relationship with the vet or nutritionist, and
this was a comment from many of our farmers,
and I also wanted to tell you that the
majority of our 475 dairy farmers do use a vet
for emergency situations. As far as routine
practices only about a third do, and not that
many have nutritionists. The average herd size of our dairy farms is around 54 cows. And we do not feel that a working relationship with a vet or a nutritionist should be required. I don't feel that it should be the case as a sheep farmer and a beef farmer either, even though I live in a part of the country where there are a lot of organic farms there aren't necessarily the vets that I would choose to rely on. In fact some of them don't respect the organic practices.

My final comment would be for sheep and goats that even though many of us do our lambing on pasture, many operations have confined lambing, and 18 square feet is a little bit larger, especially if you include the four square feet for lambs.

Most of us when we do lambs in the barn have pens at 16 square feet. And this is mostly for tight bonding of the ewing lamb.

All right, that's almost everything.
CHAIRPERSON MOYER: Thank you very much, Bonnie.
The chair recognizes Hue.
MEMBER KARREMAN: Thank you, Mr. Chair.

Thanks for the comments coming from dairy land out there. And one of the reasons for the veterinary or nutritionist being involved is to make sure - I guess to ensure the organic consumer that you know the animals are doing okay, that you are not way out on a limb and there is something wrong going on chronically. That's the intent there.

The other thing is, at least with dairy, to actually use some of the analgesics and anaesthetics and what not, or even have them dispensed, you do have to have a valid client-patient relationship. I know that veterinary groups in my area will not dispense lidocaine to let the farmer do disc budding and the little horn buds, which is promoted by
all certifiers it seems now, without knowing that farmer. So if Farmer Joe calls out of the blue, can you drop off lidocaine, I want it, no, they won't do it, because they don't know that farm.

Now the flip side is of course there is not a whole lot of vets in certain areas like, I don't know, southern Missouri I'll just pick a place, let's just say, so that is a problem there. But the intent is to make sure that the organic consumer can feel assured that these animals do have a second set of eyes looking at these animals, that was the intent.

The other thing was, at least in dairy, the pasteurized milk ordinance for alternative treatments to be used and have in your medicine cabinet, you get a seven point debit if you don't have a valid label on some of these things. So with a veterinary relationship you can do that. If you don't have that you are not going to have it. So
it's almost bordering toward the illegal to not have a vet involved if you are a dairy farm that is shipping milk to the fluid market, and you are using alternative treatments which organic guys do. Anyway, I just wanted to explain the whole veterinary thing.

MS. WIDEMAN: May I response?

CHAIRPERSON MOYER: Absolutely.

MS. WIDEMAN: That's for dairy. I don't have lidocaine in my operation. I have Redman salt and kelp. And I have looked around for a vet, and actually found some that are fairly antagonistic. I had a vet come - and oh, here's another thing, having a vet approve the alterations, no, I believe that it's the farmer, him or herself, that knows what kind of alterations are best. I had a vet come to do my alterations. And we knife cut my steers after they've had a summer on the pasture to enjoy their bullyness out there, which I think is
appropriate. But the vet did not do as good
a job as the custom guy usually did, and could
not handle the cattle. He insulted me by
saying I'm going to give you a free fecal
examination to show you have worms in your
beef. I did not, but I would not like to be
forced to have a relationship with a vet like
that.

Another thing about the
alterations at the earliest age, I don't think
we should all be forced to ban it. Because
there are other considerations. In beef and
sheep you want the animals to bond. I mean I
could go out there and band lambs and steers
when they are born, and I think that would be
a horrible practice. But I think people tend
to want to do what they think is easiest for
an animal; no blood, no pain. It's not true.

So.

CHAIRPERSON MOYER: Chair
recognizes Hue for a rebuttal.

MEMBER KARREMAN: Just a quick,
1 not rebuttal, just a little discussion here.
2 So I think the earliest age thing, I accept
3 that fully. But I guess if you have a large
4 bull that is eight months old and you go in
5 and you castrate it, do you think that any
6 anaesthesia is needed for that?
7 MS. WIDEMAN: It depends on the
8 competency of the person who is going it. One
9 thing that isn't taken into consideration here
10 when you work with blocks and you work with
11 herds is the stress that is involved in
12 handling them. Like when I have my cows on a
13 far - and I have them altogether on a far
14 pasture, and I have a lame animal out there,
15 I am not going to round everyone up and
16 bringing them back to the barn, because that
17 is going to cause harm to everyone else in the
18 herd and the flock. I am going to monitor it.
19 And it's the same thing when you
20 are working animals, if you have to keep them
21 in shoe, in a head gate, long enough for the
22 anaesthetic to take effect, I think that is
more stressful. When we have someone very
competent do our castration, the steers make
less noise than the heifers when you get the
ear tags for them. So that's my view.

CHAIRPERSON MOYER: Thank you very much, Bonnie.

Any other questions? Thank you for your time.

The board will recognize Jim Pierce to the podium, and Marty Mesh on deck.

MR. PIERCE: The comic relief starts now.

CHAIRPERSON MOYER: We could use it.

MR. PIERCE: There was a little bit of confusion getting me on the list. So I was originally going to deliver this yesterday, but I tweaked it a little bit based on your discussions today.

So here we go. My name is Jim Pierce, and my affiliation is Oregon Tilth, and these comments include but are not
limited animal welfare, greenhouse, and
nanotechnology recommendations.

If successful I'm going to
convince you all that the functional beauty
and simple subjective goal-based language such
as included but not limited to, and therefore
the unnecessary of prescriptive livestock
stocking density requirements.

Before working at Oregon Tilth,
the best certifier, my career was at Organic
Valley Crop Cooperative, the best farm
cooperation. One of my last projects at OV
was working at the standard with the farmers
to dissect, debate, delineate and develop
private animal husbandry standards; we called
the husbandry standards.

I learned early on that there were
a few negotiable truisms when working with
farmers, for me, boundaries of etiquette you
just cannot cross. The first for me was, thou
shalt wear thy jeans. If I showed up in
manager pants they would label me as a suit,
and my credibility would be worse than Levi
Johnson lecturing on abstinence.

Here is another ism worth carving
into stone: there are two things you should
never tell a farmer, what they have to do and
what they can't do. Or in the King James
version, what they shalt and what they shalt
not do. Now certainly the cannon of organic
regulations, loaded with thou shalts and thou
shalt nots, thou shalt be inspected every
year, thou shalt not use prohibited materials,
thou shalt keep records sufficient to
demonstrate compliance, thou shalt graze thy
bovines.

But these are goal shalts, not
prescriptive shalts. The Livestock Committee
animal welfare recommendations had both.
However it is the prescriptive shalts that
have generated the most push back. The
greenhouse recommendations to the credit of
the crop committee contains this language,
paraphrase: in lieu of crop rotation and cover
cropping, soil regeneration and recycling practices shall be implemented and documented in order to demonstrate that the required functions of crop rotation and cover cropping have been achieved. Specifically, maintain or improve soil organic matter content. Examples include but are not limited to, that's end quote.

The rule - I am going to skip this paragraph. Here is the point in the revised new international version. One size does not fit all. While prescriptive stocking densities are easier to uniformly calculate, these do not assure animal welfare. They establish a minimal threshold for compliance rather than impetus for continuous improvement. The golden rule of the NOP is to create and enforce outcomes based goals-oriented flexible, geographically adaptable, adoptable and applicable rules that are documented in the organic system plan, verified by inspection, cited in review as
requiring corrective action, and resulting ultimately in the continuous improvement that is the basis, the hallmark, the backbone, the heart, the foundation, the cornerstone, the pinnacle, the anchor, the keel, the crux, indeed the holy grail of the national organic program. You got to love that thesaurus button.

As you revise this animal welfare recommendation, think about how to do so under the template of including but not limited to. Show the farmer the goal without limiting their ability to innovate.

Take a break, turn the page, change the subject: nanotechnology. As stated in our written comments, Oregon Tilth believes and endorses the minority opinion that would create a more flexible approach effectively locking the door to nanotech in organic, while at the same time allowing case-by-case consideration in the future.

We thank you for respectfully
debating that position during your discussion today. To be clear we are absolutely in agreement with the Center for Food Safety and others to prohibit nanotechnology in its present and foreseeable state. However we are not in favor of adding it to excluded methods, thereby prohibiting it forever and ever, amen.

Although nascent and potentially as evil as gene splicing, nanotechnology is exponentially more diverse and complex. Think homeopathy, think veterinary medicine, think energy, think food safety. Shining a critical spotlight on nanotechnology now is proactive and laudable. Banishing it forever as an excluded method would not be.

The precautionary principle is our friend; embrace it.

Thank you to the fabulous five who – your actions on this board has permanently improved it. Thank you for the tenacious ten who remain to carry the torch, and welcome to the class of 2010. Thank you for not running
away screaming after this afternoon's discussion.

Thank you.

CHAIRPERSON MOYER: Thank you, Jim. We appreciate those comments. Are there any questions or comments from - I see Kevin and then Katrina.

MEMBER ENGELBERT: What's the NOSB board you've ever spoken in front of?

MR. PIERCE: I had anticipated quite a few questions. I will tell you this, though, there have been a lot, there have been eight or nine or 10 years worth of this. And the engagement and interaction and capture of comments from the last three years' worth of boards - really the full tenure of your five years on this board - has improved it. And I really do mean that, that you five have dramatically improved the functionality of this board forever the way it works. I don't know which one the very best single one is, but things have been continually improving.
CHAIRPERSON MOYER: That would mean it's this one. Your safe with that one.

MR. PIERCE: Best farm cooperative.

MEMBER ENGELBERT: Right answer.

CHAIRPERSON MOYER: Thank you, Jim. Katrina.

MEMBER HEINZE: I'd like to think more about your comments on animal welfare. Do you happen to submit something in writing?

MR. PIERCE: Yes, they are in writing.

MEMBER HEINZE: Really?

MR. PIERCE: Yes, they are in writing.

MEMBER HEINZE: They are?

MR. PIERCE: Yes, they're there.

MEMBER HEINZE: Those weren't the same ones that you submitted earlier, were they?

MR. PIERCE: Yes, they are, on regulations.
MEMBER HEINZE: They sound so much better when you say them.

MR. PIERCE: No, not these comments.

MEMBER HEINZE: Do you have those comments?

MR. PIERCE: Yes.

MEMBER HEINZE: That would be wonderful, thank you.

CHAIRPERSON MOYER: Any other questions for Jim? Joe?

MEMBER SMILLIE: I just wanted to agree with you, Jim, on your illustration of prescriptive versus including but not limited to. I think that is the way I'd like to see us move forward.

MR. PIERCE: Can I comment on that? You brought this up before. The Canadians have these standards. They love their numbers. And so do the Europeans, but they are not necessarily working for them. So to take them - well, there are actually two
problems. One is to take them might not be
the right numbers; the other is, the Canadian
system is petitionable for regulation, not
only materials. So it can change quite
quickly, and you can very easily find yourself
with an antiquated version of their table that
they have already decided is dysfunctional.

CHAIRPERSON MOYER: Jim, not to
prolong the conversation, but when we talked
about goal-oriented processes earlier, we were
chastised by the certification community and
told that what they wanted to see were numbers
that were verifiable and easy to certify. So
it's difficult to have it both ways.

MEMBER SMILLIE: I would
disagree. What Jim outlined was basically in
the Green Host document. We want to see your
plan, but we are going to leave it up to you
as to how you are going to show compliance to
that, rotation or soil improvement. We are
not going to prescribe that your organic
matter will increase from 3.4 to 3.6.
CHAIRPERSON MOYER: Yes.

MR. PIERCE: Well, one quick comment on that, then, if I may. There has been a lot of recommendations to add guidance language as recommendations. We've been promised the guidance manual - or program manual that will contain a lot of that guidance and suggestion, so there is really no need to write it into the regulation. It's another level. And the Canadians again have done this. Their program manual has a lot of the detail that the regulation does not.

CHAIRPERSON MOYER: Thank you, Jim.

Marty, if you would come to the podium, and Patty Lovesh is on deck.

MR. MESH: All right, Marty Mesh, Quality Certification Services, and Florida Organic Growers.

I think I'll save the retiring board member comments to the very end just because if I right out of time you can ask me.
But I wanted for the record to thank Barbara and Rick - they're gone - Miles' picture the other day really illustrated I think quite vividly for everybody that wasn't aware of how under resourced the program was and how much they tried to accomplish with really a staff less than our own certification program staff, in dealing with the amount of work that they have to deal with. So while we may have disagreed sometimes, my hat goes off to them and I wish them both the best.

So I wanted to congratulate Miles and the new staff and we of course look forward to working with him. We very much appreciated the budget illustration to show how the program is allocating resources, and word is it's a bit more transparent than how it was years ago, and I was glad to see it.

Now that I have said something nice about Miles, let me just be the first one to bring up a concern which is how the USDA may seem to be handling the compost issue, and
how I think they are blessing the California Department of Ag did handle the compost issue.
I have several concerns: who will pay for this testing, and leaving farmers with loads of compost that now they can't seem to use that they purchased that met the regulation, really that had vegetative plant material that's allowed in regulations. And so I think some more thinking needs to go on.

Aquaculture, this isn't the finish. It's only the beginning. And shrimp is a managed ecosystem, and I heard the discussion earlier. We've been here for years asking for shrimp. It's fully managed pond ecosystem, and we look forward to that. We're thankful for the aquaculture working group's work, and look forward to the continuing day when pond shrimp can actually be certified.

We support the materials before the board to be continued. I was so devastated yesterday I misplaced the letters I had in hand to turn in in the napkin with my
1 well thought out comments. But I did notice
2 that today dressing up and having a laptop,
3 y'all are allowing me to speak. So now I am
4 concerned about the proceeding, dress and
5 technology codes being implemented.
6 The pasture rule, let me - the
7 pasture rule, you know, I actually find it
8 intriguing about the interim final rule.
9 Actually the USDA could fix this
10 administratively without adding pain and
11 suffering to dairy producers and certifiers by
12 instructing and monitoring the certifiers to
13 do accreditation of what access the pasture
14 needs without the regulatory overreach which
15 was evident in the first proposed rule. But
16 maybe the train has left the station.
17 And then the supporting nickel,
18 Rich Thur has submitted a petition. He spoke.
19 Our clients faced severe problems with pecans,
20 and a bit of institutional memory may help.
21 In 1995 the AAFCO list of essential
22 micronutrients was accepted with the specific
exclusion of iodine and chlorine. AAFCO then
determined the essentiality of nickel after
the date of the national list was published as
an essential micronutrient, essential in some
cases for plant health. I believe that we
were indeed the certifiers that did not allow
a grower to use it, causing great harm to a
grower in relation to a deficiency documented
by a test as mandated. I feel sad if a
program I supported the creation of will cause
more economic hardship to a grower and
possibly force a certified organic pecan
grower to go back to conventional production
if this path through petitioning and blah blah
blah takes another crop season or two or three
to add to the updated AAFCO list the addition
of a critical micronutrient which should be
on there.

Maybe there can be a, quote,
strict but sensible, unquote, solution to this
minor oversight not to include and update the
list and now to include nickel as an essential
micronutrient. I would accept total responsibility for communicating with any environmental or consumer organizations that have questions.

IQF okra update: well, it seems to me like you know this is the last time they're going to be here, by god, you are not going to cut this one off. It seems like the petitioner would be here stating how many growers they reached out to, the status of those fair contracts offered to produce RQF okra, et cetera. However it's only me again to say as yet as far as I know the petitioner or the supporters have never made even a possible inquiry much less pursue the business relationship.

And I think that in the interests of time and your long day I will close with comments to the board members, but you will have to ask the questions, retiring board members.

CHAIRPERSON MOYER: Question from
SECRETARY WEISMAN: Marty, do you have any comments for the board?

MR. MESH: I do. Well, let me first add another thing to that before I answer the question.

I just wanted to thank the five retiring board members. And it's been a pleasure and I do know how hard y'all work, how painful it is sometimes to try to stay awake and act like you are interested in bad jokes as we come up here.

But you have done a great job and on behalf of all of us we are currently appreciative of all of your efforts who have served, and will now be gallivanting around into retirement, and probably growing a beard like Richard, and starting to relax, dress down a little bit. It will be fun to see.

CHAIRPERSON MOYER: Thank you, Marty. No other comments from board members?

There is one comment or question from Tracy.
MEMBER MIEDEMA: Marty, I sympathize with your organic okra growers, because if we had been able to add that item to 606, those growers would have made transparent to the trade that organic is needed, and what happens with a petitioner like that is they are sort of forced to take a different path. And had that item been added, it wouldn't have – they wouldn't have automatically, the petitioner, been able to use an inorganic variety. And remember getting placed on 606 doesn't give carte blanche to use in an organic variety; it just subjects it to personal availability. So the opportunity list for that was not created.

MR. MESH: The opportunity is still there is a major manufacturer wants to enter into a fair contract with growers to grow organic okra and help them have the infrastructure they need. That's the difference. It becomes possible if the buyer wants to help, and it doesn't if the
responsibility is all on the growers, in my opinion.

And about sunset, does anyone have a question about sunset? And this will be really quick. Come on, Joe, work with me.

MEMBER SMILLIE: I have not heard that question, Marty.

MR. MESH: The sunset, this is of critical importance.

MEMBER JAMES: Marty, I have a question about sunset.

MR. MESH: I actually think the board - I'm glad you asked that - and whether or not you want to finish your question, I can go ahead and provide you an answer. I actually think the board in your comments in this track raised some concerns for me that sunset was never envisioned to be that evergreen. It was meant to be a sunset, and that materials that were to be petitioned and be reviewed and put on the list at some point in time would go off the list. And to put the
whole onus on citizens to provide the absolute concrete proof to come up and prove that there is an alternative; to prove that - I'm sorry, it should be incumbent upon the industry at least a little bit to come, we need this material and here is why.

So I recognize that maybe there is a balance, but it seems to me as though the scale has tipped way too much in the wrong direction putting the responsibility on citizens instead of the industry.

CHAIRPERSON MOYER: Thank you, Marty. We have one more question from Dan.

VICE CHAIRPERSON GIOACOMINI: Marty, I have often sat up here and tried to find in some cases just somebody not recommending that we keep something on. And--

MR. MESH: Wait until Chilean Nitrate comes up.

VICE CHAIRPERSON GIOACOMINI: Well, that is a back door problem. There is a whole other issue. But the thing that I'll
ask you and through you the certifiers is,
really tell us what you want to include and
not just give the blanket, keep everything on
sunset. Because sometimes it's been one or
two certifiers that were the only persons who
made the comment to recommend keeping
something, and if it hadn't been for that I
would have voted it off.

CHAIRPERSON MOYER: Thank you,

Marty.

MR. MESH: I had San Francisco
tied in with a good joke in the compost
section, but I ran out of time.

CHAIRPERSON MOYER: Thank you.

Thank you, Marty, we appreciate that.

Patty Lovera to the podium if she
is here, and Farah Ahmed is on deck.

MS. LOVERA: Hi everybody. My
name is Patty Lovera. And I'm with Food and
Water Watch, which is a consumer group here in
town, and we are also a member of the National
Organic Coalition. So I appreciate you guys
sticking around after a long day to take more public comments.

Because we are a member of NOC and several folks have already talked about GM vaccines and personal care, I'm not going to get into those. I'm going to talk about aquaculture, nanotechnology and if I have time, animal welfare.

So we've been here before obviously on aquaculture. On the bivalve recommendation we were happy to see that there was a lot of focus on water quality. That is appropriate; it's necessary, because of the way that bivalves grow and eat. We do have concerns, historic concerns, about organic aquaculture in open ocean net pens, so adding bivalves to that mix doesn't really do it for us. So that is a piece of the recommendation that we weren't happy to see, but we do appreciate the part about in open ocean bivalve systems, really focusing on what types of understanding you have to have about water
quality and location and testing and going above and beyond what would shut down one of these facilities in a conventional or nonorganic system.

So I think that that reflects your good hard work in thinking through these quality issues. We also wanted to think about - to recommend - or commend, sorry, that we think it's appropriate to require that 95 percent of the weight come under organic management. We thank you for putting that in there.

One point we did want to make on aquaculture, bivalve piece was under the collection method to recommend taking dredging off that list. Environmental impact and not disturbing those bottom layers is a goal which we think it should be for organic systems; we think it is hard to reconcile that with a lot of dredging technology.

So organic technology, I think most of this has been said. We just want to
reiterate our concern about this technology,
about consumers' expectations that it not be
inorganic. And we support the many folks
today that have said it should be prohibited.
So we agree with that majority opinion, and
would like the minority opinion taken out.

We also agree that the definition
should increase the size to 300 nanometers.
You know we have been hearing a lot more from
our members and consumers about their concerns
about nanotechnology. So there is just a
sense that this is a genie we can't stick back
in the bottle. And the precautionary
principle to us means that it should be kept
out in the most definitive way possible out of
organic, because it is one of the types of
things people look to organic to be protecting
them from, and the more we learn about
nanotechnology, which is happening way too
slowly, because it's incredibly underfunded in
terms of environmental impacts, occupational
impact, what it means in the waste water and
waste stream of these plants that use it. It just seems like there are so many unknowns that have no business even having options to get into this type of food that is marketed as being protective and being precautionary.

So finally on animal welfare again, like you have heard from many folks, we think the pasture rule is an important piece for this, so we want to see that as soon as we can. And again this is another area where consumer expectations are incredibly high, and the proliferation of labels in the marketplace. You just have to go to the egg case or the meat case to see all of the claims about animal welfare. It shows that consumers are interested in this. They are confused by the proliferation of labels. And so obviously we think the organic label should be right up there at the top in terms of having really solid standards that are understandable. So we can get smart, things that you guys put in there, things about specific practices,
because that's where the public debate is. That's where people are starting to understand. And we will just echo what some other groups like Center for Food Safety said today about dealing with some of the culturing issues and going beyond just the piece about cages.

So that's it for me.

CHAIRPERSON MOYER: Thank you very much, Patty.

Any questions from the board for Patty? Hearing none, thank you very much, Patty.

Farah Ahmed is up, and Harriet Behar on deck.

MS. AHMED: Good afternoon. Or maybe I should say good evening, because it is getting late.

My name is Farah Ahmed. I'm here to speak on behalf of the Personal Care Products Council. I'd like to thank Valerie for her help in sort of schooling me on the
logistics. I am relatively new to this dialogue. I'd like to thank the board for inviting me and allowing me to speak. Really my purpose is to lay a very and quick foundation with respect to the regulations that surround cosmetics. We certainly filed our comment, and I am happy to take questions on those comments as well. But I thought rather than reiterate those, I'd use this opportunity to lay just a brief overview on the regulatory side of it that may be helpful to some. So essentially the primary laws affecting labeling of cosmetics are derived from the Food Drug & Cosmetics Act, as well as the Fair Package Labeling Act. A cosmetic would be consider misbranded if it's label is false or misleading in anyway or it does not bear the labeling information required by regulation, which is very detailed; or the container is filled in some sort of deceptive manner.
I just want to lay out the definitions now for a cosmetic. These are articles that are intended to be rubbed, poured, sprinkled, sprayed on, introduced into, or otherwise applied to the human body for cleansing, beautifying, promoting attractiveness or altering the appearance.

On the flip side for drugs, and when I say drugs I mean over-the-counter sunscreen, skin protectant, things of that nature, which are regulated. When we say personal care products, I think we generally mean cosmetics, and the other stuff that would be better - definitionally considered drugs by FDA but I think consumers view it all as sort of cosmetics.

Essentially, drugs, the definition really is, intended for use in the treatment or prevention of disease, or an article that affects the structure or function of the body. Although I think we can all recognize that we see advertising from time to time talking
about rebuilding collagen, et cetera, et cetera. But from a technical standpoint those type of claims should be reserved for drugs and not cosmetics.

And you will also see probably in a lot of advertising that products talk about affecting the appearance, reducing the appearance of wrinkles, things of that nature. So that is where these stem from.

So there are clear definitions as outlined by the Food & Drug Administration for both of these categories of products.

So again, intended use. I think the crux of what divides products is how they are marketed, their intended use. Of course I'm oversimplifying a little bit, but I think for our purposes that is generally how these types of products can be divided up.

Of course safety is a primary priority with respect to drug, cosmetics, foods, et cetera. But here we are discussing labeling. So they are combination products,
and I think if you go to the next slide.

Combinations do both, so if you can just think of a sunscreen with a foundation, that would be a combination product. You can go to the next slide.

And here are some examples quickly of what would be considered a cosmetic, and what would be really considered a drug or a cosmetic drug.

So what information is required on a cosmetic product label? Again, the two laws, one of the two is the Food, Drug & Cosmetics Act, which requires the following information, warning statements, what have you. And these are the CFR references if anyone cares, but I can provide a copy of the slides electronically, and we certainly brought hard copies as well. Go to the next slide.

The Fair Packaging and Labeling Act, however, requires a slightly different set of requirements on the label, and these
are outlined here. You can go to the next slide.

These are some of the things that are not required on the label. Actually, surprisingly, the brand name is not required on the label, although I personally like to see what brand I'm buying.

We can just fly through these, these are just illustrative examples of the requirements. I think everyone can be thankful that I'm not a graphic artist, but I did my best. We can keep going.

So let's focus on ingredient labeling. Here we are. The Fair Package Labeling Act, really the crux of this act is to prevent consumer confusion. And we need a fair balance, we need a way to compare product to product, so I think Valerie if we can just keep skipping along toward the end.

With respect to organic, this issue has cropped up quite often, and this is regarding the use of the asterisks in the
labeling. And that is not actually permitted according to FDA regulations. FDA references the INCI dictionary, which is an international dictionary, so it's an international language in terms of unique ingredient names. So when you start using asterisks and parentheticals, we start then raising questions as far as what does it mean, organic in U.S., organic in a different market. So for that reason it's not allowed. So I wanted to make sure that we got that message across.

Any questions?

CHAIRPERSON MOYER: Yes, thank you, Farah. I think there are some questions.

Joe.

MEMBER SMILLIE: Obviously there is a lot here that we need to understand, but the last thing that you seemed to be stressing that asterisks are not allowed by FDA?

MS. AHMED: FDA, the way the regulations break down, FDA references the INCI dictionary as one of the authorities.
Now the INCI dictionary does not include the use of asterisks or parentheticals. And the reason behind that is because the INCI dictionary is an international universal dictionary, and when we start adding parentheticals, for example, the word fresh with organic or natural, it has a different meaning. And it starts to then create a rubber ruler for the consumer so when they look at the label you don't have now the same measure.

MEMBER SMILLIE: I understand that for example it allows lavender but not organic lavender.

MS. AHMED: Correct.

MEMBER SMILLIE: Right, but I didn't - I don't - my understanding was that if it was lavender asterisk, and then down below the asterisk explained, certified organic, that that is not an FDA rule.

MS. AHMED: That is not allowed; technically that is not allowed.
MEMBER SMILLIE: By who?

MS. AHMED: By FDA. The FDA references again the INCI dictionary. The INCI dictionary does not allow for those, for a parenthetical or for an asterisk to be used in the ingredient deck. Now the ingredients can most certainly be called out anywhere else on the label. Typically companies will, underneath the ingredient deck or above the ingredient deck, will call out the organic ingredient and to what standard it it certified to. But it is not allowed in the actual declaration.

And it's an international language. And in the case of multinational corporations that are formulating global formulations, and some are global labels, often, we believe that it's really not just a cost saving but a saving in terms of labeling, the environment and what have you to have that consistency.

CHAIRPERSON MOYER: Chair
recognizes Katrina.

    Oh, I'm sorry, if you had a

3 rebuttal or another question.

4 MEMBER SMILLIE: Again, I agree

5 with you.

6 MS. AHMED: I'm talking as

7 quickly as I can.

8 MEMBER SMILLIE: You're doing

9 great. I think it references the INKY DINKY -

10 dictionary - whew, it's getting late -

11 references the INCI dictionary.

12 MS. AHMED: It does.

13 MEMBER SMILLIE: And the INCI

14 dictionary has that rule, but I wouldn't

15 translate directly as that would be an FDA

16 requirement. And I think as we investigate

17 the relationship between the USDA and FDA.

18 Because right now one of the few things that

19 is really accurate in the cosmetic area is a

20 few companies are at least not claiming their

21 products are organic, and they are restricting

22 their claim to what we in the USDA regulations
like to see, is they are restricting their
claims to the ingredient panel and saying that
their lavender is organic.

And that's a step up from the
people who are claiming the whole product to
be organic, and it's one of the things that we
like to see on the USDA side of things. So as
we - this is going to be a long process
obviously. But as we start working with the
FDA I think we will clarify where we can agree
on ingredient panel listing. But that is one
of the many issues we'll have to get into.

MS. AHMED: And if I may?

CHAIRPERSON MOYER: Please.

MS. AHMED: There certainly are a
lot, and as you mentioned earlier, it's
definitely acknowledged this is a very very
complicated area. Having practiced at the FDA
chief counsel's office I can tell you that in
dealing with these labeling issues there is a
lot involved in changing or accepting, for
example, aqua in lieu of water on a label, to
do something of that nature would require a lot of – would require data. I mean today we have all been saying consumer confusion, but what does that really mean? If you make a data-driven decision that would require adequate and reliable study, actual consumer study, intercept, and typically a 2-3,000 mall intercept study, something of that nature. Typically that was what I was used to dealing with with respect to labeling issues. So without making judgment in terms of the right, the wrong, what's actually happening in the market, I can say that there is a lot of value in outlining clear and transparent process, having data-driven decisions, and really ultimately promoting the mission of the NOP and that's organic farming. So all of those things I think are extremely important issues. They are extremely important issues to our industry, our association. And we look forward to future dialogue.
CHAIRPERSON MOYER: Tracy?

MEMBER MIEDEMA: The issue that you raise about the ingredient panel seems one that's pretty analogous to wine, for instance, where the organic producer has had to comply with a different set of regulations than they are used to having to comply with for a food product. So we do have a precedent for teaching new entrants to a category to comply with a labeling schema.

So that I feel can be rectified relatively simply. Are there other issues you have with the recommendation besides the ingredient panel? That is the only one I heard you bring up.

MS. AHMED: We responded in our comments as far as the recommendation goes. I'd be happy to go over those. But I think to your point as to wine, I am certainly not - unfortunately not a wine expert, or not yet. But I can say that with respect to the labeling side of the cosmetic, the issue is,
when you use an asterisk, what does that specifically mean. So if there was some melding between FDA and USDA, and there is a strict definition for what does organic mean for a specific ingredient that is one thing.

But here we are talking about an issue and from our perspective, it's an international issue, and we are dealing with harmonization and things of that nature, and we certainly don't want to take a step backward, so I think this is something that we need to tread very carefully on, and it may seem like a small or trivial issue, just tiny little asterisks, but it actually is a big issue, and it's just the tip of the iceberg.

You're nodding your head.

MEMBER SMILLIE: Well, I can't believe it's high on FDA's enforcement list.

MS. AHMED: That's a whole other conversation.

MEMBER SMILLIE: What enforcement, you were going to say.
MS. AHMED: I mean, FDA, we certainly believe in a very strong FDA. We have done our best to get funding for specifically the cosmetic division; it's frustrating. I worked there; I don't want to divulge my salary when I was there. I mean you know there is a lot that we can talk about fixing. But yes, I mean enforcement certainly they don't seem to be doing too much. There was a recent warning letter sent to a bakery, a food company, regarding the use of the term, "fresh," if I recall. I'll look it up and send it to you.

MEMBER SMILLIE: We will be talking about this for years.

CHAIRPERSON MOYER: Thank you. Thank you, Joe. Chair recognizes Bea.

MEMBER JAMES: So what I hear you saying is that to move forward we need to not worry so much about the asterisk and spell out organic under every ingredient in the label and then we will be able to work together and
start moving forward?

MS. AHMED: No, that's not what I am saying. What I am saying is that the asterisk is one issue. And as far as identifying all the issues, I think that is going to take time. From my perspective, from our perspective, the question is, should we move forward? If we should, then how should we? When we are talking about a rulemaking or potential rulemaking or guidance, what have you, something that would affect a very large section of a $250 billion industry, it's important to really be clear on really the parameters and the potential outcomes before making a decision on the best way to go, on the timing, things of that nature.

So again I'm not weighing in in terms of making a decision on those things. Our companies are certainly not entirely in agreement, especially when we drill down to the specifics of what is organic and what is not in terms of synthetics and processes.
MEMBER JAMES: But it sounds like you recognize that there is a need to merge the home so to speak of organic body care towards FDA so that consumer confusion is minimized, and we have - that we are not internally arguing over asterisks, but we are doing the best thing to try to label things correctly for the consumer?

MS. AHMED: I think even before making that conclusion or taking that step, I think that we really need to determine, is there consumer confusion? If there is, then what is it? Where does it lie? Is it with the USDA seal? Is it with the private standard? Is it with the term, organic? I mean even before making that conclusion, I'm very hesitant to go in that direction.

CHAIRPERSON MOYER: Bea.

MEMBER JAMES: So next steps for making - giving the information that you need in order for this to manifest would be?

MS. AHMED: I think continued
dialogue. I think sitting around a table and
having a discussion, and hearing from large,
small, medium sized companies in all
directions, hearing from consumers, hearing
from standard setting bodies, hearing from all
relevant stakeholders I think is very
important.

MEMBER JAMES: We had an
educational panel discussion in Pennsylvania
around a different topic, but we brought in a
lot of experts to talk about pasture and get
all of the different issues out on the table,
and maybe perhaps that would be a next step
toward blending the conversation between the
FDA and the USDA National Organic Program.

MS. AHMED: I think that is very
helpful. And I think before making any
decisions the powers that be that make these
decisions, i.e. USDA and FDA, we should I
think it's obligatory for us to arm them with
information from all sides, experts,
consultants, large companies, small companies,
standard setters, certifiers, not just a small 
group, if you really want to make this really 
have legs and make a real positive impact on 
organic farming.

MEMBER JAMES: I thank you for 
your comments, and I think that that is a 
great starting point for the CACC to start to 
develop that dialogue with the NOP and see if 
we can create that.

CHAIRPERSON MOYER: Thank you, 
Farah. We appreciate your time and your 
comments.

MS. AHMED: Thank you very much.

CHAIRPERSON MOYER: Is Harriet 
Behar in the room? I don't see her. If that 
is the case, then we have completed the entire 
list that I have for public comments, and 
without any further ado, this meeting stands 
adjourned until 8:00 o'clock tomorrow morning, 
when we will reconvene in this room.

(Whereupon, at 7:07 p.m., the 
above-entitled matter went off the record.)
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UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE (AMS)
NATIONAL ORGANIC PROGRAM (NOP)

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MEETING OF THE NATIONAL ORGANIC
STANDARDS BOARD (NOSB)

+   +   +   +   +

THURSDAY

NOVEMBER 5, 2009

+   +   +   +   +

The National Organic Standards Board convened at 8:00 a.m. in the Monroe and Jefferson Rooms of the Washington Plaza Hotel, located at 10 Thomas Circle, N.W., Washington, D.C., Jeffrey W. Moyer, Chairperson, presiding.

MEMBERS PRESENT:

JEFFREY W. MOYER, Chairperson

DANIEL G. GIACOMINI, Vice Chairperson
JULIE S. WEISMAN, Secretary
RIGOBERTO I. DELGADO
STEVE DeMURI
KRISTINE ELLOR
KEVIN ENGELBERT
BARRY FLAMM

KATRINA HEINZE
BEA E. JAMES
HUBERT J. KARREMAN
TRACY MIEDEMA
JOSEPH R. SMILLIE
STAFF PRESENT:

MILES McEVOY
VALERIE FRANCES
MARK BRADLEY

SHANNON NALLY
RUIHONG GUO
VALERIE SCHMALE
J.D. MELVIN
ROBERT POOLER
JUDITH RAGONESI
TAMMIE WILBURN

ANDREW REGALADO
TONI STROTHER
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Adjourn
CHAIRMAN MOYER: Good morning, everybody. We're going to get your meeting started. The board meeting of the NOSB meeting of November 5th is back in session. I'd like to say that we have just spent the past two days listening to public comment, hearing from board members and committee chairs, committee members on the work that they've been doing over the last six months. All of our information has been posted online for the general public to review. We have seen all the written comment. And at this point in time we're ready to present our information from each committee to the Board for final vote.

At this point in time what I'm going to do is turn the Board over to the Policy Development Committee chair, Barry Flamm to present his items for vote.

Barry, the floor is yours.
MEMBER FLAMM: Thank you, Jeff.

CHAIRMAN MOYER: I'm sorry. Just one moment, Barry. Chair recognizes Valerie Frances from the Program.

MS. FRANCES: One business we didn't take of yet was the acceptance of the May 2009 voting results.

CHAIRMAN MOYER: Thank you, Valerie. You're right. We were going to do that this morning. We had changed our agenda and I had forgotten that, so I appreciate that.

Before you make your presentation, Barry, I'm going to call on Secretary Julie to present that for a vote.

SECRETARY WEISMAN: Yes, normally we vote during the Secretary's report on the first day of the meeting to accept the voting results from the previous meeting, which would have been last May's meeting. And that was something that we had done just prior to the start of the meeting on Tuesday by the

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Executive Committee. The Executive Committee accepted the voting record I believe unanimously. And so I move now that the full Board accept those voting results as the record of the votes at last spring's meeting.

CHAIRMAN MOYER: There's a motion on the floor. Do I hear a second?

MEMBER KARREMAN: Second.

CHAIRMAN MOYER: Hue Karreman seconds. And discussion on those voting records from May?

(No audible response.)

CHAIRMAN MOYER: Hearing or seeing none --

VICE-CHAIR GIGOMINI: Mr. Chairman?

CHAIRMAN MOYER: Chair recognizes Dan.

VICE-CHAIR GIGOMINI: Yes, I would just like it put in the record at this time I think it would be appropriate to say that some of those votes were very
complicated. So if someone is looking for
those through this set of transcripts, please
make note that you might want to go back and
look at the actual transcripts and make sure
that you're seeing all the real issues and
exactly what was being voted on, rather than
just the summary on the voting record sheet.

CHAIRMAN MOYER: Thank you, Mr.
Vice-Chair. You're correct, it was a
complicated vote on several of those items.
That is noted in the transcript.

Now we have a motion and a second.
We've had some discussion. Any further
discussion?

(No audible response.)

CHAIRMAN MOYER: I call for the
vote. We'll just do it with a aye or a nay.

All those in favor, say aye.

ALL: Aye.

CHAIRMAN MOYER: Opposed, if any?

(No audible response.)

CHAIRMAN MOYER: Thank you, Julie.
MEMBER FLAMM: Thank you, Jeff.

Good morning, everyone.

Yesterday the Policy Development Committee presented a group of four recommendations for consideration by the Board. And with the permission of the Chair, we would like to, as we have done in the past, combine these into one vote as changes to the Procedure and Policy Manual.

The four action items are a change in Section 3.

I can't really see what's up there, so if I'm out of sync, Valerie, let me know.

Section 3 included changes in the secretary duties and clarification of the role of the executive director.

Section 5 was a systematic review with a number of changes, if you have any
question on what those changes were yesterday.
And there was some small more or less
editorial changes that were made yesterday
during the discussion, and those are reflected
up on the board.

Section 6 involved several
important changes, including a change and
surveys to reflect legal requirements and
policies of OMB and the Department of
Agriculture. A clarification on proxies and
a totally new section on procedures for
contacting elected officials and inviting them
to the meeting.

And finally, was an addition to
the materials criterion checklist to include
biodiversity. And this proposal was approved
last year in the May meeting, the whole
package. I have a friendly amendment from the
ground that makes a correction and more clearly
reflects the intent of the addition to the
criterion.

Kevin, are you prepared to offer
the friendly amendment?

MEMBER ENGELBERT: Yes, I am. On the biodiversity criteria, on the second recommendation you have the qualifier and you add in "and biodiversity." And I think that your intention to make sure that all three of those criteria are met to make sure that it's consistent with biodiversity. But on category 1, No. 3, I think your intent is to get a yes or a no vote. You want to have "if biodiversity is impacted or the environment is impacted," and you don't want to have to have both of them impacted to get a no vote.

So I would offer a friendly amendment that to category 1, No. 3, change to read, "Is the substance harmful to the environment or biodiversity."

MEMBER FLAMM: Thank you. I have discussed this with our committee and we agree to your friendly amendment to change "and" to "or." Thank you.

CHAIRMAN MOYER: I think we need a
motion to accept that friendly amendment.

MEMBER FLAMM: Oh, okay. We do want a friendly amendment in the --

CHAIRMAN MOYER: You don't?

MEMBER FLAMM: Yes. Okay. Mr. Chair, I move that the Board approve the group of four recommendations that we just presented.

MEMBER JAMES: Second.

CHAIRMAN MOYER: We have a motion on the floor and a second. Is there any discussion on these three items as a group? We are voting on them as a group.

VICE-CHAIR GIACOMINI: Three or four?

CHAIRMAN MOYER: Four, I'm sorry. All four items we're voting on as a group.

(No audible response.)

CHAIRMAN MOYER: Hearing no discussion, I will call for the vote, starting with Hue.

MEMBER KARREMAN: Yes.
CHAIRMAN MOYER: Kevin?

MEMBER ENGELBERT: Yes.

CHAIRMAN MOYER: Tina?

MEMBER ELLOR: Yes.

CHAIRMAN MOYER: Katrina? I'm sorry. Rigo?

MEMBER DELGADO: Yes.

CHAIRMAN MOYER: My seating chart is out of order.

Katrina?

MEMBER HEINZE: Yes.

CHAIRMAN MOYER: Dan?

VICE-CHAIR GIACOMINI: Yes.

CHAIRMAN MOYER: Julie?

SECRETARY WEISMAN: Yes.

CHAIRMAN MOYER: Steve?

MEMBER DeMURI: Yes.

CHAIRMAN MOYER: Barry?

MEMBER FLAMM: Yes.

CHAIRMAN MOYER: Bea?

MEMBER JAMES: Yes.

CHAIRMAN MOYER: Tracy?
MEMBER MIEDEMA: Yes.

CHAIRMAN MOYER: Joe?

MEMBER SMILLIE: Yes.

CHAIRMAN MOYER: And the chair votes yes. Motion passes. Thirteen yes; zero no; two absent; no abstentions or recusals.

Is there any other business, Barry, for this Board from the Policy Committee?

MEMBER FLAMM: Not at this time, Mr. Chair.

CHAIRMAN MOYER: Okay. Thank you.

Joe, we turn the Compliance, Accreditation and Certification Committee program over to you.

MEMBER SMILLIE: Thank you, Mr. Chair. The Certification, Compliance and Accreditation Committee has two recommendations on the table. We have not made any changes to these recommendations. The public input has generally been favorable and we'd like to move these forward.
So I would like to move that the NOSB adopt the guidance recommendation, clarification of voluntary retail certification.

MEMBER JAMES: Second.

CHAIRMAN MOYER: We have a motion on the floor from the chairman and we have a second. Is there discussion on the retailer certification category in front of the Board? Katrina?

MEMBER HEINZE: When we talked about this yesterday, what I heard is that this is really a series of questions or things that need to be thought about to develop guidance to strengthen the voluntary retailer certification to address some concerning practices that are being seen in retailing, and really to get the Program's attention that some more work in the retailer arena is needed. Did I understand that correctly?

MEMBER SMILLIE: It's not simply a series of questions. There certainly were a
number of questions in there, but there's also
some very strong guidance points.

CHAIRMAN MOYER: Katrina, follow
up? No?

Any other questions or points of
discussion?

Katrina?

MEMBER HEINZE: So I should say I
am concerned with what we see at retailers.
I'm just not sure this is the right approach.
I would rather see focus on enforcement in the
retail environment by the Program. And I
think one of the public comments we heard
yesterday said that this focuses on that
portion of the retailers who are trying to do
the right thing. And my bigger concern is all
those other folks who haven't even thought
about what they need to do for organics.

CHAIRMAN MOYER: The Chair
recognizes Joe.

MEMBER SMILLIE: Well, no, I think
it brings the attention -- even though the
title is Voluntary Retail Certification, I think through the clarification of that voluntary practice it will become clear to all retailers that they have to be in compliance, whether they seek a certification or not. So I believe this is the first step. By clarifying that, we will get the attention. And again, time is of the essence here. We want to bring this to the attention. And again, it's a guidance. It doesn't require a technical correction or a rule change. It simply gives direction to the NOP for their forthcoming guidance document.

CHAIRMAN MOYER: Katrina?

MEMBER HEINZE: I am struggling with this one, obviously. Really, there's like, I don't know; I'm not going to have my numbers exactly right, 50,000 traditional retail outlets in the United States, like 190, if you go to non-traditional outlets. It's hard to imagine that we're really going to get at all of those versus the relatively few who
have chosen voluntary certification.

CHAIRMAN MOYER: Chair recognizes Bea.

MEMBER JAMES: That's the point.

That because there is a lack of clear value and understanding with the majority of retailers, that this guidance document, as I stated yesterday, from the public comment that was given by the Oregon Tilth for not only looking at strengthening the voluntary retail certification and the marketing of the USDA Organic Seal, which is one of the things that definitely needs to be clarified, but to develop education for both platforms. So that hypothetically speaking, let's say that the OTA and Oregon Tilth and the NOP, NOSB, work together to develop some educational platforms for retailers to become one, either educated about what voluntary retail certification can add, the value that it can add, how it can strengthen their retail so that they can educate their consumers better, but that they
could, through this education, have some kind of a diploma-ready certificate that said that they have gone through education, they understand how to handle organic products at retail. Or they could go to the gold standard, which is to become voluntarily certified.

So there is a lot of development to do on all of the different possibilities to bring forth more options to retailers. And that's really the starting point of this recommendation and a lot of the issues that were brought up on there, one, talk about some of the things that absolutely have to be clarified under voluntary retail certification. No doubt guidance needs to be written on some of the issues that I brought up, you know, like the cheese and marketing of organic, just calling things organic in a perishable department when you're not processing or handling, all of those kinds of things. Those have to be handled and a
1 guidance needs to be brought out by that. And
2 in addition to that there needs to be
3 education developed for retailers, and that's
4 what this guidance document is bringing
5 forward.
6             CHAIRMAN MOYER:  Chair recognizes
7 Dan.
8             VICE-CHAIR GIACOMINI:  Yes, I
9 think this document is great. You know, there
10 are three predominant places where the
11 consumer touches organic, and it's usually not
12 on the farm. It's generally in the press, at
13 a farmer's market and at the retail. And when
14 we hear all the stories of, you know, big box
15 store X getting, you know, a complaint filed
16 on them for bad signage and we see, you know,
17 the things that all the people in this room
18 see of misrepresentation of the seal and
19 advertising and everything else, I think
20 something like this, I think it's really the
21 right way to go.
22             CHAIRMAN MOYER:  Chair recognizes
Steve.

MEMBER DeMURI: Katrina, I fully agree with you on the enforcement, your enforcement idea there. But, I think this is a separate but highly-related subject. And whether we pass this or not, or whether this has even been written, we should still be asking the Program to step up enforcement. And hopefully with their additional staff coming up here in the next year, they'll be able to do that.

CHAIRMAN MOYER: Katrina?

MEMBER HEINZE: Thank you, Steve. I agree. To me this is really about enforcement. I worry about the list of priorities that Miles gave us at the beginning of this meeting, the five or six other new priorities we're going give at this meeting. And just how do we ask the Program to balance that out and which is more important. You know, is retailer cert more important? Is animal welfare more important? Is personal
care more important? It's trying to be judicious about how we use our resources.

Thank you.

CHAIRMAN MOYER: Thank you, Katrina.

I should mention that in conversations with Miles, and we are looking at planning a strategic planning session for later, for early in 2010, and I think at that point in time this Board in consult with the Program will work on setting those priorities. And so I think we'll have a voice and some input there, and I look forward to that, as I know the rest of the Board does.

Chair recognizes Dan.

VICE-CHAIR GIACOMINI: I certainly agree with you, Katrina, on that issue of priorities. I think though that as we are two separate bodies in a certain respect, we each need to move ahead with what we can. And I would not want this Board to wait until something is on the top of the NOP priority
list before we gave them what to act on. This is in front of us now. I think it's a good recommendation. I think it's doing a lot of the right things. And even if it comes in at No. 15, it's now on their list. And I don't think we should wait until they're ready to put it up at No. 3 or No. 5 before we give them a recommendation. This Board has acted on it. The committee's done a wonderful job.

I think, you know, waiting until they're ready for it is not really going to improve the recommendation any, necessarily.

CHAIRMAN MOYER: Chair recognizes Miles from the Program, Miles McEvoy.

MR. McEVOY: Good morning. Yes, I think it's important to give the Program guidance. Just because we have priorities doesn't mean that we're not going to address other issues as well. So having this guidance will help us to determine our next steps. We have top priorities, but there's a lot of other things we'll be doing as well. So I
think this would be helpful.

CHAIRMAN MOYER: Thank you, Miles.

Appreciate that. Chair recognizes Bea.

MEMBER JAMES: I just want to point out that the diversity of the Board allows certain individuals who may not necessarily be able to hunker down on materials and handling, and livestock and crops, to be able to develop other very important things that apply to making sure that organic stays strong. And that at retail, that's the final communication piece to the consumer. That's where all the rubber meets the road. And if we are not consistent and we don't try to elevate and embrace retailers to see the value in doing their best possible job of educating consumers and being educated themselves, then we kind of miss the mark with how we communicate to our consumers.

So there is a retailer representative on the Board as part of the diversity of what we all bring to the table,
and I think that there's opportunity for other projects to run parallel at the same time we're working on other priorities.

CHAIRMAN MOYER: Chair recognizes Katrina.

MEMBER HEINZE: So I don't disagree with anything that's being said. It's more the approach. I would feel much more comfortable with a guidance document that addressed some of these questions. I guess I'm more perplexed by a document that doesn't say what needs to happen. It's asking questions. I'm must more perplexed by the approach we've taken. You know, so I'm trying to on the fly here think of an example.

CHAIRMAN MOYER: Chair recognize Joe.

MEMBER SMILLIE: I understand what you're saying and it's not a perfect document. But we don't want to let perfect be the enemy of good, same old story. So, yes, we could take more time and answer those questions now,
but I think we've gotten some of the answers in public comment. And once again, we're not writing a regulation. We're not even writing a guidance document. But we want to get it to the Program and I'm sure they can polish it up and put it into a guidance document format.

It would have been better, agreed, to present them with a fully-fleshed out guidance document with all the questions answered. I think we've gone far enough, being that it is again, a guidance document to a guidance document. I think we're okay with it. But I understand your point; it's well-taken.

CHAIRMAN MOYER: Thank you, everybody, for that discussion. Is there any further discussion on this item?

(No audible response.)

CHAIRMAN MOYER: We have a motion and we have a second. We've had discussion. I'm going to call for the vote. Are there any conflicts of interest on this particular item?
(No audible response.)

CHAIRMAN MOYER: Hearing none,

I'll start the vote with Kevin.

MEMBER ENGELBERT: Yes.

CHAIRMAN MOYER: Tina?

MEMBER ELLOR: Yes.

CHAIRMAN MOYER: Rigo?

MEMBER DELGADO: Yes.

CHAIRMAN MOYER: Katrina?

MEMBER HEINZE: No.

CHAIRMAN MOYER: Dan?

VICE-CHAIR GIACOMINI: Yes.

CHAIRMAN MOYER: Julie?

SECRETARY WEISMAN: Yes.

CHAIRMAN MOYER: Steve?

MEMBER DeMURI: Yes.

CHAIRMAN MOYER: Barry?

MEMBER FLAMM: Yes.

CHAIRMAN MOYER: Bea?

MEMBER JAMES: Yes.

CHAIRMAN MOYER: Tracy?

MEMBER MIEDEMA: Yes.
CHAIRMAN MOYER: Joe?

MEMBER SMILLIE: Yes.

CHAIRMAN MOYER: And the Chair votes yes.

MEMBER KARREMAN: I didn't get to vote.

CHAIRMAN MOYER: I apologize.

Hue?

MEMBER KARREMAN: I don't think it's going to matter, but yes.

CHAIRMAN MOYER: Twelve yeses; one no; two absent. The motion passes.

Thank you, Joe. Your next item?

MEMBER SMILLIE: Again, the next item, a recommendation solving the problem of mislabeled organic personal care products.

We've got a very short recommendation here. And again, the purpose of the recommendation is to spur action. We recognize very clearly that this is the first of many, many steps that have to be taken in this area. But we want to get it on the
record immediately at this meeting and ask for the Program to take up its mantle. We believe it is their responsibility to set a clear direction on this issue. If they don't want to, we want to hear that; if they want to, we want to hear that. We want action on this one.

What action is to be taken and how long that action will take, it's going to be a while, obviously, but we want to get started. And that's the entire purpose, if I'm not misreading it, Tracy, of this document.

So I would like to move that the NOSB adopt the recommendation solving the problem of mislabeled organic personal care products.

CHAIRMAN MOYER: We have a motion on the floor. Is there a second?

MEMBER FLAMM: I second.

CHAIRMAN MOYER: Barry seconds.

Is there discussion on this particular item?
I'm sorry, Dan?

VICE-CHAIR GIACOMINI: Yes, I agree with the principle of this recommendation to get the Program to take a stand. But at the same time, if the Program doesn't want to enforce this, even if they followed everything we did, they wouldn't have to enforce it. And if they want to enforce it, they don't need this. So I don't really believe that this will do what you're trying to achieve.

No. 2, to use something we have from our experience, we dealt for years with the issue of classification of materials. It came to a head and it came to a major discussion with the Material Working Group because of the face that it had with yeast. Yeast was really a significant face to put on that issue for a large part of the time. And I think, at least in my opinion of watching the group and watching that discussion develop, when we were focused on the face, we
I didn't make progress on the problem. And I'm concerned here that again the personal care is the face of the non-food-use issue. And I wish the committee had focused on this more on the problem of how we're handling non-food-use issues, rather than just going after the face, because we still seem to have that problem.

So, and specifically in the document, really the part that bothers me is putting the personal care into the categories, into the 100(a), 102 and 311. You know, I don't want that to have to become a list of things. I don't think it's necessary. I think we could have done it through the type of language that's used in 300, which I would have much preferred to see that.

And I think also something for us to consider would be -- I think the definition was great in the 300. And then just like Joe, you've always talked about it, come in with 607 as a non-food use synthetic category. But I'm not comfortable at all putting personal
care and creating the precedent of needing a list on all of those things.

CHAIRMAN MOYER: Chair recognizes Tracy.

MEMBER MIEDEMA: Thanks, Dan, for sharing that.

We're doing something even a little more basic than that, and we're attempting to bring some clarity where there is disarray in both the business arena and in the consumer arena. And by speaking to the Program, we want categories approached with a real regulatory stance and not sort of a series of guidance documents on the Web for something as broad as a category.

So to your point, you know, they can already enforce what's out there right now, well, that's very debatable actually. Since there's nothing in the rule that references non-food or the way we've put it here with personal care, I like the idea of the non-food. This is just a starting point.
It's going to take a long time for this to work its way through.

But the Program needs something that they can act against, and companies need something that they can build on. And right now there are three electronic documents that the Program has produced on this category. They don't necessarily even tie to one another. There's a bit of contradiction in the position. And so our attempt here, again, is really to bring clarity where there's some disarray. We didn't try to build a monument on top of a foundation. What we're trying to do here is just start with the foundation.

CHAIRMAN MOYER: Chair recognizes Joe.

MEMBER SMILLIE: Again, I agree with Tracy. And I understand your construct, the way you're thinking, but the consumer doesn't see it that way. They don't see it as like we have to solve the issue of non-food items under organic. They see personal care.
I mean, yes, we're dealing with the face and it's the face that the consumer has to deal with. And it's one of the most egregious ones out there right now. So I think in taking that approach, it's more appropriate in this case. I do understand your construct.

And as far as the idea of how we're going to handle it, that's down the road. My personal preference is to create that section and incur the wrath of consumers for adding synthetics to the list, which is one of the big bugaboos in this approach, is that we're going to maybe add synthetics, so the Board's going to be petitioning for synthetics. And that's why I do like the idea of creating a separate standard, because we can really be clear that these synthetics are for personal care only. It's not that we're, you know, diluting the standard. It's we're creating a new standard for personal care products.

But that's, again, as Tracy said,
we're just trying to build the foundation
here. We're not putting the sills on even
yet.

CHAIRMAN MOYER: I'm glad to hear
that's the direction that your committee is
thinking and moving, Joe, with the creation of
a separate portion of the standard to separate
that out.

MEMBER SMILLIE: I want to be
clear, that's my opinion.

CHAIRMAN MOYER: I understand.

MEMBER SMILLIE: That's not the
committee direction yet. We're waiting to see
how to proceed.

CHAIRMAN MOYER: Chair recognizes
Katrina.

MEMBER HEINZE: I'd be interested
in understanding from the Program what happens
if we pass this recommendation? What are the
next steps? Because it's, in my opinion, not
something that can be turned into regulation.
So does it just die a short quick death, or
what happens?

CHAIRMAN MOYER: Chair recognizes the Program. Miles?

MR. McEVOY: Yes, that's a good question. As I said earlier, we have to study this particular issue. There are some jurisdictional issues that we need to understand, and I would say that it gives us more guidance. It gives us more information about where the Board would like the Program to go on personal care products. Whatever we do has to be in line with our current authority and working with FDA and FTC in terms of where our authority starts and ends, and where theirs are and collaborating with them. So this gives us some direction in terms of what you all want to see the Program do.

What we will do with it, is we'll take it and work with it and meet with OGC and the FDA, and see what we can do with these recommendations, and report back to you in the
Chair recognizes Katrina.

So what if what we really wanted you to look at, to Dan's point, is misuse of the word "organic?" Because I, like Julie, did notice those two dry cleaners that somehow are organic, and you see it lots of different places. And so today the problem is personal care. It will be some other misuse of the word. Because what I'd really like to hear back from you guys is how do we stop that.

That's a good question. There is the NOP complaint process, so for anything that you feel that is mislabeled or violating the organic standards, I really encourage people to file complaints. That's one way for us to look into whether or not there's a violation and then take the appropriate action to change the label, get it off the market, if there is a violation. So
we're always doing that.

There are situations where there are questions about our authority, but if we have a complaint about it, then we have something that will eventually work out. Sometimes, as you have seen, it takes a while if there is lack of clarify in the regulations.

MEMBER HEINZE: Thank you.

CHAIRMAN MOYER: Thank you, Miles.

MS. NALLY: May I add to that?

CHAIRMAN MOYER: Shannon from the Program?

MS. NALLY: We are also working with FTC, just initially starting to work with FTC to help define our jurisdiction, because they would be able to deal more with the use of organic in the term, like organic dry cleaning where it does not pertain to an agricultural product. So that would fall into their jurisdiction on marketing and advertising. And they are currently working
on some green guides as it relates to organic.

CHAIRMAN MOYER: Thank you, Shannon.

Any other questions from the Board for Joe?

I had one question, Joe.

MEMBER SMILLIE: Sure.

CHAIRMAN MOYER: I'm just wondering what your reaction is to the public comment we heard yesterday from Farah Ahmed in regards to language of the FDA, all the things that we heard. I'm just wondering what your reaction is. We just heard that the FDA will impact what we do.

MEMBER SMILLIE: Yes. I really love interacting with them. This is going to be fun. Because they're a trade association, so remember their current position may not be their eventual position. That's their current position.

I think that my own personal opinion is that that's their interpretation.
See, the FDA doesn't say that. They reference INCI, and INCI says that. So I wouldn't call it an FDA position myself. But, we'll see. It's going to be fun to go down that road and see how the PCPC -- I mean, politically correct, politically correct. I mean, how could they be wrong? How they react. Because once, I think, we get some clarity in the personal care market and manufacturers, you know, the big time manufacturers, as well as TerrEssentials and Brauner, start seeing that there's some stability and some clarity in the personal care world, I think they're going to get very interested in organic. And I think we'll see their position change as we give them more clarity in the marketplace.

CHAIRMAN MOYER: Yes, this was my first introduction into the INCI or inky-dinky dictionary, so I had not heard of that before. So either one.

MR. McEVOY: That's about a spider, Jeff.
CHAIRMAN MOYER: Chair recognizes Julie.

SECRETARY WEISMAN: Yes, just briefly to follow on. We have already seen that phenomenon happen. FEMA, not the emergency management agency, but the Flavor and Extract Manufacturers Association, has already been through that where as more of their bigger members began to be stakeholders in organic, they realized that they really had to change their policy to reflect what their stakeholders wanted. And I am sure, Joe, that you are right.

CHAIRMAN MOYER: Thank you, Joe and Julie, for that.

Any other questions or comments? (No audible response.)

CHAIRMAN MOYER: Then I will -- thank you, Kevin.

MEMBER ENGELBERT: Well, I appreciate all the work you've done. And thinking about the point that Dan made, would
you consider, for example, in 205, 102, the use of the term "organic?" Instead of saying "any agricultural product including personal care products," would you consider saying "any agricultural product including any non-food products" and become more inclusive right from the start? You know, I'm not pressing it. I just want your opinion on that right now.

CHAIRMAN MOYER: Chair recognizes Tracy.

MEMBER MIEDEMA: I hear what you're saying, Kevin, and it sounds like a sensible first step on the surface. We don't have the body of knowledge yet for these other non-food categories to sort of make a broad-sweeping all-inclusive. You know, to go back to my foundation building analogy, we only have some depth in knowledge in one area of this non-food space. So I don't think our committee is comfortable kind of expanding it into all food. And again, you know, going back to the real impetus behind this
recommendation, it's to make a statement to the Program that the continuation of, you know, every few years issuing an electronic guidance document as the category spirals out of control is not a sustainable path. That's really what we're trying to do here.

MEMBER ENGELBERT: Thank you. I understand that, and I agree. I just wanted to get your opinion. And this can send a message to the rest of the industry that's using these agricultural products and for non-food items. You know, the thumb that's sticking up that gets the attention, if it's dealt with, there's likely to be another thumb stick up that, you know, violates the consumer trust in such a manner also.

CHAIRMAN MOYER: Chair recognizes Julie.

SECRETARY WEISMAN: Yes, I guess the important thing about having this discussion, and I'm wondering if there's a way that it can be immortalized more in a more
clear way, is that even though we have
envisioned this for personal care proactively
-- I'm not being most articulate, but in other
words, I feel like is there a way that we can
make it clear that we don't intend this
treatment of personal care -- it's really a
prototype for all non-food. Because I do
think that we have enough collective
experience on the Board on this particular
moment in time that we are able to take the
30-foot view and see the train wrecks coming.
And I think that's what the value
of what Dan and Kevin have to say. And it may
be that it's practical and it's the most
expedient to get action to happen to have this
be focused on the personal care, because
there's already very recognizable egregious
stuff going on out there. But we don't want
to have to reinvent this wheel for every
single category that comes down the pike. And
maybe saying this in the record is sufficient
to do that, but I'm afraid five of us are
going to go off and then another five are
going to go off, and in three years, or four
years, or five years who's going to remember
that this is where we meant to go?

CHAIRMAN MOYER: Chair recognizes

Tracy.

MEMBER MIEDEMA: Since we're
predicting what we think might happen, I
believe, if I were to predict, the passage of
this recommendation would simply move this
topic from having no place on the priority
list at NOP to having some appropriate place.
I don't think it's necessarily appropriate for
it to be in the top ten, but maybe it's
important for it to be in the top 20. And if
we opt not to speak to the Program that we
think this is an area where clarity needs to
be brought, I don't think it will make the
radar screen.

CHAIRMAN MOYER: Katrina?

MEMBER HEINZE: So similar to our
last discussion, I'm struggling with this idea
of recommending rule change that we know isn't ready to be implemented as a way to get a priority on the Program's list. I think there is a different mechanism to do that, whether it's, you know, passing a recommendation that we want the Program to come back and give us a report at our spring meeting, whether it's the broader language suggestions that have been made, because I do think those could, you know, have more long-term legs. I just struggle with this idea of we know it's not right, so we're going to vote for it because we want it to be on their priority list. Just seems like there should be a better mechanism.

CHAIRMAN MOYER: Chair recognizes Tracy.

MEMBER MIEDEMA: Well, I guess I'm going to take exception to that we know it's not right part. We heard from a lot of commenters that they most definitely do think that this is the right step. It may not be inclusive enough. And some of other tools you
reference, maybe task forces, discussion
documents, we've got about 60 of those in the
hopper. This is one way of speaking very
directly to the Program.

We know rulemaking has a long way
to go and this is step one. This is way to
take a definitive step one, as opposed to kind
of a toe wading in. Things have really
started spiraling, guys. You know, when we
have the word "organic" being used with -- and
any set of rules are okay underneath that
word. That's where we're at right now. And,
you know, I would urge us to bring some
clarity here through this tool, this
particular tool.

CHAIRMAN MOYER: Chair recognizes
Joe.

MEMBER SMILLIE: Yes, I feel very
strongly about that, too, Katrina. No more
guidance documents. No more postings on the
question and answer. We need definitive
action and I think rule changes are going to
be required. The category is huge. It's confusing. And once again, it's our word and I think we need to act dramatically to protect it.

CHAIRMAN MOYER: Chair recognizes Bea.

MEMBER JAMES: I would just second what Joe just said. You know, I do think it's important to recognize that there are other types of products that could potentially fall under this area, such as cottons and textiles, like we talked about. But personal care is one of the largest areas for the natural and organic consumer. You know, when you go into a retail store, generally you're going into a pretty big department that is staffed, when you look at these items. And to think that they're just kind of not really floating one way or another between the FDA and the USDA for regulating is very confusing for everything else that is being sold in the store. And there needs to be some really
clear direction for these manufacturers so
that consistent labeling and use of the term
"organic" is in front of the consumer.

CHAIRMAN MOYER: Thank you, Bea.

We have a motion on the floor.

We've had a second. We've had discussion.

Are there any other questions or comments
before I call for the vote?

(No audible response.)

CHAIRMAN MOYER: Then I'm calling
for the vote.

Is there a conflict of interest
before anybody votes?

(No audible response.)

CHAIRMAN MOYER: Hearing none, we
will start the voting with Tina.

MEMBER ELLOR: Yes.

CHAIRMAN MOYER: Rigo?

MEMBER DELGADO: Yes.

CHAIRMAN MOYER: Katrina?

MEMBER HEINZE: Yes.

CHAIRMAN MOYER: Dan?
VICE-CHAIR GIACOMINI: No.

CHAIRMAN MOYER: Julie?

SECRETARY WEISMAN: Yes.

CHAIRMAN MOYER: Steve?

MEMBER DeMURI: Yes.

CHAIRMAN MOYER: Barry?

MEMBER FLAMM: Yes.

CHAIRMAN MOYER: Bea?

MEMBER JAMES: Yes.

CHAIRMAN MOYER: Tracy?

MEMBER MIEDEMA: Yes.

CHAIRMAN MOYER: Joe?

MEMBER SMILLIE: Yes.

CHAIRMAN MOYER: Hue?

MEMBER KARREMAN: Yes.

CHAIRMAN MOYER: Kevin?

MEMBER ENGELBERT: Yes.

CHAIRMAN MOYER: And the Chair votes yes. One no, twelve yeses, two absent. The motion passes.

Thank you, Mr. Chairman. Is there any other business before the Board?
MEMBER SMILLIE: No.

CHAIRMAN MOYER: Thank you. Then I will turn the mike over to Dan with Materials.

VICE-CHAIR GIACOMINI: Thank you, Mr. Chairman.

The Materials Committee has one document for voting this morning, the nanotechnology document. We do have some proposed amendments that we did not finalize within committee, so we would need to do that here. Do you want us to make the changes that we've talked about and then make the motion, or make the motion of the current doc recommendation and then amend?

CHAIRMAN MOYER: I would suggest we make our changes first and then vote on it.

VICE-CHAIR GIACOMINI: Okay.

CHAIRMAN MOYER: So let's just put it up as a discussion document here to discuss.

VICE-CHAIR GIACOMINI: Katrina, do
you have a comment?

CHAIRMAN MOYER: Chair recognizes Katrina.

MEMBER HEINZE: Since the committee hasn't voted on it, do any amendments have to happen through the motions, because the recommendation from the committee is this?

VICE-CHAIR GIACOMINI: I can go do this easy.

CHAIRMAN MOYER: We'll make it as a motion then?

VICE-CHAIR GIACOMINI: Okay. I move to accept the document on nanotechnology in organic production processing and packaging.

CHAIRMAN MOYER: Is there a second for that?

MEMBER ENGELBERT: I'll second.

CHAIRMAN MOYER: We have a motion and a second. Discussion? Dan?

VICE-CHAIR GIACOMINI: I would
like to present a friendly amendment. First
one, Valerie, is in the definition to change
that to "300," to add the word "engineered" at
the beginning of the definition. In 105(h),
to add "primary packaging."

Right above you. Right there.

Okay. You already got that.

301(8) to add "primary packaging."

And then to change "(g)" to "(h)."

Right there. No, within that same
one. Eight.

And, Mr. Chairman, the person
making the motion accepts that friendly
amendment.

CHAIRMAN MOYER: Thank you, Dan.

Appreciate that.

We have a motion on the floor. We
have a second. We have some amendments to
that document. Is there any discussion on the
document as it's amended?

Tina?

MEMBER ELLOR: I have a couple of
concerns with this, and I'm much more in line
with the minority opinion, although, you know,
if of course we're not given that choice, I'll
probably support it. But, I have a couple of
calls about the definition and some
comments that we had. And I got the websites
that they suggested, ASTM and some other
regulatory, you know, bodies that define
nanotechnology as 100 or under. And I'd like
us to take some time to find out what the
recognized definition in their industry is of
nanotechnology. I guess, that's one concern.

And the other concern is that I'm
completely out of my depth here. I know what
nanotechnology is. I'm familiar with some of
the applications. But for the most part, I
really don't know much about it. And I think
that the minority opinion prohibits it without
completely slamming the door shut. But, I
understand the sentiment, the vast amount of
sentiment is behind this recommendation.

CHAIRMAN MOYER: Dan?
VICE-CHAIR GIACOMINI: Yes, we were looking at a number of potential options of really over working the definition here today, of which we were not quite comfortable with doing. But as far as the size goes, as I've studied the issue, I think what we're going to find is people will set definitions and then someone will find nanotechnology at a bigger size. They'll increase the size and the definition and people will find nanotechnology at a bigger size. I fully expect nanotechnology to be up at 500 soon, when they find something at that size that has unique properties.

So in that respect, the other possibility was pulling it back, reworking the document. And along with that is one comment in the hallway to me was a recommendation to pull back but yet submit a separate motion that says that we endorse the principle of not having nanotechnology in organic, but to rework the document. But in surveying both
the committee and the Board, the predominant
seemed to be that they wanted to move ahead
with this document. So that's where we are.

CHAIRMAN MOYER: Tina?

MEMBER ELLOR: There's just one
more concern I have about the term
"engineered." I think that's a great
addition, but engineered is a pretty broad
category. And I want to make sure that those
things like, you know, things that are
homogenized, why is homogenization not an
engineered? I mean, what you're doing is
making the particles smaller. I'm a little
bit concerned about the vagueness of that.
It's a great addition. It's definitely an
improvement. But, I'm a little bit concerned
about that as well.

CHAIRMAN MOYER: Chair recognizes
Joe.

MEMBER SMILLIE: Yes, again, some
of the arguments to me are convincing, but I
also favor the minority report. One of the
reasons especially is I've got a great deal of faith in the NOSB to deal with this issue as it comes up and I don't think we know enough about it. I was telling the story of my favorite mentor, which was Scott Nearing, once addressed a crowd of rabid anti-nuclear hippies saying that he didn't know if nuclear power was right or wrong, and we were all aghast. Here was our hero telling us he, you know, might support nuclear power. He said, "But I do know one thing for sure, I know that we aren't ready to handle it yet."

So I'm of the opinion also, I don't want to close that door completely. I want to prohibit it, but I would like to be able to look at it as it comes up.

My follow-up question, which I think your document is trying to answer, is the packaging issue. Because originally it said "packaging," and now you've changed that to "primary packaging." Is there a standard universal time for primary packaging? Does
that mean packaging that comes into contact
with the food?

That's what it means? Okay.

VICE-CHAIR GIACOMINI: Industry

standard term.

CHAIRMAN MOYER: Chair recognizes
Steve. Steve, go ahead. Say that again?

MEMBER DeMURI: Primary packaging
would be the packaging that actually touches
the food. For instance, in a bin of tomato
paste, the liner would be the primary package.
The wooden bin on the outside would be a
secondary package.

MEMBER SMILLIE: Okay. Well, that
does answer one of my concerns, because I'm a
big fan of RFID. And if the electronic
circuitry of nanotechnology could give us
readouts not only of origin, identity, value,
scales, all these wonderful things for the
tracking of food, and perhaps an indication of
pathogens, I don't want to ban that. I'm very
interested in that. And that seems to answer
that question and it certainly moves me along the way to supporting the recommendation. But, I also just feel that the minority recommendation gives us a little more flexibility while prohibiting it, but allowing it on a case-by-case basis.

CHAIRMAN MOYER: Chair recognizes Dan.

VICE-CHAIR GIACOMINI: Yes, you know, you always hear the line in real estate, location, location, location. I think the mantra here can be timing, timing, timing. You know, the major focus of this comes from the fact that we're seeing what's happened to the GMO issue in having to deal with vaccines. You know, I certainly don't want to see that train wreck down the road either. In surveying the committee and the Board, the predominance was to let them move ahead with this. I don't think that this document failing is in any way an indication that we don't support the prohibition of
nanotechnology and that we would not then keep it on the workplan for the Materials Group.

CHAIRMAN MOYER: Chair recognizes Joe.

MEMBER SMILLIE: Yes, I totally agree with you. If it was a case of, you know, the first motion failing and then the second motion failing, I would be aghast that I didn't vote for the first motion. You know, how it all plays out I can't determine, but my own personal opinion is I definitely want to pass one of the two, but I would prefer No. 2. But again, you never know how things work out. So that's the intent.

CHAIRMAN MOYER: Chair recognizes Katrina.

MEMBER HEINZE: I have two things. The first is I concur with Steve that "primary" is an industry standard language for that packaging. I do not know if it's regulatory language. And the twain often do not meet. So that's just something to be
considered.

The other is, what I'm hearing is there are a number of people who prefer the minority opinion and so I don't know procedurally the proper way to vote on that first. So do I --

CHAIRMAN MOYER: You can't.

MEMBER HEINZE: Well, but we could make -- hold on. I'm thinking out loud. We can amend this motion, right?

CHAIRMAN MOYER: Yes.

MEMBER HEINZE: So in theory; we're not doing this now, but in theory I could offer some motion to amend this, the result of which would be the minority opinion. We could see if it's accepted. We could vote on it. Is that not correct?

CHAIRMAN MOYER: Chair recognizes Dan.

VICE-CHAIR GIACOMINI: That would be correct. I think as we bring this up to a vote in the current form with the current
recommendation, the Board is telling us whether they want the minority opinion. If we are going to pull back, if we're going to go to the minority opinion, I would much prefer that the Material Committee took that as the direction they want to go and make sure that they get it all right, and we bring it back and do it at the next meeting, rather than trying to cobble it in within what we have.

CHAIRMAN MOYER: Chair recognizes Kevin.

MEMBER ENGELBERT: I'd just like to remind the Board that we need to be cautious in our approach to nanotechnology. Consumers look to organic to be the most pure food possible, and I'm not sure that we're ever going to fully understand nanotechnology, ever. And the recommendation as stated technically doesn't close the door on nanotechnology forever. If at some point in the future there is some type of nanotechnology that is deemed to be 100
percent safe for humans, the environment, manufacture, waste disposal, everything, it would be hard to do, but it would be able to be brought back to the table to the existing Board and dealt with.

I agree with the comments we heard from the public that it's a mistake to consider a nanotechnology synthetic so that it can be dealt with on a case-by-case basis, because there are too many individual cases, in my opinion. And I think at this point in time, given that it's so new, I think the prudent approach is to say we simply don't want it right now.

CHAIRMAN MOYER: Chair recognizes itself. I agree with Kevin. I think that making a real firm stand on nanotechnology, it doesn't stop us in the future from doing something if we need to, if we absolutely need to. But it does make a very strong comment to the consuming public that these types of technology are not going to be found in their
1 food products when they're certified organic.
2 We did the same thing GE, and I know that
3 there could be down the road some products
4 that might be beneficial to the environment,
5 that might be beneficial to human health
6 somewhere. But we took a strong stand. We
7 did it with biosolids, we did it with lots of
8 materials that could in some way, shape or
9 form be proven to be useful down the road.
10 And I think consumers recognize that. It
11 makes it very clean and easy to say this food
12 product line doesn't contain that.
13 I have Barry, and then Dan, and
14 then Tina.
15 MEMBER FLAMM: Thank you, Mr.
16 Chair. You just said everything I was going
17 to say, only better.
18 CHAIRMAN MOYER: Thank you, Barry.
19 Chair recognizes Tina. I'm sorry,
20 Dan and then Tina.
21 VICE-CHAIR GIACOMINI: The
22 definition we have right now is very much in
line with a number of the other definitions around. It may not match exactly some of the alternatives that were presented by some commenters, but it's in line with many of the other definitions of nanotechnology around the world. It's very close to Canada. One of the people participating in the negotiation reviewed it and actually liked our changes better than theirs. It may not be perfect, but in the way that we're doing this document, I think it's adequate. Perfect kills the good, you know?

If we go to the minority opinion, I think the definition of nanotechnology becomes even more critical, because it's only if it fits in within that definition is it synthetic and has to be reviewed? A lot of people may say it's real critical in what we're doing now, and that's true, and it may need improvement. But I think in the minority opinion's version it's even more critical, and I would really want us to really review and
nail down and get that absolutely the best we possibly can.

CHAIRMAN MOYER: Chair recognizes Tina, then Katrina, then Tracy.

MEMBER ELLOR: I'm actually very much behind this and I'm mostly comfortable with it. My concern is; and I respect all the homework you obviously did to come up with this, is that it's not going to knock out, you know, those natural things that we already do and have been doing for a long time. So you know, as long as I can be assured of that, all those small particles that exist in our environment already and exist in our food already aren't going to be somehow affected.

CHAIRMAN MOYER: Dan for a response to that?

VICE-CHAIR GIACOMINI: One of the considerations we added, and I won't make the amendment, but I'll throw it out to the Board. One of the considered we had was adding to the definition that substances created in
processes allowed in organic production and handling do not qualify as nanotechnology.

MEMBER ELLOR: That would be great.

CHAIRMAN MOYER: If you want to consider an amendment to that, go ahead, Tina. I have Katrina and then Tracy.

MEMBER HEINZE: Dan, I respectfully disagree on your evaluation of the definition. So if we exclude nanotech, I think the definition is more important, because you're going to have food processors who may have certifiers who look at that definition and say you're homogenizing, or you're milling, or you're whatever it is, and you're doing engineering and you're creating nanoparticles because they have unique properties. And so what you're doing is now excluded and not allowed. And with this recommendation there is no path for those handlers to use that technology, technology that consumers want us to be using because it
has properties they want in their food, often
with regards to mouth feel and texture. So I
think there the definition is more important
because we're going to have different people
reading the definition differently.

If we go with my proposed minority
opinion, it gives us flexibility as a Board to
evaluate and say, no, that's not within the
intent of that definition.

CHAIRMAN MOYER: Chair recognizes
Tracy.

MEMBER MIEDEMA: Since the
Handling Committee had some diversity of
opinion, can't we as a Board pass a
recommendation that acknowledges that range
and accept and vote on a recommendation that
includes a minority opinion?

CHAIRMAN MOYER: I'm not a
parliamentarian, but I don't think so.

MEMBER DELGADO: Mr. Chairman?

CHAIRMAN MOYER: You can't have
two opinions that you voted on.
MEMBER DELGADO: Mr. Chairman?

CHAIRMAN MOYER: Chair recognizes Rigo.

MEMBER DELGADO: The purpose of having this discussion is to come up with a specific recommendation. The things you're proposing would be conflictive, so it will not be something definite. So that would be the argument. The options we have if Katrina wishes to present an amendment to replace some of the language, we should do that and vote on it and see how the Board feels about it. And if it's approved, then we go back to the original motion. If it's rejected, then we consider the motion that is before the floor.

CHAIRMAN MOYER: But we have to have a definite opinion when we're done.

I have Hue and then Katrina.

Hue?

MEMBER KARREMAN: Rigo said what I wanted to say, because I'm thinking of the aquaculture document that's coming out. We
have a minority opinion on that I just want to
make sure that the mechanism, the hinge point
is there in case the majority doesn't pass
that the minority would be -- it's in place,
that mechanism?

MEMBER DELGADO: Yes.

MEMBER KARREMAN: Okay.

CHAIRMAN MOYER: Thank you.

Katrina?

MEMBER HEINZE: I'm not sure on
the right language, so again you're going to
have to help me. I move to --

What's the right motion to defer
this until later in the day so I have time to
think about my amendment?

VICE-CHAIR GIACOMINI: Where do
you want to put it in the agenda?

MEMBER HEINZE: Well, I just need
a little bit of time, you guys.

VICE-CHAIR GIACOMINI: No, you
tell me.

CHAIRMAN MOYER: No, you have to
make a motion.

VICE-CHAIR GIACOMINI: Pick a time that would be a good time and then we'll do it. It's to postpone definitely.

MEMBER HEINZE: Right.

PARTICIPANT: Table.

VICE-CHAIR GIACOMINI: No, not table. Postpone definitely.

MEMBER HEINZE: Postpone.

VICE-CHAIR GIACOMINI: You want to do it after lunch?

MEMBER HEINZE: Yes.

VICE-CHAIR GIACOMINI: Okay.

MEMBER HEINZE: I would like to postpone until after lunch.

VICE-CHAIR GIACOMINI: Postpone until after lunch.

CHAIRMAN MOYER: The Chair will accept that motion and this is definitely postponed until --

VICE-CHAIR GIACOMINI: No, second and vote.
CHAIRMAN MOYER: We have to vote on that as an entire Board?

VICE-CHAIR GIACOMINI: Yes.

MEMBER HEINZE: I'll second.

CHAIRMAN MOYER: Thank you. We accepted that motion. It's been seconded. Can we vote with just a show of hands or an aye or a nay? I think we can for this.

VICE-CHAIR GIACOMINI: Yes, and it's --

CHAIRMAN MOYER: All those in favor of definitely postponing this until after lunch, respond with an aye.

ALL: Aye.

CHAIRMAN MOYER: Any opposed?

MEMBER FLAMM: No.

CHAIRMAN MOYER: One opposed and one abstain. We had one abstention, one opposed and eleven -- I apologize, two opposed.

VICE-CHAIR GIACOMINI: We can't have a number count with a voice vote.
CHAIRMAN MOYER: So we had some opposed, but the ayes have it. It is --

MEMBER DELGADO: We can determine the result, but not a count.

CHAIRMAN MOYER: The result is that it is definitely postponed until after lunch.

Thank you, Dan. Does that conclude the Materials Committee work in front of this Board at the moment?

VICE-CHAIR GIACOMINI: At the moment.

CHAIRMAN MOYER: Thank you. I will then turn the microphone over to the Crops Committee. Tina, are you ready with your Crops materials?

MEMBER ELLOR: Yes, the first one on the agenda is manganese sulfate monohydrate. And the Crops Committee recommends that manganese sulfate monohydrate as petitioned does not need to be considered for addition to the National List since use of
this material is currently allowed through the existing listing, Synthetic Substances Allowed for Crop Production, 206.601(j)(6)(ii). And I would like to make a motion that this recommendation be accepted.

CHAIRMAN MOYER: I have a motion on the floor. Is there a second.

MEMBER ENGELBERT: I'll second.

CHAIRMAN MOYER: We have a motion and second. Is there discussion on this material?

(No audible response.)

CHAIRMAN MOYER: Seeing or hearing none, I call for a vote.

Is there a conflict of interest on this material?

(No audible response.)

CHAIRMAN MOYER: Hearing none, we'll start the voting with Rigo.

Oh, there is discussion?

MEMBER HEINZE: I just need to have to catch up, just 30 seconds.
MEMBER JAMES: Jeff, can you please restate what the motion is?

CHAIRMAN MOYER: I will ask Tina to restate the motion.

MEMBER ELLOR: The Crops Committee recommends that manganese sulfate monohydrate as petitioned does not need to be considered for addition to the National List since use of this material is currently allowed through the existing listing, Synthetic Substances Allowed for Crop Production, 206.601(j)(6)(ii).

CHAIRMAN MOYER: Thank you. We'll begin the voting with Rigo.

MEMBER DELGADO: Yes.

CHAIRMAN MOYER: Katrina?

MEMBER HEINZE: Yes.

CHAIRMAN MOYER: Dan?

VICE-CHAIR GIACOMINI: Yes.

CHAIRMAN MOYER: Julie?

SECRETARY WEISMAN: Yes.
CHAIRMAN MOYER: Steve?

MEMBER DeMURI: Yes.

CHAIRMAN MOYER: Barry?

MEMBER FLAMM: Yes.

CHAIRMAN MOYER: Bea?

MEMBER JAMES: Yes.

CHAIRMAN MOYER: Tracy?

MEMBER MIEDEMA: Yes.

CHAIRMAN MOYER: Joe?

MEMBER SMILLIE: Yes.

CHAIRMAN MOYER: Hue?

MEMBER KARREMAN: Yes.

CHAIRMAN MOYER: Kevin?

MEMBER ENGELBERT: Yes.

CHAIRMAN MOYER: Tina?

MEMBER ELLOR: Yes.

CHAIRMAN MOYER: And the Chair votes yes. Zero; thirteen yeses; two absent.

The motion passes.

Thank you, Tina. You're next material, please?

MEMBER ELLOR: This is the very
complicated peracetic acid. Let me just reiterate. The history of this is that the EPA changed the status of peracetic acid from inert to active. And hydrogen peroxide formulations, which are on the list, can't exist without peracetic acid.

The petition is to take off all the annotations, expand the use of peracetic acid to pretty much everything. We, the Crops Committee, were not comfortable with that, so we recommended six to zero that we deny that petition. But, in order to keep hydrogen peroxide and peracetic acid, we need to make some annotations. And Emily pointed out to me this morning, and I think she's right about this; I'd like to, you know, get some input, that not only do we have to annotate the peracetic acid listings, we now have to annotate the hydrogen peroxide listings as well to allow hydrogen peroxide as blended with peracetic acid, because it only exists in that form. If we don't do that, then we'll
lose hydrogen peroxide as a sanitizer in crops
and also as disease control.

So that said, we have two
documents. The first is denying the petition;
and I'll go through that in more detail. And
if we do that and once we've done that, we
have a second document up that would annotate
the peracetic acid listings. And also I think
we need to annotate the hydrogen peroxide
listings to keep those tools in sanitation and
pest control.

VICE-CHAIR GIACOMINI: Point of
order, Mr. Chair?

CHAIRMAN MOYER: Chair recognizes
Dan for a point of order.

VICE-CHAIR GIACOMINI: In lieu of
the discussion that we had yesterday, I would
like to ask the Program of whether changing
the annotation of a substance currently on the
National List that was not petitioned to
change the annotation is within proper
procedure.
CHAIRMAN MOYER: Chair recognizes the Program.

MR. McEVOY: Well, it seems like from what I understand from yesterday that it's not proper procedure. However, the Board earlier has voted to approve hydrogen peroxide, and you're offering kind of a clarification on an earlier approval. So I think you could look at it both ways. So I think what you should do is continue on.

You're using your best judgment to make a recommendation. We'll get legal advice to see how we can implement your recommendation. So that's what I would suggest.

CHAIRMAN MOYER: I don't want to enter into discussion if we don't have to, but if have a point of order, Rigo?

MEMBER DELGADO: Just to add one point to that. This is an amendment in response to a petition, so we're finding some issues. So when you deal with the lawyers, please take into account that we're responding
to a petition and we're finding some issues
within the rule that we were trying to
correct. That's my point.

CHAIRMAN MOYER: Dan?

VICE-CHAIR GIACOMINI: I

appreciate Rigo for adding that, because with
all due respect to Miles, they way you just
said that was awful muddy in what you told us
yesterday regarding the Livestock
recommendations.

CHAIRMAN MOYER: Thank you.

Tina?

MEMBER ELLOR: Our concern as the
Crops Committee is that these are critical
tools in sanitation and disease control, and
we really feel like we don't want to lose
them. Also, it's our sentiment that peracetic
acid is far more innocuous than other things
that are used for the same purpose. And if
peracetic acid can be used for those in place
of, you know, chlorine and copper sulfate and
some other control and sanitation measures,
that we really do want to keep it.

But we were not in favor of expanding the use, because it is a very broad oxidizer. You know, I really don't accept that you can kill only the bad guys and leave the good guys intact. And with expanding use, you could pretty much, you know, put it in your irrigation system and have a constant application to soil, if for some reason you wanted to do that.

Kevin has a comment he'd like to --

CHAIRMAN MOYER: If you're going to make a motion, you should make a motion.

MEMBER ELLOR: Okay. Yes, sir.

The motion is to remove the annotations from the listing for peracetic acid on National List 205.601(a)(6) and 205-601(i)(7). That's the motion on the table.

CHAIRMAN MOYER: Is there a second to that motion?

MEMBER DELGADO: Second.
CHAIRMAN MOYER: We have a motion and a second. Is there any discussion on this material? I see Steve.

MEMBER DeMURI: More of a question than a discussion. So we'll have multiple motions to vote on?

MEMBER ELLOR: There will be two motions to vote on.

MEMBER DeMURI: There won't be an additional one for hydrogen peroxide as well?

MEMBER ELLOR: There may be. You know, I need to look to our parliamentarians for that. If we need to make those additional changes to keep hydrogen peroxide by annotating them to allow peracetic acid in hydrogen peroxide, because they don't exist one without the other, then I guess we will need a motion for that as well.

CHAIRMAN MOYER: Point of clarification. The first motion, Steve, is to remove the annotation at the petitioner's request.
MEMBER DeMURI: Okay.

CHAIRMAN MOYER: Depending how we act on that motion, it will determine what we have to do, whether we have a second motion or not. Because if we vote to remove the annotations, then it works. If we remove, as the committee recommended, to not remove the annotation, then we have to change the other annotation.

Bea?

MEMBER JAMES: So it sounds like everything is contingent on being able to make an annotation as well in hydrogen peroxide? That wasn't a part of the original agenda. What happens if we're not able to make an annotation on hydrogen peroxide?

VICE-CHAIR GIACOMINI: Mr. Chairman?

CHAIRMAN MOYER: Chair recognizes Dan.

VICE-CHAIR GIACOMINI: Right now, the motion is simply to delete the annotation.
I think it would be prudent to deal with that issue and that recommendation, and then we'll move onto the correctness of the annotation changes that we're looking at. Because if this passes, we'll just move on.

CHAIRMAN MOYER: Right.

VICE-CHAIR GIACOMINI: If it fails, then we'll look at what we need to do. But I think clearing this would be a good step.

CHAIRMAN MOYER: We have a motion on the floor. It's seconded. We're in discussion.

Tina, you have a point?

MEMBER ELLOR: So let me try to clear up what this would mean. If we accept this petition use, then it opens up the door for peracetic acid to be used across the board in plant disease control in a very broad base of applications. Gerry had a definite -- and I can read his email to you, really felt that it had the potential to be abused in
agriculture quite a bit, so that you could be
constantly applying peracetic acid. And, you
know, the petitioner's argument was; and I did
read through it pretty carefully, that it
would be just killing the bad stuff. And as
a biologist, as a microbiologist, I don't
accept that. I think that you'll kill the
good stuff, too.

CHAIRMAN MOYER: Chair recognizes
Dan.

VICE-CHAIR GIACOMINI: Removing
the annotation would allow for unlimited use
in unlimited amounts, correct?

MEMBER ELLOR: Correct.

CHAIRMAN MOYER: Okay. We have a
motion on the floor. We have a second. Is
there any further discussion of this item?

Chair recognizes Bea.

MEMBER JAMES: I just want to make
sure, we're voting then to not accept the
removal of the annotation?

VICE-CHAIR GIACOMINI: No, we are
1 voting to remove the annotation. So if you
2 want to keep the annotation, you vote no.
3
4 CHAIRMAN MOYER: Chair recognizes
5 Tina.

6 MEMBER ELLOR: A vote yes would be
7 voting to expand the use of peracetic acid.
8 A vote no would be to not expand the use of
9 peracetic acid.

10 CHAIRMAN MOYER: Okay. We have a
11 motion on the floor. We have a second. Any
12 further discussion?
13
14 (No audible response.)
15
16 CHAIRMAN MOYER: If not, I'm going
17 to call for the vote.
18
19 Is there any conflict of interest
20 on this material?
21
22 (No audible response.)
23
24 CHAIRMAN MOYER: Hearing none, we
25 will start the voting with Katrina.
26
27 MEMBER HEINZE: No.
28
29 CHAIRMAN MOYER: Dan?
30
31 VICE-CHAIR GIACOMINI: No.
CHAIRMAN MOYER:  Julie?
SECRETARY WEISMAN:  No.
CHAIRMAN MOYER:  Steve?
MEMBER DeMURI:  No.
CHAIRMAN MOYER:  Barry?
MEMBER FLAMM:  No.
CHAIRMAN MOYER:  Bea?
MEMBER JAMES:  No.
CHAIRMAN MOYER:  Tracy?
MEMBER MIEDEMA:  No.
CHAIRMAN MOYER:  Joe?
MEMBER SMILLIE:  No.
CHAIRMAN MOYER:  Hue?
MEMBER KARREMAN:  No.
CHAIRMAN MOYER:  Kevin?
MEMBER ENGELBERT:  No.
CHAIRMAN MOYER:  Tina?
MEMBER ELLOR:  No.
CHAIRMAN MOYER:  Rigo?
MEMBER DELGADO:  No.
CHAIRMAN MOYER:  And the Chair votes no.  Thirteen noes, zero yeses, two
absent. The motion fails.

Your next item, Madam Chairperson?

MEMBER ELLOR: The next item, the

motion as it stands now is to amend the

annotations from the listings for peracetic

acid on National List 205-601(a)(6) and

205.601(i)(7) to add the words in each section

"permitted in hydrogen peroxide formulations

at concentrations of no more than five

percent." That's the motion on the table.

CHAIRMAN MOYER: I have a motion

on the table. Is there a second?

MEMBER DELGADO: Second.

CHAIRMAN MOYER: We have a motion

and a second. Now we have discussion.

Tina?

MEMBER ELLOR: And this is what;

and I think that Emily and Rigo brought this

up yesterday, we, I think, would need to

annotate the peracetic acid listings, and let

me go through those just quickly. In

addition, we need to annotate not only the
peracetic acid listings, but also the hydrogen peroxide listings, because one doesn't exist without the other. And I think we don't want to lose hydrogen peroxide as disease control and sanitation.

So hydrogen peroxide appears on 601. It appears in two places. On 205.601(a) as algicides, disinfectant and sanitizer, including irrigation system cleaning systems for hydrogen peroxide. It also appears on 205.601(i) as plant disease control, hydrogen peroxide.

So we may need to amend those to say "hydrogen peroxide may be blended with peracetic acid."

CHAIRMAN MOYER: Chair recognizes the Program, Miles McEvoy.

MR. McEVOY: Yes, I don't think you need to amend hydrogen peroxide. OMRI and WSDA have registered a number of hydrogen peroxide products and this issue has not come up. So I don't see why you would need to
amend that. It's not part of the petition.

It doesn't seem to be an issue. It's
something that just came up. We can look into
it and get back to you on it, but I wouldn't
say -- don't take this one on.

MEMBER ELLOR: I think what's
changed is the EPA's designation of peracetic
acid as an active. It was considered an
inert. It was reclassified as an active. And
the hydrogen peroxide formulations don't exist
without peracetic acid. But, since you're the
man in charge, I'm going to take your word for
it that we don't need to annotate hydrogen
peroxide.

CHAIRMAN MOYER: Question then:

Does that make this entire motion not
necessary? I mean, because the goal of this
motion was to protect hydrogen peroxide.

MEMBER ELLOR: Well, also
peracetic acid, but not in unlimited use.

CHAIRMAN MOYER: Correct.

MEMBER ELLOR: All right. Oh,
you're right. I do see what you mean. And let's think this through. I think is what Kevin was trying to say to me before. Yes, that we can reject the petition to expand usage but keep the current usage in place.

CHAIRMAN MOYER: And that's what we just did with the past vote.

MEMBER ELLOR: And that's what we just did.

CHAIRMAN MOYER: This vote is to protect hydrogen peroxide.

MEMBER ELLOR: Right. So if you don't feel like we need to protect hydrogen peroxide, then we don't need to go down this road either.

MR. McEVOY: Well, there's a difference of opinion.

MEMBER ELLOR: Okay. All right.

MR. McEVOY: And I think that really you should hear from OMRI or Zea or --

MEMBER ELLOR: Okay. Can we do that, please?
CHAIRMAN MOYER: The Chair would recognize, if they'd come to the podium, both Dave Decou and Zea. If you'd like to come to the podium to respond? We appreciate your background and your knowledge here. And if you can state your name for the transcriber.

MR. DECOU: Dave Decou from OMRI.

MS. SONNEBAND: Zea Sonneband from CCOF.

CHAIRMAN MOYER: You guys got to change heights, because you only got one mike.

MS. SONNEBAND: Do you want me to go first?

CHAIRMAN MOYER: Well, it will be easier for you to bend over than for her to jump, I'm sure.

MS. SONNEBAND: Okay. My interpretation of this is you do need to take the vote on peracetic acid, because right now, peracetic acid on a list is only allowed for fire blight. And you want to change the peracetic acid annotation so that it can be
listed along with hydrogen peroxide on the
list. You do not need to change the
annotation for hydrogen peroxide, because it's
already on the list for disease control and
once peracetic acid is on, the two things can
be blended together in a formulation.

MEMBER ELLOR: Okay.

MS. SONNEBAND: So that's my
opinion. But I think you do, because
peracetic acid has specific limitations
already, so that annotation does need to be
changed.

CHAIRMAN MOYER: Thank you, Zea.

I think that goes a long way in helping.

Dave?

MR. DECOU: I agree with Zea. I
think there's a misunderstanding that some of
you have on the Board. Peracetic acid used in
disease control is controlled by EPA, and they
have strict limitations on what levels it can
be applied at. It's not like it can be put on
the ground in unlimited quantities, besides
the fact that it would probably cost too much for most people to even be interested in that. So you know, don't assume there aren't other regulations that apply to it. If it's applied under disease control under the crops area, it's got a strict limitation on how much can be applied at the application rate. I mean, what I'm talking about is not in the container at some concentration, but the concentration when it's applied to the crop.

MEMBER ELLOR: Right, and I believe that that top limit is 100 parts per million, or 200?

MR. DECOU: Depends on the situation, but it's no more than 200 parts per million.

MEMBER ELLOR: Okay. And we were aware of this, and Gerry communicated to us that, you know, putting 200 parts per million out in the soil over a period of time would not be an acceptable use for us. And I think we all agree with that.
MR. DECOU: Okay.

MEMBER ELLOR: But I definitely appreciate that.

MR. DECOU: But it is strictly limited at this point, yes.

MEMBER ELLOR: Right. Okay.

CHAIRMAN MOYER: Thank you, Dave and Zea.

The Chair would recognize Emily for a further point of clarification, Emily Brown-Rosen. If you'd state your name.

MS. BROWN-ROSEN: Emily Brown-Rosen, PCO. I disagree with Zea. I mean, I look at the list and the way it's organized. You know, Section (a) is algicides, disinfectants. And you're voting to change peracetic acid for use in disinfecting, to also be allowed to be mixed with hydrogen peroxide. Then, you are voting to change peracetic acid under Section (i), which is plant disease control, and that's only for use to control fire blight bacteria.
So if you want to preserve the current use of peracetic acid which is normally found in a natural stasis with hydrogen peroxide, which is under No. 4, hydrogen peroxide, you know, just plain for plant disease control, it seems to me as a -- you know, maybe I'm a more literal reader of the categories of the list, that that's where it needs to go.

Hydrogen peroxide I think can and is applied alone sometimes. You know, people use straight hydrogen peroxide, you know, like, maybe not even labeled products, but it's out there, I believe. But, it's also used in -- I think what you meant to say, all peracetic acid is blended, I mean, naturally with hydrogen peroxide. So it's just not captured under straightforward plant disease control. So that's why I recommended that. I mean, you know, maybe you could delay this later and get more opinions, or legal opinions. But, I just think that down the
road, if we want to allow one of these products for a late blight or the ones they use in greenhouse oxidate, the label says fungicide disease control. It doesn't say, you know, disinfecting equipment and seed, or you know, it would be stretching the use that you've approved. This says for use to control fire blight bacteria.

MS. SONNEBAND: And with hydrogen peroxide.

MS. BROWN-ROSEN: Yes. Yes.

(Off-mic comment.)

MS. BROWN-ROSEN: Yes. Okay.

But then it can only be used on fire flight under No. 7.

MS. SONNEBAND: No. Well, and/or.

MS. ROSEN-BROWN: Okay. So she's thinking that the restriction on fire blight is not really a restriction only to the fire blight, which I would disagree with.

MS. SONNEBAND: Well, no, that's what they're going to change. They're going
to say not just fire blight, but also with hydrogen peroxide.

CHAIRMAN MOYER: No, that's not correct, Zea.

MS. SONNEBAND: You don't think that's what they were getting to in that?

Okay. Case closed.

CHAIRMAN MOYER: Okay. Thank you, folks. We appreciate that input.

We have a motion on the floor. We have a second. We are still in discussion.

The Chair recognizes Dan.

VICE-CHAIR GIACOMINI: I really disagree with, not necessarily in the intent, but I really disagree with what you're doing with this annotation under the section of plant disease control where you're adding all of these other things that are not plant disease control. If you want to add the use of peracetic acid for more things, it goes in another section.

CHAIRMAN MOYER: No, that's not
what we're trying to do.

VICE-CHAIR GIACOMINI: The proposed annotation is to change it to -- oh, for (a)(6). I'm sorry, (i)(7). Okay. My mistake.

CHAIRMAN MOYER: Thank you, Dan. Any other points of clarification? Tina?

MEMBER ELLOR: I find I'm still perplexed.

CHAIRMAN MOYER: Join the crowd.

MEMBER ELLOR: Yes, I --

PARTICIPANT: Okay. I didn't see the two -- there are two annotation changes.

MEMBER ELLOR: Oh, well, maybe Katrina can straighten this out.

CHAIRMAN MOYER: Chair recognizes Katrina.

MEMBER HEINZE: Okay. You put a lot of good thought into this before the meeting. Don't let yourself get muddled up.

So all you're trying to do is add the
annotation "permitted in hydrogen peroxide formulations at concentration of no more than five percent" --

CHAIRMAN MOYER: Right.

MEMBER HEINZE: -- so that the peracetic acid can still be used.

CHAIRMAN MOYER: Well, and so that hydrogen peroxide can still be used.

MEMBER HEINZE: Right.

CHAIRMAN MOYER: It protects hydrogen peroxide, which we don't --

MEMBER HEINZE: You're not adding any uses.

CHAIRMAN MOYER: Okay.

MEMBER HEINZE: You're not changing any uses. This is just about reacting to this EPA change.

CHAIRMAN MOYER: Thank you, Katrina. I do think that clears things up and I think --

MEMBER HEINZE: I think it's straightforward.
CHAIRMAN MOYER: -- we are confusing ourselves.

MEMBER HEINZE: But given that, we did have a lot of discussion yesterday about concentration, and I'm wondering if the committee had time to talk about that.

CHAIRMAN MOYER: Chair recognizes Tina.

MEMBER ELLOR: Yes, and this is something once again that Gerry, who's an incredibly conscientious researcher, looked into. And he called several manufacturers and found that these products contain, you know, more or less than five percent, but most of them containing about five percent.

So if you're using peracetic acid and you need to figure out, you know, your final dosage which is regulated to 100 or 200 percent, then we didn't feel like we needed to make that recommendation. But we didn't want to see formulations -- okay.

CHAIRMAN MOYER: Chair recognizes
Katrina.

MEMBER HEINZE: So the petitioner in their written public comment talked about one product they sell that is 12 percent peracetic acid, but is used at such a dilution that its application is actually lower -- or the concentration at end use is lower than the five percent solution. So that's where I get a little bit confused. I can pull that up if --

MEMBER ELLOR: No, I do understand that; and if the Crops Committee could jump in here and help me out here, we were all a little bit perplexed by this, but I did send Gerry an email to say where did you get that number? And I think you're right, since we have defeated expanding the use and the concentration is regulated by other agencies, that we may not need that. Because, you know, instead of shipping all the water around or whatever at the five percent, you know -- so, I'm fine with --
CHAIRMAN MOYER: Yes, I think our comment there, the goal was to make sure that we didn't shift the emphasis away from the hydrogen peroxide to just having a little bit of hydrogen peroxide with a lot of peracetic acid. The goal was to set a number in there so that you couldn't shift the ratio of the components.

MEMBER HEINZE: So you're trying to avoid 80 percent peracetic acid?

MEMBER ELLOR: Right.

CHAIRMAN MOYER: Exactly.

MEMBER ELLOR: Right.

MEMBER HEINZE: I got it.

MEMBER ELLOR: Thank you, Jeff.

MEMBER HEINZE: That's very helpful.

CHAIRMAN MOYER: The Chair recognizes Kevin, then Dan.

MEMBER ENGELBERT: Yes, just to build on that a little bit, that's exactly what we're trying to do. When we talked in
committee about our concerns about expressing this in parts per million instead of a percentage; and I brought that up, Gerry was adamant that we stay with a percentage basis in the final formulation of the hydrogen peroxide/peracetic acid mixture so that there could be no abuse and have higher concentrations than you should. And, you know, this is his area of expertise. They use these formulations and he said this is the proper way to approach this problem.

CHAIRMAN MOYER: Chair recognizes Dan.

VICE-CHAIR GIACOMINI: I have the utmost respect for Gerry on all these issues and I agree with Tina that he's a thorough researcher. But, it seems that you have two concerns here. One is letting the peracetic acid be used in that concentration at, you know, potentially higher rates than the hydrogen peroxide. But if we understand what Dave said, the maximum amount of peracetic
acid is already controlled by other agencies.

In response to that statement, Tina, you said

and your concern is that that number is too

high to be in the following of organic

principles, essentially.

So I respect Gerry's opinion, but

I'm still wondering why we don't have a 100-

part-per-million limit on the application

rate, rather than just the control of the

proportion of it to hydrogen peroxide in the

batch, but they're able to use it at EPA

levels that you're saying the committee does

not feel is too high for organic.

MEMBER ELLOR: I'm going to defer

to Barry on this.

CHAIRMAN MOYER: The floor is

turned over to Barry.

MEMBER FLAMM: You know, there's

two questions here. The first one is

peracetic acid and we voted not to expand that

use. The other is we're talking about

hydrogen peroxide now, and as we understand
it, that isn't produced without having a
component of peracetic acid. We believe that
hydrogen peroxide is a very valuable tool and
we didn't want to inadvertently take that off
the list. We're essentially trying to keep
things at status quo. And now it seems like
this discussion is focusing back on peracetic
acid levels. Well, we've already voted. We
don't want to expand that. We're worried
about the risk of widespread use of peracetic
acid. I think Jeff had said, we don't want
there to be subterfuge of using hydrogen
peroxide as a cover for what essentially
becomes a peracetic acid.

So Gerry's examination was find
out what really is happening in these
products, and the five percent limit is what
he discovered is the limit. But, we're now
shifted over to hydrogen peroxide and we keep
drifting back to re-discussing levels of use
and so forth of peracetic acid. That's not
the question now. It's hydrogen peroxide and
what are the content of peracetic acid now occurring in this product.

CHAIRMAN MOYER: Chair recognizes Kevin.

MEMBER ENGELBERT: I'll do my best to address your concerns, Dan. We're proposing an annotation for a five-percent limit on mixtures with peracetic acid in hydrogen peroxide, period. That's the limit. That will keep the application rates of the peracetic acid onto the crop levels at 100 parts per million or lower. Because of the chemical relationship between the two, you can't get above that with that percentage in the formulations of the two products together. That's the way Gerry explained it to us, that this is the proper approach, because you're not going to apply -- we're not amending peracetic acid to be applied individually. This is an annotation for it to be mixed at a certain percentage level with hydrogen peroxide. And then you have to bear in mind
that hydrogen peroxide comes in different
strengths also, 35, 50 percent, 3 percent, or
whatever.

CHAIRMAN MOYER: Thank you, Kevin.

We have a motion on the floor. We
have a second. Is there any further
discussion? If not, I'd like to call for the
vote.

And, Tina, if you would restate
the motion, and please state what a yes or no
vote entails.

MEMBER ELLOR: Okay. Motion to
amend the annotations from the listings for
peracetic acid on the National List
205.601(a)(6) and 205.601(i)(7) to add the
words in each section, "permitted in hydrogen
peroxide formulations at concentrations of no
more than five percent."

And to sum up, a yes vote would
keep these tools in the organic toolbox
without expanding the use of peracetic acid.

CHAIRMAN MOYER: Thank you, Madam
Chairperson.

Is there a conflict of interest from any board member on this material?

(No audible response.)

CHAIRMAN MOYER: Seeing no show of hands, we will begin the vote and we will begin with Dan.

VICE-CHAIR GIACOMINI: Yes.

CHAIRMAN MOYER: Julie?

SECRETARY WEISMAN: Yes.

CHAIRMAN MOYER: Steve?

MEMBER DeMURI: Yes.

CHAIRMAN MOYER: Barry?

MEMBER FLAMM: Yes.

CHAIRMAN MOYER: Bea?

MEMBER JAMES: Yes.

CHAIRMAN MOYER: Tracy?

MEMBER MIEDEMA: Yes.

CHAIRMAN MOYER: Joe?

MEMBER SMILLIE: Yes.

CHAIRMAN MOYER: Hue?

MEMBER KARREMAN: Yes.
1     CHAIRMAN MOYER: Kevin?
2     MEMBER ENGELBERT: Yes.
3     CHAIRMAN MOYER: Tina?
4     MEMBER ELLOR: Yes.
5     CHAIRMAN MOYER: Rigo?
6     MEMBER DELGADO: Yes.
7     CHAIRMAN MOYER: Katrina?
8     MEMBER HEINZE: Yes.
9     CHAIRMAN MOYER: And the Chair votes yes. I believe that's zero noes, 13 yeses, two absent. The motion passes as presented.
10  Madam Chairperson, your next item?
11  MEMBER ELLOR: Our last material, I'm going to turn over to Rigo to handle, because he did the major work on that. Am I allowed to do that at this point?
12  CHAIRMAN MOYER: You certainly are. Thank you.
13  Chair recognizes Rigo.
14  MEMBER DELGADO: Thank you very much, Madam Chair.
Wonderful. Thank you very much.

I promise I did write all this, but it was so long ago last night that I remember much of it.

The Crops Committee evaluated hydrogen chloride which is a substance used for delinting cotton seed. This is a sunset material. And it's explained yesterday, we looked at alternatives, information on alternative technologies and alternatives products. We found none. And we also looked into additional information on unknown effects of this substance, and we found none.

So therefore, we recommend that it continues to be listed. And at this point, I would like to move to list hydrogen chloride as annotated in Section 205.601(n).

CHAIRMAN MOYER: Thank you. We have a motion to relist this sunset item. Is there a second?

MEMBER HEINZE: Second.

CHAIRMAN MOYER: Katrina seconds
it. We have a motion and a second to relist
this sunset item. Is there any discussion?
(No audible response.)
CHAIRMAN MOYER: Seeing or hearing
none, I will call for the vote.
Is there a conflict of interest by
any board member on this material?
(No audible response.)
CHAIRMAN MOYER: Seeing no show of
hands or hearing nor voice, I will call for
the vote starting with Julie.
SECRETARY WEISMAN: Yes.
CHAIRMAN MOYER: Steve?
MEMBER DeMURI: Yes.
CHAIRMAN MOYER: I apologize, I'm
out of order here. Barry?
MEMBER FLAMM: Yes.
CHAIRMAN MOYER: Bea?
MEMBER JAMES: Yes.
CHAIRMAN MOYER: Tracy?
MEMBER MIEDEMA: Yes.
CHAIRMAN MOYER: Joe?
Joe's absent.

Hue?

MEMBER KARREMAN: Yes.

CHAIRMAN MOYER: Kevin?

MEMBER ENGELBERT: Yes.

CHAIRMAN MOYER: Tina?

MEMBER ELLOR: Yes.

CHAIRMAN MOYER: Rigo?

MEMBER DELGADO: Yes.

CHAIRMAN MOYER: Katrina?

MEMBER HEINZE: Yes.

CHAIRMAN MOYER: Dan?

VICE-CHAIR GIACOMINI: Yes.

CHAIRMAN MOYER: And the Chair votes yes. We have zero noes, twelve yeses, three absents. The motion passes and the material is relisted.

Are there any other items before this Board, Madam Chairperson?

MEMBER ELLOR: No.

CHAIRMAN MOYER: Thank you. At that point, I believe what we'll do is we'll
take a 15-minute recess and we will reconvene here at approximately 10 after 10:00. Thank you.

(Whereupon, the above-entitled matter went off the record at 9:54 a.m. and resumed at 10:18 a.m.)

CHAIRMAN MOYER: Meeting is called to order. We're back in session. We're in the process of running through our petitions and our voting. And at this point in time we're reading to turn the microphone over the Livestock Committee.

Dr. Karreman, if you will?

(Off-mic comment.)

CHAIRMAN MOYER: I apologize?

(Off-mic comment.)

CHAIRMAN MOYER: Certainly. Chair recognizes Joe.

MEMBER SMILLIE: Did I miss the pots? The containers? We're not --

VICE-CHAIR GIACOMINI: Moved to discussion, Joe.
MEMBER SMILLIE: Oh, it was.

VICE-CHAIR GIACOMINI: The

document itself was discussion.

MEMBER SMILLIE: I'm sorry. Thank you.

CHAIRMAN MOYER: The greenhouse and container? Yes, that's a discussion document.

PARTICIPANT: The greenhouse document was a discussion, correct? Yes.

CHAIRMAN MOYER: Yes, that's a discussion document.

PARTICIPANT: There was an error in the agenda.

CHAIRMAN MOYER: You get to vote next time. It will come back, yes. Okay. We're just waiting for the chair of the Livestock Committee to get his computer fired up.

MEMBER KARREMAN: All right.

Livestock Committee's recommendations are actually are not in the correct order I saw on
the paper we have for voting. How do you want
to do it by? Do you want to do what's on the
agenda schedule, or by the paper? I don't
care.

CHAIRMAN MOYER: I'd like if you'd
follow our voting sheet, if that's possible.

MEMBER KARREMAN: By the paper?

All right. So our first material
is eprinomectin.

Is that up there, Valerie? Not
yet? Okay. That's all right. I'm also
getting there. Got them in order here, guys.

Okay. The Livestock Committee --
how do you do a negative again? I'm going to
state what the motion is.

CHAIRMAN MOYER: Yes.

MEMBER KARREMAN: And that's it.

Yes. Okay.

So the motion for eprinomectin is
to add eprinomectin to 7 C.F.R. 205.603.

That's it.

CHAIRMAN MOYER: Is there a second
to that motion?

MEMBER MIEDEMA: Second.

MEMBER ENGELBERT: I'll second.

CHAIRMAN MOYER: I'm sorry, Tracy had it first.

We have a motion and a second to list or add eprinomectin to the National List.

Is there any discussion on this item?

(No audible response.)

CHAIRMAN MOYER: If you could, Mr. Chairman, give us what the committee vote was on that?

MEMBER KARREMAN: Sure. The committee vote was zero in favor of the listing, seven opposed to listing, no absent, no abstentions.

CHAIRMAN MOYER: Thank you. Is there any discussion there on that item?

(No audible response.)

CHAIRMAN MOYER: Hearing none, seeing no show of hands, I'm ready to call for the vote.
Is there any conflict of interest on this material?

(No audible response.)

CHAIRMAN MOYER: Hearing none, are we prepared to vote?

(No audible response.)

CHAIRMAN MOYER: Okay. We will start the vote with Steve.

MEMBER DeMURI: No.

CHAIRMAN MOYER: Next I have Barry.

MEMBER FLAMM: No.

CHAIRMAN MOYER: Bea?

MEMBER JAMES: No.

CHAIRMAN MOYER: Tracy?

MEMBER MIEDEMA: No.

CHAIRMAN MOYER: Joe?

MEMBER SMILLIE: No.

CHAIRMAN MOYER: Hue?

MEMBER KARREMAN: No.

CHAIRMAN MOYER: Kevin?

MEMBER ENGELBERT: No.
CHAIRMAN MOYER: Tina?

MEMBER ELLOR: No.

CHAIRMAN MOYER: Rigo?

MEMBER DELGADO: No.

CHAIRMAN MOYER: Katrina?

MEMBER HEINZE: No.

CHAIRMAN MOYER: Dan?

VICE-CHAIR GIACOMINI: No.

CHAIRMAN MOYER: Julie?

SECRETARY WEISMAN: No.

CHAIRMAN MOYER: And the Chair votes no. I believe that's 13 noes, zero yeses, two absent. That motion fails to pass.

Your next item, Mr. Chairman?

MEMBER KARREMAN: All right. The next recommendation which is on the agenda approved by the Program was to be on the agenda here is the recommendation change to 205.603(f), the excipients. It is to clarify wording. The change would be in the first line -- well, I'll read you what the recommendation is, how's that?
CHAIRMAN MOYER: Thank you.

MEMBER KARREMAN: All the better?

The recommendation is this: For 205.603(f), excipients only for use in the manufacture of animal health care products used to treat organic livestock when the excipient is identified by the FDA, is generally recognized as safe, approved by the FDA as a food additive, included in the FDA review and approval of a new animal drug application or new drug application; or approved by the Animal and Plant Health Inspection Service of the USDA, otherwise known as APHIS.

The committee vote was seven in favor, zero opposed, zero abstentions, zero absent.

CHAIRMAN MOYER: So is that your motion? Did you make a motion?

MEMBER KARREMAN: I move to recommend this for vote.

MEMBER ELLOR: I second.

CHAIRMAN MOYER: We have a motion
on the floor as stated. We have a second.
Discussion on listing excipients?

Julie?

SECRETARY WEISMAN: I just had one question. How did this recommendation fit within the context of the question that was brought up yesterday about technical corrections? I know some were okay and some were not, but I don't remember which ones.

CHAIRMAN MOYER: Chair recognizes Miles McEvoy from the Program.

MR. McEVOY: Yes, this one's fine.

No problems.

SECRETARY WEISMAN: Okay.

CHAIRMAN MOYER: Thank you for that clarification.

Chair recognizes Dan.

VICE-CHAIR GIACOMINI: Hue, can you reread the first line of what you're recommending? Are we including the health care, or did you drop that?

MEMBER KARREMAN: I will reread
the recommendation that we're voting on, which
is motioned and seconded now. To change
205.603(f), excipients only for use in the
manufacture of animal health care products
used to treat organic livestock when the
excipient is -- and the rest of the lines.

VICE-CHAIR GIACOMINI: Okay.
MEMBER KARREMAN: Is that okay?
CHAIRMAN MOYER: It's okay with
me. It's your motion.

Any points of discussion?

Katrina?

MEMBER HEINZE: So this is really
that you're adding the items in italic?
Nothing else, right?

MEMBER KARREMAN: Correct. It's a
clarification.

MEMBER HEINZE: Yes.
MEMBER KARREMAN: Reason is that
back when they were looking at it in 2002, the
transcripts of October 18th, I think, or
October 20th, 2002, page 297, line 22, Mr.
Sieman was talking about excipients in medications and not just drugs. So I think there's always been this nebulous-type wording, needing clarification. And through rule making process, it became drugs. Okay? But in the Board's discussions; and I have the transcripts right here, they were talking that is drugs, medications back and forth.

MEMBER HEINZE: A little bird just whispered in my ear and said we're not voting on what it says up there?

MEMBER KARREMAN: It has been corrected.

MEMBER HEINZE: Oh. I take that back.

CHAIRMAN MOYER: Thank you, Katrina.

The Board recognizes Valerie Frances from the Program.

MS. FRANCES: There had been some discussion about putting the words "animal drugs or health care products" yesterday. And
so I had put that up as a placeholder and as
a reminder perhaps.

CHAIRMAN MOYER: Thank you,
Valerie.

Chair recognizes Dan.

VICE-CHAIR GIACOMINI: Yes, Hue,
based on that discussion, it currently just
doesn't say "drugs." We talked within committee of
going to animal health care products. Is that
inclusive enough of drugs? We talked one time
of adding "drugs or animal health care
products."

MEMBER KARREMAN: I think it's
fully inclusive.

CHAIRMAN MOYER: Point of
clarification. Hue, it now says "animal
health care products." That is correct.

MEMBER KARREMAN: That's one of
the changes.

CHAIRMAN MOYER: Yes.

MEMBER KARREMAN: That is correct,
Mr. Chair. That's the change. That's the key
change, as well as the semicolon at the end,
"or approved by APHIS."

CHAIRMAN MOYER: Chair recognizes
Mile McEvoy from the Program.

MR. McEVOY: Animal health care products do not appear to be defined in the regulations. Animal drug is defined in the regulation. You want to think about that.

CHAIRMAN MOYER: Hue?

MEMBER KARREMAN: Then I would suggest that perhaps the term generally probably recognized in Webster's Dictionary, "medications" is not specifically a drug as FDA sees it. But let's say over-the-counter lotion that you'd put on your skin, that would be a medication as well?

CHAIRMAN MOYER: I would direct that back to the Program. Is "medications" defined?

MR. McEVOY: No, "medications" is not defined.

CHAIRMAN MOYER: Thank you. Chair
recognizes Dan.

VICE-CHAIR GIACOMINI: I would like us to add the words "drug or" back into there, and then recommend to the Livestock Committee to put this on top of their work plan and come back with a definition of animal health care products for the next meeting. And I'll make that motion, if that sounds reasonable.

MEMBER KARREMAN: May I ask a question?

CHAIRMAN MOYER: Chair recognizes Hue.

MEMBER KARREMAN: So Dan, are you saying that we take action on this and then we put on the work plan to define animal health care products?

VICE-CHAIR GIACOMINI: Yes.

CHAIRMAN MOYER: Yes, later this afternoon we'd put that on a work plan.

MEMBER KARREMAN: I can agree with that.
CHAIRMAN MOYER: But you'd have to put the word "drugs" back in there.

MEMBER KARREMAN: Okay.

CHAIRMAN MOYER: And that would take an amendment.

MEMBER KARREMAN: Fine. Who wants to make an amendment? Can I amend myself?

CHAIRMAN MOYER: Yes.

VICE-CHAIR GIACOMINI: I did.

CHAIRMAN MOYER: Any doctor can self-amend them self. Yes, right? Or self-medicate, or whatever.

Chair recognizes Dan.

VICE-CHAIR GIACOMINI: I move that we add "drugs or" before animal health care products.

CHAIRMAN MOYER: Point of order, Miles. Thank you.

MR. McEVOY: Yes, "drugs" is already in the existing regulations, so that's not an addition. The only think you would be adding is the "animal health care products"
part as an addition.

CHAIRMAN MOYER: I see.

MEMBER KARREMAN: Technically, it would be "or animal health care products."

VICE-CHAIR GIACOMINI: Wait.

Question.

CHAIRMAN MOYER: Question from Dan.

VICE-CHAIR GIACOMINI: That's correct, but the motion before this Board right now is as he states it, and in order to get it back to what we said, we need to amend this motion.

CHAIRMAN MOYER: Right.

VICE-CHAIR GIACOMINI: Not that. So we're trying to get this language back into this motion.

CHAIRMAN MOYER: Does the person who made the motion and the second accept that friendly amendment?

MEMBER KARREMAN: I accept a friendly amendment like that, sure.
MEMBER ENGELBERT: First I'd like to -- sorry.

CHAIRMAN MOYER: Tina, do you accept that? You were the second on that?

MEMBER ELLOR: Yes.

CHAIRMAN MOYER: I'm sorry, Tracy was the second on that? Do you accept that friendly amendment?

I thought it was Tina. That's what I thought.

MEMBER ELLOR: Yes, I accept it.

CHAIRMAN MOYER: You accept it?

Okay. We have accepted that.

Kevin, point of discussion?

MEMBER ENGELBERT: Yes, I'd just like to ask anybody on the Board or in the audience, is there anyone that would argue that a drug is not an animal health care product?

CHAIRMAN MOYER: I'm not inclined to bring everybody from the room to the podium, but if anybody on the Board wants to
address that?

Chair recognizes Bea, and then Hue.

MEMBER JAMES: Isn't "drug" defined -- I mean, would that bring the FDA definition in?

And secondly, the FDA obviously -- I don't know if health care products would fall under that, so they might be two separate things.

Anyway, Hue?

CHAIRMAN MOYER: Chair recognizes Hue.

MEMBER KARREMAN: I would agree with you, Bea, in that the term "drug," as I was mentioning yesterday during the discussion, you cannot give drugs per se to non-sick organic animals. Okay? And it's two different terms. The FDA has regulatory approval over drugs and animal health care products, but they look at drugs differently perhaps than animal health care products that
are over-the-counter, and they're under regulatory discretion, not needing NADAs. And it's the excipients in those animal health care products that fall under regulatory discretion by the FDA, which this whole recommendation is trying to address.

CHAIRMAN MOYER: Chair recognizes Julie and then Kevin.

SECRETARY WEISMAN: I'll pass.

CHAIRMAN MOYER: Julie passes. Kevin?

MEMBER ENGELBERT: Well then, I'd also like to point out that in the list of definitions in the National Rule "drugs" is not defined either.

VICE-CHAIR GIACOMINI: Animal drug is. I just asked Miles if that was a problem. He said he didn't think so.

CHAIRMAN MOYER: Okay. We have a motion on the floor. We have a friendly amendment to that motion. Is there more discussion? Bea?
MEMBER JAMES: So Dan, if I heard you correctly, you guys are going to take back and create a definition for animal health care products? Is that what I heard?

VICE-CHAIR GIACOMINI: Yes.

CHAIRMAN MOYER: That's what you heard.

VICE-CHAIR GIACOMINI: It's not quite the same problem as with personal care.

MEMBER JAMES: Thanks for picking up on my vibe.

CHAIRMAN MOYER: A question for the Program: Does that makes sense to you? I see some discussion over there.

MR. McEVOY: Yes, that sounds good.

CHAIRMAN MOYER: Okay. Thank you.

Okay. We have a motion on the floor. We have a second for that. We have a friendly amendment.

Hue, since you made the motion, if you could reread it one more time and tell us
what a yes or no vote means, I think we're ready to go.

MEMBER KARREMAN: Okay. So the recommendation now is: 205.603(f), excipients only for use in the manufacture of drugs or animal health care products used to treat organic livestock when the excipient is identified by the FDA as generally recognized as safe, approved by the FDA as a food additive, included in the FDA review and approval of a new animal drug application or new drug application; or approved by APHIS.

A vote yes would be to make this change. A vote no would be to not make the change. That's what you asked me to say, how it would --

CHAIRMAN MOYER: Yes.

MEMBER KARREMAN: Okay.

CHAIRMAN MOYER: Thank you.

Chair recognizes Kevin.

MEMBER ENGELBERT: Then I'd like to offer another friendly amendment and add
the word "animals" in front of drugs, because "drugs" is not defined in the National Rule, but "animal drugs" is.

CHAIRMAN MOYER: Does the person who made the motion and seconded it accept that friendly amendment?

MEMBER KARREMAN: Not sure.

Because of a mechanism by which all these medicines and their excipients were placed on the list originally, the Animal Medicinal Use Drug Clarification Act of 1996, which allows the use NDAs, or new drug approvals, for animals if there's no approved drug for them. So to limit it to animal drugs would be too constractive, especially for some of the things that have already been placed on the list.

CHAIRMAN MOYER: Point of discussion, Dan?

VICE-CHAIR GIACOMINI: Can you take a look at that in light of the actual definition of "animal drug" that we have here
in the regulation?

Do you want me to read that, Mr. Chairman?

CHAIRMAN MOYER: Yes, that's fine.

VICE-CHAIR GIACOMINI: "Animal drug" is defined as, "Any drug as defined in Section 201 of the Federal Food, Drug and Cosmetic Act, as amended, 21 USC 321, that is intended for use in livestock, including any drug intended for use in livestock feed, but not including such livestock feed."

MEMBER KARREMAN: Still, I would have reservations because there could be a NDA, new drug approval, which is for humans that might be used in livestock. The NADAs are officially approved for the species that they're labeled for. If we look at butorphanol, which is on the list, it's only listed for horse and deer.

And I guess this was a confusion way back when, and I guess I would just like to keep it the way it is.
CHAIRMAN MOYER: Thank you. Two
more points of discussion. Dan and then
Katrina.

VICE-CHAIR GIACOMINI: Yes, I
think it's under the section of livestock
already, and it's been this way without a
problem for three years. I would think if a
problem came up, the NOP would be able to deal
with it without us having to take action, I
would certainly hope. Because I think the
intent of what that says is and what it's
doing is very clear. So I see Miles shaking
his head, slightly; I'll qualify that. You
know, I would rather keep something that has
not caused a problem rather than potentially
something that would add qualifiers and cause
a problem.

CHAIRMAN MOYER: Chair recognizes
Katrina.

MEMBER HEINZE: I concur with what
Dan said.

CHAIRMAN MOYER: Thank you. We
I have a friendly amendment on the floor that has been rejected by the petitioner. Do you wish to make that an unfriendly amendment? (No audible response.)

CHAIRMAN MOYER: Thank you. That amendment dies for lack of a second.

We're back to the original petition as just read by Hue. Again, I believe we're prepared to vote on that. Is there a conflict of interest on that material? (No audible response.)

CHAIRMAN MOYER: Then we will begin the voting with Bea.

I apologize. Barry?

MEMBER FLAMM: Yes.

CHAIRMAN MOYER: Bea?

MEMBER JAMES: Yes.

CHAIRMAN MOYER: Tracy?

MEMBER MIEDEMA: Yes.

CHAIRMAN MOYER: Joe?

MEMBER SMILLIE: Yes.
CHAIRMAN MOYER: Hue?

MEMBER KARREMAN: Yes.

CHAIRMAN MOYER: Kevin?

MEMBER ENGELBERT: Yes.

CHAIRMAN MOYER: Tina?

MEMBER ELLOR: Yes.

CHAIRMAN MOYER: Rigo?

MEMBER DELGADO: Yes.

CHAIRMAN MOYER: Katrina?

MEMBER HEINZE: Yes.

CHAIRMAN MOYER: Dan?

VICE-CHAIR GIACOMINI: Yes.

CHAIRMAN MOYER: Julie?

SECRETARY WEISMAN: Yes.

CHAIRMAN MOYER: Steve?

MEMBER DeMURI: Yes.

CHAIRMAN MOYER: And the Chair votes yes. I have zero noes, 13 yeses, two absent. The motion passes.

Thank you, Mr. Chairman. Next item on your agenda.

MEMBER KARREMAN: Okay. Next item
looks to be vaccines. The Livestock Committee had a meeting last night, and due to the discussion phase of our meeting yesterday, we are proposing to amend the recommendation that was posted. Would you like to hear that recommendation as it stands for this vote?

CHAIRMAN MOYER: Yes.

MEMBER KARREMAN: The corrected one out of committee is --

CHAIRMAN MOYER: Yes, voted on in committee.

And if you could put that up there, Valerie? Do you have it?

Oh, she doesn't have the new correction.

MEMBER KARREMAN: No, it's a one-liner.

CHAIRMAN MOYER: Okay. Thank you.

MEMBER KARREMAN: Yes. Ready?

All right. So under 105(e), it should say, "Excluded methods, except for vaccines, provided that" -- which is in the
language that already exists -- "provided that
vaccines manufactured without the use of
excluded methods must be used if available."

CHAIRMAN MOYER: Thank you.

MEMBER KARREMAN: That's it.

CHAIRMAN MOYER: Would you put
that in the form of a motion, please?

MEMBER KARREMAN: So then, the
Livestock Committee recommends that 205.105(e)
be amended to read that -- you want me to read
the whole 105?

CHAIRMAN MOYER: No.

MEMBER KARREMAN: Okay. Then (e),
excluded methods, except for vaccines,
provided that vaccines manufactured without
the use of excluded methods must be used if
available.

CHAIRMAN MOYER: Thank you. Is
there a second to that?

MEMBER ELLOR: I'll second.

CHAIRMAN MOYER: Tina seconds it.

Discussion, Joe?
MEMBER SMILLIE: I'd like to propose a friendly amendment that we add the word "commercial" in front of "available" -- "commercially."

MEMBER KARREMAN: I accept that.

CHAIRMAN MOYER: Hue accepts that.

Tina, do you accept that?

MEMBER ELLOR: I also accept that.

CHAIRMAN MOYER: We accept that friendly amendment.

If you would post that -- put that word up there, Valerie? You already have it.

Thank you.

MEMBER KARREMAN: Is that acceptable to the Program, the use of that term in that form?

CHAIRMAN MOYER: Chair recognizes Miles to answer that question.

MR. McEVOY: Yes, sure. I mean, this is your recommendation and if it's a problem, then we'll let you know.

CHAIRMAN MOYER: Thank you.
Points of discussion on this? I have Katrina and Barry. Katrina?

MEMBER HEINZE: I am not familiar with how the previous provided that language that referenced 600(a), what that did. So is it a problem that it's gone? I'm okay if you just say the answer is no.

MEMBER KARREMAN: Do you want to know then what it says right now? I mean, as it stands right now?

MEMBER HEINZE: No. So the current listing says, "provided that the vaccines are approved in accordance with 205.600(a)." And 600(a) says, "The following criteria will be utilized in the evaluation of substances ... (a) synthetic and non-synthetic substances considered for inclusion on -- need to be evaluated using these criteria."

So I'm wondering if that's language that needs to be kept or not. I totally support the changes you made. I'm just wondering if it's a problem that we lost
the language that was there. I'm not familiar

enough with it to know.

CHAIRMAN MOYER: Thank you,

Katrina. Hue?

MEMBER KARREMAN: Let me back up

here for a second. Okay. I don't know how to

answer that, I guess.

CHAIRMAN MOYER: Chair recognizes

Dan.

VICE-CHAIR GIACOMINI: The route

of approval in the regulation right now is

through 105 to 600(a) then onto the respective

section. And the listing in the respective

section has always been the very generic

biologic vaccines. It's the fact that that

was not qualified as non-GE that created some

of the confusion where it deviated from what

appeared to have been the intent in the

preamble.

To pull out of that hole without

going in and manipulating the National List is

the recommendation from the Program was to go
this route and make that separation.

There is concern that the allowance of genetically modified currently is within the listing of 603(a)(4), and that the separation that's caused by this recommendation really pulls the GMO part of the vaccines out of the National List. I'm not sure if someone came back in and pulled out -- in a sunset someday down the road -- if they pulled out (4) and said we're not going to renew sunset on (4), I'm not sure that would disallow the use of GMO vaccines without going in and altering 105.

MEMBER HEINZE: Thank you. That's helpful.

CHAIRMAN MOYER: Thank you, Dan.

I wish I could say I understood all that, but I don't. But I'm glad Katrina did.

Any other questions or pieces of discussion on this item? I apologize, Barry.

MEMBER FLAMM: Hue, I appreciate what the committee has done in looking at more
of a middle ground approach. I did think I
heard in some of the discussion including
conditions of not only other alternatives, but
also a condition of some emergency that really
makes it important enough to take this, what
I consider a large step, in using a GMO
material -- that the needs and benefits, you
know, outweigh that risk.

Did the committee discuss this
part of the modification?

CHAIRMAN MOYER: Dan -- I'm sorry,
Hue?

MEMBER KARREMAN: Yes, that was
part of the whole thinking process, Barry.
That's definitely a part of the whole impetus
for this. Okay? Is that, if there is some
outbreak of some foreign disease on U.S. soil,
we're going to need something quick and it's
mostly likely these days going to be
genetically engineered vaccine, okay, in the
face of an outbreak to use it to protect the
other animals.
But right now, as it stands, currently; and I went through this on the discussion yesterday, I read off; and I still owe the court reporter the names specifically spelled out, a lot of the vaccines; there's like 32 or 38, and many of them happen to be -- there's only one right now made for a specific condition and it happens to be GE, genetically engineered. So we did totally take into account the specter of some foreign disease happening here on U.S. soil, without a doubt. But there's also already being used currently vaccines which there is no alternative to.

So are you recommending anything at this point?

CHAIRMAN MOYER: Chair recognizes Barry.

MEMBER FLAMM: Well, I'm much more persuaded by a national emergency, animal emergency, that it's worth taking this step and using it. I'm still unconvinced and very
nervous about committing and authorizing what would become a routine use of GMO vaccines. And I know it's in use right now, but we're authorizing it now. And that seems to me to make a difference.

CHAIRMAN MOYER: Chair recognizes Dan and then Hue.

VICE-CHAIR GIACOMINI: Yes, Barry, I look at that situation of the emergency situation. If you look at how governments typically respond, they don't declare emergency when it starts to rain. They only declare the emergency after the flood has occurred.

When we look at the situation of the large hurricane in the South; and I'm not trying to compare this to a hurricane situation, but, you know, the response that sometimes we're able to get in dealing with those kind of situations is not always adequate to the local area. And I would hate to see how many animals would have to die
again, and businesses forced out, you know, liquidated, before the proper channels were approved.

CHAIRMAN MOYER: Thank you, Dan.

I have Hue.

MEMBER KARREMAN: Just for an example here, on the list there's only one vaccine that is genetically engineered for avian influenza H9N2 at this point. So during the autumn flyway right now, if some birds were migrating through; and this is theoretical, but let's say there's AI outbreak with H9N2 it was found. That vaccine is here. It's genetically engineered. You know, so maybe it blends the two for you.

As far as the routine use, you know, what we're trying to say is that you must use vaccines from -- what's the wording? Except for vaccines -- that they're manufactured without the use of excluded methods and they must be used if available. You have to. So you know, I don't see it as
a routine use-type thing. Even if it's once a year on a vaccine, I don't consider that routine. But, you have to look for the conventional, if you will, vaccines at this point still. This does help in those times when there isn't any other one, or when there's an emergency.

CHAIRMAN MOYER: Chair recognizes Julie.

SECRETARY WEISMAN: Yes, I'm just following up on Dan's comment, which is I think there's a reason why the phenomenon happens that official declarations of outbreak or emergency come from government, at whatever level; federal, municipal, state, come after the fact. Because for a great many of these the purpose of making such a declaration is to release funds to clean up the mess. And so, they're not really intended to be proactive. I'm not saying across the board, but that's a lot of the use of those. And so I don't feel confident that they would be sufficient to
head off the kind of situation that Hue's
describing.

CHAIRMAN MOYER: Chair recognizes
Barry.

MEMBER FLAMM: Well, I think there
is provisions for emergency, and we're facing
the same thing with a human population right
now where there was planning ahead. I don't
quite agree that we don't do advanced planning
and stocking.

I appreciate what the committee
has done, but I just don't think it's strong
enough to, you know, satisfy the concerns I
have and that people and commenters who have
expressed great concern by expanding GMO use.

CHAIRMAN MOYER: Chair recognizes
Joe.

MEMBER SMILLIE: A couple
questions and then a comment.
The makeup of the Handling
Committee, how many people were on it?
Livestock.
CHAIRMAN MOYER: Seven.

MEMBER SMILLIE: Seven? And what was the vote on this?

CHAIRMAN MOYER: Seven to zero in favor of listing.

MEMBER SMILLIE: That's troubling. Because, you know, I really respect their work, I really respect their knowledge, but yet I do have concerns and I'm the one who said I hate to have consumers define what organic means. However, I mean, just looking at it from an entirely different perspective, the fallout from this is a sizeable fallout. I don't necessarily believe that's informed opinion, if we take this action. In fact, I believe it not to be informed. I think it's the kind of opinion though that whether it's right or wrong, whether it wants to understand the reasons why we passed it, I doubt it. I don't think that the media or the reaction will be an informed reaction. It will be an emotional knee-jerk reaction that I think is
fairly predictable, you know, that this Board allowed. And I am fearful of the damage that that will cause us, you know?

So that's one of the political concerns that I have. I realize it's entirely political. It's not a technical or regulatory concern. It's a political concern, but I also think that we live in that arena and we have to take that into consideration when we make a vote on this.

And it troubles me also that the voting pattern is going to start over here. I really wish it would start over there. Because I take leads from people on this Board; I'm not going to deny it. And I'm very concerned with this.

I'm wondering, can we find a way, would the committee consider tabling this? Would the committee consider sending it back to committee so we can get, you know, more study, that we can do more education so we can hopefully get for a more informed public
reaction? I don't know. This one really, really bothers me.

    CHAIRMAN MOYER: I have a Hue, and then Julie, Dan, Katrina, Tina, Tracy. I got a bunch. Hue?

    MEMBER KARREMAN: Being that there are, in general, still conventional vaccines, Joe, out there, I would consider that. But it better be darn high on the priority of any workplan. And consumers have to know that they're being used already, which they are. And, you know, I'll be the one out there saying that, if needed, when I'm off this Board, even louder.

    CHAIRMAN MOYER: Chair recognizes Julie.

    SECRETARY WEISMAN: I would not be in favor of tabling this. I would like to quote a fellow board member who can identify themselves if they wish, but I think it was said very eloquently to me, I think the other night, that this is one of those situations
where as a board is that we're going to lose
either way. That's what's going to happen.
And I almost want this to be on the record
proactively that we know we're going to lose
either way.

Because on the one hand, it's
going to be on the record now that not only
going forward, but there have already been GM
being used for livestock emergencies. And if
we don't take action on this and there is an
outbreak, then we're going to be called out on
the carpet for not having been proactive and
anticipating. So we are veterans to what
sometimes feels like the capricious eye of the
public that we are trying to protect. We're
not strangers to that, and this is going to be
one of those situations.

CHAIRMAN MOYER: I will also
mention that, I believe, it's the only place
in the rule where excluded methods are allowed
for -- it mentions them as allowed for
vaccines. So people foresaw what was
happening prior to us getting here and recognize that this is the direction we may be heading.

Chair recognizes Dan.

VICE-CHAIR GIACOMINI: Yes, I'll echo what Julie said in responding to Joe, in that we're going to lose either way, Joe. And the alternative to this motion as we saw it, where it's taken care of in one sweep and one press coverage, is that we have two options: We will either be looking at individual petitions for GMO vaccines to be added to the list, which could be literally at every meeting, or we would at the very least be looking at classes of vaccines, which would also be -- what is there, five or six, which would not able to be done at all and would be every meeting probably for the next three years.

So I think that alternative, if that is the A number one concern, that when you're looking at, you know, damage control,
this may be bad, but the other would be huge and continuing.

CHAIRMAN MOYER: Chair recognizes Katrina.

MEMBER HEINZE: Please don't table your recommendation. I don't see this as a lose-lose. Our job on the NOSB is to be thoughtful, to understand the complexity of these situations, and to make decisions, balancing very difficult conflicting requirements. And I think you guys have made a very compelling argument for why, one, these vaccines are in use. The regulation has allowed them, to the point made by Jeff. And that the animals need them.

CHAIRMAN MOYER: Chair recognizes Tina.

MEMBER ELLOR: And I think I can speak for Jennifer, too, you know, remembering back to our committee discussion, we see this as an animal welfare issue. And I think Kevin said publicly that this is a lose-lose. And
quite honestly, I'd rather lose this way than to see animals suffering because bureaucracy is moving too slowly and, you know, not in their direction. I just don't find that acceptable.

So I would like us not to table this and I'm very much in favor of it.

CHAIRMAN MOYER: Chair recognizes Tracy.

MEMBER MIEDEMA: I want to put a statement on the record as a consumer representative and direct this comment specifically to two of our most vocal consumer organizations who I know are here in the gallery.

The current practice right now is that GMO vaccines are being used. They've been being used for a number of years. The passage of this recommendation restricts GMO vaccines in that it creates a path forward whereby non-GMO vaccines can be developed.

It's actually a win for consumers in the long
run. The practice right now is GMO vaccines.
And I would plead with you that this doesn't become characterized as the doors have been thrown open for GMOs, but rather that we are creating a commercial availability clause and allowing for the development of non-GMO vaccines.

CHAIRMAN MOYER: If it were appropriate to applaud, I would. Bea?

MEMBER JAMES: Well, I think just consumer perception that we're using vaccines at all is probably one of the concerns that's out there, as far as consumer perception. Some people are aware that it's GMO, but traditionally I would just say the practice and use of vaccinations within the natural industry is sometimes just within question on its own.

But, what I wanted to ask Hue is, the argument about an emergency for use, and this recommendation kind of setting the stage
for making that acceptable, if this
recommendation, let's say, doesn't pass and
there was an emergency outbreak, do you think
that that would prohibit what needed to happen
with vaccinations? I mean, wouldn't it just
tump and it would happen anyway?

MEMBER KARREMAN: I believe our
understanding is that there is a -- what's the
term, "derogation," at .672, I believe, where
the Secretary, you know, can make that happen.
But those animals are out of production for a
year. They can re-transition. It's the one
place where they can re-transition. I'm
sorry, if it's not 672, but Jim brought it up,
Jim Riddle brought it up and we were aware of
that. But, our committee felt that when
you're taken out of organic production for a
whole year, you're done, especially with the
conventional, let's say, milk price right now.
And that would just be an economic
catastrophe.

MEMBER JAMES: Taken out of animal
production because of the fact --

MEMBER KARREMAN: Out of the

organic production.

MEMBER JAMES: Because of the

vaccination?

MEMBER KARREMAN: Any prohibitive

material, yes.

MEMBER JAMES: But they're already
doing it. You said that everybody's already
using vaccination.

MEMBER KARREMAN: That's a good

question, Bea. So what do we do with all
these animals that have gotten a prohibitive
material at this point? It's equal to giving
them penicillin, technically, legally, what's
been going on for the last seven years. I'm
not opposed to it. I'm just saying that you
bring up a very good question. What do we do
with all these animals that got a vaccine just
yesterday that happened to be genetically
engineered? What do we do with them? They've
technically been given a prohibitive material.
It's not an emergency.

Let me just say that I think Tracy's point is excellent. Because what we're actually doing here is saying to the world right now, you know, for the last seven years that's got to stop. You have to use conventional vaccines unless they're not commercially available. Right now you can go pick the genetically engineered vaccine and say I want to use that one when there's nine other ones for the same disease which are conventional, but you want to use that one. Now we're saying, no, can't do that. You got to use one of those other nine instead of the genetically engineered one. I think that's an excellent point.

And by the way, a vaccine manufacturer was not petitioning this. Okay? This is coming up from the field. It is entirely an animal welfare topic and issue. So I just want to make that point. And I think it is good we're addressing this as a
board and I withdraw the consideration of tabling it.

CHAIRMAN MOYER: Thank you. Chair recognizes Rigo.

MEMBER DELGADO: I would applaud Tracy as well, and also echo what Hue was saying. We actually avoided this issue for several years. We've been discussing it lightly at the committee level, but the GE term scared us away for a number of years, and we had very good excuses. We had agriculture, we had other topics.

But the thing is that -- and you know very clearly, you know what our dilemma is. On one side we have possibly a pandemic, and the other one is damage to the brand. We were very much aware of that, on the horns of the dilemma, but we had to make a stand. We had to move forward. It's not enough to sweep it under the rug and hope that it will fix itself. These are products that have been used for several years. If we do not
recognize that, they will be affecting a
number of producers. And we have to move
forward.

We do have limitations in the data
that we have, and I know we like to follow the
motto that in God we trust, all others bring
data. Well, we don't have it perfectly here,
but I think that this is a good first step
towards obtaining that data and making sure
that things work.

CHAIRMAN MOYER: Thank you, Rigo.

Chair recognizes Joe.

MEMBER SMILLIE: It is 672, just
for the record. And I appreciate very much
the leadership of the Livestock Committee and
the comments of fellow board members.

CHAIRMAN MOYER: Thank you, Joe.

Chair recognizes Dan.

VICE-CHAIR GIACOMINI: Thank you,
Mr. Chairman. Yes, again echoing appreciation
of Tracy's comments and full support of those.

Bea, in your question regarding
what would happen if this fails, this recommendation, even if it fails, is not an endpoint. It's part of the path and we would shift paths slightly to do that. The status quo right now, as I understand it from the last meeting, was that the Program has said that the status quo continues until you guys reach an agreement. Unless they changed that policy, their status quo policy would be to keep the status quo. So the use of them would be allowed until we would resolve it in some other way. I mean, they would have to come out and say, no, we're stopping this policy and it's no longer allowed, period.

The important point though that I would like us to consider -- Valerie, if you could put that back up, please, if it's not there. I'm concerned and I'm doing this from the standpoint of wanting to keep this as narrow and as focused as possible. I understand Joe's concern. We put in commercial availability, did we not?
(Off-mic comment.)

VICE-CHAIR GIACOMINI: Okay.

Commercial availability is a factor of form, quality and quantity. I think it's a mistake in this case to go that route when a farmer can go to a veterinarian and then reach the decision we have this disease. There are five vaccines available, three of them are non-GMO, two of them are GMO. Gee, doc, what do I do? I think you should use this particular DNA-modified, whatever the different terms are, of the GMO vaccines of the classes. I think you should use that vaccine in this case.

I think we may be increasing the use of allowing the form clause to come into this in this situation. And I think we may be safer in only allowing them to use non-GMO versions by just saying "if it's available."

CHAIRMAN MOYER: Chair recognizes Hue, and then Tina, and then Joe.

MEMBER KARREMAN: I would concur with Dan, because I would say even though I am
a trained veterinarian, you know, I'm not right in the mainstream and at the cutting technological edge. I mean, I hardly use vaccines. Okay?

Bea, just to your thing. Okay?

But, most veterinarians are wanting to use the new thing all the time. It's just the way medicine goes, whether veterinary medicine, dental medicine, human medicine. You're always going for the new thing because of course, hey, it's supposed to be better. I think with the form, function, and whatever the other thing is, quantity on the commercial terminology and the vet saying, hey, use this new one; and the vet doesn't care if it's genetically engineered or not, I mean, but that's what he knows scientifically is the best one right now compared to the older ones, I think that it still should be incumbent upon the farmer who is certified organic to know to get the old conventional one, if it's available. And that's on the
onus of the farmer, even though he can take
the veterinarian's advice, you know, at the
time.

CHAIRMAN MOYER: Chair recognizes
Tina.

MEMBER ELLOR: The reason why I
was in favor of adding "commercial
availability" is mostly the quantity issue.
In the case of an emergency, the quantity of
conventionally-produced vaccines may not be
available. But, if we could just do that with
"availability," then I'm fine with that, too.

CHAIRMAN MOYER: Chair recognizes
Joe.

MEMBER SMILLIE: Well, you know,
we've had on the Handling Committee some
experience with commercial availability. And
once again, it is the decision of the
certifier, remember, to determine whether
that's been met. You know, it's a two-step
process. And yes, it will require a certain
amount of knowledge and experience from the
certifier's side, but if they're accredited to certify livestock operations, they're accredited to have that knowledge and experience in dealing with that.

You know, form, quality, quantity, yes, it's available. It's in California. It's going to take two weeks to get it there, if there is some, and there may not be some. It may be gone by the time you order. You can't put people in a straightjacket like that. And again, in some cases, you know, the Handling Committee's experience has been it's been abused; there's no question about it, but we slowly tighten the vice on it and we slowly get more knowledgeable about it. And we find out that some people in Pennsylvania can get that California vaccine. And other people say, well, we can't get it. Well, excuse me, this vet and those people got it. So you know, the local certifier is going to be aware of that.

So there are enforcement tools
there to put teeth in commercial availability.

It's not just like, oh, I don't have the form or quality or quantity. Those days are gone.

We're much better at enforcing that. It's not as nebulous as it used to be. And I think it's a reasonable thing to place there and put the burden on the ACAs to make sure that it's not abused.

CHAIRMAN MOYER: Thank you, Joe.

I think that's a good clarification of that point.

Barry?

MEMBER FLAMM: I think Joe pretty much covered what I was going to raise. It seems like, you know, the certifiers ought to be -- if there are alternatives and they're working, why haven't they been requiring this all along? That's what puzzles me, that this has been happening when I think it's fairly clear that it exceeded anything that was within what was acceptable in the organic community. So that was my question, but Joe
covered it better than I did and the
complications of it. That's all I have.

CHAIRMAN MOYER: Chair recognizes
Bea.

MEMBER JAMES: Hue, do you have a
summary of the public comments that you got as
far as how many people were opposed and how
many people supported?

CHAIRMAN MOYER: Hue?

MEMBER KARREMAN: In a nutshell,
is that okay right now? Generally, there were
some chain letters. There was actually one
Excel spreadsheet with 2,783 names or
something with no statement on it, but I
figured from the group it was from it was
opposed. Okay? There were some other
consumers groups that said no.

And I guess on the other side of
the balance sheet, the certifiers that
certify, you know, farms and everything like
that, did not come out opposed to it. One
certifier kind of brought it to light, you
know, talked about it more in depth, but you
want me to name the certifiers that -- okay.
But they certify a lot of operations.
So on one side you have the
certifiers saying, you know, this is okay.
And I think the main reason I've always heard
certifiers say, when we talk about this, kind
of like, you know, on the side in general,
it's because it's for a preventive practice
that they haven't looked at vaccines more in
depth. There's a lot more burning issues, I
guess, and it's prevention of disease.
And, you know, I've talked to
inspectors and they see a vaccine on the
shelf, they're like it's a vaccine. You know,
it's not like there's penicillin and
gentamicin and all the other stuff on the
shelf. They see that, major big red flag.
So one side, a certifier is saying
yes, you know, this recommendation we support,
and on the other -- on the consumer side, the
ones that signed those chain letters, you
1 know, no.

2 CHAIRMAN MOYER: Chair recognizes
3 Kevin. I will remind the Board that we're
4 probably about an hour at least behind
5 schedule now, not that I'm pushing.
6
7 Kevin?

8 MEMBER ENGELBERT: As I sit here
9 conspicuously quiet, listening to everyone's
10 comments, yes, our board vote was seven-zero,
11 or our committee vote, but it was the hardest
12 vote that I've made on a committee, and this
13 is going to be the hardest vote that I make on
14 the NOSB, I'm sure. I'd like to vote twice,
15 once from heart and once from my head.
16
17 But on their committee
18 recommendation, Jennifer's logic weighed
19 heavily on my own decision. Like Joe said, he
20 looks to other people on the Board, so do I.
21 And when I'm in committee, I do the same
22 thing.

23 And I look at this situation on my
24 own farm, and one of the tenets of organic
agriculture is openness and transparency in trying to get consumers to know their farm. And we have seen that happen on our operation tremendously. We have people in and out of our farm all the time now with our retail meat business and our burgeoning retail cheese business. And I try to think what would happen if we were faced with an emergency right now, our cows were exposed to some type of disease and we couldn't vaccinate them unless we used an GMO.

I think our customers, without exception, would say please save your animals. We will still support you. I may be wrong, but that's the way I read the public's perception. The knee-jerk reaction is absolutely known. But when you consider the fact that operations would fail, their local source of organic food would disappear, I think in the end run they would probably say do what you have to do to keep your operation viable.
CHAIRMAN MOYER: Chair recognizes Julie.

SECRETARY WEISMAN: I would like to call the question -- what's the procedure here?

CHAIRMAN MOYER: I have one more commenter who had their hand up almost identically timed to you, so I'll take that and then I will call the question.

Bea, final comment, please?

MEMBER JAMES: I do think this is an important subject. I know we're running behind, but this is pretty critical.

Kevin, I guess where I struggle is that from what I've heard from Hue as far as current practices and what is currently outlined for use of vaccinations, it doesn't seem to me like you would not be able to have that option to use vaccinations. If you really needed them, it's already happening anyway, and you would be able to do it. So that's where I struggle, is that we're
creating more of a direction towards vaccinations, even though there is a status quo that is allowing it. So why would you think that you couldn't treat your animals if you needed to if you currently can it right now anyway?

CHAIRMAN MOYER: Kevin?

MEMBER ENGELBERT: Because if we don't pass this, then I wouldn't be able to and retain my certified organic status. I'd lose my milk market and our operation would fail. Ninety-five percent of our income comes from milk and it is sold to our co-op. So if we had to vaccinate our animals with a GMO vaccine to save them, we couldn't survive the 672 option of transitioning back for another year. We'd be out of business.

CHAIRMAN MOYER: Okay. Dan?

VICE-CHAIR GIACOMINI: Also, Bea, in the time it takes to go through all the hoops to get a special approval, cows are dead.
CHAIRMAN MOYER: Thank you. I'm going to turn the floor over to Hue for one last comment and then restate your motion.

MEMBER KARREMAN: Since the question is being called, I would just like to say for the record I think this has been an excellent transparent discussion in public on a critical issue, and we will vote however we do. And I guess we'll leave it at that.

CHAIRMAN MOYER: Restate motion and address which way a yes or no vote impacts it.

MEMBER KARREMAN: The motion is to amend 205.105(e), excluded methods, except for vaccines, provided that vaccines manufactured without the use of excluded methods must be used if commercially available.

If you vote in favor of that, then you do. You do. If you don't, then you don't.

CHAIRMAN MOYER: Thank you, Yogi.

MEMBER KARREMAN: It's a
1 straightforward statement at that point.
2
3 CHAIRMAN MOYER: We have a motion.
4
5 It is on the floor. It was seconded. We had
6 our discussion. We will now call for the
7 vote.
8
9 Are there any conflict of interest
10 before we vote?
11
12 (No audible response.)
13
14 MEMBER KARREMAN: I don't know if
15 there's a conflict of interest with a
16 livestock operation that would use these
17 vaccines.
18
19 CHAIRMAN MOYER: You don't make
20 vaccines. No, I don't think the Board has a
21 problem with that, Kevin. Thank you for your
22 honesty.
23
24 MEMBER KARREMAN: Well, I tried to
25 get out of it.
26
27 CHAIRMAN MOYER: Yes. That was
28 pretty slick.
29
30 We will start the vote with Bea.
31
32 MEMBER JAMES: Great. No.
CHAIRMAN MOYER: Tracy?
MEMBER MIEDEMA: Yes.
CHAIRMAN MOYER: Joe?
MEMBER SMILLIE: Yes.
CHAIRMAN MOYER: Hue?
MEMBER KARREMAN: Yes.
CHAIRMAN MOYER: Kevin?
MEMBER ENGELBERT: Yes.
CHAIRMAN MOYER: Tina?
MEMBER ELLOR: Yes.
CHAIRMAN MOYER: Rigo?
MEMBER DELGADO: Yes.
CHAIRMAN MOYER: Katrina?
MEMBER HEINZE: Yes.
CHAIRMAN MOYER: Dan?
VICE-CHAIR GIACOMINI: Yes.
CHAIRMAN MOYER: Julie?
SECRETARY WEISMAN: Yes.
CHAIRMAN MOYER: Steve?
MEMBER DeMURI: Yes.
CHAIRMAN MOYER: Barry?
MEMBER FLAMM: No.
CHAIRMAN MOYER: And the Chair votes yes. I believe we have two nos, 11 yeses and two absents. Motion passes.

Mr. Chairman, your next material?

MEMBER KARREMAN: Just a little quick conclusion on that.

CHAIRMAN MOYER: Yes.

MEMBER KARREMAN: You know, there's going to be more work for people to look for vaccines which are not genetically engineered. Just for everybody that voted yes on that. Okay? It's going to be more work for the certifiers, more work for the farmers, which it should be. Case closed for now.

CHAIRMAN MOYER: Thank you, Mr. Chairman. Your next material?

MEMBER KARREMAN: All right.

What's up? Let's see. Chlorhexidine. This is a clarification, I guess. It's a clarification. The current -- you want just the recommendation right at to go? The Livestock Committee recommendation.
CHAIRMAN MOYER: If you have a preamble you want to talk about, you're welcome to it. And if not, just read your motion.

MEMBER KARREMAN: Well, the original annotation on this is partly due to my input. It says the current one, okay, right up top is that chlorhexidine allowed for surgical procedures conducted by a veterinarian. Okay. That part of it, I was consulted with by the NOP back in about 2000. This was on the list when it came out in 2002. And I got a phone call from an NOP staff person saying, "Hey, Dr. Karreman, do you use chlorhexidine?" And I said, "Yes, I use it for surgery and surgical procedures." And I wasn't asked further, like, well, do you use it for anything else than that? Okay? So that's how this one sentence got in here. But chlorhexidine in general is used for a lot of medical purposes of which surgery is one.

Anyway, so it's kind of a
clarification on something which goes way back to 2000. Okay?

So the Livestock Committee recommendation is to have 205.603(a)(6), chlorhexidine allowed as a germicide for medical and surgical procedures, allowed for use as a teat dip when alternative germicides, agents and/or physical barriers have lost their effectiveness.

Committee vote was seven in favor of this, zero opposed, zero abstained, zero absent.

CHAIRMAN MOYER: Point of order. I believe we heard conversation yesterday from the Program that we could not take action on these two materials. Am I mistaken?

MR. McEVOY: Yes, there certainly was some discussion about that yesterday and some confusion about that. It sounds like what Hue is saying, it's a clarification. So I would suggest that you take this up and we'll take a look at it to see if there's a
violation of your process. And if there is, we'll let you know.

What you heard yesterday, that there very well could be that you're not following your procedures, but there's no specific petition here. But you're basing your action on your good process that you've gone through for the last six months or more and possibly a misunderstanding about that.

CHAIRMAN MOYER: Yes.

MR. McEVOY: It sounds like there is possibly a violation of procedure. And if so, then it might not be valid to move forward on this.

CHAIRMAN MOYER: Thank you from the Program. Appreciate that clarification. That was my understanding. But it sounds like we will move forward with these.

Mr. Chairman, back to you.

MEMBER KARREMAN: Yes, I guess depending on what you want to do, Mr. Chair, I do have more preamble for the xylazine one,
in case that -- well, you're going to get it anyway, but I want to --

CHAIRMAN MOYER: Yes.

MEMBER KARREMAN: Okay.

CHAIRMAN MOYER: Speaking only for myself, this isn't the first rule I've ever broken. It won't be the last.

If you want to make a motion then?

MEMBER KARREMAN: Okay. Well, the motion is to change the current listing at 205.603(a)(6) to be, "chlorhexidine allowed as a germicide for medical and surgical procedures, allowed for use as a teat dip when alternative germicidal agents and/or physical barriers have lost their effectiveness."

CHAIRMAN MOYER: Is there a second on that motion?

MEMBER ENGELBERT: I'll second.

CHAIRMAN MOYER: We have a motion on the floor and a second. Discussion?

Chair recognizes Hue.

MEMBER KARREMAN: I'll just say
that we worked on this as a committee in a conference call in good faith from word from the Program that we could. We asked specifically if a committee could bring up something to the board level, and the answer was yes. Okay? Now, that was not in writing. But I'm just saying we worked on this in good faith, you guys, just so you know that, just like we do everything.

CHAIRMAN MOYER: Chair recognizes Dan.

VICE-CHAIR GIACOMINI: I think it's reasonable to say on these next two items that if we remember our process, we require a two-thirds vote to pass and an abstention is not counted as a vote. It's two-thirds vote of the votes cast in the presence of a quorum meeting. So I think it's reasonable to say that if you disagree with this process, that to vote no; and we will all assume that the vote no is not necessarily a direct opposition to the action to being taken in the motion.
If you only abstain, then you just leave it up to the rest of the group, which is not exercising your right to state whether you agree with anything to do with the process.

The current statement from the Program though is that go ahead. If we say that you violated the process, and then what we thought didn't really matter, we'll come back to you if there's a problem. But I think if you just want to deal with it on the process issue, you're better off voting no than abstaining.

CHAIRMAN MOYER: Thank you, Dan, for that clarification on parliamentary procedure.

So if you want to avoid going to organic jail, I guess, you can vote differently.

Joe?

MEMBER SMILLIE: I don't know if that's parliamentary procedure or Dan's opinion, but we'll leave it as it may be.

What was the committee vote on
this?

    MEMBER KARREMAN: This was seven in favor, zero opposed, zero absent, zero abstained.

    CHAIRMAN MOYER: Again, as Hue mentioned, after very lengthy discussion, yes. Steve?

    MEMBER DeMURI: Was this subject brought up within the committee, or were you approached from some industry members that asked for you to look at it?

    CHAIRMAN MOYER: Chair recognizes Hue.

    MEMBER KARREMAN: Approached by industry members out in the field. This is a grass roots --

    CHAIRMAN MOYER: Farmers.

    MEMBER KARREMAN: Farmers and, you know, people within the organic livestock health care industry.

    CHAIRMAN MOYER: Other discussion?

    (No audible response.)
CHAIRMAN MOYER: Hearing none, seeing none, we will proceed with a vote. Before we do that, is there any conflict of interest with this material?

(No audible response.)

CHAIRMAN MOYER: Hearing none and seeing none, we will call for the vote starting with Tracy.

MEMBER MIEDEMA: Yes.

CHAIRMAN MOYER: Joe?

MEMBER SMILLIE: Yes.

CHAIRMAN MOYER: Hue?

MEMBER KARREMAN: Yes.

CHAIRMAN MOYER: Kevin?

MEMBER ENGELBERT: Yes.

CHAIRMAN MOYER: Tina?

MEMBER ELLOR: Yes.

CHAIRMAN MOYER: Rigo?

MEMBER DELGADO: Yes.

CHAIRMAN MOYER: Katrina?

MEMBER HEINZE: Yes.

CHAIRMAN MOYER: Dan?
VICE-CHAIR GIACOMINI: Yes.

CHAIRMAN MOYER: Julie?

SECRETARY WEISMAN: Yes.

CHAIRMAN MOYER: Steve?

MEMBER DeMURI: Yes.

CHAIRMAN MOYER: Barry?

MEMBER FLAMM: Yes.

CHAIRMAN MOYER: And the Chair votes yes.

MEMBER JAMES: And I vote yes.

CHAIRMAN MOYER: I apologize, Bea. I believe we have zero nos, 13 yeses, two absent. Motion passes.

Your next material, Mr. Chairman?

MEMBER KARREMAN: Okay. The next material is xylazine and the committee recommends that there is a -- and I'm going to say clarification, you guys, and I'll explain it in a minute, but a clarification to withdraw the term "the existence of an emergency" in the current listing as it is. So that the recommendation for 205.603(a)(23)
would read, "xylazine, CAS No. 7361-61-7,
federal law restricts this drug use by or on
the lawful written or oral order of a licensed
veterinarian in full compliance with the
AMDUCA and 21 C.F.R. Part 530 of the Food and
Drug Administration Regulations. Also for use
under 7 C.F.R. Part 205, the NOP requires use
by or on lawful written order of a licensed
veterinarian and a meet withdraw period of at
least days after administering to livestock
intended for slaughter and a milk discard
period of at least four days after
administering to dairy animals."

CHAIRMAN MOYER: Thank you, Mr.
Chairman. You want to put that in the form of
a motion?

MEMBER KARREMAN: I move that we
accept that.

CHAIRMAN MOYER: Thank you. Is
there a second?

VICE-CHAIR GIACOMINI: Second.

CHAIRMAN MOYER: We have a motion
on the floor and a second. Is there discussion on this material? Joe?

Hue, there's a question from Joe.

MEMBER SMILLIE: Hue, is this the same situation as the previous material we discussed, it came from the "field?"

MEMBER KARREMAN: Yes.

MEMBER SMILLIE: Okay.

MEMBER KARREMAN: Yes, without a doubt. And -- go ahead, Joe. Sorry.

CHAIRMAN MOYER: Follow up, Joe?

MEMBER SMILLIE: I appreciate the intent of the Livestock Committee in doing this. I think in the future my recommendation would be to urge the field to follow the petition process. I think that even though the intent is good and your ability to drive it makes it more effective; and I don't know if that's driven by your concern for the time it takes for the petition process, in which case we need to make our efforts of making the petition process work quicker, but I think it
would behoove the Board to urge those people
to make the petition so that we can follow the
process more. I realize the intentions are
good, but it starts to sound like, you know,
this committee can make it happen faster if we
put it right into committee and don't go
through the petition process. The petition
process I think is there for a reason. But I
would like to hear your response to it.

CHAIRMAN MOYER: Yes, I think
there's some history with this material, if
you want to address that, Hue.

MEMBER KARREMAN: Yes, I was the
petitioner originally with Organic Valley and
Horizon Organic back in 2002. And I have
those transcripts on line here, which I want
to read from, because you're talking about
procedure and I would say that procedure was
not followed at that point by the Board.
Okay? Just hold on. Let me just read a
paragraph here on the background. Okay?

"Initially, xylazine was
petitioned such that it could only be used 'once in a lifetime' of an animal. Early on during the voting motion to allow xylazine, a friendly amendment to remove the annotation of 'once in a lifetime' was made by a board member and the motion passed. Then through a long discussion that was punctuated by a lot of wonderings about how xylazine is used by veterinarians, how the Board should not interfere with the professional judgment of veterinarians, and not wanting to allow any synthetic to be used routinely, someone then suggested through all the discourse that 'the existence of an emergency' seemed to be what the Board was trying to get at and the annotation was then inserted. Whether an official amendment to add such wording is unclear." Okay?

So there was no motion actually for that. It was inserted. "It is also not clear if the petitioner," me, "was asked by the Board if
the insertion was workable."

So we just had back in the last section before Livestock, two people come up here being asked about a motion, you know, which way should it go and what not. The petitioners were never asked about various amendments that they were putting in with xylazine back then.

Now I got to tell you, the next material back -- it was Wednesday, September 18, 2002, and it's on pages 566 roughly through like 569. The next material that came up was butorphanol. Okay? And they did actually call me, and maybe Leslie remembers that, if you're in the room, Leslie, and other people here might remember, but I was talking into the phone and she was putting it up to the microphone apparently so people could hear and it could get recorded, something like that.

They did call me as the petitioner or for advice on butorphanol. They did not on
1 xylazine.

So I would just say that what we're doing here is a clarification of something which was not done properly seven years ago. So you know, it's not railroad something through. Truly, I mean, xylazine passed; it's on the list. Okay?

Also, you know, as it's written in the first part of the main paragraph before the annotation, it says, "to use by or on the lawful written or oral order of a licensed veterinarian." And then in the annotation it says, "use by or on the lawful written order of a licensed veterinarian." That was actually taken out by motion.

Anyway, like I said in the background here, it was a very interesting transcript to read, and I won't bore you with it unless you say we'd want to hear it. It's very interesting.

CHAIRMAN MOYER: Yes, my point was that it was a petitioned material; it did go
through that process. It just got goofed up and we're trying to clean it up a little bit, if we can. And the question was whether we can use this process to clean it up. That's the question where we're all going to organic jail.

MEMBER KARREMAN: Right.

CHAIRMAN MOYER: Chair recognizes Hue.

MEMBER KARREMAN: So just for the record, for the Program, I want you to know, this is a clarification by the petitioner of the original petition, me, to clarify this. Okay? That's just for the record. It's a clarification.

CHAIRMAN MOYER: Thank you, Hue. Any other discussion on this particular material?

MEMBER DeMURI: Just a question.

CHAIRMAN MOYER: Steve?

MEMBER DeMURI: Any negative public comment on this?
CHAIRMAN MOYER: Hue?

MEMBER KARREMAN: No, only praise.

CHAIRMAN MOYER: Thank you, Hue.

Any other comment from the board members on this particular material?

(No audible response.)

CHAIRMAN MOYER: Hearing none, seeing none, I will call for the vote.

Is there any conflict of interest on this particular material?

MR. KARREMAN: Just to reiterate, I mean, this is coming up from the field. I'm not a manufacturer, but I'm obviously passionate about it. But, it's got to get corrected.

CHAIRMAN MOYER: I don't think the Board has a problem with that. Thank you, Hue.

Okay. We'll start the vote with Joe.

MEMBER SMILLIE: Yes.

CHAIRMAN MOYER: Hue?
1. MEMBER KARREMAN: Yes.
2. CHAIRMAN MOYER: Kevin?
3. MEMBER ENGELBERT: Yes.
4. CHAIRMAN MOYER: Tina?
5. MEMBER ELLOR: Yes.
6. CHAIRMAN MOYER: Rigo?
7. MEMBER DELGADO: Yes.
8. CHAIRMAN MOYER: Katrina?
9. MEMBER HEINZE: Yes.
10. CHAIRMAN MOYER: Dan?
11. VICE-CHAIR GIACOMINI: Yes.
12. CHAIRMAN MOYER: Julie?
13. SECRETARY WEISMAN: Yes.
14. CHAIRMAN MOYER: Steve?
15. MEMBER DeMURI: Yes.
16. CHAIRMAN MOYER: Barry?
17. MEMBER FLAMM: Yes.
18. MEMBER JAMES: Yes.
19. CHAIRMAN MOYER: Tracy?
20. MEMBER MIEDEMA: Yes.
21. CHAIRMAN MOYER: And the Chair votes yes. I have zero nos, 13 yeses, 2
absent. And the motion passes. And that was
the easy stuff.

Mr. Chairman, your next item on
the docket?

MEMBER KARREMAN: Okay. Livestock
Committee had a meeting last night, the
committee meeting which I already mentioned,
and actually it was mainly due to the animal
welfare to prepare it for today's voting. I
have sent everybody an email with the
attachment all cleaned up, all in black
letters now, not blue and red and strikeouts;
got everything out.

What we did at the committee
meeting was to, yes, make a few changes; a
few, not a lot. And while I'm looking them --
just briefly in a moment here, while I'm
getting to them, you know -- let's be honest
here, you know, we are definitely a board that
hears public opinion, and this is the most
easy way that people can state their public
opinion is to us, but, you know, the public
still gets dibs on things that go through the federal process after we recommend something. So this is a foundational-type stepping stone or building block, I guess, for animal welfare improvement. And the public should understand fully that they will have more public input if this passes.

So the first thing the committee did was under 238(a), basically we wanted to look towards the organic system plan. So (a) now reads that, "The producer must include in their organic system plan a list of practices or procedures designed to improve health care of the livestock operation, including," and the list. So that is the overall arching first statement of the health care standard at 238, that the organic system plan essentially has to point out, describe, elucidate how you're going to have your livestock health care, and, you know, it's continual improvement.

If you could go down to (c)(1)
under 238(c)(1), please?

Okay. The last sentence of 238(c)(1) is now saying, "Milk from animals undergoing treatment with prohibited substances or substances with a withholding time cannot be sold as organic or fed to organic livestock." That was inserted last night. The "or substances with a withholding time." Okay?

The next one -- change we made was at 238(c)(9). Okay. Basically, we had to restate something so we didn't have a double negative. So "The producer must not" is the heading for (c) up there, (9) "neglect to identify and record treatment of sick and injured animals in animal health records." That cannot be neglected to be done.

And the only other two things we did, which probably we'll breathe a sigh of relief for most of the commenters, and it is to give more time, is to take out all the numbers in 239(c)(5)(i). So in 239(c)(5)(i),
we have taken out the numbers, but we have
left in the categories, and you'll hear later
on today that will be on the workplan of the
committee for next year to work up those
numbers with the rest of the industry for
mammals and avian species.

And then if you go down to 239(h),
there's the other table. That was dropped in
from the ACA's document, which we really
liked. And we took out the numbers there for
further -- and that's specifically for avian.
That will have to be reconciled with the other
table, truncate the other table. So it's just
mammal, let's say, and then avian for this
one. But those numbers can be worked up with
industry into the future. That's the changes.

So pretty much three minor changes
and then the two tables wiping away those
numbers for further work.

So I move that we accept this
document as shown on the screen and as you all
have at your computers.
MEMBER JAMES: Second.

CHAIRMAN MOYER: Thank you, Hue.

I have a second from Bea.

We have a motion on the floor and a second. I'll entertain discussion on this item. I'll start myself by saying I think the Livestock Committee did demonstrate that they can respond to public comment and still come up with a very powerful and meaningful document, leaving room for more public comment and an opportunity for interaction to work on the points that were of most difficult discrepancy for all of us. So thank you to all the fellow members of the Livestock Committee.

Points of discussion? I see Steve and then Barry.

MEMBER DeMURI: I'll echo what Jeff just said. I commend you for responding as quickly as you did.

One question I have is, you guys studied the public comment probably closer
than I did. Was there any other public comment opposed to this other than the restrictions on the numbers you pulled out?

CHAIRMAN MOYER: Hue?

MEMBER KARREMAN: The only public comment was generally pull it back for a draft discussion document again, please. That was really the --

CHAIRMAN MOYER: And most of that was in regard to stocking recent numbers.

MEMBER KARREMAN: Yes, thank you, Jeff.

CHAIRMAN MOYER: Chair recognizes Barry.

MEMBER FLAMM: If I recall correctly, there was quite a bit of interest and support in the minority opinion, especially Kevin's dealing with milking times a day, which I lean toward supporting also.

And I'd like to hear from either you or Kevin where you stand on that. I'd just like to add one. In my conversations with people in
Montana, you know, they pointed out very much in support of what Kevin recommended with a caveat that perhaps that where robot systems are available -- and I know they're expensive -- but those that sort of mimic a natural feeding, that that would be allowed and rather than the restriction. But could either one of you comment on that, please?

MEMBER KARREMAN: I'll cede the floor to Kevin here in a moment, but I want to let you know that also in the minority opinion there was a part where; and it is in the final document, we brought up that there is a need for really good records about why animals are sick, how many animals are leaving, that kind of culling stuff and the reasons. So that did come up from the minority opinion, but I'll leave the rest to Kevin.

MEMBER ENGELBERT: Well, to briefly reiterate what I spoke of yesterday, it's my belief from experience and talking with our farmers, nutritionists, veterinarians
that forcing a dairy animal to be milked three
times a day is too high a price for an organic
animal to pay.

If you'd like me to go into all
the reasons why, I can do that, but I don't
consider that too prescriptive. The whole
organic rule is about giving farmers goals and
letting them reach them.

And while I understand that the
treatment of animals is of utmost importance
to maintaining their health, I also truly
believe that the methods and procedures, the
routines, the facilities and the environment
that we provide for the animals is even more
important. And it's a proven fact that cows
that are forced to be milked three times a
day, are fed large amounts of grain, they are
under far more stress, require far more
veterinary attention and they have far shorter
life spans.

Yes, they're extremely healthy to
be able to be milked three times a day and
consume all the grain that's required to do that, but if you don't milk them three times a day, you can still get high milk flows, good production with either low or minimal or no grain feeding based on your genetics.

But to take that extra step and push them for their three times a day is very disruptive to their natural cycles of life. And, you know, I mean, even though they're just cows, and some days I don't like cows, they still deserve the right to lay down at night and rest for as long as they naturally desire to. That to me is part of exhibiting their natural behavior. Not simply being able to go out in the pasture and consume food and interact with other animals and have the majority of their diet be forage, they also, in my opinion, deserve the right to not be forced to be into a milking stall every eight hours and pumped for all their worth for a short amount of time and then be replaced.

CHAIRMAN MOYER: Follow-up from
Barry and then Dan.

MEMBER FLAMM: Mr. Chairman, I'd like to propose an amendment, if you can tell me when an appropriate time is to do that.

CHAIRMAN MOYER: Now's as good a time as any. If you want to make a friendly amendment, you're welcome to do that.

MEMBER FLAMM: I'd like to propose an amendment to the animal welfare document -- and I won't get the words quite right and I'd appreciate Kevin's help -- but essentially to limit milking to two times a day, perhaps except where robotic systems that mimic natural feeding behavior is available. And if that isn't quite the right way to say it, maybe Kevin can help out.

CHAIRMAN MOYER: Well, there's a friendly amendment made to you, Hue. Do you accept that amendment?

MEMBER KARREMAN: There will be discussion?

CHAIRMAN MOYER: Not if you and
Bea accept it. If you don't accept it, we'll discuss it more.

MEMBER KARREMAN: I would like to have discussion on it. What do I say then?

CHAIRMAN MOYER: Say no.

MEMBER KARREMAN: No.

CHAIRMAN MOYER: Okay. That friendly amendment was rejected. Well, we have to ask Bea?

Is there a second to Barry's amendment?

(No audible response.)

CHAIRMAN MOYER: It's already been rejected.

MEMBER FLAMM: I'm making an unfriendly amendment.

VICE-CHAIR GIACOMINI: Right. In the case of a friendly amendment, it's the approval of the person making the amendment. And the second, if that's accepted, it can then come forth as an unfriendly amendment.

CHAIRMAN MOYER: Right. Okay.
Thank you.

VICE-CHAIR GIACOMINI: Which it is then a motion to amend the main motion, which requires a second and then discussion on amending the main motion.

CHAIRMAN MOYER: That's correct.

So is there a second on Barry's amendment?

MEMBER JAMES: Barry, can you repeat exactly what your -- it was a little unclear.

MEMBER FLAMM: Sorry.

MEMBER ENGELBERT: Do you want me to try?

MEMBER FLAMM: Yes, Kevin.

CHAIRMAN MOYER: Chair recognizes Kevin for point of clarification.

MEMBER ENGELBERT: The unfriendly amendment, Bea, would read under 205.238, livestock health care practice standard (c), the producer of an organic livestock operation must not, (11) milk dairy animals more than twice (two times) in any given 24-hour period.
with the exception of a voluntary milking
routine that is provided by robotic milkers.

CHAIRMAN MOYER: Is there a second
to Barry's motion?

(No audible response.)

CHAIRMAN MOYER: Hearing none,
that motion dies.

Continue with discussion on the
original motion.

I'm sorry, did I miss something?

I didn't know if I missed a hand.

Okay. Continue discussion on the
original motion, on the original document.

MEMBER KARREMAN: I'm not sure
there's any more --

PARTICIPANT: Did Bea want to --
do you want to second that motion?

MEMBER JAMES: No.

MEMBER KARREMAN: I don't have any
more to say about that document.

CHAIRMAN MOYER: No, is there
other discussion from board members on this
particular motion?

(No audible response.)

CHAIRMAN MOYER: Hearing none, I -- I'm sorry, I keep hearing whispering, so I'm not sure if I'm -- I'm trying to look both ways.

MEMBER SMILLIE: Can you clarify whether they were in discussion on the friendly amendment or --

CHAIRMAN MOYER: Your microphone.

Chair recognizes Joe.

MEMBER SMILLIE: Can you clarify whether you're asking for is there any further discussion on the failed amendment.

CHAIRMAN MOYER: I will. Thank you. No, I'm asking for discussion on the document itself, on the original proposal. The failed amendment is failed. We're going back to the original as proposed by Hue and seconded by Bea, and is there discussion on that particular document? Joe?

MEMBER SMILLIE: You're putting
forward a recommendation that calls for
stocking rates, and stocking rates aren't
included in it. I would think it might be
cleaner -- you know, I know you want to come
back with that, but if you're going to send a
recommendation in, it can't call for something
and then leave it blank. Wouldn't it be
better to just withdraw that section and add
it later?

CHAIRMAN MOYER: Chair recognizes
Hue and then Katrina.

MEMBER KARREMAN: So you mean the
blank tables? Joe, the blank tables?

MEMBER SMILLIE: Yes.

MEMBER KARREMAN: Just take the
tables out? I mean, we could do that. The
reason we did not is that so it is in there.
The data is to be done. And I think you
realize that, you know, that we want to get it
done, but we don't want it to just evaporate
away and not be addressed. And if we take the
table out with the categories, that could
happen.

CHAIRMAN MOYER: Chair recognizes Katrina.

MEMBER HEINZE: Hue, correct me if I'm wrong, but I believe there's precedent for that approach from how you did aquaculture.

CHAIRMAN MOYER: Yes.

MEMBER HEINZE: Is that correct?

CHAIRMAN MOYER: Yes.

MEMBER KARREMAN: You mean like a one, two and three punch?

MEMBER HEINZE: Right.

MEMBER KARREMAN: Yes.

MEMBER HEINZE: Isn't that what we did with aquaculture, that you had -- no?

VICE-CHAIR GIACOMINI: No, the way we did aquaculture is that the sections that were left out were just stated as you can't do this right now. The changes that we made then with net pens and the nutrition, and now the bivalves is essentially amending that original motion. It's not done as an amendment from
this point of view. It's done through the
change, but it was in within that structure.
But it wasn't listed there as -- you know, if
we would have not come back with bivalves, it
would have been you never would have known the
difference. It would have just said "no
bivalves."

CHAIRMAN MOYER: But the bivalves
and net pens and all those things were kept in
as placeholders to finish up with at intent.
It was listed on the workplan.

Hue?

MEMBER KARREMAN: That's exactly
right. They were placeholders, at that's what
these tables are, are placeholders.

CHAIRMAN MOYER: Right. Knowing
that the document is not complete, Joe, until
those placeholders are filled. But we want to
get something --

PARTICIPANT: No, the document
could be complete without --

CHAIRMAN MOYER: Okay.
MEMBER SMILLIE: Well, it's a minor technical point.

CHAIRMAN MOYER: I understand.

MEMBER SMILLIE: But it's more than a placeholder. It's describing a format that must be followed by further work. It's not a placeholder for a possibility of a different format.

CHAIRMAN MOYER: No, I understand.

Hue?

MEMBER KARREMAN: I didn't hear much public comment saying yes or no to that kind of table. It was in the numbers. Two square feet, 1.8, 1.5. So I don't think it's an absolute question of like that should not be in there. It's more like, well, let's work these fine tuned numbers.

CHAIRMAN MOYER: I apologize.

Chair recognizes Joe.

MEMBER SMILLIE: What I heard loud and clear in the comments was, number one, that in general people liked the document.
They didn't like the stocking rates. But what I heard overwhelming was they were uncomfortable with the amount of time they had to comply with it. I think swine mentioned. I think we had other people mentioning different animal groups that had no comment at all. And to me, we haven't heard from a large part of the constituency on this. And my feeling would be not to necessarily format it, because, you know, maybe this format works for swine or goats. Well, nothing works for goats, in my experience. But, you know, it seems just to me you're pre-deciding, you know, the format, and we haven't heard from large constituency groups on this yet.

CHAIRMAN MOYER: Chair recognizes Kevin, then Hue.

MEMBER ENGELBERT: I agree, Joe, we are prescribing format, because these are the areas that we think need to be addressed with the square footage requirements. As far as the swine growers or any other operations
that we didn't hear from, we took that as a sign that we got it right. The poultry people were out here in force. This document has been worked on for over a year and we don't think it's our responsibility to wait for other type of operations to decide to come to the table and voice their opinion. We believe that if they had strong concerns, we would have heard from them. And as has been stated, they will have plenty of time to voice their concerns as this goes through the rulemaking process with the NOP.

CHAIRMAN MOYER: Chair recognizes Hue.

MEMBER KARREMAN: I agree just with Kevin. And, you know, the ACAs said they represent about 2 million birds as far as the avian. And then I asked how many birds certified organic poultry are there in the U.S., and they said about 6 million. So that's a fair amount, Joe, as far as being represented for avian. And, yes, go ahead.
CHAIRMAN MOYER: Chair recognizes Dan.

VICE-CHAIR GIACOMINI: Yes, I agree with what Kevin and Hue are saying regarding this, but I also see an issue with Joe's point, but I'm going to come at it from a little bit different side. I think the intent of the Livestock Committee is to go back and look at stock density. I think it was fairly overwhelming the comments that we did receive regarding the statement we had for stocking the rate within the pasture. I think we agreed to go along with that, not deal with that until the pasture document came out. In light of that spirit, I would like to submit a friendly amendment to the maker of the motion to delete the definition for "stocking rate" from the proposal.

CHAIRMAN MOYER: We have a friendly amendment on the table. Hue, as the person who brought forward that motion, do you accept that friendly amendment, or do you need
it restated?

MEMBER KARREMAN: Can I ask something before I say if I accept it or not?

CHAIRMAN MOYER: Yes.

MEMBER KARREMAN: I mean, what would that do, Dan?

VICE-CHAIR GIACOMINI: We're giving the impression to the public in the way we have structured this document that we plan on coming back and dealing with stocking density. By eliminating this, we are not also potentially giving the impression that we plan on coming back and dealing with stocking rate. The question of whether we come back and dealing with stocking rate would not come before the Livestock Committee without seeing what the pasture rule says. So it's based more on the pasture rule than it is what we're looking at here.

CHAIRMAN MOYER: There's a point of discussion from Kevin on that friendly amendment.
MEMBER ENGELBERT: I want to be clear, Dan. You want to eliminate under terms defined 205.2, stocking rate, a measurement of the long-term carrying capacity of a pasture?

VICE-CHAIR GIACOMINI: Yes.

MEMBER KARREMAN: And that would be essentially to cede the ground to the NOP for the pasture rule until that time?

VICE-CHAIR GIACOMINI: Yes, and it was only mentioned in the statement that we made regarding that within pasture, which we pulled out.

MEMBER KARREMAN: Okay. I accept that.

CHAIRMAN MOYER: Bea, do you accept that? You are the second on that.

MEMBER JAMES: Yes.

CHAIRMAN MOYER: Okay. We have a friendly amendment that was made. It was accepted by both who made the motion and the second. And so that is now considered part of the document.
1   Yes, Rigo?
2   MEMBER DELGADO: Just a
3   clarification. We do use the term "stocking
4   rates" throughout the document with the
5   amendment. But I'm looking at (c)(5), right
6   before the table, livestock section.
7   PARTICIPANT: Living condition?
8   I'm sorry, I don't have that version.
9   MEMBER DELGADO: Right before the
10   table. Here it is, stocking rates.
11   CHAIRMAN MOYER: While they're
12   looking at that, Chair recognizes Joe.
13   MEMBER SMILLIE: Yes, a friendly,
14   friendly, friendly reminder that the ACAs are
15   required by the National Organic Program to
16   tabulate results of their stocking densities
17   for their current clients, livestock clients.
18   So that should be an extremely wealthy source
19   of information to finalize some of these
20   issues.
21   CHAIRMAN MOYER: Yes, we agree.
22   And I think by moving this forward and not
delaying it, people will have actually six months to respond to that, rather than 30 days when we bring out the next regulation. And so, what we're trying to do by moving this forward and off of our plate onto the Program's is to send the message out there that here's the chart, here's what we're going to fill in. You've got literally -- well, apparently probably about six months to work with us to get that in, rather than wait until we post yet another document 30 days, because everybody will still just have 30 days again, just like they did this time to react. And we'll just keep going around and around. So that was the reason and the purpose for doing that. And by leaving the chart in there, it gave people the idea what we're trying to fill in, we need help with those numbers. That was the reasoning. We could argue whether it was a good reason or not, but that was the reason.

Chair recognizes Hue.

MEMBER KARREMAN: Okay. From what
I understood from Rigo and Dan, and Kevin and
I looked at this also right now, under
239(c)(5) we have to simply change a word in
there from "stocking rates" -- got to strike
that and put in "stocking density." That's
just a typo, I guess.

CHAIRMAN MOYER: Yes, I don't
think we need an amendment to change that.

MEMBER KARREMAN: Now that we're
getting rid of "stocking rate" at this point.
Okay? That's for the indoor time when they're
not grazing at all.

CHAIRMAN MOYER: So that's a
friendly amendment by you?
Bea, do you agree?
(No audible response.)
CHAIRMAN MOYER: Bea's nod is
taken as a sign of agreement.
Okay. We have a document in front
of us. Any further discussion on that
document before we --

MS. FRANCES: I do have a
question.

CHAIRMAN MOYER: A question from the Program. Valerie?

MS. FRANCES: 238(c)(1), that last sentence.

CHAIRMAN MOYER: Yes?

MS. FRANCES: Where it was added "substances with a withholding time can not be sold." Forever?

CHAIRMAN MOYER: If you could read that comment back for --

MS. FRANCES: It sounds like forever to me. So I just wanted to --

MEMBER KARREMAN: No, no, no. So that sentence as you have it, "Milk from animals undergoing treatment with prohibited substances or substances with a withholding time cannot be sold as organic or fed to organic livestock" would mean that if someone were to need to use butorphanol or xylazine or flunixin to relieve pain and suffering in their animals, that they need to withhold milk
for, you know, six or seven or eight days.

Whatever is stated in 603 for those listings.

That milk cannot be fed to the calves during that time. Since you can't sell it for organic, you can't feed it to the calves either. Okay? It's got to be dumped for those six days, or whatever it is. That's what it means.

Now, if they've been treated with penicillin, that's a prohibited substance out and out. The cow's going to be gone or the pig or whatever, and you know, again, you can't feed it to the calves.

CHAIRMAN MOYER: Thank you, Valerie.

Chair recognizes Dan.

VICE-CHAIR GIACOMINI: I respect where Valerie is coming from on this, because she's a, you know, non-livestock person coming from the voice of the public from the perspective of public reading it. Do you need until the withholding time has expired to
1 understand that?

2 CHAIRMAN MOYER: If additional

3 language makes it clearer, now is the time

4 to --

5 VICE-CHAIR GIACOMINI: Is that you

6 need?

7 MS. FRANCES: It did seem vague to

8 me. So it seemed like you were implying that

9 forever.

10 VICE-CHAIR GIACOMINI: Okay. So

11 "until the withholding time has expired?"

12 CHAIRMAN MOYER: Could you add

13 that language, please?

14 VICE-CHAIR GIACOMINI: Can we add

15 that? Hue? Bea, is that -- everybody agrees?

16 Okay.

17 CHAIRMAN MOYER: Hue's okay with

18 that and Bea as the second. Thank you.

19 That additional language has been

20 changed in the document and now I will call

21 for the vote.

22 Are there any conflicts of
interest on this?

(No audible response.)

CHAIRMAN MOYER: Hearing none, seeing none --

VICE-CHAIR GIACOMINI: Wait.

CHAIRMAN MOYER: Comment by Dan.

VICE-CHAIR GIACOMINI: Hue, since we're going to be working with this, can you review -- Valerie, can you bring that back up? And, Hue, could you just make a quick look that she put that in the right place?

CHAIRMAN MOYER: I can't read it from here. The comment is it should be at the end.

Chair recognizes Katrina.

VICE-CHAIR GIACOMINI: Animals that are being treated.

MEMBER KARREMAN: Yes. Okay.

CHAIRMAN MOYER: Katrina? No?

MEMBER KARREMAN: Ready? Okay.

Here we go.
CHAIRMAN MOYER: Okay.

MEMBER KARREMAN: So it's going to be two sentences. So it's cut.

So you got, "Milk from animals undergoing treatment with prohibited substances cannot be sold as organic or fed to livestock," period.

PARTICIPANT: "Milk from animals"

MEMBER KARREMAN: Right. And then, "Milk from animals treated with substances" - Yes. Sorry. Actually, that first sentence is good, Valerie. Whatever you're highlighting, it should stay.

PARTICIPANT: She's copying it.

MEMBER KARREMAN: Oh.

PARTICIPANT: You didn't know you could do that.

MEMBER KARREMAN: I didn't know.

PARTICIPANT: Five years and you haven't --

MEMBER KARREMAN: What is that?
Copy and paste? What's that?

CHAIRMAN MOYER: He has gotten track changes though, so --

MEMBER KARREMAN: All right.

CHAIRMAN MOYER: Okay. We have our language.

MEMBER KARREMAN: Okay. So --

CHAIRMAN MOYER: I apologize. I can't read it.

MEMBER KARREMAN: So ready for the second sentence, Valerie?

"Milk from animals undergoing treatment with substances having a withholding time cannot be sold as organic or fed to organic livestock until the withholding time has expired."

CHAIRMAN MOYER: Is the chairman of the Livestock Committee satisfied with that language?

MEMBER KARREMAN: Yes.

CHAIRMAN MOYER: Okay. Tina has an issue with it?
MEMBER ELLOR: No. Well, I just had a comment from the gallery, through my email. No?

CHAIRMAN MOYER: No.

MEMBER ELLOR: Can't go there?

CHAIRMAN MOYER: No, we're not going there. I don't want to get in the habit of just taking emails across the board from people in the gallery.

I have a question from Bea.

MEMBER JAMES: Can you just reread that, those two sentences as completed, please?

MEMBER KARREMAN: And then I think we're done this. Okay.

"Milk from animals undergoing treatment with prohibited substances cannot be sold as organic or fed to organic livestock."

"Milk from animals undergoing treatment with substances having a withholding time cannot be sold as organic or fed to organic livestock until the withholding time
has expired." Okay?

It's basically saying if you treat something with a prohibited like penicillin, it's gone. Can't feed it to the calves. And if you treat it with something that is on the list but has a withholding time attached to it, you can't feed it to the calves.

CHAIRMAN MOYER: Correct.

MEMBER KARREMAN: Or the young stock, sorry.

MEMBER ENGELBERT: What if we say "during the withholding period?"

MEMBER KARREMAN: Okay. Kevin's a stickler. He's good for that. Last sentence there, "Milk from animals undergoing treatment with substances having withholding time cannot be sold as organic or fed to organic livestock during the withholding time." "During the withholding time," That's it. Yes, and then get rid of the "has expired." Yes.

Clear as mud? It's actually a lot clearer. It's clear.
CHAIRMAN MOYER: Yes. Okay. I think we have our motion on the floor. We had a second. We had discussion. I'm now calling for the vote. And appropriately so, we will start the vote with Hue.

MEMBER KARREMAN: Thank you very much. Yes.

CHAIRMAN MOYER: Kevin?

MEMBER ENGELBERT: Yes.

CHAIRMAN MOYER: Tina?

MEMBER ELLOR: Yes.

CHAIRMAN MOYER: Rigo?

MEMBER DELGADO: Yes.

CHAIRMAN MOYER: Katrina?

MEMBER HEINZE: Yes.

CHAIRMAN MOYER: Dan?

VICE-CHAIR GIACOMINI: Yes.

CHAIRMAN MOYER: Julie?

SECRETARY WEISMAN: Yes.

CHAIRMAN MOYER: Steve?

MEMBER DeMURI: Yes.

CHAIRMAN MOYER: Barry?
MEMBER FLAMM: Yes.

CHAIRMAN MOYER: Bea?

MEMBER JAMES: Yes.

CHAIRMAN MOYER: Tracy?

MEMBER MIEDEMA: Yes.

CHAIRMAN MOYER: Joe?

MEMBER SMILLIE: Yes.

CHAIRMAN MOYER: And the Chair votes yes.

Thank you, Livestock Committee.

Tremendous amount of work. Well done.

Your next item? Bivalves. I understand it's lunch time, but if we'd like to get through Livestock if we could.

MEMBER KARREMAN: Is it already?

Wow.

PARTICIPANT: Bivalves for lunch?

MEMBER KARREMAN: Bivalves for lunch.

CHAIRMAN MOYER: If you're buying.

MEMBER KARREMAN: The committee recommends that the bivalve proposal; and I'm
not going read all of it, we recommend the
bivalve proposal as posted and the vote was
four to three. There, that's it.

CHAIRMAN MOYER: Is there a second
to that one?

MS. ELLOR: (No audible response.)

CHAIRMAN MOYER: Second by Tina.
The document was presented in its
entirety, the same way it was presented to the
Board yesterday. No changes or corrections.

Is there discussion? Chair
recognizes Joe.

MEMBER SMILLIE: I think it's an
excellent document. I think that it deserves
our support and I especially was interested --
I didn't feel good about the minority report
moving it inland. It seemed the exact
opposite direction that we really wanted to
go. We want to create a vibrant organic
aquaculture. I didn't think the minority
report would do that. And I think it's
impractical and untenable. I think the
Aquaculture Working Group has done a great document. And seeing now things starting to change in the aquaculture world as the Monterey Bay starts to swing behind organic aquaculture and will start to overcome all that, you know, incredibly negative reaction we got in our original organic aquaculture proposal. I think that the bivalve document is leading the way to a more reasoned response from some of these groups as we try to differentiate the difference between organic aquaculture and conventional aquaculture.

And I just wish that the document now will go into the hands of the NOP and will, in our February meetings, try and get prioritized so that we can really start this new industry. Because I think the concerns of consumers right now are really paramount. We really need to develop a sustainable healthy organic aquaculture. The oceans are getting depleted. We need to get a positive start on this. And I want to be able to have sushi for
lunch and I want my grandchildren to be able
to have sushi for lunch.

So I think this is a wonderful
document and I think it deserves our support.

CHAIRMAN MOYER: I agree with what

you said, Joe, all except I don't want sushi

for lunch.

Chair recognizes Dan.

VICE-CHAIR GIACOMINI: Yes, I did

not put together the minority opinion on this.

I was one that voted against this

recommendation in committee. I think in my

review, from what I understood of the industry

and what we were putting together, I'll be

very honest, I probably coming into this -- or

at least going out of the committee vote; I'll

put it that way, I don't think at that point

in time there was anything that we would have

come up with as a recommendation for bivalves

that I would have agreed with. I would have

voted no on every version.

But, seeing public comment,
listening to public comment here, seeing the
absolute overwhelming silence of opposition to
this recommendation, seeing the support from
the Monterey Bay Aquarium and seeing how it
fits in with their document of the Super
Green, I will support this document. I'm
supporting this document. I'm in full support
of this document, even though I was probably
the most negative person regarding the
concept, the topic in committee.

CHAIRMAN MOYER: Thank you, Dan.

I would also want to acknowledge
the fine work of the AWG on pulling this
proposal together, for being here all through
the week. I know their comments, I guess it
yesterday, day before yesterday, certainly had
a huge impact on my opinion of where we're
going with this document. And I think Joe is
correct that this is an opportunity for
organic to really lead the way in the entire
aquaculture industry, and I think it's a proud
moment for everybody there.
The Chair recognizes Hue and then Kevin.

MEMBER KARREMAN: Just really briefly, I got to say that, you know, to get it out of committee I voted for it and I could go either way as it was, but with Sebastian Bell's comments regarding what on land would be like, I am all for the majority right now.

CHAIRMAN MOYER: Thank you, Hue.

Kevin?

MEMBER ENGELBERT: Yes, I'm one of the minority opinions, and I'm not going to apologize for that. I think it's important to look at all aspects of this, and my concerns remain with net pens the same as they did with aquaculture. I'm very concerned about the blurring of the lines between wild-caught and organic. And, you know, I don't have serious problems with the document, but enough that I still don't want to support it.

CHAIRMAN MOYER: Thank you, Kevin.

I also was in the minority opinion on that as
So any other questions or comments before we call for the vote?

(No audible response.)

CHAIRMAN MOYER: Then I am prepared to call for the vote.

Any conflicts of interest in this item in front of us?

(No audible response.)

CHAIRMAN MOYER: Hearing none, seeing none, I will call for the vote starting with Kevin.

MEMBER ENGELBERT: No.

CHAIRMAN MOYER: Tina?

MEMBER ELLOR: Yes.

CHAIRMAN MOYER: Rigo?

MEMBER DELGADO: Yes.

CHAIRMAN MOYER: Katrina?

MEMBER HEINZE: Yes.

CHAIRMAN MOYER: Dan?

VICE-CHAIR GIACOMINI: Yes.

CHAIRMAN MOYER: Julie?
SECRETARY WEISMAN: Yes.

CHAIRMAN MOYER: Steve?

MEMBER DeMURI: Yes.

CHAIRMAN MOYER: Barry?

MEMBER FLAMM: Yes.

CHAIRMAN MOYER: Bea?

MEMBER JAMES: No.

CHAIRMAN MOYER: Tracy?

MEMBER MIEDEMA: Yes.

CHAIRMAN MOYER: Joe?

MEMBER SMILLIE: Yes.

CHAIRMAN MOYER: And the Chair votes yes. I apologize.

MEMBER KARREMAN: I got forgotten again. I talked enough.


MEMBER KARREMAN: Yes.

CHAIRMAN MOYER: And the Chair votes yes. Thank you, everybody. I think I have two nos, eleven yeses, two absent. The document passes.
I appreciate everybody's time.

Thank you, Livestock Committee. Does that end your materials in front of this Board?

MEMBER KARREMAN: Yes, that's it for this portion of the meeting. I just want to say that I have really loved working with the Livestock Committee. We are a really great team and I'm going to miss it, but I'm glad we got done what we did. Thank you.

CHAIRMAN MOYER: Thank you. I have 12:25 or so. I think what we'll do is we'll adjourn until 1:30 and we'll be back then. Thank you, everybody.

(Whereupon, the hearing was recessed at 12:25 p.m. to reconvene at 1:30 p.m.)
A-F-T-E-R-N-O-O-N S-E-S-I-O-N

1:38 p.m.

CHAIRMAN MOYER: This meeting is back in session. I will call the meeting to order and we'll start with the first order of business, which was the deferred vote and presentation on nanotechnology pending some language change and a suggestion for a friendly amendment.

So at this point, I'll turn the meeting over to Dan as Materials chair. Dan, where are we on nanotechnology?

VICE-CHAIR GIACOMINI: We were going to take a break until after lunch for Katrina to put together a recommendation based on the intent of the minority opinion. If she would please present that.

CHAIRMAN MOYER: Chair recognizes Katrina.

MEMBER HEINZE: I appreciate everyone's patience and indulgence as I worked to come up with some language. So at this
time, I'd like to offer a friendly amendment.

CHAIRMAN MOYER: Go ahead. Please do.

MEMBER HEINZE: Okay. A friendly amendment with the changes as shown on the screen. Would it be helpful if I emailed it to people? Okay. Hang tight.

Okay. It is on its way.

So as you wait to receive that, let me just, before I go through what I'm presenting, let me give a little preview.

It is clear to me that consumers do not want nanotech in their organic products today. What we don't know is what they're going to want in the future. So you know, the really the science of nanotech, both with regards to its benefits and its risks, is really young today. So what I want to do is to provide an option that delivers on what our consumers want today, but gives them the flexibility to change their mind as they learn more.
I do believe that part of that is causing us difficulty with the definition. I think coming up with a good definition of nanotech is elusive and has more debate. So and what I'm offering, I'm offering a definition that is broader than the definitions currently in use internationally. The reason for doing that is I think our consumers have asked us to cast a wide net and to capture anything in that net that might meet their perception of what is nanotech. Now in the process, we are inadvertently going to capture things we didn't mean to capture. So really my minority opinion is about creating a pathway so that those things that are inadvertently caught have a process to continue to be allowed. And, that as the science evolves, that we have an opportunity to give our consumers the benefits should they want them. So with that, I'll move to the language of the amendment.
So first, I modified some of the language to say that "nanotechnology is prohibited" -- so, this is kind of the preamble language -- "is prohibited except where reviewed by the NOSB and approved for listing on the National List. Where use of nanotechnology is required by law, the specific material will need to be reviewed and approved by the NOSB for listing on the National List prior to use."

So I think it is important that NOSB review and approval be our gatekeeper for use of these materials.

Okay. So then, specifically under terms defined, my recommendation is to, you know, insert a definition of nanotech that includes the word "engineered" that we spoke about this morning and increases the size scale to the 300 nanometer that we spoke about this morning.

Then if you go down to 205.105, which is allowed and prohibited substances,
1 methods and ingredients in organic production
2 and handling, I'm asking for an amendment,
3 whatever I'm doing, that "for products that
4 are sold or labeled as 100 percent organic,
5 organic or made with, the product must be
6 produced and handled without the use of
7 nanotechnology or products thereof, including
8 use in primary packaging except as provided in
9 205.601, 205.603 or 205.605." So can't be
10 used unless they're on the National List.
11
12 There is additional language that
13 I think is necessary for the made-with
14 category, and I cover this in 205.301, product
15 composition. And this is modifying language
16 that was in the majority opinion. So the
17 majority opinion had proposed -- if you look
18 down, Valerie, on 301, under the paragraph
19 that starts with (c), the third line from the
20 bottom, or fourth line. The sentence that
21 starts, "No ingredients." It says, "No
22 ingredients may be produced using prohibited
23 practices specified in paragraphs (f)(1), (2),
(3)," and I'm agreeing with the majority that we add "and (8)."

So just to elucidate that for you guys, 301(f)(1) is -- or what that would say is, "All products labeled as 100 percent organic or organic, and all ingredients identified as organic in the ingredients statement of any product must not (1) be produced using excluded methods; (2) be produced using sewage sludge; (3) be processed using ionizing radiation." And then we add to that the language in (8), "be processed using nanotechnology except as provided in 205.601, 603 or 605. So an organic ingredient could not be processed using those or be produced using those things which we don't like.

So that is my friendly amendment.

CHAIRMAN MOYER: Okay. We have a friendly amendment on the floor.

Dan, you made the original motion.

Do you accept that amendment?

VICE-CHAIR GIACOMINI: Mr. Chair,
I think it may need a little tweaking. I agree with the proposed amendment, but I think it's important at this stage to get the full vote of the Board on this matter. So for that reason, I reject it as a friendly amendment.

CHAIRMAN MOYER: Okay. The amendment was rejected.

MEMBER HEINZE: So I offer it as an unfriendly amendment.

VICE-CHAIR GIACOMINI: And I second. I seconded her motion.

CHAIRMAN MOYER: Thank you. Okay. We have an unfriendly amendment on the floor that was accepted by the person that made the motion. We are now open for discussion on that unfriendly amendment.

Is there discussion? I see Barry's hand. Chair recognizes Barry.

MEMBER FLAMM: Just sort of a point here. I can't really enter in this discussion because I can't read this from here and I've never gotten an email. And there's
just too much detail. I tried to follow
Katrina, but I can't make myself an
intelligent decision on whether I'm in favor
of the amendment or not. Sorry.

CHAIRMAN MOYER: Did I hear you
say, Steve, you could show it to him?

MEMBER DeMURI: No, I said I
didn't get the email either.

CHAIRMAN MOYER: Okay. Folks are
not able to see that board and read it. I
know myself I have trouble reading it. I
don't know what the best way to reconcile that
is.

MEMBER HEINZE: My apologies. I
think I need to send it in a different Word
version. Is that my problem?

PARTICIPANT: No, I didn't get it
at all.

CHAIRMAN MOYER: They haven't
received it.

MEMBER HEINZE: Okay. So let's
see if we can fix. Hold on.
CHAIRMAN MOYER: Please bear with the Board while we try to solve this technical problem so that board members have the opportunity to read the specific language.

While that's happening, are there other points of discussion? Dan?

VICE-CHAIR GIACOMINI: Yes, I support this direction that we're taking here. Again, the timing of the issue coming up with the vaccines, I would want to do everything we can not to avoid that train wreck.

CHAIRMAN MOYER: Chair recognizes Rigo and then Katrina.

MEMBER DELGADO: I'm just questioning the purpose of having a vote on an amendment. If you agree with that and you want to hear what the Board has to say, why not proceed with a normal vote of the items that you agree with, which is the initial motion?

CHAIRMAN MOYER: Dan, if you want to clarify the procedure on our conversation
that we're having on the amendment or the full
document?

VICE-CHAIR GIACOMINI: I think

it's important to get the voice of the Board

on the version of this that they want to do.

It would be fairly cumbersome to accept the

amendment, have it rejected and have us to

come back with the other version.

MEMBER DELGADO: So essentially

you want to discuss the addition --

 MEMBER DELGADO: -- in isolation?

VICE-CHAIR GIACOMINI: Vote on

whether we want to go with this route.

MEMBER DELGADO: Yes.

VICE-CHAIR GIACOMINI: If that

fails, then we just go right back to the other

version.

MEMBER DELGADO: Okay.

CHAIRMAN MOYER: That's correct.

MEMBER DELGADO: Thank you.
CHAIRMAN MOYER: Thank you, Rigo.

Appreciate that.

Chair recognizes Katrina.

MEMBER HEINZE: I know that this is an emotional and difficult decision, and that it is important that we respect the voices of our consumers who said that they are leery of this technology and they don't want it today.

I want to be mindful of the fact that science evolves and science is not always bad. It brings us great things. I am aware of people today who are researching nanotech capability that would allow them to put in a package a sensor that would say there are pathogens in this package. Do not eat it. IT is not good for you. And certainly that technology does not exist today. But I do hope that someday it does exist and I would hate to see our organic products at a disadvantage to non-organic products because our consumers wouldn't have that assurance.
And that's just one example.

I also would not want that sensor in the product that I feed my children, if I didn't know it was safe. I just want to create a path where we can thoughtfully make those decisions.

CHAIRMAN MOYER: Thank you, Katrina.

I would like to say that I understand the ideas and the concepts that this is bringing forward. At this meeting alone and lots of other meetings that I've attended, we've often heard the conversation, and we heard it here in several different instances about the fact that we're now trying to close the barn door after the horse is long out of the barn. This is an opportunity for this Board to close the barn door while the horse is still in the barn. We can open the door later if we have to, albeit it would be very difficult. If it was warranted, I think it could be done.
I think that organic is currently and should remain a bastion that people can move towards in an effort to avoid; God forbid, I don't want sensors in my food, no matter who says it's safe, I can tell when food is bad and when it's not bad. I don't need nanotechnology to tell me that. Well, I understand you can't sense salmonella or something like that. I got you. I still am not a proponent of putting nanotechnology into the organic standard or creating a pathway, as you described it, for that technology to become part of what we're doing.

You could have made the same argument with genetic modification or genetic engineering. Clearly, I can envision where somewhere down the road; not today, somewhere down the road there could be science that has benefit, and that benefit could be rewarding to organic just as it is to conventional agriculture or food production systems.

We've disallowed many different
things. I'm not in favor of cloning; I voted against listing cloning as something we accept. But I could clearly envision where the science of cloning down the road could lead to better breeding techniques or better animals that would benefit the organic industry as well. Yet we took a stand and said that that's not what we want. I would have to say that I am not favor of creating that pathway and opening the door as wide as this document would open it, and let's try to maintain and keep organic as a safe haven for people who want that particular food system.

And I would argue that with the growth of the industry that we've seen over the years, more and more people are heading in that direction, not away from it.

As we hybridize the systems and become more and more like conventional, the line gets blurred and we run the risk of losing consumers that just cannot clearly see the difference between organic and a
1 conventional food supply.
2 
3 I had Dan's hand up and then Barry.
4 
5 VICE-CHAIR GIACOMINI: Yes, just a technical point. We've had this conversation with the Program before. Just want to make sure we clear it with them again. OFPA calls for two-thirds on substance of issues. Those generally in the past were considered the recommendation. This is an amendment to the recommendation and I believe in the past you told us that that would only require the typical majority to pass an amendment. Are you standing by that?
6 
7 MEMBER DELGADO: Point of order, Mr. Chairman?
8 
9 CHAIRMAN MOYER: Chair recognizes Rigo, as they look for that answer.
10 
11 MEMBER DELGADO: I'm sorry, I think we can handle that. I believe we're still doing Board business.
12 
13 CHAIRMAN MOYER: We are.
MEMBER DELGADO: If you're asking about procedures to vote on an item that hasn't been released to the Program, then we should settle those.

CHAIRMAN MOYER: Chair recognizes Katrina, point of order.

MEMBER HEINZE: I think the process is we would vote whether or not to accept the amendment, which is a simple majority. If the amendment is accepted, we still have to vote on the recommendation, which would require a super majority.

MEMBER DELGADO: Exactly.

VICE-CHAIR GIACOMINI: And that was my question to the Program --

CHAIRMAN MOYER: I believe that's my understanding as well.

VICE-CHAIR GIACOMINI: -- that this did not fall under the category of the substantive motion as required by OFPA.

MEMBER HEINZE: But it would still require one.
VICE-CHAIR GIACOMINI: Majority,
if that were the case, to pass the amendment.

CHAIRMAN MOYER: I believe the
outcome of that conversation was that for this
particular vote that we're going to do next,
we need only a simple majority to move it
forward as opposed to a two-thirds majority.
The Chair recognizes Barry.

MEMBER FLAMM: Thank you. By the
way, I still haven't seen the proposed
amendment, but in trying to follow Katrina, I
think this sort of substantially changes and
in fact, I think, undermines the original
proposal, which I completely support. I think
our statement on disallowing nanotechnology
ought to be clear and to the point and not
leave room at this time. I mean, that can be
changed in the future if it turns out, but
right now I think we will save ourselves a lot
of grief in the future if we just have a clear
policy. I think we've got in trouble on other
issues, GMO the biggest, by not taking a
stronger stand. And I don't want to see that
happen here.

So I support the majority of the
committee's proposal on nanotechnology. I
think changing that at this time without build
a really review and think about it is a
mistake. But the thrust of it, it weakens it,
it makes it less clear and I think the public
will not have a very clear understanding of
what we did and why we did it.

CHAIRMAN MOYER: Chair recognizes
Katrina, then Tina.

MEMBER HEINZE: I do understand
your position, Barry. I would want to remind
guys that this is the beginning of the
regulatory process, not the end of the
regulatory process. So it still needs to go
through, you know, the usual review and public
comment. So if there are tweaks or it doesn't
have the effect we want, it will get
addressed.

CHAIRMAN MOYER: So for that
reason, we could go back to the other -- Tina?

   MEMBER ELLOR: I'd actually like

   to speak in favor of the amendment. I think
   that it takes a pretty strong stand and
   because I'm not comfortable; and I don't know
   if I ever will be, with my understanding of
   nanotechnology and how it's applied, I'd
   appreciate taking a strong stand against it.
   And I'm still a little bit uncomfortable
   about, you know, what's out there that we use
   everyday and have for, you know, all of human
   history that might be classified as
   nanotechnology. So I really feel like this
   amendment is kind of the best of both worlds.

   CHAIRMAN MOYER: Hue, then Steve,
   then Bea.

   MEMBER KARREMAN: This is a
   difficult one, kind of like the vaccine issue,
   but I got to say that on that issue, that was
   for living, breathing, sentient creatures to
   relieve suffering and with just blanket
   nanotechnology for use in, I don't know, other
ways than that. I don't know if I can go with that. You all can call me a hypocrite, but that's my reasoning, at least at this point.

CHAIRMAN MOYER: Thank you, Hue.

Steve?

MEMBER DeMURI: I like the amendment. I think, Katrina, you did a good job on it. It sends a clear message. The door is shut and the only way people can open is it is the NOSB. Everything will be looked at. It's no different than synthetics that we're looking at now. Somebody wants something to be listed that maybe is produced using that nanotechnology, then the NOSB would have to approve it. So I believe the door is shut.

CHAIRMAN MOYER: Thank you, Steve.

Chair recognizes Bea.

MEMBER JAMES: I couldn't read it, but I'm reading it Tracy's cell.

CHAIRMAN MOYER: Thank you, Bea.

Julie?
SECRETARY WEISMAN: Yes, to Hue's point, first that I also think that this is a pretty strong stand and I am in favor of the amendment. I think that there could be a situation in the future that we, you know, wouldn't think of right now where animal welfare might be helped by some kind of solution that includes nano. This is the future. You know, I understand the distinction that you make, because it's see in the here and now, but 10 years ago or 20 years ago, or however far back you have to go, you could have made the same comment about your vaccine issue.

CHAIRMAN MOYER: Chair recognizes Barry.

MEMBER FLAMM: Quickly. Maybe that's what worries me. I've already heard all these things that are going to start coming into our system before we even got this approved. People are already thinking of things that they could use it for, and that in
and of itself worries me.

CHAIRMAN MOYER: Thank you, Barry.

Chair recognizes Bea.

MEMBER JAMES: Katrina, can you help me understand a little bit more about why you want to leave the door open a little bit?

MEMBER HEINZE: Nanotechnology is a very, very broad term, and so when I think about it, there's such a broad range of what it could be. Most of it will never be compatible with organic, but there will be things that are compatible once we know the science. We don't know the science today. There will be things that our consumers say they want because the benefits outweigh the risks. We will never zero risk. Even in organic, we will never have zero risk. I think our consumers should be given the credit for being smart and knowing what they want. We just don't today know what that's going to be.

And so what I worry about is; to
back up and be really philosophical, I worry about organic being the industry of no. We are no synthetic chemicals. We are no synthetic pesticides. We are no GMO. We are no this, no that. But really not. We are a processing standard where we try to take care of the health of our consumers, the health of our planet, the health of our animals. And there are hard decisions to be made when we do that. So what I worry about is someday in the future when we say, wow, the benefits of this outweigh the risks. We're facing this hurdle where we branded for nanotech as bad, and I think it's too early to brand it as bad. I do not think it's too early to shut the door on it, but I think it's too early to brand it as bad.

CHAIRMAN MOYER: Chair recognizes Bea.

MEMBER JAMES: I guess the argument is that we don't have enough information and we're assuming the better of
nanotechnology with your change, instead of limiting because we don't know. And that's where I struggle a little bit. And I also don't think that organics is the world of no, because look at everything that we've done to try to keep it viable for all of our industry and manufacturers with the National List and everything else. And plus, if you look on the positive side, the things that we do do are incredible.

MEMBER HEINZE: I don't disagree with that. I do disagree with the fact that this amendment allows us to use nanotech. It prohibits it. It closes the door on the use of nanotech.

MEMBER JAMES: How does it do that anymore than what it was before?

MEMBER HEINZE: Today, either way, it's prohibited. This allows a path tomorrow for someone who's got a technology that they think is capable and they've got the science for us to review it.
CHAIRMAN MOYER: The Chair recognizes Tina; you had a comment, and then Joe.

MEMBER ELLOR: Yes, and I'm not so much worried about what's going on in the future. I'm worried about my lack of understanding about what's out there now that's nanotechnology, like homogenization, like milling. And honestly, I just don't know what we might be prohibiting without leaving a little bit of, you know, a crack in the door. I don't want sensors in my food either.

CHAIRMAN MOYER: Chair recognizes Joe.

MEMBER SMILLIE: Yes, I support the amendment for all the reasons I've mentioned, including faith in the NOSB to make the right decisions down the road.

CHAIRMAN MOYER: Turn your mike on please, Joe. Thank you.

MEMBER SMILLIE: I support the amendment for all the reasons mentioned
before, including faith in the NOSB down the road, you know, put it through the process that everything else goes through.

I do want to remind Katrina though on her statement that organic is the industry of no and no synthetic pesticides, that's not correct. We do allow synthetic pesticides. I won't drag you through the pheromone mating disruptive lesson again. And I think that's one of the strengths of this industry, that we're not just a no industry, that we don't have that like incredibly sharp razor that cuts off synthetic pesticides which is a mating disruptive, which we knew about when we made this regulation and we allowed in saying, oh, this is a good synthetic pesticide. This one really works, does no harm to the ecosystem, meets all of our criteria in 600. And I want to have that same availability for material in the future if, in the wisdom of the NOSB, it meets the criteria, which now that it's placed where the amendment has
placed it, it must meet.

CHAIRMAN MOYER: Thank you.

Chair recognizes Hue, and then

Katrina. I think I have the order right.

MEMBER KARREMAN: Just wondering, Katrina, how does your amendment -- you say it doesn't allow nanotech, but, you know, the door could be opened later. So what's the difference between that and the majority? Basically, the amendment is saying it's a synthetic, you've got to petition. Is that correct? I mean, is that essentially what it's saying?

MEMBER HEINZE: That's what it says.

MEMBER KARREMAN: Yes.

MEMBER HEINZE: It has to be on the National List.

MEMBER KARREMAN: So it's essentially just out there, it's got to be petitioned like any other synthetic that ever was and the majority coming out of the
committee is no? Is that correct?

MEMBER HEINZE: Yes, my view of

the majority is that it brands nanotech as

equivalent to GMO. And I think that is

premature.

MEMBER KARREMAN: That's what the

majority opinion says? I mean, it makes that

inference?

MEMBER HEINZE: I think that's the

effect. I think that's the effect. It's not

what that says.

CHAIRMAN MOYER: Chair recognizes

Rigo.

MEMBER DELGADO: I like the

amendment because you're not leaving the door

open entirely. Like Joe said, you're trusting

the process with the Program and the Board to

make the decision on whether a new technology

is useful and appropriate.

My question is, how do you

compare, Katrina, this approach to other

technologies like cloning and GE that we
absolutely closed the doors on those? I know we have lack of information in those areas, as well as nanotechnology. What is the big difference between cloning and nanotechnology that we should keep that door open to?

MEMBER HEINZE: Nanotechnology is much broader, it encompasses a lot of different things. Those other two very specifically dealt with the science of modifying the DNA, so are much more specific in what they are. This can be physical methods, chemical methods. The difference to me is this technology is so new that we don't really know what it includes and what it doesn't include. So it's a little bit hard to -- my initial reaction, to be honest, was I didn't think the committee should be addressing this because I don't think we know enough to know what we're including and what we're not including.

CHAIRMAN MOYER: Chair recognizes Julie.
SECRETARY WEISMAN: Yes, I also
wanted to at least clarify; and I'm sure if
anyone disagrees with me, they'll let me know,
but I don't believe that what this amendment
does is just say that nanotechnology is a
synthetic and people can just petition it and
it will get the same consideration as any
other synthetic. I mean, if a petition came
before the next meeting for a nanotechnology-
produced ingredient, I don't think the Board
would have grounds to consider it yet. For
instance, if there are no standards for
judging it yet, I would say that some kind of
standard for evaluation would have to be
developed before this Board could even
consider such a petition. Just ask Grace.
I'm sorry.

CHAIRMAN MOYER: Chair recognizes
Dan.

VICE-CHAIR GIACOMINI: Yes, Joe,
you made a statement that you trust the Board.
I don't even always trust myself. And right
now I'm going to say something that probably contradicts what I said this morning, after thinking about it, that I can agree with how Katrina countered what I was saying. One of the problems we have with nanotechnology is the definition. And we may catch things in the definition that we have no intent of being nanotechnology. Just like Katrina says, this is part of what we're allowing to happen as a way to let those things back in. They may have been in all the time, but it's just a matter of the processing issues.

CHAIRMAN MOYER: Chair recognizes Hue.

MEMBER KARREMAN: Julie, you were saying that hopefully there is some standard or barrier, I guess, so it's not just a petition coming in. I mean, you probably haven't thought of that. But I mean I would tend to agree with that for this amendment, that there should be some extra hurdle perhaps instead of just submitting, you know, a
petition, but I don't know what that would be.

CHAIRMAN MOYER: Chair recognizes Julie.

SECRETARY WEISMAN: So are you saying, Hue, that you would want to see some additional language as part of this amendment that specifies that, because right now it just says "accept as allowed on 601, 603 and 605?" And I guess I'm also wondering from the Program's perspective if that's what's required.

CHAIRMAN MOYER: Chair recognizes Hue.

MEMBER KARREMAN: Just a quick reply on that. He brought the idea up; I kind of like it. I wasn't thinking of anything specific.

CHAIRMAN MOYER: Chair recognizes Barry, then Dan.

MEMBER FLAMM: This discussion still reminds me so much of discussions on GMO early. Just trust us. No telling what
wonderful world is going to open up, and it's
great, and all of a sudden we've got something
out of a box that we can't handle. And I
think most of us realize what consequences
there is. And the more I hear the discussion,
the more firm I become in my belief we
shouldn't do this. Because I think we don't
have standards and I can't imagine now how we
would handle a petition that came forward.
And I'm not sure based on discussion I would
trust the outcome, unlike Joe, because I think
we're admitted we don't know what's going on.
We don't know anything about it. That's what
several people say, and yet we would entertain
a petition? I mean, as soon as we pass this,
we're going to be entertaining some petitions.
And when that comes forward, what are we going
to do with them? Anyway, that's my comment.

CHAIRMAN MOYER: I have a question
for the committee. Would the committee
consider rescinding this motion for vote at
this point in time and taking it back to
rework it for the next meeting, given the
discussion that we're having here and the fact
that we are dealing with a subject matter and
a definition that we aren't fully all
comfortable with? I present that to you, Dan.

VICE-CHAIR GIACOMINI: No, I think
we'd proceed.

CHAIRMAN MOYER: Thank you.

Is there any other further
discussion on this unfriendly amendment? Dan?

VICE-CHAIR GIACOMINI: Question to
the Program. In the definition or somewhere
else, do we need to specifically identify the
products of nanotechnology as synthetic to
then say that except as listed on 601, 603,
605?

MR. McEVOY: You're referring to
your recommendation that's up here now?

VICE-CHAIR GIACOMINI: Yes.

MR. McEVOY: And can you repeat
the question?

VICE-CHAIR GIACOMINI: We define
nanotechnology and we say they're not allowed
unless listed in those sections, but we don't
specifically say that they're synthetic. But
we're saying they're prohibited unless they're
on the synthetic list. Is that adequate, or
do we need to make the statement these are
synthetics to make sure we've jumped through
all of the proper hoops?

MR. McEVOY: It seems like your
statement is that in order to allow
nanotechnology they'd have to be on the
National List. Right?

VICE-CHAIR GIACOMINI: They have
to be on the National List for synthetic.

MR. McEVOY: For synthetics? 601,
603, 605?

VICE-CHAIR GIACOMINI: These could
be agricultural products, for instance. If
the definition was too broad and it was flour
in milling, dust caused by milling, it would
be agricultural products and we're saying it
needed to be on the synthetic list. Do we
need to say that products of nanotechnology,
according to this definition, are synthetic?
Or is it covered well enough for you?

MR. McEVOY: Well --

VICE-CHAIR GIACOMINI: You understand our intent?

MR. McEVOY: I understand your intent. It looks like it's covered well enough, but again, we'd have legal review to make sure that it was.

VICE-CHAIR GIACOMINI: Okay.

CHAIRMAN MOYER: I have another question. Maybe it's for you Dan, maybe it's for the Program. This Board doesn't necessarily review processes. We have rejected other petitions in the past that were process-oriented instead of ingredient or material-oriented. If the process ends up making not a material and not an ingredient, but an actual item that is all 100 percent from natural ingredients, they wouldn't even have to come through this process unless it's
a completely excluded method.

VICE-CHAIR GIACOMINI: No, I don't believe so. If they meet the terms of the definition, it would be classified as nanotechnology.

CHAIRMAN MOYER: But we're not excluding nanotechnology.

VICE-CHAIR GIACOMINI: Yes, we are. We're excluding nanotechnology unless it's listed on 601, 603 and 605.

CHAIRMAN MOYER: That's for materials. If it's not a material, it wouldn't even have to come through this process. You're not going to list on 601, 603 or 605.

VICE-CHAIR GIACOMINI: The definition is --

CHAIRMAN MOYER: It's a process.

VICE-CHAIR GIACOMINI: No, the definition is engineered substances, period, of whatever kind, the result of the technology.
CHAIRMAN MOYER: So if you used your milling, for example, and you milled wheat to an extremely fine, then that wheat would be considered synthetic and have to be put on the National List? I don't think so. Just because of that process?

VICE-CHAIR GIACOMINI: No, I don't believe our definition --

CHAIRMAN MOYER: You can't list it there.

VICE-CHAIR GIACOMINI: -- includes that.

CHAIRMAN MOYER: I don't either.

VICE-CHAIR GIACOMINI: But if there are other types of things with ag products that someone determines it to be a product of nanotechnology, then it's prohibited unless it's on the list.

CHAIRMAN MOYER: I have Katrina and then Hue, but I'm going to back to my old adage of closing the barn door when I have a chance.
Katrina?

MEMBER HEINZE: I believe that the definition we have, whether we go with my amendment or the original recommendation, does include wheat that has been milled to an incredibly fine particle. And I believe if we went with the majority opinion that it would be prohibited.

Now, that being said, that may be okay. Right? Because we've said we don't understand the science. So what if that wheat -- I don't think this is true, but what if that wheat had some unique property? I think what I've heard is that folks want us to understand that.

CHAIRMAN MOYER: If I can respond to that, I think what I've heard from the public is they like their wheat just the way it is and that, you know, the general public has said to us close the door while you can. I haven't heard one committee public comment that said create an open path to allow this to
come in.

I have Rigo. I apologize. Hue and then Rigo. I'm sorry.

MEMBER KARREMAN: We're having a very thorough discussion here and just the most recent part it seems like we're not even agreeing on a definition and some basic things. I mean, you're trying to, you know define it and everything, but we're just not on the same page almost. And I think maybe it does need more work to be presented again next meeting. I don't know. Just in the last few minutes it seems we're devolving here.

CHAIRMAN MOYER: I have Rigo and then Bea.

MEMBER DELGADO: I brought up the same point as you were talking about, about the incidental nanoparticles. And I thought that after you added the word "engineered" technology it eliminated those incidental ones, the milling and the homogenization and so forth. I hope that's the case and the
intent. So that's it.

CHAIRMAN MOYER: I appreciate

that, Rigo, but my comment was not based on

the fact that it would be incidental, but be
deliberate, that there would be some sort of
deliberate process without an actual
ingredient or material being created, but a
finished product.

I have Bea and then --

MEMBER JAMES: I would agree with

Hue. I'm really struggling with trying to
come to a consensus on something that we're
not clear on and don't have all the
information that we need. And if I had to
vote on this today, I would abstain. I'm not
in a position to make a decision.

CHAIRMAN MOYER: Again, I'll

present the question to the Materials
Committee. Are you willing to pull back this
document? We've been at it for an hour now.
I don't know that we've gotten too far. We've
got a lot of good information on the table,
but I'm asking the question.

VICE-CHAIR GIACOMINI: With the agreement of the majority of the Materials Committee, I would be willing to withdraw this motion at this time.

CHAIRMAN MOYER: Can you poll your committee?

VICE-CHAIR GIACOMINI: Kevin?

MEMBER ENGELBERT: I would be willing to pull it also.

VICE-CHAIR GIACOMINI: Katrina?

MEMBER HEINZE: Yes.

VICE-CHAIR GIACOMINI: I vote yes.

SECRETARY WEISMAN: I would be willing to pull.

VICE-CHAIR GIACOMINI: We withdraw this motion.

CHAIRMAN MOYER: Thank you to the Board for that lively discussion, to the Program for your help, to Katrina for your hard work over lunch. I certainly appreciate that. I hope you had a chance to eat
something. But it is extremely interesting
and lively discussion. It is a very, very
important topic, I think we all see that, and
I appreciate your committee's hard work, and
you have more hard work ahead of you,
unfortunately. Thank you very much for that.

Boy, we all need a breath.
Exhale.

Well, if that wasn't enough for
you, Katrina, the Joint Handling and Materials
Committee recommendation on classification of
definitions is next on my docket. If you're
prepared, we will entertain that conversation.
Katrina?

MEMBER HEINZE: I am prepared.

And I never though the words "classification
of materials might look easy after that" were
going to come out of my mouth, but hopefully
they will.

So, I have emailed earlier today;
so hopefully everyone has a copy of the
November '04-'09 modifications to our
And, Valerie, I think that's what you are pulling up as well.

I want to thank the Board for yesterday's discussion on this topic. And then what I'd like to review today are changes made by the joint committee. We met earlier this week and voted on these changes and our recommendation passed with five yes, one no, one abstain and one absent.

So before I review the comments, you know, I want to say and acknowledge the members of the joint committee. This recommendation is really the combined work of the committee. It represents hours of debate, respectful points of difference and a focus on finally making progress on this difficult topic. And I am really very grateful to each of you for the many calls we had and the points you brought up.

So what you see in this document; I'm not going to review on the whole document,
I'm just going to highlight the items that have been added and read. Before I do that, there are topics that we received in public comment both this week or in the written comments that led to us making changes to our recommendation. Those are clarifying that CAS numbers are just one way, but not the required way to determine that a substance has changed identity.

CHAIRMAN MOYER: Where specifically --

MEMBER HEINZE: Hold on.

CHAIRMAN MOYER: Okay. Thank you.

MEMBER HEINZE: I'm just giving you the big picture.

CHAIRMAN MOYER: Okay.

MEMBER HEINZE: We added some language to clarify that agricultural is a subset of non-synthetic. We fixed our technical error on the definition of non-agricultural. And finally, we added some language to talk about what's included in the
term "products of naturally-occurring biological processes."

There are also topics from public comment for which we did not make changes, but we added discussion in our intent to do further work on these topics. And really, for these topics it was clear from my presentation yesterday and the discussion that ensued that these changes that I presented that we were considering were too much. They were premature. So we need to pull back. We need to have more discussion on them.

Specifically, that was about the soy lecithin, bleached. We had been considering a change to try to address that public comment and we hadn't had time to think it through, so we're pulling back on that.

So specifically, topics where we're saying we need to do more work is the impact on certified organic products, produced in compliance with the rule, the effect of our third guiding principle on products sourced
from organic, materials that undergo chemical
change either through normal processing or
through the use of a synthetic allowed on
605(b), and then also the public comments
asking for clarification on 270(c)(2).

Okay. So with that, that's kind
of the big picture. Let me go through
specifically the changes.

The first one is on page 6 in the
middle of the page. It is in red. It's the
third full paragraph. We added a paragraph
regarding our intent.

Mr. Chair, should I read the whole
change? Would that be useful?

CHAIRMAN MOYER: Yes, I would.

MEMBER HEINZE: Okay.

CHAIRMAN MOYER: Because some
folks are having difficulty seeing the board,
I would request that you would read that.

MEMBER HEINZE: Okay, so we added
a paragraph in the section on -- so, this is
the discussion section on synthetic/non-
synthetic. We added a paragraph that said, "It is not our intent to reclassify as synthetic products or ingredients that today can be certified organic in full compliance with the final rule. For example, certified organic soy lecithin exists today. It is manufactured from organic soybeans, physically separated into oil and soybean meal. The soybean oil is then hydrated with water or steam and the lecithin gums are physically separated. Certified organic bleached soy lecithin can be manufactured by using less than five percent hydrogen peroxide, which is a synthetic allowed for use in certified organic products, 205.605(b)."

So again, this is just discussion. It speak to our intent. And then you'll see me come back that topic a little bit later.

Oh, goodness. Okay. On page 7; I was really hoping not to have to read this whole thing, we added four paragraphs. I'll read the beginning paragraph.
What this says is, "At the November 3rd through 5th, 2009 NOSB meeting, public comment was heard on two topics related to classification of materials as either synthetic or non-synthetic. The first was a concern that the use of CAS numbers as an example in the definition of substance was not clear. We have modified the proposed definition to address this concern."

And then I list both the original recommendation and the new definition. Later I will tell you what we changed.

"The second concern raised by public comment at the November 2009 NOSB meeting requested clarification on our recommended third guiding principle and the related definition for chemical change."

So public comment requested clarification and then I list some of the things that folks wanted clarification on.

"The joint committee intends to further study these questions and address
them, if possible, during development of our recommended guidance document with the NOP. If not possible, we intend to have a further recommendation specific to this topic at our spring meeting."

CHAIRMAN MOYER: Thank you, Katrina.

MEMBER HEINZE: So that captures that first thing I talked about that we just felt that that recommendation was premature. We wanted to acknowledge that we had been asked to clarify that. And so, we wanted that in our document so that our intent was very clear.

Okay. Again on that page in the last paragraph we added two little words to really get at the idea that agriculture is a subset of non-synthetic. So we just said that, "Materials that remain for classification are all non-synthetic, either agricultural or non-agricultural." So the words added are "all non-synthetic."
Okay. On the next page, again in the discussion for agricultural and non-agricultural, and again speaking to public comment received this week, we said that, "Public comment was heard that questioned our recommended definition of non-agricultural." As we reviewed that, we realized that we had inadvertently included the wrong definition in our recommendation. So I list the current definition, the definition we had proposed and then the definition we intended to propose.

And then the final paragraph says, "We believe that the comments that were addressed to us would have been addressed had we included the proper definition."

Okay. So that gets to the non-ag definition that I said we did address.

On the next page, under the again discussion of products of naturally-occurring biological processes, we added a paragraph that says, "Proper terminology for the products of naturally-occurring biological
processes and the microorganisms that lie at
the heart of these biological processes has
been elusive. For the purposes of this
document, the term "products of naturally-
occuring biological processes includes the
microbiological organisms used in the process;
for example, yeast and bacteria."

And again, that is discussion.

 Originally, when we wrote this document, it
was so important that all our thoughts and all
our debate got on paper. So as we made
revisions this week, we wanted to continue
with that so our intent was very clear, that
we create this historical document that
captures the history of this topic.

Okay. So finally, getting to our
actual recommendation. So everything else was
discussion. So this is page 11 under the
recommendation. Under guiding principles, we
added language under the third guiding
principle that says -- so this is copying our
scope language, "Materials that are
manufactured in full compliance with the final
rule are outside the scope of this principle.
Their status with regards to use in organic is
not affected by this recommendation."

CHAIRMAN MOYER: Would you repeat
that, please?

MEMBER HEINZE: Yes. "Materials
that are manufactured in full compliance with
the final rule are outside the scope of this
principle. Their status with regards to use
in organic is not affected by this
recommendation."

CHAIRMAN MOYER: Thank you.

MEMBER HEINZE: Okay. Under
proposed regulatory language, the definition
of non-agricultural substance, you'll see that
the definition that we intended to propose has
now been put in here. Just as a reminder,
this is a product. "Non-agricultural
substance is defined as a product such as a
mineral or atmospheric gas that does not
originate from agriculture. For the purposes
of this part, agricultural refers to the production or handling of crops or livestock."

And that was a definition proposed by the Material Working Group. We just copied and pasted incorrectly.

Okay. Finally, under our recommendation, for the definition of "substance," we replaced -- it used to say "an element, molecular species or chemical compound that possesses a distinct identity parenthetical e.g." We decided that in this case we needed to make the e.g. more obviously for example, so we said "for example," just so no one missed it; "e.g.s" are easy to miss. And then we used some broader words. So we said "A distinct identify may be demonstrated through the material having a separate CAS number." And then in parenthetical, we added, "In some cases the same material may have multiple CAS numbers." We really wanted to highlight this idea that this is just an example. It is not definitive.
Okay. So that's it for the recommendation.

I did want to highlight that the next steps on this, this is not the end result. The end result of this recommendation is rule change which still needs to happen, which is the definitions. But more importantly it's the guidance document, the document that will help everyone who has to make these decisions make them consistently.

And so our next steps are we need to ask the NOP to do the rule change and the definitions that we're recommending, we need to work with NOP staff to develop a guidance document. They have committed to doing that through their guidance document process, which allows for public comment. I would propose that if we can get that done at the spring meeting, I think having it as an agenda item so that we make sure that that public comment is very transparent would be an important part of this process.
We did add some language to this section of the recommendation to get back at the chemical change and guiding principle No. 3 and that 270(c)(2) that we said we were going to work on.

Then there is a next step for how should ACAs be classifying materials, and we said today there should be no change. They should be doing them as currently listed on the National List and they should only begin using this recommendation once it is codified, for lack of a better word, in the guidance document. Then we outline how we're going to make the changes to the National List that result from this recommendation and then we ask for petitions on the products of naturally-occurring biological processes so that we can continue our work in that area.

So those are the changes made and our recommendation. Should I entertain questions on the changes first, or make a motion?
CHAIRMAN MOYER: I would suggest you make a motion.

MEMBER HEINZE: Okay. So I move that the NOSB accept this document, period?

MEMBER HEINZE: As posted.

CHAIRMAN MOYER: As posted, yes.

Is there a second on that?

MEMBER KARREMAN: Second.

CHAIRMAN MOYER: You're going to have to do rock, paper, scissors again, because you all three at the same -- Hue yelled the loudest, but Joe was right there. You kids pick.

MEMBER HEINZE: I would entertain questions.

CHAIRMAN MOYER: Yes, if there are questions. But before there's questions, I think to state that the work that went into this was tremendous is an understatement. It's unfair to say it in that light of tone, because I mean, just reading over it and listening to that language makes my head spin.
I don't see how anybody could recite any one paragraph of that without tremendous amounts of study. It is very complex, very difficult to understand. And not only people at this table, but people in the room, people that couldn't make it to this meeting that are outside of this audience directly put in a lot, a lot of time, not only in writing this but in thinking it through. So whichever the vote goes, Katrina, you and your team, Dan, everybody involved did a tremendous amount of work and this Board and the greater organic community appreciates it whether they like the end result of the vote or not.

So at this point in time, we'll entertain questions. I see Dan's hand up first.

VICE-CHAIR GIACOMINI: Thank you, Mr. Chairman. Yes, regarding the work on this, it was extensive. And with a year-and-
finally brought it in it was the joint
committee of Materials and Handling, of which
Steve and I were the chairs, and we kind of
put our heads together and said one person
really needs to quarterback this thing and
that we both agreed that with her, all the
time she had put on this project through the
Material Working Group, I think she hit almost
all of those calls, if not all of them, that
we both agreed to talk Jeff into allowing her
to be the chair for this. And I think if I
made one good decision in the last year, that
was probably the best one.

We talked about on the last one
questioning ourselves and everything. I wish
I could give good examples. There's just
something that bothers me about the shrinking
of the non-ag/non-synthetic box. And, you
know, from my family with a little of Italian
still in them, it gives me agita. But I'm
questioning myself and I'm going to see how
the rest of the Board continues on this one.
CHAIRMAN MOYER: I think I also wanted to acknowledge that there are two finely-written minority opinions. The vote was not unanimous on this decision coming out of committee. I think both those minority opinions have value and worth and should not be discounted in our discussion here, if there is any. And sometimes voting with your heart or your head are two different ways to address things, and I understand that completely.

Katrina?

MEMBER HEINZE: Thank you, Jeff, for the good reminder that it is worth highlighting that. Because you're not voting on the changes we made as committee, you're really voting on some, you know, fundamental things to how we classify materials.

Before I say that, where I work we call that being voluntold.

CHAIRMAN MOYER: Voluntold?

MEMBER HEINZE: Because I don't remember being in the conversations where I
was asked to be chair.

CHAIRMAN MOYER: It's true. It did come to me through a back door and --

MEMBER HEINZE: Yes. So like I say, it's a good word, voluntold. That happens to lots of us.

So to highlight, I want to highlight the minority opinions. There are two. The first; and I will paraphrase, but certainly those who wrote them, jump in if I don't paraphrase properly. The first has to do with our definitions and guiding -- really our definitions and how they manifest in classifying the material as synthetic or non-synthetic. Our definitions draw a fine line through chemical change. If chemical change does not happen and a synthetic is not present in the final material at a significant level, then the material is not synthetic. And, you know, for the reasons we talked about yesterday, the majority felt that that was the right way to go.
The minority opinion feels that that is too gray. We need a more black and white approach to synthetic/non-synthetic and that if a synthetic is used, the resulting material should be synthetic. And again, for the reasons we talked about yesterday, the majority did not go with that minority opinion.

The other minority opinion has to do with what results from materials that are non-synthetic and agriculturally-sourced. We moved materials into being classified as agricultural, so we shrunk non-synthetic. And there is some concern about if there would be effects to crops and livestock. The majority of the committee was unable to think of examples or circumstances where that would occur, so did not go with that opinion, and we did not hear public comment to that effect.

CHAIRMAN MOYER: Thank you, Katrina.

More discussion on this item from...
other board members? Chair recognizes Joe.

MEMBER SMILLIE: I think it's important to point out that while we did consciously and I think unanimously or by consensus rule out the idea of an agricultural synthetic, we very carefully crafted language that I want to make sure everybody understands.

Katrina uses words like "outside the scope of the document," and now it's more carefully clarified. This does not -- this document is very clear that it allows a certification process to occur in the cases where something may be ruled a synthetic if it complies with the regulation. So that was my major deterrent in the development of this document and I am now satisfied that that has been dealt with, along with the issue of the CAS numbers, which, you know, was an issue also.

CHAIRMAN MOYER: Joe, would you be willing to give the Board a possible example
of what you just described? Not to put you on the spot, but --

MEMBER SMILLIE: Well, it depends on --

CHAIRMAN MOYER: Joe, your microphone?

MEMBER SMILLIE: It depends on the ruling, but yes -- well, I hate the example; it's the first one that comes to mind, but -- oh, no, I'm not going to go back to the toast and eggs. Jeez, that's bringing back too many painful memories. Toast is not a synthetic. I'm not going there.

No, the glycerine, okay, that could be a result of a synthetic process could be certified as organic, glycerine.

CHAIRMAN MOYER: Glycerine?

MEMBER SMILLIE: Yes.

CHAIRMAN MOYER: Okay.

MEMBER SMILLIE: I also think depending on how someone looked at it that a soy protein isolate could be possibly,
depending on again, you know, origin and process, depending on the ruling made. There could be a ruling made that a soy protein isolate could be synthetic. It also could be certified.

CHAIRMAN MOYER: It would have to go through the petition process, or not? No.

MEMBER SMILLIE: No.

CHAIRMAN MOYER: No, it would not.

Okay.

MEMBER SMILLIE: Correct. If it met the regulation.

CHAIRMAN MOYER: Got you.

Chair recognizes Julie.

SECRETARY WEISMAN: Yes, I just want to further clarify in a more generic way what that whole concept of outside the scope means is that we have this part of the rule that defines what the composition of products that are going to be sold as organic. 100 percent or -- which means 95 percent.

And so that means that once you
have met the formulation requirements, meaning that at least 95 percent of the ingredients are certified organic and anything that's in that five percent or less is on the National List and it has only undergone allowed processes that whatever results from that that's certified organic. And those are outside of the scope of the document. And part of what that does is create a preference for materials that are sourced from certified organic, something that is made from organic ingredients and meets the composition requirements.

I think I might have confused people more. I'm looking at the faces around the table.

CHAIRMAN MOYER: Thank you, Julie. Any other discussion before we call for a vote on this material -- on this docket item?

(No audible response.)

CHAIRMAN MOYER: Okay. Are there
any conflicts of interest in this? Of course, everybody has a conflict of interest, I suppose, who worked on it.

Okay. We'll call for the vote. The vote will start with Tina.

MEMBER ELLOR: Yes.

CHAIRMAN MOYER: Rigo?

MEMBER DELGADO: Yes.

CHAIRMAN MOYER: Katrina?

MEMBER HEINZE: Yes.

CHAIRMAN MOYER: I thought so.

Dan?

VICE-CHAIR GIACOMINI: Yes.

CHAIRMAN MOYER: Julie?

SECRETARY WEISMAN: I can't resist quoting my teenage daughter who's in the room. Duh? Yes.

CHAIRMAN MOYER: Thank you.

Steve?

MEMBER DeMURI: Yes.

CHAIRMAN MOYER: Barry?

MEMBER FLAMM: Yes.
CHAIRMAN MOYER: Bea?

MEMBER JAMES: Yes.

CHAIRMAN MOYER: Tracy?

MEMBER MIEDEMA: Yes.

CHAIRMAN MOYER: Joe?

MEMBER SMILLIE: Yes.

CHAIRMAN MOYER: Hue?

MEMBER KARREMAN: Yes.

CHAIRMAN MOYER: Kevin?

MEMBER ENGELBERT: No.

CHAIRMAN MOYER: And the Chair votes yes. We have one no, 12 yeses, two absent. This document passes.

Again, thank you to everybody who worked so hard on this document.

Joe has a comment.

MEMBER SMILLIE: I also wanted to add my two cents on what's becoming overblown praise, but I just want to publicly acknowledge Katrina's leadership on this document. She cajoled, prodded, bribed, inspired the committee members to stay at a
task that was extremely difficult, demanding
and mind numbing at times. And no matter how
many times we tried to get out of having
another meeting, she figured out some way to
make us do it. And the last bribe, I might
publicly -- was bringing coffee to the 7:00
meeting yesterday morning. That did it. So
a famous American once said, "By any means
necessary." And that's certainly the
leadership of Katrina. Earned her, you know,
the hurricane nomer that she's given.

CHAIRMAN MOYER: Katrina has the
last word.

MEMBER HEINZE: I do get the last
word. I'm getting far too much credit,
because many other people worked on this. But
one of the things we say where I work is that
working externally has far more rewards
sometimes than working internally. And thank
you for making that true.

CHAIRMAN MOYER: You're welcome.

Okay. Because we're well behind
in our time, we're going to continue to move forward. If board members need to leave the room for whatever reason, that will be tolerated. We're going to jump right onto the Handling Committee and move through those materials before we take an official break.

So at this point, Steve, if you and your committee are ready, we would entertain a voting process on your Handling Committee sunset materials.

MEMBER DeMURI: I am ready. Thank you, Jeff. And I will go ahead and handle all the materials, and then if we have any very technical questions from anybody on the Board, I'll defer some of those to the experts at the table who did the investigation on these.

The first one is 205.605(a) item. It's egg white lysozyme. And Tracy did a good job yesterday of going through that substance. I won't go through it in any detail at this point, but I will mention that the committee voted five yes, zero no, one absent to relist.
It was originally listed back in 2006. This is a sunset item of course. And we did not receive any new information since the time of the original listing or during our investigation that would have caused us not to vote to relist it at this time.

So having said that, I would move that we relist egg white lysozyme to 205.605(a).

CHAIRMAN MOYER: We have a motion on the floor. Do I have a second?

SECRETARY WEISMAN: Second.

CHAIRMAN MOYER: You got to yell faster Tracy. I got Julie for a second.

We have a motion and a second. Is there any discussion on this material?

(No audible response.)

CHAIRMAN MOYER: Hearing none, seeing no hands, we'll move forward with the vote.

Are there any conflicts of interest on this material?
(No audible response.)

CHAIRMAN MOYER: Again, hearing none and seeing none, we will move forward with the vote starting with Rigo.

MEMBER DELGADO: Yes.

CHAIRMAN MOYER: Katrina?

MEMBER HEINZE: Egg white lysozymes, right? Yes.

CHAIRMAN MOYER: Dan?

VICE-CHAIR GIACOMINI: Yes.

CHAIRMAN MOYER: Julie?

SECRETARY WEISMAN: Yes.

CHAIRMAN MOYER: Steve?

MEMBER DeMURI: Yes.

CHAIRMAN MOYER: Barry?

MEMBER FLAMM: Yes.

CHAIRMAN MOYER: Bea?

MEMBER JAMES: Yes.

CHAIRMAN MOYER: Tracy?

MEMBER MIEDEMA: Yes.

CHAIRMAN MOYER: Joe?

MEMBER SMILLIE: Yes.
CHAIRMAN MOYER: Hue?

MEMBER KARREMAN: Yes.

CHAIRMAN MOYER: Kevin?

MEMBER ENGELBERT: Yes.

CHAIRMAN MOYER: Tina?

MEMBER ELLOR: Yes.

CHAIRMAN MOYER: And the Chair votes yes. I have zero nos, thirteen yeses, two absent. Your material passes.

Your next item, Mr. Chairman?

MEMBER DeMURI: Thank you, Jeff.

The next item is also a 205.605(a) item. It is L-malic acid, originally listed in September 2006. So it is scheduled to be sunsetted in 2011, unless we take action to relist it, which is what we're voting on today, of course. No new information came to our attention that would cause us not to recommend relisting this material. At the committee level it passed four yes, zero no and two were absent.

So I will move for relisting of L-
malic acid to 205.605(a).

CHAIRMAN MOYER: We have a motion on the floor to relist. Do I have a second?

SECRETARY WEISMAN: Second.

CHAIRMAN MOYER: Julie seconds that. We have a motion and a second to relist this material. Is there any discussion on this material?

(No audible response.)

CHAIRMAN MOYER: Hearing none, seeing none, we'll move onto a call for the vote.

Any conflicts of interest on this material?

(No audible response.)

CHAIRMAN MOYER: Again, hearing none, seeing none, we will start the voting process with Katrina.

MEMBER HEINZE: Yes.

CHAIRMAN MOYER: Dan?

VICE-CHAIR GIACOMINI: Yes.

CHAIRMAN MOYER: Julie?
SECRETARY WEISMAN: Yes.

CHAIRMAN MOYER: Steve?

MEMBER DeMURI: Yes.

CHAIRMAN MOYER: Barry?

MEMBER FLAMM: Yes.

CHAIRMAN MOYER: Bea?

MEMBER JAMES: Yes.

CHAIRMAN MOYER: Tracy?

MEMBER MIEDEMA: Yes.

CHAIRMAN MOYER: Joe?

MEMBER SMILLIE: Yes.

CHAIRMAN MOYER: Hue?

MEMBER KARREMAN: Yes.

CHAIRMAN MOYER: Kevin?

MEMBER EN格尔BERT: Yes.

CHAIRMAN MOYER: Tina?

MEMBER ELLOR: Yes.

CHAIRMAN MOYER: Rigo?

MEMBER DELGADO: Yes.

CHAIRMAN MOYER: And the Chair votes yes. Zero no, thirteen yes, two absent.

Your material passes.
Mr. Chairman, your next item?

MEMBER DeMURI: Thank you. The next one is another 205.605(a) sunset item. It is microorganisms, again originally listed in September of 2006. Joe did a good job yesterday of explaining this substance. The TAP review was good. No new information came to us that would cause us not to recommend relisting this material. And at the committee level it did pass five yes, zero no, one absent.

So I move for the relisting of microorganisms to 205.605(a).

MEMBER SMILLIE: Second.

CHAIRMAN MOYER: I was going to ask for a second and we've got one. It's almost like telepathic. You knew what I wanted.

We have a motion and a second on the floor for this material to relist microorganisms. Is there any discussion from the Board?
(No audible response.)

CHAIRMAN MOYER: Hearing none, seeing none, I will call for the vote.

Any conflict of interest on this material?

(No audible response.)

CHAIRMAN MOYER: Again, seeing none and hearing none, we'll start the voting process with Dan.

VICE-CHAIR GIACOMINI: Yes.

CHAIRMAN MOYER: Julie?

SECRETARY WEISMAN: Yes.

CHAIRMAN MOYER: Steve?

MEMBER DeMURI: Yes.

CHAIRMAN MOYER: Barry?

MEMBER FLAMM: Yes.

CHAIRMAN MOYER: Bea?

MEMBER JAMES: Yes.

CHAIRMAN MOYER: Tracy?

MEMBER MIEDEMA: Yes.

CHAIRMAN MOYER: Joe?

MEMBER SMILLIE: Yes.
CHAIRMAN MOYER: Hue?

MEMBER KARREMAN: Yes.

CHAIRMAN MOYER: Kevin?

MEMBER ENGELBERT: Yes.

CHAIRMAN MOYER: Tina?

MEMBER ELLOR: Yes.

CHAIRMAN MOYER: Rigo?

MEMBER DELGADO: Yes.

CHAIRMAN MOYER: Katrina?

MEMBER HEINZE: Yes.

CHAIRMAN MOYER: And the Chair votes yes. Zero no, thirteen yes, two absent.

Your material passes, Mr. Chairman. Your next item?

MEMBER DeMURI: Thank you. We're moving quickly. Good.

CHAIRMAN MOYER: Yes.

MEMBER DeMURI: The next item is a 205.605(b) substance, activated charcoal.

First petitioned in 2002 and added to the National List with annotation "only from vegetative sources for use only as a filtering
aid." And that became effective on September 12, 2006, so it is subject to being sunsetted in the fall of 2011, unless we take an action here. No new information came to our attention during your investigation of this material. The original TAP was thorough, in our estimation. At the committee level the substance passed for relisting five yes, zero no, and one absent.

So I move for the relisting of activated charcoal with the annotation "only from vegetative sources for use only as a filtering aid" to 205.605(b).

VICE-CHAIR GIACOMINI: Second.

CHAIRMAN MOYER: We have a motion on the floor to relist and we have a second from Dan. You can tell we're getting tired.

Any points of discussion? Chair recognizes Hue.

MEMBER KARREMAN: Just wondering, so this would be coming off in 2011 if we didn't take this action now?
MEMBER DeMURI: That is correct.

CHAIRMAN MOYER: That is correct.

MEMBER KARREMAN: Okay. So it's November 2009. So there's two more years. So it's going to have another five-year -- don't get me wrong, I'm all in favor of the material. It's more a question of the sunset.

CHAIRMAN MOYER: The process.

MEMBER KARREMAN: So 2011 and 2016 and then it will, you know, go through it again?

MEMBER DeMURI: Right.

MEMBER KARREMAN: So what if, okay, we take the vote now; which I hope it passes, and within the next two years before the first sunset some information comes about that's like just catastrophic to activated charcoal. What happens? Are we too soon ahead to that deadline date by doing the vote? I can see getting the work done. Just wondering.

MEMBER DeMURI: Somebody would
petition, I would hope, to have it removed from the list in that period of time.

CHAIRMAN MOYER: Yes, I think that was Joe's comment. I had Joe's hand. I got Dan's hand and then Katrina.

Dan?

VICE-CHAIR GIACOMINI: No --

CHAIRMAN MOYER: Chair recognizes Katrina.

MEMBER HEINZE: I think it's not just a matter of trying to get ahead of the work, but trying to get ahead of the regulatory time frame.

CHAIRMAN MOYER: Yes. That is correct. Thank you, Katrina.

Okay. We have a motion on the floor and we have a second. We've had some discussion. Any further discussion?

(No audible response.)

CHAIRMAN MOYER: Hearing none, seeing none, I'll call for the vote.

Is there a conflict of interest on
activated charcoal?

(No audible response.)

CHAIRMAN MOYER: Hearing none, seeing none, the vote will begin with Julie.

SECRETARY WEISMAN: Yes.

CHAIRMAN MOYER: Steve?

MEMBER DeMURI: Yes.

CHAIRMAN MOYER: Barry?

MEMBER FLAMM: Yes.

CHAIRMAN MOYER: Bea?

MEMBER JAMES: Yes.

CHAIRMAN MOYER: Tracy?

MEMBER MIEDEMA: Yes.

CHAIRMAN MOYER: Joe?

MEMBER SMILLIE: Yes.

CHAIRMAN MOYER: Hue?

MEMBER KARREMAN: Yes.

CHAIRMAN MOYER: Kevin?

MEMBER ENGELBERT: Yes.

CHAIRMAN MOYER: Tina?

MEMBER ELLOR: Yes.

CHAIRMAN MOYER: Rigo?
MEMBER DELGADO: Yes.

CHAIRMAN MOYER: Katrina?

MEMBER HEINZE: Yes.

CHAIRMAN MOYER: Dan?

VICE-CHAIR GIACOMINI: Yes.

CHAIRMAN MOYER: And the Chair votes yes. Zero no, thirteen yes, two absent.

Your material passes, Mr. Chairman. Next item?

A question, Hue?

MEMBER KARREMAN: If I may, on the activated charcoal. If it's on a food contact list, okay, is that ever going to be allowed right out for livestock use, or is that always -- I'm just curious. You know, we've had this question before and it's on this particular material.

MEMBER DeMURI: If it's petitioned. If they petition it.

MEMBER KARREMAN: Okay. Yes, it's specific with the annotation you have, right?

CHAIRMAN MOYER: Yes.
MEMBER KARREMAN: Okay. All right.

CHAIRMAN MOYER: Yes, it's annotated.

MEMBER KARREMAN: Yes.

CHAIRMAN MOYER: You have to petition to change that annotation.

MEMBER KARREMAN: I guess the generic question is if something's on 605; we've had that question in the past, can it be used for --

CHAIRMAN MOYER: Chair recognizes Dan.

VICE-CHAIR GIACOMINI: Yes, at this point in time listing in 605 does not qualify for use in livestock.

CHAIRMAN MOYER: Right. That's right. You'd have to petition it for that.

VICE-CHAIR GIACOMINI: This substance was petitioned for livestock, passed by the Board and for whatever technical difficulties did not get through rulemaking.
CHAIRMAN MOYER: Yes, you're right. Thank you, Dan.

Mr. Chairman, your next item?

MEMBER DeMURI: Thank you. The next item is also a 205.605(b) item. It is cyclohexylamine. It is the first of three volatile amine boiler chemicals that are coming up for sunset review this year. This particular substance was originally approved by the NOSB in October 2001 and was not listed until 2006, so there was a five-year lag time before it was finally listed. So it is scheduled to be sunsetted in the fall of 2011.

This material and the next two are a little different than the ones we've already discussed today, because we did change our committee recommendation based on public comment. Originally, we had voted not to relist these because we felt within the committee that there were some alternatives available. We knew of some alternatives that were being used, but we did not have a lot of
information at that point in time as to what the entire industry was using and whether or not they needed this or not.

During the public comment period, both written and verbal yesterday and the day before, we did hear from some processors who claimed that either they needed it or they knew of people that needed it in the industry. So that was the reason for changing our original recommendation. And we did that in a committee vote a couple of days ago.

Having said that, at the committee level the most recent vote that we took was five for relisting, zero no and one absent.

So having said that, and there is an annotation with this I should mention that is only for packaging sterilization. That is not to be used for direct steam injection, for heating products, that type of thing. It's only for packaging sterilization.

CHAIRMAN MOYER: Good. Can you put that in the form of a motion?
MEMBER DeMURI: Yes.

CHAIRMAN MOYER: Chair recognizes Julie with a question.

SECRETARY WEISMAN: Yes, I just want to clarify. That packaging sterilization is the only direct contact that's allowed.

MEMBER DeMURI: Right.

SECRETARY WEISMAN: Because the boiler chemicals get used routinely for things like jacketed --

MEMBER DeMURI: Good point.

Right.

SECRETARY WEISMAN: -- which is not -- which wasn't -- there's no contact?

MEMBER DeMURI: That's correct.

And if a processor is running organic products and they're using these chemicals in their boilers and they're only indirectly heating through a steam jacket in a kettle or a tubular system of some sort, and there's no direct contact with the steam, this isn't an issue because there is no contact with the
In the case of packaging sterilization, it's considered indirect contact because the container is steamed or heated to sterilize the package before the product goes in. That steam will condense on the inside of the package and there could be some very minute levels of these materials left possibly. I've never seen any data to that effect, but that was discussed when the substances were originally listed back in 2001, or approved in 2001.

CHAIRMAN MOYER: Thank you, Steve. Do you have a motion to make?

MEMBER DeMURI: So I'd like to move that cyclohexylamine be relisted onto 205.605(b) for packaging sterilization only.

CHAIRMAN MOYER: Is there a second to that motion?

MEMBER MIEDEMA: Second.

CHAIRMAN MOYER: I have Tracy as a second.
We have a motion on the floor and a second. Is there any discussion on this material?

Chair recognizes Kevin.

MEMBER ENGELBERT: Steve and the committee, given the change in your vote are you confident you have had enough time to research these thoroughly and know that all three of these materials must be renewed for the industry without disrupting industry? Is there any way that one of them or two of them could be done away with, or all three? If some people have made the change, have you had a chance to research why others say they can't? Is this, you know, true information?

MEMBER DeMURI: The reason that some people can't make the change is because they have processing plants in areas that have very poor water quality. And according to their engineering departments, in most cases they claim that they can't substitute these with anything else that will not cause a lot
of corrosion in our their boilers and in their
lines feeding steam to their processes.

CHAIRMAN MOYER: Chair recognizes
Julie.

SECRETARY WEISMAN: The other
issue which is sort of paradoxical here is
that one of the practices that sometimes
allows people to not use these boiler
chemicals is they don't add them during the
time that they're doing -- that they're
running organic product.

And that's okay if say maybe 10 or
15 percent of the time that you're running
your boilers you run them with no additives.
Because the rest of the time, if you ran
boilers without these, eventually your
equipment, your pipes would explode.

Facilities that are only running organic
product cannot possibly never put these in
their pipes for the reason that I just
mentioned. So paradoxically, the more organic
product you're running, the less possible it
is for you to rely on the practice of shutting
down the steam and running without boiler
additives for a period of time. Does that
make any sense?

CHAIRMAN MOYER: Chair recognizes
Barry.

MEMBER FLAMM: Thank you. I was
quite surprised that the committee so easily
changed its vote which had previously been
five to zero with one absent against
relisting. And I thought in reading the
committee's recommendation, it had been very
thoughtful and covered all the reasons why
they weren't going to relist. And among those
were that the TAP review showed that this
material was toxic to humans and harmful to
the environment and incompatible with
organics. So it was pretty strong words. The
original committee was divided on this, and I
guess finally persuaded, but with the idea
that this wouldn't be relisted.

I read and heard the same public
comments. I heard a person testify that said he wasn't using it, but he knew of some people who were using it. Well, that's not good enough for me. But, what impressed me was that he wasn't using it.

With all this information and the lack of a reason to continue this, I have no hope we ever would take anything off during the sunset process, because this is pretty strong stuff.

CHAIRMAN MOYER: Point well taken.

Steve, would you or someone on your committee like to address that?

MEMBER DeMURI: Sure, I'll take a first crack at it.

Barry, I totally respect your position on it, and that's why we voted it down the first time. We do also have to recognize that a previous board approved it after much discussion and investigation. And under the sunset rules that we're working under right now for the procedures there is
still some industry need for the chemical, in our opinion. And so what I would hope would happen is if that's not the case, that somebody in the near future would petition to have these removed. But for now we feel like we should give the industry the availability in case there is somebody out there still using that. We believe they're still being used, but other substances could come about in the next few years that could replace these.

CHAIRMAN MOYER: Chair recognizes Barry.

MEMBER FLAMM: Just one additional comment to Steve's comment. I think it's really unfair to always shift this burden to somebody coming forward with a petition. I think we're sitting here right now. We have the authority. We have the responsibility to make the decision ourselves. And then to shift it off to somebody else I think is not fair.

CHAIRMAN MOYER: Chair recognizes
MEMBER MIEDEMA: I am among the five happy flip-floppers on this issue. And we did deviate from our recognized process in voting not to relist. And so, that's what level of thoughtfulness did go into this, Barry. We didn't believe any new information that had come to light. And so, you know, there is real inertia and our sunset process would tell us we must relist.

We dug into an old transcript and we deviated from your process because we listened to previous colleagues who said, hmm, we hope this goes away. But, as a sign that this public/private partnership and public/private governmental partnership works; that is, NOSB meetings, we heard loud and clear 100 percent of the comments that came in told us that we had made a mistake in opting not to re-up this item, and so we listened and changed our mind. There was no new scientific information that came to light.
CHAIRMAN MOYER: Chair recognizes Julie, then I have Dan and Steve.

SECRETARY WEISMAN: Yes, I would also say there was another very important thing that was overlooked when the Board originally voted in the summer not to relist. And that was the fact that there were three public comments that came in right after the first ANPR. This ANPR was published in March of 2008, and during that comment period Three people responded. Two of them were the end users themselves and one was a trade organization representing other end users. And they responded right away and said we need these.

And, you know, it was our oversight over the summer that those comments had been received. That doesn't usually happen. I mean, it was a first that that was so far ahead of our deliberation that we didn't capture those. We were thinking that no one had commented. And that's also another
factor that I think we debated here and could
probably use some better clarity.

But it has been our understanding
that at sunset, yes, we can't let something
sunset, we can't go against a board decision
unless there's new information. However, if
no one comes forward and says they still need
it, that is also a situation where we cannot
responsibly act to relist.

And when this vote was taken, we
didn't think we'd had any comment, and that
was our error, because we had.

CHAIRMAN MOYER: Chair recognizes
Dan.

VICE-CHAIR GIACOMINI: Yes, I just
want to focus on, you know, the problems with
all three of these that were just mentioned
related to the TAP review were aware of by the
committee when they voted it in and they are
not new information. That is not information
now. And by all rights, the reason for going
back to the old petition, the old voting
documents, the old transcripts and the old
technical reports is to know what was known
then so that you can determine what the new
information is. And people are always open to
their free will, but technically our directive
is to deal with the new information and what
may have changed since it was originally voted
on.

CHAIRMAN MOYER: Chair recognizes
Steve.

MEMBER DeMURI: Yes, there was a
certain amount of method to our madness. We
talked about when we originally posted that
first recommendation that this would be a way
to get comment, that if we recommended that it
was going to be delisted, I bet we'll get some
more comments, and we did. And that's what we
wanted.

CHAIRMAN MOYER: Chair recognizes
Barry.

MEMBER FLAMM: This will be my
last comment, I promise.
I think the point -- you did get those comments because you got it from people were self-serving. The original TAP indicated some really serious problems with this material. So I think the responsible thing to have done then was to seek another TAP on these materials and get yourself updated.

If current information is what's holding you back, you cannot count just getting the users' input that they need it, because you've got to think about more than that. And that's what, yes, I think where the failure was, which I didn't think the way you handled it begin with in your decision was.

But now I think you made a mistake by not calling for a TAP. Because you're using your -- you said there's no new information and certainly public comment is one, but the public comment was pretty narrow, you'll have to admit. And they did respond, and you could expect that once you published it, from that source. You didn't get any
broader comment. You should have went out and sought it from the scientific community. So that is my last comment.

CHAIRMAN MOYER: I have Hue next.

MEMBER KARREMAN: I guess listening to Barry, I'm just wondering, Steve, you know, if there was strong language in there originally with the first vote you took. Then, just in the whole process, the sunset versus evergreen, and then we always hope someone petitions to take it away. You know, and yet now there's people that are using I guess alternatives, from what I understand.

You know, the petition process, as Dan has mentioned and I know, you know, from just trying to do it is stacked against the little guy who's out there. So you know, in a sense it is always self-serving. And I guess I'm just taking that into mind. When there was strong language and there are people using an alternative, it kind of gets into almost a 606 situation, commercial
availability, that we should say, you know,

ggee whiz, you know, some people are using the
alternatives that are more organic. Let's.

That's it.

CHAIRMAN MOYER: Chair recognizes

Joe.

MEMBER SMILLIE: Well, I don't

want to -- I think we made the right decision,

Barry. I understand what you're saying, but

I think we made the right decision. I don't

think we needed another TAP. What we needed

was documented evidence that people still

needed this for legitimate reasons, and I

think we got that.

We also wanted to bring some

sunshine to the sunset and clearly illustrate

to this Board and to the public that this

process I think needs to be tweaked. You

know, it is an evergreen process and it does

favor a certain direction. You know, you're

innocent until proven guilty or guilty until

you're proven innocent.
I think we need to look at it.

But right now, I don't know if we have that luxury or not, because right now we're going to be faced with a lot of sunset items. And so now I think this Board is very much aware in the different committees when they deal with sunset what the C.F.R. says, what the Policy Manual says, what the Program says and what the precedent of Board actions are.

So as we go into this huge list of sunset items coming up, we're all very aware of the limitations of the process itself, and we can't necessarily be mavericks, that there is a process there that we are directed to follow.

CHAIRMAN MOYER: I think Barry brings up a good point in his discussion points about the sunset process and the possible need for new technical reviews. Dan brings that up continuously in meetings as we're looking ahead to 2012. And as we begin to review these materials in committee, I
think the opportunity for bringing up
technical reviews on those materials that seem
appropriate, and hopefully there's not that
many of them, but when they are there, I think
Barry's point is well taken that we may need
to take advantage of that.

I have Katrina next and then
Kevin. Then I'll come back to you, Steve.

MEMBER HEINZE: I just want to
remind folks as you vote that our vote cannot
be a referendum on the sunset process.

CHAIRMAN MOYER: Right.

MEMBER HEINZE: That we need to
look at the facts for these materials and
follow the processes. It's currently before
us. Just be respectful of the past decisions
or the decisions of past boards, the fact that
we did have public comment that said this
material is needed and that our independent
look at that material concurred with folks
needing it.

CHAIRMAN MOYER: You just don't
I want to go through materials classification of definitions again.

Chair recognizes Kevin.

MEMBER ENGELBERT: This probably isn't the time, but while it's all on our minds, and Joe brings up the point that the process probably needs to be tweaked, since I've been on the Board and had the sunset process explained to me, I took it verbatim. In the few minutes that I've had to spare in the days that we've been here, I've looked through the National Rule and OFPA to try to figure out how this sunset process became an evergreen process. And I've probably overlooked it in my haste, so if someone can point it out, I'd appreciate knowing it.

But here's the only thing I found on the sunset process. It's under 21187 USC 6517 National List, (e) sunset provision. "No exemption or prohibition contained in the National List shall be valid unless the National Organic Standards Board has reviewed
such exemption or prohibition as provided in this section within five years of such exemption or prohibition being adopted or reviewed, and the Secretary has renewed such exemption or prohibition."

So it might be beneficial for all of us to have some type of a refresher course on that, whether it's our own doing or the Policy Committee or whatever to understand why this sunset process has actually become an evergreen process. And the reason I bring it up now is I think these materials point out part of the issue.

CHAIRMAN MOYER: Thank you, Kevin.

Steve?

MEMBER DeMURI: Thank you, Kevin, I agree with you. I think we need to re-look at that. There's a lot of experience out there from previous board members who would be willing to help us with that, I'm sure. So I actually have that on our workplan for the Handling Workplan to delve into that a little
bit and figure out what happened, where do we go from here, that type of thing with the Program. So we will work on that.

To Barry's point on a TAP review, we made the decision, well, actually I did; I was the primary reviewer, that we didn't need a TAP review because we had more experience on the committee probably than the rest of the industry had. I work with 20 plants that use a variety of different boiler chemicals. Some of them we would never run organic in because we can't get away without using those chemicals. And in some instances we've been able to replace those with other things and run organic. So I do believe that the industry still needs those. I just wanted to make sure that somebody wasn't using -- needed to use them without any other substances they could substitute.

CHAIRMAN MOYER: Thank you, Steve.

Dan?

VICE-CHAIR GIACOMINI: The sunset
1. is not our process. It's the Program's process, right? It's been published in the Federal Register notice, correct?
2. Been published in the Federal Register notice. It was -- I don't know what Valerie's pointing to.
4. VICE-CHAIR GIACOMINI: No, but it doesn't matter. It's not our process. It's the Program's process. They've told us how it works. It's been published in the Federal Register that this is how it works. And it has been a learning curve in the four years that we have been here. But from the very first meeting in Pennsylvania we didn't quite understand it, but it was what they were telling us was the process then. So it's not ours to change. We can work with the Program if there's something. But it's the Program's. It's OGC's. It's not ours.
5. CHAIRMAN MOYER: Thank you, Dan.
Barry and then Tracy.

MEMBER FLAMM: Well, I don't agree with that. I think the only place it appears is what Kevin just read from the Act. It doesn't appear in the rules. And it's very clear that we do have a role, and I think it is our process. And a year ago, we spent a lot of time going through the sunset, rewrote it. You all voted on it. It's in the manual. And I think you ought to reread it, because a lot of history on that. I don't think there is any -- how we ever drifted in this so-called evergreen, whatever that is, I don't know. That doesn't appear anywhere in the Act. It doesn't appear in any legislation I ever saw. So we will interpret it.

If you don't like that, one, you shouldn't have voted on it last year. But let's revisit it. But, that was the idea, was to pin this down and get some better decisions coming out and a more comprehensive decision.

And we talked about it yesterday.
CHAIRMAN MOYER: Yes, I think there's been a lot of discussion on this process. I don't want to go into this too much further. We do have a material motion on the table that we need to vote on. We're not going to change the sunset process sitting here. If that is indeed something that we want to discuss with the Program, I would suggest again that we put that on our agenda to work through the Executive Committee and with the Program on addressing those issues so we can get any points of clarification that we need.

But, I'll entertain a few more comments. Tracy and then Katrina.

MEMBER MIEDEMA: This will be my last one. Just back to what these amine boiler chemicals, amine-containing boiler chemicals are. These are food safety tools. They're to prevent pathogens and food-borne illness. Organic doesn't have as many tools in the toolbox for controlling pathogens and
I don't think we should reduce the size of that toolbox right now.

CHAIRMAN MOYER: Thank you, Tracy. Katrina?

MEMBER HEINZE: I'd like to call the question.

CHAIRMAN MOYER: Yes. That's where we're at now.

Going to call for a vote. Before I do that, I ask if there's any conflicts on any of these materials?

(No audible response.)

CHAIRMAN MOYER: Hearing none, seeing none, we will start the voting with Julie, I believe. I lost track.

SECRETARY WEISMAN: No, I started the last one.

CHAIRMAN MOYER: I apologize for that. Steve?

SECRETARY WEISMAN: Not appropriate.

MEMBER DeMURI: Not appropriate.
1  Yes.
2
3  CHAIRMAN MOYER:  Barry?
4  MEMBER FLAMM:  No.
5
6  CHAIRMAN MOYER:  Bea?
7  MEMBER JAMES:  Tell us how you really feel, Barry.
8  Abstain.
9
10  CHAIRMAN MOYER:  Bea abstains.
11  Tracy?
12  MEMBER MIEDEMA:  Yes.
13
14  CHAIRMAN MOYER:  Joe?
15  MEMBER SMILLIE:  Yes.
16
17  CHAIRMAN MOYER:  Hue?
18  MEMBER KARREMAN:  No.
19
20  CHAIRMAN MOYER:  Kevin?
21  MEMBER ENGELBERT:  We're not voting on sunset, right?
22
23  CHAIRMAN MOYER:  That's right, we're not voting on the sunset process. This is not a --
24
25  MEMBER ENGELBERT:  Handling Committee has done their work. I vote yes.
CHAIRMAN MOYER: Tina?

MEMBER ELLOR: Yes.

CHAIRMAN MOYER: Rigo?

MEMBER DELGADO: Yes.

CHAIRMAN MOYER: Katrina?

MEMBER HEINZE: Yes.

CHAIRMAN MOYER: Dan?

VICE-CHAIR GIACOMINI: Yes.

CHAIRMAN MOYER: Julie?

SECRETARY WEISMAN: Yes.

CHAIRMAN MOYER: And the Chair votes yes. I believe we have two nos, ten yeses, two absent and one abstention. Is that correct?

PARTICIPANT: I thought we needed eight.

CHAIRMAN MOYER: We have ten. By my calculation, that material passes.

Mr. Chairman, your next material?

MEMBER DeMURI: Thank you. This next one is also a 205.605(b) material,

similar in function to the one we just voted.
on. It's called diethylaminoethanol, CAS No. 100-37-8. It is also annotated for use only for packaging sterilization. And again, it is a chemical that's added to boiler feed water to prevent or inhibit corrosion in boilers and in steam lines in production facilities.

The TAP that was done for the previous material was the same one. They did them all together basically because they were all petitioned together originally.

I should have mentioned in the last one; I'll mention on this one, that oftentimes these chemicals are used in a blend. So it's not just that they're used individually. Oftentimes they're in a proprietary blend of chemicals that are used for boiler treatment.

Again with this one, we originally voted not to relist unanimously with one absence. And then in another vote we took a couple of days ago, we reversed our decision based on public comment and voted five yes,
zero no and one absent to relist this material.

So I move for the relisting of diethylaminoethanol with the annotation for packaging sterilization only to 205.605(b).

CHAIRMAN MOYER: We have a motion to relist. Do I have a second?

SECRETARY WEISMAN: Second.

CHAIRMAN MOYER: I have a second from Julie. Motion's on the table and there's a second. Is there discussion on this material?

(No audible response.)

CHAIRMAN MOYER: Hearing none, seeing none, I will call for the vote.

First, is there a conflict of interest on this material by any board members?

(No audible response.)

CHAIRMAN MOYER: Hearing none, seeing none, we'll begin the voting with Barry.
1. MEMBER FLAMM: No.
2. CHAIRMAN MOYER: Bea?
3. MEMBER JAMES: Abstain.
4. CHAIRMAN MOYER: Tracy?
5. MEMBER MIEDEMA: Yes.
6. CHAIRMAN MOYER: Joe?
7. MEMBER SMILLIE: Yes.
8. CHAIRMAN MOYER: Hue?
9. MEMBER KARREMAN: No.
10. CHAIRMAN MOYER: Kevin?
11. MEMBER ENGELBERT: Yes.
12. CHAIRMAN MOYER: Tina?
13. Absent.
14. Rigo?
15. MEMBER DELGADO: Yes.
16. CHAIRMAN MOYER: Katrina?
17. MEMBER HEINZE: Yes.
18. CHAIRMAN MOYER: Dan?
19. VICE-CHAIR GIACOMINI: Yes.
20. CHAIRMAN MOYER: Julie?
21. SECRETARY WEISMAN: Yes.
22. CHAIRMAN MOYER: Steve?
MEMBER DeMURI: Yes.

CHAIRMAN MOYER: And the Chair votes yes. I have two nos, ten yeses, one abstention and three absent. So it's nine yeses. That motion passes.

Mr. Chairman, your next item?

MEMBER DeMURI: Yes, the next one is the last of the three boiler chemicals that were up for sunset. It is octadecylamine and it has the same annotation as the previous two, only to be used for packaging sterilization. Everything I said about the previous two can almost carbon copy onto this one.

We did also vote not to relist it originally and then based on public comment we reversed our decision a couple of days ago and voted five yes, zero no, one absent to relist this material.

And again, it is another boiler chemical compound.

So I move for the relisting of
octadecylamine to the National List 205.605(b) with the annotation for use in packaging sterilization only.

    MEMBER MIEDEMA: Second.

    CHAIRMAN MOYER: We have a motion to relist and a second by Tracy. Is there any discussion on this item?

    Chair recognizes Kevin.

    MEMBER ENGELBERT: Yes, and I should have asked this on the first one, Steve. We rejected earlier a motion to put a dewormer on because the properties are so similar to a substance that's already on the list. Are we still sure that these are different enough that they -- I know I asked it, but again would you reiterate? These are different enough that each of these is required, that there's enough difference in what they do that they all need to be on the list?

    MEMBER DeMURI: They all have the same effect. They all inhibit corrosion, but
they all act a little bit differently in how they do that. So depending on the water quality in a specific plant, they may use one or the other or they might use a blend of all three. It just depends on the variation in water quality and production practices in a plant. If they have very long steam lines that run long distances, sometimes they need to use a blend. If it's a short run, then they can maybe get by with just one or two of them.

MEMBER ENGELBERT: Thank you.

CHAIRMAN MOYER: Chair recognizes Dan.

VICE-CHAIR GIACOMINI: Kevin, any difference in these materials would have to be -- should be new information in order for it to affect our consideration.

CHAIRMAN MOYER: Chair recognizes Bea.

MEMBER JAMES: I just have to say that I'm really surprised that you guys didn't
call for a TAP on these. That's all I've got
to say.

CHAIRMAN MOYER: Thank you, Bea.

Any other conversation or
discussion on this? Steve?

MEMBER DeMURI: We had information
that they were still being used, committee
information. And they were toxic to begin
with, so that wasn't going to change. And
that was primarily what the TAP was about.

CHAIRMAN MOYER: Any further
discussion before I call for the vote?

(No audible response.)

CHAIRMAN MOYER: Then I call for
the vote.

Before I do that, is there a
conflict of interest on this material?

(No audible response.)

CHAIRMAN MOYER: Hearing none,
seeing none, I will begin the voting with Bea.

MEMBER JAMES: Abstain.

CHAIRMAN MOYER: Tracy.
1 MEMBER MIEDEMA: Yes.
2 CHAIRMAN MOYER: Joe?
3 MEMBER SMILLIE: Yes.
4 CHAIRMAN MOYER: Hue?
5 MEMBER KARREMAN: No.
6 CHAIRMAN MOYER: Kevin?
7 MEMBER ENGELBERT: No.
8 CHAIRMAN MOYER: Tina?
9 MEMBER ELLOR: Yes.
10 CHAIRMAN MOYER: Rigo?
11 MEMBER DELGADO: Yes.
12 CHAIRMAN MOYER: Katrina?
13 MEMBER HEINZE: Yes.
14 CHAIRMAN MOYER: Dan?
15 VICE-CHAIR GIACOMINI: Yes.
16 CHAIRMAN MOYER: Julie?
17 SECRETARY WEISMAN: Yes.
18 CHAIRMAN MOYER: Steve?
19 MEMBER DeMURI: Yes.
20 CHAIRMAN MOYER: Barry?
21 MEMBER FLAMM: No.
22 CHAIRMAN MOYER: Chair votes yes.
I believe that's three nos, one abstain, two absent and that gives us nine yeses. Motion passes.

Your next material, Mr. Chairman?

MEMBER DeMURI: Thank you. The next one on the list is also a 205.605(b) item. You'll be happy to know it's not a boiler chemical.

CHAIRMAN MOYER: Yes, we are.

MEMBER DeMURI: It's a peracetic acid/peroxyacetic acid, CAS No. 79-21-0. Katrina did a very good job yesterday of describing its uses to you. It is used as a sanitizer in plants. It's one of the tools that processors have to maintain the safety and quality of their food. It was originally listed September 11, 2006, so it is up for sunset in 2011. When the committee voted on it originally a couple of months ago, it passed five yes, zero no and one absent. So I move for the relisting of
peracetic acid/peroxyacetic acid to the National List, 205.605(b).

MEMBER ELLOR: Second.

CHAIRMAN MOYER: We have a motion and a second on the floor to relist this material. Is there any discussion on this material?

Chair recognizes Tina.

MEMBER ELLOR: I'd just like to come out in favor of this one, because it's so much more benign and friendly environmentally than chlorine.

CHAIRMAN MOYER: Any other conversation or discussion on this material?

(No audible response.)

CHAIRMAN MOYER: Hearing none and seeing none, I'd call for the vote.

Is there a conflict of interest before we start on this material?

(No audible response.)

CHAIRMAN MOYER: Hearing none, seeing none, we will start the voting with
Tracy.

MEMBER MIEDEMA: Yes.

CHAIRMAN MOYER: Joe?

MEMBER SMILLIE: Yes.

CHAIRMAN MOYER: Hue?

MEMBER KARREMAN: Yes.

CHAIRMAN MOYER: Kevin?

MEMBER ENGELBERT: Yes.

CHAIRMAN MOYER: Tina?

MEMBER ELLOR: Yes.

CHAIRMAN MOYER: Rigo?

MEMBER DELGADO: Yes.

CHAIRMAN MOYER: Katrina?

MEMBER HEINZE: Yes.

CHAIRMAN MOYER: Dan?

VICE-CHAIR GIACOMINI: Yes.

CHAIRMAN MOYER: Julie?

SECRETARY WEISMAN: Yes.

CHAIRMAN MOYER: Steve?

MEMBER DeMURI: Yes.

CHAIRMAN MOYER: Barry?

MEMBER FLAMM: Yes.
CHAIRMAN MOYER: Bea?

MEMBER JAMES: Yes.

CHAIRMAN MOYER: And the Chair votes yes. That's zero nos, thirteen yeses, two absent. Your material passes.

Mr. Chairman, your next item?

MEMBER DeMURI: The next item is another 205.605(b) item. It is tetrasodium pyrophosphate. And as I described yesterday, it has the annotation "for use only in meat analog products." It was originally listed in 2006 based on an NOSB recommendation of April 2004.

PARTICIPANT: He switched the order?

MEMBER DeMURI: Oh, the order got switched.

CHAIRMAN MOYER: Did you switch the orders? The question is, Steve, whether you switched the order on our voting sheet. It's just an administrative technicality. It just makes it harder for those recording.
MEMBER DeMURI: Yes, I accidently did. Let me go back and do the right one.

CHAIRMAN MOYER: We appreciate that.

MEMBER DeMURI: That was an error on my part. I flipped too many pages. Sorry about that. Thank you.

CHAIRMAN MOYER: Not a problem.

MEMBER DeMURI: The next item is sodium acid pyrophosphate, a 205.605(b) item. It is also referred to as SAPP. It was originally listed September 12th, 2006. It's CAS No. 7758-16-9. There is an annotation with this one, "for use only as a leavening agent."

The original committee vote was five yes, zero no, one absent. No new information was brought before us or did we find any new information when we did an investigation on this material. So we did vote to relist it at the committee level. So I move for the relisting of
sodium acid pyrophosphate, 205.605(b), with
the annotation "for use only as a leavening
agent."

CHAIRMAN MOYER: We have a motion
on the floor to relist this material. Do I
have a second?

SECRETARY WEISMAN: Second.

CHAIRMAN MOYER: I have Julie as a
second.

We have a motion on the floor and
a second. Is there discussion on this
material?

(No audible response.)

CHAIRMAN MOYER: Hearing none and
seeing none, I will call immediately for the
vote.

First, is there a conflict of
interest on this material?

(No audible response.)

CHAIRMAN MOYER: Again, not seeing
or hearing any, we'll continue with the voting
process beginning with Joe.
MEMBER SMILLIE: Yes.

CHAIRMAN MOYER: Hue?

MEMBER KARREMAN: Yes.

CHAIRMAN MOYER: Kevin?

MEMBER ENGELBERT: Yes.

CHAIRMAN MOYER: Tina?

MEMBER ELLOR: Yes.

CHAIRMAN MOYER: Rigo?

MEMBER DELGADO: Yes.

CHAIRMAN MOYER: Katrina?

MEMBER HEINZE: Yes.

CHAIRMAN MOYER: Dan?

VICE-CHAIR GIACOMINI: Yes.

CHAIRMAN MOYER: Julie?

SECRETARY WEISMAN: Yes.

CHAIRMAN MOYER: Steve?

MEMBER DeMURI: Yes.

CHAIRMAN MOYER: Barry?

MEMBER FLAMM: Yes.

CHAIRMAN MOYER: Bea?

MEMBER JAMES: Yes.

CHAIRMAN MOYER: Tracy?
MEMBER MIEDEMA: Yes.

CHAIRMAN MOYER: Chair votes yes.

By my tally, I have zero nos, thirteen yeses, two absent. And your material passes, Mr. Chairman.

Your next item?

MEMBER DeMURI: Thank you, the next item is the last item. It's also a 205.605(b) item, tetrasodium pyrophosphate. As I mentioned before, it does carry the annotation "for use only in meat analog products." It was originally listed in September 2006 and approved by the NOSB in April of 2004.

The original committee recommendation was for relisting and the vote was yes, five; no, zero; with one absent. I recommend for the relisting of tetrasodium pyrophosphate with the annotation "for use only in meat analog products" to 205.605(b).

CHAIRMAN MOYER: There's a motion
on the floor. Do I have a second?

VICE-CHAIR GIACOMINI: Second.

CHAIRMAN MOYER: Dan seconded. So I have a motion and a second.

Is there any discussion on this material?

(No audible response.)

CHAIRMAN MOYER: Hearing none and seeing none, I will call immediately for the vote.

First of all, is there a conflict of interest on this material?

(No audible response.)

CHAIRMAN MOYER: Hearing none and seeing none, we'll begin the voting process with Hue.

MEMBER KARREMAN: my very last vote on this Board, I'm glad to start this off and I vote yes.

CHAIRMAN MOYER: Kevin?

MEMBER ENGELBERT: Yes.

CHAIRMAN MOYER: Tina?
1    MEMBER ELLOR: Yes.
2    CHAIRMAN MOYER: Rigo?
3    MEMBER DELGADO: As my very last
4    vote, yes.
5    CHAIRMAN MOYER: Katrina?
6    MEMBER HEINZE: Yes.
7    CHAIRMAN MOYER: Dan?
8    VICE-CHAIR GIACOMINI: Yes.
9    CHAIRMAN MOYER: Julie?
10   SECRETARY WEISMAN: My last one.
11   Yes.
12   CHAIRMAN MOYER: Steve?
13   MEMBER DeMURI: Yes.
14   CHAIRMAN MOYER: Barry?
15   MEMBER FLAMM: Yes.
16   CHAIRMAN MOYER: Bea?
17   MEMBER JAMES: End on a positive
18   note, yes.
19   CHAIRMAN MOYER: Tracy?
20   MEMBER MIEDEMA: Yes.
21   CHAIRMAN MOYER: Joe?
22   MEMBER SMILLIE: Yes.
CHAIRMAN MOYER: And the Chair votes yes. I have no votes, thirteen yeses, two absent. And your material passes, Mr. Chairman.

Do you have any other items before this Board?

MEMBER DeMURI: No, I do not.

That is it.

CHAIRMAN MOYER: By my recollection, that concludes the voting process of this Board. We stand in adjournment until 4:00 when we will reconvene with the rest of our business. We deserve a break. Thank you.

(Whereupon, the above-entitled matter went off the record at 3:44 p.m. and resumed at 4:04 p.m.)

CHAIRMAN MOYER: If board members could take their seat, we're going to get started with the rest of our meeting. We're in the home stretch here, folks. Appreciate your patience, both in the gallery and on the
Before we jump into the next agenda item, which is the recognition of outgoing board members, Hue Karreman has asked if he could make a comment for the record.

Hue, the floor is yours.

MEMBER KARREMAN: Sorry to be just on a somber little note. I have just heard out in the lobby that there is maybe perhaps a rumor, whatever, that I produce genetically engineered vaccines and I have a conflict of -- hey, you guys, I want to just state the fact, I do not. And the product I do produce and I plan to produce is a biologic. I've been producing it for the last six, seven years. It's called hyperimmune plasma. And it is all because of 205.238(c)(7), no use of antibiotics, that I've developed a non-antibiotic treatment for infectious disease. It is not producing vaccines. Okay? Sorry. I just had to say that on the record so it's out there and not just little rumor mill like
at the lunch table I heard was out there
today. Thank you.

CHAIRMAN MOYER: Thank you, Hue.

No, I think it's important to get that on the
record. We want to make sure that there are
no conflicts of interest in the voting
process.

MEMBER SMILLIE: I want you to
clarify the nicotine in the barn though.

CHAIRMAN MOYER: Okay. One more
agenda item that I want to do before we get
into recognition of outgoing board members.
And that is, I know that some of the incoming
board members -- I understand four of you are
still in the room. Several of you are unknown
to our fellow board members. If you could at
least stand up. I know Jay I can see back
there. John is here. Joe is here. Wendy.
Okay. Just stay standing, please. Stand up
and stay standing. If you could just say your
name for everybody so they're going to know
who are you coming in.
1 John?
2 MR. FOSTER: John Foster. I work
3 with --
4 CHAIRMAN MOYER: The transcriber can't hear. If I just repeat their name, it
5 will save them from coming up. Well, I didn't
6 want to have to have everybody come up to the
7 microphone.
8 We have John Foster standing over
9 here. Joe Dickson is standing on the side of
10 the room. Jay, you want to put up your hand?
11 Jay Feldman. And Wendy. And I apologize, I
12 don't know your last name yet, Wendy.
13 MS. FULWIDER: Wendy Fulwider.
14 CHAIRMAN MOYER: Wendy Fulwider in
15 the back of the room standing there. So at
16 least the Board now knows who you are. We
17 appreciate so much you coming to sit in on
18 this meeting.
19 (Applause.)
20 CHAIRMAN MOYER: And you know
21 you're in trouble when they give you an
applause before you even start the show.

Okay. At this point, I want to
turn the meeting over to Valerie for a moment
for recognition of outgoing board members.

We have some photos we want to
take, I know that.

Tina, if you would like to get --
we have some gifts for outgoing board members.
We've been saying a lot of thank yous here.

Valerie?

MS. FRANCES: I would certainly
really love it if Hue Karreman, Rigo Delgado,
Julie Weisman and Bea James, if you would call
come up into the center. We want to honor you
and thank you for all your amazing service.
And I know that the service doesn't come from
the Program; it comes from the Board also.

CHAIRMAN MOYER: Yes.

MS. FRANCES: So we're doing a
mutual service recognition.

CHAIRMAN MOYER: That's right. So
if those board members would come to the front
of the room, we do want to take some formal pictures.

(Off-mic comment.)


(Whereupon, the above-entitled matter went off the record at 4:08 p.m. and resumed at 4:13 p.m.)

CHAIRMAN MOYER: We have two more people that we'd like to acknowledge. One of them is not with us at the moment, but one of them is.

Richard Matthews, if you'd come up, we'd like to thank you as well as the Board.

(Applause.)

CHAIRMAN MOYER: We really appreciate all your years of service to the Program, to the community, to this Board and supporting the work that we do. If you have anything you want to say, this is your last chance. And we won't gavel you down. And you
don't have to sign up. You don't have five
minutes.

MR. MATTHEWS: Well, you're
running late, so I'll keep it short. It's
been a pleasure being here at the meeting.
It's kind of fun being on the back row instead
of the front row. But what I've really missed
about the front row is there was so many times
I wanted to grab the microphone and interject
my own thoughts. So it's been really tough
getting acclimated to having to keep my mouth
shut.

(Applause.)

CHAIRMAN MOYER: Just for the
record, we also have a gift bag for Barbara.
She's busy working on her other duties and
tasks, so she's not here. But we'll make sure
that she gets that gift as well.

Thank you. I also acknowledge
that we have a gift bag for Gerry as well.
We'll see if that gets sent out to him. He
did expect to be here, but unfortunately
1 couldn't make it.

2 Okay. The next order of business
3 before this Board is our election of new
4 officers. We have an election procedure that
5 we reviewed before we came to this meeting.
6 The process will be that we will vote for
7 three offices; chair, vice-chair and
8 secretary. We will vote for them in that
9 order, one office at a time, allowing somebody
10 who may not have gotten their first choice as
11 office to submit their name or be nominated
12 from the floor for an alternate position.
13
14 We will start then with the
15 election of our new chair.
16
17 Madam Secretary, if you have the
18 ballots, we'd like to pass those out.
19
20 SECRETARY WEISMAN: Actually,
21 every one has a set now.
22
23 CHAIRMAN MOYER: Oh, everybody has
24 them? Thank you. They're so efficient.
25
26 Everyone should have a ballot with
27 chairman, vice-chairman and secretary, one,
two and three. We will take nominations from the floor for those positions. Just hand write them in in the order that they're given. Circle the one that you select. Fold that up. We will collect it. The Chair opens them, reads them, confirms them with the Secretary and then announces the winner.

Is that process agreeable to everybody? That is the process we have in our Procedure Manual.

PARTICIPANT: So it's totally silent?

CHAIRMAN MOYER: Totally silent.

All done by ballot.

PARTICIPANT: So wait a second. So there's no nominations --

CHAIRMAN MOYER: Yes. No. Yes, the nominations come from the floor right now.

No silent --

Yes. Well, that's one way to do it. No, it's not completely silent. The voting will be silent. The nomination will
not be silent.

Okay. If we have any nominations for any chairman position from the floor, now would be the time to make that nomination.

Chair recognizes Hue, then Tina.

MEMBER KARREMAN: I'd like to nominate Dan Giacomini to be chair of the NOSB.

CHAIRMAN MOYER: Thank you, Hue. We have Dan as a nominee for chair.

Are there any other nominations for chair from the floor? I see Bea and then Julie.

MEMBER JAMES: I would like to nominate Tracy for chair.

CHAIRMAN MOYER: Tracy is nominated for chair. Are there any other nominations?

(No audible response.)

CHAIRMAN MOYER: Do I hear a motion to close the nominations?

MEMBER HEINZE: So moved.
CHAIRMAN MOYER: I think Katrina moved that we close the nominations. Joe seconded it. All those in favor say aye.

ALL: Aye.

CHAIRMAN MOYER: The nominations are closed. Please cast your ballot for the chairman position by circling the name you have on your card.

As one comedian said, talk amongst yourselves.

(Whereupon, the above-entitled matter went off the record at 4:19 p.m. and resumed at 4:22 p.m.)

CHAIRMAN MOYER: Ladies and gentlemen of the Board, if I could have your attention. Behave. I'd say we're going to have to separate you, but we already did and it's not working.

It gives me great pleasure to announce to you the new chairman of the National Organic Standards Board, Dan Giacomini.
(Applause.)

CHAIRMAN MOYER: Thank you, fellow board members.

Now we will do the same process for vice-chair. I will entertain nominations from the floor for vice-chair.

Barry?

MEMBER FLAMM: I'd like to nominate Jeff Moyer for vice-chair.

CHAIRMAN MOYER: Thank you, Barry.

Hue Karreman?

MEMBER KARREMAN: I'd like to nominate Tracy Miedema for vice-chair.

CHAIRMAN MOYER: Thank you, Hue?

Are there any other nominations from the floor?

(No audible response.)

CHAIRMAN MOYER: I will entertain a motion to close the nominations.

MEMBER SMILLIE: So moved.

CHAIRMAN MOYER: Joe moves to close the nomination. I need a second for
PARTICIPANT: Second.

CHAIRMAN MOYER: And I need an aye or a nay. All those in favor, say aye.

ALL: Aye.

CHAIRMAN MOYER: Opposed, if any?

(No audible response.)

CHAIRMAN MOYER: Okay. The nominations are closed. Please cast your ballot.

VICE-CHAIR GIACOMINI: Mr. Chairman?

CHAIRMAN MOYER: Yes?

CHAIRMAN MOYER: As current vice-chair, I think it would be appropriate to suspend the rules this time and you not collect and count the votes maybe?

CHAIRMAN MOYER: I appreciate that.

VICE-CHAIR GIACOMINI: Okay. I'll do that for you.

CHAIRMAN MOYER: And the Secretary
can do it with you.

VICE-CHAIR GIACOMINI: Thank you.

CHAIRMAN MOYER: Or collect them.

VICE-CHAIR GIACOMINI: There are supposed to be two though.

CHAIRMAN MOYER: That's fine.

Yes, you guys count them.

(Whereupon, the above-entitled matter went off the record at 4:23 p.m. and resumed at 4:27 p.m.)

SECRETARY WEISMAN: Mr. Chairmans, acting and current, I'm pleased to announce that Tracy Miedema is the next vice-chair.

(Applause.)

CHAIRMAN MOYER: Thank you, Madam Secretary.

We have one more position to vote for. That is the position of secretary, a very important and hardworking position.

Do we have any nominations from the floor? Bea?

MEMBER JAMES: I would like to
nominate Tina.

CHAIRMAN MOYER: Tina Ellor. Any other nominations from the floor?

(No audible response.)

CHAIRMAN MOYER: Hearing no nominations, do I hear a motion to close the nominations?

PARTICIPANT: So moved.

CHAIRMAN MOYER: It's been moved. And I saw another hand, so I consider that a second to close the nominations. Given the fact that we only have one candidate for that position, by acclimation I declare you secretary. Welcome aboard.

(Applause.)

CHAIRMAN MOYER: Thank you, everybody, for your voting for officers.

The next item on our agenda is committee workplans. What I'd like to do is, I'll follow the same order that we had when we presented our information at this particular meeting. So what we're going to do is, we're
going to start with Policy and Development.
And current chairs, if you can give us your
workplan items, we would greatly appreciate
that.

So I will start by asking,
Chairperson Barry, if you can give us your
Policy and Development Committee workplan?

MEMBER FLAMM: Yes. Thank you, Jeff. Part of what I'll report on the
committee has discussed and we've decided, but
several items have come up in the course of
the meeting that we will probably want to
consult and add to the workplan.

The first item is helping to
prepare training materials for the new board
members, a function that the committee has
done in the past.

The second item, one of which
started out to be part of our review of
Section 5 of the Policy and Procedure Manual.
That was a collaboration process with the
Program. We decided after some time of
looking at it, it was much better to wait
until the new people and Miles got established
and discuss jointly how we can best work
together. And probably something that will be
probably a productive subject at the retreat
that we're talking about, that Miles is
talking about.

We had on our proposed workplan
the review and update of the New Member Guide.
We've been working on the Policy and Procedure
Manual, and without too much attention to the
New Member Guide. And we need to keep those
two in sync.

And then again something we keep
postponing is the update of Section 8 of the
Policy and Procedure Manual; that is, if it's
timely in terms of material reviews and so
forth.

The things that came up during
this meeting would be of course the addition
of the classification of materials in the
Policy and Procedure Manual when that is
completely fleshed out. Well, we'll have to
talk to Materials about whether they think
it's ready to put in the Policy and Procedure
Manual.

Another item that came up was the
public access of guidance documents and having
some procedures on how we can improve that.

It appears that there still seems
to be work to clarify how these technical
corrections, or whatever. So relating to
Hue's proposals and make sure going forward
that there is clarity on that subject.

And then finally, a new proposal
discussing perhaps rotation of the current
Board positions so we don't have so many
people going off at one time.

These last items have not been
discussed with the committee members, but it's
been either suggested by individual members or
just picked up in the conversation. So it's
not really our official plan, but that's where
we are right now, Mr. Chairman.
CHAIRMAN MOYER: Thank you, Barry.

You have a question for Barry, Hue?

MEMBER KARREMAN: Just one question. Maybe I wasn't listening close enough, but what are my proposals?

MEMBER FLAMM: No, it related to your petition or whatever we characterized. Your technical corrections on the agenda. And the questions that came up during that was to, if need be, clarify that in the Policy and Procedure Manual.

Any other questions?

(No audible response.)

MEMBER FLAMM: That's all I have.

CHAIRMAN MOYER: Thank you, Barry.

Appreciate that committee report.

Moving on, we have the Compliance, Accreditation and Certification Committee.

Joe Smillie, chairperson. Your report, please?

MEMBER SMILLIE: Well, as Barry
mentioned, I think every committee has to take into account this February strategy session is going to be crucial, because that will determine, I think, the workplan for the entire NOSB; at least I hope it will, because I really look forward to working with the NOP in the prioritization tasks. So that to me is paramount and that will determine what we think right now is our workplan.

Also, I think, as Tracy just suggested, it's a good idea not to have a long workplan, I think, at this point in time, because of that meeting and some other considerations, namely that the NOP is still, supposedly with all these new hires, going to catch up on a lot of previous recommendations that we made and we don't want to burden them with too many more. I'm not being facetious. I'm actually serious.

The other thing is perhaps now with this new enlarged work crew at the NOP, they'll be coming back to us with questions
about previous recommendations. The one I think from this committee that I'm just anguished about that has gotten no response as yet from the NOP is the expiry date and standardization certificates, something as basic as that for the whole program. We still haven't heard boo from the NOP and I expect to hear something from them. So I'm anticipating that they may get back to our committee with questions about previous recommendations, questions about the ones we just passed; retailer guidance, personal care. So I want to leave some space, if necessary, for responding to NOP work on previous recommendations.

Then down to the two that I think we still have on our workplan. One is the good old 100 percent issue, the issue of the label claim of 100 percent and what that entails. There's been still some controversy and some very bad feelings in the industry about the recent NOP current thinking on that
issue, which we hope to resolve, because again, the NOP has not resolved it at this point.

And last and certainly not least is an expanded version of a workplan that is all about the made-with-organic label claim. The label claim made with organic is, as you just saw, we just got a notice from the NOP that they're looking at the use of "organic" in company names. They're also looking at the use of "organic" as far as like mislabeling of the "made with." We're going to look at that. It was already in our workplan in the narrow sense that we were going to look at seeing what opportunity there is, or whether there's some need or desire for a specific label or subset of the current USDA label to identify that particular labeling claim. And that was a request from the previous NOP administration. Whether this current NOP administration wants it or not, we'll certainly talk to them.
But that's the workplan for the CACC.

CHAIRMAN MOYER: Thank you, Chairman. I think that's a complete list. That will keep you busy for a few months.

Next committee would be Materials Committee. Dan is current chair of that committee.

VICE-CHAIR GIACOMINI: Thank you, Mr. Chairman.

Materials Committee has a number of items on its workplan, some of which will never go away. We always be monitoring and managing the issue of petitions, new petitions as we receive them from the Program.

We will also this next year, and including the first half of the year up to the spring meeting, dealing with 2012 sunset. And the Materials Committee would like all the committees to remember that we're all having to deal with those, and there's going to be a lot of sunset items that we're going to have
to spend time on.

So the third is the classification of materials next step issues, following up on the next step part of that document.

Number four, we pulled back and we'll be re-looking at fine tuning the nanotechnology document.

And then number five, to work with the Program and deal with the issues of the petitions that were involved in the take-from-the-table recommendation from maybe a year ago. That may have just been last meeting, but take-from-the-table. And also the items that have been identified as materials never on the table; we'll call it that, that seemed to have slipped through the cracks somewhere. We'll be working with the Program and figuring out what the status of those are and how to proceed.

CHAIRMAN MOYER: Thank you, Dan. Appreciate that workplan.

I should also mention to your
committee and others, as you sort of did, I
got a note handed to me by Bob Pooler that
says, "Please ask the NOSB committees that are
reviewing 2012 sunset to submit their requests
for new technical reports to the Program as
soon as possible." So as that gets posted in
the Federal Register, those reviews will have
to take place.

Next committee would be Crops
Committee. Tina?

MEMBER ELLOR: Our workplan has
changed very little since we talked about it
in Executive Committee. We have since
received five technical reports, which we have
not had a chance to look at. So the materials
we'll be looking at are ethylene glycol; which
we finally got the technical review for that,
tetramethyldesildiol-something-or-other.

CHAIRMAN MOYER: You know, when
you can't say them, it's fun, I know.

MEMBER ELLOR: Yes.

CHAIRMAN MOYER: Nobody has more
trouble than me.

MEMBER ELLOR: Polycaprolactone,
tall oils distilled, ethylene DDA,
difluoroethane. We're still waiting for
reviews on PGML, which I can't pronounce, so
I'm not going to. And we have a petition to
remove ferric phosphate, and that kind of
slides into our sunset materials. We have
terpenes on here. And somebody brought that
up again, I think maybe Zea, that we want to
drag that out of the dark and take a look at
it as well. It's going to be hard to find
time to do that, but we're going to really
try.

2011 sunset materials. Ferric Phosphate. And then the, I think, 38 or 39;
I can't remember the exact number, of 2012
sunset materials, which we'll be dividing and
conquering hopefully here soon.

Under other recommendations, we
have continuing work with the comments we got
on the greenhouse standards, soil systems.
CHAIRMAN MOYER: One minute, Tina.

Valerie?

MS. FRANCES: I'm sorry, I didn't hear if you said tall oils.

MEMBER ELLOR: Tall oils?

CHAIRMAN MOYER: Tall oils?

MS. FRANCES: You did?

MEMBER ELLOR: Yes.

MS. FRANCES: Did you? Okay.

CHAIRMAN MOYER: Yes. Thank you.

MEMBER ELLOR: As opposed to short ones. I don't know what that means.

Mushroom standards, which actually, you know, I've been talking with Miles about that and hopefully we'll get on that during our next committee meeting Monday.

Talk to you all Monday.

Food safety, which was something we had talked about taking a stab at.

And of course, the never ending, soon to be ended list 4 inerts in pesticide saga, which we'll be working on.
And anyone on the Crops Committee, if you can think of anything I've left out; I think I've covered it all. And that's it. Thank you.

CHAIRMAN MOYER: Thank you, Tina, for that report on Crops.

The next committee would be Livestock. Hue, if you can give us your workplan?

MEMBER KARREMAN: You know, I'm just listing the inerts, and the very first meeting I ever went to at the USDA Building in 2001, they were talking about inerts and this problem. So I hope it gets done some day, that saga.

Our Livestock, the workplan is actually very short, because we got a lot done in the last few years. We're going to; not me, but the rest of the committee, the new committee will be filling in those stocking rate tables hopefully in conjunction, interaction with the industry, come up with a
definition for animal health care products, both of those being on that animal welfare document.

Talked about and maybe actually work on apiculture, honeybees. Finally, they rise to the top.

And then of course the sunset materials for 2012. That's it.

CHAIRMAN MOYER: We won't be working on aquaculture, correct?

MEMBER KARREMAN: We will not. We will not.

CHAIRMAN MOYER: Thank you very much.

MEMBER KARREMAN: We got it done.

CHAIRMAN MOYER: Thank you, Hue, for that report on Livestock Committee.

Joint Materials and Handling Committees is not a standing committee. It's an ad hoc committee. Will you be working during the next session on anything, or is your work completed?
MEMBER HEINZE: No, we will have
-- I'm sorry, guys. We do have the guidance
document to be working on. And then the items
that we were unable to complete. So we do
have some more work. So I'm looking forward
to, in Joe's words; I'm not going to get it in
the right order, bribing, cajoling, whatever
else I have to do. Whatever it takes.

PARTICIPANT: And inspire.

MEMBER HEINZE: Oh. Oh,
inspiring, yes.

CHAIRMAN MOYER: Thank you,
Katrina. Sad to hear that the joint committee
still needs to stay standing, but I'm glad
you're there and you can do that work.

And a question from Hue.

MEMBER KARREMAN: Not a question.

Can I add something to our workplan?

CHAIRMAN MOYER: You're going to
add something to the Livestock workplan?

MEMBER KARREMAN: Yes.

CHAIRMAN MOYER: Yes, we --
MEMBER KARREMAN: She can back up.

CHAIRMAN MOYER: Just one moment.

MEMBER KARREMAN: I'm sorry.

CHAIRMAN MOYER: Are you finished, Katrina, with your workplan?

MEMBER HEINZE: Yes, I am. Thank you.

CHAIRMAN MOYER: Thank you very much. We will return then to the Livestock Committee, Hue, if you have something to add to your list?

MEMBER KARREMAN: I apologize, Katrina. I thought you were done.

MEMBER HEINZE: I was. You were good.

MEMBER KARREMAN: Okay. A compound called methionine. Please add that.

CHAIRMAN MOYER: Thank you very much. Yes, I don't know how we forgot it.

Okay. The Handling Committee.

Steve, chairperson. If, Steve, you can give us your workplan?
MEMBER DeMURI: Thank you. Number one is to work with the joint committee on the follow ups for the clarification of materials including the guidance document. We'll be part of that, half of that committee.

We do have four petition materials. Glucosamine and pectin low methoxyl non-aminated, which have been in the docket for awhile. We're waiting for technical reviews for those for quite a while now. And two fairly new petitions. One for calcium acid pyrophosphate and another petition for sodium acid pyrophosphate for expanded use, in addition to what it's already used for. And I made a request to Bob for technical reviews on those a month or so ago, so those four are on the list.

And then we have a huge amount of sunset materials coming up for 2012. I've already started dividing these up a little bit, but we have 20 205.605(a) items, 34 205.605(b) items and 41 205.606 items, for a
grand total of 95.

CHAIRMAN MOYER: Wow.

MEMBER DeMURI: So that's going to be taking most of our time over the next year or so.

CHAIRMAN MOYER: Yes.

MEMBER DeMURI: And also, what I just added today was sunset procedure clarification. We'd like to be involved in part of that discussion, too.

So and as Joe mentioned, I'm looking forward to the strategy session with the NOP. That could radically dramatically change this list possibly, but that's what we have for now.

CHAIRMAN MOYER: Thank you, Steve.

I appreciate that.

I'm going to put one item on the Programs Workplan, and that is to set the date for that strategic retreat. January, February, those dates are filling up very fast for some of us and we need to work that into
our calendars as quickly as possible from your end. You've got to give us some dates to work with. So I would appreciate that.

That concludes our workplan portion of this meeting. The last item we have on our agenda is to ask if there is any more business before this Board from board members?

MEMBER Demuri: I have one question.

CHAIRMAN Moyer: We have a question from Steve.

MEMBER Demuri: We have a date for the spring meeting yet?

CHAIRMAN Moyer: I know we had blackout dates that we submitted. Did you come up with a date?

MS. Frances: We got so many responses really at the last minute and we've been here, and I really haven't had a chance. I would say roughly probably the last week of April.
CHAIRMAN MOYER: Okay.

MS. FRANCES: But not confirmed at all.

CHAIRMAN MOYER: Thank you very much. Well, it is important to our workplans, because we have to work backward from that date to get our work done so that you have time to post everything.

Good point, Steve. Thank you.

Bea?

MEMBER JAMES: I just wanted to in closing, if I can, a closing comment. Can I do that. Are we ready for that?

CHAIRMAN MOYER: You may do that.

MEMBER JAMES: Okay. I'll try not to get all choked up. It's funny, because I've been like I can't wait to get off the Board.

I just want to thank the NOP for the opportunity to serve. And this experience has been really incredible for me and I've learned a lot. I mean, I probably would be
like the poster child for coming in green.
And learning a lot. And, you know, I mean,
Rigo and I both, I'll never forget that first
meeting, we were just pretty much jaw-dropped
the entire time. But a great thing came out
of that, the New Member Guide, so nobody would
ever be put in that position again.

And from the first board that I
worked with, just incredible people and the
people that, you know, stick it out in the
peanut gallery. What an incredible group of
people that are helping to drive the industry
and do good things. And it's just been a real
honor to be able to do my best to represent
the whole organic industry. So thank you.

And this is what really makes me
get all choked up. Valerie, thank you.
You've just been awesome and I've enjoyed
working with you so much. And I just can't
say enough about what a huge asset you are to
the harmony of the entire program. So namaste
to you.
CHAIRMAN MOYER: Thank you.

MEMBER JAMES: And thank you.

(Applause.)

CHAIRMAN MOYER: Any other business before this Board? Rigo?

MEMBER DELGADO: Mr. Chairman, thank you very much. I just want to echo Bea's sentiments. Hopefully I won't choke as much, but I would like to congratulate you, Mr. Chairman, for such a wonderful meeting today and for conducting the business of the Board throughout this year in such an exceptionally professional way.

I also want to congratulate the new members of the Executive Committee; Dan, Tracy and Tina. These are very exciting times and there are many changes and resources coming this way. And I congratulate the rest of the members and the new members that are coming. I think you'll be able to gain a lot from what we learned, at least that's what I hope will happen. And I'm sure you'll be able
to apply it and improve from what we left behind. I have for sure friends for life here. You have a friend for life and I hope to see you very soon. Thank you.

CHAIRMAN MOYER: Thank you, Rigo.

(Applause.)

CHAIRMAN MOYER: Any other business before this Board? Julie?

SECRETARY WEISMAN: Come on, I got to take my final --

CHAIRMAN MOYER: It is your stage.

SECRETARY WEISMAN: I'll keep it short, though. I've said it before. People are probably sick of hearing me say it, but I got to say it one more time. How blessed I feel to have been on this Board and at this time. And I will miss working with everybody at this table, not that I won't be around and trying to keep you honest and help you out, but it won't be the same. It really won't be the same. And I truly, truly will miss it and appreciate having had this in my life. My
business partner and my family might have other thoughts about it, but it's been a very, very enriching experience and I'm grateful.

CHAIRMAN MOYER: Thank you, Julie.

(Applause.)

CHAIRMAN MOYER: Any other business before this Board? Hue?

MEMBER KARREMAN: Maybe I get the last word in. No, you still do. Darn.

I've just really enjoyed being on the Board, even though it's been totally overwhelming a lot of the time. And I just really know that we have formed really good relationships here on the Board and into the future it will go. And, you know, all I've been wanting to do the whole time is to say when I'm done, hopefully I've made a difference in the lives of the farmers and the animals, so the animals are happy and well cared for. And I think we've accomplished that with many things here on the Board, so thank you very much.
CHAIRMAN MOYER: Thank you, Hue.

(Applause.)

CHAIRMAN MOYER: In that same vein -- I'm sorry. We have another comment? Tina?

MEMBER ELLOR: No, I just want to ask if there's by any chance somebody in the gallery who lives close to Gerry? Is there anybody?

(No audible response.)

MEMBER ELLOR: No?

CHAIRMAN MOYER: We'll --

MEMBER ELLOR: Oh, okay. Then --

CHAIRMAN MOYER: I can take it home. I'll see that it gets shipped. It's a heavy item. I'll send it.

MEMBER ELLOR: Thank you anyway.

CHAIRMAN MOYER: Well, then in closing, I would like to say that Gerry is absent. It is his last meeting. I know if he was here he would have something he'd want to say. I just want it to go on the record that I know Gerry worked extremely hard, would
share all the sentiments of all the other
board members that have spoken on their last
meeting. It's unfortunate that he couldn't be
with us. I know he wanted to be. But he also
has built friendships and respect in the
community that is beyond description, as with
the rest of the board members. So on Gerry's
behalf, I wanted to make that comment.

And on my own behalf I wanted to
say it's been a real honor and privilege to
share as your chair and your vice-chair prior
to this. I know that I'm leaving this part of
the administrative team in very good hands
with Dan, Tracy and Tina. I will miss getting
Dan out of bed at 7:00 on Monday mornings to
have our administrative conference calls. It
was easy for me; hard for Dan. It's nice to
hear Dan swirling the spoon the cup of coffee
going, "Oh, boy." So I will miss that.

VICE-CHAIR GIACOMINI: We'll have
to see if I'm any better at bringing on the
light in the morning than you were.
CHAIRMAN MOYER: Yes. So I did appreciate being your chair. It was an honor and privilege to serve you in that capacity and I thank you very much.

(Applause.)

CHAIRMAN MOYER: We are officially adjourned until spring.

(Whereupon, the meeting was adjourned at 4:54 p.m.)
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